

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

S.C. Supreme Court

Carmen T Mullen, Circuit Court Judge

Case No 06-CP-11-223

TYREE ROBERTS, SK6012
Aka ABDIYYAH BEN ALKEBULANYAHH

Petitioner,

v

STATE OF SOUTH CAROLINA

Respondent

APPENDIX
VOLUME VIII OF XI

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1 PROVING A DEFENDANT GUILTY

2 A PERSON CHARGED WITH A CRIMINAL OFFENSE IN SOUTH
3 CAROLINA IS NEVER REQUIRED TO PROVE INNOCENCE

4 A DEFENDANT DOES NOT HAVE TO PRODUCE ANY EVIDENCE
5 OR WITNESSES THE BURDEN IS ALWAYS UPON THE STATE TO
6 PROVE A DEFENDANT GUILTY BEYOND A REASONABLE DOUBT

7 I CHARGE YOU THAT IT IS A VITAL, IMPORTANT RULE OF
8 LAW THAT A DEFENDANT IN A CRIMINAL TRIAL MUST ALWAYS BE
9 PRESUMED INNOCENT UNTIL THE DEFENDANT'S GUILT HAS BEEN
10 PROVEN BEYOND A REASONABLE DOUBT

11 THIS PRESUMPTION OF INNOCENCE REMAINS WITH A
12 DEFENDANT AT ALL TIMES THROUGHOUT THE TRIAL AND IS ONLY
13 REMOVED WHEN AND IF THE STATE HAS PROVEN GUILT BEYOND A
14 REASONABLE DOUBT

15 FOR IT IS YOUR SOLEMN DUTY, LADIES AND GENTLEMEN
16 IF NOT CONVINCED OF GUILT BEYOND A REASONABLE DOUBT, TO
17 FIND A DEFENDANT NOT GUILTY

18 NOW WHAT IS A REASONABLE DOUBT IN THE LAW? A
19 REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE A
20 REASONABLE PERSON TO HESITATE TO ACT ALL REASONABLE
21 DOUBTS MUST BE RESOLVED IN FAVOR OF A DEFENDANT
22 SUSPICION HOWEVER STRONG, DOES NOT SUFFICE TO SUSTAIN
23 A CONVICTION THE BURDEN OF PROOF IS ALWAYS UPON THE
24 STATE

25 NOW UNDER THE CONSTITUTION, LADIES AND GENTLEMEN,

STATE VS ALKEBULANYAHH

1 YOU ARE THE FINDERS OF THE FACTS IN THIS CASE I DO
2 NOT HAVE A RIGHT TO SIT UP HERE AND INDICATE TO YOU
3 WHAT I THINK ABOUT THE FACTS IN THIS CASE OR TO EXPRESS
4 ANY OPINION OR VIEW THAT I HAVE ABOUT THIS CASE
5 AND AS I TOLD YOU EARLY ON, DON'T INTERPRET
6 ANYTHING THAT I'VE SAID OR DONE OR ANYTHING THAT -- IF
7 I'VE LEANED OVER AND TALKED TO MY LAW CLERK HERE ABOUT
8 A PARTICULAR MATTER, THAT IT MAY NOT HAVE ANYTHING TO
9 DO WITH THIS CASE DON'T INTERPRET ANYTHING THAT WE'VE
10 DONE UP HERE AS ANY INDICATION OF A VIEW ABOUT THIS
11 CASE LADIES AND GENTLEMEN
12 - IF YOU HAVE CONSTRUED ANY ACTS OR GESTURES OR
13 EXPRESSIONS ON MY PART AS ANY OPINION ABOUT THIS CASE
14 THEN, OF COURSE YOU MUST DISREGARD ANY SUCH ACTS,
15 EXPRESSIONS OR GESTURES
16 NOW YOU ARE ALSO THE JUDGES AND THE SOLE JUDGES
17 OF THE CREDIBILITY OR BELIEVABILITY OF THE WITNESSES
18 WHO HAVE TESTIFIED IN THIS CASE
19 IN PASSING UPON CREDIBILITY, YOU MAY TAKE INTO
20 CONSIDERATION MANY THINGS, SUCH AS THE Demeanor OR
21 MANNER OF TESTIFYING, WAS THE WITNESS FORTHRIGHT OR
22 HESITANT, WHETHER THE WITNESS HAD REASON TO BE BIASED
23 OR PREJUDICED, WHETHER A WITNESS' TESTIMONY WAS
24 CONTRADICTED ON THE ONE HAND OR WHETHER IT WAS
25 SUPPORTED, CORROBORATED, OR CONSISTENT ON THE OTHER

STATE VS ALKEBULANYAHH

1 AND WHETHER A WITNESS MADE ANY PREVIOUS STATEMENTS
2 WHICH ARE INCONSISTENT WITH THE WITNESS' PRESENT
3 TESTIMONY

4 YOU MAY CONSIDER SUCH STATEMENTS IN YOUR
5 DETERMINATION OF THE TRUTH OF ANY STATEMENTS OR
6 TESTIMONY, AS WELL AS YOUR CONSIDERATION AS TO THE
7 CREDIBILITY OF THE WITNESS

8 IT IS ENTIRELY WITHIN THE PROVINCE OF A JURY TO
9 DETERMINE THE CREDIBILITY, IF ANY, TO BE GIVEN ANY
10 EARLIER STATEMENT THAN THAT TO BE GIVEN TO ANY PRESENT
11 TESTIMONY

12 - AND WHAT WAS THE WITNESS' OPPORTUNITY FOR
13 OBSERVATION AND KNOWLEDGE OF THE MATTERS ABOUT WHICH
14 THE WITNESS HAS TESTIFIED? YOU MAY BELIEVE A SMALL
15 PORTION OF A WITNESS' TESTIMONY AND DISREGARD THE
16 LARGER, OR VICE VERSA

17 YOU MAY BELIEVE ONE WITNESS AGAINST MANY OR MANY
18 AGAINST ONE YOU MAY BELIEVE ALL, SOME, OR NONE OF A
19 WITNESS' TESTIMONY IT'S ENTIRELY UP TO YOU

20 NOW THE RULES OF EVIDENCE ORDINARILY DO NOT
21 PERMIT WITNESSES TO TESTIFY AS TO OPINIONS OR
22 CONCLUSIONS AN EXCEPTION TO THIS RULE EXISTS AS TO
23 THOSE WHOM WE CALL EXPERT WITNESSES, WITNESSES WHO BY
24 EDUCATION AND EXPERIENCE HAVE BECOME EXPERT IN SOME
25 ART, SCIENCE PROFESSION, OR CALLING, MAY STATE THEIR

STATE VS ALKEBULANYAHH

1 OPINIONS AS TO RELEVANT MATERIAL AND MATTER IN WHICH
2 THEY PROFESS TO BE AN EXPERT THEY MAY ALSO STATE THE
3 REASONS FOR THEIR OPINIONS

4 YOU MUST CONSIDER EXPERT TESTIMONY AS YOU WOULD
5 ANY OTHER TESTIMONY AND GIVE IT SUCH WEIGHT AS YOU MAY
6 BELIEVE IT TO BE ENTITLED WHEN CONSIDERED WITH ALL OF
7 THE OTHER EVIDENCE IN THE CASE SUCH TESTIMONY IS
8 GIVEN FOR THE PURPOSE OF ENLIGHTENING YOU AND NOT FOR
9 THE PURPOSE OF CONTROLLING YOUR JUDGMENT

10 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
11 GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE AND
12 CIRCUMSTANTIAL EVIDENCE

13 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
14 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT
15 SUCH AS AN EYEWITNESS

16 CIRCUMSTANTIAL EVIDENCE IS THE PROOF OF A CHAIN OF
17 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
18 FACT

19 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
20 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
21 CIRCUMSTANTIAL EVIDENCE NOR IS A GREATER DEGREE OF
22 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
23 DIRECT EVIDENCE

24 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE
25 AFTER WEIGHING ALL OF THE EVIDENCE IF YOU ARE NOT

STATE VS ALKEBULANYAHH

1 CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
2 REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT
3 GUILTY

4 NOW, WHILE THE COURT GENERALLY DETERMINES THE
5 ADMISSIBILITY OF EVIDENCE I INSTRUCT YOU THAT AS
6 REGARD TO ANY ALLEGED STATEMENT MADE BY A DEFENDANT
7 THAT YOU THE MEMBERS OF THE JURY MAKE THE ULTIMATE
8 DETERMINATION OF WHETHER OR NOT THE DEFENDANT MADE THE
9 SAID STATEMENT

10 ALSO IF THE DEFENDANT DID MAKE THE STATEMENT
11 WHETHER THE STATEMENT WAS MADE BY THE DEFENDANT
12 VOLUNTARILY AND OF THE DEFENDANT'S OWN FREE WILL AND
13 ACCORD AND FINALLY, JUST WHAT WEIGHT IF ANY SHOULD
14 BE GIVEN TO ANY ALLEGED STATEMENT

15 I CHARGE YOU THAT YOU MUST DETERMINE IF THE
16 ALLEGED STATEMENT WAS A PRODUCT OF AN ESSENTIALLY FREE
17 AND UNCONSTRAINED CHOICE BY ITS MAKER IF YOU
18 DETERMINE IT WAS, AND THE BURDEN IS UPON THE STATE TO
19 PROVE THIS FACT AS ALL OTHER FACTS BEYOND A REASONABLE
20 DOUBT THEN YOU MAY GIVE THE STATEMENT SUCH FURTHER
21 CONSIDERATION AS YOU DEEM PROPER

22 YOU ARE NOT BOUND TO ACCEPT EVERY ASSERTION OF
23 STATEMENT CONTAINED WITHIN THE STATEMENT AS BEING TRUE
24 YOU COULD BELIEVE ALL OF IT PART OF IT OR NONE OF IT

25 IF YOU DETERMINE THE ALLEGED STATEMENT WAS NOT THE

STATE VS ALKEBULANYAHE

1 FREE AND VOLUNTARY WILLED EXPRESSION OF THE DEFENDANT,
2 THEN YOU SHOULD NOT CONSIDER THE STATEMENT AT ALL

3 IN DETERMINING WHETHER A DEFENDANT'S WILL WAS
4 OVERCOME IN OBTAINING A STATEMENT, YOU SHOULD CONSIDER
5 BOTH THE CHARACTERISTICS OF THE ACCUSED AND THE DETAILS
6 OF ANY INTERROGATION, WHICH IN THE LAW IS REFERRED TO
7 AS THE TOTALITY OF THE CIRCUMSTANCES

8 SOME FACTORS YOU MAY CONSIDER ARE AGE, EDUCATION,
9 OR THE LACK THEREOF, MENTAL ABILITY OR CAPACITY, I Q
10 OR INTELLIGENCE, BACKGROUND AND ENVIRONMENT, ADVICE OR
11 LACK THEREOF TO THE DEFENDANT OF ANY CONSTITUTIONAL
12 RIGHTS INCLUDING BUT NOT LIMITED TO THE PROCEDURAL
13 SAFEGUARDS KNOWN AS THE MIRANDA WARNINGS CONCERNING THE
14 RIGHT TO REMAIN SILENT THAT ANY STATEMENT THE
15 DEFENDANT MAKES COULD BE USED AGAINST THE DEFENDANT IN
16 A COURT OF LAW THE RIGHT TO HAVE A LAWYER PRESENT,
17 THAT IF A DEFENDANT COULD NOT AFFORD A LAWYER THEN A
18 LAWYER WOULD BE APPOINTED TO REPRESENT THE DEFENDANT
19 WITHOUT ANY COST, AND THAT THE DEFENDANT COULD STOP
20 MAKING A STATEMENT AT ANY TIME

21 OTHER FACTS TO CONSIDER ARE THE PLACE AND THE
22 LENGTH OF ANY DETENTION AND THE NATURE OF ANY
23 QUESTIONING

24 A STATEMENT IS NOT FREELY AND VOLUNTARILY MADE IF
25 IT IS GIVEN AS A RESULT OF THREATS OR COERCION, NOR IF

STATE VS ALKEBULANYAHH

1 IT WAS OBTAINED BY ANY DIRECT OR INDIRECT PROMISE
2 HOWEVER SLIGHT

3 YOU THE JURY, MUST CAREFULLY SCRUTINIZE ALL OF
4 THE SURROUNDING CIRCUMSTANCES BEFORE YOU GIVE ANY
5 WEIGHT TO AN ALLEGED STATEMENT YOU MUST BE SATISFIED
6 BEYOND A REASONABLE DOUBT THAT THE STATEMENT WAS MADE
7 BY THE DEFENDANT UNINFLUENCED BY ANY DIRECT OR INDIRECT
8 PROMISE OF REWARD HOWEVER SLIGHT COERCION THREAT OF
9 INJURY OR DIMINUTION OF THE DEFENDANT S RIGHTS BEFORE
10 YOU CONSIDER OR GIVE WEIGHT TO ANY STATEMENT BY A
11 DEFENDANT

12 NOW BY THE SAME CONSTITUTION THAT MAKES YOU THE
13 FINDERS OF THE FACTS I AM MADE THE SOLE AND ONLY
14 INSTRUCTOR IN THE LAW YOU MUST ACCEPT AS CORRECT THE
15 LAW WHICH I CHARGE APPLY TO THE LAW THE FACTS AS YOU
16 FIND THEM TO BE AND REACH YOUR VERDICT

17 NOW IF YOU'VE HEARD ANYTHING IN THE CLOSING
18 STATEMENTS OF EACH SIDE THAT REFERS TO THE LAW AND ANY
19 OF THOSE STATEMENTS ARE INCONSISTENT WITH THE LAW AS I
20 INSTRUCT IT TO BE THEN OF COURSE LADIES AND
21 GENTLEMEN YOU MUST ACCEPT THE LAW AS I INSTRUCT IT TO
22 BE FOR PURPOSES OF YOUR CONSIDERATION OF THE ISSUES IN
23 THIS CASE PUT ASIDE ANY CONCEPTIONS YOU MAY HAVE HAD
24 AS TO THE LAW BEFORE COMING HERE TODAY, AND ACCEPT THE
25 LAW AS I INSTRUCT IT TO BE

STATE VS ALKEBULANYAHH

1 FOR PURPOSE OF YOUR DUTY AS JURORS HERE TODAY, YOU
2 SHOULD NOT BE CONCERNED ABOUT WHAT THE LAW OUGHT TO BE
3 BUT RATHER WHAT I CHARGE YOU THE LAW IS AT THE PRESENT
4 TIME IN THIS STATE

5 AS INDICATED, THE DEFENDANT IS CHARGED WITH TWO
6 COUNTS OF MURDER MURDER IS THE UNLAWFUL KILLING OF
7 ANY PERSON WITH MALICE AFORETHOUGHT, EITHER EXPRESSED
8 OR INFERRED

9 HENCE, IN ORDER TO CONVICT OF MURDER, THE STATE
10 MUST NOT ONLY PROVE THE KILLING OF THE VICTIM WAS
11 CAUSED BY THE DEFENDANT, BUT THAT IT WAS DONE WITH
12 CRIMINAL INTENT AS I WILL DEFINE THAT TERM TO YOU AND
13 WITH MALICE AFORETHOUGHT

14 CRIMINAL INTENT IS A NECESSARY ELEMENT OF THE
15 OFFENSE AND MUST BE PROVED BY THE STATE BEYOND A
16 REASONABLE DOUBT IT IS A STATE OF MIND WHICH OPERATES
17 JOINTLY WITH AN ACT IN THE COMMISSION OF A CRIME IT
18 IS A MENTAL STATE, A CONSCIOUS WRONGDOING, SO IT IS UP
19 TO YOU, THE JURY, TO DETERMINE WHAT THE DEFENDANT
20 INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE
21 EXISTED

22 THERE IS NO WAY THAT MEDICAL SCIENCE CAN DISSECT A
23 PERSON'S BRAIN AND DETERMINE WHAT THAT PERSON HAD IN
24 MIND SO THE LAW STATES THAT CRIMINAL INTENT MAY BE
25 INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED

STATE VS ALKEBULANYAHH

1 OF COURSE YOU HAVE THE RIGHT TO REJECT ANY SUCH
2 INFERENCES

3 I WOULD ALSO INSTRUCT YOU THAT MOTIVE IS THAT
4 WHICH LEADS OR TEMPTS THE MIND TO INDULGE IN A CRIMINAL
5 ACT IT IS THE CAUSE OR REASON THAT INDUCES A PERSON
6 TO ACT MOTIVE IS NOT AN ESSENTIAL ELEMENT OF THE
7 CRIME OF MURDER AND NEED NOT BE SHOWN

8 HOWEVER THE PRESENCE OR ABSENCE OF MOTIVE MAY BE
9 CONSIDERED IN DETERMINING CRIMINAL INTENT WHICH I HAVE
10 INSTRUCTED YOU IS AN ESSENTIAL ELEMENT OF THIS OFFENSE

11 NOW, I TELL YOU THAT WHILE THE LAW DOES NOT
12 REQUIRE THAT MALICE SHALL EXIST FOR ANY PARTICULAR
13 LENGTH OF TIME BEFORE THE COMMISSION OF THE ACT IN
14 QUESTION IT MUST BE AFORETHOUGHT WHICH MEANS THAT
15 MALICE MUST HAVE BEEN CONCEIVED IN THE MIND OF THE
16 DEFENDANT AND MUST HAVE ACCOMPANIED THE ACT OF KILLING

17 MALICE IS DEFINED IN THE LAW OF HOMICIDE AS A TERM
18 OF ART THAT IS A TECHNICAL TERM IMPORTING WICKEDNESS
19 AND EXCLUDING JUST CAUSE OR LEGAL EXCUSE IT IS
20 SOMETHING WHICH SPRINGS FROM WICKEDNESS FROM
21 DEPRAVITY FROM A DEPRAVED SPIRIT FROM A HEART DEVOID
22 OF SOCIAL DUTY AND FATAALLY BENT ON MISCHIEF

23 THE WORDS EXPRESS OR INFERRED DO NOT MEAN
24 DIFFERENT KINDS OF MALICE BUT MERELY THE MANNER IN
25 WHICH THE ONLY KIND OF MALICE KNOWN TO THE LAW MAY BE

STATE VS ALKEBULANYAH

1 SHOWN TO EXIST THAT IS EITHER BY DIRECT EVIDENCE OR
2 INFERENCE

3 MALICE MAY BE EXPRESSED AS WHERE PREVIOUS THREATS
4 OF VENGEANCE OR LYING IN WAIT OR OTHER ACTS OF
5 PREPARATION SHOW THAT THE DEED WAS WITHIN THE
6 DEFENDANT'S MIND

7 MALICE MAY ALSO BE INFERRED AS WHERE THOUGH NOT
8 DIRECTLY EXPRESSED, IT IS INDIRECTLY BUT NECESSARILY
9 INFERRED FROM FACTS AND CIRCUMSTANCES WHICH ARE PROVED

10 MALICE MAY BE IMPLIED OR INFERRED FROM THE WILFUL
11 DELIBERATE, AND INTENTIONAL DOING OF AN UNLAWFUL ACT
12 WITHOUT JUST CAUSE OR LEGAL EXCUSE

13 IF A PERSON USING A DEADLY WEAPON DELIBERATELY,
14 INTENTIONALLY, AND WITHOUT JUST CAUSE OR LEGAL EXCUSE
15 TAKES THE LIFE OF ANOTHER MALICE MAY BE INFERRED

16 IF FACTS ARE PROVEN BEYOND A REASONABLE DOUBT
17 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
18 SATISFACTION, THIS INFERENCE WOULD SIMPLY BE AN
19 EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU,
20 THE JURY, ALONG WITH ALL THE OTHER EVIDENCE IN THE CASE
21 AND YOU MAY GIVE IT SUCH WEIGHT AS YOU DETERMINE IT
22 SHOULD HAVE

23 IN ANY EVENT SUCH AN INFERENCE IN NO WAY LESSENS
24 THE BURDEN ON THE STATE TO PROVE MALICE BEYOND A
25 REASONABLE DOUBT

STATE VS ALKEBULANYAHH

1 IN OTHER WORDS EVIDENCE OF MALICE FROM THE USE OF
2 A DEADLY WEAPON IS SIMPLY AN EVIDENTIARY FACT TO BE
3 CONSIDERED BY YOU ALONG WITH ALL THE OTHER EVIDENCE IN
4 THE CASE AND GIVE IT SUCH WEIGHT AS YOU DETERMINE IT
5 SHOULD RECEIVE INCLUDING YOUR RIGHT TO REJECT ANY SUCH
6 INFERENCE

7 NOW, ONE CANNOT BE CONVICTED OF ANY CRIME WHICH IS
8 DEFINED IN TERMS OF A RESULT AS MURDER - AS IN MURDER
9 UNLESS ONE'S ACT IS THE PROXIMATE CAUSE OF THE RESULT
10 WHICH IN MURDER IS THE DEATH OF THE VICTIM

11 PROXIMATE CAUSE IS THAT CAUSE WHICH IN THE NATURAL)
12 AND CONTINUING SEQUENCE UNBROKEN BY AN EFFICIENT AND
13 INTERVENING CAUSE WHICH PRODUCES THE DEATH AND WITHOUT
14 WHICH THE RESULT WOULD NOT HAVE OCCURRED

15 NOW THE STATE HAS THE BURDEN OF PROVING IDENTITY
16 BEYOND A REASONABLE DOUBT YOU MAY CONSIDER THE
17 OPPORTUNITY A WITNESS HAD TO OBSERVE THE ALLEGED
18 OFFENDER AT THE TIME OF THE OFFENSE AND TO MAKE AN
19 IDENTIFICATION

20 IT IS FOR YOU THE JURY TO DETERMINE WHETHER THE
21 STATE HAS PROVEN THE IDENTIFICATION OF THE DEFENDANT
22 BEYOND A REASONABLE DOUBT CONSIDERING THE CREDIBILITY
23 OF ANY WITNESSES THE OPPORTUNITY AND CIRCUMSTANCES OF
24 ANY OBSERVATION AND SUCH DIRECT AND CIRCUMSTANTIAL
25 EVIDENCE AS YOU DEEM APPROPRIATE

STATE VS ALKEBULANYAH

1 AND YOU WOULD APPLY THE SAME LEGAL STANDARD WITH
2 ANY DIRECT AND CIRCUMSTANTIAL EVIDENCE THAT YOU
3 CONSIDER PURSUANT TO MY PREVIOUS INSTRUCTIONS ON DIRECT
4 AND CIRCUMSTANTIAL EVIDENCE

5 IF THE STATE HAS FAILED TO PROVE THE IDENTITY OF
6 THE DEFENDANT BEYOND A REASONABLE DOUBT, THEN YOU MUST
7 FIND THE DEFENDANT NOT GUILTY

8 NOW, IN A CASE INVOLVING -- IN WHICH TWO OR MORE
9 CRIMINAL OFFENSES ARISE OUT OF THE SAME COURSE OF
10 CONDUCT THE STATE IN ORDER TO ESTABLISH GUILT AS TO
11 MULTIPLE OFFENSES MUST PROVE BEYOND A REASONABLE DOUBT
12 THAT THE DEFENDANT HAD THE REQUISITE INTENT TO COMMIT
13 EACH SEPARATE OFFENSE

14 NOW LADIES AND GENTLEMEN, YOU HAVE BEEN SELECTED
15 AS FAIR AND IMPARTIAL JURORS, SWORN TO IMPARTIALLY TRY
16 AND DETERMINE THE FACTS OF THIS CASE AND WHEN YOU
17 COMPLY WITH YOUR OATH TO DO SO THEN NO ONE WILL HAVE A
18 RIGHT TO CRITICIZE YOUR VERDICT, AND YOU WILL FULLY
19 DISCHARGE YOUR DUTIES AS JURORS

20 AS TO EACH INDICTMENT, YOUR CHOICES ARE EITHER NOT
21 GUILTY OR GUILTY THERE'S NO SIGNIFICANCE IN WHICH --
22 TO THE ORDER IN WHICH I JUST STATED THAT IT'S JUST I
23 HAD TO TELL YOU YOUR OPTIONS AND HAD TO STATE ONE FIRST
24 IN MY DISCUSSION

25 NOW, YOUR VERDICT MUST BE UNANIMOUS EACH AND

STATE VS ALKEBULANYAHH

1 EVERY ONE OF YOU MUST AGREE ON THE VERDICT IT IS NOT
2 A MAJORITY VERDICT ALL OF YOU MUST AGREE ON THE
3 VERDICT

4 YOU CAN -- YOU CAN -- IF YOU HAVE ANY REASONABLE
5 DOUBT AS TO EITHER OF THESE INDICTMENTS, YOU MUST
6 RESOLVE THAT DOUBT IN FAVOR OF THE DEFENDANT, AND
7 RETURN A VERDICT OF NOT GUILTY AS TO THAT INDICTMENT

8 YOU MAY CONVICT, ACQUIT, OR DO ONE OR BOTH ON EACH
9 OF THE INDICTMENTS INVOLVED YOU MUST RETURN A
10 SEPARATE VERDICT ON EACH INDICTMENT AND IT MUST BE A
11 UNANIMOUS VERDICT AS TO EACH INDICTMENT

12 - NOW, AS -- AS TO OUR ALTERNATE JURORS, ONCE WE ARE
13 READY TO BEGIN THESE DELIBERATIONS, I HAVE TO ASK YOU
14 TO STEP DOWN THEY'RE GOING TO TAKE YOU TO ANOTHER
15 JURY ROOM BECAUSE I HAVE TO HOLD YOU TO A -- TO THE
16 SIDE FOR THE TIME BEING SO IF YOU COULD PLEASE GO
17 WITH THE OFFICER HERE TO THE OTHER JURY ROOM THANK
18 YOU VERY MUCH

19 (THE ALTERNATE JURORS EXIT THE COURTROOM AT 2 08
20 P M)

21 THE COURT ALL RIGHT LADIES AND GENTLEMEN, THE
22 REST OF YOU ON THE JURY, I'M GOING TO SEND YOU BACK TO
23 THE JURY ROOM IF THERE -- WHAT I NEED TO DO IS GO
24 OVER THE -- SOME FINAL MATTERS WITH EACH SIDE, MAKE
25 SURE THERE'S NOTHING MORE THAT I NEED TO TAKE UP WITH

STATE VS ALKEBULANYAHH

1 YOU

2 IF THERE'S ANYTHING I NEED TO TAKE UP WITH YOU,
3 I'LL BRING YOU BACK IN AND WE'LL ACCOMPLISH WHATEVER --
4 WHATEVER IT IS WE NEED TO TAKE UP

5 WE'LL ALSO USE THIS OPPORTUNITY TO GO AHEAD AND
6 GET ALL THE EXHIBITS TOGETHER INTO ONE PILE AND MAKE
7 SURE THAT YOU HAVE BACK THERE THE EXHIBITS THAT HAVE
8 BEEN ADMITTED INTO EVIDENCE

9 ONE THING I WILL SAY TO YOU IS THAT SOME TIMES
10 DURING THE COURSE OF A TRIAL THERE ARE REFERENCES TO
11 OTHER DOCUMENTS OR YOU MIGHT HEAR THE COURT SAY THAT
12 SOMETHING IS MARKED FOR I D PURPOSES YOU SHOULD NOT
13 CONCERN YOURSELF WITH THAT TYPE OF INFORMATION, LADIES
14 AND GENTLEMEN

15 USUALLY IT COMES UP WHEN A JURY MIGHT SEND ME A
16 NOTE OUT AND SAY THIS IS NOT IN THE STACK OR DOES THIS
17 DOCUMENT EXIST?

18 LET ME JUST GIVE YOU THIS INSTRUCTION INsofar AS
19 EXHIBITS ARE CONCERNED, IF YOU ARE ENTITLED TO LOOK AT
20 AN EXHIBIT DURING YOUR DELIBERATION, YOU HAVE TO TAKE
21 MY WORD FOR IT, IT WILL BE WITH YOU IN THE JURY ROOM

22 DON'T SPECULATE ABOUT ANYTHING ELSE, LADIES AND
23 GENTLEMEN IF YOU ARE ENTITLED TO LOOK AT AN EXHIBIT,
24 IT WILL BE WITH YOU IN THE JURY ROOM I JUST ASK YOU
25 TO TAKE ME ON THAT ONE BECAUSE I'VE HAD THAT COME UP

STATE VS ALKEBULANYAHH

1 FROM TIME TO TIME

2 NOW, I WENT OVER YOUR CHOICES WITH YOU, MR
3 FOREMAN WHEN THE JURY REACHES A UNANIMOUS VERDICT AS
4 TO EACH OF THE INDICTMENTS -- AND THE VERDICT FORM IS
5 VERY BASIC IT JUST REFERENCES EACH MURDER INDICTMENT
6 AND IN PARENTHESES JUST TO KEEP THEM STRAIGHT, IT HAS
7 THE VICTIM LISTED SO YOU'LL KNOW WHICH ONE IS WHICH

8 ONCE THE JURY MAKES ITS DECISION YOU'LL MARK THE
9 APPROPRIATE DECISION, SIGN YOUR NAME, MR FOREMAN DATE
10 IT, KNOCK ON THE DOOR AND NOTIFY THE BAILIFF OR THE
11 SECURITY OFFICER YOU'VE MADE A DECISION JUST HOLD ON
12 TO THE VERDICT FORM, MR FOREMAN WHEN YOU COME INTO
13 COURT, THEN I'LL RECEIVE THE VERDICT FORM MYSELF ALL
14 RIGHT?

15 FOREMAN OKAY, SIR

16 THE COURT AT THIS POINT I'M GOING TO SEND YOU
17 TO THE JURY ROOM DO NOT DISCUSS THE CASES IN ANY WAY
18 SO I CAN GO OVER ANY CONCLUDING MATTERS WITH EACH SIDE
19 IF I NEED TO BRING YOU BACK IN, I WILL DO THAT THANK
20 YOU VERY MUCH

21 (THE JURY RETIRES TO THE JURY ROOM AT 2 12 P M)

22 THE COURT PLEASE BE SEATED ANY MATTERS
23 PERTAINING TO THE CHARGE FROM THE STATE?

24 MR MURDAUGH NO ADDITIONS OR EXCEPTIONS

25 THE COURT ANYTHING FROM THE DEFENSE?

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH EXCUSE ME ONE MINUTE
2 (PAUSE)
3 MR ALKEBULANYAHH NOTHING FROM THE DEFENSE, YOUR
4 HONOR
5 THE COURT ALL RIGHT IF YOU ALL WILL PLEASE
6 MAKE SURE WE GET EVERYTHING EXHIBIT-WISE IN ORDER SO
7 THAT NOTHING IS BEING SENT BACK THAT WAS NOT ACTUALLY
8 ADMITTED PLEASE, AND WE'LL PUT THAT ON THE RECORD
9 (PAUSE)
10 THE COURT EACH SIDE HAS REVIEWED THE EXHIBITS
11 AND NOTHING IS BEING SENT BACK THAT WAS NOT ADMITTED
12 INTO EVIDENCE IS THAT CORRECT, FROM THE STATE?
13 LADY CAN I LOOK AT THE ONES YOU PULLED OUT
14 FRIDAY JUST TO MAKE SURE?
15 (PAUSE)
16 THE COURT ALL RIGHT NOW EACH SIDE HAS REVIEWED
17 THE EXHIBITS AND NOTHING IS BEING SENT TO THE JURY ROOM
18 THAT WAS NOT ACTUALLY ADMITTED IS THAT CORRECT FROM
19 THE STATE?
20 MR MURDAUGH THAT IS CORRECT
21 MS TANNER RIGHT
22 THE COURT DEFENSE, IS THAT CORRECT?
23 MR ALKEBULANYAHH YES SIR, YOUR HONOR, BUT I
24 WAS -- I WAS LOOKING AT ONE PARTICULAR PICTURE THAT WAS
25 HAD THE SAME PICTURE TWICE OF THE ---

STATE VS ALKEBULANYAHH

1 THE COURT WELL, IF IT'S ALREADY IN, I CAN'T ---

2 MR ALKEBULANYAHH WELL, THAT'S WHAT I WAS

3 WONDERING

4 THE COURT IS IT SOMETHING THAT'S IN EVIDENCE?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT ALL RIGHT WELL IF IT'S ALREADY IN,

7 THIS -- ALL WE'RE DOING NOW IS MAKING SURE NOTHING THAT

8 WAS NOT IN IS BEING SENT BACK

9 MR ALKEBULANYAHH YES, SIR

10 THE COURT SO EVERYTHING THAT'S IN THESE STACKS

11 WAS ACTUALLY ADMITTED, IS THAT CORRECT? IS THAT

12 CORRECT?

13 MR ALKEBULANYAHH YES, SIR

14 THE COURT ALL RIGHT HERE IS THE VERDICT FORM

15 ALL RIGHT THE JURY MAY BEGIN THEIR DELIBERATIONS ONCE

16 ALL THE EXHIBITS ARE IN THERE AND THE DOORS ARE CLOSED

17 (THE EXHIBITS AND VERDICT FORM ARE TAKEN TO THE

18 JURY AT 2 28 P M)

19 THE COURT ALL RIGHT THANK YOU ALL FOR THE

20 COURTESIES YOU EXTENDED TO EACH OTHER AND TO THE COURT

21 THROUGHOUT THE TRIAL I APPRECIATE IT WE'LL BE AT

22 EASE

23 ONCE WE GET ALL THIS GOING THOUGH I DO WANT TO

24 TAKE UP A FEW ISSUES WITH EACH SIDE

25 MR MURDAUGH THANK YOU, SIR

STATE VS ALKEBULANYAHH

1 MR THORNTON THANK YOU, YOUR HONOR

2 (A RECESS WAS TAKEN)

3 (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)

4 THE COURT I NEED HIS STAND-BY COUNSEL TOO

5 (PAUSE)

6 THE COURT I JUST WANT TO GO OVER A FEW THINGS

7 MR ALKEBULANYAHH OBVIOUSLY, THE JURY HAS NOT

8 RETURNED A DECISION YET SO A LOT OF THIS COULD BE

9 MOOT, BECAUSE IF THEY RETURN A NOT GUILTY VERDICT, THEN
10 THE CASE ENDS

11 YOU SAID SOMETHING TO ME DURING THE SIDE BAR THE
12 OTHER DAY WITH THE SOLICITOR THAT RAISED SOME CONCERNS
13 IN MY MIND ABOUT HOW TO PROCEED

14 NOW, AS YOU KNOW, YOU FILED THE MOTION ORIGINALLY
15 THAT YOU DID NOT WANT COUNSEL IN THIS CASE CORRECT?

16 MR ALKEBULANYAHH YES, SIR

17 THE COURT AND I GRANTED THAT REQUEST IN AN
18 ABUNDANCE OF CAUTION THE COURT APPOINTED YOU STAND-BY
19 COUNSEL WHICH YOU HAVE USED FROM TIME TO TIME

20 NOW, IN THE EVENT THAT THE JURY RETURNS A GUILTY
21 VERDICT, YOUR COMMENT TO ME WAS THAT YOU DO NOT INTEND
22 TO PARTICIPATE MORE SPECIFICALLY, YOU SAID YOU DO NOT
23 INTEND TO BE HERE WHETHER THAT'S THE CASE OR NOT, I'M
24 NOT GOING TO GET INTO A DEBATE ABOUT THAT, BECAUSE MY
25 INTENTION IS FOR YOU TO BE HERE

STATE VS ALKEBULANYAHH

1 BUT, ARE YOU TELLING ME YOU'RE NOT GOING TO
2 PRESENT ANYTHING ---

3 MR ALKEBULANYAHH YES, SIR

4 THE COURT --- IN MITIGATION?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT HAVE YOU DONE THAT BASED ON SOME KIND
7 OF DECISION THAT INVOLVES SOME STRATEGY YOU HAVE? I'M
8 NOT TRYING TO INVADE THAT STRATEGY BUT, OBVIOUSLY,
9 YOU UNDERSTAND THAT THE SECOND PHASE OF THE TRIAL
10 FOCUSES SOLELY ON PENALTY AND ESSENTIAL TO THAT
11 PROCESS OF A FAIR DECISION IS THE FACT THAT NOT JUST
12 AGGRAVATING INFORMATION IS INTRODUCED BUT MITIGATING
13 INFORMATION DO YOU UNDERSTAND THAT?

14 MR ALKEBULANYAHH YES, SIR

15 THE COURT AND KNOWING THAT CAN HAVE A MAJOR
16 IMPACT ON THE DETERMINATION OF THE JURY, YOU'RE NOT
17 DESIROUS OF PRESENTING THAT INFORMATION?

18 MR ALKEBULANYAHH NO, SIR

19 THE COURT DO YOU MIND TELLING ME WHY?

20 MR ALKEBULANYAHH YOU KNOW IN -- IN MY OPINION
21 IT WOULDN'T MAKE -- IT WOULDN'T MAKE NO DIFFERENCE TO
22 ME, I MEAN, YOU KNOW

23 THE COURT YOU DON'T THINK THAT THE JURY WOULD
24 WANT TO HEAR INFORMATION ABOUT YOUR BACKGROUND OR ANY
25 OF THE CIRCUMSTANCES THAT MIGHT HAVE BEEN INVOLVED OR

STATE VS ALKEBULANYAHH

1 ANYTHING LIKE THAT?

2 MR ALKEBULANYAHH I DON'T SEE WHERE IT WOULD BE
3 HELPFUL TO ME IN ANY TYPE OF MANNER I DON'T SEE WHERE
4 IT WOULD BE HELPFUL -- HELPFUL TO ME I DON'T SEE
5 WHERE IT WOULD, YOU KNOW, DO ANYTHING FOR ME TO NO
6 EXTENT

7 THE COURT AND LET ME JUST MAKE SURE I UNDERSTOOD
8 THIS CORRECTLY ARE YOU TAKING ANY KIND OF POSITION
9 THAT YOUR ATTORNEYS THAT ARE ON STAND-BY ARE GOING TO
10 DO ANYTHING?

11 MR ALKEBULANYAHH NO

12 - THE COURT YOU STILL WILL REPRESENT YOURSELF
13 DURING THAT PROCEEDING?

14 MR ALKEBULANYAHH I MEAN, YES I MEAN, NO MORE
15 THAN I WOULD ATTEND THE SENTENCING

16 THE COURT RIGHT BUT -- SO ---

17 MR ALKEBULANYAHH IF ---

18 THE COURT --- YOU'RE GOING TO BE REPRESENTING
19 YOURSELF AT THAT PROCEEDING, AND YOU'RE NOT GOING TO
20 PRESENT ANYTHING? IS THAT CORRECT?

21 MR ALKEBULANYAHH RIGHT I JUST ATTENDING
22 SENTENCING IF THE JURY COME BACK WITH A GUILTY
23 VERDICT, I WILL JUST ---

24 THE COURT WELL, YOU WILL NEED TO ATTEND THE
25 PROCEEDING ITSELF

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH I WOULD -- I WOULD -- I
2 WOULDN'T BE ABLE TO SIT THERE AND ATTEND THAT
3 PROCEEDING IT WOULD ---

4 THE COURT WHO'S GOING TO OBJECT ON YOUR PART IF
5 THERE'S OBJECTIONABLE INFORMATION THAT'S PRESENTED?

6 MR ALKEBULANYAHH IT WOULD BE FOR THE COURT AND
7 FOR THE -- WHATEVER -- WHATEVER HAS TO BE DONE, HAS TO
8 BE DONE I MEAN, IT DOESN'T MATTER NOW I DON'T NEED
9 NO OBJECTION TO ME I WAIVE ALL THAT I WAIVE ALL THE
10 RIGHTS TO ANY OBJECTIONS TO ANYTHING IN THE EVENT THAT
11 I'M FOUND GUILTY

12 - THE COURT ARE YOU WILLING TO SHARE WITH THE
13 COURT WHY YOU WANT TO DO THAT? I'M NOT SURE IF THAT'S
14 A STRATEGY DECISION OR WHAT

15 MR ALKEBULANYAHH WELL, I'M JUST SAYING YOU
16 KNOW, IT'S MY OPINION ---

17 THE COURT MAYBE I CAN HEAR YOU PERSONALLY
18 WITHOUT ---

19 MR ALKEBULANYAHH THE VALUE ---

20 MR MURDAUGH I WOULD HAVE NO PROBLEM WITH THAT
21 JUDGE

22 THE COURT YOU ALL STEP OUT

23 MR MURDAUGH MAY I SAY ONE THING BEFORE YOU DO
24 THAT, SIR?

25 THE COURT YES, SIR

STATE VS ALKEBULANYAHH

1 MR MURDAUGH AND I'M SURE HE MOST PROBABLY KNOWS
2 IT, BUT I THINK IT PROBABLY SHOULD BE ON THE RECORD
3 THAT HE HAS A RIGHT TO MAKE AN UNSWORN STATEMENT ---

4 THE COURT YES, SIR

5 MR MURDAUGH --- IN THIS PHASE

6 THE COURT I AGREE YES, AND I WANT -- I WAS
7 GOING TO EXPLAIN THAT RIGHT IF WE GOT TO THE SECOND
8 PHASE

9 BUT YOU UNDERSTAND THAT -- WELL, FIRST OF ALL,
10 THERE'S TWO THINGS YOU HAVE NO -- YOU DO NOT HAVE TO
11 TESTIFY THE SAME THING THAT I EXPLAINED TO YOU IN THE
12 FIRST PART OF THE TRIAL, YOU HAVE THAT RIGHT TO REMAIN
13 SILENT DO YOU UNDERSTAND THAT?

14 MR ALKEBULANYAHH RIGHT

15 THE COURT EVEN IF YOU EXERCISE -- AND YOU
16 REMEMBER EVERYTHING I TOLD YOU ABOUT THAT RIGHT?

17 MR ALKEBULANYAHH RIGHT YES SIR I DO

18 THE COURT EVEN IF YOU EXERCISE THAT RIGHT TO
19 REMAIN SILENT, YOU STILL HAVE THE RIGHT -- THAT MEANS
20 THAT RIGHT TO REMAIN SILENT AND NOT TAKE THE WITNESS
21 STAND YOU STILL HAVE THE RIGHT TO MAKE A STATEMENT TO
22 THE JURY IF YOU SO DESIRE DO YOU UNDERSTAND THAT?

23 MR ALKEBULANYAHH RIGHT

24 MR MURDAUGH NOT SUBJECT TO CROSS EXAMINATION

25 THE COURT AND THAT WOULD NOT BE ON THE WITNESS

STATE VS ALKEBULANYAHH

1 STAND, AND YOU COULD JUST MAKE A PERSONAL STATEMENT TO
2 THE JURY DO YOU UNDERSTAND THAT?
3 MR ALKEBULANYAHH RIGHT YES, SIR
4 THE COURT AND I NEED TO MAKE SURE YOU UNDERSTAND
5 THOSE RIGHTS
6 MR ALKEBULANYAHH YES, SIR
7 THE COURT DO YOU UNDERSTAND THOSE RIGHTS?
8 MR ALKEBULANYAHH YES, SIR
9 THE COURT NOW, ARE YOU TELLING ME YOU'RE NOT --
10 ONE, FIRST OF ALL, YOU'RE NOT PLANNING ON TESTIFYING?
11 MR ALKEBULANYAHH NO
12 - THE COURT AND YOU'VE HAD SUFFICIENT -- YOU'VE
13 MADE THAT DECISION?
14 MR ALKEBULANYAHH YES
15 THE COURT YOU UNDERSTAND EVERYTHING I SAID?
16 MR ALKEBULANYAHH YES YES, SIR
17 THE COURT AND SECONDLY, YOU'RE TELLING ME
18 YOU'RE NOT DESIROUS OF PRESENTING ANY MITIGATING
19 CIRCUMSTANCES?
20 MR ALKEBULANYAHH NO, SIR
21 THE COURT NOW, IF I TOLD YOU I THINK THAT WAS
22 NOT WISE AND THAT'S FOOL-HARDY, SIMILAR TO WHAT I SAID
23 ABOUT REPRESENTATION, IS THAT SOMETHING YOU WISH TO
24 THINK ABOUT?
25 MR ALKEBULANYAHH NO I MEAN, I DON'T -- I

STATE VS ALKEBULANYAHH

1 DON'T NEED TO THINK ABOUT IT BECAUSE ---

2 MR MURDAUGH YOUR HONOR DO YOU WANT US TO LEAVE
3 NOW?

4 THE COURT YES, HOLD ON A SECOND LET'S LET
5 EVERYONE BUT MY SLED OFFICER RIGHT HERE STEP OUT IN THE
6 HALLWAY ONE SECOND

7 MR MURDAUGH OKAY, SIR

8 (PAUSE)

9 MR THORNTON REMAIN IN THE HALLWAY?

10 THE COURT YES, SIR, COUNSEL AND ALL EXIT

11 (PAUSE)

12 - (THE FOLLOWING RECORD HAS BEEN SEALED BY THE
13 JUDGE, AND TO BE RELEASED ONLY UPON WRITTEN COURT ORDER
14 FROM THE PRESIDING JUDGE)

15 THE COURT EVERYONE'S AGREED TO LET HIM TELL ME
16 IN CAMERA THIS PART WOULD BE SEALED IF NECESSARY

17 IS THERE -- IS THERE SOME STRATEGY REASON BEHIND
18 THAT THAT YOU WANT TO SHARE WITH ME? THE ONLY REASON I
19 WANT TO KNOW IS NOT TO TELL YOU HOW TO DO THINGS IT'S
20 JUST TO UNDERSTAND WHETHER OR NOT -- TO EXPLAIN TO YOU
21 YOU MIGHT BE DOING SOMETHING FOOLISH, NUMBER ONE

22 AND KNOWING THAT THERE'S -- YOU KNOW, YOU'RE
23 TALKING, IF IT GETS TO THAT PHASE -- AGAIN, I'M NOT
24 COMMENTING ON THAT

25 MR ALKEBULANYAHH RIGHT

STATE VS ALKEBULANYAHH

1 THE COURT OBVIOUSLY, THE JURY COULD GO EITHER
2 WAY IF IT GETS TO THAT PHASE, YOU KNOW, LIFE OR
3 DEATH, AND DEATH IS A FINAL THING DO YOU UNDERSTAND
4 THAT?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT AND WHATEVER IT IS THAT -- ALTHOUGH
7 YOU DON'T HAVE AN OBLIGATION TO DO ANYTHING I'LL MAKE
8 MYSELF CLEAR ON THAT USUALLY THIS PHASE IS IMPORTANT
9 ENOUGH TO WANT TO, YOU KNOW, HAVE THAT PRESENTED TO A
10 JURY THE JURY DOESN'T WEIGH THOSE THINGS THEY JUST
11 CONSIDER EVERYTHING DO YOU UNDERSTAND THAT?

12 - MR ALKEBULANYAHH YES, SIR

13 THE COURT AS FAR AS THE AGGRAVATING AND
14 MITIGATING CIRCUMSTANCES?

15 MR ALKEBULANYAHH YES, SIR

16 THE COURT AS WELL AS ANY NON-STATUTORY
17 MITIGATING CIRCUMSTANCES

18 MR ALKEBULANYAHH MY POSITION -- POSITION IS --
19 IS THAT I CAN'T DIFFERENTIATE BETWEEN LIFE AND DEATH
20 IF IT CAMES (SIC) TO A GUILTY VERDICT AND IT
21 WOULDN'T HAVE NO BEARING ON ME, BECAUSE IF I'M IN
22 PRISON FOR LIFE, THAT'S DEATH TO ME I CAN NEVER
23 ACCEPT THAT YOU KNOW, I DON'T FIND THAT AS A EASY OR
24 SOMETHING POSITIVE OR GOOD IN MY POSITION DEATH WOULD
25 BE MORE PREFERABLE THAN LIFE UNTIL I DIE IN -- IN

STATE VS ALKEBULANYAHH

1 PRISON SO ---

2 THE COURT ARE YOU TELLING ME YOU WOULD PREFER
3 THIS JURY TO SENTENCE YOU TO DEATH?

4 MR ALKEBULANYAHH NO WHAT I'M SAYING -- I
5 WOULD NOT BE SPEAKING AS A JUROR, I'M JUST SPEAKING IN
6 GENERAL ---

7 THE COURT I SEE

8 MR ALKEBULANYAHH --- IN COMPARISON NOT
9 SPEAKING AS FAR AS, YOU KNOW, WHAT I WANT THIS JUROR
10 (SIC) TO DO OR WOULDN'T DO I'M SPEAKING IN GENERAL AS
11 DEATH IS THE EQUIVALENT OF LIFE IN PRISON WITHOUT
12 PAROLE, BECAUSE THAT -- THAT IS DEATH TO ME IN MY
13 POSITION, THAT'S A FORM OF DEATH ITSELF IT MAY BE
14 LONGER IT MAY BE SHORTER, WHICHEVER TIME LIFE COMES
15 SO I DON'T SEE IT AS ANY -- IN MY POSITION, I DON'T SEE
16 IT AS ANYTHING THAT -- THAT -- THAT COULD CONCERN ME TO
17 THAT ---

18 THE COURT SO ---

19 MR ALKEBULANYAHH --- EXTENT BUT I UNDERSTAND
20 THE NATURE PART AS FAR AS REFERENCE YOU SPEAKING TO ME
21 ABOUT AND YOUR POSITION AND -- AND -- AND RESPECT
22 THAT YOU -- AND THE PERSPECTIVE THAT YOU GIVEN ME AS
23 FAR AS THE MATTER AND THE WAY THE JUDICIAL -- ABOUT
24 THAT PARTICULAR SITUATION

25 THE COURT SO YOU'RE TELLING ME, YOU DON'T --

STATE VS ALKEBULANYAHH

1 YOU'RE NOT ASKING THAT COUNSEL BE APPOINTED TO
2 REPRESENT YOU ON THIS PROCEEDING?

3 MR ALKEBULANYAHH NO ANY DECISION THEY MAKE IN
4 THAT PROCEEDING IS ACCEPTABLE TO ME EITHER ONE, I
5 MEAN I DON'T -- I DON'T SEE ADVANTAGE TO ANYTHING
6 THE COURT WELL, RIGHT NOW YOU ONLY HAVE STAND-BY
7 COUNSEL

8 MR ALKEBULANYAHH RIGHT
9 THE COURT BECAUSE I GRANTED YOUR REQUEST TO
10 REPRESENT YOURSELF

11 MR ALKEBULANYAHH RIGHT
12 - THE COURT YOU'RE NOT ASKING ME TO APPOINT
13 SOMEONE TO REPRESENT YOU ---

14 MR ALKEBULANYAHH RIGHT
15 THE COURT --- IN THIS PROCEEDING?

16 MR ALKEBULANYAHH AT THAT -- AT THAT PARTICULAR
17 PROCEEDING, I'M NOT ASKING YOU TO GRANT ANYONE TO
18 REPRESENT ME AT THAT PARTICULAR PROCEEDING, AT THE
19 MITIGATING -- MITIGATING AGGRAVATING CIRCUMSTANCES
20 THE COURT AND THUS YOU'VE COME TO THIS DECISION
21 HAVING THOUGHT IT THROUGH?

22 MR ALKEBULANYAHH YES SIR LONG BEFORE -- LONG
23 BEFORE -- LONG -- LONG THIS -- THIS IS -- THIS IS
24 SOMETHING THAT WAS IN MY MIND, IN MY OPINION LONG
25 BEFORE I WAS FACED THIS TYPE OF CIRCUMSTANCES THIS IS
/

STATE VS ALKEBULANYAHH

1 SOMETHING ---

2 THE COURT YOU REMEMBER ALL MY DISCUSSION ABOUT

3 THE RISKS OF REPRESENTING YOURSELF?

4 MR ALKEBULANYAHH OH, YES, SIR I DO I DO

5 THE COURT AND YOU WISH TO PROCEED WITHOUT

6 REPRESENTATION?

7 MR ALKEBULANYAHH YES, SIR

8 THE COURT YOU KNOW, I DON'T THINK THAT THIS IS A

9 WISE THING TO DO OBVIOUSLY, I'VE TRIED TO -- IT'S NOT

10 MY PLACE, AGAIN, TO TELL YOU HOW TO RUN YOUR CASE BUT

11 IF THAT'S HOW YOU WANT IT, AND THE COURT FINDS THAT

12 YOU'VE FREELY AND VOLUNTARILY, KNOWINGLY AND

13 INTELLIGENTLY REAFFIRM YOUR DESIRE TO PROCEED WITHOUT

14 COUNSEL AS TO THIS PHASE OF THE CASE IF IT GETS TO THAT

15 PHASE I'M NOT SURE HOW I'M GOING TO HANDLE THOSE

16 NOW, LET ME BRING EVERYONE BACK IN BRING

17 EVERYONE BACK IN BRING EVERYONE BACK IN

18 (END OF SEALED PORTION OF THE TRANSCRIPT OF

19 RECORD)

20 (PAUSE WHILE EVERYONE RETURNS TO THE HEARING

21 ROOM)

22 THE COURT I'M TRYING TO THINK WHAT I WANT TO

23 PROCEED

24 (PAUSE)

25 THE COURT BY VIRTUE OF HOW YOU ARE EXPRESSING

STATE VS ALKEBULANYAHH

1 THIS TO ME, WHAT IS YOUR POSITION ON THE CONTINUED
2 SEQUESTRATION OF THE JURY IF IT GOES TO THE SECOND
3 PHASE?

4 MR ALKEBULANYAHH I THINK THEY SHOULD CONTINUE
5 IN SEQUESTRATION IF IT CAME TO A SECOND PHASE

6 THE COURT ALL RIGHT AND YOU STILL WOULD LIKE
7 FOR THE JURY TO DETERMINE THAT SENTENCING, THAT
8 PENALTY?

9 MR ALKEBULANYAHH RIGHT RIGHT

10 THE COURT AND YOU UNDERSTAND THAT YOU HAVE A
11 RIGHT TO A 24-HOUR WAITING PERIOD BEFORE WE PROCEED
12 WITH THAT?

13 MR ALKEBULANYAHH YES, SIR

14 THE COURT AND IS THAT WHAT YOU WISH TO DO?

15 MR ALKEBULANYAHH YES, SIR

16 THE COURT OKAY ALL RIGHT

17 MR MURDAUGH WISH TO HAVE THE 24 HOURS?

18 THE COURT YES THAT'S WHAT YOU WISH TO DO?

19 MR ALKEBULANYAHH YOU MEAN BEFORE ---

20 THE COURT YES

21 MR ALKEBULANYAHH --- THEY GIVE THEIR VERDICT?

22 THE COURT YES

23 MR ALKEBULANYAHH IF IT WAS A GUILTY VERDICT?

24 THE COURT YES, SIR

25 MR ALKEBULANYAHH OH YES, SIR

STATE VS ALKEBULANYAHH

1 THE COURT OKAY ALL RIGHT I THINK I'VE
2 COVERED EVERYTHING THAT I NEED TO COVER

3 I WILL STATE FOR THE RECORD THAT THE DEFENDANT HAS
4 REAFFIRMED -- FOR THE OPEN RECORD, THE DEFENDANT HAS
5 REAFFIRMED HIS DESIRE TO PROCEED IF NECESSARY -- IF THE
6 CASE GETS TO THE SECOND PHASE, WITHOUT COUNSEL, THAT HE
7 FREELY AND VOLUNTARILY AND KNOWINGLY WAIVES THAT RIGHT
8 OR REAFFIRMS HIS ORIGINAL DECISION

9 THE DEFENDANT HAS BEEN ADVISED THAT HE DOES NOT
10 HAVE TO TESTIFY IN THIS PHASE AND HE UNDERSTANDS
11 EVERYTHING I'VE SAID ABOUT NOT HAVING TO TESTIFY IS
12 THAT CORRECT?

13 MR ALKEBULANYAHH THAT IS CORRECT

14 THE COURT AND THE DEFENDANT HAS ALSO BEEN
15 ADVISED THAT NOTWITHSTANDING HIS DECISION TO TESTIFY OR
16 TO NOT TESTIFY, THAT HE HAS A RIGHT TO MAKE A PERSONAL
17 STATEMENT TO THE JURY THAT IS NOT UNDER OATH AND
18 SUBJECT TO CROSS EXAMINATION YOU UNDERSTAND THAT
19 RIGHT ---

20 MR ALKEBULANYAHH YES, SIR

21 THE COURT --- FOR THIS PHASE?

22 MR ALKEBULANYAHH YES, SIR

23 THE COURT SO THAT IS SOMETHING THAT YOU NEED TO
24 THINK ABOUT, THE MAKING OF A STATEMENT TO THIS JURY IF
25 YOU SO DESIRE

STATE VS ALKEBULANYAHH

1 AND IS THERE ANYTHING ELSE YOU CAN THINK OF THAT
2 WE NEED TO COVER?

3 MR MURDAUGH NO, SIR, I CAN THINK OF NOTHING
4 ELSE

5 THE COURT ALL RIGHT

6 MR MURDAUGH EXCUSE ME SIR ASSUMING THAT HE
7 DOES NOT PARTICIPATE IN THAT HEARING -- AND I TAKE IT
8 THAT'S WHAT HE SAID?

9 THE COURT HE'S NOT GOING TO PRESENT ANYTHING

10 MR MURDAUGH OKAY BUT HE WILL BE PRESENT IN
11 THE HEARING?

12 THE COURT YES SIR

13 MR MURDAUGH THAT'S FINE

14 THE COURT YES SIR

15 MR ALKEBULANYAHH PRESENT?

16 THE COURT YES SIR THAT'S SOMETHING THAT I
17 THINK I'M REQUIRED TO DO

18 MR ALKEBULANYAHH I PROBABLY BE -- PROBABLY
19 UNRULY THE WHOLE ---

20 THE COURT YOU'RE NOT GOING TO BE UNRULY, MR
21 ALKEBULANYAHH

22 MR ALKEBULANYAHH YES I AM I WOULD ACT -- I'M
23 TELLING YOU

24 THE COURT I'M NOT GOING TO ALLOW YOU TO BE
25 UNRULY

6

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH I MEAN, I WOULD PROBABLY HAVE
2 TO BE RESTRAINED, PROBABLY REALLY RESTRAINED
3 PHYSICALLY, AND THAT'S FOR SURE THERE'S NO DOUBT
4 ABOUT IT I WOULD NOT -- I WOULD NOT SIT THERE AND --
5 AND I WOULD NOT

6 THE COURT WELL, MR ALKEBULANYAHH ---

7 MR ALKEBULANYAHH NOT -- NOT VOLUNTARILY I CAN
8 ONLY SAY NOT VOLUNTARILY -- NO DISRESPECT FOR YOUR
9 INTENTIONS OR ANYBODY TO THAT EXTENT, BUT NOT
10 VOLUNTARY

11 THE COURT WELL, THE POINT OF THE MATTER IS THAT
12 YOU HAVE MADE A DECISION TO PROCEED WITHOUT COUNSEL
13 YOU HAVE TO REPRESENT YOURSELF IF YOU ASK THE COURT TO
14 REPRESENT YOURSELF

15 MR ALKEBULANYAHH IRREGARDLESS NOT VOLUNTARILY,
16 NO MATTER WHAT THE CIRCUMSTANCES OR WHAT THE LAW SAY OR
17 ANYBODY SAY, THAT WOULD NOT BE VOLUNTARY THAT'S A
18 GUARANTEE WHEN I SPEAK, I DO SPEAK FIRMLY ---

19 THE COURT WELL, THE COURT ---

20 MR ALKEBULANYAHH --- AND AM SURE ABOUT SOME
21 THINGS

22 THE COURT IF THE COURT HAS TO TAKE ---

23 MR ALKEBULANYAHH SO YOU MAY WANT TO PREPARE --
24 THAT THE COURT BE PREPARED

25 THE COURT I'M NOT GOING TO PREPARE FOR ANYTHING,

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH IF THEY HAVE TO RESTRAIN YOU, THEY
2 WILL I THINK THAT'S REGRETTABLE YOU'VE PROCEEDED IN
3 THIS TRIAL UP TO THIS POINT WITHOUT THERE BEING ANY
4 KIND OF ISSUES IN THAT DEPARTMENT

5 YOU ASKED TO REPRESENT YOURSELF, AND YOU'LL NEED
6 TO FOLLOW THAT THROUGH

7 MR ALKEBULANYAHH YEAH AND THAT PART OF ME
8 MAKING CHOICES ABOUT CERTAIN THINGS AND ---

9 THE COURT BUT IF YOU WANT TO SIT IN THERE AND
10 NOT DO ANYTHING, THAT'S YOUR OPTION

11 MR ALKEBULANYAHH NO BUT I'M SAYING MY OPTION
12 WOULD BE IF THE COURT OR ANYONE HAS TO RESTRAIN ME,
13 SHACKLE ME DOWN IN A CHAIR PUT ME IN A STRAIGHT
14 JACKET, THAT'S GOING TO BE IT BUT AIN'T NOBODY GOING
15 TO BE MOVING ME UNLESS THEY PLAN TO PHYSICALLY ASSAULT
16 ME AND USE WHATEVER NECESSARY FORCE TAKE ME IN THEIR
17 BATHROOM, BEAT IT UP BUT ---

18 THE COURT IF THAT HAPPENS, I'LL DEAL WITH THAT

19 MR ALKEBULANYAHH THANK YOU

20 MR ALKEBULANYAHH THANK YOU, SIR, YOUR HONOR

21 MR MURDAUGH THANK YOU

22 (END OF IN CAMERA HEARING)

23 (COURT IS AT EASE AWAITING A VERDICT OF THE JURY)

24 THE COURT APPROACH SIDE BAR

25 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD)

STATE VS ALKEBULANYAHH

1 THE COURT BRING THE JURY IN PLEASE

2 (PAUSE)

3 THE COURT WHAT I INDICATED AT SIDE BAR EACH
4 SIDE AGREES TO MY STATEMENT TO THE JURY IS THAT
5 CORRECT?

6 MR MURDAUGH THE STATE DOES

7 MR ALKEBULANYAHH DEFENSE WOULDN'T MIND IF THE
8 JURY HAS OPENING AND CLOSING STATEMENT

9 THE COURT ALL RIGHT SIDE BAR

10 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD)

11 (NOTE FROM JURY MARKED FOR IDENTIFICATION AS
12 COURT'S EXHIBIT NO 9)

13 (THE JURY RETURNS TO THE COURTROOM AT 4 26 P M)

14 THE COURT THANK YOU PLEASE BE SEATED

15 LADIES AND GENTLEMEN I RECEIVED YOUR NOTE I
16 HAVE A BRIEF INSTRUCTION CONSISTENT WITH MY EARLIER
17 INSTRUCTIONS ABOUT THAT REGARDING OPENING AND CLOSING
18 STATEMENTS

19 OPENING STATEMENTS ARE MADE JUST TO ALLOW EACH
20 SIDE TO PRESENT A BRIEF OUTLINE OF WHAT THAT PARTY
21 EXPECTS THE EVIDENCE WILL SHOW THE ALLOWANCE OF THESE
22 STATEMENTS ARE WITHIN THE DISCRETION OF THE COURT

23 SIMILARLY, CLOSING STATEMENTS AFFORD EACH PARTY
24 THE OPPORTUNITY TO SUMMARIZE THE EVIDENCE FROM THEIR
25 RESPECTIVE POINTS OF VIEW, TO PUT THE PIECES OF THE

STATE VS ALKEBULANYAHH

1 PUZZLE TOGETHER SO TO SPEAK

2 AS I INDICATED, THESE STATEMENTS ARE NOT EVIDENCE
3 IN ANY WAY WHATSOEVER, AND MUST NOT BE CONSIDERED BY
4 THE JURY DURING YOUR DELIBERATIONS AS EVIDENCE IN ANY
5 WAY WHATSOEVER

6 SO WITH THAT BRIEF INSTRUCTION, I'LL SEND YOU BACK
7 TO CONTINUE YOUR DELIBERATIONS THANK YOU VERY MUCH

8 (THE JURY EXITS THE COURTROOM AT 4 28 P M)

9 THE COURT ALL RIGHT THANK YOU WE'LL BE AT
10 EASE

11 (COURT IS AT EASE AWAITING A VERDICT OF THE JURY)

12 - THE COURT I HAVE RECEIVED A NOTE FROM THE JURY
13 WOULD YOU LIKE TO APPROACH THE SIDE BAR

14 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD)

15 THE COURT FOR THE RECORD, EACH SIDE HAS AGREED
16 TO HAVE THE COURT REQUEST THAT THE JURY CLARIFY ITS
17 QUESTION IS THAT CORRECT?

18 MR MURDAUGH THAT IS CORRECT FROM THE STATE
19 SIR

20 MR ALKEBULANYAHH YES SIR

21 THE COURT AND THEY'LL HAVE TO DO THAT IN
22 WRITING, IS THAT CORRECT?

23 MR MURDAUGH THAT IS CORRECT, SIR

24 MR ALKEBULANYAHH YES, SIR

25 THE COURT BEFORE I BRING THEM OUT ALL RIGHT

STATE VS ALKEBULANYAHH

1 (PAUSE)

2 THE COURT PLEASE SPECIFY EXACTLY WHAT YOU'RE
3 REQUESTING AS TO THE DEFENDANT'S TESTIMONY IT IS NOT
4 CLEAR WHETHER YOU ARE SEEKING ALL OF THE TESTIMONY,
5 DIRECT AND CROSS BE REPLAYED TO YOU, OR WHETHER YOU ARE
6 JUST SEEKING CROSS EXAMINATION

7 MR MURDAUGH THAT'S AGREEABLE WITH THE STATE

8 MR ALKEBULANYAHH YES, SIR

9 THE COURT AGREEABLE?

10 MR ALKEBULANYAHH YES, SIR

11 THE COURT ALL RIGHT PLEASE GIVE THAT TO THE
12 JURY-

13 (PAUSE)

14 THE COURT ALL RIGHT IF YOU ALL JUST STAY CLOSE
15 BY WE'LL GET THAT RESPONSE

16 (PAUSE)

17 THE COURT ALL RIGHT THE JURY'S RESPONSE, MADAM
18 COURT REPORTER, DID YOU FIND THAT SECTION?

19 REPORTER YES, SIR

20 THE COURT THEY VE REQUESTED THE ENTIRE
21 TESTIMONY

22 MR MURDAUGH DIRECT AND CROSS?

23 THE COURT YES, SIR

24 MARK THAT A COURT'S EXHIBIT PLEASE WAIT YOU
25 CAN GO AHEAD AND MARK THAT I'LL STAPLE THIS OTHER

STATE VS ALKEBULANYAHH

1 SHEET ONTO THAT TOO

2 (TWO NOTES FROM THE JURY WERE MARKED FOR

3 IDENTIFICATION AS COURT'S EXHIBIT NOS 10 AND 11)

4 THE COURT BRING THE JURY IN PLEASE

5 (THE JURY RETURNS TO THE COURTROOM AT 6 38 P M)

6 THE COURT THANK YOU PLEASE BE SEATED

7 ALL RIGHT LADIES AND GENTLEMEN, I RECEIVED YOUR

8 NOTE I'M GOING TO TAKE THEM IN ORDER

9 AS TO THE FIRST TWO, INSOFAR AS SENDING ITEMS BACK

10 TO THE JURY ROOM, IF YOU'RE ENTITLED TO LOOK AT IT, IT

11 WILL BE WITH YOU IN THE JURY ROOM AS I INDICATED

12 EARLIER IF IT WAS ADMITTED -- LET ME RESTATE THAT IF

13 AN ITEM WAS ADMITTED INTO EVIDENCE, IT WOULD BE WITH

14 YOU IN THE JURY ROOM OKAY?

15 AND AS TO YOUR THIRD QUESTION, WE'RE PREPARED TO

16 REPLAY THAT FOR YOU AT THIS POINT ONCE THAT IS

17 COMPLETED, THEN I'LL SEND YOU BACK TO RESUME YOUR

18 DELIBERATIONS

19 AND I BELIEVE THEY'VE ORDERED YOUR DINNER?

20 FOREMAN YES SIR JUDGE

21 THE COURT ALL RIGHT GO AHEAD

22 (THE REQUESTED TESTIMONY WAS PLAYED IN OPEN

23 COURT)

24 THE COURT I DIDN'T MEAN TO STOP THAT, LADIES AND

25 GENTLEMEN THERE'S NO SIGNIFICANCE TO MY STOPPING IT

STATE VS ALKEBULANYAHH

1 AT THAT POINT

2 IT DAWNED ON ME THAT THIS WILL TAKE A WHILE, AT
3 LEAST AN HOUR AND A HALF, MAYBE 2 HOURS SO I JUST
4 WANTED TO ASK -- THERE'S NO PROBLEM WITH THAT JUST
5 WANTED TO ASK YOU, WOULD YOU RATHER STOP AND PICK UP
6 WITH THIS TOMORROW MORNING, THE FIRST THING IN THE
7 MORNING? YOU COULD HEAR IT FIRST THING IN THE MORNING,
8 AND THEN RESUME YOUR DELIBERATIONS OR WOULD YOU
9 RATHER JUST WORK -- STAY LATE NOT WORK LATE STAY
10 LATE?

11 (PAUSE)

12 - THE COURT I CAN SEND YOU BACK TO THE JURY ROOM
13 IF YOU WANT TO DECIDE THAT FIRST BEFORE WE PROCEED?

14 FOREMAN IT'S THE GENERAL CONSENSUS JUDGE ---

15 THE COURT IF YOU'D ALL LIKE TO STAY RAISE YOUR
16 HAND

17 (NO RESPONSE)

18 THE COURT I FIGURED THAT WAS GOING TO BE THE
19 CASE OKAY SO YOU ALL WOULD LIKE TO ---

20 FOREMAN RESUME IN THE MORNING

21 THE COURT --- RESUME IN THE MORNING OKAY

22 ALL RIGHT ANY OBJECTION FROM THE STATE?

23 MR MURDAUGH NONE, SIR

24 THE COURT DEFENSE?

25 MR ALKEBULANYAHH NONE, YOUR HONOR

STATE VS ALKEBULANYAHH

1 THE COURT ALL RIGHT WE'LL START BACK FROM THE
2 BEGINNING TOMORROW -- MADAM COURT REPORTER IF YOU WILL
3 REWIND THAT

4 LADIES AND GENTLEMEN, I'LL SEND YOU TO THE JURY
5 ROOM RIGHT NOW YOU CAN RESUME YOUR DELIBERATIONS
6 BUT I NEED TO FIGURE OUT WHAT'S GOING ON WITH YOUR
7 DINNER AND EVERYTHING BEFORE I LET YOU GO

8 ALL RIGHT THANK YOU VERY MUCH

9 FOREMAN THANK YOU, JUDGE

10 (THE JURY RETIRES TO THE JURY ROOM AT 6 44 P M)

11 THE COURT THERE BEING NO OBJECTION FROM THE
12 STATE OR THE DEFENSE, WE SHALL ADJOURN THE JURY IS
13 SEQUESTERED SO WE CAN JUST PICK BACK UP WITH IT
14 TOMORROW ALL RIGHT? LET'S START BACK AT -- WE CAN
15 START BACK AT 8 30

16 MR MURDAUGH WHATEVER SUITS ME

17 THE COURT 8 30?

18 MR ALKEBULANYAHH 9 00 O'CLOCK?

19 THE COURT 9 00 O'CLOCK ALL RIGHT WE'LL START
20 BACK AT 9 00 O'CLOCK

21 MR MURDAUGH LET'S START AT 8 30

22 THE COURT IS THERE A REASON YOU WANT TO START
23 LATER?

24 MR ALKEBULANYAHH YEAH, CATCH UP SOME SLEEP

25 THE COURT GET SOME SLEEP

STATE VS ALKEBULANYAHH

1 (PAUSE)
2 THE COURT I'LL SPLIT IT WITH BOTH OF YOU ALL,
3 WE'LL START BACK AT 8 45 ALL RIGHT
4 MR MURDAUGH I JUST SUGGESTED THAT ANY TIME
5 WILL SUIT ME, WHATEVER YOU DECIDE, SIR
6 THE COURT WE'LL START BACK AT 8 45, THAT'S OKAY
7 WELL, ACTUALLY -- YEAH, THAT'S OKAY 8 45
8 ALL RIGHT THANK YOU ALL VERY MUCH
9 (COURT IS IN RECESS)
10 (TUESDAY, OCTOBER 21, 2003)
11 THE COURT JURY READY?
12 - OFFICER YES SIR
13 THE COURT BRING THEM IN
14 (THE JURY RETURNS TO THE COURTROOM AT 8 51 A M)
15 JUROR WE'VE GOT A PROBLEM UP HERE
16 (PAUSE)
17 MR MURDAUGH I'VE BEEN PRACTICING LAW FOR OVER
18 40 YEARS, AND I DON'T KNOW THAT I HAVE EVER SEEN
19 ANYTHING QUITE LIKE THAT
20 THE COURT ALL RIGHT I'M GOING TO STEP OFF THE
21 BENCH FOR A MINUTE
22 (THE JURY RETIRES TO THE JURY ROOM AT 8 52 A M)
23 (A RECESS WAS TAKEN)
24 THE COURT ALL RIGHT I'VE JUST NEVER HAD
25 SOMETHING LIKE THAT HAPPEN BEFORE, IF WE CAN GET

STATE VS ALKEBULANYAHH

1 THROUGH WITHOUT LAUGHING
2 BRING THE JURY IN PLEASE
3 (THE JURY RETURNS TO THE COURTROOM AT 9 02 A M)
4 THE COURT THANK YOU I APOLOGIZE THIS IS A
5 VERY SERIOUS MATTER BUT I WAS TELLING THEM, I'VE BEEN
6 JUDGING IN SOME CAPACITY FOR 14 YEARS AND I HAVE
7 NEVER SEEN ANYTHING LIKE THAT BEFORE
8 THANK YOU WE'RE READY TO START BACK WITH THE
9 REPLAYING OF THE TESTIMONY
10 (THE REQUESTED TESTIMONY WAS PLAYED IN OPEN
11 COURT)
12 - THE COURT ALL RIGHT LADIES AND GENTLEMEN, I'LL
13 SEND YOU BACK TO THE JURY ROOM TO RESUME YOUR
14 DELIBERATIONS IF YOU NEED ANYTHING FURTHER, PLEASE
15 INFORM THE COURT THANK YOU
16 (THE JURY RETIRES TO THE JURY ROOM AT 10 03 A M
17 TO CONTINUE DELIBERATIONS)
18 THE COURT THANK YOU WE'LL BE AT EASE THANK
19 YOU
20 (COURT IS AT EASE AWAITING A VERDICT OF THE JURY)
21 THE COURT ALL RIGHT I UNDERSTAND THE JURY HAS
22 REACHED ITS DECISION AS TO EACH INDICTMENT I'LL
23 REMIND EVERYONE THAT'S IN THE COURTROOM, A WORD FOR
24 THOSE WERE NOT HERE WHEN I GAVE MY CAUTIONARY
25 INSTRUCTION

STATE VS ALKEBULANYAHH

1 AGAIN, I REALIZE THIS IS AN EMOTIONAL CASE FOR A
2 LOT OF PEOPLE A LOT OF PEOPLE ARE VERY INTERESTED IN
3 THE OUTCOME BUT THERE WILL BE NO OUTBURST IN THIS
4 COURTROOM

5 I ASK THAT YOU ADHERE TO MY RULES IF YOU CANNOT
6 ADHERE TO MY RULES, I ASK THAT YOU GO AHEAD AND STEP
7 OUT WHILE WE RECEIVE THIS VERDICT

8 ALL RIGHT BRING THE JURY IN

9 (THE JURY RETURNS TO THE COURTROOM AT 11 18 A M)

10 THE COURT THANK YOU PLEASE BE SEATED

11 MR FOREMAN, I UNDERSTAND THE JURY HAS REACHED A
12 UNANIMOUS VERDICT AS TO EACH INDICTMENT, IS THAT
13 CORRECT?

14 FOREMAN YES, JUDGE

15 THE COURT COULD YOU PLEASE HAND IT UP SO IT CAN
16 BE FORWARDED TO THE COURT HAND IT TO THE CLERK
17 PLEASE I'LL LOOK AT IT FIRST, MADAM CLERK, TO MAKE
18 SURE IT IS IN ORDER THANK YOU

19 (PAUSE)

20 THE COURT ALL RIGHT PLEASE STAND AS THE
21 VERDICTS ARE PUBLISHED, SIR

22 (PAUSE)

23 VERDICT OF THE JURY.

24 CLERK AS TO THE INDICTMENT FOR MURDER OF DANA
25 TATE, INDICTMENT NO 02-GS-07-369 WE THE JURY FIND

STATE VS ALKEBULANYAHH

1 UNANIMOUS -- WE THE JURY UNANIMOUSLY FIND THE DEFENDANT
2 GUILTY

3 AS TO THE INDICTMENT FOR MURDER FOR DYKE A
4 COURSEN, DOCKET NO 02-GS-07-370, WE THE JURY
5 UNANIMOUSLY FIND THE DEFENDANT GUILTY

6 SIGNED BY THE FOREMAN OF THE JURY THIS 20TH DAY OF
7 OCTOBER 2003

8 (PAUSE)

9 CLERK MEMBERS OF THE JURY, IF THIS IS YOUR
10 VERDICT, PLEASE INDICATE SO BY RAISING YOUR RIGHT HAND

11 (ALL HANDS RAISED)

12 - THE COURT ALL RIGHT POLL THE JURY PLEASE,
13 MADAM CLERK

14 VERONICA JACKSON IS THIS YOUR VERDICT?

15 THE COURT PLEASE STAND

16 CLERK PLEASE STAND

17 THE COURT WHAT WE'RE GOING TO DO, LADIES AND
18 GENTLEMEN, IS GO THROUGH EACH JUROR AND AS TO EACH
19 INDICTMENT, THE CLERK WILL ASK YOU IF THIS IS YOUR
20 VERDICT AND IF THIS IS STILL YOUR VERDICT IF YOU WILL
21 JUST SAY AS TO THE INDICTMENT PERTAINING TO THE MURDER
22 OF DANA TATE, ETCETERA THANK YOU

23 CLERK MS JACKSON, AS TO THE MURDER OF DANA
24 TATE, IS THIS YOUR VERDICT?

25 MS JACKSON YES

STATE VS ALKEBULANYAHH

1 CLERK IS IT STILL YOUR VERDICT?
2 MS JACKSON YES
3 CLERK AS TO THE INDICTMENT FOR MURDER FOR THE
4 MURDER OF DYKE COURSEN, IS THIS YOUR VERDICT?
5 MS JACKSON YES
6 CLERK IS IT STILL YOUR VERDICT?
7 MS JACKSON YES
8 CLERK THANK YOU MS MAMIE CLARKE AS TO THE
9 INDICTMENT FOR MURDER OF DANA TATE, IS THIS YOUR
10 VERDICT?
11 MS CLARKE YES
12 - CLERK IS IT STILL YOUR VERDICT?
13 MS CLARK YES
14 CLERK THANK YOU AND AS TO THE MURDER OF DYKE
15 A COURSEN IS THIS YOUR VERDICT?
16 MS CLARKE YES
17 CLERK IS IT STILL YOUR VERDICT?
18 MS CLARKE YES
19 CLERK THANK YOU MR STANLEY LEAVITT AS TO THE
20 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR
21 VERDICT?
22 MR LEAVITT YES, IT IS
23 CLERK IS IT STILL YOUR VERDICT?
24 MR LEAVITT YES
25 CLERK AS TO THE INDICTMENT FOR MURDER OF DYKE A

STATE VS ALKEBULANYAHH

1 COURSEN, IS THIS YOUR VERDICT?
2 MR LEAVITT YES
3 CLERK IS IT STILL YOUR VERDICT?
4 MR LEAVITT YES
5 CLERK THANK YOU AMY SMITH AS TO THE
6 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR
7 VERDICT?
8 MS AMY SMITH YES
9 CLERK IS IT STILL YOUR VERDICT?
10 MS AMY SMITH YES
11 THE COURT AS TO THE INDICTMENT FOR MURDER OF
12 DYKE A COURSEN, IS THIS YOUR VERDICT?
13 MS AMY SMITH YES
14 CLERK IS IT STILL YOUR VERDICT?
15 MS AMY SMITH YES
16 CLERK THANK YOU COLENE MURRAY AS TO THE
17 INDICTMENT FOR MURDER OF DANA TATE IS THIS YOUR
18 VERDICT?
19 MS MURRAY YES
20 CLERK IS IT STILL YOUR VERDICT?
21 MS MURRAY YES
22 CLERK AS TO THE INDICTMENT FOR MURDER OF DYKE A
23 COURSEN, IS THIS YOUR VERDICT?
24 MS MURRAY YES
25 CLERK IS IT STILL YOUR VERDICT?

STATE VS ALKEBULANYAHH

1 MS MURRAY YES

2 CLERK THANK YOU BRUCE BATASTINI AS TO THE

3 INDICTMENT FOR MURDER OF DANA TATE IS THIS YOUR

4 VERDICT?

5 MR BATASTINI YES, MA'AM

6 CLERK IS IT STILL YOUR VERDICT?

7 MR BATASTINI YES, MA'AM

8 CLERK AND AS TO THE INDICTMENT FOR MURDER OF

9 DYKE A COURSEN, IS THIS YOUR VERDICT?

10 MR BATASTINI YES, MA'AM

11 CLERK IS IT STILL YOUR VERDICT?

12 - MR BATASTINI YES, MA'AM

13 CLERK THANK YOU CYNTHIA MILANESI, AS TO THE

14 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR

15 VERDICT?

16 MS MILANESI YES

17 CLERK IS IT STILL YOUR VERDICT?

18 MS MILANESI YES

19 CLERK AND AS TO THE INDICTMENT FOR MURDER OF

20 DYKE A COURSEN, IS THIS YOUR VERDICT?

21 MS MILANESI YES

22 CLERK IS IT STILL YOUR VERDICT?

23 MS MILANESI YES

24 CLERK THANK YOU JEANNINE SAVAGE, AS TO THE

25 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR

STATE VS ALKEBULANYAHH

1 VERDICT?
2 MS SAVAGE YES
3 CLERK IS IT STILL YOUR VERDICT?
4 MS SAVAGE YES
5 CLERK AND AS TO THE INDICTMENT FOR MURDER OF
6 DYKE A COURSEN, IS THIS YOUR VERDICT?
7 MS SAVAGE YES
8 CLERK IS IT STILL YOUR VERDICT?
9 MS SAVAGE YES
10 CLERK THANK YOU MS JOY SMITH, AS TO THE
11 INDICTMENT OF MURDER OF DANA TATE, IS THIS YOUR
12 VERDICT?
13 MS JOY SMITH YES, MA'AM
14 CLERK IS IT STILL YOUR VERDICT?
15 MS JOY SMITH YES, MA'AM
16 CLERK AND AS TO THE INDICTMENT FOR MURDER OF
17 DYKE A COURSEN IS THIS YOUR VERDICT?
18 MS JOY SMITH YES MA'AM
19 CLERK AND IS IT STILL YOUR VERDICT?
20 MS JOY SMITH YES, MA'AM
21 CLERK THANK YOU KRISTEN LINSDAY, AS TO THE
22 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR
23 VERDICT?
24 MS LINSDAY YES, MA'AM
25 CLERK AND IS IT STILL YOUR VERDICT?

STATE VS ALKEBULANYAHH

1 MS LINSDAY YES, MA'AM
2 CLERK AND AS TO THE INDICTMENT FOR MURDER OF
3 DYKE A COURSEN IS THIS YOUR VERDICT?
4 MS LINSDAY YES, MA'AM
5 CLERK AND IS IT STILL YOUR VERDICT?
6 MS LINSDAY YES, MA'AM
7 CLERK THANK YOU MR ISAAC BUCKNER, AS TO THE
8 INDICTMENT FOR THE MURDER OF DANA TATE, IS THIS YOUR
9 VERDICT?
10 MR BUCKNER YES
11 CLERK IS IT STILL YOUR VERDICT?
12 - MR BUCKER YES
13 CLERK AND AS TO THE INDICTMENT FOR MURDER OF
14 DYKE A COURSEN IS THIS YOUR VERDICT?
15 MR BUCKER YES
16 CLERK AND IS IT STILL YOUR VERDICT?
17 MR BUCKNER YES
18 CLERK THANK YOU, SIR MR JACK KEENER, AS TO
19 THE INDICTMENT FOR THE MURDER OF DANA TATE IS THIS
20 YOUR VERDICT?
21 MR KEENER YES, MA'AM
22 CLERK AND IS IT STILL YOUR VERDICT?
23 MR KEENER YES MA'AM
24 CLERK AND AS TO THE INDICTMENT FOR THE MURDER OF
25 DYKE A COURSEN, IS THIS YOUR VERDICT?

STATE VS ALKEBULANYAHH

1 MR KEENER YES, MA'AM
2 CLERK AND IS IT STILL YOUR VERDICT?
3 MR KEENER YES, MA'AM
4 CLERK THANK YOU, SIR THE POLLING OF THE JURY
5 IS COMPLETE, SIR
6 THE COURT IS THERE ANYONE ON THE JURY WHO HAS
7 NOT BEEN POLLED?
8 (NO RESPONSE)
9 THE COURT ALL RIGHT LADIES AND GENTLEMEN AT
10 THIS POINT, I'M GOING TO SEND YOU BACK TO THE JURY ROOM
11 SO I CAN TAKE UP CERTAIN MATTERS, THEN I'LL BRING YOU
12 BACK AND GIVE YOU INSTRUCTIONS ABOUT HOW WE WILL
13 PROCEED NEXT
14 I HAVE BROUGHT THE ALTERNATES BACK IN AT THIS TIME
15 SO THAT THEY CAN NOW REJOIN YOU FOR ANY FURTHER
16 PROCEEDINGS IN THIS CASE DO NOT DISCUSS THIS MATTER
17 IN ANY WAY WHATSOEVER THANK YOU VERY MUCH
18 { (THE JURY RETIRES TO THE JURY ROOM AT 11 25 A M)
19 THE COURT THANK YOU PLEASE BE SEATED ANY
20 MOTIONS? POST-TRIAL MOTIONS FROM THE DEFENSE?
21 MR ALKEBULANYAHH COULD I HAVE A MOMENT WITH
22 COUNSEL?
23 THE COURT YES, SIR
24 (PAUSE)
25 THE COURT YES, SIR

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH YES, SIR, YOUR HONOR I WOULD
2 LIKE TO MOTION FOR -- NEW MOTION FOR A DIRECT VERDICT
3 NEW MOTION FOR DIRECT VERDICT I WOULD LIKE TO RENEW
4 ALL OTHER MOTIONS THAT HAS BEEN FILED I WOULD LIKE TO
5 MOTION FOR A VERDICT OF NOT GUILTY WITH NOT
6 WITHSTANDING THE JURY VERDICT AND I WOULD LIKE TO
7 MAKE A MOTION FOR A NEW TRIAL

8 THE COURT DOES THE STATE WISH TO RESPOND FOR THE
9 RECORD?

10 MR MURDAUGH NO, SIR

11 THE COURT THOSE MOTIONS ARE DENIED

12 ALL RIGHT NOW IT'S MY UNDERSTANDING WE WILL
13 PROCEED INTO THE NEXT PHASE OF THE TRIAL YOU MADE
14 YOUR REQUEST WE WILL START BACK THAT PHASE OF THE
15 TRIAL AT 11 30 TOMORROW

16 ANYTHING FURTHER?

17 MR MURDAUGH NO, SIR

18 THE COURT ANYTHING FURTHER?

19 MR ALKEBULANYAHH NO, SIR, YOUR HONOR

20 THE COURT PURSUANT TO THE STATUTORY REQUIREMENT
21 THAT THERE BE A 24-HOUR DELAY, WHICH HAS BEEN
22 REQUESTED WE SHALL ADJOURN, AND RESUME THESE
23 PROCEEDINGS AT 11 30 TOMORROW THANK YOU VERY MUCH

24 MR ALKEBULANYAHH YOUR HONOR I WOULD LIKE TO
25 WITHDRAW THAT MOTION FOR A 24-HOUR DELAY

STATE VS ALKEBULANYAHH

1 THE COURT YES, SIR

2 MR ALKEBULANYAHH I DO NOT WISH FOR THE 24-HOUR
3 DELAY

4 THE COURT LET'S GO BACK IN CAMERA TO HEAR WHAT'S
5 UP MADAM COURT REPORTER

6 (PAUSE)

7 (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)

8 THE COURT DO YOU UNDERSTAND, AS WE EXPLAINED
9 EARLIER -- THAT I EXPLAINED EARLIER, THAT YOU HAVE A
10 RIGHT TO A 24-HOUR DELAY BEFORE THESE PROCEEDINGS
11 RESUME?

12 - MR ALKEBULANYAHH YES, SIR

13 THE COURT AND DO YOU HAVE ANY QUESTIONS ABOUT
14 THAT RIGHT?

15 MR ALKEBULANYAHH NO SIR

16 THE COURT HAVE YOU DISCUSSED THAT WITH ANYONE?

17 MR ALKEBULANYAHH PRETTY MUCH JUST YOU KNOW
18 KNOW THE PROCEEDINGS AND ABOUT THAT 24-HOUR ISSUE

19 THE COURT YOU DO NOT WISH TO HAVE THE 24-HOUR
20 DELAY?

21 MR ALKEBULANYAHH NO, SIR

22 THE COURT ALL RIGHT ARE YOU PREPARED FOR THE
23 MITIGATING -- PRESENT THE MITIGATING EVIDENCE IF YOU
24 DESIRE?

25 MR ALKEBULANYAHH NO, SIR, I'M NOT PREPARING

STATE VS ALKEBULANYAHH

1 I'M NOT GOING TO PRESENT ANY MITIGATING

2 THE COURT ALL RIGHT AND WHAT'S THE STATE'S
3 POSITION?

4 MR MURDAUGH YOUR HONOR, PLEASE, WE'LL BE READY
5 TO GO IF YOU COULD GIVE US MAYBE 30 MINUTES WE'VE
6 GOT PEOPLE THAT ARE THERE AT MOTELS

7 THE COURT I'M NOT SO SURE -- I DON'T THINK I'M
8 OBLIGATED TO -- I THINK EITHER WAY I COULD PICK BACK UP
9 TOMORROW I HAVE SOME QUESTIONS THAT I HAVE TO RESOLVE
10 IN MY MIND IN LIGHT OF YOUR STATEMENT THE OTHER DAY

11 YOU'RE GOING TO REPRESENT -- YOU'RE GOING TO
12 CONTINUE TO REPRESENT YOURSELF THROUGHOUT THIS
13 PROCEEDING?

14 MR ALKEBULANYAHH I DON'T INTEND TO OFFER
15 ANYTHING AT THIS PROCEEDING OTHER THAN THE SENTENCING

16 THE COURT ALL RIGHT HOW LONG WILL IT TAKE YOU
17 TO PRESENT YOUR ---

18 MR MURDAUGH I WOULD SAY ABSENT CROSS
19 EXAMINATION, SOMEWHERE BETWEEN THREE-QUARTERS OF A DAY
20 AND A DAY, SIR

21 THE COURT THREE-QUARTERS OF A DAY AND A DAY?

22 MR MURDAUGH SOMEWHERE BETWEEN THREE-QUARTERS OF
23 A DAY AND A FULL DAY I CAN'T TELL YOU, IT JUST
24 DEPENDS ON HOW SMOOTH IT GOES

25 THE COURT YES, SIR SO YOU'RE READY TO PROCEED

STATE VS ALKEBULANYAHH

1 TODAY?

2 MR MURDAUGH DON'T YOU THINK THAT'S FAIR, DUFFY?

3 MR ALKEBULANYAHH YES AS I STATED BEFORE IT'S
4 NOT MY INTENTIONS TO BE SITTING UP IN THE COURTROOM
5 LISTENING TO THE MATERIAL

6 THE COURT I THINK YOU'RE GOING TO HAVE TO

7 MR ALKEBULANYAHH I PROBABLY END UP BEING UNRULY
8 AND VOICEFEROUS (PHONETIC) WHATEVER AMOUNT NOT TO ANY
9 NATURE, WHERE I EXPECT TO DISPLAY ANY TYPE OF VIOLENCE
10 OR ANYTHING TO THAT EXTENT TOWARDS ANYONE

11 THE COURT YOU'RE NOT PLANNING TO DO THAT?

12 MR ALKEBULANYAHH YES SIR I DEFINITELY WILL
13 NOT WILL NOT

14 THE COURT ALL RIGHT

15 MR ALKEBULANYAHH I WILL NOT DO THAT

16 THE COURT THE PROBLEM IS MR ALKEBULANYAHH FOR
17 THE LONGEST PERIOD OF TIME YOU REQUESTED TO REPRESENT
18 YOURSELF I HONORED THAT REQUEST I'VE ALLOWED YOU
19 THE RIGHT TO REPRESENT YOURSELF

20 A CAPITAL CASE REQUIRES THE DEFENDANT'S PRESENCE
21 AND WHILE THERE HAVE BEEN SOME SITUATIONS WHERE THERE
22 HAS BEEN PRESENCE -- A DEFENDANT HAS BEEN TAKEN OUT OF
23 THE COURTROOM THE ONLY SITUATIONS WHERE THAT HAS
24 OCCURRED IS WHERE THE DEFENDANT ACTUALLY HAD COUNSEL
25 REPRESENTING HIM

STATE VS ALKEBULANYAHH

1 AND TO THE EXTENT THAT I'VE HONORED YOUR REQUEST,
2 I'M NOT SURE -- ARE YOU GOING TO BE IN THERE?

3 MR ALKEBULANYAHH NO, SIR

4 THE COURT THEN THAT PUTS ME IN THE POSITION OF
5 REQUIRING THEM TO PUT YOU IN THERE

6 MR ALKEBULANYAHH AS I STATED, I WILL BE
7 VOICEFEROUS (PHONETIC) AND STATING WHAT I WOULD LIKE TO
8 STATE AND SAYING WHAT I WANT TO SAY

9 THE COURT WELL, IF YOU HAVE SOMETHING YOU WANT
10 TO STATE, WHY IS IT THAT YOU DO NOT WANT TO PRESENT --
11 YOU DON'T HAVE AN OBLIGATION TO PRESENT ANYTHING BUT
12 YOU -DO HAVE A RIGHT TO, AS I -- LET ME GO BACK OVER

13 YOU UNDERSTAND YOU HAVE A RIGHT TO NOT TESTIFY
14 YOU UNDERSTOOD EVERYTHING I'VE SAID TO YOU ABOUT THAT,
15 RIGHT?

16 MR ALKEBULANYAHH I UNDERSTAND EVERYTHING YOU
17 TOLD ME ABOUT THE TESTIMONY AND WHAT I HAVE TO SAY
18 I'M NOT CONCERNED ABOUT WHAT IS GOING TO BE SAID

19 THE COURT THAT'S ALL RIGHT

20 MR ALKEBULANYAHH WHAT MY RIGHT IS TO TESTIFY
21 I UNDERSTAND I HAVE A RIGHT TO TESTIFY, TO SAY WHAT I
22 WANT TO SAY OR PUT ANY MITIGATING CIRCUMSTANCES, THAT
23 IS QUITE CLEAR

24 THE COURT AND YOU ALSO UNDERSTAND YOU HAVE A
25 RIGHT NOT TO TESTIFY?

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH VERY CLEAR
2 THE COURT AND I'VE EXPLAINED ALL THAT BEFORE
3 YOU UNDERSTAND THOSE RIGHTS?
4 MR ALKEBULANYAHH YES
5 THE COURT NOW, SO YOU DO NOT INTEND TO TESTIFY,
6 IS THAT WHAT YOU'RE TELLING ME?
7 MR ALKEBULANYAHH NO, SIR, I'M NOT GOING TO
8 TESTIFY
9 THE COURT ALL RIGHT NOW YOU UNDERSTAND --
10 ALSO I EXPLAINED TO YOU PREVIOUSLY THAT YOU HAVE A
11 RIGHT TO PRESENT -- TO MAKE A STATEMENT TO THE JURY
12 AND-THAT'S NOT IN THE FORM OF SWORN TESTIMONY, THAT'S
13 JUST A PERSONAL STATEMENT YOU CAN MAKE TO THE JURY
14 YOU HAVE THAT RIGHT DURING THIS PHASE DO YOU
15 UNDERSTAND THAT?
16 MR ALKEBULANYAHH I UNDERSTAND THAT THE LEGAL
17 ASPECT I HAVE THAT RIGHT BUT WILL EXERCISE MY RIGHT
18 TO MAKE A STATEMENT WHENEVER I WANT TO IF I'M IN THE
19 PRESENCE OF THE JURY
20 THE COURT SO -- WELL, I'M NOT SURE WHAT YOU MEAN
21 BY THAT BUT AS IN YOU THINK YOU CAN STAND UP AND MAKE
22 ANY STATEMENT YOU WANT ANY TIME?
23 MR ALKEBULANYAHH YES
24 THE COURT NO SIR THAT'S NOT HOW IT WORKS YOU
25 HAVE AN OBJECTION TO SOMETHING YOU CAN MAKE AN

STATE VS ALKEBULANYAHH

1 OBJECTION

2 MR ALKEBULANYAHH I WILL TRY TO MAKE THAT --

3 EXERCISE THAT I WILL TRY TO EXERCISE THAT RIGHT

4 THE COURT IS THERE A REASON THAT YOU ARE NOW

5 AFTER THIS POINT INDICATING YOU'RE NOT GOING TO COMPLY

6 WITH THE COURT'S INSTRUCTIONS AND THE PROCEDURES OF

7 THIS COURT?

8 MR ALKEBULANYAHH YES

9 THE COURT WHAT IS THAT?

10 MR ALKEBULANYAHH BECAUSE I -- AT THIS -- THERE

11 IS NOTHING THAT -- IT HAS NOTHING TO DO WITH ME IT

12 HAS -NOTHING THAT -- YOU KNOW I'M NOT CONCERNED ABOUT

13 IT I DON'T CARE ABOUT IT IT HAS NOTHING TO DO WITH

14 ME IT DON'T -- IT WON'T MOVE ME OR SHAKE ME NO MATTER

15 WHICH WAY IT GOES ONE WAY OR THE OTHER WHAT IS SAID

16 OR DONE, SO

17 THE COURT WELL THIS PROCEEDING IS ALL ABOUT

18 YOU

19 MR ALKEBULANYAHH WELL ---

20 THE COURT WELL, IT'S AN OPPORTUNITY ---

21 MR ALKEBULANYAHH --- IT HAS NOTHING TO DO ---

22 THE COURT --- IF YOU SO DESIRE TO LET THE JURY

23 KNOW ABOUT YOU

24 MR ALKEBULANYAHH I DON'T WANT THE JURY TO KNOW

25 NOTHING ABOUT ME THEY DON'T KNOW NOTHING ABOUT ME

STATE VS ALKEBULANYAHH

1 I'M NOT CONCERNED ABOUT A JURY I'M NOT CONCERNED
2 ABOUT THEIR VERDICT I'M NOT CONCERNED WHETHER THEY'RE
3 GOING TO SAY DEATH, YOU KNOW, OR LIFE SENTENCE THAT
4 HAS NO RELEVANCE IN MY MIND

5 THE COURT BUT DO YOU UNDERSTAND YOU HAVE A RIGHT
6 TO PRESENT TO THEM INFORMATION ABOUT YOURSELF?

7 MR ALKEBULANYAHH I HAVE PRESENTED ALL THAT I
8 WANT TO PRESENT I UNDERSTAND THAT FROM THE BEGINNING
9 BEFORE WE EVEN GOT TO THIS POINT EVERYTHING I HAVE
10 WANT TO PRESENT, EXERCISE THE RIGHT, I HAVE DONE THAT
11 NO DISRESPECT TOWARD THE COURT OR ANYONE ELSE

12 THE COURT WHAT ARE THE MITIGATING CIRCUMSTANCES
13 THAT NEED TO BE PRESENTED TO THE JURY -- STATUTORY
14 MITIGATING CIRCUMSTANCES?

15 MR ALKEBULANYAHH AS I STATED BEFORE, IT HAS
16 NOTHING TO DO WITH ME NOT NOTHING FOR ME TO CONSIDER
17 I'M NOT CONSIDERING OR THOUGHT ABOUT MITIGATING
18 CIRCUMSTANCES I DON'T CARE ABOUT THE WORD, THE
19 TERMINOLOGY AND THE PURPOSE OF IT

20 THE COURT WHAT'S THE STATE'S POSITION? YOU
21 KNOW, THE COURT IS IN A PECULIAR POSITION, ALSO IN
22 FIGURING OUT WHAT TO DO ABOUT STAND-BY COUNSEL
23 MITIGATING CIRCUMSTANCES HAVE TO BE GIVEN IN WRITING TO
24 THE JURY

25 MR MURDAUGH I UNDERSTAND, JUDGE AND I WISH I

STATE VS ALKEBULANYAHH

1 HAD THE WISDOM TO TELL YOU WHAT TO DO, SIR I DO NOT
2 IT IS MY OPINION THAT IF HE DOES NOT PARTICIPATE
3 AT LEAST BY HIS PRESENCE, THAT STAND-BY COUNSEL BE
4 REQUIRED TO THEN BEGIN REPRESENTATION OF HIM TO THE
5 EXTENT THAT THEY CAN, SIR

6 THE COURT DO YOU WISH TO COMMENT ON THAT?

7 MR MURDAUGH UNLESS HE -- UNLESS HE SPECIFICALLY
8 ASKS THE COURT NOT TO DO THAT, SIR

9 THE COURT SOMEONE HAS TO BE IN THERE

10 MR MURDAUGH I UNDERSTAND, JUDGE AND LIKE I
11 SAY, I WISH I HAD THE INTELLIGENCE AND THE FORESIGHT TO
12 TELL YOU WHAT THE ANSWER IS I'VE NEVER RUN INTO THIS
13 SIR AND I DON'T KNOW WHAT TO TELL YOU

14 THE COURT IT'S MY GENERAL UNDERSTANDING THAT IN
15 A CAPITAL TRIAL THE DEFENDANT'S PRESENCE IS REQUIRED

16 MR MURDAUGH I DON'T DISAGREE WITH THAT, SIR

17 (PAUSE)

18 THE COURT DO YOU WISH TO BE IN THAT BACK ROOM,
19 MR ALKEBULANYAHH, WATCHING THE PROCEEDINGS?

20 MR ALKEBULANYAHH NO, I DO NOT, SIR

21 THE COURT THIS IS A STRANGE PREDICAMENT TO BE
22 IN

23 MR MURDAUGH IT IS NO QUESTION

24 THE COURT HAVE YOU ALL EVER HAD THE OPPORTUNITY
25 TO DISCUSS MITIGATING CIRCUMSTANCES WITH HIM?

STATE VS ALKEBULANYAHH

1 MR KELLY YOUR HONOR, WE HAVE NOT
2 THE COURT ALL RIGHT I THINK ONE THRESHOLD
3 THING THAT I'M GOING TO NEED YOU ALL TO DO IS DISCUSS
4 WITH HIM POSSIBLE MITIGATING CIRCUMSTANCES AND I'M
5 REQUIRED TO CHARGE THE JURY SOMETHING ABOUT THOSE
6 CIRCUMSTANCES

7 THEN I WILL -- PARDON?

8 MR KELLY YOUR HONOR, IT'S OUR UNDERSTANDING
9 THAT THE TRIAL JUDGE WOULD FIRST OF ALL DETERMINE FROM
10 THE EVIDENCE ---

11 THE COURT I UNDERSTAND

12 - MR KELLY --- WHETHER OR NOT THERE ARE ANY AND
13 THEN DISCUSS WITH HIM AND/OR ATTORNEYS AS TO WHAT THOSE
14 MIGHT BE WE'D BE HAPPY TO DISCUSS THAT WITH HIM

15 YOUR HONOR, IF WE SHOULD REACH A PLACE WHERE
16 STAND-BY ATTORNEYS MUST SOMEHOW -- WHETHER IT'S BY HIS
17 AGREEMENT OR OTHERWISE -- SHOULD REPRESENT HIM IN THIS
18 PHASE OF THE TRIAL SINCE WE'VE HAD NO PREPARATION, WE
19 WOULD WANT, OF COURSE, CERTAIN EVIDENCE THAT WAS IN THE
20 FIRST PHASE OF THE TRIAL TO BE ADMITTED BY STIPULATION

21 THE COURT YES, I WAS ABOUT TO ASK ABOUT AGREEING
22 TO INCORPORATE

23 MR MURDAUGH I WOULD MAKE THAT MOTION AT THE
24 BEGINNING OF THE NEXT PHASE, SIR

25 THE COURT ALL RIGHT DO YOU HAVE ANY OPPOSITION

STATE VS ALKEBULANYAHH

1 TO THAT, MR ALKEBULANYAHH?

2 MR ALKEBULANYAHH ALL I CAN SAY IS THE ATTORNEYS
3 AND NO ONE REALLY -- WHATEVER THEY DOING AND WHATEVER
4 THEY SAY, I'M NOT LISTENING I'M NOT TALKING TO THEM
5 ABOUT ANYTHING ABOUT THAT NEXT PHASE, IN REFERENCE TO
6 THEM MATTERS I'M OUT OF IT

7 THE COURT WELL, I WISH YOU HAD TOLD ME THAT IN
8 THE BEGINNING, MR ALKEBULANYAHH, WHEN YOU MADE YOUR
9 REPRESENTATION THAT YOU WERE GOING TO SEE THIS THROUGH,
10 AND I TOOK YOU AT YOUR WORD I WISH YOU WOULD HAVE
11 POINTED THAT OUT TO ME BUT THAT'S OKAY YOU HAVE THE
12 RIGHT TO MAKE THE DECISIONS YOU FEEL LIKE YOU HAVE TO
13 MAKE I'M NOT GETTING ANY ARGUMENT ABOUT THAT

14 BUT I MAY BE FORCED TO ASK COUNSEL TO STEP IN,
15 WHICH IS WHY I THOUGHT WE MAY NOT BE ABLE TO START
16 TODAY

17 MR MURDAUGH YOUR HONOR IF YOU COULD GIVE US
18 JUST A LITTLE WHILE, LET US DO A LITTLE BIT OF
19 RESEARCH

20 THE COURT YES, SIR

21 MR MURDAUGH I JUST -- I THINK I KNOW WHAT THE
22 LAW IS BUT I JUST -- I'VE NEVER RUN INTO THIS BEFORE

23 THE COURT WHAT'S GOING ON WITH THE JURY'S LUNCH?
24 SOMEONE CHECK ON THAT PLEASE

25 ALL RIGHT WE WILL ADJOURN FOR LUNCH

STATE VS ALKEBULANYAHH

1 (PAUSE)

2 THE COURT IT MAY BE BEST TO BREAK FOR LUNCH SO
3 PEOPLE CAN LOOK AT THIS ISSUE, THAT'S WHY I WANTED TO
4 YOU KNOW RAISE THAT THE OTHER DAY MY INCLINATION IS
5 WE MAY JUST HAVE TO START TOMORROW ANYWAY, JUST BECAUSE
6 OF THAT

7 NOW, IS IT CORRECT TO SAY THAT THE MITIGATING
8 WITNESSES WERE SPOKEN WITH BY THE INVESTIGATORS?

9 MR ALKEBULANYAHH MITIGATING?

10 THE COURT WITNESSES?

11 MR ALKEBULANYAHH I TOLD MY INVESTIGATORS -- I
12 DON'T KNOW IF I TOLD COUNSEL AT ANY TIME DURING THE
13 COURSE OF THIS ACTION -- ADAMANTLY THAT THERE WILL BE
14 NO MITIGATING WITNESSES FOR ME IN REFERENCE TO ANYTHING
15 IF IT CAME DOWN TO THIS POINT

16 SO EVERYTHING IN REFERENCE TO THAT IS TOTALLY
17 MOOT

18 THE COURT YOU UNDERSTOOD EVERYTHING I TOLD YOU
19 YESTERDAY AND I THINK THAT'S NOT A WISE COURSE OF
20 ACTION?

21 MR ALKEBULANYAHH I UNDERSTOOD AND SINCE YOU
22 REFRESH MY MIND ABOUT IT -- BUT ONCE IT'S SAID, IT'S
23 GONE OUT OF MY MIND JUST LIKE THAT I'M NOT EVEN
24 CONCERNED ABOUT IT

25 THE COURT AS SOON AS WE HEAR BACK ON LUNCH, I'LL

STATE VS ALKEBULANYAHH

1 MAKE A DECISION ABOUT HOW WE PROCEED

2 MR MURDAUGH AS SOON AS YOU MAKE A DECISION ON
3 THAT, TODAY OR TOMORROW, WE APPRECIATE YOU ---

4 THE COURT I UNDERSTAND I WANT TO HEAR ABOUT
5 THEIR LUNCH

6 MR MURDAUGH I UNDERSTAND, SIR

7 THE COURT IT'S NOT THAT -- IT'S NOT REALLY --
8 THERE'S A QUESTION IN MY MIND ABOUT WHETHER I WOULD
9 LIKE TO PROCEED I THINK I WANT TO GIVE THEM TIME TO
10 ANALYZE THE ISSUE ALSO ---

11 MR MURDAUGH I UNDERSTAND

12 - THE COURT --- SO I CAN MAKE AN INFORMED DECISION
13 ABOUT HOW TO HANDLE THIS

14 MR MURDAUGH I UNDERSTAND AND AS I SAID, I
15 WISH I COULD GIVE YOU THE INFORMATION THAT YOU NEED
16 BUT I DON'T HAVE IT, SIR

17 MR ALKEBULANYAHH AGAIN I STATES FOR THE RECORD
18 THAT TO EXCLUDE ME FROM ANYTHING EXCEPT THE SENTENCING

19 THE COURT WELL, I UNDERSTAND THAT REQUEST, MR
20 ALKEBULANYAHH BUT I MAY BE REQUIRED TO HAVE YOUR
21 PRESENCE THERE AND IF YOU GET OUT OF LINE, THEN I
22 WILL HAVE TO DEAL WITH IT I WOULD CAUTION YOU TO NOT
23 DO THAT

24 (PAUSE)

25 THE COURT MAYBE WE'LL JUST BREAK AND PICK BACK

STATE VS ALKEBULANYAHH

1 UP AT 1 30 THAT GIVES YOU TIME TO LOOK AT THINGS
2 YOU ALL CAN RESEARCH THAT ISSUE ALSO
3 MR THORNTON YES, SIR
4 THE COURT DO YOU HAVE ANYTHING ELSE YOU'D LIKE
5 TO SAY?
6 MR KELLY YOUR HONOR, WE WOULD LIKE TO MEET IN
7 PRIVATE WITH THE DEFENDANT
8 THE COURT YES THAT'S NOT A PROBLEM
9 MR MURDAUGH IT DOESN'T COME UNDER MY BUSINESS
10 BUT I THINK IT PROBABLY WOULD BE WELL TO HAVE THE
11 INVESTIGATORS THERE WITH YOU AT SOME POINT IN THAT
12 MEETING
13 MR KELLY YOUR HONOR, THE ATTORNEYS WOULD LIKE
14 TO MEET IN PRIVATE WITH THE DEFENDANT WE DON'T NEED
15 THE INVESTIGATORS THERE UNTIL WE REQUEST THEM
16 THE COURT ALL RIGHT THAT'S FINE WE'LL ALL
17 STEP OUT AND LET YOU MEET RIGHT NOW
18 MR KELLY THAT WILL BE FINE
19 MR THORNTON THANK YOU, YOUR HONOR
20 MR KELLY THANK YOU, JUDGE
21 (EVERYONE LEAVES THE HEARING ROOM EXCEPT THE
22 DEFENDANT AND STAND-BY COUNSEL)
23 (PAUSE)
24 (THE FOLLOWING TAKES PLACE IN THE CLEARED
25 COURTROOM)

STATE VS ALKEBULANYAHH

1 MR KELLY ATTORNEY THORNTON AND I HAVE CONFERRED
2 WITH THE DEFENDANT AND THIS IS WHAT HE TELLS US HE
3 SAYS THAT HE DOESN'T AGREE TO ANY CHANGES IN HIS STATUS
4 AS ATTORNEY OF RECORD, AND THAT IF THE COURT MAKES ANY
5 CHANGE, THEY'LL HAVE TO DO IT ON THEIR OWN MOTION
6 WITHOUT HIS INPUT

7 THE COURT YES, SIR

8 MR KELLY HE SAYS THAT HE'S NOT CONCERNED
9 WHETHER EVIDENCE IS EXAMINED OR OBJECTED TO -- OR IN
10 FACT, IF ANY EVIDENCE IS PUT IN ON HIS BEHALF IN THE
11 FINAL PHASE OF THE TRIAL AND THAT IF THE JUDGE --IF
12 THE-ATTORNEYS ON STAND-BY ARE TO PERFORM IN ANY
13 CAPACITY THE JUDGE WILL HAVE TO ORDER THAT ON HIS OWN
14 MOTION

15 THE COURT YES SIR

16 MR KELLY HE SAYS THAT HE DOESN'T WANT TO BE
17 PRESENT IN THIS COURTROOM IN ORDER TO HEAR THE EVIDENCE
18 IN THE SECOND PHASE AND THAT IF THE JUDGE -- BUT HE
19 DOES NOT INTEND TO DISRUPT THE PROCEEDINGS

20 THE COURT YES, SIR

21 MR KELLY BUT IF THE JUDGE DETERMINES THAT HE
22 SHOULD BE IN ONE OF THE SIDE ROOMS IN THE BACK OF THE
23 COURTHOUSE OR THIS COURTROOM OR EITHER WHERE THE SCREEN
24 IS NEXT DOOR, THAT THAT'S A DECISION THAT HIS HONOR
25 WILL HAVE TO MAKE HIMSELF

STATE VS ALKEBULANYAHH

1 HE SAYS THAT HE IS WITHDRAWING FROM ANY FURTHER
2 DISCUSSION WITH THE COURT, AND THAT HE DOESN'T INTEND
3 TO COMMUNICATE WITH THE COURT UNLESS IT IS HIS CHOICE
4 TO DO SO

5 THE COURT WELL, IT WOULD BE THE COURT'S
6 PREFERENCE THAT HE BE AT TABLE WITH STAND-BY COUNSEL

7 MR KELLY SIR?

8 THE COURT IT WOULD BE THE COURT'S PREFERENCE
9 THAT HE REMAIN AT THE TABLE WITH STAND-BY COUNSEL IF
10 HE CHOOSES NOT TO SPEAK, SO BE IT

11 MR KELLY YES, SIR ALSO, WE WOULD PUT ON THE
12 RECORD HE HAS TOLD US, THAT HE DOES NOT INTEND TO
13 COOPERATE WITH STAND-BY COUNSEL, TO BRING ANY WITNESSES
14 ON HIS BEHALF, EITHER EXPERTS THAT WERE PREVIOUSLY
15 RETAINED OR ANYONE, AND THAT HE REAFFIRMS HIS DECISION
16 TO STOP ALL MITIGATION PREPARATION AS OF AUGUST 1 WHEN
17 HE WAS APPOINTED COUNSEL OF RECORD

18 THE COURT IF THE COURT APPOINTS STAND-BY COUNSEL
19 TO REPRESENT HIM IN THIS PHASE AND THE CLIENT
20 INSTRUCTS STAND-BY COUNSEL TO NOT PRESENT ANY
21 MITIGATING EVIDENCE, YOU WOULD BE AVAILABLE TO OBJECT
22 TO THE PRESENTATION OF ANYTHING IMPROPER FROM THE
23 STATE, COULD YOU FULFILL YOUR RESPONSIBILITIES IF THAT
24 WAS THE CLIENT'S INSTRUCTIONS TO YOU?

25 MR KELLY YES, SIR WHATEVER THE COURT INSTRUCTS

STATE VS ALKEBULANYAHH

1 US TO DO UNDER WHATEVER CIRCUMSTANCES AND CONDITIONS
2 AND CONSIDER OTHERWISE, WE WILL DO

3 THE COURT WELL, UNDER ANY EVENT, THE COURT HAS
4 CONCLUDED THAT THE MOST APPROPRIATE ACTION IN AN
5 ABUNDANCE OF CAUTION WOULD BE TO ADJOURN UNTIL
6 TOMORROW, TO ALLOW EVERYONE TO FULLY THINK THIS
7 THROUGH I CERTAINLY DON'T WANT AN ISSUE TO COME UP
8 OVER SOMETHING LIKE THIS

9 BUT IF I DO INTERJECT YOU BACK INTO THIS CASE,
10 WHAT -- WHAT DOES THAT DO FROM YOUR PERSPECTIVE? IF I
11 PUT YOU BACK IN THIS CASE UNDER THAT GUIDANCE, THAT THE
12 CLIENT HAS INSTRUCTED YOU TO NOT PRESENT ANY MITIGATING
13 EVIDENCE, WOULD YOU BE PROFESSIONALLY AND ETHICALLY
14 CAPABLE OF PROCEEDING TOMORROW, IF THOSE ARE YOUR
15 INSTRUCTIONS FROM THE CLIENT?

16 MR KELLY YOUR HONOR WE WOULD -- I WOULD ASK
17 THIS QUESTION, AND THAT WOULD BE WOULD WE ALSO ARGUE
18 AS WELL AS MAKE OBJECTIONS IF NECESSARY ON THE
19 EVIDENCE?

20 THE COURT YES, I THINK YOU WOULD

21 MR KELLY YOUR HONOR I DON'T HAVE ANY ETHICAL
22 PROBLEM WITH THAT

23 THE COURT I THINK IT -- I THINK THE MOST PRUDENT
24 COURSE OF ACTION FOR THIS COURT WOULD BE TO DO THAT
25 AND I THINK YOU COULD HONOR THE CLIENT'S WISHES ABOUT

STATE VS ALKEBULANYAHH

1 NOT PRESENTING ANY MITIGATING EVIDENCE WITHOUT
2 VIOLATING ANY REPRESENTATIVE RESPONSIBILITIES ON YOUR
3 PART, ASSUMING THAT YOU HAVE GONE OVER WITH HIM ABOUT
4 THIS ROLE, WHICH I ASSUME YOU JUST DID, ABOUT THIS
5 PHASE OF THE CASE

6 MR KELLY YES, SIR, AS I STATED IN THE RECORD,
7 HE SAID THAT IF YOU WANT TO ALTER THE STATUS OF THE
8 ATTORNEYS IT'S SOMETHING THAT YOU WILL HAVE TO DO ---

9 THE COURT I UNDERSTAND

10 MR KELLY --- ON YOUR OWN MOTION

11 THE COURT I UNDERSTAND WHERE MR ALKEBULANYAHH
12 IS COMING FROM AT THIS POINT HE'S NOT INTERJECTING
13 ANYTHING

14 MR THORNTON YOUR HONOR IF I MIGHT

15 THE COURT BUT I WAS -- YES, SIR

16 MR THORNTON I APOLOGIZE YOUR HONOR PLEASE GO
17 AHEAD

18 THE COURT WHAT I WAS THINKING ABOUT WOULD BE A
19 SITUATION WHERE YOU WOULD -- YOU WOULD HAVE TO -- IF
20 YOU'RE TELLING ME ON THE RECORD THAT YOU'VE ADVISED HIM
21 ABOUT THE ROLE OF THE -- ABOUT THE ROLE OF THIS PHASE
22 OF THE TRIAL HAVE YOU?

23 MR KELLY YES SIR

24 THE COURT AND ABOUT THE IMPORTANCE OF PRESENTING
25 MITIGATING EVIDENCE?

STATE VS ALKEBULANYAHH

1 MR KELLY YES SIR

2 THE COURT AND I'VE ADVISED HIM OF THAT AND IF
3 THE CLIENT INSTRUCTS YOU TO NOT PRESENT MITIGATING
4 EVIDENCE, IS THAT THE TYPE OF DECISION THAT A CLIENT
5 COULD MAKE IN ACCORDANCE WITH YOUR PROFESSIONAL
6 RESPONSIBILITY? THAT IS THE QUESTION I WAS ASKING YOU
7 OR DO YOU NEED TIME TO RESEARCH THAT?

8 MR KELLY YOUR HONOR ---

9 THE COURT IF IT ---

10 MR KELLY --- IF A CLIENT CAN ORDER -- CAN ORDER
11 TO BE ISSUED SUBPOENAS WHETHER I AGREE WITH THEM OR
12 NOT, I CERTAINLY THINK THAT HE CAN ORDER ME TO APPEAR

13 THE COURT DO YOU KNOW WHERE MY -- DO YOU KNOW
14 WHERE MY LINE OF THOUGHT IS COMING FROM? I MEAN,
15 THERE'S CASES THAT SAY THERE'S CERTAIN TACTICAL
16 DECISIONS THAT CAN BE MADE BY AN ATTORNEY REGARDLESS
17 OF WHAT THE CLIENT SAID

18 MR KELLY YOUR HONOR I HAVE TOLD THE -- I HAVE
19 TOLD THE DEFENDANT THAT IF HE AGREES THAT HE WOULD
20 WITHDRAW AS COUNSEL PRO SE, AND THAT WE ASSUME OUR
21 PREVIOUS ROLE AND I AM LEAD COUNSEL, I INTEND TO CALL
22 WITNESSES AS SOON AS I MAKE THE PHONE -- AND HE TELLS
23 -- BECAUSE I THINK THAT'S HIS BEST INTEREST AND IF I
24 RESUME THE FULL POWERS OF WHICH I WAS APPOINTED, I
25 WOULD DO EVERYTHING IN MY POWER TO REPRESENT HIM BUT

STATE VS ALKEBULANYAHH

1 IF IT'S LIMITED BY HIM, I HAVE NO CHOICE THAT'S WHY
2 HE SAID THAT HE DOES NOT WANT TO RELINQUISH HIS STATUS
3 HE DOES NOT WANT THESE WITNESSES CALLED

4 (PAUSE)

5 MR THORNTON YOUR HONOR, MAY IT PLEASE THE
6 COURT

7 THE COURT YES, SIR

8 MR THORNTON YOUR HONOR, FOR THE RECORD, I
9 CONCUR WITH MR KELLY'S OBSERVATION TO THE COURT, AND
10 ALSO HIS STATEMENTS ON THE RECORD TO THE COURT
11 REGARDING THE WISHES OF MR ALKEBULANYAHH IN THIS
12 MATTER

13 ADDITIONALLY, JUDGE, IF I MIGHT OFFER SOMETHING IN
14 RELATION TO YOUR LINE OF QUESTIONING I UNDERSTAND
15 WHERE THE COURT IS COMING FROM IN THAT THERE ARE
16 CERTAIN TACTICAL DECISIONS THAT CAN BE MADE BY A
17 LAWYER HOWEVER, I'M NOT AWARE OF ANY RULE THAT WOULD
18 REQUIRE THE LAWYER TO MAKE THOSE DECISIONS ADVERSE TO
19 THE WISHES OF HIS CLIENT

20 AND I THINK IN A CASE AS SERIOUS AS THIS ONE IS
21 WHERE THE DEFENDANT HAS DEMONSTRATED HIS WILLINGNESS
22 ALL THE WAY, REALLY INTO OVER TWO WEEKS OF TRIAL, I
23 THINK THE SMART COURSE WOULD BE FOR HIS LAWYERS --
24 STAND-BY COUNSEL, IF THE COURT ORDERS US TO MAKE
25 OBJECTIONS, I THINK THE SMARTEST COURSE WOULD BE TO

STATE VS ALKEBULANYAHH

{

1 HONOR HIS WISHES

2 BUT I'M NOT AWARE OF ANY LAW THAT WOULD REQUIRE US
3 TO MAKE TACTICAL DECISIONS ADVERSE TO HIS INTEREST OR
4 HIS STATEMENT OF INTEREST, I SHOULD SAY, YOUR HONOR

5 MR KELLY ALSO, YOUR HONOR, I'D LIKE TO POINT
6 OUT THAT HE HAS NOT CHANGED HIS MIND ABOUT WAIVING THE
7 24-HOUR PERIOD, AND THE DEFENSE IS HAMSTRUNG TO GET
8 PEOPLE HERE ON SHORT NOTICE IT'S BEEN 80 DAYS OR MORE
9 SINCE THERE'S BEEN ANY MITIGATION PREPARATION WE
10 POINT THAT OUT

11 THE COURT I'M NOT -- I THINK THAT THAT -- I
12 DON'T THINK THE COURT IS TIED BY THAT RULE

13 MR KELLY NO, SIR WE BELIEVE THAT'S WITHIN
14 YOUR DISCRETION

15 THE COURT I THINK I CAN ADJOURN AND START BACK
16 ANY TIME THAT I FEEL IS APPROPRIATE ---

17 MR KELLY YES, SIR

18 THE COURT --- AS LONG AS IT'S, YOU KNOW, A
19 REASONABLY PRACTICAL TIME OBVIOUSLY, THERE ARE A LOT
20 OF REASONS WHY ADJOURNING UNTIL THE NEXT DAY MAKES
21 SENSE IN MY OPINION ESPECIALLY IN A CASE OF THIS
22 MAGNITUDE

23 I WAS JUST REVIEWING ONE CASE

24 (PAUSE)

25 THE COURT THERE IS A CASE OUT OF FEDERAL COURT

STATE VS ALKEBULANYAHH

1 IN LOUISIANA 2001

2 YOU ALL CAN BE SEATED FOR RIGHT NOW, SO YOU WON'T
3 HAVE TO STAND

4 180 FED SUPPLEMENT 2ND 797 IT SAID APPOINTMENT
5 OF INDEPENDENT COUNSEL IS THE MOST APPROPRIATE COURSE
6 OF ACTION WHERE A CAPITAL DEFENDANT CONSISTENTLY STATED
7 HIS INTENTION TO PRESENT NO EVIDENCE IN MITIGATION OF
8 THE DEATH PENALTY AND PRIOR TO THE DEATH PENALTY
9 BEING IMPOSED, SOCIETY HAD A STRONG -- IF SECURITY, IF
10 YOU EVER CLEAR THE COURTROOM EVER AGAIN, MAKE SURE THE
11 NEXT ROOM IS ALSO CLEARED PLEASE

12 - (PAUSE)

13 THE COURT THE MICROPHONES WEREN'T ON UNTIL I
14 JUST TURNED THEM ON, SO

15 MR KELLY YOUR HONOR, MAY I INQUIRE, THE
16 PROCEEDINGS THAT WE'VE JUST BEEN HOLDING HAVE BEEN
17 BROADCAST INTO THE NEXT ROOM?

18 THE COURT I DON'T -- I DON'T THINK THE SOUND WAS
19 ON I JUST TURNED THE MICROPHONE ON THEY HEARD WHAT
20 I STARTED TO SAY WE CAN CHECK GO OVER THERE AND
21 CHECK PLEASE, SEE IF THEY -- I WANT TO KNOW, HAS IT
22 BEEN CONVEYING WHAT WE'VE BEEN DOING OVER HERE GO
23 VERIFY THAT PLEASE

24 OFFICER YOU JUST TURNED IT ON A MINUTE AGO

25 THE COURT I KNOW I JUST WANT TO VERIFY THAT

STATE VS ALKEBULANYAHH

1 OFFICER MAJOR BAXLEY JUST SAID OVER THE RADIO,
2 THE SOUND HAD BEEN OFF IT ONLY JUST CAME ON

3 THE COURT OKAY I HAD IT OFF THE WHOLE TIME, I
4 JUST TURNED IT ON

5 (PAUSE)

6 THE COURT I WANT THEM TO KEEP IT OFF UNTIL I SAY
7 IT SHOULD COME BACK ON

8 (PAUSE)

9 THE COURT I DON'T WANT TO HAVE TO KEEP UP WITH
10 THAT ANY MORE I JUST WANT IT OFF FOR THE REST OF THIS
11 CASE GO TELL THEM TO TURN IT OFF

12 - OFFICER IT'S OFF I'VE JUST CLEARED THAT
13 COURTROOM

14 THE COURT I WANT IT TO STAY OFF, BECAUSE I DON'T
15 EVEN WANT TO HAVE TO DEAL WITH THAT ANY MORE ALL
16 RIGHT

17 CLERK FOR THE REST OF THE CASE JUDGE?

18 THE COURT THE REST OF THE CASE ANYONE WANTS TO
19 PARTICIPATE, THEY CAN COME IN THIS COURTROOM SO I HAVE
20 COMPLETE CONTROL OVER IT

21 CLERK YOU GET THAT?

22 OFFICER YES

23 (PAUSE)

24 THE COURT I THINK THAT THAT'S THE CASE YOU WANT
25 TO LOOK AT OBVIOUSLY, I HAVEN'T HAD A LOT OF TIME TO

STATE VS ALKEBULANYAHH

1 -- THAT CASE WAS ABOUT WHERE THE COURT APPOINTED
2 INDEPENDENT COUNSEL AND IT RAISES SOME CONCERN IN MY
3 MIND ANYHOW ABOUT THE LABEL INDEPENDENT COUNSEL
4 CONFLICTING

5 IT SEEMS TO ME THE MOST PRUDENT APPROACH WOULD BE
6 TO HAVE TWO COURSES OF ACTION, EITHER APPOINT YOU TO
7 REPRESENT HIM AND YOU REPRESENT HIM IN ACCORDANCE WITH
8 HIS WISHES -- YOU CAN FULLY STATE ON THE RECORD IN
9 CAMERA IF THERE'S A DETERMINATION NOT TO PRESENT
10 ANYTHING OR TO LET YOU AS STAND-BY COUNSEL OBJECT TO
11 THE PRESENTATION OF ANYTHING THAT MIGHT BE IMPROPER
12 FROM THE STATE'S POSITION AND TO ARGUE

13 AND I DON'T KNOW IF YOU THINK ONE OR THE OTHER IS
14 BETTER OR NOT

15 (PAUSE)

16 THE COURT YES, SIR

17 MR KELLY YOUR HONOR, I'VE DISCUSSED THIS WITH
18 ATTORNEY THORNTON WE BELIEVE THAT IT WOULD BE BEST IN
19 THE INTEREST OF THE DEFENDANT RATHER THAN TO REPRESENT
20 HIM AS HE SEES OR CONTINUES TO SEE FIT THAT WE WRITE
21 LINES AS TO THE RESTRICTIONS OF ATTORNEYS WE THINK
22 THAT SHOULD COME IN THREE CATEGORIES TO HAVE THE
23 POWER TO OBJECT

24 THE COURT I'M SORRY?

25 MR KELLY TO HAVE THE POWER TO OBJECT

STATE VS ALKEBULANYAHH

1 THE COURT YES

2 MR KELLY TO ARGUE, AND THE STIPULATION OF
3 EVIDENCE FROM THE TRIAL IN THE GUILT PHASE THAT CAN BE
4 ENTERED UPON FROM WHICH TO ARGUE FOR EXAMPLE, THE
5 TESTIMONY OF STRAWBERRY WASHINGTON, THE TESTIMONY OF
6 KIMBERLY BLAKE, THE TESTIMONY OF BRENDA SMITH, THE
7 TESTIMONY OF DEPUTY CHRISTINE WILSON, AND PERHAPS ONE
8 OR TWO OTHER PERSONS -- THE WITNESSES WHICH HAVE DIRECT
9 TESTIMONY OF THE CIRCUMSTANCES OF THE CRIME AND THE
10 SOLICITOR WOULD AGREE TO THAT?

11 MR MURDAUGH I WOULD AGREE TO ALLOW ALL OF THE
12 TESTIMONY IN, SIR

13 MR KELLY WELL YOUR HONOR, WE WOULD -- WE WOULD
14 ACCEPT THAT STIPULATION

15 THE COURT I THOUGHT WE ALREADY ASKED THAT
16 QUESTION ABOUT INCORPORATING EVERYTHING AND HE AGREED
17 TO THAT

18 MR KELLY YES, YOUR HONOR WE WANTED -- THE
19 DEFENDANT IS NOW SITTING HERE AFTER APPROPRIATE
20 DISCUSSION, AND WE WOULD ASK THAT HE AGREE TO THIS ON
21 THE RECORD

22 DO YOU AGREE TO THAT?

23 MR ALKEBULANYAHH I HAVE NOTHING TO SAY, NO
24 COMMENTS

25 MR KELLY ALL RIGHT HE HAS NO COMMENTS

STATE VS ALKEBULANYAHH

1 THE COURT DO YOU HAVE ANY OBJECTION TO THAT, MR
2 ALKEBULANYAHH?

3 MR ALKEBULANYAHH I HAVE NO COMMENTS, YOUR
4 HONOR

5 MR KELLY THEREFORE, IN THE DISCRETION OF THE
6 COURT, THAT'S WHAT WE WOULD ASK

7 MR THORNTON I WOULD CONCUR WITH THAT, YOUR
8 HONOR I THINK THAT'S THE BEST WAY TO ACCOMPLISH BOTH
9 THE PROTECTION -- AS MUCH PROTECTION AS POSSIBLE FOR
10 THE DEFENDANT, AND ALSO WOULD ALLOW US TO FULFILL ALL
11 THE ETHICAL RESPONSIBILITIES I THINK WE HAVE AS
12 OFFICERS OF THE COURT AND AS STAND-BY COUNSEL

13 (PAUSE)

14 THE COURT IT'S MY UNDERSTANDING THAT PURSUANT TO
15 YOUR CONVERSATION THAT HE DOES NOT WISH TO PRESENT
16 ANYTHING?

17 MR KELLY THAT'S CORRECT, YOUR HONOR

18 MR THORNTON THAT'S MY UNDERSTANDING AS WELL,
19 SIR

20 THE COURT AND YOU'VE NOW SPOKEN WITH HIM AND
21 ALTHOUGH HE'S NOT WISHING TO PRESENT ANYTHING, HE'S NOT
22 GOING TO DO ANYTHING TO BE DISRUPTIVE OR ANYTHING?

23 MR KELLY THAT'S WHAT WE UNDERSTOOD

24 THE COURT WELL, THEN IF WE PROCEED UNDER THAT
25 THEORY AND SHOULD THOSE CIRCUMSTANCES CHANGE, AT THAT

STATE VS ALKEBULANYAHH

1 POINT I MAKE A DETERMINATION TO FIND WHETHER OR NOT HE
2 GIVES UP HIS RIGHT TO REPRESENT HIMSELF, THEN MAYBE
3 THAT WOULD BE THE MOST APPROPRIATE COURSE OF ACTION

4 MR KELLY JUST AS YOU SAY, YOUR HONOR

5 MR THORNTON YOUR HONOR, IF I MIGHT ASK A
6 QUESTION WHAT THE COURT IS SAYING THEN IS, WE WILL
7 LEAVE IT AS IT IS NOW AND IF IT AT SOME TIME BECOMES
8 APPROPRIATE, THEN THE COURT WOULD ENTERTAIN WHAT WE
9 JUST DISCUSSED?

10 THE COURT THAT WAY I HAVE NOT INTERJECTED MYSELF
11 INTO HIS DESIRE TO REPRESENT HIMSELF

12 MR THORNTON YES, YOUR HONOR, I UNDERSTAND, SIR
13 THANK YOU

14 THE COURT ALTHOUGH, I'VE EXPLAINED TO HIM ON THE
15 RECORD THAT I DO NOT THINK IT'S A WISE DECISION BUT I
16 THINK IN AN ABUNDANCE OF CAUTION, I STILL THINK THAT
17 PERHAPS I SHOULD LET YOU ALL SEE WHAT RESEARCH YOU CAN
18 FIND DURING, MAYBE THE LUNCH HOUR, BEFORE WE MAKE THAT
19 TYPE OF DECISION

20 IT MAY BE THAT THE MORE PRUDENT DECISION IS WHAT
21 YOU JUST SUGGESTED I GUESS WHAT I'M TRYING TO SAY IS
22 PERHAPS IT SHOULD BE A TIMING THING FIRST, SEE IF IT
23 BECOMES NECESSARY OR ALTERNATIVELY, BECAUSE HE'S
24 ALREADY MADE THE REPRESENTATION THAT HE'S NOT GOING TO
25 DO A THING, INDICATE THAT I MIGHT HAVE SOME DUTY TO GO

STATE VS ALKEBULANYAHH

1 AHEAD AND INTERVENE, THAT'S THE COMPLICATED DECISION
2 HERE

3 MR KELLY YOUR HONOR, WE AGREE

4 THE COURT BECAUSE I'VE SEEN SOME CASES THAT GO A
5 LITTLE ---

6 MR KELLY I THINK WE AGREE THAT LACK OF PRIOR
7 RESTRAINT OF ANY TYPE OF JUDICIAL DECISION IS
8 APPROPRIATE IN THIS MATTER AND WE CERTAINLY WOULD
9 ADOPT AND AGREE WITH YOUR DECISION

10 THE COURT THIS DAVIS CASE -- THIS DAVIS CASE HAS
11 BEEN CRITICIZED THE ONE I STARTED TO READ TO YOU THE
12 COURT HAVING BEEN ADVISED THAT HE HAD NO DESIRE TO
13 PRESENT MITIGATING EVIDENCE, APPOINTED COUNSEL -- WHAT
14 THEY CALLED INDEPENDENT COUNSEL, AND INDICATED THAT
15 SOCIETY HAD A STRONG AND COMPELLING INTEREST IN A FULL
16 AND FAIR CAPITAL SENTENCING PROCEEDING WHICH I DO
17 AGREE WITH THAT

18 BUT OTHER CASES SAY THAT, YOU KNOW, YOU HAVE TO BE
19 VERY CAREFUL ABOUT TRUMPING THE RIGHT TO REPRESENT ---

20 MR MURDAUGH JUDGE, CAN I GET THAT CITE FROM YOU
21 PLEASE SIR?

22 THE COURT IT'S 180 FED SUB 797, BUT THAT CASE
23 HAS BEEN CRITICIZED, SO I'M NOT SAYING IT'S CONTROLLING
24 ON APPEAL

25 SO I DON'T KNOW THAT IT'S CONTROLLING OR ANYTHING

STATE VS ALKEBULANYAHH

1 BUT I WAS JUST READING THAT LANGUAGE ABOUT SOCIETY'S
2 INTEREST ALSO

3 MR MURDAUGH 180 FED SUB AT WHAT?

4 MR THORNTON 797

5 MR MURDAUGH 797

6 THE COURT BUT, SEE, THAT WAS CRITICIZED ON
7 APPEAL AS CONFLICTING WITH HIS RIGHT TO REPRESENT
8 HIMSELF

9 SO I WOULD JUST WANT YOU TO UNDERSTAND ABOUT
10 SOCIETY'S INTEREST TOO BUT IF SOMEONE -- SOMEONE
11 MAKES THE DECISION TO NOT PARTICIPATE THOUGH, VERY WELL
12 BE THAT SOMEONE IS WAIVING HIS RIGHT TO REPRESENT
13 HIMSELF THAT -- THAT -- THAT'S THE QUESTION AND IT
14 MAY BE THAT WHAT I SUGGESTED IS THE TIMING QUESTION
15 IF YOU SEE WHAT I'M SAYING?

16 MR THORNTON YES YOUR HONOR

17 (PAUSE)

18 THE COURT 285 FED 3RD 378 FOR U S VERSUS DAVIS
19 285 FED 3RD 378 BUT, LIKE I SAID THAT CASE IS
20 DIFFERENT BECAUSE THEY APPOINTED INDEPENDENT COUNSEL
21 I'M NOT EVEN SURE IT'S CONTROLLING IN ANY WAY
22 WHATSOEVER BUT THEY DO HAVE SOME GOOD LANGUAGE,
23 TALKING ABOUT STAND-BY COUNSEL IN THE FIRST CASE BEFORE
24 IT WENT UP ON APPEAL

25 THE COURT TRIED TO DRAW A DISTINCTION BETWEEN, YOU

STATE VS ALKEBULANYAHH

1 KNOW, WHETHER OR NOT THAT INTERFERED WITH THE PERSON'S
2 PRO SE DEFENSE

3 SO I'M JUST NOT SO SURE THAT I CAN -- AT THAT
4 POINT IT WOULD SEEM THAT YOU WOULD BE -- IT WOULD BE A
5 PRO SE DEFENDANT PLUS ATTORNEYS DOING THINGS THAT WOULD
6 INTERFERE WITH THE DEFENDANT'S RIGHT TO REPRESENT
7 HIMSELF, AND THOSE CONFLICT

8 SEEMS BEFORE I GIVE YOU THE RIGHT TO DO DIFFERENT
9 THINGS, I'D HAVE TO ACTUALLY MAKE A FINDING THAT HE HAS
10 WITHDRAWN -- OR BY HIS ACTIONS WITHDRAWN THE ABILITY TO
11 REPRESENT HIMSELF OR HIS DESIRE TO REPRESENT HIMSELF
12 AT WHICH POINT I'D HAVE TO -- THAT I WOULD CONSIDER
13 APPOINTING COUNSEL

14 I'M JUST THROWING THESE THINGS OUT I DON'T KNOW

15 MR KELLY WELL YOUR HONOR, IT'S A HYBRID WE'RE
16 DEALING WITH HERE IN ESSENCE HE'S SAYING THAT HE DOES
17 WITHDRAW, HE'S NOT GOING TO DEAL WITH THE COURT AND
18 AT THE SAME TIME, HE DOESN'T WANT TO GIVE UP ANY OF HIS
19 PRO SE STATUS

20 THE COURT I AGREE MY DILEMMA IS WHAT FACTS DO
21 I NEED TO MAKE THE DETERMINATION THAT HE HAS WITHDRAWN
22 FROM HIS REPRESENTATION, HIS OWN SELF REPRESENTATION?
23 THAT'S WHAT I WOULD LIKE TO SEE IF YOU ALL COULD FIND
24 ANYTHING ON

25 (PAUSE)

STATE VS ALKEBULANYAHH

1 MR KELLY YOUR HONOR, WE'LL USE THE CLERK'S
2 FACILITY

3 THE COURT ALL RIGHT

4 CLERK THAT'S AVAILABLE FOR ALL MEMBERS OF THE
5 BAR

6 THE COURT WHAT, LIKE LEGAL RESEARCH?

7 CLERK YES, SIR

8 THE COURT OKAY ANYTHING FROM THE STATE ABOUT
9 THOUGHTS ABOUT HOW TO PROCEED? DO YOU THINK IT WOULD
10 BE PRUDENT TO PROCEED TOMORROW?

11 MR MURDAUGH AT THIS POINT IN TIME, YOUR HONOR,
12 I JUST DON'T KNOW WHERE TO GO HOW YOU'RE GOING TO
13 MAKE A DETERMINATION -- I DON'T THINK YOU CAN REQUIRE
14 THEM TO DO ANYTHING UNTIL HE EITHER BY ACTIONS OR WORDS
15 WITHDRAWS AND HOW YOU GET TO THAT POINT SIR I JUST
16 -- I DON'T KNOW WITHOUT DOING SOME FURTHER RESEARCH

17 THE COURT I UNDERSTAND I'M GOING TO GIVE YOU
18 ALL TIME TO RESEARCH

19 MY FIRST INQUIRY WILL BE WHETHER OR NOT HIS WORDS
20 THAT HE HAS RELAYED TO ME NOW WOULD BE SUFFICIENT TO
21 SAY HE'S WITHDRAWN ALL RIGHT?

22 WHAT I GUESS I'LL DO IS LET THE JURY GO BACK
23 HAVE YOU ALL COME BACK AFTER LUNCH MAYBE AND TELL ME IF
24 YOU FOUND ANYTHING IF THAT'S OKAY?

25 MR MURDAUGH YES, SIR

STATE VS ALKEBULANYAHH

1 MR THORNTON YES
2 CLERK WHAT TIME WAS THAT?
3 THE COURT IF WE COULD COME BACK AT 2 00 O'CLOCK
4 OR SOMETHING I DON'T KNOW IF THAT'S A LOT OF TIME
5 OR 2 30 WHAT DO YOU PREFER?
6 MR KELLY 2 30
7 THE COURT 2 30 OKAY LET ME BRING THE JURY
8 IN IS THE JURY FINISHED EATING?
9 OFFICER I'LL CHECK
10 (PAUSE)
11 THE COURT BRING THE JURY IN PLEASE
12 - (THE JURY RETURNS TO THE COURTROOM AT 12 50 P M)
13 THE COURT THANK YOU PLEASE BE SEATED
14 ALL RIGHT LADIES AND GENTLEMEN, AT THIS POINT WE
15 HAVE MATTERS WE HAVE TO TAKE CARE OF WE WILL RESUME
16 TOMORROW AT 11 30 WITH THE CONTINUATION OF THIS CASE
17 THANK YOU VERY MUCH DO NOT DISCUSS THIS CASE IN
18 ANY WAY WHATSOEVER WITH ANYONE, INCLUDING AMONGST
19 YOURSELF
20 THANK YOU VERY MUCH HAVE A GOOD DAY
21 FOREMAN THANK YOU, JUDGE
22 (THE JURY EXITS THE COURTROOM AT 12 51 P M)
23 THE COURT ALL RIGHT WE'LL BE ADJOURNED IF
24 YOU WILL ALL REPORT BACK AT 2 30
25 MR MURDAUGH YOUR HONOR, PLEASE IN ORDER TO

STATE VS ALKEBULANYAHH

1 MAINTAIN THE INTEGRITY OF THE EVIDENCE THAT HAS BEEN
2 INTRODUCED, COULD WE GET THE BAILIFFS TO GATHER IT UP
3 UNTIL WE BEGIN THE NEXT -- AND TURN IT OVER TO THE
4 REPORTER?

5 THE COURT ALL RIGHT WE'LL SECURE IT THANK
6 YOU

7 MR MURDAUGH THANK YOU, SIR 2 30?

8 THE COURT 2 30

9 MR THORNTON THANK YOU, YOUR HONOR

10 MR MURDAUGH THANK YOU

11 (COURT IS IN RECESS FOR LUNCH)

12 - (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)

13 THE COURT ALL RIGHT DID YOU ALL FIND OUT
14 ANYTHING?

15 MR MURDAUGH JUDGE I HAVE FOUND TWO CASES THAT
16 MAY HAVE SOME IMPACT ON IT, THE REED (PHONETIC) SOUTH
17 CAROLINA CASE

18 THE COURT I'VE READ THAT

19 MR MURDAUGH AND UNITED STATES VERSUS LAWRENCE
20 WHICH WAS NOT A CAPITAL CASE

21 THE COURT YES, SIR

22 MR MURDAUGH OTHER THAN THAT, I HAVE FOUND
23 NOTHING THAT I THINK IS DEAD ON POINT, SIR

24 THE COURT ALL RIGHT DID YOU ALL?

25 MR THORNTON I HAVE FOUND NOTHING -- NOTHING,

STATE VS ALKEBULANYAHH

1 OTHER THAN OF COURSE, THE REED CASE, WHICH MAY SHED
2 SOME LIGHT ON IT, SIR BUT I FOUND NOTHING ELSE ON
3 POINT IN LOOKING AT BOTH FEDERAL AND OTHER STATES

4 THE COURT WELL, IN REED, THE DEFENDANT,
5 CONTINUED TO PRESENT HIS CASE

6 MR THORNTON YES, SIR, EVEN AFTER A REQUEST
7 THE COURT THAT WAS THE DIFFERENCE

8 MR MURDAUGH YES, SIR

9 MR THORNTON YES SIR

10 THE COURT THE LAST THING WE LEFT THE COURT IN
11 TRYING TO PRESERVE MR ALKEBULANYAHH'S REQUEST THAT HE
12 REPRESENT HIMSELF, AND TO BALANCE OUT THE FACT THAT HE
13 HAS -- I ASSUME, THE RIGHT TO -- WELL, HE DOES HAVE THE
14 RIGHT TO NOT PRESENT ANYTHING IN MITIGATION DO YOU
15 ALL AGREE WITH THAT?

16 MR KELLY YES, SIR

17 MR THORNTON YES SIR

18 THE COURT HE HAS A RIGHT TO NOT PRESENT ANY --
19 RIGHT TO NOT TESTIFY ALSO THE DILEMMA WOULD BE IN THE
20 EVENT THAT MR ALKEBULANYAHH IS REMOVED I THOUGHT
21 COUNSEL REPRESENTED YOU HAD SPOKEN WITH MR
22 ALKEBULANYAHH, THAT HE WILL SIT QUIETLY AT THE TABLE?

23 MR THORNTON HE INDICATED, YOUR HONOR, TO US
24 THAT HE DID NOT INTEND AT THAT POINT TO BE A
25 DISRUPTION

STATE VS ALKEBULANYAHH

1 THE COURT YES

2 MR THORNTON THAT HE WOULD HAVE TO SEE HOW THE
3 PROCEDURE - PROCEEDINGS WERE GOING BUT HE PREFERRED
4 NOT TO BE PRESENT BUT HE DID NOT INDICATE THAT HE WAS
5 PLANNING -- THE LAST I TALKED TO HIM -- ON BEING A
6 DISRUPTION SIR

7 THE COURT I WILL NOTE FOR THE RECORD MR
8 ALKEBULANYAHH IS INDICATING HE HAS NO DESIRE TO RESPOND
9 WHATSOEVER IS THAT CORRECT MR ALKEBULANYAHH?

10 MR ALKEBULANYAHH EXCEPT THAT I WILL BE A
11 DISRUPTION

12 THE COURT HAVE YOU CHANGED YOUR -- SOMETHING
13 CHANGED FROM WHEN YOU SPOKE WITH COUNSEL ABOUT THAT?

14 MR ALKEBULANYAHH NO NOT REALLY ESSENTIAL
15 EXCEPT THAT NO MORE THAN -- LIKE I SAY IT'S GOING - I
16 WILL BE A DISRUPTION THERE WILL BE A DISRUPTION AS
17 FAR AS THAT CONCERN YOU KNOW

18 THE COURT THE COURT WILL DEAL WITH THAT AS IT IS
19 APPROPRIATE IF YOU WANT TO BE A DISRUPTION IN FRONT
20 OF YOUR FAMILY AND ALL THAT'S YOUR RIGHT, MR
21 ALKEBULANYAHH

22 MR THORNTON YOUR HONOR, IF I CAN FOR THE
23 RECORD

24 THE COURT YES

25 MR THORNTON YOUR HONOR MR KELLY AND I AS

STATE VS ALKEBULANYAHH

1 STAND-BY COUNSEL ARE AT THIS MOMENT IN A RATHER
2 DIFFICULT PREDICAMENT ---

3 THE COURT I UNDERSTAND

4 MR THORNTON --- AS DOES THE COURT WHAT I WANT
5 TO DO IS INFORM THE COURT WAS THAT JUST IN CASE IT MAY
6 COME TO THIS, WE HAVE CONTACTED A COUPLE OF -- OR
7 ATTEMPTING TO CONTACT A COUPLE OF THE EXPERTS

8 WHAT I WOULD REALLY LIKE AND I KNOW MR KELLY
9 WOULD LIKE SOME DIRECTION FROM THE COURT WHEREAS IF
10 WE'RE GOING TO LEAVE IT LIKE IT IS NOW, AND IF TOMORROW
11 AT SOME POINT THE COURT FEELS LIKE OUR STATUS NEEDS TO
12 CHANGE SOMEWHAT, IF THE COURT IS IN A POSITION AT THIS
13 POINT TO TELL US WHAT OUR RESPONSIBILITIES WOULD BE IN
14 LIGHT OF OUR DISCLOSURE TO THE COURT THE CLIENT'S
15 WISHES -- JUST TO MAKE SURE, YOUR HONOR

16 OF COURSE I'M SOMEWHAT CONCERNED WITH, "A", THERE
17 HASN'T BEEN ANY REAL MITIGATION WORK DONE, AND -- SINCE
18 HE TOOK OVER THE CASE HE DIDN'T WISH -- STATED
19 REPEATEDLY THAT HE DID NOT WANT THAT DONE AND THAT'S
20 BEEN SHUT DOWN

21 "B", WE'VE HAD, THEREBY NO WITNESSES ARE BEING
22 CALLED OTHER THAN THESE EXPERTS THAT ARE POTENTIALS,
23 WHICH "C", HE WOULD NOT COOPERATE WITH ANYWAY HE
24 STATED TO US

25 SO WE JUST AS THE ATTORNEYS WANT TO MAKE SURE THAT

STATE VS ALKEBULANYAHH

1 WE'RE IN A POSITION TO DO WHATEVER THE COURT WANTS US
2 TO DO IF THE COURT IS GOING TO JUST HAVE US DO
3 SPECIFIC THINGS, IF WE COULD JUST FIND OUT WHAT THOSE
4 WILL BE, SIR, WE WOULD APPRECIATE IT

5 THE COURT AS I INDICATED EARLIER, THAT BECAUSE
6 HE'S REPRESENTING HIMSELF PRO SE, HE HAS THE RIGHT TO
7 USE STAND-BY COUNSEL AS I'VE PREVIOUSLY GRANTED

8 AT THE SAME TIME, I HAVE A HARD TIME BALANCING THE
9 FACT THAT HE HAS THE RIGHT TO MAKE A -- MAKE AN
10 INFORMED DECISION ABOUT NOT PRESENTING ANYTHING DURING
11 MITIGATION

12 HE DOESN'T HAVE THE RIGHT TO BE DISRUPTIVE IN THE
13 COURT BUT AT THE SAME TIME HE HAS THE RIGHT TO NOT
14 PRESENT ANYTHING IN MITIGATION, NO MATTER HOW UN-WISE
15 THAT DECISION MAY BE

16 MY DILEMMA IS IF HE IS NOT ABLE TO CONTROL
17 HIMSELF, THEN I FEEL COMPELLED THAT I SHOULD CONSIDER
18 THE OPTION OF APPOINTING COUNSEL TO REPRESENT HIM THE
19 TIMING WAS THE QUESTION I THINK I LEFT YOU ALL WITH
20 BUT, BECAUSE I THINK THAT THE LAW SUGGESTS THAT THE
21 DEFENDANT'S PRESENCE IS APPROPRIATE IN A CAPITAL TRIAL

22 WOULD YOU LIKE TO SHARE WITH ME, MR
23 ALKEBULANYAHH, HOW YOU PLAN ON BEING DISRUPTIVE?

24 MR ALKEBULANYAHH PROBABLY JUST VERBALLY JUST
25 SPEAKING, SAYING THINGS, JUST USING WORDS NOT ANY

STATE VS ALKEBULANYAHH

1 PROFANITY OR ANYTHING LIKE THAT, OR DISRESPECTFUL

2 THE COURT WELL, I'M STILL AT A LOSS TO

3 UNDERSTAND -- YOU HAVE A RIGHT TO QUESTION A WITNESS

4 WHY WOULD YOU WANT TO BLURT OUT THINGS INSTEAD OF

5 QUESTIONING THE WITNESS?

6 MR ALKEBULANYAHH I DON'T WANT TO SEE A WITNESS

7 I'M GOING TO EXERCISE A RIGHT NOT TO SEE A WITNESS

8 THE COURT THAT'S NOT A RIGHT TO NOT SEE A

9 WITNESS YOU HAVE THE RIGHT TO CONFRONT YOUR

10 WITNESSES, PEOPLE AGAINST YOU YOU HAVE A RIGHT -- THE

11 COURT HAS AN OBLIGATION TO SEE THAT YOU ARE THERE YOU

12 KNOW, IF YOU CHOOSE TO NOT PRESENT A CASE, I'M HAPPY TO

13 HONOR THAT REQUEST BUT IT MAKES NO SENSE TO ME WHY

14 YOU WOULD APPROACH IT SOME OTHER WAY THAN YOU'VE BEEN

15 APPROACHING IT

16 YOU DON'T WISH TO SHOW ANY DISRESPECT WHO ARE

17 YOU -- WHY WOULD YOU DO IT IN THAT FORMAT RATHER THAN

18 QUESTIONING PEOPLE OR WHATEVER?

19 MR ALKEBULANYAHH I DON'T WANT TO -- I DON'T

20 WANT TO CONFRONT NO WITNESS I DON'T WANT TO SEE NO

21 WITNESS AT THE PROCEEDING

22 THE COURT WELL IF I PUT YOU IN THAT BACK ROOM

23 WHERE YOU CAN SEE IF YOU SO DESIRE YOU CAN TURN YOUR

24 BACK IF YOU SO DESIRE

25 MR ALKEBULANYAHH I DON'T WISH TO BE IN THE BACK

STATE VS ALKEBULANYAHH

1 ROOM

2 THE COURT IT GIVES YOU THE OPTION TO LOOK IF YOU
3 WANT TO LOOK

4 MR ALKEBULANYAHH I DON'T WANT TO BE IN THE BACK
5 ROOM I DON'T WANT TO LOOK I DON'T WANT TO HEAR I
6 DON'T WANT TO HEAR ANYTHING I JUST DON'T WANT TO HEAR
7 -- I DON'T WANT TO HEAR ANYTHING I DON'T WANT TO SEE
8 ANYTHING I HAVE NO CONCERN ABOUT THAT PROCEEDING I
9 WAIVE ANY DEFENSE IN REFERENCE TO THAT PROCEEDING AND
10 I WOULD LIKE TO WAIVE MY RIGHT TO NOT EVEN BE THERE IF
11 I HAVE THE RIGHT BUT I DON'T SEE -- I DON'T WANT TO
12 BE AT THE PROCEEDING I DON'T WANT TO SEE ANY OF THE
13 PROCEEDINGS I DEFINITELY DON'T WANT TO HEAR THE
14 PROCEEDINGS AND I HAVE NO INTEREST IN THE PROCEEDING
15 I'M ONLY INTERESTED IN THE SENTENCE IF THEY HAVE A
16 PROCEEDING THEY CAN GO ON WITH THE PROCEEDINGS WHERE
17 THEY WANT TO DO, AND WHEN IT'S TIME FOR ME TO BE
18 SENTENCED, THEN I WILL ACT ACCORDINGLY AND ACCEPT MY --
19 YOU KNOW, GO BEFORE THE JUDGE, YOUR HONOR, AND SENTENCE
20 ME IN ACCORDANCE TO THE PROCEDURES AND WHATEVER STEP
21 THAT WE DO, I WOULD DO THAT, RESPECTFULLY

22 THE COURT WELL DO YOU HAVE ANY OBJECTION TO
23 LETTING STAND-BY COUNSEL AT LEAST HANDLE THE EVIDENCE
24 AND THE OBJECTIONS THAT'S APPROPRIATE, AND HONOR YOUR
25 WISH TO NOT PRESENT ANY WITNESSES?

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH WELL, YOU KNOW, WHAT I'M
2 SAYING IS THAT ---

3 THE COURT WHAT I'M SAYING, IN THAT LIMITED ROLE,
4 DO YOU HAVE ANY PROBLEM WITH THAT IF THEY HONOR YOUR
5 WISH TO NOT PRESENT ANY WITNESSES?

6 MR ALKEBULANYAHH WITHOUT ME BEING THERE?

7 THE COURT YES, SIR IF I SAY THAT YOU DO NOT
8 HAVE TO ATTEND -- I'M NOT MAKING THAT DECISION

9 MR ALKEBULANYAHH RIGHT RIGHT

10 THE COURT BUT IF I SAY UNTIL THE SENTENCING --
11 UNTIL WE HEAR WHAT THE SENTENCE IS, YOU HAVE TO BE
12 THERE DO YOU UNDERSTAND THAT?

13 MR ALKEBULANYAHH RIGHT

14 THE COURT UNTIL THAT MOMENT, IF YOU'RE TELLING
15 ME THAT YOU'RE GOING TO BE UNRULY AND DISRUPTIVE, AND
16 IF I SAY, I WILL LET YOUR STAND-BY COUNSEL AT LEAST
17 OBJECT OR HANDLE THE INTRODUCTION OF THE EVIDENCE AND
18 THEN BRING YOU BACK IN -- IF THEY HONOR YOUR REQUEST TO
19 NOT PRESENT ANY WITNESSES, PERIOD, NONE WHATSOEVER, DO
20 YOU HAVE ANY OBJECTION TO THAT?

21 MR ALKEBULANYAHH NO SIR, I SURE DON'T THAT
22 SEEMS FEASIBLE

23 THE COURT ANYBODY ELSE WISH TO BE HEARD ON THAT?

24 MR MURDAUGH NO, SIR I THINK YOU'VE HIT EVERY
25 POINT THAT NEEDS TO BE HIT

STATE VS ALKEBULANYAHH

1 THE COURT AND YOU DO UNDERSTAND YOU HAVE AN
2 ABSOLUTE RIGHT TO BE THERE?

3 MR ALKEBULANYAHH YES, SIR, I DO

4 THE COURT AND YOU FREELY AND VOLUNTARILY AND
5 KNOWINGLY WISH TO WAIVE YOUR RIGHT TO BE THERE?

6 MR ALKEBULANYAHH YES, SIR

7 THE COURT AND ALLOW STAND-BY COUNSEL TO OBJECT
8 TO ANY IMPROPER EVIDENCE AND TO HANDLE THE STIPULATION
9 OR INTRODUCTION OF ANY EVIDENCE, BUT HONOR YOUR
10 STRATEGIC DECISION TO NOT PRESENT ANY WITNESSES
11 WHATSOEVER

12 - MR ALKEBULANYAHH RIGHT, AS LONG AS I'M NOT
13 THERE YES, SIR

14 MR MURDAUGH YOUR HONOR, PLEASE, IN THAT REGARD,
15 IN VIEW OF THE FACT THAT THEY ARE COMING IN AT THE
16 ELEVENTH HOUR I WILL BE HAPPY TO SIT DOWN WITH THEM
17 THIS AFTERNOON WE HAVE -- WE HAVE GIVEN THEM A LIST
18 OF OUR WITNESSES -- SHOW THEM WHO IS HERE AND WHAT THEY
19 ARE GOING TO TESTIFY TO SO THERE WILL BE NO QUESTION
20 ABOUT THAT

21 THE COURT YES

22 MR MURDAUGH IF THEY CARE TO, I MEAN

23 THE COURT WHAT IS YOUR POSITION ON THAT?

24 MR KELLY DOES THAT INCLUDE -- DOES HE WANT US
25 TO ARGUE OR NOT ARGUE? SO JUST TO SIMPLY AGREE TO

STATE VS ALKEBULANYAHH

1 STIPULATION IF WE FIND IT NOT OBJECTIONABLE AND TO
2 ONLY OBJECT TO THOSE THINGS AND LET THAT BE OUR ROLE?

3 IN OTHER WORDS THE ROLE WOULD BE NOT EVEN TO
4 ARGUE THE CASE BUT MERELY TO CHECK THE STIPULATED
5 EVIDENCE AND IF IT'S NOT OBJECTIONABLE TO STIPULATE
6 TO IT AND TO ONLY MAKE OBJECTIONS DURING THE COURSE OF
7 THE HEARING IF WE FIND THE PROPOSED INTRODUCTION
8 OBJECTIONABLE?

9 THE COURT DO YOU HAVE ANY OBJECTION TO THEM
10 MAKING THE FINAL ARGUMENT FOR YOU?

11 MR ALKEBULANYAHH NO, I DON'T IF I'M NOT HERE
12 I DON'T MIND IT'S FINE WHAT THEY NEED TO DO OR
13 SHOULD DO

14 MR KELLY NO WE PREFER THAT HE EITHER SAY HE
15 WANTS IT OR HE DOESN'T WANT IT IF HE DOESN'T WANT IT
16 WE WON'T DO IT

17 THE COURT DO YOU WISH FOR THEM TO DO THAT?

18 MR ALKEBULANYAHH THEY CAN DO THAT YES

19 THE COURT OKAY HAS ANYONE SEEN ANYTHING ELSE
20 ON THE ABILITY TO -- I THINK IF HE'S MADE THESE
21 ASSERTIONS HE'S GOING TO BE DISRUPTIVE AND UNRULY
22 THERE'S AT LEAST SOME ARGUABLE BASIS TO HAVE HIM
23 EXCLUDED

24 MR KELLY I HAVE NO REASON TO DOUBT HIS WORD
25 THAT HE WILL BE DISRUPTIVE

STATE VS ALKEBULANYAHH

1 THE COURT ALL RIGHT ARE YOU TELLING ME
2 THAT ---

3 (PAUSE)

4 MR MURDAUGH WHAT MR STONE WAS ASKING DO WE
5 NEED FOR HIM TO BE DISRUPTIVE IN THE COURTROOM BEFORE
6 WE DO IT OR DO WE NEED TO TAKE HIS WORD THAT HE IS
7 GOING TO BE?

8 AND I HAVE ANOTHER CONCERN ABOUT THAT IF HE SAYS
9 HE'S GOING TO BE DISRUPTIVE, CONVERSE TO WHAT MR STONE
10 HAD -- IS BRINGING HIM INTO COURTROOM TO DO SOMETHING
11 THAT'S GOING TO INJURE HIM IN THE TRIAL?

12 THE COURT WELL THAT'S THE POINT

13 MR MURDAUGH YES SIR I MEAN ---

14 THE COURT THAT'S WHAT ONE OF THOSE CASES WERE
15 ABOUT ---

16 MR MURDAUGH YES, SIR

17 THE COURT ---- WHERE HE SAID HE WAS GOING TO BE
18 DISRUPTIVE

19 MR MURDAUGH I THINK YOU GOT TO TAKE HIM AT FACE
20 VALUE IF HE SAYS HE IS AND YOU BRING HIM BEFORE A
21 JURY IT VERY WELL COULD BE THAT THE COURT WOULD
22 CONSTRUCT THAT AS ERROR

23 THE COURT MY OTHER CONCERN IS THOUGH DO I HAVE
24 TO ACTUALLY APPOINT YOU AS COUNSEL IN THAT EVENT?

25 MR MURDAUGH WELL UNDER REED YOU DO NOT SIR

STATE VS ALKEBULANYAH

1 THE COURT I DON'T HAVE TO APPOINT COUNSEL, BUT
2 DEFENDANT STAYED IN THE COURTROOM IN REED

3 MR MURDAUGH YES, SIR

4 THE COURT THAT'S THE PROBLEM

5 MR MURDAUGH BUT AS I UNDERSTAND, HE SAID THAT
6 HE HAS NO PROBLEM WITH THEM -- HE APPARENTLY IS STILL
7 ACTING AS HIS OWN ATTORNEY EVEN IN HIS ABSENCE AND SAYS
8 HE WOULD LIKE FOR THEM TO PROCEDURALLY MONITOR THE
9 INTRODUCTION OF EVIDENCE AND TO MAKE A FINAL ARGUMENT
10 AS I UNDERSTAND, SIR

11 THE COURT YES, SIR BUT, STILL, I GUESS MY BIG
12 PROBLEM IS TO DECIDE WHETHER OR NOT I CAN AT THIS POINT
13 ORDER THAT HE BE REMOVED FROM THE COURTROOM

14 MR MURDAUGH THAT IS A CONCERN OF MINE, SIR
15 I'M NOT -- I DON'T -- I CAN FIND NO ANSWER IN THE LAW

16 MR KELLY YOUR HONOR, IF YOU WANT MY OPINION

17 THE COURT YES, SIR

18 MR KELLY FOR WHAT IT'S WORTH, I BELIEVE HE CAN
19 WAIVE HIS RIGHT TO BE PRESENT JUST AS ANYBODY CAN IN
20 ANY PORTION AT ANY TIME

21 AND, YOUR HONOR, I THINK HE CAN WAIVE HIS RIGHT TO
22 BE PRESENT AND STILL REMAIN COUNSEL PRO SE

23 THE COURT THAT'S THE QUESTION CAN HE ACTUALLY
24 DO THAT?

25 MR KELLY I DON'T SEE WHY NOT, JUDGE

STATE VS ALKEBULANYAHH

1 THE COURT THE RULES SUGGEST THAT THE DEFENDANT'S
2 PRESENCE IS REQUIRED IN CAPITAL CASES ALL OTHER CASES
3 YOU CAN TRY SOMEONE IN THEIR ABSENCE, ETCETERA
4 THERE'S A CRIMINAL RULE ON THAT

5 MR KELLY WELL, YOUR HONOR, IF IT'S REQUIRED
6 IT'S REQUIRED

7 THE COURT WELL, I MEAN, THE POINT WOULD BE, CAN
8 YOU WAIVE IT? SEE, WE'VE BEEN READING ABOUT 20
9 DIFFERENT CASES

10 MR KELLY YOUR HONOR ---

11 THE COURT AND IT KIND OF GOES DIFFERENT WAYS

12 - MR KELLY I'M SURE YOU DON'T TRY HIM JUST
13 BECAUSE HE'S NOT PRESENT IN THIS CASE HE IS PRESENT,
14 HE WANTS TO WAIVE HIS PRESENCE, THERE'S A DIFFERENCE

15 THE COURT YES I KIND OF AGREE WITH THAT

16 MR KELLY IT'S NOT -- IT'S NOT A DEFENDANT BEING
17 BLIND SIDED BY THE PROSECUTION BECAUSE HE'S NOT SHOWN
18 UP FOR TRIAL

19 THE COURT I GUESS REALLY, I DON'T KNOW IF I CAN
20 MAKE MYSELF VERY CLEAR, IS WHEN YOU GIVE UP YOUR RIGHT
21 TO BE PRESENT, THE REAL QUESTION WOULD BE HAVE YOU
22 GIVEN UP YOUR RIGHT TO REPRESENT YOURSELF? TO GIVE
23 SOMEONE THE RIGHT TO REPRESENT THEMSELF SUGGESTS THE
24 PERSON WILL BE THERE TO DO THE REPRESENTING IT'S
25 SEPARATE FROM THE ACTUAL HAVING THE BODY THERE

STATE VS ALKEBULANYAHH

1 DOES THAT MAKE SENSE?

2 MR KELLY IT CERTAINLY DOES, YOUR HONOR AND
3 WHAT HE HAS SAID IS IF I'M PRESENT I'M NOT GOING TO DO
4 ANYTHING ON MY OWN BEHALF, AND I'M GOING TO BE
5 DISRUPTIVE

6 ON TOP OF THAT HE SAID, IF THE COURT WANTS TO DO
7 SOMETHING ABOUT IT, YOU'RE GOING TO HAVE TO DO IT
8 WITHOUT MY CONSENT

9 TO COMPOUND THE PROBLEM, STAND-BY COUNSEL HAS SAID
10 THAT IF THEY ARE RE-APPOINTED, THAT THEY WILL NOT BE
11 RESTRICTED BY HIS WISHES

12 - THE COURT WHY WOULD THAT BE?

13 MR KELLY WELL, BECAUSE ---

14 THE COURT IF YOU WERE APPOINTED TO REPRESENT
15 SOMEONE, WHY WOULDN'T YOU HAVE TO HONOR THEIR WISHES
16 NOT TO PRESENT EVIDENCE?

17 MR KELLY WELL JUDGE, IF -- IF HE IS NO LONGER
18 COUNSEL OF RECORD, HE'S NOT REPRESENTING PRO SE, AND
19 WE'RE APPOINTED TO REPRESENT HIM, THEN OUR DUTY WOULD
20 BE TO REPRESENT HIM AS FULLY AS POSSIBLE, GIVE HIM THE
21 BEST AND MOST COMPLETE DEFENSE WE COULD GIVE HIM WE
22 WOULDN'T HAVE ANY CHOICE BUT TO DO THAT

23 THE COURT WELL, BUT IF THE CLIENT IS FULLY
24 INFORMED OF THE CERTAIN TACTIC OR STRATEGY AND DOESN'T
25 WANT TO PURSUE THAT ---

STATE VS ALKEBULANYAHH

1 MR KELLY YOUR HONOR, I DON'T KNOW ABOUT ANYBODY
2 ELSE, BUT I'M NOT GOING TO DO THAT I DON'T CARE WHAT
3 MY CLIENT WANTS ME TO DO I'M GOING TO DO WHAT'S IN
4 HIS BEST INTEREST

5 THE COURT WELL, FOR EXAMPLE ON A CASE WHERE A
6 PERSON DOESN'T WANT TO TESTIFY, EVEN THOUGH IT MIGHT BE
7 IN THEIR BEST INTEREST

8 MR KELLY WELL, THAT'S DIFFERENT, JUDGE THAT'S
9 DIFFERENT BECAUSE HE'S GOT AN ABSOLUTE RIGHT WHETHER HE
10 WANTS TO TESTIFY OR NOT

11 THE COURT WHAT IF THEY DON'T WANT TO CALL A
12 FAMILY MEMBER?

13 MR KELLY I COULD ---

14 THE COURT YOU TELLING ME YOU DON'T HONOR THAT
15 REQUEST?

16 MR KELLY I COULD NOT HONOR THAT HE WOULD HAVE
17 TO REMOVE ME AS COUNSEL, BECAUSE I WOULD DEFINITELY
18 CALL THEM HE WOULD HAVE TO REMOVE ME I WOULD NOT DO
19 THAT

20 THE COURT THAT GOES TO MY INITIAL THING IN THE
21 COURTROOM THAT I WAS ASKING YOU ALL, WOULD THAT
22 INTERFERE WITH YOUR PROFESSIONAL DUTY -- PROFESSIONAL
23 RESPONSIBILITY DUTIES IF YOU HONOR THAT REQUEST
24 THAT'S WHAT I WAS ASKING

25 MR KELLY YOUR HONOR, I DON'T HAVE ANY PROBLEM

STATE VS ALKEBULANYAHH

1 IF WE'RE STAND-BY COUNSEL FOLLOWING THE DIRECTIONS OF
2 THE COURT IF IT'S IN AGREEMENT WITH THE DEFENDANT OR
3 NOT BUT IF WE ARE NOT STAND-BY COUNSEL BUT ACTUALLY
4 COUNSEL OF RECORD, THEN IF IT HAS TO DO WITH
5 PRESENTATION OF EVIDENCE, I'M NOT GOING TO BE LIMITED
6 TO THAT JUST BECAUSE MY CLIENT DOESN'T WANT HIS MOTHER
7 OR HIS SISTER OR HIS BROTHER OR AN EXPERT ON THE
8 WITNESS STAND I'M GOING TO CALL THEM, AND HE WILL
9 JUST HAVE TO REMOVE ME TO STOP ME FROM DOING IT,
10 BECAUSE THAT'S MY DUTY IF I'M NOT COUNSEL OF RECORD
11 AND HE REMAINS PRO SE THAT'S A DIFFERENT MATTER

12 - THE COURT ANYTHING ELSE?

13 MR STONE I AGREE WITH MR KELLY, FOR WHATEVER
14 THAT'S WORTH I THINK HE HAS AN ETHICAL DUTY TO BE
15 COMPETENT AND IF HIS CLIENT WILL NOT LET HIM BE
16 COMPETENT I THINK HE HAS AN ETHICAL DUTY TO REMOVE
17 HIMSELF I DON'T KNOW HOW THAT PLAYS

18 THE COURT WELL WHAT IS YOUR POSITION IF YOU ARE
19 APPOINTED TO REPRESENT YOURSELF AND YOU EXCUSE YOURSELF
20 FROM THE PROCEEDING, WHO'S DOING THE REPRESENTING?

21 MR STONE HE HAS A DUTY TO ONE OR THE OTHER MY
22 GUT REACTION WOULD BE THAT HE HAS TO DO ONE OR THE
23 OTHER, EITHER REPRESENT HIMSELF OR THEY REPRESENT HIM
24 I DON'T THINK THERE'S A HYBRID THERE, AND I THINK YOU
25 GET INTO ANOTHER ISSUE WITH HYBRID REPRESENTATION THAT

STATE VS ALKEBULANYAHH

1 WE HAVEN'T EVEN ADDRESSED

2 MR KELLY I HAVE TO AGREE WITH SOLICITOR STONE
3 IN THIS MATTER YOU SAID YOURSELF, JUDGE, THE
4 DEFENDANT HAS PLACED HIMSELF IN THE MIDST OF A HARD
5 DECISION IF HE CHOOSES NOT TO PUT UP EVIDENCE, IF
6 THAT'S UNWISE, THAT'S A DECISION THAT SAYS HE'S
7 COMPETENT TO MAKE IT, HE SIMPLY LIVES WITH

8 THE COURT ACTUALLY, THAT'S KIND OF WHAT I'VE
9 BEEN TRYING TO HIT ON IS THAT HE'S NOT HERE, THEN I
10 FEEL COMPELLED THAT I WOULD HAVE TO APPOINT SOMEONE I
11 DON'T THINK THAT -- I'M NOT SO SURE YOU ALL ARE
12 AGREEING A HUNDRED PERCENT, BECAUSE YOU SAY THAT STAND-
13 BY COUNSEL COULD APPEAR FOR HIM, AND I'M NOT SURE HE
14 AGREES WITH THAT

15 MR KELLY I THINK THE LAW SAYS THAT STAND-BY
16 COUNSEL CAN BE -- IF HE'S NOT IN THE ROOM -- UNDER THE
17 FACTS WE'RE TALKING ABOUT, CAN -- HAVE TO BE LIMITED TO
18 PROCEDURAL MATTERS

19 I'D HATE TO SEE IT HAPPEN TO HIM, JUDGE I DON'T
20 SEE WHAT ELSE IS REALLY GOING TO COME OUT OF THIS IF
21 HE CHOOSES NOT TO RELINQUISH HIS STATUS AS COUNSEL PRO
22 SE, THEN THERE HAS TO BE A BASIS TO REMOVE HIM FROM THE
23 SAYING, I'M NOT GIVING IT UP, BUT IF YOU WANT TO DO
24 SOMETHING ON YOUR OWN, GO AHEAD AND DO IT, THAT'S WHAT
25 HE'S SAYING IF I UNDERSTAND HIM CORRECTLY

STATE VS ALKEBULANYAHH

1 I THINK THE BENCH HAS TO MAKE THE DECISION AS TO
2 WHETHER OR NOT TO ALTER HIS STATUS

3 THE COURT THIS IS DEFINITELY NOT AN EASY
4 DECISION

5 MR MURDAUGH THE QUESTION IS DOES HE ALLOW THE
6 BENCH TO DO IT WHEN HE SAYS HE'S NOT GOING TO SHOW UP
7 UNLESS IT'S BY AGREEMENT OR WAIVER

8 THE COURT WELL, IF HE DOESN'T SHOW UP, MY GUT
9 REACTION IS I HAVE TO -- I MAY NEED TO APPOINT COUNSEL
10 THAT'S MY GUT REACTION OR IF HE HAS TO BE REMOVED --
11 TO HAVE TO SHOW UP AT SOME POINT

12 - MR THORNTON YOUR HONOR

13 THE COURT YES, SIR

14 MR THORNTON I HATE TO FURTHER COMPLICATE THE
15 MATTER BUT ONE THING THAT I AM VERY CONCERNED ABOUT
16 IS IF THE COURT DOES THEN APPOINT US, YOU KNOW WE'RE
17 LITERALLY TALKING ABOUT LESS THAN 24 HOURS

18 THE COURT YES SIR

19 MR THORNTON TO TRY -- YOU KNOW, THEN WE'RE
20 GOING TO BE JUDGED AS WHETHER OR NOT WE DID OUR JOB AS
21 COUNSEL WITH REALLY NO -- NO REAL WAY TO GET ANY
22 WITNESSES AND THE ONE OR TWO WE MIGHT BE ABLE TO GET,
23 MR ALKEBULANYAHH INFORMED US HE WILL NOT COOPERATE
24 WITH THEM

25 AND I AM VERY CONCERNED ABOUT HALF-WAY JOB BEING

STATE VS ALKEBULANYAHH

1 WORSE THAN NONE AT ALL IN OTHER WORDS, I'D BE SCARED
2 OF DOING MORE DAMAGE THAN -- OF COURSE, I'LL DO
3 WHATEVER THE COURT TELLS ME TO DO BUT I JUST WANTED
4 TO BRING THAT TO THE COURT'S ATTENTION THAT THAT IS A
5 CONCERN OF MINE WHEREAS, DOING A HALF-WAY JOB MIGHT
6 HAVE BEEN WORSE THAN NONE AT ALL

7 SOME TIMES THERE ARE SITUATIONS -- I DON'T KNOW I
8 COULD POINT TO ONE SPECIFICALLY FOR THIS PROCEEDING
9 BUT THERE ARE OCCASIONS WHERE YOU COULD DO MORE HARM
10 THAN GOOD

11 THE COURT WHAT IS YOUR POSITION ON IF COUNSEL IS
12 APPOINTED HONORING HIS REQUEST TO NOT CALL WITNESSES?

13 MR THORNTON JUDGE, I'D HAVE TO DEFER TO MR
14 KELLY AS SENIOR COUNSEL I THINK EVERYBODY IN HERE HAS
15 GOT A GOOD POINT I DON'T THINK THERE'S ANY
16 INFORMATION ON -- GRANTED, I'M NOT THE WORLD'S BEST
17 LEGAL RESEARCHER BUT I DON'T FIND ANYTHING REALLY ONE
18 WAY OR THE OTHER ON POINT

19 I THINK IT'S JUST GOING TO HAVE TO BE A JUDGMENT
20 CALL BY THE COURT

21 PERSONALLY, I WOULD DO WHATEVER THE COURT DIRECTS
22 ME TO DO I JUST WANTED TO BRING SOME OF THOSE
23 CONCERNS TO THE COURT'S ATTENTION

24 I'M AT THE COURT'S DISPOSAL I JUST -- I WANTED
25 THAT CONCERNED -- I WANTED THE COURT TO BE AWARE OF

STATE VS ALKEBULANYAHH

1 THAT CONCERN, BECAUSE THERE HAS BEEN NO MITIGATION PREP
2 IN THIS CASE IN THE LAST 80 DAYS -- 90 DAYS

3 MR KELLY 80 DAYS JUDGE WE BOTH FEEL THAT
4 WAY THE COURT -- WE'RE NOT IN A POSITION TO DO
5 ANYTHING EXCEPT WHAT WE'RE ORDERED TO DO AT THIS
6 MOMENT, NOR HAVE WE GONE OUTSIDE THOSE LINES OF
7 AUTHORITY AND WE ONLY WILL PERFORM THOSE THINGS AS
8 WE ARE ORDERED BY THE COURT TO DO

9 MR MURDAUGH IT'S MY UNDERSTANDING HE SAYS HE
10 HAS NO PROBLEM -- IF -- IF I HEARD HIM CORRECT -- WITH
11 HIM HANDLING PROCEDURAL MATTERS IN THE COURTROOM AND
12 MAKING AN ARGUMENT

13 THE COURT THAT'S TRUE BUT THEY'RE NOT COUNSEL,
14 THAT'S THE PROBLEM

15 MR MURDAUGH BUT THEY ARE STAND-BY COUNSEL
16 AND UNDER LAWRENCE, STAND-BY COUNSEL WAS GIVEN THAT
17 AUTHORITY

18 THE COURT WAS THE DEFENDANT STILL THERE?

19 MS TANNER HE VOLUNTARILY ABSENTED HIMSELF

20 THE COURT MAY I SEE THAT

21 (PAUSE)

22 THE COURT YOU SAY THIS IS THE ONE THAT WAS NOT
23 THE DEATH PENALTY CASE?

24 MR MURDAUGH NO, IT IS NOT A DEATH PENALTY CASE
25 IF YOUR HONOR, PLEASE

STATE VS ALKEBULANYAHH '

1 THE COURT DOES ANYONE HAVE THEIR RULE BOOK?

2 (PAUSE)

3 MR STONE IS THAT WHAT YOU'RE LOOKING FOR, YOUR
4 HONOR?

5 (PAUSE)

6 THE COURT IT SAYS, RULE 16 EXCEPT IN CASES
7 WHERE CAPITAL PUNISHMENT IS A PERMISSIBLE SENTENCE
8 THE PERSON INDICTED FOR MISDEMEANORS AND/OR FELONIES
9 MAY VOLUNTARILY WAIVE HIS RIGHT TO BE PRESENT AND MAY
10 BE TRIED IN HIS ABSENCE UPON A FINDING BY THE COURT
11 THAT SUCH PERSON HAS RECEIVED NOTICE OF HIS RIGHT TO
12 BE PRESENT WHEN WARNING WAS GIVEN OF THE TRIAL MAY
13 PROCEED IN HIS ABSENCE UPON THE FAILURE TO ATTEND
14 COURT

15 TO ME IT SOUNDS LIKE YOU CAN'T DO IT IN A CAPITAL
16 CASE

17 MR KELLY THAT'S WHAT IT SAYS

18 (PAUSE)

19 THE COURT THE RULES HAVE A SPECIFIC PROVISION
20 ABOUT WHEN YOU START WITH SOMEONE THERE AND THEN THEY
21 ABSENT THEMSELF /

22 MR MURDAUGH YES, SIR

23 (PAUSE)

24 THE COURT TOUGH DECISION THE REASON IT'S TOUGH
25 IS THAT I DON'T WANT THERE TO BE SOME TECHNICAL ERROR

STATE VS ALKEBULANYAHH

1 RIGHT AT THE LAST MINUTE

2 MR MURDAUGH YOUR HONOR, PLEASE I MIGHT ALSO
3 TELL THE COURT, DUE TO THE SHORT PERIOD OF TIME THIS
4 IS WHAT WE CAME UP WITH I HAVE CONTACTED THE ATTORNEY
5 GENERAL'S OFFICE, DON ZELENKA, AND ASKED HIM TO REVIEW
6 THIS AND REPORT BACK TO ME WHEN HE IS ABLE -- IF HE IS
7 ABLE TO FIND ANYTHING AND I'VE GIVEN HIM THE BENEFIT
8 OF WHAT I'VE FOUND

9 THE COURT DID ANYONE RUN A SEARCH OF RULE 16? I
10 THINK WE DID, I'M NOT SURE WE FOUND ANYTHING THAT WOULD
11 ADDRESS THAT

12 - MR THORNTON I DID NOT YOUR HONOR

13 THE COURT IT WOULD SEEM SO DIRECT IT REALLY --
14 EXCEPT IN CASES OF CAPITAL PUNISHMENT

15 WE MAY HAVE TO PROCEED AS I INDICATED EARLIER,
16 START AND SEE WHAT HAPPENS AND IF IT BECOMES
17 NECESSARY, I'LL HAVE TO HEAR WHAT YOUR POSITION IS AT
18 THAT TIME IF A BREAK IS NECESSARY, A BREAK WILL BE
19 NECESSARY I CAN'T SAY ONE WAY OR ANOTHER UNTIL I SEE
20 WHAT HAPPENS

21 TO ME, I JUST THINK THAT'S PROCEDURALLY THE BEST
22 ROUTE TO TAKE

23 MR MURDAUGH I THINK YOU'RE ABSOLUTELY CORRECT
24 HOPEFULLY, HE WILL NOT BE A DISTURBANCE, BECAUSE IT
25 WOULD BE DETRIMENTAL TO HIM AND HIS -- THE JURY MAKING

STATE VS ALKEBULANYAHH

1 A SENTENCE

2 THE COURT YES, SIR

3 MR ALKEBULANYAHH I WILL BE, SIR

4 THE COURT WELL, I THINK THAT'S THE BEST ROUTE TO
5 PROCEED BY

6 MR MURDAUGH IF -- IF ---

7 THE COURT AND IT'S NOT THAT I WOULD -- MR
8 ALKEBULANYAHH, YOU NEED TO UNDERSTAND, CERTAINLY THE
9 EASIEST THING IN THE WORLD FOR ME TO DO WOULD BE TO SAY
10 THAT YOU CAN CHOOSE TO BE THERE OR NOT BE THERE, THAT
11 -- I WOULD NORMALLY JUST SAY, THAT'S UP TO YOU
12 OBVIOUSLY, I'VE EXPLAINED TO YOU

13 AS I TOLD YOU AT THE START OF THIS CASE, I'M
14 A RULES PERSON AND THE RULES KIND OF SAY WHAT THEY
15 SAY AND IT DOESN'T MATTER WHETHER I AGREE WITH THEM
16 OR NOT I PERSONALLY -- OBVIOUSLY, THERE'S REASONS FOR
17 IT AND BETTER MINDS THAN MYSELF CAME UP WITH THESE
18 RULES

19 I OBVIOUSLY FEEL THAT ONCE YOU'VE STARTED THE CASE
20 AND YOU CHOOSE TO NOT PRESENT ANYTHING, WHETHER IT'S
21 FOOL-HARDY OR NOT, YOU HAVE THAT RIGHT IF YOU DON'T
22 WANT TO SAY ANYTHING YOU HAVE THAT RIGHT YOU HAVE
23 THE RIGHT TO NOT DO ANYTHING

24 WITHIN THAT PERHAPS SHOULD BE THE RIGHT TO NOT
25 EVEN BE THERE BUT THAT'S NOT THE WAY THE RULE IS

STATE VS ALKEBULANYAHH

1 WRITTEN

2 THERE'S NO DOUBT THAT SITTING AT THE TABLE YOU

3 DON'T HAVE TO SAY A WORD, THAT'S YOUR RIGHT TO NOT DO

4 THAT ALL I'M TALKING ABOUT IS WHETHER OR NOT I HAVE

5 TO REQUIRE THAT YOU BE AT THAT TABLE DO YOU

6 UNDERSTAND THAT?

7 MR ALKEBULANYAHH (NODS HEAD)

8 THE COURT AND IT VERY WELL MAY BE THAT I HAVE TO

9 -- THE RULES SEEMS TO BE WRITTEN THAT WAY

10 IF YOU DON'T WANT TO LOOK AT ANYONE, YOU DON'T

11 HAVE TO LOOK AT ANYONE IF YOU WANT TO TURN AND FACE

12 YOUR DAD IN THE AUDIENCE YOU CAN DO THAT, THAT'S UP TO

13 YOU BUT I MAY BE REQUIRED TO DO THAT

14 WOULD IT MAKE YOU FEEL MORE COMFORTABLE BEING IN

15 THERE IF I ALLOWED YOUR FATHER TO SIT WITH THE

16 INVESTIGATOR RIGHT THERE?

17 MR ALKEBULANYAHH NO

18 THE COURT ALL RIGHT I JUST WANTED TO OFFER I

19 THINK THAT'S HOW I'M GOING TO PROCEED

20 WHAT TIME DID I TELL THE JURY, 11 30?

21 MR MURDAUGH 11 30, YES SIR

22 THE COURT I'M GOING TO DIRECT THAT THE CASE

23 PROCEED I'M GOING TO RESPECT YOUR WISH INITIALLY THAT

24 YOU REPRESENT YOURSELF, MR ALKEBULANYAHH

25 THANK YOU VERY MUCH

STATE VS ALKEBULANYAHH

1 MR KELLY YOUR HONOR, WE HAVE AN EX PARTE
2 MATTER

3 THE COURT ALL RIGHT IF YOU ALL COULD JUST WAIT
4 IN THE COURTROOM THEN PLEASE, IN CASE SOMETHING ELSE
5 COMES UP

6 (PAUSE)

7 (THE FOLLOWING RECORD HAS BEEN SEALED BY THE
8 JUDGE, AND TO BE RELEASED ONLY UPON WRITTEN COURT ORDER
9 FROM THE PRESIDING JUDGE)

10 THE COURT MARK THIS AS EX PARTE, SEALED, LIKE
11 YOU DID THE OTHER ONE

12 - MR KELLY YOUR HONOR WE HAVE CONTACTED -- WHEN
13 I SAY WE I MEAN THE INVESTIGATORS, DALE DAVIS AND THE
14 OTHER INVESTIGATOR VICKY CHILDS -- ON MY INSTRUCTIONS
15 HAVE CONTACTED DR SCHWATZ-WATTS WHO WAS RETAINED ON A
16 COURT ORDER AND DR MCKEY (PHONETIC)

17 THE COURT YES

18 MR KELLY TELLING THEM THAT IT MIGHT BE
19 NECESSARY IF IT FITS THEIR SCHEDULE TO BE PRESENT AND
20 TO GIVE EVIDENCE

21 THE COURT YES

22 MR KELLY WE DID THAT IN ANTICIPATION THAT
23 PERHAPS THE ATTORNEYS ON STAND-BY WOULD BECOME THE
24 ATTORNEYS OF RECORD

25 THE COURT YES, SIR

STATE VS ALKEBULANYAHH

1 MR KELLY WE NEED SOME DIRECTION HERE, JUDGE,
2 BECAUSE THESE EXPERTS IF THEY TRAVEL DOWN HERE ARE
3 GOING TO PRESENT A BILL TO US

4 THE COURT WELL WHAT I'M SAYING, IF IT BECOMES
5 -- DON'T DO THAT NOW

6 MR KELLY WE'LL PULL BACK

7 THE COURT IF THAT'S HIS REQUEST IF IT BECOMES
8 NECESSARY AND I DO DO THAT, THEN I WILL CONSIDER THE
9 APPROPRIATE BREAK

10 MR KELLY SO THAT'S WHAT WE WANT TO HEAR, JUDGE

11 THE COURT TOMORROW THEY WILL BE PRESENTING THEIR
12 EVIDENCE, CORRECT?

13 MR KELLY YES SIR

14 THE COURT AND THEY SAID IT WILL TAKE UP TO A
15 DAY, AND GET THAT ALL RESOLVED

16 MR THORNTON YES, SIR

17 MR KELLY YES SIR, WE'LL DO THAT, AND THAT'S
18 WHAT WE WANTED TO KNOW

19 THE COURT ALL RIGHT

20 MR THORNTON THANK YOU YOUR HONOR

21 MR KELLY THANK YOU, YOUR HONOR

22 THE COURT THANK YOU WE'LL SEE YOU ALL
23 TOMORROW

24 MR KELLY THANK YOU

25 (END OF EX PARTE HEARING)

STATE VS ALKEBULANYAHH

1 (COURT IS IN RECESS)

2 (TUESDAY, OCTOBER 21, 2003)

3 (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)

4 THE COURT ALL RIGHT LET THE RECORD REFLECT ALL
5 PARTICIPANTS ARE HERE

6 MR ALKEBULANYAHH, I HAVE A FEW MORE THINGS I JUST
7 WANTED TO MAKE SURE THAT I HAD STRAIGHT IN MY MIND,
8 JUST FOR PURPOSES OF THE RECORD, BECAUSE PRETTY MUCH
9 I'VE BEEN TRYING TO HONOR YOUR REQUESTS THROUGHOUT

10 SOME TIME AGO WHEN I WENT THROUGH WITH YOU ALL THE
11 -- WENT THROUGH WITH YOU THE ADVANTAGES AND
12 DISADVANTAGES OF REPRESENTING YOURSELF I CAN'T
13 REMEMBER IF WE WERE IN FLORENCE OR CHARLESTON AND YOU
14 INDICATED TO ME THAT YOU UNDERSTOOD ALL THOSE THINGS AT
15 THE TIME WHEN I MADE THE DECISION TO ALLOW YOU TO
16 REPRESENT YOURSELF IS THAT CORRECT?

17 MR ALKEBULANYAHH THAT'S CORRECT

18 THE COURT NOW AND I ALSO ADVISED YOU THAT I DID
19 NOT THINK THAT WAS A WISE THING TO DO BUT YOU HAVE A
20 CONSTITUTIONAL RIGHT TO DO SO

21 AT THE TIME I TOLD YOU -- IF I RECALL CORRECTLY --
22 THAT EVEN THOUGH I WAS GRANTING YOUR REQUEST TO WAIVE
23 THE ASSISTANCE OF COUNSEL AND ALLOW YOURSELF TO
24 REPRESENT YOURSELF THAT IF FOR SOME REASON YOU CHANGED
25 YOUR MIND, TO LET ME KNOW DURING THE SENTENCING PHASE

STATE VS ALKEBULANYAHH

1 OF THE CASE

2 AND IF MY RECOLLECTION IS CORRECT, YOU INDICATED
3 THAT YOU WOULD THINK ABOUT THAT

4 I'M SURE WE'VE BEEN OVER THIS BEFORE BUT I NEED
5 TO MAKE SURE FOR THE RECORD THAT YOU UNDERSTOOD
6 EVERYTHING I INDICATED ABOUT THE ADVANTAGES AND
7 DISADVANTAGES -- THAT WOULD ALL APPLY EQUALLY TO THIS
8 PHASE OF THE TRIAL

9 I MEAN, THE SOLICITOR MAY TRY TO PRESENT EVIDENCE
10 THAT MAY NOT BE ADMISSIBLE, I DON'T KNOW THERE MAY BE
11 CERTAIN EVIDENCE THAT YOU DON'T KNOW TO PRESENT THAT
12 YOUR ATTORNEYS COULD ADVISE YOU ABOUT, WITNESS
13 INFORMATION, THERE MAY BE CERTAIN EVIDENTIARY MATTERS
14 THAT YOU'RE NOT AWARE OF THERE MAY BE CERTAIN RULINGS
15 THAT NEED LEGAL ARGUMENT OR LEGAL ARGUMENT COULD AFFECT
16 THOSE RULINGS THAT YOU WOULD NOT KNOW TO MAKE AND,
17 ESPECIALLY IN THE SENTENCING PHASE OF THE TRIAL WHEN
18 YOU CAN HAVE SUCH A SEVERE IMPACT BECAUSE THEY'RE
19 TALKING ABOUT LIFE AND DEATH

20 DO YOU REMEMBER WHEN WE WENT OVER THOSE ADVANTAGES
21 AND DISADVANTAGES?

22 MR ALKEBULANYAHH YES SIR, I THINK I RECALL
23 THE COURT NOW, EVERYTHING YOU HAVE TOLD ME IS
24 THAT YOU DO NOT WANT COUNSEL TO REPRESENT YOU IN ANY
25 WAY WHATSOEVER, IS THAT CORRECT?

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH YES

2 THE COURT NOW, JUST SO I KNOW TO SATISFY MYSELF,
3 YOU WAIVE COUNSEL AS TO THIS PHASE ALSO?

4 MR ALKEBULANYAHH YES, SIR

5 THE COURT AND YOU DO REMEMBER EVERYTHING THAT
6 I'VE INDICATED ABOUT HOW THAT COULD BE VERY DETRIMENTAL
7 TO YOU?

8 MR ALKEBULANYAHH YES, SIR

9 THE COURT AND I CAN'T EMPHASIZE ENOUGH THAT I
10 WOULD NOT DO THAT, THAT WE ARE TALKING ABOUT A LIFE OR
11 DEATH SENTENCE AND, ACTUALLY, NOT JUST LIFE OR DEATH
12 THEORETICALLY, IF A JURY WERE SUCCESSFULLY CONVINCED
13 THAT THERE WERE NO AGGRAVATING CIRCUMSTANCES OR THEY
14 DID NOT RETURN A FINDING THAT THERE ARE ANY AGGRAVATING
15 CIRCUMSTANCES THE POSSIBILITY OF A 30 YEAR SENTENCE IS
16 AVAILABLE, DO YOU UNDERSTAND THAT?

17 MR ALKEBULANYAHH YES, SIR

18 THE COURT AND KNOWING ALL THESE THINGS THAT
19 WE'VE PREVIOUS -- I THINK WE'VE BEEN OVER THOSE FORETTA
20 (PHONETIC) FACTORS OR THE ADVANTAGES AND DISADVANTAGES
21 IN TWO SEPARATE HEARINGS, KNOWING ALL THAT, DO YOU
22 STILL WISH TO PROCEED WITHOUT COUNSEL?

23 MR ALKEBULANYAHH YES, SIR

24 THE COURT ARE YOU SURE?

25 MR ALKEBULANYAHH YES, SIR

STATE VS ALKEBULANYAHH

1 THE COURT ALL RIGHT AS I INDICATED BEFORE IN
2 THE PRIOR PROCEEDINGS, THAT I DON'T THINK IT'S A WISE
3 DECISION, BUT THE DEFENDANT HAS THAT CONSTITUTIONAL
4 RIGHT NOTWITHSTANDING THE VERDICTS IN THE FIRST PHASE
5 OF THE TRIAL THE DEFENDANT DID HANDLE ALL THE
6 PROCEEDINGS FAIRLY WELL AND I DON'T SEE A REASON TO
7 CHANGE MY DECISION AT THIS POINT, ALTHOUGH THE
8 DEFENDANT HAS INDICATED TO ME THAT THIS PART OF THE
9 TRIAL IS NOT SOMETHING HE WANTS TO ENGAGE IN

10 I THINK THE DEFENDANT HAS THE CONSTITUTIONAL RIGHT
11 TO MAKE A DECISION WHEN HE DOES NOT WISH TO PRESENT
12 CERTAIN INFORMATION OR NO INFORMATION AT ALL, EVEN
13 THOUGH THAT MAY NOT BE A WISE DECISION

14 MR MURDAUGH EXCUSE ME, SIR

15 THE COURT NOW, DURING THIS PHASE OF THE TRIAL
16 DO YOU WISH FOR STAND-BY COUNSEL TO ASSIST YOU IN ANY
17 WAY?

18 MR ALKEBULANYAHH THERE'S NO -- NO MORE THAN --
19 YOU KNOW NO MORE THAN THEIR PRESENCE AND LIKE I
20 SAID, I DON'T WANTS TO BE ENGAGED IN THAT -- IN THIS
21 PARTICULAR PROCEEDING IN NO FORM, SHAPE, OR FASHION

22 THE COURT MAY THEY BE PERMITTED TO -- WE TALKED
23 ABOUT THIS YESTERDAY DO YOU HAVE ANY OBJECTION TO
24 STAND-BY COUNSEL MAKING DECISIONS ABOUT THE
25 INTRODUCTION OF EVIDENCE AND MAKING THE CLOSING

STATE VS ALKEBULANYAHH

1 STATEMENT IF NECESSARY OR MAKING ANY OBJECTIONS IF THE
2 SOLICITOR ATTEMPTS TO INTRODUCE ANYTHING IMPROPER?

3 MR ALKEBULANYAHH NO, SIR, I HAVE NO OBJECTIONS
4 TO THAT

5 THE COURT MAY THEY ASSIST YOU IN THAT REGARD?

6 MR ALKEBULANYAHH YES, SIR, THEY CAN

7 THE COURT ALL RIGHT STAND-BY COUNSEL, IF YOU
8 WILL ASSIST HIM IN THAT REGARD

9 MR KELLY WE WILL, YOUR HONOR

10 THE COURT AND I WILL -- CONSISTENT WITH THAT --
11 APPROVE -- I WILL AUTHORIZE YOU TO STAND AND MAKE AN
12 OBJECTION IF NECESSARY OKAY?

13 MR KELLY YES, SIR

14 THE COURT YOU MAY COORDINATE ANY STIPULATIONS
15 ABOUT THE EVIDENCE AS INDICATED BY THE DEFENDANT

16 IS THAT OKAY MR ALKEBULANYAHH?

17 MR ALKEBULANYAHH YES, SIR, THAT'S -- THAT'S --
18 THAT'S OKAY

19 THE COURT ALL RIGHT

20 (PAUSE)

21 THE COURT I DON'T MEAN TO KEEP TAKING YOU
22 THROUGH THIS MR ALKEBULANYAHH IT'S JUST THAT ---

23 MR ALKEBULANYAHH OH, IT'S FINE, YOUR HONOR,
24 RESPECTFULLY

25 THE COURT OBVIOUSLY, IT'S JUST NOT SOMETHING I

STATE VS ALKEBULANYAHH

1 TAKE LIGHTLY LIFE OR DEATH I REALLY JUST WANT TO
2 MAKE SURE THAT ALL THE I'S ARE DOTTED AND THE T'S ARE
3 CROSSED JUST ON YOUR OWN BEHALF OBVIOUSLY, I'M NOT
4 YOUR REPRESENTATIVE

5 MR ALKEBULANYAHH I APPRECIATE THAT
6 THE COURT BUT IT'S A SIGNIFICANT PENALTY SO I
7 DON'T TAKE IT LIGHTLY -- I DON'T THINK ANYONE IN THE
8 ROOM TAKES IT LIGHTLY, TO TELL YOU THE TRUTH ALL
9 RIGHT

10 MR ALKEBULANYAHH YOUR HONOR

11 THE COURT HAVING ---

12 - MR ALKEBULANYAHH YOUR HONOR

13 THE COURT YES SIR

14 MR ALKEBULANYAHH MAY I? I WANT TO MAKE CLEAR
15 FOR THE RECORD THAT -- THAT I WOULD LIKE TO MOTION THE
16 COURT TO HAVE ALL PRETRIAL PROCEEDINGS AND TRIAL
17 PROCEEDINGS AND POST-TRIAL PROCEEDING TRANSCRIPTS OF
18 THEM PROCEEDINGS FOR ME FOR APPELLATE REASONS

19 THE COURT ONCE THE APPEAL IS FILED, DOESN'T THE
20 APPELLATE DEFENSE AUTOMATICALLY MAKE THOSE REQUESTS FOR
21 THE TRANSCRIPTS?

22 MR KELLY IT'S ALWAYS BEEN MY EXPERIENCE

23 THE COURT I BELIEVE ONCE YOUR APPEAL IS FILED,

24 MR ALKEBULANYAHH ---

25 MR ALKEBULANYAHH YES, SIR

STATE VS ALKEBULANYAHH

1 THE COURT --- THE OFFICE OF APPELLATE DEFENSE
2 WILL TAKE OVER HANDLING YOUR APPEAL THAT'S ALL THEY DO
3 IS HANDLE APPEALS

4 MR ALKEBULANYAHH OKAY

5 THE COURT AND THAT SHOULD BE ROUTINE PRACTICE
6 THAT THEY WILL DO THAT

7 NOW, IT'S NOT A MATTER BEFORE ME, BUT ONCE -- YOUR
8 STAND-BY COUNSEL CAN ASSIST -- AND YOU ALL CAN FILE
9 THAT NOTICE OF APPEAL?

10 MR KELLY YES, YOUR HONOR

11 THE COURT DO YOU HAVE ANY PROBLEM WITH THAT?

12 - MR ALKEBULANYAHH NO, SIR

13 THE COURT BECAUSE IT HAS TO BE DONE WITHIN A
14 CERTAIN PERIOD OF TIME ETCETERA

15 MR ALKEBULANYAHH NO SIR

16 THE COURT NOW I'LL GO AHEAD AND TELL YOU THAT I
17 DON'T KNOW IF YOU'RE INTENDING TO REPRESENT YOURSELF ON
18 APPEAL I WOULD NOT ADVISE THAT AGAIN, THAT INVOLVES
19 A TRICKY SET OF RULES AND PROCEDURES AND MAKING SURE
20 EVERYONE GETS SERVED WITH COPIES OF EVERYTHING

21 MR ALKEBULANYAHH IT'S NOT MY INTENTIONS

22 THE COURT AND THEY ARE VERY PARTICULAR ABOUT HOW
23 THEY CAN -- I HAVE A LITTLE MORE FLEXIBILITY AND, YOU
24 KNOW, BEING A LITTLE LIBERAL AT TIMES BUT A LOT OF
25 THE ABILITY THEY HAVE TO MAKE DECISIONS HINGES ON

STATE VS ALKEBULANYAHH

1 THINGS BEING DONE IN A PRECISE TIME FRAME, ETCETERA
2 SO I JUST GIVE YOU THAT ADVICE AT THIS POINT
3 MR ALKEBULANYAHH THANK YOU
4 THE COURT THAT IF YOU DO APPEAL, I WOULD URGE
5 YOU TO USE THE SERVICES OF THE OFFICE OF APPELLATE
6 DEFENSE, BECAUSE THEY ARE EXPERIENCED IN THAT AND
7 THAT'S ALL THEY DO
8 STAND-BY COUNSEL, CAN YOU THINK OF ANYONE ELSE I
9 NEED TO ADDRESS?
10 MR KELLY I CAN THINK OF NOTHING ELSE, YOUR
11 HONOR
12 MR THORNTON NO YOUR HONOR
13 THE COURT OKAY THEN I'LL -- SOLICITOR YOU
14 CAN GO AHEAD BACK INTO THE COURTROOM
15 MR MURDAUGH OKAY, SIR
16 THE COURT THEN YOU ALL CAN GO THANK YOU
17 MR THORNTON ARE WE FREE TO GO?
18 THE COURT YES SIR
19 MR THORNTON THANK YOU SIR
20 MR KELLY THANK YOU, YOUR HONOR
21 (END OF IN CAMERA HEARING)
22 MR MURDAUGH JUDGE, MAY I ADDRESS THE COURT
23 ABOUT ONE MATTER? IS IT MY UNDERSTANDING THAT THE
24 SEQUESTRATION ORDER FOR THE WITNESSES THAT WE WILL CALL
25 TODAY WILL REMAIN IN EFFECT, SIR?

STATE VS ALKEBULANYAHH

1 THE COURT YES, SIR
2 (PAUSE)
3 MR MURDAUGH YOUR HONOR PLEASE, A LITTLE
4 CLARIFICATION
5 THE COURT YES, SIR
6 MR MURDAUGH WE HAVE A NUMBER OF FAMILY MEMBERS
7 THAT WILL TESTIFY
8 THE COURT YES, SIR
9 MR MURDAUGH DO I UNDERSTAND THAT UNDER THE
10 VICTIMS WITNESS BILL OF RIGHTS, THAT THEY WOULD HAVE A
11 RIGHT TO REMAIN IN HERE?
12 - THE COURT THE IMMEDIATE FAMILY?
13 MR MURDAUGH THE IMMEDIATE IN BROTHERS, SISTERS,
14 AND PARENTS
15 THE COURT YES SIR ANY OBJECTION? ANY
16 OBJECTION?
17 MR THORNTON NONE THAT I'M AWARE OF, YOUR HONOR,
18 AT THIS TIME NO OBJECTION
19 MR MURDAUGH BROTHER, SISTERS, AND PARENTS
20 COVERED -- AND WIVES I'M SORRY, IF YOUR HONOR,
21 PLEASE
22 (PAUSE)
23 MR MURDAUGH YOUR HONOR WE HAVE THE ISSUE OF
24 THE NAMES OF THE SUBSTITUTE WITNESSES AND THE TWO
25 ADDITIONS

STATE VS ALKEBULANYAHH

1 THE COURT DOES HE HAVE THAT LIST?
2 MR STONE NO I CAN WRITE IT OUT AGAIN, SIR
3 OFFICER YOUR HONOR, THE JURY IS READY
4 THE COURT JUST ONE MINUTE
5 (PAUSE)
6 MR STONE YOUR HONOR, PLEASE FORGIVE MY
7 HANDWRITING I HAVE WRITTEN THOSE OUT WITH THE -- WITH
8 THEIR HOME TOWNS ALONG SIDE, AND I HAVE SHOWN IT TO
9 STAND-BY COUNSEL
10 THE COURT ANY OBJECTION?
11 MR THORNTON YOUR HONOR, AT THIS TIME WE RESERVE
12 ANY-OBJECTION UNTIL AFTER THE JURY IS INQUIRED
13 THE COURT OKAY BRING THE JURY IN PLEASE
14 (THE JURY RETURNS TO THE COURTROOM AT 11 37 A M)
15 THE COURT THANK YOU PLEASE BE SEATED
16 GOOD MORNING LADIES AND GENTLEMEN
17 JURORS GOOD MORNING
18 THE COURT LADIES AND GENTLEMEN, I NEED TO ASK
19 YOU -- POLL YOU ABOUT A FEW DIFFERENT INDIVIDUALS TO
20 MAKE SURE NONE OF YOU ARE RELATED TO ANY OF THESE
21 INDIVIDUALS BY BLOOD, MARRIAGE OR HAVE ANY SOCIAL,
22 BUSINESS, OR PROFESSIONAL CONTACT WITH ANY OF THESE
23 INDIVIDUALS
24 KENYA WILLIAMS OF COLUMBUS, OHIO, MONIQUE RUIZ OF
25 PERU, INDIANA BILL MONROE OF ALBANY, GEORGIA, CHERRY

STATE VS ALKEBULANYAHH

1 CARLSON (PHONETIC) OF TALLAHASSEE, FLORIDA, AND DAVID
2 BURNETTE OF CHARLESTON SOUTH CAROLINA

3 DOES ANYONE HAVE ANY CONNECTION TO ANY OF THESE
4 INDIVIDUALS WHATSOEVER? IF YOU DO NOT HAVE ANY
5 CONNECTION WHATSOEVER TO ANY OF THESE INDIVIDUALS,
6 RAISE YOUR HAND

7 (ALL HANDS WERE RAISED)

8 THE COURT LET THE RECORD REFLECT THAT ALL HAVE
9 RAISED THEIR HAND
10 ANYTHING FURTHER?

11 MR THORNTON NOTHING FROM THE DEFENSE, YOUR
12 HONOR

13 MR STONE NOTHING FROM THE STATE, YOUR HONOR

14 THE COURT ALL RIGHT LADIES AND GENTLEMEN, AS I
15 TOLD YOU AT THE BEGINNING OF THIS CASE IF THE CASE
16 MOVED INTO THE SECOND PHASE, IT WOULD BECOME NECESSARY
17 FOR US TO HAVE THIS ADDITIONAL PROCEEDING TO DETERMINE
18 THE PUNISHMENT THAT THE COURT WILL IMPOSE UPON THE
19 DEFENDANT

20 SO OUR PURPOSE IN CONDUCTING THIS PROCEEDING --
21 FOR PURPOSES OF CONDUCTING THIS PROCEEDING, YOU WILL BE
22 ASKED TO RECOMMEND TO THIS COURT WHETHER I SHOULD
23 SENTENCE THE DEFENDANT TO DEATH OR TO LIFE IMPRISONMENT
24 WITHOUT PAROLE

25 NOW, DURING THIS SENTENCING PROCEEDING, YOU WILL

STATE VS ALKEBULANYAHH

1 -- YOU MAY HEAR EVIDENCE IN AGGRAVATION, EXTENUATION
2 OR MITIGATION AND BOTH SIDES WILL HAVE AN OPPORTUNITY
3 TO PRESENT ARGUMENTS FOR AND AGAINST THE APPROPRIATE
4 PENALTY

5 NOW, YOUR -- YOU -- SHOULD YOU RECOMMEND A
6 SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE OR SHOULD
7 YOU RECOMMEND A SENTENCE OF DEATH, THAT IS THE ISSUE
8 THAT IS THE ONLY ISSUE INVOLVED IN THESE PROCEEDINGS
9 THE SENTENCE THAT YOU RECOMMEND WILL BE IMPOSED BY THE
10 COURT

11 NOW, AFTER THE LAST ARGUMENT HAS BEEN MADE TO YOU
12 CONCERNING THE PUNISHMENT THAT SHOULD BE IMPOSED UPON
13 THE DEFENDANT, THE COURT WILL GIVE YOU ADDITIONAL LEGAL
14 INSTRUCTIONS ABOUT THIS -- THIS PHASE OF THE TRIAL,
15 ABOUT THIS PROCEEDING AND WHAT -- WHAT YOU HAVE TO
16 CONSIDER AND MAKE FINDINGS ABOUT AND I'LL GO OVER ALL
17 THAT AT THE CONCLUSION OF THIS PHASE AT THAT POINT, I
18 WILL THEN RELEASE YOU TO BEGIN YOUR DELIBERATIONS ON
19 THIS PHASE OF THE CASE

20 NOW, WITH THOSE BRIEF MATTERS, THOSE BRIEF
21 INSTRUCTIONS, WE'RE GOING TO GO RIGHT INTO THE
22 TESTIMONY

23 GO AHEAD PLEASE

24 MR STONE THANK YOU YOUR HONOR IF IT PLEASE
25 THE COURT, THE STATE CALLS GARY PETERS GARY PETERS

STATE VS ALKEBULANYAHH

1 (PAUSE)

2 MR STONE YOUR HONOR, AS MR PETERS COMES IN
3 OUT OF AN ABUNDANCE OF CAUTION, WE MOVE THE STATE'S
4 EXHIBITS FROM THE ACTUAL TRIAL INTO THIS PHASE I
5 DON'T KNOW THAT THAT'S NECESSARY, BUT I THINK JUST OUT
6 OF AN ABUNDANCE OF CAUTION

7 THE COURT ANY OBJECTION?

8 MR THORNTON NO OBJECTION, YOUR HONOR

9 THE COURT ALL RIGHT SO ORDERED

10 (STATE'S EXHIBITS FROM THE GUILT PHASE WERE
11 INTRODUCED INTO THE SENTENCE PHASE)

12 - GARY F PETERS, BEING FIRST
13 DULY SWORN, TESTIFIED AS FOLLOWS

14 DIRECT EXAMINATION BY MR. STONE.

15 Q MR PETERS IF YOU COULD STATE YOUR FULL NAME AND
16 SPELL YOUR LAST NAME?

17 MR ALKEBULANYAHH BLESSED BE YAHWEH, EL SHADDAI,
18 JEHOVAH, GOD ALMIGHTY, THE GOD OF ABRAHAM, ISAAC,
19 ISHMAEL, JACOB, AND JESUS

20 THE COURT TAKE A SEAT PLEASE THANK YOU
21 GO AHEAD

22 Q STATE YOUR LAST -- STATE YOUR FULL NAME AND SPELL
23 YOUR LAST NAME FOR THE RECORD PLEASE?

24 MR ALKEBULANYAHH BLESSED BE YAHWEH ---

25 THE COURT TAKE A SEAT PLEASE ---

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH --- EL SHADDAI ---
2 THE COURT --- MR ALKEBULANYAHH
3 MR ALKEBULANYAHH --- JEHOVAH, GOD ALMIGHTY, THE
4 GOD OF ABRAHAM, ISAAC, ISHMAEL, AND JACOB, AND JESUS
5 THE COURT ALL RIGHT LET'S HAVE A PROCEEDING IN
6 THE BACK PLEASE TAKE THE DEFENDANT
7 (THE DEFENDANT IS REMOVED FROM THE COURTROOM)
8 MR THORNTON YOUR HONOR, IF IT PLEASE THE COURT
9 THE COURT YES, SIR
10 (THE JURY EXITS THE COURTROOM AT 11 42 A M)
11 MR THORNTON BEFORE RETIRING TO THE BACK, YOUR
12 HONOR, CAN WE GO AHEAD -- AND I WANTED TO REMIND THE
13 STATE OF THE STIPULATION ABOUT ALL THE TESTIMONY FROM
14 THE PREVIOUS PROCEEDING AS WELL BEING ADMITTED INTO
15 THIS PHASE OF THE TRIAL, SIR?
16 THE COURT WHEN WE COME BACK ON THE RECORD, WE
17 CAN DO THAT
18 MR THORNTON YES, YOUR HONOR
19 (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)
20 THE COURT MR ALKEBULANYAHH, I WANT TO REMIND
21 YOU ABOUT THE COURT'S INSTRUCTIONS ABOUT BEING
22 DISRUPTIVE OR UNRULY DO YOU RECALL THOSE
23 INSTRUCTIONS?
24 MR ALKEBULANYAHH YES, SIR YOUR HONOR
25 THE COURT ALL RIGHT DO YOU INTEND TO CONTINUE

STATE VS ALKEBULANYAHH

1 THIS?

2 MR ALKEBULANYAHH YES, SIR, YOUR HONOR

3 THE COURT IS THERE A REASON FOR THAT?

4 MR ALKEBULANYAHH I DO NOT WISH TO ENGAGE IN THE
5 PROCEEDINGS

6 THE COURT WELL, IF YOU -- I'VE ALREADY WARNED
7 YOU PREVIOUSLY ABOUT DOING THAT, AND YOU DID IT
8 CONTRARY TO MY INSTRUCTIONS I'M NOT SO SURE IF ANY
9 FURTHER WARNING IS NECESSARY

10 I'M GOING TO DIRECT THAT THE COURTROOM BE -- I'M
11 GOING TO GIVE YOU ONE LAST WARNING TO NOT DO IT, MR
12 ALKEBULANYAHH IF YOU DO IT AGAIN, I'M NOT GOING TO
13 REMOVE YOU FROM THE COURTROOM I'M GOING TO PUT YOU IN
14 THE BACK ROOM WHERE YOU CAN HEAR THE TESTIMONY AND THE
15 PROCEEDINGS AS YOU WISH THE GLASS PANEL WILL ALLOW
16 YOU TO WATCH THE PROCEEDINGS COMPLETELY IF YOU WISH
17 TO TURN YOUR BACK ON THE PROCEEDINGS, YOU HAVE THAT
18 RIGHT

19 DO YOU UNDERSTAND?

20 MR ALKEBULANYAHH I WILL BE NOISY BACK THERE

21 THE COURT NO, YOU WILL NOT BE NOISY BACK THERE
22 WE HAVE WAYS TO DEAL WITH THAT TOO YOU HAVE A RIGHT
23 TO WATCH THIS TRIAL IF YOU WANT TO TURN YOUR BACK,
24 THAT'S YOUR RIGHT

25 BUT YOUR PRESENCE IN SOME WAY OR ANOTHER IS

STATE VS ALKEBULANYAHH

1 REQUIRED AND I PREFER THAT YOU BE IN THERE AND
2 CONDUCT YOURSELF IN A CIVILIZED FASHION

3 IF I HAVE TO, I WILL PUT YOU IN THAT BACK ROOM SO
4 YOU CAN WATCH AS YOU DEEM APPROPRIATE, BUT YOU CANNOT
5 DISRUPT THE PROCEEDINGS IF THAT MEANS I HAVE TO HAVE
6 YOU SHACKLED OR GAGGED, I WILL DO THAT DO YOU
7 UNDERSTAND?

8 MR ALKEBULANYAHH (NODS HEAD)

9 THE COURT DO YOU UNDERSTAND?

10 MR ALKEBULANYAHH YOUR HONOR, YOU HAVE SAID
11 YOU HAVE SPOKEN, YOUR HONOR

12 - THE COURT ALL RIGHT LET'S CONTINUE THERE
13 WILL BE NO FURTHER NOTICE

14 (PAUSE)

15 THE COURT JUST FOR PURPOSES OF THE RECORD, THE
16 DEFENDANT STOOD UP AS THE WITNESS TOOK THE STAND AND
17 STARTED BLURTING OUT THE LANGUAGE THE RECORD REFLECT --
18 TWICE

19 (END OF IN CAMERA HEARING)

20 THE COURT BRING THE DEFENDANT IN PLEASE

21 (THE DEFENDANT ENTERS THE COURTROOM)

22 MR THORNTON YOUR HONOR, IF IT PLEASE THE COURT
23 AT SOME POINT WHEN THE COURT DEEMS APPROPRIATE SIR,
24 I'D ASK FOR A CURATIVE INSTRUCTION REGARDING THE -- ANY
25 MATTERS THAT MAY COME UP DO WE NEED INSTRUCTIONS FOR

STATE VS ALKEBULANYAHH

1 ANY OUTBURSTS OF ANY KIND?

2 THE COURT YES SIR

3 MR THORNTON AND PART OF THAT, OF COURSE, YOUR
4 HONOR, I WOULD ASK THAT THAT -- THEY BE INSTRUCTED NOT
5 TO HOLD ANY OF THAT AGAINST THE ---

6 THE COURT YES SIR I PLAN ON THAT

7 MR THORNTON THANK YOU, SIR

8 THE COURT YOU HAD ANOTHER MOTION?

9 MR THORNTON YES, YOUR HONOR WE HAD INDICATED
10 IN A PREVIOUS HEARING THAT WE WOULD ASK THAT A
11 STIPULATION BE REACHED FOR ARGUMENT PURPOSES, SIR, THAT
12 ALL-PREVIOUS TESTIMONY IN THE GUILT PHASE OF THE TRIAL
13 BE ENTERED INTO THE SENTENCING PHASE OF THE TRIAL AND
14 I BELIEVE THAT THE SOLICITOR HAD NO OBJECTION TO THAT
15 SIR

16 MR STONE AND I THOUGHT THAT'S WHAT WE HAD DONE
17 PRIOR ---

18 THE COURT YOU SAID EXHIBITS

19 MR STONE OH DID I SAY EXHIBITS? I'M SORRY
20 ALL EVIDENCE AND EXHIBITS I APOLOGIZE

21 THE COURT ALL RIGHT SO ORDERED

22 MR THORNTON THANK YOU

23 THE COURT ALL RIGHT BRING THE JURY IN PLEASE

24 (PAUSE)

25 THE COURT ALL EXHIBITS, STATE AND DEFENSE?

STATE VS ALKEBULANYAHH

1 MR THORNTON YES, YOUR HONOR

2 THE COURT ALL RIGHT

3 (THE JURY RETURNS TO THE COURTROOM AT 11 52 A M)

4 THE COURT THANK YOU PLEASE BE SEATED ALL
5 RIGHT LADIES AND GENTLEMEN, WE ARE READY TO PROCEED

6 OBVIOUSLY, THIS CASE INVOLVES A LOT OF DIFFERENT
7 ISSUES, DIFFERENT EMOTIONS ANY KIND OF OUTBURST,
8 LADIES AND GENTLEMEN, WHETHER IT COMES FROM THIS SIDE
9 OF THE BAR OR FROM THIS SIDE OF THE BAR AS FAR AS THE
10 PARTICIPANTS, OR THE OTHER SIDE OF THE BAR AS FAR AS
11 THE AUDIENCE, PLEASE REMEMBER YOU MUST NOT CONSIDER
12 THAT IN ANY WAY WHATSOEVER IN -- IN YOUR DETERMINATION
13 OF ANY OF THE ISSUES IN THIS PROCEEDING

14 GO AHEAD HAS THE WITNESS BEEN SWORN?

15 MR STONE I BELIEVE HE HAS MADAM CLERK, HAS HE
16 BEEN SWORN?

17 THE CLERK YES, HE HAS

18 THE COURT GO AHEAD PLEASE

19 MR STONE THANK YOU THANK YOU, YOUR HONOR

20 THE COURT STATE YOUR NAME FOR THE RECORD, SIR

21 THE WITNESS GARY FRANKLIN PETERS

22 DIRECT EXAMINATION BY MR. STONE.

23 Q HOW DO YOU SPELL YOUR LAST NAME SIR?

24 A P-E-T-E-R-S

25 Q OKAY WHERE DO YOU LIVE, MR PETERS?

STATE VS ALKEBULANYAHH

1 A JACKSONVILLE, FLORIDA

2 Q HOW LONG HAVE YOU LIVED IN JACKSONVILLE, FLORIDA?

3 MR ALKEBULANYAHH BLESSED BE YAHWEH, EL SHADDAI,
4 JEHOVAH, GOD ALMIGHTY, THE GOD OF ABRAHAM, ISAAC,
5 ISHMAEL, JACOB, AND JESUS

6 THE COURT PLEASE BE SEATED MR ALKEBULANYAHH
7 LADIES AND GENTLEMEN, I'LL SEND YOU BACK TO THE
8 JURY ROOM DO NOT DISCUSS THIS IN ANY WAY THANK YOU
9 VERY MUCH

10 CLEAR THE COURTROOM PLEASE

11 (THE JURY EXITS THE COURTROOM AT 11 55 A M)

12 - (PAUSE)

13 THE COURT LET THE RECORD REFLECT THAT THE
14 DEFENDANT ONCE AGAIN HAS DISRUPTED THESE PROCEEDINGS
15 WITH HIS OUTBURST CONTRARY TO THE COURT'S PREVIOUS
16 WARNINGS THE COURT SAID IT WOULD NOT GIVE HIM FURTHER
17 WARNING

18 THE COURT WILL PLACE HIM IN A ROOM AT THE BACK OF
19 THE COURTROOM THAT HAS A GLASS PARTITION TO ALLOW HIM
20 TO HEAR ALL OF THE PROCEEDINGS HE CAN ALSO SEE THE
21 PROCEEDINGS AS HE DESIRES THERE'S A SYSTEM THAT FEEDS
22 INTO THE ROOM THAT ALLOWS HIM TO HEAR ALL OF THE
23 TESTIMONY

24 PREVIOUSLY THE DEFENDANT INDICATED HE DID NOT WISH
25 TO BE IN HERE HE HAS AUTHORIZED STAND-BY COUNSEL TO

STATE VS ALKEBULANYAHH

1 INTERJECT OBJECTIONS, HANDLE THE EXHIBITS, AND MAKE THE
2 CLOSING STATEMENT IF NECESSARY

3 BECAUSE HE CONTINUES TO MAINTAIN THAT HE WILL
4 CONSTANTLY INTERRUPT THESE PROCEEDINGS THE COURT HAS
5 TAKEN THIS ACTION

6 THE COURT HAS ALSO WARNED THE DEFENDANT THAT IF
7 NECESSARY HE WILL BE GAGGED

8 WE WILL PUT HIM BACK IN THE ROOM AND SEE IF HE --
9 IF HE HAS ANOTHER OUTBURST THEN AT THAT POINT WE WILL
10 TAKE THE STEP OF ACTUALLY GAGGING HIM, WHICH I HOPE WE
11 DO NOT HAVE TO DO

12 - PLEASE BE SEATED

13 MR MURDAUGH WHILE THEY'RE DOING THAT, CAN I
14 STEP OUTSIDE

15 THE COURT IF YOU NEED TO GO TO THE REST ROOM,
16 YOU CAN GO RIGHT NOW

17 MR ALKEBULANYAHH YOUR HONOR

18 THE COURT YES SIR

19 MR ALKEBULANYAHH THE DEFENDANT HAS ASKED THAT
20 HE DO NOT WISH TO HEAR OR SEE THE PROCEEDING, AND HE
21 OBJECTS TO ANY SPEAKERS OR ANYTHING IN REFERENCE TO
22 THIS MATTER BEING TURNED ON IN HIS EAR SIGHT
23 (PHONETIC)

24 THE COURT ANY -- YOU MEAN HEARING ANY OF THESE
25 PROCEEDINGS?

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH YES, SIR

2 THE COURT YES, SIR WELL THE RULES REQUIRE
3 YOUR PRESENCE HERE, MR ALKEBULANYAHH IF I COULD
4 GRANT THAT, I WOULD GRANT IT BUT I CAN'T DO THAT, SO
5 IF YOU WANT TO COVER YOUR EARS WHILE YOU ARE BACK
6 THERE, YOU HAVE THAT RIGHT OKAY?

7 MR ALKEBULANYAHH I ASK THAT THE COURT -- THAT
8 IF THERE IS ANY RULES THAT REQUIRES THAT I MUST -- I
9 MUST BE FORCED TO LISTEN BY INSTRUMENTS IMPLICATED
10 (SIC) BY THE COURT ---

11 THE COURT I CAN'T HAVE YOUR PRESENCE IF YOU
12 CAN'T HEAR ANYTHING THAT'S GOING ON SO IF YOU WANT TO
13 COVER YOUR EARS, YOU'RE WELCOME TO DO THAT BUT I HAVE
14 TO GIVE YOU THE OPPORTUNITY TO SEE AND HEAR IF YOU SO
15 DESIRE IF YOU DON'T COVER YOUR EARS MR
16 ALKEBULANYAHH ALL RIGHT?

17 MR ALKEBULANYAHH AGAIN I ASK ---

18 THE COURT I'M DOING -- DOING THE BEST I CAN TO
19 ACCOMMODATE YOUR REQUEST

20 MR ALKEBULANYAHH AND I ASK THE COURT THAT TO
21 EXEMPT ME FROM THESE PROCEEDINGS

22 THE COURT YES, SIR I -- I DENY THAT BECAUSE
23 IT'S NOT WITHIN MY CAPABILITY OF DOING THAT, AS I
24 INDICATED TO YOU YESTERDAY WHEN YOU THREATENED TO MAKE
25 OUTBURSTS IT'S NOT -- THE COURT RULES REQUIRE IT,

STATE VS ALKEBULANYAHH

1 THAT -- YOUR PRESENCE IN CAPITAL CASES SO PLEASE MAKE
2 THOSE ARRANGEMENTS I'VE DONE THE BEST I CAN TO
3 ACCOMMODATE YOU, MR ALKEBULANYAHH

4 (PAUSE)

5 THE COURT IF EVERYONE ELSE WOULD BE SEATED
6 PLEASE

7 (PAUSE)

8 THE COURT CAN YOU CLOSE THAT DOOR AND TELL ME
9 WHEN YOU HEAR ME GO IN THERE PLEASE THANK YOU CAN
10 YOU HEAR ME IN THERE? CAN YOU HEAR ME? BANG ON THE
11 WINDOW IF YOU CAN HEAR ME I GUESS NOT -- OH, YOU CAN
12 OKAY THANK YOU PLEASE GO ADJUST IT

13 LET THE RECORD REFLECT THAT HE COULD WE'LL TURN
14 UP THE VOLUME CAN YOU HEAR ME? TURN AND FACE THE
15 COURT IF YOU CAN HEAR ME YOU CAN OKAY

16 LET THE RECORD REFLECT THAT THE OFFICER TURNED AND
17 FACED THE COURT THROUGH THE GLASS PARTITION INDICATING
18 HE COULD HEAR THESE PROCEEDINGS

19 MR ALKEBULANYAHH, I REGRET HAVING TO DO THIS
20 OBVIOUSLY BUT MY HANDS ARE TIED I WOULD HAVE
21 PREFERRED THAT YOU JUST -- YOU HAVE THE RIGHT TO NOT
22 SAY A WORD OR TO DO ANYTHING DURING THIS PROCEEDING

23 IT WOULD HAVE BEEN MUCH MORE PREFERABLE IF THAT
24 WAS HOW YOU WANTED TO EXERCISE YOUR RIGHT TO JUST SIT
25 THROUGH THIS PROCEEDING BUT I HAVE TO COMPLY WITH THE

STATE VS ALKEBULANYAHH

1 COURT RULES, SO ---

2 MR ALKEBULANYAHH I THINK THAT I -- I BELIEVE
3 THAT I SHOULD HAVE THE RIGHT TO WAIVE THIS PROCEEDING
4 IF I HAD ANY RIGHTS IN REGARD TO THE PROCEEDING BECAUSE
5 THESE PROCEEDINGS HAS NO DIRECT ADVANTAGE FOR THE
6 DEFENSE AT ALL

7 AND I FEEL LIKE I SHOULD HAVE THE RIGHT TO WAIVE
8 -- TO WAIVE THESE -- TO WAIVE THIS PROCEEDING AND NOT
9 TO BE HERE IN REGARD TO ANYTHING IN ANY MANNER BECAUSE
10 THERE IS NO WAY THAT I COULD CONTRIBUTE NOR TAKE AWAY
11 FROM THE PROCEEDING

12 - THE COURT AS I INDICATED TO YOU, NOT THAT I
13 DON'T AGREE WITH THAT, THE RULE IS THE RULE I DIDN'T
14 WRITE THE RULE I PERSONALLY DON'T HAVE A PROBLEM WITH
15 -- IF SOMEONE DOESN'T WANT TO BE HERE SO BE IT THEY
16 DON'T WANT TO BE HERE AS LONG AS WE'VE AFFORDED THEM
17 THE RIGHT TO PARTICIPATE THAT'S WHAT DUE PROCESS
18 REQUIRES BUT THE RULE SAYS WHAT IT SAYS SO I'M
19 GOING TO HAVE TO CONFINED YOU TO THAT BACK ROOM

20 GO AHEAD AND MAKE -- TAKE CARE OF THOSE
21 ARRANGEMENTS PLEASE

22 (THE DEFENDANT RETIRES TO THE ROOM IN THE BACK OF
23 THE COURTROOM)

24 (PAUSE)

25 THE COURT YOU WILL NEED TO SIT IN THAT BACK ROW

STATE VS ALKEBULANYAHH

1 I DON'T WANT EVERYONE JUST STANDING AROUND MAKING AN
2 ISSUE OF THIS JUST TAKE A SEAT TO WHERE YOU COULD
3 LOOK IN PLEASE
4 (PAUSE)
5 THE COURT ALL RIGHT MR HOLLOWAY? MR
6 HOLLOWAY? IS THE VOLUME TURNED UP IN THERE? CAN YOU
7 HEAR ME, MR HOLLOWAY? YOU NEED TO STAND -- SIT WHERE
8 YOU'RE NOT SEEN THROUGH THE PANE THANK YOU
9 OFFICER MR HOFFMAN
10 I'M SORRY, MR HOFFMAN I'M SORRY I APOLOGIZE
11 (PAUSE)
12 - THE COURT THAT'S NOT WHAT I WANT HIM TO DO I
13 WANT HIM TO SIT ON THE OTHER SIDE -- THE OTHER SIDE,
14 OTHER SIDE YES AND PUT THE DEFENDANT BACK WHERE HE
15 WAS IN THE OTHER SEAT
16 OFFICER YOUR HONOR, THE DEFENDANT IS UNDER THE
17 IMPRESSION HE IS TO REMAIN UNRESTRAINED AT THIS
18 PARTICULAR TIME DO YOU WANT HIM ---
19 THE COURT NO
20 OFFICER --- RESTRAINED?
21 THE COURT I WANT HIM RESTRAINED
22 OFFICER YOU DO WANT HIM RESTRAINED?
23 THE COURT I'VE ALREADY MADE THAT -- YES SIR
24 OFFICER YES, SIR THANK YOU
25 THE COURT I'M NOT GOING TO REVISIT MY

STATE VS ALKEBULANYAHH

1 INSTRUCTIONS

2 (PAUSE)

3 THE COURT TAKE THE WITNESS OUT INTO THE HALLWAY
4 RIGHT NOW TAKE THE WITNESS OUT IN THE HALLWAY PLEASE
5 STEP OUTSIDE PLEASE

6 (THE WITNESS LEAVES THE WITNESS STAND)

7 OFFICER YOUR HONOR, HE SAID HE CAN'T SEE THE
8 PROCEEDING FROM WHERE HE'S SITTING

9 THE COURT MOVE HIM OVER SOME TO WHERE HE CAN SEE
10 THE WITNESS STAND IF NECESSARY, WE'LL HAVE TO USE THE
11 OTHER ROOM THEN

12 - (PAUSE)

13 THE COURT DO YOU WISH TO USE THE OTHER ROOM?
14 DOES IT HAVE THE SPEAKER SYSTEM IN THERE?

15 MS TANNER IT'S BROKEN

16 THE COURT IT'S BROKEN?

17 MS TANNER IT'S BROKEN

18 OFFICER WE'RE GOING TO REMOVE THE TABLE THAT
19 WAY HE CAN BE ABLE TO GET AROUND WHERE HE CAN SEE

20 (PAUSE)

21 OFFICER YOUR HONOR, THE DEFENDANT SAID HE
22 THOUGHT HE HAD THE OPTION TO BE ABLE TO COVER HIS EARS
23 UP BUT HE CANNOT DO IT BEING NOW THAT HE'S
24 RESTRAINED

25 THE COURT I WILL AUTHORIZE HIS HANDS TO NOT BE

STATE VS ALKEBULANYAHH

1 RESTRAINED

2 MR ALKEBULANYAHH IF YOU ACT UP AGAIN, YOUR HANDS
3 WILL BE RESTRAINED AND YOU'LL JUST HAVE TO HEAR THE
4 WHOLE THING DO YOU UNDERSTAND? NOD YOUR HEAD

5 MR ALKEBULANYAHH (NODS HEAD)

6 THE COURT LET THE RECORD REFLECT HE'S NODDED HIS
7 HEAD FROM THE ROOM

8 (PAUSE)

9 THE COURT CAN YOU ALL SEE THE WITNESS STAND FROM
10 THERE?

11 OFFICER OH YES, SIR

12 - THE COURT ONE PERSON CAN STAND RIGHT THERE BY
13 THE WINDOW ON THE OTHER SIDE NO, NO IN -- ON THIS
14 SIDE OF THE ROOM NO ON THIS SIDE OF THE WINDOW
15 SOMEONE CAN STAND RIGHT THERE YES

16 CAN YOU SEE THE WITNESS FROM THERE? CAN YOU SEE
17 THE WITNESS FROM THERE, THE WITNESS STAND?

18 (PAUSE)

19 THE COURT LIEUTENANT, TELL ME IF YOU CAN SEE THE
20 WITNESS STAND FROM THERE PLEASE

21 OFFICER HE JUST SAID HE CAN SEE EVERYTHING, YOUR
22 HONOR

23 THE COURT THE DEFENDANT?

24 OFFICER YES

25 THE COURT ALL RIGHT ALL RIGHT LET THE RECORD

STATE VS ALKEBULANYAHH

1 REFLECT THE DEFENDANT CAN SEE THE WITNESS STAND FROM
2 HIS POSITION

3 (PAUSE)

4 MR THORNTON MAY IT PLEASE THE COURT

5 THE COURT YES, SIR

6 MR THORNTON BEFORE WE GET GOING AGAIN, YOUR

7 HONOR I WOULD ASK THE COURT TO CONSIDER ANOTHER

8 INSTRUCTION REGARDING OUTBURSTS

9 THE COURT YES, SIR

10 MR THORNTON AND ALSO THE FACT THAT THE
11 DEFENDANT IS NO LONGER AT THE TABLE SHOULD NOT BE HELD
12 AGAINST HIM I -- HOWEVER THE COURT THINKS THAT, YOU
13 KNOW SHOULD BE WORDED, BUT SOMETHING TO THAT EFFECT,
14 SIR THANK YOU, YOUR HONOR

15 (PAUSE)

16 THE COURT THOSE DOORS NEED TO STAY CLOSED

17 PLEASE

18 (PAUSE)

19 THE COURT CAN YOU ALL HEAR ME BACK THERE?

20 (PAUSE)

21 THE COURT ARE THEY READY BACK THERE? THE

22 WINDOWS ARE OBVIOUSLY NOT COVERED UP YET

23 OFFICER DO YOU WANT ME TO GO AHEAD AND COVER THE
24 WINDOWS NOW?

25 THE COURT YES, SIR OH, YES I JUST DON'T WANT

STATE VS ALKEBULANYAHH

1 A MEDIA SPECTACLE
2 (PAUSE)
3 THE COURT WELL, I'M GOING TO GET -- I'M GOING TO
4 GET STARTED PEOPLE CAN JUST START FILL -- FILLING IN
5 IS EVERYONE READY? READY?
6 MR STONE THE STATE'S READY, YOUR HONOR
7 MR THORNTON THE DEFENSE IS READY YOUR HONOR
8 THE COURT BRING THE WITNESS BACK IN PLEASE
9 (THE WITNESS RETURNS TO THE COURTROOM AND THE
10 WITNESS STAND)
11 THE COURT HAVE SOMEONE STAND OUT IN THE HALLWAY
12 ASKING EVERYONE TO COME IN QUIETLY BECAUSE WE'RE GOING
13 TO GET STARTED IF SOMEONE WILL STAY OUT THERE PLEASE
14 PLEASE COME INTO THE COURTROOM QUIETLY, LADIES AND
15 GENTLEMEN
16 GO AHEAD AND BRING THE JURY IN PLEASE
17 (PAUSE)
18 THE COURT BRING THE JURY IN PLEASE
19 (THE JURY RETURNS TO THE COURTROOM AT 12 20 P M)
20 THE COURT THANK YOU PLEASE BE SEATED
21 ALL RIGHT LADIES AND GENTLEMEN, WE'LL -- WE'LL
22 START AT THIS POINT AGAIN I REMIND YOU PLEASE
23 DISREGARD ANY TYPE OF OUTBURST IT HAS NO IMPACT ON
24 YOUR CONSIDERATION OF THE ISSUES OF THIS CASE
25 THE FACT THAT THE DEFENDANT IS NO LONGER AT THE

STATE VS ALKEBULANYAHH

1 TABLE SHOULD HAVE NO IMPACT ON YOU IN ANY WAY
2 WHATSOEVER HE IS ABLE TO SEE AND HEAR ALL OF THESE
3 PROCEEDINGS

4 ALL RIGHT PROCEED

5 MR STONE MAY IT PLEASE THE COURT, YOUR HONOR

6 THE COURT YES, SIR

7 MR STONE THANK YOU

8 DIRECT EXAMINATION BY MR. STONE.

9 Q MR PETERS, I KNOW YOU TOLD US YOUR NAME YOU ARE
10 FROM JACKSONVILLE, FLORIDA, IS THAT CORRECT?

11 A YES

12 Q HOW LONG HAVE YOU LIVED IN JACKSONVILLE?

13 A SINCE 1967

14 Q OKAY AND WHAT DO YOU DO NOW, SIR? ARE YOU STILL
15 IN JACKSONVILLE NOW?

16 A YES, I AM

17 Q LET ME ASK YOU, IF YOU WILL, SIR TO TALK TO THE
18 JURY A LITTLE BIT ABOUT THE EVENTS ON MAY 9, 1981
19 AROUND 9 00 O'CLOCK, WHERE WERE YOU, SIR?

20 A I WAS IN A PARKING LOT IN THE MALL SITTING --

21 SITTING IN THE PARKING LOT IN MY CAR AND I WAS

22 WRAPPING A -- WRAPPING A GIFT AND A GENTLEMAN

23 APPROACHED ME AND ASKED ME FOR A CIGARETTE I TOLD HIM

24 I DIDN'T HAVE ONE AND HE WALKED OFF AND A FEW MINUTES

25 LATER, THE SAME GENTLEMAN AND ANOTHER MAN CAME BACK TO

STATE VS ALKEBULANYAHH

1 MY CAR WITH A GUN AND TOLD ME TO MOVE OVER INTO THE
2 PASSENGER SEAT

3 Q WHAT KIND OF -- WHAT KIND OF GUN WAS IT, SIR?

4 A IT WAS A SHOTGUN -- A SHOTGUN

5 Q PULL THAT MICROPHONE A LITTLE BIT TO YOU IF YOU
6 WOULD, THAT -- THAT ONE RIGHT THERE THAT YOU'RE
7 HOLDING, YES, SIR

8 THE INDIVIDUAL THAT WALKED UP TO YOU THE FIRST
9 TIME AND ASKED YOU FOR SOME CIGARETTES, IS THAT THE
10 SAME ONE THAT CAME UP WITH THE GUN?

11 A YES I -- I GUESS

12 Q - TELL ME WHAT HE DID AT THAT POINT

13 A AT THAT POINT HE TOLD ME TO -- TO MOVE OVER INTO
14 THE PASSENGER SEAT AND I DID AND ONE OF THE
15 GENTLEMEN GOT INTO THE BACK SEAT WITH A GUN AND THE
16 OTHER GENTLEMAN GOT INTO THE DRIVER'S SIDE

17 Q YOU'RE IN THE PASSENGER SEAT WHERE IS THE GUN?

18 A HE HAD THE GUN RIGHT AT THE BASE OF MY -- BACK OF
19 MY NECK

20 Q WHERE DO YOU GO FROM THERE?

21 A FROM THERE WE LEFT THE PARKING LOT, STARTED TO
22 DRIVE OUT OF THE PARKING LOT, TURNED LEFT ONTO EMERSON
23 STREET

24 Q DID THESE PEOPLE SAY -- EITHER ONE OF THESE
25 INDIVIDUALS SAY ANYTHING TO YOU DURING THIS TIME?

STATE VS ALKEBULANYAHH

1 A I BELIEVE ONE OF THEM HAD ASKED -- ONE OF THEM
2 ASKED ME IF I HAD HAD ANY MONEY ON ME AND I TOLD HIM
3 I HAD ABOUT 8 OR \$9 CASH

4 Q OKAY

5 A CONTINUED TO DRIVE UNDER AN OVERPASS AT THE
6 INTERSECTION OF 95 AND EMERSON STREET AND AT THAT
7 TIME WE STOPPED THEY STOPPED FOR A RED LIGHT AND I
8 UNLOCKED THE DOOR AND OPENED THE DOOR AND ROLLED OUT

9 Q WHEN YOU SAY OPENED THE DOOR AND ROLLED OUT DID
10 -- DID THEY LET YOU GET OUT OF THE CAR?

11 A NO I GOT OUT ON MY OWN I JUST POPPED OPEN THE
12 LOCK AND -- THE LOCK AND THE LATCH ARE RIGHT THERE
13 TOGETHER I JUST REACHED IN AND POPPED IT AND PUSHED
14 THE DOOR OPEN AND ROLLED OUT

15 Q DID THEY SAY ANYTHING TO YOU AS YOU -- AS YOU
16 ROLLED OUT?

17 A NO, SIR NOT THAT I -- I DIDN'T HEAR ANYTHING

18 Q WHY DIDN'T YOU HEAR ANYTHING?

19 A BECAUSE I WAS RUNNING

20 Q WHERE DID YOU RUN TO?

21 A I RAN TO A SHELL STATION ABOUT 2 BLOCKS DOWN THE
22 STREET AND THERE WAS A FLORIDA PATROL OFFICER GETTING
23 -- GETTING GAS AND I RAN -- WENT UP TO HIM AND TOLD
24 HIM WHAT HAD HAPPENED AND HE GOT ON THE RADIO AND
25 CALLED IT IN

- 1 Q WHAT KIND OF CAR DID YOU HAVE?
2 A IT WAS A '87 OR '88 CELICA I'M NOT SURE
3 Q WHAT KIND OF -- WAS IT ---
4 A I'M SORRY IT'S A '79 OR '80
5 Q CELICA?
6 A YES
7 Q AUTOMATIC OR STICK SHIFT?
8 A A STICK SHIFT
9 Q THE PERSON THAT WAS DRIVING THE CAR, WERE THEY
10 FAMILIAR WITH THE STICK SHIFT OR COULD YOU TELL?
11 A YEAH BUT HE WASN'T FAMILIAR BECAUSE WE KEPT --
12 KEPT JERKING THE CAR AS WE WERE LEAVING THE PARKING LOT
13 AND PULLED OUT ONTO THE STREET
14 Q DURING THE TIME HE WAS JERKING THE CAR, WHERE WAS
15 THE SHOTGUN?
16 A IT WAS STILL BACK HERE
17 Q DID YOU AT SOME POINT AFTER YOU RAN -- AT SOME
18 POINT, DID YOU MEET UP WITH THE LAW ENFORCEMENT
19 OFFICIALS?
20 A PROBABLY -- I DON'T KNOW IT WAS -- YOU MEAN
21 TIME-WISE?
22 Q YEAH DID YOU AT SOME POINT SEE THE POLICE
23 OFFICERS AND THEY DISCUSSED THE CASE WITH YOU OR
24 ANYTHING LIKE THAT?
25 A IT WAS PROBABLY A COUPLE OF HOURS BEFORE I WAS

- 1 TAKEN DOWNTOWN TO HEADQUARTERS
- 2 Q DID THEY ASK YOU TO IDENTIFY ANYBODY, ANYTHING
- 3 LIKE THAT?
- 4 A THEY SHOWED ME TWO PHOTO LINE-UPS OF WHICH I
- 5 PICKED OUT THIS GENTLEMAN HERE
- 6 Q OKAY HAD YOU SEEN THE INDIVIDUAL IN THE
- 7 COURTROOM TODAY?
- 8 A YES
- 9 Q IS THAT THE SAME PERSON THAT HELD THE SHOTGUN ON
- 10 YOU AND TOLD YOU TO MOVE OVER?
- 11 A I BELIEVE SO, YES
- 12 Q - DID YOU KNOW HIS NAME AT THAT TIME?
- 13 A NO
- 14 Q THE PHOTO LINE-UP THAT THE DETECTIVE SHOWED YOU
- 15 THOUGH YOU CHOSE THAT PERSON? IS THAT PERSON ---
- 16 MR KELLY YOUR HONOR, COULD I ASK THE ASSISTANT
- 17 SOLICITOR NOT TO LEAD THE WITNESS PLEASE
- 18 THE COURT YES SUSTAINED
- 19 Q AT THAT -- AT SOME POINT DID THE POLICE LET YOU
- 20 KNOW WHO THIS PERSON WAS? DID THEY GIVE YOU A NAME?
- 21 A NO
- 22 Q TO THIS -- WERE YOU -- AT SOME POINT YOU THEN MET
- 23 WITH THE POLICE AND CHOSE HIM OUT OF A PHOTO LINE-UP,
- 24 IS THAT CORRECT?
- 25 A YES

1 Q ALL RIGHT OKAY
2 MR STONE I DON'T HAVE ANYTHING ELSE AT THIS
3 TIME
4 MR THORNTON NOTHING FROM THE DEFENSE YOUR
5 HONOR
6 THE COURT YOU MAY STEP DOWN, SIR
7 MR STONE THANK YOU, MR PETERS
8 MAY HE BE EXCUSED?
9 THE COURT ANY OBJECTION?
10 MR THORNTON NO OBJECTION FROM THE DEFENSE,
11 JUDGE
12 - THE COURT YOU MAY BE EXCUSED, SIR
13 (THE WITNESS LEAVES THE WITNESS STAND)
14 MR STONE DETECTIVE LAMAR HILL
15 DALTON LAMAR HILL, BEING
16 FIRST DULY SWORN, TESTIFIED AS FOLLOWS
17 DIRECT EXAMINATION BY MR. STONE
18 Q IF YOU'LL STATE YOUR FULL NAME PLEASE, SIR, AND
19 SPELL YOUR LAST?
20 A DALTON LAMAR HILL H-I-L-L
21 Q WHAT DO YOU DO, SIR?
22 A I'M A FRAUD INVESTIGATOR FOR EDUCATIONAL COMMUNITY
23 CREDIT UNION IN JACKSONVILLE, FLORIDA
24 Q HAVE YOU -- IS THAT WHAT YOU'VE BEEN DOING ALL OF
25 YOUR LIFE IN JACKSONVILLE, FLORIDA?

1 A NO, SIR

2 Q WHAT DID YOU -- HOW DID YOU SPEND MOST OF YOUR
3 PROFESSIONAL CAREER?

4 A I WAS A POLICE OFFICER AT THE JACKSONVILLE
5 SHERIFF'S OFFICE

6 Q HOW LONG WERE YOU A POLICE OFFICER WITH THE
7 JACKSON -- IS THAT A SHERIFF'S DEPARTMENT?

8 A YES, SIR

9 Q HOW LONG WERE YOU A POLICE OFFICER WITH THE
10 SHERIFF'S DEPARTMENT IN JACKSONVILLE?

11 A FROM 1971 TO 1996

12 Q - DURING THAT TIME, WHAT DID YOU DO?

13 A I WAS -- AFTER THE ACADEMY, I WAS IN THE PATROL
14 DIVISION, FUGITIVE WARRANTS I WENT TO BURGLARY I
15 WAS IN ROBBERY FOR 11 YEARS, NARCOTICS, PERSONNEL, AND
16 FINALLY HOMICIDE WHEN I RETIRED

17 Q OKAY ON MAY 9, 1981 WERE YOU WORKING WITH THE
18 SHERIFF'S DEPARTMENT THEN?

19 A YES, SIR, I WAS

20 Q AND IN WHAT CAPACITY?

21 A I WAS THE ON-CALL ROBBERY DETECTIVE

22 Q WHAT IS THE ON-CALL ROBBERY DETECTIVE?

23 A IN 1981, WE HAD EIGHT ROBBERY DETECTIVES I WAS
24 THE ROBBERY DETECTIVE FOR THE EVENING SHIFT 4 00 TO
25 12 00 I WAS ON CALL FROM MIDNIGHT TO 5 00 IN THE

STATE VS ALKEBULANYAHH

1 MORNING

2 Q AT AROUND 9 00 O'CLOCK, AND I'M -- I'M JUST

3 GUESSING AT THAT TIME, DID YOU PARTICIPATE IN ANY

4 INVESTIGATION OF A ROBBERY?

5 A I WAS NOTIFIED BY OUR DISPATCHER THAT THERE HAD

6 BEEN A ROBBERY IN WHICH TWO BLACK MALES HAD TAKEN A

7 GENTLEMAN'S VEHICLE FROM THE PARKING LOT AT THE HOLIDAY

8 INN NEAR THE PHILLIPS MALL AND I RESPONDED TO THE

9 SCENE

10 Q ALL RIGHT WHEN YOU RESPONDED TO THE SCENE, WHAT

11 SCENE DID YOU RESPOND TO?

12 A - I RESPONDED WHERE THE UNIFORMED OFFICERS HAD MR

13 PETERS HE WAS THE VICTIM I INTERVIEWED HIM BRIEFLY

14 I LEARNED THAT THEY HAD PUT OUT A BOLO I WAS THEN ---

15 Q STOP AND I DON'T MEAN TO INTERRUPT YOU

16 A OKAY

17 Q WHAT'S A -- WHAT'S A BOLO?

18 A BE ON THE LOOKOUT

19 Q OKAY

20 A THEY PUT OUT A DESCRIPTION OF THE VEHICLE

21 Q MR PETERS' VEHICLE?

22 A HE -- HE -- MR PETERS HAD SHARED THE INFORMATION

23 IT WENT OUT AND, OF COURSE, LOCAL LAW ENFORCEMENT

24 AGENCIES ALL SHARED THE INFORMATION

25 Q ALL RIGHT

STATE VS ALKEBULANYAHH

1 A AND WHILE AT THE SCENE I WAS NOTIFIED THAT ONE OF
2 THE FLORIDA HIGHWAY PATROL TROOPERS HAD STOPPED A
3 VEHICLE, AND THERE WERE TWO SUSPECTS IN CUSTODY THAT
4 WAS LESS THAN 30 MINUTES FROM THE TIME THE ROBBERY
5 OCCURRED BEFORE THEY WERE APPREHENDED

6 Q OKAY LET ME FIRST ASK YOU TO BACK UP IF I COULD
7 MR STONE YOUR HONOR, I HAVE SHOWN THIS TO THE
8 DEFENSE THIS IS NOTHING BUT A TIME LINE

9 Q WHAT DAY DID THAT TAKE PLACE?

10 A MAY 9, 1981

11 Q AND THAT TOOK PLACE WHERE?

12 A - IN JACKSONVILLE, DUVAL COUNTY, FLORIDA

13 Q DUVAL COUNTY?

14 A YES, SIR

15 Q WHAT DID YOU DO AFTER YOU FOUND OUT THAT THE TWO
16 SUSPECTS HAD BEEN LOCATED AND YOU HAD ALREADY -- AT
17 THAT POINT ALREADY INTERVIEWED MR PETERS, I'M
18 ASSUMING, IS THAT CORRECT?

19 A I HAD MR PETERS TRANSPORTED TO THE POLICE
20 MEMORIAL BUILDING LOCATED AT 501 EAST BAY STREET BY ONE
21 OF THE UNIFORMED OFFICERS I THEN NOTIFIED THE
22 OFFICERS TO -- OR THE DISPATCH TO ADVISE FLORIDA
23 HIGHWAY PATROL TO TRANSPORT THE SUSPECTS

24 ONCE THEY ARRIVED, I PHOTOGRAPHED BOTH SUSPECTS
25 AND MADE INDEPENDENT PHOTO SPREADS OF BOTH INDIVIDUALS

1 AND I TOOK MR PETERS AND SHOWED HIM BOTH OF THE PHOTO
2 SPREADS THAT I HAD COMPILED

3 MR PETERS MADE A POSITIVE IDENTIFICATION OF
4 TYRONE -- TYREE ALPHONZO ROBERTS HE WASN'T AS SURE
5 ABOUT MR WALTON BUT HE DID PICK HIS PHOTOGRAPH OUT
6 Q WHICH ONE OF THE TWO ROBBERS WAS TYREE ALPHONZO
7 ROBERTS? WHAT WAS HIS ROLE?

8 A MR ROBERTS WAS THE DEFENDANT THAT WAS ARMED WITH
9 A SHOTGUN DURING THE COURSE OF THE ROBBERY

10 Q DO YOU KNOW BY ANY CHANCE OR DID YOU KNOW AT THAT
11 TIME TYREE ROBERTS' DATE OF BIRTH?

12 A - HIS DATE OF BIRTH WAS JULY 24, 1962 HE WAS 18
13 YEARS OLD AND I THINK HE TURNED 19 RIGHT AFTER HE
14 PLED GUILTY

15 Q OKAY SO HE TURNED 18 WHEN?

16 A HE WAS 18 YEARS OLD, I THINK, AND THEN TURNED 19
17 RIGHT AFTER HE PLED GUILTY

18 Q SO THAT WOULD HAVE BEEN JULY 24 ---

19 A YES, SIR

20 Q --- IS THAT RIGHT, OF 1980?

21 A 1981

22 Q OKAY '80, ISN'T IT?

23 A I'M SORRY?

24 Q '80, RIGHT? HE WAS BORN IN '62? '80, IS THAT
25 RIGHT, IS WHEN HE WAS 18?

STATE VS ALKEBULANYAHH

1 A YEAH

2 Q OKAY I WANT TO MAKE SURE I HAD THAT RIGHT

3 AFTER MR PETERS PICKED OUT TYREE ROBERTS AS THE
4 ONE THAT -- THAT ROBBED HIM, WHAT DID YOU DO AT THAT
5 POINT?

6 A I INTERVIEWED BOTH OF THE SUSPECTS SEPARATELY OF
7 COURSE, THEY WERE SEPARATED THEY WERE IN DIFFERENT
8 INTERVIEW ROOMS ADJACENT TO THE ROBBERY OFFICE IN THE
9 DETECTIVE DIVISION

10 AFTER MR ROBERTS WAS ADVISED OF HIS
11 CONSTITUTIONAL RIGHTS FROM A WRITTEN FORM, HE ADMITTED
12 BOTH IN VERBAL AND WRITTEN CONFESSIONS TO THE ROBBERY
13 IN WHICH HE DESCRIBED THE EVENTS THAT -- THAT HE HAD
14 CARRIED THE SHOTGUN DURING THE COURSE OF THE ROBBERY

15 Q WHAT ELSE DID HE TELL YOU? THIS WAS AFTER YOU
16 READ HIM HIS RIGHTS IS THAT CORRECT?

17 A THAT IS CORRECT

18 Q AND YOU WERE THE ONE ACTUALLY READING HIM HIS
19 RIGHTS AND TAKING A STATEMENT?

20 A I DID AND AT THE CONCLUSION OF THE VERBAL
21 STATEMENT, HE CONDENSED IT INTO THE WRITTEN FORM, THAT
22 HE HAD -- I INQUIRED ABOUT THE SHOTGUN

23 HE SAID THAT THE SHOTGUN HE HAD BOUGHT UP IN
24 GEORGIA

25 AND I SAID -- ASKED HIM HOW MUCH HE HAD PURCHASED

STATE VS ALKEBULANYAHH

1 THE FIREARM FOR
2 HE SAID \$25 00
3 AND I ADVISED HIM THAT IT WAS STOLEN IT WAS
4 RECORDED AS BEING STOLEN
5 I ASKED HIM WHY HE STOLE THE VEHICLE, YOU KNOW,
6 WHY DID YOU TAKE THE VEHICLE
7 AND HE EXPLAINED THAT HE JUST WANTED TO GET BACK
8 HOME THEY HAD RUN OUT OF MONEY THEY HAD BEEN
9 PARTYING THEY JUST WANTED TO GO BACK TO GEORGIA
10 Q WAS HE BOOKED INTO THE JAIL AT THAT TIME?
11 A TROOPER MCNEIL AND MYSELF TRANSPORTED BOTH OF THE
12 SUSPECTS TO THE DUVAL COUNTY JAIL AT THE TIME AND THEY
13 WERE BOOKED IN TO THE JAIL
14 Q DID HE GIVE YOU ANY OTHER NAME OTHER THAN TYREE
15 ROBERTS?
16 A YEAH HE USED THE LAST NAME OF PONDER AND I
17 DIDN'T TRULY UNDERSTAND IT BUT HE SAID THAT THERE WAS
18 A QUESTION OR HE WAS ADOPTED OR RAISED BY AN
19 INDIVIDUAL, THAT HE WAS GIVEN THAT NAME, I BELIEVE, AT
20 SOME POINT IN TIME DURING HIS YOUTH
21 Q AND THAT WAS TYREE? HE STILL USED TYREE?
22 A YES, SIR TYREE ALPHONZO PONDER, I THINK
23 Q AND DO YOU KNOW WHETHER OR NOT HE WENT TO JAIL OR
24 WENT TO PRISON FOR THAT?
25 A HE PLED GUILTY TO ARMED ROBBERY HE WAS SENTENCED

STATE VS ALKEBULANYAHH

1 TO 15 YEARS IN THE FLORIDA STATE PRISON THE JUDGE
2 SUSPENDED THE SENTENCE TO 5 YEARS IN THE FLORIDA STATE
3 PRISON HE WAS TO BE PLACED ON 10 YEARS PROBATION AT
4 THE CONCLUSION OF HIS SENTENCE IN THE YOUTHFUL OFFENDER
5 PROGRAM IN THE STATE OF FLORIDA

6 Q OKAY DO YOU KNOW IF HE STAYED IN JAIL PRIOR TO
7 GOING TO THE PRISON?

8 A HE WAS INCARCERATED FROM MAY 9 UNTIL HE WENT TO
9 THE FLORIDA STATE PRISON HE WAS NEVER OUT ON BOND

10 Q MAY 9 OF WHAT YEAR?

11 A 1981

12 - MR STONE THANK YOU, DETECTIVE IF YOU'LL
13 ANSWER ANY QUESTIONS THEY MAY HAVE

14 MR THORNTON NO QUESTIONS YOUR HONOR

15 THE COURT YOU MAY STEP DOWN SIR

16 (THE WITNESS LEAVES THE WITNESS STAND)

17 MR STONE CHERYLE COSSON

18 THANK YOU, DETECTIVE HE MAY BE EXCUSED, YOUR
19 HONOR?

20 THE COURT ANY OBJECTION?

21 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

22 THE COURT YOU MAY BE EXCUSED, SIR

23 MS COSSON, IF YOU WILL COME AROUND AND BE SWORN

24 CHERYLE COSSON, BEING FIRST
25 DULY SWORN, TESTIFIED AS FOLLOWS

STATE VS ALKEBULANYAHH

1 DIRECT EXAMINATION BY MR. STONE.

2 Q I KNOW YOU'VE ALREADY TOLD THE COURT REPORTER, BUT
3 IF YOU COULD STATE YOUR NAME AGAIN PLEASE AND SPELL
4 YOUR LAST NAME?

5 A CHERYLE COSSON, C-O-S-S-O-N

6 Q IT'S COSSON, IS THAT CORRECT?

7 A UH-HUH

8 Q MS COSSON, WHAT DO YOU DO NOW?

9 A I'M A CORRECTIONAL SERVICES CONSULTANT WITH THE
10 FLORIDA DEPARTMENT OF CORRECTIONS

11 Q HOW LONG HAVE YOU BEEN WITH THE FLORIDA DEPARTMENT
12 OF CORRECTIONS?

13 A 14 YEARS, 8 MONTHS

14 Q HAVE YOU BROUGHT WITH YOU ANY RECORDS CONCERNING
15 AN INMATE BY THE NAME OF TYREE ROBERTS?

16 A YES, SIR

17 Q AND ARE THOSE CERTIFIED TRUE AND ACCURATE COPIES
18 OF THE RECORDS HELD BY THE DEPARTMENT OF CORRECTIONS IN
19 THE STATE OF FLORIDA ON TYREE ROBERTS?

20 A YES SIR

21 Q ARE THOSE KEPT IN THE ORDINARY COURSE OF BUSINESS
22 OF THE DEPARTMENT OF CORRECTIONS?

23 A YES

24 Q OKAY AND HAVE YOU REVIEWED THOSE?

25 A YES

STATE VS ALKEBULANYAHH

1 Q ALL RIGHT DO YOU HAVE THOSE WITH YOU?

2 A UH-HUH AND THIS IS ALSO A SUMMARY I MADE JUST
3 BASED ON THOSE DOCUMENTS

4 Q THE -- LET ME ASK YOU THIS REAL QUICK THE
5 HANDWRITING ON HERE IS THIS YOUR HANDWRITING?

6 A YES, IT IS

7 Q OKAY I WANT TO MAKE SURE THAT THESE TWO
8 DOCUMENTS HERE -- ARE THOSE DUPLICATIONS FROM ANYTHING
9 IN HERE, PART -- BELONG PART OF THE RECORD AS WELL?

10 A THEY WERE PART OF THE RECORD

11 Q OKAY

12 -- MR STONE YOUR HONOR, AT THIS TIME WE'D OFFER
13 THIS INTO EVIDENCE I THINK THIS WOULD BE STATE'S
14 EXHIBIT 117

15 THE COURT ANY OBJECTION?

16 MR THORNTON WITHOUT OBJECTION, YOUR HONOR
17 THE COURT STATE'S 117 IN EVIDENCE

18 (FLORIDA DEPARTMENT OF CORRECTIONS RECORDS, 52
19 PAGES, MARKED IN EVIDENCE AS STATE'S EXHIBIT NO 117)

20 Q I M GOING TO CLIP THESE, BUT FEEL FREE TO MOVE THE
21 CLIP IF YOU NEED TO I HAND YOU BACK WHAT'S BEEN
22 MARKED AS STATE'S EXHIBIT 117 THOSE ARE THE RECORDS
23 FROM THE DEPARTMENT OF CORRECTIONS IN THE STATE OF
24 FLORIDA IS THAT CORRECT?

25 A YES

STATE VS ALKEBULANYAHH

1 Q THE FIRST DOCUMENT IS A CERTIFICATION OF
2 AUTHENTICITY I BELIEVE, IS THAT RIGHT?

3 A YES

4 Q COULD YOU TELL ME FIRST OF ALL WHEN -- LET ME
5 FIRST REFER YOU TO THE INFORMATION OR THE INDICTMENT
6 IS THAT PART OF THE OFFICIAL RECORD IN THE DEPARTMENT
7 OF CORRECTIONS OF FLORIDA?

8 A YES, IT IS

9 Q COULD YOU -- CAN YOU TURN TO THAT PLEASE AND TELL
10 ME WHAT THAT SAYS?

11 A THE INFORMATION PAGE?

12 Q - YES

13 A IT'S FROM THE COUNTY OF DUVAL IT LISTS THE
14 DESCRIPTION OF THE OFFENSE DO YOU WANT ME TO READ
15 THAT?

16 Q YES JUST THE DESCRIPTION THAT WILL BE FINE

17 A ED AUSTIN STATE ATTORNEY FOR THE FOURTH JUDICIAL
18 CIRCUIT OF THE -- OF FLORIDA IN AND FOR DUVAL COUNTY
19 CHARGES THAT TYREE ROBERTS ALSO KNOWN AS TYREE
20 ALPHONZO PONDER, ON THE 9TH DAY OF MAY 1981 IN THE
21 COUNTY OF DUVAL AND THE STATE OF FLORIDA DID UNLAWFULLY
22 BY FORCE, VIOLENCE, ASSAULT, OR PUTTING IN FEAR TAKE
23 MONEY OR OTHER PROPERTY, TO WIT, A MOTOR VEHICLE, THE
24 PROPERTY OF GARY PETERS AS OWNER OR CUSTODIAN, FROM THE
25 PERSON OR CUSTODY OF GARY PETERS AND IN THE COURSE OF

STATE VS ALKEBULANYAHH

1 COMMITTING SAID ROBBERY CARRIED A FIREARM, TO WIT, A
2 SHOTGUN CONTRARY TO THE PROVISIONS OF SECTION 812 13,
3 FLORIDA STATUTES

4 Q IS THERE ALSO A CONVICTION SHEET WITH THAT?

5 A YES, SIR

6 Q COULD YOU TELL ME WHAT THE CONVICTION DATE WAS?

7 A DATE OF CONVICTION, JULY 21, 1981

8 Q AND WHAT TIME -- AT WHAT POINT DID HE -- WAS TYREE
9 ROBERTS TRANSFERRED TO THE DEPARTMENT OF CORRECTIONS OF
10 FLORIDA?

11 A HE WAS RECEIVED ON JULY 30, 1981

12 Q - AND HOW LONG WAS HE IN THE DEPARTMENT OF
13 CORRECTIONS?

14 A UNTIL MAY 15, 1984, APPROXIMATELY 33 MONTHS

15 Q DO YOU KNOW IF HE SPENT TIME IN THE DETENTION
16 CENTER OF DUVAL COUNTY BEFORE HE WENT TO THE DEPARTMENT
17 OF CORRECTIONS?

18 A YES, HE DID

19 Q SO FROM HIS ARREST DATE THROUGH 1984 -- ON WHAT
20 DATE DID YOU TELL ME ABOUT THAT? I APOLOGIZE

21 A WHICH DATE?

22 Q THE RELEASE DATE

23 A MAY 15 '84 HIS SENTENCE INCLUDED 73 DAYS JAIL
24 TIME SO HE WAS IN THE COUNTY JAIL AT LEAST 73 DAYS

25 Q OKAY FROM MAY 9, '81 ---

STATE VS ALKEBULANYAHH

- 1 A UH-HUH
- 2 Q --- UNTIL MAY 15 '84, IS THAT CORRECT?
- 3 A UH-HUH
- 4 Q THE PRISON RECORD THAT YOU HAVE, DOES THAT ALSO
- 5 INCLUDE DISCIPLINARIES AND ---
- 6 A YES
- 7 Q EXPLAIN TO THE JURY WHAT -- WHAT I MEAN WHEN I ASK
- 8 YOU ABOUT DISCIPLINARIES?
- 9 A DISCIPLINARY REPORTS ARE WRITTEN WHEN AN INMATE
- 10 VIOLATES A RULE THAT'S SET FOR INMATE BEHAVIOR
- 11 Q OKAY AND ALL OF THAT WOULD BE INCLUDED IN HIS
- 12 PERMANENT RECORD AS WELL?
- 13 A YES
- 14 Q OKAY IN THE TIME THAT HE WAS WITH YOU IN THE
- 15 FLORIDA DEPARTMENT OF CORRECTIONS HOW MANY
- 16 DISCIPLINARY INFRACTIONS DID HE HAVE?
- 17 A 13
- 18 Q HOW MANY?
- 19 A 13
- 20 Q WHAT'S CALLED D I THAT WOULD BE DISCIPLINARY
- 21 INFRACTIONS, IS THAT CORRECT?
- 22 A D R IS WHAT WE SAY, DISCIPLINARY REPORT
- 23 Q AND COULD YOU TELL US WHAT TYPE OF DISCIPLINARY
- 24 VIOLATIONS HE HAD?
- 25 A HE HAD 3 FOR UNARMED ASSAULT

- 1 Q AN UNARMED ASSAULT?
- 2 A YES
- 3 Q OKAY
- 4 A HAD 1 FOR FIGHTING
- 5 Q WHAT'S THE DIFFERENCE BETWEEN FIGHTING AND UNARMED
- 6 ASSAULT?
- 7 A UNARMED ASSAULT IS WHEN ONE INMATE ATTACKS ANOTHER
- 8 INMATE WHO DOESN'T RETALIATE IF BOTH INMATES ARE
- 9 INVOLVED IN THE CONFRONTATION, THAT'S CONSIDERED A
- 10 FIGHT
- 11 Q SO THE 3 UNARMED ASSAULTS, THE OTHER PERSON WAS A
- 12 VICTIM IS THAT CORRECT?
- 13 A RIGHT
- 14 Q OKAY WHAT ELSE?
- 15 A HE HAD 1 FOR THEFT
- 16 Q OKAY
- 17 A 2 FOR DISORDERLY CONDUCT
- 18 Q OKAY
- 19 A 1 FOR POSSESSION OF STOLEN PROPERTY 1 FOR
- 20 DISRESPECT TO OFFICIALS
- 21 Q OKAY
- 22 A 1 FOR POSSESSION OF CONTRABAND 1 FOR REFUSING TO
- 23 WORK
- 24 Q ARE INMATES IN FLORIDA REQUIRED TO WORK?
- 25 A YES, SIR

- 1 Q WHAT ELSE?
- 2 A 1 FOR POSSESSION OF NEGOTIABLES
- 3 Q POSSESSION OF WHAT?
- 4 A NEGOTIABLES
- 5 Q WHAT IS THAT?
- 6 A MONEY, BILLS OR CHANGE, THAT THEY'RE NOT ALLOWED
- 7 TO HAVE
- 8 Q WHY AREN'T THEY ALLOWED TO HAVE BILLS OR CHANGE?
- 9 A NOW THERE'S NO CASH ALLOWED IN INSTITUTIONS
- 10 INMATES USE CARDS THAT THEY CAN WITHDRAW MONEY FROM
- 11 ACCOUNTS BACK AT THIS TIME, I BELIEVE THEY WERE
- 12 ALLOWED TO HAVE SOME MONEY, BUT IT WAS LIMITED SO IF
- 13 THEY HAD MORE THAN THEY WERE ALLOWED TO HAVE, THEN IT
- 14 WAS A DISCIPLINARY INFRACTION
- 15 Q WHAT ELSE?
- 16 A THE LAST ONE THERE'S REFERENCES IN PROGRESS
- 17 REPORTS TO THE FACT THAT HE DID GET AN ADDITIONAL D R ,
- 18 BUT THE EXACT OFFENSE WAS NOT LISTED
- 19 Q OKAY LET ME ASK YOU IF YOU COULD TO TURN IN --
- 20 IN THOSE RECORDS TO -- YOU DON'T HAVE THESE MARKED ON
- 21 THE PAGE, BUT WE HAD SPOKEN EARLIER -- AT THE FIRST TAB
- 22 IF YOU COULD, THE DISCIPLINARY REPORT DATED JANUARY THE
- 23 13TH OF 1982
- 24 CALLING YOUR ATTENTION -- AND I'M SORRY -- IT'S
- 25 DATED IT LOOKS LIKE JANUARY THE 7TH IS WHEN THIS EVENT

STATE VS ALKEBULANYAHH

1 TOOK PLACE COULD YOU BRIEFLY TELL THE JURY WHAT
2 HAPPENED ON THAT DATE?

3 A THE INMATE WAS INVOLVED IN AN UNARMED ASSAULT ON
4 ANOTHER INMATE WHICH RESULTED IN THE OTHER INMATE'S JAW
5 BEING BROKEN

6 Q AND THAT'S ONE OF THE UNARMED ASSAULTS THAT YOU
7 TALKED ABOUT EARLIER?

8 A YES THAT'S THE FIRST ONE

9 Q IF YOU COULD GO THEN TO THE NEXT TAB, THE REPORT
10 I BELIEVE, DATED JUNE 22, '82

11 A YES, SIR

12 Q COULD YOU TELL WHAT THAT IS PLEASE, TELL THE JURY
13 WHAT THAT IS?

14 A THAT WAS ALSO ANOTHER UNARMED ASSAULT

15 Q AND IF YOU COULD TURN TO THE LAST TAB DATED, I
16 BELIEVE SEPTEMBER 15 '93 (SIC), AND I'M READING THE
17 BOTTOM IT'S AN EVENT THAT TOOK PLACE ON AUGUST 17,
18 '83 AND WHAT -- WHAT EXACTLY IS THAT?

19 A THAT WAS A -- A FIGHT, A FIGHTING D R

20 Q TAKING THESE RECORDS INTO CONSIDERATION, CAN YOU
21 TELL US HOW TYREE ROBERTS ADJUSTED TO THE DEPARTMENT OF
22 CORRECTIONS IN FLORIDA?

23 A NOT WELL HE HAD AN AVERAGE OF ---

24 MR KELLY OBJECTION I DON'T BELIEVE THE LADY
25 HAS BEEN QUALIFIED TO GIVE THAT OPINION, YOUR HONOR

STATE VS ALKEBULANYAHH

1 MR STONE I THINK THAT'S EXACTLY WHAT SHE DOES
2 I THINK THAT SHE EXPLAINED THESE RECORDS AND HER
3 KNOWLEDGE OF THEM BUT I'LL BE GLAD TO ---

4 THE COURT DO YOU WANT TO LAY A FOUNDATION FOR
5 THAT?

6 MR STONE SURE I'LL BE GLAD TO
7 THE COURT GO AHEAD

8 Q DO YOU HAVE KNOWLEDGE OF HOW THE DEPARTMENT OF
9 CORRECTIONS IN FLORIDA HANDLES DISCIPLINARY INFRACTIONS
10 AND INMATES, THINGS LIKE THAT?

11 A YES SIR

12 Q - OKAY ARE YOU FAMILIAR WITH THE PROCESS OF
13 DISCIPLINING INMATES AND HOW THAT AFFECTS THEIR
14 TREATMENT WHEN THEY'RE IN THE DEPARTMENT OF
15 CORRECTIONS?

16 A YES SIR

17 Q OKAY YOU'RE FAMILIAR WITH A NUMBER OF INMATES
18 OTHER THAN JUST TYREE ROBERTS?

19 A YES SIR I BEGAN MY CAREER WORKING IN THE
20 INSTITUTIONS HANDLING CASELOADS OF INMATES, AND I WAS
21 INVOLVED IN THE DISCIPLINARY HEARING PROCESS

22 Q OKAY SO YOU'RE FAMILIAR WITH ALL OF THESE AS FAR
23 AS THAT'S CONCERNED AS WELL ---

24 A UH-HUH

25 Q --- IS THAT CORRECT?

STATE VS ALKEBULANYAHH

1 A YES, SIR

2 Q AND THEN CAN YOU GIVE US AN OPINION OF HOW HE
3 ADJUSTED TO PRISON IN THE DEPARTMENT -- IN THE FLORIDA
4 DEPARTMENT OF CORRECTIONS?

5 MR KELLY I WOULD OBJECT YOUR HONOR

6 THE COURT APPROACH THE SIDE BAR

7 MR KELLY YOUR HONOR ---

8 THE COURT YES, SIR?

9 MR KELLY THAT'S ALL RIGHT WE'LL -- WE'LL
10 APPROACH AT THE SIDE BAR

11 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD,
12 OUT-OF THE HEARING OF THE JURY)

13 THE COURT IS THE QUESTION WITHDRAWN?

14 MR STONE I'LL WITHDRAW THAT, YOUR HONOR
15 THAT'S FINE

16 THANK YOU MS COSSON ANSWER ANY QUESTIONS THE
17 DEFENSE MAY HAVE THANK YOU

18 THE WITNESS OKAY

19 CROSS EXAMINATION BY MR KELLY.

20 Q MS COSSON ---

21 A YES, SIR

22 Q --- IS THAT YOUR NAME, MA'AM?

23 A YES SIR

24 Q AT THE TIME THAT TYREE ROBERTS WAS IN PRISON IN
25 FLORIDA, THE TIME TO WHICH WE'RE REFERRING NOW, CAN YOU

STATE VS ALKEBULANYAHH

1 TELL US WHAT PRISON THAT WAS?

2 A HE WAS RECEIVED AT THE RECEPTION AND MEDICAL
3 CENTER IN LAKE BUTLER FLORIDA, AND WENT FROM THERE TO
4 APPALACHEE CORRECTIONAL INSTITUTION

5 Q WAS THAT A PRISON TO WHERE HE WAS ADMITTED TO THE
6 GENERAL POPULATION OF THE PRISON?

7 A AT THE RECEPTION AND MEDICAL CENTER?

8 Q YES, MA'AM

9 A YES

10 Q WHEN HE WAS INCARCERATED WAS HE IN PRISON WITH THE
11 GENERAL POPULATION OR WAS HE WITH A PARTICULAR
12 CHARACTER OF THE POPULATION BY AGE?

13 A BECAUSE OF HIS AGE, THE DEPARTMENT OF CORRECTIONS
14 DID CLASSIFY HIM AS A YOUTHFUL OFFENDER SO HE WAS
15 HOUSED WITH OTHER YOUTHFUL OFFENDERS

16 Q AND WAS THAT DURING THE ENTIRE TIME THAT HE WAS IN
17 PRISON?

18 A FOR THE MOST PART THE FIRST FEW DAYS, HE WAS
19 THERE UNTIL THAT CLASSIFICATION WAS MADE IT'S
20 POSSIBLE HE WAS NOT HOUSED WITH YOUTHFUL OFFENDERS, BUT
21 HE MAY HAVE BEEN I DON'T HAVE RECORDS OF THAT

22 Q DO YOU HAVE ANY IDEA OR CAN YOU TELL US
23 APPROXIMATELY HOW MANY PERSONS HE WAS IN PRISON WITH AT
24 THAT TIME?

25 A NO, SIR, I DON'T HAVE THOSE NUMBERS

STATE VS ALKEBULANYAHH

1 Q AND HE HAD 13 DISCIPLINARY REPORTS DURING HOW MANY
2 MONTHS OF IMPRISONMENT?

3 A APPROXIMATELY 33

4 MR KELLY THANK YOU MA'AM

5 MR STONE I DON'T HAVE ANYTHING ELSE YOUR
6 HONOR, MAY SHE BE EXCUSED?

7 THE COURT ANY OBJECTION?

8 MR KELLY WITHOUT OBJECTION

9 THE COURT YOU MAY BE EXCUSED MA'AM

10 (THE WITNESS LEAVES THE WITNESS STAND)

11 MR STONE GWENDOLYN MALONE

12 GWENDOLYN MALONE, BEING

13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS

14 DIRECT EXAMINATION BY MR. STONE.

15 Q MS MALONE, IF YOU WILL SPEAK -- TELL US YOUR FULL
16 NAME AND SPELL YOUR LAST NAME, PLEASE?

17 A IT'S GWENDOLYN MALONE, M-A-L-O-N-E

18 Q WHERE DO YOU LIVE MS MALONE?

19 A ALBANY, GEORGIA

20 Q HOW LONG HAVE YOU LIVED IN ALBANY GEORGIA?

21 A 37 YEARS

22 Q OKAY IN YOUR TIME IN ALBANY, GEORGIA, DID YOU
23 KNOW A PERSON BY THE NAME OF TYREE ROBERTS?

24 A YES

25 Q HOW DID YOU KNOW HIM?

STATE VS ALKEBULANYAHH

1 A I'D KNOWN HIM ABOUT -- I KNOW HIM BY MY AUNT
2 Q I'M SORRY?
3 A JESSICA MCKENNY (PHONETIC)
4 Q OKAY
5 A THAT WAS MY LITTLE BOY AND I USED TO GO OVER TO
6 VISIT AND TYREE STAYED NEXT DOOR TO HER, HIS GIRL
7 FRIEND, WANDA
8 Q DID YOU EVER HAVE ANY DEALINGS WITH -- WITH TYREE
9 ROBERTS?
10 A NO
11 Q OKAY JUST OTHER THAN JUST KNOWING HIM?
12 A - YES
13 Q OKAY DID HE EVER COME OVER TO YOUR HOUSE OR DID
14 EVER HE SEE YOU?
15 A NO
16 Q JUST IT WAS YOUR FRIEND?
17 A UH-HUH
18 Q OKAY WHERE DID YOU WORK IN 1986 IN ALBANY
19 GEORGIA?
20 A LEVI'S CHICKEN BOX
21 Q OKAY AND WHAT DID YOU DO AT LEVI'S CHICKEN BOX?
22 A I WAS THE MANAGER
23 Q OKAY AND AS THE MANAGER, WHAT WAS YOUR JOB?
24 A I WAIT ON CUSTOMERS, THE ACCOUNTS COOK,
25 PRACTICALLY EVERYTHING

STATE VS ALKEBULANYAHH

1 Q OKAY LET ME ASK YOU IF I COULD ABOUT -- BE SURE
2 I GET THE DATE RIGHT IS IT FEBRUARY -- I'M SORRY,
3 NOVEMBER OF 1986 WERE YOU WORKING AT THE CHICKEN BOX
4 AT THAT TIME?
5 A YES
6 Q LET ME CALL YOUR ATTENTION TO NOVEMBER 28, 1986
7 TELL US WHAT HAPPENED THAT DAY?
8 A IT WAS THREE GUYS CAME INTO THE STORE
9 Q ABOUT WHAT TIME WAS THIS?
10 A PROBABLY ABOUT 6 00 6 20, SOMETHING LIKE THAT
11 Q IN THE MORNING OR THE AFTERNOON?
12 A - AFTERNOON
13 Q OKAY
14 A AND ONE OF THE GUYS CAME UP AND ORDERED A CHICKEN
15 BOX AND SOON AS I OPENED THE REGISTER TYREE TOOK OUT
16 THE GUN AND POINT IT AT ME AND ALL I CAN THINK OF IS
17 RUN
18 Q WHAT KIND OF GUN WAS IT?
19 A IT WAS A LITTLE SHORT, BLACK GUN I -- I DON'T
20 KNOW WHAT KIND WAS IT I DIDN'T -- I DIDN'T GET A GOOD
21 LOOK AT IT
22 Q WHY NOT?
23 A I RAN
24 Q WAS THIS YOUR FIRST TIME THAT YOU'D EVER SEEN
25 TYREE OR DID YOU ALREADY KNOW -- DID YOU KNOW HIM

STATE VS ALKEBULANYAHH

1 BEFORE THAT?

2 A I KNOW HIM BEFORE THAT AND I RAN BECAUSE I

3 THOUGHT HE MIGHT RECOGNIZE ME

4 Q DID YOU SPEAK TO THE POLICE AFTER THIS?

5 A YES

6 Q OKAY AND THIS WAS -- WAS IT NOVEMBER 28, IS THAT

7 CORRECT?

8 A YES

9 Q 1986?

10 A '86

11 Q AND THAT WAS -- WAS THAT IN ALBANY?

12 A - YES

13 Q DID YOU SPEAK TO THE POLICE AFTER THIS EVENT?

14 A YES

15 Q AND WHAT DID YOU TELL THEM?

16 A I GAVE THEM HIS NAME AND TOLD THEM THAT IT WAS

17 TYREE AND THEY TOOK ME DOWN TO THE STATION TO LOOK AT

18 SOME SHOTS AND I PICKED HIM OUT

19 Q YOU PICKED HIM OUT OF SOME SHOTS WHAT DO YOU

20 MEAN?

21 A SOME MUG SHOTS IN A BOOK

22 Q OKAY

23 A OF SOME OF THE CRIMINALS

24 Q AND DID YOU ATTEND THE TRIAL?

25 A YES

STATE VS ALKEBULANYAHH

1 Q DID HE LOOK THE SAME AT THE TRIAL AS HE DID AT THE
2 DAY THAT HE ROBBED YOU?

3 A YES

4 Q NO QUESTION THAT WAS HIM?

5 A THAT WAS HIM

6 Q ALL RIGHT HAD HE CHANGED AT ALL? HAD HE CHANGED
7 HIS APPEARANCE AT ALL?

8 A YES, HE DID

9 Q HOW DID HE ---

10 A I THINK ---

11 Q I'M SORRY

12 A - I THINK HE HAD SHAVED HIS HEAD, CUT ALL OF HIS
13 HAIR OFF

14 Q OKAY

15 MR STONE THANK YOU MS MALONE ANSWER ANY
16 QUESTIONS THAT THE DEFENSE MAY HAVE

17 MR KELLY NO QUESTIONS

18 THE COURT YOU MAY STEP DOWN, MA'AM THANK YOU

19 (THE WITNESS LEAVES THE WITNESS STAND)

20 THE COURT LADIES AND GENTLEMEN, WE STARTED BACK

21 AT 11 30 AND IT'S 1 00 O'CLOCK YOUR LUNCH IS HERE

22 SO I'M SENDING YOU TO THE JURY ROOM DO NOT DISCUSS

23 THIS CASE IN ANY WAY THANK YOU VERY MUCH

24 (THE JURY EXITS THE COURTROOM AT 1 00 P M)

25 THE COURT WE SHALL BE ADJOURNED UNTIL 2 00

STATE VS ALKEBULANYAHH

1 O'CLOCK THE COURTROOM NEEDS TO BE CLEARED BEFORE
2 ANYTHING FURTHER THANK YOU VERY MUCH
3 (PAUSE)
4 THE COURT ANYTHING FURTHER?
5 MR STONE WE WANT TO MAKE SURE WE WERE CLEAR ON
6 THE MANNEQUIN RULING YOUR HONOR WE'RE JUST GOING TO
7 LEAVE THE CLOTHES ON THE MANNEQUIN AND LEAVE THEM IN
8 THE CLOSET THEN WE WOULD BRING THEM OUT AND THEN PUT
9 THEM BACK WHEN WE'RE DONE, IS THAT CORRECT?
10 THE COURT ANY PROBLEM?
11 MR KELLY IN ADDITION TO THAT, YOUR HONOR, WHEN
12 THE--- THOSE SHIRTS ARE TAKEN TO THE JURY ROOM, THEY
13 WILL BE OFF OF THE MANNEQUIN, IS THAT CORRECT?
14 THE COURT YES
15 MR STONE YES SIR THAT'S FINE
16 THE COURT YES
17 MR KELLY WE'RE CLEAR THEN
18 THE COURT ALL RIGHT
19 MR STONE I JUST WANTED TO MAKE SURE WE WERE
20 CLEAR
21 THE COURT ALL RIGHT
22 MR STONE THANK YOU YOUR HONOR
23 THE COURT ALL RIGHT IF EVERYONE ELSE WILL
24 CLEAR THE COURTROOM, PLEASE, SO WE CAN -- ONCE EVERYONE
25 IS CLEARED, WE WILL MOVE THE DEFENDANT FOR LUNCH

STATE VS ALKEBULANYAHH

1 OFFICER YES, SIR
2 THE COURT ALL RIGHT YOU MAY TAKE THE DEFENDANT
3 TO LUNCH PLEASE THANK YOU
4 (THE DEFENDANT EXITS THE COURTROOM FOR LUNCH)
5 (COURT IS IN RECESS FOR LUNCH)
6 THE COURT MR ALKEBULANYAHH ---
7 MR ALKEBULANYAHH YES, SIR
8 THE COURT --- OBVIOUSLY AS I HAVE INDICATED,
9 THIS IS NOT SOMETHING I HAVE PLEASURE IN DOING I GIVE
10 YOU ANOTHER OPPORTUNITY ARE YOU GOING TO CONTINUE TO
11 BE DISRUPTIVE IF WE PLACE YOU BACK INTO THE COURTROOM?
12 - MR ALKEBULANYAHH WELL, I WOULD -- I WOULD
13 RATHER BE BACK THERE I WON'T BE DISRUPTIVE
14 THE COURT YOU'D RATHER STAY IN THAT AREA WHERE
15 YOU COULD SEE?
16 MR ALKEBULANYAHH RIGHT WITHOUT THE RESTRAINTS
17 AND EVERYTHING AND I WON'T BE DISRUPTIVE BACK THERE
18 THE COURT IF WE TAKE THE RESTRAINTS OFF YOU
19 WILL NOT BE DISRUPTIVE?
20 MR ALKEBULANYAHH NO, SIR
21 THE COURT AND I HAVE YOUR WORD FOR THAT?
22 MR ALKEBULANYAHH YES, SIR
23 THE COURT AND LET ME EXPLAIN SOMETHING TO YOU
24 TOO FOR THE RECORD IF YOU CANNOT HEAR SOMETHING, THEN
25 YOU NEED TO NOTIFY ME BY RAISING YOUR HAND STRAIGHT UP

STATE VS ALKEBULANYAHH

1 OKAY?

2 MR ALKEBULANYAHH YES, SIR

3 THE COURT OTHERWISE I ASSUME THAT YOU CAN HEAR

4 EVERYTHING OKAY?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT UNLESS YOU'RE INTENTIONALLY FILTERING

7 IT OUT THAT'S YOUR CALL BUT IF AT SOME POINT YOU

8 HAVE TESTIMONY YOU WISH TO HEAR AND YOU CLAIM THAT IT'S

9 NOT BEING LOUD ENOUGH BACK THERE, THEN YOU RAISE YOUR

10 HAND AND I'LL STOP AND HAVE THE WITNESS REPEAT THE

11 ANSWER OR THE QUESTION REPEATED DO YOU UNDERSTAND?

12 - MR ALKEBULANYAHH YES, SIR

13 THE COURT ALL RIGHT I'M GOING TO -- I AM GOING

14 TO GIVE YOU ANOTHER OPPORTUNITY TO NOT BE RESTRAINED

15 YOU CAN TAKE THE RESTRAINTS OFF OF HIM ONCE HE'S

16 BACK IN THE ROOM THANK YOU

17 MR ALKEBULANYAHH THANK YOU, YOUR HONOR

18 (THE DEFENDANT GOES TO THE ROOM IN BACK OF THE

19 COURTROOM)

20 THE COURT THE DEPUTY THAT STANDS BY THE WINDOW,

21 YOU CAN GO AHEAD AND GET POSTED EVERYONE GET IN THEIR

22 POSITIONS PLEASE SO WE CAN GET STARTED HERE TELL ME

23 WHEN THEY'RE READY IN THERE

24 OFFICER THEY'RE READY, YOUR HONOR

25 (PAUSE)

STATE VS ALKEBULANYAHH

1 THE COURT ALL RIGHT MR ALKEBULANYAHH, IF YOU
2 CAN HEAR ME, PLEASE RAISE YOUR HAND

3 ALL RIGHT LET THE RECORD REFLECT HE RAISED HIS
4 HAND INDICATING HE CAN HEAR THE COURT CAN SEE THE
5 DEFENDANT AND THE DEFENDANT CAN SEE WHAT'S GOING ON
6 IN THIS COURTROOM

7 ALL RIGHT LET THE DOORS OPEN

8 (PAUSE)

9 THE COURT EVERYONE COME IN QUIETLY
10 THE STATE READY?

11 MR STONE THE STATE IS

12 - THE COURT THE DEFENSE READY TO PROCEED?

13 MR KELLY YES, YOUR HONOR

14 THE COURT THANK YOU BRING THE JURY IN PLEASE
15 (THE JURY RETURNS TO THE COURTROOM AT 2 14 P M)

16 THE COURT THANK YOU PLEASE BE SEATED WE'RE
17 READY TO RESUME LADIES AND GENTLEMEN

18 CALL YOUR NEXT WITNESS

19 MR STONE THE STATE CALLS DETECTIVE ANDREW
20 GRIMSLEY

21 ANDREW C GRIMSLEY JR ,
22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

23 DIRECT EXAMINATION BY MR STONE.

24 Q MR GRIMSLEY, IF YOU COULD STATE YOUR FULL NAME
25 AND SPELL YOUR LAST NAME PLEASE?

STATE VS ALKEBULANYAHH

1 A ANDREW C GRIMSLEY JR G-R-I-M-S-L-E-Y
2 Q WHAT DO YOU DO, SIR?
3 A I'M RETIRED AT THE PRESENT
4 Q WHAT DID YOU RETIRE FROM?
5 A THE POLICE DEPARTMENT IN ALBANY GEORGIA,
6 DOUGHERTY COUNTY
7 Q THAT WAS THE CITY OF ALBANY POLICE DEPARTMENT?
8 A THAT'S CORRECT
9 Q HOW LONG DID YOU SERVE WITH THE CITY OF ALBANY
10 POLICE DEPARTMENT?
11 A 32 YEARS
12 Q - AND IN THOSE 32 YEARS WHAT WAS YOUR JOB?
13 A I WENT FROM PATROLMAN TO CAPTAIN I ALSO SERVED
14 IN THE DETECTIVE BUREAU
15 Q DURING 1986, WHAT WAS YOUR POSITION?
16 A DETECTIVE LIEUTENANT
17 Q OKAY WHAT DOES THAT MEAN?
18 A THAT MEANS I INVESTIGATE CRIMES OF DIFFERENT
19 SORTS
20 Q OKAY LET ME ASK YOU ABOUT A CRIME THAT TOOK
21 PLACE ON NOVEMBER 28, 1986 DO YOU KNOW SOMEONE BY THE
22 NAME OF TYREE ROBERTS?
23 A YES
24 Q TELL ME ABOUT THAT IF YOU WOULD?
25 A THIS IS AN INCIDENT THAT OCCURRED ON NOVEMBER 28,

STATE VS ALKEBULANYAHH

1 1986, AT 6 48 P M THE LOCATION WAS LEVI'S CHICKEN BOX
2 LOCATED AT 803 WEST MARYLAND AVENUE I INVESTIGATED AN
3 ARMED ROBBERY THERE WAS SEVERAL WITNESSES THAT CAME
4 TO THE DETECTIVE BUREAU, VIEWED SEVERAL MUG SHOTS AND
5 PICKED OUT TYREE ALPHONZO ROBERTS AS A VICTIM (SIC) AND
6 CAME IN

7 Q GWENDOLYN MALONE, WAS SHE ONE OF THOSE -- WAS SHE
8 ONE OF THOSE VICTIMS?

9 A YES, SHE WAS

10 Q AND MS MALONE, DID YOU SHOW HER A LINE-UP?

11 A A PHOTO LINE-UP OF A ALBUM THAT CONTAINS FOUR
12 PHOTOS PER PAGE AND ON THE TWENTIETH PAGE SHE PICKED
13 HIM OUT AS THE PERSON THAT ROBBED HER AT GUNPOINT

14 Q DID SHE KNOW WHO IT WAS THAT SHE WAS LOOKING FOR?
15 DID SHE HAVE A NAME OR ANYTHING LIKE THAT?

16 A SHE HAD TOLD ME THAT SHE KNEW HIM BEFORE, HAD SEEN
17 HIM BEFORE IN HER NEIGHBORHOOD

18 Q OKAY WHAT DID YOU DO WITH THAT INFORMATION?

19 A ISSUED AN ARREST WARRANT FOR HIM A LOOKOUT WAS
20 PLACED ON HIM THROUGH THE PATROL UNITS AND ALL THE
21 UNITS HE WAS ARRESTED A FEW DAYS LATER

22 Q DO YOU KNOW WHEN HE WAS ARRESTED?

23 A ON ABOUT THE 2ND OF DECEMBER OF '86

24 Q WHEN HE WAS ARRESTED ON -- AROUND SOMEWHERE IN
25 DECEMBER OF 1986, WHERE DID HE GO AT THAT POINT? WAS

STATE VS ALKEBULANYAHH

1 HE BOOKED INTO THE DETENTION -- THE LOCAL DETENTION
2 CENTER OR WHAT?

3 A HE WAS BOOKED IN OUR JAIL, VIDEOTAPED AND BOOKED,
4 AND PLACED IN INCARCERATION THERE

5 Q OKAY WERE YOU PRESENT FOR HIS TRIAL?

6 A YES, SIR

7 Q DO YOU RECALL THE RESULTS OF THAT TRIAL?

8 A I CAN'T RECALL EVERYTHING THAT HAPPENED THERE I
9 KNOW HE WAS TRIED AND ---

10 THE COURT HOLD ON A SECOND CAN YOU SPEAK INTO
11 THAT -- DIRECTLY INTO THAT MIKE PLEASE, SIR

12 - THE WITNESS YES, SIR

13 THE COURT HOLD ON WE STILL CAN'T -- CAN'T
14 HEAR

15 THE WITNESS CAN YOU HEAR ME NOW?

16 THE COURT CAN THEY TURN UP THE VOLUME PLEASE
17 CAN EVERYONE HEAR BACK THERE? CAN EVERYONE HEAR? ALL
18 RIGHT LET THE RECORD REFLECT THAT EVERYONE CAN HEAR
19 PROCEED

20 MR STONE THANK YOU, YOUR HONOR

21 Q COULD YOU TELL US WHAT THE RESULTS OF THAT TRIAL
22 WERE?

23 A HE WAS TRIED IN THE COURT OF DOUGHERTY COUNTY AND
24 FOUND GUILTY I DON'T REMEMBER WHAT THE SENTENCE WAS
25 I WAS NOT PRESENT AT THE SENTENCING

STATE VS ALKEBULANYAHH

1 Q THAT'S FINE DO YOU KNOW WHEN THAT TRIAL TOOK
2 PLACE OR WHEN THAT CONVICTION HAPPENED?

3 A I BELIEVE IT WAS IN MAY OF THE FOLLOWING YEAR

4 Q OKAY MAY OF 1987?

5 A YES, SIR

6 Q AND DO YOU KNOW IF TYREE ROBERTS WAS IN THE
7 DETENTION CENTER UP UNTIL THE TIME THAT HE WENT TO
8 TRIAL?

9 A I CAN'T SAY FOR SURE

10 Q ALL RIGHT, SIR

11 MR STONE DETECTIVE, THANK YOU

12 IF YOU WOULD, ANSWER ANY QUESTIONS THAT THE
13 DEFENSE MAY HAVE, SIR

14 THE WITNESS CERTAINLY

15 CROSS EXAMINATION BY MR. KELLY.

16 Q MR GRIMSLEY ARE YOU FAMILIAR WITH A JOHN HENRY
17 PONDER?

18 THE COURT HOLD ON A SECOND, COUNSEL I'M SORRY
19 TO INTERRUPT

20 CAN YOU TALK IN -- THE ONLY WAY IS FOR YOU ALL TO
21 TALK ---

22 Q MR GRIMSLEY, ARE YOU -- ARE YOU FAMILIAR WITH A
23 JOHN HENRY PONDER WHO WAS A POLICE OFFICER AT THE TIME
24 OF THIS ARREST?

25 A I DON'T REMEMBER HIM

STATE VS ALKEBULANYAHH

1 Q DO YOU RECALL WHETHER OR NOT THE -- WHETHER TYREE
2 ALPHONZO ROBERTS TURNED HIMSELF IN OR NOT AT THE TIME
3 OF HIS ARREST?

4 A NO, SIR HE WAS NOT -- HE WAS ARRESTED ON A
5 WARRANT AND BOOKED IN BY DETECTIVE CHARLIE LONG WHO IS
6 DECEASED NOW

7 MR KELLY THANK YOU, SIR

8 MR MURDAUGH YOU MAY COME DOWN MAY THIS
9 WITNESS BE EXCUSED?

10 THE COURT ANY OBJECTION?

11 MR KELLY WITHOUT OBJECTION

12 THE COURT YOU MAY BE -- YOU MAY BE EXCUSED, SIR
13 (THE WITNESS LEAVES THE WITNESS STAND)

14 MR MURDAUGH BILL MONROE PLEASE

15 THE COURT COUNSEL EACH SIDE YOU'RE GOING TO
16 HAVE TO SPEAK INTO THE MIKE OR EITHER THE MIKE OVER
17 THERE, AT YOUR TABLE OR AT THE LECTERN THOSE ARE THE
18 ONLY OPTIONS ALL RIGHT?

19 MR KELLY YES, SIR

20 MR MURDAUGH COME AROUND MR MONROE PUT YOUR
21 LEFT HAND ON YOUR BIBLE AND HOLD UP YOUR RIGHT HAND TO
22 BE SWORN

23 THE COURT YOU'RE GOING TO HAVE TO TALK INTO THAT
24 MICROPHONE, MR SOLICITOR THANK YOU

25 WILLIAM H MONROE, JR ,

STATE VS ALKEBULANYAHH

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

2 DIRECT EXAMINATION BY MR. MURDAUGH.

3 Q MR MONROE, PLEASE GIVE US YOUR FULL NAME?

4 A IT'S WILLIAM H MONROE, JR

5 Q AND MR MONROE WHERE DO YOU LIVE?

6 A IN ALBANY, GEORGIA

7 Q OKAY, SIR WHERE DO YOU WORK, SIR?

8 A I'M EMPLOYED AS A SENIOR DEPUTY CLERK IN THE CLERK
9 OF COURT, CLERK OF SUPERIOR COURT IN DOUGHERTY COUNTY,
10 GEORGIA

11 Q OKAY, SIR HOW LONG HAVE YOU BEEN A CLERK OF
12 COURT THERE?

13 A THREE YEARS, SIR

14 Q OKAY, SIR I ASK YOU, SIR, WHETHER OR NOT YOU ---
15 MR MURDAUGH MAY I APPROACH HIM IF YOUR HONOR
16 PLEASE?

17 THE COURT YES, SIR BUT YOU HAVE ---

18 Q I HAND YOU SOME PAPERS SIR, AND ASK YOU IF YOU
19 CAN IDENTIFY THESE PAPERS?

20 THE COURT ALL RIGHT SIR, YOU'RE GOING TO HAVE
21 TO SPEAK INTO THE MICROPHONE YOU CAN WALK UP BUT YOU
22 CANNOT TALK UNLESS IT'S IN THE MICROPHONE PLEASE

23 Q DO YOU IDENTIFY THOSE PAPERS I JUST HANDED YOU,
24 SIR?

25 A YES, I DO

STATE VS ALKEBULANYAHH

1 Q AND WHAT ARE THOSE SIR?

2 A THIS IS AN ACCUSATION AND A SENTENCE ORDER THAT
3 HAS BEEN CERTIFIED AS A TRUE AND CORRECT COPY OF THE
4 ORIGINAL FILE THAT'S FILED IN THE CLERK OF COURT'S
5 OFFICE IN DOUGHERTY COUNTY

6 THE PAPERWORK CONSISTS OF AN ACCUSATION, CASE
7 NUMBER 87-R-021, STATE OF GEORGIA VERSUS TYREE A
8 ROBERTS HE IS ACCUSED OF ARMED ROBBERY THE
9 ACCUSATION IS DATED MAY/12, 1987

10 ON THE BACK SIDE OF THE ACCUSATION, THERE'S A ---

11 Q BEFORE YOU GO ANY FURTHER, SIR, I ASK YOU WHETHER
12 OR NOT THOSE RECORDS ARE KEPT UNDER THE CARE, CUSTODY,
13 AND CONTROL OF THE CLERK OF COURT OF THE COUNTY YOU'RE
14 TALK -- TALKING ABOUT, SIR?

15 A YES, SIR, THEY ARE

16 Q AND ARE YOU THE CLERK OF THAT COURT -- CLERK OF
17 THAT COURT?

18 A I AM A DEPUTY CLERK OF THAT COURT, YES, SIR

19 Q OKAY SIR

20 MR MURDAUGH YOUR HONOR PLEASE, I WOULD OFFER
21 THESE AS AN EXHIBIT

22 THE COURT ANY OBJECTION?

23 MR KELLY WITHOUT OBJECTION

24 THE COURT ALL RIGHT STATE'S 118 IN EVIDENCE
25 WITHOUT OBJECTION

STATE VS ALKEBULANYAHH

1 (DOUGHERTY COUNTY RECORDS, 87-R-021, 5 PAGES,
2 MARKED IN EVIDENCE AS STATE'S EXHIBIT NO 118)

3 Q MR MONROE, I ASK YOU IF YOU WOULD LOOK AT THOSE
4 RECORDS AND TELL ME THE DATE YOU SAID THERE WAS A
5 CONVICTION, IS THAT CORRECT?

6 A IT'S A SENTENCE ORDER RESULTING FROM A CONVICTION,
7 YES, SIR

8 Q OKAY, SIR WHEN WAS THE CONVICTION?

9 A THE SENTENCE ORDER IS DATED MAY 21 THE
10 CONVICTION COULD HAVE BEEN ON THAT DAY OR MAYBE A PRIOR
11 DATE

12 Q - MAY THE 21ST OF WHAT YEAR, SIR?

13 A 1987, SIR

14 Q 1987 OKAY, SIR AND WHAT SENTENCE DID HE
15 RECEIVE?

16 A HE WAS FOUND GUILTY BY JURY FOR THE CHARGE OF
17 ARMED ROBBERY HE RECEIVED A 20 YEAR SENTENCE, 10
18 YEARS PRISON, 10 YEARS PROBATION

19 Q OKAY, SIR DO YOU RECALL OR DO YOU KNOW WHETHER
20 OR NOT HE WAS RELEASED ON A BOND AFTER HE WAS ARRESTED?

21 A NO, SIR, I DON'T I DON'T HAVE ANY INDEPENDENT
22 KNOWLEDGE OF IT

23 Q AND THAT WAS MAY 21, 1987?

24 A YES, SIR

25 MR MURDAUGH THANK YOU, SIR

STATE VS ALKEBULANYAHH

1 MR KELLY NO QUESTIONS
2 MR MURDAUGH MAY MR MONROE BE EXCUSED?
3 MR KELLY HE MAY
4 THE COURT YOU MAY BE EXCUSED, SIR THANK YOU
5 (THE WITNESS LEAVES THE WITNESS STAND)
6 MR MURDAUGH THANK YOU, SIR
7 MR STONE THE STATE CALLS SUSAN ROBERSON
8 MS ROBERSON, COME AROUND AND BE SWORN PLEASE
9 SUSAN ROBERSON BEING FIRST
10 DULY SWORN, TESTIFIED AS FOLLOWS
11 DIRECT EXAMINATION BY MR. STONE
12 Q - MS ROBERSON, IF YOU WILL PLEASE TELL THE JURY
13 YOUR FULL NAME AND SPELL YOUR LAST NAME FOR US?
14 A SUSAN ROBERSON R-O-B-E-R-S-O-N
15 Q I'M SORRY SO IT'S ROBERSON?
16 A YES, SIR
17 Q I APOLOGIZE I WAS CALLING YOU ROBERSON I'M
18 SORRY ABOUT THAT WHAT DO YOU DO, MA'AM?
19 A I AM EMPLOYED WITH THE GEORGIA DEPARTMENT OF
20 CORRECTION IN ATLANTA, GEORGIA, COURT ---
21 Q I'M SORRY GO AHEAD
22 A COURT LIAISON OFFICER AND MANAGER OF THE
23 COMPUTATION UNIT
24 Q HOW LONG HAVE YOU BEEN WITH THE GEORGIA DEPARTMENT
25 OF CORRECTIONS?

STATE VS ALKEBULANYAHH

1 A TWENTY EIGHT AND A HALF YEARS

2 Q ARE YOU FAMILIAR WITH THE RECORDS-KEEPING IN THE
3 DEPARTMENT OF CORRECTIONS IN GEORGIA?

4 A YES

5 Q ARE YOU FAMILIAR WITH HOW THE RECORDS ARE KEPT?
6 AND ARE THEY KEPT IN THE ORDINARY COURSE OF BUSINESS
7 FOR THE DEPARTMENT OF CORRECTIONS?

8 A YES

9 Q ARE THEY KEPT ON EACH INDIVIDUAL INMATE THAT IS IN
10 THE GEORGIA DEPARTMENT OF CORRECTIONS?

11 A YES

12 - THE COURT STATE'S 119 FOR I D PURPOSES

13 (GEORGIA DEPARTMENT OF CORRECTIONS RECORDS, MANY
14 PAGES, MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT NO
15 119)

16 Q MS ROBERSON LET ME SHOW YOU WHAT'S BEEN MARKED
17 AS STATE'S EXHIBIT 119 FOR IDENTIFICATION AND ASK IF
18 YOU COULD IDENTIFY THAT FOR ME PLEASE?

19 A OKAY IT'S THE ADMINISTRATIVE FILE ON A TYREE A
20 ROBERTS AND THE CERTIFICATION ON TOP

21 Q THAT -- THE FIRST PAGE, IS THAT WHAT YOU'RE
22 REFERRING TO?

23 A YES

24 Q AND WHAT IS THAT -- WHAT DOES THAT CERTIFICATION
25 TELL YOU?

STATE VS ALKEBULANYAHH

1 A DO YOU WANT ME TO READ IT?

2 Q YES

3 A I, KATRINA HARRIS, CERTIFY THAT I AM ASSISTANT TO
4 THE COMMISSIONER OF THE DIVISION, KEEPER OF THE
5 OFFICIAL CERTAIN OFFICE INMATE RECORDS FOR THE
6 DEPARTMENT OF CORRECTIONS, AND AS SUCH ASSISTANT, I AM
7 AUTHORIZED TO CERTIFY OFFICIAL INMATE RECORDS OF SAID
8 DEPARTMENT

9 THIS IS TO CERTIFY THAT THE ATTACHED COPIES FROM
10 THE RECORDS OF TYREE A ROBERTS ER-208950, G D C NO
11 428574, ARE TRUE AND CORRECT COPIES FROM THE OFFICIAL
12 RECORDS OF THE GEORGIA DEPARTMENT OF CORRECTION THIS
13 THE 27TH DAY OF AUGUST 2003 KATRINA HARRIS OFFICE
14 MANAGER AND INFORMATION SERVICES DIVISION

15 Q AND ARE THOSE BEARING THE SEAL OF THE DEPARTMENT
16 OF CORRECTIONS?

17 A YES, THEY ARE

18 Q ALL RIGHT

19 MR KELLY WITHOUT OBJECTION

20 THE COURT ALL RIGHT

21 MR STONE YOUR HONOR, AT THIS TIME -- YOUR
22 HONOR, AT THIS TIME WE MOVE STATE'S EXHIBIT 119 INTO
23 EVIDENCE

24 THE COURT STATE'S 119 INTO EVIDENCE WITHOUT
25 OBJECTION

STATE VS ALKEBULANYAHH

1 (STATE'S EXHIBIT NO 119 RECEIVED IN EVIDENCE)

2 Q MS ROBERSON LET ME CALL YOUR ATTENTION NOW TO
3 THOSE RECORDS I THINK THAT'S MARKED AS -- STATE'S
4 EXHIBIT 119 I ASK IF YOU COULD TELL ME PLEASE WHEN
5 THE INMATE, TYREE ROBERTS, WAS CONVICTED? OR LET ME
6 BACK UP WHEN -- WHEN DID HE ENTER YOUR FACILITY?

7 A WE PICKED HIM UP FROM DEKALB COUNTY JAIL ON AUGUST
8 7, 1987

9 Q WHAT DO YOU MEAN, YOU PICKED HIM UP FROM DEKALB
10 COUNTY JAIL?

11 A I'M SORRY DOUGHERTY COUNTY JAIL EXCUSE ME
12 I'M SORRY

13 Q NO, THAT'S FINE WHAT DO YOU MEAN, YOU PICKED HIM
14 UP FROM DOUGHERTY COUNTY JAIL?

15 A AFTER HE HAD BEEN SENTENCED AND THEN WE PICKED HIM
16 UP AND PUT HIM IN CUSTODY AT THE GEORGIA DEPARTMENT OF
17 CORRECTION

18 Q CAN YOU TELL FROM THOSE RECORDS IF HE WAS IN THE
19 DEPARTMENT -- IN THE COUNTY FACILITY UNTIL HE
20 TRANSFERRED TO YOU?

21 A YES HE WAS IN DOUGHERTY COUNTY JAIL ON DECEMBER
22 3, 1986, UNTIL AUGUST 7, 1987, WHEN WE TOOK CUSTODY OF
23 HIM

24 Q AUGUST WHEN? I'M SORRY

25 A 7TH OF 1987

STATE VS ALKEBULANYAHH

1 Q WHEN WAS HE RELEASED FROM THE GEORGIA DEPARTMENT
2 OF CORRECTIONS?

3 A HE DISCHARGED FROM GEORGIA DEPARTMENT OF
4 CORRECTION ON DECEMBER 2, 1996

5 Q AND WHAT FACILITY DID HE DISCHARGE FROM ON
6 DECEMBER 2 1996?

7 A FROM GEORGIA STATE PRISON IN REIDSVILLE, GEORGIA

8 Q SO UNDER YOUR CARE AND CUSTODY, HOW LONG WAS HE --
9 HOW LONG WAS HE UNDER YOUR CARE AND CUSTODY? DID HE
10 ALSO GET CREDIT FOR THE TIME THAT HE WAS ACTUALLY IN
11 THE DETENTION CENTER AWAITING TRIAL?

12 A YES HE WAS IN THERE 10 YEARS TO INCLUDE HIS
13 COUNTY JAIL TIME

14 Q DURING THE TIME THAT TYREE ROBERTS WAS IN THE
15 GEORGIA DEPARTMENT OF CORRECTIONS CAN YOU TELL HOW
16 MANY TIMES HE WAS TRANSFERRED FROM ONE PRISON TO
17 ANOTHER?

18 A INCLUDING THE COUNTY JAIL, BEING TRANSFERRED FROM
19 THE COUNTY JAIL UNTIL HE DISCHARGED, HE WAS TRANSFERRED
20 EIGHT TIMES

21 Q AND WHERE DID HE GO? WHAT IS HIS -- WHAT WAS HIS
22 PROGRESSION THROUGH THE GEORGIA DEPARTMENT OF
23 CORRECTIONS?

24 A OKAY HE STARTED AT THE GEORGIA DIAGNOSTIC AND
25 CLASSIFICATION PRISON IN JACKSON, GEORGIA HE

STATE VS ALKEBULANYAHH

1 TRANSFERRED TO MERIWETHER COUNTY CORRECTIONAL
2 INSTITUTION HE THEN TRANSFERRED TO METRO STATE
3 PRISON, TRANSFERRED TO PHILLIPS STATE PRISON, RIVERS
4 STATE PRISON BACK TO METRO STATE PRISON VALDOSTA --
5 VALDOSTA STATE PRISON, AND THEN FINALLY GEORGIA STATE
6 PRISON

7 Q OKAY AND THE GEORGIA STATE PRISON IS REIDSVILLE,
8 IS THAT CORRECT?

9 A YES

10 Q ALL RIGHT WHAT ARE THE -- LET ME SPECIFICALLY
11 ASK YOU THE DIAGNOSIS -- THE DIAGNOSTIC PART OF THE
12 DEPARTMENT OF CORRECTIONS, IS THAT JUST THE EVALUATION
13 PART?

14 A YES, THAT'S THE RECEPTION CENTER

15 Q SO THE FIRST PLACE THAT HE WENT WAS MERIWETHER
16 WHAT TYPE OF FACILITY WAS THAT?

17 A THAT'S A MEDIUM FACILITY

18 Q AND WHEN YOU SAY MEDIUM FACILITY, WHAT DO YOU
19 MEAN?

20 A SECURITY, MEDIUM SECURITY

21 Q THEN HE WENT TO METRO IS THAT CORRECT?

22 A YES

23 Q AND WHEN HE GOT TO METRO, WHAT TYPE OF FACILITY
24 WAS HE PLACED IN IN METRO?

25 A HE WAS STILL MEDIUM

STATE VS ALKEBULANYAHH

- 1 Q DO YOU KNOW WHY HE WAS TRANSFERRED FROM MERIWETHER
2 TO METRO?
- 3 A HE WAS NOT SUITABLE FOR A COUNTY INSTITUTION
- 4 Q LET ME ASK YOU IF YOU COULD TO TURN TO PAGE 20 OF
5 YOUR PRISON RECORDS AND I SAY YOUR PRISON RECORDS, I
6 THINK THAT'S STATE'S EXHIBIT 119 I ASK IS THAT THE
7 TRANSFER ORDER? IS THAT THE DESCRIPTION OF THE
8 TRANSFER?
- 9 A YES, THAT WAS A TRANSFER RECOMMENDATION THAT HE BE
10 TRANSFERRED
- 11 Q OKAY AND WHAT IS THE REASON FOR THAT TRANSFER?
- 12 A - HE WAS UNSUITABLE FOR A COUNTY INSTITUTION HE
13 WAS ALWAYS COMPLAINING ABOUT SOMETHING
- 14 Q HE THEN WENT TO METRO IS THAT CORRECT?
- 15 A YES
- 16 Q AND FROM METRO HE WAS TRANSFERRED TO PHILLIPS ---
- 17 A YES
- 18 Q --- IS THAT RIGHT?
- 19 A IT WAS FORMERLY KNOWN AS GEORGIA TRAINING AND
20 DEVELOPMENT CENTER
- 21 Q WHAT TYPE OF FACILITY WAS GEORGIA -- I'M SORRY --
22 GEORGIA TRAINING AND DEVELOPMENT CENTER IS THAT
23 CORRECT?
- 24 A YES
- 25 Q WHAT TYPE OF FACILITY WAS THAT?

1 A HE -- A CLOSED FACILITY

2 Q WHAT IS A CLOSED FACILITY?

3 A THE SECURITY LEVEL

4 Q WHAT DOES THAT MEAN? IN RELATION TO MEDIUM WHERE
5 HE WAS, WHAT DOES THAT MEAN?

6 A HE WENT TO A HIGHER LEVEL OF SECURITY, CLOSED

7 Q LET ME ASK YOU TO TURN TO PAGE 11 IN YOUR MED --
8 EXCUSE ME -- IN YOUR PRISON RECORDS WHAT IS THAT?

9 A THIS IS THE TRANSFERRING REQUEST FOR HIM TO BE
10 TRANSFERRED FROM METRO TO GEORGIA TRAINING AND
11 DEVELOPMENT CENTER

12 Q OKAY AND CAN YOU TELL WHAT THE REASON FOR THAT
13 TRANSFER WAS?

14 A TO SEPARATE FROM GENERAL POPULATION

15 Q FROM PHILLIPS, HE WENT THEN TO RIVERS, IS THAT
16 CORRECT?

17 A YES

18 Q AND PHILLIPS I'M SORRY THAT WAS GEORGIA
19 TRAINING AND DEVELOPMENT CORRECT?

20 A YES

21 Q AT RIVERS, WHAT TYPE OF FACILITY WAS RIVERS?

22 A CLOSED

23 Q THAT'S THE SAME ---

24 A THE SAME SECURITY

25 Q THAT'S THE SAME SECURITY LEVEL AS BEFORE?

STATE VS ALKEBULANYAHH

1 A YES

2 Q LET ME ASK YOU TO GO NOW TO PAGE 14 IN THE PRISON

3 RECORDS WHAT IS THAT?

4 A THIS IS THE REQUEST FOR HIM TO BE TRANSFERRED FROM

5 RIVERS TO METRO STATE PRISON

6 Q AND WHAT WAS THE REASON FOR THAT TRANSFER?

7 A ADJUSTMENT

8 Q WHAT DOES ADJUSTMENT MEAN?

9 A IT COULD BE FOR MANY REASONS IT COULD BE BECAUSE

10 OF DISCIPLINARY PROBLEMS, WE COULD HAVE HAD AN

11 ADJUSTMENT IN INMATE POPULATION, PROGRAM NEEDS

12 Q - OKAY WHERE DID HE GO AFTER RIVERS?

13 A HE WENT TO METRO STATE PRISON

14 Q WHAT TYPE OF FACILITY WAS METRO STATE PRISON?

15 A CLOSED SECURITY

16 Q I ASK YOU TO TURN TO PAGE 17 IS THAT THE

17 TRANSFER RECOMMENDATION FROM METRO?

18 A YES

19 Q TELL THE JURY WHAT THAT SAYS PLEASE?

20 A A TRANSFER IS REQUESTED DUE TO THE FACT THAT HE IS

21 UNABLE TO ADAPT TO THE INSTITUTIONAL SETTING AT METRO

22 CORRECTIONAL HE WAS ORIGINALLY TRANSFERRED FROM METRO

23 CORRECTION ON NOVEMBER 8 1988, DUE TO SEPARATION FROM

24 GENERAL POPULATION HE WAS TRANSFERRED BACK FEBRUARY

25 12, 1990, HAS NOT ADJUSTED SINCE RETURNING, IS NOW IN

STATE VS ALKEBULANYAHH

- 1 ADMINISTRATIVE SEGREGATION AWAITING TRANSFER
- 2 Q WHERE DID HE GO FROM THERE?
- 3 A HE WENT TO VALDOSTA STATE PRISON
- 4 Q AND WHAT TYPE OF FACILITY IS VALDOSTA?
- 5 A IT IS ALSO CLOSED
- 6 Q LET ME ASK YOU TO TURN TO PAGE 22 OF HIS PRISON
- 7 RECORD IS THAT A TRANSCRIPT CONCERNING THE TRANSFER
- 8 OF HIM FROM ---
- 9 A YES, THERE WAS A TELETYPE FROM VALDOSTA REQUESTING
- 10 THAT HE BE TRANSFERRED
- 11 Q COULD YOU PUBLISH THAT TO THE JURY PLEASE?
- 12 A - AS PER OUR CONVERSATION, PLEASE TRANSFER TYREE
- 13 ROBERTS, EF-208950, AND STEVE JONES, EF-193669 TO
- 14 GEORGIA STATE PRISON FOR THE WELFARE OF THE
- 15 INSTITUTION
- 16 Q THE BOTTOM HAS SOME HANDWRITING THAT APPEARS TO BE
- 17 FROM THE W H L IS THAT THE -- IS THAT ---
- 18 A RIGHT HE WAS THE CLASSIFICATION ANALYST
- 19 Q OKAY AND PUBLISH THAT TO THE JURY, PLEASE?
- 20 A PHONE CONVERSATION WITH BILL WHITE INDICATED
- 21 INMATE INVOLVED IN A PLOT TO INITIATE A DISTURBANCE AT
- 22 VALDOSTA
- 23 Q FROM VALDOSTA, WHERE DID HE GO?
- 24 A HE WENT TO GEORGIA STATE PRISON IN REIDSVILLE
- 25 Q AND IS THAT WHERE HE FINALLY ENDED UP?

1 A YES, THAT'S WHERE HE ENDED UP HE DISCHARGED, AND
2 THAT IS A MAXIMUM SECURITY INSTITUTION

3 Q LET ME ASK YOU IF YOU COULD PLEASE TO TURN TO PAGE
4 23 IN THE PRISON RECORDS COULD YOU TELL THE JURY WHAT
5 THAT IS PLEASE?

6 A THIS IS A PAROLE REVIEW SUMMARY

7 Q AND WHAT WAS DATE -- WHAT IS THE DATE ON THAT?

8 A 9/25/93

9 Q I ASK IF YOU COULD GO DOWN TO THE DESCRIPTION
10 UNDER THE PAROLE REQUIREMENT STARTING WITH INMATE
11 ROBERTS COULD YOU PUBLISH THAT TO THE JURY PLEASE?

12 A - INMATE ROBERTS' PERFORMANCE IS WELL BELOW AVERAGE
13 HE HAS A VERY SHORT TEMPER AND DOES NOT HESITATE TO
14 EXPRESS HIS ANGER BECAUSE OF THESE TENDENCIES, HIS
15 STAFF-PEER RELATIONS ARE AT BEST MEDIOCRE

16 HE HAS NOT PARTICIPATED IN ANY SELF-HELP PROGRAMS
17 HOWEVER, HE DID COMPLETE HIS G E D IN 1990 IF
18 PAROLED, INMATE SHOULD BE UNDER CLOSE SUPERVISION DUE
19 TO HIS CLEARLY DOCUMENTED ASSAULTIVE-TYPE BEHAVIOR

20 Q HAVE YOU REVIEWED THESE PRISON RECORDS TO
21 DETERMINE HOW MANY DISCIPLINARY INFRACTIONS TYREE
22 ROBERTS HAD WHILE AT THE DEPARTMENT OF CORRECTIONS IN
23 GEORGIA?

24 A YES, I HAVE

25 Q COULD YOU TELL THE JURY HOW MANY INFRACTIONS AND

STATE VS ALKEBULANYAHH

- 1 HOW MANY SEPARATE INSTANCES?
- 2 A HE'S HAD 66 CHARGES AND 41 DIFFERENT DATES
- 3 Q I APOLOGIZE YOU'VE GOT TO GIVE ME THAT AGAIN
- 4 WHAT ARE THOSE NUMBERS?
- 5 A 66 CHARGES ---
- 6 Q OKAY
- 7 A --- AND 41 DIFFERENT DATES
- 8 Q WHAT DOES THAT MEAN?
- 9 A DIFFERENT OCCURRENCES ON DIFFERENT DATES
- 10 Q AND WHAT ARE YOU -- WHAT ARE YOUR CHARGES CALLED?
- 11 ARE THEY CALLED DISCIPLINARY INFRACTIONS, DISCIPLINARY
- 12 REPORTS? WHAT -- WHAT ARE THEY CALLED?
- 13 A DISCIPLINARY REPORTS
- 14 Q COULD YOU TELL THE JURY IF YOU WOULD, AND I -- I
- 15 DON'T NEED YOU TO GO INTO EACH ONE OF THEM IF YOU
- 16 COULD JUST GIVE US A GENERAL IDEA ABOUT WHAT THOSE
- 17 CHARGES WERE?
- 18 A DO YOU WANT THE NUMBERS ---
- 19 Q THAT WILL BE FINE JUST -- COULD YOU JUST
- 20 CATEGORIZE THOSE FOR US?
- 21 A HE HAD 1 VERBALLY THREATENING
- 22 Q WHAT -- WHAT DOES THAT MEAN?
- 23 A HE WAS -- THREATENED A CORRECTIONAL OFFICER OR
- 24 MAYBE ANOTHER INMATE
- 25 Q OKAY

1 A FAILURE TO FOLLOW INSTRUCTIONS, HE HAD 33
2 INSUBORDINATION, HE HAD 11
3 UNAUTHORIZED ABSENCE, HE HAD 5
4 Q WHAT -- WHAT IS AN UNAUTHORIZED ABSENCE?
5 A HE MAY HAVE NEEDED TO BE AT A PROGRAM OR A CERTAIN
6 PLACE AND HE DIDN'T -- DIDN'T GO
7 Q HOW MANY OF THOSE DID HE HAVE?
8 A 5
9 Q OKAY
10 A UNAUTHORIZED POSSESSION OF CONTRABAND, 2
11 OBSTRUCTION OF SEARCH, 2
12 Q - WHAT IS AN OBSTRUCTION OF SEARCH?
13 A HE FAILED TO DO A STRIP SEARCH HE WOULDN'T
14 COMPLY
15 Q AND WHO DOES THOSE SEARCHES?
16 A THE CORRECTIONAL OFFICERS
17 Q OKAY
18 A HE HAD 3 OBSCENE WORDS OR GESTURES
19 4 FAILURE TO PERFORM WORK ASSIGNMENTS
20 2 OBSTRUCTION OF DUTIES OF STAFF
21 1 ASSAULT OF OFFICER
22 1 USING DRUGS OR ALCOHOL
23 AND 1 ASSAULT WITHOUT WEAPON
24 Q 1 ASSAULT -- I'M SORRY?
25 A WITHOUT WEAPON

STATE VS ALKEBULANYAHH

1 Q LET ME ASK YOU TO TURN TO PAGE 47 OF THE PRISON
2 RECORDS COULD YOU TELL US WHAT THAT IS?

3 A PAGE 47 IS A DISCIPLINARY REPORT

4 Q OKAY AND WHAT IS THAT -- WHAT IS THAT
5 DISCIPLINARY REPORT FOR?

6 A FAILURE TO FOLLOW INSTRUCTIONS AND FAILURE TO
7 PERFORM WORK ASSIGNMENT

8 Q ARE YOU REQUIRED IN GEORGIA TO WORK WHILE YOU'RE
9 IN PRISON OR IS THAT A BENEFIT GIVEN? I DON'T KNOW ---

10 A I DON'T KNOW THE ANSWER TO THAT ANY MORE

11 Q THAT'S FINE THAT'S FINE WHAT IS THAT REPORT
12 FOR, THE DISCIPLINARY REPORT FOR?

13 A CAN I READ WHAT IT ---

14 Q SURE PUBLISH THAT TO THE JURY IF YOU WOULD
15 PLEASE?

16 A INMATE ROBERTS TO WASH POTS AND PANS AND INMATE
17 SAID HE REFUSED TO WORK THAT HE WAS NOT GOING BACK
18 UPSTAIRS

19 Q I ASK YOU TO GO TO PAGE 58 OF THE REPORTS TELL
20 THE JURY WHAT THAT IS?

21 A THIS IS AN INCIDENT REPORT AT METRO STATE PRISON

22 Q COULD YOU PUBLISH THE NARRATIVE TO THE JURY?

23 A INMATE ROBERTS WAS INSTRUCTED TO SHAVE SEVERAL
24 TIMES BY ME, OFFICER PARKS HE REFUSED TO DO SO HE
25 STATED IN A LOUD AND HOSTILE MANNER, I'M NOT SHAVING

STATE VS ALKEBULANYAHH

1 AND NOBODY IS GOING TO SHAVE ME
2 I ADVISED HIM IF HE DID NOT, THAT FORCE WOULD BE
3 USED
4 HE STATED, DO IT THEN HE BECAME VERY HOSTILE AND
5 LOUD, RESISTING WHEN HE TRIED TO PUT HIM ON CHAIR HE
6 BEGAN SAYING OVER AND OVER YOU MOTHER FUCKERS ARE
7 DEAD, DEAD YOU HEAR ME I AM GOING TO FUCK YOU UP
8 AND STICK YOUR ASS THERE WERE NO PHYSICAL INJURIES
9 HE REFUSED TO DO FIRST A NURSE CHECK, HIM BEING VERY
10 LOUD AND HOSTILE STILL
11 Q HE HAD 33 WHAT? I DIDN'T CATCH THAT ONE
12 A - 33 FOLLOW -- FAILURE TO FOLLOW THE INSTRUCTION
13 MR STONE OKAY I DON'T HAVE ANY FURTHER
14 QUESTIONS YOUR HONOR
15 CROSS EXAMINATION BY MR. KELLY.
16 Q MS ROBERSON ---
17 A YES, SIR
18 Q TYREE ROBERTS WAS IN YOUR GEORGIA PRISON SYSTEM
19 FOR 10 YEARS, CORRECT?
20 A YES
21 Q AND HE WAS INCARCERATED OR IN PRISON FOR ALL OF
22 THOSE 10 YEARS?
23 A YES
24 Q AND HOW MANY ASSAULTS DID HE HAVE IN 10 YEARS
25 TIME?

STATE VS ALKEBULANYAHH

- 1 A TWO
- 2 Q AND CAN YOU TELL US WHAT THEY WERE?
- 3 A ASSAULT OF OFFICER AND ASSAULT WITHOUT WEAPON
- 4 Q WHAT -- WHAT DOES THAT SPECIFICALLY REFER TO?
- 5 A I'D HAVE TO FIND THE DISCIPLINARY THAT THAT WAS ON
- 6 AND READ IT I'M NOT SURE DO YOU WANT ME TO FIND IT?
- 7 Q DO YOU HAVE ANY IDEA THAT THERE WAS ANY SERIOUS
- 8 INJURY AT ALL?
- 9 A I WOULD HAVE TO READ THE DISCIPLINARY REPORT
- 10 Q DO YOU HAVE THEM MARKED?
- 11 A EXCUSE ME?
- 12 Q - DO YOU HAVE IT MARKED SO YOU CAN READILY TELL US?
- 13 A NO I NEED TO FIND IT (PAUSE) OKAY I FOUND
- 14 IT ON THE TIME AND DATE STATED ABOVE, I, OFFICER
- 15 ROSEN IN TWO-MAN ROOM ON DORM 13, WHEN I TURNED AND
- 16 NOTICED INMATE ROBERTS STANDING IN THE DOORWAY I THEN
- 17 ORDERED INMATE ROBERTS TO LEAVE THE DOORWAY AND FIND
- 18 SOMETHING TO DO INMATE ROBERTS REFUSED MY ORDER THREE
- 19 TIMES HE, ROBERTS, THEN RAISED HIS HAND AS IF TO
- 20 STRIKE ME SO I RAISED MY HAND AND OUR HANDS HIT
- 21 Q AND THE OTHER?
- 22 A (PAUSE) SOME OF THESE DATES ARE VERY HARD TO
- 23 READ (PAUSE) I CAN'T SEEM TO FIND THAT ONE
- 24 Q THE ASSAULT FOR WHICH YOU ARE SEARCHING INVOLVED
- 25 ANOTHER INMATE, IS THAT NOT CORRECT?

STATE VS ALKEBULANYAHH

- 1 A ASSAULT WITHOUT WEAPON? I'M ---
- 2 Q YES
- 3 A I'M NOT SURE BECAUSE I DON'T REMEMBER WHAT THE
- 4 CIRCUMSTANCES WERE
- 5 Q WELL, I BELIEVE THAT YOU LISTED THAT ONE WAS
- 6 AGAINST AN OFFICER OR OFFICIAL?
- 7 A YES
- 8 Q WOULD IT NOT ALSO BE LISTED AS BEING AGAINST AN
- 9 OFFICIAL OR OFFICER IF IT HAD BEEN?
- 10 A IT WOULD IF IT WAS AN OFFICER (PAUSE) I CAN'T
- 11 FIND IT
- 12 Q HOW DO YOU KNOW IT'S THERE IF YOU CAN'T FIND IT?
- 13 A I HAVE A SUMMARY OF HIS DISCIPLINARY IT'S IN THE
- 14 FILE AND THEY WERE LISTED OUT (PAUSE) OKAY I
- 15 FOUND IT
- 16 UPON ENTERING F-4 DORMITORY, INMATE ROBERTS AND
- 17 JACKSON WERE INVOLVED IN A PHYSICAL ALTERCATION THEY
- 18 WERE GIVEN A DIRECT ORDER TO STOP AND REFUSED HANDS-
- 19 ON FORCE WAS USED TO GAIN CONTROL OF THE INMATES BOTH
- 20 INMATES WERE LOCKED DOWN
- 21 DISCIPLINARY REPORTS WERE FILED AND INMATE JACKSON
- 22 WAS MOVED TO E-1 AND INMATE ROBERTS WAS MOVED TO E-3
- 23 TIME DID NOT PERMIT THE USE OF THE VIDEO CAMERA BOTH
- 24 INMATES WERE CHECKED BY MEDICAL PERSONNEL
- 25 Q AND IN THE 10 YEARS THAT ROBERTS WAS AN INMATE,

1 THOSE ARE THE ONLY 2 ASSAULTS YOU HAVE ON RECORD?

2 A YES

3 MR KELLY THANK YOU, MA'AM

4 REDIRECT EXAMINATION BY MR. STONE.

5 Q I ASK YOU TO TURN TO PAGE 23 -- 23, EXCUSE ME, OF
6 THE PRISON RECORDS AS OF NOVEMBER 9, 1993, HOW MANY
7 DAYS DID TYREE ROBERTS SPEND IN ISOLATION?

8 A 216 DAYS

9 Q I'M ASSUMING IF YOU'RE IN ISOLATION, YOU DON'T
10 HAVE ANY ELSE -- ANYONE ELSE WITH YOU?

11 A CORRECT

12 Q - DID HE GET OUT IN NOVEMBER OF 1993?

13 A DID HE GET OUT?

14 Q YES

15 A NO

16 Q OKAY HOW MANY MORE YEARS DID HE SERVE DO YOU
17 KNOW?

18 A UNTIL DECEMBER 2, 1996

19 MR STONE THANK YOU, MA'AM I DON'T HAVE ANY
20 FURTHER QUESTIONS

21 THE COURT YOU MAY STEP -- YOU MAY STEP DOWN,
22 MA'AM

23 MR KELLY I HAVE NO FURTHER QUESTIONS

24 THE COURT I'M SORRY

25 MR STONE MAY SHE BE -- MAY SHE BE EXCUSED, YOUR

1 HONOR?
2 MR KELLY SHE MAY
3 THE COURT YOU MAY BE EXCUSED, MA'AM
4 (THE WITNESS LEAVES THE WITNESS STAND)
5 THE COURT LADIES AND GENTLEMEN, I UNDERSTAND
6 YOU'VE REQUESTED A BREAK I'LL GO AHEAD AND GIVE YOU A
7 BREAK AT THIS TIME DO NOT DISCUSS THIS MATTER IN ANY
8 WAY WHATSOEVER THANK YOU VERY MUCH
9 (THE JURY EXITS THE COURTROOM AT 2 59 P M)
10 THE COURT PLEASE BE SEATED
11 (PAUSE)
12 - THE COURT IS THAT A YES OR NO? IT'S A REAL
13 QUICK QUESTION
14 OFFICER HE'S OKAY, YOUR HONOR
15 THE COURT ALL RIGHT THANK YOU WE'LL TAKE A
16 BREAK THANK YOU
17 (A RECESS WAS TAKEN)
18 THE COURT STATE READY TO PROCEED?
19 MR STONE THE STATE IS READY YOUR HONOR
20 THE COURT ARE YOU READY?
21 MR KELLY WE'RE READY, YOUR HONOR
22 THE COURT BRING THE JURY IN, PLEASE
23 (THE JURY RETURNS TO THE COURTROOM AT 3 25 P M)
24 THE COURT THANK YOU PLEASE BE SEATED
25 CALL YOUR NEXT WITNESS, PLEASE

STATE VS ALKEBULANYAHH

1 MR STONE DETECTIVE JEFF LIGHT
2 COME AROUND AND BE SWORN PLEASE
3 JEFFREY S LIGHT, BEING
4 FIRST DULY SWORN, TESTIFIED AS FOLLOWS
5 DIRECT EXAMINATION BY MR. STONE.
6 Q IF YOU COULD PLEASE STATE YOUR FULL NAME AND SPELL
7 YOUR LAST NAME?
8 A SERGEANT JEFFREY S LIGHT L-I-G-H-T
9 MR STONE IS THAT MIKE ON? CHECK TO MAKE SURE
10 OKAY
11 Q DETECTIVE LIGHT, WHAT DO YOU DO, SIR?
12 A I'M AN INVESTIGATOR WITH THE DRUG TASK FORCE FOR
13 BEAUFORT COUNTY SHERIFF'S OFFICE
14 Q HOW LONG HAVE YOU BEEN A DETECTIVE FOR THE DRUG
15 TASK FORCE?
16 A OFF AND ON 7 YEARS
17 Q AND WHAT DO YOU DO WITH THE DRUG TASK FORCE? WHAT
18 IS -- WHAT IS THE DRUG TASK FORCE?
19 A IT'S A MULTI-JURISDICTIONAL DRUG ENFORCEMENT UNIT
20 FOR THE COUNTY WE SPECIALIZE IN DIFFERENT TYPE OF
21 DRUG INVESTIGATIONS, SALES, DRUG COMPLAINTS
22 Q LET ME REFER YOU TO MARCH 29, 1997, AND ASK IF YOU
23 WERE OPERATING AN UNDERCOVER OPERATION ON THAT DAY?
24 A YES, SIR, WE WERE
25 Q TELL ME ABOUT THAT IF YOU WOULD PLEASE?

STATE VS ALKEBULANYAHH

1 A ON THAT PARTICULAR DAY WE WERE -- HAD A -- TWO
2 CONFIDENTIAL INFORMANTS WHO WAS EQUIPPED WITH AUDIO AND
3 VIDEO SURVEILLANCE EQUIPMENT

4 AND WE WOULD SEND THEM TO THE HOT AREAS OF
5 BEAUFORT COUNTY WHERE THEY SOLD A LOT OF DRUGS AND
6 DIFFERENT ITEMS LIKE THAT, ILLEGAL NARCOTICS AND WE
7 WERE MAKING A CONTROLLED PURCHASE AND THEN WE WAS
8 IMMEDIATELY ARRESTING THE PEOPLE AFTERWARDS

9 Q DURING THAT UNDERCOVER OPERATION, DID YOU RUN INTO
10 TYREE ROBERTS?

11 A YES, SIR

12 Q AND HOW DID THAT HAPPEN?

13 A WE SENT THE CONFIDENTIAL INFORMANTS DOWN GREENLAWN
14 DRIVE

15 Q WHERE IS GREENLAWN DRIVE?

16 A IT'S ON HIGHWAY 21 IT RUNS RIGHT NEXT TO THE K-
17 MART/BI-LO INTERSECTION ON THE RIGHT-HAND SIDE

18 Q OKAY

19 A THERE'S A LIQUOR STORE RIGHT AT THE BEGINNING OF
20 IT AND IT GOES DOWN TO A SET OF APARTMENTS

21 THE CONFIDENTIAL INFORMANT DROVE DOWN THERE THE
22 TWO OF THEM DROVE TOGETHER DOWN THERE WHERE THE
23 PASSENGER ASKED THEY STOPPED A GENTLEMAN ON A BICYCLE
24 WHO WAS LATER IDENTIFIED AS MR ROBERTS THEY STOPPED
25 HIM AND ASKED HIM IF THERE WAS ANY CRACK COCAINE

STATE VS ALKEBULANYAHH

1 AROUND

2 AND HE SAID YEAH ---

3 MR KELLY OBJECTION

4 THE COURT YES, SIR

5 MR KELLY IT'S HEARSAY, YOUR HONOR

6 Q TELL ME IF YOU WILL JUST WHAT ---

7 THE COURT YES, SIR I SUSTAIN THAT OBJECTION

8 Q --- MR ROBERTS SAID IF YOU WOULD YOU'VE GOT

9 YOUR UNDERCOVER OPERATIONS THERE BUT TELL ME WHAT MR

10 ROBERTS DID?

11 A HE TOLD THE INFORMANT TO GIVE HIM \$20 ---

12 MR KELLY OBJECTION, YOUR HONOR

13 MR STONE YOUR HONOR, HE'S A PARTY OPPONENT

14 THAT'S NOT HEARSAY RULE 803

15 THE COURT YES SIR

16 MR KELLY YOUR HONOR I THINK IT'S HEARSAY IF HE

17 -- IF HE DOESN'T -- DIDN'T HEAR IT HIMSELF

18 THE COURT THIS IS NOT SOMETHING YOU HEARD, SIR?

19 WITNESS WE WAS MONITORING IT OVER THE WIRES SO

20 WE COULD HEAR THE ---

21 THE COURT IS THIS SOMETHING YOU HEARD, SIR?

22 WITNESS YES SIR

23 MR KELLY IN THAT CASE, I WITHDRAW THE

24 OBJECTION

25 THE COURT ALL RIGHT PROCEED

STATE VS ALKEBULANYAHH

1 MR STONE THANK YOU

2 Q GO BACK IF YOU WOULD PLEASE WHAT -- WHAT DID MR
3 ROBERTS -- IN ALL THIS, YOU'RE MONITORING THE WIRE?
4 YOU'RE MONITORING THE AUDIO AS IT'S HAPPENING, IS THAT
5 FIGHT?

6 A YES SIR

7 Q OKAY TELL US ABOUT THAT IF YOU WOULD?

8 A ROBERTS TOLD THE INFORMANT TO GIVE HIM \$20 AS A
9 TRUST FACTOR AND HE WOULD GO GET \$40 WORTH OF CRACK
10 COCAINE AND HE WAS ON A BICYCLE AT THE TIME AND HE
11 WENT OVER TO A BLAZER THAT WAS PARKED ON THE SIDE OF
12 THE ROAD AND TALKED TO AN INDIVIDUAL INSIDE THE BLAZER,
13 AT WHICH TIME HE CAME BACK TO THE INFORMANTS AND SAID
14 THE ONLY THING WE HAD WAS MARIJUANA AND GAVE THE MONEY
15 BACK TO THE INFORMANTS, AT WHICH TIME THE INFORMANTS
16 LEFT THE AREA AND CAME AND MET WITH MYSELF AND SERGEANT
17 -- SERGEANT HORTON AT THE TIME

18 Q AT SOME POINT DURING THAT TIME WERE THEY ABLE TO
19 BUY ANYTHING FROM TYREE ROBERTS?

20 A WE INSTRUCTED THE INFORMANTS TO GO BACK AND BUY
21 MARIJUANA FROM THE INDIVIDUAL, AT WHICH TIME THEY DID
22 THEY PULLED UP AND MET WITH THE SAME INDIVIDUAL AND
23 GAVE HIM -- TOLD HIM WHAT THEY WANTED

24 HE TOLD THEM TO GO TO THE END OF THE BLOCK,
25 TURN AROUND, AND COME BACK, AT WHICH TIME ROBERTS

STATE VS ALKEBULANYAHH

1 WAS IN A VEHICLE AND DROVE UP BESIDE THE DRIVER AND
2 HANDED THE DRIVER PLASTIC BAGS OF MARIJUANA I BELIEVE
3 IT WAS TWO AND AT WHICH TIME THE EXCHANGE OF MONEY
4 WAS DONE

5 ROBERTS LEFT THE AREA MADE A RIGHT ON HIGHWAY 21,
6 WHERE TWO OTHER OFFICERS OF THE DRUG TASK FORCE
7 CONDUCTED A TRAFFIC STOP OF HIM

8 Q OKAY AND THAT WAS ON MARCH 29, 1997?

9 A YES, SIR

10 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS OF
11 THIS WITNESS, YOUR HONOR

12 MR KELLY NO QUESTIONS

13 THE COURT YOU MAY STEP DOWN, SIR

14 THE WITNESS THANK YOU

15 MR STONE MAY HE BE -- MAY HE BE EXCUSED, YOUR
16 HONOR?

17 MR KELLY HE MAY

18 THE COURT YOU MAY BE EXCUSED, SIR

19 THE WITNESS THANK YOU, SIR

20 (THE WITNESS LEAVES THE WITNESS STAND)

21 MR STONE THE STATE CALLS MILDRED FIELDS

22 MS FIELDS COME AROUND AND BE SWORN PLEASE,

23 MA'AM

24 MILDRED FIELDS, BEING FIRST
25 DULY SWORN, TESTIFIED AS FOLLOWS

STATE VS ALKEBULANYAHH

1 DIRECT EXAMINATION BY MR STONE

2 Q STATE YOUR FULL NAME AND SPELL YOUR LAST NAME IF
3 YOU WILL PLEASE, MA'AM?

4 A MILDRED FIELDS, F-I-E-L-D-S

5 Q WHERE DO YOU WORK, MS FIELDS?

6 A I WORK FOR THE BEAUFORT COUNTY CLERK OF COURT
7 OFFICE

8 Q HOW LONG HAVE YOU WORKED FOR THE BEAUFORT COUNTY
9 CLERK OF COURT?

10 A 24 YEARS

11 Q WHAT ARE YOUR JOB DUTIES WITH THE CLERK OF COURT?

12 A I AM CUSTODIAN OVER THE GENERAL SESSIONS

13 Q OKAY OVER GENERAL SESSION WHAT IS GENERAL
14 SESSIONS?

15 A THAT'S THE WARRANTS DIVISION

16 Q OKAY ARE YOU FAMILIAR WITH THE PROCESS OF
17 KEEPING RECORDS IN THE CLERK'S OFFICE?

18 A YES I AM

19 Q ARE RECORDS SUCH AS INDICTMENTS AND SENTENCING
20 SHEETS KEPT IN THE -- IN THE ORDINARY COURSE OF
21 BUSINESS IN THE CLERK'S OFFICE?

22 A YES

23 Q OKAY HAVE YOU BROUGHT DOCUMENTS WITH YOU TODAY?

24 A YES, SIR

25 Q OKAY MAY I HOLD THOSE PLEASE?

STATE VS ALKEBULANYAHH

1 (PAUSE)

2 THE COURT 120 ANY OBJECTION?

3 MR KELLY WITHOUT OBJECTION

4 THE COURT 120 IN EVIDENCE WITHOUT OBJECTION

5 (97-GS-07-916, PLEA, 3 PAGES, MARKED IN EVIDENCE

6 AS STATE'S EXHIBIT NO 120)

7 Q LET ME ASK YOU IF YOU COULD PLEASE TO TELL THE

8 JURY WHAT 1 -- IS 1 -- 120, IS THAT CORRECT?

9 A YES

10 Q OKAY STATE'S EXHIBIT 120, COULD YOU TELL THE

11 JURY WHAT THAT IS?

12 A - THIS IS AN INDICTMENT, THE STATE VERSUS TYREE

13 ROBERTS IT'S INDICTMENT NO 97-GS-07-916

14 Q WHAT IS THAT INDICTMENT FOR, MA'AM?

15 A THIS INDICTMENT IS FOR THE DISTRIBUTION OF

16 UNLAWFUL DRUGS

17 Q AND WHAT DATE DID THAT DISTRIBUTION OCCUR ON?

18 A THE ARREST DATE WAS MARCH 31, 1997

19 Q OKAY DO YOU ALSO HAVE WITH YOU A SENTENCE SHEET?

20 A YES, I DO

21 Q NOW, WHAT IS A SENTENCE SHEET?

22 A THIS IS WHERE THE PERSON PLED GUILTY

23 Q OKAY AND IF YOU COULD TELL THE JURY WHEN THAT

24 TOOK PLACE?

25 A THIS TOOK PLACE SEPTEMBER 11, 1997

STATE VS ALKEBULANYAHH

1 Q AND THAT WAS A -- THAT WAS AS A RESULT OF A GUILTY
2 PLEA, IS THAT CORRECT?

3 A YES, IT IS

4 Q AND WHAT WAS THE SENTENCE FOR TYREE ROBERTS?

5 A THAT THE DEFENDANT, TYREE ROBERTS, IS COMMITTED TO
6 THE STATE DEPARTMENT OF CORRECTION FOR A TERM OF 5
7 YEARS, PROVIDED UPON THE SERVICE OF 24 MONTHS AND THE
8 BALANCE SUSPENDED WITH PROBATION FOR 2 YEARS

9 Q OKAY AND THAT WAS ON SEPTEMBER 11 1997, IS THAT
10 CORRECT?

11 A YES, SIR

12 Q OKAY

13 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS OF
14 THIS WITNESS

15 MR KELLY I HAVE NO QUESTIONS

16 THE COURT YOU MAY STEP DOWN, MA'AM

17 (THE WITNESS LEAVES THE WITNESS STAND)

18 MR STONE MAY SHE BE EXCUSED?

19 MR KELLY SHE MAY

20 THE COURT YOU MAY BE EXCUSED, MA'AM

21 MR STONE JAMES SLIGH

22 JAMES E SLIGH, JR , BEING

23 FIRST DULY SWORN TESTIFIED AS FOLLOWS

24 DIRECT EXAMINATION BY MR. STONE.

25 Q TELL US YOUR FULL NAME AND SPELL YOUR LAST NAME

STATE VS ALKEBULANYAHH

1 PLEASE, SIR?

2 A JAMES E SLIGH, JR , S-L-I-G-H

3 Q WHAT DO YOU DO, MR SLIGH?

4 A I'M THE DIVISION DIRECTOR OF CLASSIFICATION AND
5 INMATE RECORDS FOR THE SOUTH CAROLINA DEPARTMENT OF
6 CORRECTIONS

7 Q ALL RIGHT WHAT DOES THAT MEAN?

8 A THAT MEANS I OVERSEE ALL THE INMATE CLASSIFICATION
9 AND INMATE RECORD FUNCTIONS IN THE RECEPTION AND
10 EVALUATION CENTER

11 Q DOES -- DOES PART OF THAT JOB ENTAIL -- WHAT
12 EXACTLY IS CLASSIFICATION?

13 A CLASSIFICATION IS A PROCESS WHEREBY WE DETERMINE
14 AN INMATE'S SECURITY AND CUSTODY AND THAT DETERMINES
15 THE TYPE OF INSTITUTION THAT HE'S ASSIGNED TO AND THE
16 PRIVILEGES HE HAS ONCE HE'S ASSIGNED TO HIS
17 INSTITUTION

18 Q OKAY ARE YOU -- YOU'RE IN THE CENTRAL OFFICE IN
19 COLUMBIA, IS THAT CORRECT?

20 A THAT S CORRECT

21 Q HOW LONG HAVE YOU BEEN IN THE CENTRAL OFFICE IN
22 COLUMBIA?

23 A IN DISPOSITION FOR APPROXIMATELY 2 YEARS

24 Q WHAT DID YOU DO PRIOR TO THAT?

25 A I WAS THE AGENCY'S OMBUDSMAN

- 1 Q WHAT DOES THAT MEAN?
- 2 A THAT MEANS I INVESTIGATE INQUIRIES INTO -- INMATE
3 RELATED INQUIRIES THAT COME INTO THE AGENCY
- 4 Q ALL RIGHT DID YOU -- PRIOR TO THAT, WHAT DID YOU
5 DO WITH THE DEPARTMENT OF CORRECTIONS?
- 6 A I'VE BEEN A WARDEN AT PALMER PRE-RELEASE CENTER IN
7 FLORENCE I WAS A DEPUTY WARDEN THERE AND AT EVANS
8 CORRECTIONAL INSTITUTION IN BENNETTSVILLE
- 9 Q ARE YOU FAMILIAR WITH GENERAL POPULATION AND WHAT
10 THAT TERM MEANS?
- 11 A YES SIR
- 12 Q - WHAT DOES THAT TERM MEAN?
- 13 A GENERAL POPULATION IS THE SITUATION THAT MOST
14 INMATES ARE IN IT'S JUST A ROUTINE ASSIGNMENT TO AN
15 INSTITUTION
- 16 Q ANY -- WHAT INMATES ARE NOT PLACED IN GENERAL
17 POPULATION?
- 18 A INMATES WHO HAVE CREATED PROBLEMS AND WHO'VE BEEN
19 PUT IN LOCK-UP STATUS OR INMATES WHO ARE IN SAFEKEEPER
20 STATUS AND THAT WOULD BE EITHER PRE -- PRETRIAL
21 SAFEKEEPERS OR DEATH ROW SAFEKEEPERS
- 22 Q OKAY WHEN SOMEONE IS SENTENCED TO A -- TO ANY
23 SENTENCE OTHER THAN DEATH, WHERE ARE THEY PLACED
24 INITIALLY?
- 25 A THEY GO TO A RECEPTION AND EVALUATION CENTER IN

STATE VS ALKEBULANYAHH

1 COLUMBIA FOR A -- AN EVALUATION THAT DETERMINES WHAT
2 TYPES OF NEEDS THEY MAY HAVE AND THEN THEY GO THROUGH
3 THE CLASSIFICATION PROCESS THAT DETERMINES WHAT TYPE OF
4 INSTITUTION THEY'LL BE ASSIGNED TO

5 Q OKAY WHEN THEY'RE ASSIGNED TO THE INSTITUTION,
6 ARE THEY PLACED THEN IN GENERAL POPULATION?

7 A YES, SIR

8 Q OKAY WHAT EXACTLY IS A TYPICAL DAY IN GENERAL
9 POPULATION?

10 A GENERALLY 5 30 A M , WE HAVE A STANDING FORMAL
11 COUNT WE HAVE COUNTS THROUGHOUT THE DAY ONCE THE
12 COUNT IS CLEARED, WE FEED THE POPULATION BREAKFAST BY
13 LIVING UNIT WE MOVE A LIVING UNIT AT A TIME BACK AND
14 FORTH TO THE CAFETERIA

15 ONCE BREAKFAST IS COMPLETED, THE INMATES THEN --
16 IF THEY HAVE A JOB ASSIGNMENT OR AN EDUCATION PROGRAM
17 OR VOCATIONAL PROGRAM THEY'RE RELEASED FOR THOSE
18 - PROGRAMS

19 WE HAVE MOVEMENT ON THE HOUR CALLED CONTROL
20 MOVEMENT, SO THEY GO OUT IN A VERY CONTROLLED
21 ENVIRONMENT WE BRING THEM BACK TO THEIR LIVING UNIT
22 AT LUNCH AND THEN FEED THEM IN THE SAME MANNER, UNIT BY
23 UNIT

24 THEY'RE AGAIN RELEASED TO WORK OR SCHOOL IN THE
25 AFTERNOON, COME BACK INTO THEIR UNIT, ARE FED SUPPER,

STATE VS ALKEBULANYAHH

1 AND THEN ARE PRETTY MUCH CONFINED TO THEIR LIVING UNIT
2 FOR THE REST OF THE EVENING UNLESS THEY'RE INVOLVED IN
3 SOME TYPE OF EVENING PROGRAM

4 Q ALL RIGHT THE LIVING UNIT, IS THAT THEIR CELL?

5 A THAT IS THE BUILDING THAT CONTAINS THE CELLS, YES

6 Q OKAY WHAT -- HOW IS THE CELL DIFFERENTIATED FROM
7 THE -- FROM THE LIVING AREA? WHAT -- WHAT'S THE
8 DIFFERENCE?

9 A WELL THERE'S A -- THERE'S -- IN A TYPICAL HIGH-
10 SECURITY PRISON, THERE'S A BUILDING THAT -- THAT HOUSES
11 ANYWHERE FROM 250, 260 INMATES IF THERE -- IF IT'S A
12 DOUBLE-CELL SITUATION SO THERE ARE APPROXIMATELY 125
13 CELLS, INDIVIDUAL CELLS, IN THE BUILDINGS

14 Q ARE THE INMATES LOCKED INTO THEIR INDIVIDUAL CELLS
15 ON A REGULAR BASIS DURING THESE DAYS?

16 A JUST -- JUST GENERALLY FROM, SAY, 10 00 P M UNTIL
17 THE COUNT IS CLEAR IN THE MORNING AND THEY'RE RELEASED
18 FOR BREAKFAST

19 Q OKAY SO PRIOR TO 10 00 P M , THEY'RE NOT
20 CONFINED TO THEIR CELLS?

21 A NOT NECESSARILY, NO

22 Q DO THEY HAVE ACCESS -- EXCUSE ME DO THEY HAVE
23 ACCESS TO THEIR CELL IF THEY WANT TO GO IN THEIR CELL?

24 A YES

25 Q DO THEY HAVE ---

STATE VS ALKEBULANYAHH

1 A UNLESS THERE'S SOME SECURITY REASON
2 Q HOW DO THEY GET IN AND OUT OF THEIR CELL?
3 A GENERALLY HAVE THEIR OWN KEY TO THEIR CELLS
4 Q WHEN YOU SAID WORK IS THAT SOMETHING THAT'S
5 REQUIRED OF ALL INMATES?
6 A YES, UNLESS AN INMATE HAS A PHYSICAL OR MENTAL
7 HEALTH ISSUE YES, SIR, WE REQUIRE THEM TO WORK
8 Q WHAT ABOUT SCHOOL?
9 A WE EVALUATE EVERYBODY IN THE R & E CENTER BASED ON
10 THEIR -- SOME TESTING WE DO AND SOME SELF-REPORTED
11 ISSUES AND IN CERTAIN CIRCUMSTANCES IF THE INMATES
12 AREN'T FUNCTIONING ON A PARTICULAR LEVEL, WE REQUIRE
13 SCHOOL
14 Q OKAY
15 A THERE'S SOME AGE REQUIREMENTS WITH THAT ALSO FOR
16 THE YOUNGER INMATES
17 Q OKAY DO THEY HAVE VISITATION IN GENERAL
18 POPULATION?
19 A YES, THEY DO
20 Q WHAT TYPE OF VISITATION DO THEY HAVE?
21 A IT'S -- IT'S CONTACT VISITATION
22 Q WHAT DOES THAT MEAN?
23 A THAT MEANS THAT YOU'RE NOT SEPARATED BY BARRIER IN
24 ANY WAY THAT YOU'RE -- WE BASICALLY HAVE TABLES AND
25 THE FAMILIES CAN SIT AT THE TABLES

STATE VS ALKEBULANYAHH

1 Q AND HOW OFTEN ARE YOU ALLOWED VISITATION?

2 A DEPENDING UPON YOUR CUSTODY LEVEL, UP TO 8 TIMES A
3 MONTH

4 Q OKAY WHAT ELSE DO YOU HAVE IN -- IN GENERAL
5 POPULATION?

6 A WELL THERE ARE RECREATION SERVICES EACH -- EACH
7 LIVING UNIT HAS A SMALL RECREATION YARD ATTACHED TO IT
8 AND THEN WE HAVE SOME CENTRALIZED RECREATION ISSUES
9 WITH THE -- NO WEIGHT ROOMS OR ANYTHING LIKE THAT, BUT
10 BASICALLY MULTI-PURPOSE BUILDINGS AND THAT TYPE OF
11 THING

12 - WE TRY TO PROVIDE SERVICES IN THE INSTITUTION THAT
13 MINIMIZES HAVING TO TAKE AN INMATE OUT OF THE CONFINES
14 OF THE INSTITUTION SO WE HAVE MEDICAL SERVICES WE
15 HAVE EDUCATIONAL SERVICES

16 THE INMATES HAVE ACCESS TO A CANTEEN ONCE A WEEK
17 TO BUY HYGIENE ITEMS AND SNACKS AND THINGS LIKE THAT
18 AND THEN WE HAVE A NUMBER OF VOLUNTEERS WHO COME IN AND
19 CONDUCT RELIGIOUS PROGRAMS AND SOME EDUCATION PROGRAMS
20 AND SOME PRE-RELEASE TYPE PROGRAMMING

21 Q THE UNIT ITSELF, IS THAT SEPARATE FROM THE CELL?

22 A WELL, THE CELLS ARE IN THE UNIT

23 Q OKAY HOW MANY CELLS ARE IN A UNIT?

24 A TYPICALLY ABOUT 120 TO 125, DEPENDING UPON THE
25 SIZE OF THE UNIT

STATE VS ALKEBULANYAHH

1 Q ARE THE INMATES THAT ARE IN THAT PARTICULAR UNIT
2 FREE TO COME AND GO WITHIN THAT UNIT?

3 A GENERALLY ON -- THEY'RE -- THEY'RE DIVIDED INTO
4 TWO WINGS AND THEY'RE FREE TO MOVE ABOUT ON THEIR
5 WING, GENERALLY NOT BACK AND FORTH BETWEEN THE WINGS

6 Q OKAY ARE YOU -- DO YOU HAVE RECORDS WITH YOU
7 TODAY OR HAVE YOU SEEN RECORDS ON AN INMATE BY THE NAME
8 OF TYREE ROBERTS?

9 A I'VE SEEN THE RECORDS, YES, SIR

10 Q OKAY DO YOU HAVE A COPY OF THOSE WITH YOU TODAY
11 OR ---

12 A - NO, SIR

13 Q TELL ME HOW THE RECORDS ARE KEPT AT THE DEPARTMENT
14 OF CORRECTIONS? ARE THEY KEPT IN THE CENTRAL OFFICE OR
15 WHAT?

16 A WE HAVE A RECORD THAT'S MAINTAINED -- WHAT WE CALL
17 A CENTRAL RECORD THAT'S MAINTAINED IN INMATE RECORDS
18 OFFICER HEADQUARTERS AND WE HAVE A -- WHAT WE CALL A
19 WARDEN'S RECORD THAT -- THAT BASICALLY TRAVELS WITH THE
20 INMATE FROM INSTITUTION TO INSTITUTION

21 THE COURT STATE'S 121 FOR I D PURPOSES

22 (SOUTH CAROLINA DEPARTMENT OF CORRECTIONS RECORDS,
23 48 PAGES, MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT
24 NO 121)

25 MR KELLY WITHOUT OBJECTION

STATE VS ALKEBULANYAHH

1 THE COURT ARE YOU SEEKING TO INTRODUCE THAT?

2 MR STONE YOUR HONOR, WE'D ASK TO INTRODUCE IT

3 I THINK IT IS STATE'S EXHIBIT 121, WHICH I'VE SHOWN TO

4 COUNSEL

5 THE COURT IT'S WITHOUT OBJECTION?

6 Q MR SLIGH, COULD I ASK YOU IF YOU COULD REVIEW ---

7 MR STONE I'M SORRY

8 THE COURT STATE'S -- IS THAT WITHOUT OBJECTION,

9 121?

10 MR KELLY YES, YOUR HONOR

11 THE COURT ALL RIGHT IT'S IN EVIDENCE WITHOUT

12 OBJECTION

13 MR STONE THANK YOU, YOUR HONOR

14 (STATE'S EXHIBIT NO 121 RECEIVED IN EVIDENCE)

15 Q MR SLIGH, IF YOU COULD REVIEW THAT AND I ASK IF

16 THOSE ARE THE RECORDS KEPT IN THE ORDINARY COURSE OF

17 BUSINESS FOR THE SOUTH CAROLINA DEPARTMENT OF

18 CORRECTIONS ON TYREE ROBERTS?

19 A YES THIS APPEARS TO BE

20 Q AND THOSE ARE THE RECORDS THAT YOU HAVE REVIEWED?

21 A YES, SIR

22 Q COULD YOU TELL ME WHEN TYREE ROBERTS WAS PLACED IN

23 THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS?

24 A ON OCTOBER 2ND OF 1997

25 Q PRIOR TO OCTOBER 2, '97, CAN YOU TELL WHERE HE

STATE VS ALKEBULANYAHH

1 WAS? LET ME REPHRASE THAT DID YOU GET HIM FROM A
2 COUNTY FACILITY OR HOW DID THAT HAPPEN?

3 A IT APPEARS THAT HE WAS COMMITTED TO US FROM
4 BEAUFORT COUNTY BUT I DO NOT KNOW -- I DON'T KNOW IF
5 I CAN TELL FROM THIS WHERE HE MAY HAVE BEEN PRIOR TO
6 THAT

7 Q IN BEAUFORT COUNTY CAN YOU TELL -- CAN YOU TELL
8 WHEN HE WAS INCARCERATED?

9 A IN BEAUFORT COUNTY?

10 Q YES

11 A I DON'T KNOW IF I COULD TELL FROM THESE RECORDS
12 NO

13 Q OKAY JUST FROM -- DO YOU HAVE ANY IDEA? DO YOU
14 KNOW? TELL ME FROM THE SOUTH CAROLINA DEPARTMENT OF
15 CORRECTIONS WHAT TIME -- WHEN WAS HE ADMITTED TO THE
16 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS?

17 A ON OCTOBER 2, 1997

18 Q AND HOW LONG DID HE STAY IN THE SOUTH CAROLINA
19 DEPARTMENT OF CORRECTIONS?

20 A HE WAS RELEASED ON NOVEMBER 28, 1998, SO
21 APPROXIMATELY 13 MONTHS

22 Q DURING THOSE 13 MONTHS, ARE YOU FAMILIAR WITH THE
23 DISCIPLINARY INFRACTIONS?

24 A MY REVIEW OF HIS RECORD INDICATES HE HAD 5
25 DISCIPLINARY CONVICTIONS IN THE 13 MONTH PERIOD HE WAS

STATE VS ALKEBULANYAHH

- 1 WITH THE DEPARTMENT OF CORRECTIONS
- 2 Q OKAY AND DO YOU KNOW WHAT THOSE DISCIPLINARY
- 3 INFRACTIONS WERE?
- 4 A I KNOW THAT 4 OF THEM WERE OF A MINOR NATURE AND 1
- 5 WAS A MAJOR I DON'T REMEMBER THEM INDIVIDUALLY
- 6 Q OKAY LET ME HOLD THAT IF I COULD
- 7 (PAUSE)
- 8 Q I'M REFERRING YOU TO -- I BELIEVE IT'S OCTOBER 7,
- 9 1998, IS THAT CORRECT?
- 10 A THAT'S CORRECT
- 11 Q ALL RIGHT ON OCTOBER 7, COULD YOU TELL THE JURY
- 12 WHAT -- WHAT THAT IS?
- 13 A IT'S A DISCIPLINARY OFFENSE REPORT CHARGING MR
- 14 ROBERTS WITH THREATENING TO INFLICT HARM ON A
- 15 CORRECTIONAL OFFICER, A CORRECTIONAL EMPLOYEE
- 16 Q LEAVING OUT THE LANGUAGE, COULD YOU BRIEF --
- 17 BRIEFLY EXPLAIN WHAT THAT NARRATIVE IS -- PUBLISH THAT
- 18 TO THE JURY PLEASE?
- 19 A IT APPEARS THAT ON -- ON WEDNESDAY, OCTOBER 7,
- 20 1998, APPROXIMATELY 1 05 A M , CORRECTIONAL OFFICER --
- 21 A COUPLE -- SEVERAL CORRECTIONAL OFFICERS ATTEMPTED TO
- 22 CONDUCT A SHAKEDOWN, WHICH IS A SEARCH OF A ROOM, THAT
- 23 BELONGED -- THAT MR ROBERTS OCCUPIED AND ---
- 24 Q WHAT IS A SHAKEDOWN? I'M SORRY TO INTERRUPT YOU
- 25 A IT'S A -- IT'S A SEARCH IT'S A THOROUGH SEARCH

STATE VS ALKEBULANYAHH

1 OF THE -- OF THE CELL

2 Q IS THAT SOMETHING THAT IS TYPICAL IN ---

3 A YES, IT IS

4 Q --- IN A PRISON SETTING?

5 A YES, IT IS MR ROBERTS APPARENTLY BECAME VERY

6 HOSTILE ONE OF THE OFFICERS ADVISED MR ROBERTS THAT

7 HE COULD FILE A GRIEVANCE IF HE HAD A PROBLEM WHICH IS

8 A PROCESS WHERE INMATES CAN FILE FORMAL COMPLAINTS

9 REGARDING CERTAIN ISSUES IN THE AGENCY

10 Q ALL RIGHT LET ME STOP YOU THERE ON A FORMAL

11 COMPLAINT, THEY CAN ACTUALLY -- THE INMATE CAN ACTUALLY

12 FILE A COMPLAINT AGAINST A CORRECTIONAL OFFICER?

13 A YES, SIR

14 Q OKAY AND THEN THERE'S A GRIEVANCE PROCEEDING OR

15 A DISCIPLINARY PROCEEDING FOR THAT?

16 A THAT'S CORRECT

17 Q ALL RIGHT, SIR ALL RIGHT AND THE OFFICER WAS

18 EXPLAINING THAT?

19 A AND LEAVING OUT THE LANGUAGE HE TOLD THE OFFICER,

20 THAT THAT WAS NOT NECESSARILY THE WAY HE WANTED TO GO

21 WITH IT, AND THAT HE HANDLES HIS PROBLEMS WITH

22 VIOLENCE, AND THEN APPARENTLY WALKED TOWARDS HIM IN A

23 VERY AGGRESSIVE MANNER TO THE POINT WHERE THE OFFICER

24 WAS AFRAID THAT HE WAS BECOMING PHYSICALLY VIOLENT

25 MR STONE THANK YOU, MR SLIGH ANSWER ANY

STATE VS ALKEBULANYAHH

1 QUESTIONS -- EXCUSE ME JUST A MOMENT, YOUR HONOR

2 (PAUSE)

3 MR STONE THANK YOU, YOUR HONOR I DON'T HAVE

4 ANY FURTHER QUESTIONS

5 CROSS EXAMINATION BY MR KELLY.

6 Q MAY I SEE THE REPORT OF THAT INCIDENT, PLEASE?

7 MR KELLY MAY I APPROACH?

8 THE COURT YES, SIR

9 (PAUSE)

10 THE COURT AND THEN IF YOU -- THEN IF YOU'D WALK

11 BACK TO THAT LECTERN PLEASE SO EVERYONE CAN HEAR

12 - MR KELLY THANK YOU

13 (PAUSE)

14 Q WOULD YOU TAKE A LOOK AT THIS DOCUMENT, PLEASE?

15 THE COURT WAIT WAIT I HAVE TO MAKE SURE

16 EVERYONE CAN HEAR CAN YOU GO BACK TO THAT MICROPHONE,

17 PLEASE

18 MR KELLY YES

19 THE COURT THANK YOU

20 Q SIR, I HAVE A DOCUMENT I'D LIKE YOU TO TAKE A LOOK

21 AT WOULD YOU BE SO KIND AS TO LOOK AT IT FOR ME?

22 A SURE

23 Q TELL ME IF YOU CAN IDENTIFY THE DOCUMENT?

24 A IT'S A PART OF A USE OF FORCE FORM THAT WE ARE

25 REQUIRED TO FILL OUT ANY TIME THAT FORCE IS USED ON AN

1 INMATE

2 Q AND DOES IT REFER TO THE INCIDENT OF THE SAME DAY?

3 A YES, SIR

4 Q AND THE SAME INCIDENT?

5 A YES SIR

6 Q IS THAT AMONG THE DOCUMENTS THAT YOU HAVE OR IS IT
7 NOT?

8 A I -- I DO -- I DIDN'T LOOK PAST THIS TO SEE I
9 WOULD ASSUME IT'S IN THERE, YES, SIR

10 Q WOULD YOU BE SO KIND AS TO LOOK AMONG YOUR
11 DOCUMENTS AND SEE IF YOU HAVE THIS DOCUMENT?

12 A - YES, SIR IT'S IN HERE

13 Q PUBLISH THE DOCUMENT, PLEASE SIR BY READING IT
14 TO THE JURY?

15 A ON WEDNESDAY OCTOBER 2 19 -- 7, 1998, AT
16 APPROXIMATELY 1 05 A M , I, OFFICER FIRST CLASS DIRESE
17 COHEN (PHONETIC), WAS CONDUCTING A SHAKEDOWN ON
18 COLLETON UNIT, A-WING, WHEN INMATE TYREE ROBERTS, SCDC
19 NO 244361, A BLACK MALE, SUDDENLY CAME TOWARDS ME IN
20 AN AGGRESSIVE MANNER I PLACED OUT MY RIGHT HAND TO
21 STOP INMATE ROBERTS' FORWARD PROGRESS, STRIKING HIM IN
22 THE CHEST AREA

23 INMATE ROBERTS WAS PLACED IN HANDCUFFS, NO 63,
24 AND ESCORTED TO THE B-BUILDING HOLDING CELL BY SERGEANT
25 ALONZO CORLEY, OFFICER FIRST CLASS JOHNNY SHEFIELD, AND

STATE VS ALKEBULANYAHH

- 1 MYSELF
- 2 Q AND THE SIGNATURE IS BY WHAT PERSON?
- 3 A IT LOOKS LIKE OFFICER COHEN
- 4 Q AND THAT'S THE SAME OFFICER WHO SIGNED THE OTHER
- 5 DOCUMENT CORRECT?
- 6 A WHO SIGNED THE ---
- 7 Q THE DOCUMENT THAT YOU PREVIOUSLY REFERRED TO THAT
- 8 HAD ---
- 9 A YES, SIR
- 10 Q --- LINES IN IT THAT YOU DID NOT READ?
- 11 A THAT'S CORRECT
- 12 Q - THAT'S THE SAME OFFICER REPORTING THE SAME
- 13 INCIDENT EXCEPT WITHOUT THE LANGUAGE, IS THAT CORRECT?
- 14 A CORRECT
- 15 Q MR SLIGH, THIS DISCIPLINARY OFFENSE TO WHICH
- 16 WE'RE REFERRING NOW IS A NON-ASSAULTIVE OFFENSE,
- 17 CORRECT?
- 18 A THAT'S CORRECT
- 19 Q NOW DID TYREE ROBERTS DURING THE TIME THAT HE WAS
- 20 IMPRISONED IN THE SOUTH CAROLINA DEPARTMENT OF
- 21 CORRECTIONS HAVE ANY ASSAULTIVE DISCIPLINARY REPORTS?
- 22 A NO, SIR
- 23 Q DID HE AT ANY TIME ATTEMPT TO ESCAPE?
- 24 A NOT THAT I'M AWARE OF NO, SIR
- 25 Q AND ALL DISCIPLINARY REPORTS AGAINST HIM WERE OF A

STATE VS ALKEBULANYAHH

1 NON-ASSAULTIVE NATURE, CORRECT?

2 A THAT'S CORRECT

3 MR KELLY THANK YOU SIR

4 THE COURT ANYTHING FURTHER?

5 MR STONE JUST BRIEFLY

6 REDIRECT EXAMINATION BY MR. STONE.

7 Q WHY DO YOU HAVE TO FILL OUT -- WHY DID OFFICER
8 COHEN HAVE TO FILL OUT A USE OF FORCE FORM?

9 A HE PUT HIS HANDS ON THE INMATE

10 Q IS THAT ANY TIME A GUARD TOUCHES AN INMATE, HE HAS
11 TO FILL OUT A USE OF FORCE?

12 A - IN THAT TYPE OF MANNER YES, SIR

13 Q OKAY

14 MR STONE I DON'T HAVE ANYTHING ELSE, YOUR
15 HONOR

16 THE COURT ANY OBJECTION TO HIS BEING EXCUSED?

17 MR KELLY I HAVE NO OBJECTION

18 THE COURT YOU MAY BE EXCUSED, SIR

19 (THE WITNESS LEAVES THE WITNESS STAND)

20 MR STONE VERNETTA FRAZIER

21 COME AROUND IF YOU WOULD PLEASE AND BE SWORN

22 VERNETTA FRAZIER, BEING

23 FIRST DULY SWORN TESTIFIED AS FOLLOWS

24 DIRECT EXAMINATION BY MR. STONE.

25 Q WHAT IS YOUR NAME, MA'AM?

1 A VERNETTA FRAZIER
2 Q AND WHERE DO YOU LIVE NOW, MS FRAZIER?
3 A IN RICHMOND, VIRGINIA, CALLED MECHANICSVILLE
4 Q DID YOU USED TO LIVE IN BEAUFORT COUNTY?
5 A YES, I DID
6 Q WHEN DID YOU LIVE IN BEAUFORT?
7 A IN 2001
8 Q OKAY WHERE IN BEAUFORT COUNTY DID YOU LIVE?
9 A 60 SHANKLIN ROAD
10 Q OKAY AND WHERE IS ---
11 A IN -- IN THE TRAILER PARK
12 Q - WHERE IS THAT?
13 A THAT'S ON -- PAST THE AIR STATION AND THEY CALL
14 IT THE BEAUFORT ZONE NOW
15 Q OKAY
16 A BUT IT'S PAST THE AIR STATION AND THERE'S A ROAD
17 THAT YOU TAKE CALLED THE BEAUFORT COUNTY AND RIGHT
18 DOWN THAT ROAD JUST A LITTLE BIT, CUT OFF THERE'S A
19 TRAILER PARK DOWN THERE THAT'S CALLED THE INDEPENDENT
20 TRAILER PARK
21 Q OKAY DO YOU KNOW A PERSON BY THE NAME OF TYREE
22 ROBERTS?
23 A YES
24 Q WHAT DO YOU KNOW HIM AS?
25 A AS MINISTER

STATE VS ALKEBULANYAHH

1 Q OKAY DO YOU KNOW HIS LAST NAME?
2 A NO
3 Q OKAY LET ME CALL YOUR ATTENTION IF I COULD TO
4 OCTOBER 13, 2001 WERE YOU WORKING ON THAT DAY?
5 A YES, I DID
6 Q AND WHERE WERE YOU WORKING?
7 A BEAUFORT MEMORIAL HOSPITAL
8 Q HOW LONG -- WHAT -- WHAT TIME DID YOU GO IN THAT
9 DAY?
10 A I WENT IN AT 7 00
11 Q IN THE MORNING?
12 A - 7 00 IN THE MORNING UNTIL 3 30 IN THE AFTERNOON
13 Q OKAY AND -- SO YOU GOT OFF AT 3 30? HOW LONG
14 DID IT TAKE YOU TO GET FROM BEAUFORT MEMORIAL TO YOUR
15 HOME?
16 A NO MORE THAN 10 MINUTES
17 Q OKAY AROUND 4 00 O'CLOCK THAT AFTERNOON IF YOU
18 COULD TELL US WHAT HAPPENED?
19 A I CAME HOME AFTER I GOT HOME, TOOK A SHOWER,
20 WENT AND LAY DOWN MY GIRLS ASKED CAN THEY GO OUTSIDE
21 AND I TOLD THEM, YES
22 Q HOW MANY GIRLS DO YOU HAVE?
23 A TWO
24 Q HOW OLD WERE THEY?
25 A MICHAELANE (PHONETIC) WERE 9 AND LATIFAH WAS 11

STATE VS ALKEBULANYAHH

1 Q OKAY THEY WERE 11 AT THE TIME?
2 A UH-HUH
3 Q OKAY OKAY GO AHEAD I'M SORRY
4 A AND THEY ASK ME CAN THEY GO OUTSIDE
5 I SAY, YEAH MAKE SURE YOU SHUT THE DOOR AND
6 MAKE SURE EVERYTHING IN THE HOUSE IS DONE AND I'M
7 GOING TO LAY DOWN
8 NO MORE THAN, WHAT 20 MINUTES OR 30 MINUTES
9 LATER, MICHAELANE CAME RUNNING IN THE HOUSE
10 Q AND THAT'S YOUR 9 YEAR OLD?
11 A YES SHE CAME OUT OF BREATH AND I JUMPED UP AND
12 WONDERING WHAT HAPPENED TO HER
13 Q HOW WOULD -- HOW WOULD YOU DESCRIBE HER?
14 A SHE WAS OUT OF BREATH SHE COULDN'T TELL ME WHAT
15 WAS HAPPENING TO HER SHE WAS HYSTERICAL SHE JUST
16 WAS GOING (INDICATING), OUT OF BREATH
17 I SAID, CALM DOWN CALM -- AND I TOOKED AND HOLD
18 HER AND SAY, WHAT GOING ON?
19 SHE SAID, THE DOG THE DOG, THE DOG
20 AND THEN I ASKED HER, WHAT ARE YOU DOING TO THE
21 DOG?
22 SHE SAID HE WAS OUT THERE WITH THE DOG, DOG
23 AND I SAID, CALM DOWN WHAT'S GOING ON?
24 SHE SAID, WAS PLAYING WITH THE DOG, WE WERE
25 THROWING AT THE DOG BUT THE DOG STARTED RUNNING

STATE VS ALKEBULANYAHH

1 AND I SAID, LEAVE THE DOG ALONE

2 I DIDN'T THINK NOTHING OF IT SHE WENT BACK OUT
3 TO PLAY NO MORE THAN 5 OR 10 MINUTES LATER, MY OLDEST
4 CAME IN ---

5 Q AND YOUR OLDEST ---

6 A --- HOLLERING

7 Q I'M SORRY AND I INTERRUPTED YOU

8 A LATIFAH

9 Q THAT'S LATIFAH?

10 A UH-HUH

11 Q OKAY ALL RIGHT AND HOW DID LATIFAH LOOK WHEN
12 SHE GOT IN?

13 A SHE WAS HOPPING AROUND HOPPING AROUND AND I WAS
14 WONDERING WHAT SHE -- HOPPING AROUND

15 Q HOW DID SHE LOOK?

16 A SHE WAS SHAKING -- SHE WAS SHAKING HER FINGER
17 LOOK AT MY LEGS LOOK AT MY LEGS AND I TOOKED HER
18 AND GRABBED HER AND LOOKED AT HER AND SHE WAS ALL
19 TORN UP ON HER LEGS

20 THE COURT STATE'S 122 AND 123 FOR I D

21 (TWO, 2, LARGE COLOR PHOTOS MARKED FOR
22 IDENTIFICATION AS STATE'S EXHIBIT NOS 122 AND 123)

23 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
24 STATE'S EXHIBIT 122 AND 123 FOR IDENTIFICATION AND ASK
25 IF YOU COULD IDENTIFY THESE PLEASE?

STATE VS ALKEBULANYAHH

1 A YEAH, THESE ARE HER LEGS, THE WAY THEY LOOKED

2 Q OKAY IS THAT A FAIR AND ACCURATE DEPICTION OF
3 HOW YOUR DAUGHTER'S LEGS LOOKED?

4 A YEAH AND THEY BEGAN TO SWOLL (SIC) BEFORE THE
5 OFFICER CAME BUT THEY WERE TORN UP YOU CAN TELL SHE
6 WAS WHIPPED

7 MR STONE AT THIS TIME -- EXCUSE ME AT THIS
8 TIME, YOUR HONOR, WE WOULD MOVE IN STATE'S EXHIBIT
9 NO ---

10 Q IS THAT 122 AND 123?

11 A YES

12 MR STONE --- INTO EVIDENCE

13 THE COURT STATE'S 122 AND 123 ANY OBJECTION?

14 MR KELLY NO OBJECTION

15 THE COURT STATE'S 122 AND 123 IN EVIDENCE

16 WITHOUT OBJECTION

17 (STATE'S EXHIBIT NOS 122 AND 123 RECEIVED IN
18 EVIDENCE)

19 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS

20 RIGHT NOW FOR YOU THANK YOU MA'AM

21 THE WITNESS OKAY

22 MR STONE PLEASE ANSWER ANY QUESTIONS HE MAY
23 HAVE

24 CROSS EXAMINATION BY MR. KELLY.

25 Q YOU HAD TWO DAUGHTERS?

STATE VS ALKEBULANYAHH

- 1 A YES
- 2 Q AND THE 9 YEAR OLD CAME RUNNING INTO THE HOUSE?
- 3 A UH-HUH
- 4 Q AND SHE WAS SAYING WORDS ABOUT THE DOG?
- 5 A UH-HUH
- 6 Q AND SHE SAID WORDS TO THE EFFECT THAT THEY WERE
- 7 THROWING AT THE DOG ---
- 8 A UH-HUH
- 9 Q --- RIGHT?
- 10 A YES
- 11 Q AND THAT THE DOG RAN AWAY?
- 12 A SHE WAS SAYING THAT SHE DIDN'T KNOW WHERE HER DOG
- 13 WAS COMING FROM, THAT THEY HAD DONE TOOK THE DOG AND --
- 14 AND -- WHEN SHE KNEW THAT THE DOG WAS COMING BEHIND
- 15 HER, FOR SHE KNEW IT
- 16 Q DID YOU GO OUTSIDE TO CHECK AND SEE WHAT WAS GOING
- 17 ON?
- 18 A NO I DIDN'T BOTHER BECAUSE I TOLD HER DON'T GO
- 19 BACK OUT TO THE DOG SHE DIDN'T WENT OUT RIGHT THEN,
- 20 THAT -- THAT INSTANT BUT SHE WENT OUT RIGHT BACK
- 21 Q AND WHO WAS WATCHING YOUR CHILDREN WHILE THEY WERE
- 22 OUTSIDE?
- 23 A THEY WERE OUTSIDE PLAYING WITH THE NEIGHBORHOOD
- 24 KIDS, IS THE NORMAL ACTIVITY THEY DO WHEN THEY COME
- 25 HOME

1 MR KELLY THANK YOU, MA'AM
2 MR STONE I DON'T HAVE ANYTHING ELSE MAY SHE
3 BE EXCUSED, YOUR HONOR?
4 THE COURT ANY OBJECTION?
5 MR KELLY NO ---
6 THE COURT YOU MAY BE EXCUSED, MA'AM
7 MR KELLY NO OBJECTION
8 THE COURT YOU MAY BE EXCUSED, MA'AM
9 (THE WITNESS LEAVES THE WITNESS STAND)
10 MR STONE LATIFAH JENKINS
11 I'M SORRY, LATIFAH COME RIGHT AROUND THERE AND
12 PUT-YOUR HAND ON THE BIBLE RIGHT THERE
13 LATIFAH JENKINS, BEING
14 FIRST DULY SWORN TESTIFIED AS FOLLOWS
15 DIRECT EXAMINATION BY MR. STONE.
16 Q LATIFAH, HOW OLD ARE YOU?
17 A 13
18 Q YOU'RE 13 OKAY I'M GOING TO TALK TO YOU ABOUT
19 SOMETHING THAT TOOK PLACE ON OCTOBER 13, 2001 OKAY?
20 A (NODS HEAD)
21 Q AND I NEED YOU TO PULL THE MICROPHONE A LITTLE BIT
22 CLOSER TO YOU IF YOU WOULD PLEASE, MA'AM OKAY
23 DO YOU KNOW A MAN BY THE NAME OF MINISTER?
24 A YES
25 Q HOW DO YOU KNOW HIM?

STATE VS ALKEBULANYAHH

1 A HE USED TO LIVE WHERE WE USED TO LIVE
2 Q OKAY AND SPEAK INTO THE MICROPHONE I DON'T
3 THINK ANYBODY IS ---
4 A HE USED TO LIVE WHERE WE USED TO LIVE
5 Q OKAY AND WHERE WAS THAT?
6 A IN -- I MEAN INDEPENDENCE MOBILE HOME
7 Q OKAY IS THAT IN BEAUFORT?
8 A YES
9 Q OKAY LATIFAH, I'M GOING TO SHOW YOU WHAT'S BEEN
10 MARKED AS STATE'S EXHIBIT NO 122 AND 123 AND ASK IF
11 YOU COULD TELL US WHAT THAT IS? OKAY?
12 - (PAUSE)
13 Q LATIFAH, WHAT ARE THOSE PICTURES OF?
14 A ME BEATING -- ME BEING BEATED
15 Q WHAT DO YOU MEAN BEING BEATEN?
16 A WITH A BELT
17 Q ARE THOSE PICTURES HOW YOUR LEGS LOOKED ON THAT
18 DAY?
19 A UH-HUH, YES
20 MR STONE YOUR HONOR, IF I MAY PUBLISH THOSE TO
21 THE JURY
22 THE COURT YOU MAY YOU MAY HOLD IT UP AND WALK
23 IT DOWN THE JURY BOX
24 MR STONE YES SIR
25 (PAUSE)

STATE VS ALKEBULANYAHH

1 Q WHO DID THAT TO YOU, LATIFAH?
2 A MINISTER
3 Q WHY?
4 A BECAUSE WHEN ME AND MY FRIENDS WAS THROWING ROCKS
5 AT HIS DOG, AND HE CAME OUTSIDE AND TOLD US TO STOP I
6 STOPPED BUT MY SISTER AND MY FRIEND KEPT ON GOING
7 AND HE CAME FROM THE BACK WITH A BELT RUNNING AFTER US
8 AND THEN I WENT ON THE OTHER SIDE RIDING MY BIKE
9 AND THEN I CAME OUT FROM MY FRIEND HOUSE AND HE WAS
10 LIKE, WHY DID YOU THROW ROCKS AT MY DOG?
11 I SAID, I STOPPED
12 - AND HE SAID, NO, YOU DIDN'T AND HE KEPT HITTING
13 -- AND HE TOOK MY HAND AND HIT ME
14 Q HOW DID HE DO IT?
15 A HE HOLD ME BY MY LEFT HAND AND THEN KEPT -- AND
16 WHILE HE WOULD HIT ME, HE WOULD TURN ME AROUND
17 Q WHAT WAS HE HITTING YOU WITH?
18 A A BELT
19 Q AND THOSE PICTURES ARE WHAT HE DID TO YOU?
20 A YES
21 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS,
22 YOUR HONOR
23 THANK YOU, LATIFAH ANSWER ANY QUESTIONS HE MAY
24 HAVE
25 MR KELLY NO QUESTIONS

STATE VS ALKEBULANYAHH

1 THE COURT YOU MAY STEP DOWN, MA'AM

2 (THE WITNESS LEAVES THE WITNESS STAND)

3 MR STONE MAY SHE BE EXCUSED, YOUR HONOR?

4 MR KELLY WITHOUT OBJECTION

5 THE COURT YOU MAY BE EXCUSED, MA'AM

6 MR STONE SERGEANT JOHN BEARDEN

7 IF YOU WILL COME AROUND PLEASE, SIR, AND BE SWORN

8 JOHN BEARDEN, BEING FIRST

9 DULY SWORN, TESTIFIED AS FOLLOWS

10 DIRECT EXAMINATION BY MR. STONE.

11 Q ARE YOU SERGEANT BEARDEN, IS THAT CORRECT?

12 A YES, SIR, SERGEANT BEARDEN

13 Q SERGEANT, YOU ARE WITH THE CHARLESTON COUNTY

14 DETENTION CENTER, IS THAT CORRECT?

15 A YES SIR

16 Q AND WHAT DO YOU DO THERE?

17 A I RUN THE SECURITY DEPARTMENT

18 Q OKAY YOU HAVE ALREADY TESTIFIED ONCE IN THIS

19 TRIAL I BELIEVE IS THAT CORRECT?

20 A YES, SIR

21 Q TELL ME IF YOU COULD PLEASE ARE YOU FAMILIAR WITH

22 AN INMATE OR A DETAINEE, I GUESS IT WOULD BE, BY THE

23 NAME OF TYREE ALPHONZO ROBERTS?

24 A YES SIR

25 Q WHEN WAS HE BOOKED INTO YOUR FACILITY?

STATE VS ALKEBULANYAHH

1 A HE WAS BOOKED IN ON JANUARY 9

2 Q OF WHAT YEAR?

3 A 2002 -- '01

4 (TRANSACTION HISTORY, 9 PAGES, MARKED FOR
5 IDENTIFICATION AS STATE'S EXHIBIT NO 124)

6 Q SERGEANT, ARE YOU FAMILIAR WITH HOW THE RECORDS
7 ARE KEPT AT THE CHARLESTON COUNTY DETENTION CENTER?

8 A YES, SIR

9 Q ARE YOU FAMILIAR WITH THE DISCIPLINARY PROCESS IN
10 THE CHARLESTON COUNTY DETENTION CENTER?

11 A YES, SIR

12 Q AND HOW ARE YOU FAMILIAR WITH THAT?

13 A BEING A SUPERVISOR IN THE DETENTION CENTER, I
14 PARTICIPATE IN DISCIPLINARY BOARDS, INMATE CAUSE
15 INFRACTIONS OF RULES INSIDE THE JAIL THEY SIT IN
16 FRONT OF A BOARD TO DETERMINE THEIR CLASSIFICATION

17 Q OKAY AND ARE YOU FAMILIAR WITH THE RECORDS HELD
18 BY THE DETENTION CENTER ON TYREE ALPHONZO ROBERTS?

19 A YES, SIR

20 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS -- FOR
21 IDENTIFICATION AS STATE'S 124 AND ASK IF YOU CAN
22 IDENTIFY THIS PLEASE?

23 A THE FIRST TWO SHEETS ARE THE TRANSACTION HISTORIES
24 OF INMATE TYREE ROBERTS BASICALLY ANY TIME HE'S MOVED
25 OR DISCIPLINARY ACTION TAKEN AGAINST HIM, IT'S PLACED

STATE VS ALKEBULANYAHH

1 IN HIS TRANSACTION HISTORY

2 THE NEXT SEVERAL PAGES ARE THE NOTES FOR THE
3 INMATE

4 Q OKAY ARE THOSE KIND OF NOTES TAKEN AND KEPT ON
5 ALL THE INMATES IN THE CHARLESTON COUNTY DETENTION
6 CENTER?

7 A YES, SIR

8 Q AND ARE THOSE KEPT IN THE ORDINARY COURSE OF THE
9 BUSINESS OF THE DETENTION CENTER?

10 A YES, SIR

11 MR STONE YOUR HONOR, AT THIS TIME WE MOVE -- I
12 BELIEVE THAT'S STATE'S EXHIBIT 124 INTO EVIDENCE

13 THE COURT ANY OBJECTION?

14 MR KELLY NO OBJECTION

15 THE COURT STATE'S 124 IN EVIDENCE WITHOUT
16 OBJECTION

17 (STATE'S EXHIBIT NO 124 RECEIVED IN EVIDENCE)

18 Q WHAT DATE WAS TYREE ROBERTS TAKEN TO THE
19 CHARLESTON COUNTY DETENTION CENTER?

20 A IT WAS JANUARY 9TH OF 2002

21 Q AND WHEN WAS HE RELEASED FROM THE CHARLESTON
22 COUNTY DETENTION CENTER?

23 A MARCH 15TH OF 2002

24 Q I'M SORRY MARCH 15TH?

25 A MARCH 15TH OF 2002

STATE VS ALKEBULANYAHH

1 Q IN THE ROUGHLY -- WHAT WOULD THAT BE, 3 MONTHS,
2 ROUGHLY 3 MONTHS?

3 A 2 MONTHS AND 4 DAYS

4 Q OKAY IN THAT TIME WITH THE CHARLESTON COUNTY
5 DETENTION CENTER, HOW MANY DISCIPLINARY INFRACTIONS DID
6 TYREE ALPHONZO ROBERTS HAVE?

7 A HE HAD 2 INFRACTIONS THAT HE SAW THE DISCIPLINARY
8 BOARD FOR AND BOTH OF THEM WERE DESTRUCTION OF COUNTY
9 PROPERTY

10 Q AND DO YOU HAVE A DISCIPLINARY SEGREGATION IN YOUR
11 DETENTION CENTER?

12 A - YES, SIR

13 Q OKAY NOW, THE TIME THAT TYREE ROBERTS SPENT WITH
14 THE CHARLESTON COUNTY DETENTION CENTER, HOW LONG DID HE
15 SPEND IN THAT DISCIPLINARY SEGREGATION?

16 A HE WAS PLACED IN DISCIPLINARY SEGREGATION ON THE
17 -- THE 10TH AND HE WAS SENTENCED TO 30 DAYS IN
18 DISCIPLINARY SEG, BUT HE WAS RELEASED FROM DISCIPLINARY
19 SEG WHEN HE LEFT THE JAIL ON THE 15TH OF MARCH

20 Q SO HOW MANY DAYS ROUGHLY DID HE SPEND IN ---

21 A IT LOOKS LIKE ALL BUT ONE DAY ---

22 Q OKAY

23 A ROUGHLY 60 DAYS

24 Q OKAY

25 MR STONE I DON'T HAVE ANYTHING ELSE THANK

STATE VS ALKEBULANYAHH

1 YOU, SERGEANT ANSWER ANY QUESTIONS THE DEFENSE MAY
2 HAVE

3 CROSS EXAMINATION BY MR. KELLY.

4 Q DURING THE TIME THAT THE DEFENDANT WAS IN YOUR
5 DETENTION FACILITY, WAS HE EVER CHARGED WITH ANY
6 ASSAULTIVE OFFENSES?

7 A NO, SIR, NOT THAT HE -- NOT THAT HE WAS SEEN BY
8 THE BOARD FOR, THE DISCIPLINARY BOARD FOR

9 Q AND WAS HE EVER CHARGED WITH ATTEMPTING TO ESCAPE?

10 A NO, SIR

11 MR KELLY I HAVE NO FURTHER QUESTIONS

12 MR STONE THANK YOU MAY HE BE EXCUSED PLEASE?

13 THE COURT ANY OBJECTION?

14 MR KELLY NO OBJECTION

15 THE COURT YOU MAY BE EXCUSED SIR

16 (THE WITNESS LEAVES THE WITNESS STAND)

17 MR STONE LANCE CORPORAL FREIDA CLARK

18 IF YOU WILL COME AROUND PLEASE, MA'AM AND BE
19 SWORN

20 FREIDA G CLARK, BEING

21 FIRST DULY SWORN, TESTIFIED AS FOLLOWS

22 DIRECT EXAMINATION BY MR. STONE.

23 Q MS CLARK, COULD YOU STATE YOUR FULL NAME PLEASE
24 AND SPELL YOUR LAST NAME?

25 A FREIDA GAY CLARK, C-L-A-R-K

STATE VS ALKEBULANYAHH

- 1 Q AND WHAT DO YOU DO, MA'AM?
- 2 A CORRECTIONS OFFICER
- 3 Q AND WITH WHOM?
- 4 A BEAUFORT COUNTY DETENTION CENTER
- 5 Q HOW LONG HAVE YOU BEEN WITH BEAUFORT COUNTY
- 6 DETENTION CENTER?
- 7 A I STARTED IN '91 SO IT'S ABOUT 12 YEARS
- 8 Q DO YOU KNOW AN INMATE BY THE NAME OF
- 9 ALKEBULANYAHH OR TYREE ROBERTS?
- 10 A YES, SIR
- 11 Q OKAY AND HOW DO YOU KNOW THIS INMATE?
- 12 A - FROM WORKING AS A CORRECTIONS OFFICER AND AS AN
- 13 INVESTIGATOR ALSO WITH THE CENTER
- 14 Q HAVE YOU BEEN INVOLVED IN ANY DISCIPLINARY
- 15 REPORTING OF TYREE ROBERTS?
- 16 A YES, SIR
- 17 Q OKAY AND WHAT -- WHAT HAVE THOSE BEEN?
- 18 A WELL, TO MY RECOLLECTION IT'S BEEN THREE THE
- 19 FIRST ONE THAT I REMEMBER WAS ONE INVOLVING ME MOVING
- 20 OTHER INMATES OR ANOTHER INMATE INTO THE UNIT THAT HE
- 21 WAS IN AND HE BECAME UPSET DIDN'T WANT THE PERSON IN
- 22 THAT HOUSING UNIT AND STARTED MAKING THREATS TOWARDS ME
- 23 AND THE INMATE
- 24 Q DO YOU REMEMBER WHEN THAT WAS?
- 25 A NOT THE SPECIFIC DATE, NO, I DON'T

STATE VS ALKEBULANYAHH

1 Q OKAY IF I SHOWED YOU A GENERAL INCIDENT REPORT,
2 WOULD THAT REFRESH YOUR (MEMORY)?

3 A YES, SIR (PAUSE) YES

4 Q WHEN DID THAT TAKE PLACE?

5 A THIS WAS ON NOVEMBER 6, 2002

6 Q OKAY WHAT WAS THE NEXT DISCIPLINARY PROBLEM YOU
7 HAD WITH MR ROBERTS?

8 A I DON'T HAVE THE EXACT DATE BUT I BELIEVE IT WAS
9 IN SEPTEMBER OF THIS YEAR

10 Q IF I SHOWED YOU THAT REPORT, WOULD THAT REFRESH
11 YOUR MEMORY?

12 A YES, IT WOULD

13 (PAUSE)

14 Q TELL ME ABOUT THE SECOND ONE?

15 A OKAY DURING THIS INCIDENT I WAS WORKING IN THE
16 CAPACITY OF INVESTIGATIVE OFFICER OR WORKING WITH
17 CLASSIFICATIONS AND THAT'S THE DEPARTMENT THAT
18 NORMALLY HOUSED INMATES

19 I WAS HOUSING SOME HISPANIC PEOPLE IN THE DORM
20 THAT HE WAS IN AND WHILE I WAS TRYING TO TALK TO THE
21 HISPANIC GENTLEMAN, MR ALKEBULANYAHH TURNED UP THE
22 T V SO LOUD THAT I COULDN'T TALK TO THE PEOPLE OR THEY
23 WEREN'T ABLE TO HEAR ME SO I ASKED HIM WOULD HE TURN
24 THE T V DOWN

25 AND HE STARTED YELLING AT ME AND TELLING ME I

STATE VS ALKEBULANYAHH

1 BETTER NOT TALK TO HIM LIKE THAT

2 AND I TOLD HIM THAT I WOULD TALK TO HIM AT A LATER
3 TIME BECAUSE I DIDN'T WANT THE SITUATION TO ELEVATE
4 AND I KNOW, YOU KNOW HE NORMALLY GETS PRETTY UPSET
5 WITH ME

6 HE JUST STARTED CURSING ME, CALLING ME A BITCH AND
7 TELLING ME WHAT HE WAS GOING TO DO TO ME AND STUFF LIKE
8 THAT

9 THERE WERE OTHER INMATES IN THERE AND THEY WAS
10 TRYING TO CALM HIM DOWN AND TELLING HIM NOT TO DO
11 ANYTHING TO ME

12 - AND AT THAT TIME I TOLD HIM I WOULD TAKE CARE OF
13 HIM LATER I FINISHED WITH THE INMATES AND JUST LEFT
14 THE UNIT AND I WENT AND REPORTED IT TO THE
15 SUPERVISOR

16 Q DID THAT RESULT IN A DISCIPLINARY PROCEDURE?

17 A I BELIEVE SO WELL, THEY ATTEMPTED TO DO ONE WITH
18 HIM

19 Q WAS HE ACTUALLY IN A DISCIPLINARY CONFINEMENT ON
20 THE THIRD INSTANCE?

21 A HE ENDED UP WITH -- I THINK ON THE SECOND ONE HE
22 ENDED UP WITH LIKE A 30 DAYS DISCIPLINARY SEGREGATION

23 Q DID YOU SEE HIM DURING THAT 30 DAY SEGREGATION?

24 A YES, I DID

25 Q TELL ME ABOUT THAT?

STATE VS ALKEBULANYAHH

1 A WELL I WENT IN THERE TO INVESTIGATE ANOTHER
2 INCIDENT WITH OTHER INMATES THAT DIDN'T HAVE ANYTHING
3 TO DO WITH HIM AND I HAD ALREADY BEEN COUNSELED ABOUT
4 GOING AROUND HIM BY MYSELF SO I WENT TO ANOTHER UNIT
5 AND GOT ANOTHER OFFICER TO ESCORT ME IN THERE

6 IN THIS UNIT ALL THE INMATES ARE LOCKED DOWN
7 ALREADY ANYWAY BUT WHILE I WAS TRYING TO DISCUSS
8 WHATEVER INFRACTION IT WAS WITH THE PERSON THAT HAD
9 CAUSED IT, HE STARTED YELLING AND SCREAMING AT ME,
10 TELLING ME WHAT HE WAS GOING TO DO TO ME, HOW HE WAS
11 GOING TO HURT ME, KILL ME, BEAT MY ASS REAL BAD, WATCH
12 WHILE I FEEL ALL THIS PAIN AND STUFF HE WAS GOING TO DO
13 TO ME

14 AND IT JUST KEPT ELEVATING TO THE POINT WHERE HE
15 WAS THREATENING MY LIFE WHAT HE WAS GOING TO DO TO ME
16 AND THERE WAS ANOTHER OFFICER PRESENT AND BECAUSE HE
17 WOULDN'T CALM DOWN, AS SOON AS I FINISHED TALKING TO
18 THE OTHER PERSON -- WELL, ACTUALLY BEFORE I FINISHED,
19 THE OTHER OFFICER KEPT ASKING ME, COME ON CAN YOU
20 LEAVE? CAN YOU LEAVE THE AREA? YOU KNOW, LIKE IF WE
21 HAD TO PULL THE GUY OUT SO MR AL ---

22 Q ALKEBULANYAHH?

23 A --- ALKEBULANYAHH WOULDN'T -- SO HE CAN GET HIM
24 BACK IN CONTROL HE DIDN'T WANT ANY DAMAGE OR ANYTHING
25 DONE

STATE VS ALKEBULANYAHH

1 Q DID DURING THIS -- DURING THIS CONVERSATION, SO TO
2 SPEAK, THAT YOU WERE HAVING WITH MR ALKEBULANYAHH, HOW
3 FAR AWAY FROM YOU WAS HE? WAS HE WHERE -- YOU WERE IN
4 CONTACT OR WAS HE BEHIND BARS OR HOW DID THAT WORK?
5 A WAS THIS THE THIRD INCIDENT THAT ---
6 Q YES
7 A --- YOU'RE TALKING ABOUT?
8 Q YES
9 A HE WAS BEHIND -- IN A CELL
10 Q WHERE ---
11 A HE WAS LOCKED DOWN
12 Q WHAT DATE IS THAT?
13 A ON THIS SHEET IT'S SEPTEMBER 17 OF THIS YEAR
14 Q OF 2000 AND -- OF 2003?
15 A '03 CORRECT
16 Q OKAY DO YOU REMEMBER EXACTLY WHAT HE SAID TO
17 YOU?
18 A JUST THREATENING TO BEAT ME UP AND HURT ME SO BAD
19 HE SAID IN TWO WEEKS EXACTLY I WOULD FIND OUT
20 EXACTLY WHAT HE WAS GOING TO DO TO MY ASS HE WAS
21 GOING TO BEAT ME UP, HURT ME DO ALL THESE DIFFERENT
22 THINGS TO ME, JUST THINGS OF THAT NATURE, JUST A LOT OF
23 THREATS
24 Q OKAY
25 MR STONE THANK YOU, MS CLARK I DON'T HAVE

STATE VS ALKEBULANYAHH

1 ANYTHING ELSE PLEASE ANSWER ANY QUESTIONS HE MAY
2 HAVE

3 CROSS EXAMINATION BY MR. KELLY.

4 Q LANCE CORPORAL CLARK, DID THE DEFENDANT EVER TOUCH
5 YOU OR LAY HIS HANDS ON YOU IN ANY WAY?

6 A WELL, IN THE FIRST INCIDENT THAT WE HAD, I WAS
7 WALKING ANOTHER INMATE IN THE DORM WITH HIM AND WHEN
8 I REALIZED HE WAS GOING TO BE ABUSIVE TO THIS PERSON, I
9 WAS ABOUT TO LEAVE THE DORM

10 AND HE RAN UP IN MY FACE, POINTING IN MY FACE AND
11 TELLING ME, WELL I'M NOT GOING TO HURT YOU, AFTER HE
12 HAD-CURSED ME OUT AND CURSED THIS PERSON OUT

13 AND ANOTHER OFFICER CALLED A CODE RED WHICH IS
14 WHAT WE NORMALLY CALL WHENEVER A INMATE IS ATTACKING
15 ANYONE AND A LOT OF PEOPLE RESPONDED

16 Q DID HE TOUCH YOU?

17 A NO, HE DIDN'T TOUCH ME

18 Q THAT'S WHAT I ASKED

19 A NO

20 Q DID HE EVER TOUCH YOU OR HURT YOU OR INJURE YOU IN
21 ANY WAY?

22 A NOT PHYSICALLY

23 Q AND HE'S NEVER TOUCHED YOU OR HURT YOU IN ANY OF
24 THESE THREATS THAT HE'S MADE TO YOU IN THESE THREE
25 DIFFERENT TIMES, CORRECT?

- 1 A HE DIDN'T HURT ME PHYSICALLY
- 2 Q WELL, IT'S SORT OF PART OF THE JOB, ISN'T IT?
- 3 A IT IS A PART OF MY JOB BUT I'M NOT ALLOWED TO
- 4 TOLERATE ABUSE FROM ANYONE
- 5 Q WELL, YOU REPORTED IT, DIDN'T YOU?
- 6 A OF COURSE
- 7 Q AND HE WAS DISCIPLINED, WAS HE NOT?
- 8 A TO MY KNOWLEDGE, HE WAS
- 9 Q AND I THINK THAT YOU SAID THAT IN SEPTEMBER OF
- 10 THIS YEAR HE SAID IN TWO WEEKS YOU WOULD FIND OUT WHAT
- 11 WOULD HAPPEN TO YOU, CORRECT?
- 12 A - EXACTLY
- 13 Q WHAT HAPPENED TWO WEEKS LATER?
- 14 A WELL, AS FAR AS I'M CONCERNED, NOTHING AS OF YET
- 15 AND I'M HOPING NOTHING WILL
- 16 Q WHY SHOULD IT?
- 17 A I DON'T KNOW I MEAN I DIDN'T KNOW WHAT WAS
- 18 GOING TO HAPPEN AT THE TRIAL AND I'M SURE HE DIDN'T
- 19 EITHER I CAN'T ASSUME WHAT HE MEANT OTHER THAN THE
- 20 FACT THAT HE TOLD ME HE WAS GOING TO HURT ME AND WATCH
- 21 WHILE HE DID IT I DON'T KNOW WHAT ELSE TO MAKE OF
- 22 THAT
- 23 Q DO YOU THINK HE WAS TRYING TO UPSET YOU?
- 24 A WELL, HE DID
- 25 Q DO YOU THINK HE WAS TRYING TO?

1 A YES, HE DID HE ACCOMPLISHED THAT

2 Q DO YOU THINK THAT HE WAS TRYING TO WORRY YOU AND
3 UPSET YOUR DAY?

4 A YES, NORMALLY I WOULD ASSUME SO

5 Q WHY DO YOU THINK THAT HE WAS DOING THAT TO YOU?

6 A WELL, I'M A VERY DISCIPLINED OFFICER AND I DON'T
7 TOLERATE NONSENSE FROM INMATES AS FAR AS CURSING, DIS-
8 RESPECTING PEOPLE WHETHER IT'S INMATES OR MYSELF
9 WHENEVER THEY MAKE AN INFRACTION I WRITE IT UP I TRY
10 TO COUNSEL THEM AND IF THEY REFUSE COUNSEL THEY KNOW
11 THEY'RE GOING TO BE WRITTEN UP

12 - MR KELLY THANK YOU, MA'AM

13 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS
14 MAY SHE BE EXCUSED?

15 THE COURT ANY OBJECTION?

16 MR KELLY NO OBJECTION

17 THE COURT YOU MAY BE EXCUSED, MA'AM

18 (THE WITNESS LEAVES THE WITNESS STAND)

19 MR STONE MARK FITZGIBBONS

20 COME AROUND AND BE SWORN PLEASE, SIR

21 MARK FITZGIBBONS, BEING
22 FIRST DULY SWORN, TESTIFIED AS FOLLOWS

23 THE CLERK PLEASE HAVE A SEAT AND STATE YOUR
24 NAME AND SPELL YOUR LAST NAME FOR THE COURT

25 THE WITNESS MY NAME IS MARK FITZGIBBONS,

STATE VS ALKEBULANYAHH

1 F-I-T-Z-G-I-B-B-O-N-S
2 DIRECT EXAMINATION BY MR. STONE.
3 Q OKAY AND WHAT DO YOU DO, SIR?
4 A I'M THE DIRECTOR OF THE BEAUFORT COUNTY DETENTION
5 CENTER
6 Q HOW LONG HAVE YOU BEEN THE DIRECTOR OF THE
7 BEAUFORT COUNTY DETENTION CENTER?
8 A 15 YEARS
9 Q OKAY AND DURING THAT TIME WHAT -- HAVE YOU --
10 YOU'VE ALWAYS BEEN THE DIRECTOR DURING THOSE 15 YEARS?
11 A YES SIR
12 Q - OKAY ARE YOU FAMILIAR WITH THE RECORDS OF THE
13 DETENTION CENTER AND THE INMATES' DISCIPLINARY
14 INFRACTIONS, VARIOUS THINGS LIKE THAT?
15 A I AM
16 Q ARE YOU FAMILIAR WITH AN INMATE BY THE NAME OF
17 ALKEBULANYAHH OR TYREE ROBERTS?
18 A I AM
19 Q ARE YOU FAMILIAR WITH HIS DISCIPLINARY RECORD
20 WHILE IN THE BEAUFORT COUNTY DETENTION CENTER?
21 A YES, SIR
22 Q DO YOU RECALL FIRST OF ALL WHEN HE WAS IN THE
23 BEAUFORT COUNTY DETENTION CENTER?
24 A WHEN HE FIRST CAME IN?
25 Q YES

STATE VS ALKEBULANYAHH

- 1 A APPROXIMATELY THE MIDDLE OF MARCH
2 Q OF WHAT YEAR?
3 A 2002
4 Q OKAY AND HAS HE BEEN THERE SINCE THAT TIME?
5 A EXCEPT FOR BEING TAKEN OUT FOR A MEDICAL
6 OBSERVATION, MENTAL HEALTH OBSERVATION
7 Q OKAY DURING THAT TIME THAT HE WAS WITH YOU THEN,
8 ARE YOU FAMILIAR WITH HOW MANY DISCIPLINARY INFRACTIONS
9 HE RECEIVED?
10 A HE RECEIVED, I BELIEVE, 9 FORMAL DISCIPLINARY
11 INFRACTIONS DURING THAT PERIOD OF TIME
12 Q AND WOULD HAVE -- STARTING MARCH 2002 -- OR I'M
13 SORRY, MARCH OF '2000 AND -- YEAH, MARCH 2002?
14 A IT WAS SUBSEQUENT TO THAT, SIR
15 Q WHAT DO YOU MEAN SUBSEQUENT TO THAT?
16 A FOR THE FIRST COUPLE OF MONTHS THERE WERE NO
17 FORMAL DISCIPLINARY INFRACTIONS NOTED SUBSEQUENT TO
18 THAT IS WHEN THERE WERE DISCIPLINARY INFRACTIONS AND
19 THEY OCCURRED OVER THE COURSE OF TIME WITH THE LATEST
20 BEING IN SEPTEMBER OF THIS YEAR
21 Q ARE YOU FAMILIAR WITH WHAT THOSE DISCIPLINARY
22 INFRACTIONS WERE OF THOSE NINE?
23 A I HAVE THOSE IN MY NOTES, SIR, YES
24 Q OKAY DO YOU HAVE YOUR NOTES WITH YOU?
25 A YES, SIR

1 Q COULD YOU REFER TO THOSE PLEASE

2 A DO YOU WISH ME TO GO OVER THEM SIR?

3 Q SURE, IF YOU WOULD

4 A ALL RIGHT THE FIRST ONE OCCURRED IN MAY, MAY
5 13TH OF 2002, WAS A REFUSAL TO OBEY AN ORDER FROM A
6 STAFF MEMBER

7 THEN THE NEXT ONE WAS JULY 16, A REFUSAL TO OBEY
8 ORDERS BOTH OF THOSE RESULTED IN DISCIPLINARY
9 SEGREGATION

10 AUGUST 8, 2002, BEING IN AN UNAUTHORIZED AREA,
11 DISORDERLY CONDUCT, RESULTING IN DISCIPLINARY
12 SEGREGATION

13 OCTOBER 7, 2002 POSSESSION OF CONTRABAND,
14 DISCIPLINARY SEGREGATION

15 DECEMBER 3, 2002, REFUSING TO OBEY ORDERS
16 DISORDERLY CONDUCT, RESULTING IN DISCIPLINARY
17 SEGREGATION

18 THE 9TH OF DECEMBER 2002, REFUSING TO FOLLOW
19 INSTRUCTIONS OF C O AND ---

20 Q WHAT IS A C O SIR? I'M SORRY

21 A CORRECTIONAL OFFICER AND DISTURBING THE ORDERLY
22 RUNNING OF THE HOUSING UNIT, DISCIPLINARY SEGREGATION

23 JULY 11TH OF 2003, MAKING THREATS TOWARD A
24 CORRECTIONAL OFFICER, DISCIPLINARY SEGREGATION

25 AND THEN JANUARY 1, DISRESPECT TOWARD AN OFFICER

STATE VS ALKEBULANYAHH

1 AND ATTEMPTING TO INTIMIDATE HER, 30 DAYS DISCIPLINARY
2 SEGREGATION

3 AND THEN WHILE IN DISCIPLINARY SEGREGATION HE
4 RECEIVED A SUBSEQUENT DISCIPLINARY INFRACTION,
5 DISCIPLINARY REPORT FOR, AGAIN, THREATENING THAT SAME
6 FEMALE OFFICER

7 Q WHILE HE WAS IN DISCIPLINARY ---

8 A YES, SIR

9 MR STONE THANK YOU, DIRECTOR IF YOU WILL
10 ANSWER ANY QUESTIONS DEFENSE MAY HAVE

11 THE WITNESS YES, SIR

12 CROSS EXAMINATION BY MR. KELLY.

13 Q MARK, HE'S BEEN IN YOUR DETENTION FACILITY ABOUT
14 WHAT, 17 MONTHS?

15 A SINCE MARCH OF 2002 YES SIR, APPROXIMATELY 17
16 MONTHS

17 Q HAS HE EVER BEEN CHARGED WITH PHYSICALLY TOUCHING
18 OR INJURING ANY OFFICER?

19 A NO, SIR

20 Q HAS HE BEEN CHARGED WITH PHYSICALLY TOUCHING OR
21 INJURING ANY INMATE?

22 A NO, SIR

23 MR KELLY I HAVE NO FURTHER QUESTIONS

24 MR STONE NOTHING ELSE, YOUR HONOR MAY HE BE
25 EXCUSED?

1 THE COURT ANY OBJECTION? ANY OBJECTION?
 2 MR KELLY NO, YOUR HONOR
 3 THE COURT YOU MAY BE EXCUSED, SIR
 4 THE WITNESS THANK YOU, YOUR HONOR
 5 (THE WITNESS LEAVES THE WITNESS STAND)
 6 MR MURDAUGH CALL RICKY ROPER
 7 COME AROUND AND PUT YOUR LEFT HAND ON THE BIBLE,
 8 HOLD UP YOUR RIGHT HAND AND BE SWORN PLEASE, SIR
 9 RICHARD E ROPER, BEING
 10 FIRST DULY SWORN, TESTIFIED AS FOLLOWS
 11 THE CLERK PLEASE HAVE A SEAT STATE AND SPELL
 12 YOUR NAME FOR THE COURT
 13 THE WITNESS (NO RESPONSE)
 14 DIRECT EXAMINATION BY MR. MURDAUGH.
 15 Q MR ROPER, I BELIEVE YOU HAVE TESTIFIED THAT YOU
 16 WERE EITHER THE FIRST OR ONE OF THE FIRST OFFICERS THAT
 17 ENTERED THE ROOM THAT NIGHT?
 18 A THAT IS CORRECT, SIR
 19 THE COURT HOLD ON HE CAN'T HEAR YOU'LL HAVE
 20 TO TALK INTO THAT MICROPHONE, PLEASE, SIR PLEASE PULL
 21 IT -- THAT MICROPHONE TO YOU, PLEASE
 22 RESTATE YOUR QUESTION
 23 Q I BELIEVE YOU HAVE TESTIFIED, HAVE YOU NOT, MR
 24 ROPER, THAT YOU WERE EITHER THE FIRST OR ONE OF THE
 25 FIRST OFFICERS THAT ENTERED THE ROOM AT 21 RILEY ROAD

STATE VS ALKEBULANYAHH

1 ON THE NIGHT OF JANUARY 8, 2002, IS THAT CORRECT?

2 A THAT IS SIR

3 Q YOU WERE -- WERE YOU THE FIRST OR THE SECOND
4 OFFICER?

5 A SECOND OFFICER

6 Q AND GEORGE WHITE WAS THE FIRST?

7 A ACTUALLY STETTMIER WAS THE FIRST, AND THEN MYSELF,
8 AND THEN GEORGE WHITE

9 Q OKAY WHO WAS THE FIRST THAT ENTERED THE ROOM
10 WHERE THE TWO BODIES WERE LOCATED?

11 A WOULD HAVE BEEN GEORGE WHITE

12 Q - AND THEN YOU?

13 A AND THEN ME, SIR

14 Q OKAY, SIR MR ROPER, IF YOU WOULD TELL THE
15 LADIES AND GENTLEMEN OF THE JURY HOW THESE OFFICERS
16 WERE DRESSED WHEN YOU SAW THEM THAT NIGHT OR THAT
17 AFTERNOON?

18 A THEY WERE DRESSED IN OUR CLASS A STANDARD UNIFORM
19 WHICH IS THE SHORT SLEEVE UNIFORM SHIRT, THE B D U
20 PANTS, THE GREEN B D U PANTS AND THE ROCKY 9-1-1
21 BOOTS THEY WERE WEARING THEIR BULLETPROOF VESTS AND
22 THEIR STANDARD ISSUED EQUIPMENT THAT EACH OFFICER IS
23 ISSUED

24 Q OKAY, SIR MR ROPER, I'M GOING TO SHOW YOU
25 SOMETHING AND ASK IF YOU CAN IDENTIFY IT, PLEASE?

1 (PAUSE)

2 A THAT IS DEPUTY SHERIFF TATE'S UNIFORM SHIRT

3 (PAUSE) THAT IS DEPUTY SHERIFF COURSEN'S UNIFORM
4 SHIRT

5 Q MR ROPER, I ASK YOU WHETHER OR NOT IN ADDITION TO
6 THOSE SHIRTS THEY WERE WEARING ANYTHING -- WHAT KIND OF
7 PANTS THEY WERE WEARING?

8 A THEY WERE WEARING GREEN B D U PANTS THAT ARE MADE
9 BY BAUER I BELIEVE, IS THE NAME BRAND

10 Q OKAY, SIR

11 A THEY HAVE THE POCKETS ON THE SIDE, CARGO POCKETS
12 ON THE SIDE

13 Q WERE THEY WEARING ANYTHING AROUND THEIR WAIST?

14 A THEY WERE WEARING THEIR DUTY BELT, THEIR UNIFORM
15 ISSUED LEATHER DUTY BELT, ABOUT A TWO AND A QUARTER
16 INCH WIDE DUTY BELT THEY WOULD HAVE THEIR -- THEIR
17 HOLSTER AND THEIR FIREARM THEIR HANDCUFF CASE, AND
18 THEIR HANDCUFFS

19 Q DID THESE SHIRTS HAVE EMBLEMS ON THE SHOULDERS AND
20 ANYTHING ON THE FRONT OF THEM?

21 A THEY HAD THEIR NAME TAGS ON THE FRONT OF THEM
22 THEY HAD THEIR DEPUTY SHERIFF BADGE AND THEN THEY HAD
23 THE SHERIFF'S OFFICE PATCH SEWN ON BOTH SIDES OF THE
24 SLEEVES

25 MR MURDAUGH THANK YOU, SIR I HAVE NO FURTHER

STATE VS ALKEBULANYAHH

1 QUESTIONS

2 THE WITNESS YES SIR

3 MR KELLY NO QUESTIONS

4 THE COURT ALL RIGHT

5 MR MURDAUGH YOU MAY COME DOWN

6 I CALL DIANE BODIE

7 THE COURT ANY OBJECTION TO HIS BEING EXCUSED?

8 MR KELLY I HAVE NO OBJECTION ---

9 THE COURT YOU MAY BE EXCUSED SIR

10 MR KELLY --- TO THE GENTLEMAN BEING EXCUSED

11 THE COURT YOU MAY BE EXCUSED, SIR

12 THE WITNESS YES, SIR

13 (THE WITNESS LEAVES THE WITNESS STAND)

14 DIANE BODIE, BEING FIRST

15 DULY SWORN TESTIFIED AS FOLLOWS

16 DIRECT EXAMINATION BY MR. MURDAUGH.

17 Q YOU HAVE ALREADY TESTIFIED I BELIEVE YOUR NAME

18 -- I BELIEVE -- I KNOW YOUR NAME IS DIANE BODIE, IS

19 THAT CORRECT?

20 A YES, SIR

21 Q OKAY MS BODIE ---

22 MR MURDAUGH YOU CAN SHUT THAT DOOR

23 Q I SHOW YOU -- I SHOW YOU -- I SHOW YOU TWO

24 PHOTOGRAPHS AND ASK YOU IF YOU CAN IDENTIFY THOSE?

25 A YES, SIR THESE PHOTOGRAPHS ARE AN ACCURATE

STATE VS ALKEBULANYAHH

1 REPRESENTATION OF HOW I FOUND OFFICER COURSEN ON THE
2 EVENING, JANUARY 8

3 MR MURDAUGH YOUR HONOR, PLEASE, I WOULD OFFER
4 THEM AS EXHIBITS

5 THE COURT ANY OBJECTION?

6 MR KELLY MAY WE SEE THEM PLEASE?

7 THE COURT YES, SIR

8 (PAUSE)

9 MR KELLY WITHOUT OBJECTION

10 THE COURT ALL RIGHT WHAT ARE THOSE NUMBERS?

11 THE REPORTER 125 AND 126

12 THE COURT STATE'S 125 AND 126 IN EVIDENCE

13 WITHOUT OBJECTION

14 (TWO, 2, LARGE COLOR PHOTOS, COURSEN, MARKED IN
15 EVIDENCE AS STATE'S EXHIBIT NOS 125 AND 126)

16 MR KELLY YOUR HONOR, WE'RE LOOKING AT FOUR
17 OTHER PHOTOGRAPHS TO WHICH WE HAVE NO OBJECTION

18 THE COURT ALL RIGHT

19 Q MS BODIE, I ---

20 THE COURT HOLD ON A SECOND IS THERE -- DOES
21 SOMEONE NEED SOME ASSISTANCE?

22 OFFICER YOUR HONOR, WE'VE GOT A YOUNG LADY
23 HAVING A SEIZURE AND ---

24 THE COURT ALL RIGHT LADIES AND GENTLEMEN --
25 LADIES AND GENTLEMEN LET ME SEND YOU TO THE JURY ROOM

STATE VS ALKEBULANYAHH

1 DO NOT DISCUSS THIS CASE IN ANY WAY THANK YOU VERY
2 MUCH

3 (THE JURY EXITS THE COURTROOM AT 4 37 P M)

4 THE COURT LET'S GO AHEAD AND TAKE A SHORT BREAK
5 THANK YOU VERY MUCH

6 MR KELLY THANK YOU, YOUR HONOR

7 MR MURDAUGH THANK YOU, YOUR HONOR

8 THE COURT MA'AM, YOU MAY STEP DOWN DURING THE
9 BREAK YOU MAY NOT DISCUSS YOUR TESTIMONY WITH ANYONE
10 THE WITNESS YES, SIR

11 (THE WITNESS LEAVES THE WITNESS STAND)

12 MR MURDAUGH MAY I GET THESE PHOTOGRAPHS BACK?

13 THE COURT YES, SIR

14 IF EVERYONE WILL HOLD OFF PLEASE WHILE THEY TRY TO
15 GET -- TAKE CARE OF THE INDIVIDUAL THAT NEEDS SOME
16 ASSISTANCE THANK YOU

17 (PAUSE)

18 THE COURT LADIES AND GENTLEMEN, I WOULD JUST ASK
19 AT THIS TIME THAT EVERYONE REMAIN IN THE COURTROOM
20 UNTIL E M S ARRIVES BECAUSE THE INDIVIDUAL IS JUST
21 RIGHT OUTSIDE THE DOORS ONCE THEY ARRIVE AND ASSIST
22 THE INDIVIDUAL WITH ANY MEDICAL ATTENTION THAT IS
23 NECESSARY, THE DEPUTIES WILL COME BACK IN AND ANNOUNCE
24 THAT YOU CAN NOW TAKE A BREAK, SO IF YOU WILL PLEASE
25 REMAIN IN YOUR SEATS THANK YOU VERY MUCH FOR YOUR

STATE VS ALKEBULANYAHH

1 COOPERATION

2 (A RECESS WAS TAKEN)

3 THE COURT I RE-INVITE YOU TO SIT AT THE TABLE

4 DO YOU WISH TO RE-JOIN US?

5 MR ALKEBULANYAHH NO, SIR I'M FINE

6 THE COURT AND YOU ARE ABLE TO HEAR EVERYTHING?

7 MR ALKEBULANYAHH YES, SIR

8 THE COURT AND SEE EVERYTHING?

9 MR ALKEBULANYAHH YES, SIR

10 THE COURT AND YOU STILL HAVE NO OBJECTION TO

11 STAND-BY COUNSEL HANDLING THIS PART?

12 MR ALKEBULANYAHH NO, SIR

13 THE COURT ALL RIGHT THANK YOU

14 (THE DEFENDANT RETURNS TO THE ROOM IN THE BACK OF
15 THE COURTROOM)

16 THE COURT LET'S LET THE PEOPLE START COMING BACK
17 IN PLEASE

18 (PAUSE)

19 THE COURT BRING THE JURY BACK IN PLEASE

20 (THE JURY RETURNS TO THE COURTROOM AT 5 13 P M)

21 (THE WITNESS RETURNS TO THE WITNESS STAND)

22 THE COURT PLEASE BE SEATED

23 ALL RIGHT LADIES AND GENTLEMEN, WE'RE READY TO
24 PROCEED WITH THIS WITNESS

25 GO AHEAD

STATE VS ALKEBULANYAHH

1 DIRECT EXAMINATION CONTINUED BY MR. MURDAUGH.

2 Q MS BODIE, I ASKED YOU IF YOU HAD RECOGNIZED TWO
3 PHOTOGRAPHS I THINK THEY'VE BEEN MARKED STATE'S WHAT?

4 A THESE ARE MARKED STATE'S EXHIBIT 126 AND STATE'S
5 EXHIBIT 125

6 Q AND THEY ARE PICTURES OF?

7 A THEY ARE PICTURES OF DEPUTY COURSEN AS -- LYING ON
8 THE FLOOR AND THE COT AS HE WAS WHEN WE ARRIVED ON THE
9 SCENE

10 MR MURDAUGH YOUR HONOR, PLEASE, MAY I PUBLISH
11 THOSE TO THE JURY?

12 - THE COURT YOU MAY HOLD THEM UP AND WALK THEM
13 DOWN THE JURY BOX THOSE ARE IN EVIDENCE? YES GO
14 AHEAD GO AHEAD

15 (PAUSE)

16 Q I THINK I HANDED YOU TWO -- I THINK I HANDED YOU
17 TWO ADDITIONAL PICTURES, DID I NOT?

18 A YES, SIR

19 Q CAN YOU TELL ME WHAT THOSE PICTURES ARE?

20 A THESE ARE PHOTOGRAPHS OF DEPUTY TATE LYING ON THE
21 BATHROOM FLOOR AS HE WAS WHEN WE ARRIVED ON THE SCENE

22 Q AND THE OTHER PICTURE OR BOTH OF THEM?

23 A BOTH PICTURES ARE OF DEPUTY TATE

24 MR MURDAUGH YOUR HONOR, PLEASE, I OFFER THOSE
25 AS EXHIBITS

1 THE COURT ANY OBJECTION?

2 MR KELLY NO OBJECTION

3 THE COURT ALL RIGHT STATE'S ---

4 THE REPORTER 127 AND 128

5 THE COURT 127 AND 128 IS THAT WHAT YOU SAID,

6 MADAM COURT REPORTER?

7 THE REPORTER YES, SIR

8 THE COURT ALL RIGHT IN EVIDENCE WITHOUT

9 OBJECTION

10 (TWO, 2, LARGE COLOR PHOTOGRAPHS, TATE, MARKED IN

11 EVIDENCE AS STATE'S EXHIBIT NOS 127 AND 128)

12 - MR MURDAUGH AND MAY I PUBLISH THESE TO THE JURY

13 IF YOUR HONOR PLEASE?

14 THE COURT YES, SIR YOU MAY HOLD THEM UP AND

15 WALK THEM DOWN THE JURY BOX HOLD THEM UP HIGH ENOUGH

16 FOR BOTH FRONT AND BACK TO SEE PLEASE JUST MOVE ON

17 DOWN, COUNSEL THANK YOU

18 (PAUSE)

19 Q MS BODIE I SHOW YOU ONE ADDITIONAL PICTURE AND

20 ASK IF YOU CAN IDENTIFY IT?

21 A YES, SIR THIS IS A PICTURE STANDING AT THE

22 ENTRANCE OF THE BEDROOM ON 21 RILEY ROAD THE PICTURES

23 WILL DEPICT OFFICER COURSEN AT THE FRONT OF THE BEDROOM

24 AND OFFICER TATE AT THE BATHROOM AREA, AS WELL AS THE

25 CLOSET, THE DOOR OF THE CLOSET WHERE THE GUNFIRE

STATE VS ALKEBULANYAHH

1 ENSUED

2 MR MURDAUGH YOUR HONOR, PLEASE, I WOULD OFFER

3 THAT AS AN EXHIBIT SIR

4 THE COURT ANY OBJECTION?

5 MR KELLY WITHOUT OBJECTION

6 THE COURT ALL RIGHT STATE'S 130 IN EVIDENCE --

7 I'M SORRY 129 IN EVIDENCE WITHOUT OBJECTION

8 (LARGE COLOR PHOTO, CRIME SCENE, MARKED IN

9 EVIDENCE AS STATE'S EXHIBIT NO 129)

10 MR MURDAUGH MAY I PUBLISH THIS TO THE JURY?

11 THE COURT YES, SIR JUST WALK IT ON DOWN

12 COUNSEL THEY WILL HAVE THE EXHIBITS IN THE JURY ROOM

13 (PAUSE)

14 Q I SHOW YOU ONE LAST PHOTOGRAPH, MS BODIE, AND ASK

15 YOU WHAT THAT IS?

16 A THIS PHOTOGRAPH DEPICTS THE CLOSET AREA WHERE WE

17 HAVE PROBED A HOLE THROUGH THE CLOSET DOOR IT WAS

18 COMING FROM THE INSIDE OF THE CLOSET THROUGH,

19 REPRESENTED WITH GREEN STRING AND THEN THE -- AND THE

20 GREEN STRING REPRESENTS THE ASSAULT RIFLE

21 THE WOODEN DOWEL RODS REPRESENT THE TRAJECTORIES

22 GOING FROM THE OUTSIDE OF THE DOOR INSIDE THE CLOSET

23 DOOR AREA REPRESENTED BY THE 40 CALIBER WEAPON THAT

24 TATE WAS FIRING

25 Q AND WHAT DOES IT SHOW, MA'AM?

STATE VS ALKEBULANYAHH

1 A IT SHOWS ALL THE SHOTS COMING OUT OF THE CLOSET
2 TOWARD OFFICER COURSEN, AS WELL AS SHOTS GOING THROUGH
3 THE DOOR TOWARD TATE AS WELL AS SHOTS GOING FROM
4 INSIDE THE BEDROOM THROUGH THE BATHROOM AREA AND
5 OUTSIDE THE TRAILER

6 MR MURDAUGH YOUR HONOR, PLEASE I OFFER THAT AS
7 AN EXHIBIT

8 THE COURT ANY OBJECTION?

9 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

10 THE COURT ALL RIGHT STATE'S 130 IN EVIDENCE
11 WITHOUT OBJECTION

12 - (LARGE COLOR PHOTO, CLOSET WITH TRAJECTORY, MARKED
13 IN EVIDENCE AS STATE'S EXHIBIT NO 130)

14 MR MURDAUGH MAY I PUBLISH THIS?

15 THE COURT YES, SIR

16 (PAUSE)

17 Q NOW, MS BODIE, I SHOW YOU TWO ITEMS ---

18 MR MURDAUGH I'M SORRY, SIR I FORGOT ABOUT THE
19 -- MAY I GET THESE OUT OF THE CLOSET?

20 THE COURT YES, SIR

21 (PAUSE)

22 Q I ASK YOU IF YOU RECOGNIZE THIS, MS BODIE?

23 A YES, SIR, OFFICER TATE'S UNIFORM

24 THE COURT YOU MAY TAKE THAT BACK IN THE CLOSET,
25 COUNSEL

STATE VS ALKEBULANYAHH

1 Q AND THIS ITEM MS BODIE?

2 A YES, SIR, THAT IS OFFICER COURSEN'S UNIFORM

3 Q IN LOOKING AT THIS UNIFORM, MS BODIE, DID YOU

4 FIND ANYTHING ON IT?

5 A YES, SIR, ON THE BULLETPROOF VEST BELONGING TO

6 OFFICER COURSEN, HE HAS A PIN THAT STATES, COME HOME

7 SAFE

8 (PAUSE)

9 A YES, SIR, THAT IS THE PIN

10 MR MURDAUGH THANK YOU ANSWER ANY QUESTIONS

11 THESE GENTLEMEN MAY HAVE

12 - MR THORNTON NO QUESTIONS, YOUR HONOR

13 THE COURT YOU MAY STEP DOWN, MA'AM

14 (THE WITNESS LEAVES THE WITNESS STAND)

15 MR MURDAUGH CAN SHE BE EXCUSED, IF YOUR HONOR,

16 PLEASE?

17 THE COURT ANY OBJECTION?

18 MR THORNTON NO OBJECTION, YOUR HONOR

19 THE COURT YOU MAY BE EXCUSED, MA'AM

20 MR MURDAUGH I THINK THEY'RE LOOKING FOR HER IN

21 LAURENS

22 THE COURT ALL RIGHT YOU MAY BE EXCUSED, MA'AM

23 MR STONE KIM STRAUSS

24 MAYOR IF YOU WILL COME AROUND AND BE SWORN,

25 PLEASE, SIR

STATE VS ALKEBULANYAHH

1 KIM E STRAUSS, BEING FIRST
2 DULY SWORN TESTIFIED AS FOLLOWS
3 DIRECT EXAMINATION BY MR. STONE.

4 Q MAYOR, LET ME ASK YOU IF YOU COULD TO PULL THE
5 MICROPHONE A LITTLE BIT CLOSE TO YOU SO EVERYBODY COULD
6 HEAR YOU

7 WHAT'S YOUR FULL NAME, SIR, AND IF YOU COULD,
8 SPELL YOUR LAST NAME?

9 A MY NAME IS KIM EVAN STRAUSS, S-T-R-A-U-S-S

10 Q WHERE DO YOU LIVE, MR STRAUSS?

11 A IN THE VILLAGE OF LAGRANGE, OHIO

12 Q - OKAY AND DO YOU HOLD A POSITION WITH THE TOWN?

13 A I AM THE MAYOR OF THE VILLAGE OF LAGRANGE

14 Q OKAY MAYOR, HOW LONG HAVE YOU BEEN THE MAYOR OF
15 LAGRANGE OHIO?

16 A IT WILL BE 4 YEARS IN DECEMBER

17 Q COULD YOU TELL US A LITTLE BIT ABOUT LAGRANGE?
18 WHAT KIND OF TOWN IS IT?

19 A LAGRANGE IS A VERY UNIQUE TOWN BECAUSE THERE IS
20 ACTUALLY THE TOWNSHIP OF LAGRANGE AND THE VILLAGE OF
21 LAGRANGE IS -- IS LOCATED RIGHT IN THE MIDDLE OF IT
22 WHEN THE VILLAGE OF LAGRANGE WAS FORMED ABOUT A HUNDRED
23 YEARS AGO, THE VILLAGE FORMED BUT DID NOT SECEDE FROM
24 THE TOWNSHIP SO THE VILLAGE RESIDENTS ARE ACTUALLY
25 TOWNSHIP RESIDENTS AND WE HAD A VERY UNIQUE

STATE VS ALKEBULANYAHH

1 RELATIONSHIP BETWEEN THE VILLAGE AND THE TOWNSHIP AND
2 I CAN TIE THAT IN TO SOMETHING LATER, BUT THAT'S A
3 LITTLE BIT ABOUT OUR COMMUNITY

4 Q HOW MANY PEOPLE ARE IN LAGRANGE?

5 A IN THE VILLAGE, APPROXIMATELY 1,900, IN THE
6 TOWNSHIP, ABOUT 4,400

7 Q AND YOU'VE LIVED THERE FOR HOW LONG?

8 A ABOUT 25 YEARS

9 Q DID YOU KNOW DYKE COURSEN?

10 A ABOUT 10 YEARS BEFORE HE MOVED HERE TO BEAUFORT

11 Q OKAY HOW DID YOU FIRST MEET DYKE COURSEN?

12 A - I HAD A BUSINESS ON THE SQUARE -- AT THAT TIME,
13 TWO BUSINESSES ACTUALLY AND IT WAS AROUND THE TIME
14 THAT HE WAS INTERESTED IN LAW ENFORCEMENT AND DYKE
15 WAS VERY WELL-KNOWN IN THE COMMUNITY

16 AND WHEN HE JOINED THE AUXILIARY DEPARTMENT HE
17 WAS IN WHAT WAS CALLED A COMMUNITY POLICE OFFICER TYPE
18 OF MODE AND HE WAS THE OFFICER THAT YOU WOULD ALWAYS
19 SEE IN THE BARBER SHOP IN THE -- IN THE OPPOSITE CHAIR
20 THAT WAS EMPTY TALKING TO THE BARBER OR JUST
21 BUSINESSMEN IN GENERAL, PEOPLE ON THE SQUARE, TRYING TO
22 GET A GOOD RELATIONSHIP BETWEEN OUR POLICE DEPARTMENT
23 AND THE COMMUNITY ITSELF

24 Q WHAT DID HE DO WITH LAGRANGE? WHAT WAS HIS JOB?

25 A OH BOY IF I MAY ---

STATE VS ALKEBULANYAHH

1 Q YES

2 A --- IT'S -- IT'S VERY INVOLVED SO -- AND I REALLY
3 WANT EVERYONE TO UNDERSTAND HOW INVOLVED IT WAS

4 IN 1985 HE WAS SWORN IN AS AN AUXILIARY POLICE
5 OFFICER THAT WAS IN AUGUST IN NOVEMBER HE WAS
6 PROMOTED TO AUXILIARY SERGEANT FEBRUARY OF '86 HE WAS
7 PROMOTED TO AUXILIARY LIEUTENANT FEBRUARY '87 HE WAS
8 PROMOTED TO AUXILIARY CAPTAIN

9 DECEMBER OF 1987 THE VILLAGE OF LAGRANGE ACTUALLY
10 SPONSORED HIM TO GO TO THE OHIO POLICE OFFICERS'
11 TRAINING ACADEMY

12 AND THEN IN '88 HE WAS SWORN IN AS A PATROLMAN
13 PART-TIME BECAUSE AT THAT TIME WE ONLY HAD 4 FULL-TIME
14 PATROLMEN AND THEN WE USUALLY HAD 7 TO 8 PART-TIME
15 PATROLMEN SO THERE WERE VERY FEW FULL-TIME OPENINGS

16 Q LET ME STOP YOU THERE AS A PART-TIME PATROLMAN,
17 DID HE HAVE ANOTHER -- OBVIOUSLY HE HAD ANOTHER JOB ON
18 THE SIDE, IS THAT RIGHT?

19 A YES AND -- AND THAT'S ANOTHER UNIQUE PART IN
20 1989 HE WAS HIRED INTO THE LAGRANGE UTILITIES
21 DEPARTMENT AND APPROXIMATELY 6 MONTHS FROM THAT DATE,
22 HE WAS PROMOTED TO SUPERVISOR OF WATER AND WASTE WATER

23 SO AT THAT TIME HE WAS A PART-TIME POLICE OFFICER
24 AND SUPERVISOR OF OUR WATER DEPARTMENT THAT WAS HIS
25 FULL-TIME JOB

STATE VS ALKEBULANYAHH

1 AND THEN IT WAS NOTHING FOR HIM TO PUT IN 20 TO 25
2 HOURS EXTRA I MEAN, IF THERE WAS A SHIFT AVAILABLE,
3 DYKE WOULD TAKE THAT SHIFT

4 WHAT IS EVEN MORE UNIQUE IS THEN IN 1990 HE JOINED
5 THE VOLUNTEER FIRE DEPARTMENT, WHICH IS WHY I WAS
6 TRYING TO SHOW YOU THE SEPARATION BETWEEN THE TOWNSHIP
7 AND THE VILLAGE, BECAUSE THE VILLAGE WAS UNDER THE --
8 OR THE POLICE DEPARTMENT WAS UNDER THE AUSPICE OF THE
9 POLICE DEPARTMENT -- OF THE VILLAGE EXCUSE ME AND
10 THE FIRE DEPARTMENT WAS UNDER THE -- IS UNDER THE
11 AUSPICE OF THE TOWNSHIP

12 Q - OKAY WELL, LET ME STOP YOU THERE EXCUSE ME
13 JUST A MINUTE

14 MR STONE COULD YOU MARK THIS FOR
15 IDENTIFICATION

16 THE COURT 131 FOR I D PURPOSES

17 (LARGE COLOR PHOTO, COURSEN, MARKED FOR
18 IDENTIFICATION AS STATE'S EXHIBIT NO 131)

19 Q LET ME SHOW YOU WHAT'S BEEN MARKED FOR
20 IDENTIFICATION AS STATE'S EXHIBIT 131 AND ASK IF YOU
21 COULD FIRST TELL US WHO THAT IS IN THAT PICTURE?

22 A THAT IS CAPTAIN DYKE COURSEN AND A LAGRANGE PATROL
23 CAR

24 MR STONE AT THIS TIME, YOUR HONOR, I OFFER THAT
25 INTO EVIDENCE AS STATE'S EXHIBIT 131

1 THE COURT ANY OBJECTION?

2 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

3 THE COURT STATE'S 131 IN EVIDENCE WITHOUT

4 OBJECTION

5 (STATE'S EXHIBIT NO 131 RECEIVED IN EVIDENCE)

6 MR STONE YOUR HONOR, MAY I PUBLISH THAT TO THE

7 JURY?

8 THE COURT YOU MAY HOLD IT UP AND WALK IT DOWN

9 THE JURY BOX

10 MR STONE THANK YOU

11 Q AND, MAYOR, IF I COULD WHILE I'M PUBLISHING IT TO

12 THE -JURY WOULD YOU PLEASE EXPLAIN TO THEM WHAT THIS

13 PHOTOGRAPH IS?

14 A WELL, WHY DYKE COURSEN WAS SUCH AN UNUSUAL

15 INDIVIDUAL, IN 1990 HE ALSO JOINED THE VOLUNTEER FIRE

16 DEPARTMENT, WHICH BECAUSE IT WAS IN THE TOWNSHIP AND

17 THE POLICE DEPARTMENT WAS IN THE VILLAGE, HE COULD HAVE

18 A DUAL ROLE BECAUSE HE WAS NOT WORKING FOR ONE ENTITY

19 AND IT WAS DEEMED BY THE PROSECUTOR THAT HE COULD BE A

20 FIREMAN AND A POLICEMAN AT THE SAME TIME, AND THAT WAS

21 IN 1990

22 IN 1991 HE WAS PROMOTED TO ASSISTANT FIRE CHIEF

23 AND IN 1992 HE WAS MADE FIRE CHIEF FOR THE LAGRANGE

24 TOWNSHIP, AND AT THAT TIME I BELIEVE THE YOUNGEST FIRE

25 CHIEF IN THE STATE OF OHIO, WHICH WAS IN MY OPINION

STATE VS ALKEBULANYAHH

1 MIRACULOUS

2 I JUST CAN'T EXPLAIN TO YOU ENOUGH HIS DRIVE IN
3 ANY TYPE OF SAFETY SERVICES

4 IN 1990 HE DID RESIGN FROM OUR POLICE DEPARTMENT
5 FOR A SHORT PERIOD OF TIME, NOT BECAUSE HE DID NOT WANT
6 TO BE THERE BUT AT THE TIME, THE NEXT COMMUNITY OVER
7 WAS GRAFTON, OHIO, AND THEY HAD PROMISED HIM A FULL-
8 TIME POSITION AND UNFORTUNATELY IN LAGRANGE, MOST OF
9 OUR OFFICERS HAD BEEN THERE A WHILE AND HE DID NOT
10 THINK HE WOULD GET THAT POSITION IN LAGRANGE

11 IN 1994 THEY ACTUALLY ADDED -- NOT ONLY ADDED A
12 FIFTH FULL-TIME PATROLMAN, AND I BELIEVE THAT WAS TO
13 GET CAPTAIN -- OR AT THAT TIME, PATROLMAN COURSEN BACK
14 THEY DID SOMETHING THAT HAD NEVER BEEN DONE THERE

15 THEY BROUGHT HIM BACK UNDER THE RANK OF CAPTAIN
16 IMMEDIATELY SO NOT ONLY DID HE BECOME A FULL-TIME
17 OFFICER, BUT HE BECAME A FULL-TIME CAPTAIN AND
18 CAPTAIN'S PAY AND THAT IS HOW BAD OUR CHIEF AND OUR
19 COMMUNITY WANTED HIM BACK IN LAGRANGE

20 Q WHEN YOU BECAME MAYOR, DID YOUR RELATIONSHIP WITH
21 DYKE COURSEN -- FIRST OF ALL, PRIOR TO YOU BECOMING
22 MAYOR, WHAT KIND OF RELATIONSHIP DID YOU HAVE WITH HIM?

23 A WE HAD A VERY GOOD RELATIONSHIP WHEN I WAS A
24 COUNCILMAN TWO YEARS BEFORE I BECAME MAYOR, DYKE USED
25 TO ASK THE COUNCILMEN TO DO RIDE-ALONGS

STATE VS ALKEBULANYAHH

1 Q WHAT'S -- WHAT'S A RIDE-ALONG? I'M SORRY

2 A IT'S WHERE WE WOULD SIGN A WAIVER AND WE WOULD
3 ACTUALLY DRIVE WITH A PATROLMAN FOR 8 HOURS AND THAT
4 WAS SO WE COULD EXPERIENCE WHAT THEY EXPERIENCED, THE
5 GOOD, THE BAD RELATIONS WITH RESIDENTS WITHIN THE
6 VILLAGE

7 AND I DID -- ABOUT EVERY 2 TO 3 MONTHS, I WOULD DO
8 ONE

9 AND I KNEW WHEN IT WAS TIME TO DO ONE WITH DYKE
10 COURSEN THAT IT WAS GOING TO BE A LONG NIGHT BECAUSE WE
11 WERE CONSTANTLY WAVED OVER TO NEIGHBORS AND, YOU KNOW,
12 STOPPED AND TALKED TO EVERYONE HE KNEW EVERYONE
13 EVERYWHERE IT WAS A -- WE DIDN'T DO A WHOLE LOT OF
14 POLICE WORK, BUT WE SURE TALKED TO A LOT OF PEOPLE THAT
15 NIGHT

16 Q WHEN YOU BECAME MAYOR, HOW DID YOUR RELATIONSHIP
17 CHANGE OR DID IT CHANGE?

18 A IT CHANGED SLIGHTLY AND -- AND I HAVE TO ADMIT
19 THAT HE EDUCATED ME A LITTLE BIT THE FIRST DAY THAT I
20 WALKED INTO THE OFFICE AS MAYOR AND NOT AS A
21 COUNCILMAN

22 TO COME INTO VILLAGE HALL, THE POLICE DEPARTMENT
23 IS DIRECTLY TO THE RIGHT AND WHEN I CAME IN THE DOOR,
24 CAPTAIN COURSEN WAS IN THE OFFICE THERE AND THE FIRST
25 THING HE SAID TO ME WAS GOOD MORNING, SIR

/

STATE VS ALKEBULANYAHH

1 AND IT KIND OF CAUGHT ME OFF GUARD A LITTLE BIT
2 AND I LOOKED AT HIM AND I SAID, SIR?

3 AND HIS COME-BACK TO ME WAS -- HE SAYS, YOU ARE
4 NOW NOT ONLY THE MAYOR OF THE VILLAGE OF LAGRANGE, YOU
5 ARE THE CHIEF LAW ENFORCEMENT OFFICER OF THE VILLAGE OF
6 LAGRANGE AND I WILL TREAT YOU WITH THE SAME RESPECT
7 THAT YOU WILL TREAT ME WITH

8 AND HE -- HE TAUGHT ME AT THAT TIME THAT, YOU
9 KNOW, DYKE RESPECTED EVERYONE AND HE KNEW THAT BY
10 GIVING THAT RESPECT, HE GOT THAT RESPECT BACK

11 AND FROM THAT POINT ON, IT WAS CAPTAIN COURSEN AND
12 MAYOR STRAUSS AND SIR AND I BELIEVE THAT I GAINED THE
13 RESPECT OF MY POLICE DEPARTMENT AND IN TURN, THEY
14 GAINED THE RESPECT FROM ME

15 Q DID HE -- WAS HE INVOLVED IN ANY TYPE OF PROGRAMS
16 OR ANYTHING LIKE THAT THAT YOU GUYS HAD?

17 A OH MY GOSH HE WAS -- AND I SAY THIS IN A VERY
18 FOND WAY -- RELENTLESS IN 1994 HE WAS ASSIGNED THE
19 POSITION OF DIRECTOR OF EMERGENCY MANAGEMENT FOR THE
20 VILLAGE AND THE TOWNSHIP IN OTHER WORDS, HE WAS -- HE
21 WAS WHAT A LOT OF CITIES WOULD CALL IN MY OPINION A
22 SAFETY SERVICE DIRECTOR BECAUSE HE WAS OUR SAFETY
23 SERVICES

24 IN 1996 HE WANTED A BIKE PATROL AND HE WAS SO
25 GOOD AT GETTING WHAT HE WANTED, WHEN HE CAME TO US TO

STATE VS ALKEBULANYAHH

1 ASK FOR THE BIKE PATROL, HE HAD ALREADY GOT OVER \$3,000
2 COLLECTED FROM THE BUSINESSMEN, HAD THE PRICE OF THE
3 BIKES, THE COST OF UNIFORMS AND HE WAS SO GOOD WITH
4 DOING HIS HOMEWORK THAT YOU COULD NOT TELL HIM NO
5 THERE WAS NO WAY THAT WE COULD EVER TURN HIM DOWN
6 WHATEVER HE ASKED FOR, IT WAS COVERED

7 IN THE FIRE DEPARTMENT, HE STARTED A PROGRAM FOR
8 INFANT SAFETY CHECKS AND WHEN I SAY HE STARTED A
9 PROGRAM, NOT ONLY DID HE IMPLEMENT THESE SAFETY CHECKS
10 HIMSELF -- AND THE IDEA WAS NOT TO BRING PEOPLE IN AND
11 CITE THEM FOR NOT HAVING A BABY SEAT THE IDEA WAS TO
12 EDUCATE THEM, TO MAKE SURE THAT THE BABY SEAT THAT THEY
13 HAD WAS UP TO SNUFF AND LEGAL

14 AND HE -- BEFORE HE STARTED THIS PROGRAM AND
15 BROUGHT IT TO US -- HAD ACQUISITIONED A GRANT FROM THE
16 COUNTY SO THAT HE COULD OFFER INFANT SEATS TO THESE
17 PEOPLE AT A COST OF \$10 IF SOMEONE COULD NOT AFFORD THE
18 SEAT

19 SO HE -- IT WAS JUST PROGRAM, AFTER PROGRAM, AFTER
20 PROGRAM AND EVERY ONE OF THEM WAS EITHER FOR THE
21 SAFETY OF OUR RESIDENTS OR -- I -- I CAN REMEMBER BACK
22 WHEN HE BARTERED FOREVER TO GET A NEW AMBULANCE BECAUSE
23 HE WAS ALSO IN CHARGE OF THE EMS SQUAD

24 AND HE LOBBIED, AND HE LOBBIED, AND HE LOBBIED
25 AND THE ULTERIOR MOTIVE THERE WAS WHEN HE DID GET THE

STATE VS ALKEBULANYAHH

1 NEW AMBULANCE, THEN HE LOBBIED, NO, I DON'T WANT TO
2 TRADE THE OLD AMBULANCE IN I WANT TO HAVE TWO SQUADS
3 SO HE WAS ALREADY READY OKAY, NOW I HAVE THIS
4 AMBULANCE, WE'RE GOING TO NOW HAVE TWO AMBULANCES SO
5 THAT WHEN THIS AMBULANCE IS TRANSPORTING SOMEONE TO THE
6 HOSPITAL, I'M GOING TO JUSTIFY THIS ONE BY SAYING, WE
7 HAVE ANOTHER AMBULANCE READY AND WAITING

8 AND AGAIN, NOBODY COULD ARGUE WITH HIM AND AS
9 USUAL, HE GOT HIS WAY

10 Q LET ME ASK YOU, DID YOU KNOW -- DO YOU KNOW IF HE
11 HAD ANY CHILDREN?

12 A - YES, HE DOES HE HAS A SON, CORY, WHO I BELIEVE
13 IS 4 YEARS OLD NOW

14 THE COURT STATE'S 122 (SIC) AND 133 FOR I D
15 PURPOSES

16 (TWO 2 LARGE COLOR PHOTOS COURSEN AND SON,
17 MARKED FOR IDENTIFICATION AS STATE'S EXHIBIT NOS 132
18 AND 133)

19 Q MAYOR, I'M GOING TO SHOW YOU STATE'S EXHIBIT 132
20 AND 133 FOR IDENTIFICATION AND ASK IF YOU COULD
21 IDENTIFY THE PEOPLE IN THOSE PHOTOGRAPHS?

22 A YES, THIS IS CHIEF COURSEN AT THIS TIME WITH HIS
23 FIREMAN'S UNIFORM ON AND CORY AND THIS IS ALSO
24 ANOTHER PICTURE OF DYKE COURSEN WITH CORY

25 Q AND THAT'S EXHIBIT 132, 133, IS THAT CORRECT?

STATE VS ALKEBULANYAHH

1 A YES, SIR

2 MR STONE YOUR HONOR, AT THIS TIME WE'D MOVE IN
3 STATE'S EXHIBIT 132 AND 133

4 THE COURT ANY OBJECTION?

5 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

6 THE COURT ALL RIGHT IN EVIDENCE WITHOUT
7 OBJECTION

8 (STATE'S EXHIBIT NOS 132 AND 133 RECEIVED IN
9 EVIDENCE)

10 MR STONE YOUR HONOR, MAY WE PUBLISH THAT TO THE
11 JURY

12 - (PAUSE)

13 Q UPON LEARNING OF DYKE COURSEN'S DEATH DID YOU --
14 WAS THERE ANY TYPE OF MEMORIAL IN OHIO?

15 A ABSOLUTELY FIRST, IT WAS AMAZING I WAS AT
16 WORK AND I DO -- I WORK WITH ONE OF THE LAGRANGE
17 TOWNSHIP TRUSTEES, TOWNSHIP CLERK A LOT OF US WORKED
18 AT THE SAME PLACE AND OUR REACTION WAS WE WERE
19 BASICALLY DUMBFOUNDED

20 AND I LEFT WORK AND WENT TO THE MAYOR'S OFFICE
21 AND ALREADY MOST OF MY OFFICERS HAD HEARD AND HAD BEEN
22 CALLED IN AND WERE PLANNING THE TRIP DOWN HERE TO
23 BEAUFORT AND THE WAY THE COMMUNITY STEPPED UP WAS
24 AMAZING

25 THE LOCAL CAR DEALER THERE CALLED US AND PROVIDED

STATE VS ALKEBULANYAHH

1 US WITH VEHICLES AND MONIES WERE GATHERED ANYTHING
2 IN THAT COMMUNITY THAT WE NEEDED, WE HAD AND WE HAD
3 DECIDED, I CAN'T REMEMBER WHICH MORNING IT WAS, TO TAKE
4 OFF FROM THE VILLAGE HALL

5 AND WE GOT PHONE CALLS FROM ALL THE SURROUNDING
6 POLICE DEPARTMENTS, GRAFTON, ELYRIA, OBERLIN,
7 WELLINGTON, LORAIN COUNTY SHERIFF'S DEPARTMENT I
8 BELIEVE THERE WAS SOMEWHERE BETWEEN 25 TO 30 OF US THAT
9 CAME DOWN FOR THE SERVICES DOWN HERE

10 AND WHEN I GOT BACK HOME, THERE WERE SO MANY
11 PEOPLE THAT FELT THEY DID NOT HAVE THE CHANCE TO SAY
12 GOODBYE OR WHATEVER YOU WANT TO CALL -- SO WE DECIDED
13 TO HAVE A MEMORIAL IN LAGRANGE

14 Q HOW MANY PEOPLE ATTENDED?

15 A WELL, I BELIEVE OUR HIGH SCHOOL AUDITORIUM HANDLES
16 ABOUT 700 PEOPLE AND IT WAS PACKED, ALONG WITH BAG
17 PIPES, 21-GUN SALUTES POLICE OFFICERS CAME FROM ALL
18 OVER, CLEVELAND, AKRON, CAMDEN, VOLUNTEERED THEIR
19 SERVICES IN ANY WAY POSSIBLE

20 THE SHERIFFS FROM BEAUFORT CAME UP, ALONG WITH,
21 YOU KNOW D J AND HER DAUGHTER AND EVERYONE AND IT
22 WAS VERY HARD, BUT IT WAS THE ONLY WAY THAT THE
23 RESIDENTS HAD THAT CHANCE

24 MR STONE THANK YOU, MR MAYOR IF YOU WILL,
25 ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE

STATE VS ALKEBULANYAHH

1 MR THORNTON NO QUESTIONS AT THIS TIME, YOUR
2 HONOR
3 MR STONE MAY HE BE EXCUSED, YOUR HONOR?
4 MR THORNTON WITHOUT OBJECTION
5 THE COURT YOU MAY BE EXCUSED, SIR THANK YOU
6 (THE WITNESS LEAVES THE WITNESS STAND)
7 MR STONE THE STATE CALLS OFFICER SHANE COLLINS
8 SHANE COLLINS, BEING FIRST
9 DULY SWORN, TESTIFIED AS FOLLOWS
10 DIRECT EXAMINATION BY MR. STONE.
11 Q WHAT'S YOUR NAME, SIR? IF YOU WOULD PLEASE SPELL
12 YOUR LAST NAME?
13 A MICHAEL SHANE COLLINS, C-O-L-L-I-N-S
14 Q AND WHAT DO YOU DO SIR? YOU'RE OBVIOUSLY IN A
15 UNIFORM, BUT WHAT DO YOU DO SIR?
16 A YES, SIR, I'M A DEPUTY SHERIFF WITH BEAUFORT
17 COUNTY SHERIFF'S OFFICE I'M A ROAD PATROL OFFICER
18 Q HOW LONG HAVE YOU BEEN A ROAD PATROL OFFICER?
19 A IT WILL BE 4 YEARS IN JANUARY
20 Q THROUGH YOUR TIME WITH THE SHERIFF'S DEPARTMENT,
21 WERE YOU A ROAD PATROL OFFICER THE ENTIRE TIME?
22 A YES, SIR
23 Q DID YOU WORK WITH OR DID YOU KNOW DYKE COURSEN?
24 A YES, SIR, I DID, FROM THE DAY THAT HE GOT HERE
25 Q AND HOW DID YOU KNOW HIM?

STATE VS ALKEBULANYAHH

1 A HE WAS ASSIGNED TO -- HE WAS ASSIGNED TO MY SHIFT
2 AS -- AS SOON AS HE GOT HERE, WAS ASSIGNED TO NORTHERN
3 ROAD PATROL

4 Q WHAT IS THE -- WHAT IS THE NORTHERN ROAD PATROL?

5 A THE BEAUFORT COUNTY SHERIFF'S OFFICE IS DIVIDED
6 INTO TWO PATROL DIVISIONS ONE IS NORTH OF THE BROAD
7 RIVER THE OTHER ONE IS SOUTH OF THE BROAD RIVER
8 BRIDGE AND THE NORTHERN ROAD PATROL WERE DIVIDED INTO
9 4 SECTIONS AND HE WAS ASSIGNED TO MY WORK SECTION

10 Q OKAY SO YOU WORKED WITH HIM DURING THE TIME THAT
11 HE WAS HERE?

12 A YES I DID

13 Q OKAY DID YOU ALSO DEVELOP A PERSONAL
14 RELATIONSHIP WITH HIM?

15 A YES, I DID

16 Q TELL US ABOUT THAT?

17 A WELL, DURING THE TIME PERIOD WHEN HE FIRST GOT
18 HERE -- AND HIS WIFE, D J COURSEN, WAS STILL OUT IN
19 CALIFORNIA SO I LIVE HERE I DON'T HAVE ANY FAMILY
20 DOWN HERE, AND A J LIVED HERE THAT'S WHAT I REFERRED
21 TO HIM AS, WAS A J

22 HE DIDN'T HAVE ANY FAMILY AND HE HAD JUST MOVED
23 HERE AND HE WAS TRYING TO CATCH ON TO EVERYTHING
24 AND I WAS TAKING HIM AROUND SHOWING HIM AROUND TOWN
25 AND SHOWED HIM THE PLACES TO GO

1 AND WE'D GO OUT TO DINNER, AND WE WAS TOGETHER
2 PRETTY MUCH 7 DAYS A WEEK AT WORK, OFF WORK, BECAUSE WE
3 DEPENDDED ON EACH OTHER I LEANED ON HIM LIKE A BIG
4 BROTHER HE LOOKED OUT FOR ME, TOOK CARE OF ME, SO
5 (TWO, 2, LARGE COLOR PHOTOGRAPHS, COURSEN, MARKED
6 FOR IDENTIFICATION AS STATE'S EXHIBIT NOS 134 AND
7 135)

8 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
9 EXHIBIT FOR IDENTIFICATION EXHIBIT NO 134 AND NO 135,
10 ASK IF YOU COULD IDENTIFY THIS PLEASE?

11 A YES, SIR EXHIBIT 134 WAS -- ME AND A J HAD
12 SIGNED UP FOR BEACH PATROL AND TWO OFFICERS PER SHIFT
13 WAS -- WAS ABLE TO DO BEACH PATROL OUT AT HUNTING
14 ISLAND BEACH AND HE WAS SO PROUD BECAUSE HE WAS UP IN
15 OHIO WHERE IT ALWAYS SNOWED AND HE NEVER GOT TO DO
16 ANYTHING LIKE THAT

17 AND HE THOUGHT IT WAS THE BEST THING IN THE WORLD
18 BECAUSE WE HAVE A 4-WHEELER OUT THERE AND GET TO DO
19 BEACH PATROL THAT -- AND THAT'S SOMETHING NOT
20 EVERYBODY GETS TO DO AND HE WAS JUST SO EXCITED
21 BECAUSE HE WANTED EVERYBODY TO KNOW AND STUFF

22 AND THIS IS A PICTURE OF HIM OUT ON HUNTING ISLAND
23 DURING THAT TIME PERIOD

24 Q OKAY AND THE OTHER PHOTOGRAPH?

25 A EXHIBIT 135 I HAD TAKEN HIM UP TO MY PARENTS'

1 HOUSE IN NORTH GEORGIA BLAIRSVILLE, GEORGIA AND

2 I ---

3 Q WHERE? I'M SORRY WHERE?

4 A BLAIRSVILLE, GEORGIA IT'S IN THE NORTH GEORGIA

5 MOUNTAINS RIGHT ON THE NORTH CAROLINA BORDER AND I

6 HAD TAKEN HIM UP THERE, USED TO CALL HIM MY BIG BRO' --

7 TOOK HIM UP THERE TO SHOW MOM AND DAD I HAD TALKED TO

8 THEM ABOUT A LOT -- A LOT ABOUT HIM AND HAD TAKEN HIM

9 UP THERE, INTRODUCED HIM

10 WE RODE 4-WHEELERS THROUGH THE WOODS AND I HAD A

11 ONE YEAR OLD NIECE AND AT THAT TIME PERIOD SHE LOVED

12 HIM TO DEATH I ENDED UP TAKING HIM UP AGAIN

13 THIS -- THIS WAS ACTUALLY OUR SECOND TRIP UP AND

14 WE WAS WANTING A GOOD PHOTOGRAPH OF THE TWO OF US AND

15 HE WAS GOING TO SEND IT BACK HOME AND SEND IT OUT TO

16 D J BECAUSE D J HADN'T BEEN HERE AT THAT TIME PERIOD

17 AND HE WANTED -- WANTED TO SEND IT TO HER

18 Q OKAY

19 MR STONE AT THIS TIME, YOUR HONOR WE'D MOVE

20 STATE'S EXHIBIT 134 AND 135 INTO EVIDENCE

21 MR THORNTON WITHOUT OBJECTION YOUR HONOR

22 THE COURT ALL RIGHT STATE'S 134 AND 135 INTO

23 EVIDENCE WITHOUT OBJECTION

24 (STATE'S EXHIBIT NOS 134 AND 135 RECEIVED IN

25 EVIDENCE)

STATE VS ALKEBULANYAHH

1 MR STONE PERMISSION TO PUBLISH TO THE JURY,
2 YOUR HONOR

3 THE COURT YES, SIR

4 (PAUSE)

5 Q OFFICER, WHEN -- WHERE WERE YOU WHEN YOU HEARD OF
6 OFFICER COURSEN'S DEATH?

7 A WHEN THE -- WHEN THE CALL CAME OUT, OFFICER
8 COURSEN HAD JUST LEFT THE COURTHOUSE HE HAD COURT
9 THAT DAY HE HAD LEFT I WAS OVER RIGHT OUTSIDE OF
10 LAUREL BAY HOUSING AREA, IN THE BURTON AREA AND ON
11 THAT DAY, IT WAS A J AND DANA, AND ME AND RAMONA KUHN,
12 ANOTHER OFFICER WE WERE THE FOUR ASSIGNED PATROL
13 OFFICERS TO THAT PATROL ZONE

14 DANA WAS WORKING AN ACCIDENT UP AT -- IN FRONT
15 OF THE AIR STATION A J GOT DISPATCHED TO THE CALL
16 I HAD WORKED WITH HIM FOR THE FIRST 6 MONTHS, WE
17 WORKED BY OURSELVES OVER ON LADYS ISLAND AND ST
18 HELENA AND WE HAD TRANSFERRED OVER TO THE BURTON
19 AREA TOGETHER

20 WE PRACTICALLY SHADOWED EACH OTHER HE -- HE TOOK
21 CARE OF ME HE TAUGHT ME DIFFERENT THINGS, OFFICER
22 SAFETY YOU KNOW, WE WOULD ALWAYS CONSULT EACH OTHER,
23 DIFFERENT THINGS THAT WE WOULD SEE EACH OTHER DO

24 AND HE -- ON THAT DAY HE HAD RESPONDED AND DANA
25 SAID THAT HE'D BE IN ROUTE AS BACKUP AND THEY HAD

1 WENT OUT THERE AND I HAD -- I HAD SENT DANA A MESSAGE
2 AND I KNEW THAT HE WAS GOING TO REPORT AND I ASKED
3 DANA IF I COULD -- IF HE WANTED ME TO TAKE THE CALL
4 BECAUSE I WASN'T DOWN ANY REPORTS

5 HE SAID NO HE HAD IT

6 SO I CONTINUED ON I WAS COVERING TWO PATROL
7 ZONES THAT DAY BECAUSE THE PERSON OUT IN THE SHELTON
8 AREA HAD DOG TRAINING AND SO I -- I WAS ON HIGHWAY 21
9 APPROACHING THE ROYAL (PHONETIC) BRANCH BRIDGE WHEN THE
10 DISPATCHER CAME ACROSS AND ADVISED MY SUPERVISOR THAT
11 SHE HAD RECEIVED A REPORT OF SHOTS FIRED COMING FROM A
12 RESIDENCE WHERE OFFICERS HAD JUST ENTERED

13 AND AT THAT POINT I IMMEDIATELY TURNED MY PATROL
14 CAR AROUND

15 AND A J HAD GOT ME ON A TRAINING EXERCISE TWO
16 WEEKS -- TWO OR THREE WEEKS PRIOR TO THIS IT WAS A
17 OFFICER-HOSTAGE SITUATION AND I THINK THAT'S THE ONLY
18 THING THAT KEPT ME TOGETHER THAT DAY BECAUSE A J , HE
19 GOT ME ON IT I WAS THE RESPONDING OFFICER IN THE
20 SCENARIO

21 AND SO EVERYTHING STARTED COMING INTO MY HEAD
22 THIS IS WHAT I'VE GOT TO DO I GOT TO SET UP THE
23 PERIMETER I GOT TO DO THIS I GOT TO DO THAT AND I
24 RESPONDED OUT THERE

25 AND UPON GETTING ON THE SCENE, IT WAS ALREADY

STATE VS ALKEBULANYAHH

1 TAPED OFF AND MY SUPERVISOR WAS MAKING SURE THAT I
2 STAYED AWAY

3 AND THAT'S WHEN HE CAME UP TO ME AND I ASKED HIM
4 HOW THEY WERE, WHICH I PRETTY MUCH KNEW BY HIS
5 REACTION HE JUST HELD HIS HEAD DOWN AND SHOOK HIS
6 HEAD AND I -- I KNEW IT

7 Q DID YOU PARTICIPATE IN THE FUNERAL?

8 A YES, I DID

9 Q OKAY

10 THE REPORTER 136 AND 137 FOR I D

11 THE COURT ALL RIGHT

12 (LARGE COLOR PHOTO, COURSEN, MARKED FOR
13 IDENTIFICATION AS STATE'S EXHIBIT NO 136)

14 (LARGE COLOR PHOTO MARKED FOR IDENTIFICATION AS
15 STATE'S EXHIBIT NO 137)

16 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
17 EXHIBIT 136 AND 137 FOR IDENTIFICATION AND ASK IF YOU
18 COULD IDENTIFY THOSE AND TELL US IF THOSE ARE FAIR AND
19 ACCURATE DEPICTIONS OF THE FUNERAL?

20 A YES SIR EXHIBIT 136 IS THE FUNERAL AS -- AS
21 WE'RE LEAVING THE CHURCH THAT'S THE PALLBEARERS
22 ESCORTING THE CASKET DOWN THE STEPS OF -- IN FRONT OF
23 THE CHURCH

24 EXHIBIT 137 IS THE PATROL CARS THAT LINED UP FROM
25 FOLLOWING OVER TO THE BURIAL SITE

STATE VS ALKEBULANYAHH

1 MR STONE AT THIS TIME, YOUR HONOR, WE'D MOVE
2 136 AND 137 INTO EVIDENCE

3 THE COURT ANY OBJECTION?

4 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

5 THE COURT STATE'S 136 AND 137 IN EVIDENCE

6 WITHOUT OBJECTION

7 (STATE'S EXHIBIT NOS 136 AND 137 RECEIVED IN
8 EVIDENCE)

9 MR STONE PERMISSION TO PUBLISH TO THE JURY

10 THE COURT YES, SIR

11 (PAUSE)

12 MR STONE OFFICER THANK YOU ANSWER ANY
13 QUESTIONS THE DEFENSE MAY HAVE

14 THE WITNESS YES, SIR

15 THE COURT CROSS?

16 MR THORNTON NO QUESTIONS, YOUR HONOR THANK

17 YOU

18 THE COURT YOU MAY STEP DOWN, SIR

19 (THE WITNESS LEAVES THE WITNESS STAND)

20 MR MURDAUGH CALL WILMA COURSEN

21 WILMA COURSEN, BEING FIRST

22 DULY SWORN, TESTIFIED AS FOLLOWS

23 THE COURT HOLD ON PLEASE

24 (PAUSE)

25 THE COURT GO AHEAD PLEASE

STATE VS ALKEBULANYAHH

1 DIRECT EXAMINATION BY MR. MURDAUGH.
2 Q GIVE US YOUR NAME PLEASE, MA'AM?
3 A MY NAME IS WILMA COURSEN
4 Q AND TO WHOM ARE YOU RELATED?
5 A DYKE COURSEN
6 Q OKAY ARE YOU HIS MOTHER?
7 A I'M HIS MOTHER
8 Q CAN YOU TELL US SOMETHING ABOUT YOUR SON?
9 A BESIDES BEING WONDERFUL, BESIDES BEING A PART OF
10 ME BESIDES BEING SO VERY PROUD
11 Q HOW IS DEATH -- HOW HAS HIS DEATH IMPACTED YOU?
12 A OH PROBABLY THE BIGGEST HOLE YOU EVER HAD IN YOUR
13 HEART NO ONE CAN ACTUALLY FILL IT IT'S JUST THERE
14 ONLY MOTHERS CAN KNOW WHAT MOTHERS FEEL ---
15 Q OKAY
16 A --- OR PARENTS
17 Q WAS HE BURIED IN BEAUFORT COUNTY?
18 A YES HE WAS BURIED HERE
19 Q AND HAVE YOU ALL NOW MOVED DOWN HERE TO BE CLOSE
20 TO HIM?
21 A YES
22 Q WHERE DO YOU LIVE?
23 A WE LIVE ON LADYS ISLAND WE NEEDED TO BE HERE
24 THIS IS WHERE WE LEFT HIM
25 Q MRS COURSEN, I SHOW YOU A PICTURE AND ASK IF YOU

STATE VS ALKEBULANYAHH

1 CAN IDENTIFY THAT?

2 A YES, THAT'S MY ONLY SON WITH HIS ONLY SON, OUR
3 ONLY GRANDCHILD AND OUR ONLY CHILD

4 MR MURDAUGH IF YOUR HONOR PLEASE I MOVE
5 THIS ---

6 A AND THAT'S ---

7 MR MURDAUGH EXCUSE ME I'M SORRY WHAT DID
8 YOU SAY?

9 A AND THAT'S HIS TRUCK

10 MR MURDAUGH I MOVE THE INTRODUCTION OF THAT
11 PICTURE, SIR

12 THE COURT ANY OBJECTION?

13 MR THORNTON WITHOUT OBJECTION, YOUR HONOR

14 THE COURT ALL RIGHT STATE'S?

15 THE REPORTER 138

16 THE COURT 138 IN EVIDENCE WITHOUT OBJECTION

17 (LARGE COLOR PHOTO, COURSEN, MARKED IN EVIDENCE AS
18 STATE'S EXHIBIT NO 138)

19 MR MURDAUGH MAY I PUBLISH?

20 THE COURT YES, SIR

21 (PAUSE)

22 Q IS THERE ANYTHING ELSE YOU WANT TO TELL THIS JURY?

23 A I THINK THEY HAVE THE HARDEST JOB EVER TO WORK ON
24 THIS CASE I'M SO VERY PROUD OF ALL OF YOU

25 MR MURDAUGH THANK YOU, MA'AM

STATE VS ALKEBULANYAHH

1 MR THORNTON NO QUESTIONS, YOUR HONOR
2 THE COURT ANY OBJECTION TO BEING EXCUSED?
3 MR THORNTON NONE
4 THE COURT YOU MAY BE EXCUSED, MA'AM THANK YOU
5 (THE WITNESS LEAVES THE WITNESS STAND)
6 MR STONE DEBORAH JEAN COURSEN
7 DEBORAH JEAN COURSEN, BEING
8 FIRST DULY SWORN, TESTIFIED AS FOLLOWS
9 DIRECT EXAMINATION BY MR. STONE.
10 Q WHAT'S YOUR FULL NAME, MA'AM?
11 A I CAN'T TALK
12 Q OKAY
13 A D J COURSEN, DEBORAH JEAN COURSEN
14 Q OKAY A J WAS YOUR HUSBAND?
15 A YES, SIR
16 Q HOW DID YOU MEET A J ? AND YOU CALLED HIM A J I
17 CALLED HIM DYKE EARLIER BUT YOU CALLED HIM A J ?
18 A YES WE MET ON-LINE
19 Q PARDON?
20 A I'M SORRY WE MET ON-LINE
21 Q I'VE HEARD OF THAT HAPPENING BEFORE, BUT I HAD
22 NEVER MET ANYONE THAT DID THAT
23 A WELL, HE WAS SPECIAL
24 Q WHEN DID YOU FIRST PHYSICALLY MEET HIM?
25 A I MET HIM ---

1 Q DO YOU NEED SOME WATER? COULD I GET YOU SOME
2 WATER?

3 A NO I JUST DON'T HAVE A VOICE IT'S BEEN A HARD
4 COUPLE OF WEEKS

5 WE MET PHYSICALLY -- WE HAD BEEN -- CAN YOU HEAR
6 ME?

7 Q YES, I THINK SO

8 A WE HAD BEEN TALKING ON-LINE FOR A COUPLE OF YEARS
9 I WAS IN A POLICE CHAT ROOM IT WASN'T A DATING ROOM
10 OR ANYTHING I WAS A RESERVE POLICE OFFICER AT ONE
11 TIME ALONG WITH BEING A HAIR STYLIST FOR MOVIE AND
12 TELEVISION

13 Q WHERE WERE YOU LIVING AT THE TIME?

14 A I WAS IN CALIFORNIA

15 Q YOU WERE IN CALIFORNIA?

16 A YES

17 Q OKAY

18 A ONCE WE STARTED CHATTING, IT JUST -- HE WAS JUST
19 AN AMAZING PERSON, EVEN IN TYPE I KNEW HE WAS A
20 POLICE OFFICER BECAUSE HE HAD REALLY BAD SPELLING AND
21 TYPING I -- BUT WE DID EXCHANGE PICTURES DOWN THE
22 ROAD AND I JUST KNEW THAT THAT WAS GOING TO BE MY
23 HUSBAND AND I NEVER WANTED TO GET MARRIED AGAIN AND
24 -- OR EVEN HAVE A BOY FRIEND I HAD A LIFE THAT TOOK
25 ME AWAY TRAVELING QUITE A BIT, AND TO HAVE A

1 RELATIONSHIP WITH ANYBODY WAS PRETTY DIFFICULT BUT HE
2 CAPTURED MY HEART

3 Q WHEN DID YOU FIRST PHYSICALLY SEE HIM?

4 A WE PHYSICALLY MET IN WASHINGTON, D C I WAS
5 WORKING ON A MOVIE AT THE PENTAGON AND HE LOVED THAT
6 KIND OF STUFF SO I -- I SAID, IF YOU WANT TO MEET ME,
7 I'LL BE ON THE PENTAGON STEPS AND THAT'S WHERE WE
8 MET

9 Q HOW LONG DID YOU DATE?

10 A WELL, IT WAS KIND OF AN ODD THING BECAUSE WE'D
11 HAVE TO TRAVEL SO MUCH WITHIN 4 YEARS, WE WERE
12 MARRIED WE WERE NEWLYWEDS WHEN HE -- HE WAS KILLED
13 WHEN HE WAS MURDERED WE STRUGGLED SO HARD TO GET
14 TOGETHER LIKE I SAID, WE HAD TO -- WE FLEW TO MEET
15 EACH OTHER HALF-WAY OR I'D FLY TO HIM AT LEAST ONCE A
16 MONTH BUT WE TALKED TO EACH OTHER ON THE PHONE I
17 KNOW MY IN-LAWS WERE GETTING PRETTY TIRED OF IT AND
18 RIGHT BEFORE WE GOT MARRIED, HE WAS LIVING AT HOME
19 AND SO I GOT TO MEET MY IN-LAWS ON THE PHONE FOR ABOUT
20 A YEAR AND THEN WE GOT MARRIED

21 THE REPORTER 139 FOR I D

22 (LARGE COLOR PHOTO, COURSEN, MARKED FOR
23 IDENTIFICATION AS STATE'S EXHIBIT NO 139)

24 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
25 STATE'S EXHIBIT 139 FOR IDENTIFICATION AND COULD YOU

STATE VS ALKEBULANYAHH

1 TELL US WHAT THIS IS, PLEASE?

2 A YES SIR, THIS IS IN LAS VEGAS WHERE WE GOT
3 MARRIED WE GOT MARRIED IN A SUITE WE HAD OUR FAMILY
4 THERE WE WERE MARRIED BY THE CHAPLAIN OF THE LAS
5 VEGAS POLICE DEPARTMENT THIS IS A PICTURE OF THE
6 FIRST DAY OF OUR HONEYMOON, SITTING ON THE STAIRS
7 TOGETHER

8 Q WHEN DID YOU GET MARRIED?

9 A WE WERE MARRIED -- I CAN'T THINK -- JULY 30, 2000
10 I'M SORRY MY MIND IS GONE

11 Q THAT'S OKAY THAT'S ALL RIGHT

12 MR STONE YOUR HONOR, WE MOVE STATE'S EXHIBIT --
13 IS THAT 138, I BELIEVE -- 139 INTO EVIDENCE

14 MR THORNTON WITHOUT OBJECTION, YOUR HONOR
15 THE COURT STATE'S 138 (SIC) AND 139 IN EVIDENCE
16 WITHOUT OBJECTION

17 MR STONE MAY I PUBLISH THAT, YOUR HONOR?

18 THE COURT I'M SORRY IS THAT -- 138 IS ALREADY
19 IN

20 MR STONE IT IS -- IT IS 139, YOUR HONOR

21 THE COURT I'M SORRY 139 IN EVIDENCE WITHOUT
22 OBJECTION

23 (STATE'S EXHIBIT NO 139 RECEIVED IN EVIDENCE)

24 (PAUSE)

25 MR STONE YOUR HONOR, MAY I -- I NEED TO GET

STATE VS ALKEBULANYAHH

1 ITEM NO 3 -- EXCUSE ME IS THAT CORRECT?
2 (PAUSE)
3 MR STONE YOUR HONOR, WITH AGREEMENT OF COUNSEL
4 I AM GOING TO APPROACH THE WITNESS WITH A PART OF
5 STATE'S EXHIBIT 3
6 THE COURT ALL RIGHT
7 Q CAN YOU DO IT?
8 (PAUSE)
9 Q TAKE YOUR TIME
10 A THIS IS A MEDAL
11 Q DID YOU GIVE THAT TO HIM?
12 A YES, THAT BELONGED TO MY BROTHER AND MY BROTHER
13 GAVE IT TO ME ---
14 Q OKAY
15 A --- WHEN HE GOT HOME FROM SERVING IN THE ARMY
16 AND I KEPT IT ALL THOSE YEARS
17 THE COURT DO YOU NEED SOME WATER MA'AM, OR A
18 BREAK? SOME WATER, PLEASE
19 THE WITNESS THANK YOU
20 Q MRS COURSEN, IS THERE ANYTHING ELSE YOU WANT TO
21 SAY TO THE JURY?
22 A I THINK THE MAYOR -- I THINK THE MAYOR SAID HOW
23 WONDERFUL MY HUSBAND WAS I WISH YOU GUYS COULD HAVE
24 -- COULD HAVE MET HIM HE WAS A HERO
25 LIKE I SAID, I NEVER -- I NEVER THOUGHT I WOULD

STATE VS ALKEBULANYAHH

1 GET MARRIED AGAIN HE WAS A PERFECT FRIEND AND
2 HUSBAND FATHER HE USED TO SAY HE COULDN'T FIGURE OUT
3 WHAT I WAS DOING WITH HIM BECAUSE HE SAW MY LIFE AS
4 THIS BIG GLAMOROUS -- THIS BIG GLAMOROUS SHOW I GUESS
5 AND HE SAID HE WAS NOTHING, A COP, A CIVIL WORKER,
6 WHAT WAS I GOING TO DO WITH HIM, THAT I WAS TOO GOOD
7 FOR HIM BUT HE WAS TOO GOOD FOR ME I WISH I COULD
8 HAVE SPENT MORE TIME WITH HIM

9 I WANT TO THANK YOU GUYS FOR MAKING THE CHOICE
10 THAT YOU MADE I KNOW IT WAS SO HARD AND I'M PROUD OF
11 YOU AND I KNOW A J IS VERY, VERY PROUD OF YOU YOU
12 DID THE RIGHT THING I JUST WANT TO THANK YOU

13 MR STONE THANK YOU, MRS COURSEN ANSWER ANY
14 QUESTIONS THE DEFENSE HAS

15 MR THORNTON NO QUESTIONS, YOUR HONOR NO
16 PROBLEM WITH HER BEING EXCUSED

17 THE COURT YOU MAY BE EXCUSED, MA'AM
18 (THE WITNESS LEAVES THE WITNESS STAND)

19 MR STONE DAVID BURNETTE
20 GO AROUND AND BE SWORN, PLEASE SIR

21 MR MURDAUGH JUDGE, COULD WE APPROACH?

22 THE COURT YES SIR

23 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD,
24 OUT OF THE HEARING OF THE JURY)

25 DAVID BURNETTE, BEING FIRST

STATE VS ALKEBULANYAHH

1 DULY SWORN TESTIFIED AS FOLLOWS

2 DIRECT EXAMINATION BY MR. STONE.

3 Q MR BURNETTE IF YOU COULD HAVE A SEAT TELL US
4 YOUR FULL NAME AND SPELL YOUR LAST NAME PLEASE, SIR?

5 A DAVID BURNETTE B-U-R-N-E-T-T-E

6 Q OKAY WHAT DO YOU DO, SIR?

7 A I'M A STATE AGENCY HEAD I'M THE AGENCY DIRECTOR
8 FOR PATRIOT'S POINT DEVELOPMENT AUTHORITY AND NAVAL AND
9 MARITIME MUSEUM, U S S YORKTOWN IN -- CHARLESTON
10 HARBOR

11 Q SO DO YOU LIVE IN CHARLESTON?

12 A I LIVE IN SUMMERVILLE

13 Q DO YOU? SO THAT'S ALL OF THE MILITARY STUFF DOWN
14 IN -- IS THAT MT PLEASANT?

15 A IT'S ACTUALLY IN THE TOWN OF MT PLEASANT YES

16 Q OKAY, SIR AND HOW LONG HAVE YOU BEEN DOING THAT?

17 A I'VE BEEN THERE FOR 5 YEARS I'VE BEEN THE AGENCY
18 HEAD FOR 3

19 Q PRIOR TO DOING THAT, WHAT DID YOU DO SIR?

20 A I WAS NAVY CAREER NAVY, RETIRED FROM THE NAVY IN
21 1996

22 Q HOW MANY YEARS DID YOU PUT INTO THE NAVY?

23 A A LITTLE OVER 22 YEARS

24 Q ALL RIGHT AND DURING YOUR TIME WITH THE NAVY
25 WHAT WAS YOUR RANK WHEN YOU LEFT?

STATE VS ALKEBULANYAHH

1 A I WAS A COMMANDER WHEN I RETIRED

2 Q OKAY AND WHAT IS A COMMANDER?

3 A A COMMANDER IS AN O5, SAME AS A LIEUTENANT COLONEL
4 IN THE MARINE CORPS

5 Q DID YOU KNOW DANA TATE?

6 A I DID KNOW DANA TATE

7 Q HOW DID YOU KNOW DANA TATE?

8 A DANA TATE WAS A CREW MEMBER OF THE U S S MOUNT
9 BAKER, WHICH IS A CHARLESTON HOME-PORTED SHIP THAT I
10 WAS COMMANDING OFFICER OR CAPTAIN OF FROM 1991 TO 1993
11 AND HE WAS A CREW MEMBER FOR MY ENTIRE TOUR ABOARD
12 THERE

13 Q HOW WELL DID YOU GET TO KNOW DANA TATE?

14 A THE MOUNT BAKER HAD A CREW OF ABOUT 400 AND
15 DURING MY 2 YEARS WE -- YOU KNOW, THE CREW'S TURNOVER,
16 I PROBABLY SAW 600 TO 700 SAILORS IN MY TIME BUT I
17 GOT TO KNOW DANA FAIRLY WELL DANA SORT OF STOOD OUT
18 AMONG THE CREW MEMBERS AS ONE OF THE SENIOR PETTY
19 OFFICERS THERE SO I WOULD HAVE TO SAY THAT -- THAT I
20 GOT TO KNOW HIM VERY WELL RELATIVE TO MOST SAILORS OF
21 HIS PARTICULAR EXPERIENCE LEVEL

22 Q OKAY, SIR WHAT EXACTLY DID HE DO IN THE PART OF
23 THE NAVY?

24 A HE WAS A HOSPITAL CORPSMAN AND WHEN I WAS THERE,
25 HE WAS THE LEADING PETTY OFFICER OF THE MEDICAL

STATE VS ALKEBULANYAHH

1 DEPARTMENT HE WAS THE -- HE WAS THE HIGHEST LEVEL --
2 THE HIGHEST RANKING WORKING SUPERVISOR AND ONE OF THOSE
3 GUYS OF THE CREW COMMONLY REFERRED TO AS DOC HE TOOK
4 CARE OF THE CREW, ALL MEDICAL PROBLEMS, ETCETERA

5 Q OKAY TELL ME WHAT TYPE OF A MEMBER OF THE NAVY
6 -- I GUESS YOU'D CALL HIM A SAILOR, WOULDN'T YOU? TELL
7 THEM ABOUT THAT?

8 A WELL ONE OF THE REASONS THAT I GOT TO KNOW HIM AS
9 WELL AS I DID COMPARED TO OTHERS WITH AS MANY CREW
10 MEMBERS AS WE HAD, WAS HE WAS A MODEL SAILOR HE WAS
11 THE POSTER CHILD ALMOST

12 HE KIND OF CAUGHT YOUR EYE AS SOON AS YOU MET HIM
13 BECAUSE HE -- HE WORE THE UNIFORM SO SPLENDIDLY HE
14 WAS ALWAYS IN TIP-TOP PHYSICAL CONDITION AND THE
15 LONGER I WAS THERE WITH HIM, THE MORE I GOT TO KNOW HOW
16 MATURE HE WAS AND HOW HIGHLY RESPECTED HE WAS AND HOW
17 DEVOTED HE WAS TO THE NAVY

18 I ALSO FOUND OUT THAT -- IT WASN'T UNTIL LATER I
19 JOINED THE SHIP AT THE VERY BEGINNING OF THE DESERT
20 STORM-PERSIAN GULF DEPLOYMENT AND I THINK IT WAS
21 SHORTLY AFTER WE GOT BACK THAT I FOUND OUT WHEN I WAS
22 DOWN THERE CHATTING WITH HIM THAT HE WAS A RESERVE
23 OFFICER ON THE DORCHESTER COUNTY SHERIFF'S DEPARTMENT
24 WHICH IS VERY RARE

25 WE -- AND WE WHO ARE ON SHIPBOARD DUTY, WE VALUE

STATE VS ALKEBULANYAHH

1 OUR TIME AT HOME WHEN WE'RE IN PORT AND WE DON'T GET
2 MUCH TIME IN PORT, AND TO FIND OUT THAT HE WAS DOING
3 THAT, I WAS AMAZED

4 IN FACT, I CAN RECALL THAT HE -- IN ONE OF THE
5 TIMES WE WERE TALKING, HE WAS ACTUALLY CONSIDERING
6 LEAVING THE NAVY DURING THAT TIME FRAME AND BECOMING A
7 FULL-TIME LAW ENFORCEMENT OFFICER, WHICH I WAS KIND OF
8 SHOCKED AT BECAUSE I WOULD HAVE HOPED THAT HE'D
9 CONSIDER THE FINANCIAL SITUATION AS CLOSE TO RETIREMENT
10 AS HE WAS AND MAYBE HE WOULD PUT OFF THAT DECISION FOR
11 A FEW YEARS, RETIRE, RECEIVE RETIREMENT PAY, AND THEN
12 DO IT AND HE -- HE ENDED UP BEING ON THE SHIP FOR MY
13 WHOLE TOUR THERE

14 Q DID -- DURING THAT TIME, DID -- DID HE FINISH OUT
15 HIS RETIREMENT WITH THE NAVY?

16 A NOT DURING THAT TOUR WHEN I LEFT, HE WAS STILL A
17 SAILOR ON BOARD MOUNT BAKER AND THEN I CAME TO FIND
18 OUT THAT HE HAD -- HE STAYED IN THE NAVY AND THEN HE
19 WAS TRANSFERRED DOWN HERE TO BEAUFORT NAVAL HOSPITAL
20 FROM THAT SHIP

21 Q OKAY DURING THE TIME THAT HE WAS IN THE NAVY, DO
22 YOU KNOW OF ANY AWARDS OR ANYTHING LIKE THAT THAT HE
23 RECEIVED?

24 A WELL, I'M AWARE OF THE FACT THAT HE FOR A -- FOR A
25 PETTY OFFICER OF HIS LEVEL, HE DID EARN SOME AWARDS

1 THAT ARE KIND OF UNUSUAL FOR -- FOR SOMEBODY AT THE
2 RESPONSIBILITY LEVEL HE WAS THEY WERE AWARDS THAT
3 USUALLY WERE RESERVED FOR -- FOR OFFICERS AS UNFAIR
4 AS THAT MIGHT SOUND, THAT'S THE WAY THE SYSTEM WORKS

5 AS I RECALL, HE HAD EARNED THREE NAVY ACHIEVEMENT
6 MEDALS AND A NAVY COMMENDATION MEDAL IN HIS TIME AND
7 WE DON'T -- WE DON'T USUALLY SEE SOMEONE OF HIS
8 EXPERIENCE LEVEL WHO -- WHO HAS RECEIVED THAT MANY
9 DECORATIONS FOR OUTSTANDING PERFORMANCE

10 Q HOW WELL DID HE DEAL WITH OTHER MEMBERS OF YOUR
11 SHIP?

12 A WELL, THAT'S ONE OF THE REASONS THAT I KNEW HIM AS
13 WELL AS I DID HE WAS HIGHLY RESPECTED HE WAS -- HE
14 WAS USED OFTEN AS A COUNSELOR BY OTHERS WHO WOULD GO TO
15 HIM HE -- HE WAS WILLING TO DO ANYTHING TO HELP

16 HE WAS A DUTY MASTER AT ARMS WHICH IS SOMEWHAT
17 UNUSUAL FOR A HOSPITAL CORPSMAN HE WOULD HELP OUT IN
18 THE DUTY SECTIONS TO HELP KEEP ORDER, HELP THE CHIEF
19 MASTER AT ARMS WITH ANY INCIDENTS THAT MIGHT OCCUR ON
20 BOARD, ETCETERA

21 HE WAS A VERY HIGHLY RESPECTED MEMBER OF THE CREW
22 THERE'S NO QUESTION ABOUT IT

23 Q OKAY YOU KNEW HIM PERSONALLY AS WELL AS
24 PROFESSIONALLY?

25 A IF YOU MEAN OUTSIDE THE WORK PLACE, NO, I DIDN'T

STATE VS ALKEBULANYAHH

1 Q OKAY

2 A BUT YOU HAVE TO REMEMBER THAT, YOU KNOW, THE WORK
3 PLACE ON A NAVY SHIP IS YOUR -- IS YOUR HOME AS WELL,
4 AND IT'S A LOT MORE THAN JUST A WORK PLACE AND SO WE
5 WOULD BE GONE 6 MONTHS AT A TIME WHERE WE WERE IN A
6 VERY ENCLOSED ENVIRONMENT

7 SO I WOULD HAVE TO SAY FOR THOSE WHO -- WHO'VE
8 BEEN SHIPBOARD DUTY, EVEN WHEN YOU ASK A QUESTION LIKE
9 THAT, IT'S NOT LIKE SHORE DUTY WHERE YOU -- WHERE YOU
10 DON'T GET TO KNOW PEOPLE AS WELL UNLESS YOU SEE THEM
11 OUTSIDE AFTER WORK

12 SO, YES, I GUESS I'D SAY I DID KNOW HIM PRETTY
13 WELL PERSONALLY BECAUSE OF THAT BUT, NO, WE DIDN'T
14 SOCIALIZE BEYOND SHIP, NO

15 Q DID -- AND WERE YOU ACTUALLY DEPLOYED TO THE
16 PERSIAN GULF WITH YOUR TIME WITH -- WITH DANA TATE?

17 A WHEN I JOINED THE SHIP, THEY HAD ALREADY TRANSITED
18 OVER THERE AND I TOOK COMMAND IN THE UNITED ARAB
19 EMIRATES AT THE BEGINNING OF THE PERSIAN GULF
20 DEPLOYMENT AND THEN WE CAME BACK AND THEN WE
21 OPERATED IN AND OUT OF PORT CONSTANTLY AFTER WE CAME
22 BACK

23 MR STONE COMMANDER, THANK YOU I APPRECIATE
24 YOUR TIME AND ANSWER ANY QUESTIONS THE DEFENSE MAY
25 HAVE

STATE VS ALKEBULANYAHH

1 THE WITNESS THANK YOU
2 MR THORNTON NO QUESTIONS, YOUR HONOR
3 THE COURT ANY -- ANY OBJECTION TO HIS BEING
4 EXCUSED?
5 MR THORNTON NO, YOUR HONOR
6 THE COURT YOU MAY BE EXCUSED, SIR
7 (THE WITNESS LEAVES THE WITNESS STAND)
8 MR STONE MONIQUE RUIZ
9 MONIQUE R RUIZ, BEING
10 FIRST DULY SWORN, TESTIFIED AS FOLLOWS
11 DIRECT EXAMINATION BY MR. STONE.
12 Q COULD YOU IF YOU WOULD PLEASE TELL US YOUR FULL
13 NAME AND SPELL YOUR LAST NAME?
14 A MONIQUE R RUIZ R-U-I-Z
15 Q OKAY I TOOK YOU OUT OF ORDER, DIDN'T I, MONIQUE?
16 A (NO RESPONSE)
17 Q I'M SORRY WHO ARE YOU EXACTLY?
18 A I AM A J COURSEN'S DAUGHTER -- DAUGHTER -- STEP-
19 DAUGHTER
20 Q A J WAS YOUR STEP-FATHER, IS THAT RIGHT?
21 A YES
22 Q OKAY WHAT KIND OF RELATIONSHIP DID YOU HAVE WITH
23 YOUR STEP-FATHER?
24 A HE TREATED ME AS IF I WAS HIS OWN AND I TREATED
25 HIM AS IF HE WAS MY REAL FATHER

STATE VS ALKEBULANYAHH

1 Q HOW LONG DID YOU KNOW HIM?

2 A 5 YEARS

3 Q AND DID YOU ALWAYS HAVE THAT TYPE OF RELATIONSHIP
4 WITH HIM?

5 A YEAH SINCE MY MOTHER MOVED ON OFTEN BECAUSE OF
6 HER JOB, HE WOULD CALL EVEN THOUGH HE KNEW SHE WASN'T
7 IN TOWN AT THE TIME, SHE -- HE WOULD CALL AND CHECK UP
8 AND MAKE SURE THINGS WERE GOING OKAY WITH ME

9 Q WHERE WERE YOU LIVING AT THE TIME?

10 A I WAS ALSO LIVING IN CALIFORNIA

11 Q OKAY AND SO WHEN YOUR MOM WOULD LEAVE, YOU WOULD
12 ACTUALLY TALK TO A J ? DID YOU KNOW HIM AS A J ? WHAT
13 DID YOU CALL HIM?

14 A I CALLED HIM A J OR DAD

15 Q WHAT -- WHERE WERE YOU WHEN YOU FOUND OUT ABOUT
16 YOUR FATHER'S DEATH OR YOUR STEP-FATHER'S DEATH?

17 A THAT NIGHT I WAS -- I WAS AT HOME WHERE MY MOTHER
18 AND HIM LIVED I WAS GETTING READY TO GO BACK TO
19 CALIFORNIA TO GO BACK TO SCHOOL

20 AND I WAS ON MY WAY TO GO MEET WITH SOME FRIENDS,
21 AND WE SAW THE VEHICLES GOING BY, THE EMERGENCY
22 VEHICLES SO WE CALLED MY DAD TO SEE IF HE HAPPENED TO
23 BE ON THAT CALL, AND HE NEVER ANSWERED AND WE THOUGHT
24 NOTHING OF IT WE JUST THOUGHT MAYBE HE WAS BUSY

25 AND SO I WENT HOME AND I CALLED ONE OF MY

1 FRIENDS CAME AND PICKED ME UP AND TOOK ME TO WHERE THEY
2 PRACTICED FOR THEIR BAND AND FRIEND RECEIVED A PHONE
3 CALL THAT I WAS -- THAT WE WERE TO STAY THERE BECAUSE
4 SOMEONE -- ANOTHER FRIEND WAS GOING TO COME AND MEET US
5 THERE BUT IT WAS JUST -- HE WAS COVERING UNTIL --
6 UNTIL DEPUTY COHENS COULD COME AND GET ME AND NOTIFY ME
7 THAT MY FATHER HAD BEEN KILLED

8 Q MONIQUE, IS THERE ANYTHING YOU'D LIKE TO TELL THE
9 JURY?

10 A THIS MEMORY WILL BE WITH THESE PEOPLE AND I
11 THANK YOU FOR YOUR HARD WORK THAT YOU HAVE PUT INTO
12 THIS HE TREATED EVERYONE THAT HE CAME ON WITH THE
13 LOVE AND THE COMPASSION WHETHER HE MET YOU 5 MINUTES OR
14 WHETHER HE KNEW YOU FOR YOUR WHOLE ENTIRE LIFE

15 HE HAD HIS OWN SON BUT HE TREATED ME AND LOVED
16 ME AS IF I WAS JUST THE SAME AS CORY

17 HE ALWAYS DIRECTED ME IN THE RIGHT PATH AND
18 THAT'S WHY I HAD MOVED OUT HERE, BECAUSE I WAS PURSUING
19 MY CAREER TO BE AN E M T

20 AND HE -- HE HELPED GET ME BACK ON MY FEET,
21 BECAUSE I HAD JUST LOST SOME FRIENDS ABOUT A MONTH
22 BEFORE HE WAS KILLED AND SO HE HAD TAKEN ME UNDER HIS
23 WING TO HELP ME AND GET ME BACK ON MY FEET SO I COULD
24 GO BACK TO SCHOOL

25 AND I HOPE THAT WHEN YOU WENT TO SLEEP LAST NIGHT,

STATE VS ALKEBULANYAHH

1 YOU ALL KNEW YOU DID THE RIGHT THING BECAUSE YOU DID
2 AND I KNOW THIS NEXT STEP IS GOING TO BE HARD
3 BUT I JUST HOPE YOU GET FROM THIS THAT THIS WAS THE
4 LIFE OF A MAN THAT WAS UNBELIEVABLE, THAT THAT MAN OVER
5 THERE TOOK AWAY TWO WONDERFUL FATHERS AND HUSBANDS AND
6 SONS

7 I HAVE A FIVE MONTH OLD MY DAD HAS A GRANDSON HE
8 WILL NEVER MEET I WAS JUST RECENTLY ENGAGED ON THEIR
9 ANNIVERSARY I WILL NOT HAVE MY FATHER TO WALK ME DOWN
10 THAT AISLE, THAT ALL I WILL HAVE THERE IS A CANDLE TO
11 LIGHT IN HIS REMEMBRANCE

12 SO I -- I JUST HOPE -- I JUST HOPE THAT WHATEVER
13 COMES ABOUT, THAT YOU ALL CAN SLEEP BECAUSE NO MATTER
14 WHAT HAPPENS, IN THE END EVERYTHING WILL BE OKAY

15 BUT I HOPE YOU SEE THOSE PICTURES AND YOU TAKE
16 AWAY A WONDERFUL, WONDERFUL MAN MYSELF -- BUT JUST
17 REMEMBER THAT THESE ARE FATHERS, AND THESE ARE SONS,
18 AND THESE ARE HUSBANDS THAT THESE WERE REAL LOVELY
19 PEOPLE AND ---

20 MR STONE THANK YOU, MONIQUE ANSWER ANY
21 QUESTIONS THE DEFENSE MAY HAVE

22 MR THORNTON NO QUESTIONS, YOUR HONOR NO
23 OBJECTION TO HER BEING EXCUSED

24 THE COURT YOU MAY BE EXCUSED, MA'AM THANK YOU
25 (THE WITNESS LEAVES THE WITNESS STAND)

STATE VS ALKEBULANYAHH

1 MR STONE BOB BERES

2 SIR, IF YOU'D COME AROUND AND PUT YOUR HAND ON THE
3 BIBLE, PLEASE

4 BOB BERES, BEING FIRST DULY
5 SWORN, TESTIFIED AS FOLLOWS

6 DIRECT EXAMINATION BY MR. STONE.

7 Q YOU'RE OBVIOUSLY WITH THE SOUTH CAROLINA HIGHWAY
8 PATROL, IS THAT RIGHT?

9 A YES, SIR

10 Q HOW LONG HAVE YOU BEEN WITH THE PATROL?

11 A GOING ON MY TENTH YEAR

12 Q HOW DO YOU SPELL YOUR LAST NAME? I DIDN'T ASK YOU
13 EARLIER

14 A IT'S B-E-R-E-S

15 Q OKAY SO IT'S -- WHAT'S YOUR RANK?

16 A LANCE CORPORAL

17 Q OKAY DID YOU KNOW DANA TATE?

18 A YES, I DID

19 Q HOW DID YOU KNOW DANA TATE?

20 A WE SERVED ON THE U S S MOUNT BAKER TOGETHER WHEN
21 I WAS IN THE NAVY WITH HIM

22 Q SO DAVE BURNETTE WAS YOUR CAPTAIN AS WELL, IS THAT
23 CORRECT?

24 A YES SIR

25 Q TELL ME WHAT YOU REMEMBER ABOUT DANA TATE?

STATE VS ALKEBULANYAHH

1 A DANA WAS A -- A ROLE MODEL HE WAS A POSTER CHILD
2 FOR THE NAVY I WAS LOOKING BACK ON THE NAVY YEARBOOK
3 HERE, AND THERE'S A PICTURE IN THERE -- THERE'S A
4 PICTURE IN THERE OF DANA YOU CAN SEE HIS UNIFORM IS
5 IRONED HIS ---

6 Q LET ME BORROW THAT FROM YOU JUST A SECOND
7 (PAUSE)

8 MR STONE YOUR HONOR, WITH AGREEMENT, WE ARE
9 GOING TO ENTER IN A COPY OF THE PHOTO -- JUST A
10 PHOTOCOPY OF THIS PAGE AND WE WILL AT THIS TIME
11 PUBLISH IT IF THAT'S OKAY WITH YOUR HONOR

12 MR THORNTON CORRECT, YOUR HONOR, WITHOUT
13 OBJECTION

14 THE COURT ALL RIGHT STATE'S?

15 THE REPORTER 140

16 THE COURT 140 IN EVIDENCE WITHOUT OBJECTION
17 WE'LL SUBSTITUTE A COPY OF THAT PAGE

18 (COPY OF PHOTO TATE RECEIVED IN EVIDENCE AS
19 STATE'S EXHIBIT NO 140)

20 THE COURT GO AHEAD PLEASE

21 MR STONE OKAY THANK YOU

22 Q OKAY TROOPER, I'M GOING TO HAND YOU THIS BACK
23 AND I'LL LET YOU -- IF IT'S OKAY WITH YOUR HONOR, TO
24 SHOW THIS TO THE JURY

25 THE COURT YOU CAN JUST WALK IT DOWN

STATE VS ALKEBULANYAHH

1 (PAUSE)

2 A AS YOU CAN SEE, HIS UNIFORM WAS IRONED HE WAS
3 FIT HE WAS A WELL-MANNERED GUY, AND -- AND THAT --
4 THAT WAS NOT JUST FOR THAT PICTURE DANA WAS ALWAYS
5 LIKE THAT

6 HE -- HE WAS A ROLE MODEL TO ME WHEN I MET HIM,
7 I WAS 18 OR 19 YEARS OLD IN THE NAVY, AND DIDN'T REALLY
8 HAVE ANY DIRECTION HE KIND OF TOOK ME UNDER HIS WING

9 OF COURSE, TWO WEEKS WITH DANA, I HAD MY SHOES
10 SHINED AND MY HAIR CUT AND UNIFORM ON BECAUSE YOU
11 DIDN'T WANT TO STAND NEXT TO HIM UNLESS YOU HAD ALL
12 THAT

13 AND HE -- HE WAS A 'RESERVE DEPUTY WITH THE
14 DORCHESTER COUNTY SHERIFF'S OFFICE AND HE -- WE WOULD
15 TALK ABOUT DIFFERENT THINGS THAT HE ENCOUNTERED
16 THROUGHOUT THE JOB, AND I KIND OF GOT INTERESTED IN IT

17 Q WHAT'S A RESERVE DEPUTY? I KNOW WE SPOKE OF THAT
18 EARLIER, BUT WHAT -- WHAT IS THAT? WHAT IS IT WHEN
19 YOU'RE A RESERVE DEPUTY?

20 A I'LL GIVE YOU THE BEST ILLUSTRATION THAT I CAN
21 WITH THE HIGHWAY PATROL WE DON'T HAVE A RESERVE UNIT
22 A RESERVE DEPUTY SPENDS SO MANY HOURS A MONTH -- I
23 BELIEVE IT'S 20 HOURS A MONTH -- WITH A DEPUTY AND
24 THEY GET TO SEE -- THEY'RE CERTIFIED OFFICERS THEY GO
25 THROUGH THE ACADEMY, GET CERTAIN TRAINING THAT THE

STATE VS ALKEBULANYAHH

1 DEPUTIES GET AND -- BUT THEY DON'T GET PAID FOR IT
2 Q OKAY
3 A THEY VOLUNTEER THEIR TIME
4 Q AND HE'S DOING THIS WHILE HE'S IN THE NAVY WITH
5 YOU?
6 A I DON'T KNOW HOW HE DID IT, BECAUSE WE WORKED
7 SOMETIMES 14, 16 HOURS A DAY IN THE NAVY, YOU KNOW
8 BUT HE DID IT, YES
9 Q HOW LONG DID YOU SPEND WITH HIM ON THE SHIP?
10 A A LITTLE OVER 3 YEARS WE WENT TO THE PERSIAN
11 GULF TOGETHER
12 Q OKAY SO YOU SERVED WITH HIM AND CAPTAIN
13 BURNETTE, I GUESS, IN THE PERSIAN GULF?
14 A YES
15 Q WHEN DID YOU DECIDE TO BECOME A HIGHWAY PATROLMAN?
16 A WELL, HE GOT ME INTERESTED IN IT AND THE YEAR
17 BEFORE I GOT OUT I ASKED HIM WHAT HE THOUGHT ABOUT ME
18 BECOMING A POLICEMAN
19 HE SAID, WELL, PUT IN FOR IT YOU'LL NEVER KNOW
20 UNTIL YOU GET IT
21 AND I WENT AND APPLIED AND GOT MY APPLICATION AND
22 GOT A PACKET BACK THAT WAS ABOUT 2 INCHES THICK
23 AND I SHOWED IT TO HIM AND HE SAID, WELL, PULL UP
24 A CHAIR WE CAN'T FILL IT OUT UNLESS YOU SIT DOWN
25 HE HELPED ME THROUGH THE WHOLE PROCESS AND I TRULY

1 BELIEVE THAT IF IT WASN'T FOR HIM, I WOULDN'T BE WHERE
2 I AM TODAY

3 AND YOU HAVE TO UNDERSTAND, DANA WASN'T JUST A
4 DEPUTY HE WAS SOMEONE'S FATHER HE WAS SOMEONE'S
5 SON HE WAS SOMEONE'S HUSBAND AND TO EVERYONE THAT
6 MET HIM, HE WAS A FRIEND

7 THERE'S -- THERE'S A TIME I CAN REMEMBER THAT HE
8 GAVE ME A TYPHOID SHOT AND I HAD A FEVER OF 105 6 BUT
9 HE STOOD THERE BY ME ALL NIGHT HE CHECKED ON ME
10 PERIODICALLY TO GET THAT FEVER DOWN YOU COULD TELL HE
11 -- HE JUST -- HE WAS GENUINE HE REAL -- HE REALLY
12 CARED ABOUT A PERSON, A HUMAN BEING YOU WEREN'T JUST
13 A NUMBER TO HIM OR JUST A SAILOR YOU WERE -- YOU WERE
14 -- YOU WERE A HUMAN BEING

15 AND I CAN'T SAY ENOUGH ABOUT HIM HE WAS JUST A
16 GREAT GUY

17 Q THANK YOU, OFFICER AND YOU'RE -- YOU'RE
18 CURRENTLY STATIONED WHERE?

19 A I'M STATIONED IN DORCHESTER COUNTY

20 MR STONE THANK YOU FOR COMING FROM DORCHESTER
21 THE WITNESS THANK YOU

22 MR STONE I DON'T HAVE ANY FURTHER QUESTIONS,
23 YOUR HONOR ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE

24 MR THORNTON NO QUESTIONS, YOUR HONOR NO -- NO
25 PROBLEM WITH HIM BEING EXCUSED

STATE VS ALKEBULANYAHH

1 THE COURT YOU MAY BE EXCUSED SIR

2 (THE WITNESS LEAVES THE WITNESS STAND)

3 MR STONE THANK YOU

4 ANDRES FLORENCIO

5 THE COURT YOU'LL HAVE TO LEAVE THAT, SIR, WITH
6 US TO COPY

7 ANDRES FLORENCIO, BEING
8 FIRST DULY SWORN, TESTIFIED AS FOLLOWS

9 DIRECT EXAMINATION BY MR. STONE.

10 Q IF YOU COULD STATE YOUR FULL NAME AND SPELL YOUR
11 LAST NAME, PLEASE?

12 A MY NAME IS ANDRES FLORENCIO, F-L-O-R-E-N-C-I-O

13 Q WHAT DO YOU DO, SIR?

14 A I AM ASSIGNED TO THE SOUTHERN DIVISION AS AN
15 INVESTIGATOR

16 Q IN BEAUFORT COUNTY?

17 A YES, SIR

18 Q HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S
19 DEPARTMENT?

20 A 6 YEARS

21 Q AND IN THOSE 6 YEARS, YOU ARE NOW A DETECTIVE IS
22 THAT CORRECT?

23 A YES, SIR

24 Q WHAT JOB DUTIES HAVE YOU HELD IN THAT TIME?

25 A I WAS A -- WORKED THE ROAD PATROL FOR 2 YEARS

STATE VS ALKEBULANYAHH

1 AND I SERVED AS THE HISPANIC LIAISON FOR 1 YEAR AND
2 I'VE BEEN AN INVESTIGATOR FOR ALMOST 4

3 Q YOU SPEAK FLUENTLY SPANISH, DON'T YOU?

4 A YES

5 Q OKAY DID YOU KNOW DANA TATE?

6 A YES, I DID

7 Q HOW DID YOU KNOW DANA?

8 A I FIRST MET DANA AND MARIE BACK IN 1996 I WAS IN
9 THE MARINE CORPS, AND DANA WAS IN THE NAVY MY SON AND
10 HIS DAUGHTER WENT TO THE SAME DAY CARE AND I BABY SAT
11 HIS TWO DAUGHTERS A COUPLE OF TIMES WHERE DANA AND
12 MARIE WENT UP TO THE RACES IN DARLINGTON HE WAS A BIG
13 NASCAR FAN

14 Q OKAY DID YOU KEEP A PERSONAL RELATIONSHIP WITH
15 DANA?

16 A DANA AND I BECAME FRIENDS WHEN WE ATTENDED THE ---

17 Q TAKE YOUR TIME

18 A WHEN WE ATTENDED THE SOUTH CAROLINA CRIMINAL
19 JUSTICE ACADEMY TOGETHER WE WERE ROOMMATES WE WERE
20 TOGETHER FOR THE WHOLE DURATION, WHICH IS ABOUT 8 TO 9
21 WEEKS, ABOUT 2 MONTHS

22 Q WAS HE IN DORCHESTER AT THAT TIME OR WAS HE IN
23 BEAUFORT COUNTY?

24 A HE WAS IN BEAUFORT COUNTY, BUT HE HAD SERVED, FROM
25 WHAT HE TOLD ME, 6 YEARS AS A RESERVE OFFICER ---

STATE VS ALKEBULANYAHH

1 Q OKAY

2 A --- WITH THE DORCHESTER SHERIFF'S OFFICE

3 Q SO YOU GUYS WENT THROUGH THE ACADEMY TOGETHER AS
4 BOTH BEAUFORT COUNTY OFFICERS, IS THAT RIGHT?

5 A YES WE DID

6 Q OKAY AT THE ACADEMY, DID YOU -- DID YOU KEEP UP
7 A RELATIONSHIP WITH HIM WHILE YOU WERE AT THE ACADEMY?

8 A WELL, WE WERE ROOMMATES, KIND OF LIKE BEING A BUNK
9 MATE IN THE -- IN THE MILITARY SO WE WERE -- WE GOT
10 HIRED TOGETHER, AND WE SPENT 8 WEEKS LIVING TOGETHER

11 DANA WAS VERY SPECIAL TO ME DANA WAS -- AT THE
12 TIME, I WAS 22 YEARS OLD, FRESH OUT OF THE MARINE
13 CORPS I WAS SCARED YOU KNOW, THE ONLY REAL JOB I
14 HAD IN MY LIFE WAS THE MARINE CORPS, AND I WAS GOING
15 OUT TO THE REAL WORLD AND I WAS ALSO HAVING SOME
16 PERSONAL PROBLEMS AT THE TIME, MY WIFE AND STUFF

17 AND DANA WAS ABLE TO KEEP ME MOTIVATED AND GET ME
18 THROUGH THE -- THE POLICE ACADEMY

19 HE WAS KIND OF LIKE A BIG BROTHER HE -- WE -- WE
20 COMPETED FOR THE J P STROM AWARD WHICH IS A -- IF YOU
21 GRADUATE TOP OF THE CLASS, YOU -- YOU GET THAT AWARD,
22 THE HIGHEST ACADEMIC AVERAGE AND I BELIEVE DANA TO
23 KEEP ME MOTIVATED -- WE HAD A CONTEST

24 HE SAID THAT HE WAS GOING TO WIN AND I TOLD HIM
25 NO, I WAS GOING TO WIN

STATE VS ALKEBULANYAHH

1 AT THE TIME, IF YOU GRADUATED WITH THE J P STROM
2 AWARD, THE SHERIFF'S OFFICE PROMOTED YOU TO PFC, WHICH
3 MEANT YOU WERE PROMOTED, YOU GOT A RAISE, AND YOU ALSO
4 GOT A BONUS

5 SO HE JOKED AROUND THAT HE WAS GOING TO BEAT ME
6 OUT BECAUSE HE NEEDED 4 NEW TIRES FOR HIS CAMARO

7 AND, OF COURSE, I -- YOU KNOW, I SAID NO YOU
8 KNOW HE WAS IN THE NAVY I WAS IN THE MARINE CORPS
9 SO WE -- YOU KNOW, THERE WAS ALWAYS THAT BUMPING OF THE
10 HEAD AND I YOU KNOW, TOLD HIM, I'M A MARINE SO I'M
11 GOING TO BEAT YOU

12 AND HE'D SAY, NO, I'M IN THE NAVY AND I'M GOING TO
13 BEAT YOU

14 Q LET ME INTERRUPT YOU A MINUTE

15 THE REPORTER 141 FOR I D

16 (LARGE COLOR PHOTO, TATE, MARKED FOR
17 IDENTIFICATION AS STATE'S EXHIBIT NO 141)

18 Q I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
19 STATE'S EXHIBIT 141 FOR IDENTIFICATION AND ASK IF YOU
20 CAN IDENTIFY THIS FOR ME?

21 A THAT WAS -- THAT WAS TAKEN IN DECEMBER OF '97
22 THAT WAS THE DAY WE GRADUATED FROM THE ACADEMY AND
23 THAT IS DANA ALONG WITH THE FORMER SHERIFF MCLEOD AND
24 THE HEAD OF THE SOUTH CAROLINA CRIMINAL JUSTICE
25 ACADEMY AND THEY'RE PRESENTING HIM THE J P STROM

1 AWARD

2 MR STONE YOUR HONOR, AT THIS TIME WE'D MOVE IN
3 STATE'S EXHIBIT 141.

4 MR THORNTON WITHOUT OBJECTION, YOUR HONOR
5 THE COURT STATE'S 141 IN EVIDENCE WITHOUT
6 OBJECTION

7 (STATE'S EXHIBIT NO 141 RECEIVED IN EVIDENCE)

8 MR STONE PERMISSION TO PUBLISH THAT TO THE
9 JURY, YOUR HONOR

10 (PAUSE)

11 Q HOW MANY PEOPLE WERE IN THAT CLASS?

12 A I DON'T REMEMBER THE EXACT NUMBERS, BUT WE STARTED
13 OFF WITH ABOUT 70 TO 80 THERE WAS 4 OF US FROM
14 BEAUFORT COUNTY

15 Q DID YOU ATTEND DANA TATE'S FUNERAL?

16 A YES, I DID

17 Q DID YOU PARTICIPATE IN THAT?

18 A NOT DIRECTLY, NO

19 Q DID YOU JUST ATTEND IT?

20 A YES, SIR

21 (LARGE COLOR PHOTO, TATE, MARKED FOR
22 IDENTIFICATION AS STATE'S EXHIBIT NO 142)

23 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 IDENTIFICATION 142 AND ASK IF YOU COULD IDENTIFY THAT,
25 PLEASE?

STATE VS ALKEBULANYAHH

1 A THAT IS DANA'S -- THAT'S DANA BEING CARRIED IN THE
2 HORSE DRAWN CARRIAGE AT THE NATIONAL CEMETERY IN
3 BEAUFORT
4 Q OKAY
5 MR STONE YOUR HONOR, AT THIS TIME I BELIEVE ---
6 Q WHAT -- WHAT EXHIBIT IS THAT?
7 A 142
8 MR STONE 142 INTO EVIDENCE
9 MR THORNTON WITHOUT OBJECTION, YOUR HONOR
10 THE COURT STATE'S 142 IN EVIDENCE WITHOUT
11 OBJECTION
12 (STATE'S EXHIBIT NO 142 RECEIVED IN EVIDENCE)
13 MR STONE DETECTIVE, THANK YOU I DON'T HAVE
14 ANY FURTHER QUESTIONS ANSWER ANY QUESTIONS THE
15 DEFENSE MAY HAVE
16 MR THORNTON NO QUESTIONS, YOUR HONOR, AND NO
17 OBJECTION TO HIM BEING EXCUSED
18 THE COURT YOU MAY BE EXCUSED, SIR
19 (THE WITNESS LEAVES THE WITNESS STAND)
20 THE COURT ALL RIGHT LADIES AND GENTLEMEN, I
21 KNOW YOU SENT ME A REQUEST TO TAKE A BREAK, BUT WE'LL
22 STOP FOR THE DAY I'M GOING TO GO AHEAD AND SEND YOU
23 OUT DO NOT DISCUSS THIS CASE IN ANY WAY WHATSOEVER
24 WE'LL START BACK AT 9 00 A M TOMORROW MORNING THANK
25 YOU VERY MUCH HAVE A GOOD NIGHT

STATE VS ALKEBULANYAHH

1 PLEASE SIT -- PLEASE REMAIN SITTING FOR THE JURY
2 TO EXIT THANK YOU
3 (THE JURY EXITS THE COURTROOM AT 6 37 P M)
4 THE COURT PLEASE BE SEATED ANYONE THAT WOULD
5 LIKE TO LEAVE MAY LEAVE AT THIS POINT
6 WHERE DOES THAT LEAVE YOU ALL?
7 MR STONE YOUR HONOR, THERE IS AN ISSUE THIS
8 IS A PHOTOGRAPH, A COPY OF THE MANUAL -- EXCUSE ME --
9 THE ANNUAL THAT I BELIEVE WAS 142 (SIC), IS THAT
10 CORRECT?
11 THE COURT I THOUGHT YOU ALL AGREED TO SUBSTITUTE
12 A COPY
13 MR STONE WE DID I JUST WANTED TO ---
14 THE COURT WE SAID THAT ON THE RECORD
15 MR THORNTON YES SIR
16 THE COURT I DON'T THINK IT WAS 142 IT WAS
17 LIKE ---
18 THE REPORTER 140
19 THE COURT 140 WHAT IS -- HOLD ON YOU HAVE TO
20 TALK INTO THAT MIKE PLEASE
21 MR MURDAUGH YOUR HONOR, PLEASE I AM -- I
22 THINK WE HAVE 3 WITNESSES NOW LEFT
23 THE COURT OH, I WAS THINKING YOU SAID YOU HAD
24 -- WHEN WE HAD A SIDE BAR, YOU ONLY HAD 4 DID I
25 MISUNDERSTAND?

STATE VS ALKEBULANYAHH

1 MR MURDAUGH NO, SIR YOU DIDN'T MISUNDERSTAND
2 AT ALL I MIS-SPOKE
3 THE COURT OH, BECAUSE THAT'S WHY I WENT AHEAD
4 AND -- BECAUSE THE JURY WANTED A BREAK FOR A WHILE
5 AND SO I FIGURED THAT WAS A GOOD STOPPING POINT I
6 THOUGHT WE'D COVERED -- THAT'S FINE
7 WE'LL PICK BACK UP AT 9 00 A M TOMORROW MORNING
8 THANK YOU VERY MUCH
9 MR THORNTON THANK YOU, YOUR HONOR
10 (PAUSE)
11 THE COURT ALL RIGHT COUNSEL
12 (PAUSE)
13 THE COURT I WOULD LIKE FOR YOU TO EXPLAIN -- I
14 KNOW THAT I'VE DONE IT SEVERAL TIMES BUT I WOULD LIKE
15 FOR YOU TO, BEFORE YOU LEAVE, EXPLAIN ONE MORE TIME TO
16 THE DEFENDANT ABOUT HIS RIGHT TO TESTIFY, AS WELL AS
17 HIS SEPARATE RIGHT TO MAKE A PERSONAL STATEMENT IF HE
18 SO DESIRES ---
19 MR THORNTON YES, SIR
20 MR KELLY I'LL DO THAT
21 THE COURT --- AN UNSWORN STATEMENT THANK YOU
22 SEE YOU ALL TOMORROW
23 MR STONE THANK YOU, YOUR HONOR
24 MR THORNTON THANK YOU, YOUR HONOR
25 (COURT IS IN RECESS)

STATE VS ALKEBULANYAHH

1 (WEDNESDAY, OCTOBER 22, 2003)
2 THE COURT MR ALKEBULANYAHH
3 MR ALKEBULANYAHH YES, SIR, YOUR HONOR
4 THE COURT I THINK THE STATE HAS ABOUT 4 MORE
5 WITNESSES ARE YOU GOING TO CONTINUE TO MAKE
6 OUTBURSTS?
7 MR ALKEBULANYAHH YES, SIR, YOUR HONOR
8 THE COURT ALL RIGHT THEN I WILL CONTINUE TO
9 KEEP YOU IN THAT BACK ROOM
10 DID YOU ALL GO OVER WITH HIM AGAIN HIS RIGHT
11 TO ---
12 MR KELLY WE DID, YOUR HONOR
13 THE COURT --- TESTIFY OR TO NOT TESTIFY, AS WELL
14 AS HIS RIGHT TO MAKE AN UNSWORN PERSONAL STATEMENT?
15 MR KELLY YES YOUR HONOR
16 THE COURT ALL RIGHT ANY ---
17 MR KELLY HE SAID THAT HE WOULD THINK IT OVER
18 DURING THE EVENING AND WE HAVEN'T CONFERRED WITH HIM
19 AGAIN
20 THE COURT ALL RIGHT
21 MR KELLY BUT WE'LL BE HAPPY TO
22 THE COURT ALL RIGHT YOU CAN TAKE HIM TO THAT
23 BACK ROOM NOW
24 MR KELLY WE'D ALSO LIKE TO PROVIDE HIM WITH A
25 PAD AND A PEN DURING THE TIME HE'S BACK THERE IS THAT

STATE VS ALKEBULANYAHH

1 OKAY WITH YOU?

2 THE COURT YES, SIR THAT WILL BE FINE

3 MR KELLY THANK YOU, SIR

4 THE COURT MR ALKEBULANYAHH, ALSO JUST SO -- I

5 WANT TO SAY THIS YESTERDAY WHEN YOU WANTED TO TALK TO

6 YOUR STAND-BY COUNSEL YOU MADE THAT FACT KNOWN IF

7 THAT -- IF AT ANY POINT YOU WISH TO TALK TO STAND-BY

8 COUNSEL, WILL YOU PLEASE NOTIFY ME?

9 MR ALKEBULANYAHH THANK YOU, YOUR HONOR

10 THE COURT ALL RIGHT

11 (THE DEFENDANT RETURNS TO THE ROOM IN THE BACK OF

12 THE COURTROOM)

13 (PAUSE)

14 THE COURT BRING MR ALKEBULANYAHH BACK OUT

15 (THE DEFENDANT RETURNS TO THE COURTROOM)

16 THE COURT MR ALKEBULANYAHH, JUST FOR PURPOSES

17 OF THE RECORD, OBVIOUSLY BECAUSE OF YOUR OUTBURSTS IN

18 THE COURTROOM, YOU'VE BEEN PLACED IN THE ROOM, WHICH

19 YOU CONTINUE TO INDICATE YOU'D RATHER BE THERE RATHER

20 THAN AT THE TABLE

21 COUNSEL OBVIOUSLY -- YOUR STAND-BY COUNSEL ARE

22 JUST ASSISTING YOU PURSUANT TO THOSE INSTRUCTIONS THAT

23 YOU GAVE TO THE COURT AND TO THEM DO YOU UNDERSTAND

24 THAT?

25 MR ALKEBULANYAHH YES, SIR

STATE VS ALKEBULANYAHH

1 THE COURT NOW, THEY CONTINUE TO OPERATE ONLY AS
2 STAND-BY COUNSEL SO ANY DECISION ABOUT CALLING
3 WITNESS -- WITNESSES STILL IS YOUR DECISION IS THAT
4 UNDERSTOOD?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT IS THAT HOW -- IS THAT HOW YOU ARE
7 PROCEEDING?

8 MR ALKEBULANYAHH YES, SIR

9 THE COURT AND AT THIS POINT YOU ARE CONTINUING
10 WITH YOUR POSITION THAT YOU DO NOT WISH TO CALL ANY
11 WITNESSES?

12 MR ALKEBULANYAHH YES, SIR

13 THE COURT ALL RIGHT THANK YOU

14 (THE DEFENDANT RETURNS TO THE ROOM IN THE BACK OF
15 THE COURTROOM)

16 THE COURT YOU CAN START LETTING PEOPLE IN

17 (PAUSE)

18 (FOUR, 4, LARGE COLOR PHOTOS WERE MARKED FOR
19 IDENTIFICATION AS STATE'S EXHIBIT NOS 143 144, 145
20 AND 146)

21 THE COURT ARE YOU READY TO PROCEED?

22 MR MURDAUGH YES, YOUR HONOR

23 THE COURT DEFENSE READY?

24 MR KELLY YES YOUR HONOR

25 THE COURT BRING THE JURY IN PLEASE

STATE VS ALKEBULANYAHH

1 (PAUSE)
2 THE COURT JUST FOR THE RECORD, MR KELLY,
3 YESTERDAY AT SIDE BAR YOU OBJECTED TO MS COSSON BEING
4 QUALIFIED TO GIVE AN OPINION AS TO MR ROBERTS'
5 ADJUSTMENT IN PRISON
6 MR KELLY THAT'S CORRECT, YOUR HONOR
7 THE COURT AND THEN THE SOLICITOR ULTIMATELY
8 WITHDREW THE QUESTION IS THAT A CORRECT RESTATEMENT
9 OF THE SIDE BAR?
10 MR STONE THAT'S CORRECT, YOUR HONOR
11 MR KELLY THAT IS CORRECT, YOUR HONOR
12 THE COURT IS THERE ANYTHING ELSE THAT NEEDS TO
13 GO ON THE RECORD ABOUT THAT?
14 MR KELLY NO SIR
15 THE COURT THANK YOU THE JURY SAID THEY NEEDED
16 ANOTHER MINUTE
17 (PAUSE)
18 (THE JURY RETURNS TO THE COURTROOM AT 9 00 A M)
19 THE COURT PLEASE BE SEATED THANK YOU PLEASE
20 BE SEATED
21 GOOD MORNING LADIES AND GENTLEMEN
22 JURORS GOOD MORNING
23 THE COURT WE ARE READY TO PROCEED CALL YOUR
24 NEXT WITNESS
25 MR MURDAUGH THE STATE CALLS KENYA TATE

STATE VS ALKEBULANYAHH

1 MS TATE, COME AROUND AND PUT YOUR LEFT HAND ON
2 THE BIBLE AND HOLD UP YOUR RIGHT HAND TO BE SWORN,
3 PLEASE

4 KENYA TATE-WILLIAMS, BEING
5 FIRST DULY SWORN, TESTIFIED AS FOLLOWS

6 THE COURT THANK YOU PLEASE TAKE THE STAND AND
7 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE
8 COURT REPORTER

9 THE WITNESS DANA KENYA TATE-WILLIAMS,
10 T-A-T-E W-I-L-L-I-A-M-S

11 DIRECT EXAMINATION BY MR. MURDAUGH.

12 Q MS TATE, WHAT IS YOUR RELATIONSHIP TO DANA TATE?

13 A HE WAS MY FATHER I AM THE FIRST BORN OF HIS 4
14 CHILDREN

15 Q CAN YOU TELL THE LADIES AND GENTLEMEN OF THE JURY
16 ABOUT YOUR RELATIONSHIP WITH YOUR FATHER PRIOR TO HIS
17 DEATH?

18 A MY FATHER AND I HAD A CLOSE RELATIONSHIP OUR
19 RELATIONSHIP WAS A DISTANT RELATIONSHIP BECAUSE I LIVE
20 IN OHIO, AND HE -- HE LIVED HERE

21 HE ALWAYS TOLD ME HE LOVED ME HE ALWAYS SAID
22 THAT HE WAS PROUD OF ME HE WAS PROUD WHEN I GRADUATED
23 FROM HIGH SCHOOL HE WAS PROUD WHEN I GRADUATED FROM
24 COLLEGE HE WAS PROUD OF MY CHILDREN HE HAD 4
25 GRANDCHILDREN, 1 OF THEM WAS BORN THREE AND A HALF

STATE VS ALKEBULANYAHH

1 MONTHS AFTER HE DIED AND HE DIDN'T KNOW I WAS PREGNANT
2 AT THE TIME

3 THE LAST TIME I SPOKE TO MY DAD WAS ON HIS
4 BIRTHDAY, DECEMBER 21 AND FOR SOME REASON THAT
5 CONVERSATION STUCK IN MY HEAD BECAUSE I WAS JUST
6 CALLING TO TELL HIM HAPPY BIRTHDAY

7 AND THEN HE SAID, OH

8 I SAID HOW ARE YOU DOING, DAD?

9 HE SAID, I'M FINE I JUST GOT THIS MOTORCYCLE
10 AND HE TOLD ME THE STORY OF HOW HE WENT TO PICK IT UP
11 AND HE DROVE IT BACK AND HE WAS JUST VERY EXCITED

12 AND THEN LATER ON IN THE CONVERSATION, HE ASKED
13 ME, IS THERE ANYTHING THAT YOU NEED?

14 I SAID, NO, DAD I'M FINE, I'M FINE

15 HE SAID, ARE YOU SURE?

16 I SAID, NO

17 HE SAID BECAUSE YOU KNOW THAT'S WHAT FATHERS ARE
18 FOR

19 I SAID NO, DAD, I'M ALL RIGHT

20 BUT THAT WAS THE LAST THING THAT I REMEMBER HIM
21 TELLING ME, THAT'S -- THAT'S WHAT FATHERS ARE FOR AND
22 THAT HE LOVED ME

23 Q OKAY WHAT WAS HIS RELATIONSHIP WITH THE OTHER
24 MEMBERS OF YOUR FAMILY KENYA?

25 A HE -- IT WAS VERY CLOSE HE LOVED EVERY ONE OF

1 OUR FAMILY MEMBERS EVERY ONE OF OUR FAMILY MEMBERS
2 WERE SO PROUD OF HIM AND THERE'S NOTHING THAT ANYONE
3 COULD SAY THAT WAS BAD

4 Q KENYA, I SHOW YOU A PHOTOGRAPH MARKED STATE'S
5 EXHIBIT NO 143, AND ASK YOU IF YOU CAN IDENTIFY THAT?

6 A THIS IS A PICTURE OF MY DAD AND MYSELF AND MY
7 BROTHER IT WAS FUNNY BECAUSE IT WAS SYMBOLIC TO THE
8 -- TO A MONKEY STATUE THAT MY DAD HAD HE WAS DOING
9 THE SPEAK NO EVIL I WAS DOING HEAR NO EVIL AND MY
10 BROTHER WAS DOING SEE NO EVIL BUT THAT'S WHAT THAT
11 IS

12 MR MURDAUGH MAY I PUBLISH THIS TO THE JURY,
13 SIR?

14 THE COURT IS THAT IN EVIDENCE?

15 MR MURDAUGH EXCUSE ME I -- I OFFER IT AS AN
16 EXHIBIT NOW, SIR

17 MR KELLY WITHOUT OBJECTION

18 THE COURT STATE'S?

19 MR MURDAUGH 143 SIR

20 THE COURT 143 IN EVIDENCE WITHOUT OBJECTION

21 (STATE'S EXHIBIT NO 143 RECEIVED IN EVIDENCE)

22 (PAUSE)

23 Q KENYA, I SHOW YOU ANOTHER PHOTOGRAPH WHICH IS
24 MARKED STATE'S EXHIBIT 144, AND ASK IF YOU WILL
25 IDENTIFY THAT PLEASE?

1 A THAT'S MY DAD WITH MY TWO YOUNGER SISTERS
2 MR MURDAUGH YOUR HONOR, PLEASE, I WOULD OFFER
3 THAT AS AN EXHIBIT, SIR
4 THE COURT ANY OBJECTION?
5 MR KELLY WITHOUT OBJECTION
6 THE COURT STATE'S 149, IS THAT CORRECT?
7 MR MURDAUGH 144, SIR
8 THE COURT 144 IN EVIDENCE WITHOUT OBJECTION
9 (STATE'S EXHIBIT NO 144 RECEIVED IN EVIDENCE)
10 MR MURDAUGH MAY I PUBLISH IT?
11 THE COURT YES, SIR
12 (PAUSE)
13 Q I SHOW YOU ANOTHER PHOTOGRAPH, KENYA, AND ASK IF
14 YOU CAN IDENTIFY THIS?
15 A THAT'S MY DAD AND MYSELF IN MY GRANDPARENTS' BACK
16 YARD
17 Q HOW OLD ARE YOU IN THAT PICTURE?
18 A GOSH, I THINK I PROBABLY -- I WAS IN HIGH SCHOOL
19 I COULD HAVE BEEN LIKE 16, 17, SOMETHING LIKE THAT
20 MR MURDAUGH I OFFER THIS AS AN EXHIBIT, YOUR
21 HONOR, PLEASE
22 A BUT THAT WAS JUST ONE OF THE VISITS THAT WE HAD
23 WHEN HE WOULD COME UP AND VISIT US ---
24 THE COURT ANY OBJECT ---
25 A --- IN OHIO

STATE VS ALKEBULANYAHH

1 THE COURT I'M SORRY ANY OBJECTION?

2 MR KELLY WITHOUT OBJECTION

3 THE COURT ALL RIGHT IT'S 145?

4 MR MURDAUGH 145

5 THE COURT STATE'S 145 IN EVIDENCE WITHOUT
6 OBJECTION

7 (STATE'S EXHIBIT NO 145 RECEIVED IN EVIDENCE)

8 (PAUSE)

9 Q KENYA, I SHOW YOU ONE LAST PHOTOGRAPH, AND ASK IF
10 YOU WILL IDENTIFY THAT, PLEASE?

11 A THAT'S A PICTURE OF MYSELF, MY BROTHER, AND MY TWO
12 YOUNGER SISTERS AT THE -- THE FUNERAL AND WE HELD A
13 DOVE SORT OF REPRESENTING OUR DAD, AND WE WERE LETTING
14 IT FLY AWAY

15 MR MURDAUGH OFFER THIS, IF YOUR HONOR, PLEASE
16 THE COURT ANY OBJECTION?

17 MR KELLY WITHOUT OBJECTION

18 THE COURT ALL RIGHT

19 MR MURDAUGH 146, SIR

20 THE COURT STATE'S 146 IN EVIDENCE WITHOUT
21 OBJECTION

22 (STATE'S EXHIBIT NO 146 RECEIVED IN EVIDENCE)

23 MR MURDAUGH MAY I PUBLISH THIS?

24 THE COURT YES, SIR

25 (PAUSE)

STATE VS ALKEBULANYAHH

1 Q KENYA, CAN YOU TELL THE LADIES AND GENTLEMEN OF
2 THE JURY WHAT THE LOSS OF YOUR FATHER HAS MEANT TO YOU
3 AND YOUR FAMILY?

4 A IT'S A GREAT TRAGEDY BECAUSE WE ALL THOUGHT THAT,
5 YOU KNOW, MY DAD WAS -- HE WAS A STRONG MAN AND THAT HE
6 WAS INVINCIBLE, AND THAT EVERYTHING HE DID FOR ME IN MY
7 EYES AND I KNOW MY FAMILY MEMBERS' EYES WAS PERFECT,
8 YOU KNOW

9 AND, YOU KNOW, MY DAD WORKED OUT EVERY DAY OF MY
10 LIFE I -- EVERY DAY THAT I CAN REMEMBER, HE WORKED
11 OUT AND EXERCISED AND HE, YOU KNOW, -- YOU JUST
12 THOUGHT THAT NOTHING COULD HAPPEN TO HIM

13 AND WHEN THIS HAPPENED, IT WAS A SHOCKER, AND
14 WE'RE ALL SORT OF NUMB, YOU KNOW WE'RE ALL SORT OF IN
15 DENIAL AND IN SHOCK

16 AND IT'S -- IT'S JUST HARD BECAUSE, YOU KNOW, WE
17 ALL LOVED HIM VERY MUCH AND, YOU KNOW WE ALL MISS
18 OUR -- I MISS MY -- MY DAD AND MY SISTERS MISS MY
19 DAD AND MY BROTHER MISSES MY DAD AND MY GRAND
20 PARENTS MISS HIM SO MUCH AND WE JUST LOVE HIM SO
21 MUCH

22 IT'S JUST -- WORDS JUST CAN'T SAY, YOU KNOW, HOW
23 MUCH IT MEANT FOR HIM TO BE HERE AND NOW HE'S GONE

24 MR MURDAUGH THANK YOU, KENYA ANSWER ANY
25 QUESTIONS THESE GENTLEMEN MAY HAVE

STATE VS ALKEBULANYAHH

1 MR KELLY WE HAVE NO QUESTIONS
2 THE COURT YOU MAY STEP DOWN, MA'AM THANK YOU
3 (THE WITNESS LEAVES THE WITNESS STAND)

4 MR MURDAUGH CALL -- CALL THELMA TATE

5 THELMA TATE BEING FIRST

6 DULY SWORN, TESTIFIED AS FOLLOWS

7 DIRECT EXAMINATION BY MR MURDAUGH.

8 Q YOUR NAME IS THELMA TATE?

9 A YES, IT IS

10 Q AND WHAT IS YOUR RELATIONSHIP TO DANA?

11 A I'M DANA'S MOTHER HE'S MY SON

12 Q WILL YOU TELL THIS JURY SOMETHING ABOUT YOUR SON?

13 A I THINK -- I JUST WANT TO SAY THAT GOD HAS GIVEN
14 ME THE STRENGTH TO COME HERE, BECAUSE I ASKED HIM FOR
15 IT EVER SINCE THAT DAY I'VE PRAYED TO GOD TO GIVE ME
16 THE STRENGTH FOR MY FAMILY, FOR EVERYONE BECAUSE WE
17 MISS DANA SO MUCH

18 YESTERDAY I HEARD THE -- THE YOUNG MAN THAT CAME
19 IN HERE SPEAKING OF MY SON, TELLING YOU ABOUT HIM AND
20 THEY -- IT WASN'T SOMETHING THEY HEARD THEY KNEW MY
21 SON, BECAUSE HE WAS A WONDERFUL PERSON

22 WHEN DANA WENT INTO THE NAVY IN 1977, HE WROTE A
23 LETTER TO US THAT HE WAS GOING TO MAKE US PROUD OF HIM
24 HE KNEW THAT MY HUSBAND WANTED HIM TO GO ON TO COLLEGE
25 AFTER HE WENT -- CAME FROM HIGH SCHOOL

STATE VS ALKEBULANYAHH

1 BUT HE KNEW HE HAD A LITTLE DAUGHTER TO TAKE CARE
2 OF, AND THE ONLY WAY HE COULD START TAKING CARE OF HER
3 WAS TO GO INTO THE NAVY AND START MAKING SOME MONEY
4 HE -- HE WAS A -- SO SPECIAL HE DIDN'T REALLY
5 CARE ABOUT HAVING A PH D A LOT OF OUR MEMBERS HAVE
6 GONE ON TO SCHOOL, COLLEGE, AND THAT WASN'T REALLY WHAT
7 DANA WANTED DANA JUST WANTED TO BE -- TO DO THE RIGHT
8 THING AND TO LOVE HE LEARNED SO MUCH HE WAS A
9 RESPECTABLE PERSON TO EVERYBODY HE LOVED EVERYBODY
10 HE -- HE ONCE TOLD ME WHEN HE WAS A LITTLE BOY HE
11 -- THAT, MOTHER, WHEN YOU DIE -- WE HAD SOME MEMBER OF
12 THE FAMILY, I CAN'T REMEMBER, PASSED AND HE SAID,
13 MOTHER, WHEN YOU DIE -- IF YOU DIE, I'M GOING TO LAY
14 DOWN ON TOP OF YOU IN THAT CASKET BECAUSE I WANT TO
15 DIE, TOO
16 AND I SAID, NO, DANA YOU'RE GOING TO GROW UP
17 AND YOU'RE GOING TO GET MARRIED, AND YOU'RE GOING TO
18 HAVE CHILDREN AND YOU DON'T THINK THAT YOU JUST LOVE
19 ME YOU'RE GOING TO LOVE THEM, AND HE DID HE DID
20 HE WAS SUCH A PROUD FATHER, BROTHER
21 AND HIS BROTHERS ARE SO -- THEY -- EVEN STEPHEN
22 BACK THERE, HE DIDN'T REALLY FEEL LIKE COMING HERE
23 BUT HE CAME HERE BECAUSE HE KNEW DANA HE -- HE JUST
24 WANTED TO BE HERE TO SEE THAT JUSTICE WAS SERVED
25 AND -- AND I DO -- I KNOW I PRAYED AND I KNEW THAT

STATE VS ALKEBULANYAHH

1 GOD'S WILL WOULD BE DONE AND I'M CERTAIN IT WILL
2 STILL BE DONE I'M -- I'M TRUSTING HIM, NOT MY WILL,
3 BUT WHAT GOD'S WILL WHEN YOU GO INTO THAT ROOM AND YOU
4 THINK OF WHAT -- MY -- MY SON GAVE HIS LIFE AND I --
5 I KNOW IT WON'T BE IN VAIN

6 THAT WASN'T HIS CALL THAT HE WENT THERE HE WENT
7 THERE BECAUSE, I GUESS, GOD TOLD HIM TO GO THERE HE
8 -- HE WAS ALWAYS, YOU KNOW, SUCH A PERSON THAT WOULD --
9 HE WOULD DO ANYTHING FOR ANYBODY

10 I WILL MISS HIS PHONE CALLS I WILL MISS HIM
11 COMING TO COLUMBUS, OHIO AND WHEN HE CAME -- I SAW
12 DANA AT LEAST THREE TIMES A YEAR SINCE HE ENTERED --
13 LEFT HOME WE EITHER MET IN OHIO -- HE CAME TO OHIO OR
14 WE'D COME TO SOUTH CAROLINA OR WE WOULD MEET IN
15 VIRGINIA WHICH WAS THE HALF WAY MARK

16 BUT WHEN HE CAME HOME HE ALWAYS KNEW THAT MOTHER
17 WOULD HAVE SOMETHING FOR HIM TO FIX HIS PIZZA HE WAS
18 A GOOD PIZZA FIXER HE KNEW THAT I WOULD HAVE THAT
19 PEPPERONI AND THAT CHEESE AND STUFF THERE FOR US AND
20 I CAN T LOOK AT A PIZZA PAN NOW I DON'T WANT PIZZA
21 BECAUSE -- BECAUSE MY SON ISN'T THERE

22 (TWO 2, LARGE COLOR PHOTOS, TATE, MARKED FOR
23 IDENTIFICATION AS STATE'S EXHIBIT NOS 147 AND 148)

24 Q MRS TATE, I SHOW YOU TWO PHOTOGRAPHS THE FIRST
25 -- THE FIRST BEING NO 147, AND ASK YOU IF YOU CAN

STATE VS ALKEBULANYAHH

1 IDENTIFY THAT?

2 A YES, THAT'S ME AND THAT'S DANA THAT'S WHEN I
3 GRADUATED FROM NURSING SCHOOL

4 Q AND 148, CAN YOU IDENTIFY IT?

5 A YES, THAT'S A PICTURE TAKEN A FEW YEARS AGO,
6 BECAUSE I COULD SEE SOME OF MY GRAND CHILDREN THAT HAVE
7 -- ARE A LITTLE OLDER NOW BUT IT WAS WHEN DANA CAME
8 TO OUR HOUSE IN OHIO THAT'S IN THE BACK YARD UNDER A
9 TREE, AND WE'RE ALL STANDING THERE

10 Q HIS BROTHERS -- HE HAD HOW MANY BROTHERS?

11 A TWO

12 Q AND ARE THEY PRESENT IN COURT?

13 A MY MIDDLE SON, STEPHEN, IS BACK THERE WITH THE
14 DARK SUIT ON AND THAT'S HIS WIFE GERI, NEXT TO HIM,
15 AND MY HUSBAND AND HIS DAUGHTER -- WELL, HIS TWO
16 DAUGHTERS ARE BACK THERE, I THINK AND HIS WIFE, MARIE,
17 BACK THERE

18 MR MURDAUGH IF YOUR HONOR PLEASE, I MOVE THE
19 INTRODUCTION OF THESE TWO PHOTOGRAPHS

20 MR KELLY WITHOUT OBJECTION

21 THE COURT ALL RIGHT

22 MR MURDAUGH THAT IS 147 AND 148 MAY I PUBLISH
23 THEM?

24 THE COURT YES, SIR STATE'S 147 AND 148 INTO
25 EVIDENCE WITHOUT OBJECTION

STATE VS ALKEBULANYAHH

1 (STATE'S EXHIBIT NOS 147 AND 148 RECEIVED IN
2 EVIDENCE)

3 (PAUSE)

4 Q MRS TATE IS IT POSSIBLE FOR YOU TO EXPLAIN TO
5 THE JURY WHAT THE LOSS OF YOUR SON HAS MEANT TO YOU AND
6 YOUR FAMILY?

7 A IT'S -- IT'S JUST LIKE -- I REALLY CAN'T, YOU
8 KNOW IT'S JUST BEEN A NIGHTMARE IT'S BEEN LIKE I'VE
9 BEEN -- WE HAVE BEEN IN A DREAM AND DON'T WANT TO WAKE
10 UP AND WAKE UP AND SEE THAT DANA IS THERE IT'S LIKE
11 HE -- I CAN'T EXPLAIN IT BEING A MOTHER IT'S NOT
12 SUPPOSED TO BE THIS WAY HE -- HE WAS SO SPECIAL HE
13 -- HE WAS JUST SUCH A WONDERFUL SON I ---

14 MR MURDAUGH THANK YOU, MRS TATE

15 THE COURT HOLD ON PLEASE, MA'AM

16 MR KELLY I HAVE NO QUESTIONS

17 THE COURT ALL RIGHT THANK YOU YOU MAY STEP
18 DOWN

19 (THE WITNESS LEAVES THE WITNESS STAND)

20 MR STONE MARIE TATE

21 MARIE TATE, BEING FIRST
22 DULY SWORN, TESTIFIED AS FOLLOWS

23 DIRECT EXAMINATION BY MR. STONE.

24 Q HEY MARIE TELL THE JURY YOUR FULL NAME AND
25 SPELL YOUR LAST NAME FOR US PLEASE?

STATE VS ALKEBULANYAHH

- 1 A MY NAME IS MRS MARIE RALANA TATE, T-A-T-E
- 2 Q OKAY BRING THE MICROPHONE A LITTLE BIT CLOSER TO
- 3 YOU IF YOU WOULD
- 4 WHAT RELATIONSHIP WERE YOU TO DANA TATE?
- 5 A DANA IS MY HUSBAND
- 6 Q WHEN DID YOU MEET DANA?
- 7 A WE MET IN 1985
- 8 Q WHERE?
- 9 A IN THE NAVY, ON THE U S S SIERRA
- 10 Q WHAT WERE YOU DOING IN THE NAVY IN 1985?
- 11 A I WAS ASSIGNED TO THE U S S SIERRA
- 12 Q YOU WERE IN THE NAVY YOURSELF?
- 13 A YES
- 14 Q AND WHAT ABOUT DANA?
- 15 A HE WAS ASSIGNED TO THE U S S SIERRA
- 16 Q SO YOU WERE BOTH IN THE NAVY TOGETHER BACK THEN?
- 17 A YES
- 18 Q HOW LONG DID YOU KNOW DANA BEFORE YOU STARTED
- 19 DATING?
- 20 A WE WERE FRIENDS FOR A GOOD LONG TIME THEN WHEN
- 21 HE GOT OFF THE SHIP -- BECAUSE THERE WAS NO
- 22 FRATERNIZING ON BOARD -- SO WHEN HE WAS STATIONED ON
- 23 BOARD -- ON THE NAVAL BASE, THEN WE STARTED TO DATE
- 24 Q SO YOU COULDN'T DATE WHILE YOU WERE TOGETHER? YOU
- 25 HAD TO WAIT UNTIL ONE OF YOU GOT OFF THE SHIP, RIGHT?

STATE VS ALKEBULANYAHH

- 1 A RIGHT
- 2 Q WHERE DID HE GO THEN?
- 3 A THE CLINIC
- 4 Q WHAT -- WHAT POSITION DID HE HOLD IN THE NAVY?
- 5 A HOSPITAL CORPSMAN
- 6 Q AND YOU WERE AN ADMINISTRATOR PERSON WITH THE
- 7 NAVY?
- 8 A YES
- 9 Q HOW LONG DID YOU ALL DATE?
- 10 A A GOOD LONG WHILE
- 11 Q WHEN DID YOU GET MARRIED?
- 12 A JANUARY 16, '87
- 13 Q SO HOW LONG WERE YOU MARRIED?
- 14 A I BURIED HIM JANUARY 14 2002
- 15 Q ALMOST 16 -- ALMOST 16 YEARS, I GUESS?
- 16 A YES
- 17 (LARGE COLOR PHOTO, TATE, MARKED FOR
- 18 IDENTIFICATION AS STATE'S EXHIBIT NO 149)
- 19 Q MARIE, I'M GOING TO HAND YOU STATE'S EXHIBIT 149,
- 20 AND ASK IF YOU COULD EXPLAIN THIS TO THE JURY PLEASE?
- 21 A OKAY THIS IS A PICTURE WHEN DANA WAS SWORN IN AS
- 22 A DEPUTY, A RESERVE DEPUTY IN DORCHESTER COUNTY
- 23 Q NOW, WAS HE STILL WITH THE NAVY AT THAT TIME?
- 24 A YES
- 25 Q AND WHERE -- WHAT WERE YOU DOING THEN?

1 A I WAS HIS WIFE
2 Q WERE YOU STILL -- WERE YOU STILL IN THE NAVY
3 YOURSELF?
4 A YES
5 MR STONE YOUR HONOR, AT THIS TIME I MOVE
6 STATE'S EXHIBIT 149 INTO EVIDENCE
7 MR KELLY WITHOUT OBJECTION
8 THE COURT STATE'S 149 IN EVIDENCE WITHOUT
9 OBJECTION
10 (STATE'S EXHIBIT NO 149 RECEIVED IN EVIDENCE)
11 MR STONE MAY I PUBLISH?
12 THE COURT YES, SIR
13 (PAUSE)
14 (TWO 2, LARGE COLOR PHOTOS, TATE, MARKED FOR
15 IDENTIFICATION AS STATE'S EXHIBIT NOS 150 AND 151)
16 Q MARIE I'M GOING TO SHOW YOU STATE'S EXHIBIT 150
17 AND 151, AND ASK IF YOU CAN TELL US WHAT THOSE ARE?
18 A THIS IS MY LAST REENLISTMENT, AND ONE OF ME AND
19 DANA, WE REENLISTED TOGETHER HIS MOTHER HAD SWORN US
20 IN, AND MY -- MY LIEUTENANT WAS THE SWEARING OFFICER
21 MR STONE YOUR HONOR, I MOVE INTO -- INTO
22 EVIDENCE EXHIBITS 150 AND 151
23 A IN EXHIBIT ---
24 MR STONE WAIT JUST A SECOND, MARIE
25 MR KELLY WITHOUT OBJECTION

STATE VS ALKEBULANYAHH

1 THE COURT 150 AND 151 ARE IN EVIDENCE WITHOUT
2 OBJECTION

3 (STATE'S EXHIBIT NOS 150 AND 151 RECEIVED IN
4 EVIDENCE)

5 Q OKAY GO AHEAD, MARIE I'M SORRY TO INTERRUPT
6 YOU

7 A IN EXHIBIT 151, IS JUST A CONTINUATION OF THE
8 CEREMONY WHEN WE WERE DONE, WE WERE SHAKING HANDS --
9 I WAS SHAKING HANDS, MY LIEUTENANT'S HAND WE WERE ALL
10 SMILES BECAUSE WE DID IT TOGETHER THAT WAS -- WE DID
11 A LOT OF THINGS TOGETHER AND THAT WAS ONE OF THE
12 THINGS THAT NOT A LOT OF COUPLES HAD THAT OPPORTUNITY
13 TO DO TOGETHER, BUT WE DID THAT TOGETHER

14 MR STONE MAY I PUBLISH THOSE TO THE JURY, YOUR
15 HONOR

16 (PAUSE)

17 Q MARIE HOW MUCH OF THIS TRIAL DID YOU WATCH?

18 A NOT MUCH I CAME SUNDAY AFTERNOON AFTER CHURCH

19 Q WHY?

20 A MY HUSBAND WAS NOT JUST MY HUSBAND DANA WAS MY
21 HUSBAND, MY BEST FRIEND, MY LOVER, MY SOUL MATE DANA
22 WAS MY EVERYTHING WE SPOKE OUR OWN LANGUAGE I WAS
23 -- I'M FROM ANOTHER COUNTRY SO WE CAN BE IN A ROOM
24 FULL OF PEOPLE AND NOT SAY A WORD AND WE CAN
25 COMMUNICATE HE WOULD KNOW WHAT I WAS SAYING AND I

1 WOULD KNOW WHAT HE WAS SAYING
2 WHEN WE WERE -- WHEN HE WAS DEPLOYED, HE WOULD
3 SEND ME A LETTER AT THE SAME TIME, OUR LETTERS WOULD
4 CROSS IN THE -- IN THE MAIL AND I WOULD ANSWER SO AS
5 I WAS GETTING THE QUESTION, HE WOULD HAVE RECEIVED THE
6 ANSWER
7 MY HEART COULDN'T HANDLE THE TRIAL BECAUSE I KNEW
8 MY HUSBAND FOR THE MAN THAT HE -- HE WAS AND I KNOW
9 MY SOUL MATE FOR THE SOUL THAT HE IS AND I DIDN'T
10 WANT TO HEAR ANYTHING ELSE I WANTED THE PICTURE THAT
11 SHERIFF TANNER HAD TOLD ME TO REMEMBER HIM THAT
12 MORNING YOU KNOW
13 WE LAUGHED WE HAD A FAMILY WE HUGGED WE
14 KISSED WE SAID SEE YOU LATER, BECAUSE MY HUSBAND
15 PROMISED ME THAT HIS FIRST, NUMBER ONE JOB WAS TO GET
16 BACK TO ME
17 AND EVEN WHEN I HEARD THE RESULT OF THE JURY, YOU
18 KNOW, I WANTED TO RUN HOME AND SAY, HEY, DANA GUESS
19 WHAT? THEY FOUND HIM GUILTY, YOU KNOW
20 WHEN MY HUSBAND CAME HOME AFTER HIS SHIFT, WE
21 LOVED TO TALK WE WERE CONSTANTLY -- WE WERE NEWLYWEDS
22 ALL THE TIME, THOUGH WE WERE MARRIED IN MAN'S TIME 16
23 YEARS WE FELT THAT WE HAD BEEN TOGETHER -- WE ALWAYS
24 JOKED THAT WE HAD BEEN TOGETHER 200 YEARS, BECAUSE WE
25 KNEW EACH OTHER BUT WE WERE ALWAYS GROWING WE WERE

STATE VS ALKEBULANYAHH

1 ALWAYS EVOLVING

2 WE WERE GETTING READY TO BE IN OUR MOTORCYCLE ERA
3 IN OUR RELATIONSHIP ON THE 9TH -- HE WAS SUPPOSED TO
4 BE OFF ON THE 9TH AND 10TH

5 MY HUSBAND TAUGHT ME HOW TO RIDE A MOTORCYCLE I
6 KNOW HOW TO RIDE A 800 VULCAN CLASSIC BUT NOW JUST
7 SITS, BECAUSE MY BUDDY IS NOT THERE TO RIDE WITH ME
8 WE USED TO RIDE TOGETHER WE USED TO MAKE DATES

9 HE USED TO FINISH MY SENTENCES BUT, YOU KNOW HE
10 EMPOWERED ME TO BE A VERY STRONG WOMAN BECAUSE WHEN
11 YOU COME FROM ANOTHER COUNTRY, YOUR ENGLISH IS NOT AS
12 WELL AS SOMEONE ELSE AND MY HUSBAND'S LEVEL -- THANKS
13 TO HIS PARENTS -- HE SPOKE EXCELLENT ENGLISH

14 AND HE ALWAYS TOLD ME, YOU CAN ALWAYS GROW UP, YOU
15 KNOW AND SO WHEN I THINK I THINK IN MY LANGUAGE
16 AND HIS ABILITY TO HELP ME, HE ALWAYS HELPED ME TO BE
17 ALL THAT I CAN BE LIKE I SAID BEFORE, I DIDN'T NEED
18 THE ARMY TO BE ALL THAT I CAN BE, BECAUSE I HAD MY
19 DANA

20 HE LAID A FOUNDATION FOR OUR CHILDREN THAT THEY
21 DIDN'T HAVE TO LIVE IN A BOX WHERE ALL THEY COULD BE IS
22 MAYBE, YOU KNOW, CERTAIN THINGS HE INTRODUCED THEM TO
23 -- WE WENT TO NASCAR RACES WE'RE JEFF GORDON FANS
24 WE WENT TO RODEOS WHATEVER WAS OUT THERE, WE WENT SO
25 HIS CHILDREN CAN HAVE A TASTE OF WHAT LIFE WAS ABOUT

STATE VS ALKEBULANYAHH

1 MY HUSBAND WAS A KIND AND GENTLE GIANT HE WAS MY
2 HERCULES, AND HE KNEW IT HE KNEW THAT WE LOVED HIM
3 IT WASN'T A AFTER-THE-FACT SMELL THE ROSES WHEN YOU'RE
4 GONE HE KNEW IT
5 AND SO I CRY BECAUSE I MISS HIM
6 I MISS THAT I CAN'T -- WHEN I GO TO A RESTAURANT
7 -- I DON'T FREQUENT THE RESTAURANTS THAT WE USED TO,
8 BECAUSE I CAN'T HOLD HIS HANDS ANY MORE I REACH OUT
9 TO HOLD HIS HANDS HE'S NOT HERE FOR ME TO DO THAT
10 MY PAIN IS THE LOVE THAT I'VE LOST AND THE
11 PHYSICAL BUT I AM ONE WOMAN THAT CAN SAY THAT I HAVE
12 BEEN LOVED I KNOW WHAT IT IS TO BE LOVED
13 AND MY CHILDREN KNOW WHAT IT IS TO HAVE A FATHER
14 THAT LOVES THEM THEY CAN WALK WITH THEIR HEADS UP
15 HIGH AND SAY, MY DADDY LOVES ME
16 ALL I CAN TELL YOU IS MY HUSBAND HAS SERVED THE
17 COMMUNITY IN ONE CAPACITY OR THE OTHER HE WAS A
18 CIVILIAN, A TRUE CIVILIAN FOR 3 DAYS HE WAS IN THE
19 NAVY AND BEFORE I KNEW IT, 3 DAYS, GOT A FULL-TIME
20 JOB WITH THE SHERIFF'S DEPARTMENT HERE
21 HE WAS KIND A GENTLE GIANT PER SE
22 MR STONE THANKS MARIE
23 THE COURT HOLD ON ONE SECOND
24 MR KELLY WE HAVE NO QUESTIONS
25 THE COURT NO QUESTIONS YOU MAY BE EXCUSED,

STATE VS ALKEBULANYAHH

1 MA'AM THANK YOU
2 (THE WITNESS LEAVES THE WITNESS STAND)
3 MR MURDAUGH YOUR HONOR, PLEASE, THAT CONCLUDES
4 THE STATE'S CASE
5 THE COURT LADIES AND GENTLEMEN, I'LL SEND YOU TO
6 THE JURY ROOM PLEASE DO NOT DISCUSS THIS MATTER IN
7 ANY WAY THANK YOU VERY MUCH
8 (THE JURY EXITS THE COURTROOM AT 9 34 A M)
9 THE COURT THANK YOU PLEASE BE SEATED
10 CAN I SEE YOU ALL AT THE SIDE BAR
11 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD)
12 THE COURT ALL RIGHT ANY MOTIONS FOR THE COURT?
13 MR KELLY NO MOTIONS, YOUR HONOR
14 MR MURDAUGH NONE FROM THE STATE
15 THE COURT BRING MR ALKEBULANYAHH UP PLEASE
16 HE CAN COME FORWARD
17 (THE DEFENDANT RETURNS TO THE COURTROOM)
18 THE COURT MR ALKEBULANYAHH
19 MR ALKEBULANYAHH YES, SIR
20 THE COURT AT THIS POINT THE STATE HAS CONCLUDED
21 THE PRESENTATION OF THEIR WITNESSES
22 MR ALKEBULANYAHH YES, SIR
23 THE COURT AS I HAVE EXPLAINED TO YOU, THIS IS
24 THE OPPORTUNITY FOR YOU TO PRESENT YOUR CASE IF YOU SO
25 DESIRE OR YOUR WITNESSES IF YOU SO DESIRE

STATE VS ALKEBULANYAHH

1 OBVIOUSLY YOU DON'T HAVE AN OBLIGATION TO PRESENT
2 ANYTHING DO YOU UNDERSTAND THAT?

3 MR ALKEBULANYAHH YES SIR

4 THE COURT NOW, I HAVE TOLD YOU ON SEVERAL
5 OCCASIONS, AND THIS IS MY LAST OPPORTUNITY TO TELL YOU
6 THAT YOU HAVE A RIGHT TO TESTIFY, AS WELL AS YOU HAVE
7 THE RIGHT TO NOT TESTIFY IF YOU ELECT TO NOT TESTIFY
8 OF COURSE, I WILL INSTRUCT THE JURY IN APPROPRIATE
9 TERMS THAT THEY ARE TO DRAW NO ADVERSE INFERENCE FROM
10 YOUR FAILURE TO TESTIFY DO YOU UNDERSTAND THAT?

11 MR ALKEBULANYAHH YES, SIR

12 - THE COURT BUT YOU ALSO HAVE THE RIGHT TO TESTIFY
13 IF YOU SO DESIRE I TAKE NO POSITION ON WHAT YOUR
14 STRATEGY SHOULD BE IN THAT REGARD HOWEVER,
15 PRESENTATION OF EVIDENCE MITIGATING EVIDENCE, COULD BE
16 VERY CRUCIAL TO THE JURY'S CONSIDERATION OF THIS MATTER
17 INSOFAR AS THEY WILL -- THEY WOULD BE NORMALLY DIRECTED
18 TO CONSIDER BOTH EVIDENCE IN AGGRAVATION AND EVIDENCE
19 IN MITIGATION DO YOU UNDERSTAND THAT?

20 MR ALKEBULANYAHH YES, SIR

21 THE COURT DO YOU ALSO UNDERSTAND THAT SEPARATE
22 AND APART FROM YOUR RIGHT TO TAKE THE STAND TO TESTIFY,
23 YOU HAVE A SEPARATE RIGHT TO MAKE A PERSONAL STATEMENT
24 TO THE JURY THAT IS NOT SWORN DO YOU UNDERSTAND THAT?

25 MR ALKEBULANYAHH YES, SIR

STATE VS ALKEBULANYAHH

1 THE COURT ALL RIGHT NOW, IT'S MY UNDERSTANDING
2 THAT I'VE BEEN OVER THIS WITH YOU ON A FEW PRIOR
3 OCCASIONS AND THAT STAND-BY COUNSEL HAS BEEN DIRECTED
4 BY THE COURT TO REVIEW THIS WITH YOU, IS THAT CORRECT?

5 MR ALKEBULANYAHH YES, SIR

6 THE COURT ALL RIGHT HAVE YOU MADE ANY FURTHER
7 DECISIONS IN THAT REGARD?

8 MR ALKEBULANYAHH I WOULD, FOR THE TIME BEING,
9 WAIT TO LET MY COUNSEL AND THEM AT THEY WANT TO DO
10 AND THEN IF I -- I WOULD ASK THE COURT TO BREAK AFTER
11 THEY FINISH AND DECIDE THEN

12 THE COURT ALL RIGHT SO YOU WOULD LIKE STAND-BY
13 COUNSEL TO ASSIST YOU MAKING A CLOSING STATEMENT?

14 MR ALKEBULANYAHH YES, SIR

15 THE COURT AND THEN YOU'RE REQUESTING WE TAKE A
16 BREAK SO THAT YOU CAN CONSULT WITH THEM ABOUT WHETHER
17 OR NOT YOU WISH TO MAKE A PERSONAL STATEMENT TO THE
18 JURY?

19 MR ALKEBULANYAHH YES, SIR

20 THE COURT ALL RIGHT NOW, THIS IS THE ABSOLUTE
21 LAST OPPORTUNITY I HAVE TO ASK YOU IS IT CLEARLY YOUR
22 DESIRE AND YOUR STRATEGY TO NOT PRESENT ANY OTHER
23 MITIGATING EVIDENCE OR WITNESSES, IS THAT CORRECT?

24 MR ALKEBULANYAHH THAT IS CORRECT

25 THE COURT AND YOU'VE HAD A SUFFICIENT AMOUNT OF

STATE VS ALKEBULANYAHH

1 TIME TO DO THAT?

2 MR ALKEBULANYAHH YES, SIR

3 THE COURT AND YOU UNDERSTAND EVERYTHING THAT I
4 SAID ABOUT THAT IS NOT A WISE DECISION AND THAT IS A
5 FOOL-HARDY DECISION, ETCETERA THAT'S NOT A DECISION
6 THE COURT WOULD MAKE YOU UNDERSTAND THAT?

7 MR ALKEBULANYAHH YES, SIR

8 THE COURT AGAIN, IT'S NOT MY JOB TO BE YOUR
9 LEGAL ADVISER I HAVE A RESPONSIBILITY AS THE JUDGE TO
10 INFORM YOU OF YOUR RIGHTS SO THESE PROCEEDINGS, AS I'VE
11 INDICATED, THE I'S ARE DOTTED AND THE T'S ARE CROSSED
12 THAT'S MY ROUTINE YOU UNDERSTAND THAT?

13 MR ALKEBULANYAHH (NODS HEAD)

14 THE COURT NOW, I -- I'LL JUST SAY IT FOR THE
15 LAST TIME I DO NOT THINK THAT IS A WISE DECISION DO
16 YOU UNDERSTAND?

17 MR ALKEBULANYAHH (NODS HEAD)

18 THE COURT YOU HAVE TO RESPOND FOR THE RECORD

19 MR ALKEBULANYAHH YES SIR

20 THE COURT AND YOU DO NOT WISH TO PRESENT ANY
21 MITIGATING WITNESSES?

22 MR ALKEBULANYAHH NO, SIR

23 THE COURT ALL RIGHT THEN WE WILL TAKE A SHORT
24 BREAK I NEED TO -- YOU AUTHORIZE -- DO YOU HAVE ANY
25 PROBLEM WITH STAND-BY COUNSEL INDICATING TO THE COURT

STATE VS ALKEBULANYAHH

1 ANY POSITION ON THE LEGAL INSTRUCTIONS THAT I TELL THE
2 JURY? DO YOU HAVE ANY PROBLEM WITH THEM DISCUSSING
3 THAT WITH ME?

4 MR ALKEBULANYAHH NO, SIR

5 THE COURT ALL RIGHT WE WILL TAKE A BREAK
6 THEN I WILL GO OVER THE LEGAL INSTRUCTIONS

7 STAND-BY COUNSEL, IS IT -- WILL IT BE YOUR
8 POSITION THAT THERE WILL BE NO STATUTORY MITIGATING
9 CIRCUMSTANCES OR ARE THERE ANY YOU WISH TO ARGUE?

10 MR KELLY YOUR HONOR, IT'S OUR POSITION THAT THE
11 EVIDENCE IN THE PREVIOUS PHASE OF THE CASE DOES NOT
12 SUPPORT MITIGATING CIRCUMSTANCES AND WE ARE NOT
13 OFFERING THEM AT THIS TIME

14 THE COURT WELL, I DON'T -- TO THE EXTENT THAT I
15 NEED TO MAKE AN INITIAL DETERMINATION TO PRESENT THAT
16 TO YOU I DON'T SEE ANY BUT CERTAINLY I'LL BE HAPPY
17 TO HEAR YOU OUT ON THAT I DON'T SEE ANY AND,
18 OBVIOUSLY IF NOTHING IS PRESENTED DURING THIS PHASE,
19 THAT SEEMS TO BOLSTER THAT -- THAT POSITION WE CAN
20 TALK ABOUT THAT WHEN WE DISCUSS THE INSTRUCTIONS

21 MR ALKEBULANYAHH, SINCE THERE IS NO MORE
22 TESTIMONY TO BE PRESENTED, EXCEPT FOR NON-STATUTORY
23 MITIGATING CIRCUMSTANCES, I THINK I'D STILL NEED TO
24 INSTRUCT THE JURY THAT THEY WOULD HAVE TO CONSIDER ANY
25 NON-STATUTORY MITIGATING CIRCUMSTANCES DO YOU AGREE?

STATE VS ALKEBULANYAHH

1 MR KELLY YES, SIR, WE AGREE

2 THE COURT MR ALKEBULANYAHH, I GIVE YOU THIS
3 FINAL OPPORTUNITY ALSO TO NOT MAKE ANY OUTBURSTS AND
4 PARTICIPATE IN THIS FINAL SEGMENT OF THE TRIAL SINCE
5 THERE WILL BE NO WITNESSES IS THAT SOMETHING YOU CAN
6 DO WITHOUT MAKING OUTBURSTS?

7 MR ALKEBULANYAHH NO SIR, YOUR HONOR

8 THE COURT ALL RIGHT I ADVISE YOU AGAINST THAT
9 BUT IF YOU CANNOT DO THAT WITHOUT MAKING OUTBURSTS,
10 OBVIOUSLY, I'M NOT LETTING THESE PROCEEDINGS
11 DETERIORATE IN THAT FASHION IT'S NOT GOING TO BE THAT
12 IN MY COURTROOM

13 SO I WILL CONTINUE TO KEEP YOU IN THAT BACK ROOM
14 I PREFER TO DO IT OTHERWISE BUT IF YOU CANNOT FIND IT
15 IN YOURSELF TO NOT MAKE THOSE OUTBURSTS I HAVE NO
16 RECOURSE BUT TO KEEP YOU BACK THERE DO YOU
17 UNDERSTAND?

18 MR ALKEBULANYAHH YES, SIR

19 THE COURT ALL RIGHT WE WILL TAKE A BREAK YOU
20 MAY RETURN -- DO YOU NEED A BREAK, TOO?

21 MR ALKEBULANYAHH I'M FINE

22 THE COURT IT COULD BE -- IT MIGHT BE A GOOD IDEA
23 TO GO AHEAD AND TAKE A BREAK NOW

24 GO AHEAD AND TAKE HIM ON A BREAK EVERYONE ELSE,
25 WE WILL TAKE A SHORT BREAK AND THEN WE WILL COME BACK

STATE VS ALKEBULANYAHH

1 AND TALK ABOUT THE INSTRUCTIONS I'LL JUST GET YOU
2 BACK THERE TO TALK ABOUT THE INSTRUCTIONS ALL RIGHT?
3 MR THORNTON THANK YOU
4 THE COURT IS THAT FINE WITH YOU?
5 MR ALKEBULANYAHH YES, SIR
6 THE COURT ALL RIGHT THANK YOU
7 MR MURDAUGH DID YOU WANT TO DO THAT NOW, SIR
8 OR TAKE A BREAK FIRST?
9 THE COURT WE CAN GO BACK AND DO THAT THAT'S
10 FINE THANK YOU
11 MR MURDAUGH OKAY
12 (PAUSE)
13 (THE FOLLOWING TAKES PLACE IN THE HEARING ROOM)
14 THE COURT THERE'S NO EXPERT DURING THIS PHASE,
15 RIGHT?
16 MR MURDAUGH NONE SIR
17 THE COURT I DON'T NEED TO TALK ABOUT THAT WE
18 JUST TALK A LITTLE BIT ABOUT WITNESSES AGAIN,
19 CREDIBILITY, ETCETERA DECISION TO NOT TESTIFY A
20 CHARGE ABOUT THAT TALK ABOUT PRIOR CONDUCT OR
21 MISCONDUCT AS BEING CONSIDERED AS CHARACTER OR
22 CHARACTERISTICS OF THE DEFENDANT NOT AS PROOF OF
23 STATUTORY AGGRAVATING CIRCUMSTANCES TALK ABOUT THE
24 DIFFERENT FORMS -- GO OVER THE FORMS
25 MR MURDAUGH YES, SIR I WOULD HAVE NO PROBLEM

STATE VS ALKEBULANYAHH

1 WITH THAT
2 THE COURT PARDON?
3 MR MURDAUGH AT SOME POINT I'D LIKE TO LOOK AT
4 THE FORM ---
5 THE COURT YES, SIR
6 MR MURDAUGH --- THAT WE WILL SUBMIT TO THE
7 JURY
8 THE COURT THE STATUTORY INSTRUCTIONS -- IF
9 THERE'S NOT GOING TO BE ANY MITIGATING CIRCUMSTANCES --
10 STATUTORY MITIGATING CIRCUMSTANCES, THEN THERE WILL BE
11 THAT FORM I SHOWED YOU I'M GOING TO DELETE THE
12 SENTENCE ABOUT CONSIDER ANY STATUTORY MITIGATING
13 CIRCUMSTANCES, AND I'LL JUST LEAVE THE FOLLOWING YOU
14 MAY ALSO CONSIDER ANY NON-STATUTORY MITIGATING
15 CIRCUMSTANCES
16 MR THORNTON YES, SIR
17 THE COURT AND THEN I WILL HAVE A FORM ON
18 AGGRAVATING CIRCUMSTANCES IF YOU ALL HAVE THIS BOOK,
19 YOU PRETTY MUCH CAN FOLLOW IT, EXCEPT I DO DO A LITTLE
20 BIT DIFFERENT THAN THE BOOK I DON'T THINK IT'S A
21 HUNDRED PERCENT CORRECT IN THAT BOOK I'LL EXPLAIN TO
22 YOU WHY
23 THE FORM OF THE BOOK ABOUT AGGRAVATING
24 CIRCUMSTANCES IS THE SAME WE, THE JURY, IN THE ABOVE-
25 ENTITLED CASE FIND BEYOND A REASONABLE DOUBT THE

STATE VS ALKEBULANYAHH

1 FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES -- A
2 PLACE FOR EVERYBODY TO SIGN

3 MR MURDAUGH YES SIR

4 THE COURT ALL RIGHT WHAT I DO A LITTLE
5 DIFFERENTLY -- BUT I THINK OTHER PEOPLE DO -- I DON'T
6 THINK IT'S IN THAT BOOK WE THE JURY ARE UNABLE TO
7 UNANIMOUSLY AGREE ON THE EXISTENCE OF THE AGGRAVATING
8 CIRCUMSTANCES

9 THAT -- IN WHAT I TELL THE JURY IS -- AND THIS IS
10 WHERE WE MAY OR MAY NOT BE DIFFERENT I DON'T KNOW
11 WHAT YOUR POSITION IS IF THEY SIGN THIS FORM -- IF
12 THEY SIGN THIS FORM THAT WE THE JURY ARE UNABLE TO
13 UNANIMOUSLY AGREE ON THE EXISTENCE OF AGGRAVATING
14 CIRCUMSTANCES THEY STOP THEY DON'T DELIBERATE ANY
15 FURTHER

16 MR MURDAUGH YES

17 MR THORNTON YES SIR

18 THE COURT THEY DO NOT MAKE A RECOMMENDATION TO
19 THE COURT PERIOD

20 MR THORNTON YES SIR

21 MR KELLY YES SIR

22 THE COURT ALL RIGHT DO YOU AGREE WITH THAT?

23 MR MURDAUGH I AGREE ABSOLUTELY, SIR

24 THE COURT OKAY SOME PEOPLE THINK THAT THAT
25 MEANS IT'S AN AUTOMATIC LIFE SENTENCE BUT UNDER THE

STATE VS ALKEBULANYAH

1 STATUTE IT JUST MEANS I SENTENCE AS I WOULD A NORMAL
2 MURDER CASE, WHICH WOULD INCLUDE A 30 YEAR SENTENCE
3 AND THEN THE REST OF THE FORMS I THINK ARE THE
4 SAME IN THE BOOK RECOMMENDATION OF DEATH SENTENCE,
5 WHERE THEY HAVE TO REPEAT THE AGGRAVATING CIRCUMSTANCE
6 OR CIRCUMSTANCES, AND SIGN IT
7 RECOMMENDATION OF LIFE SENTENCE WITH JUST THE
8 FOREPERSON'S SIGNATURE
9 MR MURDAUGH BUT WITH AN AGGRAVATING
10 CIRCUMSTANCE?
11 THE COURT WITH AN AGGRAVATING CIRCUMSTANCE, NO
12 I JUST DO ---
13 MR MURDAUGH OKAY
14 THE COURT SEE I JUST DO -- I JUST HAVE A
15 SEPARATE ---
16 MR MURDAUGH YES, SIR
17 THE COURT WHICH I THINK IT'S BETTER TO DO IT
18 THAT WAY, BECAUSE NO MATTER WHAT ---
19 MR MURDAUGH I DON'T DISAGREE
20 THE COURT --- THE JUDGE WOULD HAVE TO POLL THE
21 JURY ABOUT AGGRAVATING CIRCUMSTANCES
22 MR MURDAUGH I DON'T DISAGREE WITH THAT, SIR
23 THE COURT AND THE REST OF THE FORMS ARE JUST
24 AFTER-THE-FACT FORMS
25 SO THE BIG THING THAT I WOULD HAVE TO DO IS FIGURE

STATE VS ALKEBULANYAHH

1 OUT HOW TO CHANGE THIS, BECAUSE THERE ARE NO STATUTORY
2 MITIGATING CIRCUMSTANCES

3 YOU ALL CAN LOOK AT THOSE

4 ARE THERE ANY SPECIAL REQUESTS THAT YOU ALL HAVE?

5 (NO RESPONSE)

6 THE COURT I EXPLAIN THAT LIFE IMPRISONMENT MEANS
7 UNTIL DEATH, NO ELIGIBILITY FOR PAROLE, ETCETERA

8 PRETTY MUCH THE WHOLE CHARGE IS KIND OF GOING OVER
9 THOSE FORMS I'M TAKING THINGS OUT BECAUSE OF THE
10 MITIGATING CIRCUMSTANCES

11 I READ THE FORMS, GO OVER -- TELL THEM WHAT A
12 STATUTORY AGGRAVATING CIRCUMSTANCE IS, GENERALLY, A
13 FACT INCIDENT OR DETAIL, OR AN OCCURRENCE WHICH THE
14 GENERAL ASSEMBLY HAS DECLARED BY STATUTE WOULD MAKE
15 WORSE OR AGGRAVATE THE OFFENSE THAT'S PRETTY MUCH OUT
16 OF THAT BOOK

17 THEN I'M GOING TO HOLD UP THE FORM AND I'LL READ
18 OFF THE STATUTORY AGGRAVATING CIRCUMSTANCES FROM THAT
19 FORM

20 I WILL EMPHASIZE THAT THOSE ARE THE ONLY ONES THAT
21 THEY CAN CONSIDER IT MUST BE UNANIMOUS, BEYOND A
22 REASONABLE DOUBT, AT THE TIME OF THE OFFENSE ONE OR
23 MORE OF THOSE CIRCUMSTANCES, DEFINE REASONABLE DOUBT,
24 MANNING, HESITATE TO ACT THEN I SAY THE STATE MUST
25 PROVE THE EXISTENCE OF ONE OR MORE AGGRAVATING

STATE VS ALKEBULANYAHH

1 CIRCUMSTANCES BEYOND A REASONABLE DOUBT ASK THEM TO
2 PAY ATTENTION YOU ARE NEVER REQUIRED TO RECOMMEND THE
3 DEATH PENALTY, EVEN IF YOU FIND A STATUTORY AGGRAVATING
4 CIRCUMSTANCE EXISTED BUT JUST HAVE THEM SIGN IT ON THE
5 FORM THAT THEY DID FIND ONE OR MORE

6 THEN I EXPLAIN WHAT I JUST EXPLAINED TO YOU I
7 WOULD INSTRUCT YOU FURTHER, LADIES AND GENTLEMEN IF
8 YOU FIND THE STATE HAS NOT PROVEN THAT AN AGGRAVATING
9 CIRCUMSTANCE EXISTED -- THAT IS TO SAY YOU STILL HAVE A
10 REASONABLE DOUBT AS TO THE EXISTENCE OF SUCH A
11 REASONABLE DOUBT, YOU WOULD NOT BE AUTHORIZED TO
12 RECOMMEND THE DEATH PENALTY OR LIFE IMPRISONMENT

13 THIS SIMPLY MEANS THAT THE JURY DOES NOT
14 UNANIMOUSLY FIND THE EXISTENCE OF A STATUTORY
15 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT, THE
16 JURY SHALL NOT MAKE A SENTENCING RECOMMENDATION YOU
17 WOULD THEN SIGN THAT FORM AND THAT WILL BE PROVIDED TO
18 YOU IT SIMPLY STATES, THE JURY HAS BEEN UNABLE TO
19 UNANIMOUSLY AGREE UPON THE EXISTENCE OF ANY AGGRAVATING
20 CIRCUMSTANCE OR CIRCUMSTANCES AND THEY WOULD NOT GO
21 ON WITH THEIR DELIBERATIONS

22 IF THEY DO FIND AGGRAVATING CIRCUMSTANCE -- SHOULD
23 YOU THEN DECIDE AFTER CONSIDERING THE ELEMENTS AND
24 FAVOR A RECOMMENDATION OF LIFE IMPRISONMENT ABOUT WHICH
25 I WILL INSTRUCT YOU MOMENTARILY -- THAT THE

STATE VS ALKEBULANYAHH

1 RECOMMENDATION THAT THE DEFENDANT BE SENTENCED TO
2 DEATH, THEN I EXPLAIN TO THEM THEY ALL HAVE TO WRITE
3 THAT ON THERE, AND SIGN IT

4 AND THEN THE LIFE IMPRISONMENT FORM TELL THEM
5 THAT THE FOREPERSON ONLY HAS TO SIGN THAT FORM, SAY
6 IT'S LIFE IMPRISONMENT WITHOUT PAROLE

7 THEN I DISCUSS WITH THEM GENERALLY ABOUT -- AS I
8 PREVIOUSLY INSTRUCTED, IF YOU FIND THE EXISTENCE BEYOND
9 A REASONABLE DOUBT OF AT LEAST ONE STATUTORY
10 AGGRAVATING CIRCUMSTANCE, THEN YOU ARE PERMITTED BUT
11 NOT REQUIRED TO RECOMMEND THE DEATH PENALTY

12 YOU NEED TO CONSIDER THE FOLLOWING FIRST,
13 WHETHER THE EXISTENCE OF A STATUTORY MITIGATING
14 CIRCUMSTANCE IS SUPPORTED BY THE EVIDENCE SO YOU ALL
15 AGREE I COULD TAKE THAT OUT?

16 MR THORNTON YES SIR

17 MR KELLY YES

18 MR MURDAUGH YES

19 THE COURT ALL RIGHT IT WILL BE WHETHER THE
20 EXISTENCE OF ANY NON-STATUTORY MITIGATING CIRCUMSTANCE
21 WAS SUPPORTED BY THE EVIDENCE, AND WHETHER FOR ANY
22 REASON YOU CAN THINK OF OR FOR NO REASON AT ALL,
23 INCLUDING AN ACT OF MERCY, THE DEFENDANT SHOULD BE
24 SENTENCED TO LIFE IMPRISONMENT WITHOUT PAROLE

25 MR KELLY THAT'S FINE

STATE VS ALKEBULANYAHH

1 MR THORNTON YES, SIR

2 THE COURT THEN I SAY -- WELL, THEN I CAN TAKE

3 ALL THIS OUT WHAT IS A STATUTORY MITIGATING

4 CIRCUMSTANCE? I DON'T NEED TO DEFINE THAT OR ANYTHING?

5 MR KELLY NO, SIR

6 THE COURT DO YOU AGREE?

7 MR MURDAUGH NOT STATUTORY, NO, SIR

8 THE COURT ALL RIGHT TAKE OUT ALL THAT NON-

9 MITIGATING STUFF I MIGHT -- IN THE NON-MITIGATING

10 STUFF I GENERALLY SAY MITIGATING CIRCUMSTANCES, NEITHER

11 JUSTIFICATION OR EXCUSE FOR THE MURDER IT SIMPLY

12 LESSENS THE DEGREE OF ONE'S GUILT, THAT IS, MAKES HIM

13 LESS BLAMEWORTHY OR LESS CULPABLE

14 I MIGHT STILL GENERALLY SAY THAT

15 MR KELLY WE WOULD -- WE WOULD ASK YOU TO DO

16 THAT

17 THE COURT AND THEN SAY -- GO TO THE THING -- THE

18 FORM ALSO GOES ON TO SAY YOU MAY ALSO CONSIDER ANY

19 NON-STATUTORY MITIGATING CIRCUMSTANCES A NON-

20 STATUTORY MITIGATING CIRCUMSTANCE IS ONE WHICH IS NOT

21 PROVIDED BY STATUTE, BUT IS ONE WHICH THE DEFENDANT MAY

22 CLAIM SERVES THE SAME PURPOSE, THAT IS TO REDUCE THE

23 DEGREE OF GUILT -- THE DEGREE OF GUILT IN THE OFFENSE

24 MR KELLY YES, YOUR HONOR

25 THE COURT ALL RIGHT I'M TRYING TO TAKE ALL

STATE VS ALKEBULANYAHH

1 THIS STATUTORY STUFF OUT

2 WHILE THERE MUST BE SOME EVIDENCE WHICH SUPPORTS A
3 FINDING BY YOU THAT A NON-STATUTORY MITIGATING
4 CIRCUMSTANCE EXISTS, IT IS NOT NECESSARY FOR YOU TO
5 FIND THE EXISTENCE OF SUCH A CIRCUMSTANCE UNANIMOUSLY
6 NOR BEYOND A REASONABLE DOUBT ---

7 MR KELLY CORRECT

8 THE COURT NOW, IN REACHING YOUR DECISION AS TO
9 WHAT SENTENCE TO RECOMMEND, YOU WILL CONSIDER THE
10 AGGRAVATING AND MITIGATING CIRCUMSTANCES WHILE AN
11 AGGRAVATING CIRCUMSTANCE MUST BE FOUND BEFORE YOU CAN
12 EVEN CONSIDER RECOMMENDING THE DEATH PENALTY OR LIFE
13 IMPRISONMENT, ONCE SUCH A FINDING IS MADE BEYOND A
14 REASONABLE DOUBT YOU MAY RECOMMEND THE DEATH SENTENCE,
15 EVEN THOUGH YOU FIND THE EXISTENCE OF A -- OF A NON-
16 STATUTORY -- WOULD I SAY MITIGATING CIRCUMSTANCES OR
17 KEEP CALLING IT NON-STATUTORY MITIGATING CIRCUMSTANCE?

18 MR KELLY I THINK MITIGATING CIRCUMSTANCE -- AND
19 MAKE THAT CLEAR TO THEM THAT YOU ARE SPEAKING ONLY OF
20 NON-STATUTORY MITIGATING CIRCUMSTANCES OR CIRCUMSTANCES
21 THEY CONSIDER WOULD LESSEN THE DEGREE OF CULPABILITY OR
22 THE GUILT HOWEVER YOU WANT TO SAY THAT TO THEM

23 MR MURDAUGH EITHER ONE SUITS ME, SIR HOWEVER
24 THEY WANT IT, WITHIN REASON

25 THE COURT YOU MAY RECOMMEND THE DEATH SENTENCE

STATE VS ALKEBULANYAHH

1 EVEN THOUGH YOU FIND THE EXISTENCE OF SOME MITIGATING
2 CIRCUMSTANCE?

3 MR KELLY CORRECT WE LIKE THAT TO BE BALANCED
4 OUT WITH THAT THEY CAN RECOMMEND LIFE, JUST AS YOU ---
5 THE COURT WELL, YES, YES I THINK I HAVE THAT
6 IN HERE A COUPLE TIMES

7 MR KELLY BALANCE -- THEY'RE THERE TOGETHER,
8 THEY BALANCE ONE ANOTHER OUT THEY UNDERSTAND THAT
9 THEY CAN GIVE DEATH WHETHER THEY FIND SOMETHING
10 MITIGATING, OR THEY COULD GIVE LIFE EVEN THOUGH THEY
11 FIND AN AGGRAVATION

12 THE COURT I THINK I SAY THAT A COUPLE TIMES
13 THROUGHOUT HERE

14 MR KELLY AS LONG AS IT'S CLEAR TO THEM
15 THE COURT IN OTHER WORDS THE EXISTENCE OF AN
16 ALLEGED MITIGATING CIRCUMSTANCE IS NOT A BAR TO THE
17 IMPOSITION OF THE DEATH PENALTY NOW, I JUST WANT TO
18 MAKE SURE I'M CLEAR WHEN I SAID YOU WILL CONSIDER IN
19 MAKING YOUR DECISION, YOU WILL CONSIDER ALL THE
20 EVIDENCE IN THE CASE, INCLUDING AGGRAVATING AND
21 MITIGATING CIRCUMSTANCES

22 NOW, THE THIRD ELEMENT -- I'M GOING TO CHANGE
23 THAT (PAUSE) NOW, THE NEXT MATTER THAT YOU MAY
24 CONSIDER SHOULD YOU CONCLUDE THAT A STATUTORY
25 AGGRAVATING CIRCUMSTANCES EXIST, IS WHETHER THE

STATE VS ALKEBULANYAHH

1 DEFENDANT SHOULD BE SENTENCED TO LIFE IMPRISONMENT FOR
2 ANY REASON OR FOR NO REASON AT ALL THIS IS WHAT HAS
3 TRADITIONALLY BEEN REFERRED TO AS RECOMMENDATION OF
4 MERCY

5 IF SUCH BE YOUR DECISION, YOU WOULD SO INDICATE BY
6 RETURNING TO THE COURT A RECOMMENDATION OF LIFE
7 IMPRISONMENT FORM, WHICH ON THAT FORM I INDICATE ONLY
8 THE FOREPERSON WOULD NEED TO SIGN

9 IN OTHER WORDS, YOU MAY CHOOSE TO RECOMMEND LIFE
10 IMPRISONMENT IF YOU FIND A STATUTORY OR NON-STATUTORY
11 MITIGATING CIRCUMSTANCE -- TAKE THAT OUT DO YOU JUST
12 WANT TO SAY MITIGATING CIRCUMSTANCE?

13 MR KELLY YES YOUR HONOR

14 THE COURT IF YOU FIND A MITIGATING CIRCUMSTANCE,
15 OR YOU MAY CHOOSE TO RECOMMEND LIFE IMPRISONMENT AS AN
16 ACT OF MERCY, WHETHER OR NOT YOU FIND ANY MITIGATING
17 CIRCUMSTANCES

18 MR KELLY YES SIR

19 THE COURT SO I'M JUST GOING TO SUMMARIZE FOR YOU
20 THE FORMS YOU WILL HAVE IN THE JURY ROOM -- I'M JUST
21 READING FROM MY LAST DEATH PENALTY TRIAL

22 YOU WILL HAVE THE STATUTORY INSTRUCTION FORM,
23 THAT'S NOT AN ACTUAL VERDICT FORM YOU HAVE TO SIGN OR
24 ANYTHING

25 YOU'LL HAVE AN AGGRAVATING CIRCUMSTANCE FORM, IN

STATE VS ALKEBULANYAHH

1 WHICH YOU WOULD PUT WHETHER OR NOT YOU FIND ONE OR MORE
2 OF THE STATUTORY AGGRAVATING CIRCUMSTANCES EXIST

3 THEN YOU WILL HAVE THE FORM MARKED, UNABLE TO
4 AGREE ON ANY CIRCUMSTANCES -- ANY AGGRAVATING
5 CIRCUMSTANCES

6 AND THEN YOU WILL HAVE THE RECOMMENDATION AND
7 SENTENCE OF DEATH PENALTY OR RECOMMENDATION OF SENTENCE
8 OF LIFE IMPRISONMENT VERDICT FORMS

9 AS I WENT THROUGH THAT PROCESS, THE STATUTORY
10 INSTRUCTIONS WOULD BE THERE I WILL PUT THEM ON TOP
11 IT WOULD PROBABLY BE HELPFUL FOR YOU TO MAKE YOUR
12 DETERMINATION FIRST ABOUT WHETHER OR NOT THERE EXIST
13 ANY AGGRAVATING CIRCUMSTANCES MAKE A DETERMINATION
14 ABOUT THAT IF THERE ARE ONE OR MORE PUT ONE OR MORE
15 ON THERE FROM THOSE THAT YOU MAY CONSIDER ON THE
16 INSTRUCTION FORM AND THEN ALL OF YOU MUST SIGN THAT
17 FORM

18 IF THERE ARE NOT -- IF YOU FIND THAT THE STATE HAS
19 NOT PROVED ANY ONE OR MORE AGGRAVATING CIRCUMSTANCES,
20 THEN YOU WOULD MR FOREMAN, SIGN THIS FORM ON BEHALF
21 OF THE JURY THAT THEY ARE UNABLE TO UNANIMOUSLY AGREE
22 YOU WOULD STOP YOUR DELIBERATIONS AND JUST KNOCK ON THE
23 DOOR, YOU GO NO FURTHER

24 NOW, THE STATUTORY INSTRUCTIONS STATE -- I JUST
25 REMIND THEM, THOSE ARE THE ONLY ONES THEY CAN CONSIDER

STATE VS ALKEBULANYAHH

1 NOW, SHOULD YOU FIND BEYOND A REASONABLE DOUBT THE
2 EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE OR
3 CIRCUMSTANCES, YOU WOULD BE AUTHORIZED TO CONSIDER
4 RECOMMENDING THE DEATH PENALTY OR LIFE IMPRISONMENT
5 IN YOUR DELIBERATIONS, YOU WILL CONSIDER ANY
6 STATUTORY -- YOU WILL CONSIDER ANY MITIGATING
7 CIRCUMSTANCES WHICH ARE SUPPORTED BY THE EVIDENCE
8 YOU WILL CONSIDER ANY AGGRAVATING CIRCUMSTANCE OR
9 CIRCUMSTANCES YOU FOUND, AND THE MITIGATING
10 CIRCUMSTANCES AND YOU WILL THEN DECIDE WHETHER YOU
11 WILL RECOMMEND THE DEATH PENALTY OR LIFE IMPRISONMENT
12 WITHOUT PAROLE
13 AND YOU ALSO MAY CONSIDER ANY OTHER FACTOR IN
14 MITIGATION OR EXTENUATION OF THIS SENTENCE, AS WELL AS
15 RECOMMEND LIFE IMPRISONMENT FOR NO REASON AT ALL
16 NOW AGAIN IF YOU DECIDE TO RECOMMEND THE DEATH
17 PENALTY, YOU WOULD COMPLETE THE PROPER FORM AND YOU
18 MUST SIGN THAT -- SIGN ON THERE THAT -- WRITE ON THERE
19 THAT THE AGGRAVATING CIRCUMSTANCE YOU FOUND AND YOU
20 MUST ALL SIGN THAT FORM IF YOU DECIDE TO -- I JUST
21 REPEAT THAT I DON'T EVEN KNOW IF I NEED TO REPEAT
22 THAT I'M GOING TO TAKE THAT OUT
23 MR KELLY THAT'S FINE
24 THE COURT I DON'T NEED TO DO THAT AGAIN
25 WHATEVER YOUR RECOMMENDATION IS LADIES AND

STATE VS ALKEBULANYAHH

1 GENTLEMEN, IT MUST BE UNANIMOUS IT MUST BE THE
2 VERDICT OF EACH AND EVERY JUROR

3 NOW, PLEASE REMEMBER YOUR SENTENCING
4 RECOMMENDATION WILL BE FOLLOWED BY THE COURT

5 NOW, IN CONCLUSION, I JUST TELL YOU IN CONSIDERING
6 WHETHER TO RECOMMEND THAT THE DEFENDANT BE SENTENCED TO
7 LIFE -- TO DEATH OR TO LIFE IMPRISONMENT I WOULD
8 CHARGE YOU THAT AS JURORS YOU MUST DECIDE THE ISSUE
9 INVOLVED IN THIS PROCEEDING WITHOUT ANY BIAS, WITHOUT
10 ANY PREJUDICE TO ANY PARTY

11 YOU'VE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS,
12 SWORN TO IMPARTIALLY TRY AND DETERMINE THE FACTS OF
13 THIS CASE WHEN YOU COMPLY WITH YOUR OATH TO DO SO,
14 THEN NO ONE WILL HAVE A RIGHT TO CRITICIZE YOUR
15 VERDICT, AND YOU WILL HAVE FULLY DISCHARGED YOUR DUTY
16 AS JURORS

17 YOU ARE TO DECIDE THIS CASE ACCORDING TO THE
18 TESTIMONY AND THE EVIDENCE PRESENTED IN THIS CASE

19 LISTEN TO THE VIEWS OF EACH JUROR AS YOU ARE IN
20 THE JURY ROOM LET EVERYONE SPEAK TO ADDRESS ANY
21 COMMENTS OR CONCERNS OF OTHER JURORS

22 NOW, YOU CANNOT ALLOW YOURSELF, AS I INDICATED, TO
23 BE GOVERNED BY AN BIAS, PREJUDICE, OR BY PUBLIC
24 OPINION

25 BOTH THE STATE AND THE DEFENDANT HAVE THE RIGHT TO

STATE VS ALKEBULANYAHH

1 EXPECT THAT EACH OF YOU WILL CAREFULLY AND IMPARTIALLY
2 CONSIDER ALL OF THE EVIDENCE IN THIS CASE, AND YOU WILL
3 FOLLOW THE LAW AS I HAVE EXPLAINED IT TO YOU

4 I ALSO TELL -- I WILL ALSO INSTRUCT THE JURY ON
5 THE DEFENDANT'S -- I ALREADY SAID THAT -- FAILURE TO
6 TESTIFY IF HE DOESN'T TESTIFY

7 I WON'T USE THE WORD FAILURE

8 IS THERE ANYTHING THAT YOU CAN THINK OF?

9 MR MURDAUGH NO, SIR I THINK THAT COVERS IT

10 MR KELLY YOUR HONOR, MAY WE INQUIRE IF THE JURY
11 SHOULD DURING THEIR DELIBERATIONS COME BACK AND SAY, WE
12 CAN'T DECIDE ON THE PENALTY -- THEY SHOULD SEND OUT
13 THAT MESSAGE, HOW WOULD YOU REACT TO THAT?

14 THE COURT IT DEPENDS ON HOW SOON IT WAS I
15 MEAN, IF THAT'S 30 MINUTES I WOULD TELL THEM TO GO
16 BACK AND DELIBERATE OR I WOULD CONSIDER AN ALLEN CHARGE
17 OR SOMETHING I KNOW THE STATUTE SAYS REASONABLE
18 DELIBERATION IS THAT WHAT YOU'RE REFERRING TO?

19 MR KELLY YES, SIR, THAT'S REALLY WHAT I'M
20 ASKING YOU IF IT WERE AFTER SEVERAL HOURS HOW WOULD
21 YOU ---

22 THE COURT I'M NOT SURE I'D HAVE TO HEAR YOU
23 BOTH OUT ON THAT

24 MR KELLY NOT THAT -- THAT MAY NOT HAPPEN I'M
25 JUST WONDERING

STATE VS ALKEBULANYAHH

1 THE COURT I JUST -- IN THE CONTEXT OF THIS CASE
2 I HAVEN'T THOUGHT WHAT I THINK A REASONABLE PERIOD OF
3 TIME WAS BUT I'D PREFER TO HEAR EVERYONE OUT ON THAT
4 IT MIGHT BE THAT YOU BOTH AGREE THAT IT'S BEEN A
5 REASONABLE PERIOD OF TIME

6 MR KELLY YES, SIR

7 THE COURT SO THAT MAKES IT EASIER FOR THE COURT

8 MR KELLY YES, SIR, I UNDERSTAND

9 THE COURT BUT I DON'T THINK AN HOUR OR TWO -- I
10 DON'T THINK I'D DO IT AFTER AN HOUR OR TWO

11 MR KELLY YOUR HONOR WE WOULD LIKE ALSO A
12 CHARGE THAT THERE SHOULD BE -- THAT THE JURY SHOULD NOT
13 ATTACH ANY SIGNIFICANCE TO THE CLIENT NOT BEING
14 PRESENT

15 THE COURT OH, I HAVE THAT WRITTEN DOWN

16 MR KELLY OR ---

17 THE COURT YOU'RE RIGHT

18 MR KELLY REMIND THEM OF YOUR CHARGE OF THE --
19 FOR LACK OF A BETTER TERM OUTBURSTS

20 THE COURT YES, I'LL DO THAT

21 MR KELLY DISRUPTION OF THE COURTROOM

22 THE COURT WHEN I TALK TO THEM ABOUT THE DECISION
23 NOT TO TESTIFY, I'LL DO IT THEN

24 MR KELLY ALL RIGHT SIR THAT WILL BE FINE

25 MR MURDAUGH JUDGE

STATE VS ALKEBULANYAHH

1 THE COURT I'M GLAD YOU REMINDED ME I WAS GOING
2 TO DO THAT

3 MR MURDAUGH IN -- EXCUSE ME I DIDN'T MEAN TO
4 INTERRUPT

5 THE COURT GO AHEAD

6 MR MURDAUGH IN REGARD TO HIS OUTBURSTS,
7 SHOULDN'T THAT BE SOMETHING THAT THE JURY CAN CONSIDER?
8 IT'S SOMETHING THAT HAPPENED IN THE COURTROOM

9 THE COURT NO IT'S OUTBURSTS FOR RELIGIOUS
10 STATEMENT

11 MR MURDAUGH YOU'RE RIGHT IT'S NOT
12 SIGNIFICANT

13 THE COURT I JUST DON'T ---

14 MR MURDAUGH I HAVE NO PROBLEM WITH THAT THANK
15 YOU

16 THE COURT I WAS GOING TO SAY JUST OUTBURST IN
17 GENERAL BECAUSE WHEN WE GOT THE VERDICT BACK PEOPLE
18 GASPED TOO, SO

19 MR MURDAUGH I HAVE NO PROBLEM WITH THAT ON
20 SECOND THOUGHT IF HE'D HAVE JUMPED UP AND CONFESSED
21 OR THREATENED SOMEBODY, I MAY HAVE HAD A DIFFERENT --
22 BUT YOU'RE CORRECT

23 MR KELLY WE HAVE NO OBJECTION TO THE SOLICITOR
24 REFERRING TO IT

25 MR MURDAUGH NO, PROBABLY WON'T

STATE VS ALKEBULANYAHH

1 THE COURT I DON'T THINK HE SHOULD
2 (PAUSE)
3 THE COURT I SAY, LADIES AND GENTLEMEN, AS I'VE
4 PREVIOUSLY INSTRUCTED YOU, YOU MUST NOT CONSIDER ANY
5 OUTBURSTS IN THE COURSE OF THESE SENTENCING
6 PROCEEDINGS IN ADDITION, THE FACT THAT THE DEFENDANT
7 WAS NOT SEATED AT THE DEFENSE TABLE FOR PART OF THESE
8 PROCEEDINGS SHOULD NOT BE CONSIDERED BY YOU IN ANY WAY,
9 AND SPECIFICALLY NO ADVERSE INFERENCES MAY BE DRAWN
10 FROM THIS FACT IS THAT SUFFICIENT?
11 MR KELLY THAT'S FINE
12 MR MURDAUGH NO OBJECTION
13 THE COURT ALL RIGHT YOU ALL GO AHEAD AND TAKE
14 YOUR BREAK
15 MR THORNTON THANK YOU, YOUR HONOR
16 MR KELLY YOUR HONOR, WE HAVE NO OBJECTION TO
17 THESE FORMS
18 THE COURT NO OBJECTION FROM THE STATE?
19 MR MURDAUGH NO SIR
20 THE COURT I GUESS THEORETICALLY, I NEED TO ASK
21 YOU WILL THERE BE ANYTHING FURTHER, AND THEN ---
22 MR KELLY NO YOUR HONOR, THERE WILL BE NOTHING
23 FURTHER
24 THE COURT OKAY WELL I MEANT WHEN WE GET IN
25 THERE IN FRONT OF THE JURY

STATE VS ALKEBULANYAHH

1 MR KELLY YES I THINK -- THAT WILL BE FINE
2 THE COURT ALL RIGHT
3 MR THORNTON THANK YOU, YOUR HONOR
4 MR KELLY THANK YOU, SIR
5 (END OF IN CAMERA HEARING)
6 (A RECESS WAS TAKEN)
7 THE COURT ALL RIGHT THAT'S ENOUGH FOR THE
8 CAMERAS, PLEASE
9 READY TO PROCEED?
10 MR STONE THE STATE IS READY, YOUR HONOR
11 THE COURT IS THE DEFENSE READY?
12 MR KELLY YES, YOUR HONOR I WOULD INQUIRE
13 SINCE WE'RE GOING TO BE ADDRESSING THE JURY, SHOULD WE
14 TURN THIS PODIUM SO THAT IT FACES ---
15 THE COURT YES SIR I PREFER THAT YOU BOTH
16 SPEAK FROM -- YOU'LL HAVE TO BOTH SPEAK FROM THE
17 LECTERN SO THAT EVERYONE CAN HEAR
18 MR STONE YOUR HONOR WE HAVE A -- WE HAVE A
19 MICROPHONE HERE THAT HAS BEEN DIFFERENT FROM THE OTHER
20 STUFF THAT WE'VE HAD
21 THE COURT JUST RIGHT THERE FROM THE LECTERN,
22 PLEASE
23 MR STONE I DON'T KNOW IF WE CAN TURN IT
24 THE COURT YEAH, IT WILL TURN THEY MOVED IT THE
25 OTHER DAY, THE FIRST WEEK

STATE VS ALKEBULANYAHH

1 (PAUSE)
2 THE COURT YOU ALL CAN TAKE YOUR SEATS
3 HOLD ON, MR HOFFMAN
4 (PAUSE)
5 THE COURT LET THE RECORD REFLECT THAT WE DOUBLE-
6 CHECKED AGAIN TO MAKE SURE THAT THE DEFENDANT WAS
7 CAPABLE OF HEARING THE PROCEEDINGS
8 ALL RIGHT BRING THE JURY IN PLEASE
9 (THE JURY RETURNS TO THE COURTROOM AT 10 20 A M)
10 THE COURT THANK YOU PLEASE BE SEATED
11 ALL RIGHT THOSE IN THE SECURITY, ONCE SOMEONE
12 COMES IN, I WOULD LIKE THAT EVERYONE STAY IN THEIR
13 SEATS UNTIL WE TAKE A BREAK PLEASE DO NOT ALLOW
14 PEOPLE TO LEAVE THE COURTROOM DURING THESE ARGUMENTS
15 I DON'T WANT ANYONE DISTRACTED DURING THE ARGUMENTS
16 PEOPLE ARE WELCOME TO COME IN BUT ONCE THEY COME
17 IN, PLEASE HAVE THEM REMAIN IN THEIR SEATS UNTIL WE
18 TAKE A BREAK
19 ALL RIGHT LADIES AND GENTLEMEN, THAT COMPLETES
20 -- WILL THERE BE ANYTHING FURTHER?
21 MR KELLY NO, YOUR HONOR
22 THE COURT ALL RIGHT THAT COMPLETES
23 PRESENTATION OF THE TESTIMONY AND EVIDENCE DURING THIS
24 PHASE OF THE TRIAL AS I INDICATED AT THIS POINT, NOW
25 YOU'LL HEAR THE CONCLUDING ARGUMENTS

STATE VS ALKEBULANYAHH

1 ONCE THOSE CONCLUDING ARGUMENTS HAVE BEEN MADE, I
2 WILL THEN INSTRUCT YOU ABOUT THE APPLICABLE LAW

3 ONCE I HAVE COMPLETED THAT TASK I WILL RELEASE
4 YOU TO BEGIN YOUR DELIBERATIONS IN THE PENALTY PHASE OF
5 THIS CASE

6 ALL RIGHT GO AHEAD, PLEASE

7 MR STONE PLEASE THE COURT, YOUR HONOR

8 THE COURT YES, SIR

9 CLOSING ARGUMENTS BY MR. STONE ON BEHALF OF THE STATE.

10 IT'S BEEN ABOUT TWO AND A HALF WEEKS IT'S BEEN A
11 VERY LONG TWO AND A HALF WEEKS TWO AND A HALF WEEKS
12 AGO, EACH AND EVERY ONE OF YOU WERE ASKED A SINGLE
13 QUESTION IF THE CASE WERE BAD ENOUGH, KNOWING ALL
14 ABOUT THE FACTS KNOWING ALL ABOUT THE DEFENDANT COULD
15 YOU GIVE THE DEATH PENALTY?

16 EACH OF YOU WERE ASKED THAT AND EACH OF YOU SAID
17 YOU COULD NOW IS THE TIME THAT YOU MAKE THAT
18 DECISION NOW IS THE TIME THAT YOU GO BACK TO YOUR
19 JURY ROOM AND YOU ANSWER THE SINGLE QUESTION IS THIS
20 CASE BAD ENOUGH?

21 NOW, YOU'VE LISTENED TO A LOT OF TESTIMONY AND
22 YOU'VE HEARD A LOT OF EVIDENCE THAT YOU DIDN'T HEAR IN
23 THE GUILT PHASE AND I WANT TO GO BACK OVER IT VERY
24 BRIEFLY BECAUSE I KNOW YOU'VE LIVED IT BUT IT'S VERY
25 IMPORTANT

STATE VS ALKEBULANYAHH

1 YOUR DECISION TODAY IS NO DIFFERENT THAN YOUR
2 DECISION WAS TWO YEAR -- TWO DAYS AGO YOUR VERDICT
3 SPEAKS THE TRUTH YOUR VERDICT SPOKE THE TRUTH TWO
4 DAYS AGO, AND YOUR VERDICT WILL SPEAK THE TRUTH TODAY
5 TO THE SINGLE QUESTION WAS THIS BAD ENOUGH?

6 I WANT TO FIRST TALK ABOUT WHAT HAPPENED ON
7 JANUARY 8 ON JANUARY 8 TYREE ROBERTS WENT TO WAR
8 HE WENT TO WAR WITH DANA TATE HE WENT TO WAR WITH
9 DYKE COURSEN AND I DON'T SAY THAT LIGHTLY BUT THERE
10 WAS A POINT THAT WASN'T BROUGHT OUT IN THE LAST TRIAL
11 THAT I THINK IS IMPORTANT

12 YOU'VE SEEN THE MODEL YOU'VE SEEN HOW IT
13 HAPPENED BUT I WANT YOU TO THINK ABOUT SOMETHING
14 ELSE YOU'RE LOOKING AT THE BACK OF THAT MODEL RIGHT
15 NOW YOU'RE LOOKING AT THE BACK OF THE TRAILER AND I
16 WANT YOU TO THINK ABOUT SOMETHING

17 DANA TATE ARRIVED AT 21 RILEY ROAD AT 4 17 P M
18 DO YOU REMEMBER THE 9-1-1 TAPE? DO YOU REMEMBER HOW
19 LONG IT WAS, HOW LONG IT WAS BETWEEN DANA TATE ARRIVING
20 AND GETTING THE CALL ON 9-1-1 THAT SHOTS HAD BEEN
21 FIRED? THE CALL CAME IN AT 4 39, 22 MINUTES LATER

22 MURDER IS THE UNLAWFUL KILLING OF ANOTHER WITH
23 MALICE AND MALICE IS SOMETHING THAT YOU HAVE IN YOUR
24 HEART AND IN YOUR MIND, AND YOU HAVE IT BEFORE YOU DO
25 THE ACT

STATE VS ALKEBULANYAHH

1 DANA TATE WAS STANDING OUTSIDE OF THE TRAILER, ON
2 THE OTHER SIDE OF THE TRAILER FROM WHERE YOU ARE RIGHT
3 NOW AND THERE'S A BACK PORCH A BACK PORCH THAT
4 THERE'S NO EVIDENCE DANA TATE KNEW ABOUT

5 AND FOR 22 MINUTES BEFORE THE 9-1-1 CALL, 20 OF
6 THAT WAS SPENT WHILE DANA TATE AND DYKE COURSEN WERE
7 TRYING TO FIGURE OUT WHO TO HELP THAT'S NOT THE
8 QUESTION YOU NEED TO ANSWER

9 THE QUESTION IS IN THOSE 20 MINUTES WHAT WAS
10 TYREE ALPHONZO ROBERTS DOING? WHAT WAS ALKEBULANYAHH
11 DOING? HE WAS PREPARING HE WAS TAKING THIS GUN,
12 THESE BULLETS, THIS MAGAZINE THAT HOLDS 30 BULLETS
13 LOOK AT THESE BULLETS, STEEL-JACKETED BULLETS

14 DANA TATE AND DYKE COURSEN NEVER HAD A CHANCE
15 HE WAS STRAPPING ON THIS FANNY PACK SO IT COULD
16 HOLD SOME MORE BULLETS IN CASE HE NEEDED IT AGAIN AND
17 HE STRAPPED IT ON TO PREPARE FOR WAR

18 THERE WAS A BACK DOOR HE COULD HAVE WALKED OUT OF
19 IF HE WAS SCARED OF SEEING THE POLICE HE DIDN'T DO
20 THAT HE WAS PREPARING TO KILL THAT'S MALICE, AND
21 THAT'S WHAT HE DID ON JANUARY 8 HE WAS PREPARING TO
22 KILL

23 I DON'T KNOW WHAT YOU CALL A WAR LIKE THIS ONE I
24 DON'T KNOW WHAT YOU CALL A BATTLE THAT TYREE ROBERTS
25 WAGES LIKE THIS, BECAUSE THIS IS A LITTLE DIFFERENT

STATE VS ALKEBULANYAHH

1 THAN A NORMAL WAR YOU KNOW WHAT'S DIFFERENT? IN WAR,
2 YOU TELL THE OTHER SIDE YOU ALWAYS TELL THE OTHER
3 SIDE YOU ALWAYS GIVE THEM AN OPPORTUNITY TO PREPARE
4 THEMSELVES

5 HOW PREPARED WAS DYKE COURSEN WHEN HE OPENED THAT
6 CLOSET DOOR? THIS PREPARED HE DIDN'T EVEN SNAP THE
7 SNAP OFF OF THE GUN HE WAS ARMED, LADIES AND
8 GENTLEMEN, WITH A FLASHLIGHT THIS IS WHAT DYKE
9 COURSEN BROUGHT TO TYREE ROBERTS' WAR, A FLASHLIGHT
10 THAT'S ALL HE HAD WHY? BECAUSE TYREE'S WAR ISN'T A
11 NORMAL WAR TYREE'S WAR DOESN'T TELL THE OTHER SIDE TO
12 GET PREPARED TO DIE HE NEVER GAVE HIM AN OPPORTUNITY
13 THE ONLY ---

14 THE COURT HOLD -- HOLD ON A SECOND
15 MR STONE --- POSITIVE THING WE CAN SAY ---
16 THE COURT HOLD ON A SECOND
17 CAN YOU NOT HEAR? CAN YOU NOT HEAR?

18 (THE DEFENDANT NODS HIS HEAD FROM BACK ROOM)

19 THE COURT ALL RIGHT COUNSEL, CAN YOU GO TO
20 SEE SORRY HOLD ON JUST ONE SECOND MR THORNTON,
21 YOU CAN STAY BACK THERE

22 MR THORNTON YES, YOUR HONOR

23 THE COURT THANK YOU

24 (MR THORNTON GOES TO BACK ROOM TO CONFER WITH THE
25 DEFENDANT)

STATE VS ALKEBULANYAHH

1 MR KELLY YOUR HONOR, MAY WE APPROACH?

2 THE COURT YES SIR

3 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD,
4 OUT OF THE HEARING OF THE JURY)

5 (PAUSE)

6 (MR THORNTON RETURNS TO THE COURTROOM)

7 MR THORNTON YOUR HONOR, MAY WE APPROACH SIDE
8 BAR?

9 THE COURT YES, SIR

10 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD,
11 OUT OF THE HEARING OF THE JURY)

12 THE COURT YOU MAY PROCEED

13 CLOSING ARGUMENTS CONTINUED BY MR STONE ON BEHALF OF
14 THE STATE.

15 THE ONLY THING POSITIVE WE CAN SAY ABOUT THE WHOLE
16 SITUATION IN 21 RILEY ROAD IS THAT DYKE COURSEN
17 PROBABLY DIDN'T KNOW WHAT HAPPENED THE FIRST SHOT
18 WENT TO HIS HEAD WE GIVE OUR POLICEMEN BULLETPROOF
19 VESTS, BUT THEY DON'T STOP THAT AND THAT'S THE ONLY
20 THING POSITIVE THAT CAN SAY ABOUT THAT

21 OFFICER YOUR HONOR, THEY CAN'T HEAR

22 MR STONE WE KNOW, LADIES AND GENTLEMEN ---

23 THE COURT MR STONE I APOLOGIZE, BUT THEY CAN'T
24 HEAR THANK YOU

25 MR STONE WE KNOW HOW IT HAPPENED INSIDE RILEY

STATE VS ALKEBULANYAHH

1 ROAD ALKEBULANYAHH COMES OUT OF THE CLOSET HE
2 SHOTS DYKE COURSEN THE SHOTS THAT YOU SEE THAT ARE
3 YELLOW COMING OUT OF THE CLOSET, THE ONES THAT MISSED,
4 NOT THE ONES THAT WENT IN HIM AND THEN HE MOVED
5 AROUND AND HE KEPT SHOOTING

6 I SAID EARLIER THAT HE COULD HAVE GONE OUT THE
7 BACK DOOR HE COULD HAVE GONE OUT WHEN HE KNEW THE
8 POLICE WERE OUT IN THE FRONT YARD THAT WASN'T HIS
9 ONLY OPPORTUNITY TO RUN IT WASN'T HIS ONLY
10 OPPORTUNITY TO PREVENT THE UNNECESSARY KILLING OF TWO
11 PEOPLE, BECAUSE WHEN HE CAME OUT OF THAT CLOSET AND HE
12 KEPT FIRING LOOK AT WHICH WAY HE WENT

13 HE CAME OUT OF THE CLOSET RIGHT HERE WHERE'S THE
14 DOOR? RIGHT HERE HE COULD HAVE KEPT FIRING AND RAN
15 OUT THE BACK DOOR, BUT THAT'S NOT WHAT HE DID NO,
16 SIR, NO, MA'AM

17 HE WALKED HERE SO HE COULD GET SOME GOOD SHOTS AT
18 OFFICER TATE WHO HAD ALREADY PROBABLY AT THAT POINT
19 BEEN HIT AND YOU CAN SEE HOW MANY OF THOSE SHOTS ARE
20 GOING DOWN

21 WHY IS HE SHOOTING DOWN? BECAUSE OFFICER TATE IS
22 ALREADY DOWN, TRYING HIS BEST TO PUT ENOUGH PRESSURE ON
23 THE GUN TO DEFEND HIMSELF AND HE COULDN'T EVEN PUT
24 ENOUGH PRESSURE ON THE GUN TO KICK OUT THE CASING

25 ALKEBULANYAHH WENT TO WAR ON JANUARY 8 HE DIDN'T

STATE VS ALKEBULANYAHH

1 TELL DANA TATE AND HE DIDN'T TELL DYKE COURSEN
2 COULDN'T CALL IT AN AMBUSH IT WAS MORE THAN THAT
3 YOUR FIRST DECISION BACK IN YOUR JURY ROOM WILL BE
4 WHETHER OR NOT THERE'S AGGRAVATING CIRCUMSTANCES YOU
5 HAVE TO DETERMINE THAT BEYOND A REASONABLE DOUBT
6 THE AGGRAVATING CIRCUMSTANCES IN THIS CASE ARE
7 THREE THAT DANA TATE WAS A POLICE OFFICER ACTING AS A
8 POLICE OFFICER WHEN HE WAS MURDERED, THAT DYKE COURSEN
9 WAS A POLICE OFFICER ACTING IN THE COURSE OF BEING A
10 POLICE OFFICER WHEN HE WAS MURDERED, AND THAT DANA TATE
11 AND DYKE COURSEN WERE BOTH MURDERED IN THE SAME COURSE
12 OF CONDUCT YOUR VERDICT TWO DAYS AGO ANSWERS THOSE
13 QUESTIONS BUT YOU MUST DO IT AGAIN
14 THE DECISIONS THAT YOU HAVE IS NOT BASED STRICTLY
15 ON THE CIRCUMSTANCES OF THIS CRIME ALTHOUGH I WOULD
16 SUBMIT TO YOU IF THE QUESTION IS, IS THE CASE BAD
17 ENOUGH, WE COULD STOP NOW BUT LET'S DON'T, BECAUSE IN
18 A NORMAL TRIAL, YOU DON'T GET TO LEARN EVERYTHING THAT
19 YOU LEARNED IN THIS CASE YOU GET TO LEARN SOME MORE
20 STUFF
21 YOU GET TO LEARN ABOUT THE DEFENDANT YOU GET TO
22 LEARN ABOUT THE DEFENDANT WHO AT THIS POINT IS NO
23 LONGER PRESUMED INNOCENT HE IS A MURDERER, AND YOU
24 GET TO LEARN ABOUT HIM
25 YOUR DECISION IS WHETHER OR NOT THIS CASE IS BAD

STATE VS ALKEBULANYAHH

1 ENOUGH OR HE GETS LIFE IN PRISON LADIES AND
2 GENTLEMEN, I SUBMIT TO YOU HE'S ALREADY HAD LIFE IN
3 PRISON

4 THE BLUE TIME IS HOW LONG HE SPENT HIS ENTIRE
5 ADULT LIFE IN PRISON AT AGE 18, HIS FIRST ARMED
6 ROBBERY, AT AGE 25, HIS SECOND AND THINK ABOUT THE
7 FIRST ARMED ROBBERY A MINUTE A MAN WITH A SHOTGUN TO
8 THE BACK OF HIS HEAD WHILE THEY WERE TRYING TO DRIVE A
9 STICK SHIFT, JERKING THE CAR BACK AND FORTH CAN YOU
10 IMAGINE HOW HE FELT? HE FELT AFRAID ENOUGH TO JUMP OUT
11 OF THE CAR

12 THE SECOND ARMED ROBBERY OF SOMEONE HE KNEW, AT
13 AGE 25

14 SELLING DRUGS IN BEAUFORT BY THE AGE OF 35

15 AND BY THE AGE OF 40 HAD BEAT A NEIGHBOR'S CHILD
16 WITH A BELT SO MUCH THAT YOU SAW THE PICTURES, AND
17 CAPPED IT OFF WITH THE MURDER OF TWO POLICE OFFICERS
18 THAT IS THE LIFE OF ALKEBULANYAHH

19 AND OF THIS TIME IN PRISON HOW DID HE DO? HOW
20 DID HE DO? HOW WELL DID HE ADJUST TO LIFE BEHIND BARS?
21 13 DISCIPLINARY INFRACTIONS IN THE STATE OF FLORIDA 64
22 -- 66 IN THE STATE OF GEORGIA HE ONLY HAD 5, I
23 BELIEVE IN SOUTH CAROLINA, BUT HE WASN'T THERE BUT 13
24 MONTHS

25 AND THE DEFENSE ATTORNEY ASKED THE QUESTION HE

STATE VS ALKEBULANYAHH

1 DIDN'T HURT ANYBODY WHEN HE WAS IN PRISON, DID HE?
2 WELL, THE KID WITH THE BROKEN JAW PROBABLY WOULD
3 DISAGREE WITH THAT, THE CORRECTIONAL OFFICERS THAT HAD
4 TO PUT UP WITH HIM AND LISTEN TO HIS THREATS AND HIS
5 LANGUAGE AND HIS ACTIONS, AND THE PRISON PERSONNEL THAT
6 HAD TO TRY TO CONTAIN THIS MAN AND TELL HIM WHAT TO DO
7 AND LET'S THINK A MINUTE ABOUT WHAT GENERAL
8 POPULATION IN THE DEPARTMENT OF CORRECTIONS IS LIKE,
9 BECAUSE YOU HEARD EVIDENCE ABOUT THAT, TOO THEY GET
10 UP IN THE MORNING, THEY'RE FED THEY GET RECREATION
11 TIME
12 THEY'RE CONTAINED THEY HAVE TO STAY INSIDE, BUT
13 THEY HAVE KEYS TO THEIR OWN CELLS THEY GET TO VISIT
14 WITH FAMILY 7 AND 8 TIMES A MONTH
15 HOW MUCH VISITING WITH FAMILY DO YOU THINK DANA
16 TATE AND DYKE COURSEN ARE GOING TO DO?
17 GENERAL POPULATION SOUNDS AN AWFUL LOT LIKE
18 MILITARY SCHOOL IT SOUNDS AN AWFUL LOT LIKE MILITARY
19 SCHOOL AND HOW WELL DID HE DO? HOW WELL DID HE DO?
20 THE COURT LET ME STOP YOU FOR A SECOND
21 COUNSEL, WILL YOU PLEASE GO BACK THERE AND FIND
22 OUT WHAT IS GOING ON BRING MR ALKEBULANYAHH OUT
23 HERE I'M SORRY BRING HIM OUT
24 (THE DEFENDANT ENTERS THE COURTROOM)
25 MR KELLY YOUR HONOR MAY WE APPROACH?

STATE VS ALKEBULANYAHH

1 THE COURT YES SIR

2 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD
3 OUT OF THE HEARING OF THE JURY)

4 THE COURT LADIES AND GENTLEMEN LET ME SEND YOU
5 TO THE JURY ROOM DO NOT DISCUSS THIS IN ANY WAY

6 (THE JURY EXITS THE COURTROOM AT 10 41 A M)

7 (A SIDE BAR CONFERENCE WAS HELD OFF THE RECORD
8 WITH THE ATTORNEYS THE DEFENDANT AND THE COURT)

9 THE COURT LET THE RECORD REFLECT THAT MR
10 ALKEBULANYAHH OBJECTED TO SOMEONE BEING REMOVED FROM
11 THE COURTROOM ALSO THE COURT OFFERED TO HAVE COUNSEL
12 WITH MR ALKEBULANYAHH IN HIS ROOM HE DECLINED IS
13 THAT CORRECT, MR ALKEBULANYAHH?

14 MR ALKEBULANYAHH YES SIR

15 THE COURT THE COURT ALSO OFFERED MR
16 ALKEBULANYAHH ANOTHER OPPORTUNITY TO SIT AT THE TABLE
17 WITH STAND-BY COUNSEL AND AGAIN HE DECLINED IS THAT
18 CORRECT?

19 MR ALKEBULANYAHH YES SIR

20 THE COURT NOW DO YOU WISH STAND-BY COUNSEL TO
21 CONTINUE ASSISTING IN THIS PART OF THE PROCEEDING OR
22 NOT?

23 MR ALKEBULANYAHH YES SIR

24 THE COURT ALL RIGHT THEN I'M GOING TO -- IF
25 YOU'RE NOT -- IF YOU'RE GOING TO BE UNRULY IN ANY WAY,

STATE VS ALKEBULANYAHH

1 I'M GOING TO PUT YOU BACK IN THERE CAN YOU NOT BE
2 UNRULY?

3 MR ALKEBULANYAHH I'M -- I -- I WOULD -- I WOULD
4 PREFER TO REMAIN BACK THERE BUT I WOULD ASK THE COURT
5 TO DIRECTION THE PEOPLE TO NOT REMOVE PEOPLE ---

6 THE COURT YEAH ANYONE ELSE THAT'S IN THE
7 COURTROOM ---

8 MR ALKEBULANYAHH --- THAT THEY FEEL THEY
9 SUSPICIOUS OR THEY GOING TO ACT UNRULY

10 THE COURT MY INSTRUCTIONS ARE THAT NO ONE LEAVE
11 THE COURTROOM ONCE WE GET STARTED, ALL RIGHT, UNLESS
12 SOMEONE IS UNRULY OR DISTURBING THE PROCEEDING

13 (THE DEFENDANT RETURNS TO THE ROOM IN THE BACK OF
14 THE COURTROOM)

15 THE COURT DOES THE GENTLEMAN WISH TO COME BACK
16 IN?

17 OFFICER I BELIEVE WE'RE TRYING TO LOCATE HIM,
18 YOUR HONOR

19 THE COURT ALL RIGHT
20 (PAUSE)

21 THE COURT ALL RIGHT I DON'T WANT ANYONE
22 REMOVED FROM THE COURTROOM WITHOUT MY PERMISSION IF
23 THE INDIVIDUAL COMES BACK, HE MAY TAKE HIS SEAT
24 READY TO PROCEED?

25 MR KELLY YES, YOUR HONOR

STATE VS ALKEBULANYAHH

1 THE COURT AND I'M SORRY THAT IT'S BREAKING UP
2 ARGUMENT OF THE STATE, BUT I HAVE NO OTHER WAY OF
3 HANDLING THIS PROCEEDING ---

4 MR STONE IT'S MY UNDER ---

5 THE COURT --- IN OBJECTING

6 MR STONE IT'S MY UNDERSTANDING, YOUR HONOR,
7 THAT STAND-BY COUNSEL HAS THE ABILITY TO OBJECT AND, IN
8 FACT, THAT IS THE PURPOSE FOR STAND-BY COUNSEL

9 THE COURT I -- I DON'T WISH TO GET INTO A --
10 DEBATE ABOUT STAND-BY COUNSELS' ROLE AT THIS PART,
11 BECAUSE YOU'VE HEARD ALL THE DISCUSSIONS ABOUT THAT
12 AND I THINK HE STILL MAINTAINS THE RIGHT TO
13 PARTICIPATE

14 MR STONE SURE

15 THE COURT AND THERE'S NO OTHER WAY THAT WE CAN
16 HANDLE IT ALL RIGHT

17 MR STONE WE'RE READY

18 THE COURT BRING THE JURY IN, PLEASE /

19 TO DO OTHERWISE WOULD BE TO ACTUALLY APPOINT THEM
20 TO BE REPRESENTATIVE COUNSEL THEY'RE ASSISTING AT
21 THIS POINT THAT IS ALL THAT COULD BE DONE

22 (THE JURY RETURNS TO THE COURTROOM AT 10 50 A M)

23 THE COURT THANK YOU PLEASE BE SEATED

24 ALL RIGHT LADIES AND GENTLEMEN, WE'RE READY TO
25 PROCEED AND PLEASE DON'T GIVE EFFECT TO ANY TYPE OF

STATE VS ALKEBULANYAHH

1 BREAKS THAT WE TAKE OR MY HAVING TO ADDRESS VARIOUS
2 MATTERS, THAT SHOULD NOT WEIGH IN THE SLIGHTEST AGAINST
3 ANY OF THE PARTICIPANTS IN THIS CASE

4 GO AHEAD, PLEASE

5 CLOSING ARGUMENTS CONTINUED BY MR. STONE ON BEHALF OF
6 THE STATE.

7 WE HAVE SEGREGATED SEVERAL INMATES, AND IT APPEARS
8 THAT THEIR REMOVAL HAD A CALMING EFFECT ON THE
9 POPULATION I AM REQUESTING THEIR TRANSFER FOR THE
10 GOOD OF THE INSTITUTION AUGUST 29, 1989

11 THE NEXT YEAR PLEASE TRANSFER TYREE ROBERTS TO
12 THE GEORGIA STATE PRISON FOR THE WELFARE OF THE
13 INSTITUTION INMATE WAS INVOLVED IN A PLOT TO INITIATE
14 A DISTURBANCE OF VIOLENCE AT VALDOSTA, THAT'S HOW THE
15 DEFENDANT ACTS WHEN HE'S IN PRISON

16 IN THE STATE OF GEORGIA ALONE HE WAS TRANSFERRED
17 TO SEVEN DIFFERENT FACILITIES ALL FOR DISCIPLINARY
18 REASONS WHY? FOR THE GOOD OF THE INSTITUTION

19 AND, NO, HE DIDN'T KILL ANYBODY WHEN HE WAS THERE
20 BUT THEN AGAIN HE DIDN'T KILL ANYBODY WHEN HE WAS OUT
21 UNTIL JANUARY 8TH OF 2002 (

22 YOUR DECISION COULD BE THAT ALKEBULANYAHH SPENDS
23 THE REST OF HIS LIFE IN PRISON, LET THE CORRECTIONAL
24 OFFICERS LIVE WITH HIM

25 BUT AS DANA TATE AND DYKE COURSEN CAN ATTEST,

STATE VS ALKEBULANYAHH

1 THERE'S NO LIVING WITH ALKEBULANYAHH

2 I AM VERY SORRY THAT YOU HAVE HAD TO SEE
3 EVERYTHING YOU SAW YESTERDAY AND TODAY I AM NOT SORRY
4 THAT WE SHOWED IT TO YOU THOUGH BECAUSE YOU HAVE TO
5 KNOW THIS IS NOT FAKE

6 THOSE PEOPLE THAT CAME UP AND TALKED TO YOU
7 YESTERDAY AND TODAY, THOSE ARE REAL PEOPLE THOSE ARE
8 REAL CHILDREN THOSE ARE REAL MOTHERS AND DANA TATE
9 AND DYKE COURSEN WERE REAL FATHERS THOSE WERE REAL
10 PEOPLE

11 AND I KNOW IT WAS VERY DIFFICULT FOR YOU TO HEAR,
12 IT WAS VERY DIFFICULT FOR ALL OF US TO HEAR BUT IT IS
13 THE TRUTH IT IS WHAT ALKEBULANYAHH DID

14 THIS IS DYKE COURSEN IT'S JUST A PICTURE OF HIM,
15 BUT IT'S DYKE COURSEN, BEFORE ALKEBULANYAHH THIS IS
16 DYKE COURSEN AFTER HIM -

17 THIS IS DANA TATE, REENLISTING IN THE NAVY TO
18 SERVE HIS COUNTRY WITH HIS WIFE, BEFORE ALKEBULANYAHH
19 THIS IS HIM AFTERWARDS

20 AND ON JANUARY 9 2002, TAKE A GOOD LOOK AT HOW
21 TYREE ROBERTS OR ALKEBULANYAHH FELT ABOUT IT

22 IT IS AN AGGRAVATING CIRCUMSTANCE TO KILL A LAW
23 ENFORCEMENT OFFICER IN THE LINE OF DUTY AND YOU KNOW
24 WHAT I HAVE NO IDEA -- OR AT LEAST I HAD NO IDEA UNTIL
25 THIS TRIAL WHY THAT WAS IS IT BECAUSE A LAW

STATE VS ALKEBULANYAHH

1 ENFORCEMENT OFFICER IS -- SOMEHOW HAS A HIGHER LEVEL OF
2 PRESTIGE THAN EVERYBODY ELSE? NO, THAT'S NOT IT

3 IN THE STATE OF SOUTH CAROLINA THOUGH IT'S AN
4 AGGRAVATING CIRCUMSTANCE WHY? WHY IS THE HARDEST
5 QUESTION YOU'LL HAVE TO ANSWER, BUT WHEN YOU ANSWER IT,
6 IT WILL TELL YOU THE ANSWER TO IF THIS CASE IS BAD
7 ENOUGH BECAUSE "WHY" EXPLAINS TO YOU EVERYTHING THERE
8 IS TO KNOW ABOUT ALKEBULANYAHH THE WHY?

9 WE ASK OUR LAW ENFORCEMENT OFFICERS TO PROTECT US
10 WE SEND THEM OUT WITH VESTS THAT DON'T STOP SHOTS IN
11 THE HEAD WE GIVE THEM FLASHLIGHTS THAT DON'T DEFEND
12 THEMSELVES AND WE ASK THEM TO ANSWER THE CALL, AND IT
13 DOESN'T MATTER WHO THE CALL COMES FROM

14 THE WHOLE FIRST PART OF THIS TRIAL YOU HEARD THAT
15 MAYBE KIMBERLY BLAKE SHOULDN'T HAVE HAD THAT MADE --
16 THAT CALL MADE FOR HER THAT MAYBE STRAWBERRY
17 WASHINGTON SHOULDN'T HAVE MADE THAT CALL OR MAYBE SHE
18 SHOULDN'T HAVE BUT YOU KNOW WHAT, THE MORE
19 INSIGNIFICANT, THE MORE UNIMPORTANT IT IS THAT
20 STRAWBERRY WASHINGTON MADE THAT CALL, THE MORE USELESS
21 THIS MURDER WAS

22 AND THOSE POLICE OFFICERS, THEY DON'T GET TO MAKE
23 THAT CHOICE THEY DON'T GET TO STAND BACK AND SAY, I'M
24 NOT ANSWERING THAT CALL THEY DON'T GET TO DO THAT
25 WE DON'T LET THEM DO THAT WE ASK THEM TO TAKE THE

STATE VS ALKEBULANYAHH

1 CALLS WE ASK THEM TO PROTECT US AND WE ASK US
2 (SIC), LADIES AND GENTLEMEN, TO KEEP OUR LAWS WE CAN
3 PASS LAWS FOREVER, BUT IT DOESN'T DO ANY GOOD UNLESS
4 YOU'VE GOT SOMEBODY TO ENFORCE THEM

5 WHY IS IT AN AGGRAVATING CIRCUMSTANCE TO KILL A
6 POLICE OFFICER IN SOUTH CAROLINA? BECAUSE YOU'RE NOT
7 KILLING A POLICE OFFICER IN SOUTH CAROLINA

8 YOU SEE, ALKEBULANYAHH DIDN'T KNOW DANA TATE HE
9 DIDN'T KNOW DYKE COURSEN HE DIDN'T HAVE ANYTHING
10 AGAINST HIM WELL, HE HAD SOMETHING AGAINST HIM, BUT
11 HE DIDN'T HAVE IT AGAINST HIM PERSONALLY HE DIDN'T
12 KNOW HE HAD CHILDREN AND FAMILY THIS WASN'T PERSONAL

13 THIS WAS WHAT EXPLAINS THAT PRISON RECORD THIS
14 IS WHAT EXPLAINS HOW HE ACTS WHEN HE IS IN PRISON
15 THIS IS WHAT EXPLAINS WHY ON JANUARY 9 HE WENT TO WAR
16 WITH DANA TATE AND DYKE COURSEN, BUT DIDN'T BOTHER TO
17 TELL THEM BECAUSE HE'S NOT AT WAR WITH DANA TATE AND
18 DYKE COURSEN

19 HE'S AT WAR WITH CIVILIZATION HE'S AT WAR WITH
20 AUTHORITY NO ONE WILL TELL HIM WHAT TO DO OR HOW TO
21 DO IT LOOK THROUGH HIS PRISON RECORDS HAS ANYONE
22 EVER BEEN ABLE TO TELL HIM WHAT TO DO? LOOK AT HIS
23 LIFE OUTSIDE OF PRISON HAS ANYONE EVER BEEN ABLE TO
24 CONTAIN HIM? HE'S AT WAR HE'S BEEN AT WAR HIS ENTIRE
25 ADULT LIFE NOT WITH DANA TATE AND DYKE COURSEN, BUT

STATE VS ALKEBULANYAHH

1 WITH POLICE CORRECTIONAL OFFICERS, AND ANYBODY ELSE
2 THAT STANDS FOR AUTHORITY THAT'S WHAT HE IS AT WAR
3 WITH, AUTHORITY

4 AND THAT TELLS US EVERYTHING YOU NEED TO KNOW --
5 EVERYTHING YOU NEED TO KNOW ABOUT THIS MURDER AND IT
6 TELLS YOU EVERYTHING YOU NEED TO KNOW ABOUT WHETHER OR
7 NOT THIS CASE IS BAD ENOUGH

8 ALKEBULANYAHH HAS BEEN AT WAR ALL HIS ADULT LIFE
9 IS THIS CASE BAD ENOUGH? COULD IT GET ANY WORSE? IS
10 THE CRIMINAL BAD ENOUGH? DOES IT GET ANY WORSE? HE IS
11 AT WAR NOW HE WILL ALWAYS BE AT WAR

12 YOUR VERDICT SPEAKS THE TRUTH, BUT THERE IS ONLY
13 ONE WAY TO END THIS WAR

14 MR KELLY MAY IT PLEASE THE COURT

15 THE COURT YES SIR

16 CLOSING ARGUMENTS BY MR. KELLY ON BEHALF OF THE
17 DEFENDANT.

18 GOOD MORNING MY NAME IS GERALD KELLY I'M AN
19 ATTORNEY I LIVE IN HAMPTON I'M LEAD COUNSEL FOR THE
20 DEFENSE I WAS APPOINTED BY THE COURT

21 MY ASSISTANT COUNSEL IS THE GENTLEMAN OVER AT THE
22 TABLE YOU'VE SEEN US BOTH SITTING THERE THAT IS
23 SEAN THORNTON I'M GOING TO TALK TO YOU FOR A LITTLE
24 WHILE I KNOW YOU'RE GOING TO LISTEN TO ME AND GIVE ME
25 YOUR ATTENTION AND THEN AFTER I FINISH, THEN SEAN

STATE VS ALKEBULANYAHH

1 WILL TALK WITH YOU

2 YOU'RE THE JUDGES OF THE FACTS YOU SIT HERE AS
3 JUDGES, AND SO I'M GOING TO TALK TO YOU ABOUT THE
4 FACTS OKAY? AND I'M GOING TO TALK TO YOU ABOUT
5 CIRCUMSTANCES IN MITIGATION

6 LET ME ASK YOU A QUESTION, AND LET ME REMIND YOU
7 THAT BEFORE YOU NOW IS ALL OF THE TESTIMONY AND ALL OF
8 THE EVIDENCE THAT WAS PUT IN IN THE FIRST PHASE OF THE
9 TRIAL DO YOU REALIZE THAT? SO I CAN REFER TO THAT
10 JUST LIKE THE STATE CAN OKAY? SO THAT'S ALL BEEN PUT
11 BACK IN DO YOU REMEMBER THE STIPULATION? OKAY

12 OUT OF ALL THE WITNESSES THAT APPEARED BEFORE YOU
13 UP TO THIS POINT WHICH WITNESS KNEW AND KNOWS MORE
14 ABOUT WHAT TOOK PLACE AT 21 RILEY ROAD ON JANUARY 8,
15 2002? IT'S NOT THE DEFENDANT

16 LET ME ASK YOU THIS QUESTION WHO IS THE ONLY
17 WITNESS THAT APPEARED BEFORE YOU THAT KNEW WHAT WAS
18 GOING ON ON BOTH SIDES OF THE BEDROOM DOOR? WASN'T THE
19 DEFENDANT

20 WASN'T BRENDA SMITH BRENDA SMITH KNEW SOME OF
21 WHAT WAS GOING ON ON ONE SIDE OF THE DOOR

22 WASN'T HER HUSBAND ISAAC HE'S DECEASED NOW, BUT
23 HE WAS THERE THAT DAY HE KNEW SOME OF WHAT WAS GOING
24 ON ON ONE SIDE OF THAT DOOR

25 IT WASN'T STRAWBERRY WASHINGTON STRAWBERRY

STATE VS ALKEBULANYAHH

1 WASHINGTON KNEW SOME OF WHAT WAS GOING ON ON ONE SIDE
2 OF THAT DOOR

3 IT WASN'T -- IT WASN'T A J COURSEN IT WASN'T
4 DEPUTY TATE THEY KNEW SOME OF WHAT WAS GOING ON ON
5 ONE SIDE OF THE DOOR

6 WHO WAS IT WHO KNEW WHAT WAS GOING ON ON BOTH
7 SIDES OF THE DOOR THAT DAY? KIMBERLY BLAKE KIMBERLY
8 BLAKE KNEW WHAT WAS GOING ON ON BOTH SIDES OF THE DOOR

9 NOW, WHO WAS AND IS KIMBERLY BLAKE? DO YOU
10 REMEMBER THE TESTIMONY WHERE SHE SAID THAT SHE LEFT HER
11 GRANDMOTHER'S HOME WHERE SHE WAS LIVING ON THE 4TH
12 SATURDAY THE 4TH, SUNDAY THE 5TH, MONDAY THE 6TH,
13 TUESDAY THE 7TH WEDNESDAY THE 8TH SHE WAS AT RILEY
14 ROAD 5 DAYS

15 THINK ABOUT THE TESTIMONY OF KIMBERLY BLAKE AND
16 THINK ABOUT THE TESTIMONY OF STRAWBERRY WASHINGTON AS
17 YOU HEARD IT

18 THE TESTIMONY WAS THAT THE DEFENDANT WITH HIS WIFE
19 CAME OVER TO THE GRANDMOTHER'S HOUSE AND PICKED HER UP
20 STRAWBERRY WAS THERE SHE DIDN'T DRIVE OVER TO 21
21 RILEY ROAD WITH THE DEFENDANT SHE RODE WITH A MUTUAL
22 FRIEND AND SHE STOPPED BY THE HAMBURGER STAND, AND
23 SHE PICKED UP SOME PAMPERS

24 AND SHE TOLD YOU AND THE REST OF US THAT THE
25 REASON SHE WENT OVER THERE WAS BECAUSE HER BABY HAD

STATE VS ALKEBULANYAHH

1 BEEN TAKEN OVER THERE AND SHE INSINUATED THAT SHE HAD
2 TO GO THERE BECAUSE THE BABY WENT

3 WELL SHE DIDN'T TELL US ANYTHING ABOUT HOW MANY
4 TIMES SHE HUGGED THE DEFENDANT'S NECK BEFORE SHE LEFT
5 THE GRANDMOTHER'S HOUSE OR HOW SHE BEHAVED DURING THOSE
6 5 DAYS WHILE SHE WAS THERE BUT WE DO KNOW THIS
7 BECAUSE IT WAS TESTIFIED TO SHE HAD MADE SOME KIND OF
8 AGREEMENT WITH STRAWBERRY WASHINGTON

9 STRAWBERRY HAD TOLD HER, I'M GOING TO GO TO
10 HARGRAY AND TURN YOUR TELEPHONE ON SHE WENT AND PAID
11 SOME MONEY DOWN SO THAT THE CELL PHONE WOULD WORK YOU
12 REMEMBER THAT AND THEN SHE SAID, IF YOU'RE NOT BACK
13 BY -- I BELIEVE IT MUST HAVE BEEN SUNDAY NIGHT, BUT
14 YOUR MEMORY IS WHAT PREVAILS IT IS IN THE RECORD, YOU
15 CAN LISTEN TO IT -- I WILL CALL THE AUTHORITIES OKAY?

16 NOW, LET'S GO TO THE DAY -- LET'S GO TO THE 8TH
17 WHAT HAPPENED ON THE 8TH? ON THE MORNING OF THE 8TH
18 THE EVIDENCE IS UNDISPUTED THAT THAT MORNING THE
19 DEFENDANT AND HIS WIFE TOOK CLOTHES AND WENT TO A
20 LAUNDROMAT THEY TOOK THEIR CLOTHES AND THEY ALSO TOOK
21 THE CLOTHES OF THE SMITH FAMILY

22 THEY WERE GONE FROM -- I BELIEVE THE TESTIMONY WAS
23 ABOUT 9 00 O'CLOCK IN THE MORNING 10 00 O'CLOCK,
24 11 00 O'CLOCK, 12 00 O'CLOCK, 1 00 O'CLOCK, 2 00
25 O'CLOCK, 3 00 O'CLOCK, 4 00 O'CLOCK -- GONE 5 HOURS

STATE VS ALKEBULANYAHH

1 OKAY? UNDISPUTED ABOUT THAT

2 STRAWBERRY WASHINGTON IS WORKING AT THE TACO BELL
3 HERE IN BEAUFORT SHE GETS OFF OF WORK AT 4 00 SHE
4 CALLS -- SHE GETS A CALL FROM KIMBERLY BLAKE RIGHT?
5 SHE GETS A CALL FROM KIMBERLY BLAKE

6 AND KIMBERLY BLAKE IS CALLING FROM WHERE? THE
7 LIVING ROOM OF 21 RILEY ROAD HOW DO WE KNOW THAT?

8 WELL, WE KNOW IT IN TWO WAYS ONE BRENDA TELLS
9 US SO BRENDA WAS THERE WHEN THE CALL WAS MADE
10 BRENDA SAID SHE HEARD HER WHISPERING ON THE TELEPHONE
11 DO YOU REMEMBER THAT?

12 AND WE KNOW ANOTHER WAY WHEN STRAWBERRY
13 WASHINGTON WENT TO 21 RILEY ROAD AND WHEN A J AND DYKE
14 WENT UP TO THE HOUSE AND SAID, WE'VE GOT A COMPLAINT
15 THAT THERE'S A WOMAN HERE NAMED KIMBERLY BLAKE WHO'S
16 BEING HELD AGAINST HER WILL, BOTH BRENDA AND HER
17 HUSBAND SAID WE DON'T KNOW ANYBODY HERE BY THAT NAME
18 AND THERE'S NOBODY BEING HELD AGAINST THEIR WILL

19 SO THOSE TWO OFFICERS DID WHAT ANY TWO WOULD DO
20 THEY CALLED -- OR WENT TO STRAWBERRY WASHINGTON WHO WAS
21 UP AT THE HEAD OF THE ROAD AND SHE CAME DOWN AND
22 SAID, OH, YEAH, SHE'S HERE LOOK AT THIS NUMBER IN
23 THE MEMORY LIBRARY OF HER TELEPHONE WAS DISPLAYED
24 BRENDA SMITH'S TELEPHONE NUMBER SHE SAID, IF SHE'S
25 NOT HERE, HOW DID SHE CALL ME FROM THIS NUMBER?

STATE VS ALKEBULANYAHH

1 REMEMBER THAT? REMEMBER?
2 DO YOU REMEMBER WHEN -- WHEN THE GUNFIRE STARTED
3 AND STRAWBERRY WASHINGTON GOT -- WAS IN HER CAR SHE
4 WENT AROUND A CURVE AND WENT INTO THE NEIGHBORHOOD,
5 PULLED INTO A DRIVEWAY, RAN INTO A HOUSE AND CALLED
6 9-1-1 AND YOU HEARD THE TAPE
7 THE CALL-TAKER, STEPHANIE KELLY, I BELIEVE SAID
8 WHAT'S THE NUMBER OVER THERE?
9 AND SHE GAVE HER THE NUMBER AT RILEY ROAD, 21
10 RILEY ROAD, TWICE YOU REMEMBER THAT? THERE ISN'T ANY
11 QUESTION ABOUT THAT
12 ALL RIGHT THINK ABOUT IT SHE CALLS STRAWBERRY
13 SHE'S WHISPERING ON THE PHONE STRAWBERRY TELLS US
14 TELLS YOU THAT SHE'S WHISPERING AND TO HER THAT MEANS
15 SOME KIND OF DURESS OR SOMETHING
16 BUT WHAT WAS THE DURESS? WHAT WAS IT? BRENDA WAS
17 THERE
18 WHAT DO YOU THINK BRENDA SMITH WOULD HAVE SAID TO
19 KIMBERLY BLAKE IF SHE HAD HEARD KIMBERLY BLAKE TELLING
20 SOMEBODY, STRAWBERRY WASHINGTON ON THE PHONE, CALL THE
21 POLICE TO COME OVER HERE AND GET ME?
22 I IMAGINE THAT BRENDA WOULD SAY, GIRL WHAT IS THE
23 MATTER? NOBODY IS HOLDING YOU, BECAUSE THAT'S WHAT SHE
24 SAID LATER THERE'S NOBODY HOLDING YOU IF YOU WANT
25 TO GO, PICK UP YOUR BABY, AND GO THERE WASN'T ANYBODY

STATE VS ALKEBULANYAHH

1 HOLDING HER

2 IF THERE WAS SOMEBODY HOLDING HER AGAINST HER
3 WILL, WHY DIDN'T SHE TELL BRENDA? BRENDA WAS THERE
4 LISTENING TO HER WHISPER ON THE TELEPHONE SO WAS
5 BRENDA'S HUSBAND

6 SHE'D BEEN THERE ALL DAY SHE HAD A COUSIN WHO
7 LIVED UP AT THE CORNER OF THE ROAD, UP AT THE HEAD OF
8 THE ROAD I DON'T KNOW IF SHE WAS HOME OR NOT

9 SHE COULD HAVE CALLED HER GRANDMOTHER AND SAID,
10 GRAND MAMA, I WANT TO COME HOME I DON'T HAVE ANY
11 MONEY IF I CALL A TAXI, WILL YOU DIG INTO YOUR COOKIE
12 JAR AND PAY THE TAXI?

13 I'M SURE GRANDMOTHER WOULD HAVE GOTTEN MONEY OUT
14 OF HER SUGAR MONEY OR WHATEVER SHE HAD SHE DIDN'T DO
15 THAT

16 SHE'D BEEN THERE ALONE WITH HER BABY OR WITH
17 BRENDA AND ISAAC IN THE ROOM SINCE 9 00 O'CLOCK IN THE
18 MORNING SHE WOULD HAVE YOU BELIEVE THAT THE REASON
19 SHE DIDN'T DO THAT IS SHE WAS AFRAID TO GO BUT DOES
20 THAT REALLY MAKE ANY SENSE?

21 WHAT DID SHE TELL STRAWBERRY WHEN STRAWBERRY SAID,
22 DO YOU WANT ME TO CALL THE POLICE NOW? WHAT DID
23 STRAWBERRY TESTIFY TO? SHE SAID, NO, WAIT UNTIL YOU
24 GET OFF WORK THAT WAS AN HOUR AND A HALF LATER WHEN
25 STRAWBERRY GOT OFF WORK, SHE MADE THE CALL

/ STATE VS ALKEBULANYAHH

1 WHY? BECAUSE KIMBERLY BLAKE WAS MAKING STRAWBERRY
2 WASHINGTON HER DONKEY TO CARRY THE BURDEN OF THE
3 COMPLAINT TO THE SHERIFF'S OFFICE THAT'S WHY AND
4 KIMBERLY BLAKE WAS CASTING HER WEB THAT TURNED INTO A
5 WEB OF FIRE AND DEATH WHEN SHE WAS DOING THIS

6 AND SHE WAS SITTING IN THE MIDDLE OF THE WEB IN
7 THE MIDDLE OF THE BEDROOM WITH HER BABY WHY? WHY
8 WOULD SHE WAIT FOR THE POLICE TO BE CALLED AN HOUR AND
9 A HALF LATER? YOU KNOW AS WELL AS I DO SOMETHING WAS
10 MISSING

11 WHAT WAS MISSING? THE DEFENDANT HE WASN'T THERE
12 YET THAT'S WHAT WAS MISSING SHE KNEW WHEN HE WAS
13 COMING HOME THOUGH, DIDN'T SHE? THERE'S TESTIMONY THAT
14 SHE CALLED AND SAID WILL YOU BRING SOME FOOD AND THAT
15 THE REPLY WAS I'LL BE THERE ABOUT 4 00 O'CLOCK
16 PERFECT STRAWBERRY GETS OFF AT 4 00

17 SURE ENOUGH, STRAWBERRY CALLS WE HEARD THE CALL
18 AND SHE SAYS -- AND DON'T FORGET BY THE WAY
19 STRAWBERRY ASKED HER, ASKED KIMBERLY BLAKE DID HE HIT
20 YOU?

21 AND WHAT DID STRAWBERRY TELL US SHE REPLIED? SHE
22 REPLIED YES

23 BUT WHAT DID KIMBERLY BLAKE TELL US FROM THE
24 WITNESS STAND? I DIDN'T TELL HER THAT I TOLD HER
25 THAT HE PULLED MY HAIR

STATE VS ALKEBULANYAHH

1 WHY IF IT'S TRUE THAT THE DEFENDANT PULLED
2 KIMBERLY BLAKE'S HAIR, DID KIMBERLY BLAKE TELL
3 STRAWBERRY WASHINGTON THAT HE HAD HIT HER? WHY DID SHE
4 FABRICATE THIS? WHAT FEAR AND WHAT HOPE MOTIVATED HER
5 TO DO THAT?

6 I THINK THE INFERENCE IS ISN'T IT, FROM THE
7 EVIDENCE THAT SHE FEARED THAT IF SHE TOLD STRAWBERRY
8 WASHINGTON, HE PULLED MY HAIR, THAT MIGHT BE ENOUGH --
9 NOT ENOUGH FOR HER TO MAKE THE CALL BUT THAT IF SHE
10 SAID -- IF SHE FABRICATED AND SAID YES HE HIT ME,
11 THAT THAT WOULD BE ENOUGH -- AND IT WAS

12 IF YOU LISTEN TO THE TAPE YOURSELF -- DO YOU
13 REMEMBER ON THE TAPE -- OF COURSE IT'S IN EVIDENCE
14 NOW ALTHOUGH IT'S NOT IN FRONT OF YOU, YOU CAN LISTEN
15 TO IT IF YOU WANT TO DO YOU REMEMBER HOW STRAWBERRY
16 WASHINGTON WAS VAGUE? SHE WAS A LITTLE BIT CLOUDY ON
17 EXACTLY WHAT TO SAY TO THE CALL-TAKER, I THINK BECAUSE
18 SHE WAS TRYING TO BE HONEST WITH THE CALL-TAKER,
19 BASICALLY

20 NOW, KIMBERLY BLAKE SETS IN MOTION ON PURPOSE AND
21 IN DECEIT SOME EVENTS THAT ARE GOING TO BEGIN TO SPIN
22 OUT OF CONTROL DID IT -- SO FAR HAVE WE BEEN TALKING
23 ABOUT THE DEFENDANT YET? WHAT'S HE DOING? HE'S
24 WASHING CLOTHES

25 IN FACT, HE TOLD YOU THAT WHEN HE GOT BACK HE GAVE

STATE VS ALKEBULANYAHH

1 BRENDA HER CLOTHES AND HE PUT A LOT OF CLOTHES IN THE
2 BATHTUB YOU KNOW, THESE TERRIBLE PHOTOGRAPHS OF THIS
3 CARNAGE THAT TOOK PLACE IN THAT HOUSE DO SHOW THE
4 BATHTUB, AND THE CLOTHES ARE IN THERE THAT'S WHERE HE
5 IS

6 THE WEB IS BEING SPUN BY KIMBERLY BLAKE WHY? I
7 THINK WHAT THE EVIDENCE SHOWS YOU AND YOU ALREADY KNOW
8 IS SHE WANTS HIM OUT OF HER LIFE SHE WANTS HIM TAKEN
9 OUT

10 WELL, WHILE SHE'S SITTING THERE -- BECAUSE BRENDA
11 IS STILL THERE, RIGHT? SHE HEARD THE CALL SHE HASN'T
12 LEFT, GONE ANYWHERE SHE'S STILL THERE HER HUSBAND
13 IS STILL THERE THE BABY IS STILL THERE

14 ONE OF THE LEGS OF THE WEB TREMBLES AND WHAT IS
15 IT? IT'S THAT BUG SHE WANTS TO GET RID OF IT'S THE
16 DEFENDANT HE AND HIS WIFE HAVE ARRIVED THEY ARE
17 BACK RIGHT ON SCHEDULE, ABOUT 4 00 O'CLOCK AND HE
18 COMES IN AND SHE KNOWS STRAWBERRY IS OFF WORK SHE'S
19 MADE THE CALL SHERIFF'S DEPUTIES ARE ON THE WAY

20 WHERE DOES THE TESTIMONY SAY SHE IS? SHE'S LYING
21 FACE DOWN ON THE COT IN THE BEDROOM ONCE THE
22 DEFENDANT COMES IN HE -- SHE SEEMS TO BE UPSET HE
23 RUBS HER BACK TO CONSOLE HER HE TELLS HER, IT WILL BE
24 OKAY BE STRONG

25 NOW, THERE'S A HUGE TREMOR IN THE WEB, BECAUSE THE

STATE VS ALKEBULANYAHH

1 FULL POWER OF THE COUNTY OF BEAUFORT AND THE STATE OF
2 SOUTH CAROLINA ARRIVES ON THE SCENE IN THE PER --
3 PERSONS OF THESE TWO GOOD MEN THE REAL DEAL PULLS UP
4 TO THE HOUSE IN THE FULL FLOWER OF THEIR MANHOOD,
5 COMING IN ALL OF THEIR STRENGTH AND ARRAYED IN ALL OF
6 THEIR AUTHORITY TO SERVE AND PROTECT ON A BOGUS CALL
7 AND WHEN THEY'VE TURNED OFF OF THE ROAD, THE MAIN
8 ROAD, AND THEY GOT ONTO RILEY ROAD, THEY PASSED
9 STRAWBERRY, YOU REMEMBER SHE TESTIFIES TO THAT
10 AND THEY COME DOWN TO THE HOUSE AND THEY COME UP
11 TO THE DOOR IN THE PURITY OF THEIR CONDUCT AND THE
12 VIRTUE OF THEIR BEHAVIOR AND THEY INQUIRE BASED ON THE
13 REPORT THAT THEY HAVE
14 AND WHERE IS KIMBERLY BLAKE? SHE'S IN THE
15 BEDROOM
16 I BELIEVE WHEN YOU LOOK AT THIS MODEL YOU'LL SEE
17 THAT THERE IS A WINDOW THAT SHOWS OUT INTO THE FRONT
18 WHERE TWO POLICE CARS ARRIVED WITH TWO SEPARATE
19 SHERIFF'S DEPUTIES THAT'S THE POLICY DOMESTIC CALL
20 TWO COME WE LEARNED THAT FROM THE TESTIMONY
21 NOW WHAT'S THE DEFENDANT DOING? WE DON'T KNOW
22 IT'S BEEN SUGGESTED TO YOU THAT HE BEGINS PREPARATIONS
23 LET'S ASSUME THAT'S TRUE SINCE YOU FOUND HIM GUILTY
24 OF TWO MURDERS, I ASSUME THAT YOU HAVE DECIDED THAT
25 YOURSELF

STATE VS ALKEBULANYAHH

1 WHO IS WATCHING HIM? KIMBERLY BLAKE SHE CAN
2 DIFFUSE THIS SITUATION THAT SHE STARTED SHE CAN SAY
3 TO HIM -- AND THERE'S NOTHING TO STOP HER, BEN OR
4 MINISTER OR TYREE OR WHATEVER SHE CALLS HIM, THESE GOOD
5 MEN HAVE NOT COME HERE TO HURT OR HARM YOU THEY'RE
6 NOT AFTER YOU, BEN I'M THE CAUSE OF THEM COMING HERE
7 THEY'RE COMING HERE TO TAKE ME HOME I'LL GO OUT YOU
8 STAY HERE I'LL TAKE THE BABY, AND I'LL SEE YOU LATER
9 NOW, LET'S TAKE A LOOK AT IT SHE'S BEEN WITH
10 THIS MAN HOW LONG? SHE'S GOT A 6 MONTH OLD BABY BY HIM
11 AND SHE'S EXPECTING ANOTHER AT THE SAME TIME SHE'S
12 BEEN WITH HIM AT LEAST 15 MONTHS SHE KNOWS HIM
13 YOU'VE SEEN SOMETHING OF WHAT HE'S LIKE HE'S
14 OUTSPOKEN HE'S AGGRESSIVE BUT WAS THERE ANY
15 EVIDENCE IN THAT ROOM IN -- IN 21 RILEY ROAD THAT'S
16 BEEN PRESENTED TO YOU THAT ANY LAW WAS BEING BROKEN BY
17 HIM THAT DAY? NO
18 DO YOU REMEMBER WHEN THE CAR HE HAD BEEN DRIVING
19 IN WAS STOPPED? HIS WIFE WAS STOPPED SHE WAS
20 ARRESTED DO YOU REMEMBER THAT, OVER NEAR THE BRIDGE?
21 YOU REMEMBER THAT DON'T YOU? THEY SEARCHED THE CAR,
22 DIDN'T THEY? HER HANDBAG DID THEY FIND ANY EVIDENCE
23 OF ANY CRIME? NO
24 WAIT A MINUTE NOW WHY WOULD HE BE WORRIED THEN?
25 WELL BECAUSE HE WOULD BE FRIGHTENED HE WOULDN'T KNOW

STATE VS ALKEBULANYAHH

1 WHAT THIS IS ALL ABOUT SHE DOESN'T TELL HIM SHE
2 KNOWS EVERY BIT ABOUT WHAT IT'S ALL ABOUT SHE'S ABOUT
3 TO SACRIFICE THESE MEN SHE'S ABOUT TO SLAUGHTER THESE
4 TWO MEN, AND SHE DOESN'T CARE AND SHE'S GOING TO
5 SLAUGHTER HIM TOO HE IS THE OBJECT OF THE WEB

6 THEY ASKED BRENDA, WELL, LOOK AT THE PHONE,
7 BRENDA

8 SHE SAID, WELL, WE DON'T BELIEVE THERE'S ANYBODY
9 HERE, CERTAINLY NOT BY THAT NAME THAT'S BECAUSE
10 KIMBERLY BLAKE WHO'S BEEN THERE MANY TIMES -- SHE WAS
11 PROBABLY THERE THE WEEKEND BEFORE ACCORDING TO BRENDA
12 THERE'S NEVER BEEN A DISTURBANCE THERE

13 BRENDA DOESN'T KNOW OF ANY HAIR-PULLING OR
14 SLAPPING OR BEATING OR ANYTHING AND SHE DOESN'T KNOW
15 ABOUT KIMBERLY'S HISTORY EITHER THAT KIMBERLY IS A
16 RUNAWAY FROM HER HOME, THAT SHE -- THE REASON SHE SAYS
17 SHE DOES THAT IS BECAUSE SHE WANTED TO, AND THAT SHE
18 DOESN'T WORK, AND THAT SHE DOES WHAT SHE WANTS TO DO

19 BRENDA SMITH DOESN'T KNOW A LOT ABOUT HER SHE
20 DIDN'T EVEN THINK SHE WAS THERE

21 SO THE OFFICERS SAY HOW ABOUT WE COME IN AND TAKE
22 A LOOK?

23 AND BRENDA SAYS, FINE COME ON IN BECAUSE SHE
24 DOESN'T SUSPECT THAT THERE'S ANYTHING WRONG

25 AND KIMBERLY BLAKE IS -- SHE'S DECEIVING THE

STATE VS ALKEBULANYAHH

1 DEFENDANT NO MATTER WHAT YOU MIGHT THINK ABOUT HIM,
2 THAT'S WHAT'S GOING ON

3 SHE'S NOT LETTING HIM KNOW THAT SHE KNOWS WHAT'S
4 GOING ON ON THE OTHER SIDE OF THAT DOOR SHE KNOWS WHY
5 THEY'RE THERE

6 I IMAGINE IF WE ASKED HER, HOWEVER, SHE WOULD
7 FABRICATE FOR US AND SHE WOULD SAY I DON'T KNOW IF
8 THEY WERE REALLY THERE BECAUSE STRAWBERRY CALLED THEM
9 BECAUSE I JUST DON'T KNOW

10 SHE ALWAYS WANTS TO SAY THAT WE'LL GET TO THAT
11 IN JUST A SECOND BECAUSE THE DOOR IS' NEARLY READY TO
12 OPEN

13 YOU KNOW, THEY GO TO THE DOOR AND SHE SAYS FIRST,
14 I DIDN'T SEE ANY GUN AND I DIDN'T -- I DIDN'T SEE ANY
15 RIFLE I DIDN'T HEAR ANY THREATS AND THEN FINALLY
16 THE STORY EVOLVES, AS YOU KNOW YOURSELF BECAUSE YOU'VE
17 LOOKED AT IT AND YOU'VE HEARD IT, THAT HE WAS MAKING
18 THREATS AND HE HAD A RIFLE AND HE GOT INTO THE CLOSET

19 AND WHEN SHE WAS ON THE WITNESS STAND, THE
20 DEFENDANT ACTUALLY ASKED HER, WELL, IF THAT'S TRUE, WHY
21 DIDN'T YOU WARN THESE OFFICERS?

22 AND YOU KNOW WHAT SHE SAID? YOU REMEMBER? SHE
23 SAID, BECAUSE I WAS AFRAID

24 DO YOU KNOW WHAT SHE WAS AFRAID OF? DO YOU WANT
25 TO KNOW WHAT I THINK SHE WAS AFRAID OF? SHE WAS AFRAID

STATE VS ALKEBULANYAHH

1 THEY WOULDN'T GO IN THE ROOM THAT'S WHY SHE DIDN'T
2 TELL THEM SHE KNEW WHAT WAS GOING ON IN THAT ROOM
3 SHE COMES OUT WITH A BABY IN HER ARMS WHAT'S TO
4 KEEP HER FROM DOING THIS?
5 YOU KNOW, WE'RE TALKING ABOUT THESE TWO GENTLEMEN
6 THAT WE'VE LEARNED SOMETHING ABOUT WE'RE TALKING
7 ABOUT FELLOWS YOU DON'T HAVE TO HIT THEM OVER THE HEAD
8 WITH IT THEY'RE BRIGHT THEY'RE CAPABLE THEY ARE
9 FULLY POWERED, AND THEY ARE ON THE ALERT
10 ALL SHE'S GOT TO DO IS TO TOUCH THEM ON THE WRIST,
11 BUT SHE DOESN'T DO IT
12 BUT WHAT DOES BRENDA SAY? WHAT DOES BRENDA SAY
13 THAT KIMBERLY BLAKE SAYS TO HER AFTER SHE HAS GIVEN
14 PERMISSION -- SHE BEING BRENDA -- FOR THE OFFICERS TO
15 GO INTO THE ROOM? SHE SAYS THAT KIMBERLY BLAKE SAID TO
16 HER, MINISTER IS IN THE CLOSET WHY COULDN'T SHE SAY
17 THAT TO THESE GOOD MEN? IF SHE CAN SAY IT TO BRENDA IN
18 THE NEXT BREATH, WHY DOES SHE SEND THEM TO THEIR
19 SLAUGHTER?
20 WELL YOU'D HAVE TO ASK HER NOBODY HAS ASKED HER
21 YET SHE'S NOT UNDER ANY INDICTMENT THAT I KNOW OF
22 SHE'S SCOTT-FREE SHE'S NOT CHARGED WITH A THING SHE
23 KNOWS WHAT'S GOING ON
24 YOU KNOW WHAT SHE WAS SAID WHEN SHE WAS ASKED
25 ABOUT THAT? SHE SAID, I DIDN'T KNOW WHAT HE WAS GOING

STATE VS ALKEBULANYAHH

1 TO DO MEANING THE DEFENDANT, THE MAN WITH THE RIFLE
2 WHO GOT IN THE CLOSET

3 YOU KNOW WHAT THAT'S LIKE? THAT'S LIKE A WOMAN
4 SAYING, WELL, I LIVED ON THE TENTH FLOOR IN AN
5 APARTMENT, THE WINDOWS WERE ALL OPEN, THE BABY WAS ON
6 THE LEDGE BUT HOW DID I KNOW HE WAS GOING TO FALL
7 OUT?

8 SHE KNEW BECAUSE SHE DESIGNED IT THAT'S HOW SHE
9 KNEW AND SHE'S NOT BEEN DRUG INTO THE LIGHT FULLY
10 UNTIL TODAY

11 DO YOU REMEMBER OFFICER DEPUTY CHRISTINE WILSON?
12 DO YOU REMEMBER HER? SHE'S THE DEPUTY WHO DEBRIEFED
13 KIMBERLY BLAKE FIRST YOU REMEMBER HER? YOU REMEMBER
14 HER TESTIMONY?

15 SHE TESTIFIED THAT SHE ASKED KIMBERLY BLAKE, WHY
16 DID STRAWBERRY WAIT SO LONG TO CALL? SHE PICKED UP ON
17 IT

18 DO YOU REMEMBER THE REPLY THAT SHE MADE TO WILSON?
19 I DON'T KNOW WHY SHE WAITED SO LONG ISN'T THAT RIGHT?

20 BUT WHAT'S THE TRUTH? THE TRUTH IS THAT SHE TOLD
21 HER NOT TO DO IT BECAUSE SHE WANTED TO MAKE SURE THAT
22 THE DEFENDANT WAS THERE HE'S A FELON HE'S A
23 CONVICTED FELON HE'S A THREE-TIME LOSER

24 SHE WAS WITH HIM FOR 15 OR MONTHS SHE WAS
25 INTIMATE WITH HIM SHE KNOWS WHAT HE'S LIKE SHE

STATE VS ALKEBULANYAHH

1 KNOWS ALL OF HIS SICKNESSES IF HE'S GOT THEM SHE
2 KNOWS HIS FEARS

3 SHE KNEW OR BELIEVED THAT IF HE WAS THERE AND
4 THOSE POLICE CAME THERE OR THE DEPUTIES CAME THERE,
5 THAT HE WOULD BUCK, THAT HE WOULD HAVE HIS SAY, JUST AS
6 HE'S BEEN HAVING HIS SAY HERE IN THIS COURTROOM, AND
7 THAT THAT WOULD GET HIM ONE WAY OR ANOTHER OUT OF HER
8 LIFE AND IT GOT OUT OF CONTROL YEAH AND SHE MIGHT
9 REGRET IT, BUT SHE'S THE CAUSE OF IT

10 YOU HAVE DECIDED THAT HE, THE DEFENDANT MURDERED
11 THESE TWO MEN BY SHOOTING THEM WITH A RIFLE SHE
12 SLAUGHTERED THEM BY USING THE DEFENDANT AND A RIFLE
13 IT'S NOT ALL HIS FAULT NOW, YOU MIGHT NOT THINK THAT
14 HELPS HIM BUT THAT'S A FACT

15 YOU KNOW HE SAID, I THINK, ON THE RECORD THAT
16 HE PRACTICES A JEWISH FAITH, BELIEVES IN YAHWEH OR
17 JEHOVAH, WHICH IS -- THAT'S THE OLD TESTAMENT NAME
18 FOR GOD, THE SAME GOD THAT JESUS CALLED OUR HEAVENLY
19 FATHER AND ON THAT DAY, ON THE 8TH, HE BROKE THE
20 FIRST COMMANDMENT, THOU SHALT NOT KILL HE BROKE
21 THAT COMMANDMENT AND HE SERVED ANOTHER GOD WHEN HE
22 DID THAT

23 MAN CANNOT SERVE TWO MASTERS IF HE ATTEMPTS TO
24 DO SO, HE WILL HATE ONE AND LOVE ANOTHER, HE WILL HOLD
25 TO ONE AND DESPISE ANOTHER HE CANNOT SERVE TWO

STATE VS ALKEBULANYAHH

1 MASTERS

2 AND SHE DIDN'T HELP HIM SHE FED WHATEVER FEAR
3 THAT HE, HAD SHE SET THOSE MEN TOGETHER

4 I WANT TO TELL YOU WHAT I THINK THESE DEPUTIES ARE
5 LIKE

6 HAVE YOU EVER SEEN A PIT BULL GO INTO A CAGE AND
7 PULL THE PREY OUT OF THE CAGE, BECAUSE THEY KNOW NO
8 FEAR? THAT'S WHAT THE OFFICERS OF THE LAW ARE LIKE
9 THERE'S NO WAY TO STOP THEM FROM THEIR APPOINTED
10 DUTIES

11 AND SHE SET THESE OFFICERS UNAWARE -- WHAT DO YOU
12 THINK THEY WOULD HAVE DONE IF SHE HAD WARNED THEM OFF?
13 AND THAT WAS ALL SHE HAD TO DO DO YOU THINK THEY
14 WOULD HAVE TAKEN HER ASIDE AND SAID, WHAT -- WHAT IS
15 IT?

16 AND SHE'D SAID, THERE'S SOMEBODY IN A CLOSET WITH
17 A RIFLE

18 WHAT DO YOU THINK THEY WOULD HAVE DONE? DO YOU
19 THINK THEY WOULD HAVE GONE IN THE WAY THEY WENT? DO
20 YOU THINK COURSEN WOULD HAVE OPENED THE DOOR WITH HIS
21 FLASHLIGHT? NO THEY MIGHT HAVE CALLED FOR BACK-UP
22 THEY WOULD HAVE DONE WHATEVER THEY DID, WHATEVER THEIR
23 PROCEDURE WAS

24 BUT SHE DIDN'T DO THAT ON EITHER SIDE SHE DIDN'T
25 IN HER CORRUPTION AND HER WICKEDNESS AND HER DECEIT

STATE VS ALKEBULANYAHH

1 EITHER TRY TO COOL IT DOWN ON ONE SIDE OF THE DOOR OR
2 TO GIVE A WARNING ON THE OTHER AND THAT IS
3 MITIGATION HE IS NOT ALL AT FAULT HERE

4 YOU KNOW, MERCY FALLS LIKE THE RAIN FROM HEAVEN
5 IT -- WHEN IT WASHES DOWN ON THE EARTH AND REPLENISHES
6 THE EARTH AND BRINGS LIFE TO THE EARTH, IT FALLS ON
7 EVERY LEAF AND ON EVERY BLADE OF GRASS AND YOU HAVE
8 TO DECIDE WHAT THE APPROPRIATE PENALTY IS I -- I KNOW
9 THAT YOU WILL DO THAT

10 BUT I WOULD SUGGEST TO YOU IN ALL RESPECT THAT TO
11 LIVE YOUR LIFE IN PRISON WITHOUT FAMILY, WITHOUT THE
12 INTIMACY OF THAT TO WIND OUT THIS MORTAL COIL THAT
13 YOU'VE GOT, EVEN THOUGH YOU'RE ALIVE AND YOU'VE
14 MURDERED SOMEBODY ELSE, IS A HARSH PENALTY

15 SO THAT WHEN FINALLY YOU DRAW YOUR LAST BREATH AND
16 YOUR GOD CALLS YOU TO YOUR JUDGMENT FOR WHAT YOU'VE
17 DONE, THE ONLY THING THAT YOU'RE GOING TO SEE IS THE
18 INSIDE OF THE CAGE THAT YOU BUILT FOR YOURSELF

19 NOW, I APPRECIATE YOU LISTENING TO ME AND I
20 HAVEN'T REALLY TALKED TO YOU ABOUT THE LAW, BUT ONLY
21 THE FACTS AND THANK YOU SO MUCH

22 THE COURT ALL RIGHT

23 MR THORNTON MAY IT PLEASE THE COURT YOUR
24 HONOR

25 THE COURT YES, SIR

STATE VS ALKEBULANYAHH

1 CLOSING STATEMENTS BY MR. THORNTON ON BEHALF OF THE
2 DEFENDANT.

3 GOOD MORNING, YOU ALL AS MR KELLY STATED TO
4 YOU, MY NAME IS SEAN THORNTON AND I PRACTICE MAINLY IN
5 COLLETON COUNTY I DO SOME WORK HERE IN BEAUFORT, A
6 LITTLE BIT IN DORCHESTER

7 I FIND MYSELF IN A LITTLE BIT OF AN UNUSUAL
8 SITUATION IN THIS CASE IN THAT I HAVEN'T REALLY GOTTEN
9 TO TALK TO YOU VERY MUCH I DIDN'T GET TO TALK TO YOU
10 WHEN WE SELECTED YOU AS JURORS I HAVEN'T REALLY
11 GOTTEN TO TALK TO YOU, AND YOU HAVEN'T HEARD FROM ME
12 DURING THE TRIAL OF THIS CASE REALLY UP UNTIL A LITTLE
13 BIT YESTERDAY AND NOW TODAY

14 BUT I HAVE HAD AN OPPORTUNITY TO HEAR FROM YOU,
15 AND I'VE HAD AN OPPORTUNITY TO OBSERVE ALL OF YOU ONE
16 OF THE BENEFITS OF SITTING AS A LAWYER AT THAT TABLE IS
17 THAT YOU TRY TO WATCH EVERYTHING THAT GOES ON IN THE
18 COURTROOM AND I'VE LOOKED AT ALL OF YOU AND I'VE
19 WATCHED YOU THROUGHOUT THIS TRIAL AND I'VE OBSERVED
20 SEVERAL THINGS ABOUT YOU

21 YOU'VE ALL PAID ATTENTION TO BOTH SIDES YOU'VE
22 TAKEN NOTES WHEN THE SOLICITOR ASKED YOU TO LOOK AT A
23 PARTICULAR THING, MOST OF YOU -- EITHER I COULD TELL
24 YOU WERE MAKING A MENTAL NOTE OF IT, AND SEVERAL OF YOU
25 WROTE IT DOWN AND JUST AS IMPORTANTLY WHEN THE

STATE VS ALKEBULANYAHH

1 DEFENDANT ASKED YOU TO LOOK AT SOMETHING OR TO TAKE
2 NOTE OF SOMETHING, I SAW YOU NOTATE IT EITHER IN YOUR
3 MIND OR ON THE PAPER

4 AND THAT'S REALLY ALL THAT WE CAN ASK OF YOU AS
5 JURORS IS TO PAY ATTENTION AND TO BE FAIR AND IMPARTIAL
6 TO BOTH SIDES

7 WE ASK YOU TO BRING WITH YOU YOUR WISDOM WE ASK
8 YOU TO BRING WITH YOU YOUR COMMON SENSE AND WE ASK
9 YOU TO BRING WITH YOU YOUR COMPASSION AS PEOPLE AND
10 THUS FAR THROUGH THIS TRIAL YOU'VE DONE THAT

11 THIS HAS NOT BEEN AN EASY TRIAL TO SIT THROUGH
12 IT'S BEEN LONG AND IT'S BEEN VERY DIFFICULT THERE
13 HAVE BEEN MANY EXHIBITS

14 THE SOLICITOR INDICATED EARLIER HE SHOWED YOU SOME
15 PICTURES THEY'RE VERY GRAPHIC YOU'VE SEEN THEM
16 THEY'RE NOT PLEASANT TO LOOK AT

17 THIS CASE ISN'T PLEASANT TO LOOK AT BUT YOU HAVE
18 BEEN GIVEN THE DUTY AND THE OBLIGATION TO DO THAT AND
19 THUS FAR YOU'VE DONE IT

20 WE'D ASK YOU TO CONTINUE THAT THROUGH THIS LAST
21 DELIBERATION WHAT COULD BE THE MOST DIFFICULT DECISION
22 YOU HAVE EVER MADE IN YOUR LIFE THIS IS A DECISION
23 THAT LITERALLY IS LIFE OR DEATH

24 MAKE NO MISTAKE ABOUT THE TERM JURY
25 RECOMMENDATION YOUR RECOMMENDATION WILL BE FOLLOWED

STATE VS ALKEBULANYAHH

1 IF YOU AS A JURY DECIDE THAT THE DEFENDANT, MR
2 ALKEBULANYAHH IN THIS CASE, MAY LIVE, THEN HE WILL
3 LIVE IF YOU DECIDE ON THE OTHER HAND THAT HE MUST
4 DIE, THEN HE WILL DIE YOUR RECOMMENDATION WILL BE
5 FOLLOWED

6 AND AGAIN, IT MAY BE THE MOST IMPORTANT DECISION
7 THAT YOU HAVE EVER BEEN CALLED ON TO MAKE, AND IT WILL
8 NOT BE AN EASY ONE

9 THIS IS AN AWESOME POWER THAT YOU HAVE, LITERALLY
10 THE POWER OF LIFE AND DEATH AND WITH THAT AWESOME
11 POWER MUST COME AN AWESOME RESPONSIBILITY, AND IT'S A
12 RESPONSIBILITY THAT THUS FAR YOU HAVE TAKEN ON AND
13 ALL WE CAN ASK IS THAT YOU CONTINUE THROUGH THIS LAST
14 DELIBERATION IN DOING WHAT YOU HAVE BEEN DOING

15 NOW, AS YOU DELIBERATE I WOULD ASK YOU TO CONSIDER
16 SOME THINGS, THINGS THAT MR STONE FROM THE SOLICITOR'S
17 OFFICE TALKED TO YOU ABOUT HE TALKED TO YOU ABOUT THE
18 DEFENDANT'S RECORD

19 YOU ALL, I'VE BEEN DOING THIS FOR A FEW YEARS NOW,
20 AND ONE THING THAT I CAN TELL YOU THAT'S PRETTY
21 COMMONLY KNOWN, PRISON AIN'T SUNDAY SCHOOL OKAY?
22 FIGHTS DISAGREEMENTS ARE PART OF THE GAME THAT'S
23 WHAT GOES ON IN PRISON

24 AND I WOULD HAVE TO DISAGREE WITH MR STONE'S
25 ASSERTION THAT IT'S LIKE MILITARY SCHOOL I DON'T KNOW

STATE VS ALKEBULANYAHH

1 OF ANYBODY THAT WOULD SEND THEIR KIDS TO PRISON IN LIEU
2 OF MILITARY SCHOOL IT IS NOT A SCHOOL IT IS A PLACE
3 WHERE WE AS A SOCIETY PUT PEOPLE WHO HAVE DONE WRONG

4 NOW, AS YOU LOOK DOWN THESE RECORDS AND YOU SEE 66
5 CHARGES, YOU SEE 41 SEPARATE INSTANCES, TAKING PLACE
6 OVER 10 YEARS YOU SEE 2 INSTANCES THAT WERE TESTIFIED
7 TO OF ASSAULTIVE CONDUCT THERE WAS SOME KIND OF A --
8 ONE WAS AN UNARMED ASSAULT, I THINK, AND ONE -- IF YOU
9 REMEMBER THE TESTIMONY, THE ONE ABOUT THE ASSAULT ON AN
10 OFFICER, WHAT WAS IT? HE RAISED HIS HAND AND I RAISED
11 MY HAND AND OUR HANDS TOUCHED

12 NOW IN A MOVIE THEATER, THEY MIGHT HAVE BEEN
13 HOLDING HANDS BUT IN PRISON, THAT'S AN ASSAULT ON AN
14 OFFICER DID ANYBODY GET HURT? I THINK THAT'S
15 IMPORTANT IF YOU'RE TALKING ABOUT ADAPTABILITY TO
16 PRISON

17 TWO ASSAULTIVE BEHAVIORS IN 10 YEARS AGAIN
18 PRISON AIN'T SUNDAY SCHOOL THINGS ARE GOING TO
19 HAPPEN IF EVERYBODY WAS ON THEIR BEST BEHAVIOR WHILE
20 THEY WERE IN PRISON THE WHOLE TIME, THERE'D PROBABLY BE
21 NO NEED FOR PRISON BECAUSE NOBODY WOULD GET SENT THERE
22 IN THE FIRST PLACE

23 THE MAJORITY OF HIS INFRACTIONS AS YOU LOOK IS FOR
24 FAILURE TO FOLLOW INSTRUCTIONS

25 YOU KNOW, ONE OF THE QUESTIONS THAT WAS ASKED

STATE VS ALKEBULANYAHH

1 YESTERDAY, I BELIEVE, IN THE -- IN THE TESTIMONY WAS,
2 WELL, WHAT DID YOU DO WHEN SOMEBODY MADE AN INFRACTION?

3 AND I THINK THE ANSWER WAS, WELL, WE PUT THEM IN
4 SEGREGATION OR SOLITARY, WHATEVER YOU WANT TO CALL IT,
5 AND THEY DON'T BOTHER ANYBODY

6 AND I THINK THEY -- THERE WAS TESTIMONY THAT HE
7 SPENT SOME 200-SOME-ODD DAYS IN SOLITARY FOR, YOU KNOW
8 33 TIMES FAILING TO FOLLOW INSTRUCTIONS

9 HOW MANY OF YOU OR ANY OF US WITH CHILDREN IF
10 EVERY TIME A CHILD FAILED TO FOLLOW INSTRUCTIONS WE PUT
11 THEM IN SEGREGATION? THERE'S A LOT OF PEOPLE I KNOW
12 THAT WOULDN'T HAVE SEEN THE LIGHT OF DAY UNTIL THEY
13 WERE 20 YEARS OLD FAILURE TO FOLLOW INSTRUCTIONS

14 TWO ASSAULTIVE BEHAVIORS IN 10 YEARS DOES THAT
15 INDICATE SOMEBODY THAT CANNOT ADAPT TO PRISON? WAS
16 THERE ANY TESTIMONY OF WHAT THE AVERAGE PRISONER HAS AS
17 FAR AS INFRACTIONS AND WHAT TYPE OF INFRACTIONS THERE
18 WERE? DIDN'T HEAR ANY AGAIN, RELY ON YOUR MEMORY,
19 NOT MINE

20 YOU KNOW LADIES AND GENTLEMEN, LIFE IS PRECIOUS
21 UNDER THE LAW I CAN TELL YOU THAT FOR THIS REASON
22 EVEN IF YOU AS A JURY FIND THAT THERE HAVE BEEN
23 AGGRAVATING CIRCUMSTANCES -- YOU HEARD THE SOLICITOR
24 HE TOLD YOU WHAT THEY ARE ASKING YOU TO FIND THOSE
25 THREE

STATE VS ALKEBULANYAHH

1 EVEN IF YOU FIND ALL THREE OF THEM, YOU MAY STILL
2 GIVE LIFE THERE IS NO REQUIREMENT THAT YOU GIVE THE
3 DEATH PENALTY

4 THE ONLY THING THAT THOSE AGGRAVATING
5 CIRCUMSTANCES DO, SHOULD YOU FIND THEM IS IT GIVES YOU
6 THE ABILITY TO CONSIDER WHETHER TO IMPOSE DEATH OR
7 WHETHER TO GIVE LIFE

8 THE COURT TWO, COUNTS, TWO

9 MR THORNTON I APOLOGIZE TWO COUNTS THAT IS
10 WHAT THOSE CIRCUMSTANCES ARE FOR BUT THERE IS NOTHING
11 IN THE LAW AND I -- PLEASE, LISTEN TO HIS HONOR'S
12 CHARGE AS HE KNOWS FAR MORE ABOUT THE LAW THAN I DO

13 BUT THERE'S NOTHING IN THERE THAT SAYS THAT YOU
14 HAVE TO GIVE DEATH IN EITHER COUNT, EVEN IF YOU FIND
15 ALL OF THE AGGRAVATING CIRCUMSTANCES

16 YOU CAN GIVE LIFE JUST BEING MERCIFUL YOU CAN
17 GIVE IT BECAUSE YOU FIND SOME MITIGATION IN THE FACTS
18 THAT HAVE BEEN PRESENTED AND ALL THE TESTIMONY HAS
19 ALREADY BEEN STATED TO YOU ALL OF THAT TESTIMONY IS
20 NOW IN ALL THE EXHIBITS ARE IN

21 YOU CAN CONSIDER EVERYTHING THAT WAS BROUGHT
22 BEFORE YOU IN THE ORIGINAL PHASE OF THE TRIAL AND IN
23 THE SENTENCING

24 AND AGAIN, THAT'S WHY LIFE I CAN TELL YOU, UNDER
25 THE LAW IS PRECIOUS, BECAUSE YOU CAN GIVE IT JUST

STATE VS ALKEBULANYAHH

1 BECAUSE YOU THINK IT'S THE RIGHT THING TO DO

2 THERE IS NOT A BALANCING IN THIS PHASE, LADIES AND
3 GENTLEMEN YOU DON'T LINE UP THE AGGRAVATING FACTORS
4 AND THEN LINE UP WHATEVER YOU THINK IS MITIGATING, AND
5 BALANCE AND SEE WHO WINS, THAT'S NOT THE WAY IT WORKS

6 ALL YOU NEED TO DO IN THIS CASE IS CONSIDER ALL OF
7 THE INFORMATION THAT HAS BEEN BROUGHT BEFORE YOU,
8 EVERYTHING FROM THAT STAND, ALL THESE EXHIBITS YOU
9 CONSIDER ALL THAT INFORMATION

10 AND AGAIN I'D ASK YOU, USE YOUR COMMON SENSE, USE
11 YOUR WISDOM USE YOUR COMPASSION AND WHEN YOU REACH
12 THAT DECISION, LADIES AND GENTLEMEN, ALL WE CAN ASK IS
13 THAT YOU TEMPER YOUR JUSTICE WITH MERCY THANK YOU

14 THE COURT LADIES AND GENTLEMEN, I NEED TO SEND
15 YOU TO THE JURY ROOM FOR JUST ABOUT 5 MINUTES AND THEN
16 I'LL BRING YOU BACK OUT DO NOT DISCUSS THIS IN ANY
17 WAY THANK YOU VERY MUCH

18 (THE JURY EXITS THE COURTROOM AT 11 44 A M)

19 THE COURT ALL RIGHT DO YOU WISH TO -- IS THAT
20 DOOR CLOSED -- WISH TO CONSULT WITH MR ALKEBULANYAHH
21 TO SEE IF HE WISHES TO MAKE A PERSONAL STATEMENT TO THE
22 JURY?

23 MR KELLY YES, YOUR HONOR

24 MR THORNTON YES, SIR

25 THE COURT THANK YOU ANYONE ELSE THAT NEEDS TO

STATE VS ALKEBULANYAHH

1 TAKE A BREAK DO SO NOW NO ONE WILL BE ALLOWED IN OR
2 OUT DURING THE CLOSING INSTRUCTIONS

3 (A RECESS WAS TAKEN)

4 (THE DEFENDANT RETURNS TO THE DEFENSE TABLE)

5 THE COURT IS THE JURY READY? THE JURY IS READY?

6 THE CLERK YES

7 THE COURT ALL RIGHT

8 MR ALKEBULANYAHH

9 MR ALKEBULANYAHH YES SIR

10 THE COURT IT'S MY UNDERSTANDING YOU DO WISH TO
11 EXERCISE YOUR OPTION TO MAKE A PERSONAL STATEMENT TO
12 THE JURY, IS THAT CORRECT?

13 MR ALKEBULANYAHH YES, SIR, YOUR HONOR

14 THE COURT ALL RIGHT

15 COUNSEL WHAT WE'LL DO IS WE'LL FINISH UP WITH
16 THAT THEN I NEED TO GIVE THE JURY ITS BREAK BECAUSE
17 THEIR LUNCH IS HERE THEN I'LL CHARGE THEM AFTER
18 LUNCH ALL RIGHT?

19 MR KELLY YES SIR

20 MR THORNTON YES, YOUR HONOR

21 THE COURT BRING THE JURY IN PLEASE

22 (THE JURY RETURNS TO THE COURTROOM AT 11 55 A M)

23 THE COURT THANK YOU PLEASE BE SEATED

24 ALL RIGHT LADIES AND GENTLEMEN, AT THIS POINT

25 MR ALKEBULANYAHH WISH TO MAKE -- WISHES TO MAKE A

STATE VS ALKEBULANYAHH

1 PERSONAL STATEMENT TO YOU

2 IF YOU WILL PLEASE COME TO LECTERN, SIR

3 MR ALKEBULANYAHH THANK YOU, YOUR HONOR

4 CLOSING ARGUMENTS BY MR. ALKEBULANYAHH.

5 HOW ARE YOU LADIES AND GENTLEMENS DOING?

6 I FIRST WOULD LIKE TO JUST SAY THAT I WANT YOU

7 JURORS TO KNOW THAT I, MR ALKEBULANYAHH -- FIRST I

8 WANT TO PRAISE MY GOD YAHWEH, AND SAY THAT HE IS GOOD

9 AND HE IS MERCIFUL

10 NEXT I WANT TO SAY IS THAT I WANT A UNDERSTANDING

11 WITH THE JURORS MYSELF THAT I AM NOT ANGRY AT ANY

12 INDIVIDUAL OR ANYONE ABOUT THE DECISION THAT YOU HAVE

13 MADE, BECAUSE IT IS PART OF THE SYSTEM

14 AND YOU HAVE A RIGHT TO YOUR CHOICE, YOUR BELIEF,

15 AND WHAT YOU DETERMINE AND I'M NOT GOING TO SIT HERE

16 -- TO STAND BEFORE YOU AND SAY YOU ARE WRONG ABOUT

17 YOUR, DECISION WHAT YOU MADE OR CRITICIZE OR SAY

18 ANYTHING TO THE CONTRARY, BECAUSE THAT IS YOUR BELIEF

19 YOU HAVE GOTTEN FACTS AND INFORMATION FROM THIS

20 CASE THAT YOU MADE YOUR OWN DETERMINATION AND IF THEM

21 FACTS AND THE INFORMATION THAT YOU RECEIVED POINTED TO

22 ME, THEN I ACCEPT THAT BECAUSE AS -- AS I SAID FROM THE

23 BEGINNING, IT WAS MY DEFENSE TO TRY TO DETERMINE TO

24 PICK STRONG INDIVIDUALS WHO WOULD BE ABLE TO MAKE THOSE

25 TYPE OF DECISIONS TO WHATEVER THEY STOOD ON AND STOOD

STATE VS ALKEBULANYAHH

1 BY THEIR DECISION

2 SO I WANT THE JURORS TO KNOW THAT FROM -- FROM ME
3 MYSELF, THAT WHATEVER YOUR DECISION MAY BE OR WHAT YOU
4 COME TO, IT WOULD NOT AFFECT ME TO THE POINT THAT I
5 WOULD HAVE A GRUDGE OR HOSTILITY OR RESENTMENT TOWARD
6 EACH AND -- EACH AND EVERY ONE OF YOU ALL, EACH
7 INDIVIDUAL

8 THAT WILL BE YOUR DECISION, THAT WILL BE YOUR
9 CHOICE AND I KNOW THAT LIFE MUST CONTINUE TO GO ON
10 AND THAT'S WHAT I WOULD LIKE TO LET THIS JUROR (SIC)
11 KNOW IN REFERENCE TO THE DECISION THEY MAKE, AND FOR
12 OTHERS WHO SIT AND HEAR AND KNOW THAT THIS IS THE TYPE
13 OF PERSON THAT I AM

14 I ALSO WOULD LIKE TO SAY THAT I REGRET AND VERY
15 SORROW (SIC) -- HAVE A LOT OF SORROW FOR WHAT HAS TAKEN
16 PLACE INTO MY HOME ESPECIALLY WITH THE TATE FAMILY,
17 MRS COURSEN AND I RECOGNIZE AND KNOW THAT IF SOMEONE
18 HAD DIED UNDER CERTAIN CIRCUMSTANCES IN RELATIONSHIP TO
19 A INDIVIDUAL, THEN I WILL TRY TO GET THE FACTS AND
20 UNDERSTAND ABOUT THAT PERSON AND I WOULD BE -- I WOULD
21 PROBABLY BE ANGRY AND THAT AT A INDIVIDUAL IF I THOUGHT
22 SOMEONE HAD MURDER MY FAMILY

23 SO, THEREFORE, I WOULD LIKE TO SAY THAT I
24 APOLOGIZE, AND I'M SORRY ABOUT WHAT TOOK PLACE IN MY
25 HOME IN REFERENCE TO YOU ALL HUSBAND LOSING THEIR LIFE

STATE VS ALKEBULANYAHH

1 AND THERE IS NOTHING THAT I CAN DO TO BRING BACK THEIR
2 LIFE THERE IS NOTHING I DO

3 BUT FROM THE DEEPEST RECESSES OF MY HEART, I PRAY
4 THAT THE MOST HIGH GOD ALMIGHTY GIVE YOUR FAMILY AND
5 YOUR CHILDREN COMFORT BECAUSE OF THEIR LOSS BECAUSE
6 THE LOSS IS FOREVER

7 AND THAT IS LIFE, BUT IRREGARDLESS OF WHAT ANYONE
8 SAY OR HAS TO SAY ABOUT ME, IT WAS NEVER MY INTENTIONS
9 TO HAVE ANY CULPABILITY IN THE CAUSING THE LIFE (SIC)
10 OF YOUR HUSBANDS I KNEW NEITHER ONE OF YOUR HUSBANDS
11 I DID NOT KNOW YOUR HUSBAND

12 YOUR HUSBAND HAD NEVER DONE ANYTHING TO ME THAT I
13 KNOW THAT COULD MAKE ME ANGRY OR UPSET WITH THEM I
14 DON'T EVER RECALL EVER HAVING A PREVIOUS ENCOUNTER WITH
15 THEM TO NONE WHATSOEVER -- WHATEVER TO ANY EXTENT

16 SO I CAN'T HATE YOUR HUSBAND OR SAY I DISLIKE YOUR
17 HUSBAND OR DISLIKE THE CONDUCT OF YOUR HUSBAND ON THAT
18 DAY, BECAUSE AGAIN AS I STATED EARLIER TO THE JURORS,
19 THEY ARE LAW ENFORCEMENT

20 AND THIS SOCIETY NEED LAW ENFORCEMENT FOR THE
21 PROTECTION OF EVERYONE, FOR MY CHILDREN, MY SON, MY
22 DAUGHTER, MY BROTHERS AND SISTERS AS WELL

23 BUT STILL YET, I WANT THE UNDERSTANDING FOR THE
24 FAMILIES TO UNDERSTAND IRREGARDLESS OF WHATEVER
25 DECISION THAT CAME OUT, WHETHER THE JURORS MADE THEIR

STATE VS ALKEBULANYAHH

1 DECISION, THEN I ACCEPT THAT DECISION BECAUSE I AM A
2 MAN AND I ACCEPT THEIR -- THEIR -- THEIR DECISION
3 BASED ON WHATEVER INFORMATION THAT THEY RECEIVE ABOUT
4 THE FACTS OF THIS CASE

5 BUT THE MOST OF ALL, I JUST PRAY THAT THE FAMILIES
6 FIND COMFORT IN THIS OTHER PEOPLE MAY HAVE MOTIVES
7 AND DIFFERENT REASONS FOR MAYBE TO VILLAINIZE ME OR
8 MAKE ME ANGRY OR CAUSE DISSENTION OR TO DISLIKE TOWARD
9 YOU OR YOUR FAMILY OR YOUR CHILDREN BUT IT CAN'T BE
10 AND I WON'T LET IT HAPPEN IRREGARDLESS OF THE OUTCOME
11 OR WHATEVER DECISION THAT THE JURORS MAKE ABOUT MY LIFE
12 OR DEATH

13 I WILL LIVE ON BUT IN MY HEART AND IN MY PRAYER,
14 THEY WILL ALWAYS BE OUT TO THEM OFFICERS BECAUSE I FEEL
15 LIKE ---

16 STEPHEN TATE YOUR HONOR ---

17 MR ALKEBULANYAHH --- UP TO THIS DAY ---

18 STEPHEN TATE YOUR HONOR ---

19 THE COURT HOLD ON PLEASE NO NO SIR

20 GO AHEAD, PLEASE

21 STEPHEN TATE I OBJECT

22 THE COURT NO, SIR

23 STEPHEN TATE I THOUGHT HE WAS SUPPOSED TO ---

24 THE COURT SIR, YOU CAN'T OBJECT

25 GO AHEAD GO AHEAD, PLEASE

STATE VS ALKEBULANYAHH

1 MR ALKEBULANYAHH AND I -- I'M SORRY I
2 APOLOGIZE AND AGAIN AS I THOUGHT THAT FROM -- FROM
3 THIS TRIAL I LEARNED ABOUT THINGS THAT HAPPEN THAT I
4 WOULD NEVER HAVE LEARNED IT IF THIS TRIAL HAD NOT GONE
5 THROUGH ABOUT THE ACTIONS OF CERTAIN PEOPLE INVOLVED IN
6 THIS AND I LEARNED INFORMATION
7 I LEARNED A LOT FROM THIS TRIAL I LEARNED WHAT
8 REALLY -- WHAT REALLY WAS SAID AND WHAT REALLY WAS
9 DONE
10 AND AS MR KELLY, THE ATTORNEY, LEADING ATTORNEY
11 FOR ME SPOKE AND SAID BEFORE THIS JURY ABOUT CERTAIN
12 PEOPLE KNOWING CERTAIN THINGS THAT WAS GOING ON, AND I
13 AGREE WITH THAT ONE HUNDRED PERCENT
14 BUT I WOULDN'T WANT TO CAST MY LIFE AWAY AT A
15 INSTANCE LIKE THAT I CAN'T CONCEIVE IT IT'S --
16 THERE WAS NO GAIN THERE WAS NO GAIN FOR ME TO GO AND
17 CAST MY LIFE AWAY OR TO JUST CAUSE HARM TO SOMEONE JUST
18 FOR NO REASON AT ALL, YOU KNOW IT'S JUST
19 INCONCEIVABLE AND IT HURTS ME
20 IT HURTS ME FOR THE FAMILY, ESPECIALLY THE FAMILY
21 WHO IS HERE AND WHAT YOU GO THROUGH, WHAT YOU ALL ARE
22 GOING THROUGH
23 BUT IT HAPPENED THAT SITUATION HAPPENED AND I
24 CAN'T SIT HERE AND SAY, WELL, AT THIS POINT SAY, I'M
25 INNOCENT I'M -- I'M -- I DIDN'T DO THIS, I DIDN'T DO

STATE VS ALKEBULANYAHH

1 THAT, BECAUSE THE JURORS HAVE DETERMINED MY GUILT
2 AND I DON'T WANT TO INSULT OR MAKE THEM FEEL THAT
3 BECAUSE THEY HAVE BROUGHT WHATEVER DECISION THEY'VE
4 BROUGHT FROM THE FACTS THEY HAVE LEARNED ABOUT THIS
5 CASE CONCERNING ME

6 BUT I AM NOT A MALICIOUS PERSON I MAY UNDER --
7 MAY HAVE SEEN THINGS THAT -- BECAUSE OF THE LACK OF
8 KNOWLEDGE THAT I HAD THERE

9 BUT I ASK THE WIVES AND THE FAMILIES, NOT THE
10 OUTSIDERS -- THE WIVES AND THE FAMILIES, THOSE TO JUST
11 HAVE ONE UNDERSTANDING WITH ME

12 I WAS IN A BLIND SITUATION IN THE INCIDENT THAT
13 TOOK PLACE IN MY HOME AND I'M SORRY THAT I DIDN'T
14 KNOW TO THE EXTENT AS THEY WOULD SAY -- MR STONE SAY I
15 SHOULD HAVE RAN OR DID THIS AND DID THAT BUT I FELT
16 COMFORTABLE IN MY HOME

17 I DIDN'T FELT LIKE I BROKE THE LAW OR WAS DOING
18 ANYTHING WRONG I FELT COMFORTABLE

19 AND AGAIN, I SINCERELY APOLOGIZE AND REGRET WHAT
20 TOOK PLACE THERE FOR WHATEVER IT'S WORTH

21 BUT I'M NOT STANDING BEFORE YOU TO SAY I'M GOING
22 TO ASK THIS JURY OR YOU OR ANYONE ELSE FOR ANY MERCY
23 I ASK MERCY FROM MY GOD THAT IS WHERE MY STRENGTH,
24 THAT IS WHERE MY COURAGE COME FROM AND I HAVE TO LIVE
25 WITH THAT AND I WILL LIVE WITH THAT THE BEST WAY I KNOW

STATE VS ALKEBULANYAHH

1 HOW

2 BUT I DO PRAY, BECAUSE I LOVE MY FAMILY, THAT THE
3 FAMILY FINDS SOME COMFORT AND BLESSINGS FROM MY GOD
4 AND THAT'S WHAT I PRAY AND THAT'S WHAT I HOPE THAT --
5 THAT -- THAT YOU AND YOUR FAMILY FIND FROM THAT
6 SITUATION

7 IT WAS A TRAGEDY THINGS HAPPEN AND THINGS
8 COULD HAVE BEEN AVOIDED AND I REGRET THAT I HAVE TO
9 STAND BEFORE THIS JURY AND MAY RECEIVE THE SENTENCE OF
10 DEATH OR LIFE IN PRISON AWAY FROM MY CHILDREN BUT I
11 HAVE TO -- I HAVE TO ACCEPT THAT

12 I HAVE CHILDREN YOU HAVE CHILDREN YOU HAVE
13 LOVED ONES I RESPECT THAT, AND I HONOR THAT

14 BUT GIVE ME A DIGNITY TO NOT CATER TO PEOPLE TO
15 THE POINT THAT TO SPEAK ALL EVIL CONCERNING ME
16 BECAUSE, AGAIN, AS I SAID, I NEVER ORCHESTRATED THE
17 SITUATION I NEVER DREAMED THAT MY LIFE WAS GOING TO
18 CHANGE LIKE THAT IN A INSTANT

19 I SAY, WELL, SOME PEOPLE MAY HAVE DONE THIS AND
20 SOME PEOPLE MAY HAVE DONE THIS I CAN'T -- I CAN'T DO
21 THAT I CAN'T POINT THE FINGER I CAN'T SAY THOSE
22 THINGS I JUST CANNOT DO IT

23 BUT I'M HUMAN I HAVE PRIDE I RESPECT MYSELF
24 I'M A BLACK MAN

25 AND I RECOGNIZE IN THIS PARTICULAR SOCIETY THAT

STATE VS ALKEBULANYAHH

1 IT'S A BIG DIFFERENCE IN THE LIFE OF PEOPLE OF COLOR IN
2 THE SOCIETY THAT WE LIVE IN BUT I DON'T -- I'M NOT
3 ONE TO SAY, WELL, ALL WHITE PEOPLE ARE HATE OR ALL --
4 I'M AGAINST ALL AUTHORITY

5 I HAVE FAMILY MEMBERS THAT ARE POLICE OFFICERS
6 RETIRED OFFICERS WITH THE POLICE FORCE AND DIFFERENT
7 THINGS THEY -- THAT'S WHAT THEY DO THAT'S WHAT THEY
8 LIVE FOR

9 BUT JUST UNDERSTAND ME, AND THAT'S WHAT I SAY
10 I'M GOING TO BE -- I'M GOING TO STAY ME I HAVE TO BE
11 ME I DON'T KNOW NO OTHER WAY BUT TO BE ME

12 I DON'T KNOW NO OTHER WAY BUT TO STAND BEFORE THE
13 FAMILY AND PRAY THAT THEIR FAMILY FIND SOME -- SOME --
14 SOMETHING WITHIN THEMSELVES TO UNDERSTAND THAT I DID
15 NOT HATE YOUR HUSBAND I DID NOT HATE WHAT THEY
16 REPRESENT

17 THE ONLY HATE THAT I HAVE, I HATE THE SITUATION
18 WHICH LED TO YOUR HUSBAND COMING TO MY HOME AND THEY
19 DID WHAT THEY HAD TO DO

20 AS THE COUNSEL SAID, THAT'S THEIR DUTY THAT'S
21 WHAT THEY -- THAT'S WHAT THEY KNOW TO DO BUT I HATE
22 THE SITUATION THAT LED THEM TO MY HOME AND I HATE
23 THAT I WAS IN THE TOTAL BLIND OF WHAT -- WHY THEY WAS
24 THERE AND WHAT THEY -- WHAT THEY COME TO MY HOME FOR
25 I HATE THAT BECAUSE IT WAS A -- IT WAS BOGUS IT WAS

STATE VS ALKEBULANYAHH

1 FALSE

2 AND I'M SORRY TO THE WIFE AND TO THE CHILDREN,
3 ESPECIALLY THE CHILDREN AND I PRAY THAT YOU FIND SOME
4 KIND OF WAY TO FIND SOME TYPE OF FORGIVENESS IN
5 REFERENCE TO THE INCIDENT, THE MATTER, AND THE THINGS
6 THAT TOOK PLACE

7 AND I PRAY -- I REALLY SINCERELY ASK AND PRAY THAT
8 YOU FIND SOME KIND OF COMFORT IN THAT, BECAUSE, AGAIN,
9 NO MATTER WHAT THIS JUROR (SIC) DECIDE, I ACCEPT THAT
10 I WILL ACCEPT THAT WITHOUT ANY HOSTILITY OR RESENTMENT
11 TOWARD THEM

12 I HAVE -- I -- I HAVE HAD SOME HARD AND DIFFICULT
13 TIMES AND BEEN IN SOME DIFFICULT SITUATION BUT MY
14 LIFE HAS BEEN TRYING TO MAKE IT BETTER, AND BETTER, AND
15 BETTER AND CHANGE ITSELF

16 AND AS YOU HEARD SOME -- SOME WITNESSES GET UP AND
17 THEY SAY WELL, THEY CALLING ME MINISTER, BECAUSE THAT
18 WAS THE DIRECTION -- THAT WAS THE THING I WAS COMING
19 FORWARD TOWARDS TRYING TO DO, EVOLVE, SO MY HAND WOULD
20 BE CLEAN AWAY FROM CAUSING DISRUPTION AND PAIN TO
21 ANYONE TO TRY TO HELP PEOPLE IN THE WAY THAT I KNEW
22 BEST HOW

23 BUT AGAIN, MRS COURSEN, I PRAY THAT YOU ACCEPT ME
24 -- ACCEPT MY APOLOGY IN REFERENCE TO WHAT TOOK PLACE IN
25 MY HOME, MA'AM, AND I PRAY THAT YOU HAVE SOME COMFORT

STATE VS ALKEBULANYAHH

1 FOR WHATEVER IT'S WORTH AND IF YOU DO NOT, MY PRAYER
2 IS STILL WITH YOU AND YOUR FAMILY

3 AND IT'S THE SAME WAY THAT I SPEAK IN REFERENCE TO
4 YOU, MRS TATE IF YOU DO NOT, I STILL HAVE MY -- MY
5 SYMPATHY AND MY REMORSE EVERYTHING STILL GOES OUT TO
6 YOU AND YOUR CHILDREN IRREGARDLESS HOW YOU MAY FEEL
7 AND IF YOU FEEL OPPOSITE OF THAT, YOU HAVE A RIGHT TO
8 BECAUSE THAT'S A LOT OF PAIN

9 AND IF I WAS ON -- IN YOUR SHOES THEN I WOULD
10 FEEL THE SAME WAY I WOULD BE ANGRY IF I BELIEVED
11 SOMEONE MURDERED OR JUST KILLED MY -- MY HUSBAND OR MY
12 FAMILY OR MY WIFE MALICIOUSLY I WOULD FEEL THAT PAIN
13 THAT YOU FEEL

14 BUT FROM EVERYTHING THAT YOU GATHER AND EVERYTHING
15 THAT YOU KNOW I ASK YOU JUST IF YOU LIE DOWN AND SLEEP
16 AND SAY ONLY GOD ALMIGHTY IS THE ALL-KNOWING, NOT
17 MYSELF, NOT THE PROSECUTOR, NOT THE PEOPLE HE IS THE
18 ALL-KNOWING HE SEES, HE HEARS, AND HE KNOWS ALL
19 THINGS HE KNOWS WHAT HAPPENED THAT DAY AND WE DON'T
20 HAVE THEM TYPE OF EYES WE'RE NOT BLESSED TO BE THE
21 ALL-KNOWING WE ALL MAKE MISTAKES

22 AND I'M NOT SAYING WHAT THE JURORS' DECISION AND
23 WHAT THEY HAVE COME TO BE AND COME TO KNOW IS
24 RESPECTFULLY, BECAUSE THEY'RE GOING ON INFORMATION
25 THEY'RE GOING ON WHAT THEY PERCEIVE TO BE THE FACTS

STATE VS ALKEBULANYAHH

1 AND GOD IS THE ALL-KNOWING HE'S THE ONE THAT
2 KNOW EXACTLY WHAT HAPPENED, EXACTLY WHAT WAS ON THE
3 HEARTS OF MEN, EXACTLY WHAT WAS ON THE HEARTS OF THE
4 PEOPLE INVOLVED IN THIS

5 THANK YOU, LADIES AND GENTLEMENS AND MAY GOD BE
6 WITH THE FAMILY MRS COURSEN AND MRS TATE I'M SORRY
7 ABOUT WHAT HAPPENED TO YOUR HUSBAND INSIDE MY HOME,
8 SINCERELY, REGRETTABLE, AND THAT'S ALL I CAN SAY WITH
9 MY WORDS AND I PRAY THAT YOU ACCEPT THAT AND I PRAY
10 THAT YOU ACCEPT THAT

11 AND I'LL SAY IT A THOUSAND TIMES A MILLION TIMES,
12 I REGRET AND I'M SORRY ABOUT WHAT HAPPENED TO YOUR
13 HUSBAND IN MY HOME

14 THANK YOU YOUR HONOR
15 THE COURT ALL RIGHT

16 LADIES AND GENTLEMEN, YOUR LUNCH -- WILL THERE BE
17 ANYTHING FURTHER FROM EITHER SIDE?

18 MR STONE NOT FROM THE STATE SIR

19 MR KELLY NO YOUR HONOR, I THINK NOT

20 THE COURT ALL RIGHT LADIES AND GENTLEMEN, YOUR
21 LUNCH HAS ARRIVED SO I WILL SEND YOU TO LUNCH I WILL
22 GIVE YOU MY INSTRUCTIONS AT 1 15 AND THEN RELEASE YOU
23 TO BEGIN YOUR DELIBERATIONS

24 THANK YOU VERY MUCH DO NOT DISCUSS THIS CASE IN
25 ANY WAY

STATE VS ALKEBULANYAHH

1 (THE JURY EXITS THE COURTROOM AT 12 13 PM)
2 THE COURT THANK YOU WE SHALL BE ADJOURNED
3 UNTIL 1 15
4 MR KELLY THANK YOU, YOUR HONOR
5 (COURT IS IN RECESS FOR LUNCH)
6 (THE DEFENDANT RETURNS TO THE COURTROOM AND TO THE
7 DEFENSE TABLE)
8 THE COURT IS THE DEFENDANT GOING TO BE SITTING
9 AT THE TABLE?
10 MR THORNTON YES, SIR
11 THE COURT READY?
12 MR STONE THE STATE IS READY, YOUR HONOR
13 MR KELLY THE DEFENSE IS READY
14 THE COURT ALL RIGHT BRING THE JURY IN, PLEASE
15 (THE JURY RETURNS TO THE COURTROOM AT 1 17 P M)
16 THE COURT THANK YOU PLEASE BE SEATED
17 CHARGE OF THE COURT
18 ALL RIGHT LADIES AND GENTLEMEN AT THIS POINT
19 THAT CONCLUDES THE PRESENTATION OF THIS PHASE OF THE
20 CASE TO YOU AND I NOW NEED TO GIVE YOU SOME
21 INSTRUCTIONS SO THAT YOU MAY BEGIN YOUR DELIBERATIONS
22 ONCE WE ARE -- ONCE I'VE GONE THROUGH THESE
23 INSTRUCTIONS
24 NOW -- AND I'M JUST GOING TO FIRST TOUCH UPON SOME
25 OF THE THINGS THAT I'VE ALREADY TOUCHED UPON IN THE

STATE VS ALKEBULANYAHH

1 FIRST PHASE OF THE TRIAL, BUT JUST TO REMIND YOU ABOUT
2 SOME OF THESE CONCEPTS

3 NOW, UNDER THE CONSTITUTION AND THE LAW, YOU ARE
4 THE FINDERS OF THE FACTS IN THIS CASE I DO NOT SIT UP
5 HERE AND PASS UPON THE FACTS OR EXPRESS ANY OPINION
6 THAT I MIGHT HAVE ABOUT THIS MATTER

7 YOU SHOULD NOT INTERPRET ANYTHING THAT I'VE DONE
8 OR SAID OR ANY GESTURES ON MY PART AS ANY INDICATION OF
9 WHAT I THINK YOU SHOULD DO OR WHAT I MIGHT THINK ABOUT
10 THIS CASE

11 YOU ARE ALSO THE JUDGES AND THE SOLE JUDGES OF THE
12 CREDIBILITY OR BELIEVABILITY OF THE WITNESSES WHO HAVE
13 TESTIFIED IN THIS CASE

14 IN PASSING UPON THEIR CREDIBILITY YOU MAY TAKE
15 INTO CONSIDERATION MANY THINGS SUCH AS THE DEMEANOR OR
16 MANNER OF TESTIFYING, WHETHER THE WITNESS HAD REASON TO
17 BE BIASED OR PREJUDICED WHETHER A WITNESS' TESTIMONY
18 WAS CONTRADICTED ON THE ONE HAND AND SUPPORTED AND
19 CORROBORATED ON THE OTHER, AND WHAT WAS THE WITNESS'
20 OPPORTUNITY FOR OBSERVATION AND KNOWLEDGE OF THE
21 MATTERS ABOUT WHICH THE WITNESS HAS TESTIFIED?

22 YOU CERTAINLY DO NOT DETERMINE CREDIBILITY OR
23 BELIEVABILITY BY JUST COUNTING THE NUMBER OF WITNESSES
24 FOR EITHER SIDE

25 YOU MAY BELIEVE A SMALL PORTION OF A WITNESS'

STATE VS ALKEBULANYAHH

1 TESTIMONY AND DISREGARD THE LARGE, OR VICE VERSA

2 YOU MAY BELIEVE ONE WITNESS AGAINST MANY OR MANY
3 AGAINST ONE

4 YOU MAY BELIEVE ALL, SOME, OR NONE OF A WITNESS'
5 TESTIMONY

6 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
7 GENERALLY PRESENTED DURING THE CASE DIRECT EVIDENCE
8 IS THE TESTIMONY OF A PERSON WHO ASSERTS OR CLAIMS TO
9 HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS
10 CIRCUMSTANTIAL EVIDENCE, ON THE OTHER HAND, MEANS
11 THE PROOF OF SOME OTHER FACTS AND CIRCUMSTANCES
12 INDICATING THE EXISTENCE OF A FACT

13 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
14 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
15 CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER DEGREE OF
16 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
17 DIRECT EVIDENCE

18 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE

19 NOW, LADIES AND GENTLEMEN THE DEFENDANT HAS NOT
20 TESTIFIED DURING THIS PHASE OF THE CASE, AND THAT'S THE
21 DEFENDANT'S CONSTITUTIONAL RIGHT AND IT'S NOT A
22 CIRCUMSTANCE THAT YOU CAN TAKE INTO YOUR CONSIDERATION
23 OR EVEN ALLOW TO ENTER INTO YOUR DISCUSSION IN YOUR
24 JURY -- JURY ROOM

25 NO ADVERSE INFERENCES IN ANY WAY MAY BE DRAWN FROM

STATE VS ALKEBULANYAHH

1 THIS DECISION NOR WEIGH IN THE SLIGHTEST AGAINST THE
2 DEFENDANT THAT'S DIFFERENT THAN THE DEFENDANT MAKING
3 A PERSONAL STATEMENT TO YOU IN CLOSING

4 NOW, LADIES AND GENTLEMEN, AS I PREVIOUSLY
5 INSTRUCTED, YOU MUST NOT CONSIDER ANY OUTBURSTS IN THE
6 COURTROOM OR THROUGHOUT THE COURSE OF THESE SENTENCING
7 PROCEEDINGS

8 IN ADDITION, THE FACT THAT THE DEFENDANT WAS NOT
9 SEATED AT THE DEFENSE TABLE FOR PART OF THE PROCEEDINGS
10 SHOULD NOT BE CONSIDERED BY YOU IN ANY WAY AND
11 SPECIFICALLY NO ADVERSE INFERENCES MAY BE DRAWN FROM
12 THAT FACT

13 NOW BY THE SAME CONSTITUTION AND THE LAW WHICH
14 MAKES YOU THE FINDERS OF THE FACTS, I AM MADE THE SOLE
15 AND ONLY INSTRUCTOR IN THE LAW YOU MUST ACCEPT AS
16 CORRECT THE LAW WHICH I CHARGE, APPLY TO THE LAW THE
17 FACTS AS YOU FIND THEM TO BE AND REACH YOUR VERDICT

18 YOU SHOULD NOT BE CONCERNED ABOUT WHAT THE LAW
19 OUGHT TO BE BUT RATHER WHAT I CHARGE YOU THE LAW IS AT
20 THE PRESENT TIME IN THIS STATE

21 I FURTHER CHARGE YOU THAT THE EVIDENCE OF ANY
22 PRIOR CRIMES OR MISCONDUCT BY A DEFENDANT SHOULD NOT BE
23 CONSIDERED AND MAY NOT BE USED AS PROOF OF ANY
24 STATUTORY AGGRAVATING CIRCUMSTANCES ABOUT WHICH I WILL
25 INSTRUCT YOU SHORTLY HOWEVER, YOU MAY CONSIDER SUCH

STATE VS ALKEBULANYAHH

1 EVIDENCE ONLY AS TO THE DEFENDANT'S CHARACTER OR
2 CHARACTERISTICS, BUT NOT AS TO PROOF OF ANY ALLEGED
3 STATUTORY AGGRAVATING CIRCUMSTANCES

4 NOW, AS I INDICATED, LADIES AND GENTLEMEN, IT
5 BECOMES YOUR DUTY TO DECIDE WHAT SENTENCE WILL BE
6 RECOMMENDED TO THE COURT TO IMPOSE UPON THE DEFENDANT

7 THE VERDICTS YOU WILL CONSIDER IN THIS CASE IS THE
8 DEATH PENALTY, WHICH IN THIS CASE IN THIS STATE IS BY
9 ELECTROCUTION OR LETHAL INJECTION AND THE OTHER IS
10 LIFE IMPRISONMENT WITHOUT PAROLE

11 NOW, LIFE IMPRISONMENT WITHOUT PAROLE MEANS UNTIL
12 THE DEATH OF THE OFFENDER THERE IS NO ELIGIBILITY FOR
13 PAROLE OR RELEASE FROM PRISON

14 AND PLEASE UNDERSTAND YOUR SENTENCING
15 RECOMMENDATION WILL BE FOLLOWED BY THIS COURT

16 NOW, AT THIS POINT I'M GOING TO JUST GO OVER --
17 AND THERE'S NO SIGNIFICANCE WHATSOEVER TO THE ORDER IN
18 WHICH I EXPLAIN THE POSSIBLE CHOICES IT'S JUST THAT I
19 HAVE TO TELL YOU ABOUT THEM ONE -- ONE HAS TO START
20 OFF THE BUNCH FIRST

21 AND SO AS I GO THROUGH THIS PROCESS, I'M GOING TO
22 BE REFERRING TO VARIOUS FORMS THESE FORMS WILL BE
23 WITH YOU IN THE JURY ROOM SO I'M GOING TO MAKE SURE
24 THAT I GO OVER THE FORMS AND THAT YOU UNDERSTAND THESE
25 FORMS

STATE VS ALKEBULANYAHH

1 NOW, AGAIN THERE IS NOT ANY SIGNIFICANCE TO THE
2 ORDER IN WHICH I GO OVER THESE AND SO LET ME START
3 OFF BY EXPLAINING ON THE FORM THAT SAYS, RECOMMENDATION
4 OF A DEATH SENTENCE, THIS IS THE FORM RIGHT HERE
5 YOU'LL HAVE IT IN THE JURY ROOM WITH YOU

6 BY THIS RECOMMENDATION OF SENTENCE FORM WHICH I
7 HAVE IN MY HAND, YOU, THE JURY, MAY RECOMMEND THAT THIS
8 COURT SENTENCE A DEFENDANT TO DEATH

9 PLEASE OBSERVE THAT IMMEDIATELY BELOW THE BODY OF
10 THE RECOMMENDATION, THERE ARE LINES HERE WITH YOUR
11 NAMES AND THIS IS WHERE SHOULD YOU UNANIMOUSLY DECIDE
12 TO RECOMMEND THE DEATH PENALTY EACH ONE OF YOU WOULD
13 SIGN YOUR NAME

14 NOW, I'M JUST GOING TO READ TO YOU THE TEXT OF THE
15 FORM IT SAYS, WE, THE JURY, IN THE ABOVE ENTITLED
16 CASE, HAVING FOUND BEYOND A REASONABLE DOUBT THE
17 EXISTENCE OF THE FOLLOWING STATUTORY AGGRAVATING
18 CIRCUMSTANCES TO WIT

19 AT -- AT THAT POINT THERE'S SOME LINES HERE FOR
20 YOU TO WRITE IN ANY CIRCUMSTANCES THAT YOU UNANIMOUSLY
21 AGREE UPON, AND I'M GOING TO TALK TO YOU ABOUT THAT
22 FURTHER AND IT GOES ON TO SAY, WE NOW RECOMMEND TO
23 THE COURT THAT THE DEFENDANT BE SENTENCED TO DEATH

24 NOW FOR THIS RECOMMENDATION TO BE MADE, LADIES
25 AND GENTLEMEN, THAT IS THE DEFENDANT BE SENTENCED TO

STATE VS ALKEBULANYAHH

1 DEATH, YOU MUST FIRST FIND THAT A STATUTORY AGGRAVATING
2 CIRCUMSTANCE EXISTED BEYOND A REASONABLE DOUBT

3 WHAT IS A STATUTORY AGGRAVATING CIRCUMSTANCE? IT
4 IS A FACT, AN INCIDENT, OR A DETAIL, OR AN OCCURRENCE
5 WHICH THE SOUTH CAROLINA GENERAL ASSEMBLY -- THAT'S THE
6 LEGISLATURE -- HAS DECLARED BY STATUTE WOULD MAKE
7 WORSE, THAT IS AGGRAVATE, THE OFFENSE OF MURDER WHEN
8 THE TWO OCCUR TOGETHER

9 IN OTHER WORDS, IT IS SOMETHING WHICH INCREASES
10 THE ENORMITY OR ADDS TO THE INJURIOUS CONSEQUENCES OF
11 THE OFFENSE

12 AT THIS TIME I'M GOING TO HOLD UP A FORM THAT
13 SAYS, STATUTORY INSTRUCTIONS I KNOW YOU MAY NOT BE
14 ABLE TO SEE THESE FROM BACK OVER THERE, BUT YOU WILL
15 HAVE THEM IN THE JURY ROOM NOW -- AND AGAIN YOU'LL --
16 AS I INDICATED YOU'LL HAVE THAT IN THE JURY ROOM WITH
17 YOU, BUT I'M GOING TO READ THE BODY OF THE FORM TO YOU

18 IN DETERMINING WHETHER TO RECOMMEND THAT THE
19 DEFENDANT, ABDIYYAH BEN ALKEBULANYAHH, BE SENTENCED BY
20 THE COURT TO LIFE IMPRISONMENT OR TO DEATH, YOU MAY
21 CONSIDER THE FOLLOWING STATUTORY AGGRAVATING
22 CIRCUMSTANCES AT LEAST ONE OF WHICH MUST BE PROVEN
23 BEYOND A REASONABLE DOUBT BY THE STATE

24 AND I'M JUST GOING TO READ TO YOU FROM THE FORM
25 THE TWO AGGRAVATING CIRCUMSTANCES THAT YOU ARE ENTITLED

STATE VS ALKEBULANYAHH

1 TO CONSIDER IN THIS CASE

2 ONE -- AND THE LANGUAGE JUST COMES RIGHT FROM THE
3 STATUTE LADIES AND GENTLEMEN -- WHETHER THE MURDER OF
4 A FEDERAL, STATE OR LOCAL LAW ENFORCEMENT OFFICER OR
5 FORMER PEACE OFFICER CORRECTIONS OFFICER OR FORMER
6 CORRECTIONS OFFICER INCLUDING A COUNTY OR MUNICIPAL
7 CORRECTIONS OFFICER OR A FORMER COUNTY OR MUNICIPAL
8 CORRECTIONS OFFICER, A COUNTY OR MUNICIPAL DETENTION
9 FACILITY EMPLOYEE OR FORMER COUNTY OR MUNICIPAL
10 DETENTION FACILITY EMPLOYEE, OR FIREMAN OR FORMER
11 FIREMAN DURING OR BECAUSE OF THE PERFORMANCE OF HIS
12 OFFICIAL DUTIES THAT'S NUMBER ONE

13 AND NUMBER TWO IS WHETHER TWO OR MORE PERSONS WERE
14 MURDERED BY THE DEFENDANT BY ONE ACT OR PURSUANT TO ONE
15 SCHEME OR COURSE OF CONDUCT

16 NOW, I NEED TO EMPHASIZE TO YOU THAT THESE ARE THE
17 ONLY CIRCUMSTANCES THAT YOU MAY CONSIDER AS THE
18 AGGRAVATING CIRCUMSTANCES SHOULD YOU FIND -- AND IT
19 MUST BE THE UNANIMOUS FINDING, THAT IS A FINDING BY
20 EACH AND EVERY ONE OF YOU -- THAT THE STATE HAS PROVEN
21 BEYOND A REASONABLE DOUBT THE EXISTENCE OF AT LEAST ONE
22 -- EXCUSE ME -- BEYOND A REASONABLE DOUBT THE EXISTENCE
23 AT THE TIME OF THE OFFENSE OF ONE OR MORE OF THE
24 CIRCUMSTANCES LISTED ON THIS SHEET YOU WOULD BE
25 AUTHORIZED, WHICH IS TO SAY PERMITTED, TO CONSIDER

STATE VS ALKEBULANYAHH

1 RECOMMENDING TO THIS COURT THAT THE DEFENDANT BE
2 SENTENCED TO DEATH

3 NOW, WHAT DO I MEAN BY THE TERM, PROVEN BEYOND A
4 REASONABLE DOUBT? I'VE DISCUSSED THAT EARLIER DURING
5 THE FIRST PART OF THE CASE I'LL REMIND YOU AS I
6 PREVIOUSLY INSTRUCTED YOU THAT A REASONABLE DOUBT IS
7 THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON
8 TO HESITATE TO ACT THE STATE MUST PROVE THE EXISTENCE
9 OF ONE OR MORE AGGRAVATING CIRCUMSTANCES BEYOND A
10 REASONABLE DOUBT

11 NOW, I -- I NEED YOU TO PAY CLOSE ATTENTION TO
12 THIS ALSO YOU ARE NEVER REQUIRED TO RECOMMEND THE
13 DEATH PENALTY EVEN IF YOU FIND THAT A STATUTORY
14 AGGRAVATING CIRCUMSTANCE EXISTED AT THE TIME THAT THE
15 OFFENSE OCCURRED

16 HOWEVER IF YOU FIND THE EXISTENCE OF A STATUTORY
17 AGGRAVATING CIRCUMSTANCE PLEASE LIST THAT CIRCUMSTANCE
18 ON THE FORM ENTITLED AGGRAVATING CIRCUMSTANCES, AND ALL
19 TWELVE JURORS WILL SIGN THIS FORM THERE'S A SEPARATE
20 FORM THAT SAYS AGGRAVATING CIRCUMSTANCES

21 AND, AGAIN, ON THAT FORM, THERE'S A PLACE FOR YOU
22 TO ALL SIGN THE FORM AND THE FORM JUST SAYS, WE, THE
23 JURY, IN THE ABOVE ENTITLED CASE FIND BEYOND A
24 REASONABLE DOUBT THE FOLLOWING STATUTORY AGGRAVATING
25 CIRCUMSTANCES AND YOU WOULD PUT IF YOU FIND THE

STATE VS ALKEBULANYAHH

1 EXISTENCE OF ANY ONE OR MORE OF THE STATUTORY
2 AGGRAVATING CIRCUMSTANCES AT THE TIME OF THE OFFENSE --
3 YOU WOULD PUT ON THIS FORM WHAT YOU UNANIMOUSLY FIND

4 NOW, I WOULD INSTRUCT YOU FURTHER, LADIES AND
5 GENTLEMEN, IF YOU FIND THE STATE HAS NOT PROVEN THAT AN
6 AGGRAVATING CIRCUMSTANCE EXISTED, THAT IS TO SAY YOU
7 STILL HAVE A REASONABLE DOUBT AS TO THE EXISTENCE OF
8 SUCH A CIRCUMSTANCE, YOU WOULD NOT BE AUTHORIZED TO
9 RECOMMEND THE DEATH PENALTY OR LIFE IMPRISONMENT

10 THIS SIMPLY MEANS THAT IF THE JURY DOES NOT
11 UNANIMOUSLY FIND THE EXISTENCE OF ANY STATUTORY
12 AGGRAVATING CIRCUMSTANCE BEYOND A REASONABLE DOUBT, THE
13 JURY SHALL NOT MAKE A SENTENCING RECOMMENDATION

14 YOU WOULD THEN SIGN A FORM THAT WILL BE PROVIDED
15 TO YOU WHICH SIMPLY STATES THAT THE JURY HAS BEEN
16 UNABLE TO UNANIMOUSLY AGREE UPON THE EXISTENCE OF ANY
17 AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES AND IF THAT
18 WERE THE CASE MR FOREMAN, YOU WOULD JUST SIGN THAT
19 FORM

20 AND AT THAT POINT IF YOU FIND THAT THE STATE HAS
21 NOT PROVEN ANY STATUTORY AGGRAVATING CIRCUMSTANCE OR
22 CIRCUMSTANCES, YOUR DELIBERATIONS WOULD END YOU WOULD
23 NOT GO ON TO BE MAKING ANY SENTENCING RECOMMENDATION

24 NOW, SHOULD YOU FIND BEYOND A REASONABLE DOUBT
25 THAT ONE OR MORE OF THE AGGRAVATING CIRCUMSTANCES

STATE VS ALKEBULANYAHH

1 LISTED ON THE STATUTORY INSTRUCTION SHEET EXISTED AT
2 THE TIME OF THE MURDER AND SHOULD YOU THEN DECIDE AFTER
3 CONSIDERING THE ELEMENTS IN FAVOR OF A RECOMMENDATION
4 OF LIFE IMPRISONMENT ABOUT WHICH I WILL INSTRUCT YOU
5 MOMENTARILY THAT THE RECOMMENDATION OF THE JURY IS TO
6 BE THAT THE DEFENDANT BE SENTENCED TO DEATH THEN IT
7 WOULD BE YOUR DUTY, LADIES AND GENTLEMEN OF THE JURY
8 TO WRITE ON THE RECOMMENDATION OF SENTENCE FORM THAT
9 I'VE ALREADY GONE OVER WITH YOU THE STATUTORY
10 AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES WHICH YOU
11 HAVE POUND

12 AND I KNOW THAT MAY SOUND LIKE KIND OF A REPEAT OF
13 THAT OTHER FORM WHERE YOU FIND -- IF YOU FIND ANY
14 STATUTORY AGGRAVATING CIRCUMSTANCES BUT IF YOU CHOOSE
15 THE RECOMMENDATION OF THE DEATH PENALTY IN THAT
16 CIRCUMSTANCE I'M ASKING THAT YOU REPEAT IT AGAIN ON
17 THIS FORM AND THEN YOU WILL SEE A PLACE FOR YOU TO
18 SIGN

19 NOW LADIES AND GENTLEMEN THE -- IF I CAN FIND
20 IT THE FINAL FORM THAT YOU WILL HAVE BACK THERE FOR
21 YOUR CONSIDERATION IS THE RECOMMENDATION OF LIFE
22 IMPRISONMENT IT SAYS RECOMMENDATION OF LIFE
23 SENTENCE I BELIEVE, AT THE TOP AND IT JUST SAYS WE,
24 THE JURY IN THE ABOVE ENTITLED CASE RECOMMEND TO THE
25 COURT THAT THE DEFENDANT BE SENTENCED TO LIFE

STATE VS ALAEBULANYAH

1 IMPRISONMENT

2 AS I TOLD YOU, THAT IS LIFE IMPRISONMENT WITHOUT
3 PAROLE, WITHOUT THE POSSIBILITY OF RELEASE

4 NOW, PLEASE NOTE THAT ALTHOUGH YOU MUST
5 UNANIMOUSLY AGREE TO RECOMMEND LIFE IMPRISONMENT, ONLY
6 THE FOREPERSON HAS TO SIGN THAT ACTUAL VERDICT FORM,
7 LADIES AND GENTLEMEN

8 NOW, I'M GOING TO TALK TO YOU A LITTLE BIT ABOUT
9 WHAT YOU MAY CONSIDER IN MAKING YOUR DECISION AS TO THE
10 SENTENCE

11 AS I PREVIOUSLY INSTRUCTED, IF YOU FIND THE
12 EXISTENCE BEYOND A REASONABLE DOUBT OF AT LEAST ONE
13 STATUTORY AGGRAVATING CIRCUMSTANCE, THEN YOU ARE
14 PERMITTED, BUT NOT REQUIRED TO RECOMMEND THE DEATH
15 PENALTY

16 YOU NEED TO ALSO CONSIDER THE FOLLOWING WHETHER
17 THE EXISTENCE OF ANY NON-STATUTORY MITIGATING
18 CIRCUMSTANCE WAS SUPPORTED BY THE EVIDENCE AND
19 WHETHER FOR ANY REASON YOU CAN THINK OF OR FOR NO
20 REASON AT ALL, INCLUDING AN ACT OF MERCY, THE DEFENDANT
21 SHOULD BE SENTENCED TO LIFE IMPRISONMENT WITHOUT
22 PAROLE

23 A MITIGATING CIRCUMSTANCE IS NEITHER A
24 JUSTIFICATION NOR EXCUSE FOR A MURDER IT SIMPLY
25 LESSENS THE DEGREE OF ONE'S GUILT, THAT IS, MAKES HIM

STATE VS ALKEBULANYAHH

1 LESS BLAMEWORTHY OR LESS CULPABLE

2 NOW, THE FORM, THE STATUTORY INSTRUCTION FORM,
3 THAT -- AND THAT'S JUST A FORM THAT I SIGN THAT'S
4 NOTHING THAT -- IT'S NOT A FORM THAT YOU WILL ACTUALLY
5 SIGN IT'S THERE FOR YOUR GUIDANCE

6 BUT THE TOP PART TALKS ABOUT THE AGGRAVATING
7 CIRCUMSTANCES FROM THE STATUTE THAT YOU CAN CONSIDER
8 AND THE BOTTOM OF THE FORM ALSO REMINDS YOU THAT YOU
9 MAY CONSIDER ANY NON-STATUTORY MITIGATING
10 CIRCUMSTANCES

11 NOW, A NON-STATUTORY MITIGATING CIRCUMSTANCE IS
12 ONE WHICH IS NOT PROVIDED FOR BY STATUTE BUT IS ONE
13 WHICH THE DEFENDANT MAY CLAIM SERVES THE SAME PURPOSE,
14 THAT IS TO REDUCE THE DEGREE OF GUILT IN AN OFFENSE

15 NOW WHILE THERE MUST BE SOME EVIDENCE WHICH
16 SUPPORTS A FINDING BY YOU THAT A MITIGATING
17 CIRCUMSTANCE EXISTS, IT IS NOT NECESSARY FOR YOU TO
18 FIND THE EXISTENCE OF SUCH A CIRCUMSTANCE UNANIMOUSLY
19 NOR BEYOND A REASONABLE DOUBT

20 NOW, IN REACHING YOUR DECISION AS TO WHICH
21 SENTENCE TO RECOMMEND, YOU WILL CONSIDER ANY
22 AGGRAVATING AND ANY MITIGATING CIRCUMSTANCES

23 WHILE AN AGGRAVATING CIRCUMSTANCE MUST BE FOUND
24 BEFORE YOU CAN EVEN CONSIDER RECOMMENDING THE DEATH
25 PENALTY OR LIFE IMPRISONMENT, ONCE SUCH A FINDING IS

STATE VS ALKEBULANYAHH

1 MADE BEYOND A REASONABLE DOUBT YOU MAY RECOMMEND THE
2 DEATH SENTENCE EVEN THOUGH YOU FIND THE EXISTENCE OF
3 SOME MITIGATING CIRCUMSTANCE

4 IN OTHER WORDS, THE EXISTENCE OF A MITIGATING
5 CIRCUMSTANCE IS NOT A BAR TO THE IMPOSITION OF THE
6 DEATH PENALTY

7 NOW, I JUST WANT TO MAKE SURE I'M CLEAR WHEN I
8 SAID YOU WILL CONSIDER MAKING YOUR DECISION YOU WILL
9 CONSIDER ALL OF THE EVIDENCE IN THE CASE, INCLUDING ANY
10 AGGRAVATING AND MITIGATING CIRCUMSTANCES

11 NOW THE NEXT MATTER THAT YOU MAY CONSIDER IF YOU
12 SHOULD CONCLUDE THAT A STATUTORY AGGRAVATING
13 CIRCUMSTANCE EXISTS IS WHETHER THE DEFENDANT SHOULD BE
14 SENTENCED TO LIFE IMPRISONMENT FOR ANY REASON OR FOR NO
15 REASON AT ALL

16 THIS IS WHAT HAS TRADITIONALLY BEEN REFERRED TO AS
17 A RECOMMENDATION OF MERCY AND SHOULD SUCH BE YOUR
18 DECISION, YOU WOULD SO INDICATE BY RETURNING TO THE
19 COURT THE RECOMMENDATION OF LIFE IMPRISONMENT FORM,
20 WHICH ON THAT FORM I INDICATED ONLY THE FOREPERSON
21 WOULD NEED TO SIGN ONCE THE JURY HAD MADE ITS DECISION

22 NOW, IN OTHER WORDS, YOU MAY CHOOSE TO RECOMMEND
23 LIFE IMPRISONMENT IF YOU FIND A MITIGATING
24 CIRCUMSTANCE OR YOU MAY CHOOSE TO RECOMMEND LIFE
25 IMPRISONMENT AS AN ACT OF MERCY WHETHER OR NOT YOU FIND

STATE VS ALKEBULANYAHH

1 ANY MITIGATING CIRCUMSTANCES

2 SO I'M JUST GOING TO SUMMARIZE FOR YOU THE FORMS
3 YOU'LL HAVE IN THE JURY ROOM WITH YOU

4 YOU'LL HAVE THE STATUTORY INSTRUCTION FORM, AND
5 THAT'S JUST THE FORM THAT I SIGN THAT'S NOT AN ACTUAL
6 VERDICT FORM THAT YOU HAVE TO SIGN OR ANYTHING, AS I
7 INDICATED

8 YOU'LL HAVE AN AGGRAVATING CIRCUMSTANCE FORM ON
9 WHICH YOU WOULD PUT WHETHER OR NOT YOU FIND ONE OR MORE
10 OF THE STATUTORY AGGRAVATING CIRCUMSTANCES EXIST

11 AND THEN YOU WILL HAVE THE FORM MARKED, UNABLE TO
12 AGREE ON ANY AGGRAVATING CIRCUMSTANCES

13 AND THEN YOU WILL HAVE THE FORM, RECOMMENDATION OF
14 SENTENCE OF DEATH PENALTY, OR THE FORM, RECOMMENDATION
15 OF SENTENCE OF LIFE IMPRISONMENT

16 NOW, AS I WENT THROUGH THAT PROCESS, THE STATUTORY
17 INSTRUCTIONS, AS I INDICATED WILL BE THERE WITH YOU IN
18 -- IN THAT SET THAT I TURN OVER TO YOU I WILL PUT
19 THEM ON TOP

20 IT WOULD PROBABLY BE HELPFUL FOR YOU TO MAKE YOUR
21 DETERMINATION FIRST ABOUT WHETHER OR NOT THERE EXISTS
22 ANY AGGRAVATING CIRCUMSTANCES MAKE A DETERMINATION
23 ABOUT THAT IF THERE ARE ONE OR MORE, PUT ONE OR MORE
24 ON THERE FROM THOSE THAT YOU MAY BE -- MAY CONSIDER ON
25 THAT INSTRUCTION FORM AND THEN ALL OF YOU MUST SIGN

STATE VS ALKEBULANYAHH

1 THAT FORM

2 IF THERE ARE NOT, IF YOU FIND THAT THE STATE HAS
3 NOT PROVED ANY ONE OR MORE AGGRAVATING CIRCUMSTANCES,
4 THEN YOU WOULD -- MR FOREMAN, YOU WOULD SIGN THIS FORM
5 ON BEHALF OF THE JURY THAT THEY ARE UNABLE TO
6 UNANIMOUSLY AGREE AS TO ANY AGGRAVATING CIRCUMSTANCES

7 AS A REMINDER, AND THE FORM INDICATES AS MUCH,
8 YOU WOULD STOP YOUR DELIBERATIONS AND JUST KNOCK ON
9 THE DOOR AND NOTIFY THE BAILIFF YOU'VE MADE YOUR
10 DECISION

11 NOW, AS I -- I JUST WANT TO REMIND YOU AGAIN THE
12 ONLY STATUTORY CIRCUMSTANCES YOU CAN CONSIDER ARE THE
13 ONES LISTED ON THAT FORM

14 NOW, SHOULD YOU FIND BEYOND A REASONABLE DOUBT THE
15 EXISTENCE OF AN AGGRAVATING CIRCUMSTANCE OR
16 CIRCUMSTANCES, YOU WOULD BE AUTHORIZED TO CONSIDER
17 RECOMMENDING THE DEATH PENALTY OR LIFE IMPRISONMENT

18 IN YOUR DELIBERATIONS, YOU WILL CONSIDER ANY
19 MITIGATING CIRCUMSTANCES WHICH ARE SUPPORTED BY THE
20 EVIDENCE AND THIS IS ALL PART OF MY SUMMARY I
21 REALIZE I'VE SAID THIS

22 NOW, YOU WILL CONSIDER ANY AGGRAVATING
23 CIRCUMSTANCE OR CIRCUMSTANCES YOU FOUND AND ANY
24 MITIGATING CIRCUMSTANCES AND THEN YOU WILL DECIDE
25 WHETHER YOU WILL RECOMMEND THE DEATH PENALTY OR LIFE

STATE VS ALKEBULANYAHH

1 IMPRISONMENT WITHOUT PAROLE

2 AND YOU MAY ALSO CONSIDER ANY OTHER FACTOR IN
3 MITIGATION OR EXTENUATION OF THE SENTENCE, AS WELL AS
4 RECOMMEND LIFE IMPRISONMENT FOR NO REASON AT ALL

5 WHATEVER YOUR RECOMMENDATION IS LADIES AND
6 GENTLEMEN, IT MUST BE UNANIMOUS IT MUST BE THE
7 VERDICT OF EACH AND EVERY JUROR

8 NOW, PLEASE REMEMBER YOUR SENTENCING
9 RECOMMENDATION WILL BE FOLLOWED BY THE COURT

10 IN CONCLUSION, I JUST TELL YOU IN CONSIDERING
11 WHETHER TO RECOMMEND THAT THE DEFENDANT BE SENTENCED TO
12 DEATH OR LIFE IMPRISONMENT, I WOULD CHARGE YOU THAT AS
13 JURORS YOU MUST DECIDE THE ISSUE INVOLVED IN THIS
14 PROCEEDING WITHOUT ANY BIAS AND WITHOUT ANY PREJUDICE
15 TO ANY PARTY

16 YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL
17 JURORS SWORN TO IMPARTIALLY TRY AND DETERMINE THE
18 FACTS OF THIS MATTER AND WHEN YOU COMPLY WITH YOUR
19 OATH TO DO SO, THEN NO ONE WILL HAVE A RIGHT TO
20 CRITICIZE YOUR VERDICT, AND YOU WILL HAVE FULLY
21 DISCHARGED YOUR DUTY AS JURORS

22 YOU ARE TO DECIDE THIS CASE BASED ON WHAT HAS BEEN
23 PRESENTED TO YOU LISTEN TO THE VIEW OF EACH JUROR AS
24 YOU ARE IN THE JURY ROOM, LADIES AND GENTLEMEN LET
25 EVERYONE SPEAK AND ADDRESS ANY COMMENTS OR CONCERNS OF

STATE VS ALKEBULANYAHH

1 THE OTHER JURORS

2 NOW, YOU CANNOT ALLOW YOURSELF TO BE GOVERNED BY
3 ANY BIAS, PREJUDICE OR BY PUBLIC OPINION BOTH THE
4 STATE AND THE DEFENDANT HAVE THE RIGHT TO EXPECT THAT
5 EACH OF YOU WILL CAREFULLY AND IMPARTIALLY CONSIDER ALL
6 OF THE EVIDENCE IN THIS CASE, AND THAT YOU WILL FOLLOW
7 THE LAW AS I'VE EXPLAINED IT TO YOU

8 NOW, AT THIS TIME IF OUR ALTERNATE JURORS COULD
9 PLEASE STEP DOWN, THEY WILL PLACE YOU IN THAT OTHER
10 JURY ROOM AND HOLD YOU ASIDE IN THE EVENT THAT YOU ARE
11 NEEDED AT SOME POINT LATER DO NOT DISCUSS THIS MATTER
12 IN ANY WAY

13 (THE ALTERNATE JURORS EXIT THE COURTROOM AT 1 39
14 P M)

15 THE COURT NOW AS TO -- AS TO THE REST OF YOU
16 LADIES AND GENTLEMEN ON THE DELIBERATING JURY, I'M
17 GOING TO SEND YOU TO YOUR JURY ROOM DO NOT BEGIN ANY
18 DELIBERATIONS YET AGAIN, WE NEED A FEW MOMENTS TO
19 COLLECT EVERYTHING TOGETHER THAT WE NEED TO DO I NEED
20 TO GO OVER WITH EVERYONE TO SEE IF THERE'S ANYTHING
21 FURTHER I NEED TO INSTRUCT YOU ABOUT OR GET WITH YOU
22 ABOUT

23 IF I NEED TO BRING YOU BACK IN HERE TO ACCOMPLISH
24 ANYTHING, I'LL -- I'LL DO THAT I'LL SEND FOR YOU IF
25 I DON'T, THEN WE WILL GET THE VERDICT FORMS TOGETHER

STATE VS ALKEBULANYAHH

1 AND ANYTHING ELSE THAT'S NECESSARY AND WILL SEND THEM
2 TO THE JURY ROOM AND AT THAT POINT, YOU WILL BE
3 ALLOWED TO BEGIN YOUR DELIBERATIONS

4 DO NOT BEGIN YOUR DELIBERATIONS YET DO NOT
5 DISCUSS THIS CASE IN ANY WAY WHATSOEVER THANK YOU
6 VERY MUCH

7 (THE JURY RETIRES TO THE JURY ROOM AT 1 40 P M)

8 THE COURT PLEASE BE SEATED ANY MATTERS OR
9 EXCEPTIONS PERTAINING TO THE CHARGE FROM THE STATE?

10 MR MURDAUGH NO EXCEPTIONS OR ADDITIONS FROM THE
11 STATE, SIR

12 THE COURT DEFENSE?

13 MR KELLY NO EXCEPTIONS OR ADDITIONS

14 THE COURT ALL RIGHT AND EVERYONE HAS LOOKED AT
15 THE VERDICT FORMS THERE WERE NO OBJECTIONS, IS THAT
16 CORRECT?

17 MR MURDAUGH THAT IS CORRECT FROM THE STATE'S
18 STANDPOINT, SIR

19 MR KELLY AS IT IS FROM THE DEFENSE YOUR HONOR

20 THE COURT ALL RIGHT IF YOU ALL WILL GET
21 EVERYTHING TOGETHER THAT NEEDS TO BE SENT BACK PLEASE
22 AND LET'S PUT ON THE RECORD THAT EVERYONE HAS REVIEWED
23 IT

24 (PAUSE)

25 THE COURT ALL RIGHT HAS EACH SIDE GONE THROUGH

STATE VS ALKEBULANYAHH

1 THE EXHIBITS, AND NOTHING IS BEING SENT BACK THAT WAS
2 NOT ADMITTED, IS THAT CORRECT?
3 MR MURDAUGH THAT IS MY UNDERSTANDING, YES, SIR
4 MR THORNTON THAT IS CORRECT FROM THE DEFENSE,
5 YOUR HONOR
6 THE COURT ALL RIGHT DO YOU ALL HAVE THE
7 VERDICT FORMS?
8 OFFICER YES, I HAVE THEM
9 THE COURT YOU HAVE THOSE?
10 OFFICER YES, SIR
11 THE COURT ALL RIGHT YOU MAY TELL THE JURY THEY
12 MAY BEGIN THEIR DELIBERATIONS
13 OFFICER ALL RIGHT SIR
14 THE COURT MADAM COURT REPORTER, DO YOU NOTE THAT
15 TIME, PLEASE, THAT THEY BEGIN THEIR DELIBERATIONS?
16 THE REPORTER YES
17 THE COURT NOTE THE TIME PLEASE
18 THE REPORTER 1 56
19 THE COURT YES
20 (THE EXHIBITS AND VERDICT FORMS WERE TAKEN TO THE
21 JURY AT 1 56 P M TO BEGIN DELIBERATIONS)
22 THE COURT ALL RIGHT THANK YOU ALL VERY MUCH
23 WE'LL BE AT EASE
24 MR THORNTON THANK YOU, YOUR HONOR
25 MR MURDAUGH THANK YOU, YOUR HONOR

STATE VS ALKEBULANYAHH

1 MR KELLY THANK YOU, YOUR HONOR
2 THE COURT YOU MAY TAKE -- YOU MAY TAKE MR
3 ALKEBULANYAHH BACK
4 (COURT IS IN RECESS AWAITING A VERDICT OF THE
5 JURY)
6 THE COURT PLEASE BE SEATED BRING THE DEFENDANT
7 IN, PLEASE
8 (THE DEFENDANT RETURNS TO THE COURTROOM)
9 THE COURT I UNDERSTAND THE JURY HAS REACHED A
10 VERDICT BRING THE JURY IN PLEASE
11 (THE JURY RETURNS TO THE COURTROOM AT 2 45 P M)
12 THE COURT THANK YOU PLEASE BE SEATED
13 ALL RIGHT MR FOREMAN, I UNDERSTAND THE JURY HAS
14 REACHED A UNANIMOUS VERDICT, IS THAT CORRECT?
15 THE FOREMAN YES JUDGE, WE HAVE
16 THE COURT PLEASE HAND IT UP, PLEASE FOLD IT
17 AND HAND IT UP, PLEASE THANK YOU
18 (PAUSE)
19 THE COURT LET ME MAKE SURE EVERYTHING HAS BEEN
20 EXECUTED PROPERLY
21 (PAUSE)
22 THE COURT ALL RIGHT MADAM CLERK, PLEASE
23 PUBLISH THE VERDICT
24 PLEASE STAND SIR
25 (THE DEFENDANT COMPLIED)

STATE VS ALKEBULANYAHH

1 VERDICT OF THE JURY.

2 THE CLERK IN THE CASE OF THE STATE -- IN THE
3 CASE OF THE STATE VERSUS TYREE ALPHONZO ROBERTS, ALSO
4 KNOWN AS ABDIYYAH BEN ALKEBULANYAHH, 02-GS-07-369 AND
5 02-GS-07-370, WE, THE JURY IN THE ABOVE ENTITLED CASE
6 FIND BEYOND A REASONABLE DOUBT THE FOLLOWING STATUTORY
7 AGGRAVATED CIRCUMSTANCES

8 ONE LAW ENFORCEMENT OFFICERS BECAUSE OF THE
9 PERFORMANCE OF HIS OFFICIAL DUTIES

10 TWO WHETHER TWO OR MORE PERSONS WERE MURDERED BY
11 THE DEFENDANT BY ONE ACT OR PURSUANT TO ONE SCHEME OR
12 COURSE OF CONDUCT

13 SIGNED BRUCE BATASTINI, FOREPERSON, VERONICA
14 JACKSON MAMIE CLARKE STANLEY LEAVITT, COLENE MURRAY,
15 AMY SMITH, CYNTHIA MILANESI JEANNINE SAVAGE JOY
16 SMITH, KRISTEN LINSDAY ISAAC BUCKNER, JOHN KEENER
17 OCTOBER 22, 2003

18 IN THE CASES OF THE STATE VERSUS TYREE ALPHONZO
19 ROBERTS, ALSO KNOWN AS ABDIYYAH BEN ALKEBULANYAHH,
20 INDICTMENT NO 02-GS-07-369 AND 370, WE, THE JURY FIND
21 IN THE ABOVE ENTITLED CASE HAVING FOUND BEYOND A
22 REASONABLE DOUBT THE EXISTING -- THE EXISTENCE OF THE
23 FOLLOWING STATUTORY CIRCUMSTANCES TO WIT

24 ONE LAW ENFORCEMENT OFFICER -- OFFICERS BECAUSE
25 OF THE PERFORMANCE OF HIS OFFICIAL DUTIES

STATE VS ALKEBULANYAHH

1 TWO WHETHER TWO OR MORE PERSONS WERE MURDERED BY
2 THE DEFENDANT BY ONE ACT OR PURSUANT TO ONE SCHEME OR
3 COURSE OF CONDUCT

4 NOW RECOMMEND TO THE COURT THAT THE DEFENDANT BE
5 SENTENCED TO DEATH

6 SIGNED, BRUCE BATASTINI, FOREPERSON, VERONICA
7 JACKSON, MAMIE CLARKE, STANLEY LEAVITT, AMY SMITH
8 COLENE MURRAY, CYNTHIA MILANESI, JEANNINE SAVAGE, JOY
9 SMITH, KRISTEN LINSLEY, ISAAC BUCKNER, AND JOHN KEENER
10 THIS 22ND DAY OF OCTOBER 2003

11 THE COURT POLL THE JURY, MADAM CLERK

12 THE CLERK AS I STATE YOUR NAME COULD YOU PLEASE
13 STAND

14 VERONICA JACKSON IS THIS YOUR VERDICT?

15 MS JACKSON YES MA'AM

16 THE CLERK IS IT STILL YOUR VERDICT?

17 MS JACKSON YES, MA'AM

18 THE CLERK THANK YOU

19 (PAUSE)

20 THE COURT WOULD YOU PLEASE STAND AGAIN, MA'AM

21 THE CLERK MS VERONICA JACKSON, IS THIS YOUR
22 VERDICT AS TO AGGRAVATING CIRCUMSTANCES?

23 MS JACKSON YES MA'AM

24 THE CLERK AND IS IT STILL YOUR VERDICT?

25 MS JACKSON YES, MA'AM

STATE VS ALKEBULANYAHH

1 THE CLERK AND IS THIS YOUR VERDICT AS TO
2 RECOMMENDATION OF THE DEATH SENTENCE?
3 MS JACKSON YES MA'AM
4 THE CLERK AND IS IT STILL YOUR VERDICT?
5 MS JACKSON YES, MA'AM
6 THE CLERK THANK YOU, MA'AM
7 MS MAMIE CLARKE IS THIS YOUR VERDICT AS TO
8 AGGRAVATING CIRCUMSTANCES?
9 MS CLARKE YES
10 CLERK AND IS THIS -- AND IS IT STILL YOUR
11 VERDICT?
12 MS CLARKE YES
13 THE CLERK IS THIS YOUR VERDICT AS TO THE
14 RECOMMENDATION OF THE DEATH SENTENCE?
15 MS CLARKE YES /
16 THE CLERK AND IS IT STILL YOUR VERDICT?
17 MS CLARKE YES
18 THE CLERK THANK YOU
19 MR STANLEY LEAVITT IS THIS YOUR VERDICT AS TO
20 AGGRAVATING CIRCUMSTANCES?
21 MR LEAVITT YES, IT IS
22 THE CLERK AND IS IT STILL YOUR VERDICT?
23 MR LEAVITT YES
24 THE CLERK IS THIS YOUR VERDICT AS TO
25 RECOMMENDATION OF THE DEATH SENTENCE?

STATE VS ALKEBULANYAHH

1 MR LEAVITT YES, IT IS
2 THE CLERK AND IS IT STILL YOUR VERDICT?
3 MR LEAVITT YES, IT IS
4 THE CLERK THANK YOU, SIR
5 MS AMY SMITH IS THIS YOUR VERDICT AS TO
6 AGGRAVATING CIRCUMSTANCES?
7 AMY SMITH YES, IT IS
8 THE CLERK AND IS IT STILL YOUR VERDICT?
9 AMY SMITH YES, MA'AM
10 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
11 DEATH SENTENCE?
12 AMY SMITH YES
13 THE CLERK AND IS IT STILL YOUR VERDICT?
14 AMY SMITH YES
15 THE CLERK THANK YOU
16 MS COLENE MURRAY IS THIS YOUR VERDICT AS TO
17 AGGRAVATING CIRCUMSTANCES?
18 MS MURRAY YES, MA'AM
19 THE CLERK AND IS IT STILL YOUR VERDICT?
20 MS MURRAY YES, MA'AM
21 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
22 RECOMMENDATION FOR THE DEATH SENTENCE?
23 MS MURRAY YES MA'AM
24 THE CLERK AND IS IT STILL YOUR VERDICT?
25 MS MURRAY YES, MA'AM

STATE VS ALKEBULANYAHH

1 THE CLERK THANK YOU
2 MR BRUCE BATASTINI IS THIS YOUR VERDICT AS TO
3 AGGRAVATING CIRCUMSTANCES?
4 MR BATASTINI YES, MA'AM
5 THE CLERK AND IS IT STILL YOUR VERDICT?
6 MR BATASTINI YES, MA'AM
7 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
8 RECOMMENDATION FOR THE DEATH SENTENCE?
9 MR BATASTINI YES, MA'AM
10 THE CLERK AND IS IT STILL YOUR VERDICT?
11 MR BATASTINI YES, MA'AM
12 THE CLERK THANK YOU
13 MS CYNTHIA MILANESI IS THIS YOUR VERDICT AS TO
14 AGGRAVATED CIRCUMSTANCES?
15 MS MILANESI YES MA'AM
16 THE CLERK AND IS IT STILL YOUR VERDICT?
17 MS MILANESI YES, MA'AM
18 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
19 RECOMMENDATION FOR THE DEATH SENTENCE?
20 MS MILANESI YES, MA'AM
21 THE CLERK AND IS IT STILL YOUR VERDICT?
22 MS MILANESI YES MA'AM
23 THE CLERK THANK YOU
24 MS JEANNINE SAVAGE IS THIS YOUR VERDICT AS TO
25 AGGRAVATING CIRCUMSTANCES?

STATE VS ALKEBULANYAHH

1 MS SAVAGE YES, MA'AM
2 THE CLERK AND IS IT STILL YOUR VERDICT?
3 MS SAVAGE YES, MA'AM
4 THE CLERK AND IS THIS YOUR VERDICT AS TO
5 RECOMMENDATION FOR THE DEATH SENTENCE?
6 MS SAVAGE YES, MA'AM
7 THE CLERK AND IS IT STILL YOUR VERDICT?
8 MS SAVAGE YES, MA'AM
9 THE CLERK THANK YOU
10 MS JOY SMITH IS THIS YOUR VERDICT AS TO THE
11 AGGRAVATING CIRCUMSTANCES?
12 JOY SMITH YES
13 THE CLERK AND IS IT STILL YOUR VERDICT?
14 JOY SMITH YES
15 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
16 RECOMMENDATION FOR THE DEATH SENTENCE?
17 JOY SMITH YES
18 THE CLERK AND IS IT STILL YOUR VERDICT?
19 JOY SMITH YES
20 THE CLERK THANK YOU, MA'AM
21 KRISTEN LINSDAY IS THIS YOUR VERDICT AS TO THE
22 AGGRAVATING CIRCUMSTANCES?
23 MS LINSDAY YES, MA'AM
24 THE CLERK AND IS IT STILL YOUR VERDICT?
25 MS LINSDAY YES, MA'AM

STATE VS ALKEBULANYAHH

1 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
2 RECOMMENDATION FOR THE DEATH SENTENCE?
3 MS LINSDAY YES, MA'AM
4 THE CLERK AND IS IT STILL YOUR VERDICT?
5 MS LINSDAY YES, MA'AM
6 THE CLERK THANK YOU
7 MR ISAAC BUCKNER IS THIS YOUR VERDICT AS TO
8 AGGRAVATING CIRCUMSTANCES?
9 MR BUCKNER YES, IT IS
10 THE CLERK AND IS IT STILL YOUR VERDICT?
11 MR BUCKNER YES, IT IS
12 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
13 RECOMMENDATION OF THE DEATH SENTENCE?
14 MR BUCKNER YES, IT IS
15 THE CLERK AND IS IT STILL YOUR VERDICT?
16 MR BUCKNER YES, IT IS
17 THE CLERK THANK YOU SIR
18 MR JACK KEENER IS THIS YOUR -- IS THIS YOUR
19 VERDICT AS TO THE AGGRAVATING CIRCUMSTANCES?
20 MR KEENER YES, MA'AM
21 THE CLERK AND IS IT STILL YOUR VERDICT?
22 MR KEENER YES, MA'AM
23 THE CLERK AND IS THIS YOUR VERDICT AS TO THE
24 RECOMMENDATION OF THE DEATH SENTENCE?
25 MR KEENER YES, MA'AM

STATE VS ALKEBULANYAHH

1 THE CLERK AND IS IT STILL YOUR VERDICT?

2 MR KEENER YES, MA'AM

3 THE CLERK THANK YOU, SIR

4 THE POLLING OF THE JURY IS COMPLETE

5 THE COURT PLEASE BE SEATED

6 ALL RIGHT LADIES AND GENTLEMEN OF THE JURY I
7 KNOW THIS HAS BEEN A LONG AND HARD CASE TO SIT ON AND
8 EMOTIONAL AT TIMES AND INVOLVING A LOT OF SERIOUS AND
9 COMPLICATED ISSUES AND IT'S -- IT'S ONE WHICH I KNOW
10 THAT YOU HAVE NOT TAKEN LIGHTLY

11 I'VE WATCHED THROUGHOUT THIS CASE AS YOU HAVE KEPT
12 YOUR ATTENTION UP AS THE CASE WAS PRESENTED THROUGHOUT
13 THE PROCEEDINGS, IN THE BEGINNING WHEN WE WERE GETTING
14 OFF TO A SLOW START IN DRAW -- GETTING THE JURY
15 ORGANIZED AND WE GOT BEHIND AND WE HAD DELAYS YOU
16 NEVER COMPLAINED TO ME OR ANYTHING

17 AND I CERTAINLY CAN'T EMPHASIZE ENOUGH TO YOU HOW
18 GRATEFUL THE COURT IS FOR YOUR PATIENCE AND YOUR DESIRE
19 TO SEE THIS THING THROUGH AND I WANT TO THANK YOU ON
20 BEHALF OF THE COUNTY, AS WELL AS ON BEHALF OF THE
21 STATE

22 I HAVE -- I MAKE NO COMMENT UPON THE VERDICT OTHER
23 THAN TO TELL YOU AS I -- OTHER THAN TO TELL YOU THAT IT
24 IS SUPPORTED BY THE LAW AND THE EVIDENCE, AS IS YOUR
25 SENTENCE

STATE VS ALKEBULANYAHH

1 I UNDERSTAND THAT IT'S A MATTER THAT -- IT'S
2 SOMETHING THAT EVERYONE STRUGGLES WITH DAY TO DAY,
3 CONSIDERATION OF LIFE AND DEATH AND IT'S NOT
4 SOMETHING THAT MOST PEOPLE ARE ACCUSTOMED TO DEALING
5 WITH AND I CERTAINLY CAN APPRECIATE THE THOUGHTS AND
6 THE STRUGGLES THAT YOU HAVE ENCOUNTERED IN RESOLVING
7 THIS MATTER

8 YOU HAVE ONLY TO ANSWER TO YOUR CONSCIENCE FOR
9 WHAT YOU HAVE DONE BUT I TELL YOU THAT YOUR
10 CONSCIENCE NEED NOT SUFFER FROM THE DECISIONS THAT YOU
11 HAVE REACHED

12 AT THIS POINT I WANT TO TELL YOU THAT YOUR SERVICE
13 IN THE TRIAL HAS BEEN CONCLUDED AND YOU ARE EXCUSED

14 YOU HAVE THE RIGHT TO EITHER REFUSE TO DISCUSS THE
15 VERDICT YOU HAVE RENDERED OR YOU MAY DISCUSS THE
16 VERDICT TO THE EXTENT YOU SO DESIRE

17 IF YOU CHOOSE TO DISCUSS THE VERDICT, YOU ARE FREE
18 TO TERMINATE ANY SUCH DISCUSSION AT ANY POINT IF THE
19 PERSON WITH WHOM YOU ARE SPEAKING CONTINUES TO PURSUE A
20 DISCUSSION OF THE VERDICT AFTER YOU HAVE COMMUNICATED
21 THE DESIRE TO TERMINATE THE DISCUSSION OR IF A PERSON
22 CONTINUES TO HARASS YOU AFTER YOU HAVE REFUSED TO
23 DISCUSS THE VERDICT, YOU SHOULD REPORT THAT PERSON TO
24 THE CLERK OF COURT, ELIZABETH SMITH, THE CLERK FOR
25 BEAUFORT COUNTY AT 100 RIBAUT ROAD, AT 470-5225

STATE VS ALKEBULANYAHH

1 IN THAT REGARD ON YOUR WAY OUT I'M GOING TO HAND
2 YOU A WRITTEN COPY OF THAT INSTRUCTION TO YOU AGAIN,
3 I CAN'T THANK YOU ENOUGH FOR YOUR SERVICE

4 YOUR CUSTODIANS WILL TAKE YOU BACK TO THE HOTEL TO
5 GATHER YOUR BELONGINGS, AND THEY WILL SEE TO IT THAT
6 YOU ARE SAFELY RETURNED TO THE BLISS OF YOUR FAMILIES
7 AND YOUR BUSINESSES AND YOUR PERSONAL LIVES

8 I NOW TRUST THAT THROUGH YOUR EXPOSURE TO THIS
9 PART OF OUR SYSTEM YOU HAVE GAINED A BETTER
10 APPRECIATION OF -- FOR THE QUALITY OF JUSTICE AND WHAT
11 MAKES IT WORK PEOPLE JUST LIKE YOU IN COURTROOMS
12 JUST LIKE THIS IN EVERY CITY OF THIS LAND ALMOST EVERY
13 DAY OF THE YEAR HAVE TO CONTEND WITH ISSUES THAT A LOT
14 OF OTHER PEOPLE DON'T KNOW WHAT THAT EXPERIENCE IS
15 LIKE

16 AGAIN, I -- I WANT TO THANK YOU ON BEHALF OF THE
17 COUNTY IT'S BEEN A PLEASURE SERVING WITH YOU
18 THROUGHOUT THIS CASE I AM NOT A RESIDENT JUDGE OF
19 BEAUFORT COUNTY AS I INDICATED MY HOME CIRCUIT IS
20 THE NINTH CIRCUIT, WHICH IS CHARLESTON AND BERKELEY
21 BUT IT HAS BEEN A PLEASURE I HOPE YOU ALL HAVE GAINED
22 SOMETHING FROM THIS EXPERIENCE THANK YOU VERY MUCH
23 AND HAVE A GOOD DAY

24 FOREMAN THANKS, JUDGE

25 THE COURT MADAM CLERK, COULD YOU PLEASE HAND OUT

STATE VS ALKEBULANYAHH

1 THOSE FORMS
2 (THE JURY EXITS THE COURTROOM AT 2 59 P M)
3 THE COURT ANY POST-TRIAL MOTIONS?
4 MR MURDAUGH NONE FROM THE STATE, SIR
5 THE COURT DEFENSE? ANYTHING, MR ALKEBULANYAHH?
6 MR ALKEBULANYAHH NOTHING THAN -- OTHER THAN THE
7 MOTIONS THAT'S ALREADY BEEN FILED
8 THE COURT ALL RIGHT I DENY THOSE MOTIONS
9 MR ALKEBULANYAHH JUST FOR THE RECORD, BECAUSE
10 OFTENTIMES IT COMES UP DOWN THE ROAD THAT PEOPLE CLAIM
11 THEY WERE NOT ADVISED OF THIS FACT, DO YOU UNDERSTAND
12 YOU HAVE A RIGHT TO APPEAL AND THAT YOU MUST DO SO
13 WITHIN 10 DAYS? DO YOU UNDERSTAND THAT?
14 MR ALKEBULANYAHH YES, SIR, YOUR HONOR
15 THE COURT ALL RIGHT DOES ANYONE WISH TO BE
16 HEARD ON THE COURT'S AFFIRMATION OF THIS PENALTY,
17 WHETHER OR NOT IT'S BEEN THE RESULT OF ANY PREJUDICE,
18 PASSION, OR ANY ARBITRARY FACTOR?
19 MR MURDAUGH YOUR HONOR, PLEASE, IT IS THE
20 STATE'S OPINION THAT THERE HAS BEEN NO -- NOTHING OTHER
21 THAN A CLEAR CONCISE DELIBERATION BY A JURY THAT IS
22 NON-PARTISAN AND UNBIASED AND AFTER HEARING ALL OF
23 THE TESTIMONY, THEY MADE A DECISION WHICH WAS WITHIN
24 THEIR RIGHT AND WE FEEL THAT THE SENTENCE SHOULD BE
25 AFFIRMED, SIR

STATE VS ALKEBULANYAHH

1 THE COURT DO YOU HAVE ANY POSITION ON THAT, MR
2 ALKEBULANYAHH?

3 MR ALKEBULANYAHH NOTHING OTHER THAN I -- I
4 DISAGREED WITH THE DECISION

5 THE COURT ALL RIGHT AS THE TRIAL JUDGE IN THIS
6 ACTION AND PRIOR TO THE COURT'S SENTENCE IN THIS CASE,
7 I FIND AS AN AFFIRMATIVE FACT THAT THE EVIDENCE OF THE
8 CASE WARRANTS IMPOSITION OF THE DEATH PENALTY, AND ITS
9 IMPOSITION IS NOT THE RESULT OF PREJUDICE, PASSION, OR
10 ANY OTHER ARBITRARY FACTOR

11 MR ALKEBULANYAHH, IF YOU WOULD APPROACH FOR
12 SENTENCING PLEASE YOU MAY COME FORWARD

13 (COMPLIED)

14 THE COURT ALL RIGHT IS THERE ANYTHING ELSE
15 THAT YOU WOULD LIKE TO SAY, ANY STATEMENT YOU'D LIKE TO
16 MAKE, MR ALKEBULANYAHH, BEFORE SENTENCING?

17 MR ALKEBULANYAHH OTHER THAN TO SAY TO THE
18 FAMILIES THAT I REGRET THAT THEIR HUSBAND OR THE
19 MOTHERS OF THE MEN LOST THEIR LIFE IN MY HOME AND
20 THAT'S NO MORE THAN I HAVE TO SAY

21 THE COURT ANYTHING FURTHER FROM ANYONE ELSE?

22 MR MURDAUGH NO, SIR YOUR HONOR, PLEASE, THE
23 STATE HAS PRESENTED ITS CASE AND THAT PRETTY WELL
24 COVERS IT, SIR

25 THE COURT ALL RIGHT

STATE VS ALKEBULANYAHH

1 SENTENCE OF THE COURT.

2 ALL RIGHT THE DEFENDANT HAS BEEN FOUND BY THE
3 JURY TO BE GUILTY OF THE OFFENSE OF MURDER, AND THE
4 JURY HAS RECOMMENDED THAT THE DEFENDANT BE SENTENCED TO
5 DEATH

6 IT IS, THEREFORE, THE JUDGMENT OF THE LAW AND THE
7 SENTENCE OF THIS COURT THAT THE DEFENDANT BE TAKEN TO
8 THE BEAUFORT COUNTY DETENTION CENTER AND THEN TO THE
9 STATE DEPARTMENT OF CORRECTIONS, HENCEFORTH TO BE KEPT
10 IN CLOSE AND SAFE CONFINEMENT UNTIL THE 22ND DAY OF
11 DECEMBER 2003, UPON WHICH DAY BETWEEN THE HOURS OF 6 00
12 O'CLOCK P M AND 6 00 O'CLOCK A M OR UPON THE ORDER OF
13 EXECUTION -- UPON AN ORDER OF EXECUTION ISSUED BY THE
14 SOUTH CAROLINA SUPREME COURT THE DEFENDANT SHALL
15 SUFFER DEATH BY ELECTROCUTION OR BY LETHAL INJECTION IN
16 THE MANNER PROVIDED BY LAW

17 GOOD LUCK TO YOU SIR

18 MR ALKEBULANYAHH THANK YOU, YOUR HONOR

19 MR MURDAUGH JUDGE, BEFORE WE ADJOURN, SIR, I
20 WOULD LIKE TO THANK THE COURT FOR THE PATIENCE THAT
21 YOU'VE SHOWN BOTH WITH THE PRESENTATION OF EVIDENCE,
22 WITH THE JURY, WITH EVERYTHING THAT'S GONE ON IT'S
23 BEEN A PLEASURE TO WORK WITH YOU SIR

24 THE COURT I APPRECIATE THAT I WOULD LIKE TO
25 SAY THAT UNQUESTIONABLY THIS HAS BEEN A LONG AND

STATE VS ALKEBULANYAHH

1 TEDIOUS TRIAL EVOKING PASSION AND TENSION ON ALL OF
2 THOSE WHO HAVE PARTICIPATED AND ALL THE FAMILIES WHO
3 HAVE BEEN AFFECTED THEREBY

4 MARTIN LUTHER KING SAID THAT INJUSTICE ANYWHERE IS
5 A THREAT TO JUSTICE EVERYWHERE

6 AND ARISTOTLE SAID THAT MAN PERFECTED BY SOCIETY
7 IS THE BEST OF ALL ANIMALS HE IS THE MOST TERRIBLE OF
8 ALL WHEN HE LIVES WITHOUT LAW AND WITHOUT JUSTICE

9 I KNOW THERE HAVE BEEN A LOT OF DELAYS IN THIS
10 CASE AND A LOT OF FRUSTRATION BUT AS I'VE SAID ON SO
11 MANY OCCASIONS, YOU HAVE TO DOT THE I'S AND YOU HAVE TO
12 DOT (SIC) THE T'S, BECAUSE THAT'S THE NATURE OF OUR
13 SYSTEM

14 OUR SYSTEM OF JUSTICE CANNOT FUNCTION WITHOUT
15 FAIRNESS AND WITHOUT PATIENCE OFTEN THE PROCESS OF
16 JUSTICE LEADS TO STRESS ANXIETY, AS WELL AS
17 FRUSTRATION, BUT THE PATH OF JUSTICE IS AN
18 INTENTIONALLY DIFFICULT ONE SO AS TO ASSURE THAT NO
19 PERSON IS DEPRIVED OF THE DUE PROCESS OF THE LAW AND
20 THIS IS THE FOUNDATION OF OUR ABILITY TO RENDER A FAIR
21 AND IMPARTIAL JUDGMENT

22 IF WE ALL WORK TO ASSURE THAT ALL PERSONS, NO
23 MATTER THE CIRCUMSTANCES ARE GIVEN THAT DUE PROCESS,
24 THEN WE ALL CAN TAKE COMFORT IN ANY JUDGMENT RENDERED

25 I WANT TO THANK EACH SIDE FOR YOUR PATIENCE AND

STATE VS ALKEBULANYAHH

1 COURTESY TO THE COURT ALSO, AND I THANK ALL WHO HAVE
2 PARTICIPATED IN THIS CASE THANK YOU VERY MUCH

3 MR MURDAUGH THANK YOU, SIR

4 MR STONE THANK YOU, YOUR HONOR

5 MR KELLY THANK YOU, YOUR HONOR

6 THE COURT THIS COURT SHALL BE ADJOURNED

7 --- END OF TRANSCRIPT OF RECORD ---

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STATE VS ALKEBULANYAHH

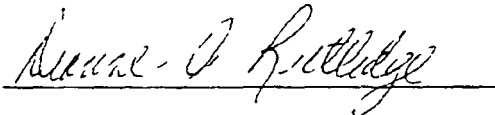
1 I, THE UNDERSIGNED DIANNE A RUTLEDGE, OFFICIAL
2 COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE
3 STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
4 FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT
5 OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
6 INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE
7 TO APPEAL, IN THE CIRCUIT COURT FOR BEAUFORT COUNTY,
8 SOUTH CAROLINA, ON THE 6TH, 7TH, 8TH, 9TH, 10TH, 11TH,
9 12TH, 13TH, 14TH, 15TH, 16TH, 17TH, 18TH, 19TH, 20TH,
10 21ST, AND 22ND DAYS OF OCTOBER 2003

11 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
12 COUNSEL, NOR INTEREST TO ANY PARTY HERETO

13 MAY 12 2004

14

15

A handwritten signature in cursive script, reading "Dianne A. Rutledge", is written over a horizontal line.

16

COURT REPORTER

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STATE VS ALKEBULANYAHH

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF BEAUFORT) IN THE COURT OF GENERAL SESSIONS

3 THE STATE OF SOUTH CAROLINA,)
4) 02-GS-07-369
5 -vs-)
6) October 8, 2002
7 TYREE ALPHONSO ROBERTS,) Beaufort, S C
8)
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
DEFENDANT)

B E F O R E

HONORABLE PERRY M. BUCKNER, JUDGE.

A P P E A R A N C E S

RANDOLPH MURDAUGH, III, ESQUIRE
Solicitor
Fourteenth Judicial Circuit
Attorney for the State

GERALD KELLEY, ESQUIRE
SEAN THORNTON, ESQUIRE
Attorneys for the Defendant

ANNETTE T MOLE
Court Reporter

1 that he filed, you're asking now on his behalf that
2 that motion be withdrawn and since the Solicitor has
3 set this case or attempted to set it for the week of
4 October 14th in Beaufort, you're asking that that matter
5 be continued because of the pending evaluation which
6 has not been completed, however, you want the matter
7 set as soon as you possibly can, is that correct, Mr
8 Kelley?

9 MR KELLEY That is precisely correct

10 THE COURT Solicitor, do you have any objection
11 to their request for a continuance?

12 SOLICITOR I consent, sir

13 THE COURT Very well Then the matter is
14 continued beyond the October 14th term in Beaufort.
15 At this point, Mr. Kelley, I'm not in a position until
16 I know I have information from the evaluation, number
17 one, which I ordered back, I believe, in August, was
18 that right, Mr. Thornton?

19 MR THORNTON. I believe that's correct, Your
20 Honor.

21 THE COURT I ordered that in August and until
22 I have information from that I can't set a trial date.
23 It is my further understanding that there may be other
24 matters which have been brought to my attention, Mr.
25 Kelley, by you and Mr Thornton today that might also

1 THE COURT Solicitor Mr Kelley, I understand
2 that you have a motion you wish before the Court?

3 MR KELLEY Yes, Your Honor, there are several
4 motions before the Court today One of the motions
5 that we have before the Court has to do with a motion
6 that was made by our client, who has filed in the clerk's
7 office in Beaufort, asking for a speedy trial in the
8 matter

9 And when the Solicitor received notice of
10 that, he originally contacted the Court and contacted
11 my office and the office of co-counsel to say that he
12 would like to set the trial for October 14th

13 Your Honor, there's pending evaluation order
14 for our client that hasn't been fulfilled and we've
15 spoken with our client and he agrees to withdraw the
16 motion for a speedy trial. He wants the trial as soon
17 as it is possible.

18 THE COURT Certainly.

19 MR. KELLEY And, in fact, we've talked to
20 him that it might be possible to try it at the beginning
21 of the first of the year But we've also told him that
22 that depends on His Honor and His Honor's judgment as
23 to when it's appropriate to have the trial

24 THE COURT Let me make sure I understand
25 now As to Mr Roberts' motion for a speedy trial

1 I need more information on before I can set a trial
2 date, so I don't believe we're in a position today to
3 set a trial date But I agree with you and your client,
4 and I'm sure the Solicitor agrees, that we want to set
5 a trial date as soon as possible

6 MR KELLEY Yes, sir, that's correct We're
7 in the process of requesting that certain experts and
8 investigators be allowed to be appointed by the Court
9 They need the time

10 THE COURT They are going to need the time
11 and they're not going to want me setting a trial date
12 when they haven't even been hired yet and had an
13 opportunity to work on your client's behalf

14 MR KELLEY Yes, sir, and we thank the Court
15 for so exactly stating the case for the record

16 Your Honor, there's another motion pending
17 before you and that's one that we have disposed of by
18 consent between the Solicitor and ourselves, and that
19 has to do with the proper and legal name of our client.
20 So we will not present that to you today

21 THE COURT Solicitor, for the record and
22 we discussed this briefly before we came out with counsel
23 who advised me that he had a motion concerning the
24 defendant's legal name which I believe was changed,
25 if I'm not correct, Mr Kelley, by court order in 1998,

1 is that correct?

2 MR KELLEY Yes, sir, that is correct, it
3 was changed in Beaufort County in the Family Court in
4 1998

5 THE COURT All right, and it's my understanding,
6 Solicitor, you will consent from this day forward that
7 any documents pertaining to this case will contain the
8 legal name of Mr Kelley's client, is that correct?

9 SOLICITOR I consent that the former Mr.
10 Tyree Roberts will have his new name put on all court
11 documents

12 THE COURT Mr. Kelley, are you going to prepare
13 an order to that effect in light of the State's consent
14 to your motion?

15 MR KELLEY Your Honor, if you will allow,
16 I will prepare an order that covers all the matters
17 in the record

18 THE COURT. All matters in the record? Tell
19 me what you're talking about

20 MR. KELLEY As far as the motions, Your Honor,
21 for the continuance, do you want me to prepare an order
22 for that?

23 THE COURT Oh, yes, sir I want you to prepare
24 an order that I have ruled today, without objection,
25 that this matter is continued since the Solicitor

1 apparently attempted to set it for trial once your client
2 made the motion I also am not in a position until
3 I can get some information back from you and from this
4 evaluation but I intend to set a trial date as soon
5 as I possibly can, once I obtain further information
6 on this, in order to be able to intelligently set a
7 trial date and I can promise you I'm going to do that
8 as quick as I can once I know And I'm going to ask
9 you to prepare an order in which the State has consented
10 to the use for all documents in this trial from this
11 day forward to the use of your client's legal name which
12 was changed by a Family Court order in Beaufort County
13 in 1998

14 Anything further, Mr Kelley?

15 MR KELLEY No, Your Honor, I do not believe
16 there is anything further

17 THE COURT Solicitor, any matters from the
18 State?

19 SOLICITOR Yes, sir. I would ask you ---
20 generally in death penalty cases there area a number
21 of generic motions that take some time to be heard
22 I would ask you to set some deadline for hearing those
23 generic motions I'm not talking about something that
24 has merit, sir, I'm talking about the ones that all
25 the lawyers make that all the judges rule the same

1 way

2 THE COURT Well, Solicitor, not knowing what
3 you mean by generic and not knowing what motions, ---
4 I understand what you're asking is that I set some dead-
5 line for motions in this case Well, since I haven't
6 set a trial deadline, Solicitor, it's difficult to set
7 a motion deadline I understand Mr Kelley, what's
8 your position on motions in the case?

9 MR KELLEY Your Honor, we're not in a position
10 to know when the trial is at this point We think the
11 motions should be at an appropriate time previous to
12 trial

13 THE COURT Well, I agree with you, Mr. Kelley,
14 that motions should be made at appropriate prior to
15 trial so that we can dispose of all pre-trial matters
16 and get down to the matter, if necessary, of trying
17 the case. But the Solicitor --- Solicitor, I will say
18 this At the time I receive the information necessary
19 to set a trial date which includes the results of a
20 competency evaluation which obviously could affect what
21 type of trial ---

22 SOLICITOR Sure, I understand.

23 THE COURT --- we have. Number two, I under-
24 stand today, I got notice today from Mr. Kelley that
25 on behalf of his client he is seeking for this Court

1 to allow him to hire additional experts who, if I approve
2 that, will ask for additional time to do their work
3 And in order to make sure that everyone's interests
4 are protected, the State's, on a time for filing for
5 motions, I ask you to hold that motion in abeyance for
6 a while and if you feel that this matter needs to be
7 brought, file that motion and I'll set a hearing on
8 it and we'll take it up I think it's unfair to set
9 a motion deadline before I set a trial date

10 But, Mr. Kelley, I would tell you that it
11 would be my intention to set a deadline for certain
12 motions so that we can get those out of the way Now,
13 I would require more than the term "generic" from the
14 Solicitor, he considers that term to be a term of, I'm
15 sure, art. I would want --- I understand that you're
16 not sure exactly what he's referring to, nor am I, although
17 I'm sure he's seen repetitive motion in cases involving
18 capital punishment and that's what he's referring to

19 So I would want to try to set some reasonable
20 deadlines. I don't think we're in a position to do
21 it today

22 Anything else from the State, Solicitor?

23 SOLICITOR No, sir

24 THE COURT Anything else from the defendant?

25 MR. KELLEY Your Honor, the defendant has

1 requested that he be allowed to address the Court, would
2 the Court allow it?

3 SOLICITOR Your Honor please, I object to
4 that You've already ruled on that once

5 THE COURT Counsel approach I've already
6 ruled on that once but let counsel approach so I can
7 remind them Mr Kelley and Mr Thornton were not present
8 on that

9 (WHEREUPON, A bench conference was held out
10 of the hearing of the jury and the court reporter)

11 THE COURT Mr Kelley and Mr Thornton were
12 not the attorneys of record when this same matter was
13 visited before in which there was a request If, at
14 any time, the defendant has any matter that he wishes
15 to bring to the attention of the Court, he should do
16 so by motion through his attorneys and I'll be happy
17 to give the attorneys and the defendant an opportunity
18 to be heard This is not a time in which --- and during
19 court time, that I allow counsel for the State of South
20 Carolina or counsel for any defendant to make speeches
21 in court However, I'm more than willing to hear any
22 motions that are filed at the appropriate time when
23 all parties are present Other than that, all matters
24 having been taken up, this court stands adjourned Thank
25 you very much

1 END OF TRANSCRIPT

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7 Annette T Mole

8 Official Court Reporter

9 Fourteenth Judicial Circuit

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1 STATE OF SOUTH CAROLINA)
2) IN THE COURT OF GENERAL SESSIONS
3 COUNTY OF BEAUFORT)

4 THE STATE OF SOUTH CAROLINA)
5) 02-GS-07-369
6 -vs-)
7 TYREE ALPHONSO ROBERTS,) November 12, 2002
8 DEFENDANT) Beaufort, S C
9)
10)

11 B E F O R E

12 HONORABLE PERRY M BUCKNER, JUDGE.

13 A P P E A R A N C E S

14 RANDOLPH MURDAUGH, III, ESQUIRE
15 Solicitor
16 Fourteenth Judicial Circuit

17 GERALD KELLY, ESQUIRE
18 SEAN THORNTON, ESQUIRE
19 Attorneys for the Defendant

20
21 ANNETTE T MOLE
22 Court Reporter
23
24
25

1 THE COURT All right, I would like for the
2 record to reflect that counsel for the State of South
3 Carolina is present, counsel for the defendant is
4 present, the defendant is also present Prior to
5 the commencement of this hearing I held a conference
6 in my chambers in which representatives of the Beaufort
7 County Sheriff's Department were present, the jail
8 administrator for Beaufort County, both counsel for
9 the defendant were present and counsel for the State
10 of South Carolina was present

11 They advised me that the matter for which
12 this hearing was scheduled today has been resolved.
13 They asked me to void my order of November 2, 2002 and
14 that a new order would be issued based on the agreement
15 between defense counsel, the Solicitor and the Beaufort
16 County Sheriff's Department, as well as the jail administrator
17 of Beaufort County would be issued That order will
18 be under seal for security purposes.

19 Is that correct, Solicitor?

20 SOLICITOR That is my understanding, yes,
21 sir.

22 THE COURT Is that correct, Mr. Kelley?

23 MR. KELLEY Yes, Your Honor, that is correct

24 THE COURT Is that correct, Mr Thornton?

25 MR ROBERTS Object, Your Honor

1 THE COURT Just a moment, counsel, have a
2 seat

3 MR ROBERTS Objection, I'm going to ---

4 THE COURT You talk to your attorney ---

5 MR ROBERTS I don't have an attorney, I
6 have filed a motion to dismiss attorney and I am not
7 without representation These attorneys are not
8 representing me I have filed a motion for these ---

9 THE COURT Mr Alkebullanyahh, Mr Alkebull-
10 anyahh ---

11 MR ROBERTS --- attorney to be dismissed
12 as my attorneys because they are sabotaging my case

13 THE COURT Mr Alkebullanyahh, I'm going
14 to ask you one more time to have a seat, we are going
15 to deal ---

16 MR ROBERTS I am without representation.
17 They are sabotaging my case.

18 THE COURT --- with the motions in the order
19 in which they were filed.

20 MR. ROBERTS They are sabotaging my case.

21 THE COURT Anything further from the State?

22 SOLICITOR Yes, sir If Your Honor please,
23 I would at this time move that the Court enter an order
24 requiring the defendant Tyree Roberts, to be examined
25 pursuant to your order of I think July 8th, sometime

1 MR ROBERTS -- to speak in my behalf.

2 THE COURT For the last time, please be seated,
3 I'm going to hear the motion at the appropriate time

4 MR ROBERTS I am objecting to them speaking
5 my behalf

6 THE COURT Mr Thornton, any objection on
7 behalf ---

8 MR ROBERTS Anything on behalf of myself ---

9 THE COURT --- of your client at this time?

10 MR ROBERTS --- I am in objection to it

11 MR THORNTON No, sir

12 SOLICITOR Your Honor please, I would move
13 that we adjourn, sir

14 THE COURT Court's adjourned, motion is granted

15

16

17 END OF TRANSCRIPT.

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21

Annette T. Mole
22 Annette T. Mole
Official Court Reporter
23 Fourteenth Judicial Circuit

24

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26

1 in July, July 27th, whatever it was in July I'll get
2 that date

3 THE COURT Okay, sir, I don't have the date
4 of the order

5 SOLICITOR The order for mental evaluation
6 that you had previously signed, I asked that they be
7 required to perform that examination on or before the
8 5th of December of this year

9 THE COURT All right, sir Mr Kelley?

10 MR ROBERTS I am without attorney Mr
11 Kelley is not my attorney, I have no attorney
12 representing me, I have filed a motion---

13 THE COURT Mr Alkebullanyahh ---

14 MR. ROBERTS --- for dismissal of attorneys.

15 THE COURT I'm going to hear that motion
16 at the appropriate time Take a seat, sir

17 MR ROBERTS Any court action by the attorneys
18 is sabotaging my defense, it is not representing me.

19 THE COURT Take a seat.

20 MR ROBERTS It is against my will, it's
21 not against my defense or my best interest

22 THE COURT. All right, if you continue in
23 these outbursts, I'm going to have to ask you to be
24 removed from the courtroom.

25 MR ROBERTS I am being represented without

1 STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

2 COUNTY OF BEAUFORT

3
4 THE STATE

5 -VS-

TRANSCRIPT OF RECORD

2002-GS-07-369

2002-GS-07-370

6 TYREE A ROBERTS A/K/A

7 ABDIYYAH BEN

ALKEBULANYAHH

8
9 JULY 25 2003

10 FLORENCE, SOUTH CAROLINA

11 B E F O R E

12 HONORABLE DANIEL F PIEPER, JUDGE

13
14 A P P E A R A N C E S

15 RANDOLPH MURDAUGH III SOLICITOR

16 I MCDUFFIE STONE, III DEPUTY SOLICITOR

ATTORNEYS FOR THE STATE

17 GERALD A KELLY ESQ

18 SEAN P THORNTON ESQ

19 ATTORNEYS FOR THE DEFENDANT

20
21 VIRGINIA ROLAND

22 CIRCUIT COURT REPORTER

E X H I B I T S

NO	DESCRIPTION	ID	EV
C-1	GENERAL ADVICE TO THE DEFENDANT		64
C-2	REPORT OF FINDINGS		76

1 (THEREUPON ON FRIDAY JULY 25 2003, THE HEARING WAS
2 COMMENCED AS FOLLOWS)

3 THE COURT MORNING IF YOU'LL EACH IDENTIFY
4 YOURSELVES FOR THE RECORD PLEASE AND WHO YOU'RE
5 REPRESENTING

6 MR MURDAUGH MY NAME IS RANDOLPH MURDAUGH AII
7 I'M THE SOLICITOR OF THE 14TH JUDICIAL CIRCUIT THIS IS
8 DUFFIE STONE DEPUTY SOLICITOR FOR THE 14TH CIRCUIT

9 MR KELLY I'M GERALD KELLY I'M CHIEF COUNSEL
10 FOR THE DEFENSE THIS IS MR SEAN P THORNTON WHO'S MY
11 SECOND COUNSEL THIS IS THE DEFENDANT MISTER ---

12 THE COURT IS IT ALKEBULANYAHH?

13 MR KELLY ABDIYIAH BEN ALKEBULANYAHH

14 THE DEFENDANT ALKEBULANYAHH

15 THE COURT ALKEBULANYAHH?

16 THE DEFENDANT YES, SIR

17 THE COURT ALL RIGHT I APPRECIATE EVERYONE
18 COMING HERE I KNOW WE REALLY SCHEDULED THIS ELSEWHERE BUT
19 MY SCHEDULE WAS CHANGED THE LAST SECOND AND THEY BROUGHT ME
20 HERE TO FLORENCE I JUST WANTED TO TRY TO SEE WHERE WE'RE
21 AT TODAY, TO SEE WHERE WE'RE AT MAKE SURE I UNDERSTAND
22 EVERYTHING THAT'S PENDING IN THE CASE DISCUSS THE QUESTION
23 THAT THE DEFENDANT RAISED ABOUT COUNSEL AND PROCEEDING PRC
24 SE AND TO JUST GET A GOOD OVERVIEW OF THE CASE YOU WANT
25 TO TRY TO TELL ME FIRST WHERE WE'RE AT WITH THE CASE AS FAR

1 AS PREPARATION ET CETERA

2 MR MURDAUGH YOUR HONOR PLEASE IT IS MY
3 UNDERSTANDING THAT WE ARE AS SOON AS WE DISPOSE OF THE
4 MOTION BY THE DEFENDANT TO REPRESENT HIMSELF, WE WILL BE
5 IN THEN SOME MINOR MOTIONS OTHER MOTIONS WE WILL BE IN A
6 POSITION TO START WITH THE TRIAL, SIR I WOULD HOPE THAT
7 YOU COULD FIND IT WITHIN YOUR SCHEDULE FOR LET'S PERHAPS TO
8 START IT ON AROUND NOVEMBER THE 1ST SOMETIME IN THAT
9 RANGE

10 THE COURT ALL RIGHT

11 MR MURDAUGH I UNDERSTAND FROM TALKING WITH
12 COUNSEL THAT AWAITING YOUR DECISION ON MOTION TO FOR HIM
13 TO REPRESENT HIMSELF THAT THAT WOULD BE AGREEABLE WITH
14 THEM

15 THE COURT ALL RIGHT

16 MR MURDAUGH I OF COURSE HAVE NOT TALKED WITH
17 THE DEFENDANT HIMSELF

18 THE COURT YES, SIR

19 MR KELLY YOUR HONOR, THERE IS AN EVALUATION
20 DETERMINATION THAT'S PENDING THAT CAN'T BE HEARD TODAY
21 BECAUSE THE REPORTS AND THE EXPERTS ARE NOT AVAILABLE
22 TODAY THEY WOULD BE AVAILABLE WITHIN FIVE TO SIX DAYS
23 TIME AND WE WOULD WANT THE EXPERTS WHO WERE APPOINTED BY
24 THE COURT TO MAKE THE EVALUATIONS ANALYSIS TO BE PRESENT
25 AND GIVE THEIR TESTIMONY INTO THE RECORD AND TO ALSO SUBMIT

1 THEIR REPORTS

2 THAT WOULD BE EITHER TWO OR THREE EXPERTS WHO
3 WOULD DO THAT AND THAT S FOR AN EVALUATION TO DETERMINE
4 COMPETENCY I BELIEVE THE STATE ALSO HAS AT LEAST TWO
5 EXPERT WITNESSES ONE OF WHICH I BELIEVE IS HERE TODAY WE
6 WOULD ASK THAT THAT BE HEARD SEPARATELY

7 THE COURT ALL RIGHT ARE THERE ANY INDICATIONS
8 THAT THERE IS A PROBLEM WITH COMPETENCY?

9 MR KELLY YES SIR THAT'S AN ADVERSARIAL
10 HEARING BE HIGHLY COMPETENT, HIGHLY COMPETITIVE AND IT'LL
11 ALSO BE HIGHLY TECHNICAL AND WE BELIEVE THAT THAT'LL TAKE
12 AT LEAST THE MAJOR PART OF A FULL DAY

13 THE COURT DO YOU AGREE?

14 MR MURDAUGH JUDGE I JUST HAVE NO WAY OF
15 KNOWING WHAT THEY WOULD PUT UP MY TESTIMONY PROBABLY
16 WOULD TAKE NO MORE THAN 20 MINUTES SIR

17 THE COURT ALL RIGHT

18 MR KELLY YOUR HONOR IT WOULD RUN AT LEAST A
19 HALF A DAY IF IT DIDN'T RUN OVER INTO THE SECOND HALF OF
20 THE DAY JUST DEPENDING ON THE EXAMINATIONS OF THE EXPERTS

21 THE COURT ALL RIGHT

22 MR KELLY YOUR HONOR, THERE IS THE MATTER OF
23 THE MOTION OF THE DEFENDANT TO REPRESENT HIMSELF

24 THE COURT YES, SIR

25 MR KELLY THERE IS ALSO A MOTION FOR THAT HE

1 THAT WE HAVE FILED THAT HE BE CLOTHED AS A CIVILIAN AT TIME
2 OF TRIAL

3 THE COURT I DON'T HAVE A PROBLEM WITH THAT

4 MR MURDAUGH WE CONSENT SIR

5 THE COURT I'LL GRANT THAT MOTION

6 MR KELLY THANK YOUR HONOR ALSO THERE IS A
7 MOTION FOR A CHANGE OF VENUE WE THINK THAT THAT SHOULD
8 PROBABLY BE HEARD AT THE TIME OF JURY SELECTION

9 THE COURT THAT'S GENERALLY HOW I PROCEED AND IF
10 WE SEE THAT WE CAN'T DRAW A JURY SO BE IT WE'LL DEAL
11 WITH IT THEN BUT IT'S JUST BEEN MY POSITION EVER SINCE
12 WE'VE HAD SO MANY HIGH PUBLICITY TRIALS ACROSS THE COUNTRY
13 THAT YOU THE BEST THING TO DO IS TRY TO SEE IF YOU CAN
14 DRAW THE JURY FIRST SEE IF YOU CAN GET A PANEL OF JURORS
15 THAT CAN BE FAIR AND IMPARTIAL AND A PANEL THAT HAS NOT
16 FORMED ANY OPINION ABOUT THE DEFENDANT

17 MR KELLY YOUR HONOR, THE DEFENSE AGREES WITH
18 THAT WE THINK THAT THAT'S THE TRADITIONAL AND PROPER
19 METHOD

20 THE COURT ALL RIGHT WHAT ELSE IS PENDING?

21 MR KELLY YOUR HONOR, THERE ARE TWO MOTIONS
22 PENDING FOR DISCOVERY ONE IS A BRADY MOTION AND THE OTHER
23 IS A MOTION FOR DISCOVERY AND EXAMINATION OR PRODUCTION
24 THE STATUS OF THAT IS IS THAT THE STATE HAS BEEN SUPPLYING
25 US WITH THEIR EVIDENCE AND DOCUMENTATION UP TO THIS POINT

1 WE PLAN TO MEET WITH THEM AFTER THIS HEARING TO SEE ALL OF
2 THEIR EVIDENCE AND TO MAKE SURE THAT WE'VE ACTUALLY GOT IT
3 ALL

4 THERE IS A TREMENDOUS AMOUNT OF IT GIVE YOU
5 SOME IDEA YOUR HONOR THERE ARE 650 SOME ODD PHOTOGRAPHS
6 OF THE SCENE ALONE THERE MAY BE AS MANY AS 85 TO 100
7 WITNESSES THAT ARE POSSIBLE YOUR HONOR IF YOU WERE TO
8 FIND THAT THE DEFENDANT SHOULD REPRESENT HIMSELF OF COURSE
9 THAT EXAMINATION WOULD BE HAVE TO BE CONDUCTED IN HIS
10 PRESENCE AND EVEN IF HE DID NOT REPRESENT AT THE TIME OF
11 THAT EXAMINATION I THINK YOU'D HAVE TO FIND WHETHER HE
12 SHOULD BE PRESENT OR NOT OR AVAILABLE

13 THE COURT ALL RIGHT

14 MR KELLY WE THINK THE LAW SAYS THAT IT'S NOT
15 NECESSARY TO BE PRESENT DURING THAT EXAMINATION UNLESS HE
16 DOES REPRESENT HIMSELF OTHER THAN THOSE MOTIONS THAT I VE
17 RECITED, YOUR HONOR, AND THAT RAISED BY THE SOLICITOR, I
18 KNOW OF NO OTHERS

19 THE COURT ANY OTHERS THAT YOU KNOW OF?

20 MR MURDAUGH NO, SIR I'M NOT AWARE OF ANY
21 THERE ARE SEVERAL MATTERS THAT WHEN WE CONCLUDE WITH THIS
22 PART OF IT I WOULD LIKE TO ADDRESS TO THE COURT SO I WILL
23 HAVE SOME IDEA OF HOW WE'RE GOING TO PROCEED SIR

24 THE COURT ALL RIGHT

25 MR KELLY YOUR HONOR IF I MAY

1 THE COURT YES, SIR

2 MR KELLY THE STATE IS THE DEFENSE IS
3 AGREEABLE TO SETTING THE TRIAL BY NOVEMBER THE 1ST

4 THE COURT ALL RIGHT I DON T KNOW IF I COULD
5 SET IT THAT FIRST WEEK IN NOVEMBER BUT I'LL LOOK AT THAT
6 IS THERE A PROBLEM WITH LIKE THE LAST TWO WEEKS OF OCTOBER?

7 MR KELLY NO YOUR HONOR

8 THE COURT IF WE HAVE TO I LL HAVE TO LOOK AT
9 IT I'M JUST --I'LL TRY TO GET IT IN THAT AREA

10 MR MURDAUGH I HAVE A PROBLEM NOT IT'S NOT
11 SOMETHING I CAN'T OVERCOME I HAVE A FORENSIC PERSON WITH
12 S L E D WHO HAS PLANNED A VACATION FOR THE 15TH THROUGH
13 THE 28TH THE 15TH THROUGH THE 28TH OF OCTOBER SIR, HAS
14 PAID FOR A TRIP IF YOU TELL TELL ME THAT'S WHEN WE'RE
15 HAVING IT, HE'LL BE HERE BUT IF I CAN WORK AROUND THAT, I
16 WOULD APPRECIATE IT SIR

17 THE COURT ALL RIGHT

18 MR KELLY YOUR HONOR OUR POSITION IS AS SOON
19 AS YOUR HONOR CAN SET THE HEARING FOR TRIAL WE WILL BE
20 READY TO COME FORWARD

21 THE COURT ALL RIGHT

22 MR MURDAUGH LET'S DO IT THE FIRST OF OCTOBER

23 THE COURT WELL IT MAY BE WE CAN DO IT THAT
24 WAY, TOO

25 MR KELLY WE'LL BE READY THE FIRST OF OCTOBER,

1 YOUR HONOR

2 THE COURT ALL RIGHT

3 MR KELLY AND THE DEFENDANT HAS INFORMED US
4 THAT IF HE REPRESENTS HIMSELF HE IS READY AS OF TODAY'S
5 DATE

6 THE COURT READY NOW ALL RIGHT

7 MR KELLY READY NOW

8 THE COURT ALL RIGHT MR ALKEBULANYAHH, CAN
9 YOU PLEASE STAND? NOW, I RECEIVED YOUR REQUEST THAT YOU
10 PROCEED PRO SE THAT YOU DESIRE THAT YOU WISH TO PROCEED
11 WITHOUT A LAWYER SO BEFORE I DO ANYTHING FURTHER I WANT
12 TO MAKE SURE I FULLY UNDERSTAND YOUR REQUEST MAKE SURE YOU
13 FULLY UNDERSTAND THE POSSIBLE CONSEQUENCES OF YOUR REQUEST
14 FIRST AND FOREMOST IS THAT WHAT YOU STILL WISH TO DO?

15 THE DEFENDANT YES SIR

16 THE COURT DO YOU UNDERSTAND THAT THAT IS A VERY
17 SIGNIFICANT DECISION THAT COULD HAVE MAJOR CONSEQUENCES?

18 THE DEFENDANT YES, SIR

19 THE COURT DO YOU BELIEVE YOU'RE COMPETENT TO
20 REPRESENT YOURSELF?

21 THE DEFENDANT YES, SIR

22 THE COURT HOW MUCH AND WHAT KIND OF EDUCATION
23 DO YOU HAVE?

24 THE DEFENDANT I WENT TO THE 12TH GRADE I WENT
25 TO VOCATIONAL SCHOOL

1 THE COURT WHAT KIND OF VOCATIONAL SCHOOL?

2 THE DEFENDANT CHEFING SCHOOL I TOOK A FEW
3 COLLEGE COURSES I DIDN'T COMPLETE THEM WENT TO MASTERS
4 BUSINESS COLLEGE ABOUT A YEAR I TOOK A COLLEGE COURSE AT
5 BREWTON PARKER CHRISTIAN COLLEGE IN GEORGIA, DIDN'T FINISH
6 AND THAT'S PRETTY MUCH ACADEMICALLY

7 THE COURT WHAT KIND OF EXPERIENCE DO YOU HAVE
8 WITH THE CRIMINAL JUSTICE SYSTEM?

9 THE DEFENDANT WITH THE CRIMINAL JUSTICE SYSTEM
10 I M VERY MUCH PRETTY MUCH WELL -- SELF-EDUCATED IN ASPECT
11 OF HAVE FILED MOTIONS BRIEF READ LITERATURE AND TRIAL
12 PROCEEDINGS POST-CONVICTION RELIEFS STUDIED THE UNITED
13 STATES CONSTITUTION I STUDY A GREAT MAJORITY OF THE SOUTH
14 CAROLINA LAWS AND CODES AND STATUTES

15 THE COURT DID YOU DO THAT ---

16 THE DEFENDANT I SHEPARDIZE

17 THE COURT YOU SHEPARDIZE THINGS?

18 THE DEFENDANT YES, SIR I SHEPARDIZE, RESEARCH
19 PRETTY MUCH HOW TO YOU KNOW PULL CASES AND SO FORTH TO
20 THAT EXTENT

21 THE COURT DID YOU DO THAT IN THE CONTEXT OF
22 THIS CASE OR OTHER CASES?

23 THE DEFENDANT I'VE DONE IT IN THE CONTACT OF
24 THIS CASE AND OTHER CASES

25 THE COURT YOU SAID YOU DID A P C R ?

1 THE DEFENDANT WELL I'VE WORKED WITH OTHER
2 INMATES AND I'VE DONE SOME P C R WORK FOR THEM AND DONE
3 SOME THINGS FOR THEM IN TRIAL TRIALS PRE-TRIAL MOTIONS
4 PRE-TRIAL MOTIONS AS WELL AS FOR MYSELF IN THIS CASE I
5 HAVE ABOUT 19 PRE-TRIAL MOTIONS WITH THIS COURT IN THE CASE
6 THAT I'M ON PRESENTLY THAT I WANTED TO BE, WANTED TO
7 ADDRESSED THAT I FILED I HAVE COPIES WITH ME AND SO
8 FORTH THEY'VE BEEN NOTARIZED AND SO FORTH AND CERTIFICATE
9 OF SERVICES AND RULE NISIS AND SO FORTH IS WITH THESE
10 MOTIONS IN THIS COURT

11 THE COURT HAVE YOU HAD ANY OTHER ACTUAL
12 INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM DO YOU HAVE
13 ANY PRIOR CONVICTIONS OR ANYTHING?

14 THE DEFENDANT YES SIR

15 THE COURT AND SO WHAT WERE THE NATURE OF THOSE?
16 WERE THEY TRIALS OR GUILTY PLEAS?

17 THE DEFENDANT I HAD A TRIAL

18 THE COURT WHAT KIND OF TRIAL?

19 THE DEFENDANT A JURY TRIAL

20 THE COURT FOR WHAT KIND OF OFFENSE?

21 THE DEFENDANT IT WAS A ARMED ROBBERY

22 THE COURT AND WHAT WAS THE RESULT?

23 THE DEFENDANT CONVICTION

24 THE COURT AND WHAT WAS YOUR INVOLVEMENT WITH
25 THAT CASE?

1 THE DEFENDANT IT WAS AS FAR AS ME IN THIS
2 PARTICULAR CASE IT WAS A MISTAKEN IDENTITY IN REFERENCE
3 IT WAS A CASE WHERE FOUR INDIVIDUALS SUPPOSED TO ROBBED
4 SOME TYPE OF BUSINESS AND I THINK IT WAS A COLLEGE ED OR
5 GRADUATE THAT STAYED NEAR THE VICINITY THAT I STAYED IN
6 SUPPOSED TO HAD TOLD THE AUTHORITIES THAT THE PERSON LOOKED
7 LIKE ME OR SOMETHING TO THAT EXTENT AND THAT WAS ALL THE
8 EVIDENCE AND EVERYTHING THAT WAS PRESENT IN THAT CASE AND I
9 WAS THE ONLY ONE TRIED OR ARRESTED OR CONVICTED FOR THAT
10 PARTICULAR CASE

11 THE COURT ANY OTHER INVOLVEMENT WITH THE
12 CRIMINAL JUSTICE SYSTEM?

13 THE DEFENDANT NOT MYSELF IN RELEVANT TO
14 REPRESENTING MYSELF OR ANYTHING LIKE THAT LITTLE MINOR
15 CHARGES AND SO FORTH THAT'S ALREADY'S ON THE RECORD

16 THE COURT WELL I'M JUST TRYING TO LAY OUT FOR
17 THE RECORD EXACTLY WHAT YOUR INVOLVEMENT IS SO IF YOU CAN
18 TELL ME

19 THE DEFENDANT WELL PRETTY MUCH THAT THAT'S
20 ALREADY ON THE RECORD YOU KNOW, THAT THE PROSECUTOR HAS
21 ALREADY ADDRESSED OR STATED THAT I'VE BEEN CHARGED WITH AND
22 SO FORTH

23 THE COURT ALL RIGHT AND THAT ONE TRIAL IS THE
24 TRIAL YOU PARTICIPATED IN BEFORE?

25 THE DEFENDANT NO, SIR

1 THE COURT THE ARMED ROBBERY?

2 THE DEFENDANT NO SIR

3 THE COURT BUT WHAT OTHER TRIAL DID YOU ACTUALLY
4 PARTICIPATE IN?

5 THE DEFENDANT -NO SIR, I DIDN'T -- ACTUALLY YOU
6 MEAN WAS I PRESENT OR YOU MEAN ACT AS MY ATTORNEY OR PRO SE
7 OR ANYTHING TO THAT NATURE?

8 THE COURT DID YOU NOT APPEAR FOR THAT TRIAL?

9 THE DEFENDANT YES SIR, I APPEARED

10 THE COURT ALL RIGHT DID YOU ACT IN YOUR OWN
11 DEFENSE IN THAT TRIAL?

12 THE DEFENDANT NO, SIR

13 THE COURT ALL RIGHT DID YOU TESTIFY IN THAT
14 CASE?

15 THE DEFENDANT YES SIR

16 THE COURT NOW WHAT SPECIFICALLY HAVE YOU READ
17 RELATING TO THE LAW?

18 THE DEFENDANT SPECIFICALLY I'VE READ THE BASIS
19 LIKE I SAID I'VE READ CRIMINAL TRIAL PRACTICE BOOKS I'VE
20 READ BOOKS ON SHEPARDIZING AND I VE SHEPARDIZED I'VE USED
21 TITLE BOOKS DIFFERENT TITLES OR STATUTES OR BOOKS IN
22 REFERENCE TO CASES OF CRIMINAL LAW PRETTY MUCH WHAT
23 GENERALLY WHAT A REGULAR LAWYER, A NORMAL LAWYER WOULD
24 START TO READ OR STUDY IN THE LAW ASPECT

25 THE COURT DO YOU UNDERSTAND THAT THE OFFENSES

1 WITH WHICH YOU ARE CHARGED ARE SERIOUS CRIMES UNDER THE
2 LAWS OF OUR STATE AND IF FOUND GUILTY YOU MAY BE SUBJECT TO
3 A PENALTY UP TO THE IMPOSITION OF DEATH DO YOU UNDERSTAND
4 THAT?

5 THE DEFENDANT YES SIR

6 THE COURT AND YOU'VE BEEN CHARGED WITH TWO
7 COUNTS OF MURDER DO YOU UNDERSTAND THAT?

8 THE DEFENDANT YES SIR

9 THE COURT ALL RIGHT I EXPLAINED THIS TO YOU
10 NOT TO YOU KNOW WORRY YOU OR FRIGHTEN YOU BUT ONLY TO
11 DRAW YOUR ATTENTION TO THE FACT THAT THERE IS SUBSTANTIAL
12 RISK THAT YOU'RE SUBJECTING YOURSELF TO IF YOU DECIDE TO
13 PROCEED PRO SE MOST PEOPLE WHO ARE CHARGED WITH SERIOUS
14 CRIMES CHOOSE TO BE REPRESENTED BY COUNSEL YOU SHOULD
15 KNOW THAT THE CONSTITUTION GUARANTEES YOU AS AN ACCUSED
16 PERSON A RIGHT TO COUNSEL AND AS YOU UNDERSTAND IF YOU
17 CANNOT AFFORD ONE THE COURT APPOINTS ONE AND THE COURT HAS
18 INDEED APPOINTED TWO IN THIS CASE

19 A COMPETENT LAWYER WILL BE KNOWLEDGABLE OF COURT
20 PROCEDURES RULES OF EVIDENCE AND THE LAW THAT GOVERNS THE
21 TRIAL IF THIS CASE IS TRIED THERE MAY BE TECHNICAL ISSUES
22 THAT MAY BE VERY DIFFICULT FOR A PERSON WITHOUT LEGAL
23 TRAINING TO ASSESS IN ADDITION EVEN IF YOU DID HAVE
24 TRAINING IN THE LAW, THE OBJECTIVE VIEWS OF A THIRD PERSON
25 WITH PROFESSIONAL EXPERIENCE AND TRAINING MAY BE SOMETHING

1 THAT YOU WOULD WISH TO TAKE INTO ACCOUNT AND CONSIDERATION

2 THE COURT PERSONALLY DOES NOT THINK THAT YOU
3 SHOULD REPRESENT YOURSELF IN MY EXPERIENCE EVEN LAWYERS
4 WHO ARE PARTIES TO MATTERS THAT ARE GOING TO BE TRIED
5 USUALLY HAVE A LAWYER REPRESENTING THEM AS YOU VE
6 PROBABLY HEARD THERE IS A SAYING THAT SAYS THAT A PERSON
7 WHO REPRESENTS HIMSELF HAS A FOOL FOR A LAWYER I'M SURE
8 YOU'VE HEARD THAT BUT THE CHOICE IS YOURS

9 IN ANY EVENT IF I WERE TO ALLOW YOU TO PROCEED
10 WITHOUT A LAWYER, YOU SHOULD KNOW THAT THE TRIAL AND OTHER
11 RELATED PROCEEDINGS WILL TAKE PLACE ACCORDING TO THE
12 ESTABLISHED LAWS AND RULES OF THIS COURT U S SUPREME
13 COURT HAS DRAWN OUR ATTENTION TO THE FACT THAT A PERSON,
14 WHILE A PERSON WHO HAS THE COMPETENCE TO MAKE THE DECISION
15 TO DO SO MAY PROCEED WITHOUT A LAWYER YOU DO NOT HAVE A
16 CONSTITUTIONAL RIGHT TO RECEIVE PERSONAL INSTRUCTION FROM
17 THE TRIAL JUDGE ON COURTROOM PROCEDURES DO YOU UNDERSTAND
18 THAT?

19 THE DEFENDANT YES SIR

20 THE COURT YOU DO NOT HAVE A RIGHT TO HAVE THE
21 JUDGE TAKE OVER YOUR CHORES FOR A PRO SE DEFENDANT THAT
22 WOULD NORMALLY BE ATTENDED TO BY A TRAINED COUNSEL AS A
23 MATTER OF COURSE SUCH AS THE PREPARATION OF PROPER MOTIONS
24 FRAMING OF QUESTIONS WHICH COMPLY WITH THE RULES OF
25 EVIDENCE, SELECTING A JURY PREPARING JURY INSTRUCTIONS ET

1 CETERA DO YOU UNDERSTAND THAT?

2 THE DEFENDANT YES SIR

3 THE COURT ALL RIGHT YOU DO NOT HAVE THE RIGHT
4 IN THE EVENT YOU BECOME CONFUSED OR FRUSTRATED THAT WOULD
5 NOT BE THE BASIS FOR THE INTERRUPTION OF THE TRIAL NOR
6 WOULD IT BE THE LICENSE FOR YOU TO DISRUPT THE TRIAL WITH
7 IMPROPER OBJECTIONS OR REPRESENTATIONS DO YOU UNDERSTAND
8 THAT?

9 THE DEFENDANT YES, SIR

10 THE COURT IF FOR ANY REASON YOU FAIL TO CONDUCT
11 YOURSELF WITH DUE RESPECT FOR THE LAWS AND RULES GOVERNING
12 THIS TRIAL OR YOU SHOULD BECOME DISRUPTIVE IT IS POSSIBLE
13 THAT THE PERMISSION I GIVE YOU IF I GIVE THAT PERMISSION TO
14 YOU TO PROCEED WITHOUT COUNSEL COULD BE REVOKED AND THAT AT
15 THAT POINT AT THAT POSITION OR POSTURE COULD HAVE A
16 DEVASTATING EFFECT ON THE OUTCOME OF THE TRIAL DO YOU
17 UNDERSTAND THAT?

18 THE DEFENDANT YES SIR

19 THE COURT YOU UNDERSTAND ALL THESE RISKS OF
20 PROCEEDING WITHOUT AN ATTORNEY?

21 THE DEFENDANT YES, SIR CERTAINLY

22 THE COURT DO YOU UNDERSTAND EVERYTHING THAT
23 I'VE TOLD YOU?

24 THE DEFENDANT YES, SIR

25 THE COURT HAVE YOU BEEN COERCED IN ANY KIND OF

1 WAY?

2 THE DEFENDANT NO SIR

3 THE COURT FORCED IN ANY KIND OF WAY?

4 THE DEFENDANT NO SIR

5 THE COURT MISTREATED IN ANY KIND OF WAY TO
6 CAUSE YOU TO WANT TO DO THIS?

7 THE DEFENDANT YES TO A EXTENT

8 THE COURT HOW HAVE YOU BEEN MISTREATED THAT
9 WOULD CAUSE YOU TO NOT WANT YOUR LAWYERS?

10 THE DEFENDANT THE LAWYERS ARE IN MY OPINION
11 THUS FAR THIS PERIOD OR STATE IS INCOMPETENT I THINK THAT
12 YOU KNOW THEY FALLS WITHIN THE RULES AND THINGS THAT ARE
13 GOING ON WITH THE SUPREME COURT TODAY WE'RE SPEAKING
14 ABOUT LAWYERS THAT ARE LAZY AND INCOMPETENT AND DOESN'T PUT
15 THE ATTENTION THAT THEY NECESSARY SHOULD IN DEATH PENALTY
16 CASES THAT HAS CAUSED MANY INDIVIDUAL INNOCENT PEOPLES TO
17 BE PLACED ON DEATH ROW

18 AND THAT'S ONE PARTICULAR POINT THAT FORMS MY
19 OPINION AND IN REFERENCE TO ME ASK SOME BASIC THINGS LIKE
20 COPIES OF, ALL THE COPIES OR COPIES OF ALL THE THINGS THAT
21 THEY HAVE TURN OVER TO ME TO REVIEW, TO LOOK AT YOU KNOW,
22 I WAS TOLD ONCE I WAS TOLD YOU KNOW THAT I WOULD HAVE TO
23 GET IT FROM THE PROSECUTOR IF I'M GOING TO REPRESENT MYSELF
24 AND MOTIONS THAT I FILED OR ASK FOR A SPEEDY TRIAL

25 YOU KNOW, HE WITHDRAW MY SPEEDY TRIAL YOU KNOW

1 YOU KNOW AND I WANT YOU KNOW I WANT TO HAVE THE FULL
2 EXERCISE AND EXTENT OF LAW SO I DON'T FEEL LIKE THE
3 LAWYERS THAT'S PRESENTLY REPRESENTING ME ARE NOT TO MY BEST
4 INTEREST AND IT JUST DOESN'T FALL IN THAT CATEGORY THAT'S
5 SATISFACTORY FOR ME TO BE DEFENDING FOR MY LIFE I THINK I
6 WOULD DO A WELL BETTER, A MUCH, MUCH BETTER JOB THAN THEY
7 WOULD BE ABLE TO

8 THE COURT AND YOU DO UNDERSTAND WHAT I SAID
9 THAT YOU WILL NOT RECEIVE ANY ASSISTANCE FROM ME AS THE
10 PRESIDING JUDGE IN GUIDING YOU ABOUT HOW YOU PRESENT YOUR
11 CASE?

12 THE DEFENDANT YES SIR

13 THE COURT I HAVE TO BE NEUTRAL AND UNBIASED I
14 CAN'T BE AN ADVOCATE FOR YOU OR FOR THE STATE YOU
15 UNDERSTAND THAT?

16 THE DEFENDANT YES SIR

17 THE COURT AND YOU MAY ALL OF A SUDDEN FIND
18 YOURSELF IN A HEATED MOMENT DURING TRIAL AND NOT KNOWING
19 HOW TO REACT TO SOMETHING IN A LEGAL MANNER AND ALL OF A
20 SUDDEN YOU MAY WANT AN ATTORNEY YOU UNDERSTAND YOU WILL
21 NOT RECEIVE ONE?

22 THE DEFENDANT YES SIR

23 THE COURT I MEAN, I'M NOT GOING TO STOP BECAUSE
24 AT THAT POINT YOU WANT AN ATTORNEY DO YOU UNDERSTAND
25 THAT?

1 THE DEFENDANT OH I UNDERSTAND THAT SIR YES
2 SIR

3 THE COURT ONCE I START A TRIAL WE MOVE AND WE
4 GO STRAIGHT THROUGH AND IT'S VERY FORMAL THERE IS NO NO
5 STOPPING OR PAUSING JUST BECAUSE YOU ARE CONFUSED YOU
6 UNDERSTAND THAT?

7 THE DEFENDANT RIGHT YES SIR

8 THE COURT IS IT STILL YOUR DESIRE TO PROCEED
9 WITHOUT A LAWYER?

10 THE DEFENDANT YES SIR

11 THE COURT HAVE YOU HAD ANY TROUBLE
12 UNDERSTANDING ANYTHING IN THIS CASE?

13 THE DEFENDANT PRETTY MUCH YOU KNOW, WHY I HAVE
14 A FEELING JUST BEING ABLE TO HAVE RESPONSES AND THE LAW
15 BEING EXERCISED IN REFERENCE TO MY SPEEDY TRIAL MOTIONS AND
16 THE PERIOD OF TIME THAT IT'S TAKEN SINCE I FILED FOR THE
17 MOTION FOR A DISMISSAL SINCE LAST YEAR OF THE ATTORNEYS,
18 AND THIS LATE IN THE STAGE WHERE I HAVE MADE OPENING TO THE
19 COURT THAT THE ATTORNEYS WAS SABOTAGING MY CASE AND DOING,
20 THINGS THAT WERE DETRIMENT TO MY DEFENSE, THAT THEY STILL
21 CONTINUE ON TO EXERCISE THE POWERS ATTORNEY IN FILING
22 MOTIONS AND SPEAKING WITH THE PROSECUTOR AND SPEAKING WITH
23 THIS COURT UNDER THE IMPRESSION OF BEING IN MY DEFENSE WHEN
24 ACTUALLY THEY ARE NOT

25 YOU KNOW, I JUST DON'T UNDERSTAND, YOU KNOW WHY

1 WOULD THE COURT ALLOW THEM TO CONTINUE TO SPEAK OR CONTINUE
2 TO STAY IN REFERENCE FOR HIRING OR CERTAIN PEOPLES TO
3 PERFORM CERTAIN DUTIES ON THE CASE AFTER I INFORM THE
4 COURT, YOU KNOW, SAYING THAT EVERYTHING THEY WAS DOING WAS
5 TO MY DETRIMENT IT WAS NOT IN MY BEHALF AND IT S
6 ACCOMPLISHED, THAT'S COMPLICATED TO ME BEING THAT IT'S THE
7 LAW TO SOME EXTENT TO THAT, YOU KNOW IF I FILE MOTIONS OR
8 ANYTHING IN REFERENCE TO THIS MATTER AND ASK AND BEG THE
9 COURT FOR THEM NOT TO GO ANY FURTHER SO THEY DON'T DO ANY
10 FURTHER DAMAGE OR ANY IRREPARABLE DAMAGE TO MY CASE TO MY
11 DEFENSE

12 AS FOR LIKE HE ORDERED A PSYCHOLOGIST THE COURT
13 TO APPOINT A PSYCHOLOGIST IS FOR WHAT YOU KNOW IN MY
14 DEFENSE YOU KNOW THE PSYCHOLOGIST THAT JUDGE, THE
15 HONORABLE JUDGE PERRY BUCKNER ALREADY DETERMINED HIM DONE
16 SUBMITTED A REPORT I HAVE A COPY OF A REPORT THEY HAVE
17 ALREADY SAID PRETTY MUCH TO THE EXTENT THAT I'M CAPABLE
18 MY UNDERSTANDING IS, IT'S AS NORMAL AS ANYBODY ELSE

19 THE COURT HE'S ALREADY SENT A REPORT OF
20 COMPETENCY?

21 MR MURDAUGH YES SIR

22 MR KELLY YOUR HONOR THERE IS A REPORT FROM
23 DR FRIERSON WHO IS THE STATE REPRESENTATIVE THAT REPORT
24 I BELIEVE HAS NOT BEEN FILED WITH THE COURT DR FRIERSON
25 AND DR MUZAYK ARE THE EXPERTS FOR THE STATE DR DONNA

1 SCHWARTZ-WATTS IS THE FORENSIC PSYCHIATRIST RETAINED BY THE
2 DEFENSE THE FORENSIC PSYCHOLOGIST IS DR GEOFF MCKEE AND
3 THE CLINICAL PSYCHOLOGIST IS A DR DUISACH D-U-I-S-A-C-H
4 THOSE REPORTS ARE NOT YET AVAILABLE THEY SHOULD BE
5 AVAILABLE BY NEXT FRIDAY -

6 THE COURT WELL, EVERYTHING THAT'S BEEN RECEIVED
7 SO FAR INDICATES THAT HE IS COMPETENT?

8 MR MURDAUGH THE FRIERSON REPORT SAYS THAT HE'S
9 COMPETENT TO STAND TRIAL

10 THE COURT AND HAVE YOU HAD ANY TROUBLE
11 COMMUNICATING WITH HIM?

12 MR KELLY YOUR HONOR THE DEFENDANT HAS NOT
13 ALLOWED US TO SEE HIM FOR ABOUT SIX MONTHS

14 THE COURT I UNDERSTAND

15 THE DEFENDANT YOUR HONOR

16 THE COURT YES, SIR

17 THE DEFENDANT THE PSYCHOLOGIST THAT THE
18 DEFENDANT'S ATTORNEYS THEM HAD HIRED IT APPEARS THAT THEY
19 ARE ACTING IN A BEHALF TO MAKE ME SEEM INCOMPETENT OR HAVE
20 A PSYCHOLOGICAL PROBLEM

21 THE COURT WELL, HAS THAT BEEN THE CASE? HAVE
22 THEY SAID THAT OR THEY JUST ASKING THEIR ROUTINE QUESTIONS?

23 THE DEFENDANT WELL, NO, TO THE EXTENT THAT THE
24 QUESTIONS, THE QUESTIONS THAT THEY DOES YOU KNOW IT'S
25 FINE WITH THE QUESTIONS BUT ---

1 THE COURT WELL LET ME INTERRUPT YOU AND ASK YOU
2 WAS IT ANY DIFFERENT THAN THE OTHER EVALUATION THAT YOU SAY
3 YOU UNDERTOOK? WAS IT THE SAME KIND OF QUESTIONS AND OF
4 THAT SIMILAR TYPE OF EVALUATION?

5 THE DEFENDANT WHAT THE TYPE OF INDIVIDUAL THAT
6 THE STATE MISTER YOUR HONOR PERRY BUCKNER HIRED WAS MORE
7 PROFESSIONAL AND SEEMED MORE ENLIGHTENED OR MORE EDUCATED
8 IN THAT ASPECT AS FAR AS JUST MAKING A DETERMINATION ABOUT
9 ONE'S ABILITY AS FAR AS HAVING MENTAL DEFICIENCIES OR SO
10 FORTH BUT THESE HERE THEY PRESENT, THEY PRESENT THEMSELVES
11 TO HAVE THAT PARTICULAR TYPE OF VIEWPOINT OR OBSERVATIONS
12 BUT IT SEEMS LIKE EVERYTHING THEY DOING OR THE WAY THEY
13 GOING ABOUT THEY'RE NOT PRESENTING ANYTHING TO SHOW THAT
14 WHICH THEY KNOW THAT I DON'T HAVE ANY TYPE OF PSYCHOLOGICAL
15 PROBLEM

16 THERE IS NO PSYCHOLOGICAL PROBLEM TO ANY EXTENT
17 AND IT'S GOING ON 20 MONTHS NOW AND THEY DONE DID WHAT ALL
18 THEY NEED TO DO OR SAY WHAT ALL THEY NEED TO DO, HAVE NOT
19 SUBMITTED NO REPORT TO THE JUDGE AND NO ONE HAS SPOKE OR
20 SAID ANYTHING AS FAR AS IN REFERENCE TO MY UNDERSTANDING OR
21 THAT I DON'T HAVE NO MENTAL RETARDATION OR SOMETHING TO
22 THAT EXTENT THAT I'M NOT ABLE TO COMMUNICATE OR RELAY MY
23 IDEAS TO OTHERS AND IT DOESN'T IT JUST DOESN'T SEEM TO IT
24 JUST DOESN'T SEEM TO BE IN HARMONY

25 IT JUST DON'T SEEM TO BE IN AGREEMENT WITH

1 EVERYTHING THAT'S TAKING PLACE AS FAR AS GETTING THIS CASE
2 MOVING ALONG, GETTING IT TO TRIAL TO THAT EXTENT AND THAT'S
3 ANOTHER ISSUE THAT I WANTED TO MENTION TO THE COURT THAT
4 YOU KNOW I WOULD APPRECIATE IF IT WAS POSSIBLE THAT YOUR
5 HONOR, YOU CONSIDER THE, SETTING A TRIAL DATE FOR
6 SEPTEMBER

7 THE COURT WELL, IT TAKES TIME TO MAKE
8 PREPARATIONS I DON'T KNOW HOW -- I DON'T HAVE THE CLERK
9 OF COURT HERE HOW SOON IN ADVANCE WILL THEY SEND OUT

10 MR MURDAUGH ABOUT 30 DAYS SIR

11 THE COURT ALL RIGHT

12 MR MURDAUGH IT'S 20 OR 30 I BELIEVE IT'S 30
13 IF YOUR HONOR PLEASE

14 THE COURT YOU HAVE TO MAKE PREPARATIONS FOR
15 SENDING OUT THE SUMMONS FOR THE JURY PANEL ET CETERA BUT
16 I'LL TAKE INTO CONSIDERATION ---

17 THE DEFENDANT THANK YOU, SIR

18 THE COURT --- TO DO IT AS SOON AS POSSIBLE
19 I'LL LOOK AT THE WHOLE SCHEDULE WHEN IS THE SOONEST, IS
20 EVERYONE READY, PERIOD?

21 MR MURDAUGH TO GO TO TRIAL?

22 THE COURT YES AS FAR AS WE CAN GET, AS FAR
23 AS AS LONG AS WE CAN GET THE MECHANICS ORGANIZED ---

24 MR MURDAUGH YES, SIR

25 THE COURT --- AS FAR AS THE CLERK'S OFFICE AND

1 EVERYTHING?

2 MR MURDAUGH AS FAR AS I KNOW OTHER THAN THE
3 LATTER PART OF OCTOBER EVERYBODY THAT I WOULD USE IS
4 AVAILABLE OF COURSE I'LL HAVE TO CHECK BACK WITH THEM I
5 HAD ATTEMPTED TO SET THIS TRIAL IN OCTOBER OF LAST YEAR AND
6 JUST DIDN'T WORK

7 THE COURT ALL RIGHT ANYTHING ELSE YOU WANTED
8 TO SAY?

9 THE DEFENDANT YES YOUR HONOR I HAD FILED A
10 MOTION TO HIRE SOME EXPERT WITNESSES IN MY BEHALF BEEN
11 QUITE SOME TIME AGO LIKE I D SAY ABOUT TWO MOTIONS AT
12 DIFFERENT PERIODS NAMING THE EXPERT WITNESSES THAT I WANTED
13 TO HIRE THAT WOULD BE RELEVANT TO THE CASE OUTSIDE OF JUST
14 SOME PSYCHOLOGICAL EXPERT AS THE DEFENDANT ATTORNEYS HAVE
15 ONLY SEEMED TO ASK FOR LIKE FORENSIC SCIENCE FORENSIC
16 EXPERTS EXCUSE ME, FORENSIC EXPERTS A CONSTITUTIONAL
17 LAWYER AND A PSYCHOLOGIST THAT I NAMED ---

18 THE COURT WELL ---

19 THE DEFENDANT --- IN MY DOCUMENTS TO BE HIRED
20 IN MY DEFENSE

21 THE COURT BEFORE I GET TO THAT LET ME SEE IF I
22 UNDERSTAND ARE THERE OTHER MOTIONS THAT ARE PENDING THAT
23 HE'S FILED?

24 MR MURDAUGH I AM NOT AWARE OF THEM SIR

25 THE COURT BECAUSE I DON T HAVE ALL THOSE

1 MR KELLY YOUR HONOR WHATEVER MOTIONS HE'S
2 FILED THE ONLY ONES THAT ARE PROPERLY BEFORE THE COURT
3 THERE IS ONLY ONE PROPERLY BEFORE THE COURT AND THAT'S THE
4 MOTION TO BE COUNSEL PRO SE UNTIL THAT MOTION IS HEARD NO
5 OTHER MOTION CAN BE FILED BY HIM ON HIS BEHALF UNTIL THAT
6 ONE IS HEARD IF HE'S FOUND TO BE PRO SE COUNSEL, HE CAN
7 FILE WHATEVER HE WANTS TO

8 THE COURT BUT HE'S SAYING HE'S ALREADY FILED
9 SOME

10 MR KELLY HE'S FILED PAPERS WITH THE CLERK OF
11 COURT AS FAR AS ---

12 THE COURT WHAT ARE THEY? JUST SO I CAN
13 UNDERSTAND

14 THE DEFENDANT I HAVE THEM WITH ME

15 THE COURT ALL RIGHT TELL ME WHAT THEY ARE

16 MR KELLY YOUR HONOR, I KNOW THAT HE HAS SPOKEN
17 WITH A CRIMINAL INVESTIGATOR WHO WAS RETAINED BY US BY
18 ORDER OF THE COURT AND HAS ASKED THAT CERTAIN EXPERTS BE
19 HIRED WHETHER OR NOT THAT'S IN THE FORM OF A MOTION, I
20 CANNOT TELL YOU AT THIS TIME

21 THE DEFENDANT YOUR HONOR ---

22 THE COURT IF YOU CAN JUST GIVE ME A LIST FIRST
23 WITHOUT GOING INTO THEM YOU KNOW JUST GO RIGHT DOWN THE
24 LIST SO I'LL KNOW

25 THE DEFENDANT ON AUGUST THE 2ND 2002 I FILED

1 A MOTION FOR DISMISSAL OF INDICTMENTS

2 THE COURT ALL RIGHT

3 THE DEFENDANT ALL THE MOTIONS THAT I GIVE YOU
4 ARE SEALED AND NOTARIZED

5 THE COURT OKAY

6 THE DEFENDANT ON AUGUST THE 23RD 2002, I FILED
7 A MOTION FOR RELEASE FROM SEGREGATION AND ISOLATION
8 CONFINEMENT AT THE BEAUFORT COUNTY DETENTION CENTER I'VE
9 BEEN ON THAT STATUS SINCE MY ARREST ON OCTOBER
10 THE 14TH, 2002 I FILED A MOTION FOR DISMISSAL OF ATTORNEY
11 GERALD KELLY APPOINTED PUBLIC DEFENDER ON NOVEMBER
12 THE 11 2002 I FILED A MOTION FOR IMMEDIATE DISMISSAL OF
13 ATTORNEY GERALD KELLY OF THE PUBLIC DEFENDER OFFICE ON
14 JANUARY 21ST 2003 I FILED A MOTION FOR ORDER OF RELEASE

15 THE COURT ORDER OF RELEASE?

16 THE DEFENDANT YES SIR

17 THE COURT WHAT DATE WAS THAT?

18 THE DEFENDANT JANUARY THE 21ST 2003 ON
19 JANUARY THE 21ST 2003, I FILED A MOTION FOR A DISMISSAL OF
20 INDICTMENT ON JANUARY 21ST, 2003, I FILED A MOTION FOR
21 DISMISSAL OF CHARGES

22 THE COURT ARE THOSE ALL THE SAME THING?

23 THE DEFENDANT NO SIR THEY'RE DIFFERENT

24 THE COURT ALL RIGHT

25 THE DEFENDANT ON JANUARY 21ST, 2003 I FILED A

1 MOTION TO RESERVE RIGHTS ON JANUARY THE 21ST 2003 I
2 FILED A MOTION TO RESERVE SEATING

3 THE COURT WHAT IS THAT?

4 THE DEFENDANT IN REFERENCE TO A SEATINGS IN THE
5 EVENT OF A TRIAL THAT IF THE COURT WAS LIKE IN ITS CAPACITY
6 THAT IF MY FAMILY MEMBERS AND SO FORTH WOULD BE ABLE TO --

7 THE COURT I SEE OKAY

8 THE DEFENDANT --- HAVE SEATING RESERVED FOR
9 THEM ON JANUARY 21ST 2003 I FILED A MOTION FOR VOIR
10 DIRE

11 THE COURT MOTION TO WHAT?

12 THE DEFENDANT FOR VOIR DIRE

13 THE COURT OKAY

14 THE DEFENDANT ON JANUARY 21ST 2003 I FILED A
15 MOTION FOR DISMISSAL OF CHARGES ON JANUARY 21ST 2003 I
16 FILED ANOTHER MOTION FOR DISMISSAL OF CHARGES

17 THE COURT THOSE ARE ALL THE SAME?

18 THE DEFENDANT THEY DIFFERENT YES, SIR

19 THE COURT ALL RIGHT

20 THE DEFENDANT ON JANUARY THE 21ST, I FILED A
21 MOSTION FOR SUBPOENAS ON JANUARY THE 21ST, I FILED A
22 MOTION FOR DISMISSAL OF INDICIMENT ON JANUARY 21ST 2003
23 I FILED A MOTION FOR SEQUESTER ON JANUARY 21ST 2003, I
24 FILED A MOTION FOR PRODUCTION OF ALL TRANSCRIPTS RECORDS
25 AND DOCUMENTS ON JANUARY THE 21ST 2003 I FILED A MOTION

1 FOR SPEEDY TRIAL

2 ON JANUARY THE 31ST 2003 I FILED A MOTION TO
3 EXAMINE ON FEBRUARY THE 24TH I FILED ANOTHER MOTION FOR
4 A MOTION FOR SUBPOENAS ON FEBRUARY 24TH 2003 I FILED A
5 MOTION TO COMPEL SPEEDY TRIAL

6 THE COURT HOW LONG HAS THE CASE BEEN PENDING,
7 SINCE WHEN IN 2002?

8 MR MURDAUGH IT HAS BEEN PENDING SIR SINCE
9 JANUARY OF, JANUARY IS THAT RIGHT?

10 MR KELLY YOUR HONOR, THE ARREST WAS JANUARY
11 THE 8TH, 2002

12 THE COURT 2002

13 MR KELLY YES SIR

14 THE COURT ALL RIGHT BEEN PENDING A YEAR AND A
15 HALF

16 MR MURDAUGH YES SIR

17 MR KELLY YES SIR THERE ORIGINALLY THE
18 PUBLIC DEFENDER'S OFFICE WAS APPOINTED WE WERE APPOINTED
19 SUBSTITUTE COUNSEL SIX MONTHS LATER IN JUNE OF 2002 WE'VE
20 BEEN REPRESENTING HIM FOR A LITTLE OVER A YEAR

21 MR MURDAUGH THEN WE HAD PROBLEM WITH HAVING
22 GETTING A MENTAL EVALUATION DONE, SIR, AND WE COULDN'T
23 PROCEED UNTIL THAT HAPPENED AND ONCE THAT HAPPENED WE HAD
24 THIS MATTER AND THEN THEY SWITCHED JUDGES, YOU AND JUDGE
25 BUCKNER

1 THE COURT WEREN T ORIGINAL COUNSEL RELIEVED
2 TOO?

3 MR MURDAUGH YES SIR GENE HOOD WHO IS THE
4 PUBLIC DEFENDER IN BEAUFORT COUNTY AND SAM BAUER WHO IS A
5 PRIVATE ATTORNEY WERE ORIGINALLY APPOINTED

6 THE COURT ALL RIGHT

7 MR KELLY YES YOUR HONOR, AND THEN
8 MR THORNTON AND I WERE APPOINTED I BELIEVE IN JUNE OF 2002
9 WHICH WOULD HAVE BEEN SIX MONTHS LATER

10 THE COURT ALL RIGHT YES SIR ANYTHING ELSE?

11 THE DEFENDANT YES, SIR ON ABRIL
12 THE 30TH 2003 I FILED A MOTION TO OBTAIN EXPERT WITNESS
13 ON APRIL THE 30 2003 I FILED A MOTION TO SUBPOENA ON
14 APRIL THE 30TH 2003 I FILED A MOTION FOR DISMISSAL OF
15 INDICTMENT ON APRIL THE 30TH 2003 I FILED A MOTION FOR
16 DISMISSAL OF CHARGES ON APRIL THE 30, 2003, I ALSO NOTE A
17 MOTION FOR DISMISSAL OF THE INDICTMENT, ALL DIFFERENT ON
18 APRIL THE 30TH, 2003, I FILED ---

19 THE COURT YOU SEE I CAN ALREADY TELL YOU YOU
20 SEE WHAT YOU'RE DOING AS FAR AS NOT BEING FAMILIAR WITH
21 PROCEDURES YOU'VE ALREADY FILED FIVE OR SIX MOTIONS
22 PERTAINING TO THE INDICTMENT OR THE CHARCES

23 THE DEFENDANT OKAY AT DIFFERENT ---

24 THE COURT YOU KNOW YOU DON'T GET FOUR OR FIVE
25 BITES AT THE APPLE YOU UNDERSTAND THAT?