

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Carmen T Mullen, Circuit Court Judge

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Case No 06-CP-11-223

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TYREE ROBERTS, SK6012  
Aka ABDIYYAH BEN ALKEBULANYAHH

Petitioner,

v

STATE OF SOUTH CAROLINA

---

Respondent

APPENDIX  
VOLUME IX OF XI

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**JOHN H BLUME**  
Cornell Law School  
112 Myron Taylor Hall  
Ithaca, New York 14853  
(607)255-1030

Counsel for Petitioner

**ALPHONSO SIMON, JR**  
Office of the Attorney General  
P O Box 11549  
Columbia, SC 29211  
(803) 734-6305

Counsel for Respondent

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**S.C. Supreme Court**

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1 THE DEFENDANT WELL AT DIFFERENT AT SO MANY  
2 SO MANY ERRONEOUS THINGS HAPPEN WITH, IN REFERENCE TO THE  
3 INDICTMENT OR THE CHARGES IN ITSELF

4 THE COURT OKAY I DON'T KNOW WHAT THEY'RE  
5 ABOUT YET SO I M JUST ---

6 THE DEFENDANT RIGHT

7 THE COURT --- POINTING THAT OUT TO YOU

8 THE DEFENDANT ON APRIL THE 30TH, 2003 I FILED  
9 ANOTHER MOTION FOR A SPEEDY TRIAL ON JUNE THE 19TH 2003,  
10 I FILED A MOTION FOR DISMISSAL OF CHARGES ON JUNE  
11 THE 19 2003 I FILED ANOTHER MOTION FOR DISMISSAL OF  
12 CHARGES AND LAST AND THE MOST RECENTLY ON JULY THE 24TH I  
13 FILED A MOTION FOR DISMISSAL OF CHARGES

14 THE COURT JULY WHAT?

15 THE DEFENDANT THE 24TH 2003 AND ON JULY  
16 THE 24TH 2003 I FILED A MOTION FOR SPEEDY TRIAL AND THAT  
17 COMPLETES IT, YOUR HONOR

18 THE COURT ALL RIGHT LET ME JUST TELL YOU NOW  
19 YOU ONLY HAVE AN OBLIGATION TO FILE ONE MOTION PERTAINING  
20 TO A PARTICULAR MATTER

21 THE DEFENDANT WELL EACH MOTION THAT I FILED IS  
22 ON A SEPARATE ISSUE ON A SEPARATE ---

23 THE COURT WELL MOTION FOR A SPEEDY TRIAL YOU  
24 FILED SEVERAL OF THOSE

25 THE DEFENDANT WELL, ACCORDING TO ---

1 THE COURT ONE MAKES YOUR POINT

2 THE DEFENDANT WELL THE POINT WAS ACCORDING TO  
3 THE STATUTE SOUTH CAROLINA STATUTE IN REFERENCE TO THE  
4 SPEEDY TRIAL ACCORDING TO THE IT'S FILED AND IN REFERENCE  
5 TO THE SPEEDY TRIAL ACCORDING TO THE SOUTH CAROLINA  
6 STATUTE 17-23-90, IT SAYS THAT THE COURT SHALL HAVE TWO  
7 COURT TERMS BEFORE THEY BRING ME -- FOR THE FIRST COURT  
8 TERM I SHOULD BE BROUGHT BEFORE A JUDGE TO INQUIRE I GUESS  
9 INTO THE SPEEDY TRIAL AND BY THE SECOND COURT TERM IF I M  
10 NOT BROUGHT BEFORE A COURT THAT I SHOULD BE ACQUITTED

11 THE COURT ALL RIGHT

12 THE DEFENDANT AND EACH TIME I FILED A SPEEDY  
13 TRIAL EACH TIME IT WAS AFTER THE 90 DAYS ELAPSED WITHOUT  
14 HAVING THE MOTION EITHER IGNORED OR NOT HEARD AT ALL SO I  
15 WAITED TILL AFTER THAT SPEEDY TRIAL ELAPSE OR THAT TIME  
16 PERIOD OF TWO COURT TERMS AND THEN FILED ANOTHER ONE IN  
17 THE EVENT, I ASSUME IF IT WAS RECOGNIZED FROM THE ORIGINAL  
18 MOTION FOR SPEEDY TRIAL THEN THE JUDGE, YOUR HONOR, SIR,  
19 SHOULD HAVE, THEY SHOULD HAVE BROUGHT ME BEFORE THE COURT  
20 AND ACQUITTED ME AFTER ELAPSE OF THE SPEEDY TRIAL

21 THE COURT ALL RIGHT I UNDERSTAND YOUR  
22 POSITION ANY OTHER FURTHER MOTIONS?

23 THE DEFENDANT NO, SIR

24 THE COURT ANYONE HAVE ANYTHING ELSE TO SAY  
25 ABOUT THE MOTION TO PROCEED PRO SE?

1 MR MURDAUGH I CAN INFORM THE COURT SIR THAT  
2 I HAVE AVAILABLE DR FRIERSON SHOULD THE COURT THINK THAT  
3 IT WOULD BE OF BENEFIT TO YOU SIR IN MAKING YOUR  
4 DETERMINATION

5 THE COURT AND WHEN WILL THOSE OTHER REPORTS  
6 COME BACK?

7 MR KELLY YOUR HONOR THE OTHER REPORTS FROM  
8 THE EXPERTS RETAINED BY THE DEFENSE SHOULD BE READY BY NEXT  
9 FRIDAY

10 THE COURT ALL RIGHT WELL I'LL WAIT FOR  
11 THOSE MY INCLINATION IS THAT EVEN THOUGH I RECOMMEND THAT  
12 YOU NOT DO SO UNLESS THERE IS SOMETHING THAT COMES OUT IN  
13 THOSE REPORTS THAT SUGGESTS THAT THERE IS SOME QUESTION AS  
14 TO COMPETENCY IN WHICH EVENT I'LL BRING EVERYONE BACK TO  
15 HEAR EVERYONE OUT INCLUDING MR ALKEBULANYAHH TO ALLOW HIM  
16 TO PROCEED PRO SE UNLESS SOMEONE CAN POINT TO ME SOME  
17 REASON WHY I SHOULD NOT BUT I'M AT THIS POINT I M GOING TO  
18 LEAVE YOU ON AS STANDBY COUNSEL AND I LL WAIT FOR THOSE  
19 REPORTS TO COME OUT

20 YOU SAY YOU'RE READY FOR TRIAL

21 MR ALKEBULANYAHH?

22 THE DEFENDANT YES SIR

23 THE COURT WHAT ABOUT THESE SUBPOENAS YOU'VE  
24 REQUESTED? HOW ARE YOU GOING TO GET READY FOR TRIAL?

25 THE DEFENDANT WELL THESE SUBPOENAS THAT I'VE

1 REQUESTED ---

2 THE COURT FOR PEOPLE TO COME TO TRIAL?

3 THE DEFENDANT RIGHT THEY BEEN SO LONG AGO AND

4 BECAUSE YOU KNOW, THEY HAVE NOT IT BEEN LIKE MONTHS,

5 YEARS AGO FOR THESE SUBPOENAS AND MOST OF THE SUBPOENAS ARE

6 BASED AROUND THE STATE WITNESSES WHOM WAS NOT IT WAS NOT

7 RECORDED ABOUT THE INVESTIGATORS AND THE POLICE DEPARTMENT

8 IN THEIR INVESTIGATION A LOT OF PEOPLES THAT WAS INVOLVED

9 IN THIS CASE AND DONE SOME CORRUPTIBLE THINGS IN THE CASE

10 THEY LEFT THEM OUT AS FAR AS THEY FILING SUPPLEMENTAL

11 REPORTS OR ANYTHING

12 BUT THEY NAMES ARE MENTIONED IN THERE AS FAR AS

13 THEM DOING WORK AND BEING INVOLVED DIRECTLY IN THE CASE

14 WHICH SHOULD HAVE BEEN ADDED TO THE S L E D CASE WITNESS

15 LIST AND I WANTED ALL THEM SUBPOENA WITH THE ADDITIONAL

16 PEOPLE THAT THEY LEFT OUT THAT HAD CRITICAL ROLES IN THE

17 INVESTIGATION FROM THE BEGINNING OF THE ALLEGED CRIME

18 THROUGHOUT THAT PERIOD, AND I WANTED TO MAKE SURE THAT I

19 WANTED TO LET THEM KNOW THAT I WOULD LIKE THOSE PEOPLE TO

20 BE BROUGHT TO COURT WHO WORKED FOR THE SHERIFF'S

21 DEPARTMENT

22 THE COURT DO YOU HAVE THEIR NAMES?

23 THE DEFENDANT YES SIR

24 THE COURT GIVE ME THEIR NAMES CAN YOU WRITE

25 THESE NAMES DOWN, PLEASE?

1 DO YOU HAVE THAT REPORT FROM DR FRIERSON?

2 MR MURDAUGH YES SIR I DO

3 THE COURT CAN YOU MOVE THAT?

4 MR MURDAUGH YES, SIR, I CAN GIVE IT TO YOU

5 THE COURT THEN WE CAN FILE IT FOR OUR RECORD

6 LATER WE CAN MAKE A COPY AND GET IT BACK TO YOU

7 MR MURDAUGH YES SIR I DO NEED A COPY

8 THAT'S THE ONLY ONE I HAVE

9 THE COURT LET THE RECORD REFLECT THAT THERE IS  
10 A REPORT AT THIS TIME FROM DR FRIERSON INDICATING THAT THE  
11 DEFENDANT IS CAPABLE OF UNDERSTANDING THE CHARGES AND IS  
12 CAPABLE OF ASSISTING DEFENSE HAD THE ABILITY TO  
13 DIFFERENTIATE RIGHT FROM WRONG AT THE TIME OF THE ALLEGED  
14 OFFENSES DID HAVE THE CAPACITY TO CONFORM HIS CONDUCT TO  
15 THE REQUIREMENTS OF OUR LAW BUT I WILL RESERVE THE RIGHT TO  
16 REINSTATE COUNSEL IF PRIMARY COUNSEL IF SOMETHING  
17 INDICATES OTHERWISE ALL RIGHT

18 MR MURDAUGH YES SIR

19 MR KELLY YOUR HONOR, TWO POINTS OF  
20 CLARIFICATION IF YOU WOULD DO YOU INTEND TO CONDUCT AN  
21 EVALUATION HEARING WHERE THE EXPERTS CAN BE PRESENT AND  
22 GIVE TESTIMONY AS WELL AS RECEIVE THE REPORTS?

23 THE COURT YES SIR

24 MR KELLY AND DO YOU INTEND TO HOLD THAT  
25 HEARING PREVIOUS TO THE TIME THAT YOU MAKE YOUR RULING AS

1 TO WHETHER HE SHOULD REPRESENT HIMSELF PRO SE?

2 THE COURT WELL WHAT I'M SAYING RIGHT NOW IS  
3 THAT S MY INCLINATION BUT I'LL WAIT FOR THOSE REPORTS TO  
4 COME IN

5 MR KELLY THAT'S WHAT I'M ASKING YOUR HONOR  
6 WHAI I'M SAYING IS IS THAT IF WE WERE TO GIVE YOU A REPORT  
7 SAY ON THURSDAY WOULD YOU MAKE THAT RULING AS TO THE  
8 EVALUATIONS WHETHER OR NOT HE SHOULD STAND TRIAL?

9 THE COURT WELL IF THERE IS NOTHING ---

10 MR KELLY OR WOULD YOU HOLD A HEARING THAT  
11 WOULD ALLOW THE EXPERTS TO TESTIFY INTO THE RECORD ON THEIR  
12 FINDINGS AS WELL AS THEIR REPORT?

13 THE COURT WELL IF THOSE REPORTS INDICATE THAT  
14 HE IS COMPETENT THE STATE'S ALREADY GOT A REPORT THAT  
15 INDICATES COMPETENT, DO WE NEED TO HAVE A FURTHER HEARING?  
16 MR ALKEBULANYAHH SAYS HE'S COMPETENT

17 IS THAT CORRECT MR ALKEBULANYAHH?

18 THE DEFENDANT YES SIR

19 MR KELLY YOUR HONOR IF THE EXPERTS RETAINED  
20 BY THE DEFENSE TESTIFIED AS THOSE WHO REPRESENT THE  
21 DEFENDANT THERE WOULD BE NO ISSUE

22 THE COURT I AGREE

23 MR KELLY BUT IF THERE IS AN ISSUE THEN YOU DO  
24 INTEND TO HOLD A HEARING

25 THE COURT YES, SIR

1 MR KELLY OKAY

2 THE COURT I THINK I'M, WOULD BE REQUIRED TO DO  
3 THAT

4 MR KELLY ALL RIGHT

5 THE COURT THERE IS SOME CONFLICT THEN I NEED TO  
6 RESOLVE THE CONFLICT ONE WAY OR THE OTHER AND MAKE A  
7 FINDING BUT MY FINDING RIGHT NOW IS THAT IT APPEARS THAT  
8 HE'S COMPETENT AND THAT HE WISHES TO PROCEED PRO SE

9 NOW, JUST TO MAKE SURE THE FINDINGS ARE CLEAR  
10 MR ALKEBULANYAHH, YOU UNDERSTOOD EVERYTHING I SAID ABOUT  
11 THE RISK INHERENT AND THE DISADVANTAGES OF SELF  
12 REPRESENTATION?

13 THE DEFENDANT YES SIR I DID AND I ALSO  
14 RECEIVED SOME DOCUMENTS FROM MR KELLY HERE WHICH I HAVE  
15 WITH ME WHICH I READ OVER IN REFERENCE TO THE GOOD AND THE  
16 BAD AND AS FAR AS ME REPRESENTING MYSELF AND THE DANGERS  
17 AND SO FORTH ABOUT 24 PAGES OF IT IN REFERENCE TO ---

18 THE COURT SO YOU GAVE HIM A DOCUMENT ABOUT THE  
19 ADVANTAGES AND DISADVANTAGES OF SELF-REPRESENTATION?

20 MR KELLY YOUR HONOR I GAVE HIM A COPY OF THE  
21 BRIEF OF THE STATE WITH THE SUPPORTING DOCUMENTATION THAT'S  
22 FILED WITH THE COURT WE WILL SAY YOUR HONOR THAT BOTH  
23 MR THORNTON AND I AGREE WITH THE POSITION OF THE BRIEF OF  
24 THE STATE ON THAT POINT OF LAW

25 MR THORNTON THAT IS CORRECT, YOUR HONOR I

1 BELIEVE THAT THE BRIEF AS PUT TOGETHER BY THE SOLICITOR IS  
2 THE CORRECT AND CURRENT STATEMENT OF THE LAW

3 THE COURT DO YOU HAVE THAT WITH YOU?

4 MR MURDAUGH YES SIR IF YOUR HONOR PLEASE  
5 IF I'M NOT MISTAKEN THAT IS THE DOCUMENT THAT I MAILED TO  
6 YOU ON ---

7 THE COURT YES, SIR

8 MR MURDAUGH MAY 28TH

9 THE COURT ALL RIGHT

10 MR MURDAUGH I HAVE ---

11 THE COURT CAN I JUST HOLD YOUR COPY FOR A  
12 SECOND?

13 MR MURDAUGH CERTAINLY I THINK THE FIRST PART  
14 OF IT IS SOME STUFF I GOT OFF THE INTERNET HOW ANOTHER  
15 JUDGE HAD ADDRESSED IT

16 MR KELLY IN SHORT OF SOME MOTION YOUR HONOR,  
17 FROM THE DEFENSE WE BELIEVE THAT IF YOU FIND HIM COMPETENT  
18 HE HAS AN ABSOLUTE RIGHT TO DEFEND HIMSELF AND DISMISS HIS  
19 COUNSEL

20 THE COURT CONSISTENT WITH WHAT I'VE INDICATED

21 MR KELLY EXACTLY

22 THE COURT AND THAT'S WHY I SAY UNLESS SOMETHING  
23 COMES OUT TO SUGGEST THAT HE'S NOT COMPETENT THEN MY  
24 INCLINATION IS THAT HE SHOULD BE ALLOWED TO REPRESENT  
25 HIMSELF EVEN THOUGH IT MAY NOT BE WISE IT MIGHT NOT BE A

1 WISE THING TO DO HE HAS A RIGHT TO DO THAT AND

2 MR KELLY WE AGREE YOUR HONOR THAT BRINGS ME  
3 TO THE SECOND AND LAST POINT THAT I WOULD ASK YOU TO  
4 CLARIFY

5 THE COURT YES SIR

6 MR KELLY AND THAT'S THE CHARACTER OF OUR, BY  
7 OUR I MEAN THE DEFENSE ATTORNEYS, POSITION AS STANDBY  
8 COUNSEL WHAT EXACTLY DOES THAT MEAN?

9 THE COURT THAT MEANS THAT YOU CONTINUE AND IF  
10 HE WOULD LIKE TO SEEK YOUR ADVICE OR ASSISTANCE THEN HE  
11 CAN DO THAT DURING THE TRIAL

12 MR KELLY YOUR HONOR THERE ARE A NUMBER OF  
13 BOOKKEEPING MATTERS THAT HAVE TO BE TAKING PLACE HAVE TO  
14 BE DONE BY THE ATTORNEYS, HAVE TO DO WITH PAYING BILLS AND  
15 SEEING THAT PEOPLE ARE NOTIFIED AS WELL AS MAKING  
16 PREPARATIONS FOR POSSIBILITY OF NOT BEING STANDBY COUNSEL  
17 IN THE NEAR FUTURE WE'RE ALLOWED TO CONTINUE WITH THOSE?

18 THE COURT YOU MEAN, GIVE ME AN EXAMPLE OF WHAT  
19 YOU'RE TALKING ABOUT

20 MR KELLY WELL, FOR INSTANCE YOUR HONOR ALL  
21 OF THE PREPARATIONS FOR THE POSSIBLE HEARING FOR EXPERTS  
22 SOMEBODY'S GOT TO GET IN TOUCH WITH THEM GOT TO E-MAIL OR  
23 TALK TO THEM ON THE TELEPHONE AND TELL THEM WHEN THE  
24 HEARING MIGHT BE

25 THE COURT YOU MEAN FOR THE COMPETENCY ISSUE?

1 MR KELLY YES SIR

2 THE COURT YES I WOULD I'LL ALLOW YOU TO  
3 CONTINUE TO DO JUST THAT

4 MR KELLY YOUR HONOR I HAVE ALSO MONEYS IN MY  
5 TRUST ACCOUNT THAT HAVE BEEN SUPPLIED BY THE OFFICE OF  
6 INDIGENT DEFENSE TO PAY OUT BILLS TO EXPERTS THAT HAS TO  
7 BE DONE OKAY OTHER THAN THAT ---

8 THE COURT YOU CAN CONTINUE TO DO THAT

9 MR KELLY DO YOU WANT TO PREPARE ---

10 THE COURT DO YOU UNDERSTAND THAT

11 MR ALKEBULANYAHH?

12 THE DEFENDANT YES, SIR I DO

13 THE COURT THAT HE WAS PREVIOUSLY AUTHORIZED TO  
14 HAVE THOSE FUNDS IN HIS TRUST ACCOUNT TO DISBURSE AND YOU  
15 DON T HAVE A PROBLEM WITH THAT?

16 THE DEFENDANT NO SIR

17 THE COURT ALL RIGHT JUST CONTINUE TO DO THAT

18 MR KELLY AT THIS TIME YOU WANT US TO CEASE ALL  
19 RESEARCH AND PREPARATION OF THE CASE AND MERELY BEGIN TO  
20 SHUT THE CASE DOWN AND TO ---

21 THE COURT BE AVAILABLE

22 MR KELLY --- DO THOSE THINGS IN TRUST THAT ARE  
23 NECESSARY TO DO LET ME ASK YOU ONE FINAL QUESTION YOUR  
24 HONOR IF WE ARE RELIEVED FROM COUNSEL WILL WE BE TOTALLY  
25 DISMISSED FROM THE CASE?

1 THE COURT NO YOU'RE GOING TO BE STANDBY  
2 COUNSEL

3 MR KELLY I UNDERSTAND YOUR HONOR

4 THE COURT AND THEN SECONDLY IF AFTER THE GUILTY  
5 PHASE THERE IS A TERM, IF A JURY WERE TO FIND HIM GUILTY  
6 THEN I WILL REVISIT THAT ISSUE ONE LAST TIME BEFORE WE  
7 PROCEED TO THE SENTENCING PHASE

8 MR KELLY WHEN YOU SAY THAT ISSUE ---

9 THE COURT IF WE GET THAT FAR

10 MR KELLY --- DO YOU MEAN REPRESENTATION DURING  
11 THE TIME OF THE PENALTY PHASE?

12 THE COURT NO THE ONLY THING DURING THE  
13 PENALTY PHASE IF WE GO FORWARD, I'M NOT REVISITING THAT  
14 ISSUE HE'S WAIVED IT HE UNDERSTANDS HE'S WAIVED IT IF  
15 THE JURY RETURNS A NOT GUILTY VERDICT THEN IT'S NO LONGER  
16 AN ISSUE IF THE JURY RETURNS A GUILTY VERDICT THEN I'M  
17 GOING TO REVISIT ONE MORE TIME BEFORE THE SENTENCING PHASE  
18 AND ASK HIM AGAIN DOES HE STILL WISH TO PROCEED WITHOUT  
19 THE, HIS ATTORNEYS LEADING THE WAY

20 MR KELLY YOUR HONOR, IF YOU DO REACH THAT  
21 POINT AND HE DID TELL YOU THAT HE WISHED HIS ATTORNEYS TO  
22 TAKE OVER REPRESENTATION, IT WOULD BE NECESSARY FOR US TO  
23 MAKE PREPARATION FOR THAT TIME OTHERWISE WE WOULD HAVE TO  
24 TELL YOU THAT WE'RE NOT PREPARED TO GO FORWARD

25 THE COURT AND IF THAT'S THE CASE AND IF YOU ARE

1 NOT ABLE TO PROVIDE HIM THAT ASSISTANCE I'LL TAKE THAT  
2 INTO CONSIDERATION AS A FACTOR IN MAKING THAT DECISION  
3 BECAUSE HE'S THE ONE THAT'S ALREADY WAIVED IF I'M JUST  
4 SAYING THAT IS A POSSIBILITY

5 MR KELLY I UNDERSTAND THAT YOUR HONOR, AND  
6 I'M CERTAINLY NOT ARGUING WITH THE COURT WHAT I'M TRYING  
7 TO DO IS TO CLARIFY THIS ISSUE I AGREE AND COCOUNSEL AND  
8 I HAVE DISCUSSED WHETHER OR NOT DEFENDANT MIGHT CHANGE HIS  
9 MIND DURING THE COURSE OF THE TRIAL WE'VE RESEARCHED THAT  
10 ISSUE IN THE LAW AS WELL AS IF THAT SHOULD TAKE PLACE AFTER  
11 THE GUILT PHASE AND BEFORE THE PENALTY PHASE OF THE TRIAL

12 WE BELIEVE THAT THE LAW SAYS THAT IF IT DOES NOT  
13 DELAY THE TRIAL THEN IT'S IN THE DISCRETION OF THE JUDGE  
14 WHO IS PRESIDING TO REINSTITUTE THE DEFENSE IF HE SEES FIT  
15 IF THE ATTORNEYS ARE NOT ALLOWED TO PREPARE IN ANTICIPATION  
16 THAT THAT MIGHT TAKE PLACE THEN IT CANNOT TAKE PLACE AND  
17 THE JUDGE WOULD HAVE NO DISCRETION BECAUSE IT WOULD HAVE  
18 BEEN REMOVED BY HIS OWN ORDER

19 THAT'S WHAT WE'RE PLACING BEFORE YOU WE THINK  
20 IT'S BETTER THAT YOU ALLOW US TO CONTINUE PREPARATION ON  
21 THE CASE UNTIL YOU DISMISS US AND MAKE A DETERMINATION  
22 WHETHER YOU THINK WE SHOULD CONTINUE TO PREPARE DURING THE  
23 COURSE OF THE CASE UNTIL FINALLY IT REACHES THAT POINT  
24 WHERE THERE ISN'T ANY QUESTIONS AND WE WOULDN'T BE BROUGHT  
25 BACK INTO THE CASE

1 THE COURT SO YOU'RE TALKING ABOUT DOING THAT IN  
2 CONSULTATION WITH THE DEFENDANT?

3 MR KELLY NO YOUR HONOR WE'RE NOT TALKING  
4 ABOUT DOING IT IN CONSULTATION TO THE DEFENDANT IF YOU  
5 PUT US ON STANDBY AS STANDBY COUNSEL WE WOULD ONLY WE  
6 WOULD BE LIMITED IN OUR REPRESENTATION OF HIM IT WOULD BE  
7 MERELY THAT SEPARATE FROM THAT THE DEFENSE ATTORNEYS WOULD  
8 CONTINUE TO FOLLOW THE COURSE OF THE CONDUCT OR THE PROCESS  
9 OF THE TRIAL PREPARE IN CASE THERE SHOULD COME A TIME WHEN  
10 THE JUDGE IN HIS DISCRETION WOULD ASK IF WE'RE PREPARED TO  
11 COME FORWARD WE WOULD WANT TO DO THAT TO PROTECT HIM OR  
12 ANY OTHER PERSON AND WE'D BE PREPARED TO DO THAT IF ALLOWED  
13 TO DO THAT

14 THE COURT ALL RIGHT

15 MR KELLY IF NOT ALLOWED TO DO THAT WE WON'T  
16 DO IT

17 THE COURT WHAT'S THE STATE'S POSITION?

18 MR MURDAUGH IT WOULD BE MY SUGGESTION SIR  
19 THAT YOU ALLOW THEM TO PREPARE WHATEVER THEY NEED TO DO TO  
20 BE READY TO GO FORWARD AT ANY POINT THAT THEY MAY HAVE TO  
21 BE REINSTATED, SIR I THINK THE LAW SAYS IF YOU RELIEVE  
22 HIM THROUGH THE I MEAN THROUGH THE GUILT PHASE THEY WOULD  
23 BE RELIEVED AS, AND BE ON AS STANDBY COUNSEL BUT I THINK  
24 THAT YOUR ORDER SHOULD REFELCT THAT THEY SHOULD BE ALLOWED  
25 TO DO WHATEVER IS NECESSARY IN CONNECTION WITH THE

1 DEFENDANT TO BE READY TO GO FORWARD IF THERE BE A PENALTY  
2 PHASE

3 THE COURT ALL RIGHT YES SIR

4 THE DEFENDANT YOUR HONOR HOW I FEEL ABOUT IT  
5 MY OPINION IS THAT IF ACCORDING FROM MY UNDERSTANDING WHAT  
6 THEY'RE SAYING I WOULD PREFER IF ANY WAY IF YOU'D JUST  
7 CONSIDER MY OPINION IN REFERENCE TO THAT I WOULD I WOULD  
8 RATHER THEM TO HAVE NOTHING ELSE TO DO WITH MY CASE EXCEPT  
9 BE A STANDBY AS YOU SPOKE EARLIER IN REFERENCE IN THE TRIAL  
10 PHASE IF I NEED THEM TO SAY OR WHATEVER ANYTHING

11 IF ANYTHING OTHER THAN THAT THAT THEY NEED TO DO  
12 IN REFERENCE TO THE CASE IT WOULD BE ONLY IF I ASK THEM TO  
13 CONTACT, IF THEY ARE IF YOU CHOOSE TO GO THE OTHER WAY  
14 THAT IS TO CONTACT THE EXPERTS THAT I WOULD LIKE TO BE  
15 HIRED IN MY DEFENSE

16 THE COURT WELL YOU UNDERSTAND, FIRST OF ALL  
17 YOU UNDERSTAND I REALLY DON'T HAVE ANY OBLIGATION TO  
18 REVISIT THE ISSUE AFTER THE FIRST PHASE OF THE TRIAL YOU  
19 UNDERSTAND THAT?

20 THE DEFENDANT YES, SIR

21 THE COURT AS FAR AS I'M CONCERNED IF YOU WAIVE  
22 YOUR COUNSEL, YOU'VE DONE THAT FOR THE WHOLE CASE

23 THE DEFENDANT OKAY

24 THE COURT NOW, THE FACT THAT I SAY I MIGHT WANT  
25 TO REVISIT THAT IS BECAUSE LET'S SAY FOR AS I INDICATED,

1 IF THE JURY RETURNED A NOT GUILTY VERDICT OF COURSE THEN  
2 THERE IS NO PROBLEMS IF THE JURY RETURNS A GUILTY  
3 VERDICT I ASSURE YOU THE SHOCK IS GOING TO SET IN VERY  
4 QUICKLY WITH YOU AND PERHAPS DISORIENTATION AND CONFUSION

5 YOU MAY NOT THINK SO BUT I CAN JUST TELL YOU OUT  
6 OF EXPERIENCE THAT ANYTIME ANYONE IS STANDING BEFORE ME, AND  
7 THEY ALL OF A SUDDEN REALIZE THAT WE'RE ONLY TALKING ABOUT  
8 WHAT'S GOING TO HAPPEN IN THE NEXT LITTLE BIT OF TIME AS  
9 FAR AS A PENALTY THAT IT'S A MAJOR SHOCK TO THEIR SYSTEM  
10 YOU MAY NOT THINK THAT NOW BUT I'M TELLING YOU

11 THE DEFENDANT WELL YOUR HONOR MAY I?

12 THE COURT YES SIR

13 THE DEFENDANT IN REFERENCE TO THAT PARTICULAR  
14 IN REFERENCE TO THAT PARTICULAR STAGE IF IT COME BUT I DOES  
15 NOT PERCEIVE THAT IT WOULD BE A SHOCK TO ANY TO AN EXTENT  
16 THAT I WOULD NOT BE HAVE THE ABILITY TO GO ON OR CONTINUE  
17 AS NECESSARY IN REFERENCE TO MY CASE

18 THE COURT IT'S NOT GOING TO BE A SHOCK TO YOU  
19 THINKING THAT IF YOU MAKE ONE WRONG MOVE A JURY MIGHT  
20 IMPOSE THE DEATH PENALTY? THAT'S NOT GOING TO BE A SHOCK  
21 TO YOU?

22 THE DEFENDANT THAT'S THE LAW THAT'S EXPECTED  
23 THAT'S EXPECTANCY THAT'S SOMETHING I WOULD EXPECT AND  
24 THEN I KNOW FROM THERE THAT YOU KNOW ACCORDING TO LAW  
25 THAT IS THE BEGINNING OF A APPELLATE PROCESS IF YOU'RE

1 TALKING ABOUT KEEPING THEM AS FAR AS IN A APPELLATE PROCES'  
2 APPEALING MY CASE AFTER A CONVICTION IF SOMETHING WERE TO  
3 TAKE PLACE TO THAT NATURE THEN THAT TYPE OF JUDGMENT WOULD  
4 LOOK PRETTY MUCH IN ASPECT AS THEY'RE TALKING ABOUT BUT IF  
5 I'M FOUND GUILTY I'M GOING TO APPEAL THEREFORE ---

6 THE COURT YES SIR

7 THE DEFENDANT --- I BELIEVE BY LAW THAT I HAVE  
8 A RIGHT TO HAVE AN ATTORNEY APPOINTED BY THE COURT TO  
9 HANDLE MY FIRST APPEAL

10 THE COURT WELL, LET ME EXPLAIN SOMETHING TO  
11 YOU FIRST OF ALL IF YOU DO GO UP ON APPEAL YOU'RE GOING  
12 TO BE CONFINED TO WHAT YOU PROPERLY RAISE AT TRIAL YOU  
13 UNDERSTAND THAT?

14 THE DEFENDANT YES YES, SIR

15 THE COURT SO IF YOU MESS UP ABOUT HOW TO  
16 POSTURE THINGS YOU KNOW WHAT'S GOING TO HAPPEN? THE  
17 APPELLATE COURT IS GOING TO SAY IT WASN'T PROPERLY RAISED

18 THE DEFENDANT PROPERLY RAISED

19 THE COURT USUALLY THAT'S SOMETHING THAT  
20 OFTENTIMES IN ANOTHER ACTION PERHAPS A P C R , YOU SAY  
21 YOU'RE FAMILIAR WITH P C R RIGHT?

22 THE DEFENDANT RIGHT, YES, SIR

23 THE COURT YOU WOULD SAY WELL MY ATTORNEY  
24 DIDN'T MAKE THE PROPER OBJECTION GUESS WHAT? THAT WON'T  
25 BE THE CASE HERE BECAUSE YOU'RE THE ATTORNEY YOU

1 UNDERSTAND THAT?

2 THE DEFENDANT YES SIR

3 THE COURT YOU'RE NOT GOING TO BE ABLE TO CLAIM  
4 INEFFECTIVE ASSISTANCE OF YOURSELF

5 THE DEFENDANT YES, SIR

6 THE COURT YOU UNDERSTAND THAT?

7 THE DEFENDANT AND THAT, THAT IS ONE THING THAT  
8 I HAVE CONSIDERED THAT I WOULD NOT HAVE USED AS A STRATEGIC  
9 IN ANY TYPE OF WAY A METHOD OF TRYING TO GET MY, IF SO  
10 HAPPEN I WERE TO BE CONVICTED OR GET MY SENTENCE OVERTURNED  
11 USING THE EXCUSE OF INEFFECTIVE ASSISTANCE OF COUNSEL IS  
12 NOT ONE OF MY IT'S NOT ONE OF MY YOU KNOW IT'S NOT  
13 SOMETHING THAT I HAVE ALREADY PRECONCEIVED OR WANT TO USE  
14 TO SAY WELL I WANT TO RESERVE THAT RIGHT ---

15 THE COURT WELL ---

16 THE DEFENDANT --- TO BE ABLE TO SAY INEFFECTIVE  
17 ASSISTANCE OF A COUNSEL I DON'T WANT TO RESERVE THAT  
18 RIGHT

19 THE COURT WELL ---

20 THE DEFENDANT I'M NOT USING TO RESERVE THAT  
21 RIGHT

22 THE COURT WELL, ANY INEFFECTIVE ASSISTANCE WILL  
23 BE YOU

24 THE DEFENDANT RIGHT BECAUSE I'M MY OWN  
25 COUNSEL

1 THE COURT LET ME EXPLAIN EVEN IF YOU HAVE A  
2 STANDBY PERSON THAT'S JUST THERE FOR YOUR BENEFIT  
3 WHATEVER YOU WANT

4 THE DEFENDANT RIGHT

5 THE COURT YOU STILL ARE THE LEGAL MIND YOU  
6 ARE STILL THE ONE RESPONSIBLE FOR LEGAL DECISIONS IN THE  
7 CASE YOU UNDERSTAND THAT?

8 THE DEFENDANT YES SIR FULLY

9 THE COURT THERE IS NOT GOING TO BE INEFFECTIVE  
10 ASSISTANCE OF STANDBY COUNSEL YOU UNDERSTAND THAT?

11 THE DEFENDANT EXACTLY YES SIR

12 THE COURT BECAUSE AS FAR AS THE EYES OF THE  
13 COURT ARE CONCERNED YOU ARE THE COUNSEL IN THE CASE IF  
14 YOU WANT TO TALK TO ANOTHER ATTORNEY OR WHOMEVER ELSE  
15 BEFORE YOU MAKE A LEGAL MOVE, YOU'RE STILL THE ONE  
16 RESPONSIBLE FOR THAT LEGAL MOVE

17 THE DEFENDANT YES

18 THE COURT YOU UNDERSTAND THAT?

19 THE DEFENDANT YES, SIR, I SURE DO FULLY

20 THE COURT NOW, JUST FOR THE RECORD YOU HAVE  
21 READ THIS DOCUMENT PREPARED ABOUT THE ADVICE TO A DEFENDANT  
22 ABOUT SELF-REPRESENTATION AND WE'LL MAKE THIS A PART OF THE  
23 RECORD AT SOME POINT I WANT TO INCORPORATE THAT IN THE  
24 RECORD YOU HAVE READ THAT?

25 THE DEFENDANT THOROUGHLY YES SIR

1 THE COURT AND YOU'VE CONSIDERED ALL THE  
2 ADVANTAGES AND DISADVANTAGES THAT HAVE BEEN POINTED OUT?

3 THE DEFENDANT YES SIR

4 THE COURT ALL RIGHT WE'LL MAKE THAT PART OF  
5 THE RECORD AGAIN MY POSITION IS, ABSENT SOME ISSUE ABOUT  
6 COMPETENCY YOU WILL BE ALLOWED TO PROCEED PRO SE FOR THE  
7 TIME BEING I'LL HAVE COUNSEL ON STANDBY NOW YOU WISH TO  
8 PROCEED PRO SE IN BOTH YOUR GUILT PHASE AND ANY SENTENCING  
9 PHASE IF ONE IS APPLICABLE?

10 THE DEFENDANT YES

11 THE COURT YOU UNDERSTAND WHAT I'M SAYING?

12 THE DEFENDANT YES

13 THE COURT YOU WISH TO DO THE WHOLE THING BY  
14 YOURSELF

15 THE DEFENDANT AT PRESENT I ONLY THOUGHT ABOUT  
16 THE TRIAL PHASE I HAVEN T THOUGHT ABOUT A GUILT PHASE

17 THE COURT WELL, IF YOU HAVEN'T MADE A DECISION  
18 ABOUT THE GUILT PHASE THEN ANY POSSIBILITY OR COUNSEL ---

19 THE DEFENDANT DO I HAVE A RIGHT TO -- EXCUSE  
20 ME I'M SORRY

21 THE COURT DO YOU HAVE A RIGHT TO WHAT?

22 THE DEFENDANT TO HAVE COUNSEL PRESENT IN A  
23 GUILT PHASE

24 THE COURT WELL IF YOU'RE GOING TO WANT AN  
25 ATTORNEY PRESENT, YOU DON'T HAVE THE RIGHT AT THE LAST

1 MINUTE TO ASK FOR COUNSEL AT THE GUILT PHASE I MEAN AT  
2 SENTENCING PHASE

3 THE DEFENDANT I MEAN YES SENTENCING PHASE  
4 IS THE LAST MINUTE CONSIDERED AFTER THE TRIAL OR

5 THE COURT PARDON? IS THE WHAT?

6 THE DEFENDANT IS IT LAST MINUTE CONSIDERED  
7 AFTER OR BEFORE THE END OF THE TRIAL

8 THE COURT WELL, THE LAST MINUTE IS ANYTHING  
9 THAT THEY TELL ME THEY CAN'T PREPARE FOR AT THAT POINT

10 THE DEFENDANT OKAY

11 THE COURT THEN THAT MEANS THEY CAN'T DO IT AND  
12 THERE IS CASES ON THAT YOU CAN'T JUST THROW AN ATTORNEY  
13 IN THERE AND SAY TAKE OVER AND THEY'VE NOT PREPARED IN  
14 ANY KIND OF WAY SO IF THAT'S THE CASE THEN PERHAPS I IF  
15 YOU'RE NOT ---

16 THE DEFENDANT I'M READY TO REPRESENT MYSELF  
17 THOROUGHLY THE TRIAL PHASE AND THE SENTENCING PHASE

18 THE COURT SO YOU WISH TO WISH TO REPRESENT  
19 YOURSELF DURING BOTH THE FIRST PART OF THE TRIAL WHICH  
20 DETERMINES THE QUESTION OF GUILT AND THE PENALTY PHASE OF  
21 THE TRIAL?

22 THE DEFENDANT YES

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

24 MR KELLY YOUR HONOR ---

25 THE COURT I MEAN AS FAR AS I'M CONCERNED IF

1 THAT'S HIS WISH AND HE'S DOING SO FREELY AND VOLUNTARILY  
2 THEN YOU KNOW, I CAN JUST HAVE YOU ON STANDBY TO PROVIDE  
3 WHATEVER ASSISTANCE HE'LL JUST HAVE TO LEAD THE SHOW

4 MR KELLY WE UNDERSTAND YOUR HONOR I'D LIKE  
5 TO SPEAK TO THE MATTER AND THEN ATTORNEY THORNTON MIGHT  
6 ALSO LIKE TO SPEAK TO THE MATTER

7 THE COURT YES SIR

8 MR KELLY YOUR HONOR, SINE YOU REALLY HAVEN T  
9 RULED IN THE MATTER ---

10 THE COURT I MAY BE PREPARED TO RULE AND JUST  
11 SAY THAT IF THERE IS A NEED TO REACTIVATE STANDBY COUNSEL  
12 AFTER THOSE REPORTS COME OUT THEN DO IT THAT WAY

13 MR KELLY THAT'S FINE IF THAT'S YOUR RULING  
14 THAT YOU'RE GOING TO MAKE THE RULING UNLESS THE REPORTS  
15 WOULD LEAD YOU TO REOPEN THE MATTER THAT'S ALL I'M TRYING  
16 TO CLARIFY

17 THE COURT WELL I THINK THAT I WOULD HAVE NO  
18 REASON TO NOT DO THAT UNLESS SOMEONE CAN OFFER ME SOME  
19 REASON TO NOT DO THAT BECAUSE THERE IS A REPORT SAYING HE'S  
20 COMPETENT HE CLAIMS HE'S COMPETENT HE'S BEEN VERY  
21 COHERENT HERE TODAY I'VE OBSERVED HIS DEMEANOR AND HE HAS  
22 ARTICULATED VARIOUS THINGS TO ME

23 NOW, I DON'T KNOW IF THERE IS SOME INDICATION  
24 THAT HE MAY HAVE NOT BEEN COMPETENT AT THE TIME OF THE  
25 OFFENSE AT LEAST THERE IS A REPORT THAT SUGGESTS

1 OTHERWISE HE'S PREPARED TO PROCEED NOW

2 YES SIR

3 MR MURDAUGH IF YOUR HONOR PLEASE I WOULD  
4 SUGGEST TO THE COURT SIR THAT YOU NOT MAKE A DECISION  
5 UNTIL AFTER, LET'S SET A TIME TO HEAR IF COUNSEL DESIRES  
6 IT TO BE HEARD, ANY REPORTS FROM THEIR PSYCHIATRIST OR  
7 PSYCHOLOGIST I CAN JUST SEE DOWN THE LINE IF THAT WERE  
8 BYPASSED THAT WE MAY RUN INTO A PROBLEM YOU FOLLOW WHAT  
9 I'M SAYING?

10 THE COURT YES I UNDERSTAND WHAT YOU'RE SAYING

11 THE DEFENDANT YOUR HONOR

12 THE COURT IF THE REPORTS COME OUT AND THERE IS  
13 NOT A PROBLEM I DON'T THINK THAT WOULD BE A PROBLEM BUT  
14 EITHER WAY I DON'T KNOW THAT I'D BE HEARING ANYTHING FOR  
15 THE NEXT WEEK ANYWAY SO YOU KNOW WHAT THE SUGGESTION IS  
16 MR ALKEBULANYAHH IS THAT I GO WITH WHAT I ORIGINALLY  
17 INDICATED TO TELL YOU WHAT MY INCLINATION IS AND THAT  
18 INCLINATION IS TO LET YOU PROCEED PRO SE

19 SINCE THOSE REPORTS HAVE ALREADY BEEN, SINCE THE  
20 INTERVIEWS HAVE ALREADY BEEN DONE IN ABUNDANCE OF CAUTION  
21 WAIT FOR THOSE REPORTS TO COME OUT I'LL TELL YOU WHAT  
22 I'LL JUST, MAYBE I SHOULD JUST BRING Y'ALL BACK TO COURT  
23 NEXT FRIDAY IS THAT OKAY? AND THEN YOU CAN GET THOSE  
24 REPORTS ON THURSDAY?

25 MR KELLY YOUR HONOR, WE THINK THAT'S THE

1 PROPER COURSE

2 THE COURT ALL RIGHT

3 MR MURDAUGH YES SIR

4 THE COURT CAN YOU MAKE SURE THAT THEY HAVE  
5 THOSE PREPARED BY THURSDAY?

6 MR KELLY YES SIR

7 THE COURT AND

8 MR KELLY SO THAT I CAN SUPPLY THEM TO YOU ON  
9 FRIDAY

10 THE COURT YES, SIR

11 MR KELLY YES SIR I BELIEVE I CAN DO THAT

12 THE COURT ALL RIGHT WELL ---

13 THE DEFENDANT MAY I YOUR HONOR?

14 THE COURT YES SIR

15 THE DEFENDANT IN REFERENCE TO THE PSYCHOLOGIST  
16 THAT DEFENDANT ATTORNEYS PREVIOUS ATTORNEYS HAD HIRED AS  
17 I SAID, YOU KNOW, I WOULDN'T WANT I WOULDN T WANT ANY OF  
18 THEM TO DO ANY FURTHER HAVE ANY FURTHER INVOLVEMENT IN THE  
19 CASE YOU KNOW, AFTER OR DURING THE TRIAL PHASE ---

20 THE COURT WELL THEY MAY OR MAY NOT

21 THE DEFENDANT THE PSYCHOLOGISTS THAT THE  
22 HONORABLE PERRY BUCKNER ASSIGNED, YOU KNOW, I FOUND THEM TO  
23 BE, YOU KNOW UNBIASED PROFESSIONAL IN EVERY ASPECT YOU  
24 KNOW

25 THE COURT WELL THAT VERY WELL MAY BE THE CASE

1 AND WHEN WE GET EVERYBODY BACK TOGETHER I'LL TAKE INTO  
2 CONSIDERATION THE FACT THAT YOU THINK THAT IT WAS DONE  
3 PROPERLY NORMALLY THE APPROACH IS THAT THE STATE HAS A  
4 PERSON COMPILE A REPORT AND IN AN ABUNDANCE OF CAUTION THE  
5 DEFENSE DOES THAT TO MAKE SURE THAT NO ONE CAN DOWN THE  
6 LINE SAY, WELL THAT WAS THE STATE'S PERSON THAT CONDUCTED  
7 THE INTERVIEW SO THAT'S NOT AN ISSUE DOWN THE ROAD

8 NOW, WHEN WE GET EVERYBODY BACK TOGETHER IF ALL  
9 THE REPORTS SAY THE SAME THING, IT'S STILL NOT AN ISSUE  
10 YOU'RE COMPETENT IF THOSE REPORTS DO NOT SAY YOU'RE  
11 COMPETENT THEN THEN I'M GOING TO HAVE TO MAKE A DECISION  
12 BASED ON HOW I'VE HEARD YOU TALK WHAT THE REPORTS SAY AND  
13 THE FACT THAT YOU DON'T OPPOSE THE STATE'S EXPERT'S  
14 RECOMMENDATION I WILL TAKE ALL THAT INTO CONSIDERATION  
15 AND MAKE A FINDING BUT I NEED TO MAKE THE RECORD CLEAR  
16 ALL RIGHT YOU UNDERSTAND THAT'S ALL WE'RE DOING?

17 THE DEFENDANT YES SIR YES SIR, I UNDERSTAND

18 THE COURT SO I'LL GO WITH MY ORIGINAL  
19 INCLINATION LEAVE IT OPEN IF, I'LL TELL YOU WHAT IT'D  
20 PROBABLY BE GOOD TO GET BACK TOGETHER ANYWAY NEXT FRIDAY  
21 WE'LL FINALIZE THE DECISION ABOUT WHETHER YOU'RE TO PROCEED  
22 PRO SE I WANT YOU DURING THIS WEEK TO CONSIDER WHAT I'VE  
23 INDICATED ABOUT THE PENALTY PHASE

24 THE DEFENDANT YES, SIR

25 THE COURT AT THIS POINT I'M DEEMING YOUR

1 REQUEST TO BE A WAIVER OF COUNSEL FOR THE ENTIRE TRIAL IS  
2 THAT CORRECT?

3 THE DEFENDANT YES SIR

4 THE COURT AND YOU'RE DOING THAT FREELY,  
5 VOLUNTARILY?

6 THE DEFENDANT YES SIR

7 THE COURT KNOWINGLY

8 THE DEFENDANT YES SIR

9 THE COURT AND INTELLIGENTLY

10 THE DEFENDANT YES SIR

11 THE COURT HAVING HEARD ALL OF MY DISCUSSION AS  
12 WELL AS HAVING READ THAT ENTIRE PACKAGE THAT WAS PROVIDED  
13 TO YOU?

14 THE DEFENDANT YES SIR

15 THE COURT ALL RIGHT WELL NEXT WEEK THEN WHAT  
16 TIME CAN Y'ALL BE AVAILABLE NEXT FRIDAY?

17 MR KELLY YOUR HONOR, WE ORIGINALLY HAD IT  
18 SCHEDULED FOR TWO O'CLOCK IN CHARLESTON ON FRIDAY

19 THE COURT ALL RIGHT YOU WANT TO STICK  
20 WITH ---

21 MR MURDAUGH ANYTIME SUITS ME, SIR

22 MR KELLY ANYTIME WILL SUIT US OUR EXPERTS  
23 WOULD BE COMING FROM COLUMBIA

24 THE COURT OKAY

25 MR MURDAUGH I SAY THAT SIR IT PROBABLY

1 WOULD BE MORE CONVENIENT FOR THE TRANSPORTATION OF THE  
2 DEFENDANT IF WE DID IT MID MORNING RATHER THAN EARLY

3 THE COURT ALL RIGHT

4 MR MURDAUGH I THINK THEY HAD TO LEAVE BEAUFORT  
5 FIVE O'CLOCK THIS MORNING

6 (PAUSE)

7 MR KELLY TEN O'CLOCK IS AGREEABLE TO THE  
8 PARTIES YOUR HONOR

9 THE COURT ALL RIGHT WE'LL SET IT FOR TEN  
10 CAN YOU ARRANGE FOR TRANSPORTATION?

11 MR MURDAUGH YES SIR

12 THE COURT I LIKE TO ALWAYS PUT ON  
13 TRANSPORTATION ORDERS 30 MINUTES BEFORE THE HEARING SO IF  
14 ANYONE NEEDS TO TALK TO THEIR CLIENT THEY CAN DO THAT IF  
15 THERE IS SOME PROBLEM AT TEN WE'LL CALL YOU BUT I KNOW I  
16 HAVE TO DO BONDS AND OTHER THINGS FOR GENERAL SESSIONS NEXT  
17 WEEK AT NINE SO WE SHOULD BE DONE AROUND THAT TIME

18 MR MURDAUGH IN CHARLESTON?

19 THE COURT IN CHARLESTON

20 MR MURDAUGH YES, SIR

21 THE COURT PROBABLY COURTROOM 4-C BUT IF YOU  
22 WANT TO CONFIRM WITH SCOTT IN MY OFFICE YOU CAN DO THAT  
23 USUALLY I DO THE TRIALS SO WE'RE USUALLY IN 4-C, BE IN  
24 CHARLESTON AT THAT HEARING WE LL TAKE UP ANY LINGERING  
25 ISSUES ABOUT COMPETENCY WE'LL FINALIZE ANY DECISION OF

1 THE COURT ABOUT ALLOWING YOU TO PROCEED PRO SE SINCE I'VE  
2 INDICATED MY -- Y'ALL WILL KNOW WHAT THOSE REPORTS SAY

3 MAKE SURE THE DEFENDANT GETS A COPY OF THAT  
4 REPORT MY INCLINATION IS NEXT FRIDAY I WILL JUST WANT TO  
5 GO DOWN THIS LIST OF THE MOTIONS THAT THE DEFENDANT HAS SO  
6 MAKE SURE Y'ALL HAVE A COPY OF THOSE

7 MR MURDAUGH OKAY, SIR I DO NOT HAVE A  
8 COPY ---

9 THE COURT ALL RIGHT

10 MR MURDAUGH --- OF MOST OF THEM

11 THE COURT ALL RIGHT DO YOU HAVE COPIES OF  
12 THOSE MOTIONS?

13 MR KELLY NO YOUR HONOR I DON'T BUT I CAN GET  
14 THEM FROM THE CLERK OF COURT

15 THE COURT ALL RIGHT CAN YOU MAKE SURE THE  
16 STATE HAS A COPY OF ALL THOSE MOTIONS I NOTED ABOUT

17 MR KELLY YOUR HONOR I'LL GET A COPY OF THE  
18 CLERK'S FILES

19 THE COURT I M SHOWING ABOUT 28

20 MR KELLY YOUR HONOR I'LL GET A COPY OF EVERY  
21 MOTION FILED BY THE DEFENDANT ---

22 THE COURT ALL RIGHT

23 MR KELLY FROM THE CLERK OF BEAUFORT COUNTY  
24 COURT AND I'LL SUPPLY A COPY TO THE SOLICITORS ON  
25 WEDNESDAY

1           MR MURDAUGH   I M FINE   I DON'T NEED YOU TO DO  
2   THAT   DUFFIE IS GOING TO DO IT

3           THE COURT   MY GAME PLAN WOULD BE AS I INDICATED  
4   TO FINALIZE THE LINGERING ISSUES ABOUT COMPETENCY   ANY  
5   LINGERING ISSUE ABOUT REPRESENTATION PRO SE   DEFENDANT HAS  
6   AGREED TO YOUR PROCEEDING WITH THE TRUST AND BOOKKEEPING  
7   ISSUES THAT YOU WERE DISCUSSING AND THEN I WANT TO GO  
8   THROUGH AS MANY OF THE DEFENDANT'S MOTIONS AS I CAN

9           OBVIOUSLY A LOT OF THESE WERE FILED BEFORE I   I  
10   ONLY GOT THIS CASE ON APRIL 11TH SO I DON'T KNOW WHAT'S  
11   STILL PENDING OR NOT AND THEN WE WILL SET THE TRIAL DATE  
12   RIGHT NOW I WAS JUST DOING A GENERAL REVIEW OF THE  
13   SCHEDULE

14           (PAUSE)

15           THE COURT   REALLY I WAS LOOKING AT THE SCHEDULE  
16   THE BEST TIME   I DON'T KNOW HOW THIS IS GOING TO AFFECT  
17   YOUR PROBLEM   THE BEST TWO WEEKS ARE OCTOBER 13TH AND  
18   OCTOBER 20TH   I'M LOOKING AT THE SCHEDULE ON THE COMPUTER

19           MR MURDAUGH   THAT IS DURING THE TIME THAT DAN  
20   DEFREESE TELLS ME THAT HE HAS MADE ARRANGEMENTS TO BE OUT  
21   OF THE STATE

22           THE COURT   AND WHAT IS HIS ROLE AGAIN?

23           MR MURDAUGH   HE CAME DOWN WITH THE FORENSIC  
24   TEAM TO DO THE INVESTIGATION   SIR   HE IS INTEGRAL PART OF  
25   IT

1 THE COURT WHEN WILL HE LEAVE?

2 MR MURDAUGH I THINK HE TOLD ME HE LEFT ON  
3 EITHER THE 15TH OR 18TH AND CAME BACK

4 THE COURT WELL THE ONLY

5 MR MURDAUGH 28TH MAYBE SIR -

6 THE COURT THE 28TH? THE ONLY OTHER OPTION  
7 WOULD BE THE 6TH WEEK OF OCTOBER 6TH AND OCTOBER 13TH IF  
8 YOU CAN JUST GET HIM IN BEFORE THEN

9 MR MURDAUGH THAT WOULD BE NO PROBLEM IF WE  
10 COULD START ON THE 5TH THAT WOULD BE NO PROBLEM, SIR

11 THE COURT OCTOBER 6TH

12 MR MURDAUGH 6TH, EXCUSE ME I'M SORRY  
13 THE 6TH

14 THE COURT I LL FINALIZE THAT NEXT FRIDAY WHEN  
15 Y'ALL COME BACK

16 MR MURDAUGH OKAY, SIR

17 THE COURT DO YOU HAVE ANY PROBLEM WITH THOSE  
18 WEEKS?

19 THE DEFENDANT NO SIR

20 THE COURT BUT I'LL FORMALIZE THAT NEXT WEEK I  
21 HAVE TO MAKE SURF ALL THE SCHEDULE SHUFFLING CAN TAKE PLACE  
22 AND CONFIRM WITH THE CLERK OF COURT ABOUT THE PANEL AND  
23 EVERYTHING YOU COULD GO AHEAD WE'LL TRY TO TARGET THOSE  
24 DATES, OCTOBER 6TH THROUGH THE 13TH

25 MR KELLY YES, SIR

1 MR MURDAUGH JUDGE -- EXCUSE ME I DIDN T MEAN  
2 TO INTERRUPT YOU

3 THE COURT YES SIR

4 MR MURDAUGH WOULD YOU LIKE FOR ME TO PREPARE  
5 AN ORDER? WE NEED TO TALK ABOUT HOW MANY JURORS WE RE  
6 GOING TO SUBPOENA AND I WILL BE HAPPY TO PREPARE THAT ORDER  
7 FOR YOU

8 THE COURT YES SIR IF YOU DON'T MIND

9 MR MURDAUGH OKAY SIR

10 THE COURT ALL THAT IS, MR ALKEBULANYAHH IS ME  
11 DIRECTING THE CLERK OF COURT TO HAVE MORE PEOPLE SHOW UP  
12 FOR JURY SELECTION UNDERSTAND?

13 THE DEFENDANT YES SIR

14 MR MURDAUGH 350 SIR WHAT IS YOUR SUGGESTION?

15 THE COURT LAST TRIAL WE DID DEPENDS ON Y'ALL  
16 KNOW YOUR COUNTY A LITTLE BIT BETTER THAN I DO LAST DEATH  
17 PENALTY CASE I DID WE DID LIKE 425 BUT WE HAVE A LOT MORE  
18 PROBLEM WITH PEOPLE SHOWING UP WHAT KIND OF TURNOUT DO  
19 Y'ALL USUALLY HAVE FOR YOUR JURY PANEL?

20 MR MURDAUGH ABOUT 60 PERCENT LITTLE BETTER  
21 THAN 60 PERCENT

22 THE COURT WHAT S THE LAST DEATH PENALTY CASE  
23 YOU'VE HAD IN YOUR COUNTY?

24 MR MURDAUGH I GUESS IT'S BEEN FIVE, SIX OR  
25 SEVEN YEARS AGO, LARRY TAYLOR

1 THE COURT WHAT SIZE PANEL DID YOU USE?

2 MR MURDAUGH I'M SORRY?

3 THE COURT WHAT SIZE PANEL DID YOU SUMMONS?

4 MR MURDAUGH I THINK WE DID 250 THAT 350 AT  
5 THAT TIME, SIR

6 THE COURT TELL YOU WHAT DO 400 TO BE SAFE

7 MR MURDAUGH OKAY SIR

8 THE COURT ALL RIGHT

9 THE DEFENDANT YOUR HONOR

10 THE COURT YES, SIR

11 THE DEFENDANT ABOUT THE CHANGE OF VENUE

12 EARLIER I WAS AGAINST THE CHANGE OF VENUE MOTION

13 THE COURT ALL RIGHT WELL ONCE I FORMALIZE  
14 THE DECISION ABOUT WHETHER OR NOT YOU'RE GOING TO REPRESENT  
15 YOURSELF PRO SE IF YOU WISH TO WITHDRAW THAT MOTION  
16 YOU RE FREE TO WITHDRAW ANY MOTIONS ALL RIGHT?

17 THE DEFENDANT CAN I YOU STILL WANT ME TO GIVE  
18 THEM THE NAMES OF THE WITNESSES?

19 THE COURT YES SIR

20 THE DEFENDANT OKAY

21 THE COURT CAN THE STATE PLEASE WRITE DOWN THESE  
22 WITNESSES HE WAS TRYING TO SUBPOENA?

23 MR MURDAUGH YES, SIR

24 THE DEFENDANT LIEUTENANT M MATTOX,  
25 M-A-T-T-O-X, HIS BADGE NUMBER IS M-8532 CORPORAL KATE

1 GREGG G-R-E-G-G BADGE NUMBER G-2-2004 CORPORAL D  
2 LANGFORD BADGE NUMBER L-1475 SERGEANT D REYES  
3 R-E-Y-E-S BUDGE NUMBER R-2709 DEPUTY SHERIFF O NIEVES  
4 N-I-E-V-E-S BADGE NUMBER N-6910 DEPUTY SHERIFF M  
5 COLLINS BADGE NUMBER C-0004  
6 CORPORAL R SARATO, BADGE NUMBER S-8641, DEPUTY-  
7 SHERIFF J MONK, BADGE NUMBER M-0382, CORPORAL KAY POLITE  
8 BADGE NUMBER P-6698 DEPUTY D GAINES, BADGE NUMBER G-0789  
9 CORPORAL J OLDS O-L-D-S, BADGE NUMBER 08187 STATE  
10 CONSTABLE PAT HOLLOWAY OF THE BEAUFORT COUNTY SHERIFF'S  
11 OFFICE S L E D AGENT D KAHN K-A-H-N DRUG ENFORCEMENT  
12 AGENCY D E A OF THE BEAUFORT COUNTY SHERIFF'S OFFICE  
13 S L E D AGENT H MEHAN D E A OF THE BEAUFORT  
14 COUNTY SHERIFF'S OFFICE SOUTH CAROLINA TROOPER ROWELL  
15 R-O-W-E-L-L, OF THE BEAUFORT COUNTY SHERIFF'S OFFICE  
16 DIRECTOR OF EMERGENCY MEDICAL SERVICE THE DIRECTOR I THINK  
17 IS MR WINN E S ATTENDANTS FOR THE DEFENDANT ON JANUARY  
18 THE 8, 2002 E S M ATTENDANTS FOR THE ALLEGED VICTIMS ON  
19 JANUARY THE 8 2002  
20 JUDGE ROBERT S ARMSTRONG OF THE FAMILY  
21 COURT 102 RIBAUT ROAD IN BEAUFORT, BEAUFORT COUNTY  
22 DISPATCHER ALDERMAN, OF THE BEAUFORT COUNTY SHERIFF'S  
23 OFFICE, BEAUFORT COUNTY DISPATCHER SANDY GARDELL OF THE  
24 BEAUFORT COUNTY SHERIFF'S OFFICE BEAUFORT COUNTY  
25 DISPATCHER ---

1 MR THORNTON WHAT'S THE LAST NAME?

2 THE DEFENDANT SANDY GARDELLE G-A-R-D-E-L-L-E

3 THE COURT THESE ARE ALL PEOPLE YOU WISH TO  
4 SUBPOENA?

5 THE DEFENDANT YES SIR

6 THE COURT ALL RIGHT

7 THE DEFENDANT BEAUFORT COUNTY DISPATCHER JULIE

8 ANN THOMAS OF THE BEAUFORT COUNTY SHERIFF'S OFFICE

9 BEAUFORT COUNTY DISPATCHER GAYLE MORRIS OF THE BEAUFORT

10 COUNTY SHERIFF'S OFFICE BEAUFORT COUNTY DISPATCHER MARY

11 MANSFIELD OF THE BEAUFORT COUNTY SHERIFF'S OFFICE OLIN

12 MCDOUGALL II ADDRESS 915 PORT ROYAL REPUBLIC STREET

13 BEAUFORT SOUTH CAROLINA ATTORNEY JOHN NORTH

14 MR THORNTON LAST NAME?

15 THE DEFENDANT JOHN NORTH N-O-R-T-H

16 NORTH 1715 BAY STREET BEAUFORT SOUTH CAROLINA TRACY

17 O'KELLY KATT KLATT TRACEY O'KELLY KLATT K-L-A-T-T,

18 ATTORNEY IN BEAUFORT, IN THE CITY OF THE BEAUFORT SOUTH

19 CAROLINA DIANE BAKER SOCIAL WORKER D S S OF THE

20 BEAUFORT COUNTY SOCIAL SERVICE DEPARTMENT 1905 DUKE

21 STREET MR OTIS IVEY, ADDRESS 2204 SALEM DRIVE EAST,

22 BEAUFORT, MRS BARBARA IVEY 2204 SALEM DRIVE BEAUFORT

23 SOUTH CAROLINA

24 TROY EVAN E-V-A-N, STUDENT AT BATTERY CREEK HIGH

25 SCHOOL CRYSATL EVANS A STUDENT AT BEAUFORT BATTERY

1 CREEK I'M SORRY, EXCUSE ME BATTERY CREEK HIGH SCHOOL  
2 ARZELL JOHNSON A STUDENT AT BATTERY CREEK HIGH SCHOOL  
3 RESIDED AT 2005 MAGNOLIA DRIVE, BURTON SOUTH CAROLINA,  
4 EDDIE BROWN ADDRESS 2005 MAGNOLIA DRIVE, BURTON SOUTH  
5 CAROLINA  
6 MR THORNTON THAT ADDRESS AGAIN  
7 THE DEFENDANT 2005 MAGNOLIA DRIVE BURTON,  
8 SOUTH CAROLINA I HAVE ANOTHER ADDRESS FOR EDDIE BROWN BUT  
9 NOT AT THIS PRESENT TIME I DON'T THINK HE RESIDES AT THAT  
10 ADDRESS NO MORE MR R NICHOLAS FELIX, ESQUIRE, P O  
11 DRAWER NUMBER 3 HILTON HEAD SOUTH CAROLINA SHEILA JONES  
12 ADDRESS POST OFFICE BOX 1605 BEAUFORT SOUTH CAROLINA  
13 PRESETTA BLAKE, 20 SALT CREEK DRIVE WEST BURTON SOUTH  
14 CAROLINA  
15 MR MURDAUGH BLAKE?  
16 THE DEFENDANT YES BLAKE  
17 MR THORNTON GIVE ME THAT ADDRESS AGAIN  
18 THE DEFENDANT 20 SALT CREEK DRIVE WEST BURTON  
19 SOUTH CAROLINA TONYA BLAKE, B-L-A-K-E BLAKE ADDRESS 20  
20 SALT CREEK DRIVE WEST BURTON, SOUTH CAROLINA, SADIE BELL  
21 BLAKE ADDRESS 2 WALTER DRIVE BURTON, SOUTH CAROLINA  
22 MAJOR N BAXLEY, B-A-X-L-E-Y BADGE NUMBER P-94111  
23 BEAUFORT COUNTY SHERIFF'S OFFICE MS JACK L CHAPLIN  
24 C-H-A-P-L-I-N, EYEWITNESS ON THE EYEWITNESS OF THE STATE  
25 BRYAN NAGEL N-A-G-E-L, AN EYEWITNESS OF THE

1 STATE JAMES M HOLLAWAY III, AN EYEWITNESS OF THE STATE  
2 KIMA CAREY C-A-R-E-Y KIMA CAREY EYEWITNESS OF THE STATE  
3 DIRECTOR FITZGIBBON OF THE BEAUFORT COUNTY DETENTION  
4 CENTER, DEPUTY DIRECTOR FOOTE OF THE BEAUFORT COUNTY  
5 DETENTION CENTER

6 I WOULD LIKE TO SUBPOENA THE CHARLESTON COUNTY  
7 SHERIFF'S OFFICE BOOKING REPORT ON 1-9-02, CHARLESTON  
8 SOUTH CAROLINA, SHERIFF P J TANNER BADGE NUMBER T-9076  
9 BEAUFORT COUNTY SHERIFF'S OFFICE LIEUTENANT M MATTOX

10 MR THORNTON WE'VE ALREADY DONE THAT ONE  
11 THE DEFENDANT OKAY SERGEANT J HIERS  
12 H-I-E-R-S, BADGE NUMBER H-2436, DISPATCHER JENNIFER KELLY  
13 OF THE BEAUFORT COUNTY SHERIFF S OFFICE AND THAT CONCLUDES  
14 THAT

15 MR KELLY YOUR HONOR ONE MATTER OF  
16 HOUSEKEEPING IF YOU PLEASE

17 THE COURT ALL RIGHT HOLD ON JUST A SECOND  
18 HERE YOU GO WE CAN MAKE THIS A PART OF THE  
19 RECORD

20 MR MURDAUGH CAN WE ALSO GET A COPY OF THIS  
21 SIR? THE REPORT DIDN'T YOU WANT TO FILE MAKE THAT A  
22 EXCUSE ME I SHOULD HAVE GIVEN THAT YOU THAT EARLIER

23 THE COURT BEFORE WE GET TO THAT, MADAM COURT  
24 REPORTER, CAN YOU MAKE THIS ONE EXHIBIT

25 (THEREUPON, GENERAL ADVICE TO THE DEFENDANT WAS MARKED

1 COURT'S EXHIBIT NO 1 AND MADE A PART OF THE RECORD )

2 THE COURT WE LL MAKE THAT PACKAGE THAT HE READ  
3 ABOUT ADVICE TO THE DEFENDANT PART OF THE RECORD AS I  
4 INDICATED ALSO, AS FAR AS MY INCLINATION IS YOU MAY HAVE  
5 TO ALLOCATE THREE WEEKS TO THIS BECAUSE OF THE PRO SE  
6 NATURE OF THIS THEY TEND TO GO A LITTLE BIT SLOWER, THAN  
7 OTHER TRIALS

8 MR MURDAUGH I UNDERSTAND

9 THE COURT SO I WILL BOOK THREE WEEKS FOR THIS  
10 SO WE'RE TALKING, RIGHT NOW UNLESS I CHANGE IT NEXT FRIDAY  
11 WHEN WE FORMALIZE IT THE WEEKS OF OCTOBER 6TH  
12 OCTOBER 13TH AND OCTOBER 20TH ANY WITNESS PROBLEM I  
13 GUESS YOU'LL NEED TO COVER BY GETTING ---

14 MR MURDAUGH NO SIR THE PROBLEM THAT I WOULD  
15 HAVE WOULD BE IN THE GUILT PHASE AND I CAN TAKE CARE OF  
16 THAT

17 THE COURT ALL RIGHT

18 MR MURDAUGH I CAN GET AROUND IT IN THE OTHER  
19 PHASE

20 THE COURT ALL RIGHT NOW, MR ALKEBULANYAHH

21 THE DEFENDANT YES SIR

22 THE COURT YOU UNDERSTAND EVERYTHING I INDICATED  
23 TO ---

24 THE DEFENDANT YES SIR

25 THE COURT --- TO YOU I LL GIVE YOU THIS LAST

1 WEEK TO THINK THROUGH EVERYTHING THAT HAS BEEN DISCUSSED  
2 HERE TODAY WE'LL FORMALIZE EVERYTHING ON FRIDAY ALL  
3 RIGHT?

4 THE DEFENDANT THANK YOU, SIR

5 THE COURT I'M GOING TO SPECIFICALLY ASK YOU  
6 ABOUT THE GUILT PHASE AND THE PENALTY PHASE ALL RIGHT?

7 THE DEFENDANT YES, SIR

8 THE COURT ANYTHING FURTHER?

9 MR KELLY JUST ONE THING YOUR HONOR I HAVE A  
10 COPY ORDER TO COPY THE CONTENTS OF THE FILES OF THE  
11 ATTORNEYS WHICH WE'VE BEEN SUPPLYING SOME OF THE DOCUMENTS  
12 THAT WE RECEIVE THE CLIENT IN ANTICIPATION AND  
13 PREPARATION FOR THE HEARING NEXT FRIDAY AND WITH THE  
14 APPROVAL OF THE COURT I'M GOING TO COPY THE ENTIRE FILE  
15 THAT I HAVE AS WELL AS MISTER ATTORNEY THORNTON'S FILE SO  
16 THAT WE'LL BE ABLE TO TURN OVER AT THAT ON THAT DATE IF  
17 POSSIBLE OR NEARLY THEREAFTER THE ENTIRE CONTENTS OF OUR  
18 FILE SO THAT WE'LL HAVE ALL THE PAPERWORK THAT WE RECEIVED  
19 UP TILL NOW SO WHATEVER DISCOVERY HAS BEEN COMPLETED WILL  
20 MAKE A SMOOTH TRANSITION

21 THE COURT ALL RIGHT THAT'S FINE I THINK  
22 THAT'S APPROPRIATE ANYTHING ELSE THAT WE CAN TAKE UP  
23 TODAY IN PREPARATION FOR NEXT FRIDAY?

24 MR MURDAUGH NOT THAT I'M AWARE OF SIR

25 THE COURT ANYTHING ELSE?

1 THE DEFENDANT NO SIR

2 THE COURT ALL RIGHT YOU NEED TO BE PREPARED  
3 TO ARGUE ALL THESE THINGS THAT YOU I CAN'T PROMISE WE'LL  
4 GET TO ALL OF THEM BUT YOU NEED TO BE PREPARED

5 THE DEFENDANT YES, SIR

6 THE COURT SO THAT WE CAN GET THIS THING MOVING  
7 AND IT IS MY UNDERSTANDING THAT YOU, EVEN IF YOU TAKE OVER  
8 REPRESENTING YOURSELF, YOU WANT TO PROCEED WITH THIS TRIAL  
9 RIGHT AWAY IS THAT CORRECT?

10 THE DEFENDANT YES, SIR

11 THE COURT AND NOTHING THAT YOU HAVE REQUESTED  
12 AS FAR AS YOUR MOTIONS OR OTHERWISE WILL INTERFERE WITH  
13 THAT REQUEST THAT YOU WANT TO PROCEED WITH YOUR TRIAL?

14 THE DEFENDANT OTHER THAN THAT IF THE COURT  
15 WOULD PLEASE HAVE WHERE IT'S AVAILABLE FOR ME TO HIRE THE  
16 NECESSARY PERSON THAT WE CONTACTED THE NECESSARY EXPERT  
17 WITNESS AND NOIFY HIM TO BE ABLE TO BE ACTIVE AND READY  
18 TO GO TO START IMMEDIATELY WITH WHATEVER INVESTIGATION OR  
19 WHATEVER NECESSARY THAT THEY NEED TO DO IN THE DEFENDANT'S  
20 BEHALF

21 THE COURT WHAT WITNESS? I'LL LET YOU DISCUSS  
22 THAT WITH YOUR STANDBY COUNSEL

23 CAN YOU ASSIST HIM IN OBTAINING THAT EXPERT?

24 MR KELLY YOUR HONOR, OF COURSE WE CAN BUT IT  
25 WOULD HAVE TO BE BY YOUR ORDER OF COURSE YOU WOULD HAVE

1 TO APPROVE IT AND TO SPEAK FRANKLY YOUR HONOR THE EXPERTS  
2 THAT HE'S ASKED THAT THE LIST THAT HE'S GIVEN WE  
3 DETERMINED THAT THEY WERE UNNECESSARY WE DIDN'T ATTEMPT  
4 TO RETAIN THEM OR RETAIN OTHERS LIKE THEM

5 THE COURT ALL RIGHT

6 MR KELLY THAT WILL BE THE DECISION THAT YOU  
7 HAVE TO MAKE YOURSELF

8 THE COURT ALL RIGHT

9 MR KELLY WE'L BE HAPPY TO DISCUSS THE MATTER  
10 WITH HIM TO GET A LIST OF THOSE PERSONS FROM HIM AND TO  
11 SUBMIT AN ORDER TO YOU BETWEEN NOW AND NEXT FRIDAY

12 THE COURT ALL RIGHT SUBMIT A PROPOSED ORDER  
13 I'M NOT SURE I'M GOING TO APPROVE IT DEPENDING ON WHAT  
14 THEY RE NEEDED FOR YOU TELL ME IN YOUR REQUEST WHY YOU  
15 NEED THOSE INDIVIDUALS

16 THE DEFENDANT YES, SIR YOUR HONOR THERE WAS  
17 THERE IS AN INVESTIGATOR THAT'S MS VICKIE CHILDS ON THE  
18 CASE THAT I WOULD LIKE TO CONTINUE TO YOU KNOW, WORK IN  
19 THAT, MY CAPACITY DOING INVESTGATIVE WORK AND I PERCEIVE  
20 THAT I MAY BE ABLE TO IF YOU APPROVE TO HAVE HER TO HAVE  
21 CONTACT WITH THE NECESSARY EXPERT WITNESS THAT I NEED  
22 NECESSARY AND MAYBE ASK HER TO SUBMJT SOMETHING TO THE  
23 COURT IN REFERENCE IN THAT, IN FOR MY BEHALF

24 MR KELLY YOUR HONOR IF HE CHOOSES NOT TO MEET  
25 WITH US AND WISHES TO GO THROUGH OUR FACT INVESTIGATOR WHO

1 IS NOW RETAINED WE HAVE NO PROBLEM WITH THAT IF HE WANT  
2 TO PREPARE THE PROPOSED ORDER HIMSELF IN ANTICIPATION OF  
3 BEING APPOINTED COUNSEL PRO SE AND HAVING IT BE FILED AND  
4 GO INTO EFFECT IMMEDIATELY WE HAVE NO PROBLEM WITH THAT

5 IN FACT WE'D PREFER THAT IF HE'S GOING TO TAKE  
6 OVER HIS DEFENSE WE'D PREFER HE DRAW HIS OWN ORDER BUT SO  
7 WHAT HE'S ASKING IS THAT THE PRESENT FACT INVESTIGATOR  
8 VICKIE CHILDS, HELP HIM MAKE ARRANGEMENTS BY CONTACTING  
9 THESE PROPOSED EXPERTS FURTHER THAN THAT THERE HAS TO BE  
10 AN ORDER PREPARED WE LL DO IT EITHER WAY YOU WANT IT IF  
11 YOU WANT US TO PREPARE IT HE'LL HAVE TO MEET WITH US WHICH  
12 HE'S REFUSED TO DO OR HE'LL HAVE TO DO IT HIMSELF

13 THE COURT WELL YOU RE GOING TO HAVE TO GET TO  
14 ME A REQUEST AND EXPLAIN WHY YOU NEED THESE INDIVIDUALS

15 THE DEFENDANT YES SIR

16 THE COURT BEFORE THEY'RE APPROVED AND BEFORE  
17 MONEYS CAN BE BE SPENT FOR THE RETENTION OF AN EXPERT JUST  
18 AS YOU WOULD -- AGAIN THIS GETS BACK TO I'M NOT GOING TO,  
19 DOING IT THIS TIME BUT I'M NOT GOING TO ADVISE YOU ABOUT  
20 PROCEDURE

21 THE DEFENDANT RIGHT

22 THE COURT YOU HAVE TO MAKE THAT REQJEST TO THE  
23 COURT TO APPROVE THE USE OF AN EXPERT IF YOU'RE HAVING IF  
24 YOU'RE NEEDING PUBLIC FUNDS TO PAY FOR THOSE EXPERTS

25 THE DEFENDANT BUT, YOUR HONOR THE EXPERTS ARE

1 NORMAL, BASIC EXPERTS IN WHICH INVOLVES DEATH PENALTY CASE  
2 OF GREATER SIGNIFICANCE TO THE DEFENSE OF THE DEFENDANT  
3 THAN THE EXPERT THAT THE COUNSEL HAS HIRED THUS FAR AND  
4 BROUGHT IN WHICH IS ALL PSYCHOLOGISTS AND PSYCHIATRIC

5 THE COURT WHAT KIND OF EXPERT IS IT JUST  
6 GENERALLY?

7 THE DEFENDANT FORENSICS IT'S A PSYCHOLOGIST  
8 EXPERT PSYCHOLOGIST ON FALSE WITNESS

9 THE COURT WELL IF YOU'VE ALREADY GOT THE USE  
10 OF A PSYCHOLOGIST WHY DO YOU NEED ANOTHER ONE?

11 THE DEFENDANT WELL THESE TYPE THIS TYPE OF  
12 PSYCHOLOGISTS ARE SPECIALISTS IN INDIVIDUAL MAKING FALSE  
13 STATEMENTS GIVING FALSE YOU KNOW MAKING A FALSE  
14 STATEMENT THAT'S THE TYPE OF PSYCHOLOGIST THESE TYPE OF  
15 PSYCHOLOGIST HE'S SPEAKING OF IS PERSONS DEALING WITH THE  
16 MIND AND BRAIN I GUESS TO, YOU KNOW, IF I WAS RETARTED OR  
17 GOING TO TAKE A DEFENSE OF BEING MENTALLY INSANE THIS IS  
18 THE TYPE THAT HE'S HIRING

19 THE COURT YOU MEAN YOU WANT AN EXPERT TO TAKE  
20 THE STAND TO SAY THAT ANOTHER WITNESS IS NOT TELLING THE  
21 TRUTH?

22 THE DEFENDANT NO IT'S AN EXPERT I HAVE HIS  
23 NAME IN THE FILE BUT IT'S A EXPERT IN REFERENCE TO WHICH HE  
24 GAVE TESTIMONY BEFORE IN A MURDER CASE IN REFERENCE TO HOW  
25 A WITNESS WOULD BE COMPELLED TO GIVE A FALSE STATEMENT

1 BECAUSE OF OTHER CIRCUMSTANCES INVOLVING LIKE CHILDREN OR  
2 BEING INCARCERATED OR GOING TO JAIL SO THEY WILL COME FORTH  
3 TO MAKE STATEMENTS

4 THE COURT WELL WHY DO YOU NEED THAT EXPERT FOR  
5 THAT? YOU CAN ASK THE WITNESS THAT

6 THE DEFENDANT BECAUSE THE ---

7 THE COURT YOU CAN ASK THE WITNESS WERE THEY  
8 UNDER ANY CONTROL BECAUSE OF THAT

9 THE DEFENDANT BECAUSE THE STATE HAS INTIMIDATED  
10 WITNESSES IN THE CASE AND WITNESSES THAT DONE GAVE LIKE  
11 FIVE OR SIX DIFFERENT TYPE OF STATEMENTS THAT WAS TOTALLY  
12 TO THE OPPOSITE

13 THE COURT WELL, YOUR JOB IN CROSS-EXAMINATION  
14 OR EXAMINATION IS TO POINT ALL THAT OUT THAT THAT THEY  
15 WERE INTIMIDATED OR THREATENED JUST TO PRESENT TO THE  
16 JURY THAT THEIR STATEMENTS MIGHT NOT BE TRUSTWORTHY BUT WE  
17 GENERALLY DON'T ALLOW PEOPLE TO TAKE THE STAND AND SAY THAT  
18 SOMEONE ELSE IS NOT REALLY TELLING THE TRUTH

19 THE DEFENDANT BUT THIS PARTICULAR EXPERT WOULD  
20 NOT TAKE THE STAND TO SAY WHETHER A PERSON IS TELLING THE  
21 TRUTH OR NOT BUT WOULD ONLY TESTIFY TO CONDITIONS OF AN  
22 INDIVIDUAL WHICH WOULD MAKE THEM CHANGE THEIR TESTIMONY,  
23 WHAT MAKES THEM CHANGE THEIR STATEMENTS

24 THE COURT ALL RIGHT ANY OTHERS?

25 THE DEFENDANT A FIREARM EXPERT IN REFERENCE TO

1 THE STATE PRESENTED DOCUMENTS STATING THAT INDIVIDUALS SAID  
2 THEY HEARD GUN SHOTS AND GUNFIRES AND MANY SEVERAL  
3 DIFFERENT WEAPONS WAS USED SUPPOSEDLY ALLEGEDLY IN THIS  
4 ALLEGED CRIME FOR SOUND ACOUSTICS OF WHAT WAS SOUND WHAT  
5 WAS HEARD

6 THE COURT WELL, I'LL TELL YOU WHAT SINCE  
7 THEY'RE STILL YOUR COUNSEL FOR RIGHT NOW, I M DIRECTING  
8 THAT YOU MEET WITH THEM ---

9 THE DEFENDANT I WILL

10 THE COURT --- PREPARE THIS LIST

11 THE DEFENDANT I WILL

12 THE COURT I DON'T WANT THEM TO COME BACK AND  
13 SAY YOU DIDN'T MEET WITH THEM NOW

14 THE DEFENDANT I WILL MEET WITH THEM

15 THE COURT OR YOU'RE NOT GOING TO GET YOUR  
16 EXPERTS

17 THE DEFENDANT I WILL

18 THE COURT I'M NOT SAYING YOU'RE GETTING THEM  
19 ANYWAY BUT I HAVE TO SEE WHAT THE REQUEST IS

20 THE DEFENDANT I WILL MEET WITH THEM

21 THE COURT SO I'M DIRECTING THAT HE MEET WITH  
22 YOU

23 AND YOU PREPARE THE REQUEST IN WRITING GO AHEAD  
24 AND SEND ME A PROPOSED ORDER AND I'LL DECIDE ALL THAT NEXT  
25 FRIDAY ALL RIGHT

1 MR KELLY YOUR HONOR WE'LL MEET WITH HIM  
2 EITHER MONDAY OR TUESDAY AND WE'LL HAVE THE ORDER TO YOU BY  
3 WEDNESDAY OR THURSDAY

4 THE COURT AND THEN WE'LL TAKE IT UP NEXT FRIDAY  
5 AT THE HEARING ABOUT WHETHER I'M GOING TO APPROVE THOSE  
6 FUNDS

7 MR KELLY THANK YOU

8 THE COURT THAT WOULD BE ONE OF THOSE TYPICAL EX  
9 PARTE REQUESTS

10 MR KELLY YES SIR IT WILL BE EX PARTE

11 THE COURT ALL RIGHT SO WE LL DO THAT YOU  
12 KNOW OUTSIDE OF YOUR PRESENCE

13 MR KELLY YES, SIR, WE LL PREPARE IT

14 THE COURT ALL RIGHT

15 MR MURDAUGH JUDGE ONE LAST THING THAT JUST  
16 ALL OF A SUDDEN OCCURRED TO ME WE'RE GOING TO SORT OF A  
17 SHORT FUSE I'M GOING TO GET THIS ORDER PREPARED AND I LL  
18 SEND IT TO YOU PROBABLY THE FIRST OF NEXT WEEK BUT  
19 GENERALLY WE SEND OUT A QUESTIONNAIRE TO THE JURORS I  
20 DON'T KNOW HOW TO HANDLE THAT IT PUTS ME IN A DIFFICULT  
21 POSITION TO GO TALK TO THE DEFENDANT LAWYER

22 THE COURT I UNDERSTAND WHAT WE'LL DO IS BRING  
23 THAT PROPOSED QUESTIONNAIRE TO THE HEARING NEXT FRIDAY

24 MR MURDAUGH OKAY, SIR

25 THE COURT I HAVE ONE THAT I'VE USED BEFORE

1 MR MURDAUGH OKAY

2 THE COURT I'LL LOOK AT BOTH OF THEM AND DECIDE  
3 THE ONE I USE IS A LITTLE BIT SHORTER THAN THE ONES THAT  
4 SOME OTHERS HAVE USED BUT BRING IT THEN WE'LL DECIDE  
5 YOU UNDERSTAND WHAT THEY'RE REQUESTING?

6 THE DEFENDANT NO SIR

7 THE COURT IT S QUESTIONNAIRE TO GO OUT TO ALL  
8 THE PROPOSED JURORS ASKING THINGS ABOUT THEIR BACKGROUNDS  
9 AND DISCUSSING WHAT THIS IS ABOUT IT JUST DEPENDS ON WHAT  
10 ALL IS IN THERE BUT IT ASKING THEM IF THEY HAVE ANY KIND  
11 OF PRIOR RECORD ET CETERA IT'S MORE DETAILED INFORMATION  
12 THAN YOU WOULD NORMALLY RECEIVE WHEN YOU DRAW A JURY IN ANY  
13 OTHER KINDS OF CASE

14 THE DEFENDANT OKAY IT'S NOT DOES IT INCLUDE  
15 IS IT IN REFERENCE TO HAVE ANY TIES WITH THE EXAMINATION OF  
16 THE JURORS IN REFERENCE TO THE DEFENDANT OPTION TO EXAMINE  
17 THE JURORS TO ---

18 THE COURT WELL WHEN WE I'M NOT TALKING ABOUT  
19 THAT JURY SELECTION THIS IS SOMETHING THAT COMES IN  
20 BEFORE JURY SELECTION ---

21 THE DEFENDANT PREVIOUSLY

22 THE COURT --- THAT YOU GET TO LOOK AT

23 THE DEFENDANT OKAY

24 THE COURT YOU WOULD BE PROVIDED A COPY OF  
25 THOSE YOU KNOW, OR EACH COUNTY IS A LITTLE BIT DIFFERENT

1 ACTUALLY

2 BUT DOES YOUR CLERK NORMALLY PROVIDE WITH A COPY  
3 OF THAT?

4 MR MURDAUGH I'M SORRY?

5 THE COURT DOES YOUR CLERK NORMALLY PROVIDE  
6 EVERYONE WITH ONE COPY OF THOSE?

7 MR MURDAUGH YES, SIR

8 THE COURT AL RIGHT JUST TO USE AS SOME  
9 BACKGROUND INFORMATION WHEN YOU RE SELECTING THE JURY

10 THE DEFENDANT YES, SIR

11 THE COURT ALL RIGHT AND THAT'S GENERALLY  
12 ROUTINE IN THESE KIND OF CASES SO IF YOU L BRING A COPY  
13 OF THAT TO THE NEXT

14 MR MURDAUGH I LL BE HAPPY TO SIR

15 THE COURT ALL RIGHT I WILL SEE Y'ALL -- ANY  
16 OTHER FURTHER ISSUES AND YOU WILL MEET WITH THEM TO PREPARE  
17 THE REQUEST?

18 THE DEFENDANT YES, SIR

19 THE COURT FOR THE USE OF THE EXPERTS YOU NEED  
20 TO EXPLAIN IN THERE WHY THEY'RE NEEDED SO THAT I CAN MAKE A  
21 DETERMINATION ABOUT THAT

22 THE DEFENDANT YES, SIR

23 THE COURT ANYTHING FURTHER?

24 MR KELLY NO, YOUR HONOR

25 THE COURT ALL RIGHT THANK Y'ALL SEE Y'ALL

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2  
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25

NEXT TEN O CLOCK I'LL GET TO IT AS SOON AS I CAN THAT  
DAY DEPENDING ON HOW BUSY THEY ARE

(THEREUPON THE REPORT OF FINDINGS WAS MARKED COURT'S  
EXHIBIT NO 2 AND MADE A PART OF THE RECORD )

- - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE

I THE UNDERSIGNED VIRGINIA ROLAND OFFICIAL COURT REPORTER FOR THE THIRD JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CAUSE RELATIVE TO APPEAL IN THE CRIMINAL COURT FOR BEAUFORT COUNTY SOUTH CAROLINA, ON THE 25TH DAY OF JULY 2003

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO

OCTOBER 1, 2003

  
\_\_\_\_\_  
COURT REPORTER

STATE OF SOUTH CAROLINA ) COURT OF GENERAL SESSIONS  
COUNTY OF BEAUFORT ) CASE NO 02-GS-07-369

**ORIGINAL**

STATE OF SOUTH CAROLINA )  
Plaintiff, ) TRANSCRIPT OF RECORD  
- )  
-versus- ) MOTIONS  
)  
ABDIYYAH BEN ) AUGUST 1, 2003  
ALKEBULANYAHH, )  
Defendant ) Charleston South Carolina

B E F O R E  
The Honorable Daniel F Pieper

A P P E A R A N C E S  
Randolph Murdaugh Esquire  
Isaac McDuffie Stone, Esquire  
For the Plaintiff

Gerald Kelly, Esquire  
Sean Thornton, Esquire  
Standby Counsel for the Defendant

Robin L Keil, RMR  
Resident Court Reporter  
First Judicial Circuit  
Post Office Box 3335  
Summerville, SC 29484-3335

I N D E X

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E X H I B I T S

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
D-1	Report		
D-2	Report		

State v Alkebulanyahh

1 THE COURT State of South Carolina v  
2 Tyree Alphonzo Roberts a/k/a Abdiyyah Ben  
3 Alkebulanyahh, 2002-GS-07-369,  
4 2002-GS-07-370 Duffie Stone and Randolph  
5 -Murdaugh for the State, Gerald Alan Kelly and  
6 Sean P Thornton for the defendant

7 MR MURDAUGH I am Randolph Murdaugh,  
8 III, Solicitor, Fourteenth Judicial Circuit  
9 and I represent the State in this case This  
10 is Duffie Stone, chief assistant solicitor  
11 with the Fourteenth Circuit

12 MR THORNTON My name is Sean Thornton  
13 and I m second chair representing Mr  
14 Abdiyyah Ben Alkebulanyahh And with me also  
15 is Mr Gerald Kelly who is first chair in  
16 that case, Your Honor

17 THE COURT All right As we left this  
18 at the last hearing I held open the decision  
19 about the defendant's request to represent  
20 himself pro se, and also the decision about  
21 whether to make counsel -- or appoint counsel  
22 on the standby role until we heard or  
23 received the reports on the issue of the  
24 competency evaluations Those have now come  
25 in? Those are now in is that correct?

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State v Alkebulanyahh

1 MR THORNTON I believe that they were  
2 mailed to Your Honor or faxed

3 THE COURT I have them, just for the  
4 record

5 MR THORNTON Yes, Your Honor, I  
6 apologize

7 MR MURDAUGH I think we put in the  
8 State's report at the last hearing

9 THE COURT Okay Do you wish to  
10 present some testimony on this issue?

11 MR THORNTON The defense would like to  
12 present testimony, Your Honor

13 THE COURT Proceed

14 Mr Alkebulanyahh, as I indicated  
15 at the last hearing, those evaluations were  
16 forthcoming and before I made a decision on  
17 your request I wanted to hear what they had  
18 to say Notwithstanding that, I understand  
19 your position that you concur with the  
20 State's witness for this matter, but for  
21 purposes of the record I have to hear  
22 everything out Do you understand?

23 MR ALKEBULANYAHH Yes sir

24 THE COURT Thank you

25 MR THORNTON If I might, I believe

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State v Alkebulanyahh

1 just to make sure we have a complete record  
2 I have two of the reports that will be  
3 testified to And may I approach and have  
4 those marked, sir?

5 THE COURT Yes, sir

6 MR THORNTON I believe there's a  
7 stipulation that those can be entered into  
8 evidence by the prosecution

9 THE COURT Any objection? All right  
10 Go ahead

11 MR THORNTON Thank you, Your Honor  
12 (Entered into evidence was Defendant s  
13 Exhibit 1, report )

14 (Entered into evidence was Defendant's  
15 Exhibit 2, report )

16 MR THORNTON Thank you very much, Your  
17 Honor

18 THE COURT Yes, sir

19 Mr Alkebulanyahh, did you want to  
20 say something?

21 MR ALKEBULANYAHH Yes sir I want to  
22 object to the psychological evaluations  
23 entered into evidence

24 THE COURT Well, at this point I want  
25 to hear what everyone has to say They're

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State v Alkebulanyahh

1 being marked for the record There's no ju  
2 to hear these reports; it's for me to make a  
3 decision about that, all right? They're not  
4 evidence, he's marking them as an exhibit  
5 all right?

6 MR THORNTON Thank you very much, Your  
7 Honor Your Honor, at this time we would  
8 call Dr Donna Schwartz-Watts to the stand,  
9 please

10 (Dr Donna M Schwartz-Watts, called as a  
11 witness having first been duly sworn, is  
12 examined and testifies as follows )

13 THE CLERK Please be seated Please  
14 state your full name, spell your last name  
15 for the record

16 THE WITNESS Donna Marie  
17 Schwartz-Watts S-c-h-w-a-r-t-z - W-a-t-t-s

18 DIRECT EXAMINATION

19 BY MR THORNTON

20 Q Doctor Watts, could you tell us a little bit  
21 about your academic background, please?

22 A Sure I graduated from college at Furman  
23 University

24 MR MURDAUGH If Your Honor please,  
25 excuse me for interrupting, but for purpose

August 1 2003

Dr Donna M Schwartz-Watts - Direct Exam

1 of this hearing we will stipulate that she is  
2 more than qualified in her field

3 THE COURT All right Thank you Do  
4 you need to put those qualifications in the  
5 record for any reason?

6 MR THORNTON There are one or two that  
7 I would Your Honor I will not take up much  
8 time

9 THE COURT Seeking to qualify her  
10 as ?

11 MR THORNTON A forensic psychiatrist

12 THE COURT Go ahead

13 Q Dr Watts, just one or two brief questions  
14 How many death penalty cases have you testified in?

15 A Testified in probably ten or twelve

16 Q How many have you worked with or given  
17 reports on?

18 A Probably around 50

19 Q Okay How many times did you -- or excuse  
20 me, let me back up for a second How did you become  
21 involved in this particular case?

22 A Mr Kelly, who is the first chair in this  
23 case contacted me and retained my services

24 Q All right, ma'am Did you meet with the  
25 client in this case who is the defendant,

August 1 2003

Dr Donna M Schwartz-Watts - Direct Exam

1 Mr Alkebulanyahh?

2 A Yes I did

3 Q About how many times did you meet with him,  
4 Doctor?

5 A I met with Mr Alkebulanyahh on three  
6 occasions The first time was back in 2002 while he  
7 was at the Just Care facility and then I met with him  
8 two times in the year 2003 in February, and then in  
9 April when he was at the Beaufort County Detention  
10 Center

11 Q What was the purpose of the evaluations?

12 A Well basically there were three purposes  
13 First of all to assist Mr Kelly and yourself to  
14 determine whether he was fit to stand trial  
15 secondly, to look for issues of his criminal  
16 responsibility around the time of his offenses, and  
17 then thirdly, to determine if there is any mitigation  
18 that could be presented should he go to a sentencing  
19 trial

20 Q Tell us a little bit about what observations  
21 you made while doing these interviews

22 A Sure On the first occasion when I met  
23 Mr Alkebulanyahh at the Just Care facility he  
24 cooperated and I spent over two hours interviewing  
25 him At that time he was in the presence of the

August 1 2003

Dr Donna M Schwartz-Watts - Direct Exam

1 corrections officers that worked there He was in a  
2 single room, he was incredibly pleasant, he spent a  
3 lot of time -- initially he was somewhat reserved and  
4 did not want to speak with me, but as the interview  
5 progressed he became very comfortable, he was  
6 extremely cooperative, he answered any questions that  
7 I had He, in my opinion, was pretty open He was  
8 disclosing about the strategies that he had for his  
9 case and where he wanted to see his defense team work  
10 for him

11 At that time he did present with  
12 some issues of mistrusting both you and Mr Kelly,  
13 but at that time I was not able to make any kind of  
14 psychiatric diagnosis I certainly was aware after  
15 the first interview he did not trust you two, had  
16 very fixed and certain ideas about how he wanted his  
17 case presented

18 Q Were there any differences in your initial  
19 interview and the second interview or the third as  
20 far as his behavior? In other words, did his  
21 behavior change as you went through these interviews?

22 A Yes, sir

23 Q Could you explain to us how, or at least the  
24 significant portions of what changed in his behavior?

25 A Yes On the second interview which would

August 1 2003

Dr Donna M Schwartz-Watts - Direct Exam

1 have been earlier this year I visited  
2 Mr Alkebulanyahh in the detention center And once  
3 again he was pleased to see me he was cooperative  
4 He and I spent probably two and a half or three hours  
5 talking

6 At that time he was more  
7 comfortable than he was on the first occasion, he was  
8 more disclosing of details, more able to give me a  
9 history in terms of some of the questions that I  
10 asked him I think that meeting was much more  
11 significant in the fact that he discussed religious  
12 ideas he discussed some of his upbringing and  
13 special relationships he had with people in his  
14 family

15 We, again, got into his legal  
16 issues and some of the defenses and at that time he  
17 had very, I would call idiosyncratic ideas about what  
18 the roles of his defense attorneys were I  
19 considered him to be somewhat paranoid during that  
20 interview in terms with just his relationships with  
21 his defensive team, the roles that the judge would  
22 have played The judge -- at that time he had some  
23 very specific ideas about his -- the judge that was  
24 assigned prior to this hearing

25 And then on the third interview h

August 1 2003

Dr Donna M Schwartz-Watts - Direct Exam

1 was much different he was incredibly angry with me,  
2 he was cursing, he looked extremely tired, he spoke  
3 very rapidly, he was very paranoid, he threatened me  
4 And I thought that there was a very different change  
5 in his affect which is how he expresses his emotion,  
6 there was a difference in the rate of his speaking,  
7 His thought processes which is how one connects  
8 thoughts, on the first interview they were intact  
9 meaning that you could follow his train of thought,  
10 he would answer questions During the second  
11 interview they became what's called circumstantial  
12 If I asked him a question it would take him a very  
13 long time to answer the question and sometimes he  
14 never would he would move on to topic to topic

15 In the third evaluation at that  
16 time he, again was very paranoid, very angry, spoke  
17 very rapidly and was very tangential in how he  
18 expressed his thoughts

19 Q What is significant, if anything, about this  
20 what appears to be a dramatic change in behavior  
21 between the first and second and this final  
22 interview?

23 A In my opinion in the first interview as  
24 anyone would, anyone facing criminal charges, it's  
25 normal to have a certain amount of mistrust of

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Dr Donna M Schwartz-Watts - Direct Exam

1 anyone I mean, he was facing very serious charges  
2 He had some very I think significant issues about his  
3 culture and how he related to people on his defense  
4 team So in terms of his first interview I thought  
5 his behavior and demeanor were very appropriate given  
6 the circumstances He gave details and was pleasant,  
7 he attempted to answer questions

8 The second interview at the  
9 beginning I thought his demeanor was appropriate As  
10 he became more comfortable with me he was more  
11 disclosing of information but in that second  
12 interview in my opinion he was demonstrating  
13 psychotic thought processes And what I thought in  
14 my opinion what happened is I had videotaped that  
15 evaluation with his permission and after the  
16 interview concluded and he was aware of the  
17 videotape My opinion during the interview is that  
18 he was comfortable, that he forgot the tape was on

19 At the end of that interview he  
20 became concerned about the tape and asked me not to  
21 disclose it to his defense team which I told him I  
22 did not know -- I had never had a case where somebody  
23 withdrew their consent once they were videotaped, so  
24 I didn't know what to do, frankly, Your Honor So  
25 what I told him is I would consult with the medical

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1 director of Apple, who is Howard Zanana (phonetic)

2 And he is the director of the all the forensic

3 psychiatrists in our organization

4 I contacted Dr Zanana and he told

5 me that as an agent of the defense team I had to

6 disclose the tape So at that time neither you, nor

7 Mr Kelly knew that I had that tape in my possession

8 After I contacted Dr Zanana I gave the tape to you

9 all as he instructed me to And so during the third

10 interview Mr Alkebulanyahh was aware that I had --

11 that you all had the tape and that that tape was

12 viewed by Dr Frierson And he was incredibly angry

13 with me, he felt betrayed, he felt very paranoid with

14 me as well

15 Q Were you able to after these interviews to

16 come to any medical diagnosis?

17 A Yes

18 Q Could you tell us what those are, please?

19 A I need to add it was not only after the

20 interviews After the first meeting with

21 Mr Alkebulanyahh I met with you as a defense team

22 and you all wanted a diagnosis and I wasn't able to

23 give you one Mr Alkebulanyahh is very complex

24 He's very difficult to get to know on one hand So

25 my information was also obtained -- a big part of the

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Dr Donna M Schwartz-Watts - Direct Exam

1 history was talking to his mother I considered her  
2 to know him very well and her history also was  
3 important in helping me come up with a diagnosis  
4 And then thirdly looking at some of his Department of  
5 Corrections records and testing, all of those in  
6 addition to all the records I reviewed, but those  
7 were most specifically helpful

8                   Mrs Roberts in talking with her  
9 on the telephone said that Ben was always off even  
10 as a child She states that she was very young when  
11 she had him, she was 14 years of age, she hid the  
12 pregnancy from her mother by wearing a girdle She  
13 states that when Ben was born to her that she knew  
14 something was wrong and that she would go to doctor  
15 to doctor and she was told that she was a child with  
16 a child She describes strange behaviors that he had  
17 as a child, that he would cook animals He would not  
18 torture animals, he would take them and cook them and  
19 eat them, things like turtles, squirrels, that sort  
20 of thing She states that all the other children  
21 usually avoided him and that she always knew that  
22 something was not quite right with her son

23                   She also stated he had a very large  
24 head and that people used to tease him The standing  
25 joke in the family that when he was in second or

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Dr Donna M Schwartz-Watts - Direct Exam

1 third grade he finally grew into his head She  
2 states she was always aware where there were times  
3 and periods that her son's mental state would change  
4 dramatically, that they could be in a room visiting  
5 and then he could come in as a different person and  
6 this would last for a period of time, that he would  
7 be talking about things that she didn't understand,  
8 that he would become very angry, that he would have a  
9 lot of emotion

10 So in viewing all of those things  
11 together and noticing the change in his behavior over  
12 time, and certainly recognizing that he was mad at me  
13 as well and you know which accounts for some of  
14 this, it's my opinion clearly that he suffers from a  
15 mood disorder

16 And the mood disorder that in my  
17 opinion he suffers from is called a bipolar disorder  
18 meaning that you had mood swings, that there's  
19 periods of time where your mood is very expansive and  
20 irritable where you speak rapidly and have rapid  
21 thoughts Then on the other hand he has had one  
22 period documented that I was able to determine where  
23 he has had a depression and that was through his  
24 history He spoke to me about having a two-week  
25 period of time where he cried every day after he had

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Dr Donna M Schwartz-Watts - Direct Exam

1 a vision which he believes was from a higher power  
2 So in my opinion he meets the criteria for a mood  
3 disorder

4 Now, complicating that it's my  
5 opinion that during the second interview he was  
6 clearly psychotic, meaning that he had a complication  
7 of that mood disorder In my opinion his paranoia  
8 had reached the point that he was not in touch with  
9 reality

10 Q Were you able to review a report that's  
11 already been -- it was entered into evidence I  
12 believe last week by Dr Frierson, have you reviewed  
13 his findings?

14 A Yes

15 Q Could you tell us if there are -- if any  
16 exist, what differences you have with that report as  
17 far as your findings?

18 A Yes

19 MR MURDAUGH If Your Honor please,  
20 that's pitting one witness against another

21 MR THORNTON Our position is we're  
22 trying to determine what all the experts are  
23 saying I wasn't questioning what  
24 Dr Frierson's report was, just what her  
25 findings were, if they differ

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Dr Donna M Schwartz-Watts - Direct Exam

1 THE COURT You can ask her if she took  
2 those findings into consideration in  
3 rendering her opinion

4 Q Doctor, did you take into any consideration  
5 in developing your opinion your diagnoses, what the  
6 opinions or diagnoses for Dr Frierson were?

7 A Yes, I did

8 Q That did not change your diagnoses or  
9 opinions in any way?

10 A No Actually on Axis II I did give  
11 Mr Alkebulanyahh a diagnosis of narcissistic  
12 personality traits I certainly agree with that  
13 diagnosis, although Dr Frierson has diagnosed him  
14 with a personality disorder with those sorts of  
15 features and that certainly is consistent with what I  
16 see as well

17 Q What is your opinion, your medical opinion,  
18 if you can give one to a reasonable degree of medical  
19 certainty as to Mr Alkebulanyahh's ability or  
20 competency to stand trial at this point?

21 A Well, Your Honor, as you know competency's  
22 fluid and it's a present capacity Mr Alkebulanyahh  
23 refused to speak with me this morning when I  
24 attempted to interview him again to see how his  
25 present mental state is When I entered the room he

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1 turned with his back to me looked out through the  
2 window and refused to talk with me in any way, shape,  
3 or form

4 In my opinion in going back the  
5 concerns that I had about his capacity to assist his  
6 attorney are a few In the number of cases I've had  
7 I've never -- that I worked for in terms of death  
8 penalty cases I have never had a defendant refuse to  
9 talk to me Mr Alkebulanyahh is the first defendant  
10 that has ever wanted to represent himself in terms of  
11 a death penalty case

12 Now, I ve certainly had experience  
13 in dealing with defendants before that want to  
14 represent themselves, but usually the reasoning is  
15 things like their lawyers haven't met with them,  
16 their lawyers are incompetent, they don't like the  
17 qualifications of their attorneys

18 Mr Alkebulanyahh's comments have  
19 been that he is paranoid of them, he does not trust  
20 their affiliations, he considers them to be friends  
21 of Randy Murdaugh and thinks that Mr Murdaugh and  
22 Mr Kelly collude together And in my opinion he's  
23 paranoid to the point that he believes there's a  
24 conspiracy to prevent him from representing himself  
25 So it's not the actions that he takes, but it's his

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Dr Donna M Schwartz-Watts - Direct Exam

1 reasoning behind those actions that cause me grave  
2 concern

3 Q So why is it important that you did not meet  
4 with him or were not able to meet with him today?

5 A Again, it just shows it's not necessarily the  
6 behaviors he has, but it's the capacity that he has  
7 to make decisions He does not even consider in  
8 terms of trying to approach this gentleman in terms  
9 of mitigation what kind of factors would be helpful  
10 for his case, he would not even consider in any way,  
11 shape, or form any forms of mitigation that have to  
12 do with possible mental illness, his mentality at the  
13 time of the crime, whether he had sufficient capacity  
14 or if his capacity to conform his conduct was  
15 severely impaired, he won't even consider those kinds  
16 of issues and to me that's what renders him unable to  
17 assist himself

18 He does not have the capacity to  
19 look at different decisions, at different pleas,  
20 different options available to him so that he can  
21 make reasonable decisions in defending himself

22 Q Doctor, let me ask you this After you've  
23 already stated that you have interviewed him on three  
24 separate occasions, you had taken all this other  
25 various information in reaching your decision, why

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Dr Donna M Schwartz-Watts - Direct Exam

1 was it important to you to see him this morning?

2 A Again because competency's a fluid concept  
3 and certainly with the kind of disorder he has it's  
4 very possible, Your Honor that his mood disorder  
5 could be under control right now I don't know I  
6 haven't seen him since April, so I don't know what  
7 his symptoms are like at this time But in my  
8 opinion his refusing to see me is certainly  
9 consistent with my view of how paranoid he's been in  
10 the past and his anger at me

11 Q Thank you, Doctor

12 MR THORNTON Your Honor may I have  
13 one minute of the Court's indulgence to  
14 confer with co-counsel?

15 THE COURT Yes, sir

16 MR THORNTON Thank you, Your Honor

17 THE COURT You may also confer with  
18 Mr Alkebulanyahh

19 MR THORNTON Yes sir

20 (Pause in proceedings )

21 MR THORNTON Your Honor, the defendant  
22 has asked that he be allowed to ask the  
23 doctor questions

24 THE COURT I'll allow you to do that,  
25 sir

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Dr Donna M Schwartz-Watts - Direct Exam

1 MR THORNTON Your Honor, I had one  
2 other question May I approach?

3 THE COURT Yes, sir Go ahead

4 MR THORNTON Thank you

5 Q Doctor, have you made any recommendations or  
6 do you think any recommendations are necessary as to  
7 if the Court does find him competent today is there  
8 any further monitoring or anything that should take  
9 place in your opinion?

10 A Yes

11 Q Could you tell us a little bit about that  
12 please?

13 A Certainly We've certainly had cases before,  
14 Your Honor, where we've done serial competency  
15 examinations if there's -- in my opinion if there  
16 were any times during the Court's proceedings if one  
17 were to notice a change in Mr Alkebulanyahh's state  
18 that it would benefit him to have an evaluation at  
19 that point in time during the proceedings

20 MR THORNTON Thank you Your Honor, I  
21 don't have any questions at this time

22 THE COURT What is your bottom line of  
23 your evaluation at this point, what is your  
24 opinion on his competency to stand trial?

25 THE WITNESS Again, that's the million

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Dr Donna M Schwartz-Watts - Direct Exam

1 dollar question, Your Honor

2 THE COURT What is it at this moment?

3 THE WITNESS At this moment realizing  
4 that he has not talked with me this morning,  
5 but being that his behavior is consistent  
6 with the anger and paranoia, I can't give you  
7 an opinion today as to what his competency  
8 would be, but certainly his behavior today  
9 was consistent with my last interview with  
10 him and at that time my opinion was he did  
11 not have the capacity to assist But you're  
12 correct for today, this point in time  
13 without him speaking to me I can't tell you  
14 what his mental state is

15 THE COURT All right

16 Mr Alkebulanyahh I'm going to --  
17 in overall context of evaluating your request  
18 to proceed pro se, I'll watch in part how you  
19 handle yourself in this proceeding so I'll  
20 give you that opportunity You may approach  
21 the lecturn here While I indicated that I'm  
22 not going to give you lessons on how to  
23 conduct yourself in a courtroom, your  
24 objective here is to ask questions, to pursue  
25 the matter that's before the Court at this

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Dr Donna M Schwartz-Watts - Direct Exam

1 point Do you understand?

2 MR ALKEBULANYAHH Yes, sir

3 THE COURT That s the question of your  
4 competency to stand trial, is to ascertain  
5 issues about your ability to assist in the  
6 preparation of your case Do you understand?

7 MR ALKEBULANYAHH Yes, sir

8 THE COURT You may proceed with your  
9 questions

10 CROSS-EXAMINATION

11 BY MR ALKEBULANYAHH

12 Q Good morning

13 A Hi

14 Q When you first encountered myself, was you  
15 aware that I did not want to see you at all was you  
16 told or informed from the very onset before we ever  
17 met or anything that the defendant you know refuses  
18 to see you?

19 A Yes

20 Q Did the staff at the William Hall Institute  
21 inform you of that?

22 A Yes Dr Frierson did tell me that he had  
23 met with you and he had evaluated you and that you  
24 probably would not see me

25 Q Could you tell me how you encountered about

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Dr Donna M Schwartz-Watts - Cross-Exam

1 seeing me at the William Hall Institute?

2 A Yes At the time that I went into your room  
3 and met you I was -- Lieutenant Gallow was present in  
4 the room who I'm very familiar with And I told  
5 Lieutenant Gallow that I was retained to evaluate you  
6 and would he speak on my behalf, did he know me,  
7 because I was concerned that you might have some  
8 issues in speaking with me And Lieutenant Gallow  
9 assured you that he knew of me very well, that I was  
10 a competent physician and that it would be okay to  
11 talk with me

12 Q So basically you acknowledge that pretty much  
13 you -- Mr Gallow, I m sorry, the lieutenant

14 A Yes sir

15 Q That the defendant did not want to see you at  
16 all but he brought you to the cell of the room at  
17 the institute against the defendant's wishes?

18 A I don't know -- I didn't know at the time if  
19 it were against your wishes, but I absolutely, you're  
20 correct, I went into your room You were in a single  
21 cell with a mattress on the floor and had two  
22 officers observing while I spoke with you and  
23 introduced myself

24 Q The defendant did tell you that he did not  
25 wish to see you at that time when you first

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Dr Donna M Schwartz-Watts - Cross-Exam

1 encountered him at the door and then you made  
2 yourself clear?

3 A I can't say that, Mr Alkebulanyahh I  
4 certainly -- I was certainly aware that you were not  
5 very thrilled to be seeing me in the first place, but  
6 my recollection is that once I met with you, you were  
7 comfortable and you talked with me

8 Q Okay Thank you In your next encounter in  
9 February when you see the defendant, February or  
10 April, you said that the Court had appointed you to  
11 evaluate me and was hired something to that extent,  
12 and that you had wanted to see me and talk with me  
13 and bla bla bla So the defendant informed you  
14 that he did not want to see you or really didn't want  
15 any psychiatric evaluation

16 In your encounter preceding that  
17 you videoed your interview of defendant And  
18 defendant -- it came to defendant's knowledge that  
19 you had videoed after we was talking and discussing  
20 and he asked you was the video on and you said yes  
21 is that correct?

22 A Well, you kind of asked a lot of questions,  
23 I'll be glad to go through the process The video  
24 camera was on before you ever entered the room And  
25 so what I did is I obtained your consent My entire

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Dr Donna M Schwartz-Watts - Cross-Exam

1 meeting in terms of you entering the room was  
2 videotaped, so before you entered the room the  
3 videotape was on and I obtained consent from you at  
4 that time to videotape that, which you gave

5 Q Do you have any witnesses or any proof to any  
6 extent that you obtained any consent to videotape me?

7 A Sure I've got the videotape

8 Q In that videotape it says that I consented to  
9 you videotaping me at that time?

10 A Absolutely

11 Q Okay Did you tell the defendant after the  
12 defendant asked you that about this tape being on and  
13 being running and you was taping it that because the  
14 defendant did not want it to be seen or viewed by any  
15 other people or anyone at the time without him seeing  
16 this tape because he didn't know he was being taped  
17 at that time because he told you at that time he  
18 didn't know that tape was on, that you would not let  
19 anyone view or see that tape unless defendant seen it  
20 first is that correct?

21 A No What I told you -- and you were  
22 absolutely correct, you did not -- you forgot that  
23 the tape was on And what happened, we had  
24 interviewed for two and a half or three hours and  
25 when the interview was concluded and I went to get

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Dr Donna M Schwartz-Watts - Cross-Exam

1 the tape out, Mr Alkebulanyahh, you, yourself, said  
2 I forgot that was on And you were absolutely very  
3 concerned about that tape who reviewed that tape  
4 And you did ask me to please come to the detention  
5 center and let you view that tape

6 THE COURT Hold on a second

7 Q But you were aware that the defendant was  
8 very angry, upset about the videotape being taped and  
9 the tape being shown to other people other than  
10 himself after he had spoke with you about concerning  
11 this tape?

12 A Absolutely, yes

13 Q And when you returned to -- in a preceding  
14 meeting with the defendant at that time you -- I  
15 think in April the defendant did not want to see you  
16 is that correct?

17 A Your words to me exactly you didn't know it  
18 was me coming to see you and when I was escorted back  
19 to the block where you were you saw me through a  
20 window and you were not very happy to see me, I think  
21 that's fair to say

22 Q He said if he knew it was you he would not  
23 see you is that correct?

24 A That's correct

25 Q Did you at that time indicate that -- to the

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Dr Donna M Schwartz-Watts - Cross-Exam

1 defendant, consistent to me asking a particular  
2 question which maybe it appears to you the defendant  
3 was upset and would not answer you in reference, that  
4 you said, quote, unquote, that had I heard about the  
5 death of Mr Riley?

6 A Yes

7 Q And defendant would not answer is that  
8 correct?

9 A Correct

10 Q And you kept on asking You said speak to me  
11 and speak to me, tell me to that extent but the  
12 defendant refused to answer?

13 A I don't recall I'm usually not quite that  
14 persistent, but I certainly know that you -- we did  
15 not -- I mentioned that to you and we had no  
16 discussion about Mr Riley, whether he was alive or  
17 dead, that you did not comment on that at all

18 Q Do you recall ever stating to the defendant  
19 that you wanted me to say something because witnesses  
20 are turning up dead around the case?

21 A Well, there was something similar to that I  
22 just asked him did you have any feelings about the  
23 fact that a witness in this case was dead Because I  
24 certainly know some of your concerns before and some  
25 of the feelings and thoughts that you had in terms of

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Dr Donna M Schwartz-Watts - Cross-Exam

1 your defense team and witnesses in this case and  
2 possibly some, for lack of a better term, wrongdoings  
3 on the part of the State

4 Q One further question You are aware that the  
5 defendant does not desire to have you hired or any  
6 representation to him any further in this case?

7 A Absolutely I think you've been very clear  
8 about that

9 Q Thank you No further questions

10 MR MURDAUGH If it please the Court

11 THE COURT Yes, sir

12 CROSS-EXAMINATION

13 BY MR MURDAUGH

14 Q My understanding is that you examined this  
15 man three times?

16 A Yes, sir

17 Q First time he was all right and was able to  
18 represent himself, competent?

19 A Yes I wasn't able to make the determination  
20 at that time until I knew if he had a psychiatric  
21 disorder or not The way I do that is first I look  
22 for mental illness and then I go to the next step

23 Q I don't mean to interrupt you, but in  
24 retrospect you're telling us he was competent on that  
25 day?

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Dr Donna M Schwartz-Watts - Cross-Exam

1 A Yes and no He certainly was better than h  
2 has been in the past, but again I didn't know the  
3 nature of what he believed, how much his paranoia,  
4 whether it was psychotic or functional so I couldn't  
5 really give an opinion But certainly his mental  
6 state was improved compared to the other times I saw  
7 him

8 Q Last time in your opinion he was not  
9 competent?

10 A Correct

11 Q Not competent to do what?

12 A To stand trial

13 Q Okay Not able to aid and assist counsel, if  
14 he has counsel, or to defend himself I assume?

15 A Correct Because my understanding is they're  
16 the same standard

17 Q Yes I think you are absolutely correct

18 Does his appearance in the  
19 courtroom today in any way change your mind? He  
20 didn't -- and what I'm asking you, he didn't want you  
21 to testify and he got up and objected to it, putting  
22 the thing in Doesn't that indicate that he sort of  
23 knew what he's doing?

24 A To a degree absolutely Again, my problem is  
25 not with Mr Alkebulanyahh's behaviors, it's the

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Dr Donna M Schwartz-Watts - Cross-Exam

1 reasoning that he uses to make the decision that he  
2 does It's not the decisions that he makes, but it's  
3 the reasoning behind his decisions that in my opinion  
4 makes him lack the capacity

5 - Q I don't quite understand that, because Lord  
6 knows I've made a bunch of decisions and some of them  
7 come out right in spite of the reason I did it that  
8 doesn't -- is that what you're telling the Court?

9 A Yes, sir

10 Q It's not what he does but why he does what  
11 he does?

12 A Correct Correct, Mr Murdaugh

13 Q Let me ask you this Suppose just a second  
14 that he makes all of the right decisions but for all  
15 the wrong reasons Does that make him incompetent?

16 A In my opinion he continues to lack a capacity  
17 to make reasonable decisions to assist in his  
18 defense

19 Q But, again, I'm saying if he makes all the  
20 right decisions but for all the wrong reasons does  
21 that make him incompetent?

22 A Yes

23 Q Okay

24 THE COURT Let me understand that last  
25 remark Are you saying it's your position

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Dr Donna M Schwartz-Watts - Cross-Exam

1 that just because someone makes a decision  
2 and that decision is incorrect that renders  
3 them incompetent?

4 THE WITNESS Oh, not at all, Your  
5 Honor It's just the opposite of that  
6 You're free to make any decision you want,  
7 It's his reasoning Let me give you very  
8 specifically in this case the concern I have  
9 I have no problem with Mr Alkebulanyahh  
10 wanting to represent himself I have no  
11 problem with Mr Alkebulanyahh wanting to  
12 represent himself because he thinks he can do  
13 a better job than his attorneys I have a  
14 problem with him wanting to represent himself  
15 when he thinks his attorneys are part of the  
16 Masons, they work with Mr Murdaugh, they  
17 collude with Mr Murdaugh to make sure that  
18 he doesn't get a fair trial so that he's  
19 persecuted because of his religious belief  
20 That's the issue that I have

21 THE COURT Hold on a second Go ahead,  
22 I am sorry

23 THE WITNESS Yes, sir So it's just  
24 more the way that he connects his thoughts to  
25 make those decisions I certainly believe

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**VOLUME NINE OF NINE**

STATE OF SOUTH CAROLINA

In The Supreme Court

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APPEAL FROM BEAUFORT COUNTY

Daniel F Pieper Circuit Court Judge

---

THE STATE

RESPONDENT

V

TYREE ALPHONSO ROBERTS  
A/K/A ABDIYYAH BEN ALKEBULANYAHH

APPELLANT

---

RECORD ON APPEAL

---

JOSEPH L SAVITZ III  
Chief Attorney

HENRY DARGAN MCMASTER  
Attorney General

ROBERT M DUDEK  
Assistant Appellate Defender

JOHN W MCINTOSH  
Chief Deputy Attorney General

South Carolina Office of Appellate Defense  
1205 Pendleton Street, Room 306  
Columbia, SC 29201  
(803) 734 1330

DONALD J ZELENKA  
Assistant Deputy Attorney General

Attorneys for Appellant

S CREIGHTON WATERS  
Assistant Attorney General  
Office of the Attorney General  
PO Box 11549  
Columbia, SC 29211  
(803) 734 3727

RANDOLPH MURDAUGH, III  
Solicitor Fourteenth Judicial Circuit  
Post Office Box 546  
Hampton SC 29924  
(803) 943-3580

Attorneys for Respondent

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Dr Donna M Schwartz-Watts - Cross-Exam

1 any defendant would have a right -- his IQ is  
2 more than average he's more than -- he has  
3 the intellectual capacity to represent  
4 himself, but it's because of his beliefs, his  
5 delusional beliefs his unusual beliefs in my  
6 opinion that lead him to make those  
7 decisions

8 So, for example, the way that it  
9 would play out in a court proceeding is that  
10 Mr Alkebulanyahh has plenty of mitigation if  
11 he were to go to the second part of his  
12 trial, but because he refuses to even  
13 entertain the thought that he has a mental  
14 illness he can't even make the capacity  
15 whether to go and explore those areas of  
16 defense for him to present those specific  
17 mitigating factors were to he proceed to a  
18 second trial because he doesn't believe he's  
19 ill

20 THE COURT Well --

21 THE WITNESS So he doesn't have the  
22 capacity to weigh the options that he needs  
23 to be able to represent himself to be able to  
24 assist in his defense

25 THE COURT Let me interrupt you because

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Dr Donna M Schwartz-Watts - Cross-Exam

1 I want to make sure that I understand that  
2 everyone -- the record's clear Is there a  
3 difference between someone who does not want  
4 to proceed down a certain path because he  
5 doesn't trust the decisions that others have  
6 made, yet he's willing to make those  
7 decisions on his own as opposed to a person  
8 who will not do anything at all?

9 THE WITNESS Yes, sir There is a  
10 difference

11 THE COURT All right Now, if  
12 Mr Alkebulanyahh wants to choose the experts  
13 that will come to his benefit, to his defense  
14 either in one phase of the trial or the other  
15 and you are made aware of the fact that he  
16 desires to pursue certain expert testimony,  
17 et cetera, that he has personally made that  
18 selection, how does that affect your opinion?

19 THE WITNESS Oh, he's more than able to  
20 do that specifically Mr Alkebulanyahh told  
21 me of some of the experts he wanted to  
22 present in the guilt phase which I thought  
23 were incredibly brilliant, I thought they  
24 were pertinent, they were well thought of,  
25 but the concern I have is that if you go to

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Dr Donna M Schwartz-Watts - Cross-Exam

1 the area of capacity where he has to weigh  
2 options, weigh defenses that are available to  
3 him specifically in the sentencing phase if  
4 this trial were to proceed to that point,  
5 it's my opinion his mental illness prevents  
6 him from even exploring those options It's  
7 one thing to say, all right, I could explore  
8 this mental illness as part of my defense,  
9 but I don't want to do that because I think  
10 the jury would find me -- you know, that it  
11 would be against my best interests

12 But his thinking is I won't even  
13 consider such a thing because it's not true,  
14 I don't have it, all these doctors are  
15 committing fraud, they're paranoid and  
16 they're against me

17 THE COURT I don't think that that  
18 responded to my question If you were to be  
19 told that he has requested an expert on his  
20 own to evaluate mental capacity or he's  
21 willing to accept the opinion of another  
22 expert, does that change the analysis?

23 THE WITNESS Depends, I guess, what the  
24 other expert said But, no, certainly if he  
25 were to obtain an independent evaluator

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Dr Donna M Schwartz-Watts - Cross-Exam

1 because -- for example, if you're asking  
2 because he doesn't trust me would there be a  
3 problem with him getting another expert? Not  
4 at all, that would be rational, that would be  
5 fine because everyone's going to have  
6 different opinions And if he showed the  
7 capacity -- if he listened to that expert

8 Now if the other expert had a  
9 similar opinion then he just decided that  
10 that other expert was, you know, just  
11 paranoid or colluding, it would depend what  
12 his thought process is But the fact that e  
13 would be willing to consider another expert  
14 or independent evaluator I think that would  
15 certainly be rational

16 THE COURT And how would that affect  
17 your opinion?

18 THE WITNESS Again, it would depend  
19 what their interactions are, what that expert  
20 says, his mental state is and how he relates  
21 to that and how he responds to that

22 So, for example, if another expert  
23 disagreed with me and he decided to go with  
24 that opinion that would be fine But if the  
25 other expert, for example, were to confront

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Dr Donna M Schwartz-Watts - Cross-Exam

1 him as I have and to question him and to  
2 diagnose him with mental illness, his  
3 reaction to that and how he explained that  
4 person's opinion would be more important, the  
5 process of how he goes about deciding whether  
6 that expert's going to be credible or not  
7 would be the issue for the Court

8 And I m sorry, that is -- it's a  
9 very complicated case, Your Honor, it's the  
10 first I've encountered, too, and I'm sorry if  
11 I'm not clear

12 THE COURT Well, the concern I have is  
13 whether or not -- how fine a line are we  
14 walking in your analysis as to whether or not  
15 you think he would not make a good lawyer as  
16 opposed to he would not be a person that  
17 could defend himself in any way? Because you  
18 can be totally competent and make the most  
19 irresponsible, irrational decisions  
20 throughout the course of litigation

21 THE WITNESS Certainly

22 THE COURT The fact that you're making  
23 an irrational decision does not render one  
24 incompetent

25 THE WITNESS Certainly

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Dr Donna M Schwartz-Watts - Cross-Exam

1 THE COURT How are you distinguishing  
2 that?

3 THE WITNESS I don't think it's an  
4 irrational decision I think his reasoning  
5 behind the decision is what makes him not  
6 competent Intellectually I think  
7 Mr Alkebulanyahh has very good ideas about  
8 his case, he has very strong ideas about how  
9 he should be defended But, again, Your  
10 Honor it's the reasoning that he uses to  
11 make those decisions

12 And my understanding of my training  
13 has trained me to believe that to be your own  
14 lawyer the standard is are you competent to  
15 stand trial, it's not a separate standard  
16 So to be competent to stand trial in my  
17 opinion is he does not have a rational  
18 understanding of these proceedings, number  
19 one, and number two, because of his mental  
20 illness he doesn't have a capacity to assist  
21 in his defense

22 Now, he possesses some capacities,  
23 absolutely, but in terms of what the standard  
24 would be for -- in my opinion of competency  
25 to stand trial he lacks those

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Dr Donna M Schwartz-Watts - Cross-Exam

1 THE COURT If he accepts another  
2 doctor s opinion about competency rather than  
3 your opinion, does that render him  
4 incompetent?

5 THE WITNESS No, not at all Not at  
6 all

7 THE COURT Okay

8 THE WITNESS But if he's doing that  
9 because he knows he's ill and this other  
10 doctor doesn't recognize that he's ill and he  
11 wants to appear well and he s denying that he  
12 has a mental illness, that would be of  
13 concern

14 So I guess the best I can do is to  
15 give another example If he were to retain  
16 another expert, say that he hired his own  
17 independent expert other than me and this  
18 other expert thought he was ill and not fit  
19 to stand trial, if he ignored this expert or  
20 decided that this expert was part of the  
21 Masons or part of a conspiracy to prevent him  
22 from representing himself I would have  
23 concerns

24 THE COURT Any other questions?

25 MR THORNTON Your Honor, if I might I

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Dr Donna M Schwartz-Watts - Cross-Exam

1 have just a brief one just to clear this up  
2 in my own mind May I approach?

3 THE COURT Yes

4 MR THORNTON Thank you, Your Honor

5 REDIRECT EXAMINATION

6 BY MR THORNTON

7 Q Doctor, I hope you can forgive me, but I'm  
8 going to try to ask you a question or two about an  
9 example so that I can understand what you're saying  
10 about the decision versus the reasoning behind it

11 A Sure

12 Q Do you consider it a difference, or could  
13 there be a potential competency difference if you had  
14 two people standing on top of a burning barn, one  
15 person jumps off the barn because they know it is  
16 burning and the other one jumps off because they  
17 think they can fly, they're not aware the barn is  
18 burning, even though they both made the same decision  
19 which would appear correct, is it important the  
20 reason behind that decision?

21 A Absolutely That's what part of capacity is

22 Q Is that what your testimony here today is  
23 basically about?

24 A Crystal clear, absolutely, yes

25 Q Thank you very much

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Dr Donna M Schwartz-Watts - Redirect Exam

1 MR THORNTON I have nothing further,  
2 Judge

3 MR MURDAUGH No questions

4 THE COURT You may step down for now  
5 If you'll please remain on standby

6 THE WITNESS Certainly

7 THE COURT Any other witnesses?

8 MR THORNTON I have one other witness  
9 At this time, Your Honor, we would call  
10 Dr Jeffrey McKee, please

11 THE COURT Let me ask the doctor one  
12 more question, ma'am

13 THE WITNESS Yes, sir

14 THE COURT What I meant to ask you also  
15 is because a person mistrusts everyone, let's  
16 just use everyone to make it easier for the  
17 analysis does that make that person  
18 incompetent in your position?

19 THE WITNESS Not at all, Your Honor  
20 It depends why they don't trust somebody  
21 There's nothing wrong with people having  
22 mistrust in general of other people It's  
23 just to me a process when there's a reason  
24 behind it and the reason is you're a group of  
25 Masons colluding against him with law

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Dr Donna M Schwartz-Watts - Redirect Exam

1 enforcement in Beaufort County to make sure  
2 that he receives a death penalty because of  
3 his religious beliefs

4 THE COURT But if that is the root of  
5 his mistrust does that make it paranoia?

6 THE WITNESS Yes That would be called  
7 a paranoid delusion

8 THE COURT All right Is it  
9 unreasonable to be distrusting when the  
10 allegations in the case are that two of those  
11 people in that department were killed?

12 THE WITNESS No I consider that very  
13 reasonable and that's certainly functional

14 THE COURT Well, is that the basis of  
15 why you're rendering your opinion about  
16 paranoia?

17 THE WITNESS No, sir For him to think  
18 that Mr Kelly and that Mr Thornton, they  
19 may or may not have a relationship with Mr  
20 Murdaugh, I don't know that, because they're  
21 certainly all very kind people, but for him  
22 to think they worked together to collude  
23 against him to make sure that he gets the  
24 death penalty to me crosses the line

25 THE COURT All right Thank you

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Dr Jeffrey R McKee - Direct Exam

1 (Whereupon, the witness steps down from the  
2 witness stand )

3 (Dr Jeffrey R McKee, called as a witness,  
4 having first been duly sworn, is examined and  
5 testifies as follows )

6 THE CLERK Please state your full name,  
7 spell your last name for the record, sir

8 THE WITNESS My name is Jeffrey R  
9 McKee, my last name is spelled M-c-K-e-e

10 DIRECT EXAMINATION

11 BY MR THORNTON

12 Q Good morning, Dr McKee

13 A Good morning

14 Q Could you tell us a little bit about your  
15 educational background?

16 A I received my bachelor's degree from Coe  
17 College in Cedar Rapids Iowa in 1965 received a  
18 master's degree in counseling psychology from the  
19 University of Illinois in Champagne, Urbana in 1967,  
20 received a Ph D in counseling psychology from the  
21 University of Missouri at Columbia in 1969 In 1985  
22 I earned the diplomate in forensic psychology of the  
23 American Board of Professional Psychology

24 Q Could you tell us, sir, a little bit about  
25 your employment background?

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Dr Jeffrey R McKee - Direct Exam

1 MR MURDAUGH If Your Honor please, we  
2 would stipulate that he is qualified in the  
3 field that he practices

4 MR THORNTON Forensic psychology, Your  
5 Honor

6 THE COURT All right So qualified as  
7 well as the last witness

8 MR THORNTON Thank you, Your Honor

9 Q I would ask one further question, sir Are  
10 you currently board certified in forensic psychology?

11 A I am

12 Q Doctor, how did you become involved in this  
13 case?

14 A I was retained by Mr Kelly's office on  
15 May 19<sup>th</sup> of 2003

16 Q And, sir what were you retained for, what  
17 was the purpose of your retention?

18 A There were two purposes The first was to  
19 conduct an evaluation of Mr Alkebulanyahh for the  
20 purposes of competency to stand trial, mental state  
21 at the time of the offense and a possible mitigation

22 Q All right, sir

23 A The second task I was assigned was to review  
24 psychological test data from Dr Jeffrey Musick, a  
25 clinical psychologist at the William S Hall

August 1 2003

Dr Jeffrey R McKee - Direct Exam

1 Psychiatric Institute, who had conducted  
2 psychological evaluations of Mr Alkebulanyahh

3 Q All right sir Did you attempt to evaluate  
4 in person or have an interview with  
5 Mr Alkebulanyahh, the defendant in this case?

6 A I did On the 23<sup>rd</sup> of June I traveled to  
7 Beaufort County Detention Center with the intention  
8 of conducting two days of clinical interviews and  
9 psychological testing with Mr Alkebulanyahh

10 Q What was the result, if any, of that  
11 attempted evaluation, sir?

12 A When I went to the detention center I was  
13 greeted by Sergeant Marshall, I informed him of my  
14 purposes for being there Mr -- excuse me, Sergeant  
15 Marshall went to Mr Alkebulanyahh and then returned  
16 And Sergeant Marshall informed me that  
17 Mr Alkebulanyahh did not wish to see me

18 Q How many times have you testified or given a  
19 report in, sir, a death penalty case?

20 A Approximately 30 times

21 Q How many times in those 30 times, sir, has  
22 someone refused to see you, a defendant refused to be  
23 interviewed by you?

24 A In those death penalty cases that's never  
25 happened to me

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Dr Jeffrey R McKee - Direct Exam

1 Q What about in other criminal cases?

2 A Well, I've interviewed hundreds of defendants  
3 in felony cases, probably exceeding 1,200 in the 17  
4 years or so that I've practiced just here in South  
5 Carolina in forensic psychology And the number of  
6 cases that a defendant has refused to see me is less  
7 than 10

8 Q Less than 10?

9 A Less than 10

10 Q Of those roughly 10 or less than 10 people,  
11 sir, are you aware of any problems that they later  
12 were diagnosed with?

13 A A majority of those were subsequently  
14 diagnosed with severe mental illness and treated for  
15 severe mental illness

16 Q All right, sir So to shorten it up would it  
17 be fair to say that of the few people that have  
18 refused to see you the majority of those are later  
19 found to have some type of severe mental illness?

20 A Yes

21 Q As to the second part of what you were  
22 retained for, sir, did you evaluate this test data  
23 that was prepared by Doctors Frierson and Musick?

24 A I did

25 Q Was part of that testing data a portion or a

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Dr Jeffrey R McKee - Direct Exam

1 test called the PAI?

2 A That's correct

3 Q Could you explain, please, what that stands  
4 for and what that test is?

5 A The PAI Personal Assessment Inventory, is a  
6 344 item paper and pencil personality inventory  
7 designed to measure a variety of different  
8 psychiatric symptoms and disorders and specific  
9 behavior disorders as well

10 Q Was there any significant finding in your  
11 opinion on the scores or the results of that test by  
12 the defendant in this case?

13 A Yes, there was On one of the validity  
14 scales called the positive impression scale,  
15 Mr Alkebulanyahh's score on that scale was highly  
16 elevated And scale scores in that range are  
17 generally interpreted as indicating very high  
18 defensiveness or an underreporting of psychiatric  
19 symptoms, emotional distress and disorders

20 Q Would that be like, sir, if somebody went to  
21 the doctor for a broken leg or for some ailment, but  
22 then for whatever reason didn't tell them the truth?

23 A Didn't tell them, yes

24 Q All right, sir So would it make it  
25 difficult then as a psychiatrist or a psychologist to

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Dr Jeffrey R McKee - Direct Exam

1 evaluate and diagnose somebody who is not being  
2 honest?

3 A Yes

4 Q And was it your finding that the scores that  
5 he, the defendant in this case, received on this test  
6 would indicate some possible lack of truthfulness?

7 A Well, not so much lack of truthfulness  
8 because it's not a test that measures lying or  
9 dishonesty It's more the willingness to disclose  
10 certain thoughts and ideas and patterns of  
11 responding And that was exceedingly high not only  
12 for a general population, not only for a clinical  
13 population, but also for a pretrial criminal  
14 defendant population it was an exceedingly high  
15 score, suggesting very high defensiveness and  
16 underreporting of symptoms

17 Q Would scores of this level give you  
18 reservations about the validity of any diagnosis done  
19 associated with these scores?

20 A Yes

21 Q What would be your procedure if you had been  
22 allowed to evaluate him and come up with these  
23 scores?

24 A I would reevaluate, I would continue to  
25 interview the defendant, I would administer

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Dr Jeffrey R McKee - Direct Exam

1 additional inventories as well

2 Q Would it be fair to say, Doctor that these  
3 PAI scores would cause you concern, as a forensic  
4 psychologist would they cause you concern as to the  
5 validity of the rest of the test results?

6 A Yes

7 Q Doctor, did you attempt to see the defendant  
8 this morning?

9 A I did

10 Q And why would you do that, sir?

11 A To be able to assess his present competency  
12 and his present mental state

13 Q Is it a fair statement to say, sir, that just  
14 because somebody is competent at one point does not  
15 necessarily mean that that has not changed in the  
16 course of a few weeks or a few months?

17 A That is a fair statement

18 Q All right, sir

19 MR THORNTON Your Honor, if I may have  
20 a moment, sir, to confer with both the  
21 defendant and co-counsel

22 Thank you sir Your Honor, I  
23 don't believe I have any further questions at  
24 this time The defendant in this case has  
25 indicated whenever the Court is ready to hear

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Dr Jeffrey R McKee - Direct Exam

1 him that he does have a few questions

2 Thank you, Doctor

3 THE COURT Go ahead, sir

4 Mr Alkebulanyahh, you may ask your  
5 questions

6 MR ALKEBULANYAHH May I approach, Your  
7 Honor?

8 THE COURT Yes, sir

9 CROSS-EXAMINATION

10 BY MR ALKEBULANYAHH

11 Q Good morning, Dr McKee

12 A Good morning

13 Q If the defendant refused to see you, is that  
14 an indication of a psychological problem?

15 A Not necessarily

16 Q If a defendant distrusts strangers, is that  
17 an indication of psychological problems?

18 A Not necessarily

19 Q Mr McKee, you have never met the defendant  
20 himself personally, have you?

21 A This is the first time we've communicated,  
22 yes, sir

23 Q From your reviewing of reports, does it  
24 indicate -- did you come to any conclusion to where  
25 that it would indicate that the defendant was

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Dr Jeffrey R McKee - Cross-Exam

1 illiterate or does not have the ability to read or  
2 write or to comprehend or to understand?

3 A Based on my review of the testing that was  
4 done by Dr Musick the defendant has average  
5 intelligence, there are no indications of  
6 neuropsychological deficits in terms of the testing,  
7 no indications of malingering as well

8 And on the personality assessment  
9 inventory there was sufficient evidence to indicate  
10 that the person, the defendant, could read and write  
11 at least sufficiently for that instrument

12 Q Thank you Dr McKee That would be all

13 MR ALKEBULANYAHH Thank you, Your  
14 Honor

15 MR MURDAUGH If it please the Court

16 THE COURT Yes, sir

17 CROSS-EXAMINATION

18 BY MR MURDAUGH

19 Q Doctor, do you have an opinion to a  
20 reasonable degree of medical certainty as to whether  
21 or not he is capable of assisting in his own defense  
22 or representing himself?

23 A I do not

24 Q Okay, sir So I understand your testimony is  
25 that because of the PSI?

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Dr Jeffrey R McKee - Cross-Exam

1 A PAI, sir

2 Q PAI I'm scared to get around y all, y'all  
3 might keep me Doctor, because of the answers to a  
4 portion of that you are saying that the opinion of  
5 Dr Frierson and Dr Musick are not correct?

6 A No, I'm not saying that

7 Q I misunderstood you, sir

8 A I'm just saying the elevation on that  
9 particular scale, positive impression scale, was so  
10 high reflecting very high levels of defensiveness  
11 and underreporting of symptoms that it raises  
12 questions raises doubts about his mental state

13 Q And what would you do about it, sir?

14 A As I indicated I would interview the  
15 defendant, administer additional tests

16 Q What additional tests?

17 A Minnesota Multiphasic Personal Inventory  
18 Second Edition is a primary test that I would  
19 administer

20 Q Anything else?

21 A Well, in terms of issues of competency to  
22 stand trial I would want to administer the McCarter  
23 Assessment Tool Criminal Adjudication I would want  
24 to assess for the possibility of malingering of  
25 symptoms through the structured interview of reported

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Dr Jeffrey R McKee - Cross-Exam

1 symptoms

2 Q Interview with the defendant?

3 A Yes

4 Q But you know he ain't going to talk with you  
5 sir

6 A Well, you're asking what I would do under  
7 these kinds of conditions and --

8 Q Not what you would want to, but what you  
9 would do, sir

10 A Certainly What I would do is interview the  
11 patient and administer these additional tests

12 Q Thank you, sir

13 THE COURT Anything else?

14 MR THORNTON Nothing further, Your  
15 Honor

16 THE COURT You may step down, Doctor  
17 Thank you

18 (Whereupon, the witness steps down from the  
19 witness stand )

20 THE COURT Anything else from the  
21 defense?

22 MR THORNTON Your Honor, at this time  
23 the defense would rest unless the defendant  
24 himself has anything further, sir

25 THE COURT Anything further,

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Dr Richard L Frierson - Direct Exam

1 Mr Alkebulanyahh on this issue?

2 MR THORNTON Nothing else on this  
3 issue, Your Honor Thank you, sir

4 THE COURT Anything from the State?

5 MR MURDAUGH Yes sir The State  
6 would call Richard L Frierson

7 (Dr Richard L Frierson, called as a  
8 witness, having first been duly affirmed, is  
9 examined and testifies as follows )

10 THE CLERK Please state your full name  
11 and spell your last name

12 THE WITNESS My name is Richard  
13 Frierson, F-r-i-e-r-s-o-n

14 DIRECT EXAMINATION

15 BY MR MURDAUGH

16 Q Doctor, where did you go to undergraduate  
17 school?

18 A I obtained a bachelor of music degree from  
19 the University of South Carolina in 1984

20 Q Subsequent to that where did you go?

21 A Went to medical school at the University of  
22 South Carolina Medicine where I completed my M D in  
23 1988, then a four-year residency in general  
24 psychiatry at the University of South Carolina which  
25 was completed in 1992, a one-year fellowship in

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Dr Richard L Frierson - Direct Exam

1 forensic psychiatry which was completed in 1993

2 MR THORNTON We would stipulate he's  
3 an expert for the purpose that Solicitor  
4 Murdaugh is having him testify

5 THE COURT You would seek to have him  
6 qualified as an expert in psychiatry Okay  
7 The Court finds him so qualified without  
8 objection Go ahead

9 Q Doctor, by whom are you now employed?

10 A I'm employed by the South Carolina Department  
11 of Mental Health

12 Q Okay, sir And in what capacity are you  
13 employed by them?

14 A I'm employed as a director of forensic  
15 psychiatry education, I train general psychiatrists  
16 to become forensic psychiatrists I also perform  
17 competency and criminal responsibility evaluations on  
18 defendants throughout the state of South Carolina

19 Q Okay, sir Pursuant to an order of the Court  
20 of the Fourteenth Judicial Circuit, did you have an  
21 occasion to examine this defendant?

22 A Yes, I did

23 Q Okay, sir And was that on December the 4<sup>th</sup>,  
24 5<sup>th</sup>, and 6<sup>th</sup> of '02, and again on February the 26<sup>th</sup>  
25 of 2003?

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Dr Richard L Frierson - Direct Exam

1 A Yes

2 Q Okay, sir Did you, based upon that  
3 evaluation and your interviews with him and other  
4 things, determine whether or not he was competent to  
5 stand trial --

6 A Yes

7 Q -- at that time?

8 A Yes

9 Q Okay, sir And what was that opinion?

10 A It was my opinion on all of my interviews  
11 with him that he has a factual understanding of the  
12 legal system, a rational understanding of court  
13 process and the capacity to assist an attorney in e  
14 preparation of a defense if he chooses to do so

15 Q Yes sir Doctor, did you further make an  
16 evaluation on him to determine whether or not he  
17 understood the difference between moral and legal  
18 right and wrong at the time of the commission of  
19 these deaths?

20 A Yes

21 Q And what was that opinion?

22 A It is my opinion that he would have had the  
23 ability to distinguish legal and moral right from  
24 legal and moral wrong and to recognize the acts  
25 charged as legally or morally wrong on the date of

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Dr Richard L Frierson - Direct Exam

1 the alleged offense which was January 8<sup>th</sup> of 2002

2 Q Okay, sir You said that he would have Is  
3 that the same as he did have?

4 A Assuming he committed the acts yes

5 Q - Okay, sir Did you determine whether or not  
6 he was suffering from a mental illness?

7 A Yes, I did

8 Q And what was that opinion, sir?

9 A It is my opinion that Mr Alkebulanyahh  
10 suffers from a personality disorder with narcissistic  
11 and antisocial traits

12 Q Okay Sir, is that a mental illness?

13 A That is not considered a major mental  
14 illness, no

15 Q Would that prevent him from conforming his  
16 actions to the law?

17 A No

18 Q Okay, sir Doctor, you heard Dr McKee  
19 testify regarding --

20 A The PAI

21 Q -- the PAI Did you see those figures he was  
22 talking about?

23 A Yes

24 Q Did it give you any concern?

25 A No It was actually what we had expected

August 1 2003

Dr Richard L Frierson - Direct Exam

1 given our impression, as well that Mr Alkebulanya,  
2 tries to present himself in the best light possible

3 Q Okay When you interviewed him on four  
4 separate occasions

5 A Yes

6 Q Did he cooperate with you?

7 A Yes

8 Q Did you have any problems talking with him?

9 A No

10 Q Thank you, sir

11 MR THORNTON Thank you, Your Honor,  
12 may it please the Court

13 CROSS-EXAMINATION

14 BY MR THORNTON

15 Q Doctor, could you tell us briefly again what  
16 the PAI indicates or what the score indicates or  
17 what it's used for?

18 A I am not a psychologist, but my understanding  
19 as a psychiatrist who consults with psychologists or  
20 has them consult with me, it is called a Personal  
21 Assessment Inventory And it is a paper and pencil  
22 test that they take that may reveal response patterns  
23 that are consistent with people with certain mental  
24 disorders

25 Q I understand And you said earlier that the

August 1 2003

Dr Richard L Frierson - Cross-Exam

1 scores on that were what you expected?

2 A Well, the particular Positive Impression  
3 Scale

4 Q Yes sir

5 A Did not surprise us

6 Q And what does that show specifically?

7 A That -- well, I feel like we're getting out  
8 of my area of expertise

9 Q I understand, sir

10 A But Dr Musick could speak to that better  
11 than I It's my understanding that it just indicates  
12 to what extent the person tried to not admit to  
13 problems, present themselves as not mentally ill

14 Q I understand So basically leaves things out  
15 or omit things?

16 A Or endorse the items in a way to deny  
17 symptoms

18 Q And is it important, in your opinion, when  
19 somebody is being evaluated by you as to if they're  
20 trying to portray themselves in a certain way or  
21 positive light?

22 A Well, I certainly felt that he was doing that  
23 throughout the evaluation

24 Q And, again, would that be an important  
25 consideration if you're evaluating somebody?

August 1 2003

Dr Richard L Frierson - Cross-Exam

1 A It's something that I considered, yes It s  
2 important

3 Q And but the scores as have been indicated  
4 gave you no concern at all?

5 A No Not in the opinion related to competency  
6 or to my diagnostic opinion

7 Q I understand, sir I've heard what your  
8 diagnoses were Were there any indications as far as  
9 you were concerned of any paranoia?

10 A Yes I would say that Mr Alkebulanyahh was  
11 paranoid about his legal situation and the situation  
12 he finds himself in

13 Q Were there any specific references that would  
14 have given you any pause as far as that paranoia? In  
15 other words, was it just about his legal team, was it  
16 about the legal system in general?

17 A Yes After we saw him in December we were  
18 given the videotape of Dr Schwartz-Watts' second  
19 interview with him , And in that videotape there was  
20 information concerning the Masons that had come up in  
21 her discussions with him Out of an abundance of  
22 caution and because of that information we decided we  
23 wanted to go speak to Mr Alkebulanyahh about that  
24 And subsequently we scheduled an interview with him  
25 at the Beaufort County Detention Center on

August 1 2003

Dr Richard L Frierson - Cross-Exam

1 February 26 of 2003

2 In discussing in detail his  
3 thoughts about the Masons, about the court system, it  
4 is our opinion that his thinking is not delusional,  
5 but rather an ideology and an ideology that is shared  
6 by lots of people regarding the Masons We had  
7 downloaded information from the internet about books  
8 that have been written by Free Masonry, the Masons  
9 and secret societies of the Masons Actually showed  
10 him some of that and he acknowledged that he had read  
11 some of those books

12 Q Yes, sir

13 A And his beliefs are similar to what other  
14 people also believe about these organizations and I  
15 did not find that that was evidence of a delusion or  
16 mental illness

17 Q All right, sir

18 A But rather a cultural and personal belief  
19 that he has

20 Q So are you saying then that because several  
21 people believe in something that it's not delusional?

22 A If a whole part of our society believes in  
23 it, yes, I'm saying that that would not qualify as an  
24 actual delusion

25 Q All right, sir So if say 10 percent of our

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Dr Richard L Frierson - Cross-Exam

1 population, of the population in the United States  
2 all believe that the moon was made of green cheese  
3 that would not be a delusion because that many people  
4 believe in it?

5 A It doesn't mean it's true

6 Q Right

7 A It's a false belief But a delusion is  
8 something that is caused by mental illness

9 Q I understand So there can't be more than  
10 one or two people that have mental illness?

11 A I don't think all the 10 percent of the  
12 population who would believe the moon is made out of  
13 green cheese necessarily would have to have  
14 schizophrenia or psychotic mental illness

15 Q I understand So basically you discussed  
16 with him these feelings on the Masons and other  
17 things And it is your opinion that because those  
18 opinions are shared by others that that means it's  
19 not delusional?

20 A That is correct That in his case what he  
21 believes does not go beyond what many people believe  
22 about the Masons

23 Q About how many, Doctor, how many of these,  
24 and I understand working for the State that you do a  
25 lot of these, how many of these evaluations say it

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Dr Richard L Frierson - Cross-Exam

1 death penalty cases do you do in any one year,  
2 average?

3 A It's really hard for me to know that because  
4 frequently when I see a person the decision on  
5 whether or not to seek the death penalty has not been  
6 made

7 Q All right, sir How about in criminal cases  
8 in general, how many do you do in a year?

9 A Last year I did around 120

10 Q 120 Of those 120 how many did you find not  
11 competent?

12 A I think it's somewhere along 15 percent,  
13 20 percent

14 Q All right sir Thank you very much

15 MR THORNTON Your Honor, may I have  
16 one moment, please, sir, of the Court's  
17 indulgence?

18 THE COURT Yes, sir

19 Q I did not hear, Doctor, bipolar mentioned in  
20 your diagnosis Is there a reason why, you can tell  
21 us if you can, that you don't feel he's suffering  
22 from bipolar, is it no symptoms, or if you would just  
23 elaborate, sir

24 A Yes I did not in my interview with him or  
25 in discussions that our social worker had with his

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Dr Richard L Frierson - Cross-Exam

1 family find sufficient evidence that he ever had a  
2 major depressive episode or a manic episode

3 Now, in reviewing

4 Dr Schwartz-Watts' report I think that we see some  
5 of the same things, but we view them quite  
6 differently The voluminous speech is a  
7 characteristic also of narcissism, that people tend  
8 to discuss their own concerns in very inappropriate  
9 and lengthy detail, people who have narcissistic  
10 personality traits His certainly wanting to  
11 represent himself I believe is also an expression of  
12 his narcissism that he may overestimate his  
13 abilities

14 However, he certainly told me that  
15 he was willing to accept a different attorney He  
16 actually liked Mr Hood who I believe was first  
17 appointed to represent him and told me that he felt  
18 Mr Hood could have done an adequate job representing  
19 him

20 We discussed at length about that  
21 particular issue related to why he wanted to  
22 represent himself I threw out a hypothetical, what  
23 if Alan Dershowitz was available to represent you,  
24 could you accept him and work with him? And he said  
25 certainly he could do that

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Dr Richard L Frierson - Cross-Exam

1 Q All right sir Would it make any difference  
2 to you specifically with your reference now to  
3 Mr Hood, if you knew that he made the motion  
4 originally to have Mr Hood removed and was expressed  
5 in court on several occasions that he was very  
6 dissatisfied with him, does that enter into your  
7 evaluation at all that he is saying one thing at one  
8 time and then reversing himself?

9 A Yes, sir It does

10 THE COURT I'll let you ask the  
11 question, sir when you get the chance

12 MR THORNTON Your Honor, I don't have  
13 anything further, but I believe the defendant  
14 in this case does wish to address --

15 THE COURT Yes, sir

16 MR ALKEBULANYAHH Your Honor, I want  
17 to address you very quickly

18 THE COURT About this testimony?

19 MR ALKEBULANYAHH Yes A statement  
20 that was made just previously

21 THE COURT Well, you can try to clarify  
22 that with the witness by asking him another  
23 question

24 MR ALKEBULANYAHH I don't think the  
25 witness would have any knowledge of it

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Dr Richard L Frierson - Cross-Exam

1 THE COURT You can phrase it, well  
2 this were the case, would your opinion  
3 change

4 MR MURDAUGH If Your Honor please, I  
5 think what the defendant is making reference  
6 to is the statement was made that he moved to  
7 remove Gene Hood The facts as I recall them  
8 is that Mr Hood moved to be relieved because  
9 it was in conflict, sir

10 THE COURT I understand That s what  
11 you wanted to tell me?

12 MR ALKEBULANYAHH Yes, sir

13 MR THORNTON My apologies to the Court  
14 if I misrepresented that

15 THE COURT All right Go ahead

16 CROSS-EXAMINATION

17 BY MR ALKEBULANYAHH

18 Q Good morning, Doctor

19 A Good morning

20 Q At any time did the defendant state he is  
21 responsible for anyone's death, or the cause of the  
22 death of another in any of the interviews with you at  
23 any time?

24 A No

25 Q That would be all Thank you

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Dr Richard L Frierson - Cross-Exam

1 MR MURDAUGH No further questions

2 THE COURT All right You may step

3 down, sir

4 (Whereupon, the witness steps down from the

5 witness stand )

6 MR MURDAUGH Call Dr Musick

7 (Dr Jeffrey E Musick, called as a witness,

8 having first been duly sworn, is examined and

9 testifies as follows )

10 THE CLERK Would you please state your

11 full name, spell your last name for the

12 record

13 THE WITNESS My name is Jeffrey Earl

14 Musick, M-u-s-i-c-k

15 DIRECT EXAMINATION

16 BY MR MURDAUGH

17 Q Sir, where did you receive your undergraduate  
18 schooling?

19 A I graduated from Miami University

20 MR THORNTON I didn't want to

21 interrupt the Judge, we would stipulate to

22 Dr Musick's qualifications, would stipulate

23 he's an expert for whatever purpose that

24 Mr Murdaugh is qualifying him for, sir

25 MR MURDAUGH Psychologist

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Dr Jeffrey E Musick - Direct Exam

1 THE COURT Psychologist, all right  
2 MR MURDAUGH Forensic psychology  
3 THE COURT Court finds him to be so  
4 qualified without objection of counsel is  
5 that correct?

6 MR THORNTON Without objection, Your  
7 Honor

8 BY MR MURDAUGH

9 Q Is that correct, Doctor?

10 A Yes, sir

11 Q Doctor, did you have an occasion to examine  
12 the defendant on -- at sometime during December  
13 and -- of 1902 {sic}?

14 A Yes In December of 2002 I examined him on  
15 three occasions, December 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup>, I  
16 believe were the dates And then again in February  
17 of 2003, I believe it was the 26<sup>th</sup>

18 Q Okay, sir

19 THE COURT Can I stop you for a second?  
20 I probably should have done this a minute  
21 ago, but I haven't given the court reporter a  
22 break or anything Do you mind if we go  
23 ahead and take a short break? We've been in  
24 here since nine o'clock

25 Madam court reporter, you may take

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Dr Jeffrey E Musick - Direct Exam

1 a break

2 Sir, you may step down momentarily  
3 Do not discuss your testimony with anybody,  
4 thank you

5 (Recess, from 11 30 to 11 45 a m )

6 THE COURT Thank you Please be  
7 seated All right Go ahead You may  
8 proceed, sir

9 BY MR MURDAUGH

10 Q Doctor, I believe you testified prior to the  
11 break that you talked with the defendant on the 4<sup>th</sup>  
12 5<sup>th</sup>, 6<sup>th</sup> and 26<sup>th</sup>?

13 A That's correct

14 Q Fourth, 5<sup>th</sup> and 6<sup>th</sup> of 2002?

15 A Right, December

16 Q Of December of 2002 and February the 26<sup>th</sup>  
17 '03?

18 A Yes, sir

19 Q Okay Did you administer any tests to him?

20 A Yes On December 5<sup>th</sup> and December 6<sup>th</sup>, over  
21 those two days I administered a total of four  
22 psychological tests to Mr Alkebulanyahh

23 Q Okay, sir And did you interview him on each  
24 of these dates or were you involved in the  
25 interview?

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Dr Jeffrey E Musick - Direct Exam

1 A Yes Dr Frierson and I interviewed him o  
2 the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> as well

3 Q Doctor, have you formed a medical opinion to  
4 a reasonable degree of medical certainty as to  
5 whether or not he is capable of representing himself  
6 or aiding and assisting counsel at a trial?

7 A Yes I have formed an opinion on those  
8 matters

9 Q And what is that opinion?

10 A My opinion is that he is competent to do so

11 Q Okay Now, Doctor, did you have an occasion  
12 to discuss with the defendant certain aspects of the  
13 court system and the government in general?

14 A Yes, I did

15 Q And what did you do, sir, not specifically  
16 the questions, but generally what did you do in  
17 discussing that with him?

18 A Well, we wanted to determine if  
19 Mr Alkebulanyahh had a rational and factual  
20 understanding of the proceedings against him And in  
21 that contact we asked him questions about how court  
22 works, about the roles of the people involved in the  
23 legal process, about appropriate behavior in the  
24 courtroom, about what he was charged with, about what  
25 possible penalties were, those sorts of questions

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Dr Jeffrey E Musick - Direct Exam

1 Q Okay, sir And how did he answer those?

2 A Well, he tended to answer them correctly I  
3 don't specifically recall at this point that there  
4 were any major errors in his understanding of the  
5 proceeding as against him

6 Q Okay, sir Did he understand -- did you  
7 discuss the Constitution with him?

8 A Yes, we did He brought up something about  
9 various amendments to the Constitution and seemed to  
10 understand what the amendments dealt with

11 Q Okay, sir Did you administer a PAI?

12 A Yes A psychological test called the  
13 Personal Assessment Inventory

14 Q Okay Did you believe that some portion of  
15 it the answers were elevated?

16 A Yes One scale in particular that's been  
17 talked about here today is called the Positive  
18 Impression Management Scale, and that was indeed  
19 elevated This suggests that Mr Alkebulanyahh was  
20 unwilling to disclose minor shortcomings that most  
21 people will admit to That's with the positive  
22 impression management

23 Q Did that have any impact on whether or not he  
24 was capable of representing himself or not, or your  
25 opinion as to whether or not he was?

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Dr Jeffrey E Musick - Direct Exam

1 A We -- based on the interview data we were not  
2 surprised to find that that scale was elevated as he  
3 was consistently trying to present himself in a very  
4 favorable way

5 Q Thank you, sir Answer any questions these  
6 gentlemen may have

7 MR THORNTON May I approach, Your  
8 Honor?

9 THE COURT Yes, sir

10 CROSS-EXAMINATION

11 BY MR THORNTON

12 Q Doctor, if someone is trying to present  
13 themselves in a certain way that may not be the  
14 truth, does that make it more difficult to evaluate  
15 them?

16 A Yes, I would say it did

17 Q In this case after your evaluation, your  
18 diagnosis of the defendant in this case, would it be  
19 fair to say that you believe that he was attempting  
20 to portray himself in a very positive light?

21 A Yes

22 Q Would it be fair to say that due to the PAI,  
23 forgive me if I've misdone a letter, but PAI results  
24 I believe it was a 73 on the test, does that indicate  
25 anything in particular to you, a score of a 73?

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Dr Jeffrey E Musick - Cross-Exam

1 A Yeah It indicates that he was unwilling to  
2 admit to common shortcomings that most people will  
3 admit to That's the nature of that scale that  
4 you're referring to

5 Q All right, sir Thank you Does that affect  
6 your evaluation?

7 A Yeah We definitely take that into  
8 consideration

9 Q Can you tell me, sir, what the PAI manual is,  
10 if there is such a thing?

11 A Yeah It's a book that explains the scales  
12 of the test, explains its psychometric properties,  
13 provides interpretative information It's  
14 essentially a book that sort of helps to explain how  
15 the test works

16 Q Do you know whether or not then that this  
17 following statement would be correct according to the  
18 PAI manual, that with reference to a score of 73,  
19 that when scores in this range are obtained the  
20 validity of the PAI clinical scale profile is  
21 seriously questioned and no clinical interpretation  
22 of other PAI scales is recommended?

23 A Yeah That's a statement that's in the  
24 manual

25 Q All right, sir Does that have any relevance

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Dr Jeffrey E Musick - Cross-Exam

1 here? I mean, was there -- was the score of him  
2 73, was it in the range that this is discussing?

3 A Yes, it is

4 Q What does that mean when it says that no  
5 other clinical interpretation should be made?

6 A That means that you -- it says it's not  
7 recommended

8 Q All right, sir

9 A And what that means is that the respondent  
10 answered the items in such a way as to attempt to  
11 appear, present himself more favorably than is likely  
12 warranted so that the scales themselves would likely  
13 underestimate any psychopathology that was there, y  
14 mental health problems that were there if any were  
15 there

16 Q I understand, sir And what did you do or  
17 what did you change, if anything, in your  
18 evaluations, or your diagnoses, or your looking at  
19 this data in response to that?

20 A Well, we certainly -- an elevation of that  
21 scale doesn't mean that there is a serious mental  
22 disorder present It only means that the person was  
23 unwilling to disclose or admit to common shortcomings  
24 that most people will admit to

25 Q Yes, sir

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Dr Jeffrey F Musick - Cross-Exam

1 A But it raises the possibility that he may not  
2 be admitting to other things as well With that in  
3 mind, we spent a lot of time in our interviews asking  
4 him about possible symptoms and so forth And so  
5 that was how we addressed the concern that there  
6 might be something more there, in the interviews

7 Q All right Let me ask you this just so I can  
8 get this straight in my own mind The PIM, I think  
9 what this high score is saying is he may be trying to  
10 maybe not hide, but not admit to certain symptoms?

11 A Well, he's not -- the scale isn't really  
12 comprised of psychiatric symptoms, it's comprised to  
13 common faults that most people will admit to Let me  
14 give you an example of an item that's not from the  
15 test, but it might be similar to some on the test

16 Q Okay

17 A An item like having to wait in line annoys  
18 me, okay Now, most of us probably admit to that to  
19 some degree, but in people who elevate that scale as  
20 Mr Alkebulanyahh did they're unwilling to admit to  
21 common faults and shortcomings like that

22 Q I understand

23 A So the logic is if they're not willing to  
24 even admit to that, maybe they're not willing to  
25 admit to more serious problems is all And at that

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Dr Jeffrey E Musick - Cross-Exam

1 point you need to investigate if there might be any  
2 more going on in terms of mental health problems

3 Q All right, sir And let me just ask you  
4 this, and, again, I apologize for going back over  
5 this So is what you're saying then is this reflects  
6 that he may not be forthcoming about minor faults?

7 A That's the scale in particular, yes

8 Q All right, sir So the response to that is  
9 to ask him about major faults?

10 A Right The inference is that maybe he's not  
11 admitting to major problems as well, so you want to,  
12 you know, make sure those things are covered But I  
13 can tell you that we do that in all our evaluation  
14 anyway I mean, we don't, you know, want things to  
15 fall through the cracks so to speak

16 Q All right, sir There's something -- and,  
17 again, you're certainly the expert on this and maybe  
18 I'm just not understanding, but if they are not going  
19 to admit to the minor faults, then why would they  
20 admit to the major faults? I'm not understanding,  
21 you know, why you would remedy or attempt to further  
22 investigate if you think that they're not going to  
23 admit to minor things, what makes you think that just  
24 asking them they're going to admit to the major ones?

25 A Well, we use other sources of information as

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Dr Jeffrey E Musick - Cross-Exam

1 well, mental health histories information from  
2 families, information from records

3 Q Yes, sir

4 A You know, we were aware that he wasn't -- you  
5 know, was trying to present himself in a favorable  
6 way and we do whatever we can to see if there's more  
7 there

8 Q All right, sir You've heard the discussions  
9 with some of the other doctors about the Masons and  
10 paranoia and things like that Did you feel that  
11 there were symptoms of paranoia of the defendant in  
12 this case?

13 A The Mason symptoms or just --

14 Q I'm sorry, sir, I'll be more specific With  
15 reference to the Masons and what Dr Frierson had  
16 said earlier about delusion, is someone's belief  
17 and -- you know, if they believe that the Masons are  
18 in control of a lot of things, there's a lot of  
19 people apparently from what Dr Frierson said that  
20 believe that, do you consider that a delusion?

21 A We didn't consider that a delusion in  
22 Mr Alkebulanyahh's case

23 Q All right, sir In any of the research you  
24 did, in any of the books that you may have looked at  
25 or internet resources, did any of hem say that Sean

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Dr Jeffrey E Musick - Cross-Exam

1 Thornton Gerald Kelly, and Randolph Murdaugh were  
2 the Masons and that they were attempting to make sure  
3 the defendant got the death penalty?

4 A I didn't notice anything like that

5 Q All right, sir Does that play into what  
6 your thinking would be as far as whether something is  
7 delusional or not?

8 A When we were discussing this with  
9 Mr Alkebulanyahh in the end he said he didn't know  
10 if what ne had read and learned about the Masons was  
11 true or not By definition then it would not be a  
12 delusion if it was open to question like that  
13 That's why we concluded that his beliefs about the  
14 Masons were not delusional

15 Q All right, sir So then it's basically --  
16 your opinion is that it's not delusional because  
17 there was still a question in his mind as to whether  
18 it was true or not?

19 A That's exactly right, sir

20 Q So it doesn't matter how many people believe  
21 something, that's really got nothing to do with  
22 whether it's delusional or not?

23 A That does have something to do with it Part  
24 of the definition of a delusion is that it's not a  
25 culturally or subculturally held belief If a

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Dr Jeffrey E Musick - Cross-Exam

1 substantial portion of the culture believes  
2 something by definition it won't be delusional

3 Q What would be considered a substantial  
4 portion?

5 A Well, that's a good question and I don't -- I  
6 don't know that there's a definitive answer to that,  
7 But in that we were able to find information about  
8 this on the internet and the books and so forth it  
9 was our opinion that that represented a significant  
10 or substantial portion of the culture

11 Q I understand, sir Would it matter to you  
12 whether or not the statements had been made by the  
13 defendant previously regarding as you heard about Dr  
14 Watts testify to, that, you know, I, myself, or the  
15 solicitor, or other individuals with respect to his  
16 own life were in the Masons, does that make a  
17 difference would that might not make it delusional?

18 A I'm sorry, I didn't quite follow the  
19 question

20 Q I'm sorry, sir, let me rephrase

21 You said that the fact that he  
22 believes in the Masons and that they have somewhat  
23 control over the system is not a delusion because,  
24 one, there's a question in his mind and two, because  
25 other people hold that same belief?

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Dr Jeffrey E Musick - Cross-Exam

1 A Right

2 Q My question is when you take those abstract  
3 concepts and apply them to your own life in that I  
4 have direct contact with the defendant, Mr Kelly has  
5 direct contact with the defendant, Mr Murdaugh has  
6 direct contact with the defendant, when you take  
7 these abstract concepts about the Masons and apply  
8 them in an irrational way to your own life, is that  
9 not delusional?

10 A It could be but I don't believe that is  
11 what's happened with Mr Alkebulanyahh

12 Q I understand, sir

13 A Okay

14 Q But I'm saying if that were the case?

15 A That could be yes

16 MR THORNTON Your Honor, if I could  
17 have a moment, please

18 THE COURT Yes, sir

19 (Pause in proceedings )

20 MR THORNTON Your Honor, I have  
21 nothing further I've been informed the  
22 defendant does wish to question the witness

23 Thank you, Doctor

24 THE COURT Yes, sir You may approach

25

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CROSS-EXAMINATION

1  
2  
3  
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BY MR ALKEBULANYAHH

Q Hi, Doctor

A Good morning Mr Alkebulanyahh

Q I want to ask you did any of your tests that you've given to the defendant indicate that he had a mental health or retardation?

A No None of them indicated he was retarded I don't what you mean by mental health

Q To the extent that his understanding to perceive or understand, to socially adapt with individuals and other groups, you know, sociological type atmosphere as far as not being in hostility, I suppose when it comes to mean it was a group setting that there's an indication that he would be way out of bounds or very extreme in his action or conduct as far as getting along with a group or anything to that extent?

A Could you narrow it down to one question, please, Mr Alkebulanyahh?

Q Okay In any of your tests did it indicate that the defendant had, has a state of mind to where that he could not function in a normal society, in a normal environment in this type of culture, in this type of society that we live in?

Dr Jeffrey E Musick - Cross-Exam

1 A Well, I don't think the tests I gave directly  
2 addressed that question, but inferences I would draw  
3 from the testing would be that there was some  
4 evidence that you had some suspiciousness and  
5 distrustfulness that could affect how you relate to  
6 people

7 Q Would this suspiciousness and distrustfulness  
8 indicate that one is abnormal, if a person were to  
9 have suspiciousness and distrustfulness towards other  
10 people?

11 A Not necessarily, no

12 Q Did it appear when you interviewed the  
13 defendant that he did not know civil or his  
14 constitutional rights as far as his rights as a  
15 citizen?

16 A No It seemed as if you did you were well  
17 aware of your rights

18 Q Is it natural for a person to try to portray  
19 themselves in a positive way?

20 A I think it happens fairly commonly, yes

21 Q So if Mr Alkebulanyahh tried to portray  
22 himself in a positive way, that would be a normal  
23 reaction that anyone would have, any individual would  
24 have?

25 A It could be, yes

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Dr Jeffrey E Musick - Cross-Exam

1 Q I mean, you know, in reference to like let's  
2 say if he was doing a job application or something  
3 like that, you would want to portray yourself in the  
4 best and most positive light?

5 A That would certainly be a situation where I'd  
6 want to do that, yes

7 Q Would you say that's an indication that you  
8 are also trying to hide your worst qualities and so  
9 forth, because you want to portray yourself in a  
10 positive light?

11 A Not necessarily

12 Q Would you say that if one person is able to  
13 exemplify himself with patience and tolerance about a  
14 certain situation as you gave the scenario a minute  
15 ago, a common -- common annoyances, common things  
16 that annoy you where some are able to, you know  
17 tolerate and patience with others, would that be an  
18 indication that someone is hiding something because  
19 he is more tolerant and patient with matters? Like  
20 driving a car and someone was behind you and you was  
21 driving so slow and you become so annoyed and some  
22 don't become annoyed Because one say I don't become  
23 annoyed would that indicate that that person is  
24 hiding something because of a common annoyance?

25 A Not necessarily, no

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Dr Jeffrey E Musick - Cross-Exam

1 Q Would you say that one would be delusional o  
2 any extent if he said, well, I believe that the Ku  
3 Klux Klan exists?

4 A I wouldn't classify that as a delusion, no

5 Q Would it be classified if one said he  
6 believed the Free Masonry exists?

7 A No I wouldn't classify that as a delusion  
8 either

9 Q Would it be delusional for anyone to  
10 preconceive that he have enemies?

11 A No I wouldn't consider that on its face to  
12 be delusional

13 Q Thank you, Doctor

14 MR MURDAUGH May Dr Musick and  
15 Dr Frierson be excused? We will have no  
16 further testimony in this issue, if Your  
17 Honor please

18 THE COURT Any objection?

19 MR THORNTON Without objection, Your  
20 Honor

21 THE COURT All right You're excused

22 MR THORNTON I'm sorry, Your Honor, by  
23 the same token can the defense witnesses,  
24 Dr Watts, Dr McKee, if they wish, can they  
25 be excused as well, sir? We have no further.

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1 testimony

2 THE COURT Yes you may be excused

3 MR THORNION Thank you very much, Your  
4 Honor

5 (Whereupon, the witness steps down from the  
6 witness stand )

7 THE COURT Anything further?

8 MR MURDAUGH Not from the State

9 MR THORNTON Nothing from the defense,  
10 Your Honor, unless the defendant wishes to  
11 speak on his own behalf

12 THE COURT Would you like to make an  
13 argument about the matter of competency?

14 MR THORNTON The defense team itself  
15 will not, Your Honor, we'll stand on what  
16 we've already indicated in direct

17 THE COURT All right Would you wish  
18 to address the Court, Mr Alkebulanyahh,  
19 about the issue of competency?

20 MR ALKEBULANYAHH No, sir

21 THE COURT All right The State?

22 MR MURDAUGH If Your Honor please, it  
23 is the State's position that this is a  
24 decision that the Court has to make and we've  
25 put up everything we knew that was available

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State v Alkebulanyahh

1 in order for you to make that decision, s1  
2 THE COURT All right I've considered  
3 all that's been presented here today, I have  
4 reviewed the record as it has been presented  
5 including the filing of all the materials in  
6 this record, the defendant's motions that  
7 were made pro se, I reviewed the content of  
8 those motions, the manner in which those  
9 motions were prepared

10 The test for competency of course  
11 to stand trial or continue a trial once it  
12 starts is whether the defendant has the  
13 sufficient present ability to consult with  
14 his lawyers with a reasonable degree of  
15 rational understanding and whether he has a  
16 rational as well as a factual understanding  
17 of the proceedings against him

18 As I indicated at the last hearing  
19 my inclination was to allow the defendant to  
20 proceed pro se I realize the defendant has  
21 a constitutional right to do so subject to  
22 this Court's duty to scrutinize whether or  
23 not the defendant is competent to make the  
24 decision to proceed pro se This record, in  
25 my opinion, establishes that the defendant s

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1 competent

2 I have watched the defendant in  
3 court, I gave the defendant the opportunity  
4 to ask questions in these proceedings for the  
5 - very purpose of evaluating the defendant's  
6 demeanor, his behavior, whether the defendant  
7 is rational, whether he has appreciation of  
8 the proceedings The defendant asked some  
9 very direct questions when he was addressing  
10 the witnesses, those questions were  
11 pertinent I think the defendant listened to  
12 the testimony he referenced some of that  
13 testimony in his questions and there is  
14 evidence in the record from the psychiatric  
15 testimony that the defendant is competent to  
16 so proceed and the Court upon review of all  
17 these -- with the entire record finds that  
18 the defendant does have such a rational  
19 understanding of these proceedings and he  
20 does have the ability to present his defense,  
21 that I find that he is competent to proceed

22 That having been said the next  
23 matter is that of the defendant's request to  
24 proceed pro se Having found that he is  
25 competent I can now reach the next phase of

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1 the analysis about his request to proceed pro  
2 se

3 Mr Alkebulanyahh, please stand  
4 Now, last time you were in court I went over  
5 extensively with you a variety of reasons why  
6 I did not think you should proceed pro se  
7 Do you recall all those reasons?

8 MR ALKEBULANYAHH Yes, sir

9 THE COURT Now you also indicated that  
10 you have read that extensive package that had  
11 been prepared by the State Of course that  
12 package was just the example of the kind of  
13 advice given to a defendant in another kind  
14 of case, it wasn't your case

15 MR ALKEBULANYAHH Right

16 THE COURT But it was an example where  
17 a defendant, I assume it was a federal  
18 proceeding and they talked about being aware  
19 of federal rules and procedure Of course  
20 you would need to be aware of state rules and  
21 procedure, but you understood the gist of  
22 that package, correct?

23 MR ALKEBULANYAHH Yes, sir

24 THE COURT You understood all the risks  
25 that I had gone over with you?

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1 MR ALKEBULANYAHH Yes, sir, Your  
2 Honor

3 THE COURT I told you to think about it  
4 for another week to make sure that you had  
5 adequate time to fully reflect on everything  
6 that I told you I just want to remind you  
7 again that it will be difficult for you to  
8 proceed pro se Do you understand that?

9 MR ALKEBULANYAHH Yes, sir

10 THE COURT That difficulty is enhanced  
11 by the fact that you are incarcerated at this  
12 time You understand that?

13 MR ALKEBULANYAHH Yes sir

14 THE COURT And that doesn't fully allow  
15 you to have access to individuals that your  
16 lawyers would have access to Do you agree?

17 MR ALKEBULANYAHH Yes, sir

18 THE COURT Now, just a reminder, of  
19 course if the jury were to find you guilty of  
20 a capital charge, then you will be in a  
21 position of having to defend against the  
22 imposition of the death penalty Do you  
23 understand that?

24 MR ALKEBULANYAHH Yes, sir

25 THE COURT That in and of itself

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1 requires additional legal work and includ  
2 the pursuit of any matters that could be  
3 offered in mitigation of the imposition of  
4 the death sentence And do you understand  
5 that?

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT And, again, there are  
8 matters that will have to be tendered to the  
9 Court, matters pertaining to any motions that  
10 need to be made, any objections that need to  
11 be filed or offered during the course of the  
12 trial, there could be issues about jury  
13 instructions, all these legal matters An.  
14 you'll be responsible for understanding the  
15 law if you choose to proceed pro se Do you  
16 understand that?

17 MR ALKEBULANYAHH Yes, sir, Your  
18 Honor

19 THE COURT Again, I advise you not to  
20 do that Do you understand?

21 MR ALKEBULANYAHH Yes, sir

22 THE COURT You understand what I said  
23 about the old saying that a fool has himself  
24 for a lawyer?

25 MR ALKEBULANYAHH Yes, sir

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- 1 THE COURT Not that that's your  
2 situation, that's just the saying, I just  
3 want to make sure you understand that  
4 MR ALKEBULANYAHH Yes sir  
5 THE COURT Have you understood  
6 everything I said about how I fully expect,  
7 based on my years on the bench that at some  
8 point reality sinks in and you will all of a  
9 sudden realize even more than you realize now  
10 the parameters of everything that you are  
11 facing?  
12 MR ALKEBULANYAHH Yes, sir I  
13 realize  
14 THE COURT If, for example, the jury  
15 were to find you guilty I assure you that you  
16 will all of a sudden be overly concerned  
17 about the issue of whether or not you will be  
18 facing the death penalty Do you understand  
19 that?  
20 MR ALKEBULANYAHH Yes, sir But I  
21 disagree  
22 THE COURT You may or may not be  
23 overwhelmed by it, I can only tell you what  
24 my experience has been  
25 MR ALKEBULANYAHH Yes, sir Thank

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1 you, sir

2 THE COURT I've experienced the same  
3 thing in matters that don't involve the death  
4 penalty, that the most confident of people,  
5 the strongest of people, the people that you  
6 would never expect to act otherwise when they  
7 realize that they are looking me in the eye  
8 before sentencing break down in tears Do  
9 you understand that?

10 MR ALKEBULANYAHH Yes, sir

11 THE COURT I'm not trying to scare you  
12 or anything, I m just trying to let you know  
13 that reality often plays with one's mind

14 MR ALKEBULANYAHH Thank you, sir

15 THE COURT That may affect your ability  
16 to evaluate this case, that's a risk And it  
17 is my understanding that you wish to take  
18 that risk, is that correct?

19 MR ALKEBULANYAHH Yes, sir

20 THE COURT You know that most things  
21 are -- it's been my experience that lawyers  
22 usually handle legal matters better than  
23 laypersons

24 MR ALKEBULANYAHH Yes, sir

25 THE COURT All right Well, is there

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1 any other questions you have for me about  
2 that process?

3 MR ALKEBULANYAHH No, sir

4 THE COURT You still wish to waive your  
5 attorney?

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT Now, what about standby  
8 counsel?

9 MR ALKEBULANYAHH I had previously  
10 since I think October, November last year put  
11 in for the attorneys and I guess up until  
12 this late state at the time the motion has  
13 not been answered That if they could have  
14 been answered earlier, at an earlier date or  
15 earlier time that I would have asked the  
16 Court to appoint other standby counsel  
17 besides the counsels that are here with me  
18 today If it's possible that it can be at  
19 this late in the state being that the delay  
20 in the trial and the motions for the  
21 dismissal of attorney is on the State that  
22 has caused the gross delay as far as giving  
23 the defendant ample amount of time to be able  
24 to address the motions and the issues that he  
25 previously have filed nearly a year and

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1 within the last ten, eleven months

2 THE COURT Well, you, yourself, have  
3 been pushing for a speedy trial

4 MR ALKEBULANYAHH True, but --

5 THE COURT And last week you indicated  
6 you wanted to go to trial in October and I  
7 think your exact words you would rather go  
8 earlier if possible

9 MR ALKFBULANYAHH Your Honor, if the  
10 State was in accordance with the law of  
11 17-23-90, then the State would have brought  
12 me before the Court --

13 THE COURT Well, I'm not addressing  
14 your motions now, we'll get to those today  
15 I need to know about standby counsel First  
16 of all, you've asked me to waive counsel  
17 completely and I asked you to think about  
18 that It's my understanding last week you  
19 didn't want anyone to have anything to do  
20 with your case other than you Then I told  
21 you that that might not be a good idea

22 MR ALKEBULANYAHH I did not -- you  
23 know, I did not address -- if you did  
24 interpret me it was my intention that I would  
25 act pro se and do everything that I would do

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1 that an attorney would do and represent  
2 myself in this case Nevertheless, it has  
3 been on the record for nearly over a year  
4 that I have asked that these attorneys be  
5 dismissed from this case Being that, in  
6 words real estate has run out in time for the  
7 trial to be here which if I am -- if I have  
8 to have these counsel, then I will move  
9 forward

10 THE COURT You don't have to have any  
11 counsel

12 MR ALKEBULANYAHH Well, I would like  
13 to have standby counsel than no counsel at  
14 all

15 THE COURT All right That is what I'm  
16 trying to ascertain that's my question

17 MR ALKEBULANYAHH Yes, sir

18 THE COURT Because at one point you  
19 sounded like you didn't want any counsel to  
20 speak for you in any way whatsoever, and then  
21 at another point you acknowledged you would  
22 like counsel to assist you with your experts  
23 I think last week we left it at that, you  
24 would like them to assist you with contacting  
25 any experts or witnesses, but I needed to

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1 double check on the record Are you  
2 requesting standby counsel?

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT All right Now I understand  
5 your position Of course as I indicated I  
6 came into this case in April of this year,  
7 but it's my understanding looking at the  
8 record that the request to relieve -- to  
9 represent yourself pro se and relieve your  
10 counsel in total which was the only request  
11 before the Court, was postponed until mental  
12 evaluations could be conducted That s how I  
13 see the record as it's been given to me 1  
14 that correct?

15 MR ALKEBULANYAHH Well --

16 THE COURT Whether that's right or  
17 wrong as how you wanted it to proceed, is  
18 that your understanding of the record, that  
19 Judge Buckner denied your request to relieve  
20 your attorneys until a mental evaluation took  
21 place is that correct?

22 MR ALKEBULANYAHH Was it mental  
23 evaluation took place or until the Court  
24 heard the evidence concerning the mental  
25 evaluations? Because the mental evaluatio:

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1           been ordered since July of 2002, over a year  
2           ago

3           THE COURT    For whatever reason the  
4           evaluations were delayed    Did they have to  
5           at some point issue some kind of order to get  
6           you evaluated because you would not  
7           cooperate?

8           MR ALKEBULANYAHH   No    It had nothing  
9           to do with some type of order --

10          THE COURT    Did you cooperate?

11          MR ALKEBULANYAHH   -- because I would  
12          not cooperate

13          THE COURT    I see

14          MR ALKEBULANYAHH   At that time had  
15          nothing to do with anything in reference to  
16          me being uncooperative at that time    It was  
17          something that the State and the attorneys at  
18          hand kept bringing the issue up in which the  
19          defendant felt all along and addressed it in  
20          open court in 2002 that he did not want for  
21          his attorneys then to have him evaluated by  
22          -- by psychiatric or psychologists for the  
23          defense

24          THE COURT    Let me ask you, you are --  
25          you realize our conversation and if you

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1 decide to represent -- first of all, I don't  
2 think I have any obligation to appoint  
3 standby counsel, period Do you understand?

4 MR ALKEBULANYAHH Well, I thought, you  
5 know, that it's -- it is my belief that I  
6 thought that if I proceed pro se that it was  
7 the State, I guess in other words not  
8 certain, but to safeguard themselves that an  
9 attorney be appointed by standby counsel

10 THE COURT I'm not saying I'm not going  
11 to do that, but I am saying you don't have  
12 any constitutional right to any kind of  
13 hybrid representation Your constitutional  
14 right would be to have an attorney appointed  
15 for you to represent you, or you have a right  
16 to waive counsel and proceed to represent  
17 yourself Because every individual has a  
18 right to represent himself or herself just as  
19 you have asserted Any combination in  
20 between is not a constitutional obligation  
21 that's imposed from this Court It may be  
22 that the Court exercises that option just to  
23 safeguard the proceedings and make sure the  
24 trial moves as well as it can and to give you  
25 that right to have access to someone because

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1 of any concerns about your, lack of legal  
2 training, not constitutionally imposed upon  
3 me

4 But having said that I did indicate  
5 at the last hearing that I was inclined to  
6 allow counsel to proceed as standby counsel,  
7 I'm not prepared to appoint new counsel on  
8 the eve of trial I just think that -- I  
9 mean, we're going to trial in a month and --  
10 in October, two months, and I just think that  
11 would be violative in this case to expect two  
12 new attorneys to get up and running on this  
13 case and to be ready to go in October I  
14 have not -- would you like to be heard on  
15 that?

16 MR ALKEBULANYAHH Excuse me, sir?

17 THE COURT Would you like to respond to  
18 that?

19 MR ALKEBULANYAHH Yes, I would like to  
20 respond I doesn't expect the Court to, to  
21 allow a standby attorney to be there for any  
22 hybrid situation I doesn't expect any  
23 assistance from the attorney to any extent in  
24 reference to my defense and my presentation  
25 on my case to the Court

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1 THE COURT You just want someone the  
2 to talk to?

3 MR ALKEBULANYAHH Well, from my  
4 understanding of law from what I ve read and  
5 cases read before and ruling from courts in  
6 higher proceedings in reference to standby  
7 counsel or pretty much on this Court to  
8 always have any -- in the event of a  
9 defendant decide to represent himself pro se  
10 And that is my understanding in reference to  
11 that, but I would not say at no time that I  
12 would not want any standby counsel

13 THE COURT All right

14 MR ALKEBULANYAHH I leave it to the  
15 discretion of the Court to make its decision  
16 in reference to that

17 THE COURT All right I will exercise  
18 that discretion and allow counsel to proceed  
19 as standby counsel, which gives you the right  
20 to use them as you so desire Again, I  
21 warned you last week that I think it's not a  
22 wise decision, but they're there if you need  
23 them and I'm prepared, I'm prepared to find  
24 that you're entitled to proceed pro se If  
25 you do so, I'll ask again for the record do

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1 you do so knowingly?

2 MR ALKEBULANYAHH Yes, sir

3 THE COURT Willingly?

4 MR ALKEBULANYAHH Yes, sir

5 THE COURT And voluntarily?

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT Has anyone pressured you in  
8 any way whatsoever to proceed pro se?

9 MR ALKEBULANYAHH No, sir

10 THE COURT And you fully understood all  
11 of the risks that I have indicated to you?

12 MR ALKEBULANYAHH Yes, sir

13 THE COURT Now, you understand again,  
14 that there are two phases of this case?

15 MR ALKEBULANYAHH Yes, sir

16 THE COURT The phase that determines  
17 guilt and, if necessary, if a jury -- again,  
18 if the jury would find you not guilty then  
19 there's not a second phase If the jury  
20 finds you guilty then a penalty will be  
21 postured from that second phase and at this  
22 point it's your indication you wish to  
23 proceed with both phases?

24 MR ALKEBULANYAHH Yes, sir

25 THE COURT On your own, pro se?

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1 MR ALKEBULANYAHH Yes, sir, Your

2 Honor

3 THE COURT And you wish to waive

4 counsel at this point for both phases of the

5 case?

6 MR ALKEBULANYAHH Yes, sir, Your

7 Honor

8 THE COURT And you thought about that

9 some more since last week when I asked you,

10 too?

11 MR ALKEBULANYAHH Yes, sir

12 THE COURT Because at the time I wasn't

13 sure you were positive about both phases o

14 the trial if I recall correctly

15 MR ALKEBULANYAHH Correct, sir

16 THE COURT And you have thought about

17 that more?

18 MR ALKEBULANYAHH Yes, sir

19 THE COURT All right Does anyone else

20 wish to be heard on this subject?

21 MR MURDAUGH The State does not, Your

22 Honor

23 THE COURT Yes, sir

24 MR THORNTON Your Honor, not with

25 regards to this decision I would just li

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1 the Court to qualify or explain exactly what  
2 it considers to be the role of standby  
3 counsel

4 THE COURT Yes, sir All right I  
5 find that the defendant has freely,  
6 voluntarily, knowingly, and intelligently  
7 waived his right to counsel, in an abundance  
8 of caution the Court will appoint standby  
9 counsel I'll let current counsel continue  
10 as standby counsel

11 I think that the defendant -- in  
12 making the decision I have analyzed, as I  
13 indicated, the defendant's demeanor,  
14 analyzing how he handled those questions,  
15 I've read all the defendant's pro se motions  
16 While there's some letters that are part of  
17 those packages that really have nothing to do  
18 with handling this case, that's more his  
19 concern about the whole system, the system as  
20 a whole He does seem to have the ability to  
21 proceed and handle his defense in this case

22 He understands the nature of the  
23 charges, he understands the nature of the  
24 penalties, he's been involved in some  
25 proceedings before, he's been over the

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1 advantages and disadvantages of  
2 self-representation, he's not attempting to  
3 delay this process any further, more  
4 specifically he's asked for a trial as soon  
5 as possible I have decided to appoint  
6 current counsel as standby counsel

7 The defendant understands that he  
8 needs to be aware of the rules of procedure  
9 in the court and the Court does not act as  
10 his legal adviser and he understands that  
11 certain matters can be raised throughout  
12 trial that he will have to respond to as a  
13 matter of legal interpretation or legal  
14 argument, that he'll have to do that, be  
15 prepared to do so and be responsible for any  
16 consequences of his failure to understand the  
17 law

18 That while it may be -- may work  
19 some detriment to the defendant to represent  
20 himself, which I'm sure he disagrees, but  
21 it's the Court's opinion that it would be a  
22 detriment, the Court must honor and respect  
23 the decision of the individual to proceed pro  
24 se as cases have said that's the lifeblood  
25 of the law So that request is granted and

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1 from this point on, sir, you will represent  
2 yourself

3 I will now proceed to hear some of  
4 the motions Your counsel will act as  
5 standby counsel

6 Counsel, you will assist in  
7 preparation of any legal defenses, or assist  
8 him in preparing any motions that he may wish  
9 to prepare You will assist him in talking  
10 to any witnesses and advise him as he seeks  
11 advice Those are the guidelines that I  
12 suggest for standby counsel, all right?

13 MR THORNTON Understood, Your Honor  
14 THE COURT Do you understand,  
15 Mr Alkebulanyahh?

16 MR ALKEBULANYAHH Yes, sir, Your  
17 Honor

18 THE COURT All right Now let's go to  
19 the motions Are you all ready to proceed?  
20 First thing I have to ask about is there are  
21 numerous references in the defendant's  
22 motions Again, I took this case in the  
23 middle of April so I want to make sure I  
24 understand some of the posture, some of the  
25 procedure of the case

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1           The defendant's made numerous  
2           references that he has never received a bond  
3           hearing I'd like some clarification on that  
4           on his murder charge I didn't see any order  
5           in the file Of course I don't have the  
6           whole file from the clerk of court yet, but  
7           he's made numerous references that being held  
8           without bond is one thing, of course a judge  
9           could deny bond, but not having a bond  
10          hearing is another I saw an indication that  
11          a magistrate had this case at some point, but  
12          the magistrate, of course, couldn't set bond  
13          in a murder case

14               MR MURDAUGH My recollection is that  
15               bond was denied and no demand for a bond  
16               hearing has been -- or reconsideration has  
17               been made

18               THE COURT Who denied that bond?

19               MR MURDAUGH Judge, I'll be honest  
20               with you, I don't recall, sir

21               THE COURT You agree that a magistrate  
22               can't deny bond?

23               MR MURDAUGH No question about that,  
24               absolutely, sir

25               THE COURT I'd like for anyone on the

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1 defense to tell me what they know about  
2 whether a bond hearing was held in this case  
3 That's the first thing that jumped out at me  
4 in all these various documents the defendant  
5 has filed and that answer should be easily  
6 given

7 MR MURDAUGH I just honestly don't  
8 remember sir I can find out for you

9 THE COURT Mr Alkebulanyahh, would you  
10 like to address that, or would you like your  
11 standby counsel to address that issue?

12 MR ALKEBULANYAHH Yes, sir Your  
13 Honor, there was never any bond I never  
14 went before a judge or anyone, there was  
15 never a denial of bond

16 THE COURT All right Will you confer  
17 with your standby counsel to see if there was  
18 ever any kind of waiver, or any kind of lack  
19 of failure to request a bond hearing?

20 MR ALKEBULANYAHH Yes, sir Just one  
21 minute Your Honor

22 THE COURT Yes sir

23 MR ALKEBULANYAHH Yes sir In  
24 discussing it with my standby attorney they  
25 had no knowledge of it, or nor did they say

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1 did they ever request or anything to any  
2 extent in reference to a bond hearing

3 THE COURT All right He was never  
4 brought before the Court to a bond hearing?

5 MR MURDAUGH If Your Honor please, I  
6 have absolutely no recollection Tina  
7 Matthews, who is my victim's witness  
8 advocate, just informed me that when he was  
9 brought to Charleston he was incarcerated at  
10 the hospital in Charleston and -- not the  
11 hospital At the jail which has a medical  
12 facility in Charleston When he was brought  
13 back from Beaufort he was taken before Judge  
14 Jack Gregory and a bond hearing was held,  
15 sir And --

16 THE COURT Before Judge Gregory?

17 MR MURDAUGH Before Judge Jack  
18 Gregory

19 THE COURT Did you ever appear before  
20 Judge Gregory?

21 MR ALKEBULANYAHH Yes, sir I  
22 appeared before Judge Gregory

23 THE COURT Was he originally assigned  
24 to this case also?

25 MR MURDAUGH No, sir This was before

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1 anybody was assigned

2 THE COURT Okay

3 MR ALKEBULANYAHH I was taken there  
4 and it was not for a bond hearing It was  
5 for appointment of counsel, something in  
6 reference to the appointment of counsel, At  
7 that time I met with Mr Gene Hood at that  
8 time And that was the only thing that he  
9 had stipulated at that time that I was there  
10 for in that courtroom at the time

11 THE COURT Let me ask you, the -- were  
12 the charges in this case actually served in  
13 Charleston County because he was being  
14 treated here? Because one of the local  
15 magistrates --

16 MR MURDAUGH The warrants --

17 THE COURT He appeared before a local  
18 magistrate

19 MR MURDAUGH The initial warrants were  
20 served in Charleston County, the notice for  
21 the imposition of the death penalty was  
22 served after he got back in Beaufort

23 THE COURT Right But the charges were  
24 served in Charleston County?

25 MR MURDAUGH Yes, sir

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1 THE COURT So he was taken before a  
2 Charleston County magistrate is that  
3 correct?

4 MR ALKEBULANYAHH Yes, sir I was  
5 taken before a Charleston County magistrate  
6 on --

7 THE COURT Judge Guedalia

8 MR ALKEBULANYAHH I can't remember his  
9 name, Your Honor

10 THE COURT Yes, sir

11 MR ALKEBULANYAHH On the 10<sup>th</sup>, two  
12 days after the 10th of January 2002 And at  
13 that particular time he said that it was o y  
14 for him to advise me of the charges against  
15 me

16 THE COURT All right I'll be happy --  
17 absent some indication that he -- unless  
18 there's some verification about whether he  
19 had a bond hearing, I'll be happy to hear you  
20 out on the question of bond Yes, sir

21 MR MURDAUGH Judge, we would go set  
22 this thing for, hopefully, sometime in  
23 October I don't know whether the Court's  
24 been able to work that out or not, but we  
25 would suggest that he not be given bond or

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1 given bond of such an amount that he wouldn't  
2 be released from jail. It is a death penalty  
3 case, it's coming up for trial, it has not  
4 been through anything that the State has done  
5 we are not to trial. Initially everything  
6 got put on a standstill because he had made  
7 motion to represent himself, we had to have  
8 the mental evaluation in order to do it, we  
9 couldn't get it scheduled.

10 I got an order I think in -- no  
11 Sometime in the latter part of 2002 that he  
12 be examined on the 5<sup>th</sup> of December. And  
13 apparently the examination took place on the  
14 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> the initial examination.

15 That report came out in March of  
16 2002 of -- Judge Buckner was going to a --  
17 who had been assigned this case was going to  
18 a death penalty seminar for the judges  
19 somewhere. And I don't know where it was so  
20 we didn't get it scheduled, then you got  
21 assigned and here we are. We would suggest  
22 that he not be given bond.

23 THE COURT All right. Does he have a  
24 prior record?

25 MR. MURDAUGH Yes, sir. He has a prior

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1 record for armed robbery and two drug  
2 charges Just one second, sir Has an -- I  
3 do not have the record with me, sir, but  
4 armed robbery and kidnapping when he was 18  
5 years of age, he has armed robbery in '87 in  
6 Georgia and a distribution of marijuana in  
7 South Carolina

8 THE COURT All right Do you wish to  
9 be heard on the issue of bond, sir?

10 MR ALKEBULANYAHH Yes, sir Your  
11 Honor, this is going on two years since that  
12 time and --

13 THE COURT Hold on Before you go on I  
14 also want to just make sure I give you just a  
15 general cautionary advice that in the course  
16 of your representing yourself please do not  
17 ever tell me anything testimonial in nature  
18 that might incriminate you Do you  
19 understand?

20 MR ALKEBULANYAHH Thank you, sir

21 THE COURT All right Go ahead

22 MR ALKEBULANYAHH The trial date as  
23 you stated is yet to be within the next 30  
24 days, 30 to 60 days

25 THE COURT October will be -- the trial

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1 will be set for the weeks of October the 5<sup>th</sup>  
2 13<sup>th</sup>, and the 20<sup>th</sup> Sixth, 13<sup>th</sup>, and 20<sup>th</sup>,  
3 yeah

4 MR ALKEBULANYAHH The 6<sup>th</sup> through the  
- 5 20<sup>th</sup>, Sixth, 13<sup>th</sup> 20<sup>th</sup>,

6 THE COURT Those were the dates I gave  
7 you all last week Hold on just one second  
8 October 6<sup>th</sup>, 13<sup>th</sup>, and 20<sup>th</sup> Did you not  
9 indicate those dates would be fine?

10 MR ALKEBULANYAHH Yes, sir

11 THE COURT All right Go ahead

12 MR ALKEBULANYAHH The bond -- in  
13 reference for decision in reference to a bond  
14 being an event so long and the court date is  
15 nearly two months away, that the State has  
16 already illustrated that of a denial or to  
17 recognize that I have a right, or should have  
18 had a right to be brought before the Court at  
19 least to be denied a bond or given whatever  
20 as he say a bond that could not be made,  
21 \$100 million or a million dollars or whatever  
22 to that extent

23 It has no real significance or  
24 bearing at this late in the stage about  
25 arguing about shall I have a bond or not

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1 after being incarcerated nearly going on  
2 these past two years And but --

3 THE COURT Do you not wish for the  
4 Court to set a bond?

5 MR ALKEBULANYAHH Well, for -- yes I  
6 would like for the Court if it be the Court's  
7 desire to set a bond, but for the Court to  
8 recognize that defendant feel likes that you  
9 know, he has been deprived of his rights up  
10 to thus far --

11 THE COURT I recognize the defendant's  
12 position This Court can only do what this  
13 Court has seen since the time I've had the  
14 file which is April And it has come to my  
15 attention that you may not have received a  
16 bond hearing, so I'm happy to give you one  
17 And it -- I mean, they take the position they  
18 thought you had one before Judge Gregory I  
19 don't have any way of knowing that for sure,  
20 so in an abundance of caution I would just  
21 rather go ahead and have a bond hearing

22 MR ALKEBULANYAHH At this late date,  
23 time, you would rather have a bond hearing?

24 THE COURT You have the right to waive  
25 that bond hearing ,I just want to make sure

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1 that you have access to having a bond set if  
2 you so desire

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT Is there anything you'd like  
5 to respond to as far as your argument that  
6 you're facing these types of charges and  
7 there's a possibility you might flee, et  
8 cetera? Do you wish to consult with your  
9 standby counsel?

10 MR ALKEBULANYAHH Yes, sir

11 THE COURT Go ahead While we're  
12 talking, just to let you also know, I've also  
13 informed offices that I think it's a wise  
14 procedure in the event that bond is actually  
15 denied that a written paragraph, order or  
16 something from a circuit judge be put in the  
17 file

18 Yes, sir

19 MR ALKEBULANYAHH Yes, sir, Your  
20 Honor I would like to ask the Court to  
21 grant bond due to that the prosecutor stated  
22 about previous record which was quite  
23 sometime ago about the seeming conviction  
24 And that I have children and family in the  
25 Beaufort County area and that defendant is a

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1 declarant of his total innocence of any  
2 type -- of committing any type of criminal  
3 offense and does not display any danger or  
4 anything of that nature to his community or  
5 anything to such extent

6 THE COURT All right Considering the  
7 nature of the charges as well as the prior  
8 record there is some possibility that -- of  
9 flight I'll set a surety bond at \$350,000

10 Madam Clerk, prepare a surety bond  
11 for me

12 You'll have to execute this form,  
13 sir, before we leave today, all right?

14 MR ALKEBULANYAHH Yes, sir

15 THE COURT Now, Mr Alkebulanyahh

16 MR ALKEBULANYAHH Yes sir

17 THE COURT Last week you made a  
18 reference to me that you wished to withdraw  
19 your motion -- not your motion Well,  
20 defense counsel originally made the motion to  
21 change venue Do you wish to withdraw that  
22 motion?

23 MR ALKEBULANYAHH Yes, sir

24 THE COURT Do you need any further  
25 consultation with standby counsel?

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1 MR ALKEBULANYAHH No, sir

2 THE COURT All right Does the State  
3 wish to respond to that?

4 MR STONE Your Honor, if it please the  
5 Court, we don't have any objection to  
6 withdrawal of that motion We will still  
7 have to go through the same proceeding,  
8 obviously through the voir dire And I think  
9 at that time it can be addressed if there is  
10 an issue as to whether or not he can receive  
11 a fair trial

12 THE COURT I agree Either way we'll  
13 go through the process If we can't draw a  
14 jury in Beaufort County we'll have to  
15 consider at that point whether I need to move  
16 the case anyhow Do you understand that?

17 MR ALKEBULANYAHH Yes, sir

18 THE COURT All right I'll mark that  
19 motion as being withdrawn Now, you filed a  
20 motion on August the 8<sup>th</sup>, 2002 to dismiss the  
21 indictments or charges because of the  
22 reference to the name Tyree Roberts It's my  
23 understanding that since that time the Court  
24 has ordered that the case be referred to by  
25 your name Alkebulanyahh, but there's still

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1 references also known as Tyree Roberts

2 MR ALKEBULANYAHH Yes, sir It is  
3 still recognized, or they're still using the  
4 name in Beaufort County Detention Center and  
5 in other places in reference to that name  
6 At that time --

7 THE COURT Well didn't the judge order  
8 that you from there on be referred to by your  
9 legal name now?

10 MR ALKEBULANYAHH They don't recognize  
11 it, they don't respect it They don't  
12 respect the order

13 THE COURT But all the documents in  
14 this case are so entitled is that correct?

15 MR ALKEBULANYAHH Yes, sir

16 THE COURT All right So I don't see  
17 why that motion should be granted at this  
18 point The Court's ordered that all  
19 documents be referred to by your legal name  
20 I'm not sure why that would be a basis for  
21 dismissal of the indictment Do you have any  
22 legal argument on that?

23 MR ALKEBULANYAHH Well, what I wanted  
24 to argue was that at the onset of this case  
25 that the State knew that my name was -- my

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1 legal name had been legally changed at the  
2 onset within a couple days after that And  
3 they caused such great detriment and  
4 reference to family and friends whether  
5 people who never knew me by the alias name  
6 before and a lot of my mail and visitation  
7 privileges was denied throughout the whole  
8 year before the judge recognized it And I  
9 saved the letters and so forth to that extent  
10 that people sent back to me and other type of  
11 mail to show that they did not know Because  
12 they couldn't visit me and couldn't mail me  
13 because the State intentionally withheld or  
14 did not want to recognize my legally changed  
15 name The State had the information with  
16 them within a -- weeks of the said incident

17 THE COURT But initially the judge  
18 ordered that you be referred to by your legal  
19 name

20 MR ALKEBULANYAHH Indeed

21 THE COURT All right Any action that  
22 you might have in that regard is a collateral  
23 matter collateral to these proceedings If  
24 you have some action, you're free to pursue  
25 that action Do you understand that?

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1 MR ALKEBULANYAHH Yes, sir

2 THE COURT It's not a basis for a  
3 dismissal, that motion is denied You assert  
4 that the reference to your -- to Tyree  
5 Roberts in the newspaper violates the freedom  
6 of the press

7 MR ALKEBULANYAHH Yes, sir

8 THE COURT I'll be happy to hear you  
9 out on that I don't know that I have any  
10 right to control the press Surely you  
11 understand that, right?

12 MR ALKEBULANYAHH Right I would  
13 assume that the press was getting the  
14 information from the Court, from the State,  
15 and the sheriff department whom they would  
16 say that the reason that they would -- did  
17 not honor my name is because the State would  
18 not allow me to exercise my First Amendment  
19 Constitutional Right

20 THE COURT But aren't they now  
21 referring to you as Mr Alkebulanyahh?

22 MR ALKEBULANYAHH Even after the order  
23 I save newspapers and clippings to that  
24 extent to show that at times they did not  
25 recognize that

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1 THE COURT But they're aware that it's  
2 your legal name, though?

3 MR ALKEBULANYAHH They are aware

4 THE COURT All right They have the  
5 freedom of press and I can't control what's  
6 printed in the newspaper Do you understand  
7 that?

8 MR ALKEBULANYAHH Right Yes, sir

9 THE COURT That motion's denied  
10 That's not a basis for dismissing the  
11 indictment

12 You cite in this motion of  
13 August 8<sup>th</sup> 2002 the Fourth, Fifth, Sixth,  
14 Eighth and Fourteenth Amendments as for  
15 grounds in the dismissal in the indictments  
16 There's nothing more, sir, in that motion, do  
17 you wish to elaborate?

18 MR ALKEBULANYAHH On the name change?

19 THE COURT No In that motion of  
20 August 8<sup>th</sup>, 2002

21 MR ALKEBULANYAHH August the 8<sup>th</sup>?

22 THE COURT It's that same motion  
23 There's a couple different grounds in it I  
24 asked everyone to be prepared to go over all  
25 the motions

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1 MR ALKEBULANYAHH Your Honor, I m  
2 sorry, that may be one of the motions that I  
3 brought down with me Presently all the  
4 motions at the beginning

5 THE COURT All you say is motion for  
6 dismissal of indictments Fourth Amendment  
7 search and arrest warrants, Fifth Amendment  
8 rights of criminal cases Sixth Amendment,  
9 right to a fair trial, Eighth Amendment, bail  
10 response and punishments Fourteen Amendment,  
11 civil rights You don't give me any more  
12 information Do you wish to elaborate on  
13 those grounds?

14 MR ALKEBULANYAHH Yes, sir You said  
15 August 8<sup>th</sup> Your Honor?

16 THE COURT Yes, sir

17 MR ALKEBULANYAHH It's not August 2<sup>nd</sup>,  
18 sir?

19 THE COURT You probably signed it  
20 August 2<sup>nd</sup>, but it's filed August 8<sup>th</sup> Yeah,  
21 that's it I'm looking at filing dates

22 MR ALKEBULANYAHH August the 2<sup>nd</sup> I  
23 filed it on August 2<sup>nd</sup>, right?

24 THE COURT No It was filed on  
25 August 8<sup>th</sup> You signed it on August 2<sup>nd</sup>

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1 MR ALKEBULANYAHH Oh, okay Yes sir  
2 On violation of my Fourth Amendment right,  
3 search and arrest, on this particular issue  
4 that I asked the Court to dismiss the charges  
5 against me because the officers that came to  
6 the defendant's home did not follow, did not  
7 not -- did not -- violated the United States  
8 Constitution Fourth Amendment right of search  
9 and seizure They had not an arrest warrant,  
10 nor a search warrant, nor a probable cause  
11 nor a consent for exigent circumstances exist  
12 for them to enter the premises of 21 Riley  
13 Road, the home which I reside

14 THE COURT Were they responding to a  
15 domestic abuse call?

16 MR ALKEBULANYAHH It was never a  
17 domestic abuse call

18 THE COURT Were they responding to a  
19 call?

20 MR AIKEBULANYAHH It was an alleged  
21 call, but not a call from the Riley  
22 residence There was no call ever from the  
23 Riley Road residence, or any occupants, or  
24 anybody there at 21 Riley Road

25 THE COURT Did someone call from next

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1 door or something?

2 MR ALKEBULANYAHH Whatever someone  
3 else did it has no reference to the affairs  
4 at the 21 Riley Road residence or any of the  
5 occupants at the 21 Riley Road residence  
6 and --

7 THE COURT Did the police have some  
8 information that some kind of activity was  
9 going on?

10 MR ALKEBULANYAHH It's alleged it's  
11 not substantiated

12 THE COURT I'm not saying that  
13 anything's true or not At this point I'm  
14 trying to understand what the allegations  
15 are

16 MR ALKEBULANYAHH This reference to  
17 who?

18 THE COURT Did someone call or notify  
19 the police in any way that something was  
20 going on?

21 MR ALKEBULANYAHH Your Honor --

22 THE COURT I mean, I know nothing about  
23 that, so that's what I'm asking

24 MR ALKEBULANYAHH What I'm saying is  
25 there's no facts or evidence anywhere in a ,

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1 document where anyone called from the 21  
2 Riley Road residence to inquire for any  
3 officer or police officer assistance, aid, or  
4 any extent to the police department or 911  
5 dispatch\_

6 THE COURT State wish to respond?

7 MR STONE Your Honor, the police law  
8 information was called to a domestic  
9 disturbance The call originated from a  
10 Strawberry Washington as a relay from someone  
11 else that was in the house at the time So  
12 from that standpoint that is why they were at  
13 that address and that s what these two  
14 officers were responding to once they got  
15 there

16 THE COURT It was a call from someone  
17 in the house?

18 MR STONE There was a call My  
19 understanding the call -- no, sir, not from  
20 inside the house, but from someone else who  
21 was a friend of the person who was actually  
22 making the domestic abuse call So in other  
23 words, there is a victim who spoke to someone  
24 else who then called the police and that's  
25 how that happened and how that routed those

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1 police officers to the house

2 THE COURT So someone involved,  
3 allegedly involved in this and was in the  
4 inside of the house, they called someone and  
5 said this is what's going on and that person  
6 called the police?

7 MR STONE Yes, sir

8 THE COURT And it's your position that  
9 they had the right to enter pursuant to that  
10 domestic abuse statute?

11 MR STONE There was consent And  
12 there was actually consent once they got  
13 there, Your Honor, the people that owned t  
14 home allowed them to come in He was --  
15 excuse me, I say he, the defendant was  
16 renting from these people a certain segment  
17 of the trailer and they were allowed in So  
18 there was a consent once they got to the  
19 house, but they were called to the premises  
20 because of this domestic complaint

21 THE COURT Do you wish to respond?

22 MR ALKEBULANYAHH Yes, sir Your  
23 Honor there is no evidence in the records,  
24 no statement by any witnesses or anyone to  
25 any extent that there was any consent about

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1 any -- by any of the occupants at the 21  
2 Riley Road residence And I asked the State  
3 to produce that evidence of consent and  
4 whether it's by written statement or was it  
5 ever to that extent Furthermore, that the  
6 call, again, was initiated from, I think, I,  
7 believe according from what was said by State  
8 records, from a Taco Bell in Beaufort, South  
9 Carolina And that person does not reside,  
10 stay, or whatsoever at the 21 Riley Road  
11 residence

12 And the person they say, person  
13 supposed to relay something to that extent,  
14 there is no evidence or any facts upon the  
15 record to where that person has alleged that  
16 there was a domestic dispute or altercation  
17 with the alleged victim at this residence at  
18 any time

19 THE COURT But you're saying you  
20 acknowledge the record indicates that someone  
21 called, albeit from a Taco Bell from your  
22 perspective, you acknowledge a call was made?

23 MR ALKEBULANYAHH I acknowledge that  
24 the State has presented me with a document  
25 that a call came from Taco Bell As, for

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1 instance, if I call from here and call the  
2 police department and tell them that you're  
3 at home beating your wife and you don't know  
4 me, I don't know you, but that's to the  
5 extent And furthermore the call was not  
6 from an individual, it was an anonymous call

7 So they allege that somebody  
8 called, but that actual call was an anonymous  
9 caller according to the records That report  
10 was anonymous so we don't have no -- there's  
11 no way to prove or verify to say that that  
12 call actually came from a person or  
13 individual, someone who was involved in the  
14 criminal domestic violence, or someone told  
15 them of such an extent That was an  
16 anonymous call

17 THE COURT So you're claiming they came  
18 in the house without permission?

19 MR ALKEBULANYAHH Without search  
20 warrant, arrest warrant, consent, probable  
21 cause, exigent circumstances and responded to  
22 the call at the 21 Riley residence on an  
23 anonymous call

24 THE COURT All right That needs to be  
25 something that requires testimony

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1 MR STONE I think probably it does  
2 And we don't have any because this motion was  
3 very bare bones, to say the least, it's hard  
4 to exactly pinpoint what the issue was We  
5 don't have any problem presenting the  
6 evidence for probable cause

7 THE COURT All right We're going to  
8 have to have testimony from the officers on  
9 that so I can hear what your claim is,  
10 Mr Alkebulanyahh

11 MR ALKEBULANYAHH I don't understand,  
12 Your Honor

13 THE COURT I need to hear what their  
14 evidence is to understand whether or not they  
15 were there properly and whether they came  
16 into your house properly

17 MR ALKEBULANYAHH So when would that  
18 be established?

19 THE COURT We will have that -- I'll  
20 think about that and decide that before y'all  
21 leave today when we should do that

22 You also on August 8<sup>th</sup> filed a  
23 motion to compel use of your legal and  
24 religious name I think that Judge Buckner  
25 took care of that as far as these proceedings

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1 are concerned As I indicated, I can't do  
2 anything as far as the press is concerned  
3 Do you acknowledge that, sir?

4 MR ALKEBULANYAHH Yes, sir I  
5 acknowledge that

6 THE COURT All right That's denied

7 Motion to relieve your counsel

8 Mr Kelly We've taken care of that, I  
9 granted your pro se status, I do leave them  
10 as standby counsel

11 On September 5th, 2002 you filed a  
12 motion for a speedy trial I think that's  
13 been removed by the fact that this Court has  
14 set a trial date for the weeks of October the  
15 6<sup>th</sup>, 13<sup>th</sup> and 20<sup>th</sup> Do you wish to say  
16 anything else on the speedy trial issue?  
17 Essentially you're getting your trial

18 MR ALKEBULANYAHH Yes, sir, Your  
19 Honor

20 THE COURT Yes, sir

21 MR ALKEBULANYAHH I would like to  
22 state that according to the statute of South  
23 Carolina annotation 17-23-90, Indictment and  
24 Trial, a Person Committed for Treason or  
25 Felony Consequences of Failure to Indict

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1 state that any person committed for treason  
2 or felony plainly and specifically express in  
3 the warrant of commitment upon his prayer or  
4 petition in open court the first week of term  
5 to be brought to his trial shall not be  
6 indicted sometime in the next term after such  
7 commitment The judge or the circuit court  
8 shall upon motion made in open court the last  
9 day of the term either by the prisoner or  
10 anyone in his behalf set at liberty the  
11 prisoner upon bail unless it appear to him  
12 upon oath made through witness for the State  
13 could not produce at the same term And if  
14 any person committed as aforesaid upon his  
15 prayer or petition in open court the first  
16 week of the term to be brought to his trial  
17 shall not be indicted and tried the second  
18 term after his commitment or upon the trial  
19 shall be acquitted, he shall be discharged  
20 from his imprisonment

21 THE COURT All right

22 MR ALKEBULANYAHH Defendant would like  
23 to -- like for the judge to consider that the  
24 defendant would like to exercise the right  
25 and that the State has not -- did not adhere

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1 to that law of the South Carolina Statute  
2 Annotation 17-23-90

3 THE COURT Do you wish to respond?

4 MR MURDAUGH Yes, sir He made a  
5 motion for a speedy trial, I set a trial for  
6 September the 5<sup>th</sup> of 2002 A motion was  
7 heard before Judge Buckner at which time his  
8 counsel moved that it be continued until such  
9 time as a disposition could be made of his  
10 motion to represent himself So that has  
11 been addressed I set the trial date, sir,  
12 and it was continued by Judge Buckner

13 MR ALKEBULANYAHH Your Honor, this  
14 states that the --

15 THE COURT Yes, sir

16 MR ALKEBULANYAHH You did state the  
17 motion for speedy trial?

18 THE COURT Yes, sir I'm happy to hear  
19 your argument on 17-23-90 Do you want to  
20 address that argument, Mr Solicitor?

21 MR MURDAUGH I said September the 5th  
22 It was October the 4<sup>th</sup> that I set it for, if  
23 Your Honor please

24 THE COURT All right

25 MR ALKEBULANYAHH Your Honor, you said

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1 that speedy trial was filed when?

2 THE COURT September 5<sup>th</sup>, 2002 I'm  
3 looking at the filing dates

4 MR ALKEBULANYAHH The dates that  
5 you're calling on is the date that it was  
6 filed in court, Your Honor, sir?

7 THE COURT Yes, sir

8 MR ALKEBULANYAHH Okay Your Honor,  
9 that speedy trial motion may I ask that the  
10 defendant -- was it dated by the defendant  
11 for August 23<sup>rd</sup>,

12 THE COURT Let me check Yes, sir

13 MR ALKEBULANYAHH Your Honor, on this  
14 particular speedy trial the defendant would  
15 like to say that when speedy trial was put in  
16 and withdrawn against his wishes by his  
17 attorneys at that time, and defendant did  
18 wish to exercise his speedy trial rights

19 THE COURT All right Well, does the  
20 State wish to respond? I mean, that was  
21 pretty early in the case, was it not?

22 MR ALKEBULANYAHH Yes, sir

23 THE COURT I don't think that the cases  
24 in South Carolina would support a dismissal  
25 of the indictment for not receiving your

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1 trial at that point There's been cases  
2 where it's gone on for up to five years

3 MR ALKEBULANYAHH Well, it was not  
4 pretty early in the case to the extent that  
5 the law and the statute says that, 17-23-90,  
6 that the Court shall bring the defendant  
7 before the Court within two court terms or  
8 dismiss or acquit the defendant It's the  
9 statute, it's the law of the State of South  
10 Carolina that I m arguing not what I think  
11 or know, or think or assume I'm speaking  
12 strictly from the law 17-23-90

13 THE COURT All right You want to  
14 address 17-23-90?

15 MR MURDAUGH I don't even know what  
16 23-90 is, sir

17 THE COURT It's an old provision in the  
18 law

19 MR MURDAUGH May I also approach and  
20 give you a copy of the order of Judge  
21 Buckner?

22 THE COURT Yes, sir

23 MR MURDAUGH I do know what that is,  
24 sir, I just didn't recognize the statute  
25 number If Your Honor please, this matter

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1 has already been addressed by Judge Buckner's  
2 order

3 THE COURT He addressed 17-23-90?

4 MR MURDAUGH Sir?

5 THE COURT Judge Buckner addressed  
6 17-23-90?

7 MR MURDAUGH He addressed their motion  
8 for continuance There can be hybrid  
9 representations, so at that time he had two  
10 lawyers represent him They moved for a  
11 continuance, so that would take it out of the  
12 speedy trial

13 THE COURT I think pursuant to Ex Parte  
14 Attardo, 249 S E 2d 771 there was a motion  
15 for supersedeas filed to supersede an order  
16 of the judge denying request to be released  
17 based on that statute The Court said our  
18 decision in State v Patterson wherein we  
19 held that a term of court terminates when  
20 court adjourns at the end of week has no  
21 application to a defendant's -- to a speedy  
22 trial as defined in 17-23-90 That provision  
23 clearly entails statutory terms of court that  
24 had originally been provided by the general  
25 assembly of the legislature as opposed to

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1 terms of court, special terms of court  
2 designated by the chief justice

3 The construction urged by the  
4 petitioners would require that a defendant be  
5 tried within two weeks of his incarceration  
6 to avoid a violation of the right to a speedy  
7 trial This construction would place an  
8 impossible burden on the judicial system  
9 Pursuant to that decision of the Supreme  
10 Court your request under 17-23-90 is denied

11 Now, you have a motion for release  
12 of segregation, isolation, and confinement?

13 MR ALKEBULANYAHH Yes, sir

14 THE COURT Do you wish to be heard on  
15 that?

16 MR ALKEBULANYAHH Yes, sir The  
17 defendant has been -- excuse me, Your Honor,  
18 may I --

19 THE COURT I can't hear you

20 MR ALKEBULANYAHH May I proceed to  
21 have one more statement in reference to the  
22 matter that you stated before in reference to  
23 the 17-23-90?

24 THE COURT Yes, sir

25 MR ALKEBULANYAHH So the Court has

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1 found that defendant has no right by higher  
2 court or ruling, that he has no right to  
3 17-23-90, is that correct?

4 THE COURT According to Ex Parte  
5 Attardo it doesn't apply to terms set by the  
6 chief justice And that's how our system is  
7 structured now, as opposed to originally when  
8 that statute was formed The terms of court  
9 were set by the legislature, you would  
10 actually see it in the court of law and it  
11 said which counties were having which terms  
12 of court And if that case is how we're  
13 construing that statute, I am bound by it and  
14 I can't revisit it

15 MR ALKEBULANYAHH So that law is --  
16 apparently that is something that should be  
17 struck off the book?

18 THE COURT Apparently it's been  
19 superseded by the setting of terms of court  
20 by the chief justice If before your trial  
21 if you find a case that suggests otherwise  
22 I'll be happy to hear you out on it, all  
23 right?

24 MR ALKEBULANYAHH Thank you

25 THE COURT The next one was the --

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1 actually, let's go ahead, if y'all don't  
2 mind, it s been a while and we've been here  
3 since early and we need to break for lunch  
4 and if we just pick up back at 2 30, please  
5 all right? We'll see you back after lunch at  
6 2 30

7 (Lunch recess taken from 1 13 p m to  
8 2 30 p m )

9 THE COURT Please be seated Ready to  
10 proceed? Are you ready, Defendant?

11 MR ALKEBULANYAHH Yes, sir

12 THE COURT We started to talk about the  
13 motion for release of segregation filed on  
14 September 5th, 2002 Is that still pending?

15 MR ALKEBULANYAHH Yes, sir

16 THE COURT Yes, sir I'll hear you  
17 out

18 MR ALKEBULANYAHH Your Honor, the  
19 defendant has been incarcerated since  
20 January 8<sup>th</sup>, 2002 and for the first four  
21 months of his incarceration he was -- he's  
22 been confined to isolation confinement  
23 maximum security From there he was -- he  
24 wrote the local newspaper concerning him  
25 being isolation confinement for so long a

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1 period

2 At that time the detention center  
3 stated that all inmates was placed in that  
4 status once they entered the jailhouse  
5 facility, which was an untrue statement  
6 From there the defendant was --

7 THE REPORTER I'm sorry, I'm having  
8 trouble hearing

9 THE COURT Can you speak up please,  
10 sir? You can come to the lectern to argue  
11 your motion, please

12 MR ALKEBULANYAHH Yes And from  
13 there, Your Honor again on 2000 -- on  
14 January 8, 2002 the defendant was placed in  
15 maximum security isolation confinement for a  
16 period of four months and, again, he wrote a  
17 local newspaper and complained about him  
18 being in maximum security isolation which is  
19 a section of the jailhouse just for  
20 disciplinary problems inmates

21 The director stated at that time  
22 locally that the -- all inmates was -- who  
23 came into the facility at that time are  
24 placed in that particular section of the  
25 jailhouse and held at that status, which was

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1 untrue But thereafter when we got the  
2 newspaper published about the conditions that  
3 they had me under for the first four months,  
4 that they came and put me on what they call  
5 administrative segregation which is another  
6 area where they have trouble inmates who have  
7 disciplinary problems within the facility,  
8 they put them in there

9 And in this particular part of the  
10 jailhouse one's privilege is denied and  
11 abbreviated from the regular general  
12 population regular inmates that enter the  
13 jailhouse facility, visitation privileges  
14 from recreation and many different areas  
15 because of the status that one is under which  
16 is called administrative segregation

17 Defendant has been on that status  
18 from the very beginning of his incarceration  
19 up until the present time And defendant  
20 asks the Court at this time that if the Court  
21 see fit that the inmate defendant should be  
22 treated as a regular inmate person that's  
23 charged with a crime that entered that  
24 facility According to all -- the way any  
25 other inmate would be treated

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1           The defendant do not wants to  
2           remain on that status without any  
3           justification   As far as I know there is no  
4           justification to it, because other inmates  
5           who are charged with this same type of  
6           offense, they are permitted into the regular  
7           population   I've been the only inmate over  
8           the last year and a half to been on that  
9           status and to occupy that particular part of  
10          the jailhouse facility   Other inmates have  
11          come and gone, but only a certain amount of  
12          period of time for disciplinary reason or  
13          incarcerated for other reasons, but other  
14          than that I have been the only one under that  
15          status in that facility and I feel like I've  
16          been discriminated against because the charge  
17          against me, or whatever, the facility  
18          whatever -- I don't really know exactly why,  
19          but I think that, you know, it's wrong and  
20          it's not justified for them to continue to  
21          treat me and keep me isolated like that

22                   THE COURT   All right

23                   MR ALKEBULANYAHH   Thank you, Your  
24                   Honor

25                   THE COURT   Do you wish to respond?

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1 MR STONE Only briefly, Your Honor I  
2 don't think at this point this is necessarily  
3 an issue that we can really address from the  
4 standpoint of any constitutional violation  
5 that he's experiencing I'm trying to give  
6 him every benefit of the doubt of  
7 understanding his motion, but if he is  
8 discussing a security issue with the Beaufort  
9 County Detention Center that is something  
10 obviously outside of our control and I think  
11 it's best to leave it in the discretion of  
12 the detention center as to how his particular  
13 housing works I know they have specific  
14 cells for murder detainees as well as --  
15 obviously this is a much more severe  
16 situation than that

17 I will call, however, to your  
18 attention, Your Honor, in his what appears to  
19 be a grievance/motion, he has made a few  
20 statements in this motion that he was not  
21 willing to do what the guards at the Beaufort  
22 County Detention Center asked him to do even  
23 upon an order of Circuit Court Judge Buckner  
24 So if there is a needed justification for  
25 having him in a particular secure

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1 environment, I think he's probably placed  
2 that in the record with his own motion

3 However, again, I think that is a  
4 matter that needs to be addressed with the  
5 detention center outside of our control

6 THE COURT Do they have some kind of  
7 administrative mechanism, the detention  
8 center?

9 MR STONE They do have a grievance  
10 proceeding I do not know if he has filed  
11 such a grievance I know this document is  
12 entitled, and I'm looking at the same one  
13 Your Honor is looking at, I think it appears  
14 to be entitled Grievance . But they do have  
15 a grievance proceeding, I don't know if he's  
16 pursued that or not

17 THE COURT All right Yes, sir

18 MR ALKEBULANYAHH Yes, sir, Your  
19 Honor I pursued that grievance at the time  
20 in the facility to be ignored I've never  
21 stated that to any reason, you know, that I  
22 would be a security risk or any document that  
23 I have or know of where it states that I'm a  
24 security risk or something to any inmate or  
25 anybody at the facility or to any extent that

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1 I want to be segregated like this

2 THE COURT Well, did you file an  
3 administrative grievance with the jail?

4 MR ALKEBULANYAHH Yes sir I filed  
5 several complaints and grievance with the  
6 jail and they would ignore it, or they would  
7 say it has been recommended to classification  
8 and they don't have anything Classification  
9 would never respond back to it when I asked,  
10 inquired into it

11 THE COURT Generally the Court doesn't  
12 interject itself with the management of the  
13 jail If you have filed a grievance and t y  
14 have not acted on the grievance you may have  
15 some remedy to compel them to act on the  
16 grievance but I'm not sure it's in the  
17 context of this proceeding

18 You received a response that just  
19 said you're classified in a particular way  
20 and that's why you're being held that way?

21 MR ALKEBULANYAHH I received a  
22 response that it's on the classification of  
23 the institution and that it never say,  
24 stipulate what reason or why, but it just  
25 says, you know, right to classification

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1 THE COURT Have they claimed you acted  
2 up any way while you were in jail?

3 MR ALKEBULANYAHH No It has  
4 nothing -- for the first four months I was in  
5 isolation I have no written or disciplinary  
6 reports or anything to any extent

7 THE COURT All right I'm going to  
8 deny that request at this time I'm going to  
9 ask that y'all find out exactly why he's  
10 being held a certain way

11 MR STONE Yes, sir

12 THE COURT If they've not responded to  
13 that grievance

14 MR STONE Yes, sir

15 THE COURT And notify the Court,  
16 please

17 You have on September 5th also  
18 filed -- 2002 -- a motion for duplication of  
19 writs and legal documents by the officials of  
20 the Beaufort County Detention Center

21 MR ALKEBULANYAHH Yes, sir

22 THE COURT You assert that Counselor  
23 Barnes, number 903, refused to copy legal  
24 documents for the defendant because he's  
25 indigent

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MR ALKEBULANYAHH Yes, sir

THE COURT Explain that to me First,  
who's Counselor Barnes?

MR ALKEBULANYAHH Counselor Barnes is  
a counselor at the detention center that's  
responsible for inmates' agendas counseling,  
and some other type of areas of authority  
that they have in reference to inmates'  
problems

THE COURT Why do you contend that he  
has an obligation to copy things for you?

MR ALKEBULANYAHH I wasn't stating  
that him in particular but what I was  
stating was that the Beaufort County  
Detention Center does not have, does not  
provide a cell carbon paper where one can  
copy, make copies of any documents or writs  
that they make or have on their commissary  
institutional store for inmates

THE COURT What documents are you  
claiming you were not provided?

MR ALKEBULANYAHH At that particular  
time I had documents that I was writing and  
wanting to petition the Court with that I  
want to have copies of and want to send to

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1 other areas And at this particular time  
2 they wasn't making copies, but at present the  
3 institution has started to make copies at my  
4 request It's in their institution handbook  
5 that if an inmate wanted to have copies made  
6 that to contact the counselor and copies  
7 would be made at 25 cents a copy

8 THE COURT So this has been resolved  
9 for you?

10 MR ALKEBULANYAHH Yes, sir Yes, sir

11 THE COURT All right I'll mark that  
12 as being resolved Now, just so it's clear,  
13 if you have the ability, because you  
14 indicated at the last hearing last week that  
15 your standby attorneys would still do the  
16 bookkeeping aspect of it

17 MR ALKEBULANYAHH Yes, sir

18 THE COURT You could request that they  
19 get Court approval to pay for any copying  
20 expenses since you are indigent Do you  
21 understand that?

22 MR ALKEBULANYAHH Yes, sir

23 THE COURT All right

24 MR ALKEBULANYAHH Well, I was -- you  
25 know, I would like the Court's approval to

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1 make copies and so forth

2 THE COURT Just discuss that with your  
3 standby attorneys about getting approval for  
4 those claims, all right?

5 MR ALKEBULANYAHH Thank you

6 THE COURT On October 17<sup>th</sup> -- well,  
7 September 5<sup>th</sup>, 2002 you also wrote a letter  
8 that's in the file That's a letter to the  
9 president and there's nothing I need to do to  
10 address that correct?

11 MR ALKEBULANYAHH Yes, sir True,  
12 yes, sir

13 THE COURT All right On October 17 ,  
14 2002 you had a motion to dismiss the  
15 indictments It says you move to dismiss the  
16 indictment on the Fourth Amendment grounds,  
17 nothing else Is that the same allegation as  
18 earlier that we're going to have a hearing  
19 on?

20 MR ALKEBULANYAHH Yes, sir

21 THE COURT All right Let me  
22 understand that You claim that they were  
23 not authorized to come into the property, or  
24 residence I guess, and because they came in  
25 improperly the charges should be dismissed

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1 MR ALKEBULANYAHH What I am stating is  
2 that the officers violated the officers',  
3 policemen's rules and regulations, were  
4 responding to a domestic disturbance, or  
5 kidnapping, or alleged being held against the  
6 will I am stating that they did not follow  
7 the basic procedure when responding to the --  
8 when responding to a call of such nature with  
9 offenses against a person

10 THE COURT All right I'm not sure I  
11 understand whether or not -- let me give you  
12 an opportunity to speak with your standby  
13 counsel first before you answer my question

14 MR ALKEBULANYAHH Yes, sir

15 THE COURT First and foremost I don't  
16 know if you're admitting that you did a  
17 certain thing or you took -- you -- I'm not  
18 sure if you're admitting that you shot these  
19 officers, but it was done in self-defense, or  
20 if you're denying that you even shot the  
21 officers I want you to talk to standby  
22 counsel before you admit anything or  
23 acknowledge anything to me

24 What I'm trying to find out is, is  
25 it your position that because you claim they

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1 did not have the authority to come into the  
2 residence that whatever action you allegedly  
3 took was justified? I'll let you talk with  
4 them first Do you understand my question?

5 MR ALKEBULANYAHH Yes, sir Sorry  
6 (Mr Alkebulanyahh conferring with counsel )

7 THE COURT Are you ready?

8 MR ALKEBULANYAHH Yes, sir

9 THE COURT The point I'm trying to say,  
10 I'm being very careful you don't admit  
11 something that you don't want to admit until  
12 you make a decision about whether or not  
13 you're going to testify in the case, because  
14 obviously you have a right to remain silent,  
15 you have a right to not testify So do you  
16 understand that right?

17 MR ALKEBULANYAHH Thank you, sir  
18 Yes sir

19 THE COURT All right Go ahead

20 MR ALKEBULANYAHH Okay What I am  
21 stating, I'm not admitting to committing any  
22 act to any person What I'm stating is that  
23 by their violation of their own rules and  
24 procedures that I ask the Court to drop the  
25 charges, that no charges should be brought

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1 against me or anyone else because they  
2 violated the laws of the constitution and of  
3 the State And because of that I ask the  
4 Court as of this matter that the charges be  
5 dismissed because of these violations

6 THE COURT All right As we indicated  
7 earlier we'll have a hearing on that

8 You want to respond?

9 MR STONE May I, Your Honor? I  
10 apologize Earlier I think I had indicated  
11 that the hearing was probably necessary but  
12 I am not at this point clear on whether or  
13 not we would have a hearing concerning that  
14 because of this If we're talking about the  
15 exclusionary rule that would exclude  
16 evidence, then that certainly is  
17 understandable, we have a search warrant that  
18 we obtained some evidence on, that's  
19 something that we would be easily prepared to  
20 go forward on

21 If it's an issue of dismissing the  
22 indictment based on a violation of the Fourth  
23 Amendment, I know of no law that would allow  
24 that and I don't know how we would proceed in  
25 a hearing pursuant to that

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1 THE COURT Well, that was my concern  
2 and that's why I'm trying to understand what  
3 exactly is going on as far as whether  
4 something was attained that would justify --  
5 or done that would justify a dismissal It  
6 would certainly be an extreme sanction to  
7 dismiss for governmental misconduct, but I  
8 don't think that's out of the realm of total  
9 impossibility

10 MR STONE I apologize Your Honor  
11 Out of an abundance of caution we'll  
12 certainly be prepared to go forward on a  
13 search warrant issue which is how we obtained  
14 the evidence that we are going to use at  
15 trial

16 THE COURT What type of evidence was  
17 obtained?

18 MR STONE They've gone into the crime  
19 scene at this point three times and I believe  
20 on three separate search warrants, everything  
21 from shell casings to bullet holes, things  
22 like that Everything that was in that crime  
23 scene has at some point been arguably  
24 searched and seized by our agency And we've  
25 done that, I believe, Your Honor, at this

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1 point three times with three separate search  
2 warrants And I certainly think that is  
3 appropriate for us to have hearings on those  
4 search warrants, I think that's necessary

5 For the other end of it I'm not so  
6 sure what we would -- exactly how we would  
7 have a hearing on that

8 THE COURT Can you describe for me just  
9 briefly the State's theory of the incident,  
10 how it came down?

11 MR STONE Yes, sir The two officers  
12 were responding to, as I think the Court  
13 indicated earlier, a domestic call They  
14 received a call from another individual who  
15 had had contact about the alleged victim  
16 They responded to the home Once they got to  
17 the home the two people that owned the  
18 trailer and the entire trailer let the  
19 officers in Mr Roberts --

20 THE COURT Did those people live there?

21 MR STONE They did They lived there  
22 and they owned the trailer And at least  
23 from an apparent consent-type situation the  
24 officers approached the door, they spoke to  
25 these people who let them in the trailer

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1 THE COURT They were inside at the  
2 time?

3 MR STONE Yes, sir

4 THE COURT Did they live there with the  
5 defendant?

6 MR STONE Yes, sir They rented space  
7 to the defendant That's our understanding  
8 of the situation, they rented

9 THE COURT So two families lived there

10 MR STONE Yes, sir Yes, sir

11 THE COURT Was it a room?

12 MR STONE Yes sir Once the officers  
13 entered, both the officers at staggered  
14 times, but once both of them got into the  
15 room that is when the shooting took place  
16 Obviously at this point --

17 THE COURT The shooting allegedly took  
18 place inside the home?

19 MR STONE That's correct Not only  
20 inside the trailer, but inside the  
21 defendant's room

22 THE COURT Inside the room?

23 MR STONE Yes, sir

24 THE COURT Okay

25 MR STONE Once both officers entered

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1 into the room that's when the shooting took  
2 place The police at that point responded  
3 When they did the search of the room, and  
4 I'll have to check exactly on the times and  
5 dates, but at that point there was a general  
6 manhunt looking for the defendant

7 They have since that time gone into  
8 the place, they have taken bullet casings,  
9 they have taken obviously photographs,  
10 materials, items out of the room They have  
11 also, in fact, at this point made a model of  
12 the room with the gunpowder, they're working  
13 on that as well All of those were done as a  
14 search warrant

15 So that's why I think there's a  
16 break between when you have a situation  
17 whether or not we could have a hearing on the  
18 exclusion of the evidence, I think that's  
19 going to be based on the search warrant and  
20 the materials gathered at that time I think  
21 that's going to be limited to the stuff that  
22 we got from three different search warrants

23 THE COURT All right

24 MR STONE What makes this -- and I  
25 would tell Your Honor now what makes this a

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1 little bit different or difficult is that e  
2 of the owners of the trailer has deceased  
3 And that was one of the people that was at  
4 the trailer at the time the police officers  
5 got there And I just tell you that for your  
6 information

7 THE COURT All right How is it that  
8 you argue the indictment should be dismissed  
9 as opposed to certain items being excluded  
10 from evidence?

11 MR ALKEBULANYAHH The situation is  
12 that the items that were seized that they  
13 speaking of by weight of a search warrant  
14 came after the alleged shooting And what  
15 I'm speaking of is that there was a search  
16 without a search warrant, that was conducted  
17 without a search warrant on the two officers  
18 of their arrival to the trailer and that the  
19 other two, the other people at the residence,  
20 residence was shared with by me, that they  
21 did not -- and there is no evidence that they  
22 consented, or gave a limiting consent, or  
23 allow the officers into the home Once the  
24 officer entered the home, they went through  
25 the living room into the master bedroom in

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1 which myself and my wife occupy without a  
2 search warrant

3 Now, the search that they are  
4 speaking of in reference to what was found as  
5 far as evidence in reference this -- this  
6 motion is not addressing the search warrants  
7 that was attained after the shooting by other  
8 officers This is addressing that the  
9 officers that responded to this call violated  
10 the United States Constitution and the state  
11 laws and procedure by entering the residence  
12 without a search warrant through the living  
13 room into the master bedroom without a search  
14 warrant

15 THE COURT All right Again, but why  
16 does that not go to the exclusion of  
17 individual items of evidence as opposed to  
18 the charge itself? I mean, part of what you  
19 might argue might be some type of defense  
20 theory that based on your view of the  
21 circumstances and someone coming into your  
22 room coming at you or whatever, but that  
23 still would not justify dismissal of the  
24 indictment, that would be something to the --  
25 argue to the jury about whether -- and to the

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1 Court about, first, exclusion of certain  
2 evidence second, whether or not that s part  
3 and parcel of any self-defense theory

4 MR ALKEBULANYAHH Well first off is  
5 that in order for the officers to search I  
6 believe the law states that -- the United  
7 States Constitution, South Carolina Article  
8 One, Section Ten states that search and  
9 seizure -- Article One, Section One Section  
10 Ten, Invasion of Privacy, that a search  
11 warrant or arrest warrant should be acquired  
12 before one's privacy -- or before they enter  
13 the premises or to seize a person or a thing  
14 And that -- and that that item or whatever  
15 they plan to seize or the person they plan to  
16 seize should be stipulated in the search  
17 warrant before a search or arrest can be  
18 carried out

19 And to support my issue -- to  
20 support my stance in reference to this  
21 matter, is that these officers did not have a  
22 search warrant or an arrest warrant as  
23 required by law It's not a matter of  
24 evidence attained by the search warrant  
25 Because these officers never attained any

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1 evidence, nor possessed a search warrant or  
2 an arrest warrant

3 THE COURT All right

4 MR ALKEBULANYAHH The defendant is not  
5 saying to dismiss the charges in reference to  
6 self-defense or he shot him The defendant,  
7 is stating for the record he shot and killed  
8 no one, but as a result of these officers  
9 violating the Constitution of the United  
10 States and the Constitution of -- the South  
11 Carolina Constitution and laws and  
12 procedures, that this charge should be  
13 dismissed because of their grossly violation  
14 of basic procedures and laws in which the  
15 defendant and the people at the residence 21  
16 Riley Road has rights to

17 THE COURT All right I understand  
18 that argument Having heard that argument  
19 the way it's been postured I deny that  
20 motion I stand by the decision that insofar  
21 as evidentiary items that will be subject to  
22 any Fourth Amendment review And any desire  
23 to suppress any of that evidence, nothing's  
24 been presented that suggests that it's a  
25 proper basis to dismiss the indictment

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1           On November 11<sup>th</sup>, 2002 you had  
2 another motion to dismiss Mr Kelly and we've  
3 taken care of that

4           On December 12, 2002 you filed a  
5 document called a "Grievance," you said  
6 someone made copies of your confidential  
7 legal document I don't know if that's  
8 something you're asking the Court to address  
9 or not

10           MR ALKEBULANYAHH One minute, please,  
11 Your Honor

12           (Pause in proceedings )

13           MR ALKEBULANYAHH Your Honor, could  
14 you tell me the caption date on that  
15 document?

16           THE COURT August 23<sup>rd</sup> package It  
17 says it was filed November 11<sup>th</sup> No, that's  
18 not it Sorry You dated it December 8<sup>th</sup>

19           MR ALKEBULANYAHH December the 8<sup>th</sup>? I  
20 don't seem to have that motion with me at the  
21 time, but --

22           THE COURT You said someone copied your  
23 confidential documents

24           MR ALKEBULANYAHH Right I can speak  
25 in general in reference to that

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1 THE COURT Is that a motion? It was  
2 just called "Grievance," so I don't know if  
3 that's a motion or not

4 MR ALKEBULANYAHH It was a motion in  
5 reference to that I was transferred from  
6 Beaufort County Detention Center and at my  
7 request that I have all my legal material and  
8 documents with me The staff at the Beaufort  
9 County Detention Center I had trouble with  
10 previously with them taking me to different  
11 parts of the jailhouse and when I come back  
12 my legal material and stuff being rumours to  
13 and having things missing

14 At this particular time I was  
15 transferred to I think William Hall Institute  
16 in Columbia and they would not allow me to  
17 carry my legal material with me, which should  
18 have been afforded to me that I be able to  
19 bring my legal materials with me at all  
20 times It's my belief that they conspired to  
21 separate me from my legal material to view my  
22 notes, my defense in what I was preparing to  
23 represent myself in court

24 They took me to the William Hall  
25 Institute in Columbia and at that time I

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1 spoke with Dr Frierson and did not want to  
2 speak to them until they brought me my legal  
3 material They kept my legal material down  
4 in the Beaufort County Detention Center and  
5 then later on they brought it to me, about a  
6 day or two after that incident

7 And it was my belief that this  
8 institution was in collusion with the  
9 prosecutor to rummage through my legal  
10 material and then separate me from my legal  
11 material, that they may get some type of  
12 advantage over the defendant in his defense

13 THE COURT All right Do you want to  
14 respond?

15 MR STONE I don't see anything in this  
16 motion In fact, I would disagree that it's  
17 a motion It appears to be a grievance that  
18 he's filed with the Beaufort County Detention  
19 Center But I do not see anything in which  
20 he's identified documents that were taken  
21 from him and I don't know that his testimony  
22 today has even indicated that's the proper  
23 motion, but we have nothing else to add to  
24 that

25 THE COURT What is it that -- do you

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1 know specifically what was copied?

2 MR ALKEBULANYAHH Sir, what -- what  
3 I -- I would never know because I was in  
4 Columbia while they had my legal material in  
5 Beaufort

6 THE COURT Well, how do you know they  
7 copied anything?

8 MR ALKEBULANYAHH Because I said it is  
9 my belief because they violated, they was not  
10 supposed to separate me from my legal  
11 material I have a right I believe I have  
12 a right to have my legal material with me if  
13 I am transferred anywhere within the  
14 facilities, from jail to jail or any  
15 institution to have my legal documents with  
16 me And also I assume a Holy Bible or  
17 religious book

18 THE COURT I agree that they should let  
19 you take your paperwork with you if you're  
20 going to a hearing or something, but that  
21 doesn't mean anyone copied it You have to  
22 demonstrate to me that took place

23 MR ALKEBULANYAHH I can demonstrate to  
24 you that they violated my rights, that I have  
25 a right, legal right to have my legal

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1 material with me at all times and therefore,  
2 the integrity of them being the caretakers of  
3 my legal material should be questioned about  
4 why would they violate my right to keep my  
5 legal material with them

6 THE COURT What is it you're asking the  
7 Court to do?

8 MR ALKEBULANYAHH I'm asking the Court  
9 that because they violated this right that  
10 the Court dismiss the charges against me  
11 because they interfered with me having due  
12 process of law and having a fair trial and  
13 violated my Fourteenth Amendment right my  
14 civil right to equal protection under the  
15 law, that I should have protection under the  
16 law with the law to where they don't have --  
17 be able to confiscate or take my legal  
18 material away from me

19 THE COURT All right I don't believe  
20 there's been a basis established that I could  
21 know that a burden's been met to demonstrate  
22 someone's copied your legal document

23 I would ask that if he was  
24 transported for any hearing he be allowed to  
25 bring his legal documents with him and the

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1 jail should be notified of that fact I deny  
2 the request to dismiss the charges based on  
3 what's been presented at this point

4 On January 24<sup>th</sup> 2003 you filed a  
5 motion to dismiss the charges, you said  
6 there's a conspiracy between the judge, the  
7 prosecutor, and the detention officials

8 MR ALKEBULANYAHH On January 24<sup>th</sup>,

9 THE COURT January 24<sup>th</sup> I think you  
10 dated it January 21<sup>st</sup> Did you find it?

11 MR ALKEBULANYAHH Your Honor, to state  
12 previously about the issue, just speaking of  
13 about evidence at a later date and time are  
14 you going to allow me to bring evidence to  
15 support evidence about the separation of my  
16 legal material?

17 THE COURT Not the separation That  
18 there's been no evidence demonstrated to this  
19 Court that anyone copied your documents such  
20 that it would warrant dismissal of these  
21 charges That was why that motion's denied

22 MR ALKEBULANYAHH The next issue was,  
23 sir?

24 THE COURT Motion for dismissal of the  
25 charges on January 24<sup>th</sup> You said there was

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1 a conspiracy between the judge, the  
2 prosecutor, and the detention officials

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT You said this took place on  
5 December 3<sup>rd</sup>, 2002

6 MR ALKEBULANYAHH Yes, sir This is  
7 particularly the motions that we spoke about  
8 earlier with the December the 3<sup>rd</sup> incident  
9 with them transferring me from the Beaufort  
10 County jailhouse to Columbia and keeping my  
11 legal material with them

12 THE COURT So this is the same thing  
13 that we just discussed?

14 MR ALKEBULANYAHH Pretty much, but  
15 this is the actual motion

16 THE COURT That's what I was asking  
17 earlier The other thing was more of a  
18 letter about it and then this was the motion,  
19 all right I deny that motion on the same  
20 reasons I presented

21 Same day you filed a motion for  
22 dismissal of the charge, January 24, 2003,  
23 says that the arrest warrant for the murder  
24 of Mike Corson is false The arrest warrant  
25 states Mike Corson was killed by the

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1 defendant on January 8<sup>th</sup>, 2002 and there is  
2 no proof or evidence Mike Corson was killed  
3 on January 8<sup>th</sup>, there is no proof or facts  
4 the defendant killed anyone

5 MR ALKEBULANYAHH Yes, sir

6 THE COURT Well, does the State wish  
7 to -- you want to argue anything first?

8 MR ALKEBULANYAHH Yes, sir In this  
9 particular motion that I filed in reference  
10 to this matter that the warrant affidavit's a  
11 sworn warrant and this warrant allege that a  
12 Mike Corson was killed This officer, the  
13 officers that were involved in this case at  
14 that time, from my understanding neither one  
15 of the officers was named Mike Corson And  
16 this affidavit was sworn out that defendant  
17 did kill a Mike Corson And from my belief  
18 and understanding as far as I know that there  
19 was no Mike Corson killed on January the 8<sup>th</sup>,  
20 2002

21 And I do have the arrest warrant  
22 with me at this particular time to attest to  
23 the affidavits being sworn as far as this  
24 individual was killed on that date and killed  
25 by the defendant

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1 THE COURT All right Do you wish to  
2 respond please?

3 MR STONE Yes, sir We'll be  
4 proceeding on the indictment that has been  
5 handed out by the grand jury and that's what  
6 we will be proceeding on at trial I don't  
7 believe there's anything else that is  
8 necessary for us to add

9 THE COURT I deny that motion I think  
10 they can proceed on the indictment, the facts  
11 that were presented to the grand jury The  
12 indictment states the victims?

13 MR STONE I believe it does Your  
14 Honor I don't have it in front of me, but I  
15 believe it does

16 THE COURT The indictment actually says  
17 it's Dyke Corson, not Mike Corson I don't  
18 think that's not an appropriate basis to  
19 dismiss the charge

20 MR ALKEBULANYAHH Your Honor, but the  
21 warrant was false, it was a false arrest  
22 warrant

23 THE COURT What is your allegation?  
24 How are you establishing it was false?

25 MR ALKEBULANYAHH It's false because

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1 there is no Mike Corson from the factual  
2 And that's on the face of the warrant which I  
3 have right here

4 THE COURT But the indictment cured any  
5 problems with that

6 MR ALKEBULANYAHH The arrest warrant,  
7 should be correct If not, then there's no  
8 need for an arrest warrant An officer can  
9 say anything without thoroughly investigating  
10 the case and then later on can change  
11 whatever necessary he need to at a later time  
12 to fit whatever situation for the State that  
13 he needs to

14 There would be no need for an  
15 arrest warrant if they can make false  
16 statements and swear to them and then later  
17 on come back and say don't worry about the  
18 arrest warrant, we can make any kind of  
19 arrest warrant, arrest warrants don't have to  
20 be accurate or true, we can make false arrest  
21 warrants and make false arrests and give  
22 false charges under a false arrest

23 THE COURT They said Deputy Mike Corson  
24 and it's actually Deputy Dyke Corson is that  
25 correct?

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1 MR STONE Yes, sir That's correc

2 THE COURT I don t understand your

3 argument, but I don't think that is --

4 MR ALKEBULANYAHH The argument is that

5 there is no Mike Corson and that the accuracy

6 of a report, an arrest warrant should be

7 accurate in reference to what events happen,

8 what happened to the person, who did this act

9 if it's sworn before a judge

10 THE COURT Well the difference is that

11 it says Deputy Corson in both The question

12 is Mike versus Dyke and that kind of error is

13 not the kind of error that warrants dismis I

14 under the law of this state It could easily

15 be a typographical error and not something

16 someone falsely did I don't think that's

17 been demonstrated I deny that motion

18 MR ALKEBULANYAHH Your Honor --

19 THE COURT That's all I'll receive on

20 that motion, sir I don't agree with your

21 argument Even if a magistrate were to

22 affirm the warrant out, on that very same

23 basis the grand jury could indict you for

24 that charge Do you understand that,

25 Mr Alkebulanyahh?

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1 MR ALKEBULANYAHH I hear you, sir

2 THE COURT Do you understand that?

3 MR ALKEBULANYAHH No, I don't

4 THE COURT If a magistrate were to  
5 dismiss a charge at a preliminary hearing,  
6 the solicitor could still go to the grand  
7 jury and have a direct indictment with  
8 whatever proper language is appropriate Do  
9 you understand?

10 MR ALKEBULANYAHH No As I said, you  
11 know, it's based --

12 THE COURT Do you understand what I'm  
13 saying?

14 MR ALKEBULANYAHH -- on the  
15 investigation

16 THE COURT Do you understand what I'm  
17 saying?

18 MR ALKEBULANYAHH Yes, Your Honor

19 THE COURT All right Next motion,  
20 motion to reserve rights

21 MR ALKEBULANYAHH Yes, sir

22 THE COURT I think that's resolved by  
23 the fact that I've allowed you to proceed pro  
24 se is that correct?

25 MR ALKEBULANYAHH Yes, sir

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1 THE COURT All right Motion to  
2 dismiss indictments on January 24<sup>th</sup>, 2003,  
3 conspiracy to deprive the defendant of his  
4 Sixth Amendment rights

5 MR ALKEBULANYAHH Yes, sir

6 THE COURT And you, again, allege all  
7 the public officials you claim are conspiring  
8 against you?

9 MR ALKEBUIANYAHH Yes, sir What I'm  
10 alleging is that from the -- from the  
11 Honorable Judge Buckner, at that time  
12 solicitor and the public defender Gene Hood  
13 and the attorneys that presently represent e  
14 at this time in the course of my arrest that  
15 they have conspired, they have conspired to  
16 deny me a fair trial, they have conspired to  
17 deny me proper representation

18 THE COURT How is it that you can  
19 establish that?

20 MR ALKEBULANYAHH How I can establish  
21 that is by that when I ask for speedy trial,  
22 a speedy trial is not acknowledged When I  
23 asked to speak before the Court to address my  
24 grievances of mistreatment, the Court would  
25 not allow me to speak, only allow the

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1 attorneys to speak at any time

2 Mr Hood, he did no work or  
3 anything in reference to my case for me He  
4 told them from the beginning that he wasn't  
5 doing anything in the case, he hadn't done  
6 nothing And for six months passed before  
7 they finally let him withdrew himself on the  
8 case after he alleged he wasn't doing nothing  
9 on the case and wasn't going to do nothing on  
10 the case

11 And I thought that was improper for  
12 the judge to continue to draw out this case  
13 without setting a trial date, to wait so long  
14 to keep drawing out this case and doing  
15 different tactics to keep me from having a  
16 fair trial, keep me from getting a trial to  
17 keep me from being able to exercise my  
18 constitutional rights

19 You know, they wouldn't allow --  
20 and it's all in reference to keeping me  
21 segregated, not allowing me to have the  
22 regular privilege of inmates where I can be  
23 able to talk to my family and people that  
24 would assist me regularly that I may have  
25 contact Because of this separation no one

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1 will raise my issues in reference to my  
2 situation that I was under at that particular  
3 time

4 THE COURT All right Do you wish to  
5 respond?

6 MR STONE Only that I believe you have  
7 addressed all of those individual issues in  
8 previous orders, Your Honor, we have no other  
9 response

10 THE COURT I agree I deny that  
11 motion

12 On January 24<sup>th</sup>, 2003 another  
13 motion to dismiss based on the Fifth  
14 Amendment, again obstruction of justice  
15 being committed by officials in the case Do  
16 you want to argue that one?

17 MR ALKEBULANYAHH Yes, sir Your  
18 Honor, can I have a moment, please?

19 THE COURT Yes, sir

20 (Pause in proceedings )

21 MR ALKEBULANYAHH Yes, sir

22 THE COURT Yes, sir

23 MR ALKEBULANYAHH Yes Your Honor, in  
24 the Fifth Amendment the motion was filed for  
25 dismissing the charges for violating due

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1 process for right of law The officials in  
2 this case, they obstructed justice by -- by  
3 preventing, by -- first of all by certain  
4 officials lying, making false reports and  
5 failure to investigate, to investigate  
6 exculpatory evidence that would show that  
7 someone other than defendant may have killed  
8 the two deputies And particularly based  
9 on -- and because these officials had  
10 knowledge of this and knew this, that they  
11 did not want justice to be served

12 So I filed this motion in regards  
13 to that, as I stated that they had  
14 exculpatory evidence, there, was evidence that  
15 someone else, or someone else did kill the  
16 two officers Did kill Not murder, did  
17 kill the two officers In which they had  
18 this knowledge on the day that this incident  
19 took place, but they allowed these  
20 individuals to go free because of their  
21 race --

22 THE COURT Okay

23 MR ALKEBULANYAHH -- and other  
24 factors

25 THE COURT Yes, sir

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1 MR ALKEBULANYAHH Yes, sir

2 THE COURT Any objection from the  
3 State?

4 MR MURDAUGH That is once the jury is  
5 selected?

6 THE COURT Yes

7 MR MURDAUGH No problems

8 THE COURT Once we select the jury you  
9 want them to stay in a hotel?

10 MR ALKEBULANYAHH Yes And avoid, if  
11 possible, TV and newspaper

12 THE COURT Oh, they have rigid rules  
13 about all that They usually will arrange  
14 for them to watch a movie or something like  
15 that All right That motion's granted

16 Motion for transcripts, records,  
17 and documents filed on January 24<sup>th</sup>

18 MR ALKEBULANYAHH Yes, sir Yes, sir  
19 Your Honor, I would just like for the Court  
20 to order that, that the defendant receives  
21 all the transcripts of the hearings,  
22 evidence, and documents in relation to -- in  
23 relation to this case under Brady

24 THE COURT Did your standby counsel  
25 have access to that already?

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1 MR ALKEBULANYAHH They intend to He  
2 talked to me the other day and he said he was  
3 going to bring it to me

4 THE COURT Do you have all that  
5 information?

6 MR KELLY Excuse me, Your Honor, what  
7 information is that? I'm sorry

8 THE COURT Request for any transcripts,  
9 records, and documents from Rule 5 or Brady

10 MR KELLY We've made no request for  
11 any transcripts

12 THE COURT Which transcripts are you  
13 referring to?

14 MR ALKEBULANYAHH I would like  
15 everything from the entire, from the  
16 beginning of the arrest and hearings and  
17 everything in reference to evidence in the  
18 case, documents, statements, witness  
19 statements, supplemental report

20 THE COURT You're talking about  
21 discovery information?

22 MR ALKEBULANYAHH Discovery and  
23 transcript from hearings

24 THE COURT I don't know which hearings  
25 you're talking about You don't have a right

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1 to have a transcript of a hearing during t  
2 case provided to you prior to that time of  
3 trial Is there a particular hearing that  
4 you need, you can establish a need for that?

5 MR ALKEBULANYAHH Yes The hearing  
6 that was held in Walterboro and the counselor  
7 at that time was Mr Gene Hood

8 THE COURT What was that hearing about?

9 MR ALKEBULANYAHH It was about him  
10 dismissing himself from the --

11 THE COURT Why would you need that  
12 transcript since that -- that -- he's no  
13 longer your attorney in the case?

14 MR ALKEBULANYAHH A lot of things that  
15 transpired that could be reviewed on  
16 appellate review

17 THE COURT Can be used to what?

18 MR ALKEBULANYAHH I intend to use in  
19 the event that I'm found guilty in an  
20 appellate proceeding, because so many things  
21 I felt like the judge and the prosecutor and  
22 counsel did that was in violation of the  
23 courtroom proceedings and rules

24 THE COURT But that's not needed for  
25 purposes of this trial?

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1 MR ALKEBULANYAHH No, sir

2 THE COURT So you can make that request  
3 if that does happen subsequent to trial if  
4 you think that's needed for appeal purposes  
5 all right?

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT I'll deny that at this time  
8 I'll deny it

9 Motion for -- but the Brady  
10 information counselor, you've already  
11 received all that?

12 MR KELLY Your Honor, as we stated on  
13 Friday in Florence we're in the process of  
14 discovery I have materials that we have  
15 received from the State and there are other  
16 materials that we have not yet received from  
17 the State

18 THE COURT And you're going to turn all  
19 that over to the defendant?

20 MR KELLY Yes, sir I'm going to make  
21 four copies of my file, Mr Thornton's going  
22 to make four copies of his file as our order  
23 for printing allows It will take at least a  
24 week to print my file I'm going to turn it  
25 over to the printer on Monday and I hope to

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1 have it in his hands within a week's time

2 THE COURT All right

3 MR KELLY That will have every sheet  
4 of paper and everything that I have in my  
5 possession

6 THE COURT And is there any outstanding  
7 discovery from the State's part?

8 MR MURDAUGH If Your Honor please, we  
9 have given either physically given them  
10 everything we had or told them about some  
11 pictures I don't think they've seen the  
12 pictures but we've told them that they are  
13 available is that correct?

14 MR KELLY Your Honor, we don't have  
15 everything We received some pictures I  
16 don't have any ballistics information,  
17 there's -- we've asked for a polygraph of Kim  
18 Blake, the results of that, we haven't  
19 received that But there's an standing  
20 order -- not order, but motion that literally  
21 covers everything that we're asking for and  
22 some of those things have not been fulfilled

23 The solicitor and I talked about it  
24 and we said that after these hearings that  
25 the State would meet with the representing

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1 attorney who is now the defendant and/or his  
2 representatives, he still has two  
3 investigators, one fact and one mitigation,  
4 and they would then present the remainder of  
5 the information But to answer your question  
6 concisely, Your Honor, discovery is not  
7 completed

8 THE COURT When can you get the  
9 remainder of the discovery to them?

10 MR MURDAUGH If Your Honor please, I  
11 have given them everything that I have  
12 available in my file I have told them I  
13 would sit down and bring SLED in and show  
14 them the two files

15 THE COURT Is there like a ballistics  
16 report that's missing, not been turned over?

17 MR MURDAUGH There's several reports  
18 that have not been

19 THE COURT When will you turn those  
20 over?

21 MR MURDAUGH As soon as I get them

22 THE COURT All right When do you  
23 expect those?

24 MR MURDAUGH Judge, I've been  
25 expecting them

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1 THE COURT I just have some concerns  
2 we've got the case set

3 MR MURDAUGH I'll tell them they've  
4 got to give them to me

5 THE COURT All right And you'll get  
6 those immediately to them?

7 MR MURDAUGH Absolutely, sir

8 THE COURT How much time do you think  
9 that's going to take? How about check with  
10 them

11 MR MURDAUGH End of next week

12 THE COURT All right That's good  
13 Thank you

14 MR MURDAUGH May I do this, sir?

15 THE COURT Yes, sir

16 MR MURDAUGH We've got an unusual  
17 situation May I send the discovery to  
18 counsel as opposed do the defendant? I don't  
19 want to get put in the position of talking  
20 with a fellow that I'm prosecuting, sir

21 MR KELLY Your Honor, we don't think  
22 that's proper We think that it should be  
23 sent to the representatives of present  
24 counsel Those are Vicki Childs who is the  
25 investigator for facts --

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1 MR MURDAUGH I have no problem with  
2 that, sir

3 THE COURT Is that okay with you,  
4 Mr Alkebulanyahh?

5 MR ALKEBULANYAHH Yes, sir

6 THE COURT Turn discovery over to the,  
7 investigator As I recall from the last  
8 hearing you wanted to continue using those  
9 investigators is that correct?

10 MR ALKEBULANYAHH That is true, sir

11 THE COURT So turn those over to the  
12 investigators, direct the investigators to  
13 turn them over to Mr Alkebulanyahh, all  
14 right

15 MR MURDAUGH Yes sir Thank you,  
16 sir

17 MR KELLY We would like to be taken  
18 completely out of the loop

19 THE COURT All right Well, as standby  
20 counsel you're still going to be on standby  
21 for giving his assistance, you're going to  
22 have to be familiar with information

23 MR KELLY Yes, sir And we will be  
24 happy to do that on that counsel standby  
25 basis Your Honor, if you will allow us to

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1 speak to that matter for a moment

2 THE COURT Yes, sir

3 MR KELLY We prefer that our standby  
4 status be similar to legal books on the  
5 table, so that if you want to open the book  
6 for specific help you can get it, there it  
7 is And, Your Honor, we understand we'll  
8 have to prepare financial motions that have  
9 to do with payment of bills or payment of  
10 persons, we understand that But as far as  
11 interviewing witnesses or preparing other  
12 documents for the defense, we don't feel like  
13 that's proper, we don't want to be burdene  
14 with that responsibility

15 THE COURT To the extent that he  
16 solicits assistance with that I think that  
17 falls within being standby counsel

18 MR KELLY We would also meet with him  
19 when he viewed the evidence, anytime you  
20 would want us to be present when he's present  
21 for any kind of official duty we will  
22 certainly fulfill that by being present If  
23 you want us present when he views evidence,  
24 we'll be happy to do that

25 THE COURT To the extent that he

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1 requests or assistance, standby counsel needs  
2 to provide that

3 MR KELLY Your Honor, would that mean  
4 if he wished to subpoena someone and he asked  
5 us to prepare the subpoena that we should do  
6 that?

7 THE COURT That you assist him with the  
8 subpoena, yes

9 MR KELLY If that meant he wanted to  
10 prepare any type of motion before the Court  
11 we should help him do that?

12 THE COURT You can help him prepare the  
13 motion It doesn't mean the Court's going to  
14 grant the motion As long as it doesn't  
15 violate some ethical responsibility

16 MR KELLY If he should ask us to do  
17 something other than that, to go out into the  
18 community and meet with persons you would  
19 ask us to do that as well?

20 THE COURT I want you to provide  
21 assistance to him as he requests in  
22 developing this case You would be doing  
23 that if you were lead counsel, and if he  
24 needs assistance in doing that you're to  
25 provide that

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1 MR KELLY Very good, Your Honor

2 THE COURT All right The fact of the  
3 matter is I've researched over the entire  
4 country the standards for standby counsel,  
5 and it's very confusing to say the least  
6 And there seems to be a general consensus the  
7 Court should be very specific in what it  
8 expects of standby counsel, so I didn't want  
9 to leave that up to any ambiguity

10 Motion for order of release filed  
11 January 24<sup>th</sup> Defendant asserts that  
12 documents received by the detention center,  
13 supposedly newspaper articles?

14 MR ALKEBULANYAHH Yes, sir Your  
15 Honor, what that is, there are articles that  
16 are printed on the standard paper

17 THE COURT Somebody mailed them to you?

18 MR ALKEBULANYAHH Right Standard  
19 paper such as this They're printed out on  
20 this, they come from the Beaufort County  
21 Library

22 THE COURT Where are they at?

23 MR ALKEBULANYAHH They're in the  
24 detention center property room

25 THE COURT Why are they in there?

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1 MR ALKEBULANYAHH They say they  
2 weren't going to give them to me because they  
3 was newspaper articles

4 THE COURT Do you know anything about  
5 that?

6 MR STONE I don't I'll be glad to  
7 check on it, but I don't know anything about  
8 that

9 THE COURT I'm granting his request,  
10 direct that they turn that over to him That  
11 motion is granted

12 Motion for dismissal of indictments  
13 January 24<sup>th</sup>, 2003 You say there was no  
14 preliminary hearing, grand jury received  
15 false testimony, lies, officials conspired to  
16 withhold the State's only crucial witness  
17 Prosecuting officials conspired to present  
18 false testimony to the grand jury, malicious  
19 prosecution, violation of the Fifth and Sixth  
20 Amendment We've been over that Fifth and  
21 Sixth Amendment argument

22 MR ALKEBULANYAHH There's different  
23 issues of Fifth and Sixth Amendment

24 THE COURT Okay I'll hear you out on  
25 this motion

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1 MR ALKEBULANYAHH The witness that  
2 the -- that the State has who was involved  
3 with this incident was not the defendant, or  
4 his counsel had not the opportunity to  
5 cross-examine the witness during the  
6 preliminary hearing, nor do defendant believe  
7 that this witness testified before a grand  
8 jury And defendant believe that when this  
9 witness was presented for cross-examination  
10 during the preliminary hearing or during the  
11 grand jury indictment, that the indictment  
12 would not have come out, nor would the  
13 preliminary hearing also would have been  
14 favorable to the defendant if this witness  
15 would have been presented

16 Being that this witness is the  
17 essential -- the most essential and key  
18 witness I believe for the State in reference  
19 to having knowledge about the matters that  
20 took place at the 21 Riley Road residence,  
21 and based on this witness it is the defendant  
22 belief that because of this sole witness that  
23 defendant is incarcerated today and charged  
24 falsely with two counts of homicide

25 THE COURT Okay All right Does t.

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1 State wish to respond?

2 MR STONE There's a preliminary  
3 hearing held in this matter, Your Honor, on  
4 March the 18<sup>th</sup>, 2002 There was probable  
5 cause found at that hearing, bind it over to  
6 the grand jury, the proceedings of the grand  
7 jury are secret and I cannot comment on  
8 anything that took place at the grand jury

9 MR ALKEBULANYAHH Your Honor

10 THE COURT You've put in one of your  
11 documents that you did not receive a  
12 preliminary hearing, sir, and then put in  
13 another document you acknowledge that a  
14 preliminary hearing was on March 18<sup>th</sup>

15 MR ALKEBULANYAHH Exactly What  
16 happened was -- what I have stated is that I  
17 hadn't -- at that time I had not had a  
18 preliminary hearing if that was in my  
19 document I was already indicted without a  
20 preliminary hearing I was already indicted  
21 for two counts of murder They took me to a  
22 preliminary hearing I assume to make mockery  
23 of me, because it was very apparent it was  
24 not necessary for them to take me in the  
25 preliminary hearing, take me through this,

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1 and don't even have no witnesses, nobody  
2 testify who actually can testify to anything  
3 that the defendant did or committed any type  
4 of crime when he already been indicted  
5 There was no ruling that the judge can give  
6 on opinion about whether this should be bound  
7 over to a grand jury when he already been  
8 indicted

9 THE COURT Anything from the State?

10 MR STONE No sir

11 THE COURT All right I deny that  
12 request

13 January 24<sup>th</sup>, 2003 you filed a  
14 document called Rule Nisi There's nothing  
15 for the Court to do on that, that's just to  
16 get someone before the Court for a hearing,  
17 that's why we're today

18 MR ALKEBULANYAHH True

19 THE COURT January 24<sup>th</sup>, motion to  
20 obtain expert witnesses We'll go over that  
21 with the subpoena information at the end

22 January 24<sup>th</sup>, again, motion for  
23 speedy trial I've already addressed that

24 MR ALKEBULANYAHH Your Honor?

25 THE COURT Yes

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1 MR ALKEBULANYAHH Excuse me That  
2 particular motion you have not addressed  
3 You addressed the motion for the speedy trial  
4 in the year 2002 This is a motion for  
5 speedy trial in the year of 2003

6 THE COURT But I've granted your  
7 request for a trial date, so it's moot

8 MR ALKEBULANYAHH Well, defendant was  
9 still particularly alleging that according to  
10 the South Carolina Article One, Section  
11 Fourteen, United States Constitution Sixth  
12 Amendment that he has a right to a speedy  
13 trial And defendant do believes that the  
14 State of South Carolina do has a statute and  
15 so forth to the extent that where one who's  
16 incarcerated there's a set standard or  
17 guideline that the State must go by to set or  
18 grant the defendant a right to a speedy  
19 trial

20 And so, therefore the defendant  
21 would like the Court to rule whether this  
22 Court or the State of South Carolina  
23 recognize the United States Sixth Amendment  
24 constitutional right to a speedy trial in  
25 South Carolina in one Section 14 and again

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1 17-23-90, whether a defendant has that  
2 particular right and what supersedes that  
3 right continuously

4 THE COURT Have you been prejudiced in  
5 any way?

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT How?

8 MR ALKEBULANYAHH First of all, a  
9 witness for the defendant has passed away  
10 Witnesses in the case who could have give  
11 evidence that someone else actually shot the  
12 two deputies and also gave evidence that this  
13 witnesses told them, several witnesses, tw  
14 or three of them told them on that date hours  
15 after that, told the investigators and the  
16 people part of the Beaufort County sheriff  
17 department that this person told them he was  
18 there and was involved in this matter and  
19 possibly could be going to prison, they have  
20 moved

21 THE COURT Why can't they be located?

22 MR ALKEBULANYAHH Because the defense  
23 does not provide or have an address or did  
24 not take -- the investigators didn't take the  
25 address down, didn't want nothing to do with

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1 them That's why, you know, because of the  
2 improper investigation because of the State  
3 The State should have kept the witness to get  
4 statements from them to find out where they  
5 live at and to bring them to Court or arrest  
6 them

7 THE COURT Do you have their names?

8 MR ALKEBULANYAHH Yes sir I have  
9 the names

10 THE COURT Has standby counsel tried to  
11 locate those individuals?

12 MR ALKEBULANYAHH Yes The  
13 investigators in reference to this has  
14 spoken, they tried to locate these  
15 individuals, but they can't locate them now  
16 because they either move and some saying they  
17 going out of the state and so forth like this  
18 to this extent

19 THE COURT Yes, sir

20 MR KELLY We have to know what names  
21 he is naming to know whether or not we can  
22 substantiate that, Your Honor

23 THE COURT What are the names, sir?

24 MR KELLY Isaiah Johnson, an Eddie  
25 Brown, a Timothy Morgan, and a Bobby Rigby

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1 THE COURT All those you've claimed  
2 have moved?

3 MR ALKEBULANYAHH Sir?

4 THE COURT All those you've claimed  
5 have moved?

6 MR ALKEBULANYAHH Yes, as far as I  
7 know I know at least all of them except  
8 one I don't know the situation with one  
9 right now

10 THE COURT All right

11 MR ALKEBULANYAHH All of them except  
12 one

13 THE COURT Yes, sir Did standby  
14 counsel --

15 MR KELLY Your Honor, as standby  
16 counsel I only recognize one of those names,  
17 that's Bobby Rigby I don't think I've ever  
18 heard those other names I would have to  
19 confer with co-counsel and my investigators  
20 However, I can tell you this Every name  
21 that has appeared in the investigation by the  
22 State and every name given to us by the  
23 defendant has been thoroughly investigated to  
24 this point

25 THE COURT All right

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1 MR ALKEBULANYAHH At present I do have  
2 documents in the court today with the  
3 investigators as far as their investigations  
4 and the statements that they give to the  
5 investigators and the sheriff department  
6 about their involvement in this case  
7 directly, I do have it

8 THE COURT Well, those statements, you  
9 have those statements that these witnesses  
10 supposedly made to the sheriff's department?

11 MR ALKEBULANYAHH Yes, sir I have  
12 them here

13 THE COURT So you have them in there  
14 what they were going to say?

15 MR ALKEBULANYAHH I have in the  
16 statement what they was going to say, what  
17 they did state What I have in here is what  
18 they did state by individuals of the sheriff  
19 department that these witnesses told them I  
20 have these statements here what the  
21 representatives of the sheriff department and  
22 the SLED, South Carolina Law Enforcement  
23 Division agents, and FBI agent stated in  
24 their report that these individuals told them  
25 this right after the incident

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1 THE COURT That someone else did it

2 MR ALKEBULANYAHH That someone else  
3 was involved someone else did it, someone  
4 was there

5 THE COURT You can ascertain a lot of  
6 that on cross-examination of the  
7 investigating officer Not what the  
8 statement actually was, but did they have --  
9 the details of the investigation to that  
10 extent may be able to be brought out

11 MR ALKEBULANYAHH But if these  
12 individual was there their-self being  
13 eyewitnesses --

14 THE COURT Well, your investigator can  
15 look for them As far as I know only one of  
16 those names has been provided so far for the  
17 investigators to try to locate

18 MR ALKEBULANYAHH Well, I've spoken  
19 with the investigator and maybe she will  
20 speak in reference to the matter about these  
21 individuals and the location and the  
22 complications of what has transpired since  
23 that time because of such a long delay for  
24 them not getting to trial and everything, the  
25 loss of witnesses and of that --

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1 THE COURT That's general talk It may  
2 or may not be the case until you try to  
3 locate these people, but you still have  
4 access to the information They have the  
5 statements that were given to the deputies  
6 and that may or may not have to be dealt with  
7 at trial I deny the motion to dismiss based  
8 on speedy trial violations, though, at this  
9 point

10 Again, you filed the Rule Nisi on  
11 January 24<sup>th</sup> On February 4<sup>th</sup> you filed a  
12 motion to examine the State's witness list  
13 Do you wish to be heard on that?

14 MR ALKEBULANYAHH Yes, sir One  
15 minute, sir, please

16 (Pause in proceedings )

17 MR ALKEBULANYAHH Yes, sir This  
18 particular motion is to ask the Court that  
19 the Court order that the SLED witness list,  
20 case number 31020004, the witness list dated  
21 February 26<sup>th</sup>, 2002 of the South Carolina Law  
22 Enforcement Division, I think who's in care  
23 of this is SLED Agent Travis Avant, that the  
24 people that appear on this list, all these  
25 people to be -- to show to the trial to be

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1 MR STONE We have given him notice of  
2 the aggravation and it's not in the  
3 indictment, nor is it necessary to be in the  
4 indictment We've already filed the notice  
5 of aggravation and served it yes sir

6 THE COURT I agree with that It's not  
7 necessary, but notwithstanding the  
8 necessity -- the indictment itself references  
9 the fact that a law enforcement officer was  
10 killed that would be one of the aggravating  
11 circumstances that they're alleging The  
12 other being that more than -- two or more  
13 persons were killed

14 So notwithstanding the argument I  
15 think that you have been put on notice of  
16 those circumstances, but I think they've  
17 satisfied that obligation through their filed  
18 notice That motion's denied

19 MR ALKEBULANYAHH Could it be said  
20 that they was murdered, aggravating  
21 circumstance would have to deal with murder  
22 and go with murder in order for aggravating  
23 circumstance to exist instead of having them  
24 just being killed?

25 THE COURT Well, the indictment's fo

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1 murder itself It says murder on there All  
2 right I deny that motion

3 On February 4<sup>th</sup> you had a motion  
4 for dismissal of the charges You, again,  
5 assert coverup by the prosecutor, obstruction  
6 of justice that SLED Agent Travis Avant lied  
7 under oath, obstructed justice You also  
8 assert that the deputy sheriff obstructed  
9 justice and attempted to frame the defendant,  
10 participated in criminal misconduct and that  
11 law enforcement official employees have lied

12 MR ALKEBULANYAHH Yes, sir Yes sir  
13 THE COURT Is there any evidence of  
14 this?

15 MR ALKEBULANYAHH Yes sir I have  
16 evidence to this I have evidence that the  
17 SLED Agent Avant in the preliminary hearing  
18 lied about information that the key witness  
19 said that the key witness told him in  
20 reference to what happened on January 8<sup>th</sup>,  
21 2002 And I have a statement from the  
22 witness whom the agent told the lie on who  
23 said to the contrary of what the agent said  
24 and the agent said what he said at that time  
25 to enhance the belief that defendant motive,

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1 alleged defendant motive if he shot the  
2 police officer, the reason for the shooting  
3 to occur And I do have evidence to prove  
4 that he either lied or the key witness on  
5 this case whom they base their charges  
6 against me on either lied in reference to  
7 this matter

8 THE COURT State wish to respond?

9 MR STONE No, sir

10 MR ALKEBULANYAHH In addition I also  
11 have evidence in where that people of the law  
12 enforcement officials, such as the  
13 dispatcher, investigators, and eyewitnesses  
14 in the case states against one another about  
15 what actually took place and what was said on  
16 the days, whereas they would say the  
17 officials would say that this witness said  
18 this happened and another witness -- and the  
19 witness would say that never said that they  
20 said that happened like that

21 And I do have the facts and  
22 evidence in reference to these officials with  
23 blatant lies, which all goes to the improper  
24 investigation and conspiracy to charge  
25 defendant and accuse defendant and make

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1 defendant be a culpable person for the  
2 homicides that took place on January 28<sup>th</sup>,  
3 2002 at 21 Riley Road

4 THE COURT Do you have any witnesses on  
5 this issue?

6 MR ALKEBULANYAHH Sir?

7 THE COURT Do you have any witnesses on  
8 this issue?

9 MR ALKEBULANYAHH I have the  
10 witnesses' statements

11 THE COURT All right That's not  
12 sufficient for purposes of this motion I'm  
13 going to deny the motion However, if it  
14 becomes apparent through the trial testimony  
15 or otherwise I'll be happy to revisit that  
16 issue, figure out whether there's some  
17 appropriate sanction for that Based on the  
18 record here today I'm not prepared to grant  
19 that motion

20 February 4<sup>th</sup>, again, you filed a  
21 Rule Nisi February 6<sup>th</sup>, a statement of  
22 motion for speedy trial I don't see  
23 anything different in that one

24 MR ALKEBULANYAHH Excuse me, sir?

25 THE COURT On February 6<sup>th</sup>

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1 MR ALKEBULANYAHH Yes That's the  
2 motion to compel speedy trial, sir

3 THE COURT Yes

4 MR ALKEBULANYAHH No, there's no  
5 difference

6 THE COURT All right I've ruled on  
7 that already

8 On February 26<sup>th</sup> again, the motion  
9 to compel speedy trial Defendant asserts  
10 speedy trial motion was heard and ruled on in  
11 October 2002, he also asserts that Joe Kelly  
12 withdrew the motion against the defendant's  
13 wishes on October the 8<sup>th</sup>

14 MR ALKEBULANYAHH That's on a motion  
15 for compel?

16 THE COURT You, again, in that motion  
17 request to proceed pro se which I granted  
18 I don't see anything new to revisit the  
19 speedy trial issue Again, this Court has  
20 set your trial date

21 MR ALKEBULANYAHH That's the motion to  
22 compel speedy trial, right, sir?

23 THE COURT Yes, sir Trial date is set  
24 for October

25 Motion for subpoenas Again, I'

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1 going to take up all that at the end,  
2 subpoenas and experts

3 Twenty-sixth again, February 26<sup>th</sup>  
4 you filed another Rule Nisi You don't need  
5 to do that sir in these cases

6 MR ALKEBULANYAHH Yes, sir

7 THE COURT If you file a motion the  
8 Court will schedule the motion

9 MR ALKEBULANYAHH Thank you, sir

10 THE COURT On March the 6<sup>th</sup>, it's a  
11 letter to the Justice Department and I don't  
12 need to respond to that that's your letter  
13 to them

14 May 7<sup>th</sup> you, again, filed a motion  
15 for speedy trial based on 17-23-90 and I've  
16 already addressed that with the Attardo case

17 MR ALKEBULANYAHH Yes, sir Excuse  
18 me, sir

19 THE COURT Yes, sir

20 MR ALKEBULANYAHH On motion for speedy  
21 trial in May

22 THE COURT Yes, sir

23 MR ALKEBULANYAHH May 7<sup>th</sup>, is that  
24 correct?

25 THE COURT May 7<sup>th</sup> is the filing date

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1 I don't know what your letter date is Do  
2 you have that? Motion for speedy trial  
3 May 7<sup>th</sup>  
4 MR ALKEBULANYAHH Again, the defendant  
5 wants to make clear for the record that  
6 defendant has filed these speedy trials at  
7 different intervals during the year to --  
8 persistently asking the Court to allow them  
9 for a date to be set  
10 THE COURT I understand your argument  
11 The record will demonstrate that you filed  
12 these requests several times  
13 MR ALKEBULANYAHH Thank you, sir  
14 THE COURT It always indicated your  
15 desire to do that I deny that, though  
16 Again it's referencing 17-23-90 I think  
17 the Attardo case, again, addresses that  
18 issue I'll give you a copy of the Attardo  
19 case Do you have access to those?  
20 MR STONE We have access, Your Honor  
21 THE COURT Thank you On May 7<sup>th</sup>,  
22 motion to subpoena Again, I'll deal with  
23 that at the end And the expert witnesses,  
24 again, I'll deal with that the end  
25 May 7<sup>th</sup>, a motion for dismissal

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1 the indictment based on your belief that  
2 blacks were excluded from the grand jury

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT And that the grand jurors  
5 were not represented from a fair  
6 cross-section of the community

7 MR ALKEBULANYAHH Yes, sir

8 THE COURT The Court has showed greater  
9 difference to allow the defendant due process  
10 of law Do you wish to address that?

11 MR ALKEBULANYAHH Yes, sir It's  
12 defendant belief that the grand jury that was  
13 selected to indict the defendant on the  
14 cases, it is his belief that there was no  
15 African Americans on the grand jury

16 THE COURT Are you speculating about  
17 that, or do you know something about that?

18 MR ALKEBULANYAHH I'm speculating  
19 that, sir

20 THE COURT All right

21 MR ALKEBULANYAHH And wanted to be --  
22 wanted the State to show any difference that  
23 the defendant was not prejudiced by excluding  
24 African Americans from the grand jury when  
25 obtaining that particular indictment

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1 THE COURT State response, please?

2 MR STONE It was a standard grand jury  
3 from Beaufort County, it was not a special  
4 grand jury for this particular case I don't  
5 have the representation as to backgrounds on  
6 the grand jury with me and I have no reason  
7 to believe that anyone was --

8 THE COURT I don't -- based on what's  
9 been presented here today I deny that motion  
10 You have to do something more than just  
11 speculate about the exclusion of a particular  
12 race from the grand jury

13 MR ALKEBULANYAHH Your Honor, I would  
14 liked to have had access, or the State would  
15 have allowed the attorneys or produce some  
16 evidence to show anything otherwise that the  
17 defendant was not prejudiced by putting an  
18 all-white grand jury to indict the defendant,  
19 being that it appeared to me that they really  
20 want to make a strong racial issue in  
21 reference to getting the whites to support  
22 their cause against defendant and to make  
23 sure that indictment was acquired against the  
24 defendant

25 THE COURT Well, first of all the

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1 solicitor's office doesn't pick the grand  
2 jury They're randomly selected

3 MR ALKEBULANYAHH Well, I would say  
4 that maybe according to law you may not have  
5 able to -- or have anything, but I'm not -- I  
6 am questioning the integrity of the solicitor  
7 and the officials in that county being that  
8 thus far what has amounted to what's been  
9 going on with myself and knowing that I  
10 believe corruption is in the sheriff  
11 department and the Beaufort County  
12 Courthouse

13 THE COURT But again you're saying  
14 that s based on speculation, you don't know?  
15 If a pool of people are called in -- just  
16 like in your case when we draw this jury if  
17 a pool of people are called together and you  
18 have different races in that jury pool, you  
19 don't know who they'll end up with on the  
20 jury Just because you don't end up with one  
21 type of group of people or type of -- or a  
22 race doesn't mean that the process wasn't  
23 fair Do you understand that?

24 MR ALKEBULANYAHH I would know if we  
25 pulled a jury together

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1 had one in this case

2 MR ALKEBULANYAHH After the indictment  
3 which is totally a mockery of the indictment  
4 It's a mockery of justice, it's a sham

5 THE COURT But were you not given the  
6 opportunity to question the State's witnesses  
7 at the preliminary hearing? Didn't it still  
8 serve that function?

9 MR AIKEBULANYAHH There was no witness  
10 at the preliminary function You had someone  
11 who believed what was told to them through  
12 hearsay, but there was no State witnesses at  
13 the preliminary hearing who had any knowle  
14 of anything that took place at the 21 Riley  
15 Road residence on January the 8<sup>th</sup>, 2002

16 THE COURT All right Anything further  
17 from the State?

18 MR STONE No, sir Nothing from the  
19 State

20 THE COURT Do you have access to the  
21 panel from that grand jury?

22 MR STONE I imagine we do, Your Honor  
23 I think the defendant, though, needs to make  
24 some type of showing befoie -- I'm not  
25 exactly sure what we would be looking for (

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1 THE COURT Just the jury panel list

2 MR MURDAUGH I can get it for you

3 Monday morning sir

4 THE COURT How about provide a copy of  
5 that to the defense investigator, all right?

6 All right, Mr Alkebulanyahh, do  
7 you understand?

8 MR ALKEBULANYAHH Yes, sir

9 THE COURT You'll get a copy of the  
10 panel that was summonsed for that day And,  
11 again, you can have 40 people from one race  
12 on there and 10 from another race on there,  
13 or 12 or whatever you -- might be drawn for  
14 that particular event, whether it's 18 for  
15 the grand jury or 12 for a jury You might  
16 end up with all of the 10 or 12, but they  
17 were still a certain number there And the  
18 random selection of the people that come in  
19 for a panel also is not something that you're  
20 guaranteed that you'll get a certain number  
21 of people on that panel

22 I just want to make sure you  
23 understand that It's all random You're  
24 going to have to show something more than  
25 what you admit is speculation on your part at

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1 this point Do you understand that? I ca t  
2 base decisions on speculation

3 MR ALKEBULANYAHH Right

4 THE COURT You wouldn t want me to base  
5 any decisions affecting you on speculation  
6 I don't operate that way I have no fixed  
7 notions about either side in this case  
8 Everything you say I take just as serious as  
9 everything they say

10 MR ALKEBULANYAHH Thank you sir

11 THE COURT I don't operate that way in  
12 any way whatsoever I base my decisions on  
13 what's ripe before me that minute

14 MR ALKEBULANYAHH All right, sir

15 THE COURT Motion for dismissal of  
16 indictment filed on May 7<sup>th</sup>, 2003 You  
17 again, assert 17-23-90, and I think I've made  
18 my ruling on that Same motion was filed  
19 again for a speedy trial and 17-23-90 Is  
20 there anything different?

21 On May 7<sup>th</sup> you filed first motion  
22 for dismissal based on that and then again a  
23 motion for dismissal asserting a speedy trial  
24 right and 17-23-90

25 MR ALKEBULANYAHH Just for the reco.

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1 it be known the defendant over the year, over  
2 the straight past year

3 THE COURT All right

4 MR ALKEBULANYAHH At each -- every  
5 three -- every three months defendant filed  
6 for a speedy trial that his trial come to  
7 court so he wouldn't have to wait on this

8 THE COURT I understand your argument  
9 100 percent And your record does establish  
10 you repeatedly made these requests for a  
11 speedy trial All I can say at this point in  
12 April when I got the case, we're setting the  
13 case for October so that's fairly quick from  
14 when -- the time I've been assigned the case

15 Rule Nisi filed again on May 7<sup>th</sup>,  
16 that's nothing as far as action

17 May 7<sup>th</sup>, a letter to the U S  
18 Justice Department doesn't require any action  
19 on my part

20 And again, May 7<sup>th</sup> motion for  
21 speedy trial Same grounds and I've ruled on  
22 that, but your position is known

23 On June 23<sup>rd</sup> you filed a motion for  
24 dismissal, the Sixth Amendment rights have  
25 been violated, Fourth Amendment You say on

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1 May 16<sup>th</sup> this Court violated some order<sup>^</sup> ,w  
2 did we violate the order of the chief  
3 justice, Mr Alkebulanyahh?

4 MR ALKEBULANYAHH One moment sir,  
5 please? May I?

6 THE COURT Did you not receive a copy  
7 of the order that said the chief justice<sup>^</sup>  
8 assigned me to this case?

9 MR ALKEBULANYAHH No, sir I did not

10 THE COURT All right So you withdraw  
11 that? Do you have -- do you understand that  
12 is the case?

13 MR ALKEBULANYAHH That you -- I wou  
14 like to have a copy of the order

15 THE COURT All right Your attorneys  
16 can get you a copy of that, your standby  
17 attorneys Do you all have that in your  
18 file?

19 MR KELLY No, Your Honor, we did not  
20 receive that order

21 THE COURT All right Can you all get  
22 a copy of that?

23 MR STONE Yes, sir

24 THE COURT That's the -- on the basis  
25 of that because you thought Judge Buckner

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1 still had the case?

2 MR ALKEBULANYAHH Yes, sir

3 THE COURT All right That's denied  
4 I know I've personally seen the order and I  
5 assure you I don't jump around the state  
6 accepting cases just for the heck of it

7 You said we heard a motion as to ex  
8 parte to obtain a forensic psychologist

9 MR ALKEBULANYAHH Yes, sir

10 THE COURT That's the procedure for  
11 defense counsel to do it ex parte, they were  
12 still your defense counsel

13 MR ALKEBULANYAHH Yes, but the wording  
14 was to one extent that I did not, you know,  
15 aforesaid did whatever he did that defendant,  
16 as it states, defendant request an order to  
17 retain the service of McKee, Ph D

18 THE COURT Yeah Let me explain  
19 something to you about court procedure  
20 Again, I said I'm not going to do this very  
21 often, but that's routine, that when the  
22 Court references the defendant, petitions the  
23 Court or a plaintiff in a civil case  
24 requests, that's all done through counsel  
25 That's what that means

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1 MR ALKEBULANYAHH When they say  
2 defendant, that means counsel?

3 THE COURT Counsel for the defendant  
4 Whomever is arguing for the defendant If  
5 you were pro se at the time, it would still  
6 say the defendant If your counsel's arguing  
7 it's going to say the defendant argues,  
8 that's the way it's always done Even if you  
9 go up on appeal you'll see the case says the  
10 applicant or the appellant You're not up  
11 there arguing that It's your attorneys  
12 arguing it Do you understand that?

13 MR ALKEBULANYAHH Right

14 THE COURT Before you say that someone  
15 has said a lie you need to understand court  
16 procedures Do you understand?

17 MR ALKEBULANYAHH Yes, sir

18 THE COURT I will not engage in  
19 explaining those to you, all right?

20 MR ALKEBULANYAHH Yes, sir Your  
21 Honor, in that motion, as you know when you  
22 heard that motion the defendant had in open  
23 court which it wasn't granted to any extent  
24 had dismissed the attorneys from the case and  
25 had asked the Court that they do nothing

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1 involving the case because they would be  
2 sabotaging defendant's defense

3 THE COURT Yes, sir

4 MR ALKEBULANYAHH So, you know in  
5 reference to that motion being filed when it  
6 says that the defendant, whether it was the,  
7 counsel or through the defendant, the  
8 defendant does not recognize the counsel as  
9 being defendant counsel, therefore, as far as  
10 hiring or whatever the defendant wanted for  
11 his defense it was totally a lie

12 THE COURT It wasn't a lie The  
13 defense counsel were still your attorneys  
14 until such time as it was finalized after the  
15 evaluations, that was made very clear The  
16 Court at all times has the right to have you  
17 evaluated, Mr Alkebulanyahh, whether you  
18 like that or not You do understand that? I  
19 have a responsibility to not just you, but to  
20 the public and to the system to make sure  
21 that people are not tried who are not  
22 mentally competent to go to trial

23 Because you assert a position  
24 doesn't mean I have to accept that position  
25 I have to satisfy myself as the judge

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1 That's the discretion and the authority that  
2 this State has imposed and given to me to  
3 make sure that people do get a fair day in  
4 court. Until the Court is satisfied or until  
5 the Court was satisfied when I made that  
6 finding today that you were competent, then  
7 the Court had every right for allowing the  
8 attorneys appointed to represent you

9 Just as in any other situation  
10 where someone's not competent a Court can  
11 appoint guardians and custodians to manage  
12 their affairs. That's the nature of the  
13 system until it's demonstrated otherwise or  
14 to the satisfaction of someone who's making  
15 the decision that that's not the case. You  
16 have satisfied me that you can represent  
17 yourself

18 MR ALKEBULANYAHH My grievance was to  
19 the point that, you know, after nearly a year  
20 that for the Court to use the psychological  
21 evaluation as a tactic to delay the trial to  
22 keep the defendant from having a speedy trial  
23 or to keep the defendant from having to  
24 substitute counsel or allow the counsel to do  
25 any more damage to his case and his defense

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1 all the way to, I guess, about 60 days away  
2 from the trial, October, until the time we're  
3 here before you today is just -- seems highly  
4 prejudice to me toward the defendant and his  
5 rights to try to benefit from the full  
6 benefits of the law, get everything he could  
7 from the law

8 THE COURT Well, nothing in that  
9 decision delayed the trial Regardless of  
10 anything that happened about the evaluation,  
11 the trial was still going to have to be set  
12 at a certain time There's a management  
13 aspect involved in setting trials You have  
14 to schedule things, you have to arrange for a  
15 larger jury pool to be selected you have to  
16 have schedules changed I just don't -- you  
17 can't just point your finger and say everyone  
18 step aside, we're doing Mr -- the State v  
19 Alkebulanyahh on this date without getting  
20 clearance from the appropriate people You  
21 do understand that, right?

22 MR ALKEBULANYAHH Well, to a certain  
23 extent because I understand that the  
24 constitution to a trial that, you know, the  
25 United States Constitution was based on the

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1 old way that England used to do in retain g  
2 individuals in the jailhouse until they get  
3 ready for trial for three, four years without  
4 a trial

5 THE COURT Well our state Supreme  
6 Court has upheld periods of five years and  
7 said it was not a violation of the speedy  
8 trial rights

9 MR ALKEBULANYAHH But individuals did  
10 not put in a motion or petition, the Court

11 THE COURT I think you're wrong about  
12 that So there may have been circumstances  
13 that warranted the finding that speedy tri  
14 rights had not been violated, but still in  
15 the end no prejudice had been shone But  
16 regardless, your position is noted for the  
17 record I don't want to get in any  
18 discussion about the law pertaining to speedy  
19 trials I think you've adequately preserved  
20 for the record your request for speedy trial

21 There will be times when I disagree  
22 with your legal position and you're certainly  
23 entitled to disagree with mine

24 MR ALKEBULANYAHH Thank you, sir

25 THE COURT All right The next matte

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1 is -- well, again, this motion on June 23<sup>rd</sup>  
2 you've asked that Mr Kelly be dismissed  
3 We've taken care of that, again, twice in  
4 that same motion

5 You again say, reference Mr Kelly  
6 depriving you of some Sixth Amendment right,  
7 I don't know what else you want to be heard  
8 on that I think it all stems from the fact  
9 that you want to make the decisions about  
10 your case

11 MR ALKEBULANYAHH That's the same  
12 motion, Your Honor, sir?

13 THE COURT Yes, sir

14 MR ALKEBULANYAHH Yes, sir And you  
15 have answered that

16 THE COURT All right As I indicated  
17 from this point on you'll get to make your  
18 decisions and you have your standby counsel  
19 to consult with as you desire If you don't  
20 want to consult with them at all, you don't  
21 have to consult with them

22 MR ALKEBULANYAHH Thank you, sir

23 THE COURT Two more grounds dealing  
24 with expert witnesses which we'll take care  
25 of at the end Again, you raise the issue

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1 that the defendant did not request an orde  
2 to retain the services, I've explained that's  
3 customary procedure

4 MR ALKEBULANYAHH Your Honor?

5 THE COURT Yes

6 MR ALKEBULANYAHH On that particular  
7 motion that's the motion for dismissal?

8 THE COURT Yes

9 MR ALKEBULANYAHH Charges number one

10 THE COURT Charges number two

11 MR ALKEBULANYAHH Yes, sir I'm  
12 sorry

13 THE COURT Court failed to rule on a  
14 grand relief on any of the motions the  
15 petitioner filed on his behalf I haven't  
16 got a clue what that's all about,  
17 Mr Alkebulanyahh

18 MR ALKEBULANYAHH That was just in  
19 reference to at that time before I had met  
20 yourself and the Court and the proceeding was  
21 going forth with that, you know, that you had  
22 ruled on the motion to hire expert and with  
23 all the other motions that preceded that,  
24 that I felt that they needed to be brought  
25 forth

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1 THE COURT All right So that s moot  
2 now?

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT That's moot And let me  
5 just say another thing Just because you had  
6 access to some expert consultation doesn't  
7 mean you have to use them That doesn't mean  
8 you're prejudiced in any way, you just have  
9 more information to look at

10 MR ALKEBULANYAHH In the sense that I  
11 feel like the experts that was hired on my  
12 behalf was totally -- was -- wasn't doing  
13 according to that was beneficial to me They  
14 was hired and they was hired with State money  
15 to build up -- to be an enemy against me for  
16 the State And I felt that their actions and  
17 everything that they did, you know what I'm  
18 saying, hurt me more as far as my defense is  
19 concerned by having them investigating and  
20 working under the cover of working for the  
21 defense

22 THE COURT I doubt the State plans on  
23 calling anyone that you talked to expert  
24 wise

25 Do you have any anticipation of

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1 doing that?

2 MR STONE Do not

3 THE COURT So if you don't want to use  
4 them, you're not going to be prejudiced by  
5 them

6 MR ALKEBULANYAHH They already been  
7 used They already come and testify and they  
8 already give the prosecutor --

9 THE COURT Are you talking about as far  
10 as the mental evaluation?

11 MR ALKEBULANYAHH Mental evaluation  
12 and so forth Other than there is no expert,  
13 I don't have any expert

14 THE COURT They didn't prejudice you  
15 because you were found competent, that's what  
16 you were after

17 MR ALKEBULANYAHH It prejudices me to  
18 the point that information that they acquire  
19 they give information to the prosecutor they  
20 can use against me in reference to building a  
21 defense or a strategy

22 THE COURT All right If they try to  
23 use it against you, you bring it to my  
24 attention and we'll address it

25 MR ALKEBULANYAHH Thank you, sir

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1 Thank you, sir

2 THE COURT Again, you repeat that  
3 Mr Kelly, Mr Thornton are not your  
4 attorneys I'll just restate for the record  
5 until they were relieved they had an  
6 obligation to act as your attorneys I think  
7 that covered everything on that one, another  
8 Rule Nisi

9 And then secondary you file the  
10 same kind of motion for dismissal of the  
11 charges I think you repeat the same thing  
12 thinking Judge Buckner is supposed to hear  
13 your case

14 MR ALKEBULANYAHH Yes, sir But just  
15 an additional clarification here about the  
16 situation where the preliminary hearing and  
17 about Charles Dale Smith handling the  
18 preliminary hearing, being that the Supreme  
19 Court Justice Jean Toal had ordered Mr Perry  
20 Buckner to dispose of and handle all matters  
21 pertaining to this case, but yet the  
22 Honorable Charles L Smith came in and  
23 presided in the preliminary hearing in  
24 reference to defendant case

25 And defendant didn't find that,

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1 didn't agree with that that that should have  
2 took place and being that he even -- as the  
3 defendant stated in his -- about the  
4 proceedings -- at the proceedings that --  
5 that number nine where it start with  
6 Mr Murdaugh, that he states in the -- I want  
7 to state for the record, the evidence that,  
8 you know, there was never any decision in  
9 reference to preliminary hearing, but yet it  
10 was ruled, make a mockery of defendant

11 THE COURT Well, magistrates are the  
12 ones that handle prelims I don't think that  
13 her order intended to deprive a magistrate  
14 from conducting a preliminary hearing

15 MR ALKEBULANYAHH I would like to know  
16 and clear evidence in reference to that  
17 because I felt like the defendant was  
18 prejudiced by, you know, they being able  
19 to -- to certain judges, I know that I just  
20 believe that certain, you know, prosecutor  
21 and judges in different areas have different,  
22 I guess we say very amicable for each other  
23 to the extent that they would choose certain  
24 ones or try to get certain judges and so  
25 forth to go along with whatever they're doi

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1 to help to reach their objective and --

2 THE COURT Hold on We're having  
3 trouble hearing you Go ahead

4 MR ALKEBULANYAHH I'm sorry As I was  
5 stating the documents, on number nine I have  
6 some quotes from the preliminary transcript,  
7 that's quite briefly which took place which I  
8 want to make clear which I spoke to you  
9 earlier about, about, quote, it states that,  
10 quote, Mr Murdaugh, Your Honor please, for  
11 the record I'm at this time presenting copies  
12 of the exact copies of the indictment to  
13 counsel

14 Defendant had been indicted before  
15 a judge could determine if there was enough  
16 evidence to bind him over to trial It's  
17 therefore the defendant preliminary hearing  
18 was a false show, a pretense, a make belief  
19 of due process of law and fair trial  
20 Absolute unnecessary, mockery of justice, an  
21 insult to the defendant negligence and to his  
22 family and friends

23 Preliminary hearing transcript page  
24 25, line 12, 'THE COURT All right, sir  
25 And I know that we don't need any opinion,

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1 but there has -- I have heard probable cause  
2 to lead me to believe that it should have  
3 been bound to court " And he particular says  
4 should have been bound and that there was no  
5 need for an opinion, there was no -- and as  
6 far as defendant was concerned there was no  
7 need to be here at a preliminary hearing  
8 Mr Murdaugh stated, quote, "Thank you, sir  
9 THE COURT Yes, sir "

10 The judge, he ruled, Mr Smith,  
11 Judge Smith, he said there was no need for an  
12 opinion in the case there was no need for  
13 him to give an opinion after the preliminary  
14 hearing Went through the whole phase of the  
15 preliminary hearing, family, friends, people  
16 that's there to see this and then he said I  
17 don't need no opinion about this I believe  
18 he should have been -- you know, he just had  
19 a belief Yet there was only -- there was no  
20 evidence present

21 The Court never -- the Court never  
22 actually bound the defendant case to be tried  
23 or heard before a grand jury at the  
24 preliminary hearing And further, the  
25 preliminary hearing there was no evidence

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1 witness, eyewitness or anything to testify,  
2 not none SLED agent investigator Travis  
3 Avant of the State Law Enforcement Division  
4 was the State only and sole witness SLED  
5 agent testimony was pure hearsay evidence  
6 which can be 100 percent proven to be false,  
7 hearsay evidence And the agent did lie  
8 under oath and the agent lied in relation to  
9 hearsay evidence about things that could be  
10 proven or things that happen or defendant did  
11 do You know, he's the only witness to this  
12 event and he stated about something that  
13 happened at the 21 Riley Road residence which  
14 he didn't have no knowledge of, he had no  
15 evidence of to allege that defendant actually  
16 committed a homicide

17 And I just -- I just felt that it  
18 was just totally just a mockery and just  
19 shameful for it to that extent to defendant  
20 to be brought in there for the judge to say I  
21 don't need to give no opinion on this, he  
22 should have been bound over, and the only  
23 person come in there is the agent who has no  
24 knowledge, presents no substantial, nothing  
25 tangible evidence or anything for the

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1 defendant or his counsel to see or whatso ei  
2 in reference to the case

3 THE COURT All right Does the State  
4 wish to respond?

5 MR STONE Your Honor briefly, none of  
6 this that he has stated was any prejudice to  
7 the defendant and we would ask you deny that  
8 motion

9 THE COURT Well, you'll be able to  
10 bring anything like that out during the  
11 trial If you can elicit during  
12 cross-examination the nature of the person s  
13 testimony or what they knew or didn't know  
14 you have that right to do that The nature  
15 of the system, the way it's established is a  
16 preliminary hearing gives you the opportunity  
17 to ask some questions, doesn't give you the  
18 opportunity to present anyone to refute  
19 things yourself because that's what the  
20 trial's all about I deny that motion

21 I think that we've taken care of  
22 all the motions Are there any others, other  
23 than us going over the subpoenas and the  
24 expert witnesses? As far as I know every  
25 motion that is filed has now been heard

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1 there anything left other than us discussing  
2 the experts and the subpoenas?

3 MR MURDAUGH Yes, sir We -- I did  
4 not -- I prepared an order for the jury, but  
5 I did not attach a --

6 THE COURT Yeah, I did see that

7 MR MURDAUGH I just inadvertently done  
8 it and I have not shown it to counsel

9 THE COURT All right How about let's  
10 take a short break and y'all --  
11 Mr Alkebulanyahh, can you look at that  
12 proposed jury questionnaire? Remember last  
13 week I was telling you that in some cases  
14 they like to send out a jury questionnaire to  
15 the jury pool so you have as much information  
16 as possible before you make your decision  
17 about who you're going to strike during the  
18 jury and what you're going to end up with?

19 MR ALKEBULANYAHH Yes, sir

20 THE COURT That's a proposed  
21 questionnaire If you'll look at it and  
22 solicit opinions of standby counsel, we'll  
23 try to formalize that before we leave

24 MR ALKEBULANYAHH Your Honor, when  
25 we're in court or on the breaks while to

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1 appear at any hearings and so forth, I was  
2 wondering if -- I wanted to ask you that  
3 could like when I'm in here, when I'm behind  
4 double doors in a regular cell right in the  
5 center, I'm like having double chains on my  
6 legs, double chains on my arms, waste chains  
7 and chains run between my leg and I'm not  
8 even afforded an opportunity to be able to  
9 defecate when I want to

10 THE COURT I don't understand that  
11 You only have leg chains on right now

12 MR ALKEBULANYAHH No No When I  
13 walk out of here I'll be in the cell back  
14 there behind double doors and they will put  
15 the double chains, cuffs on my arms

16 THE COURT You mean once we're done?

17 MR ALKEBULANYAHH No Just when we  
18 break

19 THE COURT Oh, you mean while court is  
20 going on, but before they take you away for  
21 the day?

22 MR ALKEBULANYAHH Yes You know, like  
23 I'm just here in the facility within the  
24 bounds --

25 THE COURT When y'all take him back

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1 into the holding cell he has to have chains  
2 on?

3 MR ALKEBULANYAHH So I can't even  
4 defecate or anything or --

5 THE COURT Well, if you have some  
6 special need you need to let them know  
7 They'll accommodate your needs If you need  
8 to go to the restroom they'll accommodate  
9 that

10 MR ALKEBULANYAHH I was speaking of in  
11 reference that I was just thinking that, you  
12 know, being it's a facility and I'm in jail,  
13 you know I don't know I'm searched down,  
14 don't have nothing to the extent, you know,  
15 it just don't seem --

16 THE COURT I usually don't get involved  
17 in the management of the security except  
18 while it's in the courtroom, that's why you  
19 don't have it on your arms or anything  
20 because I wanted you to be free to take notes  
21 or anything If you need to use the  
22 restroom, they'll accommodate you back there

23 MR ALKEBULANYAHH It's so  
24 uncomfortable for me to sit for a long period  
25 of time like on lunch or something like that

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1 and come back --

2 THE COURT When you get to the trial  
3 you bring that up with me and I'll think  
4 about it I'll have to find out what it's  
5 like in Beaufort County first okay?

6 MR KELLY Your Honor?

7 THE COURT Yes

8 MR KELLY We have filed and we gave to  
9 the clerk a motion that had to do -- an ex  
10 parte motion that had to do with you  
11 considering the experts that were brought up  
12 to you by the defendant Are you going to  
13 hear that, Judge?

14 THE COURT Yes when we get back from  
15 the break

16 MR KELLY Thank you, Your Honor

17 THE COURT The only thing we've got  
18 left are the experts, the subpoenas, and the  
19 jury questionnaire We should be done with  
20 every motion that's been filed in this case  
21 is that correct, Mr Alkebulanyahh?

22 MR ALKEBULANYAHH Just one other  
23 additional thing that I wanted to -- I wanted  
24 the investigators to be able to, you know,  
25 pretty much address the Court in reference to

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1 them having access to examine the evidence  
2 that's --

3 THE COURT All you have to do is have  
4 your investigators contact the solicitor and  
5 they can make arrangements about reviewing  
6 things I'm not going to have them address  
7 the Court, they're not lawyers

8 MR ALKEBULANYAHH Up until this point  
9 the investigators can speak for themselves  
10 As far as reference to the prosecutor, the  
11 agents, the people who have this stuff, do  
12 not allow them access They have not had  
13 access to be able to examine any of the  
14 evidence

15 THE COURT Are you going to give them  
16 access?

17 MR MURDAUGH Yes, sir If Your Honor,  
18 please, I had made arrangements with the  
19 attorneys prior to him being pro se What I  
20 intend to do now is to get in touch with the  
21 attorneys and I assume they're going to want  
22 me to get in touch with Ms Childs I don't  
23 know that, but whoever they tell me to get in  
24 touch with I will sit down with them, show  
25 them SLED's file, show them my file, show

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1 them Beaufort County Sheriff's Department  
2 file

3 THE COURT You just let your standby  
4 attorneys know which investigator you want  
5 MR ALKEBULANYAHH The file is not the  
6 issue To examine and see the evidence and  
7 then, you know, to put this burden on the  
8 defendant right here at the last little bit  
9 before you set this trial date and push them  
10 where they don't have the ample amount of  
11 time to review, analyze, examine, and go over  
12 here and see this and do what s necessary,  
13 you know, it has been totally unfair You  
14 have to wait until this last moment, you know  
15 what I'm saying, to say, well, we're going to  
16 let you see this glove, we're going to let  
17 you see this bullet shell, we're going to let  
18 you examine this shirt

19 THE COURT First of all, I want to  
20 clarify something There's nothing at the  
21 last minute insofar as trial's concerned  
22 It's my understanding you want to go to trial  
23 immediately That's what you made clear to  
24 me

25 MR ALKEBULANYAHH If that was clear

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1 would have been in January when I asked for a  
2 speedy trial

3 THE COURT So are you telling me now  
4 you do not want a speedy trial? Because you  
5 just filed one again in June

6 MR ALKEBULANYAHH Didn't you say that  
7 I don't have that right?

8 THE COURT No I didn't say you didn't  
9 have a right to a speedy trial

10 MR ALKEBULANYAHH You say I don't fit  
11 the criteria for having -- to be recognized a  
12 speedy trial to be granted

13 THE COURT No I wanted to make it  
14 clear I granted your request for a trial  
15 date If you're not -- you told me last week  
16 you wanted to be tried in September

17 MR ALKEBULANYAHH What I'm saying,  
18 Your Honor, sir, what I'm saying is that from  
19 my understanding I've asked for a speedy  
20 trial for three to four or five -- about  
21 three or four times and from my understanding  
22 it had been made clear to me that, well, you  
23 know, according to whatever, you know, you  
24 establish to be that, oh, that's moot, you  
25 don't have a right to a speedy trial

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1 Because if I did I would have had a speedy  
2 trial if I had that right and feel like that  
3 my case should be dismissed if there's a  
4 criteria for me having the right to that  
5 speedy trial\_ It should be dismissed if I  
6 didn't get it

7 THE COURT Do you wish to withdraw your  
8 request for a speedy trial?

9 MR ALKEBULANYAHH No What I'm saying  
10 is --

11 THE COURT You can't have it both ways  
12 Mr Alkebulanyahh I understand your  
13 argument You want me to go back when the  
14 first time you filed the motion when I was  
15 not presiding over this case and say you  
16 should have been entitled to a speedy trial  
17 What I've tried to say is the law does not  
18 support that request because you've not  
19 been -- you have not established prejudice to  
20 this Court, so a dismissal under the speedy  
21 trial rights that you have under the U S  
22 Constitution is not appropriate

23 And just for your information, I'll  
24 let you know that periods up to five years  
25 have been upheld by the state court

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1 MR ALKEBULANYAHH What I'm saying is  
2 I've also read cases to where up to a year,  
3 two years, or months where courts have ruled  
4 and dismissed cases after defendant have  
5 petitioned or asked the Court for a speedy  
6 trial

7 THE COURT You have to establish  
8 prejudice, Mr Alkebulanyahh

9 MR ALKEBULANYAHH I made an attempt  
10 and you said I did not according to what we  
11 have heard

12 THE COURT You have not under the law  
13 established in this record prejudice If you  
14 disagree with that ruling you have a right to  
15 appeal it, Mr Alkebulanyahh, that's all I  
16 can tell you I disagree with your position  
17 in all due respect, but I don't have to  
18 explain it any further

19 MR ALKEBULANYAHH True Your Honor,  
20 I'm not to infringe upon --

21 THE COURT All I'm trying to say -- I'm  
22 not insulted in any way whatsoever, you can  
23 argue whatever you want, I'm happy to hear  
24 any argument

25 MR ALKEBULANYAHH Thank you

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1 THE COURT What I'm trying to tell y  
2 though, is that you are now acting as if all  
3 this stuff is being thrust on these  
4 investigators at the last minute right before  
5 trial What I'm making clear for the record  
6 is last week you told me you wanted the trial  
7 in September still knowing that these  
8 people -- that you wanted these people to  
9 access this information You can't change  
10 that to this week saying now it s all unfair  
11 because these people are having to look at it  
12 the last minute before trial

13 MR ALKEBULANYAHH That's not my  
14 position

15 THE COURT If I misunderstood you,  
16 that's fine

17 MR ALKEBULANYAHH My position is that  
18 I wanted a speedy trial last September, I  
19 wanted a speedy trial in January, I wanted a  
20 speedy trial in April, okay, I wanted for  
21 this proceeding what we're going through on  
22 to be in motion Okay Now it's going on  
23 two years that I've been incarcerated for  
24 this same offense

25 Now, I'm sure the families of the ,

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1 alleged victim and my family and them would  
2 like the process of all of the United States  
3 Constitutional right to a fair speedy trial  
4 One would not just be held to be -- to go on  
5 through this system Now, of course I'll be  
6 going on years and years just sitting in the  
7 jailhouse if that's what it's called for, but  
8 I'm anxious for a trial because like I said I  
9 feel like that I will be vindicated

10 THE COURT And I've granted your  
11 request

12 MR ALKEBULANYAHH Okay But I'm  
13 saying I didn't assume you granted me a  
14 request for no speedy trial I feel like you  
15 set a trial date

16 THE COURT Yes, I did

17 MR ALKEBULANYAHH Not for granting my  
18 request Because if my request would have  
19 been granted in honor, then other judges --  
20 or whenever I filed a speedy trial would have  
21 granted that same request You know, but I  
22 thank you for coming in and setting a trial,  
23 but I don't perceive that you granted me a  
24 request under the speedy trial right to set a  
25 trial because I just filed the speedy trial

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1 for January -- July the 24<sup>th</sup>

2 THE COURT All right

3 MR ALKEBULANYAHH Hopefully to hold  
4 for the next two terms to get in court before  
5 October the 30<sup>th</sup> come in, before two years  
6 come in before we have a trial date Because  
7 I don't know, they might want to wait three,  
8 four more years before they try me

9 THE COURT All right

10 MR ALKEBULANYAHH Thank you

11 THE COURT If it makes you feel better,  
12 Mr Alkebulanyahh I'm more than happy to say  
13 I'm granting your request for a speedy tri ,  
14 it's set in October, okay? I'm not making  
15 light of that, I'm just saying if that's what  
16 you want, to hear it from a judge that I  
17 think you're entitled to a speedy trial

18 MR ALKEBULANYAHH I'm going to get a  
19 trial I know I'm going to get a trial  
20 whether you grant the speedy trial or not, I  
21 just feel like I'm getting it

22 THE COURT I'm happy to say that I  
23 think you've waited long enough also, if  
24 that's what you want to hear I do think you  
25 have waited a long time and I do think you ,

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1 case should be tried and I do think that you  
2 won't find many judges that set a death  
3 penalty case from the time it's been assigned  
4 in April to have the trial in October So  
5 I'm granting your request because I've taken -  
6 what you said seriously, all right?

7 MR MURDAUGH The three of us are ready  
8 to get to trial

9 THE COURT I think everybody's ready  
10 for a speedy trial But I just want the  
11 record to be clear that I'm happy to consider  
12 otherwise if you want to postpone the trial  
13 down the road

14 MR ALKEBULANYAHH I just know it won't  
15 be -- I don't know too many cases, and I read  
16 pretty much cases and some things, but I  
17 don't know too many cases where do every  
18 exception the trial be two, three years from  
19 now And according to the State I was  
20 assuming they would have me tried and hung by  
21 six months past, or three months past, you  
22 know

23 MR MURDAUGH We're recessed?

24 THE COURT All right We'll be in  
25 recess Thank you If you all would,

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1 please, look over that jury questionnaire  
2 (Recess, from 4 42 p m to 4 52 p m )

3 THE COURT Have you all had time to  
4 review that jury questionnaire?

5 MR ALKEBULANYAHH Yes, sir

6 THE COURT Any problems with it?

7 MR ALKEBULANYAHH This is fine, Your  
8 Honor, sir

9 THE COURT May I see it? I haven't  
10 seen it yet

11 MR THORNTON May I approach, Your  
12 Honor with the document?

13 THE COURT Yes, sir

14 MR THORNTON I believe this is the  
15 entire document, Your Honor

16 THE COURT Is there some other stuff  
17 mixed in here? It says like Dillon

18 MR THORNTON Your Honor, there could  
19 be I just handed you what the defendant pro  
20 se handed me, sir I was merely the  
21 messenger, Judge

22 THE COURT Did you all hand up --

23 MR STONE The only thing -- I'm trying  
24 to guess what you have, Your Honor, but there  
25 may be two proposed orders for juror -- fo

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1 ordering jurors, but I don't know if there's  
2 anything else

3 THE COURT There's some stuff in here  
4 from Dillon County

5 MR STONE May I see it, Your Honor?

6 THE COURT Yes There's like a fax  
7 sheet

8 MR STONE Probably to me I apologize  
9 for that

10 THE COURT This is extra stuff?

11 MR STONE Yes, sir I apologize

12 THE COURT So everybody agrees to this  
13 proposed questionnaire, State?

14 MR STONE Yes, sir .

15 THE COURT Mr Alkebulanyahh?

16 MR ALKEBULANYAHH Yes, sir

17 THE COURT All right Let's send that  
18 in

19 (Pause in proceedings )

20 THE COURT Thank you Please be  
21 seated All right The matter -- the only  
22 matters left are the issue about subpoenas  
23 Now, it's my understanding you can use your  
24 standby counsel to assist you in issuing  
25 those subpoenas

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1 MR ALKEBULANYAHH Yes, sir I want to  
2 add an additional to the subpoenas that I  
3 wanted to add

4 THE COURT I don't think I have to go  
5 over those, really You just get with your  
6 standby attorneys about -- your standby  
7 attorneys to assist you with those subpoenas  
8 Is there anything that I need to do in that  
9 regard?

10 MR ALKEBULANYAHH No, not really in  
11 regard to that I just want to add, you  
12 know, additional people to the subpoenas to  
13 make sure that it is established for the  
14 record, you know, that the subpoenas be  
15 granted

16 THE COURT Yeah I mean, you  
17 understand you need to have actual subpoenas  
18 prepared, that your motion for subpoenas is  
19 not an actual subpoena, you understand that?

20 MR ALKEBULANYAHH Right Right Yes,  
21 sir

22 THE COURT All right Standby counsel  
23 will assist him in subpoenas?

24 MR KELLY Yes, Your Honor

25 THE COURT All right Now, so that

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1 takes care of the issue about subpoenas,  
2 right?

3 MR ALKEBULANYAHH Yes, sir

4 THE COURT That leaves the question  
5 about experts and that's something we need to  
6 do without the State being present So are  
7 there any other matters that we need to  
8 address while the State is here?

9 MR ALKEBULANYAHH I wanted to ask the  
10 Court about the Court to order the State  
11 allow that the two deputies involved in the  
12 incident on January the 8<sup>th</sup> that lost their  
13 lives, that their records and their career  
14 records before they were working for Beaufort  
15 County Sheriff Department and during the time  
16 they worked there can be given to the  
17 defense

18 THE COURT What's the State's position?

19 MR MURDAUGH I'll be more than happy  
20 to give them everything that Beaufort  
21 County's got, sir I have no idea where they  
22 worked prior to Beaufort County If there's  
23 anything in there I'll furnish him with  
24 whatever's in Beaufort County's file

25 THE COURT All right I think that's

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1 reasonable He's going to provide you with  
2 Beaufort County's file

3 MR ALKEBULANYAHH One more issue I  
4 don't think -- I don't know if the prosecutor  
5 have access to be able to assist with this  
6 matter, but I just want to bring that a  
7 witness involved with a state department, the  
8 DSS Department of Social Service, and I  
9 wanted the records in reference to this  
10 witness for the State to be handed over to  
11 the defense counsel, or to be allowed for  
12 defense counsel to have those records from  
13 the Department of Social Service in reference  
14 to that matter

15 And in reference to a matter that  
16 happened in the family court in reference to  
17 a case that took place about a child been  
18 involved in the incident and the granting of  
19 the child back to a witness in the case

20 It is in the court that the Court  
21 ruled that the child was taken from the  
22 person at the residence because they said  
23 that the young lady abandoned the child,  
24 which was my daughter and the young lady's  
25 daughter And the child was awarded back to

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1 the young lady at the family court, in that  
2 proceeding And it's things in that  
3 proceeding that defendant may be able to use  
4 in reference to his defense

5 THE COURT Do you have access to that  
6 information?

7 MR MURDAUGH No, sir But I'll be  
8 happy to assist him in getting them If he  
9 will tell Ms Childs, Ms Childs is going to  
10 call me on Monday so I can set up for her to  
11 see the evidence in Columbia, if he'll give  
12 Ms Childs that information I'll be glad to  
13 try to run it down for him

14 THE COURT Is that okay with you,  
15 Mr Alkebulanyahh?

16 MR ALKEBULANYAHH Yes, sir Sure is

17 THE COURT All right Just before they  
18 leave any other matters?

19 MR ALKEBULANYAHH One more issue, Your  
20 Honor I would like for the Court, to motion  
21 the Court for accessory, where a place would  
22 be for the defense and his team to be able to  
23 meet in the course of the trial and to hold  
24 exhibits and whatever necessary

25 THE COURT Well, all exhibits, once

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1 they are marked, all stay with the court  
2 reporter

3 MR ALKEBULANYAHH Okay

4 THE COURT Once I get to Beaufort I'll  
5 have to see what the situation is \_ I don't  
6 know anything about it, so I'll have to see  
7 what the situation is about whether there's  
8 room for defense counsel or not I don't  
9 know

10 MR ALKEBULANYAHH Yeah, someplace

11 THE COURT If I can arrange it I'll be  
12 happy to do that Until I get there I don't  
13 know what the facilities -- I mean, I've been  
14 there before, but I just don't recall what  
15 the facilities are like ` So if I can arrange  
16 a room I'll be happy to look into it

17 MR ALKEBULANYAHH Thank you, sir

18 THE COURT All right For the record  
19 it's my understanding all motions have been  
20 ruled on, is that correct?

21 MR MURDAUGH As far as the State is  
22 concerned, yes, sir

23 MR ALKEBULANYAHH Yes, sir As far as  
24 the defendant is concerned

25 THE COURT All right Then we're up~co

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1 date and keep things moving and we'll get  
2 this trial going for October The trial is  
3 hereby set Thank you We'll put the order  
4 in the mail to the clerk of court

5 MR MURDAUGH Can we be excused for the  
6 day, sir, or do you want us to stay around?'

7 THE COURT I need y'all to stay for the  
8 expert witnesses because that's ex parte  
9 The question about the defense's request for  
10 funds for experts, I have to deal with you  
11 all

12 MR MURDAUGH Do you want us to remain?  
13 I don't mean in the courtroom

14 THE COURT No, sir You're excused

15 MR MURDAUGH Thank you, sir

16 THE COURT Mr Alkebulanyahh, as far as  
17 the fact that I set bond you need to fill out  
18 the entire form It needs your Social  
19 Security number, telephone number, date, and  
20 we'll put standby counsel in here One of  
21 y'all sign that, please

22 MR THORNTON Yes, sir Thank you,  
23 Your Honor

24 THE COURT All right That leaves the  
25 matter of the expert witnesses Before you

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1 get into that let me just explain this or  
2 I understand you have not requested  
3 Mr McKee, as I explained to you that  
4 Mr McKee had been approved by the Court  
5 through by virtue of request of your stanc  
6 counsel Whether or not you use him is yc  
7 choice, but I still have to compensate him  
8 okay?

9 MR ALKEBULANYAHH Yes, sir

10 THE COURT Now, when you get this or  
11 it says the defendant requests That mean  
12 the defendant through his counsel, all rig

13 MR ALKEBULANYAHH Yes, sir

14 THE COURT I clearly understand your  
15 position, you did not ask him I'll write  
16 here one place the defendant's counsel  
17 requests I'll add that to it, but once h  
18 approved he has to be compensated

19 Yes, sir

20 MR ALKEBULANYAHH Yes, sir, Your  
21 Honor

22 THE COURT About experts?

23 MR ALKEBULANYAHH Yes, sir, Your  
24 Honor Before you hear the motion on expe  
25 I would like to ask the Court to swear the

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1 Beaufort County detention officers to secrecy  
2 or have them -- can they be removed from the  
3 courtroom before the matter is heard?

4 THE COURT Why is that?

5 MR ALKEBULANYAHH I would like to  
6 reserve the confidentiality of not allowing  
7 the party any amount of information in  
8 reference to the decision of the Court

9 THE COURT All right If y'all will  
10 step out, I'll let the Charleston County  
11 Sheriff's Department provide security just  
12 momentarily Thank you

13 Yes, sir All the Beaufort County  
14 people are out Yes, sir

15 MR ALKEBULANYAHH Yes sir

16 THE COURT Do you want your standby  
17 counsel to explain it to you?

18 MR KELLY Your Honor, he doesn't have  
19 a copy, I'll give him a copy of it I think  
20 he wants to address you himself

21 THE COURT Yes, sir This is the  
22 motion filed July 31<sup>st</sup> to retain a  
23 psychologist, a constitutional expert, a  
24 firearms expert, a jury consultant, blood and  
25 fiber expert

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1 MR THORNTON I apologize, Your Hon  
2 Court's indulgence just a moment

3 THE COURT Sure

4 MR ALKEBULANYAHH Yes, sir Your  
5 Honor, I asked the Court to order the serv  
6 of a Dr Bernard Albinak, A-l-b-i-n-i-a-k  
7 as a forensic psychologist with expertise  
8 the field of fake confessions, coercions  
9 false statements

10 THE COURT What is the need for that

11 MR ALKEBULANYAHH This particular  
12 expert would be able to counter any attack  
13 the opposing party in reference to why or  
14 not a person if under coercion would make  
15 false statements, give false confessions,  
16 state something while a person is under  
17 coercion

18 This particular psychologist would  
19 be able to prepare a defense or give  
20 testimony against the State witness that t  
21 challenge the credibility of the State  
22 witness, or why the State witness would do  
23 not do something in that nature Being th  
24 the defendant feels strongly and highly th  
25 the key witness in the prosecutor case was

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1 coerced and persuaded into giving false  
2 statements and confession against defendant  
3 because her child was taken and she was  
4 threatened with the possibility of going to  
5 prison or being incarcerated

6 And the witness give four, five, six  
7 six different statements totally contrary to  
8 the statements that she give the four or five  
9 initial investigators who investigated this  
10 case and the defendant feels that because --

11 THE COURT Hold on a second

12 MR ALKEBULANYAHH Yes, sir

13 THE COURT Are you here for the  
14 defendant, ma'am?

15 MS KELLY Me?

16 THE COURT Yes

17 MS KELLY Yes, sir

18 THE COURT You are here, ma'am, for ?

19 MR KELLY Your Honor, that's my wife

20 THE COURT Okay Thank you Just  
21 wanted to double check for the record

22 MR ALKEBULANYAHH The defendant feels  
23 that of a surety that because of the numerous  
24 statements that the initial witness gave,  
25 which the witness gave statements to four

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1 different investigators, wrote statements and  
2 said that defendant did not possess a weapon,  
3 defendant never said anything bad about any  
4 polices And this is the alleged victim they  
5 said was the victim for the response to this  
6 residence

7 THE COURT I don't understand why you  
8 can't just elicit on cross-examination any  
9 possible bias of a witness, any desire to  
10 testify falsely or improperly

11 MR ALKEBULANYAHH Because the juror --  
12 the jury would -- I feel that an expert to  
13 explain to the jury that a person would be  
14 pressured or coerced into making statements  
15 or changing their statements if they are  
16 being threatened or intimidated by being  
17 under arrest, and a situation when a young  
18 mother and a child is involved and the child  
19 is in child protective custody agency in  
20 which the sheriff department took the child  
21 and put it in the child protective custody  
22 until the defendant -- until the witness gave  
23 incriminating statements against me And  
24 then --

25 THE COURT An expert would not be able

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1 to, you know, say what a particular witness  
2 would do The only thing this expert could  
3 possibly do is say some people in a general  
4 category are often stressed into the  
5 situation or they have a desire to lie  
6 That's not going to give any -- shed any  
7 light to the jury on what this witness may  
8 do And it would be improper for an expert  
9 to speculate about whether a witness is  
10 telling the truth or not

11 MR ALKEBULANYAHH The witness -- but  
12 the expert would not be speculating on this  
13 particular witness The expert will be  
14 giving sound knowledge and information in  
15 reference to different witnesses in that  
16 situation where they can become suspects in a  
17 case by their cooperation, or being held for  
18 eight, nine hours, or ten to fifteen hours  
19 such as this witness was under examination  
20 and pressure of the authority who is  
21 determined to resolve the matter or have  
22 someone alleged in a criminal offense,  
23 whereas to just cross-examine or to just  
24 speak and cross-examine the witness on the  
25 stand would not -- would not -- would not

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1 amount up to the weight that an expert would  
2 have on a jury by him explaining that people  
3 will change or tend to change their statement  
4 if they're being coerced or intimidated, or  
5 as I said, as a child was involved --

6 There was a child involved which  
7 the child was taken and put in a child  
8 protective custody and was not released until  
9 this defendant -- and the records would show  
10 that they said the reason the child was taken  
11 because the mother would possible be charged  
12 with a crime in this incident for abandoning  
13 the baby

14 THE COURT Is that going to come out in  
15 any way at the trial?

16 MR ALKEBULANYAHH Yes, sir  
17 Certainty

18 THE COURT Why?

19 MR ALKEBULANYAHH A certainty One  
20 hundred percent it will come out in the  
21 trial That is a certainty it will come out  
22 in the trial There is no doubt whatsoever  
23 that that will come out And the woman's  
24 statements change in reference to her being  
25 charged and not being able to receive her \

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1 infant child days after they got the  
2 indictment for the charge on murder against  
3 defendant Because before up until the time  
4 defendant was charged with this crime, when  
5 the arrest warrant was taken and defendant  
6 was charged with murder, the witness and no  
7 one else stated or said defendant had any  
8 type of involvement, seen with a weapon or  
9 shot, or hurt, or harmed anyone, yet he was  
10 charged with this incident

11 Then after the charge they went and  
12 they had the witness to then give testimony,  
13 write a new statement Because the witness  
14 wrote four or five statements about the  
15 defendant having some type of involvement in  
16 this case

17 THE COURT All right And the next  
18 one, Donald Colby

19 MR ALKEBULANYAHH Mr Colby of  
20 Charleston, he would be able to analyze blood  
21 and fiber and do things in the forensic  
22 aspect to look at the home, to look at the  
23 clothing, to see if -- who all blood is on  
24 there, to make sure that there was -- how  
25 many people was wounded or injured in this --

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1 in this situation, to look at the  
2 fingerprints of different items or things  
3 that the State may have, to be able to  
4 bring -- to be able to counteract the defense  
5 asserting that certain blood fibers, certain  
6 blood, certain fingerprints, and certain  
7 things in the aspect of forensic science is  
8 necessary to help exonerate the defendant  
9 from the charges

10 So defendant feel like this is --  
11 he would be --

12 THE COURT Why is the issue of blood  
13 and fiber important in your case?

14 MR ALKEBULANYAHH The reason the issue  
15 of blood and fiber is important because there  
16 was more than -- it was more people involved  
17 in the incident than the defendant himself  
18 when the shooting occurred The defendant  
19 was shot twice and the defendant blood, if  
20 the opposing party say defendant was here or  
21 defendant is there and his blood here, he  
22 would be able to analyze and say where the  
23 splatter, or where the defendant blood was  
24 over here and also be able to examine to see  
25 if there was other individuals that was

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1 wounded

2 THE COURT Has that already been at the  
3 scene, you know, the blood -- how are they  
4 going to access that now?

5 MR ALKEBULANYAHH What he will do, he  
6 will be able to go get the property or the  
7 things that was seized in the search warrant  
8 as the opposing party, which earlier this  
9 morning about they had a search warrant to  
10 gather things from out of this room and so  
11 forth, he would be able to look at these  
12 items and see can he find other blood, which  
13 if there is blood it would be able to show  
14 that someone -- or someone, some people other  
15 than the defendant was in that room

16 THE COURT Is that in dispute in the  
17 case, that there weren't other people there?

18 MR ALKEBULANYAHH Yes, sir There  
19 sure is, because --

20 THE COURT How is that in dispute when  
21 they acknowledge that there were other people  
22 living there that let them in?

23 MR ALKEBULANYAHH Okay What is in  
24 dispute is that the people at the house, the  
25 residents at the house, everyone at the

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1 house, they was in the living room area ne  
2 deputies was found dead behind closed doors  
3 in the master bedroom These people have not  
4 alleged that they saw anybody shoot anybody  
5 they never alleged that -- the other people  
6 allege that I was -- besides the witness that  
7 was coerced to saying I was in the room, they  
8 never said I was there present at all

9 THE COURT So you want a blood expert  
10 to establish that you were present there?

11 MR ALKEBULANYAHH No What I want to  
12 do is I want the blood expert or the forensic  
13 scientist to be able to look at the evidence  
14 that they plan to present in the forensic  
15 area to try to get a conviction against me  
16 and to establish that there was the  
17 possibility of other people being there

18 THE COURT They acknowledge that,  
19 though They acknowledge other people were  
20 there

21 MR ALKEBULANYAHH No, they haven't

22 THE COURT They said that other people  
23 let them in

24 MR ALKEBULANYAHH They have not  
25 acknowledged that other people was inside the

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1 bedroom of the defendants at 21 Riley Road  
2 Now, they acknowledge that other people was  
3 at the residence

4 THE COURT Yes

5 MR ALKEBULANYAHH And that the  
6 officers encountered them, but they have not  
7 acknowledged that -- they have not ruled out  
8 other people as being partakers in the  
9 incident that took place But this forensic  
10 expert would be able to counter any type of  
11 attack that the opposing party would try to  
12 bring about a conviction against defendant  
13 because forensic will be -- they would have  
14 forensic expert to say this, and say that

15 Defendant lacks the knowledge in  
16 the forensic expertise And the only way the  
17 defendant can put up a legitimate defense is  
18 by having a forensic hired for his own team  
19 to be able to put up a defense that he may be  
20 able to acquire some type of defense against  
21 the opposing party But a forensic expert I  
22 think is a basis for all elements of a case,  
23 such as murder, when one is charged of  
24 murder

25 Because there is no -- if they say

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1 they're not going to call no forensic exper...  
2 it would be different, but they are going to  
3 call forensic experts, then I won't have  
4 anyone to challenge what that particular  
5 forensic expert would say or not, and then a  
6 jury would just take the expert of the State  
7 testimony only

8 THE COURT All right

9 MR ALKEBULANYAHH And I think that  
10 would be very highly prejudiced towards me

11 THE COURT All right The next one is  
12 Professor Gains of the law school

13 MR ALKEBULANYAHH Yes, sir Professor  
14 Gains of the South Carolina Law School expert  
15 in United States and South Carolina  
16 Constitution He would be able to give  
17 testimony as to the -- to the rights of the  
18 individual constitutionally involving  
19 invasion of privacy, involving the United  
20 States Fourth Amendment, he would be able  
21 to --

22 THE COURT Do you understand that it's  
23 this Court's function to provide the law?

24 MR ALKEBULANYAHH Yes, indeed

25 THE COURT I don't have any obligatio

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1 to have an attorney or anyone else speak to a  
2 jury about the law They're only charged  
3 with following my instructions on the law

4 MR ALKEBULANYAHH That's true, sir  
5 My position is no disrespect, sir

6 THE COURT I'm not saying you're  
7 disrespecting, I'm just saying there's no  
8 requirement that you have an expert tell the  
9 jury what he thinks the law is

10 MR ALKEBULANYAHH Well, I wouldn't  
11 exactly be calling him to tell the jury what  
12 exact the law is What I would be calling  
13 him for is to shed light in reference to the  
14 rights of the homeowner

15 THE COURT Again, if that becomes an  
16 issue in the case I would have an obligation  
17 to charge the law about that Secondly, that  
18 would come out during any hearing on the  
19 Fourth Amendment and so I'm not so sure I  
20 would be inclined to grant that The next  
21 one is Jeff Bloom of Columbia

22 MR ALKEBULANYAHH Your Honor, may I  
23 speak again about the constitution lawyer?

24 THE COURT Yes, sir

25 MR ALKEBULANYAHH Then --

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1 THE COURT If I did in this case, t  
2 in every case someone would want a lawyer to  
3 come in and talk about the law That s what  
4 the judge's role is, to talk about the law

5 MR ALKEBULANYAHH Would the judge --  
6 would the judge -- would the judge honor and  
7 accept the law as prima facie, as face as it  
8 is and rule in accordance --

9 THE COURT No, sir

10 MR ALKEBULANYAHH -- if I brought --

11 THE COURT Under our system of justice  
12 I'm the expert on the law, not the witness,  
13 sir That s what my responsibility is, to  
14 charge the law That's why I'm here I'm  
15 presumed to be the person they have to listen  
16 about the law Not only is that the  
17 procedure, but I instruct the jury that  
18 notwithstanding anything anyone else has  
19 said, including the attorneys, they must  
20 accept the law as I instruct it to be It  
21 doesn't matter whether they think it should  
22 be something else or not For purposes of  
23 deciding the case they have to accept it as I  
24 instruct it

25 It's highly unusual to have a

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1 lawyer address the jury about the law It's  
2 not absolutely precluded, but if I thought in  
3 my discretion that I thought it would offer  
4 some assistance whether to me or to the jury,  
5 perhaps that would be some situation, but not  
6 about the issues that are postured in this  
7 case I understand the issues, I'm just not  
8 prepared to do that

9 Jeff Bloom of Columbia on jury  
10 selection and jury matter?

11 MR ALKEBULANYAHH May I ask you one  
12 other question?

13 THE COURT Yes, sir

14 MR ALKEBULANYAHH I'm afraid that in  
15 reference to me --

16 THE COURT Jeff Bloom?

17 MR ALKEBULANYAHH No On the  
18 constitutional issue about the lawyer

19 THE COURT Yes, sir

20 MR ALKEBULANYAHH If I were to ask the  
21 Court to present the law to the Court and the  
22 Court would explain to the jurors that I have  
23 a right to that particular law, do the  
24 Court --

25 THE COURT At the end of the case --

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1 first of all, if we have a pretrial hearing,  
2 involving their coming into your place, if I  
3 decide to take some action because of that,  
4 then if it impacts what the jury needs to  
5 see, hear, then I tell them about it. If it  
6 means that something's excluded, then it's  
7 excluded, they never get to see it because as  
8 a matter of law I decide it.

9 For example, I say that something  
10 has been illegally seized from your  
11 residence, then they don't get to present it  
12 because I decide that as a matter of law. If  
13 I think there's some question that has to be  
14 resolved by the jury then I explain the  
15 whole process so they can decide what the  
16 facts are about that. Either way I instruct  
17 them about the law if it's an issue.

18 At the end of the case if you have  
19 a position on the law that you want to  
20 present to me, I review it and make my final  
21 decisions about what I'm going to tell the  
22 jury the law is in the case. You'll have  
23 that opportunity to discuss that with me and  
24 with your standby counsel if you so desire,  
25 but you'll be able to tender to me what you

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1 think the law is that should be argued to  
2 this jury In the long run they have to  
3 accept whatever I charge as the law

4 MR ALKEBULANYAHH One more question,  
5 Your Honor, please

6 THE COURT Yes, sir

7 MR ALKEBULANYAHH Would I be able to  
8 speak about the law to the jury?

9 THE COURT In your closing statement to  
10 the jury you're free to talk about the law,  
11 but if it's inconsistent with what I'm going  
12 to say, then they're going to be told that  
13 they have to listen to what I have to say  
14 about it Your position on the law does not  
15 matter Your attorneys' position on the law  
16 does not matter, the State's position on the  
17 law does not matter

18 If I charge the jury incorrectly  
19 about the law, then it's up to an appellate  
20 court to say that I made an error in charging  
21 the law But the way our system is set up  
22 they must accept the law, because otherwise  
23 they can have juries wondering whether  
24 they're going to accept the law of  
25 Mr Alkebulanyahh, or the law of Judge

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1 Pieper, or the law of whomever You can't do  
2 that in the case One person is in charge of  
3 the law in the case

4 MR ALKEBULANYAHH Would the lawyer be  
5 able to expound?

6 THE COURT Yes, sir

7 MR ALKEBULANYAHH On the -- or the --

8 THE COURT As long as it's not  
9 inconsistent with legal principles you can  
10 talk about law If you run afoul of what I'm  
11 going to charge, then the other side's going  
12 to jump right up and say that's not a correct  
13 statement of the law And all I'm going to  
14 tell the jury is disregard that, I will  
15 instruct you on the law, you must accept the  
16 law as I instruct it to be, okay?

17 MR ALKEBULANYAHH But the defendant  
18 can make a statement in reference to the law  
19 to the jurors?

20 THE COURT You can talk about the law  
21 And we'll go over the closing charge ahead of  
22 time so you kind of know what I'm going to  
23 say So you'll know then the parameters of  
24 what I'm going to say and you can talk all  
25 you want about it in your closing statement,

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1 all right?

2 MR ALKEBULANYAHH And I won't be  
3 afforded to have the constitutional lawyer to  
4 expound?

5 THE COURT No, sir I'm not revisiting  
6 that You have two lawyers sitting beside  
7 you and you told me that you were prepared to  
8 accept the legal responsibilities in this  
9 case on your own pro se I don't have to  
10 give you three people to have access to about  
11 the law You've already told me you can  
12 handle it, okay?

13 MR ALKEBULANYAHH Well, indeed, but,  
14 again, I'm not expressing that -- I don't  
15 think I'm not using -- I would not intend to  
16 use him in expressing to explain the law, but  
17 to explain the rights

18 THE COURT But that's my job in the  
19 case, all right?

20 MR ALKEBULANYAHH Yes, sir

21 THE COURT If it's an issue I won't  
22 know if it's an issue until I hear the case  
23 You have to understand I'm not from Beaufort  
24 County and I don't know what all is coming  
25 out in this case I don't know what this is

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1 all about except for what you all have to  
2 me so far Until I hear all these witnesses  
3 testify I don't really have any idea about  
4 what I'm going to tell the jury, okay?

5 The next one is Jeff Bloom, about  
6 an expert in jury selection and jury matters?

7 MR ALKEBULANYAHH Yes, sir  
8 Mr Bloom -- Mr Bloom will be able to help  
9 the defendant out with his expertise in  
10 picking out jurors that will be unbiased in  
11 their attitudes towards the defendant  
12 Mr Bloom, he would be able to consult the  
13 defendant and -- in reference to the proce-  
14 and which has taken place where the defendant  
15 may not be able to see as an expert in  
16 picking jurors and examining jurors

17 And I feel that that is a crucial  
18 stage of -- part of the trial, being able to  
19 have an expert with me to be able to help me  
20 and consult me with selecting jurors, and  
21 examining jurors in order to allow the  
22 defendant a fair trial

23 THE COURT All right Anything further  
24 before I rule on all these requests?

25 MR ALKEBULANYAHH Yes, one more I

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1 wanted to hire an arms expert The arms  
2 expert because there will be testimony -- I'm  
3 just speaking in general because as far as I  
4 know and that's all I know, and I perceive  
5 this to be 100 percent true, that there will  
6 be testimony in reference to the sound of  
7 gunfire There was witnesses for the State  
8 who allege that the type of gun that it  
9 sound -- he said it sounded like, which came  
10 out to be according to the State true, that  
11 this was the type of gun And other witness  
12 who said about the gun sound like this

13 And there's a difference, there's  
14 differentiation between different types of  
15 guns, as far as a revolver, automatics,  
16 machine guns, M16's

17 THE COURT Why is that an issue,  
18 though? Is there going to be -- you know, if  
19 you need to consult with them you can, but,  
20 you know, there seems to be no dispute that  
21 some kind of gunshot killed these two  
22 individuals, whether it was from another  
23 person or whomever, it doesn't really seem to  
24 be a dispute that a gun killed these two  
25 individuals is that correct?

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1 MR ALKEBULANYAHH That's correct

2 THE COURT I mean, the cause of death  
3 was a gunshot wound

4 MR ALKEBULANYAHH But the cause of  
5 injury, the cause of attempted murder is  
6 gunshot wounds I was shot twice and --

7 THE COURT Does anyone dispute you were  
8 shot?

9 MR ALKEBULANYAHH Excuse me?

10 THE COURT Does anyone dispute that you  
11 were shot?

12 MR ALKEBULANYAHH Well, in order  
13 for -- it is very evident, very evident that  
14 I'm charged with murder, I'm charged with  
15 shooting, instead of the officers are charged  
16 with attempted murder

17 THE COURT I know But what -- first  
18 of all, the -- what I'm trying to ascertain  
19 is what kind of expert is necessary to  
20 present your defense The fact that you're  
21 not charged with -- they're not charged with  
22 something you are charged with First of  
23 all, they're deceased and I don't know that  
24 they can be charged with anything

25 MR ALKEBULANYAHH Okay

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1 THE COURT Secondly, there is not the  
2 offense of attempted murder in the state I  
3 don't know if you're talking about assault  
4 and battery with intent to kill --

5 MR ALKEBULANYAHH Assault and battery  
6 with intent to kill because I'm still living

7 THE COURT -- or something like that  
8 Or assault with intent to kill But you say  
9 you were actually shot, so I guess you're  
10 talking about ABWIK But I don't know that  
11 there's a dispute in the case that you were  
12 shot I mean, did you get taken to the  
13 hospital?

14 MR ALKEBULANYAHH To the hospital I  
15 got a bullet in my back right now

16 THE COURT Well, they don't dispute  
17 that, do they?

18 MR ALKEBULANYAHH Well, what they're  
19 saying is in order for them to establish or  
20 to say, or for Your Honor sit there and say,  
21 well --

22 THE COURT Well, let me explain  
23 something to you It doesn't matter what I  
24 say about the facts, I'm just suggesting  
25 examples and situations

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1 MR ALKEBULANYAHH Okay

2 THE COURT The jury decides what the

3 facts are

4 MR ALKEBULANYAHH Right

5 THE COURT It doesn't matter whether I  
6 believe them or whether I believe you, it  
7 just doesn't matter My job is not to be the  
8 fact finder, that's why we have juries They  
9 get to believe whatever they want to believe  
10 Nothing I say or do in this case has any  
11 impact on their fact finding function, okay?

12 MR ALKEBULANYAHH Yes, sir Thank  
13 you

14 THE COURT What I'm talking about is  
15 situations if this, then that, if that then  
16 this Just speculating or just giving you  
17 examples about trying to analyze your request  
18 because I don't know what the facts are going  
19 to be in the case

20 MR ALKEBULANYAHH Thank you Thank  
21 you I want to say --

22 THE COURT Okay Now why is it that  
23 it's a dispute? I mean, you get to say I was  
24 shot You don't have to say anything, first  
25 of all, I want to make that clear before I

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State v Alkebulanyahh

1 say anything like that, you have no  
2 obligation to testify You can elicit from  
3 the witnesses that you were shot also

4 MR ALKEBULANYAHH Okay Okay  
5 Evidence I was shot according to the record  
6 will show, but what -- what has not been  
7 shown and what -- what has not been shown  
8 which is yet to be known, and perhaps if I  
9 hire expert would be able to shed the more  
10 greater light on it for those who does not  
11 know anything about firearms and the sounds  
12 of firearms and the types of sounds that  
13 certain firearms make

14 THE COURT What does it matter in this  
15 case? That's what I'm asking you

16 MR ALKEBULANYAHH This is what it  
17 matters at Because if the firearm expert  
18 says it's consistent with this witness  
19 statement that the gun sounds like a 40  
20 caliber which they allege the officer used  
21 And then the State says the officers was  
22 killed with an assault rifle, then it would  
23 establish that the first shot sound would  
24 have been a 40 caliber That would be  
25 established by the sounds of the round, that,

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1 therefore, it would mean that the officers  
2 initiated the shooting

3 THE COURT Who s going to be able to  
4 say what the sound was?

5 MR ALKEBULANYAHH Witnesses have  
6 already wrote statement what the sound was

7 THE COURT And how do they describe the  
8 sound?

9 MR ALKEBULANYAHH One describe the  
10 first shot sounds like a machine gun

11 THE COURT All right

12 MR ALKEBULANYAHH The other describe  
13 shot sound like an AK47

14 THE COURT If that s what their  
15 statement is going to be, why do you need an  
16 expert to say anything about that? The  
17 expert's not going to be able to evaluate  
18 that because they're not going to be able to  
19 hear the sound to evaluate that

20 MR ALKEBULANYAHH The expert would say  
21 that according to the witness if what they  
22 say is true, then this particular weapon of  
23 this type of weapon was the first shots  
24 sound, which may eliminate the defendant or  
25 anyone else in the home as being the

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1 initiating -- because it's critical to  
2 this -- it's critical, very critical in this  
3 whole murder trial more than anything else in  
4 order for a murder to even be established  
5 matters unless it's -- unless it's  
6 established who initiated the shooting  
7 There's no question about that in order for  
8 murder to be established I feel

9 And I think, you know, from my  
10 understanding of the law and reading certain  
11 aspects as far as when one is charged with a  
12 crime that it must be determined who was the  
13 aggressor And I think the aggressor is one  
14 of the -- one of the most important elements  
15 of the case to be understood one of the most  
16 important things necessary when it's involved  
17 with the charge of murder or assault on the  
18 person

19 THE COURT All right

20 MR ALKEBULANYAHH To establish the  
21 aggressor I think the firearm expert would  
22 be able to help to establish who was the  
23 aggressor

24 THE COURT All right And have you  
25 spoken with standby counsel about if any of

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1 these are approved just how quickly they c  
2 act? Have you got anybody in mind, having  
3 discussed it with them?

4 MR ALKEBULANYAHH No I have not  
5 discussed it with the standby counsel in  
6 particular, but I have discussed it with the  
7 investigator and I discussed -- I have some  
8 people, friends and family that had  
9 contacted

10 THE COURT And you're saying that these  
11 requests are not going to interfere with your  
12 request that this case go to trial?

13 MR ALKEBULANYAHH Sir?

14 THE COURT You're saying these requests  
15 are not going to interfere with your request  
16 that this case proceed to trial?

17 MR ALKEBULANYAHH No It would not  
18 interfere with my request to go to trial

19 THE COURT All right Well, as  
20 indicated my concern for purposes of the due  
21 process clause is to consider such experts as  
22 may be necessary to afford you with basic  
23 tools to your defense In this adversarial  
24 system of justice I need to be concerned with  
25 whether or not certain experts would be

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1 useful to the defense, also not wanting to  
2 run the risk of any type of inaccurate  
3 verdict

4 In this regard I'm going to deny  
5 the request for Mr Albinak, I'll approve  
6 the request for Mr Colby number two, I'll  
7 deny the request for Professor Gains, I deny  
8 the request for Mr Bloom In that regard  
9 that I don't think that a jury consultant is  
10 the basic tool of the defense Selecting a  
11 jury is part of an attorney's stock and  
12 trade, you have access to your standby  
13 attorneys if you so desire

14 Although I acknowledge that a jury  
15 selection expert's assistance would no doubt  
16 be helpful in nearly almost any case  
17 essentially, such assistance is a luxury and  
18 not a necessity, it requires appointment  
19 I'll approve your request for a firearms  
20 expert

21 Therefore, standby counsel will  
22 assist you in preparing the order approving  
23 the services of Donald Colby and the services  
24 of a firearm expert Hold on just one  
25 second Let me ask you, you just want to

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1 inquire of Dr Albinak the nature of -- to  
2 elicit some testimony about the nature of  
3 child -- the nature of any statements or  
4 confessions by children?

5 MR ALKEBULANYAHH About the nature and  
6 confession of a mother In the instance I  
7 have the opportunity to view a case in  
8 reference to Mr Albinak, he gave testimony  
9 in a murder case which a young lady was  
10 questioned by investigators and everything  
11 and they told her that she cooperated and do  
12 whatever with the defense, then she would be  
13 able to get her child back, she wouldn't go  
14 to jail and she made statements in reference  
15 to --

16 THE COURT I'm still confused, though,  
17 as to why you just can't ask those questions  
18 on cross-examination Because it doesn't  
19 seem to add anything in my opinion

20 MR ALKEBULANYAHH Because I won't be  
21 able to give cross to the jurors, the  
22 expertise of coercion and the stress that one  
23 would endure which would make one change  
24 psychologically about a dangerous or  
25 precipitous situation, an overhanging

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1 situation, or danger of being incarcerated or  
2 losing a child to that extent

3 I would not be able to give that  
4 type of expert, or solicit that from the  
5 witness to why would they do that or change  
6 their statement being that one feel like they  
7 have a great loss at stake, very great, they  
8 can lose either their freedom or this child

9 And this psychologist would be able  
10 to explain why one witness told five or six  
11 different investigators that defendant had  
12 no -- partake in any particular crime and  
13 then only after did the witness change the  
14 statement from one extreme to the other that  
15 the child was returned to this defendant, the  
16 child was returned after the defendant made  
17 these statements and the defendant was not  
18 charged, they no longer said they was going  
19 to charge the defendant in the charge And  
20 it is my strong belief, and I know for  
21 certain this expert will be able to shed more  
22 light on it than I would be able to

23 THE COURT I'm not going to let an  
24 expert say that another witness is not  
25 telling the truth, that's just an improper

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1 procedure

2 MR ALKEBULANYAHH I would not be  
3 calling the expert to any extent about why  
4 one is not telling the truth or not I would  
5 only be calling the expert to enlighten or  
6 give the jury more knowledge in reference to  
7 under certain circumstances how human beings  
8 are frail to when their liberty or something  
9 personal will be lost, how they are frail to  
10 state something that's not true by a way of  
11 coerce

12 THE COURT So you're not seeking any  
13 kind of report expert, you want to have this  
14 expert available for trial?

15 MR ALKEBULANYAHH That's it

16 THE COURT So, I mean, there's not  
17 going to be any kind of investigation by this  
18 expert or anything?

19 MR ALKEBULANYAHH No, sir The most  
20 they would do would be investigate the  
21 documents that the defense team would have  
22 with them, not anything other than that

23 THE COURT Has your -- did standby  
24 counsel already confer with a forensic  
25 psychologist on this issue?

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1 MR THORNTON I haven't I don't know  
2 if Mr Kelly has

3 THE COURT Yes, sir

4 MR KELLY No, Your Honor

5 THE COURT All right And what is the  
6 expected fees of Mr Colby?

7 MR ALKEBULANYAHH At present I don't  
8 know

9 THE COURT All right I'll approve the  
10 request of Dr Albiniaak also just for that  
11 use, that general use

12 MR ALKEBULANYAHH Thank you

13 THE COURT But I reserve the right to  
14 monitor You need to present to me what that  
15 proposed fee will be before I finalize that  
16 Standby counsel can assist in preparing a  
17 proposed order You need to verify with each  
18 of these witnesses first about the fees, I  
19 reserve the right to alter that in any way  
20 that I deem appropriate

21 MR ALKEBULANYAHH Thank you, Your  
22 Honor, sir

23 THE COURT There being no further  
24 matters, thank you

25 MR KELLY Thank you, Your Honor

August 1 2003

1 STATE OF SOUTH CAROLINA  
 2 COUNTY OF BEAUFORT  
 3  
 4

COURT OF GENERAL SESSIONS

ORIGINAL

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5 STATE OF SOUTH CAROLINA )  
 6 PLAINIFF )  
 7 VS )  
 8 TYREE ALPHONZO ROBERTS, a/k/a )  
 9 ABDIYYAH BEN ALKEBULANYAHH, )  
 10 DEFENDANT )

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TRANSCRIPT OF RECORD  
 02-GS-07-0370  
 02-GS-07-0369

October 1 2003  
 Beaufort SC

B E F O R E

THE HONORABLE DANIEL F PIEPER, Judge

A P P E A R A N C E S

RANDOLPH MURDAUGH, III Solicitor  
 DUFFY STONE, Assistant Solicitor  
 Attorneys for the State

ABDIYYAH BEN ALKEBULANYAHH, Pro Se

GERALD ALAN KELLY, Esquire  
 SEAN P THORNTON, Esquire  
 Standby Court Appointed Counsel for the Defendant

HOLLY HIOTT O'QUINN, RPR  
 CIRCUIT COURT REPORTER

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E X H I B I T S

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>
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(NO EXHIBITS PROFFERED)

1 (Whereupon, the following proceedings  
2 were held before the court on Wednesday, October 1,  
3 2003 )

4 THE COURT Good morning, everyone ~ Did  
5 you each get the sheet about juror type list?

6 MR MURDAUGH Yes, sir

7 THE DEFENDANT Yes, sir

8 THE COURT Have you looked at it?

9 MR MURDAUGH Yes, sir, I think it is  
10 fine

11 THE DEFENDANT Yes, sir

12 THE COURT Any problem with it?

13 THE DEFENDANT No, sir

14 THE COURT All right There being no  
15 objection to the juror type list we will get a copy  
16 of that to the clerk so she can hand it out to the  
17 jurors

18 All right I wanted to get everybody  
19 together to see if there are any pending matters that  
20 we need to take care of

21 Anything from the state?

22 MR MURDAUGH If Your Honor please, I  
23 have some matters relating to the payment of some  
24 bills We can tend to that at the end Let's get  
25 rid of the important stuff first

1 THE COURT All right Anything from the  
2 defense?

3 THE DEFENDANT Yes, sir, Your Honor I  
4 have some same matters that we can take care of at  
5 the end

6 THE COURT Some what matters?

7 THE DEFENDANT The payment of the bills

8 THE COURT Yes, sir

9 THE DEFENDANT And I also want to  
10 request if Your Honor would allow my investigator to  
11 move forward in the proximity?

12 THE COURT Where is your investigator?

13 THE DEFENDANT Right here, sir

14 THE COURT Yes, you can come forward  
15 You can sit right behind him on the bench

16 THE DEFENDANT Thank you, sir

17 MR MURDAUGH Judge, I assume that  
18 sometime during this hearing today we will discuss  
19 procedures in the courtroom, the method of drawing  
20 the jury and that sort of stuff

21 THE COURT Yes, sir I want to see if  
22 there are any pending motions that we need to resolve  
23 first

24 MR MURDAUGH Yes sir

25 THE COURT Anything that we left open

1 from last time?

2 Yes, sir

3 THE DEFENDANT Yes, sir, Your Honor, I  
4 have some motions to the court, requests to jury  
5 charge which were filed into the clerk of court on  
6 August the 11th I have also some motions that I  
7 would like to present to be heard today

8 THE COURT Yes, sir

9 THE DEFENDANT And I also would like to  
10 pick up on the Fourth Amendment issue from the last  
11 time we were proceeding on August the 1st

12 THE COURT Yes, sir I indicated we  
13 would have a hearing on that

14 THE DEFENDANT Yes, sir

15 THE COURT Is that correct?

16 THE DEFENDANT Yes, sir

17 MR MURDAUGH I did not recall that  
18 sir but it suits me

19 THE COURT Yes I think that we said at  
20 the last hearing there were no witnesses and that we  
21 would have to do that here

22 THE DEFENDANT Yes, sir

23 THE COURT Is that your recollection?

24 THE DEFENDANT That is correct, sir, to  
25 my recollection

1 THE COURT There were like one or two  
2 matters I thought that we said we didn't have the  
3 witnesses in Charleston, we would have to do that  
4 here

5 THE DEFENDANT Yes, sir, correct

6 THE COURT What else? Your requests for  
7 charges, you mean just jury charges in general?

8 THE DEFENDANT Yes, sir

9 THE COURT All right Those I will look  
10 at at the end of the case, but I will look at them  
11 throughout the proceeding

12 THE DEFENDANT Okay I have a few  
13 motions also that I want to start off May I proceed  
14 now with the motions, sir?

15 THE COURT Yes, sir

16 MR MURDAUGH If Your Honor please, I  
17 have not been giving copies of these motions

18 THE COURT All right Which motions are  
19 you talking about now? Are you talking about your  
20 motions on August the 11th?

21 THE DEFENDANT And August the 14th

22 THE COURT All right Remember what I  
23 told you at the last hearing, you have to make sure  
24 they get a copy of everything

25 THE DEFENDANT Right I filed these

1 copies of these motions to the clerk of court on  
2 these days and they have notarized and--

3 THE COURT But they don't mail them to  
4 the solicitor You have to mail them to the  
5 solicitor Do you understand that?

6 THE DEFENDANT The solicitor don't pick  
7 them up from the clerk of court?

8 THE COURT No, they don't go over there  
9 and check every day to see if you have filed  
10 something I told you, you have to send the copies  
11 to the solicitor But what are the motions?

12 THE DEFENDANT One motion is the motion  
13 to limine to determine the admissibility of the prior  
14 conviction

15 THE COURT All right Is that as to any  
16 prior convictions that you have?

17 THE DEFENDANT Yes sir

18 THE COURT All right Generally I take  
19 that up after the presentation of the state's case,  
20 and then I advise you about your rights as to  
21 whether -- your right to not testify, I usually take  
22 it up at that stage of the case, the prior  
23 convictions and then you can make a decision at that  
24 time whether or not that is anything that would  
25 impact your decision about testifying

1 Do you understand that?

2 THE DEFENDANT Yes, sir

3 THE COURT What are those prior  
4 convictions? Do you have any prior convictions that  
5 you intend to use if he testifies?

6 MR MURDAUGH Yes, sir, I do

7 THE COURT What are those priors?

8 MR MURDAUGH It's an armed robbery in  
9 Jacksonville, Florida, in 1981

10 THE COURT Armed robbery in 1981?

11 MR MURDAUGH Yes, sir, and a  
12 kidnapping There is also an armed robbery in  
13 Albany, Georgia, I think it is, sir

14 THE COURT What was the date of that?

15 MR MURDAUGH Judge, I think it was  
16 '86

17 THE COURT So an armed robbery in 1981,  
18 an armed robbery in 1986

19 MR MURDAUGH Yes, sir, and a  
20 distribution of crack cocaine or cocaine -- marijuana  
21 in Beaufort County and that would have been in '94

22 THE COURT Did you say there was a  
23 kidnapping?

24 MR MURDAUGH Connected with the Florida  
25 armed robbery, yes, sir

1 THE COURT It was armed robbery and  
2 kidnapping?

3 MR MURDAUGH Yes, sir

4 THE COURT Anything else?

5 MR MURDAUGH No, sir

6 THE COURT Do you have those that they  
7 intend to seek to use?

8 THE DEFENDANT Yes, sir I intend to  
9 want to ask that the court do not allow these  
10 convictions to be brought up because they are not the  
11 subject matter of this conviction -- excuse me --  
12 they are not the subject matter of what I'm being  
13 charged with It has no relations to anything that I  
14 have been charged with and would only be highly  
15 inflammatory and prejudice towards the defendant

16 THE COURT All right

17 THE DEFENDANT Because they are  
18 irrelevant to the case that I am faced with now

19 THE COURT Distribution of marijuana, I  
20 said I would take these up later, but what is that  
21 going to be probative of?

22 Generally the courts have said that  
23 narcotics and drug offenses are not generally  
24 probative of truthfulness

25 MR MURDAUGH If Your Honor please,

1 distribution under the rule relating -- they have  
2 changed that law by the court rules

3 THE COURT Yes, sir

4 MR MURDAUGH Any conviction of more  
5 than one year that has occurred within the last 10  
6 years or that you have been released within the last  
7 10 years as I understand it is admissible

8 THE COURT No, sir, that is not correct  
9 And the courts have specifically said that drug  
10 offenses -- the bench has been cautioned that drug  
11 offenses are generally not probative of  
12 truthfulness

13 MR MURDAUGH I won't put it in there,  
14 sir

15 THE COURT Well, that goes into the  
16 weighing process Under 609 A1 --

17 MR MURDAUGH Yes sir

18 THE COURT -- it could come in as being  
19 over one year But then you have to balance the  
20 probative prejudice

21 MR MURDAUGH If Your Honor please, I  
22 assume we have got two portions of this trial I  
23 would not concede that in the penalty phase

24 THE COURT I understand that I'm  
25 talking about the guilt phase at this point

1 MR MURDAUGH Yes, sir, I will not use  
2 it in the guilt phase

3 THE COURT What about the armed  
4 robberies from 1981 since that is over 10 years?

5 MR MURDAUGH I need to find out when he  
6 was released, sir, but I think I probably will not  
7 ask about that one unless he was released within a 10  
8 year period, sir

9 THE COURT All right And that leaves  
10 an armed robbery in Georgia

11 MR MURDAUGH Yes, sir

12 THE COURT Do you want to deal with  
13 that, Mr Alkebulanyahh?

14 THE DEFENDANT Yes, sir You know, I  
15 would ask the court to prohibit any -- that being  
16 brought up on the trial phase for any particular  
17 reason whatsoever because it has no relations to the  
18 charges that the defendant is faced with today And  
19 I think it is not probative to any matter in relation  
20 to my guilt or whatsoever that the prosecutor intends  
21 to present

22 THE COURT Well, the courts have said  
23 that armed robbery is the type of offense that might  
24 fall under 609 A2 that reflects on your truthfulness,  
25 on a person's truthfulness And there is a case

1 called Al-Amin that dealt specifically with the issue  
2 of armed robbery and indicated that it was the type  
3 of offense that shall be admitted under 609 A2 So I  
4 do think that might reflect on the question of  
5 credibility not the charge The jury is given an  
6 instruction that doesn't mean that a person commits a  
7 crime that is in question, but they can consider it  
8 for whatever purposes on the issue of credibility  
9 only

10 THE DEFENDANT Your Honor, since you  
11 mention -- since you say may, then that, as far as me  
12 if I take the stand and decide to testify, then I'm  
13 willing to acknowledge being -- been had a misconduct  
14 or attitude outside of something that is involved  
15 with being charged with a crime before previous  
16 crime But to specifically point out the exact  
17 charges, then I don't think that would go toward the  
18 credibility being that I am willing to admit that I  
19 have been in trouble before

20 THE COURT I understand what you are  
21 saying

22 THE DEFENDANT But not to go into the  
23 in-depthness of the particular charge itself I  
24 think I have a right to that extent

25 THE COURT I understand exactly what you

1 are saying

2 THE DEFENDANT Thank you, sir

3 THE COURT Do you understand what he is  
4 saying?

5 MR MURDAUGH I think so, sir

6 THE COURT I think he is suggesting that  
7 the Rollins' approach be used that you acknowledge  
8 that he has been convicted of a crime that is a  
9 penalty over one year without going into the crime  
10 That is a discretionary thing with the court to  
11 either allow the crime itself to come in or to take  
12 that approach Both approaches are approved I will  
13 think about that

14 THE DEFENDANT Thank you, sir

15 THE COURT All right

16 MR MURDAUGH And, if Your Honor please,  
17 I'm a little bit slow to respond to some of the  
18 things for the simple reason I did not have notice of  
19 these motions before this morning

20 THE COURT I understand Anything that  
21 you have to reflect on, you will need to let me know  
22 But, as far as anything that was already pending, I  
23 indicated we were going to hear all pending matters  
24 today

25 MR MURDAUGH Yes, sir, I understand

1                   THE COURT    In regard to that narcotics  
2 issue that was State versus Cheeseboro, if you want  
3 to reference that case, 552 SE 2d 300, narcotics  
4 offenses are generally not considered probative of  
5 truthfulness

6                   I will think about whether or not --  
7 generally, Mr Alkebulanyahh, my position on the  
8 armed robbery in 1986 is that that is likely to come  
9 in   Whether or not I adopt the alternative approach  
10 to let them just ask you if you have been convicted  
11 of a crime without referring a crime or whether or  
12 not they can ask you specifically about an armed  
13 robbery, I will think about that   But my  
14 inclination, at this point, is to allow them to ask  
15 you because that is the type of offense that does  
16 reflect on credibility in accordance with Al-Amin so

17                   And now in regard to the other armed  
18 robbery, if it is over 10 years old since you were  
19 last serving that sentence, then my inclination is  
20 that the prejudicial value would outweigh any  
21 probative value and that would not come in   But I  
22 will give the state the right to check that   All  
23 right

24                   THE DEFENDANT   Yes, sir, Your Honor  
25 But also, I guess later on in the course of this, I

1 would like during the break period maybe to come  
2 bring this issue back to bring case and to present  
3 case and certain court rulings in reference to that  
4 matter that I have

5 THE COURT At that point in the case  
6 after they rest and then I advise you about your  
7 right to testify --

8 THE DEFENDANT Okay

9 THE COURT -- I will let you bring it  
10 back up then before you make your decision

11 THE DEFENDANT Okay

12 THE COURT Okay But if you want to  
13 reference those cases, as I indicated, Allowmeen, we  
14 will find that cite for you But you will see  
15 specifically that armed robbery was allowed in  
16 reflecting on 609 A2, because 609 A2 is referenced in  
17 terms of mandatory language

18 But I have interpreted your other  
19 argument as being to request the Rollins approach  
20 where the -- an approach that had been used by the  
21 Federal Courts and the Fourth Circuit Court of  
22 Appeals And I know some people have used that  
23 approach I don't exactly favor that approach but I  
24 will think about it, because I don't think it really  
25 shares much with the jury just to ask the general

1 question about were you convicted of a crime It  
2 doesn't really establish the nature of the offense  
3 And I have often times speculated that a jury could  
4 wonder all kinds of things about what the offense is  
5 so I'm not a big fan of that approach, although it  
6 has been approved by the courts of this state also  
7 I believe in State versus Green

8 Next matter

9 THE DEFENDANT Yes, sir, Your Honor, I  
10 have a motion to --

11 THE COURT Can you-all hear me okay? I  
12 can t tell if this thing is on

13 MR MURDAUGH Yes sir

14 THE DEFENDANT I have a motion to  
15 produce all chains of custody

16 THE COURT Hold on Mr Alkebulanyahh,  
17 Al-Amin is 578 SE 2d

18 THE DEFENDANT 578?

19 THE COURT SE 2d 32, 2003

20 THE DEFENDANT Southern?

21 THE COURT Second, 32, 2003

22 Your next matter?

23 THE DEFENDANT Yes, sir, I have the  
24 motion on August the 11th, the motion to produce the  
25 chains of custody on all exhibits

1                   THE COURT    Is there any particular ones  
2 you are questioning?

3                   THE DEFENDANT    On the particular --  
4 there is basically the -- in particular right now  
5 that I'm particularly very concerned about is the  
6 chain of custody on all of the suspect clothings  
7 (sic), all of the suspects involved in the case, the  
8 alleged weapon, any DNA samples, anything that was  
9 collected by way of forensics that belonged to any of  
10 the suspects, the vials of blood that was withdrawn  
11 from the suspects, and every item of evidence in  
12 relation to indicate that an alleged crime was  
13 committed

14                   THE COURT    Do you wish to respond to  
15 that?

16                   MR MURDAUGH    Suspect carries a  
17 connotation to me that he is talking about himself  
18 And if that be true, I can handle that real well    I  
19 will be happy to sit down with the investigators and  
20 the attorneys and give, show them my chain of  
21 possession on them, sir

22                   THE COURT    Is that satisfactory to you?

23                   THE DEFENDANT    Sir, I'm speaking of more  
24 than myself    There were other suspects involved in  
25 this incident



1           THE COURT   Well, they would not need to  
2 establish any chain of custody for any suspects   If  
3 they have information about other suspects   that is a  
4 different type of matter   But they don't have to lay  
5 a foundation insofar as a chain of custody against  
6 another suspect if they are not pursuing any claim  
7 against that suspect

8           THE DEFENDANT   Well, what I'm saying is  
9 that because of other suspects involved in the case  
10 that they are -- that the defendant myself, I am  
11 wanting to examine and see the chain of custody of  
12 particular evidence from other suspects because  
13 particular items from other suspects ended up being  
14 planted on the accused and them items belongs to  
15 other people

16           THE COURT   So you are wanting to know if  
17 any evidence led them to any other suspect?

18           THE DEFENDANT   No   What I want to know  
19 is the evidence that they acquired from other  
20 suspects in the case, I want to know -- I want to  
21 have the exact change (sic) of command, chain of  
22 custody of that particular evidence which was not  
23 taken off the accused but come from other people by  
24 somehow, some mishap or whatever, whatever the  
25 situation may be, being planted on the accused

1           Therefore I would need to know the items  
2 that they received from these other suspects and what  
3 change (sic) of command that they go through, from  
4 which hands that they went to and so I can examine  
5 and see how that these items end up being attributed  
6 to the accused in the case

7           And this is very critical being that this  
8 evidence that the accused has no knowledge of these  
9 items of certain things that has been brought to my  
10 attention that supposed to have been in my possession  
11 which was not in my possession

12           And then there is other evidence in  
13 relations to where as evidence was taken from the  
14 accused and this evidence was taken without warrants,  
15 any type of warrants or magistrate or anyone giving  
16 them authorization to acquire this evidence off the  
17 accused himself

18           THE COURT   Yes, sir

19           MR MURDAUGH   I think his request is  
20 completely ridiculous   But in spite of that, sir, I  
21 have informed the court that I have given them a  
22 complete copy of the investigative file which  
23 contains everything that I am aware of that was done  
24 by law enforcement   I do not know of specific items  
25 that he is talking about that were taken from any

1 person other than him

2 If he will -- no, not him If his  
3 investigators or lawyers will tell me what he was  
4 talking about, I will share with them everything I  
5 know about it, sir

6 THE COURT All right He doesn't know  
7 of any, Mr Alkebulanyahh If you can identify  
8 something in particular that you want them to pursue  
9 then you need to let the court know Because,  
10 generally, as I indicated, they do not have to  
11 establish a chain of custody as to people who aren't  
12 at issue in this case

13 THE DEFENDANT Well, Your Honor, in  
14 particularly speaking to the accused, the accused is  
15 stating that the accused would like the exact change  
16 (sic) of custody form of the accused, the alleged  
17 items and clothing from the defendant and who the  
18 hands they went into and what they was and each  
19 individual that had possession of these items

20 THE COURT Well, that is a different  
21 request If you are talking about an exhibit that  
22 they plan on using in this case --

23 THE DEFENDANT Right

24 THE COURT -- against you, they have  
25 indicated they will be happy to meet to go over the

1 chain of custody Or if there is one in issue after  
2 your review of the file or case, then certainly we  
3 can have a hearing on that before it can be  
4 introduced But it requires some groundwork first

5 THE DEFENDANT Yes, sir

6 THE COURT Do you want -- are there  
7 particular items that you would like your  
8 investigators or your standby counsel to meet with  
9 the solicitor about?

10 THE DEFENDANT At this time, I'm not  
11 going to bring them forth at this time

12 THE COURT All right Now, if something  
13 comes up during trial insofar as an exhibit is  
14 concerned then it will be your obligation to bring  
15 that to my attention Do you understand that?

16 THE DEFENDANT Right, to object to it  
17 before the evidence is brought forth

18 THE COURT Before trial we can have a  
19 session where all of the exhibits are reviewed  
20 outside of the presence of the jury, and then you  
21 will have another opportunity to bring something to  
22 my attention Okay?

23 THE DEFENDANT Yes, sir

24 THE COURT All right

25 THE DEFENDANT Thank you, sir

1                   The next motions, may I, sir?

2                   THE COURT    Yes, sir

3                   THE DEFENDANT   The motion to sequester  
4   the witnesses involved in the case that whereby the  
5   witnesses would not be able to get together and be  
6   afforded the means of discovery -- the accused or the  
7   defendant may be able to have the witnesses separated  
8   to prevent them from being able to collaborate their  
9   stories together and I being able to find any  
10  discrepancies in their testimony, so I'm asking that  
11  any and all of the witnesses be sequestered during  
12  the course of the trial

13                  MR MURDAUGH   I think you would probably  
14  grant it if I objected to it, so I concede that

15                  Now, I call the Court's attention that  
16  this is going to take about half of the security  
17  detail out of the courtroom

18                  THE COURT    I understand that    We will  
19  have to make -- we have discussed making  
20  arrangements    But there is not much that we can  
21  really do about that, insofar as if they are going to  
22  be a witness in this case    Now, that doesn't require  
23  that they be sitting in a room somewhere    They can  
24  go about their business

25                  MR MURDAUGH    Yes, sir

1 THE COURT For example, if it involves a  
2 dispatch officer, the dispatch officer can be at  
3 their station And if we need them, then we will  
4 send for the person and they can come over But I'm  
5 just talking about sequestered from this courtroom  
6 and each side -- Mr Alkebulanyahh

7 THE DEFENDANT Yes, sir

8 THE COURT Each side needs to be  
9 responsible for instructing their witnesses to not  
10 discuss the case in any way whatsoever with anyone  
11 Do you understand that?

12 THE DEFENDANT Correct

13 THE COURT And you will do the same with  
14 your witnesses That means they will not be in the  
15 courtroom We will send out and call their name out  
16 in the hallway when it is their time

17 THE DEFENDANT So they would not be -- I  
18 would not be allowed to sequester them?

19 THE COURT Well, they are sequestered  
20 from this courtroom so they can't hear the  
21 testimony

22 THE DEFENDANT Of each witness?

23 THE COURT Right They can't be in the  
24 courtroom Now, they can be out in the hall or they  
25 can go to their work station if it involves an

1 officer or something and we will send for them when  
2 you are ready to call them or they are ready to call  
3 them

4 THE DEFENDANT So it would -- so, I have  
5 to have eyes open -- have someone with other eyes to  
6 make sure that after the witnesses have give their  
7 testimony that they don't be collaborating with other  
8 witnesses?

9 THE COURT Each witness will be -- you  
10 need to instruct your witnesses, they need to  
11 instruct their witnesses And after a witness  
12 testifies, I can tell them not to discuss the matter,  
13 their testimony with anyone or they will be subject  
14 to contempt

15 THE DEFENDANT How about prior to  
16 testimony?

17 THE COURT I'm sorry?

18 THE DEFENDANT How about prior to  
19 testifying?

20 THE COURT That is why I said you need  
21 to tell your people and they need to tell their  
22 people I don't have them here before me You need  
23 to instruct them not to discuss That is the Court's  
24 order and you can tell them that's the court's order  
25 and you do the same

1 MR MURDAUGH Yes sir Now, if Your  
2 Honor please, in regard to what you just said, does  
3 that mean that I cannot talk with witnesses together  
4 to establish a chain of possession of an item by way  
5 of example?

6 THE COURT No

7 MR MURDAUGH Prior to trial

8 THE COURT I think you can do that

9 MR MURDAUGH Okay

10 THE COURT Just like, Mr Alkebulanyahh  
11 you can talk to your people Nothing stops you from  
12 doing that You are not making that request, are  
13 you?

14 THE DEFENDANT Excuse me?

15 THE COURT You are not suggesting that  
16 one side can't talk to their own witnesses?

17 THE DEFENDANT No What I'm suggesting  
18 is that the witnesses be not allowed to -- will he be  
19 able to talk to the witnesses together?

20 THE COURT About?

21 THE DEFENDANT About circumstances or  
22 the things in testimony to be presented in the  
23 court You know if he brings this witness and that  
24 witness and that witness and he got his witnesses  
25 together and he's talking about particular issues or

1 whatever, then they apparently are going to be  
2 listening to different things that are going to be  
3 said about what he is saying I don't know what he  
4 is saying but I think it would be very highly  
5 prejudicial for him to be speaking with several  
6 witnesses at the same time about matters pertaining  
7 to this case and certain things that the witnesses  
8 shouldn't know or shouldn't have the opportunity to  
9 hear in reference to what he is speaking to another  
10 witness But anything that he say, he is going to be  
11 speaking in reference to the case

12 THE COURT Yes, sir

13 MR MURDAUGH I'm not sure I know what  
14 he is asking, sir I do not intend to implant in any  
15 witness my thoughts I intend to ask them what  
16 happened which I have already done most of the time

17 THE COURT He has a right to do that,  
18 and it has probably already been done by now

19 THE DEFENDANT On an individual basis or  
20 I m saying --

21 THE COURT Well, no one has a right to  
22 plant testimony in anyone's head

23 THE DEFENDANT But, of course, they do  
24 There has always been prosecutor misconduct

25 THE COURT You are able to ask the

1 witness that question Has anyone told you what to  
2 say here today, has anyone --

3 THE DEFENDANT Or have they overheard

4 THE COURT Has anyone asked you to  
5 change your testimony, have you based your testimony  
6 in any way on something someone else has said rather  
7 than what you have directly observed or know? You  
8 have the right to ask those questions That is how  
9 you protect it for anything that happens pretrial  
10 Now, during the trial, everyone will be  
11 instructed not to discuss the case with anyone All  
12 right?

13 THE DEFENDANT Yes, sir Thank you,  
14 Your Honor

15 THE COURT Next matter

16 THE DEFENDANT Yes, a motion to reveal  
17 the deal The issue was, one, I wanted -- are there  
18 any deals for testimonies, statements, favors or  
19 immunity should be made available to the defendant

20 MR MURDAUGH There have been none, sir

21 THE COURT All right That answers that  
22 question, Mr Alkebulanyahh

23 THE DEFENDANT Yes, sir Motion to  
24 prevent uniform officers, Caucasian officers near and  
25 seated directly behind the defendant

1 THE COURT Motion to what?

2 THE DEFENDANT Motion to prevent  
3 uniformed officers and Caucasian officers, white  
4 officers, near or seated directly behind the  
5 defendant

6 One is that numerous officers near the  
7 defendant would show a type of prejudice toward the  
8 juror The juror would perceive the defendant to be  
9 dangerous or guilty A group of Caucasians or white  
10 officers or men gathered together is a symbol as a  
11 sign of authority being directly placed behind the  
12 defendant who is an African-American

13 When the defendant stands -- for when the  
14 defendant stands, officers stand And when the  
15 defendant asks to approach the podium he asks the  
16 court that these officers do not escort or make  
17 movement or actions with the defendant every move and  
18 his every rising and standing to address the court  
19 concerning the issue Because the defendant feels  
20 like he would be prejudice in front of the jury for  
21 them to think or to believe that defendant is guilty  
22 or he is dangerous

23 THE COURT Well, there will be an  
24 officer sitting behind you There will be one over  
25 there, and then there will be someone out in the

1 audience session, and there will be someone back  
2 here That is just customary

3 I'm not going to describe whether they  
4 will be -- what race they will be I'm not attaching  
5 any assumptions to that and I'm not even going to  
6 fall into that trap

7 THE DEFENDANT Well, my thing is that --  
8 pretty much that I wouldn't want to come to trial and  
9 then I look back and I see a whole courtroom full of  
10 uniform officers standing around

11 THE COURT You are not going to see --  
12 first of all, there will be no uniformed officers in  
13 this courtroom

14 THE DEFENDANT Thank you, Your Honor

15 THE COURT There may be officers in the  
16 courtroom People are free to watch, but they won't  
17 be in their uniforms if they are just here watching  
18 Do you understand?

19 THE DEFENDANT Right Also if the  
20 officers will be called to give testimony --

21 THE COURT No, I'm not talking about  
22 witnesses They will be sequestered

23 THE DEFENDANT Right What I'm asking  
24 is by -- could the court rule that the officers that  
25 are to give testimony that they do not wear -- that

1 they wear civilian clothes being that the jury would  
2 have a tendency to say, well, you know, these  
3 officers we have to believe everything they say  
4 pretty much to that extent by presenting himself in  
5 his officer attire

6 THE COURT Well, it is going to come out  
7 that he's an officer

8 THE DEFENDANT Well still yet, there's  
9 things dealing with subliminal suggestion, you know  
10 with the mind

11 THE COURT I don't know about that I'm  
12 not prepared to say that far If someone is here on  
13 duty being sequestered and they are at their station  
14 and you are calling them to testify I'm not going to  
15 direct that they change their clothes, if that is the  
16 case

17 Now, I will direct that any officers  
18 attending this trial be in plain clothes

19 THE DEFENDANT Thank you

20 THE COURT And I do believe that the  
21 officer that will be sitting behind you will be an  
22 African-American, but I'm not going to promise that  
23 for the whole trial We will do the best we can, but  
24 that's not a request that I'm saying you are  
25 guaranteed as a matter of law I'm going to do what

1 I can to honor that request All right

2 THE DEFENDANT Thank you sir

3 THE COURT Because I don't believe there  
4 is any difference as to whom it should or can be Go  
5 ahead

6 THE DEFENDANT Okay This other motion  
7 was a motion that we just spoke about a minute ago  
8 about this was a motion for no uniformed officer to  
9 wear their uniform on duty in the courtroom during  
10 the presence of the jury

11 Basically speaking you said you will ask  
12 the court -- ask the officers not to wear their  
13 uniform when giving testimony and so forth to that  
14 extent

15 THE COURT No I'm going to -- the  
16 officers that are managing this trial for security  
17 purposes --

18 THE DEFENDANT Right

19 THE COURT -- will be wearing plain  
20 clothes

21 THE DEFENDANT Okay

22 THE COURT All right Now, if you have  
23 summoned someone to testify and if they are wearing  
24 plain clothes, that's fine If they are on duty --  
25 because I can't have a third of the sheriff's

1 department not working because they are on someone's  
2 witness list Do you understand? So they might have  
3 to come in right at the last second If they are  
4 wearing a uniform, I'm not going to stop them from  
5 doing that

6 Number two, you are going to be asking  
7 them, if you are calling them as a witness, for  
8 example, who they work for because you -- I assume  
9 you are thinking that is some kind of a bias on their  
10 part, so you're going to point out that to the jury  
11 anyway that they're an officer for that department  
12 So I really don't see any need to describe what a  
13 witness should have to wear in a courtroom I have  
14 never had to do that before

15 Next request

16 Have my security instructions been  
17 relayed about seating and everything?

18 THE SHERIFF'S DEPUTY Yes, sir, they  
19 have

20 THE COURT All right Go ahead

21 THE DEFENDANT Yes, I want to -- this is  
22 a motion in limine to prevent the introduction of  
23 photographs of the body of the deceased One is that  
24 the pictures referred here are highly inflammatory  
25 The pictures have -- two, the pictures would have

1 little or no probative value in that they cannot  
2 serve to eliminate any issues which would be before  
3 the jury Three is that there are many other ways in  
4 which the state can enter the evidence of the cause  
5 of the death without utilizing pictures of the  
6 deceased

7 THE COURT All right Are you utilizing  
8 photos of the deceased?

9 MR MURDAUGH I do not intend to utilize  
10 photographs of the deceased in the guilt phase, if  
11 Your Honor please

12 THE COURT All right

13 MR MURDAUGH Except in going over the  
14 evidence We had some 12 and -- 32, I think,  
15 projectiles that were fired from two different guns  
16 that were found in various places Two of those  
17 pictures, sir only have a portion -- have a portion  
18 of the body in it, sir And I will show those to  
19 counsel ahead of time, and I took the ones that I  
20 thought were the most -- of the least inflammatory

21 THE COURT All right

22 MR MURDAUGH But two of those pictures  
23 do show a portion of the deceased body

24 THE COURT Do you know which two  
25 pictures those are?

1 MR MURDAUGH Judge, like I say, there  
2 were 32 of them and I have got them attached to the  
3 cartridges

4 THE COURT All right Before you  
5 introduce those, bring those to my attention

6 MR MURDAUGH Certainly

7 THE COURT All right

8 Mr Alkebulanyahh generally, he is not  
9 going to introduce anything but two that might have  
10 part of it and I will look at those before I allow  
11 them to introduce them to see if they are  
12 inflammatory All right

13 THE DEFENDANT Thank you, sir This is  
14 a motion to demand dismissal of charges for violation  
15 of South Carolina Code of Law Section 17-23-9 And I  
16 would like to present to the court that the reason is  
17 to show the following I would like to show the  
18 following to the court is that, for one, the motion  
19 which this was brought up before --

20 THE COURT Yes, I thought I have already  
21 heard this motion

22 THE DEFENDANT Indeed but --

23 THE COURT Why am I hearing it again,  
24 Mr Alkebulanyahh?

25 THE DEFENDANT The reason that you are

1 hearing this motion is because you ruled on this  
2 motion that -- that I feel that the reason for your  
3 ruling on this motion, which you gave your opinion in  
4 reference to why you went against this motion adverse  
5 to the defendant was the application of the case  
6 that is quoted was not applicable or in any way  
7 related to the issue in which the defendant had  
8 brought before your attention about the case, and you  
9 spoke of it And if I may go through this particular  
10 document, it would shed a more broader light

11 THE COURT Well, if you have a case that  
12 you want me to consider, I will be happy to do it  
13 But, generally, I'm not going to reconsider my ruling  
14 on 17-23-90 insofar as you're asking it means your  
15 charges be dismissed

16 Do you have a case on that?

17 THE DEFENDANT Well, what I do have is  
18 that you spoke of that the particular issue was  
19 spoken

20 You spoke of that the case had been --  
21 was not in accordance with the general assembly It  
22 was based on a special condition that one was to be  
23 granted a denial of the speedy trial because this guy  
24 wanted to be speedy tried within a two-week term

25 THE COURT Your motion for speedy trial

1 was granted, Mr Alkebulanyahh

2 THE DEFENDANT No, my motion for speedy  
3 trial was ignored

4 THE COURT No

5 THE DEFENDANT Let me give you the  
6 dates

7 THE COURT Once this court took over  
8 your case, as I explained to you, I granted your  
9 request

10 THE DEFENDANT No, my motion for speedy  
11 trial was ignored, Your Honor, according to my  
12 understanding because I filed two motions for speedy  
13 trial

14 THE COURT Actually, you filed probably  
15 about 10 of them, Mr Alkebulanyahh, because I went  
16 over with you the fact that you have repeatedly filed  
17 the same motion I said I will grant that motion and  
18 give you a trial in October

19 THE DEFENDANT Yeah, but after the  
20 expiration date, according to the statute 17-23-90  
21 which was established by the generally assembly

22 THE COURT Yes, sir

23 THE DEFENDANT The total ignorance of  
24 that statute and the denial of the defendant of his  
25 right under that statute by your ruling deshiated

1 (phonetical) the legal standing that has been  
2 established by the general assembly about the speedy  
3 trial

4 THE COURT And, as I indicated, I think  
5 you'd find if anything about that statute it deals  
6 with being discharged from custody It has nothing  
7 to do with your charge being dismissed That  
8 argument is denied, but your argument has been  
9 preserved for the record if you desire to pursue it  
10 down the road, Mr Alkebulanyahh

11 I think you have argued that fully  
12 There is nothing new on that argument I gave you a  
13 full opportunity to argue that I don't want you to  
14 think your argument is not being heard You have  
15 been able to develop the record on that argument I  
16 understand your argument I just don't agree with  
17 it, okay But certainly you will have the right to  
18 challenge that later on if you feel it is appropriate  
19 because you have preserved it for the record

20 THE DEFENDANT Thank you, sir

21 THE COURT Next argument

22 THE DEFENDANT Yes, I wanted to -- that  
23 pretty much ends the motions, Your Honor, sir But I  
24 wanted to ask the court if an OCR projector is  
25 available in the courtroom whereby that a projector

1 to show the powerpoints and the exhibits that the  
2 defendant plans to use during the course of the  
3 trial

4 THE COURT Again back to the other  
5 issue, if you will note State versus Campbell, 288  
6 SE 2d 395, 1982, 17-23-90 does not discharge from  
7 prosecution when the conditions of the statute are  
8 not timely met A specific case right on point

9 I'm not going to revisit that issue I  
10 just want you to have that case for your reference if  
11 you want to pursue that any further All right

12 THE DEFENDANT My last thing, if I may

13 THE COURT Yes, sir

14 THE DEFENDANT That statute 17-23 said  
15 that one should be acquitted if he hasn't been  
16 brought to the court according to the general  
17 assembly terms within two court terms

18 THE COURT I understand your argument,  
19 Mr Alkebulanyahh

20 THE DEFENDANT Yes, sir

21 THE COURT I don't fault you for making  
22 it

23 THE DEFENDANT Thank you, sir

24 THE COURT Go ahead

25 THE DEFENDANT And I wanted to ask about

1 the OCR projector is it available in the courtroom  
2 whereby the accused can make powerpoints, point out  
3 powerpoints and show powerpoints in their exhibits in  
4 the course of the trial

5 THE COURT Do you have a projector  
6 Madam Clerk?

7 THE CLERK Yes, sir

8 THE COURT They will have a projector  
9 Have your investigator line that up with the clerk  
10 All right

11 You mean like an overhead projector?  
12 You're going to have transparencies or something?

13 THE DEFENDANT May I have the  
14 investigator speak?

15 MRS DAVIS It is a projector that you  
16 can plug a laptop computer into, and it has to go  
17 through that type of a projector

18 THE COURT So this is something that you  
19 want to project from your laptop?

20 MRS DAVIS Yes It would be a  
21 powerpoint presentation It would come from the  
22 laptop but the laptop plugs into the OCR projector

23 THE COURT Do you-all have that, Madam  
24 Clerk?

25 Do you-all know if they have that here in

1 this county? I'm not familiar with this county so

2 MR DUFFY We do, Your Honor We also  
3 have a computer and some monitors that are already  
4 going to be hooked up and that may be the best thing  
5 to do is just to go ahead and have it hooked up I  
6 think we are going to try to hook that up Sunday and  
7 have it in place Of course if we're able to use  
8 it --

9 THE COURT And it will have powerpoint  
10 on there?

11 MR DUFFY Yes, sir Now, that's going  
12 to have to be their computer They're going to have  
13 to hook that up But the monitors would be set as  
14 well as the cables But there is also a projector if  
15 that is the preferred use by the defense They have  
16 that as well

17 THE COURT All right

18 THE DEFENDANT Yes, sir, Your Honor I  
19 have two more motions I m sorry

20 THE COURT Yes, sir

21 THE DEFENDANT This one being a motion  
22 to suppress I'm asking that the court suppress  
23 evidence pertaining to the case from trial and being  
24 the particulars of starting with, number one, the  
25 alleged weapon involved in this case was discovered

1 because of the tainted fruit of an alleged statement  
2 made by the defendant with or without a Miranda  
3 warning And number two is to show the court that  
4 the tainted --

5 THE COURT Wait a minute Repeat that  
6 to me again, I'm sorry

7 THE DEFENDANT Yes, sir Number one is  
8 that the allege weapon involved in this case was  
9 discovered because of the tainted fruit of an alleged  
10 statement made by the defendant without his  
11 memorandum (sic) rights

12 THE COURT All right You claim that  
13 they found the weapon after a statement supposedly  
14 made by you indicated where that weapon was and  
15 because that statement was tainted the weapon is  
16 tainted?

17 THE DEFENDANT Yes, and it should --  
18 yes, sir, it is the fruit of tainted evidence

19 THE COURT Do you want to respond to  
20 that?

21 MR MURDAUGH Yes sir if Your Honor  
22 please, that is not a correct statement of facts,  
23 sir The weapon was found by an officer from  
24 Charleston County with a firearms -- or a dog that  
25 can smell out these things

1 THE COURT Well, is there a statement at  
2 issue from the defendant that is going to be sought  
3 to be introduced into this trial?

4 MR MURDAUGH Yes, sir No, sir, the  
5 way you phrase your question, sir, I don't think --

6 THE COURT I'm wondering if there is a  
7 Denno hearing that is going to be necessary

8 MR MURDAUGH It was a statement, not in  
9 response to questioning, sir

10 THE COURT But nonetheless, it is  
11 probably best to have a hearing on that

12 MR MURDAUGH We can certainly

13 THE COURT If you are planning on  
14 introducing a statement by the defendant

15 MR MURDAUGH Yes, sir

16 THE COURT They say that the dogs found  
17 this gun, Mr Alkebulanyahh

18 THE DEFENDANT Your Honor, I would like  
19 to show and present to the court, if you would give  
20 me one minute, evidence contrary to what he is  
21 stating

22 THE COURT What kind of evidence is  
23 that?

24 THE DEFENDANT Well, it would be  
25 evidence to where the chief investigator in the case,

1 SLED Agent Avant (phonetical) indicated in a  
2 preliminary hearing that the results of the weapon  
3 being found was the result which was consistent with  
4 the defendant's statement given to them at the time  
5 of his being detained or being arrested at that time,  
6 and he has stated this on the record and also in the  
7 reports also in other reports in dealing with --  
8 which I have with other officials who have stated  
9 that this was consistent with the alleged statement  
10 made by the suspect at that time

11 THE COURT But just because they found a  
12 weapon, if they claim they found it through the dog  
13 and it happened to be consistent with your statement  
14 why does that mean they found it as a result of your  
15 statement?

16 THE DEFENDANT What it is is that the  
17 issues that they are saying that they had not read me  
18 my memorandum (sic) warnings They questioned me  
19 They had been questioning me without reading me my  
20 memorandum (sic) warnings, my memorandum (sic)  
21 rights, detained me and arrested me And they allege  
22 that I made a statement telling them where the weapon  
23 was at and that was the result of them finding the  
24 weapon and that is what it is stated

25 THE COURT Yes, sir

1                   MR MURDAUGH   Again, sir, that is not a  
2 correct statement   I told you there would be  
3 statements used by him, and we will attempt to put  
4 them in   He was asked at the time of arrest where  
5 the gun is   I do not intend to elicit that  
6 information, sir

7                   He responded it is in the woodline   Two  
8 days later, they found the gun   During the two days,  
9 they found witnesses that saw him from point A where  
10 the killing took place to point B to point C to point  
11 D to the place where the apprehension was   They  
12 followed that track where these people said they saw  
13 him and that is how they found the gun, sir

14                   THE DEFENDANT   Your Honor

15                   THE COURT   Yes, sir

16                   THE DEFENDANT   What is at question here  
17 is that where they say -- where he alleged that the  
18 defendant was the defendant was no where in the  
19 proximity in that particular area   There is no  
20 witnesses to put defendant there   There is no  
21 substantial evidence or no witness, period, in this  
22 case to put defendant in the area in the proximity of  
23 where they alleged this weapon was found, none  
24 whatsoever, not one

25                   THE COURT   Where the weapon was found

1 THE DEFENDANT Well, where they say that  
2 the weapon was found, according to what they say, you  
3 know, from the reports of where they have stated the  
4 weapon was found

5 THE COURT Well, why is it that they  
6 would have to show that you were there where the  
7 weapon was found, just out of curiosity? I mean,  
8 sometimes people have people take weapons places I  
9 don't know what you are trying to make by that  
10 point

11 THE DEFENDANT What I am stating, Your  
12 Honor, is that

13 THE COURT Where was this weapon exactly  
14 found? Where was the weapon found?

15 MR MURDAUGH It was found in a wooded  
16 area behind the elementary school I can't recall  
17 the name of it -- Broad River Elementary School,  
18 sir

19 THE COURT And these deputies were shot  
20 where?

21 MR MURDAUGH They were shot  
22 approximately three quarters -- and this is my  
23 estimation, sir, three quarters of a mile away

24 THE COURT From this wooded area?

25 MR MURDAUGH From the wooded area where

1 the gun was found, yes, sir

2 Judge, I have a map in my automobile that  
3 would be a lot more definitive on this issue Would  
4 you like for me to get it sir?

5 THE COURT Yes, we will go ahead and  
6 take a break for you to do that

7 (A recess transpired )

8 THE COURT All right Yes, sir

9 MR MURDAUGH If Your Honor please, I  
10 have a map It is not something that I intend to use  
11 this particular one as evidence But it would give  
12 you a definitive idea of what I am talking about,  
13 sir

14 A is where the murders took place D --  
15 excuse me -- two is where the rifle was found I  
16 told you it was probably three quarters of a mile  
17 It is along this path He was seen at B The  
18 magazine to the rifle was found at one A witness  
19 saw him at C Where he went from there to D, a  
20 witness saw him at D And the gun was found at two  
21 The next witness that saw him was at E and he was  
22 apprehended at F

23 It is 1 point 1 mile, if I remember  
24 correctly, sir, from A to F So it would probably be  
25 just a little bit better than a half mile to where

1 the gun was found, sir

2 THE COURT Yes, sir

3 THE DEFENDANT Yes, sir In reference  
4 to the map that he is showing as to where he says the  
5 witness said they saw Mr Alkebulanyahh, it is  
6 incorrect There is no witness anywhere that would  
7 be able to place or identify Mr Alkebulanyahh as  
8 being at any of them points that he indicated no  
9 matter what There is no evidence There is no  
10 testimony that can be given There is nothing that  
11 can be produced to put Mr Alkebulanyahh at them  
12 particular points because Mr Alkebulanyahh was never  
13 at them points And there is no evidence that could  
14 collaborate -- that could corroborate to actually put  
15 Mr Alkebulanyahh at where he alleged to say a  
16 witness said, because there ain't no witness never  
17 said they saw Mr Alkebulanyahh at them points

18 THE COURT Well, I mean, they say that  
19 they are going to, Mr Alkebulanyahh, that they are  
20 going to have people say they saw you at those  
21 points Whether they say it or not, I don't know if  
22 that is what they are going to say But he says he  
23 has got witnesses that are going to say that

24 THE DEFENDANT Okay That is what he  
25 alleged and that is what he says I say it to the

1 contrary It won't be

2 THE COURT I'm not saying I don't  
3 believe that

4 THE DEFENDANT Right

5 THE COURT But I'm saying that's what  
6 happens a lot of times in trials

7 THE DEFENDANT But that does not -- but  
8 my point is it does not substantiate my -- it does  
9 not substantiate what I am trying to stipulate to the  
10 court that this weapon, alleged weapon, was supposed  
11 to be found according to -- as a matter of fact I  
12 would like to quote from the chief investigator,  
13 Mr SLED Agent, on March 18th, 2002 In a quote  
14 The weapon was recovered in a wooded line which is  
15 consistent with Robert's prestatement at the time of  
16 his arrest

17 And to corroborate -- to bring something  
18 to corroborate with that to support that in reference  
19 to this prestatement at the time of his arrest from  
20 the chief investigator, the Lieutenant Cole B Brown  
21 who was also at the scene of this incident and he  
22 stated on Page 2, the fourth paragraph on questioning  
23 the suspect I observed several officers ask the  
24 suspect where he had put the weapon The suspect  
25 stated he had dropped it in the tree line The

1 suspect then appeared to lose consciousness

2                   At no time did Lieutenant Cole Brown  
3 state that any officers or anyone informed the  
4 suspect of his memorandum (sic) rights or that he was  
5 under arrest or that he did not have the right to  
6 answer any questions or talk to anyone

7                   And in support of that Mr Dehand  
8 (phonetical), Corporal Dehand who also was on the  
9 scene at the time of this arrest who was a partaker  
10 in the arrest with Mr Brown and Sergeant Green, in  
11 his report, his supplemental incident report, Page 1,  
12 the second paragraph, the pertinent part We asked  
13 him -- excuse me -- I m going to go before that

14                   I responded to the location And when I  
15 got there, a Marine looked at me and said they are  
16 underneath the bridge I went down around the corner  
17 of the bridge and saw Sergeant W Green pulling the  
18 suspect from underneath the bridge He got the  
19 suspect in handcuffs behind his back and asked for  
20 handcuffs I gave him my handcuff, and Sergeant  
21 Green handcuffed the suspect We asked him if he was  
22 shot, and he said he was We pulled him up onto the  
23 side of the road and asked him where was the gun --  
24 where the gun was, excuse me He said he threw it in  
25 the tree line EMS then arrived and transported

1 suspect to the hospital

2 At no time was the officer actually in --  
3 responsible in the alleged capture of  
4 Mr Alkebulanyahh, Your Honor They all -- they  
5 admitted (sic) that they questioned the suspect,  
6 indicated that the suspect allegedly said he threw it  
7 in the tree line This chief investigative SLED  
8 agent of the South Carolina Law Enforcement Division  
9 stated in his statement under oath, under oath in  
10 testimony in this court on March 18th, 2002 the  
11 weapon was recovered in the wooded line which is  
12 consistent with Robert's prestatment at the time of  
13 his arrest

14 There was no indication from any of the  
15 officers or any individual any memorandum (sic)  
16 warning was given or any memorandum (sic) rights were  
17 given concerning a statement And this chief  
18 investigator had specifically stated that as a result  
19 of this statement was the weapon to been discovered  
20 (sic)

21 THE COURT Do you wish to respond?

22 MR MURDAUGH If Your Honor please, the  
23 officers at that time did not know whether the  
24 officers had been shot with a pistol or gun when they  
25 apprehended this fellow that they thought was the man

1 that had done the killing They wanted to know where  
2 the gun was so they wouldn't get killed, sir

3 It had nothing to do -- if you will note  
4 from what he said, sir, they said where is the gun  
5 He responded in the wood line There was no  
6 additional questioning It was merely to secure the  
7 scene

8 The gun was found two days later, as I  
9 said, probably somewhere a little bit in excess of a  
10 half of a mile from the scene It was found by an  
11 officer from Charleston that had his dog there doing  
12 the search based upon the witnesses that they later  
13 developed seeing the person go down a particular  
14 route

15 THE COURT Back to the original point  
16 Are you trying to use any statement he made regarding  
17 the gun?

18 MR MURDAUGH No, sir

19 THE COURT All right

20 THE DEFENDANT Yes, sir, may I?

21 THE COURT Yes, sir

22 THE DEFENDANT The 10th Circuit Court of  
23 Appeals ruled in the year 2000 that if a police finds  
24 physical evidence after such an encounter --

25 THE COURT What is that citation?

1 THE DEFENDANT That is United States  
2 versus Patane, 02 dash 1183 and Arizona versus Gant,  
3 02 dash 1019 and Miranda versus Arizona, 1966

4 And it says that after -- the 10th  
5 Circuit ruled that in 2002 that if a police finds  
6 physical evidence after such an encounter, it cannot  
7 be used against a suspect in the court And it  
8 clearly states that these three officers all who was  
9 there that responded to this states in their own  
10 words and the chief SLED investigator stated for the  
11 record under oath that this was the result

12 THE COURT Well, I can't do anything  
13 unless we have these people here to testify Are  
14 these people available to testify?

15 THE DEFENDANT They are the prosecutor's  
16 witnesses

17 MR MURDAUGH No, sir They are in  
18 Charleston As I said, I was not served with his  
19 motions, sir, and I frankly didn't know what to  
20 expect

21 THE COURT Yes, sir

22 MR MURDAUGH The fact is I didn't think  
23 we were going to have any motions this morning

24 THE DEFENDANT Your Honor, I ask the  
25 court based on the facts that I have present with me

1 and if I -- if need be, I would submit a copy of  
2 these officers' statements and the testimony given  
3 under oath by chief SLED agent --

4 THE COURT No, I'm not going to do  
5 anything without a hearing These officers will just  
6 have to be made available for a hearing

7 THE DEFENDANT Okay

8 THE COURT When I get back to Beaufort,  
9 everybody needs to be available for resolving all  
10 pending matters

11 Yes, sir

12 MR MURDAUGH At some point before we  
13 leave today sir, I need a definitive definition of  
14 what it is that he is requesting, sir I can handle  
15 anything as long as I know what it is

16 THE COURT Well, if you will get those  
17 case citations, perhaps you-all can look at those  
18 cases that he has just cited and see what his theory  
19 is

20 MR MURDAUGH I'm aware of the cases,  
21 sir

22 THE COURT All right

23 MR MURDAUGH My question is directed to  
24 the factual situations that he is talking about,  
25 sir I now know --

1 THE COURT All right Give us that case  
2 number again, please

3 THE DEFENDANT That's United States  
4 versus Patane at 02 dash 1183

5 THE COURT Spell that case again

6 THE DEFENDANT P-A-T-A-N-E, Patane

7 THE COURT All right That's the 10th  
8 Circuit?

9 THE DEFENDANT Yes, sir, that's the 10th  
10 Circuit Court of Appeals And it was ruled in 2002  
11 That ruling was given down in 2002

12 THE COURT Yes, sir What is the other  
13 one?

14 THE DEFENDANT The other case was  
15 Arizona versus Gant, G-A-N-T, 02 dash 1019 And the  
16 other case was Miranda versus Arizona, 1966

17 THE COURT I've got that one  
18 Anything else?

19 THE DEFENDANT Yes, sir This last and  
20 final motion I'm asking the court to dismiss charges  
21 based on that the defendant in this case was not read  
22 any memorandum (sic) rights which was in violation of  
23 the United States Constitution, Fifth Amendment and  
24 14th Amendment to due process of law and equal  
25 protection under the law

1 THE COURT And because they are factual  
2 situations, I don't think I can resolve anything  
3 without a hearing

4 MR MURDAUGH I know that he wants the  
5 gun, but I need to know what else it is that he is  
6 addressing so I will have some -- so I can handle it,  
7 sir

8 THE DEFENDANT I want the gun  
9 suppressed I want the gun not to used or brought  
10 before the jury

11 THE COURT Because you think it was  
12 seized as a result of you statement, alleged  
13 statement?

14 THE DEFENDANT Right, the illegal  
15 seizure of the weapon or finding of the weapon was  
16 the illegal conduct of the officers which was in  
17 violation of my United States Constitution

18 THE COURT Give us those case names  
19 again and we will look at those cases

20 THE DEFENDANT United States versus  
21 Patane, P-A-T-A-N-E, dash comma dash

22 THE COURT Do you have the actual cite,  
23 or is that just the case number?

24 THE DEFENDANT That is actually the case  
25 number in reference

1 THE COURT Do you want to respond for  
2 the record?

3 MR MURDAUGH No, sir

4 THE COURT All right I don't know of  
5 any -- they are not planning on using any statements  
6 that you have made I don't see why that would  
7 afford you the basis of any dismissal I will look  
8 into whether or not you have some legal point based  
9 on that Patane case regarding the use of the gun  
10 Before that gun is admitted, you will bring that back  
11 to the court's attention All right

12 MR MURDAUGH If Your Honor please,  
13 there are some statements that he made not related to  
14 his arrest that were made at a detention center, both  
15 in Charleston and in Beaufort

16 THE COURT Well, if there's any  
17 possibility of any kind of statements being used  
18 against him, I think we need to have a Jackson versus  
19 Denno hearing

20 MR MURDAUGH I will announce prior to  
21 going into that, sir

22 THE COURT All right No statements are  
23 to be referenced, at all, without me having that  
24 hearing first All right?

25 THE DEFENDANT Yes, sir

1 THE COURT Anything else?

2 THE DEFENDANT Again, finally, as I  
3 said, the weapon I want to make clear that the  
4 defendant -- the defendant make known that the weapon  
5 was itself was tainted fruit It was acquired --

6 THE COURT I understand your argument

7 THE DEFENDANT -- by the testimony of  
8 these police officers illegally

9 MR MURDAUGH He has said that word  
10 several times and I have yet to understand what it  
11 was, sir, intinuum (phonetical) or something like  
12 that? May I inquire as to what he was saying?

13 THE COURT I think he is saying that  
14 because his statement -- he claims his statement was  
15 not given after Miranda and so it is tainted

16 MR MURDAUGH Yes sir I understand  
17 that But he used a word that I never could --

18 THE COURT I think he meant fruit

19 THE DEFENDANT Yeah, fruit

20 MR MURDAUGH I apologize I just did  
21 not hear it

22 THE COURT All right Go ahead

23 THE DEFENDANT Yes, sir, Your Honor I  
24 wanted to mention in reference to, if it is  
25 appropriate at this time --

1 THE COURT When we get to some point  
2 too, I understand there are a couple of different  
3 individuals that might be here seeking guidance about  
4 possible witnesses that have been subpoenaed We  
5 will get to that Go ahead

6 THE DEFENDANT That is the issue I was  
7 talking about in dealing with some witnesses

8 There was a witness that was subpoenaed  
9 that brought to my attention that didn't have  
10 particular information that I was seeking in my  
11 subpoena to use in the course of the trial And I  
12 wanted to release that individual in reference to me  
13 subpoenaing them

14 THE COURT You want to release an  
15 individual from subpoena?

16 THE DEFENDANT Right

17 THE COURT What individual is that?

18 THE DEFENDANT I want to take the burden  
19 off that person

20 THE COURT Who is that?

21 THE DEFENDANT Miss Beatrice Redding

22 THE COURT Miss Beatrice Redding?

23 THE DEFENDANT Yes, sir

24 THE COURT Did you have any need for  
25 her?

1 MR MURDAUGH I had subpoenaed her and  
2 released her prior to his subpoenaing her, sir

3 THE COURT So you want to release her?

4 THE DEFENDANT Yes, sir

5 THE COURT All right You can notify  
6 Miss Redding that she has been released from her  
7 subpoena Will the investigator take care of that?

8 THE DEFENDANT I also want to indicate,  
9 for the record, being that Miss Beatrice did not have  
10 any information regarding the defendant would be able  
11 to use in the course of trial that in the capacity of  
12 her employment that I did not know if the prosecutor  
13 had subpoenaed these particular witnesses I didn't  
14 want to subpoena witnesses that he already has  
15 subpoenaed And in reference to these witnesses, I  
16 pray that -- I would like to know Mr Rick Ramsey of  
17 the EMS department, works for medical service  
18 Chris --

19 THE COURT Wait Let s do them one at  
20 the time What are you asking, whether they have  
21 subpoenaed these individuals?

22 THE DEFENDANT Right And, if not, I'm  
23 going to subpoena them

24 MR MURDAUGH Have not subpoenaed  
25 Mr Ramsey

1 THE COURT Has not

2 THE DEFENDANT I will subpoena him

3 THE COURT You will have to arrange

4 that

5 THE DEFENDANT With counsel okay

6 Mr Chris Altman, I believe

7 MR MURDAUGH No, sir

8 THE COURT Who does he work for?

9 THE DEFENDANT The emergency medical  
10 services at Beaufort County

11 THE COURT No, he has not subpoenaed  
12 that person

13 THE DEFENDANT Okay Mr Grant

14 Marcirella (phonetical)

15 THE COURT Who does he work for?

16 THE DEFENDANT He works for the EMS  
17 services, medical emergency service in Beaufort

18 THE COURT Hold on Have you-all  
19 subpoenaed him?

20 MR MURDAUGH No, sir

21 THE COURT No, sir

22 THE DEFENDANT Your Honor, that  
23 concludes that particular issue

24 THE COURT Yes, sir All right I have  
25 some -- anyone here that was interested in seeking

1 guidance from the court or counsel or the defendant?

2 MR MURDAUGH This lady right here  
3 represents somebody at the Medical University, I  
4 think

5 THE COURT Yes, ma'am If you will  
6 state your name for the record

7 MRS DRACKMAN Annette Drackman I'm  
8 counsel for the MUSC Medical Center

9 THE COURT Yes, ma'am

10 MRS DRACKMAN The defendant has  
11 subpoenaed Dr Doug Norcross one of two trauma  
12 surgeons that we have available at the hospital for  
13 the length of the trial And we are just requesting  
14 a 24-hour notice for his appearance so that he is not  
15 sitting here during the entire trial and we can use  
16 him at the hospital while he is waiting to testify

17 The only other comment that I have is he  
18 is scheduled to be out of town presenting at a  
19 conference on October 9th, and we would request that  
20 he not be called on that particular day

21 THE COURT I doubt he would be called on  
22 October 9th The jury selection will begin that week  
23 so the state will be -- the state is not using him  
24 That's the defense witness?

25 THE DEFENDANT Yes, sir

1 THE COURT There is no way you will be  
2 getting to him on October 9th

3 MR MURDAUGH We very well may use him,  
4 sir

5 THE COURT Okay Do you think you will  
6 need him on October 9th?

7 MR MURDAUGH What I think is a no, no,  
8 sir

9 THE COURT I will give him protection  
10 for October 9th We will do the best we can to  
11 accommodate him on a 24-hour notice Will you-all be  
12 able to give me some guidance about when you might  
13 need him? I mean, not right now But once the  
14 defense's case starts or we get close to that point,  
15 if you decide to present anything, will you be able  
16 to give us a little bit of a notice so we can make  
17 sure he is here?

18 THE DEFENDANT Yes, sir

19 THE COURT We will do the best we can

20 MRS DRACKMAN I will leave the numbers  
21 where he will be available

22 THE COURT Now, he will have to be  
23 available so

24 MRS DRACKMAN I will tell him that

25 THE COURT If it is not a convenient

1 notice, I'm sorry, but he will have to be here

2 MRS DRACKMAN I understand that

3 THE COURT He will have to rearrange  
4 whatever

5 MRS DRACKMAN I understand

6 THE COURT And we just contact you?

7 MRS DRACKMAN You can contact me or I  
8 will also leave contact numbers for him as well

9 THE COURT All right If you will,  
10 leave those numbers with his investigators please

11 MRS DRACKMAN I certainly will

12 THE DEFENDANT Your Honor, may I?

13 THE COURT Yes, sir

14 THE DEFENDANT If the prosecutor calls  
15 Mr -- Dr Norcross I can handle my business on the  
16 cross

17 THE COURT I'm sorry?

18 THE DEFENDANT If the prosecutor calls  
19 him

20 THE COURT I understand

21 THE DEFENDANT I can handle my business  
22 on the cross

23 THE COURT All right Well, then, if  
24 you-all end up calling him, give me a little guidance  
25 about when you might need him

1 All right Anyone else?

2 Yes, ma'am

3 MS GOLDEN Your Honor, I'm Kelly

4 Golden I'm the Beaufort County staff attorney I  
5 have been asked by the sheriff's department to  
6 request the court to take under consideration a  
7 motion to quash the subpoena served on Major William  
8 Neal Baxley, B-A-X-L-E-Y It was served under the  
9 name of Major N Baxley Major Baxley is the  
10 assistant chief of staff in the sheriff s office He  
11 was appointed by the sheriff of this county to be  
12 chief of security in this trial I believe he has  
13 had a meeting with this court about the security in  
14 this matter

15 THE COURT Uh-huh

16 MRS GOLDEN He has no knowledge about  
17 the facts pertaining to this matter He tells me  
18 that he did not participate in the arrest or the  
19 search for the defendant, the securing of the crime  
20 scene He wasn't interviewed by the state He  
21 hasn't been subpoenaed by the state He has taken,  
22 given, nor has he been requested to give any  
23 statements And I asked him what participation he  
24 had, if any, in this matter He said that he was  
25 present at both command sites and he participated in

1 the perimeter search for the defendant and the gun

2 With the Court's order of sequestration,  
3 the major wouldn't be able to perform his duties so  
4 we ask that you quash the subpoena in this matter

5 THE COURT Are you planning on using him  
6 or did you just subpoena some people?

7 THE DEFENDANT Yes, sir, I plan on using  
8 Mr Baxley He planted evidence He also gave  
9 information where evidence is absent in relation to  
10 this case that can vindicate the defendant that can  
11 show he is innocent

12 THE COURT All right Do you-all take  
13 any position on that?

14 MR MURDAUGH No, sir, we do not take a  
15 position, if Your Honor please

16 THE COURT All right I can't grant  
17 that request in light of that allegation And you  
18 will have to arrange for someone else to perform your  
19 duties in this courtroom, sir, and you be subject to  
20 the sequestration Thank you

21 THE DEFENDANT Thank you

22 MRS GOLDEN Thank you, Your Honor

23 THE COURT Does anyone else here have  
24 issues? I think those were the only two that  
25 appeared for that

1                   MR MURDAUGH   There is nothing else that  
2 I am aware of, if Your Honor please

3                   THE COURT    I have a couple of other  
4 matters   Any other matters about witnesses?

5                   THE DEFENDANT   No, there is no other  
6 matter about the witnesses --

7                   THE COURT    All right

8                   THE DEFENDANT   -- preparing for the  
9 trial

10                   THE COURT    Just for the record, you were  
11 served with both of these indictments, sir?

12                   THE DEFENDANT   Sir?

13                   THE COURT    You were served with both the  
14 indictments? You have both copies of the  
15 indictments?

16                   THE DEFENDANT   Yes, sir

17                   THE COURT    There are two indictments for  
18 murder 02-GS-07-369 AND 370   You have received both  
19 of these?

20                   THE DEFENDANT   Yes, sir, I did

21                   THE COURT    All right    I just want to  
22 make sure that the statute is complied with and you  
23 at least have those three days before trial

24                   MR MURDAUGH    I may also tell the court,  
25 sir, that they were served on his attorney also

1 THE COURT All right But you do have  
2 these copies, Mr Alkebulanyahh?

3 THE DEFENDANT Yes At this time, I do  
4 have them in my presence

5 THE COURT All right Let the record  
6 reflect that he does have those indictments

7 Now, what about arraignment? Are you  
8 going to request arraignment at the -- once we start,  
9 Mr Alkebulanyahh, or would you like arraignment now  
10 or do you wish to waive arraignment?

11 THE DEFENDANT Can I a moment, please?

12 THE COURT Do you understand what  
13 arraignment is? ( ,

14 THE DEFENDANT Not exactly

15 THE COURT It just means that the clerk  
16 will read the charges to you and ask you how you wish  
17 to plead

18 THE DEFENDANT Yes, sir

19 THE COURT Do you wish to do that before  
20 the jury panel, or do you wish to do that now?

21 THE DEFENDANT Could I have a moment,  
22 please?

23 THE COURT Yes, sir

24 (The defendant confers off the record  
25 with standby counsel ) (

1 THE DEFENDANT Yes, sir, Your Honor, I  
2 would like for the arraignment to be held before the  
3 jurors

4 THE COURT Okay Madam Clerk, if you  
5 will make a note that he will need to be arraigned  
6 that date

7 Now, what are the statutory aggravating  
8 circumstances the state wishes to pursue in this  
9 case?

10 MR MURDAUGH Murder being committed  
11 while -- on an officer while in the performance of  
12 his official duties on each case, sir, and also that  
13 two or more persons were murdered by the defendant by  
14 one act pursuant to one scheme or course of conduct  
15 and that is on both of the officers also, if Your  
16 Honor please

17 THE COURT Do you understand the  
18 aggravating circumstances they intend to pursue in  
19 the case, sir, for purposes of any penalty if it gets  
20 to that point?

21 THE DEFENDANT Well, sir, may I --

22 THE COURT I'm not saying you have to  
23 disprove them I'm just saying I'm -- for purposes  
24 of notice of what they are pursuing in this case, do  
25 you understand that?

1 THE DEFENDANT Yes, sir

2 THE COURT Those are the two that they  
3 are seeking --

4 THE DEFENDANT Okay

5 THE COURT -- as aggravating  
6 circumstances Do you understand them?

7 THE DEFENDANT Yes, sir

8 THE COURT All right Something else,  
9 Mr Alkebulanyahh?

10 THE DEFENDANT Yes, Your Honor We have  
11 the -- I don't know if you want to get into it at  
12 this time, the request to jurors and --

13 THE COURT The what to jurors?

14 THE DEFENDANT The request to jurors  
15 the instruction to jurors motions

16 THE COURT What about jurors?

17 THE DEFENDANT The request to charges

18 THE COURT No, at the conclusion of the  
19 case when I charge the jury I will have a charge  
20 conference to go over the charges But I would like  
21 to see any charges you have I can think about them  
22 during the course of the trial I think I have them  
23 about presumption of innocence, circumstantial  
24 evidence, facts of the case, et cetera

25 THE DEFENDANT Yes, sir

1 THE COURT I will look at those, but I  
2 won't make any decisions about the charges until --

3 THE DEFENDANT I have an additional one  
4 that I would like to

5 THE COURT Hand it up, please

6 MR MURDAUGH Your Honor, could I  
7 request that the clerk to furnish me with a copy of  
8 those

9 THE COURT Yes Madam Clerk, can you  
10 furnish the state with a copy of these motions and  
11 charges please?

12 THE CLERK Yes, sir

13 THE COURT Anything else?

14 THE DEFENDANT Yes, sir, the Fourth  
15 Amendment issue

16 THE COURT Yes, sir

17 THE DEFENDANT The South Carolina  
18 Article 1, Section 10 issue, Search and Seizure and  
19 Invasion of Privacy I wanted to ask the court to  
20 dismiss the charges based on the fact that the  
21 officers illegally entered the residence of  
22 Mr Alkebulanyahh at 21 Riley Road They illegally  
23 searched the home and they illegally seized --  
24 attempted to seize Mr Alkebulanyahh in the home of  
25 21 Riley Road And they violated his Fourth

1 Amendment of the United States Constitution, the  
2 South Carolina Constitution, Article 1, Section 10,  
3 Invasion of Privacy

4 Mr Alkebulanyahh would like to state for  
5 the court that in reference to this particular issue  
6 certain cases that should be considered in ruling in  
7 favor of Mr Alkebulanyahh in this case And he  
8 would like to state from the South Carolina Criminal  
9 Procedure, 17-13-10, casenote 2, Page 416 And it  
10 quotes When a person is lawfully arrested, the  
11 police have the right without a search warrant to  
12 make a contemporaneous search of a person of the  
13 accused for weapons or for the fute (sic) or of the  
14 instrument used to commit the crime The right to  
15 search and seize incident to a lawful arrest and  
16 without a warrant extends to things under the  
17 accused's immediate control and to the extent  
18 depending on the circumstances of the case to the  
19 place where he is arrested

State versus Swilling, S-W-I-L-L-I-N-G,  
1967, 249 South Carolina 541, 155, SE 2d addition  
607 Certiorari denied on 389 United States, 1055,  
19 L ED addition, Second Addition 853, 88, Supreme  
Court 806

And the defendant states in reference

1 that Mr Alkebulanyahh was never, never, at any time  
2 under arrest where it would permit the officers to  
3 make a search of the residence at the 21 Riley Road  
4 This case, this ruling in reference states that this  
5 was an event of a lawful arrest where a search may be  
6 done if a person is under arrest and that points to  
7 the things that s in control of the general  
8 surrounding of the defendant The defendant was in  
9 his home in his bedroom at the time So the  
10 defendant states that you know this supports that  
11 without a warrant that this search had no business  
12 taking place And in support of that the defendant  
13 would like to quote from under the 68 --

14 THE COURT Hold on a second before we  
15 get into any arguments about it

16 THE DEFENDANT Yes, sir

17 THE COURT This is what I said before we  
18 would have to have a hearing on Who were the  
19 officers involved?

20 MR MURDAUGH The two dead officers,  
21 sir

22 THE COURT There was no one else that  
23 was there?

24 MR MURDAUGH Not at the original entry  
25 into the house There were some lay witnesses

1 there One is in New York and the other one has  
2 died, and one is available

3 THE COURT How do you intend to  
4 establish that, Mr Alkebulanyahh?

5 THE DEFENDANT How I intend to establish  
6 that is that there is no document, statements or  
7 records to indicate that the officer had arrest  
8 warrants or search warrants or --

9 THE COURT Yeah, I don't really mean how  
10 do you plan to establish it as far as proving it I  
11 just meant -- essentially I meant how are you  
12 planning on arguing this The state would have to  
13 actually demonstrate that it was appropriate since  
14 you don't have any burden of proof in the case

15 But if he claims it was an improper  
16 entry, well, how do you plan on showing otherwise?

17 MR MURDAUGH I intend to put up the  
18 witness who was in the house that they were  
19 responding to a call that she had made to her  
20 girlfriend

21 THE COURT Well, who is that witness?

22 MR MURDAUGH Kimberly Blake

23 THE COURT Is she available? Where is  
24 she at? Maybe we can do that after lunch

25 MR MURDAUGH Okay, sir

1 THE COURT Let's go ahead and break for  
2 lunch, get whomever here we need to get here for that  
3 hearing so I can take care of that

4 MR MURDAUGH There is an additional --  
5 it's the owner of the -- the wife of the owner of the  
6 building She now resides in New York We are  
7 getting her down here

8 THE COURT Okay

9 MR MURDAUGH To be honest with you, I  
10 didn't subpoena her for Monday for the simple reason  
11 I figured it was probably going to be Thursday at the  
12 earliest before we could start the trial

13 THE COURT What is her --

14 MR MURDAUGH Brenda Smith

15 THE COURT What is her knowledge of the  
16 matter?

17 MR MURDAUGH She lived in that house,  
18 sir

19 THE COURT I see

20 MR MURDAUGH The officers, according to  
21 her statement, the officers went to the door and said  
22 we want to talk to Kimberly Blake She said there is  
23 nobody by that name They turned around and went to  
24 Strawberry Washington Strawberry said she just  
25 called me from inside They went back to the door

1 and Kimberly Blake is known by Mae, I believe it is  
2 They said what about Mae, is she there They said  
3 yeah, she is in the back room They said can we go  
4 in there So they went back there and that is where  
5 the killing took place, sir

6 THE COURT All right Go ahead and get  
7 your witness here and we will take up what we can and  
8 see where that leaves us We will break for lunch

9 How long do you think that will take to  
10 get her here? If we take an hour and a half for  
11 lunch, that will be enough time?

12 MR MURDAUGH Yes, sir, I think

13 THE COURT We will pick back up at 2 00,  
14 okay Thank you

15 MR MURDAUGH Judge, that's fine We  
16 can do this at the end

17 THE COURT All right

18 (A lunch recess transpired )

19 THE COURT All right Are you ready to  
20 proceed?

21 MR MURDAUGH I am, sir

22 MR ALKEBULANYAHH Yes, sir

23 THE COURT All right Now, what is  
24 next?

25 MR ALKEBULANYAHH The issue dealing

1 with the dismissal of charges for violation of the  
2 United States Fourth Amendment, Search and Seizure  
3 under South Carolina Article 1, Section 10, Search  
4 and Seizure and Invasion of Privacy

5 THE COURT All right Do you want to  
6 call your witness on that?

7 MR MURDAUGH We have two witnesses  
8 available to put on the witness stand, sir

9 THE COURT All right Call your first  
10 witness

11 MR MURDAUGH We ask Strawberry  
12 Washington to come in please

13 MR ALKEBULANYAHH Your Honor, I want to  
14 speak in reference to the witness I want to object  
15 to this particular witness being able to add anything  
16 to the situation being that this particular witness  
17 does not reside at the 21 Riley Road residence

18 THE COURT Well, those are questions  
19 that you ask on cross-examination

20 MR ALKEBULANYAHH Okay

21 THE COURT And then when we are done  
22 with all of the questions, I will ask you what your  
23 position is and you tell me all of that

24 MR ALKEBULANYAHH Thank you, sir

25 THE COURT All right Go ahead You

S WASHINGTON - DIRECT EX BY MR MURDAUGH

1 have to always lay everything out for the record so  
2 someone up the chain can review all of this if  
3 someone ever wants it reviewed

4 MR ALKEBULANYAHH Yes, sir

5 THE COURT Go ahead

6 MR MURDAUGH Come around to please be  
7 sworn, Miss Washington

8 STRAWBERRY WASHINGTON

9 being first duly sworn, testified as follows

10 THE CLERK Please state your name and  
11 spell it for the court, please

12 THE WITNESS Strawberry Washington,

13 S-T-R-A-W-B-E-R-R-Y, W-A-S-H-I-N-G-T-O-N

14 DIRECT EXAMINATION BY MR MURDAUGH

15 Q Miss Washington, are you now in the Navy?

16 A Yes sir

17 Q And were you in the Navy on January the  
18 8th of 2001 (sic)?

19 A No, sir I wasn't in that program I  
20 didn't go to basic training yet

21 Q Okay I notice that you appear to be  
22 pregnant, are you?

23 A Yes, sir

24 Q Now, Miss Washington, I ask you whether  
25 or not you know Kimberly Blake?

S WASHINGTON - DIRECT EX BY MR MURDAUGH

1 A Yes, sir, I do

2 Q And please speak right into that  
3 microphone where everybody can hear you Talk as  
4 loud as I am

5 A Okay

6 Q Do you need to take it off of the stand  
7 to hold it?

8 A No, it is fine

9 Q Okay Do you remember the date that the  
10 two officers were killed at 21 Riley Road?

11 A I believe it was January 7th or January  
12 8th

13 Q 8th

14 A Right

15 Q Do you remember that date January --  
16 well, you said 7th or 8th okay

17 Did you make any telephone calls prior to  
18 those officers going to 21 Riley Road?

19 A The phone call that I made was to the  
20 police department telling them that my friend was  
21 there

22 Q Okay And what else about her being  
23 there?

24 A That she didn't want to be there and that  
25 she was like abused and the person -- well, someone

S WASHINGTON - DIRECT EX BY MR MURDAUGH

1 had hit her

2 Q Okay

3 A Right

4 Q And did you talk to Kimberly Blake prior  
5 to that date?

6 A Yes, I did She called me on my cell  
7 phone

8 Q And did she relay information to you that  
9 caused you to make that telephone call?

10 A Yes She told me to call the police for  
11 her

12 Q Okay Told you to call the police?

13 A Yes, sir

14 Q Okay Now did the police go to 21 Riley  
15 Road?

16 A Yes, they did

17 Q Were you there when they -- shortly after  
18 they arrived?

19 A Yes, I got there after they arrived

20 Q Okay When you got there, who did you  
21 see?

22 A I saw the two police officers and  
23 Mrs Brenda, the lady that lives at the residence,  
24 she was on the porch

25 Q Okay Is that Brenda Smith --

S WASHINGTON - DIRECT EX BY MR MURDAUGH

1 A Yes, sir

2 Q -- or you don't know?

3 A Well, I just know her as Mrs Brenda

4 Q Okay Did you hear the officers talking  
5 with her?

6 A Yes

7 Q Okay And did they ask her if they could  
8 go in the house?

9 A No, they didn't ask her She invited  
10 them in She invited all of us in, me too

11 Q Okay And did they go in?

12 A Yes, they went in

13 Q And what then happened?

14 A Well, after -- she went in the house and  
15 then they followed behind her That is when I heard  
16 gunshots and then I made a --

17 Q And did you leave?

18 A Right, I left and I made a call to 911

19 MR MURDAUGH Okay Thank you, ma'am

20 Answer any questions he may have

21 THE WITNESS Sure

22 CROSS-EXAMINATION BY MR ALKEBULANYAHH

23 Q Good afternoon, Miss Washington

24 A Good afternoon

25 Q Yes On January the 8th, do you have any

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 information as to whether -- exactly the facts  
2 whether Miss Kimberly Blake was -- that a crime was  
3 committed against her in any type of way?

4 A I just told the -- well, the dispatch  
5 that I talked to when I called the police department  
6 exactly what she told me when she called

7 Q Did she tell you that Mr Alkebulanyahh  
8 hit her?

9 A Yes I asked her and she told me, yes,  
10 you hit her

11 Q Did any time subsequent or after that  
12 that she retracted that story that actually said that  
13 she was not hit or struck?

14 A No she did not

15 Q You never told an investigator or anyone  
16 that Kimberly Blake, Miss Blake, later on told you  
17 that she wasn't hit, actually hit, that she was not  
18 struck on that date?

19 A No

20 Q Miss Strawberry Washington, do you reside  
21 at the 21 Riley residence yourself?

22 A No, I do not

23 Q Did you ever observe Mr Alkebulanyahh at  
24 that residence on January the 8th of 2001 (sic)?

25 A No That day I did not see him there,

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 no

2 Q Did you ever report that he was inside of  
3 the residence?

4 A No, I reported that my friend Kim Blake  
5 was in the residence

6 Q So if an official or someone of authority  
7 stated that you reported that Mr Alkebulanyahh was  
8 inside of the residence that would be a lie, is that  
9 correct?

10 A That would be correct

11 Q Did you have the opportunity to see  
12 anyone being shot or anyone being shoot (sic) at the  
13 21 Riley residence?

14 A No I didn't see it I heard the  
15 gunshots

16 Q You heard the gunshots?

17 A Right

18 Q Where did you make that phone call from  
19 that you made for Miss Kimberly Blake? Did you  
20 actually make it at the residence or some other  
21 location or something?

22 A The first phone call to the dispatch I  
23 made from my cell phone I was in my car at work

24 Q At work?

25 A Right

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q And where were you working then?

2 A I was working at Taco Bell at the time

3 Q And that is located in what location?

4 A Travis Parkway in Beaufort

5 Q In Beaufort?

6 A Uh-huh

7 Q And the place of this incident took place  
8 in Burton, is that correct?

9 A Correct

10 Q Could you give me an approximation how  
11 many miles away from your work from the place of this  
12 incident?

13 A I'm not sure how many miles away it is

14 Q Did you -- would you say it is about five  
15 or six or seven, seven to eight?

16 A I wouldn't say because I'm not sure

17 Q Did you have any indication yourself  
18 actually as reference to witnessing or hearing a  
19 fight or argument or seeing bruises or hurt or seeing  
20 anyone at the 21 Riley Road being violated or  
21 criminally or some misconduct going on? Do you have  
22 any knowledge yourself from seeing or hearing?

23 A Oh, no

24 Q So you didn't hear that over the phone at  
25 any time and so forth?

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 A No, I m just going by what Kim told me  
2 when she called me

3 Q Did at any time you take occasion to ask  
4 Miss Blake to call the authorities about if she had a  
5 problem or not at that particular residence? Do you  
6 recall ever telling her or saying you call the  
7 authorities yourself, you call the sheriff's  
8 department if something is wrong?

9 A No, I never told her to call herself  
10 She asked me to call for her so I did

11 Q Can you state why you -- do you have any  
12 reason why? Was she ill or sick or handicap or  
13 something was wrong with the phone? Do you have any  
14 reason why? Do you have any reason why you would  
15 know why she would ask you?

16 A No, I didn't ask her why

17 Q Did, at any time that when you made that  
18 phone call, did at any time that you relay to the  
19 dispatcher, the 91 (sic) dispatcher a number to where  
20 they could call back Miss Blake to confirm whether or  
21 not that she needed the assistance of the law  
22 enforcement officials?

23 A No, they didn't ask me for a number

24 Q And neither did you give them a number?

25 A I'm not sure if I gave them that house

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 number she called me from or not

2 Q But they did not ask you for that number?

3 A No, they did not ask me for it

4 Q Did Miss Blake state to you in particular  
5 that she was being kidnapped?

6 A The only thing she told me was to call  
7 the police for her and that she was being hit on

8 Q She was being hit on?

9 A Right

10 Q So she didn't state particularly that she  
11 was being held hostage or kidnapped or used the word  
12 hostage?

13 A No, she didn't use those words

14 Q Did she ever use the word hostage or  
15 kidnapped?

16 A No, she didn't use those words

17 Q Did at any time that when you relayed to  
18 the dispatcher that you did not want -- did you ever  
19 say to the dispatcher 911 emergency that you did not  
20 want the police officers to go to the 21 Riley Road  
21 residence unless you was there so that, quote, that  
22 you may be able to convince her to leave that  
23 residence that you wanted to be there?

24 A No, that is not what I said I said I  
25 wanted to be there when they got there so that when

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 she sees me she can, you know, come with me

2 Q So if that was on the report let's say,  
3 from the 911 dispatcher that report would be  
4 inaccurate, is that correct?

5 A Correct

6 Q Did you at every time -- at any time tell  
7 the authorities the police officers or anyone or the  
8 911 dispatcher that the 911 dispatcher or the police  
9 officer or anyone that Kimberly Blake's father -- the  
10 baby's father was inside that residence?

11 A I don't remember if I told them that or  
12 not

13 Q Did you have any knowledge of him being  
14 inside of that residence?

15 A No, I didn't have any knowledge of you  
16 being there

17 Q So Kimberly Blake never told you that he  
18 was inside that residence?

19 A No, she never told me that on the phone

20 Q You met with the deputies at 21 Riley  
21 Road, is that correct?

22 A Correct

23 Q Did they accompany you or escort you?

24 A No, they were there first and then I  
25 came

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q They were there first when you came?

2 A Right

3 Q Could you state to me where the deputies  
4 was parked when you arrived?

5 A I'm sure that one of them was parked in  
6 front of the -- I guess there is a gate or a fence  
7 there right in front of the porch One was parked  
8 there, and I'm not sure where the other one was

9 Q Is that area between the -- would that  
10 area -- would the police car be blocking the driveway  
11 from any other vehicles coming in and out where they  
12 was parked between the gates, say between the gates  
13 because --

14 A I don't think so, but I'm not sure

15 Q You're not sure, okay Where was you  
16 parked?

17 A I was told to park in front of one of the  
18 police cars

19 Q In front of one of the police cars?

20 A Right

21 Q And both officers were there when you  
22 arrived, is that correct?

23 A Correct

24 Q Did you ever state to any authority or  
25 officials that you wanted to be at that residence

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 because you were afraid that Miss Blake may back out  
2 from wanting to leave that residence?

3 A Right

4 Q You did state that?

5 A Uh-huh

6 Q That you would like to be there so that  
7 she would not back out from leaving that residence?

8 A Right

9 Q So it was in your -- in your opinion you  
10 would say that you felt that if you wasn't there  
11 Miss Blake would not leave?

12 A No I wouldn't say that

13 Q But you did state to them that you would  
14 like to be there to convince her?

15 A Right

16 Q To leave, is that correct?

17 A To further convince her, yes

18 Q Do you have any knowledge of anything on  
19 that day what took place inside of the 21 Riley Road  
20 residence?

21 A No, just what Kim told me because I  
22 wasn't there

23 Q And you did state that -- or you did  
24 state that Kimberly Blake told you to call the  
25 authorities because she had been beaten, is that

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 correct, or hit?

2 A Hit, that's right

3 Q At that time when you received that call,  
4 did you immediately make the call to the 911  
5 dispatcher and inform them of what Miss Blake -- of  
6 what you say Miss Blake had spoken to you about her  
7 being hit or held hostage or kidnapped, if that be  
8 the case?

9 A No, it wasn't immediately after I spoke  
10 with my manager and I told her, because she knows Kim  
11 also But I told her the situation and she allowed  
12 me to get off early and that's when I made the phone  
13 call

14 Q How much time would you say elapsed  
15 between the time that you got the call from  
16 Miss Blake from the time you made the call?

17 A I'm not sure how much time

18 Q A half hour hour two hours?

19 A It was probably like, probably like  
20 almost an hour or a little bit over an hour It  
21 wasn't like in the next five minutes or anything

22 Q So an hour or so had passed?

23 A Right

24 Q So you didn't see her being and she  
25 didn't see herself or yourself of her being in any

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 imminent danger?

2 A Well, I can't say that either, but that's  
3 when I made the phone call probably like an hour  
4 after she called me

5 Q If you felt she was in imminent danger,  
6 do you think you would have made that call  
7 immediately?

8 A If she was in imminent danger, I'm pretty  
9 sure she would have made the call herself

10 Q Did you, at any time, state to any  
11 officials or the 91 (sic) dispatcher that you did  
12 not -- that when you were reporting this incident  
13 that you have alleged Miss Blake told you about --

14 A Uh-huh

15 Q -- that you was not reporting a domestic  
16 violence?

17 A Right

18 Q So you did inform them that you were not  
19 calling in for a domestic violence call?

20 A Right I just told them that she didn't  
21 want to be there and she wanted me to call the  
22 police

23 Q Did any time before the officers arrived  
24 at that residence did you ever, at any time, tell  
25 Miss Blake that you was going to call the police to

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 come to the 21 Riley Road residence before January  
2 the 8th, 2002 (sic)?

3 A Did I tell her? Oh, yeah, I did

4 Q And could you tell us what the nature of  
5 that call would have been and why?

6 A That was because she had her daughter  
7 over there And her family and her friends felt like  
8 her daughter shouldn't be there with you

9 Q So you are saying that -- is that  
10 something criminal or is that just something you just  
11 felt like yourself that, you know, that

12 Mr Alkebulanyahh's daughter should not be around?

13 Is that something you took upon yourself that to  
14 determine that Mr Alkebulanyahh and Miss Blake's  
15 daughter should not be at that residence so you would  
16 call the authorities to do what?

17 A No Because if you remember, at the  
18 time, you supposedly didn't want us to be friends  
19 anymore So supposedly she was staying over there so  
20 we would be separated

21 Q So you wanted the authorities to go there  
22 for what? You was going to call the police, the  
23 authorities to go to 21 Riley Road? You were calling  
24 them on Mr Alkebulanyahh or you was calling them on  
25 Miss Kimberly Blake or you was going to call the

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 authorities to go get the child? And could you  
2 indicate, could you say, what reason particular you  
3 would want the authorities to go there?

4 I'm trying to get to the point, if I may  
5 to clarify, the reason that you would say beforehand,  
6 before January 8th well I'm going to send the  
7 police over there and I want to know, you know --

8 A Right Before Kim called me and told me  
9 to actually call the police for her she really  
10 didn't want to go over there but she did anyway so  
11 you could spend time with your daughter

12 Q So you feel like that was -- let me see  
13 So what would the officer, the police be able to  
14 do? What would they be able to do?

15 A If they came there?

16 Q Right, by you calling them?

17 A Right If she didn't want to be there,  
18 then she would have left with them

19 Q But I mean, of course, you know, she is  
20 not handicap or, I don't think, a mentally retarded  
21 individual, you know, incapacitated to the point that  
22 she couldn't call the authorities herself the days  
23 before

24 And so it was you who initiated the  
25 calling of the authorities to come to the 21 Riley

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Road days before it took place, is that correct?

2 A I wouldn't say that is correct But she  
3 did not have access to her cell phone

4 Q I mean the house had a house phone  
5 Were you aware that the house had a house phone?

6 A When she called me that day, right

7 Q Were you aware that a phone was there at  
8 the house before the days of this incident, January  
9 the 8th? Have you ever made a call to 525-0640, is  
10 that the number correct?

11 A I guess that's the number But, yeah,  
12 I've called that number -- well, the house before

13 Q You have called that house before?

14 A Right

15 Q So actually when you say you was going to  
16 send the police there, you really didn't know what --  
17 you was just going to send them there and you was  
18 just calling them, and I guess you told her that  
19 You told her you were going to send the police there,  
20 is that right? You told Kimberly Blake I'm going to  
21 send the police to 21 Riley Road?

22 A When she called me that day, she asked me  
23 to call the police to come get her

24 Q Prior to -- I'm speaking of prior to  
25 January the 8th

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 A Okay

2 Q Prior to the call when you was at Taco

3 Bell --

4 A Right

5 Q -- when you said you was going to send

6 the police there I'm trying to get to, you know,

7 what reason you would send them to the 21 Riley

8 residence if there was no crime or anything going

9 on

10 A Well, I knew she just didn t want to be

11 there

12 Q And that was good enough for you --

13 A Right

14 Q -- to feel that way When you made the

15 call to the 911 dispatcher, the initial call --

16 A Uh-huh

17 Q -- did you, at any time, give them your

18 name or told them who you was? Did you, at any time

19 tell them who you are, I am this person, this person

20 and I am calling Did you, at any time, give them

21 your name?

22 A I don't remember giving my name I was

23 just saying that -- I was telling them that I was Kim

24 Blake s best friend or whatever and I was calling for

25 her

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q You just made an anonymous call, just  
2 say, is that correct?

3 A Um

4 Q I mean as your identity, as far as the  
5 identity?

6 A As far as the identity I'm not sure I  
7 don't remember giving my name

8 Q And you doesn't remember, at all, giving  
9 them the number which you had at the 21 Riley Road  
10 residence on January 8th, 2002, to where Kimberly  
11 Blake made the call to you to where they could call  
12 back and verify that that call that Kimberly Blake  
13 needed assistance was in some type of emergency?

14 A No not the phone number but the address  
15 they did have

16 Q So you never gave them the number Is  
17 there any particular reason why you wouldn't give  
18 them the number where they could reach --

19 A They didn't ask me for a number

20 Q Miss Blake -- I'm sorry, excuse me,  
21 Miss Washington You was parked outside of the  
22 residence, is that correct, at the 21 Riley Road  
23 residence the day the officers arrived? You was  
24 parked directly outside of the house the home or in  
25 the street or in the yard? Were you in the yard?

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 A No I got there after they arrived And  
2 I was parked like, I guess, on the side by the gate  
3 I wasn't inside of the gate, but it was outside of  
4 the gate in front of the police car

5 Q Okay Out in the street pretty much?

6 A It is a dirt road

7 Q Did once you heard the shot, once the  
8 officers was gone and nobody -- you was out there  
9 alone by yourself in front of the residence is that  
10 correct?

11 A Right, I was the only one outside I was  
12 in my car

13 Q And is it true that you heard shots and  
14 you saw Miss Kimberly Blake run out of the house is  
15 that correct? You actually saw her run out of the  
16 house? I mean, did you yourself see?

17 A I heard gunshots, and Kimberly Blake ran  
18 outside of the house I'm not sure which happened  
19 first

20 Q You don't know which happened first,  
21 whether you heard her run out the house first or the  
22 shots fired?

23 A Whether I seen her run out of the house  
24 first or whether I heard the gunshots first

25 Q But you did see her run out of the house,

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 is that correct?

2 A Right I did see her

3 Q You did not see the officers, at any  
4 time escort her out of the house, did you?

5 A No, she was the only one that came  
6 outside of the house

7 Q So there was no escort? They never  
8 escorted her out the house, no officer or anyone  
9 escorted her, just her alone you seen come out of the  
10 house? You didn't see anyone else come out with her?

11 A Right

12 Q Miss Washington, did at any time that  
13 you -- when you made the second call to I guess the  
14 911 dispatcher --

15 A Right

16 Q -- that when you left that residence  
17 there was a green Pontiac and a black truck parked in  
18 the yard at that residence?

19 A I don't remember that

20 Q Was there a green Pontiac and a black  
21 truck parked at that residence when you arrived?

22 A I don't remember that, no

23 Q So you didn't remember -- or you didn't  
24 see one?

25 A I don't recall

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q Did you, at any time, state to the  
2 dispatcher that when you left that residence there  
3 was a six-month-old child at that residence?

4 A Right

5 Q Did you ever see that child at that  
6 residence?

7 A No

8 Q So could you tell me what did you base  
9 your assumption on that?

10 A Being that since I know Kim was there,  
11 the baby was with her So I assumed the baby was  
12 still in the house because she came outside without  
13 the baby by herself

14 Q Are you assuming -- did you see Kim in  
15 that house before you arrived?

16 A No

17 Q So you are assuming that she was there,  
18 is that correct?

19 A Yes Because she called me from the  
20 house phone number, yes

21 Q But, I mean, she could have left and came  
22 back?

23 A She could have, but she didn't obviously

24 Q Right, okay So, therefore, you didn't  
25 see her at all on that day other than -- you didn't

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 know she was inside of the home when you arrived  
2 there other than when you seen her actually run out  
3 that 21 Riley Road?

4 A Other than the fact that she called me  
5 from the house phone and then when I seen her run  
6 outside, yes

7 Q And you didn't get there until hours  
8 later after she made that call to you, right?

9 A Right

10 Q Did she ever call you back and say I'm  
11 going down to my cousin's house on the corner or I'm  
12 going to pick up a Burger King or something --

13 A No

14 Q -- in between an hour or a two-hour  
15 period?

16 A No, that was the only time I talked to  
17 her that day

18 Q So actually, you don't really have no  
19 knowledge When you arrived there about an hour or  
20 two hours after you left Taco Bell, you had no  
21 knowledge whatsoever whether she was in the residence  
22 or not, nor the child?

23 A Right

24 Q Thank you Did, at any time, on the  
25 Sunday previous to January the 8th that you told

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Kimberly Blake in a conversation that you was going  
2 to call the police on her if she did not leave that  
3 home (sic)?

4 A I don't remember

5 Q You don't remember, okay If Kimberly  
6 Blake said you did that, would you say that would be  
7 true?

8 A She has no reason to lie I would say it  
9 is true if she said it

10 Q You said that you knew the exact  
11 location, if I'm correct, in the statement, if you  
12 recall --

13 A Uh-huh

14 Q -- where Kimberly Blake could be found at  
15 the 21 Riley Road residence?

16 A Right

17 Q Did you give that information to the  
18 officers when they arrived?

19 A When I arrived, I believe I did give that  
20 information to them

21 Q When you was there, the officers had  
22 already been to the -- was at the 21 Riley Road  
23 residence when you arrived there, correct?

24 A Right

25 Q There was -- so they hadn't been in the

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 house Was Mr and Mrs Riley, the occupants at the  
2 house, were they outside in the yard talking with the  
3 officers or?

4 A When I came up there, the lady  
5 Mrs Brenda she was on the porch talking to the two  
6 police officers Then they walked from her and came  
7 to talk to me

8 Q And all of this was outside of the house,  
9 is that correct?

10 A Right

11 Q So you hadn't -- you didn't hear or, at  
12 any time before you arrived there, know if the  
13 officers was in the house or were they trying to get  
14 in the house? They pretty much was trying to get in  
15 the home and they was trying to, I guess, get your  
16 confirmation to go in, go inside of the home, is that  
17 correct?

18 A I wouldn't say they were trying to get my  
19 confirmation to go in It's not my house

20 Q But you were insistent, is that correct,  
21 that, you know, that a crime was committed?

22 A They walked to me and they told me that  
23 this lady Mrs Brenda was telling them that no one  
24 else was in the house And I was trying to tell the  
25 police officers, okay, well, someone called me from

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 this house number, my best friend is there

2 Q And so from that point when you told them  
3 your best friend was in there --

4 A Right

5 Q -- did you, at any time, take the phone  
6 that you had with you -- you had a phone with you  
7 that day, is that correct?

8 A Yeah a hard gray (phonetic) cell phone

9 Q Did you ever call the number back to see  
10 whether Kimberly Blake answered that phone at any  
11 time?

12 A No I didn't have to Then that's when  
13 Mrs Brenda invited the police officers to come  
14 check Well, she invited me and the police officers  
15 to come in her house and check

16 Q So you was the only one outside Did you  
17 have anybody with you in the car?

18 A No

19 Q So there would be nobody to support what  
20 you are saying to verify, you know, to stand behind  
21 what you are saying other than yourself as to what  
22 you say what took place and what happened outside,  
23 is that correct?

24 A Well, it would be Mrs Brenda because she  
25 is the one who invited them inside

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q Okay If Mrs Brenda said she did not  
2 invite them inside --

3 A She would be lying

4 Q She would be lying, okay And if the  
5 91 (sic) dispatch said that you said that you wanted  
6 to be there to convince your friend to leave, they  
7 would be lying also, right?

8 A No

9 Q They wouldn't?

10 A No

11 Q I thought a moment ago you said that you  
12 didn't tell them that you wanted to be there to  
13 convince her to leave?

14 A To further convince her, yes, so they  
15 would not be lying if they said that I wanted to be  
16 there to convince her to leave I did wanted (sic)  
17 to be there and that's what I said

18 Q Okay Thank you If the 911 dispatcher  
19 said you said --

20 A Uh-huh

21 Q -- that there was a green Pontiac and a  
22 black truck at that residence when you left then  
23 they would be lying?

24 A Right because I don't --

25 MR MURDAUGH I believe a transcript of

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 the 911 tapes would be the best evidence of that,  
2 sir

3 THE COURT Yes I don t think it's  
4 appropriate to ask someone if another witness would  
5 be lying anyway, Mr Alkebulanyahh

6 MR ALKEBULANYAHH Thank you, Your  
7 Honor

8 THE COURT You can just ask her about  
9 her knowledge of the facts

10 MR ALKEBULANYAHH Yes

11 THE COURT Then you can argue any  
12 inconsistencies

13 MR ALKEBULANYAHH Thank you Your  
14 Honor

15 BY MR ALKEBULANYAHH

16 Q At any time, did you beg and pull  
17 Kimberley Blake on January the 5th on that Saturday  
18 before she was leaving I think the residence of  
19 Mrs Priscilla Blake for her not to leave? Did you  
20 ever try to stand in the way to stop her from leaving  
21 that home at any time that day?

22 A I didn't try to stop her I just asked  
23 her why was she going if she didn't want to go in the  
24 first place

25 Q You never begged her or tried to prevent

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 her or talk her out of it or something like that?

2 A No, she is a grown woman She could do  
3 whatever she wanted

4 Q So if she said you begged her, she would  
5 be lying?

6 MR MURDAUGH Again, if Your Honor  
7 please, that would be improper, sir

8 THE COURT I sustain the objection Go  
9 ahead

10 MR ALKEBULANYAHH Your Honor, I was  
11 speaking to the credibility of the witness

12 THE COURT Well, you are trying to pit  
13 her against another witness You can't do that Go  
14 ahead

15 You can set a foundation for her  
16 testimony and the other person's testimony and then  
17 argue whatever you want to argue Go ahead

18 MR ALKEBULANYAHH Okay Thank you I  
19 understand

20 BY MR ALKEBULANYAHH

21 Q Did, at any time, you make a statement to  
22 Miss Kimberly Blake that you was going to call the  
23 police on January the 6th that you was going to call  
24 the police -- you was going to call the police if she  
25 didn't leave that residence at 21 Riley Road, didn't

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 make it home before you did whatever the location  
2 was at the time? Did you make that statement to her?

3 A I don't remember

4 MR MURDAUGH If Your Honor please, I am  
5 hesitant to object sir, but the purpose of this  
6 hearing is to determine whether or not the officers  
7 had a right to go in that dwelling And this does  
8 not relate to that right to go in the dwelling and I  
9 would thereby object sir It is different than it  
10 would be at a trial

11 THE COURT Do you want to respond?

12 MR ALKEBULANYAHH Sir, yes, sir, this  
13 witness has no knowledge as to the actual  
14 conversation prior to, out of her presence, whether  
15 any of the occupants of that house permitted the  
16 officers to enter the house, told them to search,  
17 told them to seize or a crime was committed at that  
18 residence And the credibility of this witness is at  
19 stake because officials in relation to this she has  
20 not been able to show that for the prosecutor that  
21 this witness has any credible knowledge as far as the  
22 issue that I'm bringing up, as far as the issue that  
23 I'm presenting before the court, as far as consent to  
24 search or to seize anyone at that residence

25 The witness has not given any testimony

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 in reference to that This witness perhaps should  
2 not even have been brought forth

3 THE COURT Well, that is argument you  
4 will be able to make at the appropriate time What  
5 are you wanting to ask her right now, just whether or  
6 not she had any information as to whether the police  
7 were authorized to come in?

8 MR ALKEBULANYAHH Well, what I want to  
9 do right now I want to ask her questions in reference  
10 to -- that I feel open to present to her in court in  
11 reference to what her testimony to what she is  
12 bringing here to say whatever she is saying She is  
13 there on the stand I think I should have the  
14 opportunity to question her to any matter that is  
15 pertaining to this case

16 THE COURT Well, it is any matter  
17 pertaining to this hearing right now

18 MR ALKEBULANYAHH Well, to this  
19 particular hearing exactly I mean, you know, she's  
20 there and --

21 THE COURT But what are you trying to  
22 ascertain with your last question?

23 MR ALKEBULANYAHH With my last  
24 question?

25 THE COURT Yes, sir

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 MR ALKEBULANYAHH I don t recall my  
2 last question

3 THE COURT All right Go ahead and ask  
4 your question If you don t recall it, you can't ask  
5 it again, but hold on

6 BY MR ALKEBULANYAHH

7 Q Miss Washington

8 THE COURT Hold on a second You were  
9 asking something to the extent, roughly, about did  
10 she at any time make a statement to Miss Blake that  
11 she was going to call the police and that --

12 MR ALKEBULANYAHH If she didn t make it  
13 home

14 THE COURT -- you were going to call the  
15 police if she didn't leave that residence

16 MR ALKEBULANYAHH Or make it home  
17 before she did

18 THE COURT And the rest of the question  
19 is kind of unclear to me what you are trying to  
20 ascertain in that question

21 MR ALKEBULANYAHH What I'm trying to  
22 ascertain, Your Honor, is that for this witness it  
23 seems to appear to be the sole responsibility for the  
24 officers' death by sending them to this residence  
25 being that there is no crime and she has no knowledge

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 of any crime that took place

2 THE COURT Well just ask her questions  
3 about what -- you already have asked questions about  
4 her knowledge so I'm not sure what else you're  
5 trying to get from your last question

6 MR ALKEBULANYAHH Could I have a  
7 moment, sir?

8 THE COURT Yes, sir

9 (Mr Alkebulanyahh confers with standby  
10 counsel )

11 THE COURT All I'm saying,  
12 Mr Alkebulanyahh, is that I don't understand your  
13 question The second part of the question, I can't  
14 understand it

15 MR ALKEBULANYAHH Well Your Honor

16 THE COURT It sounded like you were  
17 asking her something to the extent did you tell  
18 Miss Blake you were going to call the police and that  
19 if she didn't leave the residence -- but then you  
20 shifted to didn't make it home before you did  
21 whatever the location was at the time, did you make  
22 that statement to her

23 Maybe you need to ask your question again  
24 and clarify what you're trying to find out

25 MR ALKEBULANYAHH I sure will Thank

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 you

2 BY MR ALKEBULANYAHH

3 Q Miss Washington, had you already  
4 established before January 8th, in your own mind,  
5 that you were going to call the police to that  
6 residence?

7 A No

8 MR MURDAUGH That I object to, sir, as  
9 being not pertinent to the hearing issues of this  
10 hearing

11 THE COURT I will allow that Go  
12 ahead Next question

13 BY MR ALKEBULANYAHH

14 Q Prior to January the 8th --

15 THE COURT Are you trying to ask that --  
16 are you trying to suggest that the witness just  
17 planned to call no matter what the situation was?

18 MR ALKEBULANYAHH Right, and that the  
19 witness had intentions to call and that if the  
20 witness says something what another witness is not  
21 here to testify to that this witness should not be  
22 able to say whether or not --

23 THE COURT All right Go ahead

24 MR ALKEBULANYAHH -- someone told her  
25 that the officers could go into the residence They

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 don't have this witness to testify because this  
2 witness is stating things from her own memorization  
3 of what she recalled from that day that is taking  
4 place And I don't think that this witness should be  
5 in a position to where her testimony can have any  
6 weight as to anyone else who resides at the residence  
7 whether they can enter this home or premises at that  
8 time

9 THE COURT All right Go ahead

10 BY MR ALKEBULANYAHH

11 Q Miss Washington, was it -- did you ever  
12 have knowledge, at any time, that Miss Blake was  
13 planning to call the authorities to the 21 Riley Road  
14 residence before January the 8th?

15 A No I wasn't with her, no

16 Q And was there ever any discussion --

17 MR MURDAUGH I'm having difficulty  
18 hearing the witness

19 THE COURT I was too I asked them to  
20 turn up the speaker, but you're going to have to  
21 speak into that mike Is that mike on?

22 THE WITNESS Yes, it's on

23 THE COURT We will get another mike  
24 because I'm having trouble too

25 THE COURT Go ahead

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 BY MR ALKEBULANYAHH

2 Q Miss Washington I would like to make  
3 this clear I m trying to get a clarification on  
4 this is that other than yourself, other than  
5 yourself that you stated for the record that there  
6 was never any discussion between you and Kimberly  
7 Blake or any other parties before January the 8th  
8 about sending the police out to the 21 Riley Road  
9 residence on the 8th before?

10 A What was the question?

11 Q Before January the 8th --

12 A Uh-huh

13 Q -- that there was, were there or were  
14 there not, any discussion between you and Kimberly  
15 Blake or any other parties, anyone that you know of,  
16 about sending the police officers out to 21 Riley  
17 Road?

18 A No, there were not

19 Q So there were never any discussions?

20 A Right

21 Q Miss Washington, had you ever took  
22 Kimberly out to the 21 Riley Road residence yourself?

23 A Oh, yes, I have

24 Q Prior to January 8th, is that correct?

25 A Right

S WASHINGTON - CROSS-EX BY MR ALKEBULANYAHH

1 Q Could you tell me how many times?

2 A Just a few times I'm not sure how many  
3 times

4 Q Four or five times or something like  
5 that?

6 A Maybe not even that many

7 Q More than two, more than three?

8 A I would say more than two

9 Q More than two?

10 A Right

11 Q Have you ever picked her up at the 21  
12 Riley Road residence before?

13 A Picked her up? Um, I don't recall

14 Q But you have took her out there?

15 A Right

16 Q Leave her? Is there any time that you  
17 left her out there?

18 A Yeah, I left her there once

19 Q You left her there before?

20 A Right

21 MR ALKEBULANYAHH Miss Washington,  
22 thank you That would be my final question, Your  
23 Honor

24 MR MURDAUGH You may come down Let me  
25 get Kimberly Blake

K BLAKE - DIRECT EX BY MR MURDAUGH

1 Did you have any questions?

2 THE COURT No, sir You may step down

3 THE WITNESS Thank you

4 THE COURT Once we start the trial, we  
5 will have to arrange that all witnesses will have to  
6 come through the main courtroom doors No one is to  
7 be back there where chambers are

8 KIMBERLY BLAKE

9 being first duly sworn, testified as follows

10 THE CLERK Please be seated and state  
11 your name and spell it for the court please

12 THE WITNESS My name is Kimberly Blake

13 K-I-M-B-E-L-Y, B-L-A-K-E

14 DIRECT EXAMINATION BY MR MURDAUGH

15 Q Your name is Kimberly Blake?

16 A Yes

17 Q Miss Blake, were you at 21 Riley Road on  
18 January the 8th, 2001 (sic) --

19 A Yes

20 Q -- when the two officers were killed?

21 A Yes

22 Q Will you tell me when you arrived there?

23 A I arrived on 21 Riley Road on the 4th,  
24 January the 4th, 2001 (sic)

25 Q Okay And did you have with you your

K BLAKE - DIRECT EX BY MR MURDAUGH

1 six-month-old baby?

2 A Yes

3 Q And who is the father of that baby?

4 A Tyree Roberts

5 Q And Tyree Roberts is the same fellow in  
6 the yellow over there?

7 A Yes

8 Q Okay Did you stay at that house until  
9 the officers came on January the 8th?

10 A Yes

11 Q Why didn't you leave? Did you want to  
12 leave?

13 A Yes

14 Q Why didn't you leave?

15 A Because I was afraid

16 Q Okay Before the officers came there  
17 that day, was there any abuse of you?

18 A Yes

19 Q And who was that abuse by?

20 A Tyree He pulled my hair

21 Q Okay Did you talk to Strawberry  
22 Washington?

23 A Yes

24 Q Did you ask her anything, to do anything?

25 A Yes

K BLAKE - DIRECT EX BY MR MURDAUGH

1 Q What did you ask her to do?

2 A I told her to call the police like she  
3 said she would

4 Q And did she? Did you later find out she  
5 did call the police?

6 A Yes

7 Q Did they come to the house?

8 A Yes

9 Q Did you hear the two officers talking  
10 with the owner of that house Brenda Smith?

11 A Yes

12 Q What did they ask her?

13 A They asked her was anyone in there, and I  
14 think I remember her saying, no, there is no one  
15 there but a baby in the room

16 Q Okay What was said then? Did they  
17 leave then?

18 A No They asked could they search the  
19 room

20 Q And what did she say?

21 A No, I said yes

22 Q Hum?

23 A I said yes

24 Q I'm sorry I couldn't --

25 A They asked me could they search the room,

K BLAKE - DIRECT EX BY MR MURDAUGH

1 and I told them yes

2 Q Before they came into the trailer itself,  
3 did they ask Brenda Smith anything?

4 A That is all I can remember them asking  
5 her

6 Q What do you remember? I'm not sure I  
7 understand you

8 A I remember them asking her was there  
9 anyone in there, and she said no one but a baby

10 Q And did they ask if she could go -- ask  
11 her if they could go in and search?

12 A Did they ask Brenda could they go in the  
13 house?

14 Q Yes

15 A Yes

16 Q And what did she say?

17 A Yes

18 Q And did they go in?

19 A Yes

20 Q Okay Now, when you go into that  
21 trailer, I assume they came in -- did they come in  
22 the front or the back door?

23 A I assume they came in the front door

24 Q Okay When they came in, is the room --  
25 were you in a room in that trailer?

K BLAKE - DIRECT EX BY MR MURDAUGH

1 A Yes

2 Q And was that room off to the left?

3 A Yes

4 Q Okay Did they come to the door of that  
5 room?

6 A Yes They didn't come real close to the  
7 door, but they was close enough to the door

8 Q And what did they ask?

9 A They ask me was my name Kimberly Blake

10 Q Okay

11 A And I told them yes And then they  
12 asked -- they told Mrs Brenda they said I thought  
13 you said no one is in here but a baby And then she  
14 didn t say nothing So they asked me could they  
15 search the room, and I told them yes

16 Q Okay And did they go into the room?

17 A Yes

18 Q When they went into the room, where was  
19 the fellow dressed in yellow over there?

20 A In the closet

21 Q Okay What did he have in his hands?

22 A A gun

23 Q When they went into the room, what then  
24 happened that you remember?

25 A That's all I remember is them going into

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 the room

2 Q Okay What did you do?

3 A I was headed on my way out of the door

4 Q Why were you leaving?

5 A Mrs Brenda told me that the police was  
6 here and I needed to talk to them She gave me the  
7 impression that there was two more policemen outside  
8 waiting for me to talk to them

9 MR MURDAUGH I have nothing else for  
10 the purpose of this hearing

11 MR ALKEBULANYAHH May I, Your Honor

12 THE COURT Yes, sir Go ahead

13 CROSS-EXAMINATION BY MR ALKEBULANYAHH

14 Q Yes, Miss Blake, on January the 8th,  
15 2002, did you dial on any telephone an emergency  
16 number 911 at any time?

17 A No

18 Q So you never made a 911 emergency phone  
19 call on January the 8th, 2002, is that correct?

20 A That's correct

21 Q Did you, at any time, on January the 8th  
22 2002, call the Beaufort County Sheriff's Department  
23 and report a disturbance or anything?

24 A No

25 Q On January 8th, 2002, from sunrise to

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 sunset you did have access to a working and  
2 operating telephone at the 21 Riley Road residence,  
3 is that correct?

4 A On what date?

5 Q On January the 8th, on the day of the  
6 incident with the officers' shooting?

7 A Not all day I did not have a phone I  
8 had access when you left

9 Q Is there a phone at the 21 Riley Road  
10 residence?

11 A Yes

12 Q Did you have access to a phone to be able  
13 to call Miss Strawberry Washington on January the  
14 8th?

15 A Yes

16 Q Could you state why you didn't have  
17 access -- have any access to the phone during that --  
18 at any time during that from sunrise to sunset why  
19 you didn't have access to a phone?

20 A Because on January the 7th, you took my  
21 cell phone from me

22 Q I'm speaking of January the 8th, not  
23 January the 7th January the 8th?

24 A Well, I had no access to a phone besides  
25 the one that was in the house after you left

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q So you had access to a phone?

2 A After you left, yes

3 Q And you could have called the 911  
4 dispatcher or the police department at any time that  
5 you wanted to is that correct?

6 A Yes

7 Q Between the morning until that evening,  
8 is that correct?

9 A Yes

10 Q As a matter of fact, you could have left  
11 that residence if you wanted to from -- on January  
12 the 8th any time from sunrise to sunset on January  
13 8th, is that correct?

14 A When you left, yes

15 Q From sunrise to sunset, you could have  
16 left at any time you wanted There was no one there  
17 to prevent you or hold you or you wasn't tied up or  
18 shackled up or handcuffed up in that residence, is  
19 that correct?

20 A No, I wasn't tied up or shackled up or  
21 anything else

22 Q Okay Thank you On January the 8th,  
23 you could have walked down to your cousin's house  
24 Miss Martha who stays about 50 yards away during that  
25 time, if you wanted to There was nothing to prevent

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 you from walking down there, is that correct?

2 A Correct

3 Q Did on January 8th, 2002, did you at any  
4 time tell anyone or authorities or the police that  
5 you had been either held hostage, held against your  
6 will, kidnapped or physically assaulted or  
7 domestically abused on January the 8th, 2002?

8 A I told them that, but it did not happen  
9 on that day Yes, I did

10 Q Did you tell anyone that on January the  
11 8th? Did you ever report or say to any official, any  
12 authority anyone on January 8th I have been  
13 kidnapped I have been held hostage?

14 A Strawberry

15 Q Hum?

16 A Strawberry

17 Q You told Strawberry Washington that,  
18 okay What did you tell Strawberry Washington?

19 A When I got on the phone with Strawberry  
20 Washington, I told her that I wanted to leave She  
21 asked did he hit you, and I said yes She said what  
22 did he do I said he pulled my hair She said is  
23 the baby all right, and I said yes I told her to do  
24 what she say she was going to do

25 Q So when you told her he hit you, you told

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 her a lie, is that correct?

2 A No

3 Q Was you hit on that day? Was you struck  
4 on January the 8th, 2002?

5 A No, I wasn't hit but you pulled my hair

6 Q Was you hit --

7 A That's abuse

8 Q -- on January 8th? Was you hit? Was you  
9 struck on January the 8th --

10 A No

11 Q -- of 2002? You was not assaulted, is  
12 that correct?

13 A No

14 Q You was not assaulted?

15 A Right

16 Q Was the child Kenya Blake at the  
17 residence on 21 Riley Road when this incident  
18 happened?

19 A Yes

20 Q Miss Blake, did you, at any time, on  
21 January the 8th, 2002, hand your baby or place the  
22 baby in the hands or care of Mrs Brenda Riley?

23 A Yes

24 Q You actually yourself had the baby in  
25 your possession and placed the baby in possession and

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 care of Mrs Riley is that correct?

2 A Yes

3 Q Where did this take place?

4 A Right outside of the room door

5 Q Right outside of the bedroom door?

6 A Yes

7 Q You left outside of the bedroom door and

8 went outside and placed the baby in the care of

9 Mrs Riley?

10 A Yes

11 Q Was this minutes before you heard

12 gunshots?

13 A No

14 Q When was it?

15 A It was like when I first walked out of  
16 the room door and the police officer asked me is my  
17 name Kimberly Blake I said yes I broke down and  
18 start crying and that is when Mrs Brenda grabbed the  
19 baby

20 Q Did you anticipate or know there was

21 going to be gunfire before you hand the baby to

22 Mrs Brenda Smith Riley?

23 A No, I had no idea

24 Q You didn't? You just previously said a

25 man was in the room with a gun, with a rifle waiting

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 for the police to come through the door You just  
2 made that testimony a minute ago so now you are going  
3 to state before this --

4 A But that doesn't mean that that person  
5 has to use that gun That doesn't mean bullets have  
6 to be in that gun

7 Q Okay

8 A I did not have no knowledge to that

9 Q So it wasn't to your expectation You  
10 didn't expect there was going to be no gun -- no  
11 shooting and stuff like that, is that correct?

12 A Right, at the time

13 Q So when you hand the baby to Mrs Brenda,  
14 you didn't foresee or think there was or anyone else  
15 was really in no danger, is that correct?

16 A Not at the time

17 Q Now, after you hand the baby to  
18 Mrs Brenda, you was telling her you didn't call the  
19 police and you didn't know why the police was there,  
20 is that correct?

21 A No, I didn't tell Mrs Brenda anything

22 Q You didn't ever speak to Mrs Brenda  
23 about that issue?

24 A No

25 Q When you walked -- you say you was in the

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 bedroom When you walked out of the bedroom, that is  
2 where in the living room where you encountered the  
3 police, is that correct?

4 A Yes

5 Q What did the police ask you?

6 A Is my name Kimberly Blake, and I told him  
7 yes

8 Q Okay And actually that is all the  
9 police asked you, is that correct?

10 A No

11 Q What else did he ask you?

12 A They asked could they go in the room

13 Q He asked you could you go in that --  
14 could he go in that room Did you tell him a man in  
15 the closet or a man inside standing by the TV with a  
16 rifle?

17 A No

18 Q Why didn't you?

19 A Because I was afraid you might have got  
20 out and do something to me

21 Q So you wasn't concerned about the police  
22 like? You was like, man, let them go in there and  
23 get killed or something? I don't care about them  
24 I'm not even going to tell them a guy is in there  
25 waiting to shoot them down, is that correct?

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 A Well it's not like that It's just the  
2 simple fact I was fearing for my life

3 Q And you didn't care about nobody else in  
4 the house your baby, Mrs Brenda, the police  
5 officers, only Kimberly Blake, is that correct?

6 A Wrong

7 Q Well, why didn't you tell the officers  
8 that someone was in there with a gun?

9 A If I had told them, the police officers  
10 someone was in there with a gun --

11 Q They might not have went -- excuse me

12 A They might have not went down that way  
13 But I'm saying what if I did tell them, what would  
14 you have done to me?

15 Q What was I doing to you before?

16 A You did abuse me

17 Q Oh okay

18 A You pulled my hair

19 Q But you weren't tied up or held hostage?

20 A No, I was not tied up I was just afraid  
21 to leave

22 Q Okay Now, my question is this to you  
23 Do you get a welfare package or a health package from  
24 the welfare people that run the department of social  
25 services, you know where they help out kids and help

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 out mothers who, you know get a check and the milk  
2 and stuff like that for the baby?

3 A Yes

4 Q You apply for that You also had took  
5 out child support, is that correct, on the baby's  
6 father?

7 A Well, we was suppose to go to court but  
8 it didn't ever happen

9 Q All right Did you, at any time, tell  
10 them that you knew where your baby's father was --  
11 your baby's father was located?

12 A Yes

13 Q You did? And where did you tell them?

14 A I gave them your mother's address

15 Q Why didn't you call them and tell them  
16 that he was at 21 Riley Road?

17 A Because I had no knowledge of 21 Riley  
18 Road

19 Q I mean, hadn't you been there previously?

20 A Yes

21 Q Hadn't Strawberry brought you there?

22 A Yes

23 Q Had you stayed the night there?

24 A Not that I remember

25 Q You don't remember ever staying the night

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 there?

2 A Not until you brought me there

3 Q Okay So is it -- did they ever inform  
4 you that you are not suppose to be with your baby s  
5 father or something like that or you're suppose to  
6 tell them if you knew where he is at?

7 A I'm not suppose to be around him

8 Q Oh, okay

9 A It's something sort of in that way

10 Q So it's something like that in a policy  
11 and stuff like that?

12 A Yeah

13 Q You say that an officer asked you were  
14 you Kimberly Blake and you said yes Let me ask you  
15 did you have a key to the 21 Riley Road residence?

16 A No

17 Q Did you own, have ownership in the  
18 property at 21 Riley Road residence?

19 A No

20 Q And you didn't actually live there, did  
21 you?

22 A No

23 Q But you were there for a few days, is  
24 that correct?

25 A Yes

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q Where did you live at before you arrived  
2 at 21 Riley Road?

3 A Twenty Saw Creek Drive West

4 Q Did you ever live with Crystal and Troy  
5 Evans proceeding that, right before that?

6 A I stayed with them

7 Q But right before you came to 21 Riley  
8 Road --

9 A Not lived with them

10 Q --- you were staying with them with the  
11 baby, is that correct?

12 A I didn't stay there I would spend  
13 nights there

14 Q So you wasn't living with them?

15 A No, I wasn't living there

16 Q So did the officer read you your  
17 memorandum (sic) rights?

18 A Yes

19 Q He did?

20 A Uh-huh

21 Q Do you recall what the memoranda (sic)  
22 rights was when you were in the living room and he  
23 read you your memoranda (sic) rights?

24 A No

25 Q You can't Did you hear him read anybody

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 else their memoranda (sic) right? Mrs Brenda Riley  
2 or Mr Isaac Riley, did he read them their memoranda  
3 (sic) rights?

4 A No

5 Q He didn't So you made -- is it correct  
6 that you hold four written statements? Have you  
7 written four written statements a statement on  
8 January the 8th, 2002, January the 10th, 2002  
9 January the 11th, 2002, and March the 21st, 2002, is  
10 that correct?

11 A Yes

12 Q In any of them statements you never  
13 stated nowhere, is that correct, that officers asked  
14 you to search the room is that correct?

15 A I can't remember what I wrote in those  
16 statements

17 MR ALKEBULANYAHH Your Honor

18 THE COURT Yes sir

19 MR ALKEBULANYAHH Could I be allowed to  
20 allow her to read her statements?

21 THE COURT Sure

22 (The clerk provides the witness with  
23 copies of statements )

24 MR MURDAUGH I think she is finished  
25 reading them

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 THE WITNESS Yes

2 BY MR ALKEBULANYAHH

3 Q Miss Blake, in them statements, did at  
4 any time of the four statements that you wrote on  
5 January the 8th, 2002, January the 10th, 2002,  
6 January the 11th, 2002 and March 21st, 2002, did  
7 anywhere in your statement, at any time, did you  
8 state that you gave the officers permission to  
9 search -- that they asked you could they search and  
10 you said yes?

11 A No

12 Q In any of your interviews all right in  
13 any of your interviews, in any of your six interviews  
14 that you had, did you state to the officers or the  
15 investigating officer that the officer asked you  
16 could they search and you said yes?

17 A When I talked to them?

18 Q Yes, in your interviews with the  
19 officers, the officers that came and spoke with you,  
20 many different officers that interviewed you and came  
21 in contact with you?

22 A I can't remember I think I did the last  
23 time that I had an interview

24 Q The last time that you had one When was  
25 the last time that you had an interview?

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 A I think it was two weeks ago or last  
2 week I cannot remember

3 Q About two weeks ago or last week, in the  
4 last two weeks when you had an interview and that is  
5 when you spoke with them about that, is that correct?

6 A Yes

7 Q You was told originally that, if I'm  
8 correct, that you was going to be charged possibly  
9 with a crime and that your baby was abandoned, is  
10 that correct?

11 A No

12 Q Okay Could you tell me was you ever  
13 told that you was going to be charged?

14 A No

15 Q Were you ever told that you had abandoned  
16 your baby?

17 A Oh, yes That came up about me being  
18 charged and the baby being abandoned when me and you  
19 went to court

20 Q Okay In the family court?

21 A Yes

22 Q Was I present there?

23 A Yes

24 Q Did I speak for the record?

25 A Yes, you spoke for yourself

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q Okay Would you have left the baby in  
2 the house if you knew that there was going to be some  
3 violence in that house? Because you did run out is  
4 that correct? You ran out of the house on your own?

5 A Yeah

6 Q Is that correct?

7 A Uh-huh

8 Q You left the baby, like forget the baby  
9 is that correct?

10 A No it is not correct like forget the  
11 baby I left the baby because the baby was in the  
12 care of Mrs Brenda

13 Q You left the baby because the baby was in  
14 the care of Mrs Brenda So you never had abandoned  
15 the baby then really truthfully, right?

16 A Right

17 Q Because you left it in the care of  
18 Mrs Brenda?

19 A Right

20 Q Okay The baby was taken into child  
21 agency protective custody?

22 A Yes

23 Q Is that correct?

24 A Yes

25 Q And do you know the actual nature of why

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 they took this baby and put it in child protective  
2 custody?

3 A Because they said that I left the baby in  
4 the corner naked

5 Q And which was untrue, is that correct?

6 A Right

7 Q And they wasn't going to return that baby  
8 to you neither, was they, is that correct? They kept  
9 the baby and didn't want to give you the baby until  
10 you cooperated with them, you know with the  
11 investigation?

12 MR MURDAUGH If Your Honor please, once  
13 again I'm hesitant to object but this has nothing to  
14 do with the issue of this hearing sir

15 THE COURT Yes Focus on the issue of  
16 their right to go into this area, sir That is what  
17 your motion is about

18 MR ALKEBULANYAHH Yes, sir

19 BY MR ALKEBULANYAHH

20 Q Miss Blake, when the officers arrived at  
21 the 21 Riley residence, you were in the bedroom, is  
22 that correct?

23 A Yes

24 Q Did you hear the officers knock at the  
25 door?

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 A I don't remember I just remember you  
2 stating that they were out there and Strawberry was  
3 there too And then I remember them coming in the  
4 house

5 Q Then you remember them coming in the  
6 house Did the -- when the officers entered the  
7 home, did they ask you did you call the police?

8 A No

9 Q Did they ask you --

10 THE COURT Hold on a second I thought  
11 through what I just said Mr Murdaugh in response  
12 to your -- I just reviewed his question again And,  
13 although it doesn't go to the issue of probable  
14 cause, it could go to the issue of her credibility if  
15 she had -- if there is some threat about this baby  
16 and they were going to keep the baby until she  
17 cooperated with the investigation I'm going to  
18 allow that question Mr Alkebulanyahh

19 MR ALKEBULANYAHH Thank you

20 THE COURT You may answer that question  
21 ma'am

22 MR ALKEBULANYAHH I'm going to try to  
23 recall

24 THE COURT I will read it They wasn't  
25 going to return the baby His question was they

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 were not going to return the baby to you, is that  
2 correct? He goes on to say they kept the baby and  
3 didn't want to give you the baby until you cooperated  
4 with them with the investigation

5 That is what he's asking if that s  
6 correct, ma'am

7 THE WITNESS It wasn't stated that way  
8 But they told me that I would talk to them first then  
9 I would know about my baby

10 BY MR ALKEBULANYAHH

11 Q So pretty much after they talked to you  
12 and investigate you and deal with you, then they will  
13 talk to you about the baby?

14 A Right

15 Q But you never in the beginning, wanted  
16 your baby to be taken by them, is that correct?

17 A No

18 Q And you really didn't like that the baby  
19 was taken into custody by them, right, is that  
20 correct?

21 A Right

22 Q But you prefer that your baby would have  
23 been handed to your parents or one of your family  
24 members on that day, is that correct?

25 A Yeah

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q But they didn't want to -- they didn't  
2 want to do that and give that baby to you until you  
3 cooperated with them in the investigation and made  
4 the statement appropriate for them before they  
5 released the baby to you or determined whether you  
6 are going to get this baby back or not, is that  
7 correct?

8 A Right

9 Q Because they felt like they might be  
10 going to put some charges on you in relation to this  
11 incident and determine whether the court had you  
12 abandoned the baby or not, is that correct?

13 A Well, no one ever said anything to me  
14 about any charges or nothing They just wanted me to  
15 talk to them first and then they would tell me about  
16 the baby

17 Q When did you actually get the baby,  
18 custody of your baby back?

19 A I can't remember the month, but it was  
20 after January the 8th

21 Q It was a couple weeks, months, a couple  
22 months later they finally --

23 A Not months, weeks

24 Q Weeks?

25 A The baby was gone from me for about a

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 week I can't remember the exact date

2 Q But you actually didn't have possession  
3 of the baby At that time, the baby was turned over  
4 to your parents or grandparents is that correct?

5 A Right, to my mom

6 Q And you just had visitation rights?

7 A Right

8 Q The court said you just only have  
9 visitation rights, is that correct?

10 A Yes

11 Q But as far as anyone saying you abandoned  
12 the baby, that's totally untrue That's a lie, is  
13 that correct?

14 A No, you told --

15 Q No, I'm saying you I'm speaking of you  
16 as far as any officials saying that you abandoned the  
17 child?

18 A No, I didn't abandon her

19 Q So that would be untrue if they stated  
20 that?

21 A Right

22 Q If any official or anybody stated that  
23 is that correct?

24 A Uh-huh

25 Q Miss Blake, you was interviewed by

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 several officials concerning this incident Did you  
2 state, ( at any time, to any of the officials that  
3 Mr Alkebulanyahh did not have a weapon?

4 A Did I state it to them that you did not  
5 have a weapon?

6 Q Yes Did you ever make a statement to  
7 any of the police officers or anybody that  
8 Mr Alkebulanyahh did not possess a weapon when you  
9 left the room?

10 A No, I never told anyone that

11 Q You never told anyone that Miss Blake,  
12 did you at any time, tell any officials that you  
13 never seen Mr Alkebulanyahh with his shirt off or  
14 whether or not that you didn't know he had a tatoo on  
15 his chest or not? Did you ever tell them that you  
16 didn't know that?

17 A I don't remember

18 Q Were you ever asked about a tatoo?

19 A I don't remember, but I know you do have  
20 a tatoo

21 Q Okay, you do know that And you always  
22 knew that, is that correct?

23 A Yeah

24 Q If somebody said, if the official said,  
25 well, she said she ain t know he had a tatoo and so

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 forth like that, it would be incorrect, it would be  
2 untrue?

3 A Uh-huh

4 Q Because you knew that, is that correct?

5 A Yes

6 Q Okay You did state to the officer that  
7 at one time that you never heard Mr Alkebulanyahh  
8 say any bad things about the police before that  
9 January 8th incident is that correct?

10 A Excuse me?

11 Q You did state to any investigators about  
12 that you had never heard Mr Alkebulanyahh say any  
13 bad things about the police?

14 A No

15 Q So you never made that statement  
16 correct?

17 A Correct

18 Q Miss Blake, when you was inside the home  
19 at the 21 Riley Road residence, did the officers that  
20 arrived there had they been there before?

21 A Not to my knowledge

22 Q They hadn't been there before Had they  
23 been there prior to Mr Alkebulanyahh arriving there?

24 A I have no idea

25 Q You have no idea So when the officers

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 came and they knocked on the door, if they knocked on  
2 the door, knocked on the door or knocked on the  
3 window or whatever before Mr Alkebulanyahh arrived  
4 there you didn't know they was there, is that  
5 correct?

6 A No They didn't come there until after  
7 you -- I'm sorry I misunderstood the question

8 Q Prior to Mr Alkebulanyahh arriving home,  
9 the officers had been there before, is that correct,  
10 before he arrived and then come back, is that  
11 correct?

12 A No

13 Q No they hadn't?

14 A They never been there until after you got  
15 there

16 Q After I arrived there?

17 A Yes

18 Q And I had been gone all day, is that  
19 correct?

20 A Yes

21 Q Mr Alkebulanyahh didn't have no idea  
22 that the officers was on their way there, is that  
23 correct, as far as your knowledge, as far as you  
24 know?

25 A Right

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q He didn't know that the officers was  
2 coming there or anything He didn t know what was  
3 going on really, is that correct?

4 A Right

5 Q When the officers arrived at the  
6 residence and they entered the residence, you -- did  
7 they ever ask you did you have a problem or had you  
8 been abused or anything? Did they ever inquire in a  
9 questioning as far as what they was there for? Did  
10 they tell you we are here for this and this and  
11 this? We are here for you being held hostage, you  
12 being kidnapped or you being hit -- )

13 THE COURT Slow down Slow down

14 MR ALKEBULANYAHH Excuse me, I'm  
15 sorry

16 BY MR ALKEBULANYAHH

17 Q Did they ever say they was there for you  
18 being hit, abused, kidnapped or held hostage? Did  
19 they ever state that to you?

20 A No

21 Q They never did So they never inquired  
22 of you whether there was a problem or not, did they?

23 A No

24 Q It appeared pretty much you could say  
25 they really didn't care whether there was a problem

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 or not, is that correct?

2 A No, because Brenda explained to me what  
3 happened before they had the chance to even tell me  
4 what happened

5 Q What I'm speaking of -- I'm not speaking  
6 of what Mrs Brenda said I'm speaking of your  
7 knowledge of what you know, you know Mrs Brenda  
8 she will speak for herself I'm sure, when the time  
9 comes when it is appropriate

10 But right now, if you may, I would like  
11 to know as far as what you know according to your  
12 knowledge in reference to this incident

13 Did they, at any time, state to you Miss  
14 Blake you can take out a restraining order against  
15 this individual?

16 A No

17 Q Did they say who is in the room?

18 A No

19 Q Did they say have you been hit?

20 A No

21 Q Did they say have you been kidnapped?

22 A No

23 Q Did they say have you been hostage, held  
24 hostage?

25 A No

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q Have you been held against your will?

2 A No

3 Q Did they walk you out the house and talk  
4 to you?

5 A No, they didn't

6 Q They didn't escort you nowhere?

7 A No

8 Q Did they in any kind of way, shape or  
9 fashion, whatsoever, inquire specifically to you was  
10 there a problem at 21 Riley Road?

11 A No

12 Q Miss Blake, you never made any  
13 statements -- again, you stated that you never in any  
14 of your statements ever said out of four statements  
15 and five or six interviews, that Mr Alkebulanyahh --  
16 that you gave the officers, I'm sorry, you gave the  
17 officers permission to search the home but up until a  
18 week ago that, you know, the investigators came to  
19 you and then you went ahead and gave them that  
20 information, is that correct?

21 A Right

22 Q Could you explain why -- did  
23 Mr Alkebulanyahh -- I think in one of your  
24 statements you said that Mr Alkebulanyahh stated to  
25 you to leave the room?

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 A Yes

2 Q And why didn't you leave the room if he  
3 stated to you to leave the room?

4 A Because I said I was afraid to leave the  
5 room

6 Q So with him trying to push you out of the  
7 room, you didn't want to go because you was afraid,  
8 is that correct?

9 A No, I wasn't being pushed I just --

10 Q I m sorry I didn't mean to use the word  
11 push, I'm sorry With him instructing, you know  
12 instructing you to leave the room?

13 A No I did not leave

14 Q You actually didn't really at that time  
15 if I'm correct, you didn't want to encounter -- have  
16 an encounter with the police officers, is that  
17 correct?

18 A Right

19 Q I would like to ask you, you say you  
20 heard the officer having conversation with Mr and  
21 Mrs Riley, is that correct?

22 A Yes

23 Q Did you ever hear them read Mr Riley the  
24 memorandum (sic) rights?

25 A No

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q Did you ever hear Mr or Mrs Riley tell  
2 them to go in the room and search?

3 A Well, when they asked me could they  
4 search the room, Mrs Brenda said yes too

5 Q Did they -- did you, at any time, hear  
6 the officers ask Mrs Brenda or Mr Riley can they go  
7 in the room and search it?

8 A No

9 Q Did you, at any time, hear them ask  
10 Mr and Mrs Riley could they enter the house, enter  
11 the home?

12 A I can't remember --

13 Q You can't remember

14 A -- whether they

15 Q Miss Blake, how did you initially arrive  
16 at the 21 Riley Road residence?

17 A Devon --

18 Q By who?

19 A -- brought me there

20 Q By who?

21 A Devon brought me there in the truck

22 Q Is that Devon Ivy?

23 A Yes

24 Q He's the one that brought you there

25 A Uh-huh

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 Q Do you remember what day that was?

2 A January the 4th

3 Q January 4th

4 A No, it was January the 5th

5 Q January the 5th, okay You actually  
6 returned to your mother's residence, if I m correct,  
7 to retrieve an item when you was with Mr Devon Ivy  
8 when he took you to your mother's house You was  
9 riding with him in a truck, is that correct?

10 A I can't remember

11 Q Didn't y all go by a telephone company or  
12 something like that or get pampers or McDonalds or  
13 Family Dollar?

14 A McDonalds

15 Q Do you have the -- do you remember when  
16 the encounter between you and Strawberry when he took  
17 you back to Miss Priscilla Blake s house that  
18 Strawberry Washington was there? Do you remember  
19 making that in your statement, in your statement  
20 number one?

21 A I might have made it, but I can't  
22 remember it

23 Q In your statement number one, could you  
24 go about just before halfway down the middle and  
25 could you read that to refresh your recollection

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 about this particular matter It goes and I went  
2 to the house I think about -- just before you get  
3 halfway down about a quarter way down the page

4 A Yes, I see it

5 Q Okay And does it state that I went in  
6 the house and Strawberry followed me in the room and  
7 begged me not to leave Is that correct?

8 A Yes

9 Q Go about one, two, three, four lines  
10 down

11 A Uh-huh

12 Q And you state that Strawberry was still  
13 begging me not to leave Is that correct?

14 A Hold on

15 Q About four lines down from the previous  
16 statement?

17 A Could you read where you are at?

18 Q Where it says Strawberry was still  
19 begging me not to leave

20 A Yes

21 Q Okay And if you would count one, two,  
22 three, four, five lines down from there --

23 A Uh-huh

24 Q -- you state, is this correct Sunday  
25 night Strawberry said she was going to call the

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 police I told her I will be home that night  
2 Strawberry told me if I didn't make it home before  
3 she did she was going to call the police

4 Is that correct?

5 A Yes

6 Q Do you know the nature of why Strawberry  
7 was going to call the police on you?

8 A Because she wanted me to come home

9 Q She wanted you to come home And when  
10 she say she was going to call the police, why didn t  
11 you tell her to just, you know call the police so I  
12 can come home? Could you explain?

13 I mean you know you was there at the  
14 residence I know you spoke earlier about that on a  
15 Monday or so forth that Mr Alkebulanyahh said he was  
16 going to take you and throw you in your mama's house  
17 or make you go to your mama's house?

18 A Drag me to my mama's house

19 Q Take you to your mama's house and  
20 everything, is that correct?

21 A Yes

22 Q When you say that -- so it was Strawberry  
23 who actually brought up or indicated, initiated about  
24 you calling the police, is that correct?

25 A Right

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 pulled me aside is that correct? Do you know where  
2 I'm at? Can you see where I m at?

3 A Yeah

4 Q Okay And it goes on to say right there  
5 where it says I handed Brenda the baby The  
6 officer walked past me fast Is that correct?

7 A Okay, I see where you are at

8 Q Okay

9 A Hold on for a minute

10 Q Right at the second line

11 A Yes, I see it

12 Q You see it where it says the officer  
13 walked past me fast after you handed Brenda the baby?

14 A Yes

15 Q So after you handed Brenda --

16 Mrs Brenda -- the baby, the officers just ain't ask  
17 you no questions, just shot on in the bedroom, is  
18 that correct?

19 A They did ask me a question That's  
20 when --

21 Q They asked you was your name Kimberly  
22 Blake?

23 A Yes, and they asked could they search the  
24 room

25 Q And they asked you could they search the

K BLAKE - CROSS-EX BY MR ALKEBULANYAHH

1 room?

2 A Yes

3 Q Okay And you made that statement about  
4 a week ago, is that correct, when you were  
5 investigated? You just informed them about that, is  
6 that correct?

7 A Yes

8 Q Okay But previously in all of these  
9 other statements that you have ever written, out of  
10 the four written statements and all of the  
11 interviews, you actually just told them the officer  
12 asked you your name and they just walked past you to  
13 the bedroom, is that correct?

14 A Yes

15 Q That's what you previously had been  
16 telling until all of the way up until last week, is  
17 that correct?

18 A Yes

19 Q And about after you made the three  
20 original statements and gave the four or five  
21 interviews about three months later, I think March  
22 the 21st -- about four months later you, for the  
23 first time, told them or gave the statement that  
24 Mr Alkebulanyahh was in a closet, is that correct?

25 A I can't remember which statement I gave