

VOLUME SIX OF EIGHT

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HORRY COUNTY
Steven H John, Circuit Court Judge

THE STATE,

RESPONDENT,

V

STEPHEN CHRISTOPHER STANKO,

APPELLANT

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INDEX

INDEX	1
TRIAL TRANSCRIPT DATED NOVEMBER 9-12, 2009	1
JURY QUALIFICATION	30
DEBORAH D STUHLEMMER	
Examination by the Court	30
Examination by Mr Hembree	41
Examination by Mr Diggs	44
Examination by the Court	50
Examination by Mr Diggs	50
TAMMY M HENDERSON	
Examination by the Court	54
Examination by Mr Humphries	65
Examination by Mr Diggs	68
LAKENYA P JORDAN	
Examination by the Court	80
Examination by Mr Hembree	88
Examination by Ms Williams	93
Examination by the Court	95
JOHNNY MARVIN CHESTNUT	
Examination by the Court	98
Examination by Mr Humphries	105
Examination by Mr Diggs	109
WILLIAM A FILES	
Examination by the Court	115
JUDY C BLYMPH	
Examination by Mr Humphries	133
Examination by Mr Diggs	139
JANE C MILLER	
Examination by the Court	144
Examination by Mr Hembree	154
Examination by Mr Diggs	157
Examination by the Court	162

STEPHEN D WILLIAMS	
Examination by the Court	165
Examination by Mr Humphries	171
Examination by Ms Williams	173
Examination by the Court	176
TERESA P WOOLARD	
Examination by the Court	179
Examination by Mr Hembree	188
Examination by the Court	195
Examination by Mr Hembree	196
MATTHEW J ARBAUGH	
Examination by the Court	201
Examination by Mr Humphries	207
LISA SELLERS	
Examination by the Court	213
TELIA GIBBONS	
Examination by the Court	223
Examination by Mr Hembree	225
BENCH CONFERENCE	228
BOBBY THOMAS BRANTON, JR	
Examination by the Court	229
Examination by Mr Humphries	239
Examination by Mr Diggs	240
Examination by the Court	244
BRANDON W BOYD	
Examination by the Court	246
Examination by Ms Williams	255
MARGARET M BARTOMEIO	
Examination by the Court	259
Examination by Mr Diggs	267
JAMES EDWARD BERRY	
Examination by the Court	274
Examination by Ms Williams	281

VICTOR ROMANO	
Examination by the Court	286
Examination by Mr Diggs	293
Examination by the Court	294
 ELIZABETH L HOLTON	
Examination by the Court	296
Examination by Mr Hembree	307
Examination by Mr Diggs	309
Examination by the Court	314
 THOMAS GARY MURRAY	
Examination by the Court	316
Examination by Mr Diggs	324
Examination by the Court	328
 LONNIE DANIELS, III	
Examination by the Court	330
 MICHAEL S RAY	
Examination by the Court	338
Examination by Ms Williams	346
 DARLENE CONSTABLE NOVAK	
Examination by the Court	350
 VIRGINIA A GRISSETT	
Examination by the Court	357
 VANCE A DEFELICE	
Examination by the Court	361
 ANDREW C LANGWAY	
Examination by the Court	366
Examination by Mr Humphries	376
Examination by Ms Williams	381
Examination by the Court	386
 COLLOQUY	388
 LINDA ALEXANDER MORRISON	
Examination by the Court	399
Examination by Mr Hembree	405
Examination by Mr Diggs	408

WAVERLY L STANLEY	
Examination by the Court	414
Examination by Mr Richardson	424
Examination by Ms Williams	425
 RYAN L RODRIGUEZ	
Examination by the Court	429
 JOHNNY L CAUSEY, JR	
Examination by the Court	434
Examination by Mr Diggs	441
 GERALD A ELLIS	
Examination by the Court	448
 JENNIFER A JOHNSON	
Examination by the Court	454
Examination by Mr Hembree	463
Examination by Mr Diggs	467
Examination by the Court	473
 MIHCAEL P WALSH	
Examination by the Court	481
 PAUL F LECKIE	
Examination by the Court	491
 JANE E POWELL	
Examination by the Court	494
Examination by Mr Richardson	504
Examination by Mr Diggs	505
 KRISTAL N WARREN	
Examination by the Court	512
Examination by Mr Humphries	522
Examination by Ms Williams	525
Examination by the Court	529
 RICHARD BEASLEY	
Examination by the Court	531
 BRENDA L HOLDERFIELD	
Examination by the Court	536
 VICKI BRADDY MILLER	
Examination by the Court	541

V

RUSSELL M GREEN	
Examination by the Court	547
BARBARA A CARR	
Examination by the Court	555
JOYCE ANN CHESTNUT	
Examination by the Court	558
Examination by Mr Hembree	567
Examination by Mr Diggs	567
Examination by the Court	573
JAMES G BELLAMY	
Examination by the Court	576
Examination by Mr Humphries	588
Examination by the Court	590
SYLVIA W WATERSON	
Examination by the Court	592
Examination by Mr Hembree	602
SANDRA M SNYDER	
Examination by the Court	606
DELPHIA M WILSON	
Examination by the Court	610
LISA DAWN MCGEE MCKENZIE	
Examination by the Court	619
BONNIE J OGUIN	
Examination by the Court	624
Examination by Mr Diggs	634
Examination by the Court	640
GLORIA L MORRIS	
Examination by the Court	646
RANDALL W BROUGHTON	
Examination by the Court	655
Examination by Mr Hembree	666
Examination by Mr Diggs	671
Examination by the Court	674

KYNA TRIPLETT	
Examination by the Court	677
BEVERLY PITTMAN	
Examination by the Court	684
Examination by Mr Humphries	691
Examination by Mr Diggs	694
LINDA J ORSIMARSI	
Examination by the Court	697
ARIANE E JOYCE	
Examination by the Court	704
Examination by Mr Richardson	712
Examination by Mr Diggs	715
DAVID L DIMAIO	
Examination by the Court	719
TONIA L LEIDIG	
Examination by the Court	725
JOYCE E SPENGLER	
Examination by the Court	730
Examination by Mr Hembree	738
Examination by Mr Diggs	738
MARY B BATES	
Examination by the Court	742
SIOBHAN M STEVENS	
Examination by the Court	746
Examination by Mr Hembree	753
Examination by Ms Williams	754
JIMMY L WATSON	
Examination by the Court	757
Examination by Mr Hembree	764
Examination by Mr Diggs	767
TINA M ANGELO	
Examination by the Court	770
Examination by Mr Hembree	772
Examination by Mr Diggs	773
Examination by the Court	773

LINDA C DUPREE	
Examination by the Court	783
Examination by Mr Hembree	792
Examination by Mr Diggs	793
STEVEN J FINLEY	
Examination by the Court	797
Examination by Ms Williams	806
ANGEL R CATILLO	
Examination by the Court	811
Examination by Mr Diggs	819
Examination by Mr Hembree	821
Examination by Mr Diggs	824
VELVADEAN VAUGHT	
Examination by the Court	826
Examination by Mr Hemphries	834
WALTER D CUMBOW, JR	
Examination by the Court	840
WESLEY S ALLEN	
Examination by the Court	849
Examination by Mr Hembree	862
ROSE M DIAZ	
Examination by the Court	867
CELESTE A GRIFFIN	
Examination by the Court	875
Examination by Mr Hembree	883
Examination by Mr Diggs	884
Examination by the Court	885
ZACHARY A CLARK	
Examination by the Court	889
Examination by Mr Richardson	897
Examination by Mr Diggs	899
LISA A KEANE	
Examination by the Court	904
Examination by Mr Hembree	912
Examination by Ms Williams	912

KIMBERLEY B C GOH	
Examination by the Court	917
RHONDA M JOHNSON	
Examination by the Court	922
SHANNON ROSE HEADLEY	
Examination by the Court	929
Examination by Mr Humphries	942
Examination by Mr Diggs	944
JOHN J GIRA	
Examination by the Court	960
SHARON L LEMON	
Examination by the Court	966
SARA P NEWTON	
Examination by the Court	974
Examination by Mr Hembree	985
Examination by Ms Williams	989
SONNY W CANNON	
Examination by the Court	999
Examination by Mr Hembree	1010
Examination by Mr Diggs	1014
MICHAEL L LAUGHTER	
Examination by the Court	1020
JEREMIE C WEST	
Examination by the Court	1025
THOMAS LEE SHELLEY, II	
Examination by the Court	1029
Examination by Mr Diggs	1032
GINA F BOGGS	
Examination by the Court	1034
BRIAN S KEANE	
Examination by the Court	1040
GLENDA F JOHNSON	
Examination by the Court	1043

TIMOTHY O JORDAN	
Examination by the Court	1052
DONNA J GORE	
Examination by the Court	1056
ANNTANETTE D AKLIN	
Examination by the Court	1071
TERRY W GARTNER	
Examination by the Court	1077
Examination by Mr Diggs	1085
ANDREW J CLAYBROOK	
Examination by the Court	1091
ROBERT D SUMMERS	
Examination by the Court	1096
Examination by Mr Hembree	1109
Examination by Ms Williams	1112
Examination by the Court	1118
DANIEL C BECKER	
Examination by the Court	1126
ROBERT WAYNE HALL	
Examination by the Court	1137
Examination by the Mr Humphries	1148
Examination by Ms Williams	1150
CHRISTOPHER DANIEL LOMBARDI	
Examination by the Court	1155
LYNN W FRICK	
Examination by the Court	1160
Examination by Mr Hembree	1170
Examination by Mr Diggs	1174
HATTIE M MYERS	
Examination by the Court	1179
Examination by Mr Hembree	1189
Examination by Mr Diggs	1190
AMANDA L JOHNSON	
Examination by the Court	1194

COLLOQUY	1200
JAMES B ALLISON	
Examination by the Court	1203
GWENDOLYN DIANE AGRIPINO	
Examination by the Court	1206
Examination by Mr Richardson	1216
Examination by Ms Williams	1219
MELISSA A ISAACSON	
Examination by the Court	1224
DAVID G LLOYD, III	
Examination by the Court	1227
Examination by Mr Hembree	1235
Examination by Ms Williams	1236
BEVERLY J THALMAN	
Examination by the Court	1244
BARRY J WATSON	
Examination by the Court	1249
DANIEL E BEGLEY	
Examination by the Court	1253
NANCY L CUSTARD	
Examination by the Court	1256
Examination by Mr Hembree	1266
Examination by Mr Diggs	1267

November 13, 2009

MOTIONS	1279
JURY SELECTION	1296
CHANGE OF VENUE MOTION BY DEFENSE	1335
RULING DENYING CHANGE OF VENUE MOTION	1413
OPENING REMARKS BY THE COURT	1418

OPENING STATEMENTS BY MR HEMBREE	1435
OPENING STATEMENTS BY MS WILLIAMS	1445
OPENING STATEMENTS BY MR DIGGS	1447
COLLOQUY	1463
REBECCA CALEY	
Direct Examination by Mr Hembree	1473
CHRIS POWELL	
Direct Examination by Mr Humphries	1479
Cross Examination by Mr Diggs	1483
RUSSELL JORDAN	
Direct Examination by Mr Humphries	1496
Cross Examination by Ms Williams	1500
JOHN MARVIN COOPER	
Direct Examination by Mr Humphries	1504
Cross Examination by Mr Diggs	1517
ROBERT TODD	
Direct Examination by Mr Hembree	1533
Cross Examination by Ms Williams	1545
JIMMY EDWARDS	
Direct Examination by Mr Hembree	1549
CRAIG HUTCHINSON	
Direct Examination by Mr Hembree	1559
Cross Examination by Mr Diggs	1569
JEFF CAUSE	
Direct Examination by Mr Humphries	1575
DEBBIE GALLOGLY	
Direct Examination by Mr Richardson	1598
JANE TURNER	
Direct Examination by Mr Humphries	1604
RYAN COLEMAN	
Direct Examination by Mr Hembree	1617
Cross Examination by Mr Diggs	1626

DANA PUTNAM	
Direct Examination by Mr Humphries	1634
Cross Examination by Mr Diggs	1661
JASON WATSON	
Direct Examination by Mr Hembree	1670
Cross Examination by Ms Williams	1676
November 14-19, 2009	
JAMES GORDON	
Direct Examination by Mr Hembree	1707
Cross Examination by Ms Williams	1722
NEAL JOHNSON	
Direct Examination by Mr Hembree	1725
ANNE PITTS	
Direct Examination by Mr Hembree	1728
Cross Examination by Ms Williams	1728
KIM A COLLINS	
Direct Examination by Mr Hembree	1730
NEAL LIVINGSTON	
Direct Examination by Mr Richardson	1747
JOHN CAULDER	
Direct Examination by Mr Richardson	1749
FRANK DAN DEFREESE	
Direct Examination by Mr Humphries	1751
DIRECTED VERDICT MOTION	1757
DEFENSE CASE	
BRENT E TURVEY	
Direct Examination by Ms Williams	1769
Cross Examination by Mr Hembree	1788
Redirect Examination by Ms Williams	1811
Recross Examination by Mr Humphries	1871
THOMAS SACHY	
Direct Examination by Mr Diggs	1894
Cross Examination by Mr Hembree	1899

MOTIONS	1908
BERNARD ALBINIAK	
Direct Examination by Mr Diggs	1913
Cross Examination by Mr Humphries	1952
Redirect Examination by Mr Diggs	1954
BRYAN WILSON	
Direct Examination by Ms Williams	1957
Cross Examination by Mr Hembree	1961
JAMES W THRASHER	
Direct Examination by Mr Diggs	1964
Cross Examination by Mr Hembree	1990
Redirect Examination by Mr Diggs	2007
Recross Examination by Mr Hembree	2009
REUBEN GUR	
Direct Examination by Ms Williams	2011
Cross Examination by Mr Humphries	2063
Redirect Examination by Ms Williams	2069
MARC P EINHORN	
Direct Examination by Mr Diggs	2074
Cross Examination by Mr Hembree	2079
Direct Examination by Mr Diggs	2081
Cross Examination by Mr Hembree	2090
JOSEPH L CONG-SANG WU	
Direct Examination by Mr Diggs	2105
Cross Examination by Mr Humphries	2161
Redirect Examination by Mr Diggs	2173
THOMAS SACHY	
Direct Examination by Mr Diggs	2176
Cross Examination by Mr Hembree	2179
Direct Examination by Mr Diggs	2181
Cross Examination by Mr Hembree	2207
COLLOQUY	2223
THOMAS SACHY	
Cross Examination by Mr Hembree	2229
Redirect Examination by Diggs	2248
Recross Examination by Mr Hembree	2256

COLLOQUY	2258
PAMELA CRAWFORD	
Direct Examination by Mr Hembree	2271
MOTIONS	2273
CASE- IN- REPLY	
PAMELA CRAWFORD	
Direct Examination by Mr Hembree	2277
Cross Examination by Mr Diggs	2302
WILLIAM LESTER BRANNON, JR	
Direct Examination by Mr Humphries	2320
Cross Examination by Ms Williams	2333
KENNETH M SPICER	
Direct Examination by Mr Hembree	2346
Cross Examination by Mr Diggs	2383
MOTIONS	2411
ARGUMENT BY MR HUMPHRIES	2432
ARGUMENT BY MS WILLIAMS	2448
JURY INSTRUCTIONS	2464
VERDICT	2482
JURY POLLED	2482
MOTIONS	2487
PENALTY PHASE	
MOTION IN LIMINE	2490
OPENING STATEMENTS BY MR HUMPHRIES	2499
OPENING STATEMENTS BY MS WILLIAMS	2502
ELIZABETH M BUCKNER	
Direct Examination by Mr Humphries	2512
Cross Examination by Mr Diggs	2523

DARRELL LEWIS	
Direct Examination by Mr Humphries	2533
Cross Examination by Ms Williams	2543
KATHLEEN A CROLLEY	
Direct Examination by Mr Humphries	2548
Cross Examination by Mr Diggs	2554
RICHARD S LEE	
Direct Examination by Mr Richardson	2560
Cross Examination by Mr Diggs	2567
JAMES CARSON JACKSON	
Direct Examination by Mr Richardson	2570
Cross Examination by Mr Williams	2574
DON M MCALISTER	
Direct Examination by Mr Richardson	2578
Cross Examination by Mr Diggs	2587
JOHN ROBERT GAUMER	
Direct Examination by Mr Humphries	2594
Cross Examination by Ms Williams	2601
ROBERT GERALD OWENS	
Direct Examination by Mr Hembree	2603
CHARLES PETRELLA	
Direct Examination by Mr Humphries	2608
MOTIONS	2617
WILLIAM PIERCE	
Direct Examination by Mr Humphries	2631
Cross Examination by Mr Diggs	2641
Redirect Examination by Mr Humphries	2645
KELLY WIRDZEK	
Direct Examination by Mr Hembree	2646
Cross Examination by Ms Williams	2653
SCOTT BERIN BURNS	
Direct Examination by Mr Hembree	2655
Cross Examination by Ms Williams	2672

KIM A COLLINS	
Direct Examination by Mr Hembree	2677
Cross Examination by Mr Diggs	2692
Redirect Examination by Mr Hembree	2695
CECELIA KOTSIPIAS	
Direct Examination by Mr Hembree	2696
Cross Examination by Ms Williams	2708
DEBBIE GALLOGLY	
Direct Examination by Mr Hembree	2711
ROGER TURNER	
Direct Examination by Mr Hembree	2729
DEFENSE CASE	
JAMES W THRASHER, JR	
Direct Examination by Mr Diggs	2747
WANDA REED BROOKS	
Direct Examination by Ms Williams	2751
CLARISSA WENZ	
Direct Examination by Ms Williams	2755
BARBARA BOLAND	
Direct Examination by Mr Diggs	2760
HERBERT FRANK SHEALY	
Direct Examination by Mr Diggs	2767
JOHN FULMER	
Direct Examination by Mr Diggs	2772
ROGER STEWART	
Direct Examination by Mr Diggs	2781
Cross Examination by Mr Hembree	2785
RALPH STEVEN BEARDSLEY	
Direct Examination by Ms Williams	2786
EVELYN C CALIFF	
Direct Examination by Mr Diggs	2793
Cross Examination by Mr Humphries	2813
CLOSING ARGUMENT BY MR HEMBREE	2823

CLOSING ARGUMENTS BY MS WILLIAMS	2843
CLOSING STATEMENTS BY MR STANKO	2844
CLOSING ARGUMENT BY MS WILLIAMS	2859
INSTRUCTIONS BY THE COURT	2869
CHARGE ON THE LAW BY THE COURT	2878
VERDICT	2897
JURY POLLED	2898
SENTENCING	2905
PRE TRIAL HEARING, NOVEMBER 15, 2006	2909
POST-CONVICTION RELIEF HEARING, DECEMBER 8, 2008	2929
PRE TRIAL MOTIONS HEARING, MARCH 4, 2009	2955
PRE TRIAL MOTION TO REVIEW STATUS OF COUNSEL HEARING, JUNE 5, 2009	2971
PRE TRIAL MOTIONS HEARING, AUGUST 24, 2009	3011
PRE TRIAL MOTIONS HEARING, OCTOBER 8, 2009	3024
PRE TRIAL MOTIONS HEARING, OCTOBER 23, 2009	3130
PRE TRIAL MOTIONS HEARING, OCTOBER 30, 2009	3306
PRE TRIAL HEARING, NOVEMBER 4, 2009	3365
PAMELA CRAWFORD Direct Examination by Mr Hembree	3367
STEPHEN C STANKO Examination by the Court	3375
MOTIONS	3379
REVIEW OF ROLL CALL LIST FOR PANEL	3387

PRE TRIAL HEARING, NOVEMBER 6, 2009	3421
GENERAL QULAIFICATIONS OF JURORS	3423
INDICTMENT	3506
ORDER APPOINTING COUNSEL	3508
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION #1)	3512
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION #2)	3514
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #1)	3516
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #2)	3518
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR #4)	3520
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (ARBITRARY FACTOR)	3522
MOTION TO DECLARE §17-24-10 UNCONSTITUTIONAL (CONCLUSIVE PRESUMPTION)	3524
MOTION TO DECLARE §§16-3-10 et seq UNCONSTITUTIONAL (INCOMPLETE EVIDENTIARY BASIS)	3526
MOTION TO DECLARE S C §16-3-10 UNCONSTITUTIONAL (VAGUENESS)	3528
MOTION TO DECLARE §§ 16-3-20 et seq UNCONSTITUTIONAL (HYPOFRONTALITY)	3530
ORDER APPOINTING COUNSEL	3532
ORDER APPOINTING SECOND CHAIR COUNSEL	3533
MOTION AND NOTICE OF MOTION TO REVIEW STATUS OF COUNSEL FOR DEFENDANT IN LIGHT OF POST CONVICTION RELIEF ACTION IN COMPANION CASE	3534
JUROR #480 QUESTIONNAIRE	3536

CERTIFICATE OF COUNSEL

3543

**** DEFENDANT'S EXHIBITS 2-19 (NORMAL BRAIN/STANKO BRAIN)
HAVE BEEN TRANSPORTED TO THIS COURT****

STATE'S OPENING (HUMPHRIES)

1 purpose Knowing the difficulty that you're going to face, I
2 ask you to harden yourself for that purpose and that purpose
3 alone so that you are able to fully hear, see, and ultimately
4 find the truth of the evidence presented to you

5 It will take approximately a day for the State I
6 suggest to you that you will probably have this case within
7 the next two days We appreciate your verdict, but we
8 understand that all you've really done is to speak the truth
9 Sometimes it's a difficult thing

10 We asked you, almost everyone to a person, given the
11 right amount of evidence, given sufficient facts and
12 circumstances, could you not only fairly consider, but impose
13 the death penalty Each of you said yes We asked each of
14 you, to a person, if you determined based on the facts and
15 circumstances with sufficient evidence that the death verdict
16 was appropriate, could you sign your name to the
17 recommendation of death Each of you, to a person, said yes

18 We have no reason to believe that you cannot follow your
19 oath in that regard I thank you from the onset for the task
20 that we've called you to do I'm confident you will Thank,
21 you

22 **THE COURT** All right, Ms Williams

23 **MS WILLIAMS** Thank you, Your Honor May it please the
24 Court

25 **THE COURT** Yes Ma'am

DEFENDANT'S OPENING (WILLIAMS)

1 **MS WILLIAMS** Good morning, ladies and gentlemen of the
2 jury You know, we've reached a very critical time in this
3 part of the trial You know, I think some of the things
4 you're going to hear probably will just indeed be shocking,
5 and there's no denying that, okay? I think you'll hear it,
6 and I think that there's some things that will probably bring
7 tears to your eyes, there's no doubt, but I also think that
8 you're going to hear things that might make you say I just
9 don't understand and it doesn't make sense

10 The Judge will read the law to you and you will
11 understand that absolutely you have to find that an
12 aggravating circumstance did take place, and yet, even if you
13 find that though, the Judge will tell you that you don't have
14 to vote for the death penalty, and you don't even have to give
15 a reason why you don't vote for the death penalty You simply
16 can say I don't want to do it, and that's enough

17 You know, we -- we -- everybody sat up there and we -- we
18 had all this conversation, and I understand that this has not
19 been easy It's not been easy on your life I mean, it's
20 been a real imposition, and I know that sitting in those
21 chairs is probably going to be one of the toughest places
22 you'll probably ever find yourself in, but what we ask you to
23 do is to really do your best to keep an open mind

24 As I said, I know you will hear some horrible, horrible
25 things, and then you're actually going to hopefully get to

DEFENDANT'S OPENING (WILLIAMS)
EVIDENCE FROM FIRST PHASE MOVED INTO SECOND PHASE

1 meet some of who Stephen Stanko was, who he could have been,
2 who he should have been, and maybe we can ask ourselves the
3 ultimate question, why

4 I appreciate what you are doing As I said, I know it's
5 a tough, tough spot to be in, but all I can really ask is that
6 you just hear everything, as bad as some of it's going to be
7 Just wait and listen to all of it

8 **THE COURT** All right, Solicitor, your first witness,
9 please sir

10 **MR HUMPHRIES** Your Honor, the first order of business,
11 the State would move the evidence from the guilt phase into
12 the second phase, incorporating it by reference That is done
13 by statute, but we do that on the record at this time

14 In addition, Your Honor, pursuant to Rule 902, we intend
15 to introduce and publish certified true copies of record or
16 indictment and convictions committed by Defendant, Stephen
17 Stanko These indictments and sentencing sheets have been
18 provided to the Defense They are State's 75 and 76 for
19 identification purposes

20 **THE COURT** All right Is there an objection to those
21 Exhibits?

22 **MR DIGGS** No, Your Honor

23 **THE COURT** All right State's 75 and 76 are in
24 evidence without objection, and the Court notes and allows the
25 State to have made part of this proceeding the previous facts

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 and circumstances having been presented in this case

2 (CONVICTIONS - CHARLESTON COUNTY ADMITTED INTO EVIDENCE
3 AS STATE'S EXHIBIT NUMBER 75)

4 (CONVICTIONS - BERKELEY COUNTY ADMITTED INTO EVIDENCE AS
5 STATE'S EXHIBIT NUMBER 76)

6 MR HUMPHRIES Thank you, Your Honor Request
7 permission to publish these -- these documents at this time

8 THE COURT Any objection to publication?

9 MR DIGGS No, Your Honor

10 THE COURT You may do so

11 MR HUMPHRIES Thank you, Your Honor

12 Indictment Number 93-GS-10-6592 out of Charleston County,
13 indictment for breach of trust, that Stephen Stanko did in
14 Charleston County on or about the 14th day of May, 1993, while
15 employed at the New York Life Insurance Company, 200 Meeting
16 Street, Charleston, South Carolina, while being entrusted with
17 Six Hundred Dollars, then and there wilfully, unlawfully, and
18 feloniously take and appropriate said monies to his own use
19 and purposes with the intention of cheating and defrauding the
20 said New York Life Insurance Company out of the NEC laptop
21 computer which he was to purchase with the monies This is a
22 violation of Section 16-13-230, South Carolina Code of Laws,
23 1976, as amended

24 On March 8th, 1995, Defendant Stephen Stanko was
25 convicted of that offense, received a term of thirty days with

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 probation for twelve months

2 Indictment Number 93-GS-10-6593, an indictment for breach
3 of trust -- beg the Court's indulgence

4 **THE COURT** Yes sir

5 **MR HUMPHRIES** Indictment for grand larceny, which is
6 Indictment 93-GS-10-6594 out of Charleston County, that
7 Stephen Stanko did in Charleston County on or about the 26th
8 day of May, 1993, feloniously take and carry away the personal
9 goods of another for a value of more than One Thousand
10 Dollars, to wit, the goods of New York Life Insurance Company,
11 2000 -- 200 Meeting Street, Charleston, South Carolina,
12 described as follows One NEC laptop computer, model SL25C,
13 with the intent to deprive the owner permanently of such
14 goods, was sentenced to three years That sentence was
15 suspended upon twelve months' probation, with two hundred
16 hours community service, probation to be terminated upon
17 payment of restitution after six months provided restitution
18 and the public service was completed in full

19 Regarding State's 76, 96-GS-08-557, an indictment arising
20 out of Berkeley County, an indictment for obtaining property
21 by false pretenses, sentenced Stephen Stanko on July 31st,
22 1996, received a five year sentence

23 96-GS-08-556, an indictment arising out of Berkeley
24 County, an indictment for obtaining property by false
25 pretenses, Stephen Christopher Stanko did in Berkeley County

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 on or about December 26th, 1995, by false pretense or
2 representation obtain from Ray Crenshaw Eighteen Hundred
3 Dollars in U S Currency with intent to cheat or defraud Ray
4 Crenshaw of that property, this in violation of 16-13-240,
5 South Carolina Code of Laws, 1976, as amended On July 31st,
6 1996, he received a sentence of five years

7 Indictment 96-GS-08-555, breach of trust with fraudulent
8 intent, arising out of Berkeley County, Stephen Christopher
9 Stanko did in Berkeley County on or about February 7th, 1996,
10 while an employee of McElveen Pontiac-Buick-GMC became
11 entrusted with a 1996 GMC Jimmy truck, a value in excess of
12 Five Thousand Dollars, such truck being the property of
13 McElveen Pontiac-Buick-GMC, and then and there did wilfully,
14 unlawfully, and feloniously take and appropriate the truck to
15 his own use and purposes with the intent of cheating and
16 defrauding McElveen Pontiac-Buick-GMC of the truck, this in
17 violation of 16-13-230, South Carolina Code of Laws, 1976, as
18 amended On July 31st, 1996, received a five year sentence on
19 that offense

20 Indictment Number 96-GS-08554, an indictment arising out
21 of Berkeley County, an indictment for breach of trust with
22 fraudulent intent, Christopher -- Stephen Christopher Stanko
23 did in Berkeley County on or about a date between February 4,
24 1996 and February 7, 1996, while an employee of McElveen
25 Pontiac-Buick-GMC, was entrusted with a 1989 Buick Regal

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 automobile valued in excess of Five Thousand Dollars, such
2 automobile being the property of McElveen Pontiac-Buick-GMC,
3 and then and there did wilfully, unlawfully, and feloniously
4 take and appropriate the automobile to his own use for the
5 purposes with the intention of cheating and defrauding
6 McElveen Pontiac-Buick-GMC of the automobile, this in
7 violation of Section 16-13-230, South Carolina Code of Laws,
8 1976, as amended On July 29, 1996, Defendant Stanko received
9 a term of five years

10 Indictment Number 96-GS-08-553, an indictment arising out
11 of Berkeley County, indictment for breach of trust with
12 fraudulent intent, that Stephen Christopher Stanko did in
13 Berkeley County on or about a date between February 4, 1996,
14 and February 7, 1996, while an employee of McElveen Pontiac-
15 Buick-GMC, became entrusted with a 1995 Buick Century
16 automobile valued in excess of Five Thousand Dollars, such
17 automobile being the property of McElveen Pontiac-Buick-GMC,
18 and then and there did wilfully, unlawfully, and feloniously
19 take and appropriate the automobile to his own use and
20 purposes with the intention of cheating and defrauding
21 McElveen Pontiac-Buick-GMC of the automobile, this in
22 violation of 16-13-230, South Carolina Code of Laws, 1976, as
23 amended On July 29th, 1996, Defendant Stanko received a five
24 year sentence

25 Indictment Number 96-GS-08-552, an indictment arising out

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 of Berkeley County, indictment for breach of trust with
2 fraudulent intent, that Stephen Christopher Stanko did in
3 Berkeley County on or about a date between February 5th, 1996,
4 and February 8th, 1996, while an employee of McElveen Pontiac-
5 Buick-GMC, became entrusted with a 1995 Buick Century
6 automobile valued in excess of Five Thousand Dollars, such
7 automobile being the property of McElveen Pontiac-Buick-GMC,
8 and then and there did wilfully, unlawfully, and feloniously
9 take and appropriate the automobile to his own use and
10 purposes with the intention of cheating and defrauding
11 McElveen Pontiac-Buick-GMC of the automobile, this in
12 violation of 16-13-230 of the South Carolina Code of Laws,
13 1976, as amended Defendant Stanko on July 29th, 1996,
14 received a five year sentence

15 Indictment Number 96-GS-08-551, an indictment arising out
16 of Berkeley County, indictment for breach of trust with
17 fraudulent intent, that Stephen Christopher Stanko did in
18 Berkeley County on or about a date between February 5, 1996,
19 and February 8, 1996, while an employee of McElveen Pontiac-
20 Buick-GMC, became entrusted with a 1991 Pontiac Firebird
21 automobile valued in excess of Five Thousand Dollars, such
22 automobile being the property of McElveen Pontiac-Buick-GMC,
23 and then and there did wilfully, unlawfully, and feloniously
24 take and appropriate the automobile to his own use and
25 purposes with the intention of cheating and defrauding

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 McElveen Pontiac-Buick-GMC of the automobile, this in
2 violation of Section 16-13-230 of the South Carolina Code of
3 Laws, 1976, as amended On July 29th, 1996, he received a
4 five year sentence

5 Indictment Number 96-GS-08-550, an indictment arising out
6 of Berkeley County, an indictment for breach of trust with
7 fraudulent intent, that Stephen Christopher Stanko did in
8 Berkeley County on or about February 13th, 1996, while an
9 employee of McElveen Pontiac-Buick-GMC, became entrusted with
10 a 1993 Pontiac Gran Prix automobile valued in excess of Five
11 Thousand Dollars, such automobile being the property of
12 McElveen Pontiac-Buick-GMC, and then and there did wilfully,
13 unlawfully, and feloniously take and appropriate the
14 automobile to his own use and purposes with the intention of
15 cheating and defrauding McElveen Pontiac-Buick-GMC of the
16 automobile, this in violation of Section 16-13-230 of the
17 South Carolina Code of Laws, 1976, as amended July 29th,
18 1996, Defendant Stanko received a five year sentence

19 1996-GS-08-549, an indictment arising out of Berkeley
20 County, indictment for breach of trust, that Stephen
21 Christopher Stanko did in Berkeley County on or about the date
22 -- a date in January 1996, while an employee of McElveen
23 Pontiac-Buick-GMC, became entrusted with a 1995 Chevrolet S10
24 truck valued in excess of Five Thousand Dollars, such truck
25 being the property of McElveen Pontiac-Buick-GMC, and then and

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 there did wilfully, unlawfully, and feloniously take and
2 appropriate the truck to his own use and purposes with the
3 intention of cheating and defrauding McElveen Pontiac-Buick-
4 GMC of the truck, this in violation of Section 16-13-230,
5 South Carolina Code of Laws, 1976, as amended July 29th,
6 1996, Defendant Stanko received a five year sentence

7 Indictment Number 96-GS-08-548, an indictment arising out
8 of Berkeley County for breach of trust with fraudulent intent,
9 that Stephen Christopher Stanko did in Berkeley County on or
10 about a date in January 1996, while an employee of McElveen
11 Pontiac-Buick-GMC, became entrusted with a 1995 GMC Sonoma
12 truck valued in excess of Five Thousand Dollars, such truck
13 being the property of McElveen Pontiac-Buick-GMC, and then and
14 there did wilfully, unlawfully, and feloniously take and
15 appropriate the truck to his own use and purposes with the
16 intention of cheating and defrauding McElveen Pontiac-Buick-
17 GMC of the truck, this in violation of Section 16-13-230 On
18 July 29th, 1996, he received a four year sentence

19 96-GS-08-547, an indictment arising out of Berkeley
20 County, indictment for breach of trust with fraudulent intent,
21 Stephen Christopher Stanko did in Berkeley County on or about
22 February 12th, 1996, while an employee of McElveen Pontiac-
23 Buick-GMC, became entrusted with a 1995 Buick Century
24 automobile with a value in excess of Five Thousand Dollars,
25 such automobile being the property of McElveen Pontiac-Buick-

INDICTMENTS AND CONVICTIONS OF DEFENDANT PUBLISHED

1 GMC, and then and there did wilfully, unlawfully, and
2 feloniously take and appropriate the automobile to his own use
3 and purposes with the intention of cheating and defrauding
4 McElveen Pontiac-Buick-GMC of the automobile, this in
5 violation of Section 16-13-230 of the South Carolina Code of
6 Laws, 1976, as amended July 29th, 1996, he received a five
7 year sentence

8 1996-GS-08-546, an indictment arising out of Berkeley
9 County, an indictment for assault and battery with intent to
10 kill, that Stephen Christopher Stanko did in Berkeley County
11 on or about February 20, 1996, with malice aforethought commit
12 an unlawful act of violent injury to the person of J
13 Elizabeth McLendon with the intent to kill her, to wit, he did
14 forcibly hold a bleach-ammonia-filled cloth over her face,
15 nose, and mouth, this in violation of Section 16-3-620, South
16 Carolina Code of Laws, 1976, as amended On July 29, 1996,
17 received an eight year sentence

18 Indictment 1996-GS-08-545, an indictment arising out of
19 Berkeley County, an indictment for kidnapping, that Stephen
20 Christopher Stanko did in Berkeley County on or about February
21 20, 1996, unlawfully seize, confine, or kidnap J Elizabeth
22 McLendon by binding her hands and legs without authority of
23 law, this in violation of Section 16-3-910 of the South
24 Carolina Code of Laws, 1976, as amended On July 29th, 1996,
25 Defendant Stanko received a ten year sentence

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 The State calls Elizabeth McLendon

2 THE COURT All right Please come around up here, all
3 the way up here, please Ma'am, all the way, and meet the
4 Clerk

5 ELIZABETH M BUCKNER, being first
6 duly sworn, states as follows

7 DIRECT-EXAMINATION BY MR HUMPHRIES

8 Q And tell the jury, if you will, Ms Buckner, where do
9 you reside, in what community?

10 A I reside in Crowfield Plantation in Goose Creek, South
11 Carolina

12 Q And, Ms Buckner, how are you employed?

13 A I'm employed with Marketing and Web Design

14 Q And tell the jury, previously indictments made
15 reference to an Elizabeth McLendon Who is that?

16 A That is me

17 Q Let's do this, Ms Buckner, tell the jury, are you
18 acquainted with the Defendant, Stephen C Stanko?

19 A Yes, I am

20 Q And when did you first become acquainted with Defendant
21 Stanko?

22 A I became acquainted with Stephen in late Fall 1992

23 Q And under what circumstances?

24 A We were both employed with the same company

25 Q What was that company?

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 A Teleco of Charleston

2 Q What did they do?

3 A At that time they sold -- excuse me -- telephone
4 systems

5 Q You were both employed there?

6 A Yes, we were

7 Q Let me ask you, as a -- as a result of your working
8 relationship, did you come to become friendly or have a
9 personal relationship?

10 A Yes, we did

11 Q Tell us, if you will, how -- how that came to pass over
12 the course of time, how did it develop?

13 A It developed quickly He took an interest in the
14 department, the retail department, that I worked in, and he
15 frequented the store in which I was located We began working
16 on sales training materials and things like that, and
17 eventually we went to a company picnic or some company event
18 together, and it continued from there

19 Q And to what extent did it continue, Ms Buckner?

20 A We were romantically involved, and Stephen eventually
21 moved in to my apartment

22 Q Now, do you recall about what time, what year that
23 would have been?

24 A When he moved in, it was early '93, maybe late January,
25 something like that

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 Q Okay Who else was residing with you at that time?

2 A My son

3 Q Now, you've let him -- you've allowed him to move in
4 with you How did you find him to be at that time?

5 A He was very polite, very charismatic He seemed like a
6 nice guy

7 Q Now, was he -- was he still working with the company
8 that the two of you started with?

9 A No, he was not

10 Q Do you know why he was not working with them at that
11 time?

12 A As I was told, he was let go from that company due to
13 fraudulent activity, sales activity

14 Q Now, was he employed somewhere else?

15 A Not at the time

16 Q Okay, so when he moved into your place, he didn't have
17 a job?

18 A No

19 Q Did he ultimately obtain employment?

20 A Yes, he did

21 Q And let's tell the jury just so we can have some
22 parameters, how long did Defendant Stanko live with you?

23 A Off and on for four years

24 Q Now, the -- the off and on, what -- what precipitated
25 the off?

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 A Stephen's cons, his lies, his inability to speak the
2 truth about anything, no ability to keep a job He ran into
3 trouble at every position that he held

4 Q Let me ask you, that's the offs The question, I
5 guess, would be why the ons after the offs?

6 A He was quite charming, and I cared for him at the time

7 Q Let's -- let's move towards 1996 In -- in the early
8 part of 1996, where was Defendant Stanko residing?

9 A In 1996, he was residing in my home

10 Q And in what business was Defendant Stanko engaged at
11 that time?

12 A He was working for a car dealership

13 Q McElveen?

14 A Yes, McElveen

15 Q How did that seem to be going?

16 A On the surface and by Stephen's comments, it was going
17 great, and he had just received a promotion

18 Q Did -- did you learn at some point that that wasn't
19 totally accurate?

20 A I did

21 Q Tell the jury, if you will, how you came to learn that
22 and what impact it had on your relationship

23 A How I found out that he was no longer employed is that
24 he had been using my vehicle, my car, and I went to the
25 grocery store and when I opened the trunk to put the groceries

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 in the car, I found all of his belongings from work in a box
2 in the trunk of my car

3 Q Did you confront him about that?

4 A Yes, I did

5 Q What did he tell you?

6 A He told me that they were cleaning out the sales tower
7 for the new position for him and that they had asked that he
8 take all of his things home and -- while they were remodeling
9 and doing the re-building of the tower

10 Q Did he have a sideline business about this time?

11 A That's what he said to me, yes, he had a side business

12 Q And what was this side business?

13 A He was supposedly in business with my neighbor with a
14 used car lot that they were opening

15 Q And, of course, I think we've had indictments relating
16 to your neighbor That's Ray Crenshaw?

17 A Yes sir

18 Q Who provided the capital for that side business, the
19 used car lot?

20 A As far as I know, it was Ray

21 Q Okay, and who did Defendant Stanko said -- how did --
22 how did he provide the automobiles for that lot?

23 A How did he provide the automobiles?

24 Q Well, how did -- what did he tell you about those
25 automobiles?

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 A That one of the McElveen boys allowed him to take the
2 vehicles at night so that the other employees were not aware
3 of what was going on, that he was helping him get into
4 business with the used car lot, and that they were buying them
5 from an auction house

6 Q And, in fact, did you learn that that wasn't really the
7 situation at all?

8 A I did

9 Q Did McElveen have any idea -- of course, we've got the
10 indictments

11 A No, not at all

12 Q Was there a point at which this scheme, if you will,
13 came to a head?

14 A Yes, it did

15 Q I want you to tell the jury about how it came to a head
16 and what resulted

17 A It came to a head following that Sunday afternoon when
18 I found the items of Stephen's in the trunk of my car The
19 next day when I came home from work, Stephen was at my
20 neighbor's, Ray Crenshaw's, in a -- what appeared to be an
21 undercover police car, with Ray Crenshaw, and I immediately
22 called my neighbor's wife and spoke with her, and she said
23 that they were just concerned of some of the activity and
24 behavior on Stephen's part and what was happening with the
25 cars that were not making it to the new lot, so they wanted to

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 check further into it, and I got quite upset, and it was
2 several hours after that before Stephen came into the house

3 Q When he came to the house, did you have some
4 discussions about that?

5 A Yes, I did

6 Q And tell the jury what the substance of those
7 discussions was

8 A Immediately I was angry and very hurt because I felt
9 that he had lied to me again, and I questioned him about what
10 Natalie told me versus the other things that were all caving
11 in, him losing his job at McElveen, and the car dealership
12 that he was trying to get into was not coming to fruition as
13 he had described, and we got into a huge argument He said
14 that I had hit him with my keys My keys were on a bungee-
15 cord, and I had asked him to please return my house key and to
16 leave, and he became physical

17 Q Now, this altercation, how far did it get?

18 A That evening it was mostly pushing and shoving, and
19 again I told him that we had been down this road so many times
20 and I needed him to leave, and he said that he would leave,
21 and he began packing his items, and cursing, and just -- we
22 were at each other's throats Eventually I went to bed and he
23 is still moving around in the house getting his items
24 together, and I fell asleep and awoke the next morning

25 Q Tell the jury the condition you were in as you awoke

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 that morning

2 A Stephen was still moving around in the house, and he
3 would come in and speak to me, and he said that he was leaving
4 and he needed me to not talk about what was going on, and I
5 suddenly smelled this strong Clorox odor, and I asked him if
6 he was cleaning the house, and at that point he leaped over
7 onto me and turned me onto my stomach and he held a Clorox and
8 409 mixture cloth over my face and was holding my head down
9 trying to do whatever he was going to do

10 At that point, he said it's not working, and I thought I
11 was going to die, but he -- he eventually fought me and I was
12 fighting him, and I bit him very hard on his hand, and that's
13 when he let go, and he turned me back over and I realized that
14 he had some ties, shirt ties on the foot of the bed, and he
15 began to tie me up, and he was talking to me, telling me that
16 he couldn't have me tell what happened and he had to keep me
17 quiet I'm sorry

18 Q It's all right

19 A So I asked him to please leave me alone and I won't say
20 anything, I won't call anyone, I would not tell a soul what
21 happened if he would just leave, and he put the cloth in my
22 mouth and tied it and he said he needed me to be quiet, he was
23 tired of me talking, and I was always nagging, and then he
24 pulled me, and he went to take a shower in the master bath,
25 and he put me on the toilet seat while he was in the shower,

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 and then he was humming and talking and acting like nothing
2 had happened

3 Q After he took a shower, what then happened?

4 A He walked around the house I think he got something
5 to drink He was still trying to communicate with me, and he
6 pulled me to the sofa and he said he had to leave and that he
7 was sorry that he had done all those things, and he had to
8 make it look bad so that they wouldn't suspect that I was
9 involved in it, and I said I'm not involved Why would they
10 suspect it, and he said you've got to keep quiet, and he
11 stopped the cuckoo clock at ten minutes till nine on the wall,
12 which was his cuckoo clock, I think maybe his family, his
13 mother or father, or someone had given to him

14 And he kissed me on the forehead and he said goodbye, and
15 I -- that's the last time I saw Stephen at that point He
16 left my home

17 Q Did you call law enforcement?

18 A I called my neighbor, Ray and Natalie, and I don't know
19 if I asked them to call or if I called I can't -- I can't
20 remember, and then I -- I did call the school and I checked on
21 my son, and I called my family

22 Q Now, as a result of this incident, was Defendant Stanko
23 arrested?

24 A Eventually he was arrested in Greenville, South
25 Carolina

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 Q And he was arrested for the offenses of kidnapping and
2 assault and battery with intent to kill?

3 A That's right

4 Q Was he returned to Berkeley County?

5 A Yes, he was

6 Q Now, tell the jury, Ms Buckner, while in pre-trial
7 detention, did you have any communication with Defendant
8 Stanko?

9 A Yes, I did

10 Q Why?

11 A I wish I knew I think in some way I wanted him to
12 have some remorse and I wanted him to explain why That's the
13 only conclusion I don't know I was still trying to help
14 him

15 Q He ultimately pled guilty?

16 A Yes, he did

17 Q And for the kidnapping received a ten year sentence?

18 A Yes

19 Q He went to the Department of Corrections?

20 A Yes

21 Q After the plea and sentence, did your communications
22 with Defendant Stanko cease?

23 A No

24 Q Why?

25 A Do you want my version? I don't know why I don't

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES

1 know

2 Q Did you write him?

3 A Yes

4 Q Did you take calls from him?

5 A Yes, I did

6 Q Did you visit?

7 A Yes, I did

8 Q Ms Buckner, did there come a point in time when you

9 did ultimately terminate your communication with Defendant

10 Stanko?

11 A Yes, I did

12 Q And for what -- for what reason at that time?

13 A It came to my attention that even in prison he was

14 still able to lie and con and conjure up stories about why he

15 was in prison, and he was trying to help other prisoners with

16 their defense, and he had stated that he was an attorney that

17 had gotten locked up on some bad charges

18 Q And since you terminated your communications with

19 Defendant Stanko, how long into his prison term do you think

20 that would have been?

21 A Months, maybe three, four months

22 Q Have you since had any communication with Defendant

23 Stanko?

24 A No

25 Q Were you notified when he was released from the

ELIZABETH M BUCKNER - DIRECT BY HUMPHRIES
CROSS BY DIGGS

1 Department of Corrections?

2 A Yes

3 Q Did he attempt any communication or contact with you
4 upon his release?

5 A No

6 MR HUMPHRIES Beg the Court's indulgence

7 I don't have any further questions of you, Ms Buckner
8 Please answer any the Defense may have

9 A Thank you

10 THE COURT Cross-examination

11 MR DIGGS Yes sir

12 THE COURT May it please the Court

13 MR DIGGS Yes sir

14 CROSS-EXAMINATION BY MR DIGGS

15 Q Ms McLendon, ---

16 A That's right

17 Q --- is there any doubt in your mind that Stephen cared
18 for you at that time during your relationship?

19 A During the relationship?

20 Q Yes Ma'am

21 A I was all under the assumption that he did

22 Q And did it appear to you that he tried to engage in a
23 normal relationship?

24 A Many times

25 Q As two adults would be expected?

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 A Yes, he did

2 Q Did it seem to you that he made a sincere effort?

3 A I can't testify as to his sincerity My interpretation
4 was that he was trying to do what a normal person would do in
5 a relationship or I wouldn't have been in the relationship
6 with him

7 Q Sure, and he just -- he just failed? He couldn't do
8 it?

9 A He did

10 Q Did you know him before you started dating him?

11 A Only briefly at -- at the company where we were
12 employed

13 Q Okay, and where was that?

14 A Teleco Charleston

15 Q And once you began to date him, did you begin to find
16 out about his past, about who he was?

17 A Yes, little tidbits, I did

18 Q And did you find out any good things about him?

19 A He seemed intelligent

20 Q All right, and did you ever meet any of his friends
21 or ---

22 A A few friends

23 Q --- or family?

24 A Family, yes

25 Q And by the way, how many family members does he have,

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 do you know?

2 A Well, he has a brother that had passed away, so I did
3 not meet him He has a sister in California He has a sister
4 in Goose Creek, and a brother that was in the service, and a
5 mother and a father at that time

6 Q All right, and you had an opportunity to meet all of
7 his siblings and his parents?

8 A I did not meet Jeff, I don't believe

9 Q And Jeff is the one in the military?

10 A Yes, he was

11 Q Now, Steve was an intelligent young man?

12 A He seemed to be, yes

13 Q Seemed to be, and he was handsome enough as looks go?

14 A Yes

15 Q And he could be charming?

16 A Oh, very

17 Q He had good qualities about him?

18 A Well, he was very charming

19 Q Yes, but he never was able to tell the truth?

20 A So it would appear

21 Q Yes Ma'am, and do you have any reason why that would
22 be?

23 A I don't have any idea why that is

24 Q Do you believe that he made choices, free will type
25 choices, to lie to you and deceive you?

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 A Yes, he did

2 Q Did he have to do that in your opinion in order to
3 succeed?

4 A No, he did not

5 Q He didn't have to?

6 A He did not have to

7 Q Let's go -- and I apologize for having to do this, but
8 I want to talk to you just a couple of minutes about the
9 incident with the rag

10 A Uh huh (**indicating positive**)

11 Q Tell us -- he put some kind of chemical mixture on the
12 rag, is that right?

13 A Yes It was Clorox and a 409 mixture

14 Q All right, and you said he put that in your mouth, or
15 what did you say?

16 A After He tried to use it to put me out, I guess, and
17 that did not work

18 Q And he made a statement that this isn't working?

19 A Right, he did

20 Q Can you -- can you explain to us what ---

21 A Obviously he had seen a movie because he said it worked
22 in the movie

23 Q Okay, and he felt -- did you take it to mean he thought
24 he was going to get the same result ---

25 A As in the movie

ELIZABETH M BUCKNER - CROSS BY DIGGS

- 1 Q --- with you in the ---
- 2 A Yes, that's exactly what I thought
- 3 Q --- in that situation?
- 4 A Uh huh (**indicating positive**)
- 5 Q All right, and then you say he tied you up?
- 6 A Yes
- 7 Q And brought you into the bathroom?
- 8 A Right
- 9 Q So he could shower?
- 10 A Yes
- 11 Q And I want you to direct your attention to his conduct
- 12 at that time You -- you made the statement that -- that he
- 13 was humming and talking?
- 14 A Yes
- 15 Q Can you elaborate on that for us a little bit
- 16 A Well, his actions on what I perceived it to be is that
- 17 he just didn't care about what had just taken place, that it
- 18 was of no consequence to him
- 19 Q Okay, and had he ever expressed feelings of -- of love
- 20 to you?
- 21 A Yes, he had
- 22 Q He treated you as though you were genuinely someone he
- 23 cared for?
- 24 A Oh, yes, he did
- 25 Q And there's no doubt in your mind about that?

ELIZABETH M BUCKNER - CROSS BY DIGGS

- 1 A No doubt in my mind that he did?
- 2 Q That he did -- that he did treat you with affection?
- 3 A No doubt
- 4 Q And that made you think he cared for you?
- 5 A Yes, I believe that he did at one time
- 6 Q All right, and when he was in the shower acting in this
- 7 way that you're now describing, do you know if he cared for
- 8 you at that point?
- 9 A I don't believe that he did
- 10 Q Okay, and he did this at a time when he was angry,
- 11 indicated he was -- you guys had had an argument about some
- 12 other stuff he had done?
- 13 A I believe that he did that because it had come to a
- 14 head and we had found out the truth
- 15 Q All right, and again, this is a circumstance that
- 16 didn't have to exist?
- 17 A It surely did not
- 18 Q It didn't have to -- he had the ability seemingly to
- 19 succeed on his own? He didn't have to resort to all of this
- 20 lying, cheating, scheming?
- 21 A No one has to
- 22 Q No one has to, and so when you found out about it and
- 23 confronted him, he got angry?
- 24 A Yes, he did
- 25 Q And this was in the evening?

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 A That was Monday evening

2 Q Monday evening, and how did -- obviously it resolved
3 before you went to sleep?

4 A Well, not resolved He was leaving, and I told him he
5 could stay until morning, and he said he was going to be
6 packing his things and he'd leave in the morning

7 Q And he was angry that Monday evening?

8 A Yes, he was

9 Q And tell us what his mental state was or his -- was he
10 still angry the next morning, or what? Can you describe that?

11 A Well, I'm sure that he was still angry He behaved as
12 if he were angry, but he behaved like he had to get away, that
13 he was running, and that's what he did

14 Q All right, and that is when this incident happened with
15 the mixture?

16 A The morning, yes, Tuesday morning

17 Q Now, you wrote him when he was in prison?

18 A I did what?

19 Q Wrote him letters?

20 A Wrote him, yes, I did

21 Q And in those letters, or on at least one occasion you
22 referred to his mental health?

23 A I don't recall

24 Q I would ask you to look at something

25 A Sure

ELIZABETH M BUCKNER - CROSS BY DIGGS

- 1 Q I don't want you to read that
- 2 A Right Thank you
- 3 Q Look at it and see if it kind of refreshes ---
- 4 A The underlined part'
- 5 Q Now, is that a copy of a letter that you wrote to
- 6 Stephen?
- 7 A It appears so
- 8 Q All right, and you expressed concerns in that letter
- 9 about him getting some mental health ---
- 10 A Yes
- 11 Q --- help?
- 12 A Yes, I did Thank you
- 13 Q And was that a genuine concern that you had at the
- 14 time?
- 15 A Obviously it was
- 16 Q And even though he had done this thing to you, you
- 17 still had some feelings for him, if nothing else other than a
- 18 human being that you knew?
- 19 A Absolutely
- 20 Q And that you had concerns for him because ---
- 21 A That's right
- 22 Q --- that you knew -- you had seen things that I think
- 23 you referred to as maybe a different separate identity,
- 24 something ---
- 25 A I didn't say separate identity I think that what I

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 was referring to is this -- his ability to separate himself
2 from what was really happening

3 Q Right, okay, but certainly you -- you had concerns that
4 he wasn't normal?

5 A I don't know what normal is, but ---

6 Q Okay, fair enough, but he -- he didn't -- this conduct
7 was inappropriate?

8 A Yes, it was

9 Q And you did not see, is it fair to say, any
10 justification for that?

11 A I can't say that I did

12 Q Specifically I'm talking about the lying, and
13 misrepresentations, and ---

14 A No

15 Q --- certainly the attempt to do you harm?

16 A Right

17 Q In other words, you didn't try to stab him or anything?

18 A Never

19 Q He wasn't acting in self-defense or anything?

20 A Absolutely not

21 Q Now, in this letter, and I'm not -- if you recall it
22 I'm going to ask you about it, and if you don't, that's fine,
23 but it's a reference to a brother named Billy?

24 A Yes

25 Q Could you tell us who he is?

ELIZABETH M BUCKNER - CROSS BY DIGGS

1 A He was Stephen's older brother and from my
2 understanding, he died in a house fire in St George, South
3 Carolina, when Stephen was maybe sixteen years old

4 Q About sixteen?

5 A I think, to the best of my memory

6 Q All right, and all of the other siblings to your
7 knowledge, though, are alive?

8 A To my knowledge, yes

9 MR DIGGS Beg the Court's indulgence for a second

10 THE COURT Yes sir

11 MR DIGGS Ms McLendon, I appreciate it Thank you
12 very much

13 A Oh, thank you also Thank you

14 THE COURT Redirect?

15 MR HUMPHRIES No, thank you Request this witness be
16 excused, Your Honor

17 THE COURT Any objection?

18 MR DIGGS No objection

19 THE COURT All right Ma'am, you are released from
20 your subpoena and may go back to your regular activities,
21 Ma'am Thank you

22 Your next witness, please sir

23 MR HUMPHRIES Darrell Lewis

24 THE COURT Please come up here to the Clerk, please
25 sir

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 **DARRELL LEWIS**, being first duly
2 sworn, states as follows

3 **DIRECT-EXAMINATION BY MR HUMPHRIES**

4 Q How are you employed?

5 A I work at the Berkeley County Sheriff's Office

6 Q How long ---

7 **THE COURT** Could you scoot a little bit closer to the
8 microphone, please sir

9 Q How long have you been so employed?

10 A About twenty-two years now

11 Q And in what capacity are you employed with the Berkeley
12 County Sheriff's Office at this time?

13 A I'm a lieutenant with -- over Judicial Services, civil
14 process and judgments

15 Q Back in early 1996, what was your position with the
16 Berkeley County Sheriff's Office?

17 A I was an investigator

18 Q Let me ask you, in connection with your duties as an
19 investigator at that time, did you have an occasion to come in
20 contact with the Defendant, Stephen Stanko?

21 A Yes sir, I did

22 Q And tell the jury, if you will, the circumstances
23 surrounding that -- that contact

24 A It was in '96, I think February I was the on-call
25 investigator and got a call -- got called out to his residence

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 and Miss Elizabeth's residence in reference to a kidnapping
2 type situation I wasn't sure till I got there

3 Q And once you got there, what did you find?

4 A First off, it -- the neighbors next door met -- met me
5 outside The uniformed deputies were already there and
6 securing the crime scene and what not, and one of the
7 neighbors, Ray Crenshaw, asked somebody who I was when I
8 pulled up and said my name, and he made mention something
9 about some cars, that I was the person who had his cars or --
10 it just threw me off-guard, and I just continued on in the
11 house with the investigation to see what had actually went on
12 and why they were calling and what happened

13 Q What did you find?

14 A Elizabeth McLendon, I -- at the time was her name, had
15 been tied up and -- with neckties and smothered with a pillow,
16 and I think used a rag with Clorox and bleach or -- or bleach
17 and 409 or something was on it, and that was the statement
18 that she gave at the time that she was held by Mr Stanko

19 Q Let me ask you, based on your observations at the crime
20 scene, did that appear consistent with her account of what had
21 occurred?

22 A Absolutely There was phone cords and neckties laying
23 around where this supposedly happened at

24 Q Let me ask you, Lieutenant, did you have an occasion to
25 speak with Defendant Stanko after his arrest and return to

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 Berkeley County?

2 A Yes sir, I did He had already left the scene when I
3 got there and he had actually called when he was away, didn't
4 want to -- felt like he didn't want to turn himself in at that
5 time, but we did apprehend him in Greenville, and he was
6 brought back to Berkeley County where he gave me a -- a
7 written statement to his events of what happened that night --
8 that aft- -- that morning I'm sorry

9 Q And let me ask you, were you a witness to that
10 statement?

11 A Yes sir I took the statement from him

12 Q You took the statement Tell the jury what Defendant
13 Stanko told you in that written statement

14 A Well, the statement is -- it's nine pages He explains
15 what, in his words, what happened that morning and before that
16 leading up to the events There was a lot of car vehicles and
17 stuff that were stolen, so it goes into that a lot first

18 Q All right Well let's do that Let's -- let's tell
19 the jury what his words were concerning those events

20 A All right He says I left Berkeley County Detention
21 Center the last week of October 1995 I returned home with --
22 with Elizabeth McLendon at 110 Durham Drive in Goose Creek,
23 South Carolina 29445, where I had intended to start my life
24 over again and make the wrongs I had committed once again
25 right -- right again -- I mean again right I'm sorry

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 The first problem occurred nine days after returning home
2 when I had a job interview with 84 Lumber in Goose Creek The
3 night before, Elizabeth accused me of not caring for her and
4 not being appreciative of what she had done for me to get me
5 out The argument became intense and into the night The
6 next morning, I was forced to walk to the interview, and I
7 then walk- -- locked -- and then locked -- was locked out of
8 the house This lasted until the day until I was finally
9 allowed calm conversation -- I'm sorry -- allowed -- calm
10 conversation allowed us to come to a reason -- reason with
11 each other

12 In the eight weeks between getting out of here and when I
13 first took money from Ray Crenshaw, I didn't do anything
14 illegal or wrong in any way, shape, or form Elizabeth and I
15 had several fights because she believed I was not being loyal
16 to her These fights began -- became more and more
17 aggressive She would taunt me with my actions of the past,
18 the way my family left me, and how I had lied before, but I
19 wasn't -- I was not lying to her I was not cheating on her
20 I love her, and I just wanted some love and respect from her
21 and Chad That's all I wanted That's all I ever wanted from
22 anybody

23 Anyway, I went to work at McElveen Pontiac-GMC on
24 November 14th, 1995 I was hired as a salesperson and began
25 selling cars for the company I had a good couple of weeks to

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 -- in November and brought home a good paycheck, which was
2 helpful with the situation at home However, there was a Two
3 Thousand Dollar Note looming over me, which is for the
4 attorney, Ray Buchanan, that handled my case As this
5 deadline cleared near and my constant battles with Elizabeth
6 remained, I began to feel like nothing again and my self-
7 esteem became -- became a pit

8 I told Elizabeth that things were going so well at work,
9 that they had offered me a position as assistant finance
10 manager That would take a trial period for them to decide
11 whether I would get it or not She was proud and happy for
12 me, which I was truly -- which I truly wanted it, help her as
13 -- help her a little with the long hours that I was working

14 By this time I had also met and befriended our neighbor,
15 Delray Crenshaw We often spoke and played ball in the front
16 yard, and we quickly became close He owned some businesses
17 and was very successful, and I had hoped that we could somehow
18 combine these two lives and make more Then one day I
19 realized that Eliz and I had nothing to offer him, and I was
20 not going to -- he was not going to just freely say, hey,
21 let's do something together

22 I called Ray up and told him that Ricky Davis, the used
23 car sales manager at McElveen was going to an auction and he
24 had an opportunity to buy a number of late-model cars for a
25 low price I told him that I had around Sixty Seven Hundred

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 Dollars and I needed another Twenty Two Hundred Dollars within
2 hours Ray had cash in hand Instantly I was important and a
3 part of something I told him to keep it a secret from
4 Elizabeth as I wanted us to open up a used car lot and
5 business for her as a surprise, the latter being a dream that
6 I truly had for us

7 Anyway, the money from Ray went to help pay bills and
8 things like that For the first ten days or so, it was easy
9 to keep Ray at bay I simply made up stories about
10 transporting of the cars from the auction to us There were
11 problems here, problems there, et cetera I was also telling
12 Ray that I had a GMC Yukon Sierra pickup truck that would be
13 -- that we would be trading for them Ray thought I was the
14 next best thing since sliced bread, but as time went on, he
15 became more impatient and the stories became more crazy and
16 integrated

17 I even called Ray up another time and told him that we
18 could get some trucks for a unbelievable price Within hours,
19 I had another Eighteen Hundred Dollars This was the total
20 amount as far as money that I took from anyone, the entire
21 scenario Please note that even though my name was on the
22 bank account that Ray and Natalie opened, I didn't take any
23 money from it I also didn't -- did not take a penny from
24 Elizabeth or McElveen I had several opportunities of cash at
25 work and I never took a dime I did not do anything -- do any

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 of this for the money I wanted love, admiration, and
2 respect The wrong way to go about it I have a problem,
3 psychological, but I am not just some kind of thief

4 Finally I had to come up with some results for Ray I
5 went through spare keys in the used car office and took keys
6 to the cars matching the description of the ones I told Ray we
7 were getting Then during normal business hours, I would
8 drive them off the lot to 2135 NAD Road I would tell Ray
9 that Mr McElveen didn't want the others, sales people, to
10 know about the used cars, lot, and he had drove -- he would
11 drive me back to the lot

12 I would then take another and another One night Ray,
13 Natalie, and their son, Ray, came up and helped me take a
14 couple other cars at once I will make this statement now
15 Ray, Natalie, and Elizabeth had absolutely nothing to do with
16 any wrongdoing They did not know the cars were stolen They
17 did not know To make myself out to be something that I was
18 not, I lied to them At this point, we had two pickup trucks,
19 three Centuries, a Gran Prix, a Buick Regal, a Formula, and I
20 believe that's it other than the Jimmy that Elizabeth was
21 driving because I told her it was a demo

22 Ray wanted the rest of the cars and I needed to do
23 something to get him calmed down, so I took customers I had
24 worked with at McElveen and we could not help at McElveen,
25 that is, and got them up to the NAD Road, sold them on the

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 cars that we had there, wrote up fake contracts and placed
2 them in the cars

3 I took two guys that were borderline crooks themselves
4 Charles Day is going through a divorce and not paying his
5 bills, repo-ing his trailer, and lying to his creditors and
6 family, and R C Criswell is two months late on every bill
7 that he has He lied to me about almost everything I asked
8 him

9 Ray sold one of the Centuries to his parents That was a
10 cash deal, and Ray and Natalie took that money and put it in
11 the account I never touched nor -- I never touched that, nor
12 the account There never was any money from Charles Day, nor
13 Anthony Huckmacker There was none

14 As far as Ricky Davis and any local law enforcement being
15 involved, these were all lies Ricky Davis never did
16 anything He had no clue I just told Ray all these stories
17 to hold him off They were all lies There is no chop-shop,
18 nothing Detective Darrell Lewis was in no way, shape, or
19 form involved

20 As far as the raspberry Blazer, there was no connection
21 Teddy Monique was de-horsed from her Jeep, which was on the
22 McElveen lot There was no attempt at any kind of theft It
23 was simply a mistake When Ray brought Al Boise to the house
24 that Monday night, I simply re-told all the lies that I had
25 told Ray over the last couple of weeks I re-told all the

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 stories about getting the cars, and chop-shop, all these lies
2 I am sorry

3 Elizabeth got upset We had been arguing for days She
4 came out, drove off -- I'm sorry We had been arguing for
5 days She came out, drove off, and came back When I finally
6 left Mr Boise, I was told that -- I was told to get back in
7 touch with him and Ray in the morning

8 When I went inside, Elizabeth verbally attacked me,
9 telling me about how I didn't care for her, how I needed to
10 leave She followed me from room to room There was a couple
11 of times that I physically had to move her away from me to get
12 her out of my face She brought up the usual hateful comments
13 and threatened to call the police numerous times I went out
14 into the sun room and she kept following me She pushed
15 me, kicked me, threw different things at me Finally we both
16 ignored each other and went to sleep

17 I did pack up all of my clothes into a couple of
18 suitcases, as she told me she wanted me gone The next
19 morning we awoke to a re-match of the same bickering I
20 couldn't take it any more I just figured if I could keep her
21 from fighting with me, I could get packed up and leave so that
22 I never hurt her again mentally

23 I put Clorox and Windex on a hand towel thinking it would
24 knock her out Never believe the movies It didn't work So
25 I just told her, let me tie you up I will let you go when I

DARRELL LEWIS - DIRECT BY HUMPHRIES

1 leave I never wanted to hurt Elizabeth in any way In the
2 past ten years, she is the only person that I have truly loved
3 and has shown me love I love her I just can't go on
4 hurting her or anyone else

5 I tried to comfort her while I was shaving, showering,
6 and dressing I untied her about ten minutes before I left
7 She cried and waved goodbye to me as I drove off I drove up
8 176 to Columbia, then I-26 to Spartanburg, Spartanburg to
9 Greenville I called for Detective Lewis twice from
10 Greenville, and I was picked up yesterday at the Days Inn I
11 had no sexual relations with anyone, had no gun, robbed no
12 one

13 That's the end of the statement

14 Q Lieutenant Lewis, as a result of the arrest -- the
15 statement -- Defendant Stanko was convicted of kidnapping and
16 assault and battery with intent to kill?

17 A Yes sir

18 Q Do you recall his sentence?

19 A I believe he was -- plead -- plead to -- got ten years
20 and did like eight or eight and a half years He was in jail
21 for a while

22 MR HUMPHRIES Thank you Answer any questions the
23 Defense may have of you

24 THE COURT Cross-examination

25 MS WILLIAMS Thank you, Your Honor May it please the

DARRELL LEWIS - CROSS BY WILLIAMS

1 Court

2 **CROSS-EXAMINATION BY MS WILLIAMS**

3 Q I believe you are a lieutenant now?

4 A Yes Ma'am

5 Q Good morning

6 A Good morning

7 Q And how long have you been a police officer, Lieutenant
8 Lewis?

9 A About twenty-two years

10 Q Twenty-two years, and all of it at Berkeley?

11 A At Berkeley County Sheriff's Office

12 Q Okay May I see that statement that you read?

13 A Yes Ma'am

14 Q Thank you And this is the statement that you just
15 read, is that correct?

16 A Yes Ma'am

17 Q And that's the statement that Defendant Stanko -- that
18 Mr Stanko gave and prepared for you, is that right?

19 A Yes Ma'am He wrote it in his own handwriting

20 **MS WILLIAMS** Your Honor, I would like to have this
21 marked as Defendant's Exhibit Number 1 and move it into
22 evidence at this time

23 **THE COURT** Any objection to that?

24 **MR HUMPHRIES** No, Your Honor Thank you

25 **MS WILLIAMS** All right Defendant's 1 is in evidence

DARRELL LEWIS - CROSS BY WILLIAMS

1 without objection

2 MR HUMPHRIES I don't think it's 1, though

3 THE REPORTER 42

4 THE COURT I'm sorry Defendant's 42 I'm sorry

5 MS WILLIAMS I'm sorry, I apologize Number 42

6 (STATEMENT OF DEFENDANT ADMITTED INTO EVIDENCE AS
7 DEFENDANT'S EXHIBIT NUMBER 42)

8 Q And, Lieutenant Lewis, you're from the Goose Creek
9 area, is that right?

10 A Yes Ma'am

11 Q And did you know Mr Stanko growing up?

12 A Yes Ma'am, I did

13 Q Can you tell us how you knew him?

14 A We went to high school together He was a couple of
15 years behind me He also dated my sister at one time

16 Q Were he and your sister actually engaged, I believe,
17 and lived together maybe?

18 A I know they lived together I don't know if they were
19 engaged I was like out of town when that was

20 Q Okay, but -- but they had a pretty close relationship?

21 A Yes Ma'am, they did

22 Q Okay I believe you told the Solicitor -- in this
23 statement it talks about he called you at least two times,
24 either on the way to Greenville or from Greenville once this
25 incident had occurred?

DARRELL LEWIS - CROSS BY WILLIAMS

1 A Yes Ma'am, that's what he stated

2 Q And do you recall if he told you during those calls
3 that he knew he needed some help?

4 A Yes Ma'am I asked him -- when I answered the phone, I
5 asked him just, you know, turn hisself in, and he told me flat
6 out he was not ready to turn hisself in He needed to get
7 some help first is what he told me

8 Q Okay Isn't it -- you read a part in here, I believe
9 you said it said there's nothing Detective -- that Darrell
10 Lewis -- nothing Detective Darrell Lewis was involved in, is
11 that correct?

12 A Yes Ma'am

13 Q What was he talking about?

14 A Apparently he was talking about a chop-shop that was --
15 I had something to do with, chopping up cars and -- or
16 stealing cars from our drug seizure impound, and ---

17 Q But he said in here you had nothing to do with it, is
18 that right?

19 A Correct

20 Q So he didn't want you involved, having to take any
21 blame, any anything, is that right?

22 A That's right

23 Q So basically if -- would it be fair to say that he was
24 taking all the responsibility for it?

25 A He absolutely took responsibility for everything

DARRELL LEWIS - CROSS BY WILLIAMS

- 1 Q Okay Let me ask you this You said you've been a
2 police officer for twenty-two years, is that correct?
- 3 A Yes Ma'am
- 4 Q How long have -- how much of that were you a detective?
- 5 A Eight years
- 6 Q Eight years Have you got any idea of the number of
7 defendants that you spoke to and took statements from?
- 8 A In this particular case or all cases?
- 9 Q In -- in general, in the time That's why I'm asking
10 I'm sure it's ---
- 11 A It's hundreds
- 12 Q In the hundreds?
- 13 A I'm sure, yes Ma'am I'm sure I've interviewed a
14 hundred people or more
- 15 Q Let me ask you this Would you say that given a nine
16 page statement with all these details is pretty typical of the
17 normal hundreds of statements that you got?
- 18 A It has happened before, but typically, no, it's not
- 19 Q Typically it's not? I don't -- I mean, ---
- 20 A I mean, ---
- 21 Q --- I think it would be safe to say if you got two
22 pages from a defendant, you might be doing good?
- 23 A I've gotten more than that before in the past, yes
24 Ma'am, but you could say when it gets down to it, they want to
25 stop and they don't want to talk any more I mean, that

DARRELL LEWIS - CROSS BY WILLIAMS
JURY OUT

1 happens, too

2 Q Okay

3 A You have some people that cooperate and some people
4 don't

5 Q Okay

6 MS WILLIAMS Beg the Court's indulgence for just one
7 moment

8 THE COURT Yes Ma'am

9 MS WILLIAMS That's all the questions that I have of
10 this officer Thank you, Your Honor

11 THE COURT Any redirect?

12 MR HUMPHRIES No, Your Honor Ask the witness be
13 excused

14 THE COURT All right Very good

15 MS WILLIAMS It's without objection, Your Honor

16 THE COURT All right All right, sir, you are released
17 from your subpoena and may go back to your regular duties

18 A Thank you, Your Honor

19 THE COURT All right, sir

20 Ladies and gentlemen, let's take a very short break for
21 about five minutes, please All right, thank you

22 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
23 JURY)

24 THE COURT All right, we'll come back in five minutes
25 Thank you much

JURY IN
KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 MR HUMPHRIES Thank you

2 MS WILLIAMS Thank you, Your Honor

3 (THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE
4 PRESENCE OF THE JURY)

5 THE COURT Solicitor, are you ready to resume?

6 MR HUMPHRIES Yes, Your Honor

7 THE COURT Defense?

8 MR DIGGS The Defense is ready, Your Honor

9 THE COURT Very good Ask the jury to come in, please

10 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
11 JURY)

12 THE COURT All right, Solicitor, your next witness,
13 please

14 MR HUMPHRIES Kathleen Crolley

15 THE COURT All right Ms Crolley, if you would come
16 around up here, please, to be sworn

17 KATHLEEN A CROLLEY, being first
18 duly sworn, states as follows

19 DIRECT-EXAMINATION BY MR HUMPHRIES

20 Q Good morning, Ms Crolley How are you?

21 A Good morning

22 Q Tell the jury, how are you employed?

23 A I am employed with Owl-O-Rest Furniture in Surfside
24 Beach, sir

25 Q Let me ask you, how long have you been so employed?

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 A I've been employed there for twenty-six years My
2 family is actually involved with the ownership

3 Q What's your position at Owl-O-Rest?

4 A Pretty much whatever it takes, administrative, sales,
5 purchasing, advertising, cleaning, or whatever we can do to
6 help

7 Q And tell the jury what type of business is Owl-O-Rest?

8 A We are a furniture, mattress, and accessory store, and
9 we offer a lot of special orders for our customers as well

10 Q And where are you located?

11 A We are in Surfside Beach

12 Q Let me ask you, in the context of your work, did you
13 have an occasion to come into contact with Defendant Stanko?

14 A Yes sir, I sure did

15 Q Tell us about it

16 A Okay He was -- I was actually working on the floor
17 one afternoon and Mr Stanko came into the store and indicated
18 that he was in the market to purchase two desks for his wife
19 for a Christmas gift They had just recently built a house in
20 the Litchfield-Pawleys Island area and it was to be a surprise
21 for her

22 Q Were these nice desks?

23 A They were -- they were pretty nice desks I didn't
24 have anything right in stock at the time, and I would have had
25 to special order and time would have been of the essence

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 because of it being so close to Christmas

2 Q December 8th or so?

3 A Yes sir

4 Q Tell the jury how -- how this meeting with Defendant
5 Stanko sort of progressed

6 A Okay He was very professional, very polite and
7 courteous As I said, I didn't have anything right in stock
8 that would fit the exact sizes that he needed, so I began
9 pulling out some catalogs from companies that I could get in
10 time for Christmas, and as he was looking at the pictures, he
11 started receiving numerous phone calls There were at least
12 four or five phone calls where he had to get up and go take a
13 cell phone call, and I couldn't help but overhear the
14 conversation where it -- it sounded to me as if he was
15 receiving funds from people for something, some type of great
16 work

17 He was thanking people for their donations and talking
18 about how other organizations were going to match their
19 donation, and maybe he could meet them for lunch, and it went
20 on for a good while, and then I finally told him that I hated
21 to be nosy, but that I wanted to inquire, you know, what was
22 taking place, and he proceeded to tell me

23 Q And what did he tell you?

24 A He told me that he had had a niece that had been
25 diagnosed with cancer, a young, teenage girl, down at M U S C

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 and that he had taken off -- that he was actually a corporate
2 attorney, but that he had taken off from his work for the past
3 year to year and a half so that he could start the Childrens
4 Cancer Research Foundation to help raise funds for his niece
5 and that he was happy to say that she was in remission There
6 was some type of blitz going on where corporations and
7 individuals were trying to get a bunch of money together at
8 one time He was very happy with the work and the research
9 that they had been able to do

10 Q He indicated he had taken off from his work as a
11 corporate attorney to head this fund-raising campaign for the
12 what, again?

13 A For his niece, his teenage niece, for the ---

14 Q And the name of the organization was?

15 A The Childrens Cancer Research Foundation

16 Q Now, let me ask you, did he ever explicitly ask you for
17 a donation?

18 A No sir, he did not

19 Q Did you feel personally and morally compelled to give
20 him one?

21 A Yes sir, I did

22 Q Tell -- tell the jury a bit about that

23 A M U S C holds a special place in my heart, and we had
24 talked briefly I have a daughter who is now nine years old,
25 very healthy, but she was born in 2000 three months early,

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 weighing one pound, twelve ounces, so M U S C holds a very
2 special place in my heart

3 It was close to Christmastime, and we have to be very
4 careful with what donations we give because we don't have a
5 lot of money that we're able to afford to give, but I just
6 felt that it was a very worthy cause, and I talked to one of
7 my partners and asked if he thought there was any way that we
8 would be able to give to this cause

9 Q And did you?

10 A Yes sir, we did I was able to get it worked out where
11 the store could give Mr Stanko or the foundation a Hundred
12 Dollar check, and then I gave him a small Twenty Five Dollar
13 check from me personally

14 Q You gave him a personal check?

15 A Yes sir

16 Q Let me show you State's 77 for identification purposes
17 Tell me if you can identify it

18 A Okay Yes sir

19 Q What is it?

20 A As I gave Mr Stanko the checks, right at the last
21 minute he said that I would need to make them out to him
22 personally, and I told him if that was the case, I was going
23 to have to receive some type of receipt, and this is the
24 receipt that he gave me

25 MR HUMPHRIES Move to introduce State's 77

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES

1 THE COURT Any objection?

2 MR DIGGS No objection

3 THE COURT 77?

4 MR HUMPHRIES Yes sir, Your Honor

5 THE COURT State's 77 is in evidence without objection

6 (DONATION RECEIPT ADMITTED INTO EVIDENCE AS STATE'S

7 EXHIBIT NUMBER 77)

8 Q And that's the receipt?

9 A Yes sir

10 Q And State's 77 in evidence is that receipt, is it not?

11 A Yes sir

12 Q Will you read it to the jury?

13 A Certainly Dated December 8th, 2004, receipt by Owl-O-
14 Rest Factory Outlet, Inc , Stephen Stanko, One Hundred Dollar
15 check, Number 35445 Kathleen A Crolley, Twenty Five Dollar
16 check, Number 231, donations made to the Childrens Cancer
17 Research Foundation, certificate to follow, and then it's
18 signed Stephen C Stanko

19 Q Certificate to follow, what was the significance of
20 that?

21 A He had indicated that the businesses that were giving
22 were to get a special thank-you, and it was just to be proof
23 that the money was to go to the charity

24 Q And can I see a copy of that certificate?

25 A No sir

KATHLEEN A CROLLEY - DIRECT BY HUMPHRIES
CROSS BY DIGGS

1 Q Why not?

2 A It was never received

3 Q Did he place an order for desks?

4 A He indicated that he still wanted the desks He --
5 since it was a surprise for his wife, he didn't want her to
6 see the funds for the deposit We talked the next day and he
7 asked if it would be okay if he used his brother's credit card
8 to place the down payment, and at that time -- well, he wanted
9 to know if I would have to speak with his brother, and I told
10 him yes, whoever's credit card was used, I would need to speak
11 with them directly

12 Q Did you have any other communications with Defendant
13 Stanko after that?

14 A No sir

15 MR HUMPHRIES Thank you, Ma'am Answer any questions
16 the Defense may have

17 THE COURT Cross-examination

18 MR DIGGS May it please the Court

19 CROSS-EXAMINATION BY MR DIGGS

20 Q Ms Crolley, how are you this morning?

21 A Doing okay, sir

22 Q Good How long have you been in the Surfside Beach
23 area?

24 A Twenty-six years

25 Q Twenty-six years?

KATHLEEN A CROLLEY - CROSS BY DIGGS

1 A Yes sir

2 Q The address of your store is what?

3 A 4 -- 410-A Highway 17 North in Surfside Beach

4 Q Okay, and you had been at that location for a good
5 while?

6 A We had been at that location for fifteen, sixteen
7 years We were across the street just a block from there the
8 other -- balance of the time

9 Q All right Did Mr -- at any time did you ever ask Mr
10 Stanko for any identification?

11 A No sir He was -- this was my customer, and I simply
12 got his cell phone number and his delivery address for the
13 desks, but no sir

14 Q And you didn't feel there was a need at that point to
15 do so, to ask for identification?

16 A When he was placing the order for the desks or when I
17 was giving him ---

18 Q Generally in your encounter with him at that time?

19 A Right No sir

20 Q He was pretty convincing to you? He seemed straight up
21 enough to you?

22 A Yes sir, absolutely

23 Q Any -- any reflection -- I mean, without reflecting
24 back on it, any reason -- did you see anything in his
25 mannerisms or anything that now you think should have tipped

KATHLEEN A CROLLEY - CROSS BY DIGGS

1 you off?

2 A No sir I mean, I had little signs The delivery
3 address, I was fairly familiar with the area, didn't make a
4 lot of sense, but I ---

5 Q But in terms of his personal conduct, ---

6 A No

7 Q --- he was right on, ---

8 A Yes sir

9 Q --- seemed to be right on accurate in terms of what you
10 would expect?

11 A Yes sir, other than asking for the check to be made out
12 to himself

13 Q That was a little unusual?

14 A Yes, it was

15 Q And he used his real name You don't have any doubt
16 about that?

17 A I mean, I never asked for identification, but yes,
18 right

19 Q Yes Ma'am, and do you recognize him in the courtroom
20 today?

21 A Yes sir

22 Q All right, and so you have independent recollection
23 that he used the name Stephen Stanko?

24 A Yes sir

25 Q All right, so he didn't make any effort to conceal

KATHLEEN A CROLLEY - CROSS BY DIGGS

1 that?

2 A No sir

3 Q All right, and you don't have any knowledge, or do you,
4 as to where he went?

5 A Other than the address he gave us as a delivery
6 address, which I don't believe to be a real address

7 Q But you have come to learn he lived in the area, or did
8 you?

9 A At this point in time do I know that -- yes, yes sir

10 Q He lived in the area at that time, and he was clearly
11 scamming your business and you personally for a Hundred and
12 Twenty Five Dollars, gave his real name to a business that had
13 been in the area for a number of years, and it's a well-
14 established business He made -- do you remember how he was
15 dressed?

16 A Very, very nice, as a businessman

17 Q And he claimed to be a corporate attorney, is that what
18 he said?

19 A Yes sir

20 Q And he looked the part?

21 A I suppose, yes

22 Q And tell me -- and maybe we're getting a little more
23 detailed than we need to, but at -- when you had actually
24 given him the money, or did you, you gave him a check?

25 A Yes sir

KATHLEEN A CROLLEY - CROSS BY DIGGS

1 Q That was negotiable?

2 A Yes sir

3 Q And did you ever -- did you follow up to make -- to see
4 if he had actually cashed it?

5 A Yes, I did

6 Q And did he cash it?

7 A Yes He cashed the store check right away, and then he
8 held my personal check for a couple of weeks

9 Q Okay, and did he eventually cash that?

10 A Yes

11 Q When did you begin to suspect, if you ever did, that he
12 had not been truthful with you?

13 A Immediately after he left, I did check, you know, after
14 he asked about the receipt I tried to contact the Better
15 Business Bureau, and -- but again, he was still my possible
16 customer the next day, so I wasn't, you know, there to
17 interrogate him, and then I was just hoping that somehow there
18 was some kind of glitch where the charity wasn't registered
19 properly Had it been a scam, I really didn't want to make an
20 enemy over Twenty Five Dollars personally, you know, and just
21 let it -- decided to let it go

22 Q After he got the money or, you know, the checks and the
23 -- the two checks, ---

24 A Yes sir

25 Q --- after he got those, do you remember specifically

KATHLEEN A CROLLEY - CROSS BY DIGGS

1 what he did? Did his conduct change in any way?

2 A No It was after that point that he gave me the -- his
3 cell phone number, the delivery address, the directions to his
4 home

5 Q And did you or anyone on behalf of the store ever call
6 the number or follow up on the address, check the address?

7 A I called him the next day to double-check about the
8 deposit that he was to bring, ---

9 Q Yes Ma'am

10 A --- and at least talked to him at least that one time
11 on the cell phone and made no mention of the charity, or
12 certificate, or anything

13 Q All right, and did he answer the phone?

14 A Yes, he did

15 Q So he gave you his real number?

16 A Correct

17 Q And was there any effort to your knowledge to follow up
18 and verify the address?

19 A I don't believe so because the time that it would have
20 been for the desks to come in at that point, I knew that
21 things were not as they should be

22 Q Okay, and when you called him, do you remember how he
23 answered the phone?

24 A No sir, not exactly

25 Q In other words, hello ---

KATHLEEN A CROLLEY - CROSS BY DIGGS
RICHARD S LEE - DIRECT BY RICHARDSON

1 A It wasn't anything unusual

2 Q Didn't -- what I'm getting at is did he answer it as a
3 business or a private, you know, individual?

4 A I can't remember

5 Q Okay

6 MR DIGGS Just a second Ms Crolley, we appreciate
7 it That's all we have at this time

8 A Okay

9 THE COURT Any redirect?

10 MR HUMPHRIES No We request this witness be excused,
11 Your Honor

12 THE COURT Any objection?

13 MR DIGGS No, Your Honor

14 THE COURT All right Ma'am, you are released from
15 your subpoena and may go back to your regular activities
16 Your next witness

17 MR RICHARDSON Steve Lee

18 THE COURT All right, Mr Lee, come up front with -- to
19 the Clerk, please sir

20 RICHARD S LEE, being first duly
21 sworn, states as follows

22 DIRECT-EXAMINATION BY MR RICHARDSON

23 Q Do you go by Richard or Steve?

24 A Steve

25 Q Steve, where do you live, please?

RICHARD S LEE - DIRECT BY RICHARDSON

- 1 A Murrells Inlet or Horry County on 707
- 2 Q All right, and how about where do you work?
- 3 A A self-employed mechanic
- 4 Q Were you a self-employed mechanic back in March of
- 5 2005?
- 6 A I was
- 7 Q And where were you working back then?
- 8 A At Sonny's Auto Body
- 9 Q And, of course, you say you're self-employed How did
- 10 that work?
- 11 A I done -- I rented a place from him
- 12 Q All right Did you have an occasion to meet Mr
- 13 Stephen Stanko back in March of 2005?
- 14 A I did
- 15 Q Tell this jury about that first meeting
- 16 A He brought his car in and it was running hot, had car
- 17 problems
- 18 Q What kind of car was it, Steve?
- 19 A A Mustang
- 20 Q Do you remember the color?
- 21 A Red
- 22 Q All right, and it was running hot Was there anyone
- 23 else with Mr Stanko when he came in?
- 24 A No sir
- 25 Q Were you able to strike up a conversation with Mr

RICHARD S LEE - DIRECT BY RICHARDSON

1 Stanko?

2 A Had general conversation, asked him what he did

3 Q What did he tell you?

4 A Said he was a paralegal for ten law firms, Myrtle
5 Beach, Columbia, Charleston

6 Q All right Did you need any legal help at the time?

7 A I did

8 Q All right Please explain to the jury what kind of
9 legal help you needed

10 A Had a friend that had passed away and I was under the
11 impression that there was some things left in the Will for me,
12 and he said that he could help me out

13 Q So it was a Probate issue?

14 A Correct

15 Q Who was the friend?

16 A Mr Donald Calvert

17 Q All right, and tell the jury a little bit why you would
18 expect to receive something from Mr Calvert

19 A There was supposed to have been some insurance policies
20 and this and that for myself, and my girlfriend, and my child

21 Q Did Mr Stanko give you any information or tell you he
22 thought he might be able to help you?

23 A He said that he could He said that he could get one
24 of the firms from Charleston to help me out with that and
25 supposedly he got names, social security numbers, and said

RICHARD S LEE - DIRECT BY RICHARDSON

1 there was policies for myself, my girlfriend, and my child

2 Q All right Now, did he do all of this for free?

3 A No sir

4 Q All right Tell us about any payment that you may have
5 made to Mr Stanko

6 A He said he'd need a Thousand Dollar retainer I paid
7 him in cash

8 Q And you paid him on that first date that you had met
9 him back in March of '05?

10 A Not the first date, no sir

11 Q So there was a second meeting?

12 A Right

13 Q And you met with him and gave him a Thousand Dollars?

14 A Right

15 Q Cash Did he give you any sort of receipt?

16 A None at all, sir

17 Q All right After giving him the One Thousand Dollars,
18 did you call him back to check up on whether or not there was
19 any insurance?

20 A He -- he called me back and said that there was a Two
21 Thousand Dollar policy on me, Eighty Thousand on my
22 girlfriend, and Forty Thousand on my child

23 Q He said Two Thousand on you Was that right?

24 A Two Hundred Thousand

25 Q Two Hundred Thousand for you, Eighty Thousand for your

RICHARD S LEE - DIRECT BY RICHARDSON

1 girlfriend, and Forty Thousand for your child?

2 A Correct

3 Q All right, and how long after the time that you had
4 given him the One Thousand Dollars did he call you back and
5 tell you about this Three Hundred and some odd Thousand
6 Dollars?

7 A Oh, it was four or five days He said it was just a
8 matter of getting the paperwork handled and they would send
9 the money right on

10 Q And were you impressed with Mr Stanko's legal ability?

11 A I was at the time, yes sir

12 Q Matter of fact, you referred some -- one of your
13 friends to him?

14 A Yes sir, Mr Jack Jackson

15 Q You referred Mr Jack Jackson to Stephen Stanko Tell
16 us about that

17 A He had a legal issue going on I told him that I had
18 met someone that I thought could do him a good job, and they
19 got together

20 Q Did there ever come an occasion where you were
21 skeptical about your Three Hundred Thousand Dollars?

22 A I kept waiting and waiting, calling and calling, said
23 the check would be here soon, Fed-X was going to deliver,
24 nothing

25 Q Nothing?

RICHARD S LEE - DIRECT BY RICHARDSON

1 A Nothing

2 Q All right Did -- did you ever check into this
3 attorney that he was telling you about in Charleston?

4 A Actually, I went on-line and it was a legitimate firm,
5 and the attorney that he said he was using was legit, yes sir

6 Q Okay Now, you kept calling Did you ever meet
7 Stephen again personally?

8 A I did I kind of got aggravated with the situation and
9 I met him on April the 7th in the Food Lion parking lot in
10 Murrells Inlet

11 Q And when you met with Stephen, Defendant Stanko, on the
12 7th of -- did you say April 7th?

13 A Yes sir

14 Q Of 2005?

15 A Correct

16 Q Tell us about that meeting

17 A It was short I was aggravated by the promises, and he
18 said that he would get in touch with me at nine o'clock the
19 next morning

20 Q That he would call you on April the 8th at nine
21 o'clock?

22 A Yes sir

23 Q Were you expecting your money any time soon?

24 A I was hoping at nine o'clock that next morning

25 Q Did he call you on April the 8th at nine o'clock?

RICHARD S LEE - DIRECT BY RICHARDSON

- 1 A No sir, he did not I called him
- 2 Q What did you do -- I'm sorry
- 3 A I tried to call him
- 4 Q Okay Did he answer his phone?
- 5 A No sir The South Carolina Law Enforcement answered
- 6 his phone, and I thought it was a joke I hung up, called
- 7 back I was aggravated with everything, and I told them I'd
- 8 be over in about five minutes, that I was going to see what
- 9 was going on, and when I got over there, the house was taped
- 10 off and they were doing an investigation on a murder
- 11 Q And that was the house that he shared with Laura Ling?
- 12 A Yes sir
- 13 Q Had you ever been to that house before?
- 14 A No sir, I had not
- 15 Q All right How much of the Three Hundred Thousand did
- 16 you ever get?
- 17 A Nothing
- 18 Q Nothing How about your girlfriend?
- 19 A Nothing
- 20 Q And your child?
- 21 A Nothing
- 22 MR RICHARDSON I have no further questions Please
- 23 answer any questions Mr Diggs or Ms Williams might have for
- 24 you
- 25 A Thank you

RICHARD S LEE - CROSS BY DIGGS

1 **THE COURT** Cross-examination

2 **MR DIGGS** Yes May it please the Court

3 **THE COURT** Yes sir

4 **CROSS-EXAMINATION BY MR DIGGS**

5 Q Mr Lee, how are you this morning?

6 A (No response)

7 Q I say how are you this morning?

8 A I'm fine, sir I'm sorry

9 Q When Mr Stanko gave you the -- or you gave him the
10 Thousand Dollars, was it cash?

11 A Yes sir, cash

12 Q And you didn't ask for a receipt?

13 A He was going to bring me one at a later date

14 Q Let me ask you how long it was to your recollection
15 between your paying that money and the time you called him and
16 the law enforcement people answered?

17 A The third week in March is when I gave him the money,
18 somewhere in -- somewhere along in that date, by then a few
19 days after, and then it was April the 7th when I made the call
20 to find out, law enforcement

21 Q Okay, so the third week in March?

22 A Was when he received money

23 Q All right, and so there was about a two week period in
24 there that ---

25 A He was working on everything

RICHARD S LEE - CROSS BY DIGGS

1 Q --- he was working on your case? Had you had
2 conversations with Mr Jackson that had led you to believe --
3 not Mr Jackson, I'm sorry, but your friend that had passed
4 away? Prior to his death, had he led you to believe that you
5 would be receiving money of some sort?

6 A I knew that I was in the Will I didn't know to what
7 extent

8 Q And what's -- and what was that individual's name?

9 A Mr Donald Calvert

10 Q Okay What county did he live in?

11 A Horry County

12 Q Do you know if his Will -- did he have a Will and was
13 it ever probated?

14 A It's still in Probate right now

15 Q Still there?

16 A Yes sir

17 Q The Estate is still open?

18 A Yes sir

19 Q Did Mr Stanko, to your knowledge, ever do anything on
20 the real estate, on the legitimate estate?

21 A No sir

22 Q You looked on-line to see if he had given you the name
23 of a legitimate attorney?

24 A Yes sir

25 Q Did you ever call that law office?

RICHARD S LEE - CROSS BY DIGGS

- 1 A After it was all over
- 2 Q Okay, but not until ---
- 3 A No sir
- 4 Q When I say until, you made the call and law enforcement
- 5 answered the phone?
- 6 A Right
- 7 Q Of course, you understood at that point that he wasn't
- 8 working on your case?
- 9 A Right
- 10 Q All right, and prior to that time, you had never
- 11 contacted the firm in Charleston?
- 12 A No sir, just seen that it was legit on-line
- 13 Q Did you do the work on the car that he brought in?
- 14 A Yeah It was running hot, did some -- don't remember
- 15 exactly what it was, ---
- 16 Q Right
- 17 A --- an over-heating issue
- 18 Q And did he pay you for that?
- 19 A Yeah
- 20 Q You don't remember how much the bill was, do you?
- 21 A No sir, I do not
- 22 Q Okay It's a pretty run of the mill, routine type ---
- 23 A Yeah, a routine type thing
- 24 MR DIGGS All right, Mr Lee, I don't think that we
- 25 have anything else of you this morning Thank you very much

JAMES CARSON JACKSON - DIRECT BY RICHARDSON

1 A Thank you, sir

2 THE COURT Any redirect?

3 MR RICHARDSON No sir, Your Honor

4 THE COURT Do you wish the witness to be excused?

5 MR RICHARDSON Please sir

6 THE COURT Any objection?

7 MR DIGGS No sir

8 THE COURT All right, Mr Lee, you are released from
9 your subpoena, may go back to your regular duties, sir

10 A Thank you, sir

11 THE COURT All right, sir Your next witness, please

12 MR RICHARDSON James Jackson

13 THE COURT All right, sir, come right up front to where
14 the Clerk is, please sir, and be sworn, all the way up here

15 JAMES CARSON JACKSON, being first
16 duly sworn, states as follows

17 DIRECT-EXAMINATION BY MR RICHARDSON

18 Q Mr Jackson, what do you go by? What would you wish us
19 to call you? What is your first name?

20 A Jack

21 Q Jack?

22 A That's my nickname

23 Q Okay Mr Jackson, did you get referred to a Stephen
24 Stanko?

25 A Yes, yes, I did

JAMES CARSON JACKSON - DIRECT BY RICHARDSON

1 Q And that was by your good friend, Mr Lee?

2 A Yes

3 Q Tell us about when that occurred?

4 A I believe it was on the 6th day of the day -- the month
5 that it happened I didn't write it down or anything

6 Q Was it back in 2005?

7 A Yes, whenever it -- whenever it ---

8 Q About the same time Steve was going through his
9 work ---

10 A Yes

11 Q --- with Mr Stanko?

12 A The same time

13 Q Okay, and tell me a -- tell us a little bit about that
14 first meeting that you had with Mr Stanko

15 A Mr Lee set it up with him to call me, and I -- we got
16 together, and he met at my house that evening, and then we
17 talked about, you know, and -- we talked about it, and he told
18 me how much it would cost and everything, and all about that

19 Q All right, and now, what kind -- did he ever hold
20 himself out to be an attorney?

21 A Oh, yes

22 Q All right Mr Stanko told you he was an attorney?

23 A Yes

24 Q All right Did -- how much did he tell you it was
25 going to cost?

JAMES CARSON JACKSON - DIRECT BY RICHARDSON

1 A A Thousand Dollars to, you know, initial, you know, and
2 then from there, maybe some more later down the road
3 Q Did you give him the Thousand Dollars?
4 A No
5 Q How much did you give him?
6 A Five Hundred
7 Q You gave him Five Hundred Dollars?
8 A Yes
9 Q Did you give him that in cash or check?
10 A Check
11 Q All right What were you -- what were you seeking his
12 help on?
13 A A problem that I had of character discrimination of
14 character, dec- -- how do you pronounce it?
15 Q Defamation?
16 A Defamation of character, yes
17 Q All right Somebody had defamed your character?
18 A Yes
19 Q All right, and you got a good reference on Mr Stanko?
20 A Yes
21 Q Did he appear to be able to help you?
22 A Sounded good to me
23 Q All right What did Mr Stanko tell you about your
24 situation?
25 A When I mentioned his name, he said, well, you know,

JAMES CARSON JACKSON - DIRECT BY RICHARDSON

1 we've been after this guy for several years I said, okay,
2 sound like a good man to me

3 Q All right Well, who were you saying had defamed you?

4 A Cooper Wellon

5 Q Cooper Wellon?

6 A Yes

7 Q And he told you that he had heard that name in the past
8 and they had been after Cooper Wellons?

9 A Yes, yes

10 Q And you gave him Five Hundred Dollars of the One
11 Thousand Dollars?

12 A Yes

13 Q You may have said this, but did he give you any sort of
14 receipt?

15 A No, no, he didn't To my knowledge, he did not

16 Q All right, and was there anything ever done with
17 regards to a suit filed against Cooper Wellons?

18 A No sir

19 Q Did you ever try to contact Mr Stanko again about the
20 -- how your case was progressing?

21 A No I was letting him handle -- whenever I gave him
22 the money, that was -- that was the last I heard from him

23 Q And did you go with Mr Lee for that meeting on the 7th
24 when he met in the Food Lion parking lot with Defendant
25 Stanko?

JAMES CARSON JACKSON - DIRECT BY RICHARDSON
CROSS BY WILLIAMS

1 **MR DIGGS** Your Honor, he's kind of leading there and
2 we would object to the form of the question

3 **THE COURT** All right Rephrase the question, please

4 Q Did you ever see Stephen Stanko again?

5 A To my knowledge, no

6 Q All right, and you ever try to call him again?

7 A No

8 Q All right Did you ever pay him the rest of his money?

9 A No

10 Q All right

11 **MR RICHARDSON** I have no further questions If you'd
12 answer any questions that Ms Williams has

13 **THE COURT** Cross-examination

14 **MS WILLIAMS** Yes sir May it please the Court
15 Beg the Court's indulgence for just one moment

16 **THE COURT** Yes Ma'am

17 **CROSS-EXAMINATION BY MS WILLIAMS**

18 Q Mr Jackson, ---

19 A Yes

20 Q --- good morning

21 A Good morning

22 Q You met Mr Stanko at your house, is that correct?

23 A That's correct

24 Q Approximately when was that?

25 A The day before the incident happened

JAMES CARSON JACKSON - CROSS BY WILLIAMS

1 Q So in early April of 2005?

2 A Yes, somewhere around the 6th, 5th, 6th, somewhere
3 there

4 Q And you gave him Five Hundred Dollars, is that right?

5 A I gave him a check for Five Hundred Dollars

6 Q But you did not get a receipt, is that correct?

7 A To my -- a bank statement, yes From him?

8 Q Yes sir

9 A No, no Ma'am

10 Q He didn't write you a receipt saying here is a Five
11 Hundred Dollar receipt?

12 A No Ma'am

13 Q Okay, and when you made the check out, did you make the
14 check out to Mr Stanko or did you make it out to some law
15 firm, do you recall?

16 A I think -- I'm almost positive I made it out to Stanko

17 Q So you made the check out to him?

18 A Yes

19 Q Okay, and when you talked to him, did you have any
20 means or did you retain any type of means by which way to
21 contact him once you had given him this money?

22 A To my knowledge, after I gave it to him, I let him -- I
23 left it in his hands He was so, you know, encouraging, that
24 I left it up to him, you know, from there on

25 Q Do you or you don't know that you had a way to ever

JAMES CARSON JACKSON - CROSS BY WILLIAMS

1 call him to follow up?

2 A To my knowledge, no

3 Q Okay

4 A I had some numbers previous that Mr Lee gave me that
5 whenever I tried to call him, I couldn't get him I got, you
6 know, somebody else that, you know, ---

7 Q That's fine, but so you did have phone numbers, even
8 though they weren't given to you by Mr Stanko, they were
9 given to you by Mr Lee?

10 A By Mr Lee, yes

11 Q So that you could call him, is that right?

12 A Yes

13 Q Okay Now, let me see, you contacted him when you
14 thought you needed a lawyer because you wanted to file a
15 lawsuit, is that right?

16 A Correct

17 Q And can you tell me why you wanted to file that
18 lawsuit?

19 A Defamation of character

20 Q And can you tell me about what the defamation was
21 allegedly?

22 MR RICHARDSON Objection, Your Honor, just as to
23 relevance

24 MS WILLIAMS Your Honor, may we approach on that?

25 THE COURT Yes Ma'am

JAMES CARSON JACKSON - CROSS BY WILLIAMS

1 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

2 Q So, Mr Jackson, can you tell me what it was that you
3 were going to file that lawsuit about?

4 A It was defamation of character

5 Q And can you tell me how your -- what basis?

6 A What basis?

7 Q Yes sir

8 A About what Mr Wellon said to me at a party as I was
9 leaving He made it clear that he wanted the crowd to hear
10 what he was saying

11 MS WILLIAMS Your Honor, beg the Court's indulgence
12 just one moment

13 THE COURT Yes Ma'am

14 MS WILLIAMS Your Honor, that's all the questions I
15 have

16 Thank you, Mr Jackson

17 A Thank you

18 THE COURT Redirect?

19 MR RICHARDSON No sir, Your Honor

20 THE COURT Do you wish the witness to be excused?

21 MR RICHARDSON Yes sir, please

22 THE COURT Any objection?

23 MS WILLIAMS No sir, we don't have any objection

24 THE COURT All right, sir, you are released from your
25 subpoena and may go back to your regular activities, sir

DON M MCALISTER - DIRECT BY RICHARDSON

1 A Thank you

2 THE COURT Your next witness, Solicitor

3 MR RICHARDSON The State would call Don McAlister

4 THE COURT All right, Mr McAlister, come on up front
5 and be sworn, sir, please, all the way up here

6 DON M MCALISTER, being first duly
7 sworn, states as follows

8 DIRECT-EXAMINATION BY MR RICHARDSON

9 Q Mr McAlister, where is it that you work?

10 A I own Don's Rock & Stone Masonry on 707, Murrells
11 Inlet

12 Q And tell the jury a little bit about that business

13 A We have all types of stone for fireplaces, different
14 building stones, landscaping

15 Q Do you -- and you sell that? What kind of people do
16 you generally sell stones to?

17 A Individuals, landscapers, builders

18 Q And did you have an occasion to meet with Stephen
19 Stanko?

20 A Yes sir, I did

21 Q About when was that, the first time you met with him?

22 A I don't remember the dates It's been a while back

23 Q Okay Was it back in 2004?

24 A Yes sir

25 Q All right, and tell the jury a little bit about the

DON M MCALISTER - DIRECT BY RICHARDSON

1 first time or the first few times that you met with Defendant
2 Stanko

3 A Stanko came by the yard and said he was building a
4 house, and he wanted to look at some different materials for
5 the house, for patios, and landscaping, and so forth

6 Q All right What -- did he ever tell you what kind of
7 business he was in?

8 A He said he was a -- presented himself as a lawyer He
9 handed a card, and that was -- he was in the market to
10 building a new house

11 Q Did he tell you about where the house was being built?

12 A No sir He never gave me the location

13 Q All right Let me pass to you what has been marked as
14 State's Exhibit Number 78, it's a packet Please look over
15 those and tell me if you recognize that

16 A Yes sir, I do Yes sir

17 MR DIGGS No objection

18 THE COURT All right, that's 78?

19 MR RICHARDSON Yes sir, Number 78 The State would
20 move it into evidence

21 THE COURT State's 78 is in evidence without objection

22 (DOCUMENTS GROUPING (MCALISTER) ADMITTED INTO EVIDENCE AS
23 STATE'S EXHIBIT NUMBER 78)

24 Q Mr McAlister, did Stephen Stanko ever -- did he ever
25 decide on what sort of stones that he wanted for this house?

DON M MCALISTER - DIRECT BY RICHARDSON

1 A Yes sir

2 Q And on March 14th, 2004, speaking of this document,
3 please tell the jury what that is

4 A This document is a purchase order to purchase the stone
5 that he wanted, part of it

6 Q All right, and who did you work with on coming up with
7 that order?

8 A He worked with myself and my girlfriend

9 Q All right, and what's her name?

10 A Teresa Rower

11 Q And y'all live?

12 A We live at the location

13 Q All right, and whose name is on that as far as filling
14 out the form?

15 A Don That's myself

16 Q All right, and Stephen Stanko at the top there
17 Approximately -- and I don't want you to go through all of the
18 stones, but what was the total figure that you gave him as an
19 estimate on March 14th of 2004?

20 A This estimate on this document here is Five Thousand,
21 One Hundred, Fifty Nine Dollars and thirty-eight cent

22 Q Okay, and did Mr Stanko pay you Fifty One Hundred and
23 Sixty some odd Dollars?

24 A No sir They was a special order with this here, and
25 the whole total bill was Eleven Thousand, Five Hundred, Fifty

DON M MCALISTER - DIRECT BY RICHARDSON

1 Five Dollars

2 Q Okay Now, did you go ahead and special order some
3 more stones for him?

4 A We don't special order until the check clears

5 Q Okay, and did he give you a check for Eleven Thousand,
6 Five Thousand and Fifty Five Dollars?

7 A Yes, he did

8 Q And whose account is that a check on, please?

9 A Laura H Ling

10 Q All right, and is that -- whose signature? Is that
11 Stanko's signature?

12 A I have no idea That's -- it's got her signature on
13 it

14 Q At the bottom of the check?

15 A Yes sir

16 Q Now, he brought this check to you on April 5th of 2005?

17 A Yes sir

18 Q Did you try to take that check to the bank?

19 A I took the check to the bank

20 Q On what day?

21 A The next day

22 Q The 6th?

23 A Yes sir

24 Q Was the check any good?

25 A No sir

DON M MCALISTER - DIRECT BY RICHARDSON

1 Q All right Did you make Mr Stanko aware that the
2 check was no good?

3 A Yes sir

4 Q And what date did you make him aware that the check was
5 no good?

6 A Several times following that the check was no good at
7 the bank

8 Q And what did he tell you about -- about that?

9 A That he would bring me the cash money

10 Q All right, so sometime after April the 6th, 2005, he
11 told you he would bring you Eleven Thousand, Five Hundred
12 Dollars?

13 A Yes sir

14 Q Okay Now, back to March 8th, 2005, I want to ask you
15 about this check

16 A This check here was supposed to be the Martha Stewart
17 thing that was going to make me a ton of money, that was -- it
18 never existed

19 Q All right Tell us a little bit about the Martha
20 Stewart thing

21 A He came one -- that day and said his father and his
22 family was really making some good money on the Martha Stewart
23 split This is when she went to jail or something and did I
24 want to get in on it, and I told him, I said, yeah, I'd get in
25 on it, so this check here were for Thir- -- One Thousand,

DON M MCALISTER - DIRECT BY RICHARDSON

1 Three Hundred and Seventy Four Dollars

2 Q Where did that amount come from?

3 A From my personal account

4 Q Well, I mean, how did you know to make the check out
5 for the Thirteen Hundred and ---

6 A That's what he told me to make it out for, something
7 about the price of the stocks

8 Q All right, and did he give you a receipt for that
9 check?

10 A The only thing that he gave me was that -- where is it
11 at -- this guarantee

12 Q And that's on your letterhead?

13 A That's on my letterhead He wrote it out, and he
14 signed it

15 Q All right How about read that into the record for the
16 jury, what he wrote there

17 A I, Stephen C Stanko, have accepted the amount of One
18 Thousand, Three Hundred and Seventy Four Dollars this eighth
19 day of March, 2005 I will return no less than this same
20 amount of Thirteen Seventy Four, and he's got it slashed, on
21 March 15th, 2005 This money will be used as an investment
22 for profit return Mr Stanko signed it I signed it, and
23 Teresa Rower signed it

24 Q How much were you supposed to make off of this Thirteen
25 Hundred Dollars?

DON M MCALISTER - DIRECT BY RICHARDSON

1 A Three Thousand It's on the -- that's what he slashed
2 through, Three Thousand, Eight Hundred and Eight Dollars and
3 fifty-seven cent
4 Q So basically triple your money?
5 A Yes sir, yes sir
6 Q All right, and did there come an occasion that he came
7 back to meet with you on this Martha Stewart stuff on March
8 15th?
9 A Yes sir, he did
10 Q And tell me ---
11 A And I wrote him another check for Nine Hundred and
12 Twelve Dollars and fifty-seven cent
13 Q All right, and what was the purpose for the --
14 basically a Thousand more Dollars?
15 A So he could get it in and get everything done at one
16 time and bring me the money
17 Q And he was going to add that to the Thirteen Hundred
18 Dollar amount?
19 A That would have been tripled That check would have
20 been tripled also
21 Q Okay Now, you don't strike me as an individual that
22 parts with money very easily
23 A No sir, I do not
24 Q And at this time that you gave him these two checks, he
25 had still not picked up the special order?

DON M MCALISTER - DIRECT BY RICHARDSON

1 A No sir We had -- I had taken the special order and
2 set it in the back

3 Q All right Had you kept on Mr Stanko any about coming
4 and picking up that special order?

5 A Yes sir, I did

6 Q And what was his answers at that time?

7 A He had different excuses, he wasn't ready, he didn't
8 have the place fixed, secured, to set the stone, he wasn't
9 ready for delivery, and I told him, I said, well, there's no
10 delivery until everything is paid for

11 Q Did he ever tell you of any of the problems that he was
12 running into in building this house?

13 A Yes sir One problem that really struck me as odd, he
14 said he had a -- had put a jacuzzi on the second floor and it
15 had fell through the floors and that was one of the biggest
16 delays he had

17 Q So because of that and other problems, he was not ready
18 for the block?

19 A No sir

20 Q Okay Did you -- how much of the -- did you really
21 triple your money on these two checks?

22 A I hadn't seen a dime

23 Q All right About the Eleven Thousand, Five Hundred,
24 Fifty Five Dollars, you had called him and told him that the
25 check was no good, and that was on the 6th?

DON M MCALISTER - DIRECT BY RICHARDSON

1 A Yes sir, several times after that

2 Q All right Did he ever call you back with regards to
3 making that check good?

4 A I don't remember the date that he called me back He
5 call- -- it was about eleven o'clock at night We had already
6 closed We was finished for the day, and I believe it was
7 raining that evening, and he said he was on his way from
8 Charleston, he had the cash money to pay me, and we would set
9 up delivery of the stone

10 Q Okay, and he was going to bring cash to you that
11 night ---

12 A Yes sir

13 Q --- at your house?

14 A Yes sir

15 Q And tell the jury where your house is in relation to
16 your business?

17 A My home is -- is beside my house I mean, my -- my
18 business is right beside it It's all on one property, so
19 it's just steps away from the front, from the office door to
20 the rock yard

21 Q So he knew where you lived?

22 A Yes sir

23 Q And he had called you about eleven, and I'm going to
24 bring you the cash money?

25 A Yes sir

DON M MCALISTER - DIRECT BY RICHARDSON
CROSS BY DIGGS

1 Q What was -- I know you don't remember the date, but
2 what was -- what did you find out the next day?

3 A That this lady had been killed

4 Q All right, and at some point, he was coming to your
5 house?

6 A Yes sir

7 Q Did he come to your house that night?

8 A No sir I told him do not come to the house, it was --
9 I was closed, we was ready for bed, and there's no use in
10 coming Don't even come around that late at night

11 MR RICHARDSON I have no further questions If you
12 would answer any questions that the Defense might have for
13 you

14 THE COURT Cross-examination

15 CROSS-EXAMINATION BY MR DIGGS

16 Q Mr McAlister, how are you this morning?

17 A Just fine, sir

18 Q When Mr Stanko came in, describe for us his demeanor
19 when he came in to place this order Did he strike you as
20 being unusual in any way at that time?

21 A No sir

22 Q All right You don't remember anything about him that
23 stood out or that caught your attention that would separate
24 him from other typical customers that would come into your
25 business?

DON M MCALISTER - CROSS BY DIGGS

1 A He was always in a hurry, ---
2 Q Okay
3 A --- just fidgety, in a hurry
4 Q Now, what kind of information, contact information, did
5 you get from him concerning this order?
6 A Now, he -- he just told me he was building a new house
7 He never give me his location He never told me He just
8 give me some dimensions He wanted this, this, this, this
9 He give me some dimensions of stuff and I figured up how much
10 he would have to have for that particular place, and that was
11 -- that was it
12 Q Well, did he give you a telephone number so you could
13 contact him?
14 A Yes sir I had his cell phone
15 Q And do you recall if you ever used that?
16 A Several times
17 Q Okay, so it was a real number? You could contact him
18 pretty much any time you needed to?
19 A No sir A lot of times he was not available on that
20 phone
21 Q All right, but then you would call up or follow up and
22 then he would answer?
23 A Yes sir
24 Q Now, the day of the order is March 14th of '04,
25 correct?

DON M MCALISTER - CROSS BY DIGGS

1 A I -- I guess, sir It's been a while since I've seen
2 all this

3 Q All right, but your testimony is that would be accurate
4 if it says March 14th?

5 A If it says it on that piece of paper, ---

6 Q That would be right?

7 A --- it's it

8 Q And then on April the 5th, he writes you a check for
9 the Eleven Thousand, Five Hundred and Fifty Five Dollars,
10 correct?

11 A Yes, yes sir

12 Q Is this a copy of the check?

13 A Right, yes sir

14 Q Now, why the delay?

15 A Excuse me?

16 Q Why was there such a delay?

17 A I never could get him to come by and pay it, I mean, to
18 secure the order

19 Q Did you actually send off for the materials and spend
20 money out of the business account for the acquisition of the
21 special order?

22 A The special order was not paid for until he paid for
23 it I mean, I don't order it unless it's paid for

24 Q Got'cha, so would it be fair to say you weren't
25 literally out of pocket for Eleven Thousand, Five Hundred

DON M MCALISTER - CROSS BY DIGGS

1 Dollars?

2 A Not that part The other part that he ordered was on
3 the yard and we set it at the back of the property with his
4 name on it

5 Q All right, and that's the amount you said that was ---

6 A Five Thousand something

7 Q Five Thousand Dollars worth of material?

8 A Yes sir

9 Q But at least you didn't deliver that and lose that?

10 A Did not deliver any of it

11 Q To this day, do you have any idea about where the house
12 was or ---

13 A No sir

14 Q --- what Mr Stanko had in mind about ---

15 A No sir I have -- have not a clue

16 Q Let me ask you a little bit about his representations
17 to you of being -- what did he say he was?

18 A (No response)

19 Q What -- what kind of business did he tell you he did?

20 A He said he was an associate -- was something lawyer
21 He give a card that had the little justice thing on it, so he
22 presented hisself as something to do with the law system

23 Q He told you, as far as you can remember, that he was an
24 attorney?

25 A He mentioned that he was working for -- he was an

DON M MCALISTER - CROSS BY DIGGS

1 associate of an attorney

2 Q Okay, and he actually gave you a real business card or
3 it looked -- looked real?

4 A It looked real

5 Q And finally he came by in April and gave you a check
6 Tell me again, if you would, sir, or tell me how it came to be
7 that he presented himself at the business and actually gave
8 you a check

9 A You've done asked me that one time He gave -- he just
10 came in and said I'm going to write you this check for the
11 materials that I've ordered

12 Q Tell me, not to cut you off, but how much did you
13 pressure him, if at all, or how much of an effort did you get
14 -- or did you make to get him to come and give you the check?
15 Do you see what I'm asking?

16 A I told him that if he didn't come in, that the order
17 that he had placed would be put back in stock and that -- you
18 know, that was the end of it, and I had never ordered -- do
19 not order special orders until it's paid for, and he said he
20 would be in to pay for it

21 Q All right, and so he came in and gave you an Eleven
22 Thousand Dollar plus check?

23 A Yes sir

24 Q Drawn on Bank of America?

25 A Yes sir

DON M MCALISTER - CROSS BY DIGGS

1 Q Which is there at the community branch?

2 A Yes sir

3 Q Did he seem nervous or upset at the time that you
4 talked to him at eleven o'clock that night?

5 A No sir, I don't remember if he did or not He was just
6 in a hurry He said he was driving from Charleston to my
7 house

8 Q And this was about eleven?

9 A Eleven, eleven-thirty, somewhere in that neighborhood

10 Q And he told you in a voice that you thought sounded
11 like he was in a hurry?

12 A He's always talked like that I mean, he was just --
13 he was always in a hurry and a phone was ringing, so

14 Q But convincing?

15 A Oh, very convincing

16 Q All right, and you gave him the investment money back
17 in -- the 8th day of March? That's what it says on the
18 receipt Do you agree with me on that?

19 A Yes sir

20 Q So we had gone -- you had gone from March the 8th until
21 April the 5th, around and about, about coming in and making
22 the payment for the special order, and he had postponed it
23 that long?

24 A Yes sir It was always something happening at the
25 house where it couldn't be delivered He was being -- getting

DON M MCALISTER - CROSS BY DIGGS

1 ready for it

2 Q Okay, and you had actually given him money a couple of
3 times, March the 8th and then again on March the -- bear with
4 me -- March the 15th, about a week later?

5 A Yes sir, what's on that

6 Q Describe for me, if you would, how your -- what your
7 feelings were toward Mr Stanko Were you pretty adamant
8 about getting some answers, both on the order and your
9 investment?

10 A I was real aggravated

11 Q Aggravated Did you let him know about it?

12 A Yes

13 Q And when you would convey that to him, do you remember
14 what -- what tone or language you might have used, considering
15 we're here in the ---

16 A Considering where we're at right now

17 Q But you ---

18 A I'm the type person that tells you like I think it is

19 Q Pretty direct?

20 A Pretty direct, real direct

21 Q And you were upset at him at that time?

22 A I wanted my money

23 Q And that's what you told him? You told him that?

24 A Yes I wanted my money

25 MR DIGGS Beg the Court's indulgence

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 **THE COURT** Yes sir

2 **MR DIGGS** Okay, Mr McAlister, I appreciate your time

3 That's all we have at this point

4 **THE COURT** Any redirect?

5 **MR RICHARDSON** No sir

6 **THE COURT** Do you wish the witness to be excused?

7 **MR RICHARDSON** Yes sir, please

8 **THE COURT** Any objection?

9 **MR DIGGS** No sir

10 **THE COURT** All right, sir, you are released from your

11 subpoena and may go back to your regular duties, sir

12 Your next witness, please

13 **MR HUMPHRIES** John Gaumer

14 **THE COURT** Mr Gaumer, come around front where the

15 Clerk is, please sir

16 **JOHN ROBERT GAUMER**, being first duly

17 sworn, states as follows

18 **DIRECT-EXAMINATION BY MR HUMPHRIES**

19 Q Good morning, at least for the next six minutes How

20 are you, Mr Gaumer?

21 A Thank you I'm doing well

22 Q Mr Gaumer, please tell the jury what your career was

23 in

24 A My career has been in librarianship

25 Q And what is the current status of your employment now,

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 Mr Gaumer?

2 A I am retired, a disability retirement, due to
3 Parkinson's Disease, and I retired March 31st of 2008

4 Q Mr Gaumer, prior to your retirement, what position did
5 you hold in that career?

6 A That lasted from January 1995 through March 31st of
7 2008 I was the Library Director of the Horry County Memorial
8 Library

9 Q Is that the Horry County Library System?

10 A Yes

11 Q Now, do you know Laura Ling?

12 A Yes She was the reference librarian at our Socastee
13 Library

14 Q And, in fact, did you have some responsibilities in her
15 hiring and promotion?

16 A Yes, yes, I did

17 Q Did you -- beyond any contact in terms of hiring and
18 promotion, did you work or supervise to any extent Laura Ling
19 while she worked for the library system?

20 A I did not supervise Laura Ling in her position That
21 was left up to the responsibility of the library branch head

22 Q But did you know her?

23 A Yes

24 Q Let me ask you, had you ever had the occasion to meet
25 Defendant Stanko in connection with Laura Ling?

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 A Yes I met Mr Stanko through the non-fiction book
2 discussion group that we began at Socastee Library

3 Q Let me show you what's been marked as State's 79 for
4 identification Can you identify that picture in that
5 photograph?

6 A That is the Socastee Library

7 Q Is this where Laura Ling worked?

8 A Yes

9 MR HUMPHRIES We would introduce it

10 MR DIGGS Your Honor, we don't have any objection

11 THE COURT All right It's in evidence without
12 objection

13 (PHOTO (SOCASTEE LIBRARY) ADMITTED INTO EVIDENCE AS
14 STATE'S EXHIBIT NUMBER 79)

15 Q It appears to be a relatively new facility at least at
16 the time of the photograph?

17 A Yes

18 Q Now, you said that you had some contact with Defendant
19 Stanko with this non-fiction book discussion group?

20 A Yes

21 Q That was held at the Socastee Library?

22 A Yes

23 Q Did you know Defendant Stanko's relationship with Laura
24 Ling at that time?

25 A Yes

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 Q And what was it?

2 A He was her boyfriend

3 Q In your contact with Defendant Stanko, how did he
4 present himself to you?

5 A Very professionally, well-dressed, well groomed,
6 intelligent

7 Q And in terms of his relationship with Laura, did you
8 see them interact?

9 A Yes

10 Q And how would you characterize their interactions?

11 A Pretty much it was a worker, Laura Ling, helping the
12 library reference needs of a patron, that being Stephen
13 Stanko

14 Q Let me ask you, I want to take you back to the early
15 morning hours of April 9th, 2005 Do you recall that morning?

16 A Yes

17 Q Tell the jury why

18 A That was when we read the electronic version of The Sun
19 News and discovered that there was a person within who --
20 within her household somebody had been murdered and somebody
21 else had been injured quite serious -- seriously, and we felt
22 that the information provided within the article caused us to
23 feel that there was a good chance that at least a victim was
24 in Laura Ling's household

25 Q As a result of learning that information, as the

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 director, what did you do?

2 A I called the Georgetown County Police Department -- no,
3 Sheriff's Department I called the Horry County Police
4 Department and the Horry County Sheriff's Department I
5 contacted the newspaper reporter and that's about the extent
6 of who we know to call in case of needing information about
7 some transaction with the police, and we weren't surprised
8 that we were not given the information, but we felt that we
9 needed to try to get that information as quickly as possible

10 Q Did you take any other steps?

11 A Yes We went down to -- I waited until the Deputy
12 Director showed up She and I went down to the Socastee
13 Library We wanted to inform the staff there of what our
14 assumptions were in regards to the victims involved, and we
15 wanted to inform the staff, which we did in a short, brief
16 meeting with all staff We wanted to make available to them
17 any grief counseling that would assist them, and we told those
18 people who needed to grieve over the incident that they were
19 welcome to go home and do this if they would do it better by
20 going home or by staying, whichever worked better for them

21 Q Let me ask you, did you remain at the Socastee Branch
22 for a period of time?

23 A Yes I remained there the whole day doing circulation,
24 checking in and checking out items, filling holds, answering
25 the telephone, preparing book holds for being sent to the

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 person who had placed a hold on it

2 Q You mentioned that you were answering the phones Mr
3 Gaumer, did you have an occasion that morning, that is April
4 9th, to receive a phone call from Defendant Stephen Stanko?

5 A Yes It was about nine thirty-five, and the person
6 identified themselves as being Stephen Stanko

7 Q Let me ask you, did you recognize the voice from your
8 prior contact with him?

9 A Yes

10 Q And what did Mr Stanko tell you?

11 A He said that Laura Ling had contracted food poisoning
12 the night before and would not be able to come in to work
13 today

14 Q What did you do?

15 A Well, I was stunned initially and it seemed like I
16 needed to have him stay on the line as much as possible so I
17 could get the attention of one of the police people who were
18 around in the building, but no one was present and available
19 to me at that time, and so I asked him a question of how could
20 we get ahold of him, did he have a number that we could get
21 ahold of him at, and he seemed to -- his voice stressed

22 His response to my question was why do you want to know,
23 and the reason that I gave him was that if Laura continued to
24 be ill, that we would probably want to get in touch with her
25 and we might need to do that through him, and if he could give

JOHN ROBERT GAUMER - DIRECT BY HUMPHRIES

1 me a telephone number where he could be reached at, I would
2 appreciate it, and he said well, I have Laura's phone and you
3 can reach me through that phone number, and that was pretty
4 much the gist of the conversation I closed it by saying
5 well, tell Laura, I wish or hope that she gets well

6 Q Did you relay that information immediately to law
7 enforcement?

8 A It -- it took a few minutes to get the attention of the
9 Georgetown Police Department It wasn't right away, but it
10 was within minutes of the incident occurring, and I talked to
11 Tracy Lewis of the Georgetown Sheriff's Department, and she
12 asked me to be available to give a statement later on in the
13 day

14 Q Mr Gaumer, let me ask you, did you ultimately become
15 aware that by the time Defendant Stanko made that call to you,
16 Laura Ling had long since died?

17 A I don't believe we knew it for sure, but we were fairly
18 certain that she was the victim who had died in the situation

19 Q And ultimately did you learn that that was, in fact,
20 the case?

21 A Yes

22 Q And this was nine-thirty in the morning of the 9th?

23 A It was nine -- about closer to nine thirty-five
24 That's at least what the clock read on the wall

25 MR HUMPHRIES Thank you, Mr Gaumer Answer any

JOHN ROBERT GAUMER - CROSS BY WILLIAMS

1 questions the Defense may have of you

2 THE COURT All right, cross-examination

3 MS WILLIAMS Thank you, Your Honor

4 THE COURT Yes Ma'am

5 CROSS-EXAMINATION BY MS WILLIAMS

6 Q Good afternoon, Mr Gaumer Very briefly So you
7 worked at the Horry County -- you were the supervisor and
8 director over the whole library system, that's right?

9 A Right

10 Q Okay, and you said you actually had the opportunity to
11 meet Mr Stanko on more than one occasion, is that right?

12 A Yes

13 Q And you had the opportunity to actually see him and Ms
14 Ling together on more than one occasion, is that right?

15 A Yes

16 Q And did you know about the -- you knew about the actual
17 intimate rela- -- nature of their relationship, is that
18 correct?

19 A Yes

20 Q You knew -- you actually knew that they were living
21 together?

22 A Yes

23 Q Okay, and can you tell me -- I think you said it
24 earlier, but I don't know that I jotted it down How -- how
25 would you describe their interaction?

JOHN ROBERT GAUMER - CROSS BY WILLIAMS

1 A What I observed was a library -- reference librarian
2 responding to question requests of a library patron, that
3 being Stephen Stanko

4 Q Okay, so you never saw them -- I mean, I'm just asking,
5 you never saw them outside of work together being boyfriend
6 and girlfriend for lack of a better term?

7 A No

8 Q Okay, and on that morning when you got that phone call,
9 you had the forethought about you to try and get a number to
10 contact Mr Stanko, right?

11 A Yes

12 Q And he gave you and plainly told you he had Ms Ling's
13 cell phone, is that right?

14 A Yes

15 Q Did he actually repeat the number to you of what that
16 phone number was, or did he just say I've got, you know, her
17 cell phone, do you recall?

18 A The assumption on his part was that I had the phone
19 number in our records and -- but he did not provide me with,
20 nor did I ask him to provide that number

21 Q But you can safely sit here today and say you pretty
22 much thought he assumed you knew what the number was? That
23 way, you could call him back if you needed to, right?

24 A Yes

25 Q Okay

ROBERT GERALD OWENS - DIRECT BY HEMBREE

1 **MS WILLIAMS** That's all the questions that I have, Mr

2 Gaumer Thank you so much

3 A Thank you

4 **THE COURT** Redirect

5 **MR HUMPHRIES** No sir, Your Honor I ask this witness

6 be excused

7 **THE COURT** Any objection?

8 **MS WILLIAMS** No sir, we don't have any objection

9 **THE COURT** All right, sir, you are released from your
10 subpoena and may go back to your regular duties, sir

11 A Thank you, Your Honor

12 **THE COURT** Thank you Your next witness, please

13 **MR HEMBREE** The State calls Robbie Owens to the
14 witness stand

15 **THE COURT** Please come up to the Clerk, please sir,
16 right up front

17 **ROBERT GERALD OWENS**, being first
18 duly sworn, states as follows

19 **DIRECT-EXAMINATION BY MR HEMBREE**

20 Q Good afternoon, Mr Owens

21 A Good afternoon

22 Q Who do you work for?

23 A I am the communications manager for Georgetown County

24 911

25 Q Georgetown County 911 How long have you been working

ROBERT GERALD OWENS - DIRECT BY HEMBREE

1 for 911?

2 A Sixteen and a half years

3 Q And you are now the Communications Director? You're
4 over the entire department, is that -- that your role?

5 A I am the manager

6 Q The manager, okay, and you were working for them back
7 on August -- excuse me, April the 8th of 2005?

8 A That's correct

9 Q In what capacity were you working for 911 back on April
10 8th?

11 A I was the shift supervisor

12 Q All right, and tell us how that works down there
13 You're the shift supervisor What are your responsibilities
14 when you're shift supervisor?

15 A Just to -- I have my own radio to work, three other
16 consoles My job is to make sure to help out the other people
17 if they have any questions and help them out and just sort of
18 be -- make sure everything is running smoothly

19 Q And, Mr Owens, in the early morning hours after
20 midnight, in the early morning hours of April the 8th of 2005,
21 did you -- did your department receive a call in connection
22 with the Stephen Stanko case?

23 A Yes, we did

24 Q Tell the jury about that call

25 A We received a call approximately three o'clock from the

ROBERT GERALD OWENS - DIRECT BY HEMBREE

1 daughter of Ms Ling, and she had been bound apparently She
2 was barely able to talk to us Somehow she had made it to the
3 phone She had called 911 She proceeded to tell us what had
4 happened with her mother, and then she gave us some
5 information

6 Obviously we asked the victim who had perpetrated this,
7 and when she gave us the name, we kept her on the line and the
8 next thing I started doing and one of my other employees
9 started doing was to start running a county scan on Mr Stanko
10 and get everything we could about him, how tall he was how
11 much he weighed, what kind of vehicle he might be driving, and
12 also notify neighboring counties, such as Horry, Charleston
13 In fact, at the time it may have been a statewide BOLO

14 Q Is that standard procedure in a circumstance like this?

15 A Yeah, I would say so

16 Q As part of your responsibilities, did you record that
17 conversation?

18 A Yes, I did

19 Q Let me show you State's Exhibit 106 and ask if you can
20 identify that for us?

21 A Yes sir That's the 911 tape from that night, early
22 morning hours

23 MR DIGGS Your Honor, we would renew the objection
24 that I made earlier, but other than that, we don't have any
25 additional objections

ROBERT GERALD OWENS - DIRECT BY HEMBREE

1 **THE COURT** All right I'm going to allow the tape in
2 evidence over the objection of the Defense What number is
3 it?

4 **MR HEMBREE** 106, Your Honor

5 **THE COURT** 106

6 **(911 TAPE ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT**
7 **NUMBER 106)**

8 **MR HEMBREE** Your Honor, with the Court's permission,
9 we ask to publish this tape to the jury

10 **THE COURT** Since it is in evidence, any objection to
11 publication?

12 **MR DIGGS** The same objection, Your Honor

13 **THE COURT** All right, sir I'm going to allow the
14 publication over the objection of the Defense

15 You may do so

16 **MR HEMBREE** Thank you

17 **(STATE'S EXHIBIT NUMBER 106, 911 TAPE, IS PUBLISHED TO**
18 **THE JURY IN OPEN COURT)**

19 **MR HEMBREE** Please answer any questions Mr Stanko
20 has

21 **THE COURT** Cross-examination

22 **MR DIGGS** Your Honor, we don't have any questions of
23 this witness

24 **THE COURT** Do you wish the witness to be excused?

25 **MR HEMBREE** Yes, Your Honor, we do

JURY OUT

1 **THE COURT** Any objection?

2 **MR DIGGS** No sir

3 **THE COURT** All right, sir, you are released from your
4 subpoena, excused to go back to your regular duties, sir

5 All right, ladies and gentlemen of the jury, let's take a
6 break Put your pads and your pens in your seats and go back
7 to your jury room, please

8 Everyone else remain seated while the jury retires

9 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
10 **JURY)**

11 **THE COURT** Anything further from the State at this
12 time?

13 **MR HEMBREE** No, Your Honor

14 **THE COURT** Defense?

15 **MR DIGGS** No sir

16 **THE COURT** All right We'll take a break Thank you
17 very much

18 **(THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE**
19 **PRESENCE OF THE JURY)**

20 **MR HUMPHRIES** Judge, we've got -- by our estimation,
21 we should be finished no later than four o'clock with our
22 testimony

23 **THE COURT** Okay All right

24 Is there anybody on the Defense that y'all are going to
25 be able to go forward with, Mr Diggs?

JURY OUT

JURY IN - CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 **MR DIGGS** We might Now, if they finish that early,
2 we've got Dr Thrasher who is just down there at Waccamaw
3 Mental Health We can probably get him up here by that time,
4 and, you know, he might be long enough to finish out the day

5 **THE COURT** Okay Why don't you just see if you can't
6 arrange that if you don't mind

7 All right, Solicitor, are you ready to proceed?

8 **MR HEMBREE** Yes, Your Honor

9 **THE COURT** All right Mr Diggs -- he's calling Dr
10 Thrasher Go ahead

11 **MR DIGGS** Your Honor, we're going to check on that and
12 try to make it happen

13 **THE COURT** All right, very good Thank you

14 All right, ask the jury to come in, please

15 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
16 **JURY)**

17 **THE COURT** All right, Solicitor, your next witness,
18 please

19 **MR HUMPHRIES** The State calls Chuck Petrella

20 **THE COURT** Come up front to where the Clerk is, please
21 sir

22 **CHARLES PETRELLA**, being first duly
23 sworn, states as follows

24 **DIRECT-EXAMINATION BY MR HUMPHRIES**

25 Q Good afternoon

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 A Good afternoon, sir

2 Q You go by Chuck?

3 A Yes sir

4 Q Chuck, tell the jury the benefit of your experience

5 A My career experience, sir?

6 Q Career, yes sir

7 A Thirteen years on the job, ten of those as a paramedic,
8 served time in Iraq just under a year For the last three
9 years, I've been working as a flight paramedic on a medical
10 helicopter based here out of Conway My full-time duties is a
11 Lieutenant in Murrells Inlet/Garden City

12 Q Let me ask you, I want to take you back to April 8th of
13 2005, did you have an occasion to respond to a residence in
14 connection with a call about injuries?

15 A Yes sir, I did

16 Q Chuck, tell the jury how that call came in and how you
17 responded

18 A It was early hours I actually was functioning in the
19 capacity as the senior paramedic on shift that day If I'm
20 not mistaken, sir, the call come in as an assault through our
21 911 dispatch center, and that's how it was given to us at that
22 time, and as we left en route to the call, we were updated by
23 our dispatch center that we needed to stage until the
24 Sheriff's Office arrived on scene because the scene was
25 unsafe, deemed unsafe at that point based on the information

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 they had until law enforcement cleared the residence so we
2 could go in

3 Q And is that normal protocol?

4 A Absolutely, sir

5 Q Upon staging, did you get an opportunity then to
6 respond to the house after law enforcement secured the
7 residence?

8 A Yes sir We staged about a block and a half, maybe two
9 blocks from the residence Murrells Inlet Road is a pretty
10 dark road There's not a lot of street lights, so trying to
11 find house numbers was a little tricky Yes, after the
12 Sheriff's Office had made it, their radio call back to
13 dispatch, dispatch then notified us that the Sheriff's Office
14 deemed that the residence was safe to enter and that we could
15 proceed on to the house

16 Q Chuck, tell the jury the scene as you responded

17 A As I come through the front yard, I met -- was met by
18 Deputy Milligan, Tracy, who is a good friend of mine who I've
19 known for a long time, a very fine officer as well She met
20 me as I was crossing through the yard bringing the medical
21 bags and said Chuck, we need to step it up This doesn't look
22 good I said okay

23 As I proceeded into the residence and had gone to the
24 room where I could hear screaming, I could hear a young lady
25 asking for help I remember catching out of the corner of my

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 eye, just kind of scanning as I walked through the house, what
2 appeared to be a young lady's bedroom with teenage type
3 material on the wall

4 Q Let me show you what's been marked as State's Exhibit
5 80 for identification Tell me if you can identify that

6 A Yes sir That is the room where I found Christina
7 The top here would be where her head was

8 MR HUMPHRIES Move to introduce

9 MR DIGGS Your Honor, we object based on the prior
10 objection that we made

11 THE COURT What number is that?

12 MR HUMPHRIES Number 80, Your Honor

13 THE COURT State's 80 is in evidence without -- I'm
14 sorry -- over the objection of the Defense, State's 80

15 (PHOTO (LING CRIME SCENE) ADMITTED INTO EVIDENCE AS
16 STATE'S EXHIBIT NUMBER 80)

17 Q Chuck, describe, if you will, the bedroom that you saw
18 Christina in

19 A It was a small room It was in heavy disarray Things
20 were moved around Things were knocked over, a lot of
21 clutter, and the room, it was pretty cramped quarters, and we
22 did find -- I found her obviously in a one o'clock/seven
23 o'clock, her head being at one o'clock and her feet being at
24 seven o'clock, almost in a diagonal on the bed

25 Q Referring to State's 80 in evidence, I'm going to show

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 this to the jury in a moment, but this is the headboard?

2 A Yes sir

3 Q And this is the foot of the bed In what position
4 would you have found her head?

5 A Her head would have been up here in the -- in the top
6 corner I'm sorry, sir

7 Q Okay, and her feet?

8 A Basically this way, almost diagonal on the bed

9 Q Tell me in what condition did you find her

10 A She was bound If I remember correctly, sir, that she
11 had neckties or still bindings on her hands I noticed that
12 she appeared to have no undergarments on whatsoever, and I
13 found a big, bulky towel that had been wrapped around her neck
14 and knotted There was a lot of blood, a lot of bleeding from
15 her head area, and I remember her having the phone right there
16 next to where her head was, so I immediately come around,
17 would have been Christina's left side, to come up on the left
18 side and kneeled onto the bed, inadvertently kneeling in
19 blood, but it was not an issue at that point

20 I remember her screaming and that she was extremely
21 upset, and I wasn't quite sure at that point what we had I
22 just knew there was a lot of blood and I could not pin down
23 where it was coming from, and I remember I had to continuously
24 repeat myself because she had a lot of blood in her ear, so it
25 kind of sounded like she had like swimmer's ear or water in

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 her ear, so what I -- I'd actually have to kind of yell at her
2 for her to hear me

3 Q Tell the jury what steps you took to initially treat
4 her and then what you did after that

5 A We did basically a rapid assessment We want to assess
6 the patient and try to find the bleeding and make sure the
7 airway is intact We did cut the bindings from her hands I
8 believe Captain Gosnell actually had cut those, and then I cut
9 the -- what appeared to be a towel from her neck, cutting away
10 from the knot because I knew this was not normal and this was
11 probably going to be taken into evidence at some point for
12 some reason

13 Once we removed it, we found a large laceration across
14 the front of her throat with profuse bleeding We immediately
15 tried to put it back on to control that bleeding again, and
16 there was a lot of blood coming from her ear that we couldn't
17 pinpoint where it was Her hair was kind of matted and
18 congealed because of -- because of the blood, so we
19 immediately started applying loose, bulky dressings to the
20 airway

21 We wanted to make sure that that airway was open, because
22 without the airway, you know, it's imperative that we secure
23 that because she's essentially choking on her own blood by the
24 way -- the position that she was laying We back-boarded her
25 because we -- it looked like she had some head trauma as well

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 We immobilized her, and we then were packing her for transport
2 to the hospital

3 Q Did you, in fact, transport her to the hospital?

4 A Yes

5 Q And do you recall what hospital you transported her to?

6 A Transported her to Waccamaw Community Hospital in
7 Murrells Inlet

8 Q And is it your protocol on the way to the hospital to
9 advise waiting hospital staff what they may be faced with?

10 A Absolutely, sir We try to do the best we can as
11 E M S providers so we have that continued care, so there's no
12 lag in patient care, so to speak I immediately, once we
13 started realizing more and more things, and then having
14 stepped on Ms Ling leaving the house to load her in the
15 ambulance, we usually try if it's something like this not to
16 call by radio, because everybody in the world has a scanner,
17 so I made a personal phone call from my cell phone to the
18 Emergency Department, and I've got a very good working rapport
19 with the doctors in that area, and I just said, hey, it's
20 Chuck I need a doc, so they know when I do that I've got
21 something pretty bad

22 I told the doctor what I had, and through the assessment
23 of Christina, I -- just a standard battery of tests or
24 questions that we ask, I had asked, you know, if there was any
25 chance that she could be pregnant, and she said that she

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 didn't know, he raped me, is what she had told me, so with
2 that information in hand, with her injuries, I let Dr Burns
3 know that he may need to get the -- they call it a SANE nurse,
4 sex assault nurse expert, in to the hospital, because they're
5 on call, so I didn't want any delay in care there, and Dr
6 Burns was -- he and I have a good working rapport Everything
7 appeared to be in place by the time we arrived to about a
8 three minute, four minute transport

9 Q Now, Chuck, once you -- once you dropped Christina off
10 at the hospital, did that -- did that really end your
11 involvement with Christina?

12 A No sir

13 Q Tell the jury what transpired after that

14 A I -- I was -- it was a difficult call She is the same
15 age as my daughter, and I remember kind of feeling helpless,
16 so I took it upon myself when I got off duty at seven o'clock
17 that morning, I had to wait around because the mall didn't
18 open at that point I called my wife and told her, I said,
19 honey, I might be a little bit late today I've got -- got
20 some things that I've got to take care of, and she says, are
21 you okay? I said, yeah, yeah, I'll be fine I said, I'll be
22 home, you know, shortly

23 I took it upon myself to go to K-Mart at Inlet Square
24 Mall, and I bought her a teddy bear, a balloon, and a card,
25 and I knew that she was basically under lock-down at the

CHARLES PETRELLA - DIRECT BY HUMPHRIES

1 hospital, and I took it back to Miss Kelly, who is here today,
2 too, and I was pretty emotional about it I asked if they
3 could make sure that she gets this I knew that she had just
4 lost her mother, and I didn't know the whereabouts of her
5 father, but the father in me wanted to make sure that she knew
6 that somebody cared about her

7 Q Is this something you do on every call?

8 A No sir

9 Q Did you have an occasion to see Christina sometime
10 after?

11 A I did, sir I did

12 Q Did -- and how was that experience for you?

13 A It was great She is a very strong girl, and I am
14 proud of her

15 MR HUMPHRIES Thank you, sir

16 A Yes sir

17 THE COURT Cross-examination

18 MR DIGGS Your Honor, we don't have any questions for
19 this witness

20 THE COURT Do you wish the witness to be excused?

21 MR HUMPHRIES Please, Your Honor

22 THE COURT Any objection?

23 MR DIGGS No sir, no objection

24 THE COURT All right, sir, you are released from your
25 subpoena, may go back to your regular duties, sir Thank you

JURY OUT/MOTIONS

1 A Thank you, sir

2 MR DIGGS And, Your Honor, we have a matter of law
3 We could do it at this point or subsequently

4 THE COURT All right, sir No, if you have a matter
5 you need to take up, we'll do it now

6 Ladies and gentlemen, please go to your jury room,
7 please

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JURY)

10 THE COURT All right, Mr Diggs

11 MR DIGGS Your Honor, what we would ask, it's a
12 variation on the motion that we made earlier in the day The
13 sentencing proceeding itself is a focus for the fact finder on
14 the circumstances of the crime and the characteristics of the
15 Defendant Those are Eighth and Fourteenth Amendment
16 requirements, I would submit, that are applicable to this
17 particular proceeding, but what we have here and what I
18 anticipate is that the State is going to go into significant
19 details about the Laura Ling and the [REDACTED] incident,
20 and it may, we would submit, result and be the primary driving
21 force for a second murder -- excuse me, a second sentence of
22 death as against Mr Stanko

23 What we would submit is that given the fact that this is
24 an Eighth Amendment proceeding where we should be looking at
25 reliability and we should be looking at -- focused on the

JURY OUT/MOTIONS

1 circumstances of this particular offense and the
2 characteristics of the Defendant, I would submit as they
3 relate to this offense and to his past history, there's no
4 doubt about that, but the State would certainly solve the --
5 meet the obligation that they need to meet in order to show
6 the jury what the circumstance or the characteristics of this
7 Defendant are with respect to past conduct

8 I would submit that it's sufficient to simply let them
9 know that there was a trial on this case for murder and, you
10 know, the other accompanying crimes or -- and offenses that
11 were associated with it, that there was a trial there, there
12 were convictions there, and there were sentences that were
13 imposed, and to go further into the details of the particular
14 offense again, as they were delved into certainly thoroughly
15 in the initial trial in Georgetown with respect to the Ling
16 offenses, would be unnecessary in order to fully explain to
17 this jury what the circum- -- what the characteristics of the
18 Defendant are

19 As far as I know, we're kind of on uncharted territory
20 I understand ordinarily what the issues are in a capital case,
21 but this is unique as far as my experience goes in that he has
22 a prior death sentence that's been imposed that is related to
23 this incident, to the Turner incident It all occurred within
24 a few hours span of time, and so it -- I would respectfully
25 submit it's not necessary with respect to this death sentence

JURY OUT/MOTIONS

1 that the State seeks to obtain in this proceeding, it's not
2 necessary to go through the same facts that form the basis for
3 the initial death sentence that was imposed against Mr
4 Stanko, and so we are asking the Court to limit -- and I
5 anticipate -- we've looked at some exhibits

6 I anticipate that the State will go into the Ling matter,
7 which is fine in terms of letting the jury know what the
8 historical, legal record is in that regard, but I would
9 certainly ask the Court to limit the use of evidence that is
10 graphic and that is just -- it's impossible not to inflame the
11 passions of the jury We don't need to have that happen in
12 this particular instance, and I'm asking the Court to limit
13 the addition- -- any additional evidence concerning or
14 relating to the Ling incident other than the historical fact
15 that it was -- you know, there was a trial there There was a
16 conviction, and there was a sentence that was imposed, and I
17 believe that covers it

18 We had a lot of detail from this past witness, Your
19 Honor, that goes into the precise kind of thing I'm talking
20 about It's going to be inflammatory, and again, the jury
21 might well sentence Mr Stanko to death based simply on the
22 circumstances relating to the Ling incident, and for that
23 reason, we're asking Your Honor to limit the specific details
24 of that incident

25 THE COURT All right Solicitor

JURY OUT/MOTIONS

1 **MR HUMPHRIES** Please the Court First of all, let me
2 -- let me place on the record that the State does not intend
3 to elicit that there was a previous trial, that this Defendant
4 was convicted of murder, rape, kidnapping, and armed robbery,
5 and that he received a death sentence, first of all, and
6 again, as we've told the Court, that's a matter of strategy
7 regarding appellate review, but -- but more to the point, Your
8 Honor, here -- here's the thing

9 The State did not create this Defendant's conduct and
10 character We were -- we were given it by virtue of the
11 Defendant That is, that is, his character and his conduct,
12 are the very things that this jury is to consider, along with
13 the evidence in mitigation, in reaching a reliable sentence

14 Now, the fact that it is terrible, and it is, shouldn't
15 be in any way limiting to the State in terms of presenting
16 that evidence I mean, to argue that because things are so
17 terrible that the Defendant has done, that the jury shouldn't
18 hear it, when the precise question they've got to answer is as
19 a result of his character and conduct, what's the appropriate
20 sentence, but that argument fails at its very inception

21 Now, in complete fairness, we have scaled down
22 significantly the amount of evidence and the type of evidence
23 that we presented in the Ling case in the guilt and penalty
24 phase in terms of photographic evidence and testimonial
25 evidence, and I'll tell the Court just for preview so you can

JURY OUT/MOTIONS

1 understand what we intend to elicit

2 The next witness will be the crime scene investigator
3 He will basically walk through the crime scene There are
4 photographs, and let me provide them to the Court just -- we
5 might as well deal with this while the jury is out -- out of
6 the courtroom

7 MR DIGGS And, Your Honor, he has already ---

8 THE COURT Shown those to you?

9 MR DIGGS Yes sir

10 THE COURT All right, very good

11 MR HUMPHRIES State's 147 is a crime scene diagram

12 THE COURT All right, sir

13 MR HUMPHRIES Which is innocuous, obviously, and then
14 State's 81, and I'm not sure of the last number, but I believe
15 they are consecutive, but in any event, Your Honor, it is
16 basically a walk through the crime scene

17 THE COURT That's 81 through 95 All right

18 MR HUMPHRIES Yes sir It is a walk through the crime
19 scene just like any other crime scene testimony There are
20 pictures of Laura Ling as she was left by the Defendant The
21 case law is absolutely replete as to the admissibility of
22 victims left by defendants in the state in which they are left
23 because it goes specifically to his character and his conduct

24 THE COURT Could you hold on one second ---

25 MR HUMPHRIES Yes sir, I sure would

JURY OUT/MOTIONS

1 **THE COURT** --- and let me -- let me look through these
2 (Pause) 92, 93, 94, 95 are pictures of a hand or hands?

3 **MR HUMPHRIES** Yes sir Those are the hands of -- I'm
4 sorry Those are the hands of the Defendant after arrest
5 showing them -- showing injuries, and I should have noted
6 that That's by the same witnesses is why you got them at the
7 same time

8 **THE COURT** All right, sir

9 **MR HUMPHRIES** And when you get ---

10 **THE COURT** All right, I've gone through them

11 **MR HUMPHRIES** All right, very good, and, Your Honor,
12 let me also hand up to you at this time State's 96, and I
13 believe they've seen these as well, 96 -- yeah, yeah Let me
14 make sure I've got all the numbers We've got 96 through 105
15 consecutively, and then we go to -- I tell you what, let me
16 just -- to make sure the record is -- 96, 97, 98, 99, 100,
17 101, 102, 103, 104, 105 These are photographs of the
18 injuries sustained by [REDACTED] that the doctor will
19 testify to

20 State's 110 through 113 consist of four photographs from
21 the Laura Ling autopsy

22 **THE COURT** All right Looking at 110 and 90, so I'm
23 going to give you back 110, ---

24 **MR HUMPHRIES** Yes sir, Your Honor

25 **THE COURT** --- and then 90

JURY OUT/MOTIONS

1 **MR HUMPHRIES** Yes sir

2 **THE COURT** Explain to me the necessity and purpose of
3 having two

4 **MR HUMPHRIES** Well, ---

5 **THE COURT** But I understand one is at the scene and the
6 other is the autopsy, but could not 90, since it goes directly
7 to the circumstances as far as the condition -- it's at the
8 time that the victim was left, could not -- for whatever
9 purpose you're going to use -- what was it, 110?

10 **MR HUMPHRIES** Yes sir, 110 and 90, and, Your Honor,
11 and I will tell you that we've attempted not to be duplicative
12 in this process 110, actually there's a laceration that the
13 doctor will testify to on 110 that is not otherwise pictured,
14 and 90, because it has a ligature around it, something around
15 her neck, and that 110 is -- is not visible, so -- and the
16 pathologist will testify that it would assist her to ---

17 **THE COURT** All right, but is it -- was that -- what
18 we're talking about then that's in 112?

19 **MR HUMPHRIES** Yes sir, it is

20 **THE COURT** Okay, so if necessary and if ---

21 **MR HUMPHRIES** I tell you what we can do, Your Honor
22 We will -- we can withdraw 110 if 90 is in

23 **THE COURT** Well, if -- if -- I -- what I'm going to
24 have you do is at this point in time, I'm going to have you
25 withdraw 110 unless it then becomes necessary in you exploring

JURY OUT/MOTIONS

1 it with the witness that it's absolutely necessary that the
2 other one won't suffice, then 90 and -- what's the other one?

3 MR HUMPHRIES I'm sorry It's 112

4 THE COURT 112 That 90 and 112 won't suffice, ---

5 MR HUMPHRIES Very good

6 THE COURT --- then -- then I'll -- and the witness
7 needs 110, then I may very well hear you, but ---

8 MR HUMPHRIES Very good, Your Honor

9 THE COURT --- we'll see if you can't use those two
10 photographs to make the point rather than ---

11 MR HUMPHRIES Yes sir

12 THE COURT --- having 110

13 MR HUMPHRIES Yes sir Your Honor, and finally,
14 State's 114 through 117 are autopsy photographs from Mr
15 Turner

16 THE COURT All right

17 MR HUMPHRIES Again, we've -- we've made efforts not
18 to be duplicative in this process

19 THE COURT I understand All right, sir

20 MR HUMPHRIES The Court having then reviewed it, Your
21 Honor, and I can refer you to really the similar leading case
22 in regard to photographs of this nature in the crimes in the
23 penalty phase That is State v Kornahrens I am sure the
24 Court is familiar with it It is 350 S E 2d 180, 1986, and
25 the ---

JURY OUT/MOTIONS

1 **THE COURT** I'm sorry, 350 S E 2d ---

2 **MR HUMPHRIES** 350 S E 2d 180, ---

3 **THE COURT** Okay, very good

4 **MR HUMPHRIES** --- a 1986 Opinion, and in this case,
5 Kornahrens dealt with both crime scene and autopsy
6 photographs, and of note, some of the photographs depicted
7 knife wounds to the chest, back, and thigh of a ten year old
8 child

9 In allowing the penalty phase admission of these
10 photographs, the Court held as follows The purpose of a
11 bifurcated proceeding in a capital case is to permit the
12 introduction of evidence in the sentencing proceeding which
13 would ordinarily be inadmissible in the guilt phase

14 In the sentencing proceeding the Trial Court may permit
15 the introduction of additional evidence in extenuation,
16 mitigation, or aggravation In determining whether to
17 recommend a sentence of death, the jury may be permitted to
18 see photographs which depict the bodies of the murder victims
19 in substantially the same condition in which the Defendant
20 left them The Trial Judge is still required to balance the
21 prejudicial effect of the photographs against the probative
22 value However, in the sentencing phase, the scope of the
23 probative value is much broader

24 We find no error in the admission of the sentencing phase
25 of the photographs and slides While not pleasant to look at,

JURY OUT/MOTIONS

1 they show that the Defendant himself did to the bodies -- what
2 the Defendant himself did to the bodies and nothing more The
3 appearance of the bodies as the Defendant left them has not
4 been altered by decomposition or by any other outside force

5 While these photographs and slides most likely would have
6 been inadmissible in the guilt phase, under the facts of this
7 case they were relevant in the sentencing phase to show the
8 circumstances of the crime and the character of the Defendant

9 And again, Your Honor, that -- that is just one in a
10 very, very long line of cases dealing with photographs in the
11 sentencing phase of a capital proceeding, and we would submit
12 under Kornahrens and a litany of other cases along that line,
13 they are admissible Again, we have taken great steps to make
14 sure that we have not duplicated In regard to the Ling case,
15 we have pared down the photographs substantially, and we would
16 -- we would submit that based on those efforts and the case
17 law, with exception of 110, which we understand in terms of
18 the Court ruling, we believe that each and every one is
19 admissible

20 THE COURT All right, very good Anything else, Mr
21 Diggs?

22 MR DIGGS Your Honor, just pointing out, I think a
23 connection, all of those photographs were related to the crime
24 for which he was on trial at that time or certainly did not
25 form the basis of a prior capital sentencing proceeding which

JURY OUT/MOTIONS

1 had resulted in death, and so that's how I would distinguish
2 Kornahrens, but otherwise, you know, it says what it says
3 about the admissibility of those photos, but given the
4 uniqueness of this case, the fact that there is already a
5 death sentence with respect to those circumstances, then it
6 would be inappropriate to again use them as part of the basis
7 for imposing death in this case

8 **THE COURT** All right Well, first, the State has
9 indicated, and I would have so instructed them, that they are
10 not connecting these matters to a trial, to a verdict, nor a
11 sentence We are going strictly as to the characteristics
12 either of the Defendant or characteristics of the crime to
13 show what in actuality -- though those are not the basis for
14 the murder here, they are actions of the Defendant, and they
15 are relevant in that regard to show to the jury

16 I, as indicated, -- since I already had the State, unless
17 it can be otherwise shown as absolutely necessary for the
18 expert's testimony, I've had them remove one photograph, so in
19 looking at these photographs, I want the record to be clear
20 that I have conducted a balancing test to weigh the probative
21 value of the photographs as against their undue prejudice to
22 the Defendant, and by my examination of the photographs I have
23 done that, I find that all the photographs are relevant They
24 are probative to the facts that the jury needs to understand
25 in a sentencing phase trial and that those matters outweigh

JURY OUT/MOTIONS

1 any prejudice to the Defendant in that regard

2 I understand that the Ling case is the subject of his
3 prior conviction, and trial, and sentence, but the State is
4 not -- and just to reemphasize the fact, I'm instructing them
5 not to connect those matters to a previous trial conviction or
6 sentence, but go directly to the characteristics of the
7 Defendant in the matters that the jury needs to consider to
8 decide whether or not a death sentence or a life in prison
9 without the possibility of parole is the proper sentence in
10 this matter, so I'm going to allow it with the restriction

11 **MR. DIGGS** Thank you, Your Honor Your Honor, Ms
12 Williams had one ---

13 **MS WILLIAMS** Your Honor, there is a second matter that
14 I would like to address at this point

15 **THE COURT** Yes Ma'am

16 **MS WILLIAMS** Your Honor, it's my understanding that
17 Dr Collins is going to come testify She did the autopsy,
18 and obviously His Honor has the photos in front of him I
19 just want to make sure that we are clear or not, one of the
20 statutory aggravating circumstances, if I understood in the
21 first trial, was the evidence of torture of the body as a
22 statutory aggravating circumstance

23 Your Honor, we would ask that torture -- I mean, does not
24 even describe what she saw She can describe the wounds She
25 can -- you know, obviously the pictures are there They can

JURY OUT/MOTIONS

1 see for themselves We would submit that if the doctor is
2 allowed to use the same -- that this is evidence of torture in
3 her medical opinion, and to that, it would absolutely -- just
4 the prejudicial value would totally outweigh its probative
5 value I mean, it's the statutory -- as well as one of those
6 statutory aggravating circumstances, and we just -- I would
7 just like to make sure that the testimony is limited so that
8 doesn't come into it

9 **THE COURT** But so you -- talking about the word,
10 torture, ---

11 **MS WILLIAMS** Yes sir

12 **THE COURT** I mean, she -- whoever the -- Dr Kim
13 Collins, that's a woman?

14 **MR HUMPHRIES** Yes sir, Your Honor

15 **THE COURT** All right She would be testifying that
16 these wounds came as a result of certain actions,
17 strangulation or binding, or in some way -- is that how she
18 would be describing it?

19 **MR HUMPHRIES** Here's -- here's -- and maybe we can
20 clear it up right -- by saying this The State will not
21 elicit from her an opinion, a medical opinion, as to whether
22 or not the injuries sustained by Laura Ling would meet the
23 legal definition of torture She is a forensic pathologist

24 **THE COURT** Right

25 **MR HUMPHRIES** We will not elicit that Now, having

JURY OUT/MOTIONS

1 said that, the injuries which -- we should not be limited,
2 obviously, into ---

3 **THE COURT** The mannerisms of how they were inflicted?

4 **MR HUMPHRIES** Correct, but we will not elicit an
5 opinion from that ---

6 **THE COURT** That they were the result of torture?

7 **MR HUMPHRIES** Yes sir, Your Honor

8 **THE COURT** All right, very good All right

9 **MS WILLIAMS** Your Honor, could I ask if that would be
10 the case, to make sure that the doctor is informed that they
11 -- that that word is where we need to be careful of and what
12 the State is not going to do, because I just don't -- you
13 know, if you ---

14 **THE COURT** Well, I would -- why don't you just make
15 sure that, you know, with the doctor that you're not going to
16 be asking her that opinion, all right, ---

17 **MR HUMPHRIES** Yes sir

18 **THE COURT** --- before -- before you put her on the
19 stand

20 **MR HUMPHRIES** Yes sir

21 **THE COURT** Okay

22 **MS WILLIAMS** Thank you, sir

23 **THE COURT** Now, again, obviously -- I don't know in
24 what context it might, but if for some reason that opinion
25 would come out as a direct response to a question by Defense,

JURY IN
WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 then I'm not going to limit her from saying it at that point
2 in time

3 MS WILLIAMS Yes sir, we understand that

4 THE COURT All right, very good All right Okay,
5 let's bring the jury in then

6 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
7 JURY)

8 THE COURT All right, Solicitor, your next witness,
9 please

10 MR HUMPHRIES The State calls Bill Pierce

11 THE COURT All right Please come up front, sir, to be
12 sworn, right up here

13 WILLIAM PIERCE, being first duly
14 sworn, states as follows

15 DIRECT-EXAMINATION BY MR HUMPHRIES

16 Q With whom are you employed?

17 A The Georgetown County Sheriff's Office

18 Q How long have you been so employed?

19 A Almost eighteen years

20 Q And at this point, what position do you hold?

21 A I'm a captain in charge of the Uniform Patrol Division
22 and the 911 Communication Center

23 Q And, Captain, in April of 2005, what position did you
24 hold with the Georgetown County Sheriff's Office?

25 A I was the lieutenant in charge of Criminal

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 Investigations and Crime Scene Processing

2 Q Let me ask you, in connection with your duties as a
3 lieutenant over Crime Scene Processing, did you have an
4 occasion to process a crime scene in the Murrells Inlet area,
5 the home of Laura and [REDACTED]

6 A Yes, I did

7 Q Tell the jury, if you will, how you received the call
8 to respond and what you did as a result of that call

9 A It was about -- the best that I can recall, it was
10 about four o'clock in the morning, give or take I was in
11 Atlanta, Georgia I received a call from the Assistant
12 Sheriff, Carter Weaver He told me about the incident and
13 asked that I get in my car and head to the crime scene, which
14 I did

15 Q And tell the jury upon arriving in terms of your
16 protocol, what do you do first?

17 A The first thing we do when we arrive at any crime scene
18 is to make sure that the crime scene is secured, that anyone
19 that's injured has been taken care of, and that we have a
20 legal -- legal right at that point to enter the crime scene
21 and do what we need to do with respect to collecting evidence

22 Q Let me show you State's 81 through 91 and maybe you can
23 identify those photographs

24 A I do recognize these

25 Q And are these the photographs of that particular crime

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 scene and the processing that occurred as a result of your
2 duties?

3 A Yes, they are

4 MR HUMPHRIES Your Honor, at this time we move to
5 introduce State's 81 through 91

6 MS WILLIAMS Your Honor, we would make a -- object
7 based on the basis we discussed at our in limine motion

8 THE COURT All right, very good I'm going to allow
9 them in evidence over the objection of Defense

10 MR HUMPHRIES Thank you, Your Honor

11 (ELEVEN (11) PHOTOS (LING CRIME SCENE) ADMITTED INTO
12 EVIDENCE AS STATE'S EXHIBIT NUMBER 81, 82, 83, 84, 85, 86, 87,
13 88, 89, 90, AND 91)

14 Q Now, showing you State's 147, tell me if you can
15 identify this diagram

16 A I can identify it

17 Q And it is?

18 A It's a computerized rendition of the crime scene sketch
19 that I did depicting the areas inside the house that I
20 processed

21 MR HUMPHRIES Move to introduce at this time, Your
22 Honor, State's 147

23 MS WILLIAMS Your Honor, we would make it subject to
24 those same objections

25 THE COURT All right State's 147 is in evidence over

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 the objection of Defense

2 (DIAGRAM OF LING HOME ADMITTED INTO EVIDENCE AS STATE'S
3 EXHIBIT NUMBER 147)

4 Q What I'd like to do, Captain, is to start with these
5 photographs and as you go through each one, I'd like you to
6 orient the jury to where they would appear on the crime scene
7 and describe them for me, please

8 A Certainly

9 Q At this point, I'm also going to include State's 80,
10 which is already in evidence, for your review as well
11 Starting with State's 81 ---

12 A Do I step down or do I stand up?

13 Q If you will stay right here and stay by the microphone

14 A And I show these to the jury as well?

15 Q Once you do that, I will show them to the jury Once
16 you identify them, you can explain it to the jury from there

17 A This photograph is a photograph of the front of the
18 residence in Murrells Inlet, the crime scene that I processed
19 on Murrells Inlet Road

20 MR HUMPHRIES That was State's 81, Your Honor

21 Q Now, State's 82

22 A State's 82 is a photograph of the daybed in Christina
23 Ling's bedroom

24 Q And will you on State's 147 indicate where that room is
25 located within the residence

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 A Sure It would have been in this area here

2 Q And is this as you found it at the time that you began
3 your processing of the scene?

4 A Yes, it is

5 Q Now, State's 83

6 A State's 83 is another photograph of the same bed in the
7 same room with a different perspective A sheet or something
8 had been removed, and this picture was taken because we
9 located some neckties on the corner of the bed

10 Q Again, that's located in the room diagramed as C?

11 A Yes sir, this area right here

12 Q And this is the teenage girl, Christina's room?

13 A That is correct

14 Q Now, State's 84

15 A State's 84 is a copy -- I'm sorry -- is a photograph of
16 the bathroom where I found some probable blood stains on the
17 sink and the floor

18 Q And can you characterize -- let's look at State's 85 at
19 the same time In terms of the type of blood stains, can you
20 determine what type of spatter is pictured on State's 85?

21 A Those are typically called gravity drops, meaning that
22 they -- there's no velocity to them They fell in this case
23 on the floor specifically, and in State's 85, they appear to
24 have fallen and landed on the surface ninety degrees parallel
25 to where they were traveling from, and I would say probably

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 the sink would be characterized the same way

2 Q And you will indicate ---

3 A Yes sir State's ---

4 Q 84

5 A --- 84 is this sink in this area right here State's
6 85 is in this area right here

7 Q State's 86

8 A State's 86 is a photograph taken of some miscellaneous
9 items that were found on the floor in Bedroom A, which is the
10 room where both victims were located, and it would be this
11 area right here

12 Q Well, let me ask you, regarding Evidence Marker 12 and
13 the items that have been designated by that, you indicated
14 personal items Would they be items in your experience that
15 typically would have been located in a purse perhaps?

16 A That's exactly where I would say they came from, was
17 out of a purse

18 Q Now, State's 80, also in evidence

19 A Yes sir State's 80 is a photograph of the top of the
20 bed located in Room A, this bed here

21 Q Do you know, based on your investigation, if the
22 teenager, [REDACTED] is also located on this bed upon
23 arrival by law enforcement and E M T officials?

24 A Yes, she was That's where she was located upon the
25 arrival of emergency personnel

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 Q State's 87

2 A Again, that's a photograph of the top of the bed
3 located in Room A

4 Q And designated by one and two, what are those two
5 items?

6 A Those are neckties

7 Q Did the neckties gain some significance to you once you
8 were able to view the body of Laura Ling?

9 A Absolutely

10 Q Showing you State's 88 in evidence

11 A It's a photograph of the floor of the same bedroom near
12 -- near the area of the floor where the victim, Laura Ling's
13 body, was located

14 Q Can you locate on 147 what that position would have
15 been?

16 A Right here

17 Q And Laura Ling's head would have been in what
18 direction?

19 A Her head was right here against the baseboard in the
20 room and the wall

21 MR HUMPHRIES State's 88, Your Honor

22 Q State's 89

23 A State's 89 is a mid-range photograph taken depicting
24 the victim as she was found on the floor of the bedroom

25 Q That's Laura Ling?

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 A Laura Ling

2 Q And, again, what is her position in this photograph?

3 A She was laying on the floor Her head was against the
4 wall in this location here, and her feet were in this location
5 here

6 Q Back to the floor?

7 A She had one rail- -- one leg was raised, the knee --
8 knee bent approximately ninety degrees with her foot flat on
9 the floor The other leg was outstretched

10 Q State's 90

11 A State's 90 is a close-up photograph of the victim,
12 Laura Ling, as she was found laying on the floor, showing the
13 trauma sustained to her face

14 Q State's 91

15 A State's 91 is a photograph, again, of the victim, Laura
16 Ling Once all furniture had been removed from the bedroom,
17 we rolled her over to get a look at behind her or what was
18 underneath her that we had previously not been able to see

19 Q And is that -- is that protocol at some point to clear
20 a way from the body position to determine what evidence may be
21 surrounding it?

22 A Absolutely

23 MR HUMPHRIES State's 91

24 Q Captain, did you have additional responsibilities in
25 terms of documentation of evidence after the arrest of the

WILLIAM PIERCE - DIRECT BY HUMPHRIES

1 Defendant?

2 A Yes sir

3 Q I show you State's 92 through 95 Tell me if you can
4 identify these photographs

5 A Yes, I can

6 Q And they are?

7 A Those are photographs that I took of the hands of the
8 Defendant, Stephen Stanko, in -- I believe it was in -- where
9 he was incarcerated in Georgia

10 Q This was after his arrest in Georgia?

11 A This was after his arrest

12 Q Some five, six days after?

13 A Seems it -- the best I can recall, it was five or six
14 days later, and I believe that was Columbus or Columbia --
15 Columbus County, Georgia

16 MR HUMPHRIES State's 92 through 95, we move to
17 introduce, Your Honor

18 MR DIGGS Your Honor, the same objection

19 THE COURT All right, sir State's 92 through 95 are
20 in evidence over the objection of Defense

21 (FOUR (4) PHOTOGRAPHS (DEFENDANT'S HANDS) ADMITTED INTO
22 EVIDENCE AS STATE'S EXHIBIT NUMBER 92, 93, 94, AND 95)

23 Q 92

24 A 92 is a overall photograph depicting the top of the
25 left and right hands of the Defendant

WILLIAM PIERCE - DIRECT BY HUMPHRIES
CROSS BY DIGGS

1 Q State's 93

2 A State's 93 is a photograph of the -- a close-up
3 photograph of the top of the Defendant's right hand

4 Q State's 94

5 A State's 94 is, again, a close-up of the Defendant --
6 the top of the Defendant's right hand

7 Q And finally State's 95

8 A State's 95 is a close-up photograph of the palm side of
9 the Defendant's right hand

10 MR HUMPHRIES Thank you I have no further questions
11 Answer any questions the Defense may have

12 THE COURT Cross-examination

13 MR DIGGS Thank you, Your Honor May it please the
14 Court

15 CROSS-EXAMINATION BY MR DIGGS

16 Q Captain Pierce, how are you?

17 A I'm well, sir

18 Q Good When -- when was the first time you saw the Ling
19 residence?

20 A The first time I ever saw the ---

21 Q I'm sorry After the 911 call, when was the first time
22 you saw the Ling residence?

23 A It took approximately four or five hours, as I
24 remember, to get from Geor- -- from where I was at in Georgia
25 to the crime scene, so it would have been the next morning

WILLIAM PIERCE - DIRECT BY HUMPHRIES
CROSS BY DIGGS

1 following the 911 call

2 Q All right, and, of course, the Ling residence had been
3 sealed off, so to speak?

4 A Correct Yes, it had

5 Q So there had not been any substantial change to that
6 residence from the time the Defendant left until you arrived?

7 A I would say not

8 Q Okay, and it was in quite a disarray?

9 A Yes, it was

10 Q Now, was there any evidence that you are aware of that
11 would suggest that this assailant, the individual that
12 committed these acts, made any effort to conceal what had been
13 done?

14 A No There -- no, no

15 Q All right, and, of course, based -- you were the
16 investigating detective?

17 A Yes sir

18 Q At that time, were -- were your responsibilities to
19 basically assume control and the individual -- be the
20 individual in charge of investigating the incident?

21 A There -- there was another -- I was in charge of the
22 crime scene processing, which would have been the area on the
23 sketch that I had just indicated, previously indicated There
24 was a case agent assigned to other aspects of the case that
25 was not myself

WILLIAM PIERCE - CROSS BY DIGGS

1 Q All right, and would you agree with me that the
2 evidence tended to show that Mr Stanko, or the individual who
3 committed these acts could certainly -- they had time to stay
4 there and make sure that Christina was dead?

5 A I can say that as a result of the investigation, I
6 think that the assailant thought that [REDACTED] was dead

7 Q Right, and had ample opportunity to double-check and
8 make sure of that, would you agree with that?

9 A I -- I don't know, sir

10 Q Okay There was no hot pursuit, however, correct, of
11 the police by -- of the Defendant?

12 A No sir

13 Q And, of course, had [REDACTED] not been able to
14 make that telephone call, we don't -- we can only speculate as
15 to how much time it would have taken for that scene to be
16 discovered, ---

17 A That's correct

18 Q --- correct? And it's reasonable to assume it could
19 have been several hours?

20 A That's correct

21 Q Do we have a time of death for Ms Ling?

22 A I do not know

23 Q Refresh my memory again as to what time the police
24 officers arrived there on the scene

25 A Without looking at some notes from that case, I would

WILLIAM PIERCE - CROSS BY DIGGS

1 not be able to tell you that I'm not sure what time they
2 arrived on scene

3 Q All right, but you've heard the 911 tape?

4 A Yes, I have

5 Q And they, of course, arrived while Ms Ling was still
6 on the phone?

7 A That's correct

8 Q All right Now, you would agree with me that there was
9 no effort, apparent effort, undertaken to clean up the scene
10 or to hide the body?

11 A I would agree with that

12 Q There wasn't even an effort undertaken to ensure that
13 [REDACTED] was dead?

14 A Repeat that question, sir

15 Q There apparently was not even an effort to ensure that
16 [REDACTED] was deceased?

17 A I -- I don't agree with that

18 Q But you don't have any evidence to show to the
19 contrary, do you?

20 A Well, the assailant -- it's my belief that the
21 assailant thought he had sliced her throat and actually, in
22 fact, sliced her jaw line, and at some point she either passed
23 out or feigned unconsciousness to try to save her life

24 Q But it would have been pretty easy to walk over and
25 determine if she was still breathing?

WILLIAM PIERCE - CROSS BY DIGGS

1 A Again, I don't know that, sir

2 Q Do we know who owned the neckties that were used in the
3 tying up process, binding type of process?

4 A I don't recall if -- I can -- I can tell you that the
5 Defendant was living there at the time I don't recall if the
6 neckties were ever identified as being his or not

7 Q Okay Did -- are you aware if the Defendant left any
8 of his personal items there at the home?

9 A Yes, he did

10 Q And can you kind of give us an overview of what he did
11 leave?

12 A I don't know what he had there before this happened,
13 but as I recall, most of his personal belongings were still in
14 another bedroom located inside the house

15 Q Okay, and items that would pretty easily identify him
16 as the owner of those items?

17 A Yes sir

18 Q Now, at that time, the Defendant was on parole or
19 probation?

20 A Yes, he was

21 Q He was -- he was being monitored by ---

22 A Correct

23 Q --- a State agency?

24 A Yes sir

25 Q And they knew where he lived?

WILLIAM PIERCE - CROSS BY DIGGS
REDIRECT BY HUMPHRIES

1 A Yes sir

2 Q They had an address for him on file in their office?

3 A I'm sure that they -- I feel certain that they did

4 Q Okay, and so when [REDACTED] said his name is
5 Stephen Stanko, the police could have gone and checked and
6 they would have had access -- Probation would have had access
7 to his address?

8 A Yes sir As I recall, Probation showed up at the crime
9 scene the next morning

10 Q And they certainly could have said, well, he lived
11 here Not only did the victims live here, but Mr Stanko
12 himself ---

13 A Sure

14 Q --- lived in this residence?

15 A Yes sir

16 Q And here is his stuff?

17 A Yes sir

18 MR DIGGS Captain, I appreciate your time, and that's
19 all I have of you

20 A Thank you

21 MR DIGGS Thank you

22 THE COURT Redirect

23 MR HUMPHRIES One question, Your Honor

24 REDIRECT-EXAMINATION BY MR HUMPHRIES

25 Q Regarding the Defendant's attempts at concealment, by

WILLIAM PIERCE - REDIRECT BY HUMPHRIES
KELLY WIRDZEK - DIRECT BY HEMBREE

1 virtue of the investigation, were you aware of the Defendant's
2 call to Laura Ling's employer that following morning saying
3 she was home with food poisoning?

4 A Yes sir He did call Laura Ling's place of business
5 and say that

6 MR HUMPHRIES Thank you

7 That's all, Your Honor I would ask that this witness be
8 excused if there are no further questions

9 MR DIGGS No objection to that, Your Honor

10 THE COURT All right All right, Captain, you are
11 released from your subpoena and may go back to your regular
12 duties, sir

13 Your next witness, please

14 MR HEMBREE The State calls Kelly Wirdzek to the
15 witness stand

16 THE COURT Please come around up front to be sworn,
17 Ma'am

18 KELLY WIRDZEK, being first duly
19 sworn, states as follows

20 DIRECT-EXAMINATION BY MR HEMBREE

21 Q Ms Wirdzek, where do you work?

22 A I work at Waccamaw Community Hospital

23 Q In what capacity?

24 A I'm a Registered Nurse in the emergency room

25 Q How long have you been working in the emergency room at

KELLY WIRDZEK - DIRECT BY HEMBREE

1 Waccamaw?

2 A I've been there for seven years now

3 Q And, Ms Wirdzek, do you have any special training or
4 certifications in a sub-specialty of nursing?

5 A Yes, I do

6 Q Would you please tell this jury about that

7 A I am -- I have a certification in B L S , which is
8 Basic Life Support I have a certification in A C L S , which
9 is Advanced Life Support I have a certification in Pediatric
10 Life Support, better known as P A L S , and I have taken the
11 Sexual Assault Nurse Examiner's training course

12 Q And Sexual Assault Nurse Examiner's training course?

13 A Yes

14 Q And that's a -- you receive a special designation for
15 that also?

16 A Yes, I do

17 Q And what's that called, typically called?

18 A We're basically called S A N E nurses

19 Q S A N E ?

20 A Yes

21 Q And what does that stand for?

22 A Sexual Assault Nurse Examiners

23 Q Now, what is the nature of that training, the nature of
24 the training and the purpose of the training

25 A The purpose of the training is if anybody -- if a

KELLY WIRDZEK - DIRECT BY HEMBREE

1 person is assaulted sexually or physically, they can come to
2 be examined and we will gather evidence, biological and
3 physical evidence

4 Q And I take it that your training -- you have your
5 regular nursing training ---

6 A Yes, I do

7 Q --- to provide care for the patient?

8 A Yes, I do

9 Q But you indicated that you're able to collect evidence?

10 A Yes

11 Q So you receive -- is this sort of a -- what kind of
12 training? Is that sort of a crime scene training or a -- or
13 almost a law enforcement type training?

14 A It's like crime scene training, but it's specifically
15 directed towards sexual assault victims

16 Q Do you receive special training about, I guess, any
17 area of how to relate to or comfort victims of sexual assault?

18 A Yes

19 Q And were you consulted or called in -- are you on call
20 in that capacity?

21 A Yes, I am

22 Q Were you called in, in the early morning hours of April
23 the 8th, 2005, in connection with this case?

24 A Yes, I was

25 Q Tell the jury about how you first got -- got introduced

KELLY WIRDZEK - DIRECT BY HEMBREE

1 to -- well, to [REDACTED]

2 A I was called very early in the morning and was told on
3 the phone that there had been a rape, and it was a fifteen
4 year old girl and her mother had been killed, and they wanted
5 me to come in, along with my partner who had gone and received
6 the same training, so I told the staff at the hospital to go
7 ahead and call her in also, and both of us ---

8 Q And this is another nurse -- another nurse that ---

9 A Yes, the two of us went and received this training
10 together

11 Q Did you respond to the hospital?

12 A Yes, we did

13 Q Did you arrive before [REDACTED] or after [REDACTED]
14 [REDACTED] was already there?

15 A After, about maybe seven, ten minutes after she
16 arrived

17 Q Tell us how she presented herself when you first
18 observed [REDACTED] Tell us what your impressions or
19 what your impressions and observations were of her

20 A Christina was covered in blood from head to toe Her
21 shirt was torn She was very alert, oriented, knew what had
22 happened, very cheerful, and wanted to know why this had
23 happened to her

24 Q And were the doctors with her already at this point?

25 A Yes, Dr Burns was

KELLY WIRDZEK - DIRECT BY HEMBREE

1 Q Dr Burns was with her?

2 A Uh huh (**indicating positive**)

3 Q What sort of care did you render at that point to
4 Christina?

5 A At the beginning, we -- we just started to make sure
6 that where -- that she was stable enough that she could go
7 through the sexual assault examination We made sure that her
8 vitals were okay and that she was medically stable that we
9 could take care of her, and then once we realized that she was
10 stable enough to handle that and we needed other doctors to
11 come in and take care of her also along with Dr Burns, Sherry
12 and myself proceeded to explain to Christina about the
13 examination and the kit that we would be doing, and Christina
14 was very much so compliant with it She was like whatever you
15 have to do, just get what you have to do Get him You just
16 need to get him

17 Q What's involved? You mentioned the rape protocol
18 kit ---

19 A Uh huh (**indicating positive**)

20 Q --- that I believe you and your partner, the other
21 nurse, ---

22 A Right

23 Q --- carried out or went through that kit Describe for
24 the jury what that involved step by step

25 A It involved going from head to toe collecting physical

KELLY WIRDZEK - DIRECT BY HEMBREE

1 evidence, obvious biological evidence, where we remove their
2 clothes We take scrapings from underneath their fingernails
3 We pull hair from their head and from other areas of the body
4 We ask the victim -- or in this case, we asked Christina if
5 she had remembered anything in the assault of where she was
6 touched in the wrong manner, and if there was miscellaneous
7 type of evidence, we would collect that

8 Q Now, you indicated that you went through a process
9 where you explained what you were about to do to Christina and
10 that she was very compliant with that?

11 A Yes

12 Q As a S A N E nurse, is -- what is the significance or
13 the importance of explaining it in such detail to a patient?

14 A It's to make them more comfortable and -- so that we
15 can collect the evidence and so that they feel comfortable
16 with us doing things to their body that they didn't want to
17 have done It's a -- a lot of people say that it's an
18 embarrassing examination, but when you have somebody that can
19 explain it to them and be compassionate about it in collecting
20 it and explaining that it's not their fault, then they are
21 more cooperative and compliant with the examination

22 Q I think I understood from your earlier testimony that
23 you said that you had to make sure Christina was stable before
24 you could -- could go through the rape protocol process?

25 A Correct

KELLY WIRDZEK - DIRECT BY HEMBREE

1 Q Was she, in fact, stabilized?

2 A She was stabilized with her vital signs, but she had
3 obvious injuries that we had to attend to also

4 Q All right, and at some point were you able to conduct
5 the rape protocol on Christina?

6 A Yes, we were

7 Q And what evidence did you collect that was significant
8 in this case and from what areas of her body?

9 A We collected evidence from her vaginal area and when we
10 collected that evidence, we also -- we -- the way that we
11 collect it is we look for bruises, redness, abrasions, tears,
12 scratches, anything like that, and we picture a clock, the
13 face of a clock, and we tell where each injury is from where
14 -- at the vaginal area, and Christina happened to have a tear
15 at the six o'clock point in her vaginal area, and she had
16 bruising that went between the vaginal area and her anal area

17 Q So you're looking for injuries in addition to ---

18 A Right, a tear or physical evidence

19 Q Did you locate any physical evidence in her breast
20 area?

21 A Yeah There was a miscellaneous area to the breast
22 area that we went ahead and we swabbed, and we sent that off,
23 and there was blood -- there was dried blood that we weren't
24 sure if it was hers or not, so we went ahead and we swabbed
25 that also

KELLY WIRDZEK - DIRECT BY HEMBREE
CROSS BY WILLIAMS

1 Q And was there evidence collected from her anal area?

2 A Yes, there was

3 Q This evidence was turned over to law enforcement?

4 A Yes, it was

5 MR HEMBREE Thank you very much, Ms Wirdzek Please
6 answer any questions the Defense may have for you

7 A Okay

8 THE COURT Cross-examination

9 MS WILLIAMS Beg the Court's indulgence for just one
10 moment

11 THE COURT Yes Ma'am

12 CROSS-EXAMINATION BY MS WILLIAMS

13 Q Good afternoon, Ms Wirdzek You've been at Waccamaw,
14 I think you said, for seven years?

15 A Yes Ma'am

16 Q And have you been a nurse longer than that?

17 A Yes Ma'am

18 Q How long have you been a nurse?

19 A Twelve years

20 Q Once you got to the hospital, were you with Ms Ling
21 continuously?

22 A Yes, myself and the other nurse involved in this Yes,
23 we both were

24 Q And approximately how long would you say you stayed
25 with her?

KELLY WIRDZEK - CROSS BY WILLIAMS

1 A We stayed with her from the time that she arrived until
2 about three o'clock in the afternoon after we secured her
3 safely in the hospital

4 Q So it would be safe to say that any treatment she
5 received while she was at the hospital, you were there with
6 her, is that right?

7 A Uh huh, yes Ma'am

8 Q Did she receive a C A T scan of her head?

9 A Yes

10 Q She did?

11 A I'm pretty sure, yes She went to X-ray for scans and
12 stuff like that

13 Q Trying to check on what -- I'm sure, what ---

14 A Her head, her neck, her body

15 Q Okay Do you recall talking to her, I mean, while she
16 was there with you during that time?

17 A We didn't talk to her about anything that had occurred

18 Q Did she mention anything to you at all about the
19 Defendant?

20 A Not in the room, in the C A T scan room, but in the
21 room when we interviewed her behind a closed door, she did

22 Q And did she say anything to you about -- I think you
23 said she said, I don't know why this happened to me?

24 A Yes

25 Q And did she say anything like, I don't know why would

KELLY WIRDZEK - CROSS BY WILLIAMS
SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 he do something like that?

2 A I'm pretty sure she did If I look at my notes

3 Q But even without looking at them, you're pretty sure of
4 that, right?

5 A Uh huh (**indicating positive**) Yes Ma'am I'm sorry

6 Q I'm sorry It's for the Court Reporter

7 **MS WILLIAMS** Thank you very much I don't have any
8 further questions of Ms Wirdzek, Your Honor

9 **THE COURT** Redirect

10 **MR HEMBREE** Nothing on redirect, Your Honor We'd ask
11 that this witness be excused

12 **THE COURT** Any objection?

13 **MS WILLIAMS** No sir, we don't have any objection

14 **THE COURT** All right, Ma'am, you're released from your
15 subpoena and may go back to your regular duties

16 A Thank you

17 **THE COURT** Next witness, please sir

18 **MR HEMBREE** The State calls Dr Scott Burns to the
19 witness stand

20 **SCOTT BERIN BURNS, M D** , being first
21 duly sworn, states as follows

22 **DIRECT-EXAMINATION BY MR HEMBREE**

23 Q And, Dr Burns, with whom are you employed?

24 A I work for the Georgetown Memorial Hospital System

25 Q And in what capacity do you work for Georgetown

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 Memorial?

2 A I am an emergency room physician I work in Georgetown
3 Memorial Hospital E R and in the Waccamaw Community Hospital
4 emergency room

5 Q How long have you been an emergency room doctor?

6 A I graduated from medical school in 1999, and I finished
7 my residency in 2002, and I've been here since then

8 Q And have you been qualified as an expert in this State
9 or in other states to testify as an emergency room physician?

10 A I have, in 2006

11 MR HEMBREE Your Honor, we would offer Dr Burns as an
12 expert in the field of emergency medicine

13 THE COURT Do you wish to question the witness?

14 MS WILLIAMS No sir We don't object to his
15 qualifications as an emergency room physician

16 THE COURT All right I will qualify the witness to
17 give his opinion in the field of emergency room procedure and
18 as an emergency room doctor

19 MR HEMBREE Thank you, Your Honor

20 Q Dr Burns, were you on duty the night or the early
21 morning hours of April the 8th, 2005?

22 A Yes sir, I was

23 Q And did you have occasion to treat a young patient by
24 the name of [REDACTED]

25 A I did

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 Q Would you tell the jury how you first got acquainted or
2 introduced to Ms Ling

3 A Certainly I was working the night of April the 8th,
4 and we got a call, and if I remember correctly, it was about
5 three-thirty in the morning from one of the paramedics with
6 whom I'm very familiar, and ---

7 Q Was it Chuck Petrella?

8 A It was Chuck, and I've known Chuck for a long time and
9 trust his judgment and his compassion Chuck had called me
10 personally and said, you know, he had a situation with a young
11 girl and possibly a fatality, an assault, and, you know, he
12 said he was concerned that she was significantly physically
13 injured in addition to emotionally, and very likely had been
14 sexually assaulted as well, and, you know, that is incredibly
15 helpful for us and particularly in a small-town emergency
16 room We don't have a lot of -- a lot of people around, and
17 so it was -- it's always helpful to have a little bit more
18 information and waiting time to kind of get things ready, and
19 so Chuck called me and kind of let us know what was -- what
20 was coming

21 And thankfully it wasn't terribly busy in the emergency
22 room that night, so I was able to focus a lot of my attention
23 to Christina

24 Q Is the protocol at the hospital or in the emergency
25 room, is it -- is it a bit different when it sort of crosses

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 over into a criminal justice situation like this?

2 A It is You know, again, living in a small town,
3 thankfully we don't have a lot of these type issues, but we
4 certainly -- we certainly do and, you know, that's -- I
5 trained in a big city and so I -- I was familiar with a lot of
6 these things, but without question, there's not only the
7 physical wellbeing of the patient It's also the physical
8 wellbeing of the other patients in the emergency room, if
9 there's concern for possible retribution or, you know, we see
10 this a lot, and gun and knife accidents and things of that
11 nature, but it's not only the physical wellbeing of the
12 patients and people in the E R , but it's also, you know, what
13 -- who -- who might have done this and are they coming --
14 coming back

15 Q Are they going to come back?

16 A Sure

17 Q So were there additional steps taken to secure the
18 hospital?

19 A Yes sir We, you know, notified Security We had
20 notified the Georgetown County Police, who had already been
21 notified in the situation, and, you know, initially we didn't
22 have any information about what had happened other than there
23 had been a problem and we needed to kind of make sure all was
24 safe

25 Q Okay Now, Doctor, I'm going to have you look through

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 these, have you look at a diagram It's marked as State's 148
2 for identification purposes Can you identify that?

3 A I can This is a drawing that typically that our
4 sexual assault nurses fill out It's kind of part of the kit
5 and it's part -- goes in the police file, and this is actually
6 a very nice -- that I just kind of mark, you know, the areas
7 of obvious trauma to the bod- -- to a person's body

8 Q The injuries to the victim in the case?

9 A Yes sir

10 Q Would this assist you in your testimony to the jury?

11 A Yes sir

12 Q And let me show you State's 96, 97, 98, 99, 100, 101,
13 102, '03, '04, and '05, and just generally tell us, not
14 specifically, but generally what those are photographs of

15 A These are -- do I need to show them or ---

16 Q No

17 A Okay These are -- these are photographs of Christina
18 shortly after she got there I mean, this is -- all these
19 photos are actually probably several hours after the incident
20 happened because this -- you know, she was cleaned up
21 considerably by the time these pictures were taken

22 Q And would these photographs assist you in presenting
23 your testimony to this jury?

24 A Absolutely

25 MR HEMBREE Your Honor, at this point, we would offer

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 State's 96 through 105 into evidence and State's 148 into
2 evidence They have been presented to ---

3 MR DIGGS Your Honor, we would object, the same --
4 same grounds

5 THE COURT All right I am going to allow them in
6 evidence over the objection of the Defense

7 (TEN (10) PHOTOS ([REDACTED] ADMITTED INTO EVIDENCE
8 AS STATE'S EXHIBIT NUMBER 96, 97, 98, 99, 100, 101, 102, 103,
9 104, AND 105)

10 (DIAGRAM OF [REDACTED] ADMITTED INTO EVIDENCE AS
11 STATE'S EXHIBIT NUMBER 148)

12 Q Doctor, when you first -- when Christina first arrived,
13 what was her -- what was your initial impression of her
14 condition?

15 A (ANSWER STRICKEN FROM THE RECORD BY THE COURT)

16 MS WILLIAMS Your Honor, we object, and may we
17 approach?

18 THE COURT Yes

19 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

20 THE COURT We will strike the last statement from the
21 record and the jury will disregard it, and Doctor, if you will
22 just stick with your observations, please Thank you

23 Go ahead, Solicitor

24 MR HEMBREE Thank you, Your Honor

25 Q Dr Burns, her physic- -- tell us about her physical

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 appearance when you first observed her

2 A Okay She came in She was strapped down to a board
3 and had a collar around her neck, which is something we
4 typically do in -- when patients who are involved in some sort
5 of trauma The goal is to protect their neck from any injury
6 and to keep their spine safe and still, to rule out any
7 obvious movement about to keep her from getting injured, so
8 she was strapped to a board

9 She was covered very loosely with a towel, and she had a
10 collar around her neck, which again is pretty standard
11 procedure She had some other bandages around her neck, and
12 her face and hair were matted with blood, and she -- and
13 that's how she looked

14 You know, any time a patient comes in the emergency room
15 and has been involved really in any significant trauma, I
16 mean, my first concern is, you know, is she awake and alert,
17 you know, does she have the potential to die in the next
18 twenty minutes, and that's kind of my first call any time I
19 see somebody, and usually that's a question I can answer very
20 quickly, and with her, I wasn't so sure

21 Q What was your greatest area of concern as you say you
22 began that first question, is this patient going to die in the
23 next twenty minutes? What is your -- was the first step you
24 take to prevent that?

25 A Well, we get into a private room Again, by this

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 point, we had security and we locked down the facility, and
2 the police were available thankfully, and we uncovered her,
3 took the blankets off, took the bandages down and kind of
4 assessed her injuries

5 When she got there, she was awake, and alert, and
6 speaking, which is very reassuring It tells me that her
7 vocal cords are working, she's able to take a breath in and
8 speak, and she was coherent enough to make me feel like she
9 didn't have an obvious head injury Those are all things that
10 I kind of get through my mind to where she might be bleeding,
11 her brain, or if she was having difficulty breathing, and the
12 fact that she could speak and tell me where she was, and what
13 happened, was very reassuring

14 But we uncovered her You know, she had lots of bruises,
15 as you can see It was documented by the nursing staff, all
16 over her body My most concerning injury, she -- her ear, her
17 left ear, was nearly cut off, but most concerning, she had two
18 lacerations on her neck Should I point or ---

19 Q Certainly, Doctor, if you'll indicate on State's
20 Exhibit 148

21 A Certainly One here The most concerning one was the
22 one inferiorly below these two lacerations, but the lower one
23 was deep, and if you explored it enough, I could actually see
24 her trachea, which is highly concerning

25 Q Doctor, let me draw your attention to State's 100

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 A Yes sir This is -- I'm not sure if y'all can see this
2 from there or not These are the two lacerations that kind of
3 corresponds with the picture there As you can see, there's a
4 laceration that starts here and goes all the way across her
5 neck, and I'd say it's probably seven or eight centimeters
6 long, but this is the most concerning one This picture
7 doesn't truly do it justice, but basically if you put your
8 fingers there and open it, you could see -- you could see her
9 trachea, which is a problem, and it's difficult to tell how
10 deep or how extensive the wound was

11 Q Doctor, what was most concerning or why were you -- you
12 said this was the most concerning wound to you Can you tell
13 us why?

14 A Well, just if you think about it, it looks to me like
15 this was a knife that caused this, and I think we can -- you
16 know, and based on Christina's testimony where she told me
17 that it was a knife that did this, and so if you think about
18 it, basically there's a large hole there If you think of a
19 knife making that hole, you know, I don't know how far across
20 her neck this went, if it possibly injured her jugular vein or
21 her carotid artery

22 Those are the main concerns, or also could the knife have
23 poked into her trachea causing bleeding in the trachea and
24 swelling, and that's a hard area to get to It's not like
25 cutting your arm where I can just hold pressure on it and the

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 bleeding will stop I can't squeeze her neck and stop the
2 bleeding, so it's very concerning

3 You know, standard emergency medicine practice really
4 states that this needs to be evaluated by a surgeon in a very
5 timely fashion, as this was, but this is -- again, my main
6 concern with this injury was, you know, is she going to lose
7 her airway or would it become swollen

8 Q What -- did she lose her airway?

9 A Ultimately no, no, but, you know, this injury itself
10 required extensive studies She had multiple C A T scans
11 She was seen in consult by one of our general surgeons, as
12 well as one of our otolaryngologists, as well as one of our
13 pulmonologists ultimately She was in the hospital, I
14 believe, five or six days, and this was the main injury, or
15 the main concerning injury at least

16 Q Doctor, what were the other areas of injury that are --
17 I'll take you through these photographs ---

18 A Okay

19 Q --- and if you will -- as I -- as I present this
20 photograph to you, orient the jury to the diagram, State's
21 148, showing them where these -- where these injuries that you
22 find significant occurred, and this is on State's 96

23 A Okay Well, this clearly is her face and head, and
24 again, I just want to remark that this is many hours after she
25 had come in because she had been cleaned up significantly

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 after she arrived

2 You could see about a three centimeter laceration that
3 was down to her skull right here, which corresponds to this
4 laceration right there She had lots of -- it's difficult to
5 tell from this picture, you can see lots of -- there's some
6 abrasions inside her mouth She had some bruising about her
7 nose, which is all kind of marked obviously on this diagram
8 right here

9 We've already discussed the lacerations, but this was her
10 general appearance It's difficult to tell from this picture,
11 but I think we have another picture that shows her ear that
12 was cut through the cartilage portion of her ear called the
13 pinna, P-I-N-N-A, which is basically -- we will show another
14 picture, but it was pretty much cut clean off

15 Q Doctor, I show you State's 97 and ask you to describe
16 what we see there

17 A This is the three centimeter laceration on her left
18 forehead, which, you know, it's difficult to tell whether or
19 not this was caused by a knife I have a strong suspicion
20 these other injuries were caused by a knife, but this one
21 could have been caused by -- this one looked a little bit
22 different It's not quite as linear like it would have been
23 caused by a knife It's almost as if it could have been
24 caused by trauma, like a blunt trauma, a fist or something of
25 that nature, but it certainly could have been caused by a

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 knife, but it just doesn't appear similar to the other
2 lacerations

3 Q So blunt force trauma could have caused it or not could
4 have caused it?

5 A Yes sir I mean, I suspected that, because it is
6 difficult to tell from this picture, but I remember I was
7 looking through my dictation the other night and there's --
8 there was bruising around there, too, so

9 Q And describe what blunt force trauma is to the jury

10 A It's any blunt force typically with an object, you
11 know, enough to cause enough -- in that situation to split the
12 skin, which is significant I mean, it's ---

13 Q And you said it split it down to the skull?

14 A Yes sir

15 Q Doctor, you started to tell us about the ear
16 laceration, and I'm not sure you can reach it from there I'm
17 just going to point to it Is that the area we're talking
18 about on the diagram?

19 A Yes sir It was the left ear

20 Q Okay Tell the jury about the injuries to Christina's
21 ear

22 A It looks like there's a ---

23 Q And you're referring to State's ---

24 A 98

25 Q --- 98, and State's 99

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 A This injury from the previous trial, you know, it's
2 difficult to tell for me whether or not this was caused by a
3 knife or also caused with a fist or an object, because if you
4 see here, again the pictures really don't do a lot of justice,
5 but there's a linear cut across through the cartilage of her
6 ear which, you know, it's a significant injury, but you can
7 see there's a lot of bruising around it, so it's difficult to
8 tell whether or not there might have been some blunt force
9 trauma there, in addition to a knife, or -- or both, or just
10 the one, but her ear was pretty severely damaged It took the
11 otolaryngologist a long time to sew it up

12 Q I'm sorry, it took who?

13 A Took the otolaryngologist, the ear, nose, and throat
14 doctor, a long time to sew it up

15 Q Doctor, if you will, describe -- and let's just travel
16 downward, and if you will, describe to this jury the other
17 areas of trauma that were observed from Christina's body

18 A Well, as you can see from the diagram, it's multiple
19 areas of bruising I remember from her story she had -- the
20 police had found her and the paramedics had found her with her
21 wrists bound and her neck bound with some sort of -- something
22 to restrain her, and so, you know, a lot of her other bruises,
23 particularly on her wrists, clearly fit that, and she clearly
24 had bruising on her neck and bruising around her wrists

25 You know, she had some significant bruising around her

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 neck and her upper chest, in addition to her lower
2 extremities You can see around her knees

3 Q And let me just kind of walk you through this There's
4 some bruising, and I note on State's 148 in the shoulder --
5 appears to be on the shoulder areas?

6 A Yes sir

7 Q Does that have any significance to you?

8 A Well, I mean, classically those are the injuries of
9 someone who's being forced down onto the ground You know,
10 that's the easy way to put some- -- the easiest way to put
11 somebody into submission is to hold them down by their
12 shoulders It's hard to fight back That -- that would be my
13 suspicion, at least

14 Q And bruising on the back?

15 A You know, that's hard to say if that's from a blow from
16 a fist or if it's a blow from hitting an object on the floor
17 It's difficult to tell

18 MS WILLIAMS Your Honor, ---

19 THE COURT Yes Ma'am

20 MS WILLIAMS --- we object to that, and may we
21 approach?

22 THE COURT I'll sustain the objection and the jury will
23 disregard the last statement Thank you

24 Q And bruising noted -- you've already noted the bruising
25 on the -- on the ribs You had a note here of defensive

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 bruising on the length, really the length of the left forearm?

2 A If I remember correctly, her left arm was significantly
3 more bruised than the right If you see on the right wrist,
4 you know, most of the bruising is down right around the wrist
5 where you would be bound, whereas the left had bruises more up
6 towards the elbow and, you know, again commonly in people who
7 have been assaulted, you know, often they will raise their
8 forearm to protect themselves That's kind of one of the, you
9 know, your most primitive defense mechanisms

10 MS WILLIAMS Your Honor, we will just move to strike
11 that as well, and I think his opinion should be limited to a
12 medical degree of certainty, as well as what he's discussing
13 here, Your Honor

14 THE COURT Why don't you ---

15 MR HEMBREE I'll be glad to rephrase that, Your Honor

16 THE COURT Thank you, sir

17 Q Doctor, can you say within a reasonable degree of
18 medical certainty that this is defensive bruising?

19 A No It certainly could have been offensive bruising

20 Q Okay Could you tell this jury what defensive bruising
21 is?

22 A Defensive bruising is trying to protect yourself from
23 someone assaulting you either with fists, an object of some
24 nature It's, again, your most -- one of your more primitive
25 mechanisms You will sacrifice your arms to protect your face

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 and vital organs

2 Q And could you tell this jury what offensive bruising
3 is?

4 A Well, I think that if she had perhaps been -- I think
5 it's basically that she was ---

6 MS WILLIAMS Your Honor, if I may

7 THE COURT All right As best you can, a medical
8 definition of offensive bruising

9 A Bruising without being able to fight back That would
10 be

11 Q You know, in the rest of -- the remaining bruising
12 areas are around the knees and legs?

13 A Yes sir

14 Q And I will draw your attention, Doctor, to State's -- I
15 will do this in a group of State's, 101, 102, and 103, ---

16 A Okay

17 Q --- and ask if you can identify those?

18 A I believe this is -- Number 101 is her right leg, right
19 around the knee, I believe 102 is her left leg around the
20 knee, and 103 looks at both knees, actually the right in the
21 foreground You just see some abrasions and obvious bruising
22 about the knees

23 Q Would you note it on the diagram as well?

24 A Yes sir

25 Q And finally, Doctor, we have State's 104 and 105 If

SCOTT BERIN BURNS, M D - DIRECT BY HEMBREE

1 you could tell us what those photographs or injuries those
2 photographs record

3 A This 104 appears to show her lower leg and it would
4 correspond to this area kind of right here, and there really
5 wasn't any kind of -- I think it's probably referring to this
6 area right here on her left lower leg I think the mark on
7 the diagram is a little bit high based on this picture, and
8 this picture, I believe, is of her right wrist, but I'm not
9 certain based on there's really nothing to guide me with it,
10 but I'm sure it's more linear abrasions

11 Q Dr Burns, after -- your role as an emergency room
12 doctor fundamentally is what?

13 A Well, to take care of whoever comes in, but in this
14 situation was to ensure that we made a proper diagnosis and
15 got her to the right place in a safe fashion

16 Q And is it you then turn essentially a patient over to
17 other doctors?

18 A In some regards, I mean, you know, yes To answer your
19 question, yes

20 Q In this case, is that what you did?

21 A In this case, absolutely She was not a candidate to
22 go home, so she clearly was going to be admitted to the
23 hospital

24 MR HEMBREE Dr Burns, thank you very much

25 A Thank you

SCOTT BERIN BURNS, M D - CROSS BY WILLIAMS

1 **MR HEMBREE** Answer any questions Defense counsel has
2 for you

3 **THE COURT** Cross-examination

4 **MS WILLIAMS** Yes sir, please Beg the Court's
5 indulgence for just one moment

6 **THE COURT** Yes Ma'am

7 **CROSS-EXAMINATION BY MS WILLIAMS**

8 Q Good afternoon, Dr Burns

9 A How are you?

10 Q I didn't take the note How long did you say you had
11 been an E R doctor here?

12 A Since 2002

13 Q 2002?

14 A Seven years

15 Q That's when you finished your residency, so you've been
16 in the Georgetown Hospital System since then?

17 A Yes sir -- yes Ma'am

18 Q Okay Let me ask you, are you familiar with
19 hypergraphia?

20 A Hypergraphia?

21 Q Yes

22 A I'm not familiar with the term

23 Q So you don't know whether or not that's a condition
24 that results in compulsive writing?

25 A No

SCOTT BERIN BURNS, M D - CROSS BY WILLIAMS

1 Q You don't know?

2 A I'm not familiar with the term

3 Q Okay Let me ask you this I assume that in the
4 initial diagnosis, you said you are first concerned about
5 making sure that a patient is stable and not going to die,
6 correct?

7 A Yes Ma'am

8 Q And then once we assure that we have the patient
9 stabilized, then we basically go to, if you will, secondary
10 injuries for lack of a better term?

11 A No, that's a perfect term

12 Q And in this case, do you recall if you had real
13 concerns about any type of trauma to the head, the actual
14 cranial ---

15 A For the patient?

16 Q Yes

17 A Yes Ma'am

18 Q And did you do C A T scans for the actual trauma ---

19 A We did that I'm sorry

20 Q That's okay Tell me what you did

21 A We -- once we kind of assessed all of her injuries, she
22 was sent over for a C A T scan of her head and her cervi- --
23 and her neck, you know You know, there's several ways to
24 handle her neck injury, again, which was our main concern
25 again, because when she got there, she was awake and alert,

SCOTT BERIN BURNS, M D - CROSS BY WILLIAMS

1 and it's -- you know, it's often difficult to have a
2 significant head injury when you're awake and alert, but it
3 certainly can happen, so that's the reason a C A T scan of
4 her head, as well as her cervical spine, was ordered, or her
5 neck

6 Q But she was awake and alert, and with you, correct?

7 A Yes Ma'am

8 Q And knew the details of what had happened, correct?

9 A Vaguely I mean, she was pretty hysterical, but yes
10 I mean, she wasn't giving me details, and I honestly wasn't
11 asking the details of exactly what had happened, but that we
12 kind of had the general aspect of what allegedly happened

13 Q I understand, and let me ask you, I'm assuming in your
14 notes you took notes about her attitude, her demeanor, and her
15 behavior, is that correct?

16 A Yes Ma'am

17 Q And do you recall in your notes writing about her
18 descriptions of this Defendant and the fact that she was so
19 confused as to why this had happened?

20 A I don't remember documenting that personally You
21 know, my general recollection was that she was very confused
22 about as to why this happened, you know I vividly remember
23 her telling me that she was asleep and this woke her up, and I
24 think there's a lot of shock and a lot of -- and that's
25 probably the best word, is shock, as to what had just

SCOTT BERIN BURNS, M D - CROSS BY WILLIAMS

1 transpired in the last two hours when she arrived

2 Q Do you recall actually writing that actually her
3 mannerisms about some of this, I think, was inappropriate, was
4 the term that you put down?

5 A No, I don't recall that

6 MS WILLIAMS Beg the Court's indulgence for just one
7 moment

8 THE COURT Yes Ma'am

9 Q Doctor, do you recall Ms Ling telling you that he was
10 a nice man and why would he do this?

11 A I don't remember her using those words I mean, she --
12 I do remember her questioning as why would someone do this to
13 me

14 MS WILLIAMS That's all the questions that I have
15 Thank you

16 A Thank you

17 THE COURT Redirect

18 MR HEMBREE Nothing on redirect, Your Honor

19 THE COURT All right, Doctor, you are released from
20 your subpoena You may go back to your regular activities,
21 sir

22 A Thank you, sir

23 THE COURT All right

24 All right, ladies and gentlemen, we are going to take a
25 short break, about five or ten minutes, something like that,

JURY OUT

1 but if you will just leave your pads and pens and take a short
2 break, please Thank you very much

3 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
4 JURY)

5 THE COURT All right, we'll take a short break, about
6 five or ten minutes Thank you very much

7 (THE FOLLOWING TAKES PLACE AFTER A BREAK OUTSIDE THE
8 PRESENCE OF THE JURY)

9 THE COURT Solicitor, are you ready to proceed?

10 MR HEMBREE Yes, Your Honor

11 THE COURT Defense?

12 MR DIGGS We are ready to proceed

13 THE COURT Very good

14 MR DIGGS Your Honor, ---

15 THE COURT Yes sir

16 MR DIGGS --- we would ask to submit a list of
17 witnesses

18 THE COURT All right

19 MR DIGGS We are working on that, so we will have
20 that ---

21 THE COURT Shortly?

22 MR DIGGS Yes, shortly

23 THE COURT Thank you very much

24 All right, bring the jury in, please

25 MR DIGGS Your Honor, can we approach on another

JURY IN
KIM A COLLINS, M D - DIRECT BY HEMBREE

1 matter?

2 THE COURT Sure Solicitor

3 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

4 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
5 JURY)

6 THE COURT All right, Solicitor, your next witness,
7 please sir

8 MR HEMBREE Thank you, Your Honor The State calls
9 Dr Kim Collins to the witness stand

10 THE COURT All right, Dr Collins, if you will come up
11 front, over here, please Ma'am

12 KIM A COLLINS, M D , being first
13 duly sworn, states as follows

14 DIRECT-EXAMINATION BY MR HEMBREE

15 Q Dr Collins, you testified several days ago in this
16 very courtroom?

17 A Yes, I did

18 Q In the capacity of a forensic pathologist?

19 A Yes

20 MR HEMBREE Your Honor, we would once again offer Dr
21 Collins as a forensic pathologist to testify in the penalty
22 phase of this case

23 THE COURT Is there any objection, or do you wish to
24 question the witness?

25 MR DIGGS No, Your Honor

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 **THE COURT** All right I will qualify Dr Collins to
2 give her opinion in the field of forensic pathology

3 **MR HEMBREE** Thank you, Your Honor

4 Q Dr Collins, first I want to turn your attention -- you
5 had testified several days ago regarding conducting an autopsy
6 on the victim in this case, Mr Henry Turner?

7 A Yes

8 Q And referred to State's Exhibit Number 70, I believe,
9 in presenting that testimony?

10 A Yes, that's correct

11 Q Now, I want to show you several photographs ---

12 **MR DIGGS** Your Honor, just for the record, could I
13 have a continuing objection on this particular witness?

14 **THE COURT** The Supreme Court frowns on continuing
15 objections, so I will need for you to raise them at the time
16 Do you want to tell me what the numbers are?

17 **MR HEMBREE** These would be, Your Honor, State's 66,
18 114, 115, 116, and 117

19 **THE COURT** Okay, so 66, and 114 through 117?

20 **MR HEMBREE** Yes, Your Honor

21 **THE COURT** All right, and you object to those, Mr
22 Diggs?

23 **MR DIGGS** Your Honor, the objection we have are the
24 same grounds that we've noted in the record previous

25 **THE COURT** I understand that, but I'm saying you have

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 an objection to these photographs?

2 MR DIGGS Yes sir, based on those grounds

3 THE COURT All right, very good I'm going to allow in
4 evidence State's 66, and 114 through 117, over the objection
5 of the Defense

6 (AUTOPSY PHOTO (TURNER) ADMITTED INTO EVIDENCE AS STATE'S
7 EXHIBIT NUMBER 66)

8 (FOUR (4) AUTOPSY PHOTOS (TURNER) ADMITTED INTO EVIDENCE
9 AS STATE'S EXHIBIT NUMBER 114, 115, 116, AND 117)

10 MR HEMBREE Thank you, Your Honor

11 Q And, Dr Collins, if you would, I would like you to
12 take these photographs and identify them in the order -- tell
13 us the -- what we have here is State's 114

14 A 114 is a face shot of Mr Turner, and it has my
15 identification number at the bottom, FA05217

16 Q And would you -- if you can show it to the jury or show
17 on this photograph the areas of injury to the victim's face in
18 this photograph

19 A On the photograph you've got an area of abrasion and
20 discoloration where the skin has been worn off the outer layer
21 to the right forehead, and to the right side of the right
22 eyebrow is a similar abrasion on the side, and this is from
23 blunt trauma, being hit with an object or falling against a
24 firm object, either/or

25 Q And, Dr Collins, I'm going to show you State's 115 and

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 116 together and have you describe what you are looking at in
2 these two photographs

3 A Can I show them?

4 Q Why don't you come -- would you be able to step down

5 A This is a photograph here of the chest of Mr Turner
6 You are looking at his right chest You can see his right
7 nipple in the picture, and this is the entrance wound that we
8 designated as A, and this is a close-up of A It's an
9 entrance wound, has a typical punched-out or cookie-cutter
10 appearance with a little ring of redness or abrasion around
11 the entrance wound A pathway led to bullet number two

12 Q And then finally, Dr Collins, let me show you State's
13 117 and 66 and have you describe to the jury what these
14 photographs depict

15 A 117 is the back of Mr Turner, and you can see an
16 entrance wound to his back, to his right back, and Number 66
17 is a close-up of that entrance wound Again, it's round, has
18 a punched-out appearance, and you can see the rubbing off or
19 tearing of the skin as the bullet enters the body This is
20 entrance wound B which corresponded to the path that led to
21 bullet number one

22 Q Thank you, Dr Collins You can take your seat

23 And, Dr Collins, in addition to conducting the autopsy
24 on Henry Turner, were you called upon to conduct an autopsy
25 upon Laura Ling?

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 A Yes, I was

2 Q And when did you conduct that autopsy?

3 A Laura Ling's autopsy was April 9th, 2005, and we
4 started the examination at nine o'clock in the morning

5 Q And you've already described to this jury essentially
6 the process that's undertaken when you conduct an autopsy?

7 A Yes, I have

8 Q Essentially the same procedure was used when you
9 conducted the autopsy of Ms Ling?

10 A Yes The same procedure was used, as well as on Ms
11 Ling we also conducted a sexual assault examination

12 Q And you prepared some diagrams to document your
13 significant findings and conclusions as it relates to Ms
14 Ling's autopsy?

15 A Yes, I did

16 Q Let me show you State's 108 -- excuse me, 107 and 108,
17 and 109, and ask if these are your diagrams?

18 A Yes, they are Yes

19 Q Now, Dr Collins, I think probably the easiest way to
20 do this, if you will come down, ---

21 MR DIGGS Your Honor, we would object to that

22 THE COURT I was going to say, are those in evidence
23 yet, Solicitor?

24 MR HEMBREE Oh, I'm sorry, Your Honor We would move
25 these into evidence at this stage

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 Q Doctor, would these diagrams assist you in presenting
2 your testimony to the jury?

3 A Yes, they would

4 MR HEMBREE Your Honor, at this point we would move
5 into evidence State's 107, 108 and 109

6 THE COURT And over the -- I'm sorry, the Defense
7 objects?

8 MR DIGGS We do object, Your Honor Actually, this is
9 the objection I thought I was making previously, but now is
10 the appropriate time

11 THE COURT All right, I appreciate that, so was there
12 an objection to State's 66, 114 through 117, that dealt with
13 Mr Henry Turner?

14 MR DIGGS No -- no, Your Honor We did not object to
15 those I was mistaken and I thought that at that time ---

16 THE COURT All right, so State's 66, 114 through 117,
17 are in evidence without objection?

18 MR DIGGS Correct

19 THE COURT State's 107, 108, and 109 and in evidence
20 over the objection of the Defense Thank you

21 MR DIGGS Correct

22 THE COURT Thank you very much

23 MR HEMBREE Thank you, Your Honor

24 (HEAD/NECK CHART (LAURA LING) ADMITTED INTO EVIDENCE AS
25 STATE'S EXHIBIT NUMBER 107)

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 (FACE CHART (LAURA LING) ADMITTED INTO EVIDENCE AS
2 STATE'S EXHIBIT NUMBER 108)

3 (BODY CHART (LAURA LING) ADMITTED INTO EVIDENCE AS
4 STATE'S EXHIBIT NUMBER 109)

5 Q Dr Collins, I'd like you to, if you don't mind, step
6 down off the stand, and I first want to draw your attention to
7 State's Exhibit 109 Describe to this jury what this Exhibit
8 reflects

9 A This is similar to the man diagram This is the one
10 that we use for the female, and you have an anterior view and
11 a posterior view of the female Some of the markings here are
12 identifying features such as how long or height, sixty-six and
13 a half inches, two hundred pounds Other findings that we
14 document on this type of a diagram are the injuries, and so we
15 have various bruises to the body, to the arms, to the chest,
16 to the abdomen area, as well as ligature marks about the
17 wrists

18 Q And let me show you State's 111, 112, and 113, and ask
19 you to identify those as well

20 A Yes These three are photographs from the Laura Ling
21 autopsy, and that autopsy was FA05215, and these were taken at
22 the time of autopsy

23 MR HEMBREE Your Honor, we would offer these into
24 evidence at this time also

25 THE COURT And the numbers again are?

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 A 111, 112, and 113

2 THE COURT And Defense?

3 MR DIGGS Objection

4 THE COURT All right I'm going to allow State's 111,
5 112, and 113 in evidence over the objection of the Defense

6 (THREE (3) AUTOPSY PHOTOS (LAURA LING) ADMITTED INTO
7 EVIDENCE AS STATE'S EXHIBIT NUMBER 111, 112, AND 113)

8 Q Dr Collins, what were your significant findings and
9 conclusions to the body, and I guess we'll start -- any
10 injuries or trauma you may have observed to the body of Laura
11 Ling Let's start from the neck We're looking down from the
12 neck

13 A Okay We'll start below the neck because we have a
14 separate diagram that includes head and neck for a closer
15 view, so what we have here, we have to the region of the upper
16 chest near the collarbone, we've got a bruise right in this
17 region We have a larger bruise extending over the left chest
18 above the breast To the right of her arm, we have a round
19 contusion, and interestingly on the left arm, we have three
20 round contusions and they are similar in size and we call
21 these coin-shape, like a coin of money, and these are
22 consistent with grasp marks, G-R-A-S-P, grasp marks, coin
23 lesions on the left arm

24 We have a contusion to the right lower abdomen We have
25 a contusion to the front of both thighs, and contusions are

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 bruises We have bruises to the middle of the right thigh
2 We have various contusions also to the front of the legs, left
3 and right

4 If we look at the ---

5 Q Do we -- what are those, Doctor?

6 A These are also contusions of the front of the thigh
7 What's not depicted here, because this doesn't really show the
8 genitalia very well, she also has contusions on the left and
9 right aspect of her labia, of her outer vulvar/vagina area
10 that women have She's got contusions left and right side in
11 that area

12 On the back of her body, we have a bruise to the left
13 shoulder We've got a large area of bruising to the back of
14 the left upper arm, bruising to both buttocks We have a
15 large area of bruising to the left calf region and some
16 bruising to the feet

17 Moving back up to the hands, we have bruises to the
18 knuckle areas of the hands, the back of the hands, and those
19 are consistent with defensive wounds Also of significance is
20 the wrist There is an indentation to the wrist, as well as
21 bruising to the wrist, secondary to a ligature or tie that was
22 around both the wrists They were tied together behind her
23 back, and the ligature or the tie was actually a necktie

24 Q And was that necktie still intact when you began your
25 autopsy?

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 A Yes, it was We described it, the number of loops
2 around each wrist, the number of knots, and we also -- I also
3 specified where I cut it I had to cut it twice to get it off
4 the body, and then it was labeled as such so the investigators
5 could understand how it was initially on the body

6 Q Would that be the scene depicted in State's 111?

7 A Yes The necktie is wrapped tightly You can see the
8 indentation on the wrists Where you're looking is you're
9 actually looking at her back because her wrists are behind her
10 back

11 Q And let me draw your attention to State's 113 Tell us
12 what we see in this photograph

13 A This is her lower, from mid-thigh down to the bottom of
14 her feet, and it depicts bruising that is noted on her -- her
15 left leg You will see here in the photograph, as well as the
16 bruising to her left lower leg, and you see both legs in the
17 photo, but what's actually showing is the side area here of
18 her left leg, the front and side of her left leg

19 Q Doctor, any other significant findings or conclusions
20 on the body section of Ms Ling?

21 A None other than when we looked at some of the bruises
22 under the microscope, they were acute, meaning that they were
23 new bruises They weren't some that had been present for a
24 week, say, but otherwise, I mentioned the bruising that's not
25 depicted in the cartoon that was to her bottom area, to her

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 labia, on the left and right side

2 Q Now, let me draw your attention to State's 107 What
3 are we looking at here?

4 A There are three illustrations here The top left is
5 looking at the top of her head The left on the bottom which
6 show the top of her skull if you took her scalp off, and we
7 would have put any fractures if there were any The positive
8 findings are in this photograph or this illustration on the
9 right, so the left side of this poster, there is not anything
10 that I drew here This is just the illustration as is, so
11 your finding is on the right aspect of the poster

12 What we've drawn in on her neck with her neck -- her head
13 flexed back or extended back, we have stab wounds or in- --
14 we call them incised wounds if they're longer across than they
15 are deep That's the only difference between a stab and an
16 incise, that terminology, so we have got an incised wound
17 that's almost two and a half inches across her neck on the
18 front and to the right We've got areas of contusion here
19 The incised wound gapes open in this region right over her
20 Adam's Apple

21 We've got another long, three point six inch incised
22 wound going across from left to right, or right to left,
23 either direction, and then we've also got a puncture, which is
24 in this region, to the left of that Adam's Apple region, which
25 is another sharp force injury, so a stab, incised wound,

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 depending on if it's deeper than it is long, or longer across
2 the body, so she has three of these incised wounds with
3 associated bruising noted to the outside of the neck, so we're
4 looking at the skin

5 Q And let me show you State's 112, Dr Collins Can you
6 describe what we're looking at in State's 112?

7 A Yes This is her neck In the photograph you can see
8 her -- the top of her shoulder You can see the incised
9 wounds, as well as the gaping wound that's in the middle, and
10 to her left you can see small, or puncture, or stab wounds to
11 the neck You can also see in the region of the center of her
12 neck the bruising that's associated with that

13 You can also see in this picture on her right shoulder
14 there's a bruise that was depicted in the other illustration
15 where I said there was some bruising at her collarbone, so
16 this was the sharp force injury, incision or stab wound --
17 wounds to the neck

18 Q Doctor, did you go -- what significance do you draw
19 from the bruising that is apparent in this area right here?

20 A Right here?

21 Q Uh huh (**indicating positive**)

22 A Bruising to the neck could be from the stab -- stabbing
23 itself It could be from the handle It could be from a --
24 the blade causing bruising, but what we noted when we looked
25 inside the neck region was that it was secondary to

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 strangulation There was bruising left and right of the
2 tissues, of the muscles, we call them strap muscles because
3 they are long like a strap

4 Within the neck, there was fracture within the neck of
5 the Adam's Apple or voice box region There was extensive
6 hemorrhage all the way from the front of the neck through
7 these muscles into the backbone, and so it was a strangulation
8 that was -- resulted in her death

9 Q And, Doctor, finally I take your attention to State's
10 108

11 A Focusing on the top half of the face diagram, this
12 would be -- on your right would be more of the external face
13 or outside of the face, and we've used the diagram on your
14 left to show injury that was within the mouth or underneath
15 the skin

16 The -- first, we'll look on your right She's got a
17 large area of bruising to the right forehead There is
18 bleeding within the whites of the eye on both sides, right
19 more so than the left side, and that would be secondary to the
20 strangulation As you close off the veins within the neck
21 during strangulation, the heart continues to pump blood to
22 that region and it can cause bleeding or bursting of the blood
23 vessels within the eyes, within the whites of the eyes

24 We also have bruising to the right aspect of her cheek or
25 under her eye We've got abrasion to her nose, as well as

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 underlying that, she does have a broken nose We've got
2 splitting and tearing of the tissue to the mouth We've got
3 tearing at the chin, bruising at the chin, and abrasion of the
4 chin We've got other abrasions to the side of the face, to
5 the bottom part of the chin We've also got a cut here which
6 looked like another stabbing, incised wound to the left
7 forehead, so many bruises, many cuts to the outside of the
8 face

9 When we looked within the mouth, she had bruising to the
10 upper lip and gum, as well as to the lower gum area around the
11 teeth She had contusions and a laceration or splitting to
12 this tissue on the right lower jaw I already mentioned that
13 she had the nose fracture, broken nose, and she had another
14 tearing of the tissue of the gums in the upper mouth, so not
15 only bruising, upper jaw, lower jaw, around the teeth, but
16 also tearing of the tissues, we call that laceration, of the
17 upper jaw and the lower jaw

18 Q Do you have an opinion or how -- what would you -- or
19 do you have an opinion within a reasonable degree of medical
20 certainty of a classification of this type of injury?

21 A This is multiple blunt force trauma She also had
22 bruising to the back of the head and to the right aspect of
23 the head when we looked beneath the scalp She also had some
24 bleeding over the surface of the brain This is multiple
25 blows to the face, blows to the mouth, the nose, the eyes, in

KIM A COLLINS, M D - DIRECT BY HEMBREE

1 addition to the strangulation

2 When we see the lacerations or splitting of the skin,
3 that is secondary to blunt trauma, to a blow When we see the
4 incised wounds, such as on the left forehead and the three
5 that were on the neck earlier, that's from a knife or a sharp
6 implement

7 Q Let me draw your attention to State's Exhibit 90 Take
8 a look at that for us

9 A Yes

10 Q And could you explain to the jury what injuries that
11 you diagnosed that that photograph reflects?

12 A This is a same photograph of Laura Ling showing her
13 chest, but she has a part of a shirt on, but you can see her
14 face You can see in this photograph the chin damage with the
15 laceration or tearing of the tissue, the abrasion

16 There's the bruised area in this region It's difficult
17 to see, there's some white material covering up this right
18 half of her face, so you don't see any of this region here
19 She's got blood covering up some of the lacerations and
20 abrasions of the right mouth area, as well as there's blood
21 located over the left cheek

22 You can also see the abrasion or scratching damage to the
23 nose over which -- I mean, excuse me, beneath which is the
24 fracture for the nose, or the broken nose

25 Q Thank you, Doctor You can have a seat

KIM A COLLINS, M D - DIRECT BY HEMBREE
CROSS BY DIGGS

1 Dr Collins, were there any other -- you covered --
2 already covered the diagram, any other significant findings or
3 conclusions?

4 A There are also some hemorrhages or bruising to the
5 tongue in several areas We see that with blunt force trauma
6 to the face, also when the tongue gets in the way when there's
7 a struggle, and I did mention that she had fracture of the
8 voice box or the larynx, but that was on both sides and that's
9 associated with a squeezing, a compression secondary to the
10 strangulation

11 Q Doctor, do you have an opinion as to a reasonable
12 degree of medical certainty as to the cause of death in this
13 case?

14 A Yes It was asphyxia or lack of blood flow and oxygen
15 due to strangulation

16 Q And the manner of death?

17 A Homicide

18 MR HEMBREE Please answer any questions Defense
19 counsel may have

20 Thank you, Your Honor

21 THE COURT Cross-examination

22 MR DIGGS Yes May it please the Court, and, of
23 course, subject to our objection

24 CROSS-EXAMINATION BY MR DIGGS

25 Q Dr Collins, overall how many wounds did you count on

KIM A COLLINS, M D - CROSS BY DIGGS

1 the body of Ms Ling?

2 A Multiple, multiple bruises

3 Q And can we tell anything about the mind-set of the
4 attacker?

5 A No

6 Q Not one thing?

7 A No

8 Q All right Have you ever viewed the wounds that were
9 inflicted upon a decedent by a person who was acting in a
10 rage?

11 A Yes

12 Q Are there any similarities in that situation to this?

13 A When we see certain cases with the rage If what
14 you're getting at is overkill, overkill is a situation where
15 there's more done to the body than is needed to kill a person,
16 so there's stabbings, there's blunt force trauma, there's
17 strangulation We see that often associated with rage, and
18 the only term I've heard associated with that would be
19 overkill

20 Q All right, but we have all of those things
21 Eliminating overkill, we have all of those things in this
22 case, do we not?

23 A Yes

24 Q We have multiple stabbings, multiple blunt force
25 trauma, binding, so could this particular situation be

KIM A COLLINS, M D - CROSS BY DIGGS

1 consistent with an attacker who was in a rage?

2 A It could be, yes

3 Q Did you get a time of death on Ms Ling, Dr Collins?

4 A We were provided information, historical information,
5 by Kenny Johnson, and we were told that the time of death was
6 approximately 2 00 A M

7 Q Okay Now, you did -- did you do the autopsy on Mr
8 Turner?

9 A Yes sir

10 Q And do you -- do you have any historical information
11 about a time of death for Mr Turner?

12 A The coroner in that case was Dan Bellamy, and we were
13 provided that it was in the morning, and that was all the time
14 that we were provided We were told that he was last seen at
15 around 8 00 A M

16 Q Okay, so we know it was after eight, and this was on
17 the same day of Ms Ling's death, correct?

18 A Yes We were told that Mr Turner died in the morning
19 of the 8th, and Laura Ling was at 2 00 A M

20 Q On the 8th?

21 A That's what I was told, yes

22 Q Now, did you have any contact with Ms [REDACTED]

23 A No

24 Q And did you have an opportunity to review the medical
25 records that were generated in her treatment, that would be

KIM A COLLINS, M D - CROSS BY DIGGS
REDIRECT BY HEMBREE

1 the treatment of Ms Ling?

2 A I'm assuming that's the daughter?

3 Q Yes

4 A [REDACTED]

5 Q Correct

6 A No

7 MR DIGGS Beg the Court's indulgence, Your Honor

8 THE COURT Yes sir

9 Q Now, on Ms Ling, there was no indication that Ms
10 Laura Ling had been sexually assaulted or raped?

11 A There was no ejaculation, there were no sperm, but
12 there was bruising to her labia

13 Q All right, and was she not fully clothed?

14 A I know she had a plaid shirt on Let me see Okay,
15 when we received her, she had on red and black plaid pajamas

16 MR DIGGS Dr Collins, I believe that's all I have
17 this afternoon

18 A Okay

19 MR DIGGS Thank you very much

20 THE COURT Redirect

21 MR HEMBREE Yes, Your Honor

22 REDIRECT-EXAMINATION BY MR HEMBREE

23 Q Just one thing, Dr Collins Would you consider
24 binding someone consistent with rage?

25 A I guess with the previous counsel, and whatever you're

KIM A COLLINS, M D - REDIRECT BY HEMBREE
CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 referring to as rage

2 Q It's not -- is it consistent with overkill?

3 A Not just the binding in and of itself, no

4 MR HEMBREE Thank you, Doctor

5 THE COURT Do you wish the witness to be excused?

6 MR HEMBREE Yes, Your Honor, we do

7 THE COURT Any objection?

8 MR DIGGS No sir

9 THE COURT All right, Doctor, you are released from
10 your subpoena and may go back to your regular duties, Ma'am
11 Your next witness, please sir

12 MR HEMBREE The State calls Cecelia Kotsipias

13 CECELIA KOTSIPIAS, being first duly
14 sworn, states as follows

15 DIRECT-EXAMINATION BY MR HEMBREE

16 Q Ms Kotsipias, how are you this afternoon?

17 A I'm doing okay, as best I can

18 MR HEMBREE Your Honor, we have some photographs,
19 State's 120 through 127, that we would like to offer into
20 evidence at this time, I believe without objection

21 THE COURT Is there any objection?

22 MR DIGGS No, Your Honor, no objection

23 THE COURT All right State's 120 through 127 are in
24 evidence without objection

25 (EIGHT (8) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 **STATE'S EXHIBIT NUMBER 120, 121, 122, 123, 124, 125, 126, AND**
2 **127)**

3 Q Ms Kotsipias, were you acquainted with the victim in
4 this case, Henry Turner?

5 A Yes, I was

6 Q And how were you acquainted with him?

7 A I met him when I came with a group of friends to the
8 beach, and we went dancing, and he was also at the same place
9 where we were

10 Q And how would you characterize your relationship with
11 him?

12 A It was wonderful

13 Q Okay, but what were you to him or what was he to you?

14 A We were best of friends, and we got along so well the
15 whole almost nine years that we were together

16 Q Now, if I were to run into Henry Turner and you, how
17 would he introduce you to me?

18 A He would introduce me as his brown-eyed lady friend

19 Q Tell this jury how y'all first became acquainted, how
20 you first met

21 A We met at the Blue Marlin on Highway 17 when I was with
22 a group of my friends We went on a beach trip, and we went
23 dancing, and I was just by myself sitting, and everyone else
24 was dancing, and here comes Henry over to me, friendly as can
25 be, and he said would you like to dance, and I said I would

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 love to dance, so we got up and we danced, and he came back,
2 and we danced, and we danced, and we danced, and then he took
3 a break and said I'll be back in a minute, and then some of my
4 friends came over to me and said Cecelia, there's another lady
5 over at the table where Henry is sitting, you know You
6 better see what she is, so he came back to ask me to dance
7 again He said that's a friend of mine, Florence She just
8 had surgery and she wanted to come out a little, and I thought
9 I would bring her out to hear the band a little She couldn't
10 dance She had a bad leg, so he was interested in me, he
11 said, and he wanted to dance with me

12 Q And how long ago was that?

13 A Almost ni- -- over nine years now, plus four, thirteen
14 - years ago

15 Q Where do you live?

16 A I live in Charlotte, North Carolina

17 Q And what -- what kind of work do you do in Charlotte?

18 A I'm an administrative receptionist with Enterprise
19 Rent-A-Car

20 Q Let me show you a photograph and tell me -- tell me a
21 little bit about State's Number 120 What's -- what do we see
22 in there?

23 A There is Henry about the first year when we met, and he
24 came to my house We went back and forth every two years
25 (sic), and a friend of mine took this picture of us together

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 Q What do I see in the background?

2 A Our Christmas tree

3 Q It's kind of small

4 A It was a table tree this year I had a small table
5 tree, and I have no family I have some cousins overseas,
6 whatever, and Henry came, and he wasn't much -- when he came,
7 I was putting the tree out and everything What are you
8 doing? I'm putting up the Christmas tree I said can you
9 help me? And he said well, I usually don't do that, he says,
10 but okay, I'll put it up for you, so he was real proud when he
11 put it up, and it was a little table tree this year

12 Q Now, Cecelia, you've got -- I'm going to show you 121
13 and 122 Tell me a little bit about these two photographs

14 A This is Henry and I Henry taught me how to fish I
15 never used to fish, but he took me fishing He said I want
16 you to go fishing I said Henry, I don't know anything about
17 fishing, and he says but I want to take you You're my lady
18 friend, and if we're going to go together, I'm going to teach
19 you some new things, so he took me fishing He took me to a
20 small lake, and then he said we've got to put the worm on --
21 on now I said oh, no, I'm not touching the worm No, no
22 Now, we've got to put the cricket on

23 He was trying to show me how the -- you know, and then
24 how to cast out, and I was really doing bad, and he got a lot
25 of laughs at me at the beginning I was very funny to him,

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 but then he grew to really like the way I got those catfish
2 and bream I had never -- I never knew what bream was until I
3 met Henry Turner, and boy, were they good when he fried them,
4 and he just loved to go fishing with me, take me fishing He
5 said I'm taking you fishing, and we had such a wonderful time
6 together, and I haven't been fishing since

7 Q The -- that trip, that was on the same trip?

8 A The same trip We were at a lake, and we caught all
9 the -- we caught twenty-three catfish, and they are heavy
10 suckers to pull up, but I got them up He helped me, and he
11 was just so proud that I had caught all these fish

12 Q Now, tell me about these -- this one over here in
13 State's 122 What sort of an outfit is that that Henry was
14 wearing?

15 A Henry -- Henry was a military man, and he loved his
16 red, white, and blue jogging pants Everywhere we'd go, he
17 got attention by these pants, and I grew to love them, too
18 At first I told him, Henry, you know, can you wear something
19 else besides these when we go out? No, I like these, he said,
20 so these were his favorite pants that he used to love to wear,
21 and he wore -- almost wore them out till the end

22 Q What was -- what was it about Henry's personality that
23 attracted you in the beginning?

24 A He was very jovial, smiling all the time He looked
25 like he was a caring person, which I found out in the nine

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 years he truly loved me very much He just cared for me I
2 was by myself He'd always call me, are you doing okay? Are
3 you sure you don't need anything? Do you need me? I'll be
4 there If I needed something, he would be there for me, so he
5 was a very caring, loving person

6 Q He'd come visit you up in Charlotte?

7 A Every -- about every two weeks we went back and forth

8 Q I'm going to show you State's 123, and tell the jury
9 about this picture here

10 A This is my bigger tree I wanted a big tree so bad,
11 and I said well, now that Henry likes decorating a tree, I'm
12 going to see if he's going to decorate a big tree for me, so I
13 got this tree, and Henry was so proud, especially putting the
14 garland around it, and he was ready for the little balls, and
15 I had angels, wisher angels He put angels on the tree, and
16 this was a decorated tree Henry Turner had done it all by
17 himself, and he was so proud of it, and he just loved to
18 decorate my trees, and he never used to like to do that
19 before, but he was very caring about doing things for me

20 Q What other things around the -- around your house did
21 he help out with?

22 A I had a tree to fall in the back yard, and I had a
23 rental home, and in our talking all the time, we talked two or
24 three times a day, he said what's new? I said Henry, a tree
25 has fallen in my back yard and the landlord says he doesn't

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 have money to cut it down, he's going to just leave it, and it
2 was laying straight across the back yard, hitting my fence
3 Henry says I'm coming, so Henry took the time, and he was
4 there When I got home that night from work, Henry was there
5 The next morning, Henry was up early in the morning cutting
6 that tree down with his drill He had brought all his tools
7 He raked all day until nighttime getting that tree cut up and
8 taken away for me

9 Q What else did y'all like to do, what sort of
10 activities? I know you danced

11 A We loved to go dancing Henry loved to hear me sing
12 I sing, and I love Karaoke, and he would love to go to
13 Karaoke We'd go to Wayne's over there, and we had a good
14 time over at Wayne's, and ---

15 Q Wayne's here in Conway?

16 A Wayne's in Conway That was one of our places we'd go
17 for Karaoke, and dancing, and it was a quaint place, and
18 people got to know me there well, too, and he loved the song,
19 Crazy, by Patsy Cline He loved to hear me sing that, and
20 when Brown Eyed Girl would come on, I was Henry's brown eyed
21 girl, and he'd always tell the deejay, play Brown Eyed Girl
22 for my lady friend, please, and they'd always play it for me

23 Q Let's take a look at this picture, 124 What do we see
24 -- what do we see in that picture right there?

25 A This is Henry He was tired after he had worked in the

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 yard one day This is my cat, Princess, who is no longer
2 living now She had cancer, she had a tumor on her Henry
3 loved this cat as much as he loved me, and when he found out
4 she had cancer, he would cuddle the cat, hold her in his arms
5 with a little blanket, and she had a big lump on her head, and
6 he would pet her and say, Princess, you're going to make it,
7 he says I love you, and he would call me, and when he called
8 me, he says please tell Princess to please make it for me He
9 loved my Princess, too, and me

10 Q Miss Cecelia, did he always love Princess?

11 A He always loved her He always loved her

12 Q From the very start?

13 A From the day he saw her

14 Q Let me take you -- show you State's 125 Do you
15 remember that day?

16 A This is Henry He's a Shriner, and we were at a
17 Shriner Ball, and this is a picture of us where we went, and
18 we were dazzling We loved to dress up Henry loved to dress
19 up in his tuxedo and his Fez hat, and he would -- he was proud
20 of me, very proud of me to take me out and show me off to
21 everybody, and we were at the dance and having a good time,
22 and this is where our picture was taken

23 Q And this looks like it's a -- you're in a different
24 dress here Let me show you 126

25 A This was an Enterprise Rent-A-Car party We had

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 parties every year, which we don't now because of the economy,
2 but Henry got to be well-known with my company, all my bosses
3 Everyone knew Henry, always asked about Henry every day, how
4 is Henry doing, and Henry loved to joke and have a good time
5 with everybody, and we had just finished a dance here, and we
6 took our picture

7 Q I see he's in his tuxedo?

8 A He's in his tuxedo

9 Q And, Cecelia, tell me about 127

10 A This is New Year's Eve We were celebrating New
11 Year's This was the year before he was killed, and this is
12 his friends, Veronica and Mike They were with us every year
13 We would celebrate New Year's, and this is where we were
14 having a good time, and at this time after we had gotten with
15 the New Year's party and we went home, Henry got ill and he
16 was choking really bad, and Mike saved his life If it wasn't
17 for Mike doing the CPR, Henry wouldn't have been with us then,
18 but we had a really great time together This was our -- his
19 -- our best friends

20 Q That was New Year's coming into 2005?

21 A Yes

22 Q Where were y'all that night?

23 A We were in Conway on 544 I think it was Pedro's, and
24 it's closed down now

25 Q Cecelia, when was the last time you saw Henry?

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 A I saw Henry in February We always celebrated
2 Valentine's Day together, but Henry was kind of ignoring me
3 lately because he was busy with Mr Stanko, trying to work for
4 him, do things for him, and he was putting me off a lot, but
5 he came to Charlotte, and all of our friends, we went together
6 out dancing and to see one of his favorite bands that he
7 liked, and he had them play Brown Eyed Girl for me, and every
8 twenty, thirty minutes, the telephone would ring while we were
9 trying to celebrate after Valentine's Day, and it was Stephen
10 Stanko calling him, wanting something, telling him he had to
11 get back home, so Henry would have to interrupt our dancing
12 and everything to go out and talk to him constantly, called
13 about four or five times while we were trying to have a good
14 time

15 Q Now, did -- did you say he was working for Stanko?
16 What -- in what way?

17 A He was supposed to be serving subpoenas, he said He
18 was doing some kind of guard work, going out different places,
19 trying to look for a truck, and he also was trying -- he told
20 him about a catering job at a hotel Henry was going to get
21 cups and everything He got them and when he went there, no
22 party, no nothing, zero Henry was out, he called me There
23 was nothing, we -- nothing happened, he'd tell me

24 Q To your knowledge, did he ever get any -- any ---

25 A He never -- he never got any subpoenas He kept on

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 giving him excuses, no, I didn't get them from the lawyer
2 No, we're going to get them next week, Henry I have four or
3 five for you You're going to get some money, don't worry
4 This kept on, and on, and on, but no money Nothing ever was
5 given to Henry to my knowledge

6 Q Now, when was the -- how often would you talk to Henry
7 on the phone?

8 A About two or three, maybe four times a day

9 Q I mean, y'all talked all the time?

10 A We talked all the time

11 Q And when was the last time that you talked to Henry
12 Turner?

13 A It was about four o'clock in the morning he had called
14 me He had called me previously around one o'clock and told
15 me goodnight, because I always didn't go to bed until around
16 one o'clock, and then he called me late, and my phone rang,
17 and I said wonder who's calling now, and it was Henry I said
18 Henry -- guess who's here, brown eyes Guess who just came to
19 my door I said Henry, it's late, it's late I'm trying to
20 get some sleep here, get up shortly for work He said Stephen
21 Stanko is here His father passed away and he's crying, and
22 I've taken him in, he said, and I'm going to let him sleep
23 here overnight, he said, and I'm going to keep him here until
24 he gets better where he can go back to his home, and the last
25 words he said is I love you, brown eyes, and we hung up

CECELIA KOTSIPIAS - DIRECT BY HEMBREE

1 Q That's the last time you talked?

2 A That's the last time I talked to Henry

3 Q When did you -- when did you find out that Henry had
4 passed away?

5 A The police, five police cars came to my door, and I'm
6 not a criminal or anything and I didn't know what was going
7 on, and it was early in the morning and I was in my bathrobe,
8 went to the door The police said we need to come in to talk
9 to you Meanwhile, others were looking around my yard and
10 everything I didn't know what would happen, if somebody in
11 the neighborhood -- something had happened, so they sat me
12 down, and -- I had another cat Princess had passed away
13 Smokey was there then, and Smokey wanted to meow and make a
14 racket, so the police asked me to remove him I had to take
15 him to another room

16 But he says do you know Henry Turner? I said yes sir, I
17 do He said he's been killed He's been murdered The first
18 two words out of my mouth, Stephen Stanko was my first two
19 words That's the only person that I knew was with Henry and
20 kept on doing these things to Henry and never giving him
21 money That was my first two words to the police, and then
22 they called back to the Conway Police and talked to them

23 Q Henry was a big part of your life?

24 A Henry was the idol of my life I have nobody, and he
25 loved me He cared about me He did want to marry me, but I

CECELIA KOTSIPIAS - DIRECT BY HEMBREE
CROSS BY WILLIAMS

1 decided I wasn't going to marry him, we would just go
2 together We had a wonderful life together, and Stephen
3 Stanko has ruined our life He has ruined it entirely because
4 Henry would have been living today We would have been
5 fishing, we would have been singing, we would have been having
6 a wonderful time together He really cared about me, the best
7 man I had ever dated, good to me, very good to me

8 MR HEMBREE Thank you Answer any questions Defense
9 counsel has

10 THE COURT Cross-examination

11 MS WILLIAMS Thank you, Your Honor May it please the
12 Court

13 CROSS-EXAMINATION BY MS WILLIAMS

14 Q Miss ---

15 A Kotsipias

16 Q Kotsipias I want to say it right Let me say I am
17 sorry for your loss

18 A Thank you

19 Q You said that you and Mr Turner used to talk a lot, is
20 that correct?

21 A On the phone, two, three, four times a day

22 Q And he was a big part of your life until Mr Stanko --
23 let me rephrase that He was a big part of your life and even
24 when Mr Stanko came into his life, he was still a big part of
25 your life?

CECELIA KOTSIPIAS - CROSS BY WILLIAMS

1 A He was always a big part in my life

2 Q But yet once Mr Stanko came into his life, y'all
3 didn't get to see each other quite as much, is that right?

4 A Things got a little rockier

5 Q Okay Did you ever have the opportunity to meet Mr
6 Stanko?

7 A I never, ever met him, but Henry would call me Brown
8 eyes, he says, Stanko wants to take us out to dinner We're
9 going out for a big steak dinner Can you come this weekend?
10 Most of all, he kept on calling me, please brown eyes,
11 Stanko's brother has a yacht in Wilmington He wants to take
12 us on the yacht and give us a good time I told him I was not
13 interested I just did not want to go, so I did not go to the
14 many steak dinners that I was invited to with Stephen Stanko
15 and also the yacht that I was invited to a hundred times

16 Q Ms Kotsipias, in your opinion were Mr Stanko and Mr
17 Turner friends?

18 A Henry thought Stanko was a nice friend He described
19 him -- I had never met Stanko, and I asked Henry, what is
20 Stanko? He said he's a clean-cut man He's -- he's a nice
21 man He's trying to help me make money, he said, and I'm all
22 for it, he said, because Henry wanted to take me on a cruise
23 We never went anywhere, and I was so excited to be happy to go
24 somewhere with Henry and have a good time on a real cruise,
25 and he was trying to make extra money to take me on the

CECELIA KOTSIPIAS - CROSS BY WILLIAMS

1 cruise, and that's why he was trying to do Stephen Stanko's
2 work

3 Q I will apologize for going back to that, but we've
4 addressed it, so just let me just ask you a few brief
5 questions, please You said on the morning of April 8th you
6 got a phone call at about 4 00 A M , is that correct?

7 A It was sometime after 4 00 A M , right around there

8 Q But in the wee morning hours, no less?

9 A It was wee morning, yes Ma'am

10 Q Okay, and one of the first things you said Mr Turner
11 said is guess who's here It's Steve Stanko?

12 A Steve Stanko

13 Q And he's here

14 A Yes

15 Q And ---

16 A He told me that Steve Stanko had said he wanted to
17 sleep overnight there, his father had passed away, and Henry
18 let him sleep overnight with him there

19 Q Okay

20 MS WILLIAMS Beg the Court's indulgence for just a
21 moment, please

22 THE COURT Yes Ma'am

23 Q I believe you said if I -- I just want to make sure
24 because I wrote it down I think you said he said like guess
25 who's here It's Steve Stanko He's crying, he's upset His

CECELIA KOTSIPIAS - CROSS BY WILLIAMS
DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 father has died, and Mr Turner wanted to help?
2 A He did want to help him, yes He let him into his
3 house to sleep overnight
4 MS WILLIAMS Thank you, Ms Kotsipias
5 A You're welcome
6 MS WILLIAMS I have no more questions, Your Honor
7 THE COURT Redirect
8 MR HEMBREE Nothing on redirect, Your Honor
9 THE COURT All right Do you wish the witness to be
10 excused?
11 MR HEMBREE Yes, please
12 THE COURT Any objection?
13 MS WILLIAMS None from the Defense, Your Honor
14 THE COURT All right All right, Ma'am, you are
15 released from your subpoena and may go back to your regular
16 activities, Ma'am
17 All right, Solicitor, your next witness, please sir
18 MR HEMBREE The State calls Debbie Gallogly to the
19 stand
20 DEBBIE GALLOGLY, being first duly
21 sworn, states as follows
22 DIRECT-EXAMINATION BY MR HEMBREE
23 Q Good afternoon, Debbie
24 A Afternoon
25 Q Where are you from?

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 A I am from all over actually, but I currently live in
2 Roswell, Georgia I grew up in the military Dad was
3 military, so we lived all over

4 Q And your dad was?

5 A He was Henry Lee Turner

6 Q And do you have any children?

7 A I do I have two daughters Emily is twenty-five, and
8 my youngest daughter is Mary Alice She's twenty-one

9 Q And you -- what kind of work do you do in Roswell,
10 Georgia?

11 A I actually hold two positions I am an assistant
12 project manager for a commercial developer We build multi-
13 family housing for the affordable community, specifically for
14 seniors, age fifty-five and older, and I am also the C O O of
15 a non-profit foundation that was created to provide services
16 for those seniors

17 MR HEMBREE Your Honor, we have several photographic
18 exhibits we would like to introduce, State's 128 through 135,
19 I believe without objection

20 MR DIGGS No objection

21 THE COURT All right State's 128 through 135 are in
22 evidence without objection

23 (EIGHT (8) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS
24 STATE'S EXHIBIT NUMBER 128, 129, 130, 131, 132, 133, 134, AND
25 135)

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 Q Debbie, tell me a little bit about your dad Just tell
2 this jury about his upbringing, where he was from

3 A Well, dad was born somewhat locally It was a little
4 community called Hyman, but we always said Pamplico because
5 Hyman was such a small, little community, we just said well,
6 dad is from Pamplico, South Carolina, and his parents were
7 tobacco farmers in Pamplico and he grew up with two siblings,
8 an older brother and a younger sister, so there were three
9 children in that family

10 His father's family was actually a very, very large
11 family There were ultimately twenty-two children in that
12 family from two wives, so there were lots of Turners in the
13 community We had large, large family reunions Usually we
14 had that on Labor Day weekend, and there were always more
15 Turners than I knew who they were

16 Q Debbie, what kind of house did he -- did he grow up in?

17 A Well, he was actually born in a little stick shack with
18 a tin roof kind of house, and when we were children and we
19 would go to visit my grandparents, that house was still
20 standing, and when we passed by the house, we would always --
21 dad always said there's the house I was borned in, and so the
22 three of us children would always repeat, there's the house
23 daddy was borned in, and it -- the house is no longer standing
24 today, but it was a very modest little farmhouse

25 Q Now, was the farm your dad's -- your dad's calling?

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 A No Dad had great, great respect for his parents and
2 what they did in the farming community and always supported
3 them in that, but he did not feel that that was his calling,
4 and he specifically wanted to join the military, so when he
5 was seventeen -- he graduated high school a year early He
6 was a very smart man, and his parents signed for him to join
7 the Army-Air Corps at that point It was called the Army-Air
8 Corps Later, he became part of the branch called the Air
9 Force then, so he joined the military and he was stationed in
10 places like Alaska and Japan He served actually during the
11 Korean War, so he's a veteran of foreign wars and was very
12 active for years in the V F W I think Cecelia talked about
13 some of the things that they may have done with the V F W
14 He was truly, truly a patriot He served his country
15 He stayed in the military for twenty years He had a twenty-
16 year career He progressed very, very quickly, in fact, in
17 the military Within a nine year span, he went from an --
18 whatever they're called when they first go in, the boot camp,
19 to a Master Sergeant, so he progressed very, very quickly
20 while he was in there, in the Air Force
21 I know you've got some photographs in front of you there
22 There's an exhibit number on the front What's that first
23 one?
24 A This one is Exhibit Number 128 This is actually a
25 photograph of my dad on my left, and his father in the middle,

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 and his brother The three of them were quite a threesome
2 Dad was very, very close with his brother He loved his
3 brother very dearly

4 I have to tell a little story about my Uncle Junior,
5 though When they were children, dad would tell it He had
6 an odd scar on one of his fingers, and I asked one day, dad,
7 how did you get that scar? It almost went into the
8 fingernail It was on this finger, the ring finger, and he
9 said well, my brother put that there He said we were cutting
10 -- trimming off the ends of corn and Junior had an axe, and we
11 started fussing with each other about whatever one had to do
12 and the other one didn't, and I wanted to do something with
13 the axe and Junior said no, I've got it, and Uncle Junior said
14 well, I could just cut your finger off with this axe if you
15 don't behave yourself, and dad said well, go ahead, and he
16 stuck his finger down there and, I'll be darned, if Uncle
17 Junior didn't just about cut his finger off, so as young kids,
18 they were probably nine and ten years old when that occurred,
19 but they were quite an ornery pair

20 Q Tell me about that next picture

21 A This next picture is my dad when we were stationed in
22 London, England, and he actually received the Commandant's
23 Award, and so he's standing in his full uniform posing with
24 that award in his hand It's a prestigious award I wish I
25 really knew more about that award in particular

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 Q Now, where else was your dad stationed, other places
2 that he -- while he was in the military?

3 A Well, we -- when we -- I was almost a year old when we
4 moved to London, England, and I was five when we left there,
5 had turned five, and from there, we were stationed in
6 Nebraska, in Omaha, at SAC Headquarters there, and my two
7 brothers were born there pretty close together They were, I
8 think, sixteen months apart, so one came pretty quickly after
9 the other, and my mother had her hands full with those two
10 boys

11 And after that, we moved to Puerto Rico I think my
12 youngest brother was probably two when we moved to Puerto
13 Rico, or there about I was in the third grade, just before
14 entering the third grade, so we were there for three years I
15 was in the third, fourth, and fifth grades when we stayed
16 there That was a great tour of duty Basically that's -- I
17 mean, I remember one incident, maybe the first time I went
18 fishing with dad when we lived in Omaha You will hear this
19 theme of fishing more and more often with my dad, but mom was
20 dealing with babies, and so I had to get out of the house He
21 was taking me out of the house, and he took me fishing

22 Well, the water was pretty rough, and apparently when I
23 went to cast my pole out, I threw the whole pole in the water,
24 but it was a good pole and dad didn't want to lose that pole,
25 so he stripped down to his -- what they called the skivvies,

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 but it was his underwear, and dove in that cold water and got
2 that pole, or he tried to I really don't remember if he
3 retrieved it or not, but I knew I was sort of in trouble for
4 that, but he was pretty good about it

5 Q He loved to fish?

6 A He loved to fish, and when we lived in Puerto Rico, as
7 a family we did an awful lot of fishing together That was a
8 big thing My mother wasn't particularly interested in
9 fishing, especially -- when we were out one day, all five of
10 us would get in this little five-man boat, and dad had a big
11 ol' Johnson motor He was so proud of that motor He had
12 bought it off of another airman In fact, he lost the motor
13 one day We got to the dock and he went to take the motor off
14 and it fell in the lake, so he dove down and he got that motor
15 back I don't know how he got the motor back, but somehow he
16 got that motor back and had to clean it all up, but my mother
17 was not as keen on fishing

18 We were out one day and it started hailing I mean,
19 we're in Puerto Rico, and you wouldn't think it would hail,
20 but it did, and I think that may have been one of the last
21 times she went with us to go out She was a pretty good sport
22 about it, but when hail is hitting you ---

23 Q Everybody has got their limit?

24 A Yeah, and she -- she didn't like not catching fish If
25 she wasn't catching, then it wasn't as interesting

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 Q Now, tell me about your mom Where did he meet your
2 mom?

3 A They met in Missouri Dad was stationed at Whiteman
4 Air Force Base in Missouri, and that's, in fact, where I was
5 born I did have a photo here of that This is Exhibit --
6 State's Exhibit 130, and this is a photo of me and my mom and
7 dad in front of the trailer that we lived in

8 In fact, I went back there not -- oh, maybe ten years
9 ago, and that trailer was still there I couldn't believe it,
10 so we were stationed -- and the town is called Knob Noster,
11 Missouri Nobody ever seems to know where Knob Noster,
12 Missouri is, but they know about Whiteman Air Force Base
13 because it's now the home of the B-2 Bomber

14 Q How old were you in the picture?

15 A I was just a few months old I was born in February,
16 and that's a summer photo, so just several months old

17 Q Now, at some point your dad retired from the military?

18 A He did, he retired from the military I was entering
19 the sixth grade when he did that, so I must have been about
20 eleven, and we moved to Florence -- actually, we first ended
21 up in Pampllico, and then dad was looking for work He had
22 been in accounting when he was in the military and, in fact,
23 ran the first IBM machine that the military had He would
24 work with the payroll, so the little punch -- they had all
25 those big punch cards, and he -- he ran that machine

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 Q Once he got -- well, let's -- let me ask you about his
2 other -- did he have another hobby when he was -- other than
3 fishing?

4 A Well, he did He was an avid golfer Military courses
5 back then had wonderful golf courses I remember him telling
6 stories, when we lived in Omaha especially It was a S A C
7 Headquarters, which meant there were a lot of upper military
8 people that were there, that were serving there

9 It was a Strategic Air Command, so it's an important base
10 to be stationed at, and he would frequently get a call and
11 say, Sarge, can you call your officer and see if you can get
12 off-duty now so you can join our foursome, and these were
13 usually the Generals and the Colonels that would call him to
14 come and join their foursome because he had a really, really
15 good golf handicap He was a -- he was very, very short Dad
16 was just barely five, six, but he had kind of long arms and he
17 had a real, real powerful swing, so he was a good golfer He
18 was a really good golfer

19 Q Now, you mentioned that he moved -- y'all moved to
20 Florence?

21 A We moved, yes

22 Q And tell us about that, that chapter in your dad's
23 life

24 A Well, that was -- the boys were getting a little bit
25 older and Rodney was starting first grade Roger was about to

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 start kindergarten, and I started sixth grade I don't think
2 then they called it middle school I do have a photo here
3 that's about that time frame, too, if I may It's State's
4 Exhibit 131, and this is just as a family You can see how
5 dated it is with all of our hair-dos, but I think we're kind
6 of a nice looking group actually

7 Q What sort of work did your dad do after he got out of
8 the military?

9 A Well, he did -- he held several positions It's kind
10 of hard for me to remember actually all of his work history
11 I know that he worked for Prudential Insurance Company for a
12 while He vowed he would never sell insurance, and when he
13 got out of the military he sold insurance, which was kind of
14 funny

15 He also worked -- ended up in the hotel industry as well
16 and did that for a number of years He had a little store for
17 a while Then he went into the real estate business, and he
18 ended up basically commuting back and forth to Myrtle Beach
19 while he was in the real estate business then

20 Q Let's see, and oh, yeah, tell me about this picture,
21 133

22 A Well, this is when I was getting married, my mom and
23 dad and me This was at the rehearsal dinner for my wedding
24 Actually on my wedding day, my dad gave me away, and there was
25 great consternation between my mother and my father because my

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 dad wanted to wear red socks with his tuxedo, so we were a
2 little bit concerned about dad walking down with his red
3 socks

4 And, you know, I was so nervous that day, at this point I
5 don't really remember if he had on his red socks Quite
6 frankly, if he did, he just did It was just dad's way of
7 saying I'm here, too, and I'm supporting everybody, but he
8 liked to kind of tweak things a little bit and pick a little
9 bit at folks He was a jokester He enjoyed that

10 Q What sort of a dad was he? I mean, you know, as a girl
11 growing up, what -- tell me about what he was like around the
12 house with you

13 A Well, I think this is probably typical of dads all
14 across Dads tend to have a different relationship with their
15 daughters, I think, than they do with their sons, and I would
16 say that about my dad with me

17 My mother was more the disciplinarian in our house Dad
18 infrequently -- this is going to be -- in fact, I really can
19 only recall two times when he disciplined me, and one time was
20 I may have been in the first or second grade and I'd gotten a
21 really good report card, but on the report card it said she
22 talks too much in class, so my mother said well, you're going
23 to have to spank her because she cannot sit in class and talk
24 too much

25 And I must have heard something about Tom Sawyer getting

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 a spanking, and I put a book under my nightgown Well, by the
2 time dad realized what was going on with the book under my
3 nightgown, I did not get much of a spanking He was so --
4 laughing so much about that

5 And the only other time I really remember a dad-
6 discipline was I was learning to drive, and my dad had a white
7 LTD Ford It was a real nice car My mother drove a pea
8 green Corvair I don't know if any of you remember Corvairs,
9 but they're kind of yucky cars, but it was a stick shift, and
10 if you're a young driver, by golly, he was of the school that
11 you need to learn how to drive a stick shift, so I was backing
12 in and out of our parking area at home, and one of the times I
13 backed out, that pea green car just did scrape along the side
14 of that white LTD Ford and a big ol' long green mark got left
15 on that car

16 So I went in and told my mother, and she said you're
17 going to have to clean that up, so I cleaned off the green
18 mark, but there was still a dent She said you've got to tell
19 your dad Well, we just don't want to disappoint dad It's
20 not that he yelled and screamed He was never that way with
21 his discipline In fact, he just was never a loud man period
22 unless he was having a good time and laughing

23 So I went in and I said dad, I ran into the LTD with the
24 Corvair He never said a word He turned around and walked
25 down the hall I followed behind him, my heart pounding, and

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 pounding, and pounding He goes outside He walks all the
2 way around the car, walks all the way around the car again,
3 and then just looks at me Where is it? I said well, it's
4 right over here, and I showed him the spot where I had dented
5 in a little bit on the car He said damn it You've got to
6 be -- and I just burst into tears as soon as those words came
7 out of his mouth, and I ran into our shed

8 And he came in there and he said you know what, when I
9 was a teenager, I turned the tractor over in the ditch and I
10 sweated for two weeks waiting and waiting for my dad to chew
11 me out and give me the whipping of my life, and it never
12 happened, but I sweated and sweated for those two weeks He
13 said by me going ahead and chewing you out, we've gotten it
14 done and over with and we can move on from here, and that's
15 pretty much how dad was

16 Q Not a man to hold a grudge?

17 A He did not hold a grudge, never held a grudge

18 Q Let me ask you about this photograph, 134

19 A Well, that's all of our family basically, my dad's
20 parents, Grandma and Granddaddy Turner, his brother and his
21 wife, and their child and her husband, and his sister and her
22 husband, and my husband and my two brothers, and my mother, so
23 that's probably one of the last big family photos really that
24 we had taken of all of us there

25 Q And your dad is ---

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 A He's way at the back behind my brother with the
2 glasses

3 Q He's got a full beard, like a beard ---

4 A He's got a beard on He was always changing his hair
5 or his facial hair

6 Q And you're down there in front?

7 A I'm at the most forefront, uh-huh

8 Q Where was that picture taken?

9 A That was taken at their home They had a home at
10 Forest Lake that mom and dad had built Both of them put in a
11 lot of specific personal labor into that home They did a lot
12 of the work themselves, both of them did, on that home

13 When I would go home to visit at Forest Lake, I was
14 married at the time, but I'd call dad and say okay, dad, I'm
15 coming home for the weekend He said all right, I'll get the
16 battery ready Well, that meant that he would charge up the
17 battery We had a little -- we usually had a one-man boat
18 and/or a one -- a two-man boat at the house, so we had a
19 little trolling motor and he would get the battery charged up
20 so that I could go and fish because I like to fish

21 My husband would be inside watching T V , football on
22 T V I was out on the lake fishing Sometimes I was fishing
23 with dad, but, well, one time we went fishing and he was
24 catching a lot of fish, and catching them and catching them,
25 and I wasn't catching anything, and I said dad, what's -- you

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 know, what's the deal? Why are you pulling in so many fish?

2 He said oh, I'm sitting over a bed right here I said well,
3 let's swing the boat around so I can get my -- throw my line
4 over in there He said no, we're good just like we are

5 Q So fishing is good ---

6 A Fishing is fishing, but -- I love you daughter, but I'm
7 not going to share ---

8 Q That's it

9 A --- share the bounty

10 Q Tell me about 135

11 A Well, this is really a funny story Actually, my -- my
12 brother, Roger, reminded me of this My girls and I had gone
13 to visit dad while he was living here, and he was babysitting
14 the girls I can't remember why I had asked him to watch the
15 children I may have just gone out to go shopping, but it was
16 just maybe a couple of hours, and dad fell asleep while he was
17 watching the girls

18 Well, they needed to entertain themselves, so they took
19 every book that he had and took them off the shelves, and he
20 called my brother and said I can't believe these children
21 They have strewn every single book off of my shelf while I was
22 sleeping, but that's what you get when you get -- when you get
23 caught napping

24 Q And which daughter -- which daughter, his
25 granddaughter, your daughter?

DEBBIE GALLOGLY - DIRECT BY HEMBREE

- 1 A Yes That's my youngest daughter, Mary Alice, in the
2 photo He took Emily out, he was going to show her how to go
3 shrimping, and so he and Emily toddled off and when they came
4 back -- dad wore dentures, but one of his teeth was gone I
5 said my gosh, dad, what happened to your teeth? He said
6 you're not going to believe this He said I was showing Emily
7 how to throw the net out, and you hold the net in your mouth,
8 well, when he threw the net out, his tooth went flying out
9 with the net, but he got the tooth back and he super-glued it
10 back in
- 11 Q He's persistent?
- 12 A He's persistent He got his tooth back It was kind
13 of a funny story
- 14 Q He slung a fishing pole, a motor, and a tooth into the
15 lake?
- 16 A He -- he is a man who could do just about anything He
17 was very curious about life, very curious about life He
18 wanted to know how the world worked He took all kinds of
19 classes when he was in the military and even after the
20 military In fact, that is what introduced him to Laura Ling,
21 was he was taking a computer class to learn how to work the
22 computer at the public library
- 23 Q Tell me about when you found out that your dad had been
24 killed
- 25 A How do you get news like that? It's probably four-

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 thirty in the morning and I was dead asleep, and my mother
2 call- -- the phone rang, and when it rings at four-thirty in
3 the morning, you just -- that's not a good sign, and my mother
4 called and said Debbie, your dad is dead, and it was like the
5 room got brilliant light, bright, bright light, and I just
6 sank to the floor, and I said what, what, what do you mean?
7 What do you mean? She said your dad is dead, and so she
8 proceeded to tell me the circumstances about Roger, realizing
9 that dad had not shown up for a family dinner and he heard on
10 the news that there was a manhunt out for Stephen Stanko and
11 he was scared, and called a neighbor and went there to see
12 about our dad, and they wouldn't let him in the house

13 I mean, my poor brother sat there He had to sit outside
14 of that house for hours waiting and waiting for somebody to
15 let him go in there to find our dad and know the whole time in
16 his heart In his heart, he knew our dad was in there, but
17 the police, I know they had to do what they had to do, but as
18 a family member to sit there and know that your father is
19 there and that there's got to be something wrong with this
20 picture, I feel so bad for Roger that he's had to live through
21 that

22 It is a terrible thing to lose your dad My oldest
23 daughter is getting married December the 6th this year, and
24 she is the oldest grandchild, and he will not see her walk
25 down the aisle I mean, how can you say in five minutes what

DEBBIE GALLOGLY - DIRECT BY HEMBREE

1 you lose when someone kills a member of your family

2 You lose a part of your life, too, because he would have
3 been with us, and he would have been engaged in what we were
4 doing, and we have that no longer We don't have his
5 laughter, or his humor, or his intelligence, or his
6 compassion All of that is erased when you lose a family
7 member, and to lose someone the way that he died is so -- it
8 hurts my heart so bad to know the circumstances surrounding my
9 father's death There is no way to describe what it is to
10 lose someone, but if you could see inside of our hearts, you
11 would see what we've lost

12 Q Do you reckon he would have worn those red socks to the
13 wedding?

14 A You know, I really, really think he's worn his red
15 socks right today I think as he sits in heaven, he still
16 wears his red socks, yeah

17 MR HEMBREE Thank you, Debbie

18 A You're welcome

19 MR HEMBREE Answer any questions Defense counsel may
20 have

21 THE COURT Cross-examination

22 MS WILLIAMS Your Honor, we have no questions for Ms
23 Gallogly

24 THE COURT All right, Ma'am, you may step down
25 Further witnesses on behalf of the State?

ROGER TURNER - DIRECT BY HEMBREE

1 **MR HEMBREE** Our final witness, Your Honor, is Roger
2 Turner

3 **THE COURT** Come around and be sworn

4 **ROGER TURNER**, being first duly
5 sworn, states as follows

6 **MR HEMBREE** Your Honor, we have a number of
7 photographs that we intend to introduce through Mr Turner,
8 State's 136 through 144, and 146, which we have provided to
9 Defense

10 **THE COURT** Is there any objection?

11 **MR DIGGS** No objection

12 **THE COURT** In evidence without objection

13 **(TEN (10) VICTIM IMPACT PHOTOS ADMITTED INTO EVIDENCE AS**
14 **STATE'S EXHIBIT NUMBER 136, 137, 138, 139, 140, 141, 142, 143,**
15 **144, AND 146)**

16 **DIRECT-EXAMINATION BY MR HEMBREE**

17 **Q** Hey, Roger

18 **A** Hey, Greg

19 **Q** You are Henry Turner's son?

20 **A** That is correct I'm the youngest

21 **Q** The youngest son How old are you?

22 **A** Forty-seven

23 **Q** Where do you live?

24 **A** Myrtle Beach

25 **Q** And how many children do you have?

ROGER TURNER - DIRECT BY HEMBREE

- 1 A I have just one
- 2 Q All total, how many grandchildren did your -- did your
3 dad have?
- 4 A Actually, he's got six
- 5 Q Your one, Debbie has got two?
- 6 A Uh huh (**indicating positive**)
- 7 Q And your brother, ---
- 8 A Rodney has got three
- 9 Q Okay Is Rodney here today?
- 10 A Rodney is here, yes
- 11 Q Now, tell me a little -- and we've kind of learned a
12 little bit about your dad from your sister, and Cecelia, so we
13 kind of know his background He was in the military and
14 worked after that You were the youngest, so you sort of
15 followed him along kind of after the military, is that fair to
16 say?
- 17 A Yeah, that's -- that's fair to say I mean -- I mean,
18 dad was -- of course, he was a father He was a grandfather
19 He was a, you know, a great husband, a great friend He was
20 not just my father He was a friend, and he was my best
21 friend, and -- and, you know, our relationship was something
22 to be sought after by many, and ---
- 23 Q You're the only child that lives here locally, I
24 believe?
- 25 A That is correct, so I spent lots of time with dad, lots

ROGER TURNER - DIRECT BY HEMBREE

1 of time

2 Q As a kid growing up, what sort of a dad -- I know the
3 way he was with the girl, with the daughter How was he with
4 -- with his boys?

5 A Actually, he, you know, he was like any father should
6 be, you know He set examples for us how to live our everyday
7 lives, and he led by example as far as mannerism, how you
8 treat one another, the Golden Rule pretty much, do unto
9 others, and -- and, you know, he again was military You
10 know, I learned a lot of things to do from my dad and a lot of
11 things not to do from my father, so -- and -- and I use that
12 in my everyday life today

13 Q I'm going to show -- I'm just going to give you some of
14 these photographs also and ask you to go through some of
15 those Where did you -- where did you end up going to high
16 school?

17 A Actually, West Florence I grew up pretty much in
18 Florence, South Carolina, which is not far from here, then
19 moved to Myrtle Beach right after that

20 Q All right, and that first photograph you've got there,
21 what number is on that photograph?

22 A That number is 136, and this is a photograph of my
23 lovely wife, and myself, and my father, who she is here now
24 also, and he gave away -- my wife's father was not here when
25 we got married, so, you know, they ask, well, who gives this

ROGER TURNER - DIRECT BY HEMBREE

1 woman to this man, and, of course, my father says his mother
2 and I do, so that's -- that's our wedding picture

3 Q Now, tell me a little bit -- I found this rather
4 interesting Tell me a little -- tell this jury about how you
5 were introduced to your wife

6 A Yes, it seems kind of strange My dad was dating her
7 mother for years, two years, before I met my wife, and he was
8 -- introduced us pretty much I had gone fishing that day and
9 -- with a friend of mine and came to his house, and my wife
10 happened to be there and -- with her mother and my dad, and
11 that's how we met

12 Q So you -- he was dating your wife's -- your
13 mother-in-law?

14 A Right

15 Q And introduced you to the daughter?

16 A That's correct

17 Q You married the daughter, and he didn't marry the
18 mother?

19 A That's correct

20 Q Now, somebody got a woman out of the deal?

21 A Yeah, yeah, yeah

22 Q Somebody got a woman out of the deal

23 A He -- after he dated Rose, he started dating Cecelia

24 Q Now, you've got -- you mentioned your son What's his
25 name?

ROGER TURNER - DIRECT BY HEMBREE

1 A His name is Sam, Sam Turner

2 Q All right

3 A Samuel Allen Turner

4 Q I think there's a photograph there, maybe looking at it
5 right there?

6 A Yeah This is him as a baby Dad was really, really
7 proud to have a grandson and to carry on, of course, the
8 Turner legacy and the Turner name, and man, this is a great
9 photo because these are great times We lived a block from
10 the ocean on 18th Avenue South in Myrtle Beach, and were just
11 about a block from the ocean, and in our back yard, oh, man,
12 it was wonderful

13 We had a great back yard, and dad helped me build a
14 sandbox for our -- his grandson and my son, and that's what
15 this is He would spend many hours coming over spending time
16 That was his pride and joy, and that was his -- seemed like
17 his sole purpose at that time was to spend time with his
18 grandson, Sam

19 Q Was your dad retired at this point?

20 A Oh, yeah, oh, yeah, yeah He had been retired He
21 retired in 1967, by the way, with -- from the Air Force

22 Q But he worked after that for some period of time?

23 A Oh, yeah He did some private investigating work He
24 also did real estate He did some sales business He also
25 sold Encyclopedia Britannica He was in a numerous amount of

ROGER TURNER - DIRECT BY HEMBREE

1 businesses and actually at the time that he met Stanko, he was
2 doing some private investigating work and also some real
3 estate things, and they were supposed to -- then he was trying
4 to form a company that he was in the Herbal-Life business to
5 sell vitamins and things like that, and supplements, dietary
6 supplements and things like that He always ---

7 Q What about that next photograph?

8 A This next photograph here, this is the Christmas I gave
9 dad a guitar, and that's what that is there, and, of course,
10 you can tell his appearance -- through the years, dad would,
11 you know, grow his hair different or do something a little
12 different He was not always the same there, and with that
13 guitar, he couldn't play real well I mean, he could play it,
14 but he could do like Little Brown Jug or something like that,
15 you know I mean, he could pick a few

16 Q How about that, is that his natural hair color there?

17 A That is after probably some Hair Club -- I mean, some
18 just for men kind of additives there A couple of those
19 photographs, you may see like some shoe polish moustache-
20 looking type -- he was good at doing that every now and then

21 Q Let me show you this one right here, 139

22 A Okay This one is, oh, man -- of course, here he is
23 wearing a Shrine shirt, and he never wanted to miss a party
24 This is my son's -- I think is probably his fifth, fourth or
25 fifth year birthday party, and, of course, Sam was wearing a

ROGER TURNER - DIRECT BY HEMBREE

1 birthday hat, and so dad needed to also, part of the
2 festivities, you know

3 Q I can't help but notice you've got some -- is this your
4 house?

5 A This is my house, yes

6 Q And you've got some trophies there on the wall?

7 A There's a few, couple of small fish that I had caught
8 One was -- my wife let me go fishing on our honeymoon, caught
9 a very -- it was very nice of her, spent a day fishing, and
10 caught a very large bass and ---

11 Q Sounds like your dad gave you some pretty good advice?

12 A Oh, yeah, yeah

13 Q You married the right woman

14 A And actually the other bass sitting next to it was we
15 went back on our first year anniversary, so I caught even a
16 larger bass my second year anniversary, so I named one the
17 honeymoon bass, and I named the other one, the even larger
18 one, the anniversary bass, so I caught some very large fish

19 Q I know the answer to this, but who taught you how to
20 fish?

21 A Who would have thought that? You know, actually I --
22 of course my dad did obviously, and in -- in the latter part
23 of the years, you know how children go through stages, and, of
24 course, I know everything, he knew nothing, and so I became
25 then the expert, you know, so I took the expert's knowledge

ROGER TURNER - DIRECT BY HEMBREE

1 and made it even better

2 Q It sounds like fishing at your house is a pretty big --
3 a family deal I mean, everybody was in except for your mom
4 After the hail storm, she backed out of that deal, but ---

5 A Well, she liked to cook and eat them, too, you know, so
6 -- so she was all about cooking and fish She was still part
7 of the fishing part, you know

8 Q But your sister fished, your brother fished, ---

9 A Yeah

10 Q --- you fished, the whole crowd?

11 A Uh huh (**indicating positive**)

12 Q The grandchildren?

13 A Yeah, yeah, yeah, oh yeah Dad actually used to take
14 -- he had all the grandchildren fishing pretty much I mean,
15 that was a common interest we had I mean, when you build a
16 bond with somebody and you have these -- this common thing, I
17 mean, that was a -- that was a discussion in our family quite
18 often, so, I mean, I even wrote a -- my graduating year, I
19 know my mother won't want to hear this, but I will release it,
20 but my senior year graduating high school, I wrote my term
21 paper on how to catch the freshwater large mouth bass, so I
22 did pass

23 Q You got out of school?

24 A Yeah

25 Q Good for you Okay, now this picture, Number 140, what

ROGER TURNER - DIRECT BY HEMBREE

1 is that a picture of?

2 A This is a picture of my brother and I, Rodney, and
3 myself and dad and I and Rodney We all went to this place
4 called Short Stay and went striper fishing, and this was
5 probably -- I don't know if this was the last time that we
6 fished together as the three of us or not I'm not real sure
7 on that one, but that's what that is Rodney, I think he out-
8 fished me that day

9 Q Rodney out-fished you?

10 A Yeah, I believe so, maybe, maybe his second time in his
11 life or something like that

12 Q But it had to happen?

13 A Yeah

14 Q Take a look at 141 and 142

15 A Yeah What these are, Rodney invited us up to Lake
16 Ocone in Georgia, I believe is the name of the lake, and he
17 had a friend of his that had a house on the lake, so dad and I
18 packed up and took a road trip and met Rodney and his family
19 there at the lake and, of course, dad went fishing with his
20 grandchildren That was Reaves and Griffin, and these were
21 Rodney's children, and just wonderful times, wonderful times,
22 and he's kind of passing on the legacy

23 Q How often would you see your dad, Roger? I mean, you
24 know, here in town and ---

25 A Well, I saw him, yeah, very often, pretty much It was

ROGER TURNER - DIRECT BY HEMBREE

1 probably three, four, maybe sometimes five, five times a week,
2 you know

3 Q Go to dinner? I mean, what did y'all ---

4 A Well, it wasn't always going to dinner It was always
5 something, you know, either I needed help doing something or
6 he needed help doing something, or we would just see each
7 other, or he'd just come by to visit with my wife, and he was
8 always johnny-on-the-spot there, and actually I would go
9 fishing a lot with -- sometimes without him, you know, and I
10 would catch spots during the season, and if anybody is from
11 around this area, you know, you catch hundreds of those at the
12 time, and I would always catch way too many, and dad was
13 always on call to come help me clean them

14 And that was something that -- of course, he taught me
15 everything that I killed or I caught, I would have to clean
16 and eat it or something there, so, I mean, whether or not if I
17 shot a squirrel, I -- you better bet that I was going to skin
18 it and eat it, or somebody was, and it wasn't just for killing
19 or doing something like that Somebody was going to benefit

20 Q What other interests, I guess, big interests did he
21 have in addition to fishing?

22 A The -- his big interest, oh, man, he was big in the
23 Shrine, and he was a Jester He was a Mason, a Shriner, and a
24 Jester, and he made it to -- once you go -- if y'all don't
25 know the history around that, but you have to be a Mason

ROGER TURNER - DIRECT BY HEMBREE

1 before you're a Shriner Then you're a Shriner, and then to
2 get into the Jester Court Number 113, you have to be invited
3 into that also, so he was real active in that, along with he
4 was proud of it

5 During the -- his time when he was in the Omar Imps, he
6 was actually a clown and he rode the bike with the tires that
7 were warped, so he went up and down, up and down, and just ---

8 Q Do you mean like the parades and ---

9 A Oh, yeah, he was in the parade and, yeah, like the
10 hillbillies, and he had his group, and his groups was called
11 the Imps, and they were the clowns and, of course, he would
12 always wear his clown outfit and his make-up, and, of course,
13 he wouldn't shave knowing that there was going to be a parade
14 so when he put his make-up on, it wouldn't run off and it
15 would stick, you know, with his whiskers and everything, so
16 something I always remember was my brother and I, and, of
17 course, my sister when she was there, we would always get the
18 face burn When he would see us and spot us in the crowd
19 watching the parade, he would always come over to us and
20 scrape us with his make-up and ---

21 Q You went and saw -- you went and saw him in parades all
22 the time when you were growing up?

23 A Oh, yeah, yeah, yeah That was a major thing, and we'd
24 take trips all over Charleston, or here because they used to
25 have the Shriners Convention here and have a parade and stuff

ROGER TURNER - DIRECT BY HEMBREE

1 That was actually popular in this area I don't know if they
2 do it any more

3 Q And the Imps -- I mean the Imps -- not Imps, the
4 Jesters, what is it? What is the significance of that?

5 A Well, the Jesters, it's a step up above the Shrine
6 pretty much, and you have to be invited into the Jesters, and
7 that is to -- once you get to a high level in the Shrine and
8 pretty much have paid your dues -- the Shrine is such a great
9 organization They help so many people This is just another
10 level of that, and really the only way to get into this, as
11 far as I know, because there was kind of secrecy, you know

12 There's still Masons and Shrine There's a secret about
13 that, so I don't know because I'm not one myself, but I still
14 plan on doing it, and it was always a goal, and he said always
15 if I wanted to go in, he would support me on that and make
16 sure that that was going to happen, so, I mean, I will carry
17 out that still hopefully, but anyway, you have to be invited
18 in, and his court was Number 113, and you could only have a
19 hundred and thirteen members, and at the time he was killed, I
20 think he was like Number 16 or something, so the only way to
21 get in was for people to die, because you had a hundred and
22 thirteen members, so when he joined, he was like Number 113,
23 but -- so he lasted all the way to being like Number 16

24 Q And the photograph you've got there, Number 143

25 A 143, what this is, yeah, this particular day I had

ROGER TURNER - DIRECT BY HEMBREE

1 taken dad to the V A Hospital in Charleston to get his eyes
2 dilated and so he couldn't drive, and he was worried, oh, man,
3 we have to hurry up and go there, get back, drive to and from
4 Charleston, because right over here on the other side is the
5 Shrine Club, and he was supposed to get his portrait made, so
6 this is the year before he was killed here, so this is his
7 last Shriner's portrait here

8 And, of course, he wore always his outfit, his Shrine
9 He had stickers on his car, emblems I mean, that was his
10 life, and he was helping others, and again, he wasn't just my
11 dad He was a father and my best friend, you know, so -- and
12 not only to me, but to so many others I mean, my wife looked
13 -- spent -- you know, he looked at her as a daughter and her
14 family, too, as his family, and it -- I mean, if you ask my
15 brother-in-law, my wife's brother, you know, who is your best
16 friend, he says Henry Turner

17 And that was really no blood relation, but only through
18 my wife, and she looked at him -- dad loved everybody like
19 that and he had open arms, and so he wasn't just a father, and
20 he was my best friend, and he was also a grandfather, and he
21 was a husband, and he was just a fine, upstanding person in
22 the community, and that's what he noticed

23 Q Let me ask about 144

24 A All right 144, man, that's a tough one The day
25 before he was murdered, he stopped by my house I was not

ROGER TURNER - DIRECT BY HEMBREE

1 home, and at my house, my mother-in-law, my wife's mother, had
2 been diagnosed with lung cancer, and her family was here We
3 were going to take family photos and everybody was at my
4 house, and we were going to have a cookout that night, and dad
5 come by that day and stopped by

6 And my sister-in-law, Sheila, said oh, Henry, you look so
7 pretty in that shirt and you look so good, because he had just
8 survived cancer himself and gone through, and he was in great
9 shape Golly, you're looking really, really good You're
10 happy Let me take your picture He was like, oh, no, no,
11 no She said oh, no, Henry, you look so good, so -- and this
12 was taken the day before he was murdered, in my back yard,
13 and, of course, you can tell by what he was wearing what type
14 person he is right there It really says it all, and actually
15 you can probably ad-lib on that

16 Q He's got a fishing hat on, ---

17 A (NODS HEAD AFFIRMATIVE)

18 Q --- and a Jester's shirt, had a big smile on his face?

19 A And a Shriner's watch

20 Q And a Shriner's watch

21 A That was my dad, if you met him It about says it all

22 Q He, among his many qualities, your dad was sort of a
23 philosophical man?

24 A Very much so He had some great sayings, and yeah, he
25 has read them on to me and my family I mean, one of his

ROGER TURNER - DIRECT BY HEMBREE

1 sayings to me, I'll remember that always, is if you make your
2 business a pleasure and your pleasure a business, then you've
3 mastered the art of living, and that's -- that's one of his

4 Q Did he have one in particular that -- that he memorized
5 that comes to mind when you think about your dad?

6 A He did, and my dad was a man of many words, and he --
7 at my brother's wedding, he remembered a toast per se and he
8 stood up. He knew this toast verbatim, and this is the way --
9 really describes my dad and the way he lived his life, and
10 it's really called Man In The Mirror, and I'd like to share
11 that with you now because it really says it all, and it's when
12 you get what you want in your struggles for self and the world
13 makes you king for a day, and then go to the mirror and look
14 at yourself and see what that man has to say, for it isn't a
15 man's father, mother, or wife whose judgment upon him must
16 pass, the fellow whose verdict counts the most in life is the
17 man staring back from the glass. He's the fellow to please,
18 never mind all the rest, for he is with you clear up to the
19 end, and you passed your most dangerous, difficult test if the
20 man in the glass is your friend. You can fool the whole world
21 down the pathway of years and get pats on the back as you
22 pass, but your final reward will be heartache and tears if
23 you've cheated the man in the glass. That's my dad.

24 MR HEMBREE Thanks, Roger. Answer any questions the
25 Defense has for you.

THE STATE RESTS/JURY OUT

1 **THE COURT** Cross-examination

2 **MS WILLIAMS** The Defense has no questions for Mr
3 Turner Thank you

4 **THE COURT** All right Mr Turner, you may step down,
5 sir Thank you

6 **MR HEMBREE** Your Honor, that concludes the State's
7 presentation in the penalty phase of the case The State
8 rests

9 **THE COURT** All right, sir
10 Ladies and gentlemen of the jury, if you don't mind, if
11 you would leave your pens and your pads and go to your jury
12 room for a moment, please Thank you

13 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
14 **JURY)**

15 **THE COURT** So that I can have some idea regarding
16 scheduling, Mr Diggs, how many witnesses do y'all plan on
17 calling?

18 **MR DIGGS** Your Honor, we have ten

19 **THE COURT** All right

20 **MR DIGGS** They should not be long witnesses However,
21 -- so I don't -- I certainly don't expect it to go beyond
22 tomorrow

23 **THE COURT** All right, so if we start it as we have
24 every morning, we will be able to go through all of those
25 witnesses tomorrow?

JURY OUT

1 **MR DIGGS** Yeah, without a doubt From my perspective,
2 probably maybe a half a day actually

3 **THE COURT** All right All right It's been sort of a
4 long day with a lot of witnesses today, so I think the jury
5 probably needs to conclude for today, so we will resume
6 tomorrow morning at -- I will have y'all here, please, eight-
7 thirty

8 The jury is going to be here at eight-thirty If there's
9 any issues that we need to take up, please so we can do that,
10 I would anticipate that probably we will start sometime
11 between eight-thirty and nine o'clock There's no sense
12 waiting if we're all here and ready to go, and the jury has
13 been here every morning by eight-thirty, so let's do that and
14 be prepared to go forward in the morning then

15 Anything further from the State at this point in time?

16 **MR HEMBREE** No, Your Honor

17 **THE COURT** Anything further from the Defense?

18 **MR DIGGS** No sir

19 **THE COURT** All right Is there any necessity to call
20 the jury back out? I think we could just let the agents take
21 them on to the motel Is there any problem with that?

22 **MR HEMBREE** None from the State, Your Honor

23 **THE COURT** All right

24 **MR DIGGS** None from us

25 **THE COURT** All right Thank you very much

JURY IN

1 (THE FOLLOWING TAKES PLACE ON NOVEMBER 19, 2009, OUTSIDE
2 THE PRESENCE OF THE JURY)

3 THE COURT All right, Solicitor, is the State ready?

4 MR HEMBREE The State is ready, Your Honor

5 THE COURT Defense?

6 MS WILLIAMS The Defense is ready, Your Honor

7 THE COURT All right, very good, and Mr Diggs is?

8 MS WILLIAMS He stepped -- he's right outside that
9 door, Your Honor

10 THE COURT All right, very good

11 Why don't you go ahead and start the jury in

12 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
13 JURY)

14 THE COURT All right, good morning ladies and
15 gentlemen

16 And the State having finished the presentation of its
17 evidence in the sentencing phase, we will now start with the
18 Defense presentation

19 All right, Mr Diggs

20 MR DIGGS Your Honor, we would call Dr James
21 Thrasher

22 THE COURT All right All right, Mr Thrasher, if you
23 would come up to the Clerk, please sir

24 JAMES W THRASHER, JR , M D , being
25 first duly sworn, states as follows

JAMES W THRASHER, JR , M D - DIRECT BY DIGGS

1 **DIRECT-EXAMINATION BY MR DIGGS**

2 Q Now, Dr Thrasher, you've been qualified as an expert
3 in the field of psychiatry in this case, have you not?

4 A Yes

5 Q And could you remind us, please sir, what you do and
6 how you are employed

7 A I am a physician licensed to practice medicine in the
8 State of South Carolina My specialty is psychiatry My sub-
9 specialty is forensic psychiatry, and I -- I used to have an
10 office on 48th Avenue for sixteen years, ---

11 Q Okay

12 A --- and I sold that and now I am employed by the
13 Waccamaw Center for Mental Health in Conway here

14 Q All right Now, at the time that you were in private
15 practice, did you encounter or did you have an opportunity to
16 examine Mr Stanko?

17 A I did

18 Q And can you tell us when that was? Do you have a
19 recollection?

20 A It was near four years ago

21 Q All right Now, he had been -- and we had been -- or
22 you had been asked to do an evaluation of him, is that
23 correct?

24 A Yes, I had, by you

25 Q All right, and that was following the Laura Ling

JAMES W THRASHER, JR , M D - DIRECT BY DIGGS

1 situation, is that correct?

2 A Yes

3 Q Now, let me ask you did you evaluate him?

4 A I did

5 Q Tell us what you did, please sir, to go about doing
6 that

7 A Well, I examined the available records and I
8 interviewed Mr Stanko personally

9 Q Okay, and do you remember what records were available?

10 A I don't

11 Q Do you have a recollection as to whether or not you
12 learned about the events involving his first arrest and
13 following the -- I think her name is Ms McLendon down in
14 Moncks Corner, were you familiar with that?

15 A Oh yes, yes, I -- I am

16 Q And so did you have an opportunity to look into the
17 allegations of that case?

18 A I did

19 Q And did you take -- let me ask you this What all did
20 you take into account in reaching an opinion in this matter?

21 A Those things that I could glean from the records and
22 from an interview with Mr Stanko

23 Q All right, and were all of the records that you asked
24 for made available to you?

25 A As far as I recall

JAMES W THRASHER, JR , M D - DIRECT BY DIGGS

1 Q All right, and did you reach an opinion as to his
2 mental state at the time of the Laura Ling incident?

3 A I did

4 Q And what was that?

5 A Well, you mean a diagnostic ---

6 Q Yes

7 A --- decision?

8 Q Yes

9 A He -- I found that he had a anti-social personality

10 Q Okay Now, in terms of a legal sense, did you render
11 an opinion on his legal capacity at the time of the incident?

12 A I did

13 Q And what was that opinion?

14 A I felt that he was not able to form the requisite
15 capacity to know that what he -- to know the difference
16 between right and wrong as concerns moral and ethical
17 standards

18 MR HEMBREE Your Honor, may we approach?

19 THE COURT Yes, absolutely

20 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

21 Q Now, let me -- let me direct your attention to -- back
22 to the diagnosis part of your interview with Mr Stanko and
23 thereafter Now, he was charged or accused of murder with
24 respect to Ms Ling, is that correct? Is that your
25 understanding?

JAMES W THRASHER, JR , M D - DIRECT BY DIGGS

1 A Yes

2 Q Now, did you render an opinion about whether the murder
3 was committed while Mr Stanko was under the influence of a
4 mental or emotional disturbance?

5 A I did

6 Q And what was that opinion?

7 A That he was

8 Q Okay

9 MR DIGGS Bear with me for just a second

10 THE COURT Yes sir

11 MR DIGGS Elizabeth took my list Could I -- could I
12 look at that for a second?

13 THE COURT Yes sir, you certainly may

14 Q And let me ask you did you render an opinion about the
15 Defendant's capacity to appreciate the criminality of his
16 conduct or to conform his conduct to the requirements of the
17 law and whether it was substantially impaired?

18 A Yes, I did, and it was substantially impaired at the
19 time of the ---

20 Q Incident?

21 A --- commitment of the act

22 Q Yes sir All right, thank you very much And is that
23 still your opinion today with respect to that incident?

24 A To that trial at that time, at that point, yes

25 Q Okay

WANDA REED BROOKS - DIRECT BY WILLIAMS

1 **MR DIGGS** Dr Thrasher, I appreciate your time this
2 morning I believe that's all that I have at this point, and
3 I would ask you to answer any questions the Solicitor may
4 have

5 **THE COURT** Cross-examination

6 **MR HEMBREE** No questions, Your Honor Thank you, Your
7 Honor

8 **THE COURT** You may step down, sir You are released
9 from your subpoena and may go back to your regular activities
10 A Thank you, Your Honor

11 **THE COURT** All right, Mr Diggs, your next witness,
12 please

13 **MS WILLIAMS** The Defense would call Ms Wanda Brooks

14 **THE COURT** All right, Ms Williams

15 **MS WILLIAMS** Wanda Brooks

16 **WANDA REED BROOKS**, being first duly
17 sworn, states as follows

18 **DIRECT-EXAMINATION BY MS WILLIAMS**

19 Q Ms Brooks, will you please tell the jury where you
20 live and what it is that you currently do

21 A I live in Goose Creek, South Carolina, and I am an
22 attendance clerk at Goose Creek High School

23 Q And, Ms Brooks, do you know the Defendant in this
24 case, Steve Stanko?

25 A Yes Ma'am

WANDA REED BROOKS - DIRECT BY WILLIAMS

1 Q Can you please tell the jury how it is that you know
2 him

3 A Steve and his family moved in across the street from us
4 in -- in the eighties when he was in middle school

5 Q Does -- did his -- do his parents still live across the
6 street from you?

7 A His father does His mother is deceased

8 Q So his father is still your neighbor, is that correct?

9 A Yes Ma'am

10 Q Now, can you please tell us -- describe the Steve that
11 you knew as a child

12 A We met Steve, like I said, when he was in middle
13 school He was very friendly, very outgoing He was at my
14 house a lot I had smaller children, but as most men know,
15 they never grow up, and my husband would get out in the street
16 and play football with him and his brother and some of the
17 other kids in the neighborhood Our son would also

18 They played baseball He would come over and go swimming
19 in our pool He would play with the kids There was a time
20 also when my youngest daughter had hurt her foot and needed to
21 go to hospital Jeff went with me, who is Steve's brother,
22 and Steve stayed with my children I had no problems with
23 that Steve was always very nice, very polite, went out of
24 his way to help if he could If my husband needed something
25 done around the yard, he would always come over and help him,

WANDA REED BROOKS - DIRECT BY WILLIAMS

1 so he was-- he was a friend, and at times kind of felt like a
2 child because he was over at the house a lot

3 Q Can you tell me about your relationship, if any that
4 you have, with your neighbors

5 A Well, they've come and gone We've kind of more or
6 less stayed there the most with Steve's parents and the people
7 across the street, but we have an open relationship with them
8 We are there if they need us, and they are there if we need
9 them

10 Q They being your other neighbors or specifically the
11 Stankos?

12 A No I have no -- Mrs Stanko was the only one that I
13 really spoke with or talked with She was the one, not Mr
14 Stanko

15 Q Can you give me any impressions that you may have
16 formed about the Stanko household?

17 A It was a very unfriendly -- I just felt very
18 uncomfortable when I was over there I very seldom went into
19 the house I went over when they were there I would speak
20 with Mrs Stanko in the front yard or like if the kids were
21 getting home from school or things like that, or she would
22 come over to the house, but I very seldom went over I felt
23 very uncomfortable

24 Q Tell me this, did you have any expectations for Steve?

25 A Oh, yes Everyone did that knew Steve

WANDA REED BROOKS - DIRECT BY WILLIAMS

1 Q Tell me why

2 A Because he is so smart and so -- his school was so
3 important to him and his education was so important to him
4 The academy was something that he had dreamed of He --
5 that's just about all he talked about was going into the
6 academy, and his education, and going on to be a -- it was a
7 pilot, I think I think it was a pilot, and then he was
8 unable to get in and it was very upsetting because that was
9 his dream, but I had no doubt in my mind that Steve was not
10 going to go on and accomplish a lot He had set goals for
11 himself and ---

12 Q Do you know if he got into any -- was actually accepted
13 into any universities?

14 A I -- I'm not sure I think he was accepted into
15 Clemson, but I'm not sure All I can remember is the Air
16 Force Academy

17 MS WILLIAMS One moment We don't have any further
18 questions Thank you, Ms Brooks Will you please answer any
19 questions that the Defense (sic) may have

20 THE COURT Cross-examination

21 MR HEMBREE Thank you, Your Honor

22 Ms Brooks, we don't have any questions for you Thank
23 you

24 THE COURT Do you wish the witness to be excused?

25 MS WILLIAMS Please, Your Honor

CLARISSA WENZ - DIRECT BY WILLIAMS

1 **THE COURT** All right, Ms Brooks, you are released from
2 your subpoena and may go back to your regular activities
3 Thank you

4 Your next witness

5 **MS WILLIAMS** Your Honor, we would call Clarissa Wenz,
6 Ms Wenz

7 **THE COURT** All right, Ms Wenz, you come up front right
8 over here on this side, please Ma'am

9 **CLARISSA WENZ**, being first duly
10 sworn, states as follows

11 **DIRECT-EXAMINATION BY MS WILLIAMS**

12 Q Ms Wenz, would you please tell the jury where you live
13 and what it is that you currently do

14 A I live in Summerville, South Carolina, and I am a
15 retired teacher

16 Q Where did you teach and what -- where and what did you
17 teach?

18 A I taught at Goose Creek High School and I taught
19 physics and chemistry

20 Q Ms Wenz, do you know the Defendant in this case,
21 Stephen Stanko?

22 A Yes, I do

23 Q Can you please tell us about how you know him

24 A I taught him in school He was in my chemistry and
25 physics classes, and I worked with him on several

CLARISSA WENZ - DIRECT BY WILLIAMS

1 extracurricular activities

2 Q Ms Wenz, can you please just tell us what, if
3 anything, you remember about Steve

4 A What I remember about Steve, he was an excellent
5 student, worked well with his peers on various activities He
6 was, like I said, an excellent student in class and did what
7 he was supposed to That's basically it

8 Q Ms Wenz, can you tell me approximately if you recall
9 the number of students you may have taught in your career?

10 A I taught thirty-four years, and let's say I taught an
11 average of close to a hundred and fifty a year

12 Q So a lot of them?

13 A A lot

14 Q That's fair to say Can you please tell me in your
15 mind if you at all have any comparisons of Steve compared to
16 the students that you had taught?

17 A I certainly remember Steve He's certainly one of
18 those students who stood out for his achievements in school,
19 as well as for the way he interacted with me as a teacher and
20 his peers in the classroom

21 Q Did you as a teacher have any -- well, let me ask --
22 one moment, please

23 MS WILLIAMS I'd like to mark this for identification
24 as Defendant's Number 43, I believe

25 (NOTE FROM YEARBOOK MARKED DEFENDANT'S EXHIBIT NUMBER

CLARISSA WENZ - DIRECT BY WILLIAMS

1 **43 FOR IDENTIFICATION ONLY)**

2 Q Ms Wenz, I'm going to hand you this and ask you if you
3 can identify what that is you are holding

4 A It's a yearbook, one of Goose Creek High's yearbooks,
5 and the page here has a note from me

6 Q Hold on for one moment

7 A Okay

8 **MS WILLIAMS** Your Honor, ---

9 Q I'm going to ask you what's been marked for
10 identification as Exhibit Number 43, do you recognize that?

11 A Yes It's this page from the yearbook

12 Q It's a photocopy of that particular yearbook?

13 A Yes

14 **MS WILLIAMS** Your Honor, at this time, we would like
15 to move into evidence Defendant's Exhibit Number 43

16 **THE COURT** Any objection?

17 **MR HEMBREE** Without objection, Your Honor

18 **THE COURT** All right, you may do so It's in evidence

19 **(NOTE FROM YEARBOOK ADMITTED INTO EVIDENCE AS DEFENDANT'S**
20 **EXHIBIT NUMBER 43)**

21 Q Can you please tell us what you are seeing

22 A I see a note from me that I wrote in his yearbook, as
23 well as from some friends of his

24 Q Could you please tell us what your note says

25 A Steve, it has been a real treat having you in chemistry

CLARISSA WENZ - DIRECT BY WILLIAMS

1 this year You have a tremendous amount of potential Don't
2 waste it Be sure to come by to see me next year It's been
3 great C Wenz

4 Q And that was your note?

5 A Yes, it was I wrote that

6 MS WILLIAMS Beg the Court's indulgence just one
7 moment

8 THE COURT Yes Ma'am

9 MS WILLIAMS Your Honor, I would like to have the
10 yearbook itself actually marked as Defendant's Exhibit Number
11 44, please

12 MR HEMBREE No objection, Your Honor

13 THE COURT All right

14 MS WILLIAMS And I'd like to enter it into evidence
15 without objection Thank you

16 THE COURT All right Defendant's 44 is in evidence
17 without objection

18 (YEARBOOK ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 44)

20 Q Ms Wenz, are you familiar with something at the school
21 called Olympics of the Mind?

22 A Yes I sponsored it for many years

23 Q Can you tell us what that is?

24 A Olympics of the Mind, now I think it's called Odyssey
25 of the Mind, or vice versa, is a competition for academically

CLARISSA WENZ - DIRECT BY WILLIAMS

1 talented students, really for any students It involves two
2 phases In one -- and they -- in one phase a team works on a
3 project They could build something They could put on a
4 play, just depended on what they decided they wanted to do of
5 their choices, and the second part was a little academic
6 competition in which they were asked questions, just kind of
7 general type questions I don't remember exactly, but they --
8 it was academic as well as some kind of hands-on thing, and it
9 was team -- the purpose of it was team-building

10 Q And do you recall if Steve was involved in that?

11 A Yes, he was

12 Q Can you -- do you have any recollection of his
13 involvement in that, I mean, anything just specific about that
14 that may stand out?

15 A I remember the team and I think that he and the guys he
16 worked with, I think it was an all male team, the one I
17 remember, they built a structure to see how many weights it
18 would hold, and I think they -- I think they made it to the
19 state competition, placed in the regional competition I know
20 they won some kind of trophy because I had pictures of that

21 Q Okay

22 MS WILLIAMS That's all the questions that I have for
23 you, Ms Wenz Thank you so much If you would please answer
24 any questions that the State may have

25 A Okay

BARBARA BOLAND - DIRECT BY DIGGS

1 **MR HEMBREE** No questions, Your Honor Thank you

2 **THE COURT** All right, very good Do wish the witness
3 to be excused?

4 **MS WILLIAMS** Please, Your Honor

5 **THE COURT** All right, Ma'am, you are released from your
6 subpoena You may go back to your regular activities, Ma'am

7 **MS WILLIAMS** Your Honor, may I beg the Court's
8 indulgence for just one moment?

9 **THE COURT** Yes Ma'am

10 **MS WILLIAMS** Your Honor, the State would call Ms
11 Barbara Boland -- the Defense would call Ms Barbara Boland to
12 the stand I apologize

13 **THE COURT** All right Thank you

14 Come forward right up here, Ma'am, to where the Clerk is,
15 right up here, right up front

16 **BARBARA BOLAND**, being first duly
17 sworn, states as follows

18 **THE COURT** All right, Mr Diggs

19 **MR DIGGS** Thank you, Your Honor May it please the
20 Court

21 **THE COURT** Yes sir

22 **DIRECT-EXAMINATION BY MR DIGGS**

23 Q Ms Boland, how are you this morning?

24 A Pretty good, thank you

25 Q Good, good Would you tell us where you live, please

BARBARA BOLAND - DIRECT BY DIGGS

1 Ma'am

2 A I live in Goose Creek

3 Q And are you employed?

4 A Yes, I am

5 Q What do you do?

6 A I am a Christian counselor for Covenant Counseling
7 Center part-time, and I also work for Clinical Solutions,
8 which is a dually diagnosis treatment facility The people
9 there are -- they have an alcohol or drug diagnosis, and they
10 also have a mental illness

11 Q I see Now, how long have you been doing that?

12 A Three years

13 Q And were you employed prior to your involvement in
14 these current projects?

15 A Yes, I was

16 Q And how so?

17 A I was working as a vocational counselor at Vocational
18 Rehabilitation

19 Q And prior to that?

20 A Before that, I was a teacher

21 Q Okay, and where did you teach?

22 A I taught at Sedgefield Middle School in Goose Creek

23 Q Now, can you give us an approximate time frame of when
24 you were a teacher?

25 A I taught there from 1977 until 1990

BARBARA BOLAND - DIRECT BY DIGGS

1 Q And through those years, did Stephen Stanko come into
2 your class?

3 A Yes, he did

4 Q And I want to ask you if you have any independent
5 recollection about Mr Stanko as a student at that time?

6 A Yes He was a very good student always, very well-
7 behaved

8 Q And specifically what grade would this have been?

9 A This was the sixth grade

10 Q Okay Does anything about Stephen stand out in your
11 mind in terms of that might set him apart from other students?

12 A Well, he was very intelligent, very highly motivated
13 well-behaved, got along very well with the staff and the
14 students

15 Q Okay Did he have friends?

16 A Yes, he did

17 Q Would you describe Stephen as popular, or how would you
18 describe him?

19 A He was very popular He was, I think, a role model to
20 the other students I think the other students really did
21 look up to him

22 Q Did you see anything in him at that time, looking back
23 now with hindsight, that you could see at that point that
24 might be an impediment to him succeeding in life?

25 A I didn't The only thing that I think about now is

BARBARA BOLAND - DIRECT BY DIGGS

1 that there was very little parental involvement His mother
2 was involved a little bit, but I never saw any involvement
3 from his dad I never met his dad, and I believe I met his
4 mother on one occasion

5 Q Now, also looking back, you've described him as
6 intelligent, and motivated, and well-behaved Do you remember
7 him exhibiting at that time any anger or emotional problems?

8 A No, he did not at that time

9 Q Okay Now, did you come into contact with Stephen
10 thereafter?

11 A I actually saw him a few times at Circuit City He
12 worked there This was after high school, and I would go in
13 there on occasion and he was, I think, a sales associate
14 maybe Yes, I did see him in there

15 Q Okay

16 A I kind of lost track of him as an adult

17 Q Okay

18 A Yeah, I saw him several times in Circuit City

19 Q All right Now, you've had an opportunity to meet with
20 him and visit since he's been locked up ---

21 A Right, I have

22 Q --- in the Department of Corrections What have you --
23 can you describe us for -- can you describe for us what you
24 see in Stephen at this point compared against the young man
25 that you knew in the sixth grade when he was there

BARBARA BOLAND - DIRECT BY DIGGS

1 A He is very remorseful for what's happened He really
2 is I don't believe that anything he has said is jailhouse
3 religion, as they call it I believe that he is actually
4 saved, and I believe that his heart has been convicted, and I
5 do believe that it's not something that just -- I know some
6 people do say that when they are incarcerated, but I believe
7 in his case, I believe it's legitimate

8 Q When you would see him, were you able to see him in the
9 same room or was it through a partition?

10 A It was through a partition

11 Q Okay, so you don't know how you would feel -- you don't
12 know if you would be afraid to be in his presence?

13 A I wasn't afraid

14 Q Okay Now, approximately when was the last time that
15 you saw him before today?

16 A It's probably been maybe a year and a few months I'm
17 thinking

18 Q Okay, but fairly recently in the overall scheme of
19 things when compared against the sixth grade that you saw ---

20 A Oh, yeah, right

21 Q Okay Did you have any doubt at the time that you were
22 teaching that Steve had every ability to become not only a
23 contributing member to society, but a very successful one?

24 A I absolutely thought if they had had superlatives in
25 middle school, I would have thought ---

BARBARA BOLAND - DIRECT BY DIGGS

1 Q The sixth grade?

2 A Yes I would have thought he would have probably been
3 the most likely to succeed

4 Q All right, and how does he stack up against all of the
5 students that you've had in terms of overall intellect?

6 A One of the brighter students

7 Q Okay All right, Ms Boland, ---

8 MR DIGGS Excuse me

9 Q And when you were able to see Stephen in the prison
10 setting, did he initiate that conduct -- contact or did you
11 initiate it?

12 A I did I had heard on the news that ---

13 Q Okay, that he was locked up?

14 A Yes, and I wrote him a letter

15 Q Okay, and from there, you went over and visited him
16 actually in the prison?

17 A Yes, I did

18 MR DIGGS All right, Ms Boland, I appreciate your
19 time this morning Thank you very much, and answer any
20 questions that the Solicitor may have

21 A Okay

22 MR HEMBREE Hey, Ms Boland

23 A H1

24 THE COURT Solicitor

25 MR HEMBREE Thank you, Your Honor

BARBARA BOLAND - CROSS BY HEMBREE

1 **CROSS-EXAMINATION BY MR HEMBREE**

2 Q Ms Boland, you contacted Mr Stanko after you heard he
3 was incarcerated?

4 A Yes, I did I wrote him a letter

5 Q And did you -- did you share your faith with him?

6 A I did that in person I did some of it in the letter,
7 but I -- I think I did more probably in person

8 **MR HEMBREE** Thank you for that I have no further
9 questions for you Appreciate it

10 **THE COURT** Anything else, Mr Diggs, on this particular
11 witness, of this witness?

12 **MR DIGGS** No, Your Honor

13 **THE COURT** All right Do you wish the witness to be
14 excused?

15 **MR DIGGS** Yes sir

16 **THE COURT** Any objection?

17 **MR HEMBREE** No objection, Your Honor

18 **THE COURT** All right, Ms Boland, you are released from
19 your subpoena and may go back to your regular activities,
20 Ma'am Thank you

21 Your next witness, please

22 **MR DIGGS** Could you bear with us, please sir, a
23 second?

24 **THE COURT** Yes sir

25 **MR DIGGS** Your Honor, we would call Frank Shealy

HERBERT FRANK SHEALY - DIRECT BY DIGGS

1 HERBERT FRANK SHEALY, being first
2 duly sworn, states as follows

3 **DIRECT-EXAMINATION BY MR DIGGS**

4 Q And, Mr Shealy, how are you this morning?

5 A Okay

6 Q All right Let me ask you this Where do you live?

7 A I live in West Ashley in Charleston

8 Q All right, and how are you employed? Tell us what you
9 do

10 A I am a retired public school teacher, biologist, from
11 Charleston County Schools, retired military, and I technically
12 am an employee of the Department of Corrections

13 Q Okay, and how long have you been so affiliated with or
14 associated with the Department of Corrections?

15 A It's been several years

16 Q All right, and what do you do in that role?

17 A I assist the Chaplain in some spiritual matters with
18 inmates

19 Q And can you give us an example typically of how you
20 might be involved with a particular inmate?

21 A First, it's general population and large groups
22 generally, hundreds at a time

23 Q Okay

24 A Sometimes, one on one In death row, it's small groups
25 or one on one

HERBERT FRANK SHEALY - DIRECT BY DIGGS

1 Q All right, and let me ask you if you have had in any
2 capacity an opportunity to meet with or get to know Mr
3 Stanko?

4 A Yes sir

5 Q And how would you describe him?

6 A Stephen, I would say, is an exceptional, extraordinary
7 person as an inmate Among the population on death row, we
8 have a wide range of personalities, and he's, I think, very
9 different than the average

10 Q All right, and in general population, how would Stephen
11 rank?

12 A I think he would be head and shoulders above the
13 majority of the people in the general population

14 Q Okay, and when you say that, why do you say that?

15 A The way he behaves, his intelligence, his ability to
16 articulate himself, his interactions with both corrections
17 officers, the administration, as well as other inmates

18 Q All right, and have you had an opportunity to observe
19 and to let us know whether or not Mr Stanko serves a useful
20 purpose, you know, in communicating, forming a basis of a
21 conduit for communication, for example, between inmates and
22 prison administration?

23 A Certainly

24 Q How -- how would he do that?

25 A He doesn't have, that I know of, any particular

HERBERT FRANK SHEALY - DIRECT BY DIGGS

1 authority, but when there's a problem of some kind, Stephen is
2 oft times the go-between or the buffer between the
3 administration or between the officers and other inmates

4 Q All right, and does he have -- does he seem to have an
5 ability in that respect that maybe is a little superior to
6 that had by other inmates?

7 A Yes sir, he does He -- he's a peacemaker ---

8 Q Okay

9 A --- among other inmates on the row When things get a
10 little testy or out of hand, there could be violence or things
11 along that lines, Stephen is often the one who will step in
12 and have a calming effect

13 Q Okay He has the ability to be a leader in that
14 situation, would you agree with that?

15 A It may be a strange thing to say, but he is probably
16 the leader on death row

17 Q All right Now, how long have you known Steve?

18 A Probably a couple of years

19 Q All right In your experience, and I know you're not
20 an expert in this area and I'm not asking you for an opinion
21 about it, but has Stephen been a problem -- excuse me -- has
22 he been a problem in terms for the institution and being able
23 to handle him? Do you have any knowledge about that?

24 A When you have people who are in the constricted
25 environment, a very high pressure environment, it's oft times

HERBERT FRANK SHEALY - DIRECT BY DIGGS

1 conducive to a lot of stress, and any human being in that kind
2 of situation from time to time is irritated by whether it's
3 something that an officer does or says to them, or a fellow
4 inmate, or some administrative matters That, I consider to
5 be normal Other than that, Stephen is extraordinary in terms
6 of his ability to deal with circumstances and situations
7 there

8 Q Okay

9 MR DIGGS Bear with me for just a minute, please sir
10 Beg the Court's indulgence

11 THE COURT Yes sir

12 MR DIGGS Mr Shealy, I appreciate your time, but I
13 believe I've covered basically everything that I wanted to
14 cover with you this morning We appreciate your coming up,
15 and I would ask you to answer any questions the Solicitor may
16 have

17 THE COURT Cross-examination

18 MR HEMBREE No, Your Honor

19 Thank you, Mr Shealy Appreciate your time

20 A Thank you very much, sir

21 THE COURT All right, Mr Shealy, you are released from
22 your subpoena and may go back to your regular duties, sir

23 MS WILLIAMS Your Honor, may we approach?

24 THE COURT Yes Counsel, y'all come around

25 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

JURY OUT
JURY IN

1 **THE COURT** All right, ladies and gentlemen, we are
2 going to take a short break, and we'll be with you shortly
3 All right, let you go to your jury room Leave your pads and
4 pens, please

5 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
6 **JURY)**

7 **THE COURT** All right, we'll be at ease for a short
8 while, while the Defense locates the next couple of witnesses
9 Thank you very much

10 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
11 **JURY)**

12 **THE COURT** All right, Solicitor, is the State ready to
13 proceed?

14 **MR HEMBREE** Yes, Your Honor

15 **THE COURT** Defense?

16 **MR DIGGS** Yes sir

17 **THE COURT** All right, very good Ask the jury to come
18 in, please

19 **(THE FOLLOWING TAKES PLACE AFTER A BREAK AND WITHIN THE**
20 **PRESENCE OF THE JURY)**

21 **THE COURT** All right, Mr Diggs, your next witness,
22 please, sir

23 **MR DIGGS** Thank you, Your Honor The Defense would
24 call John Fulmer

25 **THE COURT** All right, Mr Fulmer, if you would come

JOHN FULMER - DIRECT BY DIGGS

1 forward and be sworn right -- come right over here, sir

2 JOHN FULMER, being first duly sworn,
3 states as follows

4 **DIRECT-EXAMINATION BY MR DIGGS**

5 Q Good morning, Mr Fulmer How are you this morning?

6 A I'm fine, thank you

7 Q Good Thank you for being here Where do you live,
8 sir?

9 A Where do I live? I live in Lebanon, South Carolina

10 Q Where is that?

11 A That's between Moncks Corner and Ridgville

12 Q Okay Now, what do you do for a living?

13 A I'm retired

14 Q Okay, and prior to your retirement, what did you do?

15 A I was at Goose Creek High School for thirty-four years
16 as a football coach, and then an assistant principal, and then
17 retired as the principal

18 Q All right, and so you were -- your career there spanned
19 for the thirty-four years?

20 A Yes sir

21 Q And during your tenure with Goose Creek, did you have
22 an opportunity to meet Stephen Stanko?

23 A Certainly

24 Q And tell us about when that happened and in what -- in
25 what way did it come about?

JOHN FULMER - DIRECT BY DIGGS

1 A Well, when I was assistant principal, you get to know a
2 lot of students, maybe not as close as their teachers, but
3 especially you get to know the top students and you get to
4 know the bottom students, but in my dealings with Steve, he
5 was one of the top students I would say he was probably in
6 the top twenty, twenty-five percent of the class at least, and
7 was involved in a number of organizations, like the Beta Club,
8 and one thing that comes to mind, I knew -- I know he was
9 asked to escort in the Miss L'Esprit Pageant, which was, you
10 know, quite an honor for the male students there

11 Q Okay What pageant was that?

12 A It was the Miss L'Esprit Pageant, which is -- is the
13 name of our yearbook

14 Q Okay Let me show you what's been marked into evidence
15 as Defendant's Exhibit Number 44 Is that a copy of the
16 yearbook you are speaking of?

17 A Yes sir, it is

18 Q All right, and I want to ask you to kind of thumb
19 through that book, Mr Fulmer, and if you run across something
20 that you are talking about right now in your testimony, if you
21 could point that out for us

22 A You will have to excuse me for one second, if I can
23 find my glasses I see as I look here, this is a yearbook
24 when Stephen was a junior ---

25 Q Okay

JOHN FULMER - DIRECT BY DIGGS

1 A --- at Goose Creek High School

2 Q And are there -- as you look through that book, are
3 there pictures there of club organizations or the like that
4 Stephen might have belonged to, to your recollection?

5 A Yes sir This is a picture of the Spanish Club where
6 Stephen was vice president of ---

7 Q Could I get you to come down here so we can look at
8 that together with the jury as you're talking about it I
9 think we have some microphones over here so the Court and
10 everyone can hear us, so show us, if you would, please sir,
11 what you're speaking of, and maybe I can ask you about it as
12 we look at it

13 A Well, this is a picture of our Spanish Club, and these
14 are the officers, and this is Stephen here He's the vice
15 president of the Spanish Club

16 Q Okay Are there any other things that strike or that
17 come to your attention involving Mr -- or involving Stephen?

18 A And this is the JETS Club, the junior engineering club
19 basically, our better math and science kind of students, you
20 know, that would -- a club that worked on projects and maybe
21 students who were looking at maybe going into engineering in
22 the future

23 Q Okay Steve was in that club?

24 A Steve was in that club

25 Q What else comes to mind, if anything? Now, you said he

JOHN FULMER - DIRECT BY DIGGS

1 -- you mentioned the Beta Club Was Steve in the Beta Club?

2 A Steve was in the Beta Club I don't -- yeah, here it
3 is right here I think that's Steve right there as a junior
4 in the Beta Club

5 Q All right, you can return to the witness chair

6 I want you to think back and to the best of your
7 recollection tell us what you remember generally about Steve
8 How would you explain him in the school?

9 A I would say Steve was a promising college prep student
10 who was very involved in school activities, a good school
11 citizen

12 Q Okay Did you have any doubt about his ability at that
13 time to succeed ---

14 A No sir I ---

15 Q --- after graduation?

16 A None

17 Q Okay How was he with the other students there?

18 A He was fine He was good with the other students

19 Q Was he well-received, or was he unnoticed by the other
20 students?

21 A No, he was well-received He was active When you're
22 involved in that many things, then you're going to be pretty
23 well-received by -- by the student body You know, the top
24 students usually are well-received amongst each other Some
25 of those others that are not top students might not have

JOHN FULMER - DIRECT BY DIGGS

1 received him well, but he was received real well

2 Q And any doubt in your mind Stephen was a top student at
3 that time?

4 A No doubt in my mind he was one of our top students at
5 that time

6 Q Okay Did he display any special qualities in your
7 opinion as a student?

8 A Well, I think that you see that he was an officer in a
9 club, and I think the leadership -- he had leadership
10 qualities, and he had, you know, good character I mean, he
11 was -- like I said, as assistant principal, I dealt with most
12 of the students that did not have good character, and I never
13 had to deal with Stephen in that

14 Q Okay, so he was not a disciplinary problem ---

15 A No sir

16 Q --- in school?

17 A None

18 Q Do you remember any of the friends that would associate
19 regularly with Stephen?

20 A A few of them, yeah

21 Q Can I throw out some names here and see if they ring a
22 bell?

23 A Sure

24 Q Was there a young man, Hokun Sewell? Do you recall
25 him?

JOHN FULMER - DIRECT BY DIGGS

1 A Say that again

2 Q Sewell, ---

3 A Yeah

4 Q Hokun?

5 A Hokun

6 Q Yeah

7 A Yes

8 Q Or Eddie House, Randy Bishop, Tim Baldwin, do those

9 names ring a bell with you?

10 A Eddie House and Tim Baldwin Tim Baldwin still works

11 at Goose Creek -- he works at Goose Creek High School

12 Q Really What does he do there?

13 A He's the head girls' basketball coach and the offensive

14 line coach, and a special needs teacher

15 Q All right, and have you been able to follow the careers

16 of any of those?

17 A Hokun, I don't -- I know Eddie House went to West

18 Point, and the last time I heard, he was a colonel, Colonel

19 House

20 Q Colonel House?

21 A Yes sir

22 Q All right Randy Bishop, do you have any knowledge of

23 where he is?

24 A No sir

25 Q Is there anything that you would have expected at that

JOHN FULMER - DIRECT BY DIGGS

1 time that would prevent Stephen from being able to do the same
2 things in life that those young men are doing?

3 A I think that at that time if he set his mind to it, he
4 could have done most anything he wanted to

5 Q If things had been different with the talents and
6 abilities that Stephen had in school as you saw them, where
7 would you have predicted Steve to be at this time in life?

8 A With the talents that he had?

9 Q Yes

10 A I would say, you know, a college graduate and
11 successful in whatever he chose to be doing

12 Q Did you ever see in your wildest dreams a Stephen
13 Stanko in a courtroom being accused of murder and subject
14 possibly to the death penalty for that?

15 A Not -- no, sir, not at all

16 Q It's a surprise to you?

17 A Very

18 Q Did you ever have an opportunity to observe whether or
19 not Stephen would observe or assist other students in school?

20 A I can't answer that

21 Q Did Steve participate in any other activities? I know
22 you've mentioned some of the club memberships that he had
23 Did he do any athletic -- involved in athletics?

24 A I know he was involved in athletics early in school,
25 maybe ninth and tenth grade I'm pretty sure he played J V

JOHN FULMER - DIRECT BY DIGGS

1 football I don't recall him playing after that He may
2 have, but I don't recall him I know he was on the J V team
3 It seems like to me -- I think -- now, this is -- I'm not a
4 hundred percent sure on this, but I think he went to work in
5 high school, ---

6 Q Okay

7 A --- you know, a part-time job

8 Q All right, Stephen did?

9 A I think so I'm pretty sure I remember that

10 Q Do you have any knowledge about Stephen receiving a
11 head injury during high school?

12 A No, I don't

13 Q You don't have any information about that?

14 A No sir

15 Q All right Did Steve -- well, you testified -- let me
16 ask you again, and maybe I missed this You remember him
17 involved in J V athletics as a player, as a participant?

18 A Right

19 Q Did he ever assist any of the other teams there at the
20 school, maybe not as a player, but, you know, in a support
21 role?

22 A I don't recall that

23 Q Okay

24 **MR DIGGS** Bear with me, please sir, if you would, and
25 I beg the Court's indulgence

JOHN FULMER - DIRECT BY DIGGS

1 **THE COURT** All right, sir

2 Q Do you remember ever giving Stephen detention for going
3 off-campus to Hardee's to have breakfast?

4 A I might have done that It would have been a lot of
5 people that got that during my thirty-something years there,
6 but I don't remember that specifically

7 Q So you wouldn't deny that?

8 A I certainly would not deny that

9 **MR DIGGS** Mr Fulmer, I appreciate it Steve
10 appreciates it, and I would ask you to answer any questions
11 the Solicitor may have

12 A Sure

13 **THE COURT** Cross-examination

14 **MR HEMBREE** No, Your Honor

15 Thank you, Mr Fulmer

16 **THE COURT** All right, do you wish the witness to be
17 excused, Mr Diggs?

18 **MR DIGGS** Yes sir

19 **THE COURT** Any objection?

20 **MR HEMBREE** No sir

21 **THE COURT** All right, Mr Fulmer, you are released from
22 your subpoena and may go back to your regular activities, sir

23 A Thank you, sir

24 **THE COURT** Your next witness, please

25 **MR DIGGS** Your Honor, we would call Lieutenant Roger

ROGER STEWART - DIRECT BY DIGGS

1 Stewart

2 THE COURT All right, sir, if you would come up front
3 to where the Clerk of Court is, please, right up front

4 ROGER STEWART, being first duly
5 sworn, states as follows

6 MR DIGGS Your Honor, may we approach very briefly on
7 a matter before I begin to examine?

8 THE COURT Yes sir

9 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

10 THE COURT If you want to, Lieutenant, if you don't
11 mind, if you would step down for a second and accompany Mr
12 Diggs outside the courtroom and then we will resume Step
13 down for a second, please, sir

14 MR DIGGS Thank you very much

15 (WITNESS EXITS COURTROOM WITH ATTORNEY DIGGS)

16 THE COURT If you would just bear with us for just a
17 minute, ladies and gentlemen

18 Can you ask Mr Diggs to step back in, please

19 (WITNESS AND MR DIGGS ENTER THE COURTROOM)

20 THE COURT All right, Lieutenant, if you would come
21 back up and resume the witness chair, please sir, and
22 obviously you are still under oath

23 All right, Mr Diggs

24 MR DIGGS Thank you very much, Your Honor

25 DIRECT-EXAMINATION BY MR DIGGS

ROGER STEWART - DIRECT BY DIGGS

1 Q Lieutenant Stewart, where are you employed, please,
2 sir?

3 A The South Carolina Department of Corrections

4 Q And how long have you been employed with the
5 Corrections Department?

6 A Twenty-three and a half years

7 Q All right, and where are you currently -- would
8 stationed be -- or assigned?

9 A Institution?

10 Q Yes sir

11 A Leiber Correctional Institution

12 Q All right, and is that presently where Mr Stanko
13 resides?

14 A Correct

15 Q All right, and in your capacity at Leiber, can you tell
16 us what your job category is?

17 A I'm a Lieutenant over a unit that houses approximately
18 a hundred and seventy -- seventy-seven people

19 Q Okay Now, in your work in that capacity, I would like
20 to ask you if you have had an opportunity to meet Mr Stanko?

21 A Yes

22 Q And let me ask you if you've had an opportunity to
23 observe him as an inmate in the institution?

24 A Yes That's part of my job

25 Q All right It would be part of your job?

ROGER STEWART - DIRECT BY DIGGS

1 A Correct

2 Q And let me ask you how Steve is in terms of -- well,
3 let me ask you this -- let me ask you this way Observing
4 him, has it been a problem housing Mr Stanko at Leiber?

5 A No

6 Q All right, and I wondered if you had an opportunity to
7 observe him in his communication with other inmates or with
8 members of the administrative staff?

9 A Yes

10 Q And I want to -- I want to ask you if it's -- you have
11 an opinion as to whether or not he has any good qualities in
12 that respect and if he's been able to offer positive things
13 towards the communication between inmates and administration?

14 A Yes He has a good rapport with both sides

15 Q All right, and I appreciate your observation about
16 that Has he been a threat, in your opinion, to others or to
17 staff at the institution?

18 A No

19 Q All right, and I understand there's a -- it's a
20 restricted and controlled environment there at the
21 institution?

22 A Correct

23 Q Have you had an opportunity whether to observe other
24 inmates at the institution respect Stephen? How is he
25 received, if you know, by the other inmates?

ROGER STEWART - DIRECT BY DIGGS

- 1 A In a respectable manner
- 2 Q All right Does he ---
- 3 A Yes As he gives respect, he gains respect
- 4 Q I see, and how about with the staff personnel?
- 5 A Same
- 6 Q All right, and generally does he have a good
7 relationship or rapport with the staff?
- 8 A Yes
- 9 Q Have you decided whether you respect Mr Stanko as an
10 inmate?
- 11 A Like I said, he gives respect, I give him back respect
- 12 Q Got'cha Has he then indicated that he has respect for
13 you and the other staff at the institution?
- 14 A Yes
- 15 Q Are you aware of any problems that Stephen has caused?
- 16 A No
- 17 Q All right Do you believe that if he were permitted to
18 live, that he could -- that he has an ability that he could
19 offer to not only the institution where he is now, but any
20 other institution where he may be housed, that would be --
21 that could contribute -- do you believe he could contribute in
22 a positive way to that prison environment?
- 23 A Described as a model inmate?
- 24 Q Yes
- 25 A Yes

ROGER STEWART - DIRECT BY DIGGS
CROSS BY HEMBREE

1 Q And your description of him is that he is a model
2 inmate?

3 A Yes

4 Q Listen, I appreciate that, and I know you came here
5 today from Leiber?

6 A Yes

7 Q And you're under subpoena? We made you come up here?

8 A Yes

9 MR DIGGS All right, and listen, I appreciate that,
10 and I appreciate your time, and I would ask you to answer any
11 questions the Solicitor may have for you Thank you

12 A You're welcome

13 THE COURT Cross-examination

14 MR HEMBREE Just one, Your Honor

15 CROSS-EXAMINATION BY MR HEMBREE

16 Q Lieutenant Stewart, how are you today?

17 A Fine, thank you

18 Q The -- is it bene- -- in your judgment, is it
19 beneficial for Mr Stanko to show respect to you and the other
20 guards?

21 A Very

22 Q Very beneficial to him to show you respect?

23 A As -- yes, as all inmates gain respect from us if they
24 show it to us, and then you have the ten percent that you're
25 not going to get no respect from, so

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 **MR HEMBREE** Okay Thank you, Lieutenant I

2 appreciate it

3 A You're welcome

4 **THE COURT** All right, anything else?

5 **MR DIGGS** Not at this time, Your Honor

6 **THE COURT** All right, sir Do you wish the witness to
7 be excused?

8 **MR DIGGS** Yes sir

9 **THE COURT** Any objection?

10 **MR HEMBREE** No objection, Your Honor

11 **THE COURT** All right, Lieutenant, you are released from
12 your subpoena You may go back to your regular duties, sir
13 Next witness, please

14 **MS WILLIAMS** Your Honor, the Defense would call Ralph
15 Beardsley

16 **THE COURT** All right, Mr Beardsley, come right up
17 front, all the way up here, sir, all the way up here right
18 next to the Clerk, sir

19 **RALPH STEVEN BEARDSLEY**, being first
20 duly sworn, states as follows

21 **THE COURT** All right, Ms Williams

22 **MS WILLIAMS** Thank you, Your Honor

23 **DIRECT-EXAMINATION BY MS WILLIAMS**

24 Q Mr Beardsley, can you please tell us where it is you
25 live and what you currently do?

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 A I currently live in Wedgefield, South Carolina, and I
2 am retired

3 Q And prior to your retirement, what did you do?

4 A I worked with the South Carolina Department of
5 Corrections

6 Q Can you tell us specifically where you were, what -- in
7 what capacity that you worked for the Department of
8 Corrections?

9 A Yes My last assignment was Warden of the Turbeville
10 Correctional Institution

11 Q I'm sorry, you were the ---

12 A Warden

13 Q So you were the Warden at Turbeville?

14 A Yes Ma'am

15 Q And how long were you the Warden there?

16 A Eight years

17 Q Eight years, and during your time as Warden, or let me
18 just ask you, have you had an opportunity to meet Steve
19 Stanko?

20 A Yes, I have

21 Q Can you please tell us about that

22 A I'm not sure exactly when Stephen came there It was
23 after I opened the institution in 1994, had to be sometime
24 around '96, '97, and he was there until I retired in 2002

25 Q Can you give this jury an idea of your interaction with

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 Steve at Turbeville

2 A I had -- my interactions with Steve were much more than
3 they were with other inmates on the yard Stephen served in a
4 capacity where he was an inmate relations council, and at some
5 time he was the chairman of it, too, so I had contact with him
6 probably two, three times a week, either on the yard or in my
7 office

8 Q Can you tell us what observations, if any, you made
9 about Steve?

10 A Well, he certainly was a -- appeared to me to be a very
11 well-adjusted inmate He adapted well to Turbeville He
12 would -- in his position as chairman of the Inmate Relations
13 Council, he was pretty instrumental in helping us get some
14 things done within the institution for accreditation

15 He could work with the other offenders, both the youthful
16 offenders that I had there, and I had almost eight hundred of
17 those at that institution He could work with those, as well
18 as the other three hundred straight-timers that I had at the
19 institution, too He was just a very well-rounded, mature
20 individual

21 Q Can you give us an example if you can recollect of
22 anything about those interactions of some of the things that
23 you found to be helpful?

24 A Well, during the time shortly after I became Warden at
25 Turbeville, we changed directors in the Department of

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 Corrections, and there were a lot of policy changes that were
2 occurring that directly impacted on the inmate population and
3 how we dealt with them

4 The I R C was a voice that I would use at times to help
5 me get across the policy changes that were necessary
6 Sometimes it's easier for inmates to hear something from other
7 inmates on why things need to be done instead of hearing it
8 from the staff Stephen did pretty good in that role He
9 could explain things to inmates and why we were needing to
10 make the changes and the impact that it would have on them
11 probably in some cases than we could

12 Q Warden Beardsley, can you tell us what, if anything,
13 when you retired, did you do anything out of the ordinary or
14 any action that you may have taken with regard to Steve?

15 A Well, because of the access that Stephen had with me on
16 a weekly basis, some staff resented that, that an inmate could
17 come up and have access to the Warden or talk to the Warden,
18 and his custody level at the time I retired, his
19 classification level at the time I retired all warranted
20 transfer to a less secure institution, and I also felt like
21 once I retired that there might be some retaliation against
22 him by some of the staff that were there, meaning that they
23 may try and get him in some trouble They were resentful
24 towards him, or some of them were resentful towards him that
25 he had the kind of access that he had to me

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 Q Did you ever feel like in any way he abused that access
2 or tried to take advantage of it with you?

3 A No, I don't, because a lot of times the access that I
4 had with him was when I was just walking on the yard, too I
5 would walk on the yard to see how things were going in the
6 prison, in the different areas of it, and I would run up on
7 Stephen or he would run upon me and we would discuss things
8 that were of mutual interest of the inmate population of the
9 institution

10 Q Let me ask you this, and it may be a wild guess Do
11 you have any idea of the number of inmates you supervised
12 during your career with the Department of Corrections?

13 A As Warden at Turbeville, it was approximately twelve --
14 twelve hundred inmates Like I said, I had about three
15 hundred straight-time inmates, which were regularly sentenced
16 inmates, and about eight hundred inmates sentenced under the
17 Youthful Offender Act

18 Q And inmates would come and go, is that a fair
19 statement?

20 A Oh, inmates would transfer in and out very frequently

21 Q And can you give this jury, if you have any, I'm going
22 to say a ranking, if you will, or something of that nature
23 that you would say about Steve with regard to, say, your
24 typical inmate?

25 A He was certainly one of the better inmates that I've

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 ever been associated with during my career It's very seldom
2 that you find an inmate like Stephen that had not only the
3 interest of other inmates, the interest of the institution,
4 and his own interest at heart I mean, you know, usually in
5 my experience, inmates are all about themselves, but Stephen
6 was very -- pretty well-rounded in terms of trying to think
7 about other inmates and their concerns and the concerns of the
8 institution

9 MS WILLIAMS Thank you I beg the Court's indulgence
10 for just one moment

11 Q Warden Beardsley, are you familiar with a program
12 called Operation Behind Bars?

13 A Yes, I am

14 Q Can you tell me about that?

15 A The Operations Behind Bars program is a program that's
16 set up by the agency in several institutions whereby there's a
17 panel of inmates, maybe six or eight, that are selected based
18 on their record and, I guess, some other criteria, I'm not
19 sure what it was, to meet with at-risk youth that are -- that
20 come to the institution from various schools and places
21 throughout the State, and they would put on a program just
22 discussing why you don't need to come to prison type thing,
23 and what they did wrong, and how the young kids should try and
24 avoid it, and stuff like that

25 Q And did Steve participate in that?

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

1 A Yes, he did

2 Q Can you tell us about that?

3 A I don't know much about it because I didn't see many of
4 the programs, but I know that Turbeville had one of the better
5 Operation Behind Bar programs in the State, and I think some
6 of that probably had something to do with Stephen's being on
7 it

8 Q Okay Let me ask you this Do you have any
9 recollection about any of Steve's work in cleaning the
10 institution?

11 A Yeah He was very helpful with that He'd often go
12 out of his way to not only work himself, but to also organize
13 other inmates to help do work Turbeville was fortunate in
14 the early -- early -- or the mid-nineties and late nineties to
15 go through what we call an accreditation process to the
16 American Correctional Association, and in large part due to
17 the efforts of the inmates and the efforts of the staff, we
18 scored the highest score in the State on our initial
19 accreditation that any institution has ever scored before, and
20 our re-accreditation three years later, we had the second
21 highest score in the State that any institution had ever
22 scored, us being the first, too, so -- and a large part of
23 that is due to the inmates' cooperation in trying to help you
24 get the institution spruced up and making sure that you're
25 doing the right things for the accreditation process, and

RALPH STEVEN BEARDSLEY - DIRECT BY WILLIAMS

EVELYN C CALIFF - DIRECT BY DIGGS

1 Stephen played a big part in that

2 MS WILLIAMS I have no further questions Thank you
3 for being here today Would you please answer questions that
4 the State may have

5 THE COURT Solicitor

6 MR HEMBREE No questions, Your Honor

7 THE COURT All right Do you wish the witness to be
8 excused?

9 MS WILLIAMS Your Honor, please

10 THE COURT Any objection?

11 MR HEMBREE No objection, Your Honor

12 THE COURT All right, Mr Beardsley, you are released
13 from your subpoena and may go back to your regular duties,
14 sir

15 Your next witness, please Ma'am

16 MR DIGGS Your Honor, we would call -- or we would
17 call Evelyn Califf

18 THE COURT All right Please come around and be sworn,
19 Ma'am

20 EVELYN C CALIFF, being first duly sworn, states
21 as follows

22 THE COURT All right, Mr Diggs, you may question the
23 witness

24 MR DIGGS All right Thank you very much, Your Honor

25 DIRECT-EXAMINATION BY MR DIGGS

EVELYN C CALIFF - DIRECT BY DIGGS

1 Q Now, give us the benefit, please Ma'am, of your
2 educational background and your training

3 A Just to make it briefer, I will say that I have a
4 Doctorate in Christian Counseling, which also led to a
5 licensure as a minister I also before that had a Master of
6 Education with a special services related to that Before
7 that, we have a Bachelor of Arts and so forth Then I move on
8 to getting more of various things

9 I am certified as a psychometrist, that would be with
10 children who are high school level, for testing I went to
11 Mississippi State University and received that, as well as a
12 Master's I then became a L M S W , which is a Licensed
13 Master Social Worker, and I do clinical involvement for the
14 last -- I have completed clinician work since '83 here in this
15 area I also have, for benefit of the jurors, I do a lot of
16 parenting and work very hard with a Parents Anonymous Group,
17 which is a non-profit group, trying to assist parents who
18 really are having difficulties with children

19 I also have a non-profit Teens At Risk program, which is
20 one that is working and helping kids who have law enforcement
21 or rebellion, other issues, and I do -- I am certified as a
22 divorce mediator here, and I also have certification as a sex
23 offender treatment specialist As you can see, I've lived a
24 long time

25 Q All right Let me ask you this You had -- we came

EVELYN C CALIFF - DIRECT BY DIGGS

1 and asked you to assist us in this case?

2 A Yes

3 Q Now, what were you asked to do, please Ma'am, and tell
4 us what you did

5 A You asked me to provide information, as much as I
6 could, from the normal -- the normal developmental side where
7 it is from his development early up through the school, just
8 the general stuff like that

9 Q All right, and what did you do?

10 A I did that I went, I found out a lot of the issues
11 related to that, talked to as many as I could, including as
12 many of the children as I could in the family, looked at all
13 the materials that were available, and decided that it was
14 easier for me to explain it in the way of more of the family
15 systems work, ---

16 Q Okay

17 A --- which is what is normally done when you're looking
18 at assessing a family and the children It's like you have a
19 mobile and if one part of the mobile moves in this family,
20 which represent parents and children, then things are out of
21 whack, and you have to figure out why that is happening

22 Q Now, did you put together a presentation ---

23 A I did

24 Q --- to help with your testimony, and would it help to
25 -- for us to look at that?

EVELYN C CALIFF - DIRECT BY DIGGS

1 A I think it would be informative, hopefully

2 MR DIGGS And, Your Honor, I think, without objection,
3 we are asking that we be permitted to publish her presentation
4 at this point

5 THE COURT Is there any objection to that, Solicitor?

6 MR HEMBREE No, Your Honor

7 THE COURT All right You may do so

8 MR DIGGS Thank you

9 (DVD PRESENTATION MADE IN OPEN COURT)

10 Q All right, now as you go through your testimony, Dr
11 Califf, I have the control over here, and you want me to
12 change pages, you just tell me to advance the page All
13 right, are we ready to move?

14 A Right As you know, we are looking at the life and the
15 circle of life of Stephen Christopher Stanko, and circle
16 meaning that we all live within a beginning and throughout the
17 issues of our life, and we go to an ending Certainly I could
18 not go or move toward the ending, so I began at the birth and
19 the pre-school You can change

20 When you think about the picture that we have with the
21 circle -- that's the one, Mr Diggs, if you will move on, yes

22 Q Okay

23 A You will look to see birth, pre-school, elementary
24 school You will look at high school, and you will look after
25 graduation Move on

EVELYN C CALIFF - DIRECT BY DIGGS

1 Then there is a geneogram, which is what we usually do in
2 looking at families, and we have most all of the people
3 thereon in this family, and I'm looking on mine so I can see
4 it a little bit easier here

5 Q Yes Ma'am

6 A You will note that Stephen is a part of four children
7 in the family that are still living

8 Q Yes Ma'am

9 A We have one that is not living, and that is his
10 brother, William A Stanko, and that caused a lot of
11 dysfunctions within the family due to the fact that there was
12 a lot of circumstances that preceded that with alcoholism and
13 other things

14 Q Tell us a little bit about that What were you able to
15 discover or learn?

16 A He lived away from the home some, but there was a lot
17 of issues related to a member of the family If you will
18 remember the mobile, ---

19 Q Yes

20 A --- if one is out, then others are having some
21 difficulty with what is happening, and quite naturally,
22 families do care about each other different ways, but they do
23 care about each other, so the issue that you have is that this
24 man and his brother, which was the older, was using drugs,
25 alcohol, started, I believe, with the alcohol and just went to

EVELYN C CALIFF - DIRECT BY DIGGS

1 a lot of very addictive behaviors which caused a lot of
2 problem for the parents, number one, and the whole family as
3 such, because they had sadness for him as well

4 Q Right

5 A Then he died in a fire under suspicious issues They
6 still have problems with that They don't understand exactly
7 why that happened, and it's still a big -- it was a big sorrow
8 for his parents His mother, of course, died

9 Q Now, when did she pass away?

10 A I don't remember the exact date, but it was during the
11 time -- I failed to put it down here, but it was during the
12 time he was at Leiber, and ---

13 Q Okay, recently?

14 A Yes, and so she passed on His father is still living,
15 and his father is a man who has always been -- I think this
16 best describes him in that he says there is only one opinion
17 in this house and it is mine, and so he was pretty firm,
18 didn't do an awful lot of talking to you unless his language
19 was tough

20 Many of -- all the children that I spoke to, they had
21 some issues with the father's mannerisms and ways, but they
22 also realized that he was not an alcoholic that was angry or
23 mean, but he did drink a lot, and basically what he did was he
24 drank, was quiet, and watched television unless there was a
25 problem

EVELYN C CALIFF - DIRECT BY DIGGS

1 Q What did he do for work? How was he employed?

2 A He was a Navy man who had a career therein, and the
3 other thing that he did with his career, he was away most of
4 the time, so Mrs Joan Stanko had to take care of the kids and
5 manage all the things that were there, and I am sure most of
6 us know how hard it is to be a single parent Sometimes you
7 do well, and sometimes you don't, but the issue that we had
8 was that she had a lot of strength and a lot of problems to be
9 able to deal with

10 So you then had his older sister, after the brother that
11 passed, was Peggy, ---

12 Q Okay

13 A --- Peggy Cliss, and she currently lives, as several
14 children, in California She is very sad still with all the
15 things that have happened and how they are happening She
16 feels very sad for the way things came up, wish she could have
17 done something about it, but explained something really
18 interesting, and that was because of the distance in the ages
19 of the children, she and Cindy were like one family, and they
20 raised them, and then there was approximately seven years
21 between the other two, which would be Jeff, his brother, who
22 is still living, and Stephen, and Jeff is two years older than
23 his brother

24 Q All right, so Peggy and Cynthia are the older ---

25 A Peggy and Cynthia are the older

EVELYN C CALIFF - DIRECT BY DIGGS

1 Q --- children in the family, and Jeffrey and Stephen are
2 separated by seven years, ---

3 A Right

4 Q --- at least from their sisters?

5 A And they explained that they felt like two different
6 families almost

7 Q All right

8 A The grandparents are not alive, and the -- so the
9 father out of all of this is the only one that is still
10 living, and he is not in good health He does not want to
11 talk about all of this with me, and I understand the issues
12 that he has He's pretty sad about it from all I can tell
13 with it

14 Q Have any of the family members to your knowledge
15 attended the trial here?

16 A No, and it was sad to talk with them about it and to
17 ask them to come, and they were not -- not just myself, but
18 others ---

19 Q Okay Without having -- you know, repeating
20 specifically what they said, do you have any idea why no one
21 in the family would come and attend this proceeding?

22 A I really think that they had some deep issues maybe of
23 sadness that maybe they had not done more, as well as some of
24 the things that have happened during the years after his
25 school that he has -- his interaction with them, a couple of

EVELYN C CALIFF - DIRECT BY DIGGS

1 things

2 Q All right Tell me when you're ready to advance

3 A I'm ready

4 Q Okay

5 A So if you look at this one, it's like the normal young
6 child

7 Q That's Stephen?

8 A It is, and ---

9 Q Where did you get this photo?

10 A It was from some of the evidence that I went to
11 Georgetown to be able to look for, and there were a few
12 pictures hither and yon, but it was very, very difficult to
13 gain it

14 Q All right Continue on Tell me ---

15 A And so if you look, he is at one of the vacations that
16 they had I could not identify that there was a lot of
17 vacations, but if they did, they went to visit Peggy or other
18 places whereby the father may not have been with them at all,
19 so the mother would go most of the time Next

20 You will notice his tooth is out, so you can probably
21 understand that we've got kindergarten here

22 Q Yeah

23 A And he's quite a smiley guy when he's young Move on
24 He still has smiles, still is like most of our children when
25 they are in kindergarten, first and second grade, and you will

EVELYN C CALIFF - DIRECT BY DIGGS

1 go further, the next one He did enjoy ball in a lot of ways
2 He was not a person when he was young to be able to want to go
3 into actual sports Later on he became one who would enjoy
4 doing that, you will find out, but he did enjoy playing ball
5 with his brother

6 Q Okay

7 A Over And here, you will see his brother, Jeff, and he
8 is standing in the back

9 Q Stephen is standing in the back?

10 A Yes I'm sorry He is standing behind him, and he is
11 looking very proud of his brother who is on the team

12 Q Where does the brother live at this time, do you know?

13 A He lives now in Fayetteville with his two children

14 Q So pretty close by?

15 A And he is a single parent

16 Q Okay

17 A Yes, he is close by, talked to him about that, but he
18 was not able to get here, he said

19 Q Okay Do you want me to move?

20 A Yes, please Now you're getting into the grammar
21 school, elementary we call it We had up through three, and
22 now we're going to go on into the sixth, seventh, and eighth,
23 and he is still smiley, ---

24 Q Yes

25 A --- still doing well, and he as always -- I had a lot

EVELYN C CALIFF - DIRECT BY DIGGS

1 of the -- had a lot of those -- what are they called, the
2 report cards, ---

3 Q Yes

4 A --- and there was never a report card, nor a packet of
5 them, that they did not have some other kind of certificate
6 in He always had top-notch things as far as ---

7 Q Accomplishments in his school?

8 A And grades, and he always excelled that way, which was
9 rather interesting, and was said that all the kids liked him,
10 and I know in speaking with one who may have already testified
11 that he was very well-liked

12 Q What age is this, do you know?

13 A This one -- I never did have any ages, but I put it
14 within this area which was the sixth, the seventh, and the
15 eighth grade

16 Q Okay, got'cha Are you ready to move?

17 A I am Here is a picture where he began to -- the next
18 one -- there he is Now he is playing -- he didn't play on a
19 team in school with this, but he did play in the -- like the
20 Rec departments we have, YMCAs and so forth, ---

21 Q Right

22 A --- and he enjoyed that Then we move on to the Beta
23 Club, junior high here, when he was in the Beta Club this
24 year It was the junior high year Move on to the Beta Club

25 Q All right Now, that is the cover of the book that's

EVELYN C CALIFF - DIRECT BY DIGGS

1 in evidence That doesn't show up very well in the display,
2 but are you ready to move?

3 A I am Then you get into the high school, and you are
4 again seeing him playing on a team, and this team is pretty
5 well involved in friends, and he has the individual picture
6 there, but if you will note, he's not smiley in this one, and
7 I want you to watch that as you go forth

8 Q Okay

9 A When you're looking again at the junior picture, it's
10 not like those that we had before where you appear to be
11 having a good time ---

12 Q Right

13 A --- and so forth, and he's got a half-smile here, but
14 not fully I'm sorry, I had two of the Beta Club pictures in
15 it, but he was junior and senior involved

16 Q Yes

17 A Go ahead The high school picture you have next, 1986,
18 Volume 19 Behind that you will show another junior
19 Engineering Technology I can't see from here, but I'm
20 assuming I have the right one over there

21 Q Yes Ma'am, it's there

22 A That's the JETS, and that was important to him

23 Q I want to -- I want to draw your attention to Stephen
24 now He's on the front row

25 A Uh huh (**indicating positive**) You see the same view

EVELYN C CALIFF - DIRECT BY DIGGS

1 Q Yes Ma'am

2 A That's why I asked you to take a look at those as you
3 go through

4 Q Yes I ---

5 A He's very happy -- he's very happy about doing the
6 things that he does and was quite brilliant in all the things
7 that he did He never did not excel, never

8 Q That's interesting

9 A Never did not excel

10 Q All right Are you ready to go to the next page?

11 A I am There's the JETS again Then the junior J V
12 football, if you can find him on there

13 Q Let's see if we can ---

14 A Down, very small

15 Q Can you hold -- bear with me here

16 A Uh huh (**indicating positive**)

17 Q He's kind of right there in the center, almost
18 impossible to see

19 A But if you were able to see it, you will find the same
20 kind of view that ---

21 Q The facial expression?

22 A The same thing, and I have many, many other pictures of
23 different things, and the only time there was ever any smiles
24 after junior high was if there was something related to
25 graduation or something with his friends, and even then it was

EVELYN C CALIFF - DIRECT BY DIGGS

- 1 just very different
- 2 Q All right You tell me when you want to go ---
- 3 A The senior picture
- 4 Q All right Now, this is -- we're looking at the senior
- 5 picture at this point?
- 6 A Right
- 7 Q Are you ready for me to move forward?
- 8 A I am Now, in the senior picture you had only a little
- 9 bit of expression Now you come to all the things that all
- 10 the women wanted him to do who were going to be in the Court
- 11 Q Right
- 12 A And he's got a third runner-up there I noticed he's
- 13 not smiling
- 14 Q Right
- 15 A Does not look like he is very pleased, whatever it is
- 16 Then you go on to where you have all the pictures, Miss
- 17 Congeniality, freshman, junior, senior, and I have missed
- 18 seeing any change in the facial ---
- 19 Q Over those years?
- 20 A Uh huh (**indicating positive**)
- 21 Q Expressionless?
- 22 A Exactly
- 23 Q Okay
- 24 A And that's important to someone who has worked with
- 25 people a lot, like me, when you're looking to understand how

EVELYN C CALIFF - DIRECT BY DIGGS

1 they are and what they are, and what they are feeling, because
2 that's an important thing, too Spanish Club, we've got the
3 Spanish Club there

4 Q Yes Ma'am

5 A Okay

6 Q Can you see his expression there?

7 A It -- it really is the same, but a little worse maybe
8 there It seems more depressed, if I could put a word on it,
9 sad or depressed Now, it was amazing again He was put in
10 Who's Who, and this is a letter that indicates that he
11 actually was a person who was asking to receive this anyway

12 Q Yes

13 A And then the next one is U S A A , which is the United
14 States Achievement Academy They are indicating in this
15 letter that he is chosen to do this, or he is being selected
16 to do this, and that was quite an assessment, quite an honor
17 There were only a few who did that

18 Q Less than ten percent of American high schools, ---

19 A Right

20 Q --- it says in the letter?

21 A Less than ten percent

22 Q Okay

23 A And then if you'll look onto the next one, ---

24 Q The family photo?

25 A Yes I had hoped that I had gotten this one in the

EVELYN C CALIFF - DIRECT BY DIGGS

1 right place in the beginning, which I didn't, but it's okay

2 Q That's okay

3 A If you will notice, this is his first family, the
4 picture of the father and the mother, and these are the three
5 children, William, Peggy, and Cindy, and they were on some
6 kind of trip together

7 Q And this was prior to Stephen's birth?

8 A Correct, correct That was prior

9 Q And that's why you called this his first family?

10 A As they do It's his first family Seven years
11 difference does seem to be a break

12 Q It's in a different category?

13 A A different break You may have ---

14 Q Tell me when you want to move

15 A --- different times of your life and then different
16 times with new babies coming back

17 Q Yes Ma'am

18 A And, of course, remember now, here the next one you
19 will find out is the -- a picture of his father and his
20 mother

21 Q All right

22 A Now, his father there is receiving his assignment,
23 which is not the assignment for work, but he is retiring, ---

24 Q Yeah

25 A --- and so he received ---

EVELYN C CALIFF - DIRECT BY DIGGS

1 Q That's when Mr Stanko was retiring?

2 A Right The award, I understood, was retiring, and
3 that's his mother there

4 Q That's Mrs Stanko?

5 A Joan Stanko there, right

6 Q Steve's mom?

7 A Yes

8 Q Okay

9 A And the next one was a little closer up to let you see
10 the two of them again

11 Q Okay

12 A They seem very happy at this one and at the other one
13 Now, on the next one you'll find a picture of Peggy, who is in
14 California, and her husband

15 Q Peggy?

16 A And her husband, and I believe that this was Peggy's
17 mother, from all I could tell, but I could not get an answer
18 to that

19 Q This, you believe, is Mrs Joan Stanko, okay, Stephen's
20 mom?

21 A Possibly I could not tell that, but it looked like to
22 me that it was his mother

23 Q That's Peggy, Steve's older sister, ---

24 A Yes

25 Q --- and her husband?

EVELYN C CALIFF - DIRECT BY DIGGS

1 A Right

2 Q And they live in California?

3 A They do

4 Q Okay

5 A And then if you'll go to the next one where you have --

6 you're seeing people at the table, those -- this was a picture

7 that I don't usually get to see where you have a lot of the

8 folk there That's Cindy, from all I understand, in the back,

9 because I did not have a picture ---

10 Q Okay That's his older sister, ---

11 A Uh huh (indicating positive)

12 Q -- but she's younger than Peggy?

13 A Correct, and then I don't know what the actual occasion

14 was

15 Q Now, where does she live at this time, do you know?

16 A Yes Cindy lives in -- I'll have to look her up

17 because I have forgotten where she lives She lives here in

18 South Carolina, I believe

19 Q Okay, so pretty much still close to her home?

20 A Right

21 Q All right

22 A But you will see that Mrs Stanko, it looks like, is

23 over here to the right, but there was very few of those

24 things I liked the next one because it looked like most

25 families at Christmas when you are having some kind of joyous

EVELYN C CALIFF - DIRECT BY DIGGS

1 time Mrs Stanko, I didn't see her too often smiling

2 Now, we are after graduation almost We have a picture
3 here which is after graduation, when not directly after, but
4 after he has graduated

5 Q Yes

6 A And he's looking at a -- this is Stephen, but you will
7 notice the age on him much more than when he was in school

8 Q Right

9 A The next one is -- the next one is he and Jeff That
10 looked like all of our families when they do some kind of
11 funny thing and enjoy each other

12 Q Now, that's the brother ---

13 A Uh huh (**indicating positive**)

14 Q --- that's -- okay

15 A Right And then this one, I really thought was
16 marvelous because we see his father, and we see him, having
17 graduated, and we see his brother, and you can tell that his
18 father is very, very proud, and the one thing I always saw was
19 that he was very proud of him, in all the information I saw,
20 when he excelled

21 Q Yes Ma'am

22 A But words spoken and unspoken sometimes can cause a lot
23 of problems for a child, and so if you speak the words of
24 happiness, as he looks there, it does help the kids, but he
25 was pretty stern, pretty stern with him

EVELYN C CALIFF - DIRECT BY DIGGS

1 The next page, you will see Jeff, and he's on a
2 motorcycle He has that kind of personality He loves fun,
3 and he enjoys very much activities that he does

4 And my last one, or basically last, is as I looked at all
5 of this, I began to think of how we look at motivating kids
6 and what is said, so in looking at the dynamics of this
7 family, I had tried to see early in Steve's life

8 He was born in Cuba As a child he had jaundice Peggy,
9 his sister, described how he was a week later coming home He
10 had to stay in the hospital, so he was separated from his
11 mother during that period of time, and then the whole year, I
12 understood, he was sickly, so if you look at that -- if you
13 have a dysfunctional, as we call it, problem in the family, it
14 can be the health of a child where everybody is working around
15 trying to do what you can do to help a child and be concerned,
16 so I think maybe some of that had a lot of issues in this
17 family

18 As far as looking at the safety, I don't think any of the
19 children ever expressed feeling really happy and safe, and
20 that was interesting because one of the things moving up, when
21 I teach it, I see that you do -- you lose one motivation and
22 one developmental level if you have not met one of the others,
23 and, of course, love and belonging was important, and it's how
24 we parents do provide that for our children, and something
25 just as simple -- and I did not find this, as having your

EVELYN C CALIFF - DIRECT BY DIGGS
CROSS BY HUMPHRIES

1 name on your room door says that I belong, and so if we were
2 to take a geneogram and look at which child played which
3 part, ---

4 Q Yes

5 A --- then you would be able to probably see some of the
6 things that we are seeing that have been missed here, so it
7 all develops into self-esteem, if you develop it, or a lack of
8 it, and your self-actualization then would be beyond that,
9 where you are going on with your life and your jobs, and that
10 was where I felt that a lot of things -- there was not a firm
11 foundation in what I saw to go forth with him being able, you
12 know, to do the things that he could do

13 MR DIGGS All right, Dr Califf, I appreciate your
14 time this morning, and I would ask you to answer any questions
15 the Solicitor may have

16 A I will

17 THE COURT Cross-examination

18 MR HEMBREE Thank you, Your Honor

19 CROSS-EXAMINATION BY MR HUMPHRIES

20 Q Good morning, Dr Califf

21 A Hello How are you?

22 Q The three remaining siblings, their names and ages?

23 A I can't remember everything without ---

24 Q I understand

25 A You have -- we do know that there's seven years

EVELYN C CALIFF - CROSS BY HUMPHRIES

- 1 difference ---
- 2 Q Yes Ma'am
- 3 A --- between Peggy, and I know that she is in -- in her
- 4 forties I did not put them down ---
- 5 Q Which one?
- 6 A Peggy
- 7 Q Peggy, okay
- 8 A And ---
- 9 Q And you've got Cindy?
- 10 A Cindy is two years difference than her, as I recall
- 11 Q Okay, and then you've got Jeff?
- 12 A Excuse me?
- 13 Q Then you've got Jeff, who is two years older?
- 14 A He's two years older, and then we have Stephen
- 15 Q What does Peggy do for a living?
- 16 A Excuse me?
- 17 Q What does Peggy do for a living?
- 18 A She is secretarial more than anything else, she told
- 19 me She comes home and rides the bus home, or the train home,
- 20 whichever
- 21 Q She lives in -- this one lives in California?
- 22 A She does
- 23 Q And Cindy, what does she do?
- 24 A She -- I don't know what she did Cindy would not
- 25 speak to me She spoke to somebody else, but she was really

EVELYN C CALIFF - CROSS BY HUMPHRIES

1 down and out, and so she would not speak to me

2 Q Okay, and Jeff, what does he do?

3 A Jeff is retired She was in service as a security
4 person, and he now is retired and he and his children live
5 together in Fayetteville

6 Q Any significant criminal history among the three of
7 those individuals?

8 A Not that I know of No one would say that, but I do
9 know that they've had some difficulties Each one would tell
10 different things

11 Q Yes Ma'am, but no criminal history that you're aware
12 of?

13 A Not that I know of

14 Q And I think you indicated that in speaking with all of
15 the -- all of the kids, that all of them without exception
16 didn't feel safe in the home, is that right?

17 A That's correct, from early

18 Q Sure, which is basically the same environment that
19 Defendant Stanko grew up in?

20 A That's true, but there was difference in the family
21 toward each child, the father and/or the mother toward each
22 child

23 Q Sure, but, I mean, you know, we're talking about they
24 all had food or shelter and health in general?

25 A Well, you have to look at that in ---

EVELYN C CALIFF - CROSS BY HUMPHRIES

1 Q I mean, well, I mean, if you -- if you'll answer my
2 question, and then you can explain

3 A Okay It -- I think ---

4 Q Yes or no, I mean, and then you can explain

5 A Yes, that they had two parents who were trying to give
6 the same thing, I feel, but it was different times in their
7 life, so different issues were there

8 Q Yes Ma'am, and then you said none of the children, you
9 know, really met that -- that second stage, they didn't have
10 that feeling of safety?

11 A Safety within their home, but not just home, safety
12 within the world, safety that you can go to school It
13 involves a lot of things

14 Q Certainly I'm -- I don't mean to minim- ---

15 A But I hear what you're saying, yes

16 Q Sure, so it's the same, yeah, but they all experienced
17 that, including Defendant Stanko, which meant that the -- as
18 you go up the hierarchy, those other things suffered ---

19 A They do ---

20 Q --- developmentally?

21 A --- if it's not met in motivation, right, and the older
22 brother had the same thing, too, if you recall, and then he
23 went into other things, but he was in the first family

24 Q Uh huh (**indicating positive**) The older brother, he
25 didn't kill anybody?

EVELYN C CALIFF - CROSS BY HUMPHRIES

1 A Excuse me?

2 Q The older brother didn't kill anybody? William didn't
3 kill anybody?

4 A No, he didn't, not that I know of, he did not

5 Q Right He didn't rape anybody? No?

6 A I hear you

7 Q Okay

8 A And I do understand that

9 MR HUMPHRIES Thank you, Ma'am

10 THE COURT Any redirect?

11 MR DIGGS Not -- Your Honor, we don't have any
12 redirect, but I would like to introduce a hard copy of this
13 particular presentation if I could as Defendant's Exhibit
14 forty- ---

15 MR HUMPHRIES By all means No objection

16 MR DIGGS Thank you

17 THE COURT What number is that?

18 THE REPORTER 45

19 MR DIGGS 45

20 THE COURT All right, so Defendant's 45 is in evidence
21 without objection

22 (HARD COPY OF DR CALIFF'S PRESENTATION ADMITTED INTO
23 EVIDENCE AS STATE'S EXHIBIT NUMBER 45)

24 THE COURT Do you wish the witness to be excused?

25 MR DIGGS Yes sir

THE DEFENSE RESTS/JURY OUT

1 **THE COURT** Any objection?

2 **MR HUMPHRIES** No, Your Honor Thank you

3 **THE COURT** All right, Ma'am, you are released from your
4 subpoena and may go back to your regular activities, Ma'am
5 Thank you very much

6 All right, Mr Diggs, further witnesses on behalf of the
7 Defense?

8 **MR DIGGS** Your Honor, the Defense rests

9 **THE COURT** Ladies and gentlemen of the jury, if you
10 would go to your jury room for a few moments, please

11 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
12 **JURY)**

13 **THE COURT** All right, Counsel, in this where we are
14 now, it would be my intention that we have the arguments to
15 the jury and then we would probably break for lunch at that
16 point in time, and then I would come back and give them their
17 final instructions before the jury would retire to impose the
18 sentence in this particular matter

19 In that regard from the State, what would be your plans
20 as far as making an argument to the -- to the jury?

21 **MR HEMBREE** Your Honor, my expectation would be that
22 the argument would take about thirty-five to forty minutes

23 **THE COURT** All right, very good All right, and from
24 the Defense, Mr Diggs, Ms Williams?

25 **MR DIGGS** Your Honor, I think Ms Williams is going to

JURY OUT/COURT TO DEFENDANT

1 do this I don't know at this time that we're going to split
2 it up, so we'll probably just let one -- one of us do, and I
3 think Steve, Mr Stanko, plans to make a statement

4 **THE COURT** All right Mr Stanko, if you would stand
5 up for just -- just one minute, please, sir You understand
6 that you have the right to argue before the jury regarding the
7 imposition of the sentence in this particular matter, you
8 understand that?

9 **MR STANKO** Yes sir

10 **THE COURT** All right, sir, and you understand that we
11 obviously are in the sentencing phase of the trial The jury,
12 despite whatever feelings you may have about it, the jury has
13 spoken as far as the issue of guilty or not guilty, or the
14 other -- the verdicts that were open to them, and that would
15 not be what we would be arguing to the -- to the jury, but you
16 understand those parameters?

17 **MR STANKO** Yes sir

18 **THE COURT** All right, sir For the Court's purposes in
19 planning only, and certainly if you decide to change your
20 mind, that's certain- -- you're welcome to do so That is
21 your choice in this particular matter Do you believe at this
22 point in time you intend to address the jury in closing?

23 **MR STANKO** Yes sir

24 **THE COURT** All right, sir Approximately do you --
25 have you discussed with your attorneys what the length of this

JURY OUT/COURT TO DEFENDANT

1 might be?

2 **MR STANKO** Yes sir I actually had kind of prepared
3 it and had read it I would say between twenty-five and
4 thirty-five minutes

5 **THE COURT** All right Thank you very much

6 **MR STANKO** Yes sir

7 **THE COURT** All right, y'all may sit down

8 **MR HUMPHRIES** Your Honor, just one thing from the
9 State's perspective Obviously you've counseled Defendant
10 Stanko regarding an inability to address the verdict of the
11 jury as to guilt I would ask the Court to counsel him
12 regarding his requirement to confine his comments to the
13 evidence presented and the reasonable inferences therefrom,
14 and that no new information would be permitted

15 **THE COURT** All right Mr Stanko, and I should have
16 covered that with you, regarding this particular matter,
17 obviously as the attorneys would also, you would be commenting
18 upon the -- what has been presented in the sentencing phase,
19 either by the State or the Defense, your request of them
20 regarding the sentence, but this is not an opportunity, since
21 you have declined, and it's certainly your option to, you have
22 declined to testify It is not an opportunity to testify
23 before the jury but obviously to make arguments to them based
24 upon what has been presented in the sentencing phase, as well
25 as obviously your request of them regarding the sentence in

JURY OUT/COURT TO DEFENDANT

1 this matter Do you understand those parameters?

2 MR STANKO Yes sir, I do

3 THE COURT All right, very good All right, thank you
4 You can have a seat

5 If you don't mind, Mr Diggs and Ms Williams, when we
6 take a break, Mr Stanko had indicated that he had written out
7 maybe not an entire presentation but certainly notes and what
8 he intended to review with them, so if you might cover that
9 with him and make sure that if you have any questions or
10 matters that you may want to discuss with him, I'd just ask
11 you to take the opportunity to do so, all right?

12 MR DIGGS Thank you, Your Honor

13 MR HUMPHRIES Your Honor, and I apologize for
14 continuing to jump up If there's going to be a -- if the
15 Court is going to address the charging conference later, I
16 won't mention it now, but at some point I believe we at least
17 need to place on the record those statutory aggravating
18 circumstances and the statutory mitigating circumstances

19 THE COURT We are, we are What I was intending was if
20 y'all don't mind, probably what we'll do is let's take a --
21 let's take a short break and then I'll come back and review
22 with you my intentions as to the charge that I have prepared
23 so that you have an idea of what it is the Court is going to
24 be talking to them about prior to giving your arguments to
25 them, all right?

JURY IN/COURT TO JURY

1 **MR HUMPHRIES** Very good Thank you, Your Honor

2 **THE COURT** So let's just take a short break and we'll
3 come back and review that Thank you very much

4 **(THE FOLLOWING TAKES PLACE AFTER A BREAK AND OUTSIDE THE**
5 **PRESENCE OF THE JURY)**

6 **THE COURT** All right, Solicitor, is the State ready?

7 **MR HEMBREE** The State is ready, Your Honor

8 **THE COURT** Defense?

9 **MS WILLIAMS** The Defense is ready, Your Honor

10 **THE COURT** Very good Ask the jury to come in

11 **(THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE**
12 **JURY)**

13 **THE COURT** All right, ladies and gentlemen, we have
14 concluded the testimony to be received in this matter
15 regarding the sentencing phase of this trial What we are now
16 going to proceed into will be the arguments of the Counsel and
17 arguments to be made regarding the sentence in this particular
18 matter

19 Has there been any change regarding the Defense's
20 presentation at all?

21 **MR DIGGS** No, Your Honor

22 **THE COURT** All right, very good

23 I am informed that the Defendant, as his right, will
24 address you as to the issues presented in the sentencing phase
25 in the sentence that you will impose in this particular

STATE'S SUMMATION (HEMBREE)

1 matter When we have concluded the arguments, considering the
2 time that it is now and the arguments that you will receive,
3 we will then break for lunch at that point in time When you
4 have finished with your lunch, we will come back into the
5 courtroom I will give you your closing instructions as to
6 this sentencing phase, and then I will submit the matter to
7 you for the imposition of a sentence in this particular
8 matter

9 So with that, Solicitor

10 **MR HEMBREE** Thank you, Your Honor May it please the
11 Court

12 **THE COURT** Yes sir

13 **MR HEMBREE** Counsel Mr Foreman, ladies and
14 gentlemen, days ago each one of you was individually
15 questioned by the Court Each one of you put your hand on the
16 Bible, you swore an oath, and you took the witness stand

17 In the course of that questioning, Judge John, and most
18 of the time one of the lawyers, asked you this very critical
19 question, a question that now as you sit here today you can
20 fully understand the impact and import of That question was
21 given sufficient evidence and under the right circumstances,
22 can you impose the death penalty You now understand why that
23 question was so critical to our -- to our process and to that
24 individual questioning that you undertook

25 Each one of you, every man and every woman, answered

STATE'S SUMMATION (HEMBREE)

1 under oath, yes, I can I submit to you, ladies and
2 gentlemen, this is that evidence These are those
3 circumstances, and this Defendant deserves the penalty that he
4 has earned through his conduct and through his character

5 Let me deal with one legal issue with you It will be a
6 fairly straightforward issue, quite simple There was a very
7 critical step that took place early in the case, the State's
8 case, in the penalty phase One of the very first steps was
9 Deputy Solicitor Fran Humphries standing up at the beginning
10 of our case and stating that we move all of the evidence from
11 the first phase into the second phase That happens by
12 operation of law anyway It happens by statute, but it was
13 important for you to hear that because that essentially says
14 everything you had in the first phase, every piece of
15 evidence, every word of testimony, has been now incorporated,
16 has been moved into this second phase for your consideration

17 This is why that's important, because the statutory
18 aggravating circumstance that the State relies on in this
19 case, in the penalty phase of this case, is armed robbery,
20 that the murder was committed during the course of an armed
21 robbery That's critical It really is quite simple, because
22 you, as a jury, have already considered that evidence You've
23 evaluated it You've looked at it, and you've decided beyond
24 a reasonable doubt that Stephen C Stanko is not only guilty
25 of murder, but he's also guilty of armed robbery

STATE'S SUMMATION (HEMBREE)

1 Now, as a technical matter, you'll have to answer that
2 question a second time You will be required to go to your
3 jury room at the appropriate time and make the decision, is
4 there the presence of a statutory aggravating circumstance I
5 submit to you you've already decided it You need to decide
6 it again

7 The statutory aggravator is present The murder was
8 committed during the course of an armed robbery Henry
9 Turner's truck, taken The Defendant was captured in the
10 possession of Henry Turner's truck Henry Turner's checkbook,
11 in the Defendant's possession when he was arrested And Henry
12 Turner's body at the crime scene, his pockets are turned out
13 His change, but no cash is present All currency is gone
14 There's no doubt, no question, that we have the presence We
15 have proven beyond a reasonable doubt the presence of a
16 statutory aggravating circumstance That leaves you with the
17 second part of your analysis, the second question, what
18 penalty has Stephen Stanko earned

19 The Defense has asked why They tried to put that on
20 you Why did he do all this? What's the reason? It's so
21 foreign to -- to the way that normal people behave in society,
22 that none of us would do any of that, you know, none of us
23 would kill, and rob, and rape, assault, tie people up We
24 wouldn't do that, try to escape, steal, trick people, lie
25 constantly, so he must be crazy

STATE'S SUMMATION (HEMBREE)

1 Here's the flaw There is a fundamental flaw in the
2 Defense's logic I don't know if they are going to argue it
3 to you again or not, I'm not sure, but here's how it goes
4 They say it like this If you want to boil it all down, take
5 all that stuff, all that mental stuff, all those
6 psychologists, all those psychiatrists and boil it down to its
7 essential elements, they say because I do bad things, I have a
8 personality disorder and if I have a personality disorder, I'm
9 crazy, and if I'm crazy, I don't have to suffer the
10 consequences for the bad things I do

11 That's the logic they use in making their argument to
12 you Because I do bad things, I'm crazy, I don't suffer
13 consequences I get a free pass Under that line of
14 thinking, that same logic, no one who has ever done anything
15 wrong should be held accountable It's that simple There's
16 no accountability in that system

17 It's a great system if you are a Defense lawyer or if you
18 are a Defendant charged with murder Yeah, that's a great
19 plan if you are in that category, but in a society with rules
20 that we have to have to get along with one another and to
21 provide safety for one another, so we can count on one another
22 and get through this earth, on this earth with one another, we
23 have to have rules, and the rules have to have consequences or
24 they are not rules Fundamentally flawed

25 They said that because his family has rejected him, that

STATE'S SUMMATION (HEMBREE)

1 this is -- means something It means he must be insane, he
2 must not be responsible because his family rejected him We
3 heard an awful lot of argument about that It's sad, I admit
4 I think maybe the argument is more geared toward your sympathy
5 than your intelligence, and there's no doubt that no matter
6 what you've done, no matter how horrible the sin, how evil the
7 crime, it's tragic when a family or family members have to
8 turn their back on one of their other family members

9 But there comes a time in families, in societies, that
10 the damage that has been done, the pain that's been inflicted
11 on that family by one of its members, the suffering that that
12 person has caused to that family has been so great that the
13 other family members simply cannot continue to have that
14 connection They have to worry about -- they have to be
15 concerned about the rest of the family

16 When one leaves so far away and leaves that fold and goes
17 off on their own in such a manner that that family has to cut
18 those ties, and it's always a tragedy, but it's a reality for
19 that family's survival, for that family's health, so that
20 family can continue to get along and help each other and pull
21 each other along, they just have to let that one go I submit
22 to you that's what this situation with Mr Stanko's family is
23 about They just can't take it any more They can't take the
24 pain They can't take the damage that he's done not only to
25 so many, but to his own family

STATE'S SUMMATION (HEMBREE)

1 The Defense has tried to, as I said, say that because
2 it's so bad, that it must mean insanity Folks, here's what
3 it boils down to I'll tell you why You want to know why?
4 Defendant Stephen Stanko is just plain evil He has in his
5 core down deep inside something that makes him evil He's a
6 bad man He knows it, and he likes it He doesn't turn away
7 from it He will hide it He's very, very, very good at
8 hiding it, but you cannot equate evil with insanity It's
9 your job to call evil evil when you see it, to use your good
10 common sense, your good judgment Just as you did in the
11 guilt phase, you use it in the penalty phase, and recognize
12 evil for what it is

13 He has been diagnosed with a personality disorder, anti-
14 social, doesn't follow the rules, has trouble following the
15 rules He knows how to follow the rules when he wants to
16 follow the rules and when it benefits him to follow the rules,
17 but there's another part of this, an important part that his
18 psychiatrist, his psychologist told us about, Einhorn You
19 remember Einhorn from Georgia Einhorn was a psychologist
20 that first -- that first diagnosed him for the Defense team,
21 for the Defense team now, and said anti-social personality
22 Nobody is fussing about that He doesn't want to follow the
23 rules, but he's got a very well, highly socialized veneer,
24 well-developed veneer, and this, folks, is the real
25 frightening, scary thing about this Defendant

STATE'S SUMMATION (HEMBREE)

1 You know, some people are bad and they act bad They
2 behave bad to everybody, and you know when you're dealing with
3 them, that's a bad guy, that's a bad girl You can spot them
4 You see them coming As another citizen, as another human
5 being, when you interact with them, you know what to do You
6 have some sense of how to deal with this person You
7 recognize them for what they are, and, therefore, you can take
8 steps

9 You can -- you can say, hey, I don't know about that guy
10 I think I'm going to stay clear of him You know, I don't
11 like dealing with that woman She's not honest, she lies all
12 the time, and I'm not going to -- you know, I stay -- you
13 know, I'm going to keep my distance from her and not get
14 around that person, so as -- we know how to relate to people
15 like that

16 That's the danger in Stephen Stanko because he has such a
17 well-socialized veneer He's smart He's charming, and he
18 knows how to push somebody's button Folks, in this case, you
19 need to measure the evil of Stephen Stanko by his character,
20 and especially by his conduct

21 Just remember Elizabeth McLendon, a young lady, lived
22 down in the Goose Creek area, worked with Stephen Stanko He
23 was charming, he was sweet He loved her She loved him
24 She thought he loved her She let him live with her He had
25 a place, let him drive her car, you know, helped him any way

STATE'S SUMMATION (HEMBREE)

1 she could He'd get into trouble She'd try to help him out,
2 try to get him counseling, try to -- you know, tried, and
3 tried, and tried

4 People, I'll tell you something about this guy right
5 here He has had people through his life -- you saw a bunch
6 of them, a handful of them today, but there was a lot more
7 There are people throughout his entire life that have been
8 offering that man a helping hand, trying to give him a break,
9 a guy who grew up in a -- in a two-parent home, brothers and
10 sisters that loved him, all the advantages, didn't want for
11 anything, intelligent, a good education, college material
12 The list goes on and on, and plenty of people, whether they be
13 neighbors, teachers, principals, coaches, all there for him,
14 willing to help, eager to help

15 Elizabeth McLendon, willing to help, eager to help
16 Ripoffs, con games, not good enough, you know He -- he just
17 can't -- he just won't play it straight He just won't play
18 it straight because he doesn't like to play it straight,
19 because he's a little smarter than everybody else He's a
20 little more clever than everybody else The things that he
21 does, he likes to get over on people, because when he does,
22 when he gets one over on somebody, he shows them he's a little
23 smarter than them It makes him feel good It makes him feel
24 superior One thing he believes, he's superior, he's
25 exceptional, he's entitled That's what he believes, so if he

STATE'S SUMMATION (HEMBREE)

1 can't earn it by getting a job and showing up at eight in the
2 morning and working hard until six at night, well, he'll do it
3 another way, a way that's really more fun to him, a way that
4 really suits him a little better, a way that's a little
5 quicker, a way he can kind of show off on somebody He got
6 them today He got somebody else tomorrow, and that's kind of
7 neat to him Despicable Con games

8 They finally catch up to him, all the -- all the
9 silliness, all this stealing, and lying, and conning You
10 know, they always run the string out, and that's what's
11 happening in -- that's what's happening down in Goose Creek
12 It's all starting to crash in on him, all the car business,
13 his neighbors putting pressure on him It's all starting to
14 -- it's all starting to come to a head, and he knows it

15 He's got Elizabeth McLendon, a single mom Take a look
16 at that Who does he always pick on He's got a single mom,
17 got a child, trying to get along the best she can, working,
18 putting up with him, providing for him, but trying to get
19 along, trying to help him, vulnerable, all the things crashing
20 in at one time

21 He's got no job, he's got no money He's got no car, and
22 he's got no excuses It's run out for him He's got to go
23 It's time to make a plan This isn't some guy who's -- he may
24 not be making good plans I'm not telling you they're the
25 smartest plans in the world, but he's a planner He's

STATE'S SUMMATION (HEMBREE)

1 thinking, he's preparing, working on one right now I can
2 assure you, ladies and gentlemen, as he sits there this
3 moment, he's working on one right now You'll find out

4 It comes to a head He can't leave any witnesses He
5 can't have her talking to the police about what she knows, so
6 what does he do? He jumps her early in the morning She's
7 still half asleep, tries to kill her, or knock her out, or
8 something with a rag filled with bleach and 409 I thought
9 this worked in the movies I saw this work in the movies

10 Like I said, they're not the best plans, but they're
11 plans That takes an effort You've got to go get the stuff,
12 put it together, get your ties laid out there so you can jump
13 on her and tie her up, drags her all over the house tied up
14 She thinks she's going to die Her life flashes before her
15 eyes She knows this is the end Then he leaves For
16 whatever reason, he changed his mind But he learned a
17 lesson He did learn a lesson Some of these psychiatrists
18 say he didn't learn I disagree

19 His last line of this nine page -- nine pages of
20 statement when he got caught by the police, I had no sexual
21 relations with anyone I had no gun I robbed no one That
22 was Elizabeth McLendon He went to prison for that, and
23 folks, he learned He learned

24 He leaves prison, gets out Let's talk about prison just
25 a minute He gets to prison and he gets along with the

STATE'S SUMMATION (HEMBREE)

1 guards, and he gets along with the administrators, and he
2 becomes a go-between, and he does absolutely fine in prison
3 He adapts very well to the circumstances, and I appreciate
4 that That's fine That's Stephen Stanko all the way down
5 the line, because -- and I asked one question that -- of the
6 correctional officer who was here, did it benefit him, did it
7 benefit Stephen C Stanko to get along with the guards and get
8 along with the administration, and he said greatly Of course
9 it did

10 Stephen Stanko can get along fine when it suits him
11 That day, on those days, in that circumstance, at that time,
12 it was beneficial to Stephen Stanko, because everything is
13 about Stephen Stanko He's the center of his own universe,
14 but it suited him, so he got along, didn't have all these
15 outbursts, didn't have these explosive triggering mechanisms
16 under high stress situations that we heard of, never, not one,
17 eight and a half years Nobody can say that He's
18 controlled He's thinking He's making a plan

19 Gets out, and here we start back with the lies and the
20 cons, the same old two and two Maybe he's gotten a little
21 better at it He's pretty smooth, folks He's pretty smooth,
22 walks into a furniture store, tells them he's going to buy
23 furniture, desks, gets on the cell phone, never talks to --
24 never talks to the lady, never says anything to her about it
25 Oh, yeah, oh, yeah, oh, thank you so much for your -- thank

STATE'S SUMMATION (HEMBREE)

1 you so much for your generous contribution, oh, yes, yes The
2 Cancer Institute will sure appreciate it That's smooth
3 stuff, folks

4 He never brought it up It's such a passive, beguiling,
5 clever, really intelligent way to put a con on somebody that's
6 running a small business, that really doesn't have a lot of
7 money, and she said we've got to be really careful with the
8 contributions that we make Not only does he get a Hundred
9 bucks out of the business, he gets Twenty Five out of the
10 individual It just shows the level of his ability He
11 enjoyed it, went down the road He's hitting them all over
12 the place, but we know the story We've seen it before The
13 string runs out Things are closing in

14 Steve Lee wants his Three Hundred and some Thousand
15 Dollars in insurance, uh huh Don McAlister wants to see his
16 Martha Stewart investment that's supposed to get him three or
17 four times his money, uh huh These are some fellows that are
18 not to be trifled with They're not guys you want to go
19 ripping off and, you know, laughing in their faces Time to
20 move on Time to get out of town It is coming to a head I
21 got to make a plan, but he learned He learned

22 You know, he had met Laura Ling She, again,
23 interesting, a single parent, had several children, one in the
24 house, working, has her a little house there, got a little
25 car, an older car, but she's got one, trying to get along in

STATE'S SUMMATION (HEMBREE)

1 this world the best way she can, vulnerable, certainly was an
2 easy prey for the charm, the guile of Stephen Stanko, thought
3 he was wonderful, but Stephen Stanko had -- well, he had run
4 out of time with his cons He had run out of money, didn't
5 have any money, didn't have a car, didn't have his own place
6 to live, didn't have a -- didn't have a thing, and didn't have
7 any more excuses Time to pull up and go, got to do something
8 different

9 He assaulted her in the early morning hours of April the
10 8th Dr Collins' testimony was clear, rather graphic The
11 bruising was literally all over her body Her hands were
12 bound behind her with a necktie She was beaten savagely,
13 savagely

14 You've seen enough pictures of that Stephen Stanko has
15 an ability somewhere in there to commit acts of violence that
16 are so horrific, it really does defy words The experience
17 that Laura Ling went through as she was beaten, her throat was
18 cut, her -- ultimately she was strangled, was an experience
19 that was not quick It was protracted One can only imagine
20 the thoughts that went through her mind, certain thoughts of
21 her children

22 He took her car and he went immediately to the ATM
23 machine, about three, a little after three o'clock in the
24 morning, and cleaned out her bank account, Seven Hundred
25 Dollars worth of cash Now he's got some -- now he's got a

STATE'S SUMMATION (HEMBREE)

1 little bit of traveling money, can use a little more getting
2 out of town money

3 Her car was a -- although it was an older car, it was
4 easy to spot, and it was -- it was a situation where he left
5 -- in my view, he left two people behind dead whose bodies
6 were likely to be recovered rather quickly, and he knew that
7 vehicle would be immediately traced back to them, back to
8 Laura Ling

9 He didn't count on the miracle that occurred, one of the
10 miracles that occurred in this case, so he goes to his cell
11 phone He's trying to make a plan He's left Laura Ling's
12 home He has a car He's got some money now That's a step
13 He's got some transportation, but it's transportation that he
14 may be spotted rather easily, so he's got to do something
15 about that

16 He calls his friend, seventy-four year old Henry Turner
17 Mr Turner, a veteran, a Shriner, a fisherman, lived by
18 himself, nobody around to miss him for, you know, a while
19 They would find him pretty -- you know, soon enough, but he
20 doesn't have anybody living at the house that's going to miss
21 him straightaway, and he says Henry, I am so broke up My
22 daddy just had a heart attack and I need to talk to somebody
23 Do you think maybe you could let me stay over for the night
24 and talk to you about this?

25 Henry Turner is the kind of guy, four o'clock in the

STATE'S SUMMATION (HEMBREE)

1 morning now, that's a pretty good friend, opened up the door
2 and get up out of his bed and drink a beer with you, and let
3 you tell your tale of woe, but that's the kind of man Henry
4 Turner was You got to meet Henry Turner a little bit
5 yesterday You got to meet him through his children, through
6 his friend, Cecelia A friend, a friend indeed, he was Come
7 on over, Steve Come on over

8 The conversation takes place presumably Stephen Stanko
9 stays over Henry even calls his girlfriend, Cecelia, to say
10 Stephen is here His dad has passed away You know, I'm kind
11 of looking after him, holding out that hand, extending that
12 hand of friendship, of compassion, of mercy

13 The next morning, Henry follows his routine He goes
14 down to McDonald's, and that morning he orders and pays for
15 two breakfasts, hotcakes and bacon for two, extending that
16 hand of friendship Break bread with me You're my friend
17 Let me help you out I'll go get some breakfast for us Stay
18 and take it easy Stay right here

19 It appears they ate breakfast There was no breakfast
20 there left on the counter in the crime scene photographs
21 They had their breakfast, and Henry goes back into the -- back
22 into the bathroom He's got his little electric shaver, and
23 he stands in front of the mirror, I'm sure he's done how many
24 times, every day, every morning, just a routine, the same ol'
25 thing he does for the last however long, going to shave, and

STATE'S SUMMATION (HEMBREE)

1 the last thing that he sees, he's had his breakfast,
2 everything is fine, is his friend, Stephen Stanko

3 As he looks up in the mirror, he sees himself, but he
4 also sees his friend, Stephen Stanko, come up behind him with
5 a pillow, placed a 357 magnum against that pillow and fired
6 Can you imagine the confusion, the shock that went through his
7 mind My God, what just happened? This is my friend, Steve
8 He wheeled around Stanko fired another shot into his chest,
9 killing Henry Turner

10 His friend lived alone, an older man, maybe a little
11 vulnerable, maybe looking for some company, extending that
12 hand Folks, leaves, has drinks, goes to Augusta, and meets
13 Dana Putnam It's a fascinating part of the story I submit
14 to you that is miracle number two in this case That is
15 miracle number two, that Dana was here, could testify, but if
16 there is any doubt in your mind, any shred of doubt at this
17 point about the evil that is Stephen C Stanko, listen to this
18 tape in your jury room

19 You know, it's absolutely unconscionable to brutally
20 murder Laura Ling the way he did, and to sneak up on his good
21 friend, Henry Turner and shoot him in the back It's
22 unconscionable, but folks, why drag a fifteen year old girl
23 out of her bed in the middle of the night after you've killed
24 or about killed her mama and rape her It's evil It's
25 because he wanted to There was no purpose to be served other

STATE'S SUMMATION (HEMBREE)

1 than to satisfy the savage desires of that Defendant right
2 there at that moment He wants what he wants when he wants
3 it

4 I can't help but wonder when he was living there in the
5 Ling house when he started thinking about that, when that
6 little fantasy popped into his head He had the chance to
7 carry it out Good Lord, there's evil in this world He
8 beats her, ties her up, too, just like her mama, slits her
9 throat, and it is unbelievable the similarity here It's
10 almost -- it's so intentional It's almost as if he wanted it
11 to be exactly the same for some purpose, but if you just look
12 at the injuries to the mother and the daughter, if I wasn't
13 telling you this, you would think they were coming from the
14 same person That's an autopsy photo That's a hospital
15 photo of Laura Ling There is evil in this world

16 There comes a time -- well, I'll say this There's a
17 miracle in this case, too There are two of them, but the
18 miracle is that [REDACTED] could make that call, because
19 that wasn't the plan That was not this man's plan

20 There comes a time, and I touched on this earlier, when a
21 person's conduct has caused so much damage, has caused so much
22 suffering, the conduct is so reprehensible, it is so evil, it
23 is so brutal, it exceeds the rules of our community and
24 society to such an extent that that person gives up their
25 right to remain among us This is that conduct

STATE'S SUMMATION (HEMBREE)

1 There is a lesson and many lessons in this case, so many,
2 but there's one that -- that I think jumps out, or it jumped
3 out at me when I talked to Roger Turner before trial, and he
4 told me -- he was telling me about his dad, and he said you
5 know, my dad had this saying, he had a bunch of these sayings,
6 but he had this one that he had memorized, and this like his
7 sort of ---

8 **MS WILLIAMS** Your Honor, I would object to the hearsay
9 nature of that testimony there

10 **MR HEMBREE** I will rephrase my statement, Your Honor

11 **THE COURT** Very good

12 **MR HEMBREE** As you heard from the witness stand, Roger
13 Turner shared with you that his father had a statement, a
14 saying, that was like his motto, and he -- he had it -- you
15 know, it was a long statement, and he had it memorized, and he
16 did it at his brother's wedding, and it was his dad, you know,
17 it was the way his dad lived his life, and it was called Man
18 In The Mirror, gives you chills, and there's such a lesson in
19 that, because we -- you know, we look at that, those two men,
20 the last image, the very last image by Henry Turner when he
21 drew his final breath, were two men in that mirror

22 You had Henry Turner, you know, a guy who grew up in
23 humble beginnings The farm wasn't for him, joined the
24 military at seventeen He served his country honorably He
25 worked hard He was promoted quickly He raised a family

STATE'S SUMMATION (HEMBREE)

1 He was a friend He was kind He was compassionate He
2 liked to have fun He joined the Shriners He served others,
3 you know, all the qualities in a human character, all the
4 conduct that says, you know, that's a pretty good fellow
5 there, Henry Turner I'd like to know that guy, you know, I'd
6 like to hang out with that guy a little bit He's a good man

7 There was another man in that mirror, a man who had all
8 the abilities and had all the advantages, but chose not to
9 take them, turned aside, turned away from those, turned away
10 from those people, turned away from those principles, and
11 conducted himself in a way that violates every rule we can
12 think of, rape, murder, robbery, lying, conning That's what
13 we saw, a dangerous man, dangerous because he uses the gifts,
14 the gifts that he has been given, his charm, his intelligence
15 He uses regular weapons, too He'll use a knife He'll tie
16 you up You know, he'll choke you He'll use a gun I mean,
17 he'll use the more traditional weapons when the -- when the
18 situation calls for it, but really, he wants to use his
19 cleverness, his sneakiness, and his charm, his dress He'll
20 even go to church with you

21 He -- he is a con man's con man He can talk to you at
22 some point today or not That's his prerogative That's his
23 right, but I will assure you, ladies and gentlemen, this will
24 be, if he chooses to do so, this will be the performance of
25 his long and horrible career It will be fascinating to

STATE'S SUMMATION (HEMBREE)

1 watch

2 We have had one witness say that he is remorseful We've
3 had every doctor that testified saying he can feel remorse I
4 don't really know I know this, he's a liar, and he's
5 charming, and he's smart

6 Folks, it is my call to you that when you retire to your
7 jury rooms, you consider the evidence in this case You
8 consider it all, mitigation and aggravation Consider all the
9 evidence in the first phase Consider all the evidence in the
10 second phase, and you reach a verdict that satisfies the oath
11 that you gave to this Court, that you gave to that Defendant,
12 that you gave to the State of South Carolina, a verdict that
13 every day while Stephen Stanko remains on this earth, a
14 verdict that when he wakes up in the morning and he goes to
15 the mirror and he looks at himself, although he may like what
16 he sees, he will know in his heart that there were twelve
17 people in Horry County on November 19th of 2009 that he didn't
18 fool, that there were twelve people in Horry County on
19 November 19th, 2009, that held him accountable, there were
20 twelve people in Horry County on November 19th, 2009, that
21 said the appropriate sentence for you is death

22 THE COURT Ms Williams

23 MS WILLIAMS Thank you, Your Honor May it please the
24 Court

25 THE COURT Yes Ma'am

DEFENDANT'S SUMMATION (WILLIAMS)
DEFENDANT'S SUMMATION (STANKO)

1 **MS WILLIAMS** At this point, ladies and gentlemen, it
2 is our turn to present our version of the closing argument,
3 and at this time, the Defendant, Stephen Stanko, in this case
4 wants to address you, and he will go first, and then I will
5 present my closing argument

6 **THE COURT** Mr Stanko

7 **MR STANKO** Mr Diggs wanted me to take a break if
8 y'all wanted that, and we will ask, but I wanted to come up
9 immediately after Mr Hembree I felt that you would be mad
10 and I felt that you would be upset The reason that I wanted
11 to do this was to apologize I don't know that it will make a
12 difference to the family I met Roger on a couple of
13 occasions I never met Ms Gallogly, and I never had a chance
14 to meet Rodney, but I met Roger, and whether they accept it,
15 whether they want to accept it, I hope that they someday will,
16 but I am sorry

17 No matter what the Solicitors attempt to portray, I'm not
18 all that it was like Not all of it was deceptions I'm
19 going to tell you that right now to your face Henry and I
20 were friends He was my friend He was much more Henry and
21 I rode motorcycles together He let me ride his while he rode
22 Roger's, not this Roger, but another Roger He wore those
23 pants that Miss Cecelia spoke of, the United States flag, and
24 he even wore the red socks on several occasions

25 We played pool constantly Henry was one of the best

DEFENDANT'S SUMMATION (STANKO)

1 pool players at seventy-four years of age that I had ever
2 seen We played a lot and he won all the time They didn't
3 talk about that I wish they had, because it was one of the
4 things that he truly loved doing

5 Henry needed some lattice put on his trailer one day He
6 called me, and I ran over there At a time when my dad and I
7 were at terrible odds, Henry was there He treated me like a
8 son Roger told no story there He treated everybody that he
9 cared about as if you were his son, or his daughter, or his
10 best friend, everybody

11 One day we went to -- we went to have lunch It was a
12 Saturday We went to -- just went to a pier to have lunch,
13 and we sat there at about -- we got some hotdogs at about
14 eleven-thirty, and we didn't leave until five o'clock Laura
15 was on the phone calling, saying where are you at, because we
16 were supposed to have dinner, the three of us, pizza and some
17 beer, but we were just sitting there at the same place we had
18 sat for five and a half hours, absent a couple of restroom
19 breaks I'm sorry

20 That was the main reason I came up here, and I'm going to
21 say some other things, and if Mr Hembree thought that I
22 wasn't going to get up here and at least say a few things, I'm
23 sure all of you either expected that I would or expected that
24 I wouldn't say anything at all I'm not going to inflect my
25 voice and do all that stuff like he did I'm just going to

DEFENDANT'S SUMMATION (STANKO)

1 talk to you, and then I'm going to go sit down, and then it's
2 up to you, after Ms Williams

3 When I was sixteen -- sorry When I was sixteen, Ms
4 Wenz, the lady you saw, my calculus teacher, was -- you guys
5 might remember that NASA had a shuttle that went up, was going
6 to go up in space They had this big contest, there was going
7 to be a teacher I think it was the Discovery

8 A lot of you will remember that because as soon as it
9 started lifting up, it exploded, and the teacher that was on
10 there passed -- she died Everybody did That might be why
11 some of y'all remember that shuttle I remember it because my
12 other teacher, Ms Wenz' best friend, was -- she was my
13 calculus teacher She was one of the finalists, so NASA came
14 out to see us, and they said -- you know, they wanted to know
15 what our teacher was like and what made her a great teacher,
16 and the guy, he was a physicist, one of the astronauts, he
17 said he wanted us to understand what basically would go on in
18 space, the decisions

19 And he said if you took a penny and you laid it flat, and
20 he gave us the height of that penny, and he said if you stack
21 a stack of pennies from the earth to the moon, and he gave us
22 the distance, he said how much money would that be? And he
23 said you've got three minutes Go

24 And there was about thirty-five of us in that class, and
25 at the end of the three minutes, about three of us had it I

DEFENDANT'S SUMMATION (STANKO)

1 mean, we didn't have it Hokun Sewell, which is one of the
2 guys that Mr Diggs questioned Mr Fulmer about, he missed it
3 by like seventy-five cents, and he's the lead engineer now at
4 BMW North America

5 Eddie House, which was my best friend at the time, he
6 missed it, give or take Three Dollars one way or the other,
7 and he's the Colonel that Mr Fulmer talked about And I
8 missed it by about the same amount, either more or less, and
9 I'm standing here in front of you When it comes to things
10 like that, I can do it, and I can do it as good as anybody

11 The Olympics of the Mind thing that Ms Wenz talked
12 about, the structure was a bridge that was thirty-five
13 centimeters in length, made of balsa wood, and weighed less
14 than an ounce, and it held seven hundred and forty-pounds
15 Things like that I've always been able to do Things like
16 that have never been a problem In all honesty, association
17 has never been a problem

18 But there have been some problems I mean, you know, I'm
19 not going to stand up here -- the one -- the one thing that
20 Mr Diggs and Ms Williams and I promised in this case is we
21 were going to stick to honesty, and we were going to play no
22 games with lies or deceptions, and we weren't going to fall
23 into any lawyer tricks We weren't going to do stuff like
24 that

25 My feelings were -- and I was facing the death penalty,

DEFENDANT'S SUMMATION (STANKO)

1 and all you know my situation now anyway It's been said, but
2 in this, I was going to honor Henry I was going to honor
3 Christina and Laura, because I felt like that case would get
4 in here and we weren't going to play any games or try and
5 deceive you or ruining their memory

6 About three or four years ago, Diggs came to me, Mr
7 Diggs, and I was sitting in the detention center, and he would
8 come there for these things and we'd have these conversations,
9 and he would ask me these questions He had all the academic
10 records that y'all have seen and everything, and he would --
11 he would get mad and frustrated He even called me a couple
12 of names one time, I mean nothing bad, just -- but he would
13 get mad, you know, Beta Club, Honor Society, all this crap,
14 and he'd yell at me, why are you doing this?

15 He saw the same thing y'all saw He saw me leaving my
16 name on stuff, giving my real phone number, things like that,
17 and he couldn't figure it out, and he would get mad at me, and
18 at that point, you know, you're stupid if you don't think you
19 know what you're facing at that point I mean, it's real
20 stupid It has nothing to do with intelligence It's just
21 common sense You've done things You're looking at what
22 you're facing, and you decide how you're going to deal with
23 it

24 Are you going to face it? You can't get out of it You
25 know, contrary to all that stuff he says, you and I, anybody

DEFENDANT'S SUMMATION (STANKO)

1 here that didn't have all that evidence and understand about
2 getting out or getting in, that doesn't make sense, so I
3 decided I wasn't going to do anything more to disrespect the
4 memory of the people that didn't deserve that, the lives that
5 were lost here, and we haven't

6 We haven't tried to deceive you We haven't played games
7 with you We haven't objected to things that they brought up
8 here The State has a job to do, and I respected that from
9 the beginning, and we made a conscious decision that we
10 weren't going to put people up here that would display things
11 that would make you do one thing or another, and we weren't
12 going to -- I've had to grab Bill a couple of times because I
13 wanted people to say things that were coming out, and I
14 probably shouldn't have, because I think if he would have
15 objected, I think the Judge would have stopped him, but I
16 think that things needed to be said

17 The Solicitors, I understand they had a job to do I
18 understand that I had to deal with it, but I think if you're
19 going to put someone to death, if you're going to try to, then
20 you should be fair, too This case could have been tried, as
21 you all saw, with the evidence as it was

22 You made a decision already, and I think that's great,
23 but you can't put in an aggravating circumstance and say,
24 well, he's a lying, deceiving son of a gun, and then you do
25 the same thing This case didn't have to be tried that way

DEFENDANT'S SUMMATION (STANKO)

1 The twelve of you and the four others could have made a
2 decision well upon your own just by putting the truth up on
3 there Roger told the truth about everything he said Ms
4 Gallogly told the truth about everything she said A lot of
5 others did, but there was others that did exactly what I used
6 to do

7 Mr Hembree started talking about the other -- the
8 experts and all that, and, my God, I know y'all are tired of
9 it because I am, and my life depended on it My life depended
10 on all those experts getting up here and saying what's wrong
11 with my brain, and I believe it I don't know if some of
12 y'all do I don't know I know that we were honest about it
13 I know that much

14 When they compared my brain, they did it with people that
15 had taken that test, and the reason that you do that is so you
16 compare the apples to the apples They put -- they put --
17 they compared me to guys that were sleeping, and yet my brain,
18 according to their expert, was the same, and I'm not going to
19 go through all that, but all I'm saying is if you're going to
20 try to kill a man, be honest

21 If you're going to ask twelve people to go into a room
22 and make that decision, and I believe that all of y'all, no
23 matter what it is, are going to make the right decision, but
24 do it fairly Don't put me in that position and say I'm going
25 to kill you, and do the same thing that you're accusing me of

DEFENDANT'S SUMMATION (STANKO)

1 I'm not going to talk about all this, and originally I
2 had -- I'm going to show you I mean, I had all kind of stuff
3 written about this doctor did this, and this doctor did that
4 I saw y'all taking notes I think that -- I think that y'all
5 have what you need on that stuff

6 I am going to say two things If you heard Dr Wu, Dr
7 Wu said, and I quote, Medicare is now paying for P E T scans
8 for senior citizens for diagnosis of early onset Alzheimers,
9 and that's because they showed that they could find the
10 Alzheimers in senior citizens' brains, early onset, okay?

11 There's an opportunity for that here, too, okay? It's
12 already been said It was said today You know I'm on death
13 row You know that in the Laura Ling case, you know what
14 happened It was already said, okay, so -- but there's an
15 opportunity for the twelve of y'all to make another decision
16 The twelve of y'all can make a decision to stop things like
17 this from ever happening again I'm not going to get out of
18 prison My best case scenario is life in prison, and that's
19 if I even get resolution in the other case, a best case
20 scenario resolution, which would still be

21 The key to this reason -- the key to this and the reason
22 that I didn't plead to this, the reason that I didn't go ahead
23 and plead in this case and just take the death sentence or
24 something like that is because there would have been no
25 opportunity to show this evidence again There would have

DEFENDANT'S SUMMATION (STANKO)

1 been no opportunity to let twelve people look and make a
2 decision that might change the world, and I don't care what
3 anybody says, I mean, I know the Solicitor's job, but remember
4 Dr Crawford, she came up and said we're not there now with
5 the technology The other -- Brannon said we're not there
6 now We are there The world is there

7 When the truth and the honesty was told about my brain,
8 the truth was there, and we're in a position now where a
9 fifteen, or a sixteen, or a fourteen, or a thirteen, or a
10 twenty year old can have a P E T scan done and when they find
11 anomalies and defects in the brain, they can say wait a
12 minute, let's -- let's save -- let's stop something else from
13 going on later What if we could begin scanning people
14 earlier and looking at their brains We can We're doing it
15 for Alzheimers It's no different for frontal lobes, the
16 amygdala, or anything else, and my deal was why not make lost
17 lives worth something

18 Mine is not worth anything I'm not afraid to say that
19 to you That is honesty The Solicitors will say that to
20 you, mine is not worth anything, but what happened in this
21 instance is

22 Some people see things as they are and say why Some
23 people see things as they can be and say why not I took that
24 quote from a book I didn't think of that I'm not that
25 smart, and I'm intelligent and I'm not going to deny that

DEFENDANT'S SUMMATION (STANKO)

1 I've always been intelligent, but that's the truth He called
2 it veritas at the beginning I know everybody remembers that,
3 veritas liberat, means the truth will set you free, and I
4 believe it will for me, whatever the end is, but it can for
5 you, too, because what if we could just -- you know why the --
6 you know why the -- the -- you know why the legal cases aren't
7 there yet to support this? Because it's an uncomfortable
8 decision for y'all to make, not y'all, but every other jury
9 that has sat in front of any kind of situation like this

10 and there's only been four that I know of where this has
11 even come into play, but it requires you to defy a logic It
12 requires you to look beyond the emotions and look beyond the
13 incident and say as much as I want this guy to die for what he
14 did, what can come of it

15 I'm not going to talk about all the -- I'm not going to
16 go through all the doctors and all that stuff It's not worth
17 it I mean, that was my goal here Remember -- I mean, do
18 you remember when cell phones came out and they were these
19 big, huge, clunky things, and they cost Five Hundred Dollars a
20 month to pay, and you could only get a hundred and ninety-nine
21 minutes, and all that kind of stuff I mean, that's what
22 technology does They made a decision and they got better

23 I know that some of y'all have -- some of y'all aren't
24 old enough I know there's a couple of you that weren't even
25 around when the original Star Trek came out, but for those of

DEFENDANT'S SUMMATION (STANKO)

1 you that are, do you remember the old telecommunicator where
2 they would flip them out and they would talk into them
3 There's not a place you can go now in the whole world where
4 there's not a cell phone that you flip open and somebody talks
5 on Ninety-nine percent of the world has a cell phone that
6 has a computer on it It hasn't always been that way P E T
7 scans are the same way

8 I was scared to death when I took that test I was
9 scared to death Bill came to me after we had those
10 arguments Bill called me and said he was so mad at me and
11 couldn't figure out why I was doing the things I was doing,
12 and I wouldn't give him a good an- -- not a good answer, but
13 not the one that he wanted to hear, which was an explanation
14 for why these things occur, and he finally -- yeah, he said
15 there's something wrong with you, and I didn't see him for
16 like two months Then when you're in the detention center and
17 you don't see a lawyer for two months, you start getting
18 worried You start freaking out, you know

19 And then he came to me and he said, well, we're going to
20 have some tests run on you, so he asked the Court We did --
21 he had to do this big affidavit and all this other stuff and
22 submit it to the Court, and the Court decided that those
23 P E T scans could be done We didn't decide that I didn't
24 pay for it Mr Diggs and Ms Williams, they didn't pay for
25 it The Court decided it They're the ones that sent me

DEFENDANT'S SUMMATION (STANKO)

1 there They're the ones that made these things possible, not
2 me, not Mr Diggs, as he liked to say, the Defense team We
3 did ask for it, we did motion it, but we didn't pay for it

4 And then Bill came and saw me another two months later
5 after I took the test Again, I was freaking out, and we sat
6 down in a little room and he said I've got some good news and
7 I've got some bad news, and he said the bad news is you've got
8 a brain defect The good news is you've got a brain defect,
9 and then he tal- -- we went through all the information about
10 it, and he said we can go into Court I just didn't want to
11 hurt anybody else I didn't want my family here I didn't
12 want the victim's family here because I didn't want them to go
13 through it, but then again, that's not my place to say, too
14 They probably wanted to see this go on I don't know, but the
15 one thing I did describe was that if I could make a difference
16 in any way, shape, or form for them, I felt that was worth it,
17 that I could at least try that

18 You watched-- you watched the evidence when it got
19 presented You saw if we reacted or if we tried to stop
20 things that were being said All of you saw that I'm not
21 going to -- I'm not going to recreate it for you I'm just
22 asking you to think about that A lot of you took tons of
23 notes, you know

24 Ms Crolley didn't lie I did that Don McAlister
25 didn't lie I did that, but I know you saw some

DEFENDANT'S SUMMATION (STANKO)

1 inconsistencies with like Steve Lee Why would I sign a
2 receipt for one man for Four Thousand Dollars, but not sign
3 one for a Thousand Where is it? It was lawyer tricks, and I
4 don't think they -- I don't think they set Steve up, but I
5 know Steve, and I tried to help Steve, but Steve didn't tell
6 you a lot

7 Mr Jackson didn't tell you a lot He didn't tell you
8 what that man accused him of, and he didn't tell you why I
9 stopped helping him Those things didn't get to come out, and
10 I don't think those two things are going to weigh your
11 decision, because there was a lot of honesty in here and there
12 was a lot of deceptions, but my point is, again, if you're
13 going to kill me, then do it fair He didn't have to do all
14 that other stuff, you know

15 And you talk about breaking the rules, but Mr -- Mr
16 Humphries is sitting over there with a four and a half inch
17 knife in the back of his pocket He might have it today He
18 had it the other day He talks about if things are good for
19 me You know, I know y'all saw it when he opened up the
20 evidence I know some of you did because one of you said
21 something I saw it, and they talk about how things are
22 comfortable for me or not comfortable, that's when I act out
23 He's got a four and a half inch knife in the back, I mean, the
24 blade, long I bet he's got it right now, and he's been
25 walking by me twenty-five, thirty times, and if I was worried

DEFENDANT'S SUMMATION (STANKO)

1 or fearful of what I was facing, it wouldn't be worth it to
2 take a shot at that

3 I haven't sat at that table and made a bunch of crazy
4 remarks I haven't acted out I haven't done anything I've
5 been upset I've been mad at some of the things that got said
6 and some of the things that they presented up here I can
7 show you though that the State is worried about an impulse out
8 of me I can show you that beyond a shadow of a doubt I can
9 show you that all those little stories that he told you about,
10 he only does this when he wants to Do you see that? If I
11 did act out, they'd electrocute me Don't tell me they're not
12 -- they don't think that it could happen any time

13 It's your decision right now by just looking at the
14 proof, and that's all I'm asking It could make more of a
15 difference than whether or not I live or die It just can I
16 don't know if you believe that I don't know if you don't,
17 but I had to say it, and I had to say that I did it, and I'm
18 sorry that you got put through it

19 I'm sorry that Ms Gallogly, and Rodney, and Roger, and
20 Cecelia all had to be put through this I hope that any hate
21 and anger that they have for me can be cured with the memory
22 of Henry because this wasn't right It wasn't, and I'm sorry,
23 and I miss Henry Henry -- Henry was never afraid to tell you
24 what you're doing is stupid

25 We are there We are where they say that we're not, and

DEFENDANT'S SUMMATION (STANKO)

1 you all can make that decision You all have that ability
2 I'm not going to read any more of this I can tell you this,
3 that all of you sit in a position right now where you can make
4 a huge change in the world You have to defy the comfortable
5 thing then You would have to You would have to go against
6 probably every ounce of feeling that you have right now I
7 know that, and I respect y'all's decision no matter what it
8 is, but you can make a difference I would hate to -- I'm not
9 going to walk away from here without saying that

10 There was a -- Solicitor Hembree liked talking about
11 movies There was a movie called Minority Report, and it had
12 either Tom Cruise or Keanu Reeves I don't know if any of you
13 saw it, but it was -- it had the ability to -- it was actually
14 -- it had the ability to see the future kind of and see when
15 people were going to hurt other people or commit crimes

16 It wasn't murder always, not always, I mean when they
17 were going to steal, when they were going to rob banks, and
18 they had these people that could see it, and so what they do
19 is when they knew it was coming, they would send somebody into
20 the future and stop it, and this is that -- it's -- it's --
21 with every movie, every fictional movie, there's some truth,
22 and this is it, because if you could -- it's just like the
23 cell phones

24 The cell phones were Five Hundred Dollars, a Thousand
25 Dollars Now they're -- now they're -- you can get them for

DEFENDANT'S SUMMATION (STANKO)

1 free, but what if you could get P E T scans done, and that's
2 where it's going Remember the first computer that was the
3 size of a garage It's just like y'all saw that picture of
4 that P E T scan that Dr Wu has, and the next thing you know,
5 they're in your hand Well, what if you could scan people and
6 just look at things and say we can fix that We can, we can

7 In order to do that, you would probably have to go
8 against what's comfortable, and I understand that I mean,
9 this is like Roe versus Wade It's like Brown versus Board of
10 Education It's one of those cases where people have to go
11 against things that are the public norm You are the jury
12 You know the emotion that gets involved, and I understand
13 that, but I had to do this, too I think I owed that

14 They paraded people in here to say everything they want,
15 and I'm not going to blame this on my family, you know We
16 weren't really trying to do that Every family is kind of
17 screwed up, you know Everybody has times when, you know,
18 you've got your black sheep or whatever they want to call it
19 I'm not going to let a deception go on either

20 I talk to my sisters now, I mean my one sis, Peggy My
21 brother hasn't talked to me because we had an argument, you
22 know, and it was about the stuff like this He felt that
23 after the first trial, he felt -- he thought that we had tried
24 a little bit too much to avoid things and go around it, and I
25 was trying to get him to understand that by presenting the

DEFENDANT'S SUMMATION (STANKO)
(WILLIAMS)

1 brain evidence, that's not what we were trying to do
2 completely I mean, any time you present evidence that shows
3 why you did something, I think that is trying to show a reason
4 or whatever, but when Jeff and I fought, he felt that I was
5 trying to avoid it, and that was why I made the decision to do
6 this

7 I didn't talk at all last time because, you know, and I
8 prob- -- I don't know if I should have this time Some of you
9 might be mad Some of you might not I don't know, but I had
10 to tell them I was not -- I was not going to go back there and
11 not let those people know that I was sorry, and I felt that --
12 thank you, and to Rog- -- Roger and Rodney, and Ms Gallogly,
13 and Cecelia, I am sorry I am

14 Ms Williams is going to talk to y'all now Thank you

15 **THE COURT** All right, Ms Williams

16 **MS WILLIAMS** Beg the Court's indulgence

17 **THE COURT** Yes Ma'am

18 **MS WILLIAMS** Good afternoon, ladies and gentlemen of
19 the jury You know the Solicitor gave a very compelling
20 argument There is no doubt that what you have seen in this
21 case has been horrible What you have witnessed and had to
22 see pictures of is just shocking, and heaven forbid it is a
23 shame that it ever happened in the first place I don't
24 dispute that We, the Defense team, don't dispute that, you
25 know, and he gives you the compelling argument that this is

DEFENDANT'S SUMMATION (WILLIAMS)

1 the case to put that man to death, but I will tell you and
2 submit to you that it's not his choice It's yours You are
3 the ones that have to make the individual and then collective
4 decision to do it

5 You know, I went home last night and I thought, what in
6 the world can I stand here and say What can I say, you know,
7 and I thought, well, Brana, when you looked at this case, what
8 did you think? Now, part of my job as a lawyer is to assess a
9 case I have to go into it, I have to look at it, I have to
10 think about it I have to think like a prosecutor I have to
11 think like a defense lawyer and then figure out where it all
12 stacks up

13 And I -- and I started trying to decide, you know, we're
14 at -- we're at this stage now, so what we're looking at is
15 were there aggravating circumstances and if there were, do we
16 sentence him to life without parole, which, by the way, really
17 does mean that It means that forever he will never get out
18 of prison, never, ever, ever Every birthday he has, he will
19 be in jail Every Christmas that comes, he will be in jail,
20 forever, or do we put him to death

21 The Judge will charge you He's going to tell you what
22 the aggravating circumstances are He's going to tell you
23 what the mitigating circumstances are The statute lists --
24 there's actually ten that the statute lists, and then there's
25 actually everything else Now, there's three that we've asked

DEFENDANT'S SUMMATION (WILLIAMS)

1 him to charge, and I'm going to tell you what those are

2 The murder was committed while the Defendant was under
3 the influence of mental or emotional disturbance The second
4 one, which is actually number six, the capacity of the
5 Defendant to appreciate the criminality of his conduct or to
6 conform his conduct to the requirements of the law was
7 substantially impaired And number seven, the age or
8 mentality of the Defendant at the time of the crime, and then
9 there's everything else

10 And I thought, you know, let's look at it Let's go back
11 through it and let's look at it, and the Solicitor would have
12 you believe he planned, he conned, he deceived I -- I would
13 pause for a second Now, there's been a lot of talk about who
14 paid for this, how much did you make, where did you come in,
15 who funded this

16 Ladies and gentlemen, I submit to you we all understand
17 that if an expert had something terrible to say against my
18 case, I would be an idiot as a lawyer to put him on that
19 stand If this expert had something terrible, for the State,
20 to say, the State wouldn't put him on the stand We know
21 that What you guys got to do is figure out where you want to
22 slice it at, what part you want to pick out, what part you
23 don't, if you want to take it all, if you want to take none of
24 it That's what you're doing, so, I mean, we understand that,
25 okay?

DEFENDANT'S SUMMATION (WILLIAMS)

1 Now, but I will submit to you, let's go back and look at
2 it, the very first horrible thing you heard about Ms
3 Buckner sat on that stand and told you he stuck a 409 and
4 Clorox rag on her face, and made comments about, Lord, it
5 works in the movies Why isn't it working now? He then ties
6 her up and brings her to -- in the shower while he's taking a
7 shower and singing like everything is hunky-dory

8 And do you recall what she said? The oddest thing I
9 thought that she said out of all of it, even though it's all
10 awful, but the oddest thing was, and he said to me, I've got
11 to stage this so it doesn't look like you're a part of it, and
12 she said but I'm not a part of this, to herself, because, you
13 know

14 She left -- he left her, went up to Greenville Now,
15 we're from South Carolina We know the map That's two and a
16 half hours away, three hours max, depending on how fast you
17 drive, and he called his friend who works for the Police
18 Department twice Was he really trying to get away?

19 He then comes to make a statement for his friend I
20 entered it into evidence, and you know why I did that, because
21 it was nine pages, front and back, full of more detail than
22 y'all wanted to know, but you heard the question that I asked
23 Officer, how many people have you investigated? How many
24 statements have you taken? Do you get nine pages full of the
25 detail? No, I don't

DEFENDANT'S SUMMATION (WILLIAMS)

1 There's a lot to come, Two Hundred Dollars here, Five
2 Hundred Dollars there, a car here, a car there, a car yonder,
3 a car He comes to Myrtle Beach, a Thousand Dollars from this
4 person, Five Hundred Dollars from that person, Four Hundred
5 Dollars over here I mean, he's taking cons There's no
6 doubt about that, but I would submit just because you take
7 Four or Five Hundred Dollars, or Eight Hundred Dollars, or
8 whatever, isn't no reason to elevate all of this to the death
9 penalty, okay?

10 Now, let's take a second and look at what happened when
11 we get to the actual incidents and stuff we've discussed The
12 first one, Ms Laura Ling and [REDACTED] awful I'm the
13 first to say it You guys heard that awful 911 tape that was
14 played, but did you hear when the operator asked you had he
15 ever done anything like this before, and she says no, no, God,
16 no The operator later on asked her again, did you expect
17 this? Has he ever done anything like this before? No, no,
18 never, no

19 She also even said, in fact, he woke me up How awful,
20 but my land, why, why in the world would you do that? Now,
21 the Solicitor said we -- we're trying to confuse it by asking
22 why, but ladies and gentlemen, I submit there's -- you know
23 what, we have a duty to ask why You know, I put my little
24 skull up here and I'll tell you why I'll come back to it
25 Let's go on to Mr Turner's incident

DEFENDANT'S SUMMATION (WILLIAMS)

1 Stephen Stanko leaves the Laura Ling house with a red
2 convertible Mustang You know, I'll tell you this I sat
3 there last night trying to figure out, let me explain it to
4 myself Let me make it sense why it would have happened He
5 leaves that house, and if we -- we follow the Solicitor's
6 logic, he thinks he's killed both of them He has no idea
7 that, thank goodness, [REDACTED] did not die, okay? We
8 know that We know You heard from the stand that he called
9 after Mr Turner's death and called the library to tell them
10 Ms Laura Ling would be sick so she wouldn't come in until
11 Friday Nobody should have missed her until Monday We can
12 safely assume that, okay?

13 He lived with her He knew her habits He knew her
14 routine At best, you can figure he figured he had until
15 Monday to get away, okay? Now, a hundred and forty IQ, a
16 hundred and forty-three, depending on how you do the math It
17 doesn't matter That's way up there, way up there The
18 doctor testified that's three standard deviations, meaning
19 it's way up there

20 He's smart enough to know that he doesn't need to go to
21 Columbia, two hours away, and be up there running his mouth
22 and talking and flashing because he's got to know that they're
23 going to come and chase him He's got to know that even if
24 they aren't chasing him that night, he's leaving the trail,
25 he's leaving the trail, he's leaving the trail for everybody

DEFENDANT'S SUMMATION (WILLIAMS)

1 to find him

2 Now, do you recall, do you remember what the bartender
3 said? They left the one bar where he was throwing money
4 around and they went over to that car -- truck, and Steve got
5 in the spat with that other boy who was in the group, and I
6 think Mr Diggs asked him, well, tell me about that reaction,
7 and he said he got -- he got so mad It was like -- wasn't
8 something -- a normal person shouldn't have reacted like that
9 I mean, you know, he was running his mouth and the other boy
10 was challenging his stor- -- his lies, but he got above --
11 over -- quote -- a normal person wouldn't have got that mad

12 I say -- now, I'm going to tell you this My version is
13 my version You guys actually did a great job of taking
14 notes Go back and look at your notes Don't -- don't --
15 don't trust me Trust what you heard, but I know he commented
16 on the -- his ac- -- his reaction was above board, you know,
17 just out of whack

18 We leave Columbia We go to Augusta, and they're where,
19 I submit, the most ridiculous of all, if you want to say it,
20 why in the world would you get up and go to church on Sunday
21 morning and be on the camera for everybody to see you, and he
22 knew it, because you heard Ms Putnam testify that she told
23 him she wanted to sit in that spot so her grandma would know
24 she was in church on Sunday morning

25 He had his things at Laura Ling's house He had his name

DEFENDANT'S SUMMATION (WILLIAMS)

1 on things He had his -- Laura's car at Henry Turner's house
2 He took Henry Turner's truck He knew that Mr Turner's
3 girlfriend knew he was at his house at four o'clock in the
4 morning He knew this He -- she said they talked four or
5 five times a day They talked all the time He had to know
6 that when she started calling and he didn't answer, she would
7 get worried

8 I was trying to decide if I could explain it You guys
9 have already decided he's guilty, not insane by your
10 understanding and your evaluation of the law You know, the
11 Solicitor moved all of that evidence in It's here, and I
12 would submit to you that maybe we've got to at least
13 acknowledge there's something not right there

14 You know, you heard Dr Gur come testify, Dr Gur who has
15 at this point with the Childrens Hospital a Twenty Million
16 Dollar grant to study genetics in our children to try and help
17 for the future, testified that here there's a physical
18 smaller That's what I got out of it Inside, it's
19 physically smaller That's why all of that fluid is in there,
20 because your brain has to have fluid, so if there's not an
21 actual matter, fluid fills it up because it's got to be full
22 inside your head

23 You heard Dr Wu testify that not only is it based on Dr
24 Gur, it's kind of smaller, but it doesn't function the same
25 way It doesn't function The doctors got on there and

DEFENDANT'S SUMMATION (WILLIAMS)

1 testified that, yeah, he does It's just fine Dr Spicer
2 said it's just fine It's -- our normal stuff, but I would
3 submit we did point out and he did say that his normal is
4 sleeping in the dark room with a barcalounger

5 You know, we progress, and thank goodness we do You
6 know, it was only a hundred -- I would say a hundred and fifty
7 years ago I wasn't that much of a history buff You know,
8 when women used to think they had the right to vote, their
9 husbands could say they had hysteria and get them locked up in
10 the crazy house, you know

11 Back in the early nineteen hundreds when children were
12 mentally retarded, if they didn't know -- families didn't know
13 what to do with them, they could have them locked up in the
14 crazy house, you know Forty years ago, we didn't know really
15 what autism was Thank goodness, today we do Thank
16 goodness, today we can do things to help, and you know why,
17 medicine has to advance Things have to advance, and it's
18 because of people like Dr Gur and Dr Wu that it does

19 The perfect example, Steve said it, I was going to show
20 you You realize I can sit here right now and I can call
21 anybody all over the world I can sit here if I want to, talk
22 to my secretary while I'm talking to you if I were good enough
23 at it

24 These were horrible, horrible crimes, and he will be
25 punished There is no doubt about that What I want to ask

DEFENDANT'S SUMMATION (WILLIAMS)

1 you guys to do is to realize that it is your decision as an
2 individual and as a group to think about what, if anything, we
3 could learn from this, and maybe we don't know now -- in fact,
4 it was said Dr Crawford said we aren't there yet, we don't
5 know it yet, but you know what, in five to fifteen, twenty
6 years, we might be We might just be

7 And can we as a society sit here and think it's okay to
8 kill people who we sometimes just don't understand, and we
9 don't understand this We don't know You heard his teachers
10 tell you he should have been there, he should have gone He
11 had all the potential He came to the path in the road, and
12 you know what, he didn't go down the one he was supposed to

13 I take this time to thank you I said it once, I've said
14 it before, and I'll say it again I think sitting in those
15 seats has to be the most difficult position in the entire
16 world I hope you will never have to be in that position
17 again

18 I thank you for your attention, your diligence Mr
19 Diggs thanks you Stephen Stanko thanks you for being a part
20 of our system, and I want to remind you, as the Judge will
21 tell you, that even if you find that that aggravating
22 circumstance was there, you can still choose to vote for a
23 life sentence without the possibility of parole for any
24 reason, for no reason whatsoever

25 You know, Steve said up here, and I quote, he said his

DEFENDANT'S SUMMATION (WILLIAMS)
JURY OUT/COURT TO ATTORNEYS AS TO CHARGE

1 life is not worth anything I would disagree I think his
2 life could be very useful to us He's proven it in prison
3 He's helpful to some of the other prisoners You heard the
4 warden say he was helpful with some of the youth in prison
5 He was helpful with people that came in to understand, my God,
6 why? You don't want to be here, too

7 I think his life is worth something, and I would ask you
8 to decide that it is worth something as well

9 **THE COURT** All right, ladies and gentlemen, we are
10 going to break for lunch at this point in time If you would
11 go to your jury room at this point in time Thank you very
12 much

13 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
14 **JURY)**

15 **THE COURT** All right, Counsel, let me go over some
16 things that I am going to charge to the jury and when we take
17 a break then y'all can see if there's anything else that you
18 wish me to charge them

19 I will just remind them at the very beginning again about
20 the note-taking that I did at the first part of it and again
21 if the Court told them to disregard something, that was
22 something they were supposed to do

23 We'll talk to them about the things that we normally talk
24 about, again reminding them of those things again that we
25 talked about before, about their duties, the credibility and

COURT TO ATTORNEYS AS TO CHARGE

1 believability of witnesses, expert witnesses, direct and
2 circumstantial evidence We'll talk about all of those things
3 again

4 I am going to, in a modified sense, talk again about the
5 Defendant did not testify I am going to use virtually the
6 same language that I did in the first part, the first part of
7 this trial, about the fact the Defendant did not testify, and
8 I'll talk to them about that

9 Talking to them about reasonable doubt as to the
10 existence of a statutory aggravating circumstance I will
11 charge them again the definition of reasonable doubt
12 Regarding the statutory aggravating circumstances, the two
13 that I will charge to the jury are robbery while armed with a
14 deadly weapon and larceny with use of a deadly weapon Those
15 are the two statutory aggravating circumstances that the Court
16 intends to charge to the jury in this particular matter

17 In 16-3-20 in the statutory aggravating circumstances,
18 those are Subsection (C)(a)(1), and then it goes down to (d)
19 and (e) Those are the two, so those Again, if there's
20 anything in here that y'all have a question about or objection
21 to, when we come back y'all let me know

22 I need, I believe, to define to them again what armed
23 robbery and larceny are, that they have an understanding of
24 that, and define deadly weapon to them as I did before, that
25 deadly weapon is any article, instrument, or substance which

COURT TO ATTORNEYS AS TO CHARGE

1 is likely to cause death or great bodily harm, and whether an
2 instrument has been used as a deadly weapon depends on the
3 facts and circumstances of each case

4 We will then go into and talk to them about if they don't
5 find beyond a reasonable doubt that one or more of the
6 statutory aggravating circumstances existed at the time the
7 victim was murdered, then they would cease their deliberations
8 and advise the Court by having the Foreperson sign the form
9 that indicates No Finding Of Aggravating Circumstances, and
10 then go on to talk to them if they did what their
11 considerations would be, and then we'd talk about mitigating
12 circumstances, and as presented by the Defense to me, the
13 three mitigating circumstances that the Defense has presented
14 to me in this particular matter are the murder was committed
15 while the Defendant was under the influence of mental or
16 emotional disturbance, the capacity of the Defendant to
17 appreciate the criminality of his conduct or to conform his
18 conduct to the requirements of law was substantially impaired,
19 and the age or mentality of the Defendant at the time of the
20 crime, and those would be, again, in 16-3-20 in Subsection
21 (C), and then it goes to (b), mitigating circumstances, and
22 then it would be Subsection 2, Subsection 6, and Subsection 7
23 The Defense did not submit to me any non-statutory
24 mitigating circumstances, so I do not have any here Again,
25 if you have some non-statutory mitigating circumstances that

COURT TO ATTORNEYS AS TO CHARGE

1 you want me to charge to them, you need to give those to me,
2 but I am charging the ones that have been submitted to me by
3 the Defense and I have just enumerated those

4 I will tell them that they are not allowed -- they should
5 not allow passion, prejudice, or any other arbitrary factor to
6 influence their decision, and they cannot allow themselves to
7 be governed by sympathy, prejudice, passion, or public
8 opinion

9 I will go over the forms, basically reiterate those We
10 will hand to the jury the forms, the first one being the
11 Statutory Instructions In determining to -- whether to
12 recommend that the Defendant, Stephen C Stanko, be sentenced
13 by the Court to life imprisonment without the possibility of
14 parole or to death, you may consider the following statutory
15 aggravating circumstances, and again those two, and has that
16 you may also consider the following statutory mitigating
17 circumstances, and putting those three, and I have put also
18 that you may consider any non-statutory mitigating
19 circumstances you deem relevant, and though I haven't
20 enumerated any, I did add that to put to that

21 We do have the form about No Finding Of Aggravating
22 Circumstances that I talked about I have the form for
23 Aggravating Circumstances that we talked about in there, but
24 it does have we, the jury, in the above entitled case find
25 beyond a reasonable doubt the following statutory aggravating

COURT TO ATTORNEYS AS TO CHARGE

1 circumstance, has a blank for them, and then it has a blank
2 for all twelve jurors to sign on that particular form

3 There is a form that is stated life imprisonment without
4 the possibility of parole and says we, the jury, in the above
5 entitled case recommend to the Court that the Defendant,
6 Stephen C Stanko, be sentenced to life imprisonment without
7 the possibility of parole, and that is solely for the
8 Foreperson to sign if that's their verdict

9 Then we have the form of the recommendation of a death
10 sentence We, the jury, in the above entitled case having
11 found beyond a reasonable doubt the existence of the following
12 statutory aggravating circumstances, to wit, and have them to
13 write that out again, now recommend to the Court that the
14 Defendant, Stephen C Stanko, be sentenced to death, again
15 twelve lines for all the jurors to sign Though the forms do
16 say recommend, I do say in the charge, I make it clear to
17 them, that the Court will follow any recommendation that they
18 make, indicating to them that the sentence they impose will be
19 the sentence that will be imposed by the Court in this
20 particular matter

21 At the present time, is there anything further from the
22 State that you would like the Court to charge?

23 **MR HUMPHRIES** Your Honor, I'm certain that it's
24 included in your charge, just was not specifically mentioned,
25 but in regard to the mitigating circumstances, I -- I'm sure

COURT TO ATTORNEYS AS TO CHARGE

1 the Court is also going to charge that they can -- that the
2 jury can give life for any reason or no reason at all

3 THE COURT It's in here I didn't read the whole
4 thing, ---

5 MR HUMPHRIES Yes sir

6 THE COURT --- but that's -- it is definitely -- and
7 I'll read that part to you Well, going back, there's no
8 evidentiary burden placed on the Defendant to establish
9 mitigating factors More over, you are authorized to impose a
10 sentence of life imprisonment regardless of whether you find
11 that any mitigating circumstances exist Simply stated, you
12 may sentence the Defendant to life in prison for any reason or
13 no reason at all, or simply as an act of mercy

14 MR HUMPHRIES Thank you, Your Honor, and the only
15 other thing, and I know you didn't read through all the
16 definitions, but in regard to the armed robbery, the State
17 submitted State's Request To Charge Number 1 in the guilt
18 phase regarding the continuous acts, even if the victim was
19 dead it would be considered a robbery

20 THE COURT Yes sir

21 MR HUMPHRIES Yes sir

22 THE COURT All right, very good Anything else from
23 the State that you know of?

24 MR HUMPHRIES No, Your Honor Thank you

25 THE COURT All right From the Defense, anything? As

COURT TO ATTORNEYS AS TO CHARGE

1 I've explained it to you, any objections, deletions, additions
2 to it, or anything else, especially in the -- well, not
3 especially, but anything obviously, but -- and again, I'm
4 asking you about, you know, mitigating circumstances, anything
5 else other than the three that you have presented to me?

6 **MR DIGGS** Well, Your Honor, the evidence will be
7 reviewed by the jury as it is, and I don't know of any
8 instruction -- I'm sure Your Honor is not going to give an
9 instruction that they are limited to the three mitigating
10 factors that are outlined in the Court's ---

11 **THE COURT** No, but, I mean, I ---

12 **MR DIGGS** So in terms of specific written additional
13 instructions, no, sir, we don't have any

14 **THE COURT** Let me -- when I read those three and I tell
15 them that we will give them those three, it goes right after
16 that and says in addition you may find mitigation evidence in
17 any aspect of the Defendant's character, or record, or any of
18 the circumstances of the offense or otherwise from this record
19 of evidence which you find offers a basis for a sentence other
20 than death In other words, you may consider any relevant
21 mitigating factors or circumstances as enumerated in the Code
22 of Laws or otherwise as you may find

23 **MR DIGGS** Exactly

24 **THE COURT** So that will be part of it, all right
25 Again, we'll break now When the jury is done with lunch,

COURT TO ATTORNEYS AS TO CHARGE

1 we'll come back in If y'all think of anything else, if
2 there's anything else you want to bring to my attention, you
3 know, please indicate that to me when -- when I come back in,
4 all right?

5 MR DIGGS Thank you, Your Honor

6 MR HUMPHRIES Thank you, Your Honor

7 THE COURT Thank you very much

8 (THE FOLLOWING TAKES PLACE AFTER A BREAK OUTSIDE THE
9 PRESENCE OF THE JURY)

10 THE COURT All right, Solicitor, over the break did
11 y'all think of anything else that you wanted added to the
12 Court's instructions to the jury?

13 MR HEMBREE No, Your Honor

14 THE COURT All right And the Defense, Mr Diggs, was
15 there anything that y'all thought about that you wanted added
16 to the Court's instructions to the jury?

17 MR DIGGS No sir It appears that the Court has gone
18 through everything, and so ---

19 THE COURT All right

20 MR DIGGS --- at this point, we would say no

21 THE COURT Well, obviously y'all pay attention to what
22 it is I tell them, and I will give you an opportunity at the
23 end if there's any exceptions, deletions, or additions, y'all
24 bring that to my attention, okay?

25 MR HUMPHRIES Your Honor, let me ask this just so we

COURT TO ATTORNEYS AS TO CHARGE
JURY IN/CHARGE BY THE COURT

1 don't have to cross this bridge again

2 **THE COURT** Yes sir

3 **MR HUMPHRIES** Just so we don't have a repeat of the
4 -- of the charge in the -- in the first phase Is the Court
5 going to charge the jury that they should determine the
6 evidence based solely -- or determine their sentence based
7 solely on the evidence as presented in this courtroom instead
8 of having to bring them back in for that additional charge?

9 **MR DIGGS** Your Honor, we've agreed -- well, I mean,
10 not agreed, but we would ask you to go ahead and give that
11 charge again

12 **THE COURT** All right Okay All right I'll make a
13 note to put it in here somewhere

14 All right, ask the jury to come in, please

15 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
16 JURY)

17 **THE COURT** All right, ladies and gentlemen, it is now
18 my responsibility to give you the instructions that you are to
19 follow regarding the sentence you are to impose in this
20 particular matter Now, some of the things that I will talk
21 to you about will be similar to or I might repeat a little bit
22 of what I have already told you because there are some
23 aspects, general aspects, of the law that I need to remind you
24 about again and that I've already talked to you about, but
25 there will be portions of my instructions that you have not

CHARGE BY THE COURT

1 heard before I am asking you to pay attention to all of it
2 It is important that you listen to it and follow the
3 instructions as I give them to you

4 I told you I allowed you to take notes during the course
5 of these proceedings, and again I remind you that some people
6 are better note-takers than other people, and just because one
7 person has something written down should not be used to trump
8 the collective knowledge of the jury or another juror's
9 remembrance of that It is your collective memory, your
10 collective remembrance of these events that governs in this
11 particular matter as to the facts and evidence

12 If I directed you to disregard any statement or any
13 matter, again please remember that you may not use that
14 statement or matter in arriving at your decision in this
15 particular matter You're going to make your decision based
16 solely and completely upon the facts and evidence that have
17 been presented to you in this sentencing phase and from no
18 other source

19 I told you that I would not at any point in time give you
20 any indication or tell you what I thought the facts of the
21 case were because that's not my job That is not my
22 responsibility That is your job and your responsibility

23 Again, as I told you before, if you came to this
24 courtroom with any preconceived ideas of what the law is, what
25 it ought to be, what it should be, what you hope it would be,

CHARGE BY THE COURT

1 again you will disregard that You will take the law as I now
2 give it to you and apply it to the facts and evidence as you
3 so find it to be in this particular matter

4 Again, one of your jobs is to judge credibility and
5 believability We are again asking you to use your good
6 common sense and your good judgment that you use in conducting
7 your own affairs and apply it to the facts and evidence that
8 you have heard in this particular matter, remembering again
9 that you can believe one witness against several, several
10 against one You can believe a portion of what a witness says
11 and disregard the remaining portion of it If you've got a
12 good and sound reason for doing so, you could disregard its
13 entirety, the testimony of a particular witness

14 You look at whether or not that witness has exhibited to
15 you any kind of motive, bias, prejudice that they might have
16 in giving you the information they gave you from the witness
17 stand and, of course, any opportunity for knowledge, how did
18 they come about that particular information that they gave you
19 from the witness stand Again, your job is to search for the
20 truth, finding those facts and evidence which convince you of
21 their truth

22 Regarding any witnesses that the Court qualified to give
23 their opinion, again I remind you just because the Court
24 qualified someone to give their opinion, which we don't
25 normally allow people to do, and we allowed them to do that

CHARGE BY THE COURT

1 because of their experience, training, education, their work
2 in a particular field, that doesn't give them any special
3 status We have created an exception to allow them to give
4 their opinion, and that is evidence that you weigh with all
5 the other evidence in the case You judge all the evidence
6 the same and find that evidence which convinces you of its
7 truth

8 Remembering that direct and circumstantial evidence --
9 remember direct evidence is the testimony of a person who
10 claims to have actual knowledge of a fact Circumstantial
11 evidence is proof of a chain of facts and circumstances
12 indicating the existence of a fact, and the law doesn't make
13 any distinction between the two You judge all the evidence
14 the same You weigh all the evidence the same You find,
15 again, that evidence which convinces you of its truth

16 Any decision you make with regard to the sentence in this
17 matter must be unanimous Understand, again, and I'll remind
18 you more than once, means all twelve of you, not eleven-one,
19 ten-two, any combination thereof Whatever your decision is,
20 it is the decision of all twelve of you, and if there is --
21 and I'll more fully explain this again, but if there is a
22 sentence of death in this matter, it has to be based upon
23 proof beyond a reasonable doubt

24 The Defendant did not testify during the sentencing phase
25 of the trial As I told you at the end of the first phase,

CHARGE BY THE COURT

1 this is not a factor to be considered by you in your
2 deliberations with regards to the sentence to be imposed in
3 this matter It must not be considered by you in any manner
4 whatsoever It should not even be discussed in the jury room
5 It is not part of the sentencing procedure in this matter

6 In determining the appropriate sentence for the
7 Defendant, you may consider any statutory aggravating
8 circumstances that are supported by the evidence You may
9 also consider the particular nature of the crime and the
10 particular characteristics, if any, of the Defendant You may
11 also consider any evidence presented with regards to the
12 Defendant's prior criminal record and any other alleged acts,
13 although such evidence must not be considered evidence of any
14 statutory aggravating circumstance Rather, the Defendant's
15 prior criminal record and any alleged prior acts must be
16 considered by you only as evidence of the Defendant's
17 character and characteristics

18 In arriving at your decision, you must first determine
19 from the evidence presented during this sentencing phase and
20 again remember we have incorporated all the evidence that was
21 presented in the guilt phase, so all that evidence, plus any
22 that was presented in the sentencing phase, to determine
23 whether or not there was a statutory aggravating circumstance
24 that existed beyond a reasonable doubt at the time that the
25 victim was murdered by the Defendant

CHARGE BY THE COURT

1 Again, reasonable doubt Reasonable doubt is the kind of
2 doubt that would cause an ordinary, reasonable person to
3 hesitate to act Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced I remind you again there
5 are very few things we can know with absolute certainty and
6 the law doesn't put that burden on the State of South
7 Carolina What is required is if based upon your
8 consideration of the evidence you are firmly convinced of the
9 matters presented, the aggravating circumstances, then you
10 would so find If you are not firmly convinced that the State
11 has proved an aggravating circumstance to you beyond a
12 reasonable doubt, you must find -- you must give the Defendant
13 the benefit of the doubt and find that the State has not
14 proved that aggravating circumstance to you beyond a
15 reasonable doubt

16 Now, a statutory aggravating circumstance is any fact,
17 incident, detail, or occurrence which the General Assembly of
18 our state has declared by statute to aggravate or make worse
19 the offense of murder when that fact, incident, detail, or
20 occurrence accompanies the act of murder A statutory
21 aggravating circumstance increases guilt or the enormity of
22 the offense and adds to the injurious consequences of the
23 offense

24 Before you can impose a death sentence on the Defendant,
25 all twelve of you must first agree and find beyond a

CHARGE BY THE COURT

1 reasonable doubt that the evidence in this case establishes
2 that a statutory aggravating circumstance exists Unless you
3 so find, you cannot sentence the Defendant to death

4 The statutory aggravating circumstances alleged by the
5 State will be submitted to you in a writing -- in a document
6 entitled Statutory Instructions, which you will have with you
7 in the jury room when you begin your deliberations, and that
8 document will have not only the statutory aggravating
9 circumstances, but it will have also the mitigating
10 circumstances as presented by the Defense, and that's a
11 document that has a caption, has Statutory Instructions It
12 will be in there with you in your jury room

13 The State has alleged in this matter and has to prove to
14 you beyond a reasonable doubt that one or more of these,
15 there's two of them, one or both of them of these statutory
16 aggravating circumstances existed at the time the murder was
17 committed, robbery while armed with a deadly weapon, or
18 larceny with use of a deadly weapon, and again, the statutory
19 aggravating circumstances will be in that document

20 And I'm going to define to you again those matters as to
21 armed robbery and a larceny with use of a deadly weapon
22 Armed robbery, the State has to prove to you beyond a
23 reasonable doubt the Defendant took personal property from the
24 person or presence of another Property is in the presence of
25 a person if it is within the person's reach, inspection,

CHARGE BY THE COURT

1 observation, or control so that the person could, if not
2 overcome with violence or prevented by fear, keep possession
3 of that property

4 The State also has to prove beyond a reasonable doubt
5 that the Defendant carried the property away, intending to
6 permanently deprive the owner of the property and to keep the
7 property for the Defendant's own use The slightest removal
8 or the complete possession of that property even for an
9 instant is sufficient to show a taking and carrying away of
10 the property, and the taking and carrying away of the property
11 must have been done with violence or putting the owner of the
12 property in fear of violence

13 And finally, the State has to prove to you beyond a
14 reasonable doubt that the Defendant was armed with a deadly
15 weapon during the robbery A deadly weapon is any article,
16 instrument, or substance which is likely to cause death or
17 great bodily harm Whether an instrument has been used as a
18 deadly weapon depends on the facts and circumstances of each
19 case

20 The State has to prove beyond a reasonable doubt the
21 victim's death and the taking from the person If the death
22 and the taking are so connected as to form a continuous chain
23 of events, the offense is robbery regardless of whether the
24 victim died before or after the taking of the property

25 As to larceny with use of a deadly weapon, the State has

CHARGE BY THE COURT

1 to prove beyond a reasonable doubt the Defendant took and
2 carried away the property of another against the will or
3 without the consent of the other person while armed with a
4 deadly weapon The slightest removal of property or the
5 complete possession of the property even for an instant by the
6 Defendant is enough to show a taking and carrying away of the
7 property

8 The State must also prove beyond a reasonable doubt the
9 Defendant intended to permanently deprive the owner of the
10 property It also has to prove beyond a reasonable doubt the
11 Defendant was armed with a deadly weapon Again, a deadly
12 weapon is any article, instrument, or substance which is
13 likely to cause death or great bodily harm Whether an
14 instrument has been used as a deadly weapon depends on the
15 facts and circumstances of each case

16 Now, if all twelve of you agree and find beyond a
17 reasonable doubt that one or both of the alleged statutory
18 aggravating circumstances existed at the time the victim in
19 this case was murdered, then you would be authorized to impose
20 either a sentence of life imprisonment or a sentence of death
21 A sentence of life imprisonment means life without the
22 possibility of parole In that situation having found a
23 statutory aggravating circumstance, under a sentence of life
24 imprisonment, the Defendant would never be released from
25 prison

CHARGE BY THE COURT

1 If you do not find beyond a reasonable doubt that one or
2 more of the alleged statutory aggravating circumstances
3 existed at the time the victim was murdered, then you would
4 cease your deliberations, advise the Court of your decision by
5 having the Foreperson sign the required form entitled No
6 Finding Of Aggravating Circumstance, and again, there's the
7 form You will have it in your jury room, and it has the
8 caption of the case, and it says No Finding Of Aggravating
9 Circumstance It says we, the jury, in the above entitled
10 case, find no aggravating circumstances in conjunction with
11 the murder of Henry Lee Turner, and the Foreperson would sign
12 that document if that's the decision of the jury

13 If you have found an aggravating circumstance before
14 arriving at your sentence, you must first consider, if you
15 find from the evidence that they exist, any statutory
16 mitigating circumstances A statutory mitigating circumstance
17 is a fact, detail, incident, or occurrence which the General
18 Assembly of this state has declared renders less severe or
19 mitigates the offense of murder It is an incident or
20 circumstance which in fairness and mercy may be considered as
21 extenuating or reducing the degree of culpability for the
22 commission of the murder

23 These mitigating circumstances would not constitute
24 justification or excuse for the murder It would only and
25 simply lessen one's guilt, that is make him less blameless

CHARGE BY THE COURT

1 The Defendant alleges the statutory mitigating circumstances
2 are as follows The murder was committed while the Defendant
3 was under the influence of mental or emotional disturbance,
4 the capacity of the Defendant to appreciate the criminality of
5 his conduct or to conform his conduct to the requirements of
6 law was substantially impaired, the age or mentality of the
7 Defendant at the time of the crime, and again, these will be
8 in writing in the Statutory Instructions that will come into
9 your jury room

10 In addition, besides these three that will be written
11 down, you may find mitigation evidence in any aspect of the
12 Defendant's character or record and any of the circumstances
13 of the offense or otherwise from this record of evidence which
14 you find offers a basis for a sentence other than death In
15 other words, you may consider any relevant mitigating factors
16 or circumstances as set forth in our Code of Laws or otherwise
17 as you may find from the evidence

18 A mitigating factor is treated equally under the law
19 whether it is found in the statute or it is found simply by
20 you based on the evidence before you You must consider
21 mitigating circumstances before you arrive at a sentence in
22 this matter because if you are to make an individualized
23 assessment of this particular Defendant, which the law of the
24 State of South Carolina requires you to do, evidence about the
25 Defendant's background and character is relevant

CHARGE BY THE COURT

1 While it is necessary that you find beyond a reasonable
2 doubt that one or more of the alleged statutory aggravating
3 circumstances existed at the time the victim was murdered, in
4 order to impose a sentence of death it is not necessary that
5 you unanimously find that any mitigating circumstances exist
6 in order to impose a sentence of life in prison

7 Unlike the aggravating circumstances which the State must
8 prove to you beyond a reasonable doubt, there is no
9 evidentiary burden placed on the Defendant to establish
10 mitigating factors More over, you are authorized to impose a
11 sentence of life imprisonment regardless of whether you find
12 that any statutory mitigating circumstances exist Simply
13 stated, you may sentence the Defendant to life imprisonment
14 for any reason or no reason at all or simply as an act of
15 mercy

16 A decision to impose a sentence of life imprisonment,
17 like a decision to impose a sentence of death, must be
18 unanimous If you find beyond a reasonable doubt the
19 existence of a statutory aggravating circumstance and if you
20 further find any mitigating circumstances in the evidence in
21 this case, you must give thorough and meaningful consideration
22 to all the factors before making a decision

23 When deliberating on whether to recommend that the
24 Defendant, Stephen C Stanko, be sentenced to death or life
25 imprisonment, you are not to allow passion, prejudice, or any

CHARGE BY THE COURT

1 other arbitrary factor to influence your judgment You must
2 decide the issue involved in this proceeding without bias and
3 without prejudice to any party

4 You cannot allow yourselves to be governed by sympathy,
5 prejudice, passion, or public opinion Both the State and the
6 Defendant have the right to expect that each of you will
7 carefully and impartially consider all the evidence in the
8 case and that you will follow the law as the Court has given
9 it to you in determining your unanimous sentence
10 recommendation

11 Again, now please remember, and I've told you this
12 several times, the Court will follow your recommendation
13 Your verdict will be the sentence that will be imposed in this
14 matter

15 I showed to you the Statutory Instructions, and those set
16 out the aggravating circumstances and the mitigating
17 circumstances and again tells you that you may also consider
18 any non-statutory mitigating circumstances you deem relevant
19 that you found in the evidence, and I showed you the No
20 Finding Of Aggravating Circumstances If you find that, the
21 Foreperson has to sign

22 If you find beyond a reasonable doubt that a statutory
23 aggravating circumstance exists, and again, they are spelled
24 out in writing in the Statutory Instructions, if you find one
25 of those exists, then Mr Foreman, you will have to write that

CHARGE BY THE COURT

1 on the Aggravating Circumstances

2 It's got a blank here We, the jury, in the above
3 entitled case, find beyond a reasonable doubt the following
4 statutory aggravating circumstance It's either going to be
5 one or two, if that's your view of the evidence, been proved
6 to you beyond a reasonable doubt, and everybody unanimously
7 agrees, but if that's the case, then you write it in there
8 And then you see there is a line for each and every one of you
9 to sign There's one that says Foreperson, and all the rest
10 of the them say Juror If you find an aggravating
11 circumstance beyond a reasonable doubt and the Foreperson,
12 Foreman, writes it on there, then everybody has to sign
13 because it has got to be unanimous

14 If you found an aggravating circumstance beyond a
15 reasonable doubt, again I tell you that gives you the ability
16 to consider both sentences If you don't find it, you can't
17 consider the death penalty If you found it, you can consider
18 both of them, and obviously there's two forms again One of
19 them is life imprisonment without the possibility of parole,
20 and it says we, the jury, in the above entitled case,
21 recommend to the Court that the Defendant, Stephen C Stanko,
22 be sentenced to life imprisonment without the possibility of
23 parole If that is your view of the evidence and that is your
24 unanimous decision, then the Foreperson signs that verdict,
25 just the Foreperson

CHARGE BY THE COURT

1 The other possibility is the death sentence It says
2 Recommendation Of Death Sentence We, the jury, in the above
3 entitled case, having found beyond a reasonable doubt the
4 existence of the following statutory aggravating circumstance,
5 and again, if you found it, you've got to write it in there,
6 now recommend to the Court that the Defendant, Stephen C
7 Stanko, be sentenced to death Again, there is twelve lines,
8 the Foreperson, and then everybody else, a named Juror You
9 must sign It has to be a unanimous decision, and again, I
10 tell you though you say recommend, whatever your sentence is,
11 that's the sentence the Court will impose in this particular
12 matter

13 In conclusion to this, I reiterate that regardless of the
14 sentence you decide to impose, you must first determine
15 whether the State has proven to you beyond a reasonable doubt
16 at least one of the alleged statutory aggravating factors
17 Any decision you make must be unanimous You may impose the
18 death penalty only if you unanimously first find beyond a
19 reasonable doubt the existence of at least one of the
20 statutory aggravating circumstances and you further
21 unanimously find and agree beyond a reasonable doubt that the
22 sentence should be death

23 The existence of one or more statutory mitigating
24 circumstance is not a bar to the death penalty, but you cannot
25 impose the death penalty unless you find beyond a reasonable

CHARGE BY THE COURT

1 doubt the -- a statutory aggravating circumstance that existed
2 at the time of the murder

3 A finding that there was one or more statutory
4 aggravating circumstances beyond a reasonable doubt does not
5 bar you from deciding the proper sentence is life
6 imprisonment After you have considered all the evidence and
7 should you find one or more mitigating circumstances existed
8 at the time of the murder, you may find the Defendant should
9 be sentenced to life imprisonment even though you also find
10 beyond a reasonable doubt one or more statutory aggravating
11 circumstances existed at the time the victim was killed

12 You consider the aggravating circumstances, the
13 mitigating circumstances based upon what I have explained to
14 you as the burden and then you make your decision as to the
15 sentence to be imposed in this particular matter, remembering,
16 of course, unanimous means exactly what you think it means,
17 twelve-zero, not eleven-one, ten-two, any combination thereof

18 All right, Mr Foreman, what I'd ask that you do is take
19 the twelve members of your jury to your jury room Obviously
20 y'all can take your pens and pads at this point in time, but
21 do not begin any deliberations until the bailiff or a court
22 official brings in to you the Statutory Instructions, the No
23 Finding Of Aggravating Circumstances, the Aggravating
24 Circumstances document, the Life Imprisonment Without The
25 Possibility Of Parole document, and the Recommendation Of

CHARGE BY THE COURT
JURY OUT/DELIBERATION

1 Death Sentence document, along with all the evidence that has
2 been presented in this matter

3 When all that has been brought into your jury room, Mr
4 Foreman, then your jury may begin their deliberations as to
5 the sentence to be imposed in this particular matter, so
6 please take your jury to the jury room

7 Will the four alternates please remain with us

8 (THE FOLLOWING TAKES PLACE AT 2 35 P M OUTSIDE THE
9 PRESENCE OF THE JURY, BUT IN THE PRESENCE OF THE ALTERNATE
10 JURORS)

11 THE COURT As required, I have signed the Statutory
12 Instructions and as indicated, will submit all of those to the
13 jury with the forms that I indicated

14 Exceptions, deletions, additions to the charge, from the
15 State?

16 MR HEMBREE None from the State, Your Honor

17 THE COURT From the Defense?

18 MR DIGGS No sir, Your Honor

19 THE COURT Very good All right, ladies, the
20 alternates in this matter, as we did in the other matter,
21 again your job is to step in their shoes if somebody can't
22 proceed Mr Deputy, if you would take them to a separate
23 jury room for the moment, please Thank you very much

24 (THE FOLLOWING TAKES PLACE AT 2 37 P M OUTSIDE THE
25 PRESENCE OF THE ALTERNATE JURORS)

CHARGE BY THE COURT
JURY OUT/DELIBERATION

1 **THE COURT** All right, Solicitor, and Mr Diggs, Ms
2 Williams, I want to take the opportunity now at the end of
3 these proceedings to say to all of you that I appreciate --
4 Mr Richardson, I appreciate very much what y'all have put
5 into this case, both on behalf of the State and the Defense,
6 the enormity of the work The Court fully understands, having
7 participated in them as a trial counsel

8 You have done everything that the Court expected of you
9 You have done everything that would be expected of you
10 regarding your oath as officers of the Court I commend each
11 and every one of you for all of your efforts and work in this
12 matter and thank you for that

13 All right, please get with the Court Reporter and make
14 sure that all the exhibits are going into evidence, and Madam
15 Court Reporter, I will give you these instructions and forms
16 to go to the jury Thank you very much

17 **(AFTER A REVIEW OF THE EXHIBITS BY COUNSEL FOR THE STATE**
18 **AND COUNSEL FOR THE DEFENDANT THE EXHIBITS, AND FORMS AND**
19 **INSTRUCTIONS, WERE TAKEN TO THE JURY ROOM BY THE BAILIFFS)**

20 **(THE JURY WAS INSTRUCTED TO BEGIN DELIBERATION AT 2 54**
21 **P M)**

22 **(DURING JURY DELIBERATION, A NOTE FROM THE JURY IS MARKED**
23 **COURT'S EXHIBIT NUMBER 110)**

24 **(THE JURY DELIBERATED AND THE FOLLOWING TAKES PLACE AT**
25 **4 05 P M OUTSIDE THE PRESENCE OF THE JURY)**

ADMONISHMENT BY THE COURT

1 **THE COURT** Thank you very much You may be seated

2 **(BENCH CONFERENCE TAKES PLACE OFF THE RECORD)**

3 **THE COURT** All right, in this particular matter, the
4 Court is informed that the jury has reached a sentencing
5 decision in this particular matter

6 Is the State ready to receive it?

7 **MR HEMBREE** Yes, Your Honor

8 **THE COURT** The Defense?

9 **MS WILLIAMS** Yes, Your Honor

10 **THE COURT** All right Thank you

11 I'll just speak to anyone who is in the courtroom
12 observing this particular matter As I indicated at the end
13 of the trial phase of this particular matter, I do not know
14 what the result of the jury deliberations are Whatever the
15 sentence is that is imposed by this jury in this particular
16 matter will be received with respect and will be received with
17 silence The Court will not tolerate any outward display of
18 emotion regarding the sentence

19 If you are not able to follow these instructions, I'm
20 giving you an opportunity now to leave the courtroom If you
21 do not, please understand that I intend to enforce these
22 instructions through the contempt powers of the Court that
23 could subject a person to a year in the Department of
24 Corrections

25 If you would like to leave, please do so at this time

JURY IN/VERDICT

1 Ask the jury to come in, please

2 I assume they are bringing the alternates in from their
3 separate room

4 MR HUMPHRIES They are now

5 THE COURT Very good

6 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
7 JURY AT 4 15 P M)

8 THE COURT All right, Mr Foreman, has your jury
9 reached a unanimous decision in this matter?

10 THE FOREMAN Yes sir, we have

11 THE COURT All right Could you hand the forms to the
12 Clerk, please sir

13 All right, Madam Clerk, you may publish the verdict

14 DEPUTY CLERK OF COURT This is indictment number
15 2550-GS-26-2927, The State of South Carolina versus Stephen C
16 Stanko We, the jury, in the above entitled case, having

17 found beyond a reasonable doubt the existence of the following
18 statutory aggravating circumstance, to wit Number one, the
19 murder was committed while in the commission of an armed
20 robbery Number two, the murder was committed while in the
21 commission of larceny with use of a deadly weapon, now
22 recommends to the Court that the Defendant, Stephen C Stanko,
23 be sentenced to death Dated 11/19/09

24 Mr Foreman, ladies and gentlemen of the jury, if this is
25 your verdict, so signify by raising your right hand

JURY IN/VERDICT

1 (AT THIS TIME EACH AND EVERY JUROR RAISED HIS OR HER
2 RIGHT HAND AFFIRMING THE VERDICT AS PUBLISHED)

3 DEPUTY CLERK OF COURT Thank you

4 THE COURT The record will reflect that the
5 recommendation of the death sentence was properly signed and
6 executed by all the members of the jury as required by law, as
7 well as the requirement that the statutory aggravating
8 circumstances be found in a separate document that correspond
9 with the recommendation and again signed by all members of the
10 jury in this particular matter

11 Anything further as to the jury in this matter from the
12 State of South Carolina?

13 MR HEMBREE No, Your Honor

14 THE COURT Anything further as to the jury from the
15 Defendant in this particular matter?

16 MR DIGGS Your Honor, I'd like them polled, please
17 sir

18 THE COURT All right

19 Madam Clerk Do you have their numbers, Madam Clerk?

20 DEPUTY CLERK OF COURT No All she had there was
21 names

22 THE COURT All right If you will hold on a second, I
23 will give that to you

24 DEPUTY CLERK OF COURT I will ask you two questions
25 When I call your name, please stand, answer the two questions,

POLLING OF THE JURY

1 and please be seated

2 Thirty three Is this your verdict?

3 JUROR NUMBER 33 Yes Ma'am

4 DEPUTY CLERK OF COURT Is it still your verdict?

5 JUROR NUMBER 33 Yes Ma'am

6 DEPUTY CLERK OF COURT Fifty three Is this your

7 verdict?

8 JUROR NUMBER 53 Yes Ma'am

9 DEPUTY CLERK OF COURT Is it still your verdict?

10 JUROR NUMBER 53 Yes Ma'am

11 DEPUTY CLERK OF COURT Sixty four Is this your

12 verdict?

13 JUROR NUMBER 64 Yes Ma'am

14 DEPUTY CLERK OF COURT Is it still your verdict?

15 JUROR NUMBER 64 Yes Ma'am

16 DEPUTY CLERK OF COURT Ninety nine Is this your

17 verdict?

18 JUROR NUMBER 99 Yes Ma'am

19 DEPUTY CLERK OF COURT Is it still your verdict?

20 JUROR NUMBER 99 Yes Ma'am

21 DEPUTY CLERK OF COURT One zero two Is this your

22 verdict?

23 JUROR NUMBER 102 Yes Ma'am

24 DEPUTY CLERK OF COURT Is it still your verdict?

25 JUROR NUMBER 102 Yes Ma'am

POLLING OF THE JURY

1 DEPUTY CLERK OF COURT Three forty three Is this your
2 verdict?

3 JUROR NUMBER 343 Yes Ma'am

4 DEPUTY CLERK OF COURT Is it still your verdict?

5 JUROR NUMBER 343 Yes Ma'am

6 DEPUTY CLERK OF COURT Three forty seven Is this your
7 verdict?

8 JUROR NUMBER 347 Yes Ma'am

9 DEPUTY CLERK OF COURT Is it still your verdict?

10 JUROR NUMBER 347 Yes Ma'am

11 DEPUTY CLERK OF COURT Five Is this your verdict?

12 JUROR NUMBER 5 Yes, it is

13 DEPUTY CLERK OF COURT Is it still your verdict?

14 JUROR NUMBER 5 Yes, it is

15 DEPUTY CLERK OF COURT Four eighty Is this your
16 verdict?

17 JUROR NUMBER 480 Yes Ma'am

18 DEPUTY CLERK OF COURT Is it still your verdict?

19 JUROR NUMBER 480 Yes Ma'am

20 DEPUTY CLERK OF COURT Five zero eight Is this your
21 verdict?

22 JUROR NUMBER 508 Yes Ma'am

23 DEPUTY CLERK OF COURT Is it still your verdict?

24 JUROR NUMBER 508 Yes Ma'am

25 DEPUTY CLERK OF COURT Six zero one Is this your

POLLING OF THE JURY
COURT TO JURY

1 verdict?

2 JUROR NUMBER 601 Yes Ma'am

3 DEPUTY CLERK OF COURT Is it still your verdict?

4 JUROR NUMBER 601 Yes Ma'am

5 DEPUTY CLERK OF COURT Six eighty five Is this your
6 verdict?

7 JUROR NUMBER 685 Yes Ma'am

8 DEPUTY CLERK OF COURT Is it still your verdict?

9 JUROR NUMBER 685 Yes Ma'am

10 THE COURT The jury having been polled and affirmed
11 their sentence in this matter, is there anything further as to
12 the jury from the Defense?

13 MR DIGGS No

14 THE COURT Thank you very much

15 All right, ladies and gentlemen, if you would give me
16 your attention, please The Court having received and
17 accepted your sentence in this matter, the Court is able to
18 discharge you from your oath and release you from those
19 restrictions I am going to go through some matters with you
20 and I would appreciate it if you will just bear with me a
21 little bit while I give you these instructions

22 You are free to talk about the case or not talk about the
23 case as you individually decide This case obviously has been
24 closely followed since it was started regarding various
25 aspects of the media and the public in general

COURT TO JURY

1 In this process, you understand that and I understand
2 that you did not volunteer for this service You received a
3 summons You did your civic duty, accepted your
4 responsibility, and responded to that summons

5 Now, the Court previously issued what's called a
6 protective order which assisted all the participants in this
7 matter in the preparation of this case and obviously that is
8 as of this moment no longer in effect

9 I will tell you that I was very impressed with the
10 Court's questioning of each and every one of you I am
11 including the alternates in this Please do not take this as
12 not including you I was impressed with every single one of
13 you indicating that you could follow the law, that you could
14 be fair, that you would be open-minded, that you were able to
15 do the work that the Court was imposing on you, and would be
16 unbiased and unprejudiced and willing to look at a tough case
17 and make the decisions when they were called upon

18 You heard and saw the evidence, and they are the law of
19 this particular matter The verdict is what we asked you to
20 do, and that is to fairly and honestly look at all the matters
21 presented and to keep all outside influences from your
22 decision

23 I will tell you that other people not having to sit in
24 the seats and occupy them as you, other individuals will
25 probably think that they had a better idea of what was

COURT TO JURY

1 presented or what was going on Obviously that is not the
2 case The fact of the matter is people rarely understand what
3 juries do until they are actually engaged in the process
4 because they were not here, they did not hear what you heard,
5 and they do not understand the intricacies as you do They
6 may have a different idea of what should have happened in this
7 case

8 Some people will agree and some people will disagree We
9 selected you to be fair and unbiased, and you were sworn to do
10 that and you have done that You were chosen through a very
11 careful process

12 There may be individuals that decide to talk to you
13 It's a free country People can ask and you can answer, or
14 you may choose not to answer You can either talk to them or
15 not, or say my verdict says it all No one is allowed to
16 force you or pressure you in any way to communicate with them
17 The Court and the attorneys, everyone involved, respects your
18 service, your duty, and your privacy

19 I have done my best to ensure that everyone has complied
20 with the law and to keep your personal information as secure
21 as possible If you are communicated and you receive
22 unsolicited inquiries, you may choose to respond or not to
23 respond Obviously you can hang up your phone or shut your
24 door, or whatever that may be

25 I do not anticipate that this will last very long

COURT TO JURY

1 because, as you know, the news changes quickly People's
2 attention goes somewhere else quickly, but I will tell you if
3 anybody bothers you, if anybody harasses you, if they do not
4 leave when you tell them to leave and say my verdict says it
5 all, or I do not want to talk to you, and they continue to try
6 to communicate with you, call the Clerk of Court's Office and
7 tell them of the situation, and I assure you the Court with
8 law enforcement agencies will take care of that matter I
9 will not tolerate in any way anybody communicating with you or
10 harassing you if you do not want to talk to them

11 I can't tell you how much I appreciate your service, your
12 sacrifice, your hard work in this matter Without the honest
13 people of the community serving on juries, none of the
14 citizens of this great state and our great nation would have
15 the liberties that we all enjoy

16 I'm sorry that the circumstances of this case required us
17 to sequester you I told you at the very beginning I know
18 that was a hardship I appreciate the fact that it was a
19 hardship on you, but I did it because I felt it was the best
20 way that I could be confident that you would be secure in the
21 process and that there could be no complaints of any undue
22 pressure or bias or outside influence

23 So I tell you again how proud I am of you regarding your
24 service and your dedication as citizens of this county and our
25 great state I want to tell you that you are now discharged

JURY OUT/SENTENCING

1 as jurors You are released from the Court's instructions
2 Thank you very much

3 Everyone else remain seated

4 You may now leave

5 (THE JURY BEING DISMISSED, THE FOLLOWING TAKES PLACE
6 OUTSIDE THE PRESENCE OF THE JURY)

7 THE COURT I want the record to also reflect that the
8 jury did leave blank in accordance with their imposition of
9 the death sentence in this matter, they left blank No Finding
10 Of Aggravating Circumstances, that form, and also left blank
11 the Life In Prison Without Possibility of Parole form

12 Before the Court imposes sentence in this matter, is
13 there anything further from the State?

14 MR HEMBREE Nothing further from the State, Your
15 Honor

16 THE COURT Anything further from the Defense?

17 MR DIGGS Not at this time, Your Honor

18 MR HEMBREE Your Honor, I have the sentencing sheet

19 THE COURT All right, sir

20 As the Trial Judge in the above entitled action and prior
21 to the imposition of the sentence upon the Defendant, Stephen
22 C Stanko, the Court finds as an affirmative fact that the
23 evidence of the case warrants the imposition of the death
24 penalty

25 The jury found as aggravating circumstances the murder

SENTENCING

1 was committed while in the commission of armed robbery, the
2 murder was committed while in the commission of larceny with
3 use of a deadly weapon, and I so concur, and I so find those
4 to be present in this case and were proved by the State of
5 South Carolina beyond a reasonable doubt

6 I further find the imposition of the death penalty is not
7 the result of passion, prejudice, or any other arbitrary
8 factor and so hereby sign the affirmation of death sentence in
9 this particular matter

10 Mr Stanko, if you would please stand, sir

11 (MR STANKO STANDS)

12 **THE COURT** The Defendant, Stephen C Stanko, having
13 been found guilty of murder by verdict of the jury herein, and
14 the said Defendant, Stephen C Stanko, being now duly
15 arraigned before the bar of this Court, and it being solemnly
16 demanded of him whether he now has anything to say why the
17 sentence of law should not be pronounced upon him

18 He, thereupon saying nothing, save as heretofore said
19 Therefore, the sentence of the Court as fixed by the law is
20 that you, the prisoner at the bar, Stephen C Stanko, be
21 conveyed hence to the County Jail of the County of Horry, and
22 there to be kept in close and safe confinement until you shall
23 be thence conveyed to the South Carolina Department of
24 Corrections as required by law, and there to be kept in close
25 and safe confinement until the first day of February, 2010,

SENTENCING

1 between the hours of one o'clock in the forenoon thereof and
2 the hours of one o'clock in the afternoon thereof upon which
3 day and between which hours you, the prisoner at the bar,
4 Stephen C Stanko, shall suffer death by lethal injection at
5 the hands of the officers of the law and in the manner
6 provided by the laws of the State of South Carolina May God
7 have mercy on your soul Take the prisoner away

8 (MR STANKO IS TAKEN FROM THE COURTROOM)

9 MR HEMBREE May we approach, Your Honor?

10 THE COURT Yes sir

11 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD)

12 THE COURT Have Mr Stanko come back, please

13 (MR STANKO IS RETURNED TO THE COURTROOM)

14 THE COURT Mr Stanko, it has been brought to my
15 attention that I did not, though I had executed the sentencing
16 sheet, did not formally state that the sentence of the Court
17 regarding the armed robbery charge is the maximum of twenty
18 years, and I have it concurrent with the sentence the jury
19 imposed regarding the murder Thank you very much

20 Anything else from the State?

21 MR HEMBREE No, Your Honor

22 THE COURT Anything else from the Defense?

23 MR DIGGS Not at this time, Your Honor

24 THE COURT Again, Counsel, I want to tell you as I told
25 you earlier, y'all did everything that the Court expected of

1 you You did, all of you, and I am being as -- I am just
2 telling you that y'all did everything that could be expected
3 You upheld the finest traditions of the bar regarding your
4 exceptional service, both as to the State and Defense, and I
5 thank you and commend you for that Thank you very much

6 **MR HEMBREE** Thank you, Judge John

7 **MS WILLIAMS** Thank you, sir

8 **THE COURT** This matter is now ended

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

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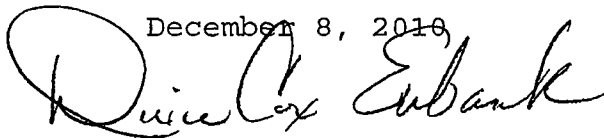
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C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the TRIAL of the captioned case, relative to appeal, in the COURT OF GENERAL SESSIONS for HORRY COUNTY, SOUTH CAROLINA, on the 14th, 15th, 16th, 18th and 19th days of November, 2009

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto

December 8, 2010



DIXIE COX EUBANK

CIRCUIT COURT REPORTER

FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 05-GS-26-2927

The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs	)	
	)	
Stephen C Stanko,	)	November 15, 2006
	)	
Defendant	)	

B E F O R E

Honorable J Michael Baxley
Georgetown County Courthouse
Georgetown, South Carolina

A P P E A R A N C E S

Greg Hembree, Esquire
Fran Humphries, Esquire
Attorneys for Plaintiff

William Diggs, Esquire
Orrie West, Esquire
Attorneys for Defendant

Grace L Hurley, CVR-CM
Circuit Court Reporter

1. The first line of the first column is a vertical line.

2. The second line of the second column is a vertical line.

State v Stanko (11-15-06)

2

1 S-1 8-18-06 Letter from Hembree
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1 (On the record, Wednesday, November 15, 2006)

2 THE COURT All right, let me begin by introducing
3 myself for the record to the parties here My name is Judge
4 Baxley and I'm here to preside by special appointment of the
5 Chief Justice over this matter and, Mr Solicitor, you may
6 call your case, please, sir

7 MR HEMBREE Thank you, Your Honor, we are here on
8 indictment 2005-GS-26-2927 State versus Stephen Stanko Mr
9 Stanko is accused of murder and armed robbery of Henry Lee
10 Turner that occurred on April the 8th, 2005, in Horry County
11 On August the 18th of 2006 Mr Stanko - the State served upon
12 Mr Stanko its notice of intent to seek the death penalty in
13 this case The purpose of our hearing today, Your Honor, is
14 for the appointment of counsel for Mr Stanko on this death
15 penalty matter

16 THE COURT All right, anything further, Mr
17 Solicitor?

18 MR HEMBREE No, Your Honor I have a copy of the
19 indictment and the notice of intent to seek the death penalty
20 that I'll pass up to the Court

21 THE COURT All right, thank you All right, is there
22 any objection to or dispute about the notice that's been
23 served here? I'll ask you, Mr Diggs, I'll note you're seated
24 at counsel table

25 MR DIGGS Your Honor, there's no dispute about it

State v Stanko (11-15-06)

4

1 So, it seems to be in order from my perspective

2 THE COURT All right, sir, and let me ask you, if I
3 may, do you have a position as to whether you would be an
4 appropriate individual to be appointed to represent Mr
5 Stanko?

6 MR DIGGS Your Honor, I don't know of any reason, of
7 course, on the way down here today and for the last several
8 days I've been thinking about this issue and thinking what
9 would be in the best interest of this Defendant at this time,
10 I don't know of any reason that would exclude me being
11 available for appointment in this case, and so, I think, you
12 know, I can put it in the Court's hands and say, you know,
13 it's in the discretion of the Court Being pretty familiar
14 with this case, you know, and the process that's going to take
15 place both with respect to this particular indictment and the
16 former indictment that is now in the appellate process, I
17 really don't know of any reason that would again preclude me
18 from serving in this case if the Court were so inclined

19 THE COURT All right, thank you Our record should
20 also reflect that Ms Orrie West, Public Defender of Horry
21 County, is also seated at defense table The Court has
22 reviewed the statutes in this matter, specifically 16-3-26(B)
23 which refers to appointment of the public defender What's
24 your position, Ms West, about your representation or ability
25 to represent Mr Stanko?

1 MS WEST Your Honor, my office at this point has
2 seven attorneys in General Sessions To the extent we find
3 ourselves a little overwhelmed with the caseload that we
4 presently have, we have a substantial portion of the criminal
5 cases in Horry County I have even hired two attorneys on
6 contract to try to help with the overload We're, we're
7 overwhelmed at this point, and if the Court could see fit to
8 not have our office involved in this particular case because
9 of, one, the caseload that we have it would be greatly
10 appreciated

11 THE COURT All right, counsel, and I think the
12 statute which says that the public defender shall be appointed
13 in all cases where no conflict exists I believe the statute is
14 probably referring not necessarily to a caseload problem but a
15 legal conflict I ask you are there any legal conflicts from
16 your office to this matter to your knowledge?

17 MS WEST To my knowledge at this point I don't know
18 of any specific legal conflict I do know that at this
19 particular point I think the Court's aware of the names of the
20 attorneys in my office and I don't know if the Court's aware
21 of the names of my contract attorneys but Mr Axelrod is a
22 contract attorney and Barbara Pratt, and if I could talk about
23 what Mr Diggs and I have discussed previously, should I
24 discuss that at this point?

25 THE COURT Go ahead, ma'am

State v Stanko (11-15-06)

6

1 MS WEST Mr Diggs has indicated that while I don't
2 know if the Court's aware that at one point Mr Diggs and Mr
3 Axelrod actually were practicing law together A conflict has
4 arisen with them and I don't know how much of a conflict that
5 continues to be but he is an employee of my office on
6 contract

7 THE COURT All right, very good, thank you

8 MS WEST You're welcome

9 THE COURT Do you have anything further you wish to
10 offer on that issue, Mr Diggs?

11 MR DIGGS Your Honor, there is a - there was a
12 motion filed previously in the first case in Georgetown County
13 to have me relieved as counsel in the case That's been
14 resolved, but it was based on a, an inquiry by Mr Axelrod
15 into the possibility with respect to the issue of possibly
16 representing Mr Stanko in the Georgetown case and that it
17 encouraged Mr Stanko at that time to make a motion on the
18 record to have me relieved as his attorney and have Mr
19 Axelrod appointed in lieu of my representation A hearing was
20 held in the, in, in the matter and Judge Jefferson denied that
21 request I think that the underlying factual scenario that
22 played out in that situation has created a conflict that would
23 prevent Mr Axelrod from working on this particular case
24 simultaneously with me I mean, I think it's a situation
25 where certainly Mr Axelrod is a good attorney, fine attorney

1 and he's got a good relationship with Mr Stanko I have a
2 good relationship with Mr Stanko It probably would work
3 well from Mr Stanko's perspective if Mr Axelrod and I worked
4 together on the case but I don't, you know, and on the surface
5 of it I certainly wouldn't have any objection to that but I
6 think there is a legal conflict based on the history simply
7 and it's not really of anyone's making, it's just where we
8 find ourselves at this point, and so, I mean, I make the Court
9 aware of that so the Court can take all of those matters into
10 account when a decision is made about who's going to provide
11 the representation in the case

12 THE COURT All right, counsel, you commented that
13 your motion to be relieved was denied but what action if any
14 did Judge Jefferson take with Mr Axelrod and his, if I
15 understood correctly, either contact to or efforts to
16 represent Mr Stanko?

17 MR DIGGS The - I think Judge Jefferson felt that
18 she had made up her mind as to who she wanted in that case to
19 provide representation She did not take any action with
20 respect to, you know, sanctions or anything like that in terms
21 of what had transpired but she certainly denied - I made the
22 motion to be relieved as counsel Judge Jefferson denied that
23 motion and that kind of put the matter to rest, and so, we
24 proceeded on Of course, Mr Kelly and I represented Mr
25 Stanko in the Georgetown County case, and ---

State v Stanko (11-15-06)

8

1 THE COURT All right, and of course our ---

2 MR DIGGS --- that's where we are today

3 THE COURT Sir?

4 MR DIGGS That brings us to where we are today

5 THE COURT All right, and so our record will be clear
6 this Court is aware that Mr Stanko has previously had a
7 prosecution for another murder in, for which he was accused of
8 committing in Georgetown County, that that resulted in a
9 conviction and a sentence of death That is the reference to
10 the Georgetown County case that is being referred to The
11 Court should also note that this matter today by consent of
12 the parties is meeting in Georgetown here in the 15th Circuit
13 although this is an Horry County case because this Court is
14 assigned this week to hold court here in Georgetown County and
15 is not assigned to Horry County for another month and felt it
16 was necessary to go ahead and proceed in this matter

17 Now, referring back to the Georgetown case in which you
18 represented Mr Stanko, Mr Diggs, is there of your knowledge
19 any benefit or any negative component to your being appointed
20 now in the second case?

21 MR DIGGS Your Honor, when - Stephen and I have
22 known each other now for over a year, Mr Stanko and I have,
23 and both of us approached the first case in Georgetown with a
24 desire to understand how something like this could happen, and
25 I believe that we undertook a credible effort to genuinely

1 explain how these kinds of things, this particular incident
2 could have occurred We developed some testimony, I believe,
3 from or some evidence from experts who are leading experts in
4 the world on the issues that are raised by this particular
5 case, and in my opinion I believe it is the way to defend Mr
6 Stanko in this case I think it's a legitimate, credible
7 defense It would be my opinion that the prosecution in Horry
8 County would incorporate necessarily, because of the
9 meritorious nature of the evidence, I think, I would submit
10 that that evidence needs to be incorporated into the
11 prosecution and used at or into the case, Horry County used as
12 part of the defense that is to be raised in the or should be
13 raised in the case To that extent I think it would be
14 beneficial to keep some continuity, either myself or Mr
15 Kelly, in the defense of the, you know, use us in the defense
16 of the Horry County case My role in the Georgetown
17 prosecution was to develop the medical evidence as opposed to
18 Mr Kelly's role He had other responsibilities that I had
19 asked him to work on, and so, I think in terms of Mr Kelly
20 and myself it would make more sense to have me in that role
21 That - those would be benefits The negatives would be, you
22 know, there - unless there's some - unless there's success in
23 the direct appeal, which I would say there is a reasonable
24 possibility for, the issue is whether or not as a society and
25 under our constitution we're going to execute someone with a

State v Stanko (11-15-06)

10

1 mental condition that Mr or the brain condition that Mr
2 Stanko has That issue has to be resolved in the direct
3 appeal process before we ever get into the area of talking
4 about ineffective assistance or collateral attack on that
5 death sentence, and so, at this point while certainly there's
6 a possibility down the road we're going to have to look at or
7 the State of South Carolina is going to have to look at the
8 effectiveness issue in the Georgetown County trial, at this
9 point I believe that the and I would submit to the Court the
10 benefits outweigh the negatives It's just the way that I see
11 it, and it's not, I think, just driven considering limited to
12 the merits probably would make sense to continue
13 representation, again either myself or Mr Kelly, and then
14 worry about collateral issues down the road should they arise,
15 but remember, we're still in the direct appellate process with
16 respect to the Georgetown County case and pending trial So,
17 we don't know what's going to happen with Horry County It's
18 going to be a different jury, a different set of facts

19 THE COURT All right, counsel, did I hear in what you
20 said that you believe there would be a significant savings in
21 terms of cost and time in developing a mitigation defense in
22 this second case?

23 MR DIGGS Your Honor, all of that, absolutely, all
24 of that evidence has already been developed and Judge
25 Jefferson allowed us to have two very competent and well-

1 qualified professionals to develop those mitigating factors
2 that certainly won't have to be repeated again if we start
3 with someone new That evidence is available and can be used
4 The savings to the State will be substantial with respect to
5 that evidence To start over with a new defense team it just
6 seems like even if you use the same evidence you're going to
7 have to get up to speed with it So, I don't know, it would
8 just make sense that we use, continue on with the continuity

9 THE COURT All right, Madam Clerk, let's give this to
10 our court reporter so we can mark that as State's Exhibit One
11 for purposes of this hearing

12 (Whereupon, State's Exhibit Number One [8-28-06 letter
13 from Hembree - Intent to Seek Death Penalty] admitted into
14 evidence and appropriately marked)

15 THE COURT Thank you That's fine You may leave it
16 there

17 All right, this, counsel, this really is a matter that
18 the Court will - has been discussing with the Defense but does
19 the State have anything you wish to offer further on this
20 issue at this point in the record?

21 MR HEMBREE No, Your Honor

22 THE COURT All right, is there any objection from the
23 State if the Court discusses with Mr Stanko individually ex
24 parte fashion matters relating to appointment of Defense
25 counsel? What says the State?

State v Stanko (11-15-06)

12

1 MR HEMBREE No objection from the State, Your Honor

2 THE COURT All right, Mr Diggs, is there - would
3 there be any objection to the Court discussing this outside of
4 your presence with Mr Stanko?

5 MR DIGGS No, certainly not

6 THE COURT All right, Ms West, any objection to
7 that, ma'am?

8 MS WEST None, Your Honor

9 THE COURT All right, counsel, I'm going to ask if
10 you would kindly step from the room and let me speak with Mr
11 Stanko individually in ex parte fashion

12 (All counsel and staff exit courtroom)

13 THE COURT All right, let's let the record reflect
14 that the attorneys who are involved in the case all have left
15 the room The only individuals - is there anyone else from
16 the Solicitor's Office who's present?

17 (No response)

18 THE COURT No one in the courtroom other than
19 security, our court personnel, Mr Stanko, myself and my law
20 clerk Mr Stanko, we're going to begin by placing you under
21 oath, sir If you'd please follow our clerk's instructions
22 just where you are will be fine

23 MR STANKO Do you mind if I stay seated?

24 THE COURT Yeah, that's fine Go ahead You may

25 (Whereupon, Mr Stanko is sworn by the Clerk)

1 THE COURT All right, good morning, sir

2 MR STANKO Good morning, sir

3 THE COURT Again, by introduction my name is Judge
4 Baxley I am from Darlington County I've been appointed by
5 court administration for the - to preside over this case from
6 its beginning to its conclusion I wanted to ask you about
7 appointment of counsel Is there some - I will give you an
8 opportunity if you wish to tell me whether there was some
9 conflict that you perceive with Mr Diggs when he represented
10 you previously, whether it's some personal conflict or you
11 believe some legal issue was handled inappropriately or some
12 tactic or defense was employed inappropriately and I'll be
13 glad to hear from you if you have something to tell me about
14 that

15 MR STANKO The way we designed the defense, sir, I'm
16 satisfied with what Mr Diggs did The truth of the matter is
17 we had a couple of hundred thousand dollars worth of tests
18 done and found that I have a left medial frontal orbital lobe
19 that is not functioning Where my problem came, Judge, is my
20 problem came in the facts part of the case which was Mr
21 Kelly I don't want to say that he didn't do his job or
22 anything like that, but what happened was during certain
23 phases of the case the State was allowed to parade witnesses
24 up there that said basically anything that they wanted to say
25 about me and it went un-argued even though we had

State v Stanko (11-15-06)

14

1 investigators that had really uncovered the truth about things
2 that were said So, what I'm saying to you is if you choose
3 to appoint Mr Diggs as counsel I have no problem with that
4 and would greatly appreciate it actually I would not be
5 happy if you went with Mr Kelly As far as Mr Axelrod is
6 concerned this is a touchy subject but what's important to me,
7 sir, is that Mr Diggs be able to do his job without any kind
8 of confrontation I believe that there are enough other
9 attorneys out there and I'm sure that, sir, that you would be
10 able to find me one that would be able to handle second chair
11 My greatest concern would be if Mr Diggs had someone that he
12 could not work with completely because I feel that's what
13 happened with Mr Kelly In certain instances he went off in
14 his own direction and was not able to bring things in When
15 we went through that court Mr Diggs had things set up very
16 well with the exception of the fact that we had scientists
17 flying in from California, Pittsburgh and everywhere else, but
18 when it came to certain parts of the facts in mitigation of
19 the case we were flip-flopping and haphazard, and like I said
20 the State was able to put anybody they wanted up there and
21 they just, you know, I'm not an angel, sir, and I've made some
22 mistakes in my life but people said anything they wanted to
23 say and it went un-argued and that wasn't right So, I hope
24 that answers your question as best I can - I mean, I've done
25 as best I can I think I'm not - I'm familiar with the law

State v Stanko (11-15-06)

15

1 I'm not an idiot to the law and I don't and would not raise
2 any kind of argument concerning Mr Diggs and his
3 representation I would ask if you could to talk to Mr Diggs
4 about the situation with him and Stuart, but if there's going
5 to be any kind of confrontation or if he's not happy with it I
6 would like to submit to you just to find a second chair that
7 you would find as eligible and competent to handle it and not
8 Mr Kelly though I hope

9 THE COURT All right, thank you, and I appreciate the
10 candor of your response All right, then, let's bring the
11 attorneys back in

12 (Whereupon, counsel enters courtroom)

13 THE COURT All right, counsel, just in case there
14 should be some later question, you have a - tell us who all's
15 here on the State's , please You have one of your staff
16 members with you

17 MR HEMBREE Greg Hembree, Deputy Solicitor Fran
18 Humphries and Legal Assistant Peggy Snowden

19 THE COURT Very good, thank you, and again so our
20 record will reflect we have, Mr Diggs, you have your
21 assistant with you, sir?

22 MR DIGGS Your Honor, I have a paralegal, Johana
23 Bufford here with me

24 THE COURT All right, now, let's let the record
25 reflect that all of these individuals just introduced and

State v Stanko (11-15-06)

16

1 previously introduced have left the room I had a discussion
2 with Mr Stanko The Court is now ready to make a decision
3 with regard to the appointment of counsel and will do so as
4 follows I find after review of the statute 16-3-26 and the
5 facts of this case that what happened with Mr Axelrod
6 actually the Court has some information and it has knowledge
7 that there was alleged to be an appropriate contact at the,
8 excuse me, an inappropriate contact at the jail by Mr Axelrod
9 after there had been appointment of counsel, am I correct in
10 that, Mr Diggs?

11 MR DIGGS Yes, Sir

12 THE COURT All right, and that that inappropriate
13 contact led to a professional conflict that required Judge
14 Jefferson to intervene and deny a request for - by Mr Diggs
15 to be relieved but also to specifically exclude Mr Axelrod
16 from the case I find that that raises or rises to the point
17 of a legal conflict for which - because Mr Axelrod is a
18 contract public defender for Horry County that the - there is
19 a legal conflict in appointing the Public Defender's Office of
20 Horry County and the Court will not do so After discussion
21 with Mr Stanko it is the Court's decision to appoint Mr
22 Diggs and, Mr Diggs, again, I ask you, sir, are you fully
23 qualified under the statute to sit first chair and represent
24 Mr Stanko?

25 MR DIGGS Your Honor, I meet the requirements that

1 are set out in the statute

2 THE COURT All right, and the Court is, therefore,
3 finds that you are qualified based upon your own
4 representation and my knowledge of your experience in these
5 matters, and therefore, appoints you as first chair I am
6 going to decline at this time to appoint second chair, but I'm
7 going to give you the opportunity, Mr Diggs, to avoid some
8 potential conflict in appointing a person who may not have
9 this same theory of the case or may have some difficulty in
10 sitting second chair with you for whatever reason that may be,
11 the Court is going to grant you some time to give the Court
12 input into second chair choice Do you ask for that, sir?

13 MR DIGGS Yes, sir, and thank you very much

14 THE COURT All right, how, how much time would you
15 like?

16 MR DIGGS That would be very helpful

17 THE COURT How much time would you like to have?

18 MR DIGGS Perhaps a week or so

19 THE COURT All right, we'll give you 10 days from
20 today's date and I would ask that you would contact my office
21 to advise whom you believe would be an appropriate second
22 chair I'll give you that opportunity I'm not telling you
23 that you will control that decision

24 MR DIGGS I understand

25 THE COURT But I'm asking for your input and then

State v Stanko (11-15-06)

18

1 without further hearing the Court will make a decision and
2 issue an order appointing second chair Is there any
3 objection to that from Mr Stanko?

4 MR STANKO No, sir

5 MR DIGGS He's in, he's in agreement

6 THE COURT All right, any objection to that from the
7 State?

8 MR HEMBREE No, Your Honor

9 THE COURT All right, is there anything further for
10 our record or that we need to do with regard to this case
11 beyond appointment of counsel today, Mr Hembree?

12 MR HEMBREE No, sir

13 THE COURT All right, anything from Defense?

14 MR DIGGS No, Your Honor, and I'll get back with you
15 and we'll go from there I guess

16 THE COURT All right, very good, then having
17 concluded this matter the - this Court declares this hearing
18 to be in recess Good luck counsel Look forward to working
19 with counsel

20 MR HEMBREE Thank you, Your Honor

21 MR HUMPHRIES Thank you, Your Honor

22 (Adjourned)

23

24

25

C E R T I F I C A T E

I, the undersigned, Grace L Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Stephen C Stanko, held in the Court of General Sessions for Horry County, Georgetown County Courthouse, Georgetown, South Carolina, on November 15, 2006

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto

Grace L Hurley, CVR-CM
Official Reporter

December 5, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN) IN THE COURT OF COMMON PLEAS

STEVEN C STANKO

APPLICANT,

-VS-

POST CONVICTION
RELIEF HEARING ON
#2008-CP-22-1946

STATE OF SOUTH CAROLINA

DEFENDANT

NON JURY JUDICIAL PROCEEDINGS HELD

BEFORE THE HONORABLE J MICHAEL BAXLEY, commencing at the
hour of 10 19 AM, on the 8th day of December, 2008, at the
Horry County Courthouse, 15th Judicial District, Circuit
Court, South Carolina

REPORTED BY H Eugene Buckner, CVR

H Eugene Buckner
Retired Court Reporter at Large
15th Judicial Circuit
State of South Carolina

APPEARANCES

Steven Christopher Stanko
Appearing pro se

On Behalf of the Applicant

J Anthony Mabry, Esquire
Assistant Attorney General
S C Attorney General's Office
PO Box 11549
Columbia, SC 29211
TEL 803 734 3665

On Behalf of the Defendant

NO EXHIBITS WERE MARKED BY THE COURT REPORTER IN THIS
HEARING AND NO SWORN TESTIMONY WAS TAKEN FROM WITNESSES

1 BAILIFF

2 Order in the court All rise,
3 please

4 THE COURT

5 Thank you Please be seated ladies
6 and gentlemen

7 All right, welcome again to the
8 courtroom everyone I'm Judge Baxley, and I will be
9 presenting today in this hearing in regards to the post-
10 conviction relief application that has been filed by Mr
11 Stephen C Sanko

12 Mr Sanko, I am going to ask our
13 officer to give you a copy of the Supreme Court's order in
14 which they directed This Court -- or actually gave
15 jurisdiction of the post-conviction relief claim to This
16 Court

17 And you will note that that order was
18 issued on November the 7th

19 They directed The Court within 30
20 days of that date to have a hearing with you concerning
21 appointment of counsel for you

22 And that is the reason we are here
23 today

24 Let me first ask counsel for the
25 state if you wish to -uh- stand and introduce yourself for

1 the record, Mr Mabry, and we'll be ready to go forward

2 MR MABRY

3 Yes, Your Honor

4 Uh - My name is Anthony Mabry I'm
5 an Assistant Attorney General for the State of South
6 Carolina -uh- here on behalf of the State in this PCR matter
7 08-22-1446, and would be glad to speak -uh- any further if
8 The Court needs me to

9 THE COURT

10 All right

11 Uh - If you have something further
12 you wish to add at this time, please do so

13 If not, then we are ready to proceed

14 MR MABRY

15 Just briefly, Your Honor

16 The court is aware of - of the
17 history of this case, I believe

18 Uh - Mr Sanko was indicted in
19 Georgetown County for murder, armed robbery -- 2 counts of
20 kidnapping, criminal sexual conduct -uh- and also -uh- we
21 won the additional charge of armed robbery

22 Uh - He was convicted on all of those
23 charges and subsequently sentenced to death by Judge Deidre
24 Jefferson

25 Uh - He filed a direct appeal

1 The South Carolina Supreme Court
2 denied that appeal

3 Uh - He filed an appeal to the United
4 States Supreme Court - or a petition of certiorari That
5 was denied by the United States Supreme Court

6 And he subsequently filed this PCR
7 Application through his appellate counsel -uh- Mr Savage
8 (phonetic) and Ms Hudgins (phonetic)

9 Uh -The South Carolina Supreme Court
10 issued a Stay, and of course issued the order giving
11 jurisdiction of this case -uh- to Your Honor

12 Uh - Mr Savage (phonetic) has
13 informed me that Mr Sanko does wish to have counsel
14 appointed And I know The Court will have to question him
15 further on that

16 Uh - Otherwise, I don't have anything
17 further at this time

18 THE COURT

19 All right, very good Then, let's
20 place Mr Stanko under oath

21 And sir, just where you are, if you
22 would stand, please, and follow our Clerk's instructions

23 (WHEREUPON Applicant Steven C
24 Stanko was duly sworn in open court by the Clerk)

25 THE COURT

1 All right -uh- Mr Stanko, before I
2 ask you -uh- about your counsel preference, if you have one
3 -- or your position on the appointment of counsel --

4 APPLICANT STANKO

5 Yes sir

6 THE COURT

7 -- let me state to you that -- and
8 also to the Attorney General -- that This Court had been
9 previously appointed by the South Carolina Supreme Court for
10 -- to -- to have jurisdiction over the criminal prosecution
11 that is pending against you in Horry County

12 APPLICANT STANKO

13 Yes sir

14 THE COURT

15 That case is presently under Stay --
16 issued -- an order of Stay issued by me -- awaiting the
17 conclusion of your appeal to the United States Supreme
18 Court

19 Of course that matter is now
20 concluded

21 But the State has not moved to lift
22 the Stay And thus, the Stay is still in the place

23 I do want to divulge that -- to both
24 parties -- of course The Court has had that previous
25 appointment, and now also appointed on the post-conviction

1 relief case from your Georgetown matter

2 Now I will -- rather than ask you if
3 you have a position on that -uh- if you would prefer, I will
4 wait until you have appointed counsel and let them weigh-in,
5 if they have some position they wish to take

6 It's not necessary that you take a
7 position I just simply divulge to you that I've that
8 previous appointment

9 Uh--Have you had an opportunity to
10 consider counsel for your post-conviction relief claim? And
11 APPLICANT STANKO

12 Yes sir

13 But before we go to that, may I make
14 a statement?

15 THE COURT

16 Go ahead

17 APPLICANT STANKO

18 I mean, ask you a question?

19 THE COURT

20 Yes sir

21 APPLICANT STANKO

22 The State has also filed a motion to
23 dismiss in this case on the PCR, which I have in front of
24 me

25 Are we going to deal with that now?

1 Or will that be done after appointment of counsel?

2 If so, I have filed a letter to the
3 United -uh- to the -uh- South Carolina Supreme Court to - to
4 make this simple and too sweet

5 When Catherine Hudgins (phonetic)
6 filed the post-conviction relief application for me, she did
7 so by informing me what allegation she was going to present

8 And, at that time, I also informed
9 her that I had a more lengthy, more concise, post-conviction
10 relief

11 In the State's motion to dismiss, he
12 motioned in - on Page 4 in a small note that the Respondent
13 informed him that we were - that I was going to file
14 additional allegations

15 I filed a letter letting him know
16 that

17 My concern here is there is a motion
18 to dismiss in front of me which I have to be very careful
19 with because he the SCDC is not short on putting people on
20 death-watch in instances like this

21 I -- I intend to file further
22 amendment to this PCR

23 I would like to do so with counsel
24 THE COURT

25 Yes sir We'll give you that

1 opportunity

2 APPLICANT STANKO

3 Okay

4 THE COURT

5 In fact, the Supreme Court's Order -
6 and you have not really had a chance to review it fully --

7 APPLICANT STANKO

8 No

9 THE COURT

10 -- talks about the fact that you have
11 notified The Court that you intend to amend your application
12 and This Court will give you that opportunity

13 And so we will not hear, today, any
14 -- the merits of any motions, or the merits of the cases
15 themselves

16 We're simply here on the issue of
17 counsel for you

18 And so, the first question I should
19 ask you is

20 Do you intend to retain private
21 counsel to represent you in this matter?

22 APPLICANT STANKO

23 No sir

24 THE COURT

25 All right

1 Uh-And then, are you asking - asking
2 This Court pursuant to the statutes -uh- are you taking the
3 position that you are indigent, and you request that counsel
4 be appointed for you?

5 APPLICANT STANKO

6 Yes sir

7 THE COURT

8 All right

9 Uh-Are you aware -uh- or have you
10 discussed with any attorney who may be -uh- certified to
11 represent you in a case of this nature -uh- and do you have
12 a preference?

13 Uh-Not that This Court can -uh-
14 accede to your reference, but I ask you

15 Do you have a preference?

16 And have you already discussed with
17 counsel this post-conviction relief claim?

18 APPLICANT STANKO

19 I have had previous communications
20 with John Delgatto (phonetic), not regarding the PCR,
21 however

22 I have sent him a letter since
23 speaking with Catherine Hudgins (phonetic) via phone

24 Uh-After we received the final order
25 -- or after she had received the final order from the

1 Supreme Court regarding the dismissal of my direct appeal

2 I spoke with her, and then sent a
3 letter to Mr Delgatto (phonetic), who I had spoke (sic) to
4 previously concerning defending me in the original case

5 I have not heard back from him as of
6 yet, and that was less than two weeks ago

7 As far as speaking with anybody else,
8 no sir, I have not

9 And as far as knowing who else would
10 be certified, I know some of those -- the attorneys who are
11 certified in this matter

12 I have not had a chance to speak with
13 any of them

14 As of -- As far as preference, I
15 can't say that I have one, sir

16 I would like to have somebody who has
17 dealt with the mental capacity issues, because it's a huge
18 part of this case

19 One of the issues that I am going to
20 allege is going to be with regard to the Office of Indigent
21 Defense and the presentation of their issue, and how it was
22 presented

23 I would like to have somebody who is
24 formidable in the mental capacity arguments, and not
25 somebody who is going to be scratching or learning, because

1 it is a very, very, distinct And it's a very difficult
2 issue and allegation to present

3 THE COURT

4 All right, sir

5 Just a moment, then

6 Ms Doris, would you bring up our
7 -uh- certified attorney list that we have here in the 15th
8 Circuit, please

9 Let me get you what you - Would you
10 do this for me

11 All of these attorneys are certified
12 for death penalty Can you make me a copy of this?

13 CLERK

14 Yes sir

15 THE COURT

16 We're going to make you a copy, Mr
17 Stanko, of the list of attorneys that we have -uh- or at
18 least that have filed with This Court a notification that
19 they are qualified for prosecutions in a capital case - a
20 post-conviction relief

21 APPLICANT STANKO

22 Thank you, sir

23 THE COURT

24 And that is they are qualified for
25 the defense of those cases

1 And I'll give you that list in just a
2 moment

3 APPLICANT STANKO

4 Thank you

5 THE COURT

6 You -- You may be seated

7 APPLICANT STANKO

8 Thank you

9 THE COURT

10 All right

11 Do you have any -- Mr Mabry, any
12 response to what you just heard Mr Stanko say?

13 MR MABRY

14 No sir As far as my motion, Your
15 Honor has, that was what I was going to -uh- propose anyway,
16 that that be held in abeyance until he can -uh-amend his
17 application --

18 THE COURT

19 All right

20 MR MABRY

21 --- rather than us going through
22 these same hoops every time

23 THE COURT

24 All right

25 And what -- What position do you have

1 on -uh- the deadlines imposed by statute -- the fact that
2 we're under Stay right now -- as to how much time This Court
3 has in order to complete this matter?

4 MR MABRY

5 Until you complete --

6 THE COURT

7 The entire - Well, there is a 180 day
8 Provision -uh- and I note that you proposed a scheduling
9 order

10 And so I ask you

11 What is your position on the length
12 of time that is appropriate for This Court to give Mr
13 Stanko to weigh-in on the issue of who he would like to have
14 appointed as his counsel?

15 MR MABRY

16 I would have to look the statute
17 again Your Honor

18 Uh -- I provided my copy to your Law
19 Clerk And I -- I can't remember the specific language of
20 the statute

21 THE COURT

22 All right

23 MR MABRY

24 I know we have to have the hearing
25 today But I don't know how long you can wait - uh - for

1 him to make a choice, and how -- Our position is he doesn't
2 - he doesn't get his preference

3 The Court -- It's The Court's
4 decision who to appoint in this case

5 THE COURT

6 Right And I understand that

7 But I was going to give Mr Stanko
8 the opportunity to express a preference - uh - if he's able
9 to do so, or give him the opportunity to contact counsel to
10 discuss with counsel that he believes would be - uh -

11 qualified given the various issues that we have

12 MR MAYBURY

13 Well, our -- our position is of
14 course is that's entirely up to The Court And I'm not
15 aware of any case law or statute that allows him to weigh-in
16 on that, nor does he have any constitutional right to
17 effective assistance of post-conviction relief counsel

18 So - uh - that would be our position

19 I'm not trying to box The Court into
20 any - any - uh - position But since The Court asked,
21 that's our position

22 THE COURT

23 All right

24 Uh -- Mr Stanko, I'm going to give
25 you a copy of the list that we have here from the 15th

1 Circuit of attorneys that are death penalty qualified

2 And I'm going to let you review that,
3 and ask you to respond in writing to The Court

4 I'm going to give you a certain
5 amount of time for you to weigh-in on this issue - uh - as a
6 courtesy to you --

7 APPLICANT STANKO

8 Yes sir

9 THE COURT

10 -- and also because of how you
11 believe this case contains certain unique issues

12 So I would ask -- what I would ask
13 you to do is

14 Uh -- Within 14 days of today's date,
15 if you would write to This Court -- I would ask you to send
16 a copy to the attorney general so there -- so that there
17 would not be any exparte communication

18 APPLICANT STANKO

19 Yes sir

20 THE COURT

21 I would file your letter that you
22 send me in your post-conviction relief file, which is in
23 Georgetown County, of course

24 APPLICANT STANKO

25 Yes sir

1 THE COURT

2 Uh -- Now again, I will tell you that
3 I cannot - uh - necessarily appoint who you request, but I
4 will give you that opportunity to weigh-in

5 Now, tell me

6 14 days, is that sufficient time?

7 Or how much time do you wish to have?

8 APPLICANT STANKO

9 I think 14 days will be sufficient,

10 sir

11 THE COURT

12 All right

13 APPLICANT STANKO

14 If --

15 THE COURT

16 Uh --

17 APPLICANT STANKO

18 If I do write someone and they don't
19 respond to me in that time, would be my only concern

20 Uh - Now I -- And I promise you this

21 I will have letters out within the
22 next 3 days, or at least have communications out within the
23 next 3 days

24 My only -- I would not want to say to
25 you

.....

1 Judge Baxley, I promise you I'll have
2 it back in 14 days

3 I promise you I'll write you no
4 matter what

5 My -- My only concern was

6 I can promise you how fast I will
7 contact them I cannot promise you how fast they will
8 contact me

9 Were I to have an attorney who is
10 willing to look at this case and speak to me, but would not
11 be able to come see me within those 14 days, would I be able
12 to contact you and make you aware of that, or have them
13 contact you and the attorney general's office to notify them
14 of that communication?

15 THE COURT

16 Yes sir, you can do that in writing
17 But -uh- again -uh- The Court wishes
18 to move with some due -

19 APPLICANT STANKO

20 Yes sir

21 THE COURT

22 --- speed, because first of all, we
23 are operating under a Stay here of execution But secondly
24 -uh- it's a matter that should be resolved for all parties,
25 for you as well

.....

1 APPLICANT STANKO

2 Actually, I do too And I have - I
3 have one other query for you that needs to be presented
4 right now at this time

5 As you are aware, in the second trial
6 William Diggs is going to be my attorney, or at least, I --
7 I hope he is

8 The conundrum that I have is that
9 In the same sense, this post-
10 conviction relief may have allegations of ineffective
11 assistance of counsel against him

12 My argument is

13 Just because I feel he may have been
14 ineffective in the first case does not mean that he'll make
15 those same ineffective mistakes in the second, because he's
16 learned from them, or may see them differently

17 So my conundrum is I don't want to
18 lose him, because I believe in him

19 He knows my case

20 He's the one who had the test ordered
21 and found out everything that was wrong with my medial
22 frontal lobe

23 I don't want to lose him

24 On the other hand, I also, by keeping
25 him in the second case, do not want to give him up by losing

1 him with the possibility of arguing ineffective assistance
2 of counsel argument against him, and thereby having a judge
3 tell me that

4 Because I filed an IAOC argument
5 against him in PCR, I can't have him in the second case
6 THE COURT

7 All right, sir

8 I'm going to leave you to discuss
9 that -uh- matter with the attorney that's ultimately
10 appointed for you

11 Of course, by filing this -uh- post-
12 conviction relief claim, you have taken the position -uh-
13 that there was ineffective assistance of counsel

14 APPLICANT STANKO

15 Yes sir

16 THE COURT

17 And thus, that's a matter that you
18 would need to discuss with your attorney who will be
19 appointed

20 And as you are aware, the statute
21 requires The Court appoint two attorneys for you -

22 APPLICANT STANKO

23 Yes sir

24 THE COURT

25 --- in post-conviction relief

1 matters

2 All right, then

3 It would be my intention to adjourn
4 these proceedings for 14 days

5 I will give you 14 days to respond to
6 The Court in writing, thereafter having -- whether I should
7 not hear from you or whether I hear from you with certain
8 suggestions, The Court will then make the appointment -uh-
9 that The Court believes is the appropriate attorney to
10 represent you

11 Now, is there anything further from
12 the State --

13 MR MABRY

14 Yes --

15 THE COURT

16 -- with regard to this matter?

17 MR MABRY

18 Yes, Your Honor, just briefly

19 At this time, we would -uh- place on
20 the record our objection to any exparte -uh- funding request
21 once counsel is appointed

22 This is a post-conviction relief
23 matter -uh- not a criminal prosecution

24 So if there are any funding request
25 from collateral counsel once they're appointed, we wish to

1 be present for those, so we would place that motion - or
2 that objection and motion on the record at this time

3 The second thing, Your Honor, is

4 I have the -uh- the appellate
5 pleadings -- a copy for The Court -- these are all matters
6 of public record -- that I would hand up to The Court at
7 this time for The Court's review at the appropriate time

8 THE COURT

9 Very good

10 Now -uh- anything further from you,

11 Mr Stanko?

12 APPLICANT STANKO

13 Only 2 last things that I would like
14 to present to you that I've had problems with, sir

15 The South Carolina Department --

16 THE COURT

17 I'm going to get you - I'm going to
18 get you to stand, if you will

19 APPLICANT STANKO

20 Okay

21 THE COURT

22 Thank you

23 APPLICANT STANKO

24 I'm sorry

25 THE COURT

.....

1 Go ahead

2 APPLICANT STANKO

3 I am having a problem with the South
4 Carolina Department of corrections which concerns receiving
5 my discovery and my mail

6 I have -- One of the mail personnel
7 has decided that -- that she can pull things out of
8 discovery and not provide them to me

9 Uh -- When I -- When I told her that
10 I need all of that, the what she did was

11 She took it all back and mailed it
12 back to my attorneys, thereby making it very difficult for
13 me to receive

14 And I know this isn't something that
15 you could can actually place an order down there

16 But I - I don't know where else to go
17 with this

18 If I can't receive my discovery in
19 both a pending case, or if it happens with this case with
20 information sent to me, then I have an -- a problem there
21 providing help in the judicial program of - of my own
22 defense, or my appellate proceedings

23 THE COURT

24 All right

25 I'm going to again let you first

1 approach that issue with your attorney

2 APPLICANT STANKO

3 Yes sir

4 THE COURT

5 And - uh - once appointed, and we
6 will make a decision thereafter based upon whatever that
7 attorney presents to The Court

8 APPLICANT STANKO

9 I appreciate your letting me say
10 that

11 THE COURT

12 All right, Mr Stanko

13 Have a good day, sir

14 APPLICANT STANKO

15 You too

16 THE COURT

17 I'm going to return you now to the
18 Department of Corrections And that concludes this hearing

19 This Court is now in recess for this
20 matter

21 APPLICANT STANKO

22 Thank you, Judge

23 MR MABRY

24 Thank Your Honor

25 WHEREUPON There being nothing

1 further in this matter, these proceedings were ended on
2 December 8th, 2008 at 10 37 AM)
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CERTIFICATE

I, the undersigned, H Eugene Buckner, CVR, Official Court Reporter at Large in and for the State of South Carolina, do hereby certify that the foregoing proceeding was taken on the 8th day of December, 2008,

That the within judicial proceedings are, to the best of my ability, an accurate and verbatim transcription of the hearing,

I further certify that I am neither Counsel nor Solicitor to any of the parties in said suit, nor interested in the event of the cause

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of December, 2008

H EUGENE BUCKNER, CVR
OFFICIAL COURT REPORTER AT LARGE
15TH JUDICIAL DISTRICT
STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
 05-GS-26-2927

State of South Carolina,)
)
 Plaintiff,)
)
 -VS-) TRANSCRIPT OF RECORD
)
 Stephen Christopher Stanko,)
)
 Defendant)
 _____)

March 4, 2009
 Conway, South Carolina

B E F O R E

HONORABLE STEVEN H JOHN, Circuit Judge

A P P E A R A N C E S

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Dixie Cox Eubank
 Official Reporter

I N D E X
(SW) STATE'S WITNESS
(DW) DEFENSE WITNESS

Motions	3
Certificate of Reporter	16

E X H I B I T I N D E X

(No Exhibits Marked)

1 THE COURT All right, we are here on the record in
2 2005-GS-26-2927, the State of South Carolina, County of
3 Horry, versus Stephen C Stanko As to this particular
4 matter, let me cover just a couple of things with you
5 gentlemen

6 One, I guess it's administrative or not even a
7 scheduling matter The scheduling order that I sent to
8 you and that we filed with the Clerk of Court, the very
9 first item that's on that says Monday, August 24th, 2009,
10 at 2 00 P M -- it says Thursday, August 24th, 2009, 2 00
11 P M Well, August 24th actually is a Monday, so y'all
12 need to strike through where it says Thursday, August
13 24th, 2009, and put Monday, August 24th, 2009 The date
14 was correct, but unfortunately we had interposed the
15 wrong day on that, so if y'all will just put Monday on
16 there

17 All right, another matter, it's come to the Court's
18 attention in this matter, and the reason that I now have
19 this particular case, because Judge Baxley was asked by
20 the Supreme Court to handle the post conviction relief
21 matter that Mr Stanko has filed as against Mr Diggs and
22 his former attorneys in the Georgetown case, and though
23 Judge Baxley might have addressed this issue or
24 questioned about this issue, since he is no longer the
25 trial judge, I want to go over this particular issue

1 It seems to me, at least questionable, if not
2 inconsistent, that Mr Diggs remain as the trial attorney
3 in this particular case when a post conviction relief
4 matter has been filed against him by Mr Stanko Mr
5 Diggs, I assume that you have, as best you could, covered
6 that issue with Mr Stanko

7 MR DIGGS Your Honor, we've talked about it on a
8 number of occasions, but to be honest with you, I haven't
9 even -- I haven't seen the PCR application and I didn't
10 have any input into, you know, the substance of that
11 application, so, I mean, I understand ---

12 THE COURT And obviously, you know, there are
13 boundaries obviously that you cannot communicate with Mr
14 Stanko about that You don't represent him in that
15 particular matter and obviously he's filed a complaint in
16 that matter or at least a PCR application that alleges at
17 least in part of it ineffective assistance of counsel, so
18 you being the -- not the responding party, but obviously
19 there are issues and things that you may not discuss with
20 him, but you can certainly, I assume, and have -- and if
21 you haven't, you certainly need to, communicate with him
22 about your continued representation of him regarding this
23 particular case Have you done that?

24 MR DIGGS We have, Your Honor I have discussed
25 it with him

1 THE COURT All right, and he has asked you to
2 remain as his attorney in this particular matter?

3 MR DIGGS Yes, he has

4 THE COURT All right, sir

5 All right, Mr Stanko, I need to ask you some
6 questions, sir

7 MR STANKO Yes, sir Good morning

8 THE COURT Good morning, sir It seems, at least
9 to the Court, there is at least some inconsistency or if
10 not a downright disqualification of Mr Diggs in this
11 matter regarding you filing a post conviction relief
12 application in the previous case that arose out of
13 Georgetown and his continued representation in this
14 particular matter I'll be glad to hear from you

15 MR STANKO If I may clarify First of all, the
16 application that was filed was filed with the assistance
17 of Kathrine Hudgins out of SCCID, and what happened was
18 in order to stop the death watch after the negative
19 response in the appeal, she filed on my behalf an
20 application I, as of yet, have not filed a perfected
21 application I've only just now had the two attorneys
22 appointed, and I intend to file an amended application
23 The ineffective argument that was filed referencing Mr
24 Diggs was not actually filed by me, myself Now, ---

25 THE COURT Well, I appreciate that, but ---

1 MR STANKO And -- I'm sorry, go ahead

2 THE COURT --- do you intend to adopt that filing?
3 Do you intend to at least at the present time pursue the
4 PCR application alleging ineffective assistance of
5 counsel as against Mr Diggs?

6 MR STANKO Actually, the way that issue was
7 written, not completely, no, sir I had requested that
8 that issue whenever I spoke with her and Mr Savitz, that
9 is not the way that I had agreed that that immediate
10 application was going to be filed There's an issue
11 that's still -- and I really can't discuss it right
12 now ---

13 THE COURT Well, and I appreciate that you can't,
14 but ---

15 MR STANKO But even playing worst case scenario,
16 let's say -- let's say if I did file, and I haven't -- I
17 know I'm going to file some issues against prosecutorial
18 misconduct, some I A C against Mr Kelly, I have not
19 made a -- until I meet with those two attorneys that have
20 been appointed in the PCR case, I can't say, Your Honor,
21 this is what I am going to file, but if we play worst
22 case scenario and I did file ineffective assistance of
23 counsel against Mr Diggs on any issues, understanding
24 the Strickland two-prong test, but that's still
25 prerequisite that I wouldn't trust or believe in him to

1 handle this case, (A) if he did commit errors that, let's
2 say, he even determined as being errors, by looking at
3 that case, I believe that Mr Diggs would say, "Maybe I
4 should have done this differently," and in this
5 particular case, which is going to use a very similar
6 defense, wouldn't he have learned from that?

7 (B) Even if I did file them, is it not a situation
8 where it would have no effect on this case as long as I
9 do trust and believe in him and his efforts toward this
10 case?

11 THE COURT All right, sir Well, and I'll say, I
12 mean, the Court is well aware of your Sixth Amendment
13 right and the South Carolina Supreme Court decision in
14 State v Sanders regarding assistance of counsel, ---

15 MR STANKO Yes, sir

16 THE COURT --- and obviously you don't have the
17 ability to pick and choose your attorneys per se, but
18 certainly I will listen to you as to your request to have
19 as -- if I understand you correctly that you want Mr
20 Diggs to remain as the lead counsel and remain as one of
21 your attorneys in this particular case, the 2005-GS-26-
22 2927?

23 MR STANKO Yes, sir

24 THE COURT Do you have now any date that you know
25 that you're going to meet with the attorneys helping you

1 in the post conviction relief application? Is that even
2 set yet?

3 MR STANKO Mr Godfrey was coming to see me on
4 Friday, and that got canceled Now, I'm not sure why,
5 sir They have not been placed on my pen list yet, so I
6 can't even make contact with them as of yet They were
7 only assigned about forty days ago, ---

8 THE COURT Okay

9 MR STANKO --- and before -- before I jump away,
10 I'm going to use an analogy (A) There's a Solicitor
11 that was in this case and that case that had been
12 sanctioned by the State for previous misconducts, but
13 he's still a Solicitor (B) I'm going to use a baseball
14 analogy If you have Derek Jeter, and in the ninth
15 inning of the final game of the World Series he commits
16 an error that costs the Yankees the game, that doesn't
17 mean that you don't want him back starting next season,
18 and I do

19 One thing about Mr Diggs is he does believe in my
20 case and he understands it's a very in-depth case
21 concerning the defect in my brain, and I would ask --
22 what I don't want to do is say, "Well, Your Honor, is the
23 only way that I can keep Mr Diggs is to say that I'm
24 going to waive any I A C ?"

25 THE COURT No, sir I'm not asking you to do so

MOTIONS

9

1 MR STANKO On the other hand ---

2 THE COURT And I'm certainly not making that a ---

3 MR STANKO On the other hand, if I'm going to
4 lose him, Judge, and I can't say that I wouldn't do that
5 because I don't know that there's another attorney other
6 than Brana and Mr Diggs who cares much about this case
7 and having it resolved in true fashion I mean, I'm not
8 saying there's not, but I know one thing, having had
9 multiple conversations with both of them, I believe that
10 they believe in this case more than anyone

11 THE COURT All right, sir What I would ask,
12 then, is once you have communicated with your counsel
13 that are going to represent you in the PCR matter, ---

14 MR STANKO Yes, sir

15 THE COURT --- and once you file an amended, if
16 you do, ---

17 MR STANKO Yes, sir

18 THE COURT --- if you do file an amended post
19 conviction relief application, if you will inform your
20 counsel to forward to me a copy of what is filed, ---

21 MR STANKO Yes, sir

22 THE COURT --- what is filed with the Clerk of
23 Court ---

24 MR STANKO Yes, sir

25 THE COURT --- so that I'm not going at this point

1 in time, I'm not going to remove Mr Diggs at this point
2 in time I think that I accept what Mr Stanko has said
3 in his request He apparently has -- from what he's
4 explained to me, he has thought this through He has
5 made a conscious and informed decision to keep Mr Diggs
6 as his attorney

7 Mr Diggs, I would ask you, you find no conflict in
8 this? You find no problems regarding your representation
9 of Mr Stanko, any issues?

10 MR DIGGS Your Honor, at this point I don't
11 Certainly it's not an ego thing I don't have a problem
12 with him making that allegation, you know

13 In terms of when the Court has an opportunity to
14 look at the PCR application and you see -- or, you know,
15 a determination is made as to what issues you're going to
16 proceed there, and if you see maybe a conflict in the
17 theories, you know, that I may be advancing and you see
18 that I may be undermining, you know, the overall state, I
19 guess, of Mr Stanko's case against the State of South
20 Carolina, you might want to re-visit that issue, but I
21 personally don't have a problem

22 THE COURT All right Based upon the -- your
23 statements to the Court and the Court's questioning of
24 Mr Stanko, Mr Stanko's statements to me, that I will
25 keep Mr Diggs as counsel here in this particular matter

1 with the ability for the Court to re-visit it in the
2 future should there be issues in the amended application
3 that either give the Court any concern or Mr Stanko, or
4 Mr Diggs concerns as to Mr Diggs continued
5 representation in this matter, all right?

6 MR STANKO You don't need me to make contact with
7 Judge Baxley concerning that request?

8 THE COURT No, sir, I don't I don't Just that
9 you communicate with your counsel when they meet with you
10 and just have them, at the Court's request, that whenever
11 they file, if an amended application is filed, ---

12 MR STANKO Yes, sir

13 THE COURT --- that they forward a copy to me, ---

14 MR STANKO Thank you

15 THE COURT --- okay?

16 MR STANKO Yes, sir

17 THE COURT Thank you very much

18 All right, gentlemen, I know I've probably moved it
19 a little bit ahead of time, as far as the schedule, but I
20 did have it already prepared, so I've given y'all just an
21 outline of a juror questionnaire that we just handed to
22 counsel this morning Obviously it's not scheduled to be
23 firmed up for some considerable point in time, but since
24 I had a draft prepared already, I thought I would give it
25 to you to give y'all some opportunity to look through it

1 to see what questions or concerns that you might have
2 with what is contained therein and obviously give you
3 plenty of time to communicate back

4 Obviously we don't have to -- on this particular
5 issue you don't have to stick with the schedule since
6 I've sent it to you well in advance of what time frame
7 was in the schedule If y'all can look at it and get
8 back to me, and if we can firm that up, that will be
9 fine We'll be able to give the Clerk of Court a lot of
10 leeway time to make sure that that is forwarded out
11 appropriately to the jurors that are summoned for those
12 two particular weeks, the week of November 9th and
13 November 16th

14 Other than the correction I had on the date, have
15 y'all had an opportunity to look at the scheduling order,
16 Solicitor?

17 MR HEMBREE Yes, Your Honor, we have, and it
18 looks -- looks fine

19 THE COURT Then nothing that y'all have any
20 concerns about?

21 MR HEMBREE No concerns, no suggestions at all

22 THE COURT All right, sir

23 Mr Diggs ---

24 MS WILLIAMS Your Honor, ---

25 THE COURT Yes, ma'am, Ms Williams

1 MS WILLIAMS --- if I may

2 THE COURT Yes, ma'am

3 MS WILLIAMS In thinking about this, obviously
4 the matter that the Court just ruled on, there is -- if I
5 understand it correctly, there is the potential that once
6 Mr Stanko meets with his attorneys, which we do not know
7 when that will be, his PCR attorneys, he may file an
8 amended PCR against Mr Diggs, and if he does so, he may
9 be removed as trial counsel If he's removed as
10 trial ---

11 THE COURT All that is ---

12 MS WILLIAMS Correct

13 THE COURT --- certainly a potential

14 MS WILLIAMS And if he is removed as trial
15 counsel, and, of course, we don't have a time frame,
16 we're not sure if this is going to be thirty days, forty-
17 five days, ninety days, or anything like that I'm
18 concerned, Your Honor, if we continue to proceed with
19 this and all of a sudden Mr Diggs is yanked out of the
20 case, there is a major hole left in Mr Stanko's defense

21 THE COURT Well, it might be, but we aren't
22 anywhere close to that I've not indicated that I would
23 remove Mr Diggs I wanted to raise the issue I wanted
24 to hear from Mr Stanko I understand Judge Baxley had
25 heard from him, but I wanted to hear from him ---

1 MS WILLIAMS Judge, and ---

2 THE COURT --- and make my own determination based
3 upon what he informed me about the continued
4 representation of Mr Diggs, and I am satisfied from what
5 he has stated to me that he definitely wants Mr Diggs to
6 remain as his trial counsel There is obviously
7 apparently a good level of interaction and trust between
8 Mr Diggs and Mr Stanko regarding this particular
9 matter, and barring some unusual circumstances, it's not
10 my intention at this point in time to interfere or
11 interrupt that, so that -- but I don't want to foreclose
12 the issue completely without having read and seen the
13 amended PCR application if there is going to be one,
14 so ---

15 MS WILLIAMS Certainly, Your Honor If I
16 may, ---

17 THE COURT --- so I don't know that You know, if
18 we have to do that, then I'll hear from you at that point
19 in time

20 MS WILLIAMS That's all I just wanted to say if
21 we could certainly reserve the time frame issue at that
22 point

23 THE COURT Well, I'm -- you know, timetables can
24 be changed I would hesitate to do so and would not want
25 to do so I think we have set a more than lenient

1 timetable as it now exists to give everyone a full
2 opportunity to do everything that is absolutely necessary
3 to have the matters go forward and the trials to go
4 forward on those two weeks of November 9th and 16th, so I
5 don't anticipate that we'll be changing the scheduling
6 order

7 All right, are there any issues from the State at
8 this point in time that we need to look at, Solicitor?

9 MR HEMBREE No, Your Honor

10 THE COURT All right Mr Diggs and Ms Williams,
11 any issues at this point with the Solicitor's Office
12 being represented that you need to raise to me at this
13 point in time?

14 MR DIGGS Your Honor, I don't think so at this
15 point

16 THE COURT All right, sir

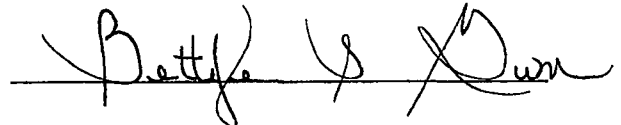
17 (Conclusion of Transcript of Record)
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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF HORRY)
3

4 I, the undersigned Bettye S Gum, Certified Court
5 Reporter and Notary Public in and for the State of South
6 Carolina, do hereby certify that the foregoing is a true,
7 accurate and complete Transcript of Record of all the
8 proceedings had and evidence introduced in the hearing of
9 the captioned case, as taken by Dixie Cox Eubank,
10 Official Reporter, and transcribed by me, relative to
11 appeal, in the Court of General Sessions for Horry
12 County, South Carolina

13 I do further certify that I am neither of kin,
14 counsel, nor interest to any party hereto
15
16

17 June 12, 2010

18
19 

20 BETTYE S GUM, CCR-CVR-CM

21 Certified Court Reporter and
22 Notary Public for South Carolina
23 My Commission Expires 7/13/14
24
25

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-2927

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
 vs)
)
 STEPHEN CHRISTOPHER STANKO,)
)
 DEFENDANT)
 _____)

TRANSCRIPT OF RECORD

JUNE 5, 2009
CONWAY, SOUTH CAROLINA

BEFORE

THE HONORABLE, STEPHEN H JOHN, JUDGE

APPEARANCES

BY FRANCIS A HUMPHRIES, JR , ESQ
ATTORNEY FOR STATE

BY WILLIAM I DIGGS, ESQ
BRANA J WILLIAMS, ESQ
ATTORNEYS FOR STEPHEN CHRISTOPHER STANKO

BRENDA R BABB
Circuit Court Reporter

	INDEX	2
ARGUMENT BY MR HUMPHRIES		3
ARGUMENT BY MR DIGGS		6/15
ARGUMENT BY MS WILLIAMS		8
EXAMINATION OF DEFENDANT BY COURT		10
RULING OF COURT		14
CERTIFICATE OF REPORTER		20

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

3

1 THE COURT WE'RE HERE IN THE CASE OF
2 STATE V STEPHEN C STANKO, 2005-GS-26-2927 PURSUANT TO A
3 NOTICE OF MOTION AND MOTION BY THE STATE OF SOUTH CAROLINA
4 TO REVIEW THE STATUS OF DEFENDANT'S COUNSEL IN LIGHT OF A
5 POST CONVICTION RELIEF ACTION BROUGHT BY MR STANKO
6 REGARDING THE PREVIOUS CASE IN GEORGETOWN COUNTY, THE STATE
7 OF SOUTH CAROLINA V STEPHEN C STANKO

8 ALL RIGHT, IS THE STATE READY TO PROCEED?

9 MR HUMPHRIES THE STATE IS READY TO PROCEED,
10 YOUR HONOR

11 THE COURT DEFENSE READY TO RESPOND?

12 MS WILLIAMS YES, SIR, WE ARE

13 THE COURT VERY GOOD, ALL RIGHT, SOLICITOR, YOU
14 MAY PROCEED

15 MR HUMPHRIES THANK YOU, YOUR HONOR, YOU'VE
16 RECEIVED MY WRITTEN MOTION, THAT ALSO HAS BEEN SERVED ON
17 COUNSEL FOR DEFENDANT STANKO WE'RE, THE STATE IS IN AN
18 AWKWARD POSITION IN THAT IF WE WERE THE FEDERAL GOVERNMENT
19 WE WOULD BE FILING A MOTION TO, TO HAVE MR DIGGS REMOVED
20 FROM THE CASE BASED ON A CONFLICT OF INTEREST THEY DO
21 THAT AS A MATTER OF COURSE AT THE U S ATTORNEY'S OFFICE
22 WE DON'T DO THAT BUT WE FELT BASED ON WHAT WE, AT LEAST
23 WHAT WE OBSERVE TO BE APPARENT DIRECT CONFLICTS OF INTEREST
24 BASED ON THE FILING OF THE POST CONVICTION RELIEF THAT BY
25 OPERATION OF LAW WAIVES THE ATTORNEY/CLIENT PRIVILEGE TO A

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

4

1 CERTAIN EXTENT, WE BELIEVE THAT WE NEEDED TO BRING THIS
2 BEFORE THE COURT

3 OBVIOUSLY THESE CASES ARE, THEY'RE COMPLEX, THEY
4 ARE COSTLY, THEY ARE TIME CONSUMING AND NO ONE WANTS TO DO
5 THEM TWICE, ALTHOUGH OFTENTIMES WE DO, BUT THIS IS
6 FORESEEABLE, I WOULD SUBMIT, AND, AND, THEREFORE, IT NEEDS
7 TO BE ADDRESSED BY THE COURT AND SO, YOU KNOW, I COULD GO
8 BACK THROUGH THE WRITTEN MOTION, I KNOW YOUR HONOR HAS
9 REVIEWED IT BUT, BUT BASED, THE GIST OF IT IS THIS

10 THERE HAS BEEN A POST CONVICTION RELIEF PETITION
11 FILED BY DEFENDANT STANKO AND AS A PART OF THAT PETITION HE
12 HAS ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL, THAT BEING
13 MR DIGGS, AND BY THAT VERY FILING HE HAS WAIVED, ALREADY
14 WAIVED ATTORNEY/CLIENT PRIVILEGE IN CONNECTION WITH THAT
15 CASE AND WE'VE BEEN ADVISED ON THE RECORD AND OTHERWISE
16 BY MR DIGGS, THE COURT HAS BEEN ADVISED AS WELL, THAT IT
17 IS, IT IS MR DIGGS AND DEFENDANT STANKO'S INTENTION TO, TO
18 PRESENT BASICALLY THE SAME DEFENSE OR TYPE OF DEFENSE AND
19 SAME WITNESSES AS WERE INVOLVED IN THE FIRST CASE AND THIS,
20 THIS ATTORNEY/CLIENT PRIVILEGE IS WAIVED AS RELATES NOT
21 ONLY TO MR DIGGS BUT HIS COMMUNICATIONS WITH THOSE
22 EXPERTS, THE SAME EXPERTS HE WOULD INTEND TO CALL, AT LEAST
23 HE HAS STATED HE INTENDS TO CALL IN THIS CASE SO WE BRING
24 THAT TO THE COURT'S ATTENTION AND ASK THE COURT TO, TO
25 REVIEW THAT SITUATION IN LIGHT OF THE UPCOMING TRIAL WHICH

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

5

1 I BELIEVE IS SCHEDULED IN THE FALL

2 THE COURT ALL RIGHT, WELL LET ME ASK, BEFORE
3 YOU SIT DOWN, SOLICITOR --

4 MR HUMPHRIES YES, SIR

5 THE COURT LET ME ASK YOU A QUESTION, I'M A
6 LITTLE CONFUSED YOU'VE GOT HERE IN YOUR MOTION THAT THEY
7 ARE FILING IN THE POST CONVICTION RELIEF APPLICATION MR
8 STANKO HAS WAIVED THE ATTORNEY/CLIENT PRIVILEGE NOW AS I
9 READ RULE 1 7 IT INDICATES THAT IT'S WAIVED TO THE EXTENT
10 NECESSARY FOR THE COUNSEL TO RESPOND TO THE ALLEGATIONS
11 MADE IN THE POST CONVICTION RELIEF APPLICATION

12 MR HUMPHRIES YES, SIR, IT IS LIMITED NO
13 QUESTION ABOUT THAT

14 THE COURT OKAY, ARE YOU INDICATING BY THE
15 FILING OF THE MOTION, AND THIS IS THE PART THAT I FOUND A
16 LITTLE CONFUSING, ARE YOU INDICATING THAT DEPENDING UPON
17 WHAT EXPERT WITNESSES ARE PRESENTED IN THIS CASE AGAINST
18 MR STANKO HERE IN HORRY COUNTY THAT THE STATE MAY TRY TO
19 CALL MR DIGGS AS A WITNESS REGARDING CERTAIN
20 COMMUNICATIONS?

21 MR HUMPHRIES NO, SIR, NO, SIR, AND LET ME,
22 LET ME BE CLEAR ABOUT THAT THIS REALLY HAD VERY LITTLE IF
23 NOTHING TO DO WITH THE STATE'S CASE AGAINST MR STANKO WE
24 DON'T, I DON'T INTEND, WE DON'T, THE STATE DOES NOT INTEND
25 TO CALL MR DIGGS AS A WITNESS WE DON'T INTEND TO CONTACT

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

6

1 THE ATTORNEY GENERAL WHO WILL BE REPRESENTING THE STATE IN
2 THE POST CONVICTION RELIEF WHO IS GOING TO HAVE
3 COMMUNICATIONS WITH MR DIGGS AS A NECESSITY BECAUSE OF THE
4 POST CONVICTION RELIEF WE DON'T INTEND TO TRY AND TAKE
5 ADVANTAGE OF ANY INFORMATION THAT MAY HAVE RESULTED BY THAT
6 WAIVER OF THE ATTORNEY/CLIENT PRIVILEGE THE ISSUE IS NOT
7 WITH US THE ISSUE WE SUBMIT IS WITH MR DIGGS AND MR
8 STANKO FOR FUTURE ACTIONS THAT CAN BE FILED BY MR STANKO
9 AND WE BELIEVE IT WOULD COMPOUND ---

10 THE COURT AND THEN, THEN WHETHER OR NOT MR
11 DIGGS CONTINUED REPRESENTATION OF MR STANKO THEN VIOLATES
12 THE RULES THEN?

13 MR HUMPHRIES YES, SIR

14 THE COURT ALL RIGHT, ALL RIGHT, OKAY, I JUST
15 WANTED TO MAKE, I JUST WANTED TO BE CLEAR TO SEE IF THERE
16 WASN'T SOME FURTHER RAMIFICATION OF THIS THAT NEEDED TO BE
17 EXPLORED AT THIS POINT IN TIME ALL RIGHT

18 MR HUMPHRIES AND I APPRECIATE IT CAUSE WE
19 ABSOLUTELY DO NOT INTEND TO TRY AND TAKE ADVANTAGE OF ANY
20 WAIVER OF ATTORNEY/CLIENT PRIVILEGE

21 THE COURT ALL RIGHT, GOOD DEAL, ALL RIGHT
22 WELL I JUST WANTED TO BE CLEAR ABOUT THAT

23 ALL RIGHT, WHO'S GOING TO RESPOND TO THE STATE'S
24 ARGUMENT?

25 MR DIGGS YOUR HONOR, LET ME JUST START OFF BY

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

7

1 SAYING I DON'T REALLY TAKE A POSITION IN THE CASE ON THE
2 ISSUE MR STANKO HAS INDICATED HE WOULD LIKE FOR ME TO
3 REMAIN ON HIS CASE AS PART OF HIS DEFENSE I'M HAPPY TO DO
4 THAT I CERTAINLY DON'T TAKE ANY EXCEPTION TO ANY, ANY
5 DEFENSE ATTORNEY WHO'S IN BUSINESS FOR ANY LENGTH OF TIME
6 WILL GO THROUGH THE POST CONVICTION RELIEF PROCESS AS A
7 WITNESS FROM TIME TO TIME THAT DOESN'T CAUSE ME A PROBLEM
8 SO I'M REALLY NOT GOING TO TAKE A POSITION I CAN TELL THE
9 COURT, YOU KNOW, I'M COURT APPOINTED ON THIS CASE IF I
10 REMAIN AS COUNSEL I WILL DO THE BEST THAT I CAN DO IN THE
11 CASE THAT HAS NO AFFECT ON MY ABILITY OR WILLINGNESS TO
12 REPRESENT THIS CASE

13 THE COURT ALL RIGHT, SO THAT, THAT WAS ONE OF
14 THE QUESTIONS I WANTED TO COVER WITH YOU, MR DIGGS, THAT
15 THE FILING OF THAT POST CONVICTION RELIEF APPLICATION YOU
16 DO NOT THINK HAS IMPACTED YOUR RELATIONSHIP WITH MR STANKO
17 OR YOUR ABILITY TO COMMUNICATE WITH HIM, YOUR ABILITY TO
18 EFFECTIVELY REPRESENT HIM IN THIS CURRENT ACTION IN ANY
19 WAY, IS THAT WHAT YOU'RE TELLING ME?

20 MR DIGGS IT HAS NOT, HAS NOT

21 THE COURT ALL RIGHT, AND THE FACT THAT CERTAIN
22 MATTERS HAVE BEEN RAISED IN THE POST CONVICTION RELIEF
23 APPLICATION THAT, THAT IN YOUR MIND AND IN YOUR WORKING ON
24 THIS CASE THAT IS PROCEEDING AGAINST MR STANKO IN HORRY
25 COUNTY HAS NOT INTERFERED WITH YOUR REPRESENTATION OF HIM

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

8

1 IN ANY WAY, IS THAT RIGHT?

2 MR DIGGS THAT'S CORRECT, IT HAS NOT
3 THE COURT ALL RIGHT, VERY GOOD, YES, MA'AM?

4 MS WILLIAMS YOUR HONOR, FIRST LET ME SAY
5 THAT, I WOULD RESPECTFULLY SAY THAT THIS IS THE GROUND THE
6 COURT COVERED IN THE LAST MEETING MOTION HEARING THAT WE
7 HAD WITH REWARD TO THIS, YOUR HONOR

8 THE COURT WELL IT ACTUALLY IS THE THIRD TIME
9 BECAUSE JUDGE BAXLEY CONDUCTED AN EXTENSIVE HEARING THAT'S,
10 YOU KNOW, OF RECORD WHERE JUDGE BAXLEY EXTENSIVELY
11 QUESTIONED MR STANKO ABOUT MR DIGGS REPRESENTATION
12 BECAUSE JUDGE BAXLEY WAS AWARE OF THE POST CONVICTION
13 RELIEF FILING AN APPLICATION AND JUDGE BAXLEY AT THAT POINT
14 IN TIME FOUND THAT IT WAS PROPER FOR MR DIGGS TO CONTINUE
15 HIS REPRESENTATION OF MR STANKO AND THEN I CONDUCTED A
16 HEARING IN WHICH I QUESTIONED MR STANKO ABOUT ALL OF THESE
17 MATTERS AND THE COURT FOUND AT THE POINT IN TIME THAT BASED
18 UPON WHAT MR STANKO HAD TOLD ME AND HIS KNOWLEDGE OF HIS
19 RIGHTS UNDER THE SIXTH AMENDMENT TO THE U S CONSTITUTION
20 AND THE NUMEROUS U S SUPREME COURT CASES AND SOUTH
21 CAROLINA CASES LIKE THE STATE V SANDERS, THAT HE WAS AWARE
22 OF THE ISSUES, THAT HE INDICATED THAT HE WANTED MR DIGGS
23 TO CONTINUE THE REPRESENTATION SO ALL THAT IS, IS
24 BACKGROUND

25 HAS ANYTHING IN YOUR MIND THAT YOU KNOW OF, AND

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

9

1 I'LL ASK MR STANKO AGAIN IN A MINUTE, BUT IN YOUR
2 REPRESENTATION OF MR STANKO HAS ANYTHING CHANGED IN THIS
3 REGARD FROM THE TWO PRIOR HEARINGS WE'VE HAD ON THIS?

4 MS WILLIAMS THERE IS NOTHING THAT I AM AWARE
5 OF, YOUR HONOR, IN FACT I WAS DISCUSSING WITH MR STANKO,
6 HE HAS ACTUALLY MET WITH HIS PCR ATTORNEYS AND THE GIST OF
7 WHAT I UNDERSTAND IS ANY OF THE PROBLEMS THAT WILL BE
8 ASSERTED AGAINST MR DIGGS WITH REGARD TO THE PRIOR TRIAL
9 ARE ISSUES OF A FAILURE TO OBJECT TO CERTAIN EVIDENCE OR
10 FAILURE TO CROSS EXAMINE FARTHER OR MORE OF A TRIAL
11 TECHNIQUE, IF THE COURT WILL

12 THE COURT AS TO MATTERS THAT AROSE IN THE
13 TRIAL ITSELF?

14 MS WILLIAMS IN THE TRIAL ITSELF AND LIKE I
15 SAID AS HIS, IF YOU WANT, AS HIS TRIAL TECHNIQUE
16 CAPABILITIES/THINGS THERE'S ABSOLUTELY NOTHING THAT I AM
17 AWARE OF THAT WOULD, WOULD BE WAIVING PRIVILEGE, IF YOU
18 WILL, WITH REGARD TO OUR NEW TRIAL OR THE NEW EVIDENCE AND
19 THINGS THAT WE HAVE GOING ON YOU KNOW IF MR DIGGS
20 OBJECTED ONE TIME AND AT THIS TRIAL IF HE CERTAINLY CHOSE
21 NOT TO OBJECT AGAIN I AM QUITE SURE THAT, YOU KNOW, LEGAL
22 MINDS DIFFER AS TO WHAT IS APPROPRIATE AND WHAT'S NOT,
23 HENCE THAT'S WHY YOUR HONOR MAKES THE CALL AND SO THERE'S
24 NOTHING THAT I AM AWARE OF THAT'S ANY DIFFERENT AT THIS
25 TIME

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

10

1 THE COURT ALL RIGHT, MR STANKO, COULD YOU
2 STAND, PLEASE SIR?

3 DEFENDANT STANKO YES, SIR

4 THE COURT ALL RIGHT, AND JUST AS TO THE
5 PURPOSES OF THIS HEARING THAT WE'RE HERE TODAY I'M GOING TO
6 PLACE YOU UNDER OATH

7 STEPHEN C STANKO

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 THE COURT NOW AS THE COURT INDICATED THIS
10 ISSUE HAS BEEN COVERED WITH YOU BY JUDGE BAXLEY PREVIOUSLY,
11 MYSELF PREVIOUSLY, AND I THINK THE ONLY DIFFERENCE BETWEEN
12 THE TIME THAT I'M SPEAKING TO YOU NOW ABOUT THIS ISSUE AND
13 THE TIME I SPOKE TO YOU PREVIOUSLY AND WE HAD THE HEARING
14 ON THAT WAS I DON'T BELIEVE, AND YA'LL CORRECT ME IF I'M
15 WRONG, BUT I'M NOT SURE THAT YOU HAD ANY KIND OF EXTENSIVE
16 DISCUSSIONS WITH YOUR PCR ATTORNEYS AT THE TIME THE
17 PREVIOUS MOTION WAS HEARD AS I UNDERSTAND FROM THE OTHER
18 COUNSEL YOU HAVE NOW HAD AN OPPORTUNITY TO TALK TO THE POST
19 CONVICTION RELIEF APPLICATION ATTORNEYS, IS THAT CORRECT?

20 DEFENDANT STANKO THAT'S CORRECT

21 THE COURT ALL RIGHT, SIR, NOW, NOT ASKING YOU
22 TO DISCLOSE WHAT IT IS THAT YA'LL TALKED ABOUT, BUT BASED
23 UPON THOSE CONVERSATIONS IS THERE ANYTHING DIFFERENT NOW
24 BECAUSE NOW YOU'VE HAD AN OPPORTUNITY TO EXPLORE THE ISSUES
25 WITH THE ATTORNEYS, GET THEIR ADVISE, GET THEIR INPUT AS TO

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

11

1 YOUR POST CONVICTION RELIEF APPLICATION, IS THERE ANYTHING
2 DIFFERENT BETWEEN NOW AND THE PREVIOUS TIME THAT I
3 ADDRESSED THIS MATTER WITH YOU?

4 DEFENDANT STANKO NO, SIR, THERE'S NOT
5 THE COURT ALL RIGHT, SIR, DO YOU CONTINUE TO
6 WANT TO HAVE MR DIGGS REPRESENT YOU IN THIS CURRENT
7 ACTION?

8 DEFENDANT STANKO YES, SIR, I DO
9 THE COURT ALL RIGHT, SIR, AND DO YOU FEEL THAT
10 THIS IS A FREE AND OPEN COMMUNICATION BETWEEN YOU AND MR
11 DIGGS DESPITE THE FACT THAT THE POST CONVICTION RELIEF
12 APPLICATION HAS BEEN FILED?

13 DEFENDANT STANKO YES, SIR, THERE IS
14 THE COURT AND YOU ARE ABLE TO FULLY DISCUSS
15 ALL ISSUES THAT YOU DEEM NECESSARY WITH HIM?

16 DEFENDANT STANKO YES, SIR
17 THE COURT ALL RIGHT, SIR, AND HAVE YOU FOUND
18 IN ANY WAY THAT HE IS UNRESPONSIVE TO YOU OR IN ANY WAY,
19 FOR WANT OF A BETTER WORD, HARBORING ANY ILL FEELINGS TO
20 YOU BECAUSE OF THE FILING OF THE POST CONVICTION RELIEF
21 APPLICATION?

22 DEFENDANT STANKO NOT ONLY IS HE NOT NOW BUT I
23 DO NOT BELIEVE THAT WHEN WE FILE THE SUPPLEMENTAL, WHICH IS
24 GOING TO BE FILED, AND YOU HAD ASKED ME SPECIFICALLY TO
25 HAVE MR GODFREY CONTACT YOU AND GIVE YOU A COPY OF THAT

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

12

1 WHEN IT IS DONE AND IT WILL BE DONE SOON

2 THE COURT YES, SIR

3 DEFENDANT STANKO I DON'T THINK THERE WILL BE
4 ANY PROBLEMS AT THAT TIME

5 THE COURT ALL RIGHT, SIR

6 DEFENDANT STANKO THE ISSUES THAT WE'RE GOING
7 TO RAISE THAT HAVE HIM IN IT HAVE NOTHING TO DO WITH ANY
8 ISSUES THAT WOULD CREATE A CONFLICT OR ANY ARGUMENT OR I
9 FEEL CAUSE ANY COMMUNICATIVE PROBLEMS BETWEEN MR DIGGS AND
10 MYSELF THEY'RE MORE AT TRIAL SITUATIONS THAT SHOULD HAVE
11 BEEN OBJECTED TO, THINGS OF THAT NATURE, AND THERE IS,
12 THERE ARE TWO ISSUES BUT, SIR, I DO NOT BELIEVE THAT MR
13 DIGGS AND I ARE GOING TO HAVE ANY PROBLEMS PRESENTING THE
14 SECOND TRIAL

15 THE COURT ALL RIGHT, SIR, AND AGAIN YOU
16 CONTINUE TO WANT TO HAVE MR DIGGS TO REPRESENT YOU IN THIS
17 PARTICULAR MATTER?

18 DEFENDANT STANKO YES, SIR, I DO

19 THE COURT ALL RIGHT, THANK YOU VERY MUCH

20 DEFENDANT STANKO AND BEFORE I END THIS,
21 THOUGH, I WOULD LIKE TO MAKE ONE THING CLEAR AND ---

22 THE COURT YES, SIR

23 DEFENDANT STANKO --- I FEEL THAT MR HUMPHRIES
24 IS KIND OF, AND THIS IS JUST MY THOUGHTS, BUT HE'S ALSO HAD
25 LIKE HE SAID HE HAS TO PREPARE FOR POSSIBLE APPEALABLE

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

13

1 ISSUES LATER ON IN THE FUTURE AND I WANT TO CLARIFY ONE
2 THING, TOO, IN THE INSTANCE THAT I DO RAISE AN ISSUE
3 AGAINST MR DIGGS IF IT DOES END UP BEING A MERITABLE ISSUE
4 THAT COULD LATER BE REVERSED, REVERSE THAT CASE, THAT DOES
5 NOT MEAN THAT IN THIS TRIAL HE WILL NOT BE EFFECTIVE
6 COUNSEL FOR ME I WANT TO MAKE THAT CLEAR BECAUSE I DON'T
7 WANT WAIVE HIS ATTEMPTS AT CLARING, DECLARING THAT I'M
8 WAIVING THINGS I'M NOT DECLARING THAT THERE WEREN'T
9 MISTAKES MADE IN THAT CASE BUT THAT DOES NOT MEAN THAT I
10 DON'T TRUST MR DIGGS 100 PERCENT IN THIS UPCOMING CASE

11 THE COURT ALL RIGHT, SIR, AND YOU ARE
12 EXPRESSING TO ME THAT YOU DO ---

13 DEFENDANT STANKO I JUST WANT TO MAKE THAT
14 RECORD CLEAR ALSO

15 THE COURT RIGHT, THAT YOU DO, THAT YOU DO
16 TRUST AS FAR AS HIS ABILITY TO PROPERLY REPRESENT YOU IN
17 THIS ACTION?

18 DEFENDANT STANKO ONE HUNDRED PERCENT

19 THE COURT VERY GOOD, THANK YOU VERY MUCH, SIR,
20 YOU CAN HAVE A SEAT

21 DEFENDANT STANKO YES, SIR

22 THE COURT YES, SIR?

23 MR HUMPHRIES VERY BRIEFLY, IN MY MIND WE'VE
24 ACCOMPLISHED WHAT, AT LEAST WHAT THE STATE FELT LIKE NEEDED
25 TO BE DONE TODAY IN FAIRNESS WE HAVE HAD AT LEAST TWO

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

14

1 HEARINGS IN CONNECTION WITH THIS ISSUE BUT IN NEITHER OF
2 THOSE TWO PARTICULAR HEARINGS DID WE ADDRESS THE WAIVER OF
3 ATTORNEY/CLIENT PRIVILEGE SPECIFICALLY THAT'S WHY WE
4 RAISED IT TODAY AND HAVING DONE THAT WE'VE ACCOMPLISHED
5 WHAT WE INTENDED

6 THE COURT ALL RIGHT, SIR, AND I APPRECIATE
7 THAT AND I BELIEVE WE ARE ALL CLEAR ON WHAT THE FACT AND
8 THE FACT HAS NO AFFECT ON, ON THIS PARTICULAR TRIAL

9 DEFENDANT STANKO YOUR HONOR?

10 THE COURT I'M SORRY, TALK TO YOUR ATTORNEYS
11 AND SEE IF THERE IS ANYTHING THAT THEY WOULD LIKE TO
12 PRESENT TO ME

13 ALL RIGHT, AT THIS POINT IN TIME AGAIN AS THE
14 COURT HAS PREVIOUSLY INDICATED AND I APPRECIATE THE NEW
15 INFORMATION THAT HAS BEEN BROUGHT TO, TO THE COURT'S
16 ATTENTION AND RECOGNIZE THAT WHILE THE SIXTH AMENDMENT TO
17 THE CONSTITUTION OF THE UNITED STATES DOES NOT CONFER AN
18 ABSOLUTE RIGHT TO A DEFENDANT TO BE REPRESENTED BY THEIR
19 PREFERRED COUNSEL OF THEIR CHOICE, THE COURT IS MINDFUL OF
20 THE MANDATES TO THAT AMENDMENT, THE U S SUPREME COURT
21 DECISIONS AND THE S C SUPREME COURT DECISIONS THAT THIS
22 COURT'S OBLIGATION IS TO SAFEGUARD THE INTEGRITY OF THE
23 PROCEEDINGS AND TO ENSURE TRIALS ARE CONDUCTED ACCORDING TO
24 ETHICAL STANDARDS BALANCING THAT WITH OBVIOUSLY THE SIXTH
25 AMENDMENT RIGHTS GRANTED TO THE DEFENDANT

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

15

1 IN THIS PARTICULAR MATTER I FIND THAT MR STANKO
2 HAS MORE THAN ONCE EXPRESSED FULL AND COMPLETE CONFIDENCE
3 IN THE ABILITIES OF MR DIGGS THERE IS A FREE AND OPEN
4 COMMUNICATION BETWEEN THE DEFENDANT AND MR DIGGS HE HAS
5 RAISED NO ISSUES THAT WOULD IMPACT MR DIGGS ABILITY TO
6 PROPERTY REPRESENT MR STANKO IN THE UPCOMING TRIAL AND,
7 THEREFORE, I FIND THAT MR DIGGS MAY CONTINUE TO REPRESENT
8 MR STANKO IN THE PROCEEDINGS THAT WILL BE FORTHCOMING IN
9 NOVEMBER IN THIS ACTION OF 2005-GS-26-2927

10 ANYTHING FURTHER FROM THE STATE AT THIS POINT IN
11 TIME?

12 MR HUMPHRIES NOTHING FROM THE STATE, YOUR
13 HONOR

14 THE COURT MR DIGGS, ANYTHING FURTHER FROM THE
15 DEFENSE ON THIS ISSUE OR ANY OTHER ISSUES THAT YOU NEED TO
16 BRING TO MY ATTENTION?

17 MR DIGGS YOUR HONOR, I HAVE ONE OTHER ISSUE
18 I'D LIKE TO BRING TO THE COURT'S ATTENTION IN CHAMBERS
19 MAYBE OR UNDER THE STATUTE IN AN EX PARTE FASHION

20 MR HUMPHRIES I OBVIOUSLY DON'T MIND IT
21 ACTUALLY IN THE COURTROOM

22 THE COURT ALL RIGHT, SIR, VERY GOOD

23 MR HUMPHRIES THANK YOU, YOUR HONOR

24 THE COURT ALL RIGHT, THANK YOU VERY MUCH

25 ALL RIGHT, MR DIGGS, WHAT IS IT THAT YOU'D LIKE

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

16

1 TO BRING TO THE COURT'S ATTENTION AT THIS TIME?

2 MR DIGGS YOUR HONOR, WE HAD GONE OVER SOME
3 ISSUES LAST TIME WITH THE COURT AND I PROMISED YOU I WAS
4 GOING TO GET YOU SOME PROPOSED ORDERS

5 THE COURT YES, SIR

6 MR DIGGS I WAS GOING TO DO THAT AND THEN MY
7 COMPUTER SYSTEM WENT DOWN, IT WAS OUT FOR AN ENTIRE WEEK,
8 AND THEN ONE THING LED TO ANOTHER AND I DIDN'T GET THEM TO
9 YOU BUT I DO HAVE SOME I'D LIKE TO HAND UP TODAY THEY
10 COVER BASICALLY THE SAME INDIVIDUALS THAT I WENT THROUGH
11 LAST TIME WITH THE COURT ---

12 THE COURT RIGHT

13 MR DIGGS --- AND WHAT WE WOULD PROPOSE THEY
14 DO IN THE CASE I WANT TO MAKE SURE I'VE GOT THE CORRECT
15 ONE HERE

16 THE COURT I HAVE EXECUTED THE ORDER FOR EXPERT
17 SERVICES WHICH COVERS THOMAS H SACHY, JOSEPH C WU, MARK
18 P EINHORN, J W THRASHER, JR , AND RUBEN GUR I HAVE
19 EXECUTED THAT ORDER I FIND THAT THE INFORMATION CONTAINED
20 ALONG WITH YOUR PREVIOUS FILINGS REGARDING THOSE
21 INDIVIDUALS ALONG WITH THE INFORMATION PROVIDED AT THE
22 PROPER HEARING TO BE ADEQUATE FOR THE COURT TO EXECUTE THAT
23 ORDER FOR EXPERT SERVICES

24 REGARDING THE ORDERS FOR BERNARD ALBINIAK, JAMES
25 EVANS AIKEN, AND EVELYN CALIFF, I DID NOT FIND ANYTHING IN

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

17

1 THOSE PARTICULAR ORDERS YOU HAD PREVIOUSLY REGARDING THE
2 ONES THAT I SIGNED YOU HAD GIVEN ME BACKGROUND INFORMATION
3 AS TO THOSE INDIVIDUALS AND THE COURT WAS AWARE OF THEIR
4 EXPERTISE THAT YOU HAD SET FORTH REGARDING THOSE
5 INDIVIDUALS IN THE PRIOR HEARINGS AND I WAS AWARE OF ALL
6 THAT INFORMATION ALONG WITH THE MONETARY COSTS THAT HAD
7 BEEN EXPENDED PREVIOUSLY AS WELL AS THEIR SERVICES BUT I
8 DON'T FIND ANY OF THAT INFORMATION

9 MR DIGGS YOUR HONOR, I CAN CERTAINLY
10 SUPPLEMENT THAT AND UNLIKE THE LAST TIME I'LL MAKE SURE I
11 GET THAT TO YOU PROBABLY BY ---

12 THE COURT EXPEDITIOUSLY?

13 MR DIGGS YES, SIR

14 THE COURT ALL RIGHT, VERY GOOD SO IF YOU CAN
15 JUST GET ME AND IT CAN BE FIND IF IT COULD JUST BE IN A, IN
16 A ---

17 MR DIGGS I UNDERSTAND

18 THE COURT --- SUPPLEMENTAL AFFIDAVIT OR
19 SOMETHING REGARDING THESE THAT CAN BE ATTACHED TO THESE
20 ORDERS THAT WILL BE GOOD, BUT LET ME GIVE YOU THE OTHER
21 ORDER THAT I DID EXECUTE REGARDING THE, THOSE EXPERT
22 SERVICES, ALL RIGHT

23 MR DIGGS YES, SIR, THANK YOU VERY MUCH

24 HE COURT ALL RIGHT, THANK YOU ALL RIGHT, MR
25 DIGGS, ANYTHING ELSE ON BEHALF OF MR STANKO AT THIS POINT

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

18

1 IN TIME THAT YOU'RE AWARE OF?

2 MR DIGGS YOUR HONOR, WE MAY HAVE A COUPLE OF
3 ADDITIONAL EXPERTS THAT WERE ASSOCIATED WITH THE CASE LAST
4 TIME THAT WE WOULD ASK THE COURT TO APPROVE AT THIS TIME
5 I HAVEN'T PUT ANYTHING BEFORE THE COURT YET WITH RESPECT TO
6 THOSE INDIVIDUALS

7 THE COURT ALL RIGHT

8 MR DIGGS WOULD IT BE ACCEPTABLE TO
9 SUPPLEMENT, WHEN I SUPPLEMENT WHAT WE'VE HANDED THIS
10 MORNING TO GO AHEAD AND ADD A COUPLE OF ADDITIONAL NAMES?

11 THE COURT YOU CAN AS LONG AS THE, YOU KNOW,
12 THE AFFIDAVITS INFORMATION SETS FORTH THE NECESSARY
13 BACKGROUND QUALIFICATIONS, EXPERTISE, THE MONETARY REQUESTS
14 I'LL BE GLAD FOR YOU TO SEND IT TO ME IN WRITING I DON'T
15 HAVE ANY PROBLEM WITH THAT AT ALL

16 MR DIGGS THANK YOU VERY MUCH, YOUR HONOR

17 THE COURT ALL RIGHT, MS WILLIAMS, ANYTHING
18 THAT YOU'RE AWARE OF AT THIS POINT IN TIME?

19 MS WILLIAMS NOTHING ELSE AT THIS POINT, YOUR
20 HONOR

21 THE COURT ALL RIGHT, VERY GOOD,

22 MR DIGGS WELL, YOUR HONOR?

23 THE COURT YES, SIR

24 MR DIGGS THESE ARE SEALED, CORRECT, THEY'RE

25 NOT AVAILABLE FOR PUBLIC ---

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

19

1 THE COURT THEY ARE NOT WHAT I, WHAT YOU CAN
2 DO AT THAT POINT RIGHT NOW AT THIS POINT IN TIME IS IF YOU
3 WOULD LIKE YOU CAN USE THE ORDER TO EMPLOY THE INDIVIDUALS
4 AT THE TIME OF FILING WHEN YOU SEND THESE SUPPLEMENTS TO ME
5 IF YOU WANT TO SEND AN ORDER FOR THESE TO BE SEALED DURING
6 THE PENDENCY OF THE ACTION OBVIOUSLY AFTER THE ACTION
7 THEY WOULD BE UNSEALED BUT DURING THE PENDENCY OF THE
8 ACTION THEY WOULD, THEY WOULD BE SEALED

9 MR DIGGS THANK YOU, YOUR HONOR

10 THE COURT JUST SEND ME A SUPPLEMENTAL ORDER TO
11 THAT AFFECT, ALL RIGHT

12 MR DIGGS YES, SIR

13 THE COURT ANYTHING ELSE?

14 MR DIGGS THAT'S IT

15 THE COURT ALL RIGHT, THANK YOU VERY MUCH,
16 COUNSEL

17 MR DIGGS THANK YOU VERY MUCH

18 END OF REQUESTED TRANSCRIPT
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR HORRY COUNTY, SOUTH CAROLINA

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

April 16, 2010

Brenda R. Babb
BRENDA R BABB, CVR

OFFICIAL REPORTER

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
05-GS-26-2927

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

vs)

STEPHEN CHRISTOPHER STANKO,)

DEFENDANT)

TRANSCRIPT OF RECORD

JUNE 5, 2009

CONWAY, SOUTH CAROLINA

BEFORE

THE HONORABLE, STEPHEN H JOHN, JUDGE

APPEARANCES

BY FRANCIS A HUMPHRIES, JR , ESQ
ATTORNEY FOR STATE

BY WILLIAM I DIGGS, ESQ
BRANA J WILLIAMS, ESQ
ATTORNEYS FOR STEPHEN CHRISTOPHER STANKO

BRENDA R BABB
Circuit Court Reporter

	2
INDEX	
ARGUMENT BY MR HUMPHRIES	3
ARGUMENT BY MR DIGGS	6/15
ARGUMENT BY MS WILLIAMS	8
EXAMINATION OF DEFENDANT BY COURT	10
RULING OF COURT	14
CERTIFICATE OF REPORTER	20

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

3

1 THE COURT WE'RE HERE IN THE CASE OF
2 STATE V STEPHEN C STANKO, 2005-GS-26-2927 PURSUANT TO A
3 NOTICE OF MOTION AND MOTION BY THE STATE OF SOUTH CAROLINA
4 TO REVIEW THE STATUS OF DEFENDANT'S COUNSEL IN LIGHT OF A
5 POST CONVICTION RELIEF ACTION BROUGHT BY MR STANKO
6 REGARDING THE PREVIOUS CASE IN GEORGETOWN COUNTY, THE STATE
7 OF SOUTH CAROLINA V STEPHEN C STANKO

8 ALL RIGHT, IS THE STATE READY TO PROCEED?

9 MR HUMPHRIES THE STATE IS READY TO PROCEED,
10 YOUR HONOR

11 THE COURT DEFENSE READY TO RESPOND?

12 MS WILLIAMS YES, SIR, WE ARE

13 THE COURT VERY GOOD, ALL RIGHT, SOLICITOR, YOU
14 MAY PROCEED

15 MR HUMPHRIES THANK YOU, YOUR HONOR, YOU'VE
16 RECEIVED MY WRITTEN MOTION, THAT ALSO HAS BEEN SERVED ON
17 COUNSEL FOR DEFENDANT STANKO WE'RE, THE STATE IS IN AN
18 AWKWARD POSITION IN THAT IF WE WERE THE FEDERAL GOVERNMENT
19 WE WOULD BE FILING A MOTION TO, TO HAVE MR DIGGS REMOVED
20 FROM THE CASE BASED ON A CONFLICT OF INTEREST THEY DO
21 THAT AS A MATTER OF COURSE AT THE U S ATTORNEY'S OFFICE
22 WE DON'T DO THAT BUT WE FELT BASED ON WHAT WE, AT LEAST
23 WHAT WE OBSERVE TO BE APPARENT DIRECT CONFLICTS OF INTEREST
24 BASED ON THE FILING OF THE POST CONVICTION RELIEF THAT BY
25 OPERATION OF LAW WAIVES THE ATTORNEY/CLIENT PRIVILEGE TO A

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

4

1 CERTAIN EXTENT, WE BELIEVE THAT WE NEEDED TO BRING THIS
2 BEFORE THE COURT

3 OBVIOUSLY THESE CASES ARE, THEY'RE COMPLEX, THEY
4 ARE COSTLY, THEY ARE TIME CONSUMING AND NO ONE WANTS TO DO
5 THEM TWICE, ALTHOUGH OFTENTIMES WE DO, BUT THIS IS
6 FORESEEABLE, I WOULD SUBMIT, AND, AND, THEREFORE, IT NEEDS
7 TO BE ADDRESSED BY THE COURT AND SO, YOU KNOW, I COULD GO
8 BACK THROUGH THE WRITTEN MOTION, I KNOW YOUR HONOR HAS
9 REVIEWED IT BUT, BUT BASED, THE GIST OF IT IS THIS

10 THERE HAS BEEN A POST CONVICTION RELIEF PETITION
11 FILED BY DEFENDANT STANKO AND AS A PART OF THAT PETITION HE
12 HAS ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL, THAT BEING
13 MR DIGGS, AND BY THAT VERY FILING HE HAS WAIVED, ALREADY
14 WAIVED ATTORNEY/CLIENT PRIVILEGE IN CONNECTION WITH THAT
15 CASE AND WE'VE BEEN ADVISED ON THE RECORD AND OTHERWISE
16 BY MR DIGGS, THE COURT HAS BEEN ADVISED AS WELL, THAT IT
17 IS, IT IS MR DIGGS AND DEFENDANT STANKO'S INTENTION TO, TO
18 PRESENT BASICALLY THE SAME DEFENSE OR TYPE OF DEFENSE AND
19 SAME WITNESSES AS WERE INVOLVED IN THE FIRST CASE AND THIS,
20 THIS ATTORNEY/CLIENT PRIVILEGE IS WAIVED AS RELATES NOT
21 ONLY TO MR DIGGS BUT HIS COMMUNICATIONS WITH THOSE
22 EXPERTS, THE SAME EXPERTS HE WOULD INTEND TO CALL, AT LEAST
23 HE HAS STATED HE INTENDS TO CALL IN THIS CASE SO WE BRING
24 THAT TO THE COURT'S ATTENTION AND ASK THE COURT TO, TO
25 REVIEW THAT SITUATION IN LIGHT OF THE UPCOMING TRIAL WHICH

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

5

1 I BELIEVE IS SCHEDULED IN THE FALL

2 THE COURT ALL RIGHT, WELL LET ME ASK, BEFORE
3 YOU SIT DOWN, SOLICITOR --

4 MR HUMPHRIES YES, SIR

5 THE COURT LET ME ASK YOU A QUESTION, I'M A
6 LITTLE CONFUSED YOU'VE GOT HERE IN YOUR MOTION THAT THEY
7 ARE FILING IN THE POST CONVICTION RELIEF APPLICATION MR
8 STANKO HAS WAIVED THE ATTORNEY/CLIENT PRIVILEGE NOW AS I
9 READ RULE 1 7 IT INDICATES THAT IT'S WAIVED TO THE EXTENT
10 NECESSARY FOR THE COUNSEL TO RESPOND TO THE ALLEGATIONS
11 MADE IN THE POST CONVICTION RELIEF APPLICATION

12 MR HUMPHRIES YES, SIR, IT IS LIMITED NO
13 QUESTION ABOUT THAT

14 THE COURT OKAY, ARE YOU INDICATING BY THE
15 FILING OF THE MOTION, AND THIS IS THE PART THAT I FOUND A
16 LITTLE CONFUSING, ARE YOU INDICATING THAT DEPENDING UPON
17 WHAT EXPERT WITNESSES ARE PRESENTED IN THIS CASE AGAINST
18 MR STANKO HERE IN HORRY COUNTY THAT THE STATE MAY TRY TO
19 CALL MR DIGGS AS A WITNESS REGARDING CERTAIN
20 COMMUNICATIONS?

21 MR HUMPHRIES NO, SIR, NO, SIR, AND LET ME,
22 LET ME BE CLEAR ABOUT THAT THIS REALLY HAD VERY LITTLE IF
23 NOTHING TO DO WITH THE STATE'S CASE AGAINST MR STANKO WE
24 DON'T, I DON'T INTEND, WE DON'T, THE STATE DOES NOT INTEND
25 TO CALL MR DIGGS AS A WITNESS WE DON'T INTEND TO CONTACT

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

6

1 THE ATTORNEY GENERAL WHO WILL BE REPRESENTING THE STATE IN
2 THE POST CONVICTION RELIEF WHO IS GOING TO HAVE
3 COMMUNICATIONS WITH MR DIGGS AS A NECESSITY BECAUSE OF THE
4 POST CONVICTION RELIEF WE DON'T INTEND TO TRY AND TAKE
5 ADVANTAGE OF ANY INFORMATION THAT MAY HAVE RESULTED BY THAT
6 WAIVER OF THE ATTORNEY/CLIENT PRIVILEGE THE ISSUE IS NOT
7 WITH US THE ISSUE WE SUBMIT IS WITH MR DIGGS AND MR
8 STANKO FOR FUTURE ACTIONS THAT CAN BE FILED BY MR STANKO
9 AND WE BELIEVE IT WOULD COMPOUND ---

10 THE COURT AND THEN, THEN WHETHER OR NOT MR
11 DIGGS CONTINUED REPRESENTATION OF MR STANKO THEN VIOLATES
12 THE RULES THEN?

13 MR HUMPHRIES YES, SIR

14 THE COURT ALL RIGHT, ALL RIGHT, OKAY, I JUST
15 WANTED TO MAKE, I JUST WANTED TO BE CLEAR TO SEE IF THERE
16 WASN'T SOME FURTHER RAMIFICATION OF THIS THAT NEEDED TO BE
17 EXPLORED AT THIS POINT IN TIME ALL RIGHT

18 MR HUMPHRIES AND I APPRECIATE IT CAUSE WE
19 ABSOLUTELY DO NOT INTEND TO TRY AND TAKE ADVANTAGE OF ANY
20 WAIVER OF ATTORNEY/CLIENT PRIVILEGE

21 THE COURT ALL RIGHT, GOOD DEAL, ALL RIGHT
22 WELL I JUST WANTED TO BE CLEAR ABOUT THAT

23 ALL RIGHT, WHO'S GOING TO RESPOND TO THE STATE'S
24 ARGUMENT?

25 MR DIGGS YOUR HONOR, LET ME JUST START OFF BY

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

7

1 SAYING I DON'T REALLY TAKE A POSITION IN THE CASE ON THE
2 ISSUE MR STANKO HAS INDICATED HE WOULD LIKE FOR ME TO
3 REMAIN ON HIS CASE AS PART OF HIS DEFENSE I'M HAPPY TO DO
4 THAT I CERTAINLY DON'T TAKE ANY EXCEPTION TO ANY, ANY
5 DEFENSE ATTORNEY WHO'S IN BUSINESS FOR ANY LENGTH OF TIME
6 WILL GO THROUGH THE POST CONVICTION RELIEF PROCESS AS A
7 WITNESS FROM TIME TO TIME THAT DOESN'T CAUSE ME A PROBLEM
8 SO I'M REALLY NOT GOING TO TAKE A POSITION I CAN TELL THE
9 COURT, YOU KNOW, I'M COURT APPOINTED ON THIS CASE IF I
10 REMAIN AS COUNSEL I WILL DO THE BEST THAT I CAN DO IN THE
11 CASE THAT HAS NO AFFECT ON MY ABILITY OR WILLINGNESS TO
12 REPRESENT THIS CASE

13 THE COURT ALL RIGHT, SO THAT, THAT WAS ONE OF
14 THE QUESTIONS I WANTED TO COVER WITH YOU, MR DIGGS, THAT
15 THE FILING OF THAT POST CONVICTION RELIEF APPLICATION YOU
16 DO NOT THINK HAS IMPACTED YOUR RELATIONSHIP WITH MR STANKO
17 OR YOUR ABILITY TO COMMUNICATE WITH HIM, YOUR ABILITY TO
18 EFFECTIVELY REPRESENT HIM IN THIS CURRENT ACTION IN ANY
19 WAY, IS THAT WHAT YOU'RE TELLING ME?

20 MR DIGGS IT HAS NOT, HAS NOT

21 THE COURT ALL RIGHT, AND THE FACT THAT CERTAIN
22 MATTERS HAVE BEEN RAISED IN THE POST CONVICTION RELIEF
23 APPLICATION THAT, THAT IN YOUR MIND AND IN YOUR WORKING ON
24 THIS CASE THAT IS PROCEEDING AGAINST MR STANKO IN HORRY
25 COUNTY HAS NOT INTERFERED WITH YOUR REPRESENTATION OF HIM

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

8

1 IN ANY WAY, IS THAT RIGHT?

2 MR DIGGS THAT'S CORRECT, IT HAS NOT

3 THE COURT ALL RIGHT, VERY GOOD, YES, MA'AM?

4 MS WILLIAMS YOUR HONOR, FIRST LET ME SAY
5 THAT, I WOULD RESPECTFULLY SAY THAT THIS IS THE GROUND THE
6 COURT COVERED IN THE LAST MEETING MOTION HEARING THAT WE
7 HAD WITH REWARD TO THIS, YOUR HONOR

8 THE COURT WELL IT ACTUALLY IS THE THIRD TIME
9 BECAUSE JUDGE BAXLEY CONDUCTED AN EXTENSIVE HEARING THAT'S,
10 YOU KNOW, OF RECORD WHERE JUDGE BAXLEY EXTENSIVELY
11 QUESTIONED MR STANKO ABOUT MR DIGGS REPRESENTATION
12 BECAUSE JUDGE BAXLEY WAS AWARE OF THE POST CONVICTION
13 RELIEF FILING AN APPLICATION AND JUDGE BAXLEY AT THAT POINT
14 IN TIME FOUND THAT IT WAS PROPER FOR MR DIGGS TO CONTINUE
15 HIS REPRESENTATION OF MR STANKO AND THEN I CONDUCTED A
16 HEARING IN WHICH I QUESTIONED MR STANKO ABOUT ALL OF THESE
17 MATTERS AND THE COURT FOUND AT THE POINT IN TIME THAT BASED
18 UPON WHAT MR STANKO HAD TOLD ME AND HIS KNOWLEDGE OF HIS
19 RIGHTS UNDER THE SIXTH AMENDMENT TO THE U S CONSTITUTION
20 AND THE NUMEROUS U S SUPREME COURT CASES AND SOUTH
21 CAROLINA CASES LIKE THE STATE V SANDERS, THAT HE WAS AWARE
22 OF THE ISSUES, THAT HE INDICATED THAT HE WANTED MR DIGGS
23 TO CONTINUE THE REPRESENTATION SO ALL THAT IS, IS
24 BACKGROUND

25 HAS ANYTHING IN YOUR MIND THAT YOU KNOW OF, AND

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

9

1 I'LL ASK MR STANKO AGAIN IN A MINUTE, BUT IN YOUR
2 REPRESENTATION OF MR STANKO HAS ANYTHING CHANGED IN THIS
3 REGARD FROM THE TWO PRIOR HEARINGS WE'VE HAD ON THIS?

4 MS WILLIAMS THERE IS NOTHING THAT I AM AWARE
5 OF, YOUR HONOR, IN FACT I WAS DISCUSSING WITH MR STANKO,
6 HE HAS ACTUALLY MET WITH HIS PCR ATTORNEYS AND THE GIST OF
7 WHAT I UNDERSTAND IS ANY OF THE PROBLEMS THAT WILL BE
8 ASSERTED AGAINST MR DIGGS WITH REGARD TO THE PRIOR TRIAL
9 ARE ISSUES OF A FAILURE TO OBJECT TO CERTAIN EVIDENCE OR
10 FAILURE TO CROSS EXAMINE FARTHER OR MORE OF A TRIAL
11 TECHNIQUE, IF THE COURT WILL

12 THE COURT AS TO MATTERS THAT AROSE IN THE
13 TRIAL ITSELF?

14 MS WILLIAMS IN THE TRIAL ITSELF AND LIKE I
15 SAID AS HIS, IF YOU WANT, AS HIS TRIAL TECHNIQUE
16 CAPABILITIES/THINGS THERE'S ABSOLUTELY NOTHING THAT I AM
17 AWARE OF THAT WOULD, WOULD BE WAIVING PRIVILEGE, IF YOU
18 WILL, WITH REGARD TO OUR NEW TRIAL OR THE NEW EVIDENCE AND
19 THINGS THAT WE HAVE GOING ON YOU KNOW IF MR DIGGS
20 OBJECTED ONE TIME AND AT THIS TRIAL IF HE CERTAINLY CHOSE
21 NOT TO OBJECT AGAIN I AM QUITE SURE THAT, YOU KNOW, LEGAL
22 MINDS DIFFER AS TO WHAT IS APPROPRIATE AND WHAT'S NOT,
23 HENCE THAT'S WHY YOUR HONOR MAKES THE CALL AND SO THERE'S
24 NOTHING THAT I AM AWARE OF THAT'S ANY DIFFERENT AT THIS
25 TIME

MOTION TO REVIEW STATUS OF COUNSEL - JUNE 5, 2009

10

1 THE COURT ALL RIGHT, MR STANKO, COULD YOU
2 STAND, PLEASE SIR?

3 DEFENDANT STANKO YES, SIR

4 THE COURT ALL RIGHT, AND JUST AS TO THE
5 PURPOSES OF THIS HEARING THAT WE'RE HERE TODAY I'M GOING TO
6 PLACE YOU UNDER OATH

7 STEPHEN C STANKO

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS

9 THE COURT NOW AS THE COURT INDICATED THIS
10 ISSUE HAS BEEN COVERED WITH YOU BY JUDGE BAXLEY PREVIOUSLY,
11 MYSELF PREVIOUSLY, AND I THINK THE ONLY DIFFERENCE BETWEEN
12 THE TIME THAT I'M SPEAKING TO YOU NOW ABOUT THIS ISSUE AND
13 THE TIME I SPOKE TO YOU PREVIOUSLY AND WE HAD THE HEARING
14 ON THAT WAS I DON'T BELIEVE, AND YA'LL CORRECT ME IF I'M
15 WRONG, BUT I'M NOT SURE THAT YOU HAD ANY KIND OF EXTENSIVE
16 DISCUSSIONS WITH YOUR PCR ATTORNEYS AT THE TIME THE
17 PREVIOUS MOTION WAS HEARD AS I UNDERSTAND FROM THE OTHER
18 COUNSEL YOU HAVE NOW HAD AN OPPORTUNITY TO TALK TO THE POST
19 CONVICTION RELIEF APPLICATION ATTORNEYS, IS THAT CORRECT?

20 DEFENDANT STANKO THAT'S CORRECT

21 THE COURT ALL RIGHT, SIR, NOW, NOT ASKING YOU
22 TO DISCLOSE WHAT IT IS THAT YA'LL TALKED ABOUT, BUT BASED
23 UPON THOSE CONVERSATIONS IS THERE ANYTHING DIFFERENT NOW
24 BECAUSE NOW YOU'VE HAD AN OPPORTUNITY TO EXPLORE THE ISSUES
25 WITH THE ATTORNEYS, GET THEIR ADVISE, GET THEIR INPUT AS TO