

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge

Appellate Case No. 2019-000610

Stephen Corey Bryant,Petitioner-Respondent,

v.

State of South Carolina,Respondent-Petitioner.

Appendix Volume II of IX – Pages 501-1000

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INDEX

VOLUME I

Record on Appeal from Direct Appeal (Appellate Case No. 2008-103130)

| | |
|---|-----|
| Sentencing Hearing Transcript..... | 1 |
| Court Reporter’s Index | 2 |
| Pre-Trial Matters | 9 |
| Motion to Suppress..... | 22 |
| Testimony | |
| David Earl Florence | |
| Direct Examination by Mr. Jackson | 28 |
| Cross Examination by Mr. Clark..... | 46 |
| James R. Turner | |
| Direct Examination by Mr. Jackson | 56 |
| Cross Examination by Mr. Clark..... | 68 |
| Opening Remarks | |
| By Mr. Saleeby..... | 95 |
| By Mr. Clark | 104 |
| Testimony | |
| Joel Steven Sexton | |
| Direct Examination by Mr. Saleeby | 105 |
| Jamie Turner | |
| Direct Examination by Mr. Saleeby | 137 |
| David Alvin Caldwell | |
| Direct Examination by Mr. Saleeby | 141 |
| John Mark Creech | |
| Direct Examination by Mr. Saleeby | 149 |
| David Earl Florence | |
| Direct Examination by Mr. Saleeby | 158 |

| | |
|---|-----|
| Sharon A. Holland | |
| Direct Examination by Mr. Jackson | 170 |
| Cross Examination by Mr. Clark..... | 180 |
| Redirect Examination by Mr. Jackson | 183 |
| Robert Thomas Dennis | |
| Direct Examination by Mr. Jackson | 185 |
| Cross Examination by Mr. Clark..... | 196 |
| James Allen Ammons | |
| Direct Examination by Mr. Jackson | 197 |
| Tony Hansen | |
| Direct Examination by Mr. Jackson | 211 |
| Barbara Cusso Ryan | |
| Direct Examination by Mr. Saleeby | 218 |
| Debra DuRant | |
| Direct Examination by Mr. Saleeby | 228 |
| Jennifer Barnes LeRoux | |
| Direct Examination by Mr. Saleeby | 237 |
| Clinton Brown | |
| Direct Examination by Mr. Jackson | 244 |
| Mark Crabbie | |
| Direct Examination by Mr. Jackson | 257 |
| Cross Examination by Mr. Clark..... | 262 |
| Robert Cecil Oates | |
| Direct Examination by Mr. Jackson | 263 |
| Roy Lee Lambert | |
| Direct Examination by Mr. Jackson | 270 |
| Cross Examination by Mr. Clark..... | 277 |
| Williams D. Morton | |
| Direct Examination by Mr. Jackson | 282 |
| Lowman C. Mayes | |
| Direct Examination by Mr. Jackson | 287 |
| Raymond A. Mackessy | |
| Direct Examination by Mr. Jackson | 292 |

| | |
|---|-----|
| Christopher Dale Gainey | |
| Direct Examination by Mr. Jackson | 303 |
| Brian James Horton | |
| Direct Examination by Mr. Jackson | 318 |
| Jamie Turner | |
| Direct Examination by Mr. Jackson | 318 |
| Benjamin R. Stiles | |
| Direct Examination by Mr. Jackson | 330 |
| Tawanda Govan | |
| Direct Examination by Mr. Jackson | 350 |
| Cross Examination by Mr. Clark..... | 355 |
| Tony Curtis Jackson | |
| Direct Examination by Mr. Jackson | 358 |
| Roderick Green | |
| Direct Examination by Mr. Jackson | 362 |
| Herman Jones | |
| Direct Examination by Mr. Jackson | 380 |
| Larry Allen Justice | |
| Direct Examination by Mr. Jackson | 389 |
| Cross Examination by Mr. Clark..... | 397 |
| Wanda D. Grinnell | |
| Direct Examination by Mr. Jackson | 410 |
| Cross Examination by Mr. Clark..... | 417 |
| Mildred Carol Tietjen | |
| Direct Examination by Mr. Saleeby | 423 |
| Cross Examination by Mr. Clark..... | 468 |
| Redirect Examination by Mr. Saleeby | 471 |
| Kimberly Sue Dees | |
| Direct Examination by Mr. Saleeby | 472 |
| Robert Bruce Deese | |
| Direct Examination by Mr. Saleeby | 479 |
| Robert E. Summers | |
| Direct Examination by Mr. Saleeby | 482 |

| | |
|---|-----|
| Terrence Rondell Colclough | |
| Direct Examination by Mr. Saleeby | 488 |

| | |
|---|-----|
| Phillip E. Coonfield | |
| Direct Examination by Mr. Saleeby | 498 |

VOLUME II

| | |
|---|-----|
| Phillip E. Coonfield (continued) | |
| Direct Examination by Mr. Saleeby | 501 |
| Cross Examination by Mr. Clark..... | 521 |

| | |
|---|-----|
| Cindy C. Pierson | |
| Direct Examination by Mr. Saleeby | 523 |

| | |
|---|-----|
| Richard Dennis Watkins | |
| Direct Examination by Mr. Saleeby | 526 |

| | |
|---|-----|
| Phillip E. Coonfield (continued) | |
| Direct Examination by Mr. Saleeby | 536 |

| | |
|---|-----|
| Raymond A. Mackessy | |
| Direct Examination by Mr. Saleeby | 538 |

| | |
|---|-----|
| David Florence | |
| Direct Examination by Mr. Saleeby | 552 |

| | |
|---|-----|
| Jamie Turner | |
| Direct Examination by Mr. Saleeby | 571 |
| Cross Examination by Mr. Clark..... | 574 |

| | |
|---|-----|
| William Scott Worsham | |
| Direct Examination by Mr. Saleeby | 578 |

| | |
|---|-----|
| Janice Bryson | |
| Direct Examination by Mr. Saleeby | 884 |
| Cross Examination by Mr. Clark..... | 588 |

| | |
|---|-----|
| Nancy Skreba | |
| Direct Examination by Mr. Saleeby | 590 |
| Cross Examination by Mr. Clark..... | 595 |

| | |
|---|-----|
| Ira Byrd Parnell, Jr. | |
| Direct Examination by Mr. Saleeby | 597 |

| | |
|---|-----|
| Nora Ann Davis | |
| Direct Examination by Mr. Jackson | 616 |
| William Cockerill | |
| Direct Examination by Mr. Jackson | 623 |
| Bob Summers | |
| Direct Examination by Mr. Saleeby | 632 |
| Troy Baker | |
| Direct Examination by Mr. Jackson | 638 |
| George Perry Summers | |
| Direct Examination by Mr. Jackson | 650 |
| Judy Russell | |
| Direct Examination by Mr. Jackson | 658 |
| Kimberly Tietjen Dees | |
| Direct Examination by Mr. Jackson | 663 |
| Mildred Tietjen | |
| Direct Examination by Mr. Jackson | 686 |
| Renewal of Rule 5 Discovery Motion and <i>Brady</i> Motion..... | 704 |
| State Rests | 711 |
| Motion for Mistrial and/or Directed Verdict | 712 |
| Ruling by the Court..... | 722 |
| Testimony | |
| Jamie Turner | |
| Direct Examination by Mr. Clark..... | 730 |
| Gina Creech | |
| Direct Examination by Mr. Howle | 734 |
| Cross Examination by Rm. Jackson | 740 |
| Sharon Holland | |
| Direct Examination by Mr. Howle | 747 |
| Cross Examination by Mr. Jackson | 749 |
| Redirect Examination by Rm. Howle | 764 |
| Recross Examination by Mr. Jackson..... | 769 |

| | |
|--|-----|
| Shirley Freeman | |
| Direct Examination by Mr. Howle | 770 |
| Cross Examination by Mr. Jackson | 784 |
| Redirect Examination by Mr. Howle..... | 785 |
| Terry Lee Bryant Caulder | |
| Direct Examination by Mr. Howle | 788 |
| Cross Examination by Mr. Jackson | 797 |
| Andrea Caulder Slaton | |
| Direct Examination by Mr. Howle | 800 |
| Cross Examination by Mr. Jackson | 805 |
| Donna Marie Schwartz-Watts | |
| Direct Examination by Mr. Howle | 806 |
| Cross Examination by Mr. Saleeby | 836 |
| Redirect Examination by Mr. Howle..... | 865 |
| William Alexander Morton, Jr. | |
| Direct Examination by Mr. Howle | 873 |
| Cross Examination by Mr. Jackson | 902 |
| Redirect Examination by Mr. Howle..... | 922 |
| Marty Loring | |
| Direct Examination by Mr. Howle | 926 |
| Cross Examination by Mr. Saleeby | 961 |
| Redirect Examination by Mr. Howle..... | 979 |
| James Evans Aiken | |
| Direct Examination by Mr. Howle | 981 |
| Cross Examination by Mr. Jackson | 995 |
| Redirect Examination by Mr. Howle..... | 999 |

VOLUME III

| | |
|--|------|
| Renewal of Directed Verdict Motion | 1001 |
| Colloquy Regarding Mr. Bryant's Right to Testify | 1002 |
| Closing Arguments | |
| By Mr. Jackson..... | 1006 |
| By Mr. Howle..... | 1027 |
| Remarks by Victim's Family | 1042 |
| Sentencing | 1047 |

| | |
|--|------|
| Preliminary Hearing Transcript dated December 21, 2004..... | 1054 |
| Preliminary Hearing Transcript dated December 13, 2005 | 1076 |
| Arraignment Hearing Transcript dated April 27, 2007 | 1086 |
| Appointment of Counsel Transcript dated May 14, 2007 | 1091 |
| Appointment of Counsel Transcript dated May 24, 2007 | 1108 |
| Hearing Scheduling Trial Date dated December 14, 2007..... | 1124 |
| Hearing on Funding Motion by Defense dated March 6, 2008 | 1158 |
| Pre-Trial Motions Transcript dated April 3, 2008 | 1204 |
| Examination of Jurors Transcript dated April 18, 2008 | 1233 |
| Appointment of Counsel Transcript dated July 18, 2008..... | 1309 |
| Guilty Plea Transcript dated August 18, 2008..... | 1323 |
| Death Sentence..... | 1387 |
| Affirmation | 1389 |
| Sentencing Report | 1392 |

Direct Appeal Pleadings and Orders

| | |
|---|------|
| Final Brief of Appellant filed September 24, 2010..... | 1393 |
| Final Brief of Respondent filed September 16, 2010..... | 1409 |
| <i>State v. Bryant</i> , 390 S.C. 638, 704 S.E.2d 344 (2011) | 1452 |
| Petition for Rehearing filed January 24, 2011 | 1461 |
| Remittitur filed February 2, 2011..... | 1463 |
| Motion for Stay of Execution filed February 4, 2011 | 1464 |
| Return to Motion for Stay of Execution dated February 7, 2011 | 1469 |
| Order Granting Stay of Execution dated March 3, 2011..... | 1475 |

Prior Post-Conviction Relief Action (Appellate Case No. 2013-000518)

Appointment of Counsel Transcript dated April 1, 2011 1477
Application for Post-Conviction Relief filed May 10, 2011 1483
Return filed June 13, 2011 1486

VOLUME IV

Return filed June 13, 2011 (continued) 1501
Motion for Continuance and Affidavit of Dr. Schwartz-Watts filed May 9, 2012 1528
Plaintiff's Exhibit #1 (Affidavit of Dr. Schwartz-Watts) 1530
Amended Application for Post-Conviction Relief filed May 21, 2012 1532
Competency Hearing Transcript dated June 11, 2012 1537
Defendant's Exhibit #1 (Affidavit of Witness) 1572
Defendant's Exhibit #2 (SCDC Medical Records) 1574
Second Amended Application for Post-Conviction Relief filed October 1, 2012 1632
Post-Conviction Relief Hearing Transcript dated October 1-3, 2012 1639

Testimony

Investigator Durwood Joseph Barton

Direct Examination by Mr. Taylor 1657
Cross Examination by Mr. Zelenka 1674

Agent David Givens

Direct Examination by Mr. Taylor 1703
Cross Examination by Mr. Zelenka 1766
Redirect Examination by Mr. Taylor 1788
Recross Examination by Mr. Zelenka 1790

Jack Howle

Direct Examination by Mr. Taylor 1793
Cross Examination by Ms. Brown 1818
Redirect Examination by Mr. Taylor 1839
Recross Examination by Ms. Brown 1841

| | |
|--|------|
| Edward L. Gause | |
| Direct Examination by Mr. Taylor | 1849 |
| Cross Examination by Ms. Brown..... | 1855 |

| | |
|--|------|
| James Babb | |
| Direct Examination by Ms. Armstrong..... | 1865 |
| Cross Examination by Ms. Brown..... | 1914 |

| | |
|---|------|
| Kelly Jackson | |
| Direct Examination by Ms. Armstrong..... | 1953 |
| Cross Examination by Mr. Zelenka | 1970 |
| Redirect Examination by Ms. Armstrong | 1986 |
| Recross Examination by Mr. Zelenka..... | 1996 |
| Further Redirect Examination by Ms. Armstrong | 1999 |

| | |
|--|------|
| John Clark | |
| Direct Examination by Ms. Armstrong..... | 2001 |

VOLUME V

| | |
|--|------|
| John Clark (continued) | |
| Direct Examination by Ms. Armstrong (continued)..... | 2001 |
| Cross Examination by My Mr. Zelenka..... | 2017 |
| Redirect Examination by Ms. Armstrong | 2028 |

| | |
|--|------|
| Joseph L. Savitz, III | |
| Direct Examination by Ms. Armstrong..... | 2041 |
| Cross Examination by Mr. Zelenka | 2045 |

| | |
|--|------|
| Dr. Donna Schwartz-Watts | |
| Direct Examination by Ms. Armstrong..... | 2049 |
| Cross Examination by Mr. Zelenka | 2061 |
| Redirect Examination by Ms. Armstrong | 2080 |
| Recross Examination by Mr. Zelenka..... | 2080 |
| Further Redirect Examination by Ms. Armstrong..... | 2081 |

| | |
|---|------|
| Dudley Saleeby | |
| Direct Examination by Mr. Taylor | 2083 |
| Cross Examination by Mr. Zelenka | 2094 |
| Redirect Examination by Mr. Taylor..... | 2098 |

| | |
|-----------------------|------|
| Closing Arguments | |
| By Ms. Armstrong..... | 2122 |
| By Mr. Taylor..... | 2132 |
| By Mr. Zelenka..... | 2146 |

| | |
|---|------|
| Plaintiff's Exhibit #1 (Investigative Report) | 2171 |
| Plaintiff's Exhibit #2 (Attachment 79)..... | 2205 |
| Plaintiff's Exhibit #3 (Case Notes) | 2225 |
| Plaintiff's Exhibit #4 (Internet History) | 2237 |
| Plaintiff's Exhibit #5 (Internet History) | 2244 |
| Plaintiff's Exhibit #6 (Internet History) | 2269 |
| Plaintiff's Exhibit #7 (Internet History) | 2293 |
| Plaintiff's Exhibit #9 (Rule 5 Motion) | 2308 |
| Plaintiff's Exhibit #10 (<i>Brady</i> Motion) | 2309 |
| Plaintiff's Exhibit #11 (Rule 5 Disclosure) | 2310 |
| Plaintiff's Exhibit #12 (Tender of Guilty Plea) | 2313 |
| Plaintiff's Exhibit #13 (Tender of Guilty Plea) | 2319 |
| Plaintiff's Exhibit #14 (Tender of Guilty Plea) | 2328 |
| Plaintiff's Exhibit #15 (Letter to Babb from Jackson)..... | 2337 |
| Plaintiff's Exhibit #16 (Motions)..... | 2338 |
| Plaintiff's Exhibit #17 (Order of Discovery)..... | 2345 |
| Plaintiff's Exhibit #18 (Letter Critical Need) | 2348 |
| Plaintiff's Exhibit #19 (Letter)..... | 2352 |
| Plaintiff's Exhibit #20 (Report of Dr. Schwartz-Watts)..... | 2353 |
| Plaintiff's Exhibit #21 (Affidavit of Teresa Norris)..... | 2370 |
| Defense Exhibit #1 (Letter from Mr. Howle to Mr. Bryant)..... | 2374 |
| Defense Exhibit #2 (Memo)..... | 2376 |
| Defense Exhibit #3 (Statements of Mr. Bryant) | 2377 |

| | |
|----------------------------------|------|
| Defense Exhibit #4 (Report)..... | 2383 |
|----------------------------------|------|

VOLUME VI

| | |
|---|------|
| Defense Exhibit #4 (Report) (continued) | 2501 |
| Defense Exhibit #5 (Letter) | 2513 |
| Defense Exhibit #6 (Affidavit of Tripp Mayes)..... | 2514 |
| Respondent’s Proposed Order of Dismissal | 2516 |
| Order of dismissal filed December 3, 2012 | 2572 |
| Objections to Final Order Denying PCR Pursuant to Rule 59(e) filed February 22, 2013 | 2626 |
| Order Denying Rule 59(e) Motion filed February 19, 2013..... | 2634 |
| Indictments and Sentencing Sheets | 2650 |

Supplemental Appendix (Appellate Case No. 2013-000518)

| | |
|---|------|
| Missing Page 2 from Arraignment Transcript dated April 27, 2007 | 2678 |
| Missing Page 4 from Arraignment Transcript dated April 27, 2007 | 2679 |
| Missing Page 6 from Arraignment Transcript dated April 27, 2007 | 2680 |
| Missing Page 8 from Arraignment Transcript dated April 27, 2007 | 2681 |

Second Supplemental Appendix (Appellate Case No. 2013-000518)

| | |
|---|------|
| Selected Documents from Plaintiff’s Exhibit No. 8 (Disc)..... | 2682 |
|---|------|

VOLUME VII

| | |
|--|------|
| Selected Documents from Plaintiff’s Exhibit No. 8 (Disc) (continued) | 3001 |
|--|------|

Current Post-Conviction Relief Action (Appellate Case No. 2019-00610)

Orders

Order of the South Carolina Supreme Court dated May 31, 2016 Assigning the Honorable Thomas W. Cooper, Jr. 3345

Order dated July 13, 2016 Denying State’s Motion to Dismiss..... 3347

Order of the South Carolina Supreme Court dated August 1, 2016 Assigning the Honorable William H. Seals, Jr. 3354

Scheduling Order dated September 1, 2016..... 3356

Order dated January 27, 2017 for Release of Records and Authorization for Subsequent Release of Privileged Records with Applicant’s Consent..... 3358

Order dated March 13, 2017 Granting Motion to Dismiss Amended Application and Limiting Action to Allegation of Intellectual Disability 3361

Order dated April 4, 2017 Allowing Releases of DJJ Records and Authorization for Receipt and Use of Information..... 3364

Order dated May 12, 2017 Denying Motion for Reconsideration 3367

First Amended Scheduling Order dated October 31, 2017..... 3369

Order dated October 31, 2017 Denying State’s Summary Judgment Motion 3370

Second Amended Scheduling Order dated April 14, 2018..... 3372

Order dated July 22, 2018 Denying Second Motion for Summary Judgment..... 3373

Order dated July 22, 2018 Denying Second Motion to Amend..... 3376

Order dated January 3, 2019 Overruling Objections to Proposed Order of Dismissal 3381

Order of Dismissal dated January 3, 2019 3383

Order dated Denying Applicant’s Rule 59(e) Motion 3421

Pleadings

Application for Post-Conviction Relief

 Application 3423

 Affidavit of Dr. Donna Schwartz Maddox..... 3430

| | |
|---|------|
| Return and Motion to Dismiss Application for Post-Conviction Relief Pursuant to <i>Atkins v. Virginia</i> | 3432 |
| Memorandum in Opposition to State’s Motion to Dismiss Application for Post-Conviction Relief based on <i>Atkins v. Virginia</i> | 3446 |
| Motion for Order Allowing Release of Records and Authorization for Subsequent Release of Privileged Records..... | 3452 |
| First Amended Application for Post-Conviction Relief Pursuant to <i>Atkins v. Virginia & Hurst v. Florida</i> | 3460 |
| Motion to Dismiss | 3468 |
| Rule 59(e), SCRCF Motion | 3477 |
| Motion to Extend Scheduling Order..... | 3482 |
| Motion for Summary Judgement | |
| Pleading..... | 3484 |

VOLUME VIII

| | |
|---|------|
| Motion for Summary Judgment (continued) | |
| DJJ Records..... | 3501 |
| Affidavit of Kevin Everhart, Ph.D..... | 3513 |
| Affidavit of Tracy D. Gunter, MD..... | 3518 |
| Excerpt from Petition for Writ of Habeas Corpus..... | 3524 |
| Response in Opposition to State’s Motion for Summary Judgement | |
| Pleading..... | 3530 |
| Affidavit of Caroline Everington, Ph.D..... | 3533 |
| CV of Dr. Caroline Everington, Ph.D..... | 3542 |
| Declaration of George Woods, Jr. M.D. | 3555 |
| Notarized Declaration of George Woods, M.D..... | 3566 |
| Motion to Amend Application for Post-Conviction Relief | |
| Pleading..... | 3579 |
| Proffer of Second Amended Application for Post-Conviction Relief..... | 3581 |
| Report of George Woods, M.D. | 3589 |
| Motion for Summary Judgment | 3600 |
| Objections to State’s Proposed Order of Dismissal | 3615 |

| | |
|--|------|
| Reply to Objections to Proposed Order of Dismissal..... | 3635 |
| Rule 59(e), SCRCF Motion | |
| Pleading..... | 3648 |
| Order of South Carolina Supreme Court in <i>State v. Bryant</i> | 3653 |
| Order of South Carolina Supreme Court in <i>State v. Starnes</i> | 3655 |
| Excerpts of Transcript in <i>Dickerson v. State</i> | 3657 |
| Public Index – <i>Starnes v. State</i> | 3662 |
| Public Index – <i>Torres v. State</i> | 3664 |
| Emails between Court and Counsel..... | 3668 |
| Supplemental Citation Letter | |
| Letter..... | 3671 |
| Fourth Circuit Court of Appeals Opinion in <i>Williams v. Stirling</i> | 3672 |
| Response in Opposition to Applicant’s Rule 59(e), SCRCF Motion | |
| Pleading..... | 3701 |
| Excerpts for Order of Dismissal in <i>Mahdi v. State</i> | 3707 |
| Reply to State’s Response to Rule 59(e) SCRCF Motion..... | 3714 |

Transcripts¹

| | |
|--|------|
| June 21, 2016..... | 3718 |
| September 1, 2016..... | 3761 |
| February 22, 2017..... | 3782 |
| April 20, 2017..... | 3801 |
| October 25, 2017..... | 3815 |
| June 12, 2018..... | 3839 |
| October 1, 2018..... | 3863 |
| Dr. George Woods, M.D. | |
| Direct Examination by Mr. Grose..... | 3866 |
| Cross Examination by Ms. Brown..... | 3908 |
| Redirect Examination by Mr. Grose..... | 3988 |
| Recross Examination by Ms. Brown..... | 3996 |

VOLUME IX

¹ Judge Cooper convened a hearing on August 23, 2016. There was not a court reporter present for this hearing, so no transcript exists of this hearing.

| | |
|---|------|
| Dr. Caroline Everington, Ph.D. | |
| Direct Examination by Mr. Grose..... | 4001 |
| Cross Examination by Ms. Brown..... | 4029 |
| Redirect Examination by Mr. Grose | 4055 |
| Recross Examination by Ms. Brown..... | 4059 |
| Dr. Donna Schwartz (Watts) Maddox | |
| Direct Examination by Mr. Grose..... | 6061 |
| December 21, 2018..... | 4075 |

PCR Hearing Exhibits

Applicant’s Exhibits

| | |
|--|------|
| 1) Dr. George Woods’ CV..... | 4090 |
| 2) Dr. George Woods’ Report..... | 4112 |
| 3) Declaration of Dr. Donna Schwartz (Watts) Maddox..... | 4118 |
| 4) Dr. Caroline Everington’s CV | 4120 |
| 5) Picture..... | 4133 |

Respondent’s Exhibits

| | |
|---|------|
| 1) DSM-5 Classification..... | 4134 |
| 2) Diagnostic Criteria | 4137 |
| 3) SCDC Summary..... | 4138 |
| 4) Dr. Donna Schwartz (Watts) Maddox Affidavit..... | 4139 |
| 5) SCDC Grievances | 4141 |

SW - P. COONFIELD - DIRECT

1 Q All right. And Mr. Gant is deceased now; is that correct?

2 A That's right.

3 Q And when did he pass away?

4 A Almost a year-and-a-half ago.

5 Q All right. When the two of you arrived on the scene what
6 did you initially observe externally?

7 A Once we arrived on the scene of course we met with Sheriff
8 Mims. He let us know what was going on inside the
9 residence, let us know that there was a deceased male on
10 the floor. We approached the residence and looking for any
11 initial observations. What we typically look for is any
12 signs of forced entry, the condition of the house itself.
13 And make, began making notes of anything of interest that
14 would have evidentiary value for our case. In this case we
15 ---

16 Q That's a preliminary walk-through?

17 A That's right. That's what we call our walk-through. In
18 this case we did not observe any forced entry in the
19 residence. There was barrier tape that was set up prior to
20 our arrival. The scene was secure. Once we arrived I went
21 through the residence. We saw Mr. Tietjen lying face up on
22 the floor. Other observations we made it appeared that the
23 entire house had been gone through, tossed about,
24 ransacked. Things that were in the bedroom seemed to be
25 out of place. For example, items on the bed, items on the

SW - P. COONFIELD - DIRECT

1 floor, basically completely tossed around, completely in
2 disarray.

3 Q We're going to make reference -- I'm going to let you use
4 this lazer pointer but we're going to start from the
5 outside and work in if you would please. And just if you
6 would show us the outside pictures of State's Exhibit
7 Number 4-A. If you'd tell the Court where that photograph
8 was taken from and what you're looking at.

9 A Your Honor, you're looking at the front door of the
10 residence and the front side of the resident right in this
11 area and there's a driveway right through here.

12 Q All right. If you would now, Mr. Coonfield, what I'd like
13 us to do is move through using State's Exhibit Number 3 and
14 these photographs to look at the rooms one by one using
15 representative as photographs from each room. This is
16 State's Exhibit Number 11-E. It's in evidence, and I think
17 it's been identified as being the master bedroom. Tell us
18 what we're looking at there please, sir.

19 A Yes, sir. You're looking at a photograph of the master
20 bedroom which is in this area. I began taking photographs
21 in all three bedrooms including the bathroom, and basically
22 what it shows is the condition of the master bedroom.
23 Again, items are on the floor, closets open, drawers have
24 been pulled out. There's things all over the bedroom
25 laying on the bed, again, appeared that someone's gone

SW - P. COONFIELD - DIRECT

- 1 through it and items being tossed around.
- 2 Q A lot of what you would call ransacking?
- 3 A Yes, sir.
- 4 Q Let's move to bedroom number two, State's Exhibit Number
- 5 12-C.
- 6 A Another photograph, bedroom number two right across master
- 7 bedroom. Again, just showing items on the bed. There were
- 8 also items on the floor, drawers pulled open. In this case
- 9 you can see dresser drawer was overturned laying on the bed
- 10 and things again ransacked. Things thrown about in this
- 11 bedroom as well.
- 12 Q Let move to bedroom number three, photograph number 13-A.
- 13 A Again, Your Honor, bedroom number three is State's Exhibit
- 14 3. Again, items on the bed. There were items on the floor
- 15 that you can't see in the photograph. The jewelry box was
- 16 placed on the bed which appeared someone had opened it and
- 17 gone through some things. The bag is open. Again, that
- 18 same room, same condition, -ransacked, was gone through.
- 19 Q Did you go through the hall as well?
- 20 A Yes, sir.
- 21 Q Did he have the same things open?
- 22 A Yes, sir.
- 23 Q All right. I want to show you some photographs now,
- 24 State's Exhibits 10-A and then -B and then -C. First of
- 25 all, State's Exhibit Number 10-A, tell the Court what that

SW - P. COONFIELD - DIRECT

1 is and show them on the diagram.

2 A State's Exhibit 10-A is the bathroom that's represented in
3 the diagram here. You can see the toilet and the sink.
4 Again, in this photograph you can see the toilet and the
5 sink.

6 Q Let's go to State's Exhibit Number 10-B, and if you can
7 zoom in as much as you possibly can. Thank you, sir.

8 A This is a photograph of the toilet that's in the bathroom.
9 You can see the bottom of the toilet there were six fired
10 cartridge casings in the bottom of the toilet as well as
11 one earring that we collected and photographed and
12 collected out of the toilet.

13 Q Did you collect those six shells?

14 A Yes, sir.

15 Q And did -- were they bagged up for evidentiary purposes?

16 A They were, yes, sir.

17 Q And would State's Exhibit Number 24 be those same things?

18 I think they are in, sir.

19 A Yes. Yes, sir.

20 Q That's six you got out of the toilet; is that correct?

21 A That's correct.

22 Q You were not aware until later Mrs. Tietjen actually found
23 the seventh one, were you?

24 A No, sir, I was not.

25 Q All right. State's Exhibit Number 10-C.

SW - P. COONFIELD - DIRECT

1 A State's Exhibit 10-C is a photograph of the sink in the
2 bathroom dictated on the diagram. As you can see there's a
3 gold ring in the bottom of the sink that we documented and
4 photographed.

5 Q Do you recall what kind of ring it was or what was done
6 with it?

7 A No, sir, I believe that was turned over to the local law
8 enforcement.

9 Q All right, sir. Let's move to the kitchen if you would
10 please. These will be State's Exhibit Number 8-F and 8-G.

11 A Your Honor, this is a photograph taken inside the kitchen
12 area. On the photograph you see a marker 12, the same as
13 in the diagram, marker 12, and that was a cigarette butt
14 that we collected from the kitchen floor.

15 Q This is State's Exhibit 19-C. It's in evidence. Would you
16 identify that for the Court?

17 A Yes, sir. State's Exhibit 19-C is written cigarette butt
18 on the kitchen floor.

19 Q And would that be the -- shown as was shown on the
20 photograph?

21 A Yes, sir.

22 Q Let's just double check that. That's 19-C is the same as
23 in this photograph.

24 A Right, cigarette butt on the kitchen floor which is marker
25 12.

SW - P. COONFIELD - DIRECT

- 1 Q Thank you.
- 2 A That is marker 12.
- 3 Q I want you to discuss what you found in the bedroom -- I
4 beg your pardon, the dining room, State's Exhibit Number
5 6-A.
- 6 A This is a photograph from the dining room representing this
7 area here on the diagram. The window that you see in the
8 photograph in this end of the door is this end of the
9 house. You see marker number 10, marker number 14. 10 was
10 a cartridge casing that we found in the dining room and 14
11 was a cigar wrapper, empty cigar wrapper.
- 12 Q Did you find any cigarette butts in the room?
- 13 A Yes, sir, around on the other side again representing the
14 diagram 8 and 9. Marker number 8 was a cigarette butt.
15 Marker Number 9 was a fired cartridge casing.
- 16 Q All right. Let me show you State's Exhibit Number 19-B.
17 It's in evidence. Ask you if you can identify that for the
18 Court.
- 19 A Yes, sir. Cigarette butt by dining room table on the
20 floor, marker number 8.
- 21 Q And State's Exhibit Number 25 is one of the tags in this
22 identified as being a fired casing from the dining room
23 floor.
- 24 A That's correct.
- 25 Q And this one as well?

SW - P. COONFIELD - DIRECT

1 A Yes, sir.

2 Q One cigarette butt in the dining room represented by on the
3 the diagram by number 8.

4 A Yes, sir.

5 Q And two cartridge cases being 9 and 10?

6 A That's correct.

7 Q Let's move to the din-- living room if you would please.

8 This is State's Exhibit Number 5-I.

9 A Your Honor, State's Exhibit 5-I is a photograph from this
10 area of the diagram. As you can see there's been papers on
11 the floor, pictures placed on the floor. This table was
12 full of items, newspapers. There's actually handwritten
13 note on that. This table which is represented here in the
14 diagram. Marker number 4 had candles placed all around it.
15 There were items made or strung all over the couches, the
16 chairs, again the floor. Appears items have been -- had
17 been moved around basically placed on the floor.

18 Q Let's look at State's Exhibit Number 5-J, getting in
19 closeup.

20 A State's Exhibits 5-J is a photograph. As you can see
21 marker number 1 and 2 is represented here, marker number 1
22 and 2. That were two Sumter Item newspapers that were on
23 the floor with the front page face up.

24 Q This is State's Exhibit Number 27-A. Keep that photograph
25 up. Tell the Court what this is please, Mr. Coonfield.

SW - P. COONFIELD - DIRECT

1 A That is the Sumter Item newspaper that represented marker
2 number 1 with the head line arrest made in 15 year old
3 killing.

4 Q State's Exhibit Number 27-B. Tell the Court what this is
5 and relate it to that diagram.

6 A State's Exhibit 27-B is marker number 2 in the photograph.
7 And again, Your Honor, marker number 2 on the diagram.
8 It's the Sumter Item newspaper with the headline Robinson
9 case still open.

10 Q This is State's Exhibit Number 26. Tell the Court what
11 this is.

12 A State's Exhibit 26 is a photograph that was found near the
13 newspaper which would be this area on the diagram and it's
14 shown on this photograph above the newspapers between some
15 other photographs and then had it on the floor.

16 Q Did you find any shell casings or projectiles in the living
17 room?

18 A Marker number 17 was a fired projectile that we found in
19 the living room.

20 Q And did you find any shell casings in the living room or
21 were they in the dining room?

22 A They were mainly in the dining room here.

23 Q All right. In terms of projectiles I want to show you
24 State's Exhibit Number 23-A and -B and tell the Court what
25 these are and where you found them.

SW - P. COONFIELD - DIRECT

1 A State's Exhibit 23-A is marked projectile collected from
2 the floor underneath the body.

3 Q And just show us where that would be approximately using
4 your lazer pointer.

5 A That would be basically in this area underneath the body.

6 Q Under the body?

7 A Yes, sir.

8 Q All right. What about -B?

9 A State's Exhibit 23-B is a projectile found near the sofa
10 which is marker number 17.

11 Q These were collected and submitted to SLED?

12 A That's correct.

13 Q Mr. Coonfield, was anything unusual about the walls?

14 A Yes, sir. Upon our initial observation, Your Honor, we
15 observed what appeared to be blood writings on several of
16 the walls inside the dining room and the living room.

17 Q Now at this point I'm going to show you State's Exhibit
18 Number 7-A to I -- beg your pardon, A to K. Ask you if you
19 can identify them and if they represent the scene as you
20 found it. That's all I'm going to ask you right now.

21 A Yes, sir, those are photographs I took on the night of
22 October 11th.

23 MR. SALEEBY: Your Honor, at this time we move their
24 introduction.

25 MR. CLARK: Let me take a look at them, Your Honor.

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. CLARK: Your Honor, defendant objects to series 7.

4 I think that's 7-A through -K photographs being admitted. The
5 basis of the objection, Your Honor, is that they're not relevant
6 to this proceeding and that if the Court determines that they're
7 relevant that the prejudice of these photographs outweigh the
8 relevance. Your Honor, again, this is a sentencing phase. And
9 these photographs, the State has already well established that
10 Mr. Tietjen was killed, that his house was ransacked and that
11 items were taken from his home. That's already been well
12 established. The only purpose that these photographs which show
13 rather disturbing scenes in his house involving disturbing
14 scenes, I'll leave it at that, is to incite⁸ the passion of the
15 fact finder in this case. I think they're prejudicial and not
16 relevant to any fact in this proceeding.

17 Also, Your Honor, if the Court, if the Court admits the
18 photographs it'd be our position that they are cumulative, I
19 mean. Admit one and serve the same purpose as seven or eight
20 that they're trying to admit.

21 THE COURT: All right.

22 MR. CLARK: That would be our position, Your Honor.

23 THE COURT: All right.

24 MR. CLARK: And Your Honor, if I could just add, what's
25 depicted in the photographs do not go to the aggravating

SW - P. COONFIELD - DIRECT

1 circumstance that the State is required to prove beyond a
2 reasonable doubt. It shows the nature of the crime, but it
3 doesn't shed any light on the aggravating circumstance that
4 they're required to prove and that be armed robbery.

5 THE COURT: Okay, sir. Mr. Saleeby, you want to
6 respond?

7 MR. SALEEBY: Your Honor, first of all, it shows the
8 scene as the defendant left the scene. In his statements he
9 makes references to having done what's been shown there. And if
10 this doesn't show his character I don't know what does. If it's
11 not relevant to his character nothing is.

12 THE COURT: I'm going to note your objection but
13 overrule and allow State's 7-A through -K in.
14 (WHEREUPON, State Exhibits Nos. 7-A through 7-K were admitted
15 into evidence.)

16 BY MR. SALEEBY:

17 Q All right, Mr. Coonfield, let's go over these one at a
18 time. State's Exhibit 7-A, show us on the diagram what
19 that is.

20 A State's Exhibit 7-A.

21 Q I'm going to need you to zoom in.

22 A This is a photograph showing ---

23 Q What part of the house is that?

24 A This is in the dining room. Your Honor, if you were
25 standing in this corner it would be in this area and the

SW - P. COONFIELD - DIRECT

1 writing is actually on this wall.

2 Q The wall that faces ---

3 A This would be the ---

4 Q ---that backs up to the front porch?

5 A This will be a porch; this will be a side door.

6 THE COURT: I'm looking at that photograph. That's a
7 door on the other side of the writing?

8 THE WITNESS: Yes, sir, that's correct. That would be
9 ---

10 THE COURT: I got you.

11 THE WITNESS: This door in this area.

12 BY MR. SALEEBY:

13 Q And that reads what?

14 A That reads victim number four in two weeks, catch me if you
15 can.

16 Q 7-B. Zoom in. All right?

17 A Again, this is another photograph, just a closeup
18 photograph showing the same writing. Victim number four in
19 two weeks, catch me if you can.

20 Q Back up please on the photo. And show us please
21 Mr. Tietjen's body and how close that is to his body.

22 A Your Honor, as you can see in the photograph this is
23 Mr. Tietjen's body. This is the head area and you can see
24 by relevance how close the writings are to his body.

25 Q There's a red object to the right. Tell us what that is,

SW - P. COONFIELD - DIRECT

- 1 Mr. Coonfield.
- 2 A Is this the object you're referring to, Mr. Saleeby?
- 3 Q Yes.
- 4 A That is a potholder or some type of cloth that had some
5 blood on it.
- 6 Q And would that be State's Exhibit Number 31?
- 7 A Yes, sir.
- 8 Q And that's approximately how far from Mr. Tietjen's left
9 elbow?
- 10 A That's approximately a foot, maybe a foot-and-a-half.
- 11 Q I have this in evidence. State's Exhibit 7-C.
- 12 A Again, another enlarged photograph of the writing on the
13 wall the same way.
- 14 Q Same area?
- 15 A Yes, sir.
- 16 Q 7-D?
- 17 A Same photograph, it just showed different parts of the same
18 writing.
- 19 Q 7-E?
- 20 A Again, this is the same, same writing. It's just a
21 enlarged photograph of the catch me if you can writing.
- 22 Q 7-F?
- 23 A This is a photograph of a different writing.
- 24 Q Which wall is this on?
- 25 A If you observe the -- or look at the diagram it would be

SW - P. COONFIELD - DIRECT

1 directly across from the victim's feet on the wall leading
2 into the kitchen which would be in this wall right here.

3 Q Zoom in. Zoom in. Good. What -- point it out to us and
4 if you'd tell what it is if you do; if you can't, don't.

5 A To the best of our ability it appears to be the word catch
6 written what appears to be blood on this wall.

7 Q 7-G?

8 A State's Exhibit 7-G is an enlarged photograph of the same
9 writing, again, appears to be the word catch. You can make
10 out the C-A, possibly a T-C and H. Again, that's just the
11 best of our ability what we believe it reads.

12 Q 7-H?

13 A 7-H is a photograph that was taken from this area showing
14 the victim's body. Also showing you can see the edge of
15 the chair, the couch here, which is the chair and the couch
16 back here, the victim's body, the dining room table.

17 Q All right. What are we looking at of the upper right wall
18 here?

19 A This would be the completion of the word victim. This is
20 an M from the other side of the wall that we observed in
21 this area.

22 Q 7-I?

23 A This is an enlarged photograph of what we think is the M
24 that completes the word victim from the opposite wall.

25 Q And that's here around the corner towards the door that

SW - P. COONFIELD - DIRECT

1 walks out on the ---

2 A That's correct.

3 Q ---lattice porch?

4 A Yes, sir. This is the mark that was below the M on the
5 same wall that is distinguishable. We couldn't tell what
6 it was. This is a mark that appears to be blood.

7 Q Let's move back into the living room and show you State's
8 Exhibit 5-N. If you can zoom in on that a bit. What --
9 where in the living room are we looking at? I see a marker
10 number 3.

11 A Your Honor, this photograph is -- was taken from this
12 table, marker number 3 which is represented here. Shows a
13 handwritten note that was on top of newspapers, again,
14 sitting on top of this table.

15 Q And that was which exhibit number?

16 MR. JACKSON: It's on the back.

17 BY MR. SALEEBY:

18 Q All right. Did you collect that item?

19 A Yes, sir, we did.

20 Q This is State's Exhibit Number 5-O. Tell the Court what
21 that is.

22 A State's Exhibit 5-O is the letter that we observed and
23 collected that was again on this table, marker number 3.
24 It says, quote ---

25 Q Hold on just a second. Is that -- did you actually collect

SW - P. COONFIELD - DIRECT

1 the item?

2 A We did, yes, sir.

3 Q Is this the item right here?

4 A Yes, sir, that is.

5 Q And this is State's Exhibit Number 29. This is the actual
6 document?

7 A Yes, sir.

8 Q That's a copy of the document?

9 A That's a photograph of the document, yes, sir.

10 Q All right. And please read that into the record.

11 A Quote, "No more sick computer porn for this sick fucker.

12 By the way, just keeping my promise to all. P.S. good luck
13 finding me." And letters LMFAO.

14 Q Are you computer literate?

15 A Yes, sir, I would consider myself so.

16 Q And what are those letters mean in computer-ease?

17 A Shortly after this case Agent Gant and I went back and
18 looked up on the computer and ---

19 Q LMFAO?

20 MR. CLARK: Your Honor, I object to this speculation by
21 this witness. Again, we were not provided with any notice of him
22 giving opinion about what this meant and I think it's speculation
23 on his part what it means.

24 MR. SALEEBY: Your Honor, it's probably in a realm of
25 common knowledge.

SW - P. COONFIELD - DIRECT

1 THE COURT: Overruled.

2 BY MR. SALEEBY:

3 Q Go ahead.

4 A Everything that we found on the the internet, and again,
5 I'm not an expert in internet lingo but LMFAO stands for
6 laughing my freaking or fucking ass off.

7 Q And what's it say at the bottom?

8 A I find it funny, victim number five in two weeks.

9 Q Did you find any other writings on or about Mr. Tietjen's
10 body?

11 A Yes, sir, we did.

12 Q What were they?

13 A On Mr. Tietjen's body we found a manila envelope that had a
14 handwritten note on it. It was laying on his abdomen.
15 Again, the victim was laying like face up between the
16 dining room and the living room.

17 Q This would be State's Exhibit 7-K. We blow that up. Is
18 that the same thing as State's Exhibit Number 28?

19 A Yes, sir, it is.

20 Q All right. And where was this? Tell the Court how it was
21 on the defendant's body if you would please.

22 A Again, the victim's body was lying face up. This envelope
23 was found lying on his abdomen face up in this position
24 with the words where we could read them.

25 Q All right. Would you please read this in the record.

SW - P. COONFIELD - DIRECT

1 A Yes, sir. It reads, quote, "I am the light, I am so
2 bright, I am the sun, yours truly, the prowler ".

3 Q And you took pictures of Mr. Tietjen as he lay on the
4 floor; did you not?

5 A Yes, sir, I did.

6 Q I'm going to show you State's Exhibits Number 34-A to -H
7 and ask you if these are copies of the pictures that you
8 took?

9 A Yes, sir. These appear to be copies of the photographs I
10 took.

11 MR. SALEEBY: Your Honor, we move their introduction at
12 this time.

13 MR. CLARK: Objection, Your Honor, more prejudicial
14 than probative.

15 THE COURT: Overruled.

16 (WHEREUPON, State Exhibits Nos. 34-A through 34-H were admitted
17 into evidence.)

18 BY MR. SALEEBY:

19 Q What I'm going to do is show these to you in alphabetical
20 order and ask you to show them to the Court up here at the
21 Bench, not on the screen, and just tell us what we're
22 looking at. Just one moment here, let me get them back
23 where they belong. State's Exhibit 34-A.

24 A Your Honor, State's Exhibit 34-A is a photograph of the
25 victim as we found him. The victim was fully clothed as

SW - P. COONFIELD - DIRECT

1 you can see in the photograph except for his shoes. You
2 can also see the manila envelope on the victim's abdomen.
3 What appeared to be some marks, we have blood here and
4 blood in his eyes and around his face, on his shirt.

5 Q This is the oven mit or kitchen, whatever?

6 A Yes, sir, that's another angle of the mit.

7 Q 34-B?

8 A State's Exhibit 34-B again is a photograph as you can see
9 from the victim's feet up. Once again you can see the
10 manila envelope with the handwritten message on it. You
11 can see his belt is open. You can also see this what
12 appears to be a star that was written on the victim's
13 abdomen. More writings on the victim's abdomen and you can
14 also see a candle that was lit at the head of the victim's
15 head.

16 Q How many -- I know there were a bunch of candles on the
17 table. How many candles were there on the floor?

18 A There was one candle by his head that was lit. I don't
19 recall how many other candles that were around his body.

20 Q State's Exhibit 34-C?

21 A State's Exhibit 34-C is a enlarged photograph, again, of
22 the victim. You can see more of the writing. You can also
23 see the oven mit here, and you can see what appeared to be
24 some type of makeup case lying next to the victim.

25 Q That's the yellowish, reddish thing?

SW - P. COONFIELD - DIRECT

1 A Yes, sir.

2 Q State's Exhibit 34-D?

3 A Your Honor, State's Exhibit 34- D we had photographed,
4 collected, and removed the manila envelope that was on the
5 victim's abdomen. You can see the star shape pattern what
6 we believe number two or something along those lines
7 written in what appeared to be blood here. Again, you can
8 see the candle that was lit. You can see the blood from
9 the -- from the victim's face, what appears to be gunshot
10 wounds in the victim. And again, the -- what appears to be
11 a makeup case.

12 Q 34-E?

13 A State's Exhibit 34-E is a photograph. Again, it shows
14 enlarged picture of what appears to be a star. You can
15 also see his pants unbuttoned, unzipped, and his belt
16 appears to be undone.

17 Q 34-F?

18 A State's Exhibit 34-F is an enlargement of the other drawing
19 or other number that was next to the star.

20 Q 34-G?

21 A Your Honor, 34-G shows a picture of the victim's head and
22 face. Excuse me, as you see the victim's goatee appears to
23 have been burned or singed with something. If you notice
24 inside the eyes you can see a some type of hand rolled
25 cigarette that appeared to have been put out or pressed

SW - P. COONFIELD - DIRECT

1 into the corner of the victim's eye. And then there's
2 another photograph that will show his left eye as well.

3 Q 34-H?

4 A 34-H shows pants unzipped, unbuttoned, and the belt undone.
5 It also appears to show several bullet wounds.

6 Q 34-I?

7 A State's Exhibit 34-I is a photograph that is taken
8 90-degrees from the victim's head. Again, you can see the
9 hand rolled cigarette, what appears to be a hand rolled
10 cigarette. You can see the ash and the burn in the eye.
11 On the left eye you can also see ash inside the eye, a burn
12 mark here, and you can see where the victim's goatee had
13 been burned or singed.

14 Q And 34-J?

15 A Again 34-J is a photograph 90-degrees basically depicting
16 the same as the last photograph with the cigarettes and the
17 burns, the blood around his neck.

18 Q Thank you, Mr. Coonfield. Please answer any questions
19 counsel has for you.

20 CROSS - EXAMINATION

21 BY MR. CLARKE:

22 Q Mr. Coonfield, in your investigation of the crime scene
23 you weren't able to tell how long the person who did this was in
24 that residence, were you?

25 A No, sir.

SW - P. COONFIELD - CROSS

1 Q And you were not able to tell of when the house was
2 ransacked in relation to the time that the victim was
3 killed, were you?

4 A No, I was not.

5 Q And you weren't able to tell whether after the victim was
6 killed person left the house and came back or not, were
7 you?

8 A No, sir.

9 Q And you weren't able to tell how long after the victim was
10 killed whether things were taken from the house right then
11 or later or what, were you?

12 A No, sir.

13 Q And you weren't able to tell from your investigation of the
14 scene why the victim was killed, were you?

15 A No, sir.

16 Q Now could you tell whether anything was taken from
17 Mr. Tietjen's person?

18 A No, sir, I couldn't tell.

19 Q Thank you, sir, that's all I have.

20 THE COURT: Anything further?

21 MR. SALEEBY: I have nothing further.

22 THE COURT: Thank you very much.

23 MR. SALEEBY: Your Honor, I have a couple more
24 witnesses that are going to -- some will take a little bit more
25 time than others. I can put a couple out of order that will put

SW - C. PIERSON - DIRECT

1 us up right up to 1:00 if you will tolerate that or else I can
2 just go forward as I ---

3 THE COURT: I'm not -- well, Mr. Saleeby, however y'all
4 want to do it. I don't mind we can break now and just come back
5 earlier or ---

6 MR. SALEEBY: It won't disturb things to put these two
7 witnesses up out of order.

8 THE COURT: All right, we'll do that.

9 MR. SALEEBY: We will call Cindy Pierson to the stand
10 please.

11 THE DEPUTY CLERK OF COURT: Place your left hand on the
12 Bible, raise your right hand. State your name please.

13 THE WITNESS: Cindy Pierson.

14 WHEREUPON,

15 CINDY C. PIERSON,
16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Have a seat up here please.
19 State your full name, spell your last name please.

20 THE WITNESS: Cindy C. Pierson, P-I-E-R-S-O-N.

21 DIRECT EXAMINATION

22 BY MR. SALEEBY:

23 Q Ms. Pierson, who do you work for?

24 A Sumter County Sheriff's Office.

25 Q How long have you worked with them?

SW - C. PIERSON - DIRECT

- 1 A Ten years.
- 2 Q And what kind of work do you do with them?
- 3 A I'm in charge of the evidence room and also assist with
4 crime scene.
- 5 Q How long have you been doing that?
- 6 A Approximately 8-and-a-half years.
- 7 Q Were you working in that capacity on Monday, October
8 the 11th, 2004?
- 9 A Yes, sir.
- 10 Q And did you have occasion to go to the Tietjen home?
- 11 A I did.
- 12 Q Did you respond to anybody else in your crime unit?
- 13 A Sergeant Mackessy.
- 14 Q Did you and Sergeant Mackessy take an active role that in
15 processing the crime scene or was that left to SLED?
- 16 A No, sir, we were advised SLED was coming in so we both
17 backed out.
- 18 Q All right. Were you called back to the house on a later
19 occasion particularly October the 16th, 2004?
- 20 A Yes, sir.
- 21 Q And when you went there who did you meet?
- 22 A I spoke with Johnny Gant. He was a member of the biohazard
23 clean-up team.
- 24 Q There was a biohazard clean-up team there?
- 25 A Yes, sir.

SW - C. PIERSON - DIRECT

1 Q And as a result of talking with him what did you do?

2 A He advised me that there was two shell ---

3 MR. CLARK: Objection, Your Honor.

4 BY MR. SALEEBY:

5 Q Just tell me what you did.

6 A I received two shell casing -- excuse me, two bullets.

7 Q All right. What condition was -- had you seen where the
8 body was?

9 A Yes, sir.

10 Q All right. And as a result of talking with him where did
11 you go and what did you do?

12 A The bullets were located beside the aquarium. I also
13 called out and asked Major Metts to have someone come out
14 to photograph them. At that point I collected them and
15 took them back to the evidence room and then they were sent
16 to SLED.

17 Q You collected a couple of projectiles?

18 A That's correct.

19 Q And just use this lazer right here to show us where they
20 were. You had seen where the body was, right?

21 A Yes, sir, they were right in there.

22 Q All right. Was the carpet still in the floor or pulled up?

23 A I believe it was pul-- it had been removed.

24 Q And where were the projectiles in relationship to the body,
25 in relationship to the floor?

SW- R. WATKINS - DIRECT

1 A The body was in this area here and the projectiles were
2 over underneath the aquarium area.

3 Q Under the carpet?

4 A Yes, sir.

5 Q And are these the two that you collected at that time
6 marked as State's Exhibit 32-A and 32-B?

7 A Yes, sir.

8 Q That's all the questions we have.

9 THE COURT: Mr. Clark.

10 MR. CLARK: No questions, Your Honor.

11 THE COURT: Thank you, Ma'am, you may step down.

12 MR. SALEEBY: Richard Watkins, come around please.

13 THE BAILIFF: Place your left hand on the Bible, raise
14 your right hand. State your name please.

15 THE WITNESS: Richard Dennis Watkins.

16 WHEREUPON,

17 RICHARD DENNIS WATKINS,

18 having been duly sworn by the Deputy Clerk of Court,

19 testified as follows:

20 THE DEPUTY CLERK OF COURT: Have a seat up here please.
21 State your full name, spell your last name please.

22 THE WITNESS: Richard Dennis Watkins, W-A-T-K-I-N-S.

23 DIRECT EXAMINATION

24 BY MR. SALEEBY:

25 Q Mr. Watkins, tell us where you live.

SW- R. WATKINS - DIRECT

- 1 A I live here in Sumter out in Eagle Nest with my mother.
- 2 Q And how long have you lived in Sumter County?
- 3 A Off and on about 12 years.
- 4 Q And what kind of work do you do?
- 5 A Right now I'm health care provider for my mother, but I was
6 manager of Sonoco, manager/assistant manager at Sunoco on
7 Guinyard and also the one on [REDACTED]
- 8 Q In 2004 were you the active manager of Sunoco here on
9 Guinyard?
- 10 A Yes, I was.
- 11 Q All right, sir. I want to call your attention to that
12 particular time of October 2004 and ask you in your
13 position as acting manager what your practice was in terms
14 of going to your stores and checking the cash balance.
- 15 A Well, every morning I go in and as we open up I -- well, we
16 were 24 hours at that time, but the first thing I do is I
17 go in open the safe, remove the funds, and take them to the
18 back room, took count the funds, and get my deposit ready
19 to take to the bank.
- 20 Q And did you do that on or about October 12th or 13th of
21 2004?
- 22 A Yes, sir, I did.
- 23 Q And what did you do as you were counting the cash?
- 24 A I came across an envelope. My -- our cashiers know that I
25 collect bills and two dollar bills, silver certificates,

SW-R. WATKINS - DIRECT

1 things like that. And I came across an envelope that my
2 cashier had dropped for me that contained two silver
3 certificate one dollar bills.

4 Q And what did you do once you saw that you had two items to
5 collect there?

6 A Well, I replaced it with my own funds and stuck them in my
7 wallet and went on about my daily business.

8 Q Deposited your money and the rest of the money for Sunoco?

9 A Yes, sir.

10 Q A couple of days later after Mr. Bryant was collected did
11 you see the news account of that?

12 A Yes, sir. I came in that morning, the newspapers on the
13 stand, and that's the first thing I noticed was this
14 picture on the front. I had —

15 Q Had you seen Mr. Bryant before by per chance?

16 A Yes, sir, I had met him previously at the river actually
17 fishing, my brother and I, and my son.

18 Q Wateree River?

19 A Yes, sir, like we were on across from the boat ramp but we
20 were on — at the river you pull down and we were down
21 there fishing.

22 Q Were y'all on the Richland County side or the Sumter County
23 side?

24 A Sumter County side.

25 Q All right. And you recall having run into him there?

SW- R. WATKINS - DIRECT

1 A Yes, sir. We drove up; there was a pickup truck there. We
2 went down, set up our fishing. A gentleman came down and
3 started talking to us, introduced himself as Steven, said
4 he just moved from Columbia. We talked about fishing. He
5 smoked a cigarette with us and then he went about his way.
6 Then when we left that afternoon the truck was still parked
7 there but we left and went on home and I didn't think
8 anything about it but it was ---

9 Q When you saw the newspaper then what did you do?

10 A I immediately I turned to the cashier and I said I met this
11 guy down at the river and she -- that's when she
12 identified. She says well, he was ---

13 MR. CLARK: Objection, Your Honor.

14 MR. SALEEBY: As a result of her saying something what
15 did you do?

16 THE COURT: Sustained.

17 THE WITNESS: Oh, I'm sorry.

18 BY MR. SALEEBY:

19 Q Just as a result of her making a statement what did you do?

20 A Well then I kind of started putting things together and
21 said, well, she said that he had been in ---

22 THE COURT: Don't ---

23 BY MR. SALEEBY:

24 Q Don't tell us what she said.

25 A Well, just identifying him, you know, that he had been out

SW- R. WATKINS - DIRECT

1 and what he had done, I mean. I made that identification
2 of, you know, of him.

3 Q And having put that together what did you do?

4 A At that time -- or I can't say that she -- you know, that
5 the silver certificates came from her and she was the one
6 that identified.

7 Q And as a result of her giving you the silver certificates
8 did you get them back out of your wallet?

9 A Yes, sir. That's when I kind of put two and two together
10 and called the detectives and said that, you know, these
11 might be something that might be of interest to you. I
12 also pulled a surveillance tape. We run a 24 hour
13 surveillance, and I pulled the surveillance tape to
14 identify that he had actually been in the store through the
15 surveillance tape.

16 Q All right. I'm going to show you State's Exhibit
17 Number 44. If it's not in evidence I move it now. Is it
18 in or not?

19 COURT REPORTER: No.

20 THE WITNESS: That's two silver, one dollar silver
21 certificate dollars.

22 BY MR. SALEEBY:

23 Q Do you recall giving those to Lieutenant Florence of the
24 Sheriff's Department?

25 A Yes, sir, and he handed me a receipt for them.

SW- R. WATKINS - DIRECT

1 Q All right, sir. We'd move that introduction.

2 MR. CLARK: Your Honor, I object. I don't -- I haven't
3 heard any evidence that they came from the defendant.

4 THE COURT: Well, he hadn't said that yet it. He's
5 just -- he's just identifying those as the silver certificates he
6 gave to the police officer.

7 MR. CLARK: And in that, if that's the case then I
8 don't think they would be relevant to this case. Without any
9 connection to the defendant he took them out of -- apparently the
10 clerk took them out of the drawer, gave them to him. He's not
11 testifying that they came from Mr. Bryant. The clerk is not here
12 testifying they came from Bryant. Putting them in evidence in
13 this case without some connection to the defendant I don't see
14 any relevance.

15 MR. SALEEBY: Your Honor, they've stipulated to the
16 video which will clarify that pretty quickly.

17 MR. CLARK: Well then --

18 THE COURT: Oh, oh wait, continue. At this time we'll
19 wait on that and allow you to continue.

20 MR. SALEEBY: Well, I took him out of order on purpose,
21 I apologize.

22 THE COURT: That's fine, I understand.

23 MR. SALEEBY: I wanted him to be excused; he's been
24 here all morning.

25 THE COURT: Is there any objection to -- well, first of

SW- R. WATKINS - DIRECT

1 all, Mr. Clark, do you have any questions for this witness? I
2 think Mr. Saleeby is done with his direct right now and wanted to
3 give you an opportunity to cross.

4 MR. CLARK: Not at this time, Your Honor.

5 THE COURT: All right. Is there any objection to him
6 being excused?

7 MR. CLARK: Your Honor, at this time we would object to
8 him being excused until the video is introduced or played for the
9 Court. There might be some reason for us to be calling ---

10 MR. SALEEBY: I'd like to play the video right now
11 'cause he needs to get home to take care of his mom.

12 MR. CLARK: And as soon as the video is played we will
13 ---

14 MR. SALEEBY: Let's play it right now.

15 MR. CLARK: Your Honor, if I could ---

16 MR. SALEEBY: If I could, sir.

17 MR. CLARK: Your Honor, thank you.

18 THE COURT: All right. Well, we'll play the video.

19 MR. SALEEBY: Your Honor, how do we going about this
20 procedurally since Mr. Turner is the one actually doing what
21 we're doing here. Just play it or have him tell you what he's
22 putting up there? I don't want to do anything inappropriate.

23 MR. CLARK: Your Honor, I object to any interpretation
24 or commentary by Mr. Turner.

25 MR. SALEEBY: That's fine.

SW- R. WATKINS - DIRECT

1 MR. CLARK: But if I could just finish, Your Honor.
2 It's our position the video speaks for itself, and it would be
3 improper to have someone who was not there to interpret what's on
4 it.

5 THE WITNESS: If you'd like, I mean, that's just a
6 camera set up to show the ---

7 THE COURT: Hold on, Mr. Watkins, for a minute.
8 All right. I understand your objection as far as
9 having him interpret anything.

10 MR. CLARK: Yes, sir.

11 THE COURT: But as a manager of the store, him pointing
12 out that's where this is, this is where that is, or this is Julie
13 Jones who worked that night, I mean, those things you don't
14 object to?

15 MR. CLARK: No, sir.

16 THE COURT: Just interpretations?

17 MR. CLARK: Yes, sir.

18 THE COURT: Mr. Watkins, Solicitor, to the extent you
19 need to kind of set it up or whatever, then that's fine.

20 MR. CLARK: Don't have any problem with that, sir.

21 MR. SALEEBY: We need to do that.

22 BY MR. SALEEBY:

23 Q Where is this camera set up?

24 A This is set up actually behind the cash register where the
25 cashier is working showing the front counter, the front

SW- R. WATKINS - DIRECT

1 door being to the right side, the only entrance to the
2 store. And it shows the customers that they contact with,
3 made contact with the cashier.

4 Q What's the writing on the cross here, what's that?

5 A That shows the date and time.

6 Q Date?

7 A Date and time stamp.

8 Q And what's the date there?

9 A 10-12-04 Tuesday at 8 -- it looks like 8:17:56 seconds p.m.

10 Q All right, can we play it? By the way, do you iden-- do
11 you recognize this person?

12 A I did at that time, yes. That's -- when I pulled the tape
13 I said, yes, that's him, that was him.

14 INVESTIGATOR TURNER: This first group are just still
15 shots.

16 BY MR. SALEEBY:

17 Q Let me ask you, did you pull the tape of the date and time
18 and places that the clerk indicated somebody had been in?

19 A Well, I remember the day that I'd gotten the bill so I
20 pulled it the night before ---

21 Q Thank you.

22 A ---to identify who actually. And that, again, is behind
23 the cashier.

24 Q What's going on here?

25 A Looks like the transaction of she sold him a pack of

SW- R. WATKINS - DIRECT

1 cigarettes and he's passing her back the money. I believe
2 that's after -- I mean, it was a short transaction so he
3 got what he had got, paid for it, and was leaving the
4 store.

5 Q And that would be it for that transaction.

6 A And that one is the next customer I can only assume.

7 INVESTIGATOR TURNER: Judge, this is a -- there's two
8 cameras involved. This is the complete video and that's going to
9 be a second video which going to be dealing with the camera
10 behind the counter so it's going to jump around some.

11 THE COURT: All right.

12 THE WITNESS: The other camera angle that'll be showing
13 is coming off of the left-hand side towards the front door should
14 be.

15 INVESTIGATOR TURNER: That's it.

16 MR. SALEEBY: Is that it?

17 Thank you, Mr. Watkins.

18 THE COURT: Do you have any questions of Mr. Watkins,
19 Mr. Clark?

20 MR. CLARK: No, sir, Your Honor.

21 THE COURT: Any objection to Mr. Watkins being excused?

22 MR. CLARK: No, sir, Your Honor.

23 THE COURT: Thank you, Mr. Watkins, you're free to go,
24 sir.

25 MR. SALEEBY: Your Honor, that's all we have for ---

SW - P. COONFIELD - DIRECT

1 THE COURT: All right. We'll be in recess then till
2 2:30. We'll resume at 2:30.

3 (WHEREUPON, a lunch break was taken and court resumed at 2:45
4 p.m.)

5 MR. SALEEBY: Your Honor, if it please the Court, we
6 would call, re-call, Phillip Coonfield to the stand.

7 THE DEPUTY CLERK OF COURT: I remind you, sir, you're
8 still under oath.

9 THE WITNESS: Yes, sir.

10 DIRECT EXAMINATION

11 BY MR. SALEEBY:

12 Q Mr. Coonfield, let me ask you to identify some things which
13 are in evidence but which other witnesses will probably be
14 talking about again today and indicate to the Court, if you
15 would please, on State's Exhibit Number 2 where you found
16 them. These would be State's Exhibit Number 22-A and -B.
17 Would you tell the Court what these are please.

18 A Your Honor, State's Exhibit 22-A and State's B 22-B are,
19 appear to be two pink socks that we observed in the living
20 room area. On October the 11th they were processed.

21 Q I see we have -- would you show us on the diagram.

22 A Yes, sir. As you see the letter A here is one of the pink
23 socks. The letter B here on the table the second pink sock
24 we photographed and collected those for evidence.

25 Q This is State's Exhibit Number 19-C I think previously

SW - P. COONFIELD - DIRECT

1 testified as to that.

2 A Yes, sir.

3 Q Show us that on the diagram.

4 A State Exhibit 19-C, State's cigarette butt on the kitchen
5 floor. That's going to be marker number 12, again, on the
6 diagram right in the kitchen area and that's a cigarette
7 butt.

8 Q State's Exhibit Number 20-A and then 20-B. 20-A first.

9 A Yes, sir. State's Exhibit 20-A is a cigar that was found
10 right here, item 16. There was an ash tray.

11 Q And State's Exhibit 20-B? That was Number 16 on your ---

12 A Yes, sir.

13 Q ---crime scene sketch?

14 A That's correct. State's Exhibit 20-B is a cigar near the
15 victim's head, and that would be marker number 5. Both of
16 these were photographed and collected by us for evidence.

17 Q And State's Exhibit Number 21?

18 A State's Exhibit 21 is a partially smoked cigarette. We
19 found that in the right eye of the victim. Again,
20 documented and collected.

21 Q Thank you, sir. Those are all the questions I have, sir.

22 MR. CLARK: No questions, Your Honor.

23 THE COURT: Thank you, Mr. Coonfield.

24 MR. SALEEBY: Sergeant Raymond Mackessy, come around
25 please.

SW- R. MACKESSY - DIRECT

1 THE DEPUTY CLERK OF COURT: Place your left hand on the
2 Bible, raise your right hand. State your name please.

3 THE WITNESS: Raymond A. Mackessy.

4 WHEREUPON,

5 RAYMOND A. MACKESSY,

6 having been duly sworn by the Deputy Clerk of Court,

7 testified as follows:

8 THE DEPUTY CLERK OF COURT: Have a seat up here please.

9 State your full name, spell your last name please, sir.

10 THE WITNESS: Raymond A. Mackessy, M-A-C-K-E-S-S-Y.

11 DIRECT EXAMINATION

12 BY MR. SALEEBY:

13 Q I believe Sergeant Mackessy has already testified in this
14 case and qualified as an expert in crime scene process; is
15 that correct?

16 A That's correct, sir.

17 Q I want to call your attention to Monday, October the 11th.
18 On that evening did you have the occasion to respond to the
19 Tietjen residence?

20 A Yes, sir.

21 Q And when you were there what role, if any, did you play?

22 A I was asked by Captain Caldwell, SLED, Lieutenant Florence,
23 Sumter County Sheriff's Office if I would process some
24 items and take some photographs of the scene.

25 Q Was this on a Monday or on the following day on Tuesday?

SW- R. MACKESSY - DIRECT

1 A That would be Tuesday I believe.

2 Q All right. Were you there Monday night?

3 A I was there briefly but when advised that SLED was going to
4 be processing the scene then I left the scene.

5 Q With Captain Caldwell of SLED and with David Florence did
6 you collect a couple of items and photograph them?

7 A Yes, sir.

8 Q I'll refer you, first of all, to State's Exhibit Number
9 19-D and to photograph number 8-H. And I think both of
10 these are in evidence. I just ask you to tell the Court
11 what we're looking at there.

12 A Yes, sir. Your Honor, this is the cigarette butt that I
13 found in the kitchen sink on the 12th at the Tietjen
14 residence, and that's a photograph of what it looked like
15 when it was in the sink.

16 Q And that's in evidence but just tell us how, by what means
17 that was routed to SLED.

18 A I took that and turned it over to Captain Caldwell of SLED
19 while at the scene.

20 Q All right. And did you collect another item and route it
21 to SLED through Captain Caldwell?

22 A Yes, sir, this is a potholder that I found at the scene and
23 that was turned over to Captain Caldwell and photographed I
24 believe prior to seizing it.

25 Q Okay, thank you. Now did you have the occasion to

SW- R. MACKESSY - DIRECT

1 participate in the service of the search warrant and the
2 arrest of the defendant at his mobile home park, Wilds
3 Mobile Home Park mobile home on October the 13th,
4 Wednesday, October the 13th?

5 A Yes, sir, I participated in that.

6 Q And basically what was your role?

7 A My role was to assist in the search, to photograph, and to
8 collect the various items there.

9 Q All right. The first thing I want to do is show you some
10 things, and then I will ask you to take a look at the
11 photographs themselves. But I want to show you a few
12 things and ask you if you would tell us if you collected
13 these things. The first four things I'm going to show you
14 are already in evidence: State's Exhibit 35, State's
15 Exhibit 36, State's Exhibit 37, State's Exhibit 38.

16 A Yes, sir.

17 Q All right. Tell the Court what those are and where they
18 were found.

19 A This is a -- it's a Smith and Wesson .40-caliber
20 semiautomatic pistol. It's a model 4046. This was found
21 in the pickup truck of the defendant Stephen Corey Bryant
22 along with a holster, black holster, and the weapon was
23 leaded with a magazine which contained some unfired
24 cartridges.

25 Q And that would represent these four items?

SW- R. MACKESSY - DIRECT

1 A Yes, sir.

2 Q All right. Now you collected other things from the truck
3 itself; is that correct?

4 A Yes, sir.

5 Q All right. And do you have photographs of those to show
6 us?

7 A Yes, sir.

8 Q All right. When you went inside of the house I'll ask you
9 if you collected this item which is in evidence, State's
10 Exhibit Number 38.

11 A Yes, sir, I did.

12 Q Hold that up. Tell us what it is and tell us where you
13 found it.

14 A This is a Winchester ammunition box .40-caliber. It
15 contains I believe six unfired -- yes, sir, contains six
16 unfired cartridges. And I found that underneath a bed in
17 the living room area in the defendant's home.

18 Q State's Exhibit Number 47, would you tell the Court what
19 that is?

20 A This is a Jamal pendant with chain and this was taken from
21 the left rear pocket of a pair of blue jeans in the
22 defendant's residence.

23 Q I believe this is in evidence.

24 A Yes, sir.

25 Q This is State's Exhibit Number 50. I would like you to

SW- R. MACKESSY - DIRECT

1 tell the Court what it is and then hold -- take it out of
2 that container and show us what it shows?

3 A This is a map of Sumter County and it was found in the
4 front bedroom of the defendant's residence and it's ---

5 Q How was it when you brought it out?

6 A When I brought it out it was folded. It was opened in this
7 manner. I believe it's photographed that way.

8 Q All right. You have a photograph of that?

9 A Yes, I do.

10 Q And hold it -- hold that up please. And how long have you
11 lived in Sumter County?

12 A Since 1985.

13 Q And what part of the County is represented in that part of
14 the map?

15 A That would be the Wedgefield area.

16 Q Okay. Go ahead and put that back up. And did you also
17 retrieve State's Exhibit Number 51 for identification?

18 A Yes, sir.

19 Q Can you tell us what that is and where it came from?

20 A It's an empty pack of basic light cigarettes and that was
21 taken from a -- it was a black plastic box on the front
22 porch and we got it out of there.

23 MR. SALEEBY: We would move its introduction at this
24 time, sir.

25 MR. CLARK: Your Honor, subject to our suppression

SW- R. MACKESSY - DIRECT

1 hearing that was made.

2 THE COURT: All right. It's admitted over the
3 objection pursuant to the suppression motion.

4 (WHEREUPON, State Exhibit No. 51 was admitted into evidence.)

5 BY MR. SALEEBY:

6 Q I show you State's Exhibit Number 46 which I think is
7 already in evidence.

8 A Yes, sir.

9 Q I ask you to tell the judge what that is and where it was
10 retrieved from.

11 A It's a one dollar bill bearing the initials T.J., saying to
12 T.J., and it had some more initials. It looks like DSS.
13 I -- it's hard to tell. These were taken from the right
14 front pants pocket of a pair of blue jeans in the
15 defendant's residence.

16 Q His blue jeans pocket?

17 A Yes, sir.

18 Q Did you find other silver certificates on the premises
19 there?

20 A Yes, sir, I did.

21 Q I show you State's Exhibit Number 49 for identification,
22 ask you to identify that.

23 A Yes, sir.

24 Q And what can you identify that as being?

25 A Two silver certificates that were found on the computer

SW- R. MACKESSY - DIRECT

1 table in the defendant's residence.

2 MR. SALEEBY: Move the introduction at this time, Your
3 Honor.

4 THE COURT: All right.

5 MR. CLARK: Same objection.

6 THE COURT: Subject to -- those are admitted subject to
7 your objection.

8 (WHEREUPON, State Exhibit No. 49 was admitted into evidence.)

9 BY MR. SALEEBY:

10 Q That's two one dollar bills?

11 A Yes, sir.

12 Q And you got a one dollar bill out of his trousers?

13 A Yes, sir.

14 Q I'm going to show you three five dollar bills, silver
15 certificates, ask you if you retrieved those from the
16 scene?

17 A Yes, sir, I did.

18 Q And where were they?

19 A They were in the pants pocket of the jeans.

20 Q They too were in the pants pocket?

21 A Yes, sir.

22 MR. SALEEBY: Move the introduction at this time, Your
23 Honor.

24 THE COURT: What number is that, Mr. Saleeby?

25 MR. SALEEBY: Your Honor, I think that's ---

SW- R. MACKESSY - DIRECT

1 THE WITNESS: 48.

2 MR. SALEEBY: ---48.

3 MR. HOWELL: 48, okay. And the other one is 49.

4 MR. CLARK: Same objection.

5 THE COURT: Subject to the suppression motion?

6 MR. CLARK: Yes.

7 THE COURT: All right.

8 (WHEREUPON, State Exhibit No. 48 was admitted into evidence.)

9 BY MR. SALEEBY:

10 Q Sergeant Mackessy, you testified I believe earlier with
11 regard to Mr. Gainey about certain property being
12 photographed and returned. In this situation did you
13 collect some other items that were eventually returned?

14 A Yes, sir.

15 Q All right. What I want to do now is show you a series of
16 photographs and ask you to use this pointer to tell the
17 Court what we're looking at and then such time as it
18 relates to any of these items call that to the Court's
19 attention, okay. State's Exhibit Number 14-A.

20 A 14-A is a photograph of the front of the defendant's
21 trailer. His pickup truck is pictured along with, I
22 believe, it was his fiance's vehicle.

23 Q 14-B?

24 A 14-B is a photograph of the rear of the defendant's truck
25 showing the tag number.

SW- R. MACKESSY - DIRECT

1 Q Did -- was it registered to him, the vehicle?

2 A Yes, sir.

3 Q State's Exhibit Number moves to the back of the truck, 14-F
4 and you can -- what does 14-F show us?

5 A 14-F is a -- appears to be some kind of tool box of some
6 sort there. There's also a yellow bicycle which belonged
7 to Christopher Burgess.

8 Q Did you retrieve the tool kit?

9 A Yes.

10 Q I show you State's Exhibit 14-G and -H. Is that a better
11 view?

12 A That's the tool kit that was found in the previous
13 photograph in the defendant's truck.

14 Q What part of the truck?

15 A In the bed of the truck. And that was the -- that's -- the
16 bottom photograph is the tool box, tool kit opened up.

17 Q Did you eventually after you photographed it return it to
18 Ms. Tietjen?

19 A Yes, sir.

20 Q This is 14-I.

21 A 14-I is a photograph of -- I believe here is the ---

22 Q Bottom left corner. There you go.

23 A This here. These are items found in the bed of the pickup
24 truck along with the Christopher Burgess bicycle.

25 Q Let's look at 14-J and -K.

SW- R. MACKESSY - DIRECT

1 A Yes, sir. That's a closeup of that -- it's a camera case
2 is what it was and that's just a closeup of the camera case
3 and a view of the contents of the camera case.

4 Q And you found that where?

5 A In the bed of the pickup truck of the defendant, and it was
6 later released to Ms. Tietjen.

7 Q 14-L.

8 A 14-L is a ammunition box filled with various tools and
9 such.

10 Q Where did you find it?

11 A Bed of the pickup truck of the defendant later released to
12 Ms. Tietjen.

13 Q 14-M and -O?

14 A That's another tool bag, blue cloth, blue and black cloth
15 bag found in the bed of the defendant's pickup truck. It
16 shows also the contents of that bag and that was later
17 released to Ms. Tietjen.

18 Q 14-P and -Q?

19 A That is a SKIL drill bit set that was found in the
20 defendant's truck in the bed and was photographed and later
21 released to Ms. Tietjen.

22 Q 14-R and -S?

23 A -R and -S is a SKIL saw tool box or the drill box. That
24 was found in the defendant's, bed of the defendant's truck,
25 and that also released later to Mrs. Tietjen.

SW- R. MACKESSY - DIRECT

- 1 Q All right. Sergeant Mackessy, let's talk about the cab of
2 that pickup truck. I'm going to show you State's Exhibit
3 15-A and 15-B and ask you to use the pointer to illustrate
4 your pointer to use it to help your testimony.
- 5 A That's a photograph of the interior of the defendant's
6 pickup truck.
- 7 Q Does that show it from both sides?
- 8 A Yes, sir.
- 9 Q Did you wind up recovering some items out of the pickup?
- 10 A Yes, we did.
- 11 Q Let me show you next 14-C and 14-D.
- 12 A Yes, sir. That's a view of a pair of walkie-talkies and a
13 flashlight.
- 14 Q Highlight them please.
- 15 A Right here.
- 16 Q The red?
- 17 A And this. They were found in the front seat of the
18 defendant's pickup truck and released later on to
19 Mrs. Tietjen.
- 20 Q All right. I want to show you next, ask you if that
21 .40-caliber was recovered from the vehicle.
- 22 A Yes, it was.
- 23 Q Here's 15-E. Tell us what we're looking at now. We may
24 need to pull it up a little bit.
- 25 A It's kind of hard to see but you can see the holster right

SW- R. MACKESSY - DIRECT

- 1 here, and part of the gun, the butt of the gun sticking out
2 here.
- 3 Q Where in the truck is that relationship to the steering
4 wheel?
- 5 A That's to the right of the steering wheel directly under
6 the dash.
- 7 Q State's Exhibit 15-F?
- 8 A This is a photograph of the holster and the .40-caliber
9 handgun that after its removal from under the dash.
- 10 Q And that's 15-G I believe.
- 11 A This is a photograph of the Smith and Wesson .40-caliber
12 pistol after I removed it from the holster, took a
13 photograph of it.
- 14 Q Now if you would please, is this the same weapon you're
15 talking about the one that we had identified here?
- 16 A Yes, sir. These are the weap-- this is the weapon and the
17 holster here. It was under the dash.
- 18 Q Did you photograph the recovery of items inside of the
19 trailer?
- 20 A Excuse me, sir, I couldn't hear you.
- 21 Q Did you photograph items that were covered -- that were
22 recovered from inside of the trailer?
- 23 A Yes, sir.
- 24 Q State's Exhibit 16-A, tell us what that is.
- 25 A This is a pair of jeans and brown shoes. That was found in

SW- R. MACKESSY - DIRECT

1 the -- just inside the doorway, living room floor I believe
2 it was.

3 Q All right. Did you recover anything out of the jeans?

4 A Yes, sir. We recovered the medallion, Jamal temple
5 medallion, and we recovered some cash out of there.

6 Q All right. Let me show you State's Exhibit 16-B. You tell
7 the Court what that is and where it came from.

8 A That's the jeans in the previous photograph and that is the
9 wallet containing the driver's license of the defendant
10 Stephen Corey Bryant inside the rear pocket of those jeans.

11 Q And that's the same jeans that was in 16-A?

12 A Yes, sir.

13 Q This is 16-C.

14 A 16-C is the, is photograph of the Jamal temple medallion
15 inside the pocket of those jeans.

16 Q Is that the same that's been recovered here as State's
17 Exhibit 47?

18 A Yes, sir, it is.

19 Q This is State's Exhibit 16-D.

20 A That's the cash that was inside the pocket of the jeans.
21 That would be this and this was contained in that cash.

22 Q The one dollar bill State's Exhibit Number 46 and the three
23 fives identified as State 48 are what's being shown in that
24 photograph?

25 A Yes, sir. Yes, sir, that's correct.

SW- R. MACKESSY - DIRECT

1 Q The other two were found on the computer table?

2 A Yes, sir.

3 Q That would be a total of 18-dollars you recovered?

4 A Yes, sir.

5 Q State's Exhibit Number 16-E.

6 A 16-E is a photograph of the Winchester ammunition box
7 containing the six rounds of .40-caliber ammunition. That
8 was found under the -- under a bed in the living room.

9 Q State's Exhibit 16-F.

10 A 16-F is the map of Sumter County that was found in the
11 front bedroom. The map is State's Number 50. That's a
12 photograph of it as we found it inside of a laying there
13 with the nylon zippered bag.

14 Q This is State's Exhibit 16-G.

15 A 16-G is a photograph of the living room. This is the bed
16 that State's Exhibit 38 was found under the box of
17 ammunition. And also in there is a TV and some other
18 stereo equipment over in here were later seized.

19 Q All right. In terms of that let me show you State's
20 Exhibit Number 16-H. You talked about some things being
21 seized.

22 A Yes, sir. This is a photograph of the stereo equipment
23 that was seized and the fish tank, and there's another TV up
24 there that was seized and these were later released to Mr. Varner
25 I believe.

SW - D. FLORENCE - DIRECT

1 Q And State's Exhibit 16-I.

2 A 16-I, this is a TV, another photograph of TV, the stereo
3 equipment, the second TV, and the fish tank. There's also
4 a speaker sitting on top of the TV, part of a home theater.

5 Q And that was photographed and returned?

6 A Yes, sir.

7 Q Thank you. Please answer any questions counsel may have.

8 MR. CLARK: No questions, Your Honor.

9 THE COURT: You may come down. You may step down.

10 MR. SALEEBY: We would call David Florence to the
11 stand.

12 THE COURT: Investigator Florence, you're still under
13 oath from yesterday, sir.

14 THE WITNESS: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. SALEEBY:

17 Q Lieutenant Florence, you testified earlier before the Court
18 with regard to taking some statements. I'm going to ask
19 you about your participation in the investigation in some
20 items that you may have seized and routed along the
21 process. First of all, I'll ask you if on the 11th, the
22 day that Mr. Tietjen was killed, if you responded to the
23 scene and did anything?

24 A Yes, sir. I responded to the scene and pretty much helped
25 secure that scene until SLED arrived to followup the crime

SW - D. FLORENCE - DIRECT

- 1 scene.
- 2 Q Did you -- SLED do the crime processing or did you
3 participate then?
- 4 A SLED did.
- 5 Q On the following day on October 12th did you return in the
6 morning?
- 7 A Yes, I believe I did. Myself and another investigator went
8 back to the scene.
- 9 Q All right. Did you collect anything in addition to what
10 Sergeant Mackessy has talked about?
- 11 A Yes, sir. I collected a wallet that was found along with
12 some papers from that wallet at Mr. Tietjen's residence
13 that was thrown behind the couch of that residence.
- 14 Q All right. You found the wallet behind the couch?
- 15 A Yes, sir.
- 16 Q How about just using this pointer and showing us where that
17 would be, on State's Exhibit Number S-3.
- 18 A It was right around the coffee table area there behind the
19 couch.
- 20 Q And this wallet, was there anything in it identifying who
21 the wallet belonged to?
- 22 A There was a couple of papers in it that showing it belonged
23 to Mr. Tietjen.
- 24 Q Did you find any money in the wallet?
- 25 A No, sir, I did not.?

SW - D. FLORENCE - DIRECT

- 1 Q Did you find any things that would be contents of the
2 wallet in or close or area where you found it?
- 3 A Yes, sir, I did, some cards and other things that appeared
4 to have come from the wallet.
- 5 Q What kind of cards are you talking about?
- 6 A Just different type of business cards and things like
7 notes, things of that nature.
- 8 Q Anything with Mr. Tietjen's name on it?
- 9 A There may have been. I don't -- I don't recall.
- 10 Q No money in it?
- 11 A No, sir.
- 12 Q Was it returned to Mrs. Tietjen?
- 13 A Yes, sir, it was.
- 14 Q Were you later called by Mrs. Tietjen, picked up a couple
15 of pieces of property that she had found?
- 16 A Yes, sir, I was.
- 17 Q Show you State's Exhibit Number 52, a cigarette pack and
18 it's in evidence. Tell the Court about that.
- 19 A Mrs. Tietjen called me concerning this. I think it was on
20 the sixth, I believe, of November, and indicated she'd
21 found a partially burned basic cigarette package along with
22 a bullet in the commode area of the toilet in the bathroom.
- 23 Q Was it a bullet or a casing?
- 24 A A casing.
- 25 Q All right. I show you now State's Exhibit Number 53 and

SW - D. FLORENCE - DIRECT

1 ask you to tell the Court what it is.

2 A That is the .40-caliber casing that was found in the toilet
3 in the bathroom at Mrs. Tietjen's residence that she passed
4 on to me.

5 Q And you took these into custody?

6 A Yes, sir, I did, and tagged those to followup evidence
7 chain of custody.

8 Q On the date that you arrested the defendant did you have
9 the occasion to seize anything from him, and I'll refer
10 first of all to State's Exhibits Number 112 which is
11 already in evidence.

12 A Yes, sir, that was the T-shirt that Stephen Corey Bryant
13 was wearing when he was arrested.

14 Q State's Exhibit Number 112. Did you also have the occasion
15 to take photographs of him?

16 A Yes, sir. After Stephen Bryant was arrested I took
17 photographs at the jail of him after the clothes were
18 taken.

19 Q Is that what 66-A and B is?

20 A That is correct.

21 MR. SALEEBY: Your Honor, they're marked for
22 identification. We would move the introduction at this time.

23 THE COURT: State's ---

24 MR. SALEEBY: 66-A an 66-B.

25 THE COURT: 66-B and -B.

SW - D. FLORENCE - DIRECT

1 MR. CLARK: I would object to these. They appear to be
2 photos at the jail. I don't see the relevance. They show the
3 defendant in a navy (ph) light. I think it's more prejudicial
4 than probative. That's our position, Your Honor.

5 MR. SALEEBY: Your Honor, I think what it does is
6 verify his appearance at the time particularly when we have
7 videos that have to be matched up in terms of his appearance at
8 the same place and time.

9 THE COURT: Overruled, I'll allow it.
10 (WHEREUPON, State Exhibits Nos. 66-A and 66-B were admitted into
11 evidence.)

12 BY MR. SALEEBY:

13 Q You discussed previously going out to -- or you discussed
14 previously about taking statements from Mr. Stephen Corey
15 Bryant. Did you do that?

16 A Yes, sir, I did.

17 Q And in the course of taking those statements did he take
18 you anywhere and show you anything?

19 A Yes, sir. During the course of one of the statements he
20 indicated he wanted to show us where some things were that
21 evidence on property from Mr. Tietjen's residence that he
22 threw out. And myself and Captain Turner picked him up and
23 took him to the location that he directed us to.

24 Q I'm going to show you State's Exhibit 17-A through -D.
25 Tell the Court what those are.

SW - D. FLORENCE - DIRECT

1 A 17-A is a photograph I took of a plastic bottle with America
2 flag on it that was taken from Mr. Tietjen's residence.

3 Q We move its introduction. Tell us if you identify all four
4 of them and I'm going to move all four of them in at the
5 same time.

6 A Yes, sir, I do.

7 MR. SALEEBY: Now we move their introduction, Your
8 Honor.

9 THE COURT: All right. Now 17-E is already in so it's
10 A- through -D. Any objection?

11 MR. CLARK: Said A was without -- what's the other one?
12 I don't object to A.

13 THE WITNESS: 17-A through -C and -D.

14 MR. CLARK: No objection, your Honor.

15 THE COURT: All right, then it's A through E without
16 objection.

17 (WHEREUPON, State Exhibits Nos. 17-A through 17-E were admitted
18 into evidence.)

19 BY MR. SALEEBY:

20 Q Do we have the pointer up there for you?

21 A Yes, sir, I do I have it.

22 Q Show the judge here on State's Exhibit 1 where he took you
23 to and you recovered these items.

24 A I'm trying to see if I can find the road. He took us from
25 the jail. We came down and turned on Squaw Valley Road and

SW - D. FLORENCE - DIRECT

1 went approximately half way down to an isolated area on the
2 that dirt road portion of Squaw Valley, Your Honor, and he
3 directed us to the items that were just mentioned.

4 Q And about how far is that from the Tietjen home?

5 A I'd say as the crow flies it's no more than half a mile.

6 Q All right. And rather than project these are these
7 pictures of the items that you found to include the bottle
8 which I think is 41? Did you collect this out there?

9 A Yes, sir, I did.

10 Q And did you collect his metal social security card out
11 there?

12 A Yes, sir, with the name Mr. Tietjen.

13 Q S-39, and did you collect a cell phone out there?

14 A Yes, sir, I did.

15 Q What did you do with it?

16 A That property was brought back in and tagged and placed in
17 our evidence laboratory to be held for evidence.

18 Q Would that be State's Exhibit Number 40 for identification?

19 A Yes, sir, that's correct.

20 MR. SALEEBY: We move its introduction at this time,
21 Your Honor.

22 MR. CLARK: No objection.

23 THE COURT: Without objection 40, State's 40.

24 (WHEREUPON, State Exhibit No. 40 was admitted into evidence.)

25

SW - D. FLORENCE - DIRECT

1 BY MR. SALEEBY:

2 Q In the course of your investigation and the autopsy
3 involving Christopher Burgess did you come and receive a
4 receipt from the autopsy that came from Wal-Mart?

5 A Yes, sir.

6 Q Is that State's Exhibits Number 110 that's already in?

7 A Yes, sir, that is correct.

8 Q As a result of receiving that Wal-Mart receipt where did
9 you go and what did you do?

10 A Well, I made contact with Stephen Corey Bryant's girlfriend
11 Judith Justice and I made a phone call to her to see if she
12 had had any steaks that Corey Bryant brought to the
13 residence during the time frame we're talking about as far
14 as the murder was concerned. And she said he had. And I
15 told her I needed to come by and take a look at that
16 package of steaks. I went by. She pulled them out of the
17 freezer and showed me the package which matched up with the
18 receipt that was found on the victim Mr. Burgess.

19 Q I show you State's Exhibits Number 111 that's already in
20 evidence and ask you what that is?

21 A That is the package that I seized from Corey Bryant's
22 residence with the matching -- showing it matched up with
23 the receipt from Wal-Mart.

24 Q Did you receive a phone call from Mr. Richard Watkins at
25 the Sonoco station here? Again, Your Honor, relative to

SW - D. FLORENCE - DIRECT

1 information he might have with regard to your
2 investigation.

3 A Yes, sir, I did. Mr. Watkins called and had some concerns
4 about some money that was received ---

5 MR. CLARK: Object to any hearsay that this witness is
6 going to offer.

7 MR. SALEEBY: Just how he got to where he got to.

8 THE COURT: All right, sustained.

9 BY MR. SALEEBY:

10 Q As a result of the phone call where did you go and what did
11 you do?

12 A I went to Sonoco and made contact with Mr. Watkins and he
13 turned over to me two silver certificate one dollar bills
14 to me.

15 Q Would these be Number 44 for identification?

16 A Yes, sir, that is correct.

17 Q And did he also turn over a surveillance video which has
18 been displayed in this courtroom showing Mr. Bryant
19 exchanging money for cigarettes on October 12th?

20 A Yes, sir, that is correct.

21 MR. SALEEBY: Your Honor, at this time we move for the
22 introduction of evidence State's Exhibit Number 44.

23 MR. CLARK: Object to that, Your Honor. As I objected
24 prior to lunch these appear to be just certificates taken out of
25 the cash register. The State has made no connection at all to

SW - D. FLORENCE - DIRECT

1 the defendant. I object to those as not being relevant.

2 THE COURT: All right, Mr. Saleeby.

3 MR. SALEEBY: Can I be heard?

4 THE COURT: Yes, sir.

5 MR. SALEEBY: Mrs. Tietjen said there were 20 dollars

6 in silver certificates. We've accounted for 18 of them. One

7 came out of the pocket and had the names initials to T.J. from

8 Mr. Summers. There were two more one dollar bills found on the

9 the computer table; that's 3-dollars. There are three fives

10 found in his pocket; that's 18-dollars. That leaves two silver

11 certificates. Within less than 24 hours this man's buying

12 cigarettes and there are two silver certificates. We think it's

13 relevant.

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

15 There's no one -- I mean, there's no evidence that the silver

16 certificate that the Sonoco -- I shouldn't say there's no

17 evidence. There's -- Mr. Watkins was not able to testify as to

18 who gave those certificates at the store. Pursuant to objection

19 partly so, so there's nothing in the record that connects those

20 two to the defendant other than the circumstances that are being

21 brought. I'm going to sustain the objection regarding those two

22 items.

23 MR. SALEEBY: Thank you, sir.

24 BY MR. SALEEBY:

25 Q I show you now State's Exhibit Number 42. Tell us what

SW - D. FLORENCE - DIRECT

1 that is.

2 A Yes, sir. That is a recording receipt from the Bi-Lo
3 shopping center store where some change was turned in to
4 that store for cash, one of these change CoinStar machines.

5 Q How did you find out about that? How did you have occasion
6 to go there?

7 A We had received a call concerning this as I recall, and we
8 went to that store and made contact with the manager ---

9 MR. CLARK: Object to hearsay. I object to that
10 document. I don't think Mr. Florence can authenticate it. I
11 think it would require someone from Bi-Lo to authenticate.

12 THE COURT: Your Honor, it's already in evidence.

13 MR. CLARK: All right. Which one is it, Your Honor?

14 THE COURT: Number 42. I don't have that as being in
15 evidence.

16 MR. SALEEBY: I had it as being in.

17 MR. CLARK: My notes indicate it's not in evidence.

18 THE COURT: Initially we had a lot of things being in,
19 then we went back over them. They were not stipulated so that --
20 that item is currently not in evidence.

21 BY MR. SALEEBY:

22 Q Where did you receive that from?

23 A This one is received from the Bi-Lo store on ---

24 Q Did you personally receive it?

25 A I was with Captain James Turner when it was picked up

SW - D. FLORENCE - DIRECT

1 yesterday.

2 Q Y'all were there together?

3 A Yes, sir.

4 Q And did you also receive a video at that time?

5 A Yes, sir, we did.

6 MR. SALEEBY: And Your Honor, I believe State's Exhibit
7 Number 43 is in evidence.

8 THE COURT: Not according to my records.

9 MR. SALEEBY: What have you got?

10 COURT REPORTER: I've got it as in evidence.

11 MR. SALEEBY: The court reporter has got it as in so
12 I'm confused.

13 THE COURT: We initially started the proceedings
14 Mr. Jackson stood up and said that exhibits 39 through 61 on Page
15 three of six were stipulated to. And then we went all the way
16 again and that's when Mr. Clark stood up and said, Judge, we've
17 not stipulated to all that and so we went back over and started
18 eliminating those things that they did have an objection to. And
19 my notes here have indicated that that entire page three was
20 objected, or at least objections were reserved, on everything on
21 Page 3. Now during the course of the State's case just about
22 everything on there has been admitted either over objection or
23 without objection but here we get to number 42, 43 and 44.

24 MR. JACKSON: Judge, I'm sorry, I had -- I checked with
25 the court reporter and apparently we both were in error on that.

1 I apologize. I've got 43 and 43 stipulated to as well and
2 Mr. Howle is who I've been dealing with, stipulated to all five
3 video coming in. Your Honor, we would not have to bring those
4 people because they speak for themselves.

5 MR. CLARK: Your Honor, I note he's not here today,
6 this afternoon.

7 THE COURT: Well ---

8 MR. CLARK: Your Honor, there was discussion back and
9 forth last week. There was discussion on Tuesday morning. The
10 exhibits were laid out. Some of them we stipulated to; some of
11 them we didn't.

12 THE COURT: Now where is Mr. Howle today?

13 MR. CLARK: Your Honor, he is working on securing the
14 other part of our case.

15 THE COURT: Then we're going to have to get him. I do
16 recall on Tuesday when we were going over this list Solicitor
17 Jackson specifically mentioned the stipulation on videos and
18 whether they needed to have those people here, and there was
19 discussion about that wasn't going to be necessary on the videos.
20 But we need to get it resolved because that was one of the things
21 that the Solicitor asked on Tuesday, are we going to need to have
22 these people here and Jack said, no, we're not going to have to.

23 MR. CLARK: Your Honor, Your Honor, I need to -- I
24 believe that we could stipulate to the video but not the receipt.
25 But my memory is on the record I objected to the video but if

1 Mr. Howle has indicated that he wouldn't require them ---

2 THE COURT: Well, that was recollection I had from
3 Tuesday morning but I do remember going back and going over these
4 and I ---

5 MR. CLARK: Your Honor, we don't have a prob -- not to
6 interrupt the Court -- we don't have problem with the video.
7 It's the receipt that we object to. We would not require them to
8 have someone here to authenticate the video but I don't think we
9 ever stipulated to the receipt.

10 MR. SALEEBY: The same person will have to authenticate
11 the receipt.

12 THE COURT: We may need to get Mr. Howle over here
13 then.

14 MR. CLARK: All right.

15 MR. JACKSON: Your Honor, I apologize. I really
16 thought that it was in.

17 THE COURT: That's okay. There was some confusion
18 early only.

19 MR. SALEEBY: What we can do is have him cross-examine
20 and then we can just bring him back up if it gets resolved.

21 THE COURT: All right. Are you through with your
22 direct?

23 MR. SALEEBY: Yes, sir, I'd just like to reserve the
24 right to ---

25 THE COURT: Sure.

1 MR. SALEEBY: ---to call him.

2 THE COURT: We'll take a short recess right now, give
3 everybody a chance to discuss to see where we're at on this
4 thing, then we'll resume. We'll take about five then minutes,
5 okay.

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

7 THE COURT: Let me resolve this. If I may, I need help
8 sometimes deciphering my own stuff here. And what I would like
9 to do I'd like counsel to -- well, I'll come down 'cause I want
10 to show you exactly what I've got and why I was confused
11 momentarily but I've got it now. Gentlemen, if y'all would come
12 over I've -- my lawyer helped me in deciphering my own writing
13 here. Let me show you what I did. When we first started this
14 thing and Solicitor Jackson got up he made the comm -- basically
15 said that all of Page 3 was stipulated to and so I wrote right
16 here W/O and then just did a line all the way down. We went all
17 the way to the end. Then we came back, we started going over the
18 things. That's when you told me, Judge, we don't stipulate to 39
19 and so I wrote, I scratched out the W/O and wrote OBJ for object.
20 And then you said we don't stipulate to 40 or 41 so I did, ditto
21 marks there and there. Then you said, we stipulate to 42, we
22 stipulate to 43 but we object to 44. So I wrote object next to
23 44. We got no problem with 45 but we do object to 46 through 49
24 so I wrote object and then do another little mark. Then you said
25 we don't have a problem 50 but we do object to 51. And then we

1 don't have a problem with 52, 53 or 54 but we do object to 55
2 through, at that time you said 59, then you wanted to reserve
3 your objection on 60 until the doctor actually testified and
4 objected to 61. So basically my law clerk's notes and my notes
5 do reflect on Tuesday 42 and 43 were stipulated to. And that's
6 the record that the court reporter has as well.

7 MR. JACKSON: And I agree.

8 MR. HOWLE: And those two items were?

9 THE COURT: 42 is the Bi-Lo CoinStar receipt and 43 is
10 the Bi-Lo security video.

11 MR. HOWLE: Well, I specifically saying I stipulated to
12 the videos and I cannot recall saying that I objected to that so
13 I did assume that that was in.

14 THE COURT: And my notes after getting through this
15 scratch, my law clerk's notes, and as well as the court
16 reporter's notes all reflect the same thing regarding that. So I
17 think the record would show that 42 and 43 were stipulated to.

18 MR. CLARK: Your Honor, and with respect to the Court's
19 ruling on the thing I would mention regarding the court reporter
20 is that the exhibits were organized in the room back here and we
21 looked over them and I believe she made some notes then. I don't
22 know. So if her notes -- her notes could be coming from back
23 there. I don't know if they come from the record itself.

24 THE COURT: She's saying she made no notes in the back.

25 COURT REPORTER: Not regarding their admission, no.

1 MR. HOWLE: We respect the Court's ruling, Your Honor.

2 THE COURT: And thank you, Mr. Clark, I appreciate
3 that. And I apologize for creating some confusion. But as I
4 went in the back and looked at my sheet and then my clerk brought
5 his sheet back, and we looked and then I started looking closely
6 at the way I did it and that's why I wanted to show you. As a
7 matter of fact, I'm going to make this sheet, page three of six
8 of my notes, I'm going to make it a part of the record as a
9 court's exhibit. Again, what I did is initially did W/O with a
10 line all the way down because I was initially was told all of
11 that was stipulated to. Then subsequent to that the Defense
12 indicated that that was not correct and so we actually went over
13 item by item, and I was told that numbers 39, 40 and 41 want that
14 -- Defense wanted to reserve objection. So I wrote, I scratched
15 out W/O, I wrote OBJ, then I did little ditto marks for 40 and
16 41. Then I have no marks for 42 or 43 which indicates that those
17 remain stimulated to. And then there was an objection to 44. No
18 objection to 45, an objection to 46 through 49, no objection to
19 50, an objection to 51, no objection to 52, 53, or 54, objections
20 to 55 through 59 and 60 and objection to 61, and then they went
21 back and 60 was admitted without objection. And that's what my
22 notes reflect. And my law clerk has the same thing and the
23 court reporter has the same thing. So but I am going to note
24 your exception and I will make this sheet a part of the record
25 but at this time 42 and 43 are in evidence.

SW - D. FLORENCE - DIRECT

1 (Court's Exhibit Number 4 was marked
2 and made a part of the record.)

3 BY MR. SALEEBY:

4 Q Let me ask you just a couple of questions. State's Number
5 42 which is in evidence, show that to the Court, explain
6 what it is please.

7 A Your Honor, this is this a CoinStar receipt from Bi-Los at
8 [REDACTED] in Sumter, and what it does is depict how
9 many dollars that were entered into the CoinStar machine,
10 half dollars, dimes, nickels all the way down till you got
11 a total. And it's approximately the processing fee which
12 give a grand total of 137.20 which was given to Mr. Bryant.

13 Q And the coin ---

14 MR. CLARK: Your Honor, I object to his testimony that
15 it was given to Mr. Bryant because I think he can testify that's
16 what the receipt is that was given to him by Bi-Lo, but I think
17 it's going beyond the evidence that that was given to Mr. Bryant.

18 MR. SALEEBY: It's in his statement.

19 MR. CLARK: Well, that's a separate piece of evidence,
20 Mr. Saleeby.

21 THE COURT: All right, I'll sustain your objection to
22 that, to that statement, so that'll be stricken but that's the
23 receipt that reflects the amount that was given to you by Bi-Lo?

24 THE WITNESS: That is correct, sir.

25 THE COURT: Okay.

SW - D. FLORENCE - DIRECT

1 BY MR. SALEEBY:

2 Q And what time is the receipt?

3 A The time on the receipt was on 10/11/04 at 6:03 p.m.

4 6:03:39 p.m.

5 Q Monday, October 11th, 2004, 6:03 p.m.?

6 A Yes, sir.

7 Q All right.

8 MR. SALEEBY: Captain Turner if you'd show us the video
9 from that time frame.

10 MR. JACKSON: Judge, the first couple of frames are ---

11 MR. SALEEBY: Darken it up some more I think. Go
12 ahead.

13 INVESTIGATOR TURNER: This is the entrance to the
14 Bi-Los. This is approaching the register to the CoinStar
15 machine. That's exiting. This is a video of that entry. This
16 is coming from the CoinStar machine over to the register. Judge,
17 this is above the register looking for them in this corner, lower
18 right-hand corner.

19 MR. SALEEBY: That's it.

20 BY MR. SALEEBY:

21 Q Lieutenant Florence, was it after you talked to Stephen
22 Corey Bryant that you knew to go to Bi-Los?

23 A Yes, sir.

24 Q If he had not said anything you would not have known to go
25 there?

SW - J. TURNER - DIRECT

1 A No, sir.

2 Q Thank you, sir. Please answer any questions counsel may
3 have.

4 MR. CLARK: No questions of this witness, Your Honor.

5 THE COURT: Thank you, sir.

6 MR. SALEEBY: We re-call Jamie Turner to the stand.

7 THE COURT: Mr. Turner, you're still under oath, sir.

8 DIRECT EXAMINATION

9 BY MR. SALEEBY:

10 Q Captain Turner, a couple of questions about items seized.
11 State's Exhibit Number 17-E which is a photo copy of the
12 driver's license of Mr. Willard Tietjen. Would you tell us
13 when and where you collected that?

14 A I have to see the evidence card.

15 Q I don't have a date.

16 A 17-E.

17 Q That's the driver license? Where did you -- who did you
18 collect it from?

19 A I received a phone call to respond back out to Squaw Valley
20 Road and a surveyor ---

21 Q You met a surveyor there?

22 A Yes, sir, Mike Turbeville.

23 Q And as a result of talking to Mr. Turbeville did he show
24 you something?

25 A He handed me Mr. Tietjen's driver's license.

SW - J. TURNER - DIRECT

1 Q How far was that from the place that you and David Florence
2 found the jug with the -- the money jug and the social
3 security card, the cell phone?

4 A Probably 100, 150-yards.

5 Q All right, sir. State's Exhibit Number 18, the staghorn
6 knife, did you have a role in collecting that?

7 A I do.

8 Q And how and where and when? How and where?

9 A Mr. Roy Lambert contacted me and told me he had purchased
10 it from Mr. Bryant. I asked him, I told him I needed to
11 interview him and to bring the knife with him. This is
12 actually on in our office. I took a picture of it. He
13 brought the knife up there where I took possession of it.

14 Q Was that returned to Mrs. Tietjen?

15 A It was.

16 Q I believe you testified earlier that you went out to talk
17 to Stephen Corey Lambert (sic), that he was not around; is
18 that correct?

19 A Who?

20 Q Stephen Corey Bryant, beg your pardon.

21 A Yes, sir.

22 Q And you referred to the fact that you saw some cigarette
23 butts and you collected them?

24 A That was just, on Tuesday.

25 Q And were they in relation to his trailer?

SW - J. TURNER - DIRECT

1 A Right around the front doorstep, that's where.

2 Q Out on the ground?

3 A Laying on the ground.

4 Q And did you collect them?

5 A I did.

6 Q And what was done with them?

7 A I took them -- after going -- after I got through on [REDACTED]

8 [REDACTED] I met with David Caldwell to turn over these

9 items, the bullet and shell casing, I recovered from [REDACTED]

10 [REDACTED] out at the Tietjen house.

11 Q And Captain Caldwell received them?

12 A Yes, sir.

13 MR. SALEEBY: Your Honor, we're going to move the
14 introduction at this time.

15 MR. CLARK: What number is that?

16 THE COURT: What number is that?

17 THE WITNESS: Thirty-three.

18 MR. CLARK: Your Honor, I believe we had previously,
19 we'd object to these, Your Honor, move to suppress them. If I
20 remember correctly these were ---

21 THE COURT: Search warrant?

22 MR. CLARK: These were seized prior to the search.
23 warrant. These were, I believe Mr. Turner testified that he went
24 there without a search warrant. Mr. Bryant was not home. He
25 picked up the cigarette butts and seized them anyway and our

SW- J. TURNER - CROSS

1 objection would be illegal seizure and we move to suppress those.

2 THE COURT: Of abandoned items on the ground?

3 MR. HOWLE: Well, it was on his personal property, his
4 private property, and I don't -- I think just because they're
5 laying on the ground -- now I concede it'd be different if they
6 were at the road to be picked up as abandoned but I don't think
7 the law deems them abandoned if they are on his personal
8 property, on his private property. Otherwise, Your Honor, with
9 regard to the items in his truck could have just gone there and
10 whatever he saw around the truck on the ground he could have
11 picked them up without a warrant. That's our position, Your
12 Honor.

13 THE COURT: All right. You want to comment?

14 MR. SALEEBY: Our position is they're abandoned
15 property.

16 MR. CLARK: May I question the witness, Your Honor,
17 before the Court rules on it?

18 THE COURT: Sure.

19 CROSS - EXAMINATION

20 BY MR. CLARK:

21 Q Mr. Turner, just want to make it clear the circumstances
22 regarding the seizure of these cigarette butts. What day
23 did you seize them?

24 A It would have been the 12th.

25 Q October 12th.

SW- J. TURNER - CROSS

- 1 A Yes, sir.
- 2 Q And where exactly did you seize these butts?
- 3 A When you pull in his yard, that's the front of his trailer.
- 4 I actually went there to speak to him because I had a prior
- 5 case with him.
- 6 Q Right.
- 7 A I tried to make contact on prior occasions with him. I'd
- 8 been to his house before.
- 9 Q Right.
- 10 A But on this instance I had information or he -- he's
- 11 becoming a suspect in these homicides.
- 12 Q Okay.
- 13 A So on this occasion I went back to his house to, one, talk
- 14 to him 'cause I never met him, never been able to contact
- 15 him, and also to show my supervisor Captain Bearing who
- 16 this person was that I, that we'd been talking about all
- 17 morning. I went to the house and knocked on the door and
- 18 he was not there. I happened to notice on the ground --
- 19 and it wasn't, it was probably 75 cigarette butts. There
- 20 was two types, Virginia Slims, little thin cigarettes, and
- 21 basic menthols.
- 22 Q Okay.
- 23 A Gold band around them. I made comment to Captain Bearing,
- 24 I said, you know, I don't know if this guy is going to be
- 25 our man or not but certainly in DNA, cigarette butts, I

SW- J. TURNER - CROSS

1 know that from my training and forensics. So I decided to,
2 based on my knowledge most women smoke Virginia Slims
3 cigarettes, that I would pick up what looks to be the
4 freshest of the cigarette butts. There were some that were
5 down there quite a while. In particular I believe four or
6 five cigarette butts recently was smoked and I picked them
7 up off the ground.

8 Q Okay. Isn't it true at that nobody gave you permission to
9 seize those butts off of that property, did they?

10 A No, sir. I mean, you telling me I can't pick up his trash
11 off the ground?

12 Q Right. And you didn't have a warrant to search the
13 property, did you?

14 A No.

15 Q Or seize anything on this property?

16 A No, sir.

17 Q Thank you, sir. That's all I have.

18 THE COURT: I'm going to sustain the objection. I
19 recall, and I don't know the case, I recall the case where it was
20 involving actually bad garbage and it was at the back door, it
21 was not put out to the street. And I believe I recall the Court
22 riling that they in that case also overturned it based on law
23 enforcement going into the garbage. And the State's position is
24 the same also here, it's abandoned, it's garbage. I think the
25 Court said that it might have been treated different had it been

SW- J. TURNER - CROSS

1 put out to the street to be collected, but in that case it had
2 not been and it was improper. I'm going to sustain your
3 objection and item 33 will not be admitted into evidence.

4 MR. SALEEBY: Judge, you want to proceed or you want us
5 to take a break at this point?

6 THE COURT: We'll take about 15 minutes and then we'll
7 resume. Are we done with this witness?

8 MR. SALEEBY: Yes, sir.

9 THE COURT: Mr. Clark, are you finished?

10 MR. CLARK: Yes, sir.

11 THE COURT: Mr. Turner, you're free to go.

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

13 THE COURT: Before we start back let me just put
14 something on the record. During the break I had Madam Clerk,
15 Madam Court Reporter go back and look at the record regarding
16 this issue. And 'cause she's got real time so she was able to go
17 back and check the record from Tuesday morning and did, in fact,
18 reflect that what the Court ended up ruling, and that is, that 42
19 and 43 were stipulated to Tuesday morning, and that -- so I asked
20 her about any notes whatever and she informed me that when y'all
21 were in the back room with all the exhibits and stuff prior to us
22 beginning on Tuesday is that her only actions in the back were
23 simply marking exhibits; that's what she was doing. She wasn't
24 taking notes. She was marking the exhibits, and that any notes
25 that she did take was reflection of her record in response to my

SW - W. WORSHAM - DIRECT

1 request to check the record. So I just wanted to make that
2 clear, and of course I'm going to make my sheet, and have made my
3 sheet a Court's exhibit. So the State ready to proceed?

4 MR. SALEEBY: If we could, Your Honor, at this time we
5 would call Scott Worsham.

6 THE COURT: Mr. Worsham, if you'd please come around,
7 sir. State your name please.

8 THE WITNESS: William Scott Worsham.

9 WHEREUPON,

10 WILLIAM SCOTT WORSHAM,

11 having been duly sworn by the Deputy Clerk of Court,

12 testified as follows:

13 THE DEPUTY CLERK OF COURT: Have a seat up here please.
14 State your full name. Spell your last name please, sir.

15 THE WITNESS: My name is William Scott Worsham,
16 W-O-R-S-H-A-M.

17 DIRECT EXAMINATION

18 BY MR. SALEEBY:

19 Q Mr. Worsham, please tell the Court where you live.

20 A I live in Lugoff, South Carolina.

21 Q And where do you work?

22 A I worked in Columbia at the SLED forensic laboratory as a
23 question documents examiner.

24 Q How long have you worked for SLED as a question documents
25 examiner?

SW - W. WORSHAM - DIRECT

1 A For the past six years.

2 Q And before your work with SLED did you work with any other
3 law enforcement agency as a question document examiner?

4 A Yes, sir, I've worked for the North Carolina State Bureau
5 of Investigations in Raleigh, North Carolina in their
6 forensic lab as a question document examiner. I've been in
7 forensics since 1975. The last 14 years have been
8 dedicated exclusively to examining question documents.

9 Q Did you retire from the State Bureau of Investigation or
10 SVI as it's known in North Carolina?

11 A Yes, sir, I did.

12 Q And did you do any private consultation in that area?

13 A Yes. I had a few years of private examination and then I
14 was offered employment with SLED and was fortunate to get
15 that job and came on down.

16 Q In your 14 years that you've been working with question
17 documents what kind of schools and training have you had?

18 A Attended many schools. As far as background I have a
19 bachelor of science degree in biology with a minor in
20 chemistry. I graduated from Barton College in North
21 Carolina, then attended North Carolina State University
22 where I took further courses in organic chemistry. At that
23 point I taught high school biology, chemistry, and physical
24 science in the North Carolina high school system, worked as
25 medical technology, technologist. In 1975 I was employed

SW - W. WORSHAM - DIRECT

1 as a forensic chemist with the State Bureau of
2 Investigation.

3 Q And when you moved from forensic chemistry into question
4 documents what kind of training did you get?

5 A I underwent a two year in-house training program under four
6 different recognized question document examiners, and there
7 I had a prescribed course of study. At the end of each
8 section then I was tested to see if I was competent in that
9 particular area of questioned documents. I also went to
10 the Secret Service School in basic handwriting comparison
11 and identification in Quantico where I graduated from their
12 course. Also internal with the United States Postal
13 Service Laboratory in Delos, Virginia under their chief
14 document examiner Drew Summerford. After completing that I
15 was allowed to start doing cases.

16 Q You've been doing cases on your own for how long?

17 A Approximately 14 years.

18 Q And you're a certified question document examiner?

19 A I'm not certified. I am qualified for certification.

20 Q All right. And what courts have you been qualified as an
21 expert witness in this discipline?

22 A Since moving to South Carolina I've qualified as an expert
23 in magistrate's, general session, and U.S. district courts
24 here approximately 16 times.

25 Q And did you likewise be qualified in the State of North

SW - W. WORSHAM - DIRECT

1 Carolina?

2 A I did. I testified in State of North Carolina. I don't
3 know the exact number, somewhere approaching 30 times as a
4 question document examiner in their courts.

5 Q All right, sir. We don't have a jury here so you don't
6 have to discuss this in elaborate detail, but tell us how,
7 what you, how you go about examining documents to determine
8 handwriting, who the author might be.

9 A When we receive a case into the laboratory we look at the
10 different features of the handwriting. We look at the
11 skill level. We look at the spacing and the words
12 themselves. Each word will have different hyphae ratios of
13 letters within the word. We study those hyphae ratios. In
14 addition there we look at the format, how it's laid on to
15 the paper. Then we look at the collecting strokes and the
16 minute detail. And then we observe at how each of these
17 different letters in the word are formed or how they're
18 articulated to the paper by the brain. We consider all of
19 these characteristics and then we go into the known
20 handwriting from an individual that are submitted to us for
21 comparison. And if we can find all of these same features
22 and characteristics coming together at the same time on a
23 questioned document then we can render an opinion as to the
24 authorship.

25 MR. SALEEBY: Your Honor, we would submit that Mr.

SW - W. WORSHAM - DIRECT

1 Worsham is well qualified as an expert in question document
2 examination and will be qualified to issue his opinion about
3 certain documents we're going to show him.

4 MR. CLARK: Now objection, Your Honor.

5 THE COURT: All right, Mr. Worsham is so qualified as
6 an expert in question document examination.

7 BY MR. SALEEBY:

8 Q Mr. Worsham, I'm going to show you three documents. The
9 first is State's Exhibit Number 28, a file folder. The
10 second is State's Exhibit Number 29, a note pad. And the
11 third is State's Exhibit Number 57 which has been
12 introduced into evidence as a handwritten statement given
13 by Stephen Corey Bryant to the Sumter County Sheriff's
14 Department. Did those three documents -- have you examined
15 those three documents?

16 A Yes, sir, I have.

17 Q All right. In terms of known and unknown which of these
18 are the unknowns?

19 A There are two unknowns in this case. One is the file
20 folder which contained a note writing on it. I was asked
21 to identify that, compare it back to the known writing of
22 Stephen Corey Bryant. This folder came, was identified as
23 having come from the waist or abdomen of the victim.
24 Another note, which was identified as having come from the
25 coffee table at the scene, also handwriting on it and I was

SW - W. WORSHAM - DIRECT

1 asked to compare that back with the known handwriting of
2 Stephen Corey Bryant. The known handwriting, State's
3 Exhibit 57, was the voluntary statement given by Stephen
4 Corey Bryant. That is what I used for my standards for
5 comparison in this case.

6 Q And using the statement there, State's Exhibit, and the
7 file folder State's Exhibit 28 -- I'm sorry 28 and 29, can
8 you tell us what opinions you reached.

9 A Yes, sir. In examining State's Exhibit 28, the note on the
10 file folder from the waist or the abdomen of the victim and
11 State's Exhibit Number 29, the note found at the coffee
12 table at the scene, it's my conclusion that both of these
13 were authored by Stephen Corey Bryant.

14 Q Thank you, Mr. Worsham. Please answer any questions
15 counsel has for you.

16 MR. CLARK: No questions, Your Honor.

17 MR. SALEEBY: Your Honor, I would ask if Mr. Worsham be
18 excused.

19 MR. CLARK: No objection, Your Honor.

20 THE COURT: Thank you, sir. Thank you, Mr. Worsham,
21 you're excused, free to go sir.

22 MR. SALEEBY: Janice Bryson, come around please.

23 THE DEPUTY CLERK OF COURT: Place your left hand on the
24 Bible, raise your right. State your name please.

25 THE WITNESS: Janice Bryson.

SW - J. BRYSON - DIRECT

1 WHEREUPON,

2 JANICE BRYSON,

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 THE DEPUTY CLERK OF COURT: State your full name,
6 spell your last.

7 THE WITNESS: My name is Janice Bryson, B-R-Y-S-O-N.

8 DIRECT EXAMINATION

9 BY MR. SALEEBY:

10 Q Ms. Bryson, tell us who you work with.

11 A I'm employed by the South Carolina Law Enforcement
12 Division.

13 Q How long have you worked with SLED?

14 A I've been employed with SLED for 19 years.

15 Q What did you spend the first 11 of those doing?

16 A I've been at SLED for 19 years and I've been processing
17 evidence for 12 years.

18 Q All right. What kind of training have you received in
19 processing, collecting and processing items of evidence for
20 DNA and trace value?

21 A While at SLED I trained under Court qualified forensic
22 experts in the areas of trace, serology, DNA. And SLED is
23 nationally accredited by the American Society of Crime
24 Laboratory and Directors and it's a requirement of ASCLAD
25 that each analyst technician be certified and I have been

SW - J. BRYSON - DIRECT

1 certified in the collection of hair fiber and body fluids.

2 Q Have you testified in the courts of this state and been
3 qualified as an expert?

4 A Yes, sir, I have.

5 MR. SALEEBY: Your Honor, we would submit Ms. Bryson to
6 be qualified to testify in the area of evidence collection.

7 MR. CLARK: No objection, Your Honor.

8 THE COURT: Without objection so qualified.

9 BY MR. SALEEBY:

10 Q We understand that laymen may have one understanding but if
11 you'd just tell the Court what you do in processing
12 evidence to make sure it's past through for further testing
13 and it'd done in a manner that keeps the evidence,
14 integrity of the evidence?

15 A Whenever items of evidence submitted to the lab with a
16 request to look for hair, fiber, and body fluid it's my
17 responsibility to process the items, collect any evidence
18 and make sure that it's sent to the appropriate department.

19 Q All right. How do you go by -- when something comes in how
20 do you go about determining what needs to be forwarded and
21 what doesn't need to be forwarded?

22 A In this case I was looking for any DNA so I do a visual
23 examine of the item that I'm processing, and I look for
24 anything, any stains, or anything out of the ordinary. And
25 if I process for blood I do it a certain way and if I

SW - J. BRYSON - DIRECT

1 process it for semen I do it a different way and any other
2 body fluids I process a different way.

3 Q And when you say you do it visually are you talking about
4 with naked eye or do you use any magnifying device?

5 A I do it with a visual, I mean, with the naked eye and we do
6 have a large magnifying glass that we use as well.

7 Q If you see stains that they contain DNA depending upon the
8 name of the stain do you do different tests to what we call
9 presumptive tests?

10 A Yes, sir. If I see a stain that appears to be blood I do a
11 chemical test that will allow me to see a chemical color
12 change if that stain is potential blood, and if I'm looking
13 for semen I'll use an alternate light source and then I go
14 back and do a spot test. And if the spot first is positive
15 I know to collect that and send it to DNA for further
16 testing.

17 Q On October the 12th of 2004 did you receive some items that
18 were collected from the Tietjen household?

19 A Yes, sir, I did.

20 Q Did you receive a pair of blue jeans that were identified
21 as being Mr. Tietjen's?

22 A Yes, sir, I did.

23 Q Did you receive this pot holder which is identified as
24 State's Exhibit Number 31?

25 A Yes, sir, I did.

SW - J. BRYSON - DIRECT

1 Q And did you receive these two socks which are identified as
2 State's Exhibit 22-A and 22-B?

3 A Yes, sir, I did.

4 Q All right. Tell the Court what you did first of all with
5 the blue jeans?

6 A With the blue jeans I was looking for blood, hair, semen,
7 and just any possible touched DNA. The blue jeans I
8 collected hair. It was negative for the presumptive test
9 of semen. I took one cutting that was positive for the
10 presumptive test of blood. And I took a swab from the belt
11 buckle, the button, and the zipper for any possible DNA.

12 Q If I understand what you're telling us you don't send the
13 whole garment forward.

14 A No, sir.

15 Q You only deal with the part where it looks like there might
16 be some sort of bodily fluids?

17 A That's correct.

18 Q All right. Tell us about the pot holder. What did you see
19 on the pot holder and what did you collect and forward?

20 A It was a red and white blue pot holder. I collected hair
21 from the pot holder and I swabbed the pot holder for DNA.

22 Q Is that swab that went to the DNA specialist?

23 A That's correct.

24 Q And tell us about the ankle socks, 22-A and -B. I notice
25 that both of them have holes in them.

SW - J. BRYSON - DIRECT

1 A Yes, sir.

2 Q Tell us about that.

3 A I received these items and the request was to look for any
4 DNA. And I did a visual and I didn't see any stains that
5 appeared to be blood so I put them under the alternate
6 light source and the light source was negative. So I took
7 a cutting from the heel of the sock and the side of the
8 sock where the sock may have rubbed in the shoe. The
9 person, they had sweated. So I collected the heel of the
10 sock and I took a cutting from the ball area of the foot
11 and on this one, I collected a cut from the heel area for
12 any DNA.

13 Q There weren't any stains or anything from the presumptive
14 test for you to see, correct?

15 A I didn't do a presumptive test. I did a visual and I
16 didn't see anything that required a presumptive test.

17 Q But your experience told you that those are the areas that
18 you needed to check to send forward?

19 A Yes, sir.

20 Q All right. Thank you, ma'am. Please answer any questions
21 counsel has for you.

CROSS-EXAMINATION

22 BY MR. CLARKE:

23 Q Ma'am, did you say you found some evidence in those items?

24 A I collected some evidence, yes, sir.

SW - J. BRYSON - CROSS

1 Q Okay. Did you analyze them?

2 A No, sir, I did not.

3 Q Someone else analyzed them?

4 A That's correct.

5 Q Okay. Who analyzed the -- what you collected?

6 A Nancy Skreba in the DNA department.

7 Q So it's not your job to analyze.

8 A No, sir, I do presumptive testing.

9 Q Okay. Thank you.

10 MR. SALEEBY: I have no more questions and ask if she
11 can be excused.

12 MR. CLARK: No objection, Your Honor.

13 THE COURT: Thank you.

14 MR. SALEEBY: We would call Nancy Skreba to the stand.

15 THE CLERK OF COURT: Come around please to be sworn.

16 Place your left hand on the Bible, raise your right hand. State
17 your name please.

18 THE WITNESS: Nancy Skreba.

19 WHEREUPON,

20 NANCY SKREBA,

21 having been duly sworn by the Deputy Clerk of Court,

22 testified as follows:

23 THE DEPUTY CLERK OF COURT: Have a seat up here please,

24 Ma'am. State your full name, spell your last name please.

25 THE WITNESS: My name is Nancy Skreba, S-K-R-E-B-A.

SW - N. SKREBA - DIRECT

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

BY MR. SALEEBY

1
2
3 Q Ms. Skreba, about how long have you been working at SLED?

4 A I've worked at SLED for 24 years.

5 Q And what area of the SLED operation do you work in?

6 A I work in the forensic service laboratory as a DNA analyst.

7 Q How long have you been analyzing DNA?

8 A Approximately ten years.

9 Q Please tell the Court what your education, training, and
10 experience has been in DNA analysis?

11 A I have a bachelor of science degree in medical technology
12 from the University of South Carolina. I'm Board certified
13 by the American Society of Clinical Pathologists. In
14 addition to my DNA training at SLED I've also attended
15 several schools, seminars, and workshops in my field of
16 forensic DNA analysis including the FBI DNA (inaudible)
17 school in Quantico, Virginia where I received graduate
18 credit from University of Virginia. I've also received
19 graduate credit from the University of South Carolina for a
20 statistics course as it applies to DNA analysis.

21 Q How long have you been testing items for presence of DNA
22 and reporting your results?

23 A Ten years.

24 Q And how many times have you been qualified in courts of
25 this State as an expert witness?

SW - N. SKREBA - DIRECT

1 A Twenty-seven in DNA analysis.

2 MR. SALEEBY: Your Honor, we would submit that
3 Ms. Skreba will be well qualified to testify in this area.

4 MR. CLARK: We stipulate to that, Your Honor.

5 THE COURT: All right, so qualified.

6 BY MR. SALEEBY:

7 Q Just for the benefit of the Court who's got experience in
8 this just tell us what DNA shows us, how DNA helps identify
9 people?

10 A DNA is -- it stands for deoxyribonucleic acid. It's a
11 very complex chemical found in the nucleus of the cell. It
12 contains the genetic material. So you can think of DNA as
13 the chemical dispatcher of genetic information. You
14 receive half your DNA from your biological mother and half
15 from your biological father and with the exception of
16 identical twins everyone's DNA is unique.

17 Q Did you receive certain items at SLED and asked to examine
18 them determine if you could find out what the origin of the
19 DNA was?

20 A Yes, I do.

21 Q I'm going to bring some of those items in front of you and
22 we'll discuss them one at a time. But before I bring those
23 items I will ask you if you were also furnished by --
24 furnished with a blood sample from Willard Tietjen on
25 October the 12th, 2004 and later with a blood sample from

SW - N. SKREBA - DIRECT

1 Stephen Corey Bryant?

2 A Yes, I was.

3 Q All right. The first question I would ask you is, we have
4 a number of different items. Some are intact such as
5 cigars and cigarette butts. The other ones, did you
6 receive the entire item or just cuttings and swabs?

7 A I received cutting and swabs.

8 Q For example, I'll ask you if you received a cutting or a
9 swab identified as being the blue jeans of Mr. Willard
10 Tietjen?

11 A Yes, I did.

12 Q And did you examine that swab to see if, how it compared to
13 the blood sample you got from Mr. Tietjen?

14 A Yes, I did.

15 Q And what did you conclude?

16 A On the cutting from the blue jeans?

17 Q That's correct.

18 A The cutting from the blue jeans, the DNA profile developed
19 from that item matches Willard Tietjen.

20 Q Did you receive a cutting or a swab for this thing which
21 has been described as another one?

22 A Yes, I did.

23 Q All right. Were you able to conclusively determine it was
24 Willard Tietjen's or were there only some markings there?

25 A There was a partial profile and it was a mixture of at

SW - N. SKREBA - DIRECT

1 least two individuals and Mr. Tietjen could not be excluded
2 as a contributor to the mixture.

3 Q All right. I want to show you some other items now. And
4 this was State's Exhibit Number 31. This is State's
5 Exhibit Number 19-C, which is identified internally as
6 being a cigarette butt retrieved from the kitchen floor.
7 Did you receive that and examine it?

8 A Yes, I did. That's my item Number 24.

9 Q And what did you determine as to that cigarette? But did
10 you find anybody's DNA or on the that cigarette butt that
11 came from the kitchen floor of the Tietjen house?

12 A Yes, I did.

13 Q And what did you find?

14 A The DNA profile matches Stephen Bryant.

15 Q And can you tell us to what certainty or what mathematical
16 probability?

17 A Yes. The probability of randomly selecting an unrelated
18 individual from the population having a DNA profile
19 matching that item is approximately one in 48 trillion.

20 Q Did you receive State's Exhibit Number 19-D which has been
21 identified as a cigarette butt retrieved from the kitchen
22 sink from the Tietjen home?

23 A Yes, I did. That's item Number 58 on my report.

24 Q And what were you able to determine? Was there anybody's
25 DNA on that?

SW - N. SKREBA - DIRECT

- 1 A Yes.
- 2 Q And what did you find?
- 3 A The DNA profile developed from that item matches Stephen
4 Bryant.
- 5 Q To the same mathematical probability?
- 6 A That's correct.
- 7 Q This is State's Exhibit Number 20-A, which is identified as
8 a cigarette -- a cigar, excuse me, that was collected from
9 a table in the living room of Mr. Tietjen.
- 10 A Yes, sir.
- 11 Q Did you find DNA on there?
- 12 A Yes, I did.
- 13 Q And whose DNA?
- 14 A Stephen Bryant.
- 15 Q This is State's Exhibit 20-B. This is identified as a
16 cigar which I think is Number 5 on the chart which was
17 recovered close to Mr. Tietjen's head. It's fairly
18 crumbled now but can you -- did you find DNA on that?
- 19 A Yes, I did. This is item 26 on my report and the DNA
20 profile matches Stephen Bryant.
- 21 Q This is State's Exhibit Number 21, which is identified as a
22 partially smoked cigarette retrieved from the right eye of
23 Willard Tietjen. Did you examine that?
- 24 A Yes, I did. This is item 27 on my report. The DNA profile
25 matches Stephen Bryant.

SW - N. SKREBA - CROSS

1 Q This is State's Exhibit Number 22-B which was referred as
2 an ankle sock which was recovered from the living room. B
3 would have been off of the table in the living room. Did
4 you examine that for DNA?

5 A Yes, I did.

6 Q And can you tell us what you found?

7 A That's item 29.1 on my report. The DNA profile matches
8 Stephen Bryant.

9 Q Thank you very much, Ms. Skreba. Please answer any
10 questions counsel has for you.

CROSS - EXAMINATION

11
12 BY MR. CLARK:

13 Q Ms. Skreba, when you say matches Stephen Bryant, does that
14 mean that doesn't match anyone else?

15 A I give a statistic to give weight or meaning to that match
16 and in this case the statistic is one in 48 trillion that
17 another unrelated individual could have the same DNA
18 profile as that evidence stain.

19 Q Okay. Now did you number the items submitted to you for
20 serology analysis? You number them; didn't you? Or
21 weren't they numbered, the items submitted?

22 A I made one cutting or I made one subitem from 30. -- 31.1.
23 So I made two items out of that. Is that what you're
24 talking about?

25 Q Well, I want to ask you about item Number 14. Did you have

SW - N. SKREBA - CROSS

1 a name you identified as 14?

2 A Item 14, yes.

3 Q What was that?

4 A That's a penile swab.

5 Q Can you say that again please?

6 A Penile.

7 Q What does that mean just to be clear?

8 A That was a swab that was collected at the autopsy and the
9 physician swabbed the penis of Mr. Tietjen.

10 Q All right. And that was submitted to you?

11 A Yes, it was.

12 Q And can you tell the Court what the results of your DNA,
13 your serology analysis?

14 A Semen was identified.

15 Q And so from a swab taken from Mr. Tietjen's penis semen was
16 identified on that?

17 A That's correct.

18 Q Thank you, Ma'am. That's all I have.

19 MR. SALEEBY: I have no more questions. You may come
20 down.

21 THE COURT: Thank you, Ms. Skreba. Any objection to
22 Ms. Skreba ---

23 MR. CLARK: No, sir.

24 THE COURT: Thank you, Ma'am,

25 MR. SALEEBY: Ira Parnell.

SW - I. PARNELL - DIRECT

1 THE COURT: Come around, Mr. Parnell.

2 THE DEPUTY CLERK OF COURT: Place your left hand on the
3 Bible, raise your right hand. State your name please.

4 THE WITNESS: Ira Byrd Parnell, Jr.

5 WHEREUPON,

6 IRA BYRD PARNELL, JR.

7 having been duly sworn by the Deputy Clerk of Court,
8 testified as follows:

9 THE DEPUTY CLERK OF COURT: Have a seat up here please.
10 State your name, spell your last name please, sir.

11 THE WITNESS: My name is Ira Byrd Parnell, Jr.,
12 P-A-R-N-E-L-L.

13 DIRECT EXAMINATION

14 BY MR. SALEEBY:

15 Q Mr. Parnell, where did you grow up?

16 A Sumter County, South Carolina.

17 Q And how many years was your father the sheriff over here?

18 A 28.

19 Q And how long have you been working with SLED?

20 A Tomorrow will be 36 years.

21 Q And what part of that organization do you work in?

22 A I'm assigned to the firearm and tool mark identification
23 laboratory at the SLED forensic facility in Columbia.

24 Q How long have you been doing that?

25 A Thirty-five years.

SW - I. PARNELL - DIRECT

1 Q All in that area?

2 A Yes, sir.

3 Q Who originally trained you and how were you trained?

4 A I was originally trained as an intern under Lieutenant
5 Millard Cates who's original forensic examiner at SLED
6 along with Lieutenants Dan Defreeze and Bill Anderson.

7 Q And how long have you been on your -- do a conducting
8 examinations on your own and rendering opinions about the
9 origins of operation of weapons and the origin of
10 cartridges and projectiles such as that?

11 A Approximately 33 years.

12 Q How many times you been qualified as an expert or have you
13 lost track?

14 A Somewhere around 550 times.

15 MR. SALEEBY: Your Honor, we would submit that he'd be
16 qualified to give opinion in the area of firearms identification.

17 MR. HOWLE: We stipulate to his qualifications, Your
18 Honor.

19 BY MR. SALEEBY:

20 Q Mr. Parnell, let's start, if we would, say with State
21 Exhibit Number 35. Please tell the Court what we have
22 here.

23 A State's Exhibit 35 is a .40-caliber semiautomatic Smith and
24 Wesson handgun, specifically a model 4046.

25 Q All right. How does it operate?

SW - I. PARNELL - DIRECT

1 A As I said, it's a semiautomatic. It operates by the
2 insertion of a loaded magazine, operating the slide pulling
3 the trigger until the magazine is empty.

4 Q How many cartridges does it hold it or how many bullets
5 does it hold?

6 A I think it's about 14. Which case did this come in
7 originally, Solicitor?

8 Q I'm not sure.

9 A This says it's a ten shot limited magazine so it will be 11
10 rounds.

11 Q And did the magazine -- and did some bullets come with the
12 magazine?

13 A Yes, sir, they did.

14 Q All right. That operates with one pull you get how many
15 shots?

16 A You get one shot.

17 Q Was it in decent working order?

18 A It was in perfect working order, yes, sir.

19 Q Was there anything that indicate that that weapon would
20 just go off by itself?

21 A No, sir, not at all.

22 Q Not one time and not nine times?

23 A No, sir.

24 Q All right. When cartridges are ejected from a weapon like
25 that is there -- are they random where they land or are

SW - I. PARNELL - DIRECT

1 they fall pattern?

2 A If the shooter is standing in two foot prints the angle
3 remains exactly the same. Then there will be generally
4 enough -- a small area. If there's any movement, any
5 change of angle, any movement by the shooter then they
6 could be in almost any direction.

7 Q You've worked several cases that involve that .40-caliber
8 weapon; did you not?

9 A Yes, sir, I did.

10 Q First of all, I want to show you two items that are
11 relative to Mr. Clinton Brown, State's Exhibit Number 92, a
12 projectile I think, shell casing recovered from the banks
13 of the Wateree and a projectile, State's Exhibit Number 88.
14 Did you receive those two?

15 A Yes. The fired bullet State's Exhibit 88, and the fired
16 cartridge case State's Exhibit 92 both bear my case number,
17 specimen number, and initials. I was presented these for
18 examination.

19 Q And how did -- what did you determine with regard to their
20 connection to this firearm State's Exhibit Number 35?

21 A As a result of comparing test specimen which I myself fired
22 in State's Exhibit 35 I was able to microscopically
23 conclude that State's Exhibit 88 and 92 were both fired in
24 State's Exhibit 35.

25 Q And no other weapon?

SW - I. PARNELL - DIRECT

1 A That's correct, sir.

2 Q Did you receive one projectile which would be State's
3 Exhibit Number 98 and three shell casings, State's Exhibits
4 97, 96, and 95 that were related to the death of
5 Mr. Gainey, Cliff Gainey?

6 A Yes, sir. State's Exhibits 95, 96, 97 and 98 were all
7 submitted for examination and comparison.

8 Q And what did you conclude as to these shell casings and as
9 to this bullet, number 98, which was recovered from under
10 Mr. Gainey's body?

11 A The three fired cartridge cases, 95, 96 and 97 and State's
12 Exhibit 98 fired bullet were also all fired in State's
13 Exhibit Number 35.

14 Q Did you have any occasion to examine some items that were
15 submitted with regard to Christopher Burgess?

16 A I did, sir.

17 Q And I would ask you if that included two shell casings
18 retrieved from the road which would be State's Exhibit
19 Number 107 and 106 and a projectile, Number 108, that
20 Doctor Sexton recovered from the head of Christopher
21 Burgess.

22 A Yes, sir. The two fired cartridge casings State's Exhibits
23 106 and 107, and the fired bullet from Mr. Burgess' head,
24 State's Exhibit 108, were all fired from State's
25 Exhibit 35.

SW - I. PARNELL - DIRECT

1 Q .40-caliber pistol?

2 A Yes, sir.

3 Q Now I want to show you a number of items that were
4 collected from Mr. Tietjen's house and his body in or
5 around his body. I want to identify these for the record.
6 State's Exhibit 32-A and 32-B are identified as
7 projectiles, bullets that were recovered beside the fish
8 aquarium I believe by Ms. Pierson. State's Exhibit
9 Number 30-A is a projectile that was recovered from the
10 neck of Mr. Tietjen at the autopsy. State's Exhibit Number
11 30-B is indicating his coming from the head of Mr. Tietjen.
12 And then we have series of six shells, State's Exhibit
13 Number 64 that were found in the toilet. There are two
14 more projectiles, which is 24-A and -B, that were recovered
15 by Mr. Coonfield during the course of his examination close
16 to the body. And 25 would be two casings, fired casings
17 that were recovered in the area close to Mr. Tietjen, some
18 in the living room, some in the dining room.

19 A Yes, sir. After having visually examined all the fired
20 cartridge cases and all the fired bullets referred to from
21 State's Exhibits 23-A, 23-B, 25 and 24, two fired bullets
22 from 30-A and 30-B from autopsy, and the two fired bullets
23 from 32-A and -B, I examined each of these items. They each bear
24 my case number, specimen number, initials and they were all fired
25 as a result of microscopic comparisons by State's Exhibit 35.

1 Q Thank you, Mr. Parnell, please answer any questions counsel
2 has for you.

3 MR. CLARK: No questions for this witness, Your Honor.

4 MR. SALEEBY: Your Honor, I don't have anymore and I
5 would ask if he could be excused.

6 MR. CLARK: No objection, Your Honor.

7 THE COURT: Thank you, Mr. Parnell.

8 MR. JACKSON: Your Honor, noting the hour that's all we
9 would have this afternoon. I do have a request to the Court I
10 would like to make as far as our scheduling for tomorrow.

11 THE COURT: All right.

12 MR. JACKSON: Your Honor, under South Carolina Code
13 Section 14-7-1320 a jury may view a place, property or things in
14 a trial. And Your Honor, under that statute the State would
15 request that in case that Your Honor as the jury take time
16 tomorrow to go out to view these scenes that we talked about in
17 this particular case?

18 THE COURT: Any objection from the Defense to that?

19 MR. CLARK: Your Honor, we believe that's in the
20 Court's discretion. I don't see how it would aid the Court in
21 any way in this case. To the prosecution's credit they have been
22 exhaustive in submitting diagrams, maps, sketches, photographs.
23 And in addition to that, Your Honor, in four years, you know, I
24 assume that perhaps the scenes have changed just a little bit,
25 vegetation and everything, but we do not have objection to it.

1 We leave it to the Court's discretion but I don't believe it
2 would aid the Court. And Your Honor, if the Court decides to
3 view the scene I believe the defendant would have the right to be
4 present and I just ask the Court to consider the issues that that
5 would create.

6 THE COURT: All right, Solicitor, how would you
7 propose, what would you propose as far as tomorrow's scheduling
8 and when ---

9 MR. JACKSON: Your Honor, I believe, and what I would
10 propose is that once the State finishes its testimony and I
11 believe we'll do that by late morning, early afternoon tomorrow.
12 I believe this would take about two-and-a-half hours. From start
13 point here if we head out around, and we have mapped out a broad
14 circle of how we can go around and hit all these in the least
15 amount of time and come back I believe we can do it in about
16 two-and-a-half hours. Logistically I think it would be
17 appropriate for the Court to ride with the clerk of court,
18 possibly your law clerk and maybe the court reporter. We
19 certainly do not need to be around you while you're viewing, but
20 perhaps law enforcement and myself could lead to the different
21 scenes. Defense attorneys could follow along. If Mr. Bryant
22 wants to come I believe certainly the law would allow him to do
23 that. Your Honor, I remind the Court going to a scene is not
24 putting the scene into evidence, it's not an evidentiary thing,
25 it's just an opportunity for you to view the scene so that you

1 can better understand the testimony, better appreciate the
2 evidence and apply it in your deliberations and that's why we ask
3 you to view it.

4 THE COURT: All right, sir. I'll give that
5 conversation over the evening and let you know in the morning but
6 we'll start at 9:30? Is that ---

7 MR. JACKSON: Yes, sir, 9:30 will be fine.

8 MR. HOWLE: Yes, sir, that will be fine.

9 THE COURT: Court will be in recess then until 9:30
10 tomorrow morning.

11 (WHEREUPON, the proceedings were concluded for the day to be
12 reconvened on September 5, 2008 at 9:38 a.m.)

13 THE COURT: Any matters we need to take up before we
14 begin? From the State?

15 MR. JACKSON: Your Honor, just a housecleaning matter.

16 THE COURT: All right.

17 MR. JACKSON: We're going to get into the last exhibits
18 which are photographs and we renumbered a few of them based on
19 witness availability for the victim impact testimony. I just
20 want to apprise the Court of a few changes, 114 through 119, so
21 that you can have your list ready when we get to them.

22 THE COURT: All right.

23 MR. JACKSON: 114, Your Honor, should be Mr. Bob
24 Summers and that will be A, B, and C.

25 THE COURT: Okay.

1 MR. JACKSON: 115 is still Billy Cockerill. That's A
2 through D now, not A through E. 116 is still Mr. Troy Baker,
3 that is is 8 through 12, no E.

4 THE COURT: All right.

5 MR. JACKSON: And the rest remain the same.

6 THE COURT: All right. Now have y'all seen those? Is
7 there any -- you still have objections to those? And if so
8 that's fine, we'll just take ---

9 MR. HOWLE: I'm having trouble looking at my notes
10 today. Can I take a look at them, Mr. Jackson?

11 (Attorneys confer.)

12 MR. CLARK: We don't have any objection.

13 THE COURT: Now is that with regards to 114 through
14 119?

15 MR. CLARK: Yes, sir.

16 (WHEREUPON, State Exhibits Nos. 114 through 119 were admitted
17 into evidence.)

18 THE COURT: All right. So State's 114-A,B and C, 115-A
19 through D, 116-A through D, 117-A and B, 118-A through G, and
20 119-A through J are all admitted without objection.

21 MR. JACKSON: Thank you, Your Honor.

22 THE COURT: Thank you, Solicitor.

23 Mr. Clark, anything from the Defense before we proceed?

24 MR. CLARK: No, sir, Your Honor.

25 THE COURT: Solicitor, you may call your next witness.

1 MR. SALEEBY: Your Honor, if it please the Court at
2 this time we would like to read into the record those portions of
3 the statement that have previously been admitted into evidence
4 which pertain to Mr. Tietjen's crime.

5 THE COURT: Yes, sir.

6 MR. SALEEBY: First of all, Your Honor, with regard to
7 State's Exhibit Number 55, which would be a statement given on
8 the date of arrest October 13th of 2004, the first statement.

9 THE COURT: Yes, sir.

10 MR. SALEEBY: "Though Agent Caldwell says he thinks
11 that I've been to the Tietjens more than once I've only been
12 there one time. It is on Cane Savannah Road. I went there
13 Monday. I don't remember what time but it was daylight. I heard
14 on WIS news that the sheriff and said that Tietjen's family
15 members spoke with his killer on the phone. That was somebody
16 else that came there after I was there. I didn't have his phone.
17 I am not comfortable talking about what happened at the Tietjens.
18 In time I will tell about it. I do not remember leaving any
19 notes there but I would like to be hypnotized or see a
20 psychiatrist who could help me to remember so I could get all of
21 this out."

22 Next would be from State's Exhibit Number 56, the
23 second statement given on that same day, October the 13th. "On
24 Monday I was having problems with my truck with it overheating.
25 I pulled my truck over to the side of the road. I sat in the

1 truck and rolled and smoked a joint waiting for the engine to
2 cool. I saw Tietjen's house. I walked in the yard and saw a
3 truck. I think it was sometime between 9:30 and 12:30. I didn't
4 figure anyone was home. This was the first time I ever went to
5 this house. I knocked on the door and the man answered. We both
6 walked back to the truck and looked at the truck. The man was
7 going to help me. We walked back to the house and the man handed
8 me his cell phone. I tried to call my girlfriend twice but got
9 the answering machine both times. The man sat down and started
10 talking about the Masons and the knowledge. He was telling me
11 about secret things in the Masons he shouldn't be talking about.
12 He started talking about his views on life and religion and we
13 talked a couple of hours. The man didn't realize I had a gun on
14 me. It was tucked in my waist with a loose shirt over it. He
15 was showing me things he had about the Masons and bragging. I
16 was high at the time and had read a lot about the Masons. He was
17 disturbed at what I knew. He was asking me how I knew what I did
18 about the Masons. I think he was threatened by what I knew. I
19 asked the man if I could use his bathroom. He didn't understand
20 why I asked him that after we had been talking so long. I turned
21 around and the man hit me in the back of the head. I still have
22 the knot to prove it. I was dazed and when I turned around the
23 man started charging me. I grabbed the gun and shot the man. I
24 don't know how many times. When the man fell I sat down and I
25 started crying. I was asking the man why because I didn't want

1 it. From this point I only remember bits and pieces. I remember
2 sitting by his side with blood coming out of his head and chest.
3 I went to the refrigerator and got a pepsi because my throat was
4 getting dry. I don't remember getting the pepsi from the fridge.
5 When I got home I found medals from the man in my pocket. I
6 don't remember smoking in the house but I could have. I do
7 remember praying for the man and lighting white candles I found
8 in the cabinet to free his spirit so he could be at peace. I
9 remember the man telling me he wishes he were young like me
10 because he liked young girls. I remember looking at the man's
11 computer and seeing pornography. I'm not sure but I think I'm
12 having flashbacks of being on the computer and seeing a young
13 girl with a horse in her. I don't remember how many times I shot
14 the man but I had 12 rounds in the clip and when I got home I
15 only had seven. I may have left a note on a piece of paper but I
16 don't remember. Agent Caldwell showed me photographs of the
17 Tietjen crime scene. It seems like I remember the note on his
18 stomach but then I don't. I was thinking I might have poked his
19 eyes out. It doesn't look like I did. This is my handwriting in
20 the photographs but one thing I don't understand is I contradict
21 myself. I've got four on the wall; I've got five right here.
22 Something just don't seem right. There's two things here that
23 aren't the way I left it. The cigar right here, I don't smoke
24 cigars and he doesn't -- he didn't smoke while I was there. And
25 his belt is undone. I'm getting a strong feeling that someone

1 else was here after I left."

2 Then Your Honor, from statement, State's Exhibit Number
3 57 given on the 15th and 16th of October to Lieutenant Florence
4 and Captain Turner. October 11 between 9:30 a.m. and 10:30 a.m.
5 I was going fishing. And my truck started over heating so I
6 pulled off to the side of the road to let my truck cool down. I
7 got out, popped the hood, and felt the engine and the engine was
8 hot. So I got back in my truck and rolled me a joint and smoked
9 it while the engine was cooling down. I then put the gun in my
10 pants and walked up to the nearest house which was Tietjen house
11 and knocked on the door. This is the first time I have ever been
12 to his house. Mr. Tietjen opened the door and he asked me how
13 may I help you. I told him my truck was overheating and he
14 walked out with me to my truck, and he looked at it and he even
15 agreed that my truck was overheating. By then a lady in a red
16 car stopped and asked if everything was okay and said everything
17 is fine and she said okay and drove off. The lady was military
18 because she had a military uniform on. We walked back up to the
19 house and I used his cell phone after he invited in his house. I
20 asked him to, if I could use his cell phone to call my girlfriend
21 to come and pick me up because my truck was overheating. I got
22 the answering machine the first time and left a message that if
23 she was there to pick up the phone. So I hung up and called her
24 right back but got no answer. I figured she'd done left for
25 work. Over the next couple of hours we had a general

1 conversation about Masons and the knowledge behind it. During
2 that time I noticed he was getting agitated about the way I was
3 talking about the Masons which such knowledge and meaning,
4 meaning for what things stood for. This was while we were
5 downstairs looking at the medals and his Shriners card that he
6 had in his basement. We went upstairs and talking a while longer
7 and I then asked him if I could use his restroom; he asked why.
8 I said I had to take a leak. And as I was getting up from the
9 couch going towards the direction he pointed. He then hit me in
10 the back of the head. I turned around and about fell because the
11 blow dazed me. I look at him while he was coming towards me. I
12 then pulled out the .40-caliber Smith and Wesson handgun and shot
13 him maybe three or four times but I'm not sure. And as I was
14 walking towards him crying the gun slipped out of my hand and
15 went off. I picked the gun up and knelt by his side crying and
16 asked him why he did it. And then I said a prayer for him. I
17 then sat down on the couch and smoked me a cig. I felt the knot
18 on the back off my head and looked down at his hand and saw the
19 big Mason ring he wore that caused the knot on the back of my
20 head. I took the ring off and placed it in the bathroom sink and
21 filled the sink up with water to let it wash the blood off the
22 ring but forgotten all about the ring. After I put the cig out I
23 put the cig in a cup of water in the sink. The next thing I did
24 was light some candles for him because he was one in the
25 knowledge as I. The white candles on the table symbolizes his

1 purity and innocence that lies within his body and spirit to set
2 him free. As I was lighting one to place at his head to set him
3 at peace it slipped out of my hands 'cause they were shaky and
4 sweaty and caught his beard on fire. I picked the candle up and
5 placed it above his head. I remember doing something to his eyes
6 but not sure what. I thought I might have poked his eyes out but
7 not sure. I remember writing a note but not sure what I wrote.
8 I don't remember. Next I remember walking through the house and
9 putting some power tools, some hand tools, and putting them in a
10 blue bag. I placed a couple of Mason medals in my pocket. I
11 took a big plastic bottle full of coins from the fireplace area.
12 I went through his wallet and taking less 30-dollars cash and his
13 SS card. I then took his cell phone and one silver camera case
14 with camera equipment which sticker on the box from around the
15 world, plus one knife with a deer horn for a handle. I took the
16 property out the front door and carried the stuff with me through
17 the woods to be left unseen by anyone with what I was carrying.
18 I placed the stuff in the back of my truck and I left to go home.
19 I then left the house a couple of hours later to go do some
20 fishing to calm down some, and TJ's cell phone rang. I answered
21 it. She asked for T.J.. I said that I just killed him. She
22 then hung up." And that's marked through. "Said I don't believe
23 you, and she hung up the phone. Another call had come. It was
24 different lady. She asked for T.J.. I said I just killed him.
25 I then hung up the phone. Another call came in, this time from a

1 guy. He asked for T.J.. I told him the same and not to call
2 this number again. I then got up near TJ's house and noticed all
3 the police there so I took a left instead of a right like I had
4 planned to do some fishing 'cause my truck was starting to run
5 hot. I then took another left on to a dirt road and there I
6 stopped and rolled me a joint and smoked it and threw the cell
7 phone, the big bottle that the change was in, and his SS card on
8 to the side of the dirt road and left and went home later -- went
9 home. Later that evening I took the change to the Bi-Lo store to
10 cash it in at their CoinStar machine. It totaled out to be
11 130-dollars in change or so. I then left to go spend the
12 remainder of the evening till the video store closed and then
13 went home. Also during the time on the October 11 Mr. Tietjen
14 was talking about how he wished he was my age because he liked
15 young girls and everything and he was talking about some web
16 sites he looked up, and later before I left his house I got on to
17 his computer and noticed the passwords written on a piece of
18 paper on the wall and typed in the password batteries and it came
19 on. And I looked on the -- I looked under history to see what he
20 said was true and so it was more sites than I can count of nude
21 young girls especially one with a horse inside of her. Also
22 recall taking a Sony camera with some tapes in it. It was in a
23 black nylon bag. And just before I" -- that would be for that
24 day.

25

Now for the statement of the 19th State's Exhibit

1 Number 58. "And just before I left Tietjen's house there was a
2 lady whose name started with a S and said she said she would be
3 there before his wife got home. Also a knife I took from Mr.
4 Tietjen's residence I sold the next day to Lee at the river for
5 ten dollars. Also I took a camera from Tietjen's residence and
6 sold it to the night manager at Captain D's. It was a small Sony
7 camcorder."

8 And then from State's Exhibit Number 59, the statement
9 of 10/21/04 to Lieutenant Florence and to Captain Turner. "In my
10 initial statement I said that the -- that I'd never been to
11 Mr. Tietjen's house. That not true. I remember now going to his
12 house a couple of days before he got shot. I don't remember when
13 or what day exactly. He was coming from his mail box at around
14 10:30 looking through his mail, and as he was entering the
15 driveway of his yard I just pulled up and started conversation
16 asking him if so and so lives here. He said no. But does she
17 live on this road or route. I said, yeah. Well, he said, well
18 pull up in the driveway and I'll look in the phone book. And
19 see, when he came out he greeted me in a masonic shake. That's
20 when I first realized he was a Mason. We wouldn't find this
21 person in the phone book of course so we sat there and talked for
22 an hour or hour-and-a-half about knowledge. And I said I've got
23 to get going because I had to meet someone. He said okay, hope
24 to see you again sometime. I said okay, appreciate your help.
25 And then I left around 2:30 or 3 at the latest. Also I remember

SW - N. DAVIS - DIRECT

1 something about the word prowler. I had created that name on a
2 Yahoo ID on a laptop computer that was stolen that I thought
3 about buying from Lee but I didn't. I gave it back to him on the
4 October 7th that I give back to him that night which I later
5 learned he traded in for some weed on Saturday night. The laptop
6 was a compact. Lee told me that the computer was stolen, that he
7 stole it, and he's got some stolen stuff including the leather
8 case the laptop was in, and some apartments he's remodeling over
9 on either Hampton or Church Street."

10 Thank you, sir.

11 THE COURT: All right.

12 MR. JACKSON: Your Honor, the State calls Ms. Nora Ann
13 Davis.

14 THE COURT: Ms. Davis, if you'd come around please.

15 THE DEPUTY CLERK OF COURT: Come around, Ms. Davis.

16 Place your left hand on the Bible. Raise your right hand. State
17 your name please.

18 THE WITNESS: Nora Ann Davis.

19 WHEREUPON,

20 NORA ANN DAVIS,

21 having been duly sworn by the Deputy Clerk of Court,

22 testified as follows:

23 THE DEPUTY CLERK OF COURT: Have a seat up here please,
24 ma'am. Watch your step. State your full name, spell your last
25 name witness.

SW - N. DAVIS - DIRECT

1 THE WITNESS: Nora Ann Davis, D-A-V-I-S.

2 DIRECT EXAMINATION

3 BY MR. JACKSON:

4 Q Ms. Davis, if I could get you to swivel around just a bit
5 so we can talk with the judge. If you'd tell the judge
6 please, ma'am, where you live.

7 A In Sumter on Stewart Street.

8 Q And how long you been in Sumter?

9 A Sixty-five years.

10 Q Raise your family here?

11 A Yes, sir.

12 Q And what do you do for a living, Ms. Davis?

13 A I own Shuler's Drive-in and Restaurant.

14 Q Where is Shuler's in relation to the courthouse?

15 A It's down Main Street about a mile.

16 Q Which way?

17 A Going toward McLaughlin Ford.

18 Q Okay. Is your husband, is he working there with you?

19 A No, he doesn't work in there. He helps sometimes but he
20 doesn't work there. He works at Madison Industries at the
21 end of -- it's on Progress Road.

22 Q Okay. Tell the judge, if you will, about your
23 relationship, your family relationship with Willard
24 Tietjen, T.J.. How do you know them?

25 A My husband became a Shriners in 1992 and we met Mill and

SW - N. DAVIS - DIRECT

1 T.J. then when he came in, and they were a great help to us
2 learning what Shriners do.

3 Q And tell us what Shriners do.

4 A The Shriners work for the crippled and burn children. We
5 have 22 hospitals burn and crippled, burn and orthopaedic
6 hospitals in the United States. Soon to be 23 one will be
7 open in Mexico next year. The children are taking care of
8 up until their 18th birthday. You may go with no charge no
9 matter who you are. There's no charge. If you have
10 insurance there's no charge. The children are worked on.
11 We have one hospital here in South Carolina in Spartanburg.

12 Q Spartanburg?

13 A Not Spart-- Greenville, I'm sorry.

14 Q Greenville? So there's a hospital up in Greenville?

15 A Uh-huh.

16 Q Shriners, is that a men's organization?

17 A Yes, it is a men's organization.

18 Q And so your husband belonged to that?

19 A Yes.

20 Q And T.J. belonged to that? And is there also a female
21 affiliate?

22 A Yes.

23 Q What is that called?

24 A The daughters of the Nile.

25 Q Daughters of the Nile. Where do they meet?

SW - N. DAVIS - DIRECT

- 1 A We meet in Columbia at Jamal Temple.
- 2 Q Are you a member of that?
- 3 A Yes, sir, I am.
- 4 Q Would Ms. Mildred be a member of that?
- 5 A Yes.
- 6 Q Did T.J. have another word for that that he used for y'all?
- 7 A Yes. He called us because we would stop and pick up Mill
8 and we would go to Columbia. She'd be the last one we'd
9 pick up and we'd have to go through the swamp there and
10 he'd come out and he'd say, well, we'll see you later you
11 ladies of the swamp.
- 12 Q Ladies of the swamp, that's what he called you. The
13 purpose of the Shriners its primarily to get money to help
14 the crippled and burned children?
- 15 A Yes, sir. A lot of people say Shriners don't do anything
16 except have fun and party but we raise money.
- 17 Q And what is something that you remember about T.J. and the
18 way that he was able to raise money?
- 19 A T.J. helped with everything in raising money. Any time
20 there was something to be done he helped. But the
21 Daughters of the Nile, we saved the pull tops from Cokes
22 and things and about every three months T.J. would bring me
23 no less than 6-gallon jugs full of pull tops that I would
24 take and we would turn in for money to give to the
25 shrine -- to the Shrine Hospital.

SW - N. DAVIS - DIRECT

1 Q How did he get that many?

2 A He had friends all over South Carolina everywhere that
3 would send them to him. He -- they'd be in gallon jug. I
4 think it's like 900 and something in a gallon jug.

5 Q Wow. And he'd bring you how many gallon jugs of?

6 A Sometimes as many as six he brought me. Most of the times
7 it was around three or four.

8 Q And all that was for the burn and crippled children?

9 A Yes.

10 Q Tell me some characteristics, if you would, Ms. Davis, that
11 remind you of T.J..

12 A Just being good to people and taking care of the children,
13 and if there was ever anything out at the Shrine Club T.J.
14 would say -- he and Mr. Billy Cockerill always did the half
15 and half.

16 Q What is that?

17 A That's -- we sell when we would have a dance or anything at
18 the Shrine Club we would sell tickets a dollar each or six
19 for five and the money would go in the bag, tickets in a
20 plastic gallon jug. And at the end of the night we would
21 draw a ticket and the Shrine would get half what was in
22 there and the person's ticket would get the other half.
23 And every time you'd see T.J. he was selling half and half
24 tickets, he and Billy Cockerill. They could sell them, I
25 think. They could sell a refrigerator to an Eskimo.

SW - N. DAVIS - DIRECT

- 1 Q The restaurant that you run, did he come to your restaurant
2 often?
- 3 A He did.
- 4 Q Tell the judge about that.
- 5 A T.J. loved chicken gizzards and hearts. And we had fried
6 chicken gizzards and we have a lot of hearts we'll save
7 them. When he would come my daughter would cook them for
8 him, and he just -- he'd come in the door. We'd see him
9 when he'd pull up and Missy'd start frying the gizzards,
10 believed she knew that's what T.J. was going to have. And
11 then we happen to be out we'd say, oh no, T.J. is going to
12 be so mad today.
- 13 Q How about that. Who brought him up there usually?
- 14 A Most of the time he came with Tray or either with --
- 15 Q Troy?
- 16 A Troy Baker, I'm sorry. Or Bob Summers would bring him or
17 sometimes he and Mill and Kim would come.
- 18 Q But in the last -- in the last part of his life he was not
19 able to come on his own?
- 20 A No. Mill would bring him or either he'd come -- Bob
21 Summers would bring him by. Sometimes he'd come by in the
22 morning just have coffee.
- 23 Q Okay. On October the 11th, 2004, Mrs. Davis, you remember
24 when you first were notified about the murder?
- 25 A I was watching TV and the phone rang and I -- it scared me

SW - N. DAVIS - DIRECT

1 because I thought something had happened to one of my
2 children or the alarm was going off down at the store. And
3 it was Kimberly. And I knew something was wrong because I
4 could tell by her voice. And she says, Ms. Nora Ann, she
5 says, daddy is dead. And I said, no, Kimberly. She said,
6 yes, daddy is dead. And I said, what happened. And she
7 said someone shot him.

8 Q And did you wake Tom, your husband?

9 A I walked down the hall and woke up my husband and told him.
10 Tom said, no, that's not right. He said, T.J. is not dead.
11 And I said yes, Tom, I just talked to Kim. And we sat up
12 till about 12 or 3:00 that night talking and remembering
13 things that we had done together and that we wouldn't do
14 anymore.

15 Q Would you share with the judge a few of the effects that
16 maybe he's had -- his life has had on yours, things you
17 really recall?

18 A Just T.J. was just so nice to everybody. Everybody was a
19 friend. No matter who he was everybody was a friend to
20 T.J.. He helped everybody. And he -- there's a
21 organization in the Shrine -- well, it's one of the units,
22 it's the Flying Fez. It's where they take the children up
23 to -- they fly the children to Chicago.

24 Q Which children would these be?

25 A These would be the burn children, the burn hospital.

SW - N. DAVIS - DIRECT

1 Q When you say burn, what do you mean, Ms. Davis?

2 A Badly burned in fires or they would have burns all over
3 their bodies. And they would take them on the airplane,
4 but now, the children would have to go after they had
5 gotten their treatments and everything they have to go back
6 to Columbia for to be taken to Greenville. And T.J. would,
7 you know, sometimes would drive some of the children to
8 pick them up here in Sumter and take them to Columbia so
9 they could go on the bus.

10 Q What kind of person does it take to actually sit down and
11 assist or help a burn, crippled child?

12 A It takes a big person. I'd like to -- any of y'all to take
13 a trip to one of the Shrine Hospitals just one time and if
14 you came out without tears in your eyes you're not a man or
15 a woman. Some of the children in those hospitals you don't
16 know how they go.

17 Q Well, he was willing to help them?

18 A He helped them.

19 Q Ms. Davis, that's all the questions I've got for you. If
20 you would answer anything the Defense attorneys have for
21 you.

22 MR. CLARK: We don't have any questions, Your Honor.

23 MR. JACKSON: Thank you for coming, Ms. Davis.

24 THE WITNESS: Thank you.

25 MR. SALEEBY: Your Honor, the State calls Mr. Billy

SW - W. COCKERILL - DIRECT

1 Cockerill.

2 THE COURT: Mr. Cockerill, come around please.

3 THE DEPUTY CLERK OF COURT: Place your left hand on the
4 Bible, raise your right hand. State your name please.

5 THE WITNESS: Billy Cockerill.

6 WHEREUPON,

7 WILLIAM COCKERILL,
8 having been duly sworn by the Deputy Clerk of Court,
9 testified as follows:

10 THE DEPUTY CLERK OF COURT: Have a seat up here please,
11 sir. State your name, spell your last name please.

12 THE WITNESS: William Cockerill, C-O-C-K-E-R-I-L-L.

13 DIRECT EXAMINATION

14 BY MR. JACKSON:

15 Q Good morning, Mr. Cockerill?

16 A Good morning.

17 Q How are you, sir?

18 A Fine.

19 Q Mr. Cockerill, you tell the judge, you live here in Sumter?

20 A Yes, sir.

21 Q Have you always lived in Sumter?

22 A I lived in Sumter all my life.

23 Q Raised your family here?

24 A Yes, sir.

25 Q How many children you got?

SW - W. COCKERILL - DIRECT

- 1 A Four.
- 2 Q Are you working now?
- 3 A Part time.
- 4 Q Where do you work?
- 5 A I work part time for the trucking trailer store.
- 6 Q And when were you last working full time?
- 7 A About ten years ago really.
- 8 Q And that was in what business?
- 9 A I've been semi-retired about ten years.
- 10 Q Okay.
- 11 A From Hodge Trucking Company.
- 12 Q Hodge Trucking Company. You were a truck driver?
- 13 A I was a dispatcher.
- 14 Q Dispatch, okay. Mr. Cockerill, if you would, tell the
15 judge how you knew T.J. and Ms. Mildred Tietjen.
- 16 A I met T.J. at when he was, came into the shrine. I believe
17 it was in 1990 when he joined, came into the shrine. We
18 had initiation and that's when I met him and we very
19 quickly became close friends.
- 20 Q And your wives as well?
- 21 A Yes, sir.
- 22 Q Most of your interaction with he and his family were
23 through the Shrine Club?
- 24 A Yes, sir.
- 25 Q Through activities with the Shrine?

SW - W. COCKERILL - DIRECT

- 1 A Yes, sir.
- 2 Q Does the Shrine have different units that the members
3 belong to?
- 4 A Yes, sir, we have units.
- 5 Q What unit ---
- 6 A Separate units that do different things in order to raise
7 money for the crippled burn kids.
- 8 Q What unit did he originally belong to?
- 9 A He was originally with the color guard.
- 10 Q Tell the judge what the color guard is?
- 11 A The color guard is a unit -- it's a marching unit. When we
12 have parades and whatnot they march ahead and take the
13 flags.
- 14 Q Is that somewhat of a prestigious unit ---
- 15 A Yeah.
- 16 Q ---to begin with?
- 17 A Yeah.
- 18 Q And he was in the color guard to begin with?
- 19 A He was in the color guard at that time.
- 20 Q What unit did he later join?
- 21 A He later -- in 1993 he joined our unit which was the
22 streakers.
- 23 Q Tell the judge why y'all were called the streakers.
- 24 A We had the little mini cars that we paraded on the streets
25 with and we -- T.J. immediately saw those little cars and

SW - W. COCKERILL - DIRECT

1 he got attached to those and he wanted to get into the
2 moving part so he bought him a little car.

3 Q Those would have been the little go-carts?

4 A Yeah, little go-carts.

5 Q How long did y'all ride around in the go-carts?

6 A For well as long as he -- he couldn't -- he couldn't --

7 T.J. was right big. He had time getting in and out of the
8 little cars so later on he bought him a wrecker, one of
9 these little cub type things like used to deliver mail with
10 and made him a wrecker out of it.

11 Q So he could ---

12 A And he would come -- he would follow us down through the
13 parade ride in the event somebody broke down or anything
14 he'd just pick them up and towed them on through the
15 parade.

16 Q And that way he still stayed a part of the go-cart team?

17 A Right.

18 Q And he just became the wrecker?

19 A Right.

20 Q Took care of the people that the cars messed up?

21 A Yeah.

22 Q Did y'all later convert to another type of vehicle?

23 A Yeah, he bought a dune buggy later on. And of course he
24 was -- he was part of the lead part with the dune buggy.

25 Q Tell me about the half and half tickets. Ms. Davis

SW - W. COCKERILL - DIRECT

1 mentioned that.

2 A Half and half is all the functions that we have at the
3 Shrine Club. We usually have what we call a half and half
4 drawing. And that Nora Ann said we have a jug and as
5 people come in we sell them half and half tickets which is
6 a split ticket. You give them half the ticket; you keep
7 half. And at the end of the function or whatever we draw a
8 number and whoever holds that number gets half the money
9 that's in that jug that was taken in and the other half
10 goes to the crippled burn kids.

11 Q Tell me, Mr. Cockerill, tell me some characteristics that
12 remind you of T.J..

13 A I can think of many. His concern for other people is what
14 I was so impressed with him about, and his things -- I have
15 a little trouble with words but he was always accurate and
16 kept good records. In fact, he was director of our unit,
17 the streakers, for several years. I don't remember exactly
18 exact dates, but he kept perfect records. He always kept
19 up with everything. If you want to know anything about
20 what happened of a certain date or anything like that he
21 had the information.

22 Q Was he a very charitable person?

23 A He was very charitable.

24 Q Did he help your family in any way?

25 A He was always the fullest, time before I was dispatching, I

SW - W. COCKERILL - DIRECT

1 was on the road and be gone sometime for a week at the
2 time, and I could always depend on T.J. if I should have
3 any problem or anything at my home or whatnot. I could
4 always depend on T.J. to give me a call or my wife could
5 call him if anything should go wrong.

6 Q So you didn't have to worry.

7 A I had that assurance that I had a good friend that my
8 family could call on while I was gone.

9 Q Mr. Cockerill, did he like to have fun?

10 A Yeah, he loved fun, loved to tell jokes.

11 Q Uh-huh.

12 A And but, and he loved everybody, he didn't meet a stranger.

13 Q Let me show you a few photographs, Mr. Cockerill. These
14 will be State's Exhibit 115-A, B,C and D. And I'm just
15 going to come around you. These are -- look over your
16 shoulder and make it easy for you and the judge. Tell the
17 judge about that photograph right there.

18 A That's T.J. and his little Corvette. I don't remember what
19 that was. I don't recognize it right off-hand where it was
20 but it was in one of our parades.

21 Q That's him driving that little streaker ---

22 A Yes.

23 Q ---go-cart?

24 A Yes.

25 Q And how about that, tell the judge what that is.

SW - W. COCKERILL - DIRECT

1 A This is us doing the half and half. I say "us", that's him
2 by hisself right there doing the half and half at the --
3 see, I believe that was, yeah, that was at the Shrine Club.

4 Q What's he doing in that picture?

5 A He's having fun. He was trying to do the hula hoop but I
6 don't think he's having much success.

7 Q In this picture right here did y'all take a lot of trips
8 together?

9 A Yeah, we did. This was -- this is a Virginia Beach.

10 Q Okay.

11 A Virginia on -- when we had one of the conventions.

12 Q That's one of the Shriners conventions?

13 A Yes, sir. We have a convention once a year, about seven
14 states meet together.

15 Q Mr. Cockerill, on October 11th of 2004 do you remember
16 where you were, what you were doing when you got the call
17 that T.J. had been murdered?

18 A I'm not -- don't remember sure what I was doing, but that
19 night Troy Baker came to my house and informed me what had
20 happened. And we immediately went to his daughter's house.

21 Q And how was everybody faring when you got there?

22 A It was sad. Nobody could really believe it. It was a
23 terrible shock.

24 Q Mr. Cockerill, would you share with the judge any effects,
25 particular effects this has had on you or memories that you

SW - W. COCKERILL - DIRECT

1 have of him, still carry with you.

2 A It carry with me a lot of memories doing things, lots of
3 things that happened. Especially during the Shriners
4 during our parades, assigned functions or whatnot, he comes
5 to mind.

6 Q Anything about the Columbia temple?

7 A He was -- he was active at the Columbia temple as far as
8 keeping records and reporting things and when we have
9 functions over there.

10 Q Is that where new recruits were taken, new Shriners?

11 A Yeah, uh-huh.

12 Q Did he participate in that?

13 A He participated in the initiation of new Shriners, yeah.

14 Q How about parades?

15 A He attended all the parades. He was very seldom absent
16 from one.

17 Q And when you attend parade now?

18 A Huh?

19 Q When you attend parades now does it bring any back memories
20 of him?

21 A Oh, yeah.

22 Q Are you Streakers still an active group in your Shriners
23 organization?

24 A The Streakers are not active right at the moment but I
25 changed over to a different group in the last several

SW - W. COCKERILL - DIRECT

1 years.

2 Q When did the Streakers start fading out?

3 A About -- it was right not long after T.J. passed away. It
4 began to dwindle down.

5 Q And so since he's passed away?

6 A I kind of lost interest in that particular unit.

7 Q Would you say he was one of your closest friends?

8 A Yes, sir.

9 Q Did you speak at his funeral?

10 A Yes, sir, I did.

11 Q And what do you miss about him most?

12 A I'd just see him every once in a while now. I just miss
13 his smile and his greeting. He always had a good greeting
14 for you, shake your hand, put his hand on your shoulder and
15 ask you if everything was all right, and just had a
16 personal touch.

17 Q Would it be like him to help out a stranger if they came to
18 his house and said, sir, could you help me please?

19 A He'd bend over backwards to help.

20 Q Mr. Cockerill, that's all the questions I have for you. If
21 you'd answer anything the Defense lawyers have.

22 MR. CLARK: No questions for this witness, Your Honor.

23 THE COURT: Thank you, Mr. Cockerill, you may step down,
24 sir.

25 MR. JACKSON: Your Honor, the State calls Mr. Bob

SW - B. SUMMERS - DIRECT

1 Summers.

2 THE COURT: Sir, you are still under oath.

3 MR. CLARK: While the witness is testifying the Defense
4 would like to inspect Exhibit Number 40. That's the cell phone.

5 DIRECT EXAMINATION

6 BY MR. SALEEBY:

7 Q You had a small introduction yesterday. If you'd tell the
8 judge again, you live here in Sumter?

9 A Yes, sir.

10 Q With your family?

11 A Yes, sir.

12 Q And tell the judge, if you would Mr. Summers, about your
13 friendship with the Tietjen family, how you came to know
14 them.

15 A We met in 1990 when we were going through the Shrine
16 together. We both got initiated at the same time.

17 Q So y'all were in the same class?

18 A Yes, sir, same class. And during that period of time, from
19 that time on our relationship just continually grew. Our
20 families grew together. Our wives clicked. Everything
21 just moved along. We formed a relationship. I would have
22 to say that as close to him as a brother, true brother, not
23 only a shiner brother but true brother. And we looked out
24 after each other the years with our family problems.

25 Q What are some of the things y'all did together?

SW - B. SUMMERS - DIRECT

- 1 A Well, besides the usual Shrine events and things like that
2 we -- we took vacations together. We...
- 3 Q It's okay.
- 4 A We participated in his family's, his daughter's birth of
5 her children and things, and we -- my wife was going
6 through some hard, some hard times, and she went in the
7 hospital and things to have her leg taken off. And T.J.
8 was always there no matter what happened. He was there for
9 me; he was there for her. And I always tried to be there
10 for him. We had many good times together in all the events
11 we did participate in that. And he was a very strong man.
12 The thing that I would have to say I could sum it all up in
13 two words. He was loved. He loved everybody. I never
14 seen him go into a -- we never went into anywhere that he
15 could not start a conversation with somebody and before it
16 was over either just friends shaking hands and things, and
17 he would give his shirt off his back to any man no matter
18 who it was. He'd give it off in the middle of a snow storm
19 to him if he thought he needed it. And the other word
20 would be responsibility because he believed every man
21 should be responsible for everything he did.
- 22 Q Did he teach that?
- 23 A He taught that. He was ---
- 24 Q To other people?
- 25 A He in his military life he probably helped probably more

SW - B. SUMMERS - DIRECT

1 people than most people, the younger men teaching them
2 responsibility and things. In the Shrine he, everything he
3 did was about responsibility and duty. He believed that a
4 man was only as good as the man that he was when he do what
5 he had to do. He was probably one of the best husbands
6 there was. He was a absolute wonderful father, a
7 grandfather.

8 Q Did he like to joke?

9 A He loved jokes. This tie here represents the last thing I
10 got for him. If you knew T.J. you couldn't go out to eat
11 without Tabasco sauce. That was a primary thing. So I
12 struggled long and hard to find one of these, and the man
13 that I worked for happened to work for a food company once
14 before and he got me one but I never got the opportunity to
15 give it to him.

16 Q So you're wearing it?

17 A So I'm wearing it today.

18 Q Did he like to cook?

19 A He loved to cook.

20 Q He use you for a ginny pig on some of his meals?

21 A The men -- especially during his last years he loved to
22 watch that cooking show and try different things. And he
23 used to like to use me as a ginny pig to try some of the
24 things he'd make. And he did, he did really well. He
25 enjoyed cooking. He enjoyed putting on his aprons and his

SW - B. SUMMERS - DIRECT

1 flare for cooking. And whenever -- when we went to
2 different occasions, stayed overnight, he always prepared
3 meals and things for all of us 'cause he really did enjoy
4 it. One of the things I got here is -- him and I always
5 talked about, well I'd get a pink Cadillac and ride around
6 in the parades. Well, he said to me, he said, I'll get you
7 a pink Cadillac my brother. And I've had this pink
8 Cadillac. I keep it with me for years, keep it with my
9 Shrine things.

10 Q And it reminds you ---

11 A He got me my pink Cadillac. But the Shriners, we do party,
12 we do have a good time as all entertainment. The one thing
13 about the Shrine is that they love their wives and we
14 all -- the wives participate in all the activities that the
15 men do. So you couldn't ask for anything better. One of
16 the reasons why both of us got into it. But the main thing
17 that everybody needs to remember is the hospital, the
18 children. This is what one Shriner can look at another
19 Shriner and say how much he did for other people because
20 this represented the amount of money that he collected on
21 his own, all the effort, all the hard work, all the fun,
22 all the activities for children. You have one of these
23 over here in the thing. But that there represents time,
24 love, effort that no man has for another. No man walks
25 taller than the man who helps a child. And he was always

SW - B. SUMMERS - DIRECT

1 there. That was his main goal was helping that beautiful
2 hospital and that chain of hospitals across the United
3 States.

4 Q Let me show you some photographs, Mr. Summers. I'm going
5 to come around here. Just State's Exhibit 114-A, B, and C.
6 Tell the judge about that photograph. Who's that?

7 A That's T.J. in his cooking outfit, got his tongs and his
8 hat and apron. Every time we'd go over to the house or
9 something he'd put on his little outfit there and we'd go
10 out and grill. And he just loved to cook especially for
11 anybody in the family or anything like that.

12 Q 114-C, what's that?

13 A We went to the Shrine Bowl up in Charlotte and after the
14 Bowl we went back to the hotel and all the Shrine units
15 were in the hotel. And we were going up and down the
16 aisles of the hotel. We were going from one floor to the
17 other partying.

18 Q Of course which one is you and which one is him?

19 A This is me and this is T.J.. So we had a good time.

20 Q And this group photo here, do you remember where that was
21 taken?

22 A Yes, this is Virginia Beach 'cause my wife, she was in the
23 hospital -- she was in the wheel chair. And we were all up
24 there: Billy Cockerill, everybody, his wife. We were up
25 there for the convention for the year.

SW - B. SUMMERS - DIRECT

1 Q Mr. Summers, back on October the 11th of 2004 can you share
2 with the judge the events that evening when you found out
3 about T.J.?

4 A Right. My wife and I just went to bed and Mildred called
5 because she wanted me to know before anybody else would
6 have called. And when she told me I just could not believe
7 it. I never forget that night, never forget that phone
8 call. It was just beyond me.

9 Q What effects could you share with the judge that the loss
10 has had on you or perhaps your family?

11 A In my life I lost the brother, I lost a true friend, I lost
12 a life that was there. It's a beacon that shown on
13 everything, you know. He, like I say, a man who had no
14 hate in him for anybody. Even as a soldier he didn't hate
15 the enemy. He represented him for what he did, but there
16 was no hate. He hated no man. And there was no man that
17 he would not help at any moment, no man.

18 Q Thank you, Mr. Summers. That's all I've got. If you'd
19 answer any questions Defense attorneys have.

20 MR. CLARK: No questions, Your Honor.

21 THE COURT: Thank you, Mr. Summers.

22 MR. JACKSON: Your Honor, the State calls Mr. Troy
23 Baker.

24 THE DEPUTY CLERK OF COURT: Place your left hand on the
25 Bible, raise your right hand. State your name please.

SW - T. BAKER - DIRECT

1 THE WITNESS: Troy Baker.

2 WHEREUPON,

3 TROY BAKER,

4 having been duly sworn by the Deputy Clerk of Court,

5 testified as follows:

6 THE DEPUTY CLERK OF COURT: Have a seat up here please.

7 State your name, spell your last name please.

8 THE WITNESS: Troy Baker, B-A-K-E-R.

9 DIRECT EXAMINATION

10 BY MR. JACKSON:

11 Q Good morning, Troy.

12 A Good morning, sir.

13 Q Troy, if you would introduce yourself to the judge, tell
14 him where you live, your marital status, that type stuff?

15 A My name is Troy Baker. I live here in Sumter, lived here
16 all my life. I'm employed by Beacon Homes as the general
17 manager. And was there anything else Mr. ---

18 Q Married?

19 A I'm married.

20 Q Got children?

21 A Two stepdaughters and a son.

22 Q Tell the judge when you first met Mildred and T.J. Tietjen.

23 A I met T.J. when he first went into the Shrine. I'm told
24 that was about 1990, but I remember it like yesterday. We
25 play a few jokes on people when they go through the Shrine.

SW - T. BAKER - DIRECT

1 And somebody had T.J. put his suit on backwards that
2 evening. And I just thought that was the funniest thing
3 I've ever seen and I was ashamed that I hadn't thought
4 about doing it to somebody else.

5 Q You been a Shriner how long?

6 A I've been a Shriner I believe since 1985. I've been a
7 Mason since 1975.

8 Q And when he joined the Shrine unit he was in the color
9 guard?

10 A That is correct, sir.

11 Q Is that what they call the gamecock shrine club?

12 A That's correct.

13 Q Did he later join the Streakers?

14 A Yes, sir.

15 Q And were you in the Streakers?

16 A Yes, sir, I was.

17 Q Tell the judge your memories of being in the Streakers with
18 him.

19 A Well, T.J. was fascinated by our little cars. We drove
20 go-carts but they have Corvette bodies on them. And he was
21 just enamored by our little cars. And I wasn't as heavy as
22 I was -- I am now. T.J. was very tall, and I never saw how
23 he got that frame in that little car. You don't have but
24 so much space and the cars are all the same size. And I
25 would remember being in my late 30s at the time it would

SW.- T. BAKER - DIRECT

1 take me two days to get over driving one of the cars
2 because it beat your knees and your shins up. We even got
3 where we went to the athletic store and bought knee pads
4 and we bought two sets of them where they cover our shins
5 and our knees. And I just felt so sorry for T.J. because
6 that six foot tall stature or better I just never saw how
7 he fit in a car.

8 Q Did he stay in the car forever?

9 A No, sir. He bought him a little cush-man. It reminded me
10 of the old ice cream days where the Good Humor man used to
11 come around with the ice cream truck. But he -- it had a
12 flat bed on it. He turned it into a wrecker. And the
13 thing that I remember about that, I road with him one time
14 we were in a parade in Pageland, South Carolina. Must have
15 been a hundred degrees. It had windows in it. The sweat
16 would be just rolling off of you. And I said, T.J., I
17 can't take this, you know, I've got to get back to my car,
18 at least you got a little breeze.

19 Q But he'd sit there right there in the heat and drive on?

20 A He loved it.

21 Q Was he the director of the Streakers for a while?

22 A He became director of the Streakers and the best I can
23 remember in time passing he was director probably six,
24 seven, eight years.

25 Q Okay. Did y'all later switch to dune buggies?

SW - T. BAKER - DIRECT

1 A We, as I say, the weight comes on and you don't fit in a
2 car too good anymore so we had to go to dune buggies.

3 Q That was all of you?

4 A All of us. So we were getting ready to go to Gatlinburg
5 and see, my granddaughter will be ten years old in
6 November, so it's almost ten years ago this same time that
7 I went looking for a dune buggy. And I found one in
8 Bishopville, South Carolina. Back in the summer that was
9 sitting in a field just terrible looking, but another
10 friend of ours that has since passed talked me into buying
11 it and told me that we would drive that dune buggy in a
12 parade in Gatlinburg in a couple of months and I told him
13 he was crazy. We took it to his shop out in Dowlesville
14 (ph) and started to clean it up and find the necessary
15 parts. And I was working about 12 hours a day with another
16 company so T.J. and Billy and Ray Benenhaley and some other
17 folks, we would make lists up of the parts that we needed
18 and each of us would go try to find parts during the day as
19 we worked. And a lot of times I would short on the money
20 T.J. would buy a part for me and I pay him back or Billy
21 Cockerill would find something for me and he'd buy
22 something for me. So that was just a group effort. And it
23 was a great time for our unit because we all pulled
24 together for a common need, not only a common brother but a
25 common need to have him get a goal accomplished.

SW - T. BAKER - DIRECT

1 Q And what was the glue that kept that together?

2 A T.J. and Ray Benenhaley.

3 Q Okay. Y'all got to Gatlinburg?

4 A We got to Gatlinburg.

5 Q Did the parade?

6 A I did the parade. I drove my car.

7 Q Very good. Tell me some characteristics that remind you of
8 T.J..

9 A I don't know if you got enough time. A man of great
10 character, a man of conviction. I'd consider him a patriot
11 because he served in the military. Of course anybody that
12 serves 23 years in the military with such distinction.
13 Great family man. I used to be just in awe of him and
14 Mildred being married for so many years. And if we'd go
15 off during the day and I'd keep him out a little bit I'd
16 bring him back home, you'd see the look in Mildred's -- I
17 mean, in TJ's eye when he saw Mildred. It was sort of like
18 the first time you'd seen, she had seen him again. He just
19 loved Mildred to death. He was a loving father, loving
20 grandfather. On that trip to Gatlinburg that we took as I
21 talked about driving my dune buggy my daughter, my
22 stepdaughter was pregnant. Kimberly was pregnant, and we
23 had all of our families with us. And I've learned
24 throughout my years in the Shrine and traveling that you
25 really don't know a person until you travel with them and

SW - T. BAKER - DIRECT

1 live with them a little bit for a few days. You know,
2 sometimes they say fish and family are the same, they stink
3 after three days. We didn't stink after the time we spent
4 together. As a matter of fact, we looked forward to our
5 next trip and we just loved traveling together. We had a
6 group that got along together. We had our ups and downs,
7 and we had a few small tiffs but for the most part we just
8 enjoyed each other's company.

9 Q How was he with animals?

10 A He loved them. I must confess I'm not the greatest animal
11 love in the world. I'd go to TJ's and Sassy was a mess.
12 Me and Sassy did not get along.

13 Q That's the terrier?

14 A That's the terrier. Mildred would point to you that that
15 was the most loving dog in the world and Kim would to too.
16 He tried to eat me alive. I would walk in the door, and I
17 didn't -- I talked to T.J. almost every day or every other
18 day.

19 Q That's when his health was bad?

20 A Yes, sir.

21 Q Okay.

22 A But when I went to his house, I lived in another part of
23 the county so we didn't go to each other's house a whole
24 lot. But I would walk up and T.J. would come out and meet
25 me at the door. We'd go to shake hands and T.J. would have

SW - T. BAKER - DIRECT

1 to call the dog off of me and he like to bit me a couple of
2 times, and that's why I believe that dog was on that porch
3 that evening because whoever was in the house he was
4 protecting them from the dog.

5 Q Is that porch where he put the dog when you came in there
6 to visit?

7 A Yes, sir.

8 Q He just carried the dog around there and put him on the
9 porch?

10 A Yes, sir. And he also has his two little dogs Paco and
11 Taco. I thought those were great names. But he would
12 normally, after the dogs had seen me for a few minutes he
13 would put them in another room.

14 Q Okay. Let me show you a few photographs. Troy, I'm going
15 to come up here behind you.

16 A Yes, sir.

17 Q State's Exhibit 116-A through Z. Tell the judge what that
18 is.

19 A That's his little wrecker truck, 2003 wrecker truck.

20 Q And he made that thing, got it fixed up to go along with
21 the Streakers?

22 A Yes, sir. He even had him a trailer painted the same
23 color. I mean, it was green and he had green lettering in
24 here. I mean, it was a sharp looking little outfit. I
25 don't know how he rode it.

SW - T. BAKER - DIRECT

1 Q And this, tell the judge what that is.

2 A This was his dune buggy. This was his baby that after all
3 of us got of age and couldn't drive the cars, the go-carts
4 too much anymore, this is what we graduated to.

5 Q And I believe you said he led the Shriners, I mean the
6 Streakers for ten years?

7 A It was a period of time, long period of time.

8 Q Okay. What other ranks did he hold at the Shriners?

9 A I believe he was -- in the temple we have a governing staff
10 that helps to potentate his govern of temple. I believe he
11 was on that at one time. If there was a position that
12 needed filled and T.J. could volunteer for it or get
13 somebody to participate he did.

14 Q Okay. And that's a photograph there with a leadership hat?

15 A Yes, sir. Said he was a leader and I think it says, which
16 way did he go? I'm their leader, which way did he go.

17 Q Troy, did you get an opportunity to speak with T.J. on
18 October the 11th, 2004, the day that he was murdered?

19 A Yes, sir.

20 Q Tell the judge about that.

21 A I normally, like I said, if I didn't talk to T.J. every day
22 it was every other day. It was Monday morning. I had lost
23 my brother a couple of weeks prior to that. And Mildred
24 and T.J. had been to the house to console us, and he was
25 still worried about me and. But that Monday morning I

SW - T. BAKER - DIRECT

1 called normally because I knew that Mildred had been with
2 him all week, weekend, and that she had left and gone to
3 work. And I was in the insurance business at the time. My
4 mornings were normally free sometime. So I called him on
5 Monday morning to check on him 'cause I knew he'd been by
6 hisself for a short period of time. And normally our
7 conversations could last up to two hours. But that morning
8 I told T.J. I had some appointments, I had some scheduled
9 stuff, that we weren't going to have a whole lot of time to
10 talk. And that morning in particular I remember we were --
11 I was director of the unit at the time and he was pressing
12 me to go ahead and plan a Christmas party in October for
13 our unit Christmas party. He always looked forward to
14 them. Mildred and T.J. would normally cook the meal and
15 Mildred would even take off a day of work and Kimberly as
16 well, and they had the Shrine Club decorated so pretty. So
17 we just looked forward to our times at our Christmas
18 parties. And I promised him, it's hard for me to remember
19 but he gave me a task to do that day. T.J. had a wonderful
20 ability to get somebody to volunteer to do something that
21 they did not want to do, and make it -- and make you thank
22 him after it was over with. He was just a wonderful
23 person.

24 Q Okay. But you talked to him that morning?

25 A We talked for about 30 minutes and that was probably from 9

SW - T. BAKER - DIRECT

1 to 9:30 or 9:30 to 10.

2 Q Okay. And did you call him back that evening to report
3 back on the task he had told you to do?

4 A I did.

5 Q And tell the judge what happened that evening when you
6 called in?

7 A I came back in and I told my wife that I'd been working
8 that day but also I had to call T.J.. After a few minutes
9 home she reminded me that I had made that call and I better
10 make it before he started calling me back. I believe it
11 was around 7:30 in the afternoon, I mean, in the evening.
12 I called and there was a stranger answered the phone. I
13 asked him -- I think I told him I had the wrong number and
14 he asked me if I called the Tietjen residence and I told
15 him I had. And he said I have the right number. And I
16 said, well, may I speak to T.J. please. And he said, who
17 are you? So for a few minutes -- and I can be hard headed
18 at times. We played who are you, who are you, who are you.
19 And finally he said I'm Sheriff Tommy Mims, sheriff of
20 Sumter County. And I said this is not good. You know, I
21 knew Mildred and T.J. hadn't invited Sheriff Mims for
22 dinner and I knew it was bad news. And I identified
23 myself. My father years ago used to be a part-time police
24 man. I mentioned my father's name and he knew who I was
25 then and he told me to call Kimberly's house, that he

SW - T. BAKER - DIRECT

1 couldn't give me any information.

2 Q And did you call Kimberly's house?

3 A I did.

4 Q And then what happened after that?

5 A Kimberly told me her father been murdered and I was just in
6 shock.

7 Q What did you do?

8 A The first thing I did was called Larry Holloman, another
9 member of our unit. As I say, we're very close and like
10 family. And then I worried about Billy Cockerill. Billy
11 is about 28 -- 20 years my senior, and I didn't want him to
12 get the information over the phone. I informed my wife and
13 we jumped in our van and I probably lived about 20 minutes
14 away from Billy. And we drove to Billy's house and
15 informed Billy of the situation.

16 Q Okay. Troy, let me ask you, are there any effects this has
17 had on you that you can share with the Court, any
18 particular items?

19 A Well, I lost a good friend, somebody I confided in,
20 somebody I told stuff to that I probably wouldn't even tell
21 my wife. We were that close. Our Shrine unit is basically
22 over with. He was the glue that held it together.

23 Q That's the Streakers?

24 A Yes, sir. I still consider myself a Streaker, probably
25 always will, for his memory and the memory of the other

SW - T. BAKER - DIRECT

1 members that have gone on before him. But except for
2 myself and Bob Summers and another gentleman, we're down to
3 three people so we really make no contributions to the
4 Shrine crippled children hospital now.

5 Q Anything he did in his latter part of his life that has
6 made you a better family man?

7 A He had dementia, forgetful. And I used to admire him. He
8 was getting to the point of his life, Mr. Jackson, where he
9 didn't feel like he was useful. He couldn't drive anymore
10 without somebody being with him. Even household chores
11 became a task. I can remember one time Mildred fussing at
12 him about burning something in the oven. You know, he had
13 to be more careful. So he came up with an ingenious way of
14 putting stickie notes on his hand to tell him to go check
15 the oven or check the dryer. I just thought that was
16 great. You know, I got to feeling bad about it. I said
17 here I am sitting on my can not doing a whole lot for my
18 wife when T.J. is just struggling to do daily chores. So
19 you know, after talking with my wife I think she's been a
20 lot happier that I, you know, I don't mind picking up a
21 vacuum cleaner anymore or washing some dishes to help her
22 out. But I learned that from T.J. You know, just
23 wanting -- he was always a person that wanted to help others.
24 That was his main goal in life. He never met a stranger. And he
25 just loved people, loved life.

SW - G. SUMMERS - DIRECT

1 Q Troy, that's all the questions I have for you. If you
2 would answer anything that the Defense attorneys have.

3 A Yes, sir.

4 MR. CLARK: No questions for this witness, Your Honor.

5 THE COURT: Thank you, Mr. Baker.

6 MR. JACKSON: Your Honor, we call George Summers.

7 THE DEPUTY CLERK OF COURT: Place your left hand on the
8 Bible, raise your right hand. State your name please.

9 THE WITNESS: George Perry Summers.

10 WHEREUPON,

11 GEORGE PERRY SUMMERS,

12 having been duly sworn by the Deputy Clerk of Court,

13 testified as follows:

14 THE DEPUTY CLERK OF COURT: Have a seat up here please,
15 sir. State your full name, spell your last name please.

16 THE WITNESS: George Perry Summers, S-U-M-M-E-R-S.

17 DIRECT EXAMINATION

18 BY MR. JACKSON:

19 Q Good morning, Colonel.

20 A Good morning.

21 Q Sir, if you would just kind or introduce yourself to the
22 judge, tell him where you live, tell him where your family
23 is.

24 A We live down in Clarendon County and came here about 1983,
25 retired here and stayed in the area.

SW - G. SUMMERS - DIRECT

1 Q In '83 you came to Shaw Air Force Base?

2 A Yes, sir.

3 Q Here in Sumter County? And when you came here what rank
4 were you when you came to Sumter?

5 A I was a lieutenant colonel when I came.

6 Q And what did you retire at?

7 A Colonel.

8 Q How many years?

9 A 30.

10 Q And your service with the Air Force, did you have an
11 opportunity to serve with Willard Tietjen?

12 A Yes, I did. I think I met him first about 1980 at Haughn
13 Air Force base Germany, and I was in charge of the
14 conversion from F-4 aircraft to F-16s and the title is
15 chief of the ready, F-16 ready team. And I had about five
16 people in my office but we had the team for the entire base
17 which had representatives from all of the units. And
18 Sergeant Tietjen was one of the representatives from the
19 munition storage area, and he got my attention right away
20 because in going from the two seat F-4 to a single seat
21 F-16 was special weapons requirements that we had we had to
22 totally revamp how we handled our personnel records and all
23 that kind of thing. And T.J. had just recently undergone a
24 investigation on IT kind of thing for the wing where they
25 came in and checked his PRP, personal readiness program,

SW - G. SUMMERS - DIRECT

1 personal reliability program, and gotten on as highest
2 rating as he could for his unit with that. And when we
3 found that out I asked him, and now keep in mind, this is
4 total -- he's going to be helping me do stuff for the
5 entire wing on his own. He's got his own job in his own
6 area. And he volunteered to help the other PRP monitors
7 throughout the wing and we -- whenever we were checked as a
8 F-16 unit we got the highest rating for the entire wing in
9 the PRP area.

10 Q Was he later given some type of commendation for that?

11 A Yes, he was. He was given a meritorious service medal when
12 he arrived here at Shaw, and that's fairly typical.

13 That's -- when somebody earns a medal like that you already
14 know how good he is in the unit he's in so you send it
15 forward to the next unit to sort of introduce him to the
16 people there and let them know they're getting a top notch
17 person.

18 Q And that happened in his career?

19 A Yes, sir.

20 Q Did you -- your wives, were they also friends when y'all
21 were in Haughn, Germany?

22 A Yeah. It's sort of a three part story on how we met
23 because you've heard the story how I met T.J.. My wife
24 Carol was a teacher at the Haughn High School and she met
25 Mildred there. Mildred worked at the high school, and so

SW - G. SUMMERS - DIRECT

1 they became friends there and we'd see them around the base
2 at chapel, things like that. And then the third part of
3 the story, Kim was -- it's sort of a funny thing. I was
4 not having a great day; I suspect you've had those too.
5 But I was working in my office and one of my NCOs came in
6 and said there's a repor-- a new reporter from the base
7 paper here and they came all too regularly to find out how
8 we were getting along with our conversion and so on and so
9 forth. And this young lady came in and I didn't pay any
10 attention. I don't even know if the NCO said who she was.
11 And she came in and I told her to sit down. I kept working
12 and then I said, okay, what would like to know about. And
13 well, I'm from the paper, blah, blah, blah, and I'm still
14 working. And so I just started talking about the people
15 that since I talked to them the last time had done
16 something really spectacular and I -- as I recall I said,
17 well, there's Sergeant Tietjen out in munition storage area
18 and he's doing all of this thing for our PRP program on and
19 on and on. And all of sudden she said, oh, but that's
20 father, I can't write about him. So I don't know if Kim
21 ever -- I can't tell you what she wrote about that week,
22 whether she wrote about her father or not but that was
23 where I remember really meeting Kim.

24 Q So y'all were all friends then in Haughn, Germany then?

25 A Yes.

SW - G. SUMMERS - DIRECT

- 1 Q And you came to Shaw Air Force Base before the Tietjens
2 were reassigned to Shaw?
- 3 A Yeah, I believe a year ahead of time.
- 4 Q And to your surprise they followed you a year later?
- 5 A Right, yeah. And my wife was teaching at the Sumter High
6 School and she needed an aid. And I went home and said,
7 you know, just in passing, oh you know, that because we had
8 several other of our friends from over there came to Shaw
9 at the same time. I said, well, the Tietjens are coming.
10 And Carol was looking for an aid for her class at the time
11 and she said, oh great, so we did what we could to get them
12 settled here. I think we helped them find a house on
13 Benton Drive I believe it was, Benton Road, whatever.
- 14 Q But y'all were here to welcome them when they got here?
- 15 A Right, you got it.
- 16 Q And then he continued to work here at Shaw?
- 17 A Yes. He was out in the munitions storage area and that's
18 sort of a neat story too. We did a lot of self-help and it
19 culminated in the -- along with the spectacular aircraft
20 maintenance that the folks working for us did in getting
21 the best in the United States Air Force award one year and
22 best in the Department of Defense the next year. And it
23 was due to people like Sergeant Tietjen they were able to
24 do that. But he was in on the ground floor at the
25 munitions storage area when we started to make improvements

SW - G. SUMMERS - DIRECT

1 there; and I don't know, there's some old buildings out
2 there going back to World War II and he took one of those
3 and we called it our carpenter shop. And we put all the
4 tools and everything in there so the guys could through
5 self-help, rehab their buildings and so forth. And we
6 found out that one of his specialties was (inaudible) and
7 we leaned on him to start making plaques for people instead
8 of having to go out and spend 30-dollars when somebody
9 left. We'd take money out of their coffee fund -- they
10 would take money out of their coffee fund to go buy a black
11 walnut board and bring it to him and he'd turn it into
12 plaques for folks as they were leaving, that of thing.

13 Q Any special characteristics you remember about him?

14 A Well, I think, you know, his willingness to take on stuff
15 that wasn't in his job description, and you know, he didn't
16 have to help the other units at Haughn when we were
17 converting. He could have just said all I have to do is
18 maintain my own shop, but he volunteered to get basically
19 get the whole wing up to speed.

20 Q Can you share with us any of the other commendations or
21 medals that he received during his career in the Air Force?

22 A Well, I believe he's got a couple of commendation medals
23 and the longevity and all of that. He's got a couple a
24 dozen.

25 Q Over a dozen?

SW - G. SUMMERS - DIRECT

1 A Over a dozen.

2 Q Did he serve in Vietnam?

3 A I believe he served twice.

4 Q Two towards the Vietnam, okay. Let me hand you a couple of
5 photographs, Colonel Summers. I'll come around behind you.

6 State's Exhibit 117-A and -B. Tell the judge what that is,
7 what kind of memory that brings back.

8 A That's TJ's -- T.J. as I recall, when he retired or about
9 that time he got that jeep and had, I don't know who made
10 it, Kim or Mildred or who, but had a license plate on the
11 front. As I recall that said like TJ's T.J. or TJ's jeep,
12 something like that. He was really proud of that jeep.

13 Q And this photograph, which would be State's 117-B, who are
14 the two folks in that photograph?

15 A That's Sergeant Tietjen, Tech Sergeant E-6, and this is
16 Colonel Dave Wright. He was my mentor here as I went from
17 being a fighter pilot to being an aircraft maintenance. He
18 was my boss. We were together at Haughn, and he came here
19 also and I believe that's probably the MSN that he just
20 pinned on him there.

21 Q Okay. Colonel Summers, you remember maybe where you were,
22 who called you when you found out T.J. had been murdered?

23 A Yeah. I was at home there in Clarendon County and Kim
24 called and asked if I'd seen the paper, and I hadn't seen
25 the paper that day and so she told me about this horrendous

SW - G. SUMMERS - DIRECT

1 killing of her father. And it went on that what she was
2 probably really calling for was she wanted a favor. But
3 the different military organizations, I don't know if
4 you're familiar with them or not, but they have their
5 special coins and commemorative kind of thing they carry.
6 And they couldn't find TJ's ammo coin. They wanted to have
7 it with him when he was buried, and so Kim called and asked
8 if I could find one for him. So I made a few phone calls
9 to a couple chief master sergeants I knew were in the area
10 and they came up with a coin and we got it to him.

11 Q Do you have a similar coin that you carry that you could
12 just show the judge to demonstrate what you're talking
13 about?

14 A Of course, I'm a fighter pilot; aren't I? This is not a --
15 that's a red river rat coin for flying combat missions in
16 Vietnam.

17 Q And he would have had a coin for what unit, Colonel?

18 A His would have been for ammo.

19 Q And they were not able to find it and called you to see if
20 you could get one.

21 A Right.

22 Q Do you know if he was buried with that coin or not?

23 A I believe he was.

24 Q All right. Colonel Summers, that's all the questions I
25 have. If you would answer any question the Defense

SW - J. RUSSELL - DIRECT

1 attorneys have.

2 MR. CLARK: No questions for this witness, Your Honor.

3 MR. JACKSON: Your Honor, the State calls Ms. Judy

4 Russell.

5 THE DEPUTY CLERK OF COURT: Place your left hand on the
6 bible, raise your right hand. State your name please.

7 THE WITNESS: Judy Russell.

8 WHEREUPON,

9 JUDY RUSSELL,

10 having been duly sworn by the Deputy Clerk of Court,

11 testified as follows:

12 THE DEPUTY CLERK OF COURT: Have a seat up here please.
13 State your full name, spell your last name please.

14 THE WITNESS: Judy Russell, R-U-S-S-E-L-L.

15 DIRECT EXAMINATION

16 BY MR. JACKSON:

17 Q Good morning, Ms. Russell.

18 A Good morning.

19 Q Ms. Russell, if you'd just kind of introduce yourself to
20 the judge as well.

21 A I'm the practice manager for Sumter OBGYN, and I work with
22 Mildred. I've been there 22 years; she's been there 11.

23 Q So not only do y'all work together y'all good friends?

24 A We are friends.

25 Q Were you also friends with her husband T.J.?

SW - J. RUSSELL - DIRECT

1 A I was.

2 Q Okay.

3 A I've been to their house before.

4 Q You been to their house before? Would you tell us a little
5 bit about the characteristics of T.J. that you recall?

6 A T.J., I remember most about our Christmas party and how he
7 was always laughing and always had a story. I never saw
8 him when he wasn't jovial or happy; I just never did. And
9 one time I went out to their house to take some food
10 because Mildred had had surgery on her hand and he had to
11 show me everything around everything. They were -- they
12 had caterpillars in this cage that he had made that they
13 were growing so they'd be butterflies soon. And he had to
14 show me all about the caterpillars, okay. They just lived
15 on beautiful property. It was very wooded and they loved
16 nature and birds, and I do too so we had a lot in common as
17 far as like things like that.

18 Q Okay. October 11th of 2004 were you at work with Mildred
19 that day?

20 A I was.

21 Q And were you there when she began to try to call T.J. that
22 evening after work?

23 A I was. I was in my office and she was at her position,
24 which it's not right together, but I didn't know that she
25 had called him and didn't get him. But we met up in the

SW - J. RUSSELL - DIRECT

1 lab which is here in my office, and it was -- it was almost
2 closing time and I think I went into the lab to use the fax
3 machine and she came through saying that she had made this
4 call and this man had said that T.J. was dead and she was
5 going home to check on him. And I said, well, no you're
6 not, not just by yourself you're not. And I said, you need
7 to call 9-1-1. You know, you always say the police because
8 that's -- you need to call the police. And there was
9 several of us there saying, yeah, you need to call the
10 police, you need to call the police. And she did call
11 9-1-1 and tell them that she was going out there. And they
12 said if you get there, you know, of course do not go in, do
13 not go in, and she said she wouldn't. And so I said, you
14 know, it really can't be true, I just can't believe that
15 that's true, dial it again. And she dialed it again. And
16 he said it again. And so she was worried about her car
17 because you're just in shock at this point. I mean,
18 you're truly in shock. And she said, I'm worried about my
19 car, I don't, I don't want to leave my car here because I
20 may need my car at home. Still thinking that this may be a
21 hoax, hoping that it is; and I said, I will drive your car
22 and you ride with Alice and I'll follow in your car if
23 you're that worried. So I said okay. So we rode out to
24 the house. And when we got there there was one deputy
25 there, and he stopped us at the road and said, who are you.

SW - J. RUSSELL - DIRECT

1 And she said she was the owner of the house of course, and
2 he parked us far away from the house but yet, you know, we
3 could see what was going on at the house but we were a safe
4 distance from the house. And he said, I can't go in the
5 house until there are three of us here because that's just
6 our policy and we said we understand. So we were there
7 for, I don't know, maybe five or ten minutes before -- it
8 seemed like forever when you're waiting like that, but I
9 got out of her car and got in the car with them. And so
10 when the other deputies got there -- I don't believe the
11 deputy's here today, I don't see him, that Cokely was his
12 name. Told us that they were going to go in and we watched
13 them go in. And they weren't in there very long before he
14 came back out, and as he got closer to the car he took his
15 hat off, put it over his chest and walked up to her and
16 said, yes, ma'am, he's gone. And I said, you mean he's
17 dead, and he said yes, ma'am. And so, of course, it was a
18 very emotional time for all of us. But after that it just
19 seems like things started moving really fast and there were
20 dozens of detective cars, deputy cars, you know, I mean, it
21 just closed in that whole property with law enforcement
22 then. And so we were in the car at times and out of the
23 car at times and occasionally someone would come out. I
24 think Deputy Turner and I remember Mr. Florence coming out,
25 and they would say little things, nothing. We mercifully

SW - J. RUSSELL - DIRECT

1 did not know what was in that house, but they would come
2 out and say little things like, did your husband smoke, and
3 she said no. And then they'd go away. And then I think
4 they came out and said, did you have a lot of candles out,
5 and she said no. And so really, we didn't know what was
6 going on, we were just there, you know. By then we were
7 blocked in. You couldn't -- nobody could come in; nobody
8 could go out. I think a few of us made phone calls to our
9 families to say we won't be home any time soon. I think I
10 called some of our doctors to tell them. They said, do you
11 want me to come, do I need to come, and I said you can't
12 get in here. And so we were there for a long time. We
13 were there well into the night probably 10:00 by the time
14 we got to leave there, and we got there either a little
15 before six or right at six, somewhere along in there so we
16 were there a long time. But during that time lots of time
17 we could get out of the car or did get out of the car and
18 then we'd get back in the car, into the car or whatever
19 but. I can remember and I'll never forget it because today
20 and yesterday were some of those days when this Indian
21 summer day on that beautiful wooded property the wind was
22 blowing in your face. It should have been a nice day for
23 her, and it never will be a nice day when there's an Indian
24 summer day with that wind blowing in her face.

25 Q That's all the questions I've got for you. If you would

SW - K. DEES - DIRECT

1 answer any questions the lawyers have for you.

2 MR. CLARK: No questions, Your Honor.

3 THE COURT: Thank you, Ms. Summers, you may step down.

4 MR. JACKSON: Your Honor, we will call, re-call
5 Mrs. Kimberly Tietjen Dees.

6 THE COURT: Hold on, we're going to take a short recess
7 before we proceed any further. Take about ten minutes.

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

9 MR. JACKSON: Your Honor, the State calls Ms. Kimberly
10 Tietjen Dees.

11 THE COURT: Ms. Dees, if you will please come around
12 and ma'am, if you please recall you're still under oath please.

13 THE WITNESS: Yes, sir.

14 DIRECT EXAMINATION

15 BY MR. JACKSON:

16 Q Good morning, Ms. Dees?

17 A Good morning.

18 Q Kimberly, let me ask you a few more questions about your
19 family. I know you introduced yourself, some of your
20 family in the earlier testimony. How many children again
21 do you have?

22 A I have two children from my first marriage, a son and a
23 daughter who live with my current husband and I. And I
24 have three stepsons who live with their mother in Virginia.

25 Q Your children that live with you and your husband Bobby,

SW - K. DEES - DIRECT

1 what are their names?

2 A My oldest is Anna and my youngest is Andrew.

3 Q And how old is Anna now?

4 A Currently she's 15 years old.

5 Q And Andrew is how old?

6 A He is currently nine years old.

7 Q Where do y'all live?

8 A We live in the Crowell area of the city of Sumter.

9 Q Okay. How long y'all been there?

10 A Six years in July.

11 Q How long have you been back in Sumter?

12 A I've been living back in Sumter since February of 1994.

13 Q Kimberly, if you would, if you would talk to the judge a
14 little bit about your relationship with your father as a
15 youngster.

16 A My father and I were very close. When I was born my mother
17 had complications so my father was my primary caregiver as
18 a young infant. And then even on his days off he would get
19 called in to work he'd take me with him. He didn't want to
20 leave me with anybody else. He taught me how to fish and
21 how to hunt and we went camping together and he taught me
22 how to roller skate. He would play ball in the yard with
23 me, just -- did a lot of showing me nature, you know,
24 looking at the flowers and chasing butterflies, that type
25 of thing.

SW - K. DEES - DIRECT

1 Q Where were you growing up during this particular time,
2 where were y'all?

3 A Oh, at that point in my life primarily in the Philippines
4 and Oregon.

5 Q In your preteen and teen years did you travel with him?

6 A Yes, sir. In 1975 my family moved from Oregon to Florida.
7 And my father felt very strongly since we had to make the
8 cross-country trip we were going to see as much of America
9 as we could and it's many of the sites on interest and
10 historical value so we went to Mount Rushmore. We went
11 down to Snake River, white water rafting, through the Grand
12 Teton mountains and into Iowa to visit my mother's family.
13 And then we came across the upper midwest up to New England
14 and then came down the east board and stopped at various
15 historical sites and sites of interest along the way
16 because since we had spent a large part of my life up until
17 then in the pacific northeast and overseas he wanted me to
18 have a true feel for what America was like and the history
19 and the historical sites and their significance.

20 Q And he took that time to show all that to you?

21 A Yes, sir, he did.

22 Q When you were growing up did you participate in sports?

23 A Yes, sir, I did. When we lived in Florida I participated
24 in competitive volley ball. And then we went from Florida
25 to Germany where I participated -- my father and mother

SW - K. DEES - DIRECT

1 actually helped start a swim team so that I could be a
2 competitive swimmer. And later then I went from swimming
3 to basketball and my parents were both very active with the
4 booster team in my school and supported not only the
5 basketball but the other activities as well.

6 Q So the sports that you were involved in he supported those
7 and supported you?

8 A Very much so, yes, sir. He created this, the horn we used
9 for the starter for my swim team. He helped come up with
10 the design for our logo. He drove the bus for practices.
11 He drove the bus for competitions because we were living
12 overseas and housing was sometime an issue. He would
13 always host two or three children to stay in our home when
14 they came to participate in the activities at our
15 particular location.

16 Q You mentioned hunting and fishing.

17 A Yes, sir.

18 Q Okay.

19 A My father, my father loved the outdoors. When we lived in
20 the pacific northwest we were almost every weekend camping
21 and fishing. My dad loved to go hunting as well and he
22 would hunt with his friends and then when we moved to
23 Florida I was about nine years old and he started taking me
24 out target shooting. He would take me with him rabbit
25 hunting and small game hunting and taught me how to shoot.

SW - K. DEES - DIRECT

1 Then we'd come home, and he would --we'd break down the
2 guns and he taught me how to clean them, how to properly
3 care for them and respect for them. And when we hunted we
4 only took what game we would be eating. We didn't hunt for
5 sport; we -- only what we could consume. And the same with
6 fishing. We either did catch and release or we, what we
7 caught, what we could consume. And he made sure that I'd
8 know how to handle all of that, bait my own hook, and the
9 whole nine yards so, and we spent a lot of happy hours
10 together fishing and hunting.

11 Q How about cultural things? Did he do that too with you?

12 A Oh, he was very -- he wanted me to be well rounded so he
13 would take me to concerts. He would take me to plays. He
14 would take me out to nice restaurants so that I would know
15 the proper forks and spoons to use and the proper order to
16 use them in, how to dress appropriately, how to act
17 appropriately, how to have an appreciation for the arts and
18 for culture. And since we did travel with the military,
19 not just things of cultural interest here but the -- what
20 countries we visited he wanted me to taste their food and
21 experience their culture firsthand.

22 Q Okay.

23 A And appreciate that -- not -- to appreciate and respect the
24 culture of other countries.

25 Q What would be some characteristics or some life lessons

SW - K. DEES - DIRECT

1 that you may have learned from him?

2 A Oh, number one was the value of life. All -- that all life

3 has value. It doesn't matter whether it's an animal, a

4 person, a tree, that we're all part of God's creations.

5 When I was very, very young we lived -- my grandmother

6 lived on a farm and we were visiting, and her dog was

7 attacked by a badger and they had to shoot the badger to

8 save the dog. And my uncle came out and was going to bury

9 the badger and I got very, very distraught because I really

10 didn't understand why we were burying the badger when I was

11 raised that we should have skinned it and saved the pelt

12 and eaten the meat. And they had to explain to me why we

13 couldn't do that with this particular animal and that we

14 had to shoot the animal to save the other animal. And

15 that's the only time I remember anything being shot and we

16 didn't consume the meat or use the pelt for something.

17 When I was a little bit older I was playing in the yard and

18 didn't even know my dad could see me, and I had broken a

19 branch off an oak tree and my dad came around and he made

20 me go back to the tree and see what I had broken off the

21 limb and the sap was running out of the tree. And he

22 explained to me that was the life blood that would be the

23 same as if somebody took my finger off, and it would bleed

24 and that it was also the tears of the tree crying and I had

25 to apologize to the tree and promise never to do that

SW - K. DEES - DIRECT

1 again. And to this day even when I trim my bushes I
2 apologize to them that this is necessity, that I'm not
3 trying to inflict pain because it was such a strong lesson
4 important that he taught me about the sanctity of all life.

5 Q Did he teach you independence?

6 A Yes, sir. When I got my first car he taught me how to
7 change the oil, how to do basic car maintenance. When I
8 moved out on my own he taught me some basic household
9 plumbing so that I could fix my own toilet if I needed to
10 or how to replace my own kitchen faucets, some basic
11 electrical stuff, how to change out an outlet and light
12 switch, those types of things so that I could be
13 independent and not have to rely on people for some simple
14 basic things like that.

15 Q You mentioned your first car. Where did you get your first
16 car?

17 A Colonel Summers and his wife had a car, what they had in
18 Germany they called it goldie. It was a little gold Mazda
19 from the 1970s and Colonel Summers had bought a new car,
20 and he came to my mom and dad and they wanted to know if
21 they could give to me the car. And they sold it, the car,
22 to my parents and titled it over to me and so Colonel
23 Summers and his wife gave me my first car and then my
24 father taught me the basic car maintenance, how to take
25 care of a vehicle and maintain the vehicle.

SW - K. DEES - DIRECT

1 Q Kimberly, what about love, country, patriotism and that
2 type of stuff?

3 A Oh, yes, sir. From just before Memorial Day all the way to
4 the holiday started our house was pretty much red, white,
5 and blue. We celebrated even flag day, not just Memorial
6 Day and Fourth of July, Veterans Day but Flag Day and those
7 other little holidays that a lot of people forget. But
8 love of the country was very, very strong in our household.
9 My mother still flies an American flag that was given to us
10 during my dad's last -- they call them deployments now; we
11 called them remotes back then. But his last tour of duty
12 in southeast Asia my mother were given a flag to fly until
13 all our soldiers and airmen and sailors came from Vietnam.
14 And they're still not home so my mother still flies that
15 flag to this day. And it's flown in every home my parents
16 have lived in from the time my mother and I got that even
17 when we lived in Germany. We were always respectful; it
18 didn't matter what the politics were. The president was
19 our commander in chief. We respected the position, and we
20 respected he had that position. We represented the
21 military hierarchy. You always respected the rank, always
22 showed proper care for the flag and...

23 Q Your children, Anna and Andrew.

24 A Yes, sir.

25 Q If you would tell the judge what relationship did Anna have

SW - K. DEES - DIRECT

1 with her granddaughter?

2 A When we came back to South Carolina the first, after Anna
3 was born in 1994, she was not quite two years old yet. We
4 stayed with my parents while we were getting reestablished
5 here and during that time my first father-in-law became
6 quite ill so we pulled our resources and stayed with my
7 mother and father for not quite two years. Anna became
8 very close to my dad. She would only eat food my dad would
9 eat. When my dad was diagnosed with diabetes and dad
10 couldn't eat it she wouldn't eat it, the only two year old
11 that wouldn't -- he'd try to give her a cookie and she said
12 no, and request a piece of fruit because grandpa didn't eat
13 the cookies. And then after the children's father and I
14 divorced and I moved back in he became a father figure to
15 both of my children, particularly my daughter, also to my
16 son.

17 Q Tell us about ---

18 A They were very close. He would take them for dune buggy
19 rides, and he taught my daughter how to shoot. The first
20 time she shot a gun he taught her how to shoot the gun and
21 was very proud of her abilities as a marks woman.

22 Q And Andrew, how about his relationship with his granddad?

23 A And Andrew, and Andrew is very proud of him. He wants to
24 go in the military like his grandpa. He loves the flag.
25 He's got several things that, military logos and very

SW - K. DEES - DIRECT

1 patriotic things he keeps that remind him of his
2 grandfather. He loved to go joke like my dad did and he's
3 also very -- he talks a lot about the fact that he and my
4 dad are of Norwegian ancestry. You know, they're not just
5 American but Norwegian ancestry, those traditions and how
6 we blend Norwegian culture with our American culture are
7 very special to my son.

8 Q Okay. Let me show you some photographs, Kimberly. These
9 are State's Exhibit 118-A through -G and I'm going to come
10 behind you. Tell the judge, if you would, who is in that
11 photograph?

12 A That is a picture of my father and myself. This was taken
13 in our yard in the Philippines probably about 1969. My
14 father is showing me one of the exotic flowers that grew in
15 our back yard and explained the various parts of the flower
16 to me and probably telling me why I shouldn't be picking
17 the flowers, that we needed to enjoy them on the bushes and
18 not pick them because they would die.

19 Q And that is 118-B?

20 A This picture was taken about 1978 in Austria. We had gone
21 to -- my father had been in Austria a while. He had taken
22 my mother and I back to see Austria. He had taken us to
23 the Olympic venues from when the Olympics were held in
24 Austria, and that's my father and I sitting at a table
25 chatting about Austria.

SW - K. DEES - DIRECT

1 Q 118-C?

2 A This would have been taken about 1983. In Germany to
3 promote good health they have what they call volksmarching
4 where you can go and you can go walk either 10, 20, 30 or
5 42 kilometers. And my father was very avid in
6 volksmarching, and this is my father and myself and a young
7 airman from the base who did a lot of volksmarching with
8 our family. They would take your picture at the start of
9 the march and then they'd sell it to you when you got back
10 to the fishing line and had been developed. That's one of
11 us going on the volksmarching trip together.

12 Q This is photograph 118-D.

13 A This is a three generations photo. This is my father and
14 my mother. This is myself and the father of my children,
15 my first husband on our wedding day. This is my dad's
16 mother and my dad's father, and that was taken January of
17 1990.

18 Q 118-E?

19 A This picture would have been taken in 1999. This is -- my
20 son was not -- he was just a baby, just a couple months
21 old, and my daughter would have been about six in that
22 picture. That was taken in the home that my parents reside
23 in and my mother still resides there.

24 Q 118-F.

25 A That's my father's dune buggy. He's in the driver's seat,

SW - K. DEES - DIRECT

1 and my daughter is in the passenger seat. He's -- he had
2 the dune buggy in the street. He would take the children
3 for rides in the dune buggy.

4 Q 118-G?

5 A This is the last picture that, professional portrait, taken
6 of my father and my son together. And they both wanted the
7 flag background behind them. They picked that background
8 because of the flag. And that was taken in this spring in
9 the spring time, and then my father died that October so
10 that was the same year he died.

11 Q Kimberly, Stat's Exhibit 31 is already in evidence. If you
12 would tell the judge what -- this is the pot holder that
13 came into evidence.

14 A Yes, sir.

15 Q Tell him about that pot holder.

16 A As a young child my mother taught me how to make pot
17 holders and because of my dad's -- he, his bedroom was done
18 in red, white, and blue, and he was doing his kitchen
19 primarily in with a red theme so I made red, white, and
20 blue pot holders and gave them to my father when he took
21 over the kitchen duties in the home.

22 Q And this is actually the pot holder you made?

23 A That pot holder I made for my father.

24 Q Kimberly, let's go back to October the 11th of 2004.

25 A Yes, sir.

SW - K. DEES - DIRECT

1 Q You testified factually earlier?

2 A Yes, sir.

3 Q And I'd like for you to talk back to the judge with some of
4 that and tell him how it was affecting you as you went
5 through the day. Let's start off with daily routine. I
6 believe that was a Monday; is that correct?

7 A Yes, sir, that was a Monday.

8 Q And how old were your kids then? How old was Anna at that
9 time?

10 A Anna was 11 years old. She was in the sixth grade at
11 Chestnut Oaks Middle School.

12 Q Uh-huh.

13 A And Andrew was in five year old kindergarten at Crowell
14 Elementary School.

15 Q And did you get them to school that morning?

16 A Yes, sir, I took them to school that morning.

17 Q And then you went to work where did you say?

18 A At that time I was working at Thomas Sumter Academy as a
19 teacher's aid for first grade so after taking them to
20 school I went to Thomas Sumter Academy where I was employed
21 at that time.

22 Q Do you normal call your father and check on him during the
23 date?

24 A Normally during the day I would have and I don't recall
25 what happened that particular day. I don't know if I have

SW - K. DEES - DIRECT

1 had the playground duty or something, but I did not call
2 him during my lunch break like I normally would have.

3 Q All right. And after school did you get the kids and y'all
4 went back homes?

5 A After school I went and picked my son up from the after
6 school program at Crosswell and met my daughter's bus and
7 she came home on the bus and went home with the children
8 then.

9 Q All right. And if you would tell the judge again about the
10 series of phone calls starting with the one from your
11 mother.

12 A I believe it was about 5:15 my mother called me and asked
13 me if I had heard from my father, spoke with him that day.
14 I told her, no, I had not been able to get to the phone, I
15 hadn't called yet. She said I haven't been able to get a
16 hold of him since 1:00, which was very unusual. And I
17 said, well, I'll -- I said you need to wrap up what you've
18 got to do, I'll try to get a hold of him, if I reach him
19 I'll tell him to call you. And so when I hung up from
20 speaking to her I called the land line and got the
21 answering machine and left a message and I thought well
22 maybe he's asleep or walking the dogs. And during the day
23 during the normal working hours when my mother was at work
24 dad wore oftentimes a shirt with a pocket in it. If he
25 took a nap he would put his cell phone in his pocket on his

SW - K. DEES - DIRECT

1 chest because the noise and the vibration would wake him
2 up. So I called the cell phone thinking if he was asleep
3 or outside with the dogs he would answer the cell phone,
4 and it went to the voice mail. And since he didn't use the
5 voice mail feature I did not leave a message. So I called
6 the house back thinking, well maybe, you know, I caught him
7 in the restroom and he didn't have his cell phone with him,
8 he laid it down, he was cooking or something. So I called
9 the land line again, and I left a message on the answering
10 machine for him to either call my mother or I would try to
11 get in touch with him. And then I called back to his cell
12 phone and again it rang until it went to voice mail. And
13 so by the time I called the land line the third time I was
14 getting pretty frantic.

15 Q And why is that?

16 A Because it -- I hadn't -- normally if he didn't -- if he
17 didn't answer one phone he'd answer the other and it --
18 usually within two or three phone calls I could reach him,
19 even if he was asleep. So by the time I was making the
20 fourth phone call which was to my mother's land line I was
21 getting pretty frantic -- by that that was the fifth phone
22 call. Now I was getting frantic and I said something on
23 the machine to the effect of, daddy, if you're there please
24 pick up, mother and I are very worried about you, you know,
25 please answer the phone and if you can't get the phone

SW - K. DEES - DIRECT

1 right this second call one of us right back and let us know
2 that you're okay because we're really getting frantic, we
3 can't reach you by phone. And then the sixth phone call
4 was to my father's cell phone and when a man answered it at
5 first he said, hi or hello or something but he sounded kind
6 of groggy to me and so I didn't catch whether it was my
7 dad's voice or somebody else and so I said, this is
8 daughter, are you okay. And then a male said, I'm having a
9 wonderful day, how are you. I knew it wasn't my father's
10 voice and I said, I must have the wrong number. And he
11 said, no, this is TJ's phone. And I thought, well, maybe
12 one of dad's friends was at the house and dad said grab the
13 phone and they saw my name pop up and so they were playing
14 a joke on me. I said, you know, I want to talk to my
15 daddy. And he said, you can't, I killed him. And I said,
16 this isn't funny, who are you and he said, I'm the prowler.
17 And I said, who? He said, the prowler. And I said, let me
18 talk to my dad, this isn't funny, let me talk to my dad.
19 And he said, I told you, I killed your dad, and he laughed
20 and I hung up. And at that point I screamed and I
21 handed -- my husband said, what's wrong. I said there's a
22 man answering my dad's phone and he's saying he killed my
23 daddy. And I handed him the phone. And I believe because
24 I was so upset I couldn't remember my mother's cell phone
25 number so I went to my cell phone because I had it

SW - K. DEES - DIRECT

1 programmed. I just had to put in MA and mom would pop up
2 and I could hit send and it would call her. So I called my
3 mother's cell phone and I begged her not to go home because
4 I did not know she had already had conversation with
5 whoever was answering the telephone and I did not know she
6 had called law enforcement. And I said, please don't go
7 home, please come to my house, you don't understand. And
8 she said, no honey, you don't understand, I have to go
9 home. I said you can't go home, you have to come to my
10 house, I can't tell you why but I need you to come to my
11 house. She said, I can't, I've got to go home. I said,
12 you don't understand, there's a man answering daddy's cell
13 phone. And she said, and that man told you he killed your
14 daddy. And I said, is it true? And she said, I don't
15 know, that's why I have to go home. I said, you can't go,
16 what if he's still there. And she said, if the sheriff's
17 department on the property they will take me away from the
18 property, I won't go on the property. But Ms. Russell and
19 another friend of hers from work were with her. She said,
20 I'm not alone, I have people with me. And by the time I
21 finished having that conversation some of my neighbors had
22 congregated in the front yard. They had heard me scream
23 and they came to find out if I was okay.

24 Q The children, where were Anna and Andrew?

25 A Anna was in the kitchen with me when I screamed, and Andrew

SW - K. DEES - DIRECT

1 was watching TV. And of course they heard me scream they
2 came to see why momma was screaming and I was frantically
3 trying to call my momma and they could hear what I was
4 saying to my momma.

5 Q Very panic in the house?

6 A Yes, sir, very panicky, very panicky. Like I said, I
7 screamed so loud I had three set of neighbors that came to
8 the house to check on me and they stayed there with me
9 until other people began to arrive at my home to stay with
10 me. And law enforcement, I later found out, when my
11 husband got off the phone with law enforcement law
12 enforcement had offered to send officers to the house to be
13 with us but my husband had told them that was not necessary
14 but if the situation changed he would let them know.

15 Q Okay. And when did you finally get told that he actually
16 had been killed? Did your mom call you back?

17 A I -- I don't remember if I called my mom or if my mom
18 called me. Probably between 6:30 and 7. They -- but I had
19 had phone contact with my mom prior to that after she'd
20 gotten on the property and I -- I could hear the dog bark
21 in the background and cars moving about as law enforcement
22 were arriving on the scene and whatnot. And I knew if
23 there was that much noise and the dog was barking that loud
24 the news was bad.

25 Q Everybody eventually came back to your home?

SW - K. DEES - DIRECT

1 A Yes, sir, they did.

2 Q Okay. Tell the judge, if you will, what kind of effects
3 your dad's death has had on your children Anna and Andrew.

4 A My son was five year old when my dad died and he had never
5 by his memory known anybody who had died before. My
6 grandfather died when my son was about seven months old,
7 and although he went to that funeral he had no memory of
8 it. He had not been to a funeral where he'd known anybody
9 who died prior to that point in his life. And for a long
10 time he was quite fearful. He thought all people died
11 murdered. He thought that was the only way for a person to
12 die, and he sat me down and told me that he would always be
13 with me and stay with me so that nobody could ever murder
14 me. And then he sat me down and he told me exactly word
15 for word what I was to do with his toys and his clothes and
16 his bed the day that he was murdered.

17 Q Okay.

18 A Now he's older he understands better; he doesn't have that
19 fear. But for a long time he thought that was the way
20 people died and that was a normal part of life and he
21 worried about it and tried to plan for it.

22 Q And Anna?

23 A And Anna feels like she lost a father figure in her life.
24 My father was very supportive of her. She was very
25 distraught that he was very proud because she had taken up

SW - K. DEES - DIRECT

1 violin that fall when she was in the sixth grade. But they
2 had a concert, my father died, and she was distraught that
3 he was never able to come to a concert. And when she
4 danced he would bring her flowers for dance performances
5 and he never got a chance to bring her flowers for playing
6 the violin. They talk about him all the time.

7 Q Do you see your dad and your children?

8 A Very much so, very much so. They -- we were riding in the
9 car and God bless the USA came on the radio and my children
10 sort of laugh and singing along. And I said what's so
11 funny about this song, I know you know the words. And they
12 said, momma, everybody sings lullabies to their babies
13 growing up but that's the song we rocked us to sleep to.
14 And papa always liked that song too because it's a
15 patriotic song; and that's what they associate the
16 patriotic music with, my father and I. And what they don't
17 -- they remember me singing rock-a-bye-baby even though I
18 did. They remember patriotic songs I sang to them when I
19 was rocking them in my arms as a baby. They miss him very
20 much.

21 Q What did you say that they called him?

22 A They called him papa. Papa. They called him papa.

23 Q And let me ask you, what effects has it had in your life,
24 Kimberly, share a few things with us?

25 A I lost my best friend. I lost my mentor, my confidant. I

SW - K. DEES - DIRECT

1 could call my dad and tell him anything. I could talk to
2 him about anything. I would call him and say I need a
3 voice of reason because I'm not thinking clearly right now,
4 I'm thinking emotionally and I need a voice of reason.

5 Q Are there some special events that remind you of him,
6 birthday parties, things like that?

7 A Yes. We always did birthday day parties. He -- and
8 holidays. And after he was medically retired he always
9 coordinated those events and just -- he'd get on the phone
10 and say, Kimberly, we're celebrating this event on this day
11 and you're bringing the hot rolls; and Bob Summers, we're
12 having this event and you're bringing a vegetable dish.
13 And now we -- these events come and we have to figure out
14 what to do because dad is not there to coordinate
15 everything and kind of run point on that and do that.

16 And...

17 Q You had mentioned to me about your 40th birthday party.
18 Share that with the judge.

19 A I didn't have a party for my 40th birthday. When I was
20 very young and foolish I did the young and foolish things a
21 teenager and my dad restricted me until my 40th birthday.
22 And he died of course before my 40th birthday so I was a
23 bit distraught about still being on restriction. He wasn't
24 going to be there to let me off. And my dad used to bring
25 me flowers even as a little girl. When he was in Southeast

SW - K. DEES - DIRECT

1 Asia when my birthday rolled around he sent -- had sent
2 flowers wired to me. And on my 40th birthday my door bell
3 rang and there was something from a flower shop with a huge
4 bouquet of red roses. And the note said happy birthday,
5 with love from daddy, and help from an old amoured buddy.
6 An airman he'd been stationed with in Germany currently
7 lives in Texas and we communicate with them and e-mail. He
8 wanted me to have flowers for my 40th birthday and he
9 wanted them to be from my daddy and he knew my dad couldn't
10 do it so he made sure I had them and had a note reminding
11 me that my daddy loved me and wants to wish me a happy
12 birthday, he just needed help getting flowers to me.

13 Q You had mentioned to me about long cups of coffee and
14 chats.

15 A Yes, sir. I would try to get out there about once a week,
16 and we kind of knew what days he would go with Bob and my
17 husband would try to stop by on certain days. And there'd
18 be a day when my dad and I, we would sit and have coffee a
19 lot of times on his porch and have long chats. And
20 sometimes if he was having a good day he wanted to go out
21 and socialize we would go out for coffee. And we would sit
22 and we would talk about all kinds of things under the sun.
23 Some of it was reminiscing about our travels through Europe
24 and some of the lessons he tried to report with me in our
25 travels. Some of it was philosophical and some of it was

SW - K. DEES - DIRECT

1 just talking about day to day things in our lives. How do
2 you handle this problem we have with the child because
3 you've been there as a parent and I'm having this problem
4 with my child, you know, what do you think I should do,
5 this isn't working, what should I try. And ---

6 Q And you don't have those anymore?

7 A I don't have that anymore.

8 Q Do you have any special memoirs that you keep you or carry
9 with you?

10 A Colonel Summers told you about the coins and the coins are
11 a big part of the military history. And my father always
12 had his ammo coin and he -- I have a con that says air
13 force brat because I was an air force brat and even my
14 children have their challenge coins that say National Guard
15 brats because my husband was in the National Guard. So
16 coins hold a special place. And the last time my dad went
17 home to Pennsylvania to visit his mother he found this
18 coin, it's made out of pewter, and one side it has a ribbon
19 and on the other side it's engraved. It says, my daughter,
20 my friend, and I carry that with me always in my
21 pocketbook. I always have my pocketbook. When I sleep
22 it's right beside my bed. The coin is always with me.

23 Q Okay.

24 A So whenever that's needed it's there. And I think that
25 sums it up. I wasn't just his daughter; I was his friend.

SW - M. TIETJEN - DIRECT

1 And he wasn't just my daddy; he was my best friend.

2 Q Kimberly, that's all the questions I have. If you could
3 answer anything the Defense lawyers have.

4 A Yes, sir.

5 MR. CLARK: No questions, ma'am, thank you.

6 THE COURT: Thank you, Ms. Dees.

7 MR. JACKSON: Your Honor, the State calls back to the
8 stand Mrs. Mildred Tietjen.

9 MR. CLARK: Your Honor, before this witness testifies
10 may I have just one minute to check on something?

11 THE COURT: Sure. Mrs. Tietjen, I'll get you to come
12 around please. Thank you, ma'am. Come around please. You're
13 still under oath.

14 (Pause.)

15 DIRECT EXAMINATION

16 BY MR. JACKSON:

17 Q Good afternoon, Mrs. Tietjen.

18 A Good afternoon.

19 Q Mrs. Mildred, I know you've already introduced yourself to
20 some extent to the judge and talked about your husband.
21 Tell us when you first met Willard Tietjen.

22 A It was in December of 1964. It was a blind date. My
23 girlfriend set me, and her boyfriend had a friend. And
24 they set it up and we went to a movie. We double dated
25 with them.

SW - M. TIETJEN - DIRECT

- 1 Q That's the first date?
- 2 A That was our first date.
- 3 Q Y'all had a good time?
- 4 A We had a wonderful time.
- 5 Q And what were you doing at the time employment wise?
- 6 A I worked part-time at Satoranee (ph) Memorial Hospital and
7 I was going to school full time.
- 8 Q And he was doing what?
- 9 A He was in the Air Force.
- 10 Q So he was ---
- 11 A He was stationed at Waverly Air Force Base.
- 12 Q And this was in Iowa?
- 13 A This was Iowa.
- 14 Q And that was in December of 1964?
- 15 A Yes, sir.
- 16 Q First date and y'all got married when?
- 17 A April 29th, 1965.
- 18 Q Three-and-a-half months. At the time that he was killed
19 how long had y'all been married?
- 20 A We'd been married 39 years.
- 21 Q And where did y'all get married?
- 22 A We got married in Iowa, Cedar Falls, Iowa.
- 23 Q That's where y'all started out?
- 24 A Yes.
- 25 Q That was at Waverly Air Force Base?

SW - M. TIETJEN - DIRECT

- 1 A Yes.
- 2 Q When was Kimberly born?
- 3 A February 1996.
- 4 Q Nineteen?
- 5 A '96 -- '66. Excuse me.
- 6 Q And it was just the three of y'all, no other children?
- 7 A No other children.
- 8 Q And tell the judge briefly about your travels together,
9 where the Air Force took you to different places.
- 10 A We moved a lot. We were at Waverly till 1968. We went to
11 the Philippines from '68 to '70; Mount Hebo, Oregon '70 to
12 '71; Denver, July '71 to December '71. Kimberly and I went
13 to Iowa and T.J. went to Thailand. Came back in January of
14 '72. We were stationed at Mount Hebo, Oregon till 70--
15 July of '75. No, we went to Klamath Falls, Oregon. He
16 went back to Thailand and was sent to -- went to Vietnam
17 and eventually went to Thailand to finish out his tour.
18 And then we moved to Florida till 197-- we were '75 to '78,
19 and we spent six years in Haughn Air Force Base Germany.
- 20 Q That's when y'all met Colonel and Mrs. Summers?
- 21 A Yes, sir.
- 22 Q Go ahead.
- 23 A And we came to Shaw in 1984 and he retired in July of 1985
24 from Shaw.
- 25 Q All those years serving the country?

SW - M. TIETJEN - DIRECT

- 1 A Yes. Really all over.
- 2 Q Service families tend to get a little closer than others?
- 3 A Yes, we do.
- 4 Q Needless to say y'all are a very close family. And he
5 retired here in the Sumter community?
- 6 A Yes, Shaw.
- 7 Q From Shaw and when was that again?
- 8 A July of 1985.
- 9 Q When I say retired he didn't stay around the house, did he?
- 10 A Oh, no.
- 11 Q Where'd he go back -- what did he do then?
- 12 A He went to work at Wally's Hardware store. It was like a
13 job he dreamed of, working in a hardware store. It was one
14 of his favorite places. Then he went to Longley Supply.
15 From there he went to electrical wholesalers, and he ended
16 up selling insurance with his friend Troy Baker.
- 17 Q Okay. And then he medically retired?
- 18 A Then he had to medically retired, yeah.
- 19 Q And that would have been when, if you recall.
- 20 A I think in January of 2000 I believe.
- 21 Q All right. And at the time you were working where?
- 22 A I was working at Sumter OBGYN.
- 23 Q Which is where you are now?
- 24 A Yes.
- 25 Q What did he do for fun? What were his hobbies?

SW - M. TIETJEN - DIRECT

- 1 A He really liked to fish. That was one of his hobbies, but
2 he didn't like to go alone so he didn't do a lot of it
3 here. But he got really involved with the Shrine here.
4 And we did a lot of things with the Shrine.
- 5 Q Is that something both of you kind of fell in love with?
- 6 A Yes. It was something we could do together and feel like
7 we did something worth while for somebody else, for the
8 children.
- 9 Q And that was part of y'all's entertainment as well?
- 10 A Yes.
- 11 Q Did he work up in the ranks of the Shrines?
- 12 A I don't feel like —
- 13 Q Become master of the lodge, that type of stuff?
- 14 A He was master of his lodge, yes, and the masonic lodge,
15 yes. And he went through -- he went through the Scottish
16 right which is other steps in the Masonic.
- 17 Q Tell me about his role as a husband.
- 18 A He was a very good provider for us. He always made sure
19 that we had anything we needed, maybe not always what we
20 wanted but always what we needed. And he was always there
21 for us. If we were involved in something it seemed like no
22 matter if Kimberly was involved we were all involved. If
23 we were involved they were always involved. We worked as a
24 team.
- 25 Q Okay. When he medically retired did he just go back and

SW - M. TIETJEN - DIRECT

1 sit at the house or did he go back and help out?

2 A When he retired he became a very big help at the house. He
3 would kind of keep things in order and he always did the
4 cooking.

5 Q Always did the cooking?

6 A That's one thing he took over. He always did the cooking.
7 I liked to cook so I, but he took that over and that was
8 kind of nice when you're working full time to come home and
9 have your supper made.

10 Q So he tended to that?

11 A Yes.

12 Q All right.

13 A The people I worked with were a little envious so. They'd
14 say, I don't know what I'm going to fix for supper tonight
15 and I'd say, well, I don't know what I'm having but I know
16 it'll be ready when I get there.

17 Q What kind of father was he?

18 A He was a very good father. He was very involved in our
19 daughter's activities and he would help get her to school
20 and get her dressed if I was working. Was a girl scout
21 leader when she was in girl scouts; we both were. We would
22 take the children to the Camp Wild World in Florida for the
23 weekend and all.

24 Q So he didn't just drop them off and pick them up at the
25 end?

SW - M. TIETJEN - DIRECT

- 1 A No, he was very involved in all of the activities.
- 2 Q How about the grandkids?
- 3 A Oh, he loved his grandchildren. And our daughter was
4 living in Missouri. And as soon as he found out she was
5 born he wanted to go right out there. Well, she had some
6 problems and had surgery to have her child. And I said we
7 need to wait a couple of weeks and let her get back on her
8 feet a little bit. But he was real anxious. So Anna was
9 about 30 days old I believe when they got out there, and
10 one of the first things he wanted to do was take her for
11 her first ice cream. And he had saved the little spoon
12 from Baskin Robbins 'cause that's what he was going to feed
13 the ice cream to the granddaughter with. He took it with
14 him in his pocket. So he was -- and even all along he was
15 very proud of them, very involved in what they were doing
16 and very interested.
- 17 Q What is it that they call you?
- 18 A Grandma.
- 19 Q And they call him?
- 20 A Papa.
- 21 Q Let me show you some photographs, Mrs. Tietjen. State's
22 Exhibit 119-A through -J. This is A. Tell the judge about
23 that. Who's in that photograph?
- 24 A That's my husband and myself and my daughter, and that was
25 a Christmas card we sent from the Philippines. And that

SW - M. TIETJEN - DIRECT

1 says Merry Christmas in Davao.

2 Q And here's 119-B. Is that a family photo?

3 A That's T.J. and his mother and his dad. That's -- and all
4 of his siblings and nieces and nephews. That was at his
5 father's 85th birthday party, the whole T.J. crew.

6 Q Family events something y'all were known for?

7 A Yes.

8 Q And who hosted it?

9 A Well, this one happened to be in Pennsylvania but all of
10 the family events, all of the holidays were done at our
11 house.

12 Q How about this photograph, 119-C?

13 A Okay. That's taken at Myrtle Beach. We were at a Shrine
14 convention and we went to eat and they had this big statue
15 gorilla and he was carrying on and I took his picture with
16 the gorilla and had a good time.

17 Q 119-D?

18 A Oh, his mother always teased him about grits, and she sent
19 him a box of grits and when he opened it I took his picture
20 so I could send it to her. He was having fun with his box
21 of grits.

22 Q So that was actually a present?

23 A That was actually a present from his mother. People would
24 send him things as a joke because he's just type of zest
25 for life and he take things very well in stride and

SW - M. TIETJEN - DIRECT

1 wouldn't get upset.

2 Q 119-E?

3 A That's -- we were out here in Sumter at the Sumter Shrine
4 Club here.

5 Q 119-F?

6 A That's again at a Sumter luau.

7 Q And what's he doing down there on his knee?

8 A He's just having a good time. I don't remember what he was
9 saying to me but...

10 Q Here 119-G?

11 A That's in Virginia Beach. We were sitting on a bench, a
12 railing there.

13 Q You look like newlyweds. 119-H, if you can tell us what
14 that is.

15 A This is at the Shrine Hospital in Greenville. We went
16 there to visit, and he was in the color garden. That was
17 our color garden.

18 Q Tell us about trips up to the Shriner's Hospital.

19 A I think we took three or four. We would go to the
20 Shriner's Hospital and the -- see the children up there.
21 And this is an orthopaedic hospital and it's like no other
22 hospital you ever seen. You go in it's like a big motel and
23 the hotel. And it's got life-sized animals, giraffes and
24 elephants such hanging around. And all the rooms, instead
25 of being numbered they're like a parrot room, the frog

SW - M. TIETJEN - DIRECT

1 room, you know, by names of animals and birds. And you get
2 to see the children and see what you're doing, how you're
3 helping.

4 Q 119-I, tell the judge what that is.

5 A This is the little girl that has braces on both legs.

6 That's one of the shriner children, and she kind of fell in
7 love with my husband. And the night before they had been
8 sitting out by the swimming pool. And there was a ball,
9 beach ball in the swimming pool, and she would kick it and
10 they would talk about the magic in her feet because the
11 current would bring the ball back to her and she just was
12 having the best time with him. And the next morning when
13 we were getting ready to go she came out. She walked with
14 a walker but she came out so I took her picture with him.

15 Q And this is 119-J. Who is this gentleman here?

16 A And that's my husband in his tux with his Shrine ring and
17 his medal from the Shrine. I forget what each one of these
18 bars represent so many dollars worth of the money he had
19 raised for the Shrine and then when he'd get like a ruby
20 and then an emerald and then a diamond and he had the
21 diamond.

22 Q Ms. Mildred, we can refer back to October 11th of 2004.
23 We've talked about this to some extent with the judge.
24 Daily routine, tell us again about the daily routine and
25 what you and your husband did that morning.

SW - M. TIETJEN - DIRECT

1 A Well, normally I would get up and take the dogs out and if
2 he was having a good day he would get up and he would fix
3 coffee and make a little something to eat. If he wasn't
4 feeling well he would stay in bed and I would just take
5 care of myself. But that particular morning he was doing
6 pretty good and he got up and got dressed and went out and
7 fixed coffee. And we sat there, had coffee and something
8 to eat and then it was time for me to go to work. And if
9 on -- like I say, it was a good day so he would walk out
10 with me and he'd get the newspaper and go on in the house
11 and I'd gone my way to work.

12 Q Did he walk out with you that morning?

13 A He did. He walked out with me and got the newspaper.

14 Q Did he walk you to the car?

15 A He walked me to the car, wished me a good day, and said my
16 supper would be ready when I got home.

17 Q And did he say anything else to you as he parted?

18 A He said I love you.

19 Q And you said?

20 A I love you, see you tonight.

21 Q And you went on to work. When did you call him the first
22 time to check on him?

23 A I think right before I was going to lunch. I think it was
24 about 1:00. I go to lunch from one to two. And I would
25 either call him before I went to lunch or when I -- when I

SW - M. TIETJEN - DIRECT

1 got back but I think ---

2 Q And he didn't answer?

3 A He didn't answer. And the answering machine didn't pick up
4 so I thought he was on the phone.

5 Q And when did you try again?

6 A It was just a little before five. They had to shut down.
7 They said that we have to get out of the computers to do
8 the daily backup. And so I tried then and then we'd come
9 back up on the computer and I finished what I was doing so
10 I tried a little later. And I didn't get him then either
11 and I didn't get the machine then either. So I was getting
12 -- it was about time for me to leave so I thought I'd try
13 one more time, and I left a message on his answering
14 machine pickup. And I left him a message on the answering
15 machine that I'd be home soon. But then I thought now he's
16 going to come in from walking the dogs and find the
17 message, and he'll call me and I'll be driving down Broad
18 Street and I didn't want to be talking on my cell phone
19 driving down [REDACTED] so I called him on his cell phone
20 and somebody else answered the cell phone. And ---

21 Q Talk us through that again.

22 A And I asked to speak to T.J. and then he said that T.J. was
23 dead, he had killed T.J. and I thought it was a joke. Then
24 we had quite a conversation about let me talk to T.J., I
25 don't think this is a funny joke. And he finally said to

SW - M. TIETJEN - DIRECT

1 me, well, who do you think -- you called three times, who
2 do you think turned your answering machine off and turned
3 it back on to find out who is calling. And ---

4 Q What were you thinking then?

5 A It just kind of -- I realized I had called him three times
6 and it kind of gnawed at my conscience. I still didn't
7 believe it. It's not something you want to believe. But I
8 still said to him, I don't think this is funny, you know,
9 come on, let me talk to T.J.. And he finally hung up on
10 me. So I walked across the lab and I called 9-1-1 and I
11 said to Alice, I said, this is the most bizarre thing
12 that's ever happened to me. I said, this man told me he
13 killed my husband. And I walked over and I dialed 9-1-1
14 and I told the lady that I answered, that somebody I had
15 talked to, I might be overreacting but I wanted to tell her
16 what happened. And I told her and she said that if I was
17 going home I could go home, but if law enforcement was
18 there I could stop. If not, then she said, I repeat, if
19 not go on by.

20 Q And what did y'all do?

21 A Like I say, Alice was in there for this conversation and
22 she said, you're not going alone, you're not going home
23 alone. And Judy walked in and she wanted to know what was
24 going on, and we told her and she said you're not going
25 alone. They were both real adamant so Judy drove my car

SW - M. TIETJEN - DIRECT

1 and I rode with Alice and, why, I don't know. We'd come up
2 with this arrangement, but we drove out to my house and law
3 enforcement was there but they had us park off in the grass
4 out by near the road.

5 Q How long a drive is it to your house from where you are?

6 A It's about 20 minutes.

7 Q How long of the 20 minutes was that?

8 A Well, it went pretty fast because I was riding with Alice
9 and I was talking on the cell phone to my daughter 'cause
10 she had called me on cell phone not wanting to go home.
11 And I didn't want to tell her what had happened and I don't
12 think she wanted to tell me her conversation. So she was
13 trying to get me not to go home, and I was telling her I
14 had to go home.

15 Q And what were your feelings that were driving you to get on
16 home?

17 A I still didn't think it was going to be true. I thought it
18 was going to be some kind of hoax. I mean, I was a little
19 anxious. You know, I wanted to go check it out. But I
20 still didn't think that my husband would be dead until we
21 were there for, waiting for some more backup, and the dog
22 kept barking on the the deck. And that was -- if that dog
23 is barking T.J. is out there seeing why the dog is barking
24 or trying to comfort her so that's -- he'd have brought her
25 in or something was going on I knew it and I got very

SW - M. TIETJEN - DIRECT

1 anxious.

2 Q And that's when you were sitting out in the driveway?

3 A That was when we were in the driveway.

4 Q All right. Did there come a time when the men came back
5 out and talked to you?

6 A Yes, sir. They went in and ---

7 Q Go through that.

8 A Mr. Cokeley came out and was very respectful to me and said
9 that he was gone. He didn't -- he was very kind about it.

10 Q Do you remember him coming out during the evening asking
11 you some questions, going back and coming back and asking
12 you questions and going back?

13 A Right. They came out and they asked me if he smoked
14 cigars, if he smoked and what kind of cigarettes he smoked.

15 They came out and they asked me if I had a lot of candles
16 in the house and I thought, well not really sitting around.
17 you know, I had them in a cubbard, and that's what I told
18 him. Asked me what color they were. I said they were
19 white or they were red or they were green because I
20 collected them on sale whenever I find them 'cause I use
21 them at Christmas time.

22 Q All this is making you think?

23 A Well, I had already known before they started asking me
24 questions. They came out -- when they came -- when they
25 went in it wasn't long they came out and told me. But then

SW - M. TIETJEN - DIRECT

1 we were there 'cause I was worried about my dogs. I didn't
2 want to leave without my dogs. And they said that other
3 people were coming; that the victim's advocate and the
4 coroner were coming and so I was hanging around there. And
5 that's when they were coming out after they had told me and
6 were asking me these different things.

7 Q Okay. Where did y'all congregate that night after you
8 left?

9 A We went to my daughter's, to Kimberly's.

10 Q And tell the judge about arriving there and first seeing
11 Kim.

12 A When I got there I believe there was a couple of Shiners
13 already there. And when I went there I said to my daughter
14 this is all I have, I've been at work, my pocketbook and my
15 uniform. And she said that's okay, I have a new toothbrush
16 and toothpaste and I have a nightgown you can wear and I
17 said, well, that will get me till the morning so...

18 Q Who all came to the house that night?

19 A I know Billy Cockerel and Larry Holloman. I believe Troy
20 and the Summers, and of course Judy and Alice were with me
21 when they brought me to my daughter's. I don't remember if
22 anybody else came or not.

23 Q How long before you were able to get back in your home?

24 A I could have got back in, I think, the following Monday but
25 that was the funeral and I didn't want all the relatives

SW - M. TIETJEN - DIRECT

1 wanting to come out there with me so I chose not to go back
2 till Tuesday and I didn't let anybody know I could go till
3 Tuesday, a week later.

4 Q Are you still living there?

5 A Oh, yes, sir.

6 Q And are you going to continue to live there?

7 A Yes, sir.

8 Q Ms. Mildred, if you would tell the judge what words you can
9 what effects this has had on you. Are there any times
10 where you just feel it coming on and you know it's going to
11 be a bad day. Explain that to him.

12 A My husband and I were very, very close. And Friday I got
13 off at noon, and when I would get off he would have
14 showered and put on decent clothes and I would come home.
15 I would freshen up and change; and that was our time, just
16 our time. We usually didn't do it with anybody else. We'd
17 go out and we'd have something to eat and do whatever
18 little chores, running around we had to do, whether it was
19 shopping for groceries or whatever. And that's probably
20 the hardest day of the week for me. Even today if I don't
21 have something to do a lot of times just drive around until
22 about 5:30 and go home 'cause that special time is gone.
23 He and I, especially the last four or five years, were like
24 we were joined at the hip, where you seen one you seen the
25 other. And probably about six months ago somebody had said

SW - M. TIETJEN - DIRECT

1 to me, Mildred, it's just a surprise seeing you out here by
2 yourself and I just burst into tears and thought I was kind
3 of beyond that but we just did a lot of things together,
4 all the Shrine things. Like I said, all the holidays were
5 spent at my house but he would -- he would organize it. It
6 was like, he -- he would make sure that, okay, this holiday
7 is coming up, we need to plan. And the first thanksgiving
8 was -- we had a hard time getting that turkey on the table.
9 You know, I love to cook and I usually got everything
10 started and going and then he would come there and he would
11 help -- well, the power kicked off because we had so many
12 electrical appliances and we reset the power and
13 everything, but what I had -- that stove had been new. You
14 know, he was probably really the only -- it was three or
15 four years old but it was new to me. And I didn't cook
16 much with it 'cause he did all the cooking, and I didn't
17 realize that the oven didn't come back on so we about had
18 raw turkey. We couldn't figure out why the turkey wasn't
19 getting done. And if he'd had been there he'd had it all
20 under control, but we did get thanksgiving and we did get
21 it done. But he would be -- he was like my right hand in
22 the kitchen. So it's been a little different getting the
23 meals on the table when I have a group out there, but we still do
24 family occasions, all the holidays and anything else we can use
25 for an excuse to get together.

1 Q Ms. Mildred, that's all the questions I've got for you. If
2 you'd answer anything Mr. Clark wants to ask you.

3 THE COURT: Mr. Clark.

4 MR. CLARK: No questions, thank you.

5 MR. JACKSON: Thank you, Ms. Tietjen.

6 THE COURT: Thank you, Ms. Tietjen.

7 THE WITNESS: You're welcome.

8 MR. JACKSON: Judge, that's all we have today, sir.

9 THE COURT: All right.

10 MR. CLARK: Mr. Jackson, if I could one moment.

11 MR. JACKSON: Yes, sir.

12 MR. CLARK: Your Honor, there is a matter I want to
13 take up with the Court.

14 THE COURT: Sure, let's...

15 MR. JACKSON: Your Honor, I defer to Mr. Clark.

16 MR. CLARK: Your Honor, this is a matter regarding
17 discovery. The defendant has filed appropriate Rule 5 discovery
18 motions in this case. And I was curious about whether the State
19 has subpoenaed any phone records, that being records of
20 Exhibit 40 or otherwise. And I asked Mr. Jackson about it this
21 morning and he couldn't recall right off the top of his head but
22 he did -- he was kind enough to go and look and he provided me
23 two documents which appear to be responses to -- well, appear to
24 be phone records on the day of the -- that Mr. Tietjen was
25 killed.

1 Your Honor, we just want to put on the record and renew
2 our motion in Rule 5 to request any and all phone records that
3 were requested by the State in this case. We were provided these
4 two phone records. We believe they may have some exculpatory
5 value, and we just want to insure that these are all the records
6 that the State has received. We'd also like to receive the
7 actual subpoena that was used to get these records. We'd also,
8 Your Honor, ask the State to if they can, verify the phone number
9 for Exhibit 40. So and I know I'm kind of rambling on. I just
10 want to renew our Rule 5 motion. I want to request ---

11 THE COURT: Solicitor, are there any other phone
12 records?

13 MR. JACKSON: Not that I'm aware of.

14 THE COURT: And why didn't they get those before today?

15 MR. JACKSON: Judge, there were -- law enforcement
16 asked for some phone records looking trying to locate the phone.

17 THE COURT: Your law enforcement?

18 MR. JACKSON: Yes, sir. And the phone was located.

19 THE COURT: All right.

20 MR. JACKSON: To my knowledge there's not any items
21 that has anything mitigating in that. There's nothing
22 exculpatory in that.

23 THE COURT: Well that's, in all due respect that's not
24 necessarily your call.

25 MR. JACKSON: I understand, Your Honor, and that's some

1 of the stuff that we handed over to the Court I believe last
2 December.

3 THE COURT: What you handed over to the Court was what
4 you handed over to them, right?

5 MR. JACKSON: And what we didn't, and what we didn't.
6 We believe -- we believe we fully complied. He asked for it ---

7 THE COURT: You think you got -- you think that's
8 everything that Mr. Clark has right now?

9 MR. JACKSON: Yes, sir, and I've got a copy of the
10 subpoena that was sent.

11 THE COURT: Okay.

12 MR. JACKSON: That's it. I'll be glad to give it to
13 him. He asked me earlier did we have anything. I couldn't
14 recall anything of any significance so we would have checked and
15 brought it back to him.

16 THE COURT: Okay. Have you got -- all right. And he's
17 got a copy of the subpoena he's going to give you. Anything
18 else, Mr. Clark?

19 MR. CLARK: Well, Your Honor, not at this time. We
20 need a little time to investigate these records.

21 THE COURT: Well, here's what we're going to do. We're
22 going to adjourn for the afternoon, okay. That gives you -- and
23 Court will reconvene on Monday morning at 9:30, and we'll take up
24 any issues you may have at that point.

25 Solicitor, before we adjourn is there anything on

1 behalf of the State?

2 MR. JACKSON: Your Honor, I was going to renew my
3 motion for discovery as well. We received one document this week
4 from the Defense. It was a psychiatric evaluation done by Doctor
5 Schwartz-Watts. It addresses consultation with several other
6 doctors that we have nothing from including interview notes of a
7 Doctor Marty Loring, consultation with Doctor Morton, Doctor
8 Brawley, Doctor Gaines, Doctor Self, Doctor Malenkia (ph), which
9 we have nothing from. I've been advised as of two or three weeks
10 ago it was some power point presentation that would be shown.
11 I've seen nothing on a power point presentation. There's been
12 given nothing on power point presentation and I want to renew our
13 motion at this time.

14 THE COURT: Mr. Clark, is there anything, any reports,
15 anything, any matters that the Defense has that the State is
16 entitled to?

17 MR. CLARK: Your Honor, truthfully, I can't speak to
18 that. I need to get Mr. Howle over here to speak to that.

19 THE COURT: Well, let's do this.

20 MR. JACKSON: Judge, he's very much the attorney on
21 this.

22 MR. CLARK: I'm not denying that but...

23 THE COURT: I understand.

24 MR. CLARK: But that report ---

25 THE COURT: Well, here's what I'm going to say. And

1 keep in mind, the responses that occur here may have some bearing
2 on rulings that I need to make next week depending on what
3 motions are brought up so I'm going to ask you since we're
4 adjourning basically it's a half a day today, to use the balance
5 of this day to go over with Mr. Howle and whoever else -- I know
6 Mr. Babb is still involved -- to go over everything. And if
7 there's anything that the State is entitled to pursuant to Rule 5
8 and Brady that it be given to them this afternoon.

9 MR. CLARK: Yes, sir.

10 THE COURT: And vice versa. If there's anything else,
11 Solicitor, you know, in other words I want -- there ought not be
12 discovery issues at this point. So if there are any issues, they
13 need to be resolved today. And even though we've adjourned for
14 the afternoon, if you don't have it I'll make sure you do.
15 Hopefully you both have my cell phone and if you need me you can
16 give me a call. But the Court is going to go with the Clerk and
17 visit the various scenes involved, but after that I'll still be
18 available by phone if you need me, okay?

19 MR. CLARK: Yes, sir, thank you Your Honor.

20 MR. JACKSON: As far as visitation of the scene, of
21 course it's the State certainly will consent that Your Honor can
22 go by yourself and you don't need and I assume the Defense and
23 Mr. Bryant are the same way.

24 THE COURT: And I've talked with both the State and
25 with the Defense and it is my understanding that myself,

1 Mr. Weaver, the Clerk, and Jamie is here, okay. The Clerk, my,
2 law clerk, and myself are going to be the only ones. Madam Court
3 Reporter is invited to go; she has not decided whether she's
4 going to go or not. She may have better things to do today. But
5 at the most it would be the four of us and more than likely
6 probably the three of us. And my understanding is, is that the
7 State and the Defense are going to use the afternoon to go about
8 other business.

9 MR. CLARK: That's correct, Your Honor.

10 MR. JACKSON: That's correct.

11 THE COURT: All right. Well, having said that, ladies
12 and gentlemen, hope everyone has an outstanding weekend. We will
13 reconvene on Monday morning at 9:30.

14 (WHEREUPON, the proceedings were concluded for the day to be
15 reconvened on September 8, 2008 at 9:53 a.m.)

16 THE COURT: Just to kind of update the record, when we
17 adjourned Friday, myself, my law clerk Marshal Weaver, and the
18 Clerk went and traveled around the county and visited, went
19 through each of the areas where these numerous offenses occurred.
20 We traveled to all these various sites and the only time we ever
21 got out of the vehicle was when we got to the river to actually
22 get down to the area where Mr. Brown was shot because that was
23 not visible by the car. And so we walked down there, observed
24 that area, got back in the car, and then concluded. It took us
25 the better part of the afternoon, probably we got done about 4:30

1 or something like that. But anyway, that was the extent of it.
2 That no one from the prosecution was present, nor was anyone from
3 the Defense present and we completed that Friday afternoon. So
4 that -- having said that, is there anything that we need to take
5 up before we proceed from the State?

6 MR. JACKSON: Your Honor, only thing I would mention I
7 guess is a matter of scheduling. I know it's not appropriate for
8 this sentencing hearing we're participating in for you to hear
9 from the victims of the other crimes that he pled guilty to. But
10 we'd like Your Honor to begin thinking about scheduling when you
11 would like to hear from them before you sentence on those cases
12 and we start wrapping things up towards the end of the week.

13 THE COURT: Okay. Let me tell you what I anticipate.
14 I have no idea regarding the Defense how much time we need, but I
15 did anticipate that whenever the Defense concluded their case we
16 would adjourn. And even though there's no requirement under a
17 statute or anything, I was going to take a day and then reconvene
18 some 24 hours later or longer depending on the matter because
19 there's a lot of exhibits, a lot of stuff in the case, and it
20 would give me an opportunity to review everything. So any idea,
21 Mr. Clark, or Mr. Howell, I'm not restricting you to anything but
22 when you anticipate the Defense concluding.

23 MR. JACKSON: Your Honor ---

24 MR. HOWLE: Your Honor, depending on when we start this
25 morning I think we will probably conclude by the end of Tuesday.

1 THE COURT: Okay. So I would imagine, Solicitor, that
2 we will not, if that's the case, then we will probably not
3 reconvene prior to Thursday morning for any type of sentencing
4 purpose.

5 MR. JACKSON: We'd do closing arguments before you took
6 your day?

7 THE COURT: Right. Before we -- yes, yeah. And at the
8 conclusion of that we will take that time period so I'm assuming
9 Thursday morning will be the earliest assuming we stay on that
10 schedule.

11 MR. JACKSON: Thank you. Your Honor, having said that
12 the State rests at this time.

13 MR. CLARK: Your Honor, there is a matter I want to
14 take up before they have rested.

15 THE COURT: All right.

16 MR. CLARK: Your Honor, the Defendant, as the Court
17 will recall, the Defendant reiterated its motion under Brady last
18 week regarding certain phone records. The State provided a call
19 log of calls from Exhibit Number 40 which is the -- Mr. Tietjen's
20 cell phone. They provided it to us on Friday and they had not
21 provided it to us prior to Friday. I advised the Court on Friday
22 that I needed time to review these records to determine if, how
23 we're going to proceed on those records at that time. Your
24 Honor, after reviewing these records over the weekend, reviewing
25 the evidence, and reviewing the case law, it's the Defendant's

1 position is that the State has violated Brady in this case and we
2 respectfully move for a mistrial. Your Honor, I'd like to make
3 the entry phone log, which was not given to us, a part of the
4 record if I may.

5 THE COURT: All right. Defendant's 1.
6 (WHEREUPON, Defendant's Exhibit No. 1 was marked for
7 identification only.)

8 MR. CLARK: Your Honor, if I could, the aggravating
9 circumstance that the State has -- is attempting to prove in this
10 case is armed robbery. As I understand it, if the Court -- if
11 the State cannot prove beyond -- by proof beyond a reasonable
12 doubt the crime of armed robbery then the sentence of the Court
13 must be either life or 30 years. So armed robbery is the central
14 charge. Your Honor, Mr. Bryant gave a statement to the
15 investigators on October 13, 2004 and those statements have
16 already been put into the record. In giving those statements he
17 indicated that, well, he said rather directly, that when he went
18 to the Tietjen home he used Mr. Tietjen's cell phone to make two
19 phone calls. He also indicated that the time frame that he went
20 to that home was between 9 a.m. and 12 p.m. Your Honor, the
21 phone log that we have been provided as of Friday that has been
22 withheld from us for almost four years indicates two phone calls
23 made on Mr. Tietjen's cell phone, one at 10:57 a.m. and one at
24 11:01 a.m. Your Honor, those phone calls are precisely during
25 the time period that Mr. Bryant said he made those calls. The

1 record indicates that the only other calls made that day started
2 at 5:36 p.m. which coincides the time that Mrs. Tietjen may have
3 been calling the phone. Your Honor, it's the Defendant's
4 position is that because these phone calls were withheld from us
5 we did not have the opportunity to investigate these phone calls,
6 investigate the recipients of these phone calls, and present
7 testimony to the Court of the nature of the phone calls. That is
8 crucial to the Defendant's case because if he can show that his
9 purpose for going to the home was not to commit a robbery I
10 believe he -- in his statement he indicated that he had problems
11 with his truck, he made some call phone calls to try to get
12 assistance with his truck. These phone calls support his
13 statement that he in fact went to the house without the intent to
14 commit a robbery, made phone calls, and because we were not made
15 aware of these calls and the State had and intentionally withheld
16 from us, we were unable to investigate and procure witnesses on
17 these calls and --

18 THE COURT: Mr. Clark, your own client made a statement
19 that he made these calls.

20 MR. CLARK: That's correct, Your Honor.

21 THE COURT: You've known that from the day you got
22 these statements.

23 MR. CLARK: That's true, Your Honor, but it supports
24 his claim if we could show who got these calls if we can bring
25 witnesses in to say that he, yes, he in fact, did call and he did

1 call about the truck or he did leave a message for us about the
2 truck. That goes to his intent when he went to the house. It
3 supports his contention that he did not go there for the purpose
4 of robbery. And Your Honor, as I intend to argue at some point
5 that the taking of items from the home was not his intent and was
6 a separate sequence of events from the actual killing of
7 Mr. Tietjen. So I concede, Your Honor, we did know he made those
8 calls but other than but we did not know the numbers that he was
9 calling.

10 THE COURT: Did you ask him who he called?

11 MR. CLARK: Well, Your Honor.

12 THE COURT: He's your client.

13 MR. CLARK: Well, Your Honor, I really, I prefer not to
14 discuss conversations that I've had with him, Your Honor.

15 THE COURT: Okay.

16 MR. CLARK: And I just for hypothetical purposes, Your
17 Honor, suppose he couldn't remember when he called or he couldn't
18 remember what number he called.

19 THE COURT: Well, you got this on Friday.

20 MR. CLARK: Yes, sir.

21 THE COURT: What did you do between then and today to
22 find out whose numbers those are?

23 MR. CLARK: Your Honor, we over the weekend we
24 investigated both calls and we simply have not had enough time to
25 delve into one or both of these telephone calls.

1 THE COURT: You had all day Friday afternoon.

2 MR. CLARK: That's correct.

3 THE COURT: You couldn't find out who those calls were
4 to?

5 MR. CLARK: Well, Your Honor, the problem is -- no,
6 sir, we could not. And I'm speaking specifically regarding the
7 second call. I don't know that the -- and that brings me to
8 another issue, Your Honor. They have had in evidence for four
9 years. It's my intention or my belief that the second number may
10 have changed since the call was made and we have searched and are
11 having difficulty nailing down that, the second phone number. I
12 will tell the Court that I was able to get someone on the phone
13 regarding a first call. The second call I have not been able to.
14 And Your Honor, it goes also to our motion to withdraw our plea
15 on robbery. As I understand the cases that follow Brady the
16 evidence is material if it affects the defendant's preparation
17 for trial and whether he would have pled guilty or not. It's our
18 contention that if we had these calls and could have found the
19 witnesses two three years ago that may have affected his position
20 on the robbery defense, and we may have been in a trial on that
21 charge. He may have taken a different position but at the very
22 last we would have been able to present some testimony or
23 evidence on that call to support his claim. Your Honor, I submit
24 that, you know, we got these numbers at lunch time on Friday.
25 And by the type we got them the business day was pretty much gone

1 or half over, and here we are on the Monday morning.

2 Your Honor, I cite of course State v. Brady, the
3 proposition that withholding these records violated the
4 defendant's due process rights and I'd also rely on Gibson v.
5 State. I have a copy for the Court, Gibson v. State. And I also
6 have a copy of Brady versus Maryland, your Honor. Your Honor,
7 the Gibson case, Supreme Court -- well, going back to Brady, the
8 Court held that suppression by prosecution of evidence favorable
9 to an accused upon request violates due process where evidence is
10 material, is material either to guilt or to punishment
11 irrespective of the good faith or bad faith of the prosecution.

12 THE COURT: Well, how have you shown the Court is that
13 was withheld was favorable to Defense?

14 MR. CLARK: Well, Your Honor, I believe I pointed out
15 that these calls are consistent with what he said he did.

16 THE COURT: Okay.

17 MR. CLARK: And they go to his intention to commit
18 armed robbery.

19 THE COURT: How?

20 MR. CLARK: Well, Your Honor, if he -- Your Honor, if
21 went to the home for the purpose of getting assistance with his
22 truck and not for armed robbery then that would make the
23 difference. And Your Honor, going on from that in State v.
24 Douglas, State v. Douglas and cases cited by the Court from
25 Florida and State v. Douglas which I'm passing up to the Court,

1 the Court -- South Carolina courts have said that just because a
2 person is deceased when items are taken does not remove it from
3 armed robbery. But the cases that they cite which I presented to
4 the Court, two Florida cases, Jones v. State and Knowles v.
5 State, say that if a defendant can prove or that the State must
6 prove when a person is killed the State must prove that the
7 murder and the armed robbery is one continuous sequence of
8 events. And our position is that if we can show by evidence from
9 these phone calls that Mr. Bryant went to the home with an
10 intention of getting assistance with his truck and not robbing
11 Mr. Tietjen.

12 THE COURT: Well, you're -- then you're making the
13 assumption that the intent to rob someone cannot manifest itself
14 at some later time. In other words, he had to have gone to the
15 house with the intent to rob.

16 MR. CLARK: Your Honor, I fully understand the Court's
17 statement and I'm not assuming that it cannot be manifested at
18 some point. What I'm saying is that if the intent is not present
19 when he entered the home and we can show that, then that
20 mitigates the argument that his intent was manifested during the
21 sequence of the murder. Your Honor, if I could just comment on
22 these cases that I submitted. Jones v. State from the State of
23 Florida which Gibson relies on, that's case where Mr. Jones
24 worked for -- he worked for the Nesters who were business owners
25 and he believed that he owed -- that they owed him money. He

1 went to the house -- to the business. He assaulted them which
2 resulted in a death and then he took their property. Mr. Jones
3 then argued that the victims were deceased when he took the
4 property therefore couldn't be armed robbery. The Florida court
5 then said he -- one of the factors that they cited was that his
6 intent to in going to the residence to the business was to get
7 money, and therefore, it was a part of one sequence of event.
8 But in State v. Knowles, Your Honor, Knowles v. State which I've
9 submitted to the Court, the defendant in that case, the facts
10 show was high on drugs. He broke into a residence and shot and
11 killed a ten year old girl at a birthday party for no reason at
12 all without any provocation. Your Honor, when he left the party,
13 when he left the residence he ran down, ran out of the house and
14 his father was in a truck and he had some words with his father.
15 He subsequently shot and killed his father and took the truck.
16 The Court in that case said that the taking of the truck was not
17 a part of a continuing sequence of events that the killing of his
18 father was not proven to be a part of one continuous sequence of
19 events and had nothing to do with him killing his father and his
20 killing of his father could have been done for reasons other than
21 taking the truck. He just decided to take the truck after he
22 killed him.

23 So going back to this case, Your Honor, we believe that
24 the State at this point has not proven that beyond a reasonable
25 doubt as they're required to, that the robbery of Mr. Tietjen was

1 one sequence of events along with the murder and that if we
2 had these phone records in a timely fashion and could have
3 investigated them then we may have been able to present evidence
4 to show that his intent was not to commit murder. Then that
5 would have supported his claim and mitigated against any finding
6 that the Court can make that it was one sequence of events. But
7 because they withheld them for four years from us we have not had
8 the opportunity to investigate as we would have liked to. This
9 may have impacted his preparation for trial, his guilty plea, and
10 his certainly may impact sentencing by the Court. That's all I
11 have on that issue, Your Honor.

12 And Your Honor, one other point, if the motion is
13 denied by the Court we would request the opportunity to call
14 Investigator Turner back to the stand and at the very least
15 cross-examine him about these records that we didn't have when he
16 testified. Thank you, Your Honor.

17 THE COURT: Solicitor.

18 MR. JACKSON: Your Honor, first of all, to the
19 discovery we did not provide them as part of our discovery in
20 chief. We did not think mitigating, did not think they are
21 exploratory. We did provide this information to the Court I
22 believe requested then by Attorney Mr. Babb to be looked at and
23 decided if we need to go or. Not that would have been done last
24 December, last January. I believe it was in that time frame we
25 did that. As far as the information itself, Your Honor, we did

1 turn over the statements and it says, I used his cell phone after
2 he invited me into his home. I asked him if I could use his cell
3 phone to call my girlfriend and come and pick me up 'cause my
4 truck was overheating. I got the answering machine the first
5 time and left a message if she was there to pick up the phone.
6 So I hung up and called her right back and got no answer. So we
7 did provide him with information that he did use the phone and
8 did use it two times. Your Honor, he later admitted to stealing
9 the phone. He later took law enforcement to, I believe, it's
10 Squaw Valley Road where the phone was recovered and showed them
11 where he put the phone. I believe it's the same phone that he
12 himself talked with the victims that afternoon when they called
13 in to check on Mr. Tietjen. As far as whether or not there's any
14 mitigation of armed robbery, we do know at that time invited or
15 uninvited into that home he was a felon with possession of a
16 stolen pistol, had it with him going into the home. I'm very
17 well argue -- very prepared to argue the armed robbery at the
18 appropriate time. I think will be in closing arguments with the
19 Court because as Your Honor has said we will have to determine if
20 we've proven armed robbery in this case or not. And we're
21 prepared to do that. We already have and I'll argue that later
22 at the appropriate time. But he went in that house at that point
23 with a pistol in his pants, some kind of intent, and then later
24 killed him and robbed him after the phone calls were made.
25 There's nothing mitigating or exculpatory about the fact that he

1 used the phone to make a couple of calls prior to ever committing
2 a murder and an armed robbery. And I would ask you to deny the
3 motion.

4 MR. CLARK: Your Honor, if I could just respond
5 briefly.

6 THE COURT: Yes, sir.

7 MR. CLARK: The fact that he was a felon possession of
8 a weapon doesn't in and of itself prove anything about his intent
9 he had in this residence. In fact, one could argue that if he
10 was able to get someone on the phone he may not have ever entered
11 the residence. So I just wanted to respond to statements by the
12 prosecutor that the fact that he went in the residence with a --
13 a convicted felon with a weapon proves his intent, that doesn't
14 prove anything about his intent.

15 THE COURT: Let me ask you, Mr. Clark, with the
16 information that the Defense had both in the statements and from
17 assuming any conversations with your client, what precluded the
18 Defense from seeking these phone records?

19 MR. CLARK: Your Honor.

20 THE COURT: I mean, if these -- the defendant in his
21 statements clearly makes the statement of using this phone to
22 make these phone calls so you're aware of these phone calls.
23 What precluded the Defense from seeking these phone records?

24 MR. CLARK: Well, first of all, Your Honor, I don't
25 believe that we had the number for the phone, the number for the

1 cell phone. I don't believe we had that.

2 THE COURT: You could have asked for it.

3 MR. CLARK: Well, we could have, Your Honor, but that's
4 the nature of Brady. It's not fair to the pros-- to the
5 Defendant if the Defendant fails for whatever reason to ask for
6 something but the prosecution has it in its possession. I think
7 that's the nature of Brady that if they have it and he doesn't,
8 it's unfair they don't give it to him. So Your Honor, I don't
9 have -- I can't tell the Court why we didn't ask for them. I
10 will tell the Court that we did not have a phone number. We did
11 not have any identifying information for this cell phone, and but
12 I don't think that's a defense for the prosecution on this issue.

13 THE COURT: Let me do this 'cause I just was handed
14 these cases. I know we haven't gotten started this morning but
15 we're going to take a break at this point. I'm going to step
16 back and look over these cases and review them for the
17 proposition which you've put forth to the Court.

18 MR. CLARK: Thank you, Your Honor.

19 THE COURT: So that will probably be about probably 20,
20 30 minutes so we'll be at ease for.

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

22 THE COURT: All right. I've had an opportunity to read
23 over the cases that were presented, and if I understood
24 correctly, Mr. Clark, that you kind of had -- and you correct me
25 if I'm wrong. They were kind of maybe a motion under Brady and

1 then there was also, I guess, lack of better term a directed
2 verdict that the State failed to carry their burden on the armed
3 robbery -- on the aggravating circumstance of armed robbery; is
4 that correct?

5 MR. CLARK: That is correct. The only thing I would
6 say is that the Brady violation goes to our motion to dismiss.

7 THE COURT: Yes.

8 MR. CLARK: And I just point out the distinction, Your
9 Honor. Unlike a motion for directed verdict where the Court has
10 to continue the matter if there's any evidence. At this point or
11 once they rest it's motion to dismiss on the basis that they
12 haven't proven beyond a reasonable doubt. I just point out that
13 distinction, yes, sir.

14 THE COURT: All right. Let me address the Brady issue
15 first, and I refer to the case of Brady versus State of Maryland.
16 You know, that's the case that we're all well aware of that
17 provides the legal authority that where evidence is material to
18 either guilt or punishment irrespective of the good faith or bad
19 faith the prosecution must be turned over. In that case that was
20 a situation where a confederate or cohort had confessed to the
21 murder that the Brady was being charged with, and the State
22 withheld that confession. And of course the Court then came up
23 with that language that where it's evidence that is material
24 either to the guilt or the punishment irrespective of the good or
25 bad faith in the prosecution. In this case -- and then I looked

1 at the case of Gibson versus State of South Carolina, and in that
2 case that was a situation where the defendant was charged with a
3 murder and decided during the drawing of the jury to plead guilty
4 and pled guilty. And it's during the subsequent PCR application
5 that it was revealed that the evidence that the State withheld
6 was that a material witness of the State who was allegedly an
7 eyewitness to the murder claimed that she was looking through the
8 window of the bar and saw the defendant point the gun at the
9 victim and shoot. During the State's investigation in preparing
10 for trial they took the victim back to the bar and found through
11 their investigation that she couldn't possibly have looked
12 through the window because there was a donkey kong machine that
13 was set up in front of the window. And that's when she said,
14 well, I did see it, I must have maybe I wasn't at the window, I
15 might have gone around to the door or something, but I did see
16 it. And the State failed to provide that evidence of her change
17 of her testimony. And the Court found there that that was a
18 situation where one of the State's primary witnesses, primary
19 eyewitnesses, was shown to have changed her story either live or
20 was mistaken and renigged on her original testimony and they
21 failed to provide that to the defendant. Well, in there the
22 Court said when defendant lacks knowledge of material evidence in
23 the prosecutor's position the waiver of the constitutional rights
24 cannot be deemed as knowing and voluntarily.

25 This case, this is not the case we have here. The

1 Defense was well aware of evidence. The Defense knew that the
2 defendant, Mr. Bryant, made two phone calls from the victim's
3 cell phone that morning because Mr. Bryant admitted to doing
4 that. The Defense knew that the purpose for making those phone
5 calls was he was allegedly calling someone to help him with his
6 truck which had overheated allegedly. So that was all knowledge
7 that the Defense had. You argue that, well, in response to me
8 asking, well, could you not have gotten these phone records, that
9 you weren't required to get the phone records, that if the State
10 had them they were required to produce them. Well, but you
11 didn't know the State had them and what you're saying is, if I
12 agree with what you're telling me, is that the Defense has no
13 obligation to prepare a defense, they have no obligation to
14 investigate on behalf of their client. And I don't think that's
15 the case.

16 I think these records -- and then there was the
17 argument that the fact that you didn't have these records
18 interfered with Mr. Bryant's intention to enter a knowing and
19 voluntary plea. But again, and I refer to the case of Gibson
20 versus State of South Carolina, that was evidence that was within
21 the knowledge of the defendant and that the defendant did in fact
22 know about it, and so therefore, I don't find that -- I find that
23 if there was an error in not turning these records over earlier
24 that it was harmless error; that it did not affect Mr. Bryant's
25 decision on whether or not to plead guilty because it was

1 information that was in Mr. Bryant's possession or within his
2 possession or his intent, or his knowledge to be able to get it.
3 And so therefore, I'm going to deny your motion to dismiss and
4 based on the violation of Brady. Regarding the fact that the
5 State has -- the allegations that the State has failed to prove
6 the aggravating circumstance of armed robbery, I go to the cases
7 that the Defendant presented to the Court. First one is State v.
8 Douglas, and this is -- this is the holding of that Court and
9 it's exactly what I believe is the correct law. It says in that
10 case is, that we find that the State presented sufficient
11 evidence to support the armed robbery charge. Ronnie was shot
12 five times in the head. His house appeared to be ransacked. His
13 wallet was missing. The wallet was found at the bottom of the
14 creek with the murder weapon and in the same vicinity as the
15 items identified as belonging to Douglas; furthermore, given the
16 violent nature of Ronnie's death it could be inferred that the
17 force used to commit the homicide also facilitated the taking.
18 Thus, there is a substantial circumstantial evidence that
19 Ronnie's murder and the taking of the property were part of a
20 single transaction or a continuing sequence of events. The other
21 cases which were support -- were passed up seem to also support
22 that. Jones versus the State of Florida, in that case the Court
23 again held that a victim does not have to proceed with force of
24 violence used in the course of the taking in order for the
25 element of force or violence be present. There's no requirement

1 that the victim be aware that a robbery is being committed if
2 force or violence was used to render the victim unaware of the
3 taking. And it goes along to further suggest in that case, I
4 believe it was that case -- it was -- where the -- in that case
5 the wife was stabbed to death in the bathroom. Her husband was
6 then stabbed to death in the kitchen. And there was evidence
7 that the husband's wallets were taken and that the wife's purse
8 had been rummaged through and items taken from the purse. And
9 the Court held that even though the purse was not in the bathroom
10 with the victim, the purse was actually in an office in another
11 part of the house, that it was evidence sufficient to support the
12 robbery conviction. In the case of Knowles versus the State of
13 Florida, that was a situation where the young man killed a ten
14 year old little girl, then he proceeded out the house,
15 encountered his father in the car, had a argument with his
16 father, shot his father in the head and took his car -- took his
17 truck. And in that case the Court did in fact rule that the
18 robbery could not stand in that case, but that's different from
19 this case because the Court explained in that case that the
20 evidence was that Mr. Knowles, the defendant, had free access to
21 his father's truck prior to the shooting; that on numerous
22 occasions he was seen driving the truck and he had the right to
23 drive the truck and that there was no evidence to show that the
24 shooting was in an effort to take the truck. But that's
25 distinguishable from this case. Clearly Mr. Bryant had no

1 ownership or right to the items taken out of Mr. Tietjen's home.

2 And in all honesty, at this point and I know this is a
3 little different because the Court is both the trier of fact and
4 the judge of law in this case, but I am withholding and have
5 withheld any opinion to the evidence until all the evidence is in
6 so -- which is why I indicated that, you know, I guess what I'm
7 saying is at this stage I'm going to deny any motion regarding
8 the State having proved their case beyond a reasonable doubt
9 until I have an opportunity to review all the evidence. But
10 there certainly is evidence in the record that would suggest that
11 that proof has been met; and whether it has been or not I don't
12 know until I have an opportunity to go further and review all the
13 evidence in the record. So I'm going to respectfully note your
14 exceptions, but I'm going to respectfully deny your requests for
15 dismissal based on Brady violation. I find that's harmless and
16 that the -- whether the State has proven the aggravating
17 circumstance of armed robbery is something that the Court will
18 take into consideration when it reviews all the evidence in the
19 case.

20 MR. CLARK: Your Honor, Your Honor, I just want to put
21 a couple of things on the record.

22 THE COURT: Sure.

23 MR. CLARK: It's our position that this case
24 distinguished from Douglas because Douglas only argued that it
25 couldn't be armed robbery because the person was deceased.

1 Douglas never argued the sequence of events argued. And as far
2 as Jones is concerned, Your Honor, in the Jones case the Court
3 pointed out the fact that Mr. Jones himself admitted that he went
4 there to get money. And turning to Knowles, our position is that
5 this case falls under Knowles in that there is no evidence the
6 murder took place for the purpose of taking the property. What
7 the evidence is, is that Mr. Bryant said Mr. Tietjen struck him
8 in the head, he turned around and shot him. And then after that
9 the robbery took place. That's all the evidence in the record.

10 THE COURT: All right.

11 MR. CLARK: And I just want to put that on the record.
12 Your Honor, there's one other thing, would the Court allow me to
13 cross-examine Mr. Turner?

14 THE COURT: I will.

15 MR. CLARK: Thank you.

16 THE COURT: And let me just address that. In the
17 Douglas case which seems to almost mirror exactly this case the
18 Court found that based on the circumstances that were presented
19 to the Court the violence in which Mr. Ronnie was killed, the
20 house being ransacked, the wallet being missing, found later with
21 other items that were part of that, that all of that was
22 substantial circumstantial evidence which supported that
23 occurred as a single and a continuous sequence of events so
24 that's the way I read the Douglas case, but I certainly will note
25 your exception to those rulings and will allow you to

DW - J. TURNER - DIRECT

1 cross-examine Officer Turner regarding that.

2 Is there anything further from the State? You rest; is
3 that correct?

4 MR. JACKSON: Yes, that's correct, Your Honor.

5 THE COURT: Do you want to proceed with Officer Turner?

6 MR. CLARK: Yes, sir, Your Honor, before we present our
7 mitigation case.

8 THE COURT: Sure. Is Officer Turner present? All
9 right. Investigator Turner, I just remind you, sir, you're still
10 under oath, okay.

11 THE WITNESS: Yes, sir.

12 MR. CLARK: Thank you, Your Honor. May it please the
13 Court.

14 DIRECT EXAMINATION

15 BY MR. CLARK:

16 Q Mr. Turner, I've been provided phone records for Exhibit
17 Number 40, State's Exhibit 40, Mr. Tietjen's cell phone.

18 Do you know who subpoenaed these records?

19 A I believe most likely sergeant, I mean, correction, David
20 Florence.

21 Q All right. Do you have a copy of the subpoena?

22 A No, sir.

23 Q State have a copy of the subpoena?

24 A I don't have a copy in my file. The State has a copy.

25 Q All right.

DW - J. TURNER - DIRECT

1 MR. CLARK: Your Honor, I was provided a copy of the
2 subpoena on Friday, if I can make this part of the record as
3 well.

4 THE COURT: All right. Mark that as a Defense Exhibit.
5 (WHEREUPON, Defendant Exhibit No. 2 was marked for identification
6 only.)

7 BY MR. CLARK:

8 Q Mr. Turner, I've been provided a subpoena issued to
9 Cingular Wireless dated October 28th, 2004. I'm going to
10 show it to you. Is that the subpoena that was issued in
11 this case?

12 A That was issued October 28th, 2004. We talking about what
13 happened on October the 12th of 2004.

14 Q I understand, but the subpoena obviously, obviously had to
15 be issued after what happened October 12th, right? I'm
16 just talking about the date the subpoena was issued.

17 A I don't know anything about those. I thought you were
18 talking about these phone records.

19 Q Yeah. What I'm saying is, those records had to be obtained
20 through subpoena. Do you know how they were obtained?

21 A No, sir, I don't know how they were obtained. All I can
22 tell you they were faxed to us on October 12th, 2004.

23 Q So they were faxed to you on October 12th, 2004?

24 A Yes, sir, at the top of paper it says that.

25 Q All right. And so these records were in the State's

DW - J. TURNER - DIRECT

1 possession since October 12th, 2004; is that right?

2 A Yes, sir.

3 Q All right. And isn't it true that Mr. Bryant in his
4 statement indicated that he made two phone calls that
5 morning about his truck? Isn't that true?

6 A I believe he did later on, several days later.

7 Q All right. And isn't it true that these two phone calls
8 are in the same time frame that he said he made those calls
9 on Mr. Tietjen's phone?

10 A Yes, sir.

11 Q And in his statement Mr. Bryant said that he was calling to
12 get assistance for his truck, right?

13 A I believe that's what he said.

14 Q And that's the purpose that he went to Mr. Tietjen's
15 residence. Isn't that what he said?

16 A In his later statement that's what he said.

17 Q All right.

18 A That wasn't his first statement though.

19 Q All right.

20 A He don't say nothing about making that phone call on that
21 first statement.

22 Q But he did -- he did tell you that there were two calls
23 that were made?

24 A Yes, sir. After he tells us where the phone was at he
25 tells us he made the two phone calls on the phone which I

DW - J. TURNER - DIRECT

1 believe was on the 15th.

2 Q Okay. On the 15th is when he told you that, right?

3 A Yes, sir, that statement.

4 Q Right.

5 A In that statement. It's not in the first two statements he
6 gave on the 13th and 14th.

7 Q All right. He told you he made those calls on the 11th,
8 right?

9 A I believe so.

10 Q All right. And isn't it true that he also said he went to
11 that residence between 9 a.m. and 12 p.m., right?

12 A I believe his statement says that.

13 Q All right. And there are two -- one call at 10:57 a.m. and
14 11:01 a.m.; isn't that true?

15 A Say that again.

16 Q There are two calls on that phone that morning, one at
17 10:57 and one at 11:01.

18 A Yes, sir.

19 Q And that's the same time period that he said he made these
20 calls; isn't that true?

21 A I believe that's what he says in his statement.

22 Q All right, thank you, sir. That's all I have.

23 THE COURT: Anything from the State?

24 MR. JACKSON: No, sir.

25 THE COURT: Thank you, sir you may step down.

DW - G. CREECH - DIRECT

1 MR. CLARK: Your Honor, that's all. I just made a
2 motion earlier and the Court noted. That's all we have.

3 THE COURT: All right, sir.

4 MR. CLARK: Thank you.

5 THE COURT: Are you ready to proceed with Defense?

6 MR. HOWLE: Yes, Your Honor.

7 THE COURT: All right.

8 MR. HOWLE: Your Honor, we call Gina Creech as our
9 first witness.

10 THE COURT: Ms. Creech, if you'd come around please.

11 THE DEPUTY CLERK OF COURT: Place your left hand on the
12 Bible, raise your right hand. State your name please.

13 THE WITNESS: Gina Creech.

14 WHEREUPON,

15 GINA CREECH,

16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: State your name, spell your
19 last name.

20 THE WITNESS: Gina Creech, C-R-E-E-C-H.

21 DIRECT EXAMINATION

22 BY MR. HOWLE:

23 Q Ms. Creech, where do you live?

24 A Florence.

25 Q And what do presently do?

DW - G. CREECH - DIRECT

1 A I'm currently a special agent with the State Law
2 Enforcement Division.

3 Q Okay. What were you doing in 2003, 2004?

4 A I was a probation agent with the State.

5 Q Okay. How long were you actually here in Sumter as a
6 probation agent?

7 A Between five and six years.

8 Q Okay. So in 2004 you were supervising probationer here in
9 Sumter, Sumter County?

10 A Yes, sir.

11 Q Did you supervise a probation of Stephen Corey Bryant?

12 A I did.

13 Q Ms. Creech, were you interviewed by Special Agent Mark
14 Creech in October of 2004 about Steven?

15 A I was.

16 Q Same name as Mark Creech. Is he any kin to you?

17 A No, he's not.

18 Q Ms. Creech, let me show you this memorandum of the
19 interview that Agent Creech conducted, and if you'll just
20 look at it and tell me if that accurately reflects what you
21 told him at that interview.

22 A Yes, sir.

23 Q Okay. And when did you actually start supervising Steven?

24 A Of course, according to this -- give me just a second. He
25 was transferred from Kershaw County to Sumter County in

DW - G. CREECH - DIRECT

1 June of 2003.

2 Q Okay. Now you're referring -- let me just ask you. When,
3 you were being interviewed were you here in your office in
4 Sumter?

5 A I was in the office in front of all the records that we had
6 on what ---

7 Q So you had access to all the records as you were being
8 asked by Mr. Creech in regard to the questions?

9 A Yes, sir.

10 Q Did Steven ever come and ask you for any kind of help with
11 personal matters?

12 A He did. He came into my office in August of 2004 and told
13 me he needed to discuss with me the potential of me helping
14 him get some counseling; that he had been unable to sleep
15 due to some problems as a child.

16 Q Okay. Did you do anything to try and help him find some
17 help?

18 A I discussed with him that I could either refer him to get
19 counseling and that would be a condition of his probation.
20 He then told me that he didn't want it to be a condition of
21 his probation so I gave him the name of a few places to go
22 and one of those was Healthy Minds.

23 Q Did you receive a follow-up call from anyone at Healthy
24 Minds?

25 A I did. Healthy Minds called me later that day when he

DW - G. CREECH - DIRECT

1 reported to them and said that it was their understanding
2 that the probation office was going to be paying for his
3 counseling and I told them that that was not true.

4 Q Okay. So without question, once you discussed this with
5 Stephen, called Healthy Minds, he did in fact go to Healthy
6 Minds to get stop help.

7 A Under my assumption he was there because of course they did
8 call in reference to him.

9 Q And so we're only going to treat him if somebody else pays
10 it, and they were calling you thinking probation/parole was
11 going to pay for it?

12 A Correct.

13 Q Okay. After that date did he ever come back to your
14 office?

15 A Give me just a second to look over that. It has been four
16 years and I haven't supervised him since then. He did come
17 back in on September 1st.

18 Q Okay. Did he make reference to having received any kind of
19 help?

20 A He did mention at that time that he was getting -- he was
21 going to counseling and that he had been sent to YWCA.

22 Q Okay. Do you know whether Healthy Minds had sent him
23 there?

24 A I do not know.

25 Q Do you know if anybody was paying for him to go to --

DW - G. CREECH - DIRECT

1 A I do not know.

2 Q ---the other place? Okay. Did he call you again after
3 that?

4 A He did September 30th and he reported to me had been
5 attacked as walking to the local store near his home and he
6 was just reporting law enforcement contact to me.

7 Q Okay. When was his next scheduled appointment to come see
8 you as his probation officer?

9 A October 6th.

10 Q Did he show up for that?

11 A No.

12 Q Now you had been supervising him for how long a period of
13 time?

14 A For approximately a year at that time, a little over a
15 year, year-and-a-half.

16 Q Okay. During the time that you were supervising him how
17 was he as a probationer, how was his conduct, how was his
18 coming when he was supposed to, meeting the requirements
19 that you put on him?

20 A To the best that I can remember he reported when he was
21 supposed to report. If he ever fell behind on moneys and I
22 called him he would come in and make a payment. Personally
23 as a probationer as far as reporting and paying on his
24 supervision fees I have no problems with him.

25 Q Okay. Did you ever have any trouble from him at any time

DW - G. CREECH - DIRECT

1 that he was under your supervision?

2 A Not as far as anything as far as reporting or paying money.

3 He did not act out of the ordinary. When I had conducted
4 home visits I saw him at his home on one occasion.

5 Q Always polite when he came in?

6 A Very polite.

7 Q It was only in August was the first time he mentioned to
8 you that he had some kind of problems he couldn't handle
9 and needed help?

10 A Yes. And that was not a scheduled appointment. He called
11 and asked that he see me that day.

12 Q So that wasn't just a scheduled appointment. He called you
13 special to say I've really got something I need to talk to
14 you about?

15 A Yes.

16 Q Okay.

17 MR. HOWELL: Your Honor, I just move -- the memorandum
18 of interview by Mark Creech we received in discovery. I just
19 move it be introduced into evidence as one of our exhibits.

20 MR. JACKSON: Your Honor, I object to the introduction
21 of the document. She's testified to what is her personal
22 knowledge contained in the document. Anything outside of that
23 would be Hearsay on behalf of Mr. Creech and also cumulative.

24 MR. HOWELL: Your Honor, all of the information
25 basically referring to came directly off the records that she was

DW - G. CREECH - CROSS

1 sitting there in her office getting. And she is indicating that,
2 you know, this was part of an interview conducted by SLED. It's
3 his report based on the answers that were given.

4 THE COURT: I'll allow it.

5 MR. HOWLE: Thank you, Your Honor.

6 (WHEREUPON, Defendant's Exhibit No. 3 was marked for
7 identification and received into evidence.)

8 MR. HOWELL: Your Honor, I have no other questions for
9 Ms. Creech.

10 THE COURT: Mr. Jackson.

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

12 CROSS - EXAMINATION

13 BY MR. JACKSON:

14 Q Ms. Creech, do you have the records with you that you're
15 referring to?

16 A No, I do not.

17 Q You're somewhat familiar with Mr. Bryant's participation in
18 probation not only during your particular time which I
19 believe was June of '03 until October of '04 but also the
20 six months prior before you took over him?

21 A I cannot say that I remember. That's been over four years
22 and we always had the records right in front of us when we
23 spoke with a probationer.

24 Q All right. Let me hand you some records. Appointment
25 ledger reports, y'all had that, right?

DW - G. CREECH - CROSS

1 A Yes. That came off of the computer.

2 Q This come off of y'all's computer?

3 A Right.

4 Q And this would have come off August 19th of 2008; is that
5 correct? These would be the records from the computer when
6 he ---

7 A Correct.

8 Q ---was under you?

9 MR. HOWLE: Your Honor, if I may, he's referring to
10 records that were put there apparently dated wise long after she
11 was no longer in Sumter County.

12 MR. JACKSON: Your Honor, I just referred to the date
13 the records were run.

14 MR. HOWLE: Are there any records there that are after
15 the date she was no longer a probation officer?

16 MR. JACKSON: He was in prison then. He wouldn't be --
17 he wasn't under her.

18 MR. HOWLE: I know when he was in prison. I'm just
19 asking -- did it stop, the records that and her talk about, are
20 any of them after her date when she was no longer there as
21 probation?

22 MR. JACKSON: No.

23 MR. HOWLE: Your Honor, I still don't know how she can
24 authenticate. The one she authenticated in that report she said
25 I was sitting there looking at my computer.

DW - G. CREECH - CROSS

1 THE COURT: Well, I'm going to let her look at these
2 and see if she can tell me that.

3 BY MR. JACKSON:

4 Q Look through this, Gina. Is this what comes from the
5 Department of Probation, what you would have been looking
6 at? And look and see if your notes are in back there when
7 you get to June of '03 up until '04 with your initials on
8 it.

9 A This does appear to be what comes off of the computer from
10 the probation office and there are my initials and badge
11 number on here.

12 Q And your notes from your meetings and interviews with
13 Stephen Corey Bryant?

14 A Mine as well as others that may have talked with him.

15 Q And those are the records of the Department of Probation;
16 are they not?

17 A Yes.

18 Q Whether it's you or someone else monitoring him?

19 A Yes.

20 Q Okay. Now ---

21 MR. HOWLE: Your Honor, I still think that's different
22 from the one she was actually looking at as she was talking to
23 the agent. Those are the ones we referred to when we asked her
24 questions. He's going to something now he says, well, may be
25 only record may not be that did the supervising but I want you to

DW - G. CREECH - CROSS

1 testify to.

2 THE COURT: These are the records of the Department of
3 Probation and Parole. She's identified those as being the
4 Department's records.

5 MR. HOWLE: So are you going to let her testify simply
6 because they're records from Probation and Parole?

7 THE COURT: What's your objection?

8 MR. HOWLE: She's not the keeper of the records.

9 THE COURT: I'm going to let him continue this line of
10 questioning. He hasn't moved them into evidence at this point
11 and I'll entertain your objections as they come up regarding what
12 she's testifying to.

13 BY MR. JACKSON:

14 Q Ms. Creech, you would have been familiar with Stephen
15 Bryant when he became your probationee, correct?

16 A Correct.

17 Q Part of your job would be to look back and see what he'd
18 done in the past because he transferred to you from Kershaw
19 County; didn't he?

20 A Yes.

21 Q And prior to being on the probation in Kershaw County he
22 was in the Department of Corrections; wasn't he?

23 A I honestly cannot say that I remember him being in the
24 Department of Corrections. I can look back in my notes and
25 see. All I know is when they get transferred to us we just

DW - G. CREECH - CROSS

1 have a record of what they are on probation for.

2 Q And you got that record?

3 A Right.

4 Q And that's what this is; isn't it?

5 A This is part of the record. There is also a folder.

6 Q There'd be a folder?

7 A Right, with ---

8 Q But you got that so you would know ---

9 A Right.

10 Q ---what the prior agent had done in relation to Stephen
11 Corey Bryant; wouldn't you?

12 A Correct.

13 Q Now prior agent was Mr. Farmer of Kershaw County. Did you
14 know him?

15 A I knew of him.

16 Q Jimmy Farmer?

17 A I knew of him at the time.

18 Q If you would look through those records, January 22 of '03,
19 that's his first meeting with Mr. Bryant. Did he give him
20 a drug test?

21 A He did.

22 Q It was negative for all; wasn't it?

23 A It was negative.

24 Q Now was he reporting monthly, once every two months, how
25 was he reporting?

DW - G. CREECH - CROSS

1 A It appears here that he was reporting monthly at that time.

2 Q All right. The next time he came would have been February
3 of '03; is that correct?

4 A Correct.

5 MR. HOWELL: Your Honor, I'd like to note that I
6 realize you haven't ruled because they haven't been introduced
7 into evidence but my objection to run so I don't stand up after
8 every question he's asking.

9 THE COURT: All right. So your objection is that she
10 ---

11 MR. HOWELL: She's not the keeper of the record. I
12 don't know if they're hearsay. She's just saying that it looks
13 like Mr. Farmer said so and so, whatever. That wasn't the person
14 who was doing the interview, wasn't the person with probation at
15 that time.

16 THE COURT: Solicitor, do you have any records
17 custodian that can verify the authenticity of these records?

18 MR. JACKSON: Yes, sir, Your Honor, I think can bring
19 Ms. Holland right back over here.

20 THE COURT: All right. We might need to do that.

21 MR. JACKSON: I believe Ms. Creech has authenticated
22 them herself. Maybe I should -- I can explore her a little bit
23 more. She's advised the Court that these are -- this is what she
24 would have gotten to review for taking over Stephen Corey Bryant
25 so that she can look back and see what the guy before her had.

DW - G. CREECH - CROSS

1 done. These are the records that she was given. I mean, and the
2 next person will come up and say the same thing.

3 THE COURT: And your objection still they don't -- they
4 haven't authenticated these records.

5 MR. HOWELL: Yes, sir. Are you going to let a record
6 come in without a record keeper putting them up? And that's
7 going to run through the rest of the trial I have no problem with
8 that.

9 THE COURT: You might want to get the record keeper
10 then to authenticate it.

11 MR. JACKSON: All right, sir. We'll get right on that,
12 Your Honor.

13 THE COURT: And I'll allow you to ---

14 MR. JACKSON: Should I go ahead and then bring...

15 THE COURT: You can either do that or you can reserve
16 the right to re-call Ms. Creech to complete your examination.

17 MR. JACKSON: Your Honor, I believe we can -- I believe
18 we can get somebody right across -- they're all the way across
19 the street. If we want to take five minutes I'll get her up, ask
20 her, and then resume with Ms. Creech.

21 THE COURT: All right, we'll just take a short break
22 and allow you to do that. All right, sir.

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

24 THE COURT: All right, Solicitor, I'll allow you to
25 establish the record for those records.

DW - S. HOLLAND - DIRECT

1 MR. JACKSON: Thank you, Your Honor. The State would
2 call Sharon Holland.

3 THE DEPUTY CLERK OF COURT: Ms. Holland, would you
4 come around please. And I remind you you're still under oath.

5 THE COURT: All right, sir.

6 DIRECT EXAMINATION

7 BY MR. JACKSON:

8 Q Ms. Holland, let me hand you up something entitled
9 appointment ledger report and ask you if you can identify
10 it for the Court.

11 A Yes, sir. This is our schedule entries from when we have
12 contact with our offenders.

13 Q All right. And is that a record of a probation, someone
14 who is on probation? That's a record of their monthly
15 visits and their performances and where they've failed and
16 where they have done well?

17 A Yes, sir.

18 Q And that's kept in normal course of business?

19 A Yes.

20 Q That's a duty of a probation agent to fill that out each
21 time they have a meeting or contact by the person that they
22 are supervising on probation?

23 A Yes.

24 Q And these particular records they have to do with Stephen
25 Corey Bryant?

DW - S. HOLLAND - DIRECT

1 A Yes.

2 Q And when do they begin?

3 A January 22nd, 2003.

4 Q And I believe that's when you testified before that was the
5 first time he had reported since he had gotten out of
6 prison on December the 22nd of 2002?

7 A That's correct.

8 Q So there shouldn't be any records between January 20th,
9 1999 and December 22nd, 2002 because he was in the
10 Department of Corrections then?

11 A That's correct.

12 Q And the only other record that might be appertinent to this
13 Court was the probation violation citation and order which
14 would be State's Exhibit 73 which is already in evidence.
15 That would have been when his probation was revoked on
16 January 28th of 1999?

17 A Yes, that's correct.

18 Q Okay. And Ms. Creech, Ms. Gina Creech, she was a former
19 agent with your office?

20 A Yes.

21 Q And if she were to sit down at the computer today and pull
22 up the records to refer to, these are the records that she
23 would pull up?

24 A That's correct.

25 Q And she would be knowledgeable about what they mean and how

DW - S. HOLLAND - DIRECT

1 to fill it in and what the comments or abbreviations refer
2 to?

3 A Yes.

4 Q And the notes for I believe six months from January of '03
5 to June of '03 Stephen Corey Bryant was under the Kershaw
6 County office?

7 A That's correct.

8 Q And then he transferred to the Sumter County Office based
9 on these records?

10 A Yes, sir.

11 Q And that's when Ms. Creech was assigned to him?

12 A That's correct.

13 Q One of her tasks would be to review the six months prior so
14 that she would have an idea of where Stephen Corey Bryant
15 was and what he was doing and how he was doing so that she
16 would know how to supervise him?

17 A That's correct.

18 Q And those are the records that you use for those purposes?

19 A Yes, sir.

20 Q All right. If you'd answer any questions Mr. Howle has
21 about the documents.

22 CROSS - EXAMINATION

23 BY MR. HOWLE:

24 Q Ms. Holland, were you here in 2004?

25 A I came back in January of 2004, yes.

DW - S. HOLLAND - CROSS

1 Q Okay. So you weren't here when we're talking when
2 Ms. Creech testified as to him coming in August or
3 September, October, or whatever of 2004, were you here?

4 A August of 2004, yes.

5 Q You were supervisor at that time?

6 A Yes, I was.

7 Q And what were you supervising?

8 A I was actually supervising the agents themselves. I'm the
9 agent in charge of the office. So the supervis-- the
10 agents who supervise the cases were under my supervision.

11 Q The records that you just referred to, did you pull those
12 up?

13 A Yes, sir, I did.

14 Q You pulled those up that we're looking at right now?

15 A Yes, sir.

16 Q And provided those?

17 A Yes, sir.

18 Q How do you verify that just like from another county or
19 something like that, that they're valid records?

20 A How do I verify?

21 Q Yes, ma'am.

22 A They're on our system and they're initialized by whoever.
23 took the report. Is that what you -- I'm not sure. They're on
24 our system that we only have access to.

25 Q Okay. But when you pull up something from a probation

DW - G. CREECH - CROSS

1 officer in another county that was doing something before
2 you were even here you're just assuming what's there is
3 correct?

4 A Yes, that's our rule. It's documented as what happened.
5 If there's a question of something we can contact the agent
6 in that county office who actually entered the record.

7 Q And you never supervised Stephen Bryant?

8 A No, sir.

9 Q I don't have any further questions.

10 THE COURT: All right.

11 MR. JACKSON: Thank you, Ms. Holland.

12 THE COURT: Thank you, ma'am, you may step down.

13 Ms. Creech, if you'd come back around please.

14 BY MR. JACKSON:

15 Q Ms. Creech, it's been testified to as a court exhibit
16 Mr. Bryant would have been on probation May the 20th, 1998,
17 January the 28th of 1999. That would be State's
18 Exhibit 82. And on January 28th, 1999 his probation would
19 have been revoked. You're familiar with probation
20 revocation hearings?

21 A Yes, sir.

22 Q And the orders and the citations that go with them that the
23 judge signs and the probation agent serves?

24 A Yes, sir.

25 Q State's Exhibit 73 is the probation order and the citation

DW - G. CREECH - CROSS

1 that was served on Stephen Corey Bryant when his probation
2 was revoked on January 28th of 1999. Tell the judge what
3 two reasons -- well, let me ask you this, there are
4 conditions they have to perform under on probation?

5 A Correct.

6 Q And those conditions would be reporting as they are
7 supposed to, not changing their address without notifying
8 the agent, not using controlled substances, you know,
9 marijuana, mushrooms, LSD, any of that, crystal meth,
10 crack, any of that stuff, not purchasing or possessing
11 firearms. They should work diligently at a lawful
12 occupation and notify their agent if they're unemployed.
13 They're not to violate any of the federal, state, or local
14 law, and they're to contact you if they do. They're
15 supposed to pay supervision fees and not leave the state
16 without permission from the agent. Obey conditions of the
17 supervision such as paying fines, restitution, or other
18 payments, and follow the advice and instruction of the
19 agent. Those are the basic ten?

20 A Correct.

21 Q Out of those ten what are the only two he was violated to
22 by the Court on the January 28th, 1999?

23 A According to this citation it says, failed to refrain from
24 violation of state law. He was sentenced in Kershaw County
25 court of general sessions on 1/28/99 for burglary second

DW - G. CREECH - CROSS

1 nonviolent and failed follow the advice and instructions of
2 his supervising agent.

3 Q He was not violated for use of controlled substance or
4 consuming alcoholic beverages, was he?

5 A He was not according to this.

6 Q All right. Now also on State's Exhibit 82 he went to
7 prison until December 22nd of 2002 at which time he was
8 placed back under the supervision of South Carolina
9 Department of Probation, Parole and Pardon Services and now
10 I'm going to hand you the records back that we referred to.
11 These records show his first visit would have been on
12 January 22nd of '03; is that correct?

13 A Correct.

14 Q In Kershaw County?

15 A Yes, sir.

16 Q And was he drug tested within 30, 31 days of being out of
17 the prison?

18 A He was drug tested on January 22nd.

19 Q What was the result?

20 A According to this it was negative.

21 Q All right. And he was to come back when?

22 A February 27th of '03.

23 Q And he reported February 27th of '03; didn't he?

24 A Yes.

25 Q All right. Paying his money like he was supposed to?

DW - G. CREECH - CROSS

- 1 A Yes.
- 2 Q Had a job then already?
- 3 A Yes, according to this.
- 4 Q Not tested for drugs.
- 5 A Not tested.
- 6 Q And told to come -- no problems reporting, told to come
7 back when?
- 8 A 3/27/03.
- 9 Q And did he come back?
- 10 A Yes.
- 11 Q And compliance with special conditions good?
- 12 A Yes.
- 13 Q Moneys were okay. Drug tested; wasn't he?
- 14 A Yes.
- 15 Q What was the result?
- 16 A Negative.
- 17 Q Negative, no problems reporting. Which was he supposed to
18 come back again?
- 19 A 4/24/03.
- 20 Q And did he come back?
- 21 A Yes.
- 22 Q Compliance with special conditions good, status of moneys
23 owed good, no problems reporting. Is that right?
- 24 A According to this, yes, sir.
- 25 Q Okay. Now what happened on May the 6th of 2003?

DW - G. CREECH - CROSS

- 1 A This agent reports that mother states offender is hanging
2 out and staying overnight with 38 year old woman he met on
3 the internet from Sumter. Her name is Julie Justice.
4 Mother does not want offender to know she has told us about
5 this. She does not like someone dating that much older.
- 6 Q Would you agree with me that's a mother calling because
7 she's concerned?
- 8 A You can assume that, yes, sir.
- 9 Q He didn't report that to the agent, she did, is that
10 correct?
- 11 A According to that phone call came from the mother.
- 12 Q All right. May 15th, 2003, is that his next report?
- 13 A Yes, sir.
- 14 Q All right. What does he report about his employment that
15 day?
- 16 A He was fired from work because they claim he was trying to
17 make false claim on workers comp.
- 18 Q So he was fired from the job he'd gotten in January or
19 February?
- 20 A Yes, sir.
- 21 Q Compliance with special conditions good, money good, drug
22 tested, wasn't he?
- 23 A State's here he was.
- 24 Q And what was the result?
- 25 A States here negative.

DW - G. CREECH - CROSS

- 1 Q Negative. For all?
- 2 A For all.
- 3 Q And the next time he was reporting is what?
- 4 A 6/19/03.
- 5 Q And 6/19/03 did he report?
- 6 A He did.
- 7 Q And still unemployed?
- 8 A Unemployed.
- 9 Q And other than that everything is fine?
- 10 A Yes. It states that he moved to Sumter.
- 11 Q And on 6/19 of '03 is when you would have taken over him in
- 12 Sumter. He would have transferred to you and you were his
- 13 agent?
- 14 A No, sir. He did not actually come to us until we actually
- 15 get the file in our office and he's given an appointment to
- 16 report.
- 17 Q Okay.
- 18 A Which he would have been reporting to our office on
- 19 6/25/03.
- 20 Q So June 25th of '03 is when he reported to you?
- 21 A Correct.
- 22 Q And that's when you had him. All right, first visit in
- 23 June. Well, if you look at -- look at June through
- 24 December for me. Look at June through December. Just flip
- 25 through it. For the most part he was doing fine June

DW - G. CREECH - CROSS

- 1 through December; wasn't he?
- 2 A Correct, according to this.
- 3 Q You had him reporting monthly just like the guy in Kershaw
- 4 did?
- 5 A Correct.
- 6 Q He's up on his money?
- 7 A According to this.
- 8 Q Paying supervision fees and those type things?
- 9 A Yes, sir.
- 10 Q Now he didn't get a job until October so from what, May
- 11 until October he was unemployed, but in October he got a
- 12 job with who?
- 13 A Varner Construction.
- 14 Q That was here in Sumter?
- 15 A Yes, sir.
- 16 Q And whatever money he had out at the time he made up after
- 17 he got employed? Is that what you got noted in November?
- 18 A When he came in October he was a little bit behind. There
- 19 is also records on a separate -- it's in our system but it
- 20 tells of all the payments that's not in here as to when he
- 21 actually made payments.
- 22 Q But when you look at November and December I think you'll
- 23 see comments that he had paid up; is that right?
- 24 A Yes.
- 25 Q At least in November 'cause ---

DW - G. CREECH - CROSS

1 A Correct. November he was current.

2 Q He was current.

3 A Right.

4 Q And in fact, he was doing so good that you decided in
5 January to only have him to report every other month
6 instead of monthly; is that correct?

7 A Correct. When I did an assessment on him he was at low
8 supervision but I still had him come in every month. Once
9 he got a job and got back on his feet we had him coming in
10 every other month.

11 Q Okay. Now Gina, the sentence he was serving a prior
12 Court's Exhibit 72 will show was seven years suspended on
13 five years in prison and five years probation and probation
14 as we determined started on December 22nd, 2002. What
15 would the special condition of probation PTUP after two
16 years mean?

17 A Probation terminated upon payment. If they pay all the
18 money and meet all requirements after two years his
19 probation could end.

20 Q Okay. So if he did what he was supposed to do and pay all
21 the money he could be out on December 22nd of 2004?

22 A Correct.

23 Q And now we have completed a full year of probation and he's
24 doing fine?

25 A Correct.

DW - G. CREECH - CROSS

1 Q And so you set him back to once every two months instead of
2 once a month?

3 A Correct.

4 Q Now if you look January through June, if you take a look
5 January through June, that's January through June of '04?

6 A Uh-huh.

7 Q In March he'd lost his job at Varner Construction; is that
8 correct?

9 A Correct.

10 Q In May picked up a job with Barth Construction; is that
11 correct?

12 A Correct.

13 Q And shortly after that lost that job, picked up a new job
14 in July with Catalyst Construction; is that correct?

15 A Correct.

16 Q And then was fired from that job?

17 A Correct, in July.

18 Q In July. So in that six months period he had lost and
19 gained three different jobs?

20 A Correct.

21 Q Money was backed up a little bit; wasn't it?

22 A It was. We did restructure him.

23 Q You did restructure him. So you had to bring him in;
24 didn't you?

25 A We did bring him in and restructured his money.

DW - G. CREECH - CROSS

1 Q And you restructured his money and you had to counsel him
2 some. You didn't read him the right act, did you?

3 A No, sir, we just told him he was behind, needed to get
4 caught up. He was only two payments behind.

5 Q Okay. But you turned around and changed him after
6 rewarding him rather than letting him have once every two,
7 months you began in August with you got to come in once a
8 month again.

9 A I had him -- had him come in in July and then again in
10 September.

11 Q And would have informed him I believe in August starting he
12 would have been coming in once every month. He was back to
13 monthly reporting. You'd like him to PTUP; wouldn't you?

14 A I didn't have him come in in August. His next report date
15 when he came in on 7/2 -- 7/7/04 his next report was on
16 September 1st.

17 Q Right. If you will review that and maybe that will help
18 you explain.

19 A In the case summary that I did it did say that from August
20 '04 to presently which was October 14th I had him reporting
21 monthly.

22 Q All right. So you had to exercise some of your probation
23 authority over him to try to get him back in line?

24 A Correct.

25 Q Now the job that he had with Catalyst, the boss would have

DW - G. CREECH - CROSS

1 been an Eric Jayroe?

2 A Correct.

3 Q On July 22nd Mr. Jayroe took out a restraining order or
4 advised you that he had had to take out a restraining order
5 on Stephen Corey Bryant; didn't he?

6 A He advised me of that. I never saw the paperwork stating
7 that, but he said he was taking out a restraining order.

8 Q Okay. Would you like for him to PTUP it four months? Is
9 that an incentive or goal that you'd like for them to
10 achieve?

11 A I mean, as far as a probation officer, you know, it doesn't
12 really matter to us. We keep supervising them as long as
13 they are on. That is just an incentive the judge puts on
14 them that they can get off of probation early.

15 Q Okay.

16 A It is a rule of the probation department that they don't
17 like us to have so many arrearage on our reports showing
18 that we have an offender that is so far behind on money.

19 Q Okay. Going into September I believe you testified with
20 Mr. Howell that he reported in September as he was supposed
21 to? That would have been September 1?

22 A Yes, sir.

23 Q At that time still unemployed? And into October he was
24 unemployed; is that correct?

25 A Correct.

DW - G. CREECH - CROSS

1 Q And did he -- tell us about the report that he gave on
2 September the 30th.

3 A That was actually a telephone call. He called me on
4 September 30th and stated that he wanted to report law
5 enforcement contact. I put that he stated that he was
6 attacked while walking down Eagle Road and was cut in the
7 face around ten p.m. on 9/29.04. He stated that law
8 enforcement spotted him walking and bleeding and stopped to
9 help him. Offender could not give any other information to
10 the agent. He was asked who the law enforcement that
11 assisted him was and he could not give the name. He stated
12 there were about 12 there. Before he hung up the phone he
13 stated to Agent Creech they better do something or I will.

14 Q They better do something or I will. And in that same time
15 period is when he began committing all the crimes that he
16 later pled guilty to. He never called you, Gina, and
17 reported any of those, did he?

18 A No, sir, I never heard -- I did not hear from him again
19 until I found out by the news that he was arrested.

20 Q And the counseling that you told us about, where do you see
21 that in the August and September notes?

22 A I possibly did not put that in there because that was not
23 dealing with probation. I did put it in my case summary
24 that he had come in here. Well, I thought I did. Because
25 that was not something to do with probation. That was just

DW - G. CREECH - CROSS

1 something he came and he asked me where could he go get
2 some counseling.

3 Q And you told him.

4 A Healthy Minds.

5 Q And you asked him would you like me to make it a condition
6 of probation. Why did you do that?

7 A I did give him a choice as of do you want me to make it a
8 condition and I told him if I made a referral to Healthy
9 Minds it would be a condition of probation. But because it
10 was not something that the Court put on him that they told
11 him he had to go for counseling, for anything other than
12 probation related I didn't feel that it needed to be a
13 condition.

14 Q And then you offered to make it a condition, he said no,
15 didn't he?

16 A He said I would rather not in case I cannot go. Because
17 what would have happened if for some reason he could not go
18 such as paying or something we would have had to violate
19 him not going for something he was asking for help to go
20 to.

21 Q Okay. So he had to want it bad enough to do it himself.

22 A Correct.

23 Q And you don't know if he did it or not, do you?

24 Regardless ---

25 A The only thing I have is that they did call him so

DW - G. CREECH - REDIRECT

1 obviously he had to go there for them to call me.

2 Q But you don't know if he ever went back and got any
3 counseling from anybody?

4 A No, I have not talked to the YWCA.

5 Q Ms. Creech, he never asked you for any drug counseling, did
6 he?

7 A No, no, sir.

8 Q Never gave you any indication he needed drug counseling and
9 you never saw any indication that he needed drug
10 counseling, did you?

11 A No.

12 Q Ms. Creech, that's all the questions I have for you.
13 Thanks.

14 REDIRECT EXAMINATION

15 BY MR. HOWLE:

16 Q Ms. Creech, in looking back over the various records here
17 Kershaw, whatever, Stephen always reported?

18 A Pretty much. I don't have those records anymore.

19 Q Okay.

20 MR. HOWELL: No more or less authentic now, I would
21 think, Your Honor, than they were five minutes ago.

22 BY MR. HOWELL:

23 Q Reporting though, he reported?

24 A He pretty much reported when I asked him to report. He may
25 have missed one or two here or there.

DW - G. CREECH - REDIRECT

1 Q Okay. And this PTUP that the solicitor asked you about,
2 one problem you did notice and pretty much reflected in the
3 records, he changed jobs?

4 A Yes, sir.

5 Q Money was a problem, and that's why I think you said he got
6 behind a couple of months, and that's when you ---

7 A To start off with money wasn't a problem. It was later on
8 that money became a problem.

9 Q Okay.

10 A And that's when I violated him and restructured,
11 restructured his money in June of '04.

12 Q Well, Ms. Creech, this period of time that you're
13 supervising him he's pretty much reporting regularly, he's
14 paying some money. I think the last drug test that he had
15 was -- may have been in '03?

16 A Yes, sir.

17 Q So there was no drug testing on anything. Everything was
18 going along fine, and then in August that's when some
19 problems started happening. That's when you, I think you
20 said you were going to change the probation where he was
21 coming in once a month ---

22 A Once.

23 Q ---rather than twice a month?

24 A Correct.

25 Q And when he came in to see you in September I think you

DW - G. CREECH - REDIRECT

1 said that this was unlike how he'd been behaving before. I
2 mean he actually asked for help. He never asked for that
3 before.

4 A No, sir.

5 Q Okay. So in August/September time frame there's definitely
6 something changing or going on that's affecting him?

7 A Correct.

8 Q Did you actually -- you say he never told you about any
9 problems whatever. Did you see any change his personality
10 when he was in there?

11 A Just that one day that he came in. The only thing he said
12 to me he needed some counseling, he could not sleep. He
13 wrote something down on a piece of paper, showed it to me,
14 would not let me hold the piece of paper. I was not able
15 to completely read what he put on there. I asked him did
16 he want me to throw it away. He said, no. He tore it up
17 and put it in his pocket. He would not even throw it in
18 our trash can.

19 Q And this was pretty much behavior unlike he never acted
20 before?

21 A Correct.

22 Q And you said you suggested that you make it a PTUP thing
23 and he didn't want to. Now if he had done that he still
24 would have had to pay to go to Healthy Minds, whoever you
25 sent him to?

DW - G. CREECH - REDIRECT

- 1 A Correct. I mean, if he was not on probation any longer he
2 would have to pay that himself.
- 3 Q So he was having money problems and he may well not want to
4 be on PTUP because, hey, if I have some more money problems
5 that's going to be automatic revocation right there.
- 6 A Well, the PTUP, he didn't have a choice of that. That was
7 just if he paid everything off he got off probation.
- 8 Q But what I'm saying is, if you had made the going to the
9 Healthy Minds ---
- 10 A A condition of probation.
- 11 Q ---a condition he couldn't have paid for it?
- 12 A Correct.
- 13 Q He couldn't have done it?
- 14 A Correct.
- 15 Q So that would have been a violation?
- 16 A Correct.
- 17 Q Okay. Are you aware of anything in his records that show
18 any violent crimes or crimes against individuals?
- 19 A Not according to this. I do not recall what his past
20 history was.
- 21 Q So from the beginning of his record as a juvenile right on
22 up until these particular offenses happened Probation and
23 Parole, anything, does not show any crimes against
24 individuals or violent crimes?
- 25 A I cannot answer that 'cause I don't ---

DW - G. CREECH - REDIRECT

1 Q Well, the records you've seen there's nothing.

2 A The records here do not tell what he was on before or his
3 past record.

4 Q Okay. Up for this year that you were doing him and
5 basically even some in the past up until we had these
6 problems in August and September, he reacted and handled
7 his supervision very well while he was on the probation;
8 did he not?

9 A Yes, sir. He was very courteous to everyone in the
10 probation office.

11 Q Okay. And he tried to do what he could. I mean, even when
12 he lost his job he went and found another one?

13 A Or either we referred him to somewhere, yes.

14 Q So he was -- and when he got behind his money he tried to
15 catch up and reported.

16 A Yes. To the best of my knowledge he paid money when he
17 could.

18 Q And you say even during this period of time early on
19 because there weren't drug tests after '03 he would pass
20 the drug tests?

21 A While ---

22 Q When they were off and on ---

23 A ---first up and down he passed the drug test, yes, sir.

24 Q Okay.

25 A We -- according to this there's no record that he was

DW - G. CREECH - RECROSS

1 actually tested under my supervision and there's various
2 reasons for that. He was not on for a offense that
3 requires drug testing.

4 Q Okay. But Stephen Corey Bryant that came and saw you in
5 September was different from the one you'd been
6 supervising?

7 A Yes.

8 Q Thank you.

9 MR. HOWELL: I don't have any further questions, Your
10 Honor.

RECROSS - EXAMINATION

12 BY MR. JACKSON:

13 Q Ms. Creech, just one question. When you test for drugs
14 what's the rule of thumb on how long marijuana be there?

15 A From what we're trained on marijuana stays in the system
16 for at least 30 days if not longer.

17 Q At least 30 days, sometimes up to 90?

18 A From what we've been trained on, yes, sir.

19 Q Thank you.

20 THE COURT: Thank you, Ma'am, you may step down.

21 MR. HOWLE: Your Honor, we call Shirley Freeman.

22 THE COURT: Ms. Freeman, if you will please come
23 around.

24 THE DEPUTY CLERK OF COURT: Place your left hand on the
25 Bible, raise your right hand. State your name please

DW - S. FREEMAN - DIRECT

1 THE WITNESS: Shirley Freeman.

2 WHEREUPON,

3 SHIRLEY FREEMAN,

4 having been duly sworn by the Deputy Clerk of Court,

5 testified as follows:

6 THE DEPUTY CLERK OF COURT: Have a seat up here please,

7 ma'am. State your full name, spell your last name for me please,

8 ma'am.

9 THE WITNESS: Shirley P. Freeman, F-R-E-E-M-A-N.

10 DIRECT EXAMINATION

11 BY MR. HOWLE:

12 Q Good morning, Ms. Freeman, how are you doing?

13 A Fine.

14 Q Okay. Ms. Freeman, where do you live?

15 A Cheraw.

16 Q And have you always lived there?

17 A On and off for the past fifty years.

18 Q Okay. Where else have you lived?

19 A Garden City Beach.

20 Q When you lived in Garden City was anyone else living with
21 you then?

22 A Yes, my late husband Floyd.

23 Q Floyd. Are you married now? I think you said he's your
24 late husband so.

25 A I'm widow.

DW - S. FREEMAN - DIRECT

- 1 Q Okay. Do you have any children?
- 2 A I have six children by my first marriage.
- 3 Q Okay. And who were you married to before you were married
- 4 to Floyd?
- 5 A William Edward Bryant.
- 6 Q Is he deceased?
- 7 A He's -- we're divorced and he's living.
- 8 Q Why did you divorce him?
- 9 A Pardon?
- 10 Q Why did you divorce him?
- 11 A He was running around on me and it was physical and mental
- 12 abuse.
- 13 Q Okay. Do you have any relation with him at all now?
- 14 A None at all.
- 15 Q How did he abuse you?
- 16 A Kicking, hitting, bruising, black eyes.
- 17 Q Okay. Was the abuse limited to you?
- 18 A No.
- 19 Q Whom did you see him abuse?
- 20 A The kids.
- 21 Q Okay. What exactly did you see there?
- 22 A He would hit them and there was a lot of mental abuse
- 23 because of the fussing going on in the house.
- 24 MR. JACKSON: Your Honor, I object at this point. If
- 25 she can lay some type of foundation also to particular incident

DW - S. FREEMAN - DIRECT

1 and who was there and what happened as opposed to just
2 generically.

3 MR. HOWLE: Well, Your Honor, I think she's saying that
4 this went over for a period of time until she had all she could
5 and she divorced him because of that.

6 MR. JACKSON: She didn't say that all, Your Honor.

7 MR. HOWLE: Well, she said she divorced him because of
8 the abuse.

9 THE COURT: Well, I mean, all right, she's being very
10 generic as far as abuse. Abuse covers a big wide range.

11 MR. HOWLE: Well, Your Honor, she specifically
12 stated ---

13 MR. JACKSON: Your Honor, I would ask from a relevant
14 standpoint would be abuse be whatever allegedly -- alleged abuse
15 there is -- be only that which may have been involving Stephen
16 Corey Bryant. Anything else is not relevant.

17 THE COURT: All right, I sustain that.

18 BY MR. HOWLE:

19 Q One of your children is the father of Stephen Corey Bryant?

20 A Yes, sir.

21 Q And who is that?

22 A Wayne Edward, Jr.

23 Q Okay. And he was living there in the house when your first
24 husband was there?

25 A Yes, sir.

DW - S. FREEMAN - DIRECT

- 1 Q Okay. Who is Stephen's mother?
- 2 A Kat. Her name is Kathlene but we call her Kat.
- 3 Q Okay. She and your son are still together as husband and
4 wife?
- 5 A Yes, sir.
- 6 Q Okay. What is your relationship to Corey?
- 7 A I'm his grandmother.
- 8 Q And that would make you his paternal grandmother?
- 9 A Yeah.
- 10 Q Okay. How would you describe Corey's relationship with his
11 parents?
- 12 A With his mother it was very cold. His dad cared but his
13 mother always put a stop to it.
- 14 Q Okay. And you call her Kat. Her name is actually?
- 15 A Kathlene.
- 16 Q Okay. Did Corey ever confide in any particular family
17 members when he had a problem of any kind?
- 18 A Yes, to my second husband Floyd.
- 19 Q Okay. Was there a time when Corey came to you to talk
20 about any problems that he was experiencing?
- 21 A Yes.
- 22 Q You know when that was?
- 23 A August the 19th, 2004.
- 24 Q Okay. Now Ms. Freeman, when you came up I noticed you had
25 something in your hand. What is that?

DW - S. FREEMAN - DIRECT

1 A Calendar.

2 Q And for what year?

3 A 2004.

4 Q All right. Ms. Freeman, do you use your calendar to kind
5 of keep your appointments and notes and anything that
6 happens?

7 A Everything, everything.

8 Q On August, if you will turn to August.

9 A Okay.

10 Q Do you have anything written there on the 9th?

11 A Corey came to talk to me and Terry.

12 Q All right. When did you write that on that calendar?

13 A When he came to talk to us.

14 Q So all the things that are written on that calendar ---

15 A Everything is current.

16 Q ---were written ---

17 A At the time it happened.

18 Q ---when it happened, not just recently put together?

19 A No. Huh-uh.

20 Q What did he talk to you about?

21 A About being physically abused, sexually abused.

22 Q And when you say that what exactly do you mean?

23 A Being molested by my, his grandfather, my ex-husband, his
24 mother's brother, his uncle, and a half brother, older half
25 brother.

DW - S. FREEMAN - DIRECT

- 1 Q Had he ever talked to you about any of this before?
- 2 A No, sir.
- 3 Q So in August this had just obviously come to a head or
4 something. He felt like he needed to talk to someone?
- 5 A Yes.
- 6 Q If your husband Floyd had been alive you think that's who
7 he would have gone to talk to?
- 8 A Yes.
- 9 Q How was he acting that day when he came and talked to you?
- 10 A Very nervous, upset, worried, shaking.
- 11 Q Was this conduct that you normally saw from him?
- 12 A No, no.
- 13 Q When you say he was shaking what exactly do you mean?
- 14 A His hands were shaking and he was hanging on to the glass
15 table top. And my glass table top is loose. If you lean
16 too far it leans up.
- 17 Q Okay. And had you ever seen him act like this before?
- 18 A No, sir. I've never seen anybody go to pieces.
- 19 Q Were you worried about him?
- 20 A Yes.
- 21 Q Did you do anything to try to help him?
- 22 A Yes, we called the deputy ---
- 23 Q When you say "we" who are you talking about?
- 24 A My daughter Terry and myself.
- 25 Q All right. She was also there present?

DW - S. FREEMAN - DIRECT

- 1 A She was there, yes, at my house. We called the deputy
2 sheriff for Chesterfield County and asked where Corey could
3 get some help for sexual abuse.
- 4 Q Okay. As a result of that conversation with him what did
5 you do?
- 6 A Terry called the sexual abuse line that he gave her and she
7 called and talked to him.
- 8 Q Okay. And they were actually called from your house?
- 9 A Yes.
- 10 Q And you were there when that phone call was made?
- 11 A Uh-huh, yes.
- 12 Q Do you know if any help was given to him as a result of
13 that call?
- 14 A No, I don't know.
- 15 Q Okay. Did you talk to him after that August 19th meeting?
- 16 A Yes, several times on the phone.
- 17 Q Okay.
- 18 A He was looking for help.
- 19 Q Looking for help still. When did you see him again after
20 that?
- 21 A On the TV news, 6:00 news on October the 13th.
- 22 Q Okay. So your didn't see him again?
- 23 A No.
- 24 Q Until you actually saw his picture on the news?
- 25 A Absolutely. When he was arrested.

DW - S. FREEMAN - DIRECT

- 1 Q Okay. Ms. Freeman, did SLED Agent or Doctor Pamela
2 Crawford ever come to your house to talk with you?
- 3 A Yes, sir, they came on October 16th.
- 4 Q Was that also written on your calendar?
- 5 A Yes, sir, right there.
- 6 Q Okay. Did they talk with you or any other family members?
- 7 A They talked to me, Terry, and one granddaughter, one
8 grandson, and my other daughter.
- 9 Q Okay. How long ---
- 10 A They use -- I let them use my house. I live in a mobile
11 home beside Terry's house so they questioned everybody
12 separately at my house.
- 13 Q Okay. How long were they there?
- 14 A From six to ten p.m.
- 15 Q That's also written on the calendar?
- 16 A Yes, sir.
- 17 Q When they were specifically talking to you what were they
18 asking you?
- 19 A All -- what things that happened with Corey and they was
20 giving a background.
- 21 Q Okay. Did they tell you what they would do for Corey or
22 did they promise you anything?
- 23 A They said that when they got all the information needed
24 that they would give the paperwork to the Defense.
- 25 Q You sure they said ---

DW - S. FREEMAN - DIRECT

1 A That they was gathering information, it was an ongoing
2 investigation, and we were not to talk to anyone.

3 Q Okay.

4 A So I didn't even talk to my kids about it.

5 Q But you sure they said they'd give it to Defense?

6 A Yes, they had give it to the Defense.

7 Q Okay. Did they take any notes or appear to be writing
8 anything down while they were talking?

9 A Both of them took notes, yes.

10 Q Okay. And what specifically was it who was there that made
11 those statements or promises?

12 A The woman was a doctor and the SLED agent was Mr. Knight.

13 Q Okay. Did they ever call you later after that?

14 A Never heard from them again.

15 Q So there was no follow-up at all?

16 A No, not to me, no.

17 Q Okay.

18 MR. HOWELL: Your Honor, I realize cross hasn't been
19 held yet but I have the same motion Mr. Clark made in regard to
20 Brady, a Brady motion. We've got a transcript, a lengthy
21 transcript of when Doctor Crawford interviewed Stephen the day he
22 was arrested, well into the morning. We know they went there
23 but those notes, and we know they're prepared because we have
24 other SLED agents' memorandums. Any time they talk to somebody
25 we received a number of those. We have nothing whatsoever in.

1 regard to either of these people being there, what their notes
2 were, a memorandum, or anything else. And we filed a Brady, we
3 filed it a second time. Even Friday I asked is anything else.
4 Haven't gotten anything else. And it's promises that she recalls
5 them telling her about getting help for Corey, returns things
6 over to Defense, whatever, because obviously none of that
7 happened. And we make that same motion in regard to that,
8 Mr. Clark made. We hadn't received any of that.

9 THE COURT: Solicitor.

10 MR. JACKSON: Judge, I'm not aware of any notes. I can
11 check. If they had asked me before we done this I would have
12 checked.

13 MR. HOWLE: Your Honor, Friday I said is there anything
14 else. They say -- Kyle versus Whitley says ---

15 THE COURT: Now hang on. His motion is they don't have
16 anything but he's saying he'll be happy to go back and look
17 through it again.

18 MR. HOWLE: Your Honor, I think Kyle versus Whitley
19 says it's their responsibility to find it. You can't just say,
20 well, they didn't give it to me, it's their fault. I mean, we
21 have this sort of running deal sometimes between the solicitor's
22 office and the police. I'm not blaming anybody in regard to that
23 but if you don't ask for right things you don't get it I guess.
24 But we assumed that we had all the discovery, especially things
25 that would be exculpatory. And we think there are some things in

1 those notes that may very well be exculpatory from what she told
2 us about it.

3 THE COURT: Okay. But here's the thing, you may be
4 exactly right. I'm trying to figure out right now do these notes
5 even exist. And I'm asking the Solicitor if they have them. And
6 have him to check, see if they have them. If they don't then I'm
7 assuming Doctor Crawford is available, Mr. Knight, to find out.
8 I mean, I've got Ms. Freeman telling me that she was interviewing
9 some people who took notes. The State says they don't have
10 anything. If those notes exist and you're entitled to them then
11 that's well and good, but I'm not just going to go with she says
12 they took notes, you don't have them, the case is over. I'm
13 going to do a little investigation myself. We're going to do a
14 little tracking.

15 So Solicitor, when you went through your materials on
16 Friday did you find any notes from Doctor Crawford or Mr. Knight,
17 Agent Knight regarding the interview of Ms. Freeman?

18 MR. JACKSON: No, sir.

19 THE COURT: Now Mr. Howle, they don't have notes. Is
20 Doctor Crawford one of the witnesses you're going to call?

21 MR. HOWLE: Probably not, Your Honor.

22 THE COURT: Well, I mean, I -- she's saying that they
23 took notes. The State is saying they don't have any notes, they
24 don't have anything. Then I think it's going to be up to you to
25 make the case that those notes were in fact taken and you were

1 not provided those. Simply the fact that Ms. Freeman -- and I'm
2 not making any dispersions against Ms. Freeman. I'm just saying
3 Ms. Freeman says they took notes. I don't know what Doctor
4 Crawford would say; I don't know what Agent Knight would say. I
5 know I've asked the Solicitor do you have any notes from Doctor
6 Crawford or Agent Knight regarding an interview with Ms. Freeman.
7 They told me they don't have anything.

8 MR. HOWLE: Well, Your Honor, it might be they did
9 exist and they didn't ask for them 'cause they didn't want to
10 have them; I don't know. I mean, I still think under Kyle versus
11 Whitley it's pretty much obvious the Solicitor's Office ---

12 THE COURT: Well, you've got to prove that those notes
13 exist.

14 MR. HOWLE: Your Honor, she testified that the notes,
15 she saw them taking notes. Now whether they were typed up later
16 or what, I don't know.

17 THE COURT: Have you subpoenaed Doctor Crawford to have
18 her come here and testify she took notes?

19 MR. HOWLE: No, sir.

20 THE COURT: Well then I don't think you've carried your
21 burden.

22 MR. HOWLE: Just what diligence is the Solicitor going
23 to carry out in trying to find those if they do exist?

24 THE COURT: Have you shown that Doc-- through having
25 Doctor Crawford take the stand that the State asked her for her

1 notes and she didn't give them or that there was anything?

2 MR. HOWLE: Your Honor, I mean, I don't know whether he
3 asked them or not. You know, sometimes you might ask for
4 something if you don't want it and I'm not saying that's what
5 happened.

6 THE COURT: So you expect the Court to throw this case
7 out because you had a witness take the stand who said somebody
8 took notes and you don't have them.

9 MR. HOWLE: Your Honor, I'm saying Brady has not been
10 complied with because I know that from what she had told me they
11 exist.

12 THE COURT: You haven't carried your burden that Brady
13 hasn't been complied with.

14 MR. HOWLE: All right, sir.

15 THE COURT: That's the ruling of the Court at this
16 time. Now it may be at some point in this case, Mr. Howle you do
17 carry that burden; and if you do, then I'll certainly rule
18 accordingly.

19 MR. HOWLE: Is the Solicitor going to let me know today
20 whether he has these or they exist?

21 THE COURT: I -- well, I'm sorry, because I asked --
22 you looked on Friday, you didn't have any notes from Doctor
23 Crawford or Mr. Knight or anyone who interviewed Ms. Freeman; is
24 that correct?

25 MR. JACKSON: I'm not aware of it. That's correct,

1 Your Honor. I'm not aware of any notes. It's kind of like when
2 he popped up at a prior hearing and said that there were a bunch
3 of people videotaping a interview in some room and that I should
4 know about it. And then when I went back and checked it didn't
5 exist.

6 THE COURT: We're going to do this.

7 MR. JACKSON: And so ---

8 THE COURT: Just so that we'll be on the same page,
9 Solicitor, if you can get someone from your office please.

10 MR. JACKSON: Yes, sir.

11 THE COURT: To specifically look through your materials
12 for any, any statements or anything, taking of an interview of
13 Ms. Freeman, and let the Court know by the end of the day if you
14 would, whether or not those exist.

15 MR. HOWLE: Your Honor, would that also include
16 inquiring of Doctor Crawford that whether she made notes?

17 THE COURT: Sure. Anything you have regarding any of
18 that.

19 MR. JACKSON: Yes, sir.

20 MR. HOWLE: Thank you, Your Honor.

21 THE COURT: Okay. Mr. Howle, any further questions for
22 Ms. Freeman?

23 MR. HOWLE: No, sir. I have no further questions for
24 her at this time.

25 THE COURT: Solicitor, any cross-examination.

DW - S. FREEMAN - CROSS

1 MR. JACKSON: Just a moment, Your Honor.

2 CROSS - EXAMINATION

3 BY MR. JACKSON:

4 Q Ms. Freeman, just briefly, Ma'am: Did Stephen Corey Bryant
5 have other brothers? Did he have brothers and sisters?

6 A Two brothers, a half brother and a full brother.

7 Q A half brother and a full brother?

8 A Uh-huh.

9 Q Half brother, his name would be?

10 A Trey. Trey.

11 Q Trey. Is he older or younger?

12 A Older.

13 Q And where is he?

14 A Pennsylvania.

15 Q What's he doing?

16 A I'm not sure. He lives up there.

17 Q When is the last time you saw him?

18 A Works. I think two years ago.

19 Q Okay. He have a family?

20 A Yes.

21 Q Wife?

22 A I think he's divorced but he has a son and daughter.

23 Q Okay. And he's not had trouble similar to what Stephen
24 Corey Bryant had, has he?

25 A I don't know.

DW - S. FREEMAN - REDIRECT

1 Q You don't know, okay. Now the other brother that you
2 mentioned what would his name be?

3 A Brandon.

4 Q Brandon? Would he be older or younger?

5 A Younger.

6 Q How much younger, ma'am?

7 A Seven years. Seven years between all of them.

8 Q Okay. And Brandon is doing what now, ma'am?

9 A He's in the army. As far as I know he's in Afghanistan.

10 Q And he and Stephen Corey would have shared the same
11 parents?

12 A Yes.

13 Q Okay. Grown up in the same household?

14 A Yes.

15 MR. JACKSON: Your Honor, that's all I have, all the
16 questions I have. Thank you very much, ma'am.

17 MR. HOWLE: Your Honor, I just have a couple of
18 questions.

19 REDIRECT EXAMINATION

20 BY MR. HOWELL:

21 Q Ms. Freeman, you were naming other brothers that Stephen
22 had?

23 A Pardon?

24 Q You were naming some other brothers that Stephen had.

25 A Corey has a brother named Trey and one named Brandon.

DW - S. FREEMAN - REDIRECT

- 1 Q Right. And that's what he was just asking you about, two
2 brothers ---
- 3 A Yes.
- 4 Q You said they were seven years apart between each one of
5 them.
- 6 A They were seven years between each boy.
- 7 Q Did the mother, Kat show any partiality toward any one of
8 the particular children?
- 9 A Only to Brandon.
- 10 Q Okay.
- 11 A Brandon was her baby.
- 12 Q All right.
- 13 A And that's what she called him.
- 14 Q And how did she treat Corey?
- 15 A Very cold, made out like everything Corey said was a lie.
16 She didn't want Corey to talk to his dad.
- 17 Q And you observed this from just ---
- 18 A Yes.
- 19 Q ---being around the families?
- 20 A Yes.
- 21 Q A very pronounced difference between the ---
- 22 A Very pronounced.
- 23 Q ---actions and treatment of the two?
- 24 A Yes.
- 25 Q Thank you. I have nothing further.

1 THE COURT: Thank you, Ms. Freeman, you may step down
2 ma'am.

3 MR. HOWLE: Your Honor, we call Terry Caulder.

4 THE COURT: Jack, let me run something real quick.

5 (WHEREUPON, counsel approached the Bench for an off-the-record
6 discussion.)

7 THE COURT: Ma'am, we're going to take a lunch break
8 right now so...

9 THE DEPUTY CLERK OF COURT: You can have a seat.

10 THE COURT: We're going to recess for lunch at this
11 time. We're going to start back at 2:15. We'll be in recess
12 till 2:15.

13 (WHEREUPON, a lunch break was taken and court resumed at 2:37
14 p.m.)

15 THE COURT: Anything we need to take up before we
16 begin?

17 MR. JACKSON: Nothing from the State, Your Honor.

18 MR. HOWLE: Nothing.

19 THE COURT: Mr. Howle, you may call your next witness,
20 sir.

21 MR. HOWLE: Thank you, Your Honor. We call Terry
22 Caulder.

23 THE CLERK OF COURT: Place your left hand on the Bible,
24 raise your right hand. State your name please.

25 THE WITNESS: Terry Lee Bryant Caulder.

DW - T. CAULDER - DIRECT

1 WHEREUPON,

2 TERRY LEE BRYANT CAULDER,

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 THE DEPUTY CLERK OF COURT: Have a seat up here please,
6 ma'am. State your full name, spell your last name please.

7 THE WITNESS: Terry Lee Bryant Caulder, C-A-U-L-D-E-R.

8 DIRECT EXAMINATION

9 BY MR. HOWLE:

10 Q Ms. Caulder, where do you live?

11 A Cheraw, South Carolina.

12 Q And what's your relationship with Stephen?

13 A He's my nephew. His daddy is my brother.

14 Q Okay. So Ms. Freeman who testified earlier ---

15 A Is my mother.

16 Q ---is your mother, okay. In the past has Corey come you to
17 wanting to discuss any personal problems?

18 A Yes, sir.

19 Q When was the first time he did that?

20 A We were at the beach and Corey had his motorcycle, and we
21 got on his motorcycle and took off down to the beach and we
22 started talking.

23 Q Okay. And what did he talk to you about?

24 A His mother.

25 Q What about his mother?

DW - T. CAULDER - DIRECT

1 A Her affairs.

2 Q Okay, anything else?

3 A The way she treated him.

4 Q Do you know of your own personal knowledge how she treated
5 him?

6 A Yes, sir.

7 Q And how was that?

8 A She was cold to him. There was a lot of antagonism between
9 those two. There was no affection at all, no mother/son
10 relationship at all between the two.

11 Q Okay. And when was that when you had that conversation
12 with him?

13 A We were at the beach and I think it was around the time
14 that Floyd Freeman, I think, when he had passed. We were
15 down there and he had his motorcycle and we were riding.

16 Q Okay. Did he later talk to you about any problems he was
17 having?

18 A Yes, sir.

19 Q And when was that?

20 A August the 19th when he came over to the house and talked
21 to momma and then she called me over there.

22 Q Okay. So the same event she was talking about she called
23 you and you went over to the house also?

24 A Yes, sir.

25 Q Okay. And what did he want to talk to you and your mother

DW - T. CAULDER - DIRECT

1 about?

2 A Being sexually abused by his grandfather.

3 Q Okay. So you were aware then or did you know before that
4 he was alleging anything like that?

5 A I was not aware of the sexual abuse then until he told us
6 that night, but I was aware of other things going on with
7 him before when we road to the beach.

8 Q Okay. And what is your relationship to Corey's grandfather
9 William Edward Bryant?

10 A He's my biological father.

11 Q Okay. And did you ever have any problems specifically with
12 him?

13 A Yes, sir.

14 MR. JACKSON: Your Honor, I object to the relevance of
15 any problems she may have had with family members. This is about
16 Stephen Corey Bryant.

17 THE COURT: Sustained.

18 MR. HOWELL: Your Honor, I think these problems are of
19 the same nature. I think it goes to the same person committing
20 them and ---

21 THE COURT: It may go to this but it has no relevance
22 as to Mr. Bryant. I mean, you can testify as to Mr. Bryant.

23 MR. HOWELL: Your Honor, we feel it adds credibility to
24 what Mr. Bryant has said about the same type molestation.

25 THE COURT: And she can testify as to what she may have

DW - T. CAULDER - DIRECT

1 observed, if she has any personal knowledge, about any abuse to
2 Mr. Bryant, but I don't think it goes to -- it's not relevant to
3 Mr. Bryant's case as to what abuse this grandfather may have
4 inflicted on others. It's not a question of how extensive his
5 abuse but it's the relevancy to this defendant.

6 MR. HOWELL: Okay.

7 BY MR. HOWLE:

8 Q Let me ask you this. What kind of relationship did you
9 have? Were you close to your father at all?

10 A No. I was, as a child, for a time and then things started
11 happening and ---

12 MR. JACKSON: Your Honor, again, I ---

13 THE COURT: Sustained. She's...

14 BY MR. HOWLE:

15 Q When Corey came to talk to you and your mother what was his
16 demeanor?

17 A He was very upset. He looked like he was being tortured.
18 It's like his soul was just laid wide open. In his eyes
19 you could see he was hurting and suffering and he was
20 living the abuse over again as it was coming out, what he
21 was telling us.

22 Q Okay. Now had you really seen this kind of demeanor before
23 from him?

24 A No, sir. Corey had never been like that. I'm not a
25 doctor, but I have never seen anyone fall apart physically

DW - T. CAULDER - DIRECT

1 and mentally, emotionally, the way he did. He had just
2 completely fell apart.

3 Q Okay. And as a result of what he told you these problems
4 were, what did you do?

5 A I told him that we needed to get him some help; that I
6 worked with a friend that her son was a deputy on the
7 Chesterfield County Sheriff's Department in Chesterfield
8 and that he could help us get him some abuse -- help us get
9 help for him for his abuse.

10 Q Okay. And did you make the call?

11 A Yes, sir.

12 Q Who did you call?

13 A I called Mary Jordan. That's the deputy's mother, and he
14 wasn't there and she called him and he called me back and
15 talked to me.

16 Q Okay. And did he give you any advice?

17 A Yes, sir. He gave me a phone number to call, a sexual
18 abuse hot line at the Healthy Minds Clinic so he could talk
19 to someone and tell them what was going on and that he
20 needed some help.

21 Q Okay. Did you call him?

22 A Yes, sir.

23 Q Did you talk to him at that time?

24 A Yes, sir, I sure did.

25 Q Okay. And as a result of making that call to her what did

DW - T. CAULDER - DIRECT

1 you tell Corey?

2 A I told Corey that -- I gave him the phone number. I said
3 they're waiting for you to come to talk to them; that I
4 told them this was an emergency; that he needed to get some
5 help and he needed somebody to talk to and Corey said he
6 would go and talk to them.

7 Q Okay. Did you have any further conversations with him
8 after this afternoon?

9 A Yes, sir, off and on.

10 Q And what was he talking to you about?

11 A He was trying to get help.

12 Q Does Corey have any brothers and sisters?

13 A Yes, sir. He's got a younger brother and an older half
14 brother.

15 Q And what was the relationship that you observed between
16 Corey's mother and those children?

17 A Corey's mother only had affection for the youngest child.
18 There was a lot of animosity and hatred -- and I can't
19 think of the word. Antagonist. There was a lot of hard
20 feelings between Corey and his mother and also between the
21 older child and his mother -- stepmother, would have been
22 his stepmother.

23 Q After Stephen had been charged with these did anyone from
24 the law enforcement come and talk with you?

25 A Yes, sir.

DW - T. CAULDER - DIRECT

- 1 Q Who came and talked with you?
- 2 A Mr. Knight, a SLED agent, and Doctor Crawford.
- 3 Q Okay. And what specifically were they asking you?
- 4 A They were asking us all kinds of questions about Corey,
5 said that any information we could give them would help
6 Corey's case, and that they wanted to get all this
7 information together and it would be given over to the
8 Defense team when his case came to trial and they would
9 keep in touch with us and let us know what was going on.
- 10 Q Okay. Were they taking notes ---
- 11 A Yes, sir.
- 12 Q ---when that conversation was gone on? Who actually made
13 those promises to you?
- 14 A Both of them.
- 15 Q Were you ever contacted by anybody from SLED or any other
16 law enforcement agency after that?
- 17 A Yes, sir. They called back and wanted my daughter's
18 computer because Corey had been up there previously to stay
19 a couple of days with her and they wanted to get a hold of
20 her computer to check and see if Corey had been on there
21 talking to anybody or planning anything or whatever. And
22 so I had to give them Andrea's phone number and they called
23 her and got in contact with her so they could go get her
24 computer.
- 25 Q Do you know if it was picked up?

DW - T. CAULDER - DIRECT

1 A Yes, sir, they picked it up. A lady named Elizabeth called
2 and she went and picked it up from Andrea but we had to
3 call back because they said they were only going to keep
4 the computer a few days and it was almost two months before
5 we could get it back. And we finally had to call Mr.
6 Knight, the SLED agent back and he said he was real sorry,
7 he thought that they had already returned her computer,
8 that they found nothing on the computer and that he would
9 make sure they got it back to Andrea right away. And the
10 next day Andrea got the phone call so they could go meet
11 with her to take her her computer back.

12 Q So in order to talk to Mr. Knight you actually called SLED?

13 A Yes, sir.

14 Q Which pretty much verified he was a SLED agent with regard
15 to that?

16 A Yes, sir.

17 Q And someone did bring the computer back?

18 A Yes, sir. They took it back to my daughter.

19 Q Okay, all right. You said when Corey came to talk to you
20 on the 19th, tell me what his demeanor was again.

21 A He was very upset, angry, and turmoiled, shaking the whole
22 kitchen table. His whole body was shaking so hard the
23 whole table was just rocking. We couldn't get him to calm
24 down. I kept trying to put my hands on his to calm him,
25 but it didn't work. I mean, he was just shaking. He was

DW - T. CAULDER - DIRECT

1 literally falling apart.

2 Q Okay. And he told you he wanted help?

3 A Yes, sir. He was trying to get help. He needed help and
4 he was trying to get help and he didn't know who to talk
5 to. He was very scared and afraid and he didn't know what
6 to do. Over and over again he kept telling I'm scared,
7 afraid, I don't know what to do, I need some help, please
8 help me.

9 Q Okay. And you say you talked to him a few times after
10 that. Had that changed any in regard to?

11 A No, sir. He was still trying to get help. He was talking
12 to some counselors but I assumed it was at Healthy Minds
13 because that's where he was going. That's who we had
14 called and talked to and they said send him down here, we
15 will talk to him. And so I assumed that that's who he was
16 talking to with the counselors.

17 MR. JACKSON: Your Honor, I object to assumption. If
18 she knows he talked with somebody that's fine. If she's assuming
19 I object.

20 BY MR. HOWELL:

21 Q Did he ever tell to you money wise he was -- couldn't go
22 anywhere because they wanted money and he didn't have it?

23 A No, sir, I had no idea.

24 Q All right. So that never came up one way or the other?

25 A No, sir.

DW - T. CAULDER - DIRECT

1 Q Okay. When was the next time you saw or heard from him
2 after that conversation?

3 A I was at the house and momma beeped over. We have an
4 intercom system between her home and mine so we can keep up
5 with each other besides having to get on the phone. She
6 beeped over hollering, screaming. Said Terry, turn the TV
7 channel -- I don't remember if it was 13 or what. Turn the
8 TV, turn the channel, hurry, hurry. And I turned the TV on
9 and I guess I kind of went in shock because there he was
10 being arrested.

11 Q Okay.

12 A And I went over to momma's. And she was all upset to
13 pieces, crying.

14 Q All right. And the demeanor and contact -- conduct that
15 you saw in August when he came was not at all like what
16 he'd been for how long before that?

17 A He'd never been like that.

18 Q Never been like that?

19 A He'd never been like that. He just -- I've never seen him
20 never, never like that.

21 Q Okay. Thank you, Ms. Caulder. Please answer any questions
22 the Solicitor might have.

23 CROSS - EXAMINATION

24 BY MR. JACKSON:

25 Q Ms. Caulder, just a few questions. Does he go by Stephen

DW - T. CAULDER - CROSS

1 or Corey?

2 A We call him Corey.

3 Q Corey? Okay. His dad would be your older brother, younger
4 brother?

5 A My younger brother. I'm the oldest of six.

6 Q Okay. And on August 19th when Corey came seeking out help
7 from you I guess and your mother y'all were living where?

8 A In Tills mill in Cheraw.

9 Q In Cheraw. So he came to Cheraw looking for y'all?

10 A Yes, sir.

11 Q He was on his motorcycle?

12 A Yes, sir.

13 Q Okay. After your saw him that day you don't know if he
14 ever went and got help or not from your own knowledge, do
15 you?

16 A No. I just know that we called the Healthy Minds and they
17 said to send him down there, they would talk to him as soon
18 as possible, and that he said he would go.

19 Q Okay. And y'all never heard from him again until you saw
20 him on TV?

21 A Just off and on on the phone he called and talked to us and
22 said he was talking to a counselor.

23 Q Okay. But not necessarily in Cheraw?

24 A No, sir, he -- Wayne Jordan, the deputy, said that because
25 Corey lived in Sumter he had to come to Sumter to talk to

DW - T. CAULDER - CROSS

1 somebody. That was the closest place for him to get help.
2 Not in Chesterfield County having to drive all the way back
3 and forth.

4 Q Y'all were checking on him. He called and reported to you
5 that he was seeing a counselor ---

6 A Yes, sir.

7 Q ---and things were better?

8 A Yes, sir. Well, that he was seeing a counselor.

9 Q Okay, all right. But he didn't have to come all the way
10 down there and tell y'all he needed help anymore? He was
11 -- was he back ---

12 A He called on the phone. That's -- we talked to him on the
13 phone several times after he came to the house that evening
14 to talk to us, tell us what happened.

15 Q All right. Prior to August 19th when would you have seen
16 him most recently prior to August the 19th?

17 A He would come to the house, him and Judy, a couple of times
18 through then; but when me and him actually got together
19 talking when we were at the beach, when we took off on the
20 the motorcycle and he started talking, then. This was
21 around -- it was warm weather so it had to have been in the
22 summer of the year before.

23 Q Okay.

24 MR. JACKSON: Your Honor, that's all the questions I
25 have. Thank you, Ma'am.

DW - A. SLATTON - DIRECT

1 THE COURT: Anything further?

2 MR. HOWLE: I have no further questions.

3 THE COURT: Thank you, Ms. Caulder, you may step down.

4 MR. HOWLE: Your Honor, we call Andrea Slatton to the
5 stand please.

6 THE COURT: Ms. Slatton, if you will come around
7 please.

8 THE CLERK OF COURT: Place your left hand on the Bible,
9 raise your right hand. State your full name please.

10 THE WITNESS: Andrea Caulder Slatton.

11 WHEREUPON,

12 ANDREA CAULDER SLATTON,

13 having been duly sworn by the Deputy Clerk of Court,

14 testified as follows:

15 THE DEPUTY CLERK OF COURT: Have a seat up here please,
16 Ma'am. State your full name, spell your last name please.

17 THE WITNESS: Andrea Caulder Slatton, S-L-A-T-T-O-N.

18 DIRECT EXAMINATION

19 BY MR. HOWLE:

20 Q Ms. Slatton, where do you live?

21 A Greenville, South Carolina.

22 Q And are you any kin to Ms. Caulder that just took the
23 stand?

24 A Yes, she is my mother.

25 Q Okay. And what is your relation then with Stephen?

DW - A. SLATTON - DIRECT

1 A My cousin.

2 Q Okay. And you call him Stephen or Corey?

3 A Corey.

4 Q Okay. Ms. Slatton, after you heard that Corey had been
5 arrested did anyone from SLED or any other law enforcement
6 agency come to your house?

7 A Yes, sir.

8 Q And what purpose did they come there for?

9 A I was contacted by a lady named Elizabeth from a SLED
10 office. She wanted me to take an afternoon off of work so
11 that he would meet at my house and gain -- get my computer
12 to see if Corey had been on it while he'd been staying with
13 me.

14 Q Okay. And had Corey been there prior to her calling you?

15 A Corey had stayed with me for about a week prior to
16 August 19th. He left my home and I believe went to
17 directly to my mother and my grandmother for that day that
18 they talked to them.

19 Q Okay. And while he was there in your home did he use the
20 computer?

21 A Yes. He was looking for jobs in the area. We were
22 thinking about him maybe moving up there and moving in with
23 me as my room mate and him relocating. He was looking for
24 constructions job and talking to people on chat rooms
25 trying to see if there was anything available in the area.

DW - A. SLATTON - DIRECT

1 Q Okay. Now I assume this lady Elizabeth actually came to
2 your house and got the computer?

3 A Yes, she did.

4 Q And how long did she have it before you got it back?

5 A Six or seven weeks.

6 Q Okay. And when it finally was returned did she or anyone
7 else say anything about what they found or didn't find in
8 regard to the computer?

9 A When she picked it up she told me that -- she asked me if
10 there was anything on there that shouldn't be, and I told
11 her no. She told me that they were going to go into the
12 internet history because Corey had been in chat rooms.
13 They wanted to see -- she told me directly that they would
14 look to see if he had spoken to anyone in chat rooms that
15 he was planning to commit these crimes. They were looking
16 for premeditation. A different lady named Bo Water brought
17 the computer back to me. I asked her if anything had been
18 found; she said no.

19 Q Okay. And that was your full extent in regard to --

20 A That was the full extent. Elizabeth was there about five
21 or ten minutes. Bo was there about five or ten minutes.

22 MR. HOWELL: Your Honor, I don't want to keep bringing
23 this up. I know Your Honor has kind of ruled on some of it. It
24 wasn't till Friday afternoon when we were talking to Ms. Caulder
25 that we even knew anything about the computer, and that's when we

DW - A. SLATTON - DIRECT

1 called and asked her daughter to come and so she could testify
2 today. Your Honor, again, we think under Brady, if they thought
3 something was on that computer and they looked and didn't find
4 anything, whatever, to find this premeditation, whatever motive
5 they were looking for we still think that's information under
6 Brady that should have been provided to us. Now like I say,
7 until Friday it was the first time I even heard there was a
8 computer or they picked up a computer and they were looking at it
9 to see if there was anything incriminating.

10 THE COURT: I would agree with you, Mr. Howle if they'd
11 found something that was incriminating; they found nothing.

12 MR. HOWLE: Well, Your Honor, the fact they were
13 looking for something and found nothing, I mean, as far as
14 argument goes, and I realize we'll be arguing for you rather than
15 the jury, I still think that's something that goes to cast doubt
16 in regard to preplanning or anything of that nature that may be
17 an aspect of mitigation.

18 THE COURT: But you knew, am I correct, you knew that
19 they had gotten this computer and found nothing. This is your
20 witness; I'm sure you've talked with her.

21 MR. HOWLE: Found out Friday afternoon, Your Honor.
22 This case is four years old. They picked the computer back up
23 just a few -- a week or so after this thing happened in 2004.

24 THE COURT: Four years you knew nothing that a computer
25 was picked up?

DW - A. SLATTON - DIRECT

1 MR. HOWLE: We did not know a computer was picked up
2 until Friday afternoon. We were talking to Ms. Caulder which I
3 had talked -- I had talked to her before -- but the computer
4 wasn't at her house as such so she didn't bring that up when I
5 asked her questions. Friday, she and her mother came up. We
6 were talking Friday afternoon and just in the course of
7 conversation she mentioned that this computer being picked up at
8 her daughter's. And that's when we immediately got on the phone
9 and called the daughter and found out, yes, they had gone there
10 and they picked this computer up, brought it back weeks later,
11 and said they found nothing on it.

12 THE COURT: I'm going to deny your motion regarding
13 that issue. I don't think the State has violated Brady
14 information by not turning over that; nothing was found.

15 MR. HOWLE: Well, Your Honor, if the -- I understand,
16 you're saying if the report showed something obviously they'd be
17 using it. But I still think if we had had a report, and there
18 may well have been one written for all I know. That said ---

19 THE COURT: That's different.

20 MR. HOWLE: I understand. How are we going to know if
21 there was a report? I just found out Friday if there was a
22 report and the report said, yeah, we looked, didn't find
23 anything, I still think that's exculpatory that we should have in
24 preparing our case. And to find out through a witness that we
25 didn't even know was going to be a witness until Friday that that

DW - A. SLATTON - CROSS

1 in fact had happened is something I think the State should have
2 revealed to us.

3 THE COURT: All right, I'm note your exception to the
4 ruling.

5 MR. HOWLE: I have no further questions, Your Honor.

6 THE COURT: Any questions, Solicitor?

7 CROSS - EXAMINATION

8 BY MR. JACKSON:

9 Q Ms. Caulder, he was there a week -- I mean, I'm sorry, Ms.
10 Slatton, I'm sorry. He was there a week?

11 A Yes.

12 Q Were you working at the time?

13 A Yes.

14 Q So there'd be times when he was home alone so to speak?

15 A Uh-huh.

16 Q But then you'd be home in the evenings?

17 A Yes.

18 Q I assume you're married, ma'am?

19 A I am now; I wasn't then.

20 Q Not at the time did you have a room mate?

21 A No, it was just him.

22 Q Did you observe any drug use during the week when he was
23 there?

24 A No.

25 Q None whatsoever?

DW - D. SCHWARTZ-WATTS - DIRECT

1 A No.

2 Q Wouldn't have allowed it?

3 A Would not have allowed it, no, sir.

4 Q Wouldn't have let him in the house if he had drugs?

5 A Exactly.

6 Q Thank you very much, ma'am. That's all the questions I've
7 got.

8 MR. HOWLE: Your Honor, we call Doctor Donna
9 Schwartz-Watts.

10 THE DEPUTY CLERK OF COURT: Place your left hand on the
11 Bible, raise your right hand. State your full name please.

12 THE WITNESS: Donna Marie Schwartz-Watts,
13 S-C-H-W-A-R-T-Z W-A-T-T-S.

14 WHEREUPON,

15 DONNA MARIE SCHWARTZ-WATTS,
16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Have a seat up here please.

19 DIRECT EXAMINATION

20 BY MR. HOWLE:

21 Q Doctor Schwartz-Watts, where do you live?

22 A Columbia, South Carolina.

23 Q And what is your occupation there?

24 A I am a psychiatrist. I work at the University of South
25 Carolina School of Medicine. And I'm a forensic

DW - D. SCHWARTZ-WATTS - DIRECT

1 psychiatrist there and I have two titles. I'm professor of
2 clinical psychiatry and I am director of forensic services
3 at the medical school.

4 Q Okay. So as professor you're actually teaching classes to
5 medical students?

6 A Yeah, medical students and I mainly train the residents in
7 child psychiatry and USC also has a fellowship forensic
8 psychiatry so the forensics residents spend six months with
9 me, and then the child residents do rotations with me but I
10 also teach medical students at times.

11 Q Okay. But mainly you're teaching doctors who have -- are
12 in the residency of psychiatry?

13 A That's correct.

14 Q And I assume you're Board certified?

15 A Yes. And I have added qualifications in forensic
16 psychiatry and I'm also -- had to retake the test. I'm in
17 the group, Your Honor, that every ten years we have to
18 retake our boards, and so I just got recertified in both
19 areas, in both general psychiatry and forensic.

20 Q Are those your areas of expertise?

21 A Yes.

22 Q As a psychiatrist and forensic psychiatrist have you
23 testified in court before?

24 A Yes.

25 Q And how often?

DW - D. SCHWARTZ-WATTS - DIRECT

1 A I used to say between five hundred and a thousand times.
2 It's probably closer, getting closer to a thousand times
3 now.

4 Q Okay. And you're certainly qualified then in courts in
5 general sessions?

6 A Yes, sir.

7 Q Okay. Any other courts this week that you have been going
8 to be testifying in?

9 A This week?

10 Q Yes, ma'am.

11 A Yes, tomorrow.

12 MR. HOWELL: Okay. Your Honor, we'll go ahead and
13 submit her as a expert in the field of psychiatry and forensic
14 psychiatry.

15 THE COURT: Solicitor, any objection to Doctor
16 Schwartz-Watts' qualifications as an expert in forensic
17 psychology?

18 MR. JACKSON: None, Your Honor, thank you.

19 THE COURT: Thank you, sir.

20 BY MR. HOWLE:

21 Q Doctor Schwartz-Watts, were you asked to see Stephen
22 Bryant?

23 A Yes.

24 Q And how many times have you actually seen and met with him?

25 A Eight times counting today.

DW - D. SCHWARTZ-WATTS - DIRECT

1 Q Okay. And what was the purpose of you seeing him
2 initially?

3 A Well, originally I was retained by Richland County Public
4 Defender's Office for the assault and battery with intent
5 to kill charges that the -- that Richland County was
6 representing him on. So initially when I saw Mr. Bryant I
7 saw him in April of 2006. It was secondary to being
8 retained by the Public Defender's Office to perform an
9 evaluation of him.

10 Q Okay. And in regard to that charge as well as one here in
11 Sumter, did you have various information, school records,
12 hospital records and so forth available to you concerning
13 his history in order to make a proper evaluation?

14 A I have since then. I certainly -- at the time that I
15 originally saw him I just would have had incident reports
16 related to his assault and battery charge there. But over
17 time, absolutely, I've had his medical records I've looked
18 at. I've looked at his school records. I've had the
19 records where he did go to the Y and report his abuse. And
20 I've interviewed various family members and certainly the
21 prosecution has had a lot of discovery that I've reviewed
22 as well.

23 Q Okay. Did you evaluate Stephen for competency?

24 A Yes.

25 Q Recently when we had the plea itself over in Florence had

DW - D. SCHWARTZ-WATTS - DIRECT

1 you again looked at him and talked with him immediately
2 prior to that to determine competency for that plea?

3 A Yes.

4 Q And what did you find at that time?

5 A It was my opinion he was -- he understood the proceedings
6 and I sat, actually sat through his plea and watched him.
7 And although he was distracted at times he clearly answered
8 the questions. Sometimes it would take him a while to
9 answer your question, but in my opinion he was paying
10 attention and he was able to answer those questions.

11 Q Okay. Have you evaluated him for any other purpose other
12 than competency for that hearing?

13 A Yes.

14 Q And that would be?

15 A Well, I performed a criminal responsibility evaluation on
16 him at the same time. And then also it was my opinion that
17 he knew right from wrong at the time of the charges, and
18 after that I performed what would have been his evaluation
19 for this -- for the sentencing phase, for his mitigation.

20 Q Okay. And these evaluations are within your area of
21 expertise obviously?

22 A Yes.

23 Q In preparation to talking with Stephen and conducting this
24 mental exam did you speak with other people?

25 A Yes.

DW - D. SCHWARTZ-WATTS - DIRECT

1 Q Relatives, other people who had contact with him?

2 A Well, I spoke with his aunt and his grandmother. And I've
3 had access some -- there's a social worker I'm sure he
4 would be called to testify, Doctor Marty Loring. I had the
5 benefit of her interviews. Also the mitigation
6 investigator Carolyn Graham provided information to me.
7 But I also as a result of evaluating him ordered various
8 tests and asked for various consultations and so I also
9 spoke with consultants.

10 Q Okay. Well, rather than just having you give a running
11 narrative of all these let me kind of break it down to some
12 specific areas and let you talk about it. What did you
13 find from review of his developmental history?

14 A Yes. And I'll just say I don't know if -- I did prepare a
15 report, and I would -- I don't know if ---

16 MR. HOWLE: Your Honor, I've provided that to the
17 Solicitor's Office, if you would like a copy as well.

18 MR. SALEEBY: Your Honor, is that part of the record in
19 lieu of or in addition to testimony, just need to know, the
20 report.

21 THE COURT: I don't think he's offering the report in.
22 I think he's referring to the report.

23 MR. HOWLE: Just referring to the report now, Your
24 Honor, because this is the same report I gave them last Thursday.

25 THE COURT: Okay.

DW - D. SCHWARTZ-WATTS - DIRECT

1 MR. SALEEBY: Your Honor, I understand that. I'm just
2 -- usually when we have reports we have whoever prepares the
3 report testify with. The report itself does not come in so I'm
4 not -- I don't understand if he's offering both the testimony and
5 the report or just testimony.

6 MR. HOWLE: At this point ---

7 THE COURT: I was under the impression, Mr. Saleeby, he
8 was offering the testimony.

9 MR. HOWLE: The testimony, Your Honor. I'm just
10 offering that as for her to read from 'cause that's why I gave
11 Your Honor one copy and ---

12 MR. SALEEBY: Oh, she's going to read from it?

13 THE COURT: She's going to testify from it.

14 MR. HOWLE: She's going to testify from it.

15 MR. SALEEBY: Oh, sure.

16 THE COURT: All right.

17 THE WITNESS: Yes. What I do typically in these
18 reports, especially when it's a sentencing phase I try to make
19 them comprehensive. So a developmental history, what that is
20 that's basically looking at the person's development attachment
21 as a child, significant medical illnesses, things that would
22 affect a child during their formative years. And I did perform a
23 developmental history on Mr. Bryant.

24 BY MR. HOWLE:

25 Q Okay. Anything significant that you found in regard to

DW - D. SCHWARTZ-WATTS - DIRECT

1 that?

2 A Yes. There were a number of things that were significant.
3 There's some question about, and Your Honor, in this --
4 this is -- that's why I put it in the report. There was a
5 question about that there's been substance abuse in
6 Mr. Bryant's mother and father, and I understand that they
7 met in a substance abuse treatment program and that's how
8 they met one another. And from the paternal Aunt Ter ---

9 MR. JACKSON: Your Honor, I think I've got to object to
10 that because she says she thinks. If she doesn't have any
11 knowledge or record I don't believe even though she's an expert
12 she can testify to that.

13 BY MR. HOWLE:

14 Q How did you get -- was that information that they met in a
15 substance abuse, how did you learn that?

16 A That information was provided by Doctor Marty Loring who is
17 a social worker who performed the assessments in this case.

18 MR. SALEEBY: And who we're talking about compound
19 Hearsay now, somebody told somebody this might have happened.

20 MR. HOWLE: Your Honor, this is another expert she
21 conferred with, and -- I mean, an expert can refer to Hearsay
22 anyway.

23 THE COURT: I'm going to overrule.

24 MR. HOWLE: Thank you, Your Honor.

25 THE WITNESS: The significant thing is not where they

DW - D. SCHWARTZ-WATTS - DIRECT

1 met, but the question that there had been some substance abuse
2 issues within the parents. And there are -- the aunt, the
3 paternal aunt Terry Caulder who I spoke with, I asked her very
4 specifically did we know if Mr. Bryant's mother had abused
5 alcohol during her pregnancy. As you know, alcohol can have
6 affects on the fetus. And there was some history that I obtained
7 through medical records that caused me concern that perhaps he
8 had exposure to alcohol. Ms. Caulder did not see Mrs. Bryant
9 abusing any alcohol during her pregnancy, but there were some
10 pictures that I was provided that caused me some concern. Mr.
11 Bryant as a very young child had attention deficit disorder, and
12 usually when you see attention deficit disorder in a number of
13 children it can be caused by exposure to alcohol. I looked at
14 some pictures of him, a specific picture of when he probably
15 would be about nine or ten years old, and he had some features
16 that would be consistent with that but there's no evidence and I
17 can't say with a reasonable degree of medical certainty that he
18 was exposed to alcohol in utero but there's a question.

19 The other things that are important, what we look at in
20 developmental histories, for if someone is exposed to trauma, if
21 there's periods of time when they're absent from parent. And
22 it's -- Mr. Bryant reported to me that during his childhood that
23 he was sexually abused and that was very significant. He
24 reported to me that he was abused by four people: One being his
25 paternal grandfather, one being his half brother, one being a

DW - D. SCHWARTZ-WATTS - DIRECT

1 paternal uncle, and then his mother.

2 BY MR. HOWLE:

3 Q Okay.

4 A In addition to that, in addition to the sexual abuse that
5 he reported which would be very significant in a
6 developmental history, he also I think his developmental
7 history significant for him being involved in the juvenile
8 justice system at a very young age. I worked at the
9 Department of Juvenile Justice for 15 years; and for him to
10 be 11 years old and involved with the Department of
11 Juvenile Justice, that's significant. You don't usually
12 see that kind of history very often.

13 Q Okay. In further making your evaluation did you have
14 access to school records for his school history?

15 A Yes, I did.

16 Q And what did those show?

17 A There were many things that were significant about his
18 school history. He repeated the first grade. And there
19 were two reasons that I could tell in reviewing the
20 records. He missed too many days. And they test in fact
21 at the end of the first grade. He did not meet the
22 standards so he repeated those. What was significant about
23 his school history is by the fourth grade he was involved
24 with school counselors. He had a number of psychological
25 evaluations. He was in emotionally handicapped classes for

DW - D. SCHWARTZ-WATTS - DIRECT

1 being disruptive and inattentive. He had a number of IQ
2 tests over the year which basically show that he was
3 functioning in the low average range of intelligence.
4 There were times where his intelligence testing would be
5 lower, but that was in my opinion secondary to his not
6 being medicated. He had a history of Attention Deficit
7 Disorder.

8 Q When you were preparing to evaluate Stephen did you have
9 access to the interviews or transcripts of those interviews
10 conducted by Doctor Pam Crawford that had been provided to
11 us by the State?

12 A Yes.

13 Q Okay. And what did those transcripts relay as far as past
14 history, anything that was significant in your evaluation?

15 A Well, I think what's significant in reviewing Doctor
16 Crawford's evaluation, she and I gathered very similar
17 information. The information that he provided to me in my
18 opinion was very similar to that that she provided with
19 Doctor Crawford.

20 Q Okay. Did you interview family members in determining the
21 other evaluation?

22 A Yes.

23 Q All right. And who did you speak with in that regard?

24 A His paternal grandmother and paternal aunt.

25 Q Was there anything significant in speaking with them that

DW - D. SCHWARTZ-WATTS - DIRECT

1 would have an affect on his or being including in your
2 evaluation?

3 A Yes.

4 Q What would that be?

5 A In evaluating and speaking with his aunt and grandmother I
6 also learned that there had been one of the perpetrators of
7 sexual abuse had also abused other family members.

8 Q Okay. Were you able to look at records or review Stephen's
9 medical history?

10 A Yes.

11 Q What did they show to you?

12 A His medical history, Your Honor, it's only significant for
13 a few things that I think are important. There was one
14 time when he was confined at the detention center that he
15 had fallen to the floor, and he was tested. I believe he
16 was actually at Lee County Correctional Institution and he
17 was found to have a low blood sugar which I think is
18 important because he's had -- there's been periods of time
19 where his weight certainly has fluctuated. He's lost a lot
20 of weight while he was confined and so he did have a
21 history of low blood sugar, and there were actually I
22 believe two laboratory tests in those records that indeed
23 show that. The other things that are significant for him
24 in the medical history were more the facts that he had been
25 seen at Tuomey Hospital very shortly before these crimes.

DW - D. SCHWARTZ-WATTS - DIRECT

1 He had on the 11th of September had been into Tuomey
2 Hospital for a spider bite and he left before being seen.
3 And the other thing that was significant is on the, I
4 believe it was the 30th, very shortly before these crimes,
5 he went to the emergency room and reported that two men had
6 assaulted him and those records were significant. The
7 doctor described him as somewhat obsessed from the
8 incident, and he was noted to have an abrasion on the right
9 side of his forehead. And so he had been assaulted by two
10 males shortly before this crime spree.

11 Q Okay. When a report says somewhat obsessed what exactly
12 does that mean medically?

13 A Well, medically what obsession just means that you're
14 ruminating, you're talking about it, you're very focused
15 about what happened and it's difficult to get you to switch
16 gears and talk about something else; that you're very
17 focused on what happened.

18 Q Okay. Were you able to review any records -- we've had
19 some testimony about this in the time line but in regard to
20 his legal history and incarceration, anything like that
21 that would be significant in making your evaluation?

22 A Yes. In my opinion what's significant legally is that he's
23 had a long history with the law beginning at a young age.
24 At the age of 11 he was already involved with the
25 Department of Juvenile Justice which I testified is quite

DW - D. SCHWARTZ-WATTS - DIRECT

1 young given the history and the many adolescents I have
2 evaluated and treated while having contact with the
3 Department of Juvenile Justice. There are some significant
4 things there. There's a record from, I believe, again,
5 this -- I relied on Doctor Loring for this -- that the
6 father, Mr. Bryant's father provided her with a document
7 that showed that while Mr. Bryant was at the Department of
8 Juvenile Justice in '92 and '93 he had been assaulted,
9 physically assaulted, and there was some concern there.
10 The most significant things regarding his juvenile legal
11 history is that he was actually seen by a forensic
12 psychiatrist, Doctor Tracy Gunter. I know Doctor Gunter
13 and used to work with her. And he was also evaluated by
14 Doctor Hildy Denkins. I actually worked in that same unit.
15 That was the R&E unit in Columbia, South Carolina. And
16 what was significant in 1996 when he was seen by Doctor
17 Gunter she diagnosed him with Attention Deficit Disorder
18 and also adjustment disorder. And Doctor Denkins at the
19 same time while she performed the psychological evaluation
20 diagnosed him with Attention Deficit Disorder and also
21 dysthymia, which is a chronic depression. Doctor Gunter at
22 that time recommended that he be placed on the
23 antidepressant prozac so we have a history, what's
24 important, juvenile history and those records that as early
25 as 1996 he was seen by a forensic doctor who also

DW - D. SCHWARTZ-WATTS - DIRECT

1 recommended that he be placed on medication.

2 Q And how early was he taking prozac?

3 A Well, there's some discrepancy there. Mr. Bryant reports
4 that in six and seventh grade he was seen at Waccamaw
5 Mental Health Center and that he was on Ritalin and Prozac.
6 We requested those records and to date no one has seen
7 those records. Doctor Gunter referred to them in her
8 psychiatric evaluation that she performed on him while he
9 was at DJJ. Mr. Bryant's father in the note where he
10 provided to Doctor Loring that states that he was assaulted
11 while in DJJ also makes reference to him going to the
12 mental health center in that following September I think he
13 alludes to a date. So there was a question that he had
14 been on Ritalin and Prozac before.

15 Q Okay. And that was what age roughly?

16 A 1996 so he would have been -- let's see, he's 27 now so
17 about 15, 14/15 years old.

18 Q Okay. When you reviewed the legal history did you find any
19 significant history of prior criminal convictions that were
20 involved the use of violence against another person?

21 A That involved, I'm sorry?

22 Q Violence or crimes of violence against another person?

23 A My understanding he served some time in the South Carolina
24 Department of Corrections for some burglary charges. In my
25 review I haven't found any evidence that he had prior

DW - D. SCHWARTZ-WATTS - DIRECT

1 convictions for assaults against people.

2 Q Okay. Did you have access to records that you were able to
3 evaluate psychiatric past as well as history of any
4 substance or sexual abuse that may have affected that?

5 A Yes.

6 Q And what were those findings?

7 A As I mentioned earlier, Your Honor, when I couldn't find
8 the Waccamaw Mental Health Center Records they were alluded
9 to Mr. Bryant remembered his doctor as Doctor Sans-- Doctor
10 Richard Resnikoff and there was a Doctor Resnikoff that I
11 understand was employed during that period of time. And
12 the records were alluded to in by his father, also by
13 Doctor Gunter; but again, they were not available and I
14 don't know if anyone has been able to find them. I talked
15 about in 1996 he was seen by Doctor Gunter. The other
16 things that are important he had history while confined in
17 the Department of Corrections in 1999. He was receiving
18 antidepressants then as well. He was taking Prozac. The
19 most important thing is that, as Ms. Caulder testified to,
20 she had contacted a sergeant Wayne Jordan and who had given
21 her phone number to arrange help for Mr. Bryant. Before
22 his crimes he -- both his aunt and grandmother reported
23 that he told them that he'd been sexually abused and they
24 tried to seek treatment for him. We do have those records,
25 Your Honor. He went to the YWCA and he was seen by -- and

DW - D. SCHWARTZ-WATTS - DIRECT

1 he was referred to Healthy Minds but a Willie Mae Thompson
2 saw him on September 1st, 2004 shortly before these crimes.
3 And the notes from the YWCA record recorded he's presenting
4 problems of sexual ---

5 MR. SALEEBY: I'm sorry, we don't -- there's been no
6 testimony about the YWCA records. I don't think the predicate's
7 been formed for that. I understand they can be relied upon but
8 we haven't received any records or anybody testified as to their
9 authenticity so we would object to them being a basis for this
10 testimony at this point in time.

11 MR. HOWLE: Your Honor, I think you told Ms. Creech
12 that he'd gone to the Y. These are records that she had obtained
13 in preparing overall report that she was using too.

14 THE COURT: Overrule, I'll allow it in.

15 MR. HOWLE: Thank you, Your Honor.

16 THE WITNESS: The records from the YWCA on September
17 1st, 2004 reported that he had sleeping problems, sexual assault,
18 child abuse and neglect and he had sleeping problems due to
19 dreams of the above checked box. On the record there also
20 indicated he had referred to prior treatment at Waccamaw Mental
21 Health Center. At the time he had endorsed a prior legal history
22 with her, and he reported sexual abuse by four assailants: His
23 uncle, grandfather, mother, and stepbrother. And in those
24 records he reported that restraints was used and threats were
25 made. And the sexual abuse alluded to was oral, intercourse,

DW - D. SCHWARTZ-WATTS - DIRECT

1 kissing, and penetration. The record noted that when he was
2 seven, he was seven years old when he reported he was sexually
3 assaulted by his grandfather but he did not know what age he was
4 when he was sexual assaulted by his mother. What's also
5 significant from those records from the YWCA Ms. Thompson noted
6 that she placed follow-up calls to Mr. Bryant on September 3rd,
7 September 7th, and September 10th and he was listed as, quote,
8 fine. She also did a number of tests and a number of forms that
9 were filled out in those records. And some of the things that he
10 indicated were he endorsed symptoms of anger, unhappiness, shame,
11 guilt, flashbacks although the flashbacks were qualified only as
12 some of the time, not that he was having flashbacks every day.

13 The other things important in his psychiatric history
14 he was not seen again so he was seen shortly before these crimes.
15 He was not seen again until he was confined in the Sumter County
16 Detention Center on October 22nd, and there he reported some more
17 symptoms: Depression, sleep disturbance, impulsiveness and
18 feeling blue. The record there at the detention center noted
19 that he knew something was wrong with himself due to increased
20 feelings of rage; and he reported to Valerie Oxydine, who was a
21 worker there at the jail, that he had sought treatment at Healthy
22 Minds and the YWCA but received no assistance. What happened, he
23 was referred to Healthy Minds but did not have the money to
24 afford treatment. He was told that he had to pay 75-dollars for
25 the visit and he did not have the money. Ms. Oxydine at the jail

DW - D. SCHWARTZ-WATTS - DIRECT

1 who saw him shortly after these crimes diagnosed him with
2 antisocial personality disorder with depressed mood and ruled out
3 posttraumatic stress disorder. Ms. Oxydine referred him to
4 Doctor King who I presume is a physician related with the Sumter
5 County Detention Center, and Doctor King prescribed united
6 depression medication for him. So there's a long history there
7 dating back to 1996 where he has a history of mood disorder.
8 He's been on psychiatric medications. He sought treatment
9 shortly before these crimes and reported his sexual abuse to a
10 counselor and was seen very shortly afterwards and deemed to be
11 suffering from antisocial personality disorder, depressed mood,
12 and PTFC and placed on medications. And he's had a similar
13 course of treatment while he's been confined. There's been
14 periods where he's been on various antidepressants present when
15 he's on a mood stabilizer and that he's reported improvement in
16 those symptoms.

17 Q Okay. Did you find that Stephen was under the influence of
18 mental or emotional disturbance at the time the offense
19 occurred?

20 A Yes.

21 Q Did you find that his capacity to appreciate the
22 criminality of his conduct that conform his conduct
23 requirements of law substantially impaired?

24 A Yes.

25 Q There were some clips, video clips that the State

DW - D. SCHWARTZ-WATTS - DIRECT

1 previously presented. Have you been provided with those
2 and seen him on those videos?

3 A Yes.

4 Q How would you characterize the behavior that you saw on
5 those videos?

6 A The behavior that was most significant for me it was -- it
7 would have been when he was at the McDonalds at 4 a.m. in
8 the morning. I noticed some behavior that I've seen that's
9 consistent in my opinion with the diagnosis I've made. And
10 he's done it in court as well. There's sometimes he's
11 looking around very vigilant and trying to be familiar with
12 his surroundings. And in the video specifically where he's
13 at the McDonalds you can see him up at the drive-thru
14 window, then he looks behind as if he's startled or
15 responding to something else. The other clip from the
16 video to me, that was significant is where he's with the
17 victim Mr. Burgess and I note that Mr. Burgess approaches
18 him in the store and shakes his hand and engaged him in
19 conversation.

20 Q Okay. From knowing this past history and even seeing that
21 on the videos, if he is properly medicated and properly
22 handled do you think that behavior you observed in those
23 videos can be controlled?

24 A It can be improved. Miss -- and what we haven't talked
25 about, I made a diagnosis of Mr. Bryant. He's got

DW - D. SCHWARTZ-WATTS - DIRECT

1 posttraumatic stress disorder. And what posttraumatic
2 stress disorder is it's one of the anxiety disorders that's
3 listed in the DSM. And basically to qualify for that
4 diagnosis you have had to have been exposed to some kind of
5 trauma. And in child-- his reports of childhood sexual
6 abuse would certainly be traumatic enough that one would
7 have a result in disorder from that and he has all the
8 symptoms seen in posttraumatic stress disorder. He
9 reports and they've been documented in the Department of
10 Corrections records in 1999 before this crime even and
11 certainly in the YWCA, what records before his crimes, that
12 he was having flashbacks. What flashbacks are, they're
13 recurring intrusive thoughts about abuse. A person may see
14 something that reminds him of their abuse and they have
15 very -- they may have problems paying attention, which Mr
16 Bryant clearly has those symptoms at times or he's
17 distracted. He's very focused in his own thoughts and/or
18 he's reliving some of the experiences he's gone through.
19 He certainly has that criteria.

20 There's other associated feelings with it. You can't
21 recall important events sometimes, and there's certainly
22 been records that confirm that. In one of his Department
23 of Corrections records, Your Honor, he lacerated himself
24 and reported to them that he didn't remember what he did
25 and that was only the third time that he had done something

DW - D. SCHWARTZ-WATTS - DIRECT

1 and he couldn't remember what he had done so it -- it's
2 also associated with difficulty in recalling events at
3 times. The main symptom is irritability, outbursts of
4 anger. That's pertinent to Mr. Bryant and I think it's
5 directly related to his crimes. But posttraumatic stress
6 disorder is a chronic disorder, Mr. Howle. You have to
7 treat it. There's times when you're going to have
8 symptoms; there's times when you don't. Mr. Bryant has a
9 severe case. He has symptoms pretty regularly but they
10 have improved with medications.

11 Q Okay. In that diagnosis what is the difference in the
12 different axis one through -- was it five?

13 A Yes. In psychiatry we have the DSM or -- I think I brought
14 it, yes. It's our book of diagnostic and statistical
15 manuals. And what that book is, it's basically we have a
16 multi-axial system to diagnosis someone, and there's five
17 different axes. And we have this book so, for example, if
18 I'm calling a psychiatrist in California to tell him that
19 someone has a mental illness we understand we're talking
20 about the same symptoms. It's also used for insurance and
21 coding and that sort of thing. But there's five axes.
22 Axis one, there's some major mental illnesses or conditions
23 so severe that anybody would have symptoms. So for
24 example, if someone spouse were to die and they came into a
25 psychiatrist office we would expect them to have symptoms

DW - D. SCHWARTZ-WATTS - DIRECT

1 of depression. There's some things life events that are so
2 extraordinary that someone may present to psychiatric
3 treatment. Axis two is for personality disorders and for
4 disorders of intellectual functioning. Axis three is for
5 physical illnesses that may relate to someone's mental
6 state. Axis four is assessing the level of stress
7 someone's under. And then axis five is actually where we
8 assigning a number. It's closed a global assessment of
9 function. What that is, we assign a number that's listed
10 in the book to show how impaired someone is. And that's
11 more use for insurance purposes and disability and that
12 sort of thing.

13 Q Okay. Now you indicate that axis one is the one for major
14 mental problems?

15 A Correct.

16 Q Okay. And what major mental disorder did you diagnose that
17 Stephen had when you were evaluating him?

18 A In my opinion he has posttraumatic stress disorder.

19 Q Okay.

20 A I also diagnosed him with axis one. You also have to code
21 substance abuse disorders, and he suffers in my opinion
22 from a number of substance abuse disorders as well. I also
23 diagnosed by history that he had a history of Attention
24 Deficit Disorder as a child and that he had a history of
25 dysthymia which is chronic depression.

DW - D. SCHWARTZ-WATTS - DIRECT

1 Q All right. And all those are axis one ---

2 A Yes.

3 Q ---findings, okay. When you saw Stephen in July prior to
4 us pleading in August, did you find him competent at that
5 time?

6 A No.

7 Q And what was his problem then?

8 A Part of posttraumatic stress disorder, Your Honor, is the
9 person can become very paranoid at times. They may be
10 functioning well and then something can happen and they get
11 extremely paranoid. On the day that I saw Mr. Bryant I was
12 very concerned. When -- he is very preoccupied with the
13 Masons and reports a long history of being very familiar
14 with Masonic practices. He reported to me that as a child
15 that he had a friend who was a Mason that told him a lot
16 about Masonry. And he has -- there's been times where he's
17 very concerned about the Mason. And specifically what
18 happened on that date he was very concerned that
19 Mr. Tietjen was a Mason and that he had killed a very high
20 ranking Mason in that order. And I can't remember, I think
21 it was he said a third -- 21 or 31-degree or 28-degree; it
22 was a high ranking official in the Masonic lodge. And he
23 was very concerned at that time that perhaps Your Honor was
24 involved in the Masons as well and that he had thought you
25 were giving signs in the court; that you went to straighten

DW - D. SCHWARTZ-WATTS - DIRECT

1 your tie and that straightening a tie was a sign that you
2 were going to hang him and that was a sign that was
3 commonly used and amongst Masons. And he was very
4 concerned that his murder of Mr. Tietjen because he was in
5 the Masons that would affect the outcome of his trial. At
6 that point I -- we notified the Department of Corrections
7 and asked someone to see him. They restarted him on his
8 meds and his mental state improved dramatically to the
9 point he was certainly competent to stand trial at the time
10 of his hearing.

11 Q So from that time you saw those problems there was a
12 medication change?

13 A He was on no medications before and he was restarted on
14 some medications.

15 Q Okay. And by the time we had the plea in Florence in
16 August you again evaluated him for purposes of competency
17 for taking that plea?

18 A Correct.

19 Q And under the medication and what you observed you felt he
20 was competent at that time?

21 A Absolutely, without a doubt. And I watched him. I sat
22 here through the whole plea and there was no question that
23 he was competent.

24 Q Okay. Are you aware of whether those medications have even
25 been changed from the plea date to now?

DW - D. SCHWARTZ-WATTS - DIRECT

1 A Yes. When he left the Department of Corrections and went
2 back to Sumter County Detention Center there was a note by
3 Janet Wallery, Doctor Wallery who had seen him in the
4 Department of Corrections, that his meds were to be
5 increased. What had happened at the time that he was
6 released from Lee County, the medication had not yet been
7 increased so it was increased to 300-milligrams twice a
8 day. Sumter County has been wonderful. They drew the
9 blood work that was ordered and faxed those results to me.

10 Q Okay. How much of increase is that in what he had prior,
11 do you know?

12 A At the time of his hearing he was receiving 200 hundred
13 milligrams a day. He was supposed to be on 200-milligrams
14 twice a day and presently he's on 300-milligrams twice a
15 day.

16 Q Okay. Are those medications responsible for a lot of his
17 demeanor and behavior you see in the courtroom today that
18 would be different if he was on no medication?

19 A Well, he reports it helps him. That's the most important
20 thing is he reports an improvement in his mood, and he
21 seems much calmer.

22 Q Okay. What opinions to a medical certainty would you have
23 of the impact on the various aspects of his history which
24 you've gone over and his mental condition on the conduct,
25 specifically those events that led to these present charges

DW - D. SCHWARTZ-WATTS - DIRECT

1 against him?

2 A I have a number -- Your Honor, one of the things that

3 concern me there's no history mental retardation in Mr.

4 Bryant at all but that he certainly has had a history of

5 being in special education in school. He's had multiple

6 psychological assessments and his IQ is below average and I

7 think that's significant. And what's significant about

8 that is they during the times when the school would perform

9 those tests they do an assessment of your adapting ability.

10 They have to test for that, and they commonly use them.

11 And what's important is even when he was 14 he was found to

12 have problems adapting in turns of socialization; and they,

13 even when he was 14, they assigned a mental age to him of

14 11 years. So that we know there's been some developmental

15 delays in him because in my opinion because of the abuse in

16 my opinion in some of -- in the upbringing that he had and

17 I think that's very important. Also at a very young age he

18 was diagnosed with dysthymia which is chronic depression

19 and I think those things were very important in considering

20 his mentality at the time of the offenses.

21 In my opinion these murders are related to his

22 posttraumatic stress disorder. In each of these cases I've

23 gone over them with Mr. Bryant and I also reviewed Doctor

24 Crawford's audio taped evaluation of Mr. Bryant. He gave

25 me a very similar story. And I think what's important,

DW - D. SCHWARTZ-WATTS - DIRECT

1 Your Honor, in each one of those cases he reports feeling
2 threatened by the victim. And I don't have any evidence --
3 I don't think I've seen any evidence that Mr. Brown who was
4 fishing at Wateree threatened him in anyway, and I've not
5 seen any evidence that Mr. Tietjen threatened him in any
6 way. And yet, in each one of those cases been very
7 consistent that he felt very threatened by these
8 individuals and I'll go through each one. In terms of
9 Mr. Brown when he shot him in the back Mr. Bryant told me
10 that he thought Mr. Brown had said something racial to him
11 and that he felt threatened and shot him. And there was no
12 reason for him to shoot him. He was fishing; he was
13 minding his own business. In terms of Mr. Gainey,
14 Mr. Bryant told me that they had been friends for a long
15 time. They were spending time together and they spent time
16 together on the day of the offense. He states to me that
17 they smoked marijuana together. They had been -- that
18 Mr. Gainey had been drinking and that they were in the
19 truck and Mr. Gainey had to use the bathroom and asked him
20 to pull over. And he stated that while Mr. Gainey was
21 urinating that he was so drunk he had difficulty standing
22 up and even had difficulty getting his belt off. And he
23 reports that while Mr. Gainey was urinating he reported he
24 felt like Mr. Gainey had made a sexual remark to him and he
25 shot him. And he states that after he shot him he cried

DW - D. SCHWARTZ-WATTS - DIRECT

1 over the body and didn't understand why he'd done that.
2 And in terms of Mr. Tietjen he reports that he and
3 Mr. Tietjen had had conversations that he had gone to his
4 house he'd run out of gas. Mr. Tietjen helped him, was
5 trying to help him, and that they were talking and that
6 Mr. Tietjen and he discussed the Masons and they were
7 spending some time at. Mr. Tietjen certainly had knowledge
8 in the Masons. And he reports that he went to use the
9 bathroom and that Mr. Tietjen hit him. And all of a sudden
10 became very upset with him and wanted to know why he wanted
11 to go in the bathroom and assaulted him. And he states
12 that he shot him and that after he shot him while looking
13 on a computer that he found some images that upset him on
14 the computer. And he reports that he was also upset that
15 he killed Mr. Tietjen; that he had lit candles; that he was
16 trying to say prayers over the body and that the candle
17 fell on his beard and set his beard on fire.

18 He has very little recollection that he reports to me
19 of burning Mr. Tietjen's eyes. He does in the statement of
20 Doctor Crawford, while I think is very important is he
21 talks about at one point if your eyes have been -- and then
22 you poked them out. He says to Doctor Crawford, oh, my
23 gosh, did I poke out his eyes. I think, again, this is
24 very related to his mental illness. And then with Mr.
25 Burgess he did not tell me until the end of August that he

DW - D. SCHWARTZ-WATTS - DIRECT

1 knew Mr. Burgess. He stated that he and Mr. Burgess served
2 time together at Kershaw Correctional Institute and that
3 his name was Goldie and that he was called Goldie because
4 he wore a grill in his teeth. And that he states on the
5 night of the offense when Mr. Burgess that he didn't even
6 -- he didn't know Mr. Burgess but as soon as Mr. Burgess
7 called him and greeted him and he saw the gold tooth and he
8 remembered that he had -- he had known him while they were
9 incarcerated. And he states that while they were
10 incarcerated that Mr. Burgess had attempted to solicit sex
11 from him. He states that on that night they were driving
12 and he gave him a ride and that he had to use the bathroom
13 as well and he states that he felt that Mr. Burgess would
14 hurt him and he killed him as well. So in my opinion all
15 of these offenses are related, he is paranoid. He
16 misjudged people's perceptions. He felt sexually
17 threatened by these males. And there is no, in my opinion,
18 no other motive other than his fear and paranoia and being
19 a result of his mental illness that he killed these people.

20 Q Okay. So that diagnosis that you've given that's your
21 opinion as a forensic psychiatrist to a medical certainty
22 of his mental condition?

23 A Yes.

24 Q Okay. When was the last time you spoke with Stephen?

25 A Just today.

DW - SCHWARTZ-WATTS - CROSS

1 Q Okay. Anything that occurred in that conversation that
2 would cause you to change any of these opinions that you
3 have given today?

4 A No. Other than I think Your Honor needs to know he reports
5 to me he has not slept since Friday night. He looked quite
6 tired and I think he's a bit haggard, but no, nothing
7 changed my opinions.

8 Q Okay. Thank you very much. Please answer any questions
9 the Solicitor may have.

CROSS - EXAMINATION

10
11 BY MR. SALEEBY:

12 Q Give me a minute to set a couple of things up. Thank you
13 for waiting. You need any water or anything? You ready?

14 A Actually, I would. Thank you very much.

15 Q If I understand correctly, the first time you came into
16 contact with Mr. Bryant was in April of 2006.

17 A That's correct.

18 Q And at that point in time he was in the Department of
19 Corrections because he had been transferred there for safe
20 keeping because of difficulties had at our local jail?

21 A Yes, sir.

22 Q And he was there facing all the charges he's pled guilty
23 to, the three murders, the two ABIKs, the burglaries, and
24 the rest of those charges?

25 A Yes, sir.

DW - SCHWARTZ-WATTS - CROSS

1 Q And he was facing the death penalty; he'd been noticed for
2 that as well?

3 A I think at that point he had, yes, sir.

4 Q After spending this time with him and conducting these
5 examinations you've come to some conclusions as to things
6 he isn't. For example, he isn't insane?

7 A Correct. That's correct.

8 Q He ---

9 A It's my opinion that he clearly -- even though he had
10 posttraumatic stress disorder he clearly knew right from
11 wrong. He clearly recognized that he was killing these
12 individuals or assaulting the individuals. He clearly knew
13 what he was doing was wrong.

14 Q And of course, realizing that you see him about a
15 year-and-a-half later, nevertheless your testimony all
16 relates to his condition as of September in particular
17 October of 2004?

18 A Yes, sir.

19 Q He was not mentally retarded?

20 A No.

21 Q Has no organic brain damage?

22 A No, not at all, and I've done number of things to address
23 that. I'm very concerned when someone has problems paying
24 attention and they're inattentive. I did a number of
25 things. We had him worked up for seizures, and there's no

DW - SCHWARTZ-WATTS - CROSS

1 evidence of seizures. I asked for an MRI of his brain and
2 there's no lesions or anything that would cause that. I
3 attempted to have neuropsychological testing done, but he
4 wasn't able to cooperate with that so because of that I had
5 a neurologist see him as well and he's got a perfectly
6 normal neurological exam.

7 Q He wasn't able to cooperate or chose not to cooperate?

8 A Doctor Wallory wasn't able to finish. What she does is,
9 when she begins an exam she has them take a test and it's
10 called the TOMM, the test of malingering memory. And what
11 that test is, you look at pictures of faces; I believe
12 there's fifty of them. And then you're asked to recall
13 those faces. You're given a forced choice test, so to
14 speak, and you're -- and that information is presented.
15 And either they can tell by that cut-off whether he can
16 proceed with testing or not. He did pass the cut-off score
17 so she did not attempt any further tests because she felt
18 like her results would not be reliable.

19 Q I noticed in, when you worded your report you didn't say
20 that he lacked the capacity to appreciate criminality. You
21 said that it was impacted.

22 A That's correct. That's correct. In my opinion he would
23 not have met the guilty but mentally ill standard for these
24 crimes and according to our state law.

25 Q And according to our state law then in October of 2004 he

DW - SCHWARTZ-WATTS - CROSS

1 did have the capacity to appreciate the criminality of what
2 he was doing?

3 A Absolutely.

4 Q And he did have the capacity to conform his conduct to what
5 the law was?

6 A Yes, sir. And I base that on, Mr. Bryant is not someone
7 that was having recurrent impulses to murder people; that's
8 correct. And in my opinion he did not suffer from any kind
9 of mental illness that would predispose him to have
10 recurrent thoughts to murder people and hurt them.

11 Q When you talk about an antisocial personality disorder,
12 he's had that diagnosis since about 1996; has he not?

13 A Yes and no. You have to be 18 to make that diagnosis, but
14 Doctor Gunter and Doctor Denkins diagnosed him with conduct
15 disorder which is the juvenile component that you have to
16 have that behavior disorder present before the age of 18.
17 But I certainly -- I diagnosed him with that as well and he
18 certainly met the criteria of a conduct disorder when he
19 was 14 and 15 at DJJ.

20 Q He was on the way to being that diagnosis at age 18?

21 A Yes, sir.

22 Q And I see when he's in the Department of Corrections the
23 first time he has that diagnosis here at the Sumter Lee
24 Regional Detention Center has that diagnosis and then when
25 he's back at SCDC he has that diagnosis?

DW - SCHWARTZ-WATTS - CROSS

- 1 A Yes, sir.
- 2 Q And that was what formerly was referred to as being
3 sociopathic and that terminology is no longer used?
- 4 A I think it's used by the other professions. Forensic
5 scientists I still think still use it; but in psychiatry
6 that's correct, we code it as antisocial personality
7 disorder.
- 8 Q When you look for that are you looking for features of that
9 particular disorder personality problem you see a
10 persuasive or persistent pattern of disregard or lack of
11 respect for the rights of others and the property of
12 others; would that be correct?
- 13 A That's certainly some of the features of it, yes, sir.
- 14 Q Unwillingness or inability to conform to the law?
- 15 A Yes.
- 16 Q Deceitfulness?
- 17 A Yes.
- 18 Q Lying?
- 19 A Yes.
- 20 Q Conning?
- 21 A Yes.
- 22 Q Manipulating?
- 23 A Yes.
- 24 Q Angry?
- 25 A Yes.

DW - SCHWARTZ-WATTS - CROSS

1 Q Irritable?

2 A Yes.

3 Q Selfish, self-centered?

4 A Now that's more narcissism; I'd have to double check. But
5 certainly it's more a pattern of -- it's a chronic pattern
6 of disregard for the law that someone has a pattern of
7 behavior where they've broken the law multiple times or
8 they may have not regarded the rights of others.

9 Q They don't learn from their mistakes, they don't learn from
10 punishment, they don't learn from experience.

11 A I wouldn't say that. But in terms of distreatment or not
12 necessarily confinement works. Some can learn. I -- I --
13 it would just depend on the individual.

14 Q But they tend not to be recidivists? They would tend to go
15 back and repeat the same pattern?

16 A Many do. It depends on how severe, but absolutely. It's
17 not uncommon to see someone diagnosed with antisocial
18 personality disorder to leave -- I work at the Department
19 of Corrections now one day a week so it would not be common
20 to see an inmate come back if they had that diagnosis.

21 Q They tend to be defensive with this disorder?

22 A Probably no more defensive than any other disorder or
23 probably people in general. That's really not necessarily
24 criteria you see with it but they can be.

25 Q They resist or they resent or they have difficulty

DW - SCHWARTZ-WATTS - CROSS

- 1 accepting authority?
- 2 A Yes.
- 3 Q Stephen has a history of that; doesn't he?
- 4 A He has a history of breaking the law. He has a history --
- 5 he had some history in school. There's some teachers that
- 6 he respected, some teachers that liked him, and then others
- 7 that certainly did not.
- 8 Q You did see when you went through his records that on at
- 9 least two occasions he threatened school teachers and bus
- 10 drivers?
- 11 A Yes, yes.
- 12 Q His mother would be authority figure?
- 13 A Could be.
- 14 Q And he's accused her of molesting him?
- 15 A Yes.
- 16 Q His father would be authority figure?
- 17 A Yes, his father.
- 18 Q Accused him of beating him.
- 19 A Correct.
- 20 Q His grandfather would be an authority figure. He accused
- 21 him of molesting him?
- 22 A Correct.
- 23 Q His stepbrother who was older would be an authority figure.
- 24 He accused him of molesting him.
- 25 A Again, not -- those -- your suppositions are correct but I

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1 don't know -- I'm not going to say this older brother is an
2 authority figure. It depends on your family consolation
3 and I don't think Mr. Bryant perceived his older brother as
4 any kind of authority figure.

5 Q He had a uncle who he accused of sexual assault?

6 A Correct.

7 Q I believe in his statement to Doctor Crawford he said an
8 Aunt Vickie knocked him around.

9 A I recall that.

10 Q So there are a lot of people there who were in a familiar
11 relationship who were older in some position of authority
12 with whom now there's no relationship and a lot of
13 resentment?

14 A Correct.

15 Q Police, did you note in his DJJ file that he refers to
16 police as to, quote, selfish little asshole cops?

17 A Yes. And I think he even -- there was a school record
18 where he noted something similar. Certainly had disrespect
19 for law enforcement.

20 Q People in the medical profession, the doctor who examined
21 him for his workman's comp claim. He alleged improperly
22 touched him?

23 A Now, and I would not agree to that. In my opinion that was
24 a symptom of his posttraumatic stress disorder; that he
25 felt like a male was touching him inappropriately. It

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1 frightened him and he left the examination room so I don't
2 see that as a feature of antisocial. I see that as more
3 consistent with his posttraumatic stress disorder.

4 Q Supervisors, I believe your report says he has a problem
5 with supervisors?

6 A He certainly -- I'm very aware that before this crime that
7 he had he worked with a gentleman in the community I know
8 that he specifically had a conflict with him and it was
9 over some electrical wiring and docked pay. So he had a
10 history certainly in that relationship of difficulty with
11 the supervisor.

12 Q And you documented the fact that man Mr. Jayroe actually
13 got a restraining order to keep Mr. Bryant away from him?

14 A That's correct.

15 Q Corrections officers, in his first imprisonment at the
16 Department of Corrections there were at least two, if not
17 three charges, of threatening and striking corrections
18 officers?

19 A Yes.

20 Q Here at the Sumter Detention Center there's an assault on
21 Mr. Justice and a threatening of Mr. Jones.

22 A Yes, I'm aware of those.

23 Q And since he's been in the Department of Corrections he has
24 struck other inmates and he's thrown objects at guards.

25 A Yes.

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1 Q With this antisocial personality disorder, by definition
2 he's manipulative, he's deceptive, tends to lie, he doesn't
3 want to accept responsibility, he denies and minimizes,
4 correct?

5 A Some yes, some no. I think it's very fair to say he's had
6 a history or manipulating others. I think it's fair to say
7 that he's had a history of conflicting stories which may or
8 may not be the truth.

9 Q Conflicting stories which may or may not be the truth. And
10 I wanted -- I'm glad you brought that up, that terminology.
11 You -- I've listened to as you were testifying on direct
12 you said some things he can't recall or some things he has
13 difficulty recollecting. Does he also have a problem in
14 telling the same thing the same way because he's naturally
15 deceptive and manipulative?

16 A There are times yes, and then times, no. For example, it
17 would depend on what you're talking to Mr. Bryant about
18 because you're right, he does have antisocial personality
19 disorder. But he also has posttraumatic stress disorder so
20 you kind of have two disorders going on at once so you have
21 to look at the context. If Mr. Bryant reported any kind of
22 history about a relationship with a male, if it regards
23 anything that he deems of sexual abuse, he's going to
24 give -- he's not -- he is going to minimize. He's going to
25 deny because those things are very shameful for him to talk

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1 about so there are times he does that. Some of that is
2 related to PTSD. But yes, then there have been other times
3 where he has said things absolutely not true and not
4 related to that disorder so it's both.

5 Q What did he say did he tell you you could obviously tell
6 from what you had researched was absolutely not positively
7 not true?

8 A Well, I don't -- keep in mind I don't have -- I don't -- as
9 psychiatrist I don't have skills telling whether someone is
10 telling the truth or not so all we can do is rely on the
11 record to see if they contradict and there is certainly a
12 period of time where he was saying that there was another
13 gentleman that was responsible for these charges as well,
14 that he was not alone.

15 Q And for example, when he says that he shot Clinton Brown,
16 in one of his two or three versions of shooting Mr. Brown,
17 that he shot Mr. Brown as Mr. Brown was charging him, you
18 saw Doctor Sexton's autopsy and no -- not the autopsy but
19 you saw the medical records and know Mr. Brown was shot in
20 the back and not the front.

21 A Correct.

22 Q So either he can't recall, he can't collect, or recollect
23 or he is minimizing and lying to put the blame somewhere
24 else instead of accepting it himself?

25 A Not for Mr. Brown. For other things I would agree; but for

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1 Mr. Brown, I agree, I don't have any evidence Mr. Brown
2 ever charged him or every assaulted him and the evidence
3 show he clearly was shot in the back. But Mr. Bryant's
4 perception of him coming after him being threat would be
5 consistent with his posttraumatic stress disorder so that
6 one is kind of hard to tell whether he's lieing or
7 manipulating because this is a particular person he
8 assaulted and felt threatened. But now did I see any
9 evidence that Mr. Brown assaulted him, no.

10 Q And ---

11 A So but I can't call that lying. I don't think that's
12 lying.

13 Q And but you can't say whether it's the tr--- you can't say
14 it's not lying, can you?

15 A That's correct, but it's certainly consistent with his PTSD
16 more so than his antisocial personality.

17 Q And you were -- you were kind enough to say that you don't
18 have ability to say this is due to his illness and this is
19 because he's here lying and manipulating.

20 A I'd be awful rich if I could do that. I agree.

21 Q What percentage of your diagnosis is based on the
22 statements that he and he alone self-reported?

23 A Gee. Some -- certainly some of it. PTSD is the one
24 diagnosis where a lot of the symptoms have to be
25 self-reported but I've observed many. His accounts are

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1 important, but there's also enough other information from
2 interviewing family members, having the consults. No, his
3 symptoms are so consistent with the mental illness that I'm
4 very comfortable in making that consideration. But you're
5 right, I did have to rely on what he told me to an extent
6 as well.

7 Q And when you get somebody with his history then it becomes
8 that much more important for you to have to corroborate or
9 verify what they say because they are inherently not
10 credible for whatever reason.

11 A I can't say that. In a forensic evaluation it's important
12 to get as much history as you can, and I think what makes
13 somebody -- I wouldn't say that they're not credible, but
14 they have reasons not to tell the truth. They have legal
15 consequences and that sort of thing.

16 Q But legal reasons not to tell the truth?

17 A Yes.

18 Q And -- well, I'll ask you about that in a moment. But for
19 example, if you went back through his records and you saw
20 he reported to you that he used drugs in different ways and
21 times; is that correct?

22 A Yes.

23 Q I noted that back in 1996 when he was in DJJ he initially
24 denied any marijuana use. Then in February of '99 at the
25 intake of SCDC he said, yes, he did smoke some but then

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1 (ph) indicated he liked alcohol. And then later in the
2 Department of Corrections he said the only problem that I
3 have was not with my mind; it's with using marijuana. And
4 then during the period he was on the probation in I think
5 January '03 through about half -- oh, middle of '03, he
6 tested not using drugs. And then in your latest report of
7 September the 3rd he now says he used mushrooms and
8 methamphetamine and all these other drugs. Now wouldn't
9 that be the first time that there's been any mention,
10 self-reported mention, of him involved with any of those
11 other drugs?

12 A I certainly remember that the Department of Corrections has
13 alluded to his using marijuana, and he's been consistent
14 with that. That's why I diagnosed him with marijuana,
15 cannabis dependence. He tested positive for marijuana upon
16 his arrest. So that diagnosis. The one methamphetamine
17 abuse by history, I did write -- that's why I qualified
18 that by history meaning that he reports that. Now I have
19 not seen that in other ---

20 Q He and he alone. You don't have any blood tests; you don't
21 have any urinalysis?

22 A That's correct.

23 Q You don't have any toxicology? He says now to you for the
24 first time in September of '08 as we're on the threshold of
25 trial, oh by the way I use mushrooms, oh by the way I use

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- 1 meth?
- 2 A Oh, no, he -- in April of 2006. I got a substance abuse
3 history from him the first time I saw him, and he had given
4 a very similar history. I think letting some
5 credibility -- he certainly knew a lot about mushrooms. He
6 had talked about he was growing them. He had read Aunt
7 Audrey's cookbook. I'm not an expert in mushrooms, but
8 that he had -- he knew that they had purple underbellies
9 and knew where to pick them. And he certainly had some
10 knowledge about the hallucinogen that was found in
11 mushrooms. That would be consistent with someone who had
12 used them, but he gave me that history in 2006. But you're
13 correct, I have no -- there's no blood tests or no urine
14 drug screens or any other family members that would have
15 reported that history to me.
- 16 Q You don't have anybody else that corroborates; that's
17 totally self-reported?
- 18 A Correct.
- 19 Q All right. In terms of his allegations of sexual abuse,
20 intake DJJ in 1996 he denied anything?
- 21 A Absolutely, and that's not uncommon at all. I've treated
22 ---
- 23 Q Said --
- 24 A I've treated juvenile boys for 15 years, and at that age
25 it's very difficult -- first of all they're amongst their

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1 peers. He's in an environment where he's not safe; he
2 wants to go home. So that -- him denying that in terms of
3 that evaluation, that really would be consistent with
4 somebody who has been abused. They often don't report it,
5 especially when it's family members.

6 Q In 1999 he once again denied both physical and sexual abuse
7 during intake at Department of Corrections?

8 A Correct.

9 Q What's the ---

10 A And if I can say -- well, I need to say ---

11 Q Yeah, please.

12 A ---that's not uncommon either. He's going to be confined
13 amongst males in a correctional facility and so that's not
14 the kind of history that an inmate -- I treat a number of
15 inmates right now at Gilliam Psychiatric Hospital that I
16 know they've been sexually abused and they still won't
17 admit it. So there's reasons you have to understand in
18 depending upon the environment you're in, what the source
19 is. People are going to be forthcoming with that
20 information or not. And if you're in a place where you're
21 not safe you're not going to be forthcoming with that
22 information. That's very consistent with the disorder.

23 Q Did you find any substantiation that Mr. Burgess in the
24 Department of Corrections records, the ones you have access
25 to, that Mr. Burgess ever had any contact with him or any

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- 1 sexual advances?
- 2 A Not at all.
- 3 Q Zero?
- 4 A Correct.
- 5 Q What's the first notice you had that he reported that
6 somebody had had some -- had abused him? When's the first
7 time?
- 8 A In April of 2006.
- 9 Q That's to you. Did he ever report it before then to
10 anybody else?
- 11 A Yes, to the Y -- shortly before these crimes to Ms.
12 Thompson, to the YWCA which would have been just a few
13 weeks before these crimes and he'd reported all the same
14 four people that he reported to me.
- 15 Q Did you note that in the Department of Corrections records
16 of April -- of August of '02 he alleged sexual abuse by his
17 uncle but nobody else?
- 18 A Yes, sir.
- 19 Q You saw that?
- 20 A Yes, sir.
- 21 Q So the first time he brought that up it had to do with his
22 uncle?
- 23 A Correct.
- 24 Q Okay. When he talked to Doctor Crawford the first time on
25 October the 13th he first alleged sexual assault by his

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1 grandfather?

2 A Correct.

3 Q And there's no independent corroboration of that
4 whatsoever, is there?

5 A Well, in my opinion there is.

6 Q There's a witness?

7 A No.

8 Q I mean, there's somebody who saw it, a grandfather's
9 admitted it? Or is that your opinion?

10 A Well, what I relied upon for that is the -- one of his
11 other victims has admitted she was abused by him and I'm an
12 expert in sexual disorders and it's not very uncommon for
13 some -- if there's abuse within a family for other children
14 to be abused. It's very seldom that if you have an incest
15 perpetrator within the family that they confine their
16 activity to one individual in the family.

17 Q And you corroborated that as to the other person as well
18 independently?

19 A Only with Ms. Caulder.

20 Q Just -- but you're talking about reports that aren't
21 verified or corroborated or given to law enforcement?

22 A That's correct. There's certainly no rap sheet on his
23 grandmother. There's no -- there's no incident reports;
24 there's no criminal reports, nothing like that. That's
25 correct. There's nothing external other than a report of

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1 another family member which I relied upon.

2 Q And in October 13th he claimed that his mother molested
3 him.

4 A Correct.

5 Q He claimed that his father beat him.

6 A Yes.

7 Q Six days later he added to the mix his brother, his uncle,
8 and Aunt Vickie.

9 A Yes, but I don't think Aunt Vickie was sexual abuse. That
10 was physical abuse.

11 Q Have you corroborated that Aunt Vickie knocked him around
12 or not?

13 A No.

14 Q Corroborated that his brother assaulted him or not?

15 A Other than just his reports and, no.

16 Q That's self-reported?

17 A Correct.

18 Q His uncle is self-reported?

19 A Correct.

20 Q His father is self-reported?

21 A Correct.

22 Q And that was a substantial basis for your diagnosis; was it
23 not?

24 A One of the criteria for posttraumatic stress disorder is
25 you have to show that someone was abused, right. They have

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1 either witnessed abuse, seen abuse, or had to be a victim
2 of abuse. So yes, it's important, you have to corroborate
3 that. In my opinion the history from the aunts is enough
4 for me, his reports me knowing everything I know about
5 posttraumatic stress disorder, me knowing everything I do
6 about males being sexually abused -- having been a doctor
7 for 19 years -- his report, his behaviors, his lack of
8 reporting are all consistent with someone that has suffered
9 through abuse. Whether each and every account is reliable,
10 accurate, I can't say. But certainly I can tell you based
11 on my training that his behavior, his symptoms are
12 consistent with someone that was abused.

13 Q And whether it was by one person or more than one person,
14 one time or more than one time, you have no independent
15 means to verify?

16 A That's correct, other than his report, I would have to
17 count on that, That's correct.

18 Q You had the opportunity apparently according to your report
19 to look at a lot of police reports, a lot of statements
20 from witnesses because you were concerned in trying to
21 decide what his frame of mind was in October of 2004.

22 A Absolutely.

23 Q I would ask you in 2004 if you observed any habits or
24 conduct which might indicate he was goal oriented, that he
25 could appreciate his criminality, that he could conform to

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19 to look at a lot of police reports, a lot of statements
20 from witnesses because you were concerned in trying to
21 decide what his frame of mind was in October of 2004.

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24 conduct which might indicate he was goal oriented, that he
25 could appreciate his criminality, that he could conform to

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1 the law?

2 A Certainly, certainly.

3 Q You're aware of the various things which occurred out in
4 the Wedgefield community, are you?

5 A Yes, sir, just by having -- I saw the similar presentation
6 during his guilty plea, yes.

7 Q All right. And you did see that?

8 A Yes.

9 Q And you know that we have based on that it seems some very
10 similar things that happened at the home of Mr. Dennis?

11 A Yes, sir.

12 Q Up here, and Mr. Ammons down here, and then all these other
13 people who were close to where he was?

14 A I'm not sure your pointer is working but I do remember. I
15 do remember certainly and I have knowledge of that, yes.

16 Q All right, and it's not coming up ---

17 A If you won't hold me to the locations but I am familiar.

18 Q And I won't hold me to this pointer. You understood from
19 that and you understand now and from reading those
20 statements that he had a very deliberate conscious plan of
21 going into an underpopulated rural area and going to houses
22 that were remote, down long driveways in the daytime when
23 people weren't supposed to be home.

24 A Absolutely.

25 Q That would be an indication that he knew what he was doing

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1 was wrong and didn't want to get caught.

2 A Sure, certainly, and it would certainly be consistent with
3 him having a history of burglarizing some of the homes or
4 that sort of thing, absolutely.

5 Q And in addition to that do you know that having talked to
6 Mr. Dennis and talked to Ms. Durant and talked to Barbara
7 Ryan and having gone by Mr. Tietjen's house he had a cover
8 story, that his vehicle overheated or that he was out of
9 gas or that he gave them an alias false name, said he was
10 looking for a fictitious person to deceive them.

11 A Yes.

12 Q And to keep his true purpose being hidden?

13 A Yes.

14 Q All right.

15 A I will add though, I don't know, there may have been one
16 time when he really was out of gas; but absolutely, I think
17 that was certainly his pattern. That he was in my opinion
18 scoping out neighborhoods and that sort of thing.

19 Q Scoping them out, he was running a recon. And when he ran
20 into a place where things didn't go his way, Barbara Ryan's
21 house where the builder appeared behind her shoulder, Ms.
22 Durant's house where the mastiffs showed up, Ms. Brown's
23 house where he heard running upstairs, or Mr. Dennis's
24 house where Mr. Dennis armed himself with a weapon. He was
25 able to exit the area.

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1 A Correct.

2 Q And he was able to make a conscious decision, I can conform
3 to the law, if I don't conform to the law I may be in a
4 little trouble.

5 A Sure, absolutely.

6 Q Okay. With regard to the people he shot, did you see from
7 what you studied that all of them were alone, they were
8 isolated, they were vulnerable, three of them were shot in
9 the back?

10 A You kind of put a number of things in there and I'll take
11 them separately.

12 Q They were alone?

13 A Yes, they were absolutely alone, yes.

14 Q There weren't any witnesses in the area?

15 A No, not that I'm aware of.

16 Q They were vulnerable; they didn't have any help.

17 A Well, if that's your definition of vulnerable, yes. I
18 certainly wouldn't -- some of the victims were bigger than
19 him so, you know, he's a small stature kind of guy. But in
20 terms of vulnerable means was anybody else there, would
21 anybody have been there to rescue them, no.

22 Q And three of them were shot in the back?

23 A Correct.

24 Q Two of them shot in the back according to what the autopsy
25 says with their pants unbuttoned and their zippers down?

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- 1 A Correct.
- 2 Q So hardly a threatening manner, that?
- 3 A I would probably not agree with that. You have to
- 4 understand that might not be threatening to you or me; but
- 5 when it's someone with posttraumatic stress disorder, could
- 6 that have meant that he sees their genitalis in the middle
- 7 of urinating, I don't know. He certainly perceived that
- 8 each one of those he was threatened; that he felt
- 9 Mr. Gainey had made a sexual remark to him. He reported
- 10 that when Mr. Burgess was urinating that he became
- 11 demanding and threatening. I'm concerned about that and
- 12 know that Mr. Tietjen also I believe that his pants were
- 13 unbuttoned. To me that's more consistent with
- 14 posttraumatic stress disorder and some of the symptoms. I
- 15 don't know how those pants got unzipped and that's
- 16 certainly been an issue for me as well.
- 17 Q And Mr. Brown was sitting on a bucket fishing?
- 18 A That's correct.
- 19 Q So hardly a threatening posture?
- 20 A No, not at all.
- 21 Q Do you recall from what you read what the first thing he
- 22 did after he shot Mr. Gainey?
- 23 A I believe he went fishing, but I don't ---
- 24 Q You don't recall that he took his wallet and his keys?
- 25 A Yes, and then went back to his trailer.

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- 1 Q And stole, went back to Mr. Gainey's trailer and stole Mr.
2 Gainey's property.
- 3 A I'm aware of that, yes. I believe a television and fish
4 tank or, yes.
- 5 Q And set a fire to cover his tracks?
- 6 A Well, no, he states in that point he denies that. He
7 stated he smoked a joint, left the joint on the couch and
8 it burned the couch up.
- 9 Q I understand he denied that but he did plead guilty to
10 arson.
- 11 A Absolutely.
- 12 Q And —
- 13 A Absolutely.
- 14 Q If you look back at his DJJ records, the first trouble he
15 got in was for arson. He said the same thing, I was
16 smoking a cigarette and it just caught on fire, an
17 accident?
- 18 A That's correct, the curtains in his mom's house.
- 19 Q After he stole this stuff from Mr. Gainey he went and told
20 his girlfriend Ms. Justice he had a surprise for her?
- 21 A Yes.
- 22 Q That would indicate that he knew what he was doing and that
23 he was concerned about himself and no one else, would it
24 not?
- 25 A Certainly in terms of taking -- there's no question in my

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1 mind that any of the burglaries, any of the thefts, has
2 nothing to do with posttraumatic stress disorder. That's
3 more related to antisocial personality disorder so I would
4 not disagree with you.

5 Q And ---

6 A I just have a very different opinion when it comes to
7 killing people that he barely knew. He killed -- he shot
8 someone that was fishing. He killed his friend. And he
9 shot two other people: One that he didn't even know. He
10 went to the man's house; and then the last person, if he
11 indeed knew Mr. Burgess, that one would make a little more
12 sense. But just the murders themselves make no sense; he
13 had no reason to kill these people.

14 Q After he shoots these people he takes their property to
15 benefit himself and he leaves to keep from getting
16 caught; is that correct?

17 A That's his behavior whether -- whatever reason he left but
18 that was certainly.

19 Q Well, that would indicate somebody who was thinking that
20 this is how I can turn this circumstance to my advantage.
21 Or it was just, oh well, now that I've killed him why don't
22 I go ahead and steal his stuff while I'm at it.

23 A He's assoc-- he does have antisocial personality disorder.
24 In terms of him taking anything from these victims I think
25 that's simply it could be an afterthought. Maybe that's

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1 why he went there; I don't know. But there's no question
2 in terms of any of these burglaries, any of the properties
3 he's stolen that he's absolutely -- I would say go so far
4 as to say he's criminal responsible, had capacity to
5 conform, and he -- those illnesses did not impair his
6 capacity at all in terms of his taking things.

7 Q You're aware from his statements of course that he went to
8 see -- he went to the Tietjen house on a prior occasion to
9 scope it out?

10 A I had some awareness of that, yes, that he had been in that
11 neighborhood.

12 Q Well, well, a lot more so than being in the neighborhood if
13 I could take a minute. "I said before that I hadn't been
14 to the Tietjen house; that's not true." This is the
15 statement of 10/21/04. "I remember now going to his house
16 a couple of days before he got shot. I don't remember what
17 day exactly he was coming from his mail box at about 18 --
18 about 10:30 looking through his mail as I was entering the
19 driveway of his yard. I just pulled up and started
20 conversation with him asking if so and so lives here. He
21 said no. But does she live on this road. I said yeah.
22 Well he said pull up in the driveway and I'll look in the
23 phone book and see. And when he came out he greeted me in
24 a masonic shake. That's when I first realized he was a
25 mason. We couldn't find this person in the phone book of

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1 course so we sat there and talked for about an hour,
2 hour-and-a-half". So he had been to Mr. Tietjen's house
3 before as he had been to the rest of these houses with a
4 false tale?

5 A Sure, absolutely, to scope -- there's no question. That
6 would be consistent with his behavior looking for houses to
7 rob or whatever, absolutely.

8 Q And when he parked according to one of his statements he
9 parked at a distance so that when he "left to go home I
10 went through the woods to be unseen by anybody".

11 A Absolutely, and I think there's even one where he backed
12 the car out, absolutely, attempts to conceal his presence.

13 Q Going into the Tietjen house he's got a mission in his mind
14 and that's to steal what's in there. He parks his truck so
15 he won't be detected and goes in the house.

16 A I can't say what his mental state was, but his behavior
17 would certainly indicate it was purposeful and he knew what
18 he was doing.

19 Q And after he killed Mr. Tietjen he went through his pockets
20 and took his wallet, took his ring off. He went through
21 every room in his house and he took that property and took
22 it back to his house and claimed it as his own. Is that
23 correct?

24 A I'm certainly aware of the jewelry and, yes, some of the
25 property.

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1 Q And when these things are done then what justifies or
2 explains or excuses talking to his wife on the phone and
3 tormenting her. How was that part of any syndrome? How is
4 that not just absolutely cruelty or hatred for others?

5 A Mr. Bryant told me that after he killed Mr. Tietjen he went
6 fishing to calm down, and he states he remembers somebody
7 calling him and asked, you know, and he said that -- I --
8 it just affirms what he did. I don't know if his intent
9 was to torture, but he's told me. I'm very aware of those
10 telephone conversations. They had to have been horrible
11 for ---

12 Q You're aware ---

13 A ---her.

14 Q You're aware of what Ms. Tietjen said. He said I'm the
15 prowler, I killed T.J.. When Kimberly called he said I'm
16 having a wonderful day.

17 A I'm sorry.

18 Q I'm having a wonderful day.

19 A Yes.

20 Q That would be as antisocial as you could be; wouldn't it?

21 A It certainly -- it's -- I don't know if he knew who those
22 people were or who he was talking to, but if he did know
23 and knew that they were related to Mr. Tietjen that would be
24 sociopath.

25 Q They were asking to talk to Mr. Tietjen.

DW - D. SCHWARTZ-WATTS - REDIRECT

1 A But I don't think that he had knowledge that it was his
2 wife and daughter, but if he did that would certainly be
3 sociopathic.

4 Q If he didn't would it make any difference? Would it make
5 it less cruel, less tormenting? That's okay, I'll withdraw
6 the question.

7 A That's really not -- I'm sorry, it's just not psychiatric.
8 I don't know how to answer that.

9 Q Thank you so much. I appreciate your being here.

10 A You're welcome.

11 THE COURT: Anything further, Mr. Howle?

12 REDIRECT EXAMINATION

13 BY MR. HOWLE:

14 Q Doctor, the Solicitor went through a number of things I
15 suppose establishing some planning or kind of knowing what
16 you were going to do, asked you about scoping out something
17 and purposely doing something. You told me earlier that in
18 regards to how he views things he's paranoid?

19 A Absolutely. There's times -- there's times when he's more
20 paranoid than others. It depends on the circumstances. It
21 depended -- depends on who he's talking to, depends on the
22 environment, it depends on whether he's been medicated or
23 not. But absolutely, I think it's very fair to say I have
24 seen him paranoid, I have assessed him during those periods
25 of times where he's been paranoid.

DW - D. SCHWARTZ-WATTS - REDIRECT

- 1 Q And he has misperceptions?
- 2 A Absolutely he has misperceptions.
- 3 Q Okay. He felt threatened?
- 4 A In all of those cases, Your Honor, not with the burglaries,
5 but in each of the assaults he reports feeling sexually
6 threatened that he was going to be abused. And in the case
7 of Mr. Brown, the first victim, he did not report sexually
8 being threatened but he felt physically threatened.
- 9 Q So even if you thought maybe he was scoping it out or some
10 of the facts looked like he kind of knows what's going to
11 happen, where he's going, the paranoid, the misconceptions
12 and threatening and these other problems that you said he
13 has, would you say his capacity to appreciate the
14 criminality of that conduct and to conform that conduct to
15 requirements of law was certainly impaired?
- 16 A Absolutely.
- 17 Q No question about that?
- 18 A No question in my opinion.
- 19 Q And what was his age when these were done?
- 20 A He should have been I believe 23 or 24.
- 21 Q Okay. But his record goes all the way back to youthful
22 offender?
- 23 A He was 11 years old; that's correct.
- 24 Q 11. One of the things the Solicitor asked you about, these
25 things about abuse that weren't really corroborated he

DW - D. SCHWARTZ-WATTS - REDIRECT

1 said. Are you aware that he told his family about the
2 abuse and his probation officer about the abuse before any
3 of these things happened?

4 A Absolutely. It's documented in the medical records. He
5 told Ms. Thompson at the YWCA when he was seeking treatment
6 when he had no charges pending. He had no reason to
7 fabricate those things other than to seek help.

8 Q So there's no indication that he just made this up after he
9 got arrested to, boy, I better find some way to explain
10 this away?

11 A Not at all.

12 Q The problem he had brought up a number of times previous
13 and sought help.

14 A Not at all.

15 Q Okay.

16 A His behavior is very consistent. In terms of corroboration
17 it's -- people that are victims of incest, I've never seen
18 a perpetrator yet that admitted it because they're going to
19 go to jail. If they admit they abused them there's legal
20 consequences for that behavior so in terms of approaching
21 people that have been accused it's not uncommon at all for
22 them to deny it. And the one uncle who abused him I
23 understand he died from AIDS and that he was homosexual so
24 I couldn't speak with him because he's no longer alive.

25 Q Okay. So when he talked about Stephen changing story it's

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1 not unusual for anybody when they're charged with a crime
2 or abuse like that that they're going to change their story
3 if they think it will help them.

4 A This is -- these are the most difficult cases of all in
5 terms of crimes of incest that involve family members.
6 It's not uncommon for people to minimize, collude, deny,
7 and again, there's legal consequences for that so that's
8 not uncommon.

9 Q Okay. Something else the Solicitor talked about claiming
10 the -- or Stephen claiming sexual abuse was with
11 authoritative figures and somehow that's a way to strike
12 back at them or whatever. People in jail that he claimed
13 had done anything, those individuals were not authoritative
14 figures, were they?

15 A No. And there's in the Department of Corrections records
16 there's clearly an indication that he was being sexually
17 propositioned by an inmate. He reported that he was
18 offered protective custody and refused PC. And there's a
19 notation in there we know he was certainly being approached
20 by male inmates and he was-- it was in 1999. He would have
21 been 18 years old at the time.

22 Q And even in regard to the antisocial conduct and the fact
23 we know he's got a record that goes way back in the
24 juvenile, in looking at that you are aware that there are
25 no violent crimes whatsoever, crimes against individuals

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1 throughout that whole history until these murders occurred?

2 A That's correct.

3 Q Okay. The diagnosis that you gave me when I was asking you
4 questions to begin with, the videos that you watched,
5 corroborate or verify that diagnosis as well; wouldn't you
6 say?

7 A Well there's certainly, specifically the McDonalds video,
8 that's a symptom I observed in this, Mr. Bryant myself. I
9 know it's a feature of his posttraumatic stress disorder.
10 People with posttraumatic stress disorder, when they're in
11 situations they become very hypervigilant. If they're in a
12 new room, in a new building, in a new situation they're
13 always looking around. Mr. Bryant, on one of the
14 occasions came to my office. It was -- I was sharing an
15 office with another physician and it took ten minutes
16 because he was busy looking around. He's done that in
17 court as well. That's called hypervigilance, and that's a
18 symptom of consistent with posttraumatic stress disorder.
19 I clearly observed that symptom while he was at the
20 drive-thru at the McDonalds.

21 Q Okay. I think you said also even though most of this abuse
22 information came from him the overall factors as you saw
23 was still consistent with that being something that happened?

24 A Absolutely. And for his aunt to further corroborate that
25 similar thing happened to her and there's proof of that and

DW - D. SCHWARTZ-WATTS - REDIRECT

1 there's two -- and another person saying something similar
2 with the same perpetrator has a lot of credibility in my
3 opinion to his reports.

4 Q Okay. Thank you, Doctor. Thank you, Your Honor.

5 MR. SALEEBY: I would have just a couple of questions.

6 THE COURT: Yes, sir.

7 R E C R O S S E X A M I N A T I O N

8 BY MR. SALEEBY;

9 Q I want to ask you about that video at McDonalds. That's a
10 pretty short clip; wasn't it?

11 A Yes, sir.

12 Q And I certainly accept the fact that he's hypervigilant.
13 Do you know what had happened earlier that day why he had a
14 reason to be hypervigilant?

15 A Well certainly. I believe -- I think that's the day that
16 Mr. Tietjen was murdered. He certainly -- or that may have
17 been the day that he was about -- he was seen, he was a
18 suspect and had interaction with the law enforcement. But
19 again, that would be overall, but it's at the exact moment
20 in time why did he look behind him, why was he outside of
21 his truck. You know, could he have thought police were
22 following him, sure, but there could be -- you know, there
23 could be a hundred of reasons why that happened, but that is a
24 symptom the way he did that. I certainly observed that and
25 that's consistent with his illness.

1 MR. SALEEBY: Thank you.

2 THE COURT: Thank you, Doctor Schwartz-Watts.

3 Any objection to Doctor Schwartz-Watts being excused?

4 MR. HOWLE: No, sir, Your Honor.

5 THE COURT: From the State?

6 MR. SALEEBY: No, sir.

7 THE COURT: Thank you, Doctor Schwartz-Watts, you're
8 certainly free to go, ma'am.

9 THE WITNESS: Thank you.

10 MR. JACKSON: Your Honor, might I put one
11 administrative thing on the record before Mr. Howle calls the
12 next witness?

13 THE COURT: All right.

14 MR. JACKSON: Your Honor, I believe the witness before
15 this lady was Ms. Angela Caulder, I believe, Slatton.

16 THE COURT: Slatton, yes.

17 MR. JACKSON: I just want the record to reflect on
18 June 26th of 2007 that information was provided to the Defense
19 attorneys. We don't think it's exculpatory or mitigating. We
20 provided it anyway. And for whatever reason they want to put on
21 the record we didn't get it we will let them answer to that.

22 THE COURT: All right. Mr. Howle.

23 MR. HOWLE: I'm not sure what information Slatton ---

24 THE COURT: The computer. The Solicitor indicates they
25 gave you the information that they confiscated that computer back

1 whenever they gave you Rule 5 information.

2 MR. HOWLE: Your Honor, if we saw it certainly I didn't
3 identify it with that. I don't recall seeing it.

4 THE COURT: All right, okay.

5 MR. HOWLE: Your Honor, we might need to take a little
6 break if we can.

7 THE COURT: I was going to ask if this would be a good
8 time.

9 MR. HOWLE: Well, my next witness has a little power
10 point and my understanding that the screen is locked up in
11 Mr. Greenan's office so we might to make some -- I think that's
12 what Jamie told me, he would look for it. It was locked up in
13 the office and couldn't get it.

14 THE COURT: Just take -- we'll take about a 15 minute
15 recess and let you get that set up.

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

17 THE COURT: All right. Mr. Howle, you may call your
18 next witness, sir.

19 MR. HOWLE: Your Honor, we call Doctor Alex Morton.

20 THE COURT: Mr. Morton, if you would please come
21 around.

22 THE DEPUTY CLERK OF COURT: Place your left hand on
23 the Bible, raise your right hand. State your name please.

24 THE WITNESS: William Alexander Morton, Jr.

25 WHEREUPON,

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1 WILLIAM ALEXANDER MORTON, JR.,
2 having been duly sworn by the Deputy Clerk of Court,
3 testified as follows:

4 THE DEPUTY CLERK OF COURT: Have a seat up here please,
5 sir. State your full name, spell your last name please.

6 THE WITNESS: That's William Alexander Morton, Jr.,
7 M-O-R-T-O-N.

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

9 BY MR. HOWLE:

10 Q Doctor Morton, where do you live?

11 A I live in Mount Pleasant, South Carolina.

12 Q And what's your profession?

13 A I am a professor emeritus of pharmacy practice and clinical
14 associate professor of psychiatry at the Medical University
15 of South Carolina.

16 Q Okay. And what do you teach?

17 A I teach psychopharmacology which is essentially the use and
18 understanding psychoactive drugs and human brain, and that
19 would include prescribe psychiatric medicines as well as
20 elicit drugs.

21 Q Okay. And what is your education?

22 A My education is I received my bachelor of pharmacy at
23 University of North Carolina 1972, my doctor of pharmacy
24 from the University of Tennessee in 1975. And then I
25 completed a clinical residency at the University of

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1 California in San Francisco in 1976.

2 Q And what is your area of specialty?

3 A My area of specialty again is how drugs affect human's
4 behavior, their thinking, perceptions. I've also
5 subspecialized in substance abuse also.

6 Q Okay. And are you Board certified?

7 A I am Board certified. I'm Board certified in psychiatric
8 pharmacy practice.

9 Q Okay. And I think you mentioned you did some teaching.
10 What are your duties at the present position you're in
11 right now?

12 A My duties currently I'm actually currently retired. I
13 retired in 2004. I am a professor emeritus which basically
14 means they like for me to stay around for life and so I'll
15 have a appointment for the rest of my life. I have an
16 office there. I consult there. I have a few lectures so I
17 might teach three lectures a year to one group of students
18 where I used to teach 40 in a year. I consult regarding
19 problems that people are having with their medications. So
20 I do that once or twice a month now whereas in the past I'd
21 be doing that for about 60 hours a week.

22 Q Okay. And you still give presentations?

23 A Yes, sir, I do.

24 Q Okay. Have you had anything published?

25 A I've had a number of articles published peer reviewed,

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1 which basically means other people have looked at what I've
2 written and have decided whether it should be published or
3 not. And approximately 46 peer reviewed publications about
4 a third of those are in substance abuse areas.

5 Q Okay. Have you testified in court before?

6 A Yes, sir, I have.

7 Q Where have you testified?

8 A I've testified mainly in South Carolina but also in
9 Georgia, Florida, North Carolina, Virginia, District of
10 Columbia, Alabama. I've testified in Oklahoma, Colorado,
11 South Dakota, and Oregon I believe, yes.

12 Q And in testifying in all those states and in court that
13 many times, have you been qualified as an expert witness in
14 psychopharmacology, addictions, psycho-pharmacy practice?

15 A Yes, sir, I have.

16 MR. HOWLE: Your Honor, we would submit Doctor Morton
17 as an expert in those areas.

18 THE COURT: All right. Any questions for Doctor Morton
19 regarding that specialty?

20 MR. JACKSON: Your Honor, I have no questions about his
21 qualifications, but I may have some questions about the
22 foundation of some of these drugs that he maybe he's going to
23 testify about.

24 THE COURT: All right, thank you.

25 BY MR. HOWLE:

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1 Q Mr. Morton, I think in preparation for today, I mean, I
2 have a number of questions but you have provided a
3 power-point presentation with actual copies of the slides
4 themselves.

5 And I gave a copy of that, Your Honor, to the
6 Solicitor's office. If I may, if you will just go ahead
7 and begin that and if there are anything I need to
8 interrupt and ask questions I will, Your Honor.

9 MR. JACKSON: Your Honor, I would object to
10 presentation at this time until there's some foundation that for
11 drugs that are listed in here, some corroboration he actually was
12 on these drugs.

13 MR. HOWLE: Well Your Honor, I think the slides, they
14 begin and they talk about some of his past history and they will
15 address drug effects and they had, what he was aware of what
16 Stephen was either on or has used. Now if a particular slide
17 comes up and he has an objection, I mean, I think that would be
18 the point rather than just not even starting with it.

19 THE COURT: Well, I mean, I understand what you're
20 saying but.

21 MR. HOWLE: Your Honor, I'm going through individual
22 questions.

23 THE COURT: Here's all I think we need to establish and
24 then we don't have to be interrupted when Doctor Morton presents
25 his presentation; and that is, what drugs that are relevant to

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1 this case that obviously, you know, if there's a presentation on
2 methamphetamine and if he wasn't involved in methamphetamine that
3 would be irrelevant and I'm confident that he hadn't prepared a
4 presentation on irrelevant drugs. But there is at this point I
5 think it would be beneficial to at least set forth what drugs you
6 intend to discuss that involving Mr. Bryant.

7 BY MR. HOWELL:

8 Q Drugs specifically in regard to Mr. Bryant are in your
9 presentation?

10 A The specific drugs I was going to address were those drugs
11 that came up in my evaluation of Mr. Bryant which I did
12 March 25th of this year at Lee Correctional Institute. I
13 spent approximately two hours with him and took a complete
14 medication history and evaluation. And I have a number of
15 drugs I thought I would talk about what was used during the
16 time. Before and during some of the crimes he was using
17 methamphetamine, marijuana, and also a substance which is
18 over-the-counter product diphenhydramine, also known as
19 Benadryl. So those were the three drugs I was going to
20 discuss as far as his reported use and what effects you
21 might expect to see from those and then talk some about the
22 course of addiction and specific about how his addiction
23 came up.

24 THE COURT: All right, sir.

25 MR. HOWLE: Thank you, Your Honor.

1 MR. JACKSON: Your Honor, there are several slides
2 mentioning drugs other than those that are at times I think are
3 irrelevant. I don't know if we want to go through the slide,
4 take them out, or how that needs to be presented but ---

5 THE COURT: Well, if they ---

6 MR. JACKSON: That's something -- the matter or fact he
7 had alcohol at age 13 is irrelevant here.

8 MR. HOWLE: Well, other than showing the history of why
9 he became ---

10 THE COURT: Again, I don't know if it's irrelevant
11 until I hear the testimony. I'm going to allow the presentation
12 to proceed, but Solicitor, certainly encourage you to object at
13 any point in the field that that objection is proper.

14 MR. JACKSON: Thank you, Your Honor.

15 MR. HOWLE: Thank you.

16 THE WITNESS: This is a slide presentation I presented
17 regarding Mr. Bryant, very similar to what I would do in the
18 presentations where I was teaching medical students, pharmacy
19 students, psychiatric residents. And I'd like to start off by
20 just saying I've put my 28 years of what I did at the medical
21 university here and all of it was basically patient contact. In
22 every area I was interacting with patients. Sometimes I'd be
23 teaching people as I talked to patients or I would relate some of
24 my lectures to these patients. But I started off working in a
25 medical screening clinic and then went into the VA Hospital where

1 I worked on both the inpatient and the outpatient. Green is
2 inpatient; white is outpatient. Also spent a significant time
3 working Fenwick Hall Hospital which is private alcohol drug
4 facility but also worked in our MUSC psychiatric unit as well as
5 our -- as well as their alcohol drug program. I started, helped
6 coordinate our psychopharmacology outpatient clinic which is for
7 third year residents and I would supervise those residents and we
8 would have somewhere when we initially started maybe 20 patients
9 and at the end we would have about 280 patients. I spent a
10 number of years at clinical research which is outpatient clinical
11 research. Now depending on when you would talk to me, if you
12 just picked or random time and say '92, a week's -- a week's work
13 would be the county hospital evaluating peoples for consultation
14 I would also be working up doing consultations on addiction. I
15 would be working at Fenwick Hall Hospital. I'd be supervising
16 patients that were being seen addressing if they had psychiatric
17 disorders as well as substance abuse disorders and then fifty
18 percent of my time I'd be working clinical research section in
19 our studies. And what was important to me about here is that
20 anyone that has PTSD was not allowed to participate in the
21 majority of our studies because their brain was so different and
22 they responded differently to drugs so we'd have to screen those
23 people out. The same way with substance abuse disorders. If you
24 had substance abuse disorder you could not come into our study
25 because the brain is definitely different and they would be

1 referred to another, another facility.

2 One of the reasons I got interested in this area is
3 because the despite continued education a lot of people don't get
4 it about substance abuse. And when I look back at how long it
5 took me to make sense out of things I would say it took me about
6 four years to truly believe and see that addiction was a medical
7 disorder. So I often find it to be kind of amazing that I'm
8 going to try to teach students or residents or a jury or inform
9 you about the medical aspects of addiction in 15 or 30 minutes,
10 but it is a challenge. So how long this will last, I think it
11 will last as long as a lot of people thought that the earth was
12 flat. My main point today was that drugs have incredibly
13 negative effects on a person's behavior; and more specifically
14 these goals would be to present Stephen's substance use, his life
15 history and show how that seg ways into his history before he was
16 incarcerated, look at some important aspects of addiction to try
17 to make sense out of how is it that people use these drugs even
18 though horrible things are happening. How does -- it doesn't
19 make sense and that's one of the things I'll address; that
20 addiction is not a logical illness.

21 One of the things we address our activity here today is
22 we approach things logically. That's not the way an addict's
23 brain works. And then present the probable sides effects that
24 Stephen might have had during the time of the crimes before and
25 some of the explanation after. If we look at Stephen's substance

1 use during these times of the week of October 6th to the 13th he
2 did report to me that he was using methamphetamine at least five
3 separate times. He reported smoking marijuana about six times
4 although I would suspect it would be more; and what immediately
5 caught my attention was that he sprays his marijuana with this,
6 with Raid, which I've heard of people spraying marijuana with
7 Raid but that's basically to kill bugs. But he used it to get
8 high essentially; it made a difference. And that's very unusual
9 in my practice to see people that have put insecticide on their
10 substance because it is quite toxic. And then he used 6 or 7
11 Benadryl capsules, and we all have heard of Benadryl and how it
12 might make you sleepy, but it has different effects when you use
13 a large amount and it does have some abuse potential. These are
14 the times that he reported me -- reported to me that he was
15 using. There's one error here. I think Mr. Burgess was shot on
16 the 13th, morning of the 13th, and I did not move that over there
17 but I noticed that, so rather than correct it -- I could have
18 corrected it but it would have been different than everyone
19 else's copy. But he reported using methamphetamine on the 6th,
20 on the 8th, possibly on the 9th. He did remember using it when
21 he went fishing on the 10th. He remembers using it before going
22 to Mr. Tietjen's. After that he doesn't report any
23 methamphetamine use at that time. He did report smoking
24 marijuana, and again, because his marijuana use is pretty much a
25 daily thing and has been since about age 14 I don't -- I wondered

1 why he didn't use on some of these other days but I think it was
2 partly because of his memory. He did report drinking a beer but
3 his use of beer is not something that he really likes. He
4 doesn't think he's probably ever drank a whole can, but just kind
5 of sips on it more out of a peer pressure type setting.

6 Methamphetamine, I don't know that I need to go over
7 that. There are a hundred -- over a 140 different names for it.
8 It's definitely a stimulant. It has significant side effects.
9 People use it to feel good. That disappears fairly quickly.
10 This drug has been around since the 60s. It's well known, the
11 toxicities of it, and the long term effects of it. Marijuana in
12 general, the active ingredient is delta nine THC or delta nine
13 tetrahydrocannabinol. That's the active substance. Most people
14 don't associate marijuana with marked negative effects, but it
15 does have some and I thought I would talk about some of those.
16 Raid, depending on which product, and it changes over the years,
17 it can contain different insecticides. More recently this drug
18 called psypromethrin has been introduced because it actually
19 kills roaches very quickly and people don't want to see roaches
20 kind of scurrying off and dying fifteen minutes later. They want
21 them to die right then and not move. So they've introduced that
22 product. But this is -- all of these compounds that are in Raid
23 for the public are something called pyrethrins. If you look at a
24 older one you can see some of the other pyrethrins that they use.
25 All of these have been found to be neurotoxic and have

1 significant psychiatric symptoms. And like I mentioned, Benadryl
2 is an over-the-counter product which does have some abuse
3 potential. When you use a large amount of it it can make people
4 high; it can make them hallucinate. This can make them confused
5 and have unusual ways of thinking. I think this time line of his
6 substance use is significant because it shows how the course of
7 his use led him to what we saw at the end of the -- his time out
8 as a citizen.

9 He first started using marijuana at approximately age
10 8. I asked him how did he do that. He said he took one from his
11 father. He said he watched his father and mother use. He stated
12 that -- I said how did you know how to use. He said I just
13 watched them and their friends how to inhale it, how to roll it,
14 that it was grown locally and so he essentially modeled himself
15 after what he saw. The concept of using Raid, I've never met
16 anyone that actually smoked the product that they sprayed but he
17 would spray it about four times and he would say a large can
18 would last him several months. So I don't -- I've never really
19 had anybody use that. I've heard reports of using Raid and Black
20 Flag to kill animals that might get into your marijuana but not
21 that. He reports first having his first drink at age 13. His
22 13th birthday he was offered kind of a straight one-on-one proof
23 is what he said, made him absolutely nauseous and he had no
24 desire for it after that. He tried drinking beer and with most
25 people beer is kind of a learned taste for a lot of people. Most

1 people do not like the taste of beer alcohol. But in over a
2 period of time with peers they learn, they learn to enjoy it
3 especially with the effects. But he doesn't give much of a
4 history of using alcohol especially during this period of time.

5 The same with his hallucinogenic drug use. He used
6 mushrooms at age 14 specifically three times, describes how he
7 found them and how he choose use them. That's not unusual that
8 adolescents in the country would know how to find silicide in
9 mushrooms. He reports the last use of LSD he said approximately
10 eight months before the crimes so he doesn't report using this
11 substance during that time. He does report using Benadryl and
12 also Nyquil. Those are over-the-counter depressant drugs which
13 most of the time make people sleepy but with him would kind of
14 wire him up. His first stimulant use was with cocaine. I asked
15 him after he described how it made him feel I said why didn't you
16 continue to use it. He said, it was basically around the
17 availability. It wasn't available in Sumter and in this area.
18 Methamphetamine has been the drug that's kind of the working
19 man's drug. It first started off where people were using it to
20 work long hours, first with truckers and doing long hours but
21 people working 10 and 12 hour shifts to be productive and be able
22 to do that. That availability is much more so in blue collar
23 workers. Some blue collars workers do not know, have any idea
24 how to get cocaine. And it's possible that cocaine is available
25 here but Stephen might not have known where to get it.

1 His methamphetamine use, he used it both -- I -- did
2 not ever use the IV. He used cocaine once IV and he was quite
3 impressed with it, and he would probably continue to be using it
4 if he could get it. He mostly snorted methamphetamine the first
5 time and then towards the end he would always smoke it. He would
6 get about six hits for 25-dollars. Not only is it available to
7 kind of working men in construction areas, but it's not that
8 expensive.

9 One of the things that people like about
10 methamphetamine is that it can last, the high, anywhere from 8 to
11 12 hours whereas -- I'm sorry, cocaine might be anywhere from 10
12 to 20 minutes at the most. He did -- when I asked him about
13 these medicines Xanax and Valium he would use Xanax in fairly
14 large quantities and he said it was almost the same effect as
15 methamphetamine. I've heard that from other people that when you
16 take a large amount of it you get a stimulatory effect, which is
17 not really what you would expect with most people. Most people
18 if we took a one milligram Xanax I would be sleep in 15 or 20
19 minutes and that would be the effect most people would have with
20 these drugs. He did take Valium to help him relax. One thing
21 that I frequently find is that people that are using stimulants
22 such as cocaine and methamphetamine often they will either use
23 alcohol or Valium or Xanax to help bring them down or diminish
24 some of the side effects because there are side -- there are
25 effects that they like but also a tremendous number of effects

1 that they don't like. His ephedrin over-the-counter stimulant,
2 he talked about using those six or seven. Later on I saw in
3 someone else's report that he said most of the time he would get
4 that for his girlfriend Judy, and he did not acknowledge using
5 those appetite suppressants or over-the-counter speed for his own
6 use that much but I placed it in there. That's what that
7 reported at some point that he did use it and he would buy it.
8 It's pretty much more difficult to get in the last several years
9 because it's been more controlled, and it's not over-the-counter
10 where you can walk up and buy as many boxes of this as you have.

11 Stephen's psychiatric history had significant symptoms
12 of depression anxiety from his PTSD, the trauma from his sexual
13 abuse which has been outlined. How long did it take for him to
14 come to get treatment? It's -- I'm surprising that a young male
15 would seek treatment that early. Most young males do not want to
16 talk about -- no one wants to talk about sexual abuse. I can be
17 fairly safe about that. No one wants to talk about it. People
18 like to ignore it. It's very uncomfortable to address. And to
19 some degree you're still labeled if you come forth and say this
20 is what's going on so it's surprised me that he did start seeking
21 treatment. When you have PTSD, whatever the trauma is the four
22 symptoms I see a lot is reliving the event in your head, avoiding
23 certain situations that might be similar, feeling keyed up. And
24 that's just to put it mildly. There are a number of anxiety
25 symptoms that go along with feeling keyed up, wired,

1 palpitations, not being able to catch your breath, tingling.
2 There are 20 or 30 specific anxiety symptoms that you can have.
3 And then just feeling kind of numb to the world because you know
4 that the world had really kind of assaulted you, and so you just
5 try to stay numb. One thing I've learned about PTSD is that once
6 you turn it on it stays on. You turn the brain on it stays on.
7 It's progressive and more severe. So those people from -- come
8 back from Iraq war, if they don't get treatment pretty quickly
9 they will have it and it will get worse. The same way with
10 sexual abuse victims. It's a long time before they usually get
11 treatment and it gets worse and it gets more severe. If you
12 throw drunks in there it temporarily helps but overall it makes
13 it worse. It's essentially like pouring gasoline on a fire; it
14 flames up. I know of no study that shows self-medication with
15 substance makes PTSD better although you see people using
16 substances because they work so quickly. The drugs that Stephen
17 used would only provide temporary relief of his trauma symptoms.
18 Overall they would make these disorders worse and toxicity of the
19 drugs I think do produce pretty erratic behavior. I've probably
20 seen between five hundred and a thousand people over my 30 years
21 that had abused methamphetamine, probably six thousand of people
22 that have used cocaine that would be between four and six
23 thousand. And one of the things that I've learned is that
24 they're very predictable symptoms with these drugs. And
25 sometimes people say how did you know that. How did I know it?

1 Well, I've asked thousands of people the same question and the
2 majority of them say yes so I'm going to ask you that question.
3 No, I cannot read your mind, I'm just -- people are paranoid if
4 they use these drugs. So initially they help but overall they
5 make you worse and I think that's very hard for patients to see;
6 that they're -- this drug is making them worse. I see that with
7 marijuana that people that have anxiety disorders may smoke
8 marijuana and they feel better and they say, it's not hurting me,
9 it's better than alcohol. And yes, it maybe it has less toxicity
10 than alcohol but definitely makes your disorder worse. He has
11 disease of addiction to methamphetamine and marijuana. And while
12 I don't make diagnoses Doctor Schwartz-Watts did say he had those
13 diagnoses. I know he had the symptom of use. He has symptoms of
14 what I would expect when people are using intoxicated, the good
15 effects, the bad effects. He would have effects when he stops
16 using and he would have residual effects, essential effects that
17 even when the drug is out of his body he would still be having
18 these effects. I feel like it's -- I think it's important. I
19 feel anxious if I didn't talk about the course of addiction.
20 People use for lots of reasons and what I notice is that people,
21 the reasons for using initially is often quite different than why
22 they continue to use chronically. Everybody makes a decision to
23 use these substances and I -- there are probably 30 different
24 reasons, get along with peers so you interact more so you have
25 identity, hundreds of reasons. But later, what I find out

1 besides compulsively using which is the definition of addiction
2 they're usually self-medicating psychiatric disorders or
3 self-medicating withdrawal symptoms so temporarily they feel
4 better. If you have addiction, for the most part you've got it
5 for the rest of your life, the same as diabetes. Your brain is
6 different, the same way as your pancreas is different with
7 diabetes and you're going to have elevations and your blood sugar
8 and some people will have relapses with their substances. And I
9 have to work with patients and this -- and practitioner and I
10 said just because this person relapses you don't give up on them.
11 This is a chronic disease. You think about treating -- what were
12 you not doing right, what were you not offering. It's a chronic
13 relaxing brain disease characterized by compulsive drug use, drug
14 seeking, and you have withdrawal. And use continues despite
15 horrific catastrophic conditions.

16 What causes addiction? There are lots of
17 possibilities. We know these are factors. We know that who you
18 get your genetic material from is one of the most important
19 aspects. What happens in the first six years, what's your
20 environment is like, what things happen that you lost, did you
21 lose a pet, did you lose a pet bird, a pet animal, did you have
22 horrible things happen to you? Did someone die in your family
23 that you're very close to. Personality issues, untreated
24 psychiatric disorders, and certain substances there are more
25 substances that will cause people to have addiction than other

1 use. Genetically, Stephen is loaded to not be able to control
2 his substance use. He has genetics in his father, in his mother.
3 He has genetics in one of his uncles and one of his aunts and in
4 his grandfather that they have problems with being able to
5 control how much substance that they use. His early drug use I
6 would say eight years old is fairly early to start although it
7 doesn't surprise me, but it's early. That's part of it. Having
8 marijuana in the home, seeing how to roll, how to use, how to get
9 it, that it's someone in the position of knowing more than you
10 and that would be if age seven a lot of people know more than
11 you, they're all bigger than you. They're doing it it must be
12 okay. Any psychological abuse, not feeling loved, whether that's
13 true or not the feeling is true. Being physically abused we
14 define different things of physical abuse. I mean, my -- I think
15 one of the things that my friends and I talk about is who got the
16 belt. I got the belt; I got hit with a hand. And now we think,
17 my gosh, that doesn't happen, I'm glad it doesn't happen anymore,
18 I don't like having bruises on me from getting whipped with a
19 belt. And I think most people realize that that doesn't help
20 kids too much.

21 Sexual abuse, he was sexually abused by four different
22 people. His history has been corroborated by other people's
23 history which has been corroborated by records. His grandfather
24 started out sexually abusing him. His mother, however you define
25 sexual abuse there was some inappropriate sexual behavior there

1 which would be classified as sexual abuse. One of his uncles who
2 later died was sexually abusing him. And also one of his half
3 brothers sexually abused him. An unstable environment, when I
4 look at the number of times that he moved and a lot of those
5 moves were brought on by himself he reports liking actually being
6 in one place where he's confined because he finally got to a
7 chance to interact with peers his own age and got to play sports
8 and you had a controlled atmosphere, almost would like to have
9 stayed there at age 14.

10 There's no question about it, he has an anxiety and
11 depressive disorder symptoms. He was diagnosed with those at age
12 14 and they haven't gone away; they've only gotten worse. He has
13 chosen drugs that work almost immediately. These are the people
14 that have genetic predisposition to not be able to control their
15 substance use: His mother, father, Uncle Randy, Aunt Vickie and
16 grandfather. That's not to say they're bad people. They just
17 cannot, once they start using stop. I don't know about other
18 relatives; he wasn't able to tell me. In those people that do
19 have this disorder something happens where they go from using
20 socially to using compulsively, and I believe they have lost
21 their ability to control their drug use. They cannot stop.
22 Biologically they cannot stop. We see articles where this is
23 specifically about looking at vaccines. At some point kids may
24 not only have to have measles, mumps, and rubella but they might
25 have to be vaccinated against certain substances because it's

1 that much of a biological problem. So it would be wonderful if
2 you could make a vaccine that when you use a substance you don't
3 get an effect. If people inhaled methamphetamine and got
4 nothing, no positive effect, it's doubtful they would use because
5 they would just feel the crowds of effects on their nose.

6 Three reasons his use continues as in most people, you
7 stop and you feel worse. You use, you feel better, whether it's
8 the PTSD symptoms or whether it's withdrawal. There are also
9 effects on the brain's reward system and the effect on logical
10 thinking which I mentioned earlier. These symptoms will go away
11 within seconds to minutes depending on the substance you use. If
12 you smoke methamphetamine these things go away. Not that's not
13 to say it doesn't make them worse. They do get worse. The
14 antidepressants which he's been on, it takes somewhere between 6
15 and 12 weeks to start working. And there's so gradual -- ideally
16 I would want to see people say, I can't tell that I'm even taking
17 it. Good, 'cause you are better, let's look and see how you do
18 over the next year. Let's compare this year with the next two
19 years. It's that hard. But most people that take Paxil or
20 Zoloft, the first day I've had boxes thrown at me because said
21 they said why would you give me something that was that bad that
22 made me feel that anxious. I came here to get my anxiety
23 treated, not to be worse, because the side effects are usually
24 pretty bad initially. So it takes some -- it takes some
25 education of telling people it's going to take a while to work.

1 Amphetamines, 5 to 60 seconds. Cannabis, one to five minutes
2 that you get relief, you get effects. Alcohol, if you drank
3 alcohol 5 to 20 minutes you would get effects. He has these drug
4 use. The idea is he's got tremendous amounts of anxiety
5 symptoms, and when he uses these drugs they essentially go away.
6 For how long? Minutes, hours, it's different. His life is
7 different. His life without these is horrible and to some degree
8 I think all he wants is a change. And maybe this is what
9 provides a change. You smoke this you're different. It's not --
10 it's weird that what you feel. He described it almost like LSD.
11 but it's different than thinking about what people did to me, is
12 this person going to do this to me. It took me about a
13 year-and-a-half to understand withdrawal, to truly understand
14 withdrawal, that once you stop something you feel worse. And it
15 could be from feeling mild, irritable, to very anxious, not being
16 able to focus and feel restless. So the hair of the dog that bit
17 you, people having a beer in the morning to feel better it does
18 make them feel better. It takes some of those withdrawal
19 symptoms away. So what goes up is going to come down, and it's
20 going to take weeks to months to normalize. He had some mild
21 withdrawal as symptoms. He did not over report withdrawal
22 symptoms. He reported when he quit using marijuana he would feel
23 irritable. When he quit using methamphetamine he would feel
24 restless. That's what he reported. He's not a
25 psychopharmacologist and I don't expect him to be able to notice

1 everything, but he did feel normal when he went back to use. We
2 have a reward pathway in our brain and what we've identified is
3 that we now know where these drugs work, specifically areas of
4 the brain, and they all work on the reward pathway. Now we have
5 a reward pathway to insure that we do things on a regular basis.

6 There are essentially four things that we have to do on
7 a regular basis to keep survival going. We have to eat, we have
8 to drink some kind of fluid, we have to reproduce. We have to
9 have sex more than once every hundred years to keep more humans
10 alive. So we also have to take care of our offspring; and all
11 four of those things when you do it they feel good. You take
12 care and you rock your baby, you hug your baby, you kiss your
13 baby. Mommas and daddies feel good when they do that. If people
14 did not enjoy having sex there would not be anymore kids around.
15 It was horrible people would not do it. If people did not feel
16 good after eating no one would eat and we'd all starve. So we've
17 got these natural rewards. We've got this brain that's set up to
18 insure that we will continue to use, do these things in
19 moderation. For the most part what happens is a brain chemical
20 dopamine; it's released and produces pleasure and reward. What
21 methamphetamine does is it causes it to be released essentially
22 immediately and more than you've ever felt before. And what you
23 have is addictive drugs going to the high part of the hierarchy
24 so they can become the most important thing in your life. For
25 some people this is smoke in the love format. It's very similar

1 to love, and it's -- for some people, people that fall in love
2 with these drugs and it's essentially better than mother's milk
3 for some people. So by artificially stimulating this brain
4 system through this massive release of dopamine essentially
5 tricks the brain thinking this is something I've got to have, if
6 I don't use it I'm not going to do well. They don't see the fact
7 that too much of this brain chemical is going to result in a
8 large number of side effects, hallucinations, abnormal thinking,
9 feeling aggressive and loss of impulse control. Stephen probably
10 had some of these side effects that I'm going to discuss. I say
11 probably because I was not there when to examine him when these
12 murders were occurring so I have to base it on my past
13 experience, what's in the literature, what people see with this.
14 And there's no question about it that stimulants cause aggression
15 and people do bad things when they're using. So when they're
16 using, when they're stopping, and even when it's out of the body
17 this essentially is a picture of how one brain cell would talk to
18 another and it's releasing a brain chemical and it comes across
19 here and causes stimulation. And we all have the right amount
20 for us to do that. However, drugs cause a tremendous release of
21 these chemicals and this is kind of a pictorial of causing
22 dopamine to be released and it comes over to the other side and
23 stimulates the brain and produces effects. And Stephen would
24 talk about when he was using methamphetamine it was like
25 everything was right with the world. It was pleasurable. He

1 felt good. He felt like it was right there. And he enjoyed
2 that. He, specifically when I asked him, he said he was peaceful
3 with the world, completely relaxed me. I was real peaceful, I
4 was happy. I asked him about sex because lots of people might
5 have problems if they use a tremendous amount of methamphetamine.
6 His use wasn't to the point that it was effecting him 'cause he'd
7 only been using about a year. He said it didn't effect him
8 sexually. Sex was good taking it and that's one of the other
9 reasons that people would continue to use. Typically I find that
10 a lot of people have problems with sexual function or even
11 interest because they're more interested in using the drug than
12 having sex. So it was a positive thing.

13 The three main neurotransmitters that methamphetamine
14 affects is Norepinephrine, Serotonin, and Dopamine.

15 Norepinephrine and Epinephrin is that that gets you ready to
16 focus and run if there is a problem. It's the fighter fight
17 chemical. You're either going to stay and do something or you're
18 going to run away. Serotonin is the drug that has to do with
19 impulse control as well as modulating some of these mood,
20 appetite, and sex and aggression. And too much can cause
21 problems but too little can cause even more problems, too little
22 serotonin. Dopamine, pleasure, reward, the reason that you might
23 do something motivated. When you look at methamphetamine
24 agitation is caused by too much norepinephrine. Paranoia is too
25 much Dopamine. Hallucinations, too much Dopamine. Delusions or

1 abnormal thoughts, we think it's too much Dopamine. People that
2 are violent it's been correlated with too much Epinephrin,
3 Norepinephrine and Dopamine and not enough Serotonin. Homicidal
4 behavior, again not enough Serotonin. Suicidal behavior, severe
5 withdrawal, that fact that you're withdrawn all the brain
6 chemicals that you have, there are no more there, addiction is
7 not logical and doesn't make sense. And partly we're
8 understanding because the frontal lobes of the brain are
9 effected, that's where we make decisions, where we weigh things
10 and say if I do this then these would be the consequences, to
11 catch a bus, why I should have money, should see what the time
12 is, maybe I should get a schedule, what would I do if I don't
13 catch that bus. We have to reteach people and recovery to think
14 like that because it may -- this may be permanent that people
15 can't think logically. Who is the next witness? I don't know.
16 Someone should know. He knows who the next witness is. He knows
17 who he's going to call, what questions. He has ability to
18 rationally put that together. I do not see that in people that
19 are addicts. Theirs just -- brain just does not function. So is
20 drug use voluntary this time? I think of it as initially
21 voluntary but I consider it involuntary and I think in the next
22 10 to 20 years we'll start addressing that in South Carolina how
23 that with some addicts their use is involuntary. What makes
24 Steven's brain different from most peoples'. The fact he's
25 genetically predisposed. There are some people that might have

1 two or three areas, but he is loaded with his brain to have
2 uncomfortable stuff. And when he uses temporarily it's gone. So
3 this drug methamphetamine, what's it known for? Mostly making
4 people psychotic, making them not have ability to think very
5 clearly. It's having too much Dopamine sitting around
6 essentially burns up where that Dopamine works. So the brain has
7 just had too much Dopamine and so it may be that he'll never be
8 able to logically think the way we're thinking.

9 Methamphetamine is still the drug that we say this is a
10 drug induced model of schizophrenia. We still use this to help
11 us understand the symptoms of schizophrenia where people can't
12 attend, they hallucinate, they have delusions, they don't have
13 logical ways of thinking. Some of the psychiatric effects that I
14 see with methamphetamine: Impulsive, irritable, aggressive,
15 agitated, a lot of anxiety, misperceiving things, being paranoid,
16 being psychotic either by thinking you're here or feel something
17 or thinking that people out to get you, but overall, worsening
18 symptoms. Most recently this is a study just came in a couple of
19 months ago. They looked at 25 users of methamphetamine and they
20 did a questionnaire. Twenty-five of them, 64 percent said, yes,
21 I think people are talking about me, I think people are watching
22 me, I think people are calling my name, I can't focus, I have
23 difficulty completing tasks, and sometimes I feel like people are
24 controlling my thoughts or actions. More specifically, people
25 that use -- this is similar with amphetamine but the people --

1 I'm sorry, with cocaine, very similar numbers. But people that
2 use methamphetamine felt someone was touching them and they
3 couldn't find them and they felt that people were -- they were
4 seeing things or felt things that other could not do. So the
5 idea that you've already got someone with PTSD which are similar
6 symptoms and it only makes these worse. And these are the
7 residual effects long after the drug is out of your body. We're
8 talking about weeks and months that people would be paranoid from
9 cocaine. You're paranoid already if you have PTSC, who's going
10 to hurt next. Only four people hurt him but I think at a age
11 which he was very damaged. Age seven is a bad time, I think, to
12 be sexually abused. There's no good to be sexually abused.
13 Residual effects of methamphetamine very similar but not being
14 able to think. It clearly causes brain damage. Very similar
15 side effects they just persist. Irritability might be something
16 from long term use of marijuana very mild but it doesn't help you
17 think and plan and organize the way you think and it produces
18 anxiety and panic symptoms both when you use and when you quit
19 using. The lucky folks are those that smoke marijuana the first
20 time and have a panic attack and then their friends don't help
21 them overcome that panic attack because they would never ever
22 want to use marijuana again.

23 The effects of Raid, when you look at the literature
24 there are a number of psychiatric symptoms and disorders that
25 occur. Up to fifty percent of people that have been exposed to

1 these, these are workers in the field that have had chronic
2 exposure to this particular drug, 48 percent of them have a
3 psychiatric disorder, most of them anxiety disorders. And then
4 Benadryl, why do people use Benadryl? Mainly to feel different I
5 think. Residual effects of marijuana, not as dramatic as
6 methamphetamine; but methamphetamine, paranoia, brain damage,
7 irritability, agitation, not thinking clearly. Drugs in their
8 effects on Stephen. I think Stephen definitely had the disease
9 of addiction to methamphetamine and marijuana. He had addiction
10 to other drugs too but was not else current and not his drugs of
11 choice and he had probably these effects of being intoxicated and
12 certainly having some residual effects when the drug is gone.

13 Here are some of the probable side effects that I would
14 have expected to have seen in Stephen. The Raid, it causes
15 irreversible brain damage, the same as with methamphetamines, so
16 it only makes that worse. His untreated psychiatric disorder as
17 PTSD, his addiction, clearly this man was making attempt to get
18 treatment, going to his grandmother and aunt, talk to his parole
19 officer, went to the health clinic, went to Healthy Minds, the
20 YMCA, was referred to mental health. I must say that last week
21 before the hurricane I had a friend that was discharged, did not
22 have a medication. And instead of going through the clinic I
23 said let's just go to the doctor, I'll pay it. 115-dollars to
24 write the prescription, the medicine for your bipolar disorder 60
25 days, \$198, I'll pay it. I didn't want to pay that much but I

1 knew it would take him several weeks to get in to see someone at
2 the Mental Health Center because I've worked there and I -- I
3 said let's just pay it, forget it, let's get your medicine
4 because you'll be back in there if you don't take that medicine.
5 He's seeking treatment. He's got temporary relief of these
6 symptoms. His disorder has got worse. I think he had direct
7 effects. I think he got sidetracked. He was an addict. I think
8 little things lead to big things. This is a thermal tile, not a
9 big deal, but you let one of these fall off and you let a little
10 bit come in and here's the result. Here's the Columbia space
11 shuttle disintegrating basically because a few of those tiles
12 fell off. And that's essentially the way I see Stephen. Little
13 things led to big things and basically he's self-destructed over
14 a week doing crimes that I couldn't make sense out of them; Donna
15 Schwartz-Watts couldn't make sense out of them. They -- I don't
16 know; I don't have a criminal mentality, but I didn't see any
17 logic of what he was doing. So that's essentially my
18 presentation on effects, his use, and what I see with addiction.

19 MR. HOWLE: Your Honor, I don't have any questions of
20 him.

21 THE COURT: All right. Mr. Jackson.

22 CROSS - EXAMINATION

23 BY MR. JACKSON:

24 Q Doctor Morton, you didn't see any logic in what he did?

25 A I did not see any logic, no, sir.

DW - W. MORTON - CROSS

1 Q Maybe there's just no logic for what he did.

2 A I don't know.

3 Q Doctor Morton, when did you say that you had gone to
4 interview Stephen Corey Bryant?

5 A I went to see him on -- in March 25th, 2008 at Lee
6 Correctional Institute. Saw him for about two hours there.

7 Q Stayed there about two hours?

8 A About two hours, yes, sir.

9 Q Okay. And the drugs that you mentioned in the very
10 beginning, methamphetamine, marijuana, and Benadryl, those
11 are the three that he told you that day he was using?

12 A During that week, yes. Yes, sir, those three.

13 Q All the other things that you've talked about, genetics,
14 family members and their problems, drugs at other ages, the
15 use of drugs at other ages, was all that information given
16 to you from Bryant that afternoon?

17 A No, sir, it was -- it was information that I collected --
18 very similar to what we would do on inpatient unit where
19 we'd have a treatment team. We'd have a social worker, a
20 psychologist, a psychiatrist, psychopharmacologist, a
21 nurse. We would all get together. We would try to get as
22 many records as available as we try to put our minds
23 together as far as making sense out of someone's behavior
24 in the hospital. Essentially I did that I would rely -- I
25 consulted with Doctor Donna Schwartz-Watts. I consulted

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1 with Doctor Marty Loring. She hasn't testified yet. I
2 looked at treatment records both as a juvenile and as an
3 adult. I looked at his YMCA treatment record. I looked at
4 his confession. There were several confessions. There
5 were probably four statements that I read. There were
6 probably three notes that almost looked like his statement
7 that were from the investigative officers but they weren't
8 exactly so I reviewed those. I met with him which is
9 essential. Those were the people and the sources. I could
10 go over the specific ones if you want.

11 Q When you met with him did you take some notes and things
12 when you met with him?

13 A Yes, sir.

14 Q And did you produce a report?

15 A I did not produce a report. I have notes but I wasn't
16 asked to provide -- to do a report.

17 Q Okay.

18 A But I have notes.

19 Q The graph, the graph that you had, if you go to the one, if
20 you take your slide to your graph that shows October 6th
21 through 13?

22 A This one, yes, sir.

23 Q All right. That represents something you gathered from
24 your notes because he told you that?

25 A That's based on what he reported to me, yes, sir.

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- 1 Q You didn't get that from any of the other doctors?
- 2 A No, sir.
- 3 Q And there's no way to corroborate any of that other than to
4 go on Stephen Corey Bryant's memory?
- 5 A With ---
- 6 Q ---; is that correct?
- 7 A That is essentially correct. Let me explain that.
- 8 Q What would be wrong about that?
- 9 A One thing that would be wrong about it is that he did have
10 a positive marijuana test that showed up on the 14th where
11 it showed that he had metabolite which essentially means he
12 hadn't used recently but he had been using possibly within
13 two or three days but ---
- 14 Q Say that again, I didn't understand. I'm sorry. You're
15 the expert on this. I didn't understand that. The
16 analysis from the urine taken on 14th said what?
- 17 A That it was positive for marijuana metabolite, a breakdown
18 product.
- 19 Q And then you started explaining that it wouldn't have been,
20 what, the day before, it could have been three days before?
21 What did you say?
- 22 A Metab-- it didn't show active THC.
- 23 Q Uh-huh.
- 24 A So the active THC can be measured depending -- this wasn't
25 actually measured; it was just tested to see if it was

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1 there so it's either yes or no. And they found no for the
2 active drug but they found yes for the metabolite. So it
3 looks like it did not show up on his use of what he
4 reported to me on the 13th which didn't surprise me.

5 Q So he didn't smoke marijuana on the 14th?

6 A He reported to me that he did.

7 Q See, he was incarcerated --

8 A Not on the 14th, I'm sorry.

9 Q He was incarcerated on the 13th.

10 A On the 13th.

11 Q Your graph says ---

12 A Right.

13 Q ---he did marijuana on the 14th.

14 A Right. That's not ---

15 Q Excuse me, sir. He did not, did he?

16 A That's absolutely correct, Mr. Jackson, he did not and I
17 was addressing that I made an error there and so I was
18 trying to make sense out of that and I didn't change it
19 because what I gave you had that and I didn't want to
20 change anything.

21 Q What did you give me?

22 A Well I don't know -- I didn't specifically give you
23 anything.

24 Q No, sir.

25 A I gave it to the attorney and I think he gave it to you, at

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1 least that's what he said.

2 Q All right. So ---

3 A He did not use -- you're absolutely correct. He did not
4 use on the 14th and Mr. Burgess was not killed on the 14th.
5 He was killed on the 13th.

6 Q Now on the 13th then, he was taken into custody around noon
7 that day. Would he have used on the 13th?

8 A Potentially is what he said, yes. He smoked for the most
9 part daily. That's what he reported to me.

10 Q Yes, sir, I understand he reported that to you. I'm trying
11 to get your opinion. You're here as an expert?

12 A Yes, sir.

13 Q And I'm trying to get your opinion based on a urinalysis
14 that was done on the 14th and the low level -- or I forget
15 how you -- how did you say it? Negative.

16 A It was --

17 Q An active component was not there?

18 A ---metabolite, thank you.

19 Q Yes, sir. So do you think based on scientific evidence
20 that he smoked marijuana on the 13th?

21 A On this screen it did not show that he had active
22 metabolite. This screen has some drawbacks and I'd like to
23 mention those if I could. One of the drawbacks is that it
24 requires a large amount of marijuana to test positive.
25 Two, you can get around screens by drinking a lot of

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1 fluids. I don't know that that was an issue with him or
2 not. But if they had wanted to definitely check that they
3 could have done measurements which they did with, I think,
4 with one of the other people, with Gainey, Mr. Gainey.
5 They did actually measure it.

6 Q Mr. Gainey's got nothing to do with drug use by Mr. Bryant;
7 is that correct?

8 A Other than he reported using with Mr. Gainey.

9 Q Okay. You can't tell us from the report if he used
10 marijuana on the 13th or not?

11 A No, sir, I can't absolutely tell you.

12 Q He reported to you that he did?

13 A He reported to me using, yes, sir.

14 Q All right. Donna Schwartz-Watts says that he has trouble
15 recalling and recollecting, big problems with recalling and
16 recollecting. You reviewed that?

17 A Yes, sir.

18 Q But you're safe in giving an opinion today about his
19 recollection of which drugs he took 3-and-a-half years
20 prior? You think he can recall that when he can't recall
21 other events of those days?

22 A I think it's difficult. I went over with him trying to get
23 a sense of when he would have used. And there were times
24 he wasn't quite sure and I didn't put those down when he
25 wasn't sure. I don't think he was overreporting. He

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1 certainly had the opportunity to overreport.

2 Q Do you think his memory would have been better on March, I
3 believe you said 25th of 2008, or say the 13th or the 14th
4 or the 15th of October back when these incidents occurred?

5 A I think they would have probably been better at that time,
6 absolutely.

7 Q And you reviewed the statements that he gave?

8 A Yes, sir.

9 Q Multiple statements?

10 A Yes, sir.

11 Q And not a single statement does he ever mention
12 methamphetamine, does he?

13 A No, sir, he didn't.

14 Q Glad to talk about sitting in the truck and smoking a
15 joint, but never been, never mentioned methamphetamines?

16 A That doesn't surprise me. There are a lot of -- there's a
17 lot of hesitation to report substance abuse. Marijuana
18 seems to be something that most people smoke around here,
19 at least in his subculture, and that's kind of like an
20 accepted type thing. Methamphetamine carries a tremendous
21 stigma with it. And I don't mean to imply that everyone
22 chuckling out there is smoking marijuana either, okay.

23 Q I don't believe we took it that way.

24 A Well, I mean, I saw a lot of people chuckling so maybe it
25 did sound funny. I'm thinking in his subculture. Yeah.

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1 It's kind of normal behavior.

2 Q Now you also mentioned that you reviewed other records as
3 well?

4 A Yes, sir.

5 Q You're aware that back in 1996 when he got involved with
6 the Department of Juvenile Justice?

7 A Yes, sir.

8 Q He denied the use of marijuana completely.

9 A I would believe that, yes, sir.

10 Q But yet it's your testimony based on what he told you that
11 he's been using it since he was eight years old?

12 A Yes, sir. I would -- my experience is that most
13 adolescents will deny their substance use until they're
14 caught and incarcerated and then they will come clean about
15 it. And I take into consideration when I do a history that
16 there are three things they can tell me. They can tell me
17 exactly what they were using. They can underreport or they
18 can overreport, and I see that whole spectrum and take that
19 into consideration. Is he overreporting or is he
20 underreporting, is he minimizing, what does he have to gain
21 from overreporting or minimizing. I specifically go over a
22 number of drugs and I essentially spent two hours where
23 most doctors would spend somewhere between one and three
24 minutes to do a psychiatric history and substances. So I
25 hammered away and kept coming back and coming back and

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1 coming back and asking, and I think his representation was
2 fairly accurate of what he reported to me that day. I did
3 not have a sense that he was making anything up. I do
4 think he has some deficits in his memory, and I think
5 probably if I tried to take a history from him last week it
6 would have been even more difficult because he was having a
7 lot of -- a lot more psychiatric symptoms at that time. He
8 was initially not very warm with me. He was pretty anxious
9 when I saw him initially, and that's why I stayed with him
10 to try to establish some credibility with him that I wasn't
11 going to hurt him.

12 Q The period that he was on probation from January of '03
13 until approximately June of '03, he had random three or
14 four random tests at the Department of Probation, all
15 negative. Were you aware of that?

16 A Which time? I'm sorry.

17 Q From January of '03 until June of '03 he was randomly
18 tested three or four times and tested negative for all
19 drugs every time. Were you aware of that?

20 A For his probation, yes. I was -- I looked at his records
21 and he had 15 visits and he had three drug tests at those
22 visits and they were all before I think May 15th, '03 was
23 the last one that he had and then he had another 12,
24 another 10 visits I think. So 20 percent of the time he
25 was drug tested.

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- 1 Q And actually three out of four months, January of '03 to
2 May of 03?
- 3 A Yes, yes.
- 4 Q Three of those ---
- 5 A And I don't know if they were random; I can't tell. It
6 looks like they were done on his visit. I can't tell if
7 there were done -- if they called him up and said, okay
8 Mr. Bryant, your number has come up, I want you here in 30
9 minutes for urine. That's the best way to get a urine is
10 that you call people up at random so they have no idea. If
11 he knows he's going to be urine tested he could not smoke
12 or he could take tremendous number of substances to try to
13 make it falsely negative.
- 14 Q But you don't -- you don't disagree with me that he was
15 clean every time?
- 16 A Those urine tests were all negative, every one of them,
17 those three of them. Yes, sir.
- 18 Q The timeline graph, if you would move to the timeline
19 graph. Now did you prepare one other than that one?
- 20 A I worked on several, yeah.
- 21 Q Let me hand you this. Is that one that you prepared?
- 22 A That is one I prepared.
- 23 Q And when did you give that?
- 24 A I do ---
- 25 Q To the Defense attorneys to give to me?

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- 1 A I don't know.
- 2 Q Was it last Friday afternoon? I got it last Friday at
3 4:30. Was it last Friday afternoon?
- 4 A I've -- as I review records I certainly have made some
5 changes in some of the presentations, yes. I changed -- I
6 did change that because he -- there wasn't any evidence
7 that he was using during his incarceration.
- 8 Q There wasn't any evidence he was using during his
9 incarceration?
- 10 A When he was those three years at the DJJ or ---
- 11 Q Four years in the South Carolina Department of Corrections.
- 12 A Okay, four years there, yeah.
- 13 Q Okay.
- 14 A Or '99 to '02, yeah.
- 15 Q But you testified on direct that he'd been using marijuana
16 daily since he was 14.
- 17 A When he had it available to him, yes, sir.
- 18 Q Oh.
- 19 A Yes, sir.
- 20 Q So he hadn't been using it daily since he was 14?
- 21 A Whether it's available, I don't know about his use when he
22 was incarcerated. That's not something that ---
- 23 Q Y'all didn't talk about that in that two hours you spent
24 ---
- 25 A I didn't.

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- 1 Q ---where other people would only spend one to three
2 minutes?
- 3 A I did not specifically say what about when you were in
4 prison.
- 5 Q But originally you made a graph showing that he was using
6 those drugs in prison; didn't you?
- 7 A Yes, sir, I did.
- 8 Q And when ---
- 9 A Then I realized that he was in there.
- 10 Q Did you change that?
- 11 A I don't know specifically when I changed it.
- 12 Q Was it last Friday afternoon? I mean, you would remember
13 if you made this since last Friday afternoon I would think.
- 14 A I don't know when I changed it. It would have -- if you
15 have that it was Friday afternoon that you got it.
- 16 Q I got this this morning. I got this at 4:30 Friday
17 afternoon.
- 18 A Then I would have changed it since.
- 19 Q Over the weekend?
- 20 A Since, yes, sir.
- 21 Q Over the weekend?
- 22 A Probably.
- 23 Q It's been two days, just Saturday and Sunday. Today is
24 Monday. Did you go to your office and bring this down and
25 change it Saturday or Sunday?

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- 1 A Oh, I have it with me at home.
- 2 Q Did you do that at home Saturday or Sunday? You don't
3 remember?
- 4 A Friday, Saturday, or Sunday?
- 5 Q You don't remember? Or did you?
- 6 A I do not know. No, I don't know.
- 7 Q But nevertheless, even on this you show him using marijuana
8 from sometime -- and I don't want to get this wrong. When
9 does this period begin where this green arrow is pointing
10 on marijuana?
- 11 A When he got out of the South Carolina ---
- 12 Q Department of Corrections?
- 13 A Department of Corrections, yes, sir.
- 14 Q December 22nd of 2002 so that we're not fooling each over.
15 You've got him using marijuana all the way through until
16 after his arrest, or is that supposed to stop at his
17 arrest?
- 18 A It's supposed to stop at his arrest, yes, sir. Sometimes
19 when you move one of those it can change slightly, but
20 yeah, it's meant to be up to his arrest.
- 21 Q And you got him using on the one I originally received.
22 You had him -- you had him using, what is that, Valium
23 while he was in prison?
- 24 A Yes, sir.
- 25 Q Marijuana plus Raid while he was in prison. Mushrooms, LSD

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1 while he was in prison.

2 A Initially I was looking at his -- at my notes and then I
3 went back over them and see how this would correlate and so
4 I realized that he wasn't using during that time so I made
5 the change.

6 Q Did you ask him during that two hour period if he was able
7 to get drugs while he was in prison or was he drug free for
8 four years?

9 A I didn't specifically ask him either of those questions.

10 Q Wouldn't you have liked to have known if this is the
11 history of his drug abuse?

12 A Yes.

13 Q Eight years old. At that time he knows he's using
14 marijuana with Raid, laced with Raid?

15 A No, Raid was later on.

16 Q So this marijuana plus Raid doesn't go here.

17 A The marijuana does but the Raid was later.

18 Q So that's not -- that's -- that doesn't depict correct
19 information?

20 A That's correct. That misrepresents that he started using
21 Raid as a teenager and...

22 Q Did he always use Raid or just when it was available?

23 A Pretty much he would always use it when he was using as a
24 young adult and teenager. That's what he said 'cause I
25 asked him specifically how he would do it and he said he

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1 would spray it three or four times. And I never heard
2 about that and so I said how long would a can last because
3 and he said it would last some months.

4 Q During his period of probation when he was being drug
5 tested you've got him using methamphetamines, Benadryl,
6 mushrooms or LSD, and marijuana plus Raid.

7 A Yes, sir.

8 Q And again, that's based on what he told you?

9 A His history, yes, sir.

10 Q Okay. Now you mentioned something about ephedrine during
11 the presentation.

12 A Yes, sir.

13 Q And you were correct there was a report that said the
14 ephedrin that I buy is for Judy. It helps get her going in
15 the morning. I buy a bottle about every two weeks. I
16 don't take no kind of pills. So that -- anything in here
17 about ephedrin you're not ---

18 A He reported that he would use some.

19 Q But not much or when it was available?

20 A I didn't think he was using massive amounts of it. He
21 didn't say that was his drug. His main drug was
22 methamphetamine later on and earlier it was marijuana.

23 Q All right. Do you know how much marijuana he was using or
24 it was just I think you said when it was available he
25 smoked.

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- 1 A He reported that he would smoke about an ounce over three
2 days, three to four days.
- 3 Q All right. If you would go to the genetics slide please.
4 Contributions to Stephen's addiction. What would Uncle Ran
5 or Aunt Vickie have to do with any genetics that may be in
6 Stephen Corey Bryant?
- 7 A It just shows the -- how the inability to control your
8 substances runs in families; that it's a real genetic
9 factor there.
- 10 Q Let me ask you in a different way. Uncle Ran and Aunt
11 Vickie wouldn't have anything to do with the genetics in
12 Stephen Corey Bryant, would they?
- 13 A It shows that family members have ---
- 14 Q That's a yes or no question then you can explain it.
- 15 A Yes, it does show that it.
- 16 Q Does anything in Uncle Ran -- nothing in Uncle Ran's body,
17 nothing in Aunt Vickie's body from genetics has anything to
18 do with Stephen Corey Bryant, does it?
- 19 A Yes, it does.
- 20 Q How does he pull his genes from the two of them?
- 21 A He has shared genetic material.
- 22 Q From somebody who went down the other side of the family
23 tree?
- 24 A Yes, sir.
- 25 Q How -- his genetics came from his mother and his father.

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- 1 correct?
- 2 A Right.
- 3 Q And theirs came from their mother and their father. How
- 4 are his aunts and uncles genes in ---
- 5 A Because they come from similar, from grandparents and
- 6 parents.
- 7 Q They may have some similar genes as he, but he does not
- 8 share in their gene pool, does he?
- 9 A Not exactly, but it's similar.
- 10 Q You don't mean that by this slide.
- 11 A Say that again.
- 12 Q You don't mean that by this slid. I mean, they're not
- 13 cross-breeding?
- 14 A No, no, no, not at all.
- 15 Q Okay. Now what genes he got from his mother and father,
- 16 his brother would also get from the mother and father,
- 17 correct?
- 18 A Yes.
- 19 Q And are you aware ---
- 20 A He would get similar, yes.
- 21 Q You're aware his brother is in the army and serving our
- 22 country right now?
- 23 A Yes, sir.
- 24 Q Same genetic pool?
- 25 A It's not an absolute definite that if your father is an

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1 alcoholic that you'll be an alcoholic; but there is a four
2 times higher risk so if we all -- if we're at a risk
3 everyone about 10 to 11 percent of being alcoholics, if
4 your father is an alcoholic and you're a male you run the
5 risk of about a 44 percent chance but it's not a hundred.
6 It's just a 44 percent chance so you're at much higher.
7 And then there's some people that have, that have horrible
8 lives, that have everyone's a alcoholic in their family and
9 they don't have alcoholism.

10 Q On this particular family what corroborating evidence do
11 you have that his father was an alcoholic?

12 A History from Stephen, history from Doctor Loring, history
13 from Doctor Schwartz-Watts.

14 Q And his mother?

15 A Same.

16 Q Okay.

17 A Yes, sir.

18 Q And they all reviewed the same records pretty much?

19 A I think so. I mean, I can't be for sure of what they
20 reviewed.

21 Q Are you aware that in the records that they would have
22 reviewed Stephen indicates that his mother occasionally
23 drinks but denied that his father drinks. Corey denied any
24 substance abuse within the home. Indicated he'd been
25 smoking cigarettes for approximately one year and states he

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- 1 smokes five to six per day. That's when he was 13.
- 2 A That may have been currently what was going on.
- 3 Q And later he denies any family history of mental problems,
4 physical problems, or problems with substance abuse from
5 the same family that you now come in and say are alcoholics
6 and drug addicts.
- 7 A That's the documented history as well as the history so if
8 you have conflicting information that's important to know
9 but...
- 10 Q So what we have here is conflicting documented information;
11 isn't it?
- 12 A It appears to be, yes, sir.
- 13 Q In this presentation you mentioned Zoloft. That's got
14 nothing to do with this case, does it?
- 15 A He's taken Zoloft before and it was discontinued because
16 his doctor didn't think it was helping him.
- 17 Q You mentioned possible suicide. It's got nothing to do
18 with this case, does it? He's killing other people not
19 himself, right?
- 20 A He reported suicide, suicidal plans. When I asked him
21 about them he didn't have any current -- wasn't currently
22 suicidally in the jail.
- 23 Q You mentioned plans. Is your testimony that from his drug
24 addiction and the problems he would have with his
25 psychiatric disorders that he would not be able to think,

DW - W. MORTON - REDIRECT

1 plan, or organize? Isn't that what you said? He ---

2 A He would have difficulty, yes.

3 Q Now if you would go to your Stephen Drug Use Made Anxiety
4 More Tolerable Slide, you know who Jessie is? That was it.
5 One slide back. I believe you had it. That's it. You know
6 who Jessie is?

7 A I do not, no, sir. I'll -- give me more information.

8 Q The slide that I got had Jessie's drug use made anxiety
9 more tolerable with Jessie stricken out and Stephen on top.
10 Same brain, different name.

11 A Yes, sir, yes, sir. I might have used that in a different
12 trial or in teaching. Very similar slides I use in
13 teaching.

14 Q That's all the questions I have.

15 THE COURT: Anything further, Mr. Howle?

16 MR. HOWLE: Just a couple of questions, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. HOWELL:

19 Q The slides that was given to him last Thursday, do you
20 remember how long it was that you sent those to us?

21 A I don't know. I've -- I don't know but they were sometime
22 -- I don't know. I would be guessing; I don't know.

23 Q But over the weekend in reviewing and preparing to
24 obviously update because you had one that was you just
25 mentioned he brought it out about timeline going through he

DW - W. MORTON - REDIRECT

1 was in prison and you corrected that.

2 A Yes, sir.

3 Q So the slides that you presented today we have corrected
4 the reflected notes and anything else?

5 A Yes, I corrected. I tried to go through this because you
6 put this down it's very hard evidence. I don't want it to
7 be incorrect but I have at least one error.

8 Q Solicitor mentioned a statement where he said he had not
9 used a particular kind of drug. You read the various
10 statements?

11 A Yes, sir, I did.

12 Q Most of those statements talk about using drugs?

13 A Most of them did, yes.

14 Q And even on that chart where it showed green arrow
15 marijuana going back to eight. Eight was when he first
16 experienced marijuana?

17 A Yes, sir, that's what he reported.

18 Q Did he ever tell you then he became abusive of marijuana on
19 a more frequent basis?

20 A More frequently when he was about age 14 is when his use
21 got to be on a more daily regular basis smoking before and
22 after school. That's why he was suspended from school for
23 having marijuana.

24 Q And in regard to the drug test that he asked about I think
25 you stated that records that you looked all appeared to be

1 with witnesses tomorrow.

2 MR. JACKSON: Okay. Be prepared for closing at noon,
3 Your Honor, or?

4 THE COURT: Well, tomorrow afternoon.

5 MR. JACKSON: Okay.

6 THE COURT: Yes, sir, I would imagine. All right,
7 ladies and gentlemen, court will be in recess until 9:30 tomorrow
8 morning.

9 (Whereupon, court was adjourned and resumed on September 9,
10 2008.)

11 (WHEREUPON, Defendant's Exhibit Nos. 4 through 14 were marked
12 for identification only.)

13 THE COURT: Solicitor.

14 MR. JACKSON: Judge, we have Doctor Crawford here this
15 morning. There was some requests by the Court to ask her about
16 some notes yesterday as a result of some of the testimony that
17 Defense counsel had put up. And she's here. Doctor Crawford is
18 here. She says that she did take some notes while she was
19 interviewing, I believe, Ms. Caulder at her grandmother's. She
20 does not have those notes. She went through her office
21 yesterday. But she's here for the Court if the Court needs her.

22 THE COURT: Okay, all right.

23 MR. JACKSON: We didn't get any records from her or
24 anything from her and I don't believe she submitted anything.

25 THE COURT: All right, okay. Mr. Howle.

1 MR. HOWLE: Just one moment please, Your Honor.

2 THE COURT: All right.

3 MR. HOWLE: Your Honor, the information the Solicitor
4 has given us is satisfactory as far as the fact she may have
5 taken notes. And I think the Court will take judicial notice now
6 she did take notes as our witness has said. But those for
7 whatever reason we realize are not available.

8 THE COURT: All right, sir. Anything else we need to?

9 MR. JACKSON: Nothing else from the State, Your Honor.

10 THE COURT: Anything from the Defense before we get
11 started?

12 MR. HOWLE: No, sir.

13 THE COURT: All right. Then Mr. Howle, I recognize you
14 for your next witness.

15 MR. HOWLE: Thank you, Your Honor, we call Doctor Marty
16 Loring.

17 THE COURT: All right.

18 MR. HOWLE: I ask Doctor Loring to come around.

19 THE DEPUTY CLERK OF COURT: You stand right over there.
20 Could you come around here. Please place your left hand on the
21 Bible, raise your right hand. State your name please.

22 THE WITNESS: Doctor Marty Loring.

23 WHEREUPON,

24 MARTY LORING,

25 having been duly sworn by the Deputy Clerk of Court,

DW - M. LORING - DIRECT

1 testified as follows:

2 THE DEPUTY CLERK OF COURT: Have a seat up here please,
3 ma'am. Please state your full name, spell your last name please.

4 THE WITNESS: Doctor Marty Loring, L-O-R-I-N-G.

5 DIRECT EXAMINATION

6 BY MR. HOWLE:

7 Q Good morning, Doctor Loring, how are you doing?

8 A Fine, thank you.

9 Q Where are you living now?

10 A In Atlanta, Georgia.

11 Q And what is your vocation or position that you have there
12 in Georgia?

13 A I'm in Atlanta. I'm director of the Center for Mental
14 Health and Human Development.

15 Q Okay. What is your educational background?

16 A I got my bachelor degree at Vassar College up in Pokipsy,
17 New York. Went on to Bryn Mawr graduate School of social
18 work and social science in Bryn Mawr, Pennsylvania where I
19 got my masters in social work, social research. And then I
20 went out in the field of practice for a while. And then I
21 went back to Emory University and got my doctorate in
22 social psychology, well actually in sociology with a major
23 in social psychology.

24 Q What kind of memberships are you in in regard to that
25 educational background?

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- 1 A Well, I'm Board certified by the National Organization on
2 Trauma and Stress. I belong to the National Association of
3 Social Work and Sociology as well as the Georgia chapters
4 of each and the American Psychological Association of the
5 Women's Division.
- 6 Q Okay. Are you the invited member to any particular
7 membership?
- 8 A Well, yes, the academy, American Academy of Certified
9 Experts on traumatic stress.
- 10 Q Okay. Doctor Loring, in your professional background have
11 you done any teaching?
- 12 A Yes, sir, I have.
- 13 Q And where was that?
- 14 A At a number of different places. I taught at Emory in
15 Atlanta, at Georgia State University, at Spellman College
16 and several others like Georgia Perimeter.
- 17 Q Okay. Have you given presentations before?
- 18 A Yes, sir, I have.
- 19 Q And what fields were those in?
- 20 A Abuse, trauma, interviewing, social histories, leadership
21 skills.
- 22 Q Have you been published?
- 23 A Yes, sir.
- 24 Q You know how many books you've published in regard to that?
- 25 A Two books and several articles, many of which have to do

DW - M. LORING - DIRECT

- 1 with either leadership or trauma, stress, how being
2 traumatized and abused affects people as adults when they
3 experience it as children, some different aspects of
4 trauma.
- 5 Q Okay. And what is your area of expertise as far as being
6 in court?
- 7 A I would say trauma, abuse, the development of children,
8 social histories, and interviewing.
- 9 Q Okay. Have you testified in court before?
- 10 A Yes, sir, I have.
- 11 Q And where would that be and how often?
- 12 A I've testified in New Hampshire, Georgia, Florida, Alabama,
13 South Carolina. And I'm sorry, I forgot the second part of
14 your question.
- 15 Q Just roughly how many times you think you've testified?
- 16 A I've testified just around a hundred times.
- 17 Q Okay. Have you been qualified as an expert when you were
18 testifying in those?
- 19 A Yes, sir, I have.
- 20 Q Any particular case recently in Atlanta you were involved
21 in?
- 22 A Well, yes, sir. I was involved in the courthouse shootings
23 primarily as a mental health expert to help the deputies
24 who were traumatized right afterward. I was the first
25 mental health person who came to the scene and helped lock

DW - M. LORING - DIRECT

1 the doors so we could work with the deputies on their
2 trauma.

3 Q Okay, thank you.

4 MR. HOWLE: Your Honor, we would offer Doctor Loring as
5 an expert.

6 MR. SALEEBY: Your Honor, expert in what?

7 MR. HOWLE: I think she gave several areas in trama and
8 ---

9 THE COURT: I'm assuming trauma and stress and its
10 effects on adults that have been traumatized as children.

11 MR. HOWLE: Yes, sir.

12 MR. SALEEBY: If -- she knows. If she would just cover
13 it so I can get -- make sure my notes are.

14 THE WITNESS: That is exactly correct, thank you.

15 MR. HOWLE: I'm sorry, Your Honor, she stated them, I
16 just didn't repeat it. I probably should have.

17 THE COURT: All right. She's so qualified.

18 MR. HOWLE: Thank you, Your Honor.

19 BY MR. HOWLE:

20 Q In that capacity with those qualifications were you asked
21 to see Stephen Bryant?

22 A Yes, sir, I was.

23 Q Okay. Did you review any records or talk with other people
24 about Stephen in order to get ready for that interview with
25 him?

DW - M. LORING - DIRECT

- 1 A Yes, sir, I did.
- 2 Q And what was your purpose in considering and reviewing that
3 past social history?
- 4 A Well, I was interested in seeing what kinds of things
5 happened to Stephen Corey Bryan (sic) as a child growing up
6 and how those things may have affected him as an adult,
7 affected his behavior, affected him emotionally.
- 8 Q Okay. Do you diagnose the people that you evaluate?
- 9 A In South Carolina, no, sir, I do not, but I do not
10 diagnose.
- 11 Q Were you aware of diagnosis that had been provided by
12 Doctor Donna Schwartz-Watts?
- 13 A Yes, sir.
- 14 Q Okay. And did you use that diagnosis in your evaluation?
- 15 A Yes, sir.
- 16 Q Okay. What sources of information did you use in order to
17 make an evaluation of Stephen other than having that
18 diagnosis?
- 19 A Well, I interviewed a number of individuals. Of course I
20 spent a lot of time interviewing Stephen Corey Bryan. I
21 also interviewed other people like, for example, Sergeant
22 Wayne Jordan, Stephen Corey's father Billy Bryan, his
23 mother Katherine Bryan, his aunt and grandmother, Terry
24 Caulder and Shirley Freeman. I interviewed a former
25 girlfriend of his, a Judy Justice. I interviewed a

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1 brother, Jeff Bryan, his uncle Rusty Bryan. Those are the
2 people who I interviewed. I also reviewed a number of
3 records, just a huge number of records. I don't want to
4 take the Court's time up too awfully much but they were
5 educational records including Horry County school records,
6 numerous school evaluations of Stephen Corey. Detention
7 Center Sumter Lee Regional, the Department of Juvenile
8 Justice Records, EMR records of the assault he had
9 reported. I reviewed the YWCA records of sexual abuse
10 counseling, initial contact with him. Vocational
11 rehabilitation records, that is, Doctor Price's report. I
12 reviewed a letter to one of the victim's families. I had
13 disks, listen to Pamela Crawford's interviews on the disk.
14 I looked at the Department of Corrections Health Services
15 medical records and encounter records. And those are some
16 of the records that I reviewed.

17 Q Okay. When you were talking, you remember the first time
18 you spoke with Stephen?

19 A Yes, sir, I surely do.

20 Q When was that?

21 A 2/7/08, February 7th, '08.

22 Q Was there anything specific about his demeanor that you
23 noticed, general demeanor when you spoke with him then?

24 A Well, yes, yes, sir. After I began to get to know him a
25 bit and invited him to get to know me a bit there were

DW - M. LORING - DIRECT

1 certain kinds of things I had to ask him about, had to talk
2 with him about. And the more I pressed him to talk about
3 things that he felt uncomfortable about and then began to
4 be very anxious about he had hold of the table where I had
5 my notes and he was -- he began shaking and the table began
6 shaking. I had to hold on my notes. I believe he began
7 having flashbacks. There were times he stared away from me
8 and began rocking back and forth, and I had to wait and
9 call him back to talk with me and push him further because
10 there's simply information I needed to know from him. He
11 expressed great mistrust of me. Clearly very difficult for
12 him to trust so we spent time trying to show him that I
13 meant no harm. I was just trying to, you know, find
14 information and be of help to him. But the two things I
15 noticed most were his anxiety and his flashbacks and his
16 profound distrust. It's very difficult. It took me a
17 while to gain his trust and then he was able to talk more
18 and more to me about some of the things he experienced but
19 I did have to see him a number of times to help him get
20 used to me. One, two three, four, five, about six times.

21 Q Okay. Let me ask you this: You say he didn't trust you
22 when you first talked to him, you had to kind of gain his
23 trust. When you talk to a client like Stephen or these
24 various family members how do you know whether they're
25 lying or not in the information they give you?

DW - M. LORING - DIRECT

1 A Well, that becomes an issue for those of us who evaluate
2 and then come to court to speak about what we've looked
3 for, what we think we've found. There are some trauma
4 tools for them, and I did not use them to evaluate because
5 I do not diagnose in South Carolina. But I do use them to
6 help me to see, you know, is someone really traumatized or
7 quite frankly are they putting on an act which will serve
8 them well in court. We're advised to be very careful, what
9 we call malingering, which is either outright lying or some
10 say people don't always mean to lie, but regardless, not
11 telling the truth. So these trauma tools: The trauma
12 belief inventory; the trauma symptom checklist; the
13 Horowitz Impact of Events Scale; and the CAPS, C-A-P-S,
14 Commission Administered PTSD Scale are very useful to help
15 me in my gaining of history to see if somebody really
16 telling me about trauma they've been through, trauma
17 symptoms they have, or are they putting on a face putting
18 on a front as would serve them well. And Judge, what these
19 are hundreds of questions that you ask somebody and you mix
20 them up and ask them so that they don't know whether you're
21 coming in the front door, the back, or the side. You may
22 be asking about the same trauma symptoms, but you're going
23 at it in such a way that five minutes later they don't know
24 you're asking about the symptom that they just told you
25 about five minutes ago because you're asking about it in a

DW - M. LORING - DIRECT

1 different way. And when you do that over a number of hours
2 what one finds is if someone is malingering or lying then
3 their answers are very inconsistent because they're trying
4 to portray themselves in a certain way but they don't know
5 ten minutes down the line or in the next interview when
6 you've gone back to the same symptom but asked about it in
7 a different way. They can't keep up with trying to portray
8 themselves as they may or may wish to. And their answers
9 are very inconsistent. Once someone on the other hand is
10 really telling you what they've been through and what they
11 feel, what they felt then and what they feel now, you find
12 that their answers are very consistent. You know, you can
13 ask the questions any way you want to, or at one interview
14 or interview number three. It doesn't matter because what
15 they're telling you is what they really went through and
16 what they really feel or experienced so they're very
17 consistent. And one of them in particular, the C-A-P-S,
18 the CAPS, is help them looking back to see what they went
19 through as a child if you're talking about an adult. So I
20 use them to see if I'm getting consistent answers or if I'm
21 not, in which case I share with the attorney that I'm not
22 and I'm usually showing the back door that I'm not going to
23 be very useful to them.

24 Q Okay. Applying those techniques to Stephen when you
25 questioned him did it appear he was lying or telling the

DW - M. LORING - DIRECT

1 truth?

2 A When I talked to Stephen his answers were entirely
3 consistent.

4 Q Which would indicate?

5 A That he was telling what he actually experienced.

6 Q Okay.

7 A And what he actually felt.

8 Q You say that when you were getting some of his past
9 information or information about his past you also talked
10 to various relatives, all like that. Have you constructed
11 a genealogy of his family to kind of further explain this?

12 A Yes, sir.

13 Q And have you done that in a graphic form so it would be
14 easier for the Court to see?

15 A Yes, sir, I have.

16 Q Okay. Does that genealogy chart show anything else about
17 the family members themselves?

18 A Yes, sir, it does.

19 Q Okay.

20 MR. HOWLE: Your Honor, would it be all right if she
21 came down from the stand?

22 MR. SALEEBY: Your Honor, at this time we would object.
23 We had the opportunity to look at these. Regardless of what
24 special or not so special talent the doctor may have in
25 discerning whether or not someone is telling the truth, all the

DW - M. LORING - DIRECT

1 information on there is hearsay. Some of it is compound hearsay.
2 And some of it is -- and much of it is uncorroborated, unverified
3 hearsay that's stated as a matter of fact. We don't think it
4 would be admissible.

5 MR. HOWLE: Your Honor, first of all, this is marked
6 for identification; it's not in evidence. But it's a chart for
7 her to simply explain the genealogy chart that she made up. She
8 talked of most of the indiv-- a number of the individuals that
9 are on here so it's not hearsay. And even as an expert she can
10 rely on some hearsay in order to create this.

11 MR. SALEEBY: Your Honor, I don't know how ---

12 MR. HOWLE: But she specifically before she began she
13 clearly stated as far as what Stephen told her, applying the
14 techniques that are in her expertise and area that she felt very
15 comfortable that what he was saying was truthful more so than
16 lying. And she applied that as well as the information she got
17 from talking to all of these other people, a number who are on
18 the chart itself.

19 MR. SALEEBY: Your Honor, I believe hearsay would be an
20 out-of-court statement spoken for the truth of the matter. And
21 all of these matters are spoken whether it's by him consistently
22 truthful or consistently untruthful or consistently half
23 truthful; we don't know. And all the other information that
24 would be on there there's no predicate in terms of sworn
25 testimony to be a basis for this exhibit. If somebody told me I

DW - M. LORING - DIRECT

1 accept it as the truth and I'm telling the Court the same.
2 Certainly if we had the jury here we'd have a considerable
3 problem.

4 MR. HOWLE: Your Honor, she's using this chart -- Your
5 Honor, Rule 703 based on opinion testimony by experts the facts
6 or data in a particular case upon which an expert bases an
7 opinion or inference may be those perceived by or made known to
8 the expert at or before the hearing. If of a type reason relied
9 upon by experts in a particular field in forming opinions or
10 inferences upon the subject the facts or data and need not be
11 admissible in evidence for him to be ---

12 MR. SALEEBY: Exactly. These aren't facts; these are
13 opinion.

14 MR. HOWLE: It says opinion. His opinions are based on
15 the facts or data and that's information that she gathered
16 talking to these people.

17 MR. SALEEBY: Your Honor, I could ---

18 THE COURT: Y'all can go back and forth three or four
19 days with this but I haven't seen the exhibit. I don't know what
20 you're arguing.

21 MR. HOWLE: Your Honor, as soon as I picked it up he
22 said something so I didn't go any further with it.

23 THE COURT: Go ahead, Mr. Saleeby.

24 MR. SALEEBY: I'm sorry, Judge. I'll let you go ahead
25 and take a look at these. This one -- the Hearsay in that is

DW - M. LORING - DIRECT

1 they're allegations, allegations that are unsubstantiated,
2 unverified. But in the next one it's supposed to be a timeline
3 which the Court can see there are some statements of things as
4 facts that just are representations or allegations of one person.
5 And certainly we would sit here without the court this special
6 knowledge with the jury this wouldn't be the kind of information
7 we could put in front of them and say somebody said this happened
8 to them 20 years ago, we accept it as the gospel, and we base
9 everything we do on it.

10 MR. HOWLE: Your Honor, someone on the stand giving
11 testimony the jury decides whether they think it's truthful or
12 not. They can believe some of it or all of it or whatever. Here
13 when she talks to people whether it's Stephen or these other
14 people just like she said, I try to weed out all the lying I can
15 based on applying these things that are in my field of expertise
16 and once I finish I have data and facts. And she's just
17 graphically doing it rather than going through all the testimony
18 that she may not be able to follow the family or who is related
19 to whom to graphically show it to the Court.

20 THE COURT: Hang on a second. In my review of
21 Rule 703, and of course a lot of the things in the rule and
22 several of the others' comments deal with the concern of the
23 admissibility of the underlying data and what, if any, danger
24 that may impose to a jury and whether or not the probative value
25 outweighs any prejudicial effect with regards to a jury hearing

DW - M. LORING - DIRECT

1 that underlying data because of the potential danger that a jury
2 would misuse that as substantive evidence instead of what it was
3 used for. However, if the Court finds that the probative value
4 does outweigh the prejudicial effect it can allow that type of
5 underlying data to be presented. In this case we don't have a
6 jury, and I'm not saying that the Court's infallible as far as
7 weighing evidence; but of course, I'm not in that situation where
8 I've got to know what it is to determine whether or not its
9 probative value outweighs its prejudicial effect.

10 I'm going to allow the testimony. I think under
11 Rule 703 it is admissible because it is data upon which the
12 expert in this particular field usually uses in forming opinions
13 or inferences, and I think the Court can properly handle the data
14 and keep it in the light in which it belongs and that it's used
15 for the basis of opinion rather than it being used as substantive
16 facts of the case. And so I'm going to allow her to testify.
17 Now having said that, because I don't know what I'm about to
18 hear.

19 MR. HOWLE: Yes, sir.

20 THE COURT: If the State feels that there's something
21 that's in violation of the rule and wants to pose an objection at
22 that time I'll take that.

23 MR. HOWLE: Certainly.

24 THE COURT: At this time though I'm going to allow her
25 to at least proceed with the fact, understanding that some of

DW - M. LORING - DIRECT

1 the -- or probably most of the data and the evidence that or the
2 information that Doctor Loring has received, much of it may very
3 well be hearsay. But if it is the type of information that is
4 typically used in this area of expertise in gathering information
5 to form an opinion I'm going to allow it.

6 MR. HOWLE: Thank you very much, Your Honor.

7 MR. SALEEBY: Your Honor, if it please the Court, we
8 understand your decision, certainly ready to abide by it. We
9 don't want to prolong the process also by continually objecting.
10 Just the information contained in the chart as it comes out
11 that's all we need to say for the record. If there's something
12 that goes beyond that substantially then we'll object; if not,
13 we'll proceed.

14 THE COURT: Thank you, sir. All right.

15 MR. HOWLE: Thank you very much, Your Honor.

16 BY MR. HOWLE:

17 Q The chart that's been put up here and marked as Defendant's
18 Exhibit 5, is this a genealogy chart that you prepared
19 based upon that various information that you had gathered?

20 A Yes, this is a genogram.

21 Q Would you please explain to the Court exactly what that
22 means.

23 A May I step down.

24 Q Yes, ma'am, please, with the Court's permission.

25 THE COURT: Sure.

DW - M. LORING - DIRECT

1 MR. HOWLE: Your Honor, I had shown this also to the
2 Solicitor's Office. This is just simply a key that explains what
3 the lines colors mean in regards to this exhibit.

4 THE WITNESS: Your Honor, this is -- am I speaking loud
5 enough for the court reporter? This is what's called in our
6 field a genogram, and it portrays Stephen Corey Bryan and his
7 relationships with meaningful others, both family members and
8 pets in the family. We found that since pets can be a source of
9 abuse as well we've added that to our genograms. Your Honor,
10 I'll start with Stephen Corey Bryan and we have the small box
11 with the cross in it indicating a drug use. Red indicating
12 violence. And then I'll start with -- it's sort of hard to know
13 where to start in this case; there's just so much abuse here,
14 Your Honor. But let's start with his brother, his stepbrother
15 Trey. Stephen Corey reports sexual abuse by his brother. And
16 Your Honor, unless you ask me I think I'm not going to go into
17 the specific types of sexual abuse for in respect to the family
18 unless someone indicates they I should do that.

19 MR. HOWLE: Your Honor, I was not going to do that
20 unless ---

21 THE COURT: Whatever in response to any questions that
22 are asked.

23 MR. HOWLE: Thank you, Your Honor.

24 THE WITNESS: Okay. I think I will only indicate the
25 type of abuse and give indications how that affected him for

DW - M. LORING - DIRECT

1 later. So we have sexual abuse by his older brother and then his
2 grandfather William Bryan. We have an X indicating the drug
3 abuse by his grandfather. We have the yellow indicating alcohol
4 problems. And then we have the red indicating violence and this
5 double squiggly line indicates again as with his stepbrother
6 sexual abuse towards Stephen Corey Bryan. Your Honor, some of
7 this of course was told to me directly by Stephen Corey Bryan,
8 and one of the ways we corroborate some of this information is
9 when there's someone else in the family who has experienced
10 sexual abuse by the individual as well. Now we're going up from
11 Stephen Corey Bryan to his father William, who they call Billy
12 Bryan. We have physical abuse by Mr. Bryan, Billy, who would go
13 into rages and beat Stephen Corey with a belt, both ends, the
14 buckle and the other end. And while he certainly -- Billy tried
15 to help Stephen Corey different points in his life in these rages
16 he would beat Stephen Corey.

17 Then you have his mother, Katherine Bryan. And within
18 his father Billy's square you'll notice the red for violence,
19 Judge, the yellow for alcoholism, and you have the X for the --
20 the cross for the drug abuse as well as his mother Katherine.
21 You have the X for the drug abuse, the yellow for alcoholism, and
22 the red for violence. Her abuse toward her son Stephen Corey was
23 profound. Some of it was observed by others; some of it not.
24 There was sexual abuse, there was emotional abuse, and there was
25 physical abuse. At one point -- that's what all these lines are

DW - M. LORING - DIRECT

1 conveying, those three types of abuse. And some of the emotional
2 abuse involved the pets in Stephen Corey's life. Because Stephen
3 Corey Bryan was isolated his school records and others records he
4 was so depressed as a child and so agitated and anxious he did
5 not form relationships with other children. He didn't have good
6 friends. So while many of us may be very attached to our animals
7 someone in Stephen Corey's position where there aren't the close
8 friendships among other people, those animals become their
9 friends, their beloved companions if you will. And Stephen Corey
10 described his mother letting loose so that he would disappear,
11 his boxer Spike, and his parrot Joker. And again, these were his
12 beloved companions. He reports seeing his mother put antifreeze
13 in the food of his father's dog.

14 And Your Honor, would you please forgive me, I just
15 inverted two things. I'd like to correct myself. The two pets
16 of Stephen Corey were Joker, the parrott, and the rottweiler dog.
17 Those are his two beloved pets. Let me make sure I get that
18 right. And then Spike is the boxer that belonged to his father.
19 And that's the one he saw he reported seeing his mother put
20 antifreeze in the boxer's food. The boxer died.

21 Your Honor, going up again to his Uncle Randy on his
22 mother's side we have yellow for alcoholism, a cross for the drug
23 abuse. Randy is deceased which is why the X is in the back of
24 the box. And Stephen Corey described sexual abuse at the hands
25 of Randy. Now this is his Aunt Vickie on his mother's side. We

DW - M. LORING - DIRECT

1 have the green indicating mental illness. The family reported
2 that she was diagnosed a schizophrenic. We have yellow
3 indicating alcoholism, the X indicating drug abuse, and the red
4 indicating violence. The reports from Stephen Corey and his
5 mother were that Vickie became so violent with Stephen Corey at
6 one point that she picked him up and threw him up against the
7 wall and his head went through the sheet rock.

8 Also, Your Honor, in this family is Tammy and Tammy is
9 an aunt. Tammy has mental illness which the green reflects. And
10 Your Honor, the green reflects people to whom Stephen Corey was
11 close. There aren't many of them. There is his grandfather
12 Floyd Freeman who died before all of these tragedies happened and
13 that had a profound impact on Stephen Corey. There's his
14 grandmother and aunt and that would be Shirley who people refer
15 to as Ma and his Aunt Terry. And Steven was certainly close and
16 is close to those who remain alive among those folks. And it's
17 kind of difficult to see all these lines. This program isn't
18 really made for so much abuse to one person so I just did the
19 lines as best the program would allow. And this red line with
20 the cross through it, Your Honor, indicates the complete cut-off
21 and divorce between William Bryan and Ma or Shirley Bryant,
22 Stephen's -- Stephen Corey's grandmother. And I think I have
23 covered that. There are others on the chart who I won't take
24 your time with but certainly other relatives as well.
25 BY MR. HOWLE:

DW - M. LORING - DIRECT

1 Q Doctor Loring, out of all of the various lines that you
2 have connected with them, how many show a close
3 relationship to Stephen?

4 A Three.

5 Q And that's three out of all the relatives that are up
6 there?

7 A That is correct, sir.

8 Q Okay. Thank you.

9 A You're welcome.

10 Q Did -- what we just did there was showing the relationships
11 of these various people. Did you do the same thing with
12 events in his life that would have had some effect on him?

13 A Yes, sir, I did.

14 Q And how have you portrayed that?

15 A In what we call a timeline.

16 Q Okay. And is this the timeline that you prepared that's
17 marked as Defendant's Exhibit 4?

18 MR. HOWLE: Your Honor, sorry, we had four and five
19 marked backwards.

20 THE COURT: That's all right.

21 BY MR. HOWLE:

22 Q The timeline I just put the exhibit, is that the one you
23 prepared?

24 A Yes, sir, I did.

25 Q And that was prepared in the same fashion after gathering

DW - M. LORING - DIRECT

1 the information you did as you did on the other one?

2 A Yes, sir.

3 Q All right. Would you please explain the timeline to the
4 Court.

5 A Yes, sir. With Your Honor's permission I'll grab the
6 pictures which I'm going to use along with the timeline.

7 MR. HOWLE: Your Honor, these have all been stipulated
8 to and marked.

9 THE COURT: All right.

10 (WHEREUPON, Defendant's Exhibits Nos. 5 through 13 were admitted
11 into evidence.)

12 THE WITNESS: Thank you. Your Honor, number one, the
13 date of birth of Stephen Corey Bryant, 4/12/81 and he seemed --
14 he seemed like a happy child. This was a picture of that I got
15 from the family showing him as a child. Your Honor, I don't know
16 whether to go like this so others can see it.

17 THE COURT: I'm the only one you need to -- the
18 Defense, I mean, the State has seen it, correct?

19 THE WITNESS: Yes.

20 THE COURT: Yeah, I'm the only one that needs to see
21 it.

22 MR. HOWLE: You want me to hold it while you're talking
23 about it?

24 THE WITNESS: Yes, I do, thank you, sir. We have then
25 around five years old. He loves swimming. He's described by

DW - M. LORING - DIRECT

1 family members as fearless. He'd jump in any body of water. He
2 never had lessons that I'm aware of, but he certainly learned to
3 swim teaching himself like a fish in the water. And the family
4 talks about these being a very fearless days, relaxed, calm, who
5 is a rather brave child. Your Honor, number three we have about
6 six years old and they were the happy days. He was a happy
7 child. He enjoyed himself. He certainly enjoyed his cousin Andy
8 very much. In fact, there's Steven Corey and his cousin Andy who
9 is Terry -- Aunt Terry's daughter. They played a great deal.
10 And then, Your Honor, things begin to go bad for Stephen Corey
11 Bryan. About 1987, the latter part of the six year, early part
12 of the seventh year, he is described to me and to another mental
13 health professional and to his family sexual abuse by his
14 grandfather Bill and his stepbrother Trey. And Your Honor, all
15 of a sudden we see a change in the way Stephen Corey Bryan looks.
16 He begins to look fearful. In the two pictures I'm showing you
17 now are at Christmas time when you think a child would be full of
18 fun and gaiety, you know, having a new toy, and he just looks
19 frightened and sad.

20 While I don't want to go into detail about specifics of
21 the sexual abuse I do need Your Honor to know in terms of what
22 happens later that this is sexual abuse from the back. And at
23 least with his grandfather Bill Stephen Corey described being
24 laid upon and held down to where he couldn't breathe while the
25 anal rape was occurring. And I say this to you because it began

DW - M. LORING - DIRECT

1 to form the basis for the panic and gasping for breath and poor
2 judgment in the face of panic that would plague Stephen Corey
3 Bryan for the remaining of his life. In Number 5 in 19-- about
4 1988, which puts him seven, late seven, early eight years old,
5 sexual abuse by his mother in which she asked him to do things to
6 her that a mother shouldn't ask a son to do. And his Uncle
7 Randy, once again, anal types of abuse. And then in 1988 when he
8 was still 7, 6, 7, 8 we have the beginnings of arson. And at
9 that point his mother and father knew there was something wrong.
10 They reached out for help. You know, I saw a log where his
11 father had tried every which way to get help from the
12 authorities. Somehow, Judge, from this point on no one in the
13 mental health profession seemed to have seen the warning signs of
14 child sexual abuse which are arson, explosive school behavior
15 with abstractibility and poor concentration and running away.
16 When we see those three things together we always think is this
17 child being sexually abused or physically abused or emotionally
18 abused. And you know, we do trainings all over the country in
19 this. We try to get across to all of our fellow an sister
20 professionals and I just say to Your Honor it was missed. I
21 mean, the signs were there. And the arson took different forms.
22 Stephen's father was very kind to share with me any number of
23 documents and his own experience talking with the fire chief
24 about, you know, the fire chief knew that Stephen Corey was doing
25 arson but it kept going uncaught, undealt with, untherapized

DW - M. LORING - DIRECT

1 until finally Stephen Corey set fire to a sofa on which his
2 younger brother was sleeping. Now there are different accounts
3 of why that happened with respect to Stephen Corey, with respect
4 to his family, and the authorities' different accounts how that
5 could have happened. But Stephen Corey talks about feeling that
6 he himself was hated by his mother and that his brother was loved
7 and adored; that he felt very depressed about that. And it's
8 very likely that was part of what happened. But that was where
9 the authorities really got involved though there were other
10 arsons as well that were suspicious.

11 Stephen Corey began witnessing his mother's affairs.
12 There are different accounts of how many affairs with respect to
13 the family. The mother herself spoke with me and helped -- and I
14 want to be very careful here. But she was helpful in my
15 understanding; let me leave it at that. And this terrible
16 relationship developed between Stephen Corey and his mother where
17 clearly she didn't want this reported and he at least on one
18 occasion did report it to his father. There was physical abuse
19 he describes by his mother and there is this dynamic that the
20 family describes where if Stephen reported something his mother
21 did the mother with respect to her would say he wasn't telling
22 the truth and he would get beaten by his father whether or not he
23 was telling the truth. The mother cunningly told him she hated
24 him. And this is in witnessing his mother's affair went on, you
25 know, throughout his young life. At one point he revealed it to

DW - M. LORING - DIRECT

1 his Aunt Terry, one that he'd seen many years ago so it didn't
2 just start now.

3 Number 6, in -- about 1989 is when all of this happened
4 with his pets, and it may have had to do with him being taught by
5 the mother, you know, you better not reveal what you've seen in
6 terms of affairs or this is what will happen. At any rate, as
7 I've already suggested his Macaws parrot, apparently a very
8 expensive parrot who he taught to speak all kinds of different
9 ways disappeared. It brought him great anguish because he
10 clipped the wings so the bird wouldn't fly in the house so this
11 bird was loose without being able to defend itself. And then the
12 dog also disappeared. Stephen Corey told me when he got home
13 from school each occasion he asked his mother where was his pets;
14 she said I let them go. At any rate, what we see in this picture
15 around that time, Your Honor, is an entirely different Steven
16 Corey Bryan. He looks angry; he looks depressed. And these are
17 some members of his family and a friend sitting with him watching
18 TV. But this, I thought this picture was remarkable in how
19 different he looks from the earlier pictures. He certainly is an
20 angry and depressed young child there.

21 Your Honor, we have during this period of time school
22 records. I won't take your time by getting them out. But what
23 these school records report are a child who can't sit still,
24 who's restless, who's moving around, who become agitated, who
25 seem to concentrate, can't seem to focus, a child who when

DW - M. LORING - DIRECT

1 tested -- there are many psychological tests that I have, some of
2 which I brought with me. And what the psychological tests say is
3 that Stephen Corey with respect doesn't seem to understand what
4 he's reading, number one. And Number two, he can't seem to hear;
5 he can't seem to listen. And Your Honor, with all this abuse
6 going on what happens is, what I observed that I told you
7 earlier, that he has minor major flashbacks. I mean, he is
8 preoccupied even today with the animals he lost. He dreams of
9 living in a different kind of a world where he could have his
10 pets back and no one will hurt him, he wouldn't hurt anybody.
11 And so a child who is coming from that kind of abuse of being in
12 a abused position is not able to concentrate in school and the
13 psychologist kept telling the teachers, well, try this, try that.
14 You know, give him instructions one at a time. Talk slowly to
15 him, do whatever you have to do to help him. And on the records
16 the teachers marked, I tried this, I tried that. They go through
17 the suggestions having tried it all and nothing worked. And
18 nowhere in those records is there an indication in the special
19 education that is purposely misbehaving, you know, that he's
20 trying to thwart a teacher or do things against him or her. It
21 just shows he can't concentrate; he can't focus. And
22 unfortunately he wasn't sent to someone who might look at, well
23 if everything the school psychologists are doing doesn't work and
24 the teachers are trying it, what else could be going on here.

25 Then we get to a point, I'm talking about Number 7,

DW - M. LORING - DIRECT

1 from the fifth grade on. All this disruptiveness he's diagnosed
2 as having Attention Deficit Disorder and he probably did have
3 that but he had so much more that wasn't recognized. We talked
4 about in about 1992 his Aunt Vickie throwing him across the room.
5 We talked about his arson. And then about '92 to '93 he reports
6 seeing his mother have sex with a woman, told his Aunt Terry
7 about that. His father he reports gave him some marijuana. And
8 that's when, let's see, that would be from '81 to '92, about 11,
9 12 years old. And he reports his mother becoming so enraged with
10 him that she dragged him across the room choking him as she did.
11 Stephen Corey says at that point he thought he was going to
12 die; that he couldn't catch his breath. And we already have
13 somebody who couldn't catch his breath who was being laid upon
14 and re-raped so that added to his panic reactions and his
15 depression. And then following this around '96 he threatened a
16 school bus driver. The school begins to report his depression,
17 his -- again, his attention deficit learning disorder and now
18 they're calling that a conduct disorder. He's having multiple
19 incarcerations and the father's trying to tell the juvenile
20 authorities that there's more to it than meets the eye here. The
21 father reported that once while incarcerated he was attacked by
22 another inmate in the juvenile justice system.

23 Now Your Honor, in 2003 he's -- vocational
24 rehabilitation was trying to help him. They reported disruptive,
25 aggressive, and impulsive behavior. And if I may just grab one

DW - M. LORING - DIRECT

1 of the books real quickly, Your Honor.

2 THE COURT: Yes, ma'am.

3 THE WITNESS: Your Honor, in -- as you look, as we go
4 through this timeline we see that -- we see that just prior to
5 2002 that he's continuing to try to do better. This picture
6 shows Steven on the far right here, the far right facing it with
7 next to him it's his cousin Andy and some family members where
8 he's just been let out of being incarcerated and he's smiling
9 happy. This is like a new chance for him. They're reporting him
10 trying to do better in many different ways and this is 2002.

11 Your Honor, up to this point what we see in all of these
12 different things I've described to you is a kind of corruption.
13 When a child is corrupted that Garberino (ph), that Doctor
14 Garberino's talking about, you can see that, Your Honor, he's
15 been rejected, terrorized. He's scared of his mother, terrified,
16 scared of his father beating him, rejected by his mother, and
17 ignored by his mom in favor of his brother and corrupted given,
18 you know, pot and alcohol, that kind of thing. So we have the
19 definition to have what Doctor Garberino calls a psychologically
20 battered child. And what we're taught to expect from that we'll
21 get into in a little while, but we see a child who's anxious,
22 aggressive, and hostile. You know, right out of all the texts
23 that's what -- I discovered my own book, and this is a book that
24 I wrote called emotional abuse, Your Honor, and it talks about
25 the incredible disruption that a child experiences when they're

DW - M. LORING - DIRECT

1 being emotionally abused. And what can happen is these
2 flashbacks where a person just isn't able to concentrate on much
3 of anything and begins to panic, especially if there's physical
4 and sexual abuse involved. And lastly, Your Honor, as we talk
5 about this you'll notice I'm not talking about a big brother or a
6 big -- I'm a big sister myself in Atlanta, Georgia from the
7 organization Big Brothers Big Sisters. And there are many all
8 over the country like me or, you know, church members or rabbis,
9 clergy, pastors, I mean, people, YMCAs, all kind of ways, YMCAs,
10 all kind of ways children can -- my husband, before he passed
11 away was a big father to so many abused children, all kinds of
12 opportunities. But Stephen Bryant never had anyone like that.
13 So when you look in the text they talk about resilience. I mean,
14 you know, a lot of people experience some kind of abuse growing
15 up. What makes a difference between them and someone who isn't
16 able to overcome the panic and the depression and falling apart,
17 which I'm going to get to in a moment, and we call it resilience,
18 when someone is able to bounce back and overcome that kind of
19 thing. Kind of like his Aunt Terry has done so well, able to
20 bounce back from her sexual abuse by grandfather Bill, just
21 bounce back. But she had people in her life who kind of took her
22 under their wing from her mother-in-law onwards, and Stephen
23 Corey didn't have that. So Your Honor, he never developed what
24 we call resilience. He never developed the ability to bounce
25 back. He's someone many of us wish we would have known before

DW - M. LORING - DIRECT

1 all these tragedies happened and given him tools to bounce back
2 or rise above, the kinds of things that his aunt was able to do
3 despite her sexual abuse. And he had some exposure to his
4 grandma and aunt but he didn't live with them. He kept being
5 pulled back into this home and put back by the juvenile
6 authorities into this home where they didn't realize what was
7 going on.

8 Your Honor, we're now down to 2003 and on to 2004 and
9 during this he was living with his girlfriend Judy whom I spoke
10 with as well. Now in 2004 a number of things happened. One is
11 his beloved grandfather Floyd died who is one of his main
12 supports. He didn't get to be around grandfather Floyd as much
13 as he would have liked that he could have learned resilience but
14 the amount he was able to be around him he certainly loved him a
15 great deal. So you have at this point Stephen Corey at this
16 point coming to his grandmother Shirley and his Aunt Terry doing
17 what we call outpouring. When an adult gets to the point where
18 he or she can't handle all the sexual abuse, emotional, physical
19 that they have suffered then what can happen is they go to
20 someone they trust and just have this outpouring of anguish of
21 pain and telling them what has happened. It's feeling guilty and
22 embarrassed. And there are a number of possibilities where
23 counseling could have occurred. There is this wonderful deputy,
24 Sergeant, Sergeant Wayne Jordan from the Chesterfield County
25 Sheriff's Department who Aunt Terry called. She said I --

DW - M. LORING - DIRECT

1 someone in my family who just, you know, sat there and wept and
2 told us about the abuse, I think he's having a nervous breakdown,
3 and you know, what should I do. And Sergeant Jordan told her
4 exactly what to do and to her credit she did it. Also he had a
5 probation officer you've already heard from who attempted to
6 help, and our system just didn't work. The outreach didn't work.
7 One place he reached out to, Healthy Minds I think it's called.
8 He didn't have the money to pay for it and probation is my
9 understanding couldn't pay for it so that didn't work. Then he
10 went to I believe it was the YMCA; I have those records. Again,
11 this was before any of the terrible tragedies happened and he
12 told them about all of the -- the sexual abuse he suffered. And
13 he went through all of what I've gone through in terms of
14 different people whom I told you about so I won't repeat all
15 that. And they noted it and they -- I have that with me too but
16 I certainly would call it so I won't take your time to get it.
17 But the Y noticed, the counselor noticed the kinds of emotions
18 going with what he said that left them feeling this was a valid
19 report that he was -- he reported being embarrassed and ashamed.
20 Certainly was nothing he was bragging about but rather he felt
21 very ashamed. Unfortunately, I'm sure they were very busy and
22 they did call him a couple of times but that kind of stopped at
23 that point and his girlfriend Judy just noticed that he had
24 become a different person and she felt she didn't even know him
25 anymore. I'm so sorry that the Y I'm sure was very busy. Many

DW - M. LORING - DIRECT

1 of us, when we've talked with someone in this much distress
2 having what appeared to be some kind of a breakdown, many of us
3 would go to where he was if he didn't respond to our calls. We
4 might get, you know, a male counselor just going out there.
5 Unfortunately that wasn't done.

6 At any rate, there were a number of diagnoses that went
7 on following this, depression for example. There were
8 hallucinations that Stephen Corey reported. He was seeing, every
9 few seconds seeing a woman come to him and whisper something to
10 him that he should hear and then she would disappear and he
11 couldn't figure out what she said and felt it was important and
12 he would be looking around waiting for the next woman to come and
13 tell him. And on the one hand he felt it couldn't be real but on
14 the other hand he thought that these were important messages
15 being delivered to him. He also reported during this time period
16 being assaulted by two men, went to an emergency room and
17 received treatment for that.

18 BY MR. HOWLE:

19 Q Doctor Loring, from this pool of events that you have just
20 covered with us could you say with a reasonable certainty
21 these events in his past could have led to the tragic
22 consequences that ended up happening in October of 2004?

23 A Yes, sir. And I need to clarify, Judge. My job went up to
24 the events, not the events themselves. That was left to
25 Doctor Donna Schwartz-Watts. So yes, these -- I understand

DW - M. LORING - DIRECT

1 in general what the events were, what the tragedies were,
2 and yes, these events that I've described certainly could
3 have led to these types of events.

4 Q Now you mentioned something about the trauma that he spoke
5 to a number of people of having gone through. When you
6 have these experiences and go through what you have
7 described here how free is someone like Stephen to choose
8 his actions?

9 A Not free at all, Judge. I mentioned earlier when I had the
10 honor of working with the deputies at Fulton County
11 Courthouse after our tragic shootings of the judge and all.
12 And the first thing I asked be done is that the door be
13 locked. And I explained to the deputies that, you know,
14 what was going to happen with them, especially the ones who
15 are in the courtroom or who are with deputy Teasley who was
16 shot and killed; that what was going to happen to them was
17 they were going to lose some of their cognitive abilities.
18 How much of that they were going to lose I couldn't tell
19 them till I got to know and observe them. But when someone
20 is truly traumatized they just can't think and choose and
21 make proper decisions. If they have panic added to that
22 then one doesn't know what they will do. In talking with
23 the deputies I told them I just couldn't allow them to go
24 out on the street. They might not even see if a light was
25 green or red. They could drive right through a red light.

DW - M. LORING - DIRECT

1 If they pulled someone over and that person made some kind
2 of movement they could take it that that person was trying
3 to assault them. It would appear exaggerated to them
4 because hypervigilance is something, overreaction.
5 Startled reaction is something that traumatized people
6 often have. So we sat and we talked for hours and they
7 went, and it was a really terrible experience for all of
8 us. But the point is that someone who is experiencing
9 trauma doesn't have the same kind of abilities to think and
10 to choose and to decide what they're going to do. And then
11 when you add the kinds of abuse that Stephen Corey had, the
12 physical abuse, the sexual abuse where he panicked, and the
13 physical abuse where he was choking and thinking he was
14 going to be able to live you have a terrible combination of
15 inability to think and choose properly with panic. And
16 possible, Your Honor, we call it flailing. If someone who
17 is panicked, traumatized, not thinking well, has hold of a
18 weapon and feels threatened like someone is going to hurt
19 them and start flailing around with that weapon, the gun
20 goes off, the knife goes in, whatever, just terrible things
21 can happen, whether it's the deputies who stayed safe.
22 That didn't happen with any of our deputies because we
23 worked with them for hours. And other mental health
24 professionals came too; it wasn't just me. And it can
25 happen to people, especially people who aren't treated.

DW - M. LORING - DIRECT

1 And Stephen Corey Bryant was never treated.

2 Now in response to your excellent question, I want to
3 be sure I don't mislead you. Stephen Corey Bryant never
4 told me, hey, Doctor Marty, I was traumatized. He never
5 said that. He never used that word. I'm not even sure he
6 knows what it means. But people like Stephen Corey who are
7 traumatized, who are embarrassed and ashamed, they tend to
8 minimize down their symptoms; that we call it minimizing.
9 Just like the deputies were minimizing their symptoms. And
10 if Stephen Corey Bryant did anything with me and he
11 probably did it with others too -- I'm sure he did -- he
12 minimized; he played dumb, it wasn't that bad.

13 Q Doctor Loring, from having talked to him and reviewing the
14 records and talking to people, is there anything else
15 concerning Stephen's personality and behavior that you need
16 to tell the Court we have not talked about?

17 A Yes, sir. I asked Stephen Corey Bryant to make me a
18 promise that he wouldn't kill himself. We call it a
19 contract in my business because he expressed a great deal
20 of guilt and sorrow, but he was able to talk about. Some
21 of it he just cried and couldn't talk about. I just wanted
22 to be real clear with him that he wouldn't harm himself
23 which he has considered at various time in his life and has
24 considered when I was working with him trying to understand him
25 and he gave me his word he wouldn't do that. He has a lot of

DW - M. LORING - CROSS

1 feeling about what he has done.

2 Q You mentioned that he had expressed sorrow for what has
3 happened?

4 A A great deal of sorry, a great deal of remorse, a great
5 deal of horror.

6 Q Thank you very much, Doctor Loring. Answer any questions
7 the Solicitor may have for you.

8 A Yes, sir.

CROSS - EXAMINATION

9
10 BY MR. SALEEBY:

11 Q Doctor Loring, you have any kind of research or any
12 knowledge based upon what you've done as to what kind of
13 choices Stephen Corey Bryant was making in September and
14 October of 2004?

15 A Well, yes, sir. I would say based on our research and
16 knowledge about trauma itself by people who have been
17 traumatized as he was, abused as he was, that we could --
18 that we could expect that his behavior would be that of
19 frantic behavior, that of panicked behavior and explosive
20 behavior rather than planned behavior. He was damaged
21 cognitively so his planning ability would be quite
22 affected, sir.

23 Q He would not have had the capacity to plan very well in
24 October of 2004?

25 A I want to be a little bit careful. I'm sure there are

DW - M. LORING - CROSS

1 examples where he could have planned A, B, and C. But in
2 terms of harming somebody it would have been much more
3 likely that the harm he would have been inflicted would
4 come out of a place of panic on his part than out
5 planfulness. That would be what our research as you asked
6 would lead us to expect.

7 Q I'm sorry, was that a yes a no?

8 A That was a partial yes and a partial no. That isn't -- I
9 don't know that in every specific incident he would have
10 been devoid of planning. I'm sure that that wasn't the
11 case. We all plan to some extent. So in general I guess
12 it would be an I don't know because I didn't research out
13 the actual events. I can only tell you up to the point of
14 the tragedy that I don't know when he did plan and I don't
15 know when he didn't; but when it came to harm to people,
16 from the research one would expect what I explained to you
17 one would expect panic, hypervigilance, quick to feel
18 threatened or that someone was about to harm them, him,
19 whether or not they were. So I think it was a kind of an I
20 don't know and yet still trying to answer the research
21 question that you asked, sir.

22 Q He could plan where he wanted to steal you think?

23 A Are we talking about the tragic events for which he's on
24 trial?

25 Q I'm just trying to figure out what he would have been

DW - M. LORING - CROSS

1 capable of planning in October of 2004 because I understood
2 your question, your answer to Mr. Howle's question, as
3 being he wouldn't have been able to plan very well at that
4 point in time.

5 A Well, in my work goes up to these tragic events, and the
6 rest of it is Doctor Schwartz-Watts.

7 Q But you did answer a question about his ability to plan up
8 to this point in time so that's what I'm trying to -- are
9 you going past your area? Are you saying up until October
10 the 1st he couldn't plan and then after that you hand off
11 to Doctor Schwartz?

12 A Except the remnants where he wouldn't likely have regained
13 his ability to be very concocting and would still likely
14 hold over the panic that he would feel and the
15 hypervigilance so I'm stopping at that point and saying
16 that some of it would certainly likely fall over, but I
17 don't know the specifics of how it would fall over. So I
18 would be hesitant to answer specific questions but glad to
19 let you know some of it is very likely to have carried
20 over, if you will. It didn't just go away or get erased is
21 what I'm trying to say without going into the specifics of
22 what I didn't study.

23 Q So you don't have any knowledge of how deliberate or how
24 random his activities might have been in October of 2004?

25 A I have no knowledge of the specifics, only of the

DW - M. LORING - CROSS

1 carryover; that's correct, sir.

2 Q All right. I had a chance to read your CV here. I see it
3 says you're a mitigation specialist; is that correct?

4 A Yes, sir. Yes, sir.

5 Q What is that?

6 A That is, sir, someone who has done interviewing, teaches
7 interviewing skills across the country, and someone who
8 specializes among other things in putting together
9 someone's social history, what happened to them from the
10 time they were born until some given point in time looking
11 at their relationships with others and how others' behavior
12 toward them has affected them.

13 Q And you would get involved when somebody was facing a harsh
14 punishment; is that correct? That's what you're trying to
15 mitigate?

16 A No, sir. I'm not trying to impinge on what the Court
17 decides to do in terms of the ultimate decisions, no, sir.
18 Well, what I am trying to do is show mitigation more in
19 terms of the life of a person, what has affected them, and
20 what mitigating factors, what kinds of factors are
21 operating that explain some of their behavior. So no, sir,
22 I'm not trying to effect an outcome; I'm trying to effect
23 an understanding of a person.

24 Q I'm sorry, I didn't ask that question the right way. Let
25 me try it again. A mitigation specialist like you would

DW - M. LORING - CROSS

1 get involved to aid the Court and the Defense on behalf of
2 someone who was charged with serious crimes and facing
3 tough punishment? Isn't that what a mitigation specialist
4 mitigates? Isn't that what you're -- where you're
5 involved?

6 A Well, no, sir, in that number one sometimes the prosecution
7 asks me to help, not just the defense.

8 Q For mitigation?

9 A Oh, yes, sir. And second of all, I'm so sorry, I may not
10 be very clear about this but I'm not trying to mitigate in
11 regard to a punishment. I'm trying to mitigate in terms of
12 understanding a person's behavior, why would someone behave
13 in given ways, why would someone be explosive and panicked
14 and be threatened maybe at times that I, you and I,
15 wouldn't feel threatened. So the difference to me, sir, is
16 that I'm not trying to effect or not effect a punishment.
17 I'm trying to effect an understanding for whatever value
18 that may be of the person and their background and their
19 behaviors, the whys.

20 Q And by and large is that on behalf of the Defense?

21 A Well, sometimes it is but sometimes it's on behalf of the
22 prosecution. I'm on call in Georgia for some prosecutors
23 who might, for example, I told you colleague before we
24 started. I told him please give me a call if I can be of
25 any help to you if a battered woman recants, which is a --

DW - M. LORING - CROSS

1 as he said, y'all have that problem just like we have it in
2 Georgia and all over the country. So then a prosecutor
3 might ask me to go in and explain to the judge or to the
4 jury or whatever why this woman is not saying this man did
5 X, Y and Z to her. If she's not saying it why are we to
6 believe he did it anyway. And what I would describe as
7 mitigation is to help understand why someone might not fess
8 up as to what was done to them and I won't take up the time
9 now to explain the different mitigating factors that will
10 cause them not to state it. But I'm always so glad to help
11 solicitors and prosecutors when they run into that problem.

12 Q Well, if you need to take more time feel free.

13 A Okay. The mitigating factors in that kind of thing would
14 have to do with why she wouldn't say, you know, what had
15 happened to her, be it fear, be it love, that kind of
16 thing. And her own growing up, how she may have come to be
17 the person she was and is.

18 Q Let me ask you a more specific question. When was it you
19 first met Stephen Corey Bryant?

20 A Sir, I first met him on February 7th, 2008.

21 Q And at that point in time did you have a blank slate or did
22 you already have the benefit of the work that Doctor Donna
23 Schwartz-Watts had done?

24 A I had a blank slate, sir. I do prefer that.

25 Q Do you have certain tools, you call them truth-telling

DW - M. LORING - CROSS

1 tools, that aren't available to psychiatrists that practice
2 in South Carolina?

3 A I don't know how to answer that. I don't know how to
4 answer that question.

5 Q I -- fine, I withdraw it.

6 A I want -- let me try though.

7 Q Okay, go right ahead.

8 A I'm supposed to say yes or a no, sir first and that's what
9 I'm struggling. I guess I say no, sir. And the reason is,
10 these are not what we call truth-finding tools, sir, these
11 are trauma tools. And any psychiatrist, psychologist,
12 social worker who'd like to go in and talk with somebody
13 is -- who wants to be trained. And I do training; I'd be
14 delighted to train anyone to use these tools as what can do
15 it and is welcome to do it. You have fine psychiatrists
16 here. They would be welcome and very able to do that. Now
17 the fact that you can tell if a person is giving
18 inconsistent answers, which is an indication of
19 malingering, that's all that is all about, sir.

20 Q Let me ask you about that because you've made references to
21 them. We'll talk about in detail about allegations of
22 abuse and consistencies. But you had available to you the
23 transcripts that he gave Doctor Donna Schwartz -- I mean,
24 Doctor Pamela Crawford. And back in four years ago when
25 this was fresh on his mind he didn't say anything on

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- 1 October 13th about his grandfather lying on top of him or
2 about the nature of any sort of anal intercourse. He just
3 said he was touched in his fingers -- with his fingers.
4 Now he's told you something different; that's inconsistent.
5 So is there a way for you to say it happened at all? It
6 happened the way he said in October '04, or it happened the
7 way he told you in '08? Which is -- which of the three?
8 Is there some way that you can tell which is and isn't?
- 9 A And that is a very fine psychiatrist about whom you're
10 speaking, and I'm sure she did a very good job. I want to
11 pay my respects. By the same token I don't know that she
12 had one, two, three, four, five, six opportunities over
13 total of about six, about 16 hours or so to talk with him
14 so it's really not fair to expect her to get all the kind
15 of information that a trauma abuse expert would get over
16 that period of time using tools that I didn't see any
17 indication that she used. So I think she did a fine job.
18 I'm not sure she felt as comfortable as I did pushing
19 Stephen Corey. I mean, the fact that I pushed him and that
20 he had flashbacks and felt suicidal is something that I
21 regret doing but that I have to do to get accurate
22 information to present in any way I need to present it or
23 just to know.
- 24 Q So your information would be better?
- 25 A No, sir, no, sir, I am not going to give up paying respects

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1 to this psychiatrist. I'm only going to tell you once
2 again that I had a much longer period of time over which to
3 interview him and I had more time to build up his trust
4 than she did. He is distrustful, angry, depressed. He
5 minimizes. As I said earlier, sir, I know you heard me,
6 that he tends to play down what happened to him. He's not
7 going to get up and shout it, you know, to the Court what
8 happened to him. He's clearly, you can see, he's having a
9 hard time with my speaking about it right now. I mean,
10 it's not her -- she shouldn't be blamed for not having as
11 much time to instill trust in a very distrustful person and
12 get the kind of information that I got. She got some of it
13 and I got the rest of it, and we'll just put it together
14 and have the whole picture with respect to her if that's
15 okay with you.

16 Q Whatever you say is fine with me, Doctor, but did you look
17 at the records of the Department of Corrections and I think
18 in August of '02 he alleges sexual abuse by an uncle and no
19 one else. And then in October he says his grandfather in a
20 different way, and then he says it's his mother. And
21 that's October 13. And then in a very extensive second
22 interview on October 19 then he adds a brother and then he
23 adds an uncle and then he talks about getting beat. It
24 changes from time to time; does it not?

25 A No, sir, it adds ---

DW - M. LORING - CROSS

1 Q It doesn't change?

2 A Excuse me.

3 Q Go ahead, I'm sorry.

4 A Thank you. No, sir, it adds from time to time. If Stephen
5 Corey Bryant had come out in the first interview you
6 mentioned and said, here's the way it was, one, two, three
7 four, five, I would have had serious doubts. The fact that
8 a young boy and a man is dealing with that much sexual,
9 physical abuse one would expect that would come out in
10 pieces. Because men get very ashamed and embarrassed, as
11 they noted at the Y about this, it's very hard for them to
12 tell it all at once. The second part is, I'm not aware of
13 him ever seeing a trauma abuse specialist until he went to
14 the Y and at that time that abuse specialist got it all out

15 ---

16 Q You are not aware ---

17 A ---at once.

18 Q ---of his episodes that or his report in the Department of
19 Corrections?

20 A I have reviewed all of that, yes, sir.

21 Q You have not?

22 A I have.

23 Q You have?

24 A Oh, yes, sir.

25 Q Then you're aware of it?

DW - M. LORING - CROSS

1 A Yes, sir.

2 Q You're aware of his diagnosis. You know that he tends to
3 minimize; is that correct?

4 A Yes, sir.

5 Q You know that he tends to be deceitful?

6 A No, sir. It depends on which area you're taking about when
7 you use the word deceitful.

8 Q Is he selectively deceitful?

9 A Sir, when it comes to sexual abuse I think he has told
10 pieces of it at different times over a period of time than
11 historically all at once to his family and all at once to
12 the Y. His recounting of sexual abuse I think is something
13 to be believed and perhaps not to be mixed with other kinds
14 of things where you might -- you don't want to say he's not
15 telling things accurately.

16 Q Let me ask you about some of the allegations and your
17 ability to verify it or corroborate by physical facts by
18 eyewitnesses. For example, there's allegation involving
19 his grandfather, and you know, his grandfather denies it;
20 is that correct?

21 A That is my understanding, yes, sir.

22 Q And well, you've seen the statement from his grandfather
23 saying we were in fact at the hospital the day the grandson
24 was born. You've seen that statement?

25 A Yes, sir.

DW - M. LORING - CROSS

1 Q And you have verified or failed to verify from the
2 grandmother that she was with the grandfather when they
3 went to the hospital?

4 A Yes, sir. I also spoke with the mother who said that they
5 were alone at that time. Stephen and his grandfather were
6 left alone at home at that time according to his mother
7 Katherine Bryant.

8 Q And was she reliable informant? Did you believe parts of
9 what she said and parts -- other parts, did you just not
10 believe them?

11 A I think that Katherine Bryant was only reliable in one area
12 and that did not include the area where she said that
13 Stephen Corey and his grandfather were in fact alone at the
14 house when Stephen Corey describes his sexual abuse having
15 occurred by his grandfather toward him. The area where I
16 found Katherine Bryant, where I struggled with her, is it
17 was very hard for her to acknowledge any of her own part in
18 abusing her child.

19 Q She denied it.

20 A Not completely, no, sir. She did the best she could.
21 She -- and I want to be a little respectful of the family.
22 I would like to say in general we talked about him
23 witnessing the issue of an affair, affairs, and she brought
24 herself through wanting to help him to be able to
25 acknowledge some of that. And her husband is in the

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1 courtroom today. I would like that to be as far as I go on
2 that.

3 Q He's here? Are they still married?

4 A Yes, sir.

5 Q And she denied molesting him; did she not?

6 A In part, yes, sir.

7 Q In part?

8 A Well, I wish you could have seen the expression on her
9 face, but yes, sir, she did deny it.

10 Q How about words? I mean, we don't have expression on the
11 face. That's part of the problem with hearsay. She denied
12 it?

13 A She denied it and she looked very sorrowful.

14 Q And we -- that would be based upon your impression.

15 A That would be based on most anyone who saw her at that
16 time.

17 Q Well, we didn't have that opportunity.

18 A Which is why I'm so glad to be here to help you, sir,
19 because I know we're all looking for the truth about what
20 happened to Stephen Corey Bryant and how he came to have
21 been involved in these tragedies and I'm glad to join you
22 in that, sir.

23 Q And you talked to his half brother Trey?

24 A No, sir, I was not given access to Trey as much as I asked,
25 I'm so sorry to say.

DW - M. LORING - CROSS

1 Q And you talked to Aunt Vickie.

2 A No, sir, I did not talk with Aunt Vickie.

3 Q And I believe you have records from psychiatric
4 institutions or from drug and alcohol abuses that
5 substantiate allegations of alcohol and drug abuse, the
6 other family members.

7 A No, that was relayed to me by family members who'd made
8 those observations themselves when it wasn't there.

9 Q And so you accepted that without trying to get any further
10 documentation?

11 A Yes, sir. When one or more family members shared that with
12 me I did accept that.

13 Q All right. Were there any other records that you wished
14 that you had had that you could not find to corroborate
15 what you did?

16 A Frankly the most important records for my job were the
17 school records which our Investigator Carolyn Graham did a
18 beautiful job in getting for me, psychological, after
19 psychological examination describing his problems as a
20 child which went unattended. I looked at arson reports and
21 theft reports. Vocational rehabilitation reports, and
22 perhaps most importantly the YWCA report so I felt I had
23 the records that were important to me.

24 Q Did you have the records from the Department of Juvenile
25 Justice?

DW - M. LORING - CROSS

- 1 A Yes, sir.
- 2 Q And you saw in those records that Corey denied that he had
3 any problems at home, that he had been beaten or abused in
4 any way or the other by either his -- anybody in his family
5 or his father? Have you seen those records?
- 6 A Yes, sir, which again is typical unfortunately in many
7 cases of child sexual abuse and physical abuse.
- 8 Q Didn't his mother and his father denied substance abuse was
9 in the home?
- 10 A Yes, sir.
- 11 Q Well, ma'am, according to Doctor Donna Schwartz-Watts with
12 difficulty recalling or recollecting the past, would you
13 think his ability to recall or recollect what happened in
14 2004 would be crisper then or crisper now?
- 15 A I'm sorry, would you help me to understand. I don't
16 understand that question.
- 17 Q I'm just asking does he or does he not have difficulty
18 recalling and recollecting?
- 19 A And what period are we talking about? I'm sorry.
- 20 Q Just as a matter of his diagnosis?
- 21 A I make -- I can't comment on that.
- 22 Q You are aware of his diagnosis?
- 23 A I am aware of it, yes, sir.
- 24 Q And that would not -- would or would not include being
25 manipulative? The conditions of his diagnosis would or

DW - M. LORING - CROSS

1 would not include being manipulative?

2 A Would you help me understand what you mean by that,
3 manipulative.

4 Q That's a term I read from your psychiatric, psychological
5 records. You need to help me.

6 A Okay, yes, sir, I'll be glad to. One use of the word
7 manipulative is when there's someone who has been abused,
8 grows up and wants to go home. All the abused kids want to
9 go home. And they manipulate the system in that they do
10 not tell the truth of what's happening at home, be it
11 physical, sexual abuse, alcohol, drugs. And they are -- we
12 think of that as manipulating the system and if they told
13 all that was going on at home that they'd never be put back
14 in the home again. So that's one form of manipulation I'm
15 aware of.

16 Q Are there others?

17 A Well, it all depends on how people, what they mean by that
18 term. That's why I want to be very careful to be accurate
19 for you. I wasn't sure what you meant by it.

20 Q Manipulative in terms of using whatever you can use to get
21 what you want. Are you aware of that use of manipulative?

22 A Gosh, a lot of us use what we can to get what we want.

23 Q You're not aware of that?

24 A No, I'm just struggling. I'm here to be accurate and honest
25 and I'm really trying to understand what it is you want me

DW - M. LORING - CROSS

1 to comment on and I'm just not getting which kind of
2 manipulation you're talking about. I'm sorry, Your Honor:

3 Q I won't belabor it. In terms of being accurate you have
4 verified all this information independently about the
5 animals? You have somebody who says, yes I killed a boxer;
6 yes, mom did this; yes, mom did that.

7 A Another way of verifying -- yes, sir. Another way of
8 verifying things is you take what someone says to you, you
9 take what others say, you look at the records, and then you
10 use the trauma tools and the clinical observations. And
11 the trauma -- the trauma tools and the clinical
12 observations, sir, when you keep going back to things and
13 asking them in different ways, when you look at the way
14 someone is telling you something it's very helpful in
15 verifying whether someone is trying to misrepresent or
16 telling what they actually went through and experienced.

17 Q And so you independently verify things by your test of the
18 same person who is telling you these things?

19 A By tools where that same person who's telling me may think
20 they're getting away with something, but a couple of visits
21 later being asked the same kinds of questions that they're
22 not aware of being the same and they come out with
23 different answers, yes, sir, that verifies that they're not
24 telling the truth and then I usually am not put in the
25 place in today where I'm sharing information. I've had a

DW - M. LORING - CROSS

1 lot of folks look to me and found out a lot of -- you can
2 verify and make attempts to verify independently through
3 clinical observations and trauma tools, sir.

4 Q How about court worthy independent corroboration such as
5 witnesses or admissions by other parties?

6 A Well, that's why I was so glad to talk with someone like
7 Sergeant Jordan. Whenever I can speak with someone even
8 outside of the family who can -- told me about what Aunt
9 Terry called up and told him about the family member who is
10 having a nervous breakdown and sexual abuse which, I mean,
11 that's the kind of thing that's very helpful, yes, sir.

12 Q And who was it corroborated anything that happened to these
13 animals at the hands of the mother?

14 A That was internal verification in using the trauma tools
15 with Stephen Corey Bryant.

16 Q Internal verifications. Did he ever lie or misrepresent
17 anything to you in the entire course of your dealings with
18 him?

19 A No, sir, the only -- the only thing I got into him about,
20 got in with him, the only thing I got into with him were
21 trauma abuse and family issues.

22 Q Thank you, Ma'am.

23 A May I, I wasn't quite finished.

24 THE COURT: You may finish.

25 BY MR. SALEEBY:

DW - M. LORING - REDIRECT

1 Q Please go ahead.

2 A Thank you. And therefore, the reports from the arson
3 folks, the police, from all of the school counselors,
4 verified what he told me about his abuse and trauma, sir.
5 Thank you, Your Honor.

6 THE COURT: Thank you, ma'am.

7 MR. SALEEBY: I don't have anymore questions.

8 THE COURT: Mr. Howle.

9 REDIRECT EXAMINATION

10 BY MR. HOWLE:

11 Q You say you talked to him six different times?

12 A Yes, sir.

13 Q And Doctor Crawford spoke with him I think twice?

14 A She only got to speak with him two times I think.

15 Q You don't know what time of day or not she was talking to
16 him, do you?

17 A I do not know what time of day or night she spoke with him.

18 Q When you interview or talk with someone, what hours of the
19 day is that normally?

20 A I try to vary it, first thing in the morning, last thing in
21 the afternoon as late as I can stay, at noon. I try to
22 catch them all different times.

23 Q Okay. You don't interview anybody at two or three in the
24 morning?

25 A I would never interview anyone at two or three in the

DW - M. LORING - REDIRECT

1 morning, no, sir.

2 Q As a trauma expert is it your opinion to a reasonable
3 degree of certainty that Stephen was suffering under trauma
4 when these things happened? Of up to when these things
5 happened.

6 A Up to when these things happened there is no question that
7 Stephen Corey Bryant was suffering from severe trauma. And
8 I, as I said earlier, you cannot erase it and make it go
9 away. It just keeps on going until it's treated properly.

10 Q Thank you very much, Doctor Loring.

11 A You're so welcome.

12 THE COURT: Anything further?

13 MR. JACKSON: No, sir.

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

16 Any objection to Doctor Loring being excused?

17 MR. JACKSON: No, sir.

18 MR. CLARK: No, sir, I understand she has to be
19 somewhere else.

20 THE WITNESS: Is it okay if I leave?

21 THE COURT: Yes, ma'am, you're free to go.

22 We're going to take about a five, ten minutes then
23 we'll go to the next witness.

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

25 THE COURT: Mr. Howle.

DW - J. AIKEN - DIRECT

1 MR. HOWLE: Thank you, Your Honor. Your Honor, we call
2 Mr. Jim Aiken.

3 THE COURT: Mr. Aiken, if you will please come around,
4 sir.

5 THE DEPUTY CLERK OF COURT: Mr. Aiken, place your left
6 hand on the Bible, raise your right hand. State your name
7 please.

8 THE WITNESS: James Evans Aiken.

9 WHEREUPON,

10 JAMES EVANS AIKEN,
11 having been duly sworn by the Deputy Clerk of Court,
12 testified as follows:

13 THE DEPUTY CLERK OF COURT: Have seat up here please,
14 sir.

15 THE WITNESS: Yes, sir.

16 THE DEPUTY CLERK OF COURT: State your full name, spell
17 your last name please, sir.

18 THE WITNESS: My name is James Evans Aiken, A-I-K-E-N.

19 DIRECT EXAMINATION

20 BY MR. HOWELL:

21 Q And good morning, Mr. Aiken. How are you doing today?

22 A Good morning, sir.

23 Q Mr. Aiken, where are you from?

24 A I'm from Brevard, North Carolina.

25 Q And what is your education?

DW - J. AIKEN - DIRECT

1 A I have a undergraduate degree from Benedict College,
2 Columbia, South Carolina, a Bachelors of Arts Degree. I
3 have a Masters Degree from University of South Carolina in
4 criminal justice.

5 Q Okay. And what is your basic work history that you've had?

6 A I'll be as brief as possible. I started working for the
7 South Carolina Department of Corrections in 1971 in the
8 capacity as a substance abuse counselor in medium security
9 prison within that system. That prison was named Manning
10 Correctional Institution. Where you had inmates that had
11 pretty fair movement from point A to point B within the
12 facility. However, the external perimeter of the facility
13 was maximum security. From there I was promoted to the
14 rank of administrative assistant to the warden. And back
15 in those days, in fact, I think I was the first
16 administrative assistant where you got to do what no one
17 else wanted to do so to speak but you learn security and
18 you had to help out with security. Feeding inmates,
19 breaking up fights, being the disciplinary, classification
20 of inmate population and in evaluating the security posture
21 of the institution and things of that nature. From there I
22 was promoted to the rank of deputy warden of this same
23 facility. As deputy warden I was the number two person in
24 charge of that facility involved with all security
25 activities, all problematic activities, and all

DW - J. AIKEN - DIRECT

1 administrative activities to include classification,
2 adjustment of inmates for disciplinaries, contraband
3 control, riot control, safety and security of the
4 institution to include the perimeter all the way through to
5 assignment of beds for inmate population. Also
6 interpreting as well as -- interpreting as well as
7 developing policy procedures and protocols as related to
8 the operations of that facility. And from there I was
9 promoted to the rank of deputy warden of the Central
10 Correctional Institution better known as CCI or the State
11 Penitentiary. This was at that time the largest
12 institution within the South Carolina Department of
13 Corrections. It housed the most dangerous predator
14 disruptive inmate population within the criminal justice
15 system of South Carolina. Of course we held safe-keepers
16 there. Those people that could not be adequately managed
17 in jails within the South Carolina criminal justice system,
18 and they were sent by governor's of course to this facility
19 for safekeeping. Of course we held death row there. These
20 people, as I stated before, were very disruptive, very
21 predatored, gang oriented, and a very dangerous population
22 and of course we had people there that had committed some
23 very serious crimes in the community even though they're
24 adjusted very well within the prison testimony system but
25 they had to be assigned there. Because of the type of

DW - J. AIKEN - DIRECT

1 crimes and sentences they received for those crimes they
2 had to be assigned to the high security setting. From
3 there I was promoted to the rank of warden at the women's
4 prison. Being in that facility I was asked to come in and
5 so-call straighten things out. I began to get my market
6 niche, so to speak, of going into prison systems and making
7 them more productive, more accountable, more secure. And
8 in that capacity as warden I did that at the women's prison
9 to include policy interpretation, security, and control or
10 inmate population. As in all positions I held classifying
11 inmates, deciding what type of level of security and
12 custody that they belonged in and to evaluate the
13 performance of staff in how they conducted their duties in
14 relationship to controlled security and safety of the
15 facility.

16 In that same theme I returned to the Central
17 Correctional Institution in the capacity of warden, and I
18 was chief policy director or interpreter. I develop
19 protocols. I insured protocols were adhered to. I managed
20 some very dangerous population. Also in that position I
21 was required to do extensive classification of inmates.
22 Also I managed death row population and as mandated by law
23 carried out the executions. I put two inmates to death
24 personally while I was in that capacity. From there I was
25 promoted to the rank of deputy regional administrator at

DW - J. AIKEN - DIRECT

1 the Midlands correctional region within the Department of
2 Corrections. In that position I managed 16 prisons ranging
3 from super maximum security inmate population, also all the
4 way down to work release. And if I can digress for a few
5 seconds, while at Central Corrections Institution we also
6 housed inmate population or patients that were under the
7 care of mental health, and these inmates were housed inside
8 of CCI that were medically mentally under evaluation or in
9 need of high security also and that was run by the
10 Department of Mental Health back in those days.

11 For deputy regional administrator I was appointed the
12 commissioner of correction for the State of Indiana where I
13 was the chief policy maker, CEO, and a member of governor's
14 cabinet in Indiana as relates to prisons and as well as
15 juvenile justice and parole systems. I was in charge of
16 institutions from super maximum security down to
17 institutions that were in the community with low risk
18 inmate population. I was asked to come in to straighten
19 that system out to make it more accountable to insure that
20 all emergency operations and capabilities were taken place
21 to include riot control, hostage control, and everything to
22 do with the care and custody of inmate population. From
23 there I was appointed to director of corrections for the
24 Bureau of Corrections, United States, Virgin Islands. The
25 purpose of me going there was two-fold. Number one, the

DW - J. AIKEN - DIRECT

1 agency was in dire need of re-haul security wise, public
2 safety wise, and a lot of illicit activities were going on
3 within that system, and also the inmates basically had
4 control over that system and I had to take it back. Also
5 gave me an opportunity to get involved in, get a bird's eye
6 view of the international situation that was evolving at
7 that particular time: Terrorism, cartels, drug cartels,
8 which Jamaican policies, drug dealers and smugglers that
9 are bringing things from Venezuela and Columbia and those
10 places pulling drugs through the Virgin Islands into the
11 United States. So it was pretty heavy criminal activity,
12 organized criminal activity taking place. Also back in
13 1986, and I'll conclude it with that, I was asked by the
14 United States Department of Justice National Institute of
15 Corrections to come and be on a national approach to
16 addressing correctional prison related activities such as
17 managing hard to manage violent inmates, managing prison
18 security systems, teaching wardens how to be wardens,
19 teaching existing wardens new techniques and managing the
20 security of facilities. Also, I've had opportunity to
21 teach wardens how to become wardens of super maximum
22 security institutions. This took place at a place known as
23 ADX in Florence, Colorado. This is the most secure prison
24 in the world, is run by the Federal Bureau of Prisons and
25 we do the training -- we had done the training there at

DW - J. AIKEN - DIRECT

1 that particular facility as well as the Colorado State
2 Penitentiary in teaching people throughout the United
3 States how to manage a super-security population of
4 criminals.

5 Finally, I currently serve on a
6 presidential/congressional commission, the prison rape
7 elimination commission that was passed in 2004, I believe,
8 and signed by President Bush to eliminate prison rape
9 within county, local, state and federal facilities. And
10 we're to establish standards. We have system power. And
11 with these standards, once they are finally approved that
12 they all agencies must comply with or they can lose federal
13 funding, a quash of federal funding.

14 Q Okay. That's a full 37 years.

15 A Thank you, sir.

16 Q Much of what you talked about different positions you
17 talked about managing hard-to handle defendants, security,
18 policy. Security and policy seem to be where you really
19 put a lot of your emphasis?

20 A Yes, sir, going into systems and making those systems
21 secure, putting the right inmate in the right level of
22 security and having systems together and constantly
23 evaluating those systems to make sure that their security
24 is controlled and looking at the systems and institutions
25 that are not necessarily meeting my standards and bringing

DW - J. AIKEN - DIRECT

1 them up to those standards.

2 Q Okay. And one thing you mentioned in one of the positions
3 you held was working even with people who committed serious
4 offenses that you found could be handled.

5 A Yes, sir.

6 Q And in that and teaching wardens and these other things
7 you've done what is the area of expertise that you come
8 into court with?

9 A I come into court with the expertise of a full
10 understanding of criminal justice system, prison systems,
11 classification of inmates, management of inmates, and the
12 adaptability of inmates and the ability of systems to
13 control inmates' behavior.

14 Q Okay. And in regard to the times that you've come into
15 court to testify as to the ability to adapt to prison life
16 have you testified in court in South Carolina in that
17 regard?

18 A Yes, sir.

19 Q Okay. How many times do you think you've done that?

20 A I couldn't even guess. Certainly more than 20 I would
21 guess.

22 Q Okay. And you've done that in other states as well?

23 A Yes, sir.

24 Q All right. And you've been qualified by the Court to be an
25 expert in the field of adaptability to prison life?

DW - J. AIKEN - DIRECT

1 A Yes, sir, penology, corrections, and that's been on the
2 state level as well as the federal level and death penalty
3 proceedings.

4 Q In your capacity as a prison adaptability expert were you
5 asked to review the history of Stephen Bryant?

6 A Yes, sir.

7 MR. HOWELL: Your Honor, we would submit that Mr. Aiken
8 is an expert in the field of adaptability to prison life.

9 MR. JACKSON: Your Honor, I would concur in that.

10 THE WITNESS: Thank you much, sir.

11 THE COURT: Thank you.

12 MR. HOWLE: You could have said that 15 minutes ago.

13 BY MR. HOWLE:

14 Q Mr. Aiken, when you review the records and past history of
15 the defendant what exactly do you look for and what do you
16 consider in determining whether that specific person has
17 the ability to adjust to prison life?

18 A Well, there's several things that you look at and I'll be
19 very brief about it. I approached it as a prison warden
20 and I approached it as a administrator, and what I did in
21 this particular case is to look at the official records of
22 his incarceration and what are the behavior patterns of
23 that particular individual while he's, he is incarcerated.
24 The second thing I looked at is can the prison system and
25 has the prison system managed this type of behavior before,

DW - J. AIKEN - DIRECT

1 and what are the probabilities. No, I don't have a crystal
2 ball, but what are the probabilities of his overall
3 adjustment over the extended period of time, i.e., his life
4 with the understanding that he's not going to be reexposed
5 back to the community. Incapacitation is the priority.

6 Q Do you feel you had sufficient information about Stephen
7 Bryant to make a determination as to his ability to
8 conform?

9 A Yes. And the key word here is conform, and that's what we
10 do. We make them conform.

11 Q And exactly how do you do that?

12 A There are a number of techniques and measures that we take
13 to include passive force, to include medications, mental
14 health interventions lethal force, chemical munition,
15 structurers, classification, well-trained staff,
16 observation. We can control behaviors to the point that if
17 we have to tie them down in a bed to control his behavior
18 we'll do that.

19 Q All right. In making this determination did you have
20 access to prison records and other information that would
21 give you to make it sufficient, to make that -- in other
22 words, did you have what Stephen's conduct in prison had
23 been, both good and bad?

24 A Yes, sir, and a wealth of that. I had opportunity to look
25 at his juvenile documents that you forwarded to me as well

DW - J. AIKEN - DIRECT

1 as his previous sentence that he served within the
2 Department of Corrections as well as his detention center
3 adjustment and the incidents there as well as his
4 incarceration while on safe-keeper status. So there is a
5 track record there for a period of years.

6 Q Was there anything that you saw in those records when you
7 reviewed it that would give you some concern about him
8 being able to adapt to prison life?

9 A Well, concern, I'm a prison warden, I'm always concerned.
10 But looking at him on the scale of the type of inmates that
11 we've had to manage over these many years, I would in
12 layman's term classify him as a disruptive inmate that can
13 be managed and controlled over a period of time, especially
14 with appropriate mental health interventions as well as his
15 -- as the type of security setting that he would be in.

16 Q Okay. So you are aware of -- are you aware of any
17 incidences where Stephen has actually threatened or
18 actually struck a prison officer?

19 A That's correct, sir. Yes.

20 Q You realize that was one of the offenses that he pled to in
21 regard to why we're here this week?

22 A I understand that, yes, sir.

23 Q All right. Knowing there been some incidents of physical
24 conduct by Stephen, I know you've kind of given us some
25 general things, but do you think the prison system could

DW - J. AIKEN - DIRECT

1 manage him if he has that kind of problem, exactly how
2 would they take that on to manage him?
3 A Well, there are a number of ways and some of them are so
4 secure that don't want to get too much in detail with it.
5 But the point is this, we can confine him for an extended
6 period of time and that confinement could be, will always
7 be in a high security setting. I don't care how good he is
8 or how bad he is. Number two, that's because of what he
9 has pleaded guilty to in the community we automatically put
10 him in a high security setting. His previous behavior will
11 put him in a high security setting. And we can even reduce
12 his access even more to include putting him in a single
13 cell, like I said, tie him down, use chemical munitions to
14 control his behavior as you see some of the documents in
15 there, not giving him opportunities to demonstrate adverse
16 behaviors.

17 On top of that you have the other side of it where
18 you have mental health interventions, when you have
19 appropriate medications being used, where you have a
20 well-trained staff, therapeutic staff to defuse issues
21 before they take place. And that's been very helpful and I
22 begin to see this taking place. Another variable that
23 oftentimes not brought up and I see this based on
24 classification of thousands and thousands of inmates as
25 well as establishing and implementing classification

DW - J. AIKEN - DIRECT

1 systems, you will find that inmates break down, inmates
2 break down. And I'm not a psychiatrist, but just put it
3 this way, I'm not the same person I was when I was 17 years
4 old and I've seen disruptive inmates continue their
5 disruptive behavior until they just burn out. And when
6 they burn out they just burn up. And I have seen them to
7 be very passive as time takes hold when arthritis sets in,
8 when they begin to see more dangerous predator inmate
9 population moving on them and they're only disruptive these
10 things take place with time.

11 Q Okay. You mentioned one of the things that you use to kind
12 of control or handle anyone with medications. Are you
13 aware of Stephen being on any kind of medications?

14 A Yeah. I've had an opportunity to read the report from the
15 psychiatrist as well as other reports during his periods of
16 incarceration especially being on safe keeper status. And
17 you know, his behavior is improving with these
18 interventions, yes, sir.

19 Q Okay. So what you have seen the medications that he is
20 taking has already started to modify his behavior as far as
21 what you would look for in controlling an inmate within the
22 system?

23 A Yes, sir, and if they do not work we have other techniques
24 that we can use.

25 Q Okay. Is there anything specifically that you have seen in

DW - J. AIKEN - DIRECT

1 looking at his past history that would not make him a
2 candidate as far as adapting to prison life?

3 A Again, I will answer this in the context of a prison and
4 not in the context of a community. The things that you
5 read in his records you will find that I've had to deal
6 with them day in and day out, year in and year out with
7 population that are so disruptive, sir, that, you know,
8 that they would never go back to the community. And I'm
9 not trying to be facetious but I remember talking to an
10 inmate -- I was thinking about that on the way here
11 today -- and the inmate in making my rounds, he says,
12 warden, you know I have really improved. And I said well
13 how do you think you have improved. He says, it's lunch
14 time and I hadn't been gassed yet. And you have to
15 congratulate him, if you know what I'm saying. And you
16 know, I'm looking at four cell movements where you have
17 specialized people go in the cells and extract inmates out
18 and tie them down. And unfortunately there have been
19 situations where you've had to use lethal force. I've
20 ordered inmate killed in a hostage situation. He was
21 killed by a sniper. I didn't enjoy that but that's a part
22 of my job, and he was killed while he was still holding a
23 hostage.

24 Q So knowing some of the things and disruptions that Stephen
25 has had in prison you have seen a great number that are

DW - J. AIKEN - CROSS

1 worse than that?

2 A Yes, sir. And when I say disruptive it has an operational
3 definition. He's not a predator. He's disruptive and we
4 have to manage disruptive populations unfortunately.

5 Q And can he being managed for the prison system?

6 A Beg your pardon?

7 Q Can he be managed in the prison system?

8 A Oh, yes, sir.

9 Q Please answer any questions the Solicitor may have.

10 A Yes, sir.

CROSS - EXAMINATION

12 BY MR. JACKSON:

13 Q Mr. Aiken, we certainly appreciate you coming. I'm going
14 to walk around here so you can pivot around and speak with
15 the judge.

16 A Thank you, you're very kind. Good seeing you again, sir.

17 Q Good to see you too. Mr. Aiken, you said you got to review
18 his disciplinary records from the prior incarceration. I
19 believe that was '99 to 2002?

20 A That's correct, sir, yes, sir.

21 Q And if I could run through a few of those; correct me if
22 I'm wrong. He had I believe 40 infractions?

23 A At least that, sir.

24 Q 13 minor, 27 were major?

25 A Yes, sir.

DW - J. AIKEN - CROSS

1 Q And they range from contraband to lying to prison employee,
2 possession of marijuana, inciting disturbance, refusing to
3 obey orders, violating written or asked rule -- posted
4 rules, I'm sorry -- nine violations for invading a security
5 vice and two for threatening or striking a prison employee.
6 Does that sound right?

7 A That sounds about it.

8 Q That's disruptive behavior you're describing?

9 A Yes, sir. And I can do examples of it if you want me to.

10 Q That's fine, not necessary at this time. Typically when
11 someone is incarcerated would they normally stay in the
12 same prison until they finish their sentence unless there
13 were other reasons like medical reasons to move them or --
14 I know the young people are kept in one prison and then
15 when they reach a certain age they're moved the other one
16 for management purposes but typically someone stays in the
17 same prison?

18 A That all depends, sir. It depends on the behavior. It
19 depends on the changing of the priority within the prison
20 system. Just like if you're going to build a new mental
21 health facility and a new prison, this person has a need
22 for mental health interventions, well you put that person
23 into that new security. But the point is, is that he will
24 always be under the gun. He will also be in a high
25 security setting as long as he's alive.

DW - J. AIKEN - CROSS

1 Q Okay. The four years from '99 to '02 he would have
2 actually had -- he would have been moved to six different
3 prisons during that period; is that correct?

4 A I wouldn't doubt that, sir.

5 Q All right.

6 A Not at all.

7 Q And then the period of incarceration from October '04 to
8 October of '05 that was here in Sumter, pretrial detention,
9 and then safe-keeper program moved him to Lee Correctional
10 Institute. Tell us again the purpose for the safe-keeper.

11 A Yes, sir. It's for inmate population that are so
12 disruptive or have special needs that the county cannot
13 provide, and the governor's order lets that individual come
14 into our system in a pre-adjudicated status.

15 Q During notes, that period of time from October of '04
16 until -- well, until the trials begin, I believe he had 17
17 infractions in those facilities; does that sound correct?

18 A That sounds approximately correct, sir.

19 Q Refusal to take medication, refusal to take meals, throwing
20 bodily fluids, threatening gestures, disobeying direct
21 order, striking an inmate with or without a weapon,
22 possession of a weapon, assault and battery on an inmate,
23 threatening life of public official which he pled guilty
24 to, and finally assault and battery with intent to kill on
25 a corrections officer. Now would you agree with me that

DW - J. AIKEN - CROSS

1 even though his numbers are smaller, for pretty much the
2 same period of incarceration that the magnitude of these
3 crimes has increased; hasn't it?

4 A Well, the sound of it is that, but when you start looking
5 at it from my perspective and interpreting it from a
6 security perspective I'm saying that he still is well
7 within the range of what I call disruptive population. And
8 I can explain like, you know, for example like the assault
9 on the officer. Let's use that. Where he, you know, he --
10 somebody popped a lock and he came out and hit the officer
11 and then kicked him and then ran back in the cell and
12 closed the door. And that's terrible. What I'm looking
13 for is giving you an example of a predator. Predator does
14 not do that. When you give a predator an opportunity, when
15 he comes out that cell door he's got a knife and he's not
16 going to stop stabbing that officer until somebody kills
17 him or he kills the officer or he's going to take that
18 officer hostage and then he's going to try to take over the
19 whole cell block. For example, he used the disciplinary of
20 creating disturbance. He was cussing out the staff at a
21 classification hearing. That's a disturbance. But also
22 when I was 16 snipers on the roof and a full emergency
23 responds and another helicopter with snipers on the way, that's a
24 different type of disturbance, if you know what I'm saying.

25 Q And that's the situation you had in Indiana?

DW- J. AIKEN - REDIRECT

1 A One of them, yes, sir.

2 Q Okay. The one in Indiana is where you actually mentioned
3 you had to order that an inmate be killed?

4 A That's correct, sir.

5 Q Takes a lot of moral courage; doesn't it?

6 A Yes, sir.

7 Q But you do what you have to do when the decision is yours.

8 A And you live with it, yes, sir.

9 Q Thank you, Mr. Aiken. It's good to see you, sir.

10 A Pleasure, sir.

11 MR. JACKSON: I have no more questions, Your Honor. If
12 it's all right with Defense I'd be glad for him to be excused.

13 THE WITNESS: Thank you, sir.

14 MR. HOWLE: Just have very few.

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

16 BY MR. HOWLE:

17 Q Mr. Jackson referred to various offenses that occurred
18 while being incarcerated. You don't know what medication
19 he was on, if any, during that period of time, do you?

20 A No, I don't, sir. I don't recall him being on medication
21 all of his incarceration period. I don't recall that.

22 Q As a matter of fact, I think one thing he mentioned toward
23 the end he was not taking medications when he was in
24 earlier?

25 A That's correct. And we're authorized to force medication

DW- J. AIKEN - REDIRECT

1 if necessary.

2 Q And but you are aware he is taking considerably more
3 medication now and is being effective?

4 A I understand that, sir, and that's common place for
5 disruptive populations.

6 Q I think you also told Mr. Jackson that regardless he'd
7 always be in high security area if he was in prison?

8 A That's certainly the case.

9 Q Okay. And as far as what you have seen through all your
10 years and other people that are in prison as inmates you
11 would not classify Stephen as a predator?

12 A That is correct, sir.

13 Q Thank you.

14 MR. HOWELL: I have no further questions, Judge.

15 THE COURT: All right. Thank you very much, Mr. Aiken.

16 THE WITNESS: Your Honor, it's a pleasure, sir.

17 THE COURT: It's been a pleasure to have you here, and
18 you are released from any further obligation here.

19 THE WITNESS: Very well, sir. Thank you very much.
20 Have a good day.

21 THE COURT: You too, sir.

22 MR. HOWELL: Your Honor, we would rest at this time
23 other than I think a motion Mr. Clark would like to make.

24 THE COURT: All right, sir.

25 MR. CLARK: Your Honor, we just -- the nature of the