

VOLUME FIVE OF EIGHT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from York County

John C. Few, Circuit Court Judge

RECEIVED

APR 16 2009

S.C. SUPREME COURT

JAMES D. ROBERTSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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1 OPPORTUNITY TO READ HIM HIS RIGHTS?

2 A. YES, I DID.

3 Q. COULD YOU TELL THE COURT WHO WAS PRESENT WHEN
4 YOU READ HIM HIS RIGHTS?

5 A. ME, MR. ROBERTSON AND DETECTIVE DENNIS CHISOLM.

6 Q. AND COULD YOU EXPLAIN TO THE COURT, AS FAR AS
7 RELATING HIS RIGHTS TO HIM, HOW DID YOU ACTUALLY
8 DO THAT?

9 A. I READ THEM FROM A FORM THAT WE HAVE AT THE
10 SHERIFF'S OFFICE.

11 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
12 190 FOR IDENTIFICATION AND ASK IF YOU WOULD LOOK
13 AT THAT AND TELL ME IF YOU CAN IDENTIFY IT?

14 A. YES, I CAN.

15 Q. TELL THE COURT WHAT THAT DOCUMENT IS?

16 A. THIS IS A FORM THAT CONTAINS HIS MIRANDA RIGHTS
17 ON IT. THIS IS THE FORM THAT I USED ON JULY
18 28TH OF 1996.

19 Q. AND THIS IS THE EXACT FORM?

20 A. THIS IS THE FORM.

21 Q. ALL RIGHT, THIS CONSIST OF THREE PAGES; WHAT ARE
22 THE OTHER TWO PAGES?

23 A. THE OTHER TWO PAGES ARE MR. ROBERTSON'S
24 HANDWRITTEN STATEMENT THAT HE GAVE TO ME.

25 Q. WHEN YOU SAY HANDWRITTEN, WHO WROTE THAT

1 STATEMENT?

2 A. MR. ROBERTSON WROTE THAT STATEMENT.

3 MR. POPE: YOUR HONOR, THIS IS 190 FOR
4 IDENTIFICATION. THE DEFENSE HAS A COPY OF IT AND I'M GOING
5 TO HAND THE ORIGINAL TO THE COURT AT THIS TIME.

6 Q. MR. HOFFMAN, SPECIFICALLY YOU WERE THERE
7 INVESTIGATING THE WOODS BURGLARY, IS THAT
8 CORRECT?

9 A. THAT IS CORRECT.

10 Q. WHEN YOU SPOKE TO THE DEFENDANTS, WHERE EXACTLY
11 DID YOU SPEAK TO THEM AT?

12 A. IN A ROOM AT THE ROCK HILL POLICE DEPARTMENT.

13 Q. AND YOU SAID IT WAS YOURSELF AND DETECTIVE
14 CHISOLM AND THE DEFENDANT; IS THAT CORRECT?

15 A. THAT'S CORRECT.

16 Q. IN TALKING WITH THE DEFENDANT, DID HE APPEAR TO
17 UNDERSTAND THE RIGHTS THAT YOU READ HIM?

18 A. YES, HE DID.

19 Q. I NOTE THAT YOU HAVE A PARAGRAPH CONCERNING
20 RIGHTS AND YOU HAVE AN X WITH A SIGNATURE BESIDE
21 IT. DID THIS DEFENDANT SIGN THOSE RIGHTS IN
22 YOUR PRESENCE?

23 A. YES, HE DID.

24 Q. AND THE WITNESS BLOCK, WHO SIGNED THE WITNESS
25 BLOCK?

1 A. DETECTIVE DENNIS CHISOLM.

2 Q. AS FAR AS ACTUALLY READING THE RIGHTS TO HIM,
3 WHO WAS DOING THAT?

4 A. I READ THE RIGHTS TO HIM.

5 Q. LIKEWISE ULTIMATELY YOU SAY, AND IT'S ATTACHED
6 TO THE TWO PAGE STATEMENT, AFTER READING THAT
7 DID YOU ALSO READ THAT SECOND BLOCK TO HIM?

8 A. YES, SIR, I DID.

9 Q. AND, AGAIN, WHOSE SIGNATURE IS SIGNED THERE?

10 A. MR. ROBERTSON'S.

11 Q. WHO, AGAIN, IS THE WITNESS?

12 A. DENNIS CHISOLM.

13 Q. DID HE INDICATE AS YOU READ THE RIGHTS THAT HE
14 UNDERSTOOD THOSE RIGHTS?

15 A. YES, HE DID.

16 Q. AND ALSO I CALL YOUR ATTENTION AND ASK IF YOU
17 COULD RELATE TO THE COURT IF YOU MADE A NOTE AT
18 THE BOTTOM?

19 A. YES.

20 Q. COULD YOU EXPLAIN THAT TO THE COURT?

21 A. MR. ROBERTSON ASKED ME OR TOLD ME THAT THE ONLY
22 QUESTION THAT HE HAD ABOUT HIS RIGHTS WAS IF HE
23 ANSWERED QUESTIONS TO ME THEN THAT INCRIMINATED
24 HIM ABOUT THE BURGLARY, WOULD HE LATER HAVE TO
25 TESTIFY ON THE STAND ABOUT THOSE IN COURT.

1 Q. SO, IN OTHER WORDS HE WAS INQUISITIVE ENOUGH
2 ABOUT HIS RIGHTS THAT HE ASKED YOU, JUST BECAUSE
3 I'VE TALKED TO YOU NOW, DOES THAT MAKE ME HAVE
4 TO TESTIFY?

5 A. YES, SIR.

6 Q. DID YOU EXPLAIN TO HIM THAT WASN'T THE CASE?

7 A. THAT'S EXACTLY RIGHT. I ALSO MADE A NOTE ABOUT
8 THAT, THAT I TOLD HIM, NO, THAT HE WOULD NOT
9 HAVE TO TAKE THE STAND.

10 Q. DID YOU THREATEN HIM OR PROMISE HIM ANYTHING,
11 ANY HOPE OF REWARD IF HE WOULD GIVE YOU THIS
12 STATEMENT?

13 A. NO, SIR.

14 Q. LIKewise, DID DETECTIVE CHISOLM THREATEN HIM OR
15 PROMISE HIM ANYTHING?

16 A. NO, SIR.

17 Q. AND AFTER READING THAT, AGAIN, AS HIS SIGNATURE
18 INDICATES, DID HE INDICATE TO YOU THAT HE
19 UNDERSTOOD THOSE RIGHTS?

20 A. HE INDICATED TO ME THAT HE DID UNDERSTAND THEM.

21 Q. AND DID HE IN FACT WAIVE THOSE RIGHTS?

22 A. YES, SIR, HE DID.

23 Q. AND DID HE IN FACT GIVE YOU THE WRITTEN
24 STATEMENT THAT IS ATTACHED THERETO?

25 A. YES, SIR, HE DID.

1 Q. ANSWER ANY QUESTIONS THAT THE DEFENSE MAY HAVE.

2 MR. HANCOCK: WE HAVE NO QUESTIONS, YOUR HONOR.

3 THE COURT: YOU MAY STEP DOWN; THANK YOU. DOES
4 THE DEFENSE HAVE ANY TESTIMONY THEY WISH TO PRESENT ON THIS
5 ISSUE?

6 MR. BOYD: NO, SIR, YOUR HONOR.

7 THE COURT: I FIND THAT THE STATEMENT GIVEN WAS
8 VOLUNTARY. I FIND THAT BEFORE IT WAS OBTAINED FROM MR.
9 ROBERTSON AND PRIOR TO ANY INTERROGATION HE WAS FULLY
10 ADVISED OF HIS RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS
11 OF THE CONSTITUTION OF THE UNITED STATES AND ADVISED OF HIS
12 RIGHTS UNDER MIRANDA VERSUS ARIZONA.

13 SPECIFICALLY HE WAS ADVISED THAT HE HAD THE RIGHT
14 TO REMAIN SILENT. THAT ANYTHING HE SAID COULD BE USED
15 AGAINST HIM IN COURT. THAT HE HAD THE RIGHT TO TALK TO A
16 LAWYER FOR ADVICE BEFORE HE WAS ASKED ANY QUESTIONS AND TO
17 HAVE THAT ATTORNEY WITH HIM DURING QUESTIONING. THAT HE
18 HAD THE RIGHT TO THE ADVICE AND PRESENCE OF AN ATTORNEY
19 EVEN IF HE COULD NOT AFFORD TO HIRE ONE, THAT ONE WOULD BE
20 APPOINTED FOR HIM BY THE COURT IF HE WISHED. HE COULD STOP
21 ANSWER QUESTIONS WITHOUT THE PRESENCE OF A LAWYER AND HE
22 MAY STOP ANSWERING AT ANY TIME HE DESIRED UNTIL A LAWYER IS
23 PRESENT. AND MR. ROBERTSON SIGNED A STATEMENT OF THOSE
24 RIGHTS AT THAT TIME, AND FURTHER SIGNED SAYING THAT HE HAD
25 READ OR HAD READ THOSE STATEMENTS OF RIGHTS TO HIM, THAT HE

1 UNDERSTOOD THEM; THAT HE WAS WILLING TO MAKE A STATEMENT;
2 DID NOT WANT AN ATTORNEY AT THAT TIME; HE UNDERSTOOD WHAT
3 HE WAS DOING; HE KNEW THAT HE WAS TALKING TO SOMEONE FROM
4 LAW ENFORCEMENT.

5 I FIND THAT MR. ROBERTSON KNOWINGLY AND
6 INTELLIGENTLY WAIVED HIS RIGHTS UNDER THE FIFTH AND SIXTH
7 AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND
8 CONSTITUTIONAL SAFEGUARDS AFFORDED BY MIRANDA VERSUS
9 ARIZONA.

10 AND THAT THE STATEMENT WAS FREELY AND VOLUNTARILY
11 GIVEN WITHOUT DURESS, COERCION, UNDUE INFLUENCE, REWARD,
12 PROMISE OF LENIENCY, THREAT OF INJURY, WITHOUT COMPULSION
13 OR INDUCEMENT OF ANY KIND. AND THAT SUCH ALLEGED OR
14 INCRIMINATING STATEMENT OR CONFESSION WAS THE VOLUNTARY
15 PRODUCT OF THE FREE AND UNCONSTRAINED WILL OF THE
16 DEFENDANT.

17 I, THEREFORE, FIND THE STATEMENT TO BE VOLUNTARY.
18 I FIND THAT BY A PREPONDERANCE OF THE EVIDENCE.

19 MR. BRACKETT: IN REGARDS TO THE IN LIMINE
20 HEARINGS, THE STATE WOULD CALL KELLY BIGHAM.

21 THE COURT: ALL RIGHT.

22 MR. BRACKETT: PLEASE COME UP TO THE CLERK'S DESK
23 AND BE SWORN.

24 THE COURT: MS. BIGHAM, I CALL YOUR ATTENTION TO
25 THE FACT THAT THE JURY IS NOT IN HERE AT THIS TIME. YOU

1 MAY TESTIFY LATER IN FRONT OF THE JURY, BUT THE JURY IS NOT
2 PRESENT AT THIS TIME.

3 KELLY J. BIGHAM, BEING FIRST DULY SWORN,
4 TESTIFIED IN CAMERA AS FOLLOWS:

5 DIRECT EXAMINATION BY

6 MR. BRACKETT:

7 Q. MA'AM, WOULD YOU TELL THE COURT YOUR FULL NAME?

8 A. KELLY JEANINE BIGHAM.

9 Q. HOW OLD ARE YOU, KELLY?

10 A. 20.

11 Q. WHERE DO YOU LIVE?

12 A. IN ROCK HILL.

13 Q. WHAT ARE YOU DOING RIGHT NOW FOR A LIVING?

14 A. I GO TO WINTHROP AND I WORK AT MY PARENT'S
15 RESTAURANT, THURSDAY'S TOO.

16 Q. AND WHAT YEAR ARE YOU AT WINTHROP?

17 A. I'M A JUNIOR.

18 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

19 A. I KNOW OF -- I DON'T KNOW HIM -- I'VE NEVER MET
20 HIM OR BEEN INTRODUCED TO HIM OR TALKED TO HIM
21 IN PERSON BUT HE CALLED ME FOR A LONG TIME.

22 Q. TELL THE COURT ABOUT WHAT HAPPENED AND YOU'RE
23 TALKING TO THE JUDGE HERE. JUST TELL THE JUDGE
24 WHAT HAPPENED WHEN HE CALLED YOU.

25 A. HE CALLED AND SAID THAT HE HAD SEEN ME -- HE

1 CALLED ME AT THE END OF THE SUMMER OF 1994 AND
2 SAID THAT HE HAD SEEN ME AT A BACCALAUREATE
3 SERVICE A YEAR BEFORE THAT AND THAT I WAS PRETTY
4 IN MY NAVY BLUE DRESS AND I HAD A PICTURE OF ME
5 AND MY FRIEND AND I HAD ON A NAVY BLUE DRESS.
6 AND HE SAID THAT HE HAD BEEN SAVING HIS MONEY
7 AND THAT HE HAD A THOUSAND DOLLARS AND THAT HE
8 WANTED ME TO HAVE SEX WITH HIM. SO, I TOLD HIM
9 NO.

10 AND HE KEPT CALLING ---

11 Q. DID YOU KNOW WHO THIS PERSON WAS WHEN THEY FIRST
12 CALLED?

13 A. NO. I WAS 16 AND I THOUGHT IT WAS ONE OF MY
14 FRIENDS BEING STUPID OR PLAYING A JOKE ON ME, SO
15 I DIDN'T REALLY TAKE IT REAL SERIOUS.

16 Q. HOW MANY CALLS DID YOU RECEIVE?

17 A. HE WOULD CALL EVERY DAY OR EVERY NIGHT; HE
18 CALLED LATE AT NIGHT. I HAD MY OWN PRIVATE LINE
19 IN MY ROOM, SO ---

20 Q. YOU JUST TESTIFIED THAT YOU THOUGHT THIS WAS A
21 FRIEND OF YOUR'S?

22 A. AT FIRST, RIGHT.

23 Q. OKAY, DID YOUR OPINION ABOUT THAT EVER CHANGE?

24 A. YES. ONCE HE INDICATED THAT HE WAS WATCHING ME,
25 HE WAS WATCHING ME ---

1 Q. TELL THE JUDGE ABOUT THAT.

2 A. HE INDICATED THAT HE COULD SEE ME IN MY ROOM OR
3 HE KNEW WHAT I WAS DOING IN MY BEDROOM. HE KNEW
4 WHAT I WORE TO SCHOOL; HE KNEW WHO I SAT WITH AT
5 LUNCH; HE KNEW WHO I WALKED WITH AT CLASS. HE
6 KNEW EVERYTHING I DID. AND THAT'S WHEN I WAS
7 SCARED AND REALIZED THAT IT WASN'T A JOKE AND I
8 TOLD MY PARENTS.

9 Q. AND WHAT HAPPENED AFTER YOU TOLD YOUR PARENTS?

10 A. A TRACER WAS PUT ON MY PHONE AND THEY CONTACTED
11 THE POLICE.

12 Q. AFTER YOU TOLD YOUR PARENTS, HOW LONG DID THE
13 CALLS CONTINUE IF AT ALL?

14 A. PROBABLY FOR A WEEK OR A FEW DAYS AND THEN THEY
15 STOPPED.

16 Q. DID YOU EVER SPEAK WITH THAT INDIVIDUAL AGAIN?

17 A. I'M SORRY?

18 Q. YOU SAID THEY STOPPED AFTER A WEEK. DID YOU
19 EVER TALK TO THAT INDIVIDUAL AGAIN?

20 A. NO. A FEW MONTHS LATER I WAS IN SALLY'S BEAUTY
21 SUPPLY AND THE WOMAN TOLD ME THAT I HAD A PHONE
22 CALL AND I SAID, WELL, I DON'T THINK I HAVE A
23 PHONE CALL BECAUSE NOBODY KNOWS I'M HERE BECAUSE
24 I WENT THERE STRAIGHT AFTER SCHOOL. AND SHE
25 SAID "WELL, HE SAID THAT HE WOULD LIKE TO SPEAK

1 WITH THE BLOND GIRL IN THE BLUE JEANS" AND SO I
2 WENT TO THE PHONE AND HE SAID THAT HE WANTED ME
3 TO TAKE PICTURES IN LINGERIE FOR HIM AND
4 SOMETHING.

5 Q. DID YOU RECOGNIZE THE VOICE OF THE PERSON?

6 A. WELL, NOT AT FIRST I DIDN'T AND HE KEPT TALKING
7 AND I SAID I'M HANGING UP NOW AND HE SAID DON'T
8 HANG UP ON ME, AND THEN THAT'S WHEN I REALIZED
9 BECAUSE HE HAD TOLD ME NOT TO HANG UP ON HIM
10 BEFORE.

11 Q. AND DID YOU RECOGNIZE THE VOICE?

12 A. YES.

13 Q. WHICH VOICE WAS IT?

14 A. HIS, JIMMY'S.

15 Q. THE SAME VOICE YOU HAD HEARD BEFORE?

16 A. RIGHT.

17 Q. THANK YOU VERY MUCH. YOUR HONOR, THAT WOULD BE
18 THE STATE'S PROFFER FOR THIS WITNESS. YOUR
19 HONOR, THERE ARE SOME ADDITIONAL WITNESSES, BUT
20 FOR THE PURPOSE OF THE PROFFER, THAT IS THE
21 SUBSTANCE OF THE EVENT. THERE IS AN OFFICER,
22 LES HERRING, WHO SUBSEQUENTLY WENT TO THE HOUSE
23 AND SPOKE TO THE DEFENDANT AND THE DEFENDANT
24 SAID HE DID DO THIS, BUT THAT HE WOULDN'T DO IT
25 ANYMORE. AS FAR AS THE BAD ACTS THAT HE DID,

1 THIS WAS IT FOR THIS WITNESS. THERE ARE TWO
2 OTHERS.

3 THE COURT: ANY QUESTIONS?

4 CROSS EXAMINATION BY

5 MR. HANCOCK:

6 Q. IT'S MISS BIGHAM; IS THAT CORRECT?

7 A. YES.

8 Q. MISS BIGHAM, YOU HAVE TESTIFIED THAT YOU GOT
9 THESE PHONE CALLS AND THEY WERE AT YOUR
10 RESIDENCE; IS THAT CORRECT?

11 A. YES.

12 Q. AND YOU HAVE NOT TESTIFIED THAT THE PERSON EVER
13 IDENTIFIED THEMSELVES.

14 A. NO, HE NEVER SAID HIS NAME; IT'S JUST THAT THE
15 COPS TRACED MY PHONE AND THE CALLS WERE COMING
16 FROM HIS ADDRESS.

17 Q. I WOULD OBJECT TO THAT, YOUR HONOR, AT THIS
18 PARTICULAR TIME. HE NEVER IDENTIFIED HIMSELF.

19 A. NO, HE NEVER SAID I'M JIMMY ROBERTSON, NO.

20 Q. OKAY. AND HE CALLED AND BEGAN BY SAYING HE GOT
21 A THOUSAND DOLLARS AND HE WANTED YOU TO HAVE SEX
22 WITH HIM; IS THAT CORRECT?

23 A. HE SAID THAT HE HAD SEEN ME A YEAR AGO AND THAT
24 HE HAD BEEN WATCHING ME FOR A YEAR AND THAT HE
25 HAD SAVED HIS MONEY FOR A YEAR AND HE HAD A

1 THOUSAND DOLLARS AND HE WOULD LIKE FOR ME TO
2 HAVE SEX WITH HIM. BUT HE WAS A LOT MORE
3 GRAPHIC AND I WOULD RATHER NOT SAY EXACTLY WHAT
4 HE SAID.

5 Q. WOULD YOU CONSIDER THAT WEIRD, BIZARRE?

6 A. OF COURSE. I MEAN I DON'T GET CALLS TO GET PAID
7 FOR SEX, NO.

8 Q. AND YOU HAD NOT MET HIM OR BEEN PROPERLY
9 INTRODUCED TO HIM OR ---

10 A. NO, I HAD NEVER SPOKEN WITH HIM.

11 Q. IS THAT CORRECT, MA'AM?

12 A. IN PERSON, NEVER.

13 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

14 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS OF
15 THIS WITNESS.

16 THE COURT: THANK YOU; YOU CAN STEP DOWN.

17 MR. BRACKETT: YOUR HONOR, THE STATE WOULD CALL
18 CHRISTY ---

19 MR. BOYD: ARE YOU GOING TO RULE ON THESE ONE BY
20 ONE?

21 THE COURT: I WOULD LIKE TO.

22 MR. BRACKETT: I'M SORRY?

23 THE COURT: THE QUESTION WAS, WAS I GOING TO RULE
24 ON THEM ONE AT A TIME.

25 MR. BRACKETT: HOWEVER YOUR HONOR WANTS TO DO IT.

1 THE COURT: THANK YOU.

2 MR. BRACKETT: I BEG THE COURT'S INDULGENCE.

3 (AFTER A BRIEF PAUSE.)

4 MR. BRACKETT: YOUR HONOR, COULD WE PUT IT ALL UP
5 AND HEAR IT ALL AT ONCE AND LET YOU RULE ON IT AFTER. MR.
6 HERRING IS NOT AROUND BUT I WILL CALL HIM AFTER MS. URMSON
7 AND HE WILL HAVE TESTIMONY RELATED TO THIS WITNESS WHO HAS
8 JUST TESTIFIED.

9 THE COURT: ALL RIGHT, GO AHEAD.

10 MR. BRACKETT: MS. URMSON?

11 CHRISTINE M. URMSON, BEING FIRST DULY SWORN,
12 TESTIFIED AS FOLLOWS:

13 DIRECT EXAMINATION BY

14 MR. BRACKETT:

15 Q. MA'AM, PLEASE STATE YOUR FULL NAME AND SPELL
16 YOUR LAST FOR THE COURT REPORTER.

17 A. IT'S CHRISTINE MICHELLE URMSON, THAT'S U-R-M-S-
18 O-N.

19 Q. AND HOW OLD ARE YOU, CHRISTINE?

20 A. I'M 23.

21 Q. AND WHAT DO YOU DO FOR A LIVING?

22 A. I'M AN APPRAISAL REVIEWER.

23 Q. HOW LONG HAVE YOU BEEN DOING THAT?

24 A. REALLY FOR ABOUT A MONTH.

25 Q. AND WHERE DO YOU LIVE RIGHT NOW?

1 A. I LIVE IN STANLEY, NORTH CAROLINA.

2 Q. WHERE DID YOU LIVE BEFORE THEN?

3 A. I BRIEFLY LIVED IN CHARLESTON, SOUTH CAROLINA
4 AND BEFORE THAT I LIVED IN ROCK HILL, SOUTH
5 CAROLINA.

6 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

7 A. I DO.

8 Q. HOW DO YOU KNOW HIM?

9 A. HE WAS A CUSTOMER OF MINE WHEN I WAS A BARTENDER
10 AT THE SILVER DOLLAR IN ROCK HILL.

11 Q. AND WHEN WAS THAT?

12 A. I ENDED MY EMPLOYMENT THERE DECEMBER OF 1997, SO
13 I WORKED THERE FOR ABOUT A YEAR AND A HALF
14 BEFORE THAT.

15 Q. HE WAS A CUSTOMER, HE WOULD COME INTO THE BAR?

16 A. YES, SIR.

17 Q. HOW LONG WAS HE DOING THAT?

18 A. IF I REMEMBER CORRECTLY, THE FIRST TIME HE CAME
19 IN WAS SOMETIME THE END OF AUGUST, SEPTEMBER,
20 THE BEGINNING OF SEPTEMBER WHEN SCHOOL STARTED
21 THAT YEAR, '97.

22 Q. CAN YOU DESCRIBE TO THE JUDGE, THERE'S NO JURY
23 HERE, JUST TELL THE JUDGE A LITTLE BIT ABOUT HOW
24 YOUR RELATIONSHIP WITH MR. ROBERTSON UNFOLDED
25 AND WHAT ULTIMATELY HAPPENED AND HOW IT ENDED.

1 A. OKAY. HE CAME IN ON A PRETTY REGULAR BASIS WHEN
2 I WORKED. THERE WERE LOTS OF NIGHTS HE WOULD
3 WALK IN THE DOOR ABOUT THE SAME TIME I WALKED IN
4 AT 8:00 O'CLOCK AND A LOT OF TIMES HE WOULDN'T
5 LEAVE UNTIL ABOUT 3:00 IN THE MORNING AND I'D
6 GET OFF WORK ABOUT 3:30. SO, HE WAS THERE, IN
7 AND OUT, MOST OF THE TIMES THAT I WORKED.
8 WE'D CHAT; I MEAN BETWEEN 8:00 AND 10:00 O'CLOCK
9 AT NIGHT IT WASN'T VERY BUSY IN THE BAR AND, YOU
10 KNOW, I WOULD ONLY HAVE TWO OR THREE PEOPLE IN
11 THERE AND WE'D SIT AND TALK. I DIDN'T KNOW A
12 WHOLE LOT ABOUT HIM. I MEAN I KNEW HE HAD GONE
13 TO GEORGIA TECH. WE WERE NOT FRIENDS, BUT I
14 KNEW A LITTLE BIT ABOUT IT; THAT WAS IT.
15 THE LAST TIME I REMEMBER TALKING TO HIM IN THE
16 BAR WAS A THURSDAY EVENING IN OCTOBER AND I HAD
17 SAID ---

18 Q. OF WHAT YEAR?

19 A. '97.

20 Q. OKAY.

21 A. AND I HAD MADE A COMMENT TO ANOTHER PERSON IN
22 THE BAR THAT I WAS DATING SOMEONE, AND
23 INTERESTINGLY ENOUGH, MY BACK TWO TIRES WERE
24 FLAT WHEN I LEFT WORK THAT NIGHT.
25 THE FOLLOWING TUESDAY ---

1 Q. WAS MR. ROBERTSON PRESENT IN THE BAR WHEN YOU
2 MADE THAT STATEMENT?

3 A. YES, HE WAS.

4 Q. OKAY.

5 A. HE WAS ONE OF THREE PEOPLE SITTING AT THE BAR
6 AND HE WAS WITHIN EARSHOT AND COULD HEAR ME SAY
7 THAT.

8 Q. WHAT HAPPENED AFTER YOU SAID THAT?

9 A. IF I REMEMBER CORRECTLY, HE WAS KIND OF SHORT
10 WITH ME THAT NIGHT WHICH WAS ODD BECAUSE HE'D
11 ALWAYS BEEN FAIRLY NICE TO ME BEFORE.

12 HE SEEMED SORT OF IRRITATED AND AGITATED AND HE
13 HAD GONE IN AND OUT, I BELIEVE. AND HE LEFT AND
14 IT WAS ABOUT 10 MINUTES LATER THAT SOMEBODY
15 NOTICED THAT MY BOSS' TIRE WAS GOING FLAT.

16 AND THEN WE GOT TO LOOKING OUT IN THE PARKING
17 LOT AND MY TIRES WERE FLAT AS WELL.

18 Q. DID YOU HAVE ANY OTHER DEALINGS WITH HIM?

19 A. THE FOLLOWING TUESDAY I AWOKE TO A SCRAPING
20 NOISE OUTSIDE MY PARTIALLY OPENED WINDOW,
21 BEDROOM WINDOW.

22 Q. WHERE WERE YOU LIVING AT THAT TIME?

23 A. I WAS LIVING A BLOCK FROM THE BAR; I WAS LIVING
24 ON EBENEZER AVENUE EXTENSION.

25 Q. DO YOU KNOW OF YOUR OWN KNOWLEDGE WHERE HE WAS

1 LIVING AT THAT TIME?

2 A. HE LIVED IN THE APARTMENT COMPLEX, CAMDEN COURT
3 APARTMENTS, THAT BACKED UP TO MY HOME.

4 Q. OKAY, GO AHEAD.

5 A. I WOKE UP AND SAW A MAN'S FIGURE IN MY WINDOW.
6 IT WAS DARK, I COULDN'T SEE WHO IT WAS THEN. I
7 STARTED TO JUMP UP AND RUN OUT OF MY ROOM, NOT
8 KNOWING WHAT WAS GOING TO HAPPEN.

9 I WENT TO MY FRONT DOOR AND PEEPED OUT THE
10 WINDOW OF MY FRONT DOOR AND SAW SOMEONE STANDING
11 OUT UNDER THE STREETLIGHT IN FRONT OF MY HOME.
12 THEY WERE DRESSED NICER THAN A BURGLAR WOULD BE.
13 HE HAD A SWEATER ON WITH A STRIPE ACROSS IT.

14 Q. COULD YOU SEE WHO IT WAS ENOUGH TO IDENTIFY WHO
15 THE PERSON WAS?

16 A. I RECOGNIZED THE BODY TYPE, BUT I HONESTLY DID
17 NOT SEE HIS FACE. BUT HE WAS A TALL THIN
18 GENTLEMAN AND I HAD SEEN JIM WALKING IN FRONT OF
19 MY HOUSE THE WEEK BEFORE ONE NIGHT WHEN I HAD
20 COME HOME FROM WORK AND I KIND OF ---

21 Q. DID HE SEE YOU THEN?

22 A. I THOUGHT HE DID BECAUSE I MADE A COMMENT TO HIM
23 THE NEXT TIME I SAW HIM THAT I SAW YOU WALKING
24 IN FRONT OF MY HOUSE, WHY DIDN'T YOU STOP AND
25 SAY ANYTHING. I DON'T REALLY REMEMBER WHAT HIS

1 RESPONSE WAS.

2 Q. WHAT HAPPENED WHEN YOU SAW THIS PERSON YOU
3 COULDN'T IDENTIFY, WHAT DID THEY EVENTUALLY DO?

4 A. THAT TUESDAY NIGHT WHEN I SAW HIM OUT UNDER THE
5 STREETLIGHT, I RAN AND GOT MY ROOMMATE AND BY
6 THE TIME HE CAME INTO THE LIVING ROOM, THE
7 PERSON WAS GONE; THERE WAS NO ONE OUT IN FRONT
8 OF MY HOUSE ANYMORE.

9 AND I WAS A LITTLE BIT FREAKED OUT AND SCARED.

10 SO, THE FOLLOWING NIGHT I ASKED A FRIEND TO STAY
11 AT MY HOUSE SO THAT I WOULD MAYBE FEEL SAFER.

12 AND, AGAIN, I WOKE UP ABOUT THE SAME TIME, IT
13 WAS RIGHT AROUND I BELIEVE, IF I'M NOT MISTAKEN,
14 3:30 IN THE MORNING, RIGHT AROUND THAT TIME, I
15 HEARD THAT METAL AGAINST METAL SCRAPING SOUND
16 AGAIN AND I SAW THE SILHOUETTE OF A MAN OUTSIDE
17 MY WINDOW.

18 I DIDN'T CALL THE POLICE AT THAT MOMENT BECAUSE
19 THAT FRIEND THAT WAS WITH ME, HIS MOTHER IS A
20 POLICE OFFICER AND HE SAID WE WOULD CALL HER
21 FIRST THING IN THE MORNING AND TALK TO HER THEN
22 AND SEE HOW WE SHOULD, YOU KNOW, MOVE FORWARD
23 WITH THIS.

24 WHEN I GOT UP THE NEXT DAY, THE SCREEN HAD BEEN
25 CUT OUT OF MY BEDROOM WINDOW.

1 Q. OKAY.

2 A. THAT'S WHEN I GOT SCARED AND I ASKED SOMEBODY TO
3 -- I ASKED ANOTHER FRIEND TO WAIT AT MY HOUSE
4 AND I ASKED SOME OTHER FRIENDS OF MINE TO KIND
5 OF WATCH MY NEIGHBORHOOD ABOUT THAT TIME.. IT
6 HAD HAPPENED ABOUT THE SAME TIME THE FIRST TWO
7 NIGHTS.

8 Q. WHAT HAPPENED?

9 A. SOMEONE HAD SHOWN UP AT THE WINDOW.

10 Q. FOR A THIRD TIME?

11 A. WELL, I EXPECTED THEM TO SHOW UP THE THIRD TIME,
12 SO I HAD MY FRIENDS WAITING FOR HIM.

13 Q. OKAY.

14 A. AND THIS WAS THE THIRD NIGHT. AND I PRETENDED
15 TO GO TO BED LIKE I ALWAYS HAD AND A FRIEND OF
16 MINE WAS SITTING IN MY BEDROOM WATCHING OUT THE
17 WINDOW.

18 Q. WHO WAS THAT FRIEND?

19 A. ANDREW GEORGE.

20 Q. OKAY.

21 A. I HEARD SOMEONE STEP ONTO MY FRONT STEP AND THEN
22 STEP DOWN INTO THE LEAVES IN FRONT OF MY WINDOW
23 AND AT THAT POINT ANDY AND I BOTH WENT TOWARDS
24 THE FRONT DOOR AND WHEN WE GOT TO THE FRONT DOOR
25 AND OPENED IT, JIM WAS STANDING IN MY FRONT YARD.

1 TRYING TO MOVE TOWARD THE STREET, BUT HE WAS
2 STILL IN MY YARD AT THAT TIME.

3 Q. OKAY, WHAT HAPPENED?

4 A. I RAN BACK IN THE HOUSE AND CALLED THE POLICE,
5 AND ANDY APPROACHED HIM AND AS HE APPROACHED
6 HIM, THEY STEPPED OUT INTO THE STREET. AND
7 SINCE I HAD CALLED THE POLICE THE DAY BEFORE,
8 THEY PRETTY MUCH -- IT DIDN'T TAKE THEM LONG TO
9 GET TO MY HOUSE THEN. THEY WERE THERE VERY
10 QUICK.

11 AND ABOUT THAT TIME THE POLICE SHOWED UP AND
12 THEN ABOUT FOUR OR FIVE OF MY MALE FRIENDS
13 WALKED UP AT THAT TIME AND SAID THEY HAD WATCHED
14 JIM WALK DOWN CAMDEN ---

15 Q. OKAY, YOU CAN'T SAY WHAT OTHER PEOPLE TOLD YOU,
16 BUT THAT'S FINE.

17 A. OH, OKAY.

18 Q. THAT'S FINE.

19 A. I'M SORRY.

20 Q. IS THERE ANY QUESTION WHO YOU SAW OUT THERE THAT
21 NIGHT AT YOUR HOUSE?

22 A. NO, NOT AT ALL.

23 Q. OKAY. THANK YOU VERY MUCH. PLEASE ANSWER ANY
24 QUESTIONS THAT DEFENSE COUNSEL MAY HAVE.

25 A. YES, SIR.

CROSS EXAMINATION BY

MR. BOYD:

Q. REFERRING TO THAT THIRD NIGHT.

A. UH HUH.

Q. YOU SAID YOU OPENED THE DOOR AND THAT'S WHEN YOU
SAW JIMMY?

A. UH HUH.

Q. DESCRIBE HOW YOUR DOOR IS IN RELATION TO THE
STREET.

A. TO THE STREET? I LIVED ON THE CORNER OF
EBENEZER AVENUE EXTENSION AND I'M NOT EVEN SURE
WHAT THE ROAD THAT CUT THROUGH WAS. MY FRONT
DOOR FACED EBENEZER AVENUE EXTENSION.

Q. ALL RIGHT.

A. AND HE WAS TRYING TO WALK TOWARDS THAT SIDE
STREET.

Q. THE SIDE BEING?

A. I DON'T KNOW THE NAME OF THE ROAD. LET'S SEE
HOW TO BEST DESCRIBE THIS. FROM MY FRONT DOOR I
FACE EBENEZER AVENUE EXTENSION. THIS WALL WOULD
BE A SIDE STREET. AND AS WE WALKED OUT THAT
DOOR, HE WAS TRYING TO CUT ACROSS TO THAT
STREET.

Q. WHERE IS THE PEN THAT YOU WRITE ON THAT BOARD?

MR. BRACKETT: WE COULD USE THE GREASE BOARD.

1 THAT BOARD IS REALLY HARD TO ERASE, BUT WE HAVE A GREASE
2 BOARD HERE THAT COULD BE USED.

3 Q. NOW, IF YOU COULD STEP DOWN A MINUTE?

4 A. OKAY.

5 Q. JUST DRAW A SKETCH OF WHERE YOUR APARTMENT WAS
6 AND WHERE THE ROAD WAS.

7 A. THIS IS EBENEZER AVENUE EXTENSION ---

8 THE COURT: KEEP YOUR VOICE UP, PLEASE.

9 Q. SHE NEEDS TO TAKE THIS DOWN.

10 A. OH, OKAY; I'M SORRY.

11 Q. THAT'S THE SIDE STREET?

12 A. YES.

13 Q. OKAY.

14 A. AND CAMDEN AVENUE IS BACK HERE.

15 Q. AND WHERE IS YOUR FRONT DOOR?

16 A. MY FRONT DOOR IS LIKE RIGHT HERE.

17 Q. ALL RIGHT, AND WHEN YOU WENT OUTSIDE, WHEN YOU
18 FIRST SAW JIM, WHERE WAS HE?

19 A. THERE'S AN OAK TREE, A BIG TREE RIGHT HERE, AND
20 HE WAS RIGHT HERE NEAR THE TREE TRYING TO WALK
21 OUT INTO THE STREET.

22 Q. OKAY, SO HE WAS WALKING IN THE DIRECTION TOWARD
23 THE SIDE STREET?

24 A. UH HUH; HE LIVED BACK HERE.

25 Q. ALL RIGHT, HE LIVED BACK HERE?

1 A. UH HUH.

2 Q. OKAY. WHAT'S DOWN THIS WAY? IS THAT CHERRY
3 ROAD THIS WAY OR ---

4 A. CHERRY ROAD IS THIS WAY.

5 Q. CHERRY ROAD IS THIS WAY?

6 A. UH HUH.

7 Q. THANK YOU.

8 A. YOU'RE WELCOME.

9 (THE WITNESS RESUMED THE WITNESS STAND.)

10 Q. THAT'S ALL THE QUESTIONS I HAVE.

11 REDIRECT EXAMINATION BY

12 MR. BRACKETT:

13 A. A COUPLE OF BRIEF FOLLOW UP QUESTIONS. WHICH
14 DIRECTION WAS HE WALKING -- WHERE WAS HE COMING
15 FROM AS YOU SAW HIM WALKING IN YOUR YARD THAT
16 MORNING?

17 A. AS WE CAME OUT THE DOOR, HE WAS TRYING TO WALK
18 TOWARD THAT SIDE STREET.

19 Q. WHICH DIRECTION WAS HE MOVING? CAN YOU DRAW AN
20 ARROW ON THIS SHOWING -- WHEN YOU SAW HIM WAS HE
21 WALKING THIS WAY OR THIS WAY, THAT WAY OR THIS
22 WAY. WHICH DIRECTION WAS HE MOVING? WHERE WAS
23 HE COMING FROM?

24 A. WHEN I SAW HIM HE WASN'T NECESSARILY MOVING. I
25 MEAN BECAUSE WHEN WE WALKED OUT THE DOOR, HE

1 STOPPED. BUT IT LOOKED LIKE HE WAS WALKING
2 TOWARD THAT STREET -- AWAY FROM MY FRONT DOOR
3 TOWARDS THAT STREET.

4 Q. DID YOU SEE ANYBODY ELSE OUT THERE BESIDES YOU
5 AND MR. GEORGE?

6 A. NO.

7 Q. I HAVE NO FURTHER QUESTION.

8 THE COURT: MR. BOYD?

9 A. NOTHING FURTHER, YOUR HONOR.

10 THE COURT: YOU CAN STEP DOWN, THANK YOU.

11 MR. BRACKETT: THE STATE WOULD CALL DETECTIVE LES
12 HERRING.

13 LESSLIE R. HERRING, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY

16 MR. BRACKETT:

17 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND
18 SPELL YOUR LAST FOR THE COURT REPORTER?

19 A. LESSLIE R. HERRING, H-E-R-R-I-N-G.

20 Q. AND WHAT DO YOU DO FOR A LIVING, SIR?

21 A. I'M A DETECTIVE WITH THE CITY OF ROCK HILL
22 POLICE DEPARTMENT.

23 Q. HOW LONG HAVE YOU BEEN WITH THE CITY OF ROCK
24 HILL POLICE DEPARTMENT?

25 A. A LITTLE OVER 20 YEARS.

1 Q. DO YOU KNOW THE DEFENDANT OR HAVE YOU EVER HAD
2 AN OCCASION TO MEET THE DEFENDANT BEFORE?

3 A. YES, SIR, I HAVE.

4 Q. CAN YOU TELL THE JUDGE WHAT THE CIRCUMSTANCES OF
5 THAT WERE?

6 A. BACK IN '94, SEPTEMBER OF '94 I WAS ASSIGNED A
7 STALKING CASE INVOLVING A KELLY BIGHAM THE
8 VICTIM.

9 I INVESTIGATED THE CASE, TALKED TO THE
10 DEFENDANT; HE ADMITTED TO THE OFFENSES, BUT DUE
11 TO THE RELATIONSHIP BETWEEN THE FAMILIES, NO
12 CHARGES WERE EVER PLACED AGAINST HIM.

13 Q. HOW DID YOU EVER COME TO TALK TO THE DEFENDANT.
14 TELL THE COURT HOW THAT OCCURRED.

15 A. I WENT TO HIS RESIDENCE AND TALKED TO HIM AT HIS
16 RESIDENCE.

17 Q. I MEAN HOW DID YOU CHOOSE HIM OUT OF THE
18 MILLIONS OF PEOPLE IN THE WORLD?

19 A. A TRACER WAS PUT ON THE VICTIM'S TELEPHONE. THE
20 CALL WAS TRACED BACK TO HIS RESIDENCE, A TOTAL
21 OF SIX CALLS IN A PERIOD OF UNDER TWO DAYS.

22 Q. OKAY. AND YOU SPOKE WITH THE DEFENDANT, YOU
23 SAY?

24 A. YES, SIR, I DID.

25 Q. AND WHAT, EXACTLY DID HE SAY?

1 A. HE ADMITTED TO PLACING THE CALLS. HE STATED
2 THAT HE KNEW HER. HE INDICATED THAT HE WOULD
3 NOT MAKE ANYMORE TELEPHONE CALLS OR COME AROUND
4 HER AS IF IN STALKING HER.

5 AND AT THAT POINT I JUST TALKED WITH HIM BRIEFLY
6 AND TERMINATED THE CONVERSATION.

7 Q. AND THE INDIVIDUAL YOU SPOKE WITH, DO YOU SEE
8 HIM IN THE COURTROOM TODAY?

9 A. YES, SIR, THAT IS HIM AT THE DEFENSE TABLE.

10 Q. I WOULD ASK THAT THE RECORD REFLECT THAT HE
11 INDICATED THE DEFENDANT.

12 Q. I HAVE NO FURTHER QUESTIONS. PLEASE ANSWER ANY
13 QUESTIONS THE DEFENSE MAY HAVE.

14 CROSS EXAMINATION BY

15 MR. HANCOCK:

16 Q. DETECTIVE HERRING, YOU WERE INVESTIGATING THE
17 BIGHAM INCIDENT; IS THAT CORRECT?

18 A. YES, SIR.

19 Q. AND YOU WENT TO -- DID YOU GO TO JIMMY'S HOUSE?

20 A. YES, SIR.

21 Q. AND WHEN YOU WENT THERE, DID YOU PLACE HIM IN
22 CUSTODY?

23 A. NO, SIR.

24 Q. DID YOU FIND IT NECESSARY TO READ HIM HIS
25 MIRANDA WARNINGS?

1 A. NO, SIR.

2 Q. WAS HE FREE TO GO AT THAT TIME?

3 A. YES, SIR.

4 Q. NOTHING FURTHER, YOUR HONOR.

5 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS, YOUR
6 HONOR.

7 THE COURT: YOU MAY STEP DOWN. CALL YOUR NEXT
8 WITNESS PLEASE.

9 MR. BRACKETT: THE STATE WOULD CALL ANN KATHERINE
10 KING.

11 THE COURT: COME ON UP HERE TO THE CLERK'S DESK
12 AND BE SWORN PLEASE, MA'AM.

13 ANN KATHERINE KING, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY

16 MR. BRACKETT:

17 Q. MA'AM, TELL THE JUDGE WHAT YOUR NAME IS.

18 A. ANN KATHERINE KING.

19 Q. AND HOW OLD ARE YOU?

20 A. 24.

21 Q. 24 YEARS OLD?

22 A. UH HUH.

23 Q. AND WHERE DO YOU LIVE RIGHT NOW?

24 A. ROCK HILL.

25 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

1 A. ALL MY LIFE.

2 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

3 A. YES, I DO.

4 Q. HOW DO YOU KNOW HIM?

5 A. I WENT TO CATAWBA SCHOOL WITH HIM FROM THE
6 SEVENTH GRADE TO THE TENTH GRADE WHEN HE WAS
7 THERE.

8 Q. TURNING YOUR ATTENTION TO AFTER YOU LEFT CATAWBA
9 SCHOOL AND HE LEFT CATAWBA SCHOOL, DID YOU HAVE
10 ANY RELATIONS WITH HIM AFTER THAT?

11 A. NO.

12 Q. DID YOU EVER HAVE ANY DEALINGS WITH HIM?

13 A. NO.

14 Q. DID YOU EVER TALK TO HIM?

15 A. NO.

16 Q. DID HE EVER TALK TO YOU?

17 A. NO.

18 Q. DID YOU EVER HEAR FROM HIM?

19 A. AS LIKE IN A FRIENDLY WAY, NO, NO.

20 Q. NO, JUST AT ALL PERIOD.

21 A. NO, NO.

22 Q. I MEAN IN ANY FASHION OR FORM DID HE EVER SPEAK
23 WITH YOU OR CALL YOUR HOUSE?

24 A. NO. WELL, YES.

25 Q. OKAY, TELL THE JUDGE ABOUT THAT.

1 A. WELL, AT FIRST I DIDN'T KNOW IT WAS HIM. WE HAD
2 HANG UP CALLS FOR A NUMBER OF WEEKS AND PRANK
3 CALLS AND PUT MESSAGES ON THE ANSWERING MACHINE,
4 VERY GROSS MESSAGES. AND MY FATHER FINALLY GOT
5 A TRACER ON THE PHONE AND WE TRACED THE CALL TO
6 JIMMY ROBERTSON'S HOUSE. THAT'S HOW I KNEW IT
7 WAS HIM.

8 Q. WHAT KIND OF PHONE CALLS WERE THEY?

9 A. SOME WERE HANG UPS, SOME WERE JUST, YOU KNOW,
10 JUST TALKED GROSS, JUST VULGAR THINGS. AND THEN
11 HE WOULD LEAVE MESSAGES, TOO, ON THE ANSWERING
12 MACHINE.

13 Q. DID YOU EVER ACTUALLY SPEAK WITH HIM?

14 A. AS I RECALL, SOMETIMES I WOULD ANSWER AND JUST
15 HANG UP. LIKE HE WOULD START TALKING, AND I
16 WOULD JUST HANG UP.

17 Q. WHERE WERE YOU WORKING AT THE TIME?

18 A. I WAS WORKING AT THE BODY FIRM IN ROCK HILL.
19 IT'S AN AEROBICS PLACE ON CELANESE.

20 Q. COULD YOU TELL THE JUDGE WHAT YOU DID THERE?

21 A. I JUST ANSWERED PHONES AND JUST CLEANED UP IN
22 THE FRONT AREA AND SIGN PEOPLE IN. AND IT'S
23 JUST GLASS, ALL GLASS IN THE FRONT OF THIS
24 BUILDING.

25 Q. DID YOU EVER SEE THIS DEFENDANT THERE?

1 A. YES.

2 Q. TELL THE JUDGE ABOUT THAT.

3 A. HE WOULD JUST COME AND -- I KNEW WHO HE WAS, SO
4 HE WOULD JUST COME AND PARK HIS CAR AND JUST
5 WATCH ME FOR, YOU KNOW, HOURS. JUST STARE AND
6 WATCH:

7 Q. WHAT DID YOU USED TO DO, HOW DID THAT MAKE YOU
8 FEEL?

9 A. I WAS JUST KIND OF UNCOMFORTABLE BUT I KNEW WHO
10 HE WAS, SO, YOU KNOW, BUT I WAS UNCOMFORTABLE
11 AND MANY TIMES I CALLED MY FATHER TO COME AND
12 FOLLOW ME HOME BECAUSE I JUST DIDN'T FEEL SAFE
13 GOING HOME AND IT WAS AT NIGHT, TOO.

14 Q. ANY QUESTION ABOUT WHO THE PERSON WAS THAT ---

15 A. NO, I KNEW IT WAS HIM.

16 Q. THANK YOU VERY MUCH. PLEASE ANSWER ANY
17 QUESTIONS DEFENSE COUNSEL MAY HAVE FOR YOU.

18 CROSS EXAMINATION BY

19 MR. BOYD:

20 Q. DID YOU EVER CALL THE POLICE ABOUT THIS?

21 A. YES, MY FATHER DID.

22 Q. DO YOU KNOW IF ANY CHARGES WERE EVER FILED?

23 A. I DON'T RECALL IF THE POLICE TALKED TO HIS
24 PARENTS OR WHAT HAPPENED, BUT RIGHT AFTER THE
25 POLICEMAN CAME TO MY HOUSE, WE HAD SOMEBODY COME

1 BECAUSE WE HAD A TAPE OF SOME OF THE PHONE
2 CALLS, IT STOPPED RIGHT AFTER THE POLICEMAN CAME
3 TO MY HOUSE, LIKE WITHIN A DAY.

4 Q. AND THERE WAS A VIDEO STORE BESIDE -- WAS THERE
5 A VIDEO STORE BESIDE THE BODY FIRM?

6 A. THERE WAS, YES.

7 Q. OKAY, THANK YOU. NO FURTHER QUESTIONS.

8 MR. BRACKETT: NO FURTHER QUESTIONS.

9 THE COURT: YOU MAY STEP DOWN. THANK YOU.

10 MR. BRACKETT: THE STATE WOULD CALL ANDY GEORGE
11 TO THE STAND.

12 WILLIARD ANDREW GEORGE, BEING FIRST DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION BY

15 MR. BRACKETT:

16 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME FOR
17 THE COURT REPORTER?

18 A. WILLIARD ANDREW GEORGE.

19 Q. HOW OLD ARE YOU, MR. GEORGE?

20 A. 27.

21 Q. AND WHERE DO YOU LIVE?

22 A. 411 PARK AVENUE, ROCK HILL, SOUTH CAROLINA.

23 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

24 A. ALL MY LIFE.

25 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

1 A. YEAH, SURE.

2 Q. HOW DO YOU KNOW HIM?

3 A. THERE WAS AN INCIDENT WITH A FRIEND OF MINE; WE
4 CAUGHT HIM OUTSIDE OF HER HOUSE.

5 Q. CAN YOU TELL THE JUDGE ABOUT THAT INCIDENT AND
6 WHAT YOUR PART IN THAT WAS? YOU'LL HAVE TO
7 SPEAK UP SO THAT THE JUDGE CAN HEAR YOU AND THE
8 COURT REPORTER CAN HEAR YOU.

9 A. OKAY. A FRIEND OF MINE CAME TO ME AND SAID THAT
10 SOMEONE HAD BEEN TO HER WINDOW THE PAST TWO
11 NIGHTS AND SHE SAID HE WOULD COME AT THE SAME
12 TIME THE FIRST TWO NIGHTS. SO, SHE ASKED ME IF
13 I WOULD STAY THERE THAT NIGHT JUST TO MAKE SURE
14 HE DIDN'T COME THAT NIGHT. AND I DID, AND HE
15 DID.

16 Q. WHAT DID YOU HEAR OR SEE?

17 A. WELL, I WAS SITTING IN A CLOSET ACROSS FROM THE
18 WINDOW THAT THE SCREEN HAD GOTTEN CUT OUT THE
19 NIGHT BEFORE AND I HEARD A RUSTLING AND I SAW
20 THE SHADOW FROM THE BUSHES IN THAT WINDOW
21 MOVING. AND THE DOG -- SHE HAS A DOG, AND THE
22 DOG STARTED BARKING. AND AS SOON AS THE DOG
23 STARTED BARKING, I SAW A SHADOW OF SOMEONE
24 LEAVING THAT WINDOW; I HEARD THEM STEP ON THE
25 FRONT PORCH AND SOMEONE RUNNING AWAY FROM THE

1 WINDOW.

2 BY THE TIME I GOT AROUND TO THE FRONT DOOR, I
3 SAW MR. ROBERTSON IN THE YARD HEADING OUT OF THE
4 YARD, HEADING AWAY FROM THE HOUSE.

5 Q. AND WHAT DID YOU DO?

6 A. I HOLLERED AT HIM TO STOP. BY THE TIME I GOT UP
7 TO HIM, HE WAS STANDING IN THE MIDDLE OF THE
8 STREET. I STOPPED HIM THERE, WAS TALKING TO HIM
9 THERE. CHRISTY HAD CALLED THE POLICE AND SO IT
10 WAS ONLY A MATTER OF TIME THAT THE POLICE WERE
11 THERE, A MATTER OF MINUTES.

12 Q. OKAY. DO YOU SEE THE PERSON THAT YOU DEALT WITH
13 OUT ON THE STREET IN THE COURTROOM HERE TODAY?

14 A. YEAH, THAT'S HIM.

15 Q. YOUR HONOR, I WOULD ASK THAT THE RECORD REFLECT
16 THAT HE INDICATED THE DEFENDANT. COULD YOU TELL
17 WHERE HE WAS COMING FROM WHEN YOU SAW HIM?

18 A. WHEN I SAW HIM, FROM THE DIRECTION HE WAS
19 MOVING, HE WAS MOVING AWAY FROM THE HOUSE TOWARD
20 CHERRY ROAD. I MEAN HE WAS STILL IN THE YARD
21 WHEN I GOT OUTSIDE, BUT BY THE TIME I GOT TO
22 HIM, HE HAD TAKEN THE LAST STEPS INTO THE
23 STREET.

24 Q. OKAY. DID YOU SEE ANY OTHER PEOPLE OUT THERE
25 BESIDES MR. ROBERTSON?

1 A. NO.

2 Q. NO FURTHER QUESTIONS. THANK YOU VERY MUCH, MR.
3 GEORGE. PLEASE ANSWER ANY QUESTIONS COUNSEL MAY
4 HAVE FOR YOU.

5 CROSS EXAMINATION BY

6 MR. BOYD:

7 Q. MR. GEORGE, IF YOU COULD STEP DOWN A MINUTE.
8 THIS IS A DIAGRAM DRAWN EARLIER. THIS IS THE
9 APARTMENT AND THIS IS EBENEZER AVENUE EXTENSION
10 AND THIS IS THE FRONT DOOR. WHERE IS CHERRY
11 ROAD?

12 A. RIGHT HERE.

13 Q. OKAY, AND WHERE WOULD BE THE PLACE YOU FIRST SAW
14 MR. ROBERTSON?

15 A. WHEN I SAW HIM, I'M ASSUMING THIS IS THE TREE IN
16 THE FRONT YARD?

17 Q. YES.

18 A. HE WAS RIGHT ON THE OTHER SIDE OF THAT TREE.

19 Q. WHAT DIRECTION WAS HE HEADED?

20 A. HE WAS HEADING TOWARDS CHERRY ROAD.

21 Q. THANK YOU; THAT'S ALL THE QUESTIONS I HAVE.

22 REDIRECT EXAMINATION BY

23 MR. BRACKETT:

24 Q. CAN YOU TELL WHERE HE WAS COMING FROM? SHOW THE
25 JUDGE.

1 MR. BOYD: YOUR HONOR, I OBJECT ON THE BASIS THAT
2 THAT CALLS FOR A CONCLUSION.

3 THE COURT: I SUSTAIN THE OBJECTION. HE CAN TELL
4 WHERE HE WAS WHEN HE FIRST SAW HIM AND WHICH WAY HE WAS
5 HEADED, BUT HE CAN'T TESTIFY, UNLESS HE'S CLAIRVOYANT, AS
6 TO WHERE HE WAS COMING FROM.

7 MR. BRACKETT: NO, WHICH DIRECTION HE WAS COMING
8 FROM. IN OTHER WORDS, DRAW AN ARROW ON HERE AND SAY WHICH
9 DIRECTION HE WAS COMING FROM.

10 THE COURT: NO, HE CAN SAY WHICH WAY HE WAS
11 GOING.

12 MR. BRACKETT: THAT'S FINE. NO FURTHER
13 QUESTIONS.

14 THE COURT: YOU MAY STEP DOWN. THANK YOU.

15 MR. BRACKETT: I HAVE NO FURTHER WITNESSES, YOUR
16 HONOR.

17 THE COURT: ANYTHING FROM THE DEFENSE?

18 MR. BOYD: NO TESTIMONY.

19 MR. BRACKETT: THAT'S FOR THE STALKING, YOUR
20 HONOR. I STILL HAVE ---

21 THE COURT: ARE YOU READY TO DEAL WITH THE
22 STALKING?

23 MR. BRACKETT: READY TO ARGUE THE STALKING? YES.

24 THE COURT: TELL ME UNDER WHAT BASIS THE STALKING
25 IS ADMISSIBLE.

1 MR. BRACKETT: IT'S ADMISSIBLE TO PROVE THE
2 CHARACTER OF THE DEFENDANT.

3 THE COURT: TELL ME WHICH CASE LAW YOU'RE RELYING
4 ON?

5 MR. BRACKETT: STATE VERSUS RICKY GEORGE.

6 THE COURT: WHAT LANGUAGE?

7 MR. BRACKETT: IT'S UNDER HEADNOTE 22.

8 THE COURT: THAT'S WHERE I'M LOOKING; SHOW ME THE
9 LANGUAGE.

10 MR. BRACKETT: ACTUALLY SECTION B, IF YOU BACK
11 UP, THAT WHOLE EVIDENCE OF APPELLANT'S INVOLVEMENT IN A
12 PRIOR OFFENSE.

13 THE COURT: I'M WITH YOU.

14 MR. BRACKETT: SECTION 21 AND 22. IT IS MOREOVER
15 THE ADMISSION OF TESTIMONY THAT THE DEFENDANT HAD ATTEMPTED
16 SIMILAR CRIMES AS THAT FOR WHICH HE IS ON TRIAL ---

17 THE COURT: STOP THERE.

18 MR. BRACKETT: YES, SIR.

19 THE COURT: WHERE IS THE SIMILARITY BETWEEN THIS
20 AND THAT FOR WHICH HE IS ON TRIAL?

21 MR. BRACKETT: YOUR HONOR, THERE ARE NO
22 SIMILARITIES; HOWEVER, THIS IS JUST GENERAL CHARACTER.

23 THE COURT: I KNOW, THAT'S WHY I'M ASKING YOU TO
24 TELL ME THE LAW -- I MEAN YOU'RE RELYING ON THIS CASE AND
25 BOTH THERE AND WHEN THEY SUPPORT JUDGE CLARY'S CHARGE, HE

1 TALKS ABOUT CHARACTERISTICS AS THEY BEAR LOGICAL REFERENCE
2 TO THE CRIME FOR WHICH HE IS BEING CHARGED.

3 IF THAT'S ALL YOU HAVE, THEN I DON'T SEE HOW THEY
4 CAN COME IN. SO, THAT'S WHY I AM GIVING YOU THE
5 OPPORTUNITY TO SHOW ME WHAT LANGUAGE YOU'RE RELYING ON
6 BECAUSE I DON'T THINK THESE TWO PARTICULAR TYPE OF CRIMES
7 ARE SIMILAR IN NATURE. IN THIS CASE THEY TALK ABOUT THEM
8 BEING SIMILAR AND BEAR A LOGICAL REFERENCE TO THE CRIME.
9 I FIND NO LOGICAL REFERENCE OR RELATION -- THEY USE THE
10 WORD REFERENCE, BUT I THINK RELATION WOULD BE A BETTER
11 WORD.

12 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
13 TO MAKE SURE I UNDERSTAND, PARTICULARLY AS TO THAT CASE.
14 YOU'RE SAYING THAT CHARACTER EVIDENCE WOULD NOT BE
15 ADMISSIBLE IF IT DIDN'T HAVE A RELATION TO THIS CRIME? AND
16 I UNDERSTAND WHAT YOU'RE SAYING ABOUT THAT PARTICULAR CASE,
17 BUT I JUST WANTED TO BE SURE THAT I'M LOOKING FOR THE RIGHT
18 THING.

19 THE COURT: WE'RE TALKING ABOUT SIMILAR CRIMES.

20 MR. POPE: AND MY QUESTION TO THE COURT, YOUR
21 HONOR, IS ARE YOU SAYING IT HAS TO BE -- YOU'RE ASKING CAN
22 WE SHOW YOU THAT IT DOES NOT HAVE TO BE A SIMILAR CRIME IN
23 ORDER TO BE USED AS CHARACTER EVIDENCE?

24 THE COURT: YOU'RE GOING TO HAVE TO EXPLAIN.

25 MR. POPE: WELL, I'M TRYING TO UNDERSTAND.

1 THE COURT: WELL, ARE YOU SAYING THERE ARE SOME
2 OTHER BAD THINGS THAT YOU THINK SHOULD COME IN?

3 MR. POPE: I'M SAYING, SAY FOR EXAMPLE THIS IS A
4 MURDER, OKAY?

5 THE COURT: ALL RIGHT.

6 MR. POPE: AND SAY THERE WAS AN UNCONVICTED RAPE,
7 NOT CONNECTED IN TIME SEQUENCE OR ANYTHING, JUST TOTALLY
8 UNCONVICTED BUT A BAD ACT NONETHELESS. WHAT I'M TRYING TO
9 MAKE SURE I UNDERSTAND IS THE COURT'S NOT SAYING THAT WE
10 HAVE TO -- OR ARE YOU ASKING FOR US TO SHOW YOU WHY WE
11 DON'T HAVE TO SHOW A NEXUS BETWEEN THAT AND THE CASE AT
12 HAND?

13 THE COURT: I AM BECAUSE THIS CASE SEEMS TO
14 INDICATE THAT ONE IS REQUIRED.

15 MR. POPE: OKAY. IF WE COULD HAVE AN OPPORTUNITY
16 TO LOOK AT THAT BEFORE THE COURT RULES. CLEARLY, I ASSURE
17 YOU THE LAW IS THAT WHEN WE ARE PUTTING IN HIS CHARACTER,
18 IT CAN BE TOTALLY UNRELATED, BUT I WANT THE OPPORTUNITY TO
19 FIND THE CASE, YOUR HONOR.

20 THE COURT: WELL, I ASKED FOR THAT AND EVERYTHING
21 YOU'VE CITED TO ME DOESN'T SAY THAT. SO, DO YOU WANT FIVE
22 MINUTES AGAIN?

23 MR. POPE: YES, SIR, I BELIEVE I DO.

24 THE COURT: OKAY, WE'LL GIVE YOU FIVE MINUTES,
25 AND THEN WE'LL GO INTO THE OTHER MATTER.

1 AFTER THE RECESS IN CAMERA:

2 THE COURT: THE DEFENDANT AND COUNSEL ARE
3 PRESENT. MR. POPE?

4 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
5 I CALL THE COURT'S ATTENTION BACK FIRST TO STATE VERSUS
6 GEORGE. AND THE ISSUE BEFORE US, OF COURSE, IS CHARACTER
7 EVIDENCE OR EVIDENCE OF A SIMILAR CRIME. AND I DISTINGUISH
8 THOSE TWO. IN HEADNOTE 21 IT SAYS "IN STATE VERSUS
9 MIDDLETON, WE HELD THAT THE JURY IS NOT REQUIRED TO FIND
10 CLEAR AND CONVINCING EVIDENCE", AND OF COURSE I REALIZE
11 WE'RE NOT DEALING WITH THAT BURDEN ISSUE RIGHT NOW, "WHEN
12 SUCH ARE INTRODUCED TO SHOW CHARACTER. MOREOVER, THE
13 ADMISSION OF TESTIMONY THAT A DEFENDANT HAS ATTEMPTED A
14 SIMILAR CRIME AS THAT FOR WHICH HE IS ON TRIAL IS PROPER
15 BECAUSE SUCH TESTIMONY INDICATES THE DEFENDANT'S INDIVIDUAL
16 CHARACTERISTICS AND PREDISPOSITION TO COMMIT SIMILAR
17 CRIMES."

18 YOUR HONOR, BASED ON THAT SECTION, OBVIOUSLY, IT
19 COULD COME IN TO SHOW CHARACTER. MOREOVER, IT CAN BE
20 BROUGHT IN TO SHOW SIMILARITIES FOR A PREDISPOSITION TO
21 OTHER CRIMES.

22 YOUR HONOR, I WOULD CITE ---

23 THE COURT: NO, IT DOESN'T SAY "OTHER", IT SAYS
24 "SIMILAR".

25 MR. POPE: I'M SORRY, YOUR HONOR, I APOLOGIZE.

1 THE COURT: AND WE'RE DEALING WITH A PRETTY FINE
2 LINE OF SEMANTICS NOW.

3 MR. POPE: YES, SIR, I BELIEVE WE ARE. YOUR
4 HONOR, AGAIN, IT IS CLEAR YOU CAN BRING IN BAD ACTS TO SHOW
5 CHARACTER. YOU CAN ALSO BRING IN BAD ACTS TO SHOW THAT HE
6 HAS A PREDISPOSITION OR PROPENSITY TO COMMIT SIMILAR
7 CRIMES.

8 YOUR HONOR, OF COURSE, WITHOUT ME GOING THROUGH,
9 THE COURT IS WELL AWARE THE NATURE OF A DEATH PENALTY CASE
10 IN PROVIDING THE JURY WITH ALL THE INFORMATION AND THAT'S
11 WHAT ALLOWS US TO EVEN GET INTO CHARACTER IN THIS SECOND
12 STAGE.

13 I WOULD CALL THE COURT'S ATTENTION PARTICULARLY
14 TO STATE VERSUS GASKINS, AND THIS WAS IN THE MURDER OF
15 TYNER, YOUR HONOR, THIS IS THE 1985 OPINION ON GASKINS IN
16 WHICH CASE, OF COURSE, MR. GASKINS HAD BEEN CONVICTED JUST
17 OF THE MURDER, THAT WAS THE MURDER IN THE PRISON. AND
18 THERE WAS ALSO EVIDENCE, NOT CONVICTED EVIDENCE, BUT THIS
19 PARTICULAR EVIDENCE CAME THROUGH HIS STATEMENT THAT HE HAD
20 STOLEN A BOAT AND MOTOR AND A TRAILER. HE WAS NOT
21 CONVICTED OF A ROBBERY OR ANYTHING, IT WAS THE KILLING IN
22 THE JAIL AND EVIDENCE CAME IN THAT HE HAD STOLE A BOAT, A
23 MOTOR AND A TRAILER. AND THE COURT HELD THAT THAT WAS NOT
24 ERROR IN THE ADMISSION OF THAT EVIDENCE. AGAIN, CLEARLY
25 UNRELATED.

1 THE COURT: I WILL NOTE THAT GASKINS IS A 1985
2 AND GEORGE IS A 1996 CASE.

3 MR. POPE: YES, SIR. YOUR HONOR, DO YOU WANT ME
4 TO GO ON OR ARE YOU GOING TO REVIEW THAT FIRST?

5 THE COURT: DID YOU GO ON AND READ THE NEXT
6 HEADNOTE?

7 MR. POPE: PARDON ME?

8 THE COURT: DID YOU READ THE NEXT HEADNOTE?

9 MR. POPE: YES, SIR, I READ THE WHOLE THING.

10 THE COURT: DID YOU READ THAT IN ESSENCE THEY
11 SAID THAT BECAUSE HE ADMITTED TO MALICIOUSLY KILLING SEVEN
12 PEOPLE AND BEEN CONVICTED OF MALICIOUSLY KILLING AN EIGHTH,
13 IT WAS DIFFICULT TO RATIONALIZE THAT THERE WAS PREJUDICE IN
14 THESE COMMENTS THAT WERE RELATIVE TO THE DEATH OF BERRIMAN.
15 IF IT WAS ERROR, IT WAS HARMLESS BEYOND A REASONABLE DOUBT.

16 MR. POPE: YOUR HONOR?

17 THE COURT: GO AHEAD.

18 MR. POPE: IF IT PLEASE THE COURT IF YOU GO BACK
19 TO THAT VERY SECTION IT SAID "IF IT WAS ERROR, WHICH IT IS
20 NOT".

21 THE COURT: I SEE; YEAH, YOU'RE RIGHT. ALL
22 RIGHT, I'LL BE GLAD TO HEAR FROM THE DEFENSE.

23 MR. POPE: YOUR HONOR, IF I MAY.

24 THE COURT: I'M SORRY, GO AHEAD.

25 MR. POPE: I APOLOGIZE, THIS IS JUST BRIEF, AND

1 I DON'T EVEN NEED TO HAND IT UP. IN STATE VERSUS WOOMER
2 THERE WAS AN ISSUE OF AN ESCAPE UNRELATED TO ANY CHARGE OR
3 ANYTHING, IT HAPPENED IN ANOTHER STATE, THERE WAS NO
4 CONVICTION OR ANYTHING OF THAT NATURE, AND IT WAS ALSO
5 ALLOWED IN.

6 THE COURT: ANYTHING FROM THE DEFENSE?

7 MR. BOYD: YOUR HONOR, I BELIEVE THE GASKIN CASE
8 -- EVERY CASE WHICH HE CITED HAS SOMETHING TO DO WITH A
9 CONNECTION TOWARD A PROPENSITY TO COMMIT THE SAME KIND OF
10 OFFENSE, INCLUDING GASKIN WAS APPARENTLY, IT WAS A
11 CONFESSION OF A MURDER AND IN THAT CONFESSION GASKIN ALSO
12 SAID HE HAD STOLEN A BOAT AND MOTOR AND A TRAILER. SO,
13 APPARENTLY THE CONFESSION WAS PART AND PARCEL OF THE SAME
14 THING.

15 AND THE COURT GOES ON TO SAY THAT THEY GAVE A
16 CURATIVE INSTRUCTION ABOUT PART OF IT. I DON'T THINK THAT
17 MEANS ANY CHARACTER OF THE DEFENDANT COULD BE ADMITTED IN
18 A PENALTY PHASE.

19 THE COURT: WELL, GEORGE IS THE LATEST
20 PRONOUNCEMENT AND IT TALKS ABOUT CONSIDERATION AS THEY BEAR
21 LOGICAL RELEVANCE TO THE CRIME. AND I FIND THAT THESE
22 THREE ALLEGED INSTANCES OF STALKING ARE NOT ADMISSIBLE.

23 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
24 WE ARE GOING TO CONTINUE TO RESEARCH IT. WOULD THE CASE BE
25 WILLING TO HEAR FURTHER CASE LAW IF WE CAN DEVELOP IT? THE

1 CONCERN BEING, YOUR HONOR, WITH RESPECT TO THE COURT'S
2 RULING, WE HAVE THE RIGHT TO PUT FORTH THE DEFENDANT'S
3 CHARACTER.

4 THE COURT: I UNDERSTAND THAT.

5 MR. POPE: BUT ONLY AS TO WHAT HE DID THAT NIGHT?
6 I JUST WANT TO MAKE SURE I UNDERSTAND.

7 THE COURT: I'M NOT RESTRICTING YOU. I'M NOT
8 GOING TO MAKE ANY RULING BUT WHAT'S BEFORE ME.
9 PARTICULARLY AS TO THE SECOND ONE ABOUT THE TIRE CUTTING,
10 I DON'T EVEN KNOW IF YOU HAVE CARRIED THE BURDEN OF PROOF
11 ON THAT AT ALL. I THINK IF THIS WERE A CIVIL CASE AND SHE
12 HAD SUED MR. ROBERTSON FOR DAMAGE TO HER TIRES, I THINK HE
13 WOULD BE ENTITLED TO A SUMMARY JUDGMENT UNDER THE LEAST
14 STANDARD OF PROOF.

15 MR. POPE: NEEDLESS TO SAY, THE TIRE CUTTING IS
16 THE LEAST OF OUR CONCERN.

17 THE COURT: SO, THAT ONE WE'RE NOT EVEN REALLY
18 TALKING ABOUT. THE OTHER TWO HAVE A LITTLE MORE SUBSTANCE
19 TO THEM. YOU CAN CERTAINLY CONTINUE. YOU'VE MADE THE
20 PROFFER AND AT THIS POINT I AM RULING, SUBJECT TO YOU
21 SHOWING SOMETHING DIFFERENT, THE MOTION TO EXCLUDE WHICH I
22 BELIEVE IS WHERE WE STARTED ALL OF THIS, THOSE THREE
23 INSTANCES ARE AT THIS TIME GRANTED.

24 MR. POPE: YOUR HONOR, PRIOR TO OUR RELEASING
25 THOSE WITNESSES, LIKE I SAY, I RESPECT THE COURT'S RULING,

1 AND IF WE HAVE ANYTHING WE'LL TELL YOU AT THE NEXT BREAK.

2 THE COURT: IF I HAVE A FEW MINUTES, I'LL BE
3 THUMBING THROUGH, I'VE GOT A TON OF STUFF UP HERE MYSELF.

4 MR. POPE: THANK YOU, SIR.

5 THE COURT: ALL RIGHT.

6 MR. BRACKETT: THERE WAS A SECOND INCIDENT, YOUR
7 HONOR, THE SHILAND HILLS BREAK-IN. IS THE SUBSTANCE OF
8 THEIR COMPLAINT ABOUT THAT, IS IT DISSIMILAR AS WELL?
9 BECAUSE IT INVOLVES A THEFT.

10 THE COURT: THAT MAY BE DIFFERENT.

11 MR. BRACKETT: YES, SIR. I'LL DO THE PROFFER ON
12 THAT NOW. THE STATE WOULD CALL LOU WYLIE.

13 LOU FUNDERBURK WYLIE, BEING FIRST DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION BY

16 MR. BRACKETT:

17 Q. MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME AND
18 SPELL YOUR LAST FOR THE COURT REPORTER?

19 A. MY NAME IS LOU FUNDERBURK WYLIE; MY LAST NAME IS
20 SPELLED W-Y-L-I-E.

21 Q. AND WHERE ARE YOU EMPLOYED, MA'AM?

22 A. FORT MILL SCHOOL DISTRICT, GOLD HILL MIDDLE
23 SCHOOL, YORK DISTRICT 4.

24 Q. AND WHAT DO YOU DO FOR THE GOLD HILL MIDDLE
25 SCHOOL?

1 A. I RUN THE COMPUTER LAB AND I'M ALSO THE SWIMMING
2 TEAM COACH.

3 Q. HOW LONG HAVE YOU BEEN A TEACHER?

4 A. FIVE YEARS. WELL, AT GOLD HILL FOR FIVE YEARS
5 AND FOR FIVE YEARS BEFORE THAT AT CATAWBA
6 SCHOOL.

7 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

8 A. YES, I DO.

9 Q. AND WHEN DID YOU FIRST MEET HIM?

10 A. WHEN I WAS EMPLOYED AT CATAWBA SCHOOL IN 1987.

11 Q. OKAY, MA'AM. NOW WE'RE HERE WITHOUT THE JURY.
12 JUST TELL THE JUDGE IF YOU WOULD, HAVE YOU EVER
13 KNOWN THE DEFENDANT TO DO ANYTHING ILLEGAL?

14 A. YES, SIR.

15 Q. CAN YOU TELL THE JUDGE ABOUT THAT?

16 A. THERE WAS A SUMMER WHERE WHEN HE CAME BACK TO
17 SCHOOL THAT FALL, HE HAD BEEN IN SOME TROUBLE
18 THAT SUMMER, AND HE TALKED ---

19 MR. BOYD: YOUR HONOR, COULD WE FIND OUT WHAT
20 YEAR THIS WAS?

21 Q. DO YOU REMEMBER ABOUT WHAT YEAR THIS WAS?

22 A. NO, SIR, I DON'T.

23 Q. WHEN DID YOU TEACH THERE?

24 A. I TAUGHT THERE FROM '87 TO '92.

25 Q. OKAY. WAS HE THERE THE ENTIRE TIME YOU WERE

1 THERE?

2 A. YES.

3 Q. OKAY.

4 A. HE WAS IN TROUBLE BECAUSE HE HAD BROKEN INTO
5 SOME CARS AND HE ADMITTED THAT HE, YOU KNOW,
6 JUST KIND OF TOLD US THAT HE HAD BROKEN INTO
7 SOME CARS AND STOLE SOME CHECKBOOKS BUT THAT HE,
8 YOU KNOW, DIDN'T MEAN ANY HARM BY IT.

9 Q. IS THAT THE ONLY ILLEGAL CONDUCT YOU'RE AWARE
10 OF?

11 A. THAT'S ALL I KNOW OF DIRECTLY; YES, SIR.

12 Q. AND WHO TOLD YOU THAT HE HAD DONE THIS?

13 A. JIMMY.

14 MR. BRACKETT: YOUR HONOR, FOR THIS WITNESS
15 THAT'S ALL I WOULD HAVE ON THIS ISSUE, BUT I WOULD HAVE ONE
16 MORE WITNESS IN REGARD TO THIS. PLEASE ANSWER ANY
17 QUESTIONS DEFENSE COUNSEL MAY HAVE.

18 CROSS EXAMINATION BY

19 MR. BOYD:

20 Q. WAS HE A STUDENT AT THE SCHOOL THEN?

21 A. YES, SIR.

22 Q. AND YOU DON'T KNOW WHAT YEAR THIS OCCURRED?

23 A. IT'S BEEN SO LONG. YOU KNOW, YOU TEACH 150
24 CHILDREN A DAY ---

25 Q. I UNDERSTAND.

1 A. --- IT'S DIFFICULT TO REMEMBER DIRECTLY YEARS.

2 Q. DID YOU SEE THE CARS THAT WERE BROKEN IN?

3 A. NO, I DID NOT.

4 Q. SO, YOU HAD A CONVERSATION WITH HIM?

5 A. YES, SIR, I DID.

6 Q. AND HE TALKED ABOUT BREAKING IN SOME CARS?

7 A. YES, SIR.

8 Q. AND STEALING?

9 A. YES, SIR.

10 Q. WHERE WERE THE CARS THAT WERE BROKEN IN?

11 A. AT THE SHILAND TENNIS AND SWIM CLUB.

12 Q. SO, HE TOLD YOU HE HAD BROKEN INTO SOME CARS
13 THERE?

14 A. YES, SIR.

15 Q. AND YOU DON'T REMEMBER WHEN THIS CONVERSATION
16 OCCURRED?

17 A. NO, SIR. WELL, IT WAS DURING THE SCHOOL YEAR
18 BUT I DON'T REMEMBER THE EXACT DATE, NO.

19 Q. SOMEWHERE FROM 1987 TO 1992?

20 A. RIGHT.

21 Q. DID THIS CONVERSATION OCCUR IN YOUR OFFICE OR
22 WHERE?

23 A. NO, SIR, WE WERE IN THE MAIN OFFICE.

24 Q. JUST YOU AND HE?

25 A. IT MIGHT HAVE BEEN ONE OTHER SCHOOL OFFICIAL IN

1 THERE, BUT WE HAD HAD SOME CHANGES IN HEADMASTER
2 AND I CAN'T REMEMBER EXACTLY WHO WAS IN THERE AT
3 THAT POINT.

4 Q. WHAT DID THIS HAVE TO DO WITH THE SCHOOL?

5 A. IT DIDN'T HAVE ANYTHING TO DO WITH THE SCHOOL.

6 Q. WHY WERE YOU TALKING TO HIM ABOUT IT?

7 A. BECAUSE JIMMY WAS ALWAYS CHALLENGING AUTHORITY;
8 HE WAS IN THE OFFICE A GREAT DEAL OF TIME. I WAS
9 THE GUIDANCE COUNSELOR, SO EVERY TIME HE WAS IN
10 TROUBLE, I ALSO HAD TO GO IN WHEN, YOU KNOW,
11 THEY WERE TRYING TO GET TO THE ROOT OF THE
12 PROBLEM.

13 HE ALWAYS CHALLENGED AUTHORITY, HE ALWAYS
14 QUESTIONED THE TEACHERS. HE, YOU KNOW, KEPT
15 PUSHING -- HE WOULD PUSH PEOPLE TO THE POINT
16 THAT HE WAS RELENTLESS; HE WOULD NEVER LET AN
17 ISSUE GO; HE JUST KEPT PUSHING AND PUSHING AND
18 PUSHING.

19 I DON'T REMEMBER THE INCIDENT THAT PRECIPITATED
20 WHY HE WAS IN THE OFFICE BECAUSE THERE WERE SO
21 MANY. HE LIED ABOUT THINGS, HE CHEATED ON
22 TESTS. AT ONE POINT HE ---

23 Q. I'M NOT ASKING YOU ABOUT ALL THE BAD THINGS HE
24 DID. WHY WAS HE IN THE OFFICE?

25 A. FOR DOING SOMETHING ---

1 Q. BUT YOU DON'T KNOW WHAT?

2 A. I CAN'T ---

3 Q. AND DURING THE COURSE OF ---

4 A. I CAN'T REMEMBER THE EXACT ---

5 THE COURT: WAIT. LET'S TALK ONE AT A TIME.

6 A. I'M SORRY. I CAN'T REMEMBER THE EXACT INCIDENT
7 BECAUSE THERE WERE A LOT OF THEM.

8 Q. BUT IN THE COURSE OF TALKING TO HIM ABOUT THAT
9 INCIDENT, YOU ---

10 A. HE ---

11 Q. --- HE TOLD YOU ABOUT THIS?

12 A. RIGHT, EXACTLY.

13 Q. THAT'S ALL I HAVE.

14 THE COURT: ANYTHING FURTHER?

15 MR. BRACKETT: NO, SIR.

16 THE COURT: YOU CAN STEP DOWN AND STEP OUT; THANK
17 YOU.

18 MR. BRACKETT: THE STATE WOULD CALL DOUG MANNING.
19 DOUGLAS KEITH MANNING, BEING FIRST DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION BY

22 MR. BRACKETT:

23 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND
24 SPELLING YOUR LAST FOR THE COURT REPORTER?

25 A. DOUGLAS KEITH MANNING, M-A-N-N-I-N-G.

1 Q. AND WHERE ARE YOU EMPLOYED RIGHT NOW, SIR?

2 A. I'M A TRUCK DRIVER FOR U.S. FOOD SERVICE OUT OF
3 FORT MILL, BIGGER BROTHERS DIVISION.

4 Q. OKAY, AND HOW LONG HAVE YOU BEEN THERE?

5 A. I'VE BEEN THERE FOR TWO YEARS.

6 Q. WHAT DID YOU DO BEFORE THAT?

7 A. BEFORE I BECAME A TRUCK DRIVER, I WAS A POLICE
8 OFFICER FOR THE CITY OF ROCK HILL FOR NINE
9 YEARS.

10 Q. AND WHEN YOU LEFT THERE, WHAT WAS YOUR POSITION.
11 WHEN YOU LEFT THE POLICE DEPARTMENT WHAT KIND OF
12 WORK WERE YOU DOING FOR THE POLICE DEPARTMENT?

13 A. WHEN I LEFT THE POLICE DEPARTMENT IN ROCK HILL,
14 I WAS A MASTER POLICE OFFICER, SECOND LINE
15 SUPERVISOR ON A SHIFT.

16 Q. OKAY. SIR, IN THE COURSE OF YOUR LAW
17 ENFORCEMENT CAREER, DID YOU EVER HAVE OCCASION
18 TO MEET THE DEFENDANT, JAMES ROBERTSON?

19 A. YES.

20 Q. AND WHEN WAS THAT?

21 A. IT WOULD HAVE BEEN QUITE A FEW YEARS BACK, 1990,
22 I BELIEVE.

23 Q. ALL RIGHT, SIR. AND CAN YOU TELL THE JUDGE
24 BASICALLY WHAT THE SUBSTANCE OF YOUR ENCOUNTER
25 WITH HIM WAS AND WHAT IT WAS ABOUT?

1 A. MY ENCOUNTER WITH HIM WAS I WAS AN INVESTIGATOR.
2 AT THE TIME I WAS ASSIGNED TO A SHIFT AND
3 INVESTIGATED SOME CAR BREAK-INS IN THE SHILAND
4 HILLS AREA. AND SUBSEQUENTLY MADE AN ARREST ON
5 THAT.

6 Q. AND WHO DID YOU ARREST FOR THIS CAR BREAKING
7 INCIDENT?

8 A. MR. ROBERTSON.

9 Q. DO YOU REMEMBER THE LOCATION OF THE CRIME, WHERE
10 IT OCCURRED?

11 A. ONE IN PARTICULAR WAS A VEHICLE THAT WAS AT THE
12 SHILAND HILLS RACQUET AND TENNIS CLUB. THERE
13 WERE SEVERAL VEHICLES IN THAT AREA AT THAT TIME.

14 Q. AND WHAT YEAR WAS THIS, SIR?

15 A. I BELIEVE IT WAS 1990.

16 Q. AND YOUR INVESTIGATION REVEALED WHO WAS
17 RESPONSIBLE FOR THE BREAK-IN AT THE SHILAND
18 HILLS RACQUET CLUB?

19 A. IT WOULD HAVE BEEN THE DEFENDANT, MR. ROBERTSON.

20 Q. THANK YOU VERY MUCH, SIR. PLEASE ANSWER ANY
21 QUESTIONS DEFENSE COUNSEL MAY HAVE.

22 CROSS EXAMINATION BY

23 MR. BOYD:

24 Q. YOU LOOK A LITTLE DIFFERENT THAN THE LAST TIME I
25 SAW YOU.

1 A. YES, SIR.

2 Q. YOU SAID YOUR INVESTIGATION FOUND THAT MR.
3 ROBERTSON COMMITTED THIS. WHAT WAS YOUR -- HOW
4 DID YOU FIND THAT OUT?

5 A. AS WELL AS I REMEMBER, THERE WAS A CELLULAR
6 PHONE TAKEN OUT OF ONE OF THE CARS AND DURING
7 THE COURSE OF MY INVESTIGATION I RECEIVED ONE OF
8 THE CELLULAR PHONE CONTACT SHEETS WHERE THE
9 CALLS WERE MADE FROM LIKE A BILL.

10 AND AT THAT TIME CELLULAR PHONES WERE A LITTLE
11 LESS POPULAR THAN THEY ARE NOW. MOST OF THE
12 PEOPLE THAT HAD THEM WOULD HAVE BEEN PEOPLE THAT
13 JUST HAD THEM FOR BUSINESS AND THEY WERE MORE OF
14 A NOVELTY THAN THEY ARE IN THIS DAY AND TIME.

15 AND I JUST STARTED CALLING THE NAMES AND NUMBERS
16 ON THE SHEET AND SOME OF THE PEOPLE THAT HE HAD
17 CONTACTED STATED THAT HE WAS THE ONE THAT MADE
18 THE CALLS. SO, HE WOULD HAVE HAD THE PHONE THAT
19 CAME FROM THE CAR.

20 THAT'S MY BEST RECOLLECTION OF NINE YEARS AGO.

21 Q. AND YOU ARRESTED HIM AS A RESULT OF THAT; IS
22 THAT CORRECT?

23 A. RIGHT.

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

25 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS, YOUR

1 HONOR.

2 THE COURT: ALL RIGHT; YOU CAN STEP DOWN. THANK
3 YOU.

4 MR. BRACKETT: YOUR HONOR, THAT WOULD BE THE
5 STATE'S PROFFER AS TO THE SHILAND HILLS RACQUET CLUB
6 INCIDENT.

7 THE COURT: WHAT SAYS THE DEFENSE ON THAT?

8 MR. BOYD: YOUR HONOR, THERE ARE SEVERAL GROUNDS
9 ON THAT. ONE OF THE GROUNDS IS THE SAME ARGUMENT I MADE
10 BEFORE. I DON'T THINK AN ALLEGATION THAT THE DEFENDANT
11 BROKE IN CARS AT THE TIME AND STOLE ANYTHING FROM THE CARS
12 IS LOGICALLY CONNECTED IN ANY WAY WITH MURDER. AND IT'S
13 NOT LIKE THAT IT IS IN ANY WAY CONNECTED WITH ARMED ROBBERY
14 OR ANYTHING OF THAT NATURE THAT HE'S CHARGED WITH.

15 THE OTHER THING, YOUR HONOR, I WOULD SUBMIT THAT
16 THERE IS INSUFFICIENT EVIDENCE, BASED ON WHAT'S BEEN
17 PRESENTED, TO FIND BY A PREPONDERANCE OF THE EVIDENCE OR
18 ANY STANDARD THAT MR. ROBERTSON COMMITTED THAT.

19 WE CERTAINLY NEED MORE EVIDENCE THAN WHAT THEY'VE
20 PUT UP CONCERNING IT. HE ADMITTED TO A COUNSELOR BREAKING
21 INTO SOME CARS AT SOME TIME; SHE DIDN'T EVEN KNOW THE YEAR.
22 WE DON'T KNOW IF WHAT SHE'S TALKING ABOUT HERE IS THE SAME
23 INCIDENT THAT MR. MANNING WAS TALKING ABOUT.

24 THE OTHER THING, THE ONLY THING HE HAS FROM HIS
25 TESTIMONY, THAT IS GOING THROUGH THE CELLULAR PHONE RECORDS

1 AND ALL OF THAT, IS PROOF THAT HE HAD POSSESSION OF
2 SOMETHING THAT WAS STOLEN WHICH IS A FAR CRY FROM PROVING
3 THAT HE'S THE PERSON THAT BROKE INTO THE VEHICLE. I WOULD
4 SUBMIT UNDER ANY STANDARD THAT WOULD NOT BE ADMISSIBLE.

5 THE COURT: MR. BRACKETT?

6 MR. BRACKETT: YOUR HONOR, I SUBMIT THAT THE
7 EVIDENCE THAT HE GAVE WAS THAT THERE WAS A BREAK-IN OF SOME
8 CARS, THAT THERE WAS A CELL PHONE TAKEN. HE GOT THE CELL
9 PHONE RECORDS AND DETERMINED THAT THE PERSON MAKING THE
10 CALLS FROM THAT CELL PHONE WAS THIS DEFENDANT RIGHT HERE
11 AND HE ARRESTED HIM AS A RESULT OF THAT.

12 WE DON'T HAVE TO PROVE THAT HE BROKE IN BY THE
13 PREPONDERANCE OF THE EVIDENCE. THE FACT THAT HE ADMITTED
14 TO MS. WYLIE THAT HE HAD BROKEN INTO SOME CARS I THINK ONLY
15 BUTTRESSES THE TESTIMONY WHICH COULD STAND ON ITS OWN
16 WITHOUT ANY ADDITIONAL ---

17 THE COURT: DIDN'T SHE TESTIFY THAT HE SAID HE
18 BROKE INTO SOME CARS AND STOLE SOME CHECKS?

19 MR. BRACKETT: YES, SIR.

20 THE COURT: AND THIS GENTLEMAN TESTIFIED THAT HE
21 WAS PURSUING HIM ABOUT A CELL PHONE.

22 MR. BRACKETT: YES, SIR. I WOULD SUBMIT THAT MR.
23 MANNING'S TESTIMONY COULD STAND ON ITS OWN FOR THE SHILAND
24 HILLS BREAK-IN, REGARDLESS OF WHETHER OR NOT MS. WYLIE'S
25 TESTIMONY IS ADMITTED.

1 THE COURT: I SUSTAIN THE DEFENSE OBJECTION; I AM
2 NOT GOING TO ALLOW THAT TO COME IN. ANYTHING ELSE BEFORE
3 WE GET THE JURY IN?

4 MR. POPE: I BEG THE COURT'S INDULGENCE.
5 (AFTER A BRIEF PAUSE.)

6 MR. POPE: THE STATE'S READY TO GO FORWARD, YOUR
7 HONOR. AS TO ADDITIONAL CASES ON THE MATTER, I HAVE
8 CONTACTED THE ATTORNEY GENERAL'S OFFICE. I DON'T HAVE
9 THESE CASES BEFORE ME, BUT I'LL HAND THEM UP AT THE FIRST
10 BREAK. THE STATE VERSUS LARRY GENE BELL, I'M TRYING TO
11 PULL THAT ONE NOW, IN WHICH TESTIMONY WAS ALLOWED
12 CONCERNING THREATS THE DEFENDANT MADE TO THE DAUGHTER OF
13 ONE OF THE WITNESSES. WHICH, AGAIN, IS UNRELATED TO THE
14 CRIME ITSELF.

15 ALSO HOWARD WELDON WHICH ADDRESSES A NUMBER OF
16 POINTS, ONE WHICH YOU JUST DEALT WITH. THERE WAS
17 INTRODUCTION OF 70 PRIOR ARMED ROBBERIES AND ONE MURDER.
18 THERE WAS JUST A CONFESSION, THERE WAS NO CORPUS DELICTI TO
19 PROVE THOSE MATTERS. I WILL HAND THOSE UP AT THE NEXT
20 BREAK.

21 MR. BOYD: DO YOU HAVE THE CITE OF THOSE?

22 MR. POPE: YES, SIR. THE BELL CASE IS GOING TO
23 BE 360 SOUTHEAST 2D 706. THERE ARE SEVERAL BELL CASES AND
24 I'M GOING TO TRY TO DETERMINE THAT THAT IS THE APPROPRIATE
25 ONE, MR. BOYD.

1 HOWARD WELDON, I'VE GOT 369 SOUTHEAST 2D 132.
2 AND I'M IN THE PROCESS OF TRYING TO RETRIEVE THAT.

3 MR. BOYD: THANK YOU.

4 MR. BRACKETT: LET ME JUST TELL MS. WYLIE, SHE'S
5 MY FIRST WITNESS, I WANT TO MAKE SURE SHE DOESN'T
6 ACCIDENTALLY MENTION THE BREAK-IN OF THE CARS. IF I COULD
7 JUST STEP BACK ONE MINUTE AND TALK WITH HER.

8 THE COURT: OKAY.

9 (AFTER A PAUSE.)

10 THE COURT: I'M GOING TO LET EACH SIDE MAKE
11 OPENING STATEMENTS. THAT WOULD PROBABLY TAKE US CLOSE TO
12 1:00 O'CLOCK. WE'RE GOING TO HAVE LUNCH BROUGHT IN AT
13 1:00.

14 DOES THE STATE HAVE ANY PRELIMINARY CHARGES THEY
15 WISH ME TO GIVE?

16 MR. POPE: NO, SIR, YOUR HONOR.

17 THE COURT: DOES THE DEFENSE?

18 MR. HANCOCK: NOT AT THIS TIME, YOUR HONOR; WE
19 MAY HAVE SOME FORTHCOMING.

20 THE COURT: WELL, I'M TALKING ABOUT BEFORE I MAKE
21 MY INITIAL CHARGE, AND THAT'S NOW.

22 MR. HANCOCK: NO, SIR.

23 THE COURT: OKAY. IS THE STATE READY FOR THE
24 JURY?

25 MR. POPE: THE STATE'S READY, YOUR HONOR.

1 THE COURT: THE DEFENSE?

2 MR. HANCOCK: READY, YOUR HONOR.

3 THE COURT: ALL RIGHT, BRING IN THE JURY.

4 IN THE PRESENCE OF THE JURY:

5 THE COURT: MEMBERS OF THE JURY, LET ME FIRST
6 START BY APOLOGIZING FOR HAVING YOU BACK. WE'VE BEEN DOING
7 QUITE A BIT OF GROUNDWORK THAT'S REQUIRED AT THIS POINT.

8 NOW, AS YOU OF COURSE ARE AWARE, MR. ROBERTSON
9 WAS ON LAST SATURDAY EVENING, THE 20TH OF MARCH AROUND 7:00
10 IN THE EVENING FOUND GUILTY OF FOUR OFFENSES, TWO OF THE
11 MURDER OF EARL AND TERRY ROBERTSON, ONE OF ARMED ROBBERY
12 AND ONE OF THE FRAUDULENT USE OF A FINANCIAL TRANSACTION
13 CARD.

14 IT IS NECESSARY AS I TOLD YOU LAST WEEK WHEN WE
15 WERE TALKING WITH YOU INDIVIDUALLY AND SATURDAY EVENING, IT
16 IS NECESSARY FOR US TO HOLD THIS ADDITIONAL PROCEEDING AND
17 DETERMINE THE PUNISHMENT THAT THE COURT WILL IMPOSE UPON
18 MR. ROBERTSON.

19 SECTION 16-320 OF OUR CODE OF LAWS WHICH ARE THE
20 LAWS PASSED BY OUR LEGISLATURE PROVIDES THAT A PERSON WHO
21 IS CONVICTED OR PLEADS GUILTY TO MURDER SHALL BE PUNISHED
22 BY DEATH OR BY IMPRISONMENT FOR LIFE. AND IT ALSO PROVIDES
23 THAT UPON CONVICTION A DEFENDANT IS ENTITLED TO A SEPARATE
24 SENTENCING PROCEEDING TO DETERMINE WHETHER THAT DEFENDANT
25 SHOULD BE SENTENCED TO DEATH OR LIFE IMPRISONMENT.

1 SO, OUR PURPOSE IN CONDUCTING THIS PROCEEDING IN
2 WHICH WE ARE NOW ABOUT TO ENGAGE IS TO DETERMINE WHETHER
3 MR. JAMES DEJARNETTE ROBERTSON SHOULD BE SENTENCED BY THIS
4 COURT TO DEATH OR TO LIFE IMPRISONMENT.

5 WITH RESPECT TO YOUR PARTICULAR ROLE IN THIS
6 PROCEEDING, YOU WILL BE ASKED TO RECOMMEND TO THE COURT
7 WHETHER IT SHOULD SENTENCE THE DEFENDANT, JAMES DEJARNETTE
8 ROBERTSON TO DEATH OR LIFE IMPRISONMENT.

9 I USE THE WORD RECOMMEND. I TELL YOU THAT
10 WHATEVER YOU RECOMMEND WILL BE THE PENALTY WHICH THIS
11 COURT IMPOSES.

12 DURING THIS SENTENCING PROCEEDING, THE STATE AND
13 THE DEFENDANT EACH HAVE THE OPPORTUNITY TO PRODUCE
14 ADDITIONAL EVIDENCE IN EXTENUATION, MITIGATION OR
15 AGGRAVATION; AND BOTH HAVE AN OPPORTUNITY TO PRESENT
16 ARGUMENTS FOR AND AGAINST THE DEATH PENALTY.

17 SHOULD YOU RECOMMEND A SENTENCE OF LIFE
18 IMPRISONMENT OR SHOULD YOU RECOMMEND A SENTENCE OF DEATH,
19 THAT IS THE ONLY ISSUE HERE INVOLVED.

20 AFTER THE LAST ARGUMENT HAS BEEN MADE AS TO WHAT
21 PUNISHMENT SHOULD BE IMPOSED, I WILL GIVE YOU CERTAIN
22 INSTRUCTIONS AND YOU WILL RETIRE TO DETERMINE WHETHER A
23 DEATH SENTENCE OR A LIFE SENTENCE IS TO BE RECOMMENDED.

24 I BELIEVE TO MOST OF YOU I GAVE DEFINITIONS OF
25 MITIGATING AND AGGRAVATING CIRCUMSTANCES. I WILL REMIND

1 YOU THAT AGGRAVATING CIRCUMSTANCES ARE STATUTORY AND THEY
2 ARE AN INCIDENT, A DETAIL OR AN OCCURRENCE WHICH OUR
3 GENERAL ASSEMBLY HAS DECLARED BY STATUTE WHICH WOULD MAKE
4 WORSE, THAT IS AGGRAVATE THE OFFENSE OF MURDER WHEN THE TWO
5 OCCUR TOGETHER. IN OTHER WORDS, IT IS SOMETHING WHICH
6 INCREASES THE ENORMITY OR ADDS TO THE INJURIOUS CONSEQUENCE
7 OF THE OFFENSE.

8 THERE ARE CERTAIN STATUTORY MITIGATING
9 CIRCUMSTANCES. THESE ARE FACTS, INCIDENTS OR DETAILS OR
10 OCCURRENCES WHICH THE GENERAL ASSEMBLY HAS DECLARED BY
11 STATUTE REDUCE THE SEVERITY OF THE OFFENSE OF MURDER.

12 IN OTHER WORDS, IT WOULD BE A CIRCUMSTANCE
13 RECOGNIZED BY STATUTE AND ONE I BELIEVE I TOLD YOU EARLIER
14 WHICH IN FAIRNESS AND MERCY MAY BE CONSIDERED AS
15 EXTENUATING OR AS REDUCING THE DEGREE OF MORAL CULPABILITY
16 FOR THE COMMISSION OF THE ACT OF MURDER.

17 A MITIGATING CIRCUMSTANCE IS NOT JUSTIFICATION
18 NOR EXCUSE FOR A MURDER, IT SIMPLY LESSENS THE DEGREE OF
19 ONE'S CULPABILITY IN REGARD TO THE MURDER.

20 NOW EACH SIDE HAS THE RIGHT TO MAKE NOW FOR YOU
21 AN OPENING STATEMENT AND WE ARE STARTING LATE. WE MAY GET
22 ONE WITNESS BEFORE LUNCH WHICH IS ORDERED AT 1:00 BUT ONCE
23 WE GET BACK IN, I THINK WE HAVE TAKEN CARE OF MOST OF THE
24 OUT OF YOUR PRESENCE MATTERS THAT NEED TO BE TAKEN CARE OF
25 AND THINGS THIS AFTERNOON I FEEL CONFIDENT WILL MOVE ALONG

1 WITH A LITTLE MORE RAPIDITY. ALL RIGHT.

2 OPENING STATEMENT BY MR. BRACKETT:

3 WELL, HERE WE ARE. WHAT A WEEK AGO WAS THE
4 UNTHINKABLE, THE UNBELIEVABLE, THE INCREDIBLE, THAT WHICH
5 WE HOPED WASN'T TRUE HAS BEEN ESTABLISHED BY YOUR VERDICT
6 ON SATURDAY EVENING TO BE A FACT. JAMES D. ROBERTSON DID
7 TAKE THE LIFE OF HIS PARENTS ON NOVEMBER 25TH, 1997.

8 WE'VE RECONVENED HERE BECAUSE NOW WE HAVE TO
9 DECIDE WHAT ARE WE GOING TO DO ABOUT THIS, WHAT'S THE
10 APPROPRIATE PUNISHMENT FOR THIS CRIME; HOW SHOULD HE BE
11 DEALT WITH FOR WHAT HE DID ON THAT EARLY MORNING TO HIS
12 MOTHER AND TO HIS FATHER.

13 AS YOU WERE EACH TOLD WHEN YOU TOOK THE WITNESS
14 STAND HERE FOR YOUR INDIVIDUAL QUESTIONING, YOU CAN'T KNOW
15 RIGHT NOW, YOU CAN'T KNOW BECAUSE YOU DON'T KNOW EVERYTHING
16 YOU NEED TO KNOW; YOU DON'T HAVE ALL THE INFORMATION THAT
17 YOU NEED TO HAVE TO MAKE THAT DECISION. OF COURSE, YOU
18 KNOW TO SOME EXTENT THE BRUTAL NATURE OF THE ATTACK, BUT
19 YOU DON'T KNOW EVERYTHING THAT YOU NEED TO KNOW ABOUT JAMES
20 ROBERTSON TO DECIDE WHETHER OR NOT HE SHOULD BE PUT TO
21 DEATH FOR THE CRIME THAT HE COMMITTED.

22 IT IS OUR RESPONSIBILITY, AGAIN, TO ARM YOU WITH
23 THE INFORMATION THAT YOU NEED TO KNOW SO THAT YOU CAN MAKE
24 THAT DECISION AND WALK AWAY FROM THIS COURTROOM WITH THE
25 PEACE OF MIND IN YOUR HEAD AND IN YOUR HEART THAT THE

1 DECISION YOU MAKE IN THIS CASE DOES JUSTICE BY TERRY AND
2 EARL.

3 WE'RE GOING TO TELL YOU A LITTLE BIT MORE ABOUT
4 TERRY AND EARL, THINGS THAT DIDN'T MATTER IN THE FIRST PART
5 OF THE TRIAL BUT MATTER A LOT NOW. YOU NEED TO KNOW WHO
6 THEY WERE.

7 WE'RE GOING TO TELL YOU A LITTLE BIT MORE ABOUT
8 JAMES ROBERTSON, WHO HE IS. WE'RE GOING TO TELL YOU ABOUT
9 HOW HE INTERACTED WITH HIS PARENTS BECAUSE YOU SEE, LONG
10 BEFORE HE EVER STOLE THAT CREDIT CARD FROM HIS FATHER ON
11 NOVEMBER 25TH, 1997, HE HAD STOLEN SO MUCH MORE FROM THEM,
12 SOMETHING THAT IS SO MUCH MORE IMPORTANT. HE STOLE FROM
13 THEM THE HOPES AND DREAMS THAT EVERY PARENT HAS FOR THEIR
14 KIDS. THE HOPES AND DREAMS THAT WHEN YOU HAVE KIDS THAT
15 THEY'RE GOING TO GROW UP AND THEY'RE GOING TO BE BETTER
16 THAN YOU, THEY'RE GOING TO HAVE MORE OPPORTUNITY, THEY'RE
17 GOING TO DO MORE, THEY'RE GOING TO BE SMARTER, THEY'RE
18 GOING TO BE BETTER PEOPLE. AND EVERY DECENT PARENT RAISES
19 THEIR KIDS TOWARD THAT END. EVERY PARENT HOPES THAT THEIR
20 KIDS WILL GROW UP TO BE THAT BETTER PERSON.

21 JIMMY ROBERTSON DESTROYED THOSE HOPES, DESTROYED
22 THOSE DREAMS LONG BEFORE HE EVER DESTROYED THE PEOPLE
23 PHYSICALLY. YOU'RE GOING TO HEAR ABOUT THAT.

24 YOU'RE GOING TO HEAR IN MORE DETAIL EXACTLY WHAT
25 HE DID TO THEM ON NOVEMBER 25TH, 1997. YOU'RE GOING TO

1 HEAR EXACTLY HOW HE LEFT HIS FATHER. YOU'LL SEE PICTURES
2 OF HOW HE LEFT HIS FATHER IN THE HALLWAY IN A POOL OF
3 BLOOD.

4 YOU WILL KNOW EXACTLY WHAT HE DID TO HIS MOTHER
5 BEFORE SHE DIED AND MAYBE EVEN AFTER SHE DIED.

6 JAMES ROBERTSON DIDN'T JUST TAKE THE LIFE OF
7 TERRY AND EARL, HE TOOK THEIR SANITY. THEY WERE DRIVEN TO
8 THE EDGE.

9 THE DECISION THAT YOU'RE GOING TO BE ASKED TO
10 MAKE AT THE END OF THIS CASE IS NOT AN EASY DECISION AND I
11 ASSURE YOU THAT WHEN SOLICITOR POPE GETS UP AT THE END OF
12 THE PRESENTATION OF ALL OF THE EVIDENCE, NO ONE WILL STAND
13 UP AND SAY THIS IS A DECISION THAT SHOULD BE MADE IN FIVE
14 MINUTES.

15 BUT, LADIES AND GENTLEMEN, I SUBMIT TO YOU THAT
16 WHEN YOU REFLECT ON THE EVIDENCE THAT YOU'RE GOING TO HEAR
17 ABOUT WHO THIS MAN IS AND WHAT HE HAS TAKEN FROM ALL OF US
18 AND HOW HE DID IT, I SUBMIT TO YOU, YOU WILL KNOW, YOU WILL
19 KNOW WHAT TO DO, YOU WILL KNOW WHAT'S RIGHT IN YOUR HEAD
20 AND IN YOUR HEART. AND WHEN YOU LEAVE THIS PLACE, YOU WILL
21 LEAVE THIS PLACE CHANGED, BUT YOU WILL LEAVE THIS PLACE
22 KNOWING THAT YOU DID RIGHT AND KNOWING THAT YOU DID
23 JUSTICE.

24 THANK YOU.

25 THE COURT: MR. HANCOCK?

1 OPENING STATEMENT TO THE JURY BY MR. HANCOCK:

2 LADIES AND GENTLEMEN OF THE JURY, WE'VE BEEN HERE
3 TOGETHER A WEEK AND NOW YOU HAVE THE MOST DIFFICULT
4 DECISION BEFORE YOU THAT ANY CITIZEN CAN HAVE AND THAT IS
5 ARE YOU GOING TO PUT JIMMY ROBERTSON TO DEATH; ARE YOU
6 GOING TO ORDER THE STATE TO KILL THIS 24 YEAR OLD YOUNG MAN
7 SEATED HERE.

8 THERE'S NO DOUBT IN YOUR MIND THAT HE COMMITTED
9 THE MURDERS OF HIS MOTHER AND FATHER. AND THAT'S WHERE WE
10 BEGIN. THAT IN ITSELF IS AN UNUSUAL CIRCUMSTANCE. IT'S
11 NOT SOMETHING YOU SEE EVERY DAY ON T.V. IT'S NOT SOMETHING
12 YOU SEE ANYWHERE. IT'S UNUSUAL. WHAT BRINGS US TO THE
13 POINT THAT A CHILD WOULD KILL THEIR PARENTS? IT'S WEIRD,
14 IT'S BIZARRE, THAT'S WHERE IT IS.

15 AND, LADIES AND GENTLEMEN, I BRING YOU TO A YOUNG
16 MAN -- AND I AGREE WITH THE SOLICITOR, WE ALL ARE GOING TO
17 LEAVE THIS COURTROOM, WHEN WE WALK OUT THAT DOOR OUT THERE,
18 EVERYONE OF US WILL BE CHANGED FOR THE REST OF OUR LIVES
19 BECAUSE WE WILL GO INTO THINGS THAT YOU HAVE PROBABLY NEVER
20 THOUGHT ABOUT AS I HAVE REVIEWED THE SHEETS OF YOUR
21 OCCUPATIONS, YOU MAY HAVE THOUGHT ABOUT IT BUT YOU MAY NOT
22 HAVE, BUT YOU ARE GOING TO HAVE TO THINK ABOUT IT, AND
23 YOU'RE GOING TO HAVE TO THINK ABOUT IT LONG, AND YOU'RE
24 GOING TO HAVE TO THINK ABOUT IT HARD BECAUSE YOU ARE
25 REQUIRED TO MAKE THIS DECISION.

1 YOU HAVE BEEN VERY ATTENTIVE AND I THANK YOU FOR
2 IT. IT'S GOING TO BE A LOT OF TESTIMONY HERE AND I ASK
3 THAT YOU CONTINUE YOUR KIND ATTENTION.

4 TO SAY JIMMY ROBERTSON IS A TROUBLED YOUNG MAN
5 DOESN'T EVEN START. AND I'LL GO BACK TO THE TESTIMONY IN
6 THE GUILT PHASE. HOW TROUBLED CAN YOU BE WHEN YOU RIDE UP
7 THE ROAD AFTER KILLING YOUR PARENTS AND SAY MY BROTHER
8 WOULD BE PROUD OF ME; CHIP WOULD BE PROUD OF ME. HOW
9 TROUBLED IS THAT? IS THAT SOMETHING NORMAL EVERY DAY?

10 WE'RE NOT IN A SOAP OPERA HERE, LADIES AND
11 GENTLEMEN, WE'RE IN REAL LIFE. YOU ARE TO CONSIDER BOTH
12 THE STATE'S AGGRAVATING CIRCUMSTANCES, AND YOU'VE ALREADY
13 CONSIDERED SOME OF THOSE, AND YOU ARE TO CONSIDER WHAT WE
14 CALL MITIGATING CIRCUMSTANCES. THAT MEANS CIRCUMSTANCES AS
15 TO HIS EMOTIONAL DISTURBANCE, TO HIS FAMILY LIFE, TO HIS
16 AGE, TO HIS MENTALITY TO THE POINT THAT HE COMMITTED THIS
17 CRIME AT 24 YEARS OF AGE, YOU ARE TO CONSIDER AND YOU WILL
18 BE ASKED TO LOOK AND CONSIDER ALMOST THE ENTIRETY OF THIS
19 YOUNG MAN'S LIFE.

20 YOU'RE GOING TO RECEIVE EVIDENCE -- YOU ALREADY
21 KNOW WHAT EXPERTS ARE -- YOU'RE GOING TO RECEIVE EVIDENCE
22 CONCERNING THE FAMILY, CONCERNING WHAT APPEARS TO BE A
23 BEAVER CLEAVER EXISTENCE BUT IS NOT.

24 THE SOLICITOR HAS SAID THAT JIMMY DESTROYED
25 EVERYTHING THAT HIS PARENTS HAD AND HE TOOK THEIR SANITY.

1 YOU'RE GOING TO HEAR OF MENTAL ILLNESS; YOU'RE GOING TO
2 HEAR HISTORIES OF MENTAL ILLNESS, AND MENTAL ILLNESS IN
3 THIS FAMILY.

4 IT'S NOT GOING TO BE PLEASANT. I DON'T RELISH
5 GOING BEHIND PEOPLE'S CLOSED DOORS, BUT YOU NEVER KNOW
6 WHAT'S THERE UNTIL YOU GO BEHIND THOSE CLOSED DOORS.

7 AND I AM GOING TO EVENTUALLY ASK YOU TO CONSIDER
8 THE MITIGATING CIRCUMSTANCES THAT BROUGHT US TO THIS POINT.
9 A FAMILY THAT BASICALLY AT THE TIME THAT THIS HAPPENED WAS
10 SPIRALING OUT OF CONTROL TO THE POINT THAT THE ENTIRE
11 FAMILY WAS SUICIDAL. THAT THE MOTHER HAD BIPOLAR MENTAL
12 ILLNESS, NOT CAUSED BY JIMMY, NOT CAUSED BY JIMMY. HE
13 CAN'T CAUSE BIPOLAR MENTAL ILLNESS. HE CAN'T CAUSE THAT,
14 LADIES AND GENTLEMEN. IT'S THERE, IT'S AVAILABLE, YOU WILL
15 HEAR IT.

16 YOU WILL HEAR EVIDENCE THAT THE MOTHER HAD MANY,
17 MANY PROBLEMS AND THOSE PROBLEMS WERE BASICALLY THE SAME
18 PROBLEMS AND MANY OF THE SAME PROBLEMS THAT THIS YOUNG MAN
19 HAS. BECAUSE HE, I THINK YOU WILL HEAR, ALSO HAS BIPOLAR
20 MENTAL ILLNESS. AND IT WILL BE EXPLAINED TO YOU AND YOU
21 WILL TAKE IT AND YOU WILL LISTEN BECAUSE YOU HAVE TO AT
22 SOME TIME DECIDE A VERDICT OF EITHER DEATH OR LIFE
23 IMPRISONMENT.

24 YOU ARE GOING TO FIND THAT JIMMY HAS BEEN TREATED
25 IN A MENTAL HOSPITAL AND THAT MENTAL HOSPITAL SAID HE HAD

1 BIPOLAR MENTAL ILLNESS WITH FAMILY STRIFE.

2 YOU ARE GOING TO FIND, I DO BELIEVE, THAT HIS
3 MOTHER ALSO HAD BIPOLAR MENTAL ILLNESS AND SOUGHT
4 COUNSELING FOR IT IN THE MAGNITUDE THAT SHE SOUGHT
5 COUNSELING OVER 190 TIMES IN THREE YEARS.

6 I THINK YOU'RE GOING TO FIND THAT HIS FATHER WAS
7 ALSO SUICIDAL AT THIS POINT. AND YOU'RE GOING TO HAVE TO
8 LISTEN TO IT AND DECIDE IF IN FACT HIS MENTAL AND EMOTIONAL
9 STATE WERE EFFECTED AND HOW THEY WERE EFFECTED AT THE TIME
10 ALL OF THIS TOOK PLACE.

11 WE CAN'T EXCUSE THE CRIME OF MURDER; WE CAN'T
12 EXCUSE IT; I DON'T EXCUSE THE CRIME OF THE MURDER OF HIS
13 PARENTS, BUT IT'S WEIRD, IT'S BIZARRE; IT'S SOMETHING THAT
14 DOESN'T HAPPEN AND THERE ARE REASONS BEHIND IT. WE LOOK
15 FOR REASONS, AND YOU'RE GOING TO HAVE TO DETERMINE THE
16 REASONS BEHIND IT. AND YOU'RE GOING TO HAVE TO DETERMINE
17 THE REASONS BEHIND IT. AND YOU'RE GOING TO HAVE TO
18 EVALUATE THAT EVIDENCE. YOU'RE GOING TO HAVE TO LOOK AT IT
19 AND LOOK AT IT HARD AND LONG, LADIES AND GENTLEMEN, BECAUSE
20 IT IS YOUR DECISION AGAIN. WE PUT THE DECISION TO YOU
21 BEFORE, WE'RE GOING TO PUT IT TO YOU AGAIN.

22 I ASK THAT YOU LISTEN TO IT. I' ASK THAT YOU
23 LISTEN TO ALL OF THE EVIDENCE, AND I ASK YOU TO LISTEN TO
24 THE JUDGE'S CHARGE BECAUSE HE'S GOING TO SAY THAT YOU ARE
25 TO CONSIDER MITIGATING CIRCUMSTANCES BEFORE YOU PLACE

1 ANYONE IN THE THROES OF DEATH.

2 MITIGATING CIRCUMSTANCES DO NOT HAVE TO BE
3 PROVED, THEY ONLY HAVE TO BE BROUGHT TO YOU AND THEY ARE
4 FOR YOUR CONSIDERATION. YOU CAN GIVE ANY SIGNIFICANCE TO
5 THEM THAT YOU WISH OR NO SIGNIFICANCE AT ALL. IT IS UP TO
6 YOU. IT IS UP TO YOU TO LISTEN AND TO EVALUATE AND THEN TO
7 DETERMINE WHAT YOUR SENTENCE WILL BE.

8 I AM HERE BEFORE YOU AND WILL BE HERE BEFORE YOU
9 CHANGED, AS THE SOLICITOR HAS SAID, IT BECOMES MORE OF A
10 JOB. I MEAN IT BECOMES MORE THAN A JOB, MORE THAN A JOB
11 WHEN YOU STAND HERE AND BEG FOR A YOUNG MAN'S LIFE. FOLKS,
12 THAT'S WHAT WE'RE DOING, THAT'S WHAT I'M DOING; THAT'S WHAT
13 MR. BOYD WILL BE DOING. IT'S MORE THAN A JOB AT THIS
14 POINT, LADIES AND GENTLEMEN, AND WE WILL ALL WALK OUT OF
15 HERE CHANGED.

16 I JUST ASK FOR YOU TO LISTEN TO OUR MITIGATING
17 CIRCUMSTANCES AND LISTEN TO THE CIRCUMSTANCES THE SOLICITOR
18 WILL PRESENT, EVALUATE IT AND THEN, AGAIN, ARRIVE AT A
19 VERDICT IN THIS CASE THAT SPEAKS THE TRUTH. AND IT CAN BE
20 ONLY ONE OF TWO, DEATH OR LIFE IN PRISON. IT'S YOUR
21 DECISION. I JUST ASK FOR YOUR TIME AND ATTENTION. THANK
22 YOU.

23 MR. BRACKETT: THE STATE CALLS LOU WYLIE.

24 THE COURT: ALL RIGHT. WHILE MS. WYLIE IS COMING
25 IN, LET ME JUST TELL YOU THIS. WE REPEATEDLY MENTIONED TO

1 YOU LAST WEEK THAT YOU ARE, AND I'LL REPEAT AGAIN, TO COME
2 INTO THIS PHASE WITH AN OPEN MIND.

3 I WILL TELL YOU THAT THE PARTIES HAVE STIPULATED
4 AND AGREED THAT THE EVIDENCE PRESENTED LAST WEEK IS
5 INCORPORATED INTO AND MAY BE CONSIDERED IN THIS PORTION OF
6 THE TRIAL RATHER THAN HAVE TO GO BACK AND RETRY TO WHOLE
7 CASE. WE HAVE PULLED INTO THIS PHASE ALL OF THE EVIDENCE
8 FROM THE LAST PHASE. IS THAT CORRECT?

9 MR. BRACKETT: YES, SIR, YOUR HONOR.

10 THE COURT: IS THAT CORRECT?

11 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

12 THE COURT: ALL RIGHT, MS. WYLIE, JUST COME ON UP
13 HERE AND BE SWORN PLEASE, MA'AM.

14 LOU FUNDERBURK WYLIE, BEING FIRST DULY SWORN,
15 TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY

17 MR. BRACKETT:

18 Q. MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME?

19 A. LOU FUNDERBURK WYLIE.

20 Q. AND WHAT DO YOU DO FOR A LIVING, MA'AM?

21 A. I TEACH AT GOLD HILL MIDDLE SCHOOL IN FORT MILL.

22 Q. WHAT DO YOU TEACH THERE?

23 A. I AM IN THE COMPUTER LAB AND I ALSO COACH THE
24 HIGH SCHOOL SWIM TEAM.

25 Q. HOW LONG HAVE YOU BEEN A TEACHER ALTOGETHER?

1 A. ALL TOGETHER 12 YEARS. I'VE BEEN IN FORT MILL
2 FOR FIVE, I WAS AT CATAWBA FIVE AND AT ANOTHER
3 SCHOOL FOR TWO.

4 Q. AT CATAWBA?

5 A. CATAWBA SCHOOL IN ROCK HILL.

6 Q. WHERE IS THAT LOCATED?

7 A. INDIA HOOK ROAD.

8 Q. DO YOU KNOW THE DEFENDANT SEATED OVER HERE,
9 JAMES ROBERTSON?

10 A. YES, I DO.

11 Q. HOW DO YOU KNOW HIM?

12 A. HE WAS A STUDENT AT CATAWBA WHEN I WAS EMPLOYED
13 THERE.

14 Q. DID YOU EVER KNOW HIS PARENTS?

15 A. YES, I DID.

16 Q. CAN YOU TELL THIS JURY -- LET ME ASK YOU THIS,
17 HOW DID YOU KNOW HIS PARENTS?

18 A. EARL WAS ON THE BOARD OF TRUSTEES AT CATAWBA;
19 TERRY HAD TAUGHT THERE PREVIOUSLY BUT SHE WAS
20 ONE OF THOSE MOTHERS THAT WAS ALWAYS THERE; SHE
21 WAS BRINGING THE COOKIES OR BRINGING THE JUICE;
22 VERY INVOLVED IN HER CHILDREN'S LIVES.
23 JIMMY PLAYED BASKETBALL; THEY WERE ALWAYS AT THE
24 BASKETBALL GAMES. YOU KNOW, VERY STAUNCH
25 SUPPORTERS OF THE SCHOOL AND OF THEIR CHILDREN.

1 Q. SO, YOU HAD AN OPPORTUNITY TO KNOW THEM?

2 A. RIGHT.

3 Q. HOW WOULD YOU DESCRIBE IF YOU WOULD FOR THE
4 JURY, WHAT KIND OF STUDENT SCHOLASTICALLY JIMMY
5 WAS.

6 A. HE WAS BRILLIANT; HE HAD A VERY HIGH I.Q. AND
7 WAS VERY, VERY SMART.

8 Q. AND HOW DID HE DO IN HIS CLASSES?

9 A. VERY WELL FOR THE MOST PART.

10 Q. NOW, AS FAR AS SOCIALLY IN THE SCHOOL, HOW DID
11 HE GET ALONG WITH THE OTHER KIDS?

12 A. HE NEVER HAD ANY MALE FRIENDS TO SPEAK OF; HE
13 WAS MOSTLY FRIENDS WITH THE GIRLS. HE ALWAYS
14 SAT AT A LUNCH TABLE WHERE THE GIRLS SAT, BUT
15 NEVER ANY CLOSE FRIENDS WITH ANY BOYS THAT WERE
16 THERE.

17 WITH THE TEACHERS AND THE ADMINISTRATORS, HE DID
18 NOT HAVE A VERY GOOD RELATIONSHIP BECAUSE HE WAS
19 THE KIND OF STUDENT THAT ALWAYS CHALLENGED
20 EVERYTHING IN THE CLASSROOM, OUT OF THE
21 CLASSROOM, ANYWHERE.

22 Q. OKAY, CAN YOU GIVE US ANY EXAMPLES OF THAT?
23 WHAT DO YOU MEAN BY CHALLENGE?

24 A. IF HE FELT LIKE A TEACHER WASN'T TEACHING THE
25 WAY HE WANTED IT TO BE TAUGHT, HE WOULD QUESTION

1 THAT AUTHORITY. HE WOULD QUESTION THEIR METHODS
2 AND THEIR MEANS OF TEACHING.

3 I REMEMBER ONE INCIDENT, I BELIEVE HE WAS IN THE
4 NINTH GRADE OR THE EIGHTH GRADE, HE WAS IN AN
5 ENGLISH CLASS AND HE PARTICULARLY DID NOT LIKE
6 THIS TEACHER AND HE HAD ALL YEAR JUST ---

7 MR. HANCOCK: YOUR HONOR, I AM GOING TO OBJECT TO
8 THAT. UNLESS SHE IS THE ENGLISH TEACHER, I DON'T THINK SHE
9 CAN TESTIFY TO THAT.

10 THE COURT: I SUSTAIN THE OBJECTION.

11 Q. WERE YOU PRESENT WHEN THE INCIDENT YOU'RE ABOUT
12 TO DESCRIBE OCCURRED?

13 A. YES, I WAS.

14 Q. DID YOU OBSERVE IT?

15 A. I OBSERVED HIM COMING INTO THE OFFICE, YES, SIR.

16 MR. BRACKETT: YOUR HONOR, I BELIEVE SHE CAN
17 TESTIFY TO WHAT SHE OBSERVED.

18 THE COURT: WELL, I AGREE WITH THAT. BUT SHE WAS
19 TALKING ABOUT SOME SORT OF A CONFLICT APPARENTLY OUTSIDE --
20 SHE WAS PARTICULARLY INVOLVED IN IT EXCEPT PERHAPS WITH
21 THIS.

22 MR. BRACKETT: YES, SIR, BUT I BELIEVE SHE CAN --
23 -

24 THE COURT: I'M GOING TO LET YOU GO FORWARD.

25 Q. DESCRIBE THE INCIDENT IF YOU WILL.

1 A. HE GOT PARTICULARLY UPSET WITH THE ENGLISH
2 TEACHER THIS ONE DAY AND WAS REAL ANGRY WITH HER
3 AND MARCHED INTO THE OFFICE, AND I WAS IN THE
4 OFFICE AREA, AND DEMANDED THAT THAT TEACHER BE
5 REMOVED FROM THE STAFF, THAT SHE COULDN'T TEACH
6 AND WAS HIGHLY AGITATED.

7 AND HE WENT ON AND ON ABOUT THAT SHE WASN'T
8 QUALIFIED TO TEACH AND SHE DIDN'T KNOW WHAT SHE
9 WAS DOING. AND JUST REALLY DEMANDED THAT SHE BE
10 FIRED.

11 Q. WAS THIS AN UNUSUAL CIRCUMSTANCE?

12 A. NO; NO, SIR.

13 Q. HOW ABOUT HIS OTHER GENERAL BEHAVIOR AS FAR AS
14 HIS CHARACTER IS CONCERNED; WHAT KIND OF THINGS
15 DID YOU OBSERVE ABOUT HIM?

16 A. HE WAS IN THE OFFICE A LOT IN TROUBLE. HE LIED
17 ABOUT ---

18 MR. BOYD: YOUR HONOR, I OBJECT TO THE RELEVANCE
19 OF THIS.

20 THE COURT: I SUSTAIN THE OBJECTION.

21 MR. BRACKETT: YOUR HONOR, THIS GOES TO THE
22 DEFENDANT'S CHARACTER.

23 THE COURT: I SUSTAIN -- WELL, LET THE JURY GO TO
24 THE JURY ROOM.

25 IN CAMERA:

1 THE COURT: MR. BRACKETT, YOU'RE GOING TO HAVE TO
2 MAKE A LITTLE BETTER SHOWING THAT THIS GOES TO SOME KIND OF
3 CHARACTER, THAT HE WAS DISRUPTIVE AT SCHOOL. I MEAN YOU'RE
4 GOING TO HAVE HIM GETTING KICKED OUT OF SUNDAY SCHOOL CLASS
5 OR SOMETHING IF YOU DON'T WATCH OUT.

6 MR. BRACKETT: SHE WAS ---

7 THE COURT: THE FACT THAT HE CHALLENGED
8 AUTHORITY, I MIGHT CAN SEE THAT AND THEY DIDN'T OBJECT TO
9 THAT. BUT THE FACT THAT HE WAS AN ORNERY STUDENT, I DON'T
10 KNOW THAT THAT GOES TO CHARACTER AS SUCH THAT IT OUGHT TO
11 BE CONSIDERED WHETHER SOMEONE OUGHT TO LIVE OR DIE.

12 MR. BRACKETT: YES, SIR. SHE WAS ABOUT TO
13 TESTIFY, I BELIEVE ---

14 THE COURT: YOU BETTER MAKE A PROFFER.

15 MR. BRACKETT: YES, SIR.

16 MR. POPE: MAY IT PLEASE THE COURT, MAY I ADDRESS
17 THE COURT BEFORE THE PROFFER?

18 THE COURT: UH HUH.

19 MR. POPE: YOUR HONOR, MAYBE WE NEED TO ADDRESS
20 THIS OVER LUNCH. THE ISSUE IS HIS CHARACTER AND THE CASE
21 LAW FROM THE U.S. SUPREME COURT ALL THE WAY DOWN, WHATEVER
22 HIS CHARACTER IS. I MEAN WE MIGHT PUT UP EVIDENCE THAT HE
23 WAS THE NICEST GUY THAT EVER LIVED. HIS CHARACTER,
24 WHATEVER HIS CHARACTER IS, GOOD, BAD, INDIFFERENT, IS
25 RELEVANT NOW. IT MAY NOT BE AS TO GUILT, BUT IT'S RELEVANT

1 NOW REGARDLESS.

2 AND WHAT DID YOU SAY, THE THING ABOUT GETTING
3 KICKED OUT OF SUNDAY SCHOOL? I SUBMIT THAT IF HE GETS
4 KICKED OUT OF SUNDAY SCHOOL, THEN IT'S RELEVANT EVIDENCE
5 FOR THIS JURY TO CONSIDER BECAUSE THEY ARE SUPPOSED TO
6 CONSIDER THE TOTALITY OF HIS CHARACTER, YOUR HONOR.

7 AGAIN, YOU KNOW, IF IT'S SOMETHING THAT WE NEED
8 TO ADDRESS DURING THE LUNCH BREAK, BECAUSE LITERALLY, I'LL
9 BE QUITE CANDID WITH YOU, THAT IS THE CRUX OF THE LAW AS
10 FAR AS THE STATE'S CASE, THE DEFENDANT'S CHARACTER.

11 THE COURT: I UNDERSTAND THAT AND IF IT'S
12 RELEVANT, YOU CAN CERTAINLY PUT IT IN. BUT JUST BECAUSE
13 IT'S A LARGE PART OF YOUR CASE DOESN'T MAKE IT ADMISSIBLE.

14 MR. POPE: I UNDERSTAND, YOUR HONOR, BUT THE
15 ADMISSIBILITY -- I JUST WANT TO MAKE SURE SO THAT WE DON'T
16 WASTE YOUR TIME, THE COURT'S TIME IF WE'RE PLAYING BY THE
17 RIGHT RULES -- HIS CHARACTER, BY VIRTUE OF IT BEING HIS
18 CHARACTER, IS ADMISSIBLE IN THIS PHASE OF THE CASE.

19 THE COURT: IF IT'S RELEVANT.

20 MR. POPE: RELEVANT? AND AGAIN I APOLOGIZE, YOUR
21 HONOR, I'M NOT TRYING TO BE ARGUMENTATIVE, BUT IT'S
22 RELEVANT BECAUSE IT'S HIS CHARACTER. AGAIN I'M NOT
23 UNDERSTANDING. RELEVANT TO WHAT? ARE WE AGAIN HAVING TO
24 MAKE SOME NEXUS TO THE CRIME?

25 THE COURT: YOU SHOW ME THE CASES OVER LUNCH AND

1 WE'LL SORT THAT OUT.

2 CONTINUED DIRECT IN CAMERA:

3 Q. MS. WYLIE, CALLING YOUR ATTENTION BACK TO THE
4 DEFENDANT'S BEHAVIOR AS YOU OBSERVED HIM AS A
5 STUDENT, YOU WERE ABOUT TO TELL THE JUDGE.

6 A. YOU ALWAYS HAVE STUDENTS THAT GET IN TROUBLE.
7 AND THERE ARE SOME THAT GET IN TROUBLE ONE TIME
8 AND THERE ARE SOME THAT GET IN TROUBLE
9 REPEATEDLY. AND JIMMY WAS THE TYPE OF STUDENT
10 THAT WAS IN TROUBLE REPEATEDLY.

11 IT WASN'T SO MUCH THE MAGNITUDE, YOU KNOW, I
12 DON'T KNOW HOW YOU JUDGE THAT, IT WAS JUST THAT
13 HE WAS ALWAYS IN TROUBLE. HE ALWAYS CHALLENGED
14 AUTHORITY; HE ALWAYS QUESTIONED THOSE PEOPLE
15 THAT, YOU KNOW, WERE TRYING TO LEAD AND GUIDE
16 HIM. HE QUESTIONED EVERY TEACHER WHETHER THEY
17 TAUGHT LATIN, MATH, ENGLISH, SCIENCE, WHATEVER.
18 HE CHALLENGED IT. HE WAS NOT THE TYPE THAT
19 WANTED TO LISTEN TO ANY KIND OF REASONING, YOU
20 KNOW, BEHIND THE ISSUE. HE ALWAYS THOUGHT HE WAS
21 RIGHT. AND PUSHED IT AND PUSHED IT AND PUSHED
22 IT.

23 Q. ASIDE FROM THOSE ISSUES, WERE THERE ANY OTHER
24 OBSERVATIONS ABOUT HIS CHARACTER, WHAT OTHER
25 KINDS OF THINGS?

1 A. I THINK THE THING THAT STANDS OUT THE MOST WAS
2 THAT THERE WERE TIMES WHEN HE COULD BE CRUEL TO
3 OTHER CHILDREN. AND I KNOW CHILDREN CAN BE
4 CRUEL. BUT IF YOU UNDERSTAND WHAT I MEAN BY
5 CRUEL, HE WAS CRUEL WITHOUT A REASON. HE WAS
6 JUST CRUEL; HE WAS JUST MEAN.

7 Q. AND AS FAR AS HIS HONESTY, HOW WOULD YOU
8 CLASSIFY THAT?

9 A. HE WAS NOT HONEST IN THE CLASSROOM, YOU KNOW, HE
10 CHEATED SEVERAL TIMES.

11 Q. IN YOUR DEALINGS WITH HIM WHEN HE WOULD TALK
12 WITH YOU, WAS HE HONEST WITH YOU?

13 A. NO.

14 MR. BRACKETT: YOUR HONOR, THAT WOULD BE THE
15 PROFFER.

16 THE COURT: DO Y'ALL HAVE ANY QUESTIONS?

17 MR. HANCOCK: I DON'T HAVE ANY QUESTIONS OF THIS
18 WITNESS, YOUR HONOR.

19 MR. BRACKETT: YOUR HONOR, I WOULD SUBMIT THAT
20 THOSE ARE ALL THINGS THAT DIRECTLY BEAR ON HIS CHARACTER;
21 IT'S ALL RELEVANT.

22 THE COURT: I NEED TO DO SOME MORE RESEARCH ON
23 THIS, I REALLY DO.

24 MR. BOYD: YOUR HONOR, IF I MAY BE HEARD BRIEFLY
25 ON THIS ALSO. YOUR HONOR, THE TESTIMONY PRESENTED, I

1 SUBMIT, DOESN'T EVEN GO -- WOULD NOT LISTEN TO REASON,
2 CRUEL TO OTHER CHILDREN. I MEAN IT'S NO EXPLANATION OF HOW
3 HE WAS CRUEL TO OTHER CHILDREN, ANYTHING OF THAT NATURE.
4 THAT HE CHEATED ON A TEST.

5 I MEAN WE'VE GOT THE RECORDS, THE RECORDS SAY HE
6 SUPPLIED THE TEST ANSWER TO ANOTHER STUDENT. I MEAN I
7 THINK THAT'S ABSURD TO PRESENT SOMETHING LIKE THAT IN A
8 DEATH PENALTY TRIAL. FRANKLY, I PROBABLY DID THAT IN HIGH
9 SCHOOL MYSELF.

10 THE COURT: WAS IT THE RIGHT ANSWER THAT YOU
11 GAVE?

12 MR. BOYD: PROBABLY NOT.

13 THE COURT: WE PROBABLY BETTER GO AHEAD AND BREAK
14 FOR LUNCH THEN. I MEAN, YOU KNOW, YOU'RE TALKING ABOUT
15 PUTTING IN CHALLENGING AUTHORITY. THERE WERE A BUNCH OF
16 GUYS DRESSED UP LIKE INDIANS AND THREW TEA OFF A SHIP IN
17 BOSTON HARBOR AND WE COUNT THEM AS HEROES.

18 MR. POPE: BUT THEY DIDN'T KILL THEIR PARENTS,
19 YOUR HONOR.

20 THE COURT: WELL, I KNOW, BUT YOU'RE SAYING
21 CHALLENGING AUTHORITY MEANS YOU'RE A BAD CHARACTER.

22 MR. POPE: WELL, THEY CAN SAY, NO, THAT MEANS
23 HE'S A GOOD GUY, BUT IT'S EVIDENCE OF HIS CHARACTER, YOUR
24 HONOR.

25 THE COURT: WE'RE GOING TO LOOK AT IT OVER LUNCH.

1 SO, WE BETTER GO AHEAD AND BREAK FOR LUNCH. I'M GOING TO
2 LET YOU STEP DOWN. BRING THE JURY IN, I WANT TO TELL THEM
3 THAT WE ARE BREAKING FOR LUNCH.

4 IN THE PRESENCE OF THE JURY:

5 THE COURT: WE'VE GOT SOME LEGAL MATTERS TO TAKE
6 UP AND I THINK THAT WILL TAKE US INTO LUNCH, SO WE ARE
7 GOING TO GO AHEAD AND TAKE OUR LUNCH BREAK. AND I'M JUST
8 GOING TO ASK YOU -- WE'LL TAKE AT LEAST AN HOUR FOR LUNCH.
9 WE'VE STILL GOT SOME WORK TO DO. SO, WE WILL SEND FOR YOU
10 AS SOON AS WE CAN.

11 IN CAMERA:

12 THE COURT: MR. POPE, IF YOU WILL HAND ME ALL THE
13 CASES YOU HAVE AND THE DEFENSE WILL HAND ME ALL THEY HAVE,
14 I WILL SPEND MY LUNCH HOUR IN MY OFFICE.

15 MR. POPE: I'LL GO GET THEM, YOUR HONOR.

16 THE COURT: ALL RIGHT, WE WILL BE AT EASE THEN AT
17 LEAST UNTIL 1:30, AND IT MAY BE A LITTLE LATER THAN THAT.
18 AFTER THE LUNCHEON RECESS IN CAMERA:

19 THE COURT: ANYTHING ELSE FROM THE STATE?

20 MR. BRACKETT: MAY IT PLEASE THE COURT, YOUR
21 HONOR, WE HANDED UP TO YOU OVER THE BREAK THERE WOODSON
22 VERSUS NORTH CAROLINA, STATE V. STEWART, AND STATE V.
23 TUCKER ON THE ISSUE OF ADMISSIBILITY OF CHARACTER EVIDENCE
24 IN THIS CASE.

25 I WOULD JUST LIKE TO READ FROM WOODSON VERSUS

1 NORTH CAROLINA ---

2 THE COURT: TELL ME WHAT PAGE YOU'RE ON AND LET
3 ME GET IT.

4 MR. BRACKETT: PAGE 2991 OF THAT OPINION.

5 THE COURT: I'VE GOT IT.

6 MR. BRACKETT: THIS IS CITED TO WOODSON VERSUS
7 NORTH CAROLINA, IT'S CITED, TOO, IN -- AS YOUR HONOR KNOWS,
8 IN OUR LIBRARY WE CAN'T SHEPARDIZE CASES FROM THE U.S.
9 SUPREME COURT, BUT IT WAS CITED, SUBSTANTIALLY THE SAME
10 LANGUAGE IN STATE VERSUS JAMES NEAL TUCKER, SOUTH CAROLINA
11 SUPREME COURT CASE, IT WAS 1996. I ASSUME THE SUPREME
12 COURT WOULD SHEPARDIZE THEIR CASES BEFORE THEY CITE THEM.

13 ESSENTIALLY, YOUR HONOR, THE SUPREME COURT SAID
14 UNDER HEADNOTE 9: "THIS COURT HAS PREVIOUSLY RECOGNIZED
15 THAT IN THE DETERMINATION OF SENTENCES JUSTICE GENERALLY
16 REQUIRES THE CONSIDERATION OF MORE THAN THE PARTICULAR ACTS
17 BY WHICH THE CRIME WAS COMMITTED AND THAT THERE BE TAKEN
18 INTO ACCOUNT THE CIRCUMSTANCES OF THE OFFENSE, TOGETHER
19 WITH THE CHARACTER AND THE PROPENSITIES OF THE OFFENDER".

20 AND THAT'S CITED NUMEROUS PLACES, UNDER HEADNOTE
21 7, 8, 9; THE EIGHTH AMENDMENT REQUIRES CONSIDERATION OF THE
22 CHARACTER AND THE RECORD OF THE INDIVIDUAL OFFENDER AND THE
23 CIRCUMSTANCES OF THE PARTICULAR OFFENSES ARE
24 CONSTITUTIONALLY AN INDISPENSABLE PART OF THE PROCESS OF
25 INFLECTING THE PENALTY OF DEATH.

1 YOUR HONOR, AGAIN, THAT'S CITED IN THE 1996
2 OPINION. WE BELIEVE THAT IN CAPITAL CASES THE EIGHTH
3 AMENDMENT REQUIRES CONSIDERATION OF THE CHARACTER AND
4 RECORD.

5 IN TUCKER, RECORD IS EMPHASIZED BY THE SUPREME
6 COURT BECAUSE IN THAT CASE THEY WERE SPECIFICALLY DEALING
7 WITH THE PRIOR RECORD OF THE OFFENDER. HOWEVER, THEY DO
8 SAY THE CHARACTER AND THE RECORD.

9 YOUR HONOR, THESE CRIMES DON'T OCCUR IN A VACUUM
10 AND I THINK IT WOULD BE ASKING TOO MUCH OF THIS JURY TO
11 CONSIDER WHICH SENTENCE TO IMPOSE ON THIS INDIVIDUAL RIGHT
12 HERE IF WE JUST FOCUS ON JUST THIS CRIME AND NOTHING ELSE.
13 THEY NEED TO UNDERSTAND WHO COMMITTED THE CRIME, WHERE HE
14 CAME FROM AND WHAT THE CIRCUMSTANCES WERE LEADING UP TO IT.
15 THEY CAN'T CONSIDER JUST THE CRIME IN A VACUUM AND
16 ACCURATELY DETERMINE THE PROPER SENTENCE.

17 THE COURT: WHAT CASE GOES INTO MISBEHAVING IN
18 SCHOOL OR BEING KICKED OUT OF SUNDAY SCHOOL. WHICH CASE
19 GOES INTO THAT?

20 MR. BRACKETT: I HAVE NO CASE THAT SPECIFICALLY
21 SAYS THAT; THEY JUST TALK ABOUT THE CHARACTER. THEY DON'T
22 GIVE SPECIFIC INSTANCES OF WHAT TYPES OF CHARACTER.
23 HOWEVER, I WOULD SUBMIT THAT ALL OF THIS GOES TO HIS
24 CHARACTER.

25 THE COURT: LET ME HEAR FROM THE DEFENSE.

1 MR. HANCOCK: YOUR HONOR, I'M READING FROM
2 WOODSON V. NORTH CAROLINA. THAT WAS A CASE ---

3 THE COURT: I'VE GOT IT.

4 MR. HANCOCK: NORTH CAROLINA WAS INSTRUCTED BY
5 THE COURT THAT IT'S DEATH PENALTY STATUTE WAS NOT FAIR IN
6 ADMITTING CERTAIN RELEVANT, AND I WILL READ FROM PAGE 2991
7 DOWN THE LEFT COLUMN, IT SAYS 304 AND ABOUT THREE LINES
8 DOWN.

9 IT SAYS "A PROCESS OF THE COURT IS NO
10 SIGNIFICANCE TO RELEVANT FACETS OF THE CHARACTER AND RECORD
11 OF THE INDIVIDUAL OFFENDER OR THE CIRCUMSTANCES OF THE
12 PARTICULAR OFFENSE EXCLUDES FROM CONSIDERATION IN FIXING
13 THE ULTIMATE PUNISHMENT OF DEATH THE POSSIBILITY OF
14 COMPASSION OR MITIGATING FACTORS".

15 THIS IS A CASE IN WHICH THEY WERE SAYING YOU HAVE
16 TO BE ALLOWED TO PUT THE CHARACTER IN THERE IN MITIGATION
17 BECAUSE IT WAS NOT BEING ALLOWED. PLUS, FROM YOUR RULINGS,
18 YOUR HONOR, YOU HAVE GONE THROUGH THE GEORGE CASE AND OTHER
19 CASES AND I BELIEVE THAT THERE IS A HOWARD CASE, A SKIPPER
20 CASE AND ALL THOSE HAVE CRIMES IN THEM THAT WERE ADMITTED
21 INTO EVIDENCE THAT WERE RELEVANT TO THE CRIME THAT WAS
22 COMMITTED.

23 AND I DO POINT OUT HERE IT SAYS "A PROCESS OF THE
24 COURT, NO SIGNIFICANCE TO RELEVANT FACETS". AND WE HAVE
25 ARGUED, YOUR HONOR, AND IT HAS BEEN ARGUED THAT WHAT THEY

1 ARE TRYING TO PLACE INTO EVIDENCE HAS NO RELEVANCY. SO,
2 ALL THESE CASES SPEAK TO RELEVANCY.

3 AND WE STILL ARGUE, YOUR HONOR, THAT THE FACT
4 THAT HE MAY HAVE CHEWED BUBBLE GUM IN CLASS HAS NO
5 RELEVANCE TO THE CRIME OF MURDER.

6 MR. BRACKETT: JUST A BRIEF RESPONSE, YOUR HONOR.
7 THE DEFENSE IS ARGUING THAT THEY SHOULD ONLY HEAR THE GOOD
8 THINGS ABOUT THE DEFENDANT? THAT THIS JURY SHOULD ONLY
9 HEAR HALF THE STORY? THAT THEY ARE ALLOWED TO PUT IN
10 PURSUANT TO THIS CASE EVERY GOOD THING HE HAS EVER DONE,
11 BUT THE STATE CAN'T RESPOND? SURELY THAT CAN'T BE THE LAW
12 IN THIS COUNTRY.

13 THE COURT: WELL, I DON'T FIND CASES THAT GO
14 QUITE AS FAR AS THE STATE WISHES TO GO. I ANALYZE IT AS
15 FOLLOWS: STARTING IN 1976 WITH WOODSON VERSUS NORTH
16 CAROLINA, IT DOES STATE THAT IT ALLOWED RELEVANT ASPECTS OF
17 THE CHARACTER AND THE RECORD OF EACH CONVICTED DEFENDANT.
18 IT SAYS PROCESS MUST GIVE SIGNIFICANCE TO THE RELEVANT
19 FACETS OF THE CHARACTER AND RECORD OF THE INDIVIDUAL
20 OFFENDER.

21 AND LATER IT SPEAKS OF THE CHARACTERISTICS AND
22 PROPENSITIES OF THE OFFENDER.

23 IT DOES ALSO HAVE THE LANGUAGE CITED BY MR.
24 HANCOCK BECAUSE WE WERE DEALING WITH A STATUTE THAT
25 APPARENTLY DID NOT ALLOW THAT.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN COURT OF GENERAL SESSIONS

THE STATE,)
PLAINTIFF,)

INDICTMENT NOS. 98-GS-46-1020
1021, 1022, 1023

VS.)

JAMES DEJARNETTE)
ROBERTSON,)
DEFENDANT.)

TRANSCRIPT OF TRIAL AND
PRE-TRIAL MOTIONS (7-17-98,
9-22-98, 9-25-98, 11-2-98,
AND 12-4-98)
MARCH 15, 1999
YORK, SOUTH CAROLINA

VOLUME IX

1 1984, STEWART VERSUS SOUTH CAROLINA, ALLOWED PAST
2 BEHAVIOR IN PRISON AS RELEVANT BECAUSE IT STATED THAT
3 PRISON CONDUCT DID BEAR ON THE DEFENDANT'S CHARACTER.

4 GASKINS DEALS WITH THE THEFT OF A BOAT, MOTOR AND
5 TRAILER AND IN THE CONTEXT OF THAT CASE IT WAS ALLOWED AND
6 I WOULD SUBMIT THAT THAT DOES NOT GO AS FAR AS THE
7 CHARACTER EVIDENCE SOUGHT TO BE INTRODUCED HERE. AND I
8 THINK IT'S IN FURTHER ENLIGHTENMENT IN LATER CASES. YOU
9 CAN'T PICK OUT ONE CASE AND DETERMINE.

10 MIDDLETON, A 1988 SOUTH CAROLINA CASE, IN THAT
11 THE DEFENDANT HAD IN HIS CONFESSION CONFESSED TO OTHER
12 CRIMES OF ASSAULT, MURDER AND RAPE AND HE WAS ON TRIAL FOR
13 MURDER, CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE AND
14 ARMED ROBBERY. OBVIOUSLY WHAT HE CONFESSED TO WAS
15 RELEVANT.

16 WHIPPLE, SOUTH CAROLINA 1996, DISCIPLINARY
17 RECORDS WERE, AND THEY USED THE TERM RELEVANT TO WHIPPLE'S
18 FUTURE ADAPTABILITY IN PRISON. A MATTER CLEARLY, THE CASE
19 SAYS, PROPER FOR A SENTENCING JURY TO CONSIDER.

20 TUCKER, SOUTH CAROLINA CASE 1996, THE DEFENDANT
21 ARGUED ONLY RELEVANT CRIMES ADMISSIBLE AND THE COURT
22 DISAGREED AS TO PRIORS OF RAPE AND ESCAPE, NEITHER OF WHICH
23 WAS AT ISSUE IN THAT CONVICTION.

24 IN CITING STATE VERSUS JACKSON WHICH WAS A 1992
25 CASE THE COURT SAID EVIDENCE OF -- THIS IS A LOUISIANA CASE

1 BEING CITED BY THE SOUTH CAROLINA CASE -- EVIDENCE OF
2 SERIOUS UNRELATED CRIMES IS EXTREMELY PROBATIVE OF AND
3 RELEVANT TO THE CHARACTER AND PROPENSITIES OF THE DEFENDANT
4 AND MAY BE USEFUL FOR THE JURY TO EVALUATE IN PERFORMING
5 ITS AWESOME TASK OF DECIDING WHETHER OR NOT TO RECOMMEND
6 EXECUTION. PRIOR RECORDS IN THAT CASE SHOW, QUOTE,
7 EXTREMELY VIOLENT NATURE AND FUTURE DANGEROUSNESS, END
8 QUOTE. ESCAPE WAS ALLOWED BECAUSE IT WAS RELEVANT TO
9 ADAPTABILITY AND ABILITY TO BE REHABILITATED.

10 STATE VERSUS GEORGE, A 1996 SOUTH CAROLINA CASE,
11 SANCTIONED THE ADMISSIONS OF EVIDENCE OF SIMILAR CRIMES
12 BECAUSE SUCH INDICATED THE DEFENDANT'S INDIVIDUAL
13 CHARACTERISTICS AND PREDISPOSITION TO COMMIT SIMILAR
14 CRIMES. JUDGE COTTINGHAM, AND I EARLIER SAID JUDGE CLARY,
15 I WAS WRONG, CHARGED THE JURY THAT THEY MAY CONSIDER AS TO
16 OTHER ALLEGED OFFENSES ONLY IN THE CONTEXT OF THE
17 DEFENDANT'S CHARACTERISTICS AS IT BEARS LOGICAL REFERENCE
18 TO THE CRIMES FOR WHICH HE IS BEING CHARGED. IN THERE THE
19 COURT CITED STATE VERSUS GREEN AND STATE VERSUS STEWART AND
20 SAYS THE JUDGE MUST LIMIT THE JURY'S CONSIDERATIONS TO
21 CHARACTERISTICS AS THEY MAY BEAR LOGICAL RELEVANCE TO THE
22 CRIME AT ISSUE.

23 THUS IT BECOMES CLEAR TO ME AS THE TRIAL JUDGE
24 THAT I MUST MAKE A THRESHOLD DETERMINATION AS TO WHICH
25 CHARACTERISTICS BEAR LOGICAL RELEVANCE TO THE CRIME FOR

1 WHICH THE PENALTY IS SOUGHT.

2 AS TO STALKING, WHICH WE HAVE ALREADY GONE OVER,
3 I FIND IT IS A MISDEMEANOR THAT CARRIES ONLY ONE YEAR. AT
4 BEST THE FACTS, AS I'VE HEARD THEM, I DO NOT FIND THAT IS
5 A CRIME, THE SERIOUSNESS OF WHICH TO ALLOW IT, AND I'VE
6 ALREADY RULED ON THAT.

7 AS TO THE SHILAND HILLS MATTER, IT WAS MY
8 DETERMINATION THAT THE EVIDENCE JUST WAS NOT SUFFICIENT.

9 I HAVEN'T HEARD ABOUT THE WOODS BREAK-IN; I DON'T
10 BELIEVE I'VE RULED ON THAT YET.

11 AS TO MISBEHAVIOR IN SCHOOL AS PROFFERED, I'LL
12 CERTAINLY ALLOW A FURTHER PROFFER, BUT I'M GOING TO RULE
13 THAT INADMISSIBLE.

14 MR. BRACKETT: THANK YOU, YOUR HONOR.

15 THE COURT: ARE YOU READY TO GO FORWARD?

16 MR. BRACKETT: WELL, YOUR HONOR, I WOULD LIKE TO
17 MAKE SURE THAT WE DON'T HAVE ANY MISHAPS WITH THE FUTURE
18 WITNESSES AND I WOULD LIKE TO DISCUSS WITH THEM THE
19 RAMIFICATIONS OF YOUR RULING SO THAT I DON'T HAVE THEM UP
20 ON THE STAND AND SOMETHING SLIP OUT THAT CONTRADICTS WHAT
21 THE COURT JUST ORDERED US NOT TO DO.

22 AND WE HAD PREPARED OUR CASE WITH THE
23 UNDERSTANDING THAT WE WOULD BE ABLE TO GET INTO CHARACTER
24 TYPE ISSUES; HOWEVER, A NUMBER OF THEM ARE PREPARED TO
25 TESTIFY REGARDING THINGS THAT YOUR HONOR WOULD NOT ALLOW

1 IN, SO I NEED TO MAKE SURE THAT THEY DON'T MAKE THE MISTAKE
2 OF SAYING SOMETHING AND RINGING THE BELL, AS IT WERE.

3 SO, I'LL NEED TO SPEAK WITH THEM. AND THE NEXT
4 MATTER THAT WE WOULD GET INTO WOULD BE THE WILLIAM WOOD
5 BURGLARY, THE BURGLARY OF HIS NEIGHBOR'S HOME. WE HAVE
6 SEVERAL WITNESSES WHO ARE HERE TO TESTIFY TO THAT. AND, OF
7 COURSE, YOUR HONOR, WE SUBMIT THAT THAT'S ADMISSIBLE
8 CLEARLY BECAUSE HE WAS CONVICTED OF THAT.

9 THE COURT: WHAT DO YOU SAY ABOUT THAT? DO WE
10 HAVE TO HAVE A PROFFER ON THAT OR DOES THE DEFENSE CONCEDE
11 THAT UNDER MY ANALYSIS AND UNDER ALL OF THESE CASES WHERE
12 IT TALKS ABOUT SIMILAR CRIMES -- I KNOW THIS WASN'T A
13 BREAK-IN BUT IT CERTAINLY WAS A THEFT, AND ALSO IT TALKS
14 ABOUT SERIOUS -- SIMILAR AND SERIOUS, AND THE NATURE OF A
15 BURGLARY, OF COURSE IT WAS IN A DWELLING BUT I DON'T KNOW
16 WHETHER IT WAS IN THE NIGHTTIME, BUT IN ANY EVENT THAT
17 CERTAINLY IS A SERIOUS CRIME AND UNDER CERTAIN
18 CIRCUMSTANCES IT COULD EVEN BE A VIOLENT CRIME.

19 MR. BOYD: YOUR HONOR, I BELIEVE THE RECORD CAN
20 COME IN BUT THE DETAILS OF IT, THAT'S ANOTHER STORY. IT
21 MAY BE DETAILS THAT WOULD NOT BE ADMISSIBLE. I THINK THE
22 CASES ARE CLEAR THAT A CRIMINAL RECORD CAN COME IN IN A
23 CASE LIKE THIS, BUT THE DETAILS OF IT ITSELF, THERE MAY BE
24 A PROBLEM WITH.

25 THE COURT: WELL, THE CASES DO SEEM TO TALK ABOUT

1 CONVICTIONS.

2 MR. POPE: YOUR HONOR, THE NATURE OF THE CRIME,
3 AND, OF COURSE, HE PLED GUILTY TO IT, WE'VE GOT TRUE COPIES
4 OF THAT, BUT THE NATURE OF THE CRIME, ALSO THE CONFESSION
5 OF THE CRIME AND THE CONFESSION THAT WE HAD A DENNO HEARING
6 ON BEAR DIRECTLY TO THE ELEMENTS OF THE CRIME HERE AT HAND
7 ALSO.

8 SO, I WANT TO MAKE SURE AGAIN, WHAT THE NATURE IS
9 THAT WE CAN GO IN OR NOT GO INTO. HE'S BEEN INVESTIGATED,
10 HE PLED GUILTY TO IT. AGAIN, MAYBE WE NEED MORE
11 INSTRUCTIONS BECAUSE THE ARRESTING OFFICER IS GOING TO TALK
12 ABOUT THE Demeanor AND, YOU KNOW, HOW THEY CAME UPON THE
13 CASE, HOW THEY ARRESTED HIM, WHAT TOOK PLACE THEN. WE'VE
14 GOT THE CONFESSION OF THE MATTER AS WELL AS THE INDICTMENTS
15 AND SENTENCING SHEET.

16 THE COURT: YOU BETTER MAKE A PROFFER. I THOUGHT
17 I RULED THAT THE CONFESSION HAD BEEN OBTAINED VOLUNTARILY
18 AND THE CONVICTION CERTAINLY CAN COME IN AND IN QUITE A FEW
19 OF THESE CASES CONFESSIONS HAVE BEEN ALLOWED. SO, I DON'T
20 SEE ANY PROBLEM WITH THOSE TWO ITEMS COMING IN. WHAT
21 FURTHER DO YOU WANT TO DO?

22 MR. POPE: YOUR HONOR, JUST THE UNDERLYING NATURE
23 OF HOW HE WAS ARRESTED. AGAIN, I'M TRYING TO ---

24 THE COURT: YOU NEED TO MAKE ANOTHER PROFFER. I
25 KNOW WE'RE SPENDING A LOT OF TIME, BUT THE NATURE OF BEING

1 ARRESTED, THAT JUST ---

2 MR. POPE: YES, SIR, WE MIGHT AS WELL PROFFER THE
3 WHOLE THING.

4 THE COURT: OKAY.

5 MR. BOYD: YOUR HONOR, BACK TO THE OTHER ISSUE,
6 WHEN THE JURY DOES COME BACK, I THINK THE LAST THING MS.
7 WYLIE SAID WAS THAT HE WAS LYING IN SCHOOL, I WOULD ASK THE
8 COURT FOR AN INSTRUCTION TO THE JURY TO DISREGARD THAT
9 TESTIMONY SINCE IT HAS BEEN RULED INADMISSIBLE AND THERE
10 WAS AN OBJECTION.

11 THE COURT: YOU WANT A CURATIVE INSTRUCTION AS
12 TO, QUOTE, LYING IN SCHOOL?

13 MR. BOYD: YES, SIR.

14 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
15 ONCE THE STATE RESTS AND THE DEFENSE CHOOSES TO PUT UP ANY
16 EVIDENCE IF THEY CHOOSE TO, WHEN THEY GET INTO MENTAL
17 ISSUES AND OTHER ISSUES AND THEY BRING HIS CHARACTER IN, AT
18 THAT POINT IS THEN CHARACTER EVIDENCE RELEVANT?

19 THE COURT: IT MAY BE BUT I CAN'T PRESUPPOSE
20 THAT. BUT IF THEY, QUOTE, OPEN THE DOOR AS WE ATTORNEYS
21 AND JUDGES LIKE TO SAY, IF THEY MAKE IT AN ISSUE -- I THINK
22 IF THEY TRY TO, AND I CAN'T PRESUPPOSE WHAT THEY ARE GOING
23 TO TRY TO DO, SO I BETTER HUSH. I'M NOT GOING TO RULE ON
24 THAT.

25 MR. BRACKETT: MR. WOOD, IF YOU WILL PLEASE, SIR,

1 COME UP AND BE SWORN. YOUR HONOR, FOR THE RECORD, THE
2 STATE IS CALLING WILLIAM WOOD.

3 WILLIAM WOOD, BEING FIRST DULY SWORN, TESTIFIED
4 AS FOLLOWS:

5 DIRECT EXAMINATION BY

6 MR. POPE:

7 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME FOR
8 THE COURT REPORTER?

9 A. WILLIAM WOOD, LAST NAME W-O-O-D.

10 Q. AND, SIR, CAN YOU TELL THE COURT WHERE YOU LIVE?

11 A. 2482 WESTMINSTER DRIVE.

12 Q. HOW LONG HAVE YOU LIVED THERE?

13 A. NINE YEARS; IT WILL BE NINE YEARS IN APRIL.

14 Q. OKAY, SIR, AND WHAT DO YOU DO FOR A LIVING?

15 A. I'M RETIRED.

16 Q. DO YOU LIVE THERE EXCLUSIVELY?

17 A. NO, WE HAVE ANOTHER HOUSE AT THE BEACH.

18 Q. WHERE DO YOU SPEND MOST OF YOUR TIME?

19 A. ABOUT HALF AND HALF.

20 Q. DO YOU KNOW THE DEFENDANT SEATED HERE, JAMES
21 ROBERTSON?

22 A. YES, I DO.

23 Q. HOW DO YOU KNOW HIM?

24 A. HE'S MY NEIGHBOR, AND ALSO HE WAS THE ONE WHO
25 WAS CONVICTED OF ROBBING MY HOUSE THREE YEARS

1 AGO.

2 Q. ALL RIGHT, SIR. TURNING YOUR ATTENTION TO THAT,
3 WHERE WERE YOU LIVING AT THE MIDDLE TO THE END
4 OF JULY, 1996?

5 A. WE WERE AT THE BEACH.

6 Q. AND HOW LONG HAD YOU BEEN GONE?

7 A. PROBABLY TWO AND A HALF, MAYBE THREE WEEKS.

8 Q. WAS ANYONE LIVING AT YOUR HOUSE AT THAT TIME?

9 A. NO.

10 Q. HAD YOU GIVEN PERMISSION FOR ANYONE TO GO IN
11 YOUR HOUSE?

12 A. NO.

13 Q. HAVE YOU EVER GIVEN PERMISSION FOR THIS
14 DEFENDANT TO GO IN YOUR HOUSE?

15 A. ON ONE OCCASION HE ASKED TO BORROW A TIRE PUMP
16 AND I LET HIM GO INTO THE STORAGE AREA TO GET
17 IT.

18 Q. YES SIR, BUT WHILE YOU WERE GONE TO MYRTLE BEACH
19 DID YOU GIVE ANYBODY PERMISSION TO GO INTO YOUR
20 HOME?

21 A. NO.

22 Q. SO, YOU WERE IN MYRTLE BEACH AT THE END OF JULY,
23 1996?

24 A. RIGHT.

25 Q. CAN YOU DESCRIBE -- YOU SAID THAT HE WAS THE ONE

1 THAT BURGLARIZED YOUR HOUSE. CAN YOU TELL THE
2 JUDGE SOMETHING ABOUT WHAT HAPPENED AROUND THAT
3 TIME?

4 A. WELL, WE WERE AT THE BEACH AND AT 10:30, IT WAS
5 A SATURDAY NIGHT, WE GOT A PHONE CALL FROM THE
6 CITY POLICE SAYING THAT THEY HAD MY SON, WILLIAM
7 WOOD, JR., IN CUSTODY AND I SAID I DON'T HAVE A
8 SON WILLIAM WOOD, JR. AND THEY SAID, WELL, WE
9 HAVE HIM HERE. THEY HAD HIM IN THE CONVENIENCE
10 STORE OR AS A RESULT OF THE CONVENIENCE STORE
11 VISIT. AND CAN YOU DESCRIBE -- NO, THEY DIDN'T
12 SAY THAT. THEY SAID, YOU DON'T HAVE A SON? AND
13 SAID, I HAVE A SON BUT NOT NAMED WILLIAM, JR.
14 AND I SAID MY SONS ARE OUT OF STATE, SO THERE
15 WAS NO WAY THAT HE COULD FIT IN.

16 Q. DO YOU HAVE A SON NAMED WILLIAM WOOD?

17 A. NO. DAVID AND JEFFERY AND MICHAEL.

18 Q. WITHOUT GETTING INTO THE SUBSTANCE OF THE
19 CONVERSATION BECAUSE YOU'RE NOT REALLY ALLOWED
20 TO SAY WHAT OTHER PEOPLE TOLD YOU, WHAT DID YOU
21 DO AS A RESULT OF THE TELEPHONE CALL YOU GOT?

22 A. CAME BACK TO ROCK HILL IMMEDIATELY.

23 Q. AND WHERE DID YOU GO WHEN YOU GOT BACK TO ROCK
24 HILL?

25 A. INTO THE HOUSE BECAUSE IT WAS AROUND 2:30 IN THE

1 MORNING.

2 Q. WHAT CONDITION DID YOU FIND YOUR HOUSE IN?

3 A. TOTALLY RANSACKED, ALL THE DRAWERS OPEN, BUT NO
4 DAMAGE PER SE EXCEPT THE DRAWERS WERE ALL OPEN
5 AND IT WAS OBVIOUS THINGS WERE MISSING.

6 Q. OKAY, WHAT KIND OF THINGS WERE MISSING, SIR?

7 A. WE NOTICED THE TELEVISION SET WAS MISSING RIGHT
8 ON THE SPOT. AND WE NOTICED A V.C.R. WAS
9 MISSING AND THEN IT WAS 3:00 O'CLOCK IN THE
10 MORNING BY THAT TIME AND MY WIFE AND I SAID
11 THERE'S NOTHING WE CAN DO TONIGHT, SO WE WENT TO
12 BED.

13 SHE COULDN'T SLEEP AND SHE GOT UP, SHE SAID I'M
14 GOING TO MAKE A PHONE CALL. SHE GOT UP TO MAKE
15 THE PHONE CALL AND FOUND THE PHONE AND THE
16 ANSWERING MACHINE HAD DISAPPEARED.

17 Q. WERE YOU ABLE TO EVENTUALLY ABLE TO INVENTORY
18 YOUR HOUSE?

19 A. YES.

20 Q. AND WERE YOU ABLE TO DETERMINE APPROXIMATELY HOW
21 MUCH, HOW MANY THINGS WERE MISSING?

22 A. YES. THERE WAS 63 ITEMS STOLEN OVER A TWO WEEK
23 PERIOD; THE VALUE WAS IN EXCESS OF FIFTEEN
24 THOUSAND DOLLARS.

25 Q. OKAY, SIR. WERE ALL THE ITEMS PERSONAL

1 PROPERTY? COULD YOU DESCRIBE WHAT ALL WAS
2 STOLEN?

3 A. WELL, A CAMCORDER WITH TWO OF MY GRANDSON'S
4 VIDEO TAPE IN IT.

5 Q. OKAY.

6 A. THERE WAS VARIOUS AMOUNTS OF JEWELRY, SOME OF
7 THEM WERE HEIRLOOMS FROM MY MOTHER AND MY WIFE'S
8 MOTHER.

9 Q. OKAY.

10 A. A TELEVISION SET AND THE CAR.

11 Q. OKAY.

12 A. A TOYOTA CAR THAT WAS IN THE GARAGE BECAUSE IT'S
13 MY WIFE'S CAR AND, OF COURSE, WE WEREN'T THERE.

14 Q. OKAY. HAD YOU EVER AUTHORIZED ANYBODY TO DRIVE
15 THAT CAR WHEN YOU WERE GONE?

16 A. NO.

17 Q. ALL RIGHT, SIR. BESIDES FROM PERSONAL PROPERTY,
18 INDIVIDUAL THINGS LIKE CAMCORDERS, WERE ANY
19 OTHER ITEMS INVOLVING CASH MISSING?

20 A. YEAH, CREDIT CARDS WERE MISSING AS WERE THREE
21 BOXES OF BLANK CHECKS.

22 Q. ALL RIGHT, SIR. WERE YOU ABLE TO DISCOVER WHAT,
23 IF ANYTHING, HAD HAPPENED WITH THOSE?

24 A. NOT AT THAT TIME. EVENTUALLY WE DID, YES.

25 Q. COULD YOU STATE TO THE COURT WHAT THE

1 CIRCUMSTANCES OF THOSE WERE?

2 A. OKAY, ON THE CREDIT CARD -- THE CREDIT CARD WAS
3 USED IN SEARS OVER A TWO DAY PERIOD THE SATURDAY
4 BEFORE IT WAS DISCOVERED AND THEY BOUGHT IN
5 EXCESS OF EIGHT THOUSAND -- NINE THOUSAND
6 DOLLARS WORTH OF VIDEO EQUIPMENT, TIRES, SPEED
7 RADAR, NUMBERS OF THEM, NOT ONE OR TWO BUT
8 THREE, FOUR SIX IN SOME CASES.

9 Q. ALL RIGHT, SIR. THAT WAS AT SEARS?

10 A. THAT WAS AT SEARS, TWO DIFFERENT STORES; ONE IN
11 NORTH CAROLINA AND ONE AT THE MALL.

12 Q. HOW ABOUT THE OTHER CREDIT CARDS OR THE CHECKS,
13 WERE ANY OF THOSE USED?

14 A. YEAH, THERE WERE AT LEAST THREE, AS I RECALL,
15 THREE CHECKS USED WITH MY NAME FORGED ON THEM.
16 ONE WAS FOR FLOWERS THAT WERE BOUGHT FOR A
17 GIRLFRIEND THE FIRST SATURDAY THAT THE FLORIST
18 DISCOVERED. ANOTHER WAS -- OH, A PAIR OF
19 SNEAKERS THAT HE BOUGHT AT FOOTLOCKER, AND
20 TEXACO, HE HAD FOUR HUNDRED AND SOME-ODD DOLLARS
21 CHARGED TO TEXACO FOR SOME REPAIRS.

22 Q. ALL RIGHT, SIR. DID YOU EVER GET ANY OF YOUR
23 PROPERTY BACK?

24 A. VERY FEW, A FEW ITEMS. A DAMAGED DRILL, AN OLD
25 ELECTRIC TYPEWRITER AND A FEW PIECES OF CUSTOM

1 JEWELRY.

2 Q. HOW ABOUT THE CAR?

3 A. OH, THE CAR. I'M SORRY, THE CAR DID COME BACK.

4 Q. DID YOU EVER DETERMINE HOW HE GOT INTO YOUR
5 HOUSE?

6 A. YES, AFTER THE FACT.

7 Q. OKAY.

8 A. HE BROKE A FRONT WINDOW IN FRONT OF THE HOUSE
9 USING SOME SORT OF A PUNCTURE TOOL LIKE A
10 SCREWDRIVER. THE HOLE WAS NO LARGER THAN A
11 QUARTER.

12 Q. OKAY.

13 A. AND THEN HE WAS ABLE TO REACH IN AND UNLATCH THE
14 DOOR, THE WINDOW, AND PUT IT UP.

15 Q. OKAY.

16 A. AND THEN AFTER HE WAS IN, APPARENTLY WHEN HE
17 WENT OUT HE WENT THROUGH THE BACK DOOR AND WE
18 HAVE AN ENCLOSED PORCH AND HE WENT OUT THAT WAY
19 BECAUSE IT'S TO THE BACK OF HIS HOUSE AND HE
20 COULD THEN GET IN ANY TIME HE WANTED TO AFTER
21 THAT.

22 Q. ALL RIGHT, SIR. THANK YOU VERY MUCH, MR. WOOD.
23 PLEASE ANSWER ANY QUESTIONS COUNSEL FOR THE
24 DEFENSE MAY HAVE FOR YOU.

25 A. RIGHT.

1 MR. HANCOCK: I DON'T HAVE ANY QUESTIONS, YOUR
2 HONOR.

3 MR. POPE: THE STATE CALLS KEN FIELDS, YOUR
4 HONOR.

5 THE COURT: YOU MAY STEP DOWN; THANK YOU.

6 KEN FIELDS, BEING FIRST DULY SWORN, TESTIFIED AS
7 FOLLOWS:

8 DIRECT EXAMINATION BY

9 MR. POPE:

10 Q. SIR, IF YOU WOULD, STATE YOUR NAME AND SPELL
11 YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

12 A. MY NAME IS KEN FIELDS, THE LAST NAME IS F-I-E-L-
13 D-S.

14 Q. CAN YOU TELL THE JUDGE WHERE YOU'RE EMPLOYED?

15 A. I'M EMPLOYED AT THE ROCK HILL POLICE DEPARTMENT.

16 Q. AND HOW LONG HAVE YOU BEEN WITH THE ROCK HILL
17 POLICE DEPARTMENT?

18 A. APPROXIMATELY FOUR YEARS.

19 Q. AND DO YOU KNOW THE DEFENDANT IN THIS CASE,
20 JIMMY ROBERTSON?

21 A. I DO.

22 Q. CAN YOU TELL THE JUDGE HOW YOU KNOW HIM?

23 A. ON JULY 27TH, 1996 I WAS INVESTIGATING A
24 POSSIBLE CREDIT CARD FRAUD CASE AT THE QUICK C
25 ON EAST MAIN STREET NEAR STEELE CROSSING IN ROCK

1 HILL.

2 Q. IF YOU COULD IN YOUR OWN WORDS, JUST RELATE TO
3 THE COURT WHAT TOOK PLACE, WHAT YOU OBSERVED.

4 A. WHEN I ARRIVED AT THE QUICK C OFFICER BELK WAS
5 WITH ME. OFFICER BELK WENT INSIDE ATTEMPTING TO
6 LOCATE THE DEFENDANT. I STAYED OUTSIDE. I
7 LOCATED HIM IN THE PARKING LOT IN A TOYOTA.

8 I APPROACHED THE TOYOTA AND IN THE BACK SEAT I
9 NOTICED A LARGE BOX CONTAINING JUST NUMEROUS
10 CARTONS OF CIGARETTES.

11 I WALKED UP TO HIM, KNOCKED ON THE WINDOW, ASKED
12 FOR IDENTIFICATION; HE IGNORED ME. I ASKED FOR
13 HIS NAME; HE IGNORED ME. I ASKED HIM TO STEP
14 OUT OF THE VEHICLE; OPENED THE DOOR OPEN AND HAD
15 HIM TO COME OUTSIDE. WHEN I DID ASK HIM THE
16 THIRD TIME WHAT HIS NAME WAS, HE STATED HIS NAME
17 WAS BILL WOOD.

18 Q. DID YOU DO ANYTHING AS FAR AS SECURITY AS FAR AS
19 PATTING HIM DOWN OR ANYTHING OF THAT NATURE?

20 A. ONCE I PULLED HIM OUT OF HIS VEHICLE, I DID A
21 PAT DOWN SEARCH FOR WEAPONS AND IN HIS RIGHT
22 FRONT PANTS POCKET I NOTICED A LARGE SQUARE PACK
23 FROM MY EXPERIENCE I BELIEVED TO BE A LARGE
24 NUMBER OF CREDIT CARDS IN HIS RIGHT FRONT
25 POCKET.

1 Q. DID YOU REMOVE THOSE AT THAT TIME?

2 A. NO, SIR, I DIDN'T.

3 Q. WHAT DID YOU DO AT THAT POINT?

4 A. WE CALLED OUR SUPERVISOR ON THE SHIFT, RODNEY
5 PICKLE, AND ASKED HIM TO COME OUT FOR SOME
6 GUIDANCE.

7 Q. DID HE IN FACT BASICALLY TAKE OVER THE
8 INVESTIGATION?

9 A. YES, SIR, HE DID.

10 Q. ALL RIGHT. ANSWER ANY QUESTIONS THE DEFENSE MAY
11 HAVE.

12 MR. BOYD: NO QUESTIONS, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN. THANK YOU.

14 MR. POPE: THE STATE WOULD CALL RODNEY PICKEL,
15 YOUR HONOR.

16 RODNEY PICKEL, BEING FIRST DULY SWORN, TESTIFIED
17 AS FOLLOWS:

18 DIRECT EXAMINATION BY

19 MR. POPE:

20 Q. OFFICER PICKEL, IF YOU WOULD, STATE YOUR NAME
21 AND SPELL YOUR LAST NAME FOR THE COURT REPORTER
22 PLEASE.

23 A. MY NAME IS RODNEY PICKEL, P-I-C-K-E-L.

24 Q. OFFICER PICKEL, COULD YOU TELL THE COURT WHERE
25 YOU'RE EMPLOYED?

1 A. CITY OF ROCK HILL, ROCK HILL POLICE DEPARTMENT.

2 Q. HOW LONG HAVE YOU BEEN EMPLOYED THERE?

3 A. I'VE BEEN EMPLOYED THERE SINCE 1991.

4 Q. BACK IN 1996, COULD YOU TELL THE COURT WHAT YOUR
5 POSITION WAS THEN?

6 A. AT THAT PRESENT TIME I WAS A MASTER POLICE
7 OFFICER ASSIGNED TO CHARLIE SHIFT, A PAROL UNIT.

8 Q. AND I'LL ASK YOU, DURING THAT TIME PERIOD DID
9 YOU HAVE A CHANCE TO INTERACT WITH THIS
10 DEFENDANT?

11 A. YES, I DID.

12 Q. THAT WAS IN 1996?

13 A. THAT'S CORRECT.

14 Q. COULD YOU TELL THE COURT HOW MANY TIMES?

15 A. YES, I CAME IN CONTACT WITH MR. ROBERTSON TWICE
16 THAT YEAR.

17 Q. COULD YOU TELL THE JUDGE THE FIRST TIME YOU CAME
18 IN CONTACT WITH HIM, WHAT WAS THAT IN REFERENCE
19 TO.

20 A. IT WAS A TRAFFIC STOP; HE WAS ARRESTED FOR
21 DRIVING UNDER SUSPENSION.

22 Q. AND WHAT WERE THE RESULTS OF THAT ARREST?

23 A. HE WAS SUMMONED FOR COURT; HE FAILED TO APPEAR;
24 A BENCH WARRANT WAS ISSUED FOR HIM.

25 Q. DID YOU SEE HIM AGAIN LATER THAT YEAR?

1 A. YES, I DID.

2 Q. WHEN WAS THAT IF YOU WOULD TELL THE COURT?

3 A. IT WAS IN JULY OF THAT SAME YEAR.

4 Q. COULD YOU TELL THE COURT WHERE THAT WAS AT?

5 A. YES, THAT EVENING OFFICER FIELDS AND OFFICER
6 BELK CALLED ME AS SUPERVISOR TO MEET WITH THEM
7 AT THE QUICK C AT STEEL CROSSING EAST MAIN
8 STREET.

9 Q. IF YOU WOULD, RELATE TO THE COURT WHEN YOU
10 ARRIVED AT THE QUICK C WHAT, JUST TELL HIM THE
11 WHOLE STORY, WHAT TOOK PLACE THERE.

12 A. OKAY. WHEN I ARRIVED THERE, I SPOKE WITH
13 OFFICER FIELDS AND OFFICER BELK. THEY BRIEFED
14 ME ON THE SITUATION, WHAT THEY HAD FOUND, MR.
15 ROBERTSON AND THE VEHICLE. AT THAT TIME HE HAD
16 GIVEN THE NAME OF WILLIAM WOOD. I BELIEVE HE
17 HAD GIVEN THEM THE NAME PRIOR TO MY ARRIVAL.
18 THEY HAD TOLD ME ABOUT THE CIGARETTES THAT WERE
19 LOCATED IN THE VEHICLE; HE WAS TRYING TO SELL
20 THEM BACK TO THE STORE THAT HE HAD BOUGHT
21 EARLIER, I BELIEVE, ON SOME CREDIT CARD. HE WAS
22 TRYING TO GET MONEY BACK FOR THEM.
23 I WALKED OVER TO THE VEHICLE WHERE WAS MR.
24 ROBERTSON WAS AT. I OBSERVED HIM, I KNEW HIM ON
25 SIGHT. I COULDN'T PUT A NAME WITH THE FACE BUT I

1 KNEW THAT I KNEW HIM FROM SOMEWHERE AND I WAS
2 TRYING TO REMEMBER. I ASKED HIM WHAT HIS NAME
3 WAS; HE SAID IT WAS WILLIAM WOOD.

4 I KNEW AT THAT POINT THAT THAT WAS NOT HIS NAME.
5 I DIDN'T KNOW WHAT HIS NAME WAS, BUT I KNEW THAT
6 WAS NOT HIS NAME. AND I QUESTIONED HIM FURTHER
7 ABOUT HIS NAME AND HE CONTINUED TO SAY THAT THAT
8 WAS HIS NAME. HE CONTINUED TO STICK BY THAT
9 THAT WAS HIS NAME, WILLIAM WOOD.

10 Q. BASED ON HIM GIVING YOU THE NAME WILLIAM WOOD --
11 YOU WERE THE RANKING OFFICER THAT NIGHT?

12 A. THAT'S CORRECT; I WAS THE SUPERVISOR ON THE
13 SCENE.

14 Q. OKAY. WHAT DID YOU DO TO FURTHER THE
15 INVESTIGATION AT THAT POINT?

16 A. IT WAS FOUND AT THAT TIME THAT WE KNEW THAT HE
17 WAS NOT WILLIAM WOOD. OFFICERS LOCATED WILLIAM
18 WOOD'S RESIDENCE. I WAS SENT THROUGH DISPATCH TO
19 CHECK ON THAT RESIDENCE TO ATTEMPT TO LOCATE MR.
20 WOOD WITH THE CREDIT CARDS, THE VEHICLE, BOTH
21 COME BACK TO THAT, TO MAKE SURE EVERYTHING WAS
22 THE WAY IT SHOULD BE. IF HE WAS SUPPOSED TO HAVE
23 THIS VEHICLE OR NOT.

24 IT WAS FOUND THAT MR. WOOD'S RESIDENCE HAD BEEN
25 BROKEN INTO AND HE WAS ARRESTED AND TAKEN TO THE

1 LAW CENTER AT WHICH TIME A NAME DID COME UP, WE
2 PULLED THE PICTURE, WHICH DID CONFIRM THAT HE
3 WAS JAMES ROBERTSON, AND HE WAS BOOKED UNDER
4 THAT NAME THAT EVENING.

5 Q. OKAY AND AT THAT TIME HE WAS ARRESTED FOR THE
6 CREDIT CARDS AND THE CAR; IS THAT CORRECT?

7 A. HE WAS ARRESTED FOR THE CAR AND ON FURTHER
8 INVESTIGATION HE WAS ARRESTED FOR FINANCIAL CARD
9 TRANSACTION FRAUD.

10 Q. AND IF YOU COULD, RELATE TO THE COURT THE
11 DEFENDANT'S DEMEANOR WITH YOU THAT NIGHT.

12 A. THE ENTIRE TIME WE DEALT WITH HIM, HE HAD A VERY
13 ARROGANT DEMEANOR ABOUT HIMSELF, REAL COCKY,
14 ALMOST AS IF HE DIDN'T SAY ANYTHING, WE DIDN'T
15 HAVE ANYTHING.

16 WHEN HE DID TALK, HE WAS BELLIGERENT TOWARDS THE
17 OFFICERS. ALMOST LIKE WHEN HE WAS STANDING
18 THERE, HE WAS JUST LOOKING STRAIGHT THROUGH YOU.

19 HE DIDN'T LOOK AT YOU, HE JUST LOOKED BASICALLY
20 STRAIGHT THROUGH YOU. REAL ARROGANT I GUESS IS
21 THE BEST WAY TO SUM HIM UP.

22 Q. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

23 MR. HANCOCK: NO QUESTIONS, YOUR HONOR.

24 THE COURT: YOU MAY STEP DOWN. THANK YOU.

25 MR. POPE: YOUR HONOR, YOU PREVIOUSLY HEARD FROM

1 JERRY ROBISON WHO ULTIMATELY INVESTIGATED THE CASE.

2 YOUR HONOR, WE HAVE THE TRUE COPIES OF THE PLEA
3 TO BURGLARY SECOND, PLEA TO BURGLARY FIRST, GRAND LARCENY,
4 GRAND LARCENY, FORGERY, FINANCIAL TRANSACTION CARD FRAUD,
5 FINANCIAL TRANSACTION CARD FRAUD. WE WOULD INTRODUCE
6 THOSE, AND WE ALSO HAVE THE CERTIFIED SOUTH CAROLINA
7 DEPARTMENT OF PUBLIC SAFETY DRIVING RECORD THAT WE WOULD
8 INTRODUCE, ALL UNDER RULE 92.

9 MR. BOYD: YOUR HONOR, OF COURSE, THE STATE CAN
10 PUT IN THE RECORD ITSELF AS FAR AS THIS INCIDENT IS
11 CONCERNED, BUT I DON'T SEE THE RELEVANCE OF THE DETAILS
12 THAT MR. WOOD TESTIFIED ABOUT.

13 CERTAINLY HIS GIVING THE OFFICER A FALSE NAME,
14 THAT'S NOT IN AND OF ITSELF -- THEY ARE BASICALLY TRYING
15 THIS WHOLE ENTIRE BURGLARY CASE. I THINK GIVING THE POLICE
16 A FALSE NAME IS NOT LOGICALLY RELEVANT TO THE CRIME FOR
17 WHICH HE'S CHARGED HERE.

18 FURTHERMORE, THE TESTIMONY OF OFFICER PICKEL THAT
19 HE WAS SUMMONED TO COURT AND FAILED TO APPEAR DOESN'T BEAR
20 A LOGICAL RELEVANCE TO THE MURDERS.

21 IN PARTICULAR HIS TESTIMONY THAT HE HAD AN
22 ARROGANT COCKY ATTITUDE, WHATEVER THAT MEANS, THAT
23 CERTAINLY DOESN'T HAVE ANY LOGICAL RELEVANCE TO THE CRIME
24 OF MURDER.

25 FURTHERMORE, HIS ARROGANT COCKY ATTITUDE, HE SAID

1 IT WAS AN ATTITUDE LIKE IF I DON'T SAY ANYTHING, Y'ALL
2 CAN'T PIN ANYTHING ON ME, THAT'S BASICALLY A STATEMENT
3 ABOUT HIS RIGHT TO REMAIN SILENT WHICH HE HAS. I KNOW HE
4 LATER WAIVED THAT IN THIS CASE AND GAVE A CONFESSION BUT IN
5 THOSE CIRCUMSTANCES THE DEFENDANT'S SILENCE COULD NOT BE
6 USED AGAINST HIM.

7 SO, YOUR HONOR, I WOULD SUBMIT THAT ALL OF THIS
8 EVIDENCE CONCERNING THE WOOD TESTIMONY AND PARTICULARLY THE
9 TESTIMONY OF OFFICER FIELDS AND OFFICER PICKEL ARE
10 UNNECESSARY IN THIS AND POTENTIALLY PREJUDICIAL.

11 MR. POPE: YOUR HONOR, THE EVIDENCE STANDS FOR
12 WHAT IT IS. IF WE'RE NOW GOING UNDER THE RELATION THEORY,
13 IT'S OBVIOUSLY RELATED, IT'S A THEFT CRIME, IT'S A
14 FINANCIAL TRANSACTION CARD CRIME.

15 AGAIN, GETTING TOTALLY BACK TO THE CHARACTER
16 ISSUE, YOUR HONOR, AND I RESPECT THE COURT'S RULING, THE
17 FACT THAT YOU BREAK INTO YOUR NEXT DOOR NEIGHBOR'S HOUSE
18 AND LEAVE IT, YOU KNOW, EVEN SHOWS MORE OF A DEPRAVED
19 CHARACTER THAN BREAKING INTO A STRANGER'S HOUSE. IT'S JUST
20 LIKE KILLING ONE'S PARENTS MAY BE MORE DEPRAVED THAN
21 KILLING A TOTALLY STRANGER.

22 YOUR HONOR, AGAIN, OF COURSE IT'S EVIDENCE OF
23 CHARACTER; IT'S ALSO EVIDENCE OF HIS RECORD WHICH IS
24 CLEARLY ADMISSIBLE IN THE CASE LAW.

25 MR. BOYD MADE THE COMMENT THAT THIS WOULD BE LIKE

1 TRYING THE CASE. THE TRUTH OF THE MATTER, SAY FOR EXAMPLE
2 IF THIS WAS UNCONVICTED, THEN I WOULD SUBMIT WE COULD TRY
3 THE CASE WITHIN THE CASE AND PROVE THAT EVIDENCE BY ONLY A
4 PREPONDERANCE AND IT WOULD STILL BE ADMISSIBLE.

5 SO, I SUBMIT THAT ALL OF THIS IS RELEVANT AND
6 SHOULD BE ADMISSIBLE.

7 THE COURT: WELL, I AM GOING TO ALLOW YOU TO GO
8 INTO THE CONVICTIONS; I'M GOING TO ALLOW THE CONFESSION AND
9 I WILL ALLOW THE TESTIMONY OF MR. WOOD ABOUT WHAT HE FOUND
10 AT THIS HOUSE. I FIND ALL OF THAT TO BE RELEVANT. BUT I
11 AM NOT GOING TO GO INTO THE DRIVING RECORD, THE FAILURE TO
12 APPEAR IN COURT OR THE DEMEANOR AT THE TIME OF THE ARREST.

13 ARE YOU READY FOR THE JURY?

14 MR. POPE: YOUR HONOR, I THINK WE NEED TO TALK TO
15 SOME WITNESSES, THAT'S WHAT MR. BRACKETT IS INDICATING.

16 MR. BRACKETT: YOUR HONOR, I JUST DON'T WANT TO
17 GET IN THE MIDDLE OF IT AND THEN STOP AND HAVE THEM SAY
18 SOMETHING THAT ---

19 THE COURT: HOW LONG IS IT GOING TO TAKE?

20 MR. BRACKETT: FIVE MINUTES.

21 THE COURT: FIVE MINUTES. WE'LL TAKE FIVE
22 MINUTES.

23 AFTER THE RECESS IN CAMERA:

24 MR. BRACKETT: MAY IT PLEASE THE COURT, THE
25 STATE'S READY. WE WOULD ASK MS. WYLIE TO COME BACK UP.

1 SHE WAS ON THE STAND IN DIRECT EXAMINATION WHEN THE JURY
2 WAS EXCUSED.

3 THE COURT: IS THE DEFENSE READY?

4 MR. BOYD: THE DEFENSE IS READY, YOUR HONOR.

5 THE COURT: MS. WYLIE, IF YOU'LL COME BACK UP AND
6 TAKE THE STAND. BRING IN THE JURY.

7 (LOU FUNDERBURKE WYLIE RETOOK THE STAND.)

8 IN THE PRESENCE OF THE JURY:

9 THE COURT: MEMBERS OF THE JURY PANEL, MS. WYLIE
10 IS STILL ON THE STAND. RIGHT BEFORE YOU LEFT SHE TESTIFIED
11 THAT MR. ROBERTSON HAD LIED IN SCHOOL. DISREGARD THAT;
12 I'VE RULED THAT INADMISSIBLE AND THAT'S NOT RELEVANT TO THE
13 ISSUE BEFORE YOU. YOU MAY PROCEED.

14 MR. BRACKETT: THANK YOU, YOUR HONOR, NO FURTHER
15 QUESTIONS.

16 MR. BOYD: NO QUESTIONS, YOUR HONOR.

17 THE COURT: YOU MAY STEP DOWN. THANK YOU. FEEL
18 FREE TO LEAVE. WE APPRECIATE YOUR TIME. CALL YOUR NEXT
19 WITNESS.

20 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
21 PURSUANT TO RULE 902, THE STATE WOULD NOW TENDER STATE'S
22 EXHIBIT 189 FOR IDENTIFICATION, THE GEORGIA INSTITUTE OF
23 TECHNOLOGY REPORT.

24 THE COURT: THE TRANSCRIPT?

25 MR. POPE: YES, SIR.

1 THE COURT: THE GEORGIA TECH TRANSCRIPT, ANY
2 OBJECTION?

3 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT
4 FOR ONE MOMENT.

5 (AFTER A BRIEF PAUSE.)

6 MR. HANCOCK: IT'S WITHOUT OBJECTION.

7 THE COURT: ALL RIGHT, IT'S RECEIVED.
8 (THE GEORGIA TECH TRANSCRIPT WAS MARKED IN EVIDENCE AS
9 STATE'S EXHIBIT 189 WITHOUT OBJECTION.)

10 MR. BRACKETT: THE STATE WOULD CALL WILLIAM WOOD.
11 WILLIAM WOOD, BEING FIRST DULY SWORN, TESTIFIED
12 AS FOLLOWS:

13 DIRECT EXAMINATION BY

14 MR. BRACKETT:

15 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME FOR
16 THE JURY?

17 A. MY FULL NAME IS WILLIAM WOOD, LAST NAME W-O-O-D.

18 Q. WHERE DO YOU LIVE, MR. WOOD?

19 A. 2482 WESTMINSTER DRIVE.

20 Q. ALL RIGHT, SIR, AND WHAT DO YOU DO FOR A LIVING?

21 A. I'M RETIRED.

22 Q. DO YOU KNOW THIS MAN SEATED OVER HERE?

23 A. YES, I DO.

24 Q. WHO IS THAT?

25 A. HE'S MY NEIGHBOR.

1 Q. AND WHAT'S HIS NAME?

2 A. JAMES ROBERTSON.

3 Q. HOW LONG HAS HE BEEN YOUR NEIGHBOR OR HOW LONG
4 WAS HE YOUR NEIGHBOR?

5 A. IT WILL BE NINE YEARS IN APRIL.

6 Q. OKAY, SIR. NOW, WHAT IS THE ADDRESS THAT YOU
7 SAID YOU LIVE AT AGAIN?

8 A. 2482 WESTMINSTER.

9 Q. DO YOU LIVE THERE FULL TIME?

10 A. NO, WE HAVE A HOUSE AT THE BEACH, MYRTLE BEACH,
11 AND WE SPEND SOME TIME THERE.

12 Q. WHERE WERE YOU IN MID-JULY AND THE END OF JULY
13 OF 1996?

14 A. WE WERE AT MYRTLE BEACH.

15 Q. AND CAN YOU DESCRIBE TO THE JURY WHAT HAPPENED
16 TOWARD THE END OF JULY, 1996?

17 A. AT 10:30 ON A SATURDAY NIGHT I RECEIVED A CALL
18 IN MYRTLE BEACH FROM THE ROCK HILL CITY POLICE
19 DEPARTMENT ASKING IF I HAD A SON ---

20 MR. BOYD: OBJECTION.

21 Q. REMEMBER, YOU CAN'T TESTIFY TO WHAT SOMEBODY
22 ELSE TOLD YOU BUT AS A RESULT OF THAT PHONE
23 CALL, WHAT DID YOU DO?

24 A. AS A RESULT OF THE PHONE CALL, I CAME HOME
25 IMMEDIATELY. WE GOT HOME ABOUT 2:30 OR QUARTER

1 TILL 3:00 IN THE MORNING.

2 Q. AND YOU GOT HOME TO THE HOUSE ON WESTMINSTER?

3 A. RIGHT.

4 Q. WHAT CONDITION DID YOU FIND YOUR HOUSE IN, SIR?

5 A. ALL THE DRAWERS WERE OPENED AND THINGS WERE
6 SCATTERED ALL OVER THE PLACE AND OBVIOUSLY SOME
7 ITEMS WERE STOLEN OR MISSING I SHOULD SAY.

8 Q. CAN YOU GIVE THE JURY AN IDEA OF SOME OF THE
9 TYPES OF THINGS THAT WERE STOLEN, SOME OF THE
10 PERSONAL PROPERTY?

11 A. YEAH, THERE WERE THREE BOXES OF BLANK
12 CHECKBOOKS; THERE WERE TRAVEL CARDS ---

13 Q. TRAVEL CARDS? CREDIT CARDS?

14 A. CREDIT CARDS. IT WAS THE TELEPHONE, THE
15 ANSWERING MACHINE, THE 27 INCH TELEVISION SET,
16 THE V.C.R., A LOT OF JEWELRY THAT MY WIFE HAD,
17 SOME OF IT HEIRLOOMS FROM BOTH MY MOTHER AND MY
18 WIFE'S MOTHER. THERE WAS A TOTAL OF 63 ITEMS
19 MISSING.

20 Q. HOW MUCH WAS THE VALUE OF THOSE ITEMS?

21 A. IN EXCESS OF FIFTEEN THOUSAND DOLLARS.

22 Q. ALL RIGHT, SIR.

23 A. OH, A CAR WAS STOLEN ALSO.

24 Q. WHAT CONDITION WAS YOUR GARAGE IN?

25 A. THE GARAGE HAD -- THE CAR WAS IN THE GARAGE

1 BEFORE AND WHEN WE GOT HOME THERE WAS A BATTERY
2 CHARGER SITTING IN THE MIDDLE OF THE FLOOR AND
3 THE CAR, OF COURSE, WAS GONE. HE HAD TO CHARGE
4 THE BATTERY BEFORE HE COULD DRIVE THE CAR AWAY.

5 Q. ALL RIGHT, SIR. AS FAR AS THE CREDIT CARDS AND
6 THE CHECKS, WERE YOU EVER ABLE TO RECOVER ANY OF
7 THOSE ITEMS?

8 A. WE RECOVERED THREE BOXES OF THE BLANK CHECKS;
9 THEY WERE IN THE CAR. WE RECOVERED A DAMAGED
10 DRILL, POWER DRILL, AND AN OLD ELECTRIC
11 TYPEWRITER.

12 Q. ALL RIGHT, SIR.

13 A. AND A LITTLE BIT OF CUSTOM JEWELRY, NOTHING
14 EXPENSIVE.

15 Q. WHEN YOU GOT THE CHECKS BACK, DID YOU GET ALL OF
16 THE CHECKS BACK?

17 A. NO, THERE WERE THREE THAT WERE NOT THERE AND
18 THEY TURNED UP AS PURCHASES THAT JIM MADE AND
19 FORGED MY NAME ON THE CHECKS TO BUY SOME
20 SUPPLIES AT A TEXACO STATION FOR REPAIRS, TO BUY
21 FLOWERS FOR HIS THEN GIRLFRIEND, ROSES I
22 BELIEVE, AND A PAIR OF SHOES AT FOOTLOCKER IN
23 THE MALL, GALLERIA MALL.

24 Q. ALL RIGHT, SIR. HOW ABOUT THE CREDIT CARDS?

25 A. CREDIT CARDS, THERE WAS A SEARS CREDIT CARD THAT

1 WAS USED TO BUY IN EXCESS OF NINE THOUSAND
2 DOLLARS WORTH OF MATERIALS OVER A TWO DAY
3 PERIOD. THEY INCLUDED FIVE OR SIX 27 INCH
4 TELEVISION SETS, SIX V.C.R.'S, TWO OR THREE
5 MONITORS FOR SPEED, RADAR DETECTORS, A SET OF
6 TIRES. IT ALL TOTALED OVER NINE THOUSAND
7 DOLLARS.

8 Q. ALL RIGHT, SIR. WHEN YOU GOT HOME, DID YOU GO
9 ABOUT EXAMINING YOUR HOME TO FIND OUT HOW HE GOT
10 IN?

11 A. YES.

12 Q. HOW DID HE GET IN?

13 A. HE GOT IN BY TAKING A SHARP OBJECT AND PUNCHING
14 A HOLE IN THE WINDOW WHICH IS A DOUBLE PANE
15 WINDOW IN THE FRONT OF THE HOUSE JUST ABOVE THE
16 WINDOW LOCK AND THE HOLE WAS THE SIZE OF A
17 QUARTER, NO LARGER THAN THAT, AND THEN HE WAS
18 ABLE TO REACH IN WITH THAT SAME OBJECT AND
19 RELEASE THE WINDOW LATCH AND RAISE THE WINDOW
20 AND GET IN THAT WAY.

21 Q. ALL RIGHT, SIR. I'M SHOWING YOU A PHOTOGRAPH
22 HERE. FIRST, I'D ASK THAT THIS BE MARKED AS
23 STATE'S EXHIBIT 199. SIR, WOULD YOU EXAMINE
24 THIS PHOTOGRAPH AND TELL ME IF YOU RECOGNIZE
25 WHAT THIS IS?

1 MR. HANCOCK: I'M GOING TO OBJECT AT THIS POINT
2 IN TIME. WE HAD PROFFERED EVIDENCE AND THIS WAS NOT
3 PROFFERED.

4 THE COURT: I SUSTAIN THE OBJECTION.

5 Q. SIR, AT ANY TIME DID YOU EVER AUTHORIZE MR.
6 ROBERTSON TO GO IN YOUR HOME?

7 A. I DID NOT.

8 Q. TO USE YOUR CAR?

9 A. NO.

10 Q. THANK YOU VERY MUCH, MR. WOOD. PLEASE ANSWER
11 ANY QUESTIONS THAT MR. ROBERTSON'S COUNSEL MAY
12 HAVE.

13 MR. HANCOCK: I DON'T HAVE ANY QUESTIONS OF THIS
14 WITNESS, YOUR HONOR.

15 THE COURT: WE APPRECIATE YOUR TIME; YOU CAN BE
16 EXCUSED. THANK YOU. CALL YOUR NEXT WITNESS.

17 MR. POPE: THE STATE WOULD CALL JERRY HOFFMAN,
18 YOUR HONOR.

19 JERRY HOFFMAN, BEING FIRST DULY SWORN, TESTIFIED
20 AS FOLLOWS:

21 DIRECT EXAMINATION BY

22 MR. POPE:

23 Q. MR. HOFFMAN, IF YOU WOULD, STATE YOUR NAME AND
24 SPELL YOUR LAST NAME FOR THE COURT REPORTER,
25 PLEASE.

1 A. IT'S JERRY HOFFMAN, H-O-F-F-M-A-N.

2 Q. AND COULD YOU TELL THE JURY WHERE YOU'RE
3 EMPLOYED?

4 A. I'M EMPLOYED WITH THE YORK COUNTY SHERIFF'S
5 OFFICE.

6 Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
7 DEPARTMENT?

8 A. NINE YEARS AND NINE MONTHS.

9 Q. AND COULD YOU TELL THE JURY, WHAT'S YOUR CURRENT
10 POSITION WITH THE SHERIFF'S DEPARTMENT?

11 A. I'M A DETECTIVE ASSIGNED TO THE CRIMINAL
12 INVESTIGATIVE DIVISION.

13 Q. HOW LONG HAVE YOU BEEN A DETECTIVE THERE AT THE
14 SHERIFF'S OFFICE?

15 A. SINCE 1992, COMING UP ON SEVEN YEARS.

16 Q. AND DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON
17 IN THIS CASE?

18 A. YES, I DO.

19 Q. AND COULD YOU TELL THE JURY HOW YOU KNOW HIM?

20 A. YES, I BECAME INVOLVED IN THE INVESTIGATION OF A
21 BURGLARY OF THE HOME OF MR. AND MRS. WOOD WHO
22 IS THE NEXT DOOR NEIGHBOR OF MR. ROBERTSON.

23 Q. AND DID YOU GO TO THE HOUSE ITSELF?

24 A. YES, I DID.

25 Q. AND WESTMINSTER, IS THAT OUT IN YORK COUNTY?

1 A. YES, SIR, IT IS.

2 Q. AND DID YOU OBSERVE THE WINDOW WHERE THE ENTRY
3 TOOK PLACE THERE AT THE HOUSE?

4 A. YES, SIR, I DID.

5 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
6 199 FOR IDENTIFICATION ---

7 MR. HANCOCK: YOUR HONOR, AGAIN I'M GOING TO
8 OBJECT.

9 THE COURT: LET HIM IDENTIFY IT. I OVERRULE AT
10 THIS POINT.

11 A. YES, THAT'S A PHOTOGRAPH THAT WAS TAKEN OF THE
12 WINDOW OF THE WOOD HOME.

13 Q. AND YOU PHYSICALLY WENT THERE AND SAW IT IN THAT
14 CONDITION; IS THAT CORRECT?

15 A. YES, SIR, I DID.

16 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBIT 199
17 FOR IDENTIFICATION INTO EVIDENCE.

18 MR. HANCOCK: I OBJECT, YOUR HONOR.

19 THE COURT: OVERRULED.

20 (THE PHOTO OF THE WINDOW OF THE WOOD HOME WAS MARKED IN
21 EVIDENCE AS STATE'S EXHIBIT 199 OVER OBJECTION.)

22 Q. PURSUANT TO YOUR INVESTIGATION, DID YOU HAVE AN
23 OPPORTUNITY TO GO AND ACTUALLY TALK TO THE
24 DEFENDANT?

25 A. YES, SIR, I DID, THE NEXT EVENING.

1 Q. I'M SORRY?

2 A. THE NEXT EVENING.

3 Q. AND WHERE DID YOU SPEAK TO HIM AT?

4 A. AT THE ROCK HILL POLICE DEPARTMENT.

5 Q. AND COULD YOU TELL THE JURY WHO WAS PRESENT WHEN
6 YOU SPOKE TO HIM?

7 A. I WAS PRESENT, MR. ROBERTSON WAS PRESENT AND
8 ANOTHER DETECTIVE, DENNIS CHISOLM, WAS PRESENT.

9 Q. DID YOU RELATE ANY RIGHTS TO HIM?

10 A. YES, I DID.

11 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
12 190 AND ASK IF YOU COULD REVIEW THIS DOCUMENT
13 CONSISTING OF THREE PAGES AND TELL ME WHAT IT IS
14 PLEASE, SIR?

15 A. YES, SIR, THE FRONT PAGE IS THE PAPER FROM WHICH
16 I READ HIM HIS RIGHTS THAT EVENING AT THE ROCK
17 HILL POLICE DEPARTMENT AND THE NEXT TWO ARE HIS
18 HANDWRITTEN STATEMENT TO ME OF WHAT HAD
19 OCCURRED.

20 Q. AS TO THE RIGHTS THAT YOU READ THE DEFENDANT,
21 WHEN YOU READ HIM HIS RIGHTS, DID IT APPEAR THAT
22 HE UNDERSTOOD THOSE RIGHTS?

23 A. YES, IT DID APPEAR THAT HE UNDERSTOOD THEM.

24 Q. AND I SEE A SIGNATURE BESIDE AN X IS ON THAT
25 DOCUMENT. WHOSE SIGNATURE IS THAT?

1 A. THAT IS MR. ROBERTSON'S SIGNATURE.

2 Q. AND WAS IT DONE IN YOUR PRESENCE?

3 A. YES, IT WAS.

4 Q. I SEE THERE IS A SIGNATURE ALSO FOR A WITNESS;
5 WHOSE SIGNATURE IS THAT?

6 A. THAT'S DETECTIVE DENNIS CHISOLM'S SIGNATURE.

7 Q. AS FAR AS ACTUALLY READING THE RIGHTS FROM THE
8 FORM, WHO WAS ACTUALLY READING THE RIGHTS TO
9 HIM?

10 A. I READ THOSE RIGHTS.

11 Q. AND SUBSEQUENTLY AFTER HE GAVE YOU THE WRITTEN
12 STATEMENT DID YOU HAVE A CHANCE TO READ ANOTHER
13 SECTION TO HIM INVOLVING HIM READING HIS
14 STATEMENT?

15 A. ACTUALLY IT WAS DONE IMMEDIATELY AFTER I READ
16 HIM HIS RIGHTS. ARE YOU TALKING ABOUT THE
17 SECOND PARAGRAPH?

18 Q. YES, SIR.

19 A. YES, SIR, IT WAS DONE AFTER I READ HIM HIS
20 RIGHTS, AND THAT'S A WAIVER OF HIS RIGHTS
21 STATING THAT HE UNDERSTOOD.

22 Q. DID HE ALSO REVIEW HIS STATEMENT?

23 A. YES, HE DID.

24 Q. YOU SAY THAT HIS HAND -- HE WROTE THE STATEMENT?

25 A. HE WROTE THE STATEMENT, YES, SIR.

1 Q. IN YOUR PRESENCE?

2 A. IN MY PRESENCE.

3 Q. AFTER YOU READ HIM HIS RIGHTS, DID YOU THREATEN
4 HIM IN ANY WAY TO GIVE A STATEMENT?

5 A. NO, SIR.

6 Q. DID YOU PROMISE HIM ANY LENIENCY OR ANYTHING OF
7 THAT NATURE?

8 A. NO, SIR.

9 Q. DID HE APPEAR TO BE UNDER THE INFLUENCE OF
10 ALCOHOL OR DRUGS?

11 A. NO, SIR, NOT AT THAT TIME.

12 Q. SO THAT HE WOULDN'T UNDERSTAND WHAT YOU WERE
13 TALKING ABOUT?

14 A. NO, SIR.

15 Q. AND DID HE IN FACT MAKE THAT STATEMENT TO YOU?

16 A. YES, HE DID.

17 MR. POPE: YOUR HONOR, AT THIS TIME I WOULD MOVE
18 STATE'S EXHIBIT 190 FOR IDENTIFICATION INTO EVIDENCE.

19 MR. HANCOCK: YOUR HONOR, I BEG THE INDULGENCE OF
20 THE COURT. WE HAVE A DIFFERENT STATEMENT IN THIS MATTER.
21 (AFTER A PAUSE.)

22 MR. HANCOCK: NO OBJECTION, YOUR HONOR.

23 THE COURT: RECEIVED WITHOUT OBJECTION.

24 (THE RIGHTS FORM AND STATEMENT WAS MARKED IN EVIDENCE AS
25 STATE'S EXHIBIT 190 WITHOUT OBJECTION.)

1 MR. POPE: ANSWER ANY QUESTIONS THE DEFENSE MAY
2 HAVE IN THIS CASE.

3 CROSS EXAMINATION BY

4 MR. BOYD:

5 Q. OFFICER HOFFMAN, LET ME SHOW YOU SOME NOTES.
6 WAS THAT YOUR HANDWRITING? IT APPEARS TO BE
7 SOME NOTES ABOUT THAT PARTICULAR CASE?

8 A. THIS WOULD NOT BE MY HANDWRITING.

9 Q. DO YOU KNOW IF -- WAS DETECTIVE CHISOLM WITH YOU
10 AT THE TIME?

11 A. THIS IS NOT DETECTIVE CHISOLM'S EITHER TO MY
12 KNOWLEDGE. THIS IS A DIFFERENT DATE THAN WHEN
13 DENNIS AND I TALKED WITH MR. ROBERTSON.

14 Q. IS IT THE NEXT DAY?

15 A. IT WOULD BE THE NEXT DAY, THE FOLLOWING DAY
16 AFTERWARDS. DENNIS CHISOLM AND MYSELF TALKED TO
17 HIM ON THE 28TH.

18 Q. ALL RIGHT, SO YOU DON'T KNOW WHO TOOK THESE
19 NOTES?

20 A. I'M NOT CERTAIN -- NO, SIR, I DO NOT KNOW.

21 Q. DURING YOUR CONVERSATION WITH MR. ROBERTSON DID
22 HE INDICATE TO YOU ABOUT HAVING A CRACK PROBLEM?

23 A. IN CONVERSATION HE DID SAY THAT HE HAD A DRUG
24 PROBLEM.

25 Q. AND DID HE INDICATE TO YOU THAT HE TOOK THE

1 ITEMS THAT HE STOLE, THAT HE SOLD TO GET MONEY
2 FOR CRACK?

3 A. YES, SIR, THAT THE TRADED SOME OF THEM FOR
4 CRACK.

5 Q. THANK YOU; THAT'S ALL THAT I HAVE.

6 MR. POPE: I WOULD ASK THAT THIS WITNESS BE
7 EXCUSED.

8 THE COURT: YOU MAY BE EXCUSED. WE APPRECIATE
9 YOUR TIME. CALL YOUR NEXT WITNESS.

10 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
11 PURSUANT TO RULE 902, I WOULD MOVE STATE'S EXHIBIT 191
12 WHICH IS AN INDICTMENT FOR BURGLARY IN THE SECOND DEGREE
13 AND THE SENTENCING SHEET; STATE'S EXHIBIT 192 FOR
14 IDENTIFICATION, BURGLARY IN THE FIRST DEGREE, PLED TO
15 BURGLARY IN THE SECOND AND THE SENTENCING SHEET; STATE'S
16 193 FOR IDENTIFICATION, INDICTMENT FOR GRAND LARCENY WITH
17 THE SENTENCING SHEET; 194, INDICTMENT FOR GRAND LARCENY AND
18 THE SENTENCING SHEET; 195, INDICTMENT FOR FORGERY AND THE
19 SENTENCING SHEET; 196, INDICTMENT FOR FINANCIAL TRANSACTION
20 CARD FRAUD AND THE SENTENCING SHEET; AND 197, INDICTMENT
21 FOR FINANCIAL TRANSACTION CARD FRAUD AND THE SENTENCING
22 SHEET, YOUR HONOR.

23 I BELIEVE THE DEFENSE HAS PREVIOUSLY SEEN COPIES
24 OF THESE; I WILL BE GLAD TO PROVIDE THEM AGAIN IF THEY NEED
25 TO SEE THEM AGAIN.

1 MR. BOYD: WE DON'T NEED TO SEE THEM. YOUR
2 HONOR, WE HAD PREVIOUSLY OBJECTED TO THESE AND WE MAKE A
3 SIMILAR OBJECTION.

4 THE COURT: ALL RIGHT, LET'S BE CLEAR. YOU DON'T
5 OBJECT THAT THEY ARE ADMISSIBLE UNDER THE RULE BUT YOU
6 OBJECT TO THE ADMISSIBILITY ON RELEVANCE?

7 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

8 THE COURT: I OVERRULE THAT OBJECTION; THEY WILL
9 BE ALLOWED IN OVER OBJECTION.

10 (STATE'S EXHIBITS 191, 192, 193, 194, 195, 196 AND 197 WERE
11 MARKED IN EVIDENCE OVER OBJECTION.)

12 MR. BRACKETT: MAY IT PLEASE THE COURT, THE STATE
13 WOULD CALL AMY STURGIS.

14 AMY STURGIS, BEING FIRST DULY SWORN, TESTIFIED AS
15 FOLLOWS:

16 DIRECT EXAMINATION BY

17 MR. BRACKETT:

18 Q. WOULD YOU PLEASE STATE YOUR FULL NAME AND SPELL
19 YOUR LAST FOR THE COURT REPORTER?

20 A. AMY STURGIS, S-T-U-R-G-I-S.

21 Q. ALL RIGHT, MS. STURGIS, WHERE DO YOU WORK?

22 A. FOR THE YORK COUNTY SHERIFF'S OFFICE.

23 Q. AND WHAT DO YOU DO FOR THE YORK COUNTY SHERIFF'S
24 OFFICE?

25 A. I WORK FOR THE CIVIL PROCESS AND WARRANT

1 DIVISION AT THIS TIME.

2 Q. WHERE DID YOU WORK BACK IN 1996?

3 A. AT THE YORK COUNTY DETENTION DIVISION.

4 Q. WHAT DID YOU DO FOR THEM?

5 A. I WORKED AT THE FRONT DESK AND I DID DATA ENTRY.

6 Q. WHAT WERE YOUR DAY TO DAY RESPONSIBILITIES, AMY?

7 A. I TOOK CARE OF VISITATION; I TOOK CARE OF THE
8 MAIL AND THE TELEPHONE LIST.

9 Q. TELEPHONE LIST?

10 A. LIST.

11 Q. WHAT IS THE TELEPHONE LIST?

12 A. WHERE WE -- THE INMATES ARE ONLY GIVEN 10

13 NUMBERS THAT THEY CAN CALL OUT ON AND WE HAVE TO

14 ENTER THOSE FOR THEM TO BE ABLE TO CALL OUT AND

15 THEY HAVE TO HAVE A PIN NUMBER TO HAVE ACCESS TO

16 THOSE 10 NUMBERS.

17 Q. AND HOW OFTEN CAN THEY CHANGE THEIR LIST?

18 A. ONCE EVERY 30 DAYS.

19 Q. I'M SHOWING YOU A DOCUMENT AND ASK IF YOU CAN
20 IDENTIFY THAT?

21 A. YES, SIR; THIS IS ONE OF OUR TELEPHONE LISTS FOR
22 ANY REQUESTS.

23 Q. OKAY, AND CAN YOU TELL ME -- ONE MOMENT.

24 (AFTER A BRIEF PAUSE.)

25 MR. HANCOCK: YOUR HONOR, AGAIN WE FAIL TO SEE

1 THE RELEVANCE.

2 THE COURT: YOU OBJECT?

3 MR. HANCOCK: WE OBJECT, YOUR HONOR.

4 MR. BRACKETT: YOUR HONOR, THE RELEVANCE OF THIS
5 DOCUMENT IS ---

6 THE COURT: LET ME SEE IT, PLEASE.

7 (THE FORM WAS SHOWN TO THE COURT)

8 THE COURT: RELEVANCE?

9 MR. BRACKETT: THE RELEVANCE WILL BE MADE WITH
10 THE NEXT WITNESS WHO WILL IDENTIFY THE PIECE OF INFORMATION
11 ON THAT DOCUMENT AS INCORRECT.

12 THE COURT: I'M GOING TO SUSTAIN THE ---

13 MR. BRACKETT: I COULD RECALL THIS WITNESS AFTER
14 I CALL THE NEXT WITNESS.

15 THE COURT: I KNOW. I'M GOING TO ALLOW IT IN
16 SUBJECT TO ITS RELEVANCE BEING ESTABLISHED.

17 MR. BRACKETT: THANK YOU, YOUR HONOR. I ASK THAT
18 THIS BE MARKED STATE'S EXHIBIT 200.

19 (THE INMATE TELEPHONE SERVICE FORM WAS MARKED IN EVIDENCE
20 AS STATE'S EXHIBIT 200 OVER OBJECTION.)

21 Q. I'M SHOWING YOU, MA'AM, STATE'S EXHIBIT 200 IN
22 EVIDENCE AT THE BOTTOM THERE.

23 A. UH HUH.

24 Q. COULD YOU TELL ME WHOSE HANDWRITING THAT IS
25 THAT'S AT THE VERY BOTTOM OF THE PAGE?

1 A. THAT'S MY HANDWRITING.

2 Q. WAS THAT YOUR RESPONSE TO HIM?

3 A. YES, SIR.

4 Q. THANK YOU VERY MUCH, MS. STURGIS. WAIT, YOU
5 HAVE TO ANSWER ANY QUESTIONS THEY MAY HAVE.

6 MR. BOYD: NO QUESTIONS, YOUR HONOR.

7 THE COURT: YOU CAN STEP DOWN. WE APPRECIATE
8 YOUR TIME, YOU CAN BE EXCUSED.

9 MR. BRACKETT: THE STATE WOULD CALL CAROLYN SARN.

10 MR. BOYD: YOUR HONOR, WE HAVE A MATTER OF LAW.

11 THE COURT: I'M GOING TO LET THE JURY GO TO THE
12 JURY ROOM FOR JUST A MINUTE.

13 IN CAMERA:

14 MR. BOYD: YOUR HONOR, I UNDERSTAND THAT THE NEXT
15 WITNESS THAT'S GOING TO BE CALLED BY THE STATE IS THAT
16 THERE IS A PHONE NUMBER ON THIS SHEET OF PAPER WHO IS NOT
17 THE AUNT AND UNCLE, BUT MAY BE THIS WITNESS' PHONE NUMBER,
18 BASICALLY FOR THE STATE TO PROVE THAT HE LIED ABOUT A PHONE
19 NUMBER AT THE JAIL.

20 I SUBMIT TO YOU, YOUR HONOR, THAT IS TOTALLY
21 IRRELEVANT; IT HAS NO LOGICAL RELEVANCE TO THE CRIME OF
22 MURDER.

23 THE COURT: I ANTICIPATED THAT TO BE THE CASE
24 MYSELF AS FAR AS WHAT THE TESTIMONY WOULD BE. TELL ME THE
25 RELEVANCE.

1 MR. BRACKETT: YOUR HONOR, THIS IS HIS CONDUCT IN
2 JAIL. I THINK UNDER THE STEWART CASE THAT YOU EARLIER
3 CITED, CONDUCT IN JAIL IS RELEVANT. HE IS MANIPULATING THE
4 SYSTEM TRYING TO GET -- YOU KNOW, BASICALLY LYING TO THE
5 JAILERS. THERE'S NO QUESTION THAT THERE'S PROOF OF THIS.
6 THE NUMBER THAT HE LISTED ON THIS DOCUMENT 803-327-1359,
7 AND THEN HE SAID THAT HIS RELATIVES WERE IN THE PROCESS OF
8 MOVING WHEN HE WAS ARRESTED AND HE HAD NOT RECEIVED A NEW
9 PHONE NUMBER AND THAT HE HAD SINCE RECEIVED A NEW PHONE
10 NUMBER, THESE RELATIVES COULD BE INFLUENTIAL IN HELPING HIM
11 MAKE BOND. WELL, THAT'S NOT HIS AUNT AND UNCLE'S NUMBER;
12 THEY HAVE NEVER LIVED THERE; THAT'S MS. SARN'S NUMBER.
13 IT'S MISCONDUCT IN JAIL.

14 AND, YOUR HONOR, THIS IS ALSO CHARACTER EVIDENCE,
15 EVIDENCE OF HIS CHARACTER IN ADDITION TO THE JAIL ARGUMENT,
16 MISCONDUCT IN JAIL; THIS IS EVIDENCE OF HIS CHARACTER.

17 THESE PEOPLE ARE TRYING TO DECIDE WHETHER TO
18 SENTENCE HIM TO LIFE IN PRISON OR SENTENCE HIM TO DEATH AND
19 THEY NEED TO KNOW WHO HE IS. AND THEY ALSO NEED TO KNOW
20 HOW HE'S GOING TO ACT IN JAIL IF THEY SENTENCE HIM TO LIFE.

21 THE COURT: I OVERRULE THE OBJECTION; I'LL ALLOW
22 MS. SARN TO TESTIFY.

23 MR. BRACKETT: THANK YOU, YOUR HONOR.

24 THE COURT: BRING IN THE JURY.

25 IN THE PRESENCE OF THE JURY:

1 **THE COURT:** MS. SARN, YOU CAN JUST STEP UP HERE.
2 YOU'LL SEE A BIBLE; IF YOU'LL PUT YOUR LEFT HAND ON IT AND
3 RAISE YOUR RIGHT, PLEASE MA'AM.

4 **CAROLE SARN, BEING FIRST DULY SWORN, TESTIFIED AS**
5 **FOLLOWS:**

6 **DIRECT EXAMINATION BY**

7 **MR. BRACKETT:**

8 Q. WOULD YOU PLEASE STATE YOUR FULL NAME AND SPELL
9 YOUR LAST FOR THE COURT REPORTER?

10 A. CAROLE, C-A-R-O-L-E, SARN, S-A-R-N.

11 Q. WHERE DO YOU LIVE, MS. SARN?

12 A. 858 MEADOWLARK DRIVE IN ROCK HILL.

13 Q. HOW LONG HAVE YOU LIVED THERE?

14 A. 23 YEARS.

15 Q. MA'AM, I'M GOING TO SHOW YOU A DOCUMENT THAT'S
16 BEEN MARKED STATE'S EXHIBIT 200. DO YOU
17 RECOGNIZE ANY NUMBERS ON THAT?

18 A. YES, I DO; THAT'S MY PHONE NUMBER.

19 Q. WOULD YOU READ THAT DOCUMENT, THE BOTTOM PORTION
20 TO THE JURY?

21 A. "RELATIVES WERE IN PROCESS OF MOVING WHEN I WAS
22 INCARCERATED AND HAD NOT YET RECEIVED NEW PHONE
23 NUMBER" ---

24 **MR. HANCOCK:** YOUR HONOR, I'M GOING TO OBJECT.
25 HAS THIS BEEN MOVED IN EVIDENCE?

1 THE COURT: I ALLOWED IT IN OVER OBJECTION,
2 SUBJECT TO IT BEING CONNECTED UP. IT IS IN EVIDENCE AND
3 MARKED A STATE'S EXHIBIT. GO AHEAD.

4 Q. GO AHEAD AND START AGAIN AND READ THAT SECTION.

5 A. "RELATIVES WERE IN THE PROCESS OF MOVING WHEN I
6 WAS INCARCERATED AND HAD NOT YET RECEIVED NEW
7 PHONE NUMBER AND HAVE SINCE WRITTEN WITH NEW
8 PHONE NUMBER. THESE RELATIVES COULD BE
9 INFLUENTIAL IN HELPING ME MAKE BOND. I WOULD
10 APPRECIATE YOUR CONSIDERATION REGARDING THIS
11 MATTER".

12 Q. ALL RIGHT, MA'AM, AND WHAT'S THE RELATIVES THAT
13 ARE LISTED THERE?

14 A. AUNT AND UNCLE.

15 Q. WHAT IS THEIR PHONE NUMBER LISTED AS?

16 A. 803-327-1359.

17 Q. WHOSE PHONE NUMBER IS THAT?

18 A. THAT'S MY PHONE NUMBER.

19 Q. ARE YOU THIS MAN'S AUNT?

20 A. NO, I'M NOT.

21 Q. HOW LONG HAVE YOU HAD THAT PHONE NUMBER?

22 A. 23 YEARS.

23 Q. HAS HIS AUNT AND UNCLE EVER LIVED WITH YOU?

24 A. NO, SIR.

25 Q. THANK YOU VERY MUCH, MA'AM. PLEASE ANSWER ANY

1 QUESTIONS THE DEFENSE MAY HAVE FOR YOU.

2 MR. HANCOCK: I HAVE NO QUESTIONS, YOUR HONOR.

3 THE COURT: YOU CAN STEP DOWN; THANK YOU; WE
4 APPRECIATE YOUR TIME.

5 MR. BRACKETT: THE STATE WOULD CALL MICHAEL
6 STOBBE. SIR, IF YOU WOULD, PLEASE STEP FORWARD AND BE
7 SWORN BY THE CLERK.

8 MICHAEL JOHN STOBBE, BEING FIRST DULY SWORN,
9 TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION BY

11 MR. BRACKETT:

12 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND
13 SPELL YOUR LAST FOR THE COURT REPORTER?

14 A. MICHAEL JOHN STOBBE, S-T-O-B-B-E.

15 Q. WHERE ARE YOU EMPLOYED, MR. STOBBE?

16 A. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

17 Q. AND WHAT DO YOU DO FOR THE SOUTH CAROLINA
18 DEPARTMENT OF CORRECTIONS?

19 A. I'M THE BRANCH CHIEF FOR DOCUMENT PROCESSING AND
20 RELEASE FOR THE INMATE RECORDS OFFICE.

21 Q. ALL RIGHT, SIR. HOW LONG HAVE YOU BEEN DOING
22 THAT?

23 A. SINCE AUGUST OF 1997.

24 Q. WHAT ARE YOUR JOB DUTIES AS THE BRANCH CHIEF FOR
25 INMATE RECORDS?

1 A. ENSURING THAT THE INMATES FORWARDED TO US ARE
2 SERVING THE TIME THEY ARE SUPPOSED TO BE SERVING
3 AND ARE RELEASED IN A TIMELY FASHION.

4 Q. IN YOUR JOB DUTIES DO YOU KEEP THE RECORDS ON
5 JAMES D. ROBERTSON?

6 A. YES, SIR.

7 Q. DO YOU HAVE THOSE RECORDS HERE WITH YOU IN
8 COURT?

9 A. YES, SIR.

10 Q. DO THE RECORDS THAT YOU HAVE REFLECT ANY
11 MISCONDUCT THE DEFENDANT WOULD HAVE; WOULD THAT
12 BE INCLUDED IN YOUR RECORDS?

13 A. YES, SIR, IT IS INCLUDED; AND, YES, SIR, I DO
14 HAVE.

15 Q. DO YOU HAVE PHYSICAL DOCUMENTATION ON THAT?

16 A. YES, SIR.

17 Q. ALL RIGHT, MAY I SEE THAT?

18 A. YES, SIR.

19 (THE FORM WAS GIVEN TO MR. BRACKETT.)

20 Q. ARE THESE ORIGINALS OR ACCURATE COPIES OF THE
21 RECORDS YOU KEEP ON FILE?

22 A. YES, SIR.

23 Q. AT THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS?

24 A. THAT IS CORRECT.

25 MR. BRACKETT: I BEG THE COURT'S INDULGENCE WHILE

1 I SHARE THESE WITH COUNSEL.

2 (AFTER A LONG PAUSE.)

3 MR. HANCOCK: YOUR HONOR, WE ARE GOING TO OBJECT
4 TO THESE AS HEARSAY. THESE ARE NARRATIVE; THEY ARE NOT
5 JUST RECORDS, THEY ARE NARRATIVES.

6 THE COURT: LET ME SEE.
7 (THE RECORDS WERE SHOWN TO THE COURT)

8 THE COURT: OBJECTION IS OVERRULED.

9 MR. BRACKETT: THANK YOU, YOUR HONOR.

10 MR. BOYD: YOUR HONOR, THERE IS ONE ADDITIONAL
11 OBJECTION. I BELIEVE ON ONE OF THESE INCIDENTS OUR RECORDS
12 INDICATE THAT IT WAS DISMISSED. THE 10-3-96 INCIDENT.

13 MR. BRACKETT: YOUR HONOR, I MAY BE ABLE TO
14 SIMPLIFY IT.

15 THE COURT: I DON'T SEE THAT ONE IN HERE.

16 MR. BRACKETT: I WON'T ASK HIM ANYTHING ABOUT --
17 I'LL ASK HIM FIRST TO IDENTIFY THE INFRACTIONS FOR WHICH HE
18 WAS CONVICTED AND THEN GO OVER THE RELEVANT DOCUMENT FOR
19 EACH INFRACTION.

20 THE COURT: OKAY. ON THIS I DON'T SEE -- WHAT
21 DATE?

22 MR. BOYD: I DON'T HAVE THE RECORDS YOU HAVE IN
23 FRONT OF YOU BUT ON MINE IT'S 10-3-96.

24 THE COURT: AS THE INFRACTION DATE?

25 MR. BOYD: NO ---

1 THE COURT: OH, HERE IT IS. IT HAS NO
2 DISPOSITION.

3 Q. SIR, DO YOU HAVE A LIST OF THE INFRACTIONS WHILE
4 IN THE DEPARTMENT OF CORRECTIONS FOR WHICH THE
5 DEFENDANT WAS CONVICTED?

6 A. YES, SIR.

7 Q. WOULD YOU START AT THE OLDEST?

8 A. 12-15-96, DAMAGE, COMMA, DESTROYING PROPERTY.

9 Q. AND WAS HE CONVICTED OF THAT?

10 A. YES, SIR.

11 Q. IS THIS THE BUSINESS RECORD THAT YOU KEEP OR AN
12 ACCURATE COPY THEREOF FOR THAT EVENT?

13 A. YES, SIR.

14 MR. BRACKETT: YOUR HONOR, AT THIS TIME I WOULD
15 ASK THAT THIS BE MARKED AND MOVED INTO EVIDENCE AS STATE'S
16 EXHIBIT 201.

17 THE COURT: OVER OBJECTION?

18 MR. HANCOCK: SUBJECT TO OUR OBJECTION.

19 THE COURT: IT WILL BE INTRODUCED; I OVERRULE THE
20 OBJECTION.

21 MR. BRACKETT: THANK YOU, YOUR HONOR.

22 (THE PRISON INFRACTION RECORD WAS MARKED IN EVIDENCE AS
23 STATE'S EXHIBIT 201 OVER OBJECTION.)

24 Q. THE NEXT OLDEST, SIR?

25 A. FEBRUARY 11TH, 1997, FIGHTING WITHOUT A WEAPON.

1 Q. I'LL SHOW YOU A DOCUMENT AND ASK YOU IS THIS THE
2 DOCUMENT THAT RELATES TO THAT INCIDENT?

3 A. YES, SIR.

4 Q. IS THAT A TRUE AND ACCURATE RECORD THAT'S KEPT
5 ON FILE IN YOUR OFFICE?

6 A. YES, SIR.

7 MR. BRACKETT: YOUR HONOR, I WOULD ASK THAT THIS
8 BE MARKED AND MOVED INTO EVIDENCE AS STATE'S 202.

9 THE COURT: OVER OBJECTION, IT'S RECEIVED.
10 (ANOTHER PRISON INFRACTION RECORD WAS MARKED IN EVIDENCE AS
11 STATE'S EXHIBIT 202 OVER OBJECTION.)

12 Q. AND THE NEXT INCIDENT, SIR?

13 A. THE SAME DATE, FEBRUARY 11TH, 1997, POSSESSION
14 OF CONTRABAND.

15 Q. ALL RIGHT, SIR, WERE THERE ANY OTHER INCIDENTS
16 ATTACHED TO THAT?

17 A. YES, SIR. ON FEBRUARY 11TH, LYING TO AN
18 EMPLOYEE AND DAMAGE, DESTROYING PROPERTY.

19 Q. ALL RIGHT, SIR. I'M SHOWING YOU A DOCUMENT AND
20 ASK YOU, SIR, IS THIS DOCUMENT A TRUE AND
21 ACCURATE COPY OF THE PAPERWORK RELATED TO THAT
22 INCIDENT?

23 A. YES, SIR.

24 MR. BRACKETT: I ASK THAT THAT BE MARKED AND
25 MOVED INTO EVIDENCE AS STATE'S 203.

1 THE COURT: OVER OBJECTION IT'S RECEIVED.

2 (ANOTHER PRISON INFRACTION RECORD WAS MARKED IN EVIDENCE AS
3 STATE'S EXHIBIT 203 OVER OBJECTION.)

4 Q. THE NEXT INCIDENT, SIR?

5 A. THE DOCUMENT THAT I HAD HANDED TO YOU EARLIER.

6 Q. WHAT IS THE DOCUMENT THAT I'M HANDING TO YOU
7 NOW?

8 A. IT'S AN AUTOMATED PRINTOUT FROM OUR COMPUTERIZED
9 INMATE SYSTEM THAT WOULD LIST THE -- WELL, IT
10 LISTS VARIOUS THINGS BUT SPECIFICALLY IT ALSO
11 INCLUDES THE DISCIPLINARY HISTORY OF THE INMATE.

12 Q. OKAY, SIR. WHAT IS THE NEXT, ACCORDING TO THAT
13 DOCUMENT, THE NEXT INFRACTION?

14 A. SEPTEMBER 17TH, 1998, REFUSING TO OR FAILING TO
15 OBEY.

16 Q. AND I'M SHOWING YOU A DOCUMENT; IS THIS DOCUMENT
17 AN ACCURATE AND TRUE COPY OF THE PAPERWORK
18 RELATING TO THAT INCIDENT YOU JUST DESCRIBED?

19 A. YES, SIR.

20 MR. BRACKETT: YOUR HONOR, I WOULD ASK THAT THIS
21 BE MARKED STATE'S 204 IN EVIDENCE.

22 THE COURT: OVER OBJECTION IT'S RECEIVED.

23 (ANOTHER PRISON INFRACTION RECORD WAS MARKED IN EVIDENCE AS
24 STATE'S EXHIBIT 204 IN EVIDENCE OVER OBJECTION.)

25 Q. WHEN WAS HE RECEIVED INTO THE DEPARTMENT OF

1 CORRECTIONS, SIR?

2 A. SEPTEMBER 3RD OF 1996.

3 Q. AND WHEN WAS HE DISCHARGED, SIR, FOR THAT?

4 A. INITIALLY HE WAS PLACED ON CONDITIONAL RELEASE
5 YOUTHFUL OFFENDER PAROLE ON JULY 31ST, 1997.

6 Q. ALL RIGHT, SIR; THANK YOU VERY MUCH. PLEASE
7 ANSWER ANY QUESTIONS DEFENSE COUNSEL MAY HAVE.

8 CROSS EXAMINATION BY

9 MR. HANCOCK:

10 Q. I'M REFERRING TO STATE'S EXHIBIT 202. DO YOU
11 HAVE THOSE NUMBERED SO THAT ---

12 A. NO, SIR, I DO NOT.

13 Q. DO YOU HAVE A COPY OF THESE?

14 A. YES, SIR, I BELIEVE SO. I DO NOT HAVE A COPY OF
15 THE INCIDENT IN WHICH THE FIGHTING WAS THE
16 ENUMERATED OFFENSE.

17 Q. AND THAT WOULD BE 3-10-97, IS THAT THE ONE
18 YOU'RE TALKING ABOUT? THIS ONE?

19 A. YES, SIR.

20 Q. YOU DO NOT HAVE THAT ONE?

21 A. I'M CHECKING. YES, SIR.

22 Q. NOW, I'M REFERRING TO STATE'S EXHIBIT 202 AND
23 YOU HAVE A COPY THERE DO YOU NOT, SIR?

24 A. YES, SIR.

25 Q. THAT VIOLATION INDICATED THAT, I BELIEVE YOU

1 SAID THAT WAS FIGHTING WITHOUT A WEAPON, A MINOR
2 INFRACTION, IS THAT CORRECT?

3 A. YES, SIR.

4 Q. AND IT APPEARS HERE THAT NOBODY EVEN SAW A
5 FIGHT, DID THEY?

6 A. THAT'S CORRECT. ACCORDING TO THE NARRATIVE, AN
7 OFFICER HEARD AN ALTERCATION, WENT TO
8 INVESTIGATE AND ---

9 Q. I DON'T THINK IT SAID HE HEARD AN ALTERCATION.
10 I THINK IT SAID HE HEARD A NOISE, A LOUD NOISE.
11 AND THAT DOESN'T SAY THAT THAT WAS EVEN
12 CONNECTED WITH WHAT HAPPENED IN THE REST OF THIS
13 NARRATIVE, DOES IT, SIR?

14 A. IT STATES THAT HE NOTICED A SMALL CUT UNDERNEATH
15 THE CHIN ---

16 Q. NO, SIR, I'M BACK TO THE NOISE. IT SAYS THERE
17 WAS A NOISE AND THEN HE WENT TO A DAY ROOM. IT
18 DOESN'T SAY THAT THE NOISE WAS CONNECTED TO WHAT
19 HE FOUND IN THE DAY ROOM, DOES IT, SIR?

20 A. NO.

21 Q. AND WHAT HE OBSERVED AND JIM'S INFRACTION THERE
22 WAS THAT HE WAS GETTING UP OFF THE FLOOR AFTER
23 EVIDENTLY SOMEBODY HAD HIT HIM IN THE FACE;
24 ISN'T THAT RIGHT?

25 A. NO, SIR, I DON'T SEE WHERE IT SAYS ANYTHING

1 ABOUT -- I TAKE THAT BACK. YES, SIR.

2 Q. IT SAID THERE WAS A CUT ON HIS CHEEK AND UNDER
3 HIS EYE WAS SWELLING.

4 A. YES, SIR.

5 Q. SO, HE RECEIVED A DEPARTMENT OF CORRECTIONS
6 INFRACTION FOR GETTING BEAT UP?

7 A. NO, HE RECEIVED A S.C.D.C. INFRACTION BECAUSE HE
8 PLED GUILTY.

9 Q. ALL RIGHT, SIR. TO GETTING BEAT UP IS WHAT
10 YOU'VE GOT THERE IN YOUR NARRATIVE, ISN'T IT?

11 MR. BRACKETT: OBJECTION, I THINK IT SPEAKS FOR
12 ITSELF.

13 THE COURT: OVERRULED.

14 Q. AGAIN, THERE IS NOTHING IN YOUR NARRATIVE THAT
15 SAID THAT HE HIT ANYBODY, HURT ANYBODY,
16 THREATENED ANYBODY, DID ANYTHING TO ANYBODY BUT
17 HE WAS FOUND GETTING UP OFF THE FLOOR WITH HIS
18 CHEEK CUT AND HURT ON THE EYE AND YOU HAVE AN
19 INFRACTION AND THAT'S THE INFRACTION ABOUT WHICH
20 WE SPEAK IN STATE'S 202. ISN'T THAT CORRECT,
21 SIR?

22 A. YES, SIR.

23 Q. ALL RIGHT, SIR. NOW, I REFER TO STATE'S 203.
24 THE POSSESSION OF CONTRABAND WAS THAT HE HAD
25 CIGARETTES AND A LIGHTER INSIDE A JACKET; IS

1 THAT CORRECT?

2 (NO RESPONSE)

3 Q. ARE WE READING FROM THE SAME PAGE HERE, SIR?

4 A. I BELIEVE WE ARE, SIR. I JUST ---

5 Q. STATE'S 203, POSSESSION OF CONTRABAND, MAKING
6 FALSE STATEMENTS AND DAMAGE TO PROPERTY.

7 A. YES, SIR.

8 Q. I BELIEVE IT SAID THAT CIGARETTES WERE FOUND
9 AFTER A HOLE WAS DISCOVERED INSIDE THE JACKET.
10 ISN'T THAT CORRECT, SIR?

11 A. YES, SIR.

12 Q. SO, THE CONTRABAND HE HAD IN YOUR FACILITY WERE
13 CIGARETTES?

14 A. YES, SIR.

15 Q. AND YOU'VE GOT THERE WAS DAMAGE TO PROPERTY.
16 THAT WAS THE HOLE IN THE S.C.D.C. JACKET? OR
17 WHAT WAS IT?

18 A. MY READING OF THIS, SIR, I DON'T SEE WHERE IT
19 SPECIFICALLY STATES WHAT THE DAMAGE OF PROPERTY
20 WAS, BUT THAT WOULD BE MY UNDERSTANDING OF IT.

21 Q. YES, SIR. SO, IN 203 WE DON'T EVEN REALLY KNOW
22 BY YOUR DOCUMENTATION WHAT HIS INFRACTIONS MAY
23 HAVE BEEN, DO WE, SIR?

24 A. YES, SIR.

25 Q. OKAY, WELL THEN WAS IT DAMAGED, THE HOLE IN THE

1 JACKET?

2 A. SIR, I'M AGREEING WITH YOU THAT ---

3 Q. THAT WE DON'T KNOW?

4 A. YES, SIR.

5 Q. OKAY, GOOD. DON'T LET ME CONFUSE YOU WHEN YOU
6 AGREE WITH ME; OKAY, SIR? NUMBER 204, I REFER
7 TO THAT AND THAT'S THE LONG YELLOW SHEET. THIS
8 IS THE ONE THAT THERE'S AN INFRACTION FOR
9 BANGING ON CELL DOOR. IS THAT CORRECT?

10 A. SIR, COULD YOU GIVE ME THE DATE OF THAT
11 INFRACTION?

12 Q. I'LL GIVE YOU THE DATE; I HAVE 9-17-98.

13 A. OKAY. I'M SORRY, SIR, THERE WAS A QUESTION. I
14 WAS DETERMINING WHICH DOCUMENT WE WERE TALKING
15 ABOUT AND I MISSED THE QUESTION.

16 Q. I'LL SHOW YOU WHAT I'M LOOKING AT SO THAT WE'RE
17 ON THE SAME PAGE.

18 A. THIS ISN'T MUCH OF A COPY.

19 Q. THAT'S NOT THE SAME THING I'M LOOKING AT, SIR.
20 IT'S MARKED AS STATE'S EXHIBIT 204.

21 A. I DON'T THINK I'VE GOT THAT, SIR.

22 Q. WELL, THEN I WILL HAND THIS TO YOU AND MAYBE YOU
23 CAN EDUCATE ME. I SEE ON THERE THAT IT SAYS
24 THAT HE HAS -- THAT'S A DISCIPLINARY ACTION
25 REPORT BUT I SEE NO DISPOSITION ON THERE. AM I

1 MISSING SOMETHING, SIR?

2 A. NOT ON THIS PARTICULAR DOCUMENT, SIR.

3 Q. SO, THIS IS A DOCUMENT THAT INDICATES THERE MAY
4 HAVE BEEN A DISCIPLINARY ACTION BUT IT IN NO WAY
5 INDICATES THAT HE WAS GUILTY OF IT, DOES IT,
6 SIR?

7 A. NO, SIR.

8 Q. NOW I AM REFERRING TO STATE'S 201, LET'S SEE IF
9 WE CAN GET ON THE SAME PAGE HERE. THIS IS ON 1-
10 7-96.

11 (AFTER A PAUSE.)

12 Q. OKAY, WE'RE ON THE SAME PAGE HERE NOW.

13 A. GOOD ENOUGH, SIR.

14 Q. SO YOU ARE READING FROM A COPY OF WHAT I HAVE
15 HERE AND I AM REFERRING TO STATE'S EXHIBIT 201;
16 IS THAT CORRECT, SIR?

17 A. I AGREE THAT I BELIEVE WE HAVE THE SAME
18 DOCUMENT, SIR.

19 Q. YES, SIR.

20 A. YOU HAVE THE ONE THAT'S MARKED THE EXHIBIT, I'M
21 NOT SURE WHICH.

22 Q. RIGHT, AND YOU'RE READING FROM A COPY?

23 A. YES, SIR.

24 Q. AND THIS WAS THAT HIS INFRACTION WAS THAT A
25 WINDOW IN A DOOR WAS BROKEN; IS THAT CORRECT?

1 A. YES, SIR.

2 Q. AND THAT EVIDENTLY WAS DONE BY JIMMY ROBERTSON;
3 IS THAT CORRECT? HE BROKE THE WINDOW IN THE
4 DOOR?

5 A. YES, SIR.

6 Q. AND HE HAD ANOTHER INMATE IN THE CELL, DIDN'T
7 HE?

8 A. YES, SIR.

9 Q. AND YOUR NARRATIVE HERE INDICATES IT WAS A BOBBY
10 JUMPER; ISN'T THAT CORRECT?

11 A. THAT IS CORRECT.

12 Q. AND HE TOLD THEM THAT HE KNOCKED ON THE DOOR TOO
13 HARD AND BROKE THE WINDOW; ISN'T THAT CORRECT?

14 A. WHICH HE --

15 THE COURT: YES, SAY HE WHO.

16 Q. MR. ROBERTSON.

17 A. YES, THE NARRATIVE INDICATES THAT MR. ROBERTSON
18 INDICATED THAT HE WAS THE ONE THAT KNOCKED ON
19 THE DOOR AND BROKE THE WINDOW.

20 Q. THERE'S NOTHING IN THERE THAT TELLS YOU WHY HE
21 MAY HAVE KNOCKED ON THE DOOR IN SUCH A MANNER,
22 DOES IT?

23 A. YES, SIR, THERE IS AN INDICATION.

24 Q. WHAT IS THAT INDICATION?

25 A. IT SAYS THAT HE WAS WRESTLING WITH BOBBY JUMPER;

1 THAT HE RECEIVED A SCRATCH ON HIS ABDOMEN AND
2 INMATE ROBERTSON GOT UPSET AND WENT TO THE
3 OFFICER'S STATION TO GET AN OFFICER. AND THEN
4 HE STATED THAT HE KNOCKED ON THE DOOR TOO HARD
5 AND BROKE THE WINDOW.

6 Q. IS THIS YOUR INDICATION HERE BY -- DOES YOUR
7 NARRATIVE INDICATE THAT HE WAS TRYING TO GET
8 HELP FOR ANOTHER INMATE AND IN DOING SO KNOCKED
9 OUT A WINDOW?

10 MR. BRACKETT: I OBJECT, THAT CALLS FOR
11 SPECULATION.

12 THE COURT: I SUSTAIN THE OBJECTION.

13 Q. YOU DON'T HAVE ANY NARRATIVE -- I THINK DOWN
14 HERE IT SAYS MAGISTRATE INMATE FINDS HIM GUILTY;
15 RIGHT?

16 A. YES, SIR.

17 Q. DO YOU HAVE A TRANSCRIPT OF THAT HEARING HERE
18 WITH YOU?

19 A. NO, SIR.

20 Q. SO IF THAT WAS THE CIRCUMSTANCE, YOU WOULDN'T BE
21 ABLE TO TESTIFY TO IT, WOULD YOU, SIR?

22 A. NO, SIR.

23 Q. I BEG THE INDULGENCE OF THE COURT ONE MOMENT.
24 (AFTER A BRIEF PAUSE.)

25 Q. DO YOU HAVE ALL OF JIMMY'S RECORDS WITH YOU?

1 A. I HAVE HIS CENTRAL RECORDS, SIR.

2 Q. HIS CENTRAL RECORDS. DO YOU HAVE THAT
3 PARTICULAR PIECE OF PAPER, SIR?

4 A. I WOULD DOUBT IT, BUT I WOULD BE HAPPY TO LOOK
5 FOR IT.

6 Q. ALL RIGHT, SIR, IF YOU WOULD.

7 MR. BRACKETT: I WOULD ASK THAT COUNSEL SHOW ME
8 WHAT HE'S REFERRING TO.

9 MR. HANCOCK: I AM GOING TO SHARE IT WITH THE
10 SOLICITOR IF I MAY.

11 A. ALL RIGHT.

12 (THE PAPER WAS SHOWN TO MR. BRACKETT.)

13 A. NO, SIR, IT'S NOT IN THE CENTRAL RECORD, WHICH
14 WOULD GENERALLY BE THE CASE. THIS IS A MEDICAL
15 DOCUMENT AND SUCH DOCUMENTS ARE KEPT IN THE
16 MEDICAL RECORD AS OPPOSED TO THE CENTRAL RECORD.

17 Q. AND YOU DON'T HAVE THE MEDICAL RECORDS WITH YOU;
18 IS THAT WHAT WE'RE SAYING, SIR?

19 A. YES, SIR. WE ARE NOT THE CUSTODIAN OF THAT
20 RECORD.

21 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

22 REDIRECT EXAMINATION BY

23 MR. BRACKETT:

24 Q. BRIEFLY, ON ONE ISSUE. MR. HANCOCK WAS
25 INQUIRING ABOUT THE FIGHTING, NO DISPOSITION ON

1 THAT. YOU HAD ANOTHER DOCUMENT THERE EARLIER, A
2 COMPUTER PRINTOUT.

3 A. YES, SIR.

4 Q. DO YOU STILL HAVE THAT?

5 A. SURE.

6 Q. DOES THAT REFLECT A DISPOSITION ON THAT?

7 A. OKAY, WHAT OFFENSE WAS THAT, SIR?

8 Q. FOR THE FIGHTING, THE -- I BELIEVE IT WAS THIS
9 YELLOW DOCUMENT, 1998, SEPTEMBER 17TH 9:00 A.M.
10 -- NO, NO, NO. LEVEL 2, REFUSING OR FAILING TO
11 OBEY ORDERS.

12 A. THE AUTOMATED RECORD INDICATES THAT HE WAS
13 CONVICTED OF THAT OFFENSE.

14 Q. MAY I SEE THAT RECORD, SIR?

15 (THE RECORD WAS GIVEN TO MR. BRACKETT, WHO IN TURN SHOWED
16 IT TO DEFENSE.)

17 MR. HANCOCK: YOUR HONOR, HE HAS REFERRED TO
18 CERTAIN RECORDS THAT I'M NOT SURE -- THEY ARE SELF-
19 AUTHENTICATING ---

20 MR. BRACKETT: I'M NOT TRYING TO GET IT IN UNDER
21 902, YOUR HONOR. I HAVE THE CUSTODIAN OF THE RECORDS HERE.
22 YOU PREVIOUSLY TESTIFIED THAT THIS IS A PRINTOUT OF THE
23 COMPUTER RECORDS YOU KEEP AT YOUR OFFICE?

24 A. YES, SIR.

25 Q. IS THIS AN ACCURATE COPY OF THE RECORDS THAT ARE

1 MAINTAINED ON THE DATABASE, SIR?

2 A. YES, SIR.

3 MR. HANCOCK: YOUR HONOR, ON THIS PARTICULAR
4 THING, IT'S OFFERED FOR THE CONVICTION AND I THINK IT COULD
5 BE DONE WITH THE CONVICTION RECORD. THERE ARE OTHER
6 MATTERS ON HERE THAT DO NOT GO IN ANY MANNER TO WHAT THE
7 STATE HAS INTRODUCED.

8 MR. BRACKETT: THAT'S FINE, YOUR HONOR. I'LL
9 STAND WITH HIS TESTIMONY. I HAVE NO FURTHER QUESTIONS.

10 THE COURT: RECROSS?

11 MR. HANCOCK: NOTHING FURTHER, YOUR HONOR.

12 THE COURT: ALL RIGHT, YOU CAN STEP DOWN AND BE
13 EXCUSED, WE APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

14 MR. STOBBE: YOUR HONOR?

15 THE COURT: YES, SIR?

16 MR. STOBBE: I HAVE NUMEROUS COPIES OF DOCUMENTS
17 FROM HIS RECORD THAT HAVE BEEN DISPERSED AMONGST THESE
18 GENTLEMEN. I WOULD EITHER NEED A COPY OF THEM OR ---

19 THE COURT: THE SOLICITOR'S OFFICE WILL PROVIDE
20 YOU WITH COPIES.

21 MR. STOBBE: THANK YOU, SIR.

22 THE COURT: YES, SIR. CALL YOUR NEXT WITNESS,
23 SOLICITOR.

24 MR. POPE: THE STATE WOULD CALL SCOTT WILLIAMS.

25 MR. HANCOCK: YOUR HONOR, AT THIS TIME WE ARE

1 GOING TO OBJECT TO THIS WITNESS BEING RELEASED.

2 THE COURT: TELL HIM HE IS STILL UNDER SUBPOENA.

3 MR. BRACKETT: DO YOU NEED HIM HERE IN THE
4 COURTHOUSE OR CAN HE GO BACK, SUBJECT TO RECALL?

5 THE COURT: LET'S KEEP HIM HERE FOR NOW. GO
6 AHEAD.

7 MR. POPE: THE STATE CALLS SCOTT WILLIAMS.

8 SCOTT WILLIAMS, BEING FIRST DULY SWORN, TESTIFIED
9 AS FOLLOWS:

10 DIRECT EXAMINATION BY

11 MR. POPE:

12 Q. MR. WILLIAMS, IF YOU WOULD, STATE YOUR NAME AND
13 SPELL YOUR LAST NAME FOR THE COURT REPORTER
14 PLEASE, SIR.

15 A. MY NAME IS SCOTT WILLIAMS, W-I-L-L-I-A-M-S.

16 Q. WOULD YOU TELL THE JURY WHERE YOU ARE EMPLOYED?

17 A. I'M EMPLOYED WITH SOUTH CAROLINA PROBATION,
18 PAROLE AND PARDON SERVICES.

19 Q. AND HOW LONG HAVE YOU BEEN EMPLOYED THERE?

20 A. APPROXIMATELY FOUR YEARS.

21 Q. CAN YOU TELL THE JURY WHAT YOUR BASIC DUTIES
22 ARE, DAY TO DAY WHAT IT IS THAT YOU DO?

23 A. I'M CHARGED WITH THE COMMUNITY SUPERVISION OF
24 PROBATIONERS, PAROLEES AS WELL AS THOSE RELEASED
25 TO A CONDITIONAL RELEASE SENTENCE UNDER THE

1 YOUTHFUL OFFENDER ACT.

2 Q. DO YOU KNOW THE DEFENDANT IN THIS CASE?

3 A. YES, SIR, I DO.

4 Q. COULD YOU TELL THE JURY HOW YOU KNOW HIM?

5 A. I SUPERVISED MR. ROBERTSON'S CASE WHILE HE WAS
6 ON Y.O.A. CONDITIONAL RELEASE.

7 Q. CAN YOU EXPLAIN TO THE JURY WHAT A Y.O.A.
8 CONDITIONAL RELEASE IS, WHAT THAT IS?

9 A. CONDITIONAL RELEASE IS A PROGRAM WHERE MR.
10 ROBERTSON WOULD BE SENTENCED IN THE COURT; ONCE
11 HE WAS SENTENCED, HE WENT IN AND SERVED A BRIEF
12 STINT IN THE SOUTH CAROLINA DEPARTMENT OF
13 CORRECTIONS AND THEN WAS RELEASED TO OUR
14 SUPERVISION AND UPON HIS RELEASE HE HAD
15 APPROXIMATELY 16 CONDITIONS TO ABIDE BY AS WELL
16 AS SPECIAL CONDITIONS THAT WERE HANDED DOWN BY
17 THE PAROLE BOARD.

18 Q. COULD YOU RELATE TO THE JURY JUST IN GENERAL
19 WHAT THOSE CONDITIONS WERE, WHAT TYPE OF
20 CONDITIONS?

21 A. DO YOU WANT ME TO READ ALL 16 OF THOSE
22 CONDITIONS?

23 Q. YES, SIR, IF YOU COULD.

24 A. "I SHALL REPORT WITHIN 48 HOURS OF MY ARRIVAL AT
25 MY DESTINATION TO THE SUPERVISING AGENT UNDER

WHOSE SUPERVISION I AM RELEASED.

I UNDERSTAND THAT I DO NOT HAVE COMPLETE FREEDOM OF THE COMMUNITY AND WILL RESTRICT MY ACTIVITIES TO THOSE PROGRAMS APPROVED BY MY SUPERVISING AGENT.

I AGREE TO FUTURE MODIFICATIONS OF THESE CONDITIONS BY DULY AUTHORIZED REPRESENTATIVES OF THE BOARD AS A CONDITION OF THIS RELEASE.

I SHALL NOT CHANGE MY RESIDENCE OR EMPLOYMENT WITHOUT FIRST PROCURING THE CONSENT OF MY SUPERVISING AGENT.

I SHALL EACH MONTH AND WHENEVER INSTRUCTED BY MY SUPERVISING AGENT UNTIL MY FINAL RELEASE MAKE A COMPLETE AND TRUTHFUL REPORT THROUGH MY SUPERVISING AGENT.

I SHALL NOT USE CONTROLLED SUBSTANCES EXCEPT WHEN PROPERLY PRESCRIBED BY A LICENSED PHYSICIAN.

I WILL NOT CONSUME ALCOHOLIC BEVERAGES TO EXCESS OR VISIT ESTABLISHMENTS WHOSE PRIMARY BUSINESS IS THE SALE OR DISPENSATION AND CONSUMPTION OF ALCOHOLIC BEVERAGES.

I SHALL AVOID INJURIOUS HABITS AND ASSOCIATE ONLY WITH LAW ABIDING PERSONS.

I SHALL IN ALL RESPECTS CONDUCT MYSELF

1 HONORABLE, WORK DILIGENTLY AT A LAWFUL
2 OCCUPATION AND SUPPORT MY DEPENDENTS, IF ANY, TO
3 THE BEST OF MY ABILITY.

4 I SHALL REFRAIN FROM THE VIOLATION OF ANY
5 FEDERAL, STATE OR LOCAL LAW AND WILL CONTACT MY
6 SUPERVISING AGENT IMMEDIATELY IF ARRESTED OR
7 QUESTIONED BY A LAW ENFORCEMENT OFFICIAL.

8 I WILL NOT LEAVE THE STATE WITHOUT AUTHORIZATION
9 AND I REALIZE THAT IF I LEAVE THE STATE OR MY
10 ASSIGNED AREA, I WILL BE CONSIDERED TO HAVE
11 ABSCONDED SUPERVISION AND DEALT WITH
12 ACCORDINGLY.

13 I HEREBY WAIVE ALL EXTRADITION RIGHTS AND
14 PROCESS AND AGREE TO RETURN TO SOUTH CAROLINA
15 WHEN DIRECTED TO BY THE BOARD OR PURSUANT TO A
16 WARRANT.

17 I SHALL NOT HAVE IN MY POSSESSION OR PURCHASE A
18 WEAPON.

19 I SHALL PROMPTLY AND TRUTHFULLY ANSWER ALL
20 INQUIRIES DIRECTED TO ME BY THE BOARD AND MY
21 SUPERVISING AGENT AND ALLOW HIM/HER TO VISIT ME
22 AT ANY TIME IN MY HOME, AT MY EMPLOYMENT SITE OR
23 ELSEWHERE, AND CARRY OUT ALL INSTRUCTIONS HE OR
24 SHE GIVES.

25 I SHALL PAY DURING MY PARTICIPATION IN THIS

1 PROGRAM ANY RESTITUTION, FINES OR OTHER PAYMENTS
2 WHICH HAVE BEEN ORDERED AS PART OF MY SENTENCE
3 WHETHER THE ORDER TO PAY IS MADE PRIOR TO OR
4 AFTER MY RELEASE FROM THIS PROGRAM.

5 I SHALL IMMEDIATELY NOTIFY MY SUPERVISING AGENT
6 IN CASE OF UNEMPLOYMENT AND/OR ABSENTEEISM FROM
7 WORK OR IN CASE OF ILLNESS OR INJURY.

8 I MUST SUBMIT TO A URINALYSIS TEST AND/OR BLOOD
9 TEST WHEN REQUESTED BY MY SUPERVISING AGENT AND
10 AGREE THAT THESE TEST RESULTS MAY BE USED AS
11 EVIDENCE THAT I DID OR DID NOT VIOLATE THESE
12 CONDITIONS.

13 AND FINALLY NUMBER 16 IS I SHALL PAY THE
14 SUPERVISION FEE IN THE AMOUNT OF A HUNDRED AND
15 TWENTY DOLLARS PER YEAR SUPERVISION. PAYMENT
16 MAY BE MADE IN CASH OR MONEY ORDERS PAYABLE TO
17 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS."

18 AND HE DID HAVE ONE ADDITIONAL SPECIAL CONDITION
19 WHICH WAS TO STAY AWAY FROM THE VICTIM AND/OR
20 VICTIM'S FAMILY FOR HIS DURATION OF CONDITIONAL
21 RELEASE.

22 Q. AND THE VICTIM, WHAT CASE WAS THAT, WAS THAT MR.
23 WOOD'S CASE?

24 A. YES, SIR.

25 Q. OKAY. LET ME ASK YOU, COULD YOU TELL THE JURY

1 DURING WHAT TIME PERIOD YOU WERE ACTUALLY
2 SUPERVISING HIM?

3 A. I BEGAN SUPERVISING MR. ROBERTSON'S CASE ON JULY
4 31ST, 1997 AND IT WAS TO RUN UNTIL AUGUST 1ST,
5 THE YEAR 2002, AND AT THAT TIME HE WAS TO HAVE A
6 PROBATION CASE THAT WAS TO BE INITIATED.

7 Q. OKAY. CAN YOU TELL THE JURY THE RESULTS OF HOW
8 HE COMPLIED WITH PROBATION?

9 A. NOT WELL, AND CONSEQUENTLY HIS CONDITIONAL
10 RELEASE WAS REVOKED ON APRIL 28TH, 1998 TO
11 RETURN BACK TO THE SOUTH CAROLINA DEPARTMENT OF
12 CORRECTIONS TO SPEND OR TO SERVE MORE TIME.

13 MR. POPE: YOUR HONOR, AT THIS TIME UNDER RULE
14 902 I HAVE A CERTIFIED TRUE COPY OF THE ORDER OF REVOCATION
15 AND I WOULD MOVE THAT INTO EVIDENCE AT THIS TIME.

16 MR. HANCOCK: I'D LIKE TO LOOK AT IT, YOUR HONOR.
17 (THE DOCUMENT WAS SHOWN TO DEFENSE.)

18 MR. POPE: YOUR HONOR, AGAIN I TENDER 205 FOR
19 IDENTIFICATION INTO EVIDENCE.

20 MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

21 THE COURT: IT WILL BE RECEIVED.

22 (THE ORDER OF REVOCATION WAS MARKED IN EVIDENCE AS STATE'S
23 EXHIBIT 205 WITHOUT OBJECTION.)

24 Q. MR. WILLIAMS, ANSWER ANY QUESTIONS THE DEFENSE
25 MAY HAVE, PLEASE.

YES, SIR.

CROSS EXAMINATION BY

~~XXXXXXXXXX~~ . HANCOCK:

AGENT WILLIAMS, I'M REFERRING TO THE ORDER OF REVOCATION.

YES, SIR.

HE VIOLATED HIS YOUTHFUL OFFENDER PAROLE BY CHANGING RESIDENCE, IS THAT CORRECT, WITHOUT NOTIFYING THE AGENT?

THAT'S CORRECT.

AND THAT'S WHEN HE WENT BACK HOME; IS THAT CORRECT?

THAT'S CORRECT.

AND ARE YOU AWARE OF HOW LONG HE WAS AT HOME BEFORE HIS PARENTS WERE KILLED?

NO, SIR. I VISITED MR. ROBERTSON AT HIS APARTMENT AT 1102 OR 1112 RATHER, CAMDEN AVENUE, APARTMENT 106. THAT OCCURRED ON NOVEMBER 21ST, 1997. AND THE FIRST TIME I HEARD OF HIM MOVING BACK TO HIS RESIDENCE WAS FROM THE SHERIFF'S DEPARTMENT ON NOVEMBER 25TH, 1997.

WHEN HE WAS CHARGED WITH MURDER; ISN'T THAT CORRECT, SIR?

THAT'S CORRECT.

SO, THAT'S HIS VIOLATION THERE AND HE WAS NOT

1 VIOLATED FOR ANY OF THESE OTHER THINGS, AND THEN
2 YOU VIOLATED HIM AFTER HE WAS BROUGHT BACK TO
3 SOUTH CAROLINA. ISN'T THAT CORRECT?

4 A. THE WARRANT WAS ISSUED ON NOVEMBER 25TH, 1997.
5 THE DAY I FOUND OUT OF THE INCIDENCE OCCURRING.

6 Q. BUT HE WAS NOT REVOKED -- YOU SAID FAILING TO
7 REFRAIN FROM THE USE OF CONTROLLED SUBSTANCE BY
8 VOLUNTARILY ADMITTING TO USE OF P.H.C. ON 9-25-
9 97; HE WASN'T REVOKED FOR THAT AT THAT TIME, WAS
10 HE?

11 A. NO, SIR. AT THAT TIME HE WAS REFERRED FOR
12 SUBSTANCE ABUSE TREATMENT AND HAD AN ASSESSMENT
13 FOR THAT TREATMENT ON NOVEMBER 21ST, 1997, THE
14 SAME DAY THAT I VISITED HIM IN HIS HOME.

15 Q. AND THE FAILING TO FOLLOW THE ADVICE AND
16 INSTRUCTIONS OF HIS AGENT. IS THAT LEAVING THE
17 STATE OF SOUTH CAROLINA?

18 A. THAT COULD CONSIST OF A NUMBER OF THINGS.

19 Q. WHAT DID THIS CONSIST OF THOUGH?

20 A. IT WAS REFERRING TO ALL THOSE VIOLATIONS THAT
21 WERE CHARGED IN THE WARRANT.

22 Q. I DON'T HAVE ANYTHING FURTHER, YOUR HONOR.

23 MR. POPE: I HAVE JUST A COUPLE OF QUESTIONS,
24 YOUR HONOR.

25 THE COURT: YES, SIR.

REDIRECT EXAMINATION BY

MR. POPE:

Q. MR. WILLIAMS, YOU SAID HE -- I THINK YOUR WORDS WERE HE DIDN'T DO WELL OR DIDN'T DO WELL ON PAROLE?

A. THAT'S CORRECT.

Q. COULD YOU EXPLAIN TO THE JURY WHAT YOU MEANT BY THAT?

A. SURE. THE FIRST INDICATION OF HIM NOT DOING WELL WOULD HAVE BEEN THE ---

MR. HANCOCK: YOUR HONOR, I DON'T BELIEVE THAT WAS EVEN BROUGHT UP ON CROSS.

THE COURT: I SUSTAIN THE OBJECTION.

MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR, HE WENT INTO SPECIFIC REASONS FOR THE REVOCATION. I WOULD SUBMIT IT IS DIRECTLY RELEVANT TO WHAT HE ASKED ON CROSS EXAMINATION.

THE COURT: I SUSTAIN THE OBJECTION. ANYTHING FURTHER?

MR. POPE: NO, SIR. NO, SIR, YOUR HONOR.

THE COURT: YOU CAN STEP DOWN; THANK YOU. CALL YOUR NEXT WITNESS.

MR. BRACKETT: THE STATE WOULD CALL ERIN SAVAGE, YOUR HONOR.

MR. POPE: YOUR HONOR, I WOULD ASK THAT THIS

1 WITNESS BE EXCUSED.

2 THE COURT: CERTAINLY. YOU CAN BE EXCUSED.

3 MR. BRACKETT: YOUR HONOR, WOULD YOU CARE TO HAVE
4 THE WITNESS RE-SWORN?

5 THE COURT: YES, JUST GO AHEAD AND SWEAR HER
6 AGAIN.

7 ERIN ELIZABETH SAVAGE, BEING FIRST DULY SWORN,
8 TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION BY

10 MR. BRACKETT:

11 Q. MA'AM, YOU ARE ERIN SAVAGE?

12 A. YES, SIR.

13 Q. YOU HAVE PREVIOUSLY TESTIFIED?

14 A. YES, SIR, I HAVE.

15 Q. WOULD YOU REACQUAINT THE JURY WITH HOW YOU KNOW
16 THE DEFENDANT, MR. ROBERTSON?

17 A. MR. ROBERTSON AND I WORKED TOGETHER AT PAPA
18 JOHN'S IN THE SUMMER OF 1995. WE DATED SHORTLY
19 DURING THAT TIME AND REMAINED FRIENDS
20 AFTERWARDS.

21 Q. AND, AGAIN, HOW OFTEN WOULD YOU USED TO SEE HIM
22 FROM 1995 THROUGH NOVEMBER OF '97?

23 A. ABOUT WEEKLY.

24 Q. AND HOW OFTEN WOULD YOU TALK TO HIM ON THE
25 PHONE?

1 A. ALMOST EVERY DAY.

2 Q. NOW, COULD YOU TELL THE JURY ABOUT HIS
3 RELATIONSHIP WITH HIS PARENTS AS HE REPORTED IT
4 TO YOU?

5 A. AS I UNDERSTAND FROM CONVERSATIONS I HAD WITH
6 HIM, HE WASN'T VERY CLOSE WITH HIS PARENTS. I
7 ONLY MET THEM TWICE IN THE YEARS THAT I KNEW
8 HIM. HE WAS USUALLY ANGRY WITH THEM ABOUT, YOU
9 KNOW, ONE THING OR ANOTHER.

10 Q. LIKE WHAT?

11 A. I KNOW THAT DURING THE TIME THAT WE WERE DATING
12 HIS MOM HAD HIM ARRESTED AND I GUESS TAKEN TO
13 THE STATE HOSPITAL. SHE SAID SHE FELT
14 THREATENED BY HIM IS WHAT HE TOLD ME. AND HE
15 WAS DOWN THERE I KNOW FOR AT LEAST A WEEK. AND
16 HE WAS ANGRY ABOUT THAT.

17 Q. OKAY. AND WHAT OTHER THINGS DID HE TELL YOU
18 ABOUT HIS PARENTS?

19 A. HE SAID THAT -- ABOUT A MONTH BEFORE THE MURDERS
20 HE STARTED TALKING ABOUT HIS PARENTS HAD CUT OFF
21 HIS BROTHER; LITTLE THINGS LIKE MONEY, YOU KNOW,
22 HOW MUCH MONEY THEY WERE GIVING HIM, YOU KNOW,
23 WHEN HE'D CALL. HE WASN'T VERY HAPPY ABOUT
24 THAT; HE WAS ANGRY ABOUT THAT A LOT ---

25 THE COURT: YOU SAY "HE", LET'S USE NAMES.

1 A. JIM WAS UPSET THAT HIS PARENTS HAD CUT HIS
2 BROTHER OFF FROM MONEY.

3 Q. OKAY. AND WHAT DID HE SAY ABOUT HIS PARENTS?
4 DID HE EVER TALK ABOUT THEM IN ANY OTHER SENSE?

5 A. HE NEVER, I MEAN USED SPECIFIC TERMS, FOUL
6 LANGUAGE ABOUT THEM. USUALLY IT WAS JUST, I
7 MEAN HE WOULD JUST SAY, YOU KNOW, THAT HE WAS
8 ANGRY WITH THEM.

9 Q. OKAY. DID HE EVER THREATEN HIS PARENTS IN YOUR
10 PRESENCE?

11 A. NOT THREATEN THEM DIRECTLY, BUT HE SAID ON
12 SEVERAL OCCASIONS, FIVE OR SIX OCCASIONS THAT HE
13 PLANNED ON KILLING HIS PARENTS. HE NEVER SAID
14 THAT DIRECTLY TO THEM BUT HE SAID IT TO HIS
15 FRIENDS.

16 Q. ALL RIGHT, CAN YOU TELL ME WHAT HE SAID ABOUT
17 WHAT HE INTENDED TO DO, DESCRIBE A LITTLE MORE
18 FULLY TO THE JURY? WHAT WOULD HE TELL YOU; HOW
19 WOULD HE SAY THAT?

20 A. IT WOULD COME UP IN EVERY DAY CONVERSATION, A
21 COUPLE OF PEOPLE SITTING IN A ROOM HANGING OUT
22 AND HE WOULD BRING IT UP, SOMETIMES HE WAS
23 DRINKING, SOMETIMES HE WASN'T. I MEAN IT WAS
24 JUST ANY SITUATION. HE SAID -- IT WAS USUALLY
25 WHEN HE WAS ANGRY AT HIS PARENTS -- HE SAID THAT

1 HE WAS GOING TO KILL THEM. USUALLY HE WOULDN'T
2 SAY WHY.

3 ONCE HE DID SAY THAT THERE WAS A LOT OF MONEY
4 INVOLVED.

5 HE SAID ON ONE OCCASION THAT HE WOULD MAKE IT
6 LOOK LIKE A BREAKING AND ENTERING. AND I KNOW
7 ON ANOTHER OCCASION HE SAID THAT HE MIGHT BURN
8 THE HOUSE. AND THEN HE RETRACTED THAT SAYING
9 THAT HIS BROTHER AND HIMSELF WOULD LIKE TO LIVE
10 IN THE HOUSE AFTERWARDS.

11 Q. HIS BROTHER, WHAT'S HIS BROTHER'S NAME?

12 A. CHIP ROBERTSON.

13 Q. HOW MANY BROTHERS DOES HE HAVE?

14 A. ONE BROTHER.

15 Q. HOW DID HE AND HIS BROTHER GET ALONG?

16 A. THEY GOT ALONG VERY WELL.

17 Q. WAS HE EVER PRESENT DURING ANY OF THESE
18 CONVERSATIONS?

19 A. NOT IN ANY OF THE CONVERSATIONS EXCEPT FOR ONE
20 WHERE CHIP WAS ON THE PHONE WHILE JIM WAS
21 TALKING ABOUT IT AND I KNOW HE SAID ---

22 Q. HOW DO YOU KNOW CHIP WAS ON THE PHONE?

23 A. I HAD TALKED TO CHIP DURING THEIR CONVERSATION.
24 I WAS GIVEN THE PHONE AND I TALKED WITH CHIP.

25 Q. YOU WERE WITH JIM AND CHIP WAS SOMEWHERE ELSE ON

1 ANOTHER PHONE?

2 A. YES, CHIP WAS AT SCHOOL. AND I SPOKE WITH HIM.

3 Q. WHERE IN SCHOOL?

4 A. IN PENNSYLVANIA.

5 Q. OKAY.

6 A. AND JIM BROUGHT IT UP TO CHIP ON THE PHONE. I
7 DON'T KNOW WHAT CHIP SAID BACK TO HIM.

8 Q. WHAT WAS JIM SAYING?

9 A. HE JUST SAID, YOU KNOW, SOME DAY WE SHOULD KILL
10 OUR PARENTS, YOU KNOW, MONEY. HE DIDN'T GO INTO
11 A LOT OF SPECIFICS. IT DIDN'T SEEM LIKE IT WAS
12 A VERY LONG CONVERSATION ABOUT IT.

13 Q. HAVE YOU BEEN IN CONTACT WITH THE DEFENDANT
14 SINCE HE WAS ARRESTED FOR THE MURDER OF HIS
15 PARENTS?

16 A. YES, I HAVE.

17 Q. WHEN WAS THE LAST TIME YOU CONTACTED OR WERE
18 CONTACTED BY HIM?

19 A. TODAY BEFORE I CAME HERE.

20 Q. AND WHAT WAS THE SUBSTANCE OF THE MESSAGE OR
21 COMMUNICATION?

22 A. HE CALLED, IT WAS ABOUT 12:50 TODAY BEFORE I
23 CAME HERE AND HE SAID THAT THE CASE WAS RUNNING
24 BEHIND AND THAT THEY WOULDN'T GET TO ME TODAY
25 AND THAT EVEN THOUGH I HAD BEEN CALLED TO COME

AND TESTIFY, THAT I WOULDN'T NEED TO COME
BECAUSE THEY WOULDN'T GET A CHANCE TO CALL ME IN
TODAY.

WAS THAT TRUE?

NO, SIR, I'M HERE.

YES, MA'AM. THANK YOU VERY MUCH. PLEASE ANSWER
ANY QUESTIONS DEFENSE COUNSEL MIGHT HAVE.

CROSS EXAMINATION BY

MR. BOYD:

MS. SAVAGE?

YES, SIR.

YOU'RE A GOOD FRIEND OF MEREDITH MOON'S, AREN'T
YOU?

YES, SIR, I AM.

YOU WERE BEFORE THIS INCIDENT HAPPENED; IS THAT
CORRECT?

BEFORE AND AFTER, YES, SIR.

BEFORE AND AFTER. HOW LONG HAVE YOU KNOWN
MEREDITH?

FIVE YEARS MAYBE.

FIVE YEARS?

YES, SIR.

AND SO YOU WERE DATING JIM OR JIMMY, RIGHT?

YES, SIR.

AND YOU'RE THE ONE THAT INTRODUCED HIM TO

1 MEREDITH MOON, IS THAT CORRECT?

2 A. UNFORTUNATELY.

3 Q. OKAY. AND YOU AND MEREDITH AND HE WOULD HANG
4 OUT TOGETHER SOME; IS THAT CORRECT?

5 A. YES, SIR, A GOOD BIT.

6 Q. AND DURING THAT TIME YOU'VE OFTEN SEEN JIM USE
7 DRUGS, IS THAT RIGHT?

8 A. YES, SIR, I HAVE ON MANY OCCASIONS.

9 Q. EVEN WHILE YOU WERE DATING HIM; IS THAT CORRECT?

10 A. NO, SIR, DURING THE TIME WE WERE DATING I DON'T
11 BELIEVE HE EVER DID. WE DIDN'T SPEND A LOT OF
12 TIME TOGETHER. MY PARENTS DIDN'T LIKE HIM VERY
13 MUCH, SO I DIDN'T SEE HIM OFTEN.

14 Q. OKAY, BUT YOU STILL HUNG AROUND WITH HIM EVEN
15 AFTER Y'ALL QUIT DATING, HE WAS USING DRUGS; IS
16 THAT CORRECT?

17 A. AFTER, YES.

18 Q. AND YOU WOULD WITNESS HIM USE DRUGS?

19 A. YES, SIR.

20 Q. YOU WOULD WITNESS HIM SNORT RITALIN; IS THAT
21 CORRECT?

22 A. YES, SIR.

23 Q. AND HE'D CRUSH UP PILLS AND SNORT IT THROUGH HIS
24 NOSE?

25 A. YES, SIR.

1 Q. AND I BELIEVE YOU SAID IN YOUR STATEMENT TO THE
2 POLICE MANY OF YOUR FRIENDS USED DRUGS; ISN'T
3 THAT RIGHT?

4 A. NOT ALL OF THEM.

5 Q. I DIDN'T SAY ALL OF THEM.

6 A. A CERTAIN GROUP.

7 Q. MANY OF YOUR FRIENDS.

8 A. THERE WAS A CERTAIN GROUP THAT WOULD DO THAT;
9 YES, SIR.

10 Q. SO, YOU'VE HUNG AROUND WITH OTHER PEOPLE WHO USE
11 DRUGS; IS THAT RIGHT?

12 A. YES, SIR.

13 Q. AND YOU USED THEM YOURSELF, DIDN'T YOU?

14 A. MANY, MANY YEARS AGO.

15 Q. MANY, MANY YEARS AGO.

16 A. I STOPPED AT LEAST TWO YEARS AGO AND I HAVEN'T
17 DONE IT SINCE. I'M PROUD OF THAT.

18 Q. BUT YOU STILL CONTINUED TO HANG AROUND WITH
19 PEOPLE WHO WERE USING DRUGS?

20 A. YES, SIR, BUT I DO NOT.

21 Q. AND THEY WOULD USE DRUGS IN YOUR PRESENCE?

22 A. YES, SIR.

23 Q. AND GOING BACK TO MEREDITH MOON, EVEN AFTER SHE
24 WAS ARRESTED FOR THIS, YOU CONTINUED TO BE A
25 GOOD FRIEND OF HER'S?

1 A. YES, SIR.

2 Q. IN FACT, YOU'VE CORRESPONDED WITH HER.

3 A. YES, SIR.

4 Q. YOU'VE CORRESPONDED WITH HER WHILE SHE WAS IN
5 JAIL UP IN PHILADELPHIA, DIDN'T YOU?

6 A. I BELIEVE ONCE OR TWICE, YES, SIR.

7 Q. AND YOU HAVE ALSO TALKED TO HER ON THE TELEPHONE
8 WHILE YOU WERE HERE -- WHILE SHE WAS HERE IN
9 PRISON. IS THAT CORRECT?

10 A. YES, SIR, I'VE EVEN VISITED HER.

11 Q. YOU'RE ON HER VISITING LIST, AREN'T YOU?

12 A. YES, SIR.

13 Q. AND YOU VISIT HER ON A REGULAR BASIS, DON'T YOU?

14 A. ABOUT ONCE A MONTH.

15 Q. ABOUT ONCE A MONTH. SO, YOU'VE DISCUSSED THIS
16 CASE WITH HER?

17 A. NO, SIR, HER LAWYERS ASKED THAT WE NOT DISCUSS
18 IT IN DETAIL.

19 Q. SO, YOUR TESTIMONY IS YOU NEVER TALK ABOUT THIS
20 WITH MEREDITH MOON?

21 A. SHE DISCUSSES THINGS LIKE WHAT'S GOING ON, I
22 MEAN, THIS IS COMING UP, BUT WE NEVER REALLY
23 OUTRIGHT DISCUSSED THIS IS WHAT HAPPENED THAT
24 NIGHT. UNTIL SHE TESTIFIED THE OTHER DAY, I
25 DIDN'T KNOW THE WHOLE STORY.

YOU DIDN'T KNOW HER FULL STORY?

I DIDN'T KNOW HER FULL STORY UNTIL THE OTHER DAY WHEN IT WAS IN THE PAPER I READ IT FOR THE FIRST TIME.

WELL, LET ME ASK YOU A QUESTION. HOW DID YOU FIND OUT HER FULL STORY?

WELL, I MEAN IT WAS IN THE PAPER AND FROM WHAT PEOPLE WHO WERE IN THE COURTROOM SAID. I WASN'T ALLOWED TO BE IN THE COURTROOM.

SO, YOU TALKED TO PEOPLE WHO WERE IN THE COURTROOM?

NO, BUT I MEAN, YOU KNOW, IN THE PAPER AND PEOPLE'S REACTION. I DON'T GET LOCAL NEWS, OTHER PEOPLE THAT HAVE SEEN THE NEWS.

NOW, WAIT A MINUTE. YOU JUST SAID THAT YOU HEARD FROM PEOPLE WHO WERE IN THE COURTROOM, WHO DID YOU TALK TO?

WELL, MEREDITH'S FATHER TOLD ME SHE WAS TESTIFYING AND THIS IS ABOUT WHAT SHE WOULD SAY.

ALL RIGHT, SO YOU TALKED TO MEREDITH'S FATHER ABOUT THIS AND WHAT SHE WAS GOING TO SAY?

YES, SIR, WHILE I WAS WAITING OUTSIDE TO TESTIFY, BUT HE DIDN'T GIVE ME ANY SPECIFICS AT THAT POINT. EVERYTHING I KNOW SPECIFICALLY OF WHAT SHE SAID CAME FROM WHAT WAS IN THE PAPER.

1 Q. SO, YOU TALKED TO MEREDITH MOON'S FATHER?

2 A. YES, SIR.

3 Q. HAVE YOU TALKED TO HIM ON A REGULAR BASIS ALSO?

4 A. NO, SIR, I HAVEN'T SEEN HIM IN MANY, MANY MONTHS
5 UNTIL THE OTHER DAY WHEN I CAME AND TESTIFIED
6 AND WE WERE BOTH WAITING OUTSIDE TO TESTIFY.

7 Q. NOW, LET ME ASK YOU, YOU SAID YOU HEARD JIMMY
8 TALK ABOUT KILLING HIS PARENTS ON A NUMBER OF
9 OCCASIONS; IS THAT CORRECT?

10 A. YES, SIR, I HAVE.

11 Q. DID YOU KNOW HIS PARENTS?

12 A. I HAD MET THEM A FEW TIMES. HIS MOTHER MAYBE
13 THREE OR FOUR TIMES AND HIS FATHER TWICE.

14 Q. ALL RIGHT, YOU KNEW WHERE THEY LIVED; IS THAT
15 CORRECT?

16 A. YES, SIR.

17 Q. AND DID YOU EVER GO OVER TO HIS PARENTS AND SAY,
18 HEY, SOMETHING'S WRONG HERE, YOUR SON IS TALKING
19 ABOUT KILLING YOU.

20 A. NO, SIR, I DIDN'T; I WISH I HAD. EVERY TIME JIM
21 WOULD SAY IT, I KNOW THAT I DIDN'T BELIEVE HE
22 EVER WOULD. JIM IS ONE OF THE TYPE PEOPLE THAT,
23 YOU KNOW, TALKS A LOT TO GET ATTENTION AND A LOT
24 OF TIMES YOU DON'T LISTEN OR TAKE AT FULL FACE
25 VALUE WHAT HE'S SAYING.

1 Q. YOU DIDN'T TAKE HIM SERIOUSLY?

2 A. I DIDN'T TAKE HIM SERIOUSLY, SIR.

3 Q. YOU DIDN'T BELIEVE WHAT HE -- YOU THOUGHT HE WAS
4 JUST TALKING, RIGHT?

5 A. I MEAN I'M SURE -- I MEAN AT THE TIME, YOU KNOW,
6 I COULD TELL THAT HE WANTED TO, BUT I DIDN'T
7 THINK HE WOULD.

8 Q. DID YOU EVER GO TO THE POLICE AND TELL THEM,
9 HEY, SOMETHING IS WRONG?

10 A. NO, SIR, I DID NOT.

11 Q. AND SO YOU NEVER TOLD HIS PARENTS; IS THAT
12 CORRECT?

13 A. NO, SIR, I DIDN'T.

14 Q. YOU NEVER TOLD THE POLICE?

15 A. NO, SIR.

16 Q. DID YOU EVER TELL ANY OF HIS OTHER FRIENDS, HEY,
17 WE BETTER DO SOMETHING ABOUT THIS, HE'S TALKING
18 ABOUT KILLING HIS PARENTS?

19 A. I KNOW AFTER ONE PARTICULAR INCIDENT WHEN HE
20 SAID HE WAS GOING TO, I WAS IN THE CAR WITH
21 MEREDITH AND WE WERE RIDING HOME, SHE WAS
22 DRIVING. WE TALKED ABOUT IT; SHE SAID, CAN YOU
23 BELIEVE HE SAID THAT? AND I WAS LIKE, NO, DO
24 YOU THINK HE'LL DO IT. AND SHE SAID NO, I
25 DON'T.

1 I MEAN THAT'S PROBABLY THE MOST ANYONE EVER
2 TALKED ABOUT IT BECAUSE I DON'T THINK ANYONE
3 BELIEVED HIM. I KNOW I CERTAINLY DIDN'T THINK HE
4 EVER WOULD DO IT.

5 Q. NOW, YOU MENTIONED THAT SOMETIMES HE WOULD SAY
6 THIS WHEN HE WAS DRUNK AND SOMETIMES NOT,
7 CORRECT?

8 A. YES, SIR. SOMETIMES HE WAS SOBER.

9 Q. SO, HE DID A LOT OF DRINKING ALSO?

10 A. YES, SIR, HE DID.

11 Q. IN FACT, HE WOULD DO A LOT OF SNORTING RITALIN
12 AND HE'D ALSO DO A LOT OF DRINKING?

13 A. YES, SIR.

14 Q. AND SOMETIMES EVEN IN THE COMBINATION OF THE
15 TWO; ISN'T THAT CORRECT?

16 A. YES, SIR.

17 Q. AND YOU -- WHEN YOU WERE WITH HIM DID YOU EVER
18 SEE MEREDITH SNORTING THE RITALIN ALSO?

19 A. OCCASIONALLY.

20 Q. BUT YOU STILL HUNG OUT WITH HER?

21 A. YES, SIR, SHE WAS A GOOD PERSON.

22 Q. AND YOU STILL HUNG OUT WITH HIM?

23 A. YES, SIR.

24 Q. IN FACT YOU HUNG OUT WITH HIM AFTER -- EVEN
25 AFTER YOU HEARD ALL THESE STATEMENTS THAT YOU

1 SAID ABOUT KILLING HIS PARENTS, DIDN'T YOU?

2 A. AS TIME PROGRESSED, I DID SPEND LESS TIME WITH
3 HIM. BUT, YES, I DID SPEND TIME WITH HIM.

4 Q. AFTER HE SAID HE WAS GOING TO KILL HIS PARENTS?

5 A. YES, SIR.

6 Q. YOU STILL DID THAT. AND YOU STILL WARNED
7 NOBODY, NOT HIS PARENTS, NOT THE POLICE OR
8 ANYBODY ABOUT THESE STATEMENTS?

9 A. I DIDN'T FEEL IT WAS NECESSARY.

10 Q. NOW YOU JUST SAID A MINUTE AGO THAT HE SAID A
11 LOT OF STUFF TO GET ATTENTION AND THAT TYPE OF
12 THING; ISN'T THAT CORRECT?

13 A. YES, SIR.

14 Q. AND SO YOU SORT OF THOUGHT THIS WAS CRAZY TALK;
15 ISN'T THAT RIGHT?

16 A. YES, SIR, JUST, YOU KNOW, TALKING TO GET
17 ATTENTION, TO SAY SOMETHING OUTRAGEOUS.

18 Q. YOU DIDN'T TAKE HIM SERIOUSLY AT ALL?

19 A. NO, SIR.

20 Q. DID IT STRIKE YOU ODD THAT HE WOULD BE TALKING
21 TO HIS BROTHER ON THE TELEPHONE ABOUT KILLING
22 HIS PARENTS?

23 A. I WOULDN'T SAY -- I WAS SURPRISED, BUT DIDN'T
24 FIND IT ODD. I DIDN'T KNOW CHIP WELL ENOUGH TO
25 MAKE A JUDGMENT ON HOW HE WOULD REACT TO THE

1 CONVERSATION. SO, I REALLY DIDN'T THINK A LOT
2 ABOUT IT.

3 Q. BUT YOU'VE MET CHIP HAVEN'T YOU?

4 A. I'VE MET CHIP SEVERAL TIMES.

5 Q. BUT YOU HEARD A CONVERSATION JIMMY ROBERTSON WAS
6 HAVING WITH CHIP ABOUT KILLING HIS PARENTS?

7 A. YES, SIR, I HEARD JIM'S END OF THE CONVERSATION.

8 Q. JIM'S END.

9 A. YES, SIR.

10 Q. AND YOU HAD TALKED TO CHIP ON THE PHONE ALREADY?

11 A. YES, SIR. WELL, I PICKED UP THE PHONE AND SAID
12 HELLO TO HIM WHEN HE CALLED.

13 Q. DIDN'T YOU REGARD ALL THAT TALK PRETTY
14 IRRATIONAL?

15 A. ANY TIME ANYONE SAYS ANYTHING LIKE THAT, YES,
16 SIR, IT'S IRRATIONAL.

17 Q. ESPECIALLY YOUR PARENTS?

18 A. ESPECIALLY.

19 Q. THANK YOU.

20 REDIRECT EXAMINATION BY

21 MR. BRACKETT:

22 Q. ONE MORE QUESTION ABOUT CHIP. WHERE DID HE LIVE
23 WHEN HE CAME BACK TO ROCK HILL?

24 A. HE LIVED WITH HIS PARENTS.

25 Q. AFTER HIS PARENTS WERE KILLED, DO YOU KNOW WHEN

1 HE CAME BACK WHERE HE LIVED?

2 A. HE LIVED IN HIS PARENTS HOUSE.

3 Q. I HAVE NO FURTHER QUESTIONS.

4 THE COURT: RECROSS?

5 RECROSS EXAMINATION BY

6 MR. BOYD:

7 Q. DID YOU EVER GO OVER TO A HOUSE AND SEE CHIP
8 AFTER HE CAME BACK AFTER HIS PARENTS WERE
9 KILLED?

10 A. I WOULD SAY TWO MONTHS AFTERWARDS, I DID. I WENT
11 TO SEE HOW CHIP WAS DOING.

12 Q. WERE YOU THERE WHEN HE HAD A BIG PARTY THERE?

13 A. MOST OF THE TIME WHEN I WAS THERE, THERE WAS A
14 GOOD MANY PEOPLE BUT IT WAS PEOPLE THAT I
15 CONSIDERED HIS CLOSE FRIENDS WHO WOULD USUALLY
16 BE AT THE HOUSE. I DON'T THINK HE WAS HAVING A
17 PARTY. I MEAN IT WAS JUST PROBABLY FIVE OR SIX
18 PEOPLE AND DOWNSTAIRS IN THE DEN.

19 Q. DID YOU SEE PEOPLE USING DRUGS THEN?

20 A. NOT DRUGS, BUT A LOT OF DRINKING.

21 Q. SO, CHIP WAS HAVING A BIG TIME?

22 A. HE SEEMED UPSET.

23 Q. HE SEEMED UPSET?

24 A. YES, SIR.

25 Q. BUT YOU SAID ALL THESE PEOPLE WERE AROUND,

1 DRINKING GOING ON?

2 A. YES, SIR, HE SEEMED UPSET.

3 Q. THAT'S ALL I HAVE.

4 MR. BRACKETT: NO FURTHER QUESTIONS.

5 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED.
6 WE'LL TAKE ABOUT A 10 MINUTE AFTERNOON BREAK.

7 IN CAMERA:

8 THE COURT: TO THOSE OF YOU NOT USED TO COURTROOM
9 PROCEDURE AND IT'S ODD BECAUSE I KNOW SOME OF YOU HAVE SAT
10 HERE FOR A WEEK. WHENEVER I SAY WE'RE GOING TO BE IN
11 RECESS AND LET THE JURY GO, THAT DOESN'T MEAN WE ALL GET UP
12 BECAUSE QUITE OFTEN I HAVE SOMETHING TO TALK TO THE
13 ATTORNEYS ABOUT OR SEE IF THEY HAVE ANYTHING.

14 I DON'T WANT TO MAKE EVERYBODY FEEL LIKE THEY'VE
15 GOT TO WAIT FOR ME TO JUMP UP AND LEAVE, BUT AT LEAST GIVE
16 ME A CHANCE TO ASK THE ATTORNEYS AFTER THE JURY LEAVES IF
17 THERE IS ANYTHING THEY NEED TO PUT ON THE RECORD.

18 FIRST, I WILL ASK THE SOLICITOR, HOW ARE WE GOING
19 AS FAR AS WITNESSES FOR TODAY?

20 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
21 WE PROBABLY -- THERE ARE PROBABLY THREE OR FOUR MORE WE CAN
22 DO TODAY, YOUR HONOR. NEEDLESS TO SAY, WE HAD A CERTAIN
23 GROUP FOR TODAY AND A CERTAIN GROUP FOR TOMORROW.

24 I'LL ALSO JUST CALL TO THE COURT'S ATTENTION THAT
25 BASED ON TOMORROW'S TESTIMONY, IT MAY BE THAT THE COURT

1 MIGHT WANT TO CONSIDER STARTING EARLIER, GIVING THE JURY A
2 LITTLE MORE TIME, BASED ON THE WAY WE WENT THROUGH TODAY.
3 WE'VE GOT THE ISSUES INVOLVING THE CRIME SCENE; THE ISSUES
4 INVOLVING THE PATHOLOGIST TOMORROW. IF THE COURT NEEDS ANY
5 EXTRA TIME AS FAR AS RULINGS, THERE'S BEEN A MOTION MADE IN
6 THAT REGARD.

7 I JUST CALL THAT TO THE COURT'S ATTENTION SO THAT
8 WE DON'T GET IN THE TRAP THE WAY WE WERE TODAY.

9 THE COURT: YOU THINK WE OUGHT TO START AT 10:00
10 AND HAVE THE JURY COME IN AT 11:00 -- START AT 9:00 AND
11 HAVE THE JURY COME IN AT 10:00?

12 MR. POPE: YES, SIR.

13 THE COURT: ANYTHING FROM THE DEFENSE AT THIS
14 POINT?

15 MR. HANCOCK: NO, SIR. I WOULD JUST POINT OUT TO
16 THE COURT, WE'RE TRYING TO DETERMINE HOW THIS IS GOING, WE
17 HAVE A WITNESS COMING IN TUESDAY NIGHT, THEY WILL BE HERE
18 FOR TESTIMONY WEDNESDAY. IT IS ONE OF OUR KEY WITNESSES
19 FROM WASHINGTON, D. C. AND WE'LL JUST WORK IT OUT THE BEST
20 WE CAN, YOUR HONOR, TO GET THAT WITNESS IN. IT'S A SMALL
21 WINDOW, IT'S THE ONLY TIME WE COULD GET HIM IN HERE AND I
22 JUST WANTED TO WARN THE COURT THAT WE MAY BE ASKING FOR
23 SOME INDULGENCE OF THE COURT.

24 THE COURT: I'LL DO MY BEST TO ACCOMMODATE THE
25 WITNESS.

1 MR. POPE: YOUR HONOR, AGAIN ON FURTHER THOUGHT
2 CONCERNING THE TIME SCHEDULING, SOME OF THOSE OUT OF TOWN
3 WITNESSES WE HAVE WON'T BE HERE UNTIL 9:00, SO I THINK I'D
4 STILL ASK TO START AT 9:30. I'VE GOT TO TALK THEM ONCE
5 AGAIN ONCE THEY GET HERE, SO I WILL ASK THAT WE STILL START
6 AT 9:30.

7 THE COURT: AND HAVE THE JURY IN AT?

8 MR. POPE: WE COULD HAVE THEM IN AT 10:00 OR
9 10:30, YOUR HONOR.

10 THE COURT: ALL RIGHT, NOW WE'LL TAKE A 10 MINUTE
11 BREAK.

12 AFTER THE RECESS IN CAMERA:

13 THE COURT: IS THE DEFENSE READY?

14 MR. HANCOCK: READY, YOUR HONOR.

15 THE COURT: THE DEFENDANT AND COUNSEL ARE
16 PRESENT, BRING IN THE JURY.

17 IN THE PRESENCE OF THE JURY:

18 THE COURT: CALL YOUR NEXT WITNESS.

19 MR. BRACKETT: THE STATE WOULD CALL JUSTIN CLAY
20 ROBINSON.

21 JUSTIN CLAYTON ROBINSON, BEING FIRST DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION BY

24 MR. BRACKETT:

25 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND

1 SPELL YOUR LAST FOR THE COURT REPORTER?

2 A. JUSTIN CLAYTON ROBINSON, R-O-B-I-N-S-O-N.

3 Q. HOW OLD ARE YOU, JUSTIN?

4 A. 20.

5 Q. WHAT DO YOU GO BY, JUSTIN OR CLAYTON OR ---

6 A. CLAY.

7 Q. CLAY?

8 A. UH HUH.

9 Q. CLAY, CAN YOU TELL THE JURY WHERE YOU WORK?

10 A. DILLARD'S CAROLINA PLACE.

11 Q. AND WHERE DO YOU LIVE?

12 A. OVER AT TARA PLANTATIONS.

13 Q. HOW LONG HAVE YOU WORKED FOR DILLARD'S?

14 A. ABOUT A YEAR AND A HALF, GOING ON TWO YEARS.

15 Q. AND HOW LONG HAVE YOU LIVED IN -- WHERE DO YOU
16 LIVE NOW?

17 A. TARA PLANTATIONS.

18 Q. WHERE IS THAT AT?

19 A. IT'S RIGHT OFF 160, RIGHT DOWN THE ROAD FROM
20 TEGA CAY.

21 Q. HOW LONG HAVE YOU LIVED IN THE COUNTY?

22 A. WE MOVED IN IN AUGUST OF '97.

23 Q. IN YORK COUNTY? YOU MOVED TO YORK COUNTY IN
24 1997?

25 A. WELL, WE LIVED IN FORT MILL BEFORE THAT. WE

1 LIVED IN PEACHTREE APARTMENTS. I'VE LIVED IN
2 THE FORT MILL AREA FOR SEVEN OR EIGHT YEARS.

3 Q. DO YOU KNOW THE DEFENDANT, JIMMY ROBERTSON?

4 A. YEAH.

5 Q. HOW DO YOU KNOW HIM?

6 A. HE WAS MY BEST FRIEND.

7 Q. DO YOU WANT TO BE HERE TODAY?

8 A. NO, I DON'T.

9 Q. WHEN DID YOU FIRST MEET JIMMY?

10 A. WHEN I STARTED WORKING AT MOM'S COUNTRY STORE
11 AND RESTAURANT OFF CAROWINDS BOULEVARD.

12 Q. AND HOW WOULD YOU CHARACTERIZE YOUR RELATIONSHIP
13 WITH JIMMY?

14 A. WE WERE LIKE BROTHERS, I MEAN WE WERE BEST
15 FRIENDS.

16 Q. DO YOU KNOW CHIP AS WELL?

17 A. YEAH.

18 Q. HOW LONG HAVE YOU KNOWN HIM?

19 A. I MET CHIP PROBABLY ABOUT A MONTH OR A MONTH AND
20 A HALF AFTER I MET JIM. HE CAME DOWN FOR THE
21 SUMMER FROM SCHOOL. ALMOST THE SAME AMOUNT OF
22 TIME.

23 Q. DID YOU KNOW TERRY AND EARL ROBERTSON?

24 A. YEAH.

25 Q. HOW WELL DID YOU KNOW THEM?

1 A. PRETTY WELL. I WAS OVER AT THE HOUSE QUITE A
2 GOOD BIT.

3 Q. HOW WOULD YOU CHARACTERIZE YOUR RELATIONSHIP
4 WITH THEM?

5 A. THEY WEREN'T THE TYPE OF PEOPLE WHO YOU COULD
6 SIT AROUND AND, YOU KNOW, TALK ABOUT ANYTHING
7 WITH. THEY WERE REAL SERIOUS ABOUT THINGS. LIKE
8 WHENEVER I WOULD SPEAK WITH HIS DAD IT WAS LIKE,
9 WHAT ARE YOU DOING WITH YOUR LIFE, YOU KNOW, OR
10 DO YOU PLAN ON GOING TO SCHOOL.
11 BUT I MEAN I RESPECTED THEM A LOT AND THEY KNEW
12 ME WELL AND I KNEW THEM WELL.

13 Q. WERE THEY GOOD PEOPLE?

14 A. YEAH, FROM WHAT I SAW THEY WERE VERY GOOD
15 PEOPLE.

16 Q. WHAT KIND OF THINGS DID YOU AND JIM USED TO DO
17 TOGETHER?

18 A. HANG OUT AFTER WORK. JUST EVERYTHING,
19 EVERYTHING THAT FRIENDS DO. JUST GO OUT, GO OUT
20 TO CLUBS. YOU KNOW, TRY TO GO OUT AND MEET
21 GIRLS.

22 Q. DID YOU GUYS USED TO DRINK TOGETHER?

23 A. UH HUH.

24 Q. DID YOU USE DRUGS?

25 A. YEAH.

1 Q. WHAT KIND OF DRUGS?

2 A. I KNOW THE SUMMER OF '96 WE USED CRACK A LOT.
3 AND, YOU KNOW, JIM WENT TO JAIL FOR THAT. AND
4 THEN AFTER THAT IT WAS PRETTY MUCH OVER.

5 Q. NOW, YOU HAD SOME PROBLEMS WITH THE LAW, TOO,
6 DIDN'T YOU?

7 A. YES, SIR.

8 Q. IN FACT, YOU WERE CONVICTED OF POSSESSION WITH
9 INTENT TO DISTRIBUTE MARIJUANA?

10 A. YES, SIR.

11 Q. DO YOU USE DRUGS NOW?

12 A. NO.

13 Q. WHAT ARE YOU DOING NOW?

14 A. I'M GOING TO YORK TECH AND I PLAN ON GOING TO
15 TENNESSEE WHENEVER MY FATHER FEELS I'M READY, TO
16 GO TO A BROKER'S SCHOOL AND GO INTO BUSINESS
17 WITH HIM AS A SELF-EMPLOYED COTTON BROKER.

18 Q. DID JIM EVER TALK TO YOU ABOUT HIS PARENTS?

19 A. ON SOME OCCASIONS.

20 Q. DID HE EVER TELL YOU HOW HE FELT ABOUT THEM?

21 A. YEAH, HE DID.

22 Q. HOW DID HE FEEL ABOUT THEM; WHAT DID HE SAY?

23 A. HE WAS A BAD CASE OF NEGLECT, YOU KNOW.

24 Q. THIS WAS ACCORDING TO HIM?

25 A. WELL, IN A WAY I COULD UNDERSTAND IT. BUT,

1 YEAH, THIS IS WHAT I WAS TOLD.

2 Q. TELL US WHAT HE TOLD YOU.

3 A. WELL, FROM WHAT I UNDERSTAND, HE FLUNKED OUT OF
4 GEORGIA TECH TO SPITE HIS FOLKS, YOU KNOW,
5 BECAUSE I KNOW THEY PRESSED SCHOOL. THAT WAS A
6 REALLY BIG ISSUE TO EARL. AND THEY PRETTY MUCH
7 WROTE HIM OFF AS AN ALCOHOLIC DRUG USER WHEN HE
8 GOT BACK AND JUST WOULDN'T -- I DON'T WANT TO
9 SAY WOULDN'T HELP HIM OUT, BUT DIDN'T HELP HIM
10 OUT AS MUCH AS THEY DID BEFORE. THEY PRETTY
11 MUCH, YOU KNOW, FIGURED HE WAS A DONE DEAL. AND
12 THEY FIGURED MAYBE, YOU KNOW, THEY COULD TRY TO
13 START OVER WITH CHIP OR MAKE SURE CHIP DIDN'T GO
14 DOWN THE SAME ROAD.
15 AND, YOU KNOW, THEY GAVE MORE ATTENTION TO CHIP
16 AFTER THAT HAPPENED.

17 Q. AND HE RESENTED THAT?

18 A. YES, SIR.

19 Q. DID HE EVER THREATEN HIS PARENTS?

20 A. NOT THAT I SAW.

21 Q. DID YOU EVER HEAR HIM SAY ANYTHING THREATENING
22 TOWARDS HIS PARENTS?

23 A. NOT TOWARDS THEM, NO.

24 Q. DID YOU GIVE A STATEMENT TO LAW ENFORCEMENT?

25 A. YES, SIR.

1 Q. IS THAT THE STATEMENT THAT YOU GAVE OR A COPY OF
2 THE STATEMENT THAT YOU GAVE?

3 A. YES, SIR.

4 Q. WOULD YOU TAKE A LOOK AT THAT AND SEE IF IT
5 REFRESHES YOUR MEMORY, SIR?

6 A. ARE YOU REFERRING TO, YOU KNOW, THREATENING HIS
7 PARENTS?

8 Q. YES, SIR.

9 A. HE VERY WELL COULD HAVE. I NEVER SAW HIM
10 DIRECTLY THREATEN THEM LIKE ONE TO ONE, YOU
11 KNOW, PERSON TO PERSON.

12 Q. NO, NO, NO, NO, NOT VISUALLY, NOT PHYSICALLY
13 THREATEN THEM AT THAT TIME, BUT DID HE EVER SAY
14 ANYTHING THREATENING TOWARDS THEM?

15 A. YEAH, HE'D SAID A FEW THINGS.

16 Q. WHAT DID HE SAY?

17 A. HE SAID THAT, YOU KNOW, HE HATED THEM. THAT,
18 YOU KNOW, HE WISHED THEY WERE DEAD. I REMEMBER
19 HIM SAYING THAT HE LOVED HIS MOM, YOU KNOW. I
20 KNEW HE LOVED HIS MOM A LOT MORE THAN HE DID HIS
21 DAD, BUT ---

22 Q. WOULD YOU TAKE A LOOK AT YOUR STATEMENT AND SEE,
23 WHAT DID YOU TELL THE POLICE WHEN THEY
24 QUESTIONED YOU ALONG THE SAME LINES BACK IN
25 1997?

1 A. WELL, HE HAD TALKED ABOUT, YOU KNOW, KILLING
2 THEM.

3 Q. OKAY, TELL THE JURY ABOUT THAT.

4 A. ON A FEW OCCASIONS HE HAD MENTIONED THINGS ABOUT
5 GETTING SOMEBODY TO DO IT OR, YOU KNOW, DOING IT
6 HIMSELF.

7 OF COURSE, A LOT OF THESE TIMES WE WERE ALL
8 UNDER THE INFLUENCE OF ALCOHOL.

9 Q. WAS HE ALWAYS UNDER THE INFLUENCE OF ALCOHOL?

10 A. NOT ALWAYS, NOT ALWAYS.

11 Q. DID HE SAY WHY HE WANTED TO OR WHAT MOTIVATED
12 HIM?

13 A. WELL, I KNOW THAT, YOU KNOW, THEY WERE WORTH A
14 LOT OF MONEY.

15 Q. DID HE TELL YOU SOMETHING ABOUT THAT?

16 A. HE SAID THAT, YOU KNOW, HE WANTED THEIR
17 INSURANCE MONEY. I THINK HIS DAD WAS PLANNING
18 TO BUILD A GOLF COURSE OR SOMETHING AFTER THEY,
19 YOU KNOW, AFTER HIS DAD RETIRED AND HE WAS
20 AFRAID THAT ALL THE MONEY WOULD BE SPENT AND
21 MAYBE, YOU KNOW, THEY WOULDN'T GET TO INHERIT
22 ANYTHING IF THEY DIED NATURALLY.

23 Q. DID HE EVER ASK YOU TO HELP HIM?

24 A. I KNOW ON ONE OCCASION HE ASKED ME IF I WOULD,
25 YOU KNOW, HE'D SAY LIKE IF HE DID IT, IF I WOULD

1 PICK HIM UP MAYBE ON THE SIDE OF THE ROAD TO
2 HELP CLEAR HIM AND GIVE HIM SOME TYPE OF ALIBI
3 OR SOMETHING.

4 Q. HOW DID HE GET ALONG WITH HIS BROTHER?

5 A. THEY WERE REALLY CLOSE. I KNOW THAT DURING THAT
6 WHOLE TIME PERIOD CHIP HAD A PRETTY BAD ALCOHOL
7 PROBLEM AND JIM WAS WORRIED ABOUT IT. HE
8 THOUGHT THAT CHIP WAS GOING TO DRINK HIS LIFE
9 AWAY. AND, YOU KNOW, I THOUGHT HE WAS, TOO,
10 BECAUSE IT LOOKED LIKE HE WAS GOING IN THAT
11 DIRECTION.

12 Q. DID YOU EVER SEE THEM GET INTO ANY KIND OF
13 DISPUTE?

14 A. BETWEEN JIM AND CHIP?

15 Q. YES.

16 A. YEAH, ONE OCCASION WE WERE AT THE OAK'S INN, YOU
17 KNOW, THE MOTEL. I THINK THEY TORE IT DOWN,
18 WHERE THE NEW DRUG STORE IS IN ROCK HILL NOW.
19 BUT IT WAS WHEN JIM HAD FIRST GOTTEN OUT OF JAIL
20 THAT SUMMER AND ---

21 Q. SEVERAL MONTHS BEFORE THE ---

22 A. YEAH, SEVERAL MONTHS AND WE WERE UP IN THE MOTEL
23 ROOM AND I WAS WORKING AT OUTBACK STEAK HOUSE AT
24 THE TIME AND I CAME OVER THERE, YOU KNOW, AND WE
25 DRANK LIQUOR ALL NIGHT AND CHIP GOT OBNOXIOUSLY

1 DRUNK AND HE HAD BEEN SNORTING RITALIN ALSO.
2 AND I HAD THIS GIRL I WAS DATING OVER THERE,
3 KATIE MARTIN, WITH ME AND CHIP KEPT ON MAKING --
4 CHIP KEPT ON TRYING TO HIT ON HER AND HE WAS
5 REALLY GETTING OUT OF HAND. AND I PRETTY MUCH
6 BRUSHED HIM OFF; I WASN'T REALLY WORRIED ABOUT
7 IT.

8 AND HE SAID SOMETHING TO JIM AND JIM WAS LIKE,
9 YOU KNOW, YOU NEED TO SIT DOWN, YOU'RE BEING
10 OBNOXIOUS, YOU KNOW, EVERYBODY IS TALKING ABOUT
11 IT. JUST SIT DOWN AND BE QUIET. AND CHIP GOT
12 REALLY UPSET ABOUT IT AND, YOU KNOW, THEY
13 STARTED FIGHTING.

14 AND CHIP GOT BEAT UP PRETTY BAD. HE BLACKENED
15 BOTH OF HIS EYES. HE LOOKED LIKE A RACCOON FOR
16 A LITTLE WHILE.

17 IT GOT PRETTY BAD. THERE WAS BLOOD ON THE
18 WALLS. AND I KNOW THAT JIM CALLED HIS MOM,
19 TERRY, AND SAID, MOM, YOU BETTER SEND DAD OVER
20 HERE BEFORE I KILL CHIP, HE'S GOTTEN WAY OUT OF
21 HAND TONIGHT.

22 AND, YOU KNOW, CHIP WAS ON THE GROUND CRYING AT
23 THAT POINT. AND JIM WAS REALLY UPSET. AND EARL
24 FINALLY GOT OVER THERE. AND WHEN EARL GOT THERE,
25 CHIP GOT A SECOND WIND OR SOMETHING AND STARTED

1 SWINGING WILD PUNCHES IN THE AIR AND DREW AT
2 EARL AND EARL, YOU KNOW LIKE ANY DAD WOULD,
3 WRESTLED HIM TO THE GROUND AND PUT HIS KNEE IN
4 HIS BACK JUST TO KEEP HIM UNDER CONTROL BECAUSE
5 CHIP WAS OBVIOUSLY OUT OF CONTROL.

6 MR. BRACKETT: I BEG THE COURT'S INDULGENCE FOR
7 A MOMENT.

8 (THERE WAS A BRIEF PAUSE.)

9 Q. THANK YOU VERY MUCH; ANSWER ANY QUESTIONS THAT
10 DEFENSE COUNSEL MAY HAVE FOR YOU.

11 CROSS EXAMINATION BY

12 MR. BOYD:

13 Q. YOU'RE MR. ROBINSON, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. R-O-B-I-N-S-O-N?

16 A. YES, SIR.

17 Q. AND YOU HAD SAID THAT YOU STARTED HANGING OUT
18 WITH JIMMY IN THE SUMMER OF 1996; IS THAT RIGHT?

19 A. YEAH.

20 Q. AND YOU AND HE -- WAS CHIP AROUND AT THAT TIME?

21 A. WELL, WHEN I FIRST MET JIM, CHIP WAS AWAY AT
22 SCHOOL AND CHIP CAME HOME LIKE IN THE MIDDLE OF
23 THE SUMMER FROM SCHOOL AND AT THAT POINT WE ALL
24 THREE HUNG OUT.

25 Q. Y'ALL HUNG OUT. I BELIEVE YOU JUST STATED Y'ALL

1 WOULD USE CRACK A LOT?

2 A. YES, SIR.

3 Q. AND THAT'S CRACK COCAINE?

4 A. RIGHT.

5 Q. HOW DO YOU USE CRACK COCAINE?

6 A. THROUGH A METAL STEM.

7 Q. DO YOU SMOKE IT?

8 A. UH HUH.

9 Q. OKAY, YOU SMOKE IT THROUGH A METAL STEM; IS THAT
10 CORRECT?

11 A. UH HUH.

12 Q. AND YOU WERE DOING IT; IS THAT CORRECT?

13 A. RIGHT; WE ALL THREE WERE DOING IT.

14 Q. AND JIMMY WAS DOING IT, AND CHIP WAS DOING IT?

15 A. UH HUH.

16 Q. OKAY. AND THEN WERE Y'ALL ALSO USING MARIJUANA?

17 A. YES, SIR.

18 Q. ALSO DRINKING A LOT?

19 A. UH HUH.

20 Q. OKAY.

21 THE COURT: TRY TO SAY YES OR NO.

22 A. OKAY.

23 Q. NOW, YOU HAD MENTIONED ALSO THAT CHIP -- WELL,
24 THE TIME YOU SAID WAS AT THE OAK'S INN; IS THAT
25 CORRECT?

- 1 A. RIGHT.
- 2 Q. THAT CHIP WAS SNORTING RITALIN?
- 3 A. RIGHT.
- 4 Q. IS THAT CORRECT?
- 5 A. YES, SIR.
- 6 Q. WAS JIMMY ALSO SNORTING RITALIN ON THAT NIGHT?
- 7 A. NO, SIR.
- 8 Q. HOW ABOUT YOU, WERE YOU SNORTING RITALIN?
- 9 A. NO, SIR.
- 10 Q. DID YOU EVER SNORT RITALIN WITH CHIP AND JIMMY?
- 11 A. I DID WHEN -- CHIP HAD BEEN DOING IT FOR A
- 12 WHILE. HE WAS PRESCRIBED RITALIN AND, YOU KNOW,
- 13 WHEN JIM WENT TO JAIL IN '96, YOU KNOW, CHIP AND
- 14 I DID ON A COUPLE OF OCCASIONS BUT IT NEVER
- 15 BECAME A HABIT OR ANYTHING LIKE THAT.
- 16 Q. WITH YOU?
- 17 A. RIGHT. WELL, I WOULDN'T SAY IT WAS A BAD HABIT
- 18 WITH CHIP UNTIL THAT POINT WHEN THE INCIDENT I
- 19 WAS TALKING ABOUT IN THE HOTEL ROOM BECAUSE HE
- 20 WAS DOING QUITE A GOOD BIT THEN.
- 21 Q. YOU WERE HANGING OUT WITH THEM ON A REGULAR
- 22 BASIS THEN?
- 23 A. YEAH, I WAS HANGING OUT WITH THEM ALL THE TIME.
- 24 Q. AND YOU WERE IN A POSITION TO KNOW THAT CHIP WAS
- 25 SNORTING RITALIN ON A REGULAR BASIS?

1 A. RIGHT, RIGHT.

2 Q. AND YOU BASICALLY SNORT RITALIN JUST LIKE YOU
3 SNORT COCAINE; IS THAT CORRECT?

4 A. RIGHT.

5 Q. YOU CRUSH UP A PILL AND SNORT IT; IS THAT
6 CORRECT?

7 A. RIGHT.

8 Q. AND CHIP HAD A PRESCRIPTION FOR RITALIN.

9 A. RIGHT.

10 Q. AND YOU KNEW THAT?

11 A. UH HUH.

12 Q. OKAY. NOW, ON THIS EVENING AT THE OAK'S INN,
13 YOU SAID CHIP HAD BEEN SNORTING RITALIN, YOU ALL
14 HAD BEEN DRINKING; IS THAT CORRECT?

15 A. YES, SIR.

16 Q. AND THEN CHIP WAS ACTING OBNOXIOUS, YOU
17 DESCRIBED IT GETTING OUT OF HAND?

18 A. RIGHT. HE WAS MAKING REALLY OBSCENE COMMENTS,
19 JUST BEING RUDE.

20 Q. AND HE AND JIMMY GOT IN A FIGHT?

21 A. RIGHT.

22 Q. AND CHIP LOST THE FIGHT?

23 A. YES, SIR.

24 Q. AND THEN JIMMY CALLED HIS PARENTS; IS THAT
25 RIGHT?

1 A. YES, SIR.

2 Q. ABOUT CHIP?

3 A. YES, SIR.

4 Q. AND CHIP GOT OVER THERE AND WHEN CHIP GOT OVER
5 THERE, YOU SAID CHIP WAS SWINGING WILD PUNCHES
6 AT EARL?

7 A. WHEN EARL GOT OVER THERE?

8 Q. YEAH. WHEN EARL GOT OVER THERE, CHIP WAS
9 SWINGING WILD PUNCHES AT EARL?

10 A. NOT -- I THINK HE CHARGED AT JIM AND EARL
11 STEPPED IN THE WAY AND ONE OF THE PUNCHES WAS
12 THROWN TOWARDS EARL BECAUSE CHIP WAS SO OUT OF
13 IT THAT HE DIDN'T REALIZE WHAT HE WAS DOING.

14 Q. OKAY, SO HE CHARGED AT JIMMY AND EARL GOT IN THE
15 WAY AND HE WAS SWINGING?

16 A. RIGHT.

17 Q. HE WAS SO OUT OF IT, HE DIDN'T KNOW WHAT HE WAS
18 DOING.

19 A. RIGHT.

20 Q. YOU SAID JIMMY WAS COMPLAINING OF, TALKING ABOUT
21 HE HATED HIS PARENTS; IS THAT CORRECT?

22 A. RIGHT.

23 Q. BUT HE WOULD ALSO SAY THAT HE LOVED HIS MOTHER?

24 A. RIGHT.

25 Q. SO, HE WOULD SAY HE HATED HER AND SAY HE LOVED

1 HER?

2 A. I REALLY DON'T KNOW HOW TO EXPLAIN THAT. I KNOW
3 THAT -- I KNOW HE DISLIKED HIS DAD A GREAT DEAL.
4 HIS MOTHER, I THINK -- I DON'T REALLY KNOW THE
5 WHOLE STORY BEHIND THAT. I KNOW THAT SHE ALWAYS
6 HELPED HIM OUT. SHE WAS ALWAYS THE ONE THAT,
7 YOU KNOW, IF EITHER ONE OF THEM NEEDED
8 SOMETHING, THEY WENT TO HER AND SHE CONVINCED
9 EARL TO DO WHATEVER IT WAS THEY NEEDED. SHE WAS
10 ALWAYS THERE FOR HIM FROM WHAT I SAW.

11 Q. THAT WAS CHIP AND HE BOTH; IS THAT CORRECT?

12 A. YES, SIR.

13 Q. WHEN YOU WERE FRIENDS WITH THEM DID YOU KNOW
14 ABOUT HIS MOTHER BEING COMMITTED TO THE
15 PSYCHIATRIC WARD AT THE HOSPITAL?

16 A. THEY HAD SPOKE A LITTLE BIT ABOUT THAT.

17 Q. DO YOU HAVE PERSONAL KNOWLEDGE OF IT?

18 A. NO.

19 Q. YOU ONLY KNOW WHAT YOU HEARD FROM THEM?

20 A. RIGHT.

21 Q. NOW, YOU TALKED ABOUT THESE TIMES THAT JIMMY
22 WOULD TALK ABOUT KILLING HIS PARENTS. YOU SAID
23 THAT HE WAS ALWAYS DRINKING WHEN HE WAS TALKING
24 ABOUT THAT; IS THAT CORRECT?

25 A. MOST OF THE TIME. NOT EVERY SINGLE OCCASION.

1 Q. AND WHAT ABOUT SNORTING RITALIN?

2 A. I NEVER SNORTED RITALIN WITH HIM OR HE WAS NEVER
3 AROUND ME WHEN HE DID THAT.

4 Q. YOU NEVER SAW HIM SNORT RITALIN?

5 A. RIGHT.

6 Q. JUST CHIP?

7 A. JUST CHIP, YES.

8 Q. BUT YOU DID SEE HIM SNORT CRACK -- I'M SORRY,
9 SMOKE CRACK COCAINE?

10 A. RIGHT, BUT THAT WAS A YEAR EARLIER, NOT WHEN HE
11 GOT OUT OF JAIL FOR IT; I NEVER SAW HIM DO IT
12 AGAIN.

13 Q. WAS HE TALKING ABOUT KILLING HIS PARENTS BEFORE
14 OR AFTER HE WENT TO JAIL?

15 A. YOU KNOW TO TELL YOU THE TRUTH, HE'D SAID A
16 COUPLE OF THINGS THAT SUMMER OF '96. I CAN'T
17 REALLY REMEMBER WHAT WAS SAID. THAT WAS A LONG
18 TIME AGO AND WE WERE ALL MIXED UP INTO, YOU
19 KNOW, BAD STUFF AT THAT POINT. BUT I KNOW THAT
20 IT WAS A TOPIC THAT WAS TALKED ABOUT, RARELY,
21 BUT IT WAS TALKED ABOUT SOMETIMES.

22 Q. AND YOU SAID YOU GOT TO KNOW HIS PARENTS PRETTY
23 WELL; IS THAT CORRECT?

24 A. RIGHT.

25 Q. DID YOU EVER GO TO THEM AND SAY ANYTHING ABOUT

1 JIMMY SAYING THESE THINGS?

2 A. NO, NO.

3 Q. YOU WEREN'T CONCERNED ABOUT THAT?

4 A. IT KIND OF BOTHERED ME BUT, YOU KNOW, IF
5 SOMEBODY TELLS YOU THEY WANT TO KILL SOMEBODY, I
6 GUESS IT'S NATURAL NOT TO TAKE THEM SERIOUSLY.

7 Q. SO, YOU DIDN'T TAKE HIM SERIOUSLY?

8 A. NOT REALLY; NO, SIR. I MEAN I GUESS IF I WAS
9 RALLY WORRIED ABOUT IT, I WOULD HAVE SAID
10 SOMETHING.

11 Q. YOU WOULD HAVE SAID SOMETHING, HAD YOU BEEN
12 WORRIED?

13 A. RIGHT.

14 Q. BUT YOU WEREN'T WORRIED?

15 A. I WASN'T REALLY WORRIED BECAUSE I DIDN'T THINK
16 HE WOULD DO ANYTHING. I THOUGHT IT WAS ALL
17 TALK, YOU KNOW.

18 Q. AND THE TIME YOU SAID HE SAID ABOUT YOU PICKING
19 HIM UP AT THE SIDE OF THE ROAD, HE HAD BEEN
20 DRINKING ON THAT OCCASION?

21 A. NO, SIR. THAT WAS ONE MORNING AFTER I HAD
22 GOTTEN OUT OF SCHOOL AND I HAD COME BY HIS
23 APARTMENT WHEN HE LIVED WITH DARREN. IT WAS
24 ABOUT MAYBE 11:15 OR 11:20 IN THE MORNING AND I
25 WAS ON MY WAY TO THE GYM AND IT WAS A BRIGHT --

1 I REMEMBER IT PLAIN AS DAY, IT WAS A BRIGHT
2 SUNNY DAY AND I WAS LEANING UP AGAINST MY CAR
3 AND HE WAS LEANING UP AGAINST THE CAR BESIDE
4 MINE AND WE WERE JUST TALKING.

5 Q. I THOUGHT YOU SAID A WHILE AGO THAT WAS WHEN HE
6 WAS DRUNK. DIDN'T YOU TESTIFY TO THAT A FEW
7 MINUTES AGO?

8 A. NO, SIR, I DIDN'T. I SAID THAT HE TALKED A LOT
9 ABOUT IT WHEN -- I SAID MOST OF THE TIME HE
10 TALKED ABOUT IT, HE WAS DRUNK. BUT THAT WAS THE
11 ONLY TIME THAT I REMEMBER WHEN HE WAS SOBER THAT
12 HE DID TALK ABOUT IT.

13 Q. THE ONLY TIME YOU REMEMBER. ONE TIME HE SAID
14 SOMETHING ABOUT IT WHEN HE WAS SOBER?

15 A. WELL, YES, SIR.

16 Q. IS IT FAIR TO SAY THE MORE HE WAS DRINKING, THE
17 MORE HE WOULD TALK ABOUT IT?

18 A. YES, SIR.

19 Q. DO YOU REMEMBER ONE OCCASION WHEN JIMMY CUT HIS
20 HAND WITH A STEAK KNIFE?

21 A. YES, SIR.

22 Q. WHEN HE CUT HIS HAND WITH A STEAK KNIFE, DIDN'T
23 HE ASK YOU TO DO THE SAME THING?

24 A. UH HUH.

25 Q. WANTED Y'ALL TO BE BLOOD BROTHERS?

1 A. UH HUH.

2 Q. DIDN'T YOU THINK THAT WAS PRETTY WEIRD?

3 A. NO, BECAUSE I KNOW LITTLE KIDS THAT DO THAT. I
4 MEAN I'VE DONE THAT -- WHEN I WAS A LITTLE KID,
5 I DID IT WITH ONE OF MY FRIENDS BEFORE.

6 Q. YOU DID?

7 A. YEAH. NOT WITH A STEAK KNIFE. YOU KNOW, MAYBE
8 WE PRICKED OUR FINGER WITH A BRIAR BUSH OR
9 SOMETHING.

10 Q. HOW OLD WAS JIMMY WHEN HE DID THAT?

11 A. 24 MAYBE?

12 Q. DO YOU KNOW MANY 24 YEAR OLDS THAT GO AROUND
13 BECOMING BLOOD BROTHERS WITH CUTS?

14 A. NO.

15 Q. DO PEOPLE YOU HANG OUT WITH DO THAT?

16 A. NO.

17 Q. SO, YOU DIDN'T THINK THAT WAS WEIRD?

18 A. NO, NOT AT THE TIME.

19 Q. NOT AT THE TIME. AND JIM, YOU'D DESCRIBE HIM AS
20 BEING HYPER WOULDN'T YOU?

21 A. YES, SIR.

22 Q. BY HYPER, HE WAS ALWAYS -- I MEAN HE WOULD STAY
23 UP LONG HOURS, WOULDN'T HE?

24 A. YES, SIR.

25 Q. IN FACT HE WOULD WORK LONG HOURS, WOULDN'T HE?

1 A. YES, SIR.

2 Q. HE'D WORK DAYS IN A ROW, NOT SLEEP, THAT TYPE OF
3 THING?

4 A. WORK DOUBLE SHIFTS AND COME HOME AND GET LIKE
5 THREE HOURS OF SLEEP, AND DO IT AGAIN.

6 Q. IT WAS LIKE HE WAS ALWAYS REALLY WIRED UP; IS
7 THAT RIGHT?

8 A. YES, SIR.

9 Q. DID YOU EVER GO WITH JIM TO ANY DOCTOR'S
10 APPOINTMENTS OR ANYTHING LIKE THAT?

11 A. NO.

12 Q. DID YOU EVER KNOW ABOUT HIM BEING TREATED FOR
13 ANYTHING?

14 MR. BRACKETT: OBJECTION, YOUR HONOR; I THINK HE
15 NEEDS TO LAY A BETTER FOUNDATION.

16 THE COURT: I SUSTAIN HIS OBJECTION. LAY THE
17 FOUNDATION FOR THAT.

18 MR. BOYD: I'LL WITHDRAW THE QUESTION.

19 Q. WHEN IS THE LAST TIME YOU SAW JIMMY BEFORE THE
20 MURDERS HAPPENED?

21 A. I THINK -- DIDN'T THE MURDERS HAPPEN EARLY
22 TUESDAY MORNING?

23 Q. IN NOVEMBER.

24 A. RIGHT. I BELIEVE IT WAS THE WEEKEND BEFORE
25 THAT. BECAUSE IF I RECALL CORRECTLY, I HAD THE

1 FLU THAT WEEKEND. IT MIGHT HAVE BEEN THE
2 WEEKEND BEFORE, I CAN'T REALLY TELL YOU FOR
3 SURE. I THINK IT WAS THAT WEEKEND RIGHT BEFORE
4 THAT TUESDAY MORNING. WE HAD A MOTEL ROOM AT
5 THE ROADWAY INN TOGETHER AND I WAS REALLY SICK;
6 I HAD THE FLU. I WAS JUST LAYING IN BED THE
7 WHOLE TIME AND, YOU KNOW, SIPPING ON A DRINK.
8 AND WE WERE JUST HANGING OUT, WATCHING T.V.

9 Q. WAS THAT COMMON FOR Y'ALL TO RENT A HOTEL ROOM
10 AND HANG OUT?

11 A. YEAH.

12 Q. WAS THAT WHERE Y'ALL WOULD DRINK?

13 A. UH HUH.

14 Q. AND DO THE DRUGS?

15 A. NO; WE WOULDN'T DO THAT DRUGS IN THERE.

16 Q. NEVER?

17 A. NO, NOT ---

18 Q. YOU DESCRIBED CHIP AT THE OAK'S INN AS SNORTING
19 RITALIN.

20 A. HE'D BEEN DOING IT ALL DAY. HE WASN'T DOING IT
21 IN FRONT OF US. I THINK HE WAS JUST STRUNG OUT
22 ON IT. HE HAD BEEN DOING IT AND, YOU KNOW, WHEN
23 YOU MIX THAT WITH ALCOHOL, IT'S NOT GOOD NEWS..

24 Q. RITALIN REALLY GETS YOU WIRED UP, DOESN'T IT?

25 A. YES, SIR.

1 Q. I MEAN IT KEEPS YOU, YOU CAN'T SLEEP, YOU'RE
2 HYPER, YOU'RE REALLY GOING; IS THAT CORRECT?

3 A. YES, SIR.

4 Q. YOU SAID YOU WERE GOOD FRIENDS WITH BOTH CHIP
5 AND JIMMY; IS THAT CORRECT?

6 A. YES, SIR.

7 Q. WAS IT CHIP THAT FIRST STARTED USING THE
8 RITALIN?

9 A. YES, SIR.

10 Q. AND THEN JIMMY STARTED USING IT AFTER CHIP?

11 A. I NEVER SAW JIM DO THAT, SO I COULDN'T REALLY
12 TELL YOU.

13 Q. BUT YOU KNOW CHIP WAS USING IT.

14 A. RIGHT.

15 Q. BECAUSE HE HAD A PRESCRIPTION FOR IT, YOU KNEW
16 THAT, IS THAT CORRECT?

17 A. RIGHT.

18 Q. AND WERE YOU FRIENDS WITH THEM AT THE TIME THAT
19 JIMMY COMMITTED THIS BREAK-IN AT MR. WOOD'S
20 HOUSE?

21 A. YES, SIR.

22 Q. AND WERE YOU FRIENDS WITH BOTH OF THEM AT THAT
23 TIME?

24 A. YES, SIR.

25 Q. SO, YOU PRETTY MUCH KNOW WHAT WENT DOWN ON THAT,

1 DON'T YOU?

2 A. UH HUH; YES, SIR.

3 Q. CHIP WAS INVOLVED IN THAT, TOO, WASN'T HE?

4 A. HE WASN'T INVOLVED IN THE BREAK-IN BUT HE -- YOU
5 KNOW, THE BREAK-IN WAS MADE, YOU KNOW, ITEMS
6 WERE STOLEN TO TRADE TO CRACK DEALERS TO GET
7 CRACK COCAINE AND CHIP PARTICIPATED IN SMOKING
8 THE DRUGS THAT WERE GOTTEN OUT OF ALL THAT, BUT
9 HE DIDN'T PARTICIPATE IN THE ACTUAL CRIME OF
10 BREAKING IN THE HOUSE.

11 Q. AND HE PARTICIPATED IN DISPOSING OF THE THINGS,
12 SELLING THE STUFF TO GET THE MONEY?

13 A. YES, SIR.

14 Q. HE DID?

15 A. YES, SIR.

16 Q. AND BASICALLY -- SO, JIMMY DIDN'T SAY ANYTHING
17 ABOUT CHIP TO THE POLICE, DID HE?

18 A. NO, SIR, HE DIDN'T.

19 Q. SO, HE TOOK ALL THE BLAME HIMSELF; IS THAT
20 CORRECT?

21 A. YES, SIR.

22 Q. OKAY. AND THE -- DID YOU NOTICE WHILE YOU WERE
23 FRIENDS WITH THE ROBERTSONS, DID YOU NOTICE ANY
24 CHANGE IN MRS. ROBERTSON'S PHYSICAL APPEARANCE?

25 A. SHE WAS PRETTY LARGE; SHE WAS VERY HEAVY. YEAH,

1 SHE CONTINUED TO GAIN WEIGHT. SHE LOOKED REALLY
2 UNHAPPY ALL THE TIME.

3 Q. SHE LOOKED REALLY UNHAPPY ALL THE TIME?

4 A. YEAH, EXTREMELY UNHAPPY.

5 Q. DID YOU EVER TALK TO HER ABOUT WHY SHE WAS
6 UNHAPPY?

7 A. NO, SIR.

8 Q. DID YOU EVER SEE ANY CONFRONTATIONS BETWEEN
9 JIMMY AND HIS FATHER?

10 A. PHYSICAL CONFRONTATIONS OR VERBAL?

11 Q. PHYSICAL CONFRONTATIONS.

12 A. NO, SIR.

13 Q. DID YOU EVER SEE VERBAL CONFRONTATIONS?

14 A. A FEW TIMES; I COULDN'T REALLY TELL YOU WHAT WAS
15 SAID, I DON'T REMEMBER THAT WELL. BUT, YES,
16 SIR.

17 Q. WOULD THAT BE THEM YELLING AT EACH OTHER?

18 A. NOT REALLY YELLING, JUST EARL TRYING TO COME
19 DOWN ON JIM, YOU KNOW. BASICALLY TELLING HIM
20 HOW MUCH OF A SCREW-UP HE WAS.

21 Q. AND LET ME ASK YOU, HAVE YOU REMAINED FRIENDS
22 WITH CHIP AFTER THE MURDERS WERE COMMITTED?

23 A. YES, SIR.

24 Q. AND DID YOU -- HAVE YOU VISITED CHIP IN THE HOME
25 SINCE MR. AND MRS. ROBERTSON DIED?

1 A. YES, SIR.

2 Q. SO, YOU REMAINED FRIENDS WITH CHIP DURING THAT
3 PERIOD OF TIME?

4 A. YES, SIR.

5 Q. DID YOU GO TO THE FUNERAL?

6 A. I WENT TO -- THE FUNERAL WAS IN GEORGIA, I
7 BELIEVE, BUT I WENT TO THE WAKE WHICH WAS HELD
8 AT BASS FUNERAL HOME.

9 Q. AND DID -- WAS CHIP PARTYING OVER -- DID HE
10 THROW A BIG CHRISTMAS PARTY OVER AT THE HOUSE?

11 A. HE HAD A NEW YEAR'S PARTY.

12 Q. A NEW YEAR'S PARTY?

13 A. UH HUH.

14 Q. THIS IS THE NEW YEAR'S AFTER HIS PARENTS DIED?

15 A. YES, SIR.

16 Q. AND WAS THERE STILL SOME BLOOD ON THE FLOOR?

17 A. AT THAT TIME I BELIEVE THERE WAS; THERE WAS A
18 LITTLE BIT ON THE WALL, TOO, BACK IN THE
19 BEDROOM.

20 Q. AND WASN'T CHIP TAKING PEOPLE AROUND, SHOWING
21 THEM ALL OF THIS?

22 A. CHIP WASN'T DOING THAT. PEOPLE WANDERED UP
23 THERE AND, YOU KNOW, AS THE NIGHT CONTINUED TO
24 GROW OLDER AND PEOPLE GOT DRUNKER, YOU KNOW,
25 MAYBE ONE PERSON WHO HAD GONE UP THERE AN HOUR

1 BEFORE WOULD SEE SOMEBODY THEY HADN'T SEEN AND
2 SAY, HEY, COME LOOK UPSTAIRS, YOU KNOW, YOU NEED
3 TO SEE THIS. BUT CHIP WASN'T EVER THE ONE DOING
4 THAT.

5 Q. BUT CHIP WAS THROWING THE PARTY.

6 A. RIGHT.

7 Q. CHIP WAS LIVING IN THE HOUSE; IS THAT CORRECT?

8 A. YES, SIR.

9 Q. DO YOU KNOW WHERE CHIP IS NOW?

10 A. YES, SIR.

11 Q. WHERE IS HE?

12 A. HE'S IN THE MOSS JUSTICE -- HE'S IN THE F BLOCK
13 OF THIS BUILDING.

14 Q. HE'S LOCKED UP?

15 A. RIGHT.

16 Q. DO YOU KNOW WHY?

17 MR. BRACKETT: OBJECTION, YOUR HONOR.

18 THE COURT: I OVERRULE THE OBJECTION.

19 Q. DO YOU KNOW WHY?

20 A. YES, SIR.

21 Q. WHY?

22 A. HE GOT ARRESTED FOR THREE, I THINK IT WAS THREE
23 EIGHT BALLS OF COCAINE AND THIRTY-SOMETHING
24 XANEXES. DRUG USE.

25 Q. LET ME TAKE YOU BACK TO THE BREAK-IN AND ALL OF

1 THAT. LET ME ASK YOU IF YOU KNOW. FROM YOUR
2 PERSONAL KNOWLEDGE DO YOU KNOW IF HIS PARENTS
3 KNEW OF CHIP'S INVOLVEMENT IN THE DISPOSING OF
4 MR. WOOD'S PROPERTY?

5 A. I BELIEVE THEY DID KNOW.

6 Q. SO, THEY KNEW ABOUT THAT?

7 A. YES, SIR.

8 Q. BUT BASICALLY JIMMY TOOK ALL THE BLAME FOR THAT?

9 A. YES, SIR.

10 Q. AND HIS PARENTS KNEW THAT; IS THAT CORRECT?

11 A. YES, SIR.

12 Q. OKAY. AND YOU HEARD JIMMY TELLING -- I'M SORRY.
13 YOU HEARD EARL TELLING JIMMY WHAT A SCREW-UP HE
14 WAS?

15 A. YES, SIR, BUT I COULDN'T -- NOT IN THOSE EXACT
16 WORDS, AND I CAN'T REALLY REMEMBER EVERY SINGLE
17 WORD OF THE ARGUMENT. IT'S VERY VAGUE IN MY
18 MIND.

19 Q. HOW MANY TIMES DID YOU HEAR THAT TYPE OF
20 ARGUMENT?

21 A. ONCE, TWICE; I DON'T KNOW.

22 Q. WAS THAT AT THEIR HOME?

23 A. YES, SIR.

24 Q. AND THAT WAS IN FRONT OF YOU?

25 A. I COULD HEAR IT GOING ON; I WAS DOWNSTAIRS IN

1 THE BASEMENT AND I COULD HEAR THEM YELLING AT
2 EACH OTHER FROM UPSTAIRS.

3 Q. OKAY. WELL, I THOUGHT YOU SAID A WHILE AGO THAT
4 THEY WEREN'T YELLING AT EACH OTHER.

5 A. WELL, NOT YELLING, BUT I COULD HEAR THEM, YOU
6 KNOW, HAVING CONFLICT WITH EACH OTHER.

7 Q. AND YOU HEARD EARL TELLING JIMMY, YOUR WORDS ARE
8 WHAT A SCREW-UP HE WAS.

9 A. WELL, IN A NUTSHELL; I MEAN IN A NUTSHELL,
10 THAT'S PRETTY MUCH HOW THE CONVERSATIONS WERE.
11 BUT I DON'T EVEN FEEL COMFORTABLE TALKING ABOUT
12 THAT BECAUSE I DON'T REALLY KNOW WHAT WAS SAID
13 OR ANYTHING LIKE THAT. AND IT'S EXTREMELY VAGUE
14 IN MY MIND.

15 Q. YOU WEREN'T LIVING THERE, WERE YOU?

16 A. NO, SIR.

17 Q. SO, YOU DON'T KNOW EVERYTHING ABOUT THE FAMILY,
18 DO YOU?

19 A. NO, SIR.

20 Q. THAT'S ALL THE QUESTIONS I HAVE.

21 MR. BRACKETT: NO REDIRECT, YOUR HONOR.

22 THE COURT: YOU CAN STEP DOWN AND BE EXCUSED. WE
23 APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

24 MR. BRACKETT: THE STATE WOULD CALL DARREN
25 KELLER, YOUR HONOR.

1 PLEASE COME ON UP HERE TO THE CLERK'S DESK AND BE
2 SWORN.

3 DARREN W. KELLER, BEING FIRST DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY

6 MR. BRACKETT:

7 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND
8 SPELL YOUR LAST NAME FOR THE COURT REPORTER?

9 A. MY NAME IS DARREN KELLER, K-E-L-L-E-R.

10 Q. AND HOW OLD ARE YOU, DARREN?

11 A. I JUST TURNED 25.

12 Q. AND WHERE DO YOU WORK?

13 A. I WORK AT A COMPANY CALLED THE ORIGINAL MATTRESS
14 IN ROCK HILL.

15 Q. AND WHERE DO YOU LIVE?

16 A. I LIVE AT 950 DUNLAP RODDEY ROAD, IT'S RIGHT
17 NEAR CHESTER AND IN ROCK HILL.

18 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

19 A. I'VE LIVED IN ROCK HILL SINCE '81, WE MOVED DOWN
20 HERE FROM IOWA.

21 Q. WHERE DID YOU LIVE BEFORE YOU LIVED ON DUNLAP
22 RODDEY ROAD?

23 A. I LIVED OVER BY WINTHROP, CAMDEN AVENUE
24 APARTMENTS, 1112 CAMDEN AVENUE.

25 Q. DO YOU KNOW THE DEFENDANT, JIMMY ROBERTSON?

1 A. YES, I DO.

2 Q. HOW DO YOU KNOW HIM?

3 A. I PLACED A COUPLE OF ADDS IN THE LOCAL PAPERS
4 TRYING TO GET A ROOMMATE. I WAS HAVING SOME
5 TROUBLE MAKING MY BILLS AND IT WAS EASIER TO
6 HAVE MORE THAN ONE PERSON LIVING THERE,
7 OBVIOUSLY.

8 Q. YOU NEED TO SPEAK UP A LITTLE BIT, I'M HAVING A
9 HARD TIME HEARING YOU.

10 A. ALL RIGHT. I PLACED SOME ADDS IN THE LOCAL
11 PAPERS LOOKING FOR A ROOMMATE AND MR. ROBERTSON
12 APPLIED FOR -- HE CAME BY AND EXPRESSED AN
13 INTEREST IN LIVING WITH ME. AND HE MOVED IN
14 AROUND THE MIDDLE OF SEPTEMBER.

15 Q. OKAY, SIR, AND HOW LONG DID YOU LIVE WITH HIM?

16 A. I LIVED WITH HIM UNTIL ABOUT THREE DAYS, THREE
17 OR FOUR DAYS BEFORE THE MURDERS.

18 Q. NOW, CAN YOU DESCRIBE WHAT KIND OF A
19 RELATIONSHIP YOU HAD WITH THE DEFENDANT WHILE HE
20 WAS YOUR ROOMMATE THERE ON CAMDEN AVENUE?

21 A. WELL, I ALWAYS CONSIDERED HIM ONE OF MY FRIENDS,
22 ONE OF MY BOYS, IF YOU WILL. WE WENT OUT AND
23 SHOT POOL TOGETHER; WE, YOU KNOW, DRANK BEER
24 TOGETHER. THAT WAS PRETTY MUCH IT; WE'D GO TO
25 SOME CLUBS. I TREATED HIM JUST LIKE, YOU KNOW,

1 A FRIEND. EVERYBODY GOT ALONG, ALL OF MY
2 ROOMMATES DID.

3 Q. DID YOU HAVE ANY OTHER ROOMMATES LIVING THERE?

4 A. I HAD TWO OR THREE, BUT AT THE TIME -- IT'S BEEN
5 TWO YEARS AGO, SO IT'S HARD TO REMEMBER WHO WAS
6 THERE THEN. I HAD ANOTHER GUY THERE AND HE MOVED
7 OUT AND THEN IT WAS JUST MYSELF AND JIM.

8 Q. WHAT WAS THE NAME OF THAT OTHER FELLOW?

9 A. A GUY BY THE NAME OF SCOTT DOUGLAS WAS THE LAST
10 ONE.

11 Q. OKAY. NOW, DID YOU KNOW THE DEFENDANT'S FAMILY,
12 HIS FATHER AND MOTHER?

13 A. THE ONLY TIME I MET THEM WAS WHEN THEY MOVED HIM
14 IN AND HIS DAD WROTE ME A CHECK FOR THE DEPOSIT
15 AND THE FIRST MONTH'S RENT. AND THEN I SAW HIS
16 DAD THE SUNDAY BEFORE THE MURDERS; HE CAME AND
17 GOT HIM AND HELPED HIM MOVE OUT.

18 Q. DID THE DEFENDANT EVER TALK ABOUT HIS PARENTS?

19 A. YEAH, THERE SEEMED TO BE A LITTLE BIT OF STRESS
20 IN HIS LIFE FROM HIS PARENTS. HE TALKED A LOT
21 ABOUT HIS PARENTS AND HOW THEY WERE SUPPORTING
22 CHIP A LOT AND THEY WEREN'T -- YOU KNOW, THEY
23 SEEMED TO BE DISAPPOINTED FROM HIM.

24 AND THERE WAS ONE TIME I CAME HOME FROM WORK, I
25 WORKED RETAIL SO IT WAS A ROUGH JOB, I CAME

1 HOME, GOT ON THE COMPUTER CHECKING MY E-MAIL.
2 JIM CAME HOME ABOUT 9:30 OR 10:00 O'CLOCK,
3 GRABBED A BEER. I WAS ON LINE PLAYING A GAME OR
4 SOMETHING AND HE SAID "HAVE YOU EVER BEEN SO MAD
5 AT SOMEONE, AT SOMEBODY THAT YOU COULD KILL
6 THEM?" AND I KIND OF LOOKED AT HIM LIKE, NO,
7 MAN, WHAT'S UP. AND I KEPT PLAYING. AND I SAID
8 WHO DO YOU WANT TO KILL, MAN. AND HE SAID,
9 WELL, ACTUALLY IT'S TWO SOMEBODIES.
10 AND I JUST GOT THIS WEIRD GUT FEELING, I DON'T
11 KNOW, THAT HE WAS TALKING ABOUT HIS PARENTS.
12 AND I SAID, WELL, WHY DO YOU WANT TO KILL YOUR
13 PARENTS. AND HE SAID, "THEY HAVE MADE MY LIFE A
14 LIVING HELL", AND THAT WAS HIS EXACT WORDS.
15 AND I IMMEDIATELY GOT OFF LINE AND I TALKED TO
16 HIM, YOU KNOW, AND I DRANK A BEER WITH HIM. I
17 TALKED TO HIM AND I TOLD HIM, MAN, YOU'RE DOING
18 GOOD, YOU JUST GOT OUT OF JAIL; I SAID YOU'VE
19 GOT YOUR OWN APARTMENT, YOU'VE GOT YOUR OWN JOB,
20 YOU HAVEN'T HAD ANY MORE TROUBLE WITH THE POLICE
21 SINCE THEN AND I THINK YOU'RE DOING GOOD. I
22 SAID IF YOU CAN'T LIVE UP TO YOUR PARENT'S
23 EXPECTATIONS, JUST GIVE THEM SOME TIME, YOU
24 KNOW, THEY'LL PROBABLY COME AROUND ONCE THEY SEE
25 YOUR LIFE IS SUCCESSFUL.

1 AND WE WENT OUT AND PLAYED SOME POOL AND DRANK
2 SOME BEER, AND THAT WAS IT.

3 Q. DID HE EVER SAY ANYTHING LIKE THAT AGAIN TO YOU?

4 A. NO, NOT TO ME.

5 Q. WHEN DID HE MOVE OUT?

6 A. HE MOVED OUT ABOUT, IT WAS AROUND THE 22ND OR
7 THE 23RD, IT WAS ON A WEDNESDAY BEFORE THE
8 MURDERS IS WHEN I ASKED HIM TO LEAVE.

9 Q. WHY DID YOU ASK HIM TO LEAVE?

10 A. THE KIND OF COMPANY THAT HE KEPT, THE PEOPLE
11 THAT KEPT COMING AROUND. THEY WOULD COME OVER
12 AND -- THE DRINKING PART NEVER BOTHERED ME
13 BECAUSE, I MEAN THEY ALWAYS RESPECTED ME.
14 SOMETIMES I HAD TO GET UP AT 7:00 O'CLOCK TO GO
15 TO WORK AND THEY ALWAYS RESPECTED MY TIME AND
16 KEPT IT QUIET.

17 WHEN THEY STARTED DOING MARIJUANA, PART OF ME
18 WAS SAYING IT WASN'T ANY OF MY BUSINESS. PART OF
19 ME WAS SAYING IF I EVER GET IN TROUBLE, YOU
20 KNOW, I'M NOT GOING TO GO DOWN FOR IT.

21 BUT I'D ASKED HIM ONE TIME TO LEAVE. IT WAS
22 BASICALLY BECAUSE OF THE DRUG USE. THEY WERE
23 TAKING RITALIN, PRESSING RITALIN UP AND SNORTING
24 IT. AND THERE WERE SOME PEOPLE OVER AT MY HOUSE
25 AND THEY WERE JUST NOT THE KIND OF COMPANY THAT

1 I CARED TO BE ASSOCIATED WITH.

2 I TOLD HIM THAT MY CONTRACT WAS GOING TO BE UP
3 ON MY LEASE ON MY APARTMENT. WHICH WASN'T TRUE.

4 I TOLD HIM, I'M HAVING TROUBLE KEEPING YOU AS A
5 ROOMMATE BECAUSE MY LANDLORD HAS DONE SOME
6 BACKGROUND CHECKS ON US AND HE DOESN'T WANT
7 ANYBODY WITH A CRIMINAL RECORD LIVING IN OUR
8 ESTABLISHMENT.

9 AND HE SAID "OKAY, OKAY, I'LL TRY TO FIND
10 ANOTHER PLACE TO LIVE".

11 WELL, ABOUT ANOTHER MONTH PASSED AND NOTHING HAD
12 HAPPENED; HE HAD NOT MADE ANY KIND OF ATTEMPTS
13 TO MOVE OUT, SO I TALKED TO MY LANDLORD AT THE
14 TIME.

15 I TALKED TO HIM AND TOLD HIM THAT HE WAS DOING
16 DRUGS IN THE HOUSE. I JUST TOLD HIM MARIJUANA,
17 BECAUSE I WAS NOT OUT TO TRY TO GET ANYBODY IN
18 TROUBLE. I SAID HE WAS DOING MARIJUANA IN THE
19 HOUSE AND MY LANDLORD IMMEDIATELY TOLD ME THAT I
20 NEEDED TO GET HIM OUT OR I COULD LOSE MY LEASE.

21 AND I DIDN'T WANT TO DO THAT.

22 HE SAID, WHATEVER YOU NEED TO DO, JUST GET HIM
23 OUT, IF YOU NEED TO BLAME IT ON ME, THAT'S FINE;
24 I JUST WANT HIM OUT OF THERE BECAUSE IF THEY
25 COME IN ---

1 MR. HANCOCK: OBJECTION, YOUR HONOR.

2 THE COURT: I SUSTAIN THE OBJECTION.

3 Q. OKAY, AS AN END RESULT, WHAT DID HE FINALLY DO?

4 A. HE FINALLY MOVED OUT.

5 Q. AND THAT WAS WHEN?

6 A. THAT WAS -- I TOLD HIM TO MOVE OUT ON THURSDAY;
7 HE MOVED ALL OF HIS THINGS OUT FRIDAY AND
8 FINISHED COMPLETELY MOVING OUT WITH ALL OF HIS
9 FURNITURE ON SUNDAY.

10 Q. WAS THAT THE LAST DAY YOU SAW HIM?

11 A. THAT WAS THE LAST DAY I SAW HIM.

12 Q. THANK YOU VERY MUCH, MR. KELLER. ANSWER ANY
13 QUESTIONS DEFENSE COUNSEL MAY HAVE FOR YOU.

14 CROSS EXAMINATION BY

15 MR. HANCOCK:

16 Q. MR. KELLER, YOU INDICATED ON ONE OCCASION THAT
17 JIM SAID HE WANTED TO -- YOU SAID KILL TWO
18 PEOPLE; IS THAT RIGHT?

19 A. TWO SOMEBODIES, YES.

20 Q. TWO SOMEBODIES?

21 A. RIGHT.

22 Q. AND YOU ASSUMED THAT WAS HIS PARENTS?

23 A. RIGHT.

24 Q. AND THEN YOU DISCUSSED IT WITH HIM?

25 A. HE SAID HE WANTED TO KILL TWO SOMEBODIES.

1 Q. RIGHT.

2 A. AND I ASKED HIM WHY WOULD YOU WANT TO KILL YOUR
3 PARENTS.

4 Q. ALL RIGHT.

5 A. RIGHT, I DISCUSSED IT WITH HIM.

6 Q. AND YOU DIDN'T THINK THAT WAS ANY ABNORMAL
7 BEHAVIOR ON ANYBODY'S PART; IS THAT CORRECT,
8 SIR?

9 A. HE SAID IT AND -- NO, I DIDN'T. THAT WASN'T
10 SOMETHING I WOULD TAKE SERIOUSLY AND SAY I'M
11 GOING TO CALL THE POLICE NOW BECAUSE HE SAID HE
12 WAS GOING TO KILL HIS PARENTS. I DIDN'T TAKE IT
13 SERIOUSLY.

14 Q. YOU'RE AWARE OF YOUR STATEMENT TO THE POLICE
15 THOUGH WHEN YOU SAID HE NEVER EXHIBITED ANY
16 ABNORMAL BEHAVIOR.

17 A. THAT'S CORRECT.

18 Q. OKAY. AND YOU DON'T THINK IT'S ABNORMAL WHEN
19 SOMEBODY WOULD LOOK AT YOU AND TELL YOU THEY'RE
20 GOING TO KILL THEIR PARENTS?

21 A. IT'S BEEN SEVERAL TIMES THAT I, MYSELF, HAVE
22 BEEN DRIVING IN TRAFFIC AND SAY, MAN, I'D LIKE
23 TO KILL THAT PERSON. I MEAN IT WAS JUST IN
24 PASSING.

25 Q. HE SAID, I BELIEVE IN THAT SAME SEQUENCE, HE

1 SAID HIS PARENTS HAD MADE HIS LIFE A LIVING
2 HELL?

3 A. THAT WAS HIS EXACT WORDS.

4 Q. WAS THERE ANY ELABORATION ON THAT?

5 A. NO.

6 Q. JUST THAT THEY HAD MADE HIS LIFE A LIVING HELL?

7 A. THAT'S CORRECT.

8 Q. HE DIDN'T TELL YOU HOW LONG THEY MAY HAVE MADE
9 HIS LIFE A LIVING HELL?

10 A. NO.

11 Q. OR WHEN THAT MIGHT HAVE HAPPENED OR HOW THAT
12 MIGHT HAVE HAPPENED, DID HE, SIR?

13 A. NO, SIR.

14 Q. NOW, WAS HE WORKING AT THE TIME THAT HE WAS
15 LIVING WITH YOU, SIR?

16 A. YES, HE WAS.

17 Q. AND DO YOU KNOW WHERE HE WAS WORKING?

18 A. HE WAS WORKING IN DINKINS CAFE AT WINTHROP.

19 Q. IN DINKINS?

20 A. UH HUH.

21 Q. AND ARE YOU AWARE OF HIS WORK HABITS AT DINKINS?

22 A. HIS WORK HABITS?

23 Q. YES.

24 A. HE ---

25 Q. WOULDN'T HE OFTEN, NOT TO CUT YOU OFF, BUT I'LL

1 JUST TRY TO EXPLAIN WHAT I'M ASKING FOR.

2 WOULDN'T HE OFTENTIMES WORK DOUBLE SHIFTS?

3 A. YEAH. HE WORKED A LOT; HE WAS A VERY GOOD
4 WORKER.

5 Q. RIGHT. AND HE'D SOMETIMES STAY UP 24, 36 HOURS
6 AT A TIME WORKING, WOULDN'T HE?

7 A. HE WASN'T WORKING.

8 Q. THEN HE WAS WORKING AND PARTYING?

9 A. RIGHT.

10 Q. OKAY. AND SO HE WOULD STAY UP AND HE WAS
11 CONSTANTLY UP; HE SLEPT VERY LITTLE, DIDN'T HE?

12 A. HE SLEPT AS MUCH AS I DID, PROBABLY FIVE OR SIX
13 HOURS A NIGHT.

14 Q. EVERY NIGHT?

15 A. WE SHARED A BEDROOM.

16 Q. EVERY NIGHT?

17 A. I CAN'T SAY EVERY NIGHT, BUT FOR THE MAJORITY OF
18 THE THREE MONTHS WE WERE TOGETHER.

19 Q. AND HE WAS SNORTING RITALIN, RIGHT?

20 A. RIGHT.

21 Q. AND HOW OFTEN WOULD HE SNORT RITALIN?

22 A. I WASN'T THERE ALL THE TIME. THEY DID IT A
23 COUPLE OF TIMES A WEEK. MOSTLY ON THE WEEKENDS.
24 HE WORKED THE SECOND SHIFT, SO HE WOULD HAVE THE
25 NIGHT BEFORE.

1 Q. AND WHEN HE WAS SNORTING RITALIN, DID YOU EVER
2 OBSERVE HIS BEHAVIOR, SIR?

3 A. YES, I DID.

4 Q. AND HIS BEHAVIOR WAS HYPER, WASN'T IT?

5 A. HYPER, I GUESS THAT WOULD BE ONE OF THE SIDE
6 EFFECTS OF THE DRUG.

7 Q. DID YOU OBSERVE HIM AFTER SNORTING RITALIN?

8 A. YES.

9 Q. DID YOU EVER SNORT ANY WITH HIM?

10 A. NO, I DID NOT.

11 Q. AND HOW MUCH ARE YOU AWARE THAT HE WOULD SNORT
12 AT A TIME.

13 A. DO YOU MEAN AS A QUANTITY?

14 Q. YES, SIR.

15 A. I HAVE NO IDEA.

16 Q. DID YOU EVER SEE HIM GRIND UP ANY PILLS OR
17 ANYTHING LIKE THAT?

18 A. HE USED MY CD CASE TO CRUSH IT UP, AND THEN HAD
19 A RAZOR BLADE AND THEY SNORTED IT. I'D NEVER
20 SEEN THAT DONE BEFORE, SO I WAS KIND OF AMAZED
21 THAT THEY WERE CRUSHING PILLS.

22 Q. SO, YOU DON'T KNOW THE EFFECT THAT RITALIN MIGHT
23 HAVE ON YOU DONE IN THAT MANNER; IS THAT
24 CORRECT?

25 A. NOT IN THAT MANNER. THAT'S NOT THE REASON IT'S

1 PRESCRIBED, NO.

2 Q. AND WHEN YOU SAY "THEY" WOULD DO THAT, WHO ARE
3 WE TALKING ABOUT?

4 A. JUST DIFFERENT PEOPLE COMING OVER TO THE HOUSE.

5 Q. DO YOU REMEMBER ANY NAMES?

6 A. CO-WORKERS; THERE WERE SOME FACES AND NAMES THAT
7 I DID NOT KNOW.

8 Q. AND THEY WERE DRINKING ALCOHOL WHEN THEY WERE
9 DOING THAT, TOO, WEREN'T THEY?

10 A. RIGHT.

11 Q. AND DO YOU KNOW IN WHAT QUANTITIES HE WAS
12 DRINKING ALCOHOL AT THAT TIME?

13 A. HE DRANK A LOT.

14 Q. HE DRANK A LOT?

15 A. YEAH.

16 Q. AGAIN I'LL JUST GO BACK TO ABNORMAL BEHAVIOR.
17 YOU'VE GOT A FELLOW THAT SUPPOSEDLY SAID HE
18 COULD KILL HIS PARENTS AND THAT THEY MADE HIS
19 LIFE A LIVING HELL AND SNORTING RITALIN, STAYING
20 UP LONG HOURS, 36 HOURS AT A TIME, DRINKING
21 ALCOHOL WHILE HE'S SNORTING RITALIN, AND IS THAT
22 WHAT YOU CONSIDER NORMAL BEHAVIOR?

23 A. THAT'S PARTY LIFE.

24 Q. THAT WASN'T YOUR BEHAVIOR WAS IT?

25 A. NO.

1 Q. AND DO YOU CONSIDER YOUR BEHAVIOR NORMAL?

2 A. PRETTY NORMAL.

3 Q. I BEG THE INDULGENCE OF THE COURT.

4 (AFTER A BRIEF PAUSE.)

5 MR. HANCOCK: I HAVE NOTHING FURTHER, YOUR HONOR.

6 MR. BRACKETT: JUST BRIEFLY, YOUR HONOR.

7 REDIRECT EXAMINATION BY

8 MR. BRACKETT:

9 Q. MR. HANCOCK ASKED YOU HOW DID THE RITALIN AFFECT
10 HIM. YOU SAID HE DRANK A LOT?

11 A. YES, HE DID.

12 Q. HOW DID THE RITALIN AND ALCOHOL AFFECT HIM?

13 A. THE ALCOHOL, HE WOULD JUST DRINK AND DRINK. I
14 NEVER REALLY SAW HIM GET DRUNK, I MEAN NOT
15 REALLY. HE DRANK ALCOHOL AND THEN HE DID THE
16 RITALIN AND THEN HE ALWAYS WENT OFF SOMEWHERE.

17 Q. DID HE EVER SCARE YOU WHEN HE WAS DOING THAT?

18 A. NO. I LIVED WITH HIM IN THE SAME BEDROOM FOR
19 THREE MONTHS. HE WAS IN MY ROOM. NOT ONLY DID
20 I SHARE AN APARTMENT, I SHARED, YOU KNOW, 30
21 SQUARE FEET WITH HIM.

22 Q. NO FURTHER QUESTIONS.

23 THE COURT: RECROSS?

24 MR. HANCOCK: NOTHING FURTHER, YOUR HONOR.

25 THE COURT: ALL RIGHT. YOU CAN STEP DOWN AND BE

1 EXCUSED. WE APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

2 MR. BRACKETT: THE STATE WOULD CALL SCOTT
3 DOUGLAS.

4 MR. HANCOCK: YOUR HONOR, INDULGENCE OF THE COURT
5 ONE MOMENT.

6 (AFTER A PAUSE.)

7 MR. BOYD: YOUR HONOR, WE HAVE A MATTER WE NEED
8 TO TAKE UP.

9 THE COURT: ALL RIGHT. I'M GOING TO LET YOU GO TO
10 THE JURY ROOM JUST FOR A FEW MINUTES.

11 IN CAMERA:

12 THE COURT: ALL RIGHT?

13 MR. BOYD: YOUR HONOR, I WOULD JUST POINT OUT TO
14 THE COURT, THIS WITNESS WAS GIVEN US TODAY. HE WAS NOT ON
15 THE WITNESS LIST. THE JURY HAS NOT BEEN ASKED ABOUT
16 WHETHER THEY KNOW THIS WITNESS OR NOT.

17 THE COURT: I COULDN'T FIND HIM ON MY WITNESS
18 LIST.

19 MR. BRACKETT: YES, SIR, WE JUST UNCOVERED HIM;
20 SENT SOMEBODY OUT, GOT A STATEMENT FROM HIM AND GAVE THAT
21 TO THE DEFENSE AS SOON AS IT CAME INTO OUR POSSESSION, YOUR
22 HONOR.

23 WE ARE CONTINUING TO INVESTIGATE THIS CASE. AS
24 WE UNCOVER THINGS, WE GIVE IT TO THEM. WE HAVE GIVEN THEM
25 THE SUBSTANCE -- WELL, WE HAVE GIVEN THEM A COPY OF HIS

1 STATEMENT.

2 YOUR HONOR, THE DEFENSE HAS DONE THE SAME THING.
3 ON THE 19TH WE GOT ADDITIONS TO THEIR WITNESS LIST FROM MR.
4 COMER, 11 MORE NAMES WE RECEIVED AT 5:35 P.M. ON THE 19TH.
5 I KNOW THEY ARE CONTINUING TO WORK.

6 I WOULD AGREE THAT THE JURY SHOULD BE POLLED TO
7 SEE IF ANY MEMBER OF THE JURY PANEL KNOWS HIM AND IF THEY
8 DO, THEN WE CAN TAKE THAT UP AT THAT TIME. BUT WE CONTINUE
9 TO WORK ON THIS CASE.

10 THE COURT: WHAT HAPPENS WHEN YOU DO THAT, YOU
11 BRING IN NEW WITNESSES AND THREE MEMBERS OF THE JURY KNOWS
12 SOMEBODY.

13 MR. BRACKETT: THEN WE WOULDN'T CALL THEM.

14 THE COURT: WHAT IF ONE MEMBER KNOWS HIM?

15 MR. BRACKETT: WE WOULDN'T CALL HIM. IF ANYBODY
16 KNOWS MR. DOUGLAS, WE WON'T CALL HIM.

17 THE COURT: IS IT THE DEFENSE POSITION THAT NO
18 WITNESSES THAT ARE NOT ON THE LIST, THAT THE WITNESS LIST
19 CANNOT BE SUPPLEMENTED?

20 (AFTER A PAUSE.)

21 THE COURT: MR. HANCOCK AND MR. BOYD, DID Y'ALL
22 NOT HEAR ME?

23 MR. BOYD: I HEARD YOU, YOUR HONOR, I WAS
24 CONFERRING WITH MR. HANCOCK.

25 THE COURT: YOU KNOW, WE ALWAYS HAVE TO HAVE, YOU

1 KNOW, THE GOOSE AND THE GANDER; WHAT'S GOOD FOR ONE IS
2 GOING TO BE GOOD FOR THE OTHER UNLESS SOMEBODY CAN SHOW ME
3 SOME PARTICULAR PREJUDICE OF SOME PARTICULAR WITNESS. BUT
4 WE ARE EITHER GOING TO LET THEM IN OR NOT.

5 I DON'T THINK ANYBODY IS SANDBAGGING ANYBODY, BUT
6 THIS CASE HAS BEEN GOING ON, IT WAS CARRIED OVER AN EXTRA
7 MONTH AND A HALF. IT SUITS ME NOT TO LET THIS WITNESS
8 TESTIFY BUT IF I GO THAT WAY WITH THEM, I'M GOING TO HAVE
9 TO DO THE SAME FOR THE DEFENDANT.

10 MR. BOYD: I REALIZE THAT, YOUR HONOR.
11 (AFTER A LONG PAUSE.)

12 MR. BOYD: YOUR HONOR, WE HAVE NO OBJECTION TO
13 THIS WITNESS GOING AHEAD AND TESTIFYING.

14 THE COURT: WELL, YOU BETTER BE CERTAIN NOW; YOU
15 BETTER MAKE SURE BECAUSE IF WE LET ONE, THEN THE GATE IS
16 WIDE OPEN. I MEAN I CAN CERTAINLY GIVE SOME SORT OF
17 CAUTIONARY STATEMENT TO THE JURY BUT IF WE END UP AFTER A
18 WEEK AND A HALF WITH SOME KIND OF PROBLEMS BECAUSE OF THE
19 JURY, WE'VE WASTED AN AWFUL LOT OF PEOPLE'S TIME AND AN
20 AWFUL LOT OF MONEY.

21 MR. BRACKETT: AS A PRECAUTION, WE WOULD STILL
22 WANT THE JURY INQUIRED AND WE'LL STAND BY -- IF ANYBODY ON
23 THE JURY KNOWS HIM, WE WON'T CALL HIM. JUST OUT OF AN
24 ABUNDANCE OF CAUTION, THAT'S FINE.

25 THE COURT: WELL, I'M NOT GOING TO DO IT THAT

1 WAY. I'M GOING TO TELL THE JURY Y'ALL ARE GOING TO CALL
2 WITNESSES -- IT WILL JUST CAUSE PROBLEMS. I'M GOING TO
3 TELL THE JURY THAT IF ANY OF THEM HAVE A -- IF A WITNESS
4 TESTIFIES WHO WASN'T ON THE LIST AND IT CAUSES THEM ANY
5 PROBLEM WHATSOEVER WITH THEIR ABILITY TO BE FAIR, TO PLEASE
6 SEND ME A NOTE. AND IF WE GET THREE NOTES, THEN WE START
7 THE TRIAL OVER AGAIN.

8 MR. BRACKETT: YES, SIR.

9 THE COURT: BRING IN THE JURY.

10 IN THE PRESENCE OF THE JURY:

11 THE COURT: MEMBERS OF THE JURY, I DO NOT FIND
12 THIS WITNESS ON MY LIST, SO HE WAS NOT ON THE LIST WHEN
13 Y'ALL REVIEWED IT.

14 I UNDERSTAND THERE MAY BE WITNESSES FROM BOTH
15 SIDES WHOSE NAMES FOR ONE REASON OR ANOTHER WERE NOT ON THE
16 LIST.

17 THE WAY I'M GOING TO DO THAT -- WE WENT THROUGH
18 A LOT OF PAINS TO ASK EACH OF YOU IF YOU KNEW THESE
19 WITNESSES AND IF YOUR KNOWLEDGE OF ANY OF THEM WOULD GIVE
20 YOU ANY PROBLEMS WITH BEING FAIR AND IMPARTIAL. IF SOMEONE
21 TESTIFIES THAT YOU KNOW AND THEY WERE NOT LISTED AND IT
22 GIVES YOU SOME CONCERN AS TO WHETHER THAT WOULD AFFECT YOU
23 BEING FAIR AND IMPARTIAL, PLEASE JUST VERY DISCREETLY ASK
24 THE FOREMAN SOMETIME WHEN YOU'RE IN THE JURY ROOM TO LET
25 YOU HAVE A PIECE OF PAPER AND SEND ME OUT A NOTE REGARDING

1 THAT PARTICULAR JUROR. THANK YOU.

2 MR. BRACKETT: THANK YOU, YOUR HONOR. MR.
3 DOUGLAS, IF YOU WOULD PLEASE COME FORWARD AND BE SWORN.

4 SCOTT EUGENE DOUGLAS, BEING FIRST DULY SWORN,
5 TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION BY

7 MR. BRACKETT:

8 Q. SIR, WOULD YOU PLEASE STATE YOUR FULL NAME AND
9 SPELL YOUR LAST?

10 A. SCOTT EUGENE DOUGLAS, D-O-U-G-L-A-S.

11 Q. HOW OLD ARE YOU, MR. DOUGLAS?

12 A. 25 YEARS OF AGE.

13 Q. WHAT DO YOU DO FOR A LIVING?

14 A. I'M AN ELECTRICIAN.

15 Q. AND HOW LONG HAVE YOU BEEN DOING THAT?

16 A. ABOUT THREE YEARS.

17 Q. HOW LONG HAVE YOU LIVED IN YORK COUNTY?

18 A. ABOUT 15 YEARS.

19 Q. OKAY, SIR. DO YOU KNOW THIS MAN SEATED OVER
20 HERE, JIMMY ROBERTSON?

21 A. YES, SIR, I DO.

22 Q. HOW DO YOU KNOW HIM?

23 A. HE WAS A ROOMMATE.

24 Q. A ROOMMATE WHEN?

25 A. '97; I CAN'T PINPOINT THE DATE THAT HE MOVED IN,

1 BUT THE YEAR OF '97.

2 Q. OKAY.

3 A. HE WAS JUST A ROOMMATE.

4 Q. DID YOU HAVE ANY OTHER ROOMMATE?

5 A. YES, SIR.

6 Q. WHO WAS THAT?

7 A. DARREN KELLER.

8 Q. OKAY. HOW LONG WERE YOU A ROOMMATE WITH MR.
9 ROBERTSON?

10 A. I LIVED THERE BEFORE MR. ROBERTSON DID. HE WAS
11 PROBABLY THERE TWO OR THREE MONTHS BEFORE I WAS
12 GONE -- YOU KNOW, WHILE I WAS STILL THERE, AND
13 THEN I MOVED OUT.

14 Q. DID YOU GET TO KNOW MR. ROBERTSON VERY WELL?

15 A. I TALKED TO HIM OCCASIONALLY, SPOKE TO HIM.
16 SOMETIMES I'D HAVE A CONVERSATION WITH HIM,
17 DRINK BEER WITH HIM.

18 Q. OKAY, SIR. DID YOU GET TO KNOW HIS PARENTS AT
19 ALL?

20 A. YES, SIR, I DID MEET MR. AND MRS. ROBERTSON.

21 Q. TELL THE JURY, WHAT KIND OF RELATIONSHIP DID YOU
22 OBSERVE MR. AND MRS. ROBERTSON HAVE WITH THEIR
23 SON?

24 A. SPOILED. I MEAN I DON'T REALLY KNOW ANOTHER WAY
25 TO PUT IT. THEY PAID HIS BILLS; SHE WASHED HIS

1 CLOTHES; THEY BROUGHT HIM GROCERIES; I'VE ATE
2 HIS GROCERIES, YOU KNOW. I'D LOVE TO HAVE IT
3 THAT WAY, YOU KNOW.

4 Q. YES, SIR. HOW DID HE FEEL ABOUT HIS PARENTS.
5 DID HE EVER TELL YOU ANYTHING ABOUT HOW HE FELT?

6 A. HE NEVER REALLY EXPRESSED HIS FEELINGS ABOUT HIS
7 PARENTS. YOU KNOW, HE MADE A STATEMENT TO ME --
8 I WAS COOKING SOME BURGERS, WAS GOING TO DRINK
9 SOME BEER WITH SOME GIRLS FROM UPSTAIRS AND HE
10 ASKED ME HAD I EVER THOUGHT ABOUT KILLING
11 ANYBODY FOR INSURANCE MONEY AND I TOLD HIM, NO,
12 I DIDN'T THINK ABOUT THAT, I DON'T THINK LIKE
13 THAT. AND I MOVED OUT. I MOVED OUT BEFORE THAT
14 OCCURRED.

15 Q. BEFORE WHAT OCCURRED?

16 A. BEFORE THE MURDERS.

17 Q. OKAY.

18 A. YOU KNOW, I'M SORRY I HAD TO SAY IT THAT WAY,
19 BUT I JUST DON'T KNOW ANY OTHER WAY TO SAY IT.

20 Q. DID YOU HAVE ANY KIND OF RELATIONSHIP WITH HIM
21 AFTER YOU MOVED OUT?

22 A. NO; I HAVEN'T SEEN HIM SINCE I MOVED OUT.

23 Q. NOW, YOU'VE HAD A LITTLE BIT OF TROUBLE IN YOUR
24 LIFE HAVEN'T YOU, SIR?

25 A. YES, SIR.

1 Q. OKAY. IN 1994 IN GASTON COUNTY, NORTH CAROLINA
2 YOU WERE CONVICTED OF PETTY LARCENY?

3 A. YES, SIR.

4 Q. AND IN RELATION TO THAT SAME AFFAIR, WERE YOU
5 ALSO CONVICTED OF BREAKING AND ENTERING?

6 A. NO, SIR, IT WAS ACCESSORY TO RECEIVING STOLEN
7 GOODS BUT, YOU KNOW, I WAS TRIED AS BREAKING AND
8 ENTERING BUT I RECEIVED THE STOLEN GOODS. BUT
9 THAT'S SOMETHING THAT'S BEEN DONE TAKEN CARE OF.
10 YOU KNOW, I PAID MY DEBT TO SOCIETY FOR IT, YOU
11 KNOW.

12 Q. YES, SIR. THANK YOU VERY MUCH.

13 A. YES, SIR.

14 CROSS EXAMINATION BY

15 MR. BOYD:

16 Q. MR. KELLER, WHEN YOU LIVED THERE ---

17 THE COURT: THIS ISN'T MR. KELLER.

18 Q. I'M SORRY, I'M SORRY, THAT'S CORRECT. MR.
19 DOUGLAS. WHEN YOU LIVED THERE, WERE YOU
20 WORKING?

21 A. YES, SIR.

22 Q. AND DID YOU WORK DIFFERENT HOURS? Y'ALL DIDN'T
23 COME INTO CONTACT CONSTANTLY BECAUSE YOU WORKED
24 SORT OF DIFFERENT HOURS FROM HIM, DIDN'T YOU?

25 A. I SEEN JAMES EVERY NIGHT.

1 Q. YOU SAW HIM EVERY NIGHT?

2 A. YEAH, I MEAN I NEVER SAT DOWN AND HAD A
3 CONVERSATION WITH HIM EVERY NIGHT, NO, IF THAT'S
4 WHAT YOU'RE ASKING ME. NO, I NEVER SAT DOWN AND
5 HAD A CONVERSATION WITH HIM EVERY NIGHT, BUT I
6 HAVE SAT AROUND AND DRANK BEER WITH HIM AND SOME
7 FRIENDS, BUT, YOU KNOW.

8 Q. DID YOU SHARE THE SAME ROOM WITH HIM?

9 A. NO, SIR, I DIDN'T; I HAD MY OWN ROOM.

10 Q. SO, MR. KELLER AND HE STAYED IN ONE ROOM AND YOU
11 STAYED IN ANOTHER ROOM?

12 A. YES, SIR, THAT IS CORRECT.

13 Q. AND DID YOU EVER OBSERVE JIMMY SNORTING ANY
14 RITALIN?

15 A. NO, SIR, SMOKING POT.

16 Q. YOU DID SEE HIM SMOKING ---

17 A. SMOKING POT.

18 Q. OKAY. DID YOU EVER SMOKE POT WITH HIM?

19 A. NO, SIR, I NEVER HAVE SMOKED POT. I DID IN HIGH
20 SCHOOL IN '89.

21 Q. BUT YOU OBSERVED HIM SMOKING POT?

22 A. OH, YEAH.

23 Q. YOU DRANK WITH HIM, IS THAT CORRECT?

24 A. I DRANK BEER WITH HIM.

25 Q. HIS FRIENDS THAT CAME OVER SMOKED POT?

1 A. YEAH. WELL, I DON'T KNOW IF THEY SMOKED POT.
2 I'M SORRY, I SHOULDN'T HAVE SAID THAT. DRANK
3 BEER WITH THEM.

4 Q. DRANK BEER WITH THEM.

5 A. THE ONLY ONE I'VE EVER SEEN SMOKE POT WAS JIMMY
6 OR JAMES OR WHATEVER YOU CALL HIM.

7 Q. YOU NEVER SAW HIM CRUSH UP LITTLE WHITE PILLS
8 AND SNORT THEM?

9 A. NO, SIR.

10 Q. AND THESE STATEMENTS ABOUT HAD YOU EVER THOUGHT
11 ABOUT KILLING ANYBODY FOR INSURANCE. DID YOU GO
12 INTO THAT IN ANY MORE DETAIL WITH HIM ABOUT
13 THAT?

14 A. NO, SIR. I JUST LOOKED AT HIM AND TOLD HIM THAT
15 I DIDN'T THINK LIKE THAT.

16 Q. DID YOU FORGET ABOUT IT AFTER THAT?

17 A. YEAH, I NEVER -- I MEAN IF YOU TELL SOMEBODY
18 EVERY TIME SOMEBODY SAYS THEY'RE GOING TO KILL
19 SOMEBODY, IT WOULD BE A WHOLE LOT OF COURT GOING
20 ON, YOU KNOW. I MEAN I AIN'T TRYING TO
21 CONTRADICT WHAT YOU'RE SAYING BUT, NO, I NEVER
22 THOUGHT HE WAS SERIOUS ABOUT IT TO BE HONEST
23 WITH YOU. MAYBE THAT'S A MORE DIRECT ANSWER FOR
24 YOU.

25 Q. AND YOU SAID JUST NOW EVERY TIME YOU HEARD

1 SOMEBODY SAY THEY WERE GOING TO KILL SOMEBODY,
2 YOU'VE HEARD PEOPLE SAY THAT BEFORE, HAVEN'T
3 YOU?

4 A. YEAH, I'VE HEARD IT BEFORE. I HEAR IT EVERY
5 DAY, DIFFERENT PLACES, DIFFERENT PEOPLE.

6 Q. THANK YOU. NO FURTHER QUESTIONS.

7 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS.

8 THE COURT: YOU CAN STEP DOWN. THANK YOU; YOU
9 CAN BE EXCUSED. IT'S ABOUT 20 TO 6:00, DO WE HAVE A
10 WITNESS THAT WILL TAKE US TO ABOUT 6:00?

11 WE STARTED LATE, AND THAT WAS NOT YOUR FAULT.
12 AND IT REALLY WASN'T OUR FAULT; WE HAD STUFF TO DO. BUT I
13 THOUGHT IF WE COULD GO A LITTLE BIT LONGER.

14 MR. BRACKETT: I HAVE ONE SHORT WITNESS.

15 THE COURT: OKAY.

16 MR. BRACKETT: THE STATE CALLS STACEY PEAKE.

17 THE COURT: IF YOU WILL COME FORWARD. THERE'S A
18 BIBLE UP HERE, IF YOU'LL PUT YOUR LEFT HAND ON IT AND RAISE
19 YOUR RIGHT.

20 STACEY AMANDA PEAKE, BEING FIRST DULY SWORN,
21 TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION BY

23 MR. BRACKETT:

24 Q. MA'AM, WOULD YOU PLEASE STATE YOUR FULL NAME AND
25 SPELL YOUR LAST FOR THE COURT REPORTER?

1 A. STACEY AMANDA PEAKE, P-E-A-K-E.

2 Q. WHERE DO YOU LIVE, STACEY?

3 A. 4550 WINDSTONE COURT.

4 Q. IS THAT IN ROCK HILL?

5 A. THAT IS IN ROCK HILL.

6 Q. HOW LONG HAVE YOU LIVED IN ROCK HILL?

7 A. ALL MY LIFE.

8 Q. WHERE DO YOU WORK RIGHT NOW, STACEY?

9 A. ROCK HILL GYN AND OB ASSOCIATES.

10 Q. AND HOW LONG HAVE YOU BEEN THERE?

11 A. ALMOST A YEAR.

12 Q. WHAT DO YOU DO FOR ROCK HILL GYN?

13 A. I WORK PERSONALLY WITH DR. THOMPSON AS A MEDICAL
14 OFFICE ASSISTANT.

15 Q. DO YOU KNOW THE DEFENDANT, JAMES ROBERTSON?

16 A. YES, I DO.

17 Q. HOW DO YOU KNOW HIM?

18 A. THROUGH MY FIANCE, SCOTT LANGLEY.

19 Q. OKAY. CAN YOU DESCRIBE HOW YOU MET MR.
20 ROBERTSON?

21 A. MR. ROBERTSON WOULD COME OVER TO THE LANGLEY'S
22 HOUSE FREQUENTLY AND IF I WAS THERE, I MET HIM
23 THERE.

24 Q. DO YOU KNOW WHERE HIS HOUSE IS, THE DEFENDANT'S?

25 A. ON WESTMINSTER DRIVE, RIGHT ACROSS THE STREET

1 FROM THE LANGLEY'S.

2 Q. OKAY. WHAT WAS YOUR RELATIONSHIP, HOW OFTEN
3 WOULD YOU SEE HIM?

4 A. MAINLY ON HOLIDAYS. IT COULD BE MAYBE TWO TO
5 THREE TIMES A MONTH IF HE WAS HOME OR AROUND HIS
6 HOUSE AT THE TIME.

7 Q. OKAY. DID YOU TALK WITH HIM VERY MUCH WHEN HE
8 CAME OVER OR WAS IT JUST SHORT VISITS?

9 A. SHORT VISITS I WOULD SAY, BUT HE WAS ALWAYS
10 FRIENDLY.

11 Q. COULD YOU TELL US, DID HE EVER TELL YOU ABOUT
12 HOW HE FELT ABOUT HIS PARENTS?

13 A. I NEVER RECALL ANYTHING SPECIFIC.

14 Q. DID HE EVER MAKE ANY THREATS TO YOU ABOUT HIS
15 PARENTS?

16 MR. HANCOCK: YOUR HONOR, I OBJECT. HE JUST
17 ASKED HER IF HE EVER SAID ANYTHING ABOUT HIS PARENTS AND
18 SHE SAID NO.

19 THE COURT: I SUSTAIN THE OBJECTION; THAT WAS A
20 LEADING QUESTION.

21 Q. DID YOU KNOW HIS PARENTS?

22 A. YES.

23 Q. HOW OFTEN DID YOU SEE THEM?

24 A. MAYBE -- I'D SAY GENERALLY JUST PASSING DOWN THE
25 STREET, BUT NEVER CONFRONTATIONAL.

1 Q. WERE YOU EVER IN THEIR HOUSE?

2 A. YES.

3 Q. WHEN WAS THE LAST TIME YOU WERE IN THEIR HOUSE?

4 A. I WAS IN THEIR HOUSE -- IT WAS EITHER -- I
5 BELIEVE IT WAS THE END OF '94 EATING PIZZA WITH
6 MR. ROBERTSON.

7 Q. CAN YOU TELL US ABOUT THAT DAY?

8 A. UH HUH. MR. ROBERTSON CAME OVER TO THE
9 LANGLEY'S HOUSE TO ASK IF BETH LANGLEY ---

10 MR. HANCOCK: I OBJECT, YOUR HONOR.

11 THE COURT: I SUSTAIN THE OBJECTION.

12 MR. BRACKETT: ON WHAT GROUNDS, YOUR HONOR? I
13 NEED TO KNOW HOW -- I MEAN OBVIOUSLY I CAN'T MAKE THIS
14 RELEVANT UNTIL SHE SAYS WHAT SHE'S GOING TO SAY, BUT IT
15 WILL BECOME RELEVANT.

16 THE COURT: YOU CAN'T DO THAT THROUGH HEARSAY.

17 MR. BRACKETT: OKAY, IF THAT'S THE GROUNDS. HE
18 JUST SAID OBJECT. I THINK I'M ENTITLED TO A REASON.

19 THE COURT: NOW YOU'VE GOT IT.

20 Q. YES, SIR. WHO WAS IT THAT CAME OVER?

21 A. JIMMY.

22 MR. BRACKETT: I DON'T BELIEVE THAT'S HEARSAY.

23 THE COURT: RIGHT. I WAS UNDER THE IMPRESSION
24 THAT IT WAS MR. LANGLEY -- I MEAN MR. ROBERTSON. BUT IF IT
25 WAS THE DEFENDANT, I OVERRULE THE OBJECTION.

1 MR. HANCOCK: FOR CLARIFICATION, SHE IS SAYING
2 THAT JIMMY CAME OVER, NOT MR. ROBERTSON? IS THAT WHAT ---

3 MR. BRACKETT: HE IS MR. ROBERTSON.

4 THE COURT: LET'S START OVER.

5 MR. HANCOCK: MR. EARL ROBERTSON?

6 THE COURT: ASK HER WHO CAME OVER.

7 Q. WHO CAME OVER, STATE THEIR FULL NAME.

8 A. JAMES ROBERTSON, JIMMY ROBERTSON.

9 Q. OKAY. WHAT DID HE SAY?

10 A. HE CAME OVER AND ASKED US WOULD WE LIKE TO EAT
11 PIZZA AND POSSIBLY WATCH A MOVIE.

12 Q. WHAT DID YOU SAY?

13 A. WE WOULD LIKE TO, THAT WOULD BE FINE.

14 Q. ALL RIGHT, TELL US WHAT HAPPENED AFTER THAT.

15 A. WE WENT OVER TO HIS HOUSE AND GOT IN HIS CAR.

16 Q. OKAY.

17 A. LEFT FROM THERE, WENT TO GET PIZZA, WENT TO GET
18 A MOVIE, CAME BACK TO HIS HOUSE AND ATE THE
19 PIZZA THERE.

20 Q. OKAY. WHAT DID YOU DO AFTER YOU ATE THE PIZZA?

21 THE COURT: LET'S TRY NOT TO USE ANY PRONOUNS.

22 Q. WHAT DID YOU DO AFTER ---

23 THE COURT: NO, "HIS" HOUSE.

24 Q. WHOSE HOUSE DID YOU COME BACK TO?

25 A. JIMMY ROBERTSON'S.

1 Q. WHAT DID YOU DO AFTER YOU ATE THE PIZZA AT JIMMY
2 ROBERTSON'S HOUSE?

3 A. BETH LANGLEY, JIMMY AND MYSELF WENT BACK TO
4 SCOTT LANGLEY'S, THE LANGLEY'S HOUSE RIGHT
5 ACROSS THE STREET.

6 Q. WHAT DID YOU DO THERE?

7 A. WE WERE JUST WATCHING T.V. THERE. AND I BELIEVE
8 A PROGRAM ON THE MANENDEZ BROTHERS CAME ON, LIKE
9 20-20?

10 Q. OKAY. TELL US WHAT HAPPENED NEXT.

11 A. A COMMERCIAL CAME ON AND JIMMY ROBERTSON MADE
12 THE STATEMENT, "OH, CHIP AND I HAVE PLANNED MANY
13 TIMES HOW WE WOULD KILL OUR PARENTS".

14 Q. WHAT DID YOU SAY TO THAT?

15 A. I DIDN'T SAY A THING. MY FACE WAS TOTAL SHOCK
16 AND I DON'T BELIEVE I DARTED OUT OF THE ROOM,
17 BUT I DID LEAVE THE ROOM.

18 Q. DID YOU SPEAK WITH HIM AGAIN THAT DAY?

19 A. I BELIEVE I SAID BY WHEN HE LEFT LATER, BUT
20 THAT'S ALL.

21 Q. WHAT WAS HIS CONDITION AT THE TIME, HIS MENTAL
22 CONDITION AT THE TIME HE SAID THAT?

23 A. FINE.

24 Q. HAD HE BEEN DRINKING?

25 A. NO, SIR.

1 Q. I HAVE NO FURTHER QUESTIONS. THANK YOU VERY
2 MUCH, MS. PEAKE. PLEASE ANSWER ANY QUESTIONS
3 DEFENSE COUNSEL MAY HAVE.

4 A. OKAY.

5 CROSS EXAMINATION BY

6 MR. HANCOCK:

7 Q. MS. PEAKE, YOU WERE NOT A FRIEND OF JIMMY'S, IS
8 THAT CORRECT?

9 A. PERSONALLY, I'D SAY NO.

10 Q. BARELY AN ACQUAINTANCE; IS THAT CORRECT?

11 A. RIGHT.

12 Q. AND ON HOW MANY TIMES DID YOU SEE HIM OR -- HOW
13 MANY TIMES WERE YOU WITH HIM?

14 A. IN WHAT TIME FRAME, I MEAN AS LONG AS I'VE KNOWN
15 HIM?

16 Q. WELL, OVER THE LAST FIVE YEARS.

17 A. 50?

18 Q. 50 TIMES? DID YOU GO OUT WITH HIM?

19 A. NO.

20 Q. YOU SAY YOU WERE WITH HIM, WERE YOU AT HIS
21 HOUSE?

22 A. RIGHT.

23 Q. YOU WERE IN HIS HOUSE 50 TIMES OVER THE PAST
24 FIVE YEARS?

25 A. THAT WASN'T YOUR QUESTION.

1 Q. EXCUSE ME, JUDGE. WHEN I SAY "HIS", I MEAN
2 JIMMY ROBERTSON'S HOUSE AND EARL AND TERRY
3 ROBERTSON'S HOUSE.

4 A. I WAS NOT IN HIS HOUSE 50 TIMES. I HAVE SEEN
5 HIM FOREVER 50 TIMES.

6 Q. AND MOST OF THAT WAS JUST IN PASSING; IS THAT
7 CORRECT?

8 A. MAINLY AT THE LANGLEY'S. HE CAME OVER QUITE A
9 BIT.

10 Q. AND THIS WAS IN 1994 THAT YOU WERE EATING PIZZA,
11 CORRECT?

12 A. UH HUH.

13 Q. SO, THAT WAS SOME FIVE YEARS AGO?

14 A. UH HUH.

15 Q. AND YOU INDICATE HE CAME OVER -- WHERE WERE YOU
16 EATING PIZZA, AT HIS HOUSE?

17 A. AT JIMMY ROBERTSON'S HOUSE.

18 Q. ALL RIGHT, JIMMY ROBERTSON'S HOUSE. AND Y'ALL
19 WENT BACK TO THE LANGLEY HOUSE; IS THAT WHAT
20 YOU'RE SAYING?

21 A. YES, SIR.

22 Q. AND WHO WENT BACK TO THE LANGLEY'S HOUSE?

23 A. BETH LANGLEY AND MYSELF AND JIMMY ROBERTSON.

24 Q. AND YOU'RE AWARE THAT HE HAD A BROTHER, CHIP?

25 A. YES, SIR.

1 Q. AND DID YOU KNOW CHIP?

2 A. YES, SIR.

3 Q. AND WAS CHIP A FRIEND OF YOUR'S?

4 A. NO.

5 Q. DID YOU KNOW CHIP IN THE SAME MANNER?

6 A. EXACTLY.

7 Q. AND YOU SAY HE INDICATED THAT HE AND CHIP HAD
8 PLANNED TO KILL HIS PARENTS, IS THAT CORRECT?

9 A. YES, SIR.

10 Q. AND YOU INDICATE THAT HE SEEMED ALL RIGHT?

11 A. UH HUH.

12 Q. YOU DON'T KNOW WHAT KIND OF MEDICATION HE MIGHT
13 HAVE BEEN UNDER AT THAT TIME?

14 A. NO, SIR.

15 Q. WAS HE HYPER?

16 A. NO, SIR.

17 Q. YOU DIDN'T NOTICE ANY HYPERACTIVITY ABOUT HIM OR
18 ANYTHING OF THAT NATURE? DO YOU KNOW FROM YOUR
19 PERSONAL KNOWLEDGE WHETHER HE'D BEEN SNORTING
20 ANY RITALIN; DO YOU KNOW IF HE WAS DRINKING ANY
21 ALCOHOL; DO YOU KNOW IF HE WAS TAKING ANY OTHER
22 MIND ALTERING DRUGS?

23 A. NO, SIR.

24 Q. YOU DON'T KNOW?

25 A. I DO NOT KNOW.

1 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

2 MR. BRACKETT: NO FURTHER QUESTIONS.

3 THE COURT: ALL RIGHT, YOU CAN STEP DOWN. FEEL
4 FREE TO LEAVE; WE APPRECIATE YOUR TIME.

5 MEMBERS OF THE JURY PANEL, WE WILL STOP FOR THE
6 EVENING. I'VE TALKED TO SECURITY AND WE'LL HAVE YOU BACK AT
7 10:15; WE DO HAVE A COUPLE OF MATTERS TO TAKE UP AND
8 UNFORTUNATELY THEY MAY TAKE LONGER THAN I HAD PLANNED. SO,
9 RATHER THAN HAVE YOU SIT BACK THERE, WE WILL JUST START A
10 LITTLE LATER IN THE MORNING. BUT I HOPE ONCE WE GET
11 STARTED, WE WILL MOVE AT A PRETTY GOOD CLIP. SEE YOU IN
12 THE MORNING.

13 IN CAMERA:

14 THE COURT: WHAT TIME DO YOU WANT TO START BACK?
15 YOU SAID YOU THOUGHT WE MIGHT HAVE SOME MOTIONS, SO LET'S
16 GO AHEAD AND GET STARTED.

17 MR. POPE: YES, SIR, BUT I ASSUME 9:30. THE
18 BIGGEST ISSUE I KNOW, OF COURSE AGAIN I DIDN'T KNOW THE
19 MOTIONS WE HAD TODAY, BUT THE BIGGEST ISSUE I KNOW NOW
20 WOULD BE RELATIVE TO OUTSTANDING MOTION CONCERNING THE
21 PICTURES OF THE CRIME SCENE AND THE PICTURES FROM THE
22 AUTOPSY, YOUR HONOR.

23 THE COURT: ALL RIGHT. ANYTHING FROM THE DEFENSE
24 BEFORE WE LEAVE?

25 MR. BOYD: NO, SIR.

1 THE COURT: MAY I SEE COUNSEL FOR JUST A FEW
2 MINUTES ABOUT SOME PLANNING?

3 MR. BOYD: CERTAINLY.

4 THE COURT: WE'LL BE AT EASE UNTIL 9:30
5 MARCH 23, 1999 IN CAMERA:

6 THE COURT: THE FIRST ORDER OF BUSINESS THIS
7 MORNING, LET THE RECORD SHOW THAT MR. BRACKETT FROM THE
8 SOLICITOR'S OFFICE IS HERE, THE DEFENDANT AND HIS COUNSEL
9 ARE PRESENT. I'M GOING TO HAVE AN IN CAMERA VIEWING OF
10 CERTAIN VIDEOS THAT I WILL LATER HAVE TO RULE ON AS TO ITS
11 ADMISSIBILITY.

12 SO, THOSE OF YOU WHO ARE PRESENT, YOU WILL NOT BE
13 SEEING THESE AT THIS TIME, AND ONLY IF THEY ARE ALLOWED IN
14 THE RECORD. GO AHEAD.

15 MR. BOYD: YOUR HONOR, MAY I COME UP THERE WHERE
16 WE CAN SEE?

17 THE COURT: YES, MR. ROBERTSON CAN COME UP HERE
18 ALSO.

19 (THE VIDEO WAS PLAYED FOR THE COURT, THE ATTORNEYS AND THE
20 DEFENDANT.)

21 THE COURT: HAS THE DEFENSE VIEWED THE VIDEO
22 PRIOR TO TODAY?

23 MR. BOYD: YES, SIR, YOUR HONOR.

24 THE COURT: INCLUDING THE DEFENDANT?

25 MR. BOYD: NO, SIR.

1 THE COURT: ALL RIGHT, IS THE STATE READY TO
2 PROCEED?

3 MR. POPE: YOUR HONOR, I HAVE DISCUSSED WITH DR.
4 SEXTON -- WE HAVE ONE ADDITIONAL PICTURE TO WHAT I HAVE
5 SHOWN TO THE DEFENSE THAT HE THOUGHT WOULD BE IMPORTANT.
6 (AFTER A PAUSE.)

7 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
8 IS THE COURT PREPARED TO PROCEED ON THE DEFENSE MOTION
9 CONCERNING THE PICTURES? IS THAT THE ISSUE AT THIS POINT?

10 THE COURT: YES, IT IS.

11 MR. POPE: THE STATE IS READY TO PROCEED, YOUR
12 HONOR. AGAIN, I HAVE SHOWN THE DEFENSE ANOTHER ITEM I'VE
13 GOT, I DO NOT HAVE THESE NUMBERED AND I WILL HAND THEM UP
14 TO THE COURT REPORTER FOR THAT PROCESS, YOUR HONOR, AND THE
15 STATE IS READY TO ARGUE THE MOTION.

16 THE COURT: IS THE DEFENSE READY?

17 MR. BOYD: YES, SIR.

18 THE COURT: ALL RIGHT, I'LL BE GLAD TO HEAR FROM
19 YOU, IT'S YOUR MOTION.

20 MR. BOYD: YOUR HONOR, IS THIS MOTION JUST ON THE
21 VIDEO TAPE AT THIS TIME OR THE PHOTOGRAPHS, TOO?

22 THE COURT: LET'S TAKE IT ONE AT A TIME; YOU
23 CHOOSE.

24 MR. BOYD: OKAY. YOUR HONOR, ON THE VIDEO TAPE
25 WE WOULD MAINTAIN -- JUST ONE SECOND, YOUR HONOR.

1 (AFTER A PAUSE.)

2 MR. BOYD: YOUR HONOR, WE WOULD OBJECT TO THE
3 INTRODUCTION OF THE VIDEO TAPE ON THE GROUNDS THAT THE
4 EVIDENCE, ALTHOUGH IT MAY BE PROBATIVE, THE DANGER OF -- IS
5 SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE
6 UNDER RULE 403 AND THAT THE VIDEO TAPE IS INFLAMMATORY, AND
7 PARTICULARLY IN A CASE OF THIS NATURE IS LIKELY TO CAUSE
8 THE VERDICT OF THE JURY TO BE BASED ON PASSION OR
9 PREJUDICE, AND WE WOULD ASK THAT THE VIDEO TAPE BE EXCLUDED
10 ON THOSE GROUNDS.

11 THE COURT: ALL RIGHT. LET ME JUST ASK -- YOU
12 REACH A POINT WHERE YOU SHOW CARRIGON OR CANNINGON'S
13 APPRAISAL, ARMY INSURANCE, KITCHEN AREA, A NOTE, SINK,
14 TRASH CAN AND THEN IT GOES OUTSIDE. I KNOW THAT ONE OF THE
15 AGGRAVATING CIRCUMSTANCES AND, OF COURSE, A LOT OF THE
16 EVIDENCE HAS TO DO WITH THE MONETARY ISSUE, BUT WHAT
17 EVIDENCE IS THERE IN REGARD TO THOSE APPRAISALS AND THE
18 INSURANCE -- AND IT SHOWED SOME SILVER BESIDE THE SINK. IN
19 FACT, IT LOOKED LIKE WHOEVER HAD IT OUT, HAD IT OUT TO
20 POLISH IT BECAUSE THERE WAS A CAN OF POLISH THERE. HOW DO
21 YOU TIE THAT TO THE DEFENDANT?

22 MR. POPE: YOUR HONOR, THAT WAS THE SCENE AS IT
23 WAS FOUND. AS FAR AS ONCE IT GETS PAST -- THAT WAS TAKEN
24 IN ITS ENTIRETY. I HAVE NO OBJECTION IF WE WANTED TO
25 REDACT EITHER ASPECT, THE ONES THAT SHOW TERRY IN THE

1 BEDROOM, I HAVE OBJECTION TO REDACTING. OF COURSE, THE
2 APPRAISALS, THOSE ITEMS ARE IN EVIDENCE NOW AND, OF COURSE,
3 YOU CAN MAKE CIRCUMSTANTIAL ARGUMENTS AS FAR AS ---

4 THE COURT: WELL, SHOWING THEM OUT WHERE THEY
5 WERE WHICH THEY LOOK LIKE ON A NIGHTSTAND OR A TABLE, THE
6 JURY COULD DRAW THE IMPLICATION THAT THE DEFENDANT HAD THEM
7 OUT WHILE HE WAS CONTEMPLATING DOING WHAT HE HAS BEEN FOUND
8 GUILTY OF DOING OR THAT HE GOT THEM OUT -- THERE IS NO
9 TESTIMONY OF THAT FROM MEREDITH MOON OR ANYBODY ELSE. SO,
10 I THINK WE BETTER STAY AWAY FROM THAT.

11 MR. POPE: YES, SIR. AND, AGAIN, I HAVE NO
12 OBJECTION TO REDACTING THAT. THAT IS ALREADY IN EVIDENCE
13 AND A PICTURE IN THAT REGARD IS EVEN ALREADY IN EVIDENCE,
14 BUT I HAVE NO OBJECTION TO REMOVING THAT.

15 THE COURT: ALL RIGHT, AND THAT WAS IN WITHOUT
16 OBJECTION?

17 MR. POPE: I BEG THE COURT'S INDULGENCE.
18 (AFTER A PAUSE WHILE COUNSEL CONFERRED.)

19 MR. POPE: YOUR HONOR, I THINK IT SHOWS THE
20 RELATION, MR. BRACKETT IS POINTING OUT, AFTER THAT. AND,
21 OF COURSE, I WASN'T IN THE COURTROOM DURING THE VIEWING OF
22 THE VIDEO TAPE. HE POINTS OUT AFTER THAT, IT ALSO GOES AND
23 PANS TO THE NOTE THAT HE LEFT. AND SO I THINK THAT SHOWS
24 -- THE VERY REASON POWERS ALLOWS IT IN FOR THE PERSPECTIVE
25 THAT PICTURES CAN GIVE. I WOULD SUBMIT THAT THE NOTE THAT

1 IT ULTIMATELY GETS TO IS OF RELEVANCE, TOO, YOUR HONOR, SO
2 I THINK IT SHOULD BE ALLOWED IN.

3 THE COURT: WELL, THE NOTE IS IN EVIDENCE.

4 MR. POPE: YES, SIR.

5 MR. POPE: I'LL GO BACK TO MY ORIGINAL POSITION
6 THAT I'LL BE GLAD TO CUT IT OFF ONCE WE SHOW THE VICTIMS.
7 I HAVE NO OBJECTION TO IT.

8 THE COURT: ALL RIGHT, WITH THAT STIPULATION I
9 WILL ALLOW THE VIDEO IN. I FIND THAT IT IS APPROPRIATE;
10 THAT IT IS RELEVANT; THAT ITS PROBATIVE VALUE IS NOT
11 OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE, CONFUSION OF
12 THE ISSUES NOR IS IT IN ANY WAY MISLEADING. I DON'T
13 BELIEVE IT'S GOING TO CREATE ANY UNDUE DELAY, WASTE OF
14 TIME; I DON'T BELIEVE IT IS CUMULATIVE. I THINK IT'S VERY
15 SUBSTANTIVE, VERY IMPORTANT. I THINK THE JURY HAS A RIGHT
16 AND THE STATE PERHAPS HAS AN OBLIGATION TO SHOW THE SCENE
17 THROUGH VIDEO NOW THAT THAT TECHNOLOGY, OF COURSE, IS
18 AVAILABLE. SO, I AM GOING TO ALLOW THE VIDEO IN. I'M
19 GOING TO HAVE IT CUT OFF AT THE POINT THEY SHOW THE
20 APPRAISALS.

21 MR. HANCOCK: YOUR HONOR, OF COURSE, REGARDING
22 THE PHOTOGRAPHS, I WOULD MAKE THE SAME MOTION REGARDING THE
23 PHOTOGRAPHS. THAT PURSUANT TO RULE 403 ANY RELEVANCE OF
24 THE PHOTOGRAPHS IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER
25 OF UNFAIR PREJUDICE. THE PHOTOGRAPHS WOULD BE INFLAMMATORY

1 AND MIGHT WOULD CAUSE THE JURY TO BASE ITS VERDICT ON
2 PASSION OR PREJUDICE RATHER THAN THE EVIDENCE AS A WHOLE.

3 I WOULD FURTHER, YOUR HONOR, MAINTAIN THAT WITH
4 THE VIDEO TAPE IN EVIDENCE, THAT THE PHOTOGRAPHS ARE NOT
5 NECESSARY. THE PHOTOGRAPHS SHOW THE SAME THING AS THE
6 VIDEO TAPE. THE VIDEO TAPE SHOWS THE POSITION OF THE
7 BODIES; THEY SHOW THE SCENE OF THE CRIME MUCH BETTER THAN
8 THE PHOTOGRAPHS DO AND THE ONLY PURPOSE OF PUTTING THE
9 PHOTOGRAPHS BEFORE THE JURY WOULD BE TO INFLAME THE JURY,
10 LOOK HOW HORRIBLE THIS IS.

11 BASICALLY, THE PHOTOGRAPHS ARE NOT NECESSARY WITH
12 THE VIDEO TAPE IN EVIDENCE.

13 THE COURT: LET ME HEAR FROM THE STATE.

14 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
15 THE PHOTOGRAPHS HAVE SPECIFIC RELEVANCE AS TO EACH
16 PHOTOGRAPH. ONE OF THE THINGS THE OFFICER WILL DO IS
17 TESTIFY TO BLOOD SPATTER PATTERNS AND WHAT THOSE THINGS
18 MEAN.

19 ALSO, AS TO THE DIFFERENT PHOTOGRAPHS, YOUR
20 HONOR, IT SHOWS IT IN GREATER DETAIL AND SPECIFIC AREAS,
21 EVIDENCE AS THEY RELATE TO THIS SCENE AND ULTIMATELY SHOW
22 THE TRUE NATURE OF THE CRIME AS WELL AS THE CHARACTER OF
23 THE DEFENDANT WHICH WOULD BE ADMISSIBLE FROM POWERS ALL THE
24 WAY BACK, YOUR HONOR.

25 THE COURT: ALL RIGHT, READ INTO THE RECORD THE

1 PHOTOGRAPHS THAT WERE SHOWN TO ME IN CHAMBERS.

2 MR. POPE: YOUR HONOR, I HAVE THE ITEMS BUT I DO
3 NOT HAVE ITEM NUMBERS BUT I CAN GET WITH THE COURT REPORTER
4 AND AS WE GO WE COULD NUMBER THEM.

5 THE COURT: ALL RIGHT.

6 MR. POPE: YOUR HONOR, IT WOULD BE STATE'S 206,
7 STATE'S 207, STATE'S 208, STATE'S 209, STATE'S 210, STATE'S
8 211, STATE'S 212, STATE'S 213, STATE'S 214, STATE'S 215,
9 STATE'S 216, STATE'S 217, STATE'S 218, STATE'S 219, STATE'S
10 220, STATE'S 221, STATE'S 222, STATE'S 223, STATE'S 224,
11 STATE'S 225, STATE'S 226, STATE'S 227, STATE'S 228, STATE'S
12 229, STATE'S 230, STATE'S 231, STATE'S 232, STATE'S 233,
13 STATE'S 234, STATE'S 235, STATE'S 236, STATE'S 237, STATE'S
14 238, STATE'S 239, STATE'S 40 ---

15 THE COURT: 240?

16 MR. POPE: 240, I'M SORRY, YOUR HONOR. STATE'S
17 241, STATE'S 242, STATE'S 243, STATE'S 244, STATE'S 245,
18 STATE'S 246, STATE'S 247, STATE'S 248, STATE'S 249, STATE'S
19 250, STATE'S 251, STATE'S 252, STATE'S 253, STATE'S 254,
20 STATE'S 255, STATE'S 256, STATE'S 257, STATE'S 258, STATE'S
21 259, STATE'S 260, STATE'S 262, STATE'S 263, STATE'S 264,
22 STATE'S 265, STATE'S 266, TWO DIAGRAMS WILL BE STATE'S 267
23 AND 268, YOUR HONOR.

24 THE COURT: HAVE YOU SHOWN THEM TO THE DEFENSE?

25 MR. POPE: YES, SIR, THE DEFENSE HAS SEEN ALL OF

1 THEM, YOUR HONOR. THERE IS ONE EXCEPTION -- I TAKE THAT
2 BACK, I SHOWED THAT ALSO TO THE DEFENSE WHEN I CAME BACK
3 INTO THE COURTROOM, WHICH IS A CLOSER PICTURE OF THE BACK
4 INJURY FROM THE AUTOPSY PICTURES.

5 THE COURT: WHICH PICTURE?

6 MR. POPE: ON THE FATHER, ON THE BACK AREA,
7 SHOWING THE TINES OF THE CLAW HAMMER, A CLOSER PICTURE, AND
8 I'VE SHOWN THAT TO THE DEFENSE AND I CAN GET THE NUMBER IN
9 THE RECORD ONCE WE GET THESE STICKERS ON THEM, YOUR HONOR.

10 THE COURT: WELL, DO YOU WANT TO DO THAT NOW OR
11 DO YOU WANT ME TO GO AHEAD AND LOOK AT THEM.

12 MR. POPE: I'LL SHOW THEM TO YOU NOW, YOUR HONOR.

13 THE COURT: FIRST, FOR THE RECORD, I HAVE IN
14 CHAMBERS WITH COUNSEL PRESENT REVIEWED EACH OF THESE PRIOR
15 TO THIS TIME. MR. POPE, THERE'S ONE THAT, THEY DON'T HAVE
16 NUMBERS ON THEM YET, SHOWING THE POCKETBOOK AND ITS
17 CONTENTS, THAT'S BASICALLY IN EVIDENCE ALREADY IS IT NOT?

18 MR. POPE: YES, SIR. THIS IS A DISTANT SHOT OF
19 IT AND THAT'S A CLOSE-UP, SO THAT YOU CAN SPECIFICALLY SEE
20 THE ITEMS THAT WERE IN THERE.

21 THE COURT: DOES THE DEFENSE NEED TO LOOK AT THEM
22 AGAIN?

23 MR. BOYD: NO, SIR.

24 THE COURT: HAS YOUR CLIENT SEEN THEM?

25 MR. BOYD: NO, SIR.

1 THE COURT: YOU CAN SHOW THEM TO HIM.

2 MR. POPE: YOUR HONOR, AGAIN, I'D JUST POINT OUT
3 THAT WE NEED TO KEEP THEM IN ORDER FOR THE REPORTER.

4 THE COURT: WE'LL KEEP THEM IN ORDER.

5 (THE PHOTOGRAPHS WERE GIVEN TO THE DEFENDANT.)

6 MR. BOYD: YOUR HONOR, I DIDN'T REALIZE IT, BUT
7 SOME AUTOPSY PHOTOGRAPHS ARE ALSO INCLUDED AND I WOULD HAVE
8 A SEPARATE ARGUMENT ON THAT ISSUE.

9 THE COURT: GO AHEAD AND TELL ME ABOUT THAT.

10 MR. BOYD: YES, SIR. YOUR HONOR, I ALSO MOVE TO
11 EXCLUDE THE AUTOPSY PHOTOGRAPHS UNDER RULE 403 ON THE
12 GROUNDS THAT ANY RELEVANCE IS SUBSTANTIALLY OUTWEIGHED BY
13 THE DANGER OF UNFAIR PREJUDICE AND HAVE THE JURY BASE ITS
14 VERDICT ON PASSION AND PREJUDICE.

15 I WOULD ALSO POINT OUT THAT THE AUTOPSY
16 PHOTOGRAPHS DO NOT DEPICT THE CRIME SCENE OR HOW THE BODIES
17 WERE LEFT, SO THAT'S EVEN GREATER PREJUDICE. THEY SHOW THE
18 VICTIMS' HEAD BEING SHAVED TO DEPICT THE WOUNDS, THAT TYPE
19 OF THING.

20 I WOULD CALL THE COURT'S ATTENTION TO THE CASE OF
21 STATE VERSUS PATRICK IN WHICH THE COURT RULED OUT AUTOPSY
22 PHOTOGRAPHS AND WOULD ASK THE COURT TO SUPPRESS THE AUTOPSY
23 PHOTOGRAPHS ON THOSE GROUNDS.

24 THE COURT: LET ME SEE THAT CASE. WERE THOSE
25 EXTERNAL OR INTERNAL PICTURES?

THE CASE WAS GIVEN TO THE COURT)

THE COURT: WHAT DO YOU HAVE TO SAY ABOUT THAT?

MR. POPE: YOUR HONOR, I BELIEVE, AND I'M TRYING
FIND IT, BUT FRANKLIN, I BELIEVE, DISTINGUISHES PATRICK
YOUR HONOR, AGAIN IF I'M NOT MISTAKEN, AGAIN I DON'T
VE PATRICK RIGHT IN FRONT OF ME, FRANKLIN DISTINGUISHED
TRICK AND MIDDLETON IN WHICH CERTAIN PHOTOS WERE HELD
ADMISSIBLE. IN PATRICK A PICTURE OF THE VICTIM
CONTAINING A CONSIDERABLE AMOUNT OF BLOOD WAS DISALLOWED.
MIDDLETON THREE PICTURES DEPICTING THE SCALP PULLED AWAY
FROM THE SKULL AND ONE SHOWING THE VAGINAL CAVITY WERE
SALLOWED.

YOUR HONOR, I WOULD CALL THE COURT'S ATTENTION TO
WERS AND WITH THE COURT'S APPROVAL, FRANKLIN, IN WHICH
THE AUTOPSY PICTURES THAT ARE SHOWN -- I BEG THE COURT'S
INDULGENCE.

AFTER A BRIEF PAUSE.)

MR. POPE: THE AUTOPSY PHOTOS CORROBORATE THE
ATHOLOGIST'S TESTIMONY DESCRIBING THE WOUNDS THE VICTIM
ECEIVED, AND THE COURT FOUND THE PHOTOS WERE PROPERLY
MITTED.

PARTICULARLY IN FRANKLIN EVEN THE PHOTOS WERE
MITTED OF THE VICTIM'S HEAD WAS SHAVED IN ORDER TO SHOW
SPECIFICALLY THE WOUNDS. AND THAT'S EXACTLY THE SITUATION
WE HAVE HERE, YOUR HONOR. AND SO I WOULD SUBMIT THAT THEY

1 WOULD BE ADMISSIBLE.

2 MR. BOYD: YOUR HONOR, BEFORE YOU RULE, I ALSO
3 WOULD MOVE TO EXCLUDE THE AUTOPSY PHOTOGRAPHS UNDER RULE
4 403 ON THE GROUNDS THAT THEY ARE CUMULATIVE TO THE OTHER
5 PHOTOGRAPHS AND CONSTITUTE A NEEDLESS PRESENTATION OF
6 CUMULATIVE EVIDENCE.

7 THE COURT: I FIND THEY ARE NOT CUMULATIVE. THEY
8 DO SHOW THE WOUNDS AS CLEAN WHERE YOU CAN SEE THE WOUND
9 MORE APPROPRIATELY. THE OTHERS SHOW THE RESULTS OF THE
10 WOUNDS WHEREAS THE AUTOPSY MORE VIVIDLY AND ACCURATELY FOR
11 THE FIRST TIME SHOW THE WOUNDS THEMSELVES. NOT IN EVERY
12 PHOTOGRAPH BECAUSE THERE ARE SOME WOUNDS THAT, QUITE
13 FRANKLY, SHOW UP EVERYWHERE.

14 I'M GOING TO ALLOW THE PHOTOGRAPHS IN. I FIND
15 THAT THEY DO NOT VIOLATE RULE 403. IT SEEMS LIKE THERE IS
16 A WEIGHT OF PHOTOGRAPHS BUT IN THIS PARTICULAR CASE YOU
17 HAVE TWO VICTIMS; YOU DO HAVE MULTIPLE INFLECTIONS. IT'S
18 NOT LIKE WHERE THERE IS A GUNSHOT AND YOU DON'T WANT TO
19 SHOW 10 PHOTOGRAPHS OF THE GUNSHOT WOUND.

20 I HESITATE, PERHAPS THE PATHOLOGIST, HE MUST
21 HAVE, BUT I DID NOT COUNT UP OR TRY TO CALCULATE THE NUMBER
22 OF THE INFLECTED WOUNDS, BUT THEY ARE NUMEROUS AND I THINK
23 THE JURY IS NOT ONLY ENTITLED BUT THE STATE DESERVES AND IS
24 PERHAPS EVEN UNDER A DUTY TO SHOW TO THE JURY WHAT WAS
25 INFLECTED ON THESE TWO INDIVIDUALS.

1 SO, I AM GOING TO ALLOW THEM IN.

2 MR. BOYD: YOUR HONOR, OF COURSE, THE COURTS HAVE
3 REPEATEDLY RULED THAT YOU HAVE TO MAKE AN OBJECTION IN
4 FRONT OF THE JURY TO PRESERVE THE OBJECTION. COULD WE MAKE
5 ONE OBJECTION -- I DON'T WANT TO HAVE TO ---

6 THE COURT: YOU MADE A WRITTEN MOTION PRIOR TO
7 TRIAL AND I HELD IT IN ABEYANCE BECAUSE I WANTED TO REACH
8 THIS POINT AND SEE WHAT WAS RELEVANT AND SEE WHAT WE HAD.
9 I THINK -- I CAN'T PROTECT THE RECORD FOR YOU, BUT I CAN
10 HELP YOU. I'M NOT THAT HIGH A COURT, YOU TAKE YOUR
11 GUIDANCE FROM THEM, BUT IT WOULD APPEAR TO ME THAT IF YOU
12 RENEW YOUR MOTION MADE PRIOR TO TRIAL IN WRITING AND
13 EARLIER TODAY REGARDING THE INTRODUCTION OF THESE AND I'VE
14 RULED ON THAT, I WOULD THINK THAT WOULD BE ENOUGH. BUT I
15 WILL LEAVE THAT UP TO YOU.

16 NOW, WE ARE GOING TO HAVE TO TAKE A BREAK TO GET
17 THESE MARKED. ONCE WE GET STARTED, WE'LL GET THE JURY IN.
18 THERE IS NOTHING ELSE WE NEED TO DO WITHOUT THE JURY
19 PRESENT IS THERE?

20 MR. POPE: NO, SIR, YOUR HONOR, WE HAD ---

21 THE COURT: WAIT JUST A MINUTE. EVERYBODY SEEMS
22 TO HAVE SOMETHING THEY WANT TO SAY AND NOT LISTEN TO ME
23 WHICH IS FINE. JUST GO AHEAD AND GET IT TAKEN CARE OF AND
24 THEN WE'LL CHAT. ARE Y'ALL THROUGH? I MEAN I CAN'T EXPECT
25 HIM TO LISTEN TO ME WHILE YOU'RE ENGAGING HIM IN

1 CONVERSATION, MR. BRACKET, TO BE AS CANDID AS I CAN.

2 MR. BRACKETT: YES, SIR, I UNDERSTAND.

3 THE COURT: ALL RIGHT, ANYTHING ELSE BEFORE WE
4 TAKE A BREAK?

5 MR. POPE: YOUR HONOR, WE HAD ALSO SHOWN THE
6 DEFENSE AND THE COURT A POTENTIAL PAYNE PICTURE. MY
7 UNDERSTANDING FROM THE DEFENSE WAS THAT THEY WOULD OBJECT
8 TO THOSE AS NEEDED. IN OTHER WORDS, WE WILL HAVE THEM
9 LABELED AND HAVE THEM READY BUT, YOU KNOW, THEY MAY HAVE
10 SOME OBJECTIONS TO SOME AND NOT TO OTHERS OR WHATEVER THE
11 CASE MAY BE. I DON'T WANT TO SPEAK FOR THEM, BUT THAT'S MY
12 UNDERSTANDING.

13 THE COURT: AND I HAVE REVIEWED THOSE BUT WILL
14 NOT RULE ON THOSE UNTIL THEY ARE PRESENTED. ANYTHING ELSE
15 FROM THE DEFENSE AT THIS POINT?

16 MR. BOYD: NO, SIR.

17 THE COURT: NOW, MR. BOYD, IF YOU AND MR. POPE
18 WILL HAVE A SEAT FOR JUST A MOMENT. FOR THOSE OF YOU WHO
19 ARE PRESENT, I'LL TELL YOU IN ADVANCE THAT SOME OF THE
20 EVIDENCE WHICH IS TO FOLLOW IS VERY GRAPHIC, MAY BE VERY
21 EMOTIONAL. I WILL TELL YOU NOW IN ADVANCE THAT IF YOU
22 CANNOT REMAIN COMPOSED, LEAVE NOW. ANY TYPE OF OUTBURST,
23 ANY SHOWING OF EMOTION THAT I CAN DETECT, AND IF I CAN
24 DETECT IT, I ASSURE YOU THE JURY CAN, WILL BE CONSIDERED IN
25 CONTEMPT OF COURT BECAUSE I HAVE WARNED YOU. AND BY

1 CONTEMPT OF COURT, THAT MEANS I WILL HAVE TO PUNISH YOU IN
2 SOME WAY.

3 IT'S AN IMPORTANT TRIAL, AS YOU ALL KNOW, OR WE
4 PROBABLY WOULDN'T BE HERE. EVERYBODY IS ENTITLED, BOTH THE
5 STATE AND MR. ROBERTSON, TO A FAIR TRIAL.

6 YOU ARE NOT WITNESSES AND ANYTHING YOU DO IN THIS
7 COURTROOM PERHAPS COULD BE CONSIDERED TESTIMONIAL IF YOU
8 SHOW EMOTION AND CERTAINLY WOULDN'T BE SUBJECT TO BEING
9 CROSS EXAMINED ON IT. SO, IF YOU CAN'T CONTROL YOUR
10 EMOTIONS -- IT'S A PUBLIC COURTROOM, YOU'RE ENTITLED TO BE
11 HERE, BUT YOU'VE GOT TO BEHAVE UNDER OUR RULES.

12 I'M GOING TO HAVE IT PLACED ON THE DOORS AFTER
13 IT'S TYPED BECAUSE NO ONE CAN READ MY HANDWRITING, I'M
14 GOING TO HAVE EITHER MY SECRETARY OR THE CLERK TYPE THIS
15 NOTE TO BE POSTED ON THE DOOR AT THE FRONT, AND YOU KNOW
16 NOBODY IS GOING TO BE COMING IN THE SIDE DOOR, THAT SAYS
17 "IF YOU WOULD BE UNABLE TO REMAIN COMPOSED DURING EMOTIONAL
18 AND GRAPHIC TESTIMONY AND VISUAL PRESENTATIONS, DO NOT
19 ENTER THE COURTROOM".

20 ALL RIGHT, NOW, MR. ROBERTSON, ON YOUR BEHALF,
21 YOU HAVE SEEN SOME STUFF TODAY THAT I UNDERSTAND YOU HAVE
22 NOT SEEN BEFORE.

23 MR. ROBERTSON: YES, YOUR HONOR.

24 THE COURT: AND I WILL TELL YOU IN ADVANCE THAT
25 IF YOU FEEL LIKE YOU NEED A BREAK, JUST LET THE ATTORNEYS

1 TELL ME AND WE WILL TAKE A BREAK IF YOU NEED TO GET
2 YOURSELF COMPOSED. IF YOU NEED A BREAK, PUNCH MR. BOYD AND
3 TELL HIM, AND WE'LL STOP AND TAKE A BREAK AS LONG AS IT IS
4 NEEDED.

5 ALL RIGHT, WE WILL TAKE A SHORT BREAK.

6 AFTER THE BREAK IN CAMERA:

7 THE COURT: IS THE STATE READY TO PROCEED?

8 MR. POPE: THE STATE IS READY, YOUR HONOR.

9 THE COURT: THE DEFENSE?

10 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

11 THE COURT: ALL RIGHT, BRING IN THE JURY.

12 MR. BRACKETT: YOUR HONOR, FIRST WE WILL HAVE A
13 STIPULATION TO READ TO THE JURY.

14 IN THE PRESENCE OF THE JURY:

15 THE COURT: GOOD MORNING. I'VE TOLD YOU ON
16 SEVERAL OCCASIONS THAT YOU ARE THE JUDGES OF THE
17 CREDIBILITY OF THE WITNESSES. YOU ARE NOT TO JUDGE THE
18 CREDIBILITY OF THE JUDGE THANK GOODNESS; I KNOW MY
19 CREDIBILITY IS NOT TOO HIGH WITH Y'ALL AT THIS STAGE.

20 FIRST YOU WILL HEAR A STIPULATION THAT WILL BE
21 READ INTO THE RECORD. A STIPULATION IS AN AGREEMENT AS TO
22 A FACT. THAT IS, GENERALLY WHERE A FACT IS IN DISPUTE YOU
23 AS THE JURY MUST DETERMINE WHETHER OR NOT THE FACT IS OR IS
24 NOT TRUE. HOWEVER, WHERE THE PARTIES AGREE THAT A FACT IS
25 TRUE AND STIPULATE TO IT, THEN YOU CAN TAKE THAT FACT AS

1 TRUE WITHOUT THE STATE HAVING TO PROVE IT. IT'S JUST FACTS
2 THAT ARE AGREED TO BE TRUE.

3 AFTER THAT, WE WILL PROCEED INTO THE TAKING OF
4 EVIDENCE.

5 I WILL REMIND YOU THAT IF ANY OF YOU AT ANY TIME
6 NEED A BREAK, IF YOU FEEL UNCOMFORTABLE OR CANNOT PAY
7 ATTENTION OR FOR WHATEVER REASON IF YOU NEED A BREAK, JUST
8 RAISE YOUR RIGHT HAND AND WE'LL TAKE A BREAK. ALL RIGHT.

9 MR. BRACKETT: MAY IT PLEASE THE COURT, YOUR
10 HONOR. THE PARTIES HAVE AGREED THAT TWO PHONE CALLS WERE
11 MADE FROM THE ROBERTSON HOME IN THE EARLY MORNING HOURS OF
12 NOVEMBER 25TH, 1997. THE FIRST PHONE CALL WAS MADE TO 215-
13 382-3650, THIS BEING THE RESIDENCE OF CHIP ROBERTSON IN
14 PHILADELPHIA, PENNSYLVANIA. THIS PHONE CALL WAS MADE AT
15 2:33 A.M. AND THE CALL LASTED 34 MINUTES. THE SECOND PHONE
16 CALL WAS MADE AT 3:07 A.M. TO THE RESIDENCE OF CHIP
17 ROBERTSON IN PHILADELPHIA; THIS CALL LASTED THREE MINUTES.

18 THE PARTIES HAVE FURTHER AGREED THAT SOUTH
19 CAROLINA LAW ENFORCEMENT OFFICERS CONTACTED CHIP ROBERTSON
20 IN PHILADELPHIA, PENNSYLVANIA BY TELEPHONE TO NOTIFY HIM OF
21 HIS PARENTS' DEATH. THIS OCCURRED AT 5:30 P.M. ON NOVEMBER
22 25TH, 1997.

23 THE PARTIES HAVE ALSO AGREED TO ENTER INTO
24 EVIDENCE STATE'S EXHIBIT 280 WHICH IS THE TELEPHONE BILL
25 FOR THE MONTH OF NOVEMBER FOR THE ROBERTSON RESIDENCE AT

2506 WESTMINSTER DRIVE IN ROCK HILL.

MR. BOYD: THAT'S CORRECT, YOUR HONOR.

THE COURT: THANK YOU.

MR. BRACKETT: YOUR HONOR, DOES THIS STIPULATION
NEED TO BE MARKED?

THE COURT: PLEASE.

MR. BRACKETT: 281 IN EVIDENCE. THAT'S THE
EXTENT OF THE STIPULATION, YOUR HONOR.

THE COURT: CALL YOUR NEXT WITNESS.

MR. POPE: THE STATE WOULD CALL DR. JOEL SEXTON
TO THE STAND.

DR. JOEL S. SEXTON, BEING FIRST DULY SWORN,
TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION BY

MR. POPE:

Q. DR. SEXTON, IF YOU WOULD, AGAIN FOR THE JURY
STATE YOUR NAME AND OCCUPATION, PLEASE.

A. DR. JOEL STEVEN SEXTON. I'M A PHYSICIAN WITH A
SPECIALIZATION IN PATHOLOGY AND SUB-
SPECIALIZATION IN FORENSIC PATHOLOGY.

MR. POPE: YOUR HONOR, HE HAS PREVIOUSLY BEEN
QUALIFIED AS AN EXPERT IN FORENSIC PATHOLOGY AND I WOULD
AGAIN REQUEST THAT HE BE SO QUALIFIED.

MR. HANCOCK: WITHOUT OBJECTION, YOUR HONOR.

THE COURT: I FIND AGAIN THAT HE IS QUALIFIED AS

1 A FORENSIC PATHOLOGIST.

2 Q. DR. SEXTON, AS PART OF YOUR DUTIES, YOU HAD
3 INDICATED AT THE PREVIOUS TRIAL THAT YOU HAD THE
4 OPPORTUNITY TO PERFORM THE AUTOPSIES ON TERRY
5 AND EARL ROBERTSON, IS THAT CORRECT?

6 A. YES, THAT'S CORRECT.

7 Q. AS PART OF THOSE DUTIES, YOU INDICATED TO THE
8 JURY IN THE PREVIOUS TRIAL THAT YOU NOTED
9 SPECIFIC WOUNDS CONSISTENT WITH CERTAIN TYPE
10 IMPLEMENTS AND THINGS OF THAT NATURE; IS THAT
11 CORRECT?

12 A. YES, THAT'S ALSO CORRECT.

13 Q. I SHOW YOU PICTURES THAT'S BEEN MARKED STATE'S
14 EXHIBITS 238 THROUGH 266 AS WELL AS DIAGRAMS,
15 STATE'S EXHIBITS 267 AND 268, ALL FOR
16 IDENTIFICATION AND ASK IF YOU WILL LOOK AT THOSE
17 AND TELL ME IF YOU RECOGNIZE THOSE.

18 (AFTER A PAUSE.)

19 A. YES, THESE ARE THE PHOTOGRAPHS OR COPIES OF THE
20 PHOTOGRAPHS THAT I TOOK. ALSO THERE ARE TWO
21 DIAGRAMS ON EACH DECEDENT, AND THESE ARE XEROX
22 COPIES OF THOSE DIAGRAMS THAT I MADE.

23 Q. DOCTOR, DO THEY ACCURATELY DEPICT THE NATURE OF
24 THE WOUNDS AND WOULD THEY ASSIST YOU IN
25 EXPLAINING THOSE WOUNDS TO THE JURY?

1 A. THEY DO, AND THEY WILL ASSIST ME.

2 MR. POPE: YOUR HONOR, AT THIS TIME STATE'S
3 EXHIBITS 238 THROUGH 266, ALSO 267 AND 268, I WOULD MOVE
4 THESE ITEMS INTO EVIDENCE.

5 MR. BOYD: YOUR HONOR, WE OBJECT ON PREVIOUSLY
6 STATED GROUNDS.

7 THE COURT: OVERRULED, AND THEY WILL BE RECEIVED
8 INTO EVIDENCE OVER OBJECTION.

9 (STATE'S EXHIBITS 238 THROUGH 268 WERE MARKED IN EVIDENCE
10 OVER OBJECTION.)

11 Q. DOCTOR, I WOULD FIRST LIKE TO CALL YOUR
12 ATTENTION TO THE AUTOPSY OF MR. EARL ROBERTSON.
13 YOU ISSUED A REPORT IN THAT REGARD ALSO; IS THAT
14 CORRECT?

15 A. YES, THAT'S CORRECT.

16 Q. COULD YOU FIRST TELL THE JURY WHAT YOUR FINAL
17 NECROPSY DIAGNOSIS WAS INCLUDING THE HEAD
18 INJURIES AND THE VARIOUS THINGS YOU FOUND ON MR.
19 ROBERTSON BASED ON YOUR AUTOPSY?

20 A. MR. ROBERTSON HAD, AS FAR AS FATAL INJURIES AS
21 WE WENT OVER EARLIER, MULTIPLE BLUNT FORCE
22 INJURIES, MEANING WITH SOME OBJECT THAT WAS
23 HEAVY ENOUGH TO PINCH THE SKIN BETWEEN THE
24 OBJECT AND THE UNDERLYING BONE, AND THESE WERE
25 PRIMARILY ON THE BACK OF THE HEAD AND ON TOP OF

1 THE HEAD.

2 THESE WERE CONSISTENT WITH, IN SOME CASES, CLAW
3 MARKS FROM A CLAW HAMMER THAT HAD A BROKEN TINE;
4 AND IN OTHER CASES EITHER WITH THE HANDLE OF
5 THAT, THE STEEL HANDLE OF THAT HAMMER OR A
6 OBJECT SUCH AS THE BAT THAT WE SAW THAT CAVED IN
7 HIS SKULL HERE ON TOP OF THE HEAD.

8 IN ADDITION, HE HAD OTHER INJURIES ABOUT HIS
9 BODY THAT WERE NON-FATAL, FOUR ON THE BACK.

10 THERE WERE FOUR INJURIES THAT WERE LINEAR
11 INJURIES THAT ARE CONSISTENT WITH THE BALL BAT
12 OR SOMETHING LIKE THAT BALL BAT IN THAT THEY ARE
13 LONG THIN INJURIES CONSISTENT WITH THE LEADING
14 EDGE OF THAT OBJECT STRIKING THE BACK.

15 IN ADDITION, HE HAD SOME MARKS ON HIS HANDS, ONE
16 CONSISTENT WITH A CLAW MARK ON EACH HAND AS WELL
17 AS A STAB WOUND IN ONE OF THE HANDS. AND THEN A
18 CUT WITH A KNIFE OR A SHARP OBJECT LIKE A KNIFE
19 ON THE BACK SIDE OF HIS NECK ON THE RIGHT SIDE.

20 AND ALL OF THESE WERE SUPERFICIAL INJURIES.

21 THE FATAL INJURIES, AS I MENTIONED, WERE THE
22 HEAD INJURIES INFLICTED WITH SOMETHING LIKE THAT
23 HAMMER OR THAT BAT.

24 Q. DR. SEXTON, I'M GOING TO ASK YOU TO STEP DOWN
25 AND I'M GOING TO ASK THAT YOU IDENTIFY THESE

1 PICTURES FOR THE JURY. DR. SEXTON, I'LL FIRST
2 CALL YOUR ATTENTION TO STATE'S EXHIBIT 238 AND
3 ASK IF YOU CAN IDENTIFY THIS ITEM?

4 A. THIS IS A PHOTOGRAPH TAKEN SIMPLY OF THE RING
5 THAT THE DECEDENT WAS WEARING, THE WEDDING BAND.
6 WHAT YOU SEE HERE IS A NUMBER. THIS WAS OUR
7 CASE 427 AND THE YEAR 1997. THIS IS A ONE INCH
8 RULER, SO IT GIVES YOU SOME IDEA WHAT THE SIZE
9 OF THIS RULER IS COMPARED TO THE WEDDING BAND
10 AND TO SHOW THAT HE DID HAVE THAT ITEM OF
11 JEWELRY ON AT THE TIME OF THE AUTOPSY.

12 Q. DOCTOR, AS WE GO THROUGH EACH PICTURE, I WOULD
13 ASK IF YOU COULD, TO DESIGNATE THE WOUND AND
14 GIVE A DESCRIPTION AS FAR AS THE INSTRUMENTALITY
15 THAT MAY HAVE CAUSED THAT WOUND.

16 I'LL SHOW YOU STATE'S EXHIBIT 239.

17 A. COULD YOU LOWER THE PICTURE? WE TRY TO SHOW
18 MOSTLY CLOSE-UPS AND SO YOU HAVE TO BEAR WITH ME
19 AS FAR AS GETTING ORIENTED. RECOGNIZE THAT THE
20 NECK IS HERE AT THE TOP OF THE SCREEN. THIS IS
21 THE TOP OF THE SPINE, THE BACKBONE, AND THERE
22 ARE TWO LINEAR ABRASIONS HERE IN THIS LOCATION
23 THAT ARE AT THE TOP OF THE BACKBONE THAT EXTEND
24 DOWN THE BACKBONE OR SPINE ON EITHER SIDE.
25 NOTICE THEY SEPARATE AT THAT POINT. THESE ARE

1 APPROXIMATELY AN INCH AND A QUARTER TO AN INCH
2 AND AN EIGHTH WIDE AND YOU CAN SEE THERE IS A
3 SIX INCH RULER AT THE BOTTOM. THIS ONE IS
4 ALMOST A FOOT LONG. THE OTHER IS ABOUT NINE
5 INCHES LONG.

6 IN ADDITION, AND AS I SAID, THE HEAD IS HERE AT
7 THE TOP OF THE SCREEN. IN ADDITION, HERE ON THE
8 LEFT SIDE OF THE BACK IS A DIAGONAL INJURY
9 THAT'S THE SAME AS THIS INJURY, BUT IT'S HITTING
10 ON A DIFFERENT AREA OF THE BODY. THIS IS
11 HITTING ON AN AREA THAT HAS MORE SOFT TISSUE
12 AND, THEREFORE, WE GET THE TYPE OF INJURIES I
13 DISCUSSED EARLIER WHERE YOU'VE GOT A THIN
14 BLANCHED AREA AND THE BLOOD IS FORCED TO THE
15 SIDE VERY RAPIDLY AND CAUSES A PARALLEL SET OF
16 CONTUSIONS OR HEMORRHAGE ON EITHER SIDE TO
17 OUTLINE THE LEADING EDGE OF THAT OBJECT SO THAT
18 I CAN GET AN IMPRESSION OF WHAT SIZE OBJECT IT
19 WAS. AND THESE ARE UP TO ABOUT THREE-QUARTERS
20 OF AN INCH WIDE, THIS PARTICULAR MARK.

21 THERE'S ANOTHER ONE HERE ON THIS SIDE OF THE
22 UPPER RIGHT PART OF THE BACK. THERE'S A SIMILAR
23 BLANCHED AREA WITH PARALLEL CONTUSIONS ON EITHER
24 SIDE. CAN YOU BACK THAT OUT JUST A LITTLE BIT?

25 Q. SURE.

1 A. SO WE CAN GET ORIENTED AS TO WHERE THAT'S
2 LOCATED. AND YOU SEE HERE THE RULER, SO YOU CAN
3 GET AN IDEA OF THE FACT THAT THIS ONE -- I
4 MISSPOKE EARLIER, I THOUGHT THIS WAS ALMOST A
5 FOOT LONG, BUT WHEN YOU LOOK AT THE RULER, THIS
6 ONE IS ABOUT EIGHT INCHES AND THIS IS ABOUT SIX
7 INCHES. AND THESE ARE ON THE UPPER BACK OF THE
8 INDIVIDUAL.

9 I MENTIONED THAT THESE WERE IN PADDED AREAS
10 WHERE THERE IS MORE TISSUE. THAT'S WHY THEY ARE
11 BLANCHED WITH HEMORRHAGE AND PARALLEL LINES.

12 THIS IS RIGHT ON TOP OF THE SPINE ON EITHER
13 SIDE. YOUR SPINE IS RATHER TRIANGULAR. A SPINE
14 IS A PROCESS THAT STICKS OUT IN THE CENTER OF
15 THE SPINE THAT PROJECTS VERY FAR. AND THEN ON
16 EITHER SIDE OF THAT ARE SHORTER SPINOUS
17 PROCESSES SO THAT YOU HAVE A GROOVE ON EITHER
18 SIDE OF YOUR BACKBONE WHERE THERE'S BONE NEARLY
19 AT THE SURFACE.

20 AND SO THESE TWO BLOWS, BECAUSE THEY HIT WITH
21 BONE DIRECTLY UNDERNEATH IT IN A PARALLEL
22 FASHION, TENDED TO SCRAPE. PLUS THESE BLOWS
23 WERE PROBABLY MORE AT A TANGENTIAL ANGLE.
24 INSTEAD OF PERPENDICULAR STRIKING THE SURFACE,
25 THEY STRUCK AND WERE SORT OF A SLIDING TYPE OF

1 BLOW SO AS TO CAUSE THE DIFFERENCE IN THESE AND
2 THESE OTHER TWO.

3 Q. DOCTOR, IN PREVIOUS TESTIMONY YOU HAD ALSO
4 REVIEWED STATE'S EXHIBIT 81. WOULD THIS
5 INSTRUMENTALITY BE CONSISTENT WITH THE ELONGATED
6 INJURIES THAT YOU DISCUSSED?

7 A. YES. AS I MENTIONED EARLIER, IN YOUR
8 DELIBERATIONS IF YOU WILL LOOK AT THE EDGE OF
9 THE BAT AS YOU LAY IT ON A SURFACE LIKE A TABLE,
10 YOU WILL NOTICE THAT ONLY THE ROUNDED EDGE COMES
11 IN CONTACT WITH THAT SURFACE.

12 WHEN THE SURFACE IS COMPRESSIBLE, THEN YOU GET
13 THE SAME SORT OF ARRANGEMENT THAT MAY HAVE A
14 LITTLE MORE. IF THE SURFACE IN THE MIDDLE HERE
15 HAS BONE UNDER IT THEN YOU NOT ONLY GET A LITTLE
16 MORE, BUT YOU GET MORE ABRASION TO IT. BUT IT'S
17 THE LEADING EDGE AND THIS IS CONSISTENT BECAUSE
18 IT IS LINEAR LIKE THE INJURY. IT'S ABOUT THE
19 APPROXIMATE WIDTH OF THIS LEADING EDGE, AND IT'S
20 THE TYPE OF INJURY THAT WE RECEIVE, TYPICALLY AS
21 THIS TYPE WHERE YOU HAVE THE PARALLEL
22 CONTUSIONS, FROM ANY TYPE OF LINEAR STURDY
23 OBJECT THAT HAS SIGNIFICANT DENSITY TO IT THAT
24 CAN BE WIELDED WITH A LOT OF FORCE. THE FORCE
25 COMES FROM THE LEVERAGE THAT YOU GAIN BY PULLING

1 IT DOWN AT THIS END AND SWINGING IT THROUGH AN
2 ARC.

3 Q. DOCTOR, I'LL NOW CALL YOUR ATTENTION TO STATE'S
4 EXHIBIT 240 ---

5 MR. HANCOCK: YOUR HONOR, BEFORE HE STARTS ON
6 240, JUST TO REMIND THE SOLICITOR IF HE WILL, TO STAND TO
7 THE SIDE SO WE CAN SEE THE PHOTOS AS DR. SEXTON DESCRIBES
8 THEM.

9 Q. DOCTOR, AS TO 240, BEFORE YOU BEGIN, COULD YOU
10 RELATE TO THE JURY, DO YOU MAKE ANY
11 DETERMINATIONS OR IS THERE ANY INDICATIONS FROM
12 THE COLORING OF A WOUND WHETHER IT IS PRE-MORTEM
13 OR POSTMORTEM, DOES THAT HAVE ANY EFFECT? COULD
14 YOU EXPLAIN THAT TO THE JURY?

15 A. AS WE DISCUSSED BRIEFLY EARLIER, AS LONG AS THE
16 HEART IS BEATING, THEN AN INJURY IS GOING TO
17 HAVE A DEEP MAROON COLOR AS YOU SEE HERE OR HERE
18 ON THE EDGE WHERE IT HAS FORCED THE BLOOD OUT TO
19 THE TISSUE AROUND IT.

20 HERE'S A PENETRATING WOUND, A LACERATION, THAT
21 HAS THE TYPICAL APPEARANCE OF A PRE-MORTEM WOUND
22 WHERE THE BLOOD IS FORCED OUT BETWEEN THE TISSUE
23 CELLS BECAUSE OF THE FORCE OF THE HEART AFTER
24 THE INJURY OCCURS.

25 IF AN INJURY OCCURS AFTER THE HEART HAS STOPPED

1 BEATING, THEN THIS DOESN'T TAKE PLACE AND WHAT
2 YOU WOULD SEE IN THESE AREAS WOULD BE A PALE
3 YELLOW TO A PINK COLOR INSTEAD OF A DEEP MAROON
4 COLOR.

5 BUT THIS IS PRE-MORTEM, OBVIOUSLY THESE ARE PRE-
6 MORTEM. OBVIOUSLY, THESE ARE PRE-MORTEM
7 INJURIES, THE ONES WITH THE LINEAR CYLINDRICAL
8 OBJECT.

9 Q. CALLING YOUR ATTENTION TO THE PICTURE YOU ARE
10 INDICATING THERE, WHAT IF ANY DETERMINATION DID
11 YOU MAKE ON THAT INJURY?

12 A. IT'S A LITTLE BRIGHT AND I'M NOT SURE WITH THIS
13 LIGHT -- THAT'S BETTER, YOU CAN SEE A LITTLE
14 BETTER. THIS IS AN INJURY CONSISTENT WITH WHAT
15 WE SEE ON THE HEAD FROM THE TINES OF THE HAMMER
16 IN THAT THIS IS A PENETRATING INJURY. YOU CAN
17 SEE THE DISTANCE BETWEEN THE TWO AND THE SHAPE
18 OF THESE ARE CONSISTENT WITH THE TYPE MARK YOU
19 WOULD GET WHEN THE TINES WERE STUCK INTO THE
20 SKIN AND ONE OF THESE DRAGS AS IT'S COMING OUT,
21 AFTER IT STRIKES IT PENETRATES FOR A LITTLE WAYS
22 AND THEN POPS OUT AND THEN THE BLOW IS
23 CONTINUING IN THIS DIRECTION. AND AS A
24 CONSEQUENCE, THE EDGE OF THE TINE SCRAPES THE
25 SKIN IN THAT DIRECTION.

1 Q. I'LL CALL YOUR ATTENTION TO STATE'S EXHIBIT 241.

2 A. CAN YOU CUT THE BRIGHTNESS DOWN A LITTLE BIT?

3 SOMEWHERE IN BETWEEN? THAT'S BETTER.

4 THIS IS A VIEW FROM THE TOP OF MR. ROBERTSON'S
5 HEAD LOOKING STRAIGHT DOWN FROM ABOVE. THE
6 LABEL HERE IS NEAR THE FOREHEAD. WE SHAVED SOME
7 OF THE HAIR SO THAT WE CAN SEE THE WOUNDS
8 CLEARLY.

9 HERE YOU SEE A GAPING WOUND THAT'S ON THE BACK
10 SIDE OF THE HEAD IN WHAT WE REFER TO AS THE
11 OCCIPITAL REGIONS.

12 IF YOU LOOK AT MY HEAD, I'M REFERRING TO THIS
13 AREA HERE ON THE BACK OF THE HEAD. AND IT'S
14 GOING FROM CLOSER TO THE FRONT OF THE NOSE ON
15 THE RIGHT AND MORE POSTERIOR ON THE LEFT AS IT
16 IS PASSING ACROSS THIS WAY.

17 THIS IS AN AREA WHERE THE FORCE WAS GREAT ENOUGH
18 TO NOT ONLY FRACTURE THE SKULL, BUT THEN FORCE
19 THE SKULL DOWN INTO THE BRAIN TISSUE.

20 ON EITHER SIDE YOU SEE OTHER INJURIES THAT ARE
21 DIFFERENT TYPE OF INJURIES. THESE ARE MORE
22 CONSISTENT WITH THE TINES DIGGING IN AND THEN
23 TEARING THE SKIN HERE TO YOUR RIGHT AND TO YOUR
24 LEFT. THIS BEING ON HIS LEFT WHICH IS ALSO TO
25 YOUR LEFT.

1 Q. NOW I CALL YOUR ATTENTION TO STATE'S EXHIBIT
2 242.

3 A. YOU NOTICE IN THIS CASE YOU SEE THAT THERE ARE
4 INJURIES HERE. AGAIN THE TWO ADJACENT INJURIES
5 CONSISTENT WITH THE TINES HERE ON THE LEFT SIDE
6 OF THE HEAD. HERE ARE TWO MORE DOWN IN THE
7 TEMPLE REGION. THE EAR HAS ALSO BEEN DAMAGED
8 AND IT WAS DAMAGED IN SUCH A FASHION THAT YOU
9 COULDN'T REALLY TELL WHETHER IT WAS A TINE OR
10 WHETHER IT WAS THE BLUNT EDGE OF THE HAMMER
11 TURNED SIDEWAYS. IT TENDED TO PINCH A PORTION
12 OF THE EAR OFF AT THAT POINT.

13 Q. I CALL YOUR ATTENTION TO 243.

14 A. THIS IS ON THE BACK OF MR. ROBERTSON HEAD. THIS
15 IS HIS LEFT EAR WHICH DOES HAVE SOME INJURY TO
16 IT.

17 HERE'S THE LONG STRAIGHT LACERATION HERE AT THE
18 TOP THAT WE SAW FROM ABOVE EARLIER THAT GAPPED.
19 AND YOU MAY BE ABLE TO RECOGNIZE, THERE'S A
20 PORTION OF BONE HERE THAT'S BEEN FRACTURED AND
21 TILTED UP ON EDGE WHERE THE DEPRESSED FRACTURE
22 OCCURS HERE NEAR THE TOP OF THE HEAD AND THE
23 BACK.

24 THAT'S A PORTION OF THE BONE RIGHT HERE. THE
25 BONE HAS A LAMINAR STRUCTURE. THE SKULL IS VERY

1 DENSE ON THE OUTSIDE; VERY HARD AND DENSE ON THE
2 INSIDE, BUT THE BONE MARROW BETWEEN THE TWO,
3 SORT OF LIKE A SANDWICH. AND YOU COULD SEE THAT
4 -- IN THIS PHOTOGRAPH YOU CAN SEE THE OUTER
5 EDGE, THE INNER EDGE AND THE MARROW.

6 HERE YOU CAN SEE THAT THERE ARE MULTIPLE MARKS
7 CONSISTENT WITH CLAW MARKS. HERE'S A PAIR
8 TOGETHER; HERE'S ANOTHER PAIR; HERE'S TWO; HERE
9 ARE TWO; HERE'S EITHER ONE AT THAT POINT,
10 PERHAPS TWO AT THIS POINT. ON SOME OCCASIONS IT
11 LOOKED LIKE THERE WAS ONE, OTHER OCCASIONS IT
12 LOOKED LIKE THERE WERE TWO THAT PENETRATED THE
13 SKIN.

14 THIS IS ONE THAT'S COMING UP AT AN ANGLE THAT
15 APPEARS TO BE SEPARATE, BUT MAY AT ONE POINT
16 HAVE STARTED HERE WITH THESE TWO AND THEN
17 TRAILED OFF IN THIS DIRECTION.

18 Q. DID YOU ALSO HAVE AN EXAMPLE TO SHOW THE TINES
19 OF THE HAMMER THAT WAS TAKEN FROM THIS
20 PARTICULAR PHOTO, STATE'S EXHIBIT ---

21 I DO. THIS ONE UP HERE IN THE UPPER RIGHT,
22 THERE'S ONE THAT SHOWS THAT VERY CLEARLY AND YOU
23 CAN SEE -- HERE'S A CLOSE-UP OF THAT PARTICULAR
24 AREA OF INJURY ON THE BACK OF THE HEAD ON THE
25 UPPER RIGHT. HERE'S THE NORMAL TINE; YOU CAN

1 SEE HOW IT HAS A NORMAL CONFIGURATION. HERE YOU
2 HAVE SORT OF AN S SHAPE TO THIS ONE THAT WAS
3 CONSISTENT WITH THE BROKEN TINE OF THE HAMMER.
4 SO, ONE IS FAIRLY UNIFORM, THE OTHER IS
5 CONSISTENT WITH A BROKEN TINE.

6 MR. HANCOCK: YOUR HONOR, WE WOULD JUST LIKE TO
7 KNOW WHAT NUMBER WE'RE REFERRING TO HERE.

8 MR. POPE: IT'S STATE'S EXHIBIT 249. NOW, I CALL
9 YOUR ATTENTION TO 244. CAN YOU IDENTIFY THESE INJURIES FOR
10 THE JURY, PLEASE.

11 A. THIS IS ON THE SHOULDER AREA; THE FRONT OF THE
12 RIGHT SHOULDER AND ON THE SIDE OF THE RIGHT
13 SHOULDER. THERE AGAIN, TWO MORE TINE MARKS.
14 HERE'S A PAIR AND THERE'S A PAIR OFF TO THE
15 RIGHT. THERE ARE THESE THAT ARE TO YOUR LEFT
16 THAT ARE ON THE LATERAL ASPECT OF HIS RIGHT
17 SHOULDER. THESE THAT ARE TO YOUR RIGHT, RIGHT
18 ABOVE THE LABEL, ARE ON THE FRONT OF THE RIGHT
19 SHOULDER.

20 AND YOU CAN SEE WHERE THE TINES IMPACTED AND
21 THEY SCRAPED IN AN UPWARD DIRECTION AT THIS
22 POINT.

23 Q. AGAIN, WHEN YOU WERE INDICATING TO THE JURY
24 ABOUT CLEAR OR PINK VERSUS RED OR DARK, HOW WERE
25 THESE WOUNDS AS FAR AS PRE-MORTEM OR

1 POSTMORTEM?

2 A. ALL OF THE WOUNDS THAT WERE CONSISTENT WITH THE
3 TINE MARKS WERE MAROON IN COLOR, INDICATING TO
4 ME THAT THEY OCCURRED WHILE THE HEART WAS STILL
5 BEATING.

6 AS YOU CAN SEE, THESE TWO ARE A DEEP MAROON
7 COLOR. THIS IS A LITTLE LIGHTER MAROON BUT
8 DIDN'T PENETRATE QUITE AS DEEPLY BUT THEY WERE
9 ALL CONSISTENT WITH OCCURRING DURING LIFE AND
10 DURING THE TIME THE HEART WAS PUMPING.

11 Q. I NOW CALL YOUR ATTENTION TO STATE'S EXHIBIT
12 245.

13 A. THIS IS THE RIGHT SIDE OF THE NECK. HERE'S THE
14 EAR IN THE UPPER RIGHT CORNER; HERE'S A TINE
15 MARK HERE BEHIND THE EAR. BELOW IT IS AN
16 INCISED WOUND WHICH AT THE TIME OF AUTOPSY
17 LOOKED FAIRLY PINK. IN THIS PHOTOGRAPH IT'S
18 DEPICTED AS BEING FAIRLY DARK MAROON IN COLOR,
19 BUT AT THE TIME I DID THE AUTOPSY, I FELT LIKE
20 THIS AS A POSTMORTEM OR PERIMORTEM TYPE OF CUT
21 WITH A SHARP INSTRUMENT AS OPPOSED TO AN IMPACT
22 INJURY.

23 AND I DON'T KNOW WHETHER THAT'S BECAUSE OF MY
24 MISINTERPRETATION AT THAT TIME OR BECAUSE THIS
25 IS JUST A LITTLE DARKER IN THIS PHOTOGRAPH.

1 Q. I CALL YOUR ATTENTION NOW TO STATE'S 246 AND ASK
2 IF YOU WOULD INDICATE BRIEFLY WHAT THIS ITEM IS?

3 A. THIS IS THE DECEDENT'S LEFT KNEE AREA. AND JUST
4 ABOVE THE KNEE IS AN INJURY THAT YOU CAN SEE
5 HERE. IT APPEARS TO BE FAIRLY PINK COMPARED TO
6 WHAT WE'VE SEEN EARLIER, BUT THE EDGES HERE ARE
7 A LITTLE MAROON. BUT THIS LOOKS TO BE A
8 PERIMORTAL INJURY JUST ABOVE THE LEFT KNEE WITH
9 A FAIRLY SHARP OBJECT.

10 Q. DOCTOR, AGAIN, WHEN YOU SAY PRE-MORTEM AND
11 PERIMORTEM AND POSTMORTEM, YOU PROBABLY
12 INDICATED THE FIRST TIME YOU TESTIFIED, BUT CAN
13 YOU EXPLAIN AGAIN TO THE JURY THE DIFFERENCE
14 BETWEEN THE THREE?

15 A. I PRIMARILY USE PERIMORTAL AND PRE-MORTAL, AN
16 INJURY THAT OCCURS PRE-MORTEM MEANS BEFORE THE
17 HEART STOPS. PERIMORTAL MEANS IT'S AFTER THE
18 HEART HAS STOPPED AND IT'S EITHER IN THAT SHORT
19 FEW SECONDS WHILE THE PERSON IS STILL ALIVE BUT
20 HAS NOT SUCCUMBED OR BECOME UNCONSCIOUS BECAUSE
21 THE HEART HAS STOPPED WHICH VARIES BETWEEN 10
22 AND 15 SECONDS IN PATIENTS IN THE I.C.U. WHEN
23 THEIR HEART SEEMS TO STOP ON A MONITOR AND WOULD
24 BE EXPECTED TO BE THE SAME IF A PERSON RECEIVED
25 A FATAL INJURY THAT CAUSED THEIR HEART TO STOP.

1 SO, PERIMORTAL MEANS THEIR HEART HAS STOPPED,
2 THEY ARE EITHER IN THAT SHORT INTERVAL WHERE
3 THEY ARE STILL CONSCIOUS AND ALIVE OR SOMETIME
4 AFTER THAT INTERVAL AND THAT'S WHY WE CALL IT
5 PERIMORTAL, IT'S SOMETIME CLOSE TO THE TIME OF
6 DEATH, AND MAY BE JUST PRIOR TO THE TIME OF
7 DEATH.

8 Q. DOCTOR, I NOW CALL YOUR ATTENTION TO STATE'S
9 EXHIBIT 247 AND ASK IF YOU COULD INDICATE WHAT
10 THAT SHOWS.

11 A. THIS IS THE BACK OF THE INDIVIDUAL'S, MR.
12 ROBERTSON'S LEFT HAND. YOU CAN SEE TWO TINE
13 MARKS HERE, AND AGAIN THESE ARE MAROON IN COLOR,
14 AND A LACERATION HERE CONSISTENT WITH A SINGLE
15 TINE HITTING IN THAT AREA AND TEARING IT. AND
16 THESE ARE ON THE BACK OF THE LEFT HAND.

17 Q. AND FINALLY, STATE'S EXHIBIT 248.

18 A. THIS IS ON THE BACK OF THE RIGHT HAND. YOU'LL
19 NOTICE THE THUMB HERE IN THE UPPER LEFT CORNER.
20 THIS IS THE WEB HERE BETWEEN THE INDEX FINGER
21 AND THE THUMB. AND HERE IS A STAB WOUND WITH A
22 SINGLE EDGE BLADE THAT PENETRATES FOR LESS THAN
23 AN INCH INTO THIS PORTION OF THE RIGHT HAND.
24 AGAIN, IN THIS PHOTOGRAPH IT LOOKS FAIRLY DARK,
25 BUT AT THE TIME OF THE AUTOPSY IT WAS FAIRLY

1 PINK, SUGGESTING IT WAS PERIMORTAL.

2 Q. DOCTOR, YOU HAD ALSO INDICATED IN PREVIOUS
3 TESTIMONY, AND I REFER BACK TO STATE'S EXHIBIT
4 247, CONCERNING POTENTIAL DEFENSE WOUNDS. COULD
5 YOU DESCRIBE TO THE JURY WHAT DEFENSE WOUNDS
6 MEAN AND WHAT THAT IS?

7 A. WHEN A PERSON IS BEING INJURED BY SOMEONE,
8 OFTENTIMES THEY WILL TRY TO PUT THEIR HANDS,
9 THEIR ARMS, THEIR LEGS IF THEY ARE ON THEIR
10 BACK, UP IN A FASHION TO DEFEND THEMSELVES.
11 THEREFORE, INJURIES THAT ARE FOUND ON THE
12 EXTREMITIES ARE OFTEN CHARACTERIZED AS DEFENSE
13 WOUNDS.

14 THAT DOESN'T MEAN THAT I CAN SAY FOR SURE THAT
15 THE PERSON WAS DEFENDING THEMSELVES AT THAT
16 TIME. THE OTHER OPTION IS THAT THIS HAND WAS
17 JUST LYING SOMEWHERE ON A FIRM SURFACE, LIKE ON
18 THE FLOOR, AND WAS STRUCK AT THAT TIME.

19 BUT WOUNDS THAT ARE FOUND ON THE EXTREMITIES ARE
20 OFTEN CHARACTERIZED AS PROBABLE DEFENSE WOUNDS.

21 IN THIS CASE A DEFENSIVE POSTURE WOULD BE HAVING
22 IT SOMEWHERE ON THE HEAD WHERE YOU COULD REACH
23 WITH THIS HAND AND HAVE IT STRUCK JUST AS IT'S
24 BEING STRUCK ON THE HEAD, THE HAND GETS IN THE
25 WAY AND SO THE HAND GETS STRUCK INSTEAD OF THE

1 HEAD.

2 SO, THAT'S WHY THIS TYPE OF WOUND IS OFTEN
3 CHARACTERIZED AS A DEFENSE WOUND. AND IN THIS
4 CASE IT'S CONSISTENT WITH BEING A DEFENSE WOUND.
5 BUT, AGAIN, IT MAY BE WHERE THE HAND IS LYING ON
6 THE FLOOR AND STRUCK; THE SAME TYPE OF WOUND
7 COULD OCCUR.

8 Q. DOCTOR, BASED ON THE COLOR AND NATURE OF THIS
9 WOUND, IN YOUR OPINION IS THIS A PRE-MORTEM OR A
10 PERIMORTEM WOUND; WHICH IS THAT?

11 A. THIS WOULD BE CONSIDERED A PRE-MORTEM WOUND.
12 RECOGNIZE WHEN WE USE THIS TYPE OF TECHNIQUE TO
13 PROJECT, WE DON'T ALWAYS GET THE SAME COLOR WE
14 HAVE AT THE TIME OF AUTOPSY.
15 BUT ALL OF THE TINE MARK WOUNDS WERE DEFINITELY
16 DARK MAROON. PARTICULARLY WHEN YOU PEEL THIS
17 BACK AND LOOK UNDER IT. WHEREAS THE INCISED
18 WOUNDS WERE A PINK COLOR.

19 Q. AND IS THAT CONSISTENT WITH STATE'S EXHIBIT 64?

20 A. STATE'S EXHIBIT 64 IS THE HAMMER THAT YOU SAW
21 EARLIER. AND YOU CAN SEE -- WHEN YOU SEE IT
22 LATER UP CLOSE YOU CAN SEE EVEN BETTER, BUT YOU
23 CAN SEE THERE IS A BROKEN TINE AND THAT BROKEN
24 TINE IS CONSISTENT WITH THE FACT THAT THEY ARE
25 IRREGULAR. ONE IS UNIFORM AND INDEED THE OTHER

1 ONE IS IRREGULAR. AND THE FACT THAT THEY ARE
2 ABOUT THE SAME DISTANCE APART.

3 SO, YES, IT'S CONSISTENT WITH A HAMMER LIKE THIS
4 OR ANOTHER ONE WITH A BROKEN TINE. PARTICULARLY
5 THE ONE WE SAW EARLIER THAT SHOWED A CLEAR
6 OUTLINE OF THAT CURVED APPEARANCE OF THE BROKEN
7 TINE.

8 Q. DOCTOR, YOU REFERRED TO A PICTURE EARLIER THAT
9 DEMONSTRATED THAT, STATE'S EXHIBIT 249?

10 A. RIGHT, 249 IS THE ONE THAT SHOWS THE UNIFORM
11 APPEARING TINE AND THE IRREGULAR APPEARING TINE.
12 INDICATING THAT THIS IS CONSISTENT WITH THE ONE
13 THAT'S BROKEN, SIMILAR TO THE WAY THE HAMMER IN
14 QUESTION IS BROKEN.

15 Q. DOCTOR, YOU HAD INDICATED THAT THE CAUSE OF
16 DEATH WAS BASED ON BLOWS TO THE HEAD; IS THAT
17 CORRECT?

18 A. THAT'S CORRECT. THE BLOWS TO THE HEAD CAUSED
19 EXTENSIVE DAMAGE INTERNALLY ON THE SURFACE OF
20 THE BRAIN AND WITHIN THE BRAIN. IN MR.
21 ROBERTSON'S CASE, IT ACTUALLY PENETRATED THE
22 BRAIN WITH SOME OF THE BROKEN BONES BEING FORCED
23 INTO THE BRAIN.

24 THE NUMBER OF FRACTURES WERE SIMILAR TO WHAT YOU
25 WOULD GET ON A HARD BOILED EGG IF YOU SIMPLY

1 DROPPED IT ON A COUNTER TOP, YOU GET A LOT OF
2 INDIVIDUAL FRACTURES. AND BY HITTING IT ON A
3 COUNTER TOP, YOU ACTUALLY INDENT THOSE
4 INDIVIDUAL FRACTURES INTO THE BRAIN. WE OFTEN
5 CALL IT AN EGGSHELL TYPE OF FRACTURE. THE OTHER
6 MEDICAL TERM IS A COMMUNUTED DEPRESSED TYPE OF
7 FRACTURE.

8 Q. DOCTOR, I NOW SHOW YOU STATE'S EXHIBIT 267 AND
9 ASK IF YOU PREPARED THIS TO INDICATE THE
10 SPECIFIC LOCATIONS OF THE INJURIES?

11 A. THESE DIAGRAM SUMMARIZE WHERE THE VARIOUS
12 INJURIES ARE LOCATED.

13 HERE YOU CAN SEE THE INJURIES CONSISTENT WITH
14 THE ONES CAUSED BY THE BAT, HERE ON THE BACK OF
15 THE UPPER BACK; ONE PAIR OF THEM HERE; ONE AT
16 THIS LOCATION ON THE UPPER LEFT; AND ONE AT THIS
17 LOCATION ON THE UPPER RIGHT.

18 HERE ARE SOME OF THE INJURIES CONSISTENT WITH
19 THE TINES OF THE HAMMER, ON THE BACK OF THE LEFT
20 HAND; IN ADDITION, HERE ARE SOME TINE MARKS HERE
21 ON THE FRONT OF THE RIGHT SHOULDER; THERE WERE
22 ALSO SOME ON THE LATERAL ASPECT OF THE RIGHT
23 SHOULDER.

24 THIS SHOWS FOUR VIEWS OF THE HEAD AND YOU CAN
25 SEE FROM THIS THAT ON THE LEFT SIDE OF THE HEAD

1 WERE A PAIR OF TINE MARKS HERE; AN INJURY TO THE
2 EAR THAT WAS NOT SPECIFIC BUT SIMPLY WITH A
3 BLUNT OBJECT.

4 UP OFF THE TOP OF THE SCREEN ARE ANOTHER PAIR OF
5 TINE MARKS ON THE LEFT SIDE OF THE HEAD.

6 THEN HERE ON THE BACK OF THE HEAD WHERE MOST OF
7 THE INJURY OCCURRED, YOU SEE THE LARGE
8 LACERATION THAT CAUSED THE DEPRESSED FRACTURE.

9 YOU SEE THE MULTIPLE PAIRS OF TINE MARKS HERE ON
10 THE BACK OF THE HEAD LEADING ON DOWN TO THE BASE
11 OF THE BACK OF THE HEAD.

12 AND THEN YOU HAVE THIS INCISED WOUND THAT STARTS
13 UNDER THE EAR, A LITTLE BIT POSTERIOR TO THE EAR
14 AND EXTENDS BACKWARDS, AND ANOTHER TINE MARK
15 HERE BELOW AND BEHIND THE RIGHT HERE.

16 AND THEN UP ON TOP OF THE HEAD ARE TWO MORE
17 INJURIES CONSISTENT WITH EITHER THE TINE, A
18 SINGLE TINE, OR THE SIDE EDGE OF AN OBJECT LIKE
19 THE HAMMER. THERE IS THIS LEADING EDGE HERE ON
20 THIS SIDE WHICH IS FAIRLY SHARP AS OPPOSED TO
21 THE PART YOU WOULD NORMALLY HAMMER A NAIL WITH,
22 PERPENDICULAR TO THAT, THE SIDE OF THE HAMMER
23 STRIKING THERE ON THE TOP OF THE HEAD TO CAUSE
24 INJURIES SORT OF LIKE THIS.

25 Q. DOCTOR, YOU AT ONE POINT IN YOUR TESTIMONY

1 INDICATED, I THINK IT WAS IN YOUR PREVIOUS
2 TESTIMONY, YOU TALKED ABOUT SUPERFICIAL WOUNDS
3 AND THE DIFFERENCE IN THE PAIN FACTOR. COULD
4 YOU EXPLAIN TO THE JURY HOW WE PERCEIVE PAIN?

5 A. THERE ARE A LOT OF DIFFERENT PAIN RECEPTORS IN
6 THE BODY. THE ONES THAT ARE PROBABLY THE MOST
7 SENSITIVE ARE THE ONES THAT ARE ON THE SURFACE
8 OF THE BODY BECAUSE OUR FINGERS HAVE TO BE ABLE
9 TO PERCEIVE VERY PRECISE THINGS IN ORDER TO DO
10 THE PRECISE MOVEMENTS THEY DO, SO THEY HAVE TO
11 PERCEIVE SOMETHING THAT'S A VERY LIGHT
12 STIMULATION AND, THEREFORE, THEY HAVE PRESSURE
13 SENSORS THERE, BUT THEY ALSO HAVE PAIN SENSORS
14 SO AS TO PREVENT OURSELVES FROM INJURING
15 OURSELVES BY RECOGNIZING THAT PAIN EARLY AND
16 RESPONDING TO IT BY REFLEXIVELY MOVING AWAY FROM
17 IT.

18 SO, MANY OF OUR PAIN RECEPTORS ARE IN THE
19 SUPERFICIAL PART OF OUR SKIN.

20 THERE ARE ALSO PAIN RECEPTORS INTERNALLY. THESE
21 ARE GENERALLY FROM EXPANDING AN ORGAN SUCH AS
22 HAVING GAS IN OUR BOWEL AND IT CAUSES EXPANSION
23 AND SEVERE PAIN. WHERE AS PENETRATING WOUNDS IN
24 THE BODY DON'T ALWAYS CAUSE THAT MUCH PAIN.

25 IN FACT, OFTEN TIMES HISTORIES FROM POLICE

1 OFFICERS AND OTHERS WHO HAVE BEEN SHOT OR
2 STABBED SOMETIMES DON'T PERCEIVE THE PAIN
3 BECAUSE OF THE ADRENALIN IN THEIR SYSTEM UNTIL
4 THEY PASS OUT. OTHERS HAVE STOPPED WHAT THEY
5 WERE DOING BECAUSE OF THE PAIN.

6 SO, IT VARIES A LOT AS FAR AS THE INTERNAL. THE
7 EXTERNAL SURFACE THOUGH GENERALLY DOES PERCEIVE
8 MORE PAIN BECAUSE THEY ARE JUST MORE SENSORS ON
9 THE EXTERNAL SURFACE.

10 Q. DOCTOR, BASED ON YOUR OBSERVATIONS, WOULD THESE
11 WOUNDS HAVE BEEN PAINFUL?

12 A. SOME OF THESE SUCH AS THE INCISED WOUND WOULD
13 HAVE BEEN PAINFUL BECAUSE IT'S IN THAT TYPE OF
14 AREA.

15 I WOULD CERTAINLY EXPECT OTHERS, WE'VE ALL
16 WALKED INTO A DOOR OR RAISED OUR HEAD AND HIT A
17 CABINET THAT WAS OPEN AND THAT'S PAINFUL AND
18 THAT'S CERTAINLY NOT WITH THE FORCE INVOLVED
19 THAT YOU SEE HERE. AND EACH OF THESE HAVE TO
20 PASS THROUGH THE SKIN SURFACE OF THE HEAD IN
21 ORDER TO GET TO THE BONY SURFACE. SO, YES, IN
22 MY OPINION ALL OF THESE WOULD HAVE BEEN CAPABLE
23 OF INFLECTING PAIN.

24 AS I MENTIONED EARLIER IN CROSS EXAMINATION, I
25 DO NOT KNOW WHAT ORDER THESE OCCURRED IN. I ONLY

1 KNOW THAT THE HEART WAS STILL BEATING THROUGHOUT
2 ALL OF THESE THAT WERE INFLICTED WITH OBJECTS
3 LIKE A BAT OF THIS SORT OR A HAMMER OF THIS
4 SORT, BUT I DO NOT KNOW WHEN THE PERSON LOST
5 CONSCIOUSNESS.

6 I SHOULD MENTION THOUGH THAT EVEN WHEN A PERSON
7 HAS LOST CONSCIOUSNESS, WE DON'T REALLY KNOW
8 WHETHER THEY PERCEIVE PAIN DURING THAT PERIOD OF
9 TIME. IT'S PRESUMED THAT THEY GENERALLY DO NOT.

10 ALSO, A PERSON INFLICTING PAIN ON ANOTHER PERSON
11 OR INFLICTING INJURIES WITH THE INTENT TO CAUSE
12 PAIN, MAY NOT KNOW WHETHER THE PERSON IS
13 RECEIVING THAT PAIN OR NOT. THEY MAY BE
14 THINKING THE PERSON IS RECEIVING THE PAIN
15 BECAUSE OF THE REACTION OF THE BODY.

16 WHEN WE DO AUTOPSIES ON A PERSON THAT IS
17 RECENTLY DEAD, ONE OR TWO HOURS DEAD WHICH
18 HAPPENS IN A HOSPITAL SETTING, WHEN WE DO OUR
19 DISSECTION, THE SKIN REACTS, THE MUSCLE REACTS
20 BECAUSE IT IS STILL PARTIALLY ALIVE.

21 BUT WHEN A HEART STOPS, THAT MEANS A PERSON IF
22 THEIR BRAIN ALSO STOPS FUNCTIONING IS CLINICALLY
23 DEAD, BUT THE REST OF THE BODY TAKES TIME FOR
24 ALL THOSE TISSUES TO COMPLETELY DIE. SO, THEY
25 STILL HAVE SOME RESPONSES.

1 SO, A PERSON COULD IN FACT INFLICT AN INJURY ON
2 A PERSON WHO IS UNCONSCIOUS OR MAYBE EVEN DEAD
3 AND STILL GET A RESPONSE IF IT'S SHORTLY AFTER
4 THE DEATH OF THE INDIVIDUAL.

5 Q. DOCTOR, BASED ON YOUR OBSERVATION OF THE WOUNDS,
6 WOULD THESE WOUNDS HAVE CAUSED AN INSTANTANEOUS
7 DEATH? IN OTHER WORDS, WOULD THE WOUNDS
8 THEMSELVES CAUSE INSTANTANEOUS DEATH?

9 A. WE NORMALLY ASSOCIATE INSTANTANEOUS DEATH WITH
10 INJURIES TO THE BASE OF THE BRAIN. THE BASE OF
11 THE BRAIN CONTROLS OUR HEARTBEAT AND OUR
12 RESPIRATION.

13 THE MAJORITY OF THE INJURIES, IN FACT ALL OF THE
14 INJURIES IN THIS CASE AS FAR AS THE HEAD
15 INTERNALLY ON THE BRAIN WERE TO THE UPPER
16 PORTION OF THE BRAIN THAT WE CALL THE CEREBRAL
17 HEMISPHERE AND NOT TO THE BRAIN STEM.

18 SO, IT'S NOT AS LIKELY. I OBVIOUSLY CANNOT SAY
19 WITH CERTAINTY THAT THIS PERSON DID NOT
20 IMMEDIATELY BECOME UNCONSCIOUS WITH THE FIRST
21 BLOW, BUT IT'S UNLIKELY THAT THESE BLOWS IN
22 GENERAL WOULD REASONABLY BE CONSIDERED TO CAUSE
23 IMMEDIATE UNCONSCIOUSNESS OR IMMEDIATE DEATH. I
24 THINK IT WOULD BE HARD FOR THE PERSON TO DIE
25 IMMEDIATELY AND HAVE ALL THESE INJURIES OCCUR

1 WHILE THE HEART IS STILL PUMPING BECAUSE THAT'S
2 JUST NOT POSSIBLE.

3 AND ABOUT THE ONLY TIME YOU GET IMMEDIATE DEATH
4 IS WHEN YOU HAVE A DEVASTATING INJURY TO THE
5 BASE OF THE BRAIN.

6 THE BASE OF THE BRAIN IS THE AREA YOU WORRY
7 ABOUT IN PRIZE FIGHTERS; THAT'S WHY THEY TRY TO
8 ELIMINATE THE RABBIT PUNCH WHICH IS THE TYPE OR
9 METHOD OF KILLING A RABBIT IN THE FIELD IF IT'S
10 NOT DEAD. YOU HOLD IT AND HIT IT IN THE BACK OF
11 THE HEAD AND IT IMMEDIATELY STUNS THE RABBIT AND
12 CAUSES CESSATION OF HEARTBEAT BECAUSE IT IS
13 DIRECTED AT THE PORTION OF THE BRAIN THAT CAUSES
14 THE HEART TO BEAT AND THE LUNGS TO FUNCTION.

15 BUT NONE OF THESE WERE DIRECTED DOWN IN THAT
16 AREA. SOME WERE CLOSE, BUT THESE WERE MORE
17 SUPERFICIAL.

18 THE DEVASTATING INJURY THAT DEPRESSED INTO THE
19 BRAIN ITSELF WAS HERE ON TOP.

20 SO, TO ANSWER YOUR QUESTION, I'VE GIVEN YOU A
21 FAIRLY LONG ONE, IT'S UNLIKELY THAT ANY OF THESE
22 WOULD HAVE CAUSED INSTANTANEOUS DEATH. IT MAY
23 HAVE CAUSED UNCONSCIOUSNESS WITH THE FIRST BLOW
24 DEPENDING ON WHAT THE FIRST BLOW WAS.

25 THE BLOW THAT CAUSED THE MOST DAMAGE AND WAS THE

1 MOST LIKELY CAUSE OF THE DEATH WAS THIS ONE ON
2 TOP OF THE HEAD WHICH AS I MENTIONED EARLIER WAS
3 MORE CONSISTENT WITH THE BAT BECAUSE OF THE
4 SEVERITY OF IT, BUT COULD CONCEIVABLY BE THE
5 HANDLE, THIS METAL HANDLE OF THE HAMMER IF IT
6 WAS WIELDED WITH ENOUGH FORCE.

7 Q. DOCTOR, YOU TALKED ABOUT DEATH AND YOU TALKED
8 ABOUT UNCONSCIOUSNESS. CLEARLY ONE CAN BE
9 UNCONSCIOUS AND STILL BE ALIVE; IS THAT CORRECT?

10 A. YES, THAT'S CORRECT.

11 Q. DOCTOR, I AM NOW GOING TO CALL YOUR ATTENTION TO
12 THE SECOND AUTOPSY THAT YOU PERFORMED. DID YOU
13 HAVE AN OPPORTUNITY TO PERFORM AN AUTOPSY ON
14 MRS. ROBERTSON ALSO?

15 A. YES, I DID.

16 Q. AND, AGAIN, I'LL CALL YOUR ATTENTION TO STATE'S
17 EXHIBIT 251 AND BASED ON THE NATURE OF THE
18 PICTURE IF YOU REQUIRE ME TO ZOOM IN OR CHANGE
19 IT, IF YOU WILL JUST INDICATE.

20 FIRST, I'M GOING TO SHOW YOU STATE'S 251 AND ASK
21 IF YOU CAN INDICATE TO THE JURY WHAT THESE ITEMS
22 ARE?

23 A. AGAIN FOR REFERENCES TO THE SIZE OF THIS LABEL,
24 THIS IS THE ENGAGEMENT RING AND THE WEDDING BAND
25 THAT WERE ON MRS. ROBERTSON FINGER, AND THIS IS

1 A ONE INCH RULER WITH OUR LABEL ON IT.

2 Q. STATE'S EXHIBIT 266?

3 A. LOOKING AT THE LEFT SIDE OF MRS. ROBERTSON'S
4 HEAD WHERE MOST OF THE INJURIES WERE LOCATED,
5 AGAIN YOU CAN SEE A PAIR OF TINE MARKS; AGAIN A
6 PAIR OF TINE MARKS IN THE AREA OF THE EAR. HERE
7 UP ON THE LEFT SIDE OF THE HEAD IN THE TEMPORAL
8 REGION IS A TINE MARK HERE. THE OTHER PORTION
9 IS PRESUMABLY IN THIS LARGE LACERATION. AND
10 HERE'S ANOTHER LARGE DEEP LACERATION. THESE TWO
11 LARGE LACERATIONS WITH UNDERLYING BRUISING AND
12 FRACTURING THE SKULL ARE MORE CONSISTENT WITH
13 THE HANDLE OF THE HAMMER OR THE LATERAL EDGE OF
14 THE TOP OF THE HAMMER, THE SIDE YOU WOULD STRIKE
15 IF YOU WERE NOT HAMMERING A NAIL, BUT SIMPLY
16 HITTING ON SOMETHING WITH THE SIDE OF THE
17 HAMMER.

18 BUT I CANNOT EXCLUDE THE FACT THAT THE TINES MAY
19 HAVE ALSO DONE THIS IF IT TWISTED IN SUCH A
20 FASHION THAT ONLY ONE TINE INFLECTED THIS AND
21 ONE OF THE TWO INFLECTED THIS.

22 THEY ARE BOTH BLUNT FORCE INJURIES, BUT NOTICE
23 THE EDGES SHOW DAMAGE TO THE SKIN AND THAT'S
24 MORE CONSISTENT WITH BEING PINCHED BY A HARD
25 OBJECT SUCH AS THE TOP EDGE OF THE HAMMER, AS

1 OPPOSED TO A TINE CAUSING THE IMPRESSION. A
2 TINE WOULD TEND TO RIP WHEREAS THE FLAT EDGE
3 WOULD TEND TO DAMAGE THAT BY SQUEEZING IT AND
4 ABRADING THE SURFACE.

5 Q. I'LL SHOW YOU NOW WHAT'S BEEN MARKED STATE'S
6 265.

7 A. LOOKING AT THE BACK OF MRS. ROBERTSON, HERE YOU
8 SEE THE INCH RULER, THIS IS THE SHOULDER AREA ON
9 EITHER SIDE, THIS IS THE BACK OF THE NECK. HERE
10 IS THE AREA WE SHAVED ON THE LEFT SIDE OF THE
11 HEAD, MORE POSTERIOR THAN WHAT YOU SAW EARLIER,
12 ARE THREE OTHER VERY DEEP INJURIES, WHAT WE CALL
13 LACERATIONS, THAT ARE LACERATED, ABRADED AND
14 CONTUSED. AND THESE INJURIES ARE CONSISTENT
15 AGAIN WITH AN OBJECT LIKE THE HAMMER, SOME
16 INFLICTED BY THE TINES.

17 YOU CAN SEE HOW THE SKIN HAS BEEN TORN
18 LATERALLY. THE TINE CAME ACROSS HERE, RIPPED TO
19 THAT POINT AND THEN SLIPPED AND THEN RIPPED
20 AGAIN. AND IT CREATES THE LATERAL LACERATIONS
21 ALONG WITH THE LINEAR LACERATION.

22 HERE IS A MARK THAT'S PERPENDICULAR WITH THAT
23 THAT'S PROBABLY MORE CONSISTENT WITH THE LATERAL
24 EDGE OF THE HAMMER.

25 AND HERE'S ONE UP ON THE SIDE OF THE HEAD, MORE

1 CONSISTENT PROBABLY WITH THE LATERAL EDGE.

2 AT NO POINT DID WE SEE WHERE A TINE HAD
3 PENETRATED THE SKULL, BUT WE SAW A LOT OF
4 EGGSHELL FRACTURES OF MRS. ROBERTSON'S SKULL
5 JUST AS WE DID OF MR. ROBERTSON. AND THAT'S
6 MORE CONSISTENT WITH A BLUNT OBJECT. JUST AS I
7 MENTIONED THE EGG WOULD GET FRACTURED THAT WAY
8 WHEN YOU DROPPED IT ON A TABLE AS OPPOSED TO
9 PENETRATING HOLES IN THE BONE WHICH ARE VERY
10 THIN IN THAT REGION, THEY ARE MORE CONSISTENT
11 WITH A HARD OBJECT FRACTURING THEM.

12 SO, THESE ARE CONSISTENT WITH THE SIDE OF THE
13 HAMMER STRIKING, EXCEPT FOR THIS ONE WHICH IS
14 MOST LIKELY A TEAR FROM ONE OF THE TINES.

15 Q. DOCTOR, AS FAR AS PRE-MORTEM VERSUS PERIMORTEM
16 BASED ON THIS PARTICULAR INJURY, WHAT WERE YOUR
17 OBSERVATIONS?

18 A. ALL OF THESE WERE CONSISTENT WITH PRE-MORTEM
19 HAVING MAROON COLOR TO THE SKIN AND THE
20 UNDERLYING TISSUE.

21 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT
22 261.

23 A. HERE YOU CAN SEE THE LIGHTER COLOR THAT WE
24 ASSOCIATE WITH PERIMORTAL INJURIES. THIS IS THE
25 BACK OF MRS. ROBERTSON'S NECK. THERE IS THE

1 RULER AGAIN.

2 NOTICE THESE ARE FAIRLY STRAIGHT, VERY SHALLOW
3 CUTS, IN THIS CASE WITH A SHARP OBJECT. THE
4 EDGE OF THESE WOUNDS IS NOT TRAUMATIZED OR
5 ABRADED AND THESE IN MOST CASES DON'T EVEN GO
6 THROUGH THE SKIN COMPLETELY.

7 THE SKIN HAS SEVERAL LAYERS; IT HAS AN EPIDERMIS
8 WHICH IS THE VERY THIN SURFACE LAYER THAT
9 BLISTERS UP IF YOU GET SUNBURNED, AND THEN BELOW
10 THAT YOU HAVE THE DERMIS WHICH IS A THICKER
11 LAYER AND THEN YOU GET INTO THE FAT LAYER THAT
12 WE CALL THE PANNICULUS UNDERNEATH THE SKIN.

13 IN THIS CASE IT'S ONLY INTO THE DERMIS,, SO IT'S
14 A VERY SHALLOW CUT, FAIRLY STRAIGHT CUT ACROSS
15 THE BACK OF THE NECK IN FOUR LOCATIONS. AND
16 THESE ARE PINK WHEN WE SAW THEM GROSSLY. AND I
17 THINK HERE YOU WILL REALIZE THAT THEY ARE A
18 LIGHTER COLOR THAN THE ONES WE SAW EARLIER WITH
19 THE HAMMER.

20 Q. DOCTOR, I CALL YOUR ATTENTION TO STATES'S
21 EXHIBIT 250 AND ASK IF YOU COULD DESCRIBE THIS
22 ALSO.

23 A. THIS IS ON THE FRONT OF MRS. ROBERTSON'S
24 SHOULDER. AND MAYBE YOU NEED TO CHANGE THE
25 LIGHTING A LITTLE BIT THERE. THE PROJECTOR IS

1 NOT PROJECTING THE QUALITY OF THE PHOTOGRAPHS
2 THAT YOU'LL BE ABLE TO SEE IN YOUR
3 DELIBERATIONS.

4 THIS IS A VERY PALE YELLOW COLOR IN THE
5 PHOTOGRAPH ITSELF. HERE IT LOOKS NOT QUITE AS
6 YELLOW, IT LOOKS A LITTLE DARKER. THIS IS A
7 PINK COLOR. AND THIS IS A MAROON COLOR.

8 NOW WHAT WE HAVE ARE, HERE AN ABRASION, HERE IN
9 THESE TWO LOCATIONS WITH A LACERATION. AND THIS
10 IS AN INCISED WOUND. THIS INCISED WOUND IS
11 CONSISTENT WITH A KNIFE HAVING CUT IN THAT
12 LOCATION. AND THIS DOES HAVE SOME REDNESS TO
13 IT.

14 WHEREAS, THIS AREA UP HERE IS A PALE YELLOW IN
15 THE PHOTOGRAPH AND WHEN YOU HIT SOMEBODY WITH AN
16 OBJECT SUCH AS -- THIS COULD BE, AGAIN, THE EDGE
17 OF THE HAMMER THAT'S STRIKING THIS TOP LEADING
18 EDGE AND IT'S DOING IT IN SUCH A FASHION THAT IT
19 JUST SCRAPES THE SKIN OFF. THERE WAS BLEEDING
20 UNDERNEATH THE SKIN AND THE MUSCLE AT THIS
21 LOCATION.

22 AND HERE COULD BE A TINE THAT'S JUST BARELY
23 HITTING ONE EDGE OF THAT TINE AND DOING THE SAME
24 THING, WHEREAS THIS IS AN INCISED WOUND THAT WAS
25 NOT AS DARK AS THE INJURIES ON TOP OF THE HEAD

1 BUT WAS DARKER, CONSISTENT WITH PERIMORTAL AND
2 MAYBE EVEN DURING LIFE.

3 Q. DOCTOR, I'LL SHOW YOU STATE'S EXHIBIT 27 AND 23
4 WHICH YOU PREVIOUSLY LOOKED AT, THE TWO ASPECTS
5 OF THE KNIFE. ARE ANY OF THESE WOUNDS
6 CONSISTENT WITH THAT?

7 A. THIS IS THE BROKEN KNIFE THAT'S EXHIBIT 27, AS
8 FAR AS THE TIP, AND 23 AS FAR AS THE HANDLE WITH
9 MOST OF THE BLADE. AND IT'S A SERRATED BLADE
10 AND ANY REASONABLY SHARP KNIFE COULD PRODUCE
11 THIS TYPE OF INCISED WOUND. SO, YES, IT WOULD
12 BE CONSISTENT WITH THIS TYPE OF KNIFE.

13 Q. DOCTOR, THE WOUND, THE DARKER WOUND THAT YOU
14 SAID HAD THE DARKER COLOR, IS THAT -- COULD YOU
15 EXPLAIN TO THE JURY THE DIFFERENCE IN AN
16 INCISION VERSUS A STAB; COULD YOU EXPLAIN THAT
17 TO THEM?

18 A. AN INCISION IS A WOUND THAT'S LONGER THAN IT IS
19 DEEP, AND IT'S PRODUCED BY SLIDING A KNIFE
20 ACROSS SOMETHING LIKE WHEN WE SLICE BREAD. IF
21 YOU WERE SLICING BREAD AND JUST CUT INTO IT
22 MAYBE A QUARTER OF AN INCH, YOU'D HAVE MAYBE A
23 SLICE ACROSS THE TOP OF THE BREAD THAT MIGHT BE
24 TWO OR THREE INCHES LONG BUT WOULD ONLY BE A
25 QUARTER OF AN INCH INTO THE BREAD. AND THAT'S

1 WHAT WE CALL AN INCISED WOUND WHERE A SHARP
2 PIECE OF GLASS OR METAL OR A KNIFE HAS CUT
3 ACROSS SOME PART OF THE BODY. AND THAT'S WHAT
4 WE ARE SEEING HERE AT THIS POINT WHERE THE TIP
5 OF THE BLADE HAS GONE IN AND JUST CUT AN INCISED
6 WOUND WHICH CHARACTERISTICALLY HAS EDGES THAT
7 ARE NOT TRAUMATIZED; THE EDGES ARE NICE AND
8 CLEAN AND DON'T HAVE ANY BRUISING TO THEM
9 COMPARED TO THIS BRUISING AND ABRADING THAT WE
10 SEE OUT HERE ON THESE INJURIES THAT ARE CAUSED
11 BY SCRAPING THE SKIN.

12 THIS IS NOT A SCRAPE; THIS IS A SHARP CUT. IF
13 IT IS A LACERATION AS WE SAW ON THE TOP OF THE
14 HEAD, THE EDGES ARE IRREGULAR, THEY ARE SCRAPED
15 ON THE SURFACE. AND IF YOU HAVE A CLOSER VIEW,
16 YOU CAN SEE THE LITTLE TISSUE BRIDGES WHERE
17 TISSUE HAS BEEN BROKEN INTO BUT NOT COMPLETELY.
18 WHEREAS A KNIFE DOES CUT IT COMPLETELY AND YOU
19 HAVE CLEAN EDGES.

20 SO, THIS IS AN INCISED WOUND CONSISTENT WITH
21 BEING MADE BY A KNIFE OR A SIMILAR TYPE OF SHARP
22 OBJECT.

23 Q. DOCTOR, I'LL NOW CALL YOUR ATTENTION TO EXHIBIT
24 258, IF YOU COULD IDENTIFY THIS FOR US, PLEASE.

25 A. THIS IS MRS. ROBERTSON'S RIGHT FOREARM. THERE

1 IS THE INSIDE OR PALMAR ASPECT OF HER RIGHT ARM.

2 IT HAS TWO INJURIES, ACTUALLY THREE.

3 IT HAS AN INCISED WOUND THAT GOES ACROSS THE

4 WRIST, A VERY SHALLOW INCISED WOUND THAT RUNS

5 PARALLEL TO A MUCH DEEPER INCISED WOUND. AND

6 HERE YOU CAN CLEARLY SEE THAT THE TISSUE IS A

7 YELLOW COLOR; IT IS NOT A DEEP MAROON COLOR THAT

8 WE WOULD SEE DURING LIFE WHERE THE BLOOD IS

9 BEING PUMPED INTO IT. THIS IS CLEARLY AFTER THE

10 HEART HAS STOPPED AND SO THE SUBCUTANEOUS TISSUE

11 OR THE PANNICULUS LAYER BELOW THE SKIN DOES NOT

12 HAVE ANY BLEEDING ASSOCIATED WITH THIS CUT.

13 THE CUT IS LONG AND STRAIGHT; IT'S DEEP HERE

14 ALTHOUGH IT'S NOT AS DEEP AS IT COULD BE. IT

15 DOES NOT GO TO THE BONE, IT SIMPLY GOES THROUGH

16 THE SKIN AND SUBCUTANEOUS TISSUE. IT GOES DOWN

17 TO THE MUSCLE BUT NOT INTO THE MUSCLE.

18 IN THIS CASE IT ONLY GOES TO THE SUPERFICIAL

19 LAYER OF THE SKIN, AS IT DOES IN THIS CASE

20 ACROSS THE WRIST. AND ALL OF THESE ARE YELLOW

21 IN COLOR, INDICATING THEY ARE AFTER THE HEART

22 HAS STOPPED. THEY ARE ALL FAIRLY STRAIGHT,

23 SHALLOW, DELIBERATE APPEARING WITHOUT ANY

24 MOVEMENT ON THE PART OF THE DECEDENT EITHER

25 BECAUSE THE ARM IS IMMOBILIZED OR THE INDIVIDUAL

1 IS NOT MOVING AT THAT TIME.

2 Q. DOCTOR, WHEN YOU SAID DELIBERATE, CAN YOU
3 EXPLAIN TO THE JURY IN A LITTLE MORE DETAIL WHAT
4 YOU MEANT BY THESE CUTS BEING DELIBERATE?

5 A. IF THIS CUT WERE JUST A SLASH, YOU'D EXPECT IT
6 TO BE DEEPER IN THE MIDDLE PORTION, OR AT ONE
7 LOCATION THAN IT WOULD BE IN ANOTHER. AND IT
8 MIGHT BE IRREGULAR IN ITS COURSE.

9 BUT NOTICE THIS IS VERY STRAIGHT, JUST AS THIS
10 IS VERY STRAIGHT. AND LOOKING AT IT AT THE
11 AUTOPSY, IT WENT RIGHT DOWN TO THE MUSCLE LAYER
12 AND STOPPED IN THIS CASE. AND THESE TWO WERE
13 JUST IN THE SHALLOW SKIN LAYER JUST AS THE ONES
14 IN THE BACK OF THE NECK.

15 Q. DOCTOR, I CALL YOUR ATTENTION TO STATE'S EXHIBIT
16 260. WOULD YOU INDICATE WHAT THIS IS, PLEASE.

17 A. THIS IS MRS. ROBERTSON'S LEFT FOREARM, THE HAND
18 BEING TO YOUR LEFT, THE WRIST HERE AT THIS
19 LOCATION AND THE ELBOW TO YOUR RIGHT WHERE THE
20 LABEL IS LOCATED, A LITTLE FURTHER BEYOND THE
21 LABEL.

22 AND THERE ARE FOUR CUTS ON THIS WRIST AREA OR
23 THE FOREARM, THE LEFT FOREARM. TWO OF THEM ARE
24 ON THE PALMAR ASPECT OF THE WRIST AND YOU CAN
25 SEE HOW DEEP THEY ARE HERE.

1 ONE IS FURTHER UP ON THE PALMAR ASPECT AND COMES
2 AROUND ON THE BACK OF THE FOREARM. AND ANOTHER
3 ONE IS ON THE BACK OF THE FOREARM.
4 AND AGAIN IN THE PHOTOGRAPHS THAT YOU WILL BE
5 ABLE TO LOOK AT LATER, YOU'LL SEE THAT THESE ARE
6 YELLOW TO PINK. THEY ARE NOT NEARLY AS DARK A
7 COLOR AS THE BLUNT TRAUMA TO THE HEAD.

8 Q. DOCTOR, STATE'S 256?

9 A. THIS SHOWS THE PALMAR ASPECT OF THE WRIST.
10 THESE WERE THE ONLY CUTS WITH THE KNIFE ON MRS.
11 ROBERTSON WHERE I SAW THEM GO BELOW THE FATTY
12 LAYER, THE PANNICULUS, AND ACTUALLY PENETRATE
13 SEVERAL TENDONS THAT ARE HERE ON THE SURFACE OF
14 THE WRIST AND ACTUALLY SEVERED THOSE TENDONS
15 HERE AND HERE.
16 AGAIN, THOUGH NOTICE THESE ARE VERY STRAIGHT
17 CUTS; THEY ARE PARALLEL IN THIS CASE. THEY HAVE
18 YELLOW COLOR TO THE FAT LAYER UNDERNEATH AND
19 ARE, THEREFORE, CONSISTENT WITH BEING PERIMORTAL
20 AFTER THE HEART HAS STOPPED.

21 Q. AND, DOCTOR, STATE'S EXHIBIT 257.

22 A. THIS IS THE BACK OF THAT LEFT WRIST, AGAIN, AND
23 ANOTHER VERY STRAIGHT CUT HERE ACROSS THE BACK
24 OF THE WRIST. IT'S DARKER IN THIS PHOTOGRAPH
25 THAN IT IS IN THE ACTUAL PHOTOGRAPH, WITH THE

1 PROJECTION. BUT, AGAIN, THE COLOR OF THE FAT IS
2 A PINK COLOR.

3 Q. DOCTOR, DID YOU ALSO MAKE A CLOSE-UP OF ONE OF
4 THE WOUNDS TO DEMONSTRATE THE NATURE OF THE CUTS
5 THAT YOU WERE TALKING ABOUT, THE DELIBERATE
6 NATURE OF THE CUTS?

7 A. I DID.

8 Q. STATE'S EXHIBIT 253; DESCRIBE TO THE JURY WHAT
9 THIS INDICATES.

10 A. THE SIGNIFICANCE HERE IS THE CUT CAME TO THIS
11 POINT AND STOPPED AND THEN INSTEAD OF STARTING
12 OVER AGAIN, IT JUST BACKED UP JUST A SHADE AND
13 THEN CAME IN THIS DIRECTION.

14 THIS ALSO CAN BE RELATED TO THE KNIFE NOT BEING
15 THAT SHARP SO THAT THE SKIN TENDS TO WRINKLE AS
16 OPPOSED TO CUTTING CLEANLY, AND THEN THE BLADE
17 JUMPS OVER TO THIS POINT.

18 BUT THIS IS THE ONLY LITTLE TRIANGULAR
19 PENINSULAR THAT I SAW IN EXAMINING THESE. ALL
20 THE REST WERE VERY STRAIGHT AND DID NOT HAVE
21 THESE. BUT THIS ONE HAD ONE AT THIS LOCATION
22 WHERE IT COMES TO THIS POINT, EITHER JUMPS OVER
23 HERE BECAUSE THE SKIN IS TOUGH ENOUGH AND THE
24 KNIFE IS NOT SHARP ENOUGH OR DOESN'T HAVE ENOUGH
25 PRESSURE ON IT, OR IT STOPS AND THEN STARTS UP

1 AGAIN.

2 BUT MOST OF THEM WERE NICE STRAIGHT CUTS WITHOUT
3 ANY SLOW AREAS OR AREAS OF DEVIATION AS FAR AS
4 THE PATH OF THE CUT.

5 Q. STATE'S EXHIBIT 259.

6 A. THIS IS THE BACK OF THE RIGHT HAND OF MRS.
7 ROBERTSON AND THERE IS A LINEAR CUT AT THIS
8 LOCATION THAT IS CONSISTENT WITH TINE OF THE
9 HAMMER CUTTING THAT LOCATION OR THE POINT OF THE
10 KNIFE. IT WAS NOT A NICE CLEAN CUT BUT
11 SOMETHING CAME DOWN THROUGH THAT TANGENTIALLY SO
12 AS TO TAKE THE SKIN LAYER OFF IN A LINEAR
13 FASHION.

14 BUT NOTICE HOW THERE'S THIS LITTLE REDNESS HERE.

15 AND I APOLOGIZE, THIS IS NOT PROJECTING AS
16 CLEARLY AS THE PHOTOGRAPHS THAT YOU WILL SEE.
17 BUT THIS IS A SHALLOW INJURY THAT COULD EITHER
18 BE THE KNIFE AND TIP CAUSING THAT BECAUSE IT'S
19 NOT AS CLEAN AS IT NORMALLY WOULD BE, OR IT
20 COULD BE THE EDGE OF THE TINE, PARTICULARLY THE
21 BROKEN TINE.

22 Q. DOCTOR, I NOW CALL YOUR ATTENTION TO STATE'S
23 EXHIBIT 262 AND ASK IF YOU COULD INDICATE WHAT
24 THESE ITEMS DEPICT.

25 A. LOOKING AT THE LOWER RIGHT BACK OF MRS.

1 ROBERTSON, THIS BEING THE BUTTOCK AREA BELOW THE
2 LABEL, THERE WERE THREE STAB WOUNDS.

3 AGAIN, THESE STAB WOUNDS WERE YELLOW, THIS IS A
4 YELLOW COLOR INSIDE OF EACH OF THESE. THIS ONE
5 IS CLOSE TO THE SPINE AND ACTUALLY IMPACTED THE
6 SPINE. THESE TWO DID NOT GO INTO THE ABDOMINAL
7 CAVITY, THEY SIMPLY WENT ABOUT FOUR INCHES INTO
8 THE SOFT TISSUE OF THE BACK, BUT DID NOT
9 PENETRATE THE ABDOMINAL CAVITY.

10 LIKE I SAY, THIS ONE HIT THE SPINE AND STOPPED
11 AT THAT POINT AT A SHALLOWER DEPTH OF ABOUT TWO
12 AND A QUARTER INCHES.

13 Q. AND I'LL SHOW YOU STATE'S EXHIBIT 263. IF YOU
14 WILL DESCRIBE WHAT THIS INDICATES TO US, PLEASE.

15 A. TO DETERMINE WHAT CAUSES THAT TYPE OF INJURY, WE
16 TRY TO PUSH THE SKIN BACK TOGETHER.

17 SURGEONS REALIZE THAT DEPENDING ON WHERE THEY
18 ARE ON THE BODY, THEY NEED TO CUT IN A CERTAIN
19 FASHION SO THE SKIN WON'T GAPE BECAUSE OUR SKIN
20 IS HELD IN PLACE BY ELASTIC FIBERS THAT TEND TO
21 STRETCH IT TIGHTLY OVER THE BODY. AND DEPENDING
22 ON THE STRETCH OF THOSE FIBERS, YOU NEED TO CUT
23 SO AS TO PREVENT THE GAPING OF SKIN.

24 BUT WHEN SOMEBODY IS STABBED, OFTENTIMES IT WILL
25 GAPE, SO WE WILL TAKE CLEAR MAGIC MENDING TAPE

1 AND PULL IT BACK TOGETHER.

2 THE PURPOSE OF THAT IS TO DETERMINE IF IT'S A
3 SINGLE EDGE BLADE OR A DOUBLE EDGE BLADE. IN
4 THIS CASE YOU CAN SEE BETTER ON THE PHOTOGRAPH,
5 BUT HERE IS THE SHARP EDGE, THE POINTED EDGE,
6 AND HERE IS THE SQUARED OFF EDGE.

7 THE WAY WE CHARACTERIZE THAT AND IN THIS CASE
8 YOU CAN DO IT VERY EASILY SINCE THE KNIFE HAS
9 BEEN BROKEN, YOU LOOK AT THE BROKEN EDGE AND YOU
10 SEE THAT THE TOP PART OF THAT WHERE IT'S DULL IS
11 SQUARED OFF, THE BOTTOM PART IS SHARP. SO, THE
12 HOLE IN THE SKIN IS CONSISTENT WITH THE BROKEN
13 EDGE OF THE BLADE.

14 WHEN IT'S A SINGLE EDGE BLADE IT LOOKS THIS WAY.

15 IF IT'S A DOUBLE EDGE, THEN BOTH SIDES ARE
16 SHARP.

17 IF IT GOES ALL THE WAY TO THE HILT, SOMETIMES
18 YOU'LL SEE BOTH SIDES ARE BLUNTED BECAUSE ON THE
19 SHARP EDGE OF MOST KNIVES, IT VARIES BUT
20 EVERYONE I'VE EVER SEEN GENERALLY HAS A BLUNTED
21 EDGE RIGHT DOWN AT THE HILT, EVEN ON THE SHARP
22 EDGE. SO, SOMETIMES WE'LL SEE IT WILL BE
23 SQUARED OFF AND BLUNTED BOTH ON THIS END AND
24 THIS END. BUT IN THIS CASE SINCE IT DID NOT GO
25 TO THE HILT, WE SEE A SHARP EDGE HERE AND A

1 SQUARE EDGE DOWN THERE.

2 Q. DOCTOR, I CALL YOUR ATTENTION TO STATE'S EXHIBIT
3 252 AND ASK IF YOU COULD INDICATE WHAT THOSE
4 DEPICT?

5 A. AS YOU CAN TELL, HERE'S THE NOSE OF MRS.
6 ROBERTSON, THE MOUTH AREA, THE EAR. THIS IS
7 ACROSS THE LEFT CHEEK AND JAW AREA. AND, AGAIN,
8 THIS HAS A YELLOW BASE THAT YOU CAN SEE MORE
9 CLEARLY ON THE PHOTOGRAPH WHEN YOU LOOK AT IT.
10 HERE ARE MULTIPLE CUTS ON THE NECK, MOST OF
11 WHICH ALSO HAVE A YELLOW BASE ALTHOUGH THIS AREA
12 RIGHT IN HERE IS A LITTLE DARKER, INDICATING
13 THAT AT THAT POINT THE HEART WAS PROBABLY STILL
14 BEATING.

15 AND, AGAIN, NOTICE THESE ARE LONG STRAIGHT
16 SHALLOW CUTS HERE THAT DON'T GO INTO THE SOFT
17 TISSUE. HERE IS A STRAIGHT -- IT'S A LITTLE
18 CURVY LINEAR BECAUSE OF THE SHAPE OF THE JAW AT
19 THAT POINT, BUT BY COMING STRAIGHT ACROSS HERE
20 YOU WOULD GET THAT TYPE OF CUT ON THAT IRREGULAR
21 SURFACE. SO, MOST ALL OF THESE WERE FAIRLY
22 STRAIGHT SHALLOW CUTS AS FAR AS NOT GOING INTO
23 THE MUSCLE, EXCEPT IN THIS ONE AREA WHERE THERE
24 WERE SOME PENETRATING HOLES INTO THE MUSCLE.

25 Q. AGAIN, THAT SPECIFIC AREA, STATE'S EXHIBIT 254.

1 A. RIGHT THIS SHOWS IN THAT PARTICULAR AREA, IT'S A
2 FAIRLY DARK PHOTOGRAPH, BUT YOU CAN SEE THE
3 SHALLOW CUT HERE. IT'S VERY SHALLOW. HERE YOU
4 CAN SEE A DEEPER CUT, IT'S A LITTLE MORE
5 IRREGULAR AND YOU CAN SEE SOME MUSCLE TISSUE.
6 EVEN THIS, AS YOU SEE AT THIS END, HAS A YELLOW
7 COLOR TO IT AS OPPOSED TO THE DARK MAROON. BUT
8 THERE WAS A SMALL VESSEL CUT HERE IN THE NECK
9 THAT WAS SUPERFICIAL. NOT DEEP, NOT ONE OF THE
10 JUGULAR VEINS OR THE CAROTID ARTERIES THAT WOULD
11 HAVE CAUSED BLEEDING TO DEATH, BUT WOULD HAVE
12 CAUSED SOME MINOR BLEEDING.

13 Q. FINALLY I'LL SHOW YOU STATE'S EXHIBIT 256.

14 A. THIS IS THE RIGHT SIDE OF MRS. ROBERTSON'S FACE
15 AND, AGAIN, WHAT WE OFTEN CHARACTERIZE AS A
16 MUTILATING INJURY ACROSS THE FACE. AND, AGAIN,
17 A VERY SHALLOW, FAIRLY STRAIGHT CUT THAT GOES
18 ACROSS THE RIGHT CHEEK THROUGH THE RIGHT HERE
19 AND ON TO THE NECK ON THE RIGHT SIDE.
20 AND, AGAIN, IT HAS A YELLOW COLOR TO IT.

21 Q. AND, DOCTOR, AGAIN, A YELLOW COLOR, YOU'RE
22 SAYING THAT IS PERIMORTEM?

23 A. PERIMORTEM, MEANING THAT THE PERSON'S HEART HAS
24 STOPPED AND IS EITHER IN THE PROCESS OF DYING OR
25 HAS DIED AT THAT POINT.

1 Q. DOCTOR, YOU TOUCHED ON SEVERAL TIMES AS IT BEING
2 A SLOW DELIBERATE CUTS AS OPPOSED TO A SLASHING
3 CUT. WHAT INDICATIONS DID YOU MAKE -- COULD YOU
4 PROVE THE PERIMORTEM CUTS WERE THE SLOW
5 DELIBERATE CUTS OR WHAT FINDINGS DID YOU HAVE IN
6 THAT REGARD?

7 A. IN MRS. ROBERTSON'S CASE ALL OF THE INCISED
8 WOUNDS APPEARED TO BE SLOW -- I SHOULDN'T SAY
9 SLOW -- APPEARED TO BE STRAIGHT AND SHALLOW AND
10 APPEARED TO BE AFTER THE DEATH OR AFTER THE
11 STOPPAGE OF THE HEART AND EITHER THE DEATH OF
12 THE INDIVIDUAL OR DURING THAT PERIOD JUST PRIOR
13 TO DEATH. AS I MENTIONED EARLIER THOUGH, THE BODY SHORTLY
14 AFTER DEATH STILL REACTS BY THE SKIN CONTRACTING
15 WHEN IT'S CUT AND THE MUSCLES CONTRACTING WHEN
16 THEY ARE CUT. AND SO THESE ARE THE TYPE OF CUTS
17 YOU WOULD SEE IN A PERSON TRYING TO INFLICT PAIN
18 ON AN INDIVIDUAL AS OPPOSED TO SIMPLY TRYING TO
19 SEE IF THEY WERE STILL ALIVE BECAUSE THEY SEEM
20 TO BE NUMEROUS; THEY SEEM TO BE ON THE FACE, AND
21 THEY ARE ALL SHALLOW ENOUGH TO CAUSE THAT PAIN
22 AND THE REACTION, BUT NOT ENOUGH TO INFLICT ANY
23 FATAL TYPE OF INJURY.

24 Q. DOCTOR, I'LL SHOW YOU STATE'S EXHIBIT 268 AND

1 ASK IF YOU CAN SUMMARIZE AND INDICATE THE
2 LOCATIONS OF THE INJURIES. AGAIN, IF YOU COULD
3 IF POSSIBLE INDICATE PRE-MORTEM VERSUS
4 PERIMORTEM, MORTEM OR POSTMORTEM.

5 A. THESE DIAGRAMS SHOW THE FRONT AND THE BACK OF
6 MRS. ROBERTSON AND THEY INDICATE ALL OF THE
7 INJURIES THAT ARE PERIMORTAL WITH THE EXCEPTION
8 OF ONE INCISE WOUND HERE ON THE UPPER CHEST.

9 ON THE RIGHT ARM ON THE PALMAR ASPECT, YOU
10 REMEMBER THE LITTLE DEEPER CUT DOWN TO THE
11 MUSCLE BUT NOT IN THE MUSCLE, AND THEN ACROSS
12 THE WRIST.

13 AND THEN ON THE LEFT FOREARM, THERE ARE THREE ON
14 THE PALMAR SIDE, ONE OF WHICH GOES AROUND TO THE
15 BACK. AND ONE ON THE BACK OF THE LEFT WRIST.

16 AND THEN THESE FOUR INCISE WOUNDS ON THE BACK OF
17 THE NECK.

18 IN ADDITION, THE THREE STAB WOUNDS IN THE LOWER
19 RIGHT BACK. ALL OF THESE HAVING YELLOW COLOR TO
20 THE UNDERLYING FAT.

21 AND THEN THE ABRASION ON THE UPPER RIGHT CHEST
22 AND IN THE SHOULDER AREA THAT AGAIN WAS YELLOW
23 BASED.

24 Q. SO THE WOUNDS THAT YOU'RE SEEING HERE, YOU'RE
25 SAYING ARE PERIMORTAL, SO THOSE WOUNDS DID NOT

1 CAUSE HER DEATH; IS THAT CORRECT?

2 A. THAT'S CORRECT. THESE WERE ALL SUPERFICIAL NON-
3 FATAL TYPE WOUNDS AND WERE ALL AFTER THE HEART
4 HAD STOPPED.

5 Q. NOW I'LL ASK YOU IF YOU COULD INDICATE ON THE
6 SECOND PAGE OF THE DIAGRAM THE WOUNDS, BOTH
7 PERIMORTAL AND THE ULTIMATELY FATAL WOUNDS.

8 A. THE FATAL WOUNDS THAT ARE SHOWN HERE ARE THE
9 ONES THAT ARE IN THE AREA OF THE LEFT TEMPORAL
10 REGION WHERE THERE WERE MULTIPLE FRACTURES IN
11 THE SKULL IN THIS LOCATION. THE PAIR OF TINE
12 MARKS HERE ON THE LEFT EAR. ABOVE THE LEFT EAR
13 WERE TWO OTHERS AND THEN THESE DEEPER
14 LACERATIONS THAT EXTEND AROUND TO THE BACK SIDE
15 AND THAT HAD UNDERLYING THEM MULTIPLE FRACTURES.
16 THOSE WERE THE PRE-MORTEM INJURIES THAT WERE A
17 DEEP MAROON COLOR ON THE PHOTOGRAPHS.

18 ON THE LEFT SIDE OF THE FACE IS A LACERATION --
19 I'M SORRY -- IS AN INCISE WOUND THAT PENETRATES
20 THE SKIN AND SUBCUTANEOUS TISSUE BUT NOT THE
21 MUSCLE.

22 THERE WERE SIMILAR INCISE WOUNDS THAT WERE
23 SHALLOW ON THE LEFT SIDE OF THE NECK THAT CAME
24 AROUND TOWARD THE RIGHT SIDE WITH THE MIDDLE
25 PORTION OF THIS HAVING A FEW THAT ACTUALLY

1 PENETRATED A VESSEL AND CAUSED SOME BLEEDING.
2 BECAUSE SHE WAS FACE DOWN, SOME OF THE BLEEDING
3 WE COULD NOT WASH OFF. ONE CRITERIA TO KNOW
4 WHETHER IT'S PRE-MORTEM OR POSTMORTEM IS WHETHER
5 THE BLOOD THAT'S THERE, THERE'S GOING TO BE SOME
6 BLOOD THERE, EVEN AFTER YOU CUT A VESSEL EVEN
7 AFTER DEATH AT THE AUTOPSY, BLOOD DRAINS OUT OF
8 IT, BUT WITHOUT THE FORCE OF THE HEART, THE
9 BLOOD IS NOT FORCED INTO THE TISSUE SO IT EASILY
10 WASHES OFF.

11 BUT NOW SOME OF THE BLOOD THAT WAS HERE IN THIS
12 AREA MAY HAVE STAYED SIMPLY BECAUSE OF THE FACT
13 SHE WAS FACE DOWN AND SOME BLOOD SETTLED INTO
14 THAT AREA.

15 BUT THERE WERE CLEARLY SOME AREAS THAT WERE
16 MAROON IN COLOR HERE IN THE NECK. BUT MOST OF
17 THE CUTS ON THE NECK AND THE FACE AND THE BACK
18 OF THE NECK WERE ALL YELLOW BASED AND WERE
19 SHALLOW CUTS.

20 Q. DOCTOR, YOU CAN HAVE A SEAT.

21 (THE WITNESS RESUMED THE WITNESS STAND.)

22 Q. DOCTOR, JUST AS I HAD ASKED YOU ABOUT EARL
23 ROBERTSON'S INJURIES, BASED ON YOUR OBSERVATION
24 AND OF COURSE YOU HAVE EXPLAINED ABOUT BRAIN
25 DAMAGE AND THINGS OF THAT NATURE, BUT BASED ON

1 YOUR OBSERVATION WOULD THESE WOUNDS HAVE CAUSED
2 INSTANTANEOUS DEATH?

3 A. IN MY OPINION THEY WOULD NOT HAVE CAUSED
4 INSTANTANEOUS DEATH.

5 Q. AND LIKEWISE, BASED ON THE SAME REVIEW THAT YOU
6 INDICATED TO THE JURY IN EARL'S CASE, WOULD
7 THESE WOUNDS HAVE BEEN PAINFUL WOUNDS?

8 A. IN MY OPINION THEY WOULD HAVE BEEN PAINFUL. I
9 DON'T KNOW FOR WHAT PERIOD OF TIME.

10 Q. IS THERE A WAY -- AGAIN, ULTIMATELY THE CAUSE OF
11 DEATH IN BOTH EARL AND TERRY ROBERTSON, DID THEY
12 DIE FROM THE VARIOUS CUTTINGS AND BLEEDING; IS
13 THAT WHAT KILLED THEM?

14 A. NO, THE CUTTING AND THE BLEEDING WAS NOT THE
15 CAUSE OF DEATH. THE CAUSE OF DEATH WAS INJURY
16 TO THE BRAIN AND THAT INJURY TO THE BRAIN WAS
17 GREAT ENOUGH TO SLOWLY STOP THE HEART AND LUNGS
18 WHICH GENERALLY LEADS TO A LOT OF FLUID
19 ACCUMULATING IN THE LUNGS OR PULMONARY EDEMA.
20 PEOPLE WHO HAVE FATAL HEAD INJURIES GENERALLY
21 DIE, NOT SO MUCH FROM THEIR HEART STOPPING
22 UNLESS IT IS AN INSTANTANEOUS SITUATION WHERE
23 IT'S A DEVASTATING INJURY TO THE BASE OF THE
24 BRAIN, THEN WE FIND LUNGS THAT ARE FAIRLY LIGHT.
25 BUT WHEN WE FIND LUNGS THAT ARE HEAVY, IT'S MORE

1 CONSISTENT WITH THE HEART SLOWING AND THE
2 BREATHING SLOWING TO THE POINT WHERE BLOOD
3 ACCUMULATES IN THE LUNGS AND WE GET PULMONARY
4 EDEMA.

5 SO, THE INJURIES HERE ARE MOST CONSISTENT WITH
6 WHAT WE SEE IN MOST HEAD INJURIES WHICH IS A
7 SLOWING OF THE RESPIRATION AND EVENTUAL DEATH,
8 WHICH MAY BE A MATTER OF MINUTES, OR THERE ARE
9 PEOPLE WITH INJURIES SOMEWHAT LIKE THIS BUT MORE
10 COMMONLY IN THE FRONTAL AREA WHERE YOU HAVE YOUR
11 NON-VITAL CENTERS THAT MAY LIVE AND SURVIVE OR
12 MAY LIVE MONTHS IN A HOSPITAL EITHER IN A COMA
13 OR IN AND OUT OF A COMA.

14 Q. THANK YOU, SIR. ANSWER ANY QUESTIONS THE
15 DEFENSE MAY HAVE.

16 CROSS EXAMINATION BY

17 MR. HANCOCK:

18 Q. DR. SEXTON, AS I UNDERSTAND YOUR TESTIMONY, THE
19 FATAL BLOW WERE THE BLOWS TO THE HEAD?

20 A. YES, THAT'S CORRECT, IN BOTH CASES.

21 Q. AND IN THE DIAGRAM WE WERE JUST SHOWN, IN TERRY
22 ROBERTSON THERE WERE TWO DISTINCT BLOWS TO THE
23 HEAD WITH A CLAW HAMMER ON THE LEFT SIDE
24 APPROXIMATELY HERE AND HERE. IS THAT CORRECT?

25 A. I'M NOT SURE ABOUT THE LOCATIONS. I THINK THEY

1 WERE MORE ABOVE EACH OTHER. BUT THERE WERE TWO
2 ON THE LEFT SIDE.

3 Q. ON THE LEFT SIDE OF THE HEAD.

4 A. CORRECT.

5 Q. WHICH WOULD BE CONSISTENT WITH SOMEONE THAT IS
6 RIGHT-HANDED WIELDING A HAMMER; IS THAT CORRECT?

7 A. THAT WOULD DEPEND ON THE POSITION OF THE TWO
8 PEOPLE. A PERSON RIGHT-HANDED STRIKING SOMEONE
9 FROM THE REAR WOULD HIT THE RIGHT SIDE OF THEIR
10 HEAD. IF THEY ARE STRIKING THEM FROM THE FRONT,
11 THEY WOULD HIT THE LEFT SIDE OF THEIR HEAD. SO,
12 IT DEPENDS ON THE POSITION, THE RELATIONSHIP
13 BETWEEN THE TWO PEOPLE AND ALSO WHETHER THEY ARE
14 DOING IT IN A FOREHANDED FASHION OR WHETHER THEY
15 ARE DOING IT BACKHANDED.

16 Q. ALL RIGHT.

17 A. BECAUSE A PERSON WHO IS IN FRONT OF AN
18 INDIVIDUAL COULD STRIKE THEM WITH A BACKHAND AND
19 PRODUCE INJURIES ON THE RIGHT SIDE. SO, THERE
20 IS NO WAY I CAN SAY.

21 Q. AND THE HAMMER WIELDED WOULD TAKE A GREAT DEAL
22 OF FORCE, WOULD IT NOT, IN ORDER TO PENETRATE
23 THE SKULL IN THE MANNER IN WHICH WE'VE SEEN?

24 A. YES AND NO. IT WOULD TAKE ADULT FORCE, BUT A
25 HAMMER BECAUSE OF IT'S NATURE AND BECAUSE OF THE

1 ARC YOU CAN WIELD IT IN, YOUR WHOLE ARM CAN
2 CREATE MORE FORCE BY WIELDING IT THAT WAY AS
3 OPPOSED TO YOUR WRIST.

4 ANY NORMAL ADULT COULD HAVE PRODUCED THESE
5 INJURIES BECAUSE GENERALLY THIS TYPE OF INJURY
6 DOESN'T OCCUR IF THE HEAD IS NOT AGAINST SOME
7 SURFACE.

8 IF YOU HIT A HEAD, SAY WITH A BAT, GENERALLY THE
9 HEAD WILL JUST BOB AWAY, AND SO YOU GET A
10 TANGENTIAL BLOW. TO CRACK THE SKULL, IT
11 GENERALLY TAKES THE HEAD BEING AGAINST THE FLOOR
12 OR SOME OTHER FIXED OBJECT AND THEN THE FORCE IS
13 WIELDED SO IT GETS A PERPENDICULAR BLOW THAT
14 ACTUALLY CRACKS THE SKULL AS OPPOSED TO THE HEAD
15 BOUNCING AWAY SO AS TO NOT CRACK THE SKULL.

16 Q. ALL RIGHT. A BLOW SUFFICIENT TO CAUSE THE
17 DEATH, HAD TO HAVE SUBSTANTIAL FORCE DID IT NOT?

18 A. YES, THAT'S RIGHT.

19 Q. AND THAT SUBSTANTIAL FORCE COULD HAVE CAUSED
20 IMMEDIATE UNCONSCIOUSNESS; ISN'T THAT CORRECT,
21 SIR?

22 A. IT COULD CAUSE IMMEDIATE UNCONSCIOUSNESS; THAT'S
23 CORRECT.

24 Q. AND IT'S MORE LIKELY THAN NOT THAT IT CAUSED
25 UNCONSCIOUSNESS AND I BELIEVE YOU SAID EARLIER

1 IN YOUR TESTIMONY THAT WOULD DEPEND ON THE
2 PERSON'S SKULL AND BASICALLY THE FORCE OF THE
3 BLOW AND THE INDIVIDUAL PERSON; IS THAT CORRECT?

4 A. THAT'S CORRECT. PEOPLE VARY GREATLY AS TO WHAT
5 THEY CAN SUSTAIN AND STAY CONSCIOUS OR NOT, BUT
6 CONSIDERING THE SERIOUS INJURIES -- EACH OF THEM
7 HAD A VERY SERIOUS INJURY AS WELL AS OTHER
8 INJURIES, THE SERIOUS INJURY IN MY OPINION WOULD
9 MOST PROBABLY HAVE CAUSED UNCONSCIOUSNESS. AND
10 THAT PROBABLY OCCURRED AT THAT TIME.

11 Q. AND IT WOULD HAVE BEEN IMMEDIATE UNCONSCIOUSNESS
12 IN BOTH TERRY AND EARL MORE THAN LIKELY. ISN'T
13 THAT CORRECT, SIR?

14 A. THAT'S CORRECT, AT THE TIME OF THAT DEVASTATING
15 INJURY, BUT THERE WERE OTHER INJURIES THAT WERE
16 NOT AS DEVASTATING THAT WOULD NOT HAVE CAUSED
17 UNCONSCIOUSNESS IN THE HEAD OF EACH.

18 Q. I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

19 THE COURT: REDIRECT?

20 REDIRECT EXAMINATION BY

21 MR. POPE:

22 Q. DOCTOR, I THINK YOU'VE INDICATED THIS. HE WAS
23 TALKING ABOUT THE ONE INJURY THAT COULD
24 ULTIMATELY RENDER ONE UNCONSCIOUS. THAT DOESN'T
25 MEAN THEY'RE DEAD, THAT JUST MEANS THEY ARE

1 UNCONSCIOUS. IS THAT CORRECT?

2 A. THAT'S CORRECT. NONE OF THEM WERE THE TYPE THAT
3 I WOULD EXPECT TO CAUSE INSTANTANEOUS DEATH, BUT
4 THERE WERE IN EACH CASE AT LEAST ONE INJURY THAT
5 WOULD BE EXPECTED TO CAUSE IMMEDIATE
6 UNCONSCIOUSNESS. I JUST DON'T KNOW IN WHICH
7 ORDER THESE INJURIES OCCUR. THERE IS NO WAY TO
8 DETERMINE THE ORDER BECAUSE THEY ALL OCCURRED
9 DURING LIFE.

10 I DO KNOW THAT THE INJURIES THAT I DESCRIBED AS
11 BEING THE SHALLOW CUTS OBVIOUSLY OCCURRED AFTER
12 THE OTHER INJURIES BECAUSE THE HEART HAD ALREADY
13 STOPPED BEFORE THE SHALLOW INCISE WOUNDS OR CUTS
14 OCCURRED.

15 Q. THANK YOU, SIR.

16 MR. HANCOCK: NO FURTHER QUESTIONS, YOUR HONOR.

17 THE COURT: YOU MAY STEP DOWN. CAN THIS WITNESS
18 BE EXCUSED?

19 MR. POPE: YES, SIR.

20 THE COURT: WE APPRECIATE YOUR TIME. CALL YOUR
21 NEXT WITNESS.

22 MR. POPE: THE STATE WOULD CALL CISSY GEORGE,
23 YOUR HONOR.

24 THE COURT: PLEASE COME AROUND AND BE SWORN
25 AGAIN, MA'AM.

1 MARTHA CISSY GEORGE, BEING FIRST DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY

4 MR. POPE:

5 Q. MS. GEORGE, YOU PREVIOUSLY TESTIFIED. COULD YOU
6 STATE YOUR NAME TO THE JURY AND TELL THE JURY
7 WHERE YOU ARE EMPLOYED?

8 A. MY NAME IS MARTHA GEORGE, MOST PEOPLE CALL ME
9 CISSY, AND I WORK FOR YORK COUNTY DSS HERE IN
10 YORK.

11 Q. AND COULD YOU TELL THE JURY HOW LONG YOU HAVE
12 LIVED HERE IN YORK COUNTY?

13 A. I'VE LIVED IN YORK COUNTY APPROXIMATELY 28 TO 29
14 YEARS.

15 Q. AND COULD YOU TELL THE JURY, DID YOU KNOW TERRY
16 AND EARL ROBERTSON?

17 A. YES. I HAVE KNOWN TERRY FOR OVER 33 YEARS AND
18 EARL FOR ABOUT 29.

19 Q. TELL THE JURY IF YOU COULD HOW YOU CAME TO KNOW
20 TERRY. WHERE ARE YOU FROM ORIGINALLY?

21 A. I'M ORIGINALLY FROM MILLEDGEVILLE, GEORGIA.
22 TERRY MOVED THERE WHEN SHE WAS IN HIGH SCHOOL.
23 THAT'S WHERE WE MET AT OUR CHURCH YOUTH GROUP.
24 WE WERE FRIENDS RIGHT OFF. SHE WAS A REAL
25 POPULAR GIRL DURING HIGH SCHOOL.

AND THEN DURING COLLEGE WE VISITED EACH OTHER.

SHE WAS IN MY WEDDING AND I WAS IN HER'S.

SHE WAS INSTRUMENTAL IN US MOVING TO FORT MILL.

WE WERE LIVING IN CHARLOTTE.

YOU HAD MENTIONED BACK IN HIGH SCHOOL AND HER WEDDING; YOU WERE ACTUALLY IN HER WEDDING YOU SAID?

YES.

SO, WERE YOU PRESENT THE DAY TERRY AND EARL WERE MARRIED?

YES, I WAS.

I'LL SHOW YOU STATE'S EXHIBIT 276, 277 AND 278 AND ASK IF YOU COULD LOOK AT THOSE AND TELL ME, CAN YOU IDENTIFY THESE THREE PICTURES?

YES, THIS ---

DON'T TELL ME YET WHAT THEY ARE. CAN YOU IDENTIFY THOSE?

YES, I CAN.

DOES THAT ACCURATELY DEPICT THEM AS YOU KNEW THEM AT THAT TIME?

YES, IT DOES.

MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBITS 276, 277 AND 278 INTO EVIDENCE.

MR. HANCOCK: WE OBJECT, YOUR HONOR.

THE COURT: THEY WILL BE RECEIVED OVER OBJECTION.

1 AND THEN DURING COLLEGE WE VISITED EACH OTHER.
2 SHE WAS IN MY WEDDING AND I WAS IN HER'S.
3 SHE WAS INSTRUMENTAL IN US MOVING TO FORT MILL.
4 WE WERE LIVING IN CHARLOTTE.

5 Q. YOU HAD MENTIONED BACK IN HIGH SCHOOL AND HER
6 WEDDING; YOU WERE ACTUALLY IN HER WEDDING YOU
7 SAID?

8 A. YES.

9 Q. SO, WERE YOU PRESENT THE DAY TERRY AND EARL WERE
10 MARRIED?

11 A. YES, I WAS.

12 Q. I'LL SHOW YOU STATE'S EXHIBIT 276, 277 AND 278
13 AND ASK IF YOU COULD LOOK AT THOSE AND TELL ME,
14 CAN YOU IDENTIFY THESE THREE PICTURES?

15 A. YES, THIS ---

16 Q. DON'T TELL ME YET WHAT THEY ARE. CAN YOU
17 IDENTIFY THOSE?

18 A. YES, I CAN.

19 Q. DOES THAT ACCURATELY DEPICT THEM AS YOU KNEW
20 THEM AT THAT TIME?

21 A. YES, IT DOES.

22 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBITS
23 276, 277 AND 278 INTO EVIDENCE.

24 MR. HANCOCK: WE OBJECT, YOUR HONOR.

25 THE COURT: THEY WILL BE RECEIVED OVER OBJECTION.

1 Q. AND 278?

2 A. THIS IS TERRY AND EARL LEAVING FROM THE WEDDING
3 RECEPTION.

4 Q. JUST RELATE TO THE JURY THAT TIME WHEN YOU WERE
5 IN COLLEGE AND YOU WERE IN THE WEDDING, TELL HOW
6 YOUR FRIENDSHIP GREW OR HOW IT WAS MAINTAINED.

7 MR. BOYD: YOUR HONOR, WE WOULD OBJECT TO THIS ON
8 PREVIOUSLY STATED GROUNDS, IT'S NOT IN REBUTTAL.

9 THE COURT: I OVERRULE THE OBJECTION. YOU MAY
10 PROCEED.

11 A. OKAY. TERRY AND I VISITED OFF AND ON IN COLLEGE
12 AND THEN WHEN I GRADUATED I WENT TO WORK FOR A
13 YEAR IN CHARLOTTE, AND SHE GOT MARRIED. AND I
14 VISITED HER DOWN IN FORT MILL IN HER APARTMENT.
15 AND THEN I MARRIED AND WE MOVED TO FLORIDA.
16 WHEN WE CAME BACK, WE DECIDED THAT WE WANTED TO
17 BUILD OUTSIDE OF CHARLOTTE. EARL HELPED US FIND
18 A LOT DOWN IN FORT MILL AND WE BUILT OVER IN
19 THEIR NEIGHBORHOOD.

20 SHE HAD HER CHILDREN -- WELL, I GUESS WE BOUGHT
21 OUR HOMES IN ABOUT THE SAME YEAR. LATER SHE HAD
22 HER CHILDREN AND I HAD MINE, AND WE KIND OF
23 HELPED EACH OTHER OUT.

24 Q. HOW MANY CHILDREN DID TERRY HAVE?

25 A. SHE HAD TWO SONS.

1 Q. GO AHEAD.

2 A. JUST VISITED AND JUST BECAME STRONGER FRIENDS
3 BECAUSE I DON'T HAVE ANY FAMILY UP IN THIS AREA
4 AND SHE WAS AN ONLY CHILD. SO, WE JUST BECAME
5 EACH OTHER'S FAMILY.

6 Q. OKAY AND WOULD YOU TELL THE JURY DURING THE
7 YEARS AS THE MARRIAGE PROGRESSED AND THE
8 CHILDREN GREW, DID YOU HAVE AN OPPORTUNITY TO BE
9 IN THEIR HOME OR DO THINGS WITH THEM?

10 A. YES, I VISITED IN ALL THE HOMES TERRY AND EARL
11 EVER LIVED IN. I WAS FREQUENTLY IN THEIR HOME IN
12 FORT MILL. WHEN THEY WENT TO CALIFORNIA, I WAS
13 THERE. WHEN THEY MOVED TO MICHIGAN, I VISITED
14 THERE. AND, OF COURSE, I VISITED HER IN ROCK
15 HILL.

16 Q. WHAT DID YOU OBSERVE AS FAR AS THE ROBERTSON
17 FAMILY, AS FAR AS THEM RAISING UP THE BOYS; WHAT
18 DID YOU PHYSICALLY OBSERVE OF THAT NATURE AS FAR
19 AS EARL AND TERRY AS PARENTS?

20 A. I ALWAYS THOUGHT VERY LOVING, VERY SUPPORTIVE,
21 VERY NURTURING PARENTS. THEY SAW THAT CHIP AND
22 JIMMY HAD VERY GOOD CARE AS FAR AS DENTAL,
23 MEDICAL. THEY SAW THAT THEY WENT TO CHURCH.
24 THE BOYS WERE IN SCOUTS. THEY WERE SUPPORTIVE
25 IN THEIR SCHOOL ACTIVITIES.

1 TERRY WAS ALWAYS THE MOTHER THAT WAS THE
2 CLASSROOM MOM. SHE BROUGHT IN THE COOKIES, SHE
3 MADE THE KOOLAID; SHE DID THE ART WORK FOR THE
4 BULLETIN BOARDS. SHE WAS THE MOM THAT BROUGHT
5 THE THINGS TO THE BALL GAMES. SHE TOOK HER VAN
6 AND TOOK THE BOYS' TEAMS TO DIFFERENT LOCATIONS
7 WHEN THEY WERE PLAYING AWAY FROM SCHOOL.

8 Q. TERRY AND EARL, DID YOU EVER HAVE AN OPPORTUNITY
9 TO TRAVEL WITH THEM OR DID YOU KNOW THEM TO
10 TRAVEL WITH THE FAMILY?

11 A. YES, I KNEW THAT THEY TOOK TRIPS. THEY TOOK A
12 LOT OF EDUCATIONAL TRIPS, PARTICULARLY WHEN THEY
13 MOVED FROM CALIFORNIA OVER TO MICHIGAN, INSTEAD
14 OF FLYING THEY DROVE ACROSS COUNTRY BECAUSE
15 THERE WERE SO MANY DIFFERENT THINGS THAT THEY
16 WANTED THE BOYS TO SEE AND TO LEARN.

17 Q. YOU SAID EDUCATIONAL TRIPS, WHAT TYPE THINGS
18 WERE YOU TALKING ABOUT?

19 A. OH, LIKE GOING TO YELLOWSTONE OR THE BLACK
20 HILLS, SEEING MOUNT RUSHMORE, BUT JUST SHOWING
21 THEM SPOTS ALONG THE WAY THAT MOST OF US WILL
22 NEVER SEE.

23 Q. LET ME ASK YOU THIS, AS FAR AS TERRY AND EARL
24 WERE INVOLVED IN OUR COMMUNITY, WERE THEY
25 INVOLVED IN OUR COMMUNITY?

1 A. WELL, I KNOW MORE ABOUT WHAT TERRY DID. I KNOW
2 THAT SHE WAS ACTIVE IN HER CHURCH. SHE WAS IN
3 JUNIOR LEAGUE. THEY DO THE FOLLIES ONCE A YEAR
4 HERE IN ROCK HILL AND BOTH OF THEM PARTICIPATED
5 IN THAT.

6 Q. WHEN YOU SAY PARTICIPATED, WHAT DID TERRY AND
7 EARL DO IN THE FOLLIES?

8 A. THEY DO DIFFERENT SKITS WHERE THEY HAVE
9 CHOREOGRAPHED DANCES OR DO SONGS OR WHATEVER AND
10 DIFFERENT GROUPS WOULD DO DIFFERENT SKITS.

11 Q. THE JUNIOR LEAGUE, THE YEAR THAT THEY PASSED
12 AWAY, DID THEY BESTOW ANY HONOR ON THEM?

13 A. YES, THEY DEDICATED THE FOLLIES TO TERRY AND
14 EARL THAT YEAR.

15 Q. COULD YOU TELL THE JURY A LITTLE BIT ABOUT AS
16 FAR AS ANY ACTIVITIES, SPORTS ACTIVITIES YOU
17 WOULD SEE TERRY OR EARL INVOLVED WITH AS FAR AS
18 THE BOYS?

19 A. EARL REALLY REVELED IN PLAYING WITH THE BOYS AND
20 THE NEIGHBORHOOD KIDS, AND THEY OFTEN PLAYED
21 BASEBALL. YOU COULD GO BY THEIR YARD AND THERE
22 WAS A DIAMOND YOU COULD SEE IN THE GRASS WHERE
23 THEY PLAYED.

24 HE PLAYED BASKETBALL WITH THEM; I'VE SEEN HIM DO
25 THAT. THEY HAD A POOL TABLE, THEY SHOT POOL

1 TOGETHER. THEY HAD A PING PONG TABLE THAT THEY
2 WERE VERY COMPETITIVE WITH.

3 Q. IS IT FAIR TO SAY THAT BASED ON YOUR FRIENDSHIP
4 THAT YOU WERE CLOSER TO TERRY THAN YOU WERE
5 EARL?

6 A. YES.

7 Q. OKAY. I NOW WANT TO FOCUS ON TERRY A LITTLE
8 BIT. JUST TELL THE JURY WHAT TYPE FRIEND, WHAT
9 TYPE PERSON TERRY WAS.

10 A. TERRY WAS A PERSON THAT JUST EPITOMIZED THE WORD
11 FRIENDSHIP. SHE WASN'T JUST THERE IN THE GOOD
12 TIMES WHEN MAYBE YOU WERE THROWING A PARTY OR
13 GOING OUT TO EACH LUNCH; SHE WAS THERE FOR YOU
14 WHEN THE TIMES GOT ROUGH. SHE WAS THERE FOR ME
15 WHEN I LOST TWO PARENTS AND A BROTHER. SHE WAS
16 THERE FOR ME THREE YEARS AGO WHEN I WENT THROUGH
17 A VERY BAD DIVORCE. SHE SUPPORTED ME AND MY
18 DAUGHTERS.

19 SHE HAS BEEN LIKE AN AUNT TO MY CHILDREN; THEY
20 ADORED HER. WHEN THEY WENT TO THEIR FIRST
21 PROMS, SHE SENT -- THE FAMILY SENT BOTH MY GIRLS
22 A DOZEN RED LONG STEM ROSES. THAT WAS SUCH A
23 SPECIAL TIME, SHE WANTED TO MAKE IT EVEN MORE
24 SPECIAL FOR THEM.

25 I HAVE AN INNER EAR PROBLEM AND I HAD A REALLY

1 SEVERE ATTACK. WHEN I HAVE THAT, I CAN'T EVEN
2 LIFT MY HEAD OUT OF THE BED. THERE CANNOT BE
3 ANY LIGHTS ON, THERE CAN BE NO NOISE. THE FIRST
4 ONE I HAD WAS JUST VERY, VERY SEVERE AND MY
5 HUSBAND STAYED WITH ME THE FIRST DAY. THE
6 SECOND DAY I WOKE UP TO LOOK OVER AT THE CHAIR
7 BY MY BED AND THERE SAT TERRY IN THE DARK. SHE
8 SAT THERE ALL DAY LONG WITH ME. WHEN I'D WAKE
9 UP, SHE'D ASK ME WHAT I NEEDED. USUALLY IT WAS
10 JUST A SIP OF WATER, SHE'D GIVE ME THAT AND I'D
11 GO BACK TO SLEEP.

12 THIS ISN'T JUST A FRIEND, THIS IS MORE LIKE A
13 SISTER.

14 WHEN I HAD TO HAVE EMERGENCY SURGERY, SHE WAS
15 ONE OF THE FIRST PEOPLE MY HUSBAND CALLED. SHE
16 WAS THERE WITH HIM DURING THE SURGERY. SHE WAS
17 THERE WHEN I WAS STARTING TO WAKE UP AND SHE
18 SAID "CISSY, YOU'VE GOT TO SMILE WHEN THOSE
19 GIRLS WALK IN HERE, THEY ARE SO SCARED"; SO,
20 THAT'S WHAT I DID. SHE REMINDED ME TO BE A GOOD
21 MOM SO THAT I WOULDN'T SCARE MY CHILDREN.

22 Q. DID YOU HAVE OTHER FRIENDS THAT Y'ALL WERE KIND
23 OF CLOSE TO, LIKE A LADIES GROUP OR SOMETHING?

24 A. THERE WERE FOUR OF US THAT REALLY BECAME VERY
25 CLOSE BECAUSE NONE OF US HAD FAMILIES IN THIS

1 AREA. ONE OF THE HUSBANDS CALLED US THE STEEL
2 MAGNOLIAS BECAUSE WHEN SOMETHING WENT WRONG, ONE
3 OF US WAS ALWAYS THERE TO HELP OUT, IF NOT ALL
4 THREE.

5 Q. DID YOU HAVE AN OPPORTUNITY TO GO TO LINDA'S
6 DAUGHTER'S WEDDING WITH TERRY ALSO?

7 A. YES, I DID.

8 Q. AND I'LL SHOW YOU THIS PICTURE AND ASK IF YOU
9 CAN IDENTIFY THAT?

10 A. YES, THIS IS TERRY AND I AT JENNIFER'S WEDDING
11 RECEPTION.

12 MR. POPE: YOUR HONOR, THAT WOULD BE STATE'S
13 EXHIBIT 274.

14 MR. HANCOCK: WE OBJECT TO RELEVANCE, YOUR HONOR.

15 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION ON
16 THAT.

17 Q. DID YOU GO TO LINDA'S DAUGHTER'S WEDDING WITH
18 TERRY, WAS TERRY THERE?

19 A. YES, SHE WAS.

20 Q. CISSY, TELL THE JURY IF YOU CAN, WAS THERE A
21 TIME WHEN YOU BEGAN TO SEE A CHANGE IN YOUR
22 FRIEND, TERRY?

23 A. YES. I THINK IT WAS AROUND 1992, FIVE YEARS
24 BEFORE SHE DIED. TERRY STARTED HAVING A LOT OF
25 EMOTIONAL PROBLEMS BECAUSE OF THE STRESS SHE WAS

1 GOING THROUGH. DIFFERENT THINGS WERE GOING ON
2 IN HER LIFE --

3 MR. HANCOCK: YOUR HONOR, I'M GOING TO OBJECT.
4 THAT'S A MEDICAL CONCLUSION.

5 THE COURT: I SUSTAIN THE OBJECTION. YOU CAN
6 TESTIFY TO WHAT YOU OBSERVED. GO AHEAD.

7 Q. DURING THAT TIME PERIOD DID YOU OBSERVE A CHANGE
8 IN TERRY?

9 A. YES, I DID.

10 Q. COULD YOU RELATE TO THE JURY HOW THAT CHANGE
11 MANIFESTED ITSELF, WHAT YOU NOTICED.

12 A. SHE WASN'T AS HAPPY A PERSON; SHE WASN'T AS
13 COMMUNICATIVE AS SHE ONCE HAD BEEN. I REMEMBER
14 SPECIFICALLY HER SAYING TO ME ONE TIME, "NO
15 MATTER WHAT OUR CHILDREN ---

16 MR. BOYD: OBJECTION, YOUR HONOR.

17 THE COURT: I SUSTAIN THE OBJECTION.

18 Q. DON'T TELL ME WHAT TERRY SAID.

19 A. UH HUH.

20 Q. AT THIS TIME WHEN YOU STARTED SEEING THESE
21 CHANGES, WERE YOU STILL IN CONTACT, DID THE
22 FAMILY STILL DO THINGS TOGETHER?

23 A. WE STILL -- THE FAMILIES DIDN'T DO AS MUCH
24 TOGETHER. WE, AS FRIENDS, WENT OUT TO LUNCH AND
25 WE TALKED ON THE PHONE.

1 Q. WERE YOU AWARE OF THE DIFFICULTIES THAT HAD
2 BEGUN WITH JIM AT THAT TIME?

3 A. YES, I WAS.

4 Q. DID THAT COINCIDE WITH HER CHANGE OF EMOTIONS?

5 A. YES, IT DID.

6 Q. LET ME ASK YOU, YOU KNEW HER SINCE HIGH SCHOOL?

7 A. CORRECT.

8 Q. PRIOR TO THE TIME YOU'RE TALKING ABOUT NOW, THE
9 EARLY MID-NINETIES, IS THAT THE RIGHT TIME
10 FRAME?

11 A. YES.

12 Q. PRIOR TO THAT HAD YOU SEEN ANY INDICATIONS OF
13 DEPRESSION OR ANYTHING OF THAT NATURE PRIOR TO
14 THAT TIME?

15 A. NO. TERRY WAS A VERY HAPPY PERSON. SHE LOVED
16 LIFE; SHE HAD A GOOD TIME; SHE LIKED FOR OTHER
17 PEOPLE TO HAVE FUN.

18 Q. AND EVEN AFTER YOU STARTED SEEING THE CHANGE IN
19 HER, YOU NAMED LITTLE THINGS TO THE JURY, LIKE
20 THINGS TERRY WOULD DO, YOU KNOW, THINGS SHE
21 WOULD DO FOR YOU.

22 A. RIGHT.

23 Q. DID SHE CONTINUE TO DO THOSE TYPE THINGS?

24 A. YES, WHEN I WAS HAVING A REAL HARD TIME, SHE
25 WOULD CALL ME ALMOST DAILY. NOT TO BE ON THE

1 PHONE A LONG TIME, JUST TO SAY HI, HOW ARE YOU
2 DOING. SHE WOULD HAVE THE GIRLS AND I OVER TO
3 DINNER EVEN THOUGH SHE WAS GOING THROUGH A LOT.

4 Q. GOING BACK TO WHEN YOU FIRST KNEW HER AND ON
5 THROUGH, WHAT WAS TERRY'S PERSONALITY AS FAR AS
6 PLANNING THINGS FOR Y'ALL, BE IT PARTIES OR
7 THINGS OF THAT NATURE?

8 A. TERRY WAS THE GROUP PLANNER; SHE LIKED TO LINE
9 THINGS UP FOR US TO DO, PLACES FOR US TO GO.
10 SHE ENJOYED HAVING PARTIES, GIVING PARTIES,
11 ANYTHING WAS A GOOD EXCUSE.

12 SHE CALLED HERSELF AN ARMY BRAT AND WAS VERY
13 PATRIOTIC. SHE LOVED HAVING PARTIES THE FOURTH
14 OF JULY, ELECTION PARTIES, JUST WHENEVER.

15 Q. DID SHE HAVE ANY PARTICULAR ITEMS OR ANY
16 PARTICULAR TYPE ANIMALS SHE LIKED?

17 A. SHE LOVED RABBITS; SHE HAD A HUGE COLLECTION OF
18 RABBITS. TERRY HAD GROWN UP IN JAPAN, IN NEW
19 YORK CITY AND FRANCE, SHE WAS VERY COSMOPOLITAN,
20 AND SO SHE ALWAYS CALLED HERSELF THE WHITE
21 RABBIT AND EARL WAS THE COUNTRY RABBIT BECAUSE
22 HE WAS FROM OUTSIDE OF ATLANTA, KIND OF IN A
23 SUBURB, SO THAT KIND OF WAS HER MASCOT.

24 Q. CISSY, I'M GOING TO CALL YOUR ATTENTION NOW TO
25 NOVEMBER 25TH, 1997. OF COURSE, YOU PREVIOUSLY

1 TESTIFIED TO TAKING THE CAKE. COULD YOU RELATE
2 TO THE JURY WHAT TRANSPIRED AS FAR AS HOW YOU
3 BECAME AWARE OF WHAT HAD HAPPENED TO TERRY AND
4 EARL?

5 A. I WAS AT WORK AND I LOOKED UP TO SEE LINDA AND
6 BILL WEAVER WALKING IN MY OFFICE. AND I COULD
7 TELL BY THE LOOK ON THEIR FACES THAT SOMETHING
8 HORRIBLE HAD HAPPENED.

9 AND THEY TOLD ME THAT TERRY AND EARL WERE DEAD
10 AND THAT THE POLICE WERE LOOKING FOR JIMMY.

11 I JUST WAS SO SHAKEN THAT LINDA HAD TO DRIVE MY
12 CAR AND WE WENT OVER TO WESTMINSTER TO JUST SEE
13 WHAT WAS GOING ON, WHAT WE COULD FIND OUT. BUT
14 THE HOUSE WAS ALREADY TAPED OFF AND NOBODY
15 EXCEPT FOR THE CAMERA PEOPLE WANTED TO HAVE
16 ANYTHING TO SAY, SO I JUST GOT IN THE CAR AND
17 WAITED TO GO.

18 Q. WHO WERE TERRY AND EARL'S CLOSEST FRIENDS?

19 A. I WOULD SAY MYSELF, MY HUSBAND, LINDA AND BILL
20 WEAVER, ANN AND DICK JORDAN, LINDA AND JACK
21 TUCKER.

22 Q. WHO HANDLED THE ARRANGEMENTS AND THE FUNERAL
23 ARRANGEMENTS? DID TERRY HAVE CLOSE FAMILY HERE?

24 A. NO. TERRY WAS AN ONLY CHILD. HER PARENTS AND
25 GRANDMOTHER WERE DECEASED. SPRINGS AND BILL AND

1 LINDA WEAVER AND I DID MOST OF THE FUNERAL
2 ARRANGEMENTS.

3 Q. CISSY, I WANT YOU TO TELL THIS JURY WHAT THE
4 LOSS OF TERRY AND EARL THROUGH THIS CRIME HAVE
5 MEANT TO YOU AND YOUR FAMILY?

6 MR. BOYD: OBJECTION ON PREVIOUSLY STATED
7 GROUNDS.

8 THE COURT: I OVERRULE THE OBJECTION. GO AHEAD.

9 A. I DIDN'T UNDERSTAND.

10 Q. YOU CAN ANSWER MY QUESTION.

11 A. OH.

12 Q. IF YOU WOULD EXPLAIN WHAT THE LOSS OF TERRY EARL
13 BASED ON THIS CRIME HAVE MEANT TO YOU AND YOUR
14 FAMILY.

15 MR. HANCOCK: YOUR HONOR, I THINK SHE CAN SAY
16 WHAT THE LOSS HAS MEANT TO HER. I DON'T THINK SHE CAN SAY
17 WHAT IT HAS MEANT TO ---

18 THE COURT: I AGREE, JUST TO HER. SHE CAN'T
19 SPEAK FOR OTHERS.

20 A. IT WAS LIKE LOSING A MEMBER OF MY FAMILY. I HAD
21 KNOWN HER FOR 33 YEARS. SHE HAD BEEN THERE FOR
22 ME AND I HAD BEEN THERE FOR HER WHEN WE NEEDED
23 TO BE. WE HAD SHARED THE JOYS OF OUR LIFE AND
24 THE SORROWS. I DON'T THINK IT COULD HAVE BEEN
25 ANY WORSE IF MY SISTER HAD DIED.

1 Q. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

2 CROSS EXAMINATION BY

3 MR. HANCOCK:

4 Q. MS. GEORGE, YOU TESTIFIED TO WHAT YOU SAW IN THE
5 ROBERTSON FAMILY; IS THAT CORRECT?

6 A. THAT'S CORRECT.

7 Q. WOULD YOU CONSIDER TERRY AN HONEST PERSON?

8 A. YES, I WOULD.

9 Q. SO, YOU FEEL LIKE SHE TOLD YOU THE TRUTH WHEN
10 SHE TALKED AND HAD DISCUSSIONS WITH YOU?

11 A. YES, I DO.

12 Q. OKAY, AND SHE DISCUSSED WITH YOU EARL'S VIOLENT
13 TEMPER AND THAT SHE WAS SCARED OF IT, DIDN'T
14 SHE?

15 A. NEVER.

16 Q. SHE NEVER DID. SHE DISCUSSED WITH YOU THAT SHE
17 THOUGHT THAT SHE WAS PROMISCUOUS SEXUALLY IN
18 HIGH SCHOOL, DIDN'T SHE?

19 A. NEVER.

20 Q. SHE DISCUSSED WITH YOU THE FACT THAT ---

21 MR. POPE: YOUR HONOR, I'M GOING TO OBJECT UNLESS
22 THERE IS SOME BASES FOR THESE QUESTIONS.

23 THE COURT: I SUSTAIN THE OBJECTION.

24 Q. YOU THINK YOU KNEW EVERYTHING ABOUT HER, DON'T
25 YOU?

1 A. I DON'T THINK YOU KNOW EVERYTHING ABOUT ANYBODY.

2 Q. YOU WERE AWARE THAT SHE WAS BIPOLAR, HAD A
3 MENTAL ILLNESS; IS THAT CORRECT, MA'AM?

4 A. I KNEW THAT SHE HAD BEEN DIAGNOSED BIPOLAR.

5 Q. AND YOU KNEW THAT SHE WAS SEEING A COUNSELOR; IS
6 THAT CORRECT, MA'AM?

7 A. THAT'S CORRECT.

8 Q. AND YOU'RE MAKING A BASIC MEDICAL ASSUMPTION OR
9 YOU TOLD THE JURY THAT SHE SHOWED NO TENDENCIES
10 TOWARD THAT DEPRESSION OR MENTAL DISORDER UNTIL
11 WHEN?

12 A. AROUND 1992 IS WHEN I SAW IT EXHIBITED.

13 Q. 1992. AND DID SHE EVER IN ANY WAY DISCUSS THOSE
14 MENTAL PROBLEMS WITH YOU?

15 A. NO.

16 Q. DID SHE DISCUSS HER RELATIONSHIP WITH EARL WITH
17 YOU?

18 A. I'M NOT SURE WHAT YOU MEAN BY THAT QUESTION.

19 Q. THAT THERE WERE ANY PROBLEMS IN THAT
20 RELATIONSHIP, ANY PROBLEMS HAD DEVELOPED OR WHAT
21 PROBLEMS HAD DEVELOPED?

22 A. NO.

23 Q. SHE DIDN'T?

24 A. NO.

25 Q. SO, YOU'RE ASSUMING THERE WERE NO PROBLEMS?

1 A. I KNOW OF NONE THAT -- SHE NEVER DISCUSSED
2 ANYTHING IN SPECIFIC.

3 Q. SO, EVIDENTLY YOU WERE NOT REALLY -- EVERYBODY,
4 NOW SEE IF YOU'LL AGREE WITH THIS, THAT
5 EVERYBODY HAS SOME PROBLEMS.

6 A. SURE.

7 Q. BUT YOU EVIDENTLY WERE NOT HER CONFIDANT IF
8 THERE WERE ANY PROBLEMS DEVELOPED WERE YOU,
9 MA'AM?

10 A. YOU KNOW, MAYBE IF SHE HAD SPENT TOO MUCH MONEY,
11 YOU KNOW, THAT HE FELT MAYBE -- I DON'T KNOW,
12 MAYBE THAT TYPE THING.

13 Q. RIGHT. SHE DID DISCUSS WITH YOU THAT SHE WENT
14 ON CERTAIN KIND OF SPENDING BINGES WHERE SHE
15 FELT SHE HAD SPENT JUST TOO MUCH MONEY, DIDN'T
16 SHE?

17 A. NO, I DON'T MEAN THAT AT ALL.

18 Q. YOU SAID THAT SHE MIGHT HAVE SPENT TOO MUCH
19 MONEY, YOU CAME UPON THAT INFORMATION FROM
20 SOMEWHERE, IS THAT CORRECT?

21 A. WELL, IF SHE HAD A BUDGET AND SHE RAN OVER IT,
22 THEN WE ALL SAY I SPENT TOO MUCH MONEY SHOPPING.

23 Q. SHE NEVER DISCUSSED WITH YOU ANY REACTION THAT
24 EARL MAY HAVE HAD TO THAT?

25 A. JUST TO WATCH HER SPENDING MAYBE OCCASIONALLY.

1 Q. NOW, THERE WERE OTHER CLOSE FRIENDS YOU SAID.

2 WAS GENE SULLIVAN A CLOSE FRIEND OF THEIR'S?

3 A. NOT REAL, REAL CLOSE; NO, I DON'T BELIEVE HE
4 WAS.

5 Q. YET ARE YOU AWARE WHO WAS DESIGNATED TO HANDLE
6 THE FINANCIAL AFFAIRS TO BEGIN WITH?

7 A. YES, I AM.

8 Q. IT WAS GENE SULLIVAN, WASN'T IT?

9 A. I THINK THE BANK WAS DESIGNATED AS TRUSTEE.

10 Q. BUT GENE SULLIVAN HAS HANDLED ALL OF THE AFFAIRS
11 OF THIS FAMILY SINCE ---

12 A. HE ASKED TO DO THAT.

13 Q. AND HE HAS DONE SO, HASN'T HE?

14 A. YES, HE HAS.

15 Q. WOULD YOU CALL THAT A GOOD FRIEND?

16 A. I THINK THAT IT HAS BEEN TO HIS ADVANTAGE TO DO
17 THAT.

18 Q. WELL, HE DIDN'T HAVE TO TAKE CARE OF CHIP, DID
19 HE?

20 A. HE DID IF HE WANTED TO DO THE TRUST.

21 Q. HE DIDN'T DO THE TRUST, THE BANK'S GOT THE
22 TRUST; THEY TESTIFIED TO THAT, MA'AM.

23 A. WELL, HE HAS POWER OF ATTORNEY.

24 Q. AND HE'S HELPED CHIP; ISN'T THAT CORRECT?

25 A. I DON'T KNOW WHAT HE HAS DONE FOR CHIP.

1 Q. WELL, LET ME ASK YOU THIS. WERE YOU IN THE
2 HOUSE FROM, OH, SAY NOVEMBER 30TH UNTIL MAYBE
3 MARCH 1ST?

4 A. OF THIS YEAR?

5 THE COURT: WHAT YEAR?

6 Q. NOVEMBER 30TH OF 1997 UNTIL -- I MEAN '98 UNTIL
7 MARCH, '99.

8 A. I WAS OVER THERE ONE DAY.

9 Q. ONE DAY? AND WHEN WAS THAT?

10 A. I THINK IT WAS ABOUT TWO WEEKS AGO, BUT I DON'T
11 REMEMBER THE DATE.

12 Q. ABOUT TWO WEEKS AGO?

13 A. UH HUH.

14 Q. SO, YOU DIDN'T SEE THE HOUSE PREVIOUS TO THAT,
15 SAY AROUND THE CHRISTMAS SEASON.

16 A. NO.

17 Q. JANUARY.

18 A. NO.

19 Q. OKAY, NOW YOU HAVE HAD CONTACT WITH CHIP HAVE
20 YOU NOT?

21 A. I SAW HIM ONCE IN THE GROCERY STORE.

22 Q. YOU'RE AWARE THAT CHIP'S GOT HIS OWN TYPE
23 PROBLEMS, DON'T YOU?

24 A. YES, I AM.

25 Q. AND IN YOUR FRIENDSHIP, YOU'VE TRIED TO HELP HIM

1 WITH THOSE PROBLEMS AS TERRY'S SON, HAVEN'T YOU?

2 A. CHIP WAS AWAY AT SCHOOL WHEN MOST OF HIS
3 PROBLEMS STARTED MANIFESTING, AND I HAVEN'T SEEN
4 HIM.

5 Q. SO, YOU JUST HAVEN'T CONTACTED HIM?

6 A. NO.

7 Q. GEORGE AND LINDA HOOK WERE GOOD FRIENDS OF EARL
8 AND TERRY; IS THAT CORRECT, MA'AM?

9 A. THEY WERE FRIENDS.

10 Q. AND MAC MCLAUGHLIN AND HIS WIFE WERE GOOD
11 FRIENDS; ISN'T THAT CORRECT?

12 A. YES, BUT THEY ARE FROM ROCK HILL AND I HAVE NOT
13 DONE MUCH WITH THEM.

14 Q. BUT THEY WERE GOOD FRIENDS OF TERRY AND EARL; IS
15 THAT CORRECT?

16 A. I THINK THEY WERE FRIENDS; I DON'T KNOW HOW GOOD
17 A FRIENDS THEY WERE.

18 Q. AND YOU'RE NOT TELLING THIS JURY BY YOUR
19 TESTIMONY THAT YOU KNEW EVERYTHING ABOUT THE
20 LIFE OF TERRY AND EARL ROBERTSON, ARE YOU?

21 A. NO.

22 Q. AND YOU'RE NOT TELLING THIS JURY THAT YOU KNOW
23 EVERYTHING ABOUT THE LIFE OF JIMMY AND CHIP
24 ROBERTSON IN THAT HOME, ARE YOU, MA'AM?

25 A. NO, I'M NOT.

1 Q. YOU'RE TELLING THIS JURY WHAT YOU KNOW ON THE
2 SURFACE AND WHAT YOU SAW?

3 A. CORRECT.

4 Q. YOU'RE NOT TELLING THIS JURY THAT THERE COULD
5 NOT HAVE BEEN DEEP SEATED MARITAL PROBLEMS AND
6 FAMILY PROBLEMS, ARE YOU?

7 A. NO.

8 Q. I HAVE NO FURTHER QUESTIONS.

9 THE COURT: REDIRECT?

10 REDIRECT EXAMINATION BY

11 MR. POPE:

12 Q. CISSY, HOW MANY TIMES IN YOUR LIFE HAVE YOU BEEN
13 TO THEIR HOMES, THEIR VARIOUS HOMES?

14 A. I WOULDN'T EVEN KNOW HOW TO COUNT. I WENT TO
15 CALIFORNIA ONCE FOR A WEEK. AND I WAS IN EAST
16 GRAND RAPIDS FOR ABOUT A WEEK. AND THEN, GOSH,
17 IN FORT MILL IF IT WASN'T DAILY, IT WAS SEVERAL
18 TIMES A WEEK. AND THEN ROCK HILL, NOT AS OFTEN
19 BECAUSE IT WAS FURTHER AWAY AND OUR LIVES HAD
20 TAKEN DIFFERENT PATHS BECAUSE OF OUR CHILDREN.

21 Q. WHEN YOU WERE INTERACTING WITH THEM AS A FAMILY,
22 DID YOU SEE PROBLEMS THEN?

23 A. NO, I DIDN'T.

24 Q. MR. HANCOCK HAD ASKED YOU ABOUT DID TERRY SAY
25 ANYTHING ABOUT PROBLEMS WITH EARL AND PROBLEMS

1 WITH, I THINK IT WAS MONEY, OR PROBLEMS WITH
2 THINGS. DID SHE SAY ANYTHING TO YOU ABOUT
3 PROBLEMS WITH THE BOYS?

4 A. YES.

5 Q. AND DID THOSE PROBLEMS COINCIDE WITH HER
6 PROBLEMS EMOTIONALLY AND MENTALLY STARTING?

7 A. THAT'S WHAT I OBSERVED.

8 Q. THANK YOU, MA'AM.

9 THE COURT: RECROSS?

10 RECROSS EXAMINATION BY

11 MR. HANCOCK:

12 Q. DID SHE SAY ANYTHING TO YOU ABOUT, AND AGAIN I
13 BELIEVE I'VE ASKED THIS QUESTION, IF IT IS
14 REPETITIVE, BUT DID SHE SAY ANYTHING TO YOU
15 ABOUT OR DID YOU EVER SEE OR EXPERIENCE MR.
16 ROBERTSON'S ANGER?

17 A. NO.

18 Q. DID YOU EVER KNOW ANYTHING ABOUT ANY
19 EXTRAMARITAL AFFAIRS OR ANYTHING THAT MIGHT HAVE
20 TAKEN PLACE?

21 A. NO.

22 Q. THANK YOU, MA'AM; I HAVE NO FURTHER QUESTIONS.

23 THE COURT: YOU MAY STEP DOWN AND BE EXCUSED. WE
24 APPRECIATE YOUR TIME.

25 MEMBERS OF THE JURY PANEL, IT'S 1:00 O'CLOCK;

1 WE'LL BREAK FOR LUNCH AT THIS TIME.

2 IN CAMERA:

3 THE COURT: ANYTHING FROM THE STATE BEFORE WE
4 BREAK FOR LUNCH?

5 MR. POPE: NO, SIR, YOUR HONOR.

6 THE COURT: FROM THE DEFENSE?

7 MR. HANCOCK: NOTHING, YOUR HONOR.

8 THE COURT: WHAT DO WE HAVE FOR THE AFTERNOON?

9 MR. POPE: YOUR HONOR, THE STATE HAS GOT THREE
10 MORE WITNESSES AND I THINK THAT WILL BE IT.

11 THE COURT: WILL THE DEFENSE BE READY TO GO
12 FORWARD AFTER THAT?

13 MR. HANCOCK: YES, YOUR HONOR, WE'LL START
14 PUTTING TOGETHER OUR WITNESSES. WE'VE GOT, I KNOW AN
15 EXPERT THAT'S NOT LEAVING COLUMBIA UNTIL 3:45. POSSIBLY
16 WE'VE GOT A WITNESS THAT CAN TAKE MUCH OF THE REST OF THE
17 AFTERNOON, SIR.

18 MR. POPE: I HAD MENTIONED TO THE CLERK, TOO,
19 THAT AFTER THE TESTIMONY OF BRETT BAKER FROM SLED, I'D ASK
20 FOR JUST A BRIEF BREAK IN ORDER TO GET THE T.V. SET UP WITH
21 THE VIDEO.

22 MR. HANCOCK: WE WOULD ASK AFTER THE STATE CLOSES
23 FOR A RATHER EXTENDED BREAK TO MAKE SURE THAT WE'VE GOT
24 EVERYBODY HERE, THEY ARE READY TO GO AND THEY ARE PROPERLY
25 -- AND IN LIGHT OF THE TORRENCE TESTIMONY, JUST AS THE

1 SOLICITOR HAS SAID, THAT WE DON'T BROACH SUBJECTS THAT
2 SHOULD NOT BE BROACHED ON THEIR TESTIMONY.

3 THE COURT: WE'LL CERTAINLY TAKE THOSE BREAKS AS
4 NECESSARY. I KNOW THAT EVERYBODY IS WORKING REAL HARD, BUT
5 WE'VE GOT TO UTILIZE WHATEVER TIME WE HAVE NOW TO ---

6 MR. POPE: WE'LL ONLY BE ASKING FOR FIVE MINUTES,
7 YOUR HONOR.

8 THE COURT: ALL RIGHT, THANK YOU. WE'LL BE AT
9 EASE UNTIL 2:00 O'CLOCK.

10 AFTER THE LUNCHEON RECESS IN CAMERA:

11 THE COURT: IS THE STATE READY?

12 MR. POPE: THE STATE'S READY, YOUR HONOR.

13 THE COURT: THE DEFENSE?

14 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

15 THE COURT: BRING IN THE JURY.

16 IN THE PRESENCE OF THE JURY:

17 THE COURT: MR. POPE OR MR. BRACKETT?

18 MR. BRACKETT: MAY IT PLEASE THE COURT, YOUR
19 HONOR, THE STATE WOULD CALL MARGIE JORDAN.

20 MARGIE JORDAN, BEING FIRST DULY SWORN, TESTIFIED
21 AS FOLLOWS:

22 DIRECT EXAMINATION BY

23 MR. BRACKETT:

24 Q. MA'AM, WOULD YOU STATE YOUR FULL NAME?

25 A. I'M SORRY?

1 Q. STATE YOUR FULL NAME AGAIN.

2 A. MARGIE JORDAN.

3 Q. OKAY, AND YOU TESTIFIED EARLIER IN THIS TRIAL;
4 IS THAT RIGHT?

5 A. YES, SIR.

6 Q. TELL THE JURY, AGAIN, JUST REMIND THEM WHO YOU
7 ARE AND HOW YOU KNOW EARL AND TERRY.

8 A. I WORKED FOR EARL FROM 1983 UNTIL 1994 AND I
9 WENT TO WORK FOR HIM AGAIN IN 1996 AS HIS
10 SECRETARY AT THAT TIME.

11 Q. HOW CLOSELY DID YOU WORK WITH HIM?

12 A. I WORKED WITH HIM EVERY DAY ALL DAY LONG.

13 Q. CAN YOU TELL THE JURY, WHAT KIND OF FELLOW WAS
14 HE? NOT HOW WELL DID HE WORK; WHAT KIND OF
15 THINGS DID HE DO FOR SPRINGS AND HOW GOOD A JOB
16 DID HE DO?

17 A. MR. ROBERTSON WAS A VERY PROFESSIONAL MAN. HE
18 WAS A BRILLIANT MAN. HE HAD THE CAPACITY OF
19 LOOKING DOWN THE ROAD AT THINGS HE WAS WORKING
20 ON. HE NOT ONLY SAW WHAT WAS HAPPENING RIGHT
21 NOW, BUT HE LOOKED DOWN THE ROAD AT WHAT COULD
22 HAPPEN LATER ON PROJECTS.

23 AND HIS OPINION WAS VALUED HIGHLY AT SPRINGS.

24 HIS OPINION WAS SOUGHT HIGHLY AT SPRINGS. HE WAS
25 RESPECTED, AND I THINK HE RESPECTED OTHER

1 PEOPLE.

2 Q. OKAY. I'LL SHOW YOU WHAT'S BEEN MARKED AS
3 STATE'S 271 AND ASK IF YOU CAN TELL US WHO THAT
4 FELLOW IS?

5 A. THAT'S EARL ROBERTSON. THIS PICTURE THAT YOU
6 HANDED ME, THIS PICTURE OF EARL, ONE OF THE LAST
7 PROJECTS HE WAS WORKING ON WAS THE DISTRIBUTION,
8 THE NEW DISTRIBUTION WAREHOUSE THAT SPRINGS IS
9 BUILDING; IT'S ABOUT A TWENTY-SIX MILLION DOLLAR
10 WAREHOUSE AND EARL WAS HELPING ON THIS PROJECT.
11 THIS PICTURE OF EARL IS GOING TO BE PLACED ON A
12 WALL OF FAME IN HONOR OF HIM AT SPRINGS.

13 Q. YOU TOLD US WHAT KIND OF WORKER HE WAS; CAN YOU
14 TELL US WHAT KIND OF MAN HE WAS?

15 A. HE WAS A GREAT FRIEND TO ME. WE HAD A GREAT
16 WORKING RELATIONSHIP. HE WAS ALWAYS VERY
17 RESPECTFUL OF ME. EARL, IN MY OPINION HE WAS A
18 TRUE SOUTHERN GENTLEMAN; HE'S THE KIND OF MAN,
19 HE ALWAYS TOOK ME OUT ON MY BIRTHDAY AND ON
20 SECRETARY'S DAY FOR LUNCH. AND ANY TIME WE'D GO
21 OUT LIKE THAT, HE WAS THE KIND OF MAN, HE ALWAYS
22 OPENED THE CAR DOOR FOR YOU OR HE'D PULL OUT
23 YOUR CHAIR AT THE RESTAURANT. HE WAS JUST A
24 REAL CLASS ACT.

25 Q. THIS MAN RIGHT HERE?

1 A. YES, SIR.

2 MR. BRACKETT: YOUR HONOR, I WOULD MOVE STATE'S
3 EXHIBIT 271 FOR IDENTIFICATION INTO EVIDENCE.

4 MR. BOYD: I OBJECT ON RELEVANCE AS PREVIOUSLY
5 STATED, YOUR HONOR.

6 THE COURT: OVERRULED. IT WILL BE ADMITTED INTO
7 EVIDENCE OVER OBJECTION.

8 (THE PHOTOGRAPH OF EARL WAS MARKED IN EVIDENCE AS STATE'S
9 EXHIBIT 271 OVER OBJECTION.)

10 Q. WHEN DID YOU START WORKING -- WHAT YEAR DID YOU
11 START WORKING FOR EARL?

12 A. I STARTED WORKING FOR HIM IN 1983.

13 Q. AND HOW LONG DID YOU WORK FOR HIM AS HIS
14 SECRETARY?

15 A. THE FIRST TIME IT WAS UP UNTIL 1994.

16 Q. OKAY, AND DID YOU GUYS SHARE ANY INTERESTS, DID
17 YOU HAVE ANYTHING IN COMMON?

18 A. WELL, OUR FAMILIES; WE HAD A LOT IN COMMON WITH
19 OUR FAMILIES. I'VE GOT TWO BOYS AND HE HAD TWO
20 BOYS AND USUALLY OUR DAY WOULD START OFF
21 DISCUSSING, YOU KNOW, WHAT WE DID THE NIGHT
22 BEFORE AND HOW EVERYBODY WAS DOING, JUST THINGS
23 IN GENERAL, AND THEN HOW THE DAY WAS SUPPOSED TO
24 GO, YOU KNOW.

25 Q. HOW ABOUT HIS SENSE OF HUMOR, DID HE HAVE ONE?

1 A. OH, YEAH, HE HAD A GREAT SENSE OF HUMOR. HE'D
2 PICK AT YOU SOMETIMES ABOUT DIFFERENT THINGS.
3 ONE DAY HE HAD A FOLLOW-UP FILE THAT HE KEPT AND
4 HE PUT STUFF IN HIS OUT-BOX FOR ME TO PUT IN THE
5 FOLLOW-UP FILE AND ONE DAY, I GUESS BY MISTAKE,
6 HE WROTE THE SAME DAY AS A FOLLOW-UP DAY OR A
7 DAY BEFORE OR SOMETHING AND NATURALLY I PICKED
8 RIGHT UP ON IT AND CARRIED IT RIGHT BACK IN HIS
9 OFFICE AND I PUT IT ON HIS DESK AND I SAID, I'M
10 SORRY THIS TOOK SO LONG. HE KIND OF LOOKED AT
11 IT AND HE WROTE THREE LETTERS ON IT, S.A.S., I
12 PICKED IT UP AND I SAID WHAT'S S.A.S. AND HE
13 SAID SMART ASS SECRETARY.

14 AND ANOTHER TIME SPRINGS HAS AN ART EXHIBIT OR
15 USED TO HAVE A TRAVELING ART SHOW AND WE WOULD
16 HAVE PICTURES AT THE CUSTOMER SERVICE CENTER,
17 THAT'S WHERE WE WORKED, OF DIFFERENT THINGS THAT
18 WERE IN THE ART SHOW. AND THERE WAS THIS ONE
19 PICTURE THAT EVERYBODY HATED, IT WAS A LADY ON A
20 COUCH AND IT WAS A HUGE PICTURE. AND FINALLY
21 ONE DAY THE PICTURE DISAPPEARED AND WE DIDN'T
22 HAVE TO LOOK AT IT ANYMORE. AND A WHILE LATER,
23 THIS PICTURE REAPPEARED IN THE CAFETERIA ONE DAY
24 AND EVERYBODY WAS SO UPSET THAT THE PICTURE WAS
25 BACK.

1 A LITTLE WHILE LATER, I SAW EARL AND OUR
2 DIVISION PRESIDENT COMING UP THE STAIRS WITH
3 THIS HUGE PICTURE AND THEY TOOK IT AND HUNG IT
4 IN THE BUILDING MANAGER'S OFFICE WHO WAS
5 RESPONSIBLE FOR HAVING IT PUT IN THE CAFETERIA.
6 SO, HE REALLY HAD A GREAT SENSE OF HUMOR.

7 Q. ASIDE FROM YOU, HOW DID HE DEAL WITH PEOPLE THAT
8 WORKED FOR HIM?

9 A. HIS ASSOCIATES, HE REALLY CARED ABOUT HIS
10 ASSOCIATES. ONE OF THE THINGS THAT HE ALWAYS
11 ASKED ME TO DO WAS TO LET HIM KNOW IF ANYBODY
12 HAD A SICK CHILD OR IF THEY HAD BEEN OUT SICK OR
13 DEATHS IN THE FAMILY OR DIFFERENT THINGS LIKE
14 THAT BECAUSE HE ALWAYS -- YOU KNOW, HE WANTED TO
15 KNOW SO THAT HE COULD GO BY AND ASK THEM HOW
16 THEY WERE DOING.

17 AND ANY HAPPY OCCASION, TOO, YOU KNOW, HE WANTED
18 TO KNOW WHAT WAS GOING ON WITH HIS ASSOCIATES.
19 HE HAD MAYBE 30 TO 35 PEOPLE WORKING FOR HIM AT
20 THAT TIME IN OUR OFFICE AND HE HAD AN OPEN DOOR
21 POLICY. IT WASN'T LIKE YOU'VE GOT TO HAVE AN
22 APPOINTMENT TO SEE ME. IT WAS LIKE, YOU KNOW,
23 MY DOOR IS OPEN, IF YOU HAVE A PROBLEM, YOU COME
24 IN AND WE'LL DISCUSS IT.

25 Q. WAS HE GENUINE?

1 A. ABSOLUTELY. WHAT YOU SAY -- I MEAN IF HE WAS
2 TALKING WITH ME OR IF HE WAS TALKING TO ME OR IF HE
3 WAS TALKING TO A DIVISION PRESIDENT, HE WAS EARL. HE
4 WASN'T ONE WAY ONE TIME AND ANOTHER WAY ANOTHER. HE WAS
5 ALWAYS THE SAME PERSON.

6 Q. NOW YOU TESTIFIED THAT YOU WERE HIS SECRETARY
7 UNTIL 1994?

8 A. YES, SIR.

9 Q. DID YOU HAVE ANY DEALINGS WITH HIM AFTER 1994?

10 A. YES, SIR. RIGHT BEFORE CHRISTMAS, I GUESS IT
11 WAS '95, HE WAS UP AT INDIANLAND, I WAS WORKING
12 UP THERE AT THE TIME AND HE WAS UP THERE ON THE
13 WAREHOUSE PROJECT; HE WAS DOING SOME WORK UP
14 THERE WITH A GROUP. AND HE CAME THROUGH AND HE
15 SAID "I'VE GOT A SECRETARY'S JOB OPEN, ARE YOU
16 INTERESTED". AND ACTUALLY THE JOB THAT I WAS ON
17 AT THAT TIME WAS A HIGHER GRADE JOB THAN THE ONE
18 THAT HE WAS GOING TO HAVE OFFERED AND I SAID,
19 NO, I GUESS I'LL HANG IN HERE. AND OVER THE
20 CHRISTMAS HOLIDAYS I THOUGHT ABOUT THE DRIVE I
21 WAS HAVING TO MAKE EVERY DAY AND MY FAMILY
22 REALLY HATED FOR ME TO MAKE THAT DRIVE. I WAS
23 DRIVING ALL TOTAL ABOUT AN HOUR AND TEN MINUTES
24 A DAY. WHEREAS, WHERE I'D BE WORKING FOR EARL,
25 IT'S ONLY FIVE MINUTES FROM MY HOUSE. AND I

1 TALKED IT OVER WITH MY HUSBAND AND MY BOYS AND,
2 YOU KNOW, THEY AGREED I HAD SUCH A GREAT WORKING
3 RELATIONSHIP WITH HIM BEFORE.

4 WHEN I GOT BACK FROM THE CHRISTMAS HOLIDAYS I
5 CALLED EARL AND ASKED HIM WAS THAT POSITION
6 STILL OPEN AND HE SAID "YEAH", AND I SAID WELL
7 CAN I SEND YOU MY RESUME. AND HE SAID "FAX IT
8 TO ME".

9 SO, SEVERAL DAYS LATER I WENT FOR AN INTERVIEW
10 AND GOT THE JOB.

11 Q. AND APPROXIMATELY WHEN WAS THAT?

12 A. I THINK IT WAS IN JANUARY OF 1996.

13 Q. YOU STARTED BEING HIS SECRETARY AGAIN?

14 A. IT WAS PROBABLY IN MARCH; I HAD TO WAIT A FEW
15 WEEKS BEFORE I COULD I GO TO THE NEW JOB.

16 Q. HOW WAS EARL WHEN YOU STARTED BACK TO WORK FOR
17 HIM; WAS HE THE SAME OLD EARL YOU KNEW FROM TWO
18 OR THREE YEARS BEFORE?

19 A. WELL, NO, SIR. HE WASN'T QUITE THE SAME PERSON
20 THAT I KNEW BEFORE. HE WASN'T QUITE AS
21 OUTGOING. I MEAN, HE'D TEND TO -- I MEAN HE WAS
22 FRIENDLY AND NICE TO ME, BUT HE KIND OF STAYED
23 IN HIS OFFICE A LOT, YOU KNOW, KIND OF LIKE HE
24 WAS JUST RETREATING TO HIS OFFICE, YOU KNOW.
25 HE JUST DIDN'T HAVE AS MUCH SPUNK AND KID ABOUT

1 HIM AS HE USED TO HAVE.

2 Q. HOW ABOUT HOW HE TREATED PEOPLE, HAD THAT
3 CHANGED?

4 A. OH, NO, SIR.

5 MR. HANCOCK: YOUR HONOR, I HAVE A COUPLE OF
6 OBJECTIONS. ONE IS LEADING.

7 THE COURT: DON'T LEAD.

8 MR. HANCOCK: JUST DOWN THE PRIMROSE PATH. TWO
9 IS, I KNOW WE'VE GOT THINGS IN EVIDENCE AND THE JURY CAN
10 VIEW THEM, BUT I DON'T THINK IT'S NECESSARY TO LEAVE THEM
11 IN EVIDENCE AND LEAVE HIS PHOTOGRAPH UP HERE THE ENTIRE
12 TIME THIS LADY IS TESTIFYING.

13 THE COURT: ARE YOU OBJECTING?

14 MR. HANCOCK: YES, SIR.

15 THE COURT: I OVERRULE THE OBJECTION. GO AHEAD.

16 Q. MARGIE, THE JURY HAS ALREADY HEARD YOUR
17 TESTIMONY ABOUT THE DAY THEY DIED, SO WOULD YOU
18 TELL THEM HOW YOU FOUND OUT ABOUT EARL AND
19 TERRY, ABOUT THEIR DEATH?

20 A. WE GOT A CALL BACK FROM, I GUESS THE SHERIFF'S
21 DEPARTMENT. I THINK THEY CALLED MILLER DEATON,
22 I'M NOT SURE WHO GOT THE CALL, BUT THEY CALLED
23 ME IN AND TOLD ME WHAT HAD HAPPENED.

24 Q. NOW, MILLER DEATON, WHO IS THAT?

25 A. MILLER DEATON WAS EARL'S BOSS.

1 Q. MARGIE, I WANT YOU TO TELL THIS JURY IN YOUR OWN
2 WORDS HOW HAS EARL'S DEATH AFFECTED YOU?

3 A. WELL, LIKE I SAID, I WAS A CLOSE FRIEND OF MR.
4 ROBERTSON FOR A LONG TIME. AND HE WAS A GREAT
5 GUY; HE WAS GREAT TO WORK WITH AND HE WAS A
6 GREAT GUY AS A FRIEND. ONE OF THE HARDEST THINGS
7 I HAD TO DO WAS TO CLEAN OUT HIS OFFICE.

8 WHEN I FIRST WENT TO WORK FOR HIM, I FUSSED AT
9 HIM BECAUSE HE DIDN'T HAVE ANY PICTURES ON THE
10 WALL. I KEPT ON AND KEPT ON AND FINALLY ONE DAY
11 HE CAME IN WITH A PICTURE AND I DIDN'T SEE IT
12 WHEN HE WENT BY ME. THEN HE CALLED ME IN THERE
13 AND HE SAID "I'VE GOT A PICTURE" AND HE TURNED
14 IT AROUND AND IT WAS A PICTURE OF A SHIP. AND I
15 SAID, EARL, THIS LOOKS LIKE IT OUGHT TO BE IN A
16 FISH CAMP, YOU KNOW, INSTEAD OF IN YOUR OFFICE.
17 AND HE LAUGHED, BUT HE LIKED THE PICTURE AND WE
18 PUT IT UP ON THE WALL.

19 AND OVER THE YEARS THAT I WORKED FOR HIM, WE
20 MOVED OUR OFFICES ABOUT FOUR TIMES AND NATURALLY
21 THAT SHIP WENT WITH US EVERY TIME AND I'D PUT IT
22 UP EVERY TIME BECAUSE HE LIKED IT.

23 WHEN WE CLEANED OUT THE OFFICE AND PACKED HIS
24 STUFF UP, I JUST COULDN'T TAKE THAT SHIP OFF
25 THAT WALL. ONE OF THE OTHER MANAGERS IN THE

1 BUILDING TOOK IT DOWN. I JUST COULDN'T TAKE IT
2 DOWN THAT LAST TIME BECAUSE I KNEW I WOULDN'T
3 PUT IT UP AGAIN.

4 AND THEY KEPT ASKING ME TO GO IN A CHANGE THE
5 MESSAGE ON HIS VOICE MAIL WHERE HE WAS TALKING
6 ON THE PHONE AND TO PUT A CERTAIN MESSAGE ON
7 THERE. AND I JUST WOULDN'T DO IT FOR DAYS. AND
8 THEY ASKED ME, YOU KNOW, DO YOU WANT SOMEBODY
9 ELSE TO DO IT. AND I SAID, NO, I'LL DO IT. BUT
10 IT WAS HARD TAKING HIS VOICE OFF THAT PHONE.

11 AND EVERY DAY OR JUST ABOUT EVERY DAY I GET
12 MAIL, YOU KNOW, ONCE YOU'RE ON THE MAILING LIST,
13 YOU'RE THERE FOREVER. AND I'VE TRIED TO SEND
14 SOME THINGS BACK AND TELL THEM THAT MR.
15 ROBERTSON IS DECEASED. BUT I STILL GET MAIL
16 EVERY DAY WITH HIS NAME ON IT.

17 IT'S FILES THAT I SEE EVERY DAY THAT HAS HIS
18 HANDWRITING ON IT.

19 ONE THING HE USED TO KID ME ABOUT WAS HE ALWAYS
20 KIND OF RELISHED THE FACT THAT I WAS A COUPLE OF
21 YEARS OLDER THAN HIM AND HE WOULD TELL ME --
22 HE'D TAKE ME OUT ON MY BIRTHDAY AND HE'D SAY, "I
23 DON'T KNOW WHETHER I WANT TO BE SEEN IN PUBLIC
24 WITH AN OLD WOMAN LIKE YOU". AND I WAS LOOKING
25 FORWARD TO HIS 50TH BIRTHDAY SO THAT I COULD GET

1 EVEN WITH HIM, BUT THAT NEVER HAPPENED.

2 Q. THANK YOU, MARGIE.. PLEASE ANSWER ANY QUESTIONS
3 DEFENSE COUNSEL MAY HAVE FOR YOU.

4 CROSS EXAMINATION BY

5 MR. BOYD:

6 Q. MRS. JORDAN, I BELIEVE YOU TESTIFIED EARLIER
7 CONCERNING THE WORKING HOURS AND I JUST WANTED
8 TO ASK YOU ABOUT THAT AGAIN. I BELIEVE YOU SAID
9 YOU CAME IN ABOUT 8:00 O'CLOCK; IS THAT CORRECT?

10 A. YES, SIR.

11 Q. AND MR. ROBERTSON WAS ALWAYS THERE AT THAT TIME?

12 A. YES, SIR, HE WAS USUALLY THERE.

13 Q. AND YOU USUALLY LEFT A LITTLE AFTER 5:00
14 O'CLOCK; IS THAT CORRECT?

15 A. YES, SIR.

16 Q. AND HE WAS USUALLY THERE AFTER YOU LEFT; IS THAT
17 CORRECT?

18 A. YES, SIR.

19 Q. AND AS FAR AS YOUR FRIENDSHIP WITH MR.
20 ROBERTSON, DID YOU SOCIALIZE WITH HE AND HIS
21 WIFE?

22 A. NO, SIR, NOT SOCIALIZE. I TALKED WITH TERRY ON
23 THE PHONE PROBABLY DAILY THOUGH.

24 Q. WHEN SHE WOULD CALL UP TO THE OFFICE?

25 A. YES, SIR.

1 Q. BUT AS FAR AS -- Y'ALL DIDN'T GO OUT TO DINNER
2 TOGETHER OR THINGS LIKE THAT?

3 A. NO, SIR. HE WOULD LIKE MAYBE TAKE ME OUT TO
4 LUNCH ON MY BIRTHDAY OR SOMETIMES, WE HAD A
5 CAFETERIA WHERE WE WORKED, HE WOULD SIT DOWN
6 WITH US AT LUNCH.

7 Q. BUT MY QUESTION IS, YOU DIDN'T SOCIALIZE TO THE
8 EXTENT THAT YOU AND YOUR FAMILY WOULD GO OUT
9 WITH HE OR HIS FAMILY OR ANYTHING OF THAT
10 NATURE?

11 A. NO, SIR.

12 Q. AS FAR AS HIM VISITING YOU IN YOUR HOME, DID HE
13 VISIT YOU IN YOUR HOME AT ANY TIME?

14 A. NO, SIR.

15 Q. DID HE EVER COME TO YOUR HOME?

16 A. I CAN'T RECALL IF HE'S EVER BEEN TO MY HOUSE.

17 Q. AND DID YOU EVER VISIT WITH HIM AT HIS HOUSE?

18 A. NO, SIR.

19 Q. SO, AS FAR AS OUTSIDE THE WORK ENVIRONMENT, YOU
20 REALLY DIDN'T KNOW HIM AS FAR AS SOCIALIZING
21 WITH HIM OR ANYTHING OF THAT NATURE?

22 A. NOT AS FAR AS SOCIALIZING; NO, SIR.

23 Q. AND YOU NEVER VISITED HIM IN HIS HOME OR
24 ANYTHING OF THAT NATURE; IS THAT CORRECT?

25 A. NO, SIR.

1 Q. THANK YOU; THAT'S ALL I HAVE.

2 MR. BRACKETT: NOTHING FURTHER.

3 THE COURT: ALL RIGHT. YOU MAY STEP DOWN. THANK
4 YOU.

5 MR. POPE: THE STATE WOULD CALL LINDA WEAVER,
6 YOUR HONOR.

7 LINDA WEAVER, BEING FIRST DULY SWORN, TESTIFIED
8 AS FOLLOWS:

9 DIRECT EXAMINATION BY

10 MR. POPE:

11 Q. MS. WEAVER, IF YOU COULD, STATE YOUR NAME AND
12 SPELL YOUR LAST NAME FOR THE COURT REPORTER,
13 PLEASE.

14 A. LINDA WEAVER, W-E-A-V-E-R.

15 Q. AND MS. WEAVER, COULD YOU TELL THE JURY, REMIND
16 THEM AGAIN HOW YOU KNEW TERRY AND EARL?

17 A. EARL CAME FOR AN INTERVIEW TO SPRINGS IN ABOUT
18 1970 AND I MET HER THAT PARTICULAR WEEKEND
19 BEFORE THEY WERE MARRIED.

20 Q. WHEN YOU SAY CAME TO SPRINGS, WHAT RELATIONSHIP
21 DO YOU HAVE WITH SPRINGS?

22 A. MY HUSBAND WORKS FOR SPRINGS.

23 Q. WHEN YOU FIRST MET THEM AND SPENT THE WEEKEND
24 TOGETHER, WHEN WAS THAT?

25 A. ABOUT 1978, MAY OR JUNE, SOMETHING LIKE THAT.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

)
) IN COURT OF GENERAL SESSIONS
)

THE STATE,

PLAINTIFF,

VS.

JAMES DEJARNETTE
ROBERTSON,

DEFENDANT.

) INDICTMENT NOS. 98-GS-46-1020
) 1021, 1022, 1023
)

) TRANSCRIPT OF TRIAL AND
) PRE-TRIAL MOTIONS (7-17-98,
) 9-22-98, 9-25-98, 11-2-98,
) AND 12-4-98)
) MARCH 15, 1999
) YORK, SOUTH CAROLINA

VOLUME X

1 Q. WHAT WERE THE CIRCUMSTANCES THAT Y'ALL SPENT THE
2 WEEKEND TOGETHER?

3 A. WELL, WE LOOKED FOR AN APARTMENT; THEY NEEDED A
4 PLACE TO LIVE. EARL HAD TAKEN A JOB -- HE WAS
5 INTERVIEWING FOR A JOB, BUT HE KNEW HE WAS GOING
6 TO TAKE IT. AND WE LOOKED FOR APARTMENTS; WE
7 WENT ALL OVER ROCK HILL AND FORT MILL AND THEY
8 ENDED UP MOVING INTO THE SAME APARTMENT COMPLEX
9 WE LIVED IN.

10 Q. FROM THAT DAY FORWARD, HOW DID YOUR FRIENDSHIP
11 DEVELOP WITH TERRY AND EARL; DID IT CONTINUE TO
12 DEVELOP?

13 A. YES, SIR.

14 Q. AND HOW MANY YEARS HAD YOU KNOWN TERRY AND EARL
15 -- DID YOU KNOW THEM UP THROUGH THEIR DEATH?

16 A. YES, 27.

17 Q. I'LL SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT
18 269, 275, 272, 274 AND 273 AND ASK IF THOSE
19 REPRESENT TERRY AND EARL IN VARIOUS STAGES OF
20 THEIR LIFE AS YOU KNEW THEM?

21 A. YES, SIR.

22 Q. AND YOU'VE HAD AN OPPORTUNITY TO LOOK AT THESE
23 PREVIOUSLY?

24 A. YES, SIR.

25 MR. POPE: YOUR HONOR, I MOVE STATE'S EXHIBITS

1 269, 275, 272, 274 AND 273 INTO EVIDENCE.

2 Q. WHILE THEY LOOK AT THOSE, YOUR HONOR, I'M GOING
3 TO SHOW HER WHAT'S ALREADY IN EVIDENCE AS
4 EXHIBIT 276.

5 THE COURT: LET'S WAIT.

6 (AFTER A PAUSE.)

7 MR. HANCOCK: YOUR HONOR, WE'RE GOING TO OBJECT
8 TO THE INTRODUCTION OF SEVERAL OF THESE PHOTOGRAPHS.

9 THE COURT: WHICH ONES DO YOU OBJECT TO?

10 MR. HANCOCK: WE WOULD OBJECT TO THEM ALL ON
11 GENERAL GROUNDS AND THEN WE OBJECT TO 269, 272 AND 274.

12 THE COURT: HAND THEM ALL TO ME WITH THE ONES YOU
13 HAVE SPECIFIC OBJECTION TO ON THE TOP.

14 (THE PHOTOGRAPHS WERE GIVEN TO THE COURT)

15 THE COURT: WHAT IS YOUR SPECIFIC OBJECTION TO
16 THESE THREE? DO YOU WANT THE JURY OUT?

17 MR. HANCOCK: YES, SIR.

18 THE COURT: I'M GOING TO LET THE JURY GO TO THE
19 JURY ROOM.

20 IN CAMERA:

21 THE COURT: LET'S DO IT LIKE THIS. 275 IS ONE OF
22 THE GRADUATION OF, I GUESS THE YOUNGER BROTHER WITH ALL
23 FOUR FAMILY MEMBERS. DO YOU OBJECT TO THAT ONE?

24 MR. HANCOCK: YOUR HONOR, WE JUST OBJECT TO THAT
25 ONE ON GENERAL GROUNDS THAT HAVE ALREADY BEEN RULED UPON.

1 THE COURT: I OVERRULE THE OBJECTION ON THAT ONE.

2 THE NEXT ONE IS A PICTURE OF A LADY WHOM I PRESUME TO BE
3 MRS. ROBERTSON IN MOUNT WASHINGTON STATE PARK. DO YOU
4 OBJECT TO THAT ONE?

5 MR. HANCOCK: NO, SIR. WELL, ON GENERAL GROUNDS,
6 NOT SPECIFIC GROUNDS. ON THE SAME GENERAL GROUNDS WE'VE
7 OBJECTED BEFORE, WE DO OBJECT.

8 THE COURT: THAT BEING WHAT?

9 MR. HANCOCK: ON RELEVANCE, YOUR HONOR.

10 THE COURT: WHAT ABOUT 269, A PICTURE OF MR.
11 ROBERTSON?

12 MR. HANCOCK: YOUR HONOR, I'M GOING TO LET YOU
13 RULE ON THAT. I THINK WE'RE GOING FAR AFIELD. I THINK WE
14 SHOULD AT LEAST HAVE SOMETHING THAT DEPICTS -- IF WE'RE
15 GOING TO TALK ABOUT IMPACT ON VICTIMS AND THIS SORT OF
16 THING, THAT'S A 30 YEAR OLD PICTURE. IT DOESN'T EVEN
17 RELATE TO WHAT HE LOOKED LIKE OR WHAT HE WAS WHEN ALL THIS
18 TOOK PLACE.

19 THE COURT: WHAT ABOUT 272, THE GOLFERS?

20 MR. HANCOCK: THERE MAY BE SOME INFLUENCE ON THE
21 JURY. I KNOW THAT THERE ARE THREE PEOPLE ON THERE THAT I
22 KNOW. I DON'T KNOW WHAT EFFECT THAT MIGHT HAVE, YOUR
23 HONOR, IT MIGHT INFLUENCE THEM IN SOME MANNER.

24 THE COURT: AND THE SITTING ON THE SOFA, MRS.
25 ROBERTSON SITTING ON A SOFA?

1 MR. HANCOCK: AGAIN, THAT'S THE GENERAL GROUNDS
2 OF RELEVANCE, YOUR HONOR.

3 THE COURT: I'M GOING TO ALLOW 275, THE ONE OF
4 THE FAMILY AT GRADUATION IN, AND I'LL SUSTAIN THE OBJECTION
5 AS TO THE OTHER FOUR.

6 MR. POPE: YOUR HONOR, COULD I BE HEARD ON THAT?

7 THE COURT: SURE, GO AHEAD.

8 MR. POPE: YOUR HONOR, AS TO 269, THAT'S EXACTLY
9 HOW EARL LOOKED WHEN HE FIRST CAME, WHEN SHE FIRST MET HIM.

10 THE COURT: AND THAT'S PROBABLY THE WAY HE LOOKED
11 IN THAT PHOTOGRAPH THAT'S ALREADY IN EVIDENCE OF THE
12 WEDDING.

13 MR. POPE: YES, SIR, THE REASON I DIDN'T ASK
14 ABOUT THE WEDDING BECAUSE THEN THEY WOULD OBJECT BECAUSE
15 SHE WASN'T AT THE WEDDING.

16 THE COURT: WHAT ELSE?

17 MR. POPE: AS TO THIS ONE, THIS IS HOW TERRY
18 LOOKED RIGHT PRIOR TO HER DEATH. IS THAT NOT ADMISSIBLE?

19 THE COURT: WELL, IF YOU WOULD LAY THAT
20 FOUNDATION, YES.

21 MR. POPE: IF I COULD BE GIVEN THE OPPORTUNITY TO
22 AT LEAST -- LIKE YOU SAID, WE'VE ALREADY GOT ONE IN LIKE
23 269. IF I COULD BE GIVEN THE OPPORTUNITY TO LAY THE
24 FOUNDATION ON 273 AND 274 TO SHOW THE UNIQUE CHARACTER OF
25 THE VICTIM IN THIS CASE.

1 THE COURT: 275 IS COMING IN OVER OBJECTION, THE
2 OTHER ONES, THERE WILL HAVE TO BE A FOUNDATION LAID. AND
3 AS TO THE TWO THAT YOU SAY DEPICT MRS. ROBERTSON CLOSEST TO
4 THE TIME OF HER DEATH, I'LL LET ONE OF THEM IN IF A PROPER
5 FOUNDATION IS LAID.

6 MR. POPE: YES, SIR. AND, AGAIN, I WANT TO MAKE
7 A DISTINCTION BETWEEN THE TWO. THERE WILL BE TESTIMONY,
8 AND, OF COURSE, YOU'VE HEARD TESTIMONY THAT THERE WAS A
9 CHANGE IN TERRY AND SHE WILL USE THESE TO DESCRIBE, TOO,
10 THE CHANGE BETWEEN THE TERRY SHE FIRST KNEW BEFORE THE
11 PROBLEMS AND THE TERRY AFTER THE PROBLEMS.

12 THE COURT: YOU CAN MAKE A PROFFER ON IT. GET
13 THE FOUNDATION LAID AND THEN MAKE A PROFFER.

14 MR. HANCOCK: YOUR HONOR, I AM GOING TO OBJECT
15 NOW IN THAT HE IS TRYING TO CONNECT TESTIMONY THAT SAYS
16 THAT SHE WAS HAVING MENTAL OR EMOTIONAL PROBLEMS,
17 THEREFORE, THERE WAS A GAIN OF WEIGHT THAT MADE HER LOOK
18 DIFFERENTLY AND I THINK HE BETTER HAVE SOME MEDICAL
19 TESTIMONY THAT BIPOLAR OR MENTAL DISORDER CAUSED HER TO
20 GAIN WEIGHT, IF THAT'S WHERE WE'RE GOING WITH THIS THING.
21 OR THAT HER PROBLEMS CAUSED HER TO GAIN WEIGHT.

22 THE COURT: WHY DON'T YOU LET HER MAKE A PROFFER
23 AND WE'LL SEE IF THAT'S WHAT HE'S GOING TO DO.

24 MR. HANCOCK: WE'LL DO IT, YOUR HONOR.

25 MR. POPE: DO YOU WANT ME TO MAKE THE PROFFER

1 NOW, YOUR HONOR?

2 THE COURT: YES.

3 DIRECT OF MS. WEAVER IN CAMERA:

4 Q. MRS, WEAVER, I'M GOING TO SKIP AHEAD OF YOUR
5 TESTIMONY. AND, YOUR HONOR, AGAIN, I DON'T KNOW
6 HOW TO DO IT OTHER THAN, DO YOU WANT HER TO
7 DESCRIBE THE TERRY SHE KNEW AND THEN THE TERRY,
8 YOU KNOW SHE COULD GO INTO GREAT DETAIL. THIS
9 IS THE TERRY SHE KNEW.

10 THE COURT: LET ME MAKE AN OBSERVATION THAT WE
11 DON'T GENERALLY ALLOW THE WEARING OF CAPS IN THE COURTROOM
12 JUST BECAUSE WE FIND IT TO BE DISCOURTEOUS TO THE COURT.
13 THIS IS NOT A BALL FIELD.

14 Q. MRS. WEAVER, I'LL CALL YOUR ATTENTION FIRST, YOU
15 WERE A CLOSE FRIEND OF TERRY'S?

16 A. YES, SIR.

17 Q. YOU WERE IN AND OUT OF HER HOME WITH HER?

18 A. YES, SIR.

19 Q. COULD YOU TELL THE JUDGE, HOW OFTEN DID YOU TALK
20 TO HER?

21 A. AT LEAST ONCE A DAY.

22 Q. DO YOU HAVE CERTAIN MEMORIES OF TERRY THAT YOU
23 PICTURE BEFORE THIS INCIDENT HAPPENED?

24 A. YES, SIR.

25 Q. AND DID THERE COME A TIME -- YOU SAY YOU'VE

1 KNOWN HER FOR YEARS, WAS THERE A TIME DURING
2 YOUR FRIENDSHIP, RELATIONSHIP WHEN YOU STARTED
3 SEEING CHANGES IN TERRY?

4 A. YES, SIR.

5 Q. AND COULD YOU TELL THE JUDGE ROUGHLY WHEN THAT
6 WAS?

7 A. IT WAS ABOUT 1992, SOMETHING LIKE THAT. I THINK
8 IT WAS ABOUT THE TIME THAT JIMMY HAD GONE OFF TO
9 GEORGIA TECH.

10 Q. OKAY. AND COULD YOU DESCRIBE TO THE JUDGE JUST
11 BRIEFLY THE DIFFERENCE BETWEEN THE TERRY YOU
12 KNEW AND THE TERRY YOU WERE SEEING?

13 A. TERRY WOULD, SHE BECAME -- WE DIDN'T TALK AS
14 MUCH; SHE DIDN'T CALL ME AS MUCH; SHE DIDN'T
15 TELL ME EVERYTHING THAT HAPPENED IN HER LIFE.
16 AND THEN SHE BEGAN TO TELL ME THAT JIMMY WAS
17 HAVING PROBLEMS AT GEORGIA TECH, HE WAS FLUNKING
18 MOST OF HIS COURSES. SHE WAS AFRAID HE WAS
19 GOING TO GET KICKED OUT OF SCHOOL. HE HAD
20 GAMBLING DEBTS. SHE WAS EMBARRASSED BECAUSE OF
21 HER SON.

22 Q. OKAY, TELL THE JUDGE THOUGH -- OKAY, WHEN THAT
23 OCCURRED, YOU KNOW, THAT PART OF IT.

24 A. YES, SIR.

25 Q. WHAT CHANGE DID YOU SEE OF HER PHYSICALLY AND

PERSONALITY-WISE?

SHE WASN'T THE TERRY I KNEW; SHE WASN'T AS TALKATIVE. SHE BEGAN TO GAIN WEIGHT.

TELL THE JUDGE THE TERRY YOU KNEW, MAYBE THAT WILL MAKE IT EASIER.

WELL, THE TERRY I KNEW WAS OUTGOING; SHE LOVED TO GO OUT AND SHE LOVED TO SHOP. SHE WAS ALWAYS HAVING A PARTY OR -- SHE GAVE MY DAUGHTER A BRIDAL SHOWER; SHE GAVE EVERYBODY A PARTY. SHE HAD A PARTY FOR THE FOURTH OF JULY, THANKSGIVING; WE ALWAYS HAD A CHRISTMAS PARTY TOGETHER.

STATE'S EXHIBIT 274, WHO IS THAT IN THAT PICTURE?

THAT'S THE TERRY I KNEW.

AND WHY DO YOU SAY THAT?

WELL, TERRY WAS ALWAYS BEHIND IN HER LAUNDRY LIKE MOST OF US. SO, YOU COULD GO TO HER HOUSE AND ON ANY GIVEN DAY YOU WOULD SEE A PILE OF LAUNDRY ON HER SOFA WHERE SHE WAS FOLDING IT UP. AND NOW STATE'S 273.

~~THE~~ WITNESS STARTED CRYING.)

THIS IS THE TERRY THAT WAS SO SAD, THAT WAS SO DISAPPOINTED.

MR. POPE: YOUR HONOR, WE WOULD TENDER THESE TWO

1 TO ILLUSTRATE THAT POINT.

2 THE COURT: DO YOU HAVE ANY QUESTIONS?

3 MR. HANCOCK: NO QUESTIONS, YOUR HONOR.

4 THE COURT: I'M GOING TO ALLOW IN 273 BECAUSE THE
5 QUESTION IS THE VICTIM HOW SHE WAS. I DON'T THINK ANY
6 CHANGES ARE RELEVANT TO THE ISSUE BEFORE THE COURT. SO,
7 I'M NOT GOING TO ALLOW IN 274 SINCE THAT'S THE ONE OF HER
8 FOLDING LAUNDRY THAT'S SUPPOSED TO BE THE EARLIER; 273 IS
9 THE ONE THAT SUPPOSEDLY DEPICTS MRS. ROBERTSON CLOSEST TO
10 HER DEATH, I WILL ALLOW THAT ONE.

11 ANYTHING ELSE BEFORE WE GET THE JURY BACK?

12 MR. POPE: I JUST WANT TO MAKE SURE, YOUR HONOR,
13 THAT I HAVE THE RIGHT NUMBERS. YOUR HONOR, I WOULD CALL
14 YOUR ATTENTION, I KNOW THE COURT HAS RULED, TO STATE V.
15 TUCKER. IN STATE V. TUCKER THEY SHOWED THE VICTIM IN
16 DIFFERENT PLACES, ON VACATION, CHRISTMAS DECORATIONS IN THE
17 VICTIM'S YARD, A PICTURE OF THE VICTIM AND THE GODCHILD,
18 THE VICTIM FISHING. IT SAID THAT IT WAS CLEARLY ADMISSIBLE
19 BECAUSE IT SHOWED THE VICTIM'S UNIQUENESS AS AN INDIVIDUAL.

20 THE COURT: WELL, YOU'RE TRYING TO SHOW TWO
21 DIFFERENT PEOPLE HERE THOUGH. THE UNIQUENESS OF MRS.
22 ROBERTSON WAS WHO MET THE UNTIMELY DEATH. AND I'M GOING TO
23 RESTRICT YOU TO SHOWING THAT.

24 MR. POPE: BECAUSE OF THE NATURE OF SAYING THERE
25 WERE TWO DIFFERENT TERRYS, YOUR HONOR?

1 THE COURT: THAT'S WHAT I UNDERSTAND YOU'RE
2 SAYING. I MEAN APPARENTLY, AND JUST BEING VERY CANDID, THE
3 PROSECUTION HAS DONE A GOOD JOB OF LAYING A LOT OF THESE
4 CHANGES AT THE DEFENDANT'S FEET, BUT THAT'S NOT WHAT HE'S
5 ON TRIAL FOR. HE'S ON TRIAL FOR TAKING HER LIFE AND HE'S
6 BEEN FOUND GUILTY OF THAT.

7 MR. POPE: YES, SIR, BUT OF COURSE NOW ---

8 THE COURT: WHAT HE NEEDS TO BE PUNISHED FOR IS
9 THE LIFE HE TOOK AT THE TIME HE TOOK IT.

10 MR. POPE: TO MAKE THAT DETERMINATION, YOUR
11 HONOR, THEY NEED TO UNDERSTAND HIS WHOLE CHARACTER. BUT I
12 UNDERSTAND AS FAR AS TERRY. WE'RE NOT TALKING ABOUT TERRY,
13 WE'RE NOT TALKING ABOUT JIMMY ---

14 THE COURT: WELL, BUT IF YOU GET INTO CHARACTER,
15 THAT'S NOT WHAT YOU SAID YOU WERE PUTTING THE PICTURES IN
16 FOR, AND I DON'T KNOW THAT THIS LADY CAN TESTIFY ABOUT HIS
17 CHARACTER.

18 MR. POPE: WELL, YES, SIR, I THINK SHE PROBABLY
19 CAN. SHE KNOWS HIM AS WELL AS SHE KNEW TERRY.

20 THE COURT: BUT NOT THROUGH HEARSAY.

21 MR. POPE: NO, I UNDERSTAND WHAT THE COURT IS
22 SAYING AS FAR AS THE TWO TERRYS. I'LL INSTRUCT HER NOT
23 EVEN TO GO INTO THAT. I NOW WANT TO SHOW TERRY AS THE
24 TERRY SHE KNEW AND LOVED THAT'S RUNNING LATE ON HER
25 LAUNDRY. NOT TO SAY TWO TERRYS; I WON'T HAVE ANY ISSUE

1 THAT THIS IS A DIFFERENT, YOU KNOW. AGAIN, AS MY WAY OF
2 PROFFER, THIS IS THE TERRY SHE KNEW THAT WAS ALWAYS RUNNING
3 LATE ON HER LAUNDRY. AND THIS IS THE TERRY SHE KNEW
4 SHORTLY BEFORE SHE DIED.

5 THE COURT: YOU'VE GOT ME CONFUSED. WHICH ONE DO
6 YOU INTEND TO PLACE INTO EVIDENCE? I'VE ALREADY RULED THAT
7 THE ONLY ONE THAT CAN COME IN WOULD BE THE ONE CLOSET TO
8 THE TIME OF DEATH.

9 MR. POPE: ALL RIGHT, THEN, YOUR HONOR, I GUESS
10 THAT'S THE ISSUE THAT I'M ARGUING THAT THE CASES HAVE
11 CLEARLY HELD THAT YOU CAN HAVE THEM FISHING, DOING ALL KIND
12 OF THINGS. I WANT TO SHOW THAT SHE WAS A UNIQUE -- THIS
13 SHOWS SOME PERSONALITY. THIS SHOWS THE WOMAN THAT THIS MAN
14 KILLED. NOT JUST A SET UP PICTURE THAT THIS IS HOW SHE
15 LOOKED BEFORE SHE DIED. WE'VE SEEN HOW SHE LOOKED BEFORE
16 SHE DIED, YOUR HONOR. THE ISSUE IS WHO IS THIS PERSON.
17 AND THIS WOMAN SITTING THERE FOLDING CLOTHES ON HER COUCH,
18 RUNNING LATE, LAUGHING, THIS IS TERRY ROBERTSON.

19 THE COURT: THAT'S NOT WHAT I UNDERSTAND THE
20 TESTIMONY TO BE. I DISAGREE. THE TESTIMONY IS THAT OVER
21 A FIVE YEAR PERIOD OF TIME, UNFORTUNATELY, BEFORE HER DEATH
22 SHE BECAME A DIFFERENT PERSON.

23 MR. POPE: YES, SIR, I JUST WANT TO MAKE SURE I
24 UNDERSTAND. 269, 272 AND 274 ARE NOT ADMISSIBLE. IS THAT
25 CORRECT?

1 THE COURT: THAT'S CORRECT. AND I CERTAINLY
2 DON'T WANT ANYONE TO THINK THAT THAT'S ANY KIND OF
3 INDICATION BY THE COURT THAT THAT MADE HER LIFE ANY LESS
4 WORTHWHILE. THAT'S NOT MY INTENTION. MY INTENTION IS THAT
5 MY BELIEF OF WHAT'S RELEVANT ARE THE INDIVIDUALS WHO MET
6 THEIR UNTIMELY DEATH ON THAT DATE AND THEY HAD PARTICULAR
7 CHARACTERISTICS AND THOSE CHARACTERISTICS CAN BE SHOWN.

8 MR. POPE: YES, SIR, I THINK WE AGREE ON THAT.
9 AGAIN, I THINK HER PARTICULAR CHARACTERISTIC IS THAT SHE
10 RUNS LATE DOING HER LAUNDRY OR ---

11 THE COURT: WELL, SHE CAN TESTIFY TO THAT.

12 MR. POPE: YES, SIR. I GUESS A PICTURE IS WORTH
13 A THOUSAND WORDS IN THAT REGARD, YOUR HONOR, BUT I RESPECT
14 THE COURT'S RULING AND THE STATE IS PREPARED TO GO FORWARD.

15 THE COURT: IF YOU CAN SHOW ME WHERE THAT PICTURE
16 SHOWS THAT SHE'S RUNNING LATE ON DOING HER LAUNDRY.

17 MR. POPE: YES, SIR, LET ME SEE IF I CAN LOCATE
18 IT AGAIN.

19 THE COURT: WELL, WE'RE HUNG UP ON SOMETHING.
20 I'VE MADE MY RULING. LET'S JUST GO AHEAD. IS THE STATE
21 READY?

22 MR. POPE: THE STATE'S READY; YES, SIR.

23 THE COURT: IS THE DEFENSE READY?

24 MR. BOYD: THE DEFENSE IS READY, YOUR HONOR.

25 THE COURT: BRING IN THE JURY.

1 IN THE PRESENCE OF THE JURY:

2 THE COURT: YOU MAY PROCEED.

3 CONTINUED DIRECT EXAMINATION:

4 Q. I'LL SHOW YOU TWO PICTURES, STATE'S 273 AND 275
5 AND ASK IF YOU CAN IDENTIFY THE PEOPLE IN THOSE
6 TWO PICTURES PLEASE, MA'AM?

7 A. YES, SIR.

8 Q. FIRST AS TO STATE'S 275, COULD YOU TELL ME WHO'S
9 IN THAT PICTURE?

10 A. THAT'S JIMMY AND CHIP AND TERRY AND EARL.

11 Q. AND WHEN WAS THAT?

12 A. WHEN CHIP GRADUATED FROM HIGH SCHOOL.

13 THE COURT: YOU'RE GOING TO HAVE TO KEEP YOUR
14 VOICE UP. THEY ARE INDICATING THEY CAN'T HEAR YOU.

15 Q. STATE'S 273, COULD YOU TELL ME WHO THAT IS?

16 A. THAT'S TERRY.

17 Q. YOU WERE TELLING THE JURY BEFORE THEY WENT OUT
18 ABOUT HOW YOU CAME TO MEET TERRY AND EARL?

19 A. YES, SIR.

20 Q. TELL THE JURY THE SPECIFICS OF HOW YOU CAME TO
21 MEET THEM AND WHAT OCCURRED. YOU SAID YOU WERE
22 LOOKING FOR AN APARTMENT?

23 A. YES, SIR. WE LOOKED FOR AN APARTMENT OVER THE
24 WEEKEND AND THERE HAPPENED TO BE ONE AVAILABLE
25 IN THE BUILDING WE LIVED IN. IT WAS A FOUR UNIT

1 COMPLEX AND THEY MOVED ON THE LEFT SIDE
2 UPSTAIRS, AND WE LIVED ON THE BOTTOM DOWNSTAIRS.

3 Q. NOW YOU SAID, PRIOR TO THE JURY LEAVING, THAT
4 EARL WAS COMING TO TAKE A JOB AT SPRINGS WITH
5 YOUR HUSBAND; IS THAT CORRECT?

6 A. YES, SIR.

7 Q. AND CAN YOU RELATE TO THE JURY HOW YOUR
8 FRIENDSHIP GREW, WHAT KIND OF THINGS YOU DID;
9 DID YOU BECOME CLOSER OR NOT ---

10 A. YES, WE DID.

11 Q. JUST TELL THE JURY WHAT HAPPENED.

12 A. WELL, TERRY AND EARL MOVED INTO THE APARTMENT
13 BUILDING. OF COURSE, WE BOUGHT DRAPERIES, HUNG
14 PICTURES AND DID THE NORMAL THINGS TO SET UP THE
15 APARTMENT.

16 WE WOULD GO TO THE GROCERY STORE, BUY GROCERIES
17 TOGETHER. TERRY HAD NEVER BOUGHT GROCERIES FOR
18 A FAMILY BEFORE, SO WE HEADED OUT TO THE GROCERY
19 STORE AND BOUGHT MUCH MORE THAN WE NEEDED.

20 WE HAD LUNCH TOGETHER. WE TOLD EACH OTHER OUR
21 PROBLEMS. WE SHOPPED; WE WENT TO CHURCH
22 TOGETHER. I GUESS YOU COULD SAY WE DID MOST
23 EVERYTHING THAT WE COULD TOGETHER.

24 ON THE WEEKENDS WE WOULD SEE OTHER COUPLES IN
25 THE APARTMENTS; WE WOULD COOK OUT, SIT OUT ON

1 THE BACK STEPS. WE PLAYED FOOTBALL. YOU KNOW,
2 WE'D GO TO CONCERTS.

3 WE WERE ALL INTERESTED IN FOOTBALL. BOTH OF OUR
4 HUSBANDS GRADUATED FROM GEORGIA TECH, SO WE
5 WOULD GO TO GEORGIA TECH DURING FOOTBALL SEASON
6 TO THE GAMES.

7 AND THEN WHEN GEORGIA TECH BASKETBALL JOINED THE
8 ACC, WE WOULD GO TO THE BALL GAMES FOR THE ACC
9 TOURNAMENT.

10 Q. WAS THIS ALL WHEN YOU WERE LIVING IN FORT MILL?

11 A. YES, SIR.

12 Q. DID THERE COME A TIME WHEN YOU OR THEY MOVED
13 AWAY?

14 A. YES.

15 Q. TELL THE JURY ALL ABOUT THAT.

16 A. WELL, TERRY AND EARL MOVED TO CALIFORNIA. AND
17 IT WAS HARD FOR ME TO LOSE TERRY. BUT IT WASN'T
18 THAT I LOST TERRY. SHE WOULD WAKE UP IN THE
19 MIDDLE OF THE NIGHT TO CALL ME ON MY BIRTHDAY.
20 WE CALLED EACH OTHER. I WASN'T A VERY GOOD
21 CORRESPONDENT AS FAR AS WRITING, BUT TERRY WAS
22 MUCH BETTER THAN I. BUT WE CALLED EACH OTHER
23 AND WE TALKED A LOT.
24 MY HUSBAND WENT TO CALIFORNIA TO VISIT THEM WHEN
25 HE WAS OUT THERE ON BUSINESS.

1 IT WAS NOT LIKE WE EVER LOST CONTACT WITH EACH
2 OTHER.

3 Q. DID THEY MOVE OTHER PLACES?

4 A. YES, THEY MOVED TO MICHIGAN. BUT THEY ALWAYS
5 CAME BACK DURING THE SUMMERS TO VISIT OR MAYBE
6 SOMETIME DURING CHRISTMAS, BUT USUALLY DURING
7 THE SUMMERS THEY WOULD COME BACK AND STAY A
8 MONTH. AND THEY ALWAYS CAME TO SEE US WHEN THEY
9 CAME HOME.

10 Q. AND DID THERE COME A TIME WHEN THEY ULTIMATELY
11 MOVED BACK TO SOUTH CAROLINA?

12 A. YES, SIR.

13 Q. COULD YOU TELL THE JURY ABOUT THAT?

14 A. WELL, EARL WAS TRANSFERRED BACK TO FORT MILL --
15 WELL, NOT REALLY TO FORT MILL, TO LANCASTER; BUT
16 HE WAS TRANSFERRED BACK TO SPRINGS. AND HE
17 WOULD BE WORKING IN LANCASTER.

18 THEY LOOKED IN LANCASTER FOR A HOUSE AND THEY
19 LOOKED IN FORT MILL FOR A HOUSE BUT THEY
20 ULTIMATELY ENDED UP IN ROCK HILL. AND IT WAS
21 JUST LIKE THEY HAD NEVER MOVED.

22 WE STARTED DOING THE SAME THINGS. IN FACT, WHEN
23 THE MOVING MAN CAME TO UNPACK HER HOUSE, I
24 HELPED UNPACK THE BOXES AND PUT EVERYTHING AWAY,
25 YOU KNOW, AS BEST WE COULD, AND HELPED THEM GET

1 SETTLED.

2 Q. AND WERE YOU AROUND WHEN THEY HAD CHILDREN?

3 A. YES, SIR.

4 Q. HOW MANY CHILDREN DID THEY HAVE?

5 A. TWO.

6 Q. AND WHO WAS THAT?

7 A. JIMMY ROBERTSON AND CHIP.

8 Q. YOU INDICATED STATE'S EXHIBIT 275 -- COULD YOU
9 INDICATE WHO THE INDIVIDUALS ARE AGAIN IN THIS
10 PICTURE?

11 A. IS IT OKAY IF I STAND UP, I CAN'T SEE IT.

12 Q. YES, MA'AM.

13 A. THAT'S JIMMY IN THE SUIT, CHIP AT HIS
14 GRADUATION, THAT'S EARL IN THE BACK AND TERRY IN
15 THE BOTTOM RIGHT THERE.

16 Q. COULD YOU TELL THE JURY, DID YOU HAVE AN
17 OPPORTUNITY TO OBSERVE TERRY AS FAR AS HER
18 CHILDREN, HOW SHE DEALT WITH HER CHILDREN, HOW
19 SHE RAISED HER CHILDREN?

20 A. YES, SIR.

21 Q. COULD YOU TELL THE JURY ABOUT THAT?

22 A. WELL, TERRY WAS A ROOM MOTHER, IT DIDN'T MATTER
23 IF SHE HAD TWO CHILDREN IN SCHOOL, SHE WAS A
24 ROOM MOTHER FOR THE FIRST OR SECOND GRADE OR
25 WHATEVER GRADE THEY HAPPENED TO BE IN. SHE WAS

1 THE MOTHER WHO TOOK THE KOOLAIID AND THE COOKIES
2 TO THE BASEBALL GAMES. SHE WAS THE MOTHER WHO
3 WENT TO EVERY P.T.O. MEETING.

4 SHE WAS ON THE BOARD AT CATAWBA WHEN THEY WERE
5 THERE. SHE VOLUNTEERED AT SCHOOL TO HELP OUT IN
6 THE OFFICE. SHE WAS ALWAYS THERE TO WHATEVER IT
7 WAS, TO EVERY BALL GAME THEY WENT THROUGH,
8 EVERY SCOUT MEETING. EVERYTHING THAT THOSE BOYS
9 WERE INVOLVED IN, TERRY WAS ALWAYS THERE.

10 Q. HOW ABOUT EARL, DID YOU OBSERVE HIS INTERACTION
11 WITH THE BOYS, TOO?

12 A. YES, SIR.

13 Q. COULD YOU DESCRIBE THAT TO THE JURY?

14 A. EARL WAS PRETTY MUCH THE SAME WAY ALTHOUGH EARL
15 HAD A JOB AND HE COULDN'T BE THERE DURING THE
16 DAY BUT HE WAS ALWAYS AT THE BALL GAMES AT NIGHT
17 OR IN THE AFTERNOONS OR ON THE WEEKEND.
18 HE WAS INVOLVED WITH SCOUTS. I REMEMBER WHEN
19 JIMMY DID HIS EAGLE SCOUT, EARL WAS VERY
20 INVOLVED IN THAT.

21 HE PLAYED BASEBALL WITH THEM IN THE YARD. I
22 COULDN'T EVEN IMAGINE HOW MANY BASKETBALLS THEY
23 WORE OUT PLAYING BASKETBALL.

24 Q. HAVE YOU BEEN IN THEIR HOME?

25 A. YES, SIR.

1 Q. HOW MANY TIMES?

2 A. I COULDN'T EVEN TELL YOU, HUNDREDS I GUESS.

3 Q. TELL THE JURY A LITTLE BIT ABOUT TERRY. WERE
4 YOU CLOSER TO TERRY OR EARL?

5 A. PROBABLY CLOSER TO TERRY.

6 Q. DID YOU HAVE A GROUP OF LIKE CLOSE FRIENDS?

7 A. YES, SIR.

8 Q. COULD YOU TELL THE JURY ABOUT THAT?

9 A. WELL, THERE WERE SIX OR EIGHT OF US, IT DEPENDED
10 ON WHO HAPPENED TO BE HERE. WE HAD FRIENDS WHO
11 CAME AND THEY MOVED AWAY AND THEN CAME BACK.

12 BUT WE WOULD GO OUT TO EAT. WE ALWAYS
13 CELEBRATED BIRTHDAYS TOGETHER. WE ALWAYS

14 CELEBRATED CHRISTMAS TOGETHER. WE ALWAYS GOT

15 TOGETHER SOMETIME BEFORE CHRISTMAS; IT WAS NEVER

16 ON CHRISTMAS DAY, BUT WE ALWAYS GOT TOGETHER AND

17 WE HAD A CHRISTMAS PARTY, WE EXCHANGED GIFTS.

18 WE GAVE BIRTHDAY PRESENTS TO THE BOYS; TERRY AND

19 EARL GAVE BIRTHDAY PRESENTS TO MY CHILDREN.

20 TERRY WAS AS MUCH OF AN AUNT TO MY CHILDREN.

21 SHE WOULD GO TO BAND CONTESTS. SHE DIDN'T HAVE

22 ANYBODY IN THE BAND, BUT SHE WAS THERE TO

23 SUPPORT MY CHILDREN.

24 IT WAS JUST LIKE THESE PEOPLE, WE WERE LIKE EACH

25 OTHER'S FAMILY BECAUSE WE HAD NO FAMILY HERE.

1 SO, WE WERE LIKE BROTHERS AND SISTERS.

2 Q. TELL THE JURY A LITTLE BIT, IF YOU COULD, ABOUT
3 TERRY AND HOLIDAYS. HOW DID SHE CELEBRATE
4 HOLIDAYS?

5 A. TERRY LOVED HOLIDAYS, FROM ST. PATRICK'S DAY TO
6 THE FOURTH OF JULY. BUT HER FAVORITE HOLIDAYS
7 WERE CHRISTMAS AND EASTER.

8 TERRY LOVED BUNNIES; SHE LOVED RABBITS. I
9 WOULDN'T EVEN VENTURE TO SAY HOW MANY RABBITS
10 SHE HAD. BUT SHE ALWAYS HAD A EASTER TREE; THERE
11 WERE RABBITS SITTING AROUND IN VARIOUS AND
12 SUNDRY EASTER OUTFITS AND EASTER VILLAGES.

13 AT HALLOWEEN SHE DECORATED; FOR CHRISTMAS SHE
14 DECORATED. SHE HAD FOURTH OF JULY PARTIES; SHE
15 HAD ELECTION PARTIES. TERRY WAS JUST THE KIND
16 OF PERSON WHO ENJOYED THINGS LIKE THAT.

17 SHE WOULD SEND BOXES OF THINGS TO JIMMY AND CHIP
18 AT SCHOOL FILLED WITH HALLOWEEN THINGS AND
19 CHRISTMAS THINGS IF THEY HAPPENED NOT TO BE
20 HOME, YOU KNOW, TO DECORATE THEIR ROOMS IN
21 COLLEGE.

22 Q. HOW ABOUT AS FAR AS LIKE PICTURE FRAMES?

23 A. OH, YES, SIR, SHE HAD PICTURE FRAMES FOR EASTER,
24 HALLOWEEN THAT WERE MAGNETS THAT WERE ON THEIR
25 REFRIGERATOR THAT HAD THE BOYS' PICTURES IN

1 THEM.

2 Q. HOW WOULD YOU BEST DESCRIBE TERRY; EXPLAIN TO
3 THIS JURY HER PERSONALITY AND HER VALUE AS A
4 HUMAN BEING, HOW WOULD YOU BEST DESCRIBE THAT TO
5 THE JURY?

6 A. TERRY WAS A LOVING, COMPASSIONATE PERSON. TERRY
7 WAS NEVER TOO BUSY FOR ANYBODY. IF YOU HAD A
8 PROBLEM, SHE WOULD BE THERE FOR YOU.

9 WHEN MY MOTHER GOT REALLY SICK, AND I HAD TO PUT
10 HER IN THE HOSPITAL, SHE WAS DYING WITH CANCER,
11 TERRY SAT UP WITH ME FOR THREE DAYS AND THREE
12 NIGHTS IN THE MOST UNCOMFORTABLE CHAIRS YOU'VE
13 EVER SAT IN, AND WOULD NOT LEAVE THE HOSPITAL
14 BECAUSE I WAS BY MYSELF.

15 WHEN YOU HAD GUM SURGERY, SHE TOOK YOU TO THE
16 DOCTOR AND SHE MADE YOU JELLO AND PUDDING
17 BECAUSE SHE KNEW YOU COULDN'T EAT ANYTHING ELSE.
18 IF YOU WERE WORRIED ABOUT TESTS RESULTS, SHE SAT
19 WITH YOU UNTIL THE TELEPHONE RANG AND YOU GOT
20 THE NEWS ONE WAY OR THE OTHER.

21 SHE WAS ALWAYS THERE FOR YOU.

22 Q. LET ME ASK YOU, DID THERE COME A TIME WHEN JIMMY
23 ACTUALLY, I THINK, WENT TO GERMANY FOR A YEAR?

24 A. YES, SIR.

25 Q. COULD YOU TELL THE JURY AS FAR AS TERRY KEEPING

1 UP WITH HIM, WHAT WOULD SHE DO?

2 A. SHE WOULD WRITE JIMMY EVERY DAY. SOMETIMES IT
3 WAS A CONTINUOUS LETTER. IF NOTHING REAL
4 EXCITING HAPPENED THAT DAY, SHE WOULD STILL SEND
5 A TINY NOTE, BUT SHE WOULD CONTINUE THE LETTER
6 FROM ONE DAY TO THE OTHER.

7 THERE CAME A TIME WHEN THE TELEPHONE BILL WAS
8 TWO HUNDRED DOLLARS, EARL SAID, TERRY, YOU HAVE
9 TO STOP CALLING GERMANY BECAUSE, YOU KNOW, TWO
10 HUNDRED DOLLARS IS A LITTLE MUCH.

11 SO, TERRY AND I WOULD GO UP TO THE GAS STATION
12 ON THE CORNER WITH A POCKETFUL OF CHANGE AND I
13 WOULD HOLD THE CHANGE AS SHE PUT IT IN THE
14 MACHINE, AND SHE WOULD CALL JIMMY.

15 Q. DID THERE COME A TIME WHEN YOU SAW A CHANGE IN
16 TERRY?

17 A. YES, SIR.

18 Q. COULD YOU RELATE TO THE JURY WHEN THAT WAS?

19 A. IT WAS ABOUT, I GUESS THE MIDDLE OF THE YEAR
20 THAT JIMMY WAS AT GEORGIA TECH.

21 Q. COULD YOU RELATE TO THE JURY WHAT CHANGE YOU SAW
22 IN THE TERRY YOU'VE DESCRIBED?

23 A. I'M NOT SAYING THAT WE DIDN'T TALK EVERY DAY,
24 BUT TERRY WOULD NOT DISCUSS THINGS THAT WENT ---

25 MR. HANCOCK: YOUR HONOR, AGAIN I'M GOING TO

1 OBJECT. WE'VE GONE THROUGH THIS, I THOUGHT, ONE OTHER
2 TIME.

3 THE COURT: WELL, I OVERRULE THE OBJECTION.

4 Q. TELL US WHAT YOU OBSERVED AS FAR AS THE CHANGE.

5 A. TERRY DIDN'T TALK AS MUCH; SHE DIDN'T DISCUSS
6 HER FAMILY. WE COULDN'T GO EAT AT CERTAIN
7 RESTAURANTS BECAUSE SHE WAS EMBARRASSED. SHE
8 WOULDN'T GO TO THE GROCERY STORE BECAUSE SHE WAS
9 EMBARRASSED. ON OCCASION I'VE BEEN TO THE
10 GROCERY STORE WITH TERRY THAT SHE WOULD ACTUALLY
11 LOOK DOWN THE AISLE TO SEE WHO WAS COMING
12 BECAUSE SHE WAS EMBARRASSED.

13 Q. EMBARRASSED ABOUT WHAT?

14 A. ABOUT THE THINGS THAT HER SON HAD DONE THAT
15 OTHER PEOPLE KNEW ABOUT.

16 Q. DID SHE CONTINUE TO DO THE THINGS LIKE CHECK ON
17 Y'ALL EVEN THROUGH THAT PERIOD?

18 A. OH, YES, SIR.

19 Q. SO, THAT PART OF HER NEVER CHANGED?

20 A. NO, THAT PART OF HER NEVER CHANGED. IN FACT,
21 WHEN MY MOTHER WAS SICK, THAT WAS DURING THE
22 PROBLEMS THAT SHE WAS HAVING AND SHE ALWAYS WAS
23 THERE.

24 Q. I'LL CALL YOUR ATTENTION NOW TO NOVEMBER 25TH,
25 1997. I THINK YOU PREVIOUSLY TESTIFIED THAT YOU

1 WERE INVOLVED IN THE COCONUT CAKE?

2 A. YES, SIR.

3 Q. AND GETTING THE COCONUT CAKE TO HER. DID YOU
4 ULTIMATELY RECEIVE WORD OF WHAT HAD OCCURRED IN
5 THIS CASE?

6 A. YES, SIR.

7 Q. WOULD YOU TELL THE JURY HOW YOU FOUND OUT AND
8 WHAT YOU DID IN REGARD TO THAT?

9 A. DEBBIE CALLED ME -- DEBBIE BRISSON CALLED ME
10 ABOUT, I THINK IT WAS ABOUT 11:00 O'CLOCK, AND
11 EXPLAINED THAT SHE HAD BEEN IN THE HOUSE AND
12 THAT SHE HAD FOUND A BODY AND COULD I PLEASE
13 COME TO CAROLINA COUNSELING.

14 SO, I GOT IN MY CAR AND WENT TO ROCK HILL. WHEN
15 I GOT THERE, SHE AT THAT POINT DID NOT KNOW WHO
16 THE PERSON IN THE HOUSE WAS.

17 I THEN LEFT THERE AND WENT TO WESTMINSTER DRIVE
18 AND CAME TO THE PLACE WHERE THE POLICE WOULD NOT
19 LET ME GO ANY FURTHER. I PROBABLY BADGERED THE
20 POLICE TO TELL ME WHAT WAS GOING ON. I KEPT
21 TELLING THEM THAT I WAS REALLY NO FAMILY BUT I
22 HAD KNOWN THEM FOR 27 YEARS AND I KNEW SOMETHING
23 BAD HAD HAPPENED. BUT THEY REALLY WOULDN'T TELL
24 ME ANYTHING. I THINK BASICALLY BECAUSE NOBODY
25 HAD TOLD THEM.

1 I THEN TOLD THEM THAT IF THERE WERE TWO BODIES
2 IN THAT HOUSE, THAT THEY SHOULD BE LOOKING FOR
3 THEIR SON.

4 Q. DID YOU TELL THEM WHO THE TWO BODIES, WHO THE
5 TWO PEOPLE WOULD BE?

6 A. YES, SIR.

7 Q. SUBSEQUENT TO LAW ENFORCEMENT FINISHING UP, WHAT
8 IF ANY INVOLVEMENT -- DID TERRY AND EARL HAVE
9 FAMILY HERE CLOSE?

10 A. NO, SIR.

11 Q. COULD YOU TELL THE JURY WHAT INVOLVEMENT YOU HAD
12 AS FAR AS THEIR FUNERAL ARRANGEMENTS?

13 A. YES, SIR. SEVERAL OF TERRY AND EARL'S FRIENDS
14 HAD CONTACT WITH WILLIAM PENDER, THE MINISTER AT
15 THAT CHURCH. IN FACT, MY HUSBAND FLEW TO
16 GEORGIA TO GET EARL'S MOTHER UP HERE ON A
17 SPRINGS PLANE.

18 WE ARRANGED FOR A PLACE FOR MRS. ROBERTSON TO
19 STAY. WE ARRANGED FOR A PLACE FOR CHIP TO STAY.
20 WITH SOME HELP FROM CHIP, WE DID ALL THE FUNERAL
21 ARRANGEMENTS; WE WROTE A EULOGY.

22 I WENT TO THE FLORIST IN FORT MILL AND PICKED UP
23 TWO CASKET SPRAYS.

24 (THE WITNESS STARTED CRYING AT THIS POINT.)

25 WE THEN HAD A VISITATION AT THE FUNERAL HOME.

1 THE NEXT DAY WE HAD A MEMORIAL SERVICE AT THE
2 CHURCH. THAT AFTERNOON WE DROVE TO
3 MILLEDGEVILLE, AND THE NEXT DAY WE HAD A
4 FUNERAL.

5 Q. I'LL SHOW YOU AGAIN STATE'S EXHIBIT 273 WHICH
6 WAS IDENTIFIED AS TERRY?

7 A. YES, SIR.

8 Q. IS THAT THE WAY SHE APPEARED RIGHT PRIOR TO HER
9 DEATH?

10 A. YES, SIR.

11 Q. IN YOUR OWN WORDS TELL THE JURY WHAT THIS MAN'S
12 ACTS IN THIS CASE HAVE MEANT TO YOUR LIFE.

13 A. I STILL GO TO THE TELEPHONE TO DIAL THE PHONE
14 NUMBER. I TOLD TERRY MOST EVERYTHING. I DON'T
15 HAVE THAT PERSON TO TELL ANYMORE.

16 WHEN MY SON GOT ENGAGED, I WENT TO THE TELEPHONE
17 TO CALL HER. WHEN MY SON GOT MARRIED, SHE WAS
18 SUPPOSED TO BE THERE.

19 EVEN MY SON SAID, "MAMA, TERRY WON'T BE THERE
20 FOR YOU ---

21 MR. HANCOCK: YOUR HONOR, I KNOW WE'RE GOING FAR
22 AFIELD ---

23 THE COURT: I SUSTAIN THE OBJECTION. DON'T GO
24 INTO WHAT YOUR SON SAID PLEASE, MA'AM.

25 A. TERRY WAS MY BEST FRIEND. I'M NOT SAYING I

1 DON'T HAVE A BEST FRIEND ANYMORE, BUT I DON'T
2 HAVE A FRIEND LIKE TERRY ANYMORE. I DON'T HAVE
3 SOMEBODY THAT I COULD CALL IN THE MIDDLE OF THE
4 NIGHT IF I NEEDED THEM.

5 Q. MA'AM, DID TERRY -- DID YOU KNOW FROM YOUR CLOSE
6 FRIENDSHIP WITH TERRY WHAT HER HOPES AND DREAMS
7 WERE?

8 A. YES, SIR.

9 Q. WHAT WAS THAT?

10 MR. HANCOCK: I OBJECT.

11 THE COURT: I SUSTAIN THE OBJECTION.

12 MR. POPE: YOUR HONOR, I BELIEVE I HAVE A MATTER
13 OF LAW.

14 THE COURT: I'LL LET YOU GO TO THE JURY ROOM FOR
15 A FEW MINUTES.

16 IN CAMERA:

17 MR. HANCOCK: YOUR HONOR, I DON'T KNOW WHAT
18 YOU'RE REFERRING TO; I KNOW YOU HAVE A COPY OF SOMETHING.

19 THE COURT: STATE VERSUS DAVID ROCHEVILLE, I
20 BELIEVE IS THE NAME OF IT.

21 MR. HANCOCK: CAN I GET THE CITE ON THAT, SIR?

22 THE COURT: WELL, 425 SOUTHEASTERN 32, I DON'T
23 HAVE THE SOUTH CAROLINA.

24 MR. HANCOCK: SOUTHEASTERN 2D?

25 THE COURT: YES. I DON'T HAVE ANY PROBLEM WITH

1 THIS CONCEPT OF VICTIM IMPACT EVIDENCE. MY CONCERN IS
2 WHERE WE DRAW THE LINE AT HEARSAY.

3 MR. POPE: YES, SIR, YOUR HONOR. THAT'S WHY WE
4 RESEARCHED IT BECAUSE I TRIED TO DETERMINE. IN ROCHEVILLE,
5 THE PARENTS CAN TELL THE BOYS HOPES AND DREAMS. I DON'T
6 KNOW IF THE FACT THAT IT SUPERSEDES IT, THE FACT THAT IT
7 FINDS SOME OTHER EXCEPTION TO HEARSAY, YOUR HONOR, WE TRIED
8 TO DETERMINE THAT. BUT IT IS CLEAR THAT THEY ARE ALLOWED
9 TO TESTIFY AS TO THE -- I THINK IN THAT IT WAS THE THE
10 HOPES AND DREAMS OF THE SONS WHOSE LIVES HAD BEEN TAKEN.

11 THE COURT: WELL, ROCHEVILLE STILL ARGUES THAT
12 THE ADMISSION OF THIS EVIDENCE WAS IN VIOLATION OF SOUTH
13 CAROLINA LAW AND THEN THEY GO INTO PAYNE ABOUT VICTIM
14 IMPACT. AND I AGREE WITH THAT.

15 THEY ARE TALKING ABOUT THE ADMISSION BEING UNDULY
16 PREJUDICIAL OR INFLAMMATORY. I HAVE NO PROBLEM FINDING
17 THAT IT WOULDN'T BE UNDUE PREJUDICE OR INFLAMMATORY. I CAN
18 FIND IT RELEVANT AND PROPER. I CAN FIND ALL THESE THINGS;
19 I JUST DON'T KNOW HOW IT COMES IN -- I JUST DON'T KNOW OF
20 ANY EXCEPTION TO THE HEARSAY RULE.

21 THAT'S MY CONCERN. I AGREE WITH EVERYTHING IN
22 THIS CASE AND IT DOESN'T SAY WHETHER THERE WAS AN OBJECTION
23 ENTERED -- THE OBJECTION WAS APPARENTLY ON RELEVANCY AS
24 OPPOSED TO HEARSAY. I GUESS MAYBE I'M JUMPING THE GUN.

25 WAS THAT YOUR -- WHAT WAS YOUR OBJECTION BASED

1 ON, MR. HANCOCK? RELEVANCY OR HEARSAY?

2 MR. HANCOCK: IT'S BASED ON HEARSAY, YOUR HONOR.

3 BUT I WOULD POINT OUT AGAIN, AS WE SAID BEFORE AND PER OUR
4 PRIOR OBJECTION, THE PEOPLE THAT TESTIFIED IN THAT CASE, AS
5 IN ALL OTHER CASES, WERE FAMILY MEMBERS. THIS IS NOT A
6 FAMILY MEMBER. SO, JUST IN OBSERVING THAT ---

7 MR. POPE: THAT DISTINCTION HAS ALREADY BEEN
8 CLEARED, YOUR HONOR.

9 MR. HANCOCK: JUST TO POINT THAT OUT.

10 THE COURT: WELL, YOU CAN POINT THAT OUT AND I
11 HAVE NO TROUBLE WITH THAT, BUT I JUST DON'T KNOW HOW IT CAN
12 COME IN ---

13 MR. POPE: YOUR HONOR, I'LL BE THE FIRST TO
14 ADMIT, I'VE GONE THROUGH THAT CASE AND TRIED TO RESEARCH IT
15 AND FIND IT AND THAT'S THE ONLY CASE I HAVE THAT SAYS IT'S
16 ADMISSIBLE. NOW UNDER WHAT VEHICLE, I DON'T KNOW. IS IT
17 THE STATEMENT OF INTENT THAT IT WOULD BE ADMISSIBLE. I
18 DON'T KNOW.

19 THE COURT: UNLESS YOU CAN SHOW ME SOMETHING --
20 I DON'T HAVE ANY PROBLEM FINDING IT RELEVANT.

21 MR. POPE: YES, SIR.

22 THE COURT: BUT I CAN'T FIND ANYTHING THAT WOULD
23 ALLOW IT'S ADMISSIBILITY. IT'S NOT A PRESENCE SENSE
24 IMPRESSION, WAS IT 801 OR 802?

25 MR. BRACKETT: 803.

1 MR. POPE: YOUR HONOR, IT SAYS THE STATEMENT OF
2 THE DECLARANT LISTED THE STATE OF MIND, EMOTION, SENSATION
3 OR PHYSICAL CONDITION SUCH AS INTENT, PLAN, MOTIVE, DESIGN,
4 MENTAL FEELINGS, ANGER, BODILY HEALTH.

5 I WOULD SUBMIT THAT THE INTENT OR PLAN IN WHAT'S
6 HER GOAL ---

7 THE COURT: WELL, IF SHE CAN TESTIFY AS TO A
8 STATEMENT, NOT IN GENERALITIES THAT SHE WANTED TO DO THIS.
9 SHE CAN TESTIFY AS TO A STATEMENT UNDER THAT, I.E., I
10 PLANNED -- SHE TOLD ME ONE TIME THAT SHE PLANNED TO DO X,
11 Y, AND Z. A STATEMENT WE'RE TALKING ABOUT, NOT JUST A
12 GENERAL SHE WANTED TO DO THIS, SHE WANTED TO DO THAT. IT'S
13 GOT TO BE DONE IN CONTEXT WITH THE STATEMENT THAT WOULD
14 SHOW INTENT, PLAN, MOTIVE, MENTAL FEELING.

15 MR. POPE: IN OTHER WORDS, YOU COULDN'T JUST
16 WATCH HER AND SAY I THINK THIS IS WHAT SHE WANTS OUT OF
17 LIFE. SHE WOULD HAVE TO IN HER DISCUSSIONS HAVE SAID, YOU
18 KNOW, MY PLAN IN LIFE IS TO GET THE BOYS THROUGH SCHOOL AND
19 HAVE GRANDBABIES OR WHATEVER THE CASE MAY BE?

20 MR. HANCOCK: YOUR HONOR, I KNOW THAT THAT'S
21 THERE, BUT AGAIN I'M GOING TO OBJECT. WE CAN'T CROSS
22 EXAMINE THAT. THIS LADY CAN SAY SHE HEARD ANYTHING AT ANY
23 TIME.

24 THE COURT: I AGREE WITH YOU A HUNDRED PERCENT.

25 MR. HANCOCK: OKAY, SIR.

1 THE COURT: BUT THE RULES ARE THE RULES, AND IF
2 THE RULE ALLOWS IT, IT ALLOWS IT.

3 MR. BOYD: WHAT RULE ARE YOU REFERRING TO, YOUR
4 HONOR?

5 THE COURT: RULES OF EVIDENCE 803-3, A STATEMENT
6 OF THE DECLARANT, THAT WOULD BE MRS. ROBERTSON UNDER THESE
7 CIRCUMSTANCES: THEN EXISTING STATE OF MIND, EMOTION,
8 SENSATION OR PHYSICAL CONDITION SUCH AS INTENT.

9 MR. HANCOCK: I BEG THE INDULGENCE OF THE COURT,
10 YOUR HONOR.

11 (AFTER A PAUSE.)

12 MR. HANCOCK: YOUR HONOR, AS I SEE WHAT SHE'S
13 SAYING, I DON'T SEE IT AS AN INTENT OR PLAN. SHE'S SAYING
14 THAT THIS WAS HER HOPE.

15 THE COURT: I THINK I FIND THAT IT'S GOT TO BE A
16 MUCH NARROWER QUESTION, AND I'VE STILL GOT CONCERN ABOUT
17 IT. THE EXISTING STATE OF MIND.

18 MR. POPE: INTENT, MOTIVE, PLAN. IF I SAY I PLAN
19 TO QUIT MY JOB AND GO TO WORK AT CAROWINDS, THEN, YOU KNOW,
20 THAT'S MY GOAL, THAT'S MY PLAN, WHATEVER IT MAY BE. AND
21 THAT WOULD BE ADMISSIBLE. PARTICULARLY WHEN YOU TAKE THAT
22 RULE OF EVIDENCE IN TERMS OF ROCHEVILLE, YOUR HONOR, THEN
23 THIS IS THE CONTEXT WE HAVE.

24 MR. HANCOCK: YOUR HONOR, I'M GOING TO JUST ARGUE
25 THAT IT PUTS AN UNDUE BURDEN AND WE HAVE NO CHANCE OF CROSS

1 EXAMINATION IN ANY FORM IF SHE SAYS TERRY HOPED THAT HER
2 SONS OR TERRY SAID THAT HER SONS SHOULD DO THIS, IT MIGHT
3 HAVE BEEN IN A CONTEXT THAT MEANT NOTHING OF THAT NATURE
4 AND YET NOW IT'S TAKEN FOR THE TRUTH OF THE MATTER ASSERTED
5 AND IT'S TERRY SUPPOSEDLY TESTIFYING THROUGH HER.

6 THE COURT: I'M GOING TO SUSTAIN THE OBJECTION.
7 I JUST THINK IT'S TOO FINE A LINE. I THINK WE'RE GOING
8 INTO HEARSAY AND I DON'T KNOW HOW THEY GOT IT IN IN
9 ROCHEVILLE, BUT BASED ON HEARSAY, I SUSTAIN THE OBJECTION.

10 MR. POPE: YES, SIR.

11 THE COURT: BRING IN THE JURY.

12 IN THE PRESENCE OF THE JURY:

13 THE COURT: YOU MAY PROCEED.

14 CONTINUED DIRECT OF WITNESS WEAVER:

15 Q. MRS. WEAVER, ANSWER ANY QUESTIONS THAT THE
16 DEFENSE MAY HAVE FOR YOU.

17 CROSS EXAMINATION BY

18 MR. HANCOCK:

19 Q. MRS. WEAVER, TERRY ROBERTSON WAS YOUR FRIEND?

20 A. YES, SIR.

21 THE COURT: I DIDN'T HEAR THE ANSWER.

22 A. YES, SIR.

23 Q. AND SHE WAS A GOOD FRIEND OF YOUR'S, IS THAT
24 CORRECT?

25 A. YES, SHE WAS.

1 Q. NOW, WHO WERE HER OTHER CLOSE FRIENDS?

2 A. CISSY GEORGE, ANN JORDAN, LINDA TUCKER, BEVERLY
3 DAWSON.

4 Q. MAC MCLAUGHLIN, WAS HE EARL'S FRIEND?

5 A. I GUESS; YES, SIR.

6 THE COURT: YOU'LL HAVE TO KEEP YOUR VOICE UP.

7 A. LINDA HOOK, TERRY TURNER -- HOW MANY DO YOU WANT
8 ME TO TELL YOU?

9 Q. DO YOU KNOW PAIGE MCRIGHT?

10 A. I KNOW WHO SHE IS.

11 Q. ASSISTANT PASTOR AT THE OAKLAND PRESBYTERIAN
12 CHURCH?

13 A. YES.

14 Q. NOW, DID TERRY DISCUSS HER PROBLEMS WITH YOU?

15 A. YES.

16 Q. AND IF SHE HAD MARITAL PROBLEMS, YOU'D KNOW IT,
17 WOULDN'T YOU?

18 A. WELL, I DON'T THINK TERRY HAD ANY MARITAL
19 PROBLEMS.

20 Q. SO, TO YOUR KNOWLEDGE SHE HAD NO MARITAL
21 PROBLEMS?

22 A. NO.

23 Q. OKAY, IF SHE HAD ANY PROBLEMS WITH HER HUSBAND
24 WHATSOEVER, YOU WOULD KNOW THAT.

25 A. I THINK I WOULD.

1 Q. BUT YOU KNOW ALSO THAT SHE WAS AN HONEST WOMAN;
2 YOU'VE TESTIFIED TO THAT. IS THAT CORRECT?

3 A. YES, SHE WAS HONEST.

4 Q. AND YOU KNOW THAT SHE WAS RECEIVING COUNSELING
5 FROM A PSYCHIATRIST AND A FAMILY COUNSELOR; YOU
6 KNOW THAT, TOO.

7 A. YES, I DO.

8 Q. AND TERRY IS NOT THE KIND OF PERSON THAT WOULD
9 LIE TO ONE OF THOSE PEOPLE, IS SHE?

10 A. SHE'S NOT -- EXCUSE ME?

11 Q. SHE'S NOT THE KIND OF PERSON TO LIE TO ONE OF
12 THOSE PEOPLE, IS SHE?

13 A. TO THE BEST OF MY KNOWLEDGE, NO, TERRY DID NOT
14 LIE.

15 Q. SO, YOU COULD DEPEND ON WHAT SHE SAID; IS THAT
16 CORRECT?

17 A. YES.

18 Q. DID SHE HAVE ANY PROBLEM WITH THE DEATHS OF HER
19 PARENTS, I THINK IT WAS AROUND 1990; ARE YOU
20 AWARE OF THAT?

21 A. YES, WE ALL HAVE PROBLEMS WHEN OUR PARENTS DIE.

22 Q. AND HOW LONG DID THOSE PROBLEMS PERSIST AS FAR
23 AS YOU KNOW, MA'AM?

24 A. WELL, I REALLY DON'T KNOW HOW LONG IT TOOK HER
25 TO GET OVER IT. MY MOTHER'S BEEN DEAD TWO

1 YEARS, I HAVEN'T GOTTEN OVER THAT YET.

2 Q. NOW, YOU'VE INDICATED THAT YOU DID SEVERAL
3 THINGS FOR THE FAMILY AS FAR AS THE FUNERAL AND
4 THAT SORT OF THING; IS THAT CORRECT, MA'AM?

5 A. YES.

6 Q. YOU WENT TO THE FUNERAL BECAUSE YOU SAID THERE
7 WAS EULOGY INVOLVED AND THAT SORT OF THING;
8 ISN'T THAT CORRECT, MA'AM?

9 A. YES, I WENT TO THE FUNERAL; I WENT TO
10 MILLEDGEVILLE.

11 Q. DID YOU SEE THE OTHER SON, CHIP, AT THE FUNERAL?

12 A. YES, I DID.

13 Q. DID YOU NOTICE WHO HE MIGHT HAVE COME TO THE
14 FUNERAL WITH?

15 A. WHO HE CAME TO THE FUNERAL WITH? HIS
16 GRANDMOTHER.

17 Q. HIS GRANDMOTHER?

18 A. YES.

19 Q. HE WAS NOT ALONE AT THE FUNERAL?

20 A. NO.

21 Q. WAS HE ALONE LEAVING THE FUNERAL?

22 A. I REALLY CAN'T TELL YOU WHO HE LEFT THE FUNERAL
23 WITH. I'M SURE HE HAD TO LEAVE WITH HIS
24 GRANDMOTHER BECAUSE SHE WAS IN THE CAR WITH HIM.

25 Q. I'M NOT ASKING YOU WHAT YOU'RE SURE OF; I'M

1 ASKING YOU WHAT YOU SAW PLEASE, MA'AM.

2 A. I DON'T REMEMBER SEEING HIM LEAVE THE FUNERAL.

3 Q. NOW, DID YOU AT SOME TIME ARRANGE FOR CHIP, I
4 THINK IT WAS OVER CHRISTMAS, TO STAY IN A HOTEL?

5 A. NO, I DID NOT.

6 Q. YOU DID NOT? DID YOUR HUSBAND?

7 A. TO THE BEST OF MY KNOWLEDGE, NO, HE DID NOT.

8 Q. NOBODY IN YOUR FAMILY?

9 A. NO.

10 Q. DID HE ATTEMPT TO STAY AT YOUR HOUSE OVER
11 CHRISTMAS?

12 A. NO, BECAUSE I DIDN'T HAVE ROOM AT CHRISTMAS.
13 ALL MY CHILDREN WERE AT HOME.

14 Q. HOW ABOUT AT THANKSGIVING?

15 A. NO, ALL MY CHILDREN WERE AT HOME THAT
16 THANKSGIVING, TOO.

17 Q. HE DIDN'T ASK YOU ---

18 A. NO.

19 Q. --- COULD HE STAY WITH YOU AT ALL?

20 A. NO.

21 Q. I BEG THE INDULGENCE OF THE COURT A MOMENT.

22 (AFTER A BRIEF PAUSE.)

23 Q. NOW WHEN I'M REFERRING TO THAT THANKSGIVING, I'M
24 TALKING ABOUT THE THANKSGIVING OF '97 AFTER
25 THEIR DEATH. CHIP ROBERTSON DIDN'T TRY TO STAY.

1 WITH YOU?

2 A. NO, HE DID NOT.

3 Q. AND NO ONE IN YOUR FAMILY RENTED A MOTEL ROOM
4 FOR HIM TO SPEND THE NIGHT THERE?

5 A. TO THE BEST OF MY KNOWLEDGE, NO. BUT I DON'T
6 REMEMBER A LOT ABOUT THE ARRANGEMENTS THAT WERE
7 MADE AS FAR AS CHIP WAS CONCERNED. I WAS DEALING
8 WITH A FUNERAL.

9 Q. BUT IF YOU HAD MADE THOSE ARRANGEMENTS, YOU
10 WOULD KNOW.

11 A. OH, YES, SIR, IF I HAD MADE THE ARRANGEMENTS, I
12 WOULD DEFINITELY REMEMBER.

13 Q. YOU WERE AWARE THAT SHE WAS RECEIVING THERAPY;
14 IS THAT CORRECT?

15 A. YES.

16 Q. AND YOU HAVE CALLED THE THERAPIST BEFORE HAVE
17 YOU NOT?

18 A. WELL, I DON'T KNOW EXACTLY WHAT YOU MEAN BY
19 THAT.

20 Q. YOU HAVE CALLED AND LEFT MESSAGES AT HAYNE
21 MCMEEKIN'S OFFICE HAVE YOU NOT, CONCERNING YOUR
22 CONCERN FOR TERRY ROBERTSON?

23 A. I DON'T REMEMBER EVER CALLING AND LEAVING A
24 MESSAGE; NO, I DON'T.

25 Q. YOU JUST DON'T RECALL?

1 A. THAT'S WHAT I SAID, I DON'T RECALL.

2 Q. HAD YOU DONE THAT, YOU WOULD RECALL IT, WOULDN'T
3 YOU?

4 A. NO, I'M NOT SAYING THAT I WOULD.

5 Q. AGAIN, YOU DON'T RECALL EVER DOING THAT, IS THAT
6 CORRECT; NOT ANY SPECIFIC DATES OF EVER DOING
7 THAT, MA'AM?

8 A. I MAY HAVE CALLED. I DON'T RECALL LEAVING A
9 MESSAGE AT HIS OFFICE.

10 Q. WHY WOULD YOU CALL HIM?

11 A. BECAUSE I WAS CONCERNED ABOUT TERRY IF I HAD
12 CALLED. I WOULDN'T HAVE CALLED HIM IN ANY OTHER
13 CIRCUMSTANCES.

14 Q. WELL, I'M ASKING YOU, IF YOU CALLED, WHEN DID
15 YOU CALL?

16 A. I DON'T KNOW WHEN I WOULD HAVE CALLED.

17 Q. I DON'T HAVE ANYTHING FURTHER OF THIS WITNESS.

18 THE COURT: ANY REDIRECT?

19 MR. POPE: I WOULD ASK THAT THIS WITNESS BE
20 EXCUSED, YOUR HONOR.

21 THE COURT: YOU CAN STEP DOWN AND YOU CAN BE
22 EXCUSED. WE APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

23 MR. POPE: THE STATE WOULD CALL BRETT BAKER.

24 THE COURT: IS THIS THE ONE YOU NEEDED THE BREAK
25 FOR?

1 MR. POPE: IT WILL BE RIGHT AFTER, YOUR HONOR.

2 BRETT BAKER, BEING FIRST DULY SWORN, TESTIFIED AS

3 FOLLOWS:

4 DIRECT EXAMINATION BY

5 MR. POPE:

6 Q. DETECTIVE BAKER, AGAIN, STATE YOUR NAME AND
7 OCCUPATION FOR THE JURY PLEASE.

8 A. MY NAME IS BRETT BAKER; THE LAST NAME IS B-A-K-
9 E-R. AND I WORK IN THE LATENT PRINT CRIME SCENE
10 DEPARTMENT OF THE SOUTH CAROLINA LAW ENFORCEMENT
11 DIVISION.

12 MR. POPE: YOUR HONOR, HE HAS PREVIOUSLY BEEN
13 QUALIFIED AS AN EXPERT IN FORENSIC LATENT PRINTS IN CRIME
14 SCENE ANALYSIS, AND I WOULD AGAIN TENDER HIM AS SUCH.

15 THE COURT: ANY OBJECTION; ANY VOIR DIRE?

16 MR. HANCOCK: NO OBJECTION, YOUR HONOR. I THINK
17 HE HAS PREVIOUSLY BEEN QUALIFIED.

18 THE COURT: I FIND THAT HE CONTINUES TO BE
19 QUALIFIED IN THAT AREA.

20 Q. AGENT BAKER, YOU HAD TOLD THE JURY PREVIOUSLY
21 ABOUT YOUR DUTIES AT SLED AND YOU HAD TALKED
22 ABOUT TOOL MARKS AND CRIME SCENE ANALYSIS, AND
23 AS PART OF CRIME SCENE ANALYSIS, COULD YOU ALSO
24 EXPLAIN TO THE JURY WHAT BLOOD SPATTER ANALYSIS
25 IS OR BLOOD STAIN ANALYSIS?

1 A. YES, SIR. BASICALLY, BLOOD SPATTER
2 INTERPRETATION, YOU CAN ALSO REFER TO IT AS
3 BLOOD STAIN PATTERN ANALYSIS. IT'S THE STUDY OF
4 THE FLIGHT CHARACTERISTICS OF BLOOD AND THE
5 PATTERNS THAT ARE LEFT.

6 WHAT THAT IS SAYING SIMPLY IS THAT WHEN A PERSON
7 IS INJURED, BLOOD IS GOING TO START TO FORM.
8 BLOOD CAN DROP OFF FROM THE INJURY AND LAND ON A
9 SURFACE. THAT PATTERN THAT IS LEFT ON THAT
10 SURFACE FROM THE BLOOD CAN TELL YOU A LOT ABOUT
11 THE CRIME SCENE.

12 SO THERE ARE CERTAIN THINGS THAT WE CAN TELL,
13 YOU KNOW. WE CAN TELL SUCH THINGS SUCH AS
14 DIRECTION; WHAT AREA THE BLOOD HAD TO COME FROM.
15 POSSIBLY WHAT TYPE OF WOUND HAD OCCURRED; WHAT
16 TYPE OF INSTRUMENT WAS USED TO CREATE THE WOUND.
17 THE NUMBER OF BLOWS IN A BEATING, A MINIMUM
18 NUMBER OF BLOWS, NOT EXACTLY.

19 SO, THERE ARE VARIOUS THINGS THAN CAN BE
20 DISCOVERED FROM EXAMINING THE BLOOD STAIN
21 PATTERN.

22 Q. OKAY, AND YOU HAD INDICATED TO THE JURY THAT YOU
23 ACTUALLY PROCESSED THE HOUSE AT WESTMINSTER; IS
24 THAT CORRECT?

25 A. THAT IS CORRECT; YES, SIR.

1 Q. AND IF YOU WOULD, RELATE TO THE JURY THE
2 LOCATIONS WHERE THE BODIES OF TERRY AND EARL
3 WERE FOUND PLEASE, SIR.

4 A. YES, SIR. AGAIN, THIS BEING THE TOP FLOOR. I
5 ENTERED FROM THE STAIRS. JUST AT THE TOP OF THE
6 STAIRS I NOTICED SOME BLOOD. ALSO AGAIN THAT
7 THERE WAS A FABRIC IMPRESSION ON THE SHEET AT
8 THE TOP OF THE STAIRS.

9 JUST AS YOU TURN THE CORNER, OR YOU'RE STANDING
10 HERE FIXING TO TURN THE CORNER, THERE WOULD BE
11 THE FEET OF MR. EARL ROBERTSON.

12 DOWN THE HALL ON THIS SIDE OF THE BED IN THE
13 MASTER BEDROOM WAS WHERE TERRY ROBERTSON WAS
14 FOUND.

15 Q. ALSO, COULD YOU TELL THEM WHERE THE WALLET WAS
16 LOCATED?

17 A. THERE WAS A WALLET LOCATED AT THE END OF THE
18 HALL JUST OUTSIDE THE MASTER BEDROOM DOOR.

19 Q. HOW ABOUT THE FILE BOX, COULD YOU TELL WHERE
20 THAT WAS LOCATED?

21 A. YES, SIR. THERE WAS ALSO A FILE BOX THAT WAS
22 LOCATED AT THE END OF THE HALL.

23 Q. AND FINALLY THE POCKETBOOK, COULD YOU TELL THEM
24 APPROXIMATELY WHERE THAT WAS LOCATED?

25 A. THERE WAS A PURSE WITH ITS CONTENTS, IT WAS

1 TIPPED OVER, JUST AT THE END OF THE BED TOWARDS
2 THE FEET OF MRS. ROBERTSON.

3 Q. OKAY. YOU HAD ALSO EARLIER TESTIFIED OF A DOOR
4 THAT WAS SPATTERED AND YOU HAD CLOSED IT TO
5 DEMONSTRATE THAT IT WOULD HAVE BEEN CLOSED AT
6 THE TIME OF THE INCIDENT. COULD YOU RELATE THE
7 LOCATION OF THAT?

8 A. YES, SIR. THIS DOOR RIGHT HERE OF THE FIRST
9 BEDROOM. IT WAS ACTUALLY -- IT WOULD HAVE HAD
10 TO HAVE BEEN CLOSED BASED ON THE BLOOD SPATTER
11 DURING THE ATTACK. THIS DOOR WAS COVERED WITH
12 BLOOD.

13 AND, OF COURSE, MR. ROBERTSON'S HEAD WAS JUST
14 APPROXIMATELY RIGHT HERE. AND AT THE ANGLE OF
15 THE BLOOD -- BLOOD CAN'T FLOW AROUND A CORNER,
16 BASICALLY. SO, THIS DOOR WAS CLOSED DURING THE
17 ATTACK. I HAD PHOTOGRAPHED IT OPENED AS WELL AS
18 CLOSED TO DEMONSTRATE THAT IT WOULD IN FACT HAD
19 TO BE CLOSED.

20 Q. AND SUBSEQUENT TO THAT, WAS A VIDEO ALSO TAKEN
21 OF THE CRIME SCENE TO INDICATE THE AREAS AND IT
22 INCLUDED BOTH THE OPENED AND CLOSED DOOR?

23 A. YES, SIR, THERE WAS A VIDEO TAKEN AND I HAVE
24 REVIEWED THAT.

25 Q. AND I CALL YOUR ATTENTION TO STATE'S EXHIBIT

1 279, DOES THAT ACCURATELY REFLECT THE HOUSE AS
2 IT WAS ON THAT EVENING?

3 A. YES, SIR, IT DOES.

4 MR. POPE: YOUR HONOR, AT THIS TIME I MOVE
5 STATE'S 279 INTO EVIDENCE.

6 MR. BOYD: SUBJECT TO OUR PRIOR OBJECTION.

7 THE COURT: SUBJECT TO MY PRIOR RULING, IT IS
8 ALLOWED INTO EVIDENCE.

9 (THE VIDEO WAS MARKED IN EVIDENCE AS STATE'S EXHIBIT 279
10 WITHOUT OBJECTION.)

11 MR. POPE: AGENT BAKER, I AM GOING TO ASK IF YOU
12 COULD IF YOU WOULD STEP DOWN, PLEASE. HAVE YOU ALSO HAD AN
13 OPPORTUNITY TO REVIEW STATE'S EXHIBITS 206 THROUGH 237;
14 HAVE YOU HAD AN OPPORTUNITY TO REVIEW THESE PHOTOS?

15 A. YES, SIR, DURING THE LUNCH BREAK I DID REVIEW
16 THEM.

17 Q. AND WOULD THIS ASSIST YOU IN DESCRIBING THE
18 CRIME SCENE TO THE JURY AS WELL AS THE BLOOD
19 SPATTER AND THE NATURE OF THE CRIME THAT THE
20 DEFENDANT LEFT?

21 A. YES, SIR.

22 Q. YOUR HONOR, I WOULD MOVE NOW STATE'S EXHIBITS
23 206 THROUGH 237 INTO EVIDENCE.

24 MR. HANCOCK: THE SAME OBJECTION.

25 THE COURT: I HAD REVIEWED THESE EARLIER, AND I

1 WILL ALLOW THEM INTO EVIDENCE OVER THE OBJECTION OF
2 COUNSEL.

3 (THE PHOTOGRAPHS WERE MARKED IN EVIDENCE AS STATE'S
4 EXHIBITS 206 THROUGH 237 OVER OBJECTION.)

5 Q. MADAM CLERK, IF YOU WOULD GET THE LIGHTS PLEASE.

6 AS WE GO THROUGH EACH EXHIBIT IF YOU COULD
7 INDICATE TO THE JURY WHAT IT DEPICTS AND ANY
8 INFORMATION THAT YOU MIGHT DEEM PERTINENT TO THE
9 BLOOD SPATTERS, DIFFERENT MATTERS THAT YOU NEED
10 TO POINT OUT ON EACH ONE.

11 A. AGAIN, JUST TO BACK UP A LITTLE SECOND. I'VE
12 GOT A LITTLE MORE FOUNDATION ON THE BLOOD
13 SPATTERS. THERE ARE THREE TYPES OF WHAT WE
14 WOULD CALL ---

15 MR. HANCOCK: YOUR HONOR, I HAVE AN OBJECTION
16 THAT I THINK WOULD REQUIRE THE JURY BEING OUT.

17 THE COURT: WHY DON'T WE GO AHEAD AND TAKE -- I
18 KNOW THERE IS GOING TO BE A POINT WHERE WE'RE GOING TO HAVE
19 TO TAKE A SHORT BREAK, BUT LET'S GO AHEAD AND TAKE OUR
20 AFTERNOON BREAK. WE'VE BEEN GOING ABOUT AN HOUR AND A
21 HALF. FOLLOW THE BAILIFF.

22 IN CAMERA:

23 THE COURT: ALL RIGHT.

24 MR. BOYD: YOUR HONOR, THE WITNESS IS GOING INTO
25 BLOOD SPATTER ANALYSIS AND THAT SORT OF THING. WE'VE BEEN

1 LOOKING, I DON'T SEE THAT WE'VE HAD ANY INFORMATION ABOUT
2 ANY RESULTS OF ANY BLOOD SPATTER ANALYSIS OR ANYTHING IN
3 DISCOVERY.

4 THE COURT: ANY WRITTEN REPORTS?

5 MR. POPE: NO, SIR; NO, SIR. HE IS GOING TO
6 INTERPRET THE CRIME SCENE AS HE OBSERVED IT. THERE IS NO
7 REPORT.

8 THE COURT: YOU DON'T HAVE ANYTHING BECAUSE THERE
9 IS NOTHING TO GIVE.

10 MR. BOYD: EVEN IF THERE'S NOT A WRITTEN REPORT,
11 I THINK IT IS INCUMBENT UPON THEM TO PROVIDE US WITH AT
12 LEAST THE RESULTS IF THAT WAS DONE, BLOOD SPATTER ANALYSES.
13 UNLESS HE'S JUST DOING IT COLD FROM ---

14 MR. POPE: BASICALLY HE IS LOOKING AT THE SCENE
15 JUST AS HE LOOKED AT IT THEN. THERE IS NO RESULTS; THERE
16 IS NO REPORT. HE'S GOING TO LOOK AT A SCENE AND SAY THIS
17 SMEAR IS INDICATIVE OF A TRANSFER, BASED ON HIS EXPERIENCE
18 AS A CRIME SCENE ANALYST.

19 THE COURT: WHAT'S YOUR MOTION?

20 MR. BOYD: MY MOTION WOULD BE TO EXCLUDE THE
21 EVIDENCE BECAUSE IT HASN'T BEEN DISCLOSED IN DISCOVERY.

22 THE COURT: THE MOTION IS DENIED. LET'S JUST
23 TAKE A SHORT BREAK.

24 MR. POPE: YES, SIR. I JUST WANT TO PUT ON THE
25 RECORD THAT I THINK THE DEFENSE WILL ADMIT THAT THEY HAVE

1 HAD ALL OF THESE PICTURES. I THINK THEY WILL ADMIT TO
2 THAT, YOUR HONOR.

3 MR. BOYD: THAT'S TRUE, YOUR HONOR.

4 MR. POPE: THANK YOU, SIR.

5 AFTER THE RECESS IN CAMERA:

6 THE COURT: I HAVE GONE OVER PREVIOUS DEATH
7 PENALTY CASES I'VE TRIED, AND THIS IS MY SECOND PENALTY
8 PHASE CHARGE. I BELIEVE BOTH SIDES HAVE A COPY. IT'S
9 OBVIOUSLY NOT WRITTEN IN STONE, BUT THAT'S WHAT I'M WORKING
10 OFF OF AND WE'LL HAVE PLENTY OF TIME TO GO OVER THAT.

11 WE ALSO, OF COURSE, WILL HAVE TO LOOK AT THE
12 STATUTORY INSTRUCTIONS, KEEPING IN MIND THAT WE HAVE TWO
13 SEPARATE VICTIMS AND QUITE A FEW AGGRAVATING CIRCUMSTANCES,
14 AT LEAST ALLEGED, AND THE SAME FOR MITIGATING.

15 MR. HANCOCK: FOR THE RECORD, YOUR HONOR, THE
16 DEFENSE HAS RECEIVED A COPY OF THAT.

17 MR. POPE: WE HAVE A COPY ALSO, YOUR HONOR.

18 THE COURT: BRING IN THE JURY.

19 IN THE PRESENCE OF THE JURY:

20 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR?

21 THE COURT: CERTAINLY.

22 CONTINUED DIRECT OF AGENT BAKER:

23 Q. AGENT BAKER, WHEN WE LEFT, YOU WERE GOING TO
24 EXPLAIN IN MORE DETAIL THE NATURE OF BLOOD
25 SPATTER AND YOU HAD SOME MORE INFORMATION ON

1 THAT. WOULD YOU SHARE THAT WITH THE JURY
2 PLEASE, SIR?

3 A. YES, SIR. WHAT I WAS GOING TO RELAY TO YOU IS
4 THAT BLOOD SPATTER PATTERN ANALYSES, ONE OF THE
5 THINGS THAT WE LOOK FOR IN TRYING TO DETERMINE
6 WHAT TYPE OF WEAPON MAY HAVE BEEN USED IS THE
7 DIFFERENT SIZE DROPLETS OF THE BLOOD THAT'S
8 FOUND ON THE WALLS.

9 IF YOU HAVE A SPRAY MIST LIKE SPRAY SUCH AS YOU
10 WOULD SEE OUT OF A SQUIRT BOTTLE, THAT'S
11 CHARACTERISTIC OF WHAT WE WOULD SAY IS A GUNSHOT
12 WOUND.

13 THAT IS USUALLY CHARACTERIZED BY THE ACTUAL SIZE
14 OF THE STAIN BEING LESS THAN A MILLIMETER IN
15 DIAMETER.

16 THE OTHER THING WE LOOK FOR IS MEDIUM VELOCITY
17 IMPACT SPATTER. THAT IS ASSOCIATED WITH A BIG
18 -- THE SIZE OF THE STAINS THERE ARE USUALLY
19 ANYWHERE FROM GREATER THAN A MILLIMETER BUT LESS
20 THAN FOUR MILLIMETERS IN DIAMETER.

21 AND THAT'S ASSOCIATED WITH AN OBJECT SWINGING AT
22 APPROXIMATELY 25 FEET PER SECOND.

23 LOW VELOCITY IS AN OBJECT IMPACTING BLOOD AT
24 LESS THAN 25 FEET PER SECOND. LOW VELOCITY
25 SPATTER IS MORE INDICATIVE OF A STAIN BEING

1 GREATER THAN FOUR INCHES -- MEANING FOUR
2 MILLIMETERS IN DIAMETER, AND ALMOST TAKES THE
3 CHARACTERISTICS OF WHAT YOU WOULD SAY ARTERIAL
4 BLEEDING OR SPURTING BECAUSE THE STAIN IS MUCH
5 BIGGER.

6 SO, WE LOOK AT THE DIFFERENT SIZE OF THE STAINS
7 WHEN WE GO IN THERE. WE LOOK FOR, OBVIOUSLY,
8 ANY TYPES OF SWIPES THAT MAY OCCUR INDICATING A
9 STRUGGLE.

10 SO, THOSE ARE SOME OF THE GENERAL
11 CHARACTERISTICS OF THE THINGS THAT WE LOOK FOR.
12 ALSO WE LOOK FOR THE BLOOD. THE BLOOD CAN ALSO
13 TELL DIRECTION. IN OTHER WORDS, SOMETIMES IT
14 CAN TELL WHICH DIRECTION THE PERSON HAD TO BE
15 STANDING WHEN BEATING ANOTHER INDIVIDUAL.

16 WE CAN TELL THIS SOMETIMES BY CAST OFF. IF I
17 WAS TO HIT A PERSON, THE FIRST BLOW BRINGS BLOOD
18 TO THE SURFACE. SUBSEQUENT BLOWS IMPACTS THAT
19 BLOOD, BLOOD IS THEN FORCED OUT BETWEEN THE
20 OBJECT IT IS HIT WITH IN THE SKULL OR THE BACK
21 OR ARM, BLOOD IS THEN WHAT WE CALL SPATTERED
22 OUT. OKAY?

23 ON THOSE SUBSEQUENT BLOWS, IF BLOOD IS ON THE
24 OBJECT THAT'S BEING SWUNG, CAST OFF CAN OCCUR.
25 CAST OFF WOULD TAKE, YOU KNOW, A VERY UNIQUE

1 SHAPE. IT WILL BE LINEAR, YOU WILL HAVE LINEAR
2 PATTERNS. THE ACTUAL SHAPES OF THE DROPPINGS OF
3 BLOOD CAN BE TEARDROP IN SHAPE, THE POINTY SIDE
4 SHOWING THE DIRECTION THAT THE BLOOD WAS
5 TRAVELING WHEN IT HIT THAT SURFACE.

6 AN EXAMPLE WOULD BE IF I WAS TO DROP A DROPLET
7 OF BLOOD FROM HERE TO A SURFACE ANGLED, AT THIS
8 DEGREE ANGLE, THE DROPLET WOULD HIT HERE, CREATE
9 A ROUNDED SURFACE HERE GOING INTO A TEAR SHAPE,
10 SHOWING THAT THE BLOOD CAME FROM THIS DIRECTION.

11 YOU CAN ALSO MANY TIMES TELL ACTUALLY WHERE THE
12 AREA OF THE BLOOD CAME FROM. YOU CAN ACTUALLY
13 DIVIDE THE WIDTH BY THE LENGTH OF THE BLOOD
14 STAIN, PLUG IN A MATHEMATICAL FORMULA AND
15 ACTUALLY TELL AND PUT A PERSON WITHIN A CLOSE
16 PROXIMITY OF WHERE THE PERSON HAD TO BE OR THE
17 HEAD OR THE WOUND WHEN BLOOD LETTING OCCURRED.

18 BUT IN GENERAL, WE GO THROUGH AND WE LOOK AT ALL
19 THESE THINGS AS WE'RE DOING THE CRIME SCENE WALK
20 THROUGH AND PHOTOGRAPH IT TO GIVE US SOME TYPE
21 OF IDEA. WE USE IT MORE THAN AN INVESTIGATIVE
22 LEAD.

23 AN EXAMPLE WOULD BE A SCENE WHERE WE DON'T HAVE
24 A BODY, WE ONLY HAVE BLOOD. WELL, ARE WE
25 LOOKING FOR A GUNSHOT, YOU KNOW, WAS THE PERSON

1 SHOT WITH A GUN. SO, YOU KNOW, WHAT THE
2 PERPETRATOR MAY HAVE BEEN CARRYING.

3 BUT IT ALSO APPLIES TO SCENES WHERE YOU ACTUALLY
4 HAVE THE VICTIM BECAUSE IT CAN HELP YOU LOOK FOR
5 CERTAIN INSTRUMENTS THAT COULD HAVE BEEN USED IN
6 THE ACTUAL CRIME.

7 Q. I'M GOING TO ASK YOU TO STEP DOWN NOW, PLEASE.
8 MADAM CLERK, WOULD YOU GET THE LIGHTS PLEASE?

9 (THE LIGHTS WERE DIMMED.)

10 Q. YOU HAD INDICATED ON STATE'S EXHIBIT 102, AGAIN
11 THIS IS WHERE YOU WOULD COME UP THE STAIRS, IF
12 YOU COULD INDICATE TO THE JURY, PERHAPS WITH THE
13 POINTER SO EVERYBODY CAN SEE.

14 A. OKAY. AGAIN, I ARRIVED ON THE STAIRS. AS I GOT
15 TO THE TOP OF THE STAIRS, THERE AS A FOLDED UP
16 SHEET THAT ACTUALLY HAD SOME FABRIC IMPRESSION
17 ON IT.

18 RIGHT HERE YOU CAN SEE SOME BLOOD ON THE WALLS.

19 IMMEDIATELY TO THE RIGHT YOU HAVE BLOOD, YOU
20 HAVE A TILEX BOTTLE, YOU COULD SMELL TILEX IN
21 THE HALLWAY.

22 AND THE VICTIM WAS LAYING IN THE CENTER OF THE
23 HALLWAY.

24 Q. OKAY. AGAIN, I'LL SHOW YOU STATE'S EXHIBIT 206
25 AND ASK IF ON THIS EXHIBIT YOU COULD INDICATE

1 WHAT THIS IS?

2 A. AGAIN, AS I WAS ENTERING UP THE HALL OR THE
3 STAIRS, HERE'S THE BED SHEET, THE FLORAL BED
4 SHEET THAT ACTUALLY HAD A FABRIC IMPRESSION ON
5 THE OUTSIDE OF IT THAT WAS LINKED TO SOME OF THE
6 SOCKS.

7 HERE WE HAVE BLOOD SPATTER. YOU CAN ACTUALLY
8 SEE THE DROPLETS OF BLOOD HERE. AGAIN, THOSE
9 ARE CHARACTERISTIC, TAKING THE SHAPE AND
10 CHARACTERISTICS OF A BEATING. THEY ARE HARD TO
11 SEE IN THIS ACTUAL PARTICULAR PHOTOGRAPH.

12 BUT THEY WERE CONSISTENT WITH WHAT WOULD OCCUR
13 IN A BEATING. THAT'S THE FIRST THING I NOTICED.

14 Q. OKAY, I'LL CALL YOUR ATTENTION TO STATE'S
15 EXHIBIT 211.

16 A. AGAIN AS YOU ENTER UP TO THE TOP OF THE STAIRS,
17 IMMEDIATELY TO MY RIGHT WHERE YOU HAD THE FIRST
18 VICTIM, EARL ROBERTSON -- SEVERAL THINGS I HAD
19 NOTICED IN THIS SCENE. AGAIN, THE TILEX BOTTLE
20 IS RIGHT HERE; THE TOP IS OFF OF IT. YOU HAD A
21 TILEX BOTTLE HERE.

22 YOU HAD ALSO UP HERE -- I'M SORRY, UP HERE
23 TOWARDS THE TOP AND I'M SORT OF MOVING AROUND ON
24 YOU. UP HERE AT THE TOP YOU HAD SOME TYPE OF
25 SWIPE, MEANING THAT THERE WAS BLOOD ON THE

1 OBJECT AND HE'D COME IN CONTACT WITH IT.

2 AND THAT'S CHARACTERISTIC OF A STAIN BEING HEAVY
3 ON ONE SIDE AND IT'S FADING AS IT'S BEING WIPED,
4 BEING SMEARED.

5 SO, I HAD THE TILEX BOTTLE THAT I HAD NOTICED;
6 OF COURSE, THE SMELL OF TILEX.

7 I NOTICED THE FEET OF MR. ROBERTSON HAD ONLY
8 LIKE ONE DROP OF THE BLOOD. AND THAT WAS
9 INTERESTING TO ME BECAUSE WHEN YOU GO IN THERE
10 AND YOU'RE TRYING TO RECONSTRUCT THE SCENE, HOW
11 MUCH OF A STRUGGLE HAD TAKEN PLACE. WELL,
12 APPARENTLY THERE WAS NOT ENOUGH FOR HIM TO WALK
13 THROUGH HIS ON BLOOD; TO BE BLEEDING AND WALKING
14 THROUGH HIS BLOOD.

15 HOWEVER, THERE WAS STILL ENOUGH FOR SWIPES TO
16 OCCUR. OVER IN THIS GENERAL AREA WHICH IS HARD
17 TO SEE HERE, I ACTUALLY HAD WHAT I CALL A HAIR
18 SWIPE. I BELIEVE THE NEXT PICTURE WILL SHOW
19 THAT A LITTLE BIT BETTER.

20 Q. STATE'S 215?

21 A. YOU CAN EVEN SEE THE HAIR ON HERE. THIS IS
22 CHARACTERISTIC OF HAIR COMING IN CONTACT, BLOODY
23 HAIR COMING IN CONTACT WITH THE DOOR OR THE ITEM
24 HERE AT THIS DOOR.

25 SO, YOU KNOW, I NOTICED THERE WASN'T A LOT OF

1 BLOOD ON THE SOLES OF HIS FEET; HOWEVER, THERE
2 WAS BLOOD ON THE DOOR BACK HERE CHARACTERISTIC
3 OF A SWIPE MOTION, A PERSON'S HEAD COMING IN
4 CONTACT THERE, YOU HAD THE SWIPE UP TOP. YOU
5 HAD THE CLOTHES, OF COURSE, KNOCKED OVER; YOU
6 HAD THE SMELL OF TILEX.

7 YOU HAD ALSO ON THE TILEX BOTTLE WHAT APPEARED
8 TO BE SOME TYPE OF TRANSFER. IT WASN'T BLOOD
9 FROM A PERSON BEING BEAT AND BEING SPATTERED
10 ONTO THE TILEX BOTTLE, IT WAS MORE
11 CHARACTERISTIC OF A PERSON HANDLING THE TILEX
12 BOTTLE.

13 AND AGAIN HERE AS WE GOT CLOSER TO THE BODY, YOU
14 CAN SEE THE MEDIUM VELOCITY IMPACT SPATTER.
15 AGAIN, THEY ARE GOING TO BE APPROXIMATELY FOUR
16 MILLIMETERS IN DIAMETER OR UNDER FOUR
17 MILLIMETERS, GREATER THAN A MILLIMETER IN
18 DIAMETER. AND THAT'S CHARACTERISTIC OF AN
19 OBJECT BEING SWUNG AT APPROXIMATELY 25 FEET PER
20 SECOND.

21 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT
22 217.

23 A. AGAIN, THE SEQUENCE OF THESE PHOTOGRAPHS ARE IF
24 I WAS TO WALK UP THE STEPS AND I'M SLOWLY
25 STARTING TO TURN, WHAT AM I STARTING TO SEE?

1 AGAIN HERE YOU HAVE MASSIVE BLOOD LETTING ---

2 MR. BOYD: I'M SORRY, IF YOU COULD STAND BACK A
3 LITTLE.

4 A. I APOLOGIZE. YOU HAVE MASSIVE BLOOD LETTING
5 HERE. AGAIN, THE VICTIM'S HANDS WERE UP UNDER
6 HIS BODY.

7 YOU HAVE WHAT IS ACTUALLY A SMEAR, MEANING THAT
8 BLOOD HAS ACTUALLY BEEN TRANSFERRED OR SPATTERED
9 ONTO THE DOOR, THEN A CLEAN OBJECT COME IN
10 CONTACT WITH IT.

11 WHAT WE LOOK FOR OVER HERE IS IMPACT SPATTERS.
12 IMPACT SPATTERS START TO TAKE SOMEWHAT OF A
13 CIRCULAR SHAPE. IF YOU WERE TO TAKE A SQUIRT
14 BOTTLE WITH A MIST AND SQUIRT ON A WINDOW TO
15 CLEAN A WINDOW, YOU HAVE A MIST CREATING A
16 CIRCUMFERENCE PATTERN.

17 WITH A BEATING, THE SAME THING OCCURS,
18 ESPECIALLY IF YOU HAVE A ROUNDED OBJECT. IF YOU
19 HIT AND BLOOD HAS ALREADY POURED ON THE SURFACE
20 OF THE BODY AND YOU HIT THAT BLOOD, IT'S GOING
21 TO BE FORCED OUT BETWEEN THE SKULL AND THE
22 OBJECT BEING SWUNG, CREATING THESE TYPE
23 PATTERNS.

24 I OBSERVED ON THIS WALL AS WELL AS THE OTHER
25 WALLS A MINIMUM OF ABOUT THREE PATTERNS AND

1 THERE WERE PROBABLY MORE. SO, WHAT THAT TELLS
2 ME, IF I HAVE THREE DISTINCT IMPACT STAINS, THAT
3 THE PERSON WAS HIT AT LEAST THREE TIMES. THE
4 FOURTH TIME BEING THE TIME THEY BRING BLOOD TO
5 THE SURFACE.

6 SO, YOU HAVE ONE THAT BRINGS BLOOD TO THE
7 SURFACE, TWO, THREE, FOUR CREATING THE ACTUALLY
8 STAINS.

9 SO, YOU KNOW, I KNEW THAT THERE WAS A BEATING.
10 OF COURSE, LOOKING AT THE VICTIM'S BODY, THERE'S
11 EVIDENCE OF THAT ALSO, I BELIEVE IN THE NEXT
12 PHOTOGRAPH.

13 Q. STATE'S 2092?

14 A. IN THIS PICTURE ALSO YOU CAN ALSO SEE -- IT'S
15 SOMEWHAT HARD TO SEE HERE -- THAT THE FEET ARE
16 ACTUALLY ALMOST TOTALLY FREE OF BLOOD. THERE
17 WAS LIKE ONE DROPLET ON THE LEFT OR RIGHT HEEL.
18 AS YOU WORK UP, THERE IS VERY LITTLE BLOOD ON
19 THE OUTSIDES OF THE BACK OF THE VICTIM.

20 HERE YOU HAVE WHAT APPEARS TO BE AN ELONGATED
21 IMPRESSION ON THE BACK. AND YOU CAN SEE IT
22 ALMOST RECREATING UP UNDER THERE.

23 SO, I FELT LIKE AT THAT POINT THAT WE HAD SOME
24 TYPE INSTRUMENT THAT WAS USED, WHETHER IT BE A
25 BOARD, WHAT-HAVE-YOU, THAT WAS A LONG CIRCULAR

1 CYLINDER SHAPED OBJECT BEING SWUNG.

2 AND THAT WAS AGAIN INDICATIVE BECAUSE OF THE
3 AMOUNTS OF SPATTER ON THE WALL.

4 Q. I CALL YOUR ATTENTION TO STATE'S 208. CAN YOU
5 IDENTIFY THIS?

6 A. YES, SIR. AGAIN, THIS IS THE ACTUAL STAIRWAY
7 DOOR, THE SIDE FACING THE VICTIM. SO IF I WAS
8 TO COME UP THE STEPS, TURN AROUND AND LOOK AT
9 THE DOOR AND CLOSE THE DOOR, ON THIS FACING OF
10 THE DOOR HERE YOU HAVE THESE ACTUAL SWIPES.
11 YOU HAD A SWIPE HERE AT THE CORNER AND ON THE
12 FACING -- IF YOU COULD MOVE THE PICTURE UP --
13 YOU CAN SEE HERE I HAD WHAT APPEARED TO BE SOME
14 TYPE OF FABRIC IMPRESSION BUT AGAIN I HAD
15 TREATED THIS LATTER WITH AMINO WHICH IS A
16 CHEMICAL THAT REACTS WITH BLOOD, IT DID NOT
17 ENHANCE IT. IT WAS NOT SUFFICIENT QUALITY THAT
18 I COULD ACTUALLY LINK IT TO ANYTHING.

19 Q. STATE'S EXHIBIT 207.

20 A. AGAIN HERE'S THOSE SAME IMPRESSIONS HERE. OF
21 COURSE, YOU CANNOT SEE THE DOOR, THE DOOR IS
22 OPEN.
23 YOU ACTUALLY SEE SOME SPATTER UP HIGH. BUT
24 WHAT'S MOST SIGNIFICANT IS THAT EVERYTHING IS
25 DOWN LOW.

1 BLOOD SPATTER COMES INTO VERY IMPORTANCE IN
2 CASES WHERE YOU HAVE WITNESSES SAYING THAT WHEN
3 THE ATTACK OCCURRED, THE PERSON WAS STANDING AND
4 I HIT HIM WHILE HE WAS STANDING. WELL, IF THAT
5 WAS THE CASE, YOU WOULD HAVE SPATTER UP HIGH.
6 YOU WOULD HAVE THESE CIRCULAR PATTERNS UP HIGH,
7 ABOUT THE HEIGHT OF THE WOUND.

8 IN THIS CASE, AS YOU CAN SEE, EVERYTHING IS DOWN
9 LOW, AT A LEVEL CONSISTENT WITH THE VICTIM BEING
10 DOWN.

11 ALSO ON THE BOOKCASE HERE YOU HAVE WHAT WE CALL
12 CAST OFF. WHEN YOU HAVE A PATTERN THAT'S
13 BASICALLY CIRCULAR, IN OTHER WORDS THE LENGTH
14 AND THE WIDTH IS EQUAL IN MEASUREMENT, THAT'S
15 CONSISTENT WITH A 90 DEGREE DROP.

16 SO, IF I WAS TO START BLEEDING AND THEN DROP
17 STRAIGHT DOWN, GRAVITATIONAL FORCE IS GOING TO
18 BRING IT DOWN AND IT'S GOING TO CREATE ALMOST A
19 SPHERE SHAPE, CIRCULAR SHAPE, EQUAL IN LENGTH
20 AND WIDTH.

21 ALSO IF THE OBJECT IS BEING SWUNG, BLOOD THAT IS
22 BEING SLUNG OFF OF THAT OBJECT WILL CREATE ALSO
23 THE SAME SHAPE. AND YOU HAVE THAT HERE AS WELL
24 AS ALL THE WAY DOWN THE HALL. THERE WAS BLOOD
25 FOUND ALL THE WAY DOWN THE HALL.

1 IT'S HARD TO SEE THERE, I THINK THERE IS SOME
2 ACTUALLY ON THE LOCK BOX HERE, BUT ABOVE IT AND
3 NEAR THE PICTURE.

4 BEHIND HERE THERE WAS BLOOD FOUND ALSO THAT WAS
5 ON THE ROOF WHICH IS INDICATIVE OF CAST OFF, AN
6 OBJECT BEING SWUNG.

7 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT
8 219 IF YOU COULD INDICATE TO THE JURY THIS ITEM.

9 A. THIS IS THE UNDERPANTS OF EARL ROBERTSON.
10 AGAIN, YOU CAN SEE THE IMPRESSION THAT WE HAD
11 SHOWN EARLIER OVER HERE TO THE LEFT, TO THE LEFT
12 HERE.

13 IT TENDS TO CONTINUE, BUT ALSO STOP. IT DOESN'T
14 GO ALL THE WAY UP THE BODY. AGAIN, I WAS TRYING
15 TO SHOW THAT THERE WAS SOME TYPE IMPRESSION ON
16 THE SIDE OF THE PERSON.

17 AGAIN, YOU HAVE VERY CIRCULAR TYPE SHAPES.
18 AGAIN WHAT WE DO IN THIS TYPE OF PARTICULAR
19 CASE, OF COURSE, WE ACTUALLY HAVE THE
20 UNDERGARMENTS COLLECTED BECAUSE SPATTER THAT'S
21 ON THE BACKSIDE HERE COULD BE FROM THE WOUND,
22 BUT LET'S SAY THE PERPETRATOR IS INJURED ALSO.
23 SO, WE TRY TO COLLECT THAT AND HAVE EVERYTHING
24 TESTED.

25 Q. I SHOW YOU STATE'S EXHIBIT 214.

1 A. AGAIN YOU HAVE A SCALE THAT ACTUALLY HERE IT'S
2 HARD TO SEE. AND WE PUT A SCALE TAPE IN THERE
3 IF WE ACTUALLY NEED TO ENLARGE AN IMPRESSION TO
4 SCALE SO THAT WE CAN DO A COMPARISON.

5 HERE YOU CAN SEE ALSO THE SHAPE OF AN OBJECT
6 THAT WAS BEING SWUNG TO HIT MR. ROBERTSON.

7 AGAIN YOU HAVE WHAT APPEARED TO BE SOME TYPE OF
8 BURN PATTERN ON THE BACK. YOU HAD OTHER
9 INJURIES THAT LOOKED TO BE TWO ACTUAL HOLES,
10 AMONG AGAIN MASSIVE INJURY AROUND THE HEAD AREA.

11 Q. IN THAT REGARD I WILL SHOW YOU PARTICULARLY
12 EXHIBIT 213.

13 A. AGAIN, FROM THE OTHER DIRECTION YOU CAN SEE THE
14 PATTERN. YOU CAN SEE ACTUAL WOUNDS. AND YOU
15 CAN SEE THE AMOUNT OF SPATTER THAT OCCURS.

16 AND, AGAIN, ONCE BLOOD LETTING IS OCCURRED AND
17 THE PERSON IS HITTING -- IF YOU WILL BACK OUT
18 THERE JUST A SECOND -- YOU'RE GOING TO HAVE
19 PATTERNS CREATED ON THE WALLS. AND I THINK THE
20 SUBSEQUENT PICTURES WILL SHOW THAT.

21 Q. I'LL SHOW YOU STATE'S EXHIBIT 212.

22 A. HERE YOU CAN ACTUALLY SEE AGAIN A CIRCULAR SHAPE
23 PATTERN, VERY DISTINCT FROM ONE ANOTHER. YOU
24 CAN SEE THE BLOOD, HOW IT TEAR DROP SHAPES,
25 BEING MORE SCALLOPED OR POINTED ON ONE END.

1 AGAIN, SHOWING THAT THE BLOOD WAS HITTING AND
2 MOVING IN THAT DIRECTION.

3 AGAIN, YOU HAVE THE BLOOD ON THE CLOTHES. WHEN
4 THE CLOTHES WERE MOVED, THERE WERE VOID SPOTS UP
5 UNDER THE CLOTHES, INDICATING THAT THE CLOTHES
6 HAD BEEN THERE PRIOR TO BLOOD LETTING.

7 Q. IN THIS PARTICULAR PICTURE YOU HAVE A NUMBER OF
8 SEPARATE PATTERNS, LIKE ONE LARGER; COULD YOU
9 DESCRIBE WHAT THAT INDICATES?

10 A. AGAIN THAT INDICATES THESE TYPE PATTERNS ARE
11 WHAT WE WOULD CALL LOW VELOCITY WHICH IS LESS
12 THAN 25 FEET PER SECOND, THE OBJECT THAT'S
13 HITTING IT, CREATING IT LESS THAN 25 FEET PER
14 SECOND, BUT IT'S ALSO INDICATIVE OF WHAT WE
15 REFER TO AS ARTERIAL SQUIRTING.

16 IF AN ARTERY OR MAIN VEIN IS HIT AND BLOOD WITH
17 THE HEART PUMPING IS BEING PROJECTED OUT OF THE
18 BODY, WILL CREATE THESE ALSO, THESE PATTERNS,
19 WHAT WE CALL ARTERIAL PATTERNS.

20 Q. I'LL CALL YOUR ATTENTION TO WHAT APPEARS TO BE
21 STATE'S EXHIBIT 226.

22 A. AGAIN THIS IS SHOWING A CONTINUATION AND YOU CAN
23 SEE WHERE MOVEMENT OCCURRED. YOU CAN ALMOST SEE
24 THE HARD LINE WHERE THE PANTS WERE SITTING; THEY
25 HAD BEEN MOVED, BLOOD IS NOW OOZING BEHIND IT.

1 AGAIN, SHOWING THE ACTUAL IMPACT AREAS IN
2 RELATION TO THE VICTIM WHERE HE'S LAYING.
3 OF COURSE, YOU HAVE A PIECE OF THE ACTUAL MATTER
4 OF THE BRAIN AND THE SKULL SITTING OVER HERE,
5 SKIN.

6 Q. STATE'S EXHIBIT 216.

7 A. THIS IS TO THE LEFT OF THE VICTIM AS HE'S LAYING
8 FACE DOWN. HERE AGAIN IS THAT SWIPE OR ACTUALLY
9 IT WOULD BE A SMEAR. YOU HAVE BLOOD LETTING
10 OCCUR, A CLEAN OBJECT COMES AND TOUCHES IT.
11 YOU ALSO HAVE TEARDROP SHAPES OF BLOOD. AGAIN,
12 THIS IS HIGHER THAN THE VICTIM IN MOST OF THE
13 IMPACT SPATTER, INDICATING THAT BLOODLETTING
14 OCCURRED AT SOME POINT HIGHER. WHICH IN A
15 BEATING INCIDENT THAT'S NORMAL, YOU MAY HAVE
16 SOME SPATTER UP HERE HIGH, AND THERE WILL BE
17 DIRECTIONAL EVEN LOWER AND LOWER AS THE VICTIM
18 IS BEING BEAT DOWN.

19 Q. AND ON THIS ONE WHEN YOU SAY HIGHER AND, OF
20 COURSE, YOU'VE GOT A MEASUREMENT THERE, HOW MUCH
21 HIGHER ARE YOU TALKING ABOUT, COULD YOU
22 INDICATE?

23 A. WELL, MOST OF THE SPATTER WAS 18 TO 24 INCHES IN
24 HEIGHT FROM THE FLOOR. HOWEVER, WHEN WE WALKED
25 UP TO THE TOP OF THE STEPS, YOU HAD SPATTER

1 ALMOST AT EYE LEVEL, INDICATING THAT THE VICTIM
2 HAD BEEN HIT AT SOME POINT, BLOODLETTING
3 OCCURRED HIGHER.

4 Q. OKAY.

5 A. AND IF YOU HAVE A TEARDROP SHAPE OF BLOOD
6 HIGHER, IT'S SHOWING THAT THE BLOOD IS BEING
7 FLOWN AND ACTUALLY HITTING THE WALL HIGHER;
8 SHOWING THAT THE PERSON WAS STANDING AT SOME
9 POINT.

10 Q. DID YOU HAVE SPATTER TO THE DEGREE THAT YOU HAVE
11 AT THE LOWER LEVEL?

12 A. NO, SIR, NOT AT THE HIGHER LEVEL. ALL OF IT WAS
13 CONSISTENT WITH THE PERSON BEING DOWN. AGAIN,
14 THE PERSON HAD BEEN -- BLOODLETTING OCCURRED AT
15 SOME POINT HIGHER THAN THE 18 TO 14 INCHES.
16 HOWEVER, THE MAJORITY OF THE BLOWS AND ALL THE
17 IMPACT SPATTERS I COULD DEFINITELY SAY WERE
18 SPATTERED IMPACT STAINS WERE ALL LOW.

19 Q. OKAY. I'LL CALL YOUR ATTENTION TO STATE'S
20 EXHIBIT 210, PARTICULARLY AS IT RELATES TO THE
21 DOOR IN THIS AREA.

22 A. AGAIN, I DON'T KNOW IF WE CAN ZOOM IN AND SEE IT
23 HERE. YOU CAN SEE BLOOD HERE ON THE DOOR ---

24 Q. I'LL REFER YOU TO STATE'S 28 IF THAT WOULD
25 ASSIST YOU.

1 A. EVEN BETTER. YOU HAVE BLOOD HERE SHOWING
2 TEARDROP AS IN MOVEMENT AS THE BLOOD HITTING THE
3 DOOR IN THIS MANNER.

4 IF YOU NOTICE, THE ACTUAL DOORJAMB IS CLEAN,
5 FREE OF BLOOD. SO IS ALSO HERE. INDICATING THE
6 DOOR HAD BEEN SHUT WHEN BLOODLETTING OCCURRED.
7 THE DOOR WAS OPENED SOMETIME AFTER BLOODLETTING
8 OCCURRED.

9 I PHOTOGRAPHED THIS NORMALLY, OPEN AND SHUT,
10 SHOWING THAT IT COULDN'T HAVE BEEN -- I
11 PHOTOGRAPH IT AS IT IS WHEN I FIND IT. AND THEN
12 I SHUT IT SHOWING HOW IT WOULD HAVE BEEN ALSO.
13 BUT THAT'S VERY SIGNIFICANT IN THE FACT THAT THE
14 DOOR WAS OPEN -- I MEAN THE DOOR WAS NOT OPEN,
15 THE DOOR WAS CLOSED WHEN ALL THE BLOODLETTING
16 OCCURRED.

17 Q. I'LL CALL YOUR ATTENTION TO STATE'S EXHIBIT 220
18 -- I'M SORRY, 222 AND ASK IF YOU CAN IDENTIFY
19 THIS ITEM?

20 A. YES, SIR. AND THERE'S ONE OTHER THING TO
21 MENTION, IN REFERENCE TO THE DOOR BEING OPEN,
22 THOSE ARE TYPE THINGS THAT WE LOOK FOR THAT ARE
23 VERY SIGNIFICANT BECAUSE WE INITIALLY WENT TO
24 THIS SCENE AS A BURGLARY HOMICIDE. SO, WE'RE
25 TRYING TO SEE WHERE SOMEONE MAY HAVE BEEN SO

1 WE'D KNOW WHAT AREAS WERE MOST PROBATIVE TO
2 ACTUALLY GO AND CONCENTRATE, WHAT MAYBE THEY
3 WERE LOOKING FOR, THAT SORT OF THING.

4 AND THAT ALSO RELATES TO THIS HERE, WE FIND A
5 WALLET JUST OUTSIDE THE BEDROOM DOOR WITH BLOOD.
6 AGAIN, THIS BLOOD BEING CAST OFF AND FLUNG FROM
7 THE ACTUAL AREA DOWN THE HALL.

8 Q. AND AGAIN WHEN YOU SAY THE BEDROOM DOOR, WHICH
9 BEDROOM ARE YOU REFERRING TO NOW?

10 A. I'M REFERRING TO THE MASTER BEDROOM, THE DOOR
11 JUST OUTSIDE THE MASTER BEDROOM DOOR THERE WAS A
12 WALLET THAT WAS OPEN, THE VICTIM DOWN HERE WITH
13 HIS FEET JUST PAST.

14 Q. COULD YOU RELATE TO THE JURY ONCE AGAIN BEFORE I
15 PUT THIS DOWN WHERE THE FILE BOX IS IN THIS
16 DIAGRAM?

17 A. THE FILE BOX IS JUST BEYOND, A FOOT TO 18 INCHES
18 BEYOND THE WALLET.

19 Q. I'LL CALL YOUR ATTENTION TO STATE'S EXHIBIT 223
20 AND ASK IF YOU CAN IDENTIFY THIS?

21 A. YES, SIR. THIS IS THE METAL BOX THAT WAS JUST
22 BEYOND THE WALLET. AGAIN WHAT WAS SIGNIFICANT
23 ABOUT THIS AND YOU CAN ACTUALLY SEE A DROPLET OF
24 BLOOD UP HERE, AND YOU HAVE SOME SPOTS OF BLOOD
25 ON THE ACTUAL BOTTOM SIDE.

1 WHEN I FLIPPED THE ITEM OVER, THERE WAS BLOOD ON
2 THE FACE SIDE OF THE PORTION TOWARD THE CARPET,
3 OKAY? MEANING THAT AT SOME POINT WHEN
4 BLOODLETTING OCCURRED, THIS THING WAS IN TWO
5 DIFFERENT POSITIONS. YOU CAN'T BLEED ON THE
6 FLAT SIDE AGAINST THE CARPET AS WELL AS THE TOP
7 SIDE.

8 THAT WAS SOMEWHAT SIGNIFICANT BECAUSE -- YOU
9 KNOW, YOU FIND THINGS THAT ARE ODD. YOU DON'T
10 KNOW WHETHER MAYBE A BEATING OCCURRED AND
11 SUBSEQUENTLY SOMEBODY HAS COME BACK, MOVED
12 THROUGH THE HOME AND THEN ACTUALLY COME BACK AND
13 DID MORE BEATING ON THE VICTIM.
14 SO, WE WERE LOOKING AND, AGAIN, YOU HAD BLOOD ON
15 THE BOTTOM SIDE. THIS IS ACTUALLY THE BOTTOM
16 SIDE. IT'S UPSIDE DOWNWARD. AND THEN YOU HAVE
17 BLOOD ON THE ACTUAL TOP SIDE OF IT.

18 Q. NOW I'LL CALL YOUR ATTENTION TO THE MASTER
19 BEDROOM, STATE'S EXHIBIT 236.

20 A. AGAIN THIS IS FROM THE HALLWAY VIEW AS YOU TURN
21 INTO THE MASTER BEDROOM AND THE FIRST THING YOU
22 NOTICE IS YOU NOTICE THE BLOOD AND THE OBJECT,
23 WHICH IS A KNIFE, LAYING ON THE BED.
24 YOU HAVE THE SHEETS AND EVERYTHING BEING PULLED
25 IN THAT DIRECTION.

1 IN HERE YOU START TO SEE SOME LINEAR PATTERNS,
2 BLOODLETTING AND WE'LL GET TO THOSE A LITTLE BIT
3 FURTHER.

4 Q. STATE'S EXHIBIT 237?

5 A. THIS IS A TEARDROP SHAPE HERE; IT'S FAT AND IT'S
6 STARTING TO THIN OUT. YOU HAVE ONES THAT ALMOST
7 LOOK TO BE 90 DEGREE, JUST BELOW THIS IS THE
8 VICTIM. THE VICTIM WOULD HAVE BEEN HIGHER AT
9 SOME POINT, MORE IN LINE WITH THESE ACTUAL
10 CIRCULAR PATTERNS.

11 THESE PATTERNS, YOU HAVE HAIR; IT APPEARED TO BE
12 CONSISTENT -- IT WENT ON UP THE WALL SOMEWHAT.
13 IT APPEARED TO BE CONSISTENT WITH AN OBJECT
14 BEING SLUNG IN THIS MANNER, A CAST OFF OF AN
15 OBJECT.

16 AND IF WE FOCUS OUT JUST ONE MORE TIME. AGAIN,
17 WE'LL SHOW THE PHONE I BELIEVE A LITTLE CLOSER.
18 HERE YOU HAVE CUT HAIR ON THE BED AS WELL AS THE
19 KNIFE. THE KNIFE WITH A BROKEN TIP. AGAIN, THE
20 OTHER PIECE OF THE TIP WAS FOUND UP UNDER MRS.
21 ROBERTSON.

22 Q. I'LL CALL YOUR ATTENTION NOW TO STATE'S EXHIBIT
23 235.

24 A. AGAIN YOU HAVE THE BLOOD SHOWING HERE. YOU HAVE
25 WHAT WE CALL VOLUME BLEEDING MEANING THAT

1 THERE'S VOLUME BLOOD UP HERE.

2 THERE IS NO REAL INDICATION OF A PERSON HAVING
3 BEEN BEAT WHILE ON THE BED. EVERYTHING APPEARED
4 TO BE VOLUME BLEEDING WHICH IS SIGNIFICANT
5 BECAUSE THEN YOU SAY -- OF COURSE, YOU FIND A
6 KNIFE AND IT APPEARS THAT SOMEONE HAS BEEN CUT
7 VERSUS BEAT.

8 THEN LATER YOU FIND THAT YOU HAVE IMPACT
9 SPATTERS CONSISTENT WITH THE PERSON BEING BEAT.
10 NOT ONLY WERE THEY CUT, IT APPEARED THEY HAD
11 BEEN BEATEN. AND, OF COURSE, YOU HAVE THESE
12 LINEAR PATTERNS THAT'S CREATED BY SOME OBJECT.

13 Q. I CALL YOUR ATTENTION STILL TO STATE'S EXHIBIT
14 235, COULD YOU INDICATE WHAT THIS ITEM IS IN
15 THIS LOCATION?

16 A. AGAIN RIGHT HERE YOU HAVE A PURSE WITH A WOMAN'S
17 CONTENTS OUT. YOU HAVE SOME CHECKBOOKS. THERE
18 WAS SOME DROPLETS OF BLOOD, IT LOOKED LIKE TO BE
19 SOME TRANSFER BLOOD ON THE PURSE ALSO. HOWEVER,
20 WE PROCESSED THE PURSE AND THERE WERE NO PRINTS
21 OF QUALITY.

22 Q. I'M GOING TO SHOW YOU STATE'S EXHIBIT 224 AND
23 ASK IF YOU CAN TELL WHAT THIS ITEM INDICATES
24 OVERALL.

25 A. HERE'S THE CHECKBOOK, YOU KNOW, IT APPEARS TO BE

1 A COIN PURSE, CHECKS, SOME TYPE OF OTHER CARDS,
2 YOU KNOW, WHETHER IT BE MEDICAL CARDS; IT MAY BE
3 THE BACK OF A LICENSE I BELIEVE HERE. OF
4 COURSE, SOME COIN CHANGE HERE.

5 Q. THESE ITEMS WERE RECOVERED BY YOU?

6 A. YES, SIR. AND ALSO UP ON THE BED, THE OTHER
7 THING AGAIN THAT WAS APPARENT, I'M NOT SURE IF
8 WE HAVE THAT IN ANOTHER PICTURE COMING UP
9 CLOSER, BUT ACTUALLY ---

10 Q. STATE'S 229?

11 A. IS THERE ANOTHER PICTURE AFTER THAT ONE?

12 Q. YES, SIR. STATE'S EXHIBIT 227?

13 A. YES, SIR. AND, AGAIN, WHAT WE LOOK FOR HERE,
14 YOU'VE GOT THE CUT HAIR; ALSO THERE WAS SOME
15 FABRIC IMPRESSION THAT WAS CONSISTENT WITH THE
16 SOCKS THAT WERE RETRIEVED OUT OF MARYLAND.
17 AGAIN ONLY LEANING TO THE FACT THAT THESE SOCKS
18 POSSIBLY COULD HAVE LEFT THESE IMPRESSIONS,
19 AGAIN MAKING ME THINK THAT MAYBE THE SUSPECT HAD
20 SOMETHING OVER THEIR HANDS AT SOME POINT.

21 Q. I'LL CALL YOUR ATTENTION BACK NOW TO STATE'S
22 EXHIBIT 229. COULD YOU INDICATE WHAT THAT IS
23 PLEASE, SIR?

24 A. AGAIN YOU HAVE THE VOLUME BLEEDING HERE ON THE
25 BED; YOU HAVE VOLUME BLEEDING ON THE BED SHEET,

1 PARTIALLY COVERED, YOU HAVE THE VICTIM, TERRY
2 ROBERTSON.

3 Q. STATE'S 225?

4 A. HERE'S THE NIGHTSTAND JUST ABOVE THE HEAD OF
5 MRS. ROBERTSON. AND HERE'S THE SCALE, AND WHAT
6 I'M DOING IS I ACTUALLY SCALED THIS AND THE
7 REASON WE SCALE PHOTOGRAPHS AND PUT SCALES IN
8 THERE IS IN CASE IT NEEDS TO BE BROUGHT UP ONE
9 TO ONE. IF THERE'S AN INDEPENDENT PERSON WHO
10 WANTS TO COME BACK AND VERIFY MY WORK OR MY
11 CONCLUSIONS OR WHAT I BELIEVE HAS HAPPENED, THEY
12 CAN ALSO DO THAT BY HAVING A SCALE.
13 AND THAT WAS SHOWING, AGAIN, THE IMPACT SPATTER.

14 Q. STATE'S EXHIBIT 226.

15 A. WE HAD SPATTERING ON THE PHONE. AGAIN, BOTH OF
16 THESE SPATTERS HIGHER THAN THE VICTIM AS SHE
17 LAYS ON THE FLOOR, INDICATING THAT THE VICTIM
18 WAS PARTIALLY SET UP OR AT SOME POINT HIGHER,
19 THE WOUNDS WERE, THAN WHERE SHE WAS FOUND.

20 Q. STATE'S EXHIBIT 228.

21 A. AGAIN THE KNIFE, WE HAVE IMPRESSIONS ON THIS
22 SIDE OF THE BED THAT WERE CONSISTENT WITH THE
23 SOCK IMPRESSION. YOU HAVE MRS. ROBERTSON HERE
24 AND YOU CAN SEE PARTIAL OF THE BLOOD SPATTER
25 OVER HERE ON THIS WALL IN RELATION TO WHERE SHE

1 IS, SHOWING THAT SHE IS DEFINITELY LOWER THAN
2 WHAT THE ACTUAL SPATTERS WOULD INDICATE.

3 Q. STATE'S EXHIBIT 231?

4 A. HERE WE HAVE CUTS TO THE WRISTS, CUTS TO THE
5 FACE AS WELL AS THE NECK. OF COURSE THERE IS
6 HAIR ALL OVER THE VICTIM. THERE WAS MASSIVE
7 TRAUMA. AGAIN, WE'RE LOOKING FOR SOME TYPE
8 WEAPON, EDGED WEAPON BEING A KNIFE WHICH WE HAD
9 A KNIFE HERE. AND SUBSEQUENTLY WHEN WE MOVED
10 HER, WE FOUND THE TIP TO THAT KNIFE.

11 Q. STATE'S EXHIBIT 232?

12 A. THIS IS JUST ANOTHER DEPICTION SHOWING THE
13 AMOUNT OF CUTTING. AS A CRIME SCENE
14 INVESTIGATOR, YOU GO IN AND YOU STUDY CASES,
15 YOU'VE GONE TO COURSES, YOU'VE LEARNED WHAT TYPE
16 SCENE MAY DICTATE; WHAT TYPE PERPETRATOR, YOU
17 KNOW, COMMITTED THE CRIME.

18 AGAIN, YOU LOOK AND SEE THIS TYPE OF MUTILATION
19 AND YOU THINK OF ANGER, A LOT OF ANGER.

20 Q. STATE'S EXHIBIT 234?

21 A. THIS IS THE RIGHT ARM THAT WAS PARTIALLY UP
22 UNDER THE BED. MRS. ROBERTSON HAD SOME CUTS TO
23 THE WRISTS.

24 AGAIN, BASED ON MY TRAINING AND EXPERIENCE, THE
25 COLORATION OF THIS, MY FIRST THOUGHT WAS

1 PERIMORTEM, POSTMORTEM MUTILATION, AT THE TIME
2 THE HEART WAS STOPPING OR AFTER.

3 AND, AGAIN, YOU ONLY LOOK FOR THESE TYPE THINGS
4 WHEN YOU'RE GOING THROUGH THERE TO TRY TO -- AS
5 A CRIME SCENE INVESTIGATOR, YOU'RE TRYING TO
6 GIVE SOME HELP TO THE LOCAL LAW ENFORCEMENT, IN
7 THIS CASE YORK COUNTY SHERIFF'S OFFICE, AND
8 MAYBE WHO THE PERPETRATOR WAS.

9 Q. AND BASED ON YOUR PREVIOUS TESTIMONY, YOU
10 RECOVERED -- YOU CAN HAVE A SEAT -- YOU
11 RECOVERED ITEMS FROM THE SCENE AND RETURNED THEM
12 TO SLED WHERE THEY WERE PROCESSED AS YOU'VE
13 PREVIOUSLY TESTIFIED?

14 A. YES, SIR. AND MANY OF THE ITEMS WERE PROCESSED
15 BY MYSELF.

16 Q. ALL RIGHT, THANK YOU. ANSWER ANY QUESTIONS THE
17 DEFENSE MAY HAVE PLEASE, SIR.

18 CROSS EXAMINATION BY

19 MR. HANCOCK:

20 Q. AGENT BAKER, I JUST WANT TO TOUCH ON ONE THING.
21 YOU SAID THAT YOU LOOKED AT THOSE PICTURES AND
22 IT SHOWED YOU THAT THERE WAS ANGER THERE, RIGHT?

23 A. YES, SIR.

24 Q. A GREAT DEAL OF ANGER?

25 A. IT WOULD INDICATE TO ME -- THERE ARE SEVERAL

1 THINGS IT CAN INDICATE WHEN YOU HAVE PERIMORTEM,
2 POSTMORTEM MUTILATION. IT COULD BE ANGER; IT
3 COULD BE VARIOUS OTHER MENTAL CONDITIONS, WHAT
4 HAVE YOU. IT'S AN INDICATOR, IT'S NOT A
5 DEFINITE. IT'S SOMETHING THAT HELPS US MAYBE,
6 YOU KNOW, ALONG WITH THE SPATTER, IF WE DIDN'T
7 HAVE A WEAPON THERE, SAYING YOU MIGHT BE LOOKING
8 FOR A GUN OR YOU MIGHT BE LOOKING FOR AN OBJECT
9 OF THIS SHAPE. YES, SIR.

10 Q. BUT IT DOES -- I'LL JUST ASK YOU LIKE THIS. IN
11 YOUR EXPERIENCE IT SHOWED RAGE. THAT SCENE
12 SHOWED RAGE, DIDN'T IT?

13 A. SEVERAL THINGS IN THE SCENE SHOWS ANGER, HOWEVER
14 BASED ON THE TOTALITY OF THE SCENE, IT ALSO
15 DEMONSTRATED THINGS TO BE VERY METHODICAL ALSO,
16 THOUGHT OUT.

17 Q. BUT IT SHOWS RAGE, DOESN'T IT?

18 A. YES, SIR, IT SHOWS ANGER. I COULD NOT SAY IT
19 DIDN'T, IT DOES.

20 Q. LIKE A PERSON OUT OF CONTROL?

21 A. AGAIN, I DON'T WANT TO USE THE WORD OUT OF
22 CONTROL ONLY BASED ON THE FACT THAT WE HAD
23 FABRIC IMPRESSIONS THAT WERE LINKED WITH SOCKS.
24 THERE WERE THINGS TO INDICATE THAT, YOU KNOW, IT
25 WAS VERY METHODICAL IN MANNER ALSO.

1 Q. WHEN YOU SAY METHODICAL, YOU'RE SAYING THAT
2 SOMEONE PLANNED TO DO IT BECAUSE THEY HAD SOCKS
3 AND THINGS ON THEIR HANDS?

4 A. YES, SIR, PARTIALLY.

5 Q. BUT THEN THE REST OF IT, THE AMOUNT OF DAMAGE
6 DONE, THE MANNER IN WHICH IT'S DONE, SIR,
7 DOESN'T IT SHOW TO YOU JUST A RAGE THAT'S OUT OF
8 CONTROL?

9 A. YES, SIR, IT SHOWS TO ME HOSTILITY AND HATRED.

10 Q. I HAVE NOTHING FURTHER, YOUR HONOR.

11 MR. POPE: NOTHING FURTHER, YOUR HONOR. WE JUST
12 ASK THAT HE BE EXCUSED.

13 THE COURT: THANK YOU; YOU CAN STEP DOWN AND WE
14 APPRECIATE YOUR TIME. CALL YOUR NEXT WITNESS.

15 MR. POPE: YOUR HONOR, AT THIS TIME THE STATE
16 WOULD MOVE TO PUBLISH STATE'S EXHIBIT 279 AND IT WILL TAKE
17 JUST A MOMENT TO HAVE SOME ASSISTANCE TO SET IT UP.

18 THE COURT: ALL RIGHT. NEXT IS A VIDEO TAPE AND
19 IT'S GOING TO TAKE A MINUTE FOR THEM TO GET ALL OF THE
20 MONITORS AND THINGS IN PLACE, SO WE WILL TAKE ABOUT A FIVE
21 MINUTE BREAK WHILE THEY ARE DOING THAT.

22 IN CAMERA:

23 MR. HANCOCK: IS THAT THE CRIME SCENE VIDEO?

24 MR. POPE: YES.

25 MR. HANCOCK: ARE WE GOING TO VIEW THE CRIME

1 SCENE VIDEO AGAIN, IS THAT IT?

2 THE COURT: THE JURY HASN'T SEEN IT, HAVE THEY?

3 MR. POPE: NO, SIR.

4 THE COURT: I HAVE ALLOWED IT IN FOR THE JURY TO
5 SEE IT.

6 MR. HANCOCK: THANK YOU, JUDGE, JUST CLARIFYING;
7 IT'S BEEN A LONG DAY.

8 THE COURT: YES, IT HAS. WE'LL TAKE A SHORT
9 BREAK.

10 MR. POPE: YOUR HONOR, WE'LL CALL YOU AS SOON AS
11 WE GET SET UP.

12 AFTER THE BREAK IN CAMERA:

13 THE COURT: FOR THE RECORD, THE DEFENDANT IS
14 PRESENT WITH COUNSEL. IS THE STATE READY TO PROCEED?

15 MR. POPE: THE STATE'S READY, YOUR HONOR.

16 THE COURT: THE DEFENSE? IS THE DEFENSE READY TO
17 PROCEED?

18 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

19 THE COURT: ALL RIGHT, BRING IN THE JURY.

20 IN THE PRESENCE OF THE JURY:

21 THE COURT: YOU MAY PROCEED.

22 MR. POPE: MAY IT PLEASE THE COURT, YOUR HONOR,
23 AT THIS TIME THE STATE WOULD MOVE TO PUBLISH STATE'S
24 EXHIBIT 279, THE VIDEO TAPE.

25 THE COURT: YOU MAY PROCEED, AND THAT'S OVER THE

1 OBJECTION OF COUNSEL FOR THE DEFENSE BASED ON AN EARLIER
2 RULING BY THE COURT.

3 MR. POPE: MADAM CLERK, WOULD YOU GET THE LIGHTS
4 PLEASE, MA'AM?

5 (THE VIDEO TAPE OF THE CRIME SCENE WAS SHOWN TO THE JURY AT
6 THIS TIME.)

7 MR. POPE: YOUR HONOR, THE STATE RESTS AT THIS
8 TIME.

9 THE COURT: LET'S HAVE THE LIGHTS. MEMBERS OF
10 THE JURY PANEL, THE STATE IS RESTING ITS CASE. THAT IS, AS
11 TO THIS PHASE, IT HAS PRESENTED ITS EVIDENCE.

12 I'VE GOT A COUPLE OF MATTERS OF LAW TO TAKE UP
13 AND WE'RE GOING TO TRY TO TAKE PERHAPS ONE MORE WITNESS
14 TODAY.. WE'RE GOING TO GO A LITTLE BIT LATER. BUT I DO
15 HAVE SOME MATTERS OF LAW TO TAKE UP, SO I AM GOING TO SEND
16 YOU TO THE JURY ROOM AT THIS TIME.

17 IN CAMERA:

18 THE COURT: JUST TAKE A SECOND AND HAVE THE
19 MONITOR ROLLED OUT OF THE WAY.

20 (AFTER A BRIEF PAUSE.)

21 THE COURT: ANYTHING FROM THE STATE AT THIS
22 POINT?

23 MR. POPE: NO, SIR, YOUR HONOR.

24 THE COURT: ANYTHING FROM THE DEFENSE?

25 MR. POPE: YOUR HONOR, WHEN YOU SAY AT THIS

1 POINT. WE DO HAVE THE ISSUE WE HAD INDICATED BEFORE
2 CONCERNING ANY MERCY WITNESSES, THAT THEY BE INSTRUCTED
3 THAT THEY CAN'T SAY WHAT EARL AND TERRY WOULD WANT. THEY
4 CAN ASK FOR MERCY UNDER MATTHEWS AND TORRENCE, YOUR HONOR.
5 THEY CAN ASK FOR MERCY BUT THEY CAN'T SAY WHAT THE VERDICT
6 OUGHT TO BE.

7 WE DISCUSSED THAT PREVIOUSLY AND I THINK THE
8 DEFENSE UNDERSTANDS, BUT I JUST WANTED TO MAKE IT CLEAR
9 BECAUSE I DON'T WANT TO HAVE AN IN LIMINE HEARING FOR
10 EVERYBODY. THEY NEED TO INSTRUCT THEM BECAUSE OBVIOUSLY WE
11 CAN'T UNRING THE BELL. THEY CAN'T SAY THAT TERRY AND EARL
12 WOULD HAVE WANTED THIS OR THAT.

13 THE COURT: THE DEFENSE?

14 MR. HANCOCK: I UNDERSTAND THAT, YOUR HONOR, BUT
15 I HAVE INDICATED PREVIOUS TO THIS THAT I WOULD INSTRUCT MY
16 WITNESSES, AND WILL INFORM THE SOLICITOR THAT WE WILL DO
17 OUR BEST TO INFORM OUR WITNESSES WITHIN THE BOUNDS OF
18 TORRENCE AS TO WHAT THEY CAN TESTIFY TO. AND IF HE WISHES
19 TO CROSS EXAMINE THEM, THEN I CAN ONLY INSTRUCT THEM AS TO
20 WHAT I WILL ASK.

21 THE COURT: MR. ROBERTSON, CAN YOU HEAR ME?

22 MR. ROBERTSON: YES, I CAN, YOUR HONOR.

23 THE COURT: THE STATE HAS NOW PRESENTED THE
24 EVIDENCE THAT IT INTENDS TO PRESENT AT THIS SECOND PHASE,
25 THE PENALTY PHASE OF YOUR CASE.

1 YOU HAVE THE RIGHT TO PRESENT WHAT'S CALLED
2 MITIGATING CIRCUMSTANCES. YOU'VE HEARD US DISCUSS THOSE;
3 THOSE ARE THINGS WHICH IN FAIRNESS AND MERCY THE JURY OUGHT
4 TO CONSIDER IN DETERMINING YOUR MORAL CULPABILITY FOR THE
5 CRIMES WHICH YOU HAVE BEEN FOUND GUILTY.

6 AND DURING THIS PHASE YOU HAVE THE RIGHT TO
7 TESTIFY JUST AS I TOLD YOU EARLIER. BUT IF YOU TESTIFY,
8 YOU ARE SUBJECT TO BEING CROSS EXAMINED JUST AS I TOLD YOU
9 YOU COULD BE EARLIER IN THE GUILT PHASE.

10 WE'RE NOT DEALING WITH PRESUMPTION OF INNOCENCE
11 AT THIS TIME BECAUSE, OF COURSE, YOU HAVE BEEN FOUND GUILTY
12 BUT I WILL TELL THE JURY THAT IF YOU CHOOSE TO EXERCISE
13 YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT THAT THEY CAN IN
14 NO WAY USE THAT AGAINST YOU IN CONSIDERING WHAT PENALTY TO
15 IMPOSE, JUST LIKE I TOLD YOU IN THE INITIAL TRIAL THAT THEY
16 COULD NOT USE THAT IN DETERMINING YOUR GUILT OR INNOCENCE,
17 I CAN TELL THEM THEY CAN IN NO WAY FACTOR IN YOUR EXERCISE
18 OF YOUR CONSTITUTIONAL RIGHT TO REMAIN SILENT IN THEIR
19 CONSIDERATION OF THE PENALTY THEY ARE CONSIDERING AND WILL
20 IMPOSE.

21 I WILL TELL THEM THAT THEY CANNOT EVEN DISCUSS IN
22 THE JURY ROOM THE FACT THAT YOU CHOSE TO EXERCISE THAT
23 CONSTITUTIONAL RIGHT. I WILL TELL THEM THAT THEY CANNOT
24 EVEN FACTOR THAT INTO THEIR OWN MIND.

25 AND I TELL YOU AT THIS TIME, ALTHOUGH I WILL

1 REMIND YOU AT THE END, THAT JUST AS IN THE GUILT OR
2 INNOCENCE PHASE, YOU AND YOUR ATTORNEYS HAVE THE RIGHT TO
3 MAKE A CLOSING ARGUMENT, JUST AS YOU HAD THE RIGHT TO MAKE
4 ONE AND YOU WAIVED THAT RIGHT IN THE GUILT PHASE, IN THIS
5 PENALTY PHASE YOU HAVE THE RIGHT TO STAND BEFORE THE JURY
6 AND MAKE AN ARGUMENT IN YOUR BEHALF AS TO WHAT SENTENCE
7 SHOULD BE IMPOSED.

8 DO YOU UNDERSTAND THAT?

9 MR. ROBERTSON: YES, YOUR HONOR.

10 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT ANY
11 OF THAT?

12 MR. ROBERTSON: NO, YOUR HONOR.

13 THE COURT: MR. BOYD AND MR. HANCOCK, HAVE YOU
14 DISCUSSED THIS WITH HIM?

15 MR. BOYD: YES, SIR.

16 THE COURT: DO YOU BELIEVE HE UNDERSTANDS IT?

17 MR. BOYD: YES, SIR.

18 THE COURT: IS THERE ANYTHING ELSE YOU WANT ME TO
19 COVER WITH HIM AT THIS TIME?

20 MR. BOYD: NO, SIR.

21 THE COURT: ANYTHING ELSE THAT THE STATE WANTS ME
22 TO COVER WITH THE DEFENDANT AT THIS TIME?

23 MR. POPE: NO, SIR, YOUR HONOR.

24 THE COURT: ALL RIGHT. MY UNDERSTANDING IS YOU
25 HAVE ONE WITNESS THAT YOU WOULD LIKE TO PRESENT FOR

1 ACCOMMODATION PURPOSES?

2 MR. BOYD: THAT'S CORRECT, YOUR HONOR.

3 THE COURT: ALL RIGHT. WE WILL DO THAT AND THEN
4 PROBABLY STOP FOR THE DAY BECAUSE THAT WILL TAKE US RIGHT
5 ABOUT 6:00 O'CLOCK.

6 MR. BOYD: YOUR HONOR, IF WE COULD HAVE JUST TWO
7 MINUTES.

8 THE COURT: OKAY. IF IT'S A TRUE TWO MINUTES,
9 I'LL JUST SIT RIGHT HERE AND DO SOME WORK.

10 MR. BOYD: THIS IS REALLY TWO MINUTES.

11 THE COURT: OKAY, THAT'S FINE.

12 (AFTER THE SHORT BREAK)

13 THE COURT: ARE YOU READY MR. BOYD?

14 MR. BOYD: YES SIR, THE DEFENSE IS READY, YOUR
15 HONOR.

16 THE COURT: IS THE STATE READY?

17 MR. POPE: THE STATE'S READY, YOUR HONOR.

18 THE COURT: ALL RIGHT. BRING IN THE JURY PLEASE,
19 MA'AM.

20 IN THE PRESENCE OF THE JURY:

21 THE COURT: MR. BOYD?

22 MR. BOYD: YOUR HONOR, THE DEFENSE WOULD CALL
23 RONALD PRYOR.

24 THE COURT: COME ON UP PLEASE, SIR, AND BE SWORN
25 BY THE CLERK.

1 DR. RONALD D. PRYOR, BEING FIRST DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY

4 MR. BOYD:

5 Q. TELL US YOUR NAME, PLEASE.

6 A. RONALD D. PRYOR.

7 Q. AND WHERE ARE YOU EMPLOYED?

8 A. AT THE UNIVERSITY SCHOOL OF MEDICINE IN
9 COLUMBIA, SOUTH CAROLINA.

10 Q. AND WHAT IS YOUR POSITION THERE?

11 A. I'M THE TRAINING DIRECTOR FOR RESIDENCY
12 TRAINING.

13 Q. IN WHAT?

14 A. PSYCHIATRY.

15 Q. AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

16 A. I HAVE AN M.D. FROM THE UNIVERSITY OF SOUTHERN
17 CALIFORNIA, AND RESIDENCY TRAINING AT WALTER
18 REED MEDICAL CENTER IN WASHINGTON, D.C.

19 Q. AND ARE YOU A PSYCHIATRIST?

20 A. THAT'S CORRECT.

21 Q. WHAT TRAINING HAVE YOU HAD IN THE FIELD OF
22 PSYCHIATRY?

23 A. RESIDENCY TRAINING AT WALTER REED.

24 Q. ARE YOU LICENSED TO PRACTICE PSYCHIATRY IN THE
25 STATE OF SOUTH CAROLINA?

1 A. YES, SIR, I AM.

2 Q. AND HOW LONG HAVE YOU BEEN A PSYCHIATRIST?

3 A. SINCE 1989.

4 Q. WHERE WERE YOU -- LET ME BACK UP A MINUTE. YOUR
5 HONOR, AT THIS TIME I WOULD OFFER DR. PRYOR AS
6 AN EXPERT IN THE FIELD OF PSYCHIATRY.

7 THE COURT: ANY VOIR DIRE?

8 MR. POPE: NO, SIR; NO OBJECTION.

9 THE COURT: ALL RIGHT, I FIND THAT HE IS AN
10 EXPERT IN THE FIELD OF PSYCHIATRY AND MAY RENDER OPINIONS
11 IN REGARD TO PSYCHIATRY.

12 Q. WHAT ARE YOUR AREAS OF CONCENTRATION AND
13 RESEARCH IN THE FIELD OF PSYCHIATRY?

14 A. RESEARCH, MAINLY IN TEACHING; METHODS OF
15 TEACHING AND PSYCHIATRIC DISORDERS AND PRIMARY
16 CARE.

17 Q. WERE YOU PREVIOUSLY EMPLOYED BY THE WILLIAM S.
18 HALL PSYCHIATRIC INSTITUTE?

19 A. I WAS EMPLOYED AT THE DEPARTMENT OF MENTAL
20 HEALTH, WORKING AT THE WILLIAM S. HALL
21 PSYCHIATRIC INSTITUTE; THAT'S CORRECT.

22 Q. WERE YOU SO EMPLOYED IN AUGUST OF 1995?

23 A. I WAS.

24 Q. DID YOU HAVE OCCASION TO HAVE CONTACT WITH JIMMY
25 ROBERTSON AT THAT TIME?

1 A. YES, I DID.

2 Q. AND HOW DID YOU COME TO HAVE CONTACT WITH HIM?

3 A. HE WAS ADMITTED TO THE SHEAROUSE MILIEU WHICH IS
4 AN IN-PATIENT UNIT AT THE WILLIAM S. HALL
5 PSYCHIATRIC INSTITUTE AND HE WAS ASSIGNED TO ME,
6 I WAS HIS ATTENDING PHYSICIAN.

7 Q. OKAY. AND DO YOU KNOW WHEN HE CAME TO BE
8 ADMITTED TO THE WILLIAM S. HALL PSYCHIATRIC
9 INSTITUTE?

10 A. YES, I CAN REFER TO THE RECORD. THE RECORD I
11 HAVE SHOWS HIM BEING ADMITTED ON THE 24TH OF
12 AUGUST, 1995.

13 Q. AND WHAT KIND OF COMMITMENT WAS THIS?

14 A. HE WAS CIVILLY COMMITTED.

15 Q. AND WHAT DOES THAT MEAN WHEN YOU'RE CIVILLY
16 COMMITTED?

17 A. THAT MEANS HE WAS INVOLUNTARILY HOSPITALIZED
18 BECAUSE OF A DANGER TO HIMSELF OR OTHERS, IN
19 THIS CASE IT WAS CONCERN ABOUT DANGER TO HIS
20 PARENTS; SPECIFICALLY HIS MOTHER.

21 Q. OKAY. AND WHO HAD HIM COMMITTED AT THAT TIME;
22 DO THE RECORDS SHOW THAT?

23 A. THE RECORD I HAVE SHOWS THAT HE WAS ADMITTED BY
24 HIS MOTHER.

25 Q. AND WHEN YOU ARE CIVILLY COMMITTED, ARE YOU

1 COMMITTED THROUGH THE PROBATE COURT?

2 A. YOU ARE, EXACTLY. IT USUALLY REQUIRES TWO
3 PEOPLE, ONE OF WHOM IS A PHYSICIAN. AND WITHIN
4 A CERTAIN PERIOD OF TIME, THE PROBATE COURT HAS
5 TO RULE THAT FURTHER HOSPITALIZATION IS NEEDED.

6 Q. AND HOW LONG WAS JIMMY ROBERTSON COMMITTED TO
7 THE WILLIAM S. HALL?

8 A. THE LENGTH OF HOSPITALIZATION WAS FROM THE 24TH
9 TO THE 31ST OF AUGUST.

10 Q. AND THAT WAS IN 1995?

11 A. 1995.

12 Q. LET ME ASK YOU, WHAT WERE YOUR CONCLUSIONS
13 REGARDING JIMMY ROBERTSON AT THE END OF HIS
14 COMMITMENT?

15 A. DIAGNOSTICALLY I FOUND THAT HE HAD BIPOLAR
16 DISORDER, MANIC; AND ALCOHOL DEPENDENCE. THOSE
17 WERE HIS PSYCHIATRIC DIAGNOSES. HE ALSO HAD A
18 URINARY TRACT INFECTION AND ABNORMAL EKG OR
19 ELECTROCARDIOGRAM. AND THERE WAS SOME CONCERN
20 ABOUT A POSSIBLE RECURRING URINARY STONE.

21 Q. CAN YOU GO THROUGH AND TELL US -- WHAT IS AXIS?

22 A. THE AXIS USED IN RECORDING PSYCHIATRIC DIAGNOSES
23 ARE DESIGNED TO ORGANIZE INFORMATION. AXIS I
24 BEING THE PLACE WHERE THE PSYCHIATRIC DIAGNOSES
25 ARE RECORDED THAT ARE FELT TO BE BIOLOGICALLY

1 BASED.

2 AXIS II IS THE LINE IN THE DIAGNOSTIC LIST THAT
3 RECORDS PROBLEMS WITH PERSONALTY, MENTAL
4 RETARDATION.

5 AXIS III IS A LINE WHERE INFORMATION REGARDING
6 PHYSICAL PROBLEMS OR MEDICAL PROBLEMS ARE LISTED
7 SUCH AS THE PATIENT'S URINARY TRACT INFECTION IN
8 THIS CASE.

9 AXIS IV, PSYCHO-SOCIAL STRESSORS.

10 AND AXIS V IS FOR RECORDING THE GENERAL FUNCTION
11 OF THE INDIVIDUAL.

12 Q. OKAY. LET'S GO BACK TO AXIS I, WHAT IS THAT
13 AGAIN?

14 A. AXIS I ARE THE PSYCHIATRIC DISORDERS, MAJOR
15 PSYCHIATRIC DISORDERS.

16 Q. OKAY. AND, AGAIN, WHAT IF ANY ITEMS DID YOU
17 FIND REGARDING JIMMY ROBERTSON ON AXIS I?

18 A. HE HAD BIPOLAR DISORDER, MANIC; AND ALCOHOL
19 DEPENDENCE.

20 Q. WHAT IS BIPOLAR DISORDER?

21 A. BIPOLAR DISORDER IS WHAT USED TO BE CALLED MANIC
22 DEPRESSIVE DISORDER. IT IS A CYCLIC MOOD
23 PROBLEM CHARACTERIZED EITHER BY DEPRESSION OR
24 MANIA OR BOTH, TYPICALLY OCCURRING IN CYCLES
25 DURING AN INDIVIDUAL'S LIFE.

1 Q. AND WHAT DOES -- YOU SAID BIPOLAR DISORDER,
2 MANIC; WHAT DOES MANIC MEAN?

3 A. MANIC -- RECORDING IT THAT WAY MEANS THE MOST
4 RECENT EPISODE KNOWN TO THE PHYSICIAN IS A MANIC
5 EPISODE.

6 MANIA IS CHARACTERIZED BY ELEVATION OF MOOD
7 WHICH CAN BE EITHER EUPHORIA OR IRRITABILITY.

8 ALSO, TYPICALLY, THERE IS AN ALTERATION IMPULSE
9 CONTROL, DECREASED NEED FOR SLEEP, INCREASED
10 SPEED OF TALKING OR THINKING. AND OFTENTIMES
11 INCREASED SCHOOL DIRECTED ACTIVITY, MEANING
12 PEOPLE ARE OFTENTIMES LIKELY TO DO THINGS THEY
13 WOULDN'T ORDINARILY DO. THE THINGS WE TYPICALLY
14 THINK OF ARE INCREASED SPENDING. PEOPLE CAN
15 BECOME MORE PROMISCUOUS. THOSE ARE THE TYPICAL
16 ACTIVITIES.

17 Q. AND WHAT CAUSES BIPOLAR DISORDER?

18 A. IT'S FELT TO BE A BIOLOGIC ABNORMALITY OF THE
19 CHEMICALS IN THE BRAIN THAT ALLOW ONE NEURON OR
20 -- IF YOU THINK OF NEURONS IN THE CENTRAL
21 NERVOUS SYSTEM THAT CONNECT THE BRAIN TO
22 DIFFERENT PARTS OF THE BODY, THERE IS A CERTAIN
23 AMOUNT OF NEUROTRANSMITTERS THAT CAUSE THESE
24 NEURONS TO SPEED UP THEIR ACTIVITY OR TO SLOW
25 DOWN THEIR ACTIVITY. SPEEDING UP RESULTING IN

1 MANIA; SLOWING DOWN CAUSING DEPRESSION.

2 Q. AND IS THERE A CAUSE FOR WHY SOMEONE GETS
3 BIPOLAR DISORDER?

4 A. WELL, WE DON'T REALLY KNOW THE CAUSE. THERE IS
5 A GENETIC COMPONENT. YOU ARE MORE LIKELY TO
6 HAVE MANIC DEPRESSION OR BIPOLAR DISORDER IF IN
7 YOUR FAMILY THERE IS SOMEBODY WHO HAS HAD
8 BIPOLAR DISORDER OR JUST PURE DEPRESSION SINCE
9 THEY ARE BOTH MOOD DISORDERS.

10 Q. WHAT EVIDENCE -- YOU DESCRIBED HIM AS HAVING
11 BIPOLAR DISORDER. WHAT EVIDENCE OF THESE
12 SYMPTOMS DID YOU SEE IN JIMMY ROBERTSON?

13 A. WELL, ACTUALLY DURING THE HOSPITALIZATION THERE
14 WAS VERY LITTLE EVIDENCE OF BIPOLAR DISORDER
15 EXCEPT FOR HIS IRRITATION INITIALLY AT HIS
16 MOTHER.

17 AND, AGAIN, MY RECOLLECTION IS BASED ON A REVIEW
18 OF THE RECORDS SINCE I HAVE NO CLEAR
19 RECOLLECTION WITHOUT THE RECORD.

20 BUT THERE WAS A CONVINCING HISTORY. TALKING TO
21 THERAPISTS FROM ROCK HILL AND ALSO TALKING TO
22 FAMILY MEMBERS AND ALSO TALKING TO THE PATIENT,
23 THERE WAS A CLEAR HISTORY OF THE CYCLIC MOOD
24 PROBLEMS THAT I DESCRIBED.

25 Q. OKAY, AND WHAT KIND OF CYCLIC MOOD PROBLEMS DID

1 YOU FIND IN HIM BASED ON HIS HISTORY?

2 A. THERE WAS HISTORY OF 1994 OF HIM BEING TREATED
3 WITH LITHIUM FOR A BIPOLAR DISORDER. HOWEVER,
4 THE LITHIUM APPARENTLY DID NOT WORK EFFECTIVELY
5 AND HE DISCONTINUED IT.

6 BUT BOTH HE AND HIS MOTHER RECORDED EXPANSIVE
7 MOOD WHICH MEANS FEELING MORE CONFIDENT,
8 ABNORMALLY CONFIDENT THAN NORMALLY, ELEVATED IN
9 MOOD; SOME GRANDIOSITY MEANING HE BELIEVED HE
10 COULD DO THINGS WHICH WERE REALLY BEYOND WHAT
11 EXPERIENCE WOULD SUGGEST HE COULD DO. DECREASED
12 NEED FOR SLEEP. HE WAS, BY MY NOTE HERE,
13 REPORTING A HALF AN HOUR OF SLEEP A DAY FOR
14 SEVEN DAYS PRIOR TO HOSPITALIZATION. SOME
15 IMPULSIVE BEHAVIOR; AND ALSO PRESSURED SPEECH
16 AND RACING THOUGHTS.

17 AND BY THE ACCOUNT AGAIN WHEN HE WAS HAVING
18 THESE SYMPTOMS, HE WAS HAVING PROBLEMS
19 FUNCTIONING AT HIS NORMAL LEVEL WHICH IS A KEY
20 ELEMENT IN THE DIAGNOSIS OF MANIA.

21 Q. WHAT WAS HIS DIFFICULTY IN FUNCTIONING?

22 A. ACTUALLY, LET'S SEE, I DON'T HAVE THAT NOTED
23 HERE. SO, I DON'T KNOW; I DON'T REMEMBER.

24 Q. YOU ALSO DIAGNOSED HIM AS HAVING ALCOHOL
25 DEPENDENCE.

1 A. THAT'S CORRECT.

2 Q. AND YOU WROTE BESIDE THAT SEVERE; IS THAT
3 CORRECT?

4 A. YES.

5 Q. AND DESCRIBE WHAT YOU MEAN BY THAT.

6 A. YES, HE REPORTED -- WELL, ALCOHOL DEPENDENCE IS
7 THE DIAGNOSTIC TERMINOLOGY THAT MOST OF US KNOW
8 AS ALCOHOLISM. TYPICALLY IT MEANS AN INABILITY
9 TO CONTROL THE CONSUMPTION OF ALCOHOL SUFFICIENT
10 TO CREATE PROBLEMS IN MAJOR AREAS OF LIFE
11 FUNCTION. SOCIAL, OCCUPATIONAL BEING THE
12 PRIMARY ONES.

13 IN THIS CASE HE REPORTED THAT HE HAD THREE --
14 I'M NOT SURE WHETHER THEY WERE ARRESTS OR
15 CONVICTIONS FOR DRIVING UNDER THE INFLUENCE IN
16 THE LAST MONTH PRIOR TO ADMISSION.

17 HE APPARENTLY HAD HAD SOME LEGAL PROBLEMS WHILE
18 IN GERMANY AS A TEENAGER. AND BOTH HIS MOTHER
19 AND GIRLFRIEND WERE CONCERNED ABOUT HIS
20 DRINKING.

21 THERE WAS ALSO A REPORT OF DRINKING IN THE
22 MORNING. ALL OF THESE ARE INDICATIVE OF
23 DRINKING SUFFICIENT TO WARRANT THAT DIAGNOSIS.

24 Q. AND LET ME ASK YOU, IS THERE ANY GENETIC FACTOR
25 TO ALCOHOLISM?

1 A. YES, ALCOHOLISM ALSO IS KNOWN TO BE MORE
2 PREVALENT IN FAMILIES WHERE FAMILY MEMBERS,
3 PARTICULARLY CLOSE FAMILY MEMBERS, HAVE ALSO HAD
4 THE PROBLEM.

5 Q. AND, AGAIN, YOU HAD TESTIFIED EARLIER ABOUT THE
6 GENETIC COMPONENT OF BIPOLAR DISORDER. DID YOU
7 HAVE ANY EVIDENCE OF WHETHER OR NOT OTHER
8 MEMBERS OF HIS FAMILY HAD HAD THAT DISORDER?

9 A. YES, FROM MY NOTE HERE HE REPORTED A FAMILY
10 HISTORY OF MOOD DISORDERS IN BOTH HIS MOTHER'S
11 AND FATHER'S FAMILY.

12 Q. MOVING ON DOWN TO AXIS II; WHAT WAS THAT AGAIN?

13 A. AXIS II IS WHERE WE RECORD PROBLEMS WITH
14 PERSONALITY OR THINGS LIKE MENTAL RETARDATION.

15 Q. DID YOU MAKE ANY DIAGNOSIS ON THAT AXIS?

16 A. NO DIAGNOSIS ON AXIS II.

17 Q. AND, AGAIN, WHAT IS AXIS III?

18 A. AXIS III IS WHERE WE RECORD THE MEDICAL
19 PROBLEMS.

20 Q. AND WHAT DID YOU FIND THERE?

21 A. URINARY TRACT INFECTION AND ABNORMAL EKG. HE
22 HAD ALSO HAD A HISTORY OF PREVIOUS KIDNEY STONES
23 AND SO WITH HIS ABNORMAL URINALYSIS WE WERE
24 INTERESTED IN -- WE RECOMMENDED THAT HE HAVE
25 THAT EVALUATED AFTER DISCHARGE.

- - - - - OKAY. AND, AGAIN, WHAT IS AXIS IV?

- - - - - AXIS IV ARE THE PSYCHO SOCIAL STRESSORS THAT ARE
FELT TO BE CONTRIBUTORY TO THE INDIVIDUAL'S
CONDITION.

- - - - - AND WHAT DID YOU PUT FOR AXIS IV?

- - - - - I HAVE MENTAL ILLNESS AND FAMILY STRIFE.

- - - - - AND CAN YOU EXPLAIN WHAT YOU MEANT BY THAT?

- - - - - WELL, HAVING A CONDITION LIKE BIPOLAR DISORDER
IS OBVIOUSLY VERY STRESSFUL IN AND OF ITSELF
WITH THE FACT THAT IT INTERRUPTS YOUR ABILITY TO
SLEEP AND LEADS TO BEHAVIOR THAT CAN OFTENTIMES
CAUSE PROBLEMS IN YOUR LIFE.

IN TERMS OF THE FAMILY STRIFE, HIS FAMILY WAS
UNDERSTANDABLY CONCERNED ABOUT HIS POTENTIAL TO
HURT SOMEBODY. AND HE WAS ALSO -- DURING THE
HOSPITALIZATION WE HAD A FAMILY MEETING AND IT
WAS CLEAR THAT THE TENSION IN THE FAMILY WAS
ALSO STRESSFUL FOR MR. ROBERTSON.

- - - - - AND ALSO -- IS THERE ANY RELATIONSHIP BETWEEN
BIPOLAR DISORDER AND SUBSTANCE ABUSE PROBLEMS?

- - - - - WELL, SUBSTANCE ABUSE PROBLEMS ARE MORE
PREVALENT IN MENTAL ILLNESS IN GENERAL AND THAT
IS NO LESS TRUE IN BIPOLAR DISORDER. YOU ARE
MORE LIKELY TO HAVE A SUBSTANCE PROBLEM IF YOU
HAVE A SIGNIFICANT MENTAL ILLNESS, INCLUDING

1 BIPOLAR DISORDER.

2 Q. DID YOU PLACE JIMMY ON ANY MEDICATIONS FOR HIS
3 PROBLEMS OR THE BIPOLAR DISORDER?

4 A. YES. WE STARTED HIM ON SOMETHING CALLED
5 TEGRETOL. BECAUSE OF HIS ABNORMAL EKG, WE
6 STOPPED THAT AND SWITCHED HIM TO SOMETHING
7 CALLED DEPAKOTE. THEY ARE BOTH ANTI-CONVULSANTS
8 OR ANTI-SEIZURE MEDICINES THAT HAVE BEEN FOUND
9 TO BE HELPFUL IN THESE KIND OF CYCLIC MOOD
10 PROBLEMS.

11 Q. DID YOU SEE JIMMY ROBERTSON ANY MORE AFTER HE
12 WAS DISCHARGED FROM WILLIAM S. HALL?

13 A. NO, SIR, I DIDN'T.

14 Q. UNTIL TODAY IN THE COURTROOM, HAVE YOU SEEN HIM
15 SINCE THAT TIME?

16 A. NO, I HAVE NOT.

17 Q. JUST ONE SECOND PLEASE.

18 (AFTER A BRIEF PAUSE.)

19 Q. I WANT TO GO BACK AND ASK YOU A FEW OTHER
20 THINGS. YOU HAD STATED EARLIER CONCERNING
21 MANIA?

22 A. YES.

23 Q. AGAIN, WHAT IS THAT?

24 A. MANIA IS THE ELEVATED MOOD THAT HAPPENS IN MANIC
25 DEPRESSIVE OR BIPOLAR DISORDER.

1 Q. AND YOU HAD ALSO MENTIONED SOMETHING ABOUT
2 IMPULSE CONTROL.

3 A. YES, SIR.

4 Q. WHAT DO YOU MEAN BY THAT?

5 A. TYPICALLY ELEVATED OR IRRITABLE MOOD CAN'T --
6 WELL, CAN BE FOLLOWED OR ACCOMPANIED BY PROBLEMS
7 WITH IMPULSIVITY CONTROL. PEOPLE TEND TO BEHAVE
8 AND DO THINGS THEY NORMALLY WOULDN'T DO AND HAVE
9 DECREASED ABILITY TO CONTROL..

10 Q. WHEN YOU -- IS THERE ANY CURE FOR BIPOLAR
11 DISORDER?

12 A. NO, THERE IS NOT.

13 Q. WHAT DO YOU DO TO CONTROL IT?

14 A. YOU TYPICALLY USE MEDICATIONS WHICH ATTEMPT TO
15 STABILIZE THE MOOD AND KEEP THEM BETWEEN THE
16 HIGHS OR MANIA AND THE LOWS OF DEPRESSION.

17 Q. IF SOMEONE HAS BIPOLAR DISORDER, AT WHAT AGE
18 DOES IT TYPICALLY MANIFEST ITSELF?

19 A. WELL, THERE'S A WIDE RANGE OF AGES WHEN IT
20 STARTS, SO I COULDN'T REALLY SAY THERE'S A
21 TYPICAL AGE. I WOULD SAY, YOU KNOW, IT COULD
22 HAPPEN ANYWHERE FROM THE TEENS ON INTO MIDDLE
23 AGE.

24 Q. AND IS THERE ANY AGE AT WHICH IT GOES AWAY OR
25 DISAPPEARS?

1 A. NO, IT IS A LIFE LONG CONDITION THAT REQUIRES
2 MEDICATION.

3 Q. LET ME JUST SHOW YOU THIS; IS THIS THE REPORT
4 YOU DID IN 1995 CONCERNING JIMMY ROBERTSON?

5 A. YES, IT IS.

6 Q. ARE THOSE RECORDS MADE IN THE NORMAL COURSE OF
7 YOUR TREATMENT OF PATIENTS?

8 A. YES. WHAT YOU HAVE THERE IS THE DISCHARGE
9 SUMMARY WHICH I DICTATED AFTER HE LEFT THE
10 HOSPITAL.

11 Q. YOUR HONOR, AT THIS TIME I WOULD OFFER IN
12 EVIDENCE THE DISCHARGE SUMMARY.

13 MR. BRACKETT: MAY WE SEE IT?

14 (THE DISCHARGE SUMMARY WAS SHOWN TO THE STATE.)

15 MR. BRACKETT: YOUR HONOR, THERE IS JUST ONE
16 SMALL NOTE THAT THE DEFENSE HAD MADE ON THIS COPY. I HAVE
17 NO OBJECTION, WOULD BE HAPPY TO HAVE THIS IN, WE ONLY WOULD
18 ASK THAT BEFORE IT GOES BACK TO THE JURY THAT IT BE CLEANED
19 UP OF ANY NOTES OR ANY MARKINGS THAT HAVE BEEN MADE ON IT.

20 THE COURT: IT IS ADMITTED INTO EVIDENCE WITH
21 THAT UNDERSTANDING.

22 (THE DISCHARGE SUMMARY WAS ENTERED INTO EVIDENCE AS
23 DEFENDANT'S EXHIBIT NUMBER 1 WITHOUT OBJECTION.)

24 Q. THANK YOU, DR. PRYOR. IF YOU WOULD ANSWER ANY
25 QUESTIONS THE PROSECUTORS WOULD HAVE.

CROSS EXAMINATION BY

MR. BRACKETT:

Q. GOOD EVENING, DR. PRYOR.

A. GOOD EVENING.

Q. YOU DON'T REMEMBER THIS MAN INDEPENDENTLY?

A. NO, SIR, I DON'T.

Q. HE WAS JUST ANOTHER ONE OF MANY, MANY, MANY
PEOPLE WHO CAME THROUGH ---

A. THAT'S CORRECT.

Q. --- THE PROGRAM THERE. AND SO EVERYTHING THAT
YOU'VE TESTIFIED TO TODAY, YOU'VE TESTIFIED TO
BECAUSE THEY ARE IN YOUR NOTES.

A. THAT'S CORRECT.

Q. SO, YOU'RE NOT TESTIFYING -- HAVE YOU HAD A
CHANCE TO REVIEW, BESIDES JUST YOUR REPORT, THE
NURSE'S NOTES AND SO FORTH?

A. YES, SIR, I DID.

Q. IS THAT WHAT YOU REVIEWED IN ORDER TO PREPARE
FOR TODAY'S TESTIMONY?

A. I HAD -- THAT WAS PRETTY MUCH EVERYTHING.

Q. HAVE YOU REVIEWED THESE NOTES AS WELL?

A. YES.

Q. ARE THOSE NURSE'S NOTES?

A. THEY INCLUDE NURSE'S NOTES, SOCIAL WORKER'S
NOTES AND MY NOTES.

1 Q. OKAY. THANK YOU, SIR. YOU INDICATED TO MR.
2 BOYD THAT MR. ROBERTSON WAS INVOLUNTARILY
3 COMMITTED?

4 A. THAT'S CORRECT.

5 Q. BY HIS MOTHER?

6 A. YES.

7 Q. BECAUSE HE WAS THREATENING HER?

8 A. CORRECT.

9 Q. AND SHE FELT FOR HER SAFETY AND FOR HIS THAT HE
10 NEEDED TO GO INTO THE HOSPITAL?

11 A. YES.

12 Q. THE MENTAL HOSPITAL IN COLUMBIA?

13 A. CORRECT.

14 Q. HE WAS THERE HOW LONG?

15 A. FROM THE 24TH TO THE 31ST OF AUGUST.

16 Q. OKAY, ABOUT A WEEK. AND THEN HE WAS RELEASED.

17 A. YES.

18 Q. AND YOU MADE AN AXIS I DIAGNOSIS OF BIPOLAR
19 DISORDER, MANIC AND ALCOHOL DEPENDENCE. ON THE
20 SECOND PAGE OF YOUR REPORT THAT'S IN EVIDENCE
21 THERE, YOU DEFERRED YOUR AXIS II DIAGNOSIS.

22 A. RIGHT.

23 Q. AND THEN YOUR FINAL DIAGNOSIS, YOU MADE NO AXIS
24 II DIAGNOSIS?

25 A. CORRECT.

1 Q. WHY IS IT THAT YOU MADE NO AXIS II DIAGNOSIS?

2 A. THERE WAS NO EVIDENCE OF A DIAGNOSIS FOR AXIS
3 II.

4 Q. THERE WAS NO EVIDENCE THAT ANY DIAGNOSIS SHOULD
5 BE MADE OR THAT WASN'T WHAT WAS CALLED FOR BY
6 HIS COMMITMENT?

7 A. THERE WAS NO EVIDENCE DURING THE HOSPITALIZATION
8 THAT THAT WAS INDICATED AS A DIAGNOSIS.

9 Q. OKAY, YOU WEREN'T LOOKING FOR ANYTHING LIKE
10 THAT?

11 A. WELL, ACTUALLY WE WERE. I MEAN WE ARE ALWAYS
12 WATCHING PATIENTS IN THE HOSPITAL AND HAD THERE
13 BEEN ANY EVIDENCE, AND WE ALSO DO PSYCHOLOGICAL
14 TESTING.

15 Q. OKAY.

16 A. SO, HAD THERE BEEN REASONS TO MAKE THAT
17 DIAGNOSIS, IT WOULD HAVE BEEN MADE.

18 Q. SO, THERE WAS NO REASON TO MAKE A DIAGNOSIS ON
19 AXIS II?

20 A. RIGHT.

21 Q. OKAY. NOW, YOU TESTIFIED THAT HE HAD PREVIOUSLY
22 BEEN TREATED WITH LITHIUM BUT THAT WAS NOT
23 EFFECTIVE, THEREFORE IT WAS DISCONTINUED.

24 A. THAT WAS THE HISTORY.

25 Q. OKAY. HE HAD PREVIOUSLY BEEN TREATED FOR

1 LITHIUM.

2 A. TREATED FOR BIPOLAR DISORDER?

3 Q. YES, WITH LITHIUM FOR BIPOLAR DISORDER.

4 A. CORRECT.

5 Q. OKAY. NOW, THE FACT OF THE MATTER IS THAT IN
6 YOUR HISTORY OF PRESENT ILLNESS, IT WASN'T LIKE
7 DISCONTINUED, IT MADE IT SOUND LIKE THE DOCTOR
8 TOOK HIM OFF OF THAT. ISN'T THAT TRUE IN THAT
9 HISTORY OF PRESENT ILLNESS THAT HE FELT THE
10 LITHIUM THERAPY WAS NOT AFFECTIVE AND THEREFORE
11 STOPPED TAKING THE THERAPY?

12 A. CORRECT.

13 Q. NOW MR. BOYD ASKED YOU, DOCTOR, ABOUT WHETHER OR
14 NOT THIS COULD EVER BE CURED.

15 A. CORRECT.

16 Q. AND IT CANNOT?

17 A. IT CANNOT BE CURED.

18 Q. IT CANNOT BE CURED, BUT IT CAN BE TREATED?

19 A. IT CAN BE TREATED.

20 Q. IN FACT, THERE ARE THOUSANDS AND THOUSANDS OF
21 PEOPLE WHO ARE OUT THERE FUNCTIONING RIGHT NOW
22 WITH BIPOLAR DISORDER.

23 A. CORRECT.

24 Q. THEY TAKE MEDICINE, IT'S UNDER CONTROL.

25 A. CORRECT.

1 Q. IT DOESN'T CAUSE THEM PROBLEMS?

2 A. CORRECT.

3 Q. OKAY.

4 A. THERE ARE PEOPLE THOUGH THAT DO NOT RESPOND TO
5 TREATMENT.

6 Q. OKAY, BUT CERTAINLY IF THEY DON'T TAKE THEIR
7 MEDICINE, THEN THEY ARE NOT GOING TO RESPOND TO
8 TREATMENT.

9 A. CORRECT.

10 Q. THERE'S NO CHANCE THAT THEY COULD POSSIBLY
11 RESPOND IF THEY REFUSE TO TAKE MEDICINE?

12 A. CORRECT.

13 Q. OKAY. AND YOU WOULD AGREE, DOCTOR, THAT BIPOLAR
14 DISORDER IS THE KIND OF MENTAL DISORDER THAT IS
15 NOT -- HEAVY DRINKING DOESN'T REALLY HELP OUT
16 SOMEBODY WITH BIPOLAR DISORDER; ISN'T THAT
17 RIGHT?

18 A. DRUG AND ALCOHOL USE IS DEFINITELY NOT A SMART
19 THING TO DO WITH THIS KIND OF CONDITION.

20 Q. IN FACT, IT KIND OF AGGRAVATES IT, DOESN'T IT?

21 A. YES.

22 Q. IT SWINGS WIDER, AS IT WERE, IF THAT'S WHAT YOU
23 WANT TO CALL IT.

24 A. IT MAKES IT MORE DIFFICULT TO CONTROL THE
25 SYMPTOMS, WHATEVER THEY ARE.

1 Q. OKAY. AND DRUG USE IN ADDITION TO ALCOHOL?

2 A. CORRECT.

3 Q. COMBINED, IT JUST GETS WORSE AND WORSE?

4 A. CORRECT.

5 Q. SO, SOMEBODY WHO IS NOT TAKING THEIR MEDICATION
6 AND DRINKING AND USING DRUGS IS KIND OF THE
7 WORST SITUATION?

8 A. IT WOULD TEND TO MAKE THE SYMPTOMS WORSE,
9 CORRECT.

10 Q. OKAY. NOW, THIS WAS BACK IN 1995, RIGHT?

11 A. CORRECT.

12 Q. AND YOU TOLD HIM ABOUT ALL OF THIS, RIGHT?

13 A. YES, I DID.

14 Q. YOU ADVISED HIM THAT HE SHOULD NOT BE DRINKING?

15 A. CORRECT.

16 Q. YOU ADVISED HIM THAT HE SHOULD NOT BE TAKING
17 DRUGS?

18 A. CORRECT.

19 Q. YOU ADVISED HIM THAT HE NEEDED TO TAKE HIS
20 MEDICINE?

21 A. CORRECT.

22 Q. AND YOU ADVISED HIM THAT IF HE THOUGHT THE
23 MEDICINE WAS NOT AFFECTIVE, HE NEEDED TO COME
24 BACK TO A PHYSICIAN AND HAVE OTHER ALTERNATIVE
25 THERAPY TREATMENT PLANS EXPLORED?

WELL, WE ACTUALLY REFERRED HIM TO A THERAPIST
AND A PHYSICIAN IN ROCK HILL.

OKAY, SO YOU EVEN WENT ONE STEP FURTHER. NOT
ONLY DID YOU JUST ADVISE THIS, YOU ACTUALLY
HELPED HIM MAKE APPOINTMENTS ---

CORRECT.

AND SINGLED OUT PEOPLE.

CORRECT.

YOU TOLD HIM THAT HE NEEDED TO GO TO ---

KEYSTONE CENTER AND ALSO TO HIS THERAPIST AND
DR. GUELLER IN ROCK HILL.

OKAY, ON PAGE THREE OF YOUR REPORT, THE LAST
SENTENCE, "HE WAS STRONGLY COUNSELED ABOUT HIS
ALCOHOL DEPENDENCE AND THE NEED TO ENTER INTO
ALCOHOL TREATMENT" AND ACTUALLY GAVE HIM AN
APPOINTMENT TO THE KEYSTONE CENTER IN ROCK HILL?

CORRECT.

BUT ALL OF YOUR ADVICE IS FOR NAUGHT IF HE
DOESN'T TAKE IT, ISN'T THAT RIGHT, DOCTOR?

THAT'S CORRECT.

NOW, YOU ALSO SAID THAT THERE WAS A FAMILY
MEETING HELD THERE AT THE HOSPITAL?

CORRECT.

TERRY ROBERTSON, HIS MOTHER, CAME DOWN?

HIS MOTHER ---

1 Q. HIS FATHER?

2 A. I'LL HAVE TO LOOK TO SEE EVERYONE WHO ATTENDED.

3 WE HAVE THE BROTHER, MOTHER AND FATHER.

4 Q. OKAY. YOUNGER BROTHER, FATHER AND MOTHER. AND
5 YOU SAID THAT THERE WAS A LOT OF TENSION IN THE
6 FAMILY?

7 A. CORRECT.

8 Q. OKAY. NOW, WE CAN ELABORATE ON THAT A LITTLE
9 BIT. ACTUALLY IT WAS A GREAT DEAL OF ANGER WAS
10 EXPRESSED AT THIS MEETING BECAUSE OF THE
11 PATIENT'S PAST BEHAVIOR. IS THAT RIGHT?

12 A. YOU'RE LOOKING AT THE DISCHARGE SUMMARY?

13 Q. YES, SIR, PAGE THREE, TOP PARAGRAPH RIGHT UNDER
14 THERE WHERE IT SAYS "A FAMILY MEETING WAS HELD".

15 A. CORRECT.

16 Q. "A GREAT DEAL OF ANGER WAS EXPRESSED AT THIS
17 MEETING BECAUSE OF THE PATIENT'S PAST BEHAVIOR
18 AND THE STRESS ON THE PATIENT'S EMOTIONAL LIFE
19 AS WELL AS A DRAIN ON THE FAMILY'S FINANCES"?

20 A. CORRECT.

21 Q. THEY TOLD YOU ABOUT HIS PAST MISCONDUCT AT THIS
22 MEETING? THAT HE'D HAD A NUMBER OF PROBLEMS.
23 OBVIOUSLY HE'D HAD DUI'S AND PROBLEMS IN
24 GERMANY; HE HAD HAD PROBLEMS FOR A GREAT DEAL OF
25 TIME.

1 A. AGAIN, I HAVE NO SPECIFIC RECOLLECTION OF THE
2 DETAILS OF THE MEETING OTHER THAN WHAT YOU HAVE
3 AND IS IN THE RECORD.

4 Q. OKAY. BUT THEY DID INDICATE THAT THERE HAD BEEN
5 PAST PROBLEMS?

6 A. CORRECT.

7 Q. AND THAT THAT HAD -- IT WASN'T AS IF THE STRAIN
8 WAS BEING CAUSED BY THE MOTHER AND FATHER ON
9 HIM, HE WAS VERY WELL THE SOURCE OF THE STRAIN
10 IN THE FAMILY IN THAT HIS PAST MISBEHAVIOR WAS
11 WHAT WAS CAUSING THE PROBLEM?

12 A. WELL, IN THESE TYPES OF SITUATIONS, THE STRESS
13 GOES BOTH WAYS. AND TYPICALLY THE PARENTS, OF
14 COURSE, ARE DOING THE BEST THEY CAN, BUT THEY
15 ARE ALSO STRESSES TO THE CHILD AND THE CHILD IS
16 STRESSES TO THE PARENTS.

17 Q. OKAY, BUT HE IS 21 YEARS OLD, HE WASN'T REALLY A
18 CHILD ANYMORE, WAS HE?

19 A. CHILDREN STILL STRESS THEIR PARENTS WHATEVER AGE
20 THEY ARE.

21 Q. WELL, THEY ARE CHILDREN, BUT HE IS AN ADULT,
22 HE'S 21 YEARS OLD.

23 A. RIGHT.

24 Q. AND THEY ARE STILL THERE TRYING TO TAKE CARE OF
25 HIM.

1 A. CORRECT.

2 Q. TRYING TO HELP HIM OUT.

3 A. THE STRESS GOES BOTH WAYS.

4 Q. YES, SIR, I CAN UNDERSTAND THAT, BECAUSE THEY
5 LOVE HIM.

6 A. OF COURSE.

7 Q. AND THEY WANT HIM TO DO WELL.

8 A. CORRECT.

9 Q. I BEG THE COURT'S INDULGENCE ONE MOMENT.

10 (AFTER A BRIEF PAUSE.)

11 Q. MR. ROBERTSON REALLY DIDN'T TAKE HIS COMMITMENT
12 SERIOUSLY DID HE, DOCTOR?

13 A. I'M NOT SURE WHAT YOU MEAN.

14 Q. I MEAN HE WAS MORE ANNOYED ABOUT HAVING TO BE
15 THERE THAN ACTUALLY CONCERNED ABOUT HIS
16 SITUATION AND TRYING TO GET HELP FOR HIMSELF.

17 A. THAT WAS TRUE INITIALLY; HOWEVER, IF YOU LOOK AT
18 MY NOTE, THAT CHANGED DURING THE COURSE OF THE
19 HOSPITALIZATION.

20 Q. UH HUH.

21 A. ACTUALLY AFTER THE FAMILY MEETING, HE BECAME --
22 IN MY NOTE I SAY THAT HIS BROTHER AND BROTHER'S
23 CONCERN HAD A PRONOUNCED EFFECT ON HIS APPROACH
24 TO HIS ILLNESS AND HE BECAME COMMITTED TO TAKING
25 CARE OF HIMSELF AND LEFT THE HOSPITAL WITH SOME

1 RESOLVE TO TAKE THE MEDICINE AND SEEK FOLLOW UP
2 TREATMENT.

3 Q. WELL, WE'D KNOW HOW SERIOUS HE REALLY WAS BY
4 WHETHER HE ACTUALLY DID GET FOLLOW UP TREATMENT,
5 GO TO KEYSTONE AND DO ALL OF THOSE SORTS OF
6 THINGS, RIGHT?

7 A. I HAVE NO KNOWLEDGE ABOUT WHAT HAPPENED AFTER MY
8 LAST CONVERSATION WITH HIM.

9 Q. THAT WOULD BE INDICATIVE OF HIS RESOLVE, WOULD
10 IT NOT?

11 A. IT WOULD.

12 Q. AND HE WASN'T GOING TO GET OUT UNTIL HE HAD
13 EXPRESSED SOME SORT OF RESOLVE TO TRY TO CLEAR
14 UP HIS SITUATION BY PARTICIPATING IN THERAPY;
15 ISN'T THAT RIGHT?

16 A. THAT'S RIGHT.

17 Q. YOU WEREN'T GOING TO LET HIM OUT UNLESS HE SAID
18 THE THINGS THAT HE SAID?

19 A. WELL, WE CERTAINLY WOULD NOT HAVE LET HIM OUT IF
20 HE HAD BEEN AT RISK OR DANGER TO HIMSELF OR
21 OTHERS.

22 Q. TO HIS PARENTS?

23 A. THAT'S CORRECT.

24 Q. NO FURTHER QUESTIONS.

25 THE COURT: REDIRECT, MR. BOYD?

1 MR. BOYD: JUST A FEW THINGS.

2 REDIRECT EXAMINATION BY

3 MR. BOYD:

4 Q. MR. BRACKETT ASKED YOU ABOUT BEING COUNSELED TO
5 STAY AWAY FROM ALCOHOL. CAN YOU TELL US WHETHER
6 OR NOT IT IS COMMON FOR PEOPLE THAT ARE BIPOLAR
7 TO GO OFF THEIR MEDICINE AND USE ALCOHOL AND
8 OTHER SUBSTANCES?

9 A. IT'S VERY COMMON FOR PATIENTS WITH MANIC
10 DEPRESSIVE ILLNESS TO NOT TAKE THEIR MEDICINE.
11 AND AS I SAID, THE PRESENCE OF DRUG AND ALCOHOL
12 PROBLEMS IS INCREASED IN ALL PSYCHIATRIC
13 DISORDERS -- ALL MAJOR PSYCHIATRIC DISORDERS,
14 INCLUDING BIPOLAR DISORDER.

15 Q. AND YOU TALKED ABOUT FAMILY STRESSORS AND MR.
16 BRACKETT ASKED YOU SOME THINGS ABOUT FAMILY
17 STRESS. IF A PARENT IS ALSO BIPOLAR WITH A
18 BIPOLAR CHILD, DOES THAT INCREASE THE STRESS
19 LEVEL?

20 A. IT CERTAINLY COULD. AGAIN, PEOPLE WITH BIPOLAR
21 DISORDER CAN BE AND OFTENTIMES ARE TREATED
22 SUCCESSFULLY SO THAT, YOU KNOW, THERE IS NO
23 BEHAVIORAL PROBLEMS AND THERE IS NO STRESS.

24 Q. ARE THERE SOME PEOPLE WITH BIPOLAR DISORDER THAT
25 JUST CAN'T BE TREATED SUCCESSFULLY?

1 A. YES.

2 Q. AND ARE THERE SOME THAT JUST NEED TO BE
3 COMMITTED TO INSTITUTIONS?

4 A. WELL, EPISODICALLY COMMITTED PERHAPS. IT'S VERY
5 RARE NOW A DAYS FOR ANYBODY WITH MENTAL ILLNESS
6 TO BE PERMANENTLY PUT IN A MENTAL INSTITUTION.

7 Q. NO FURTHER QUESTIONS.

8 MR. BRACKETT: I HAVE NO FURTHER QUESTIONS.

9 THE COURT: YOU CAN STEP DOWN AND BE EXCUSED AND
10 WE APPRECIATE YOUR TIME.

11 COULD I GET COUNSEL TO APPROACH THE BENCH FOR
12 JUST A MINUTE?

13 (COUNSEL APPROACHED THE BENCH AND HAD A CONFERENCE WITH THE
14 COURT OFF THE RECORD AND OUT OF THE HEARING OF THE JURY.)

15 THE COURT: THAT WAS JUST FOR LOGISTIC PURPOSES,
16 DISCUSSING WITH COUNSEL THEIR WITNESSES AND PLANS. WE WILL
17 START BACK AT 9:30. SO, I'M GOING TO ALLOW YOU TO LEAVE AT
18 THIS TIME AND WE WILL SEE YOU BACK AT 9:30 IN THE MORNING.

19 IN CAMERA:

20 THE COURT: MR. ROBERTSON, I JUST WANT TO MAKE
21 SURE WHEN I TOLD YOU EARLIER THAT BOTH YOU AND YOUR
22 ATTORNEYS HAVE THE RIGHT TO MAKE AN ARGUMENT ON YOUR BEHALF
23 AS TO SENTENCE, YOU AND YOUR ATTORNEYS HAVE THE RIGHT TO
24 MAKE THE FINAL LAST CLOSING ARGUMENT. I'M NOT SURE I WAS
25 SPECIFIC ABOUT THAT, BUT I WANT YOU TO BE AWARE OF THAT.

1 DO YOU UNDERSTAND?

2 MR. ROBERTSON: YES, YOUR HONOR.

3 THE COURT: DO YOU BELIEVE HE UNDERSTANDS?

4 MR. BOYD: YES, SIR, YOUR HONOR.

5 MR. HANCOCK: YES, SIR.

6 THE COURT: NOW, SCHEDULING, HOW ARE WE HEADED?

7 MR. HANCOCK: YOUR HONOR, WE ARE HOPING THAT WE
8 WILL COMPLETE THE MAJORITY OF OUR CASE TOMORROW. WE HAVE
9 ONE, TWO, THREE, FOUR -- AT LEAST FOUR WITNESSES THAT I
10 BELIEVE WILL BE QUALIFIED AS AN EXPERT WITNESS, AND THERE
11 IS THE POSSIBILITY OF AN ADDITIONAL WITNESS AND THEN THE
12 TORRENCE WITNESSES THAT WE HAVE DISCUSSED.

13 IF WE GET STARTED AT 9:30, I THINK WE WILL GO AT
14 LEAST UNTIL 6:00 ON JUST THE FOUR WITNESSES THAT I HAVE
15 MENTIONED. AND I WOULD PROJECT GOING INTO THURSDAY. THE
16 TORRENCE WITNESSES, OF COURSE, SHOULD NOT BE VERY LENGTHY.
17 BUT THERE IS ONE WITNESS, A LAY WITNESS, THAT SHOULD BE
18 VERY LENGTHY.

19 THE COURT: I HOPEFULLY WILL HAVE TOGETHER BY
20 LUNCH TIME TOMORROW, IN ADDITION TO WHAT I HAVE ALREADY
21 GIVEN YOU, A ROUGH DRAFT OF MY CHARGE, THE STATUTORY
22 INSTRUCTIONS AND THE JURY'S VERDICT ON PROOF OF AGGRAVATING
23 CIRCUMSTANCES IN ITS FIRST CUT BECAUSE I KNOW WE'VE GOT TO
24 TALK ABOUT SEVERAL THINGS. WE'VE GOT TO DETERMINE WHAT
25 AGGRAVATING CIRCUMSTANCES ARE GOING BACK; WHAT STATUTORY

1 MITIGATING CIRCUMSTANCES ARE GOING BACK TO THE JURY. WE'VE
2 GOT TWO VICTIMS WHICH I WOULD THINK WOULD WARRANT TWO SETS
3 OF STATUTORY INSTRUCTIONS, TWO SETS OF VERDICTS.

4 SO, WE'VE GOT SOME THINGS TO TALK ABOUT, THE
5 BOTTOM LINE. I HOPE TO HAVE MY VERSION AND MY SORT OF FIRST
6 CUT AS TO WHAT I SEE IN ALL OF THAT, SUBJECT TO EVERYBODY'S
7 OBJECTIONS AND ARGUMENTS, BUT I HOPE TO HAVE SOMETHING
8 Y'ALL CAN WORK FROM BY LUNCH TOMORROW.

9 MR. HANCOCK: WHEN DO YOU WANT OUR PROPOSED
10 CHARGES TO YOU, YOUR HONOR?

11 THE COURT: BY LUNCH TOMORROW WOULD BE FINE FOR
12 ME TO START LOOKING AT THAT, TOO. YOU CAN LOOK THROUGH
13 WHAT I'VE DONE. YEAH, HAVE THEM BY LUNCH TOMORROW IF AT
14 ALL POSSIBLE.

15 MR. HANCOCK: AND DO YOU WANT THEM IN A FINALIZED
16 OR A ROUGH CUT ALSO?

17 THE COURT: FROM YOU I WILL ACCEPT A ROUGH CUT.

18 MR. HANCOCK: YES, SIR.

19 THE COURT: NO, JUST SOMETHING I CAN WORK OFF OF
20 SO I WILL KNOW WHERE WE'RE HEADED.

21 MR. HANCOCK: I THINK WE'VE PRETTY MUCH GOT THAT
22 PREPARED ALREADY, SIR.

23 MR. POPE: YOUR HONOR, I THINK WE HAVE PROVIDED
24 A CASE THAT ADDRESSED THE TORTURE INSTRUCTION. DO YOU
25 STILL NEED US TO DO IT UP AS A REQUEST ALSO?

1 THE COURT: PLEASE. I HAVE LOOKED, I HAVEN'T
2 READ ALL THE CASES, BUT THERE ARE QUITE A FEW DEALING WITH
3 TORTURE IN THE ANNOTATIONS, 16-320. I HAVE BEEN PERUSING
4 THOSE ALTHOUGH I HAVEN'T PULLED THOSE PARTICULAR CASES.
5 ONE OF THEM IS A FEDERAL CASE, SMITH VERSUS MOORE, STATE
6 VERSUS BENNETT. IT SEEMS LIKE THERE WAS AT LEAST ONE
7 OTHER.

8 MR. POPE: YES, SIR, THERE WAS ONE, I APOLOGIZE
9 BUT I CAN'T THINK OF THE NAME.

10 THE COURT: JUST HAND THEM TO ME BY LUNCH TIME
11 TOMORROW.

12 MR. POPE: YOUR HONOR, THE ONLY OTHER ISSUE AND
13 THIS IS REALLY PROBABLY SOMETHING WE CAN DEAL WITH AFTER
14 COURT HAS ADJOURNED. MY UNDERSTANDING, AND I JUST WANT TO
15 MAKE SURE I HEARD MR. HANCOCK CLEAR, TOMORROW WILL BE
16 PRIMARILY THE EXPERT DAY FROM THE DEFENSE STANDPOINT. IF
17 I COULD DISCUSS WITH THE DEFENSE TO GET SOME INDICATION OF
18 WHAT ORDER BECAUSE, AGAIN, WE HAVE ALREADY ADDRESSED THE
19 SEQUESTRATION ISSUE OF OUR EXPERTS BEING PRESENT WHEN YOUR
20 EXPERTS TESTIFY, MUCH LIKE WE ACCOMMODATED AS FAR AS THE
21 DNA.

22 I'D JUST LIKE SOME IDEA OF WHO IS COMING IN WHAT
23 ORDER SO THAT WE CAN TRY TO COORDINATE OUR WITNESSES, OUR
24 EXPERTS.

25 THE COURT: IS THAT A PROBLEM?

MR. HANCOCK: I THINK WE CAN GET TOGETHER ON

~~-----~~ THAT, YOUR HONOR.

THE COURT: ALL RIGHT. STATE VERSUS DAVES, IS

~~-----~~ THAT THE OTHER CASE?

MR. POPE: YES, SIR, I BELIEVE SO.

THE COURT: ALL RIGHT, WE WILL BE AT EASE UNTIL

~~=====~~ 30 THEN.

~~=====~~ RCH 24, 1999 IN CAMERA:

THE COURT: YES, SIR, MR. POPE?

MR. POPE: MAY IT PLEASE THE COURT, JUST THIS

~~=====~~ MORNING I'VE BEEN PRESENTED A DOCUMENT ENTITLED "COPIES OF

~~-----~~ IDES USED IN EXPERT WITNESS TESTIMONY OF DR. MORTON".

~~=====~~ UR HONOR, THIS IS THE FIRST TIME WE'VE SEEN IT. WE ASKED

~~=====~~ R RECIPROCAL DISCOVERY IN THIS CASE AND THEY ARE TALKING

~~=====~~ OUT OTHER CASES AND DEATHS IN MISSISSIPPI AND VIRGINIA.

DON'T KNOW IF THE COURT HAS A COPY OF THIS DOCUMENT, BUT

~~-----~~ ~~THE~~ STATE WOULD OBJECT TO ITS USE.

THE COURT: LET ME SEE IT.

MR. POPE: IT'S A VIOLATION OF RECIPROCAL

~~==~~ ~~=====~~ DISCOVERY AS WELL AS A LARGE PART OF ITS CONTENT IS

~~=====~~ RELEVANT.

~~=====~~ HE REPORT WAS GIVEN TO THE COURT)

THE COURT: WHAT SAYS THE DEFENSE?

MR. BOYD: YOUR HONOR, THESE ARE DEMONSTRATIVE

~~=====~~ IDENCE THAT'S GOING TO AID IN AN EXPERT'S TESTIMONY.

1 IT'S SOMEWHAT LIKE THE DNA SLIDE SHOW THAT THE STATE
2 SHOWED. IT'S NOT NECESSARILY ANYTHING THAT'S GOING TO GO
3 BACK TO THE JURY, BUT IT'S GOING TO AID IN THE EXPERT'S
4 TESTIMONY TO HELP HIM EXPLAIN WHAT HE'S TESTIFYING ABOUT.

5 MR. POPE: YOUR HONOR, TWO DISTINCTIONS I'D MAKE
6 CONCERNING THE DNA SLIDE SHOW. ONE, I PROVIDED THAT IN
7 DISCOVERY WELL PRIOR TO THE TRIAL. THE OTHER IS, THIS HAS
8 A LARGE VOLUME OF SPECIFIC TEXT CONCERNING UNRELATED
9 ASPECTS OF THE CASE.

10 THE COURT: WELL, I'M GOING TO GET TO THAT
11 BECAUSE I'VE ALREADY NOTICED THAT. BUT THE FIRST THING IS
12 YOU OBJECT ON THE GROUNDS IT VIOLATES RECIPROCAL DISCOVERY?

13 MR. POPE: RECIPROCAL DISCOVERY.

14 THE COURT: AND YOU'RE SAYING THAT ITS PURPOSE IS
15 FOR A VISUAL AID?

16 MR. BOYD: THAT'S CORRECT.

17 THE COURT: BEFORE I RULE ON THAT -- JUST GOING
18 THROUGH HERE STARTING ON PAGE 4 IN THE MIDDLE, THERE'S
19 SOMETHING ABOUT COCAINE AND I DON'T RECALL THERE BEING
20 ANYTHING IN THE RECORD ABOUT ANY INGESTION OF COCAINE ON
21 THIS PARTICULAR EVENING. MAYBE I'VE FORGOTTEN IT.

22 MR. BOYD: IS THAT ON PAGE 4?

23 THE COURT: 4 IN THE MIDDLE OF THE PAGE.

24 MR. BOYD: OKAY. THE QUESTION IS GOING TO BE HOW
25 DOES RITALIN COMPARE TO OTHER DRUGS SUCH AS COCAINE AND THE

1 EXPERT WILL TESTIFY CONCERNING WHAT COCAINE DOES AND THAT
2 RITALIN HAS THE SIMILAR EFFECT OF COCAINE.

3 THE COURT: WHY DOES HE HAVE TO COMPARE IT TO
4 ANYTHING? IF HE'S GOING TO TELL US WHAT EFFECT RITALIN
5 HAS, WHY DOES HE HAVE TO ---

6 MR. BOYD: THAT'S JUST THE WAY WE HAVE CHOSEN TO
7 PRESENT IT. I MEAN COCAINE IS A WELL KNOWN DRUG THAT HAS
8 THIS EFFECT AND RITALIN HAS THE EFFECT SIMILAR TO THAT OF
9 COCAINE.

10 THE COURT: WELL, WHY CAN'T HE JUST TESTIFY AS TO
11 WHAT RITALIN DOES; I MEAN WHY DOES HE HAVE TO COMPARE IT TO
12 SOMETHING?

13 MR. BOYD: WELL, I DON'T KNOW THAT HE WOULD HAVE
14 TO. IT'S JUST THE WAY WE THOUGHT IT WOULD BE EFFECTIVE IN
15 PRESENTING THIS.

16 THE COURT: THEN YOU'RE GETTING INTO THEY TOOK IT
17 OFF THE SWEEDISH MARKET; IN 1994 SENIORS ADMITTED USING
18 AMPHETAMINES. SENIORS WHERE? ARE THEY TALKING ABOUT ME,
19 PEOPLE OVER 50 OR ARE THEY TALKING ABOUT SENIORS IN HIGH
20 SCHOOL?

21 MR. BOYD: I WOULD CLARIFY THAT THE TESTIMONY
22 WOULD BE SENIORS IN HIGH SCHOOL.

23 THE COURT: WELL, THIS YOUNG MAN WASN'T A SENIOR
24 IN HIGH SCHOOL WHEN THIS HAPPENED.

25 MR. BOYD: NO, SIR.

1 THE COURT: DEATHS IN MISSISSIPPI INVOLVED WITH
2 TEENAGERS; NOBODY DIED AS THE RESULT OF RITALIN IN THIS
3 CASE.

4 TWO PHARMACISTS ADDICTED TO IT? WHAT'S THAT GOT
5 TO DO WITH THIS CASE?

6 MR. BOYD: HE'S GOING TO TALK ABOUT THE GENERAL
7 ADDICTIVENESS OF RITALIN AND HOW IT AFFECTS PEOPLE AND HOW
8 STUDIES HAVE SHOWN THAT IT DOES.

9 THE COURT: WELL, HE CAN TESTIFY THAT IT'S
10 ADDICTIVE. I'LL LET HIM TESTIFY TO THE EFFECT THAT RITALIN
11 HAS ON INDIVIDUALS AND THAT IT'S ADDICTIVE. I HAVEN'T GONE
12 THROUGH THE WHOLE THING BUT JUST BRIEFLY LOOKING AT IT
13 YOU'VE GOT ---

14 MR. BOYD: WELL, THAT'S HOW RITALIN IS COMMONLY
15 USED AND THE GENERAL SUBSTANCE ABUSE AND HOW IT AFFECTS
16 PEOPLE.

17 THE COURT: WELL, HOW IT AFFECTS PEOPLE IS FINE,
18 YOU DON'T HAVE TO KEEP SAYING THAT, BUT THIS CHART ABOUT
19 PEOPLE WITH DEPRESSION OR MANIA IN YORK COUNTY?

20 MR. BOYD: IF THE COURT WANTS ME TO TAKE OUT THE
21 POINT ABOUT THE CHART ABOUT YORK COUNTY, WE CAN DO THAT.

22 THE COURT: ANIMALS WILL WORK MORE AVIDLY FOR
23 COCAINE THAN ANY OTHER DRUG? WHAT'S THAT GOT TO DO WITH
24 THIS CASE?

25 MR. BOYD: YOUR HONOR, THAT'S A COMPARISON WITH

1 -- HE COMPARES THAT WITH RITALIN AND HOW TESTS HAVE SHOWN,
2 AND THIS IS A SCIENTIFIC TEST, HAVE SHOWN THAT THAT'S THE
3 WAY THEY TEST THE ADDICTIVENESS OF IT BY OBVIOUSLY USING
4 ANIMALS. THEY DON'T USE HUMANS TO TEST THE RESULTS.

5 THE EXPERT TESTIMONY WOULD BE THAT FROM STUDIES
6 IT HAS SHOWN HOW ADDICTIVE ---

7 THE COURT: COCAINE?

8 MR. BOYD: WHICH HE IS GOING TO FOLLOW -- THAT'S
9 ANOTHER REASON WE WANT TO COMPARE IT TO COCAINE BECAUSE
10 RITALIN, THE TESTIMONY WOULD BE, IS SIMILAR TO COCAINE, IN
11 THE SAME CLASS AS COCAINE.

12 THE COURT: PEOPLE WITH DEPRESSION OR MANIA IN
13 YORK COUNTY. AND THEN WE'VE GOT A COMPARISON -- IT SAYS
14 THE ROBERTSONS AND THEN IT LOOKS LIKE SOMETHING SIMILAR TO
15 A FAMILY TREE SHOWING PROBLEMS, I GUESS THEY ARE PROBLEMS,
16 MINE ARE KIND OF BLURRY, BUT CERTAIN TRAITS OF EARL AND
17 CERTAIN TRAITS OF TERRY AND HOW THE TWO CHILDREN ENDED UP
18 WITH IT.

19 WHAT'S THAT GOT TO DO WITH ANYTHING?

20 MR. BOYD: WHAT, THE LAST EXHIBIT?

21 THE COURT: YES.

22 MR. BOYD: YOUR HONOR, I THINK THAT'S A CRUCIAL
23 POINT IN THIS CASE, THAT THE PARENTS BOTH HAD MENTAL
24 DISEASE, THAT THE CHILDREN HAD MENTAL DISEASE; THE
25 TESTIMONY WILL BE ITS AN INHERITED CONDITION. I MEAN

1 THAT'S A BIG PART OF THE CRUX OF THE DEFENSE.

2 THE COURT: THE FACT THAT HIS MENTAL DISEASE CAME
3 FROM HIS PARENTS IS A MITIGATING CIRCUMSTANCE?

4 MR. BOYD: CERTAINLY, YOUR HONOR. IT'S AN
5 INHERITED CONDITION; IT'S NOT A CHOICE HE MADE TO HAVE THIS
6 MENTAL DISEASE.

7 THE COURT: SO, IT'S THEIR FAULT?

8 MR. BOYD: IT'S NOT THEIR FAULT; IT'S NO MORE
9 THEIR FAULT THAN IF I PASSED DOWN, SAY, SOME OTHER
10 INHERITED DISEASE BUT THE POINT IS, IT'S NOT HIS FAULT THAT
11 HE HAS THIS MENTAL DISEASE. IT'S IMPORTANT TO SHOW THAT
12 THIS IS AN INHERITED DISEASE. I MEAN I CAN'T IMAGINE THAT
13 NOT BEING ADMISSIBLE.

14 THE COURT: WELL, I'M GOING TO ALLOW THE USE OF
15 THE SLIDES BUT THERE MAY BE, I'M GOING TO LEAVE IT UP TO
16 THE PROSECUTION TO OBJECT ON A SLIDE BY SLIDE BASIS. AND
17 SOME MAY BE IN AND SOME MAY BE OUT.

18 I IMAGINE YOUR WITNESS HAS GOT HIS PRESENTATION
19 SET UP AS BUILDING BLOCKS AND IT MAY BE UNFORTUNATE THAT
20 ONE OF THE BLOCKS GETS KNOCKED OUT LIKE A HOUSE OF CARDS,
21 IF ONE CARD FALLS, THE WHOLE HOUSE MAY, BUT I JUST -- I MAY
22 GO SO FAR AS TO LET HIM COMPARE IT TO COCAINE, BUT ABUSE
23 CASES OUT OF SWEDEN SO IT WAS WITHDRAWN FROM THE MARKET?
24 IT HASN'T BEEN WITHDRAWN FROM THE MARKET HERE, IT'S STILL
25 PRESCRIBED.

1 MR. POPE: YOUR HONOR, IF WE'RE GOING TO HAVE TO
2 OBJECT ON A SLIDE BY SLIDE, I WOULD REQUEST WE DO IT IN
3 CAMERA, HAVE A PROFFER AND DEAL WITH IT SO I'M NOT FORCED
4 TO OBJECT TO EVERY SINGLE SLIDE THAT THE DEFENSE PUTS UP.

5 THE COURT: WELL, I DON'T MIND DOING THAT BUT
6 THIS LOOKS LIKE A SEVERAL HOUR PRESENTATION JUST FROM WHAT
7 I'VE GOT IN MY HAND.

8 MR. BOYD: IT'S PROBABLY ABOUT AN HOUR AND A
9 HALF.

10 MR. POPE: YOUR HONOR, IF WE COULD RETRIEVE THE
11 COPY AND PROVIDE THE COURT WITH A COPY IF THERE'S ANOTHER
12 COPY ---

13 THE COURT: I'D LIKE TO HAVE ONE.

14 MR. POPE: PERHAPS WE COULD GO THROUGH THE
15 DOCUMENT AS OPPOSED TO GOING THROUGH THE ENTIRE TESTIMONY.

16 THE COURT: WELL, THE WITNESS MAY BE ABLE TO TIE
17 IT IN SOMEHOW. I CAN'T DO IT JUST ON THE DOCUMENT. THE
18 TESTIMONY MAY CONVINCE ME THAT IT IS RELEVANT.

19 MR. BOYD: IF MR. POPE WANTS TO GET WITH ME
20 DURING A BREAK AND TELL ME WHICH ONES THEY OBJECT TO, MAYBE
21 WE COULD JUST ADDRESS THOSE IN FRONT OF THE COURT AND NOT
22 HAVE TO GO THROUGH THE WHOLE TESTIMONY.

23 THE COURT: IS THIS YOUR FIRST WITNESS?

24 MR. BOYD: NO, SIR; HE'S PROBABLY THE THIRD
25 WITNESS.

1 THE COURT: WELL, WE WILL PROBABLY HAVE A BREAK
2 BEFORE THEN AND MAYBE YOU CAN LOOK AT IT. WE MIGHT HAVE TO
3 HAVE A PROFFER BECAUSE HE MIGHT CAN TIE IT TOGETHER, BUT
4 SWEDEN TAKING IT OFF THE MARKET? IT HASN'T BEEN TAKEN OFF
5 THE MARKET HERE.

6 MR. BOYD: NO, SIR.

7 THE COURT: HE JUST WANTS TO SAY THAT THIS IS
8 SOME BAD STUFF, BUT IT'S ON THE MARKET HERE AND IT WAS
9 TAKEN ILLEGALLY AND IT DOES HAVE AN AFFECT. HE MAY HAVE
10 BEEN ADDICTED TO IT, IT MAY BE THE RESULT OF MENTAL, BUT
11 WHAT HAPPENED IN MISSISSIPPI AND SOME OTHER PLACES? I'LL
12 JUST HAVE TO HEAR THE TESTIMONY I GUESS.

13 MR. POPE: YOUR HONOR, AGAIN WE CAN ADDRESS THAT
14 AT THE APPROPRIATE TIME AND I WILL DISCUSS IT WITH MR.
15 BOYD. INDEPENDENT OF THE RELEVANCY AND THE OTHER ASPECTS OF
16 IT, THE RECIPROCAL DISCOVERY MOTION, I WOULD STILL HAVE
17 THAT BASIS ALSO. MAYBE WE CAN ADDRESS IT AFTER THE NEXT
18 BREAK.

19 THE COURT: WELL, I'M INCLINED TO LET THEM USE
20 IT. I'M NOT SURE THAT I CAN FIND THAT IT IS A VIOLATION OF
21 RECIPROCAL DISCOVERY IF -- IT TECHNICALLY MAY BE BUT IF
22 IT'S GOING TO BE USED FOR VISUAL DISPLAY AND IT'S JUST A
23 GUIDE IS PRETTY MUCH WHAT IT IS, JUST A VISUAL DISPLAY, I
24 DON'T THINK I'LL RULE IT OUT ON THAT GROUND, BUT I'LL HEAR
25 YOU.

1 MR. POPE: WE'LL GET A COPY MADE FOR THE COURT.

2 THE COURT: THAT WILL BE GOOD.

3 MR. BOYD: YOUR HONOR, I CAN PROVIDE ANOTHER
4 COPY; I HAVE SEVERAL COPIES.

5 THE COURT: THAT WILL BE FINE. ALL RIGHT, IS THE
6 STATE READY TO PROCEED?

7 MR. POPE: YES, SIR, YOUR HONOR.

8 THE COURT: IS THE DEFENSE?

9 MR. HANCOCK: THE DEFENSE IS READY, YOUR HONOR.

10 THE COURT: ALL RIGHT, BRING IN THE JURY.

11 IN THE PRESENCE OF THE JURY:

12 THE COURT: GOOD MORNING. MR. HANCOCK OR MR.
13 BOYD?

14 MR. HANCOCK: MAY IT PLEASE THE COURT, WE CALL TO
15 THE WITNESS STAND DR. JONATHAN PINCUS.

16 DR. JONATHAN H. PINCUS, BEING FIRST DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION BY

19 MR. HANCOCK:

20 Q. DR. PINCUS, PLEASE STATE YOUR FULL NAME FOR THE
21 COURT AND SPELL YOUR LAST NAME, SIR.

22 A. JONATHAN HENRY PINCUS, P-I-N-C-U-S.

23 Q. DR. PINCUS, WHAT IS YOUR PROFESSION?

24 A. I'M A PHYSICIAN, I'M A NEUROLOGIST; I'M A
25 PROFESSOR OF NEUROLOGY AT GEORGETOWN UNIVERSITY

1 SCHOOL OF MEDICINE.

2 Q. AND ARE YOU LICENSED TO PRACTICE NEUROLOGY?

3 A. YES, IN THE DISTRICT OF COLUMBIA.

4 Q. AND DO YOU HAVE A SPECIALTY WITHIN NEUROLOGY?

5 A. WELL, YES, I'M BOARD CERTIFIED IN NEUROLOGY AND
6 IN CHILD NEUROLOGY BUT MY INTEREST WITHIN
7 NEUROLOGY IS CONCENTRATED ON BEHAVIORAL
8 DISORDERS AND MOOD DISORDER.

9 Q. AND ARE YOU CERTIFIED BY ANY SPECIALTY BOARDS?

10 A. YES, BY THE AMERICAN BOARD OF PSYCHIATRY AND
11 NEUROLOGY IN NEUROLOGY AND IN CHILD NEUROLOGY.

12 Q. WHAT IF ANY -- TELL ME ABOUT YOUR HIGHER
13 EDUCATION.

14 A. OKAY. I GRADUATED FROM AMHERST COLLEGE IN
15 AMHERST, MASSACHUSETTS IN 1956 AND FROM THE
16 COLUMBIA UNIVERSITY SCHOOL OF MEDICINE, COLLEGE
17 OF PHYSICIANS AND SURGEONS IN 1960. I DID A
18 YEAR OF INTERNSHIP, MEDICAL INTERNSHIP AT A BIG
19 CITY HOSPITAL IN NEW YORK, KINGS COUNTY
20 HOSPITAL. AND THEN I DID A THREE YEAR RESIDENCY
21 IN NEUROLOGY AT YALE ENDING IN 1964.

22 AT THAT POINT I JOINED THE FACULTY AS AN
23 INSTRUCTOR AND KIND OF WORKED MY WAY UP AND
24 BECAME A FULL PROFESSOR IN 1974 AND REMAINED AT
25 YALE FOR THE BULK OF MY PROFESSIONAL CAREER FROM

1 1974 UNTIL 1987 WHEN I ACCEPTED THE CHAIRMANSHIP
2 OF NEUROLOGY AT GEORGETOWN.

3 I BECAME A CHAIRMAN AT GEORGETOWN AND REMAINED
4 THERE FOR EIGHT OR NINE YEARS AND RESIGNED THAT
5 POSITION. AND NOW I'M A PROFESSOR OF NEUROLOGY
6 AT GEORGETOWN, CHAIRMAN EMERITUS.

7 I SEE PATIENTS, DO RESEARCH AND TEACH.

8 MR. BRACKETT: YOUR HONOR, WE WILL STIPULATE THAT
9 HE IS AN EXPERT IN THE FIELD OF NEUROLOGY.

10 MR. BOYD: THAT'S FINE, YOUR HONOR, I STILL HAVE
11 A COUPLE OF QUESTIONS I WANT TO ASK.

12 THE COURT: ALL RIGHT. I FIND THAT HE IS
13 QUALIFIED AS AN EXPERT IN NEUROLOGY.

14 Q. ARE YOU ON ANY BOARDS OR HAVE YOU BEEN ON ANY
15 BOARDS CONCERNING EITHER NEUROLOGY OR
16 PSYCHIATRY?

17 A. YES. I'M AN EXAMINER FOR THE AMERICAN BOARD OF
18 PSYCHIATRY AND NEUROLOGY AND I HAVE EXAMINED
19 NUROLOGISTS AND PSYCHIATRISTS IN THE COURSE OF
20 THAT OVER THE COURSE OF MANY YEARS.

21 I WAS ON THE COMMITTEE THAT MADE UP THE
22 QUESTIONS THAT ARE USED ON THE BOARDS, TOO, FOR
23 SEVERAL YEARS.

24 I'VE BEEN VICE PRESIDENT OF THE AMERICAN ACADEMY
25 OF NEUROLOGY WHICH IS THE MAIN ORGANIZATION OF

1 NEUROLOGIST IN THE COUNTRY WITH TWELVE OR
2 THIRTEEN THOUSAND MEMBERS.

3 AND ALSO I HAVE BEEN ON THE COUNCIL FOR MANY
4 COMMITTEES OF THE AMERICAN NEUROLOGICAL
5 ASSOCIATION WHICH IS A MORE ELITE GROUP OF
6 ACADEMIC NUROLOGISTS.

7 Q. CAN YOU IDENTIFY THE DOCUMENT THAT I HAVE IN MY
8 HAND?

9 A. YES, THAT'S MY CURRICULUM VITAE.

10 Q. WHAT IS A CURRICULUM VITAE, SIR?

11 A. IT DETAILS THE SORT OF THINGS THAT I'VE
12 MENTIONED AND THE VARIOUS SOCIETY MEMBERSHIPS
13 THAT I HAVE, HONOR SOCIETIES, AND IT ALSO
14 DETAILS MY TEACHING AWARDS AND WHAT NOT, AND MY
15 PUBLICATIONS. THERE ARE ABOUT 130 PUBLICATIONS
16 OVER THE COURSE OF MY CAREER AND INCLUDE A BOOK
17 ON BEHAVIORAL NEUROLOGY WHICH IS A TEXT BOOK
18 THAT DEAL WITH THE DISORDERS THAT LIE ASTRIDE
19 THE FIELDS OF NEUROLOGY AND PSYCHIATRY THAT
20 BORDER ON BOTH.

21 Q. WE WOULD OFFER THIS.

22 MR. BRACKETT: NO OBJECTION.

23 THE COURT: IT WILL BE RECEIVED WITHOUT
24 OBJECTION.

25 MR. HANCOCK: WE MOVE TO ENTER THIS AS DEFENSE

1 EXHIBIT 2.

2 (THE CURRICULUM VITAE OF DR. PINCUS WAS MARKED IN EVIDENCE
3 AS DEFENDANT'S EXHIBIT 2 WITHOUT OBJECTION.)

4 Q. IF YOU WILL, HOW MANY TIMES HAVE YOU TESTIFIED
5 IN CRIMINAL TRIALS, SIR?

6 A. PROBABLY CLOSE TO -- SOMEWHERE BETWEEN 75 AND
7 100 TIMES IN MY CAREER.

8 Q. YES, SIR. AND DO YOU TESTIFY SOLELY FOR THE
9 DEFENSE OR SOLELY FOR THE PROSECUTION?

10 A. I WOULD TESTIFY FOR EITHER. I'VE TESTIFIED ONCE
11 FOR THE PROSECUTION, BUT I HAVEN'T BEEN ASKED
12 MORE THAN THAT TIME.

13 Q. IS THAT RIGHT?

14 A. YES.

15 Q. AND DO YOU ALWAYS TESTIFY FOR THE DEFENSE?

16 A. OH, NO. IF MY EVALUATION OF A SUBJECT IS NOT
17 HELPFUL TO THE DEFENSE, THE DEFENSE IS NOT GOING
18 TO ASK ME TO TESTIFY.

19 Q. AND HAS THAT EVER HAPPENED, SIR?

20 A. ABOUT A THIRD OF THE TIME.

21 Q. ABOUT A THIRD OF THE TIME THAT YOU ARE ASKED?

22 A. RIGHT.

23 Q. CAN YOU TELL ME THE DIFFERENCE BETWEEN
24 PSYCHIATRY AND NEUROLOGY?

25 A. SURELY. IT'S ACTUALLY A RATHER UNIQUE SITUATION

1 IN MEDICINE. THE BRAIN IS THE ONLY ORGAN OF THE
2 BODY THAT HAS TWO MEDICAL SPECIALTIES THAT DEAL
3 WITH ITS DISEASES. THERE ARE NOT TWO KINDS OF
4 CARDIOLOGISTS; THERE ARE TWO KINDS OF DOCTORS
5 THAT DEAL WITH DISEASES OF THE BRAIN, PSYCHIATRY
6 AND NEUROLOGY.

7 NEUROLOGY IS THE PROVINCE OF -- IN NEUROLOGY'S
8 PROVINCE ARE DISEASES THAT CAUSE A STRUCTURAL
9 CHANGE WITHIN THE BRAIN OR A METABOLIC CHANGE OR
10 A PHYSIOLOGICAL CHANGE THAT CAN BE MEASURED.

11 PSYCHIATRY DEALS WITH DISEASES OF THE BRAIN THAT
12 DON'T HAVE A GOOD CORRELATION WITH PATHOLOGY,
13 PHYSIOLOGY, OR CHEMISTRY. IT'S NOT TO SAY IT'S
14 NOT THERE, IT'S JUST THAT IT HASN'T BEEN FOUND.

15 THE COMMON IDEA OF PSYCHIATRY IS THAT IT'S A
16 SPECIALITY THAT DEALS WITH NOTHING, BUT IT'S
17 NOT. THERE ARE CERTAIN DISEASES THAT THE
18 SYMPTOMS OF WHICH ARE QUITE CHARACTERISTIC; THEY
19 RUN IN FAMILIES; THEY ARE CLEARLY GENETIC; AND
20 ARE TREATED BY MEDICATIONS THAT CONTROL THEM OR
21 OTHER MEDICATIONS THAT CAN MAKE THEM WORSE.

22 IT'S JUST LIKE OTHER DISEASES.

23 NEUROLOGY ACTUALLY HAS SOME DISEASES LIKE THAT.

24 I MEAN MIGRAINE FOR EXAMPLE. WE ALL KNOW THAT
25 MIGRAINE HEADACHES REALLY OCCUR, BUT IF YOU DO

1 AN MRI SCAN THERE'S NOTHING FOUND; AUTOPSY,
2 NOTHING FOUND, BUT THEY REALLY ARE HEADACHES
3 GOING ON. THEY ARE TREATED WITH MEDICINES AND
4 OTHER MEDICINES CAN MAKE THEM WORSE. SO, WE
5 KNOW THAT MIGRAINES EXIST BECAUSE OF THE HISTORY
6 AND BECAUSE OF THE SIMILARITY OF ONE CASE TO
7 ANOTHER AND THE RESPONSE TO MEDICATION.

8 BUT THERE ARE A LOT OF DISEASES THAT SORT OF
9 CROSS THE BORDER.

10 Q. WHAT WOULD THOSE DISEASES BE, SIR?

11 A. WELL, FOR EXAMPLE, IF A PERSON SUSTAINS BRAIN
12 DAMAGE BECAUSE OF SOME ACCIDENT OR BIRTH INJURY
13 OR WHATEVER, THERE MAY BE MOTOR MANIFESTATIONS
14 OF THAT, MIGHT HAVE CEREBRAL PALSY, MIGHT HAVE
15 EPILEPSY. BUT YOU ALSO MIGHT GET MENTAL
16 RETARDATION. WELL, THAT'S KIND OF ON THE BORDER
17 BETWEEN -- PSYCHIATRY TENDS TO DEAL WITH
18 BEHAVIOR AND THOUGHT; NEUROLOGY TENDS TO DEAL
19 WITH DISEASES OF MOVEMENT AND SENSATION AND
20 SPEECH.

21 AND THAT'S KIND OF AN ARBITRARY DISTINCTION.
22 BUT IF THERE'S A STROKE OR THERE'S BRAIN DAMAGE,
23 THERE WILL BE BEHAVIORAL CHANGES; THERE WILL BE
24 CHANGES IN THOUGHT AND IT WOULD BE WRONG, IT
25 SEEMS TO ME, FOR A NEUROLOGIST TO SAY THAT'S NOT

1 MY FIELD JUST BECAUSE IT'S BEHAVIOR AND THOUGHT
2 IF IT'S TRULY A DISEASE OF THE BRAIN.

3 AND I REALLY FEEL THAT WAY ABOUT PSYCHIATRIC
4 ILLNESS, TOO, AND I'VE HAD A GREAT DEAL OF
5 EXPERIENCE IN DEALING WITH PEOPLE WHO ARE
6 PSYCHIATRICALY ILL BECAUSE PATIENTS ARE
7 REFERRED TO ME TO DETERMINE IF THIS IS A DISEASE
8 OF THE BRAIN THAT SHOULD BE DEALT WITH BY A
9 NEUROLOGIST OR THIS IS A DISEASE OF THE BRAIN
10 THAT SHOULD BE DEALT WITH BY A PSYCHIATRIST.

11 Q. IF I MAY JUST STOP YOU FOR CLARIFICATION. NOW
12 DID YOU JUST SAY THAT YOU WERE REFERRED PATIENTS
13 BY PSYCHIATRISTS?

14 A. YES.

15 Q. AND WHAT DO THEY ASK YOU TO DO?

16 A. THEY ASK ME TO DETERMINE IF THEIR DIAGNOSIS AND
17 THERAPY IS CORRECT. PRESUMABLY IT'S NOT BECAUSE
18 IT HASN'T BEEN SUCCESSFUL. IS THERE A
19 NEUROLOGICAL CAUSE FOR THIS; IS THERE SOMETHING
20 ELSE THAT WE HAVEN'T THOUGHT OF HERE OR WE'RE
21 NOT DOING RIGHT.

22 Q. AND DO YOU SO ADVISE THEM, SIR?

23 A. OH, INDEED.

24 Q. NOW HAVE YOU DONE ANY STUDIES PARTICULARLY
25 DEVOTED TO ANY SPECIFIED FIELD OF A PERSON, SUCH

1 AS VIOLENT OFFENDERS OR SOMETHING?

2 A. YES, ABOUT A THIRD OF MY PUBLICATIONS DEAL WITH
3 BEHAVIOR, MOST OF IT VIOLENT BEHAVIOR. AND I'VE
4 SEEN A LOT OF MURDERERS, MAYBE 150 ALTOGETHER
5 AND, OF COURSE, AN EVALUATION WAS DONE. IN
6 ORDER TO DO THAT, I HAVE TO MAKE HOUSE CALLS;
7 THEY DON'T COME TO THE PLUSH OFFICES OF THE
8 GEORGETOWN UNIVERSITY HOSPITAL VERY OFTEN.

9 Q. WHEN YOU SAY YOU MAKE HOUSE CALLS, WHERE DO YOU
10 GO?

11 A. I GO TO PRISONS. AND THAT IS WHERE I DO MY
12 EVALUATIONS. MY EVALUATION CONSISTS OF A
13 HISTORY AND A PHYSICAL; THAT'S 90 PERCENT OF THE
14 NEUROLOGIC DIAGNOSIS FOR MIGRAINE, FOR EPILEPSY,
15 FOR ALZHEIMERS DISEASE AND FOR VIOLENCE, TOO.

16 Q. NOW, IF YOU ARE EVALUATING FOR ALZHEIMERS
17 DISEASE, DOES A MRI SHOW ANY ALZHEIMERS DISEASE
18 OR ANYTHING LIKE THAT? YOU MENTIONED ONE
19 EARLIER.

20 A. NO. AN MRI IS A WONDERFUL, WONDERFUL TEST.

21 Q. AND WHAT IS IT, SIR?

22 A. WHAT IT IS IT'S A GIANT MAGNET WHICH IS SO
23 STRONG THAT IT MAKES THE WATER MOLECULES IN THE
24 BRAIN POLARIZE AND THE NEGATIVE PART OF THE
25 MAGNET ATTRACTS THE POSITIVE PART OF THE WATER

1 MOLECULE. AND BECAUSE THE MAGNET IS CREATED BY
2 AN ELECTRICAL FIELD, THAT FIELD CAN BE CHANGED
3 IN ITS POSITION. AND WHEN IT'S SHIFTED 90
4 DEGREES, ALL OF THE LITTLE MOLECULES, WATER
5 MOLECULES CHANGE 90 DEGREES AND THE WAVE THAT
6 THEY SET UP BY THAT ALTERATION IS STRONG ENOUGH
7 TO BE ABLE TO BE DETECTED. AND THE STRENGTH OF
8 THE WAVE IS DIRECTLY PROPORTIONAL TO THE AMOUNT
9 OF WATER.

10 SO, WHAT YOU CAN DO THEN IS SEE A PICTURE OF THE
11 BRAIN WHICH COMPLETELY ELIMINATES BONE BECAUSE
12 THE MRI DOESN'T SEE BONE AT ALL BECAUSE THERE'S
13 ALMOST NO WATER IN BONE AND YOU SEE THE SOFT
14 TISSUE, YOU SEE THE BRAIN. AND YOU CAN TELL A
15 DIFFERENCE BETWEEN THE GRAY MATTER WHICH IS
16 WHERE THE NERVE CELLS ARE AND THE WHITE MATTER
17 WHICH IS WHERE THE PROCESSES FROM THOSE CELLS,
18 THE EXTENSIONS OF THOSE CELLS GO. YOU CAN SEE
19 MINOR LITTLE CHANGES IN THE BRAIN AND
20 PARTICULARLY IT IS VALUABLE IN BRAIN TUMORS. IT
21 IS FABULOUS FOR DIAGNOSING BRAIN TUMORS. IT'S
22 FABULOUS FOR DIAGNOSING STROKES AND EXCELLENT IN
23 MULTIPLE SCLEROSIS AND A NUMBER OF OTHER
24 DISORDERS, VERY FEW OTHER DISORDERS.

25 BUT IT IS AMAZINGLY TERRIBLE IN MAJOR DISORDERS

1 OF THE BRAIN LIKE MENTAL RETARDATION. IT
2 DOESN'T SHOW ANYTHING. ALZHEIMERS DISEASE, IT
3 DOESN'T SHOW ANYTHING. YOU CAN'T MAKE A
4 DIAGNOSIS ON THE BASIS OF THE MRI. PARKINSONS
5 DISEASE, EPILEPSY, MIGRAINE, THESE ARE IMPORTANT
6 NEUROLOGIC CONDITIONS AND THE MRI IS NORMAL IN
7 THIS CONDITIONS.

8 THOSE CONDITIONS YOU HAVE TO DEPEND ON THE
9 HISTORY AND THE PHYSICAL EXAMINATION.

10 SEE, NEUROLOGY AND PSYCHIATRY HAVE NOT EVOLVED
11 AS FAR AS MEDICINE HAS.

12 Q. CAN AN MRI, AND YOU'VE NOT MENTIONED IT, CAN AN
13 MRI DETECT A BIPOLAR DISORDER?

14 A. NO; NOT THAT NOR SCHIZOPHRENIA, NOR EXCESSIVE
15 COMPULSIVE DISORDER OR ANY OF THESE CLASSIC
16 PSYCHIATRIC DISORDERS WHICH ARE DISABLING AND
17 SOMETIMES ACHIEVE LEVELS OF PSYCHOSIS WHERE THE
18 PERSON'S LIFE AND THE LIVES OF THE PEOPLE AROUND
19 THEM ARE TOTALLY DISRUPTIVE AND YOU THINK THAT
20 THERE MUST BE SOME ABNORMALITY OF THE BRAIN
21 BECAUSE IT RUNS IN FAMILIES BECAUSE IT'S
22 TREATABLE WITH MEDICATION, OTHER MEDICATIONS
23 MAKE IT WORSE.

24 DISEASES OF THE BRAIN SUCH AS ENCEPHALITIS AND
25 STROKE AND WHATNOT AND EPILEPSY CAN ALSO BE

1 ASSOCIATED WITH THAT KIND OF ABNORMALITY,
2 BEHAVIOR AND THOUGHT. AND SO WE KNOW THAT IT'S
3 COMING FROM THE BRAIN, BUT YET WHEN YOU LOOK AT
4 THE BRAIN IN AN MRI, IF YOU LOOK AT THE BRAIN IN
5 AN AUTOPSY, YOU CAN'T TELL.

6 Q. YOU CAN'T DETECT BIPOLAR BY, YOU'RE SAYING, MRI
7 OR AN AUTOPSY?

8 A. THAT IS CORRECT AND THE REASON FOR THAT, I THINK
9 --

10 Q. I WAS GOING TO ASK WHY, WHY CAN'T YOU DETECT IT
11 IF IT'S THERE, SIR?

12 A. WELL, WHEN WE LOOK AT -- EACH NERVE CELL IS LIKE
13 A TREE, IT LOOKS LIKE A TREE. THE CELL BODY IS
14 LIKE THE TRUNK OF THE TREE, IT HAS BRANCHES;
15 EACH NERVE CELL HAS ABOUT TEN THOUSAND BRANCHES
16 AND MAKE CONTACT WITH OTHER NERVE CELLS, AND IT
17 DOES IT IN THREE DIMENSIONS, IT COMES OUT IN
18 THREE DIMENSIONS. LIKE THE BRANCHES OF A TREE.
19 YOU THINK OF THE LEAVES ON EACH TREE AS A POINT
20 OF CONTACT WITH ANOTHER CELL, THAT'S WHAT IT
21 LOOKS LIKE. AND THE BRAIN IS LIKE A FOREST.
22 NOW, IF YOU HAD A DISEASE THAT WERE A DISEASE OF
23 THE TREE TRUNK ITSELF, YOU COULD IDENTIFY THAT
24 POSSIBLY. IF YOU CLEAR CUT THE FOREST AND TOOK
25 AN AERIAL PHOTOGRAPH, YOU COULD TELL IF THERE

1 WAS A MUD SLIDE LIKE A TUMOR COMING INTO THAT
2 AREA OR IF THERE WAS A FOREST FIRE LIKE A STROKE
3 OR A SERIES OF LITTLE FIRES LIKE MULTIPLE
4 SCLEROSIS, YOU COULD TELL IF THERE WAS AN
5 ABNORMALITY IN THAT FROM AN AERIAL PHOTOGRAPH OF
6 A CLEAR CUT FOREST. BUT WHEN THE ---

7 Q. WOULD THAT BE YOUR MRI?

8 A. THAT WOULD BE THE AUTOPSY.

9 Q. AUTOPSY; OKAY, SIR.

10 A. BUT IF YOU HAD A DISEASE OF THE LEAVES
11 THEMSELVES, LITTLE FUNGUS THAT WAS AFFECTING THE
12 LEAVES AND YOU CLEAR CUT THE FOREST AND TOOK AN
13 AERIAL PHOTOGRAPH, YOU WOULD MISS IT, YOU
14 WOULDN'T SEE IT. AND IT MIGHT BE A SEVERE
15 DISEASE OF THE LEAVES THAT THREATEN THE LIFE OF
16 THE ENTIRE FOREST.

17 NOW, WHEN A PATHOLOGIST TAKES A SLICE OF THE
18 BRAIN, HE TAKES A TINY LITTLE THIN SLICE THAT IS
19 JUST FRACTIONS OF AN INCH, IT'S MICRONS,
20 THOUSANDTHS OF A MILLIMETER, AND IT'S REALLY
21 BASICALLY A TWO DIMENSIONAL LOOK AT A THREE
22 DIMENSIONAL OBJECT AND HE STAINS IT AND WHAT HE
23 SEES IS THE CELL BODIES AND ONLY THE CELL
24 BODIES, NOT WHAT'S BETWEEN THEM.

25 IT'S LIKE AN AERIAL PHOTOGRAPH OF A CLEAR CUT

1 FOREST. IT'S TWO DIMENSIONAL, IT DOESN'T LOOK
2 AT THE CONTACTS, THE POINTS AT THE CONTACT, BUT
3 THAT'S THE PLACE THAT WE THINK THE LESIONS ARE
4 IN EPILEPSY, IN MOVEMENT DISORDERS AND IN
5 BEHAVIORAL DISORDERS BECAUSE ALL OF THOSE THINGS
6 ARE AFFECTED BY MEDICATIONS THAT ACT AT
7 SYNOPSIS, AT THE POINTS OF CONTACT WITH ONE CELL
8 AND ANOTHER. AND THE MEDICINES THAT MAKE THOSE
9 THINGS WORSE ARE ALSO ACTIVE AT THE SYNAPSE, THE
10 POINT WHERE THE CELLS MEET.

11 THE PATHOLOGIST DOESN'T SEE IT AND IT'S MUCH TOO
12 FINE, MUCH TOO DETAILED, MUCH TOO FAR FROM THE
13 CAPACITIES OF AN MRI TO SEE.

14 Q. WELL, LET ME ASK YOU, DID YOU HAVE AN OCCASION
15 TO MEET JIMMY ROBERTSON?

16 A. I DID.

17 Q. WHEN WAS THAT, SIR?

18 A. I MET HIM ON NOVEMBER 1ST, 1998.

19 Q. WHERE WAS THAT?

20 A. THAT WAS AT THE LEE COUNTY CORRECTIONAL
21 FACILITY.

22 Q. AND HOW LONG DID YOU SPEND WITH HIM, SIR?

23 A. I WAS THERE FOR THREE HOURS, THREE TO THREE AND
24 A HALF HOURS.

25 Q. AND HAVE YOU SEEN HIM SINCE THEN?

1 A. JUST BRIEFLY THIS MORNING.

2 Q. WERE YOU ASKED TO EVALUATE HIM, SIR?

3 A. I WAS.

4 Q. AND WHAT, IF ANYTHING, DID YOU USE TO EVALUATE
5 HIM IN THE MANNER OF MEDICAL REPORTS OR
6 OTHERWISE; WHAT HAVE YOU BEEN PROVIDED, SIR?

7 A. OH, WELL THE TIME I SAW HIM, I HAD ACTUALLY NOT
8 LOOKED AT ANYTHING. I GOT MY HISTORY DIRECTLY
9 FROM HIM AND I DID MY PHYSICAL EXAMINATION.
10 SUBSEQUENTLY I WAS GIVEN SOCIAL REPORTS, MEDICAL
11 REPORTS AND REPORTS OF AN ADMISSION TO THE HALL
12 MENTAL FACILITY IN 1995 AND I WAS ABLE TO SPEAK
13 WITH THE INVESTIGATOR WHO HAD COLLECTED MUCH OF
14 THE MATERIAL ABOUT HIM AND WAS ABLE, THEREFORE,
15 TO CHECK ON THE DETAILS THAT HE HAD PROVIDED AND
16 THEIR ACCURACY.
17 I ALSO LOOKED AT THE AUTOPSY REPORT OF HIS
18 PARENTS AND I'VE SEEN THE REPORTS OF DR. MCKEE
19 IS IT?

20 Q. YES, SIR, DR. MCKEE.

21 A. DR. BRANNON AND I'VE SEEN THE REPORT OF DR.
22 EVANS.

23 Q. AND COULD YOU PLEASE TELL THIS COURT WHAT YOUR
24 EVALUATION CONSISTED OF OR CONSISTS OF AND WHAT
25 YOU ARE RELYING ON.

1 A. WELL, THE FIRST POINT IS TO GET THE HISTORY FROM
2 THE SUBJECT, THE PATIENT HIMSELF. AND THAT'S
3 WHAT I DID.

4 I WANTED TO KNOW ABOUT THE FAMILY HISTORY OF
5 MENTAL ILLNESS AND HIS OWN HISTORY OF MENTAL
6 ILLNESS, WHETHER HE HAD BEEN IN COUNSEL
7 BEFORE, WITH WHAT HE HAD BEEN, WHEN THE SYMPTOMS
8 BEGAN, HOW LONG THEY LASTED.

9 OBVIOUSLY, SOMEONE HAD THOUGHT THAT HE HAD MANIC
10 DEPRESSIVE ILLNESS; NOW, NOWADAYS THAT'S CALLED
11 BIPOLAR AFFECTIVE DISORDER, THOSE TWO ARE
12 SYNONYMS.

13 AND THE HISTORY IS THE WAY YOU MAKE THE
14 DIAGNOSIS OF THAT BECAUSE PEOPLE HAVE EPISODES
15 LASTING WEEKS OR MONTHS OF MANIA AND WEEKS OR
16 MONTHS OF DEPRESSION AND IN BETWEEN THE PERSON
17 IS RELATIVELY NORMAL.

18 THAT'S NOT UNUSUAL IN NEUROLOGY. YOU HAVE AN
19 EPILEPTIC WHO DOESN'T HAVE SEIZURES ALL DAY
20 EVERY DAY, HE MAY HAVE TWO OR THREE A WEEK AND
21 THAT WOULD BE PRETTY BAD, OR HE MAY HAVE LITTLE
22 PERIODS WHERE HE HAS TWO OR THREE A DAY AND THEN
23 HE'LL STOP FOR A WHILE AND THEN COME BACK AGAIN
24 LATER ON.

25 SO, MANIC DEPRESSIVE ILLNESS IN A SENSE IS LIKE

1 THAT, IT COMES AND GOES. MIGRAINE, TOO, IT
2 COMES AND GOES.

3 SO, TO GET THAT HISTORY I HAD TO SPEAK ABOUT HIS
4 LEVEL OF FUNCTIONING AND WHETHER HE DID THE
5 SORTS OF THINGS THAT PEOPLE DO WHEN THEY HAVE
6 EPISODES OF MANIA SUCH AS GAMBLING, DRINKING,
7 DRUG ABUSE.

8 A LOT OF PEOPLE WHO HAVE MANIC DEPRESSIVE
9 ILLNESS ABUSE DRUGS, NOT BECAUSE THEY JUST WANT
10 TO ABUSE DRUGS BUT BECAUSE THEY ARE TREATING
11 THEIR OWN SYMPTOMS. THE DISCOMFORT THAT THE
12 DEPRESSION INDUCES OR THE DISCOMFORT THAT THE
13 MANIA INDUCES CAN SOMETIMES BE MODIFIED BY DRUGS
14 THAT THEY TAKE THEMSELVES. ALCOHOL IS A COMMON
15 ONE THAT HELP BOTH DEPRESSION AND MANIA. WHEN I
16 SAY HELPS, I MEAN IT HELPS SOME OF THE PARTS OF
17 THE PROBLEM AND MAKES OTHER PARTS OF THE PROBLEM
18 A LOT WORSE. BUT THAT'S AVAILABLE, AND SO
19 PEOPLE USE IT.

20 OTHERS ARE STIMULANTS THAT ARE USED. PEOPLE
21 ACTUALLY LIKE THE MANIA. IT'S ONE OF THE MOST
22 PECULIAR THINGS THAT A PERSON WHO IS MANIC
23 REALLY ENJOYS THE PERIOD OF MANIA THE WAY A
24 COCAINE ADDICT ENJOYS THE AFFECT OF COCAINE.
25 APPARENTLY THE AFFECT IS VERY SIMILAR, BUT WHEN

1 YOU'RE MANIC YOU DON'T REALLY NEED TO DO
2 ANYTHING EXCEPT NOT TAKE YOUR LITHIUM IN ORDER
3 TO HAVE THAT FEELING.

4 AND PEOPLE HAVE USED DRUGS LIKE AMPHETAMINES AND
5 COCAINE TO PROLONG A PERIOD OF MANIA, BUT ALSO
6 TO HEIGHTEN IT SO THAT EVEN THOUGH THE THINGS
7 THAT THEY DO ARE SELF-DESTRUCTIVE AND
8 DESTRUCTIVE TO OTHERS AROUND THEM AND THEY KNOW
9 THAT, THEY STILL ARE SO DEEPLY INTO THEIR OWN
10 SYMPTOMS AND ENJOYING THEM SO MUCH THAT THEY
11 BECOME DRUG ADDICTS.

12 ON THE OTHER SIDE, THEY TRY TO CUT DOWN ON THOSE
13 THINGS AND USE ALCOHOL TO TRY TO PUT A LID ON
14 IT. OF COURSE, ALCOHOL DOESN'T WORK VERY WELL;
15 IT'S NOT A GOOD DRUG FOR THAT.

16 SOMETIMES THEY'LL TAKE THE LITHIUM OR THE
17 DEPAKOTE OR TEGRETOL FOR A WHILE AND THEN LIFE
18 SEEMS BLAND TO THEM, LIFE SEEMS SORT OF DULL AND
19 THEY DON'T LIKE IT, SO THEY STOP TAKING IT.

20 Q. I'LL ASK YOU SOMETHING HERE, DOCTOR. IS IT
21 FAIRLY COMMON FOR INDIVIDUALS WITH BIPOLAR
22 DISORDER TO GO OFF OF THEIR MEDICINES?

23 A. YES.

24 Q. AND IS IT FAIRLY COMMON FOR ALL OF THEM TO SELF-
25 MEDICATE?

1 A. EXACTLY.

2 Q. IS WHAT WE'RE TALKING ABOUT WHEN YOU TALK ABOUT
3 ALCOHOL AND AMPHETAMINES AND ---

4 MR. BRACKETT: OBJECTION TO THE LEADING, YOUR
5 HONOR.

6 THE COURT: I SUSTAIN THE OBJECTION. JUST
7 REPHRASE YOUR QUESTION.

8 Q. ALL RIGHT, SIR. IS THAT A COMMON OCCURRENCE?

9 A. YES, IT'S VERY COMMON AND JUST AS I SAID, IT IS
10 SELF-MEDICATION; THAT'S PRECISELY WHAT THE
11 PERSON IS DOING.

12 WHAT WE WOULD ALL PREFER IS THAT THE PATIENT
13 WENT TO THE DOCTOR, DID WHAT THE DOCTOR SAID AND
14 IF IT WORKED, CONTINUED IT AND THAT WOULD BE THE
15 END OF THAT; THE MANIA AND THE DEPRESSION WOULD
16 BE UNDER CONTROL JUST THE WAY EPILEPSY WOULD BE
17 UNDER CONTROL.

18 BUT GETTING PEOPLE TO DO WHAT THE DOCTOR ASKS
19 THEM TO DO IS NOT SO EASY.

20 DIABETICS, PARTICULARLY YOUNG ONES, TEND NOT TO
21 STAY ON THEIR DIETS AND TAKE THEIR INSULIN THE
22 WAY THEY ARE SUPPOSED TO.

23 EPILEPTICS TEND NOT TO BE ON THEIR MEDICATION
24 THE WAY THEY ARE SUPPOSED TO.

25 AND THE MOST COMMON CAUSE OF DIABETES GOING OUT

1 OF CONTROL IS JUST THE WAY OF EPILEPSY GOING OUT
2 OF CONTROL AND PARTICULARLY THE WAY MANIA GOES
3 OUT OF CONTROL IS BECAUSE PEOPLE DON'T TAKE THE
4 MEDICINE THE WAY THEY'VE BEEN PRESCRIBED.

5 Q. WELL, DESCRIBE FOR ME, YOU HAVE MENTIONED
6 SEVERAL TIMES THE TERM MANIA; PLEASE DESCRIBE TO
7 THE JURY WHAT MANIA ACTUALLY IS. IS IT IN THE
8 BIPOLAR DISORDER?

9 A. YES. BIPOLAR DISORDER AND MANIC DEPRESSIVE
10 DISORDER ARE SYNONYMS. AND BIPOLAR MEANS UP AND
11 DOWN. UP IS THE MANIA AND DOWN IS THE
12 DEPRESSION.

13 MANIA CONSISTS OF RACING THOUGHTS, INABILITY TO
14 CONCENTRATE, INABILITY TO SIT STILL, PSYCHO
15 MOTOR STIMULATION, MOVING AROUND A LOT, MOVING
16 AROUND MENTALLY A LOT, MOVING AROUND PHYSICALLY
17 A LOT, NOT REQUIRING SLEEP, NOT BEING ABLE TO
18 SLEEP FOR LONG PERIODS OF TIME. MAYBE EXISTING
19 ON ONE TO TWO TO THREE HOURS OF SLEEP A NIGHT
20 FOR A PERIOD OF A WEEK OR TWO. HAVING GRANDIOSE
21 IDEAS AND AN EXAGGERATED CONCEPT OF WHAT THE
22 SUFFERER HIMSELF CAN ACCOMPLISH AND CAN DO. AND
23 FEELING FREE OF THE RESTRAINTS AND CONSTRAINTS
24 THAT SOCIETY ORDINARILY DEMAND. DRIVING TOO
25 FAST; DRINKING HEAVILY; USING DRUGS; SPENDING

1 MONEY; SPENDING MONEY WILDLY ON THINGS THAT THEY
2 DON'T REALLY NEED EVEN, JUST SPENDING MONEY;
3 BUYING THINGS FOR OTHER PEOPLE; GOING INTO DEBT
4 BECAUSE OF GAMBLING; BEING PROMISCUOUS SEXUALLY.
5 THOSE ARE SOME OF THE SYMPTOMS THAT CHARACTERIZE
6 MANIA.

7 AND THIS GOES ON FOR A PERIOD OF TWO OR THREE
8 MONTHS. SOMETIMES WHEN THE PERSON IS REALLY
9 BAD, THEY CAN ACTUALLY BECOME PSYCHOTIC; THEY
10 CAN START HAVING IDEAS THAT THERE ARE PEOPLE WHO
11 ARE AGAINST THEM; THEY HAVE PARANOID CONCEPTS
12 AND BECOME DELUSIONAL AND THEY CAN EVEN HAVE
13 HALLUCINATIONS AND HEAR VOICES SPEAKING TO
14 THEM, TELLING THEM TO DO THINGS.

15 AND AT THAT POINT IT'S VERY DIFFICULT TO TELL
16 FROM SCHIZOPHRENIA. THE ONLY WAY YOU COULD
17 DISTINGUISH THE TWO WOULD BE BY THE HISTORY,
18 AGAIN, THE PERIODS OF NORMALITY IN BETWEEN.

19 IT'S THE PERIODS OF NORMALITY THAT DISTINGUISH A
20 MANIC DEPRESSIVE ILLNESS FROM SCHIZOPHRENIA.

21 NOW, WHEN THE MANIA IS NOT TOO BAD AND PEOPLE
22 ARE JUST SORT OF, THE WORD ONE PERSON USED,
23 AMPED, THAT IS TO SAY SORT OF ELECTRIFIED AND
24 THEY ARE INTELLIGENT, THEY CAN GET A LOT
25 ACCOMPLISHED.

1 AND IT'S NOT UNCOMMON FOR A PERSON TO MAKE A LOT
2 OF MONEY IN THE COURSE OF A HYPO-MANIC EPISODE
3 AND REALLY SEEM TO BE FUNCTIONING AT A
4 TREMENDOUSLY HIGH LEVEL.

5 ONE OF THE FOUNDERS OF A MAJOR MUTUAL FUND ON
6 WALL STREET WAS A PATIENT OF MINE AND HE HAD
7 THAT. HE MADE TONS OF MONEY AND A LOT OF TIMES
8 HE WAS SUICIDAL, HE COULDN'T DO ANYTHING.

9 BECAUSE CRASHES OCCUR AS WELL. A PERSON BECOMES
10 VERY DEEPLY DEPRESSED AND THEN DURING THE
11 PERIODS OF DEPRESSION -- WELL, YOU KNOW WHAT
12 DEPRESSION IS, PEOPLE CRY, FEEL TERRIBLE, FEEL
13 TERRIBLE ABOUT THEMSELVES AND HAVE NO ENERGY TO
14 DO ANYTHING. AND, AGAIN, THEY CAN'T
15 CONCENTRATE. THEY CAN'T CONCENTRATE BECAUSE OF
16 THE DEPRESSION, THE THINKING OF DISMAL, AWFUL,
17 HORRIBLE THINGS AND THEY DON'T HAVE ANY ENERGY
18 TO DO ANYTHING, CAN'T GET OUT OF BED AND THEY
19 CAN'T WASH THEMSELVES AND THEY CAN'T DRESS.

20 ONE OF THE MOST PECULIAR AND DIFFICULT THINGS IS
21 THAT THE MANIA AND THE DEPRESSION AREN'T
22 NECESSARILY EXCLUSIVE; THAT IS TO SAY A PERSON
23 CAN HAVE SOME SYMPTOMS OF BOTH SIMULTANEOUSLY
24 AND THEN IT BECOMES A THERAPEUTIC NIGHTMARE,
25 OBVIOUSLY, BECAUSE THE DRUGS THAT ARE USED TO

1 TREAT DEPRESSION TEND TO PRECIPITATE, WORSEN
2 MANIA AND THE DRUGS THAT TEND TO CONTROL MANIA
3 CAN SOMETIMES HAVE A BAD AFFECT ON DEPRESSION.

4 Q. AND YOU DID AN EXAMINATION ---

5 A. I DID A PHYSICAL EXAMINATION ON HIM, TOO, BESIDE
6 GETTING THE HISTORY, AND MY NEUROLOGIC
7 EXAMINATION ATTEMPTS TO ASSESS EACH PART OF THE
8 NERVOUS SYSTEM.

9 Q. NOW, WOULD THIS BE THE EXAMINATION THAT YOU
10 WOULD BE DOING ON JIMMY ROBERTSON?

11 A. EXACTLY.

12 Q. IF YOU WILL, PLEASE EXPLAIN IT TO THE JURY AND
13 WHAT YOU FOUND.

14 A. IF I DID A VERY COMPLETE NEUROLOGICAL
15 EXAMINATION ON EVERYBODY, IT MIGHT TAKE ME A DAY
16 OR TWO TO DO ONE SINGLE EXAMINATION. BUT THE
17 THINGS THAT I DO ARE FOCUSED BY THE HISTORY.
18 OBVIOUSLY IF IT'S A PROBLEM OF A PERSON WHO HAS
19 DIFFICULTY WITH HIS FEET, THEN I WOULD
20 CONCENTRATE ON THE PART OF THE NERVOUS SYSTEM
21 THAT WOULD BE RELATIVE TO A DISEASE OF THE FEET.
22 BUT IF IT'S A PROBLEM OF BEHAVIOR THAT I'M
23 REALLY TRYING TO ASSESS, THEN I'M REALLY
24 INTERESTED IN THE BRAIN.

25 NOW, THE BRAIN IS DIVIDED INTO LOBES; ACTUALLY,

1 THE LIVER IS DIVIDED INTO LOBES, THE RIGHT SIDE
2 OF THE LIVER DOES EXACTLY WHAT THE LEFT SIDE OF
3 THE LIVER DOES. AND IF YOU WANTED TO HAVE AN
4 ESTIMATE OF WHAT THE LIVER WAS DOING, YOU COULD
5 TAKE ANY PART OF IT AND ANALYZE IT AND IT WOULD
6 BE THE SAME.

7 THE BRAIN ISN'T LIKE THAT. THE BRAIN IS VERY,
8 VERY SPECIALIZED. AND THE BACK OF THE BRAIN DOES
9 NOT DO WHAT THE FRONT OF THE BRAIN DOES; AND THE
10 LEFT SIDE OF THE BRAIN DOESN'T DO WHAT THE RIGHT
11 SIDE OF THE BRAIN DOES.

12 AND SO TO ASSESS THE BRAIN, I DO A LOT OF
13 DIFFERENT TESTS. ONE OF THE THINGS THAT THE
14 BRAIN DOES, ONE OF THE MOST IMPORTANT THINGS
15 THAT IT DOES IS TO THINK. AND TO ASSESS
16 THINKING, I USE A LITTLE STANDARD PSYCHOLOGICAL
17 TEST WHICH IS CALLED THE MINI-MENTAL STATUS
18 EXAMINATION. AND I DID THAT.

19 Q. NOW, ARE THESE TESTS RECOGNIZED IN YOUR
20 PROFESSION, SIR?

21 A. OH, ABSOLUTELY.

22 Q. AND HOW LONG HAVE YOU USED THESE TESTS?

23 A. FOR DECADES.

24 Q. FOR DECADES?

25 A. YES.

1 Q. IN YOUR PROFESSION ARE THEY CONSIDERED VALID?

2 A. THEY ARE CONSIDERED VALID; THEY ARE CONSIDERED -
3 - I MEAN IT'S THE STANDARD -- ANYBODY WHO DIDN'T
4 DO THEM WOULD NOT BE DOING A THOROUGH
5 NEUROLOGICAL EXAMINATION.

6 Q. DID YOU HELP WRITE ANY OF THESE TESTS?

7 A. EXCUSE ME?

8 Q. DID YOU HELP WRITE ANY OF THESE TESTS?

9 A. NO. NO, I DID NOT WRITE THAT. BUT WHAT THE
10 MINI-MENTAL STATUS EXAMINATION DOES IS TO TEST
11 ORIENTATION TO TIME, READING, WRITING,
12 ARITHMETIC, MEMORY AND SPEECH. AND THOSE ARE
13 IMPORTANT FUNCTIONS OF THE BRAIN AND THEY ARE
14 ALL LOCATED IN THE BACK OF THE BRAIN. THEY ARE
15 ALL LOCATED IN THE BACK. IF YOU HAD ONE LESION
16 IN THE BRAIN THAT CAUSED A PROBLEM WITH
17 ORIENTATION IT WOULD BE PROBABLY IN THE PARIETAL
18 LOBE.

19 Q. WHERE IS THAT, SIR?

20 A. THAT'S JUST BEHIND THE EARS. IF YOU HAD A
21 PROBLEM WITH READING AND WRITING, IT MIGHT BE AT
22 THE JUNCTION OF THE OCCIPITAL LOBE, BACK HERE,
23 AND THE PARIETAL LOBE. THE OCCIPITAL LOBE IS IN
24 THE VERY BACK OF THE HEAD.
25 IF YOU HAD A PROBLEM WITH SPEECH, IT WOULD BE IN

1 THE BACK OF THE LEFT TEMPORAL LOBE. IF YOU HAD
2 A PROBLEM WITH ARITHMETIC, IT WOULD PROBABLY BE
3 IN EITHER ONE OR BOTH PARIETAL LOBES. IF YOU
4 HAD A DIFFICULTY WITH MEMORY, IT WOULD BE IN THE
5 MEDIAL PART, THE MIDDLE PART OF THE TEMPORAL
6 LOBE.

7 SO, IF YOU MADE A LINE BETWEEN THE EARS
8 SOMEWHERE NEAR THE MIDDLE OF THAT LINE IS THE
9 PART THAT DEALS MAINLY WITH MEMORY, IT'S CALLED
10 THE HIPPOCAMPUS.

11 NOW THAT LEAVES OUT ABOUT A THIRD OF THE BRAIN,
12 THE FRONTAL LOBE. NOW, HOW DO WE ASSESS THE
13 FRONTAL LOBE AND WHAT DOES THE FRONTAL LOBE DO.
14 THAT'S THE QUESTION I WAS POSING TO MYSELF AS I
15 SAW MR. ROBERTSON.

16 Q. NOW, WHY WERE YOU POSING THAT QUESTION THAT YOU
17 WOULD CONCENTRATE ON THE FRONTAL LOBE, SIR?

18 A. BECAUSE THE FRONTAL LOBES ARE WHAT PROVIDE
19 JUDGMENT AND THE FRONTAL LOBES ARE WHAT PROVIDE
20 INHIBITION OF IMPULSES. THAT IS TO SAY, IF YOU
21 HAVE AN IMPULSE TO DO SOMETHING AND IT'S YOUR
22 FRONTAL LOBE THAT SAYS, HEY, DON'T DO THAT,
23 THAT'S NOT SUCH A GOOD IDEA; OR MAYBE I OUGHT TO
24 REPHRASE THAT THOUGHT AND DON'T SAY IT, DON'T
25 SAY IT THAT WAY. IT'S THE SORT OF THING THAT

1 ALLOWS YOU TO SMILE AND NOD YOUR HEAD WHEN YOU'D
2 LIKE TO PUNCH THE PERSON IN THE NOSE.

3 IT'S THE DEVELOPMENT OF THOSE SKILLS THAT WE
4 CALL MATURITY THAT IS A FUNCTION OF THE FRONTAL
5 LOBES.

6 SO, WE HAVE TO ASSESS THE FRONTAL LOBES; I HAVE
7 TO ASSESS THE FRONTAL LOBES IN SOMEBODY WHO HAS
8 SHOWN VERY, VERY POOR JUDGMENT AND POSSIBLY
9 GREAT IMPULSIVITY, ANTISOCIAL BEHAVIOR, ET
10 CETERA.

11 SO, HOW DO I DO THAT. UNFORTUNATELY THE
12 SPECIFIC TESTS FOR JUDGMENT ARE REALLY ROTTEN.
13 THE STANDARD THING IS TO SAY WHAT WOULD YOU DO
14 WITH A STAMPED AND ADDRESSED ENVELOPE THAT YOU
15 FOUND IN THE STREET. WELL, I KNOW WHAT I WOULD
16 DO WITH IT, I WOULD MAIL IT. OKAY.

17 BUT I'M NOT PREPARED TO SAY THAT IF SOMEBODY
18 WOULD DO SOMETHING ELSE, THAT THERE'S SOMETHING
19 WRONG WITH HIS FRONTAL LOBE. OR I'M NOT PREPARED
20 TO SAY THAT IF HE DID WHAT I WOULD DO, THAT
21 THERE ISN'T ANYTHING WRONG WITH HIS FRONTAL
22 LOBE. I THINK IT'S JUST ANOTHER VERY SENSITIVE
23 OR GOOD TEST.

24 I CAN'T USE JUDGMENT, SO WHAT I DO USE IS THE
25 ABILITY TO CONCENTRATE AND CERTAIN REFLEXES THAT

1 ARE ABNORMAL WHEN THE FRONTAL LOBE IS AFFECTED.

2 Q. WHEN YOU SAY YOU USE IT, ARE YOU SPEAKING THAT
3 IS USED IN YOUR PROFESSION?

4 A. YES.

5 Q. IS IT WIDELY USED?

6 A. WIDELY USED.

7 Q. PLEASE CONTINUE, SIR.

8 A. IF IT ISN'T USED, THEN THE PERSON WHO IS DOING
9 THE ASSESSMENT IS NOT DOING A THOROUGH OR VALID
10 ASSESSMENT.

11 WE'RE TALKING ABOUT A THIRD OF THE BRAIN HERE,
12 THE FRONTAL LOBE. IT IS VERY, VERY IMPORTANT.
13 THE PART THAT MAKES IT DIFFICULT IS THAT IF YOU
14 TOOK OUT A LITTLE PART OF, SAY, THE OCCIPITAL
15 LOBE, YOU'D GET AN IMMEDIATE RESPONSE THAT YOU
16 COULD MEASURE, A SENSORY PROBLEM, THAT PERSON
17 WOULD LOSE VISION OR A PART OF VISION.

18 BUT IF YOU TAKE OUT PART OF THE FRONTAL LOBE,
19 YOU DON'T SEE ANYTHING IMMEDIATELY. A PERSON
20 CAN READ, WRITE, SPEAK AND REMEMBER; HE CAN
21 MOVE, HE CAN FEEL ---

22 Q. LET ME INTERRUPT BECAUSE DID YOU JUST SAY THAT
23 YOU CAN TAKE OUT PART OF THE FRONTAL LOBE AND
24 YOU CAN CONTINUE TO FUNCTION?

25 A. ABSOLUTELY.

1 Q. WHY IS THAT, SIR?

2 A. BECAUSE THIS PART OF THE BRAIN DEALS WITH HIGHER
3 THINGS, WITH JUDGMENT, WITH MOTIVATION, WITH THE
4 ABILITY TO MODIFY IMPULSES AND URGES. AND IT
5 DOESN'T DEAL WITH THE DIRECT CONTROL OF -- WELL,
6 IT DOES BUT ONLY A LITTLE PART OF IT DEALS WITH
7 MOTOR MOVEMENT, SENSATION, SPEECH; THOSE ARE
8 THINGS THAT ARE EASY TO CHECK, THAT NUROLOGISTS
9 FIND EASY TO CHECK.

10 IN FACT, THERE WAS A FAMOUS CASE OF A MAN NAMED
11 FINEOUS GAGE WHO 150 YEARS AGO WAS INVOLVED IN A
12 TERRIBLE ACCIDENT WHERE A TAPPING IRON WENT
13 BLOWING THROUGH ONE EYE AND CAME OUT THE OTHER
14 SIDE OF HIS HEAD, IT DIDN'T EVEN KNOCK HIM
15 UNCONSCIOUS. AND HE WENT TO A -- THEY TOOK HIM
16 TO A TAVERN, PUT HIM TO BED AND AFTER A COUPLE
17 OF WEEKS THE STUFF HEALED AND HE WAS OKAY. HE
18 COULD READ, WRITE, SPEAK, WALK, TALK, CALCULATE.
19 HE COULD DO ALL THE THINGS HE COULD SEEM TO DO
20 BEFORE, BUT HE WAS AN ENTIRELY DIFFERENT PERSON.
21 HE HAD BECOME IMMORAL, UNETHICAL, INSENSITIVE;
22 HE WOULD SWEAR IN FRONT OF WOMEN; HE DRANK; HE
23 COULDN'T HOLD A JOB; HE WAS UNRELIABLE; HE
24 BECAME A DERELICT AND JUST SPIRALED DOWN AND HE
25 DIED.

1 THE CASE WAS REPORTED BECAUSE IT WAS THE FIRST
2 OF ITS KIND AND IT WAS SO TRAUMATIC A CASE THAT
3 IT'S IN ALL OF THE TEXTBOOKS, PSYCHOLOGY,
4 NEUROLOGY, PSYCHIATRY ---

5 Q. TELL ME AGAIN WHAT HAPPENED TO HIM?

6 A. HE BLEW OUT HIS FRONTAL LOBES. RECENTLY THERE
7 WAS A REPORT IN SCIENCE -- HIS SKULL EXISTS IN
8 THE MEDICAL MUSEUM AT HARVARD AND HIS BRAIN WAS
9 RECONSTRUCTED BY COMPUTER FROM THE MARKINGS ON
10 THE INSIDE OF THE SKULL AND THE PART OF THE
11 BRAIN THAT WAS BLOWN AWAY OF THE FRONTAL LOBE
12 WAS SHOWN AND WHAT IT HAD DONE WAS TO CREATE
13 SOMEBODY WHO WAS IMMORAL FROM A PERSON WHO HAD
14 NOT BEEN THAT WAY BEFORE.

15 Q. AND THAT WAS FROM WHAT INJURY?

16 A. FROM AN INJURY TO HIS FRONTAL LOBE.

17 Q. OKAY, SIR.

18 A. SO, I NEED TO HAVE WAYS OF ASSESSING THE FRONTAL
19 LOBE. AND ONE OF THE WAYS IS EYE MOVEMENT AND
20 THEY WERE ABNORMAL IN MR. ROBERTSON.
21 WHEN I ASK A PERSON TO FOLLOW MY FINGER, MY
22 SLOWLY MOVING FINGER WHICH GOES FROM 45 DEGREES,
23 TAKES THREE SECONDS TO GET TO THE MID-LINE, GOES
24 45 DEGREES TO THE OTHER TAKING THREE SECONDS,
25 HIS EYES SHOULD BE ABLE TO MOVE SMOOTHLY WITHOUT

1 MOVING.

2 IF HIS EYES MOVE IN LITTLE JERKS AS THOUGH MY
3 FINGER WERE MOVING LIKE THIS OR ALL OF A SUDDEN
4 GO LIKE THAT, THAT'S ABNORMAL AND IT MEANS THAT
5 THE FRONTAL EYE FIELDS ARE NOT DOING THEIR JOB.

6 NOW, THE REASON FOR THE FRONTAL EYE FIELDS, I
7 SUPPOSE, IS THAT IF YOU'RE A HUNTER WITH AN
8 ARROW AND YOU'RE FOLLOWING AN IMPALA AND YOU
9 HAVE TO MAKE A JUDGMENT ABOUT THE PROJECTORY OF
10 YOUR ARROW AND THE PROJECTORY AND EXPECTED
11 DIRECTION OF THAT IMPALA IF YOUR EYES ALL OF A
12 SUDDEN GO LIKE THIS, YOU'RE GOING TO BE A HUNGRY
13 HUNTER.

14 AND THAT'S THE REASON, I SUPPOSE, FOR HAVING
15 THAT FUNCTION THERE IN THE FRONTAL LOBE. BUT
16 IT'S A TEST, IT'S A VERY GOOD TEST OF FRONTAL
17 LOBE FUNCTION. AND WHEN IT'S ABNORMAL, THERE IS
18 A VERY STRONG LIKELIHOOD THAT THE FRONTAL LOBES
19 ARE ABNORMAL.

20 I DO A WHOLE PANEL OF TESTS. I DO ABOUT 30
21 DIFFERENT PHYSICAL TESTS LIKE THAT. ANOTHER
22 DEPENDS ON THAT VERY PRIMITIVE REFLEX. IF I JUST
23 TOUCH THE UPPER LIP, THE PURSING OF THE LOWER
24 LIP AND WRINKLING OF THE CHIN LIKE THAT, ANY OF
25 THAT MOVEMENT, THAT'S NORMAL IN A BABY. THE

1 REASON FOR IT, I SUPPOSE, IS SO THAT THE BABY
2 WILL BE ABLE TO SUCK WHEN ITS MOTHER'S BREAST
3 TOUCHES ITS LIP, IT WILL PRESS IT'S LIPS AND GET
4 GOING.

5 NOW, IF YOU SEE SOME LITTLE FRAGMENT OF THAT IN
6 AN ADULT, IT IS VERY ABNORMAL. AND I DID IN MR.
7 ROBERTSON.

8 AND THERE ARE A SERIES OF SUCH TESTS THAT I
9 ACCOMPLISHED. THERE ARE MANY THAT WERE NORMAL
10 AND THERE ARE MANY THAT AREN'T NORMAL USUALLY.
11 ANOTHER IS THE ABILITY TO CONCENTRATE SO THAT
12 YOU SUPPRESS THE URGE TO HAVE YOUR EYE GO TO A
13 MOVING SPOT. THIS IS ANOTHER ONE THAT WAS
14 ABNORMAL ON MR. ROBERTSON.

15 WHAT I DO IS I SAY LOOK AT MY NOSE AND AS SOON
16 AS MY FINGER GOES UP, I WANT YOU TO LOOK AT MY
17 FINGER AND THEN BACK AT MY NOSE. AND I FLASH MY
18 FINGER UP LIKE THIS AND THE PERSON LOOKS OVER
19 AND BACK AT MY NOSE.

20 I DO THAT AGAIN ON THIS SIDE. AGAIN ON THIS
21 SIDE TWICE AND ONCE ON THIS SIDE. NOW I SAY
22 HERE COMES THE HARD PART, THIS IS THE TEST. I
23 WANT YOU TO LOOK TO THE OPPOSITE SIDE. LOOK TO
24 THE SIDE WHERE THE FINGER DOES NOT GO UP.

25 NOW, THAT'S DIFFICULT; YOU REALLY HAVE TO

1 CONCENTRATE ON THAT. AND WHEN MY FINGER GOES UP
2 THIS WAY, THE PERSON IS SUPPOSED TO LOOK OVER
3 THERE AND BACK.

4 AND NORMAL IS TO DO THAT FIVE TIMES CORRECTLY.
5 AND HE DID IT ONE TIME INCORRECTLY. THAT'S ONE
6 MISTAKE.

7 THE EYE MOVEMENT IS ONE MISTAKE. THE SUCK
8 REFLEXES IS ANOTHER ABNORMALITY. AND I THINK
9 THAT THERE WERE ONE OR TWO OTHERS.

10 THE POINT IS IF THERE ARE THREE OR MORE, THERE
11 IS A VERY STRONG LIKELIHOOD THAT THE
12 PSYCHOLOGICAL TESTING IS GOING TO BE ABNORMAL
13 AND THAT THERE IS SOMETHING IN FACT WRONG WITH
14 THE BRAIN.

15 A PERSON COULD HAVE ONE OF THESE TESTS AND NOT
16 BE ABNORMAL IN ANY OTHER WAY. BUT TO HAVE THREE
17 OR MORE SUCH TESTS ABNORMAL IS SIGNIFICANT.

18 AND IT WAS ON THAT THAT I BASED MY ASSESSMENT OF
19 HIM THAT HIS FRONTAL LOBES ARE NOT WORKING
20 PROPERLY.

21 IT'S POSSIBLE FOR A PERSON TO HAVE AN ENORMOUS
22 DEFECT IN THEIR FRONTAL LOBES AND HAVE THE MOST
23 SUBTLE FINDINGS ON EXAMINATION. THEREFORE,
24 THESE FINDINGS ARE NOT TRIVIAL, THEY ARE
25 IMPORTANT.

1 I HAVE A PATIENT, FOR EXAMPLE, RIGHT NOW WHO IS
2 A PHYSICIAN WHO HAD A GREAT BIG BRAIN TUMOR
3 REMOVED FROM THE MIDDLE OF HIS FRONTAL LOBES.
4 AND THERE IS A HUGE HOLE INSTEAD OF THE MEDIAL
5 PART OF THE FRONTAL LOBES JUST OVER THE EYES, ON
6 BOTH SIDE. I MEAN THE CT SCAN IS SPECTACULAR.
7 AND HE SITS THERE AND TALKS TO YOU LIKE A NORMAL
8 PERSON. HE SEEMS -- HE GETS INTO FIGHTS ALL THE
9 TIME; HE GETS INTO ARGUMENTS ALL THE TIME; HE
10 CAN'T CONTROL HIS TEMPER. EVERY NOW AND THEN HE
11 BREAKS A PIECE OF FURNITURE AND THROWS IT INTO
12 THE FIREPLACE BECAUSE IT OFFENDS HIM IN SOME
13 WAY. HIS BEHAVIOR IS ERRATIC AND ABNORMAL. HE
14 CAN'T DRIVE EITHER BECAUSE HE CAN'T CHANGE HIS
15 PATTERN OF ACTION. HE'LL BE DRIVING ALONG, COME
16 TO -- THE LANE OF TRAFFIC IS BLOCKED AND HE GOES
17 RIGHT SMACK INTO THE BARRIER. HE CAN'T ALTER
18 HIS PATTERN OF ACTION.

19 THAT KIND OF FLEXIBILITY IS SOMETHING THAT THE
20 FRONTAL LOBE PROVIDES.

21 Q. DID YOU RECOGNIZE ANY OF THIS, AGAIN, IN JIMMY
22 ROBERTSON?

23 A. WELL, HERE IS A GUY WHO DID SOMETHING THAT HE
24 HAD BEEN THINKING ABOUT FOR A WHILE. IN OTHER
25 WORDS, WE KNOW THAT THERE WAS AN URGE THAT HE

1 HAD TO KILL HIS PARENTS. IN FACT, HE WAS
2 ADMITTED TO THE HALL INSTITUTE IN 1995 BECAUSE
3 OF SUICIDAL IDEATION AND BECAUSE OF HOMICIDAL
4 IDEATION THAT WAS DIRECTED AT HIS MOTHER.

5 Q. NOW YOU SAY HE WAS ADMITTED SUICIDAL?

6 A. SUICIDAL, RIGHT.

7 Q. IS THAT IN YOUR RECORDS?

8 A. IT'S IN THE RECORDS OF THE HALL INSTITUTE. I
9 DIDN'T MAKE THIS UP. HE DIDN'T TELL ME THAT, BY
10 THE WAY, THAT'S FROM THE RECORD.

11 Q. YES, SIR.

12 A. IT'S ALL OVER THE RECORDS THERE; IT WAS IN THREE
13 OR FOUR DIFFERENT PLACES. IT WASN'T JUST ONE
14 PERSON THAT SAID THAT, IT WAS SEVERAL.

15 Q. IS THAT CONSISTENT WITH YOUR FINDINGS, THAT HE
16 WOULD HAVE SUICIDAL TENDENCIES AND/OR HOMICIDAL
17 TENDENCIES?

18 A. WELL, NOT EVERYBODY WHO IS MANIC DEPRESSIVE HAS
19 HOMICIDAL TENDENCIES OR HOMICIDAL THOUGHTS OR
20 RECURRENT HOMICIDAL THOUGHTS, MAYBE I SHOULD PUT
21 IT THAT WAY.

22 MOST OF US DO HAVE HOMICIDAL THOUGHTS FROM TIME
23 TO TIME. OH, THE CLERK IN THE SUPERMARKET, I
24 CAN'T STAND HIM OR IF SOMEBODY DOES SOMETHING
25 REALLY ANNOYING, YOU THINK OH, OH, I'D LIKE TO

1 GET HIM. BUT YOU DON'T. IT'S NOT WHAT YOU
2 THINK, IT'S WHAT YOU DO THAT MAKES THE
3 ABNORMALITY USUALLY.

4 HE HAD BEEN HAVING THIS THOUGHT FOR A WHILE AND
5 THE QUESTION IS WHY ON THE NIGHT OF THE MURDER
6 WAS IT NOT A THOUGHT, WAS IT AN ACTION.

7 Q. LET ME ASK YOU THIS. WAS THERE ANYTHING THAT
8 YOU NOTICED IN THE RECORDS -- I BELIEVE YOU
9 INDICATED EARLIER THAT A BIPOLAR MENTAL DISEASE,
10 THAT YOU HAD THE TENDENCY TO ABUSE DRUGS AND/OR
11 ALCOHOL.

12 A. YES.

13 Q. WAS THERE ANYTHING IN THE RECORDS OR IN YOUR
14 EXAMINATION OF YOUR FINDING OF ANY ABUSE OF
15 DRUGS OR ALCOHOL.

16 A. YES.

17 Q. AND WHAT DRUGS?

18 A. ALCOHOL AND RITALIN.

19 Q. DO YOU KNOW ANYTHING ABOUT RITALIN?

20 A. YES, RITALIN IS A VERY -- ABOUT HALF THE
21 CHILDREN IN THE COUNTRY SEEM TO BE ON IT FOR
22 ATTENTION DEFICIT DISORDER. AND IT'S REALLY A
23 VERY BENIGN DRUG IF IT'S USED IN DOSES OF SAY 10
24 MILLIGRAMS TWICE A DAY. I HAVE A LOT OF
25 PATIENTS WHO ARE GETTING RITALIN.

1 IT'S AN AMPHETAMINE. WHAT IT DOES IS IT
2 INCREASES THE ABILITY OF PEOPLE WHO HAVE FRONTAL
3 LOBE DISEASE TO PAY ATTENTION. IT INCREASES
4 THEIR ALERTNESS. PEOPLE WHO ARE SLEEPING ALL
5 THE TIME OR ARE VERY SLEEPY FOR ONE REASON OR
6 ANOTHER WOULD BE BENEFITED BY RITALIN. IT ALSO
7 CUTS DOWN ON THE APPETITE A LITTLE BIT AS IT
8 CUTS DOWN ON SLEEP.

9 SO, SOME PEOPLE USE IT FOR WEIGHT CONTROL AT ONE
10 TIME OR ANOTHER.

11 Q. DO YOU HAVE ANY INDICATION OF JIMMY ROBERTSON'S
12 USE OF RITALIN?

13 A. WELL, HE WAS NEVER PRESCRIBED RITALIN BY A
14 PHYSICIAN.

15 Q. YES, SIR.

16 A. BUT HIS BROTHER WAS PROBABLY MISDIAGNOSED AS
17 HAVING ATTENTION DEFICIT DISORDER OF THE KIND
18 THAT WOULD RESPOND TO RITALIN. AND IN FACT WHEN
19 IT WAS FIRST STARTED ON HIS BROTHER, IT DIDN'T
20 SEEM TO HAVE A BENEFICIAL AFFECT.

21 SO, I DON'T KNOW HOW THIS HAPPENED BECAUSE IF I
22 PRESCRIBE RITALIN FOR A PATIENT, I CAN'T EVEN
23 PUT DOWN A PRESCRIPTION THAT WILL GO FOR MORE
24 THAN A MONTH. IN OTHER WORDS, IF I'M GIVING A
25 PERSON TWO PILLS A DAY, 10 MILLIGRAMS IN THE

1 MORNING AND 10 MILLIGRAMS -- I CAN WRITE THAT
2 FOR 60 TABLETS FOR ONE MONTH AND THEN I HAVE TO
3 WRITE ANOTHER PRESCRIPTION. I CAN'T EVEN SAY
4 RENEW. THEY TREAT THAT AS IF IT WERE MORPHINE.

5 IT'S REALLY NOT THAT ADDICTING AND IT'S NOT THAT
6 BAD A DRUG, BUT IT'S TREATED THAT WAY.

7 BUT THEY WERE ABLE TO GET, APPARENTLY LEGALLY
8 SHIPMENTS OF THIS STUFF, BOXES OF RITALIN
9 AVAILABLE IN THE FAMILY. AND JIMMY TOOK HIS
10 BROTHER'S RITALIN AND WAS USING IT. AND THE
11 BROTHER WAS SELLING IT AS WELL AS ABUSING IT
12 HIMSELF. AND JIMMY WAS, TOO, I GUESS.

13 BUT THE POINT IS, HE WAS ALSO USING IT. AND HE
14 WAS USING IT TO SELF-MEDICATE. IF HE WANTED TO
15 DO SOME ENERGETIC THING LIKE CLEAN UP THE HOUSE,
16 HE WOULD TAKE 20 OR 30 MILLIGRAMS OF RITALIN.

17 BUT ON THE NIGHT OF THE MURDER HE TOOK A WHOLE
18 LOT MORE, HE TOOK 250 MILLIGRAMS OF IT. HE WAS
19 SNORTING IT; HE WASN'T TAKING IT AS A PILL
20 EITHER.

21 Q. WHAT'S THE DIFFERENCE IN THAT? WHAT'S THE
22 DIFFERENCE IN JUST TAKING A PILL WITH WATER AND
23 PUTTING IT IN POWDER AND SNORTING IT UP YOUR
24 NOSE?

25 A. IT WORKS FASTER. IT'S ABSORBED MORE QUICKLY. IT

1 TAKES A HALF AN HOUR TO GET INTO THE STOMACH TO
2 DISSOLVE AND BE ABSORBED. BUT IF YOU SNORT IT
3 THROUGH YOUR NOSE, IT GETS IN WITHIN ABOUT FIVE
4 MINUTES.

5 Q. AND WHAT DOES THAT HAVE -- DOES THAT HAVE
6 ANYTHING TO DO WITH THE AFFECTS THE DRUG MAY
7 HAVE ON THE PERSON AND THEIR BRAIN?

8 A. WELL, YOU GET A HIGHER BLOOD LEVEL MORE QUICKLY;
9 OTHERWISE, IT WOULD BE ABOUT THE SAME. YOU
10 COULD ACHIEVE THE SAME BLOOD LEVEL BOTH WAYS,
11 BUT YOU COULD JUST GET IT FASTER IF YOU SNORTED
12 IT.

13 Q. NOW, YOU HAVE INDICATED THAT YOU ARE AWARE OF
14 JIMMY'S CONDITION BY STUDYING THE RECORDS AND
15 THIS SORT OF THING. WHAT WAS HIS CONDITION PER
16 YOUR EVALUATION THE NIGHT OF NOVEMBER 25TH,
17 1997?

18 A. WELL, I BELIEVE AT THAT TIME THAT HE HAD -- I
19 THINK THAT THE SAME DYSFUNCTIONS THAT I FOUND ON
20 MY EXAMINATION IN NOVEMBER OF LAST YEAR WERE
21 THERE THEN, TOO. BECAUSE NOTHING HAPPENED IN
22 BETWEEN THAT WOULD HAVE CAUSED BRAIN DAMAGE THAT
23 I KNOW OF.

24 SO, I THINK THAT THEY WERE PROBABLY THERE THEN
25 AT THAT TIME, ALTHOUGH I DIDN'T EXAMINE HIM

1 THEN.

2 Q. YES, SIR.

3 A. THE HISTORY OF BIPOLAR ILLNESS DIDN'T DEPEND
4 UPON MY EVALUATION. THAT WAS MADE YEARS BEFORE,
5 YEARS BEFORE HE EVEN WENT TO HALL IN 1995
6 BECAUSE HE WAS ON LITHIUM THEN OR WAS SUPPOSED
7 TO BE ON LITHIUM THEN.

8 LITHIUM IS USED REALLY FOR ONLY ONE THING IN
9 MEDICINE AND THAT IS FOR TREATING BIPOLAR
10 ILLNESS, MANIC DEPRESSIVE ILLNESS. SOMEBODY HAD
11 MADE THAT DIAGNOSIS, NOT ME.

12 THE HISTORY THAT HE GAVE ME INDICATED THAT HE
13 DOES INDEED HAVE MANIC DEPRESSIVE ILLNESS.

14 AND THE HISTORY THAT I FOUND IN THE RECORDS
15 CONFIRMS THAT. SO, I BELIEVE HE IS MANIC
16 DEPRESSIVE AND HE WAS PROBABLY HAVING AN EPISODE
17 OF MANIA AT THAT TIME, AT THE TIME OF THE
18 MURDER.

19 I BASE THIS ON THE FACT THAT HE WASN'T SLEEPING.
20 I DON'T THINK HE HAD GOTTEN MORE THAN THREE
21 HOURS SLEEP IN THE 24 OR 36 HOURS THAT PRECEDED
22 THAT.

23 THE HISTORY OF GAMBLING IS THERE; THE HISTORY OF
24 DRUG USE IS THERE; THE HISTORY OF RUNNING UP
25 DEBTS IS THERE; THE HISTORY OF NOT BEING ABLE TO

1 CONCENTRATE IS THERE.

2 I SHOULD SAY THAT THERE IS ONE OTHER THING. IN
3 ABOUT 20 PERCENT OF THE CASES OF MANIC
4 DEPRESSIVE ILLNESS, THERE SEEMS TO BE A
5 COINCIDENCE OF ANOTHER ILLNESS WHICH IS
6 EXCESSIVE COMPULSIVE DISORDER AND HE SEEMED TO
7 HAVE THAT, TOO.

8 HE WOULD COUNT -- HE PLUCKED OFF, HE TOLD ME,
9 ALL THE LITTLE FUZZ BALLS OFF A COUCH THAT WAS
10 SUPPOSED TO HAVE FUZZ BALLS. HE'D COUNT THE
11 BOOKS ON THE SHELF; HE'D COUNT THE NUMBER OF
12 SPOTS ON A WALL; COUNT THE NUMBER OF TIMES THAT
13 A PATTERN OF WALLPAPER CROSSED IN AN OBSESSIVE
14 WAY.

15 THAT'S THE SORT OF THING THAT PEOPLE WITH
16 OBSESSIVE COMPULSIVE DISORDER DO. AND IT ALSO
17 CUTS DOWN ON YOUR CAPACITY TO CONCENTRATE.

18 THE INABILITY TO CONCENTRATE, WHICH HE DID NOT
19 HAVE WHEN I SAW HIM; HE WAS ABLE TO CONCENTRATE
20 PRETTY WELL EXCEPT IN THAT ONE TEST THAT I TOLD
21 YOU ABOUT. BUT HE WAS ABLE TO READ AND HE WAS
22 ABLE TO ATTEND TO WHAT WE WERE -- WHAT WAS GOING
23 ON BETWEEN THE TWO OF US. HE WAS COHERENT IN HIS
24 CONVERSATION.

25 BUT HE WAS BEING TREATED FOR MANIC DEPRESSIVE

1 ILLNESS AT THAT TIME. HE WAS ON DEPAKOTE AT
2 THAT TIME. HE WAS BEING TREATED PROPERLY AND HE
3 WASN'T TAKING ANYTHING THAT WOULD INTERFERE WITH
4 THAT TREATMENT SUCH AS RITALIN OR ALCOHOL.

5 SO, I MEAN THAT WAS A VERY DIFFERENT SITUATION.
6 BUT ON THAT NIGHT, HE HAD USED 250 MILLIGRAMS OF
7 RITALIN WHICH IS AN ENORMOUS OVERDOSE OF
8 RITALIN. IT'S 10 TIMES THE AMOUNT THAT I WOULD
9 USE IN MY ORDINARY PRACTICE OF UROLOGY. AND IT
10 HAD A TOXIC AFFECT ON HIM.

11 THE COMBINATION OF THE URGE THAT HE HAD BEEN
12 CONTROLLING UP UNTIL THAT TIME TO KILL HIS
13 PARENTS, UNDER THE INFLUENCE OF A MANIA AND THE
14 DRUG RITALIN WHICH EXACERBATES THE SYMPTOMS OF
15 MANIA, REPRODUCES THEM, ACCENTUATES THEM, I
16 THINK THAT IS THE REASON THAT AT THAT TIME HE
17 DID THAT.

18 I ALSO BASE THAT ON THE FACT OF WHAT HE DID.
19 THIS WAS NO ASSASSINATION; HE OBLITERATED THEM.
20 HE WAS IN THE GRIP OF A GLOSSAL EMOTION. THIS
21 WAS NO JUST COOL ASSASSINATION. HIS FATHER'S
22 HEAD WAS MADE TO LOOK LIKE A TOMATO THAT HAD
23 BEEN BURST BY REPEATED BEATINGS.

24 HIS MOTHER THE SAME BUT ON ONE SIDE. IT WAS
25 HORRIBLE. STABBING IN ADDITION? THIS WAS NO