

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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On Petition for Writ of Certiorari to Court of Common Pleas

CAPITAL PCR ACTION

S.C. SUPREME COURT

APPEAL FROM PICKENS COUNTY
Honorable Alexander S. Macaulay, Circuit Court Judge

Jerry Buck Inman, #5256
a/k/a Jerry Buck Inmon Respondent-Petitioner

v.

State of South Carolina Petitioner-Respondent.

Appellate Case No. 2020-000881

APPENDIX
VOLUME 7 OF 10

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¹ State's Exhibits 1-11 were previously marked and entered into evidence on August 19, 2008. They are included under the exhibits listed for that date.

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² Court's Exhibit # 1 was previously marked and entered into evidence on August 19, 2008. It is included under the exhibits listed for that date.

³ Defense Exhibits # 32-43 were included in the Record on Appeal and are included with the Record on Appeal in this Appendix.

⁴ Court's Exhibit 3 was included in the Record on Appeal and is included with the Record on Appeal in this Appendix.

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STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF GENERAL SESSIONS

2006-GS-39-2222

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STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

JERRY BUCK INMAN,)

DEFENDANT.)

ORIGINAL

September 8, 9, 10, and 11, 2008
Pickens, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

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ROBERT M. ARIAIL, ESQ.

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I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness

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(WHEREUPON, State's Exhibit Nos. 12, 13, 14, 15, 17, 17-A, 17-B, 17-C, 17-D, 18, 19, 20, 21, 22, and 23 were marked for identification only.)

THE COURT: All right. Are we ready?

MS. STROM: Yes, sir, Your Honor.

There's just a few housekeeping matters, if we may, beforehand.

THE COURT: Okay.

MS. STROM: I did not know if anything needed to be further addressed on the live feed issue that came up before. I didn't know if anything else needed to be put on the record for that.

So I just wanted to remind the Court of that.

THE COURT: Yes.

Thank you very much.

As a result of the last hearing, I requested the State Law Enforcement Division to do an investigation or review of the Solicitor's file wherein each employee from the Solicitor's Office responded to an inquiry from the Solicitor with respect to whether or not they had heard anything, or if they had seen or listened to the live feed. There were for the most part -- I can't remember the total number of responses. There were six persons who have heard or seen something regarding the live

1 feed.

2 She interviewed each one of those persons, and no one
3 heard anything of substance. And I do not believe that
4 any attorney-client privileged information has been
5 gleaned, or listened to, or heard by the Solicitor's
6 Office. And I would represent to all the parties that I
7 didn't hear or listen to anything off the live feed. And
8 I am not privileged to any of your privileged
9 communications.

10 I'm going to submit that into the record. And I'll
11 allow you all an opportunity to review that file before I
12 do that, and we can do that at a break sometime later this
13 morning. Okay.

14 MR. BANNISTER: Judge, may I just -- I heard you say
15 that there were affidavits submitted on behalf of the
16 employees with the Solicitor's Office. But it was my
17 understanding that the Solicitor had, also, submitted
18 affidavits from law enforcement and other people who were
19 connected with the case.

20 THE COURT: No.

21 These were -- an e-mail was sent to his employees in
22 his office. They responded, not by way of affidavit, but
23 they responded to the e-mail as to whether or not they had
24 heard or seen anything off the live feed.

25 So, as a result of that, six persons, I believe, were

1 identified who had, actually, heard or seen something from
2 the live feed. And they were interviewed by an agent from
3 the State Law Enforcement Division. And I'll allow you
4 all to examine that report. But there is nothing to
5 indicate that anybody heard any privileged communication
6 between any member of the Defense team and Mr. Inman, or
7 between each other.

8 MR. BANNISTER: Your Honor, if I may be heard just
9 briefly on that issue.

10 THE COURT: All right.

11 MOTIONS

12 MR. BANNISTER: I would renew my motion to be
13 permitted to conduct an investigation from the Defense
14 standpoint to create a complete record. Also, I would
15 request that you grant us a continuance in order to be
16 able to do that or, again, I would ask that you ask for a
17 full investigation from SLED.

18 And here is what I'm hearing today that is a little
19 different from our understanding -- or, at least, my
20 understanding of where we were when we brought this issue
21 to the Court's attention. I thought it was represented
22 that the affidavits -- and let me state, other than the
23 six you have referenced, I have seen none of them up to
24 this point that were coming not only from members of the
25 Solicitor's Office, but, also, from law enforcement

1 personnel that were involved in the case, and any other
2 parties that might be involved in the case that could have
3 communications with the Solicitor about what went out over
4 the live feed.

5 So I want to renew my motion and renew my request
6 that I had made previously. Our objection here is that
7 the process that the Court has taken has made it
8 impossible to create a complete record for us to review
9 this. And I think that in and of itself is a due process
10 violation. And I just place my objection on the record.

11 THE COURT: All right. Well, I'm going to deny your
12 motion.

13 I do not believe there's been any due process
14 violation. Because no one has -- well, let me ask this.
15 I have affidavits from the --

16 Well, as an officer of the Court, Ms. Strom --

17 MS. STROM: Yes, sir.

18 THE COURT: -- has any member of the Prosecution team
19 that's involved in this case received any information,
20 talked to anybody who has heard, seen, or watched the live
21 feed, and have you heard any information that would be
22 considered privileged, or any communication between any
23 member of the Defense counsel and any member of their
24 Defense team or Mr. Inman?

25 MS. STROM: I'm not aware of any, and none has been

1 relayed to me. I'm not aware that anyone has that
2 information. And I can definitely assert to this Court
3 that no one has informed me of any information like that.

4 THE COURT: And you, Mr. Ariail, any?

5 MR. ARIAIL: As I said in my affidavit, Ms. Pickett
6 gave me the two telephonic communications while we were in
7 the courtroom. Other than those two, I have no other
8 information. In fact, I instructed people in my office
9 that if they had any communication, regardless of what it
10 was, or have any information relating to conversations
11 that may or may not have gone on between counsel amongst
12 themselves or counsel and their client, Mr. Inman.

13 So my limited knowledge is set forth in that
14 affidavit. I have nothing further.

15 THE COURT: All right.

16 MR. BANNISTER: Judge, let me just object to the
17 procedure that we are taking part in here today. If --
18 certainly, they can make representations to the Court as
19 officers of the Court. But I don't think that's
20 sufficient in this case. If they want to take the stand
21 and be subject to cross-examination about what they know
22 and don't know, then I think that would be fair.

23 But I think it goes beyond just communications to
24 them. There are other people involved in this case which
25 could have received information that could be detrimental

1 to our defense. And that's where the heart of the issue
2 is for us.

3 THE COURT: Well, do you have any information, other
4 than just speculative conjecture, which would support that
5 position?

6 MR. BANNISTER: And that's the problem.

7 I have not been permitted to get that information by
8 virtue of either having either the time to conduct the
9 investigation ourselves or to have an independent
10 investigation done by SLED. What you've got right now is
11 affidavits from the Solicitor's Office, and that's all.

12 THE COURT: No, sir.

13 I have a report from the SLED agent who has conducted
14 an investigation into this. So your objection is noted
15 for the record. And your motion for a continuance is
16 denied.

17 Anything else, Ms. Strom?

18 MS.- STROM: Just one matter, Your Honor.

19 I don't know if we need to revisit it, but I wanted
20 to bring it to the Court's attention at this time.
21 Obviously, the State's intent is to introduce evidence of
22 other crimes committed by this Defendant. My
23 understanding is that you have ruled on that, but I think
24 you left it open. We did a supplemental response
25 regarding unadjudicated crimes. I did not know if we

1. needed to address that at this time, or wait until we
2. begin to put up that evidence.

3. THE COURT: I'll be happy to hear from the Defense.
4. Do you have any response to that?

5. MR. BANNISTER: Yes, sir, Your Honor.

6. I would point out that the argument that we made
7. initially regarding this issue remains the same, despite
8. the other cases that were submitted to the Court. And in
9. virtually all the cases where prior unadjudicated conduct
10. was introduced into evidence at the sentencing phase of
11. the trial, there was some connection to the case. There
12. was some connection to the underlying reason for the
13. Defendant being there in the first place.

14. In addition, Your Honor, I would cite to -- give me
15. just a moment. State v. Arthur, that's at 350 SE2d 187,
16. where -- this is a 1986 case where the Court reiterates
17. that, certainly, it's appropriate to put into evidence
18. prior adjudicated crimes. But, in that particular case,
19. there was an affidavit submitted that involved a murder
20. allegation against the Defendant who was on trial in a
21. capital case. The Court ruled that that was in error,
22. that was improper, and could not be put in during the
23. sentencing phase.

24. So there is a case where you've got a prior
25. unadjudicated crime where evidence of that is attempted to

1 be introduced during the sentencing phase of a capital
2 case. And the Supreme Court says, No, we're not going to
3 allow that in. There just is no connection between the
4 prior unadjudicated crimes that, I think, the Solicitor is
5 intending on introducing and this particular case here.
6 And that is why it should not be entered into evidence.

7 THE COURT: All right. Well, I have less knowledge
8 of what the conduct is that you all are referring to. So
9 it's kind of hard for me to make a judgment on that.
10 Let's just handle it as it comes up.

11 MS. STROM: Yes, sir.

12 MR. BANNISTER: Yes, sir.

13 THE COURT: All right.

14 Anything else before we start?

15 MS. STROM: Nothing from the State.

16 THE COURT: All right.

17 MR. BANNISTER: Your Honor, let me address that at
18 the moment, the Defendant has been permitted to dress out,
19 but he has, also, been shackled. And I believe there are
20 less restrictive restraints that could be applied in this
21 case.

22 I'm being informed that the Pickens County Sheriff's
23 Office has a restraint belt that can be placed on the
24 Defendant. It's electronic. If he moves, they can shock
25 him. And, therefore, it would be our position that the

1 necessity of shackles is -- well, it's not necessary in
2 this case.

3 THE COURT: Okay. Well, there is no jury. And, as
4 you're aware, this is not the first time I've seen someone
5 in shackles. I don't know how he would be prejudiced by
6 the security measures taken by the Sheriff's Department.
7 And I am hesitant to interfere with what they consider to
8 be necessary as far as security is concerned.

9 So let's just see how it proceeds. If there's some
10 prejudice, I'll be happy to hear about it, but.

11 MR. BANNISTER: Well, primarily, the problem is that,
12 in the case, if there needs to be communications between,
13 particularly, the lawyer who is cross-examining or
14 directing the Defendant, it's always been my preference to
15 have the Defendant write that out for us so it doesn't
16 interrupt the flow of the trial.

17 He's just not capable of doing that in the current
18 condition that he's in. His hands are bound at his waist.
19 He can't get them past his navel. He can't -- it would be
20 impossible for him to manipulate a pen on the paper to be
21 able to do that. And that just creates an issue for us.

22 Plus, it is, in fact, Your Honor, a due process
23 issue. And I would cite to the U.S. Supreme Court case --
24 give me just a moment.

25 (Pause.)

1 MR. BANNISTER: It's Deck v. Missouri. And that's
2 544 U.S. 622. "Shackles are to be used as a last resort,"
3 Your Honor. And, typically, it's only after the Defendant
4 has given the Court a reason to apply those shackles.

5 (Pause.)

6 THE COURT: The Sheriff's Department informs me that
7 they can free his right hand so that he can communicate
8 with you in a written fashion. And they will do that.

9 MR. BANNISTER: All right.

10 (WHEREUPON, Defendant Inman's hand was unshackled.)

11 MR. BANNISTER: Thank you, Your Honor.

12 THE COURT: Okay.

13 MR. BANNISTER: Finally, let me just renew our demand
14 for a jury trial for the sentencing phase of this case.
15 We've made that throughout the case at each of the stages
16 just for the record. I suspect I know what the ruling is
17 going to be, but we have one last opportunity. So I'm
18 making the demand.

19 THE COURT: Well, I think the statute law of South
20 Carolina is very clear in that regard. And I will abide
21 by our laws and deny your motion.

22 MR. BANNISTER: Your Honor, if I may, and this is the
23 last thing I need to do pre-trial. I would like to
24 inquire as to what the set up is with regards to the
25 broadcast media. Obviously, it's been our position from

1 beginning to end that we think the broadcast media creates
2 an issue, and presents a problem in this case and has
3 already. We, certainly, don't want any more.

4 I would like to know and have something on the record
5 about what is being recorded. Where are the microphones?
6 Where is the feed going? Where is it not going?

7 THE COURT: Okay. Well, each member of the media has
8 been given, either today or previously, a copy of my order
9 with respect to the limitations and requirements placed on
10 them allowing them to be here in the courtroom pursuant to
11 Rule 605. And there will be no live feed.

12 They are allowed, as you can see, one television
13 camera in the courtroom off which all the other, whoever
14 is interested, I think is taking a feed. It's located
15 back in the jury room. They are not to take pictures, or
16 record anything, or use the camera when Court is not in
17 session. And that is defined as when I'm on the bench
18 holding court, when I declare court to be in recess,
19 whether or not I'm on the bench, then they will cease with
20 photography, the media feeds, and any verbal reporting
21 devices. Okay.

22 MR. BANNISTER: All right. Do you know whether our
23 microphone here at the desk -- we have two of them -- is
24 feeding into anything that the broadcast media has?

25 THE COURT: I've been informed that there are two

1 media microphones. There's one here on the witness stand
2 and one right there on the Clerk's bench.

3 MR. BANNISTER: All right.

4 THE COURT: Let me ask the media, can you all tell
5 whether or not this -- your microphone here in front of
6 the Clerk can pick up low-toned communication between the
7 Defense counsel?

8 UNIDENTIFIED MEDIA MAN: I don't have an ear piece
9 in.

10 Are you talking about when they're whispering to each
11 other?

12 THE COURT: Speaking in low voices. The rule
13 requires that any audio recording device may not record
14 anything --

15 UNIDENTIFIED MEDIA MAN: I seriously doubt it. If
16 they're taking in a voice like this, I'd say yes.

17 THE COURT: Well, it can't be any more -- have any
18 better ability --

19 UNIDENTIFIED MEDIA MAN: We cannot, Your Honor.

20 THE COURT: Okay. Well, he just assures me that he
21 cannot. That's in compliance with the rule then.

22 Anything else?

23 MR. BANNISTER: No, Your Honor.

24 THE COURT: Okay.

25 MR. ARIAIL: One other thing, I moved on behalf of

1 the State early on -- and I think you held it in
2 abeyance -- regarding production of underlying data and
3 reports or summaries or, at least, documents upon which
4 witnesses have relied. We have none of that. We expect
5 they're going to produce several "expert witnesses" to
6 which we would be entitled to that documentation. If we
7 receive that documentation after the witness has
8 testified, pending upon what the witness has said and what
9 we believe merits a rigorous cross-examination, we will be
10 forced to ask the Court for a recess, which could be
11 lengthy, depending upon the volume of documentation needed
12 or that that person brings.

13 The second thing is that Dr. Donna Schwartz-Watts
14 testified on August 19th, and listed in her report that
15 she produced a number of documents that the State has
16 never seen and, to the present, does not have. So there's
17 a real possibility that there's going to be documentation
18 in a voluminous nature that we're not going to have.

19 So I would ask the Court, again, if they have that
20 information, to have them disclose it as soon as possible
21 so that we can keep things moving along without
22 unnecessary breakdowns.

23 THE COURT: Mr. Bannister, what's your position?

24 MR. BANNISTER: Our position remains the same as it
25 has been in our response, and that is that he's not

1 entitled to that. And we don't intend to produce it.

2 THE COURT: All right. Well, we'll take a look at
3 that as we get closer to your presentation.

4 MS. STROM: May it please the Court, Your Honor?

5 THE COURT: Yes, ma'am.

6 OPENING STATEMENTS

7 MS. STROM: I have to admit it's sort of odd
8 preparing an opening statement knowing that I was giving
9 it to Your Honor. Normally, I am accustomed to giving
10 opening statements to jurors, who we all know come in with
11 a blank slate and don't know the law and don't know the
12 procedures so we have a chance to tell them what those
13 procedures are and what the law requires.

14 To be quite honest with you, I started thinking, what
15 am I going to tell this Judge that he doesn't already
16 know? But I felt it doesn't hurt to review things. And
17 that's my philosophy when I get started in these cases is
18 I look back over the statute. I look back over the rules.
19 I look back over what is required by law for us to even be
20 here asking you to impose a death sentence. And so when I
21 say things that seem very elementary, please, forgive me.
22 I am simply going through the process. And, hopefully, we
23 are all reminded of the requirements that are needed to be
24 met before the Judge can impose sentence.

25 To that extent, as you are aware, murder in this

1 state -- every case of murder does not allow for the
2 imposition of the death penalty. In South Carolina, the
3 murder must be accompanied by a statutory aggravating
4 circumstance. And they are listed in the law. And the
5 State relies on three in this case. The State relies on
6 the fact that the murder was committed during the
7 commission of a criminal sexual conduct, that the murder
8 was committed during the commission of a kidnapping, and
9 that the murder was committed during the commission of a
10 burglary.

11 Now, Your Honor is somewhat already aware of all of
12 these in the fact that we are in a unique position. The
13 Defendant has stood before you and pled guilty to those
14 charges. However, as His Honor is aware, you still must
15 make a specific finding of the proof of a statutory
16 aggravating circumstance beyond a reasonable doubt before
17 you may even consider death as an option in this case.

18 I submit to you, Your Honor, that based upon the
19 stipulated facts that were presented at the guilty plea,
20 there is more than enough evidence to support each and
21 every statutory aggravating circumstance beyond a
22 reasonable doubt. You will, also, hear additional
23 evidence in our presentation of witnesses, especially from
24 Dr. Christensen, that further support the elements of the
25 statutory aggravating circumstances.

1 So where do we find ourselves today? Again, the
2 Defendant has pled guilty. He's before you to be
3 sentenced. And if you find the existence of a statutory
4 aggravating circumstance, as we are confident and feel
5 that you will, then your options before you are life and
6 death. Some people may say, well, you have a murder, if
7 you find a statutory aggravating circumstance, one, two,
8 or even all three, what else is there to be said? What
9 else needs to be said?

10 Well, there's more to a crime than the basic facts
11 and the elements of the offense. There is the character
12 of the person who committed these offenses and the
13 circumstances of the crimes themselves. You have heard
14 some of the circumstances of the crime through the guilty
15 plea. But you will hear additional circumstances of the
16 crime and what occurred through the testimony of
17 Dr. Christensen. And our court has said that it's
18 essential for the sentencing body to look at the character
19 of the Defendant and the circumstances of the crimes he
20 committed. That is what our law says a sentencing body
21 should and must look at in order to determine the
22 appropriate sentence.

23 What is the appropriate sentence to be imposed in
24 this case? That's where we all find ourselves. We're
25 beginning that process right now. We're beginning the

1 process of presenting evidence to you that will assist you
2 in making that determination.

3 As you know, the State is very limited in the access
4 that we have to the Defendant. And so we must rely on his
5 public actions and his public behavior to bring some
6 insight to you, and to this Court, as to the Defendant's
7 character. And we intend to do that. We intend to
8 produce to you his prior violent criminal past, which
9 began as early as about the age of 17 and continued
10 through these three, four days in May of 2006, which,
11 ultimately, culminated in a horrible and brutal killing of
12 Tiffany Souers. And through that introduction of
13 evidence, Your Honor, you will hear from Suzanne Clavel.
14 You will hear from Beth Patterson. You will hear from
15 Jessica Gann. They are all women who have been subject to
16 the Defendant's malicious and violent character.

17 You will, also, hear from law enforcement officers
18 who spoke with the Defendant about these acts and what his
19 responses to them were. You will hear testimony regarding
20 the statements made by the Defendant that will, also,
21 convince you that these statements were made freely and
22 voluntarily, and made in accordance with Miranda.
23 Because, as we are all aware, you must first make that
24 finding before any statement made by the Defendant can be
25 used against him. And we submit to you that we will

1 present to you evidence that will convince you beyond any
2 reasonable doubt that these statements were made freely
3 and voluntarily, and in accordance with Miranda.

4 And, also, Your Honor is aware that although these
5 crimes, be them adjudicated or unadjudicated, cannot be
6 used to support a statutory aggravating circumstance, our
7 court has said that it is important in determining the
8 character and finding out about the character of the
9 Defendant. And, therefore, it is relevant and important
10 testimony for you to hear.

11 As I said before, you will, also, hear from
12 Dr. Christensen about the details of the murder of Tiffany
13 Souers. We will, also, have an opportunity to tell you a
14 little bit about Tiffany Souers, who she was. Because,
15 again, our law says that the sentencing body is entitled
16 to know about the victim, about Tiffany, what kind of
17 person she was, how she affected other people, and what
18 her -- how her death has affected others.

19 And to that end, we intend to produce to you friends
20 of Tiffany Souers, her extended family, if you will, while
21 she was here at Clemson University. You will hear from
22 these individuals about how she came to Clemson from St.
23 Louis, and how she made friends immediately, and what she
24 did for those friends and for strangers alike. You will
25 hear how she impacted the lives of so many people so

1 deeply.

2 As Your Honor is aware, the State does not know
3 exactly, if anything, that the Defense will present in
4 mitigation. We are all aware that they have no burden of
5 proof. And we're not trying to put one on them. They
6 have no requirement to present any mitigation whatsoever.
7 But I say that just to convey to the Court that we know
8 that you will consider any and all evidence presented in
9 this case from whatever source it may come. Be it
10 aggravation, be it mitigation, we are confident that you
11 will consider everything, regardless of what source it
12 comes from.

13 Your Honor, I started thinking in presenting this
14 opening statement to you that I think it's safe to say we
15 are all aware -- there's sort of a combined understanding
16 of the unique and difficult position that the Court is in.
17 We all recognize that. No one intends to minimize that or
18 intends in any way to lessen that position. We all know
19 that it's going to be a tough decision. Whatever decision
20 is made is going to be tough. We all have occasion in our
21 lives to make tough decisions. And no one can question
22 our decisions so long as they are thoughtful, and they are
23 deliberate, and they are based upon everything presented
24 before you.

25 So it is with that knowledge of the difficulty of the

1 position that you are in and the gravity of the situation
2 that we all find ourselves in, we are confident that
3 whatsoever decision you make, it will be thoughtful, it
4 will be deliberate, and it will be just.

5 Thank you.

6 THE COURT: Thank you very much.

7 MR. BANNISTER: Thank you, Your Honor.

8 If I might just take this brief moment at the
9 beginning of this case to say, from the standpoint of
10 myself and the rest of the people on this side of the
11 room, how deeply sorry we are that all of you are here and
12 that we have to go through these proceedings. I cannot
13 imagine how it must feel to have to be here to go through
14 a trial involving the death and rape of your daughter.
15 And I am sorry for that, truly.

16 I take no pleasure in these proceedings as we move
17 through them. But this is what we have to do. And so I
18 take on the burden, I think, to some extent, and so do the
19 rest of us, to try to offer in some way some an
20 explanation of how we got here. What is it about a man's
21 background that could put him in a position to be capable
22 of such a horrendous and terrible crime? To some extent,
23 I think we will be able to offer some explanation from the
24 Defendant's standpoint. I will never be able to explain
25 why Tiffany, why somebody so innocent or so good would be

1 the one targeted in this way. We may have to just never
2 know the answer to that.

3 I will be presenting that explanation, Your Honor.
4 We will be presenting that explanation in the context of
5 mitigation, because that is our role here in this
6 sentencing proceeding. And there are, basically, four
7 different areas of mitigation that we believe are
8 applicable, and that you need to hear in order to make an
9 informed decision.

10 As you know, Your Honor, the statutes governing
11 capital sentencing procedures have a number -- three,
12 actually -- of different places where you can talk about
13 the mental illness, mental defect, mental health, if you
14 will, or distress of the Defendant. I think you will see
15 that all three of those will be applicable in this case.

16 And, to do that, we're going to have to go back in
17 time somewhat and show you the biological inheritance that
18 Mr. Inman came into this world with. We'll be talking
19 about his biological father, Mr. Inman, Sr., who we now
20 know to be a child molester. He was convicted of
21 attempted rape in Florida. And, if I might for just a
22 moment, the facts of that case are chillingly similar to
23 the facts of this case. His father went through the
24 window of a garage of a woman who lived alone at night,
25 went into her bedroom, crept up beside her bed, and began

1 to touch her, at which point, she screamed. He fled.

2 Mr. Inman, Sr., was, ultimately, arrested and confessed
3 that he had been there to rape her that night with little
4 or no explanation as to why.

5 You will hear that his mother, although a kind soul,
6 suffers from paranoid schizophrenia. She has auditory
7 hallucinations that tell her of her worthlessness, and
8 have told her to commit suicide. You will not see her in
9 the courtroom, nor will you hear from her, frankly,
10 because her situation is such that we don't believe that
11 she would be capable of giving that testimony, or be able
12 to handle these proceedings.

13 With that biological inheritance, you will, also,
14 hear, Judge, that from the ages of zero to three,
15 Mr. Inman resided with his biological father and his
16 mother. He, also, had in that home a stepsister whose
17 name was Denise. She was older, obviously, than Mr. Inman
18 and came to that union from a prior marriage of
19 Ms. McArthur. You will hear her describe how from the
20 ages of zero to three, Mr. Inman Sr., would take Denise
21 and Jerry into the trailer. And while Ms. McArthur was at
22 work and it was nap time, he would sexually molest Denise
23 on the bunk above Jerry with her hands tied behind her.
24 We believe Jerry was bound as well. And we know that
25 Mr. Inman, when he finished with Jerry, would go to -- I'm

1 sorry, when he finished with Denise would then go to
2 Jerry. We also know that it wasn't until Mr. Inman, Sr.,
3 began to serve time in the Department of Corrections for
4 the mentally insane for the attempted rape that he got out
5 of the house.

6 At that point, Ken McArthur came into Jerry's life.
7 And they became married. Ken McArthur brought several
8 stepchildren to the family. One, in particular, was named
9 Bill. And as hard as it is for him to hear this, because
10 I know he's in the courtroom listening, that is
11 Mr. McArthur, Bill, ultimately, was a number of years
12 older than Jerry. While Jerry was between the ages of
13 five and 10, we know that Jerry stayed in a room with Bill
14 by himself. And we, also, know from court records that
15 Bill was, ultimately, convicted of child molestation and
16 died in prison of AIDS.

17 It's not hard, logically, to make out from that
18 history and that information, particularly considering
19 Mr. Inman's prior crimes and the crime he's here for
20 today, that there was molestation that was going on and
21 sexual abuse during that period of his formative years as
22 well. The take-home message, Your Honor, will be from the
23 evidence we present that Jerry came into this world
24 impaired to start with. And his environmental background
25 and what he experienced as a child created a situation

1 where he truly does fit the mitigators in the statute of
2 mental illness, mental distress, and mental health issues
3 that impacted his ability to control his actions on the
4 night that he murdered and raped Tiffany.

5 There's been no recognition of this for Jerry during
6 his adolescent years. And the support that he had
7 there -- although Ken was a good man, he was, also, an
8 alcoholic. And so you have an alcoholic father and a
9 schizophrenic mother trying to deal with a child who has
10 suffered so terribly at the hands of the biological
11 father, a stepbrother, and who has mental issues that
12 needed to be addressed.

13 Your Honor, we will address the second issue of
14 mitigation, which we believe is his adaptability to prison
15 life. In this instance, we have 19 years of prison life
16 to draw from. One of the prior crimes you will hear about
17 is that when he first went to jail at age 18 or 19, one of
18 the crimes he pled guilty to was the rape of another
19 inmate. That rape and an attempted escape in 1991 placed
20 him in close confinement for the majority of his prison
21 sentence. As much as he hated closed confinement and what
22 prison life presented for him, the bottom line was he was
23 controllable and adapted to that life and could do so
24 again.

25 Your Honor, you will hear from Jim Aiken, who will

1 tell you that beyond a shadow of a doubt, Mr. Inman will
2 be in the Department of Corrections in what we call
3 protective custody. That's 23 hours in, that's one hour
4 out. That protective custody is called that for two
5 reasons. One, it's there to protect others, which is
6 indicated by the prior rape. But, two, it is, also, there
7 for protection of self. Mr. Inman has seven attempted
8 suicides, six of which occurred while he was in prison.
9 They include slitting of his wrists, slitting of his
10 jugular vein, swallowing barbed wire about six inches,
11 which perforated his stomach and his upper intestine to
12 have to be surgically removed, an attempt to starve
13 himself, and, finally, an attempt to cut his vein, his
14 antecubital vein in his left pelvic.

15 Your Honor, also, you can take and have been part of
16 the guilty plea that was presented to you, and we believe
17 that is serious mitigation in this case. There is no
18 other legal avenue by which a defendant can come before
19 the Court and the world and say to them, I did this, I was
20 wrong for doing it, and I accept whatever punishment you
21 decide is appropriate for me. He did that without any
22 discussion of what the sentence might be and without any
23 indication that the Solicitor's Office would recommend
24 something other than death. And that is worth something,
25 if for no other reason than the fact that he did not put

1 the Court and the families through a guilt-phase trial.

2 What's also important, Your Honor, to see about his
3 acceptance of responsibility is that he is filled with
4 guilt and shame, not only for what he has done to Tiffany
5 Souers, but, also, for the other victims. That guilt and
6 shame is coupled with the inability on his part to
7 comprehend how he could be capable of doing something so
8 terrible as what he has done. That eats him from the
9 inside out on a daily basis and has been consistent
10 throughout his prison life. And it is one of the reasons
11 for the attempted suicides. He can't understand why he
12 could do what he did and, yet, know just how bad what he
13 did was. And so it leads him to the conclusion that he's
14 an animal, a mistake, and that he deserves to die.

15 Your Honor, over Mr. Inman's objections, we will be
16 putting into evidence his personal faith. Several weeks
17 ago, Mr. Inman, finally, accepted Christ as his personal
18 savior. This Friday, he was baptized by his minister,
19 Reverend Hensley, from Tennessee. I will let the truth of
20 that moment speak to you from the eyes and mouth of
21 Reverend Hensley when he testifies to you.

22 Those are the four areas of mitigation that you will
23 hear from us, Your Honor. But I need to say further that
24 there is a backdrop to this that will influence and play a
25 part in the way this case is presented and the information

1 you hear. When Mr. Inman told Donna Schwartz-Watts that
2 he deserved to die, as she testified to on the stand at
3 the Blair hearing, those words were carefully chosen.

4 Those words were carefully chosen because the
5 Defendant does not want to convey to this Court the level
6 at which he wants to be executed. He has consistently
7 downplayed his psychiatric treatment, despite the 19 years
8 of it. He denies the suicide attempts or, at least, puts
9 a different spin on them. He explains away the failings
10 of his parents as he came up. And he, also, flatly denies
11 that he was sexually abused. And as I anticipate
12 cross-examination of our witnesses, and you will see that
13 some of our evidence, certainly, is soft and anecdotal at
14 best, the Defendant will secretly be cheering the
15 Solicitor on as those points are well made.

16 With regard to his adaptability in prison, he will,
17 certainly, take pleasure in arguments made that he is a
18 danger, that he can never be controlled, and that he would
19 likely try to escape again and hurt somebody else and,
20 therefore, that death is the only option in this
21 particular place.

22 With regard to his acceptance of responsibility and
23 the guilt and shame that he has, there will be no one in
24 here who will be quietly praying more than the Defendant
25 that the Solicitor will be capable of heaping on him the

1 full measure of scorn, loathing, and revulsion that his
2 actions so richly deserve. And maybe, perhaps, the only
3 exception to what the Defendant believes to be the truth
4 and what we will be presenting is his personal faith. If
5 that is presented in a way or argued that that is simply a
6 way to curry favor, as a last ditch effort to seek mercy
7 when he showed mercy to no one, he will still have the
8 desire for that perception of his faith to defeat the
9 reality of it. And, in that sense, he will continue in
10 his partnership with the Solicitor in seeking his own
11 execution.

12 Life without parole in this case, Your Honor, for
13 this Defendant is no life at all. The prospect of 30 to
14 40 years of living each day with what you've done and the
15 shame and remorse of it, it's hard to deny that there's
16 not a certain logic in preferring to be put to sleep at
17 some known date in the future than to have to live like
18 that for the rest of your life. It's our ethical
19 obligation and we will ask for life without parole at the
20 end of our case, Your Honor. But, truly, in this case for
21 this Defendant, you may rightly find that life without
22 parole is a sentence worse than death.

23 THE COURT: All right. Thank you very much.

24 MS. STROM: Your Honor, the State would call Holly
25 Bergman.

1 THE CLERK: Please place your left hand on the Bible
2 and raise your right hand.

3 WHEREUPON,

4 HOLLY ELAINE BERGMAN,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 Please state your full name for the record.

8 THE WITNESS: Holly Elaine Bergman.

9 DIRECT EXAMINATION

10 BY MS. STROM:

11 Q Ms. Bergman, I need for you to state your name,
12 again, so I can make sure that we all hear you.

13 A Holly Elaine Bergman.

14 Q Where do you live?

15 A Right now, I live in Newport Beach, California.

16 Q I need you to keep your voice up. Okay.

17 A Newport Beach, California.

18 Q Do you work?

19 A Yes. I'm a nurse at Hoag Memorial Hospital
20 Presbyterian.

21 Q And where did you go to college?

22 A Clemson University.

23 Q And you knew Tiffany Souers?

24 A Yes.

25 Q Okay. I want you to tell this Court a little bit

1 about Tiffany. How was it you met her? How did you come
2 to know her?

3 A We lived on the same hall our freshman year. She
4 lived --

5 Q At Clemson?

6 A At Clemson. We lived in Manning. She was three
7 doors down from me. And I met her about a week into our
8 freshman year. And we just clicked right away and became
9 really good friends. And we just did everything together
10 our freshman year. And then our sophomore year, we lived
11 together and were roommates.

12 Q And those were the only two years that Tiffany went
13 to Clemson; correct, prior to her death?

14 A Yes.

15 Q I want to go back and -- well, first of all, I want
16 you to identify, if you will --

17 MS. STROM: And, Your Honor, I've previously provided
18 these to Defense counsel and have, again, shown them to
19 them this morning, State's Exhibit Nos. 12 and 13. We're
20 going to offer them into evidence once they're identified
21 by the witness.

22 MR. CULBERTSON: We have no objection.

23 THE COURT: All right.

24 (WHEREUPON, State's Exhibit Nos. 12 and 13 were
25 admitted into evidence.)

1 BY MS. STROM:

2 Q Ms. Bergman, I'm going to ask you to take a look at
3 State's Exhibit Nos. 12 and 13, and ask you if you can
4 identify those. Do you recognize those?

5 A Yes.

6 Q What I'm going to do is I'm going to have you -- I'm
7 going to put these on the presenter. And I'm going to
8 have you tell us about these photographs.

9 A Okay.

10 Q And there is a laser pointer. Where it says "Laser,"
11 just point it -- push it and point it. And it will show
12 up over there.

13 A Okay.

14 Q Let me show you what's first in evidence as State's
15 Exhibit No. 12. If you'll give me just a minute, I'll get
16 it zoomed in.

17 Can you tell us about this photograph?

18 A Yes. This was our sophomore year. And on the right
19 is Jody Lucky, and it was her birthday. And so we had
20 gone out for her birthday. We went out to dinner. And
21 this was -- we went to a friend's place. And we are just
22 celebrating her birthday.

23 Do you want me to identify all the people?

24 Q Well, tell us which one is Tiffany.

25 A Tiffany is second from the left. And, as you can

1 see, she's holding her phone. It's kind of cut off, but
2 she -- this is Tiffany in a nutshell, smiling, of course,
3 always happy, wearing my clothes, of course, always having
4 her phone.

5 Q Did y'all do that a lot?

6 A Yes. We shared clothes a lot. She was always on her
7 phone. She just looks so happy like she always was.

8 Q I show you what's been marked as State's Exhibit No.
9 13.

10 A This was sophomore year, again, before a football
11 game. And we were tailgating, just hanging out all day at
12 a fraternity house where we always tailgated.

13 Q Y'all did that together often?

14 A Every football game.

15 Q Ms. Bergman, you met her when you were a freshman --
16 you were both freshmen?

17 A Yes.

18 Q Do you remember when you first met her?

19 A The first time I met her -- well, the first time I
20 saw Tiffany, she was sleeping. But the first time I met
21 her, I was going out somewhere. And I had come to -- I
22 knocked on her door to talk to her roommate, Christina
23 Morello, and Tiffany answered the door. And she was
24 asking me, Where are you going? What are you doing? And
25 I think she ended up coming that night. And ever since

1 then, we were just good friends.

2 Q Tell us a little bit about Tiffany. What was she
3 studying in school?

4 A She was a civil engineering major, which I don't know
5 if you're familiar with Clemson, it's a very hard major.
6 And it's all boys. And I know it was hard for her
7 sometimes, but she was amazing. And she got all A's,
8 which I still don't understand how she did that, because
9 she had such a fun social life. But she still studied
10 every day, did all of her homework, went to every single
11 class.

12 She's the only person I know who didn't skip class
13 ever. She was amazing. She wanted to be an engineer.
14 She dedicated everything to it, studied all the time, but
15 she still managed to have a life. And she still managed
16 to focus on her friends, and her family, and fit in so
17 many more things in a day than I ever could in a month.
18 She was amazing.

19 Q You mentioned her family. What was her relationship
20 with her family?

21 A She was very close with her family. I know she was
22 homesick a lot. And she loved going home.

23 Q Where was home for her?

24 A St. Louis. And she was always on the phone with her
25 mom. I know that. She loved her mom.

1 Q Take a minute. Do you need some water?

2 A No. I'm okay. She was just really close with her
3 family. And she had a little sister and a little brother.
4 And I know she took a lot of pride in being the big
5 sister.

6 Q How do you know that?

7 A She was always on the phone with her little sister.
8 And they would chat online. And her little sister would
9 call her and ask her questions about school or friend
10 issues. And Tiffany just loved being there for her, and
11 loved being that big sister role.

12 Q Was she that way with her friends as well?

13 A Absolutely. She was always there for you if you
14 needed her. I know I went to her a million times with
15 problems, with boyfriend issues, with school issues, with
16 family issues. She was always there for you, which was
17 convenient because she was the bedroom right next to mine.
18 And you know you could always go in her room and she would
19 help you. She was very good at giving advice.

20 Q You talked about how she was with her family and with
21 her friends. Do you know of any specific instances of her
22 working and helping people that she didn't even know?

23 A All the time. Tiffany was just very outgoing and had
24 no problem talking to people and making friends.

25 And there was this one time where she was late coming

1 home from class. And we were always together. So I asked
2 her, you know, what were you doing? Why were you late?
3 And she -- when she got out of class, she had seen some
4 boy that she -- I don't think she knew him. And he didn't
5 look very well. He looked like he was sick.

6 So she asked him, Are you okay? Can I help you? Do
7 you need anything? And he said, I'm very dizzy. I don't
8 feel good. I feel like I'm going to fall over. And she
9 took him to the hospital. And it turns out that he had
10 vertigo. And she just did that out of her own will. She
11 voluntarily took him to the hospital and took him back.
12 It was no big deal to her. And she just told it like, Oh,
13 well, just this guy that needed my help, no problem.

14 Q You mentioned that y'all met when you were freshmen.
15 Y'all were not roommates as freshmen?

16 A No.

17 Q You became roommates when?

18 A Sophomore year, we were roommates.

19 Q Tell me about her as a roommate. What kind of
20 roommate was she?

21 A She was a wonderful roommate. She was always leaving
22 me notes. We shared a bathroom. And our bedrooms were
23 right next to each other. And you would wake up and there
24 would be a post-it note on the bathroom window that
25 said -- the bathroom mirror that said, Have a great day,

1 or, you know, Don't forget your tea, I left out tea for
2 you.

3 She was always giving you little gifts. She was
4 always cleaning. She was always decorating her room. She
5 was always buying groceries for people and cooking for
6 you. She was a wonderful roommate to come home to because
7 she was always happy. And if you had a bad day, she was
8 there to tell you jokes and make you laugh.

9 Q I know it may be difficult, Ms. Bergman, but could
10 you tell us -- tell this Court how Tiffany's death has
11 affected you?

12 A How has it not affected me? College has a way of
13 making your friends your family. And so losing Tiffany, I
14 would imagine, feels a lot like losing a sister. I don't
15 have a sister. She was probably the closest thing that I
16 had to a sister.

17 It's hard not to think about her every day,
18 especially because when I went over to my apartment that
19 day, I didn't expect to find her dead. And that's a hard
20 thing to get over. And to see your best friend look like
21 that, it's just not -- no one should ever have to see
22 their best friend like that. And it's just something that
23 I don't think I'll ever get over. And to know that your
24 friend died in a very violent way just makes it much more
25 difficult, I think.

1 And I have to live with the guilt that I moved out a
2 couple days before she died. So I have to live with the
3 fact that if I had stayed just a few more days, this might
4 not have happened. And so that's on me. And that is
5 something that I'll have forever.

6 MS. STROM: Thank you, Ms. Bergman.

7 Please answer any questions the Defense may have.

8 CROSS-EXAMINATION

9 BY MR. CULBERTSON:

10 Q Ms. Bergman, my name is Symmes Culbertson. And I'm
11 one of the attorneys that represent Mr. Inman.

12 I'm sorry for your loss.

13 A Thank you.

14 Q Just a few questions I want to go over. You
15 met Tiffany when you were a student at Clemson,
16 obviously?

17 A Yes.

18 Q And you had known her for a while before y'all became
19 roommates together?

20 A Yes.

21 Q Prior to that, I assume that both you and Tiffany
22 lived in one of the dorms over at Clemson?

23 A We both lived on Manning Hall, yes.

24 Q And, at some point, the two of y'all decided to move
25 out of the dorm and go rent an apartment together, and get

1 some other friends and move into your own place?

2 A Yes.

3 Q Could you tell me who the other three, four people
4 that were in the apartment were?

5 A It was four bedrooms. It was myself, Tiffany Souers,
6 Christina Morello, and Jordan Vogue.

7 Q And, I assume, some of those girls, along with the
8 photograph that was shown earlier -- let me ask this.
9 Were y'all in a sorority together?

10 A No.

11 Q Okay. Do you know -- was Tiffany in a sorority?

12 A Tiffany was a member of Kappa Kappa Gamma.

13 Q But you were not?

14 A No.

15 Q Were any of the other roommates there in the
16 apartment sorority sisters?

17 A There were three of us in a sorority, but we were all
18 in different sororities.

19 Q Okay. Y'all were pretty close friends?

20 A Yes.

21 Q You referred to her as your sister?

22 A Yes.

23 Q You shared a lot together, she was a wonderful, kind,
24 caring person.

25 A Yes.

1 Q Somebody parents should be proud of, everybody should
2 be proud of.

3 A Absolutely, yes.

4 Q You, certainly, were proud of her?

5 A Yes.

6 Q You talked about what a dedicated student she was,
7 what a great friend she was to people she didn't even
8 know, and, certainly, what a great friend she was to
9 people she considered a friend.

10 A Yes.

11 Q Is it fair to say that you spent a great deal of time
12 every day with her?

13 A Yes.

14 Q Not only going to school, but just being roommates?

15 A Yes.

16 Q Did you do -- I've been led to believe that Tiffany
17 did a lot of social outreach stuff, a lot of charitable --
18 is that true?

19 A Yes.

20 Q Could you tell me a little bit about that?

21 A The wonderful thing about Tiffany is she did all
22 these things in the community, and all this volunteer
23 work, and she never told anybody. I didn't know about a
24 lot of it until after she died.

25 Q All right. Tell me a little bit about what you

1 knew beforehand and what you've come to learn after the
2 fact.

3 A I knew that in high school she did a bunch of stuff.
4 I think there was one of those national charity
5 organizations, and I don't remember the name of it, but I
6 know she did a lot in high school. I'm not familiar with
7 specifics.

8 And I know that when we were roommates, I knew she
9 was driving to Easley a lot to help out with this
10 organization, but she never told me that it was volunteer
11 work. She never told me it was, you know, charity. I
12 found out afterwards that she was, actually, going there
13 every day and not saying anything.

14 Q Okay. Did y'all go to church together?

15 A No.

16 Q Do you go to church?

17 A No.

18 Q Did Tiffany go to church?

19 A Yes, but not every Sunday.

20 Q Okay. I understand that. She was a dedicated church
21 member, in your opinion?

22 A I would say so.

23 Q And do you know which church she belonged to?

24 A I know she was Catholic.

25 Q Do you know if she did any sort of social outreach,

1 or help, or assistance through the Catholic church?

2 A I don't know.

3 Q Did you know that she had recently begun doing some
4 outreach programs to prison inmates?

5 A No. I did not know that.

6 Q Would that surprise you to learn that?

7 A No.

8 Q Those were folks that she was concerned about and
9 wanted to help, along with everybody else?

10 A That does not surprise me.

11 MR. CULBERTSON: Again, I'm sorry for your loss.

12 Thank you.

13 THE WITNESS: Thank you.

14 MS. STROM: Nothing further, Your Honor.

15 We would ask that she be allowed to be excused.

16 THE COURT: Thank you, ma'am.

17 You're released from subpoena.

18 MS. STROM: Your Honor, we call Christina Morello.

19 THE CLERK: Place your left hand on the Bible and
20 raise your right hand.

21 WHEREUPON,

22 CHRISTINA ANN MORELLO,

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Please state your full name.

25 THE WITNESS: Christina Ann Morello.

DIRECT EXAMINATION

BY MS. STROM:

Q It's Morello?

A Morello.

Q Okay.

A With an "O."

Q Where do you live?

A I live in Charlotte, North Carolina.

Q How long have you lived there?

A Gosh, since the beginning of June when I graduated in May.

Q Graduated from?

A Clemson.

Q Do you work?

A I do. I work for Wells Fargo, actually, in South Carolina, but I live in North Carolina.

Q Having gone to Clemson for your educational career, did you know Tiffany Souers?

A I did. I was lucky enough that I got randomly paired with her my freshman year. And I remember calling her up on the phone going, Oh, my gosh, we're going to be roommates. Let's get a fish. And she was like, Okay. I was just that crazy. I probably called her five times a day telling her how we should decorate our room, and what we were going to do, and where we had to go every day.

1 Q Did you know her before this?

2 A No.

3 Q You just, on your own, called her up and started
4 planning your freshman year?

5 A I was very excited. She was, too, though.

6 Q I'm going to show you what's been marked as State's
7 Exhibit No. 15 -- Nos. 14 and 15.

8 MS. STROM: Your Honor, I've previously provided
9 these to counsel and, again, have shown them to them this
10 morning.

11 THE COURT: They indicate no objection.

12 MR. CULBERTSON: No objection.

13 (WHEREUPON, State's Exhibit Nos. 14 and 15 were
14 admitted into evidence.)

15 BY MS. STROM:

16 Q Do you recognize this?

17 A Uh-huh.

18 Q What I'm going to do, Ms. Morello, is have you tell
19 us a little something about Tiffany. And I'm going to put
20 the photographs up on the presenter, and you tell us a
21 little bit about them.

22 A Okay.

23 Q State's Exhibit No. 14. Can you describe for me --
24 first of all -- and do you see the laser pointer in front
25 of you?

1 A Uh-huh.

2 Q There's a red button saying "Laser." Who's in this
3 photograph?

4 A That's me right there. And that's Tiffany. And
5 that's Holly. We were -- that was our freshman year. And
6 we had just had our first homecoming. So we decided to go
7 out and help pump the floats.

8 Q To do what?

9 A Pomp. It's hard to explain. It's using little
10 pieces of paper, and you stuff them with colorful pieces
11 of paper over and over and over again to help make these
12 real pretty floats for homecoming.

13 Q All right.

14 A So me, and Holly, and Tiffany, and a bunch of other
15 people that were there decided that we were going to go
16 out and do it. It was probably -- it's a very miserable
17 experience. It's fun. But, after a while, you're like I
18 don't want to look at tissue paper anymore. But we had so
19 much fun with it.

20 Tiffany was pumping the floats on the rafters and,
21 you know, throwing things down at us. And we all ordered
22 pizza. And it was just -- something like that could just
23 be so fun with her. And we really had a really good time
24 doing it.

25 Q State's Exhibit No. 15, tell us about this

1 photograph.

2 A Well, she would probably not be too happy with me
3 about that one. But we -- it would rain really hard in
4 Clemson sometimes. So we decided to go out and run in the
5 rain and play football with some of our friends.

6 So it was storming outside and Tiffany was like,
7 let's go. We're going to go meet up with a bunch of
8 people and we're going to go fly through the mud. And we
9 were covered head to toe, mud, grass, everything. We
10 never got in trouble for making the entire bathroom look
11 dirty, but, you know, it's stuff like that. That picture
12 just reminds me of Tiffany so much, just goofy and having
13 a good time. You can just tell how much fun we had
14 together.

15 Q Again, was that freshman year?

16 A That was.

17 Q And that was in the dorm?

18 A It was.

19 Q Or this picture was taken in the dorm?

20 A Yeah. That was right outside our room, actually.

21 Q Tell me a little bit -- you said that you were lucky
22 enough to get paired with her for the freshman year.

23 A Uh-huh.

24 Q So you roomed with her freshman year?

25 A Uh-huh.

1 Q And did you room with her, also, sophomore year?

2 A Yes, ma'am.

3 Q How did that come about?

4 A Well, me and Tiffany lived together freshman year.

5 And we decided, well, we had to live together second year

6 and third year, we were planning on. So we met Holly and

7 Holly's roommate, Jordan. And we decided, okay, this is

8 perfect. Two and two. We picked straws on who lived on

9 each side. And we started planning, again, how we were

10 going to decorate and what we were going to do.

11 So it was just nice. We just kind of kept continuing

12 on with our friendship.

13 Q Tell us a little bit about Tiffany, what kind of
14 person she was.

15 A I've been asked this a lot, even throughout multiple

16 days, and even talking to people in general. And I've

17 always found it very difficult to answer that question,

18 because I don't know how to put words on her. She was

19 just one of those people who had such a passion for life

20 and for people. And people like that are just so

21 indescribable to me.

22 And I could tell you story after story after story,

23 but I couldn't ever grasp exactly Tiffany's personality,

24 you know. It was the contagious laugh. It was the nasty

25 steamed vegetables that she used to make in our apartment

1 that used to drive me crazy. It was the waking up -- and
2 I am not a morning person, and her having, you know, Good
3 morning, I've been up for hours, you know. She was just
4 ready to go for the day.

5 And the fact that I had no idea -- I knew she helped
6 out a lot in the community, but I had no idea the
7 magnitude until after Tiffany died. Nothing. I never
8 knew how she could fit in, you know, engineering, friends,
9 she was always there for everything, and school work, all
10 the time with all that community service work she did into
11 one day.

12 And then -- I mean, as Holly was talking, her family,
13 she fit that all in, too. It was, you know, going home
14 here, talking to her little sister there. And it was just
15 so nice how she interacted with her family.

16 Q Tell us, if you can, how Tiffany's death has affected
17 you.

18 A Well, it's affected me in so many ways, not just in a
19 nightmare bad dream, you know, when is this going to end
20 way. But it's -- when Tiffany died, so much of me did,
21 too, and so much of the people she interacted with and so
22 much of the people she touched. I mean, that took so much
23 of them, too, with her. And it took a lot of faith and a
24 lot of hope and really taking the strength that I --
25 Tiffany showed me to put the pieces back together.

1 I never thought I would be able to exhale without her
2 there to inhale, or vice versa, or I didn't know what I
3 was going to do going back to school. And it took every
4 day just to put it back together and say, Okay, you know,
5 maybe I didn't sleep tonight, or maybe today is not going
6 to be a good day, but, you know, I'm going to make it for
7 Tiff. And I'm going to tell her all about it, you know.
8 This doesn't mean we weren't best friend and this doesn't
9 mean we didn't love each other, you know. I'm going to
10 carry on because that's exactly what she would have wanted
11 me to do. And every time I cry, I know she's sitting
12 there saying, Christina Morello, you get it together, you
13 know. You go have fun and, you know, tell me about it
14 later. And it's okay.

15 MS. STROM: Thank you very much.

16 Please answer any questions that the Defense may
17 have.

18 THE WITNESS: Thank you.

19 CROSS-EXAMINATION

20 BY MR. CULBERTSON:

21 Q Again, my name is Symmes Culbertson.

22 And were you in the courtroom earlier when your
23 friend testified?

24 A Yes, sir.

25 Q I'm assuming everybody else back there is either

1 friends of or sorority sisters of -- all of y'all knew
2 each other and were good friends?

3 A For a good part.

4 Q Everybody is a friend of Tiffany's?

5 A Everyone she met was.

6 Q She was that kind of person, everybody she met became
7 her friend?

8 A It was ridiculous. I'm telling you, her phone rang
9 all the time. It drove me crazy. It was always on
10 vibrate. And it would vibrate all over the floor.

11 Q We saw the photograph earlier of the phone in her
12 hand. I'm assuming she was waiting for a call from
13 somebody else, or her mom, or somebody; is that fair?

14 A Yeah. She'd talk to her family a lot, especially her
15 siblings.

16 Q She loved her mom?

17 A And her dad.

18 Q And her dad?

19 A Yeah. She always said, you know, Mom's been walking
20 Nisso [phonetic] and -- that's her two dogs -- dad's been
21 working out and, you know, he gets stressed about work.
22 And I'm worried and Trevor and Brianna. And, you know,
23 she told you all about the whole family.

24 Q She cared about everybody, her friends, family?

25 A Yes, sir.

1 Q Even people she didn't know; fair?

2 A Uh-huh.

3 Q I mean, we heard a story earlier about this fellow
4 who had vertigo and was not doing too well and she,
5 actually, tried to help that person get back. That was
6 Tiffany?

7 A Yeah.

8 Q Was Tiffany the kind of person that showed compassion
9 for and cared for everybody she met?

10 A Most definitely.

11 Q And is it your opinion that Tiffany would show
12 compassion and care for even the lowest among us?

13 A I feel that she showed compassion and care for
14 everyone.

15 MR. CULBERTSON: Thank you, ma'am.

16 Again, I'm sorry for your loss.

17 MS. STROM: Nothing further.

18 We would ask that she be allowed to be excused.

19 MR. CULBERTSON: No problem.

20 THE COURT: Thank you, ma'am.

21 You're excused from subpoena.

22 MS. STROM: And, Your Honor, if I did not formally
23 move them into evidence, it's my understanding that the
24 photographs are in evidence without objection.

25 MR. CULBERTSON: No objection.

1 MS. STROM: And, Your Honor, as a formality, of
2 course, we move into evidence, at this stage, the
3 stipulated facts presented at the guilt phase -- at the
4 guilty plea. I don't know if we have to formally do that,
5 but I try to do that to make sure everything is clear.

6 MR. BANNISTER: That would be without objection, Your
7 Honor.

8 THE COURT: Okay. Without objection.

9 Is there a number on that one?

10 MS. STROM: On the stipulated facts?

11 THE COURT: It's State's Exhibit No. 1.

12 MR. ARIAIL: And, also, the exhibits that were
13 attached.

14 THE COURT: I think it's all one exhibit, if I'm not
15 mistaken.

16 MR. ARIAIL: Is it?

17 THE COURT: Yes, it is.

18 MR. ARIAIL: It's got the exhibits attached to it,
19 statements --

20 THE COURT: Let's check and make sure.

21 No. They're not attached.

22 MR. ARIAIL: There are 11 of those, State's Exhibit
23 Nos. 1 through 11.

24 THE COURT: Okay.

25 MR. ARIAIL: They're referenced in the body.

1 THE COURT: Okay.

2 MR. ARIAIL: I move those in, also.

3 THE COURT: Okay. Any objection?

4 MR. BANNISTER: None, Your Honor.

5 (WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7,
6 8, 9, 10, and 11, which were previously admitted on
7 August 19, 2008, were reintroduced into evidence.)

8 MR. ARIAIL: I call Chief Deputy Bud McCoig.

9 THE CLERK: Raise your right hand and place your left
10 on the Bible.

11 WHEREUPON,

12 G.W. MCCOIG,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Please state your full name for the
15 record.

16 THE WITNESS: G.W. McCoig.

17 THE COURT: Spell that last name for us.

18 THE WITNESS: M-C-C-O-I-G.

19 THE COURT: Thank you very much.

20 DIRECT EXAMINATION

21 BY MR. ARIAIL:

22 Q Mr. McCoig, if you would, keep your voice up just
23 like that.

24 What's your present position?

25 A I'm the chief deputy with the Jefferson County

1 Sheriff's Department.

2 Q And the Jefferson County Sheriff's Department is
3 where?

4 A In Dandridge, Tennessee.

5 Q How far is that from Pickens?

6 A It's probably about two and a half hours from here.

7 Q And how long have you been in that position?

8 A Seven years.

9 Q And how long have you been in law enforcement?

10 A 26 years.

11 Q I want to direct your attention back to June the 6th
12 of 2006. Do you remember that day?

13 A Yes, sir.

14 Q And, on that date, did you have occasion to locate
15 Jerry Buck Inman in Jefferson County, Tennessee?

16 A Yes, sir.

17 Q To your knowledge, was he a resident of the county?

18 A Yes, he was.

19 Q And you had had prior dealings with him and knew him
20 personally?

21 A Yes, sir.

22 Q When you started to locate Mr. Inman, was anyone
23 working with you?

24 A Yes, there was.

25 Q Who was that?

1 A Mike Hannon with TBI.

2 Q And "TBI" is a shortage for what?

3 A Tennessee Bureau of Investigations.

4 Q And was he a local agent in the area that would
5 normally work with you?

6 A Yes, he was.

7 Q On any kind of case that you asked him to?

8 A Yes.

9 Q What time of day, approximately, did you start -- you
10 and Mr. Hannon start to look for Mr. Inman?

11 A It was in the afternoon between 4:00 and 5:00 p.m.

12 Q And where is the first place you went to look for
13 him?

14 A We went to his residence at 1197 Swannsylvanias Road.

15 Q And you knew where that was?

16 A Yes, I did.

17 Q And was anyone there?

18 A Yes.

19 Q Who?

20 A His mother.

21 Q And did you know her, also?

22 A Yes, sir.

23 Q You knew his family that lived in the county?

24 A Yes.

25 Q Was Mr. Inman at the residence at 1197 Swannsylvanias

1 Road?

2 A No, he wasn't.

3 Q And where did you go after there?

4 A I went to Swannsylvania Church on Swannsylvania Road.

5 Q And how far was that from the mother's house?

6 A Approximately a mile.

7 Q And what was the reason you went there?

8 A To talk to Mr. Inman's father -- or stepfather.

9 Q And he was at the church?

10 A Yes, he was.

11 Q Did you meet with him?

12 A Yes, I did.

13 Q And, as a result of meeting with him, did you find

14 Mr. Inman at the church?

15 A No, we did not.

16 Q Where did you go after meeting with Mr. Inman's

17 father?

18 A We went to Patterson Road in Dandridge, Tennessee.

19 Q And what was the location there that you went to?

20 A We went to Mr. Inman's sister's house.

21 Q Mr. Inman's sister?

22 A Yes.

23 Q Did you know where that was, or did you get that

24 information from Mr. Inman's father?

25 A I got that from Mr. Inman's father.

1 Q And did -- well, did you locate Mr. Inman at his
2 sister's house?

3 A No, I did not.

4 Q At that time, did you -- what did you and Mr. Hannon
5 do?

6 A We split up. And Mr. Hannon stayed at the sister's
7 house to watch that location. And I went back to the
8 mother and stepfather's house, and Mr. Inman's house,
9 located on Swannsylvana Road.

10 Q And I assume, at this time, you had received
11 information as to what Mr. Inman was wanted for in South
12 Carolina?

13 A Yes, I had.

14 Q Now, did -- you said you went to the residence of --
15 back to his mother and father's residence?

16 A Yes, I did.

17 Q And how long did you stay there?

18 A Several hours.

19 Q Several hours?

20 A Yes.

21 Q And did Mr. Inman come to that residence?

22 A Yes, he did.

23 Q About what time?

24 A It was, approximately, between 11:30 and 11:45 p.m.

25 Q And where were you when he came to the residence?

1 A I was sitting in my vehicle in his driveway.

2 Q So you were in your car -- in a vehicle?

3 A Yes, I was.

4 Q What did Mr. Inman do when he came to the residence?

5 A As he pulled in front of the residence, he slowed as
6 if going to turn into the driveway, then sped up. At that
7 time, I followed him with my blue lights and siren on.

8 Q How long did you follow him, or how far?

9 A About six-tenths of a mile until he turned into Mount
10 Carmel Church on Swannsylvania Road.

11 Q And when he stopped, did you get out of your vehicle?

12 A Yes, I did.

13 Q You went to his vehicle?

14 A Yes.

15 Q Did he get out of his vehicle or remain there?

16 A After I requested him to get out, he stood outside
17 his vehicle.

18 Q And, at the time that he got out, did you handcuff
19 him?

20 A Yes, I did.

21 Q And did you, at any time, have your weapon out during
22 this process?

23 A No, sir.

24 Q Were you by yourself or did you have another officer
25 with you?

1 A I was by myself.

2 Q And when you got out of the car, where did you go?

3 A To his vehicle.

4 Q Back -- from his vehicle back to your car?

5 A Yes, sir.

6 Q And when -- where did you sit in your vehicle?

7 A Okay. I placed him in the front seat passenger seat,
8 handcuffed in the front. And I sat back down in the
9 driver's seat of my car.

10 Q What did you say to him, or how did you start the
11 conversation with him?

12 A I first advised him of his rights. And then I asked
13 him if he knew South Carolina was wanting to talk to him.

14 Q Let me -- before we go any further, when you say you
15 advised him of his rights, what rights did you advise him
16 of? And, if you would, just tell us right here and put it
17 on the record what you, specifically, advised him of.

18 A Before I asked him any questions, he had to
19 understand his rights. He had the right to remain silent.
20 And anything he said could be used against him in court.
21 He had the right to talk to an attorney before any
22 questions, if he wished to. If he couldn't afford an
23 attorney, one would be appointed to represent him before
24 any questioning, if he wished one. And I asked him if he
25 understood each and every one of those rights. And he

1 said he did.

2 Q Did you ask him if he was willing to talk to you?

3 A Yes.

4 Q And what did he respond?

5 A Yes.

6 Q Did he appear to you to understand his rights?

7 A Yes, he did.

8 Q Did you coerce or threaten him in any way or put
9 pressure on him to talk to you?

10 A No, sir.

11 Q Did you strike him or physically abuse him in any way
12 to have him talk to you?

13 A No, sir.

14 Q Did you promise him anything or hold out any hope of
15 reward in exchange for talking to him?

16 A No, sir.

17 Q Did he appear to you, at that time, to be in a normal
18 state of mind?

19 A Yes, he did.

20 Q Were his answers to your subsequent questions
21 appropriate responses?

22 A Yes, they were.

23 Q Did he appear in any way to be under the influence of
24 alcohol or drugs?

25 A No, sir.

1 Q Was there anything about the circumstances, based on
2 your experience as a law enforcement officer, that you
3 would have noticed that would have overcome his free will
4 and ability to make an intelligent decision about whether
5 to talk to you?

6 A No, sir.

7 Q Is there anything that would have overcome his free
8 will to voluntarily make that decision?

9 A No, sir.

10 Q Did he, at any time, tell you he wanted to talk to a
11 lawyer?

12 A No, he did not.

13 Q Did he, at any time, tell you he did not want to talk
14 to you?

15 A No.

16 Q During the entire time that you were talking with him
17 in your car, were any other officers present?

18 A At first, no. But, later in the conversation, Mike
19 Hannon, the TBI agent, walked up to my car.

20 Q He came up later in the conversation?

21 A Yes.

22 Q You said he indicated he would talk to you. Did you
23 make notes of that conversation?

24 A Yes, I did.

25 Q On a piece of paper in your car?

1 A Yes.

2 Q And do you have those notes with you?

3 A Yes, I do.

4 Q And, if you need to, you can refer to those, if you
5 need to. But I'm going to be very brief about what I want
6 to ask you. Do you know what time the conversation began
7 or what time you advised him of his rights?

8 A At 11:47 p.m.

9 Q 11:47 p.m.?

10 A Yes.

11 Q And did you begin to have a discussion about why
12 South Carolina authorities wanted to talk with him?

13 A Yes, sir.

14 Q Did he and you begin to talk back and forth about the
15 specifics of that case that you were aware of?

16 A Yes, sir.

17 Q And, in that conversation, were you aware and did you
18 have a discussion with him that he had -- or was being
19 sought for the murder of a 20-year-old college student?

20 A Yes, sir.

21 Q In that conversation, did he tell you how he thought
22 of himself as a result of the murder and rape of Tiffany
23 Souers? How did he characterize himself?

24 A He stated, After that shit right there, I'm a fucking
25 animal.

1 Q That's what he told you directly and you wrote that
2 down in your notes?

3 A Yes, sir.

4 MR. ARIAIL: Answer any questions Defense counsel
5 might have.

6 MR. BANNISTER: Your Honor, may we have just a
7 moment?

8 I need to retrieve a file from our -- we've got this
9 particular file over in our office. It won't take but
10 five minutes. But I would like, at least, a chance to
11 review that right quick.

12 THE COURT: All right. Well, we'll take about a
13 10-minute break.

14 MR. BANNISTER: That will be fine.

15 THE COURT: And, Officer, you're free to get down.
16 Please don't discuss your testimony with anybody.

17 THE WITNESS: Yes, sir.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Okay. Cross-examination.

20 MR. CULBERTSON: Thank you, sir.

21 CROSS-EXAMINATION

22 BY MR. CULBERTSON:

23 Q And I apologize. You've got to help me with the
24 pronunciation of your last name. Is it McCarty?

25 A It's McCoig with an ugh [phonetic] to the end of it,

1 McCoig.

2 Q Okay. Deputy?

3 A Yes.

4 Q Chief Deputy?

5 A Yes.

6 Q All right. From what you described earlier, would

7 you characterize that as a fairly benign stop?

8 A I don't understand what you mean.

9 Q Well, you went to Mr. Inman's parents' house, he

10 wasn't there. When he showed up, you followed him a short

11 distance to the church. He pulled over and stopped at the

12 church?

13 A Yes, sir.

14 Q All right. No high speed chase, no trying to evade

15 you, no taking corners, or going down different roads, or

16 any of that?

17 A It appeared when I was following him, he didn't want

18 to stop at first.

19 Q Okay. But he did stop?

20 A Yes, he did.

21 Q After about half a mile?

22 A Six-tenths of a mile, yes.

23 Q And when you got out of your car -- when the car

24 Mr. Inman was driving, finally, stopped and you stopped

25 your patrol car, you got out of your car and walked up to

1 his car?

2 A Yes. I spoke to him as I approached his car.

3 Q You were talking as you were walking towards his car?

4 A Yes.

5 Q Did you have your gun drawn?

6 A No, sir.

7 Q Was there anybody else in your car with you at that
8 time?

9 A No, sir.

10 Q Had you called for backup at that time?

11 A Yes, sir.

12 Q You had?

13 A Yes, sir.

14 Q But they hadn't gotten there yet?

15 A No, sir.

16 Q So, from the time you got out of your car to walking
17 up to Mr. Inman's car to, finally, getting him out of the
18 car and placing handcuffs on him, backup still had not yet
19 arrived?

20 A No, sir.

21 Q When you put the handcuffs on him, did you place the
22 handcuffs behind his back or in front of his back?

23 A In front of him.

24 Q Is that routine?

25 A I do it both ways.

1 Q You do it both ways?
2 A Yes.
3 Q Did you have your weapon drawn at any time?
4 A No, sir.
5 Q You knew what Mr. Inman was wanted for in South
6 Carolina?
7 A Yes, sir.
8 Q All right. And you didn't feel there was a need to
9 have your weapon drawn or to handcuff him behind his back?
10 A No, sir.
11 Q You then got Mr. Inman to walk with you back to your
12 patrol car?
13 A Yes.
14 Q I'm assuming, at that time, he had handcuffs on?
15 A Yes, he did.
16 Q And a four-door patrol car?
17 A Yes.
18 Q All right. Seat in the back?
19 A Yes.
20 Q I'm assuming there's a partition between the front
21 seat and back seat?
22 A No, sir.
23 Q There's not?
24 A No.
25 Q You made the decision, though, to put Mr. Inman in

1 the front seat?

2 A Yes.

3 Q You've got a computer in the front seat?

4 A Yes.

5 Q You've got a shotgun?

6 A No.

7 Q Have you got any other weapons in the car?

8 A No.

9 Q The only weapon is your weapon, your personal weapon.
10 sidearm that you have on?

11 A Yes, sir.

12 Q You placed Mr. Inman in the car, and y'all began
13 talking?

14 A Yes.

15 Q All right. And, specifically, you began talking
16 about the events that had happened down in Clemson?

17 A Yes.

18 Q And had backup arrived at that time?

19 A No.

20 Q So how long had this been taking place, how long of a
21 period of time had transpired?

22 A Just a few minutes.

23 Q Not a couple of hours, not 30 minutes even, just a
24 couple of minutes?

25 A No.

1 Q You never felt the need to make Mr. Inman get out of
2 the car and get on the ground?

3 A No, sir.

4 Q You never felt the need to immediately put handcuffs
5 on him?

6 A No, sir.

7 Q When you did put handcuffs on him, you put handcuffs
8 on him in the front?

9 A I did.

10 Q And you never drew your weapon?

11 A No, sir.

12 Q And Mr. Inman had a conversation with you about what
13 he was being arrested for out of South Carolina?

14 A He did.

15 Q Was he ever disrespectful, or mean, or aggressive
16 towards you in your conversations with him that afternoon?

17 A No, sir.

18 MR. CULBERTSON: Thank you.

19 I appreciate it.

20 THE COURT: Redirect?

21 MR. ARIAIL: None.

22 THE COURT: All right. Do you want to release this
23 witness from subpoena?

24 MR. ARIAIL: Could he be excused?

25 THE COURT: Any objection?

1 MR. CULBERTSON: No objection.

2 THE COURT: Thank you, sir.

3 You're released from subpoena.

4 THE WITNESS: Thank you.

5 MR. ARIAIL: I call Agent Jeff Kindley.

6 THE CLERK: Place your left hand on the Bible and
7 raise your right hand.

8 WHEREUPON,

9 JEFFREY KINDLEY,

10 after first having been duly sworn, testified as follows:

11 THE CLERK: Please state your full name for the
12 record.

13 THE WITNESS: Jeffrey Kindley.

14 THE COURT: One thing, Mr. Ariail, I would like to
15 clear up is that the actual stipulation of facts is marked
16 as Court's Exhibit No. 1. And your exhibits were State's
17 Exhibit Nos. 1 through 11.

18 MR. ARIAIL: Okay.

19 THE COURT: I had incorrectly previously said that
20 the stipulation was State's Exhibit No. 1, but that's not
21 correct.

22 DIRECT EXAMINATION

23 BY MR. ARIAIL:

24 Q Mr. Kindley, by whom are you employed?

25 A I'm an agent with the South Carolina Law Enforcement

1 Division, SLED.

2 Q That's what we refer to as SLED?

3 A Yes, sir.

4 Q And how long have you been with SLED?

5 A For nine years.

6 Q How long have you been in law enforcement?

7 A 20 years in law enforcement.

8 Q Prior to SLED, you were a detective with?

9 A With the Greenville County Sheriff's Office.

10 Q And what is your present position with SLED?

11 A I'm a regional investigator. SLED split the State
12 into four separate regions. The Piedmont region is where
13 I'm assigned. And it encompasses the 12 upstate counties
14 of South Carolina, including Pickens County.

15 Q I want to direct your attention to June the 6th of
16 2006, and ask you if you had occasion to respond to
17 Dandridge, Tennessee, to the Jefferson County Sheriff's
18 Office, in particular?

19 A Yes, sir, I did.

20 Q What was your purpose in going to Dandridge,
21 Tennessee?

22 A I was advised that Mr. Inman was in custody and
23 directed to respond to the Jefferson County Sheriff's
24 Office and provide him with an opportunity to give us a
25 statement, if he chose to.

1 Q And being aware that Mr. Inman was in custody, were
2 you, also, aware of the prior events involving the murder
3 of Tiffany Souers, and the events that led up to the
4 arrest of Mr. Inman?

5 A Yes, sir.

6 Q You had been involved in this case from the
7 beginning?

8 A Yes, sir.

9 Q Did you respond?

10 A Yes, sir, I did.

11 Q At what time did you arrive?

12 A I arrived at the Sheriff's Office there between 3:15
13 and 3:30 in the morning.

14 Q 3:15 in the morning?

15 A Yes, sir.

16 Q And did you drive there?

17 A Yes, I did.

18 Q Where did you drive from?

19 A I, originally, left the Central Police Department. I
20 went to the Greenville County Law Enforcement Center, met
21 with Agent Donahue, and we rode up in my vehicle.

22 Q So Agent Donahue, also, accompanied you?

23 A Yes, sir.

24 Q Had you been previously advised that Mr. Inman was in
25 custody in Dandridge?

1 A Yes, sir, I was.

2 Q And did you meet with him?

3 A Yes, sir.

4 Q Where did y'all meet?

5 A We met with him at the Jefferson County Sheriff's

6 Office detention facility there. There's, actually -- as

7 you go in, there was a control room or a booking area.

8 And just to the side of that was an interview room. And

9 we met with him there.

10 Q And describe the interview room. What was in there?

11 Did it have windows, et cetera, et cetera?

12 A It wasn't a really big room, maybe 10 feet long and

13 10 feet wide. Between the control room or the booking

14 area, there were bars, as well as a piece of plexiglass

15 about halfway up that you could see inside there. Inside

16 the room was a small desk and three chairs.

17 Q And how were you and Agent Donahue dressed at that

18 time?

19 A We were wearing our call-out gear, which is a black

20 golf-type shirt, polo-type shirt, which has our badge

21 embroidered on the left chest, khaki pants, and black

22 boots, and belt.

23 Q Were you armed?

24 A No, sir. Prior to going into the detention facility,

25 we secured our weapons in a lockbox there.

1 Q How was Mr. Inman dressed?

2 A He had on black and white jail-issued clothing, like
3 a pullover top and trousers and, I believe, flip flops.

4 Q Was he shackled?

5 A No, sir.

6 Q What preliminary discussions did you have with him
7 when you first met?

8 A Well, he was brought in the room after Agent Donahue
9 and I were there. We identified ourselves. We told him
10 we were from South Carolina and that we were there to
11 speak to him. And we asked him if he wanted to speak with
12 us and if he felt rested enough to talk to us.

13 Q Rested enough?

14 A Yes, sir.

15 Q And what was his response?

16 A He said that he would talk with us and he felt rested
17 enough to speak with us.

18 Q And, prior to talking to Mr. Inman, did you advise
19 him of certain rights?

20 A Yes, sir, I did.

21 Q Let me show you -- well, first, tell me how you did
22 that.

23 A I used a departmental form. I told him that before
24 we talk, I have to advise you of your rights. And we have
25 a form that we fill out that goes through those rights.

1 Q And let me show you what's been previously introduced
2 as State's Exhibit No. 10, and ask you if you're familiar
3 with that document?

4 A Yes, sir. That's the form I used.

5 Q And in using the form -- let me show you this on the
6 presenter. If you would, look at it.

7 A Okay.

8 Q Whose handwriting and signatures appear on there?

9 A It's my handwriting and signature, also, Mr. Inman's
10 handwriting and signature, and Agent Donahue's handwriting
11 and signature, also.

12 Q Show me -- you've got that laser pointer right there,
13 and it's got a little red button on it.

14 A The red one?

15 Q Uh-huh. Show me where your signature is.

16 A My signature is here. This is Mr. Inman's signature
17 here. And that's Agent Donahue's signature here.

18 Q Whose initials are those on the left that are going
19 down the page?

20 A Right here?

21 Q Yes.

22 A This is Mr. Inman's signature on the first line.

23 Q And who are the others?

24 A And the following on these lines are my signature or
25 my initials.

1 Q And whose writing is that across the top?

2 A In the place right there, that's, actually, Agent
3 Donahue's writing there.

4 Q And the date and time?

5 A Yes, sir. That's my -- I'm sorry. I put in the date
6 and time there.

7 Q That's your handwriting?

8 A Yes.

9 Q Now, did you explain his rights to him using this
10 form?

11 A Yes, sir, I did.

12 Q Did you determine, first, if he could read and write?

13 A Yes, sir, I did.

14 Q How did you do that?

15 A Well, I asked him, first, Are you able to read and
16 write? He told me that he was. So I read him the first
17 section, Before we ask you questions, you must understand
18 your rights. And then I had him read this line to me
19 aloud.

20 Q Back to you aloud, he read it?

21 A Yes, sir.

22 Q And did he read it correctly?

23 A He did.

24 Q And what did you have him do?

25 A I asked him to put his initials to the left of it.

1 Q And how did you read the next lines? Tell us how you
2 proceeded down that page.

3 A Mr. Inman was seated just to my left. Agent Donahue
4 was seated on my right. So I placed the form in front of
5 Mr. Inman here, and I asked him to read along with me.
6 And I would just go line by line and tell him like,
7 Anything you say can be used in court as evidence against
8 you. I asked him if he understood what that meant. He'd
9 tell me, Yes. And then I'd put my initials there beside
10 the line.

11 Q And go through the rest of them just the way you did
12 with him.

13 A Okay. The next line, this one, I said, you're
14 entitled to talk to a lawyer and have him present now or
15 at any time during questioning. I'd asked him, Do you
16 understand that line? He said, Yes. I put my initials
17 there. If you cannot afford an attorney, one will be
18 appointed for you without cost. Do you understand that
19 line? He said, Yes. I initialed there.

20 The next line, I said, If you decide to answer
21 questions now without a lawyer present, you will still
22 have the right to stop answering at any time. You, also,
23 have the right to stop answering at any time until you
24 talk to a lawyer. Do you understand that line? He said,
25 Yes. I put my initials there.

1 Then I asked him, Do you understand these rights? He
2 said that he did. So I initialed beside that line. I
3 asked him, again, Do you wish to talk to us at this time?
4 He said he did. So I initialed to the left there.

5 Q And then the second portion deals with the waiver of
6 those rights. How did you handle explaining that?

7 A The same thing. I asked him to read along with me.
8 I told him, This is the waiver portion starting there.
9 And I read aloud to him. I read this statement of my
10 rights, and I understand what my rights are. I'm willing
11 to talk now without a lawyer present. I understand and
12 know what I am doing. No promises or threats have been
13 made to me. And no pressure or coercion of any kind has
14 been used against me.

15 If you'll see the word "coercion," you can't see it
16 well, but there's a circle there. I asked Mr. Inman, Are
17 you aware of what coercion means? He said, Yes. And I
18 said, I just want to reiterate we're not forcing you to do
19 anything. Do you want to give us this freely and
20 voluntarily? He said, Yes. So I circled it and then
21 asked him to sign at the bottom.

22 Q And you and Mr. Donahue witnessed it?

23 A Yes, sir.

24 Q After you finished advising him of his rights, did he
25 have any questions he asked?

1 A No, sir.

2 Q Did he, at any time, tell you that he did not want to
3 talk to you?

4 A No, sir.

5 Q Did he, at any time, tell you he wanted a lawyer
6 present?

7 A No, sir.

8 Q Did he appear to you to understand his rights?

9 A Yes, sir.

10 Q Did he appear to you that he wanted to talk to you?

11 A Yes, sir.

12 Q Did you or anyone in your presence, Mr. Donahue,
13 particularly, or anyone else in any way intimidate him,
14 threaten him, coerce him, or put pressure on him to talk
15 to you?

16 A No, sir.

17 Q Did you or anyone in your presence promise him
18 leniency or hope of reward if he would talk to you about
19 this matter?

20 A No, sir.

21 Q Did you touch him or strike him at any time?

22 A No, sir.

23 Q Was there, at any time, in the room anyone other than
24 you, Mr. Inman, and Mr. Donahue?

25 A No, sir.

1 Q During the process up until that point, did he appear
2 to you to fully understand his rights, specifically, his
3 right to an attorney?

4 A Yes, sir.

5 Q Did he appear to you to understand his right not to
6 talk to you?

7 A Yes, sir.

8 Q And did he understand that -- the fact that what he
9 said could be used against him?

10 A Yes, sir.

11 Q Prior to talking to him, did you explain the waiver
12 of rights portion we talked about and he signed?

13 A Yes, sir.

14 Q And he indicated to you he was willing to talk and
15 waived his rights?

16 A Yes, sir, he did.

17 Q Was there anything that occurred during this whole
18 process while you were in his presence that you noticed
19 that you would say threatened, coerced, or intimidated him
20 in any manner?

21 A No, sir.

22 Q Did he appear to you to be acting of his own free
23 will?

24 A Yes, sir.

25 Q And did he appear to you to understand what he was

1 doing?

2 A Yes, sir, he did.

3 Q And he signed the waiver?

4 A Yes, sir.

5 Q And you witnessed it?

6 A Yes, sir.

7 Q At what time did you conclude the waiver of rights

8 process?

9 A Well, I -- after he signed at the bottom and then I

10 witnessed his signature and Agent Donahue signed there,

11 Agent Donahue, also, made the notation of 3:56 a.m.

12 Q And that's 3:56 beside Agent Donahue's signature. So

13 the process of going through that waiver -- of advising

14 him of his rights and waiver of rights took four minutes?

15 A Yes, sir.

16 Q Did he give you a statement?

17 A Yes, sir, he did.

18 Q And who wrote the statement?

19 A Agent Donahue, actually, wrote the statement.

20 Q Were you present while the conversation was going on

21 and it was being written?

22 A Yes, sir, I was.

23 Q Did you hear the conversation and the contents of the

24 statement being divulged?

25 A Yes, sir.

1 Q How did you go about getting it written down? Can
2 you explain that to the Judge?

3 A Yes, sir. We, initially, offered Mr. Inman the -- we
4 asked him, Do you want to write the statement or do you
5 prefer for one of us to do it? He said he would prefer
6 for one of us to write it.

7 So Agent Donahue told him, We'll write the statement
8 one or two lines at a time. But we want to make sure
9 we're putting down exactly what you want on your
10 statement. It's your statement. You'll have to swear
11 it's the truth, the whole truth, and nothing but the
12 truth, but we'll put what you tell us.

13 So he would give us a sentence or two, and Agent
14 Donahue would record it. He sometimes read back a small
15 portion of this is where we are, what else do you want it
16 to list? So it was line by line.

17 Q Back and forth line by line, Donahue writing it down
18 and Mr. Inman talking?

19 A Yes, sir.

20 Q How did you know when his statement was complete?

21 A He told us it was.

22 Q He made that statement?

23 A Yes, sir.

24 Q Tell me exactly what he said.

25 A He -- well, as we got through there -- and, like I

1 say, Agent Donahue would read back certain parts of it.
2 There was a couple things toward the end that he wanted
3 added in. And then he said, That sounds good. That's
4 what I want my statement to read.

5 Q Now, following the conversation that led to the
6 statement, did you continue to talk to him?

7 A Yes, sir, I did.

8 Q And what was Agent Donahue doing?

9 A There's a header portion and different parts on the
10 statement that have to -- a lot of blocks that have to be
11 filled in. He was finalizing the statement and filling it
12 in.

13 Q You're still talking to Mr. Inman?

14 A Yes, sir.

15 Q What were you talking to him about?

16 A I was talking to him about certain items of evidence
17 that we hadn't covered. Because I wanted to see if we
18 could figure out where some evidence was.

19 Q These were pieces of evidence you were aware of from
20 being at the crime scene and being part of the
21 investigation?

22 A Yes, sir.

23 Q Did you ask him regarding his clothes?

24 A Yes, sir. I asked him about Miss Souers' personal
25 belongings, her wallet, car keys, credit cards, bank

1 cards. I asked him about clothing that he wore during the
2 incident. I asked him about some other items, sheets that
3 were taken out of her apartment. And I, also, asked him
4 about bandanas that had been worn when the credit cards
5 were being -- or trying to be used.

6 Q And, in particular, you were asking what regarding
7 these items?

8 A Location, if you could tell us where they were so we
9 could recover them.

10 Q Did you make notes of these answers?

11 A Yes, sir.

12 Q In this conversation?

13 A Yes, sir.

14 Q And when you make notes, are those notes separately
15 recorded in a report that you file?

16 A Yes, sir.

17 Q All right. And was that report dated June the 9th of
18 2006?

19 A Yes, sir.

20 Q Do you have a copy of that report?

21 A I do. I have a copy of that narrative section, yes,
22 sir.

23 Q Feel free to refer to it, if you need to refresh your
24 memory. But did he answer your questions as to where that
25 evidence was located?

1 A Yes, sir, he did.

2 Q What did he tell you?

3 A As far as her wallet -- and I'm reading from the
4 bottom of page two, her wallet, her driver's license, and
5 car keys, he told us he threw them out as he was driving
6 back to Tennessee. He couldn't give us a location. He
7 just remembered going down the road and throwing them out.
8 As far as the bed sheets --

9 Q Did --

10 A I'm sorry.

11 Q I was going to ask you next, did he tell you about
12 the bandannas?

13 A He did. He told us that -- in fact, the bandanas, he
14 described one as being, I think, gray and black, and one
15 as black and white, and that they were still in his
16 vehicle, his Chevrolet Blazer that he was arrested in.

17 His clothing, he couldn't remember what type of shirt
18 he wore. He knew he had on blue jeans. And he knew he
19 had on work boots. He told us that his clothing would be
20 in his Chevrolet Blazer. But his work boots, he,
21 actually, had on when he was apprehended and the jail had
22 taken those and issued his flip flops.

23 And the sheets, he remembered pulling off somewhere,
24 but he couldn't tell us, specifically, if it was in North
25 Carolina or South Carolina. But he pulled off somewhere

1 and hid those in a wooded area.

2 Q Now, after you concluded that portion that you put in
3 your notes, what happened next?

4 A We allowed him to look at his statement and make sure
5 that it was the way he wanted it to be. Agent Donahue was
6 finishing up with that. So we allowed him to review his
7 statement. He said that it looked accurate to him.

8 And, at one point, as this process is going on, I
9 told him again, Mr. Inman, let me explain to you, we're
10 from South Carolina. We have criminal charges against you
11 there. And I was prepared to tell him about the
12 extradition process.

13 Q Before we go to that, let me ask you about the
14 statement itself, which has been marked as State's Exhibit
15 No. 11. Let me show you what is the first page, along
16 with the contents, the bottom -- the notes on the bottom
17 right states that this statement was accurate, but he
18 didn't want to sign?

19 A That's correct.

20 Q Who wrote that in there?

21 A Agent Donahue.

22 Q And that was after you finished, and had presented
23 the statement to him, and he related to you it was
24 accurate?

25 A Yes, sir.

1 Q The second page, which is part of the exhibit, and
2 then I'll ask you about the third page, which is part of
3 the exhibit, what is that?

4 A That was -- we were trying to get an idea of as he
5 described her apartment and where he had parked, and the
6 way he had made entry. Agent Donahue kind of did a rough
7 sketch of where the apartment was. And he used it to make
8 a notation of where his vehicle was.

9 And I -- if I'm not mistaken, it's hard to tell from
10 here, there -- and I don't know which way to tell you,
11 east or west. But there was a common entry that went in
12 down on this end. And there was a banister area here.
13 And then there's some parking -- a parking area up against
14 a wooded area. And he told us he had parked his car up
15 against those trees and had, actually, come down here.
16 And this is where he had gone over the balcony, hopped
17 over the balcony, and made entry through the doors there.

18 Q Okay. Did he tell you why he did not want to sign
19 the statement?

20 A Yes, sir.

21 Q What did he tell you?

22 A He said, We still have to go to court on this. He
23 told us it was accurate, it was correct, But I don't want
24 to sign it because we still have to go to court on this.

25 Q Still have to go to court?

1 A Yes, sir.

2 Q After -- you were beginning to tell us that after the
3 statement was signed -- I mean, not signed, but complete
4 and he's reviewed it, you were talking to him about
5 extradition?

6 A Yes, sir.

7 Q And what were you talking to him about extradition?

8 A I wanted to make sure that he understood we were in
9 Tennessee, and we had charges in South Carolina. And I
10 was going to explain to him the extradition process. And
11 I asked him, We have criminal charges against you in South
12 Carolina, do you want to go back to South Carolina with
13 us? He then asked me, Does South Carolina have a death
14 penalty?

15 I thought he meant in reference to the extradition
16 and whether he wanted a hearing, or whether he wanted to
17 waive it. And I can read to you what he said to me. I
18 quoted him in my report. He stopped me and he said, Don't
19 you understand? That's what I want.

20 Q Before you go into that, what had you explained to
21 him about the death penalty in South Carolina?

22 A I told him that his -- the charges that he had didn't
23 automatically qualify him for the death penalty, that the
24 Prosecutor had to elect to seek the death penalty against
25 him, that kind of thing. And there's a process we have to

1 go for -- or go through. And that's when he stopped me
2 and he said, Don't you understand? That's what I want. I
3 killed a 20-year-old college student with everything to
4 live for. And then he said he deserved to get the death
5 penalty.

6 MR. ARIAIL: Thank you, Mr. Kindley.

7 Answer any questions that Defense counsel has for
8 you.

9 CROSS-EXAMINATION

10 BY MR. BANNISTER:

11 Q Agent Kindley, going back for a second to when you
12 entered the room with Mr. Inman. Again, I understand, he
13 was not shackled. He was in the prison garb and there
14 were two of you; correct?

15 A Yes, sir.

16 Q And you were writing with a pen, I assume?

17 A Yes, sir.

18 Q You had your sidearm with you in at that room, or no?

19 A No, sir. We had secured those at a lockbox prior to
20 going into the detention facility.

21 Q Were the Defendant's legs shackled in any way?

22 A No, sir.

23 Q While he was talking to you, did he make any
24 aggressive moves or moves that would cause you concern for
25 your own safety within the confines of that interview?

1 A No, sir.

2 Q Was his demeanor and affect consistent throughout the
3 interview process while you were there?

4 A You're asking for my opinion as far as his demeanor?

5 Q No, just what you viewed his demeanor and affect to
6 be. Was he looking at the ground? Was he talking softly?
7 Was he a chatterbox, or was it monosyllable answers? What
8 was his demeanor and affect while you were interviewing?

9 A While we, initially, talked with him and went through
10 this statement and the whole nine yards, he wouldn't blurt
11 out answers to us. He would take his time and tell us --
12 I mean, he was picking his words as we would go through
13 things. And we continued talking about like we're talking
14 up until the point that he made the comments about the
15 death penalty. At that point, he was more animated than
16 he was beforehand.

17 Q During the comments that he was giving you about the
18 crime itself and while he was going through that, was
19 there any indication to you that he might not be telling
20 the truth about his involvement in this crime?

21 A Any indication as far as?

22 Q From the way he was telling you about the case
23 itself. I mean, was there anything that raised your
24 suspicion that maybe I've got the wrong guy, or maybe he
25 really doesn't know what he has talking about, or he's one

1 of these nuts that's just going to confess to a crime?

2 A No, sir.

3 Q And did that stay the same pretty much throughout the
4 entire process of the interview?

5 A Yes, sir.

6 Q With regard to what he told you about the incident
7 itself, did he, also, mention that when he first came to
8 Tiffany that she resisted him, started to wrestle with him
9 and fight with him?

10 A Yes, sir.

11 Q Was -- other than the statement that you took from
12 Mr. Inman, did you participate in any of the other
13 investigation of this case?

14 A Yes, sir, some of it, I did.

15 Q Okay. Are you aware of anything that would have
16 indicated that Miss Souers knew any type of self-defense
17 or things of that nature?

18 A Anything from the evidence I saw?

19 Q Or any information you garnered during the
20 investigation.

21 A Not that I'm aware of. I came in not at the initial
22 start of the investigation. I was on another detail in
23 the lower part of the state. I came in, actually, later
24 after some of the other things had been done.

25 Q Was there anything inconsistent with his statement

1 that the victim wrestled and fought with him initially
2 that you're aware of?

3 A No, sir.

4 Q When he began to tell you about where his wallet was,
5 where the -- I'm sorry, where he thought he had thrown
6 Tiffany's wallet out, the clothes that you were interested
7 in getting were in the Blazer, and the bandanas. Was
8 there anything you found to be, from the evidence,
9 inconsistent with what we had told you?

10 A No, sir.

11 Q And did you, in fact, find the clothing in the Blazer
12 that he referenced?

13 A Yes, sir.

14 Q And did you, in fact, find the bandanas that you had
15 discussed?

16 A Yes, sir, we did.

17 Q And am I correct that, at some point, someone
18 produced the license or the wallet? They, actually, found
19 it on the side of the road. Are you aware of that?

20 A Yes, sir.

21 Q When you went to see him, and you had gone through
22 the facts of the case, and the statement was being
23 written, you asked him for consent to search; is that
24 correct?

25 A Yes, sir.

1 Q And he granted that consent to search; is that
2 correct?

3 A Yes, sir, he did.

4 Q And that was in a written form. He, actually, had to
5 sign a document to say that you could go look and impound
6 his Blazer; correct?

7 A Yes, sir.

8 Q And when you were talking to him about the
9 extradition and explaining to him about the death penalty,
10 I assume that he stopped you. Because you were indicating
11 to him that he might not, actually, be noticed for the
12 death penalty in South Carolina; is that a fair statement?

13 A I didn't get that far.

14 Q Okay.

15 A I intended to talk to him about the extradition. And
16 then when he brought up the death penalty, I told --
17 that's pretty accurate. And I don't remember my exact
18 words. But I, basically, told him the charges that you
19 have against you, you don't necessarily qualify for the
20 death penalty at this point. That's something that the
21 Prosecutor determines.

22 Q And it was at that point that I understand he became
23 animated when he began to tell you, Don't you understand?
24 I deserve to die for what I did.

25 A Yes, sir.

1 Q And that, I want the death penalty?

2 A Yes, sir.

3 MR. BANNISTER: Your Honor, I don't have any further
4 questions.

5 THE COURT: Any redirect?

6 MR. ARIAIL: None, Your Honor.

7 THE COURT: All right. Thank you, Officer.

8 THE WITNESS: Thank you, sir.

9 (WHEREUPON, a bench conference was held.)

10 MR. ARIAIL: The State calls Suzanne Clavel.

11 WHEREUPON,

12 SUZANNE CLAVEL,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 MR. BANNISTER: Your Honor, before Ms. Clavel takes
16 the stand, I think, if I'm not incorrect, that this would
17 be the time when we need to discuss the prior
18 unadjudicated criminal acts. This is, I believe, what
19 we're getting ready to get into.

20 MR. ARIAIL: I believe this has been adjudicated.

21 MR. BANNISTER: This is the Florida one?

22 MR. ARIAIL: Yes.

23 MR. BANNISTER: I'm sorry.

24 THE CLERK: Please state your full name for the
25 record.

1 THE WITNESS: Suzanne Clavel.

2 THE COURT: Ma'am, would you spell your last name for
3 us, please?

4 THE WITNESS: C-L-A-V-E-L.

5 DIRECT EXAMINATION

6 BY MR. ARIAIL:

7 Q Would you state your name for the record again?

8 A Suzanne Clavel.

9 Q Ms. Clavel, just keep your voice up like that and
10 direct your -- project it to the courtroom. And we'll
11 pick up everything you have to say.

12 I want to direct your attention to December the 13th
13 of 1987, and into the late evening hours and early morning
14 hours of December 14 of 1987. Do you remember that night?

15 A I do.

16 Q Where did you live at that time?

17 A Tampa, Florida.

18 Q Did you live in a house or apartment?

19 A An apartment.

20 Q Did you have a roommate?

21 A Yes, I did.

22 Q What was your roommate's name?

23 A Amanda Hodson, I believe, was her last name. I know
24 her first name was Amanda. I'm not sure about the last
25 name. It's been a lot of years.

1 Q And describe for us your apartment, and what it was
2 like.

3 A It was a ground-floor apartment. You would walk in
4 the front door and the living room would be off to the
5 left, the kitchen would be off to the right, and the
6 bathroom was towards the back, and then the bedroom.

7 Q It was a one bedroom?

8 A Yes, it was.

9 Q And do you recall, approximately, what time you went
10 to bed on December the 13th, 1987?

11 A Around 11:00 p.m.

12 Q And did the apartment have a television?

13 A Yes.

14 Q And was the television on after you went to bed?

15 A Yes, it was.

16 Q And was it running full blast or was it just --

17 A It was just kind of on with ruled-out sound.

18 Q How long were you asleep after you had gone to bed at
19 11:00 p.m. on December 13 before you woke up?

20 A Approximately one hour.

21 Q And what time was that?

22 A A little after midnight.

23 Q Why did you wake up?

24 A I had an uneasy feeling like somebody was around.

25 Q And when you woke up, what did you see?

1 A I saw a young white male to my left holding a gun to
2 my head.

3 Q And was he -- where were you positioned? Were you in
4 the bed?

5 A I was in the bed.

6 Q And was your roommate in the bed, also?

7 A Yes. She was on the other side.

8 Q When you saw -- you say you saw a young white male
9 beside the bed. Was it beside your side of the bed or
10 your roommate's side of the bed?

11 A He was kneeling on my side of the bed.

12 Q Kneeling?

13 A Kneeling.

14 Q On the floor?

15 A Uh-huh.

16 Q Do you remember a description of him any more than a
17 young white male?

18 A He had on blue jeans. He had on a dark pullover
19 shirt, like a polo, a denim jacket. He had kind of dirty
20 blond hair, not a real big man, young man, 5'8", maybe,
21 5'10".

22 Q And was he armed?

23 A Yes. He had a revolver.

24 Q And where was the revolver when you first saw it?

25 A In his right hand.

1 Q And where was it pointed?

2 A To my head.

3 Q Did he say anything to you when you woke up?

4 A Shut up.

5 Q Shut up?

6 A Shut up.

7 Q Had you said anything?

8 A Yes. I said, Who are you?

9 Q And where was Amanda, your roommate, at this time?

10 A She was on the other side of the bed, which would be

11 the west side of the bed.

12 Q Was she still asleep?

13 A She was becoming awake at that time.

14 Q What did he -- or did he instruct you to do anything

15 at that time?

16 A He had me tie Amanda up. He had had some telephone

17 cord already pre-cut from a line on my side of the bed.

18 He handed it to me to tie her up.

19 Q He gave those to you?

20 A Uh-huh. And he told me to tie her up.

21 Q How did you tie her up?

22 A With her hands behind her back. And I tied her up

23 kind of loosely.

24 Q Did you tie her feet?

25 A Yes.

1 Q And where was she located after you tied her up?

2 A She was instructed to get back around on her side of

3 the bed. So she kind of scooched around and got back on

4 her side of the bed. And she was kneeling on her side.

5 Q After she moved back to her side of the bed, what

6 happened next?

7 A He turned me around and had the gun to my head. And

8 he tied me up with my hands behind my back.

9 Q So when you say he turned you around, your back

10 was --

11 A My back was to his front. He flipped me around.

12 Q And were you standing up?

13 A I was standing up, yes.

14 Q Off the bed?

15 A Off the bed, yes.

16 Q On the floor?

17 A Yes.

18 Q Your hands were then tied?

19 A Yes, sir.

20 Q How were you dressed?

21 A I had on a pair of jeans and a tank top.

22 Q And at the time that he turned you to his -- your

23 back to his front, where was the gun?

24 A In his right hand towards my head. I mean, that's --

25 I couldn't see him. I mean, he was behind me, but I could

1 feel the gun.

2 Q On your neck?

3 A Uh-huh.

4 Q Tell us what happened at that time.

5 A He reached around with his left hand and unbuttoned
6 my pants. And I said, Please, no. And he said, Shut up.
7 And he undid my pants and pulled them down and had me step
8 out of them.

9 Q And after you stepped out of them, what happened?

10 A Then he made me kneel on the floor facing the bed and
11 then had my torso over the bed.

12 Q Your knees are on the floor, your torso is on the
13 bed. And where is the gun at this time?

14 A At my head.

15 Q What does he do?

16 A He undoes his pants and then he comes behind me and
17 penetrated me vaginally, and then he penetrated me anally.
18 And then he, again, penetrated me vaginally again.

19 Q So three different events?

20 A Yes.

21 Q And how long did the assault last?

22 A 20, 15, 20 minutes, maybe.

23 Q And was Amanda there?

24 A Yeah. She was a witness to the whole thing.

25 Q She was still in the bed looking at what happened?

1 A Yes. She was facing us.

2 Q After the assault, what did he do?

3 A He asked if we had any money or vehicle keys,
4 anything like that. And we had a little bit of money.
5 And Amanda owned a little Subaru Brat. And she gave him
6 the keys. And he was getting ready to leave --

7 Q Well, let me ask you. Before that, did he pick up
8 any item in the apartment after the assault was completed?

9 A Yes. He picked up like a mesh thing that you would
10 put your delicates in to wash. And he wiped himself off
11 with that.

12 Q And then he began to have a conversation about the
13 car?

14 A Uh-huh, yes, sir.

15 Q Where did he go? Did he leave your room at any time?

16 A Only to leave.

17 Q All right. Where were the car keys that you were
18 talking about?

19 A Well, I'm not sure. I think they were on the
20 dresser.

21 Q All right. And did he obtain car keys from you?

22 A Yes, he did.

23 Q And did he obtain money from you?

24 A Yes, he did.

25 Q How much money? Do you remember?

1 A I do not remember.

2 Q Did he get money from you and Amanda, or just from
3 you?

4 A Both of us. And I don't remember an amount.

5 Q Whose vehicle -- you said it was a Brat vehicle?

6 A Yeah, a little Subaru Brat.

7 Q And who owned that?

8 A Amanda owned that.

9 Q Did he say anything to you when he was leaving?

10 A Yes. He said that if I called the police, he would
11 come back and kill me.

12 Q Were you able to get untied?

13 A Yes, I was.

14 Q How did you do that?

15 A Amanda untied me.

16 Q And how did Amanda get untied?

17 A She was easy to get untied. Because he had me tie
18 her up and I didn't tie her very tight. So she was able
19 to get out.

20 Q And how long was it that you got untied after the --
21 he left? How long did you wait to untie yourself?

22 A Just almost immediately.

23 Q Okay. And did you notify the police?

24 A Yes, I did.

25 Q And did they respond that evening?

1 A Yes, they did.

2 MR. ARIAIL: Thank you.

3 Answer any questions that ---

4 CROSS-EXAMINATION

5 BY MR. CULBERTSON:

6 Q Ms. Clavel, just a few short questions. Back when
7 this took place, Mr. Inman was, ultimately, arrested and
8 charged with the events you just talked about; is that
9 correct?

10 A That's correct.

11 Q And, as a result of that, did you go to court and
12 testify in any court proceedings involving Mr. Inman at
13 that time?

14 A No, I did not. He pled guilty.

15 Q Okay. Were you notified about the guilty plea and
16 did you show up for the guilty plea?

17 A No, I did not.

18 Q Were you informed at all about the events surrounding
19 the resolution of the charges concerning Mr. Inman?

20 A Well, it had been two years after the event that he
21 was, actually, arrested.

22 Q Yes, ma'am.

23 A And then, yes, I was notified that he had been
24 arrested.

25 Q And who notified you about that?

1 A Well, we're going back almost 21 years. I just
2 can't -- I don't know who to tell you told me.

3 Q That's fair. But someone in a position of authority
4 in the State of Florida notified you about Mr. Inman's
5 arrest and court date?

6 A They notified me about the arrest. I don't remember
7 them notifying me about the court date.

8 Q All right. Did they notify you about his guilty
9 plea?

10 A Yes, they did.

11 Q And did you have an opportunity to show up for the
12 guilty plea?

13 A No, I did not.

14 Q So that took place without any input or knowledge to
15 you?

16 A Correct.

17 Q You're aware, though, that, as a result of that
18 guilty plea, he was, ultimately, incarcerated in the
19 prison system in the State of Florida?

20 A Yes.

21 Q Do you remember who told you about that?

22 A No, I do not.

23 Q Do you recall what sort of sentence he received for
24 the event that you talked about a little while ago?

25 A All I know is I was given a piece of paper. And it

1 was, you know, 30 years for this, 30 years for that, five
2 years for this. And that's all that I knew.

3 Q And was that the last you ever heard from the prison
4 system, or from any other position of authority about
5 Mr. Inman and the case involving you?

6 A No. They notified me upon his release in 2005.

7 Q Okay. So when he was released from the Florida
8 prison system in 2005, they notified you?

9 A Yes.

10 Q Prior to his being released from the Florida prison
11 system, did they ever notify you?

12 A Isn't --

13 Q In other words --

14 A -- that what you just asked?

15 Q No. And I may have asked it poorly. I apologize.
16 They notified you when he was released?

17 A Yes, they did.

18 Q Did they notify you prior to his being released about
19 any sort of hearings concerning whether he should or
20 should not be released?

21 A No, they did not.

22 Q Did you ever get any sort of notification about
23 administrative hearings to determine the likelihood of him
24 being committed to prison for more time?

25 A No, sir.

1 Q All you got was a letter saying we let this guy go?

2 A That's it.

3 Q And were you afforded any sort of recourse? By that,
4 I mean, did you have a chance, at that point, to complain
5 to anybody in Florida?

6 A Well, I sent e-mails to them, to the Department of
7 Corrections where he was staying. And I asked if there
8 was anything I could do to keep him inside.

9 Q Sure.

10 A And they said that there was not. Under the
11 guidelines back in the '80's, that's how it was.

12 Q And you were told there was nothing you could do to
13 see to it that he stayed in prison for as long as
14 possible?

15 A That's correct.

16 MR. CULBERTSON: Thank you, ma'am.

17 THE COURT: Redirect?

18 MR. ARIAIL: No, sir.

19 Can she be excused when she so elects to be excused?

20 MR. CULBERTSON: No objection.

21 THE COURT: All right. You're released from
22 subpoena, ma'am.

23 Thank you.

24 MS. STROM: Your Honor, at this time, I would like to
25 publish the Defendant's prior criminal convictions. They

1 have previously been provided to counsel. I have prepared
2 a summary of those marked as State's Exhibit No. 17 with
3 the certified records from the various departments as
4 17-A, 17-B, 17-C, and 17-D.

5 THE COURT: All right. Any objection?

6 MR. BANNISTER: Let me have one last quick look at
7 them.

8 (Pause.)

9 MR. BANNISTER: No objection, Your Honor.

10 THE COURT: All right.

11 MS. STROM: Let me just get this back in order.

12 Again, Your Honor, the summary I prepared, the Court
13 will have the certified convictions.

14 Could we dim the lights a little bit, please?

15 THE COURT: Would you dim those lights, please, sir?

16 MS. STROM: What I have prepared here, Your Honor, is
17 the criminal history summary. It starts with the date of
18 offense December 14th, 1987. That's the offense for which
19 you just heard testimony from Suzanne Clavel. The charge
20 to which he pled guilty was sexual battery. He received
21 30 years. The date of that conviction was 8-18-89.

22 He was, also, charged and pled guilty to robbery. He
23 received 30 years. He was charged and pled guilty to
24 armed burglary, and received 30 years. He was charged and
25 pled guilty to grand theft motor vehicle, pled guilty, and

1 received five years. He was charged and pled guilty to
2 two counts of kidnapping. The date of conviction, again,
3 was 8-18-89. He received 30 years on each of those
4 charges. He, also, had the charge and pled guilty to
5 aggravated assault. The conviction date 8-18-89. He
6 received five years.

7 All of those sentences ran concurrent to one another
8 and ran concurrent to the next charge, which the date of
9 the offense was July 10th, 1998, second degree sexual
10 assault. The date of the conviction on that out of North
11 Carolina was 9-26-88. He received 20 years. The date of
12 offense 2-5-91, February 5, 1991, the charge was attempted
13 escape. He was convicted and received one year on April
14 8th, 1991.

15 And then, as testified by Suzanne Clavel, he was,
16 ultimately, released from the Department of Corrections in
17 Florida on September 1st, 2005.

18 I hand this all up with the supporting certified
19 convictions.

20 THE COURT: Any objection?

21 MR. BANNISTER: None, Your Honor.

22 THE COURT: All right.

23 (WHEREUPON, State's Exhibit Nos. 17, 17-A, 17-B,
24 17-C, and 17-D were admitted into evidence.)

25 MR. ARIAIL: We have another witness, but it's going

1 to get into the unadjudicated. So this is probably a good
2 time for us to break and discuss that, and let everybody
3 else go on a lunch break.

4 THE COURT: All right. Let's break until 2:00.
5 Court is in recess.

6 (WHEREUPON, a lunch break was taken.)

7 THE COURT: A couple of things before we get started.
8 I'm going to -- we have clocked in and made copies of all
9 the affidavits and responses with respect to the live feed
10 issue. And if you all would like a copy of the
11 affidavits. They are no particular order. If you all
12 want to come --

13 Betty, do you want a copy of this?

14 MS. STROM: No, sir.

15 MR. BANNISTER: Thank you.

16 THE COURT: And then I'm going to make a Court's
17 Exhibit the file with the investigative report by Senior
18 Agent Elizabeth Corley with SLED with respect to that, her
19 investigation into the live feed issue. So I will make
20 that Court's Exhibit No. 2.

21 (WHEREUPON, Court's Exhibit No. 2 was marked for
22 identification and admitted into evidence.)

23 THE COURT: Anything else?

24 MR. BANNISTER: Will there be a time we can review
25 that, Your Honor?

1 THE COURT: Yes.

2 MR. BANNISTER: You'll make it available to us, I
3 guess, if you're making it a Court's Exhibit.

4 THE COURT: I didn't make a copy of it. There's a
5 lot of paperwork in there, but you're welcome to it.

6 Yes, ma'am.

7 MS. STROM: Your Honor, we're ready to proceed with
8 our next witness, which would be on an unadjudicated prior
9 offense.

10 THE COURT: Okay.

11 MR. BANNISTER: Well, Judge, I guess you need to kind
12 of direct me a little bit on what more you need to hear
13 that I haven't already previously offered on this.

14 THE COURT: For the record, we had -- after we
15 recessed, we had a bench conference. So I don't know what
16 you -- I think you ought to state your position so there's
17 no question about what that is.

18 MOTIONS

19 MR. BANNISTER: The prior motion that we filed was a
20 motion in limine regarding unadjudicated criminal conduct.
21 And the gist of that motion -- and, of course, I would ask
22 that it be renewed, at this time, and made a part of the
23 record for the purposes of these witnesses that we
24 anticipate being called forward. The gist of it was,
25 because those unadjudicated crimes were not part of this

1 case in any sense, factually or otherwise, other than the
2 assertion that it goes to the Defendant's character, as a
3 result of that, they should be excluded from the
4 sentencing phase of this trial.

5 Your Honor, also, we took the position, at least, in
6 the motion -- and I'm looking back at it now -- that that
7 evidence would, certainly, not be relevant to the
8 circumstances of the capital crime. And to the extent it
9 is relevant at all, it's only relevant potentially to the
10 character of the Defendant. And we believe that it would
11 be subject to, at a minimum, 403 balancing. And it would
12 render these proceedings fundamentally unfair by
13 encouraging a verdict on something other than the facts of
14 this particular case.

15 Of course, at the time we made that motion, Your
16 Honor, we were looking at a jury trial, potentially, and
17 not in front of Your Honor. But I still think it's proper
18 to consider and make an analysis under 403 regarding it.

19 Obviously, we, also, would take issue with the
20 introduction of the evidence until, and if, a proper
21 substantial evidentiary foundation has been laid to give
22 Your Honor the ability to ascertain whether or not the
23 Defendant was, in fact, the one that perpetrated the
24 crimes that we're anticipating coming forward.

25 I would say, as an additional ground, Your Honor, and

1 maybe this is not one raised in my brief, but one I've
2 raised in oral argument is this gets a different level of
3 scrutiny because what it involves, at this point, is
4 the Defendant's Fifth Amendment right not to incriminate
5 himself and his Sixth Amendment right to have a jury trial
6 on these particular crimes.

7 The position we are put in by having the prior
8 unadjudicated crimes come forward is that for purposes of
9 the sentencing phase here, it's clear that his acceptance
10 of responsibility and his owning up to these crimes would
11 be important from a fact finder's standpoint, including
12 Your Honor, to know whether or not he, in fact, takes
13 responsibility for those crimes. Assuming he did that,
14 then he is, in essence, being put in the position where
15 he's had to waive his Fifth Amendment right and,
16 ultimately, his Sixth Amendment right to a jury trial in
17 both the states where these cases would normally be tried.

18 I believe it injects an issue into the case that,
19 potentially, could come back to haunt us. Because we are
20 assuming, for the purposes today, that he is, in fact,
21 guilty of the crimes as they're described. But as you
22 well know, at trial, things change, different issues come
23 up. I hate to see us down the road coming back because
24 something got represented here today that, ultimately, was
25 not part of any adjudication in the future. Those are my

1 objections.

2 THE COURT: Yes, ma'am.

3 MS. STROM: Your Honor, I believe that the law in
4 South Carolina and throughout is that it is clear that
5 this type of evidence is admissible for the purpose of
6 determining and giving insight into the Defendant's
7 character. The case law -- I believe it's State v.
8 Stewart, State v. Green, I believe it's even State v.
9 Coon, the first decision in Coon. They all go to the fact
10 that this is relevant and important evidence that can be
11 considered by the sentencing body so long as the
12 sentencing body does not consider it as proof of a
13 statutory aggravating circumstance.

14 Your Honor is very familiar with that law. You would
15 not consider any of this as proof of any statutory
16 aggravating circumstance. But it is relevant evidence
17 under Stewart and those -- and that case law. And, Your
18 Honor, we do believe that it is relevant. It is not
19 overly prejudicial such that it should be excluded from
20 the trial of this case. And we believe it is something
21 that you, as the sentencing body, should be allowed to
22 hear in order to make that ultimate decision.

23 THE COURT: Well, we're in an unusual posture, I
24 guess. Because I would be the -- in order for me to
25 determine whether or not this evidence would be

1 admissible, I would be -- I am the person who has to hear
2 it and make that decision. I agree with the Solicitor's
3 Office that it is fundamentally accepted law in our state
4 that evidence of unadjudicated bad acts or prior bad acts
5 is admissible to prove character.

6 I would tell you that I will not consider any of this
7 that's -- of the testimony as substantive evidence as it
8 relates to the proof of an aggravating circumstance. And
9 if the summation of the evidence that I've been given
10 indicates that -- I'm not sure it fits under any
11 statutorily enumerated aggravating circumstance.

12 So, in any event, I'm going to allow the testimony.
13 I will, of course, weigh it to make sure that it is
14 reliable and make a -- after I've heard it, I'll have to
15 make my own determination whether or not to believe or not
16 believe that it relates to Mr. Inman.

17 So, having said that, I'll allow the State to go
18 forward at this time.

19 MS. STROM: Thank you, Your Honor.

20 The State calls Beth Bates Patterson.

21 THE CLERK: If you'll, please, place your left hand
22 on the Bible and raise your right hand.

23 WHEREUPON,

24 VERA ELIZABETH PATTERSON,
25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 Please state your full name for the record.

3 THE WITNESS: Vera Elizabeth Patterson.

4 DIRECT EXAMINATION

5 BY MS. STROM:

6 Q And I referred to you as Beth Bates Patterson; is
7 that, also, correct?

8 A Yes, ma'am.

9 Q Okay. That's how I got your name.
10 Where do you live?

11 A Rainsville, Alabama.

12 Q Do you work?

13 A Yes, I do.

14 Q Where do you work?

15 A USVA Farm Service Agency.

16 Q Back in May, specifically, May 23rd of 2006, were you
17 living in the same place where you're living now?

18 A Yes, ma'am.

19 Q And were you working at the same place where you're
20 working now?

21 A I was working for the Department of Agriculture, but
22 I transferred agencies.

23 Q So you transferred?

24 A Yes, ma'am.

25 Q I want to take you back to May 23rd, 2006, and ask

1 you, specifically, do you recall that day?

2 A Yes, ma'am.

3 Q What did you do on that day? Tell me what happened
4 when you woke up. What did you do?

5 A I woke up and got myself and my daughter ready for
6 the day.

7 Q You have a daughter?

8 A Yes, ma'am.

9 Q How old is she?

10 A She's nine years old now.

11 Q You were getting ready?

12 A We got ready. We left the house about 6:55. I took
13 her to Martin Lane where she catches the bus. She caught
14 the bus. And I went to work. And I got to work about
15 five minutes after 7:00.

16 Q When you left your home with your daughter that day,
17 was there anyone else at your house?

18 A Not that I know of.

19 Q Did you lock your doors?

20 A Yes, ma'am. I always lock the hand lock and the dead
21 bolt.

22 Q Did you have an occasion on that day to come back to
23 your home?

24 A At lunch, I came home around 12:15.

25 Q What occurred when you came home? Tell me what you

1 did.

2 A I unlocked both of the locks and went in. And I
3 locked the screen door behind me. And I went in and put
4 some food in the microwave to warm to eat for lunch. And
5 while the food was warming, I turned on the dryer to warm
6 up some clothes to fold. And I went to pin up my hair.
7 And then I came back, because I heard the microwave go
8 off, into the kitchen and got my food out of the microwave
9 and was standing at the counter kind of facing the door
10 and preparing to eat.

11 Q Was your daughter with you at lunch, or did she stay
12 at school?

13 A She was at school. It was almost the last day of
14 school.

15 Q So you were there by yourself?

16 A Yes, ma'am.

17 Q And while you -- I believe you said you heard the
18 microwave ding or buzz to indicate the food was ready?

19 A Yes, ma'am.

20 Q What happened?

21 A As I was about to eat, someone came up from behind me
22 and covered my mouth and put a knife to my throat.

23 Q How did they cover your mouth?

24 A With their hand.

25 Q With their hand?

1 A Uh-huh.

2 Q And you said they put a knife to your throat?

3 A Yes, ma'am.

4 Q What happened then?

5 A I kind of panicked. And he told me, you know, if I
6 would calm down that he wouldn't hurt me.

7 Q When you say you kind of panicked, what did you do?

8 A I screamed.

9 Q Okay.

10 A And he, you know, had his hand over my mouth. And he
11 told me to calm down and that he wouldn't hurt me. So I
12 tried to do that. And he told me to get down in the
13 floor. And I got down in the floor. And he started tying
14 my hands behind my back.

15 Q And what room were you in at this time?

16 A In the kitchen.

17 Q In the kitchen. So when you get on the floor, are
18 you on your stomach or on your back?

19 A On my stomach.

20 Q And what does he do?

21 A He proceeds to tie my hands up. And I started
22 talking to him. And I was praying. And I remember
23 telling him that God loved him and he would forgive him
24 for what he was doing. And I continued to pray out loud
25 and --

1 Q Did you ever have a conversation with him, or did you
2 say anything to him, or him to you, about any money in the
3 house?

4 A Yes. I remember saying that I didn't have any money.
5 Because it's unusual for me to carry cash on me. And he
6 said that -- Then why did I find the \$250 in the piano
7 bench? And I said it was the church's money.

8 Q When you first said that about you didn't have any
9 money, was that in response to anything he said, or was
10 that just something spontaneously that you said?

11 A I just assumed, I guess, that he wanted money. So I
12 told him that -- I don't think it was in response to
13 something he asked me. I think I just told him.

14 Q That you didn't have any money?

15 A That I didn't have any money.

16 Q And he responded -- he said something back to you
17 when you said that?

18 A That he had found \$250.

19 Q And what money was that \$250?

20 A It was from a fundraiser that I had had the weekend
21 before. This is on a Tuesday. And the Saturday before I
22 had had a yard sale for our church. And I had not had
23 time to deposit the money. So I had previously hid it in
24 a bank bag in the piano bench.

25 Q In the piano bench?

1 A Yes, ma'am.

2 Q Is this conversation, for lack of a better term,
3 regarding the money, was that still happening in the
4 kitchen?

5 A Yes, ma'am.

6 Q You said he tied you up. Do you know what he used to
7 tie you up with?

8 A Some type of twine.

9 Q Some type of twine?

10 A Yes, ma'am.

11 Q What did he tie up? Did he tie up your hands, your
12 feet? What did he do?

13 A He tied my hands behind my back. And he asked me was
14 he hurting me. And I said, Yes. And he said -- because
15 he tied them a little too tight. And he said it would
16 only be for a few minutes so it was okay.

17 Q What happened next?

18 A He helped me up. And we went from the kitchen down
19 the hall. And he kind of helped me sit on the edge of my
20 bed in my bedroom. And then he -- I guess he kind of laid
21 me back, or I ended up laying back, I know. And -- well,
22 first, I was sitting on the edge of the bed.

23 And I had not seen him. And I was still praying and
24 crying. And I remember he said it was okay to look at
25 him. And I guess I looked at him in the eyes. Because I

1 didn't remember even what color of shirt he had on. Then
2 I laid back on the bed and he undid my pants. But I told
3 him that I was on my period. And he looked to see and he
4 saw that I was.

5 So he got me up and sat me down beside my bed. I was
6 on my knees facing my bed. And he tied my feet up, not as
7 tight as my hands.

8 Q I want to go back when you were in the -- let's go
9 back to the kitchen.

10 A Okay.

11 Q You're in the kitchen. You said he put his hand over
12 your mouth and had a knife to your neck?

13 A Yes, ma'am.

14 Q Was there anything on his hands? Did he have any
15 gloves on or anything like that?

16 A No, ma'am, not then.

17 Q Not then?

18 A No. But, as he tied me up, I remember he put a glove
19 on, at least, one.

20 Q When he was tying up your hands or your feet?

21 A My hands.

22 Q So in the kitchen when he was tying up your hands, he
23 put a glove on?

24 A Yes, ma'am.

25 Q Then you said you get to the bedroom and you're lying

1 back on the bed, and you tell him, at that time, that
2 you're on your period?

3 A Yes, ma'am.

4 Q And you said he checked?

5 A Yes, ma'am.

6 Q Tell us how he did that. What exactly did he do?

7 A I was wearing capri pants. And he undid my capris
8 and he pulled my panties back and saw that I was on my
9 period.

10 Q It was after that that he tied your feet up, or were
11 your feet tied before?

12 A It was after that that he tied my feet. And --

13 Q After he tied your feet, what did you do?

14 A He asked me where I worked and how long I had for
15 lunch. And I was trying to figure out, you know. And he
16 wanted to know where he could put me in my house where he
17 could kind of get away. And I think there was a little
18 bit of confusion there. Because he didn't know where to
19 put me and I didn't know where to tell him to put me.

20 So he decided to put me in my bedroom closet. And he
21 shut the door and said he was going to go get a chair to
22 prop in front of it. And he, I guess, did that. And, at
23 this time, he told me that he was going to take my car and
24 stash it.

25 Q Did you get in the closet?

1 A Yes.

2 Q How long do you think you were in the closet?

3 A I think I was in there about 15 or 20 minutes.

4 Q How did you get out?

5 A I got my feet loose right after I got in the closet.

6 And I tried to bang against the door and wasn't able to.

7 And I tried harder and harder until, finally, I broke the
8 chair and was able to get out.

9 Q When you got out of the closet, what did you do?

10 A I still couldn't hear when he left. I didn't know
11 when he left. I just assumed that he left immediately.

12 So I walked out of my bedroom into the kitchen. And
13 my cell phone was on the counter. And I couldn't dial it
14 because my hands were still behind my back. So I just
15 called the last person I had talked to.

16 Q When you say you called the last person you talked
17 to, how did you do that with your hands tied behind your
18 back?

19 A I just felt for the button and pushed "Send" twice,
20 which calls the last person, and tried to put it on
21 speaker.

22 Q And who did you talk to?

23 A I talked to my sister.

24 Q And, as a result of that conversation, did your
25 sister come to your house?

1 A Yes, she did. Her and a friend came over. She
2 didn't understand what I was trying to tell her, because
3 my phone was going dead and I was hysterical.

4 Q She comes over?

5 A She comes over and she almost leaves because my car
6 wasn't there. But I looked out the door, the screen door,
7 and she saw me. So she came in and she immediately
8 realized, you know, something had happened and she called
9 911.

10 Q When the police arrived, were -- did you and the
11 police determine how the person had gotten into your
12 house?

13 A The investigators determined that he had cut a hole
14 in my floor.

15 Q After this incident, did you have an occasion to see
16 the person who did this to you again?

17 A About two weeks after I was attacked, I -- someone
18 called me and told me to turn on CNN. And I saw him on
19 the news when they were looking for him.

20 Q And that was the person that had attacked you?

21 A Yes, ma'am.

22 Q What did you do when you saw him on the news?

23 A I called Rhonda Jackson and told her that I thought
24 that the person that had attacked me had killed someone.

25 Q And, Rhonda Jackson, is she the investigator who

1 worked your case?

2 A Yes, she is.

3 MS. STROM: The Court's indulgence, Your Honor.

4 (Pause.)

5 MS. STROM: Thank you.

6 Please answer any question the Defense may have.

7 CROSS-EXAMINATION

8 BY MR. CULBERTSON:

9 Q Ms. Patterson, how are you today?

10 A I'm okay. How are you?

11 Q Do you need some water or anything?

12 A No.

13 Thank you.

14 Q Let me know if you do.

15 A Okay.

16 Q As I understand it, you and your daughter were at
17 home. You got up and took her to school, day care,
18 something like that?

19 A To where she catches the bus for school.

20 Q And how old was your daughter when this happened?

21 A Seven.

22 Q Okay. And so she would have been in --

23 A Second grade.

24 Q Okay. I was trying to do that in my head real quick.

25 Thank you.

1 Does she bring back -- take the bus back home after
2 school, also?

3 A No, sir. She catches the bus at the same place she
4 gets off.

5 Q Okay. After you dropped her off to catch the bus to
6 go to school, you went straight from there on to work; is
7 that correct?

8 A Yes, sir.

9 Q Okay. And you decided after being at work for about
10 half a day or so, until about lunchtime, to go home and
11 get some lunch?

12 A I always went home for lunch.

13 Q You were the only person there?

14 A Yes, sir.

15 Q Your daughter is at school, you don't have any
16 roommates, no one else is there?

17 A Right.

18 Q When you walked in the house, did you notice anything
19 unusual about your house when you first walked in?

20 A No, sir.

21 Q In fact, from what I remember you testifying to a
22 minute ago, you didn't know anything was wrong until
23 somebody came up behind you, put their hands over your
24 mouth, and put a knife to your throat?

25 A Yes, sir.

1 Q And I'm assuming since this person grabbed you from
2 behind, you couldn't see who it was?

3 A Right. Yes, sir.

4 Q And how long did this person have a knife to your
5 throat and have his hand over your mouth?

6 A Probably just a matter of seconds, maybe a minute.

7 Q Okay. And, after that minute, what happened?

8 A Then he got me on the floor, told me to get on the
9 floor, and tied my hands up.

10 Q And, as I understood it, you laid on the floor face
11 down. You're on your stomach face down on the floor?

12 A Yes, sir.

13 Q And he got something and tied your hands behind your
14 back?

15 A Yes, sir.

16 Q Okay. And at what point did you start talking to
17 him, or praying with him, or doing whatever it was you did
18 at that time? Did you start that immediately, or at what
19 point in time?

20 A I think I started talking to him immediately.
21 Because I remember, at one point, I told him that I was a
22 single mom. And he said, I know.

23 Q He said, I know?

24 A Uh-huh. Well, it's obvious in my -- I have pictures,
25 so.

1 Q And so you assumed he had seen pictures of your
2 daughter and everything?

3 A Yes, sir.

4 Q He knew that you were a single mom?

5 A Yes, sir.

6 Q At that point, when you're face down on the floor,
7 had you been able to see who the person was that attacked
8 you?

9 A No, sir. I didn't see him until we were in the
10 bedroom.

11 Q Okay. And you had been talking to him that whole
12 time. I think you said you had been praying with him that
13 whole time?

14 A Yes, sir.

15 Q And then you go to the bedroom?

16 A Yes, sir.

17 Q And you get placed on the bed in the bedroom?

18 A Yes, sir.

19 Q Were you face up or face down?

20 A Face up.

21 Q So you could see who the person was?

22 A Yes, sir.

23 Q And I think you said -- I was writing some notes
24 down. I apologize. I think you said something about he
25 had a moustache?

1 A No, sir. I didn't say that.

2 Q Okay. Then I apologize. Did he have a moustache?

3 A No.

4 Q Did he have any hair?

5 A No. He was bald.

6 Q Okay. You continue to have a conversation with him

7 or talk with him?

8 A Yes, sir, and prayed.

9 Q And there was some conversation about some money he

10 had already found in your house?

11 A Yes, sir.

12 Q And that was the money that belonged to the church

13 that you had done some service work for?

14 A Yes, sir.

15 Q And he took that money?

16 A Yes, sir.

17 Q You mentioned a conversation about having told him or

18 he having asked about whether the ties on your wrists, on

19 your hands, were too tight?

20 A Yes, sir.

21 Q He said, Is that too tight? Am I hurting you? Are

22 you okay?

23 A He asked me was he hurting me. And I said that they

24 were a little too tight. And he said that it would be

25 okay.

1 Q And what did that mean to you? I mean, did he plan
2 on loosening them up? Did he loosen them up?

3 A He didn't loosen them up. I think that meant he
4 wasn't going to be there very long.

5 Q And, in fact, from that point forward, was he there
6 very long?

7 A No. I would say he was only there about 20 minutes.

8 Q Total?

9 A I was only there with him about 20 minutes, I think.

10 Q All right. At some point, he tied your feet
11 together, also?

12 A Yes, sir.

13 Q And were your feet -- was there still a concern about
14 whether he tied your feet too tight together, or was there
15 a conversation about that?

16 A No, sir.

17 Q All right. So he tied your feet together. And then,
18 I think, you said he put you in the closet?

19 A Yes, sir.

20 Q And, at some point after that, you believed he left
21 your apartment?

22 A My house, yes, sir.

23 Q Your house. I'm sorry. You're not quite sure when
24 that was?

25 A I couldn't hear it, because there was a dryer.

1 Q But, as it turns out, when you were able to free
2 yourself, get out of the closet, he was gone?

3 A Right, he was gone.

4 Q And, in fact, your car was gone?

5 A Right, and my purse.

6 Q And your purse and the 250 bucks?

7 A Right.

8 Q And you called your sister?

9 A Yes, sir.

10 Q And she was able to determine you needed some help?

11 A Uh-huh.

12 Q She came to see what she could do to help you. And
13 she's the one that called 911 and got the police to come
14 out there?

15 A Yes, sir.

16 Q Once the police got there, were you able to give a
17 description of the person that had been in and robbed your
18 house?

19 A I was.

20 Q All right. And, to your knowledge, what did the
21 police do with that information?

22 A They began searching for him. And, in fact, they
23 interviewed several people. But it was -- you know, none
24 of them were the correct --

25 Q And about some two weeks later, you saw -- I think

1 you said you saw a television -- a TV report?

2 A Right. I saw him on TV -- excuse me. I saw him on
3 CNN.

4 Q Do you want some water?

5 A No. I'm good. That's okay.

6 Q And, once you saw that, you called the police and
7 said, That's the person who was in my house?

8 A I said, I believe that the man that attacked me is on
9 CNN.

10 Q All right. You weren't sure, but you thought he
11 looked a lot like the person who was in your house?

12 A I was pretty sure.

13 Q Okay. Were you -- was it necessary for you to go get
14 any sort of medical treatment, go to the hospital, go to
15 the doctor, anything like that as a result of this?

16 A I had a damaged nerve in my hand from where the twine
17 was tied too tight. But it healed after -- I did go to
18 the emergency room. And it was just a damaged nerve and
19 it healed itself.

20 Q Is it okay now?

21 A Yes, sir.

22 Q You didn't get cut, didn't get hit, nothing like
23 that?

24 A No, sir.

25 MR. CULBERTSON: Thank you, ma'am.

1 THE WITNESS: Thank you.

2 MS. STROM: Nothing on redirect.

3 We would ask that she be allowed to be excused.

4 THE COURT: Any objection to that?

5 MR. CULBERTSON: No, sir, none.

6 THE COURT: Thank you, ma'am.

7 You may step down. And you're released from
8 subpoena.

9 MR. ARIAIL: The State calls Mike Hannon.

10 THE CLERK: Place your left hand on the Bible and
11 raise your right hand.

12 WHEREUPON,

13 MICHAEL HANNON,

14 after first having been duly sworn, testified as follows:

15 THE CLERK: Thank you.

16 Please state your full name for the record.

17 THE WITNESS: My name is Michael Hannon, H-A-N-N-O-N.

18 DIRECT EXAMINATION

19 BY MR. ARIAIL:

20 Q Mr. Hannon, by whom are you employed?

21 A I'm employed by the Tennessee Bureau of
22 Investigations.

23 Q How long have you been with the Tennessee Bureau of
24 Investigations?

25 A For the past 12 years.

1 Q And, before that, how long have you been in law
2 enforcement?

3 A About 13 years.

4 Q So a total of 25 years?

5 A That's correct, sir.

6 Q What is your present position with TBI?

7 A My present position is a polygraph examiner.

8 Q And I'm going to direct your attention back to June
9 the 6th of 2006, what was your position with TBI?

10 A I was the resident agent for Jefferson and Grainger
11 County in the Fourth Judicial District.

12 Q And Jefferson County is where Chief Deputy Bud McCoig
13 is located?

14 A That is correct.

15 Q And you're familiar with him and have worked with him
16 in the past?

17 A That is correct, sir.

18 Q Did you have occasion to meet with him on June the
19 6th of 2006?

20 A Yes, I did.

21 Q And you knew him from previous work?

22 A Yes, sir, I did.

23 Q How long have you known Bud?

24 A Approximately 20 years.

25 Q And had y'all worked together on other cases

1 previously?

2 A Yes, sir, we had.

3 Q What were you and Chief Deputy McCoig getting
4 together for on June the 6th?

5 A On June the 6th, I was contacted by Special Agent in
6 Charge Bob Denny of the TBI asking me to meet with Chief
7 Deputy McCoig in Jefferson County. Because he had gotten
8 information from South Carolina that Jerry Inman was
9 wanted by the State of South Carolina.

10 Q So y'all got together to locate him?

11 A That's correct, sir.

12 Q And did you locate Mr. Inman that day?

13 A Later that night, yes, sir, we did.

14 Q All right. Let me ask you, did you know Mr. Inman?

15 A No, sir, I did not.

16 Q Where did -- just tell us briefly where y'all went
17 and what you did in an effort to locate him, and then
18 where you, eventually, came to come in contact with
19 Mr. Inman.

20 A We, initially, started looking in places that
21 Chief McCoig thought Mr. Inman might be, his sister's
22 residence in downtown Dandridge, his mother and
23 stepfather's residence in a community in Jefferson County
24 called Swannsylvanias. We, also, went to a church where
25 Mr. Inman's stepfather was at.

1 After that, we decided that we would split up and
2 just sit on two different locations. Chief Deputy McCoig
3 sat on the stepfather and mother's residence. I stayed at
4 the sister's residence in downtown Dandridge about seven
5 or eight miles from where Chief McCoig was at.

6 Q And did you receive communication from Chief Deputy
7 McCoig about him coming in contact with Mr. Inman?

8 A Yes, sir, I did.

9 Q And did you respond to his location at that time?

10 A Yes, sir, I did.

11 Q And that location was on -- what was the exact
12 address? Do you remember?

13 A I don't remember the address. It was Mount Carmel
14 Baptist Church on Swannsylvan Road in Jefferson County.

15 Q And you responded to there. How long did you stay
16 there?

17 A Just a very few minutes.

18 Q And then where did you go?

19 A To the Jefferson County Sheriff's Department.

20 Q And what was the purpose in going there?

21 A To interview Mr. Inman.

22 Q Did all three of you go together, or did you go
23 separate?

24 A No. Chief McCoig and Mr. Inman were in his car. I
25 was in my car.

1 Q And when you got to the Sheriff's Department, where
2 did you go in the Sheriff's Department facility?

3 A We went in Sheriff David Davenport's office.

4 Q The sheriff himself, his office?

5 A Yes, sir. That's correct.

6 Q All three of you went in there?

7 A Yes, sir, we did.

8 Q And how was that office set up? Describe it for us.

9 A It was a relatively large desk, and it was a couple
10 of chairs. And Chief McCoig -- Mr. Inman was at my right
11 and Chief McCoig was right almost directly in front of me,
12 just a little to my left. And I was behind the desk.

13 Q And you were behind the desk where the sheriff would
14 normally sit?

15 A That's correct, sir.

16 Q And were you looking then at Mr. Inman?

17 A Yes, sir, I was.

18 Q And Mr. McCoig was to his -- or to the right, if
19 you're looking at him?

20 A That is correct.

21 Q Did Mr. McCoig leave the office at any time?

22 A Yes, he did.

23 Q And what did he leave for?

24 A He left the room to get a waiver form and Admonition
25 of Waiver form.

1 Q Let me show you what's been previously marked as
2 State's Exhibit No. 8, and ask you to review that and then
3 tell me if you're familiar with that form.

4 A Yes, sir, I am.

5 Q All right. Is State's Exhibit No. 8 -- I'll place it
6 on the screen. The label is on the back side. What is
7 that form?

8 A That's an Admonition of Waiver form.

9 Q And when -- did you use this particular form in
10 dealing with Mr. Inman?

11 A In advising him of his rights, yes, sir, I did.

12 Q And, if you need to, there's a laser on that -- a
13 little pointer, the red button.

14 A Okay.

15 Q Whose writing is this on here up at the top,
16 Jefferson County?

17 A Jefferson County Sheriff's Department, that writing
18 is mine, sir.

19 Q And then as you come on down, the signature at the
20 bottom?

21 A Signed, Jerry Inman.

22 Q All right. That's Mr. Inman's signature?

23 A Yes, sir. The next writing is my writing, Jefferson
24 County jail. The next line is the date, June the 7th,
25 2006. That's my writing. The time, 12:30 a.m. That's my

1 writing.

2 Q All right. The witnesses down below?

3 A That's -- the first one is Deputy McCoig, Chief
4 Deputy McCoig, and the next one is my signature.

5 Q So that's Mr. Inman's signature, your signature, and
6 Mr. McCoig's signature?

7 A That's correct, sir.

8 Q Now, the information on the bottom where it says,
9 "Social security number, ninth grade," where did you get
10 that information?

11 A I got that information from Mr. Inman.

12 Q All right. Tell us -- if you would, explain to the
13 Judge exactly what you did with this form in regard to
14 Mr. Inman and advising him of his rights.

15 A We were sitting at the table in the room from the
16 office. I first asked Mr. Inman if he had any problem
17 hearing. He said he didn't. I asked him if he understood
18 English plainly. He said he did. And I read the form to
19 him verbatim.

20 Q And, if you would, let me hand you this form. And I
21 want you to read it into the record just the same way you
22 read it to Mr. Inman.

23 A Of course, I told Mr. Inman, Before I ask you any
24 questions, you must understand your Constitutional rights.
25 You have the right to remain silent. Anything you say can

1 be used against you in court. You have the right to talk
2 to a lawyer for advice before we ask you any questions and
3 have a lawyer with you during questioning. If you cannot
4 afford to hire a lawyer, one will be appointed to
5 represent you before any questions, if you wish one. If
6 you decide to answer any questions now without a lawyer
7 present, you will still have the right to stop answering
8 at any time. You, also, have the right to stop answering
9 at any time until you talk to a lawyer.

10 Then I went over to read the waiver to him.

11 Q All right. Do that waiver.

12 A It says, I have read this statement of my
13 Constitutional rights and I understand what my rights are.
14 I am willing to make a statement and answer questions. I
15 do not want a lawyer at this time. I understand and know
16 what I am doing. No promises or threats have been made to
17 me -- no threats have been made to me and no promise or
18 coercion of any kind has been used against me.

19 And then he signed it.

20 Q And you did the reading, he did the listening?

21 A That's correct.

22 Q And you did the writing on the form?

23 A Except for his signature.

24 Q Except for his signature. The time that's on it
25 there, 12:30 a.m., that's 12:30 early morning?

1 A That's correct, sir.

2 Q Was that when the waiver process was beginning or
3 when it concluded?

4 A That's when it concluded. But I read it to him and
5 he signed it.

6 Q That's the ending time?

7 A That's correct.

8 Q All right. During the course of reading him his
9 rights, did he appear to understand them?

10 A Yes, sir, he did.

11 Q Did he appear to understand what it meant to waive
12 his rights?

13 A Yes, sir, he did.

14 Q Did you ask him if he understood?

15 A Yes, sir, I did.

16 Q And what was his answer?

17 A He said he understood.

18 Q Did he ask you to provide him a lawyer?

19 A No, sir, he did not.

20 Q Did he, at any time, tell you that he did not want to
21 talk to you?

22 A No, sir, he did not.

23 Q Did he indicate to you that he would talk to you?

24 A Yes, he did.

25 Q During this period that we've been going over, was

1 any force or coercion used against Mr. Inman by you,
2 Mr. McCoig, or anyone else in the building?

3 A No, sir, there was not.

4 Q Did anyone else come into the room, other than you
5 and Mr. McCoig?

6 A No, sir.

7 Q Did you yell at him at any time?

8 A No, sir, I did not.

9 Q Was he promised any leniency or given hope of reward
10 if he talked to you?

11 A No, sir, he was not.

12 Q Did any other -- I asked you if there were any other
13 people in the room. Did Mr. McCoig or you leave the room
14 at any time?

15 A No, sir, we did not.

16 Q Was he mistreated in any way that you observed?

17 A No, sir.

18 Q Did you observe anything that would have intimidated
19 that Mr. Inman -- intimidated Mr. Inman or overcome his
20 free will?

21 A No, sir, I did not.

22 Q Did he appear to you to be in his right mind when you
23 were talking to him?

24 A Yes, sir, he did.

25 Q Were his answers to your questions appropriate

1 responses?

2 A Yes, sir, they were.

3 Q Did he appear to be under the influence of any
4 alcohol or drugs at the time?

5 A No, sir, he did not.

6 Q Did you believe he was waiving his rights freely and
7 voluntarily?

8 A Yes, sir, I did.

9 Q If he had asked you for a lawyer or said he did not
10 wish to talk to you, what would you have done?

11 A The interview, at that time, would have been
12 concluded.

13 Q Now, following this, did you ask Mr. Inman to sign
14 the waiver form?

15 A Yes, sir, I did.

16 Q And he did?

17 A He did so.

18 Q And you put the information about his social security
19 and his education at the bottom?

20 A That's correct, sir.

21 Q Did you, after that, have a conversation with him
22 about what occurred in South Carolina?

23 A Yes, sir, I did.

24 Q And this related to the death of Tiffany Souers?

25 A Yes, sir, it did.

1 Q And you had received information of that from where?

2 A Chief Deputy McCoig, initially.

3 Q How did the process start out? Tell us how you got
4 going and what --

5 A I told Mr. Inman that I was going to take a
6 statement. And I wanted him to just explain to me what
7 happened, but not to go too fast because I wanted to write
8 it down. Just go just a little at a time, we'd stop and
9 go over it, see if it was okay what he said, if we agreed
10 what I wrote down. And we just kind of went through that
11 process back and forth.

12 Q And you had the pad and the paper, and you wrote it
13 down as you went?

14 A That's correct.

15 Q I'm going to show you what has been previously marked
16 and introduced as State's Exhibit No. 9, and ask you if
17 that is, in fact, the statement?

18 A Yes, sir, it is.

19 Q Is that your handwriting?

20 A Yes, sir, it is.

21 Q And is that your signature or witness at the end?

22 A After Chief McCoig's, yes, sir, it is.

23 Q I asked you a minute ago was that your signature at
24 the end. What I meant to ask you was, on the bottom of
25 State's Exhibit No. 9, there is a notation of "Refuse to

1 Sign."

2 A That's correct, sir.

3 Q Did you write that?

4 A Yes, sir, I did.

5 Q And below that is Chief Deputy McCoig's signature as
6 a witness?

7 A That is correct, sir.

8 Q Now, on the form, it says "Refused to Sign." And
9 then there's a line drawn diagonally across the page. Did
10 you draw the line?

11 A Yes, sir, I did.

12 Q Why did you put "Refuse to Sign" on there?

13 A Because after I read the statement back to Mr. Inman
14 and asked him was that his statement, he said it was. I
15 said, Would you sign this statement? And he said, No, I
16 won't.

17 Q And did he, at any time, tell you the statement was
18 not accurate?

19 A No, sir, he did not.

20 Q And the information that's written on the paper by
21 you, where did that come from?

22 A It came from Jerry Buck Inman.

23 Q Exclusively?

24 A Yes, sir.

25 Q Now, after you completed the execution of State's

1 Exhibit No. 9, and took the statement regarding the
2 incident involving Miss Souers, what happened with
3 Mr. Inman?

4 A Mr. Inman was taken back to the holding facility
5 there at the jail.

6 Q And this was around what time in the morning?

7 A It was probably around 1:15 or so.

8 Q Okay. Still early in the morning?

9 A Yes, sir, it was.

10 Q And where did you go at that time?

11 A I went home.

12 Q All right. Did you have occasion to come back?

13 A Yes, sir, I did.

14 Q What time did you come back?

15 A Around 8:45 the next morning.

16 Q And at 8:45 the next morning when you came in, did
17 you have occasion to meet with Mr. Inman?

18 A Yes, sir, I did.

19 Q Did you, specifically, have occasion to meet with
20 Mr. Inman and to discuss with him an incident that had
21 occurred in Rainsville, Alabama?

22 A Yes, sir, I did.

23 Q Tell us when and where and what time that was.

24 A It was around 9:15 a.m., and it was in the same
25 office, the sheriff's office.

1 Q Same place?

2 A I'm sorry.

3 Q Same place?

4 A Yes, sir.

5 Q Same room?

6 A Yes, sir.

7 Q Same set up?

8 A Yes, sir.

9 Q Was Mr. McCoig with you?

10 A Yes, he was.

11 Q What was the date of the incident that you were

12 talking to him about in Alabama? Do you remember?

13 A I think it was May the 23rd --

14 Q And --

15 A 2006.

16 Q -- how and when had you learned about that incident?

17 A I learned about it when I got to the Sheriff's Office

18 from Chief McCoig. He had said they had received a

19 report -- or a call from a lady in Alabama that said she

20 thought that Mr. Inman had attacked a lady in her city.

21 Q And you were preparing to interview him about that

22 incident?

23 A I was, indeed.

24 Q And when you set up in the office, you're behind the

25 desk?

1 A Same as before, sir.

2 Q Same as before. Mr. McCoig same place, Mr. Inman
3 same place?

4 A That's correct, sir.

5 Q Let me show you what has been marked as State's
6 Exhibit No. 18, and ask if you are familiar with that?

7 A Yes, sir, I am.

8 Q What is that?

9 A A waiver form just like the first one.

10 Q And that's a similar waiver form to the one we just
11 talked about?

12 A Exactly.

13 Q And what did you use this waiver form for?

14 A To advise Mr. Inman of his rights in regard to the
15 incident in Alabama.

16 Q And is that your writing on the top and his
17 signature?

18 A Yes, sir, it is.

19 Q Did you read him this form and go over it with him?

20 A Yes, sir, I did.

21 Q Did he sign the waiver?

22 A Yes, sir, he did.

23 Q And did he -- Mr. McCoig, also, witness it along with
24 you?

25 A That's correct, sir.

1 Q And the time on the bottom indicates?

2 A 9:15 a.m.

3 Q 9:15 a.m.

4 MR. ARIAIL: Your Honor, we would like to offer
5 State's Exhibit No. 18.

6 MR. BANNISTER: Without objection as to State's
7 Exhibit No. 18. This is just the waiver.

8 THE COURT: All right. Without objection.

9 (WHEREUPON, State's Exhibit No. 18 was admitted into
10 evidence.)

11 MR. ARIAIL: Your Honor, with regard to this exhibit
12 and the following exhibit, we would like to introduce
13 these originals, have them withdrawn, copies marked and
14 inserted as the original for this record so that these can
15 be returned to the Alabama authorities.

16 MR. BANNISTER: Judge, I don't think we have any
17 objection to having them copied later. I think, though,
18 at this point, I would interpose an objection. I assume
19 that the -- whatever the exhibit, the next one is the --

20 MR. ARIAIL: Statement.

21 MR. BANNISTER: -- written statement, unsigned by the
22 Defendant, regarding the Alabama case.

23 Am I correct in that, Solicitor?

24 MR. ARIAIL: (Mr. Ariail nodded.)

25 MR. BANNISTER: I would renew our objections that

1 we've made all along at this point. If I understand the
2 process, you're going to hear it and rule on my
3 objections, but I'm noting it for the record. If you want
4 to hear more from me, at this point, about it, then I'll
5 be happy to --

6 THE COURT: No.

7 I presume you're going to object to the actual
8 statement. Do you object to the substitution of copies
9 after this proceeding is finished?

10 MR. BANNISTER: I do not.

11 I have, perhaps, an additional objection regarding
12 the waiver of rights, but I don't mind bringing that up
13 once we get through it, or we can take it up at this
14 point.

15 THE COURT: Well, you better state it right now.

16 MR. BANNISTER: Your Honor, I don't believe this
17 waiver of rights contains the requirements under Ferreta
18 v. California. I'll represent to the Court that that type
19 of colloquy with the Defendant is, typically, reserved for
20 a guilty plea or fending this proceeding pro se and is
21 being asked, Do you -- not only do you understand you have
22 a right to an attorney, but an attorney may help you to be
23 able to understand the legal process or be able to help
24 you understand how what you're going to say would impact
25 this case and your defenses and the proceedings. I

1 believe that ought to be contained in a Miranda warning.
2 I believe it ought to be contained -- I'm sorry, not a
3 Miranda warning, but ought to be contained in a waiver of
4 rights for a confession having to do with a case,
5 certainly, a murder case.

6 So I would interpose an objection based on those
7 preferences.

8 THE COURT: Well, I'm going to overrule your
9 objection.

10 I believe that this waiver form has been subject to
11 scrutiny many times before. So I don't find it inadequate
12 based on that ground. And I would, also, note that this
13 is not -- the purpose of these proposed exhibits is not
14 for substantive evidence with respect to the guilt. And
15 it just shows sequence of events, which, I believe, the
16 State is going to use to go to the character of Mr. Inman.

17 MR. BANNISTER: Judge, not to belabor the point, but
18 just let me state that I believe our mitigation statutes
19 say, specifically, that any evidence that was taken in an
20 Unconstitutional manner cannot be submitted in the
21 sentencing phase.

22 THE COURT: Okay.

23 MR. BANNISTER: You've overruled my objection. But I
24 wanted to say that I believe that to be part of the basis
25 for our objection.

1 THE COURT: All right. I think you're in the record.
2 You may proceed.

3 MR. ARIAIL: Thank you.

4 BY MR. ARIAIL:

5 Q I'll show you what's been marked as State's Exhibit
6 No. 18, and ask you whose writing is that on the top?

7 A The very top line is my writing.

8 Q All right. And down at the bottom, the signature?

9 A Signed, Jerry Inman.

10 Q And the writing in place, date, and time?

11 A That's my writing.

12 Q And then below that, the witness signatures and the
13 time?

14 A Chief G.W. McCoig, and my signature, and the time
15 written by me.

16 Q Now, tell the Court exactly how you went about
17 explaining to Mr. Inman his rights, once again, at this
18 9:15 juncture in regard to the Rainsville, Alabama,
19 statement?

20 A I advised him of his rights. I read them to him just
21 like I did before.

22 Q And would you do us the favor of reading that just
23 exactly how you read it to him?

24 A Before we ask you any questions, you must understand
25 your rights. You have the right to remain silent.

1 Anything you say can be used against you in court. You
2 have the right to talk to a lawyer for advice before we
3 ask you any questions and have the lawyer with you during
4 questioning. If you cannot afford to hire a lawyer, one
5 will be appointed to represent you before any questioning,
6 if you wish one. If you decide to answer any questions
7 now without a lawyer present, you still have the right to
8 stop answering at any time. You, also, have the right to
9 stop answering at any time until you talk to a lawyer.

10 And I read the waiver to him that says, I have read
11 this statement of my rights and I understand what my
12 rights are. I am willing to make a statement and answer
13 questions. I do not want a lawyer at this time. I
14 understand and know what I am doing. No promises or
15 threats have been made to me. No pressure or coercion of
16 any kind has been used against me.

17 And he signed it.

18 Q All right. You read it to him. You were present,
19 Mr. McCoig was present, and the Defendant, Mr. Inman, was
20 present?

21 A That's correct, sir.

22 Q Anyone else?

23 A No, sir.

24 Q Did anyone come in and out to distract what was going
25 on at any time?

1 A No, sir.

2 Q All right. Did he appear to you to understand his
3 rights?

4 A Yes, sir, he did.

5 Q Did he appear to understand what the waiver of his
6 rights meant?

7 A Yes, sir, he did.

8 Q Did you ask him if he understood?

9 A Yes, sir, I did.

10 Q What was his answer?

11 A He understood.

12 Q Did he ask you to provide him a lawyer

13 A No, sir, not at any time.

14 Q Did he, at any time, tell you he didn't want to talk
15 to you?

16 A No, sir, he did not.

17 Q Did he indicate that he would talk to you?

18 A Yes, sir, he did.

19 Q About the Rainsville, Alabama, incident?

20 A That is correct, sir.

21 Q During this period that you, and Mr. McCoig, and
22 Mr. Inman were in the Sheriff's Office, was any force or
23 coercion used against Mr. Inman?

24 A No, sir.

25 Q Did you yell at him or did Mr. McCoig yell at him?

1 A No, sir.

2 Q Was he promised any leniency or given any hope of
3 reward if he talked to you?

4 A No, sir.

5 Q Did any other people come into or out of the room at
6 any time during this process?

7 A No, sir.

8 Q Was he mistreated in any way?

9 A No, sir.

10 Q Did you observe anything that would have intimidated
11 him or overcome his free will during this process?

12 A No, sir, I did not.

13 Q Did he appear to you to be in his right mind?

14 A Yes, sir, he did.

15 Q Were his responses to your questions appropriate?

16 A Yes, sir, they were.

17 Q And was he -- to your observation, did he appear to
18 be under the influence of any alcohol or drugs?

19 A No, sir, he did not.

20 Q Did you believe he was waiving his rights freely and
21 voluntarily?

22 A Yes, sir, I did.

23 Q Once again, if he had asked you for a lawyer or said
24 he did not want to talk to you, what would you have done?

25 A The interview would have been concluded.

1 Q Following this, did you talk to Mr. Inman about the
2 incident in Rainsville, Alabama?

3 A Yes, sir, I did.

4 Q And did you take a statement from him?

5 A Yes, sir, I did.

6 Q Tell us how that started out, the process, and how
7 you reduced or got your statement.

8 A The same as before, I told him I was going to take
9 his statement as far as the events that occurred in
10 Alabama. I wanted him just to tell me about it, just kind
11 of go slow so I could get it on paper.

12 Q And did he tell you and you wrote it down, or did you
13 ask questions back and forth?

14 A It was kind of a little bit of both.

15 Q All right. And did you end up reducing that to
16 writing?

17 A Yes, sir, I did.

18 Q Did you, once again, use your pad?

19 A Yes, sir, I did.

20 Q Let me show you what's been marked as State's Exhibit
21 No. 19, and ask you if this is the statement you took from
22 Mr. Inman concerning the Rainsville, Alabama, incident?

23 A Yes, sir, it is.

24 Q And is that your writing?

25 A Yes, sir, it is.

1 MR. ARIAIL: Your Honor, we would offer State's
2 Exhibit No. 19.

3 MR. BANNISTER: Subject to our previous objections,
4 Your Honor.

5 THE COURT: Okay. Over your objection.

6 (WHEREUPON, State's Exhibit No. 19 was admitted into
7 evidence.)

8 BY MR. ARIAIL:

9 Q Taking a look at what is now State's Exhibit No. 19,
10 whose writing is that on the top left, the information?

11 A It's my writing.

12 Q And that's the date, the time, and the location?

13 A That's correct, sir.

14 Q Okay. And whose writing is that on the right?

15 A That's my writing.

16 Q And where did you get that information from?

17 A From Mr. Inman.

18 Q He gave it to you?

19 A That's correct, sir.

20 Q Now, the contents of the statement is your writing
21 based on what he told you?

22 A That is correct.

23 MR. ARIAIL: Your Honor, we would like to publish
24 State's Exhibit No. 19 for you.

25 THE COURT: All right.

1 MR. ARIAIL: I'll leave it up there so you can follow
2 along.

3 About May 23rd, 2006, I was on my way to South
4 Carolina. I stopped in Rainsville, Alabama. I saw a
5 house where no one -- excuse me, where no cars were parked
6 near. I broke in the house by going through a vent in the
7 floor. I cut a hole in the vent. Once inside, I replaced
8 the vent. I looked around for something to steal. I
9 found a blue bank bag with cash and change.

10 While inside the house, the owner came home. I tied
11 her hands and feet and put her in the closet. I was going
12 to have sex with her. The woman started to witness to me.
13 I threatened the woman with the knife Chief McCoig took
14 from me last night, the black lock blade knife. The
15 woman, also, told me she was on her period. I put the
16 woman in the bedroom closet. The woman was white. She
17 was in her mid 20's, slender build with blonde hair.

18 I took the money and the bag. I took her car. I
19 drove it a short distance from the woman's house, parked
20 her car, and walked to my car, which I had parked at an
21 apartment complex about a half mile from the woman's
22 house. While in her house, I took a drink, a Sprite, from
23 the refrigerator. I drank most of it. I took the woman's
24 billfold, which was in her purse, and her car.

25 I left Alabama going to South Carolina. I had about

1 \$200 I had taken from the woman in Rainsville. I just
2 drove around. When I got tired, I would stop and rest in
3 rest areas. When I got to South Carolina, I was not there
4 even a whole day before the incident with Tiffany in
5 Clemson.

6 BY MR. ARIAIL:

7 Q Now, at the end of that, it shows "Refused to Sign,"
8 and that line diagonally across the page.

9 A That's correct.

10 Q Who wrote that?

11 A I did, sir.

12 Q And the line?

13 A I did, sir.

14 Q And, at the bottom left, the witness is?

15 A G.W. McCoig.

16 MR. ARIAIL: Mr. Hannon, that's all I have.

17 Please answer any questions Defense counsel may have.

18 CROSS-EXAMINATION

19 BY MR. BANNISTER:

20 Q Mr. Hannon, on both the first and the second
21 occasions that you interviewed Mr. Inman, was he shackled
22 or unshackled?

23 A He was unshackled.

24 Q And, as I understand it, it was you and Deputy Chief
25 McCoig were there together?

1 A That's correct, sir.

2 Q Were there leg shackles on him?

3 A No, sir, there was not.

4 Q Was it a fairly close environment?

5 A Yes, it was.

6 Q At any time, did you feel like your safety was
7 threatened by him while he was in the room with you and
8 Mr. McCoig?

9 A No.

10 Q In terms of the time lapse in between the two
11 interviews, the interview regarding what we're here about
12 today and the interview regarding Rainsville, Alabama, am
13 I right that that was roughly eight hours, somewhere in
14 there?

15 A Yes, sir.

16 Q And when you said that you were -- first came to
17 realize that you were going to have to interview him a
18 second time about what happened in Alabama, I believe you
19 said you had talked to Deputy Chief McCoig, and he told
20 you, We might have another incident in Alabama. Did he
21 tell you anything else?

22 A No, sir, he did not.

23 Q You said that you got prepared or you were -- you had
24 some preparation for the interview with Mr. Inman. Did
25 that include getting any other information about what had

1 happened in Alabama?

2 A No, sir, it did not.

3 Q Did you ever speak, prior to speaking with Mr. Inman,
4 with any of the investigators from Alabama?

5 A No.

6 Q Did you receive any documentation from the
7 investigators in Alabama?

8 A No, sir, I did not.

9 Q Did you have a chance to see the young lady who
10 testified before you?

11 A Did I have a chance to see her?

12 Q Yes. Just now when she was on the stand.

13 A Yes, sir, I did.

14 Q Would it be fair to say that she did not have blond
15 hair?

16 A Not now, no. She does not have blond hair.

17 Q Were you ever provided with a typed interview that
18 was conducted with Ms. Bates from one of the investigators
19 in Alabama?

20 A I didn't understand the question. I'm sorry.

21 Q I'm sorry. Did you ever receive any other
22 information from any other investigators in
23 Alabama?

24 A I did not, personally, no, sir.

25 Q Do you know whether Deputy Chief McCoig had received

1 any information?

2 A I don't know that.

3 MR. BANNISTER: No further questions.

4 MR. ARIAIL: No redirect.

5 THE COURT: Thank you, sir.

6 You can step down.

7 MR. ARIAIL: I call Rhonda Jackson.

8 THE CLERK: If you'll, please, place your left hand
9 on the Bible and raise your right hand.

10 WHEREUPON,

11 RHONDA JACKSON,

12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 Please state your full name for the record.

15 THE WITNESS: Rhonda Jackson.

16 DIRECT EXAMINATION

17 BY MR. ARIAIL:

18 Q Keep your voice up like that and we won't have any
19 problems.

20 Where are you employed?

21 A Now, I'm employed with the DeKalb County District
22 Attorney's Office.

23 Q And where is that?

24 A Fort Payne, Alabama.

25 Q You were previously with the DeKalb County Sheriff's

1 Office?

2 A Yes, sir.

3 Q And in what capacity did you work -- well, how long
4 did you work for the DeKalb County Sheriff's Office?

5 A 22 years.

6 Q And how long -- when did you leave the DeKalb County
7 Sheriff's Office?

8 A In May of 2007.

9 Q And directing your attention back to May 23rd,
10 particularly, of 2006, you were employed with the DeKalb
11 County Sheriff's Office?

12 A Yes, sir.

13 Q That's also Fort Payne, Alabama?

14 A Yes, sir.

15 Q What was your capacity of employment?

16 A I was an investigator.

17 Q All right. In the detective -- or in the Sheriff's
18 Office?

19 A Yes, sir.

20 Q Did you have occasion to become involved in the
21 investigation of the criminal allegations brought by Beth
22 Bates Patterson concerning burglary in the first degree,
23 attempted rape, and property theft?

24 A Yes, I did.

25 Q Were you lead investigator on this?

1 A Yes, sir.

2 Q Did you go to the crime scene when it was reported?

3 A Yes, I did.

4 Q And did you interview Ms. Patterson?

5 A I did.

6 Q Did you familiarize yourself with the circumstances
7 and the evidence collected?

8 A Yes, sir.

9 Q What happened that, eventually -- well, let me ask
10 you. The date of May 23rd, did you immediately develop a
11 suspect?

12 A No, sir. I talked to Beth and she gave me a
13 description of the guy that had attacked her, and we put
14 out a BOLO for that.

15 Q What, eventually, happened that caused you to focus
16 on a suspect?

17 A Well, Beth called me on June the 6th, and said that a
18 friend had told her to watch CNN News, that she thought
19 the guy that they had arrested in Tennessee, Mr. Inman,
20 was the guy that had attacked her.

21 Q All right. And, as a result of that, what did you
22 do?

23 A Well, I got on the Internet at CNN.com and checked to
24 see where he had been arrested. And it was the Jefferson
25 County Sheriff's Department in Dandridge, Tennessee. So I

1 called them and asked for the lead investigator on the
2 case, and that was Chief Deputy Bud McCoig.

3 Q So you talked to Chief Deputy Bud McCoig?

4 A He told me that he was in custody there and they had
5 already interviewed him on what happened in South
6 Carolina. And he had a rapport with him and he said that
7 he would interview him for me. I gave him all the details
8 of our case.

9 Q And did you hear back from him?

10 A I did.

11 Q How long?

12 A Probably two or three hours later, he called me and
13 told me that he had confessed to his involvement in our
14 case.

15 Q And did you receive a copy of that statement?

16 A I did.

17 Q After you received the statement, what did you do?

18 A I went to my district attorney and told him what had
19 transpired. And they OK'd warrants to be issued on him at
20 that time.

21 Q Did you, on your own, have contact later with
22 Mr. Inman?

23 A I did, yes, sir.

24 Q And how long was that after June the 6th?

25 A That was June the 8th.

1 Q Of 2006?

2 A Yes, sir.

3 Q And where did you have contact with Mr. Inman?

4 A Pickens County Sheriff's Department in South
5 Carolina.

6 Q Right here?

7 A Yes, sir.

8 Q All right. Mr. Inman had been transported back to
9 Pickens County?

10 A Yes, sir.

11 Q What was your purpose in contacting him?

12 A Well, there were more details in our case that we
13 needed answers to. Plus, we, also, had an unsolved rape
14 case that had occurred in our county a month before. And
15 I wanted to interview him on that, also.

16 Q All right. Did you come to Pickens?

17 A Yes, sir.

18 Q And that was on what date?

19 A June the 8th, 2006.

20 Q Did you meet with Mr. Inman?

21 A Yes, sir.

22 Q Where did you meet with him?

23 A In the Pickens County jail.

24 Q Describe -- were you by yourself or did someone come
25 with you?

1 A Chief Deputy Mike James came with me.

2 Q And he's with DeKalb County, also?

3 A Yes, sir.

4 Q Describe the room or the area in which you met with

5 Mr. Inman?

6 A It was a room in the jail. There was a desk in there

7 and three chairs, I think.

8 Q Did -- who was in the room besides you and Mr. Inman?

9 A Mike James.

10 Q So the three of y'all were in the room?

11 A Yes, sir.

12 Q And how were you dressed? How were you and Mr. James

13 dressed?

14 A We just had on slacks and a pullover shirt.

15 Q Were you armed?

16 A No, sir.

17 Q And was Mr. Inman restrained?

18 A Yes, sir, he was.

19 Q How was he restrained?

20 A He had on leg irons and belly chains, and he was

21 restrained with his wrists.

22 Q Prior to talking to him, did you advise him of

23 certain Constitutional rights?

24 A Yes, sir.

25 Q Let me show you what has been previously marked as

1 State's Exhibit No. 20, and ask if you are familiar with
2 that document?

3 A Yes, sir, I am.

4 Q What is that document?

5 A That's our departmental form that we use to give them
6 their rights.

7 Q And did you bring that form with you to Pickens?

8 A Yes, I did.

9 Q Did you fill out the information that's on that form?

10 A I did.

11 Q And did you inform Mr. Inman of the rights set forth
12 on that form?

13 A Yes, sir, I did.

14 Q And did he set his signature on that form?

15 A Yes, he did.

16 Q And did you complete the other data that was on
17 there, date, time, et cetera?

18 A Yes, sir.

19 Q And who witnessed it with you?

20 A Carl M. James. That -- his name is Mike James, but
21 his legal name is Carl M. James.

22 Q And you witnessed it, also?

23 A Yes, sir.

24 MR. ARIAIL: Your Honor, we would like to offer this
25 as State's Exhibit No. 20.

1 MR. BANNISTER: Your Honor, same objections as
2 before.

3 THE COURT: All right. Same ruling.

4 (WHEREUPON, State's Exhibit No. 20 was admitted into
5 evidence.)

6 BY MR. ARIAIL:

7 Q Looking at State's Exhibit No. 20, the top left has
8 preprinted "DeKalb County Sheriff's Department." That's
9 the form you were talking about?

10 A Yes, sir.

11 Q And the writing on the right, "Pickens County SO,"
12 who wrote that?

13 A I did.

14 Q And that date was the date you filled this form out?

15 A Yes, sir.

16 Q And the time was 4:10 p.m. central time?

17 A Yes, sir.

18 Q Alabama, DeKalb County, Fort Payne is on central
19 time?

20 A Yes, sir.

21 Q And that's what your watch said?

22 A Yes, sir.

23 Q Then at the bottom, there's a signature where it says
24 signed "X," whose name is that?

25 A Jerry Inman.

1 Q And on the left?

2 A My name, Rhonda Jackson on the top line. The next
3 line is Carl M. James.

4 Q As the witness. And who wrote 4:10 p.m.?

5 A I did.

6 Q On this sheet, there are certain rights that are set
7 forth, did you use this particular State's Exhibit No. 20
8 to advise Mr. Inman of his rights?

9 A Yes, I did.

10 Q If you would, please -- I'm going to give you the
11 form back. I want you to tell the Court exactly how you
12 advised Mr. Inman of his rights.

13 A Okay. I told Mr. Inman that there were certain
14 details in our case that we needed some more answers to,
15 and I wanted to talk to him. And I told him that I had to
16 advise him of his rights before I asked him any questions.
17 So I read the form.

18 Before we ask you any questions, you must understand
19 your rights. You have the right to remain silent.
20 Anything you say can be used against you in court. You
21 have the right to talk to a lawyer for advice before we
22 ask you any questions and to have him with you during
23 questioning. If you cannot afford a lawyer, one will be
24 appointed for you before any questioning, if you wish. If
25 you decide to answer questions now without a lawyer

1 present, you will still have the right to stop answering
2 at any time. You, also, have the right to stop answering
3 at any time until you talk to a lawyer.

4 Q All right. Did you determine -- in your mind, did he
5 understand those --

6 A I asked him if he understood those -- his rights.
7 And he said, Yes, he did.

8 Q Did he appear to you to understand them?

9 A Yes, sir.

10 Q All right. Did you explain the waiver to him?

11 A Yes, sir.

12 Q How did you explain the waiver to him?

13 A Well, I just read it to him.

14 Do you want me to go ahead and read it?

15 Q Yes, just like you read it to him.

16 A Yes, sir. I have read this statement of my rights
17 and I understand what my rights are. I am willing to make
18 a statement and answer questions. I do not want a lawyer
19 at this time. I understand and know what I am doing. No
20 promises or threats have been made to me. And no pressure
21 or coercion of any kind has been used against me.

22 Q And did you ask him -- inquire as to his
23 understanding of that?

24 A Yes, sir. I asked him if he was willing to talk to
25 us.

1 Q What did he say?

2 A He said, Yes.

3 Q Did he sign that?

4 A Yes, he did.

5 Q And the date, the time, 4:10 p.m., on the bottom?

6 A Yes, sir.

7 Q Now, after you had read him his rights and read the
8 waiver to him and he indicated he wanted to talk to you,
9 did he ask you to provide him a lawyer?

10 A No, sir, he did not.

11 Q Did he, at any time, tell you he did not want to talk
12 to you?

13 A No, sir.

14 Q Did he indicate to you that he would talk to you?

15 A Yes, sir.

16 Q He said he would talk to you?

17 A Yes, sir.

18 Q During the period that you've been in the room with
19 him and Mr. James, was any other person -- did any other
20 person come in the room, or did you and Mr. James leave
21 the room?

22 A At one point, Mr. James left the room for a little
23 while and came back.

24 Q Was this before you finished the rights waiver?

25 A No, sir. It was when we were asking him questions.

1 I was writing the statement.

2 Q Okay. So up until the time of the statement,
3 everyone remained in the room?

4 A Yes. That's correct.

5 Q No one came in, no one left?

6 A That's correct.

7 Q Was any force or coercion used against Mr. Inman
8 during this period of time?

9 A No, sir.

10 Q Did you or Mr. James yell at him?

11 A No, sir.

12 Q Was he promised any leniency or given any hope of
13 reward if he would talk to you?

14 A No, sir.

15 Q Was he mistreated in any way to your observations?

16 A No, sir.

17 Q Was he mistreated in any way by you?

18 A No, sir.

19 Q Did you observe anything that would have intimidated
20 Mr. Inman or overcome his free will?

21 A No, sir.

22 Q Did he appear to be in his right mind?

23 A Yes, sir, he did.

24 Q Were his responses to your questions appropriate?

25 A Yes, sir, they were.

1 Q Did he appear to be under the influence of any
2 alcohol or drugs?

3 A No, sir.

4 Q Did you believe he was waiving his rights freely and
5 voluntarily?

6 A Yes, sir.

7 Q If he had asked you for a lawyer or said he did not
8 wish to talk with you, what would you have done?

9 A I would have stopped the interview.

10 Q And, following this, did you ask Mr. Inman to sign
11 the waiver form?

12 A Yes, sir.

13 Q And he signed it?

14 A Yes, sir.

15 Q And then did you have a conversation with him about
16 what had occurred in Rainsville, Alabama?

17 A Yes, sir, I did.

18 Q Tell us how this process started out.

19 A Well, I told him that I was aware that he had already
20 talked to the investigators in Tennessee about our case,
21 that there was several details that I needed answers, and
22 that's why I was there.

23 Q All right. And did you ask him questions or did you
24 just let him tell you sentences and you wrote it down, or
25 was it a question and answer sort of exchange?

1 A I asked him questions and he would then answer. And
2 I would write it down.

3 Q As a result of that, did you complete a statement?

4 A Yes, sir, I did.

5 Q And this statement -- let me show you what's marked
6 as State's Exhibit No. 21.

7 A Yes, sir.

8 Q Is that the statement you completed?

9 A Yes, sir, it is.

10 Q That's your handwriting?

11 A Yes, sir.

12 Q You wrote it down after conversing with him?

13 A Yes, sir.

14 MR. ARIAIL: Your Honor, I would like to offer
15 State's Exhibit No. 21.

16 MR. BANNISTER: Same objections as before.

17 THE COURT: Okay. Same ruling.

18 (WHEREUPON, State's Exhibit No. 21 was admitted into
19 evidence.)

20 BY MR. ARIAIL:

21 Q Once this statement was completed -- I'm going to
22 show you the last page.

23 MR. ARIAIL: If you could dim those lights just a
24 little bit.

25 Thank you, sir.

1 BY MR. ARIAIL:

2 Q Did Mr. Inman sign his statement?

3 A Yes, sir, he did.

4 Q Show us on there his signature?

5 A Is this the pointer?

6 Q Yes. Right here.

7 A Right there.

8 Q That's his signature?

9 A Yes, sir.

10 MR. ARIAIL: I'm going to let her publish the
11 statement, Your Honor.

12 THE COURT: All right.

13 THE WITNESS: Read it?

14 BY MR. ARIAIL:

15 Q Yes. Just read it into the record, please, ma'am.

16 A When I went to Rainsville, Alabama, I drove my red
17 Blazer with gray stripe, a '90 model. I parked at an
18 apartment complex and slept there in the Blazer. I woke
19 up early in the morning and walked down the road about
20 8:00 or 9:00 a.m. Alabama time.

21 I had drove by a house just south of Fred's store on
22 the right side of the road and saw there were no cars
23 around before I walked there. I checked the doors first
24 and saw they were all locked. I looked in a shop behind
25 the house and saw an ax blade. I walked to the back of

1 the house and opened the cover to the crawl space. I
2 tried to cut a hole in the floor after I took the duct
3 work loose with the ax blade. It wasn't sharp enough. So
4 I went and got the skill saw in the little room on the
5 carport and hooked up an extension cord. I cut through
6 the floor with the skill saw.

7 I went up through the hole I had made. I scratched
8 my shoulders and bled a little bit. I wiped it off with
9 my shirt. I was wearing jeans and a T-shirt. I started
10 looking for stuff to take. I was going to take the
11 computer and stuff, but I found the money. I was -- it
12 was in a blue bank bag in a piano stool. There were,
13 also, some checks in the bag. I threw them out going down
14 the road somewhere.

15 I was getting ready to leave when the girl came in.
16 I hid behind a door in the room beside of the living room
17 where all the dolls were. I placed the vent and carpet
18 back as soon as I came through the hole. I then went into
19 the kitchen where she and -- oh, I went into the kitchen
20 where she was and put a knife to her throat. I made her
21 lie down on her stomach in the kitchen floor where I tied
22 her hands behind her back with some string that was in the
23 yard. I had on latex gloves the whole time I was in the
24 house.

25 I took her to the bedroom where I had cut the hole in

1 the floor. I made her lie down on her back. I started
2 undoing her pants. As I undone her belt, she told me she
3 was on her period. She told me she was a single mom and
4 had a little girl. I had seen the pictures in her house.
5 I stopped. I just couldn't rape her.

6 I tied her feet and she crawled on her knees to the
7 closet where I put her and I closed the door. I put a
8 chair in front of the door. I asked her where her keys to
9 her car was. She told me. I told -- I took the keys out
10 of the door to the carport and stole her car. I took the
11 money from the house and left. I parked her car behind
12 the building close to Fred's. I walked to my Blazer with
13 the bank bag. I took her billfold out of her car and took
14 it with me. I can't remember if I threw --

15 Q If there.

16 A If there was any money in her billfold or not. If
17 there was, I got it. I threw the billfold out of the
18 passenger side on the interstate in Alabama. I threw the
19 bank bag out later. I don't remember if I was still in
20 Alabama.

21 I left Rainsville and went back to the interstate. I
22 stayed at a rest stop or on the side of the road either in
23 Tennessee or Georgia that night. Before I got to the
24 interstate in Fort Payne, I think I got gas at either
25 Cowboys or Victory station. I stopped and went through

1 the drive-thru at Hardee's and got something to eat. I
2 ate going up the interstate.

3 I have only been to Alabama twice. The first time
4 was when I was on my way to Louisiana to find work. I did
5 not stop in DeKalb County that time. My Camaro, a '95
6 model, green in color, caught fire and still, I did not
7 commit any crimes then. I started walking back towards
8 the interstate. I walked for two days and ate out of
9 garbage cans before I got picked up. A white minivan with
10 three males and two females picked me up and took me to
11 Knoxville. I called my mom and dad from one of their cell
12 phones and they came and picked me up at Iron Skillet
13 Truck Stop. That was around the last of February of '06
14 and the first of March '06.

15 The second time I was in Alabama was when I cut the
16 hole in the floor in the house in Rainsville. I did not
17 rape a girl in DeKalb County on April the 26th, 2006, in a
18 trailer. I did not have anything to do with this crime.
19 Investigator Jackson has explained the details of the
20 crime about the attacker making the victim shower and
21 douche after he raped her, but I did not do that. I did
22 not break into any houses in DeKalb County except the one
23 at Rainsville. I spent the money from the bank bag on
24 food and gas. I did not attempt to use the credit cards
25 from the billfold.

1 This is a true and correct statement of the best of
2 my knowledge. There have been no threats or promises made
3 to me to get me to make this statement. I got blood on
4 the baseboard beside of the vent. I wiped it off with my
5 shirt.

6 MR. ARIAIL: Thank you, Ms. Jackson.

7 Answer any questions that Defense counsel may have.

8 CROSS-EXAMINATION

9 BY MR. BANNISTER:

10 Q Ms. Jackson, as I understand it, you were alone with
11 Mr. Inman when you were taking the statement and writing
12 it down; is that correct?

13 A Part of the time. Mike James came in and out of the
14 room at some point.

15 Q And he was shackled on this particular occasion when
16 you were with him?

17 A Yes, sir.

18 Q What was the longest period of time you were alone
19 with him during that interview?

20 A 15 minutes probably.

21 Q Did he ever make any sudden moves at you or toward
22 you that gave you cause for concern for your safety?

23 A No, sir.

24 Q When he went to sign the piece of paper -- let me ask
25 you -- well, let me back up a second. When you say he was

1 shackled, did he have -- he was handcuffed to the front?

2 A He was handcuffed to the side.

3 Q And so were those handcuffs attached to a waistband?

4 A Yes, sir.

5 Q And was the waistband attached to ankle cuffs as
6 well, chained from the waist to the floor?

7 A I think that's the way it was. I knew he had on leg
8 irons. I'm not sure if it was attached.

9 Q Was he right-handed or left-handed, or do you
10 remember?

11 A I think he was right-handed.

12 Q And did you have to, actually, hand him a pen so that
13 he could sign the document?

14 A Yes, sir.

15 Q And where were you when he was doing this? Were you
16 across the table from him, or were you holding the paper
17 so that it would stay still while he --

18 A I was across the table.

19 Q And were you holding the paper while he signed it to
20 keep it from moving while he did his signature?

21 A I think so. I can't remember.

22 Q When -- I have been provided with some handwritten
23 notes that I want to make sure these are your notes.

24 Could I just let you take a look at them briefly?

25 A Sure. Yes, sir.

1 Q Do you have those --

2 A That's my writing.

3 Q -- with you?

4 A Yes, I do.

5 Q I'll tell you what, you just hang onto that. I know
6 what I want to ask.

7 Did the description that you received from Ms. Bates
8 say that the Defendant had a brown moustache?

9 A Okay. These are notes that I made when I interviewed
10 her when I first got to the scene. Yes, 5'8" to 5'10",
11 bald, and a brown moustache.

12 Q All right. And it, also, described him as skinny?

13 A Yes, sir.

14 Q There were a couple of things that were, perhaps,
15 fairly unusual about this case. One was that he -- at
16 least, in my opinion, that he cut the hole in the floor.
17 Was that something y'all discovered early on in the
18 investigation?

19 A Yes, sir.

20 Q All right. And the Sprite bottle, was the Sprite
21 bottle a focus of interest for the investigation as well
22 early on?

23 A Yes, sir.

24 Q Was that information conveyed to Deputy Chief McCoig?

25 A Yes, sir, it was.

1 Q And would that have been prior to the interview that
2 he had with Mr. Inman?

3 A Yes, sir.

4 Q In investigating this case, I've, also, been provided
5 as part of your file, I guess, this would be a driver's
6 license. Did you do a driver's license check for
7 Ms. Bates?

8 A Yes, sir.

9 Q And what did you find the color of her hair to be
10 listed as?

11 A Brown.

12 Q Thank you.

13 Did the subject of the death penalty come up during
14 your discussions with Mr. Inman?

15 A No, sir.

16 Q Did any of the subject of this case in South Carolina
17 come up during the discussion with Mr. Inman?

18 A No, sir.

19 MR. BANNISTER: No further questions.

20 MR. ARIAIL: No redirect.

21 THE COURT: Thank you, ma'am.

22 You can step down.

23 THE WITNESS: Thank you.

24 THE COURT: Okay. We've been going for a pretty good
25 bit. Let's take a short break, about 15 minutes.

1 (WHEREUPON, a break was taken.)

2 THE COURT: Did you lose one?

3 MS. STROM: Yes, sir.

4 We can go ahead and start.

5 THE COURT: No. We can wait.

6 MS. STROM: I do have a housekeeping matter we can
7 take care of before we start.

8 THE COURT: Okay.

9 MS. STROM: I did inform Mr. Bannister as far as how
10 long we thought we would be. I think we will be calling
11 two more witnesses this evening and then another witness
12 in the morning.

13 So, depending on what time you wanted to get started
14 in the morning, we would probably have about an hour's
15 worth of testimony in the morning.

16 THE COURT: Okay. Where does that leave you and your
17 witnesses?

18 MR. BANNISTER: Judge, we haven't checked in with
19 the -- several of them are, obviously, right now in a case
20 in Sumter. So I think we would be safe in saying that we
21 anticipate we can start on Wednesday morning and would be
22 done by Thursday afternoon. And I'm --

23 THE COURT: Tell me who's down there. You've got
24 Dr. Schwartz-Watts?

25 MR. BANNISTER: Dr. Loring and Jim Aiken.

1 THE COURT: Wait a minute. Loring?

2 MR. BANNISTER: Yes, sir.

3 THE COURT: And the last one was?

4 MR. BANNISTER: Jim Aiken.

5 THE COURT: I'll see if I can communicate with Judge
6 Russo and find out what their status is.

7 Okay. And just so --

8 Yes, sir, Mr. Culbertson.

9 MR. CULBERTSON: Well, Your Honor, I had previously
10 mentioned to you about a funeral I might try to make
11 tomorrow. And given the nature of their witnesses, it may
12 alleviate my concerns about that. But I just wanted to
13 remind the Court about that.

14 THE COURT: Okay. With respect to the last
15 witnesses, you said that you -- it was your understanding
16 that I would be ruling on the admissibility of evidence.

17 Is there anything else to come in on the Alabama
18 matter?

19 MR. ARIAIL: No.

20 THE COURT: Well, I'm going to admit the evidence.
21 Certainly, the weight -- and I'll admit it solely for the
22 purposes of this sentencing proceeding. And I wouldn't
23 want my decision to have any impact on any subsequent
24 proceeding with respect -- and I don't know that there
25 ever would be or might be. But solely for the purposes of

1 this sentencing proceeding, I find that it's admissible
2 and there have been no violations of Mr. Inman's
3 Constitutional rights with respect to those statements.
4 And I don't find that their prejudice would outweigh their
5 probative value, and will consider them solely for
6 purposes of character evidence.

7 MR. BANNISTER: Please note our objection for the
8 record.

9 THE COURT: Absolutely.

10 MR. ARIAIL: I would just -- Betty has explained to
11 me that you said you're going to call Judge Russo. I
12 would like to remind the Court that Mr. and Mrs. Souers
13 are here from St. Louis. And I'm sure the rest of us
14 might want to move at a little bit more leisurely pace,
15 but I'm sure the sooner we can conclude this for their
16 benefit, the better. So if you could encourage Judge
17 Russo to cooperate strongly with us --

18 THE COURT: Well, I'll just find out where they are
19 in the case and what he anticipates. And so, certainly,
20 if they're available tomorrow, then we may well be
21 proceeding.

22 MR. BANNISTER: Yes, sir.

23 If we have an issue, we'll bring it up.

24 THE COURT: All right. Sounds good.

25 MR. ARIAIL: We also -- while we were on recess, my

1 paralegal informed me that we had, actually, entered into
2 evidence the copy of the statement from Fort Payne,
3 Alabama, DeKalb County Sheriff's Office and the -- a copy
4 of the waiver and rights form. We still have the original
5 that was not admitted.

6 So, based on the colloquy we had earlier, I wanted to
7 make sure the Defense was aware that's what I -- I wasn't
8 aware that's what I had done. I thought I was going to
9 put the original in. But those copies are so good I
10 thought they were the original.

11 THE COURT: Well, are you moving to substitute the
12 original we've got?

13 MR. ARIAIL: No.

14 I'm moving to advise the Court that we have put a
15 copy in in lieu of the original if he would like -- or any
16 member of the Defense team would like to compare the two
17 before we turn this loose back to Alabama.

18 THE COURT: All right. Subject to any previous
19 objection that you may have made, would any counsel for
20 Mr. Inman want to, I guess, in essence, substitute the
21 original for the copy, or are you satisfied with the
22 copies?

23 MR. BANNISTER: We are satisfied with the copies.

24 THE COURT: Subject to all your previous objections?

25 MR. BANNISTER: Yes, sir.

1 THE COURT: All right.

2 MS. STROM: May it please the Court, Your Honor?

3 THE COURT: Yes, ma'am.

4 MS. STROM: The State calls Jessica Gann.

5 THE CLERK: Place your left hand on the Bible and
6 raise your right hand.

7 WHEREUPON,

8 JESSICA GANN,

9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you.

11 Please state your full name for the record.

12 THE WITNESS: Jessica Gann.

13 DIRECT EXAMINATION

14 BY MS. STROM:

15 Q Ms. Gann, I need for you to keep your voice up like
16 that so everyone can hear you.

17 A Okay.

18 Q Where do you live?

19 A Sevierville, Tennessee.

20 Q How long have you lived there?

21 A All of my life, 30 years.

22 Q And do you work?

23 A Yes, I do.

24 Q What do you do?

25 A I'm a second grade teacher at a school in Sevier

1 County.

2 Q You're married?

3 A Yes.

4 Q Do you have any children?

5 A I have two, two little girls.

6 Q What ages are they?

7 A One is five, and the other is one.

8 Q I want to take you back to May 22nd, 2006. Do you
9 recall that day?

10 A Yes, I do.

11 Q Do you recall if you were supposed to work that day?

12 A Yes, I was.

13 Q And you said you were a second grade teacher?

14 A Yes.

15 Q Please tell this Court what happened on that day.

16 A It was early in the morning. My husband usually gets
17 up around 4:00 or 4:30 to get ready to go to work.
18 Because he leaves around 5:00 to get to work. And,
19 usually, around that time -- my daughter's bed is in our
20 bedroom. And she, usually, comes and gets in the bed with
21 me when he leaves.

22 Q And that would be your older daughter?

23 A Yes, my older daughter. She was two years old at the
24 time. And she, usually, comes and gets in the bed with
25 me.

1 Well, a little while later after that, I woke up and
2 there was someone on top of me holding a knife to my
3 throat.

4 Q When you say "a little while later," how much longer?
5 Was it minutes? Was it hours?

6 A I'm not sure. It was probably a little after 5:00.
7 Because I do remember, later on, my clock went off. And I
8 had it set for 5:45.

9 Q Okay.

10 A So I woke up. He had his hand over my mouth. And he
11 said, Just stay calm. I'm just here for money and
12 jewelry. I'm not going to hurt anyone.

13 Q Did you say if he was armed? Did he have any
14 weapons?

15 A He did have a knife, and he had it to my neck.

16 Q What, if anything, did you say to him when he said he
17 was here for money and jewelry?

18 A I said, Okay. I said, My jewelry is in the bathroom.
19 And I said, I believe there's some money in my purse in
20 the kitchen.

21 Q What did he do? And what did you do?

22 A Well, then he made me get up. And when I got up, I
23 did wake up my daughter. And she was sort of surprised.
24 But I got up. And he told me to show him where that stuff
25 was.

1 So he took me to the bathroom. I showed him where my
2 jewelry was. He took me to the kitchen. I showed him
3 where my purse was. And then he brought me back to the
4 bedroom.

5 Q Did he still have the knife with him at this time?

6 A Yes.

7 Q What was he doing with it?

8 A It was to the back of my neck.

9 Q When you go back to the bedroom, what happens?

10 A He says he needs to tie my hands up. So he asks for
11 something to tie my hands up. And then he gets one of my
12 bras and ties my hands behind my back.

13 Q Where does he get it?

14 A From the floor. And then he has me kneel in front of
15 my bed where I'm facing the bed. And my little girl was
16 crying at this time. And I was mainly concerned for her.
17 And I was telling her everything would be fine, not to
18 worry.

19 And then he asked me where my car keys were. I told
20 him they were in my purse. And then I heard him
21 unbuckling his belt behind me. And that's when I said,
22 Oh, no, please don't do this. And he said for me just to
23 cooperate and no one would get hurt.

24 Q Were your hands tied at this time?

25 A Yes, they were.

1 Q And he used the bra to tie them?

2 A Yes.

3 Q And when you heard him undoing his pants, where
4 exactly were you?

5 A I was kneeling facing the bed.

6 Q So your knees would have been on the floor, or on the
7 bed?

8 A On the floor.

9 Q And you were facing the bed?

10 A Yes.

11 Q Okay. I realize that it's difficult, but could you,
12 please, tell us what happened?

13 A He pulled down my underwear. And then he tried to
14 rape me from behind, but that didn't work. So then he
15 told me to turn over. And I turned over. And he had the
16 knife still to my neck. And I was looking up toward my
17 little girl, who was at the head of the bed. And I was
18 just -- and then he raped me and I -- but, the whole time,
19 I was, basically, telling my daughter, Everything is fine.
20 Don't worry. Everything is fine.

21 Q Did he say anything or make any comments about your
22 daughter?

23 A He said he wasn't going to hurt her.

24 Q And you said that he did rape you?

25 A Yes.

1 Q Is that vaginally?

2 A Yes.

3 Q What happened after that?

4 A After the rape, he told me to get up and asked me if
5 I had any douche. I told him, No, I didn't have any of
6 that.

7 So he took me to the bathroom, told me to get in my
8 tub, and told me to grab a shampoo bottle and fill it up
9 with water. Then he told me to clean myself up. So I --
10 and so then I squirted the shampoo bottle. He told me to
11 fill it up again and squirt it again. And then he had me
12 get out of the tub after that.

13 Q When you're saying that he told you to use the
14 shampoo bottle and you squirted it, did you squirt it in
15 your vaginal area?

16 A Yes.

17 Q And you did that twice?

18 A Yes.

19 Q Because he instructed you to do it twice?

20 A Yes.

21 Q Were your hands tied, at this time, when you were in
22 the tub?

23 A No. He did untie my hands after the rape before we
24 went to the bathroom.

25 Q After the rape, before you went to the bathroom?

1 A Yes.

2 Q And after you were in the bathroom and you cleaned
3 yourself, as he told you to, what happened?

4 A Then he told me to show him where the money was and
5 the keys. So we went to the kitchen. I got my wallet out
6 of my purse. And I gave him the money I had in my wallet.
7 I think it was about \$15, around in there, \$10 or \$15.

8 He then said, Is this all you have? I said, I don't
9 carry cash that often. That was all I had in my purse.
10 So the only other cash I had, besides what I had in my
11 purse, was in my daughter's piggy bank.

12 So he told me to go get the piggy bank, which I did.
13 And he wanted to know where the phones were in the house.

14 Q The phones?

15 A The phones, yes. We had a phone in my daughter's
16 room, a phone in the kitchen, and a phone in our bedroom.
17 So he got the receivers. They were cordless, except for
18 the one in my daughter's room, which was just a regular
19 phone. He got all the phones and the piggy bank. And we
20 carried them back to the bedroom.

21 Q Back to your bedroom?

22 A Yes.

23 Q What happened then?

24 A He told me to put all the stuff down on the bed.
25 Then he told me to grab my daughter and go into the

1 bathroom.

2 Q Did you do that?

3 A Yes.

4 Q Did he say anything else to you?

5 A He told me that for me to stay in the bathroom for
6 about 30 minutes, that he was going to go through the
7 house and look for some more stuff to take, and then he
8 was going to leave.

9 Q And did you stay in the bathroom?

10 A Yes.

11 Q Do you know, approximately, how long you stayed in
12 the bathroom?

13 A Probably five or 10 minutes. Then I sort of peeked
14 out of the bathroom to see if he was still there.

15 Q And you had taken your daughter into the bathroom
16 with you?

17 A Yes.

18 Q And after you peeked out, did you, eventually -- you,
19 obviously, eventually, left the bathroom. What did you
20 do?

21 A I went straight to my purse and got my cell phone out
22 of my purse and called the police.

23 Q And the person that assaulted you, did you have an
24 occasion -- let me ask you this. At the time of this
25 assault, did you know him?

1 A No.

2 Q And this happened at, approximately, what time again?

3 A It was between 5:00 and 6:00 in the morning.

4 Q Did you have occasion to see this person again?

5 A Yes.

6 Q And when was that, and how was that?

7 A It was probably around two weeks later. I was
8 watching the 11:00 news. I was sort of trying to go to
9 sleep. We, usually, leave the TV on at night. And I saw
10 a person on TV that looked like the person who had raped
11 me.

12 Q And when you saw that, what did you do?

13 A I immediately got on the phone to my cousin,
14 Charlotte McClure. She works for the Sevier County Police
15 Department -- or the Sevierville Police Department. And I
16 called her. She is the assistant for the detectives
17 there. And I told her, you know, This is the guy. This
18 is the guy who raped me. And I asked her if I should call
19 Detective Kevin Bush. Because it was around 11:30 at
20 night. And I thought that was kind of late at night to be
21 calling him. And she said, Well, just wait until the
22 morning and call him or come down to the police station in
23 the morning when you get up.

24 Q Did you, ultimately, meet with him and tell him of
25 this?

1 A Well, when I got to the police department, he wasn't
2 there yet. So I talked to Officer Mike Williams, who was
3 helping with the case. And I talked to him. And he told
4 me he would let Detective Bush know when he got there.

5 Q Detective Bush, was he one of the ones who
6 investigated the attack and the assault when it first
7 happened?

8 A Yes.

9 Q So he was there, initially, after you called the
10 police and met with you about this?

11 A Yes. He was the first person I talked to.

12 MS. STROM: The Court's indulgence, Your Honor.

13 (Pause.)

14 MS. STROM: Thank you.

15 Please answer any questions the Defense may have.

16 CROSS-EXAMINATION

17 BY MR. BANNISTER:

18 Q Ms. Gann, first off, I'm sorry you have to be here to
19 testify about this.

20 A Thank you.

21 Q Between the date of the incident and when you saw the
22 picture on the TV, had the investigation been ongoing?

23 A Yes.

24 Q Had the police from Tennessee come to you with any
25 pictures or photo lineups?

1 A Yes.

2 Q Did you, actually, pick somebody out of one of those
3 photo lineups?

4 A No.

5 Q You did not?

6 A No.

7 Q Was there ever a time when you said, This is the
8 person who did it, other than when you saw it on the TV?

9 A No.

10 MR. BANNISTER: Thank you.

11 I don't have any further questions, Your Honor.

12 MS. STROM: Redirect?

13 THE COURT: Yes.

14 REDIRECT EXAMINATION

15 BY MS. STROM:

16 Q Was Mr. Inman's photo in that lineup you were shown?

17 A No.

18 MS. STROM: Thank you.

19 I have no further questions.

20 THE COURT: Just a second, Ms. Gann.

21 MR. CULBERTSON: Your Honor, could we have just a
22 second?

23 THE COURT: Yes, just a minute.

24 Ms. Gann --

25 THE WITNESS: Yes.

1 THE COURT: -- I have not heard you say who the
2 person was that was in your home that night.

3 THE WITNESS: Well, when I described him to the
4 detectives, I said he was completely bald. He was skinny.
5 He was around -- a little bit taller than me. He had on a
6 white T-shirt and blue jeans. And he smelled of cigarette
7 smoke.

8 THE COURT: Thank you, ma'am.

9 You can step down.

10 May she be released?

11 MS. STROM: We would ask that she be allowed to be
12 released.

13 MR. CULBERTSON: And we have no objections, Your
14 Honor.

15 THE COURT: All right.

16 MR. ARIAIL: I call Detective Mike Hannon.

17 THE COURT: Detective, you may take the stand.

18 Please remember you're still under oath.

19 THE WITNESS: Yes, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. ARIAIL:

22 Q Mr. Hannon, you previously testified about taking a
23 statement from Mr. Inman on June the 7th, about the murder
24 of Tiffany Souers in South Carolina and then,
25 subsequently, that day around 9:15, taking a statement

1 concerning the attempted criminal sexual conduct on Beth
2 Bates Patterson in Rainsville, Alabama?

3 A Yes, sir, I did.

4 Q I want to focus your attention and ask you, did you
5 have occasion later on June the 7th to have a conversation
6 with Mr. Inman regarding an incident that had occurred in
7 Sevierville, Tennessee?

8 A Yes, sir, I did.

9 Q What is the location of Sevierville, Tennessee, in
10 regard to Dandridge, Tennessee, where you were located?

11 A About a 15-mile difference from one place to the
12 other. Sevier County, actually, joins Jefferson County.

13 Q So not far from where you were?

14 A No, sir. It's the same judicial --

15 Q Tell us when, and where, and what time you met with
16 Mr. Inman regarding the Sevierville, Tennessee, incident.

17 A Around 10:30 a.m.

18 Q And I believe you told us that the previous incident
19 that you talked about with Beth Bates Patterson in
20 Rainsville was sometime around 9:15?

21 A That's correct.

22 Q So a short period of time after that?

23 A That's correct, sir.

24 Q What was the date of the occurrence in the
25 Sevierville, Tennessee, event?

1 A I think it was May the 23rd, 2006 -- May 22nd. I'm
2 sorry. May 22nd.

3 Q May 22nd. And how and when had you learned of that
4 incident or event?

5 A June the 7th.

6 Q And what time -- well, did you know about it before
7 the Rainsville interview, or did you learn after?

8 A No, sir, I did not. It was afterwards.

9 Q And who did you learn about it from?

10 A Chief Deputy McCoig and I were discussing some more
11 information that had come in on Mr. Inman.

12 Q Did you happen to talk with Detective Kevin Bush over
13 in Sevierville?

14 A Later that day, yes, sir, I did.

15 Q But, beforehand, had Deputy McCoig talked to him?

16 A Yes, sir, I think he had.

17 Q Did he relate to you what Detective Bush had to say
18 about this event?

19 A Yes, sir, he did.

20 Q Did you arrange to interview Mr. Inman?

21 A Yes, sir, I did.

22 Q And how did you do that again?

23 A Same way. We used the Sheriff's Office and, of
24 course, Chief McCoig and I were in the room with
25 Mr. Inman. We advised him of his rights. And he gave us

1 a statement about the Sevierville incident.

2 Q The same three of you in the same room?

3 A Yes, sir.

4 Q Sitting in the same places?

5 A Yes, sir.

6 Q Was anyone with you in there when you met with
7 Mr. Inman, other than Mr. Inman and Deputy -- Chief Deputy
8 McCoig?

9 A No, sir, there was not.

10 Q All right. Let me show you what is marked as State's
11 Exhibit No. 22, and ask you if you're familiar with that
12 document?

13 A Yes, sir, I am.

14 Q Does it have your handwriting on it?

15 A Yes, sir, it does.

16 Q Is it the document you used in regard to advising
17 Mr. Inman of his rights concerning the Sevierville,
18 Tennessee, incident?

19 A Yes, sir, it is.

20 Q And does it have Mr. Inman's signature on there where
21 he indicated he would waive those rights and talk to you?

22 A Yes, sir, it does.

23 Q And did you witness that?

24 A Yes, sir.

25 Q Who else witnessed it?

1 A Chief G. W. "Bud" McCoig.

2 Q And the concluding time on it was?

3 A 10:35 a.m.

4 MR. ARIAIL: Your Honor, we would like to admit
5 State's Exhibit No. 22 for purposes of reviewing the
6 advice of rights and waiver of rights.

7 MR. BANNISTER: Same objection that we had in the
8 prior waiver of rights.

9 THE COURT: Okay. Same ruling.

10 (WHEREUPON, State's Exhibit No. 22 was admitted into
11 evidence.)

12 BY MR. ARIAIL:

13 Q As you did before, the writing on the top is yours
14 that puts it in Jefferson County Sheriff's Department?

15 A Yes, sir. That's correct.

16 Q Tell us how you went about advising Mr. Inman of his
17 rights, specifically.

18 A As I did on the two other occasions, I read this form
19 to him verbatim.

20 Q Would you explain to the Judge and read it just like
21 you read it to him?

22 A Yes, sir.

23 Before we ask you any questions, you must understand
24 your rights. You have the right to remain silent.

25 Anything you say can be used against you in court. You

1 have the right to talk to a lawyer for advice before we
2 ask you any questions and to have the lawyer with you
3 during questioning. If you cannot afford to hire a
4 lawyer, one will be appointed to represent you before any
5 questioning, if you wish one. If you decide to answer any
6 questions now without a lawyer present, you still have the
7 right to stop answering at any time. You, also, have the
8 right to stop answering at any time until you talk with a
9 lawyer.

10 And the waiver reads, I have read this statement of
11 my rights and I understand what my rights are. I'm
12 willing to make a statement and answer questions. I do
13 not want a lawyer at this time. I understand and know
14 what I am doing. No promises or threats have been made to
15 me. And no pressure or coercion of any kind has been used
16 against me. It's signed, Jerry Inman.

17 Q All right. So you read him the rights just like you
18 did there?

19 A Yes, sir.

20 Q And you read him the waiver, also?

21 A That's correct, sir.

22 Q And did he sign below the waiver?

23 A Yes, sir.

24 Q Did he appear to you after you read him his rights to
25 understand those rights?

1 A Yes, sir, he did.

2 Q And did he appear to you to understand what it meant

3 by the waiver of his rights?

4 A Yes, sir, he did.

5 Q Did you ask him if he understood?

6 A Immediately after reading them, I asked him, Do you

7 understand your rights? And he said he did.

8 Q What was his answer?

9 A Yes, I do.

10 Q Did he ask you to provide him a lawyer?

11 A Not at any time.

12 Q And did he tell you, at any time, he did not want to

13 talk to you?

14 A No, sir, he did not.

15 Q Did he indicate he would talk to you?

16 A Yes, sir, he did.

17 Q And, during this period, was any force or coercion

18 used against Mr. Inman to obtain a statement from him?

19 A No, sir, there was not.

20 Q Did you yell at him?

21 A No, sir, I did not.

22 Q Was he promised any leniency or given any hope of

23 reward if he talked to you?

24 A No, sir, he was not.

25 Q Did any other person or people come into the room or

1 leave the room?

2 A No one was in the room except Mr. Inman and I and
3 Chief Deputy McCoig.

4 Q Was he mistreated in any way that you observed?

5 A No, sir, he was not.

6 Q Did you mistreat him in any way?

7 A No, sir, I did not.

8 Q Did you observe anything that would have intimidated
9 Mr. Inman or overcome his free will?

10 A No, sir, I did not.

11 Q Did he appear to be in his right mind?

12 A Yes, sir, he did.

13 Q Were his responses to your questions appropriate?

14 A Yes, sir, they were.

15 Q Did he appear to be under the influence of any drugs
16 or alcohol?

17 A No, sir, he did not.

18 Q Did he complain to you about any sleep deprivation?

19 A No, sir, he did not.

20 Q Did you believe that he was voluntarily -- waiving
21 his rights freely and voluntarily?

22 A Yes, sir, I did.

23 Q If he had asked you for a lawyer or said he did not
24 wish to talk to you, what would have happened?

25 A The interview would have been concluded.

1 Q Following this, did you ask Mr. Inman to sign the
2 waiver?

3 A Yes, sir, I did.

4 Q And did he do that?

5 A Yes, sir, he did.

6 Q And you and Mr. McCoig witnessed it?

7 A Yes, sir, we did.

8 Q And you felt, at that time, that he was, in fact,
9 voluntarily waiving his rights?

10 A Yes, sir, I did.

11 Q And he expressed a willingness to talk to you?

12 A That's correct, sir.

13 Q Did he, in fact, engage in a conversation with you
14 about the Sevierville, Tennessee, incident?

15 A Yes, sir, he did.

16 Q Tell us, again, how that process went about.

17 A Like before, I would ask Mr. Inman to tell me what
18 happened in Sevierville. Of course, by this time, I was
19 noticing that when we asked him about stuff that he
20 thought we knew about, he would just go ahead and
21 volunteer the information, other than just take your time
22 and tell me and let me write it down.

23 Q And did you do that in this case?

24 A Yes, sir, I did.

25 Q Okay. I'm going to show you what's been marked as

1 State's Exhibit No. 23, and ask you if you recognize
2 that?

3 A Yes, sir, I do.

4 Q And is that the statement you took from Mr. Inman
5 regarding his -- or the Sevierville, Tennessee, incident?

6 A Yes, sir, it is.

7 Q Is that your writing?

8 A Yes, sir, it is.

9 Q And, at the conclusion of that, did he -- was he
10 asked to sign it?

11 A Yes, sir, he was.

12 Q Did he sign that statement?

13 A No, sir, he did not.

14 Q He refused to sign it just like he had done in the
15 others?

16 A On the other two, yes, sir.

17 Q And was that witnessed by McCoig?

18 A Yes, it was.

19 Q And that's your pad of paper you had with you?

20 A That's correct, sir.

21 MR. ARIAIL: Your Honor, we would like to offer
22 State's Exhibit No. 23.

23 MR. BANNISTER: Some objections as before, Your
24 Honor.

25 THE COURT: Same ruling.

1 (WHEREUPON, State's Exhibit No. 23 was admitted into
2 evidence.)

3 BY MR. ARIAIL:

4 Q In the top left, June 7th, 2006, you've got 10:35
5 a.m., that's when the time began?

6 A Yes, sir.

7 Q And then on the right, you filled in the same
8 information about Mr. Inman?

9 A That's correct, sir.

10 Q And this statement reads, On the day before I went to
11 Alabama, about May 22nd, 2006, I was driving around in
12 Sevier County. I saw a house with the garage door up. I
13 went through the garage door. The door to the house was
14 unlocked. I had on latex gloves. There were two females
15 inside the house, one was a small child, the other was a
16 woman in her 30's. I did not harm the child. I had sex
17 with the woman. I tied her up with a bra in the bedroom.
18 I threatened the woman with the same knife Chief McCoig
19 took off me last night. I had sex with the woman once.

20 After I had sex with the woman, I made her go to the
21 bathroom and clean herself with douche. I untied her when
22 I let her go to the bathroom. I asked her if she had any
23 money. She said she did not have any money. I did not
24 take anything from the house.

25 While I raped the woman, the little girl was in the

1 bedroom. She was not harmed. When I finished, I put them
2 both in the bathroom. This woman had dark hair, in her
3 30's, kind of heavy. The house was in Sevierville. The
4 house had vinyl siding, white, kind of a small house. I
5 was driving my 1990 Blazer, the same one I was driving
6 last night.

7 Earlier in the statement, I said I threatened the
8 woman with my knife. I put the knife to her throat. I
9 used the knife the same way on the woman in Rainsville,
10 Alabama. Refused to sign and witnessed by G. W. "Bud"
11 McCoig.

12 That's the statement you took from him?

13 A Yes, sir, it is.

14 Q And that's what he told you?

15 A That's correct, sir.

16 Q And did you have any information about the Sevier
17 County crime when you started the interview?

18 A Not other than what had occurred, no information
19 about the details of the incident.

20 MR. ARIAIL: Thank you.

21 Answer any questions that Defense counsel may have.

22 THE WITNESS: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. BANNISTER:

25 Q Again, what was the time between the interview

1 regarding Rainsville, Alabama, and this particular --

2 A Just a few minutes later. Just a very few -- after
3 the one was concluded about Alabama, just a very short
4 time later.

5 Q And in preparation for that interview, had you spoken
6 with any of the investigators from Sevierville?

7 A No, sir, I had not.

8 Q Had you spoken with anybody other than Chief Deputy
9 McCoig?

10 A No, sir, I had not.

11 Q What information, if any, did Chief McCoig convey to
12 you about what were the particulars of this crime that had
13 happened in Sevierville?

14 A He said he had talked to Kevin Bush in Sevierville,
15 and that he had gotten a call from a subject -- a victim
16 in Sevier County that identified Mr. Inman from
17 television, that he had raped her in Sevier County.

18 Q Was there any discussion about the death penalty, at
19 that point, with Mr. Inman?

20 A Not with me, no, sir.

21 Q Were you present in the room when there was any
22 discussion about --

23 A No, sir, I was not.

24 Q So, while you were there, that did not come up in
25 this interview?

1 A No, sir, it did not.

2 MR. BANNISTER: I don't have any further questions.

3 MR. ARIAIL: No further redirect.

4 THE COURT: All right. Thank you, sir.

5 You can step down.

6 MR. ARIAIL: Can he be excused, also?

7 MR. BANNISTER: No objection.

8 THE COURT: All right. Without objection.

9 MR. ARIAIL: Your Honor, that is the State's
10 presentation for today. We have one other witness who we
11 would present in the morning that is flying in this
12 afternoon.

13 THE COURT: Okay.

14 MR. ARIAIL: And we reserve the right to maybe have
15 another one.

16 THE COURT: With respect to the introduction of the
17 evidence concerning the Sevierville incident, I'd have the
18 same ruling I had with the Alabama incident, subject to
19 your objection, I know.

20 MR. BANNISTER: Thank you.

21 Please note those for the record.

22 THE COURT: All right. I haven't heard anything from
23 Judge Russo. So I don't know what to tell you about that.

24 We'll be adjourned until --

25 What time will your witness be here tomorrow?

1 MR. ARIAIL: His plane arrives at six after 5:00
2 tonight. So we'll be ready to go in the morning at 9:30,
3 10:00, whatever.

4 THE COURT: All right. 9:30.

5 (WHEREUPON, the proceedings were concluded at
6 approximately 4:27 p.m., to be reconvened on
7 Tuesday, September 9, 2008.)
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1 TUESDAY, SEPTEMBER 9, 2008

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3 (WHEREUPON, State's Exhibit Nos. 16, 16-A, 16-B,
4 16-C, and 24 were marked for identification only.)

5 THE COURT: Are we ready to proceed?

6 MR. BANNISTER: Yes, sir, Your Honor.

7 THE COURT: All right.

8 MR. ARIAIL: Your Honor, I think before we start, we
9 ought to recognize an honored guest, Mr. Jack Black, being
10 here.

11 THE COURT: Yes, sir, Mr. Black.

12 (Off-the-record comments.)

13 THE COURT: Yes, sir, Mr. Ariail.

14 MR. ARIAIL: We call Dr. Eric Christensen.

15 THE CLERK: If you'll, please, raise your right hand
16 and place your left hand on the Bible.

17 WHEREUPON,

18 ERIC DEAN CHRISTENSEN, M.D.,
19 after first having been duly sworn, testified as follows:

20 THE CLERK: Thank you.

21 Please state your full name for the record.

22 THE WITNESS: Eric Dean Christensen.

23 DIRECT EXAMINATION

24 BY MR. ARIAIL:

25 Q Good morning.

1 A Good morning.

2 Q Dr. Christensen, what is your profession?

3 A I'm a forensic pathologist.

4 Q And that's a subspeciality in the field of medicine?

5 A Yes, it is.

6 Q And where are you presently employed?

7 A I'm, currently, employed as assistant medical

8 examiner for the State of Utah in Salt Lake City.

9 Q And, up until recently, you were the medical examiner

10 for Greenville County?

11 A Yes. That's correct.

12 Q And what -- as the medical examiner or assistant

13 medical examiner, what are the duties and responsibilities

14 of that position?

15 A As a medical examiner, pretty much in any

16 jurisdiction, the responsibilities of a medical examiner

17 are to investigate deaths that fall under our

18 jurisdiction, which are those which are, by statute,

19 unnatural, violent, still births -- there's a whole long

20 list of things that follow under our jurisdiction by

21 statute. But we investigate those deaths to determine the

22 cause and manner of death.

23 Q The cause and manner of death?

24 A Yes.

25 Q And what is your education for holding that position,

1 both in Greenville and in Utah?

2 A Yes. My educational background is I have an
3 undergraduate degree in philosophy from Brigham Young
4 University. I attended medical school at the University
5 of Virginia. I, subsequently, received internship
6 training in pediatrics at Walter Young Medical Center. I
7 then spent four years in anatomic and clinical pathology
8 in Washington. And I then, subsequently, trained in
9 forensic pathology at the Office of the Chief Medical
10 Examiner in Richmond, Virginia.

11 Q And what is the difference -- or explain the
12 difference between pathology and forensic pathology?

13 A Sure. Pathology is a subspeciality of medicine, like
14 any other speciality, surgery and pediatrics, anything
15 like that that deals, specifically, with the diagnosis of
16 disease through the analysis of body fluids, cell samples,
17 tissue samples, and also, in some cases, autopsies, the
18 performance of an autopsy. We, also, as a pathologist,
19 receive training in diagnosis of natural cause of death by
20 means of the autopsy.

21 The forensic pathologist receives additional
22 specialty training. It's a subspecialty of pathology,
23 much like a heart surgeon is a subspecialty of surgery.
24 And we receive specialty training in the evaluation of
25 violent and unnatural deaths, specifically, with aim on

1 certifying cause and manner of death in cases that fall
2 under jurisdiction of the medical examiner.

3 Q What's the number of autopsies that you have
4 performed in the course of your career?

5 A Just shy of 2,000.

6 Q And the number of times that you've testified as an
7 expert in forensic pathology?

8 A Approximately 30.

9 Q And have you testified in the courts of this state
10 and been qualified as an expert in the field of forensic
11 pathology?

12 A Yes, I have.

13 Q Have you, also, testified, specifically, in cases in
14 which I have participated as the prosecuting attorney?

15 A Yes.

16 MR. ARIAIL: Your Honor, we would submit that he is
17 an expert in the field of forensic pathology.

18 THE COURT: All right. Any voir dire?

19 MR. BANNISTER: No, Your Honor.

20 THE COURT: Any objection?

21 MR. BANNISTER: No, Your Honor.

22 THE COURT: Okay. So certified.

23 BY MR. ARIAIL:

24 Q Dr. Christensen, did you perform an autopsy on the
25 victim, Tiffany Souers, to determine her cause of death?

1 A Yes, I did.

2 Q And when did you do that?

3 A That was done on May 27th of 2006.

4 Q All right. And, as a result of that autopsy, were
5 you able to determine the cause of Miss Souers' death?

6 A Yes.

7 Q What was the cause of her death?

8 A I certified her death as due to asphyxia due to
9 ligature strangulation.

10 Q And in layman's terms, what does asphyxia mean?

11 A Asphyxia is just sort of a general term that,
12 basically, means that the body and, specifically, the
13 brain does not receive sufficient oxygen.

14 Q And ligature strangulation, what does that mean?

15 A Strangulation is a general term -- is a -- to
16 describe neck compression, which is one manner by which
17 asphyxia can be brought about. Ligature strangulation
18 just means that it's done with a ligature, rope, piece
19 of clothing, whatever, as compared to manual
20 strangulation.

21 Q As a part of your examination, did you observe all of
22 the injuries to her body?

23 A Yes.

24 Q And do you record your findings in a report?

25 A Yes, I do.

1 Q As a part of that report, do you, also, prepare
2 drawings?

3 A Yes.

4 Q And did you prepare a report and drawings in regard
5 to the autopsy of Tiffany Souers?

6 A I did.

7 Q And, at my request, have you used those drawings to
8 prepare a computer-illustrated enhancement of your
9 findings to assist in the presentation of your testimony
10 to the Court?

11 A Yes.

12 Q Let me show you this disk, which is marked as State's
13 Exhibit No. 16, and ask if that contains the
14 computer-enhancement illustration?

15 A Yes.

16 Q And you've signed that?

17 A Yes. That's correct.

18 Q You've reviewed this?

19 A Yes.

20 MR. ARIAIL: Your Honor, we would like to offer this
21 to aid in his presentation, State's Exhibit No. 16.

22 THE COURT: Any objection?

23 MR. BANNISTER: No, sir, Your Honor.

24 We've looked -- I believe we've looked at these
25 before.

1 (WHEREUPON, State's Exhibit No. 16 was admitted into
2 evidence.)

3 BY MR. ARIAIL:

4 Q Did you supervise and direct the preparation of
5 State's Exhibit No. 16?

6 A Yes.

7 Q And you've reviewed it to determine its accuracy in
8 accordance with your findings?

9 A Yes.

10 Q Does it accurately represent your findings at
11 autopsy?

12 A It does.

13 Q What was the ligature that you referred to as part of
14 the ligature strangulation?

15 A It appeared to be a swim suit top.

16 Q All right. Let me show you -- I'm showing you the
17 first figure that is on the computer enhancement. I want
18 to review some of the specific aspects of the ligatures
19 you found.

20 First, did it completely encircle the neck of
21 Miss Souers?

22 A Yes, it did.

23 Q Was it loose or was it tight?

24 A It was tight.

25 Q And was it tied to keep it secure?

1 A The best I can determine, at the time of autopsy and
2 with the removal of it, there was no knot in it per se,
3 but it was just twisted tight.

4 Q Twisted?

5 A Yes.

6 Q And was it twisted more than one time?

7 A It appeared to be, yes.

8 Q Twisted more than one time. Could you determine in
9 looking at it the manner in which it was twisted, what --
10 the angulation of the twisting, I guess?

11 A Just looking at the picture here, which is a
12 reflection of the photos and the state of the decedent at
13 the time of the autopsy, the twisting was twisted to the
14 right.

15 Q All right. And did the ligature compress into the
16 skin of the neck?

17 A Yes, it did.

18 Q Can you give us an idea of how deeply it compressed
19 into the neck?

20 A Sure. The neck -- and I don't know what her actual
21 neck circumference was at the outset or prior to the
22 application of the ligature. But there's an indentation
23 of, conservatively, half an inch in all directions, which
24 results in a reduction in the circumference of her neck of
25 over three inches, which would be the equivalent of, say,

1 if she started out as a size 13 neck, that would take her
2 down to a size 10 neck, 10 inches.

3 Q Did you remove the ligature?

4 A Yes, I did.

5 Q How did you do that?

6 A The standard way ligatures are removed for
7 evidentiary purposes, essentially, we place tape in two
8 locations at whatever point we decide we're going to cut
9 it, which we like to cut away from the knot itself so that
10 it can be preserved for analysis. And then between those
11 two pieces of tape, we divide the ligature with the knot
12 in place.

13 Q And you collect the ligature once you cut it?

14 A Yes.

15 Q Let me show you what we have marked as State's
16 Exhibit No. 24. If you would, open that -- if you need
17 to, you can use this. Open that package and tell me, is
18 that the ligature that you collected during the autopsy of
19 Miss Souers?

20 A Yes, it is.

21 Q Do you see on there your cutting marks?

22 A Yes.

23 MR. ARIAIL: Your Honor, we would like to offer this
24 as State's Exhibit No. 24.

25 MR. BANNISTER: Without objection.

1 THE COURT: All right. State's Exhibit No. 24.

2 (WHEREUPON, State's Exhibit No. 24 was admitted into
3 evidence.)

4 BY MR. ARIAIL:

5 Q I'll save you the paper. If you would, show us --
6 just hold that up and show us -- I assume it's no longer
7 in the condition --

8 A No.

9 Q -- that you first saw it?

10 A No. These were the two pieces that were together,
11 two pieces of tape, which are labeled with the information
12 I placed on there as far as which one was right and which
13 one was left. And then we divided between these two
14 pieces of tape. The rest of this was twisted up in the
15 ball that you see there.

16 Q In that manner?

17 A In that manner.

18 Q As shown on Figure 1 that we're looking at on the
19 screen?

20 A Yes, sir.

21 Q And when you cut the places marked State's Exhibit
22 No. 24, did the integrity of the ligature remain the same?

23 A Essentially, yes. The knot or the twisting, which
24 you see here, we, also, secured with tape, because it did
25 not appear to be knotted. So I wrapped around that with

1 tape to keep that intact as we removed it. And that's the
2 way it was when it left our custody.

3 Q Were you then able to get an accurate measurement of
4 the circumference, the internal circumference of the
5 ligature?

6 A Yes. We measured the internal circumference of the
7 ligature as eight inches.

8 Q Eight inches?

9 A Yes, sir.

10 Q Let me ask you, if you would -- I'm going to hand you
11 a piece of paper that is 8-1/2 X 11. If the neck of
12 Miss Souers started out, let's say, at 11 and a half
13 inches, as wide as the widest portion of that paper, and
14 at the time of the measurement, the circumference of the
15 ligature was eight inches, what -- illustrate how that
16 would have occurred with that piece of paper.

17 A Essentially, it would take it from a diameter to a
18 circumference, roughly, that large to one, roughly, that
19 large. This is 8-1/2 X 11. So that would result in
20 somewhat less than three inches. So it would be,
21 approximately, that much.

22 Q In looking at the ligature, was it completely
23 embedded into the skin? In other words, if you were to
24 take a -- say, a small ruler, a flat edge, and lay it
25 across her neck, would you -- would the ruler sit up or

1 would it, actually, rest flat on both edges of the skin
2 bridging the --

3 A It would be flat across the neck. As you can see
4 across here, the neck -- without the ligature in place --
5 would run, essentially, across there. And the ligature is
6 completely embedded into the neck.

7 Q Let me show you number two. Using that, also, is
8 that the -- an accurate depiction of how it was embedded
9 in the skin?

10 A Yes, it is. It illustrates the same thing. The neck
11 is compressed, indented, with the photos we have of the
12 scale, at least, half an inch, possibly, more.

13 Q And you talked earlier about the repeated twisting or
14 multiple twisting. Once you removed the ligature, did you
15 have any change in what first appeared as the way it was
16 held together was just simply by repeated twisting?

17 A As best I could tell, yes.

18 Q Mr. Inman has admitted he twisted this bathing suit
19 top around Miss Souers' neck. And I think I've provided
20 you copies of his statement in that regard.

21 A Yes.

22 Q When he stopped twisting and holding the bathing suit
23 top, what happened?

24 A It, apparently, stayed in place. Because, at the
25 time I began the autopsy, the ligature was still in place.

1 Q And was it -- at the point of twisting, was there any
2 other object embedded within the twisted area?

3 A Within the ligature itself, some of her hair was
4 caught up in it. She, also, had a necklace which was
5 caught up in part of the twisting. The bulk of what you
6 see there was held in place by her chin and her upper
7 chest.

8 Q And was the twisting part, -- at the focal point of
9 that, was it, also, embedded in the skin?

10 A Yes, it was. It was indented into the neck.

11 Q What effect did that have on Miss Souers' body?

12 A Essentially, the application of the ligature in that
13 manner would result in fairly rapid unconsciousness if
14 applied consistently, and without interruption, and would
15 result in death within a few minutes.

16 Q And how does that -- why does she become -- or why
17 would somebody become unconscious as a result of that type
18 of --

19 A That results from the conclusion of blood flow. You
20 can develop asphyxial death from just occlusion of the
21 jugular vein, which doesn't require much pressure at all.
22 The carotid arteries, which are the main arteries that
23 feed the brain, require a little bit more pressure than
24 what is required to compress the jugular veins. But
25 either of those or both represents or results in decreased

1 blood flow to the brain or cessation of blood flow to the
2 brain and loss of consciousness within a few seconds
3 thereafter.

4 Q So we're not necessarily talking about an occlusion
5 of the airway?

6 A No, sir.

7 Q The throat airway. We're talking --

8 A That can happen, but is not required to result in
9 asphyxia.

10 Q And, in this case, what was the most probable cause
11 of that asphyxia?

12 A Most likely from vascular compression, compression of
13 the jugular and carotid arteries.

14 Q And loss of blood flow?

15 A And loss of blood flow to the brain.

16 Q Was she rendered unconscious before she died?

17 A Yes.

18 Q Assuming that the ligature had come loose on its own
19 or that Mr. Inman had untwisted it soon after he started
20 twisting it, even though she had lost consciousness, would
21 she have possibly lived?

22 A That would all depend on the duration for which it
23 had been applied. If it was removed as soon as she lost
24 consciousness, the likelihood is she would have survived.

25 That injury, the longer it's applied, there's a

1 radiation of time for which the brain becomes irreversibly
2 damaged. Once you hit that time, four or five minutes,
3 there's not going to be any recovery of brain function
4 between the time of loss of consciousness and the time of
5 irreversible brain death. You could have varying degrees
6 of recovery, depending on exactly how long it was applied.

7 Q But the fact that it wasn't removed, it was still in
8 that state of an eight-inch circumference at the time of
9 autopsy, there was no possibility that she would survive?

10 A No.

11 Q Let me show you the last image on here. What does
12 that -- Figure 3, what does that show?

13 A This is a representation of the ligature furrow, the
14 mark that was left on the neck after removal of the
15 ligature.

16 Q And what is the area -- the bigger area on Figure 3?

17 A This broad area here on the right side of the neck is
18 a -- just an area, a broader area of abrasion that's
19 caused by the large area of twisting, the large knot of
20 twisted material.

21 Q And the ribbon-looking area is?

22 A It's just indentation, and drying, and abrasion from
23 the presence of ligature around the neck.

24 Q When you removed the ligature, did the indentation in
25 the neck spring out and become normal again?

1 A To some extent. The indentation released to some
2 extent. But the furrow is, actually, a product of time of
3 application. The longer -- most of that change we see in
4 the neck is a postmortem or a post-application change.
5 And the longer it's applied -- for example, if it had been
6 released after 10 minutes, the mark would be much less
7 distinct than, say, there for several hours, as was in her
8 case.

9 Q Did you, also, conduct an internal examination of the
10 vaginal area?

11 A Yes, we did.

12 Q And what findings of significance did you make?

13 A We found findings of abrasion or scraping, a common
14 way of describing that, and some bruising as well. It was
15 mostly in and around the opening of the vagina.

16 Q And did you reach any conclusion as to whether or not
17 that damage was consistent or inconsistent with normal
18 sexual relations?

19 A It was not consistent with usual normal sexual
20 relations in a woman of her age.

21 Q And what did that damage that you found suggest to
22 you?

23 A It just suggested trauma or traumatic sexual
24 relations.

25 Q Now, did you have occasion to read Mr. Inman's

1 statement regarding the death of Miss Souers?

2 A I did.

3 Q Are they consistent with your conclusion as to the
4 cause of death being asphyxia due to strangulation?

5 A Yes. Mostly, most of his statements don't,
6 specifically, address her death in terms of asphyxia. But
7 all of the findings on her body are, certainly, consistent
8 with his statements.

9 Q In regard to Miss Souers being restrained, did you
10 find evidence consistent with that?

11 A Yes.

12 Q And what was that evidence?

13 A She had extensive bruising around both wrists as well
14 as some abrasions, which would suggest struggling against
15 restraints while she had them on. She, also, had a bruise
16 on the back of her arm that suggested struggling, as
17 well as a bruise on the back of her leg just above the
18 ankle.

19 Q Did you find evidence of -- are you familiar with the
20 term -- let me see if I say this correctly,
21 self-defense -- or self-defense marks consistent with
22 ligature strangulation?

23 A In many cases of ligature strangulation where the
24 victim is able to resist, we sometimes will find -- and
25 not in every case -- but we'll sometimes find marks on the

1 neck above the ligature where the Defendant or the --
2 excuse me, the victim themselves would injure their neck
3 in an attempt -- usually, their own fingernails in an
4 attempt to remove the ligature.

5 She had three small abrasions on her neck that did
6 not have the typical -- typically, we see little
7 curvilinear things that reflect fingernail marks. She did
8 not have those type of marks, but did have some small
9 abrasions on her neck.

10 Q Did you find that evidence to be consistent with
11 restraint?

12 A It, certainly, could be consistent with her trying to
13 do something. It could, also, be consistent with just the
14 application of the ligature itself. The marks above the
15 ligature are very small.

16 MR. ARIAIL: Thank you, sir.

17 Answer any questions that Defense counsel may have.

18 MR. BANNISTER: Your Honor, just one moment.

19 MR. ARIAIL: Oh, let me -- Your Honor, I would like
20 to, also, just for the record, submit copies of
21 photographs of these images in hard copy, which would be
22 marked State's Exhibit Nos. 16-A, 16-B, and 16-C. It
23 would be identical to the images on the disk.

24 MR. BANNISTER: Without objection, Your Honor.

25 THE COURT: All right.

1 (WHEREUPON, State's Exhibit Nos. 16-A, 16-B, and 16-C
2 were admitted into evidence.)

3 CROSS-EXAMINATION

4 BY MR. BANNISTER:

5 Q Dr. Christensen, if I understood correctly, once the
6 ligature was tightened down to prevent blood from going
7 through the jugular vein, then you would have expected
8 consciousness -- or loss of consciousness within 15 to 20
9 seconds. Would that be a fair statement?

10 A Yes. If the ligature was not released in any way
11 during that time, yes.

12 Q Okay. And in talking about the ligature and whether
13 or not it was released, would I be correct in saying that
14 the neck is one of the places on our body that will
15 respond more quickly to bruising and injuries to it?

16 A It, certainly, can.

17 Q Well, if the -- was there any indication that the
18 ligature around her neck was tightened more than once? In
19 other words, that furrow represents the place where that
20 ligature was on her neck?

21 A Yes.

22 Q And that's the sole place that you could find on her
23 neck where that ligature left marks?

24 A Yes.

25 Q So if we assume it was tightened down consistently at

1 one time, would you anticipate that as it's tightened down
2 that the pressure on the jugular vein would reach the
3 point where it would prevent -- or where that 15 to 20
4 seconds would start?

5 A Sure, yes.

6 Q Prior to the actual amount that it was -- the
7 ligature was tightened down in this case?

8 A Uh-huh.

9 Q Is that --

10 A I'm not -- could you repeat that last part? I'm not
11 sure what you're asking there.

12 Q Well, you testified just how tight the ligature was.
13 And I don't think you're saying that the ligature has to
14 be that circumference in order to cut off blood from the
15 jugular vein?

16 A Oh, no, absolutely it does not.

17 Q It takes, what, three pounds of pressure to --

18 A Yeah. Three or four to occlude the jugular. 10 or
19 11, somewhere in that ball park, to occlude the carotids.

20 Q Would it be fair to say, then, assuming that it's
21 tightened down once on her neck, that at some point prior
22 to the final twist that she was -- that that 15 to 20
23 seconds that she would be conscious had started earlier
24 than when it was finished?

25 A Yes, most likely, it would.

1 Q And if I, also, understand you, then, it, certainly,
2 would be possible and highly likely that once she loses
3 consciousness that she would, assuming the larynx is not
4 obscured, be breathing and heart still beating for a
5 number of minutes?

6 A That's correct.

7 Q And that would last for a period of how many minutes,
8 potentially?

9 A I don't know. I mean, there's all kinds of studies
10 out there, mostly case-report-type anecdotal studies, that
11 have looked at how long you can have continued cardiac
12 function without meaningful oxygenation of your brain. A
13 few minutes would be the best, I would say.

14 Q Okay. With regards to the sexual assault, in my
15 prior conversations with you, I understood that you found
16 the anus to be unremarkable in your autopsy?

17 A That's correct.

18 Q So there was no indication or evidence that you saw
19 of sexual assault anally?

20 A That's correct.

21 Q And with regard to the struggle -- or defensive
22 wounds, maybe, is the way we need to describe it. You did
23 not see indication that she tried to use her hands to pull
24 the ligature away?

25 A No, sir.

1 Q But were there, in fact, some indications that a
2 struggle had ensued?

3 A She, clearly, had marks on her wrists that she was
4 struggling against some form of restraint.

5 Q Would it be fair to say that your autopsy revealed
6 that there was some struggle against the assailant or, at
7 least, that it would be consistent with a struggle against
8 the assailant?

9 A Sure.

10 Q This may sound like an odd question, but what are the
11 choices for a death certificate?

12 A As far as the manner of death?

13 Q Yes.

14 A It varies a little bit from state to state. In this
15 state, the options are natural death, suicide, homicide,
16 accident, or could not be determined.

17 Q I want to kind of jump to a different subject here.
18 Have you had occasion in your close to 2,000 autopsies to
19 autopsy individuals who have committed suicide?

20 A Yes.

21 Q Have you had occasion to autopsy individuals who have
22 slit their wrists?

23 A Yes.

24 Q Do you have any idea as to how long it takes someone
25 to bleed out if they slit their wrist?

1 A It really depends on what they hit when they're
2 slicing. If they hit an artery, it could be just a matter
3 of, you know, a few seconds before they lose consciousness
4 and a few minutes before they die. If they hit only
5 superficial veins, even fairly large veins, those will
6 tend to self-tampinod, as we say, stop themselves. And if
7 they're not in a tub or some other circumstance that would
8 allow them to keep bleeding, a lot of times, it won't be
9 sufficient to cause death.

10 So it really depends on the nature of the injury that
11 they inflict.

12 Q Does the direction of the wound, either whether it's
13 across the wrist or up --

14 A That's really irrelevant. Really, what matters is
15 what they hit.

16 Q Have you seen suicide attempts where somebody has
17 sliced their jugular vein?

18 A Yes, I have.

19 Q And do you have -- can you give us any indication or
20 opinion on how long it takes someone to bleed out when
21 they slice their jugular vein?

22 A It depends, again, on the nature of the injury, what
23 they do, if anything, to try and stop it. I had a recent
24 case involving a woman that had done just that, who bled
25 fairly extensively, but was up around and moving, cleaning

1 up, moving things around the house before she, ultimately,
2 lost consciousness from blood loss.

3 So, clearly, several minutes in that case. But it
4 would really depend on whether it was completely through
5 and through, what other vessels she might have hit along
6 the way in terms of superficial veins, and muscular
7 injury, and all those sorts of things.

8 Q Is there any cut you can imagine to the jugular vein
9 that would not be serious and potentially fatal?

10 A Potentially, if it's just one. Because you'd have --
11 the brain of the body is set up to have redundant blood
12 supply and egress from the brain. The jugular drains the
13 blood from the brain. The carotid arteries, which are
14 much deeper and well protected by the body, are what
15 supply the brain. You have two sides, both of which are
16 connected internally.

17 So if you lose one side from occlusion, generally,
18 the body will be able to compensate by shifting the blood
19 to the other side. So it depends on if they -- if they
20 take both of them out. Again, it would depend somewhat on
21 the nature of the injury. It's, certainly, not
22 inconceivably you could have a fatal injury from injury to
23 one.

24 MR. BANNISTER: Thank you.

25 No further questions, Your Honor.

1 MR. ARIAIL: No further questions, Your Honor.

2 THE COURT: All right. Thank you, Doctor.

3 You can step down.

4 MR. ARIAIL: We would like for him to be excused,
5 also.

6 THE COURT: Any objection?

7 MR. BANNISTER: No, Your Honor.

8 THE COURT: Thank you, sir.

9 You're released from subpoena.

10 MR. ARIAIL: Your Honor, could we check with the
11 court reporter and the clerk to make sure all the exhibits
12 are in?

13 THE COURT: Sure.

14 (Pause.)

15 MR. ARIAIL: Your Honor, that's the State's
16 presentation for the sentencing phase.

17 THE COURT: All right.

18 MR. BANNISTER: Your Honor, I've got -- we've had a
19 number of motions throughout this case. And I would like,
20 if I could, just for a moment to be able to confer with my
21 co-counsel and maybe take a look at my paperwork that I've
22 had in this case. And we'd come back and, at that time,
23 make potentially some formal motions at that point.

24 THE COURT: We'll take a 15-minute recess.

25 MR. BANNISTER: And, Judge, while we're in recess, if

1 I could tell you where I think we are on our side of the
2 case.

3 THE COURT: Yes.

4 You all come on up.

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: We'll take a 15-minute break.

7 (WHEREUPON, a break was taken.)

8 THE COURT: Mr. Bannister.

9 MOTIONS

10 MR. BANNISTER: Thank you, Your Honor.

11 First off, to the extent that it's necessary for me
12 to ask for directed verdict on the statutory aggravation
13 and preserve whatever issues are available to us, I would
14 do that at this time. Anticipating the ruling, that that
15 motion would be denied, I will move on to the other
16 issues.

17 THE COURT: All right.

18 MR. BANNISTER: Judge, I renew our motion regarding
19 the unadjudicated criminal conduct. I ask you to review
20 that again, take a look at it, and consider eliminating
21 that from the sentencing proceeding.

22 Your Honor, we had made a motion early on in the case
23 to prohibit the Defendant's prior convictions from coming
24 in as non-statutory aggravators. That was based on the
25 interpretation of our South Carolina Code Section. You

1 had previously denied that, but I renew that motion at
2 this time as well.

3 Of course, we had our motion to proceed with some
4 sort of investigation into the live feed issue. I,
5 simply, renew those motions.

6 And, finally, Judge, we would ask you, once again, to
7 reconsider your order dated November 15th, 2007. That was
8 the order regarding our request to proceed after a guilty
9 plea with a jury trial. To the extent that I need to make
10 that motion again, I think I would make it in the form of
11 asking you to declare a mistrial and reconvene with a
12 jury.

13 Thank you, Your Honor.

14 THE COURT: All right. I'll just tell you, at this
15 time, viewing the statutory aggravators in the light most
16 favorable to the non-moving party, I deny your motion for
17 a directed verdict.

18 The -- again, the unadjudicated conduct, I believe is
19 admissible. And it's just a matter of weight to be given
20 to the evidence.

21 The rulings with respect to the prior convictions and
22 the jury trial for sentencing after a guilty plea, my
23 rulings remain the same.

24 I don't believe that there's been any showing of
25 prejudice as a result of the inappropriate transmission of.

1 the live feed in violation of the court order. And so
2 absent any showing of prejudice, my ruling remains the
3 same.

4 Now, I understand that -- is there anything from the
5 State?

6 I didn't mean to ---

7 MR. ARIAIL: Are you getting ready to go to the
8 procedure process of how we're going to conduct the
9 remaining part? Is that what you're getting ready to do?

10 THE COURT: Well, I understand from our bench
11 conference that the witnesses for the Defense, it would be
12 more appropriate to begin the trial -- to recess for
13 lunch, at this time, and begin at 2:00 p.m. today.

14 Is that correct?

15 MR. BANNISTER: Your Honor, if I can get out of here
16 shortly, yes, I think we can be ready by 2:00.

17 THE COURT: All right.

18 MR. BANNISTER: And, just for the record, I'm pulling
19 a witness out of order, because two of our witnesses are,
20 currently, in trial in Sumter. And I wanted to be able to
21 try to accomplish something today. Those were supposed to
22 be our first and second witnesses. But we know they're
23 not going to be able to get here today.

24 THE COURT: Well, you can -- and I'll give you an
25 opportunity to explain, if you feel it's necessary, why

1 the -- those two -- you know, you can explain to me why
2 they were important in your strategy at the end of the
3 case. I'm sure you'll do that anyway.

4 MR. BANNISTER: I'm not raising any objection. I'm
5 just saying that's my purpose in saying let me get to it
6 and I can have us ready by 2:00.

7 THE COURT: All right. Mr. Ariail.

8 MR. ARIAIL: I just want to -- I'm alerting the
9 Court -- I'm not -- I don't want to suggest to my brethren
10 seated at counsel table about legal issues. But sometimes
11 I do like to have an interest in protecting the record for
12 future events.

13 THE COURT: All right.

14 MR. ARIAIL: We presented -- the Jackson v. Denno
15 issue has been out there. But my concern is that I want
16 to make sure that it's resolved. We have gone to great
17 lengths to present all of the evidence we believe is
18 necessary to satisfy the gatekeeping authority that you
19 have to exercise in regard to statements made by the
20 Defendant.

21 We went through the -- of course, to begin with, it
22 was a stipulation of fact that dealt with the statement
23 dealing with the Souers incident taken by SLED and, also,
24 by the Tennessee authorities. We then put the Tennessee
25 authorities back up to go over the waiver and the Miranda

1 warnings, et cetera, et cetera, and the process and
2 location and all that to establish the basis for Jackson
3 v. Denno on all states, unadjudicated and adjudicated, as
4 well as the Souers.

5 So I think that, at some point in time, the Court
6 needs to conclude that Jackson v. Denno has been
7 satisfied. Of course, the Defense has every opportunity
8 or every right during their case, if they wish, to put up
9 evidence. I just didn't want that to go unaddressed if
10 they have evidence that deals with inadmissibility of the
11 statements.

12 THE COURT: With respect to the unadjudicated
13 conduct, I believe I did find yesterday that those -- that
14 the Constitutional requirements with respect to the -- as
15 enumerated in the Jackson v. Denno case had been
16 satisfied. I did not -- what I don't want to do is to --
17 from my ruling in this case in the sentencing phase to
18 limit some future judge to -- in Alabama or in Tennessee
19 to be limited by my ruling. So that's the only caveat
20 that I would put on those.

21 But I found that the State did satisfy the
22 requirements, the Constitutional requirements as
23 enumerated in the Jackson v. Denno case with respect to
24 those two statements. And before I rule on --

25 Anything from the Defense?

1 MR. BANNISTER: Well, I think I just need to state,
2 for the record, I don't see how your ruling here that
3 those statements come in is not going to impact Alabama
4 and Tennessee to some extent. I mean, you've got --

5 THE COURT: Well --

6 MR. BANNISTER: There's --

7 THE COURT: Yes, sir.

8 MR. BANNISTER: There's going to be an issue of
9 judicial estoppel at a minimum, but -- so.

10 THE COURT: Well, you never know what they might
11 present in those states. So I think they've got the
12 burden. If that goes forward, that's a whole separate
13 issue and -- but that does not change my ruling.

14 I only -- I'm trying to protect Mr. Inman's rights in
15 these other states as much as I can. But I don't find --
16 I do find that those -- that the State has satisfied the
17 Constitutional requirements enumerated in Jackson v. Denno
18 with respect to both of those statements.

19 Now, with respect to the statement in this case,
20 anything you want to say before we --

21 MR. BANNISTER: No, sir.

22 That was part of the stipulated facts. I see that as
23 a different category altogether.

24 THE COURT: All right. Well, I'm going to rule as
25 well that the State has satisfied the Constitutional

1 requirements as enumerated in Jackson v. Denno.

2 MR. ARIAIL: All right. Because we're now entering a
3 phase that we've made a motion earlier to deal with the
4 expert witnesses and disclosure of information, underlying
5 data, to speed up the process. We conceded that because
6 there's not a jury that maybe there's less emphasis on
7 that from the Court's perspective. But we're now
8 beginning to get into a phase where we're going to have
9 experts testifying, and they're going to be relying upon
10 certain data that we do not have. In fact, we don't even
11 know what it is. I'm not sure who the experts are. We've
12 got some inkling of who they are and what their areas of
13 expertise may be from prior cases that we've had dealings
14 with them.

15 But, needless to say, number one, I would renew our
16 appeal to the Court to have the Defense present to us, at
17 some reasonable period of time prior to the testimony of
18 these experts, the underlying data upon which they're
19 going to rely. And I go back to Dr. Schwartz-Watts. The
20 report she gave us contained numerous references to
21 documents that we do not have. So, obviously, we can't
22 have reviewed them. And we can't perform any kind of
23 meaningful cross-examination, if we want to, until we've
24 reviewed them. So I would like to get those at some
25 reasonable opportunity ahead of time.

1 But, secondly, and even more importantly, which we've
2 run into in the past, is when the expert gets here, they
3 don't have them, they don't have the documents. They
4 can't produce them. They left them in their office, or
5 they left them somewhere else, or they had to come too
6 quick. I just want to make sure all of that -- so if
7 we're going to take two or three hours, at least, they're
8 going to give us a box of stuff that we can go through
9 during some break period before we get too far along.

10 The last area that I would like to deal with is not
11 as a specific motion, but to give the Court some sort of
12 heads up. We -- having dealt with these experts that we
13 have been given names to testify today, having dealt with
14 them previously, there are a couple that we have grave
15 concerns as to their ability to testify in the manner in
16 which they have previously testified.

17 And to be specific about that, Dr. Loring has been --
18 has a PhD in social work. And Dr. Loring has a
19 testimonial style that does not confine itself to any
20 subject or any -- it just doesn't confine itself. It is a
21 rambling recitation of rank hearsay. And it becomes, to
22 some degree, so difficult to keep things hemmed up as to
23 what her opinion is, if she has an opinion, that we would
24 like to alert the Court, we're going to have some serious
25 argument about the 703, and what it's applicability is

1 when these people get on the stand -- or before they get
2 on the stand, particularly, as it relates to the
3 admissibility of underlying hearsay upon which they base
4 their opinion.

5 And, in particular, I'm not objecting to the
6 opinions. I'm not objecting to the basis for the
7 opinions. I'm just going to have some severe objections
8 to the parroting of totally uncorroborated rank hearsay
9 that is totally out of the realm of cross-examination.
10 For example, I talked to the Defendant's sister and she
11 told me this, this, and this. And based on what I was
12 told, this is my opinion. Those are the type of things --
13 you know, based -- I'm not objecting to her detailing
14 categories of who she talked to and the general discussion
15 about what the subject matter was, but to repeat things
16 that would normally be inadmissible -- well, not normally,
17 would be totally inadmissible and very well may be
18 self-serving.

19 Because all the information they have compiled is for
20 one purpose and one purpose only, and that's to present as
21 mitigating evidence. So it's already got an agenda when
22 it gets started. And our concern is in viewing these
23 things, there needs to be some limitation.

24 Our case law is very limited. But the one thing I do
25 get out of it is that it's in your discretion to keep it

1 limited. So what I want to try to urge the Court to do
2 with these witnesses -- I'm not concerned about Dr. Price
3 or Dr. Schwartz-Watts, but some of these others, that we
4 get an opinion on the record. And then let's talk about
5 what the basis of the opinion is, rather than going
6 through this long parroting of all the stuff I did and
7 then we get to the end and we hear the opinion.

8 Because most of the stuff they talk about is not
9 relevant to the opinion. It's just relevant to what they
10 did. And Dr. Loring, particularly, is a social worker and
11 there's not a great deal of expertise in the field of
12 social work. It's an area of listening and taking in
13 information. But where she gets her expertise may be very
14 limited. I'm just bringing that up ahead of time so we
15 won't get bogged down too bad.

16 THE COURT: All right. Mr. Bannister.

17 MR. BANNISTER: Can we come back at 2:15?

18 That's about how long that argument took. So I know
19 I'm going to need an extra 15 minutes at this point.

20 THE COURT: All right. Well, let me ask you this.
21 They've requested that you produce the reports.

22 Do you want to reply to that?

23 MR. BANNISTER: If I was to do that, then it would
24 almost be per se ineffective. That's my view of the case
25 law on this issue. And I've cited to that in my motion.

1 THE COURT: All right.

2 MR. ARIAIL: I don't want a report. I'm not asking
3 for a report. I want the data that the report is based
4 on. If they say, We looked at the prison records from the
5 State of Florida, I want to see those prison records. I
6 don't have them, necessarily. That's what I'm looking
7 for. I'm not asking for a report. Because I don't want
8 to cross that bridge in this case. But I do want the
9 underlying data that 703 requires.

10 THE COURT: But then you don't want Dr. Loring to
11 give you that information?

12 MR. ARIAIL: I don't want who?

13 THE COURT: Dr. Loring.

14 All right. Let's deal with that at 2:15.

15 Who -- can you tell us who you intend to put up at
16 2:15?

17 MR. BANNISTER: Dr. Price.

18 THE COURT: Okay. See everybody at 2:15.

19 (WHEREUPON, a lunch break was taken.)

20 (WHEREUPON, Defendant's Exhibit Nos. 2, 3, 4, 5, 6,
21 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and
22 20 were marked for identification only.)

23 THE COURT: All right. Mr. Bannister.

24 MR. BANNISTER: Thank you, Your Honor.

25 The Defense would call Dr. David Price.

1 THE COURT: Come around and be sworn, please.

2 THE CLERK: Sir, if you'll, please, place your left
3 hand on the Bible and raise your right hand.

4 WHEREUPON,

5 DAVID RICHARD PRICE, PhD,
6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 Please state your full name for the record.

9 THE WITNESS: David Richard Price.

10 DIRECT EXAMINATION

11 BY MR. BANNISTER:

12 Q Dr. Price, if you would, could you briefly give us a
13 little bit about your background? Where are you,
14 currently, employed and what is your specialty?

15 A I'm a forensic psychologist and a forensic
16 neuropsychologist. I'm employed in Greenville. I'm
17 self-employed.

18 Q And do you have a current practice?

19 A I do have a current practice. I consult in forensic
20 issues across the country. I consult with critical
21 interventions with business and industry. I do fitness
22 for duty evaluations and provide some treatment.

23 Q And have you been qualified before as an expert in
24 the courts of South Carolina?

25 A I have.

1 Q And in what areas have you been qualified, maybe with
2 particular reference to this case, as an expert in South
3 Carolina?

4 A I've been qualified as an expert forensic
5 psychologist, expert clinical psychologist, and expert
6 neuropsychologist.

7 Q And, in fact, have you testified in front of this
8 Judge before, to your knowledge?

9 A Yes, sir, I have.

10 Q And have you testified for Solicitor Ariail as an
11 expert in his cases before?

12 A I have.

13 Q And were you qualified -- have you ever not been
14 qualified as an expert in the field of forensic
15 psychology?

16 A No, sir, I have not.

17 MR. BANNISTER: Your Honor, at this time, I would
18 offer Dr. Price as an expert in the fields of forensic
19 psychology, clinical psychology, and neuropsychology.

20 THE COURT: Any voir dire from the State?

21 MR. ARIAIL: No, Your Honor, no voir dire.

22 THE COURT: Any --

23 MR. BANNISTER: If I could -- I'm sorry.

24 THE COURT: Any objection?

25 MR. ARIAIL: No objection.

1 It -- just with this witness, I know his education
2 and training background. So I won't go into that. No
3 objection.

4 MR. BANNISTER: Your Honor, if I might, I've marked
5 as Defendant's Exhibit No. 2, just for the record, his CV.
6 I'm assuming there's no objection to that.

7 MR. ARIAIL: No objection.

8 (WHEREUPON, Defendant's Exhibit No. 2 was admitted
9 into evidence.)

10 BY MR. BANNISTER:

11 Q Dr. Price, have you had a chance to review records
12 and interview individuals with regards to this particular
13 case and Mr. Inman, specifically?

14 A Yes, sir, I have.

15 Q And have you had a chance to form an opinion in this
16 case?

17 A Yes, sir, I have.

18 Q Have you had a chance to form an opinion as to
19 Mr. Inman in this case?

20 A I have.

21 Q And do you have an opinion?

22 A I do.

23 Q Let me ask you right off the bat, in your opinion,
24 was the mentality of Mr. Inman, at the time of the crime,
25 a factor in his commission of the crime, specifically,

1 Tiffany Souers?

2 A Yes, it was.

3 Q In your opinion, was the crime -- and again, we're
4 referring to the death and rape of Tiffany Souers. Was it
5 committed while Mr. Inman was under the influence of
6 mental and emotional disturbance?

7 A It was.

8 Q Finally, in your opinion, at the time of the crime
9 against Miss Souers, was Mr. Inman's capacity to conform
10 his conduct to the requirements of the law substantially
11 impaired?

12 A It was.

13 Q What did you review? What records did you review?
14 Who did you talk to to reach these conclusions?

15 A I reviewed 15 three-to-four-inch notebooks of
16 biographical information on Mr. Inman, including records
17 about his family, his incarceration, newspaper clippings,
18 all of his mental health treatment. Actually, there are
19 about 3,000 pages of mental treatment while incarcerated.
20 I talked to treatment providers that have seen him.

21 Q Did you review records of the crime itself?

22 A I did.

23 Q And did you -- you said you reviewed psychiatric
24 records from prison, would that have been from North
25 Carolina where he was housed and from Florida?

1 A Yes, sir.

2 Q And did those records from North Carolina and Florida
3 make up the majority of these records you're referring to?

4 A They did.

5 Q Would it be safe to say he's had mental health
6 treatment over, basically, the entire 19 or so years that
7 he was incarcerated?

8 A Yes, sir.

9 Q And what diagnoses do you believe those records and
10 the other information you took suggest?

11 A I, actually, would break his diagnosis down into four
12 areas. Not to belabor the point, but when we diagnose
13 somebody, we diagnosis them in a multi-axial system. And
14 we've been doing this since 1980. The reference -- the
15 authoritative reference we use is the Diagnostic Statistical
16 Manual of Mental Disorders. On axis one, I would give him
17 three diagnoses. On axis two, which are developmental
18 disorders, I would give him one diagnosis.

19 The diagnoses found in the records that I would give
20 him is he has had a history of mood disorders. Now, there
21 are 20 distinct different types of mood disorders you can
22 diagnosis from DSM4, the authoritative text, currently,
23 used. He has had a number of them, ranging from
24 dysthymia, which is sustained or intermittent depression
25 for longer than two years, to major depressive

1 recurrent-type -- major depressive disorder, recurrent
2 type, major depressive disorder with psychotic features,
3 bipolar disorder, and psychorhythmic disorder. And
4 probably those diagnoses are different -- they're all mood
5 disorders, disruption of mood. Probably those diagnoses
6 are different because they're given by different people
7 seeing him at different points in time. So that would be
8 the mood disorder.

9 He's had diagnoses of personality disorders. I would
10 see him as having a schizoid personality disorder, which
11 would be diagnosed on axis two, which is a developmental
12 disorder. And two new diagnoses that I would give to him
13 that were not in his records would be a dissociative
14 identity disorder and sexual paraphilia.

15 Q And, just to go back for a second, the mood disorder
16 would be an axis one disorder?

17 A It would be. It's a clinical disorder.

18 Q And the schizoid disorder would be an axis two
19 disorder?

20 A That's correct. It's a developmental disorder.

21 Q And then the social identity disorder and the sexual
22 paraphilia would, also, be axis one disorders?

23 A Yes, sir, they would.

24 Q If you could, let's talk for a moment about the mood
25 disorders. Do you find those throughout the prison

1 records?

2 A You find those throughout the prison records and
3 treatment for the mood disorders throughout the treatment
4 records, including multiple suicide attempts, suicide
5 ideations, withdraw, you know. His mood disorder, at one
6 point, was pretty profound in Florida.

7 We give a rating called Global Assessment of
8 Functioning. It's a numerical rating ranging from zero to
9 100. Zero, meaning you don't have the information to make
10 a rating. 100, meaning they're perfect. I've never seen
11 somebody that's got 100. Most of us in this room would
12 have a GAF of between 75 and 85, meaning any symptoms
13 we're having right now, anxious symptoms or emotional
14 symptoms, would be appropriate for stressors that we're
15 facing.

16 His was rated several times with a 30. A 30 is
17 someone that has serious impairment with ability to
18 communicate, and judgment, and has profound impairment in
19 their overall ability to function. That's how depressed
20 he was.

21 Q And so if, maybe, most of the people in this audience
22 are somewhere in the 80 ballpark, describe to me what a
23 Global Assessment of Functioning of 30 would look like.

24 A Well, to the layperson, they would look depressed or
25 listless. They would have very sad facies. They wouldn't

1 talk. If they talked, it would be very slowly. They
2 wouldn't make sense and wouldn't make good decisions.
3 They would have an impairment in communication and
4 judgment. Like deciding to take your life is not a good
5 decision.

6 Q Did you find places in the records where, maybe, the
7 Global Assessment of Functioning is not necessarily
8 discussed in particular, but where the affect of the
9 Defendant is what he was exhibiting in terms of the
10 description and would have met a Global Assessment
11 Functioning that was around that 30 range were the only
12 places this was occurring?

13 A That's correct.

14 Q And with regards to the mood disorders, how severe
15 does it have to be to, actually -- to get a diagnosis?

16 A We have to have some impairment in either your
17 clinical, social, or occupational function.

18 Q So is that what you mean when you say if you try to
19 commit suicide that's, certainly, an example of how the
20 mood disorder is impacted?

21 A That would be an example of impairment in clinical
22 function.

23 Q And when you said -- I think you said there, also,
24 was a diagnosis of mood disorder with psychotic features.
25 What does the word "psychotic" mean in clinical

1 psychology?

2 A It really means a break in reality, having auditory
3 and visual hallucinations, seeing things, hearing things,
4 having a delusion, an unfounded belief, things of that
5 nature.

6 Q And so you saw, at least, one instance of that in the
7 records?

8 A There were several instances of that in the records.

9 Q How about bipolar disorder, can you just give us
10 maybe a layman's description of what that would be?

11 A To the layman, that would be manic depression,
12 periods of highs and lows.

13 Q And, again, how severe do they have to be in order
14 to, actually, get a diagnosis? I mean, obviously, people
15 go through the day and they might feel better on one day
16 or worse on another, but that doesn't necessarily mean
17 they're bipolar?

18 A No. They would have to be depressed or manic, be
19 very hyper, spending sprees, and things of that nature.

20 Q When you describe depressed or manic, in this
21 scenario, it would be to such a degree that, say, somebody
22 like us, a layman, would see it and say something is wrong
23 there?

24 A Typically, you would feel something was wrong after
25 you had known them several days. After the first day, if

1 they were manic, you might think they were just a real
2 emulate person, but as you look at their pattern of
3 behavior over time, you know.

4 Q With regards to the dysthymia, is there some
5 distinction between that and some of the other mood
6 disorders you've described?

7 A Once he started having the major depressive disorder
8 recurrent type, that would preclude the diagnosis of
9 dysthymia. It would no longer be an intermittent
10 depression. It would be a recurrent depression.

11 Q It sounds like some of these may be overlapping or
12 applicable in conjunction with another. Is that unusual?
13 Would you expect to see that given the length of the
14 diagnosis for him?

15 A No. I think it would just depend on the amount of
16 information the clinician had when they made that
17 diagnosis and how he was appearing at the time.

18 Q So do you take any issue with the fact that these
19 different diagnoses are occurring over time during your
20 review of the records?

21 A No. What is clear is that there is some diagnosis
22 being made each time. And there's some kind of diagnosis
23 of a mood disorder being made each time.

24 Q Did it appear that there were a number of different
25 clinicians that were looking at Mr. Inman making these

1 diagnoses?

2 A There were.

3 Q All right. And let's turn for a moment to the
4 personality disorder. You said that's the axis two. And
5 I think you described that as a developmental disorder.
6 Could you expound on that a little bit?

7 A Personality disorders are in existence by late
8 adolescent, early adulthood. They're not caused by a
9 specific trauma like a post-traumatic stress disorder.
10 But, generally, they have some trauma in the development
11 present for them.

12 The schizoid personality disorder, essentially,
13 illustrates the fact that he is such an introvert that he
14 does not have warm relationships with other individuals.
15 He has had intermittent relationships within his family.
16 But he has had an impairment in the ability to form
17 relationships and is, basically, a loner.

18 Q And if I get you right, that's, in part, due to
19 the -- his individual development during his formative
20 years?

21 A Well, part of that would be his genetic
22 predisposition. He had a mother who had paranoid
23 schizophrenia, and a father who was an alcoholic, if not
24 some type of characterological disorder. And he was
25 raised in a turbulent and unstable environment. This

1 young man, if you look at the records, began using drugs
2 at 10, and was running away at 13. And that's a clear
3 sign of an adolescent in trouble. He was out living on
4 the streets when he was 15, then in jail, I guess, by 17.

5 Q The -- I guess you would describe it as the genetic
6 makeup that he comes with may predispose him to this sort
7 of personality disorder. Does the environment, as he
8 grows up, play any part in that? I guess that's what
9 you're saying with regard to the schizophrenic parent and
10 the --

11 A It's an interaction between the environment and your
12 genetic predisposition.

13 Q And with regard to his -- with your diagnosis, the
14 schizoid personality disorder, is there anything else you
15 saw that was of particular importance from the records
16 regarding your diagnosis?

17 A Well, all of these disorders have some entwinement.
18 Like someone that has a dissociative identity disorder
19 often has difficulty with substance abuse and depression.
20 A schizoid can have depression. Certainly, depression can
21 have substance abuse. So they all have some overlapping
22 and entwinement in that regard.

23 Q What is dissociative identity disorder?

24 A A dissociative identity disorder is a disorder in
25 which a person has, at least, two specific identities that

1 when events change or something in the environment
2 changes, it causes them, basically, to assume a different
3 internal identity.

4 Q And, you know, I think, when I hear that terminology,
5 about the book "The Faces of Eve" where you've got
6 somebody who's got different parts that have different
7 names, maybe even different genders. Is that what we're
8 talking about in this case?

9 A Traditionally, we thought that they would have
10 distinct personalities with distinct names. That's not
11 necessarily felt to be the case now, as we know more about
12 the disorder.

13 Q Is that, actually, an unusual situation in a
14 dissociative identity disorder scenario to have different
15 names for different parts?

16 A You know, it is somewhat unusual. And, generally,
17 the people who have different names for different parts
18 have been in some extensive psychotherapy or counseling
19 that helped identify those different parts and different
20 names.

21 Q In this case, did you find different parts?

22 A Yes. There are different identities.

23 Q All right. But do they have different names?

24 A No. They're not as, clearly, defined. And one of
25 the things that happens with Mr. Inman is he's not very

1 forthcoming about his mental disorder that would help you
2 discover that.

3 Q So from what do you take from the records to reach
4 that diagnosis?

5 A Well, you know, after extensive conversations with
6 his treatment providers, in particular, his pastor, there
7 is identified where he has -- in the middle of a
8 conversation, he'll assume a different affect, and
9 different look, and different response. That's changing
10 from one identity to the other.

11 He, clearly, has it when he has this amazing artistic
12 ability, but he can't draw on command. You can't go over
13 there and ask him right now to draw a picture. Some
14 identity comes over him and, literally, the drawings spill
15 out of him. And the drawings are somewhat revealing about
16 him.

17 Q And that creativity, will that come and go at various
18 times?

19 A It does.

20 Q And if I understand you correctly, it's not something
21 he has the ability to manifest on his own?

22 A That's correct.

23 Q And over what period of time might this creative side
24 of him be in place, just by way of example?

25 A Hours. You know, generally, though, with a

1 dissociative identity disorder, the primary -- it's more
2 common in women than men. The primary identity,
3 generally, is a passive, dependent, depressed person that
4 has difficulty with guilt.

5 They may not know all the aspects of what else is in
6 their mind or their experience. They often engage in
7 self-mutilating behavior, which would be consistent with
8 his tattooing. They, generally, can have a lot of
9 suicidal ideation and suicide -- depression is an issue.

10 Q So the records that we have that you reviewed are
11 consistent with this diagnosis then?

12 A I think it would be consistent with this diagnosis as
13 would that he traveled in his sexual assaults. It's
14 almost like a fugue state. He didn't get out with a clear
15 destination in mind. He just sort of drove across the
16 southeast or from state to state until he arrived to
17 wherever he committed his sexual assault.

18 Q I'm sorry. Did you say that was a fugue state?

19 A A fugue-like state. It's like a disassociate state.

20 Q And is that something that would just come upon him?

21 A Yes, sir.

22 Q And so he might be in the middle of doing something
23 else and all the sudden, it was time to go?

24 A Generally, the reaction may be to stress or other
25 things going on.

1 Q How do we -- is there a generalization you can make
2 about how you get to a point where you might have a
3 dissociative identity disorder?

4 A Well, the thing that we know that all of them have in
5 common -- if you've read the Three Faces of Eve, you'd
6 know this, they, generally, have a history of being
7 sexually abused and physically abused.

8 Q And what is the correlation between that abuse and
9 the dissociative identity, or disassociation at that
10 point?

11 A Well, they disassociate in times of the abuse to sort
12 of let -- encapsulate. One identity takes the abuse and
13 they sort of pull back in themselves and escape the
14 climate.

15 Q Could it be described as a defense mechanism?

16 A It's a type of defense mechanism.

17 Q You, also, said that you would diagnosis him with
18 sexual paraphilia?

19 A I would.

20 Q And can you expound on that?

21 A He's a serial sexual -- he's a serial rapist. That's
22 the paraphilia that I would give him. I'm not -- it
23 astounds me that that wasn't diagnosed when he was in the
24 Department of Corrections in Florida. Looking in the
25 records at Florida, they document in the records that he

1 does not have a sexual disorder and he did not meet the
2 criteria for the sexual offender treatment program in the
3 Florida prison when he, clearly, did.

4 Q Now, you disagree with that assessment. Now, maybe
5 hindsight is 20/20, but how do they assess people
6 normally? How -- in your experience, have you assessed
7 people for a sexual disorder?

8 A Well, one of the things that is used is a risk
9 assessment. And, in this state, the State in evaluating
10 sexual offenders as they complete their prison date to see
11 if they need to be committed for long-term treatment.
12 They use a device called a RRASOR. It's with two R's.
13 And it's Rapid Risk Assessment for Sexual Offender
14 Recidivism and whether they'll repeat their crimes.

15 They rate four things. They rate a male being under
16 25. They rate whether one of the victims was a male, that
17 the victims weren't within the family, and the sexual
18 offenses. The top score you get on that is a six. Anyone
19 with a four or higher has a 50 percent probability of
20 being incarcerated within five to 10 years for a repeated
21 sexual assault. He, clearly, met that when he was
22 released from Florida.

23 Q And the -- if I've got the scoring right, first off,
24 you have to -- it's the number of sexual offenses?

25 A Up to three, yes.

1 Q Okay. And that's three points?

2 A That's three points. It's one point for being a male
3 under 25, one point if your victim was not a family
4 member, and another point if a victim was male.

5 Q So with two offenses, one victim being a male and --
6 what's the other one?

7 A Outside the family.

8 Q Outside the family. He would be a four or maybe
9 higher?

10 A That's correct.

11 Q Now, is the RRASOR assessment something that you
12 would anticipate would be used by various government
13 agencies?

14 A It's widely used in this country, Canada, and
15 Britain. And this state uses -- there are some similar
16 type of ways of rating, but you would expect one of them
17 to have been conducted.

18 Q All right. Let's go back for a second to the -- you
19 mentioned a couple of things about his family history and,
20 I guess, we've alluded a little to what was going on
21 there. What did you find significant from the records
22 about his family history?

23 A You know, his records are pretty significant for
24 being sexually abused, physically abused, a very unstable
25 environment, his mother having periods of anger. And, at

1 that time, they thought she was depressed.

2 He had one stable relationship, which was with his
3 grandfather who died when he -- his maternal grandfather,
4 who died when he was young. He was abandoned by his
5 father, who sexually abused him. And he, basically, acted
6 out the conflict in the home beginning at the age of 10
7 with drugs, failing in the school system, and, ultimately,
8 winding up out on the street.

9 Q You mentioned that his mother was schizophrenic.
10 What is schizophrenic?

11 A Schizophrenia is, basically, a genetic disorder.
12 It's a major psychotic disorder. Pretty much, if you ever
13 get a diagnosis of schizophrenia, you'll never get health
14 insurance again. It's a lifelong chronic disorder. She's
15 paranoid schizophrenic according to the records, which
16 means she probably had delusions of people trying to harm
17 her or harm her family. You could have depression
18 consistent with schizophrenia.

19 Q And how would that -- if you know, how would that
20 impact on being the mother of Mr. Inman? I mean, what
21 kind of a protector and provider could you be with that
22 sort of mental illness?

23 A Well, you know, it varies case by case. But you look
24 at these records, and she was neither a protector nor
25 provider.

1 Q Do you have some background with the Department of
2 Social Services here in South Carolina?

3 A I do.

4 Q And in what capacity did you work with them?

5 A I used to evaluate and assist in cases where they
6 were looking at terminating parental rights, taking a
7 child out of an abusive home, developing treatment plans
8 for children that were sexually and physically abused and
9 emotionally abused.

10 Q Did you have some particular focus on male survivors
11 of sexual trauma?

12 A Actually, I started and conducted group therapy for
13 young male victims of sexual abuse for a while.

14 Q And what you know from having interacted with those
15 victims, would that be consistent with the result we're
16 seeing with Mr. Inman?

17 A With the other things going on in his life,
18 certainly.

19 Q And is there anything special about a male survivor
20 of a victim of sexual assault? Does that create a
21 different set of problems as somebody trying to help?

22 A Well, most sexual abusers are male. So it sort of
23 fixates them on acting that out, but that's not to
24 minimize the impact of sexual abuse on females.

25 Q All right. And by "fixating," do you mean that --

1 well, if I'm hearing you right, are you saying that a
2 victim -- a male victim of sexual abuse has a higher
3 likelihood to fixate on how they were abused themselves?

4 A And abuse others, that's correct.

5 Q And do you see that in this case?

6 A Yes, sir.

7 Q In what way? Was there something particular about
8 the crimes themselves? We heard testimony about a rape
9 victim in Tennessee, an attempted rape victim in Alabama,
10 a rape victim in Florida --

11 A You know, his sister talks about sexual abuse where
12 the father would tie her and him up in bunk beds and
13 sexually abuse them. You, certainly, have bondage being
14 acted out in these other rapes. They tend to follow a
15 pattern. And I discussed this with him. And it's --
16 their hands would be tied, they kneel down, and then lean
17 forward over the bed, which would make it somewhat of an
18 awkward position. But it's almost like that pattern is
19 being repeated. And it's maybe like a repetition
20 compulsion. He is acting out something that's happened to
21 him. There's a reason behind that pattern.

22 Q Would you see this as an example of his fixation?

23 A Yes. That's a part of his compulsive rape.

24 Q What kind of treatment would you -- assuming we could
25 go back in time and when you were helping treat

1 individuals as young men who had been raped, what kind of
2 treatment would they get or what did you recommend?

3 A Well, the treatment recommendations vary from --
4 based upon the economic resources of the child's family
5 and what the State could provide. And, obviously, the
6 more economic resources the child has, the better care.

7 In this particular case, the recommendation would
8 have been removal from that home to begin with. I mean,
9 there's a very clear pattern that that was an abusive
10 pattern for him with the drug abuse, the running away,
11 that he was in trouble. Then you would really look at
12 counseling and group therapy to help them understand that
13 they were a victim, to improve their self-esteem, to treat
14 their guilt, to, certainly, help them understand that's
15 not normal behavior, things of that nature.

16 Q So an otherwise innocent child victim of sexual abuse
17 would have, could, or does have shame and guilt over the
18 sexual abuse perpetrated by whoever it was that did it to
19 them?

20 A They often do. They often, also, will have
21 depression later on in life.

22 Q Is there any explanation for why there seems to be --
23 there can be this fixation with reenacting the abuse that
24 they suffer?

25 A Well, it's almost like it's imprinted that that's the

1 appropriate behavior. And they incorporate that into
2 their core personality.

3 Q And you said the -- there's guilt and shame. Is
4 there -- once they become an abuser themselves, do you
5 expect guilt and shame to be involved in what they've done
6 as an adult?

7 A It depends on --

8 MR. ARIAIL: Your Honor, I'm going to object.

9 I hadn't objected earlier. But I understand his
10 testimony -- but if -- my objection would go to the fact
11 that it needs to focus on this individual Defendant, not
12 what categorically may be historically in the records or
13 what patterns may be. My objection would be do these
14 diagnoses and the generalities apply to this individual
15 and did he see --

16 THE COURT: Okay. Focus it, Mr. Bannister.

17 BY MR. BANNISTER:

18 Q Does what you're saying apply to Mr. Inman?

19 A It does apply to Mr. Inman. And if you look at his
20 records, it's well documented where he's had shame and
21 guilt and self-loathing from his behavior.

22 Q And when you say "from his behavior," is that his
23 criminal behavior, the actual criminal conduct that got
24 him in jail to start with?

25 A Yeah. There's -- and most of the records are like

1 when his -- the Florida rape and why he -- the time -- the
2 '90's, he was in the Department of Corrections and feeling
3 guilt about that. He feels shame and loathing about this
4 rape and murder.

5 Q And do you find that consistently throughout his
6 records, that feeling?

7 A You do.

8 Q And, as a matter of fact, would you say -- you
9 mentioned that you might expect someone with this sort of
10 compilation of disorders to be suicidal. Do we, actually,
11 find in the records that he has, in fact, attempted
12 suicide?

13 A He has attempted suicide on seven occasions.

14 Q And would I be correct in saying that six of those
15 were while he was incarcerated?

16 A Yes, sir.

17 Q Would I be correct in saying the first one was when
18 he slit his wrists?

19 A Yes, sir.

20 Q The first one in prison was when he slit his wrists.
21 And then there was, I guess, another time when he
22 attempted to slice his wrists?

23 A Yes, sir. And then there was the time he cut his
24 jugular vein.

25 Q And, as a clinical psychologist, do you see that as a

1 serious suicide attempt? I mean, you reviewed the
2 records. How serious was it?

3 A If there hadn't been a guard nearby, he wouldn't be
4 here today. It was a very serious suicide attempt.

5 Q And was there, also, one where he swallowed some sort
6 of wire?

7 A He swallowed two six-inch strands of chain -- it
8 depends on which record you read, chain anchor fencing, or
9 two six-inch strands of barbed wire, or two six-inch
10 strands of razor wire. But they ended up perforating his
11 stomach. And he had to have them surgically removed.
12 Yes, that's a very serious suicide attempt.

13 Q And, after that, did he, also, try to starve himself
14 to death?

15 A He did.

16 Q And then I think there was the last one where he
17 tried to cut his antecubital vein?

18 A He did, a very deep wound.

19 Q And would part of -- in your opinion, and from the
20 records, I guess, primarily, did, at least, some of these
21 suicide attempts appear to be because of his guilt and
22 shame he carried with him?

23 A Yes.

24 Q And how -- so it -- have you had a chance to look at
25 the statements that were given by Mr. Inman in regards to

1 this particular crime?

2 A I have.

3 Q And when he told Detective Kindley, Don't you
4 understand that this is what I want, in reference to the
5 death penalty. I killed a 20-year-old college student
6 with everything to live for. I deserve to get the death
7 penalty. Is that consistent with everything you've seen
8 throughout the records over the 19 years of his
9 incarceration?

10 A It is.

11 Q And would it be fair to say that he, also, hates
12 prison?

13 MR. ARIAIL: I would object. He's leading.

14 MR. BANNISTER: I'm sorry.

15 BY MR. BANNISTER:

16 Q Does Mr. Inman enjoy prison life, based on the
17 records you've seen?

18 A No. And, in fact, some of his suicide attempts were
19 related to his unhappiness and hopelessness while in
20 prison.

21 Q Was he, primarily, in close confinement?

22 A Or in psychiatric care.

23 Q And did that appear to be part of the problem for him
24 while he was in prison?

25 A It was.

1 Q Did that contribute to the depression?

2 A Well, I think he's genetically predisposed to
3 depression. But the environment, certainly, contributed
4 to it.

5 Q Now, would it be fair to say, Doctor, that you are --
6 you, also, have sort of a subspecialty in malingering?

7 A I do. I'm a national expert in malingering. And, in
8 fact, tomorrow, I'll be doing a three-hour speech on it
9 for the International Association of Special Investigative
10 Units in Atlanta.

11 Q All right. What is malingering?

12 A Malingering is the feigning of a mental or physical
13 disorder in order to get out of military service, affect
14 your jail sentence, or to obtain money.

15 Q And was malingering something you took into
16 consideration when you got involved in this case?

17 A Certainly.

18 Q Would it be fair to say that malingering is a way
19 that you, as an expert, can ferret out those who are being
20 truthful about symptoms or get at the heart of it, as
21 opposed to those who are simply faking or making things up
22 for an advantage?

23 A That's correct.

24 Q And, in fact, have you testified along those lines
25 for Solicitor Ariail?

1 A I've testified regarding malingering before. I can't
2 remember exactly whether I've done it for Mr. Ariail or
3 not.

4 Q Did you find that Mr. Inman was malingering?

5 A No. He's not malingering.

6 Q What do you base that opinion on?

7 A Well, the greatest credibility about his psychiatric
8 history is the fact that he has this extensive psychiatric
9 history. It's well documented in the records. You can't
10 make up what a doctor noted in 1993. The other thing is
11 that he's not trying to feign a mental illness. He's
12 trying to minimize a mental illness when you talk to him.

13 Q And why, in your opinion, is he minimizing his own
14 problems?

15 A Well, that's part of the dissociative issues. One
16 side of him wants to believe he had a happy childhood, his
17 parents were normal, he's normal. When he came into the
18 Pickens jail and they filled out the intake there, he
19 denied any history of suicide attempts and any history of
20 psychiatric disorders. It, certainly, would have been
21 beneficial for him to have acknowledged those at that
22 time.

23 Q Beneficial from the standpoint of these court
24 proceedings?

25 A That's correct.

1 Q And so by not putting those in the records when he
2 comes to Pickens is sort of the opposite of malingering?

3 A That's correct.

4 Q Does he give any indication about his own parents'
5 failings in raising him? Does he recognize that?

6 A No, he doesn't. He really is very protective of
7 them.

8 Q Does he deny any sexual or physical abuse?

9 A He does.

10 Q And does he try to explain away his suicide attempts?

11 A He does.

12 Q And in terms of participating in the efforts to try
13 to seek a life sentence for him on our behalf, in your
14 opinion, from what you've seen, has he tried to help in
15 that or has he tried to hinder that process?

16 A I think he's tried to hinder that.

17 Q Does he have any special abilities or talents?

18 A The artwork.

19 Q Are you talking about during some periods of his
20 dissociative periods, he's this florid artist?

21 A He has that. He's a tattoo artist. He, apparently,
22 has some carpentry skills.

23 Q With regards to his -- over the course of his being
24 in prison, although he hates prison life, how has he done
25 in prison in terms of his interacting?

1 A You know, when you talk to him, he grew up in prison,
2 and he was afraid. In fact, he told his counselors that
3 in Florida. He was afraid about being released. And his
4 plan about being released was to work for a year or two,
5 give the money to his mother, and then commit suicide.

6 Q And how consistent was that in terms of his plan for
7 his release? Was that something that he expressed on more
8 than one occasion?

9 A He did.

10 Q And over a significant period of time?

11 A He did.

12 Q What would be the take-home message you would like
13 the Judge to have in terms of what your testimony is here
14 today regarding Mr. Inman?

15 MR. ARIAIL: I object, Your Honor, to that.

16 THE COURT: Rephrase that question, Mr. Bannister.

17 BY MR. BANNISTER:

18 Q Can you summarize what we've been going through for
19 the last 30 minutes?

20 MR. ARIAIL: He can state his opinion. I would
21 object to him asking him to summarize. He can state his
22 opinion.

23 THE COURT: I'm going to let him answer that
24 question.

25 Go ahead.

1 THE WITNESS: There is a psychiatrist in North
2 Carolina that made a notation in his medical records,
3 Dr. Levin, that he was a lost soul who would continue to
4 be lost. He had a bad genetic loading with the history of
5 a paranoid schizophrenic mother, an alcoholic, probably
6 characterological father, whose environment did him no
7 favors. He was physically and sexually abused and
8 abandoned by his father. It was an unstable environment.

9 And he started showing major signs of being in
10 trouble by the age of 10 with the drug use and then,
11 certainly, by the age of 13 when he was running away, and
12 then when he was on the streets. He had a long history of
13 a mood disorder, which he, currently, has. He's never
14 learned and his family has never been able to teach him
15 how to develop normal relationships and normal
16 heterosexual relationships. It's a schizoid personality
17 disorder. To defend himself in that environment, he
18 developed an identity -- a dissociative identity disorder.
19 And then along the way, he developed the sexual
20 paraphilia.

21 BY MR. BANNISTER:

22 Q Would it be fair to say, in this particular case with
23 this particular Defendant, that while us being in here
24 today may have been preventable, it, certainly, was
25 predictable?

1 A It was very predictable.

2 MR. BANNISTER: Your Honor, at this time, I have a
3 number of exhibits that I have previously marked. They
4 are exhibits that have come from the medical records and
5 the prison records. I've marked them individually. My
6 purpose, at this point, was to have Dr. Price run through
7 them. They are examples of what he has been testifying
8 to. And then I would like to introduce them into
9 evidence. I know the Solicitor would like to take a look
10 at some of them. I've got a copy here for him.

11 THE COURT: Okay. Well, show it to him.

12 Mr. Bannister, are you finished with your direct
13 examination?

14 MR. BANNISTER: No, sir.

15 I was going to let him take a look at them, and then
16 go through them, and then introduce them.

17 THE COURT: Let's take about --

18 How many pages are there?

19 MR. BANNISTER: Like 17, 18.

20 THE COURT: Well, let's take about 20 minutes.

21 If you need some more time, just let me know,
22 Solicitor.

23 And, Dr. Price, you may step down. Please don't
24 discuss your testimony with anyone.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: We'll be at ease for 20 minutes or more.

2 (WHEREUPON, a break was taken.)

3 THE COURT: Mr. Ariail, have you had enough time?

4 MR. ARIAIL: You know, it's always the same answer.

5 I mean, you gave me 20 minutes. I think that will do it.

6 And I want to press on, also. That's why I made the

7 motion to start with. If we get these things out in the

8 open, get them out of the closet where they're not hidden

9 until the moment he finishes his examination, I could

10 respond a little better.

11 But our first response is, number one, these records

12 are pure hearsay. And until he lays the necessary

13 foundation to, number one, authenticate the records and,

14 number two, take them out of the hearsay or put them in

15 some exception to the hearsay that's required by the

16 rules, I can't help but object.

17 Now, I assume he can figure out how to do that. I

18 don't know if he can authenticate them or not. They're

19 not authenticated. They're not certified. We don't have

20 copies of them. We don't know where they came from.

21 Maybe Dr. Price can shed some light on that, if he knows

22 where they came from or how they got them. But, based on

23 that, I would say they're hearsay at this point. If he's

24 going to get them in, he's going to have to lay some

25 foundation.

1 MR. BANNISTER: Judge, this is a general proposition.
2 As you well know, in sentencing phases of capital trials,
3 rules of evidence are much more lax than they would be in
4 the guilt phase of the trial.

5 Knowing that you, yourself, were once a trial lawyer,
6 one of the ways we can get into this is I can go through
7 them, have him identify them, and then have him read from
8 there what it was that was significant to his opinion. I
9 think it would just be imminently faster for us to be able
10 to mark them, briefly identify them, and then put them in
11 the record so you can read them.

12 Now, I'll do it whichever way. I think I should be
13 able to get them in not only as medical records, but,
14 also, as business records. I think you'll see all of
15 these records came from either the North Carolina
16 Department of Corrections or the Florida Department of
17 Corrections. And they were either the type of records
18 that were kept in the normal business of the prison
19 itself, or they were the medical records that were kept
20 when this Defendant was seeking treatment.

21 I, of course, can't have -- or I don't have
22 originals, because I'm not sure they exist. My
23 information is these all came off of microfiche. But they
24 came from our request that those documents be produced.
25 If I need to, I can put up our mitigation investigator to

1 testify about how she sought to obtain those records. But
2 I think we're really just arguing about nothing and
3 wasting a lot of time.

4 THE COURT: All right. Well, why don't you --

5 MR. BANNISTER: Let us proceed, how about that?

6 THE COURT: Pardon me?

7 MR. BANNISTER: How about I just proceed with each
8 record? And then if the Solicitor wants to stop me --

9 THE COURT: Well, let's get them marked.

10 Have you marked them for identification?

11 MR. BANNISTER: They're marked.

12 THE COURT: And these are the documents upon which
13 Dr. Price has relied in expressing his expert opinion; is
14 that right?

15 MR. BANNISTER: That's right. I can ask him.

16 THE COURT: Well, find out. I mean, lay a little bit
17 more of a foundation.

18 BY MR. BANNISTER:

19 Q Defendant's Exhibit Nos. 3 through 20, do you have
20 those in your possession?

21 A Yes, sir.

22 Q Have you reviewed those?

23 A I have.

24 Q Are those documents that you relied upon in reaching
25 your -- some of the documents you relied upon in reaching

1 your opinion?

2 A They are some of the documents I relied upon in
3 reaching my opinion.

4 Q And did you find these -- are these significant from
5 the standpoint at times when certain things happened and
6 they express some of the things that you've discussed
7 about the guilt and shame of the Defendant -- let's see --
8 his diagnosis over time, his family history, his suicide
9 attempts, and his wanting to die?

10 A Yes, sir.

11 Q Then let's run through them right quick. Do you have
12 in front of you Defendant's Exhibit No. 3?

13 A Yes, sir, I do.

14 Q Is that a document that you reviewed?

15 A Yes, sir, it is.

16 Q Does it appear to come from the North Carolina
17 Department of Corrections Division of Prisons?

18 A It does.

19 Q Is it signed by a clinical psychologist?

20 A It's, actually, signed by a school psychologist
21 working for the Department of Corrections.

22 Q Okay. Does it have a -- what's the date on it?

23 A The date is February 1st, 1989.

24 Q And does that give you an indication of the date
25 which Mr. Inman tried to cut his jugular?

1 A That's correct.

2 MR. BANNISTER: All right. And then, Your Honor, I
3 would move that into evidence at this time.

4 THE COURT: Same objection; right?

5 MR. ARIAIL: Well, I think -- just ask him this
6 question, Are these the type of documents that you, as a
7 forensic psychologist, would normally rely upon in
8 reaching an opinion?

9 BY MR. BANNISTER:

10 Q Doctor, would you answer his question?

11 A Yes, sir, it would be.

12 MR. ARIAIL: That clears up that point.

13 Then my objection would be limited solely, at this
14 point, since we've asked those two questions, to
15 authenticating these documents. And I don't think the
16 fact that he is going to read these into the record and
17 put somebody's name on it is going to authenticate it. I
18 understand if he wants to -- if somebody wants to stand up
19 and represent that they are documents that they got from
20 the Department of Corrections --

21 THE COURT: Okay. Well, let's mark --

22 MR. ARIAIL: -- then I'll withdraw my objection. But
23 I don't know where they came from.

24 THE COURT: Well, let's mark them for ID. And
25 without -- I'm not going to --

1 What are you going to do with these documents upon
2 their admission? Are you going to examine the Doctor?

3 MR. BANNISTER: I'm sorry.

4 THE COURT: Are you going to examine Dr. Price with
5 respect to these documents, or are you just trying to get
6 them in the record?

7 MR. BANNISTER: I'm getting them in the record.

8 But they have certain significance for him in terms
9 of his opinion. So I was going to have him identify them
10 and then say what it was --

11 THE COURT: Well, mark it for ID. And then you
12 can --

13 MR. BANNISTER: All right.

14 THE COURT: Okay. Go ahead.

15 MR. BANNISTER: I still might introduce them into
16 evidence. So I still reserve my right to do that when I
17 bring somebody --

18 THE COURT: Correct.

19 MR. BANNISTER: If you make me authenticate them,
20 then I'll do the best I can.

21 MR. ARIAIL: Let me clarify that. I'm not trying to
22 make him authenticate.

23 THE COURT: No, no. It's fine.

24 MR. ARIAIL: I will take his representation. I don't
25 care whose it is, but somebody ought to authenticate them

1 at some point. Either he ought to authenticate them for
2 the Court -- I mean, I'm going to play wild and loose,
3 too, if he wants to go ahead and do that. That would
4 satisfy me. But there are certain rules we ought to go
5 by.

6 THE COURT: Well, Mr. Bannister, we'll mark them for
7 ID. And then you can call your witness who can
8 authenticate them.

9 MR. BANNISTER: To read the records, fine.

10 THE COURT: Okay.

11 BY MR. BANNISTER:

12 Q For identification purposes, Defendant's Exhibit
13 No. 3, we've been through that, that is the date at which
14 he tried to commit suicide by slicing his jugular?

15 A And it, also, talks about he had been depressed for
16 some time and thinking about suicide for some time.

17 Q And then you have in front of you what's been marked
18 for identification purposes as Defendant's Exhibit No. 4.

19 A Yes, sir.

20 Q Does that appear to be a clinical note?

21 A It is.

22 Q Does it consist of four pages that appear to be
23 from the same individual who's making this clinical note?

24 A That's correct.

25 Q And, once again, does that appear to be from a health

1 record obtained for Mr. Inman?

2 A It's a Mental Health Services record from Florida
3 dated 7-27-90.

4 Q And does this give us -- and was this significant to
5 you because it dealt with how the Defendant's
6 grandfather's death impacted him?

7 A Well, it talked about his grandfather's death
8 impacting him, his substance abuse, how bad the family
9 life was with his mother having violent mood swings, that
10 he received a number of whippings as a child, and that his
11 grandfather tried to intercede for them.

12 Q Does it, also, deal somewhat with his self-hate and
13 guilt?

14 A And depression.

15 Q All right. Do you have what's marked for
16 identification purposes as Defendant's Exhibit No. 5?

17 A It's, also, about his preoccupation with suicide. I
18 do have Defendant's Exhibit No. 5.

19 Q All right. Is that, also, a record from Mental
20 Health Services in Florida?

21 A Yes, it is.

22 Q And the date on that is 9-28-92?

23 A That's correct.

24 Q All right. Does that show some of the different
25 diagnoses that he received?

1 A It does. It has the major depression with psychotic
2 features, polysubstance abuse, major depression recurrent,
3 mild.

4 Q Thank you.

5 And then do you have a document that's marked for
6 identification purposes as Defendant's Exhibit No. 6?

7 A That's correct.

8 Q Does this, also, come from Florida Mental Health
9 Services?

10 A It does.

11 Q And does that discuss his suicide attempts in 1988
12 and '90?

13 A It does. It, also, discusses some physical signs of
14 depression he has having, sleeping, decrease in appetite,
15 some of those things.

16 Q Was there something significant in this document
17 about the length of time and the different medications
18 that he had been on?

19 A Well, he's on significant medication, and he had been
20 on an antidepressant for some time.

21 Q Had he, also, been on Lithium?

22 A He has been on Lithium, Benadryl, and Artane.

23 Q What's Lithium?

24 A Lithium is a mood stabilizer used to treat mood
25 swings. I'm not sure why he was on the Artane. Because

1 that's, generally, an extrapyramidal drug that's often
2 given when you're on an antipsychotic medication. But it
3 doesn't list an antipsychotic medication.

4 Q All right. How about what's been marked as
5 Defendant's Exhibit No. 7, is that another instance of
6 where he's receiving different diagnoses?

7 A Yes.

8 Q And, in particular, what were those?

9 A Dysthymia, a personality disorder not otherwise
10 specified.

11 Q All right. And Defendant's Exhibit --

12 THE COURT: Where is that from, and what's the date?

13 MR. BANNISTER: I'm sorry, Judge.

14 THE WITNESS: It's August 20th, 1996, again, from
15 Florida Mental Health Services for the Department of
16 Corrections in Florida. It's Central Prison, actually.

17 BY MR. BANNISTER:

18 Q And then we have Defendant's Exhibit No. 8 marked for
19 identification purposes only at this point. Was this part
20 of an intake sheet that was filled out with regard to his
21 incarceration?

22 A Yes, it was.

23 Q And what does it indicate that you found significant?

24 A He's separated from home at 15 when he moved out on
25 the streets. He's acknowledging child abuse and alcohol

1 abuse.

2 Q And Defendant's Exhibit No. 9 for identification
3 purposes?

4 THE COURT: Wait a minute. Where is it from and
5 date?

6 MR. BANNISTER: Your Honor, this one, just for
7 whatever reason, doesn't have a date on it.

8 THE COURT: Where is it from?

9 MR. BANNISTER: It's from the Florida Department of
10 Corrections.

11 THE COURT: Okay.

12 THE WITNESS: It, also, identifies he knows nothing
13 about his father.

14 BY MR. BANNISTER:

15 Q Defendant's Exhibit No. 9 for identification
16 purposes. What's the date on this document?

17 A The date is February 14th, 2001. It's a discharge
18 summary from inpatient mental healthcare in the State of
19 Florida Department of Corrections.

20 Q Is that where the barbed wire -- razor wire suicide
21 attempt, and starvation suicide attempt were discussed?

22 A Yes.

23 Q Is there anything else significant from that
24 document?

25 A Reports having daily depressive episodes. The

1 diagnosis of major depressive disorder recurrent type
2 diagnosis, that he looked older than his stated age.
3 Generally, depressed people often do. And the diagnosis,
4 again, of personality disorder not otherwise specified.

5 Q Is this another example where he was being asked to
6 be allowed to die?

7 A Right. It talks about him being resistant to
8 treatment, having depressive episodes, and suicidal
9 behavior.

10 Q All right. Defendant's Exhibit No. 10 for
11 identification purposes. It looks like there are a number
12 of dates on here, but they all seem to be right at 2-15
13 and 2-16-2001; is that correct?

14 A That's a progress record from the Florida Department
15 of Corrections.

16 Q And what was significant about that progress report?

17 A Severe depression, front blunted affect, stays all
18 day in a fetal position. He was trying to starve himself
19 to death, rather than return to prison. He was trying to
20 commit suicide.

21 Q And, from that document, was that partly where you
22 get that he hated prison?

23 A Yes, sir.

24 Q He wanted to die, rather than be in jail?

25 A Yes, sir.

1 Q All right. Take a look at Defendant's Exhibit
2 No. 11 -- I'm sorry. Is it Defendant's Exhibit No. 13 is
3 my next number?

4 THE COURT: 10 was the last number.

5 BY MR. BANNISTER:

6 Q Defendant's Exhibit No. 11. And the date on that
7 appears to be 2001 -- something 18, 2001?

8 A Yes, sir.

9 Q All right. Is that, again, a -- what is that
10 document?

11 A That is a weekly case management note. It's an
12 individualized service plan from the Department of
13 Corrections.

14 Q All right. What was significant from that?

15 A He reports, I think I should die for what I did.
16 He's been seen for individual counseling. He kept looking
17 down at the table. It's the shame, the -- again, has
18 suicidal ideation. He reports continued depression on a
19 daily basis and occasional episodes of suicidal behavior.
20 And this is what -- I'll cite -- I think I testified
21 earlier, expresses suicidal ideation, but states he won't
22 try to harm himself until two years after prison.

23 Q Okay. And Defendant's Exhibit No. 12 marked for
24 identification purposes?

25 A Yes, sir. That's dated July 25th, 2001. Again, it's

1 an individualized service plan from the Florida Department
2 of Corrections.

3 Q Does it reference a number of suicide attempts?

4 A Multiple suicide attempts, cutting his jugular vein
5 in 1998 before incarceration. The second is in '89-90,
6 when he cut his wrists. I was unconscious when they found
7 me. And then the swallowing of the two pieces of fence or
8 wire.

9 Q And then Defendant's Exhibit No. 13 marked for
10 identification purposes, what's the date on that?

11 A (There was no response.)

12 Q I think it's in the bottom right-hand corner,
13 Dr. Price.

14 A It looks like June 5th, 2005.

15 Q And what -- actually, is that four --

16 A It's two pages.

17 Q What was significant about that document?

18 A This is a suicide attempt where he has the large
19 gaping wound to his arm.

20 Q And what kind of record is it?

21 A An emergency room record. It reports he cut his arm
22 with a razor blade.

23 Q And Defendant's Exhibit No. 14 marked for
24 identification purposes, what's the date on this?

25 A June 16th, 2006.

1 Q Actually, that's --

2 A Excuse me, 2004.

3 Q Right.

4 A 2004.

5 Q And what is this document exactly?

6 A A cover sheet for Inpatient Record-Florida Department
7 of Corrections.

8 Q And what's significant about that?

9 A They gave him a discharge diagnosis, at that time, of
10 a bipolar disorder.

11 Q All right. And then marked for identification
12 purposes Defendant's Exhibit No. 15, what is that?

13 A That's a chronological record of patient mental
14 health care in the Florida Department of Corrections.

15 Q What appears to be the date on that?

16 A It looks like September 24th, 2004.

17 Q What was significant about that document for purposes
18 of your opinion?

19 A That he's depressed, that I'm full of shame and
20 guilt. Inmate verbalizing his guilt and shame over his
21 sexual battery charges.

22 Q And on who can we surmise that was referencing?

23 A On an unknown female while he was intoxicated. I
24 would assume this was the Florida victim. And the
25 diagnosis of major depressive recurrent type.

1 Q And then Defendant's Exhibit No. 16 marked for
2 identification purposes, what is the date on that?

3 A It's hard to make out the month, but it's something
4 11-2004.

5 Q Okay. And what was significant about that in terms
6 of the opinion you've rendered here today?

7 A Again, he's reporting that he's depressed. And,
8 again, he stated he had always planned on getting out,
9 working two years, working jobs for a couple of years,
10 give his parents all his money, and then go out somewhere
11 and blow his head off.

12 Q And then Defendant's Exhibit No. 17 marked for
13 identification purposes. The date is a little hard to
14 read, but what can you tell us about the date on that?

15 A It's 2004. That's all I can really --

16 Q And what is it again?

17 A It's a Department of Corrections chronological record
18 of inpatient mental health care in Florida.

19 Q What was significant about that document?

20 A His sister died. He continues to have depression and
21 that he would consider suicide if his parents weren't
22 alive. And he has having suicidal ideation ongoing daily.
23 And then the diagnosis of major depressive recurrent type
24 dysthymic disorder.

25 Q And in regard to Defendant's Exhibit No. 18 marked

1 for identification purposes, is this another record of
2 patient mental healthcare?

3 A It is. It's a 2005 record. I can't tell the month.
4 This is when he just found out that his mother had made a
5 suicide attempt and was just released from a psychiatric
6 hospital. And, again, there's more documentation of his
7 depression and suicidal ideation.

8 Q And then Defendant's --

9 A And, again, the diagnosis of major depressive
10 disorder recurrent.

11 Q And then looking at Defendant's Exhibit No. 19 marked
12 for identification purposes, what is that?

13 A This is a medical information report from the Pickens
14 County Sheriff's Office.

15 Q And what was significant about that document?

16 A He doesn't report that he's had suicide attempts
17 before or that he's had psychiatric care.

18 Q And this would have been roughly when he was brought
19 to the Pickens County Detention Center?

20 A June 7th, 2006.

21 Q And it says no suicide attempts and no psychiatric
22 care?

23 A That's correct.

24 Q And then I believe you have Defendant's Exhibit
25 No. 20?

1 A Yes, sir.

2 Q Okay. And what is that?

3 A It's a picture of one of his drawings. The
4 interesting thing about this is it's done with an ink pen,
5 State-issued ink pen and white sheet of paper. This is
6 one of the kind of drawings he can do when he gets one of
7 those spells or identities on him, but he could not do on
8 command. He couldn't make one of these drawings at that
9 table right now.

10 MR. BANNISTER: Your Honor, at this point, I don't
11 have any further questions.

12 THE COURT: Solicitor.

13 MR. ARIAIL: Can we -- can I ask just a few questions
14 to get started, and then see where -- because I think I'm
15 going to have to ask for a recess.

16 CROSS-EXAMINATION

17 BY MR. ARIAIL:

18 Q Dr. Price, how are you doing?

19 A I'm doing fine.

20 Thank you.

21 Q You started off by testifying that you looked at 15
22 three-to four-inch notebooks, over 3,000 pages of
23 documents?

24 A Actually, 15 three-to-four-inch notebooks and over
25 3,000 pages of mental health records.

1 Q Mental health records?

2 A Yes, sir, or treatment records.

3 Q So do you have those with you today?

4 A No. I looked at them in Mr. Bannister's office. I
5 didn't make a copy of them.

6 Q All right. Did you rely on the rest of the documents
7 or only these that have been offered for identification in
8 reaching your opinions?

9 A I was probably influenced -- I can't really tell you
10 which documents did not influence me. They're all about
11 him and about his history, and correctional history,
12 criminal history. So I probably was influenced by every
13 document that I read.

14 Q In reaching your opinions?

15 A Yes, sir.

16 Q And did you obtain any of the records on your own or
17 were they provided to you by Mr. Bannister's office?

18 A Mr. Bannister's office.

19 Q So as to authenticity of any of the documents, you
20 really can't testify?

21 A That's correct.

22 Q Other than what they may appear on their face by
23 heading or signature?

24 A That's correct.

25 MR. ARIAIL: I need to see the records. And I think,

1 under the rules, I'm entitled to see the records. And I
2 would move the Court to -- for the Court, at this point,
3 to direct that they produce those records for us to
4 review.

5 Now, in the interest of moving things along, what I'd
6 like to do is proceed with some cross-examination of this
7 Defendant [sic] at this time, reserving the right to have
8 him recalled, or remain under Court direction to reappear
9 once we've had some opportunity to look at those records.
10 And then, also, make some efforts to pursue some
11 additional cross-examination after I get just a few basic
12 answers to a few couple questions.

13 We can do that tomorrow, whenever. I don't want to
14 stop the current presentation that's going on. But,
15 obviously, if they don't have those records here, I'm not
16 going to be able to look at them.

17 THE COURT: Mr. Bannister, do you have the records?

18 MR. BANNISTER: Judge, let me say two things about
19 the records. First off, I don't believe that -- before I
20 answer that question, that I should be compelled to turn
21 them over in the first place. I believe we're putting the
22 cart before the horse a little bit.

23 THE COURT: Speak up just a little bit.

24 MR. BANNISTER: I'm sorry. I don't believe that I
25 should be compelled to turn the records over in the first

1 place. I believe we're putting the cart before the horse
2 to ask me the question about whether or not I have them
3 here.

4 So if we're going to have an argument over whether
5 I've got to turn over the records, then, you know, we can
6 just have that, at some point, when you decide we need to
7 have them.

8 THE COURT: All right.

9 Mr. Ariail, you've got some questions you can ask?

10 MR. ARIAIL: I believe I have a few. I mean, you've
11 got to put it in the context that Dr. Price gave us some
12 voluminous testimony.

13 BY MR. ARIAIL:

14 Q Let me ask you, you quoted a -- well, in some of the
15 records to start with, I noticed that Mr. Inman would talk
16 about child abuse sometimes, and other times, he would
17 choose not to talk about it?

18 A He might have reported it. He never talked about it
19 voluminously.

20 Q He never talked about it what?

21 A At length.

22 Q With anyone?

23 A That's correct.

24 Q But he would talk about it, he'd report it sometimes,
25 where other times, he wouldn't report it?

1 A That's correct.

2 Q And sometimes he would take some medications and not
3 take other medications?

4 A That's correct.

5 Q So throughout this period of time, it's clear in the
6 records -- or I should say, isn't it clear in the records,
7 not to lead you to a conclusion, that he was capable of
8 making choices about what he wanted to do, or what he
9 didn't want to do, or what he wanted to say, or what he
10 didn't want to say?

11 A I think the records would indicate, at times, he was
12 capable of making choices.

13 Q And are you familiar with the -- you read the file
14 involving the attempted rape of Beth Bates Patterson in
15 Rainsville, Alabama, on March [sic] 23rd, 2006?

16 A Yes, sir.

17 Q And he made the choice in that case -- or in that
18 instance not to rape her?

19 A Yes, sir.

20 Q And that was a choice based upon facts that were
21 presented to him at that time, whatever those facts may
22 have been, but he made the decision not to do it?

23 A That's correct.

24 Q And with Jessica Gann in Tennessee on the 23rd [sic],
25 he said he wasn't going to harm her child?

1 A That's correct.

2 Q And he didn't?

3 A That's correct.

4 Q And he didn't kill Suzanne Clavel in Florida. And he
5 didn't kill Jessica Gann after he raped her. And he
6 didn't kill the inmate in the North Carolina Department of
7 Corrections. And he didn't kill Beth Bates Patterson.
8 But he chose to kill Tiffany Souers. So he had -- he has
9 the ability to make choices?

10 A He has some ability to make choices, yes, sir.

11 Q And he, also, has even a bigger ability, doesn't he,
12 to make choices that conform more or less to the law? I'm
13 not going to rape Beth Bates Patterson. I'm not going to
14 kill these individuals. He made those choices?

15 A He made those choices, but he, also -- I mean, I
16 think he's, also, a serial rapist. So he had a compulsive
17 drive to rape.

18 Q Sure. I think we concur on that.

19 But he had the ability, as a serial rapist, to make
20 choices not to rape when he decided not to?

21 A He did do that, yes, sir.

22 Q And I think we can all agree on this, that you quoted
23 some psychiatrist, or psychologist, or clinician who said
24 he's a lost soul who continues to be lost?

25 A Yes, sir.

1 Q And he's lost now?

2 A That's correct.

3 Q And he's -- along those lines, he's permanently

4 damaged?

5 A Yes.

6 Q Do you agree with that?

7 A Yes, sir.

8 Q You're not going to be able to treat him and change

9 his behavior to make him into a functioning person?

10 A Within the structure of prison, he's a functioning

11 person. But without that structure, he has no structure,

12 that's correct.

13 Q But, even in prison, you say he's capable of raping

14 an inmate, and he was capable of swallowing wire, and

15 attempting to take his own life?

16 A You know, he admits to these rapes. The male inmate,

17 he says that was consensual back, what, in 1990, I guess

18 it was. There's not another record of him having sex with

19 another male inmate. So I don't think he's at risk to

20 rape in prison.

21 Q All right. That's a pretty big statement, isn't it?

22 A Well, it's pattern.

23 Q Based on his history?

24 A Based on his history.

25 Q Well, if he -- we concur, also, based on your

1 examination, talking to him that he wants to die?

2 A You know, when I talked to him, I didn't get the
3 sense he wanted to die. I got the sense that he felt that
4 the death penalty was an appropriate punishment for what
5 he did. He's remorseful for it. He wants to live. He
6 doesn't want to live in prison. But it's not like he
7 wants the death penalty. He thinks the death penalty --
8 he thinks of himself as scum. That's the exact word he
9 used with me.

10 Q He thinks of himself as what?

11 A Scum. That's the exact word he used with me. And
12 the death penalty would be appropriate for what he had
13 done.

14 Q Well, but aside from the death penalty part, that
15 wasn't what my focus was. My focus was if he has seven
16 suicide attempts, he wants to die?

17 A Yes, sir. He does want to die.

18 Q And, I assume, he did those seven suicide attempts
19 before he raped Jessica Gann in front of her daughter, and
20 before he broke into Beth Bates Patterson's home, and
21 before he murdered and raped Tiffany Souers?

22 A That's correct.

23 MR. ARIAIL: Your Honor, that's all I have, at this
24 time, pending receipt of those records and recall of
25 Dr. Price.

1 THE COURT: Mr. Bannister.

2 MR. BANNISTER: Redirect, just briefly.

3 REDIRECT EXAMINATION

4 BY MR. BANNISTER:

5 Q With regard to the documents, Dr. Price, who else in
6 this room has asked you to come to his office and review
7 voluminous records?

8 A Mr. Ariail.

9 Q And could you point him out for the Court?

10 A (Witness complied.)

11 Q And on how many occasions has he done that?

12 A Several.

13 Q And did you make copies of the documents when you
14 went to Mr. Ariail's office to review documents?

15 A Sometimes I got copies of documents that I requested.

16 Q But not the whole file?

17 A No. It's a lot of paper.

18 Q Were the -- let me ask you to take a look at
19 Defendant's Exhibit No. 1. That's the psychiatric
20 evaluation done by Dr. Schwartz-Watts for the Blair
21 hearing. Would all of the records that you reviewed be
22 included in her sources of information that she
23 listed?

24 A I didn't talk to Dr. Brawley.

25 Q Well, I'm more or less looking not to see what she

1 had that you didn't, but to make sure everything you had
2 was listed in there?

3 A Yes, sir.

4 MR. BANNISTER: Thank you.

5 And, Judge, I would note for the record, this report
6 was handed up on -- I believe it was August 19th, 2008,
7 when you took the guilty plea.

8 THE COURT: All right.

9 BY MR. BANNISTER:

10 Q The majority of the records that you reviewed were
11 and are medical and psychiatry records; is that a fair
12 statement?

13 A Well, a lot of the Department of Corrections records
14 are not necessarily medical or psychiatric.

15 Q But a significant number are?

16 A That's correct.

17 MR. BANNISTER: I don't have any further questions,
18 Judge.

19 THE COURT: All right.

20 RECROSS-EXAMINATION

21 BY MR. ARIAIL:

22 Q Dr. Price, just to be clear, did you take notes when
23 you interviewed the Defendant?

24 A I did take notes when I interviewed the Defendant.
25 And I took notes when I reviewed records.

1 Q So somewhere in all of the data that you relied upon
2 are your notes, also?

3 A Yes, sir.

4 MR. ARIAIL: Your Honor, that would be part of our
5 request, also, is to review those notes.

6 That's all I have.

7 THE COURT: Well, Mr. Bannister, I think it's time to
8 have the argument.

9 MR. BANNISTER: All right. May Dr. Price be excused
10 from the stand, please?

11 THE COURT: Yes.

12 Don't leave, though, Doctor, please.

13 THE WITNESS: Okay.

14 THE COURT: And I have to ask you, since you may be
15 recalled, to not discuss your testimony.

16 THE WITNESS: Yes, sir.

17 THE COURT: And I would point out to everyone that he
18 will not -- if he is recalled after today, he is not
19 available until tomorrow afternoon later in the afternoon,
20 because of a prior commitment that he testified to
21 earlier.

22 MR. BANNISTER: I mean, what are you looking --
23 you're looking at me, Judge.

24 THE COURT: Well, he --

25 MR. BANNISTER: I object.

MOTIONS

1
2 THE COURT: Well, Mr. Ariail, go through your motion
3 and why you think --

4 MR. ARIAIL: The motion is based on Rule 705, the
5 second sentence. It says that the expert talks about --
6 Rule 705 talks about disclosure of facts or data
7 underlying expert opinion. It's a specific rule. It says
8 the expert may testify in terms of opinion or inference
9 and give reasons, therefore, without first testifying to
10 the underlying facts or data, unless the Court requires
11 otherwise, which says you can require him to disclose his
12 underlying facts or data before he testifies. But if you
13 don't, the expert may, in any event, be required to
14 disclose the underlying facts or data on
15 cross-examination. And --

16 THE COURT: Would you agree that's permissive and
17 discretionary with the Court?

18 MR. ARIAIL: No, I do not.

19 I do not think it's discretionary with the Court.
20 Because the rule is if he testifies, then he may be
21 allowed to testify without doing that. But if the
22 cross-examiner desires the underlying data, then he's got
23 to disclose what it is.

24 Because how else would there ever be any meaningful
25 cross-examination of an expert?

1 THE COURT: All right. Your written motion relies in
2 a large part on Rule 6 --

3 MR. ARIAIL: Well, that was the early disclosure.
4 The early disclosure --

5 THE COURT: -- 11.

6 MR. ARIAIL: Yeah.

7 I don't have that motion in front of me. But I
8 believe it's 611, which puts you in discretion of when
9 cross-examination -- let me read the last part of that.
10 Yeah. I think 611 is -- deals with the general operation
11 of the Court and proceeding in an orderly fashion. That
12 was the basis of our motion for production of those
13 records earlier was to avoid needless consumption of time,
14 and to, also, ensure the presentation effective for the
15 ascertainment of the truth.

16 Well, we're beyond that now. I mean, he's already
17 testified. So what we have -- or, I mean, although that
18 rule is, certainly, relevant, 705 is much more specific in
19 that the expert may, in any event, be required to disclose
20 facts or data on cross-examination.

21 My reading of that rule is -- and the understanding
22 I've always had of how that's been interpreted is if the
23 cross-examiner so warrants and so determines that they
24 want to see those records, they're entitled to see them.
25 He can't say, Well, I'm not going to show you the records.

1 I'm going to tell you what the opinions are, but I'm not
2 going to tell you what the records are. I mean, that's
3 like publishing three sentences out of a deposition and
4 not publishing the rest of it. I mean, they're hiding the
5 ball. The whole idea of effective cross-examination is
6 not to hide the ball. Because there may be a lot of stuff
7 in those records they have selectively left out.

8 THE COURT: All right. Mr. Bannister.

9 MR. BANNISTER: First off, let's start with the rule.

10 THE COURT: Which rule?

11 MR. BANNISTER: Rule 705.

12 THE COURT: Okay.

13 MR. BANNISTER: The Solicitor is putting a spin on
14 that rule that is not within the rule itself. That rule
15 is couched in terms of when an expert may orally testify
16 to an opinion. If the Court said so, I would have had to,
17 first, go through having him testify to what are all the
18 documents that he reviewed and relied upon to reach an
19 opinion. And then I could have asked the opinion, but
20 only if you had required me to do that. I did it like
21 most people do. I asked for the opinion. And then I
22 asked for him to go back through and tell us how he
23 reached those opinions.

24 This rule has absolutely nothing to do with producing
25 the documents that the expert has reviewed. That would be

1 my first argument. And if he's got some citation to
2 authority different than that, I would like to see it and
3 have a chance to review it. Because I'm usually on the
4 opposite side of this one.

5 Second, I would like to know how anything I have done
6 has prejudiced the Solicitor. There was a reason I had
7 to go through the report that was introduced into
8 evidence at the Blair hearing. I point out that we didn't
9 have to introduce a report at that time. All we would
10 have had to have done was have Dr. Schwartz-Watts testify.

11 In that report, which he got on August the 19th, and
12 which has been a part of this record ever since, every
13 source of information that Dr. Price relied upon is listed
14 there. And if he had wanted to, the Solicitor could have
15 gone to North Carolina and to Florida, and I suspect with
16 less hassle than we have, and gotten the same documents,
17 but he chose not to.

18 So I don't see how I have caused any prejudice to
19 him. He could have gotten them, he chose not to. I've
20 got a working set of documents here in this courthouse.
21 They have my notes. They have my highlights. They are
22 listed in an order that I believe is attorney-work
23 product. And they are tabbed significantly. So I
24 absolutely object to that.

25 I would add, Your Honor, that the order I got from

1 North Carolina and, I think, the one I got from Florida,
2 specifically, prohibits me from disclosing those
3 documents, except the ones that my client has agreed to,
4 with regards to the psychiatric and mental health records.
5 Those records are the only ones that he doesn't have. The
6 other prison records, I think, pretty much match up. It's
7 the mental health and the psychiatric records that he
8 doesn't have.

9 Thank you.

10 THE COURT: All right. What we're going to do is I
11 read Rule 705 as being permissive and discretionary with
12 the Court. And what we'll do is you all look tonight and
13 find me some authority. I can't find any authority on
14 this particular issue. But find me some authority and we
15 can revisit this issue tomorrow.

16 Having said that, Dr. Price --

17 Do you have his cell phone number, Mr. Bannister?

18 MR. BANNISTER: Yes, sir, I do.

19 THE COURT: All right. He's going to Atlanta to
20 speak at a national seminar tomorrow, so.

21 And, Dr. Price, what time do you think you could be
22 available?

23 DR. DAVID PRICE: I could be back by 3:00. The
24 speaking ends at 12:00.

25 THE COURT: Okay. Mr. Bannister will be in touch

1 with you then.

2 DR. DAVID PRICE: Yes, sir.

3 THE COURT: So you remain under subpoena.

4 Thank you very much, sir.

5 DR. DAVID PRICE: Thank you.

6 MR. BANNISTER: Your Honor, if I might have a moment
7 to speak with one of my investigators about authenticating
8 the documents that we had marked for identification
9 purposes, that would be Defendant's Exhibit Nos. 3 through
10 20.

11 THE COURT: What else do you have other than the
12 authentication?

13 MR. BANNISTER: Is Dr. Tournay in the courtroom?

14 (There was no response.)

15 MR. BANNISTER: I have a witness who is en route from
16 Florida. We expect him to be here shortly. I can call
17 him and find out where he is exactly.

18 THE COURT: Let's take a short recess then.

19 Thank you.

20 (WHEREUPON, a break was taken.)

21 (WHEREUPON, Defendant's Exhibit No. 21 was marked for
22 identification only.)

23 THE COURT: Mr. Bannister.

24 MR. BANNISTER: Your Honor, I've marked as
25 Defendant's Exhibit No. 21 and showed the Solicitor, these

1 are the authenticated documents regarding the records I
2 received from the Department of Corrections in North
3 Carolina and from the Department of Corrections in
4 Florida. I can, also, represent to the Court, as an
5 officer of the Court, that the documents that we intended
6 to introduce and have had marked for identification
7 purposes with the exception of Dr. Price's CV and the
8 drawing from the Defendant all came from either the
9 Department of Corrections in North Carolina or the
10 Department of Corrections in Florida.

11 THE COURT: Mr. Ariail.

12 MR. ARIAIL: His representation, we'll no longer
13 oppose.

14 THE COURT: All right. So those documents are
15 admitted without objection.

16 MR. BANNISTER: So I would move all of them, from
17 Defendant's Exhibit Nos. 3 through 21, into evidence.

18 THE COURT: All right.

19 (WHEREUPON, Defendant's Exhibit Nos. 3, 4, 5, 6, 7,
20 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
21 and 21 were admitted into evidence.)

22 MR. BANNISTER: Judge, we should be ready tomorrow
23 for probably what would be our last lengthy witness.
24 Both, as we've said, have been in trial in Sumter this
25 week. But we anticipate we should be able to start and

1 move fairly rapidly tomorrow with our witnesses. We don't
2 have anybody here today because they're en route. And we
3 just don't have them here yet.

4 THE COURT: Okay. Anything else from the Solicitor?

5 MR. ARIAIL: No.

6 THE COURT: Do y'all want to look overnight for a
7 case that would support your position that the Defendant
8 has to turn over their documents?

9 I think you probably, also, ought to address the fact
10 that Mr. Bannister has now raised, the issue of work
11 product with respect to the documents in his possession.
12 He said they're highlighted and marked with his notes and
13 arranged in his order, so. I've been looking and I can't
14 find anything. I'll be interested to see what you find.

15 We'll be adjourned until --

16 What time in the morning, Mr. Bannister, will your
17 witnesses be ready?

18 MR. BANNISTER: 9:30 should be fine.

19 THE COURT: All right. 9:30.

20 (WHEREUPON, the proceedings were concluded at
21 approximately 4:59 p.m., to be reconvened on
22 Wednesday, September 10, 2008.)
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1 WHEREUPON,

2 MARTI LORING, PhD,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 Please have a seat right there.

6 Please state your full name for the record.

7 THE WITNESS: Dr. Marti Loring.

8 DIRECT EXAMINATION

9 BY MR. BANNISTER:

10 Q Good morning, Dr. Loring.

11 A Good morning.

12 Q If you would, would you give us a little bit about
13 your background? Where are you, currently, employed?

14 A I am at the Center for Mental Health and Human
15 Development in Atlanta, Georgia.

16 Q And could you give us a little bit of work history
17 for you? Have you always been there or have you held
18 other jobs?

19 A No, sir. I started off in Memphis at a family
20 service agency where I did counseling with families with
21 children. And then I came to Atlanta where I worked at a
22 couple of different agencies dealing with abuse and with
23 trauma. And then we started the Center for Mental Health
24 and Human Development where we do research therapy
25 evaluations. And I've stayed with that for some time.

1 Q And what is the focus of that research therapy and
2 the evaluations?

3 A Primarily, abuse, trauma. And then on the more
4 positive side, leadership skills, and couples and families
5 getting along well together.

6 Q How about your educational background, would you just
7 give us a brief summary of that?

8 A I went to undergrad at Vassar College in
9 Poughkeepsie, New York. I went on to Bryn Mawr College
10 School of Social Work and Social Science where I got my
11 Masters Degree. Then I came to Memphis, Tennessee. I
12 worked in the -- for a while, then off to Atlanta. And
13 after a period of time, I went back and got my PhD in
14 Social Psychology. Actually, the degree is in Sociology
15 with a major in Social Psychology.

16 THE COURT: From?

17 THE WITNESS: From Emory University. Excuse me, Your
18 Honor.

19 BY MR. BANNISTER:

20 Q Do you hold any other licenses or special degrees?

21 A I'm an LCSW licensed clinical social worker and board
22 certified expert in traumatic stress.

23 Q Have you ever testified in courts of law in South
24 Carolina before?

25 A Yes, sir, I have.

1 Q Have you testified in other courts of law in other
2 states?

3 A Yes, sir.

4 Q And have you testified in the capacity as an expert
5 in other states [sic] in South Carolina?

6 A I beg your pardon, sir?

7 Q I said, have you testified in the capacity as an
8 expert in any field when you have testified in South
9 Carolina?

10 A Yes, sir.

11 Q And what areas of expertise have you testified to
12 before in courts in South Carolina?

13 A In about four areas, primarily, abuse, trauma, social
14 histories, and forensic interviewing.

15 Q And have you, in particular, testified in those
16 fields of expertise in other capital sentencing cases in
17 South Carolina?

18 A Yes, sir.

19 MR. BANNISTER: Your Honor, at this point --

20 BY MR. BANNISTER:

21 Q Well, let me ask you. Have you ever failed to be
22 qualified in those areas of expertise in any courts in
23 South Carolina?

24 A No, sir.

25 MR. BANNISTER: Your Honor, at this point, I would

1 offer her as an expert in the field of trauma, abuse,
2 forensic and therapeutic interviewing, and as a social
3 historian in capital sentencing cases.

4 THE COURT: Any voir dire?

5 MR. ARIAIL: Yes, sir.

6 THE COURT: All right.

7 VOIR DIRE EXAMINATION

8 BY MR. ARIAIL:

9 Q Dr. Loring, as a part of the services that you
10 provided in this case, have you performed services under
11 your licensed clinical social worker status?

12 A Yes, sir.

13 Q All right. And, as part of that, have you
14 interviewed the Defendant?

15 A Yes, sir.

16 Q Have you had conversations with him?

17 A Yes, sir.

18 Q And have you charged a fee for those services?

19 A A fee is being paid to the Center for Mental Health,
20 yes, sir.

21 Q All right. And you derive an income from the Center
22 for Mental Health?

23 A No, sir.

24 Q You don't get any money for your services?

25 A No, sir.

1 Q Okay. Are you a licensed clinical social worker in
2 the State of South Carolina?

3 A No, sir.

4 Q All right.

5 A Although that license is sort of honored across the
6 country whenever I go to different states. We -- the
7 custom is not to be licensed in each state we go into.
8 Like if I go to New Hampshire and other states, you see,
9 it's honored, the ones in whatever state the professional
10 comes from.

11 MR. ARIAIL: Your Honor, I would direct the Court's
12 attention to the licensing requirements of Section
13 40-63-200, which deals with the unauthorized practice of
14 social work within the State of South Carolina.

15 And one of the requirements of this section is that
16 anyone who practices license -- or practices social work
17 within the State must be licensed prior to any performing
18 of those services, particularly, Section 40-63-30.

19 And, in addition to that, it carries penalties for --
20 both civil and criminal penalties for violation. And,
21 based on that, I would submit that she's not qualified as
22 an expert in this state to testify or to render those
23 services until she gets licensed.

24 I can hand you up a copy of --

25 THE COURT: Yes. Would you hand that up, so I don't

1 have to dig mine out?

2 MR. ARIAIL: I'm afraid I've marked my copy.

3 THE COURT: That's fine.

4 Thank you.

5 MR. ARIAIL: I didn't hand you the entire -- I have --

6 THE COURT: You've got some more?

7 MR. ARIAIL: Well, just a lot more stuff that goes

8 with it. Those are the parts I was focussing on.

9 THE COURT: Okay.

10 (Pause.)

11 THE COURT: Mr. Bannister.

12 MR. BANNISTER: Judge, if I might direct your
13 attention to South Carolina Code Section 40-63-130,
14 Subsection 2. That says that any person licensed or
15 registered to practice social work under the laws of
16 another state that imposes substantially the same
17 requirements as this chapter for practicing social work on
18 the satisfactory presentation of evidence or the licensing
19 may practice.

20 That's an exemption to, I believe, the statute that
21 he has quoted. She has testified she's licensed in
22 Georgia. I believe that's sufficient.

23 I would also say, Judge, that I believe Chief Justice
24 Toal -- and this is coming from my own recollection
25 issue -- I guess an administrative -- an order from the

1 Court addressing the issue of experts testifying in South
2 Carolina and has, specifically, addressed this issue. The
3 specter that it raises, though, Judge, and this is an
4 issue that I think the Solicitor has now injected into
5 this case, is that he is the prosecuting authority in this
6 circuit and in this state. And what he has represented to
7 the Court is that this witness is about to testify to
8 things that would potentially subject her to criminal
9 sanctions. And, therefore, what he has done is put her in
10 a position where she may need to assert her Fifth
11 Amendment privilege not to incriminate herself by
12 answering the questions that I would otherwise have
13 propounded to her.

14 This is an inappropriate attempt to intimidate the
15 witness with the authority that this Solicitor has in this
16 state to indict. And I believe that that is an issue that
17 needs to be stated for the record, preserved. And I think
18 it's unfortunate that it has been injected into this case
19 in the way that it has, because it is -- it didn't need to
20 be here. And, yet, it will infect us from this point
21 forward.

22 Thank you.

23 THE COURT: All right. Any reply?

24 MR. ARIAIL: I'm raising the issue of licensing for
25 the purposes of voir dire. And that's as far as we've

1 gotten. And whether or not I present an indictment
2 against her is a totally separate issue.

3 THE COURT: All right. Well, I think that the intent
4 of this -- without doing a full study of the statute, the
5 intent is to prevent unlicensed persons from opening an
6 office and practicing social work. And I guess it's
7 40-63-40 -- 40-63-20, the definitions -- Subsection 26,
8 the definition of a practice of Master of Social Work
9 means, "The application of social work, theory, knowledge,
10 methods, and ethics, and the professional use of self to
11 restore or enhance social, psychosocial, or
12 biopsychosocial functioning of individuals, couples,
13 families, groups, or organizations."

14 And I believe that the intent of this and the aim of
15 this statute is to prevent persons from opening offices to
16 conduct treatment in this state. And I distinguish what
17 Dr. Loring has done as a retained expert for the Defense
18 from that definition contained in this statute. And I
19 don't have my hands on Chief Justice Toal's order either,
20 but I believe I will overrule your objection on those
21 grounds and allow Dr. Loring to testify.

22 MR. BANNISTER: Judge, may I have just one moment,
23 please?

24 THE COURT: All right.

25 (Pause.)

1 MR. BANNISTER: Your Honor, I would call the Court's
2 attention to the case of State v. Williams. This is
3 listed in 485 S.E.2d 99. The specific cite would be at
4 Pages 102 and 103.

5 I believe that the Solicitor's attempt to make the
6 testimony that Dr. Loring may potentially give fit within
7 a criminal statute is a due process violation. It is an
8 attempt to improperly intimidate this witness. And it,
9 specifically, violates the Defendant's due process right
10 to present his defense witnesses freely. I believe the
11 intimidation, at this point, amounts to a substantial
12 government interference with this Defense witness' free
13 and unhampered choice to be able to testify unfettered.

14 I don't believe that she will be able to testify in
15 that manner absent some assertion from the Solicitor that
16 he would either grant her immunity from any perceived
17 illegality to this case -- he has got to do something --
18 I'm sorry. We're going to have to have more of a
19 protection for her for this not to be an issue that
20 impacts the Defendant's due process rights.

21 THE COURT: And how do you propose to get that,
22 Mr. Bannister?

23 MR. BANNISTER: I would refer to the Solicitor.

24 MR. ARIAIL: Are we past the issue of qualification?
25 Have you qualified her?

1 THE COURT: Yes, I have.

2 MR. ARIAIL: All right. So we're to the issue now of
3 whether or not she can testify. The issue -- as I see it,
4 there's two issues: Number one, whether or not she would
5 qualify under the statute as being a witness that could
6 testify in the area of licensed clinical social work. You
7 qualified her. Then the issue then becomes -- if he has
8 raising some issue of intimidation, to begin with, I think
9 that also has two parts: Number one, her prior history,
10 which is well known of testifying in the Courts of this
11 State, for which I can't grant her immunity for that.

12 As to the present testimony going forward from this
13 juncture forward, I can easily grant her immunity as to
14 that to eliminate any problem. That's not the purpose.
15 If somebody wanted to indict her for violating the
16 statute, they could have already done that many, many
17 times based on her prior testimony. That's not the issue.
18 The issue is whether or not she qualifies as a witness
19 under the law of this state.

20 If the issue is now being raised that her testimony
21 is somehow being curved because of the vast power of this
22 office, then I'll gladly grant her immunity from whatever
23 violations she may be --

24 THE COURT: Is that satisfactory?

25 MR. BANNISTER: Yes.

1 I think this was a red herring to start with and
2 I'm --

3 MR. ARIAIL: I would object --

4 THE COURT: Wait a minute. Wait a minute. We're not
5 going there.

6 MR. BANNISTER: Thank you, Judge.

7 I would --

8 THE COURT: Just a minute.

9 Dr. Loring --

10 THE WITNESS: Yes, sir.

11 THE COURT: -- are you satisfied -- are you in any
12 way, based on the discussions that you've been listening
13 to, intimidated in the presentation of your testimony?

14 THE WITNESS: Yes, sir. I am concerned, Judge.

15 May I clarify to see if I understand the situation
16 properly?

17 THE COURT: Yes, ma'am.

18 THE WITNESS: Am I hearing correctly, Your Honor,
19 that the State of South Carolina is not going to indict me
20 for giving improper information today that I have gathered
21 in this case, to the best of my ability, that I won't be
22 indicted in doing so for any reason of being a social
23 worker licensed in Georgia or such?

24 THE COURT: That is my understanding of what the
25 Solicitor has told you. He is the chief prosecuting

1 officer for the Thirteenth Judicial Circuit. And he has
2 expressed on the record, as an officer of the court, that
3 he will grant you immunity for the testimony that you
4 are --

5 And I presume the underlying work she did to arrive
6 at her opinion?

7 MR. ARIAIL: Yes.

8 THE COURT: You are granted immunity. So you will
9 not be indicted based on your work in this case.

10 Now, do you feel secure?

11 THE WITNESS: First, thank you for asking. I
12 appreciate your concern.

13 I wouldn't be honest if I didn't tell you that what I
14 just heard alarmed and concerned me a great deal. So I
15 will hope that I can return my attention to what I came
16 here to do in the first place and be as effective as I
17 would hope to be. But to tell you that I'm not alarmed
18 and concerned at what I heard would not be truthful.

19 THE COURT: Okay. I'll tell you what I'm going to
20 do. I'm going to take a break at this time. I'm going to
21 allow you to consult with an attorney. I want you to have
22 an opportunity to compose yourself, feel confident that
23 what your -- that your presentation or your testimony will
24 not be impacted or impaired by the legal discussion that
25 we've had this morning.

1 So we'll take about a 15- or 20-minute break.

2 And do you have an attorney you can discuss this
3 with?

4 THE WITNESS: I will, certainly, make an effort to do
5 that.

6 THE COURT: Okay. If you have trouble in that
7 regard, please, let Mr. Bannister know.

8 And, Mr. Bannister, you let me know, and I will find
9 somebody who will talk to her.

10 MR. BANNISTER: Yes, sir.

11 THE WITNESS: Thank you, Judge.

12 THE COURT: All right. We'll take a 15-minute break.

13 (WHEREUPON, a break was taken.)

14 THE COURT: All right. Dr. Loring, are you feeling
15 secure?

16 THE WITNESS: No, Your Honor.

17 With profound condolences to Tiffany's family, and
18 with respect to the family of Jerry Inman, and with deep
19 apologies to the Court, I worked so hard to gather all
20 this information to come here today to tell you the truth
21 about Jerry Inman's past. I'm so sorry, Your Honor. Upon
22 advice of counsel, I must plead the Fifth. I feel
23 threatened as a witness in this case, and in other cases
24 in which I've testified in South Carolina at this time.

25 MR. BANNISTER: Your Honor, I have a motion.

1 THE COURT: Just a minute.

2 Ma'am, the Solicitor has granted you immunity so you
3 will not be prosecuted for your work in this case.

4 Now, I don't know what other -- what other cases have
5 you been involved in? Do you have a list of them?

6 THE WITNESS: Yes, Your Honor, I do.

7 THE COURT: Okay. Oh, I'm sorry.

8 THE WITNESS: My pleasure.

9 THE COURT: Thank you very much.

10 THE WITNESS: My pleasure.

11 THE COURT: That's a civil case?

12 THE WITNESS: Yes, sir.

13 THE COURT: In 1999?

14 THE WITNESS: Yes, sir.

15 THE COURT: And that was in Aiken County?

16 THE WITNESS: Yes, sir.

17 THE COURT: So it was -- you've got -- it's all been
18 in '07 and '08, with the exception of the civil case; is
19 that right?

20 THE WITNESS: That's right.

21 THE COURT: Now, you just testified down in Sumter
22 County with Judge Russo?

23 THE WITNESS: Yes, sir.

24 THE COURT: Was this issue raised?

25 THE WITNESS: No, sir.

1 THE COURT: Has it been raised in any of these cases?

2 THE WITNESS: Not to my recollection, Your Honor.

3 THE COURT: Okay.

4 THE WITNESS: Your Honor, to correct myself, if it
5 was raised once, it was immediately put to rest. And
6 there were no similar threats made, at that time, that I
7 can recall, Your Honor.

8 THE COURT: Do you know which case that was? Do you
9 remember?

10 THE WITNESS: I do not. I'm so sorry.

11 THE COURT: Okay. May I ask my clerk to make a copy
12 of this?

13 THE WITNESS: Certainly, Your Honor.

14 THE COURT: Thank you, ma'am.

15 I'll give that back to you.

16 THE WITNESS: My pleasure.

17 THE COURT: Ma'am, it occurs to me that you have been
18 given immunity in this case. There will be no criminal
19 prosecution or threat of criminal prosecution for what
20 you've done in this case.

21 And, ma'am, I don't believe you have a right to
22 assert a Fifth Amendment privilege in this case based
23 on -- or in this case because of that, or that there is a
24 Fifth Amendment privilege to assert with respect to what
25 you've already done in the other cases.

1 What do you want to tell me, Mr. Bannister?

2 MR. BANNISTER: Your Honor, I'm not her lawyer, so I
3 think that goes --

4 THE COURT: Well, you have risen to say something.

5 MR. BANNISTER: I did. I have a motion that is
6 separate and apart from the issue of whether or not her
7 Fifth Amendment is appropriate. I would -- if you're
8 ready to hear that at this point, I'll, certainly, go into
9 it.

10 THE COURT: Well, no, I'm not -- I don't know who her
11 attorney is either.

12 MR. BANNISTER: Mr. Godfrey volunteered. He was here
13 in the courtroom. He spoke with her.

14 THE COURT: Well, great.

15 Mr. Godfrey, how does she have a Fifth Amendment
16 privilege to assert in this case?

17 MR. GODFREY: Well, Judge, the Solicitor, when he
18 granted the immunity for this particular case, said, of
19 course, I can't grant immunity for the other cases you
20 have testified for or on. And, of course, she has other
21 cases which are coming up.

22 The Solicitor himself is the one who has intimidated
23 this witness.

24 THE COURT: Well, I --

25 MR. GODFREY: Under Lanzetta v. New Jersey, 306 U.S.

1 451, a 1939 case, it says that no one may be required at
2 peril of life, liberty, or property to speculate as to the
3 meaning of penal statutes.

4 If the Solicitor was going to raise such an issue as
5 this, it appears it should have been raised pre-trial and
6 not during voir dire. But what he has done now is chill
7 the Doctor's ability to testify, which was exactly his
8 intent.

9 THE COURT: Well, I --

10 MR. GODFREY: It's a violation of due process.

11 THE COURT: Well, that's your inference. I don't
12 know if it was or not. And I can't read his mind.

13 But I don't know how there's a -- how her conduct in
14 these other cases, and I'm not talking about the pending
15 cases, but I'm talking about the ones where she's already
16 testified, how anything she does, in this case, would have
17 anything to do with a Fifth Amendment privilege in those
18 cases. How could she violate by her testimony in this
19 case, which she has been given --

20 Is that the complete full immunity, Solicitor?

21 MR. ARIAIL: Yes, sir.

22 THE COURT: She has no Fifth Amendment privilege here
23 now.

24 MR. GODFREY: If she has complete full immunity, I
25 agree she has no Fifth Amendment privilege in this

1 particular case.

2 THE COURT: Correct.

3 MR. GODFREY: The Solicitor --

4 THE COURT: So how does her testimony in this case --
5 because I know where this is going. We all do.

6 How does her testimony in this case implicate her in
7 any way in a penal nature in cases where she has already
8 testified and she is finished?

9 MR. GODFREY: She has been placed on notice by
10 Solicitor Ariail that this statute exists, and there is
11 penalties to the statute. And, clearly, I think he did
12 that to intimidate and hinder her testimony.

13 Now, the fact that that is in the back of her mind --
14 Judge, she has testified before that this issue has not
15 been raised at previous hearings.

16 THE COURT: Well, she said it was raised at one and
17 then put to rest and, apparently, didn't rise to the level
18 that this one has.

19 MR. GODFREY: But in the back of her mind, from my
20 conversation with her, she is afraid and she is fearful
21 that she could now be indicted in other counties for the
22 work that she has done and for being qualified as an
23 expert in giving her opinion in court as she has done.

24 THE COURT: All right.

25 MR. GODFREY: And also, Judge, obviously, the

1 Attorney General can prosecute in any county in the State.

2 THE COURT: Well, they work for the same state and he
3 has granted immunity. He speaks on behalf of the State.
4 So I believe the immunity would extend to any prosecution
5 the Attorney General might initiate.

6 But, Dr. Loring, I'm sorry you're caught in the
7 middle of all this.

8 THE WITNESS: Me, too. I'm sorry, Your Honor.

9 THE COURT: That's all right. I want you to feel
10 comfortable. I want you to get comfortable.

11 So what we're going to do is take a break. And I'm
12 going to do a little research. And so why don't we be
13 back in about 45 minutes.

14 And, Doctor, I really want you to get comfortable
15 and -- because I know the importance that your testimony
16 represents in this case.

17 THE WITNESS: Yes, sir.

18 THE COURT: I don't know that -- I'll tell you this,
19 I believe that the Defense would feel compelled to request
20 that this sentencing hearing be, basically, ended and we
21 have to come back and do it all again. I don't know how
22 it would change the next time around. Mr. Inman has
23 entered his plea of guilty. I don't think that your -- I
24 don't believe that if this hearing were set aside that
25 that would impact his adjudication of guilt.

1 So what I would like to do is for you to take some
2 time, speak a little more with your attorney with the idea
3 that I can't speak to these other previous cases. My
4 reading of the statute is it is not intended to chill the
5 type of -- I mean, I don't know, specifically, what you
6 did in these other cases. But based on what I've heard
7 that you did in this case, I don't think the intent of the
8 statute is aimed at what you do. So without doing some
9 real heavy research into it, which I may end up doing, I
10 don't think it would apply.

11 But I want you to go, please, confer with your
12 attorney. And we'll be back at about 11:30 and we'll see
13 where we are then.

14 THE WITNESS: Thank you so much.

15 THE COURT: All right. Can we get you anything?

16 THE WITNESS: No.

17 Thank you.

18 THE COURT: I don't have much to offer, a glass of
19 water or cup of coffee is all I have.

20 THE WITNESS: I'll get some water.

21 Thank you very much.

22 THE COURT: We'll be in recess until 11:30.

23 (WHEREUPON, a break was taken.)

24 THE COURT: Okay. Dr. Loring, how are you?

25 THE WITNESS: Full of sorrow.

1 THE COURT: Full of sorrow?

2 THE WITNESS: Full of sorrow.

3 THE COURT: And why is that?

4 THE WITNESS: Because, Your Honor, with the knowledge
5 that there are people that have come a long way that need
6 to get home, I must, upon advice of counsel, tell you that
7 I cannot testify.

8 THE COURT: On what grounds?

9 THE WITNESS: I'm advised that I have been threatened
10 in regard to subsequent -- previous cases, and that to
11 testify when I'm told that I would be in violation of
12 criminal statute would affect my professional reputation
13 in other cases -- in other jurisdictions in which I'm
14 involved currently.

15 THE COURT: All right. Well, I'm going to ask you to
16 rethink that. And I am going to tell you that you have
17 immunity in this case. And insofar as I am able to, I am
18 granting you immunity in all your prior cases that you've
19 testified in this state. I do not believe that the
20 statute cited by the Solicitor is intended to prevent the
21 testimony that you are -- have been hired to present in
22 court today.

23 I rely as well on the Chief Justice's order
24 #2006-08-24-01, which is not, specifically, on point, but
25 it is of the same flavor. It relates to an act -- Act

1 #385 of 2006, ratified by the South Carolina Legislature
2 and became effective on June 9th, 2006, which had to do
3 with the licensing of physicians and other medical
4 personnel. This Court -- well, it's, actually, signed by
5 all the members of the Court at that time, and makes it
6 very clear that the South Carolina Constitution vests this
7 Court with the authority to make rules governing the
8 administration of the unified court system, and in order
9 to prevent a significant impairment to the Court's duty to
10 properly administer the judicial power of South Carolina,
11 and pursuant to Article 5, Section 4's authority of the
12 South Carolina Constitution, we hereby temporarily delay
13 judicial enforcement of that act insofar as it requires an
14 out-of-state physician to obtain a license to practice
15 medicine in South Carolina before offering expert medical
16 testimony.

17 I believe that the Supreme Court, had they been asked
18 to do so, would have issued the same order in this case or
19 in this -- with respect to this statute.

20 You have been hired to perform a job. Mr. Inman is
21 indigent, which means that the State of South Carolina is
22 paying your bill. And if I had believed that you were
23 not --

24 And I believe I'm the one that signed the ex parte
25 funding order, am I not, #11?

1 MR. BANNISTER: You are, Your Honor.

2 THE COURT: I would not have signed an ex parte
3 funding order had I thought your testimony was
4 inappropriate or illegal.

5 So I don't believe -- your testimony today would not
6 effect what's happened prior to today. You are -- you
7 have no Fifth Amendment privilege to assert in this case,
8 because you have immunity from the Prosecutor and from me.
9 And while it may not be a generally recognized -- judicial
10 immunity may not be generally recognized in South
11 Carolina, I think the fact that I'm putting it out there
12 would carry some weight.

13 So I will allow you to step down and confer with your
14 attorney. I do not believe you have a -- you're here
15 under the subpoena power of the State. I do not believe
16 you have a lawful ground to refuse to testify. But I want
17 you to feel comfortable about it. And I want you to go
18 talk to your attorney.

19 Mr. Bannister, do you have another witness?

20 You can step down, ma'am. Please go think about it
21 and talk about it.

22 Mr. Bannister.

23 MR. BANNISTER: I do have another witness, Your
24 Honor. But I also -- I guess depending on where we are
25 after she finishes conferring with her attorney, I have a

1 motion. It's -- there are two different analyses that
2 would apply --

3 THE COURT: Wait. Let Dr. Loring get down.

4 MR. BANNISTER: Yes, sir.

5 (Pause.)

6 THE COURT: All right. Mr. Bannister.

7 MR. BANNISTER: I need -- I think I am entitled to
8 hear the Solicitor state for the record whether or not he
9 does, in fact, believe the statute he raised to you
10 implicates criminal conduct on behalf of the Defendant.
11 Because depending on where he falls with that would depend
12 on how the analysis is conducted from the motion I intend
13 to make.

14 THE COURT: I'm sorry?

15 MR. BANNISTER: The Solicitor has represented to the
16 Court that Dr. Loring had committed a criminal act
17 pursuant to the statute he cited when he was conducting
18 the voir dire. He set her up by saying, Did you come to
19 South Carolina and did you interview anybody, knowing that
20 she would have interviewed the Defendant and knowing that
21 he would have been inside this circuit. He then asserted
22 that that was subject to criminal violations pursuant to
23 the statute that he cited to Section 44 -- or whatever he
24 said exactly.

25 So I want to know, does he -- and, of course, he has

1 now granted immunity for that. So I want to know, on the
2 record, does he believe that that statute implicates the
3 conduct she did?

4 THE COURT: Well, I don't know that I can be required
5 to require him to answer that question.

6 MR. BANNISTER: Well, then I need to call him as a
7 witness. Because it is --

8 THE COURT: No, sir. I'm not going to allow that.
9 No, sir.

10 MR. BANNISTER: Okay.

11 THE COURT: Any other motions?

12 MR. BANNISTER: I do, if you're ready to hear them
13 now.

14 THE COURT: Yes.

15 MR. BANNISTER: I think probably we ought to wait and
16 see what Dr. Loring, ultimately, says to us.

17 So I'm prepared to go forward. I believe Dr. Tournay
18 is here.

19 THE COURT: Well, just hang on. I don't know if you
20 need to confer with her attorney, but I don't believe
21 there is any legal ground for her to come here and refuse
22 to testify. And if she comes up here and refuses to
23 testify, then I'll have to take the next step, so.

24 MR. BANNISTER: Let me be clear. Are you -- is the
25 Court instructing me to convey that to Mr. Godfrey?

1 THE COURT: No, sir.

2 I'm asking you to talk to him and find out if there's
3 a legal ground, Mr. Bannister. This lady, we've hired
4 her -- I don't know when I signed the order. This has
5 been going on for a long time.

6 MR. BANNISTER: It has.

7 THE COURT: This is a tempest in a teapot. There is
8 no issue here. Okay.

9 MR. BANNISTER: Judge, don't look at me for having
10 raised it.

11 THE COURT: Wait a minute. I'm not casting stones.
12 But there is no issue here.

13 And for us to go through this -- this would not
14 overturn the adjudication of guilt if I were to grant the
15 mistrial, which I presume the motion will come for that.
16 We'd go through the same thing again and --

17 MR. BANNISTER: I couldn't agree with you more. And
18 that's why I said in the beginning -- I'm the one that
19 offered to say, hey, look, the Solicitor needs to grant
20 her immunity so we can put this red herring to rest. I
21 didn't raise it.

22 And, Judge, I just don't think it's fair --

23 THE COURT: Well, you can deal with that in another
24 forum at a later time, if you think that's appropriate.
25 But, right now, I want to see this case move forward in an

1 orderly fashion.

2 MR. BANNISTER: And I want to -- there's no -- well,
3 I'm, certainly, among the people that want to see this
4 case resolved this week. I didn't inject this issue into
5 the case. We would be finishing probably by 3:00 or 4:00
6 this afternoon but for the Solicitor's comments.

7 THE COURT: All right. Well, we're going to -- we
8 will break. And I'll tell you what, it's noon, so we'll
9 break for lunch. We'll come back at 2:00.

10 MR. BANNISTER: Thank you.

11 THE COURT: And I want -- over that period of time,
12 if anybody has got any notions or ideas or
13 understanding -- has any authority, based on what I've
14 said, that would allow her to refuse to testify, please,
15 let me know about it.

16 MR. BANNISTER: Your Honor, may -- she is still,
17 currently, under oath and still a witness. But with
18 relation to this particular issue, do I have permission to
19 speak with her, if she would be willing to speak with me?

20 THE COURT: Yes, you do. I give that to you.

21 We hadn't even gotten her qualified as an expert
22 before this came up. You can talk to her about it. There
23 would be no prejudice or harm to anybody by doing that.

24 MR. BANNISTER: Thank you.

25 THE COURT: Okay. 2:00.

1 (WHEREUPON, a lunch break was taken.)

2 THE COURT: Okay. Where are we?

3 MR. GODFREY: May it please the Court?

4 MR. BANNISTER: I'm sorry. We still don't have the
5 Defendant.

6 THE COURT: Oh, yes, we'll wait. I'm sorry. I got
7 ahead of myself.

8 (WHEREUPON, Defendant Inman entered the courtroom.)

9 THE COURT: All right. Mr. Bannister.

10 MR. BANNISTER: Your Honor, if I understand our brief
11 conference there, we are going to take some time on the
12 issue of Dr. Loring. And you have asked me to proceed.
13 And that will be without prejudice to any issues I might
14 choose to raise once we, finally, get back to Dr. Loring.

15 THE COURT: Correct.

16 MR. BANNISTER: And I am in a position, at this
17 point, that I believe I could call Dr. Tournay.

18 THE COURT: Come on around, please, sir.

19 THE CLERK: Sir, if you'll, please, place your left
20 hand on the Bible and raise your right hand.

21 WHEREUPON,

22 CLAUDE TOURNAY,

23 after first having been duly sworn, testified as follows:

24 THE CLERK: Thank you.

25 Please state your full name for the record.

1 THE WITNESS: My name is Claude Tournay, T-O-U-R-N-A-Y.
2 (WHEREUPON, Defendant's Exhibit No. 30 was marked for
3 identification only.)

4 DIRECT EXAMINATION

5 BY MR. BANNISTER:

6 Q Dr. Tournay --

7 A Yes, sir.

8 Q -- if you would, tell us where you are, currently,
9 employed.

10 A I work for the Florida Department of Corrections.
11 I'm, specifically, assigned to an institution in
12 Carrabelle, Florida, called -- let me see. I just moved
13 there. It's Franklin Corrections Institution.

14 Q How long have you worked in Florida in various
15 capacities with the Department of Corrections?

16 A I've worked for 28 years, since March of 1980 at
17 various positions.

18 Q Have you held various positions within different
19 institutions with the Department of Corrections in Florida?

20 A Well, except for one institution at Florida State
21 Prison where I was assistant director. I always work as a
22 senior psychologist.

23 Q As part of your duties with the Department of
24 Corrections for Florida, did you on occasion conduct sex
25 offender screenings for inmates that were due to be

1 released?

2 A Yes, sir.

3 Q Was that something that you did regularly for the
4 Department of Corrections during periods of time with your
5 employment with them?

6 A I would do it occasionally. Because that was more
7 the duty of case management.

8 Q Let me show you -- let me ask if this would refresh
9 your recollection.

10 Do you have an independent recollection of seeing a
11 Mr. Jerry Buck Inman in January of 2004?

12 A It's very possible.

13 Q Okay. Having looked at this document that I've
14 handed you, can you say that you did, in fact, see
15 Mr. Inman in January of 2004?

16 A Yeah. That's proof.

17 MR. BANNISTER: Let me just mark it for identification
18 purposes at this point.

19 (WHEREUPON, Defendant's Exhibit No. 31 was marked for
20 identification only.)

21 MR. BANNISTER: I apologize. I should have done that
22 before. This has been marked for identification purposes
23 as Defendant's Exhibit No. 31.

24 BY MR. BANNISTER:

25 Q Doctor, as part of sex offender screening, does that

1 usually include a review of the classification records?

2 A Not usually. Usually, we are focusing on the mental
3 aspect of the disorder. And we go by what the inmate is
4 telling us for consideration for therapy. Because therapy
5 is voluntary. And if the inmate doesn't come forward
6 during the screening, then that's an indication that we
7 have to -- let me see -- assume that the inmate will be
8 difficult to treat.

9 Q Are you telling us that there's no document review
10 for sex offender screening normally? And I'm talking
11 about you, personally.

12 A Right.

13 Q If you're doing a sex offender screening, are you
14 telling me there's no document review?

15 A Well, there's an option to review the classification
16 record, but like it's not systematically done.

17 Q Okay. Well, if you got a chance to look at your
18 notes on that, would that help refresh your recollection
19 as to what you did in Mr. Inman's case?

20 A Uh-huh.

21 Well, according to this psychiatric dictionary, DSM4,
22 there was no paraphilic disorder. He was accused -- he
23 was convicted of rape. But like it is not considered to
24 be a mental disorder by DSM4.

25 Q Based on your review of the record, though, did you,

1 in fact, review Mr. Inman's classification records? Isn't
2 that what your notes indicate?

3 A I don't remember that. I don't remember doing that.

4 Q Okay. Well, let me just ask you to look at it again
5 and see.

6 A Okay.

7 Q And so with that in front of you, let me ask you, did
8 you review the classification records for Mr. Inman?

9 A I don't recall that, but it is not impossible. We
10 have an electronic record that I probably -- most
11 certainly looked at. There was a rape conviction. That's
12 what he was doing the time for.

13 Q All right. Well, maybe I misunderstood. Is that not
14 your signature there?

15 A Yeah, yeah.

16 Q Okay. And so would you have been the one to have
17 either dictated or signed off on these notes?

18 A Yeah, yeah.

19 Q And didn't you indicate in there that you reviewed
20 the classification record, his mental health record, and
21 had an interview?

22 A Yeah.

23 Q All right. I understand you may not remember that
24 sitting here today. But is that --

25 A It may have happened. But it must have been the

1 electronic record. But I --

2 Q All right. Well, then let me ask it this way. Do
3 you know what -- what's, typically, in a classification
4 record? Would it include an inmate's criminal history?

5 A Yeah, a criminal history on the electronic record.
6 But the hard -- the hard record -- the bound record would
7 include a PSI. But I haven't reviewed --

8 Q What's a PSI?

9 A PSI, a post-sentence investigation, or pre-sentence
10 investigation.

11 Q Okay. Would you have noted that in your notes if you
12 had, actually, reviewed the PSI?

13 A Not in -- that's not what it says. It says I
14 reviewed the classification record. But that probably
15 was -- most likely was the electronic record.

16 Q All right. In terms of a review for a sex offender
17 screening, is consideration given to an inmate's prior
18 record, just generally speaking?

19 A (There was no response.)

20 Q Do you understand my question?

21 A Well, the prior record where the incident offense
22 and -- I -- this is the only thing that I was concerned
23 with, because that was the only crime he was accused of in
24 Florida.

25 Q Okay. So you would have only -- I'm sorry. Am I

1 hearing you correctly that in your sex offender
2 screenment -- I'm sorry, your sex offender screening, you
3 would only consider the crime for which he was serving
4 time for?

5 A Then I ask the inmate, Have you committed any other
6 crime? And you send a note. And that's what I think --
7 that's what I assume that he has.

8 Now, on the electronic record, they show previous
9 crimes. And that would be computed when the inmate comes
10 in for treatment, if he wants treatment. But if he
11 doesn't want treatment, then that would be up to -- when
12 an inmate comes for release time, then the other agency
13 will look at that and decide what to do next.

14 Q What agency might that be, Doctor?

15 A The Department of Children and Family Services.

16 Q Are you a member of the Department of Children and
17 Family Services?

18 A No. I'm a member of the Department of Corrections.

19 Q As part of your duties, at that time, back in 2004
20 when you screened Mr. Inman, you did not find a paraphilic
21 sexual disorder, according to your records?

22 A I couldn't find enough criteria to determine that.

23 Q I'm sorry. I didn't catch that last part.

24 A I didn't -- there was not enough criteria for me to
25 come up with that diagnosis.

1 Q All right. And what criteria did you use at that
2 time? Other than just the crime he has in jail for, did
3 you consider any other factors? What are the criteria?
4 That's what I'm getting at.

5 A Well, sadistic behavior.

6 Q Okay.

7 A Sadistic behavior would be one of them, and child
8 molestation, abnormal sexual behavior. In this case, I
9 looked at this rape as a part of his anger. Because he
10 was treated for a major depression disorder. He was
11 mentally ill. He was a psychiatric patient. And this
12 anger may have prompted the inmate to -- the individual to
13 have a very antisocial behavior like robbing people, like
14 raping people, like being antisocial.

15 Q Am I correct in saying, though, that your diagnosis
16 was major depression recurrent? And I can show you the
17 document, again, just to be sure.

18 A He had major depression. He had several suicide
19 attempts. He was very dysphoric. He was considered to
20 have an anti-diagnostic type of personality. And that's
21 why we referred him to the crisis unit and inpatient unit
22 for treatment for that.

23 Q Okay. And with regards to the sex offender treatment
24 offered, you checked the box for "Not Applicable," because
25 no disorder?

1 A Right.

2 Q Is that a "yes"?

3 A Yes, sir.

4 Q Okay. Were -- let me show you another document.

5 This has been marked for identification purposes as
6 Defendant's Exhibit No. 30. Let me just ask you to review
7 that right quick.

8 A Yes.

9 Q Now, your review of Mr. Inman was in January of 2004;
10 correct?

11 A (Witness nodded.)

12 Q Did you receive any letter on April 28th of 2004,
13 that said that the inmate, Jerry Buck Inman, appears to be
14 a sexually violent predator pursuant to the Jimmy Ryce
15 Act? Did you get any information about that?

16 A I didn't receive that.

17 Q Okay. Were you aware of any contact with Mike
18 Sinacore with the Assistant State Attorney, Thirteenth
19 Circuit, Tampa, Florida, about Jerry Inman being noticed
20 as a sexually violent predator? Did you have any contact
21 with him?

22 A No, sir.

23 Q Okay. Assuming for a moment if you can -- and only
24 if you can answer this question. If the Department of
25 Children and Families had received a letter from the

1 Florida Department of Corrections saying that Jerry Buck
2 Inman appears to be a sexually violent predator, what is
3 your understanding of what would have taken place
4 thereafter?

5 A Well, normally, the Department of Children and Family
6 Services would have sent three psychologists to examine
7 the inmate and determine whether he would be a threat to
8 society. At which time, the Department of Children and
9 Family Services would civilly commit the individual to
10 their institution in Arcadia. But that's only for a crime
11 that happened after October of 1993. That's where the
12 statute came into play.

13 Q Do you have any explanation for why Mr. Inman would
14 not have been screened by the Department of Children and
15 Families under the Jimmy Ryce Act?

16 A Yes. Specifically, because his crime was -- happened
17 prior to 1993.

18 Q Okay. So do you think that somebody made a mistake,
19 in this case, letting Mr. Inman be released?

20 A Well, considering that the crime happened before
21 October of 1993, assuming that the Children and Family
22 Service people decided he didn't fall into their criteria.

23 But like, once again, as a psychiatry inmate, we
24 made a referral to the location that he decided to
25 relocate to, which is in Tennessee. And we made

1 arrangements to continue his treatment for his major
2 depression. Because a sexual -- his sexual conduct is a
3 very complex problem. It's associated with like the
4 support system that -- we see when he gets out, his level
5 of frustration of having difficult in articulating with
6 society, which he probably was never integrated. And
7 he -- of course, I'm sure behavior. He never knew how to
8 approach social relationships, let alone a sexual
9 relationships. So that may -- that could have been the --
10 in the hands of that community mental health center once
11 he ended up in Tennessee.

12 But the Department of Corrections in Florida, we
13 focus mainly on what he was allowing us to treat, which is
14 his depression. And, in reviewing records, I noticed that
15 even though he was in some inpatient units, at times, he
16 would refuse his meds. He would refuse to participate in
17 groups. And he stayed there over a year.

18 So, you know, that's why the Department of
19 Corrections in Florida has beefed up the post-release
20 plan. We involve two agencies now.

21 Q Is that a direct result of what happened with Tiffany
22 Souers in this case?

23 A That -- I cannot tell you that. But what I can tell
24 you is that in 1996, I received a call from the St.
25 Petersburg newspaper asking me what do we do with sex

1 offenders when they are released.

2 Q I'm sorry. This is 1986?

3 A No, no, '96.

4 Q 1996. All right. Go ahead. I'm sorry.

5 A And then I told them the Department of Corrections in
6 Florida, we have -- the only thing we can offer is a
7 20-week sex offender program, which is only -- its only
8 ambition is to convince the individual that he should seek
9 treatment once he gets out. Just like any Alcoholic
10 Anonymous situation, it's a lifelong problem that he
11 should commit himself to.

12 And I told that newspaper reporter that, however, the
13 only people who come and participate in our program are
14 the compliant inmates. And those who refuse, we can't do
15 anything about it. And so they remain a danger to
16 society. And I guess two or three years later, then we --
17 the Department of Children and Family Services created
18 this Jimmy Ryce Act. And then we -- and then they opened
19 an institution in Arcadia. And that's where they would
20 send sex offenders they consider to be predators.

21 Q Has anything changed since 2006 with regards to sex
22 offender assessments?

23 A Right, right. No, the -- if three psychologists
24 from -- not belonging to the Department of Corrections
25 agree that the inmate remains a danger for society, then

1 he would be sent to -- he would be civilly committed in
2 Arcadia. And he would remain there until the Judge
3 decides he can go.

4 MR. BANNISTER: Judge, may I have just one moment?

5 THE COURT: Yes.

6 (Pause.)

7 MR. BANNISTER: I don't have any further questions.

8 THE COURT: Cross-examination.

9 MS. STROM: We have no questions of this witness,
10 Your Honor.

11 THE COURT: All right.

12 MR. BANNISTER: Can he be excused?

13 THE COURT: Thank you.

14 You may step down.

15 MS. STROM: Oh, no objection, Judge -- I'm sorry --
16 to him being excused.

17 THE COURT: Oh, do you want to excuse him?

18 MR. BANNISTER: Yes. He can be excused.

19 THE COURT: All right. You're released from
20 subpoena.

21 MR. BANNISTER: Your Honor, our next witness would be
22 Denise Baker. I believe she's in the Public Defender's
23 Office. If you'll give us just a minute to go get her.

24 THE COURT: Yes.

25 (Pause.)

1 MR. BANNISTER: Judge, my apologies. Jim Aiken is
2 the next witness.

3 THE COURT: All right.

4 MR. CULBERTSON: Your Honor, we call Jim Aiken to the
5 stand.

6 THE COURT: All right. Come around and be sworn,
7 please, sir.

8 WHEREUPON,

9 JAMES EVANS AIKEN,
10 after first having been duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 Please state your full name for the record.

13 THE WITNESS: My names is James Evans Aiken,
14 A-I-K-E-N.

15 DIRECT EXAMINATION

16 BY MR. CULBERTSON:

17 Q Thank you.

18 Mr. Aiken, tell us a little bit about who you are,
19 what you do, and how you came to know what it is you do.

20 A Very well, sir. I'm, originally, from Camden, South
21 Carolina. I was educated in the school systems there. I
22 received an undergraduate degree, Bachelors of Arts Degree
23 from Benedict College, Columbia, South Carolina, and a
24 Master's Degree in Criminal Justice from the University of
25 South Carolina.

1 I started working in prisons in 1971. My first
2 position was one of a counselor in a substance abuse
3 program in a medium security prison in South Carolina,
4 Columbia, South Carolina. I was promoted from that
5 position to administrative assistant to the warden of that
6 facility. During those days, very early, in the capacity
7 of administrative assistant, you've got to do what no one
8 else wanted to do, and you help out with the security
9 aspects of the operation of the facility.

10 It being a medium security prison means that inmates
11 had a fair amount of movement from point A to point B,
12 especially compared to a maximum security environment.
13 But the external perimeter was one of gun towers, fences,
14 and dogs, and things of that nature, high security.

15 I helped out being the disciplinarian of the
16 facility, contraband control. I helped break up fights,
17 and was always involved in management of inmate population
18 to include the appropriate level of classification,
19 custody, and security of this population. And when that
20 was taken care of, you got to write letters for the
21 warden.

22 From there, I was promoted to the rank of deputy
23 warden of that same facility where I was number two in
24 charge of the facility in relationship to security,
25 classification, programatic activity, as well as

1 administrative support for the facility. And I was, also,
2 involved with contraband control, involved in riot
3 control, preparations, and all emergency operations.

4 From there, I was promoted to the rank of deputy
5 warden at the Central Correctional Institution. This
6 facility was the largest facility within the South
7 Carolina system at that particular time. It housed
8 medium, maximum, and super-maximum security inmate
9 population, the most disruptive predator population within
10 the criminal justice system of South Carolina. And this
11 was inclusive of inmate population that were assigned in
12 pre-adjudicated status awaiting criminal proceedings that
13 county facilities could not adequately manage. And these
14 inmates ended up in CCI awaiting trial because of security
15 precautions, of course.

16 Q And, just for the record, explain to us what CCI is.

17 A Central Correctional Institution. And in other
18 jurisdictions, it's called the State penitentiary,
19 basically. This population not only had committed serious
20 offenses within the community that required a high level
21 of security, they often involved themselves with predator
22 and disruptive behavior patterns while in confinement
23 status. And there were gangs, there were clicks, so to
24 speak, always a threat of systemic as well as random
25 violence within the facility. Also, we housed the

1 mentally impaired population in this facility. And it was
2 commonly called 297.

3 Q And, Mr. Aiken, I take it during the course of your
4 career and the course of your experience, have you been
5 called upon to evaluate, to assess the security, and the
6 behaviors of inmates in the various systems that you just
7 described?

8 A That is correct, sir. And it's commonly called
9 classification, one of putting the appropriate inmate in
10 the adequate level of security and supervision. And I did
11 that at the Central Correctional Institution, CCI. I was
12 the warden of the women's prison, also.

13 I held the capacity of deputy regional administrator
14 within the South Carolina Department of Corrections over
15 16 prisons, as well as commissioner of corrections over 46
16 facilities in Indiana, as well as director of corrections
17 for the United States Virgin Islands. And all of these
18 systems had inmate population of various security levels
19 from super-maximum security down to minimum security.

20 Q Have you previously been in the courtroom before to
21 testify as an expert in prisons, prison inmates, and how
22 to control prisoners and inmates?

23 A Yes, sir, in all aspects of prison management and the
24 management and adaptability of inmate population.

25 MR. CULBERTSON: Your Honor, I would submit Mr. Aiken

1 as an expert regarding the assessment of what my client's
2 classification would be in prison, and as an expert in
3 prison management and prison classification.

4 THE COURT: Voir dire or objections?

5 MR. ARIAIL: No voir dire. And we'll stipulate.
6 I've known Mr. Aiken quite a long time.

7 THE WITNESS: Thank you, Mr. Ariail.

8 And thank you, Your Honor.

9 THE COURT: Yes, sir.

10 BY MR. CULBERTSON:

11 Q I take it y'all know one another?

12 A Yes, sir.

13 Q You've testified for Mr. Ariail before?

14 A Before and before.

15 Q Before and before?

16 A A very long time. His reputation precedes him.

17 Q I won't get into all that.

18 A Very well, sir.

19 Q Let me ask you this. Were you asked by members of
20 the Defense team to conduct an assessment of our client,
21 Mr. Inman?

22 A Yes, sir.

23 Q And you did such an assessment?

24 A That is correct, sir.

25 Q And, if you would, kind of -- you had a chance to

1 review his criminal history, his criminal record
2 previously in the prison system, and to draw conclusions
3 based on your experience and your review of those records?

4 A That is correct, sir.

5 Q Have you been able to form such an opinion?

6 A Yes, sir.

7 Q If you would, please, sir, tell us a little bit about
8 your observations of both interviewing with or reviewing
9 all of Mr. Inman's records.

10 A I had an opportunity to do a comprehensive review of
11 his records, his confinement records and criminal records,
12 in particular. He has been in confinement status for an
13 extended period, obviously, and it gave me a good track
14 record to evaluate him. And based on his guilt in this
15 particular proceeding and based on the previous
16 incarceration periods, he would automatically be in a very
17 high security status. And that is not only for the
18 sentence that he would receive if it's life without
19 parole, the crime that he has been convicted of, but,
20 also, the cumulative behavior patterns while he was in
21 confinement status has a great bearing on that, also.
22 Additionally, there are some security threat group issues
23 and gang-related issues that concerns me a great deal.
24 Q And, please, sir, tell us what -- tell me what you
25 mean by security threat issues and why that raises

1 concern, specifically, in regards to Mr. Inman?

2 A Very well. Basically, in layman's terms, there is an
3 informal hierarchy within prison systems. Involved in
4 these informal hierarchy issues are gangs and security
5 threat groups. These are people that maintain a continual
6 effort to try to have power and control and influence over
7 other inmates and, in some circumstances, try to take over
8 the prison itself. And they do that through random and
9 systematic violence. This violence is not one necessarily
10 of beating someone up. That is not an approach that they
11 take. They -- when they make moves against people for
12 various reasons, it's often extremely violent.

13 In this circumstance, upon my review of Mr. Inman
14 and, specifically, looking at certain tattoos on him, one,
15 in particular, I noticed a swastika. That may not mean
16 much to people in the community, other than a Nazi --

17 Q Let me stop you for a second.

18 A Very well.

19 Q Mr. Aiken, I'm going to hand you a series of
20 photographs, which have previously been marked by the
21 Court for identification purposes, and ask you if you've
22 had a chance to look at those before and if you can
23 identify them today?

24 A Yes, sir. I've had an opportunity to look at these
25 color photographs that were provided by counsel.

1 Q And is it your understanding that those are
2 photographs of Mr. Inman's body and the tattoos that he
3 sports on his body?

4 A That is correct, sir.

5 Q Do those tattoos cause you any special concerns or
6 worries concerning his incarceration in the prison system?

7 A Yes, sir.

8 Q Share those with us, please.

9 A And I reference one as an example which is on his
10 arm. And you will see that it's a swastika on here, which
11 denotes to me, as a prison warden, that he is wearing, as
12 they call it, the brand of the Nazi gang or security
13 threat group. And that causes me great concern because he
14 is a convicted multiple sex offender. Sex offenders and
15 these security threat groups do not mix. That's number
16 one.

17 Q Explain that a little bit for me, if you don't mind.

18 A What I mean by that is you will not find sex
19 offenders being members of security threat groups and
20 gangs because gangs and security threat groups hate them,
21 period. And it's further complicated when he has wearing
22 their brand, which indicates that he is a Nazi. And what
23 that does is calls for the informal organization, i.e.
24 Nazis who have affiliations with other gangs, such as the
25 Arian Brotherhood and other security threat groups, they

1 will kill him because they have such a distaste for sex
2 offenders.

3 And that's not only a white Supremacist group, it's
4 just that in this particular situation, whether it's the
5 Black Disciples, the Latin Kings, or any other Mexican
6 Mafia, or any of these type of security threat groups, sex
7 offenders alone are at the bottom of the totem pole within
8 the hierarchy. And then gangs prey upon them anyhow. And
9 then he has wearing their brand, which causes them to say
10 that you have disrespected them. And so, therefore, they
11 put contracts out on people like that that wear their
12 brand.

13 Q Let me stop you for a second. As I understood your
14 testimony just now, the photographs that you reviewed, the
15 ones you have in front of you, give you reason to believe
16 that Mr. Inman, because of these tattoos, would be what
17 you describe as -- would automatically be described as
18 what you call a STG, a security threat group?

19 A No, sir. He would not be a member of a security
20 threat group. The security threat group or gang will put
21 a contract out on him to have him killed.

22 Q Because he has a tattoo?

23 A Because he has a tattoo and he has a convicted sex
24 offender.

25 Q So being a member of a gang or, for that matter,

1 having a tattoo that indicates he has a member of the gang
2 is a separate issue than -- or an additional issue because
3 of his classification as a sex offender?

4 A Please repeat that to make sure I understand exactly
5 what you're asking.

6 Q And I apologize.

7 A No problem.

8 Q You're not here today to tell us that he is a member
9 of the Arian Brotherhood or he is a Nazi, but you're here
10 to tell us that he sports tattoos that indicates that he
11 has aligned with those groups?

12 A Exactly. He is a person wearing, as we call it in a
13 confinement setting, the brand of a Nazi, for example.
14 And I know based on my classification of thousands and
15 thousands of inmates, and teaching wardens how to be
16 wardens, and teaching wardens how to be wardens of super
17 maximum security prisons, and teaching through the justice
18 department gang management and gang intelligence within a
19 prison setting tells me that the people that are truly the
20 members of the Nazi party or Nazi gang, rather, or the
21 Arian Brotherhood, those people don't allow sex offenders
22 to even affiliate with them. They don't even go on the
23 yard with them.

24 Q And Mr. Inman previously being classified by various
25 prison systems as being a sex offender?

1 A Very much so.

2 Q And, as I understand it, your testimony is that his
3 classification as a sex offender prohibits him from
4 becoming a member of one of those gangs?

5 A That is correct. And an issuance of a contract or,
6 as they call it in prison terms, put his name in the hat
7 for him to be taken out and if you don't take him out and
8 you had an opportunity to take him out, they will put a
9 contract on you.

10 Q So because Mr. Inman is a previously convicted sex
11 offender and because he goes into another system sporting
12 tattoos that indicate membership in gang roots there, does
13 that heighten the likelihood that he has going to be
14 subject to violence in the prison system?

15 A Very much so. Specific risk of specific harm. And
16 to give you a little more detail of it, and I don't want
17 to belabor the issue, it's not just a prison. These
18 organizations have caused hits on people in other prisons
19 in other jurisdictions, California hitting somebody in New
20 York, or New York hitting somebody in San Diego. I mean,
21 these are not just localized gangs. And it's a continuous
22 progress to keep them under control, as well as to protect
23 him.

24 Q So it's your opinion that Mr. Inman is always going
25 to be the subject of violence regardless of where he is

1 incarcerated?

2 A Yes. And prison officials are put on notice based on
3 his history, as well as the type of tattoos, that he
4 requires a heightened level of security.

5 Q Do prison officials have a duty to try to protect
6 inmates who are seriously in danger?

7 A That is correct. We have a responsibility and duty
8 to protect and to maintain the order of the prisons.
9 Prisons, yes, are dangerous places. And this far exceeds
10 the common level of dangerousness that you would expect
11 within these high security environments.

12 Q And Mr. Inman, with the -- as I understand it, you're
13 saying that Mr. Inman, because of his tattoos, because of
14 the affiliation that those tattoos bear, it bears -- it's
15 the gangs in the prison system?

16 A That's just one aspect of it. Just him being a sex
17 offender heightens his level of vulnerability, yes, sir.

18 Q And those two put together further heighten the
19 theory that his life is in danger in the prison system?

20 A Very much so.

21 Q In order to meet their obligation, what would the
22 prison system do to ensure his safety?

23 A We would have to put him in a security envelope. A
24 security envelope is one of a single-cell configuration.
25 He would not have, obviously, free movement or

1 interactions with other inmates, because you don't know
2 who's going to pull the hit on him. He has to stay by
3 himself. He has to have controlled movement when he has
4 to go from point A to point B, under constant security.
5 He will have to be confined there as long as this
6 situation exists.

7 Q When you say his movement has to be controlled, that
8 he has to be protected, how does that happen in the prison
9 system?

10 A Well, normally, what happens is we restrain him,
11 obviously. There's a security escort, for example, to the
12 shower. No other inmates are let out. He has in
13 high-security solitary confinement, 23 hours in one,
14 usually.

15 Q Tell me what that means.

16 A 23 hours on lock up, one hour out to take a shower or
17 go to the recreation, which we call the rec cage, where he
18 recreates by himself.

19 Q Those 23 hours on lock up, is he allowed access or
20 does he have access to other prisoners?

21 A No, sir.

22 Q So he has by himself 23 hours a day?

23 A Other than security staff, yes, sir.

24 Q He has allowed out of his cell for one hour a day?

25 A Under restraint.

1 Q And he has restrained at that time and he has under a
2 secured guard at that time. Are there any other inmates
3 allowed access to Mr. Inman or, for that matter, is he
4 allowed access to any other inmates while he would be
5 incarcerated in the prison system?

6 A No, sir. Because if that was done, that would
7 violate the duty to protect.

8 Q And that's an obligation and that's a duty that the
9 prison system has. The prison system, you're telling me,
10 would see to it that he has never allowed out of his
11 jail -- out of his cell?

12 A He has going to be in prison as long as he has
13 breathing. And he will have to stay in this security
14 envelope, because we would have to assume the contracts
15 are out for him.

16 Q Now, given your history, given your expertise, given
17 the amount of time you've dealt with prisons, prison
18 classifications, classifications of inmates like
19 Mr. Inman, do you have an opinion as to what status --
20 what custody level he would be in?

21 A Yes, sir. For the South Carolina system, it's an
22 SL-3, a security level three, which is the highest level.
23 Now, within security level three, he has going to have to
24 go into this 23 hours a day, one hour out. And he would
25 have to be classified at that, because not only because of

1 the tattoos and being a high profile multiple sex
2 offender, as well as the other issues involved with his
3 previous confinement history.

4 Q So, as I understand it, Mr. Inman will be locked up
5 23 hours a day in the highest maximum security facility
6 available in South Carolina, in your opinion?

7 A Yes, sir. With the understanding that, if necessary,
8 we would even put more in. An example of that, if
9 mutilation of himself, attempted suicides, those kind of
10 things, we can tie him down to his bed within his cell, if
11 necessary.

12 MR. CULBERTSON: Thank you, Mr. Aiken.

13 Answer any questions --

14 MR. BANNISTER: He, actually, has one more question,
15 Judge.

16 MR. CULBERTSON: I always do, Your Honor.

17 BY MR. CULBERTSON:

18 Q Mr. Aiken, this should be my last question. Is there
19 anything of which you are aware that would prohibit a
20 judge from listing as a special condition on the
21 sentencing sheet that Mr. Inman be held at the
22 maximum-security level protective custody?

23 MR. ARIAIL: Your Honor, I would object to that
24 question. Suggesting a solution to the Court is not
25 within this witness' purview.

1 THE COURT: I'll let him answer.

2 MR. CULBERTSON: He was qualified as an expert to be
3 able to testify to that.

4 THE COURT: Just ask him if he knew.

5 THE WITNESS: Would you mind repeating the question,
6 sir?

7 BY MR. CULBERTSON:

8 Q I said, is there anything that you're aware of that
9 would prohibit the Judge, or any other sentencing
10 authority, from listing as a special condition of
11 Mr. Inman's incarceration or his sentence that he be held
12 at a certain facility and be placed on maximum lock up in
13 that facility?

14 A And, obviously, I'm not a Judge, but a Judge has a
15 high level of flexibility. And I've received on a number
16 of occasions information, recommendations, or orders in
17 relation to the conditions of confinement of inmate
18 population to include that this inmate is in danger, this
19 inmate is in need of very maximum security evaluation and
20 confinement status.

21 Q I assume what I'm getting at -- what I'm getting at
22 is this, is there anything that can happen in this
23 courtroom that would effect the prison system from
24 classifying and housing Mr. Inman at anything less than
25 maximum level, less than 23 hours confinement?

1 A No, sir.

2 Q So he will definitely go to prison, and definitely be
3 at the highest level of security, and definitely be on
4 23-hour lock down?

5 A I don't see any way around it, sir.

6 MR. CULBERTSON: Your Honor, I don't know if I've
7 done so already, but I'd like to move these photographs in
8 at this time.

9 MR. ARIAIL: No objection.

10 THE COURT: No objection.

11 What are the numbers?

12 MR. CULBERTSON: Defendant's Exhibit Nos. 22 through
13 27, Your Honor.

14 THE COURT: All right.

15 (WHEREUPON, Defendant's Exhibit Nos. 22, 23, 24, 25,
16 26, and 27 were admitted into evidence.)

17 MR. CULBERTSON: And, Your Honor, as I understood it,
18 Mr. Ariail does not have any questions.

19 THE COURT: I'll ask him.

20 MR. CULBERTSON: Okay. I'm sorry.

21 MR. ARIAIL: Thank you, Judge.

22 We were just conferring.

23 CROSS-EXAMINATION

24 BY MR. ARIAIL:

25 Q Hey, Mr. Aiken, how you doing?

1 A How are you doing, sir?

2 Q You mentioned early in your testimony that based on
3 Mr. Inman's -- well, he had two primaries. Number one,
4 the tattoo, and the fact that he has a sex offender --
5 actually, multiple sex offender?

6 A That's correct, sir. That's some of the variables
7 that are involved, yes, sir.

8 Q You mentioned some others, though. You also
9 mentioned his prior record, and his prison record, and
10 disciplinary record. What other aspects, other than those
11 two, his sex offender and his tattoo, did you think were
12 significant that would heighten his classification as to
13 security issues?

14 A Well, obviously, this is a high-profile case, sir.
15 And there's a lot of publicity about it. So that
16 information is shared, and inmate population know about
17 it. They knew about it even before the press, probably.
18 His criminal record, his prison record, his tattoo, and
19 being a multiple sex offender in general terms covers the
20 waterfront.

21 Q And, specifically, what about his prison record --

22 A Yes, sir.

23 Q -- did you find significant?

24 A I found very significant his self-mutilation. And I
25 may leave out one or two of them, self-mutilation, his

1 multiple disciplinaries, the type of disciplinaries he was
2 involved in, escape attempt, attempted suicides. You
3 know, his suicides are highly noted with me. They're not
4 gestures. I've had inmates to do mutilation, you know,
5 cutting themselves. You know, he goes for the jugular
6 vein and he swallows pieces of fences. He means to kill
7 himself, which means what I call a validated suicide
8 attempt or attempts. He has been in multiple systems.
9 All of those things accumulatively have a great bearing,
10 yes, sir.

11 Q And in some of his disciplinary infractions, did you
12 note that he had a significant number of cases of
13 possession of weapons?

14 A Yes, sir.

15 Q And what would that indicate?

16 A It can indicate several things. It could indicate,
17 for example, that he was going to do bodily harm to
18 someone else. I think that's a logical conclusion. But,
19 as a prison warden, I'm concerned because he has a sex
20 offender. He was in prison in Florida and North Carolina
21 for sex offenses. Often times, I find sex offenders
22 getting weapons for protection. So it could be that,
23 also.

24 Q Would it be fair to say then with all of the things
25 you have detailed and reviewed in his record, from his

1 multiple sex offenses, to his tattoos, to his potential
2 for conflict with hate groups and gangs, to his
3 disciplinary record, to mutilation, that he would be one
4 major problem for management by the South Carolina
5 Department of Corrections?

6 A Major problem, sir, that's what we're in business
7 for. And you know, as well as I do, you've sent me a lot
8 of them, people that are very disruptive, continuously
9 disruptive. And they get like me, when they get so old,
10 they kind of burn out anyhow.

11 But major problem, it's kind of hard for me to
12 classify that as a major problem. It's a continual
13 problem. I want to know where he is 24 hours a day. I
14 can guarantee you that. And I will know where he is. He
15 has going to be in a single cell. And somebody is going
16 to keep accountability on him. And we're going to deal
17 with any behavior that he might try to demonstrate. But,
18 unfortunately, not only in this state, but throughout this
19 country, we have a number of people that we have to
20 provide that type of security for, sir.

21 MR. ARIAIL: Thank you very much.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Redirect?

24 MR. CULBERTSON: I think Mr. Ariail covered
25 everything we need. I have no further questions of him.

1 THE COURT: Thank you very much.

2 THE WITNESS: Your Honor, thank you very much.

3 THE COURT: Good to see you.

4 THE WITNESS: Good to see you, sir.

5 Am I excused?

6 MR. CULBERTSON: And I ask that he be excused.

7 MR. ARIAIL: No objection.

8 THE COURT: You're released from subpoena.

9 THE WITNESS: Thank you, sir.

10 MR. BANNISTER: Your Honor, may we approach just
11 briefly?

12 THE COURT: Sure.

13 (WHEREUPON, a bench conference was held.)

14 THE COURT: I've had a bench conference with the
15 attorneys, and the next witness is a victim of sexual
16 abuse. And I understand, although I haven't seen it, but
17 the media has been very sensitive about the other victims.
18 And we really appreciate that. I've been -- and I would
19 direct you all to not publish any identifying
20 characteristics of this next witness. And I would ask out
21 of, I guess, an abundance of sensitivity that as many of
22 you as possible that could not, actually, physically be in
23 the courtroom. Apparently, this person is very sensitive
24 to that.

25 So if you all, as many of you as you could, would

1 watch it from the feed in the jury room, we would greatly
2 appreciate it. Okay.

3 With that, I think we'll probably take a 10- or
4 15-minute break.

5 Thank you very much.

6 (WHEREUPON, a break was taken.)

7 THE COURT: Are we ready?

8 MR. BANNISTER: Yes, Your Honor.

9 Your Honor, I would call Denise Baker.

10 THE CLERK: Ma'am, if you'll, please, place your left
11 hand on the Bible and raise your right hand.

12 WHEREUPON,

13 DENISE BAKER,

14 after first having been duly sworn, testified as follows:

15 THE CLERK: Thank you.

16 Please state your name for the record.

17 THE WITNESS: Denise Baker.

18 DIRECT EXAMINATION

19 BY MR. BANNISTER:

20 Q Ms. Baker, do you go by "Denise"?

21 A I do.

22 Q If you would, what is your relationship to Mr. Inman?

23 A He is my brother.

24 Q And is he -- do you have the same father and the same
25 mother?

1 A Same mother, different fathers.

2 Q And who's older?

3 A I am.

4 Q By how many years?

5 A Almost three.

6 Q And have you and Mr. Inman been in the same

7 household, at least, during early years of his and your

8 childhood?

9 A Yes.

10 Q At what time, roughly, if you can recall, did that

11 change where you were no longer living at home or he was

12 no longer living at home? How old would you have been and

13 he have been?

14 A I would have been 18. He would have been around 15,

15 16. I married, I moved out.

16 Q So you were around Mr. Inman a good bit of time when

17 y'all were growing up?

18 A Yes.

19 Q Do you have any fond memories of Jerry when y'all

20 were growing up?

21 A Yes.

22 Q Was one of those Pee Wee football?

23 A Yes.

24 Q What was it -- if you would, just kind of describe to

25 me how old were you and was Jerry?

1 A I would have been about 11. Jerry would have been
2 about eight, nine, somewhere in there.

3 Q And what -- did Jerry play on the football team?

4 A He did, Pee Wee football.

5 Q And what was your role?

6 A Cheerleading.

7 Q Was it the same team?

8 A It was the same team.

9 Q What was the league that he was in? Do you remember?

10 A Just the Pee Wee league, just sponsorship.

11 Q And was -- would y'all -- you were a cheerleader.
12 Were you a cheerleader for his team?

13 A His team.

14 Q Would you practice together?

15 A Yes.

16 Q Would you have games together?

17 A Yes.

18 Q Would -- when were the games, typically?

19 A Usually, on Saturday morning.

20 Q Was that something that you looked forward to?

21 A Every week.

22 Q What was it like getting ready for the game?

23 A A little chaotic in the mornings, rushing around
24 making sure the uniforms were clean and pressed, Jerry
25 struggling to get his pads in the uniform pants, just kind

1 of a little chaotic, you know, like most households, I
2 guess, with small children getting both of them ready for
3 the game.

4 Q So it was not like flag football or something like
5 that, he had a full uniform?

6 A Full uniform, the helmet, yeah.

7 Q How did he feel about the uniform?

8 A He loved it.

9 Q Okay. And what was the family routine on game day?

10 A We, usually, would get up, mom would make us
11 breakfast. And, like I say, we would make sure the
12 uniforms were clean and pressed, get dressed, and just
13 kind of mess around the house a little bit. And then we
14 would leave for the football field. Mom would usually --
15 she was helping out with the cheerleaders on my team.

16 So we would do our rehearsals and practice. They,
17 usually, made the guys run up and down the field, get
18 ready for the game. Sometimes, we would work concession.
19 And then the game would start. We would do the game, do
20 the cheering.

21 And then after that, we would, usually, go to Brocks,
22 which is still one of my favorite places today to get a
23 sub. We'd stop there, grab out subs. Go back to the park
24 where the game was always held, and we'd have our Saturday
25 lunch there.

1 Q Now, during this time period, was your mother
2 married?

3 A Yes.

4 Q And who was she married to?

5 A Ken, our stepfather.

6 Q Okay. So this is not Jerry's biological father?

7 A No.

8 Q All right. And so this routine was something that
9 was -- that's a fond memory you have of Jerry?

10 A That's one of my fond memories, yeah.

11 Q Tell us a little bit about the one where -- something
12 about falling through the ice.

13 A We lived out in the country. Across the street from
14 us, we had a wooded area. And there used to be a creek
15 that would go through -- all through those woods. And
16 there's one section that would widen out. It was a little
17 deeper than the rest of the creek.

18 So, as kids, we would get on our old tennis shoes,
19 the ones that were the most slick on the bottom, the soles
20 were kind of wore out, or we'd grab an old car hood or
21 garbage bags, whatever we could. And we'd go over there
22 and try to slide along on the creek. And we used to do
23 that every winter.

24 One time, Jerry was doing that. It was me, our
25 cousin, Bud, our cousin, Allen, and Jerry. We were all

1 out there. And Jerry just got on a soft piece of ice, I
2 guess, and he fell through. And he was crying, which, I
3 mean, he did -- he cried quite a bit growing up. But it
4 was frigid water. It was pretty cold. And we had to
5 pretty much help him get back to the house. He was just
6 crying all the way home.

7 Q Did there used to be some sibling rivalry over the
8 jeans?

9 A Yeah.

10 Q Tell me.

11 A Jerry was real bad for taking our stepsister, Cindy,
12 and my jeans. So, as teenagers, you know, we would fight
13 over that all the time, because he would always wear ink
14 pens in the back of his jeans in the pocket. Well, after
15 you do that and you're sitting in class all day,
16 sometimes, his pens tend to break and you would get ink
17 all over the back of your jeans. So, yeah, we would get
18 in some pretty good tiffs over that.

19 Q The family living arrangements, at least, within the
20 home, as I understand it, kind of changed over time.
21 During the early years when Jerry was small and his father
22 was there, did you and Jerry share a bedroom?

23 A Yes.

24 Q And then, at some point, that changed later on;
25 correct?

1 A Yes.

2 Q Okay. And then tell me who else Jerry shared
3 bedrooms with as he grew up.

4 A Our stepbrother, Bill. And, later on, our
5 grandfather.

6 Q Okay. And the stepbrother, was that -- what was
7 his -- how did he come into the picture?

8 A He had moved in, just moved in with us.

9 Q I mean, is he Ken's son?

10 A Yes. It's Ken's son.

11 Q By another marriage?

12 A By his first marriage, yes.

13 Q Were there other step-siblings that were in and out
14 of the home?

15 A Yes. We had our older stepsister, Lynn, and then we
16 had another older stepsister, Cindy, and an older brother,
17 Ed. They were just there at different times, different
18 intervals.

19 Q Did Jerry have many friends outside of the family?

20 A Not really. Older friends, but nobody really his
21 age.

22 Q Was that different than you?

23 A Yes.

24 Q Tell me about his seizures. What do you remember
25 about those?

1 A I remember that being scary, not knowing what to do
2 when you would see that happen.

3 Q How old was he when you can first recollect? And
4 I'm -- just your best --

5 A Three.

6 Q And what would happen? Just describe to me what it
7 would look like.

8 A He would just get -- you could see him dazing off.
9 And there would be just like a glaze that would come over
10 his eyes. And he would go into a full seizure, just
11 stiffen up.

12 Q Were his muscles rigid?

13 A Very. You couldn't control him.

14 Q Would he shake?

15 A Yes.

16 Q Would his eyes roll in the back of his head?

17 A Yes.

18 Q And what did your mother do?

19 A A lot of times, it would be accompanied with a high
20 fever. You would either have to put him in a tub with ice
21 in it as cold as you could get the water and try to bring
22 that fever down as quickly as you could.

23 And we also kept a butter knife with tape wrapped
24 around it. And, at that time, we would always try to keep
25 his tongue from being bitten off, keep him from biting his

1 tongue off using that butter knife.

2 Q Did that play a part in, from what you saw, Jerry not
3 having friends or not having friends his own age?

4 A It set him apart. As small children, if, you know,
5 you're a little different, you don't make friends quite as
6 easily, or you don't want to become friends quite as
7 easily with someone that's different than you.

8 So he had these seizures quite a bit when he was
9 younger. So it automatically kind of set him apart. So
10 he didn't keep many friends.

11 Q Did y'all move around a lot as well?

12 A Yes.

13 Q Different states or --

14 A Different states, yes.

15 Q What states do you recall?

16 A Texas, Florida, Tennessee, North Carolina.

17 Q And was that -- that moving around, was that tough
18 for you?

19 A It was, yes.

20 Q Was it tough in the sense of friends, schools, that
21 sort of thing?

22 A I always made friends pretty easily. I didn't have
23 so much of the trouble. But, I mean, it did make it a
24 little bit more difficult than if you grew up somewhere
25 your whole life.

1 Q Did Jerry have an affinity for sort of the pets in
2 the family?

3 A Yeah. He loved -- he always loved pets.

4 Q Looking back on it, do you think they substituted in
5 some way for friends that you had? I mean, is that where
6 he found his companionship?

7 A It could have been, yes, yeah.

8 Q Did he appear uncomfortable around people his age?
9 Did you observe that?

10 A Yes.

11 Q What -- did he appear comfortable with himself?

12 A No.

13 Q Describe that for me.

14 A Jerry has just never been comfortable in his own skin
15 is the best I can put that to you.

16 Q Was it a moodiness or a darkness or --

17 A Both. Just not -- he just didn't want to be in his
18 own skin. He --

19 Q Did you get the impression that he didn't like
20 himself?

21 A No. He didn't like himself.

22 Q And then, as I understand it -- now, you said he
23 shared a room with his granddaddy. This would have been
24 Vera's -- I'm sorry, his mother's father?

25 A Correct, yes.

1 Q Was he -- how close was he to that grandfather?

2 A They were very close.

3 Q And when did his grandfather pass away? How old was
4 he roughly?

5 A He would have been about 16.

6 Q And was that, for Jerry, a turning point, looking
7 back on it?

8 A Yes.

9 Q What, if anything, was your understanding about why
10 that was -- other than the fact that his grandfather died,
11 why that was so tough for him?

12 A I remember Jerry would talk to our grandfather a lot.
13 They could sit and talk for hours. There was just a bond
14 there. I think Jerry just thought granddaddy was the only
15 one who really understood him and could reach to him and
16 connect with him.

17 Q Did he have any shame and guilt over his
18 grandfather's death?

19 A I don't know.

20 Q Was it shortly after his grandfather passed away that
21 things started happening poorly for Jerry?

22 A Yes.

23 Q Can you give me just some examples.

24 A He started staying out later. You could just tell a
25 change happening in him. He just became more withdrawn.

1 He just kind of went into himself.

2 Q In a good way or bad way?

3 A In a bad way.

4 Q At some point, did he run away from home, something
5 about a church, I think?

6 A Yeah. One time, he had left and we found him
7 sleeping. It was on the outside of a church in North
8 Carolina.

9 Q Tell me a little bit about your mom during this
10 period, kind of looking back on it now. What was going on
11 with her during this time period?

12 A Mom had been, at the time -- as kids, we were told
13 that she was being effected by the medication that the
14 doctors had been giving her. Because she was starting to
15 hear things, or she was just freaking out over the
16 smallest things. Water spots being on the silverware,
17 that was enough to set her off. So we would like tiptoe
18 around her.

19 Later on, we found out it was part of her bipolar and
20 schizophrenia going on. She just didn't want us children
21 to know that she was suffering with that.

22 Q Would she answer or respond to the things she was
23 hearing?

24 A Yes.

25 Q I mean, in what way would she -- how would she react?

1 Would she say something or do something physically? How
2 do you recall that playing out?

3 A I remember her talking to herself. That was
4 something earlier in life I knew -- I never noticed her
5 doing that. But when we had questioned that, it was the
6 medication that was doing that.

7 Q I see. And looking back on it, you don't feel like
8 that's correct?

9 A No.

10 Q All right. Denise, if you would -- and I know this
11 is difficult. But when Jerry was born and maybe up to the
12 time he was about three, who was -- where were y'all
13 living?

14 A Florida.

15 Q And what were you living in?

16 A From the time he was three, we had a -- we were
17 living with our grandfather in a trailer.

18 Q Okay. Now, was this -- I'm asking about from when he
19 was born until he was three?

20 A The trailer in Florida.

21 Q And this is which grandfather?

22 A My mother -- our mother's.

23 Q Was his biological father there as well?

24 A Yes.

25 Q Mr. Inman, Sr.?

1 A Yes.

2 Q I know this is difficult, but will you tell us about
3 nap time?

4 A Actually, I don't remember anything occurring at that
5 time, except I would get these presents. And they were
6 inappropriate presents for a child.

7 Q Such as?

8 A These nightgowns that were -- to this day, I have no
9 idea where he would have gotten them, silky, tight, and
10 see-through meshy kind of clothes. But they were made for
11 children.

12 Q Now, how old would you have been at this point?

13 A Five.

14 Q And how did that progress?

15 A Like I said, I don't remember much going on at that
16 time. We moved to another house in Florida, and that's
17 when nap times progressed.

18 Q And what happened?

19 A We would have nap time, me and Jerry -- some of the
20 dirt in Florida is very dark. I know a lot of people
21 think you've got sandy white beaches, but a lot of the
22 dirt there is a very, very dark, almost black dirt. Me
23 and Jerry would like to get out there and play in it being
24 kids, you know, and get as dirty as we could. Then we had
25 our nap time. He would come out and yell, Nap time --

1 Q He -- who -- this is Mr. Inman, Sr.?

2 A Yes. So we would go in. Me and Jerry shared the
3 same room. I would be on the top bunk, Jerry was
4 underneath, the bottom bunk. And Jerry, Sr., would come
5 up on top of the top bunk and shut the windows and close
6 the drapes, blindfold me, and tie my hands to the bed, and
7 turn me over. And I don't know what happened. I don't
8 remember.

9 Q Would he sexually abuse you at that time?

10 A Yes, I know I was.

11 MR. CULBERTSON: Jim, I'm going to give her some
12 water.

13 THE WITNESS: Thank you.

14 BY MR. BANNISTER:

15 Q Would Jerry be beneath you when this was going on?

16 A Yes.

17 Q Would he leave the top bunk and then go to the bottom
18 bunk?

19 A Yes. And he would threaten us.

20 Q Would Jerry be crying during this time?

21 A Yes.

22 Q Do you know exactly what he did to Jerry on the
23 bottom bunk?

24 A No.

25 Q Would he stay there for some period of time?

1 A I think that's why I was blindfolded.

2 Q Was that the only person in the household that ever
3 sexually abused you, Denise?

4 A Jerry Sr.'s father, who would have been my
5 step-grandfather, one time in a car. We were going
6 somewhere. And I remember mom went into the motel to get
7 us a room and he had messed with me a little bit, not to
8 that extent, but, yes, there was.

9 Q Did your mother ever recognize that that had been
10 going on?

11 A No. I really don't think so.

12 Q Did -- looking back on it, do you think it might have
13 been a situation where she was, given her own limitations,
14 simply unable to recognize that?

15 A It could have been.

16 Q Fast-forward a little bit for me, Denise. During the
17 brief period of time that Jerry was out of jail, is there
18 a conversation where you told him you had been abused by
19 his father?

20 A I didn't tell him by who.

21 Q But you told him you had been abused?

22 A (Witness nodded.)

23 Q And was it clear that you were talking about sexual
24 abuse?

25 A Yes.

1 Q What was his response?

2 A He had been, too.

3 MR. BANNISTER: Your Honor, I don't have any further
4 questions.

5 THE COURT: All right.

6 MR. ARIAIL: No questions.

7 THE COURT: All right. Thank you very much, ma'am.
8 You may step down.

9 MR. BANNISTER: Your Honor, may we approach for just
10 a moment?

11 THE COURT: All right.

12 (WHEREUPON, a bench conference was held.)

13 THE COURT: Let's be at ease for a minute.

14 (WHEREUPON, a break was taken.)

15 THE COURT: Are you all ready?

16 MS. STROM: The State is ready. He just stepped out
17 to get some water.

18 THE COURT: Okay. Mr. Bannister.

19 MR. BANNISTER: Your Honor, at this time, I would
20 call Reverend Mike Hensley.

21 THE COURT: Come around and be sworn.

22 MR. BANNISTER: Your Honor, I need to make the Court
23 aware -- Your Honor, my client has --

24 THE COURT: Just a minute. Let's get him sworn in.

25 MR. BANNISTER: Yes, sir.

1 THE CLERK: Please place your left hand on the Bible
2 and raise your right hand.

3 WHEREUPON,

4 DAVID MICHAEL HENSLEY,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 Please state your full name for the record.

8 THE WITNESS: David Michael Hensley.

9 MR. BANNISTER: Your Honor, Reverend Hensley has
10 been -- Reverend Hensley is Mr. Inman's pastor. I had
11 intended to ask him a number of questions. My client has
12 informed me that he wants to assert the priest-penitent
13 privilege and does not want Mr. Hensley to testify.

14 I have advised him that he needs to waive that and
15 let me illicit the information which I believe to be valid
16 mitigation in this case. He has refused to do that. And
17 I don't believe I'm in a position to be able to waive that
18 for him.

19 THE COURT: Okay. Mr. -- Reverend Hensley --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- are you a duly ordained minister?

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. Speak up just a little bit.

24 THE WITNESS: Yes, sir.

25 THE COURT: And in what denomination?

1 THE WITNESS: I'm Southern Baptist.

2 THE COURT: All right. And, in that capacity, have
3 you had communications with Mr. Jerry Buck Inman?

4 THE WITNESS: Yes, sir, I have.

5 THE COURT: And it's been represented to me that you
6 are his pastor; is that correct?

7 THE WITNESS: Yes, sir.

8 THE COURT: Okay. And you have had communications
9 with Mr. Inman in that regard; is that right?

10 THE WITNESS: Yes, sir, I have.

11 THE COURT: Mr. Inman has -- well, let me ask you
12 this, Reverend. Has Mr. Inman instructed you that he
13 wishes to assert the penitent-pastor privilege? Has he
14 requested you not divulge these communications?

15 THE WITNESS: He has not communicated that directly
16 to me that I can recall.

17 THE COURT: All right. Well, this is a statutory
18 privilege. And it applies to confidential communication
19 between a pastor and one of his penitents, and cannot be
20 disclosed absent waiver by the penitent.

21 Mr. Inman --

22 DEFENDANT INMAN: Yes, sir.

23 THE COURT: -- do you -- is it true what I've heard
24 that Reverend Hensley is your pastor?

25 DEFENDANT INMAN: Yes, sir.

1 THE COURT: And you've heard Mr. Bannister describe
2 to me that there is certain testimony that he thinks would
3 be beneficial to you.

4 Have you heard that?

5 DEFENDANT INMAN: Yes, sir.

6 THE COURT: And that may -- if he were to ask those
7 questions, it might involve communications you've had with
8 your pastor.

9 Do you understand that?

10 DEFENDANT INMAN: Yes, sir.

11 THE COURT: You have a privilege that could prevent
12 Mr. Bannister from asking those questions.

13 Do you understand that?

14 DEFENDANT INMAN: Yes, sir.

15 THE COURT: And I guess what I'm asking you is, do
16 you want to assert that privilege?

17 DEFENDANT INMAN: Yes, sir.

18 THE COURT: Do you understand that this information
19 might be helpful in your defense?

20 DEFENDANT INMAN: Yes, sir.

21 THE COURT: And do you have any questions of me with
22 respect to this privilege that we're talking about?

23 DEFENDANT INMAN: No, sir.

24 THE COURT: And you are absolutely sure about this?

25 DEFENDANT INMAN: Yes, sir.

1 THE COURT: Okay.

2 Thank you, sir.

3 Anything else you want to ask Reverend Hensley?

4 MR. BANNISTER: Well, let me --

5 DIRECT EXAMINATION

6 BY MR. BANNISTER:

7 Q Reverend Hensley, I don't want you to testify to
8 anything that was said between you and Mr. Inman --

9 THE COURT: Any confidential communication. It
10 doesn't have to be verbal.

11 MR. BANNISTER: Okay.

12 BY MR. BANNISTER:

13 Q Last Friday, were you at the jail with Mr. Inman?

14 A Yes, sir.

15 Q Did you go with your Bible?

16 A Yes, sir.

17 Q Did you go with a wafer and grape juice?

18 A Yes, sir.

19 Q Did you witness water poured over his head?

20 A Yes, sir.

21 Q Did you witness him eat the wafer?

22 A Yes, sir.

23 Q Did you witness him drink the grape juice?

24 A Yes, sir.

25 MR. BANNISTER: That's the best I can do, Your Honor.

1 THE COURT: Okay.

2 MR. BANNISTER: I don't have any further questions.

3 THE COURT: All right. Any cross-examination within
4 the confines of the privilege?

5 MR. ARIAIL: No questions.

6 THE COURT: All right. Thank you, Reverend.

7 I appreciate it. You may step down.

8 Thank you, sir.

9 MR. BANNISTER: Your Honor, that leads us back to
10 Dr. Loring.

11 MR. ARIAIL: Oh, one matter, I think if the Court
12 could advise, just as a precaution, both Reverend Hensley
13 and the Defendant that before the close of these
14 proceedings that if there's a change of that assertion of
15 privilege, it could be waived. It's not final at this
16 moment.

17 THE COURT: That is true.

18 And, Mr. Inman, if you decide before the close of the
19 case that you would like to disclose or have Reverend
20 Hensley disclose those confidential communications, that
21 privilege belongs to you and to no one else. Okay.

22 DEFENDANT INMAN: Yes, sir.

23 THE COURT: So if you decide to change your mind, you
24 let your attorneys know, and they'll let me know right
25 away.

1 Any other witnesses?

2 MR. BANNISTER: No, sir.

3 THE COURT: Well, let me have a bench conference,
4 please.

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: We'll take a 15-minute break or so.

7 (WHEREUPON, a break was taken.)

8 THE COURT: Yes.

9 AGENT DONAHUE: Judge, this is Mr. Simmons, it's been
10 brought to our attention by one of the members -- one of
11 the people out in the audience that Mr. Simmons was taking
12 photos with his cell phone.

13 I talked to Mr. Simmons. And he said that he has
14 just a private citizen and was taking pictures to show his
15 kids later, show them where he was, that type of thing.
16 And I told him there's an order posted on the door that he
17 has supposed to be aware of. He went out and looked at
18 the order and he understands that now. I talked to the
19 Solicitor and felt it was necessary to make you aware of
20 this.

21 THE COURT: Right.

22 Mr. Simmons, this is a -- the rule is clear. It is
23 an order from the Chief Justice of our state. There are
24 to be no electronic communication devices in the
25 courtroom, unless it's sanctioned by the Court for some

1 specific purpose.

2 MR. SIMMONS: Yes, sir.

3 THE COURT: And taking photographs in the courtroom
4 is also governed by -- it's prohibited. It's governed by
5 Rule 605. And you can ask the media about -- we've had a
6 little set-to about that already in this case.

7 MR. SIMMONS: I have not been here. I was here
8 yesterday afternoon.

9 And, Your Honor, I apologize. I did not read -- I
10 read that it said cell phones. I did not realize it had
11 to do with photos, also. I apologize.

12 THE COURT: Absolutely.

13 Well, I want the pictures deleted.

14 MR. SIMMONS: I can do that.

15 THE COURT: Do it right here. The options are a
16 fine, contempt of court, imprisonment. So keep that in
17 mind.

18 If anybody else is taking pictures out there, erase
19 them. Because if I find some on the Internet or
20 something, we're going to initiate an investigation.

21 MR. CULBERTSON: Your Honor, we had previously
22 approached the Court about some concerns. We had various
23 information about witnesses of ours being publicized. We
24 asked the media not to take photographs. We asked some of
25 the media to excuse themselves when one of our witnesses

1 was up there.

2 THE COURT: They did that. They were very --

3 MR. CULBERTSON: I know the media did that. I
4 commend them for that. My concern is whether this
5 gentleman and his camera --

6 THE COURT: Agent Donahue has examined the
7 photographs. He has going to make sure they're all
8 deleted. There won't be any pictures of the person
9 concerned that will go out.

10 MR. CULBERTSON: What if they've already gone out
11 over the Internet?

12 THE COURT: Well, if they've gone out over the
13 Internet, Mr. Simmons will be the first one we come to
14 look at.

15 MR. CULBERTSON: Thank you, sir.

16 THE COURT: I don't think he sent anything out over
17 the Internet.

18 MR. SIMMONS: I don't know how to.

19 MR. CULBERTSON: We have a lot in common.

20 THE COURT: You have one more witness; correct,
21 Mr. Bannister?

22 MR. BANNISTER: Dr. Loring, yes.

23 THE COURT: All right. Let me -- let's huddle. Come
24 on. Bench conference again.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: All right. It's 5:30. We're going to --
2 I don't think we can get -- we're going to go forward in
3 the morning. I am going to adjourn court until 10:00 in
4 the morning. And everybody have a pleasant night.

5 Thank you.

6 (WHEREUPON, the proceedings were concluded at
7 approximately 5:28 p.m., to be reconvened on
8 Thursday, September 11, 2008.)
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1 THURSDAY, SEPTEMBER 11, 2008

2
3 THE COURT: Mr. Bannister.

4 MR. BANNISTER: Judge, I think, at this point, it
5 would be appropriate for me to make a formal motion for a
6 mistrial. I have a number of grounds upon which I need to
7 make that. If you will hear me, at this point, I would
8 appreciate it.

9 THE COURT: Okay.

10 MR. BANNISTER: Thank you, Your Honor.

11 First off, let me sort of go through what I believe
12 is the current state of the record at this point.
13 Obviously, yesterday, Dr. Loring was our first witness.
14 She was our social historian, among other things. And in
15 the voir dire from the Solicitor to Dr. Loring, he asked
16 her, in essence, two questions, one, was she licensed in
17 South Carolina and, two, had she met with Jerry Inman in
18 Pickens, both of which he already knew the answers to.

19 Your Honor, then he cited to the Court a statute
20 outlining that her conduct -- or conducting business in
21 South Carolina in the way she had without a license
22 implicated a criminal statute. I then raised the issue
23 that he was attempting to intimidate the witness by --
24 with the threat of prosecution. I then cited State v.
25 Williams. The cite to that, again, I would add to that,

1 at this point, is the case of the State v. Needs, which is
2 at 508 SE2d 857, which says that a Prosecutor may not lob
3 baseless threats or charges at a potential witness.

4 Your Honor, then the Court inquired into Dr. Loring
5 whether or not she felt that what had occurred up to that
6 point had chilled her ability to testify, or whether she
7 felt intimidated, which she responded that she did. At
8 which point, Your Honor asked her if she would feel more
9 comfortable if she were allowed to consult with counsel,
10 which she indicated she was -- she would like to consult
11 with counsel.

12 At that point, we took a break. I guess for lack of
13 a better word, counsel was brought in to serve as her
14 representative.

15 THE COURT: Well, wait a minute. That's inaccurate.
16 I didn't bring in counsel to --

17 MR. BANNISTER: Well, let me state that Bill Godfrey
18 was here in the courtroom. He has a lawyer that the Court
19 is familiar with. And he began to take on the duties of
20 representing her to advise her about the situation that we
21 were in. She came back on the record and, at that point,
22 she asserted her Fifth Amendment privilege under the
23 advice of counsel. I believe, at that point, the -- at
24 some point in this colloquy, she had been offered immunity
25 from the Solicitor.

1 THE COURT: That happened before. I've got the
2 transcript.

3 MR. BANNISTER: Right.

4 And I may be off on exactly --

5 THE COURT: You're pretty good. But the immunity was
6 granted before we took a break.

7 MR. BANNISTER: That's right.

8 And then she came back and asserted the Fifth --

9 THE COURT: It was explained to her -- this was after
10 I told her that I felt that the intent of this statute was
11 not aimed at preventing her testimony.

12 MR. BANNISTER: I agree.

13 THE COURT: And then, subsequent to that, immunity
14 was granted, then we broke. I asked her -- well, let's
15 see. I said -- and I'll quote it to you. I said, I told
16 her, You are granted immunity. You will not be indicted
17 based on your work in this case. Now, do you feel secure?

18 She replied, First, thank you for asking. I
19 appreciate your concern. And then she went on to say, But
20 to tell you that I am not alarmed and concerned at what I
21 heard would not be truthful.

22 Then I said, We're going to take a break. I want to
23 give you an opportunity to compose yourself, feel
24 confident that your testimony or presentation will not be
25 impacted by the legal discussion that we had.

1 And then I asked her if she had an attorney she could
2 discuss it with. She said, I will, certainly, make an
3 effort to do that.

4 And I said, If you have trouble in that regard, let
5 Mr. Bannister know.

6 And then I asked you to let me know if she mentioned
7 that to you. And then we took a break.

8 MR. BANNISTER: And then during that recess, as I
9 understand it, there was an attempt to see if there could
10 be an administrative order that could come from the Court
11 of Appeals or the South Carolina Supreme Court that would
12 do, in essence, for this particular statute that which the
13 administrative order had done with regard to a similar
14 statute involving medical testimony from doctors in legal
15 proceedings. We later found out that that was not going
16 to be a possibility.

17 At that point, it was my understanding that the Court
18 intended to appoint a second attorney to represent
19 Dr. Loring.

20 THE COURT: Well, it went on a little past that.
21 we -- she got back on the witness stand. I explained that
22 the immunity would keep her from being -- she couldn't
23 claim immunity once she was -- I mean, she couldn't claim
24 the Fifth Amendment once she was granted immunity. And
25 she persisted in her refusal to testify.

1 Then we did some diligent research from a very
2 bright, young attorney that found the Baggerly case, which
3 speaks to civil engineer expert witnesses and the language
4 in the statute prohibiting the practicing of engineering
5 in this state. It was very similar to the social work
6 and, thereby, analogous to it.

7 MR. BANNISTER: That's right.

8 And I note, for the record, that that took less than
9 half a day for that research to bring up that case, and
10 for Your Honor to make note on the record of the
11 administrative order from Chief Justice Toal which would,
12 also, implicate that this, in fact, was not a criminal
13 statute.

14 So, Your Honor, where does that leave us at this
15 point?

16 THE COURT: Well, I don't know. You haven't called
17 the witness. I don't know if she's going to testify or not.

18 MR. BANNISTER: Well, I'm requesting a mistrial at
19 this point. Because I believe the proceedings have been
20 tainted to such an extent that we cannot get a fair trial
21 whether she were to take the stand and either waive her
22 Fifth Amendment privilege at this point, be told that she
23 didn't have one, or be forced to testify under the
24 contempt sanctions of the Court.

25 I believe, at this point, it's risen to the level

1 that no matter where we go from this point, she will have
2 concerns about whether her testimony will impact her
3 reputation at a minimum, whether it's a reportable offense
4 on her malpractice, whether or not it would implicate her
5 license in Georgia, whether or not it would implicate the
6 conduct that -- in conducting herself to be prepared as a
7 witness.

8 She interviewed witnesses in Tennessee and spoke with
9 some in Michigan. Tennessee, in particular, would be the
10 exact same jurisdiction of the two law enforcement
11 officers who testified here in this court on behalf of the
12 Solicitor for this case. I think it should be noted for
13 the record that those concerns would be valid ones.

14 Finally, I would say, Judge, that I need to go
15 through, at least, a number of different issues that I
16 think are applicable in terms of what the law is that's
17 governing where we are at this point. I believe --

18 THE COURT: Well --

19 MR. BANNISTER: Because what you've got to decide is
20 whether or not there's been a governmental interference,
21 whether or not it's been substantial, and whether or not
22 it has prejudiced the Defendant.

23 THE COURT: No, sir. I don't have to make that
24 decision.

25 MR. BANNISTER: I disagree, Your Honor.

1 THE COURT: Well, you can bring that up with a higher
2 court at a later date.

3 The decision I have to make is how we proceed today.
4 And I see three possible alternatives. I don't know if
5 Dr. Loring has had a change of heart. And I requested one
6 of the brightest minds I know to come speak with her
7 today. I don't think that that has occurred. But he came
8 and offered his services.

9 I can require this case go forward without her
10 testimony, which I believe would then result in a -- the
11 Supreme Court sending it right back. And we would have a
12 do-over. I could declare the mistrial that you want, or I
13 could continue this case, remove Dr. Loring as a potential
14 witness, and ask you all to obtain a new social historian
15 expert and give you as much time as you need.

16 MR. BANNISTER: Well, Your Honor, obviously, that's a
17 difficult choice to make. And I need to make my record
18 before you make your choice.

19 THE COURT: Okay.

20 MR. BANNISTER: Because I think some of the things
21 that I am going to say impact which of those decisions you
22 have to make.

23 THE COURT: All right. Go ahead.

24 MR. BANNISTER: I believe, if it's a mistrial, it
25 would be based on prosecutorial misconduct. And I want to

1 be clear here that I think that implicates at a minimum --
2 and I'm talking about Federal Constitutional law -- the
3 Defendant's Fourteenth Amendment to due process. I
4 believe it implicates the Defendant's Fourteenth and Sixth
5 Amendment rights to present a full and complete defense,
6 specifically, that would be the due process clause of the
7 Fourteenth Amendment confrontation clause and the
8 compulsory process clause of the Sixth Amendment. I
9 believe that this issue now implicates his Sixth Amendment
10 right to have competent counsel represent him. And I
11 believe it implicates his Eighth Amendment right to
12 present a full and fair presentation of mitigation in this
13 case.

14 Here is the case law that I base that on, Your Honor.
15 First off, it would be State v. Williams, as I said
16 before, and State v. Needs. I, also, would cite, too,
17 State v. Quattlebaum, that's 527, SE2nd 105, which states
18 that deliberate prosecutorial misconduct raises an
19 irrebuttable presumption of prejudice.

20 So one of the areas of inquiry that I need in order
21 to -- that we need in order to determine whether or not
22 there's been prosecutorial misconduct in this case is a
23 number of things. For one thing, the issue that the
24 Solicitor raised about the criminality of the statute with
25 a witness on the stand who wasn't licensed in the state is

1 an issue that he raised before in the case of State v.
2 Michael Laney. That issue was dealt with in that case.
3 There's a transcript of that record. I believe that that
4 transcript needs to be put into evidence, in this case, as
5 evidence of the fact that the Solicitor knew that this
6 issue existed, had already been brought to task on this
7 issue, and we need to see what was the ultimate
8 adjudication of this issue. Because I don't know for
9 certain, but I believe he was required to formally
10 withdraw the motion.

11 Second, I need a transcript of the testimony and
12 the -- of Dr. Loring which was taken in the State v.
13 Cockman case, another death penalty case, where this
14 Solicitor interviewed -- cross-examined Dr. Loring and
15 this issue was not raised. In that case, the jury asked
16 to review Dr. Loring's testimony on two different
17 occasions. That's my information. I represent that to
18 the Court upon information and belief. But I need the
19 transcript of those two proceedings. Because I believe
20 that that would be evidence of the intent that goes to
21 whether or not it was misconduct here. In other words, he
22 didn't want Dr. Loring to testify because he was afraid of
23 what she would say. And so he took this tactic in order
24 to prevent her from being able to testify or to intimidate
25 her.

1 Your Honor, I, also, would like to point out that,
2 currently, South Carolina has adopted the ABA guidelines,
3 that's in State v. Council or Council v. State, I forget,
4 and, also, the ABA standards. The ABA standard for
5 solicitors, which can be found at 3-5.7, requires fair
6 treatment of witnesses. And what it says is even if the
7 assertion of a legal position is arguably correct, for the
8 Solicitor to use that legal position to intimidate a
9 witness or attempt to chill their testimony would be
10 unethical. And whether it is or is not isn't for me to
11 say at this point. But I'm telling you that that's the
12 backdrop by which you should judge whether or not this
13 prosecutorial misconduct rises to the level that would
14 necessitate a mistrial.

15 Furthermore, there's Rule 8.4 of the South Carolina
16 Ethics. And in the Comment there, it says that a pattern
17 of repeated offenses, even ones of minor significance,
18 when considered separately can indicate an indifference to
19 legal obligation. That applies, specifically, to those
20 lawyers who hold public office.

21 Furthermore, at Comment 3.8 -- or that may be --
22 actually, Comment 8.4 is the one that deals with separate
23 instances that can be considered together. That's why I
24 say we need the evidence from the Laney case and the
25 evidence from the Cockman case to be able to support our

1 foundation for the prosecutorial misconduct.

2 I have been in touch today with a former solicitor
3 and assistant solicitor who have indicated that they would
4 be willing, if given the chance to review the documents,
5 to come in and potentially testify as to whether or not
6 the Solicitor, in his attempts with Dr. Loring to bring up
7 criminal conduct, has violated his standards as a
8 prosecutor. As you know, Your Honor, under 3.8, the
9 Solicitor is held to a much higher level of ethical
10 consideration.

11 Your Honor, if, as I believe it might be found, that
12 conduct in here rose to the level that would indicate that
13 he had violated those rules of ethics, then he has
14 intimidated a witness. South Carolina Code Section
15 16-9-340 says that it is unlawful for any person to
16 attempt to intimidate a witness. That's a felony of up to
17 10 years. I believe that that situation alone, in
18 addition to requiring a mistrial, or, at least, the
19 opportunity for me to develop the record to put forward
20 what I think would be a very kosher argument that should
21 be a mistrial, puts the Solicitor in a position where he
22 needs to be recused from this case.

23 Because if I'm correct, then he has got some
24 problems. And that gives him a different mode than just
25 being the Solicitor. He has no longer becoming an

1 advocate for the State. He is now moving into having to
2 advocate for himself to extricate himself from this
3 problem.

4 Your Honor, I, also, believe that the law regarding
5 the duties of lawyers to have knowledge and research the
6 law is implicated. I have a number of cases that I want
7 to cite that deal with a lawyer's duty to know the law.
8 And this is -- forgive me, but it's a number of cites, so
9 let me read through them. Kempf v. Magiba, 37 AD3d 763,
10 an attorney may be liable for legal malpractice when he
11 fails to conduct adequate legal research.

12 THE COURT: What's your cite on that?

13 MR. BANNISTER: 37 AD3d 763.

14 Clary v. Lite Machines Corporation, 850 NE2d 423.

15 That's failure to research an issue is the proper subject
16 of legal malpractice. Jerry's Enterprises v. Larkin
17 Hoffman, 711 N.W. 2d 811, an attorney failed to perform
18 the minimal research that an ordinarily prudent attorney
19 would do in a similar situation satisfied the element of
20 conduct beneath the generally accepted standard of care.

21 Your Honor, I'll just read the cites for the
22 remainder of the cases, but they stand for the basic
23 proposition that I'm putting forth.

24 THE COURT: Do you have anything from South Carolina
25 or Fourth Circuit?

1 MR. BANNISTER: I don't have anything from South
2 Carolina.

3 THE COURT: Fifth Circuit?

4 MR. BANNISTER: Let me see. Well, I'll just give you
5 the key cite, there are a number of cases that fall under
6 this. It's 45 K 112.50. You can pull up every case that
7 deals with this issue in the United States.

8 Your Honor, we need an inquiry into the Solicitor's
9 conduct in this matter because the issue got raised, I
10 don't know how many months ago, in Laney. So he was, at
11 least, on notice, at that point, that this issue might not
12 be, in fact, a valid one. Some of the issues that I'm
13 raising are exactly the same ones that got raised in that
14 case.

15 So we need an answer as to why that issue wasn't
16 researched between then and when we came to court now. We
17 need to know why when he understood that Dr. Loring was
18 going to be testifying, which would have, to my
19 recollection, been Tuesday, when he raised the objection
20 to her testimony, why wasn't this issue brought up at
21 pre-trial? That, also, is part of the ethical
22 requirements under the ABA standards for the
23 administration of justice and solicitors to bring that up
24 pre-trial before those issues would come forward at the
25 case.

1 Your Honor, we would, also, need to know what
2 research he did after Dr. Loring testified. I point out,
3 again, in less than half a day, Your Honor was able to
4 pull up two citations that showed that this issue was
5 factious, at best. Your Honor, I would to know -- I would
6 like for the record to reflect what authority did he have
7 to make that assertion in the first place, aside from the
8 statute he quoted to you, which I quoted to you contained
9 an exemption that should have applied to Dr. Loring.

10 Your Honor, I would seek, at least, a continuance
11 before you make a ruling on the motion for a mistrial to
12 be able to present that evidence to you. It's a necessary
13 element for the Court's determination of prosecutorial
14 misconduct. And we need to have that inquiry if you're
15 going to be able to make an intelligent decision about
16 whether the prosecutorial misconduct rose to that level.
17 Actually, whether it was prosecutorial misconduct at all,
18 but then whether it rose to the level of being
19 intentional.

20 Your Honor, the prejudice my client has suffered, at
21 this point, is that we believe that there has already been
22 placed in the Court's mind a doubt about the strength of
23 the testimony and/or the credibility of our witness.

24 THE COURT: What do you base that on?

25 MR. BANNISTER: Well, there have been like comments

1 made about whether or not she really has been chilled.
2 There's been comments to her, in particular, about whether
3 or not she could, in fact, assert the Fifth, and whether
4 or not she needed to just go ahead and suck it up and
5 testify. Those are my words, obviously.

6 Your Honor, we believe this conduct has
7 Unconstitutionally chilled the witness's ability to
8 present this critical testimony on behalf of my client in
9 an unfettered manner free of the restraint of fear and
10 intimidation. I've listed the ones that -- I believe I've
11 already listed regarding the license for malpractice, her
12 professional reputation, the other two states where she's
13 conducted --

14 THE COURT: What are you relying on? What are you
15 quoting from when you --

16 MR. BANNISTER: I'm sorry?

17 THE COURT: What did you just quote from,
18 Mr. Bannister?

19 MR. BANNISTER: I'm just reading you my notes so I
20 don't lose my place.

21 THE COURT: Okay.

22 MR. BANNISTER: She has -- I assume that she has
23 malpractice liability. She is, certainly, licensed in
24 Georgia. That was one of the things she testified to. We
25 know now that she's conducted interviews not only in South

1 Carolina, but in, at least, two other states.

2 And, Your Honor, the Solicitor made it clear on the
3 record that while he can grant immunity for here, he can't
4 grant immunity for the other circuits. I can't remember
5 whether he mentioned, also, the Attorney General or not.
6 I just -- I don't recall.

7 In any event, the relief I would request, initially,
8 would be a continuance so that we can perfect the record
9 on this issue regarding misconduct. I believe it has,
10 perhaps, already risen to the level of a mistrial.

11 I, furthermore, would ask the Court to recuse the
12 Solicitor from this case, and for us to develop some
13 system by which we can put on the record what exactly was
14 going on that caused this issue to be raised in the first
15 place, what information he had, when he had it, and how he
16 arrived at that conclusion.

17 I would, furthermore, ask you to set aside the notice
18 of the death penalty and implement a life without parole
19 sentence in light of the fact that -- of the conduct we
20 believe is intentional.

21 Thank you.

22 THE COURT: All right. Mr. Ariail.

23 MR. ARIAIL: I think the first place we've got to
24 start is where Your Honor went, and that is that we have
25 to find out if Dr. Loring will testify.

1 Secondly, I believe if she refuses to testify -- you
2 have already concluded she doesn't have a Fifth Amendment
3 basis to not testify. We need to determine what it is,
4 specifically, that is the reason she doesn't want to
5 testify. If those reasons are not related to something
6 involving this case, but involves something outside of
7 this case, then, obviously, it would have no relevance to
8 what we're talking about.

9 So the issue that would be presented would be
10 different. She would then be making a choice based on
11 something that's unrelated to this case. And I think
12 that's critical that we find out where she is and what the
13 basis is of her reason for not testifying. Because if
14 she's concerned about her license in Georgia being
15 impacted by something she did, in addition to your
16 continuance, there's also a very simple way that all of
17 this could have been cured probably in the last 12 hours.
18 And that is to simply comply with the code section that he
19 cited and notify the Board that she is here in South
20 Carolina and going to testify, and it is an emergency
21 situation, and she's worked on this case. And, therefore,
22 she would have complied with the statute and this tempest
23 in a teapot would be over.

24 So I submit to the Court that if you want to continue
25 the case, she can become a licensed witness with a simple

1 phone call under this code section he cited. So when he
2 has talking about my not doing the research, I guess we
3 have to go back, what are we really trying to create here?
4 I think what we want to create -- or what the goal should
5 be is to preserve as much of the trial as possible, and to
6 proceed forward in an orderly fashion.

7 Dr. Loring does not have any concern regarding
8 prosecution. She's been given immunity. If she's got
9 other concerns, we need to find them out. But I think
10 before we get into all this other attempt to deal with
11 issues of prosecutorial misconduct and what I knew, I
12 would like to point out one thing I think we've all
13 forgotten is that when I handed -- we were in a situation
14 of voir dire. Was she qualified? And I handed the Court
15 the licensing statute that dealt with a practicing
16 social -- a licensed social worker, clinical social
17 worker. The purpose of handing that statute to the Court
18 was for the Court to determine, as other courts have
19 determined, whether or not that licensing requirement was
20 such that would require that this person is a licensed
21 social worker and be licensed prior to testifying.

22 Now, the engineering case you found later may in some
23 way be relevant to that, but it's not, specifically, on
24 point. And social work is a vastly different area. But,
25 be that as it may, the purpose in handing the statute up

1 was to enlighten you as to that statute, which I felt you
2 probably weren't aware of. And, number two, it was to
3 advise you that it had similar criminal penalty provisions
4 that designated the significance the legislature placed on
5 this licensing requirement.

6 Now, I never addressed the witness regarding civil
7 and criminal penalty. That was to you. Now, what came
8 later was that Mr. Bannister raised the issue that now
9 we've got to have immunity. Now, we've had a threat.
10 Now, we have this. I have never threatened her. I have
11 never even moved to indict her, even though,
12 theoretically, she would have violated the statute from a
13 prior case.

14 So to raise this is truly a red herring and is moving
15 to undermine --

16 (Pause.)

17 THE COURT: I'm sorry to interrupt.

18 MR. ARIAIL: That's all right.

19 It's moving to undermine this case that really
20 doesn't need to be undermined. We can have a short
21 continuance, get her a license by having her apply, have
22 her testify, and we're all back in the same place we were
23 before. Or, secondly, if you want to, you can continue
24 it. Or, third, if you deem it appropriate, because the
25 delay is going to be too long, you can declare a mistrial.

1 And we'll all come back and do the same thing over again
2 at a later date, which would be a judicial waste of time.
3 But Your Honor, I believe, can solve the problem.

4 THE COURT: All right. Anything else?

5 MR. BANNISTER: Your Honor, I, again, move for a
6 mistrial at this point.

7 If it's as easy as the Solicitor says and that I
8 should have realized that Dr. Loring needed to simply make
9 a phone call in order to resolve this issue and I should
10 have read that, then the fact that we are where we are
11 implicates my client's Sixth Amendment right to have
12 effective counsel.

13 Thank you.

14 THE COURT: Well, the first thing we need to find out
15 is Dr. Loring's position with respect to testimony this
16 morning.

17 Are you going to call her as a witness?

18 MR. GODFREY: May it please the Court?

19 THE COURT: Yes, sir.

20 MR. GODFREY: I have been acting as Dr. Loring's
21 attorney since yesterday. And I have talked to Dr. Loring
22 this morning. And I know exactly what her position is,
23 and she has asked me to relay it to the Court at the
24 appropriate time.

25 Dr. Loring does not see this as a tempest in a

1 teapot. Dr. Loring sees this as a major storm.

2 Dr. Loring was sitting in the stand up there when the
3 Solicitor gave you the statute and then talked about the
4 criminal penalties. Dr. Loring is extremely upset about
5 testifying in this case. She is, also, heartbroken about
6 not testifying in this case.

7 Basically, her position is she -- if she testifies
8 here, she testifies in South Carolina and she is a
9 licensed social worker in the State of Georgia. She was
10 put on notice by the Solicitor -- whether he wants to say
11 he was talking to you or whether he was talking to her,
12 she was put on notice that this Solicitor believes that
13 she is violating a criminal statute when she testifies.

14 And this Solicitor then talked about the criminal
15 penalties. She was sitting on the stand and she heard
16 that. It was very upsetting to her.

17 THE COURT: Mr. Godfrey, we don't need to go through
18 the whole thing again.

19 Is she going to testify?

20 MR. GODFREY: No, sir. She's going to take the Fifth
21 Amendment.

22 THE COURT: The Fifth Amendment. And how does she
23 think she has the right to claim the Fifth Amendment when
24 she's been granted immunity from prosecution?

25 MR. GODFREY: She's been granted immunity on this

1 particular case. She has testified in other cases in this
2 state. There is no statute of limitations. She has
3 interviewed witnesses in this particular case in two other
4 states. No one has been able to assure her that there are
5 not similar laws in those other two states. She is
6 licensed in Georgia. And if she -- the questions that she
7 has to answer each year, if anything of a criminal nature
8 or quasi criminal nature comes up, she has to respond. It
9 could have an impact on her license in Georgia.

10 THE COURT: That is not a Fifth Amendment issue.

11 MR. GODFREY: If it leads to criminal sanctions for
12 her in Georgia if she testifies here --

13 THE COURT: You're talking about an administrative
14 licensing statute.

15 MR. GODFREY: She's interviewed witnesses in two
16 other states. And the other states --

17 THE COURT: Well, Mr. Godfrey, in that regard, the
18 damage or the criminal act is consummated. Whether or not
19 she testifies here or not does not excuse -- if she
20 doesn't testify, it doesn't excuse what she did if she
21 violated the law in those other states and they want to
22 prosecute her.

23 So I don't see a Fifth Amendment -- I don't see that
24 she can avail herself under the Fifth Amendment protection.

25 MR. GODFREY: I understand your ruling, but we still

1 assert that position.

2 Also, this, obviously, has an impact on her ability
3 to testify.

4 THE COURT: Did you -- I guess nobody has, actually,
5 looked at 40-63-130.

6 All right. Thank you.

7 Well, that answers that, Mr. Bannister.

8 MR. ARIAIL: Your Honor, I believe she has to assert
9 her Fifth Amendment. I don't believe she can do it --

10 THE COURT: Well, I can drag her out here. And I
11 don't think that's going to serve any purpose. And I am
12 not sure how I am going to deal with Dr. Loring. She is a
13 subpoenaed witness and has refused to testify. So that's
14 something I'll have to consider. But I'm not going to
15 make that decision right now.

16 Yes, sir, Mr. Bannister.

17 MR. BANNISTER: I think, at this point, I need to
18 renew my motion for a mistrial.

19 THE COURT: I know. I know. I haven't ruled on it
20 yet.

21 MR. BANNISTER: I know.

22 THE COURT: One thing I want to say is that in no
23 form or fashion would what we're talking about today cause
24 you to be violative of the Strickland standards.

25 Now, I don't know about anything else. But you are

1 certainly, not incompetent for the issues you have raised
2 today and the way you've done it. So I just -- and I'll
3 rule right now, although it can be raised later in another
4 proceeding if that becomes necessary. But for purposes of
5 this, where we stand today, that is not even on the table.
6 I do not believe that this -- there's no jury here. I
7 have copious notes. And, fortunately, I have one of the
8 best court reporters in the State. I will have access to
9 all the evidence that has been presented up to this
10 time.

11 I'm not going to grant your mistrial. I'm going to
12 continue the case. I would instruct counsel to seek
13 another social historian so that Dr. Loring will never
14 have to deal with this case again. And I can't tell you
15 how long we're going to continue the case. But -- and I
16 will allow you if you have other materials that you want
17 to put into the record to support your position, that's
18 entirely up to you. Okay.

19 MR. BANNISTER: Thank you, Your Honor.

20 THE COURT: All right. Is there anything else?

21 MR. BANNISTER: Not at this point, Your Honor.

22 THE COURT: That anybody can think of?

23 (There was no response.)

24 THE COURT: Solicitor, anything?

25 MR. ARIAIL: No, Your Honor.

1 THE COURT: All right. Well, we'll just have to --
2 Mr. Bannister?

3 MR. BANNISTER: Nothing.

4 THE COURT: Okay. You just -- I would ask you to
5 inquire into -- well, let me ask you this. I think part
6 of your -- I want to give you the opportunity -- well, I
7 wouldn't rule that Dr. Loring is completely out of the
8 case.

9 MR. BANNISTER: No. And I would ask you not to.

10 I understand we've got a variety of things we have to
11 hash out legally from this point forward.

12 THE COURT: She can -- well, you look into that. But
13 I don't know how long it's going to take. But if you
14 determine or she determines that she doesn't want to
15 participate any longer, I'll give you an opportunity to
16 show how you've been prejudiced by not having her, in
17 particular, if that's what you want to do. I want to give
18 you that opportunity. I'm sure there are many, many
19 qualified, highly qualified persons that can perform the
20 same job that Dr. Loring has done so far. Okay.

21 All right. Stay in touch with me and let me know
22 when I need to set aside some more time to resolve the
23 rest of the case.

24 MR. BANNISTER: Okay.

25 THE COURT: We're adjourned.

1 (Pause.)

2 THE COURT: One thing before we break, I want
3 everybody that's associated with the case to be clear, and
4 that means everybody, that there is a gag order still in
5 effect. So don't violate it.

6 MR. BANNISTER: Thank you, Your Honor.

7 THE COURT: And I believe that's a pretty far ranging
8 gag order.

9 Thanks.

10 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

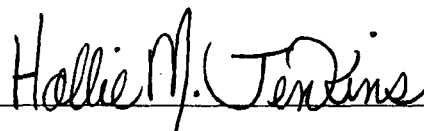
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Pickens County, South Carolina, on the 8th, 9th, 10th, and 11th days of September, 2008.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 14, 2009



Hollie M. Jenkins, Court Reporter

My Commission Expires: 11-17-10

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STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF GENERAL SESSIONS

2006-GS-39-2222

2006-GS-39-2223

2006-GS-39-2224

2006-GS-39-2225

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD

JERRY BUCK INMAN,)
DEFENDANT.)

ORIGINAL

April 20, 21, and 22, 2009
Pickens, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

A P P E A R A N C E S:

ROBERT M. ARIAIL, ESQ.
Solicitor
BETTY C. STROM, ESQ.
Deputy Solicitor

JAMES W. BANNISTER, ESQ.
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Attorneys for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness

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All Exhibits were retained by the Clerk of Court for
Pickens County.

P R O C E E D I N G S

1
2 THE COURT: I went to my office yesterday. I had a
3 couple of, I guess, proposed motions from both sides. I
4 don't see them in the file.

5 Were they filed?

6 MR. BANNISTER: Judge, I anticipated filing those
7 this morning.

8 THE COURT: Okay.

9 MS. STROM: And, Your Honor, since mine was in
10 response to his motion, I didn't feel it was appropriate
11 to file it until he had filed his.

12 THE COURT: Okay. Before we get started, I just -- I
13 want to talk to y'all for a second. The last time we did
14 this, I think most of y'all are aware or remember that
15 there was a live Internet feed, which we didn't know about
16 or authorize.

17 And I trust that we don't have one of those this
18 time, do we?

19 (WHEREUPON, the news media personnel indicated in the
20 negative.)

21 THE COURT: And y'all are, of course, familiar with
22 the rule?

23 (WHEREUPON, the news media personnel indicated in the
24 affirmative.)

25 THE COURT: And I'm not picking on you. This case

1 has generated a lot of interest.

2 All right. Mr. Bannister, you're standing up.

3 MR. BANNISTER: I am. Since you're addressing the
4 media, Judge, I believe your order does not permit them to
5 take pictures of counsel or counsel table until this Court
6 is in session, which has, generally, been indicated by you
7 when you've taken the bench. This morning, when we got
8 here before Court started, I believe there were a number
9 of people that were taking pictures of us here at counsel
10 table before we, actually, were on the record. And my
11 concern is that in an unguarded moment, a picture might be
12 used to misrepresent the solemnity of how we feel about
13 these proceedings.

14 So I would just ask you to --

15 THE COURT: Yes. That's absolutely correct.

16 The rule is very clear. And I think my order -- I
17 haven't looked at it in, I guess, seven months or
18 something like that.

19 But you all are not to take pictures or record
20 anything when Court is not in session.

21 So if you have pictures or have any recordings taken
22 while I'm not on the bench and Court in session, destroy
23 those. Okay.

24 (WHEREUPON, the news media personnel indicated in the
25 affirmative.)

1 THE COURT: Everybody indicates good. If not, if you
2 violate the order -- and I know that it won't come to
3 this, but there could be sanctions.

4 All right. Now, anything else?

5 MR. BANNISTER: Your Honor, I was handed a motion
6 from Mr. Godfrey, who represents Dr. Loring. And I think
7 your disposition of that motion would make a change or
8 impact a number of the motions I intended to try to
9 address first thing this morning.

10 So I would ask, if you could, to deal with that
11 first.

12 THE COURT: All right. Mr. Godfrey, what do you want
13 to tell me?

14 MR. GODFREY: May it please the Court?

15 I filed a motion requesting that Dr. Loring be
16 immediately released as a witness in this case or, also,
17 ask for alternative relief.

18 Solicitor Ariail filed a petition for -- subpoena of
19 an out-of-state witness on April 1st, requesting that the
20 Court certify that Dr. Loring should attend the trial here
21 in Pickens. We had a hearing on that on April the 14th.
22 At that time, the Court found that she was a necessary
23 material witness and declined to withdraw the
24 certification of the South Carolina subpoena.

25 Judge, on April 16th, Dr. Marti Loring was working.

1 When she returned to her home -- she was taken home by
2 someone else. When she returned home, she went through
3 the front door, which she normally does not go through
4 since her garage is in the back. When she got to the
5 front door, she found sticking in the door a rule nisi
6 requiring her to appear in Court on April the 16th, at
7 3:00 p.m. Obviously, she couldn't appear in Atlanta at
8 3:00 p.m. and state why she could not or should not come
9 to Pickens County because she never, actually, received
10 notice.

11 She called me at about 8:21 and advised me as to what
12 she had found. And she left the house for a little while.
13 When she came back, she discovered that people had been
14 pounding on her door saying that they had a warrant for
15 her arrest. She called me again.

16 Judge, at that point, I went back to the office and
17 called your residence and spoke with you about this. The
18 next day, on April -- well, that night, I should say, in
19 the morning at about 12:15 a.m., the Court sent an e-mail
20 to both sides, and a copy to me, regarding this matter and
21 advising that Dr. Loring would be present today.

22 The next day, on April 17th, Dr. Loring continued to
23 receive phone calls about where she was and about being
24 arrested. Finally, Judge, we contacted an attorney in
25 Atlanta, who then contacted the District Attorney's Office

1 and provided them with a copy of your e-mail.

2 At that point in time, the District Attorney's Office
3 indicated that they would, in their terms, stand down on
4 the warrant and would not serve it, as long as Dr. Marti
5 Loring appeared in Pickens County today. And they further
6 requested that somebody from the Court system advise them
7 whether she did or not, because the warrant was still
8 active.

9 Based on the e-mail and based on the -- based on your
10 e-mail in which it was, clearly, indicated that Dr. Loring
11 was going to be here, it is obvious that neither Solicitor
12 Ariail, nor anyone else in the Thirteenth Circuit
13 Solicitor's Office, contacted the District Attorney's
14 Office in Atlanta or the Court to tell them to withdraw
15 the request. Dr. Loring was walking around Atlanta where
16 she lives and where she works scared to death.

17 I had intended to go to Atlanta to fight this
18 particular subpoena in Atlanta in Superior Court there.
19 We did not receive notice. There is no possible way that
20 sticking a notice in a door is effective service. And,
21 also, the timing of this thing is absolutely incredible.
22 The rule nisi was signed by the Georgia judge on April 15,
23 2009, at 2:20 p.m., and it was clocked for record on April
24 16th, 2009, at what appears to be 10:12 a.m.

25 The order directing witness into custody to determine

1 material witness status in the State of South Carolina was
2 signed by the Georgia judge on April 16, and clocked for
3 record at what appears to be 10:12 in the morning.

4 The affidavit of Don Geary, Chief Assistant District
5 Attorney, he put in his affidavit that he received proper
6 paperwork from Solicitor Ariail on April the 15th,
7 requesting that Dr. Loring be a witness in Pickens County.
8 That document was clocked on April 16, at what appears to
9 be 2:13 p.m.

10 Judge, I contacted an investigator in Atlanta. And I
11 asked her to go by the Clerk of Court's Office and copy
12 all of the paperwork in the Court file regarding Dr. Marti
13 Loring. And I have included that as an attachment so the
14 Court can, clearly, see what was in the Court file in
15 Atlanta. What is missing is any affidavit of personal
16 service or any affidavit saying that they attempted to
17 serve it. Notice requires that a person be given a
18 legitimate time to know that they need to appear in Court.
19 If one works every day and they're not at home and
20 somebody sticks something in the door, that, clearly, is
21 not effective notice.

22 Also, Judge, I would submit to the Court that if I,
23 as a defense attorney, got a petition for an out-of-state
24 witness and sent it to Atlanta, it would not be handled by
25 the District Attorney's Office running around trying to

1 get all the paperwork.

2 Judge, what has happened to Dr. Loring in Atlanta
3 over the last few days is further intimidation of her. It
4 has threatened her. She does not feel safe.

5 Judge, Solicitor Ariail had, at least, six months --
6 or maybe not that long, because he did change his strategy
7 on whether he wanted to have Dr. Loring testify or not
8 from the September hearing. But he had a lot of time to
9 get this done in an orderly fashion with notice to
10 everybody. And that was not done.

11 It appears that the District Attorney's Office in
12 Atlanta was used to facilitate this petition for an
13 out-of-state witness, which I think is unusual and would
14 not happen in the normal course. Judge, I believe this
15 rises to a denial of Dr. Marti Loring's due process
16 rights. And I believe it has impacted on her civil
17 rights.

18 Now, at the trial in September -- and this is just a
19 continuation of the intimidation and threats. Solicitor
20 Ariail stated to the Court, "I'm raising the issue of
21 licensing for the purpose of voir dire. And that is as
22 far as we've gotten. And whether or not I present an
23 indictment against her is a totally separate issue."
24 That's found at the partial transcript of record from
25 September 10 and 11, at Page 116, Lines 17 through 19.

1 Judge, I would submit to the Court that any citizen
2 who hears the chief solicitor -- or the Solicitor say, "I
3 may get an indictment against you" -- are his exact
4 words -- "And whether or not I present an indictment
5 against her is a totally separate issue" is a threatening
6 statement. I believe that Solicitor Ariail has attempted
7 to threaten and intimidate Dr. Loring to chill her
8 testimony in this case. And that, clearly, impacts
9 Dr. Loring's reputation. And although I don't represent
10 Mr. Inman, it, clearly, implicates his due process rights.

11 Judge, if you do not release Dr. Loring as a witness
12 in this case, it appears to me, and I would submit to the
13 Court, that the actions of Solicitor Ariail are being
14 rewarded and that he is getting what he wants.

15 The problem of Dr. Loring testifying at this hearing
16 now is obvious. The Defense no longer has her on the
17 Defense team. She has not talked to the Defense team
18 since late September of 2008. She's had no follow-up
19 visits with any of the people that she interviewed. She's
20 had no follow-up visits with the family. She does not
21 know what their current theory of the mitigation is. She
22 has not reviewed her notes until this past weekend. And,
23 frankly, she's sitting outside in the conference room
24 reviewing notes again now.

25 Judge, I would submit that at the close of the

1 September hearing on September 11th, the Court allowed
2 Mr. Bannister, as lead counsel, to determine whether or
3 not Dr. Loring should remain in this case. And it was
4 determined that she would no longer be in the case. You
5 advised, at that time, that a new social historian could
6 be retained. And it's my understanding that a new social
7 historian was retained.

8 Judge, if you do not agree and order that Dr. Marti
9 Loring can be released as a witness immediately, I would
10 move in the alternative that any portion of this trial
11 that requires Dr. Loring's testimony be suspended until I
12 can properly do an investigation into what, actually,
13 happened with this abuse of process in Georgia.

14 I would further move for an order of discovery
15 ordering the Solicitor's Office to provide me with cover
16 letters or faxed transmissions of any correspondence
17 regarding the petition for out-of-state witness that was
18 sent to Georgia. I would request an order for a detailed
19 telephone log from April 1 through April 20, 2009, of all
20 outgoing and incoming calls from the Solicitor's Office to
21 Georgia.

22 And I would respectfully request an order to take
23 depositions in a criminal case of the following people:
24 Solicitor Robert Mills Ariail; Deputy Solicitor Betty
25 Strom; John Tucker of the Thirteenth Circuit Solicitor's

1 Office; Melita Graham of the Thirteenth Circuit
2 Solicitor's Office; Don Geary, Chief Assistant District
3 Attorney, DeKalb County, Georgia; Investigator Ben Norris
4 of the District Attorney's Office, DeKalb County, Georgia;
5 and the District Attorney of DeKalb County, Georgia.

6 This is an extremely serious matter. My client has
7 been frightened. She's been threatened. She's been
8 intimidated. And although she is here today and is
9 willing to testify, if the Court calls her as a witness,
10 she is, clearly, scared. And I do not believe the State
11 should be rewarded for their misconduct.

12 THE COURT: All right. Who wants to go second?

13 Mr. Bannister.

14 MR. BANNISTER: I will, Judge.

15 And let me hand up, this is one of the motions that
16 I've provided, at least, a draft copy, initially. This is
17 the one I intend to file. This is a motion to seek an
18 assurance of out-of-state witnesses appearance in South
19 Carolina. I'm handing two copies to you, Your Honor, and
20 one to be clocked in with the Clerk's Office.

21 Judge, I'm not sure how clear it is just how
22 extraordinary these documents that have been filed in
23 Georgia really are. You've got the hearing scheduled.
24 That order is filed, along with the motion to compel
25 Dr. Loring. And that order -- that motion is filed

1 contemporaneously with the order requesting Dr. Loring to
2 be taken into custody.

3 So, in essence, the order setting the hearing was
4 filed within 30 to 60 seconds of the order directing her
5 to be taken into custody because she is, "a flight risk
6 and is purposely avoiding service." Neither of which on
7 the face of the documents could possibly be true since the
8 documents requiring her to appear had only been filed
9 within the exact same 60 seconds that the order setting
10 the hearing was filed.

11 Furthermore, this took place less than five hours
12 before the hearing was even scheduled. And, point of
13 fact, Dr. Loring was not at or near her residence during
14 the time period in question. So, from a factual
15 standpoint, she simply was not a flight risk and,
16 certainly, was not avoiding service of process.

17 The only place that the information relied upon by
18 Don Geary, the Chief Assistant DA with DeKalb County,
19 Georgia, could have come from that Dr. Loring was a flight
20 risk, or that she was avoiding the service of process, had
21 to be from the Solicitor's Office for the Thirteenth
22 Circuit. There just was no other way that Don Geary could
23 have come by that information within the 60 seconds
24 between when the rule to show cause -- or rule nisi was
25 filed and the order was filed requiring Dr. Loring to be

1 arrested.

2 Judge, that sequence of events in Georgia would go
3 directly to the motion for prosecutorial misconduct and
4 the mistrial that we requested orally on September the
5 11th, 2008. It would go to the level of misconduct that
6 was inherent in our motion for mistrial on September 11th,
7 2008. It would go to the -- as further evidence of the
8 harassment and the intimidation of Dr. Loring, which is
9 directly relevant to our motion pursuant to the
10 double-jeopardy clause to have this case declared life
11 without parole.

12 So we need one of two things for purposes of the
13 Defendant's position. We either need an affirmative
14 finding from the Court that the Solicitor's conduct was
15 intentional, and that it was misconduct as it relates to
16 what happened in Georgia, that it resulted in substantial
17 interference with Dr. Loring's ability to testify, it
18 makes her unavailable, and that his conduct was in direct
19 violation of the Defendant's Fourteenth and Sixth
20 Amendment due process rights and the Sixth Amendment
21 compulsory process rights.

22 On the other hand, Your Honor, the Defendant has a
23 right, on par with the State, to be allowed to have
24 witnesses compelled to attend. Now, what has happened in
25 this case is you've got this extraordinary set of

1 circumstances that are happening in Georgia which,
2 ultimately, have resulted in Dr. Loring being here as a
3 witness today. The Defendant is entitled to, at least,
4 that level of -- I guess power would be the way to put it
5 to have witnesses brought here.

6 And I think that the Court, in order to put the
7 Defendant on equal par with what the Solicitor has done
8 already, is going to have to be involved in getting some
9 of these other witnesses from Georgia here. At a minimum,
10 we need Don Geary. At a minimum, we need the deputy
11 sheriffs, the investigators with DeKalb County, Georgia,
12 who were there outside of Dr. Loring's house with lights
13 going on and bull horn. We have information to suggest
14 that, at one point, they were attempting to break down her
15 front door, but were talked out of it by a neighbor.

16 Your Honor, it is the -- what has happened in Georgia
17 is of such a critical nature for the Defendant and his
18 claim for mistrial and, in particular, with his claim
19 to his --

20 THE COURT: Well, let me interrupt you, Mr. Bannister.

21 You made it very plain that you did not intend to
22 call Dr. Loring whether she showed up or not.

23 So how is your client's -- how are your client's
24 rights chilled in any way by this conduct you're relating?

25 MR. BANNISTER: Judge, it goes to -- remember, the

1 prosecutorial misconduct and the double-jeopardy claim
2 that we are asserting goes to the argument --

3 THE COURT: I'm familiar with that. But the conduct
4 that you're asserting occurred --

5 MR. BANNISTER: Yes, sir.

6 THE COURT: -- does not impact Mr. Inman.

7 MR. BANNISTER: It certainly --

8 THE COURT: You had already made a decision not to
9 call Dr. Loring. That's what you informed the Court on
10 the record.

11 MR. BANNISTER: That is absolutely correct.

12 THE COURT: So how are his rights chilled any further
13 than they were, if they were, at the time you made that
14 assertion?

15 MR. BANNISTER: Because, Judge, once you get past --
16 and I know we're not there yet. But once you get past the
17 determination that mistrial is appropriate, then the next
18 step in the process, as I understand it, is a
19 determination of what level of misconduct has the
20 Solicitor's actions reached, and what prejudice has that
21 resulted in for the Defendant?

22 So in an analysis of what was intended by individuals
23 in the Solicitor's Office, the lengths to which they went,
24 and the things that they did in Georgia become very
25 important and critical to prove that the level of

1 misconduct has reached such an extent that double jeopardy
2 bars further prosecution and requires imposition of life
3 without parole.

4 The creation of the record of what happened is so
5 critical for the Defendant, because regardless of whether
6 the Court, at this stage, agrees or disagrees -- well, I
7 guess regardless if the Court doesn't agree with the
8 Defendant's position, this issue, potentially, at every
9 single stage of the proceedings, direct appeal, any new
10 trial, habeas, wherever we are, this issue will come back.
11 Because at this moment right now is when we believe the
12 Court should declare the mistrial and impose life without
13 parole.

14 So the record that is going to follow this case needs
15 to be established so that each reviewing authority or new
16 trial judge will have the opportunity to see and make a
17 determination if the proceedings should go forward another
18 step. And that is why it is -- it's absolutely critical
19 that we have the ability to do that, or you make an
20 affirmative finding, at this point, that misconduct has
21 occurred, as I stated before.

22 The other thing I would point out, Judge, is that the
23 longer we wait to create a record about what happened in
24 Georgia is -- well, time becomes an enemy for the Defense
25 in this case. Right now, we don't know who our witnesses

1 are. We don't know who all of them may be. But,
2 certainly, we were going to -- are going to run into the
3 problem going forward with trying to determine who those
4 witnesses are, getting them to the bar to testify, and
5 making sure that we create an accurate record of what
6 happened in Georgia.

7 And so, Your Honor, that would be our position with
8 regards to issues related to what happened in Georgia and
9 Dr. Marti Loring.

10 THE COURT: All right.

11 MR. BANNISTER: I have a number of other motions, but
12 I don't know whether you want me to just --

13 THE COURT: Well, we'll deal with them one at a time.

14 MR. BANNISTER: Okay. Thank you.

15 THE COURT: Mr. Ariail.

16 MR. ARIAIL: Now that they have filed their motion,
17 we will file our response that -- this is our response to
18 the motion to suspend the proceedings that Mr. Bannister
19 just argued and attached to it, which was inadvertently
20 left off, is an affidavit -- a faxed copy of an affidavit
21 from Mr. Geary in Atlanta detailing what occurred. And,
22 as you can see, the Thirteenth Circuit Solicitor's Office
23 had nothing to do with any of this.

24 This is just a continuation by the Defense to
25 perpetrate an issue that is not real. You know the

1 background of these proceedings. And you know how we
2 applied for the out-of-state subpoena, which was perfectly
3 legitimate. And it was forwarded to the District Attorney
4 in Atlanta as the appropriate body to represent us in
5 obtaining a hearing before a judge.

6 What transpired after that is every bit the fault of
7 Dr. Loring, under the Georgia system. It had nothing to
8 do with the State of South Carolina. It had nothing to do
9 with the Thirteenth Circuit Solicitor's Office. We
10 weren't involved in it up until the point we communicated
11 with them to stand down pursuant to your e-mail, and after
12 your assurance from Mr. Godfrey that she would be here.
13 So I think there was some emanation earlier by
14 Mr. Godfrey, in that presentation, that we didn't
15 communicate that when, in fact, we did. And Don Geary
16 confirms all that.

17 The statutory provision under which we applied for
18 out-of-state subpoena is used routinely. And there is no
19 requirement that counsel or anyone else be notified. It's
20 an ex parte proceeding that is before the Judge. And the
21 Judge determines if we can prove materiality of a witness
22 and the need for that witness. And, if that is true, it's
23 sent to the State. And the State where the witness is has
24 a hearing.

25 Dr. Loring, obviously, from the affidavit of

1 Mr. Geary attempted to avoid service, was hiding in the
2 house, refused to come to the door in spite of telephone
3 calls, voice messages, and packages left. She refused to
4 respond. And the Judge in Georgia, under the Georgia law,
5 issued the order that she thought was appropriate. So I
6 think this is, once again, more of the tempest in the
7 teapot over nothing.

8 And the background, Your Honor, you're aware of the
9 reasons that we argued twice this motion, once with
10 Mr. Bannister -- well, it wasn't argued, but we presented
11 it and notified Mr. Bannister. He gave his acquiescence.
12 He had no position. You issued the certificate based on
13 that. And then Mr. Godfrey came forward later and asked
14 for a hearing. That's a matter of record. You refused to
15 withdraw the certificate. And the purpose was that the
16 State wanted Dr. Loring available on these issues in the
17 event she was needed as a material witness.

18 Did I file the affidavit? Did I hand you --

19 THE COURT: I've got a copy of it. I don't know if
20 you filed it or not.

21 MR. ARIAIL: Your Honor, we will submit the original
22 as being sent to us by Federal Express. And we'll
23 withdraw the fax, if that's appropriate.

24 THE COURT: All right.

25 MR. BANNISTER: Judge, let me place on the record,

1 first off, an objection to two things: One, any
2 assertions by the Solicitor's Office that we were not
3 involved. I don't believe that is appropriate evidence
4 for you to take into consideration, at this point in time,
5 without some sort of witness getting on the stand and
6 testifying to that under oath.

7 THE COURT: What are you talking about?

8 MR. BANNISTER: There has been an assertion that the
9 Thirteenth Circuit Solicitor's Office was not involved.
10 That's what Solicitor Ariail just said. I object to that.
11 I object to that being a basis for any finding that you
12 make.

13 Furthermore, I object to the affidavit that's being
14 submitted to the Court. My client has got a Sixth
15 Amendment right to cross-examine any and all relevant
16 evidence that would be submitted that potentially could
17 result in a life without parole sentence
18 for him. This witness goes to the -- Don Geary goes to
19 our issue of prosecutorial misconduct, which goes to
20 double jeopardy and bar of the death penalty.

21 And let me just point out --

22 THE COURT: Well, are you objecting to the
23 attachments to Mr. Godfrey's motion?

24 MR. BANNISTER: To the extent that the Court
25 intends to rely on -- I'm sorry. To what?

1 THE COURT: Mr. Godfrey attached numerous documents,
2 including an affidavit from the same gentleman, to his
3 motion.

4 Are you objecting to that as well?

5 MR. BANNISTER: That is a -- I don't object to the
6 fact that that is one of the documents that's filed in
7 Georgia and, therefore, would be a Court record. But I
8 don't believe there's any assertions of fact in there that
9 are potentially going to be used for a finding.

10 But, Judge, let me show you just one example of why
11 an affidavit like this offered for the purposes it's being
12 offered today is so dangerous. If you will, take a look
13 at the order directing a witness into custody. I've
14 attached that to the motion I just handed you.

15 Have you got it, Your Honor?

16 THE COURT: Which -- what are you referring to?

17 MR. BANNISTER: I'm referring to the order directing
18 a witness into custody to determine material witness
19 status.

20 THE COURT: All right.

21 MR. BANNISTER: If you'll look at the time stamp, it
22 says "10" and it looks like "12 a.m. April 16th."

23 THE COURT: Okay.

24 MR. BANNISTER: Okay. The affidavit --

25 THE COURT: You've been through the time. And I

1 understand that you assert that it's not possible for all
2 this to have occurred; correct?

3 MR. BANNISTER: It's a little more -- it goes to this
4 affidavit submitted by Don Geary, under oath, apparently,
5 which says, Judge Hunter, which appears to be the same
6 judge on this order, issued a pick-up order for Dr. Loring
7 at approximately 5:00 p.m. on April 16th, 2009. The two
8 cannot be true at the same time. The order was issued at
9 10:00. Don Geary is trying to make it sound like we tried
10 to serve it, and then we went and got the pick-up order.
11 That's simply not true by virtue of the fact of the time
12 stamp on the order.

13 So I object to this affidavit being used for any
14 purposes of fact finding in this case.

15 THE COURT: All right.

16 MR. BANNISTER: And I would, further, submit that the
17 affidavit itself is now evidence of the lengths to which
18 the Solicitor's Office, in conjunction now with the
19 District Attorney's Office, are willing to go.

20 Thank you.

21 THE COURT: All right. Mr. Godfrey.

22 MR. GODFREY: May it please the Court?

23 Judge, I was not given a copy of the affidavit from
24 the -- Don Geary. And I had no idea this existed.

25 THE COURT: Well, Mr. Godfrey, you're not a party to

1 this action. You represent a witness in the case.

2 MR. GODFREY: That is correct.

3 THE COURT: So there is no necessity that you be
4 served with these documents.

5 MR. GODFREY: I would like to see it since --

6 THE COURT: Okay. Well, he's handed you a copy.

7 MR. GODFREY: -- it effects my motion, Judge.

8 THE COURT: Mr. Bannister has handed you a copy.

9 MR. GODFREY: I did not know this was here. They're
10 claiming that Dr. Loring attempted to evade service.

11 Judge, on the 16th of April, she was, actually, with
12 Laura Switzer, who is another investigator. They had been
13 in Alabama. And Laura Switzer took her home. And that's
14 when they found the note sticking in the door. She wasn't
15 there. She couldn't have evaded service because we know
16 what time the Judge signed the rule nisi.

17 When she got home, she saw it sticking in the door.
18 The hearing had already occurred, if there was one. And,
19 as far as the people at the door, it was her next door
20 neighbors. She had left the house that night. It was her
21 next door neighbors, when she got home, that told her that
22 they had come beating on the door saying they had an
23 arrest warrant. Had I known that such an affidavit from
24 Don Geary existed, I, certainly, could have had witnesses
25 here to support the motion.

1 THE COURT: All right. Anything else?

2 MR. ARIAIL: Nothing from the State.

3 THE COURT: Well, this all goes back to the voir dire
4 of Dr. Loring by the Solicitor at the September hearing.
5 And I want to say that in my comments after that, which
6 resulted in this seven-month delay, I did not release her.
7 I said she was here as a State's -- at the -- not as a
8 State's witness, but at the behest of the State and that
9 the State of South Carolina -- not the prosecuting arm --
10 had hired her. She had, as I ruled at that time,
11 mistakenly and wrongfully claimed the Fifth Amendment.
12 Mr. Ariail's comments about the licensing statute were
13 wrong. You cannot claim the Fifth Amendment if there is
14 no violation of the law.

15 So, at that point, my understanding, from Fourth
16 Circuit law, is that it's up to the Judge, at that point,
17 to instruct her as to that -- the unavailability of the
18 Fifth Amendment, which I believe I did, particularly, in
19 light of the fact that she was granted immunity from the
20 Prosecutor. And while I have no authority to do it, I
21 gave her my immunity, too. But -- and she continued to
22 refuse to testify.

23 At that point, although I did not do it, I may have
24 insinuated it, I think the McCloskey case indicates that I
25 should have instructed her she would be facing contempt of

1 Court. I, additionally, said in the transcript that, as I
2 adjourned the hearing or continued it, I wanted to give
3 the Defense the opportunity to go get another social
4 historian. And I said that I wouldn't rule that
5 Dr. Loring is completely out of the case. So I'm not sure
6 that she's not still subject to the original subpoena
7 issued in this case.

8 Now -- and in my e-mail, which you've now made part
9 of the record, I made it plain that who called -- that the
10 decision about what witnesses to present in Mr. Inman's
11 mitigation defense was entirely up to the Defense team.
12 And it would be -- and they would make those decisions
13 unmolested from any other source, as long as the evidence
14 offered was relevant and competent. And whether or not
15 they want to call Dr. Loring as a witness in their case is
16 up to them.

17 Do you want to call her as a witness?

18 MR. BANNISTER: Judge, had the events that transpired
19 on September 11th, 2008, never happened, she would have
20 been our witness, and we were happy to have her do so.

21 In answering your question, I want to be clear. I
22 believe that the -- and it goes beyond her ability and
23 whether she's right or wrong in asserting a Fifth
24 Amendment privilege. I believe that the Solicitor's
25 conduct on the 11th, coupled with what has happened since

1 then, including what's happened down in Georgia, has put
2 us in a position that on the record in this case, there's
3 no way that she, as an expert witness, could testify in
4 this case for this Defendant and reach the level that we
5 needed to be at to be competent expert testimony for our
6 Defendant.

7 So, at this point, no, we do not intend to call her.
8 And I don't want her as a witness for that purpose.
9 Whether or not she is a witness for any other purpose, I
10 guess, remains to be seen as to how you intend to proceed.

11 THE COURT: Well, she's up here voluntarily. And
12 when all this was going on on the night of the 16th of
13 April, I did want Dr. Loring to know, as I said in the
14 e-mail, that I'm appreciative of her voluntary attendance
15 and the professionalism it exhibits.

16 Whether or not you're going to call her as a witness,
17 you need to decide now. I don't care for whatever
18 purpose. Because I intend to release her. She has come
19 up here and she is -- if you decide to call her or not
20 call her, the decision needs to be made. Because I'm
21 going to cut her loose from the subpoena.

22 MR. BANNISTER: Judge, I think, based on the record
23 that I have right now, I don't have any purpose for
24 calling her. I believe she is intimidated, harassed, and
25 that's the end of it for her.

1 THE COURT: All right. Whether you -- you're going
2 to proffer what she would have testified to or not, I
3 don't know. But I'm going to cut her loose, if you don't
4 intend to call her.

5 MR. BANNISTER: Judge, I think I'm entitled, before I
6 make that final decision with regards to how it impacts
7 our motion for prosecutorial misconduct, to know whether
8 or not you would make an affirmative finding on this
9 record that what happened in Georgia was misconduct.
10 Because if I'm not going to be permitted to --

11 THE COURT: Am I on the federal bench?

12 I don't have any authority to determine what's
13 misconduct in Georgia.

14 MR. BANNISTER: No. I'm talking about the
15 Solicitor's participation here in the Thirteenth Circuit
16 with what happened in Georgia.

17 If you tell me you don't have -- you don't believe
18 you're going to make that finding, the one I've requested,
19 then I'd like just a minute to consult --

20 THE COURT: I'm not going to give any advisory
21 opinions. You present your case. And I'm going to let
22 them present their case. I've been -- tried to be very
23 conciliatory throughout this entire proceeding. And it's
24 coming to an end.

25 MR. BANNISTER: May I have just a moment, Your Honor?

1 THE COURT: Yes, you may.

2 MR. BANNISTER: Thank you.

3 (Pause.)

4 MR. BANNISTER: Your Honor, I think we would choose
5 to call her for the limited purposes of putting what
6 we can on the record regarding what happened in
7 Georgia.

8 THE COURT: All right. Mr. Godfrey, if you would,
9 just -- would you ask her to come on into the courtroom?

10 MR. GODFREY: I beg the Court's indulgence.

11 THE COURT: And what I'm going to do --

12 And let me just say before you go, Mr. Godfrey. I
13 practiced law for 25 years as a trial lawyer. And I was
14 pleased as I could be if I could intimidate a witness. So
15 the fact that a witness is intimidated by an attorney does
16 not make it misconduct. The method of that that might
17 have caused the intimidation is what is in question, so.

18 But having said that, I'm not going to allow
19 Mr. Ariail to examine this witness.

20 So, Ms. Strom, since you haven't been directly
21 involved in this, I'm going to ask that you be responsible
22 for any examination. Okay.

23 MS. STROM: Yes, sir.

24 THE COURT: And you can tell Dr. Loring that,
25 Mr. Godfrey.

1 MR. GODFREY: Thank you, Judge.

2 (WHEREUPON, Defendant's Exhibit Nos. 32, 33, and 34
3 were marked for identification only.)

4 (WHEREUPON, Dr. Marti Loring entered the courtroom.)

5 THE COURT: Hi, Dr. Loring.

6 How are you doing?

7 DR. MARTI LORING: Fine, Your Honor.

8 THE COURT: It's good to see you

9 THE CLERK: Please place your left hand on the Bible
10 and raise your right.

11 WHEREUPON,

12 MARTI LORING, PhD,

13 after first having been duly sworn, testified as follows:

14 THE COURT: Thank you, Dr. Loring.

15 Please be seated.

16 I want to thank you for being here today and
17 emphasize my appreciation for your voluntarily attending
18 this hearing, and compliment you for the professionalism
19 that it exhibits.

20 So, at this time, I'll ask -- turn it over to
21 Mr. Bannister.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Yes, ma'am.

24 Thank you.

25 THE WITNESS: You're welcome.

DIRECT EXAMINATION

1
2 BY MR. BANNISTER:

3 Q Dr. Loring, let me first ask, do you feel like you're
4 here voluntarily?

5 A Yes and no. My understanding is that the Judge
6 wished for me to be here. So I'm glad -- very glad to do
7 that for the Judge. In that respect, I'm here
8 voluntarily. I've been through a lot leading up to this
9 in that sense. And it doesn't quite feel so voluntary to
10 me.

11 Q Thank you.

12 Dr. Loring, if I could, let me approach and hand you
13 what's been marked as Defendant's Exhibit Nos. 32, 33, and
14 34. And I'm -- well, let me ask you, if you could, just
15 for a moment to review those three exhibits briefly.

16 A (The witness complied.)

17 Q Have you had a chance to review those, Dr. Loring?

18 A Yes, sir, briefly.

19 Q Okay. If I could, let me take you back in time to
20 Thursday, April the 16th, of this year, last week. And,
21 if you will, can you just tell us what you recall from the
22 earliest point of your day that day, April the 16th?

23 A And that was Thursday of last week?

24 Q Yes. I believe that's correct.

25 A Thursday morning was a writing day for me. I'm

1 writing a book about trauma. So I drove off to Alabama.
2 And I was working away from telephones and all. And I was
3 writing on my book. And I was due back at -- I was due
4 back at a meeting. I went to a meeting at approximately
5 11:00, a little after 11:00.

6 Q And, excuse me. Is that your morning on Thursday,
7 the 16th?

8 A Yes, sir.

9 Q Okay.

10 A Excuse me. Let me think about that.

11 Yes, sir.

12 So I got in a little writing. And then I got -- I
13 came back to the meeting about -- a little after 11:00 on
14 Thursday, the 16th. And then I had an appointment to meet
15 an investigator at my home office at 2:30.

16 Q And where is your home office?

17 A In Atlanta, Georgia.

18 Q And who was supposed to meet you there, specifically?

19 A An investigator named Laura Switzer.

20 Q And did that, in fact, occur?

21 A Yes, sir.

22 Q How long were you in that meeting with Laura Switzer?

23 A Well, we left at approximately 2:30. And I believe I
24 arrived home around 7:30 in the evening on Thursday.

25 Q And, the whole time, were you at your office in

1 Atlanta?

2 A No, with Investigator Laura Switzer. I was out in a
3 neighboring city called Douglasville, Georgia. And we
4 were interviewing some family members in a case I'm
5 working on.

6 Q All right. And did you -- so, eventually, you went
7 to your residence?

8 A I came home about 7:30 Thursday night, yes, sir.

9 Q Okay. And what happened when you got home at 7:30 on
10 Thursday, the 16th?

11 A Well, I came in a different door than I usually come
12 in. Usually, I come in through -- I open the garage door,
13 drive my car in, close the garage door, and come into the
14 house, especially when I come in at night. I feel safer.
15 But it was light and Laura was -- Investigator Switzer was
16 waving goodbye.

17 So I opened up the front door. I came up to the
18 front. And that's when I discovered some papers.

19 Q Okay. Were those papers similar to any of the
20 exhibits that you've got in front of you?

21 A One of the papers was this one. And I don't believe
22 that I have seen before this time either this paper --

23 THE COURT: What exhibit number is that, ma'am, on
24 that yellow sticker? Which one are you referring to?

25 THE WITNESS: Okay. 32 is what I received, Judge.

1 THE COURT: Thank you.

2 THE WITNESS: You're welcome.

3 And I don't believe I've seen before this moment 33.

4 I do not believe I've seen 34. I, certainly, have not
5 seen 34.

6 BY MR. BANNISTER:

7 Q Thank you, Dr. Loring.

8 If you would, at the moment that you saw -- which one
9 do you have in your hand?

10 A 32.

11 Q At the moment you saw Defendant's Exhibit No. 32 at
12 your door, is that the first time that you had seen that
13 piece of paper?

14 A Yes, sir.

15 Q Okay. And what did you do as a result of that?

16 A Well, I called Attorney Bill Godfrey to tell him
17 about it. I did a sequence of things leading up to that.
18 But, essentially, I called him and told him about it. I
19 was very upset. That's what I did.

20 Q And tell me what happened next.

21 A Well, I had, also, called and gotten messages. And
22 one of the messages I had gotten was that since I had
23 missed this Court appearance, which I hadn't known about,
24 that there was a warrant issued that -- something to the
25 effect that there was an arrest warrant.

1 And after I talked with Attorney Godfrey, I was just
2 very upset. So what I did was I went on a walk. I went
3 down to a park about a half block -- quarter to half a
4 block from my home. And I swung, you know, and sat on a
5 bench and read some, and tried to calm down. And then
6 I -- later, I returned home.

7 Q Okay. Did anything happen after that?

8 A I turned in for the night. And when I got up the
9 next -- well, a lot happened while I was gone, apparently,
10 which I found out about the next day when I returned a
11 call to my neighbors.

12 Q Okay. What was your understanding of what had
13 happened while you were gone?

14 A My understanding is that the police had arrived. And
15 my neighbors said that they were prepared to --

16 MS. STROM: Objection, Your Honor. This is getting
17 into what someone else told her.

18 THE COURT: All right. Don't talk about hearsay.
19 You can tell what you understand, but you can't talk about
20 what someone said.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Okay.

23 THE WITNESS: So I may say what my understanding was?

24 THE COURT: Yes.

25 Go ahead, Mr. Bannister. I'm not going to --

1 MR. BANNISTER: Yes.

2 BY MR. BANNISTER:

3 Q You can answer what your understanding was of what
4 had transpired.

5 A My understanding is that the police had been
6 prepared -- were preparing to knock down my front door in
7 some fashion. And the neighbors -- my understanding is
8 that a call had been placed to me by the neighbors and
9 that they had assured the police that I would have
10 answered the phone had I been there, that they had
11 observed the house, and had explained that given what
12 lights were on that they were sure I was not at home.
13 Those were not the normal lights when I was at home.

14 And my understanding was, lastly, that the fact that
15 my dog was barking very loudly did not mean that --
16 perhaps, the police thought that that meant I was at home,
17 that this dog barks loudly, as does theirs, whether I'm at
18 home or not.

19 And since there -- my understanding was that their
20 explanation prevailed in the -- when I got home, the door
21 was intact. And, perhaps, the neighbors had gone to bed.
22 But I didn't hear about this until the next day when I
23 returned the call that they had made.

24 Q Okay. And that night when you returned home -- let's
25 keep it in sequence. What happened next?

1 A Are you talking about Friday night?

2 Q No. I'm talking about Thursday night.

3 A Oh, Thursday night.

4 Q You had been to the park. You came back.

5 Apparently, something had happened in between there. And
6 then what happened the remainor of Thursday night, if
7 anything?

8 A Nothing that I'm aware of.

9 Q And then what happened the following Friday, or what
10 was the next thing that happened in the sequence of events
11 that you're describing?

12 A I went to meetings Friday in the morning -- excuse
13 me. I went to meetings Friday. I'm trying to remember
14 exactly what time. And I returned the call to the
15 neighbor and found out about what had happened the night
16 before. At which time, I called Attorney Godfrey, again,
17 to let him know.

18 Then, by this time, after I finished my work, I
19 didn't really know what to do. It was 3:00, 4:00. And I
20 wasn't sure just exactly what I should do. I mean, was
21 there an arrest warrant out for me? Should -- I mean,
22 should I -- this is a judge I know. Should I place a
23 call? I hadn't seen this yet. I didn't know what to do.

24 So I brought it to Georgia lawyers. Mr. Godfrey was
25 tied up for a bit of time. So I reached out to two

1 Georgia attorneys, one of whom is a civil attorney, who
2 took some action to find out what the status was and if
3 there was anything I should do. I was glad to do it, if I
4 should go to the Sheriff's Office or something. I was,
5 certainly, glad to do that.

6 So the attorney took the liberty of sending a
7 correspondence from the Judge to the assistant district
8 attorney in DeKalb County. Well, first, my understanding
9 is that he called the investigator whose message I had
10 gotten saying that there was a warrant out. And the
11 investigator told him the ADA's, assistant district
12 attorney's, name, that the attorney called the ADA, the
13 assistant district attorney, and took the liberty of
14 sending him a correspondence from the Judge describing the
15 fact that if -- that I was glad to come, if the Judge
16 wanted me to be here, and that the Judge understood that
17 and believed that. And the assistant district attorney
18 called back the civil attorney, who I had reached out to
19 for help in Georgia, and said that, No, I didn't need to
20 do anything, that the arrest warrant had been -- I believe
21 the term was "tabled," and that it would be taken care of
22 after my appearance today, or after I came here. I didn't
23 know what was going to happen.

24 I think that brings us to the end. I, certainly -- I
25 came over last night to be sure to be here. I got lost on

1 the way, but am glad to be here.

2 THE COURT: Okay.

3 BY MR. BANNISTER:

4 Q Dr. Loring, how did this impact you, this sequence of
5 events, personally? How did you feel about what had
6 transpired with regards to the documents you have in front
7 of you and the events of Thursday night and Friday?

8 A Well, I was frightened. I mean, my normal experience
9 is I'm usually called, you know, maybe two weeks ahead and
10 advised by an attorney that they would like for me to be
11 subpoenaed. And then we arrange something right -- I'm
12 there when they want to cover it. I go get it from them,
13 however they want to do it. I've never had an arrest
14 warrant or anything like that. So it was a new experience
15 for me.

16 So I was alarmed, concerned, frightened, especially
17 when I found out that I had been described as a flight
18 risk. And then I didn't know whether I should go on my
19 vacation this last weekend or not. I was told I -- you
20 know, would I be able to get on the airplane or not? It
21 was very confusing.

22 Q Was that partly over the concern that the arrest
23 warrant might impact your travel?

24 A Yes, sir. And then I really didn't know exactly what
25 to do. I've never had an experience like this before.

1 Q Now, were you aware that there were, also,
2 allegations that you were purposefully avoiding service of
3 process?

4 A No, sir. Defendant's Exhibit No. 32 was the only
5 thing that I saw Thursday when I got back at 7:30. So I
6 haven't seen Defendant's Exhibit Nos. 33 or 34 before. I
7 believe it's -- whichever of these two was talking about
8 purposeful avoidance.

9 Q Do you know what purposely avoiding service means?
10 Do you understand those terms?

11 A I think it means if an attorney calls and says, I
12 need to give you a subpoena, and you say, No, I won't take
13 it, or that you just refuse to take it.

14 Q All right. And did you purposely avoid service of
15 process with regards to the rule nisi?

16 A No, sir. That's the one -- Defendant's Exhibit
17 No. 32 where I was to appear in Court when I was out with
18 the investigator, no, sir. I did not purposely avoid it.
19 Because I did not know about it. If I had known about it,
20 I, certainly, would have been there in the courtroom with
21 this judge whom I know.

22 Q If allegations were made that you had seen someone in
23 an official capacity attempting to serve process at your
24 residence, would you admit to or deny those allegations
25 and then have avoided that service by simply not answering

1 your door?

2 A I'm so sorry. I don't get the question. Would you
3 say it again?

4 Q Well, allegations have been made and documents filed
5 in this Court today that you were at your residence and
6 looking out the window observing an investigator from the
7 DeKalb County District Attorney's Office, and that you
8 simply refused to come to the door; is that true?

9 A No, sir. I never looked at someone trying to serve
10 me anything.

11 I have a protocol that the board of my center helped
12 me develop where if someone knocks on my door, you know,
13 they have to identify themselves and all. Then they put
14 whatever it is they want me to have down on the porch and
15 they go down the stairs. There are several stairs going
16 down. And then I come out and pick it up. And they stay
17 down there and show me their ID, so I can be safe, and so
18 that I'm not opening the door to someone who I don't know
19 who it is. Others do come into my home when I'm away.
20 There's someone who comes in to feed and take care of my
21 dog, for example.

22 Q Dr. Loring, based on your perceptions of what
23 happened -- well, let me take you back to September 10th
24 and 11th, 2008. Do you remember when you were here in
25 Pickens County and issues about licensing were raised by

1 the Solicitor?

2 A Yes, sir.

3 Q Okay. And then I believe the sequence was you were
4 able to consult with an attorney and, ultimately, asserted
5 your Fifth Amendment at that time; correct?

6 A Yes, sir.

7 Q Okay. That chain of events, coupled with what has
8 happened in Georgia, do you believe, in this case, that
9 you would be capable of giving your expert opinion to the
10 level you've become used to, that you expect of yourself?

11 A Well, I would have to truthfully tell you that this
12 is a very alarming experience. And I cannot assure you a
13 hundred percent that going through all this would not have
14 an impact on me.

15 However, I, certainly, come prepared today for
16 whatever the Judge asks with all the equipment I've
17 developed for this case, and for which our center has been
18 paid for this case, to do my very best, to do a
19 professional and thorough job in the role of mitigation
20 expert.

21 Q Can you say that the fact that the Solicitor is
22 here -- well, let me ask you this. Do you tie this
23 Solicitor, Solicitor Ariail, and his office with what
24 happened in Georgia, in your mind?

25 MS. STROM: I would object, Your Honor.

1 THE COURT: Well, he's asking about her state of
2 mind. I'll let her answer.

3 But you're getting -- you're starting to wander,
4 Mr. Bannister. We're going to not wander.

5 THE WITNESS: I don't know the answer to that, sir.

6 BY MR. BANNISTER:

7 Q Would the fact that the Solicitor that -- well, the
8 same Solicitor that has been involved in the case all
9 along is here and would be, potentially, cross-examining
10 you regarding any testimony you would give, would that
11 have an impact on your ability to render your testimony
12 unimpeded and unimpaired?

13 A I don't know the answer to that either. I would,
14 certainly, try to do my best in a professional and
15 thorough manner. I don't know how that would impact me.

16 THE COURT: Let me interrupt for just a second.

17 Dr. Loring, I would tell you that, if you are called
18 as a witness, I would not allow Solicitor Ariail to be the
19 attorney who handled the examination. And so I've made
20 that clear. And if that is -- I don't know how that would
21 impact you or not, but I want you to be aware of that.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Yes, ma'am.

24 BY MR. BANNISTER:

25 Q Dr. Loring, when was the last time that we've had any

1 consultation regarding this case?

2 A I believe it was September of 2008.

3 Q Okay. And when was the first time that you picked
4 this case back up to try to refresh your recollection
5 regarding where you were?

6 A This last week.

7 Q And how long have you spent trying to do that,
8 approximately?

9 A I'd estimate between four and five hours.

10 Q Okay. And just to be clear, you and I have had no
11 contact while -- within the last two weeks; is that
12 correct?

13 A Yes, sir. That's correct.

14 MR. BANNISTER: Just a minute, Your Honor.

15 If you'll give me just a moment, Judge. I think I'm
16 almost done.

17 (Pause.)

18 BY MR. BANNISTER:

19 Q Dr. Loring, one final question. Back in September,
20 did you feel like you were intimidated, at that time, with
21 regards to your testimony and the allegations of the
22 licensing statute and potential criminal penalties?

23 MS. STROM: Your Honor, I don't see where that's
24 relevant to --

25 THE COURT: She's already answered that question.

1 She answered it in September. She said, yes, she was.

2 MR. BANNISTER: Then I don't have any further
3 questions, Your Honor.

4 THE COURT: Okay. Ms. Strom.

5 MS. STROM: Very briefly, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. STROM:

8 Q Good morning, Dr. Loring.

9 A Good morning.

10 Q I know I've met you on several occasions, but I don't
11 know that I've had the pleasure of questioning you.

12 I want to go back just a couple of days, you were
13 questioned here today about the April 16th day?

14 A Yes, ma'am.

15 Q Okay. Prior to April 16th, which was the Thursday,
16 were you aware -- did Mr. Godfrey contact you prior to
17 that date about a hearing being held on the 14th where he
18 represented your interest and about the subpoena being
19 issued?

20 A Yes, ma'am.

21 Q Okay. Did he contact you before the 14th to get your
22 permission to -- well, he, as your lawyer, filed what was
23 called a return to the out-of-state witness subpoena
24 saying that he did not believe you were a material
25 witness. Did he talk to you ahead of time prior to his

1 filing that?

2 A I'm not real sure. He has my permission to do
3 whatever he thinks is important. I'm aware of it
4 happening. But I'm not real sure whether it was the day
5 before or the day after.

6 Q Okay. I can tell you that on the 14th -- April 14th,
7 there was a hearing before this Court where Mr. Godfrey
8 represented your interest and said that -- I'm
9 paraphrasing, but, you know, saying that you should not be
10 required to come back to South Carolina to testify in this
11 case. Were you aware of that hearing? Were you aware
12 that that took place?

13 A Yes, ma'am. I was aware that he was going to do
14 that, yes.

15 Q You were aware he was going to do that?

16 A Or that he had just done it. But, anyway, yes,
17 ma'am, I think it's safe to say I was aware of that.

18 Q Okay. And you were aware, also, of the results of
19 that hearing as to the fact that Judge Miller refused to
20 rescind his certification of the subpoena?

21 A Yes, ma'am.

22 Q Okay. So -- and, again, that was held on the 14th.
23 So if that hearing was held on the 14th, you were -- I
24 take it that you knew about the results because
25 Mr. Godfrey called you, or did you call him?

1 A I don't remember. I'm a little rattled by all this.

2 Q Okay.

3 A So if I don't know an answer to your question, I'm
4 just going to say that I don't know.

5 Q Okay.

6 A I don't know who called who.

7 Q Okay. But you did converse with him. As to whether
8 he called you or you called him, y'all conversed about it
9 and you knew the results?

10 A Either we talked, or there was an e-mail, or there
11 was a text.

12 Q Okay.

13 A I can't -- I'm trying to be very honest with you.

14 Q I understand.

15 A At this moment, I, honestly, don't know which. But I
16 did know the results.

17 Q Of the hearing on the 14th?

18 A That's correct, ma'am.

19 Q Okay. And so when you saw the -- let's move forward
20 now to the 16th. You saw the packet of information on
21 your door -- or on your front door, I think you said,
22 because you went in through a different door?

23 A No, ma'am. That -- it was not on my door. When I
24 went in at 7:30 in the evening on Thursday, the 16th, it
25 was lying on the ground between a silver milk box that

1 people -- well, between a silver milk box and the front
2 door. It was folded over so that when I undid the door
3 and was opening it, then I saw it lying there while the
4 alarm buzzer was going off and my dog was trying to get
5 out. It was a lot going on. That's when I saw it. And I
6 picked it up and looked at it.

7 Q And what all was contained in those documents?

8 A When I looked at it, the first thing I saw was
9 Defendant's Exhibit No. 32.

10 Q Do you mind if I see that?

11 A Please.

12 Q Thank you.

13 A My pleasure.

14 Q And Defendant's Exhibit No. 32 is the rule nisi
15 saying that a hearing is to be held on the 16th at
16 3:00 p.m.

17 A That is correct. And it was now 7:30 at night on
18 the --

19 Q On the 16th?

20 A And I, clearly, missed this.

21 Q Yes, ma'am.

22 A And I was very upset.

23 Q Yes, ma'am. There were other documents with that;
24 correct?

25 A Yes, there was, beneath it.

1 Q Okay. And it was sort of a packet of information.
2 Do you recall seeing a promise to appear document?

3 A When I turned this over, I saw the subpoena. I think
4 that was the subpoena.

5 Q Okay. Did you read the other documents that were
6 attached to it?

7 A No. I thought it was just the subpoena. And then
8 with -- and then I put it down, turned off the alarm, got
9 the dog back in, and closed the door. I don't even think
10 I brought it in. And that's when I went to call Attorney
11 Godfrey. I was very frightened and concerned, as a
12 professional, that there had been a hearing that I hadn't
13 attended that I was supposed to go to.

14 Q And so you left the documents on the porch area and
15 went in and called Mr. Godfrey?

16 A Right away, yes, ma'am -- well, not right away.
17 Actually, I was looking up his number. And, while I was
18 looking up his number, I was collecting messages. Because
19 I hadn't gotten any of the messages. I had been out --

20 Q Were his --

21 A -- writing the --

22 Q I'm sorry. I didn't mean to interrupt you.

23 A That's okay.

24 Because, remember, I was out writing, then to the
25 meeting, and then with the investigator. So there was a

1 day and a half or two days of messages, because I had
2 written the day before, too.

3 So I got all of these messages. And the
4 investigator's message was on there about there being a
5 warrant. So I realized just before I got Attorney
6 Godfrey's number -- and I didn't listen to any more
7 messages. I called him. And I realized that it was a
8 very serious situation.

9 Q And then the investigator -- I'll probably not
10 pronounce his name correctly -- Bednards [phonetic]. Does
11 that ring a bell?

12 A I thought maybe "Ben" was his first name and "Norris"
13 was his last name. But I don't know that for sure.

14 Q And did you call him at approximately 8:45 the next
15 day, on Friday?

16 A No, ma'am. He called me.

17 Q He called you?

18 A Yes, ma'am.

19 Q And did you converse with him?

20 A No, ma'am. I asked him to call the Judge.

21 Q Okay.

22 A At that point, I didn't know what was going to
23 happen. And the Judge seemed to understand where I was
24 coming from and what I was willing to do. I just asked
25 him to call the Judge and talk with the Judge and get a

1 clear understanding of what was happening. And I think he
2 agreed to do that.

3 Q Okay. I want to go back to --

4 A I'm not -- excuse me. I'm not sure that he agreed --
5 I think he -- I think he agreed to do that.

6 Q Okay. The day of 16th, the Thursday, April 16th --

7 A Yes, ma'am.

8 Q -- you talked about that you were doing writing. So
9 you went to Alabama?

10 A Yes, ma'am.

11 Q Okay. What time did you leave to go to Alabama?

12 A Oh, really early in the morning. I don't know if it
13 was -- I got up at 5:00, so as quickly as I could get out.

14 Q And you said you had to be back for a meeting at
15 11:00?

16 A 11:30, yes, ma'am.

17 Q 11:30. Okay.

18 A It was 11:00. But they were running late, so I knew
19 I could come in at 11:00 to 11:30.

20 Q So what time did you get back from Alabama?

21 A I went right to the meeting.

22 Q And where was the meeting?

23 A It was out in an area we call Phipps and Lennox Mall
24 out in North Atlanta. I got there, oh, about 10 after
25 11:00 on Thursday morning.

1 Q Okay. And you left that meeting and went where?

2 A Let's see. I left that meeting and I came back to my
3 home office to be picked up by Investigator Switzer and
4 came in the garage.

5 Q And do you recall, approximately, what time it was
6 that you came back to your house?

7 A Yes, ma'am, approximately 2:30.

8 Q And I believe you testified earlier that you left
9 with that investigator and did not return until later in
10 the evening?

11 A 7:30 -- about 7:30, yes, ma'am. That's correct.

12 Q And then it was then that you went in through the
13 front door and saw the documents?

14 A Yes, ma'am.

15 MS. STROM: Just one moment, please.

16 THE WITNESS: Thank you.

17 (Pause.)

18 MS. STROM: Thank you, Dr. Loring.

19 I appreciate it.

20 THE WITNESS: Thank you, ma'am.

21 MR. BANNISTER: Just briefly, Judge.

22 REDIRECT EXAMINATION

23 BY MR. BANNISTER:

24 Q Dr. Loring, as a testifying expert, is there a
25 certain level of preparation and a certain level of

1 composure, as a witness, that you're used to having when
2 you're in the courtroom?

3 MS. STROM: I would object, Your Honor. That is
4 outside the scope of redirect.

5 THE COURT: I'll let him ask the question over your
6 objection. You're correct about that, but I'm -- wide
7 latitude here.

8 Go ahead.

9 MS. STROM: Thank you.

10 BY MR. BANNISTER:

11 Q Do I need to repeat the question?

12 A Would you be so kind?

13 Q Is there a certain level of preparation and composure
14 that you are used to having as an expert witness who
15 testifies in Court?

16 A Yes, sir.

17 Q And do you believe, here today, you are at that level
18 of preparation and composure that you are used to having?

19 A No, sir.

20 Q Is it less than what you are used to having?

21 A Yes, sir.

22 MR. BANNISTER: Thank you.

23 No further questions.

24 THE COURT: All right. Dr. Loring, you had
25 already -- prior to any of these documents appearing at

1 your house, before any of this happened, you had already
2 spoken with Mr. Godfrey and you were prepared to come
3 testify voluntarily, were you not?

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay. Before any subpoena was issued,
6 you received a letter that Mr. Godfrey procured from the
7 Department of Labor, Licensing, and Regulation with the
8 State of South Carolina; is that right?

9 THE WITNESS: Yes, sir.

10 THE COURT: And you reviewed that and your fears were
11 assuaged; is that correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. And that was before any of
14 this other -- these other events occurred; correct?

15 THE WITNESS: Yes, sir.

16 THE COURT: So I presume --

17 MR. BANNISTER: Your Honor --

18 THE COURT: Just a minute.

19 MR. BANNISTER: I'm sorry.

20 THE COURT: I presume then that the activity of the
21 people in Georgia have made you feel now that you don't
22 have the composure and preparation that you felt like you
23 had before all this started; is that right?

24 THE WITNESS: In part, Your Honor, yes, sir.

25 THE COURT: Okay. Anything else from anybody?

1 MR. GODFREY: May it please the Court?

2 Since you brought up the Department of Labor,
3 Licensing, and Regulation opinion, I have the original
4 here. I'd like to enter it as a Court's Exhibit.

5 THE COURT: Sure.

6 MR. GODFREY: The date on it is April 16, 2009. And
7 I'll give you a copy.

8 (WHEREUPON, Court's Exhibit No. 3 was marked for
9 identification and admitted into evidence.)

10 MR. GODFREY: Nothing further, Judge

11 THE COURT: Anything y'all want to ask?

12 MS. STROM: We have nothing further.

13 THE COURT: Mr. Bannister?

14 MR. BANNISTER: No, sir, Your Honor.

15 THE COURT: Dr. Loring, ma'am, I'm going to ask you
16 just to stick around for a little bit -- a little while
17 this morning.

18 But thank you very much for coming.

19 I apologize for any inconvenience that you've
20 suffered.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Thank you.

23 THE WITNESS: May I leave these here?

24 THE COURT: Yes, ma'am, please do. That's great.

25 (WHEREUPON, Dr. Marti Loring exited the courtroom.)

1 THE COURT: All right. Along these lines, I'm going
2 to put into the record that I was contacted by Mr. Godfrey
3 on the evening of April 16th at about 10:15 p.m., which --
4 and he expressed to me that there were police trying to
5 arrest Dr. Loring. As a result of all that -- I don't
6 remember if he called me once or twice. I don't know. I
7 sent out that e-mail, which has been attached to the --
8 Mr. Godfrey's motion.

9 Then on the morning -- and he gave me the name of Ben
10 Norris. And I called Ben Norris with Georgia law
11 enforcement the morning of April 17th at -- I've got 10:30
12 is the note I made. He informed me that 30 minutes
13 before, he had been -- 30 minutes prior to my phone call
14 to him, they had been instructed to stand down with
15 respect to this bench warrant.

16 And then I called Mr. Geary with the District
17 Attorney's Office. He informed me that he got a call from
18 South Carolina asking them to stand down, the problem was
19 solved. So that's my knowledge and input into this
20 circumstance.

21 All right. I'd like you to think about it and see if
22 you want to take a -- if you want to consider calling
23 Dr. Loring as a witness in mitigation in your case. She
24 was ready, willing, and able on the morning of April 16th
25 to come freely and voluntarily to testify in these -- as a

1 mitigation expert in your case.

2 So we'll take about a 15-, 20-minute recess.

3 (WHEREUPON, a break was taken.)

4 THE COURT: All right. Have you made a decision
5 about Dr. Loring?

6 MR. BANNISTER: Your Honor, I think there are a
7 number of motions that we wanted to address, at least,
8 initially, because they may impact where we are. But I
9 don't believe we're in a position where we can --

10 THE COURT: All right. We'll ask her to stay.

11 MR. BANNISTER: -- call her as a witness for the
12 Defendant right now.

13 Well, Judge, you're asking me -- I think it's putting
14 a --

15 THE COURT: Do you want me to have her stay? That's
16 what I'm asking.

17 MR. BANNISTER: Yeah, I think for the moment.

18 THE COURT: Okay. Well, go ahead.

19 What's your next --

20 MR. BANNISTER: Your Honor, the -- I just handed the
21 Clerk's Office, the Solicitor, and Your Honor a renewed
22 motion for recusal of the Thirteenth Circuit Solicitor's
23 Office.

24 Just briefly, you'll recall that that was part of the
25 oral motion we made back on September 11th. And I pointed

1 out, at that time, because of the nature of the motion
2 regarding prosecutorial misconduct, it's personal to the
3 Solicitor, it's personal to other members of his
4 prosecution team, and, as a result, it created a situation
5 where he's got divided loyalty. He has loyalty to the
6 case as the administer of justice to prosecute the
7 indictment. But, also, because it involves what was going
8 on -- and I guess a better way to say it, inside the
9 Solicitor's mind and because it involved both ethics,
10 state statutes, and the Defendant's Constitutional rights,
11 and his personal conduct as it related to those three
12 areas that it would create a situation where he could not
13 do both, and that he had a conflict of interest.

14 I think assuming, for the moment, that the
15 Solicitor's Office had a role in what happened in Georgia,
16 that would be an example of how that conflict of interest
17 is impacting this case and creating new and worse issues.
18 I mean, it was a bad situation to start off with and it's
19 simply gotten worse.

20 Your Honor, in addition, at some point, when we go --
21 when we get into prosecutorial misconduct, what the
22 Solicitor knew, when he knew it, and what conclusions he
23 made regarding it at the time that he knew it are all
24 going to be of significant legal impact to the Defendant's
25 case.