

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Greenville County
Honorable John C. Hayes, Circuit Court Judge

JAN 28 2011

S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

JONATHAN DONELL RHODES,

APPELLANT

APPELLATE CASE NO. 2015-002605

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

ALAN WILSON
Attorney General

LARA M. CAUDY
Appellate Defender

J. ROBERT BOLCHOZ
Chief Deputy Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

SUSANNAH R. COLE
Assistant Attorney General

ATTORNEYS FOR APPELLANT

South Carolina Office of Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803) 734-0265

W. WALTER WILKINS, III
Solicitor, Thirteenth Circuit
305 East North Street
Greenville, SC 29601
(865) 467-8282

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (dated November 30-December 3, 2015)	1
MOTION TO EXCLUDE EXPERT TESTIMONY.....	2
TESTIMONY	
RICHARD FENNERN (IN CAMERA)	
Direct Examination by Mr. Wilkins	4
Voir Dire by Mr. Sarratt	11
Cross Examination by Mr. Sarratt	51
Redirect Examination by Mr. Wilkins.....	71
THOMAS SLOVENSKI (IN CAMERA)	
Direct Examination by Mr. Sarratt	72
Cross-Examination by Mr. Wilkins.....	81
ARGUMENTS ON MOTION TO EXCLUDE EXPERT TESTIMONY	89
RULING BY THE COURT.....	95
MOTION TO SUPPRESS RECORDS	100
RULING BY THE COURT.....	104
OPENING STATEMENT BY MR. WILKINS	111
OPENING STATEMENT BY MR. ERWIN.....	116
TESTIMONY	
DOUGLAS DOUGHTY	
Direct Examination by Mr. Wilkins	118
Cross-Examination by Mr. Erwin.....	128
STEVEN PICONE	
Direct Examination by Mr. Wilkins	130
Cross Examination by Mr. Erwin	134

MICHAEL PETERSON	
Direct Examination by Ms. Strom	136
Cross Examination by Mr. Erwin	161
RONALD LENDWAY	
Direct Examination by Ms. Strom	164
HENRY C. HAMMETT	
Direct Examination by Ms. Strom	192
Cross Examination by Mr. Erwin	205
Redirect Examination by Ms. Strom	217
JAMES PERRY	
Direct Examination by Mr. Wilkins	218
ROSEMARY TRAYLOR	
Direct Examination by Mr. Wilkins	223
Cross Examination by Mr. Erwin	235
MARY ELLEN CERVETTI	
Direct Examination by Mr. Wilkins	237
Cross Examination by Mr. Erwin	241
JAMES FULCHER, M.D.	
Direct Examination by Mr. Wilkins	242
Cross Examination by Mr. Erwin	258
DANDRIDGE AKERS	
Direct Examination by Mr. Wilkins	262
HENRY C. HAMMETT (IN CAMERA)	
Proffered Testimony by Mr. Erwin	264
MOTION TO SUPPRESS RECORDS	267
RULING OF THE COURT	275
TESTIMONY	
RICARDO LEAL	
Direct Examination by Mr. Wilkins	276
KENNETH LECESNE	
Direct Examination by Mr. Wilkins	282

MICHAEL RAINEY	
Direct Examination by Mr. Wilkins	286
ERIC CADE	
Direct Examination by Mr. Wilkins	293
Cross Examination by Mr. Erwin	318
HAROLD ATKINS	
Direct Examination by Mr. Wilkins	324
JONATHAN HOWARD	
Direct Examination by Mr. Wilkins	326
Cross Examination by Mr. Erwin	361
RICHARD FENNERN	
Direct Examination by Mr. Wilkins	371
Cross Examination by Mr. Erwin	425
DAVID CALEB GAMBLE	
Direct Examination by Ms. Strom	428
Cross Examination by Mr. Erwin	445
JAGANNADHA KANDALA	
Direct Examination by Ms. Strom	449
Cross Examination by Mr. Erwin	478
Redirect Examination by Ms. Strom	489
CURTIS MCLEOD	
Direct Examination by Mr. Wilkins	495
Cross Examination by Mr. Erwin	510
Redirect Examination by Mr. Wilkins.....	519
Recross Examination by Mr. Erwin.....	521
JAMES ARMSTRONG	
Direct Examination by Ms. Strom	521
CLOSING ARGUMENT BY MR. WILKINS	529
CLOSING ARGUMENT BY MR. ERWIN	556
CHARGE ON THE LAW.....	560
VERDICT	583
SENTENCING.....	585

DEFENDANT’S EXHIBIT NO. 1 (Coverage Plot)	587
DEFENDANT’S EXHIBIT NO. 2 (Key to understanding PCMD)	588
DEFENDANT’S EXHIBIT NO. 3 (Report of Investigator Howard)	589
COURT’S EXHIBIT NO. 4 (Motion in Limine for a Hearing on Admissibility of Expert Testimony)	591
COURT’S EXHIBIT NO. 5 (Certificate of Exigent Circumstances)	596
STATE’S EXHIBIT NO. 8-A (Diagram)	597
INDICTMENTS	598

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 103 (POWERPOINT PRESENTATION)
STATE’S EXHIBIT NO. 93 (PHOTOGRAPH)
STATE’S EXHIBIT NO. 150 (PHOTOGRAPH)

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

582

1 Q. Which was about noon?

2 A. Yeah, probably about noon.

3 Q. All right. And so that lasted for, what, a month, two
4 months, six months?

5 A. Maybe -- maybe around about -- maybe around two months,
6 more than that, a little more than that, maybe.

7 Q. A little over two months?

8 A. Yeah.

9 Q. Y'all would spend that time together?

10 A. Yeah. Yes, sir.

11 Q. Have you ever been to Greenville County before on your
12 -- have you ever voluntarily gone to Greenville County?

13 A. No, sir.

14 Q. So you spend most of your life down in the Pee Dee area
15 in Hartsville?

16 A. Yes, sir.

17 Q. All right. When y'all had began these talks did he
18 ever talk to you about this particular case that we're here
19 on, which is the death of Gary and Helen Wells?

20 A. Yes, sir.

21 Q. All right. Can you -- can you tell us what the
22 Defendant said to you during this period of time that y'all
23 were together?

24 A. Basically he just told me about, you know, the murder
25 case that he was involved with and how he was in a

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

583

1 relationship with a older lady worked for the -- that
2 previously worked for the victims and, you know, how they
3 had the grudge or how she had a grudge towards them.

4 Q. Did he say who that was?

5 A. Her name was -- he said her name was Shirley -- Shirley
6 Rogers.

7 Q. He told you that?

8 A. Yeah, he -- yeah, that's what he said.

9 Q. And he said -- and you just mentioned that he said
10 there was a grudge?

11 A. Yeah.

12 Q. What was that about?

13 A. He said it was about, you know, previously before that
14 happened or whatnot she, Ms. Rogers, had stole some money
15 from them and taken money from them over a period of time or
16 whatnot. And I guess she got in -- she got in trouble about
17 it and, you know, and different stuff happened in between
18 there.

19 So I think, you know, she -- that was where the
20 restraining order came from. She had a restraining order
21 against her or something like that. So she wasn't supposed
22 to be around the victims and stuff. So ---

23 Q. So he told you that she wasn't supposed to be around
24 the victims?

25 A. Yeah.

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

584

1 Q. What else did he tell you?

2 A. He told me, you know, that he borrowed the car from his
3 roommate.

4 Q. Did he tell you what kind of car?

5 A. Yeah, he said it was a Mini Cooper. He borrowed it
6 from his roommate, went picked her up and another female.
7 And he said it was her niece. And they went to the victims'
8 house, the Wellses, and they went ---

9 Q. All right. He said he -- he said he drove the Mini
10 Cooper over there?

11 A. Yeah. Yes.

12 Q. All right. What did he tell you -- what did he tell
13 you that -- what happened once they got there?

14 A. She went to the door and they -- the Wellses answered
15 the door. And they talked for a while. And then ---

16 Q. And she, you're referring to who? She went to the
17 door.

18 A. He said Ms. Rogers.

19 Q. Shirley Rogers?

20 A. Yeah.

21 Q. All right. And so she went to the door.

22 A. Yeah, went to the door. And, you know, they talked for
23 a while and, you know, about -- something about paying some
24 money back to her and, you know, trying to get everything
25 straight. And, I guess, you know, they wasn't trying to

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

585

1 hear that.

2 So, you know, 'cause -- and he said that they were
3 saying they was being nothing but good to Ms. Rogers, and,
4 you know, she didn't have to do what she did to them. And
5 it escalated. And ---

6 Q. Where was -- where was the Defendant at that time?

7 A. You know, he was in -- was out of sight and hiding
8 because, you know, they didn't -- the victims didn't know
9 him. So I know they probably would, you know, thought
10 something funny about the whole situation or whatever by
11 seeing a male there with them.

12 Q. So what -- they're having -- Shirley was having this
13 conversation with the Wellses. What happened? What did
14 Jonathan Rhodes tell you what happened?

15 A. He said, you know, it escalated and they got into it,
16 you know, a little argument, just screaming and whatnot.
17 Then that's when they went in the house and they got to
18 tussling and stuff. And, you know, they had a gun, they had
19 -- I can't remember if it was one or two knives, but they
20 started, you know, cutting -- cutting the victims.

21 Q. Okay. And you said they had a gun. What kind of --
22 did he tell you what kind of gun?

23 A. Yeah. He said it was a pearl handle .32.

24 Q. All right. And then he said they started cutting?

25 A. Yeah.

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

586

1 Q. Did he tell you where they were in the house?

2 A. No, not exactly.

3 Q. Okay.

4 A. But he just said -- I knew that, you know, he -- from
5 the way that he talked about hearing the other victim in
6 another room. So that mean they were split up in different
7 parts of the house.

8 Q. So tell me about that.

9 A. Basically, you know, he said that, you know, Shirley
10 had a real bad temper. And, you know, she was, I guess, she
11 just went into a tantrum to start off with, you know, and he
12 didn't see exactly what, you know, went on in the other room
13 with the other victim or whatnot. And ---

14 Q. Did he say where Shirley was and who Shirley was
15 fighting with?

16 A. I don't remember exactly which -- which one, but I
17 believe I remember it was the female victim.

18 Q. And what did he tell you what was happening?

19 A. You know, they were arguing and was looking for
20 something, you know, like trying to take something with
21 them, but it was something they knew that was there from
22 working there or whatnot. And, you know, it got real messy
23 and stuff.

24 Q. What do you mean by real messy? What did he tell you
25 about it getting real messy?

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

587

1 A. He said it was a -- it was a lot of blood everywhere.

2 Q. And how -- so you mentioned knives. Did he tell you
3 that knives were used?

4 A. Yes.

5 Q. Did he tell you how they were used?

6 A. Stabbed -- by stabbing them and cutting, I guess. You
7 know, just, you know, just, you know, basically using the
8 blade part, not hitting them with it, but just using the
9 blade part, stabbing them.

10 Q. So what else did he tell you what happened?

11 A. After it was all over, you know, I guess, you know, to
12 make sure or whatnot, you know, he said that -- I wanted to
13 say it was the -- I can't remember exactly, but I'm pretty
14 sure it was the female victim was shot also, you know, to
15 make sure that, you know, she was deceased or whatever. And
16 they got what they could get, you know, some jewelry, and
17 some cards and money and stuff and they left. And then ---

18 Q. Did he say where did they go?

19 A. He said they went by a body of water somewhere and
20 threw the gun away and then they went back to Ms. Rogers'
21 house.

22 Q. Did he tell you what happened after that?

23 A. He said they got cleaned up, you know, and they argued
24 about something that I can't really remember, but what they
25 argued about after -- after that happened or whatnot and he

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

588

1 left.

2 Q. And he left Shirley's house?

3 A. Yes.

4 Q. So did Jonathan Rhodes tell you that he and Shirley
5 killed Helen and Gary Wells?

6 A. Yes.

7 Q. And how did he say they killed them?

8 A. With -- with knives ---

9 Q. And ---

10 A. --- and a gun.

11 Q. Did he tell you about when he went over there? About
12 what time they went over there?

13 A. You know, at the time, you know, just during the
14 telling the story, that was just something that didn't
15 really stick out by hearing the story, you know. But I knew
16 it was in nighttime hours.

17 Q. You know -- through the story he was telling you ---

18 A. Yeah.

19 Q. --- you knew it was nighttime hours?

20 A. Yeah, because he said his roommate -- I believe he said
21 this man Richard or something like that was saying that he
22 had to go to work the next morning and he needed his car
23 back. So it had to have been, you know, pretty late or
24 earlier.

25 Q. Did he say anything about -- did he say anything else

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

589

1 about Richard?

2 A. That around the time he was gone with Shirley and them,
3 that he was calling him -- he called his phone and he -- he
4 wasn't able to answer it.

5 Q. And that he wasn't able to answer it?

6 A. Yeah.

7 Q. Mr. McLeod, did you ever have the chance to review or
8 see any information related to this case prior to you
9 talking to Jonathan Rhodes?

10 A. Oh, no. No, sir.

11 Q. Had you ever seen anything on the news about this?

12 A. No, sir.

13 Q. Did you ever read any pieces of paper that would be
14 related to this case?

15 A. No, sir.

16 Q. Is it fair to say that the only source of information
17 that you've had related to this case comes from the
18 Defendant, Jonathan Rhodes?

19 A. Yes, sir.

20 Q. Have I -- has the State, prosecution, number one, is my
21 office, this office, prosecuting you for anything right now?

22 A. No, sir.

23 Q. All right. Have we promised you anything in exchange
24 for your testimony here today?

25 A. No, sir.

CURTIS McLEOD - DIRECT EXAMINATION BY MR. WILKINS

590

- 1 Q. Now, you have federal charges pending, correct?
- 2 A. Yes, sir.
- 3 Q. And do you know what a downward departure is?
- 4 A. Yes, sir.
- 5 Q. You learned what that is? Is that something they use
- 6 in federal court?
- 7 A. Yes, sir.
- 8 Q. Are you hoping for one of those?
- 9 A. I mean, you know, it wouldn't be, you know, something
- 10 not to wish for, but, you know, I still ain't got no time
- 11 yet in the federal system, you know.
- 12 Q. Do I have any control over that?
- 13 A. No, sir.
- 14 Q. Have I promised you anything other than letting
- 15 whatever prosecutors know that you did cooperate with me in
- 16 this case?
- 17 A. No, sir, no promises.
- 18 Q. And what is the main condition for me to tell the
- 19 prosecutors that you did come here and testify today? What
- 20 do you have to do for me to -- for me to ---
- 21 A. Basically tell the truth.
- 22 Q. Is that the only condition we have right now?
- 23 A. Yeah. Yes, sir.
- 24 Q. I mean, I have -- I have no control over anything that
- 25 you've got going on from a criminal perspective?

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

591

1 A. No, sir.

2 Q. And have you -- you've never even been -- have you ever
3 been convicted in Greenville or Pickens County for anything?

4 A. No, sir.

5 Q. Please answer any questions Defense counsel may have.

6 **Cross Examination by Mr. Erwin:**

7 Q. All right, Mr. McLeod. Now, y'all already talked about
8 your record a little bit.

9 A. Yeah.

10 Q. Is it fair to say -- and we don't have to go through
11 every single thing, but can I see that? Is it fair to say
12 you've got a little bit of a criminal history, certainly
13 over the last ten years?

14 A. Yes, sir.

15 Q. You've been arrested, convicted, done time ---

16 A. Yes, sir.

17 Q. --- a bunch of times, right?

18 A. Yes, sir.

19 Q. Burglary, strong arm robbery. Right now you're doing
20 time for selling drugs, right?

21 A. Yes, sir.

22 Q. And also selling drugs near a school zone, right?

23 A. Yes, sir.

24 Q. And those are two separate charges.

25 A. Yeah, two separate charges.

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

592

1 Q. And you're doing a ten year stint right now.

2 A. Yes, sir.

3 Q. Now, it would be nice, real nice for you if you got
4 some kind of deal, wouldn't it?

5 A. It would ---

6 Q. Yeah.

7 A. It would be nice, yeah.

8 Q. I mean, especially considering you got all this other
9 stuff pending. You got the federal gun charge pending right
10 now.

11 A. Yeah.

12 Q. And Mr. Wilkins, of course, told you that he would let
13 that prosecutor know how helpful you were today.

14 A. Yeah.

15 Q. Yeah. And it'd be real great if he could cut you a
16 break on that, wouldn't it?

17 A. Yeah, it would.

18 Q. It'd be good for you, yeah? You mentioned you have a
19 receiving stolen goods pending. So you got a State charge
20 pending as well.

21 A. Yeah.

22 Q. It'd be real good if you had some help on that, right?

23 A. I mean, them charges, you know, that's just small stuff
24 compared to what I'm here for now.

25 Q. Right.

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

593

1 A. Yeah.

2 Q. But certainly you'd like to get rid of it? It'd be
3 nice, wouldn't it?

4 A. Yeah, it would be ---

5 Q. It'd be nice if your sentence got a little shorter,
6 wouldn't it?

7 A. Yeah, it would be nice.

8 Q. Okay. Now, before you were in prison for these
9 charges, when you were out on the street and you were
10 selling drugs in a school zone, did you snitch back then?

11 A. Uh ...

12 Q. Did you tell on your friends?

13 A. No. You know, everything come to a point where you
14 know it's time to do the right thing and ---

15 Q. Time to do the right thing about time to get a deal,
16 huh?

17 A. I mean, there's a point when you decide to do the right
18 thing and stop everything ---

19 Q. Right.

20 A. --- that has been going on.

21 Q. Is that point about when that jail cell door closes in
22 front of you? Is that about when that point is?

23 A. Yes.

24 Q. Yeah. All right. Let's talk about what Jonathan told
25 you while you guys were in prison, okay? He told you -- you

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

594

1 testified today that he told you there was a restraining
2 order against Shirley, ---

3 A. Yeah.

4 Q. --- right? And you agree that's what you said?

5 A. Yeah.

6 Q. Okay. Let's see. All right. Earlier today, just a
7 few minutes ago, you testified that Jonathan had told you
8 that his phone rang because Richard called him, right?

9 A. Yeah.

10 Q. You remember saying that a few minutes ---

11 A. Yes.

12 Q. So that is what you said just a minute ago?

13 A. Yeah.

14 Q. Okay. So on July 1st of 2015, earlier this year, you
15 sat down with the investigators on this case, right?

16 A. On what case?

17 Q. On this case.

18 A. No.

19 Q. You didn't? On July 1st, 2015 you didn't sit down with
20 this guy over here, Mr. Hammett?

21 A. July 1st?

22 Q. July 1st, 2015.

23 A. Oh, yeah, I believe it might ---

24 Q. Yeah.

25 A. --- have been July 1st. Yeah.

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

595

1 Q. Okay. And you guys had a conversation about this case,

2 ---

3 A. Yeah.

4 Q. --- right? Where you told him -- this is when you were
5 telling him this great story that Jonathan told you and how
6 much help you could be in the case, ---

7 A. Yeah.

8 Q. --- right? All right. July 1st, 2015 you sat down
9 with Mr. Hammett. You know he was recording that
10 conversation, right?

11 A. Yeah.

12 Q. And so that everything you said then is totally on
13 record, right?

14 A. Yes.

15 Q. I've got a transcript of that right ---

16 A. Okay.

17 Q. --- now, okay? So let's see. All right. I'm going to
18 read from this transcript to you, okay? Do you mind if I
19 come up here?

20 A. No.

21 Q. All right. And I'm going to read your words that you
22 said here to Mr. Hammett. They were recorded and put into
23 the transcript, okay?

24 A. Okay.

25 Q. All right. And I want you to tell me if I read these

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

596

1 wrong, okay?

2 A. Okay.

3 Q. You read these with me, okay? All right. Let's see.

4 Okay. I guess she was still going through the house or
5 whatever, but he left out before then, right?

6 A. Um-hum (affirmative).

7 Q. And she was calling him thinking that he left. That's
8 what you told them then, right?

9 A. Um-hum (affirmative).

10 Q. Okay. Well, today you said it was Richard calling him,
11 right?

12 A. Yeah.

13 Q. Okay. That must have changed then. Let's see. And
14 you testified earlier that Amber was there. There was the
15 three of them going together, Amber McDaniel, Shirley
16 Rogers, Jonathan Rhodes, three of them together.

17 A. (Affirmative nod).

18 Q. Not two, but three.

19 A. Three.

20 Q. Okay. Now -- all right. So you testified that they
21 stabbed and they killed them with knives and stuff like
22 that, right?

23 A. (Affirmative nod).

24 Q. You testified earlier that Jonathan told you that they
25 shot the female victim, right?

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

597

1 A. Yeah.

2 Q. Right. And that's what you testified a minute ago.

3 A. Yes.

4 Q. So, again, we're going back to the transcript here.

5 July 1st, 2015, first time you told anybody about this. You

6 sat down with Investigator Hammett and he recorded that

7 conversation, right?

8 A. Um-hum (affirmative).

9 Q. Okay. Now, again, we'll go through the transcript

10 together. I'm going to come up here if that's okay. All

11 right. He told me that it was a .32, a .32 pistol and a

12 knife they used after he shot him, right?

13 A. Um-hum (affirmative).

14 Q. Okay. All right. Another spot here from that

15 recording that's put into the transcript of the first time

16 you told anybody about this. Shirley knew him or whatever.

17 Yeah, the male victim got shot. That's what you told them

18 on July 1st.

19 A. Um-hum (affirmative).

20 Q. But today it's the female victim who got shot, right?

21 A. Yeah.

22 Q. Oh, man. Okay. So you testified today also that you

23 had no other source of information about this case than

24 straight from Jonathan's mouth, right?

25 A. Yeah.

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

598

1 Q. Is that what you said?

2 A. Yeah.

3 Q. Okay. Jonathan ever give you some information on this
4 case to pass on to somebody else? To pass on to a legal
5 person?

6 A. He, you know, he wrote like a kite. He was writing
7 kites to a ---

8 Q. Did he give you ---

9 A. --- another inmate.

10 Q. --- a newspaper clipping about this case?

11 A. No, he never ---

12 Q. He didn't give you a newspaper clipping on this case?

13 **THE COURT:** All right. When ---

14 A. No.

15 **THE COURT:** --- you ask him a question, let him answer.

16 **MR. ERWIN:** Okay.

17 Q. So your testimony now is that you didn't -- you've
18 never seen a newspaper clipping ---

19 A. I never seen a newspaper clipping.

20 Q. Never have?

21 A. Never.

22 Q. Okay. So, again, July 1st, 2015 when you sat down with
23 Investigator Hammett and that conversation was recorded and
24 this was put into this transcript, I'm going to come up here
25 again if that's okay with you.

CURTIS McLEOD - CROSS EXAMINATION BY MR. ERWIN

599

1 A. (Affirmative nod).

2 Q. All right. So Investigator Hammett says that you said
3 something earlier about a newspaper -- a news article you
4 said you saw. And you said, yeah, he got pictures and
5 newspaper clippings. Investigator Hammett; That he shown
6 you? Mr. McLeod; Yes. Investigator Hammett; And it's
7 about? Mr. McLeod; I just remember that not long ago he
8 gave me a pack to give the law man.

9 A. Yeah.

10 Q. So you did see a newspaper clipping of this case?

11 A. No, I didn't -- I didn't see the stuff -- what he had
12 was a kite. It was wrapped up and folded up with tape to be
13 passed to another person. I never saw nothing.

14 Q. It wasn't a newspaper clipping?

15 A. No, it was not a newspaper clipping.

16 Q. So you're telling the truth now?

17 A. Yeah.

18 Q. Right?

19 A. Yeah.

20 Q. Because it's the right thing to do?

21 A. (Affirmative nod).

22 Q. So you were lying -- were you lying to Investigator
23 Hammett in July?

24 A. No, sir.

25 **MR. ERWIN:** You know what? I'm done. I don't have any

CURTIS McLEOD - REDIRECT EXAMINATION BY MR. WILKINS

600

1 further questions for him.

2 **THE COURT:** All right. You have any redirect?

3 **MR. WILKINS:** Brief redirect, Your Honor.

4 **Redirect Examination by Mr. Wilkins:**

5 Q. Mr. McLeod, what's a kite?

6 A. It's like a letter basically from one inmate to
7 another.

8 Q. Is that how inmates ---

9 A. Communicate with each other.

10 Q. Did you take a kite from the Defendant and give to
11 somebody else that ---

12 A. Yeah.

13 Q. --- where you were -- you were located?

14 A. Yeah.

15 Q. All right. Did you see what was in there?

16 A. No, I didn't see what was in there.

17 Q. And in the communication world where you were would it
18 be common for you to look to see what was in there?

19 A. No. I mean, you know, it was just, I mean, you know,
20 everybody do it. Everybody pass different, you know, it's
21 nothing, you know, you just open up and read and look at,
22 ---

23 Q. That's not ---

24 A. --- you know.

25 Q. --- common?

CURTIS McLEOD - REDIRECT EXAMINATION BY MR. WILKINS

601

1 A. No.

2 Q. And quickly, you received this information from the
3 Defendant not on one specific day that he said, ---

4 A. Yeah.

5 Q. --- hey, let me tell you what I did.

6 A. Yeah.

7 Q. How long did you receive bits and pieces ---

8 A. It was ---

9 Q. --- of this story?

10 A. It was over, you know, a period of time. Like I --
11 like I told the investigator, you know, after the fact, you
12 know, of the first statement, I mean, you know, just trying
13 to bring everything back up all at one time right there on
14 the spot with him, you know, a lot of stuff slipped my mind,
15 I might, you know, have stuff confused.

16 So, you know, that July 1st interview, you know, it --
17 it was just, you know, it might have been off a little, but,
18 you know, he never knew I talked to him. So he kept on, you
19 know, after the fact over and over after the July 1st
20 interview. So it was more detail and, you know.

21 Q. So after the July 1st interview you continued to talk
22 with Mr. Rhodes?

23 A. Yes. Yeah.

24 Q. And he kept giving you more information?

25 A. Yeah. He -- yeah, he never knew that I had already

CURTIS McLEOD - RECROSS EXAMINATION BY MR. ERWIN

602

1 done spoke to investigators, you know.

2 **MR. WILKINS:** No further questions.

3 **MR. ERWIN:** Very briefly, Your Honor.

4 **Recross Examination by Mr. Erwin:**

5 Q. Between that July 1st interview and today how many
6 times have you met with either investigators or prosecutors
7 to talk about this case?

8 A. Maybe two, three times.

9 Q. Two or three times?

10 A. Yeah.

11 Q. Okay.

12 **MR. ERWIN:** No further questions.

13 **THE COURT:** All right. You can step down. Thank you.

14 All right. Call your next witness.

15 **MS. STROM:** The State calls James Armstrong.

16 **MADAME CLERK:** Mr. Armstrong, please place your left
17 hand on the Bible and raise your right hand.

18 **James Armstrong,** being
19 duly sworn testified as follows;

20 **MADAME CLERK:** Please be seated and state your name for
21 the record.

22 **MR. ARMSTRONG:** James William Armstrong.

23 **Direct Examination by Ms. Strom:**

24 Q. Good afternoon, Mr. Armstrong. Thank you for your
25 patience today.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

603

1 A. No problem.

2 Q. By whom are you employed?

3 A. I'm employed with the Greenville County Department of
4 Public Safety, forensics division, crime laboratory.

5 Q. What specifically do you do in the crime laboratory?

6 What are your duties?

7 A. I have a dual responsibility as a forensic drug chemist
8 and a forensic firearm examiner.

9 Q. What's your educational background and any training and
10 experience you've had to get you that position?

11 A. Well, the -- first of all, the drug analysis, I have a
12 bachelor of science degree in chemistry from Erskine
13 College. I have training in the area of drug identification
14 for approximately one year under the direction of a lab
15 supervisor.

16 I have been through numerous instrumental analysis
17 schools concerning the instruments I use in the analysis.
18 And I've testified in federal, state and local courts at
19 least a hundred and sixty-five times as an expert in that
20 field.

21 Q. That's in drug analysis?

22 A. Drug analysis.

23 Q. Specifically as to firearms, what we have coined as
24 ballistics or it gets commonly used as ballistics.

25 A. Yes, ma'am.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

604

1 Q. All right. Tell us about that.

2 A. In firearms, on top of the education from the drug
3 analysis part, I've attended thirteen different firearm
4 manufacturing facilities to see the product being from a raw
5 material to a finished product. I've attended four
6 different ammunition manufacturing and/or assembly plants to
7 see the same process with ammunition.

8 I have trained in the area of firearm identification
9 under direction of a firearm examiner from Philadelphia PD
10 as doing an apprenticeship style training for two years.
11 And I have been through five different armor schools to
12 learn how to repair various types of firearms and learn how
13 they work.

14 And I've attended and completed multiple classes
15 sponsored by the Alcohol, Tobacco, Firearms and Explosives
16 in firearm identification. And I've testified in the field
17 as an expert in federal and state court at least forty-five
18 times.

19 Q. And would that be -- what would the classification be,
20 firearms examination, ballistics testing? What's the ---

21 A. It's ---

22 Q. What's the proper terminology?

23 A. It's been called different things, but firearm
24 identification is pretty much what we use, firearm and
25 toolmark identification.

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

605

1 **MS. STROM:** Your Honor, I would offer Mr. Armstrong as
2 an expert in the firearm identification and toolmark
3 identification.

4 **MR. ERWIN:** No voir dire and without objection, Your
5 Honor.

6 **THE COURT:** All right. I find he's qualified.

7 **MS. STROM:** Thank you, Your Honor.

8 **Q.** Mr. Armstrong, did you have occasion to assist law
9 enforcement in this investigation regarding the murders of
10 Mrs. Wells and Mr. Wells ---

11 **A.** Yes, ma'am, I did.

12 **Q.** --- during that investigation? Did you receive certain
13 items of evidence and asked to compare those?

14 **A.** I was.

15 **Q.** I'm going to show you what's been marked -- let me do
16 it this way. It might be a little bit easier. I'll show
17 you what's marked as State's exhibit number 65 and 66 both
18 of which are in evidence and have been testified to as shell
19 casings having come from the bedroom in which Mrs. Wells was
20 found. Did you have occasion to analyze or test those
21 items?

22 **A.** Give me one moment. The outer packages do appear to
23 have my initials and the dates which I'd opened them. Yes,
24 ma'am, I did.

25 **Q.** Tell us what type of testing you conducted on those two

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

606

1 shell casings. Those are fired casings, correct?

2 A. That is correct. These are -- State's exhibit 65 and
3 66 are my item numbers JD-18 and JD-22. They are both
4 caliber .32 auto fired cartridge casings.

5 Q. .32 caliber auto fired cartridge casings?

6 A. Um-hum (affirmative), .32 auto. Yes, ma'am.

7 Q. Did you conduct any further testing other than a visual
8 right there, I mean, what did you do with them?

9 A. From the -- once I received the items I inventoried
10 what I had and realized they were both .32 auto. I then do
11 a side by side comparison with a comparison microscope to
12 see if there are any imperfection marks or striations that
13 were transferred from the firearm to the fired cartridge
14 case in the process of it being fired. And in doing so it
15 was determined that these two fired cartridge casings were
16 fired in the same firearm.

17 Q. All right. So these two spent casings were fired by
18 the same weapon?

19 A. That's correct.

20 Q. I'll show you what's been marked as State's exhibit
21 number 30, and I'll get you some scissors if you need to
22 open that, and State's exhibit number 76. State's exhibit
23 30 was previously testified to as a projectile taken from
24 the wall of the room in which Mrs. Wells was found. And
25 State's exhibit 76 was the projectile obtained at an autopsy

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

607

1 of Mrs. Wells.

2 A. Yes, ma'am.

3 Q. You received those and conducted tests on those?

4 A. I did.

5 Q. What type of testing did you do?

6 A. Once again, it was a visual inspection to -- for
7 verification of caliber size and weight. I then did a side
8 by side comparison with a comparison microscope to make my
9 findings.

10 Q. What are you looking for in these side by side
11 comparisons?

12 A. It's basically like putting a puzzle together. What
13 we're trying to do -- we actually have the images sitting on
14 one side of a microscope and another on the other side.
15 We're trying to overlap the striations, the imperfections
16 that were transferred from the firearm to that piece of
17 evidence, which is kind of like placing a fingerprint beside
18 each other. And what we try to do is match those up.

19 And then we go all the way around the entire
20 circumference of that projectile. And if we find
21 similarities through the entire projectile, then we can make
22 the link that they were fired from the same firearm.

23 Q. And what conclusions did you reach regarding the two
24 projectiles?

25 A. Well, these two projectiles, I would say that they were

JAMES ARMSTRONG - DIRECT EXAMINATION BY MS. STROM

608

1 fired in the same firearm.

2 Q. And you also received State's exhibit number 28, which
3 previously was testified to as a live, for lack of a better
4 term, a live round, a bullet, one that hadn't been shot.

5 A. Yes, ma'am.

6 Q. And that was a .32 caliber?

7 A. It was a .32 auto, yes, ma'am.

8 Q. Okay. And were you able to make any specific findings
9 as to that?

10 A. Not that would actually be specific. I compared it
11 against the fired cartridge casings, I believe it was 65 and
12 66, State's exhibits, and able to determine that this item
13 here, which is State's exhibit 28, bears similar, but
14 insufficient microscopic marks to permit identification to
15 having been chambered in and/or extracted from the same
16 firearm as the other fired cartridge casings.

17 Q. So there just wasn't enough detail on the live
18 ammunition to make a determination?

19 A. Correct.

20 Q. And did you ever receive any -- did you ever receive a
21 weapon to which to compare that in this case in terms of
22 that you were able to make a match?

23 A. No, ma'am, not on a match.

24 Q. Thank you. Please answer any questions the Defense may
25 have.

1 **MR. ERWIN:** I do not have any questions for this
2 witness, Your Honor.

3 **THE COURT:** You may step down. We appreciate your
4 time. Thank you.

5 A. Thank you.

6 **THE COURT:** Call your next witness.

7 **MS. STROM:** State's case, Your Honor.

8 **THE COURT:** All right. Members of the jury panel, the
9 State is telling us they're resting. So that means they
10 have presented their case.

11 It's ten after four. And we have some legal matters to
12 take up outside your presence. So rather than go forward
13 this afternoon, we will stop for the day and start back at
14 9:30 in the morning.

15 Now, even though the State is resting and telling us
16 it's presented its evidence, you're not yet in a position to
17 make up your mind or discuss the case among yourselves. We
18 haven't quite reached that point.

19 So do not begin discussing the case. Don't be trying
20 to make up your own mind. You don't, as I said earlier, we
21 haven't reached the point where you have sufficient tools to
22 make a fair and reasonable decision. So have a pleasant
23 evening, and we'll see you back at 9:30 in the morning.

24 (Whereupon the jury exited the courtroom at 4:13 pm)

25 **THE COURT:** Anything from the State at this point?

CLOSING ARGUMENTS - MR. WILKINS

619

1 present.

2 The State -- the case now is in the posture where the
3 Defense has a right to present any evidence it wishes. Mr.
4 Erwin.

5 **MR. ERWIN:** The Defense rests, Your Honor.

6 **THE COURT:** All right. So the Defense is telling us it
7 is resting also. So we've reached a point in the trial
8 where you will hear the closing arguments of the attorneys.

9 Unlike the opening statements where I told you they
10 were giving you an outline or a blueprint of the trial and
11 were not trying to persuade you of anything, at this time
12 the attorneys will be taking the facts and arguing to you
13 the facts, applying the law -- and they have spent -- I had
14 spent yesterday afternoon and this morning going over my
15 charge on the law with them, so they will be possibly
16 telling you some legal principles as they make their
17 argument. But they will be telling you why, based on the
18 law, applying the facts to the law or applying the law to
19 the facts, what your verdict should be.

20 **MR. WILKINS:** Your Honor, may it please the Court.

21 Good morning, ladies and gentlemen.

22 **THE JURY:** Good morning.

23 **MR. WILKINS:** Now is the time for closing arguments.

24 That is the time in a trial where myself and opposing
25 counsel gets to stand up here and argue to you why we

CLOSING ARGUMENTS - MR. WILKINS

620

1 believe we are correct. And I'm going to be arguing to you
2 why I believe that the State has proven beyond a reasonable
3 doubt that, in fact, Jonathan Rhodes did commit the crimes
4 that are alleged in the indictments.

5 You will then get a charging document from the Judge.
6 And he will read that to you. And you will even get a copy
7 to take back there. And that will explain all the finer
8 points of law and how you will apply those to the facts that
9 you've seen over the last two days.

10 But you are the trier of facts. You are the deciders
11 in this case. That is your role. And I first want to thank
12 you for taking time out of your days, out of your busy
13 schedules and being here on this -- for this case. It's
14 important for the State that you're here. It's important to
15 the Defense that you're here. It's important to our
16 community that you are here sitting in judgment in this
17 particular case.

18 I apologize for the uncomfortable seats. I know that
19 those cannot be the most flexible seats in the world, but I
20 appreciate you standing through with us.

21 When I gave you my opening statement I talked about
22 circumstantial evidence and I talked about taking pieces
23 from here and pieces from there and having to put them
24 together in order to create a photograph or a picture of
25 what exactly happened to Gary and Helen Wells. And that's

CLOSING ARGUMENTS - MR. WILKINS

621

1 really why we're here.

2 And that circumstantial evidence is -- it's a number of
3 facts that we can put together and draw a very logical
4 certain conclusion from that. I gave you the example of
5 someone walking in the door right now and they had an
6 umbrella and a raincoat on and they were wet. Well, those
7 are facts. They have an umbrella, they have a raincoat and
8 they're wet. And then you can derive from that that it was
9 raining outside, because how else would they get that way?

10 The other thing that you can do with circumstantial
11 evidence is that circumstantial evidence can corroborate
12 other circumstantial evidence. And in this case that is
13 extremely important to be thinking about when you're in your
14 deliberations. One fact standing alone may not mean a lot
15 to you, but when compared to many other facts it can allow
16 you to draw conclusions.

17 And so the evidence is sort of intersecting each other,
18 weaving itself in and out of each other to tell you the
19 story of what happened on October 1st. And that's how we
20 decided to present this case to you, the State did.

21 Now, we can play the what if game. We can say well,
22 what if this happened, how can that be true? We can play
23 the what if game. What if the person who walks in that
24 front door was hit by a sprinkler system right before he
25 came in? So, therefore, maybe it's not raining outside.

CLOSING ARGUMENTS - MR. WILKINS

622

1 It's possible, but you're also looking at the fact that
2 they're wearing a raincoat and an umbrella. So that's not
3 possible. That's not logical. That doesn't make any sense.

4 And the great thing about being a juror is you don't
5 get to leave your common sense at the door, you get to bring
6 it with you. And you get to judge the witnesses that were
7 on that stand. You get to judge their mannerisms, how they
8 testified. You get to judge their credibility. You get to
9 judge the evidence. You get to give weight to that
10 evidence, strong evidence, not very strong. That's for all
11 of you to decide.

12 And the standard that you're doing that is beyond a
13 reasonable doubt. Now that doesn't say beyond all and every
14 single doubt. It just says beyond a reasonable doubt. And
15 the Judge is going to tell you what that means in his
16 charge.

17 And keep in mind while I'm arguing to you today, this
18 is the last time that I'm going to be able to speak to you
19 before you begin your deliberations. Defense counsel will
20 have the opportunity to speak after me. And so I'm going to
21 have to anticipate a little bit of what he's going to say so
22 that I can make my position or thwart off what I believe
23 he's going to say and argue against him, in essence. So I
24 will be trying to do a little bit of anticipation, if you'll
25 just bear with me.

CLOSING ARGUMENTS - MR. WILKINS

623

1 On the first day of testimony, on Tuesday, you heard a
2 lot of evidence that came in. And up until about the time
3 Eric Cade testified, which was one of the last witnesses of
4 the day, you really didn't hear much about Jonathan Rhodes.
5 I mean, all you really heard was the Defense counsel saying
6 my client wasn't involved in that, my client wasn't involved
7 in that, don't have anything to tell you about my client
8 about that. And you heard that over and over. And that was
9 sort of a common theme.

10 And he's right. And up until the time we talked about
11 Eric Cade giving his car to Jonathan Rhodes the night of
12 October 1st, that was actually true. We started with the
13 crime scene that was discovered on October 3rd. We told you
14 how that was discovered.

15 And we sort of took you through how law enforcement had
16 processed the scene, how evidence had been developed, how we
17 found Jonathan Rhodes related to Shirley Rogers, who Shirley
18 Rogers was, who is this person. For that first day you
19 might have been thinking we were trying Shirley Rogers here.

20 But that was by design, because until you could have
21 seen -- until you saw the whole picture, yesterday's
22 testimony included, it may not have made a hundred percent
23 sense to you. But when you take all of that testimony
24 together, the conclusion is obvious.

25 So I first want to start with the crime scene. And

CLOSING ARGUMENTS - MR. WILKINS

624

1 let's talk about what evidence did we derive from the crime
2 scene? Just that -- the processing of the scene. That
3 scene was processed for over two weeks by law enforcement.
4 Blood was collected. Photos were taken. DNA was done on
5 those results much later in the process.

6 And so we have the crime scene, Terramont Drive, the
7 Wellses' home. That's where they lived. And we know from
8 looking at this crime scene how it was processed. There's
9 certain conclusions you could make by just looking at the
10 evidence presented in this crime scene right there without
11 knowing anything else about the case.

12 You know there's two people involved in this murder.
13 How can you -- how do you know two people were involved?
14 Well, you have somebody who was brutally murdered in his
15 office and you have somebody who was brutally murdered in
16 their left bedroom. They're not together.

17 So one person couldn't stab one person seventy times
18 while the other person is just sitting there and then go and
19 brutally murder and stab them over fifty or sixty times or
20 vice versa. It's impossible. You've got to have two -- a
21 minimum of two people in that house committing these crimes.

22 Second, we know that there were two murder weapons.
23 We've got them sitting right here. Two knives. How likely
24 is it going to be one person is going to use two knives on
25 two separate people? Both of their blood is on each and

CLOSING ARGUMENTS - MR. WILKINS

625

1 every single -- each one of those knives. Gary and Helen
2 Wellses' blood is on each of those knives.

3 So we know we got two people. All right. So law
4 enforcement knows they're looking for at least two people
5 that committed this crime.

6 We know that this was a violent crime. It was
7 personal. And we know the person who was in there had
8 familiarity. How do you know that? Well, number one, the
9 amount of times that they were stabbed and cut. Half of
10 those were anti-mortem, meaning after their heart had
11 stopped.

12 Somebody who's -- that's somebody who's got a beef,
13 somebody who was upset, somebody who is mad. That is not a
14 random character walking in there trying to steal some
15 jewelry.

16 Third, those knives were owned by the Wellses. They
17 came from inside that house. You don't go to a robbery and
18 use weapons from inside the house. Now, we know they
19 brought a gun, but they used the weapons. You've got to
20 know -- how are you going to find those knives unless you
21 have familiarity with that house?

22 That's Shirley Rogers. She was there when they
23 discovered -- she discovered the bodies. She's the one who
24 went over there on that Wednesday morning after they were --
25 after they were murdered.

CLOSING ARGUMENTS - MR. WILKINS

626

1 Time-line, we know this murder occurred around 10:45,
2 11:00 at night. Well, we know that Mr. Wells' last computer
3 access was at 8:34 pm that night. He clicked on an email at
4 8:30 and he clicked on a couple of pictures at 8:34. So we
5 know he was alive at 8:34.

6 We know they didn't pick up the paper on the 2nd. And
7 we know they didn't pick up the paper on the 3rd. And they
8 were discovered around 11:00 on the 3rd. So we know the
9 time-line has to be that night.

10 We also know that they had their night clothes on.
11 Mrs. Wells had what appeared, according to Agent Lendway,
12 what appeared to be night clothes. And Mr. Wells had on
13 boxers and a long t-shirt. That's what he was wearing. So
14 it had to be sometime they're preparing for bed.

15 We know that there was a gun involved, but we know the
16 gun was not the fatal cause of death. For Mr. Wells, it was
17 a three fourths inch cut to the right femoral artery. And
18 for Mrs. Wells, it was puncture wounds to the lungs and
19 liver.

20 We know that the gunshot -- the gun was within an inch
21 of Mrs. Wells' cheek when it was fired. That's how we know
22 that this was a brutal, close, personal attack. You know
23 how close you have to be to cut and stab and shoot somebody?
24 You're on top of them while this is occurring.

25 We know that they were wearing gloves. How do you know

CLOSING ARGUMENTS - MR. WILKINS

627

1 they're wearing gloves? If you remember Lendway and
2 Peterson talking about fabric impressions in the light
3 switches, their hands had to be covered. He could see the
4 fabric impression is in the blood. And the Wellses' blood
5 is on there. He could see the fabric impressions.

6 And he would say, I knew they were covered. Well, we
7 all know what that means, is you're wearing gloves. You're
8 not going to walk around with a towel around your hand to go
9 commit a murder.

10 We know -- we also know that there was familiarity with
11 this house because they walked through the house. They
12 didn't walk in areas of the house. They didn't walk in the
13 spare bedroom. They didn't walk in the den. They walked
14 through the family room and into the kitchen and those back
15 areas there.

16 But when they walked into the kitchen, there's blood on
17 one cabinet. And it's the only cabinet opened in the entire
18 kitchen. And you know what's behind there? Cleaning
19 supplies and grocery bags and garbage bags. They need stuff
20 -- this is a -- this is a bloody murder. Well, they need
21 things to help cover up the crime or leave.

22 Shirley Rogers knew where that was. Had Shirley Rogers
23 never worked in that house, maybe she would have opened that
24 door, that door, that door. There would have been blood on
25 the other cabinets. So there's familiarity.

CLOSING ARGUMENTS - MR. WILKINS

628

1 And so why do I tell you that? Well, when you learn
2 that -- of those things by just looking at the crime scene,
3 those are pieces of evidence that we can conclude, there's
4 those circumstantial evidence. Then we know there's two
5 people. We know Shirley Rogers is in there.

6 Well, who did she go with? Who was her accomplice?
7 Who was her co-conspirator? Who helped her kill the
8 Wellses? And the only person that's available is Jonathan
9 Rhodes. So we start looking at Jonathan Rhodes.

10 And if you'll remember, we start grabbing cell phone
11 data, cell phone data. It's like DNA. The data is what the
12 data is. The hard part is interpreting it. And we had to
13 call an expert from the FBI come down here to help us
14 interpret this cell phone data because it's hard, all the
15 columns, all the different numbers, all the cell phone
16 towers.

17 But Jonathan Rhodes was dating Shirley Rogers. Eric
18 Cade said they were having a sexual relationship. The cell
19 phone records show easily just by glancing at it, they're
20 having communications constantly. This is what you send
21 somebody you're in a relationship with, a scantily clad
22 photo with a hat that says Really Real with your rapper name
23 on top of it. So we know they're together, they're
24 connected.

25 We have some of their text messages that we were able

CLOSING ARGUMENTS - MR. WILKINS

629

1 to mine back. You can look through these when you're in the
2 jury box [sic]. I love you is in here after October 13th.
3 They're communicating. They're in a relationship.

4 But what does Jonathan Rhodes do once he realizes the
5 bodies have been discovered? Now remember, Shirley Rogers
6 interestingly made a little goof up when she discovered the
7 bodies. She went over to a house where she knew she wasn't
8 supposed to be because of the testimony from the BB&T folks
9 said they told her not to go over there.

10 She wasn't supposed to be there because of the fraud
11 between Shirley Rogers and the Wellses. She'd been stealing
12 from the Wellses. It's in the BB&T documents. You heard
13 the BB&T testimony. She was stealing from the Wellses.
14 Well, that's obvious motive right there.

15 But when she goes over there, her statement --
16 statement to Doug Doughty is I can see him, I can see him.
17 Well, all they could see through the outside window when she
18 initially said that was a foot. So how did she know it was
19 him? Unless she was inside.

20 But Jonathan Rhodes decides he sees that she's there
21 and the gig is up. And they're talking the morning of
22 October 3rd and they're talking after October 3rd. And so
23 what does he do? He disassociates himself from Shirley.

24 He does that by deleting every single text message,
25 every single picture that he can possibly have connecting

CLOSING ARGUMENTS - MR. WILKINS

630

1 him to her in his phone because on October 22nd he goes down
2 to law enforcement with Eric Cade. And a couple of days
3 earlier he'd gotten a phone call from Jonathan Howard
4 saying, hey, is this your number? Do you know Shirley? And
5 Jonathan Rhodes says, no, click.

6 And that's how Jonathan Howard found Jonathan Rhodes
7 because his voicemail said this is Really Real. And through
8 other witnesses we were able to identify who Really Real
9 was. And then we were able to cross reference the cell
10 phone records to see that Shirley and Really Real were
11 talking all the time connecting them together.

12 But he knew when he went down there they may take his
13 phone. So clean it off. But he didn't realize and didn't
14 know that Cellebrite Technology can grab some emails even if
15 you delete it off your phone. It's like a computer, it
16 doesn't vanish into thin air. It has to wait for something
17 to overwrite it before it's actually gone.

18 And so these emails here, this means, yes, deleted,
19 deleted, deleted. Deleted, deleted, deleted. So when he
20 gave -- when his phone was obtained on the 22nd, he wasn't
21 worried about it. He was like, I deleted everything. Well,
22 he also didn't realize that we had his historical cell data
23 as well and didn't realize what we could do to it.

24 So we got to the phones and we start mining the phones.
25 And we went into the phones and we started talking a lot

CLOSING ARGUMENTS - MR. WILKINS

631

1 about what this cell phone technology can do. So Jonathan
2 Howard gets everybody's cell phone information together.
3 He's working with T-Mobile. He's working with Sprint.

4 And he creates these -- helps us create these
5 spreadsheets of the phone interaction between Jonathan
6 Rhodes, Shirley Rogers and Amber McDaniel during this time
7 and then asked the FBI CAST member to do a cell phone
8 analysis of that to determine where that cell phone was
9 located. And that's what we did.

10 And we were able to make some -- those pieces in and of
11 themselves are not conclusory pieces of evidence, but taken
12 together tell you so much about this. As I said, Shirley
13 and Jonathan were in a significant relationship. They were
14 having many -- lots of communications. And then we looked
15 at the time of the murder at what was going on.

16 On October 1st Jonathan Rhodes and Shirley Rogers are
17 communicating with each other. They're communicating with
18 each other earlier in that day. They're communicating with
19 each other later in that day.

20 And it wasn't until about 8:59 that a text is sent to
21 Jonathan Rhodes from Amber McDaniel, Shirley's
22 niece/daughter, that says answer the phone, it's very
23 important, starting off. And he responds, what's up? I'm
24 in the studio. Well, they continue to have incoming and
25 outgoing phone calls. And the phone calls continue up until

CLOSING ARGUMENTS - MR. WILKINS

632

1 9:46.

2 Now, if you remember this CAST Team, and this is where
3 intersecting this information is hard and it gets
4 complicated because you have to intersect three or four
5 pieces of different evidence at the same time to come to
6 that conclusion that you need.

7 But at 9:46 where is Jonathan Rhodes on October 1st?
8 Well, we know through testimony that he'd been at the Bi-Lo
9 with Eric Cade. And if you remember this CAST Team
10 analysis, he did around 8:45 -- they were consistent with
11 being at the Bi-Lo. And at 9:46 it's consistent with him
12 being at his house.

13 So at 9:46 Jonathan Rhodes is at his house. And he
14 calls Shirley, outgoing call, and they talk for a hundred
15 and sixty seconds at 9:46. At 10:04 on October 1st he sends
16 a text to Shirley Rogers, 10:04.

17 And at 10:45 his phone is pinging over near
18 Terramont Drive. It's undisputed. Cell phone data doesn't
19 lie. FBI CAST Team members don't lie. And then at 10:45,
20 11:02 and 11:02 his phone is pinging directly on Helen and
21 Gary Wellses' house. So for seventeen minutes that phone is
22 pinging inside those ranges.

23 Now, if you remember the CAST Team ranges, that right
24 there is two hundred and forty meters or about seven hundred
25 feet in an area. And then this is the radius because they

CLOSING ARGUMENTS - MR. WILKINS

633

1 can do the distance from the cell phone tower.

2 How this measurement is made according to CAST is that
3 when the phone call receives a signal or sends one out, it
4 goes to this tower right here and a measurement is made
5 every single time. He takes that information and it says if
6 it was one point nine seven (1.97) miles from that tower, he
7 can then draw an arc and the phone was within that arc.

8 It doesn't say it's at Terramont. Doesn't say it's
9 inside Terramont. It says it's within this arc. But for
10 seventeen minutes Jonathan Rhodes' phone is in the arc that
11 is right on top of Terramont Drive. That's not by
12 coincidence. He just didn't happen to get broke down over
13 there. His phone's there.

14 But how do we know that that BMW was there, that Mini
15 Cooper? And this was the piece of evidence that helped tie
16 it all back together because the Wellses' blood is in the
17 Mini Cooper.

18 So you take a lot of that information, dissecting
19 together, there's two undisputable things. Whoever killed
20 the Wellses, got in the Mini Cooper, it's undeniable,
21 because the Wellses were dead by October 1st that night.

22 So the Mini Cooper had to drive to that house, whoever
23 was in there had to kill them and get back in the Mini
24 Cooper that night. And Jonathan Rhodes' cell phone is
25 pinging inside -- in the area where Terramont is. Could be

CLOSING ARGUMENTS - MR. WILKINS

634

1 in it, could be next to it, it's in that area at the time.

2 Eric Cade cannot find his car. He's the one calling
3 Jonathan Rhodes asking him -- calling him, where's my phone?
4 Where are you? Where's my car, not my phone, where's my
5 car? Sending text messages that were not very nice.

6 He calls him at 10:45. That's the first ping that we
7 get from the cell phone at 11:02 and 11:02. Those are all
8 Eric Cade incoming calls. Keep in mind the last outgoing
9 message from Jonathan Rhodes is 10:04. And it doesn't
10 happen again until 11:45.

11 Shirley Rogers, the last activity, outgoing activity is
12 9 -- it's 10 -- 9:57. And it doesn't happen again til much
13 later, til midnight of that night, I think. It's on the
14 CAST Team analysis.

15 So they're not using their phones during this murder,
16 but there is one thing that Jonathan Rhodes is doing. Mr.
17 McLeod alluded to it. He's there, Eric Cade's calling him
18 and he's having to send a voicemail because the records
19 don't lie.

20 So how do you know that? Well, at 10:45 there's an
21 incoming call from Eric Cade. It lasts four seconds. But
22 it was sent to voicemail. And I'll further prove that by
23 giving you more technical information that you probably
24 want.

25 But we know that, one, because the CAST Team member

CLOSING ARGUMENTS - MR. WILKINS

635

1 said that's consistent with somebody sending it to
2 voicemail. That requires you to hit a button. It would
3 take a lot longer than four seconds for voicemail to pick up
4 on someone's phone.

5 Here's the actual cell phone records. Those are in
6 evidence on the CD, but they're also in this slide right
7 here. And there's the call at 10:45. That 1-1 right there
8 means routed call to voicemail. That's what that 1-1 means
9 right there. That's what the CAST member said.

10 He then calls again at 11:02, seventeen minutes later.
11 Well, this one was not routed. And it lasted seventeen
12 seconds. So we can conclude from that is that Eric Cade
13 just hung up because he didn't want to leave a message.

14 Fifty-four seconds later Eric Cade calls again. That
15 call lasted five seconds and it went to voicemail. Somebody
16 had to hit the phone to send it to voicemail.

17 Now, Defense may argue that Jonathan Rhodes was not in
18 that car and his phone was. And there's a number of reasons
19 why they may have to do that. I don't know what he's going
20 to argue. But let's assume that he may because we've heard
21 that in the cross examination.

22 Well, there's a couple of reasons why that cannot be
23 true. Number one, the person who is hitting the phone right
24 there at 10:45 is at Terramont Drive and they're having to
25 use the drive -- having to use their fingers to do it.

CLOSING ARGUMENTS - MR. WILKINS

636

1 But let's assume that Jonathan Rhodes went over to
2 Shirley Rogers' house that night and had sex with her,
3 according to his third statement to Eric Cade, which we'll
4 talk about in a second, and fell asleep. And then Shirley
5 got the great idea that I'll steal his keys, drive his car
6 over there and commit two vicious murders.

7 Well, we know that around 9:46 Jonathan Rhodes is at
8 his house. And we know that at 10:04 Shirley Rogers -- he
9 sends Shirley Rogers a text. So they're not together at
10 that point. So at 10:04 he sent her this.

11 Let's say they meet up at her house at 10:05. They
12 live on South Vance Street. They've got to drive all the
13 way over to Terramont Drive. Now there's no evidence in
14 the record to say how long that would be. I couldn't put in
15 evidence to tell you how long it would be because it would
16 depend on how you go.

17 But it's going to be 10:00 at night going across to the
18 other side of the City of Greenville, fifteen minutes, ten
19 minutes, twenty minutes. If you believe that, then Jonathan
20 Rhodes would had to engage Shirley Rogers at 10:05, engage
21 in sex, fall asleep and she would have to take the car
22 within twenty, twenty-five minutes and then drive over there
23 because that phone is pinging at 10:45 at Terramont. He's
24 texting her, Shirley Rogers, at 10:04. It's just not
25 possible.

CLOSING ARGUMENTS - MR. WILKINS

637

1 Another reason that's not possible, because at 10:45
2 someone's sending their voices to voicemail as I've
3 previously explained.

4 Jonathan Rhodes told his roommate, Eric Cade, three
5 separate stories about where he was that night. And y'all
6 remember Eric Cade testifying. Eric Cade is very upset.
7 He's lent him or allowed him to take his BMW Mini Cooper out
8 that night. So we know Jonathan Rhodes is in possession of
9 the car.

10 He doesn't come home until after 2:00 in the morning.
11 And in the meantime, Eric Cade is calling him. So from Eric
12 Cade's perspective, he's mad. He sends a pretty ugly text
13 to him. Are you on the way? Why you treating somebody like
14 this, in essence?

15 When he gets home that night, Eric Cade's still very
16 upset. Where have you been with my car? And you're not
17 answering my cell phone that I gave you. He says, I was at
18 my -- Tyrone's grandmother's house, Tyrone, Tyrone's
19 grandmother's house is where I was. Okay. Well, they go
20 about their business. This is on October 1st.

21 And then later on he asks him again, I need to talk
22 with you about this. I need to know were you involved in
23 this. And this time -- by this time the Wellses' bodies
24 have been discovered and we knew the murders had occurred.
25 Where have you -- where have you been? Where were you that

CLOSING ARGUMENTS - MR. WILKINS

638

1 night? I was at Brian Ferguson's house.

2 So now he's lied because he can't be at Tyrone's house
3 and Brian Ferguson's house at the same time. So he's
4 changed his story to Eric Cade about where he was. All
5 right.

6 Well, they talked to police on October 22nd. And the
7 police told Eric Cade that testified about the pings over
8 there. And then as the case progressed they learned about
9 the blood in the car. So at that point Jonathan Rhodes
10 knows that he has to disassociate himself from that Mini
11 Cooper, otherwise, he's in trouble. He cannot be in that
12 Mini Cooper because the victims' blood is in the Mini
13 Cooper. That's the evidence that just cannot go away.

14 And so what does he tell Eric Cade? He tells Eric
15 Cade, I went over to Shirley's house, we had some sex, and I
16 fell asleep. And when I woke up the car was parked in a
17 different angle. That's what he tells Eric Cade assuming
18 that Shirley went and did it all by herself and he had
19 nothing to do about it.

20 Ladies and gentlemen, lie to me, shame on you, once.
21 Lie to me twice, shame on me. Lie to me three times, he's
22 guilty beyond a reasonable doubt. He wasn't over at Shirley
23 Roger's house. There's no way he could possibly be at
24 Shirley Roger's house.

25 I briefly want to talk about the footprints. There was

CLOSING ARGUMENTS - MR. WILKINS

639

1 testimony from Lendway and Peterson that there were
2 footprints that would have been in blood throughout, I think
3 he said, there were three throw rugs. There's some pictures
4 where you can see footprints on some hardwoods. There were
5 a number of footprints that were at the house. We know
6 that.

7 Let's look at all the evidence that you have. And let
8 me tell you, ladies and gentlemen, this murder happened on
9 October 1st. The bodies were found on October 3rd. And law
10 enforcement didn't know Jonathan Rhodes really existed, even
11 talked to him until October 22nd. So that's nineteen days
12 has gone by before law enforcement's even had a chance to
13 investigate Jonathan Rhodes directly.

14 Just as we know that there were gloves used, there were
15 other ways to cover up this crime. But I'll say that on
16 October 3rd Jonathan Rhodes sent a text to Eric Cade on
17 October 3rd. I'm about to leave. I want you to see these
18 new shoes I got. Now, I'm not saying what that means. I'm
19 just saying it's a pretty big coincidence. But there's no
20 evidence one way or the other about the footprints. Don't
21 have any.

22 In the car there were four or five different swabs of
23 blood that had DNA of Gary and Helen Wells. The interior
24 front passenger side door was -- had blood. It tested
25 positive for blood. And when swabbed, the major contributor

CLOSING ARGUMENTS - MR. WILKINS

640

1 was Helen Wells and the minor was Gary Wells.

2 The right side of the driver's seat, so if you're
3 driving the car, it's right here on the driver's seat. The
4 major was Helen Wells. The minor was Jonathan Rhodes. And
5 there was a trace of Gary Wells and Eric Cade. There was a
6 second swab. The major was Helen and Gary Wells. And the
7 trace was Jonathan Rhodes.

8 The front passenger's seat, if you're sitting in the
9 passenger's seat, right here, the major blood was Helen
10 Wells and the minor was Gary Wells. A second swab was taken
11 because it was a large swab of blood. The major was
12 Jonathan Rhodes. The minor was Helen Wells and a trace of
13 Gary Wells. The major contributor was Jonathan Rhodes. His
14 DNA was mixed with the victims' blood in the car.

15 And if you remember Dr. Kandala's testimony, that's not
16 just touch DNA. It can't be touch DNA to be the major
17 contributor. Touch DNA is a small amount. This is a major
18 contributor mixed with the Wellses' blood inside that car,
19 Jonathan Rhodes' DNA.

20 On the console area in the middle there was a major
21 contributor, Helen Wells, a minor, Gary Wells, a minor,
22 Jonathan Rhodes, and a minor, Eric Cade. Second swab was
23 Helen Wells and Gary Wells in equal proportions. So blood's
24 here, here, here, here and down here on the driver's side.

25 Helen Wells and Gary -- Helen Wells on the swab there

CLOSING ARGUMENTS - MR. WILKINS

641

1 was a major and Gary Wells was a minor. And on the lower
2 side of the front passenger's seat down here, major, Helen
3 Wells, minor, Gary Wells, and a trace of Jonathan Rhodes.

4 That's how much blood was left in that car. And I can
5 argue to you, ladies and gentlemen, that I would assume they
6 tried to clean it up. You wouldn't want blood all over your
7 car driving around town past 11:00 on a Monday night.

8 So the blood in the car and Jonathan's cell phone are
9 two very powerful pieces of evidence. His car that he has
10 access to that he's driving, their blood, his cell phone.
11 Taking all three of those together, Jonathan Rhodes is at
12 that house. That alone.

13 But we brought in Curtis McLeod. You got to hear from
14 Curtis McLeod. Curtis McLeod was in his jumpsuit, orange
15 jumpsuit. Got to hear about Curtis McLeod's record. Yeah,
16 Curtis sells drugs. He's robbed some people along the way,
17 broken in some cars. He's done all those things.

18 He's currently got a felon in possession charge pending
19 over his head by the United State's of America, Federal
20 Government. So how can you trust Curtis McLeod and what he
21 says?

22 Ladies and gentlemen, I'm not asking you to trust
23 Curtis McLeod for anything. What I'm asking you to do is
24 look at his testimony and corroborate it with the other
25 testimony that's already in evidence.

CLOSING ARGUMENTS - MR. WILKINS

642

1 You may not like Curtis McLeod. You may think he's a
2 crook and a criminal. He was open about it. But what he's
3 saying has to be true because what he said he couldn't know
4 unless Jonathan Rhodes told him. So look at the entire
5 circumstances surrounding Curtis McLeod.

6 You know, never has there been a play cast in Hell with
7 angels as characters. That's kind of like Curtis McLeod.
8 He's not the choir boy coming in here, the most honest
9 person, but he told the truth. And here's why he told the
10 truth.

11 He's from Hartsville, South Carolina. Born and raised.
12 Been there his whole life. Been in and out of prison. I
13 think the convictions went back to 2008. October of 2012 he
14 was in a coma until February. He wasn't even conscious when
15 these murders took place.

16 He gets himself in a position where he's in custody in
17 an institution with Jonathan Rhodes. And they create a
18 friendship. They start talking.

19 He doesn't stay in an area with Jonathan Rhodes during,
20 you know, normal staying hours. They only see each other in
21 the cafeteria where they work together from about four or
22 five in the morning til about noon every day. And he said
23 there's some down-time during that time. So they start
24 talking.

25 And what does he tell -- what does Jonathan Rhodes tell

CLOSING ARGUMENTS - MR. WILKINS

643

1 him? He comes in here and says everything that Jonathan
2 Rhodes tells him. And I ask you, ladies and gentlemen, how
3 can Curtis McLeod know these things? He knew the victims
4 were elderly. He knew Shirley was -- he knew the name of
5 Shirley Rogers. He knew that Shirley Rogers was in trouble
6 from stealing from this elderly couple.

7 He knew that she wasn't supposed to go over there
8 because he -- he said a restraining order. I don't know if
9 that's Curtis McLeod's way of saying that BB&T told her not
10 to go over there. She wasn't allowed to go over there.
11 Maybe Jonathan Rhodes thought she had a restraining order.
12 I don't know. This is what -- these are Jonathan Rhodes'
13 words that we're talking about here.

14 He knew that Jonathan Rhodes had a roommate named Eric
15 Cade. And he knew that that roommate owned a car, a BMW
16 Mini Cooper. And he knew they drove that Mini Cooper over
17 to the Wellses' house, which we know happened because the
18 Wellses' blood is in that car.

19 He then says that Shirley went to the door and he kind
20 of stayed out of sight because it would look funny if they
21 saw a male up there and that wouldn't look right and starts
22 talking to Mrs. Wells. And Shirley was saying, I'll pay you
23 back. And Mrs. Wells was saying, I've only been good to
24 you.

25 Well, if you remember what the BB&T, Rosemary Traylor,

CLOSING ARGUMENTS - MR. WILKINS

644

1 testified to. That's exactly what Mrs. Wells said to
2 Shirley Rogers at the BB&T. How could you do this to me,
3 Shirley? I've only been good to you. How would Curtis
4 McLeod know that? Because Jonathan Rhodes told him.

5 He knew they had one gun, two casings, two bullets and
6 one spare bullet. All the same caliber. Casings are the
7 same. The projectiles were the same. One gun. He knew the
8 gun was a .32 caliber. It was a .32 caliber. How could you
9 know that?

10 He said he knew that they were separated because he
11 testified that Rhodes told him he could hear the other
12 victim in the other room screaming. He said it was a messy
13 scene, bloody scene. He said they used knives, they used
14 blades. He said they started cutting. That's exactly how
15 he died.

16 He then said they went back to Shirley Rogers' house.
17 He went back to Shirley Rogers' house according to the CAST
18 report. At 11:45 that cell phone was back in the area of
19 Shirley Rogers' house.

20 He said that his roommate was calling him during that
21 time. How would Curtis McLeod know that Jonathan Rhodes'
22 roommate was calling him during that time unless Jonathan
23 Rhodes told him?

24 Ladies and gentlemen, you're going to have before you a
25 number of indictments on which you've got to deliberate on.

CLOSING ARGUMENTS - MR. WILKINS

645

1 You've got two murder indictments. And the Judge is going
2 to charge you about the elements of murder. He's also going
3 to talk to you about aiding and abetting and the hand of one
4 is the hand of all.

5 Ladies and gentlemen, we don't have to prove that
6 Jonathan Rhodes specifically killed Helen Wells or Gary
7 Wells. We have to prove that he participated and he aided
8 and abetted in the actual murder.

9 We don't have to get to the details of who actually
10 killed which one. If he's there and he's participating in
11 the murder, the hand of one is the hand of all. That's what
12 the Judge will charge you.

13 You will have two kidnapping indictments. That's
14 basically not allowing someone to move freely. You will
15 have a burg, first, indictment, which means entering into
16 somebody's house without their consent. And then using a
17 weapon at the time, later, before, any time during the
18 course of the crime. It makes it a burg, first. So
19 entering without consent at night, using a weapon.

20 And then you'll have, I mean, possession of a weapon
21 during the commission of a violent crime. If you had a
22 weapon and you used it while you were committing the crime.
23 And that's what you'll be deliberating on.

24 And, again, we don't have to prove exactly what went on
25 inside that house. Now, we have a pretty good idea of what

CLOSING ARGUMENTS - MR. ERWIN

646

1 happened because Curtis McLeod told us what Jonathan Rhodes
2 told him and we have the evidence that unequivocally,
3 unequivocally corroborates it. And then we have all the
4 other evidence that corroborates itself. The evidence
5 corroborates itself.

6 So, ladies and gentlemen, Helen and Gary Wellses' blood
7 are on these knives. Their blood is on his hands. Find him
8 guilty.

9 **THE COURT:** Mr. Erwin.

10 **MR. ERWIN:** Thank you, Your Honor. Jonathan Rhodes did
11 not murder Mr. and Mrs. Wells. Shirley Rogers did, but that
12 is not what we're here to talk about this week. This week
13 has been about Jonathan and Jonathan only.

14 The State, the Government, has the burden to prove to
15 you beyond a reasonable doubt that Jonathan committed these
16 murders. It's a high burden and you should demand a high
17 burden in this case because it does not get more serious
18 than this. And, ladies and gentlemen, they have not met
19 their burden in this case.

20 Now, I know you have questions. There were eighty-five
21 witnesses on that witness list that they read to you in the
22 beginning of the week. We heard from less than half of
23 them. I know you have questions.

24 There were entire parts of the investigation that they
25 did not want to talk to you about. So I know you have

CLOSING ARGUMENTS - MR. ERWIN

647

1 questions. Where is Shirley Rogers? I know you have
2 questions.

3 And we've both been talking about all week this
4 painting, the idea that they are drawing you a picture,
5 making a painting. Well, that painting is done, folks.
6 There is no more. This is it. This is all you have to
7 consider in this case.

8 So now that the painting is done, it's time to judge
9 it. What do we have? We have the painting that probably
10 could be best described as impressionistic, okay? It is
11 shapes, colors, ideas, suspicion, but you can't say what it
12 is. Twelve people could look at this painting and come up
13 with twelve different ideas about what it is. And that,
14 ladies and gentlemen, that is reasonable doubt.

15 Now, reasonable doubt, doubt that you have a reason
16 for. It's that easy. First of all, there is no forced
17 entry into this house. Mr. and Mrs. Wells let the murderer
18 in the front door. They would not have let Jonathan Rhodes
19 in the front door, not that guy, not in that neighborhood,
20 not in the middle of the night. No way.

21 There is no evidence to show who was inside this house.
22 The person that killed the Wellses had a plan, was careful,
23 cleaned up after themselves. They knew the house. That is
24 not Jonathan Rhodes. Doubt that you have a reason for.

25 Now, it's pretty clear that the person that killed the

CLOSING ARGUMENTS - MR. ERWIN

648

1 Wellses was in the car shortly after the murders. Now, they
2 want to make a big deal about the mixing of the DNA, that
3 the Wellses' blood was mixed with Jonathan's DNA. Well,
4 that car, that Mini Cooper was his and Mr. Cade's. They
5 spent a lot of time in that car because it belongs to them.
6 Their DNA is on every surface in that car. Just like in
7 your car at home, your DNA would be on every surface.

8 The blood got into the car and went on top of that DNA
9 and the DNA's mixed. It mixed with Jonathan's DNA and it
10 mixed with Mr. Cade's DNA. It doesn't mean anything.
11 Doubts that you have a reason for.

12 It's also clear that Jonathan's phone was at Terramont
13 Drive when these murders occurred. That does not mean that
14 Jonathan was at Terramont Drive when these murders occurred.
15 The car is not on trial. The phone is not on trial.
16 Jonathan Rhodes is on trial. There's nothing that shows
17 that he was there. He was asleep at Shirley's house.
18 Doubts that you have a reason for.

19 The person who killed Mr. and Mrs. Wells was angry.
20 They were passionate. This was personal. Mrs. Wells was
21 stabbed, beaten, shot twice. She had over seventy wounds.
22 Half of those wounds were postmortem, after she had died.
23 Whoever did this kept stabbing.

24 Mr. Wells had about sixty wounds. Half of those were
25 postmortem, after he died. Whoever did this kept stabbing.

CLOSING ARGUMENTS - MR. ERWIN

649

1 This was personal. That is not Jonathan Rhodes.

2 Now, they want you to believe that Shirley went over
3 there to do this and brought Jonathan with her to help, I
4 guess. And, you know, if that were the case, if that had
5 happened, ladies and gentlemen, if that were true we would
6 have a much different crime scene. There would be two dead
7 bodies and there would be one bullet in each of them, and
8 that would be the end of the story.

9 But that's not what happened. The person who did this
10 was angry. It was personal. That is not Jonathan Rhodes.
11 Doubt that you have a reason for.

12 And, ladies and gentlemen, it is really, really simple.
13 Either you think he's guilty, or you think he's not guilty
14 or you're not sure. If you are not sure, the answer is not
15 guilty. If you have questions, the answer is not guilty.
16 If you have doubts, and I know that you do, the answer is
17 not guilty.

18 **THE COURT:** All right. Members of the jury panel,
19 we're going to take a break before I charge you the law.
20 You're still not yet in a position to make up your mind or
21 try to discuss the case because we haven't gotten that last
22 piece of the trial. So I'm going to let you go to the jury
23 room. And we'll send for you after a short break.

24 (Whereupon the jury exited the courtroom at 10:31 am)

25 **THE COURT:** We'll be at ease for about ten or fifteen

CHARGE OF THE COURT

650

1 minutes. I'm going to send in, I believe, menus for the
2 jury so that they can go ahead and order their lunch.

3 (Whereupon court was in recess at 10:32 am)

4 (Whereupon court reconvened at 10:48 am)

5 **THE COURT:** Thank you. State ready?

6 **MR. WILKINS:** Yes, Your Honor.

7 **THE COURT:** Defense ready?

8 **MR. ERWIN:** Yes, sir.

9 **THE COURT:** All right. If the jury has finished their
10 menus, bring them on in.

11 (Whereupon the jury entered the courtroom at 10:49 am)

12 **THE COURT:** Members of the jury panel, I appreciate the
13 attention you've given to the attorneys, and the witnesses
14 and myself during this trial. I'm now going to ask you to
15 give me your attention for a few more minutes as I charge
16 you the law that you are to apply to the facts as you
17 determine them to be in this case.

18 The indictments are not going back with you into the
19 jury room. They, as I've told you before, certain charges
20 as I'll mention as we go through my charge. The indictments
21 charge Mr. -- the Defendant -- and I'll use the word
22 defendant frequently. And when I do, of course, I'm
23 referring to Jonathan Rhodes.

24 Indictments charge the Defendant with murder and
25 possession of a weapon during the commission of a violent

CHARGE OF THE COURT

651

1 crime, two counts of those, burglary in the first degree,
2 one count of that, and kidnapping and possession of a weapon
3 during the commission of a violent crime, two of those, one
4 each on the kidnapping and murder for Mr. Wells and one for
5 Mrs. Wells.

6 I'll remind you the fact that Mr. Rhodes has been
7 arrested, charged and indicted in this case is not evidence
8 in this case and cannot be considered by you as evidence of
9 guilt in this case. Nor does this fact create any
10 presumption or inference of guilt.

11 The indictment is simply the formal written instrument
12 which contains the charges made against the Defendant. It
13 is a formal document by which this case is brought into this
14 court and will be the record of the jury's decision. The
15 indictments in this case allege several different offenses
16 against Mr. Rhodes. Each indictment charges a separate and
17 distinct offense and so does each separate count.

18 You must decide each indictment separately on the
19 evidence and the law applicable to it uninfluenced by your
20 decision as to any other indictment except that you could
21 not find Mr. Rhodes guilty of possession of a weapon during
22 the commission of a violent crime until you have found him
23 guilty of the commission of a violent crime. I will later
24 charge you as to what constitutes a violent crime.

25 Mr. Rhodes may be convicted or acquitted on any or all

CHARGE OF THE COURT

652

1 of the offenses charged. You will be asked to write a
2 separate verdict of guilty or not guilty on -- for each
3 indictment.

4 Mr. Rhodes has pled not guilty to these indictments.
5 And this plea puts the burden on the State to prove his
6 guilt beyond a reasonable doubt. A person charged with
7 committing a criminal offense in South Carolina is never
8 required to prove their innocence.

9 I charge you that it is an important rule of law that a
10 defendant in a criminal trial, no matter the seriousness of
11 the charge, will always be presumed to be innocent of the
12 charge for which the indictment was issued unless and until
13 the State has proven by evidence satisfying you of that
14 person's guilt beyond a reasonable doubt. This presumption
15 of innocence attaches to the individual at the time of their
16 arrest and remains with them as the jury -- until the jury
17 is convinced of their guilt beyond a reasonable doubt.

18 The presumption of innocence remains in Mr. Rhodes'
19 favor as I speak at this time and remains with him as you
20 deliberate. The presumption of innocence in his favor is
21 removed if and when and only if and when you determine that
22 the State has proven -- that you unanimously determine that
23 the State has proven his guilt beyond a reasonable doubt.

24 Now, the State is not required, I'm sorry, the
25 presumption of innocence that I've just gone over is not a

CHARGE OF THE COURT

653

1 mere legal theory or a mere legal phrase. It is a
2 substantial right to which every defendant, including Mr.
3 Rhodes, is entitled.

4 Now, the State is not required to prove one's guilt
5 beyond all or beyond every doubt, but beyond a reasonable
6 doubt. Our courts have defined a reasonable doubt as the
7 kind of doubt that would cause a reasonable person to
8 hesitate to act. Proof beyond a reasonable doubt is proof
9 that leaves you firmly convinced of a defendant's guilt. As
10 I said, there are very few things in this world we know with
11 absolute certainty. And in criminal cases the law does not
12 require proof that overcomes every possible doubt.

13 If, based on your consideration of the evidence, you
14 are firmly convinced of Mr. Rhodes' guilt of one or more of
15 the charges, you would find him guilty. On the other hand,
16 if you think there's a real possibility that he is not
17 guilty, you would give him the benefit of that doubt and
18 find him not guilty.

19 I'll remind you during this trial you and I have
20 certain duties to perform. As a trial judge it is my
21 responsibility, as I told you when we started, to preside
22 over the trial of the case. And I also have the duty to
23 rule on the admissibility of evidence offered during the
24 trial.

25 You're to consider only the competence evidence before

CHARGE OF THE COURT

654

1 you. If there was testimony ordered stricken from the
2 record in this case during the trial, you must disregard
3 that testimony. You are to consider only the testimony
4 which has been presented from the witness stand, any
5 exhibits which have been put -- and along with any exhibits
6 which have been made a part of the record in this case.

7 During the course of the trial an attorney may have
8 made an objection to the introduction of certain evidence.
9 You're not to hold this against him or her or the party who
10 they represent as that is part of their job. You're to make
11 no inference from the fact that an attorney objected at any
12 point in the trial.

13 I have the additional duty to charge you the law
14 applicable to this case as the presiding Judge. As the
15 presiding Judge I'm the sole Judge of the law in this case.
16 It is your duty as jurors to accept and apply the law as I
17 now state it to you. This is true even if you think the law
18 should be different or even if you think I've charged you
19 the law in error.

20 In every case tried in this court before a jury, the
21 jury becomes the sole and exclusive judges of the facts of
22 the case. A trial judge cannot intimate, state, comment or
23 make any comment to a trial jury about the facts of a case
24 since you, the jury, are the sole judges of the facts.

25 You're not to infer from anything I have said or done

CHARGE OF THE COURT

655

1 during the progress of the trial there's any indication of
2 my having an opinion on the case or that I have any opinion
3 about the facts in the case. The law does not allow me to
4 have an opinion about the facts in this case.

5 This is a matter solely for you, the jury, to
6 determine. As jurors it is your duty to determine the
7 effect, the value, the weight of the truth of the evidence
8 presented during the trial.

9 There are two types of evidence which are generally
10 presented during a trial, direct evidence and circumstantial
11 evidence. Direct evidence is evidence which directly proves
12 the existence of a fact and does not require deduction.
13 Circumstantial evidence is proof of a chain of facts and
14 circumstances which indicate the existence of a fact.

15 Crimes may be proven by circumstantial evidence. Our
16 law makes no distinction between the weight or value to be
17 given to either direct or circumstantial evidence. However,
18 to the extent the State relies on circumstantial evidence,
19 all the circumstances must be consistent with each other and
20 when taken together point conclusively to the guilt of the
21 accused beyond a reasonable doubt.

22 If these circumstances merely portray a defendant's
23 behavior as suspicious, the State's proof has failed. The
24 State has a burden of proving a defendant guilty beyond a
25 reasonable doubt. This burden rests with the State

CHARGE OF THE COURT

656

1 regardless of whether it relies on direct evidence,
2 circumstantial evidence or some combination of the two.

3 Necessarily, you must determine the credibility of the
4 witnesses who have testified in this case. Credibility
5 simply means believability. You may believe one witness as
6 opposed to several, several witnesses as opposed to one.
7 You may believe all, part or none of a witness' testimony.

8 It is your duty to analyze and evaluate the evidence
9 and determine what evidence convinces you of its truth. To
10 determine the believability of witnesses who have testified
11 in this case, as I said, you may believe one witness over
12 several or several over one.

13 You may believe a part of the testimony of a witness
14 and reject the remaining part of the testimony of that same
15 witness. You may believe the testimony of a witness in its
16 entirety or reject the testimony of a witness in its
17 entirety.

18 Use your common sense, your sense of reason, your sense
19 of logic and your experiences in life in analyzing the
20 evidence in this case. In judging the credibility of the
21 witnesses, use those things that you find in your day-to-day
22 life to be indicative of truthfulness in a person.

23 You may also use evaluation of truthfulness such as a
24 witness' demeanor, how they acted on the stand. Look at the
25 witness' testimony. Are they hesitant or straightforward?

CHARGE OF THE COURT

657

1 Look at consistencies or any inconsistencies in witnesses'
2 testimony at trial or as compared to prior testimony or
3 statements.

4 You may also consider any bias or prejudice which a
5 witness may have, that is, any reason to help or hurt one
6 side or the other. You may also consider the opportunity a
7 witness had to know that -- the things to which the witness
8 testified. You may also consider a witness' criminal record
9 in assessing the witness' credibility.

10 Our rules of evidence ordinarily do not permit a
11 witness to testify as to opinions or conclusions. I told
12 you at the first of the trial, an exception to this rule
13 exists for witnesses we call expert witnesses.

14 A witness who by education and experience has become
15 expert in some art, science, profession or calling may state
16 an opinion as to relevant and material matter to which the
17 witness claims to be an expert and may also state the
18 reasons given for the opinion.

19 You could consider any expert opinion received -- you
20 should consider any expert opinion received into evidence in
21 this case, and like any other evidence, give it the weight
22 you think it deserves. If you decide that the opinion of an
23 expert witness is not based on sufficient education and
24 experience or if you conclude that the reasons given in
25 support of the opinion are not sound or that the opinion is

CHARGE OF THE COURT

658

1 outweighed by other evidence, you may disregard the opinion
2 entirely.

3 An expert witness' testimony is to be given no greater
4 weight than that of other witnesses simply because the
5 witness is an expert. Further, you are not required to
6 accept an expert's opinion even though it is not
7 contradicted. The testimony of expert -- the testimony of
8 an expert witness is allowed into evidence to assist you.
9 It is not binding on you.

10 I instruct you and emphasize that the fact that Mr.
11 Rhodes did not testify is not a factor to be considered by
12 you in any way in your deliberations and in your
13 consideration of the question of the guilt or innocence of
14 Mr. Rhodes. It must not be considered by you in any manner
15 whatsoever.

16 A defendant has a constitutional right to remain
17 silent. And the assertion of this right must not be
18 considered by you in your deliberations. I repeat that
19 under your oath you are to draw no conclusions whatsoever
20 from the fact that Mr. Rhodes did not testify. The fact
21 that he did not testify should not even be discussed in the
22 jury room by you or factored into your own individual
23 consideration of the evidence.

24 The burden to prove, as I have stated to you, is on the
25 State. Mr. Rhodes is not required to prove his innocence.

CHARGE OF THE COURT

659

1 The burden remains on the State to prove his guilt beyond a
2 reasonable doubt.

3 A person who was present at the scene of a crime and
4 intentionally or through a common plan aided, abetted or
5 assisted in the commission of that crime through some overt
6 act is guilty as an accomplice. To be liable as an
7 accomplice the Defendant must have knowledge of the
8 principal's criminal conduct. Mere presence at the scene of
9 the crime is not sufficient to establish guilt as an
10 accomplice.

11 Intentionally means wilfully intending the result which
12 actually occurs. Intentional acts are something that are
13 not accidental or involuntary.

14 If a case -- if a crime is committed by two or more
15 persons who are acting together in committing that crime,
16 the act of one is the act of all. A person who joins with
17 another to commit an unlawful act is criminally responsible
18 for everything done by the other person which happens as a
19 probable or nature consequence of the acts done in carrying
20 out the plan and purpose.

21 If two or more people are acting together or to get --
22 I'm sorry. If two or more people are together, acting
23 together, assisting each other in committing the offense,
24 the act of one is the act of all. As it is sometimes said,
25 the hand of one is the hand of all.

CHARGE OF THE COURT

660

1 Prior knowledge that a crime is going to be committed
2 without more is not sufficient to make a person guilty of
3 that crime. Mere knowledge that another person is going to
4 commit a crime, even if the defendant is present when the
5 crime is committed is not sufficient to convict a defendant
6 as a principal.

7 Guilt as a principal is shown by actual or constructive
8 presence at the scene as a result of prior arrangement.
9 Therefore, a finding of a prior arranged plan or common
10 scheme is necessary for a finding of guilt as a principal.

11 The State must prove beyond a reasonable doubt by
12 competent evidence the theory of the hand of one is the hand
13 of all. A principal in a crime is one who either actually
14 commits the crime or who was present, aiding, abetting or
15 assisting in committing the crime.

16 When a person does an act in the presence of and with
17 the assistance of another, the act is done by both. Where
18 two or more are acting with a common plan or intent or
19 present at the commission of a crime, it does not matter who
20 actually commits the crime, all are guilty. The hand of one
21 is the hand of all.

22 Present at the commission of a crime means to be
23 sufficiently near to aid, and abet and assist in the
24 commission of the crime. However, mere presence at the
25 scene of a crime is not sufficient to convict one as a

CHARGE OF THE COURT

661

1 principal on the theory of aiding and abetting.

2 Intent is also a necessary element where there must
3 have been a common design or intent to commit the crime.
4 And the crime must have been committed pursuant thereto with
5 the person aiding and abetting by some overt act.

6 Intent means intending the act. Intent may be shown by
7 acts and conducts of a defendant and other circumstances
8 from which you may naturally and reasonably infer intent.
9 The State must prove these elements beyond a reasonable
10 doubt.

11 As to the charges, all of these charges are statutory
12 charges established by our Legislature. First, the
13 Defendant is charged with first degree burglary. The State
14 must first prove beyond a reasonable doubt that Mr. Rhodes
15 entered the dwelling without consent. A dwelling is any
16 building or portion of a building in which a person
17 ordinarily sleeps.

18 The State does not have to prove that force was used to
19 gain entry. If a person enters a building by using
20 deception, artifice, trick or misrepresentation to get
21 consent to enter, this is an entry without consent.

22 Next the State must prove beyond a reasonable doubt
23 that the Defendant intended to commit a crime, either a
24 felony or a misdemeanor, at the time of the entry. The mere
25 entry into a dwelling without consent is not burglary. If

CHARGE OF THE COURT

662

1 the intent to commit a crime is formed after the entry, it
2 is not burglary. Intent may be shown by acts and conducts
3 of the Defendant and other circumstances from which you may
4 naturally and reasonably infer intent.

5 Finally, the State must prove beyond a reasonable doubt
6 at least one of these factors, but need not prove all of
7 them. First, when entering and while in the dwelling the
8 Defendant or an accomplice was armed with a deadly weapon.
9 A deadly weapon is any article, instrument or substance
10 which is likely to cause death or great bodily harm.
11 Whether an instrument has been used as a deadly weapon
12 depends on the facts and circumstances of each case. The
13 following may be considered deadly weapons; a pistol, a
14 handgun or a knife.

15 Second, when entering and while in the dwelling the
16 Defendant or an accomplice caused physical injury to anyone
17 not participating in the crime.

18 Third, the Defendant entered or remained in the
19 dwelling in the nighttime. Nighttime is a period between
20 sunset and sunrise during which there's not enough daylight
21 to recognize a person's face except by artificial light or
22 moonlight. Keep in mind that the State need not prove all
23 those three factors, but it must prove at least one.

24 The Defendant is charged with kidnapping. Here the
25 State must prove beyond a reasonable doubt that Mr. Rhodes

CHARGE OF THE COURT

663

1 knowingly and unlawfully seized, confined or kidnapped
2 another person without the authority of law. To do a thing
3 unlawfully is to do it wilfully against the law. Knowingly
4 means done with knowledge, consciously, not accidental.
5 Confine means to limit, restrict or enclose without bounds,
6 imprison, or shut or keep in. Kidnap is remove or restrain
7 a person against their will by unlawful force or by fraud.

8 The State does not have to prove the Defendant did all
9 of these things. Instead, if you find beyond a reasonable
10 doubt that the Defendant did any of these things, you could
11 find him, or would find him, or may find him guilty of
12 kidnapping.

13 Something done without authority of law is something
14 which the law does not sanction, permit, allow, condone or
15 provide justification for. Kidnapping does not have to be
16 for any personal or monetary gain or for any illegal person
17 -- purpose. It may be for any reason whatsoever.

18 The Defendant is charged with murder. Of course, as to
19 kidnapping, there are two counts, Mrs. Wells and Mr. Wells.
20 As to murder there are two counts or two indictments, Mr.
21 Wells and Mrs. Wells.

22 Here the State must prove beyond a reasonable doubt
23 that the Defendant killed another person with malice
24 aforethought. Malice is hatred, ill will or hostility
25 towards another person. It is the intentional doing of a

CHARGE OF THE COURT

664

1 wrongful act without just cause or excuse and with an intent
2 to inflict an injury or under circumstances that the law
3 would infer an evil intent.

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

9 Malice aforethought may be express or inferred. These
10 terms, express and inferred, do not mean different kinds of
11 malice, but merely the manner in which malice may be shown
12 to exist, that is, either by direct evidence or by inference
13 from the facts and circumstances which are proven.

14 Express malice may be shown when the person prepared
15 beforehand to do the act, which was later accomplished.
16 Malice may be inferred from conduct showing a total
17 disregard for human life.

18 Inferred malice may also rise when the deed is done
19 with a deadly weapon. A deadly weapon is any article,
20 instrument or substance which is likely to cause death or
21 great bodily harm. Whether an instrument has been used as a
22 deadly weapon depends on the facts and circumstances of each
23 case. The following instruments may be deadly weapons; a
24 pistol, a handgun or a knife.

25 If facts are proven beyond a reasonable doubt

CHARGE OF THE COURT

665

1 sufficient to raise an inference of malice to your
2 satisfaction, this inference would be simply an evidentiary
3 fact to be considered by you along with the other evidence
4 in the case. And you may give it the weight you decide it
5 should receive.

6 If one intentionally kills another during the
7 commission of a felony, the inference of malice may arise.
8 If facts are proven beyond a reasonable doubt sufficient to
9 raise an inference of malice to your satisfaction, this
10 inference would simply be an evidentiary fact to be taken
11 into consideration by you along with all the other evidence
12 in the case. And you may give it the weight that you decide
13 it should receive. Burglary in the first degree, and
14 kidnapping and murder are all felonies.

15 Finally, the Defendant is charged with two counts, one
16 is -- four counts, one is -- two as to Mrs. Wells, one for
17 murder, one for kidnapping, two as to Mr. Wells, one for
18 murder and one for kidnapping, with possessing a weapon
19 during the commission of or attempt to commit a violent
20 crime, which again, is a law imposed by our legislature.

21 Mr. Rhodes is charged with the possession of a weapon
22 during the commission of or attempt to commit a violent
23 crime. The State must prove beyond a reasonable doubt that
24 the Defendant was in possession of a firearm or knife during
25 the commission of a violent crime. A pistol or a handgun is

CHARGE OF THE COURT

666

1 a firearm. A knife means an instrument or tool with a sharp
2 cutting blade, whether or not fastened to a handle, which
3 can be used to inflict a cut, slash or wound.

4 In order to find the Defendant guilty of possession of
5 a weapon during the commission of a violent crime you must
6 first find the Defendant guilty of either committing a
7 violent crime or attempting to commit a violent crime.
8 Murder and kidnapping are both violent crimes under the laws
9 of this State. The State must prove beyond a reasonable
10 doubt that the weapon further advanced or helped with the
11 commission of the crime.

12 Now, you will have the written charge with you in the
13 jury room, Mr. Foreman. But if you have any questions about
14 the charge at any time, let me know, and I will bring you
15 back out here in open court and recharge you or address any
16 concerns you have.

17 If you have any questions during the trial about any
18 issues and want to communicate with me, write a note with
19 the question or statement, send it out, I will confer with
20 the attorneys. And after I have conferred with them, I'll
21 respond.

22 It may be that I can write an answer on the note
23 itself. If I do that and send the note back in, keep the
24 note and return it with the evidence because it has to --
25 with the exhibits because it has to be part of the record.

CHARGE OF THE COURT

667

1 If you want any testimony to be -- if you want to
2 rehear any testimony, let me know. And we will bring you
3 back in the courtroom and play that testimony for you
4 without comment by anybody, just simply play it.

5 When you've reached a verdict, knock on the door and
6 tell the bailiff you've reached a verdict. And the bailiff
7 will come and get us. I'm going to go over the verdict
8 forms with you in just a moment.

9 Mr. Harrison and Ms. Austin, you'll remain this time
10 when the jury goes out because your services will not be
11 needed further. So when the jury goes out in just a moment,
12 just stay in here.

13 When you do go out in just a moment, when you go to the
14 jury room do not start deliberating and don't get too
15 comfortable because I may have to send for you. Once I have
16 sent you out, I have to inquire of the attorneys if I have
17 made an error. If I have made an error, I'll have to bring
18 you back in and correct it because I told you to follow the
19 law as I have charged it.

20 If I need to bring you back in, it would just be a few
21 moments before I bring you back in. If I do not need to
22 bring you back in, I will send in the verdict forms that I'm
23 going to go over with you in just a moment, the exhibits and
24 the bailiff will tell you to start deliberating.

25 Lunch is supposed to arrive around 12:30, that

CHARGE OF THE COURT

668

1 neighborhood. While lunch is here, you can stop and enjoy
2 your lunch if you want or you can work through lunch if you
3 wish. That is your prerogative.

4 Your verdict must be unanimous. Your verdict cannot be
5 based on sympathy, passion, prejudice, public opinion or
6 matters outside the record. Again, it must be unanimous.
7 All twelve jurors must agree. And once you have unanimously
8 agreed, the foreperson, foreman, Mr. Epps will be authorized
9 to enroll on the forms I'm going over in just a minute.

10 As I've told you, I'll give you a copy of these
11 instructions to take in with you. During your deliberations
12 you may refer to them to guide your decision-making. You
13 must consider the instructions as a whole and not follow
14 some and ignore the others. Please, when you return the
15 exhibits, again, return the written charge, Mr. Foreman.

16 Now, on the burglary charge there are two options. The
17 order they're in is of no importance. I always put them in
18 the same order. You would put a check mark, Mr. Foreman, in
19 front of whichever verdict the jury has unanimously
20 rendered.

21 The first line says, we find the Defendant guilty of
22 first degree burglary. And if the State has proven to your
23 unanimous satisfaction Mr. Rhodes guilty of that offense,
24 you'd put a check or X in front of that line. If the State
25 has failed to prove his guilt as to that charge, you would

CHARGE OF THE COURT

669

1 put a check or X on the second line that says we find the
2 Defendant not guilty. There's a place for you to sign and a
3 place for the date. And I believe the date's the 3rd.

4 On the other forms, they're all the same, except for
5 one refers to kidnapping -- two refers to kidnapping and two
6 as to murder. Now, as I have told you, the order these are
7 in is of no importance. I have two counts on these as I've
8 told you earlier.

9 If you -- you would use the second count only if you
10 find Mr. Rhodes guilty of the first count. The options are
11 basically the same on all four. They're the same as
12 burglary as to count one, we find the Defendant guilty of
13 either kidnapping or murder. If that's your unanimous
14 verdict as to a charge, you would put X in front of that
15 line.

16 If you find as to a charge, the Defendant -- if the
17 State's failed to prove the Defendant's guilt beyond a
18 reasonable doubt, you would use the second line that says we
19 find the Defendant not guilty. If you find the Defendant
20 not guilty, you go no further.

21 If you have found the Defendant guilty of either
22 kidnapping of either or both of the victims, you would go to
23 count two, which says consider only if the jury has
24 unanimously found the Defendant guilty of kidnapping or
25 murder. Then you have the two options, we find the

CHARGE OF THE COURT

670

1 Defendant guilty of possession of a weapon during the
2 commission of a violent crime or we find the Defendant not
3 guilty.

4 And I've told you that you use the top line, a finding
5 of guilt, the State must have convinced you that Mr. Rhodes
6 did as to that particular offense, either kidnapping or
7 murder, possess a weapon during the commission of that
8 crime. And if the State has failed to prove that beyond a
9 reasonable doubt, you would use the second line, we find the
10 Defendant not guilty.

11 I'm going to let you go to the jury room for just a
12 moment and -- while I confer with the attorneys. Thank you.

13 (Whereupon the jury exited the courtroom at 11:19 am)

14 **THE COURT:** I'll be with you two in just a moment. We
15 have ordered you lunch. You can stay around for that if you
16 wish or you can leave, but we'll make arrangements for you
17 to have lunch. I'll be back with you in just a moment.

18 Anything from the State regarding the charge?

19 **MR. WILKINS:** We got no issues, Your Honor.

20 **THE COURT:** All right. Anything from the Defense?

21 **MR. ERWIN:** No, sir, not regarding the charges. I
22 guess this would be the appropriate time to go ahead and
23 renew all objections and directed verdict motions up to this
24 point.

25 **THE COURT:** Okay. Those motions are denied.

1 **MR. ERWIN:** Yes, sir.

2 **THE COURT:** I do -- in all our collective, two, four,
3 six, nine -- since I'm not sending in the indictments, the
4 jury -- I think I need to put on here where it says verdict
5 form, under there, the name of the victim in that
6 indictment. I don't know that under the facts of this case
7 the jury would find him guilty of the murder of one and not
8 the other, but we'll correct that. She's already told me
9 she can do that. She'll just -- under verdict form I'll
10 put, paren, as to Gary Wells, as to Helen Wells. Any
11 objection?

12 **MR. WILKINS:** No, Your Honor.

13 **MR. ERWIN:** No, sir.

14 **THE COURT:** We'll fix that and send it in. Yes, sir.

15 **MR. ERWIN:** You might not be surprised, Mr. Sarratt has
16 one small thing for you before we get out of here.

17 **THE COURT:** All right. I'll let y'all go ahead and go.
18 Well, just stay there just a minute. Mr. Sarratt is very,
19 very smart. He's had -- he's made me juggle my mind all
20 week. So you may have some entertainment value.

21 **MR. SARRATT:** Your Honor, it's just one small matter.
22 I would like to make a Court's exhibit the certification of
23 exigency. I think it might help only for the record going
24 forward.

25 There was some testimony from Investigator Howard that

1 there were orders to produce the records. And when I made
2 my arguments under the Fourth Amendment, I referred to them
3 as orders, and there was some confusion about that. And I
4 said, no, no, no, it's not an order, it's a certification of
5 exigency. I think it might help the record just to have
6 that, again, only as a Court's exhibit for the appeal or if
7 there is one.

8 **THE COURT:** Well, that's a big part of the -- one of
9 the opinions of this case. So, certainly, make it a Court's
10 exhibit.

11 (Whereupon Court's exhibit 5 was marked)

12 **THE COURT:** All right. Again, y'all can stay and see
13 what the verdict is. I don't know how long the jury will
14 take. You can stay for lunch or you can leave. So thank
15 you for your help. You'll be mailed a check, is that right,
16 Lisa?

17 **MADAME CLERK:** They'll need to go back down and see
18 Judy.

19 **THE COURT:** Oh, you need to go back to the jury
20 assembly room. I can't send you home. But I don't think
21 anybody's going to start a trial this afternoon. So go back
22 downstairs to the jury assembly room. The bailiffs will
23 help you get down there.

24 (Whereupon the alternates exited the courtroom)

25 **THE COURT:** While we're waiting for the bailiff, I want

VERDICT OF THE JURY

675

1 (No response)

2 **THE COURT:** State ready?

3 **MR. WILKINS:** Yes, Your Honor.

4 **THE COURT:** Defense ready?

5 **MR. ERWIN:** Yes, sir.

6 **THE COURT:** All right.

7 **MR. WILKINS:** I apologize, Your Honor.

8 (Whereupon the jury entered the courtroom at 3:04 pm)

9 **THE COURT:** Mr. Foreman, I understand the jury has
10 reached verdicts in the case.

11 **MR. FOREMAN:** Yes, Your Honor.

12 **THE COURT:** If you'll hand them to the bailiff, he'll
13 hand them up to me.

14 (Pause)

15 **MADAME CLERK:** Your Honor, in indictment 2013-GS-23-
16 04263, the State versus Jonathan Rhodes, as to Gary Wells,
17 count one, murder, we find the Defendant guilty.
18 Count two, possession of a weapon during the commission
19 of a violent crime, we find the Defendant guilty.

20 2013-GS-23-04262, as to Helen Wells, count one, we find
21 the Defendant guilty.

22 Count two, possession of a weapon during the commission
23 of a violent crime, we find the Defendant guilty.

24 2013-GS-23-04261, as to Gary Wells, count one,
25 kidnapping, we find the Defendant guilty.

VERDICT OF THE JURY

676

1 Count two, possession of a weapon during the commission
2 of a violent crime, we find the Defendant guilty.

3 2013-GS-23-04260, as to Helen Wells, count one,
4 kidnapping, we find the Defendant guilty.

5 Count two, kidnapping, we find the Defendant, excuse
6 me, count two, possession of a weapon during the commission
7 of a violent crime, we find the Defendant guilty.

8 2013-GS-23-04264, as to Gary and Helen Wells, first
9 degree burglary, we find the Defendant guilty.

10 Ladies and gentlemen of the jury, if you agree this is
11 the verdict you've reached, please raise your right hand.

12 (Whereupon all jurors raised their right hand)

13 **THE COURT:** Let the record reflect all twelve jurors
14 raised their hand. You can be seated. Anything from the
15 State before the jury's dismissed?

16 **MR. WILKINS:** Nothing from the State, Your Honor.

17 **THE COURT:** Anything from the Defense before the jury's
18 dismissed?

19 **MR. ERWIN:** No, Your Honor.

20 **THE COURT:** All right. Members of the jury panel, I'm
21 going to dismiss you at this time, however, you can stay
22 through the sentencing if you wish. I don't require jurors
23 to stay for that.

24 Mr. Epps, I need to make sure before you leave that I
25 get your signature on the indictments. So if you don't mind

SENTENCE OF THE COURT

683

1 **THE COURT:** Thank you. And your name for the record?

2 **MR. EDWARDS:** Demetrius Edwards.

3 **THE COURT:** Okay. Thank you, Mr. Edwards. All right.

4 Mr. Rhodes.

5 **MR. RHODES:** To the victims of Gary and Helen Wells,
6 siblings, I'm sorry for the loss of your mother and daddy.
7 I mean, what is done, can't take it back.

8 However, that verdict not true, but I have no choice
9 but to sit here and accept it. But no matter how much time
10 the Judge may sentence me to or whatever, at the end of the
11 day, I'm innocent. So the truth shall always manifest. The
12 truth shall always manifest. So y'all satisfied with me
13 being found guilty, peace be upon you all.

14 I'm sorry for the loss of your family. Nobody deserve
15 to die that way. That's all I have to say, Your Honor.

16 **THE COURT:** All right. The sentence on the murder for
17 both parties, all of these are to run concurrent, they are,
18 as to both murders, life imprisonment, two counts of life --
19 murder, life imprisonment. Burglary, life imprisonment.
20 And all four possession of weapons, five years.

21 On the two kidnappings, life imprisonment for each.
22 I'm sorry. On the two kidnappings, they're by law -- since
23 you have been sentenced for life under -- for murder, you
24 receive no sentence on kidnapping. So I have written on
25 those two sentencing sheets, no sentence since Defendant

SENTENCE OF THE COURT

684

1 sentenced to life for murder.

2 The next may sound superfluous, but I'm going to do it
3 because this is part of what -- as I know our law right now.
4 I'm putting on there there was no sexual assault or
5 attempted sexual assault. If I did not put that on there,
6 you would be subject to being placed on the Sex Offender
7 Registry, but there's no evidence of any sexual assault in
8 this case.

9 So you have four life sentences, four sentences of five
10 years and two sentences on kidnapping that are basically
11 zero, no sentencing whatsoever. You understand all that?

12 **MR. ERWIN:** Thank you, Your Honor.

13 **THE COURT:** Does that cover everything?

14 **MR. WILKINS:** Yes, Your Honor.

15 **MS. STROM:** Yes, sir.

16 **THE COURT:** Okay. Thank you. You understand that?

17 All right.

18 **MR. WILKINS:** Thank you, Your Honor.

19 **THE COURT:** All right. Thank you.

20 (Whereupon Court's exhibit 6 was marked)

21 (Hearing Ended at 3:20 pm)

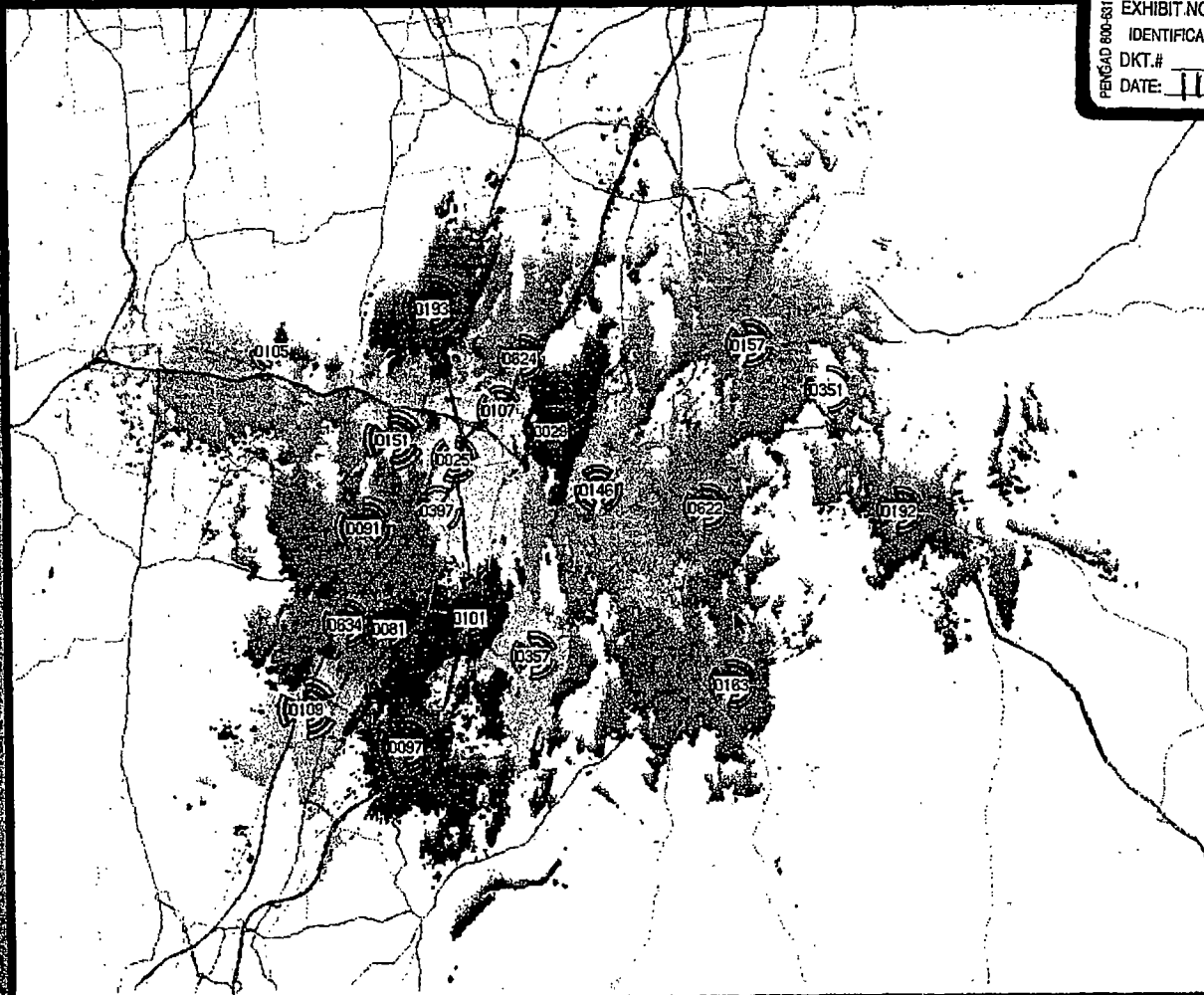
22 (End of Requested Transcript of Record)

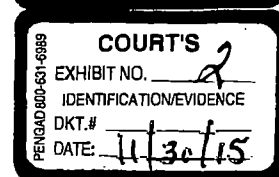
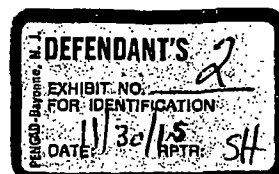
85DBM COVERAGE PLOT

EXHIBIT NO. 1
FOR IDENTIFICATION
DATE: 11/30/15 BY: SH

COURT'S
EXHIBIT NO. 1
IDENTIFICATION/EVIDENCE
DKT.#
DATE: 11/30/15

☒	major_highway
☒	secondary_highway
☒	arterial_road
CDMA Ec Multiple Carriers	
F1-A	
☒	Clr: Cell
☐	2-0025-0000 MERIDEN 2 CT
☒	2-0029-0000 MIDDLEFIELD CT
☒	2-0081-0000 WALLINGFORD CT
☒	2-0091-0000 MERIDEN SOUTH CT
☒	2-0097-0000 WALLINGFORD E CT
☒	2-0101-0000 WALLINGFORD NE CT
☒	2-0105-0000 MERIDEN CT
☐	2-0107-0000 MERIDEN NE CT
☐	2-0109-0000 WALLINGFORD S CT
☒	2-0146-0000 MIDDLEFIELD SOUTH CT
☒	2-0151-0000 MERIDEN E CT
☒	2-0157-0000 MIDDLETOWN CT
☒	2-0163-0000 DURHAM CT
☒	2-0192-0000 MIDDLETOWN SE CT
☒	2-0193-0000 MERIDEN NORTH CT
☐	2-0351-0000 SOUTH FARMS CT
☐	2-0357-0000 WALLINGFORD 2 CT
☒	2-0397-0000 MERIDEN SE CT
☒	2-0622-0000 MIDDLETOWN 2 CT
☒	2-0624-0000 MIDDLETOWN W CT
☒	2-0634-0000 WALLINGFORD 3 CT





Key to Understanding Reveal PCMD Reports

Phone Number:	Target phone number searched.
ESN:	Electronic Serial Number
Call Start Time:	Time and date the call first registered with the Sprint network.
Duration:	Length of the call. (Always in seconds)
Switch:	MSC (Mobile Switching Center) or phone switch that handled the call.
Cell ID:	Cell site that handled the call.
Sector:	Sector of the cell site that handled the call.
Distance in Miles:	Estimated distance in miles that the mobile device is from the cell site.
Latitude:	This is the estimated latitude of the mobile device when the RTD (Round Trip Delay) was measured.
Longitude:	This is the estimated longitude of the mobile device when the RTD (Round Trip Delay) was measured.
Cascade:	Unique Identifier for the cell site used on the call.
Call Type:	This is the type of connection. These are Data 1X, EVDO, SMS or Voice Call.

PLEASE READ:

PCMD- (Per Call Measurement Data) takes RF (Radio Frequency) measurements during a call. This is how the Distance in miles, Latitude and Longitude are determined. This is the estimated location of the mobile device when the RTD (Round Trip Delay) was taken during the connection. There are many variables that can affect the accuracy of these measurements. Multipath of the radio wave to or from the mobile device may affect the accuracy. Sprint mobile devices may be in a one way connection or multiple hand-off connection with different sectors on the same cell site or different sectors on different cell sites when the measurements were taken which can affect the accuracy. Sprint has repeaters deployed throughout the network. If a repeater was being used when the measurements were taken, the accuracy will be affected.

Sprint Nextel will not guarantee the accuracy of the location information.

Data 1X:	Data service transaction
EVDO:	Data service transaction
SMS:	Text message on the CDMA network
Voice Call:	Telephone Call

Agency I.D.
SC0230000GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental ReportCase Number
12000145559

I.D. OVERFLOW	☐ Original Report		☐ Status Change		☐ Additional Victims		☐ Additional Stolen Property		Incident Type <u>S417 - Death Investigation</u>	
	☒ Supplemental Report		☐ Other Report		☐ Additional Defendants		☐ Additional Recovered Property		Patrol District <u>03</u> Page <u>1</u> of <u>2</u> Pages	
	☐ Complainant		Subject's Name (Last, First, Middle) <u>WELLS, GARY GETTYS</u>				Victim Relationship To Subject <u>RU</u>		Ethnicity <u>N</u> Resident <u>J</u> Race <u>W</u> Sex <u>M</u> Age <u>78</u>	
	☐ Victim #1		Address <u>TERRAMONT Dr</u>				City <u>GREENVILLE</u> State <u>SC</u> Zip Code <u>29615</u>		Patrol District <u>03</u> Day Phone <u> </u> Ev <u> </u>	
NARRATIVE	☐ Subject		☐ Runaway		☐ Wanted		☐ Arrest		☐ Missing	
	☐ Jail		☐ Other		Height <u> </u> Weight <u> </u> Hair <u> </u> Eyes <u> </u>		Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc. <u> </u>		Victim No. <u>1</u> Visible Injury ☒ Yes ☐ No	
	Complaint of any Non-Visible Injuries ☐ Yes ☒ No		Victim Using Alcohol ☐ Yes ☐ No ☒ Unk		Two-Man Veh ☐ One Man Veh ☐ ALONE ☐		Detective ☐ Other ☐ ASSISTED ☐		Explain <u>MULTIPLE INJURIES</u>	
	Subject No. <u> </u> Using Alcohol ☐ No ☐ Yes ☐ Unk		Using Drugs ☐ No ☐ Yes ☐ Unk		Type: <u> </u>		☐ Arrested on Current Offense		☐ Cleared By Arrest on Prior Offense	
Arrestee Armed ☐ Yes ☐ No		Weapon Type <u> </u>		☐ On View Arrest ☐ Summoned ☐ Custody		Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority		Gang Affiliation: <u>NG - Not Gang Related</u>		
Arrest Location <u> </u>										

Overflow:

ROGERS, SHIRLEY ANN: Complainant 1

RACE: Black, SEX: Female, DOB: , RESIDENT: Resident of South Carolina, Mobile:
3532
VANCE St GREENVILLE 29611 CJ11 (Greenville city)

WELLS GARY GETTYS: Victim 1
 SSN:

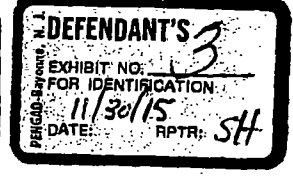
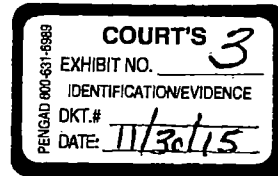
WELLS, HELEN TEAGUE: Victim 2
 ADDRESS: TERRAMONT Dr GREENVILLE SC 29615 03, ETHNICITY: N, RESIDENT: J, RACE: W, SEX: F,
 AGE: 77, DOB: , SSN:
 VICTIM REL TO SUBJECT: RU, VISIBLE INJURY: No, Injury Description: MULTIPLE INJURIES, NON-
 VISIBLE INJURY: No, USING ALCOHOL: Unknown, USING DRUGS: Unknown

Narrative:

On April 1 of 2015, I was asked by Investigator Hammett to assist with additional investigation into this case. I was asked to look into the following areas:

Whether or not T-Mobile could provide GPS data on the T-mobile phones we had ordered records for, and how to subpoena a T-mobile representative for trial. A confirmation on the accuracy of PCMD data from Sprint, and to speak with the FBI Cast team to see if they could review and provide a report on the data we had retrieved from Sprint and T-mobile phones.

On 4-6-15 I spoke with a Sprint representative and was advised on the process to subpoena a custodian of records. I was referred to speak with a trial team member about PCMD data. On 4-10-15 I spoke with Sprint Custodian Dwight Nicholson via phone number -0852. Nicholson advised that they could not testify to the accuracy of PCMD data s only a rough estimate, and that there had been determined to be a margin of error in the estimate data as the distance to the cell tower can be anywhere from 2-10 miles. He referred me to speak with a CAST member as their report would be more accurate.



PROPERTY	Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value
ADMIN	Subject Identified		Subject Located		☐ Active ☐ Admin Closed		☐ Arrested Under 18	
	☐ Yes ☒ No		☐ Yes ☒ No		☐ Unfounded		☒ Arrested 18 and Over	
	Reason For Exceptional Clearance		☐ Offender Death ☐ No Prosecution ☐ Victim Declines Cooperation ☐ Extradition Denied ☐ Juvenile No Arrest					
	Reporting Officer(s)		Date	Unit#/Star#	Approving Officer		Date	Unit#/Star#
HOWARD, JONATHAN		07/16/2015	663 / 01191	Jarvis, Mike		07/16/2015	502 / 00484	
				Follow Up Investigation ☐ Yes ☒ No (Officer) Howard, Jonathan		07/16/2015	663 / 01191	

590

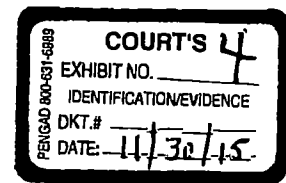
Agency I.D.
SC023000GREENVILLE COUNTY SHERIFF'S OFFICE
Supplemental Report

Case Number

12000145559

☐ Original Report	☐ Status Change	☐ Additional Victims	☐ Additional Stolen Property	Incident Type <u>S417 - Death Investigation</u>			
☒ Supplemental Report	☐ Other Report	☐ Additional Defendants	☐ Additional Recovered Property	Patrol District <u>03</u> Page <u>2</u> of <u>2</u> Pages			

I.D. OVERFLOW	☐ Complainant	Subject's Name (Last, first, Middle)		Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth																																									
	☐ Victim	Address		City	State	Zip Code	Patrol District	Day Phone	Evening Phone																																										
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	☐ Runaway	☐ Victim No. _____		Visible Injury ☐ Yes ☐ No	Complaint of any Non-Visible Injuries ☐ Yes ☐ No	Victim Using Alcohol ☐ Yes ☐ No ☐ Unk	Two-Man Veh ☐ One Man Veh ☐ ALONE ☐																																												
	☐ Wanted	Explain:				Drugs ☐ No ☐ Yes Type:	Detective ☐ Other ☐ ASSISTED ☐																																												
NARRATIVE	☐ Arrest	Subject No. _____		Using Alcohol ☐ No ☐ Yes ☐ Unk			☐ Arrested on Current Offense																																												
	☐ Missing			Using Drugs ☐ No ☐ Yes Type:			☐ Unk ☐ Cleared By Arrest on Prior Offense																																												
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Juvenile Disposition ☐ Handled Released ☐ Referred To Other Authority																																																			
Arrest Location		Gang Affiliation: NG - Not Gang Related																																																	
I reached out to the FBI and spoke with Alita Thompson via phone number 350-0708. She referred me to Clay Simmons with the Charleston FBI office (843-654-5545). Simmons directed me on how to contact the Cast team via e-mail. I forwarded a request to cast@ic.fbi.gov, and recieved a response from Michael Sutton who advised that he would have an agent contact me once I submitted a request form, which I completed and submitted. I was contacted by Agent Rich Fennon, who requested that I forward the cell records we had on file to him. I forwarded records from the following numbers: -9391 (Rogers), -3532 (Rogers), -7678 (McDaniels), -7553 (Rhodes) and -025/ (Cade). Fennon sent a rough draft report to me and advised me on the process to submit subpoena for testimony and final draft closer to the trial date. I also contacted T-Mobile and was advised that GPS tracking data can not be reviewed post submission, but must be an active track as it is not stored. I was advised that Sue Johnson is the contact for trial requests at 973-292-8906. Nothing further to report at this time.																																																			
PROPERTY	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Status</th> <th>Property Type</th> <th>Quantity</th> <th>Property Make</th> <th>Color</th> <th>Description</th> <th>Serial # / OAN</th> <th>Value</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>											Status	Property Type	Quantity	Property Make	Color	Description	Serial # / OAN	Value																																
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591

THE STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

THE STATE)

v.)

JONATHAN D. RHODES,)

DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

Warrant/Indictment Nos.: 2012A2330203420;
2012A2330203421; 2012A2330203422;
2012A2330203423; 2012A2330203424;
2012A2330203425; 2012A2330203426

**MOTION IN LIMINE FOR A HEARING ON
THE ADMISSIBILITY OF EXPERT
TESTIMONY**

COMES NOW the defendant, **Jonathan D. Rhodes**, by and through his undersigned counsel, and moves this Court for an Order to suppress.

The following cases are submitted in support of this motion:

- The admission of expert testimony is governed by S.C.R.E. Rule 702, which provides, "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise."
- Despite this permissive language, the Supreme Court of South Carolina has held that "[e]xpert evidence is required where a factual issue must be resolved with scientific, technical, or any other specialized knowledge." Watson v. Ford Motor Co., 389 S.C. 434, 445 (2010). "First, the trial court must find that the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury. Next, while the expert need not be a specialist in the particular branch of the field, the trial court must find that the proffered expert has indeed acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter. Finally, the trial court must evaluate the substance of the testimony and determine whether it is reliable." Id. at 446

(citations omitted). “[O]nly after the trial court has found that expert testimony is necessary to assist the jury in resolving factual questions, the expert is qualified in the particular area, and the testimony is reliable, may the trial court admit the evidence and permit the jury to assign it such weight as it deems appropriate.” *Id.* at 446-47. “It is this final requirement of reliability which is the central feature of the inquiry.” Graves v. CAS Med. Sys., 401 S.C. 63, 74 (2012) (citing State v. White, 382 S.C. 265, 270 (2009)).

- In State v. White, 382 S.C. 265 (2009), the Supreme Court held that “trial courts of this state have a gatekeeping role with respect to all evidence sought to be admitted under Rule 702, whether the evidence is scientific or nonscientific.” White, 382 S.C. at 274. If the proffered testimony is scientific in nature, this Court must determine its reliability using the factors set forth in State v. Council, 335 S.C. 1 (1999). Under Council, this Court must consider “(1) the publications and peer review of the technique; (2) prior application of the method to the type of evidence involved in the case; (3) the quality control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures.” *Id.* at 19.
- However, the Supreme Court has recognized that “the Council factors for scientific evidence serve no useful analytical purpose when evaluating nonscientific expert testimony.” White, 382 S.C. at 274. The court went on to state: “We do not pretend to know the myriad of Rule 702 qualification and reliability challenges that could arise with respect to nonscientific expert evidence. Consequently, we offer no formulaic approach that will apply in the generality of cases. Yet the trial court in the discharge of its gatekeeping role in determining admissibility must initially answer the always present threshold questions of qualification and reliability.” *Id.*

In this case, the State has indicated that it intends to call Special Agent Richard Fennern of the Federal Bureau of Investigation's Cellular Analysis Survey Team to present demonstrative evidence intended to show the estimated location of the defendant's cellular telephone at various points in time. The State may also seek to qualify Agent Fennern as an expert in the field of historical cell site analysis. This reliability of this novel field of expertise has not yet been challenged at the appellate level in South Carolina. The only South Carolina case addressing this new field was decided in February of this year by the South Carolina Court of Appeals in State v. Drayton, 411 S.C. 533 (Ct. App. 2015). Drayton, however, only dealt with a Fourth Amendment challenge under both the federal and South Carolina Constitution, and the court was not presented with the issue of whether the method of using historical cell site analysis to locate a cell phone was either scientific or reliable. The cases cited above represent the analytical framework with which this Court may use to determine the reliability of historical cell site analysis, but there is no formulaic approach. The burden rests with the state to prove to this Court's satisfaction the threshold questions of qualification and reliability.

While there is no precedent that is binding on this court with regard to the reliability of historical cell site analysis, the following is a list of persuasive authority from other state and federal courts that have addressed this issue and found the general field of historical cell site analysis to be reliable:

United States v. Schaffer, 439 F. App'x 344 (5th Cir. 2011); United States v. Eady, No. 12-cr-00415, 2013 U.S. Dist. LEXIS 124266 (aff'd, 599 Fed. Appx. 116, 2015 U.S. App. LEXIS 5843, 2015 WL 1600409 (4th Cir. 2015) (per curiam) (finding no abuse of discretion on the sole issue raised on appeal that the trial court erroneously found that Special Agent Sutton had performed a

drive test to record information about the strength of specific cell tower signals)); United States v. Machado-Erazo, ___ F. Supp. 2d ___, 2013 U.S. Dist. LEXIS 84808, 2013 WL 2932399 (D.D.C. 2013), 2013 U.S. Dist. LEXIS 84808, 2013 WL 2932399 (D.D.C. 2013) United States v. Reynolds, No. 12-cr-20843, 2013 U.S. Dist. LEXIS 80828, 2013 WL 2480684 (E.D. Mich. 2013); United States v. Davis, No. 11-cr-60285, 2013 U.S. Dist. LEXIS 70371, 2013 WL 2156659 (S.D. Fla. 2013); United States v. Fama, No. 12-cr-186, 2012 U.S. Dist. LEXIS 174887, 2012 WL 6102700 (E.D.N.Y. 2012); United States v. Henderson, No. 10-cr-117, 2011 U.S. Dist. LEXIS 138802, 2011 WL 6016477, at *5 (N.D. Okla. 2011); United States v. Benford, No. 09-cr-86, 2010 U.S. Dist. LEXIS 56556, 2010 WL 2346305 (N.D. Ind. 2010); United States v. Allums, No. 08-cr-30, 2009 U.S. Dist. LEXIS 24224, 2009 WL 806748 (D. Utah 2009).

The following cases have found specific applications of historical cell cite analysis to be unreliable and inadmissible:

United States v. Evans, 892 F. Supp. 2d 949 (N.D. Ill. 2012); United States v. Thornton, No. 13-cr-466, (N.D. Ga. 2014) (“The Court would have significant concerns if Special Agent Fitzgerald were to offer an expert opinion on the precise street location or radius where the Defendant’s phone communications were made based on the telecommunications data and methodology identified in his testimony.”) (emphasis added) (order attached).

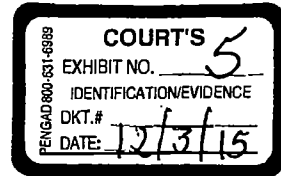
WHEREFORE, for the above-stated reasons as well as any other reasons which may appear to this Court, Mr. Rhodes prays that this Court grant his motion and order the suppression of the state's expert testimony.

Respectfully submitted,

GREENVILLE COUNTY PUBLIC DEFENDER

By: Stuart Sarratt
Stuart Sarratt, Esq.
Bar No. 100228
Attorney for Defendant
305 E. North Street, Suite 123
Greenville, SC 29601
(864) 467-8522

Greenville, SC
Date: November 30, 2015



Sprint Legal Compliance
6480 Sprint Parkway, 2nd Floor
Overland Park, KS 66251
Office: (800) 877-7330
Fax: (816) 600-3100

2012-311648
Danielle B.
Electronic Surveillance

MANDATORY INFORMATION

FOR EXIGENT CIRCUMSTANCE REQUESTS

Agency cover sheet must be faxed with this form

Call Sprint Corporate Security before faxing this form.

Fax all requests to Sprint at 816-600-3100

Emergency Contact: 1-800-877-7330 Press Emergency Options

PLEASE PRINT

LAW ENFORCEMENT AGENCY (LEA) Greenville County Sheriff's Office
ADDRESS OF LEA 4 McGee St Greenville SC 29601
PHONE NUMBER OF LEA (864) 467-5240 FAX # (864) 467-5267
AGENT'S TITLE & Name Investigator J.D. Howard BADGE # 1191
AGENT'S E-Mail johoward@greenvillecounty.org
SUPERVISOR'S NAME Sgt. Matheny SUPERVISOR'S PHONE # 864-467-5397

I hereby certify that I have been granted authority by the above-mentioned LEA to determine and declare an exigent situation involving:

- a) *Immediate danger of death or serious bodily injury to any person;*
- b) *conspiratorial activities characteristic of organized crime;*
- c) *an immediate threat to a national security interest.*

Below is my description of the exigent situation that requires Sprint Nextel to respond immediately (please include the Sprint phone number or any other relevant information):

SPRINT PHONE NUMBER or CUSTOMER NAME: 7553
EXIGENT DESCRIPTION: Investigation on a double homicide
occurred on 10/2/12 w/ active suspect

I am requesting that Sprint Nextel provide the following service(s) (mark all that apply):

- ☒ X Subscriber Information
- ☒ X Call Detail Records with cell site information (within the past week)
- ☒ X Historical Location Information PCMD (within the past 14 days)
(*Only available for CDMA Sprint PCS phones*)
- ☒ X Precision Location of mobile device (GPS Location)
- NOTE: Law Enforcement Agent MUST call for each GPS attempt.**
- ☐ Real-time audio interception (wiretap)*
- ☐ Real-time Pen Register, Trap & Trace *
- ☐ Other, please specify: _____

*Between
October 1st
and October 4th
of this year
(2012)*

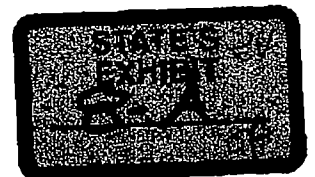
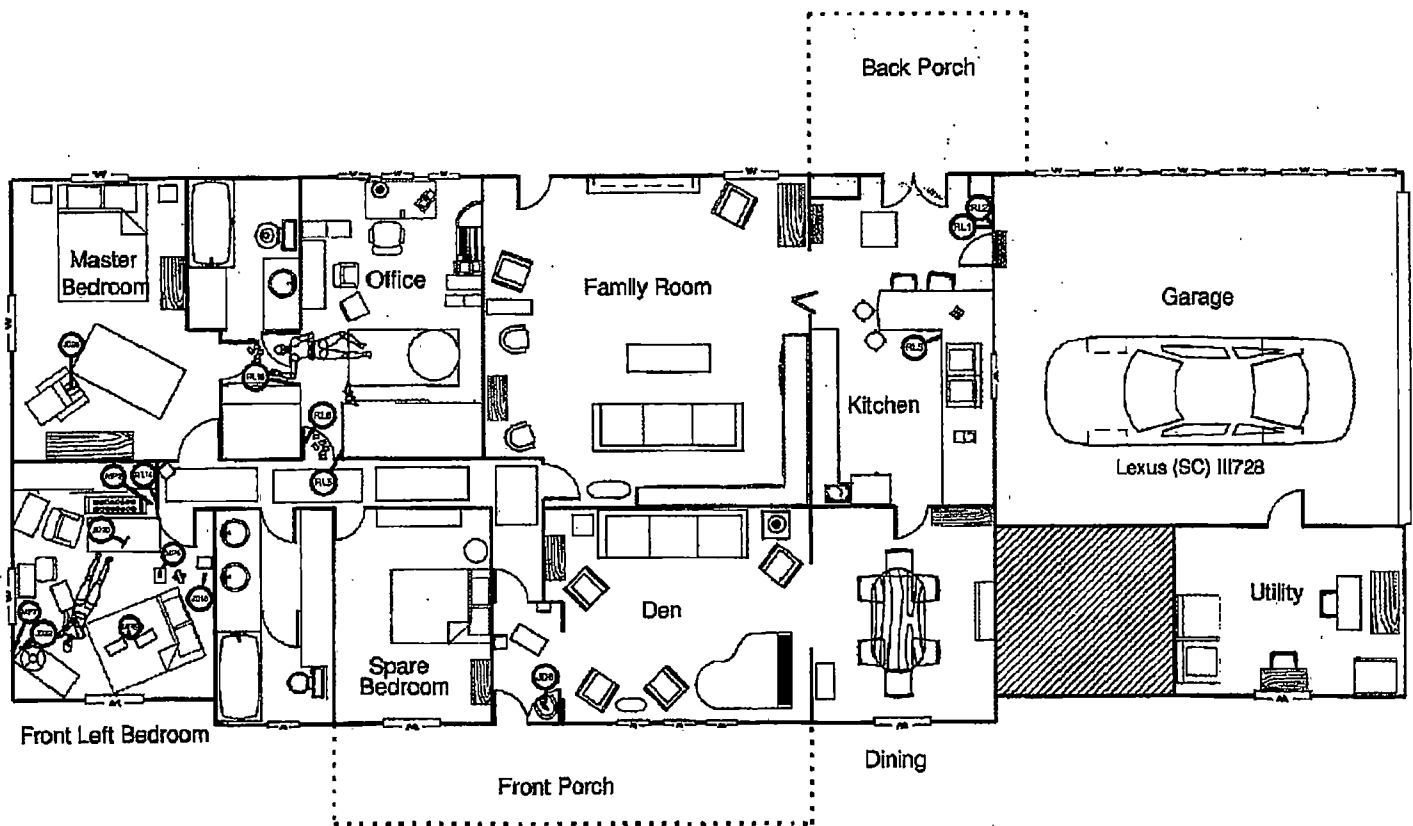
* You must have access to CALEA delivery capability with Sprint.
* Pursuant to Title 18 United States Code §2518, §2701, and §3125 all electronic surveillance assistance will terminate if the appropriate legal demand or customer consent is not received within 48 hours. The valid legal demand or customer consent should be faxed to Sprint.

***I Jonathan D Howard declare under penalty of perjury

SIGNATURE

that the foregoing is true and correct. Executed on: 10-17-2012 ***

DATE



WITNESSES

Henry Hammett

Greenville County Sheriffs Office

10/24/2012

ARREST WARRANT NUMBER

2012A2330203424, DIRECT PRESENTMENT

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Count 1 Guilty

Count 2 Guilty

L.T.S.
Foreperson of Petit Jury

Date: 12/3/15

DOCKET NO. 2013-GS-23-
BCS

004260

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2013

THE STATE

vs.

JONATHAN DONELL RHODES

Indictment for

0095, 0549

**KIDNAPPING AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION § 16-03-0910 and § 16-23-0490

LBH

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
KIDNAPPING AND POSSESSION OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

MAY 21 2013

the Grand Jurors of Greenville

County present upon their oath:

COUNT ONE

KIDNAPPING

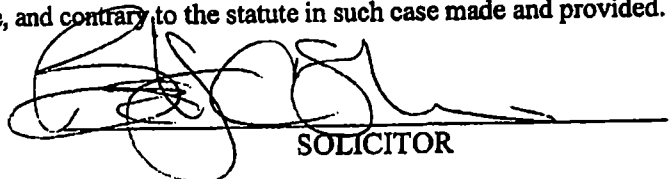
That JONATHAN DONELL RHODES did in Greenville County, on or about the 1st day of October, 2012, unlawfully seize, abduct, confine, inveigle, decoy or carry away HELEN WELLS, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JONATHAN DONELL RHODES did in Greenville County, on or about the 1st day of October, 2012, possess or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Kidnapping. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY FIRST DEGREE

MAY 21 2013

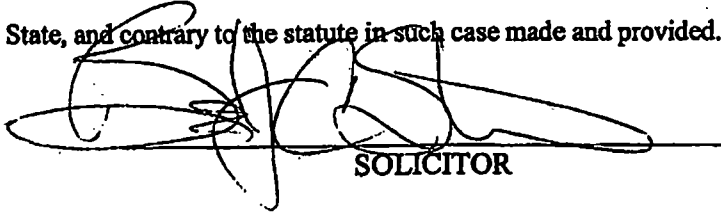
At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That JONATHAN DONELL RHODES did in Greenville County, on or about the 1st day of October 2012, willfully and unlawfully enter the dwelling of GARY & HELEN WELLS located at 10 Terramont Drive, Greenville, South Carolina, without consent and with the intent to commit a crime therein, and the burglary was accompanied by circumstances of aggravation, to wit: The entering or remaining occurred during the nighttime hours and/or while armed with a deadly weapon and/or did cause physical injury to a person who was not a participant in the crime. This is in violation of §16-11-0311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

601

COUNTY OF Greenville
STATE VS.Jonathan Donell Rhodes

AKA:

Race: BLACK Sex: M Age: 25DOB: SS#: Address: 8205 Glenn Forest DriveCity, State, Zip: Greenville, SC 29607DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (After June 20, 1985) - First degreeINDICTMENT/CASE#: 2013GS2304264A/W#: 2012A2330203422Date of Offense: 10/1/2012S.C. Code § : 16-11-0311CDR Code #: 0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Strom, Betty15305
SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>135.90</u>

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

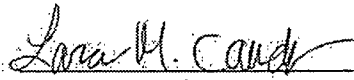
SCCA/217 (03/2011)

Presiding Judge Judge Code: Sentence Date:

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia, S.C. 29211-1589

ATTORNEYS FOR APPELLANT

This 17th day of April, 2017.