

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT W. MCCAFFERY, JR.,

APPELLANT.

APPELLATE CASE NO. 2019-000540

RECORD ON APPEAL

LARA M. CAUDY
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

AMBREE M. MULLER
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3727

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401
(843) 958-1900

ATTORNEYS FOR RESPONDENT

RECEIVED

APR 08 2020

SC Court of Appeals

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MARCH 4-8, 2019.....	1
OPENING STATEMENT BY MS. SHEALY	2
OPENING STATEMENT BY MR. LIZZI	6
TESTIMONY	
CHRISTOPHER DAVIS	
Direct Examination by Ms. Shealy	10
Cross-Examination by Mr. Lizzi.....	28
BRANDY LEE	
Direct Examination by Ms. Shealy	37
Cross-Examination by Mr. Lizzi.....	120
Redirect Examination by Ms. Shealy.....	135
Recross-Examination by Mr. Lizzi	138
TERESA DENISE RICHARDSON	
Direct Examination by Ms. Shealy	139
Cross-Examination by Mr. Lizzi.....	149
TIMOTHY KELLEY	
Direct Examination by Ms. Shealy	152
MADELINE PAGE	
Direct Examination by Ms. Shealy	156
JAMES PERKINS	
Direct Examination by Ms. Shealy	159
Cross-Examination by Mr. Lizzi.....	194
Redirect Examination by Ms. Shealy.....	211
Recross-Examination by Mr. Lizzi	216
ROBERT COLSON	
Direct Examination by Ms. Shealy	217
Cross-Examination by Mr. Lizzi.....	227
JASON RILEY	
Direct Examination by Mr. Cooper	232

Cross-Examination by Mr. Lizzi.....	273
Redirect Examination by Mr. Lizzi	281
Recross-Examination by Mr. Cooper	283
PAUL MCMANIGAL	
Direct Examination by Mr. Cooper	286
Cross-Examination by Mr. Lizzi.....	328
Redirect Examination by Mr. Cooper	334
Recross-Examination by Mr. Lizzi	337
JAMES GAME	
Direct Examination by Mr. Cooper	339
Cross-Examination by Mr. Lizzi.....	342
Redirect Examination by Mr. Cooper	343
MARK CHRISTENBERRY	
Direct Examination by Ms. Shealy	344
Cross-Examination by Mr. Lizzi.....	350
LEAH SCHONFELD	
Direct Examination by Ms. Shealy	351
CARLA MCINTYRE	
Direct Examination by Ms. Shealy	356
Cross-Examination by Mr. Lizzi.....	365
Redirect Examination by Ms. Shealy.....	368
Recross-Examination by Mr. Lizzi	368
CHRISTINE SIMMONS	
Direct Examination by Ms. Shealy	370
Cross-Examination by Mr. Lizzi.....	378
Redirect Examination by Ms. Shealy.....	381
MARY GAME	
Direct Examination by Ms. Shealy	382
Cross-Examination by Mr. Lizzi.....	389
DAVID TEMPLETON	
Direct Examination by Ms. Shealy	392
Cross-Examination by Mr. Lizzi.....	397
ROBIN RIGGS	
Direct Examination by Ms. Shealy	398
Cross-Examination by Mr. Lizzi.....	402

ROBERT MARSHALL BLALOCK	
Direct Examination by Ms. Shealy	403
Cross-Examination by Mr. Lizzi.....	406
DEBORAH MACK	
Direct Examination by Ms. Shealy	408
Cross-Examination by Mr. Lizzi.....	412
DONNA PARRISH	
Direct Examination by Ms. Shealy	414
Cross-Examination by Mr. Lizzi.....	421
Redirect Examination by Ms. Shealy.....	423
JENNIFER BEARD	
Direct Examination by Ms. Shealy	425
Cross-Examination by Mr. Lizzi.....	427
ROBERT LEONARD	
Direct Examination by Mr. Cooper	428
Cross-Examination by Mr. Lizzi.....	456
Redirect Examination by Mr. Cooper.....	476
Recross-Examination by Mr. Lizzi	478
HELEN BANACH	
Direct Examination by Ms. Shealy	479
Cross-Examination by Mr. Lizzi.....	495
MOTION FOR A DIRECTED VERDICT.....	501
COURT'S RULING	503
STATE RESTS	507
RENEWED PRIOR MOTIONS	507
COURT'S RULING	507
TESTIMONY (CONTINUED)	
ALAN PERLMAN	
Direct Examination by Mr. Lizzi.....	508
Cross-Examination by Mr. Cooper	531
SIDNEY MILLER	
Direct Examination by Mr. Cooper	532
Cross-Examination by Ms. Shealy.....	539

Redirect Examination by Mr. Lizzi	545
DEFENSE RESTS	546
RENEWED PRIOR MOTIONS	547
COURT'S RULING	547
JURY CHARGE	548
CLOSING ARGUMENT BY MS. SHEALY	560
CLOSING ARGUMENT BY MR. LIZZI	591
CLOSING ARGUMENT BY MS. SHEALY	610
VERDICT	625
SENTENCING	627
STATE'S EXHIBIT NO. 63 (LETTER)	628
STATE'S EXHIBIT NO. 64 (RENTAL CABIN AGREEMENT)	630
STATE'S EXHIBIT NO. 73B (SUMMARY OF PHONE EXTRACTION)	635
STATE'S EXHIBIT NO. 82B (EXTRACTION REPORT)	641
STATE'S EXHIBIT NO. 108 (WRITTEN STATEMENT)	644
INDICTMENT	646
CERTIFICATE OF COUNSEL	650

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NOS. 75B (CD – DASH CAM) AND 115 (CD – INTERVIEW).

1 MR. LIZZI: The only motions I would have is at the time
2 they rest.

3 THE COURT: Do you want to make those now?

4 MR. LIZZI: I make a motion for a directed verdict on the
5 charge of obstruction of justice. The State has failed to
6 prove that he intentionally heeded the administrative --
7 administration of justice, that the statements that were given
8 to the law enforcement on the 18th as indicted, he described
9 to them where he went, what he did.

10 There -- any other non relevant issues regarding later
11 actions, there were no other statements given to the police
12 that misled them. And in fact, there is no proof that a crime
13 ever was being investigated at the time that they -- that
14 these statements were made.

15 In fact, the State said that they were not investigating
16 a crime, they were investigating a missing persons at the time
17 and not a crime.

18 To the issue of the letter, as we said, it was presented
19 to law enforcement. The authorship is unknown. But that
20 those statements regarding that -- from him that he said
21 who -- who authored the letter, that the only statements
22 that were him is that he found the letter on the printer and
23 that -- and the items that were there when he came home.

24 He never indicated that his wife had present -- had
25 authored the letter. Never indicated who had authored the

1 letter. The only testimony here was that -- that he handed
2 the initial letter and said that he found it on the printer.

3 THE COURT: All right.

4 MR. LIZZI: There's no facts to say that that wasn't
5 true.

6 THE COURT: All right. Thank you, Mr. Lizzi.

7 Anything in response from the State?

8 MS. SHEALY: Your Honor, I certainly believe that there
9 is competent evidence tending to prove the charge in the
10 indictment to enable the State to go forward with the
11 remainder of the trial.

12 Obviously we have had not only an expert indicate that it
13 is more likely that Bob McCaffrey authored the letter than
14 Gayle McCaffrey. And he went into all the numerous ways for
15 which that is his opinion.

16 But also and I think in some ways equally important,
17 people who know her. Her sister who has known her since
18 birth, coworkers who saw her daily, indica- -- people who go
19 to church with her and the hand bell choir and Sunday school
20 church every Sunday know Gayle McCaffrey, know her use of
21 language, know whether or not she uses foul words. And each
22 have testified that they have never heard her speak that way.
23 Nor from the ones who were familiar with her writing that she
24 would write as it is typed on that instrument.

25 So unequivocally Mr. McCaffrey in asserting that and the

1 letter being in the person of Gayle, signed by Gayle, and
2 referencing what Mr. McCaffrey has asserted was true, that he
3 had squirreled away \$110,000 from his wife and family as they
4 fought financial problems, that he has asserted that it was
5 authored by his wife and that she had left for a person named
6 Nikki.

7 This record is void of anyone knowing a Nikki connected
8 with Gayle McCaffrey. So I think that there is ample evidence
9 for this to go forward and it would be appropriate for us to
10 be entitled to do so.

11 In addition to that, just to add to it, when he initially
12 spoke to Chris Davis, initially upon his own calling of the
13 police he indicated that he had gone to Easley to a second
14 home because he and his wife were having problems and he
15 needed to clear his head. That was a lie.

16 And all of this is encompassed in the missing persons
17 investigation. There is no requirement that a crime occurred.
18 It is the administration of justice. This man did everything
19 he could to thwart that.

20 THE COURT: All right. Viewing the evidence in the light
21 most favorable to the State, which the court is required to do
22 if there is any, any competent evidence, any evidence
23 whatsoever, upon which a jury could return a verdict of guilt,
24 whether there be direct evidence or substantial circumstantial
25 evidence the court is required to submit the case to the jury

1 for their determination.

2 Obstruction of justice the law requests that the State
3 prove the defendant committed an act, committed an act, which
4 prevented, obstructed, impeded, or hindered the administration
5 of justice.

6 Furthermore, the State is required to prove beyond a
7 reasonable doubt that the defendant did an act with the intent
8 to obstruct justice.

9 Intent is an element that is required. Intent, of which
10 I will charge the jury, is a matter for them to decide based
11 upon all of the facts and circumstances surrounding the
12 incident. That is what the law requires.

13 Testimony from James Perkins about the information
14 provided by Mr. McCaffrey hindered law enforcement's ability,
15 in his opinion, to locate her. His testimony was that based
16 upon information provided to law enforcement by Mr. McCaffrey
17 in essence led them to, quote, them chasing their tail so to
18 speak. Through their investigation no Nikki.

19 The investigation revealed: No ability or no \$110,000
20 nor a safe which would have been the main -- means and method
21 by which Ms. McCaffrey could have left. Time lapse from the
22 arrival at home of the defendant until when police were
23 called. The defendant conveying to law enforcement the safe
24 issue pertaining to the safe. Issue pertaining to the code to
25 the safe being in his phone. Expert testimony concerning

1 extraction of numerous emails, text, information from the
2 defendant's known phones, none of which included any
3 information pertaining to a safe or a code for a safe.

4 The whole issue in this case boils down to in essence
5 State's Exhibit Number 63, State's Exhibit Number 63. There
6 has been testimony by Dr. Leonard which I believe creates a
7 question of fact, creates a question of fact, on which would
8 necessitate and require that this court submit this case to
9 the jury.

10 It is up to them to determine the authorship of this
11 letter. But certainly there is sufficient evidence for this
12 case to go to the jury based upon the evidence and testimony
13 that has been elicited from this witness and over the last
14 three-and-a-half days at this point.

15 However, defendant's motion is so noted for the record.
16 But that is the Court's ruling.

17 MR. LIZZI: Thank you, Your Honor.

18 THE COURT: Now we are going to break for lunch at this
19 time. I am going to ask that you all be back at 1:30. What I
20 -- when I come back at 1:30 before I bring the jury back in at
21 that time, Mr. McCaffrey, I will expect an answer from you as
22 to whether or not you intend to testify. Once you have
23 answered this court's question as it relates to that issue I
24 will bring the jury in at that point.

25 The State I am assuming will rest at that point. At that

1 point, Mr. McCaffrey, I will recognize you to simply for
2 purposes of the record to renew all prior motions and
3 objections. No arguments of such motions. That is what we
4 are doing right now.

5 But certainly to protect your client's interest I think
6 you are required to renew those motions as well as objections.

7 At that point I will restate my rulings of such will
8 remain the same at that point, and I will recognize you to
9 present whatever case if any the defense decides to put up.
10 Okay?

11 MR. LIZZI: Thank you, Your Honor.

12 THE COURT: Very well. 1:30.

13 MR. COOPER: Can I have just two things. I have got an
14 updated exhibit list for Your Honor. And also can we make Mr.
15 -- or Dr. Leonard's report a court's exhibit?

16 THE COURT: You can make his, Dr. Leonard's PowerPoint,
17 you can make it a court's exhibit for identification only, not
18 to go back with jury.

19 Because as I told you all up here at side bar, Dr.
20 Leonard -- hold it down, please (directed to audience).
21 Everybody hold it down.

22 Doctor Leonard testified consistent with his report;
23 however, he provided additional information outside which was
24 set forth in that report. The court has a concern about, one,
25 the report is entered into evidence that the jury can solely

1 of your prior motions, etc. And I will rule and we will
2 proceed.

3 Bring me the jury, please, ma'am.

4 (WHEREUPON, jury enters 3/7/19, 1:37 p.m.)

5 THE CLERK: All jurors present and seated, Your Honor.

6 THE COURT: All right. Good afternoon, ladies and
7 gentlemen. I hope you all had a nice lunch and are ready to
8 proceed at this time.

9 The State, you are recognized.

10 MS. SHEALY: Thank you, Your Honor. At this time the
11 State would rest.

12 THE COURT: Ladies and gentlemen, the State has rested
13 its case at this point. Therefore at this point I am going to
14 recognize defense counsel.

15 MR. LIZZI: At this time, Your Honor, I renew all of my
16 motions and objections.

17 THE COURT: All right. Defense counsel has renewed all
18 prior motions and objections. The court's ruling remains the
19 same as to each. Therefore, we are going to continue to
20 proceed.

21 I recognize you again, Mr. Lizzi. Call your first
22 witness, sir.

23 MR. LIZZI: May it please the court. I call Dr. Alan
24 Perlman.

25 (WHEREUPON, the witness was duly sworn.)

1 THE CLERK: For the record please state your full name,
2 spelling your last.

3 THE WITNESS: My name is Alan M. Perlman.
4 P-E-R-L-M-A-N.

5 DIRECT EXAMINATION BY MR. LIZZI OF ALAN PERLMAN:

6 Q: Dr. Perlman, can you tell the jury about your education?

7 A: Yes. I graduated from Brown University in 1964. I
8 majored in linguistics. Mostly English linguistics. But my
9 minor was in Russian. Studied all aspects of linguistics.
10 Graduated third in my class with high honors and summa cum
11 laude which is the highest grading you could get.

12 I was awarded a Woodrow Wilson fellowship which I
13 declined because I also got a University of Chicago special
14 humanities fellowship. More money. So I went to the
15 University of Chicago for my M.A. and PhD. I got my -- both
16 of those degrees from the University of Chicago.

17 Q: And did you do any specific dissertations as part of
18 that?

19 A: Yes. At Brown linguistics at that time was an honors
20 major, which means you had to write a thesis just like you
21 would a graduate student.

22 And my honors thesis was an analysis of the dialect of
23 afro -- African American speakers in novels, in literature,
24 written by black authors.

25 And I painstakingly went through every bit of dialogue.

1 And what it was, was my first real introduction to language
2 variation; because what I found was that these speakers would
3 actually alter their speech depending on whether they were
4 speaking to somebody with equal social status or lesser or
5 greater. And I was able to document that in my thesis.

6 During my graduate years my master's thesis was in
7 phonetics which was -- is not related to the current case.
8 But I also studied English linguistics in more depth. I
9 studied different stages of English; old English, middle
10 English, and early modern English. All of these are distinct
11 stages.

12 And in my PhD I was in Hawaii. I left the University of
13 Chicago with my master's and all of my PhD requirements
14 completed. And in Hawaii I finished my doctoral thesis.

15 To my great good fortune William Lebov, of whom you have
16 heard mentioned, came to the University of Hawaii to offer a
17 ten-week summer course in his field methods.

18 You have to understand that back in the day you had these
19 big, cumbersome reel-to-reel recorders and they had to be
20 plugged in. You couldn't really do any good dialect research.

21 But then when we had compact tape-recorders we could
22 record people's natural speech. And that is what Lebov was
23 teaching us, how to interview and how to collect natural
24 speech data and then what to do with it when you have it.

25 So I wound up driving out to plantation towns Oahu and

1 interviewing folks about their immigration experiences and
2 plantation experiences as they grew up. And learned more
3 about cock fighting and sugar growing than I thought I would
4 ever need to know.

5 But when I was done I had hours and hours of audio tapes
6 which I then transcribed and noted these signature features of
7 Hawaiian English, which I won't go into here. But I found
8 that these features, actually again with context, with
9 audience, and they varied along certain parameters. And that
10 was my dissertation, nomadical structure and style shifting,
11 Hawaiian, pidgin, and Creole.

12 Q. Would you tell the jury what your employment history is?

13 A. Excuse me?

14 Q. Your employment history?

15 A. I'm sorry, I didn't hear you.

16 Q. Your employment history.

17 A. Oh, okay. I spent 13 years as a -- an instructor,
18 college professor of English and linguistics. Most recently
19 at Wayne State University in Detroit.

20 I left Wayne State in 1979. I became a corporate
21 executive speechwriter. I taught myself how to do that.
22 Through my linguistic study of style analysis was able to
23 write speeches that actually sounded like executives. And
24 that is how I survived for 25 years.

25 At one point an executive said to me, my wife says I

1 can't believe you didn't write this. And so I knew I was
2 successful. But I did that.

3 But I also started applying -- I shared what I knew. I
4 wrote articles. I wrote a whole textbook on speech writing,
5 gave presentations and seminars. I wrote scholarly papers.
6 Which I can go into if you would like me to do. But that is
7 what I was doing during my speech writing years.

8 And I began to be consulted on forensic issues. This
9 goes back to 1979. My first case was a copyright, trademark
10 issue. Somebody wanted to establish a restaurant which he
11 called a Weight Watcher's restaurant. And Weight Watcher's
12 International came down on him hard because they had
13 copyrighted that term. And he argued, well, he had a lot of
14 object noun -- object verb compounds; a computer operator, bus
15 driver. Got millions of them.

16 But nevertheless Weight Watchers International had
17 copyrighted this one. And I had to say that he had no case.
18 That was my first in 1979. And there have been hundreds
19 since.

20 Q. And what other academic and professional qualifications
21 do you have in the area of the forensic linguistics?

22 A. Well, I have published articles on things that I have
23 found and ways that I have gone about it. I have shared my
24 methods in articles. And I've written -- I've delivered
25 papers.

1 I did one to the document examiners handwritings folks
2 and told them what authorship analysis consisted of in
3 forensic linguistics.

4 So I have been recently active sharing -- sharing my
5 knowledge during these years.

6 Q. And have you participated and been involved in legal
7 cases?

8 A. Yes.

9 Q. And about how many?

10 A. I am going to guess hundreds. This is involved -- I
11 specialize in four areas of forensic linguistics. One of
12 those, author identification. The second is plagiarism. And
13 here I wind up mostly defending people accused of plagiarism.
14 I have defended everybody from college students to law
15 professors.

16 I also do contract interpretation. People write these
17 contracts, they write these prenups; and they are supposed to
18 be air tight and only have one meaning. Guess what? There
19 was one sentence or two sentences that are just not clearly
20 obvious and so they call -- a lawyer will call me in to give
21 my interpretation.

22 And my fourth area is copyright and trademark. And here
23 I am interested in finding out whether a given term is already
24 in the language.

25 Q. And ---

1 A. And if it -- it can't be copyrighted except in a derived
2 sense. This is interesting. The law says you can't market
3 pants and call them a pants. Okay. But you can market a dish
4 soap and call it Joy.

5 Q. And how long have you actually been working and
6 consulting in the area of forensic logistics?

7 A. Linguistics I would have to say that it started in 1979
8 with the Weight Watchers.

9 MR. LIZZI: At this time I would offer him as an expert
10 in the area of forensic linguistics.

11 THE COURT: Anything from the State?

12 MR. COOPER: Beg the court's indulgence.
13 Beg the court's indulgence for just a second.

14 The State has no objection, Your Honor.

15 THE COURT: Ladies and gentlemen, this individual is
16 being qualified as an expert in the field of forensic
17 linguistics.

18 I previously gave you an instruction with regards to
19 expert testimony. That instruction remains the same with
20 regards to this witness as well. He is being qualified as
21 they state, as an expert in the field of forensic linguistics
22 to give opinion testimony.

23 Like I said with regards to Dr. Leonard, that does not
24 mean that you must accept his opinion; but it is for you to
25 use -- it is evidence for you to use in any way you see fit

1 and give it the weight and credibility that you deem
2 appropriate.

3 Mr. Lizzi, you may continue.

4 MR. LIZZI: May it please the court.

5 Q. Doctor, can you give us a little bit of an overview of
6 linguistics?

7 A. Yes. It is the study of language in all of its aspects.
8 More particularly, it is the study of how we get from meaning
9 to form. Meaning is what is in your brain and what you are
10 trying to accomplish with regard to the other speaker. Form
11 comes out of your mouth and goes on paper.

12 What is the relationship? Extremely complex.
13 Linguistics is also interested in language variation.
14 Practically every language change that you can think of
15 started off being considered a mistake, but it got adapted.

16 So language variation, language change, that is another
17 area of interest in linguistics. Linguistics is also
18 interested in the kind of variation in present time that we
19 see.

20 There could be regional dialects. There are regional
21 dialects. There are social dialects. There are ethnic
22 dialects. There are dialects, not today, with all harmonic
23 communication that come from foreign language speakers. And
24 those are dialects too.

25 Linguists are interested in describing how these change

1 form into meaning. I'm sorry, meaning into form. And how
2 they themselves vary. Because nobody speaks perfectly
3 consistent.

4 So it is variation. It is change. It is form to
5 meaning. It is language in all its aspects, written and
6 spoken. And even hypothetical like going on every --
7 everything -- every aspect of language is of interest to the
8 linguist. And that is why you have got to specialize in
9 something.

10 Q. And can you tell me a little bit about pattern -- what
11 the use of patterns and style markers and ---

12 A. Yes. A style marker is a feature of language that is
13 either rare or frequent or both. And I am going to give you
14 an example of somebody who generates a tremendous amount of
15 speech so we can see his style markers.

16 I am talking about our leader. And he says believe me a
17 lot. And he says it is very very good. And he says we will
18 see what happens. And he says who knew that health care could
19 be so complex. Meaning I didn't know that health care could
20 be so complex.

21 There is an article in the Atlantic that lists the
22 various features that define his speaking style. Well, it is
23 true of all of us. We just have a lot more data from him.

24 Now style marker has to be, I said, consistent and
25 frequent. And there has to be pattern. Okay. You just can't

1 pick one thing. There has to be a pattern. Now I will give
2 you an example of all of those, with your indulgence.

3 A feature that I find kind of rare - and I'm going, I'm
4 going to look at this very carefully - is addressing the
5 recipient of a communication in communication.

6 I don't know if anybody does this; but whenever I see it,
7 you know, half way through it is, Bill, I don't know what I am
8 going to do. You know, it is in the middle. And that doesn't
9 -- not everybody does that. So when I see somebody who does
10 that, that has got my attention; okay.

11 Another one is what I call condescending epithets:
12 Buddy, you don't know what I can do. Honey, this is not the
13 way we do things here.

14 Again, when I see those kinds of things I am alerted to
15 could this be a style marker.

16 Now the second aspect along with frequency in meriting is
17 pattern. Pattern. I will give you an example of a pattern is
18 the hyphen. The hyphen is my -- the most information rich
19 element in the English writing. Why? Because there's no
20 fixed rules for its use. So do you use it with prefixes?
21 Okay. Do you use it with compounds, like well-known? Does
22 that have a hyphen or not?

23 There are so many prefixes and so many compounds and so
24 many words. Re-create, does that have a hyphen or not?

25 So you can get -- that is what I mean by patterns. You

1 look at the hyphenation across a number of emails, a number of
2 communications, a reasonable amount of data, you see a
3 pattern.

4 The second example, contractions. We all know what that
5 is. Couldn't verses could not. I'm versus I am. Well, which
6 words do you contract? Which don't?

7 Have is rarely contracted. Most people don't write
8 would. They pro- -- incorrectly write "would of" with an O-F.
9 But some contractions are very frequent like I'm and you're.

10 And I invite anyone to take printouts of his or her
11 emails, maybe 10 or 20 of them, circle the contractions. Look
12 to your own patterns. Which words do you contract? Because
13 if I am going to try to identify you as an author I will be
14 looking at that.

15 Q. And how does the basic learning and grammar and all of
16 that affect forensic linguistics?

17 A. There is a certain amount -- a -- grammar has to --
18 grammar has many meanings. Because it is used so capriciously
19 I guess by everyday people.

20 But there's at least two meanings that I really want to
21 distinguish, okay. We all know grammar. Okay, we all know
22 grammar. By the time you are six years old you know grammar.
23 Your language gets more complex as you get older. But if you
24 listen to a three-year-old they are missing kind of -- and the
25 sentences are scrambling. They miss certain things.

1 But language acquisition is one of the miracles of being
2 human, and by the time you are six or seven you have a pretty
3 good grasp of grammar.

4 Okay, now you go to school and you learn grammar. Well,
5 what you learn is two things. You learn how to write. Which
6 is grammatically different from speaking because it is not
7 interactive. So you are not bouncing off of what somebody
8 just said when you write. It is sentence, sentence, sentence,
9 sentence. Okay.

10 The second thing you learn is the difference between the
11 grammar that you came to school with and the form of the
12 grammatical features that will - let's face it - get you ahead
13 in the world.

14 So you come to school saying ain't. You learn that that
15 is to be -- that is to be confined to informal colloquial
16 context. And you learn to say are not, is not.

17 That is the kind of -- that is the kind of grammar that
18 we learned in school, the difference between the natural
19 language ability we come to school with and the prestige
20 variety of the language that the education system wants us to
21 learn. Probably with some justification, because that is what
22 is going to get us ahead in the world.

23 Q. And one of the last areas that I wanted to just have you
24 touch on was this area of about code switching. About how --
25 tell us a little bit about how people change that -- things

1 that they write, the way that they write, under different
2 circumstances?

3 A. Well, you have actually pretty much described it. We all
4 change our language to fit the situation. We almost are not
5 even aware of doing it. But anybody with a linguist ear will
6 hear that we are doing it.

7 Now this can -- code switching can apply to vocabulary.
8 When my wife says anything I know she is angry at me, okay.
9 If you -- apply it to grammar or both. And it's -- it can
10 even mean the use of a different language for bilingual
11 speakers in different context.

12 So the term it is a very broad term. But what it means,
13 as you said, is varying one or more aspects of the language to
14 fit the situation or the audience.

15 Q. And were there -- were there differences in the documents
16 that you reviewed in this matter -- most of the documents that
17 you reviewed as to Gayle, what were the kind of contents of
18 that; what are most of the circumstances would you look at,
19 how they were -- who they are written to and where?

20 A. The Gayle writings are almost exclusively public
21 language. Public language. Writing in a professional context
22 about things that are going to take place in the school,
23 arrangements for travel. Comparatively calm, mundane subjects
24 that -- that don't -- that don't involve -- that don't
25 involve a lot of emotion.

1 Q. And you reviewed -- you heard Dr. Leonard's testimony and
2 you reviewed his report. What kind of issues do you have with
3 his testimony was about the materials that were reviewed in
4 comparison with -- in comparing the two hypothesis that were
5 set forth in court here today?

6 MR. COOPER: Objection, Your Honor. Can we approach?
7 (WHEREUPON, bench conference 3/7/19, 1:58 p.m.)

8 THE COURT: I am going to have to send you to the jury
9 room. Do not discuss the case. I will get you back out here
10 in just a minute.

11 (WHEREUPON, jury exits 3/7/19, 1:59 p.m.)

12 THE COURT: Let me give this back to you, Mr. Lizzi.
13 (WHEREUPON, document returned to Mr. Lizzi.)

14 THE COURT: Now ask the doctor the questions that you
15 wanted to ask, please. Go ahead. I want to hear what you
16 have got -- what you are going to ask him and what his
17 responses are.

18 MR. LIZZI: I would ask of him as to the two hypothesis
19 that were presented in this case, hypothesis number one and
20 hypothesis number two, did he have a differing opinion as to
21 that of Dr. Perlman.

22 THE COURT: Okay. And what is your objection to that?

23 MR. COOPER: Your Honor, the State's issue is that he is
24 pitting by the very nature of his question showing the
25 hypothesis that Dr. Leonard created and asking him to explain

1 (WHEREUPON, jury enters 3/7/19, 2:10 p.m.)

2 THE CLERK: All jurors are present and seated, Your
3 Honor.

4 THE COURT: Very well. Thank you.

5 Mr. Lizzi, you may continue, sir.

6 MR. LIZZI: May it please the court.

7 THE COURT: Yes, sir.

8 Q. Dr. Pearlman, as part of your work in preparation for
9 this case did you review all of the documents, the letter, the
10 text messages, and emails provided to you that were referenced
11 in Dr. Pearlman's report?

12 A. Dr. Leonard's report, yes, I did.

13 Q. Dr. Leonard's report. I'm sorry. And did you analyze
14 those documents?

15 A. Yes.

16 Q. And tell the court, the jury, a little bit about how you
17 analyzed those document and what you did.

18 A. I follow the definition of style marker and pattern, as I
19 explained earlier. And I looked for items that were
20 sufficiently unusual in my professional opinion and repeated
21 often enough to constitute style markers. That is a very
22 important point because one occurrence does not mean it is a
23 style marker.

24 Q. And when you did that you considered different types of
25 phrases and different types of issues that were contained in

1 the writings. And I am just going to go through a few of
2 them.

3 Did you observe the writings that had two exclamation
4 points, the exclamatory sentences in a row that were obtained
5 in the Exhibit Number 63 which was the ---

6 A. The Q-letter?

7 Q. The Q-letter.

8 A. Yes, there is one instance of that.

9 Q. Okay. And did you find -- what was your findings as to
10 its helpfulness in determining the author?

11 A. I would say minimal. Because even though ending two
12 sentences with exclamations points does occur in the "Q"
13 documents and in Bob, there is a diffusion principle between
14 language of people that are intimate and talk a lot to each
15 other or write a lot to each other. And there is an intimate
16 influence. This has been documented going back in history.

17 And I could not say that the two exclamation points
18 didn't come from Gayle.

19 Q. And as to the word -- did you find in the "Q" -- in the
20 word found in the "Q" document regarding the word "suffering",
21 your findings in the reviewed documents regarding that, did
22 you find anything significantly helpful in the determination
23 of the author of the letter?

24 A. No, this was just the same word. If it had been used
25 over and over it would have gotten my attention. But one

1 occurrence does not make a style marker.

2 Q. And regarding the word -- the phrase in the "Q" document
3 that "I am starting over also", did you find that -- and did
4 you -- in your analysis find that in the documents?

5 A. I'm sorry, ---

6 Q. The word "also"?

7 A. --- could you repeat the question ---

8 Q. And the use of the word "also"?

9 A. It occurs in Bob's writing. But I respectfully add that
10 it does not rise to the level of a style marker because it
11 is -- it is so infrequent. And the investigation of a large
12 body of English would determine just how frequent it is.

13 Q. And does that also occur in Gayle's writings?

14 A. No.

15 Q. What is -- tell me what you -- when there is an overlay
16 of writings what significance that tells you when you are ---

17 A. Yes, when two people are candidates for authorship and
18 there is overlap then we don't get what we need to make a
19 decision, which is differentiation, contrast. Any cases of
20 overlap vitiate, weaken, undercut, the analysis because they
21 don't give us the differentiation we need to make an
22 authorship identification.

23 Q. And when we look at the phrase of "over \$100,000" and
24 you -- the use of the over -- did you find the use of the word
25 "over" in the Bob documents?

1 A. Yes.

2 Q. And did that have any significance or meaning to you in
3 that?

4 A. It is a similarity. But, again, it is not frequent
5 enough to be exotic or unusual -- I'm sorry, and is not
6 exotic, unusual, or frequent enough to be considered a style
7 marker.

8 And I am going all the way back, 50 years, okay, to my
9 college honor's thesis. It has to differen- -- be
10 differentiable. It has to be frequent. It has to be unusual.
11 Preferably all three.

12 Q. And for the volume of documents that you looked at for it
13 to rise to a level of a style marker would you -- what would
14 you expect on that volume of documents?

15 A. I would expect to see it in numerous documents. Maybe
16 not all of them. But remember -- remember that executing a
17 text involves choices; a multitude of choices, a universe of
18 choices. We are not even aware of them. We make them at the
19 same time. Am I going to punctuate this this way? Am I going
20 to structure the sentence this way? Am I going to use a
21 capital letter?

22 And these are -- it is an enormous number of decisions.
23 And whether somebody is going to use "over" or "more than" I
24 would want to see it consistently and I would want to see it
25 from one document to other.

1 Q. Then if you ---

2 A. I -- excuse me, I need to then -- it is still kind of
3 mundane to be considered a style marker. It is not -- this is
4 an expression that we all use, you can see dozens of times a
5 day. And it is just not different enough or frequent enough
6 to be a style marker.

7 Q. And when in the Q-document it uses the phrase "end up", I
8 don't want to end up like my mother or sisters, that term "end
9 up" showing up in the Bob document five times, what is your --
10 what is your thought on that?

11 A. It is an interesting data point that deserves further
12 exploration. But from which no conclusion can be drawn.

13 Q. What would you need to draw a conclusion on that?

14 A. I would need to see it, again, through a number of
15 documents, preferably across different styles. And I would
16 definitely not see any of these synonyms like "wind up".

17 So there are -- there are criteria that all stylistic
18 analysts apply to identifying and differentiating authors.

19 Q. And when you say across different styles, what do you
20 mean by that?

21 A. Well, every time the -- every different -- every
22 different situation context in which the writer deploys
23 language.

24 So different styles -- different situations would be
25 emails and texts and business letters. And different context

1 would be the -- a person that the emotional state of the
2 writer, the situation and the audience. So there are quite a
3 number of factors that come in.

4 Q. And the use of like when you reviewed the document and
5 there was the use of compound sentences in the Q-document did
6 you find the same similarities in the -- in the -- in the Bob
7 Q-documents?

8 A. The items linked with "and" are not strictly comparable.
9 Because in one case they are sentences linked with "and"; in
10 the other they are linking noun phrases as well as dependent
11 clauses.

12 So it's -- you really can't strictly compare them because
13 the "and" is connecting different items. All you have -- all
14 you have is the "ands" really.

15 Q. Do you mean different items like different types of
16 sentence structures?

17 A. Different linguistic elements. If you read one of them
18 to me I will be able to tell you what I mean.

19 Q. Well, like: I have tried to settle a few things for you
20 but since you have not really helped me you can see what it
21 takes to keep a family together by yourself or with whatever
22 ugly redneck bitch you want.

23 And that was on for the Q-note.

24 And then on Bob's it has: I have tried to get some of
25 the others to do the same -- then a hyphen -- but since chases

1 are generally a part of air filtration, comma, then they don't
2 want to do -- they don't want to do something they are not
3 paid -- getting paid for.

4 A. You are asking me about the "I have tried" sentences; is
5 that correct?

6 Q. Yes.

7 A. Again, two sentences structured in the same way are an
8 interesting data point; but if I had -- if I find "I have
9 tried" over and over as if Bob is somebody whose efforts are
10 not appreciated, let's say, and so one of his quirks is to
11 protest in demands and say I have tried, I have tried, that
12 would be interesting. But one case is -- of a sentence
13 structure the same is a data point worth pursuing, but since
14 it doesn't occur anywhere else in Bob's writing it is not very
15 compelling.

16 Q. And tell the jury about M-dashes and the M-dashes you
17 found in the Q-document and the M-dashes that were found and
18 referenced in the K-documents or Bob; did you find them
19 similar?

20 A. In brief, no. There is a mix of M- and N-dashes. So one
21 could not make the claim that M-dashes are unique for
22 parenthetical expressions because there's N-dashes mixed in.

23 Q. And tell the jury about what -- you look under situations
24 between spouses and documents written between spouses.

25 A. Well, as I mentioned earlier, there is some really

1 interesting research that -- there's a new book called On the
2 Secret Life of Pronouns. Really interesting. And voluminous
3 research with computers, statistics, shows that people who
4 live together and even people who exchange correspondence tend
5 to drift toward each other in matters of style over time.

6 The book I believe used authors Elizabeth Browning and
7 Robert Browning. And James Madison and John Adams wrote a lot
8 of letters back and forth. And they start getting more and
9 more alike.

10 So we can't avoid this considering this diffusion
11 principal if we are talking about people who know each other.
12 Some of my cases are of total strangers and you can assume
13 there is going to be no diffusion between the two possible
14 authors. But that is not always the case.

15 Q. And can you explain the use of mimicking language that
16 you find?

17 A. Yes, if we could plant microphones in houses -- well, we
18 actually have reality TV, which comes close. But we would
19 find that a part of a dispute as an antagonistic device is
20 mimicry.

21 And it is rude and it is insulting, but it is in effect
22 to say this is how you would say this. And replicating the
23 person's -- the other person's style or locutions to -- to
24 insult them. That does happen.

25 Q. So when you find the WTF phrase in there in Exhibit 63

1 are you -- are you able to use that as something that would --
2 at what level can you actually use that in making that
3 determination on your opinion on ---

4 A. Well, the WTF is one of the most -- of the three most
5 frequent text abbreviations. I am sure you can guess what the
6 other two are. LOL and OMG. So it makes all the sense in the
7 world for somebody to use that as their go-to expression if
8 they are amazed or outraged.

9 Q. And does mimicry happen -- I mean under what conditions
10 does that happen the most in writing; in what kind of
11 emotional state do you see that mostly in writing?

12 A. If you -- antagonistic primarily. People use them to
13 insult each other.

14 Q. And after reviewing all of these documents and
15 reviewing -- and applying the principles of your expertise,
16 were you able to make an opinion as to either hypotheses
17 regarding the authorship of Exhibit Number 63 in the
18 Q-document?

19 A. No. There is evidence on both sides.

20 Q. Okay. And why -- what is the most compelling reason why
21 you would not be able to draw a conclusion based on the
22 information that was ---

23 A. I have several reasons. Based on Gayle's command of
24 language as I see it in her public communications, she is
25 capable of the syntax and lexicon that I find in the

1 Q-document.

2 Secondly, there are a couple of formal nuances. She
3 actual- -- I found an email in which Gayle starts off with
4 Dear Mom, uncapitalized, just as in the Q-document.

5 But to me one of the most interesting things about the
6 Q-document is the pronouns. We all know pronouns; I, you, we,
7 he, she, it. And they are simple words. But they do a lot of
8 heavy lifting in our language. They do a lot of work. They
9 have a lot of interpretations.

10 And the one that is relevant here is that if you are
11 writing to somebody about external events, you are okay with
12 the pronouns, he, she, it, okay; but if I am writing a highly
13 emotionally charged personal communication and I am using "I"
14 and "you", I have got a little bit of an intellectual
15 challenge here. Because when I write "I", I don't mean "I"; I
16 mean the person that is supposed to be writing it. And when I
17 say "you" I am referring to myself. It is a lot to keep
18 straight.

19 And the fact that I don't see any pronounce slipups in
20 the Q-document suggests that this is not being written by
21 somebody impersonating somebody else, but by the -- but by the
22 ostensible author.

23 Q. Please answer any questions that the State may have.

24 THE COURT: Cross-examination.

25 MR. COOPER: Thank you, Judge.

1 **CROSS-EXAMINATION BY MR. COOPER OF ALAN PERLMAN:**

2 Q. Dr. Pearlman, will you tell the jury when you were
3 retained on this case?

4 A. When?

5 Q. Yes, sir.

6 A. I guess I have been working on it for the better part of
7 two months.

8 Q. So you have had about two months to review the documents?

9 A. Six weeks to two months. Yeah. More documents came in
10 as time went on.

11 Q. So about six to eight weeks?

12 A. Correct.

13 Q. Okay.

14 MR. COOPER: I have got no further questions, Judge.
15 Thank you.

16 THE COURT: Any redirect?

17 MR. LIZZI: None.

18 THE COURT: Doctor, you may step down. Thank you.

19 THE COURT: Call your next witness.

20 MR. LIZZI: Sid Miller.

21 (WHEREUPON, the witness was duly sworn.)

22 THE CLERK: For the record please state your full name,
23 spelling your last.

24 THE WITNESS: My name is Sidney Crafton Miller.

25 M-I-L-L-E-R.

1 THE COURT: Mr. Lizzi.

2 MR. LIZZI: May it please the court.

3 DIRECT EXAMINATION BY MR. COOPER OF SIDNEY MILLER:

4 Q. Mr. Miller, I subpoenaed you to be here today; correct?

5 A. I beg your pardon?

6 Q. I subpoenaed you to be here today, correct?

7 A. Correct.

8 Q. And what relation are you to Gayle McCaffrey?

9 A. Gayle was my niece. Technically she was my wife's niece.
10 She was on my wife's side of the family. But we considered
11 her, her niece, our niece. I mean I considered her my niece
12 as well.

13 Q. And she used to -- when she went to college she lived
14 with you?

15 A. Yes, when she was at Clemson?

16 Q. Yes.

17 A. That is right. I think she was -- it's about two years
18 that she was at Clemson. And she stayed with us during that
19 period.

20 Q. And during that time she was dating Bob -- or married to
21 Bob?

22 A. She was married to Bob.

23 Q. And Bob used to come up to your house and stay there on
24 the weekends?

25 A. Well, she normally -- at that time she normally went back

1 to Charleston every weekend. Bob did come up occasionally
2 during that period. But the standard mode was she would --
3 she would get through maybe some time Thursday or Friday and
4 go home for the weekend.

5 Q. And your wife I am sorry to say is deceased now, correct?

6 A. Yes, she passed away two years ago December the 2nd,
7 2016.

8 Q. And her and Gayle were close?

9 A. Very close.

10 Q. And Gayle would come up and spend time with y'all?

11 A. Yes, she spent a lot of time with us. When she was
12 younger she would -- most any time of the year she would come
13 up. And then as she got older she would spend a right good
14 bit of time with us every summer when she was out of school.

15 Q. And then after they got married and later on you would
16 see her and Bob, correct?

17 A. That is correct. They used to -- after they were married
18 and had children -- we loved the grand children. And
19 especially Betty. She loved children. And M.M. was
20 probably her favorite grand niece. And so they would -- Bob
21 and Gayle would come up and bring Gayle and when Q.M. came
22 along bring Q.M. And spent -- maybe once every couple of
23 months they would come up and spend the weekend with us.

24 Q. And back in 2012 Bob was up in the Upstate working on one
25 of the family's houses; is that correct?

1 A. In North Carolina.

2 Q. In North Carolina?

3 A. Brevard.

4 Q. How far is that from where you were living?

5 A. Maybe an hour's drive. Got to go over the mountain. So
6 it is maybe 40 miles. But it is a good hour's drive up there.

7 Q. And you would see him -- you would see him fairly --
8 fairly often?

9 A. Yes, he -- he visited us when he was -- when he was up
10 there a good bit.

11 Q. And y'all became close?

12 A. Yeah, I guess we have probably always been pretty close.

13 Q. And when all of this happened on March 17th, 2012, you
14 were home when Bob called your wife?

15 A. Yes.

16 Q. And she went down to Charleston?

17 A. Yes. He asked her to come.

18 Q. And she went?

19 A. Yes.

20 Q. And you weren't able to go?

21 A. No. I was still -- I was still working at the time. And
22 I knew she was going to be gone a couple of days.

23 Q. When you -- she was down there a couple of days and then
24 came back?

25 A. Yeah, I don't remember exactly the timeline. But she was

1 teaching at -- she was a professor at Greenville Tech, a
2 biology teacher. And so she had a full-time schedule. And so
3 she came back as quick as she could. And she may have just
4 missed one day. I don't remember exactly.

5 I know when she left when -- when DSS took custody of the
6 children then she left shortly after that to come home. And I
7 don't know when that -- I don't remember the time line of when
8 that. But that happened shortly -- I mean a day or so -- or
9 maybe two after Gayle disappeared.

10 Q. And did you see Bob shortly after that; did he come up
11 and go back to Brevard and to stop by to see y'all?

12 A. Yes. I don't know how long after that. Within weeks --
13 week or week or two. A short period. It would be a short
14 period after that. He did stay with us at least one night.

15 Q. And what was his demeanor at that time; how ---

16 A. Kind of depressed.

17 Q. And did he end up coming back after a short while later
18 and start staying with you for a short period?

19 A. He did -- I had -- at the time I had a -- I believe that
20 was the time. I had a barn that I was -- needed -- needed
21 finishing. And he was working on that for me. And so while
22 he was doing that he stayed with us.

23 And then he did a neighbor -- wanted renovation -- a
24 partial renovation, some floor and stuff like that done. And
25 he did that for -- we recommended him to the neighbors. And

1 he did that work for them. So yes.

2 Q. Did Bob always seem to be eager to find work?

3 A. Yes. He is a hard worker.

4 Q. And during that time did -- during the time that you have
5 known him has he ever had any times where he has had problems
6 with money ---

7 A. No.

8 Q. --- to where he had to borrow money from you?

9 A. No, he never asked for any money. He did a right good
10 bit of work for me. He renovated our kitchen and that barn
11 project. And then we have other projects going on. And, you
12 know, any time I ever gave him money he worked for it.

13 Q. And ---

14 A. He never asked for any money or anything like that.

15 Q. And what kind of work did he do during the time that you
16 have known him?

17 A. What kind of work?

18 Q. Yes.

19 A. Well, this goes back a long time now. I have probably
20 known him -- I don't remember when it was. I don't know how
21 long they were married. I can't remember exactly. But I knew
22 him before -- when they were dating, before they got married.

23 And he had -- he came -- he moved to Charleston maybe a
24 year or so before that. And he had -- he had developed this
25 skill for glass blocks. And he had this company called

1 Coastal Glass Block, I believe. And he was -- he wanted to
2 kind of specialize in that. And he did -- he did a right good
3 bit of work with glass blocks. With -- like the aquarium,
4 glass blocks.

5 Q. South Carolina Aquarium?

6 A. Yeah, it -- in Greenville there was a restaurant up there
7 that he went up and did glass blocks for. He did some glass
8 blocks for me one time. But that -- he did a lot of that.

9 But then he was a -- he was a skilled carpenter at house
10 renovation. He worked -- he worked for a contractor in
11 Charleston doing things like, you know, a lot of work for the
12 Navy, bid contract jobs. Like the prison renovation over
13 there. That type of thing.

14 But he is pretty much -- he is a very skilled craftsmen.
15 And he has a -- you know, renovations he has a real good eye
16 for color and for what looks good and what doesn't look good.

17 And he did a beautiful job and I thought when he did our
18 kitchen renovation, you know, with the colors and the scheme
19 and the way it looks. But generally it was construction work
20 what he did.

21 Q. And when he was living with y'all after all of this
22 happened was he going to Charleston to visit the kids?

23 A. Let me see now. Okay, after it happened?

24 Q. After -- after ---

25 A. Yeah, he -- yes, he would -- now, see, he wasn't living

1 with us for most of that time. But he would -- he stayed with
2 us while he was doing that work. And he did the renovation --
3 he finished that renovation up in Brevard. And then he got a
4 job in Charlotte.

5 But he was -- yeah, he was staying with us. And when he
6 was -- he would go down to see -- to see the kids -- I
7 remember him it was like every other week I think could go for
8 a couple of hours to see the kids.

9 Q. And you didn't have any problem having Bob staying at
10 your house, did you?

11 A. No. He fixed things.

12 Q. After his -- after his wife disappeared did his mood
13 change a bit?

14 A. I would say -- I would say so.

15 Q. Please answer any questions that the State may have.

16 THE COURT: Cross-examination.

17 MS. SHEALY: Thank you, Your Honor.

18 **CROSS-EXAMINATION BY MS. SHEALY OF SIDNEY MILLER:**

19 Q. Good afternoon, Mr. Miller.

20 A. Good afternoon.

21 Q. When you were telling us about how Bob and Gayle and the
22 kids would come and visit you, wouldn't your wife and Gayle
23 and M.M. go get their nails done while you and Bob were
24 back at the house doing projects and stuff?

25 A. They spent a lot of time together.

1 Q. Doing girl stuff that kind of the women would do?

2 A. Well, when -- when -- yes, they -- Betty and Gayle were
3 real close together. And they did a lot of stuff together. I
4 don't know about doing nails. That doesn't seem like their
5 MO.

6 But they did a lot of things together. And Betty used to
7 spend a lot of time with M.M. . And when she was up there
8 by herself she would take her to horseback riding and things
9 like that.

10 Q. Okay.

11 A. Is that what you mean?

12 Q. You would agree, would you not, that Gayle was a
13 wonderful mother?

14 A. Absolutely.

15 Q. Did she adore her children?

16 A. She did.

17 Q. Did she take care of them very well?

18 A. She absolutely did. She was a real good mother.

19 Q. Did she ever give you any reason to believe she did
20 anything but love those children to death?

21 A. No.

22 Q. Okay. Now when you were telling us that when Bob was up
23 working at the Brevard house you would see him occasionally
24 then, correct?

25 A. Occasionally, uh-huh.

1 Q. And the Brevard house is your brother-in-law and sister-
2 in-law's house; is that correct?

3 A. That is correct.

4 Q. Joe and Cathy Gillespie?

5 A. Right, uh-huh.

6 Q. But, Mr. Miller, you don't know where he was Valentine's
7 night of 2012; do you?

8 A. No.

9 Q. You don't know what he did after he went to a bar that
10 evening?

11 A. No.

12 Q. You don't know where he went to go sleep?

13 A. No, I know nothing about that day.

14 Q. You don't know who he slept with, right -- I am sorry to
15 ask you indelicate things, but ---

16 A. I know absolutely nothing about anything you just said.

17 Q. Okay. And you don't know who he continued to see while
18 he was staying up in Brevard, right?

19 A. No.

20 Q. You don't know who he was texting, texting on his cell
21 phone; you don't know who he was texting?

22 A. No, of course not.

23 Q. You don't know who he was calling, correct?

24 A. No.

25 Q. You don't know what he did in certain hotel rooms?

- 1 A. No.
- 2 Q. And you told us that he is a talented craftsman?
- 3 A. Yeah.
- 4 Q. Did you know he got fired from the Navy job?
- 5 A. I don't know -- I wouldn't be surprised.
- 6 Q. Okay.
- 7 A. I didn't -- I'm not -- maybe I did know that.
- 8 Q. So I want to make sure I understand your testimony.
- 9 A. Yes.
- 10 Q. He was talented?
- 11 A. Yeah.
- 12 Q. And he did work for Gayle's Uncle Joe and Aunt Cathy?
- 13 A. Uh-huh, he did.
- 14 Q. He did work for Gayle's uncle, you, and Aunt Betty?
- 15 A. Uh-huh.
- 16 Q. He did work for Gayle's uncle's neighbor; is that
- 17 correct?
- 18 A. Let me see, Gayle's ---
- 19 Q. Your neighbor?
- 20 A. Yes, uh-huh.
- 21 Q. So you know he was working, in that nature; right?
- 22 A. Beg your pardon?
- 23 Q. You know he was doing that kind of work?
- 24 A. Yes.
- 25 Q. But as far as being gainfully employed consistently, that

1 was Gayle; right?

2 A. Gayle was gainfully employed ---

3 Q. That is what I am saying, ---

4 A. --- consistently.

5 Q. She was the one who was consistently employed?

6 A. She had -- she had a full-time job. You know, -- well,
7 you know, when they first -- let me see. I don't -- I forget
8 exactly how long she was at the Citadel. But she was there a
9 good while full-time. And she went up the ladder at the
10 Citadel. Gayle was a very -- very professional, talented
11 person as well.

12 Q. And is it fair to say that Gayle loved her job at the
13 Citadel?

14 A. Yes.

15 Q. Did she value it; did she -- was she glad she had that
16 job?

17 MR. LIZZI: Objection, Your Honor, as to

18 THE COURT: Sir?

19 MR. LIZZI: Objection as to his giving her opinion on
20 what she did with her job.

21 THE COURT: I will allow him to answer the question if he
22 knows the answer to it. Overruled.

23 Q. Do you know if Gayle loved her job?

24 A. I think she -- I think she did.

25 Q. And did you know where she went to church?

1 A. Yes.

2 Q. Did she love her church; do you know if she loved her
3 church?

4 A. Yes, of course.

5 Q. Did she love singing in the choir?

6 A. Yes.

7 Q. Did she love ringing of the hand bells?

8 A. Of course.

9 Q. Did she love her Sunday school?

10 A. I'm not totally aware of who her Sunday school teacher
11 and all that was. But Gayle was a good Christian young lady.

12 A. And regarding good Christian women, Debbie Pearson ---

13 A. Yeah.

14 Q. --- and Helen Banach ---

15 A. Yeah.

16 Q. --- would you describe them that way as well?

17 A. You know, I am very thankful for both of them. And --
18 especially for Debbie and Jimmy. They are -- they are in --
19 -- those children being with them is the best place they can
20 be. And the situation being what it is now. They are very
21 good parents. And they raise good children.

22 Q. And that includes Q.M. and M.M. ?

23 A. Yes. They were -- that is what I was talking about.

24 Q. Okay. I just didn't know if you were referring to her
25 own children ---.

- 1 A. Oh, oh, she has other children ---
- 2 Q. Right.
- 3 A. --- that fit that pattern as well.
- 4 Q. Okay.
- 5 A. Yeah.
- 6 Q. Now you have observed Debbie and Helen with Gayle, right?
- 7 A. Yes.
- 8 Q. They have a loving sisterhood; do the sisters love each
- 9 other and care for each other?
- 10 A. Yes.
- 11 Q. Did Gayle love her brother-in-laws, Jimmy and Helen's
- 12 husband?
- 13 A. You know, we have a loving family. I love them. I hope
- 14 that it is returned. I think it is.
- 15 Q. I think it is too.
- 16 A. If that -- I don't know what you are getting at, but we
- 17 do have a loving family.
- 18 Q. No, that is what I am getting at.
- 19 A. Yes.
- 20 Q. Gayle loved her family?
- 21 A. Absolutely. And family ---
- 22 Q. She loved her church?
- 23 A. The family loved Gayle.
- 24 Q. And she loved her children?
- 25 A. Sure.

1 THE COURT: Any redirect?

2 MR. LIZZI: A couple of things, Your Honor.

3 REDIRECT EXAMINATION BY MR. LIZZI OF SIDNEY MILLER:

4 Q. Bob was in construction work, correct?

5 A. Yes.

6 Q. And he worked on bigger jobs, and when they were gone he
7 had smaller jobs? He worked at big -- he worked big
8 construction jobs ---

9 A. Yeah.

10 Q. --- sometimes?

11 A. Yes, he did.

12 Q. And when this all happened did you have a talk to Bob
13 about what you felt was best for him to do with the children?

14 A. Yes.

15 MS. SHEALY: Objection, Your Honor.

16 THE COURT: Objection sustained.

17 Q. Did you observe Bob as to his missing his children?

18 A. I'm sorry?

19 Q. Did you observe Bob as to him missing his children?

20 MS. SHEALY: Objection to relevancy.

21 THE COURT: Sustained. Can y'all approach a minute,
22 please?

23 (WHEREUPON, bench conference 3/7/19, 2:52 p.m.)

24 MR. LIZZI: Nothing further.

25 THE COURT: Anything further from the State?

1 MS. SHEALY: No, Your Honor. Thank you.

2 THE COURT: Sir, you may step down. Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: Mr. Lizzi.

5 MR. LIZZI: The defense rests, Your Honor.

6 THE COURT: All right. All right. Ladies and gentlemen,
7 the defense has rested its case.

8 I apologize lawyers. Can I get you to come here just a
9 minute real quick?

10 (WHEREUPON, bench conference 3/7/19, 2:54 p.m.)

11 THE COURT: All right. Ladies and gentlemen, the State
12 has rested -- excuse me, the defense has rested its case now.
13 You have heard all of the testimony that you are going to hear
14 in this case, okay.

15 There are some matters of law we need to take up outside
16 of your presence. So what I am going to do is I am going to
17 let you go home for the balance of the day. I am going to let
18 you go home for the balance of the day.

19 I need you to be back here tomorrow morning at 9:30. At
20 9:30. That which remains, that which remains in this case, is
21 arguments of counsel and my charge on the law to you. And the
22 case is going to be given to you all to make a decision on it,
23 okay.

24 Again, do not discuss the case. Do not do any
25 independent investigation. As I have said from the outset you

1 are to decide it based upon evidence and testimony presented
2 in this -- in the courtroom and nowhere else. You all have a
3 good evening. I will see you tomorrow morning at 9:30.

4 (WHEREUPON, jury exits 3/7/19, 2:55 p.m.)

5 THE COURT: All right. Anything from the defense at this
6 time?

7 MR. LIZZI: Nothing, Your Honor. Yeah, Your Honor, are
8 we going to do our motions now?

9 THE COURT: Yes..

10 MR. LIZZI: I renew my motions.

11 THE COURT: All prior motions are noted as renewed at
12 this time as well as all prior objections. The court rulings
13 remain the same as to those.

14 Let's talk about the jury charge for just a few minutes.
15 My law clerk has drafted a charge. I haven't looked at it
16 yet. I will look at it and then I will email to y'all what we
17 put together. I would ask that you all be back here tomorrow
18 morning at about 9:15.

19 In addition let me ask this. I have in the past -- or I
20 have started giving the jury my charge first and then let you
21 all -- look down here -- for you all last in your arguments
22 and at the conclusion of your arguments give a little brief
23 conclusion, so to speak, to my charge. But nothing at length.
24 Do either one of y'all have any objection to me giving my
25 charge first?

1 to begin your deliberations.

2 So I am going to go ahead and give you this charge.
3 Please listen very carefully as I give you these instructions.
4 CHARGE OF LAW BY THE COURT:

5 It is now my duty, ladies and gentlemen, as the trial
6 judge under the Constitution of this state to charge and
7 instruct you on the law applicable to this case. It is your
8 duty as jurors to accept and apply the law as I will now state
9 to you -- state it to you.

10 Furthermore, it is your exclusive duty to decide all of
11 the issues of fact in this case and to determine the effect,
12 value, and weight of the evidence.

13 Both the State and the defendant have a right to expect
14 that you will carefully consider and evaluate the evidence and
15 apply the law of this case to it so that in the end both the
16 State of South Carolina and the defendant will receive a fair
17 and impartial trial.

18 I want you to understand that when I use the word
19 defendant I am referring to Mr. Robert W. McCaffrey, Junior.

20 Furthermore, it is important to understand that the State
21 of South Carolina charges the defendant with the offense known
22 as obstruction of justice.

23 And to this charge the defendant has entered a plea of
24 not guilty. This plea of not guilty places the burden of
25 proof on the State to prove the guilt of the defendant to you,

1 the jury, beyond a reasonable doubt.

2 I remind you, ladies and gentlemen, that the fact that
3 the defendant was arrested, charged, and indicted in this case
4 is not evidence in this case and cannot be considered by you
5 as evidence of guilt in this case nor does it create any
6 presumption or inference of guilt.

7 The indictment, as I told you all from the outset, is
8 simply the formal written instrument which contains the charge
9 made against the defendant. It is the formal document by
10 which this case is brought into this court.

11 Now during the trial, ladies and gentlemen, you and I had
12 had separate duties to perform. As the trial judge it is my
13 responsibility to preside over this trial. And I also have
14 the duty to rule upon the admissibility of the evidence
15 offered during the process of this trial.

16 In that regard you are to consider only the competent
17 evidence before you and you are to disregard from your mind
18 any testimony ordered stricken from the record of this case
19 during the progress of the trial if there was any. And you
20 are to consider only the testimony which has been presented
21 from this witness stand together with any exhibits admitted
22 into the record of this case and any stipulations of counsel
23 made into the record if there were any.

24 Furthermore, I have the additional duty to charge you on
25 the applicable law in this case. And in that regard I am the

1 sole judge of the law in this case. It is your duty to accept
2 and apply the law -- it is your duty to accept and apply the
3 law as I state it to you. If you have any preconceived ideas
4 as to what the law is or what the law ought to be and it does
5 not agree with what I tell you the law is, then you are
6 obligated under your oath to abandon these preconceptions
7 because you are sworn to accept the law precisely as I state
8 it to you.

9 Now, ladies and gentlemen, in this trial you, you, are
10 the sole and exclusive judge of the facts in this case. And I
11 am the judge of the law.

12 Do not infer that I have any opinion about the facts in
13 this case from anything that I have said during the course of
14 this trial in ruling upon the admissibility of evidence or
15 otherwise or from anything that I say during the course of
16 this charge to you. In this regard the law simply does not
17 permit me to have any opinion about the facts in this case.

18 As jurors it is your duty, it is your duty alone to
19 determine the effect, value, and weight of the evidence
20 presented during the course of this trial.

21 Now in determining what the facts in this case are,
22 ladies and gentlemen, you must judge the credibility, which
23 simply means the believability of the witnesses and the value
24 of weight to be given to their testimony.

25 You alone must decide the force and effect of the

1 testimony. In making this decision there are many things that
2 you may and should take into consideration such as: The
3 appearance and manner of the witness on the stand, a
4 characteristic often referred to as the demeanor of the
5 witness. Was the witness forthright or hesitant. Was the
6 witness's testimony consistent or did it contain
7 discrepancies. What was the ability of the witness to know
8 the facts about which he or she testified. Did the witness
9 have a cause or reason to be biased and prejudiced in favor of
10 the testimony he or she gave. Was the testimony of the
11 witness corroborated or made stronger by other testimony and
12 evidence, or was it made weaker or impeached by such other
13 testimony and evidence.

14 As jurors, as jurors please understand that you have the
15 right to believe a small portion of a witness's testimony and
16 discard the larger portion or vice versa. You may believe all
17 of a witness's testimony against that of many witnesses or the
18 other way around.

19 In exercising your mental processes in attempting to
20 decide the verdict, the law simply requires that you exercise
21 your good judgment, your common sense, your sense of logic and
22 reason, and your experiences in life. You then apply these
23 attributes to the evidence and apply the law as I state it to
24 you and thus arrive at a verdict.

25 Now, ladies and gentlemen, it is vital to understand that

1 the defendant is presumed under the law to be innocent of this
2 charge.

3 The defendant has no obligation to prove his innocence.
4 It is a fundamental rule of our law that a defendant
5 irrespective of the seriousness of the charge against him is
6 always presumed innocent of the crime for which he is charged
7 unless and until his guilt has been proven by evidence that
8 satisfies you, the jury, beyond a reasonable doubt.

9 The presumption of innocence is not a mere legal theory
10 or a legal phrase. The presumption of innocence is very
11 important and you need to understand that this presumption
12 accompanies the defendant from the time of his arrest and
13 appearance in this court and continues with the defendant even
14 after you retire to the jury room to deliberate.

15 In other words the defendant receives the benefit of the
16 presumption of innocence until the very end of this trial,
17 when you the jury will deliberate upon the evidence and decide
18 whether the State has proven his guilt beyond a reasonable
19 doubt.

20 Now, ladies and gentlemen, what is a reasonable doubt in
21 the law? A reasonable doubt is the kind of doubt that would
22 cause a reasonable person to hesitate to act. Proof beyond a
23 reasonable doubt is the kind of proof that leaves you firmly
24 convinced of the defendant's guilt.

25 Now there are very few things in this world that we know,

1 ladies and gentlemen, with absolute certainty. So even in
2 criminal cases the law does not require proof that overcomes
3 every possible doubt.

4 However, if based on your consideration of the evidence
5 you are firmly convinced that the defendant is guilty of the
6 crime charged, you must find him guilty.

7 If on the other hand, you think there is a real
8 possibility that he is not guilty you must give him the
9 benefit of the doubt and find him not guilty.

10 Jurors, please understand that reasonable doubt may arise
11 from evidence which has been presented in the case or from the
12 lack of evidence in the case.

13 It is your responsibility to determine whether or not
14 reasonable doubt exists as to the guilt of this defendant. I
15 charge you that the defendant is entitled to every reasonable
16 doubt arising in the whole case.

17 If upon any issues of fact essential to conviction and a
18 verdict of guilty you have a reasonable doubt as to how that
19 issue should be resolved it would be your duty to resolve that
20 reasonable doubt in favor of the defendant.

21 Thus, in summary, it important to understand that a
22 defendant is not, is not, required to prove his innocence.

23 As I have said, the State of South Carolina is required
24 by law to prove every essential element of the offense charged
25 against the defendant by evidence which satisfies you the jury

1 of his guilt beyond a reasonable doubt. Only then can you
2 convict the defendant and find him guilty.

3 There are two types of evidence, ladies and gentlemen,
4 which are generally presented during a trial, direct evidence
5 and circumstantial evidence.

6 Direct evidence is the testimony of a person who claims
7 to have actual knowledge of a fact, such as an eyewitness. It
8 is evidence which immediately establishes the main fact to be
9 proved.

10 Circumstantial evidence is proof of a chain of facts and
11 circumstances indicating the existence of a fact. It is
12 evidence which immediately establishes collateral facts from
13 which the main fact may be inferred. Circumstantial evidence
14 is based on inference and not on personal knowledge or
15 observation.

16 The law makes absolutely no distinction between the
17 weight or value to be given to either direct or circumstantial
18 evidence. Nor is a greater degree of certainty required of
19 circumstantial evidence than of direct evidence.

20 You should weigh all of the evidence in the case. If
21 after weighing all of the evidence you are not convinced of
22 the guilt of the defendant beyond a reasonable doubt you must
23 find the defendant not guilty.

24 Ladies and gentlemen, during the course of the trial you
25 heard testimony of witnesses, a couple of witnesses, that were

1 qualified as expert witnesses. I gave you a charge at that
2 time when they were qualified as such. And I am going to give
3 you a charge again.

4 As I have told you before, our rules of evidence
5 ordinarily do not permit witnesses to testify to opinions or
6 conclusions. An exception to this rule exists for witnesses
7 that we call expert witnesses.

8 An exception, as I said, applies to expert witnesses, a
9 witness who by education and experience has become an expert.
10 In some art, science, profession or calling may state an
11 opinion as to a relevant and material matter in which the
12 witness claims to be an expert and may also state the reasons
13 for the opinion area.

14 You should consider any expert opinion received in
15 evidence in this case, and like any other evidence give it
16 the weight that you think it deserves.

17 If you decide that the opinion of an expert witness is
18 not based on sufficient education and experience or if you
19 conclude that the reasons given in support of the opinion are
20 not sound or that the opinion is outweighed by other evidence,
21 you may disregard the opinion entirely.

22 Furthermore, an expert witness's testimony is to be given
23 no greater weight than that of other witnesses simply because
24 the witness is an expert.

25 Further, you are not required to accept an expert's

1 opinion even though it is not contradicted.

2 Now, ladies and gentlemen, during the course of the trial
3 there was evidence presented of the defendant's good
4 reputation and character to show that it would be inconsistent
5 with the defendant committing the crime.

6 The weight that you give to that testimony, like all
7 other testimony in the case, is for you to decide in your good
8 judgment.

9 You may consider testimony of the defendant's good
10 character along with all other evidence in deciding whether or
11 not the defendant committed the crime.

12 There was also a statement which was alleged to have been
13 made by the defendant and was admitted into evidence in this
14 case. While the court has determined that the statement was
15 admissible I instruct you that you make the ultimate decision
16 of whether or not the defendant made the statement.

17 If the defendant did make the statement you must
18 determine whether the statement was made by the defendant
19 voluntarily and of his own free will. This means that the
20 statement was not caused by pressure, force, fear, threats,
21 coercion, or intimidation or by hope or a promise of leniency
22 or a reward of any kind.

23 In determining whether the statement was voluntarily you
24 should consider both the characteristics of the defendant and
25 the details of the questioning.

1 Some of the factors that you must consider are the age of
2 the defendant, the defendant's education or lack of education,
3 the defendant's mental ability or capacity, the defendant's IQ
4 or intelligence, the defendant's background and environment,
5 the place and length of detention, the nature of the
6 questioning and the advice or lack thereof to the defendant of
7 his constitutional rights including but not limited to the
8 right to remain silent, that any statements could be used
9 against him in a court of law, the right to have a lawyer
10 present, that if he could not afford a lawyer a lawyer would
11 be appointed to represent him without any cost, and that he
12 could stop making a statement at any time.

13 You must carefully consider all of the surrounding
14 circumstances before you give any weight to any alleged
15 statement.

16 The State has the burden of proving beyond a reasonable
17 doubt that the alleged statement was voluntary. If you
18 determine it was, you may give the statement any further
19 consideration that you deem proper. You must decide what
20 weight if any should be given to the alleged statement.

21 If you determine the alleged statement was not the free
22 and voluntary statement of the defendant you should not
23 consider the statement at all.

24 Now, ladies and gentlemen, I instruct you and I emphasize
25 to you that the fact that the defendant chose not to testify

1 in this case is not a factor to be considered by you in any
2 way in your deliberation and in your consideration on the
3 question of the guilt or innocence of the defendant. It must
4 not be considered by you in any manner whatsoever. A
5 defendant has the constitutional right to remain silent and
6 the assertion of this right must not be considered by you in
7 your deliberations.

8 I repeat, under your oath you are to draw no conclusion,
9 no conclusion whatsoever, from the fact that the defendant in
10 this case did not testify. The fact that this defendant did
11 not testify should not even be discussed in the jury room.

12 The burden of proof, as I have stated to you, is on the
13 State. The defendant is not required to prove his innocence.
14 The burden of proof remains on the State to prove guilt beyond
15 a reasonable doubt.

16 Now, ladies and gentlemen, in order to establish criminal
17 liability, criminal intent is required. For example, the
18 mental state required to be proven by the State for a
19 particular crime might be purpose, intent, knowledge,
20 recklessness or criminal negligence.

21 Criminal intent must be proven by the State beyond a
22 reasonable doubt. Criminal intent is always a matter that
23 must be determined by the jury from the circumstances
24 surrounding the situation.

25 There is no way, ladies and gentlemen, to prove intent to

1 a mathematical certainty. There is no way that medical
2 science can dissect a person's brain and determine what the
3 person had in mind. So the law says that criminal intent may
4 be inferred from the circumstances shown to have existed.
5 This is how you make a determination of whether or not the
6 element requiring intent was present.

7 It is not necessary to establish intent by direct and
8 positive evidence. But intent may be established by inference
9 in the same way as any other fact, by taking into
10 consideration the acts of the parties and all of the facts and
11 circumstances of the case.

12 Criminal intent is a mental state, a conscious
13 wrongdoing. It is up to you to determine what the defendant
14 intended to do based on the circumstances shown to have
15 existed.

16 Criminal intent can arise from action or a failure to
17 act. It may arise from negligence, recklessness or an
18 indifference to duty or to consequences that is considered by
19 the law to be the equivalent of criminal intent.

20 Now, ladies and gentlemen, the defendant, as I told you
21 from the outset, is charged with the offense of obstruction of
22 justice.

23 The State must first prove beyond a reasonable doubt that
24 the defendant committed an act which prevented, obstructed,
25 impeded, or hindered the administration of justice.

1 The State must also prove beyond a reasonable doubt that
2 the defendant did the act with the intent to obstruct justice.
3 The defendant does not have to succeed in the effort to
4 obstruct justice. It is enough if some act is done in
5 furtherance of the intent to obstruct justice.

6 Now, ladies and gentlemen, that is the conclusion of the
7 law that I am going to give you at this time. As I told you a
8 minute ago, I am going to charge you on the applicable law and
9 then the lawyers are going to argue and then I am going to
10 have some conclusory statements to make to you before I give
11 the case to you.

12 So having said that, at this time I am going to recognize
13 the State for closing argument.

14 MS. SHEALY: May it please the court.

15 THE COURT: Yes.

16 MS. SHEALY: Good morning.

17 THE JURY: Good morning (in unison).

18 **CLOSING BY MS. SHEALY:**

19 Bob McCaffrey, he obstructed justice. Plain and simply.
20 He certainly committed an act which prevented or obstructed or
21 hindered the administration of justice. He intended to
22 obstruct justice.

23 Remember what Detective Perkins told us, he had us
24 chasing our tail? He lied when he spoke to Chris Davis, the
25 patrol officer who went over there. Oh, ah, Gayle and I went

1 out to eat earlier and then we got into a fight; and we have a
2 second home in Easley and so I left just to clear my head.
3 Just to clear my head. Act 1, Mr. McCaffrey. Act 1.

4 What did he tell Brandy? Say the less, the better; and
5 it would be better if you didn't go into our relationship.
6 Act 2, Mr. McCaffrey.

7 And that letter. That letter. Typed. He knew he
8 couldn't write it. Why would Gayle McCaffrey type a letter?
9 She would write it. He wrote it. He hoped to God he was
10 crafty.

11 Remember he calls Brandy from his lawyer's office and he
12 put his lawyer on the phone?

13 As His Honor has told you, all you need is one act. One
14 act to show that that man intended to mislead the police.

15 So how should we analyze this? Well, let's look at
16 Gayle. Hard worker. She started off as a temp at the
17 Citadel. And year after year and effort after effort she made
18 her way up to earn a very nice salary and the respect and
19 affection of her colleagues. Hard worker.

20 Remember what Helen told you, that each time another
21 position came up Helen and her sister that kind of had to
22 cajole her go ahead and try for it Gayle; try for it?

23 You have heard from witness after witness. Gayle is not
24 the one with the big personality. She was reserved. She was
25 shy. But she made the effort and advancement after

1 advancement at a location where she loved to work. She was
2 well-liked at the Citadel.

3 Here's something else we know about Gayle that is
4 important to us. Remember what Mark Christenberry told you,
5 the guy who worked at the Citadel, left for another job,
6 wanted to come back? Gayle calls him and goes, look, you have
7 got to do your background paperwork but why don't I bring it
8 home, you come by, and I will take it back for you.

9 Important for two reasons. One, she cared about who was
10 going to work at the Citadel. Two, she planned on being at
11 the Citadel on Monday to make good on that promise.

12 And where was she that Saturday when Cristenberry stopped
13 by? She was at home with her children.

14 What did she do that day? Well, remember she was asking
15 for Irish recipes from everybody? She was cooking the dinner
16 for that night. She declined an invitation from Helen and
17 Debbie to join them on the boat because she wanted to be with
18 her family and with Bob.

19 And just to show you that she had no plans to go
20 anywhere, she was doing their taxes, communicating with James
21 Game who came in and testified to you. That woman had no
22 interest in leaving her home, leaving her children, leaving
23 her marriage.

24 What did her friends at the Citadel tell you about her?
25 She helped everybody. It speaks well for someone who --

CLOSING BY MS. SHEALY

1 remember Carla McIntyre who said I was Gayle's supervisor and
2 then later she became mine. Sometimes that is a big pill to
3 swallow when you supervise someone and then they supervise
4 you. Affection still greatly for Gayle.

5 And what did Gayle talk about at work? I don't know how
6 many of you work in an office atmosphere, but my friends at
7 work know more about my daily life than my husband does. You
8 know -- you know what is going on in people's lives. You talk
9 about your personal life with them. And Christine Simmons who
10 had known her for years said that it was Bob, Bob, Bob. Gayle
11 McCaffrey loved Bob McCaffrey.

12 What else did she talk about? She talked about her
13 children, M.M. [REDACTED] and Q.M. [REDACTED]. She adored them.

14 Bob McCaffrey, he had lust for Brandy. Gayle McCaffrey,
15 she had love for Bob.

16 Mary Game, Christina Simmons, Carla McIntyre told you
17 there had been a change in Gayle's mood close to the time that
18 this happens.

19 How did they describe it? She was sad. Not mad like
20 this letter was crafted to present. She was sad. She wanted
21 her family together. She had lived through the divorce of her
22 parents. She wanted an intact family for her children, that
23 they would have it better than she did with a broken home.

24 And remember that Friday, Friday, March 16th, Mary Game
25 told you that day Gayle was excited. Bob was coming home

1 early. And she and Christina told you Gayle was so excited to
2 make that reservation at the cottage for the next weekend.
3 She was hoping to rekindle things with Bob. She knew about
4 Brandy. She wanted the romantic, the wine and cheese. She
5 wanted more than anything to salvage that marriage. And Bob
6 knew it.

7 She wanted to cook something special for him. You have
8 seen a picture of their dining room. She wanted that round
9 table filled with family, with love, that Saturday night.

10 What did all of her coworkers tell you what was Gayle's
11 life? It was her children. It was her church. It was her
12 job. And it was Bob.

13 There is no Nikki. That woman had to take her children
14 to school every day of the week. Bob is out catting around up
15 in North Carolina.

16 She didn't party. She wasn't up for anything. She was
17 taking care of her children. She was the one writing the
18 notes to the teacher. She knew what homework M.M. was
19 supposed to prepare. She knew when M.M. forgot a slip that
20 she was supposed to take back. That is who Gayle McCaffrey
21 was.

22 While he is booking hotel rooms in North Carolina Gayle
23 McCaffrey is taking care of her children. There is no time
24 for a Nikki. There is no Nikki.

25 Mr. Lizzi said: Did you say the workers come in and

CLOSING BY MS. SHEALY

1 flirt with Gayle?

2 Come on. There is no missing worker. There is no Nikki.
3 There was no Nikki on any of the phones that they dumped of
4 Gayles. On any of the computers. And the people who sat
5 beside her at work and stayed in the same office building
6 never heard of a Nikki. They heard of the crush of the choir
7 director.

8 And Donna Parrish sitting in the courtroom who stood by
9 her in choir, sat by her in handbells, and sat by her in
10 Sunday, never heard of a Nikki. And I will tell you why they
11 have never heard of and Nikki. There was no Nikki.

12 Mr. McCaffrey again trying to craft something. He is
13 obstructing justice when he makes up a fictitious person in
14 that letter.

15 And what about her church, First Baptist? She grew up in
16 it as a little girl. She was the type of churchgoer that did
17 everything. She participated in all of it. Sunday school,
18 choir, handbells. Made sure M.M. was in the children's
19 choir. Designed the shirts for the handbell choir. Got her
20 beloved Citadel to do the embroidery for them. She is
21 entrenched in her community. She is entrenched in her family,
22 in her job, and in her church.

23 Her friends at church and her friends at work they knew
24 Gayle McCaffrey. She made a nice life for herself. She
25 deserved to enjoy it. They knew what her life was about.

1 They knew she adored her children. They knew she wanted her
2 marriage to work. They saw her more than Bob did.

3 What did each of them, each of them, tell you about this
4 letter? That is not how Gayle McCaffrey talked. That is not
5 how Gayle McCaffrey wrote.

6 You will have a chance to look at it back there back in
7 the jury room. Take a look at it.

8 She didn't use profanity. That is rare. But everybody
9 said it. You see who she was. She was gentle. She was doing
10 everything she believed she was supposed to; take care of her
11 family, take care of her home, take care of her church.

12 Speaking about profanity, on March 6th -- let's talk
13 about March 6th just for a second. This text that I am
14 getting ready to talk to you about is in the early morning
15 hours of March 6th, 6:00 a.m. -- 6:18 a.m.

16 Now that is before Brandy goes and dumps Bob McCaffrey at
17 the Applebee's where he weeps like a baby. But it is after
18 Gayle had learned of Brandy. Think of the emotion she must
19 have had.

20 And what does she text Bob? Just saw your text. You are
21 going to believe what you want, but like I told you last night
22 I'm different. I'm not going to hold things against you or at
23 least I am going to try like heck not to. I want to work
24 things out. Next to losing you every else is unimportant.
25 Yes, some of the things you told me hurt. But at least you

CLOSING BY MS. SHEALY

1 talked to me. That makes a huge difference to me. I hope you
2 can get past opening up to me. I love you. And I will do
3 whatever I can to help you out. Try trusting me for once.
4 Living with regret is a hard place to live.

5 Those are the word choices of Gayle McCaffrey.

6 March 7th at 10:54 p.m., the day after Bob got the news
7 from Brandy. And remember Brandy had found out that he was
8 still married, not the lie he told her that he was separated.

9 Gayle texted him: Hey, not trying to bug you and I hope
10 you can get some sleep. Just wanted you to know that I love
11 you and that I want us to work everything out. There is not a
12 part of me that wants you to leave and I'm sorry if you think
13 that.

14 And at 11:16 p.m. that evening: You are my life.

15 This is Gayle: You are my life. I am sorry that
16 somewhere along the way you have lost the ability to see that.
17 I really hope you can find it again.

18 This is how Gayle McCaffrey spoke. This is how Gayle
19 McCaffrey wrote.

20 What does Gayle McCaffrey do the next day? She prepares
21 a list for Bob and on her computer, pros and cons of your
22 life.

23 She is telling her husband look at the pros. And what
24 does Gayle McCaffrey say? And what this shows you is what she
25 values. She is telling her husband, look, these are pros: A

1 wife that loves you, great kids, a paid off house, a working
2 wife that likes contributing.

3 A pretty gentle way to say a good family, immediate and
4 extended, talent in abundance. That is how Gayle saw Bob and
5 wanted him to see himself. A support system.

6 Each of the pros that Gayle McCaffrey tells Bob tells you
7 she valued her life here. She saw the good things. She
8 appreciated them. She would absolutely not walk away from
9 that. She was pointing at all the great things they have,
10 their lives in Charleston.

11 What else does she do? Does she go paying for somebody's
12 drink in a bar, hook up with somebody?

13 No. She texts her pastor, Marshall Blalock, who came in
14 to talk -- to testify. What did she say?

15 This is how Gayle McCaffrey reacted to problems: My
16 husband and I are going through a rough patch. Right now I'm
17 wondering if you could recommend a good marriage counselor for
18 me -- for us. I'm sorry.

19 And Pastor Blalock responds with the name of a person and
20 says: Be sure of my prayers for you both.

21 And she responds: Thank you. Prayers are greatly
22 appreciated.

23 She heard that her husband had a girl. She doesn't kick
24 him to the curb. She wants to mend the relationship, to make
25 it work. That is who Gayle McCaffrey was.

1 She couldn't keep it inside. She told her friends at the
2 Citadel. She told Donna Parrish. She told Helen, her sister.
3 And each of them told you that what she wanted to do was make
4 that marriage work, make that marriage work. And she told Bob
5 I want our marriage to work.

6 March 14th she -- now this is the week before St.
7 Patrick's Day. March 14th. Still trying to help her husband.
8 She sends a text to Bob: I sent several job descriptions over
9 to you today. I do not mind doing the application paperwork
10 if you would like but I don't know exactly what you are
11 looking for as far as work goes. Also I think I will need
12 more information if you want me to do the paperwork. Just
13 wanted to let you know.

14 Helping him. Helping him to try to feel better about
15 himself. Still March 14th the supportive wife, I will take
16 time out of my day to do what you should do for yourself is
17 what I would have thought. But instead she is saying I will
18 do this to help you, just let me know which ones you are
19 interested in.

20 March 14th. Now let's think about this. Gayle McCaffrey
21 had absolutely no reason to leave. She had the house paid
22 off. A paid off house in Charleston where her aunt is a block
23 away, her sisters are 30 minutes away.

24 Why in the world would Gayle McCaffrey leave? Her
25 sisters were here. Her brother-in-laws were here. Her Aunt

1 Cathy Gillespie and her husband Joe Gillespie were here. She
2 had a great job, making good money, and her beloved church was
3 here, and her children were here.

4 If she was through, if she was offering an ultimatum, if
5 she wanted him to hit the road, she could have said get out,
6 it is my house. Never from Gayle McCaffrey.

7 Her support system was here. She was adored here. There
8 is no way she would leave all of this behind. Not her daddy.
9 Not her sisters. Not her precious babies.

10 So if Gayle McCaffrey had no reason to leave, who wrote
11 the letter? That man (pointing).

12 Think about it this way too. Why in the world would she
13 leave her children with Bob, a man with no job except the ones
14 her family brought him to, with a girlfriend and you hasn't
15 been around the children during the week to know this is what
16 they have to do at night, this is what you have to pack for
17 their lunches in the morning, this is when they go to choir,
18 etc.?

19 Gayle McCaffrey is not going to leave those children
20 behind with Bob McCaffrey under any circumstances. No way.

21 And think about this. When Bob McCaffrey headed up for a
22 little more Brandy at Travelers Rest do you think for a moment
23 Gayle McCaffrey would have left those children in the house
24 with no idea when he would return? That she would just
25 abandon those children in a home alone? Absolutely would not.

CLOSING BY MS. SHEALY

1 The letter is a total lie.

2 Now let's look at Bob. Valentine's Day. Doesn't that
3 just add insult to everything? She is at home back in
4 Charleston with the kids, probably getting their little
5 Valentine things ready for school.

6 That night he sits in a bar. He catches a glance at a
7 woman who seems provocative, experimental, game. He buys her
8 a drink. Before he goes to sleep they are in a hotel room
9 having sex.

10 Wow, has his world opened up. Can't you just see his
11 world change? The thrill of someone being that attracted to
12 him. It is intoxicating. She was willing to be spontaneous.
13 She was willing to go into a cheap hotel. And that fevered
14 relationship continued hotel to hotel, in his truck, at the
15 house in Charleston that had no furniture, the Paramount
16 house. He got to be big man.

17 Brandi was impressed. Brady saw him different. He was
18 throwing money. They were going out to eat. He would leave
19 her a hefty tip. He bought her the pearl necklace and
20 earrings.

21 Remember she said we were like teenagers, we couldn't
22 keep her hands off of each other. He liked what he saw in
23 Brandy's eyes when she looked at him. For the first time, for
24 the first time, this man didn't need a woman; the woman needed
25 him. Brandy was fun.

1 Remember how in contrast when he is sitting in the police
2 station, cold, my back hurts, he refers to Gayle's lifestyle?
3 She had frickin choir. She had frickin church. And she had
4 frickin handbells.

5 I can assure you Brandy she was no choir girl. And when
6 Brandy said, look -- and this is what is important, what was
7 the reason Brandy broke up with him, what was the one reason?
8 Not because you are not throwing enough money at me. Not
9 because you don't lavish me with gifts. But you are married.
10 It is done. It is done.

11 He couldn't bear it. He did not bear it.

12 Let's go to March 16th which is the Friday that he
13 returns home from North Carolina. Starting at 2:35 that
14 afternoon -- and you will have this summary back there with
15 you. He tries to call her 2:35 -- excuse me, I'm sorry, 2:35
16 in the morning of March 16 tries to call her, doesn't get her.
17 2:53 tries to call her, doesn't get her. 2:53, again, tries
18 to call her, doesn't get her. 3:01 tries to call her, doesn't
19 get her. 3:04 tries to call her, doesn't get her. 3:05 tries
20 to call her, doesn't get her. 3:05 again tries to call her,
21 cannot get her.

22 And then at 8:52 that night he texted her: Been drinking
23 out. Going back to tell all and figure out from there. I
24 want nothing more than to be - let me just throw this out, the
25 two is a two, number; the "B" is just a "B"; he is the one who

CLOSING BY MS. SHEALY

1 knows the text abbreviations, okay - I want nothing more than
2 to be in your arms. Being away really hurts. Talk soon. LU.

3 Text abbreviations.

4 At 8:55 Brandy responds. Mr. Lizzi wanted you to believe
5 that she was luring back. At 8:50- -- let me make sure I am
6 giving you the right time.

7 At 8:55 on that Friday night after he is calling her and
8 calling her and calling her and calling her, she says: Wow, I
9 was just fixin to say, yeah, I know why, you are married.

10 You are married.

11 11:34 she says I am going to party at Duggan's tomorrow
12 night.

13 So Saturday, March 17th, 3:25 in the morning. Can't
14 sleep thinking about Brandy.

15 3:25: I may see you there.

16 And what is Brandy's response at 3:26: Really, question
17 mark, exclamation mark.

18 Really.

19 8:22 a.m., Mr. Valentine to Brandy. Could be - just the
20 abbreviation - late. I need to know how late they are open.
21 Dinner with friends at 6:30 then I leave here.

22 Baloney about the fight. He knew Saturday morning at
23 8:22 that he was getting the heck out of Dodge after that
24 dinner. I leave here. Dinner at 6:30 then I leave here. If
25 you want to see me.

1 9:58 that morning, tries to call Brandy. Ten o'clock
2 that morning, tries to call her but someone does not even have
3 VM -- voice mail. Will try you later.
4 11:49, Mr. Valentine tries to call Brandy.
5 11:50, calls Brandy.
6 2:45, let me know what you are going to do is what he is
7 saying to Brandy.
8 Three o'clock she says I'm going to party. It is St.
9 Patrick's Day. Do you think that chick doesn't take advantage
10 of St. Patrick's Day?
11 3:40, Mr. Valentine: Where?
12 3:48, Brandy: I don't know, probably North Carolina.
13 3:49, Brandy: Sorry but ain't you in Charleston with
14 your wifey?
15 Again, you are married.
16 4:05, Mr. Valentine: I thought I said I would be there.
17 7:58, Mr. Valentine to Brandy: Where are you?
18 8:03, couldn't get her. Tried her again.
19 8:08, Brandy to him: I am in Travelers Rest at the
20 Mexican joint.
21 8:10, Mr. Valentine to Brandy: I am finishing up in a
22 bit and would like to see you soon.
23 9:10, tries to call her. Can't get her.
24 9:20, as the evening is progressing, Mr. Valentine to
25 Brandy: Hey.

1 9:27, tries to get her. Can't get her.

2 11:04, tries to get her, can't get her.

3 Eleven -- and by this time he is heading there. He is
4 heading there.

5 11:16, Mr. Valentine to Brandy: Hey, beautiful, call me.
6 Going into the early morning hours of the 18th.

7 12:10, Mr. Valentine to Brandy: I am on 385. Where are
8 you at, beautiful?

9 12:22, tries her. Can't get her.

10 12:54, tries her. Can't get her.

11 12:55 tries her, can't get her.

12 12:56 he says: I am in TR -- for Travelers Rest. He
13 tells her.

14 12:59, tries her. Can't get her.

15 1:01, tries her. Can't get her.

16 1:02, tries her. And remember what Denise Richardson
17 told you, that as they were sitting -- she had finished
18 playing pool. She is sitting at the table. She sees Brandy's
19 phone lighting up, lighting up, lighting up, with all of these
20 calls from Mr. Valentine. She says, do you want me to answer
21 it?

22 Denise Richardson tells him we are at the VFW -- or I am
23 at the VFW. The VFW.

24 Okay. So let's talk about the VFW. Remember how he told
25 the police he went in and showered? He wanted to look good

1 for Brandy. Can you imagine his emotions as he is traveling
2 there and traveling there and traveling there, praying to God
3 he can get back with her?

4 He walks in there, and she with her St. Patrick's Day
5 green shirt, having already been drinking, is flirting around.
6 She is playing pool. She is dancing. She is singing karaoke.
7 And as the witnesses have described, that he eerily is
8 watching her. Fuming. Fuming. Of course.

9 What did Brandy tell you? It was the first time he had
10 seen her with another guy. We saw his level of desire in his
11 text and in what he said to her and in the number of times he
12 tried to get her.

13 He was getting ignored. He was getting jealous. He was
14 fuming. Staring at her so much that Denise Richardson who had
15 just met her for the first time that night felt like it was
16 creepy. It made her nervous. Sitting back watching her.

17 He follows her out when she goes to take a phone call.
18 He can't get her attention. He stays until it closes. And
19 then he trails behind her in his truck.

20 Remember what Brandy told you? I had to get away from
21 him. I had to turn around so he wasn't on my tail.

22 He didn't care how fast he was going. He tried to call
23 her, 2:12 a.m. He tried to call her 2:13 a.m.

24 She called him back at 2:14. And remember when he gets
25 stopped by the police at 2:15 that man is more interested in

1 his telephone conversation with Brandy than the fact that he
2 is getting stopped by the police.

3 Remember how on the tape he just keeps talking to Brandy.
4 The officer's approaching. He wants the officer to take the
5 phone. He doesn't want to hang up. He had one thing on his
6 mind, and that was Brandy.

7 He whined to the officer, I drove up here and I just got
8 ignored. Aggravated that he drove there. No rendezvous with
9 Brandy. And he heads towards Charleston to a home he doesn't
10 want, to a wife he doesn't desire.

11 He texts Brandy. The stop is at 2:15. 3:02 he texts
12 Brandy. Excuse my language. I'm going to use the language he
13 used: I am probably fucked and all I can think about is you.
14 I drove four hours to see your smile and all I saw were stares
15 and accusations. Is it so wrong to fall in love?

16 Trying to lure her back.

17 This is extraordinarily important; 3:04 a.m., March 18th,
18 heading back to Charleston, Brady said: You are married. Did
19 I miss something?

20 Last communication between Brandy and Bob until 10:22 the
21 next morning when Brandy texted him. But I will get to that
22 in a second.

23 So 3:03 she is saying: You are married. Sorry, did I
24 miss something?

25 The next thing that he does is he texts Gayle. And you

1 will have that. At 3:17. Brandy says, you are married, 3:03.
2 3:17 he is fuming. He is thinking. The marriage is an
3 obstacle.

4 He texts Gayle, 3:17: You there? Call me. We need to
5 talk.

6 Bob McCaffrey after that 3:17 text is not heard from by
7 text or call until 8:26 the next morning when he called his
8 father. From 3:17 until 8:26.

9 We don't know where he was at 8:26. Who did he call?
10 His father. His father, the retired detective.

11 Don't lose sight of this. He says, McCaffrey, I got home
12 at 6:30 and she was gone. There is no proof of that. That is
13 just what he is telling the police.

14 From 3:17 until 8:26 Bob McCaffrey's activities are
15 unaccounted for.

16 What did he tell the police, oh, I called my father and
17 my father suggested I get a lawyer. Remember that? Now not a
18 divorce lawyer, not a child custody lawyer. His father, the
19 detective, says you need to get a lawyer, don't talk to the
20 police without a lawyer.

21 If your wife had said, look, I am out of here, the kids
22 are yours, I've got a boyfriend named Nikki, I am going to
23 take that \$110,000 and live with two good years of it, why
24 would you call your father and why would your father say call
25 a lawyer? You don't call criminal lawyers when your wife has

1 left you.

2 10:20 that morning Brandy gets in touch with Bob: Yet I
3 told you weeks ago that we could not keep on seeing each
4 other, so why do you keep on.

5 10:40 in the morning on March 18th, knowing according to
6 him that his wife has left him and that he has got the kids,
7 oh, she is my life. Remember when he told the police that?
8 He told the police that Gayle was his life.

9 This is what Bob McCaffrey texted Brandy 10:40 in the
10 morning: Could be same reasons you've sent me three texts in
11 the last eight hours and kept calling and texting after you
12 told me. Or maybe it could be same reasons a moth is
13 attracted to a flame or a dog sits by the door all day waiting
14 for its owners to come home from work.

15 He is still trying to wax poetic with his girl.

16 Let's go over those texts that continue that morning.
17 How does Brandy respond to that email, the wooing email?

18 Brandy: Wow. Goodbye, Mr. Valentine.

19 11:37, he says: Three weeks too late but thanks anyway.

20 She says: Oh, my pleasure.

21 2:17 she tells him: Yeah, you might can -- excuse my
22 language again - you might can show your ass and get away with
23 it at home with your wife. But not with me.

24 2:22. 2:22 he is there at his house with his children.

25 No Debbie Pearson. No Helen Banach. No Cathy Gillespie or

1 Joe Gillespie who live right around the corner. He is there
2 with his kids. And at 2:22 he says to Brandy: She left. I
3 found the kids alone when I got home. A bunch of other stuff
4 is gone. But just a note behind.

5 She left without a picture of her two children? What
6 bunch of stuff is gone? Please look at the pictures of the
7 closets when you go back there. They are crammed. He is
8 lying.

9 So asked or not, me and the kids are alone now. Open
10 that -- going to open that door back with Brandy.

11 I could use a friend now, not more shit.

12 What a self-centered man. He is not sitting there
13 thinking about his babies, his children, never seeing their
14 mother again.

15 3:24, Brandy, Brandy who knows him, she says: I don't
16 know if I believe you or not.

17 Her instincts were right.

18 4:51 that afternoon he says to Brandy: You do not have
19 to. She is gone. And I have to move on and help the kids and
20 try to help myself. And I guess I will get that fresh start
21 after all. I just didn't think I would get it this way.

22 Telephone number 843-556-7486 if you don't mind talking later.

23 He told the police - and you had seen it from all the
24 witnesses - Gayle McCaffrey has never acted that way before.
25 Never. He said she doesn't have any mental problems, this is

1 unlike her.

2 Ladies and gentlemen, why would anyone believe that she
3 wouldn't come back, unless you knew she couldn't? Unless you
4 knew she couldn't.

5 9:45 that night, Brandy says: What is there to talk
6 about, Bob?

7 Does that sound like a man whose wife had just left him?
8 So who does he call to help? Betty -- excuse me Betty Miller,
9 her husband who is quite a gentleman, he testified yesterday.
10 Why did he call Betty if he needs help with the kids when he
11 has got Cathy and Debbie and Helen.

12 I need more time, I need more time, I need more time. He
13 needed to try to get his act together. Plenty of time to
14 draft a letter. Try to be smart. Try to outsmart.

15 Spilling into March 19th, Brandy is at Tommy's Ham House
16 working. The police come and pick her up. She volunteers
17 everything. She gave a statement.

18 The next day she meets with Charleston County. She talks
19 to Mike Thompson. Gives him a full interview. They are like,
20 can we see your phone? She is telling him about what
21 happened, what text, etc. She is like yeah, dump it. Can we
22 look in your car? Yeah, come look in my car. She volunteers
23 all of that to the police.

24 They find the necklace. They find the earrings. They
25 find the piece of paper that he gave her once Gayle knew her

1 number and had texted her. Okay, these are the numbers don't
2 answer. Don't answer these, Brandy. All of that is in
3 Brandy's car.

4 Her instincts after talking to the County were what can I
5 do to help. She saw him at the VFW. She had to get away from
6 him in her vehicle. He's still texting her.

7 Officers, what can I do to help? And she comes up with
8 the idea what if I send him a pregnancy test maybe he will
9 call. Maybe I can get him to admit something to me.

10 Bob starts calling from his friend Michael Robert's
11 phone. In the record you will see that in Bob's phone is the
12 contact information for Michael Roberts. He is switching
13 phones. Switching phones.

14 They talk. And he says, listen, the less said the
15 better. Obstruction. Better not to describe our
16 relationship. Why? Why? Why doesn't he want her to be open
17 to the police? Why doesn't he want her to give the sorted
18 details? Because he knew the police would know that he had
19 something to hide.

20 Later he tells -- oh, I'm sorry, they have a conversation
21 from his lawyer's office. She talks to his lawyer and tells
22 him I talk to people but doesn't tell him who. He says my
23 lawyer wants to talk to you. She gets on the phone with the
24 lawyer.

25 Later in the conversation he says to her: Look, I want

CLOSING BY MS. SHEALY

1 to meet you. I want to tell you what happened, but are you
2 going to have on a wire?

3 Why in the world would Bob McCaffrey be worried about a
4 wire if his wife had left? Why in the world would he be
5 worried about a wire?

6 Bob McCaffrey waited 11 hours from the time he said he
7 got home to call the police. Eleven hours. Fourteen years of
8 marriage, behavior that he acknowledges she has never had
9 before. Why would you wait 11 hours? Why wouldn't you call
10 her sisters, the ones she loved? Why didn't he call her
11 friends? Her sisters did. The only reason he called the
12 police was because Helen said if you don't, I will.

13 Doesn't mention Brandy. Lies about what he had done
14 earlier and where he went and why he went. Obstruction.
15 And, see, I think Bob McCaffrey was hoping that it was just
16 going to end with Chris Davis, that Chris Davis was just going
17 to file the report.

18 Because, boy, doesn't his behavior change once James
19 Perkins arrives. Hey, sir, I understand that you have
20 reported your wife missing; can I come in and talk to you
21 about it?

22 Not without a search warrant.

23 What grieving husband wouldn't let police in the house?
24 He knew it was getting real now. They go to the station. The
25 police are desperately wanting to find Gayle. He tells the

1 police maybe Gayle thinks I'm the better parent.

2 Ladies and gentlemen, do you think for one second that
3 man thought that Gayle thought he was the better parent.
4 Absent during the week, catting around on her, not employed.

5 And what is on his dashboard? We know these came out of
6 his computer. His girl. But what is on his dashboard? A
7 little picture of Brandy to look at the whole time he is
8 driving. The whole time he had gotten the cold shoulder and
9 been told it is over because you are married. On his
10 dashboard.

11 When you see him sitting there complaining about his own
12 physical comfort, what he had done was washing over. Remember
13 he said to the police I don't have any warm and fuzzy feelings
14 that I will ever see her again - I bet he didn't; I bet he
15 didn't - I don't expect to see her back.

16 The letter. That letter. Do you think for one second
17 there is a Nikki? Do you think Gayle McCaffrey manipulated a
18 200, 250, 300 pounds - it's been said different ways by him -
19 safe, down those cluttered stairs leading up to the FROG?

20 Even if they were two people they couldn't had gotten
21 down the stairs. It is baloney. Total baloney. The
22 \$110,000, do you think that man had amassed \$110,000, kept a
23 secret from all his jobs? He was spending money on weapons.
24 He was spending money on cars. He didn't have \$150,000 in a
25 safe in his attic.

CLOSING BY MS. SHEALY

1 Do you know why he put that in? Because he thinks he is
2 being -- he thinks he's being smart. This will explain why
3 she could go ahead and leave her job because she found money.

4 Ladies and gentlemen, when he -- in that letter it says
5 ugly redneck - excuse my language - bitch, ugly redneck bitch.
6 Who is the one who knew Brandy? Bob.

7 Wanted to get a little jab in there too. Wanted to say
8 that Gayle McCaffrey referred to her sisters as bitter, in
9 loveless marriages. Come on. They all did stuff together.
10 Sisters with one another, the sisters with nieces and nephews,
11 the father, Sid Miller and his wife. This wasn't an
12 embittered family. This was the enviable family. Except for
13 the addition of Bob McCaffrey.

14 And it is interesting. It is interesting. Just like the
15 letter, in the interview he tried to make it sound like, oh, I
16 was a good parent. I was a good parent.

17 Do you think Gayle McCaffrey would have said in her
18 letter the kids love you so much, more than they love me? If
19 she is walking out on him is she going to extend a compliment
20 like that? And is there any believe that she would believe
21 that? Trying to make himself look good even in the letter.
22 Oh, it would make sense that she would leave me because she
23 thinks the kids love me more.

24 Those who knew her best told you this does not sound like
25 Gayle McCaffrey, this is not how she spoke, this is not how

1 she texted, this is not how she sent emails, this is not her
2 language. She is a woman with a master's degree. Look at the
3 letter when you go back there.

4 So those who knew her best in a variety of situations,
5 her sister who has known her forever, the women from the
6 church who have known her since she was a child, the people
7 that she saw every day at work, this is not Gayle McCaffrey.

8 And let's talk about Dr. Leonard for a second. First of
9 all, he was a impeccably qualified. And when we talk about
10 hindering the police and obstructing justice, the police they
11 told you, what was it, 42 search warrants because of this
12 letter and this investigation?

13 They enlisted the assistance of an expert, take this
14 letter and what can you tell us. And Dr. Leonard said if I
15 have writings of him and if I have writings of her I can
16 compare it. And that's what he did.

17 Don't lose sight of this, please; we sent him more
18 letters. More emails, more texts, of Gayle. He had more
19 things from Gayle than he had from Bob. And he had the
20 letter.

21 So he started off by telling you, okay, so both of them
22 say also a good bit. But what did he tell you about that?
23 Okay, that's no big deal.

24 He's not looking for the routine stuff. He is looking to
25 see if either of them have something different about the way

1 that they text or write or speak that would stand out.

2 Because he goes, okay, yeah, they both used also.

3 Then he also told us that both of them occasionally in a
4 writing would leave a word out. I deal with that constantly
5 when I am texting. We all do that. You might leave a word
6 out. So they both leave words out. That is not unique to Bob
7 or Gayle. So he said that is not a big deal.

8 But this was. And, you know, he has lofty terms for
9 everything; but let's just put it this way. He says that when
10 the letter emphasized something it would put a dash and then
11 WTF and then a dash.

12 He looked at Bob's writings. He looked at Gayle's
13 writings. When Gayle wrote something out, set it aside, she
14 always used parentheses. Okay. Bob uses the dashes. How he
15 sets it out. Writing after writing after writing. The letter
16 did it. He did it. Not Gayle.

17 That he was looking at how in the questioned document,
18 the "Q", that the questioned document read: But I can see you
19 have no desire to stay and I am done suffering and trying and
20 praying.

21 And then later in that same document: Note I found your
22 safe, dash, WTF, dash, we live like this and you have over
23 \$110,000 in cash and the coins and all the money?

24 What does Bob do in his writings: She is gone and I have
25 to move on and help the kids and try to help myself and I

1 guess I will get that fresh start after all.

2 Gayle doesn't do that. In all of the writings that Gayle
3 wrote that he had, she doesn't do it. The letter does it.
4 And Bob does it.

5 Okay. Then there was that hysteron proteron, which is a
6 little confusing. But essentially what he is saying is that
7 for example in the letter: It hurts so bad and before you
8 hurt all of us I am making it easy for you.

9 He was explaining that puts things in the wrong order.
10 The example he gave was when he said I put on my shoes and my
11 socks. What you really would have done first would have been
12 to put on your socks and then your shoes.

13 Similar to that in the letter was Bob: I brought it to
14 Greenville a while back and before I took it back to Charlotte
15 again I thought I would check back with you.

16 But he just -- he constructs his sentences similarly.
17 The same way.

18 And this is interesting. The letter: I am going,
19 exclamation mark. I am going to be happy, exclamation mark.

20 In four of Bob's writings: The meatloaf is repeating in
21 a bad way, exclamation mark. It turned out somebody did me a
22 favor, exclamation mark. Another writing: My Reese's bar is
23 a big bag of sauce right now, exclamation mark. I need a
24 straw, exclamation mark. Another writing: Yes, exclamation.
25 Cash, exclamation mark. Another writing: The entire are in

CLOSING BY MS. SHEALY

1 the received pictures with sealed, exclamation mark. All I
2 did was remove the insulation and voila.

3 In English classes they don't like you to do two
4 explanation marks in a row. Bob does it repeatedly. The
5 letter does it. Gayle doesn't do it.

6 Speech patterns. The letter: I have tried to settle a
7 few things for you.

8 Bob: I have tried to respond to your email a couple of
9 times. I have tried to get some of the others to do the same.

10 Gayle doesn't use that phrase, I have tried to, I have
11 tried to.

12 So, ladies and gentlemen, you have heard it best from the
13 people who know her -- knew her, worked with her, went to
14 church with her, lived with her, loved her. This wasn't
15 written by Gayle McCaffrey. They told you that.

16 And Dr. Leonard explained to you that this letter has
17 speech patterns and linguistic features that are consistent
18 with Bob's writings.

19 Ladies and gentlemen, don't lose sight of the fact that -
20 and it is in Bob's interview with police - M.M. 's 11th
21 birthday was coming up in a number of days. And Linda Parrish
22 told you she was going to be singing a solo at First Baptist
23 that was coming up. Gayle McCaffrey wouldn't have left these
24 children. She would not have missed her child's birthday.
25 She wouldn't have left her child motherless. She wouldn't

1 have missed the solo. She wouldn't have missed all of the
2 events of these precious children for anything.

3 Bob McCaffrey obstructed justice in a number of ways.
4 You only need to find one. He had the intent to do it. He
5 had the time to do it. And he had the reason to do it.

6 Would Gayle McCaffrey have caused for her family the pain
7 of her absence? To her father, to her sisters, to her
8 children? Would she have left them motherless?

9 This letter is not Gayle's voice. It's not Gayle's. She
10 lost her voice in March of 2012.

11 THE COURT: Will the lawyers approach a second please.
12 (WHEREUPON, bench conference 3/8/19, 11:03 a.m., following
13 closing by Ms. Shealy.)

14 THE COURT: Ladies and gentlemen, I am going to give you
15 a short break. I am going to give you a short break before we
16 continue.

17 If you will, Mr. Foreman, once you all are ready to come
18 back in here knock on the door and let the bailiff know you're
19 ready to come back in so we can make it as short as possible.
20 Do not discuss this case at all. Do not discuss it at all. I
21 will get you back out here as soon as you, Mr. Foreman, let us
22 know y'all are already come back. Okay.

23 (WHEREUPON, jury out exits 3/8/19, 11:06 a.m.)

24 THE COURT: All right. We will stand down for a very
25 brief time.)

CLOSING BY MS. SHEALY

1 (WHEREUPON, break 3/8/19, 11:06 a.m.)

2 (WHEREUPON, resume 3/8/19, 11:18 a.m.)

3 THE COURT: Bring me the jury, please.

4 THE CLERK: Jurors are all present.

5 THE COURT: Defense counsel, you are recognized for
6 closing arguments.

7 MR. LIZZI: Good morning.

8 THE JURY: Good morning (in unison).

9 CLOSING BY MR. LIZZI:

10 As we went through this it has been a long week. And I
11 appreciate very much the hard service you have put in. I have
12 watched and seeing that each and every one of you has been
13 diligently watching everything that has gone on. I appreciate
14 that and my client appreciates that.

15 But on that point I would like to say that if I did
16 anything or you've taken any objections or anything that I
17 have said during this trial that didn't rub you the right way
18 that I want you not to take any blame on my client for that.
19 Because I have a job to represent my client to my fullest
20 ability and to a legal standard. And that legal standard
21 requires me to make objections and do things sometimes that
22 may confuse a jury or may not seem like it is, you know, the
23 best thing.

24 But please don't draw that on my client. As we talked
25 earlier we said that there was going to be a lot of things put

1 here today and that you would need to use your common sense
2 and listen to the facts.

3 And the judge has just given you his charge and the
4 charges of the law and the instructions that you have for this
5 trial and how you deliberate the evidence.

6 Now he gave you the charge of what the crime is that my
7 client is charged with for you to make your decision. But as
8 I sat here this week I heard a trial that was full of emotion,
9 full of testimony, and full of issues that went beyond that.
10 And what I want to draw and bring your attention to is this
11 charge is that on March 18th of 2012 my client obstructed
12 justice and that he intentionally did it.

13 Now I have been involved -- you heard my name in being
14 involved with this from the early stages. And in that
15 involvement what has drawn the most difficult part of it is
16 the length of it. We are talking about a 2012 charge. And
17 then we fast forward and the State arrests him in 2014. And
18 it is not all that unusual. But what becomes more unusual is
19 that we are sitting here in March of 2019, 2019, for him to
20 finally go on trial here today.

21 A trial is a very difficult thing for a person in our
22 country who supported the right to have his peers hear all of
23 the evidence in a case. Because as you heard, one of the key
24 witnesses, one of the witnesses that were the first person to
25 come to Bob McCaffrey's house who knew both Bob McCaffrey and

CLOSING BY MR. LIZZI

1 his wife very intimately, has died after he was charged but
2 before he was tried. We weren't able to hear that voice.

3 Now when we look at all of the evidence and when I told
4 you to look at and use your common sense, it goes to both what
5 happened, what the police did, what the police didn't do.

6 You know, the police department, County Sheriff, the
7 police in every town, they are here to serve to the community.
8 A crime is committed. They are to properly collect evidence
9 so we can prove or disprove that a crime is committed or we
10 can prove or disprove the innocence of people.

11 We rely on that as citizens of this country. We rely on
12 that so that if ever charged with a crime that the evidence
13 will all be collected so we can -- it can be proved or
14 disproved that we did something.

15 Now one of the things that you didn't see and I really
16 ask you to see is the rest of the interview. The police
17 brought my client in at approximately 9:13 on March 18th.
18 Detective Perkins took him down in handcuffs.

19 And if you ever can believe that you don't feel like you
20 are arrested and that you are voluntarily going somewhere to
21 give a statement, tell me about how going there in handcuffs
22 make you feel that this is voluntarily and that you don't need
23 a lawyer.

24 It appalls me that this state continuously makes
25 reference to him getting a lawyer, to him asserting his rights

1 under our Constitution, but they want to make this great big
2 deal about when Detective Perkins comes to his house right
3 after the other officer leaves that, you know, maybe I need --
4 maybe you need to have a search warrant.

5 Now the other officer had already come in the house. He
6 let him in the house. The officer testified he walked around
7 and walked around the house. He didn't tell you one second
8 that Bob McCaffrey said you can't come in, you can't -- you
9 can't be in here. He didn't tell him that.

10 But when this detective comes and comes to his door and
11 probably sharply rapped on it and said I need to talk to you
12 about this report, well, fortunately or unfortunately, for Mr.
13 McCaffrey in this situation he grew up with a father who was
14 in law enforcement. He grew up with a father who knew that
15 if, you know, somebody wasn't there or they are investigating
16 a missing persons that the husband would be looked at. He
17 advised him.

18 But beyond and not even listening to his dad's advice he
19 goes to the station voluntarily. He goes into a little room.
20 And they really tried to make this far less of a deal than it
21 is. It was a little tiny room with a little skinny table and
22 three chairs and is kept there until well after two o'clock in
23 the morning while they parade officer after officer into the
24 room asking him the same questions in different ways over and
25 over.

1 Now you have heard the testimony. And just by the
2 testimony itself you pretty much have to figure out that Bob
3 McCaffrey was up during the 17th. Was there with his wife.
4 He signed the paperwork for the taxes. He had dinner with
5 everybody. He drove all the way to Travelers Rest. He gets
6 scorned by this lady, so call it. And drives back. Finds the
7 circumstances. He is up all day. They are showing you his
8 communications. He's up all day.

9 And by the time they bring him down to the station he had
10 been up almost two days. And they keep him in there for a
11 long period of time. He tells them about Brandy. He tells
12 them where he went. He tells them about the ticket. He is
13 telling them about everything. He is giving them, without a
14 lawyer, against his own father's advice, giving them a lengthy
15 statement.

16 Now I am not here -- no one here in this courtroom in
17 Charleston knows where Ms. McCaffrey is. But the State wants
18 you to make suppositions. Missing people happen. Missing
19 people show back up. Without a trace and then they are back.
20 We don't know. We don't know what happened.

21 But look at their timeline. Because they eat dinner.
22 About eight o'clock or so there's a phone call that comes in.
23 This phone call comes in and -- or a text message going on.
24 And Gayle is upset. They go outside.

25 The Gillespie's then feel uncomfortable and they leave.

1 So Mr. Gillespie figures out that he forgot ---

2 MS. SHEALY: Objection, Your Honor. May we approach?

3 (WHEREUPON, bench conference 3/8/19, 11:23 a.m.)

4 MR. LIZZI: They discussed phone calls and text messages
5 going back and forth with my client and Brandy. Well, I told
6 you from the onset by client was not the best husband. These
7 things happen. These things happen all over -- all over the
8 place.

9 But these -- but having an affair and getting involved
10 with another person doesn't make you guilty of a different
11 crime.

12 You will have that timeline when he is communicating.

13 Then Detective Perkins tells you that he leaves, that he
14 is on the road by ten after 10:00 when he sends a message to
15 his wife.

16 Then we see the text messages up in the Upstate, the
17 timeline, how long it takes, how long it took to get to
18 Traveler's Rest. One o'clock he is at Travelers Rest. 1:02,
19 I think it was.

20 And he goes over and goes to the VFW. Of course he is
21 not very happy at the VFW. This person is, as I asked her,
22 why didn't you tell him just not to come. She is playing
23 games with him. She is toying with him. He gets there and
24 she has got another guy there, Matt.

25 And I was a little confused back and forth because we

CLOSING BY MR. LIZZI

1 know that her friend said that she drove her car for her to
2 the VFW. But I am not really sure how she left the VFW
3 because she says she left the VFW driving and Bob followed
4 her. Her friend said that she left with Matt. And we are not
5 really clear how that went.

6 It is clear that at about 2:15 or so he is stopped by the
7 police. He is held there while they give him a ticket. They
8 look up the information on him. He talks to the police.

9 Listen to his voice. He is upset he got scorned by
10 Brandy. He is having problems with his wife. But listen to
11 his voice. It's -- there is nothing unusual. He is not
12 drunk. He is in the Upstate. He is in Travelers Rest.

13 They want you to believe that there is this great big gap
14 of time from when he comes out of Travelers Rest and gets down
15 to Charleston -- the time alone puts him there at after six
16 o'clock.

17 Because his phone didn't -- he didn't call anybody or
18 talk to anybody ---

19 MS. SHEALY: Objection, Your Honor. Can we approach?
20 (WHEREUPON, bench conference 3/8/19, 11:31 a.m.)

21 MR. LIZZI: You will hear from Mr. McCaffrey that he was
22 there at 6:30. You will see where he was in the timeframes in
23 the evidence where he was before that. You will in the
24 evidence he talked to his dad. That is somewhere right after
25 eight o'clock.

1 His children were in the house. You will hear him
2 explain on the video what went on during that period of time.

3 Now the State wants you to think that he had all of this
4 time -- they want you to picture this man being there for
5 hours taking care of a crime scene. Now, the police found no
6 evidence whatsoever of any crime scene. Found no blood.
7 Found no evidence of a struggle. They found nothing.

8 This is the bed (displaying photo) that how they found
9 it. This is how the bed was. It looks like a person was
10 laying there. It doesn't look like the room was disturbed.
11 It doesn't look like anything.

12 What doesn't make sense and what doesn't add up when the
13 State tells you all of this, if I had all of this time why
14 would I have all of this information in my phone about a
15 girlfriend? Why would I have her picture on my car? Why
16 would all of these things still just be there? Why would I
17 keep all of those things in plain sight for the police?

18 Nothing was cleaned up. His car was a mess. It is still
19 a mess days later. Nothing was disposed of. They want to
20 create this sneaky mastermind of a crime. But he basically
21 was a distraught husband and he didn't clean anything up.

22 He shows them where everything is at. The police come
23 in. And here's one of the problems I really really have. If
24 you're not sure what happened somewhere wouldn't you want to
25 eliminate any possibility of anything at the scene?

CLOSING BY MR. LIZZI

1 I have a printer that there is a claim that a letter came
2 off of. We know that. It is -- this letter is the center of
3 this case. It was the center for the police from the
4 beginning of this case. No fingerprints were taken on the
5 printer to either eliminate the possibility somebody else used
6 it or to show that only people in the household used it.

7 Nothing on the door to see if any strangers or anybody
8 that wasn't normal came through the door. Nothing in the
9 house on computers.

10 I have something that is typed, generated off of the
11 computer, might be able to say that there wasn't anybody
12 else's fingerprints but the people in the house. They didn't
13 do any of that. They didn't look at for any of that
14 information to help the investigation and help prove or
15 disprove.

16 I asked the officer about that wouldn't it have been
17 helpful to be able to eliminate people. Yes, it is helpful to
18 eliminate people. Down the road you can answer that question.

19 Things in this house - and you will have all of the
20 pictures - were the same. Now they want you to believe that
21 we're investigating a missing persons and that is why we
22 didn't do it. Then why did we do the car -- both cars? They
23 went in his car and fingerprinted everything. They went in
24 her car and fingerprinted everything. They must be thinking
25 something happened. They are taking fingerprints in the

1 vehicles at that time.

2 Two days later they are back and they are using the dies
3 and luminal and looking for traces of blood and taking
4 mattresses, pieces, and all of those things with them.

5 Still no fingerprints. Still no -- they didn't even
6 secure the scene to make sure that -- at that point if you're
7 taking samples of mattresses, you're taking samples of things,
8 you are obviously investigating more than a missing person.

9 Now Gayle knew about Brandy. Gayle told her friends that
10 she went into Brandy's phone -- I mean into his phone or
11 computer. I am not sure which one it was. And found pictures
12 of her and she deleted them. She knew what this woman looked
13 like. She knew who it was.

14 Now the evidence is clear when this happened she was very
15 very very distraught. I mean this is a woman -- I mean as the
16 testimony you have heard who is trying to live a good life,
17 trying to do the right things, has her family, has her
18 children. And she is feeling like life shouldn't do her
19 wrong.

20 In Exhibit Number 129 when she writes to John O'Brien she
21 basically ---

22 MS. SHEALY: Your Honor, may we approach?
23 (WHEREUPON, bench conference 3/8/19, 11:39 a.m.)

24 MR. LIZZI: You are going to have Exhibit 129 back there
25 where she is talking to John O'Brien and the last part of --

CLOSING BY MR. LIZZI

1 the last minute she says in it: Did I mention sad, stupid,
2 and psycho.

3 She was a woman distraught. She was trying to figure out
4 how to save her marriage. She asked for a marriage counselor
5 suggestion.

6 And on March 16th when Bob came home early she thought
7 that all of her works and effort was going to pay out. She
8 thought that things were going good. She fixes that dinner.
9 They are doing everything that day. And then Bob was talking
10 to that girl. And Bob leaves. Bob leaves. Nobody knows what
11 that would do. But we don't know.

12 But we are here on obstruction of justice. We are here
13 for you to look at what Mr. McCaffrey did. We are not here to
14 bring out something from Ms. McCaffrey. This is about him
15 obstructing justice.

16 Bob wasn't there during the week most of the weeks. You
17 have heard that over and over. He is up in the Upstate
18 working on the -- one of the family members' homes.

19 Yes, on Valentine's Day Bob went out. Bob wasn't a good
20 boy. Okay. There is no other way to say it. Bob got caught
21 up into a web. But being caught up into a web while you are -
22 - while there's times in your marriage is not what we are here
23 to try today. We are not here to say is he a bad man for what
24 he did in his marriage to his wife with Brandy Stiles.

25 And they make a big deal about my client getting a

1 lawyer. But you notice how they didn't talk at all about how
2 Brandy Stiles got one right away. She told you she got one
3 right away. She had a lawyer with her in the interview with
4 the Charleston County Sheriff. Told you not that first day
5 but the next day. When they took all of her phones, all of
6 that, she had already had one. They don't want -- they don't
7 want you to think about that.

8 Now they talk about the safe. Well, Bob is gone; and we
9 don't know when -- we don't know when that safe could have
10 been found. It could have been found during the week and we
11 don't know if it -- who could have taken the safe out. You
12 know, other persons could have taken it out. And it could
13 have been opened -- just as I asked the deputy, it could have
14 been opened by some other means.

15 But what became interesting to me was because Gayle was
16 probably getting ready to go on her weekend away is in that
17 attic space that Bob said the safe belonged was where the
18 suitcases were kept. And if Gayle had gone up and found the
19 suitcase in the attic and go to get the suitcase in the attic
20 and saw a safe that she didn't know about, I have a hard time
21 to believe that she would just leave it there.

22 The first officer came. Doesn't have a body cam.
23 Doesn't have anything. Doesn't remember his statement at all.
24 He had a very short stint in law enforcement. Had been -- was
25 a fairly new deputy and that career didn't pan out for him.

CLOSING BY MR. LIZZI

1 Left the Sheriff's Department, the Charleston Sheriff
2 Department, not too long after that. Went to the Colleton
3 County, one. And then now he is in a completely different
4 field.

5 But we don't have the benefit of seeing what actually was
6 said and done that first encounter. But we do know that Bob
7 went to the police station and told everything that day just
8 hours later. How was that impeding the police investigation?

9 You go within hours when asked, down to the police
10 station and tell them everything you know. How is that
11 purposefully impeding a police investigation?

12 Now they talk about their expert witness. What really
13 really struck me in the overall looking at this case in
14 preparation for this case is the expert witness, as he
15 testified, had a couple of preliminary reports, had a lot less
16 information. And I read into the record -- I had to read into
17 the record what he had at the first time that he looked at
18 this.

19 He had a farewell note which is Exhibit 63. He had Bob's
20 text messages, Bob's email, a version of Bob's resume, Bob's
21 statement to the police, Craigslist kitchen ad, Gayle's text
22 messages, and Gayle's email. And he comes to a conclusion
23 similar to that he had today.

24 And then in -- the State provides him additional
25 information and then he comes to the same conclusion. Now he

1 told you -- I heard him go on and on about how he works with
2 various the law enforcements, he works with the various -- he
3 is very proud of the different aspects of law enforcement and
4 the legal field that he deals with. And he has a company for
5 consulting and for providing these kind of services.

6 He was hired by the Sheriff's Department to assist them
7 in this matter. We are not talking -- and I asked him
8 repeatedly about this. You know, he brings up to the jury a
9 reference to DNA and how -- and kind of tries to relate it to
10 DNA. But I relate it -- related it to more of a subjective
11 instead of an objective view of information.

12 And it is kind of like how an umpire does when he is
13 behind the plate and he sees that information and makes a call
14 how he sees it.

15 Now each person, and as you have heard from our expert,
16 use that information. And one of the troubling things for our
17 expert was that he didn't -- he jumped from similarities to
18 markers. And what the difference between similarities and
19 markers are is there may be similarities in documents but
20 there's certain things in their field that they look at as
21 markers, things that significantly stand out to make him
22 render an opinion on.

23 And some of the references that he made just had so
24 infrequent showings in voluminous documents from Bob that it
25 was a similarity but not a marker and nothing he could make a

CLOSING BY MR. LIZZI

1 decision on. Nothing that he could tell you or assist you in
2 an opinion on.

3 Some of the things he talked about were like apples and
4 oranges because the doctor is talking about two different
5 types of where the ands connected. They were -- and the ands
6 were connecting different types of segments.

7 And we are looking at a result-driven opinion. And a
8 result-driven opinion is kind of where you think about what
9 you're going to find and then you look at the evidence and you
10 give it.

11 Now our expert told you just can't -- just can't make a
12 decision either way. He didn't come in here -- you know, he
13 was more of a scholarly professor type, more soft-spoken and
14 things. And he said you can't do it. You know, he can't come
15 in and tell us that he can rule our guy out and can rule
16 anybody in. Because it is just not there. Information wasn't
17 sufficient to render that.

18 And you remember who provided all of this information to
19 the doctor, who picked it out, who sent it. That all comes
20 into play.

21 The doctor also told you about code switching and how
22 code switching is how people talk differently in different
23 settings, write differently in different settings, in
24 different meetings.

25 We don't talk to our spouses like we talk to our friends

1 in church. We don't talk and write at work the same way as we
2 may to our spouse.

3 And sometimes when we are mad, like when our spouse just
4 let you down so bad because I just prepared this dinner, I got
5 us -- I just made reservations for us to save our marriage and
6 here you are with this girl. How angry that can make a
7 person.

8 But that affects your language skills and how you write.
9 And the mimicry where people say things and mimic the person
10 that they are really mad at to hopefully make them mad back.

11 One of the things Dr. Perlman talked about that really
12 stood out to me and stood out from the minute I talked to him
13 about it, when he talked about the pronouns, how difficult it
14 is to write something in another person's and keep all of the
15 pronouns straight. How difficult that is to not make a
16 mistake. That is something that they look for because that is
17 a typical mistake.

18 He felt like there wasn't enough frequency in pattern to
19 make a determination. He talked over and over about that.

20 So the State repeatedly asked everybody that came up here
21 from the church and from her family and friends, did that
22 letter sounds like Gayle to you; is that how she writes?

23 What did I ask one of the witnesses? The prosecution
24 showed you that letter and told you how it was important. How
25 important it was. Everybody knew how important it was. Those

1 witnesses knew how important it was.

2 Each and every one of those witnesses remember her from
3 the last time they talked to her. But we are talking seven
4 years. To have that vivid of a recall of somebody's language,
5 somebody's writings, seven years ago when we deal with it in a
6 professional manner or we deal with them, I just ask you to
7 use your common sense.

8 I believe that the State has tried to use emotion to make
9 you -- to fill in the dots to fill in the missing evidence and
10 the missing things that they have in their case and they
11 wanted to morph it with emotion. We will just -- you know,
12 we've got a sad situation and we have sad people and we can
13 convey that.

14 They haven't given you any evidence that proves that who
15 wrote that letter. We don't know if a third-party wrote it.
16 We don't know if a third-party was in the house. We don't
17 know any of that.

18 But we do know there is no sign of struggle, that when
19 Bob -- about the time Bob left, when Bob reported he was back,
20 and when Bob had his telephone call to his dad. And the kids
21 were at home.

22 The State has the means. The police have the means to
23 provide you with additional information that -- if they've
24 left it out, they have let you down.

25 But here this gentleman has had to wait seven years to

1 deal with this. He has had to wait five years after being
2 arrested before the State decided it has finally come and
3 bring him into trial.

4 Now there is decisions. And as the judge told you about
5 holding it against -- not to hold it against my client for not
6 to testify or to testify.

7 But I strongly ask you to keep that charge dwell on your
8 mind. Because he is innocent. See, when he came into this
9 courtroom we use this cloak of innocent. He is completely in
10 the cloak of innocence. They have the duty, they have the
11 responsibility, to the persons and the citizens of the County
12 of Charleston to remove that if there is proof and to provide
13 you with an appropriate amount of proof to do it. Not to give
14 you some things that will get you emotional and fill in the
15 dots.

16 We know girlfriends, that will do it. Had a girlfriend.
17 Totally had a girlfriend. Never hid it. Never erased his
18 phone messages. Never did any of that.

19 Now they are trying to reference and grab this
20 conversation later that he had with Brandy Styles. The
21 charges they brought him in here on was on about March 18th
22 that he did these things. That is where he was -- that's what
23 he was indicted for. That is what he is here facing. The
24 events, the actions, and the things he did on March 18th. And
25 that is what we are looking at.

CLOSING BY MR. LIZZI

1 They want you to look at all of these other things. It
2 is like smoke and mirrors. It is like, you know, if I give
3 them enough things and I pull on the strings, on their coat
4 strings for emotion it fill in the blanks.

5 Mr. McCaffrey is innocent here are these charges. He
6 tried to cooperate with the police. And that is why he is
7 here today. People shouldn't be penalized for exercising
8 their right to get a lawyer.

9 But what this does say is that it brings pause to people
10 getting a lawyer and not helping police. And we don't want to
11 send that message either.

12 We don't want to send a message out there that if you are
13 tired and you are distraught and you don't know what is going
14 on, if you make one mistake when you talk to the police, that
15 you are going to sit in that chair. Because then nobody will
16 ever want to cooperate with the police. And we don't want
17 that. We don't want that because we will never get anything
18 done.

19 If we make the people of our state and our country
20 believe that you can't do anything to cooperate with police
21 because if they decide it is you that did it -- because in
22 this case they didn't look at anybody else. They didn't talk
23 about any other suspect. They didn't look at anything. They
24 investigated Mr. McCaffrey.

25 They -- everything he said was put under a microscope.

1 And we don't want our citizens to be under a microscope every
2 time they try to assist the police. It just won't work. The
3 whole system will fail.

4 Watch the interview. Watch everything. I believe you
5 will see that the time and the length that he went to answer
6 questions for the police and do things, that he did not
7 obstruct justice, that he did not intentionally - and that is
8 the whole word here, intentionally - do an act to obstruct
9 with the intent to obstruct justice. Thank you.

10 THE COURT: Ms. Shealy.

11 MS. SHEALY: Thank you, Your Honor.

12 **REBUTTAL BY MS. SHEALY:**

13 I am going to make this quick. He told you that the
14 police didn't do their duty to the community. How dare he
15 insult the Sheriff's Department. They had to check everything
16 out because of the lies of Bob McCaffrey. They were looking
17 for Gayle McCaffrey, praying to God they could find her. That
18 was insulting to the police.

19 The reason they are not going into people's home, just
20 look at fingerprints initially, is because either they knew
21 she had written the note and left or he had written the note
22 and done something to her. Okay.

23 There no sign of an abduction. Because don't lose sight
24 of the letter talks about that \$110,000. So no unknown person
25 comes in and grabs her and takes her out. It is referencing a

CLOSING BY MR. LIZZI

1 safe and \$110,000 that he tells the police he is the only one
2 in the world who knows about it. So don't lose sight of that,
3 please.

4 Keep this in mind. Yeah, he lets Chris Davis in. Chris
5 Davis is the guy showing up in the patrol car. He said, oh,
6 did you file a missing persons report. It is a very cordial
7 conversation. One in which, however, Mr. McCaffrey lies; and
8 Mr. Lizzi tries to gloss over that. But nonetheless.

9 And things change when he realizes a detective is showing
10 up. Things change. Then his radar is off. I don't want to
11 let him inside. And I don't want to let him inside.

12 He said that Perkins was knocking at the door. There is
13 nothing in this record to suggest that. James Perkins is
14 getting the heck over there as quickly as he can because he
15 thinks he's got a missing person. Can you imagine how
16 astounded he was when the husband goes, whoa, not coming in
17 here.

18 He is telling you that there is a disservice that the
19 police waited until 2014 to arrest him. If they had arrested
20 him tonight he would be saying it was a disservice that they
21 arrested him that night. The police did due diligence.

22 Remember what Perkins said - it was either Perkins or
23 Colson - we were trying to make sure we dotted every "I" and
24 crossed every "T".

25 He wants to tell you this was a hostile environment in

1 that interview room. Remember. Keep in mind the officers are
2 sitting there the whole time he is, except when they walk out
3 and try to verify stuff that he is telling him.

4 It is not a hostile environment. And you heard Detective
5 Colson insult the interview with Mr. McCaffrey. Was he being
6 abusive towards him? Was he being difficult with him?
7 Absolutely not.

8 Let me clear up something. I am not telling you to find
9 Bob McCaffrey guilty because he had an affair. It happens
10 every day in many marriages and people work it out. People
11 can make mistakes. People can have affairs. Marriages can
12 survive.

13 The reason we went into it is for one reason and one
14 reason only. It fueled this man's conduct. It fueled him.
15 He wanted one thing and couldn't see anything else. He wanted
16 Brandy. That is why the affair is relevant. Don't find him
17 guilty because he had the affair. Find him guilty because of
18 what he did.

19 He wants you to fault Brandy because she is teasing Bob
20 to come up there? You heard the text messages. Let's say
21 that some of them are equivocal. You want -- he wants you to
22 blame Brandy who is separated from her husband?

23 He is asking you about the -- talking to you about the
24 timeline. It is amazing what you can get done when your
25 emotions are high and your will is strong. Hours, hours Bob

1 McCaffrey had.

2 He said why didn't he go in there and clear his phone.
3 Do we have any reason to believe that Bob McCaffrey knows
4 everything about clearing his phone? But more importantly, he
5 thought he had outsmarted everybody.

6 He goes, okay, this is the way this is going to play out;
7 I am going to write a letter; they are going to think she left
8 me; I am cool. And then Helen, he calls the police or I do.
9 He call the police or I do.

10 Hold on just a second. I lost my note.

11 Oh, let me clear something else up as well. First of
12 all, the letter itself makes it clear to the police this is
13 not an abduction, okay. You can't have it both ways. You
14 can't say, oh, the police jumped to conclusions and then tell
15 the police you were the only person who knew about the
16 \$110,000. That makes no sense. He is not savvy.

17 But also Brandy got a lawyer. Okay. Brandy kept getting
18 called down to the police station. She wanted someone there
19 to counsel her. This is not a testament as to whether or not
20 you should have a lawyer with you.

21 But what is interesting - make no mistake about that -
22 but what is interesting is that his father tells him at 8:30
23 in the morning call a lawyer. Call a lawyer.

24 If he had told his father Gayle left me, would his father
25 be saying call a criminal lawyer. That is what is relevant.

1 Oh, mistakes. Okay. Two children in that house. Nice
2 house. Not overly large. See, Bob didn't think it through
3 well. Because at the time of the letter, the letter says: I
4 know where the gun is, I knew what was in the safe.

5 Okay. Well, there was no safe. There was no \$110,000.
6 And under Bob's letter she would have had to have already
7 opened it before she wrote the letter. Makes no sense
8 whatsoever. No sense whatsoever.

9 How did she open the safe? Oh, in my phone under safe is
10 my combination.

11 Paul McManigal told you there was nothing that said safe
12 with the combination. His story was unraveling and unraveling
13 and unraveling.

14 He said about -- Mr. Lizzi said about Dr. Leonard that it
15 was a result-driven opinion. Result-driven. What the
16 Sheriff's office did, they tried to contact an expert to
17 assist them in their investigation. This is not a result-
18 driven investigation. They were being fair. And they sent
19 everything that they had and that they could gather and that
20 they knew about to Dr. Leonard.

21 What did Dr. Leonard tell you? He told you that he has
22 been hired plenty of times by divorce -- by defense attorney
23 and had to say, ooh, I can't help you out here; you better get
24 the best deal you can.

25 He gave you the examples. And I think there's something

1 Mr. Lizzi is missing. This is a huge point. Yes, there were
2 fewer writings by Bob. But why that is so important in it in
3 just those few writings he has the writing habits that Dr.
4 Leonard told you about that are found in the letter; and Gayle
5 with more writings does not.

6 The fewer items make it stronger that you are seeing it
7 when he writes. When he was writing about a work job, when he
8 is writing to his paramour, when he is writing to his wife, he
9 is using those patterns.

10 And Mr. Lizzi was saying, oh, remember the code
11 switching, you know, that if you might write differently if
12 you are irritated and angry with someone than you do when
13 you're calmly discussing something? But even his expert
14 didn't say all of a sudden you start developing the habits of
15 your spouse. That is ridiculous. Ridiculous.

16 Is Mr. Lizzi suggesting to you that Christina Simmons,
17 Carla McIntyre, Mary Game, Donna Parrish, and Debbie Mac came
18 in here and told you anything but the truth? You heard them
19 testify. You judge the credibility. They lived it.

20 He wants to tell you, well, you know, when somebody is
21 talking about their children or if they are talking about
22 choir or if they are talking about handbells or if they are
23 talking about to their husband about saving your marriage,
24 that is not as good.

25 Well, you know what? That is who Gayle was. That is

1 what her writings are. We gave him, Dr. Leonard, copied to
2 Mr. Lizzi, all of the writings we could get. And the reason
3 they are the nature that they are is because that is who Gayle
4 was.

5 Ladies and gentlemen, he also said something about the
6 18th, the 18th, don't hold it against Bobby that he tries to
7 silence Brandy. The judge will tell you our indictment -- or
8 you see the indictment. It is on or about the 18th. In the
9 midst of all of this he wants to quiet her, to hush her.

10 Ladies and gentlemen, we have met our responsibility.
11 That cloak of innocence is gone.

12 THE COURT: All right. Ladies and gentlemen, you have
13 heard my charge on the law and you have heard arguments of
14 counsel. I want you to fully and clearly understand, ladies
15 and gentlemen, that you, you all, are not partisans are
16 advocates for the State of South Carolina or for the
17 defendant.

18 It is your duty by your joint deliberations to determine
19 the facts in this case, giving to the defendant the benefit of
20 every reasonable doubt on each and every issue. Then to the
21 facts which you, which you, determine to be true you should
22 take and apply the law which has been given to you by this
23 court and thus arrive at a verdict in this case.

24 When you have accomplished these responsibilities you
25 will have satisfied your oath as jurors and you will have

1 discharged your duty to this court.

2 Now once you retire to the jury room the bailiff will
3 give the verdict form to you Mr. Foreman. When you, the jury,
4 arrive at a verdict as to the offense charged in this case
5 you, Mr. Foreman, will select, you will select, the verdict of
6 the jury.

7 If the State has failed to prove the guilt of the
8 defendant beyond a reasonable doubt your verdict will be not
9 guilty. Likewise, if the State has proven the guilt of the
10 defendant beyond a reasonable doubt your verdict will be
11 guilty.

12 Now once a decision has been made the Foreman, as I said,
13 you will check whichever choice is the verdict of the jury as
14 to the offense charged.

15 The verdict that you render in this case, ladies and
16 gentlemen, must be the verdict of each and every juror. It
17 must be your unanimous verdict. All 12 of you must agree on a
18 verdict that you authorize the foreman to write for the jury.

19 Now, ladies and gentlemen, I want you to further
20 understand that the order in which the choices of verdict
21 appear on the verdict form are not, are not, suggestive of any
22 verdict on the part of this court. The verdict in this case it
23 to be determined by you the jury, not the court.

24 Furthermore, please understand that even though I will
25 give the verdict form to the foreman it is not his verdict

1 alone. It is the verdict of all 12 of you. And, again, I
2 emphasize it must be your unanimous verdict. I am also going
3 to give you all a copy of these instructions in written form.

4 Now during your deliberations you may refer to the
5 instructions to guide your decision making. I will tell you
6 that you must consider the instructions as a whole and not
7 follow some and ignore others.

8 Please, Mr. Foreman, return these instructions to the
9 court at the time that your verdict is rendered.

10 Now what I am going to do, I am going to ask you all now
11 to retire to your jury room but do not begin your
12 deliberations until you are told to do so.

13 Before I ask or let you step to the jury room, does
14 anyone on the jury not feel well? Everyone feeling okay?

15 All right. I am going to ask that each of you step to
16 the jury room. The law requires that I consult with the
17 attorneys to make sure that I have not left anything out of
18 these instructions.

19 After I have consulted with the attorneys the bailiff
20 will bring in the items of evidence to you along with a copy
21 of these instructions and the verdict form.

22 Now during your deliberations should you all have any
23 questions, Mr. Foreman, it will be your responsibility to
24 reduce such question to writing. Knock on the door, let the
25 bailiff know that you have a question, and give it to him.

1 The bailiff will get it to me. And after consulting with the
2 attorneys I will answer it how I deem appropriate.

3 Now once you have reach a verdict in this case, likewise,
4 and filled out the verdict form, signed and dated the verdict
5 form, knock on the door. Let the bailiff know that you all
6 have reached a unanimous verdict and we will get you back in
7 the courtroom as promptly as possible.

8 At this time I am going to ask you to step to the jury
9 room. It is my understanding that your lunch is here. Those
10 can be given to you. You all can begin to eat lunch. But do
11 not begin your deliberations until you are instructed to do
12 so. Please step to the jury room.

13 (WHEREUPON, jury exits 3/8/19, 12:24 p.m.)

14 THE COURT: All right. If you all -- any exception or
15 objection to the charge from the State?

16 MS. SHEALY: No, Your Honor.

17 THE COURT: Defense counsel?

18 MR. LIZZI: No, Your Honor.

19 THE COURT: All right. You all need to come up here and
20 look at these items of evidence and make sure they are I guess
21 all there.

22 MS. SHEALY: Your Honor, could we talk about Mr.
23 McCaffrey's bond as well?

24 THE COURT: Yes. Go ahead. I am listening.

25 THE COURT: It would be the State's position at this

1 point that he needs to be taken into custody. The jury has
2 the case.

3 THE COURT: Well, I am going to order that he remain
4 here. I am not going to order that he be taken into custody
5 at this point.

6 MR. LIZZI: Your Honor?

7 THE COURT: Yes.

8 MR. LIZZI: Since he cannot leave can the Clerk's Office
9 provide him a meal?

10 THE COURT: No, sir, but you can. I mean I could take
11 him into custody and they can feed him.

12 MR. LIZZI: No, I will take care of it, Your Honor.
13 Thank you.

14 THE COURT: Okay.

15 (WHEREUPON, break for counsel to review exhibits 3/8/19, 12:28
16 p.m.)

17 (WHEREUPON, resume 3/8/19, 12:47 p.m.)

18 MS. SHEALY: For the record we should make clear which
19 ones were admitted just for purposes of the expert. I can do
20 it very quickly.

21 THE COURT: Okay.

22 MS. SHEALY: But there is one thing that I am concerned
23 about that maybe you could communicate to the jury, in
24 whatever fashion obviously you choose to that I think they
25 need to be advised there are additional writings that were

1 admitted just for the purpose of the expert testimony that you
2 do not have copies of.

3 Because I don't want them to go back and just see this
4 little tiny bit of writings and think that is all that we
5 provided.

6 THE COURT: Well -- they were admitted into evidence.
7 They were admitted into evidence for purposes for that
8 purpose.

9 MS. SHEALY: Right.

10 THE COURT: Why don't we put a piece of paper with it and
11 say exhibits -- whatever the exhibit ---

12 MS. SHEALY: That is fine.

13 THE COURT: --- numbers are and say these were admitted
14 solely for the purpose of the expert's review in their
15 analysis; something along those lines.

16 MS. SHEALY: That is fine.

17 MR. LIZZI: Not -- not for the content?

18 THE COURT: Right. Is that fair enough?

19 MS. SHEALY: Yes, sir.

20 THE COURT: And that way ---

21 MS. SHEALY: Do you want me ---

22 THE COURT: --- it can all go back.

23 MS. SHEALY: Right.

24 THE COURT: And they have got on a piece of paper
25 that ---

1 MS. SHEALY: There are others.

2 THE COURT: --- those exhibit numbers, that is what they
3 were admitted for.

4 MS. SHEALY: Do you want me to try to have that typed, or
5 can we just write it real quick; or what would you like to do?

6 THE COURT: Let me see -- can I see the exhibits?

7 MS. SHEALY: Yes, sir.

8 THE COURT: Please.

9 MS. SHEALY: Kind of -- I kind of spread them out.
10 (WHEREUPON, exhibits provided to the court.)

11 THE COURT: And I can make the note a court's exhibit.

12 MR. LIZZI: Your Honor, can that include that they are
13 not to consider the content?

14 THE COURT: I'm sorry?

15 MR. LIZZI: Can that include the direction that they are
16 not to ---

17 THE COURT: And not admitted for its content.

18 MS. SHEALY: That is fine.

19 (WHEREUPON, pause to compose note for jury.)

20 THE COURT: This is what I typed in here: Exhibits 101,
21 102, 103, 112, and 113 was admitted into evidence as those
22 documents reviewed by the experts and were not admitted into
23 evidence for their content.

24 MR. LIZZI: That is good, Your Honor.

25 MS. SHEALY: Thank you. And I think we are just waiting

1 for Mr. Cooper to get back with one exhibit.

2 (WHEREUPON, pause to print note for jury.)

3 (WHEREUPON, resume 3/8/19, 12:59 p.m.)

4 THE COURT: Ms. Shealy, Mr. Lizzi.

5 (WHEREUPON, bench conference.)

6 MS. SHEALY: The only thing I was equivocating about is
7 that -- do you think that note will tell them don't look at
8 the content? Or should we not include the attachments?

9 THE COURT: Do what?

10 MS. SHEALY: So of these are the ones that did -- that
11 were in but did not ---

12 MR. COOPER: Exactly. They were admitted for the purpose
13 of ---

14 MS. SHEALY: The only thing I am asking is if you send
15 these back (pointing) -- just to have a crisp record maybe we
16 can just sent this (pointing) back, the sheet.

17 MR. COOPER: Otherwise, they can ---

18 MS. SHEALY: Otherwise, they would have access to these.

19 THE COURT: I mean they are in evidence. They were
20 admitted for that limited purpose.

21 MS. SHEALY: Right.

22 THE COURT: I mean they are in evidence.

23 MS. SHEALY: Do you have a problem with it?

24 MR. LIZZI: Well, and I -- and -- I would. I mean I
25 understand what Ms. Shealy is saying is they are in evidence

1 for the limited purpose of just that evaluation. We don't
2 have their reports in.

3 THE COURT: Right.

4 MR. LIZZI: So I don't think the jury -- that invites the
5 jury to start looking through things that -- and if you just
6 explain to them that those exhibits were -- are not in their
7 package, that they are admitted for that, I think the note it
8 would be proper. But I think ---

9 THE COURT: Just the note in and of itself?

10 MR. LIZZI: Yes.

11 MS. SHEALY: Instead of the attachments.

12 THE COURT: If you all agree with that, that is fine with
13 me. And I am going to mark the note as a court's exhibit.

14 MS. SHEALY: Thank you.

15 THE COURT: Fair enough?

16 MS. SHEALY: Fair enough.

17 MR. COOPER: Yes, sir. Thank you, Judge.

18 THE COURT: Okay.

19 (WHEREUPON, Court's Exhibit Number 8, was marked for
20 identification.)

21 THE COURT: I am going to pull my two alternates, Mr.
22 Fyall and Mr. Ethridge. Mr. Lizzi, Ms. Shealy, I am going to
23 pull out my two alternates and release them ---

24 MS. SHEALY: Back there?

25 THE COURT: --- back here.

1 MS. SHEALY: Okay.

2 THE COURT: Any objection?

3 MR. LIZZI: No objection.

4 MS. SHEALY: No, sir.

5 THE COURT: All right.

6 (WHEREUPON, exhibits sent to jury 3/8/19, approx. 1:05 p.m.)

7 (WHEREUPON, resume 3/8/19, 1:36 p.m.)

8 THE COURT: All right. I have been advised the jury has
9 reached a verdict. I will remind everyone in this courtroom
10 whatever the verdict may be, keep your emotions in check. If
11 you do not believe you can keep your emotions in check,
12 whatever the verdict may be, now is your time to exit the
13 courtroom. If you fail to keep your emotions in check you can
14 be held in contempt of court resulting in a fine and or
15 incarceration.

16 Anything from the State before I bring the jury out?

17 MS. SHEALY: No, Your Honor.

18 THE COURT: Anything from defense counsel?

19 MR. LIZZI: No, Your Honor.

20 THE COURT: Bring me the jury, please, sir.

21 (WHEREUPON, jury enters 3/8/19, 1:38 p.m.)

22 THE BAILIFF: All present, Your Honor.

23 THE COURT: Madam Clerk.

24 Mr. Foreman, have you all reached a verdict in this case?

25 THE FOREMAN: We have.

1 THE COURT: A unanimous verdict?

2 THE FOREMAN: Yes, sir.

3 (WHEREUPON, verdict presented to the Court by bailiff.)

4 THE COURT: Would you publish the verdict.

5 (WHEREUPON, verdict presented to the Clerk.)

6 THE CLERK: In the State of South Carolina versus Robert
7 W. McCaffrey, Junior, Indictment Number 2019-GS-10-01363, as
8 to the charge of obstruction of justice, we the jury
9 unanimously find the defendant Robert W. McCaffrey, Junior,
10 guilty.

11 Signed 3/8/19 by the foreperson.

12 THE COURT: All right. Anything from defense counsel at
13 this time?

14 MR. LIZZI: I ask that you poll the jury, Your Honor.

15 THE COURT: All right. Madam Clerk, would you poll the
16 jury please.

17 THE CLERK: Yes, sir.

18 Ladies and gentlemen, I am going to ask you two
19 questions; is this your verdict, and is it is still your
20 verdict?

21 Please answer each question appropriately. Also, please,
22 when I call your juror number stand up for me.

23 THE CLERK: Juror Number 46. Is this your verdict?

24 JUROR: Yes.

25 THE CLERK: Is it still your verdict?

1 only about the person that Gayle McCaffrey was but also about
2 how gifted, talented, and hard-working you were. And in the
3 blink of an eye, so to speak, throw it away.

4 2019-GS-10-01363 the defendant is hereby committed to the
5 State Department of Corrections for a period of ten years.
6 Give him credit for 16 days. Good luck to you, Mr. McCaffrey.

7 MR. LIZZI: Thank you, Your Honor.

8 THE COURT: Yes, sir?

9 MR. LIZZI: I said thank you, Your Honor.

10 THE COURT: Anything else from the State?

11 MS. SHEALY: Nothing further. Thank you.

12 THE COURT: Can the lawyers approach just a minute,
13 please? Let me ask you this is the question: Do you want ten
14 days to make any post-trial motions?

15 MR. LIZZI: Yes, Your Honor.

16 THE COURT: I will give you ten days to allow -- ten days
17 to make any post-trial motions that you so desire.

18 MR. LIZZI: Thank you.

19 THE COURT: All right. Ladies and gentlemen, of the
20 jury -- Ms. Johnson, does a work excuse come in the mail for
21 them as well or ---

22 THE CLERK: I can get one for them today. They can get
23 it.

24 THE COURT: If they need one -- you will give it to them
25 in here?

CHARLESTON COUNTY SHERIFF'S OFFICE EVIDENCE	
	
12-004559	127931
TYPED "DEAR BOB" NOTE	
S/N:	
2829 LIMESTONE BLVD CHARLESTON, SC	PERKINS, JAMES B. : 9536 3/18/2012
279	



Dear bob,

It is St. Patrick's' day and you are on your way out somewhere ignoring me again. You are right again, we are through. When you get back I will not be here. I found your safe-WTF - we live like this and you have over \$110,000 dollars in cash and the coins and all the old money?

I know why you never say anything about Nicky. You have known, and what, just waiting for someone to come along so you could leave us? Oh wait, you have met someone.

I hope you are happy.

Nicky is going home in a couple of days and has asked me to go with him.

I am going! I am going to be happy!

M.M. told me that she wanted to go with you two weeks ago when she first asked if we were getting a divorce. You could not be a better dad and the kids love you so much more than they love me! It hurts so bad, and before you hurt all of us I am making it easy for you. I am starting over also, while I have someone that worships me and cares so deeply for me.

I will always love you and the kids and cherish the moments we had. I do not want to end up like my mom or sisters. In loveless marriages and bitter, always trying and never really being happy.

I have tried to settle a few things for you, but since you have not really helped me, you can see what it takes to keep a family together by yourself, or with whatever ugly redneck bitch you want now.

If you were going to stay, I would have forgotten about Nicky. But I can see you have no desire to stay, and I am done suffering and trying and praying.

I know this is not all your fault, but like you said "I am done"

You can tell everyone whatever you want, as I am sure you will.

If you look for me and find me, because I am sure will try, I will use the gun, that was in the safe, on you.

Tell the kids that I love them, and I will miss them.

Gayle

Paperwork Misc
C.V.

CHARLESTON COUNTY SHERIFF'S OFFICE EVIDENCE

12-004559 127618

VACATION RENTAL AGREEMENT PAPERWORK (4 PAGES)

S/N: 2829 LIMESTONE BLVD THOMPSON, MICHAEL E. : 9208
CHARLESTON, SC 3/19/2012

112

STATE'S
EXHIBIT
64
3/6/19 PM

PERUAD 800-631-5989

Cranmore Cottages

Vacation Rental Agreement 631

220 Millard J Drive (MAIL ONLY)

Hendersonville, NC 28739

888-868-1779

FAX 480-287-8600

www.cranmorecottages.com / cranmorecottages@gmail.com

Please Sign and Fax or email back within 48 hours

In consideration of the monies received and mutual promises, contained herein, the Owner of the subject property, hereinafter "Agent", does hereby lease and rent to Tenant the certain property described herein and under the following terms and conditions. Unit information, rental rate and other financial data is set forth on this lease.

1. **ADVANCE RENT PAYMENT.** The amount specified as the advance payment sum set forth must be paid at time of booking. This agreement shall not be binding unless and until the Agent has received the amount specified and all checks have cleared the bank. Advanced payment in full is required if arrival date is 30 days or less from date reservation is made.
2. **BALANCE DUE,** including taxes, any handling fee, security deposit and any and all fees for goods or services as shown, must be received by Cranmore Cottages thirty (30) days prior to arrival and may be paid by money order, cashier's check or accepted credit card. **NO PERSONAL CHECKS OR COMPANY CHECKS WILL BE ACCEPTED WITHIN THE 30 DAY PERIOD PRIOR TO CHECK IN.** A \$25.00 handling fee will be charged for all returned checks. For reservations made less than 30 days from check in, full payment is due at booking time. **ALL RESERVATIONS MUST BE PAID IN FULL PRIOR TO CHECK IN.**
3. **TAXES** as required by North Carolina include the collection of Sales and Use Tax, and Lodging Tax on all fees for goods and services charged to Tenant and Lodging Tax on the rental rate and any pet rent. **Taxes are subject to change.**
4. **CANCELLATIONS/TRANSFERS** must be in writing or email. In case of cancellations more than 30 days prior to check-in, we will refund the sums paid, less a \$100 cancellation fee. If your notice of cancellation is received less than 30 days prior to your check-in, you will be forfeit all money paid. We highly recommend trip insurance. (www.insuremytrip.com) No refunds for weather.
5. **TERMINATION.** If the Tenant or any member of his party violates any of the terms of this agreement, the Agent may, at the Agent's sole discretion, terminate this lease with no refund of the used portions of the rents. Agent may enter the premises and remove Tenant, the members of his party and their belongings. Tenant is notified that they will be subject to an expedited eviction procedure pursuant to the "Vacation Rental Act".
6. **PETS** are permitted in most rental properties with appropriate pet fee. If pets are allowed, an additional rental fee applies and pet agreement must be executed within the contract. **NO PETS ALLOWED ON FURNITURE.** ALL pet messes outside are to be removed from common areas. **Each pet not listed on rental agreement is subject to \$25 per night fee + \$50 Pet cleaning fee.**
7. **ALL RENTALS ARE TO FAMILIES AND RESPONSIBLE ADULTS ONLY.** No high school, college or civic groups, chaperoned or not, are permitted. Violation is grounds for immediate termination. Properties are patrolled on a regular basis. Tenant acknowledges that he/she will personally occupy the property for the entire lease period and will not sublet any portion of the property. Occupancy restricted to the maximum occupancy as set forth in this lease. Violation of any of these terms shall give right to termination. Tenant agrees that the premises shall not be used for any illegal or unlawful purpose. Occupancy and use of the premises and common areas in such a fashion that disturbs or offends other guests or residents shall be deemed grounds for termination. We wish you to have an enjoyable vacation, but you must respect the rights of other guests.
8. **CHECK IN** will be after 4:00 P. M. on the arrival date.

CHECK OUT on the date of departure will be by 10:30 A. M.

All keys must be left on kitchen counter by 10:30 AM on departure day except for lock box key. To avoid \$40 unlock fee, lock box key must be returned to lock box upon departure. \$40 fee for check-outs after 10:30 am. Missing keys will be subject to a \$100 re-keying fee.

9. **FURNISHINGS.** Cottage is equipped and furnished. Mattress pads, pillows, blanket linens, bedspreads, towels, wash cloths, paper products, and kitchen utensils are provided. If using futons or rollaways, you must bring your own linens. Property also has unique and valuable decorations that are logged daily and the responsibility of the tenants. Please do not damage or remove any items from the property. Signer of agreement will be charged for lost, stolen or damaged items. **APPLIANCE MALFUNCTIONS, interruptions or service requests** for air conditioning, televisions, hot tubs, appliances, TV, internet, water etc. will be responded to as quickly as possible. There are no rebates or refunds issued to Tenants for any reason as every good faith effort is made to insure the property is maintained to highest standards.

10. **TELEPHONES** are not provided.

11. **GRILLING** is permitted only outside & away from cottage, porches or other structures on property. **ABSOLUTELY NO GRILLING ALLOWED ON DECKS OR PORCHES.** Use of fireworks is prohibited.

12. **NO PORTABLE HOT TUBS ARE ALLOWED ON PREMISES.**

13. **CARE OF PROPERTY.** ALL COTTAGES ARE NON-SMOKING. Tenant is expected to care of the property as if it were their own. Tenants are notified that the North Carolina "Vacation Rental Act" provides certain obligations on the Tenant regarding care and use of the property and Tenant agrees to be bound and responsible for the provisions contained therein. In addition, Tenant acknowledges that unless Agent is notified on day of check-in of any damage or cleaning concerns, then thereafter, all damages or concerns to the property during the occupancy will be Tenants responsibility and must be reported to AGENT and paid prior to departure. **Rearranging of furniture is not permitted.** All breakage or damage must be reported to 828-699-5485. No pet hair anywhere in the home upon departure.

Tenant Initials mn

14. **699 CLEANING FEE:** Full cleaning fee is \$100. We only charge \$65 in advance. The other \$35 is up to you. In order to save the extra \$35 fee, we ask that Tenant leave the property in a clean condition to include the following:

A. All trash removed from the cottage including refrigerator and placed in bags inside large can outside. No loose trash in big trash can. We empty our trash cans by hand. \$20 fee charged for any loose trash in cans.

B. All dishes, pots and pans must be washed, dried & put away.

C. Towels and wash cloths and used bed linens placed in bathroom floor.

D. Guests who bring pets must vacuum prior to departure. No pets on furniture or damage fee will be charged.

An additional \$35 cleaning fee will apply if the above A, B and C are not performed, as well as "D" for pet owners.

Guest must clean up all large messes or additional fees will be charged.

15. **LOCKED AREAS OR RESTRICTED AREAS** such as owner's personal storage areas, whether locked or not, are exempt from this lease agreement and are off limits to the Tenant. Forced entry into these areas is cause for immediate termination and Tenant will be charged for damage and/or missing items.

16. **IN THE EVENT** that the Owner is unable to deliver said property to Tenant under this lease agreement prior to occupancy because of fire, eminent domain, act of nature, double booking, delay in construction or any other reason whatsoever, Tenant hereby agrees that Agent's and Owner's sole liability as a result of these conditions is a full refund of all consideration previously tendered by Tenant. Pursuant to the terms of this lease, Tenant expressly acknowledges that in no event shall Agent or Owner be held liable for any consequential or secondary damages, including but not limited to, any expenses incurred as a result of moving for any damage, destruction or loss.

17. **LOST, STOLEN OR ABANDONED ARTICLES.** Owner shall not have any responsibility for lost, stolen or abandoned items.

18. **INDEMNITY.** The Tenant agrees to release and indemnify the Owner and His Agent from and against all liability, should anyone be injured upon the premises during the term of the lease, resulting from any cause whatsoever, except in the case of personal injury caused by the negligent act of the Owner.

19. **HOT TUBS AND DECK/PORCHES.** Tenant acknowledges that they are fully aware that the hot tub and surrounding patio/deck areas can be dangerous, that all surfaces can be slippery when wet, and that injury is likely to occur to anyone who is not careful. Tenants should observe care and safety when using hot tubs. No children under 16 allowed in hot tub unless under immediate adult supervision. Tenant, as signed below, assumes & accepts all risk involved in or related to the use of the hot tub and patio/deck areas. Use Hot Tub at your own risk. Using soap for bubbles or bath oils in hot tubs is damage and will result in a \$100 cleaning fee. PLEASE: Damage Fees will apply for any and all damages to the Hot Tub and its accessories. Handle with Care: No sitting or Horseplay on or with Hot Tub Covers. Safely open and remove with care. The Damage Fee for Hot Tub cover is \$425.00, you will be charged this fee immediately. Articles on all properties are logged and assessed for damages upon departure to assure that you will not be charged for damages occurred by a previous guest. Please call if you see something that may be questionable. We do apologize for any broken Hot Tub Covers upon your arrival they are sometimes, up to a 7 day delivery so if by chance upon arrival a cover is broken we are aware and a replacement has been ordered.

20. **NATURAL SETTING.** Tenant agrees to not remove any plants, rocks etc. from property. Please keep area in its natural state. Only walk on designated trails, please stay off of areas covered in ivy. Some walkways and paths may have moss or other vegetation that may cause slippery conditions. Avoid these areas if slippery conditions are present. Tenant also assumes & accepts all risk involved in any contact with any plants, animals, insects that may cause injury. Please notify us immediately about any unsafe conditions at 828-699-5485.

21. **ACKNOWLEDGMENT.** Tenant acknowledges they have reviewed and understand the terms of this lease and agree to be bound thereby. Additional fees apply for pets.

22. The following people will occupy the premises:

Robert McCaffrey, Gayle McCaffrey

If there is more than one (1) Tenant. Tenants acknowledge that the following person is the one who Agent may deal with:

Gayle McCaffrey

23. **PETS.** I have have not made arrangements to bring a pet. WHEREAS, the undersigned, as Tenants, are renting a property that allows pet(s) and have arranged with the Agent to have a pet(s) on the premises. NOW, THEREFORE, as additional terms, Tenants covenant and agree as follows.

1. Number and type of pets we are bringing is 0

2. We understand that:

(a) We may be asked to make an additional Cleaning/Damage Deposit.

(b) No pet may be left on the premises unless a responsible adult is also present.

(c) Outside the premises, all pets must be on a leash, but no pet shall be tied outside the unit unless supervised by a responsible adult.

(d) Pets are not allowed on the furniture, tenant will be charged if any pet hair is found on furnishings or bedding.

(e) Pets may not be in any other rental property.

(f) Pets are not allowed to disturb other guests or neighbors.

3. We recognize that violation of these terms shall constitute the right of termination pursuant to the Cranmore Cottage Vacation Rental Agreement. We further agree to be responsible for all COSTS and EXPENSES due to any damage caused by or on account of our pet(s). We recognize that pet hair on furnishings will be considered damage.

Tenant Initials mm

TERMS OF AGREEMENT

Reservation Name: MCCAFFREY

Arrival Date: MARCH 23, 2012 Departure Date: MARCH 25, 2012

Date Made: MARCH 16, 2012

Cottage Name: GARDENER'S COTTAGE

Base Rental Rate	\$250.00
Other fee:	W&C \$39.00
Cleaning Fee:	\$65.00
Tax	\$45.13
Refundable Security Deposit	CC ON FILE
RENTAL TOTAL	\$ 399.13

How did you hear about us?

☐ VRBO.com	☐ Asheville.com
☐ Home Away	☐ Hendersonville.com
☐ cabins.com	☐ visitwaterfalls.com
☐ vacationrentals.com	
☐ Hendersonville Travel & Tourism	
☒ internet search words	
☐ Referral	
☐ Other	

\$60 per night due with Agreement **

\$399.13 (Received Today)

FINAL PAYMENT of RENTAL TOTAL

30 days prior to arrival

\$ Will run 30 days prior to arrival

**Pay full RENTAL TOTAL if sending contract back within 30 days of arrival

PLEASE INITIAL YOUR CHOICE OF THE FOLLOWING:

☐ I have enclosed a certified check for the current amount due.☒ I wish to use the following credit card the current amount due.

Card Number ON FILE Expiration Date ON FILE

Name on Card Marjorie G. McCaffrey Address (if not same as mailing) _____

ALSO, if a final payment is necessary:

☐ I plan to send a certified check for my FINAL PAYMENT by the 30th day before arrival.☒ Please use the credit card listed above to charge the FINAL PAYMENT 30 days before arrival.

THIS IS A VACATION RENTAL AGREEMENT UNDER THE NORTH CAROLINA VACATION RENTAL ACT. THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THIS AGREEMENT ARE DEFINED BY LAW AND INCLUDE UNIQUE PROVISIONS PERMITTING THE DISBURSEMENT OF RENT PRIOR TO TENANCY AND EXPEDITED EVICTION OF TENANTS. YOUR SIGNATURE ON THIS AGREEMENT, OR PAYMENT OF MONEY OR TAKING POSSESSION OF THE PROPERTY AFTER RECEIPT OF THE AGREEMENT, IS EVIDENCE OF YOUR ACCEPTANCE OF THE AGREEMENT AND YOUR INTENT TO LEASE THIS PROPERTY FOR A VACATION RENTAL. SIGNATURE BELOW AUTHORIZES ANY CREDIT CARD CHARGES NECESSARY TO FULFILL THIS AGREEMENT INCLUDING DAMAGES.

TENANT(S) NAME: SEE ABOVE	SIGNATURE: <u>Marjorie G. McCaffrey</u>
ADDRESS: ON FILE	DATE: <u>3/17/12</u> SEAL
CITY: STATE: ZIP:	Phone Number: ON FILE Email ON FILE

Created with WinCalendar.

- ▶ For more sizes, layouts, colors, options & for calendars holidays download WinCalendar.
- ▶ You can also import Google Calendar & Microsoft Outlook appointment data onto created calendars.
- ▶ WinCalendar is also an integrated Windows, Word & Excel pop-up calendar & date picker that supports storing of daily appointments that display on created calendars.

Phone Number (864) 404-6123

CONTACTS

Mr. Valentine (843) 822-6694

VW (843) 696-9793

Mr. Valentine House (843) 556-7486

THURSDAY, MARCH 15, 2012

2:33:50PM	Mr. Valentine → Brandy	14:48
2:49:26PM	Brandy → Mr. Valentine	14:48
6:11:42PM	Brandy → Mr. Valentine	00:27
9:45:35PM	Brandy → Mr. Valentine	00:55

FRIDAY, MARCH 16, 2012

2:35:01AM	Mr. Valentine → Brandy	MISSED
2:53:08AM	Mr. Valentine → Brandy	00:13
2:53:43AM	Mr. Valentine → Brandy	---
2:54:04AM	Mr. Valentine → Brandy	---
3:01:13AM	Mr. Valentine → Brandy	---
3:04:53AM	Mr. Valentine → Brandy	---
3:05:25AM	Mr. Valentine → Brandy	---
3:05:58AM	Mr. Valentine → Brandy	---
5:12:17AM	Brandy → Mr. Valentine	4:34
8:52:26PM	Mr. Valentine → Brandy	Beem drinking out. Going back to tell all and figure out from there. I want nothing more than 2 b in your arms. Being away really hurts. Talk soon! Lu
8:55:48PM	Brandy → Mr. Valentine	wow i was just fixing to say yea i know why... U.r married. Its fucking complicated.... I just put ur cd in and i havnt listened to it since charleston
11:34:24PM	Brandy → Mr. Valentine	Im goin to party at Dougans tomorrow night...!



SATURDAY, MARCH 17, 2012

3:25:53AM	Mr. Valentine → Brandy	I may see you there
3:26:15AM	Brandy → Mr. Valentine	Really...?!
8:22:24AM	Mr. Valentine → Brandy	Could b late - ineed 2t know how late they r open. Dinner with friends @ 6:30 then i leave here. If you want to see me?
9:58:30AM	Mr. Valentine → Brandy	MISSED
10:01:42AM	Mr. Valentine → Brandy	Tried 2 call but someone does not even have vm. Will try you later:)
11:49:12AM	Mr. Valentine → Brandy	00:45
11:50:39AM4	Brandy → Mr. Valentine	---
11:50:42AM	Mr. Valentine → Brandy	10:00
2:45:10PM	Mr. Valentine → Brandy	Let me know what u are gonna do+
3:00:53PM	Brandy → Mr. Valentine	Imma party
3:40:14PM	Mr. Valentine → Brandy	Where?
3:48:06PM	Brandy → Mr. Valentine	Idk...prob nc
3:49:25PM	Brandy → Mr. Valentine	Sorry but ain't u in Charleston with ur wifey!
4:05:35PM	Mr. Valentine → Brandy	I thought i said i would b there
7:58:54PM	Mr. Valentine → Brandy	Where you?
8:03:56PM	Mr. Valentine → Brandy	MISSED
8:08:18PM	Brandy → Mr. Valentine	im in tr at the Mexican joint
8:10:20PM	Mr. Valentine → Brandy	I am finishing up in a bit and would like to see you soon
9:10:04PM	Mr. Valentine → Brandy	MISSED
9:20:14PM	Mr. Valentine → Brandy	Hey!
9:27:50PM	Mr. Valentine → Brandy	MISSED
9:35:20PM	Brandy → Mr. Valentine	01:14
9:51:13PM	Brandy → Mr. Valentine	01:14
11:04:09PM	Mr. Valentine → Brandy	MISSED

11:16:50PM Mr. Valentine → Brandy Hey beautiful, call me!
 11:19:43PM Brandy → Mr. Valentine 01:18

SUNDAY, MARCH 18, 2012

12:10:57AM Mr. Valentine → Brandy I am on 385. Where you at beautiful?
 12:22:39AM Mr. Valentine → Brandy 00:31
 12:54:45AM Mr. Valentine → Brandy MISSED
 12:55:56AM Mr. Valentine → Brandy MISSED
 12:56:57AM Mr. Valentine → Brandy I am in tr
 12:59:31AM Mr. Valentine → Brandy MISSED
 1:01:24AM Mr. Valentine → Brandy 00:12
 1:02:05AM Mr. Valentine → Brandy 00:54
 2:12:29AM Mr. Valentine → Brandy ---
 2:13:12AM V W → Brandy MISSED
 2:14:50AM Brandy → Mr. Valentine 00:33
 2:15:50AM Brandy → Mr. Valentine 00:12
 2:16:12AM Brandy → Mr. Valentine 01:28
 2:20:32AM Mr. Valentine → Brandy Sorry
 3:02:04AM Brandy → Mr. Valentine for what... ?
 3:02:17AM Mr. Valentine → Brandy I am probably fucked and all i can think about is you.
 I drove 4 hours to see your smile and all i saw were
 stares and accusations. Is it so wrong t o fall in love?
 3:03:40AM Brandy → Mr. Valentine u R MARRIED. SORRY DID I MISS SOMETHIN... ?!9
 10:20:27AM Brandy → Mr. Valentine yet i told u weeks ago that we could not keep on
 seeing each other... so why u keep on?
 10:40:10AM Mr. Valentine → Brandy Could b same reasons you have sent 3 texts. In the
 last 8 hours and kept calling and texting after you
 told me. Or maybe it could b same reasons a moth is
 attracted to a flame or a dog sits by the door all day
 waiting for its owners 2 come home from work.
 11:19:58AM Brandy → Mr. Valentine wow... goodbye Mr. valentine

11:37:28AM	Mr. Valentine → Brandy	3 weeks too late. Bur thanks anyway :(
11:38:02AM	Mr. Valentine → Brandy	3 weeks too late. Bur thanks anyway :(
12:56:04PM	Brandy → Mr. Valentine	oh my pleasure...!
2:17:26PM	Brandy → Mr. Valentine	yea u might can show ur ass and get away with it at home with ur wife but not with me!
2:22:43PM	Mr. Valentine → Brandy	She left. i found the kids alone when i got home. A bunch of other stuff is gone with just a note behind. So ass or not, me and the kids are alone now. I could use a friend now not more shit.
3:24:10PM	Brandy → Mr. Valentine	idk if i believe u or not!
4:51:19AM	Mr. Valentine → Brandy	You do not have to. She is goNe and i have to move on and help the kids and try to help myself and i guess i will get that fresh start after all. Just did not think it would b like this. House phone # is 843 556 7486 if you dont mind talking later.
9:45:02PM	Brandy → Mr. Valentine	what is there to talk about Bob..?!

MONDAY, MARCH 19, 2012

2:11:28AM	843.554.2193 → Brandy	00:19
2:13:43AM	Brandy → 843.554.2193	00:05
2:19:28AM	Brandy → 843.554.2193	00:23
2:20:11AM	Brandy → 843.554.2193	00:04
2:22:26AM	Brandy → *67 - V W	00:11
2:25:03AM	Brandy → V W	00:04
2:26:25AM	Brandy → Mr. Valentine	---
2:27:10AM	Brandy → Mr. Valentine	so who just called me?
5:42:49AM	Brandy → 843.554.2193	00:41
5:44:11AM	Brandy → 1843.554.2193	00:21
5:45:13AM	Brandy → 1843.554.2193	00:18
5:46:09AM	Brandy → 1843.554.2193	00:16
5:46:52AM	Brandy → Mr. Valentine House	00:31

10:46:29AM	Brandy → 1843.554.2193	00:26
12:16:18PM	843.554.2193 → Brandy	00:19
12:19:18PM	Brandy → 843.554.2193	00:16
8:40:17PM	Brandy → Mr. Valentine	04:26

TUESDAY, MARCH 20, 2012

5:37:12PM	Brandy → Mr. Valentine	00:32
5:38:20PM	Brandy → Mr. Valentine	Call me please... Its my birthday!
5:46:21PM	Brandy → Mr. Valentine House	00:28
5:47:06PM	Brandy → Mr. Valentine	00:31

WEDNESDAY, MARCH 21, 2012

12:23:39AM	Brandy → Mr. Valentine	00:06
12:27:48AM	Brandy → Mr. Valentine	We need to TALK...
12:28:24AM	Brandy → Mr. Valentine	
12:28:38AM	Brandy → Mr. Valentine	
2:24:56AM	843.291.0159 → Brandy	MISSED
2:26:49AM	843.291.0159 → Brandy	MISSED
4:38:25AM	843.291.0159 → Brandy	MISSED
8:13:48AM	Brandy → 843.291.0159	10:06
8:26:25AM	843.554.2193 → Brandy	12:07
8:55:47AM	843.554.2193 → Brandy	01:34
10:39:48AM	843.810.0334 → Brandy	03:17
11:46:52AM	Brandy → 843.291.0159	do u want or need me to come or not... i know ur lawyer advises against it but what do u want Bob...???
		what do i do..?
12:06:34PM	Brandy → Mr. Valentine	FWD: do u want or need me to come or not... i know ur lawyer advises against it but what do u want Bob...???
		what do i do..?
12:22:42PM	843.291.0159 → Brandy	16:51

2:21:50PM	Brandy → Mr. Valentine	i do are about u and i wish all this had never happened...i have got to see u i want to make sure your ok for my own well being...!
6:17:51PM	Brandy → Mr. Valentine	what's goin on...?!
6:18:30PM	Brandy → 843.291.0159	what's goin on...?!
6:20:26PM	Brandy → 843.291.0159	---

THURSDAY, MARCH 22, 2012

8:22:44AM	843.554.2193 → Brandy	00:07
8:26:40AM	843.554.2193 → Brandy	MISSED
1:19:28PM	843.554.2193 → Brandy	00:07
1:24:04PM	843.554.2193 → Brandy	MISSED

STATE'S
EXHIBIT
82B
3/6/19 JTW

#	Folder	Party	Time	All timestamps	Status	Message	Deleted
6	Inbox	From: 8436969783 Bob* Direction: Incoming	3/18/2012 7:16:52 AM(UTC+0)		Unread	You there? Call me. We need to talk. Source Extraction: Physical (1)	
7	Inbox	From: 8436969783 Bob* Direction: Incoming	3/18/2012 2:11:13 AM(UTC+0)		Unread	I will be back in the morning. I need to think tonight. See you in the morning. Source Extraction: Physical (1)	

65	Outbox	To: 8436969793 Bob Direction: Outgoing	3/8/2012 3:34:54 AM(UTC+0)		Sent	Things will get better. I know it might not seem like it but I have faith in you and us. I think it will pull us out of this. Source Extraction: Physical (1)	
71	Outbox	To: 8436969793 Bob Direction: Outgoing	3/8/2012 3:16:13 AM(UTC+0)		Sent	You can hold it against me if you want but some where inside of you you know it is not what I meant. I have always cared about what is going on with y@ou good or bad. I was ticked off when I talked to you. You have said plenty of hurtful thing to me in the last ten days. I only hope that you did not@ really mean them. I honestly did not mean that. You are my life. I am sorry that some where along the way you have lost the ability to see that and @I really hope you find it again.@ Source Extraction: Physical (1)	

72	Inbox	From: 8436969793 Bob* Direction: Incoming	3/8/2012 3:09:53 AM(UTC+0)		Read	Nothing means more to me than M.M. but I may have to pull a Gayle just card and not forget what you said. Regardless of why, that was probably the most hurtful thing you could have said at the worst time. Source Extraction: Physical (1)
73	Outbox	To: 8436969793 Bob* Direction: Outgoing	3/8/2012 2:54:24 AM(UTC+0)		Sent	Hey not trying to bug you and I hope you can get some sleep. Just wanted you to know that I love you and that I really want us to work everything out. @ There is not a part of me that wants you to leave and I'm sorry if you think that. I am sorry too about saying I didnt care about your problem. I did@ not mean it like that. I am just really worried about M.M. and meant that we had to focus on that. I hate that we have said things in anger that we@ didnt really mean just cause we were lashing out at each other. Anyway good night and I am looking forward to seeing you tomorrow.@ Source Extraction: Physical (1)
79	Inbox	From: 8436969793 Bob* Direction: Incoming	3/6/2012 10:32:00 AM(UTC+0)		Read	Its not that hard when you keep it all in. It keeps a person thinking and prepared and aware. Sometimes it catches up to you and is difficult to deal with, and other times it gets the best of you. I do not even what to say anymore, and it is killing me. I just want to make things better, but feel like I never will be able to. I do love you but I need to work this out if anything will ever be good again. Just remember, I am the one with the problems, not you. I hope you got some sleep and your day goes well. I will call you later. Love ya Source Extraction: Physical (1)
80	Outbox	To: 8436969793 Bob* Direction: Outgoing	3/6/2012 10:18:57 AM(UTC+0)		Sent	Just saw your text. You are going to believe what you want, but like I told you last night I am different. I am not going to hold things against you o@r at least I am going to try like heck not to. I want to work things out. Next to losing you everything else is unimportant. Yes some of the things @you told me hurt, but at least you talked to me. That makes a huge difference to me. I hope you can get past having opened up to me. I love you, and @I will do whatever I can to help you out. Try trusting me for once. Living with regret is a hard place to live.@ Source Extraction: Physical (1)
81	Inbox	From: 8436969793 Bob* Direction: Incoming	3/6/2012 3:05:14 AM(UTC+0)		Read	Let me throw this into the mix - I seem to find myself living a life full of regrets. Mostly of things before you. Whenever things go a way other than the way I want or need, I feel like there were other things I could have done- hence regrets. You will not forget what I have said and will end up holding more things against me- natural- and I understand but this will only make my problem worse. It seems to be a snowballing dilemma. Suggestions Source Extraction: Physical (1)

PAGE 1 OF 2

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2012004559

DATE 3-18-12

1020-water
1240-water
0230-water

STATEMENT OF

ROBERT W McCaffrey Jr

ADDRESS

2829 LIMESTONE BLVD CHARLESTON SC 29414

PHONE # 843-696-9793

EMPLOYER:

SELF

PHONE #

RACE:

W

SEX:

M

DATE OF BIRTH:

[REDACTED]

AFTER DINNER MY WIFE & I HAD A SMALL ARGUMENT AND ABOUT 8PM I WENT OUT FOR A WALK IN THE NEIGHBORHOOD. I CAME BACK TO THE HOUSE AROUND 9:30 & TOOK A SHOWER. I THEN STUCK MY HEAD INTO OUR BEDROOM & MY WIFE DID NOT SAY ANYTHING TO ME SO I GOT DRESSED & WENT OUT AGAIN. I ARRIVED IN TRAVELERS REST ABOUT 1:30 AM TO TALK TO BRANDY LEE. WE DID NOT TALK & I LEFT ABOUT 2 AM. FOR CHAS. ABOUT 2:15 I WAS PULLED OVER IN TOWN FOR SPEEDING. AFTER BEING ISSUED A CITATION I RETURNED HOME TO FIND MY WIFE GONE. THE KIDS WERE ASLEEP STILL & I LOOKED AROUND FOR MY WIFE & SIGNS OF HER. I THEN LAYED DOWN FOR AN HOUR OR SO TILL THE KIDS GOT UP. -1

Q. What time did you arrive home?

A. 6:30 AM

Q. What time did you notify law enforcement?

A. I'm NOT SURE 4-5?

Q. Did anything seem out of place in the house?

A. NO NOT AT FIRST.

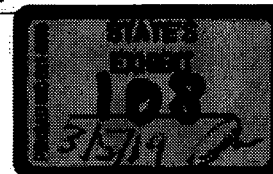
I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

4534

S Church 9801

Signature



I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature

RULE 5 113 1030-109

PAGE 2 OF 2CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENTOCA # 2012-004559

DATE

3-18-12

STATEMENT OF _____

ADDRESS _____

PHONE # _____

EMPLOYER: _____

PHONE # _____

RACE: _____

SEX: _____

DATE OF BIRTH: _____

Q. What did you notice later?

A. HER RINGS & PHONE ON MY COUNTER.

Q. Anything else was noticed?

A. NO.

Q. Do you have anything to do with her being missing?

A. NO

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES:

Schmidt 9807

Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT

Signature

RULE 5 114-109

JKS/0239447/20140606215
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2012004559B

ARREST WARRANT NUMBER
2019-GS-10-01363

DATE OF ARREST

06/22/2014

ACTION OF GRAND JURY

TRUE BILL

Law L. Pan
Foreperson of Grand Jury FEB 04 2019 Date

VERDICT

John L. Pan
Foreperson of petit jury 3/8/19 Date

DOCKET NO. 2019-GS-10-01363

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
FEBRUARY TERM 2019

THE STATE

VS.

ROBERT W. McCAFFREY, JR.
W/M DOB: [REDACTED]

Indictment for

OBSTRUCTION OF JUSTICE

CDR Code: 0115

RECEIVED
APR 01 2019
SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened February 2019, the Grand Jurors of Charleston County present upon their oath:

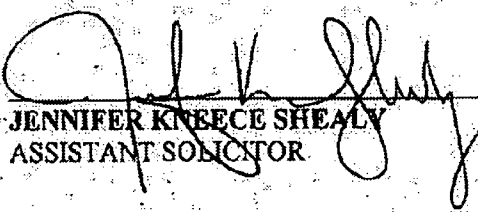
OBSTRUCTION OF JUSTICE

The Defendant, Robert W. McCaffrey, Jr., did on or about March 18, 2012 and March 19, 2012, in Charleston County, South Carolina, intentionally commit an act or acts which prevented, obstructed, impeded, or hindered the administration of justice by intentionally and willfully giving police false and misleading information regarding his wife's disappearance, to wit:

- The Defendant initially failed to disclose to police that he had been in Traveler's Rest, South Carolina to see a paramour during the early morning hours of March 18, 2012; and/or,
- The Defendant did author a letter in the name of his missing wife and gave it to police in order to give the appearance that Gayle McCaffrey had abandoned her family for a paramour; and/or
- The Defendant was dishonest with police by asserting that his wife, upon leaving, had removed a safe from their home that contained \$110,000.

All in violation of the Common Law of the State of South Carolina.

Against the peace and dignity of the State.



JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

JKS20140606215

WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2012004559B

ARREST WARRANT NUMBER

2014A1010900353

DATE OF ARREST

June 21, 2014

ACTION OF GRAND JURY

TRUE BILLForeperson of Grand Jury
Date:

JAN 13 2015

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2015GS1000387

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

January Term 2015

THE STATE

vs.

ROBERT W MCCAFFREY JR.

DOB: [REDACTED]
W/M

Indictment for

Obstruction Of Justice

FILED

1/26/2015 2:20:42 PM

JULIE J. ARMSTRONG

CLERK OF COURT

RECEIVED
APR 01 2019
SC COURT OF APPEALS

STATE OF SOUTH CAROLINA)

INDICTMENT

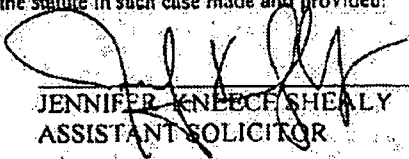
COUNTY OF CHARLESTON)

At a Court of General Sessions, convened on January 12, 2015 the Grand Jurors of Charleston County present upon their oath:

Obstruction Of Justice

That in Charleston County, South Carolina, on or about March 18, 2012, the Defendant, ROBERT W. MCCAFFREY JR, did intentionally prevent, obstruct, impede or hinder the administration of the justice, to wit: the defendant did willfully give the police false and/or misleading information regarding his wife's disappearance; all in violation of the Common Law of South Carolina.

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


JENNIFER KNEEFE SHEALY
ASSISTANT SOLICITOR

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,

s/ Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of April, 2020.

RECEIVED
APR 08 2020
SC Court of Appeals