

VOLUME THREE OF SIX

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

VOLUME THREE
1001 - 1500

Appeal from Greenville County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

RECEIVED

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BRAD KEITH SIGMON,

S.C. SUPREME COURT

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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1 Frank Eppes to you. He's one of the attorneys that's
2 representing Mr. Sigmon, the defendant. And then Mr.
3 Ariail and his staff will ask you some questions after
4 that.

5 QUESTIONING BY MR. EPPES:

6 Q Hey, Ms. Braeckelaere.

7 A How do you do?

8 Q Is that how you pronounce it.

9 A Um-hm.

10 Q Braeckelaere? Okay. Thanks. It spells harder
11 than it pronounces.

12 A Very much.

13 Q This is John Abdalla, and Brad Sigmon. John is my
14 co-counsel, Brad is my client. What this is about, it's
15 more like a conversation. I know it's no fun being in
16 that box, but I need to talk about your views on the
17 death penalty, to make sure that you have an
18 understanding of the judge's letter and his explanation,
19 and also to get a little bit of knowledge about you and
20 how you might go about a decision on this important
21 thing -- this important issue I guess is a better way to
22 say it. Why are you for the death penalty? Do you have
23 a basis for it?

24 A I believe it deters crime. I think it's the
25 government's responsibility to have laws in effect that

1 help deter crimes, and that's one of them.

2 Q Is there any other purpose it serves?

3 A No.

4 Q No?

5 A Not the way I view it.

6 Q Okay. Do you have any educational, or religious,
7 or philosophical, political view, other than what you
8 just stated, that goes into that opinion that you are
9 for the death penalty?

10 A I would say from the standpoint that I am a
11 Christian, I do read the Bible. I do believe that God
12 has told us from the beginning that the government has a
13 responsibility to care for its citizens and that that's
14 one of the ways of doing it, scripturally.

15 Q Where in the Bible does God say the government ---

16 MS. STROM: I'm going to object, Your Honor.

17 THE COURT: I'm going -- this is getting a bit far
18 afield. She's told you the basis for it.

19 MR. EPPES: Thank you.

20 BY MR. EPPES:

21 Q Is there any -- is there any other thing about
22 your background that comes into that decision that you
23 can think of right now?

24 A Not offhand.

25 Q Okay. Now, you understand that there would be two

1 portions to a trial?

2 A Um-hm.

3 Q Correct?

4 A To this trial?

5 A We don't talk about this trial because it hasn't
6 started yet. We have to talk about a hypothetical
7 trial ---

8 A Okay.

9 Q --- in this proceeding. In a trial for the death
10 penalty, there would be two parts, you understand that?

11 A Yes.

12 Q Okay. Now, do you understand that the first part
13 of this trial would determine the guilt or innocence of
14 the defendant?

15 A Yes, I do.

16 Q Okay. Now, what that means is every legal defense
17 that the State of South Carolina provides to a crime,
18 murder, murder in the commission of an armed robbery,
19 every legal defense would be brought by the defendant
20 during the trial portion of the proceeding. Do you
21 understand that?

22 A Yes.

23 Q What that means is if a defendant said, someone was
24 attacking me and I killed them in self-defense, which is
25 called justifiable homicide, that would have to be

1 brought out at the trial phase. Do you understand that?

2 A Yes.

3 Q In addition to that, if the defendant said, I was
4 somewhere else, somebody else did this, and I have
5 witnesses that can show you that I was somewhere else,
6 that would have been brought out in the trial phase. Do
7 you understand that?

8 A Yes.

9 Q Or if the witness said it was an accident, if it
10 was -- you know, they were at the house and some
11 horrible accident took place, they would have to prove
12 that at the trial phase, right?

13 A Um-hm.

14 Q Do you understand that?

15 A Correct.

16 Q You understand that if the defendant was insane,
17 under the law of insanity, if he could not consciously
18 tell the difference between right and wrong at the time
19 of the crime, if he was insane in the eyes of the law of
20 South Carolina, he would have to prove that at the trial
21 phase. Do you understand that?

22 A Yes.

23 Q Okay. So if a jury convicted someone at the trial
24 phase, found beyond a reasonable doubt that they were
25 guilty of a crime of murder and say armed robbery, or

1 murder and rape, the jury would have found beyond a
2 reasonable doubt that there was no justification under
3 the law of South Carolina for that murder, that they
4 were guilty beyond a reasonable doubt, and the same
5 thing for that armed robbery. Do you understand that?

6 A Yes.

7 Q Okay. So when we get to the penalty -- whoa, when
8 we get to the penalty phase of this trial, if we got to
9 the penalty phase of this hypothetical trial, standing
10 before you would be a murderer, a convicted murderer,
11 okay?

12 A Um-hm.

13 Q Standing before you would be a murderer and in all
14 likelihood he would be convicted of something else, an
15 armed robbery or rape that made the murder an aggravated
16 murder. Do you understand that?

17 A Yes.

18 Q Okay. Now, if you were faced with this aggravated
19 murder -- if you were faced with this aggravated murder,
20 you would hear information from the State about the
21 aggravation, the aggravating factors. It might include
22 a lot of information. Do you understand that?

23 A Yes.

24 Q Okay. And then the defense -- the defense might
25 put up mitigation or might not. And the judge has told

1 you things in mitigation could be things about the
2 defendant's background, that he grew up in a bad family
3 environment, that he had a drug problem, that he had an
4 alcohol problem, but none of these things would be a
5 legally justified excuse. Do you understand that?

6 A Yes.

7 Q These would just be things that you would be told
8 from the defendant's perspective, things that the
9 defendant would say, you know, there are things about my
10 life that if you understand you may not think that the
11 death penalty is the appropriate sentence. Do you
12 understand that?

13 A Yes.

14 Q Okay. Now, when you hear all these things, but
15 you've heard about this aggravated murder, would you
16 fairly be able to weigh the sentence of life without
17 parole and the sentence of death, or do you think this
18 aggravated murder, you would just want to sentence him
19 to death?

20 A No, I think I could weigh it out. I think truth is
21 important.

22 Q Okay.

23 A Okay. Now, you understand also that if the
24 defendant -- if the state proves aggravated murder, that
25 the defendant might also put up no evidence, might put

1 up nothing, might just sit there like a lump on a log,
2 okay. At that point would you be able to consider a
3 life sentence, if the defendant didn't do anything to
4 defend himself, would you be able to fairly ---

5 THE COURT: Are you talking about the guilt phase
6 or the penalty phase?

7 MR. EPPES: Penalty phase.

8 THE COURT: Penalty phase.

9 MS. BRAECKELAERE: I don't follow what you're
10 asking me.

11 BY MR. EPPES:

12 Q Okay. If the State proved that it was an
13 aggravated murder, okay, and there was absolutely no
14 evidence put in in mitigation, none at all, would you be
15 able to fairly consider the sentence of life without
16 parole, even though there was no evidence before you in
17 mitigation?

18 A To choose that over the -- death?

19 Q Yes.

20 A I guess I would have to think about it. I would
21 try to do what is right.

22 Q And you would give fair consideration?

23 A Yeah.

24 Q Because you understand that a man's life would be
25 at stake?

1 A Yes, definitely.

2 Q Okay. Now, I think the judge told you you have to
3 sign the death warrant in these cases?

4 A Yeah.

5 Q And all 12 jurors have to sign the death warrant?

6 A Correct.

7 Q Each of you act as a separate judge and jury. The
8 way the Legislature has set up the death penalty in
9 South Carolina, in the sentencing phase, each individual
10 juror is every bit as valuable as every one, each of
11 them must judge -- must determine that the defendant
12 will be sentenced to death before that death warrant
13 can be issued, okay. Now, if you were in a situation
14 where -- for either life or death, either one, where 11
15 of the jurors had made a decision on one side and you
16 were on the other side, believing that the defendant
17 should be either sentenced to life without parole or
18 death, how do think you would react when they kept
19 saying, come on, come on, change your mind, we're right,
20 you're wrong, the majority rules, change your mind so we
21 can get out of here and go home to our families, do you
22 have an idea how you would react to that?

23 A It's a decision that if I made it I would have to
24 live with the rest of my life, and I would try to do
25 what is right no matter what the other 11 decided.

1 Q Okay.

2 A That's the way I would look at it.

3 Q And you would want them to respect your wishes on
4 that point? You would want them to respect the courage
5 of your convictions, is that correct?

6 A Yes.

7 Q Okay. Now, take the opposite of that, if you were
8 a part of the 11 and someone else was by themselves,
9 would you be willing to respect them for the courage of
10 their convictions?

11 A Yes, I would.

12 Q And would you give them the proper respect as to
13 their opinions?

14 A Yes.

15 Q Okay. Even if it was keeping you from going home?

16 A Yeah. I would say -- you know, these are important
17 decisions, it's not something to take lightly.

18 MR. EPPES: I appreciate that. I appreciate you
19 saying that. Thank you. Let me check one second.

20 Thank you, ma'am. I really appreciate it.

21 MS. BRAECKELAERE: You're welcome.

22 THE COURT: Ms. Strom. This is Betty Strom. She's
23 assisting Solicitor Bob Ariail in this case.

24 QUESTIONING BY MS. STROM:

25 Q Good morning.

1 A Good morning.

2 Q I just have a couple questions.

3 A Okay.

4 Q Make sure that I'm clear, but I think pretty much
5 everything has been gone through. Basically what you're
6 saying is you can give fair consideration to both sides,
7 to the State's request for the death penalty and the
8 defendant's request for life without parole?

9 A I would try to, yes.

10 Q And you would make your decisions based upon the
11 facts and evidence presented to you?

12 A Right.

13 Q Okay. And if you decided that death were the
14 proper sentence, you had no problem with signing the
15 verdict form, you along with -- maybe no problem is a
16 bad term?

17 A It would difficult to do.

18 Q Could you do it?

19 A Yes.

20 Q It would be a difficult thing to do, but if it was
21 your decision, you could do it?

22 A Yes.

23 Q Okay. You did not sign your juror questionnaire,
24 and I just -- was that an oversight? Probably just an
25 oversight?

1 A Yeah. I'm sorry.

2 Q That's quite all right. It happens. I just wanted
3 to make sure there ---

4 A Did I finish filling it out?

5 THE COURT: Let me ask you, is everything in
6 there true, since it wasn't signed? I asked that on
7 Monday.

8 MS. BRAECKELAERE: Yeah.

9 THE COURT: Okay. I mean to ask ---

10 MS. BRAECKELAERE: Did I finish filling it out?

11 MS. STROM: Yes, ma'am, you did.

12 MS. BRAECKELAERE: I don't know why I didn't sign
13 it. I'm sorry.

14 THE COURT: You did that, but some do like one or
15 two pages and don't do the rest.

16 MS. BRAECKELAERE: It must have been a bad day.
17 I'm sorry.

18 MS. STROM: That's all right. Thank you.

19 THE COURT: Is that it?

20 MS. STROM: I'm sorry.

21 THE COURT: That's all right. Okay. Let me give
22 you this letter. You are qualified to serve. That does
23 not mean that you will serve. We are going to call all
24 jurors back in at four o'clock this afternoon, which
25 gives you a shorter time to get prepared than the other

1 jurors. You need to go ahead and pack a suitcase as if
2 you are going to be picked on the jury for seven or
3 eight days stay in a motel. Go ahead and pack any
4 medications, things like that. When you come back, park
5 over in the Hyatt parking garage, where you parked on
6 Monday.

7 MS. BRAECKELAERE: Um-hm.

8 THE COURT: Then come across to Spring Street,
9 that's the street between the Hyatt parking garage
10 this -- and this courthouse. There's a garage entrance
11 for this courthouse, and I'm going to bring the jurors
12 in there to keep them out of the public hallways, where
13 family members, press and people are. So the bailiffs
14 will meet you, they'll bring you upstairs. When all the
15 jurors are here, we'll assemble in here and we'll
16 actually pick the jury.

17 You will not be able to have any direct contact
18 with family members. If you -- or work people. If you
19 need to get a message to someone, we can do that if
20 it's important, by having you write down the message,
21 the name and the number, and some of the bailiffs or
22 SLED agents can make the call for you to deliver a
23 message.

24 On that letter are emergency numbers, where if
25 there is an emergency someone can contact you. It's not

1 an information hotline. We won't be able to tell them
2 how long the trial was going to last, when you're going
3 to be home, or anything like that. Do not talk about
4 this case with anyone. If someone tries to talk to you,
5 tell them you're on the panel and you can't talk about
6 it. If they persist in talking about it, then take
7 their name, give that information to the SLED agents.
8 Also, do not watch any TV, or read anything in the paper
9 about this case. Do you have any questions?

10 MS. BRAECKELAERE: No.

11 THE COURT: All right. Then I will see you back
12 here at four o'clock this afternoon.

13 MS. BRAECKELAERE: Okay.

14 THE COURT: Thank you.

15 (Ms. Braeckelaere exited the courtroom.)

16 THE COURT: All right. Anything with regard to
17 this last juror, from the State?

18 MS. STROM: No, sir.

19 THE COURT: From the defense?

20 MR. EPPES: Nothing, Your Honor.

21 THE COURT: All right. Did everyone note question
22 35 on this Betty Cox?

23 MR. EPPES: Yes, sir.

24 MR. ARIAIL: Yes, sir.

25 THE COURT: All right. Bring in Ms. Cox.

1 (Ms. Cox entered the courtroom.)

2 THE COURT: You are Betty Cox?

3 MS. COX: Yes.

4 THE COURT: If you would, just have a seat. As you
5 make yourself comfortable, slide your chair close to the
6 microphone, that way you can speak directly into the
7 microphone and that will amplify your voice. Okay. All
8 right. Mrs. Cox, I'm Joe Watson. I will remind you
9 that you're under oath. You were placed under oath on
10 Monday. Have you complied with my prior instructions
11 not to talk about this case with anyone?

12 MS. COX: Yes, I have.

13 THE COURT: All right. I believe that you did not
14 respond that you knew any of the witness or recall
15 hearing anything or seeing anything about this case, is
16 that correct?

17 MS. COX: I did not.

18 THE COURT: All right. And has anything happened
19 in the last couple of days to spur your memory that you
20 might have seen something or ---

21 MS. COX: No, sir.

22 THE COURT: All right. I'm going to ask you some
23 questions and then the lawyers will be asking you some
24 questions. There are no right answers, no wrong answers
25 to these questions. At times you may feel like we are

1 invading your privacy, but if that upsets you, hold it
2 against me, don't hold it against the State of South
3 Carolina, don't hold it against Mr. Sigmon, the
4 defendant in this case. But we do need your honest and
5 open answers to these questions. A lot of the questions
6 I'm going to be talking about -- or asking you about,
7 deal with penalty. But just because we talk about
8 penalty, I need to make sure you understand that that
9 indicates nothing about Mr. Sigmon. Do you understand
10 that? As he sits there, he is presumed to be innocent.
11 This system is a little bit backwards, but in order to
12 ensure we get a fair jury we have to talk about penalty
13 before the trial even starts.

14 Before I talk with you about penalty, let me ask
15 you generally, if you were selected to sit on a criminal
16 case, would you listen to the law that the judge charged
17 to the jury and accept that law and apply that law as
18 the proper law of the State of South Carolina?

19 MS. COX: Yes, sir.

20 THE COURT: Would you do that even though you might
21 think the law should be something else, you might
22 disagree with the law?

23 MS. COX: Yes, sir.

24 THE COURT: Okay. The State has the burden of
25 proving a defendant guilty beyond a reasonable doubt.

1 Have you heard that term before?

2 MS. COX: Yes, sir.

3 THE COURT: If you sat on a case and if you thought
4 the State had not proved somebody guilty beyond a
5 reasonable doubt, would you vote not guilty?

6 MS. COX: I would.

7 THE COURT: All right. And if you found the State
8 had met their burden of proof and had proved somebody
9 guilty beyond a reasonable doubt, would you vote guilty?

10 MS. COX: I would.

11 THE COURT: All right. Now, let me move on to talk
12 about death penalty trials and penalties in generally.
13 Did you read my letter that I handed, the two-page
14 letter?

15 MS. COX: I did.

16 THE COURT: Did you know much about -- did you know
17 we had a death penalty in South Carolina?

18 MS. COX: I did.

19 THE COURT: All right. Do you understand that it
20 is not every murder case that is subject to the death
21 penalty? It has to be ---

22 MS. COX: I do --

23 THE COURT: Okay. It has to be an aggravated
24 murder? The examples I gave were armed robbery plus a
25 murder, or a sexual assault plus a murder?

1 MS. COX: Yeah.

2 THE COURT: Even when we talk about aggravated
3 murder, do you understand that the penalty is not
4 automatic? That simply means the State, through the
5 Solicitor, can seek the death penalty in those types of
6 cases?

7 MS. COX: I do.

8 THE COURT: And when the State seeks the death
9 penalty, then it is the jury that ultimately decide what
10 the punishment is, if that same jury convicts the
11 defendant. Do you understand that?

12 MS. COX: Yes.

13 THE COURT: It is a two part trial. The first
14 phase is just like any other trial. The issue is
15 whether the defendant is not guilty or guilty. If he's
16 not guilty, then the case ends and everybody goes home.
17 If the defendant is convicted, then the jury comes back
18 in and hears more testimony and evidence, and that
19 testimony and evidence is centered around what the
20 proper punishment would be. The State would put up what
21 we call aggravating evidence, and the defense puts up
22 mitigating evidence. Aggravated evidence can be any
23 number of things. It can be evidence about the
24 defendant himself. Maybe he's got a bad character.
25 Maybe he's got a long history of crimes of violence. It

1 might be more evidence about the crime itself, how
2 aggravated it is. It may well be victim impact
3 evidence. In other words, family members of the
4 deceased would tell about the loss to them and to the
5 community. All that evidence is presented by the State
6 in order to convince the jury that the proper punishment
7 is death. The defense would put up mitigating evidence.
8 That is generally evidence about the defendant himself.
9 Maybe he suffers from a mental problem and was suffering
10 from that problem at the time of the slayings. Maybe he
11 is a particularly youthful person and should be treated
12 differently than an older person. Maybe he was under
13 the influence of some other person. Any number of
14 things like that may be presented in mitigation. Maybe
15 he's got no record whatsoever. He's -- and again, they
16 would be putting up that evidence not as an excuse, not
17 to say, you know, he didn't commit a murder, but to
18 mitigate what punishment he should receive. Do you
19 understand that?

20 MS. COX: Yes.

21 THE COURT: The only two possible punishments when
22 we get to that stage is life without any possibility of
23 parole or death, which in South Carolina is by
24 electrocution or lethal injection. Now, before -- if a
25 jury got the penalty phase, before they could vote to

1 invoke the death penalty, they would have to find beyond
2 a reasonable doubt the aggravating circumstances. Do
3 you understand that?

4 MS. COX: Yes, sir.

5 THE COURT: But even then they never have to vote
6 for death. A jury can always vote for life. They may
7 find several aggravating circumstances. They may find
8 no mitigating circumstances whatsoever, but they can
9 still can give life. Do you understand that?

10 MS. COX: Yes.

11 THE COURT: All right. Understanding that
12 procedure, and understanding the bifurcated trial, and
13 the aggravating and mitigating evidence that would be
14 introduced at the penalty phase, I'm sure you appreciate
15 that we need to generally, Ms. Cox, understand what your
16 position is on capital punishment. Can you tell us if
17 you are generally for the death penalty, generally
18 against it, just how do you feel?

19 MS. COX: I'm for it.

20 THE COURT: All right. Does that mean you're for
21 it in every case of aggravated murder?

22 MS. COX: No, it does not.

23 THE COURT: Okay. If you were sitting on a jury --
24 let me just do it this way. Would you be predisposed to
25 vote one way or the other if you were given a choice

1 between life and death, or would you listen to all the
2 evidence in aggravation, all the evidence in mitigation
3 before you made up your mind?

4 MS. COX: I would listen to all the evidence and
5 then make my mind up.

6 THE COURT: Okay. If you were sitting on a jury
7 and you thought the appropriate punishment should be a
8 life sentence, would you vote for life?

9 MS. COX: Yes.

10 THE COURT: And if you thought the appropriate
11 punishment was death, would you vote for death?

12 MS. COX: Yes.

13 THE COURT: All right. Before making that decision
14 of life and death, would you give meaningful
15 consideration to the evidence in aggravation presented
16 by the State and charged by the judge, and the evidence
17 in mitigation presented by the defense and charged by
18 the defense before you made up your mind?

19 MS. COX: Absolutely.

20 THE COURT: All right. I assume you would want to
21 know as much you could ---

22 MS. COX: Absolutely.

23 THE COURT: --- not only about the crime itself,
24 but also about the defendant before you made up your
25 mind?

1 MS. COX: Absolutely.

2 THE COURT: Now, if you and the other jurors
3 thought that the proper punishment was death, each of
4 you would be asked -- or required to sign your name to
5 the verdict form, and sometimes that is referred to as
6 the death warrant, because that's the legal document
7 that will ultimately authorize the execution if there is
8 an execution. Do you understand that?

9 MS. COX: Yes.

10 THE COURT: If you thought that was the proper
11 punishment, could you sign that document?

12 MS. COX: I could. I wouldn't want to but I could.

13 THE COURT: Nobody would want to, I understand
14 that. All right. Who's up. Okay. This is Betty
15 Strom. She is helping Solicitor Bob Ariail pick the
16 jury and prosecute this case. Then this is Frank Eppes
17 and John Abdalla. They are representing Mr. Sigmon.

18 MS. COX: Okay.

19 QUESTIONING BY MS. STROM:

20 Q Good morning, Ms. Cox.

21 A Good morning.

22 Q Forgive us if our questions seem like they're just
23 repeats of what the judge asked you, but we're trying to
24 make sure that we get jurors that could be fair to both
25 sides. Sometimes we ask the same questions over and

1 over.

2 A Okay.

3 Q May be just a lawyer thing. As you know, what
4 we're trying to do is to get jurors who could be fair to
5 both the State in its request to impose the death
6 sentence, and jurors are fair to the defense, jurors who
7 are open to the imposition of a life sentence, a life
8 without parole sentence. And I think you understand
9 pretty clearly that it is a life without parole versus
10 death?

11 A Correct.

12 Q Those are the only two sentences. Okay. I want to
13 make sure that you are not predisposed one way or the
14 other regarding which penalty to be imposed.

15 A No, I'm not.

16 Q My understanding from what you told the judge is
17 you would want to hear as much as possible before you
18 made that decision?

19 A Absolutely.

20 Q Okay. And when the judge was talking to you about
21 the fact that the death sentence is never required, even
22 though you found the aggravating circumstance, the jury
23 could still impose life. I think he went further to say
24 that even if there was no mitigation presented, there
25 was no mitigation evidence presented whatsoever, you

1 could still impose life?

2 A Yes.

3 Q In those type of situations where you have found a
4 murder plus an aggravating circumstance and His Honor
5 charged you that you still must consider the possibility
6 of a life sentence, could you do that?

7 A Yes.

8 Q Okay. And in fact I think -- and please correct me
9 if I state anything incorrectly about what you said. I
10 take it from what you're saying is you're going to look
11 at what is given to you and that's what you're going to
12 make your decision on?

13 A Absolutely.

14 Q And not go in predisposed one way or the other?

15 A If you can prove and show me all the evidence then
16 I wouldn't have a problem with making the decision.

17 Q Okay. And that would include evidence not only
18 about the crime but any other type of evidence that you
19 might could hear in this case, such as the judge talked
20 about other evidence of aggravation, evidence of
21 mitigation, you would want to hear all of that?

22 A Absolutely.

23 Q Okay. You talked about not wanting to sign the
24 verdict form -- or it would be difficult to sign the
25 verdict form if you had reached the decision that the

1 death penalty were the appropriate sentence. As the
2 Judge told you if the jury ---

3 A Yes.

4 Q --- determined that death was appropriate you
5 needed to sign that document. I believe you said you
6 wouldn't want to do it but you could do it?

7 A I could.

8 Q Okay. The fact that you had to sign that document
9 would that in any way impair you ability to fairly
10 consider the case?

11 A No.

12 MS. STROM: Okay. Court's indulgence, Your Honor?

13 THE COURT: Yes.

14 MS. STROM: Thank you.

15 THE COURT: Again, this is Frank Eppes. He and Mr.
16 Abdalla are representing Mr. Sigmon.

17 QUESTIONING BY MR. EPPES:

18 Q Good morning, Ms. Cox.

19 A Good morning.

20 Q I'm Frank eppes. This is John Abdalla. Our client
21 is Brad Sigmon. Why are you for the death penalty?

22 A Why am I for it?

23 Q Yes, ma'am?

24 A Well, it's my belief that if you break man's law
25 and God's law then you have judge -- brought judgment

1 onto yourself. And it's in our society that the way it
2 is dealt with.

3 Q In our society that's the way it's dealt with, what
4 do you mean?

5 A If you do wrong then you pay for your crime.

6 Q Okay. Is life without parole paying for your
7 crime?

8 A Yes.

9 Q Okay. Do you believe that if someone commits
10 murder that they out to be executed?

11 A Not necessarily.

12 Q Okay. What would you look at in making that
13 decision ---

14 MS. STROM: Objection, Your Honor.

15 MR. EPPES: --- of life without parole ---

16 THE COURT: Sustain the objection.

17 BY MR. EPPES:

18 Q What purpose do you believe the death penalty has?

19 A Payment for your crime.

20 Q Now, do you understand that this is a two-part
21 proceeding?

22 A Yes.

23 Q Okay. And you understand that the first portion of
24 the proceeding is where the defendant would have to be
25 convicted? Yes, ma'am?

1 A Yes.

2 Q Okay. I'm sorry. You have to speak. It's hard to
3 get used to. She can't take down nods.

4 A I'm sorry.

5 Q No, it's no big deal. Do you understand that --
6 that at the time, when the prosecution is trying to
7 convict a defendant of murder, murder plus armed
8 robbery, something like that, that's the time where the
9 defendant says, okay, this was not murder, it was
10 justifiable homicide, because someone was attacking me,
11 or it was self-defense, or because it was somebody else,
12 I have an alibi, or because it was an accident, or
13 because they were legally insane under the law of South
14 Carolina. Do you understand that's the first part of
15 the trial?

16 A Yeah.

17 Q And after that part of the trial, the person that
18 would be standing before a jury for the penalty phase,
19 or the second phase of the trial, would already be found
20 guilty of murder. Do you understand that?

21 A Yes.

22 Q Okay. Now, at that point, someone that's
23 determined guilty of murder, guilty of some aggravating
24 factor, such as an armed robbery, something like that,
25 killing a small child, that person would be standing --

1 standing before the jury guilty of murder and
2 aggravated -- and an aggravated act. Do you understand
3 that?

4 A Yes.

5 Q Okay. Now, at that point the defense would put
6 forward mitigation. Do you understand what mitigation
7 is?

8 A I think I do, yes.

9 Q Okay. Mitigation is not an excuse. It's not, I
10 did it and it was okay. It's not a rationalization for
11 what happened. Mitigation is we want you to see as many
12 facts about this defendant as you can and then you have
13 to weigh the two penalties, life without parole or
14 death. Okay. And then you have to look at the
15 defendant's background, the defendant might show you
16 things about his past, he might show you an alcohol
17 problem, a drug problem. It could be any number of
18 things. Do you understand that?

19 A Yes.

20 Q And you have to weigh those two things fairly.
21 Okay. Now, do you believe in the case of a horrible
22 murder, with horrible aggravating circumstances, that
23 you would be able to give fair consideration to this
24 mitigation, to these mitigating factors, these things in
25 the background that do not excuse murder under the law,

1 would you be able to give fair consideration to those?

2 Or are you going to want to punish this defendant for
3 committing aggravated murder and sentence him to die?

4 A I could be fair.

5 Q You could be fair?

6 A I could.

7 Q You will be fair if you're chosen?

8 A I will.

9 Q Okay. Now, the jury sits in this box, which I
10 think there's 14 seats in there, I haven't counted them,
11 but the jury sits in this box and then after that you
12 have to come back and you have to sign a death warrant.
13 Do you understand that?

14 A I do.

15 Q Now, the death warrant is a sheet of paper that
16 goes from this courtroom to the Clerk's office to the
17 Department of Corrections to the warden down at the
18 penitentiary with the death chamber, and at the time
19 when this person loses their life, that death warrant is
20 right there. That's the reason they lose their life,
21 either by lethal injection, or electrocution. Do you
22 understand that?

23 A Yes.

24 Q And you sign your name to that document for all
25 eternity.

1 A Yes.

2 Q Do you understand that?

3 A Yes, I do.

4 Q Okay. Now, when you're in that jury box, there may
5 be 11 other people in there that have made a different
6 decision than you. Okay. Some of -- the 11 people may
7 think life without parole or they may think death, and
8 you may have decided the opposite, and they may be
9 leaning on you, pushing you, conjoining (phonetically)
10 you, berating you, doing any number of things to try to
11 talk you into changing your mind so they can conclude
12 this case and go home. Do you understand that?

13 A I do.

14 Q Okay. Now, how would you react to that?

15 A I would re-examine all the evidence and then look
16 at my decision, and see if I had made the correct
17 decision. And if I had, I don't think I would change my
18 mind.

19 Q Okay. Now, on the other side of that, the other
20 side of that, if you were one of the 11 and you had
21 decided on the death penalty or life without parole and
22 there was one person that had the opposite view, how
23 would you treat that person?

24 A That's that person's right to make his own
25 decision. And I don't have a right to try to wavier it.

1 He would have to read the evidence and come to that grip
2 himself, is the way I feel about that.

3 Q All right. Finally, you put on your questionnaire
4 that you would like to be removed because your personal
5 beliefs would not let you be a good and fair juror to
6 any person. Do you remember that?

7 A I did put that on there, yes, sir.

8 Q What did you mean by that?

9 A Well, I don't believe in judging people, but when
10 you break man's law or God's law you bring judgment on
11 yourself, and that's where I stand with that.

12 Q Well, why would that keep you from being a good and
13 fair juror?

14 A Because I'm very nervous about it, that's why.

15 Q Being nervous would keep you from being fair to
16 both sides?

17 A It might.

18 Q Do you think you'll be able to give good and fair
19 consideration to both sides of this case?

20 A Yes, I can. If I have to do it, I can do it, but I
21 don't want to do it, I will put it that way.

22 Q Okay. So your statement there that you -- what
23 did you say again? That my personal beliefs would not
24 let me be a good and fair judge to any person. Your
25 personal beliefs, it's not your place to judge, is

1 that ---

2 A It's not my place to judge you, what you do. But
3 you do wrong and you break the law, you have brought
4 judgment down on yourself, and I will not be judged for
5 sitting in to help decide if there is any justice to be
6 brought to a person.

7 Q You will -- you're going to have to repeat that
8 again, I'm sorry.

9 A Okay. If you break the law, the way I feel, you've
10 brought justice -- judgment down on yourself, okay.

11 Q Um-hm.

12 A I would not necessarily be the one that was
13 bringing the judgment on you, but I would have helped
14 decide if you had any judgment coming against you.

15 Q Okay. You understand that when you sit in this
16 jury box, you are acting as the judge. It's your
17 sentence. Whatever sentence ---

18 A Yes, sir.

19 Q --- in the penalty phase the jury gives, that's the
20 sentence that's going to be carried out, and there is
21 no ---

22 A I realize that.

23 Q --- judge's option or anything else, that's the
24 sentence?

25 A I realize that.

1 Q okay. You believe that you can do a good and fair
2 job on that?

3 A If I have to.

4 MR. EPPES: Okay. Ms. Cox, thank you very much.
5 You don't seem quite as nervous as you describe
6 yourself.

7 MS. COX: I am.

8 THE COURT: Okay. All right. Let me give you this
9 letter. You are ---

10 MR. EPPES: Your Honor -- Your Honor.

11 THE COURT: --- qualified as a juror in this case.

12 MR. EPPES: Can I ask one more question? I'm
13 sorry.

14 THE COURT: Okay.

15 BY MR. EPPES:

16 Q You're talking about judgment and penalty ---

17 A Sure.

18 Q --- Ms. Cox, do you believe that life without
19 parole is a serious punishment for aggravated murder?

20 A Yes, I do.

21 MR. EPPES: Okay. Thank you.

22 THE COURT: All right. Ms. Cox, you have been
23 qualified as a juror in this case. That does not mean
24 you will be selected. It means you will be among a
25 panel of approximately 40 jurors that are going to

1 return. We're going to ask that you come back at four
2 o'clock this afternoon.

3 MS. COX: Okay.

4 THE COURT: You need to be prepared to serve if you
5 were selected. By that I mean you need to go ahead and
6 have a suitcase in your car, packed with clothes for
7 seven or eight days. I don't know that the trial will
8 last that long, but you need to be prepared in case it
9 does. Go ahead and pack any medications, any special
10 needs that you have in your bag. When you come back,
11 leave your suitcase in your car, because most of the
12 jurors that come back aren't going to serve, so there's
13 no need to bring all that luggage up here. I want you
14 to park back over in the Hyatt garage where you parked
15 on Monday morning. Spring street is the street -- the
16 little side street between the Hyatt parking garage and
17 the courthouse. If you come out the Spring street
18 garage entrance to the Hyatt garage, directly across the
19 street is the garage entrance to this courthouse, okay?

20 MS. COX: Okay.

21 THE COURT: I'm asking the jurors to come there
22 where they will be met by the bailiffs and brought
23 upstairs.

24 MS. COX: Okay.

25 THE COURT: I'm trying to keep you out of the

1 public corridors where the press is and the family
2 members and all that. Once all the jurors are upstairs,
3 we'll bring them over here and we'll pick a jury. Now,
4 you need to go ahead and tell your family and business
5 people that you will not have any direct contact with
6 them while you're sequestered. If you need to get a
7 message to someone, we can accomplish that through the
8 bailiffs. We can write out a message and name and
9 number, and they can call and deliver a message to
10 someone for you. Now, on that letter are day time and
11 night time emergency numbers. So if there is an
12 emergency someone can contact the SLED agents or the
13 Court, and we can handle any emergencies that might come
14 up. Okay. Do you have any questions so far?

15 MS. COX: No.

16 THE COURT: All right. Finally, do not read about
17 this case, watch any TV or listen to the radio about
18 this case. There will be media coverage possibly even
19 during the course of today. If anyone -- likewise,
20 don't discuss this case with anyone. If anyone tries to
21 discuss the case with you, then tell them you're on the
22 panel and can't discuss it. If they persist, then take
23 their name and give that name to the bailiffs, and we'll
24 handle that when we get back.

25 MS. COX: Okay.

1 THE COURT: All right. See you this afternoon at
2 four o'clock. Thank you very much.

3 (Ms. Cox exited the courtroom.)

4 THE COURT: Anything with regard to this last
5 juror?

6 MS. STROM: Nothing from the State.

7 MR. EPPES: Nothing from the defense, Your Honor.

8 THE COURT: Anything about Betty Clark?

9 MS. STROM: No, sir.

10 THE COURT: All right. Bring in Betty Clark.

11 (Ms. Clark entered the courtroom.)

12 THE COURT: Good morning.

13 MS. CLARK: Good morning.

14 THE COURT: You are Betty Clark?

15 MS. CLARK: Yes, sir.

16 THE COURT: I am Joe Watson. Ms. Clark, as you
17 make yourself comfortable, go ahead and slide your chair
18 a little bit closer to that microphone, that way you can
19 speak right into it and your voice will be amplified.
20 If you would, remember to answer questions yes or no,
21 don't just nod your head or shake your head. Madam
22 Court Reporter is taking down everything that is said,
23 but there is a back-up system that is recording
24 everything, so it needs to record your voice as you
25 answer these questions.

1 Have you complied with my instructions not to
2 discuss this case with anyone?

3 MS. CLARK: Yes.

4 THE COURT: All right. On Wednesday -- excuse me,
5 on Monday morning you indicated that you had heard about
6 this case, is that correct?

7 MS. CLARK: Yes.

8 THE COURT: Was that from news accounts that
9 occurred back when it happened?

10 MS. CLARK: Probably on the TV and in the
11 Greenville News.

12 THE COURT: Okay. And what about more recently as
13 this case approached trial, do you recall seeing
14 anything in the paper or on TV about it?

15 MS. CLARK: I forgot about it until we was in the
16 courtroom Monday.

17 THE COURT: Okay. Do you recall any of the facts
18 that you saw on TV or saw in the paper?

19 MS. CLARK: Only that there was two people killed
20 and a man was arrested in Gatlinburg, that was mainly
21 it.

22 THE COURT: All right. Have you formed any
23 opinions as to what you've heard? Specifically, have
24 you formed any opinions about the guilt or innocence of
25 Mr. Sigmon?

1 MS. CLARK: No, sir.

2 THE COURT: Okay. Now, Ms. Clark, I'm going to be
3 asking you a number of questions and then these lawyers
4 will probably ask you some questions. Some of these
5 questions may seem to be of a personal nature. We don't
6 mean to offend you, but if you take offense, hold it
7 against me, don't hold it against the State, certainly
8 don't hold it against Mr. Sigmon. There are no right
9 answers. There are no wrong answers. We will respect
10 any answer you give, any opinion that you have on these
11 issues. But we do need your open and honest answers to
12 these questions. Most of what I will talk to you about
13 deals with the issue of penalty, but I need to make sure
14 you understand that the fact that we're talking about
15 penalty indicates nothing about the defendant in this
16 case. Do you understand that? You got to say yes or
17 no.

18 MS. CLARK: Yes.

19 THE COURT: All right. As Mr. Sigmon sits there,
20 he is presumed to be innocent. Do you understand that?

21 MS. CLARK: Yes.

22 THE COURT: Now, let me talk to you generally about
23 sitting on a criminal case before I talk to you about
24 penalties. If you were seated on a criminal case, would
25 you listen to the law that the judge charged to you and

1 would you accept and apply that law to the case?

2 MS. CLARK: Yes.

3 THE COURT: Would you do that even though you may
4 not agree with that law?

5 MS. CLARK: Yes.

6 THE COURT: All right. In a criminal case the
7 State has the burden of proving a defendant guilty
8 beyond a reasonable doubt. Have you heard that term
9 before?

10 MS. CLARK: Yes.

11 THE COURT: If you sat on a case and you thought
12 that the State had not proved someone guilty beyond a
13 reasonable doubt, would you vote not guilty? If they
14 had not proved their case beyond a reasonable doubt?

15 MS. CLARK: No.

16 THE COURT: All right. You would vote not guilty?
17 If they had not met their burden, they had not proved
18 their case?

19 MS. CLARK: The State?

20 THE COURT: The State. Would you vote not guilty?

21 MS. CLARK: Yes.

22 THE COURT: All right. And if they had met their
23 burden and had proved somebody guilty beyond a
24 reasonable doubt, would you vote guilty?

25 MS. CLARK: No.

1 THE COURT: All right. Why not? I'm probably not
2 saying the question right. If the State has the burden
3 of proving a case and their burden is to prove it beyond
4 a reasonable doubt, and you felt they had proved it
5 beyond a reasonable doubt, would you then vote to
6 convict?

7 MS. CLARK: If they proved it, yes.

8 THE COURT: Okay. That's was my question. Now,
9 did you know much about the death penalty before you
10 came to court on Monday? Did you know South Carolina
11 had a death penalty?

12 MS. CLARK: Yes.

13 THE COURT: All right. Do you understand -- did
14 you read my letter?

15 MS. CLARK: Yes.

16 THE COURT: All right. Do you understand that the
17 State can only seek the death penalty in what we call
18 aggravated murders, like murder plus an armed robbery,
19 murder plus a sexual assault, something like that? Do
20 you understand that?

21 MS. CLARK: Yes.

22 THE COURT: And even then the punishment is not
23 automatic. That simply means that the State can seek
24 the death penalty and the jury decides if the death
25 penalty is imposed, or if life without parole is the

1 proper sentence. Do you understand that?

2 MS. CLARK: Yes.

3 THE COURT: Now, a death penalty trial is divided
4 into two parts. The first part is called the trial
5 phase, and that's like any other trial. The jury sits
6 and listens to the evidence and they decide if the
7 defendant is not guilty or if he's guilty. If he's not
8 guilty, then everybody goes home. If he is guilty, then
9 the jury then comes back to the courtroom and they hear
10 more testimony and more evidence. And the testimony and
11 the evidence they hear in that second trial deals with
12 what punishment the person should receive. Do you
13 understand that?

14 MS. CLARK: Yes.

15 THE COURT: In other words, he already has been
16 convicted beyond a reasonable doubt, he's guilty of
17 murder plus something else, you understand that?

18 MS. CLARK: Yes.

19 THE COURT: And then the same jury comes back and
20 they listen to more testimony and evidence. And the
21 State puts up testimony and evidence in aggravation.
22 This is evidence the State puts in to try to convince
23 the jury that the proper sentence is death. That
24 evidence might be evidence about the defendant.
25 Maybe he's got a long history of crimes of violence

1 against people. It might be victim impact evidence.
2 It might be members of the victim's family that
3 testify as to what their loss has been. It might be
4 evidence -- more evidence about the crime itself, just
5 how heinous the crime was. All that evidence is put
6 in to try to convince the jury that the proper
7 sentence is death.

8 And then the defense puts in evidence in
9 mitigation. Evidence in mitigation is generally
10 evidence about the defendant himself. That evidence
11 would be things like he suffers from a mental problem,
12 and he suffered from that mental problem when he
13 committed the murder. Or it might be that he was under
14 the influence of someone else. Or it might be he's
15 relatively young. Or it might be he's got no crimes of
16 violence, he's never been arrested or convicted of
17 anything. All that evidence is presented, not to excuse
18 what he did, because he's already convicted of murder,
19 but to try to convince the jury the proper sentence is
20 life. Do you understand that?

21 MS. CLARK: Yes.

22 THE COURT: And what we ask a jury to do is to
23 carefully consider the aggravating evidence and
24 carefully consider the mitigating evidence before they
25 decide what the proper punishment is. Do you understand

1 that?

2 MS. CLARK: Yes.

3 THE COURT: All right. Now, a jury, before they
4 can invoke the death penalty, has to be convinced beyond
5 a reasonable doubt that it's an aggravated murder, but
6 even then they never have to give the death penalty. Do
7 you understand that? They can always give a life
8 sentence.

9 MS. CLARK: Yes.

10 THE COURT: They could find several aggravating
11 factors, and they could find no mitigation, no
12 mitigating factors at all, but still give the defendant
13 a life sentence. Do you understand that?

14 MS. CLARK: Yes.

15 THE COURT: Now, understanding this procedure, let
16 me ask you, generally what are your feelings about the
17 death penalty, Ms. Clark? Would you say you are
18 generally for it, generally against it, how do you feel?

19 MS. CLARK: Sometimes when I've read something I
20 would think -- I would find them guilty, and then other
21 times I've read things and I would think, you know, I
22 don't know.

23 THE COURT: What about the death penalty, have you
24 ever read anything on the death -- about somebody who
25 got the death penalty and thought, well, boy, he

1 probably deserved it, or maybe you read something where
2 somebody didn't get the death penalty and you thought
3 they deserved it, or maybe you thought -- read
4 something about the death penalty and you thought,
5 well, they probably shouldn't have gotten the death
6 penalty?

7 MS. CLARK: I guess I hear -- when I hear somebody
8 has the death penalty it may be because I have four
9 children, and I just say a prayer for their mother.

10 THE COURT: Okay.

11 MS. CLARK: Because I ---

12 THE COURT: Well, let me ask you this, do you think
13 there is a proper place in our society to have the death
14 penalty?

15 MS. CLARK: Yes.

16 THE COURT: Okay. And so you think in some
17 aggravated cases it's a proper form of punishment?

18 MS. CLARK: Yes.

19 THE COURT: All right. Do you think everybody who
20 commits an aggravated murder should be put to death?

21 MS. CLARK: No.

22 THE COURT: Okay. If you were seated on a jury,
23 would you listen to the evidence in the penalty phase
24 from the State and the defense, and give meaningful
25 consideration to the aggravating evidence as presented

1 by the State and meaningful consideration to the
2 mitigating evidence presented by the defense and charged
3 by the judge before you made the decision of life or
4 death?

5 MS. CLARK: Yes.

6 THE COURT: If you were on a case and if you
7 thought the proper sentence was life, could you vote for
8 life?

9 MS. CLARK: Yes.

10 THE COURT: And if you were on a case and you
11 thought the proper sentence was death, could you vote
12 for death?

13 MS. CLARK: Yes.

14 THE COURT: All right. Now, if you were on a case
15 and if you and the other jurors thought that death was
16 the appropriate punishment, each of you would sign the
17 verdict form, each person would individually sign it.
18 Do you understand that?

19 MS. CLARK: I wasn't aware of that.

20 THE COURT: Okay. I'm telling you that. If you
21 thought that death was the appropriate punishment, could
22 you sign your name to the verdict form?

23 MS. CLARK: Yes.

24 THE COURT: Okay. Now, I'm going to ask the
25 attorneys if they want to ask you any questions. Who's

1 first? Frank Eppes is one of the attorneys representing
2 Mr. Sigmon. He's going to ask you some questions. And
3 then Mr. Ariail or one of his staff will ask you some
4 questions.

5 QUESTIONING BY MR. EPPES:

6 Q Good morning, Ms. Clark.

7 A Good morning.

8 Q My name is Frank Eppes, as the judge told you.
9 That's John Abdalla, my co-counsel. Brad Sigmon is my
10 client. I've got to ask you some questions to learn
11 more about how you feel about the death penalty and your
12 ability to be fair in the case. And nothing about the
13 questions is implying you're not being fair in the case.
14 And you're entitled to your opinion whatever it may be
15 on anything. We just need to inquire about it a little
16 bit. Do you understand that?

17 A Yes.

18 Q Okay. Are you nervous?

19 A Yes.

20 Q Okay. I'm sorry you're nervous, and if I make you
21 nervous, sometime people say ---

22 A I hope I'm not the only one.

23 THE COURT: No, ma'am. Every juror that has been
24 in here has been nervous.

25 BY MR. EPPES:

1 Q Every one that has come in has been nervous. But
2 if we do anything to make you nervous, let us know and
3 we'll stop doing it. If you don't like the question, or
4 something, or if -- would you like a glass of water?

5 A No, thank you.

6 Q You said there's a proper place -- well, the judge
7 asked you if there was a proper place for the death
8 penalty. Why do believe there's a proper place for it?

9 A Because I think there's some things that people do
10 to other people, when they kill someone in certain
11 circumstances, that their life should to be taken too.

12 Q Okay. What purpose does that serve? Does it serve
13 a punishment purpose, or is there another purpose?

14 A It's punishment and it's -- I think it would set an
15 example to some people, or they would look at it and
16 think, well, if I kill someone, I can't get away with it
17 either, and I think that may deter someone in the
18 future.

19 Q Okay. So it has a deterrence effect?

20 A I think it could.

21 Q Okay. Okay. Now, you understand -- I'm sorry, I
22 have to write notes or -- we've been through a lot of
23 jurors. I think I'll remember you, but I just want to
24 make sure with notes. You understand that if you got to
25 the sentencing phase of a trial, that the two questions

1 would be life without parole or death? Do you
2 understand that?

3 A Yes.

4 Q Now, do you believe that in a case of aggravated
5 murder, that life without parole is a serious
6 punishment.

7 A Yes, I do, and so does the State of South Carolina.

8 Q Yes, ma'am. You're absolutely right. And you
9 understand that life without parole means you never get
10 out of prison? There's no parole, there's no early
11 release, nothing, you come out in a pine box?

12 A Right.

13 Q Okay. Okay. Now, the first portion of the trial
14 is the guilt phase of the trial, do you understand that,
15 where you find somebody guilt or not guilty?

16 A Yes.

17 Q And that's -- you see that on television a lot.
18 That's where any defenses, anything that the State of
19 South Carolina has said is a defense, self-defense, if
20 somebody else did it, alibi, if you weren't there,
21 accident, insanity, if you couldn't tell the difference
22 between right and wrong, that's where all those defenses
23 would be presented by a defendant. Do you understand
24 that?

25 A Yes.

1 Q So after that, after that you're left with a
2 defendant that the jury has to decide only whether he
3 lives or dies based on the evidence put forward by the
4 State and by the defense. Do you understand that?

5 A Yes.

6 Q And part of that case is the State describing
7 horrible, horrible crimes. Do you understand that?

8 A Yes.

9 Q And part of that case is going to be the defense
10 using background information and things that tell the
11 whole story about this defendant and what happened,
12 things about his background, things about his life,
13 things about his previous relationships, things about
14 drugs and alcohol, any number of things. You're going
15 to hear about those things, all right?

16 A Yes.

17 Q Well, after -- if you're faced with this evidence
18 of an aggravated crime, would you be able to fairly
19 consider all of the factors about the defendant in order
20 to determine whether he should -- he or she should live
21 or die?

22 A You're asking me once I hear the evidence?

23 Q Yes, ma'am?

24 A Yes, I would listen to the evidence.

25 Q You would fairly be able to consider everything?

1 A Yes.

2 Q Now, one of the things you might hear, we talked a
3 little bit about punishment, one of things you might
4 hear would be information from family of the people that
5 got killed. Do you understand that?

6 A Yes.

7 Q Okay. Now, would you -- would you put more
8 weight ---

9 MS. STROM: Objection, Your Honor.

10 THE COURT: I sustain the objection.

11 BY MR. EPPES:

12 Q Would you be able to fairly consider the evidence
13 of mitigation, that's evidence from the defendant, even
14 in light of evidence from the victim's people that had
15 suffered a loss, would you still be able to fairly weigh
16 all that evidence?

17 A I would do my best to listen to all the evidence,
18 yes.

19 Q Okay. And you'd be able to fairly weigh it? You'd
20 be fair to both sides even in light of evidence of
21 people's loss and heartache?

22 A I would do my best, yes.

23 Q Do you think you'd be able to do that?

24 A Yes.

25 Q Okay. Now, in addition to that, you've got to sign

1 a death warrant. The judge mentioned that. That's a
2 warrant that goes down to the Department of Corrections
3 and down to where they have the execution chamber
4 that -- that is in the record that shows you signed a
5 warrant that said that defendant is going to die. Do
6 you understand that?

7 A I wasn't aware of that until the judge said it.

8 Q Okay.

9 A But I understand it.

10 Q Would you be able to do that knowing that that
11 record would be there for all eternity, that you signed
12 off on another person's life.

13 A I could if I believed that the decision we reached
14 was right.

15 Q Okay. Thank you.

16 A I didn't have much time to think about it, because
17 I wasn't aware of it.

18 Q Okay. Well, as long as you believe that you can be
19 fair, that's the most important thing. Now, when you're
20 sitting in the box with the other jurors, y'all go in
21 the back and y'all consider all the evidence and weigh
22 it, okay. When you get back there, in a jury, you know,
23 there's all this give and take, then at the end of the
24 day everybody starts to make up their minds. And how do
25 you think you would react if everybody on the jury, all

1 11 of them were on one side, say life without parole or
2 death, and you were on the other side, if you were
3 sitting there by yourself, and they were saying, you're
4 right, you're wrong -- we're right, you're wrong,
5 telling you why, just fussing at you in general, how
6 would you react to that?

7 A If I believe -- if I had listened to all the
8 evidence and I truly believed I was right, I would still
9 vote the way I decided to vote.

10 Q You would stick to your guns?

11 A Yes.

12 Q Okay. Now, on the other side of that, if you were
13 with 10 other jurors and there was one person that was
14 holding out either for life without parole or for death,
15 would you be able to respect that other person's
16 beliefs? Would you be able to say, well, everybody is
17 entitled to their opinion?

18 A Yes, if they had made their decision, I would hope
19 that they had looked at things, the same information
20 that I had, and I can't speak for their decision. I
21 just have to -- yes, I would respect their decision.

22 MR. EPPES: Okay. Your Honor, can I have just a
23 moment? Ms. Clark, thank you very much.

24 THE COURT: Ms. Strom. This is Betty Strom. She's
25 assisting Solicitor Bob Ariail in this case. She is

1 going to ask you some questions.

2 MS. STROM: I'm going to be the least one to make
3 you nervous. My name is Betty Strom. I'm the Deputy
4 Solicitor. That's Bob Ariail. He's the Solicitor.
5 Mindy Harvey, she's the assistant. I have no questions.
6 Thank you.

7 MS. CLARK: You're welcome.

8 THE COURT: All right. Ms. Clark, let me amend
9 this letter. All right. I'll give you this letter.
10 You can keep it. You are qualified to serve on this
11 jury, Ms. Clark. That does not mean you're going to be
12 selected, but it does mean that I need for you to go
13 home, go ahead and pack a suitcase as if you're going to
14 serve, and you'll be sequestered. Pack enough clothes
15 for seven or eight days. I don't know that it will last
16 that long, but you need to be prepared in case it does.
17 Go ahead and if you put -- gather any medications or any
18 other special need items that you have. I want you to
19 return at four o'clock today. We're going to pick the
20 jury at four o'clock today. If you would, park over in
21 the Hyatt parking garage, where you parked on Monday
22 morning. Is that where you parked Monday?

23 MS. CLARK: No.

24 THE COURT: Okay. Where did you park?

25 MS. CLARK: I went in to the Liberty.

1 THE COURT: Okay. You know where the Hyatt parking
2 garage is?

3 MS. CLARK: Yes, municipal?

4 THE COURT: Right, exactly. Okay. If you would
5 park in there, and then there are two entrances. One on
6 College Street, up near the entrance to the Hyatt, and
7 one is right here on Spring Street. Spring Street is
8 the street right behind us, between the Hyatt and the
9 courthouse. If you come out the Spring Street entrance
10 to the Hyatt garage, directly across from Spring Street
11 is the garage entrance to this courthouse. I'm having
12 the jurors come there because I don't want them out in
13 the public hallways where the media is and the families
14 are. If you come back at four o'clock, you will be met
15 by bailiffs. They will escort you up here. And
16 whenever everyone is here, we'll bring them in this
17 courtroom and we'll pick the jury. Okay?

18 Now, if you were selected and sequestered, then you
19 will not able to have any direct contact with family
20 members or business people. We can get a message to
21 someone through the bailiffs. In other words, if you
22 forgot something or needed to tell somebody something,
23 then you can write a message, the name and the number,
24 and the bailiff will place that call for you. Okay.
25 The -- on that piece of paper are emergency numbers. If

1 someone needs to contact you day or night, they can call
2 up here and talk to a bailiff or SLED agent and we can
3 handle any emergency that might come up, okay. Do you
4 have any questions?

5 MS. CLARK: I do return back to the courthouse?

6 THE COURT: You return -- park across the street,
7 came downstairs to the garage entrance and the bailiffs
8 will meet you at four o'clock today.

9 MS. CLARK: Okay.

10 THE COURT: Don't talk about this case with anyone,
11 including among fellow jurors. If someone tries to
12 talk to you about it, tell them you're on the jury
13 panel and you can't talk about it. If they persist,
14 take their name and give that name to the bailiff.
15 Also, do not watch any TV, read anything in the paper
16 about this case, listen to the radio about this case,
17 okay?

18 MS. CLARK: Okay.

19 THE COURT: I will see you back here at four
20 o'clock this afternoon.

21 MS. CLARK: Yes.

22 THE COURT: Thank you, ma'am.

23 (Ms. Clark exited the courtroom)

24 THE COURT: Wasn't enough to have John here, you
25 had to bring in the calvary back there?

1 MR. MAULDIN: Oh, my goodness.

2 THE COURT: Your daddy's here. All right. I need
3 a short break. I've been up here drinking a lot of
4 water. Let's take about a two-minute break and come
5 back.

6 (A short recess was taken, after which, the trial
7 continued as follows:)

8 THE COURT: All right. Anything about Michael
9 O'Connell?

10 MS. STROM: Yes, sir.

11 THE COURT: There is?

12 MS. STROM: Yes, sir.

13 THE COURT: All right.

14 MS. STROM: And I'm not really sure, and I'm going
15 to hand up the record to you, but it shows a conviction
16 for DUI, but it looks like he received 18 months
17 probation.

18 MR. EPPE: In Pennsylvania.

19 MS. STROM: In Pennsylvania.

20 THE COURT: Well, I can ask him. I mean, I
21 don't -- what if he does not recall what the maximum
22 sentence was? Eight-nine, it looks like it was at least
23 a second and then -- then did it fall off because in
24 '91 -- it might have even been just -- it looks like an
25 accelerated rehab. It might have been a first offense

1 back then. All right. I'll ask him. All right. Bring
2 in Michael O'Connell.

3 (Mr. O'Connell entered the courtroom.)

4 THE COURT: Hey, you're Michael O'Connell?

5 MR. O'CONNELL: Yes.

6 THE COURT: Come in and have a seat. As you get
7 comfortable, go ahead and slide your chair close to the
8 microphone and speak right into it. I'm going to ask
9 you to respond verbally. Madam Court Reporter is taking
10 down everything that is said, but there are two systems
11 actually taking down everything that is said. There is
12 a back-up recording system, so everybody needs to speak
13 verbally, don't just shake your head or nod your head
14 because that can't be recorded.

15 MR. O'CONNELL: Yes, sir.

16 THE COURT: All right. You understand that you're
17 still under oath from your oath that you took on Monday?

18 MR. O'CONNELL: Yes, sir.

19 THE COURT: All right. The first thing I need to
20 do, and I don't want to embarrass you at all, but I have
21 Madam Clerk pull records on all jurors if there are any.
22 Did you at one time live in Pennsylvania?

23 MR. O'CONNELL: Yes, sir.

24 THE COURT: All right. And back in '89, it says
25 there was an 18 month program you were in. Do you mind

1 telling me a little bit about that?

2 MR. O'CONNELL: That was under a DUI offense.

3 THE COURT: Was it a first offense, second offense?

4 MR. O'CONNELL: That was a second offense.

5 THE COURT: All right. And do you recall what the
6 maximum penalty for that was in Pennsylvania?

7 MR. O'CONNELL: I do not.

8 THE COURT: Okay. Do you recall if it was more
9 than a year or less than a year? In South Carolina it's
10 a year, which would not disqualify a juror. If it's
11 more than a year that would disqualify, if it's a
12 year -- a year or less it would not. You don't recall
13 the maximum sentence?

14 MR. O'CONNELL: I have no idea.

15 THE COURT: We're going to presume it was a year or
16 less and go forward. Have you complied with my
17 instructions not to talk with anyone about this case?

18 MR. O'CONNELL: That is correct.

19 THE COURT: All right. On Monday when I was asking
20 questions about the case in general, I don't believe you
21 responded that you knew any of witnesses or recalled any
22 of the facts of the case, is that ---

23 MR. O'CONNELL: That is correct.

24 THE COURT: Okay. I'm going to ask you a number of
25 questions and these attorneys will in turn ask you some

1 questions. We don't mean to invade your privacy. Some
2 of these questions will seem of a personal nature, but
3 we do need your full and open and honest answers to
4 these questions. There are no right answers. There
5 are no wrong answers. Everybody in this courtroom will
6 respect your answers and any opinions that you might
7 have. Most of the questions I will ask deal with the
8 issue of penalty, but I've got to make sure you
9 understand up front that the fact that we are talking
10 about penalty does not indicate anything about Mr.
11 Sigmon. Do you understand that? In other words, he's
12 presumed to be innocent as he sits there. Do you
13 understand that?

14 MR. O'CONNELL: Yes.

15 THE COURT: It's sort of a backwards process,
16 because before the case even starts we have to start
17 talking about penalty, but we have to do that in order
18 to get a fair jury. Do you understand that?

19 MR. O'CONNELL: I understand.

20 THE COURT: Now, before I talk with you about a
21 capital case, and the death penalty, and things like
22 that, let me ask you some general questions about
23 sitting on a criminal jury. If you were a juror, would
24 you listen to the law that the judge charged to you and
25 accept that law and apply that law in the case?

1 MR. O'CONNELL: Yes, I would.

2 THE COURT: Would you do that even if you might not
3 necessarily agree with the law?

4 MR. O'CONNELL: Yes, I would.

5 THE COURT: Do you understand that in a criminal
6 case the State has the burden of proving a defendant
7 guilty beyond a reasonable doubt?

8 MR. O'CONNELL: Would you please repeat that?

9 THE COURT: Do you understand in a criminal case
10 the State of South Carolina has the burden of proving a
11 defendant guilty and that level, that burden is beyond a
12 reasonable doubt?

13 MR. O'CONNELL: Yes, sir.

14 THE COURT: All right. And if you were on a case
15 and if you found that the State had not proved somebody
16 guilty beyond a reasonable doubt, would you vote not
17 guilty?

18 MR. O'CONNELL: Yes, I would.

19 THE COURT: All right. Contrary to that -- the
20 converse of that is if they had proved somebody guilty
21 beyond a reasonable doubt, would you vote guilty?

22 MR. O'CONNELL: I'm sorry, could repeat that?

23 THE COURT: Okay. If you had listened to the
24 evidence in a case, and if you found that the State had
25 met their burden of proof, they had proved somebody

1 guilty beyond a reasonable doubt, would you vote guilty?

2 MR. O'CONNELL: Yes, sir, I would.

3 THE COURT: Okay. Now, did you read my two-page
4 letter that was handed out about capital cases on
5 Monday?

6 MR. O'CONNELL: Yes.

7 THE COURT: Do you understand that it is not every
8 murder case that is subject to the death penalty, it has
9 to be one of these aggravated murders? Do you
10 understand that?

11 MR. O'CONNELL: Yes, I do.

12 THE COURT: The examples I gave was murder during
13 an armed robbery, or murder during a rape. Do you
14 understand that?

15 MR. O'CONNELL: Yes, sir.

16 THE COURT: Even when we talk about aggravated
17 murder, do you understand that the penalty is by no
18 means automatic?

19 MR. O'CONNELL: Yes.

20 THE COURT: That simply allows the State to seek
21 the death penalty, and when the State seeks the death
22 penalty it ultimately becomes a decision of the jury as
23 to what the proper punishment is, if the jury convicts
24 the person of murder. Do you understand that?

25 MR. O'CONNELL: Yes, sir.

1 THE COURT: And the process of a death penalty
2 trial is what we call a bifurcated or two-part trial.
3 That means that the first part, the trial phase is just
4 like any other case. It's where the jury sits and they
5 listen to the evidence and then they decide what the
6 verdict in the case is, either not guilty or guilty. Do
7 you understand that?

8 MR. O'CONNELL: Yes, sir.

9 THE COURT: If the verdict is not guilty, then that
10 ends the case. Obviously if the verdict is guilty, then
11 that same jury comes back to court and they listen to
12 more testimony and more evidence, and that testimony and
13 evidence is on the issue of what is the proper
14 punishment. Do you understand that?

15 MR. O'CONNELL: Yes, sir.

16 THE COURT: At that point in time the person has
17 been convicted of a murder, and generally it's convicted
18 of murder plus something else. They stand convicted,
19 you understand that, and the only possible punishments
20 are life without any possibility of parole or death,
21 which in South Carolina is by electrocution or lethal
22 injection. Do you understand that?

23 MR. O'CONNELL: Yes, sir.

24 THE COURT: All right. And I emphasize to you life
25 means absolutely life without any parole. It used to be

1 there was like a 30 year parole eligibility. In a case
2 like this today, there is no parole. Do you understand
3 that?

4 MR. O'CONNELL: Yes, sir.

5 THE COURT: All right. Now, in the penalty phase,
6 if you get that far in the case, then there are two
7 types of evidence that are presented. The State
8 presents evidence in aggravation, and the defense
9 presents evidence in mitigation. Aggravating evidence
10 is evidence of any number of things. It might be
11 evidence about the defendant himself. Maybe he's got a
12 bad character. Maybe he's got a history of criminal
13 acts of violence against someone. It might be more
14 evidence about the crime itself, how heinous was the
15 crime. It might be victim impact evidence. In other
16 words, family members of the victims may get up and talk
17 about their loss and the loss to the community. All of
18 this evidence is presented by the State in an effort to
19 convince the jury that death is the appropriate
20 punishment. Do you understand that?

21 MR. O'CONNELL: Yes, sir.

22 THE COURT: All right. Now, the defense would
23 present mitigating evidence. Generally, mitigating
24 evidence is evidence about the defendant. For instance,
25 it might be evidence that the person suffered from a

1 mental disorder at the time he committed the killing.

2 It might be that he was under the influence of someone
3 else. It might be that he has absolutely no history of
4 violence, he's got no criminal record. It might be that
5 he's a particularly young defendant and should be
6 treated differently than somebody who's older. All this
7 evidence is presented not to excuse what he did. He's
8 already convicted of a murder, he's either going to get
9 life or death. But that evidence is presented to
10 mitigate what punishment he should receive in an effort
11 to convince the jury the proper punishment would be
12 life. Do you understand that?

13 MR. O'CONNELL: Yes, sir.

14 THE COURT: All right. Now, before a jury in a
15 capital case can vote for death, they must find beyond a
16 reasonable doubt not only the murder but also the
17 aggravating circumstance. They can't invoke death
18 unless they find an aggravating circumstance. But even
19 when they find aggravating circumstances, they are never
20 required to invoke death. They can always give life.
21 They could find a number of aggravating circumstances
22 beyond a reasonable doubt, and they could find no
23 mitigating evidence whatsoever, and they still can give
24 a life sentence. Do you understand that?

25 MR. O'CONNELL: Yes, sir.

1 THE COURT: All right. Understanding this whole
2 procedure, this two-part trial, the type of evidence
3 that's presented in the penalty phase, the aggravating
4 evidence and the mitigating evidence, Mr. O'Connell, we
5 need to understand what your general position is about
6 capital punishment. Would you say that you are
7 generally for the death penalty, generally against it,
8 what is your position?

9 MR. O'CONNELL: I do believe in capital punishment.

10 THE COURT: All right. And do you believe that it
11 is a proper form of punishment in our society, in some
12 cases?

13 MR. O'CONNELL: Yes, sir.

14 THE COURT: All right. Do you think it's the
15 proper punishment in every case of aggravated murder?

16 MR. O'CONNELL: No, sir.

17 THE COURT: All right. Do you think it should be
18 reserved for the absolute most aggravated murders?

19 MR. O'CONNELL: I believe so, yes.

20 THE COURT: All right. If you were seated as a
21 juror on a capital murder case, would you give
22 meaningful consideration to the evidence presented by
23 the State in aggravation and charged by the judge, and
24 meaningful consideration to the evidence that is put up
25 by the defense in mitigation and charged by the judge

1 before you made your mind up as to what the proper
2 punishment would be?

3 MR. O'CONNELL: Most definitely.

4 THE COURT: All right. You would want to know, not
5 only about the crime itself, but about the defendant
6 before you made that decision?

7 MR. O'CONNELL: Yes, sir.

8 THE COURT: All right. If you were seated on a
9 jury and if you thought the appropriate sentence was a
10 life sentence, would you vote for a life sentence?

11 MR. O'CONNELL: Yes, sir, I would.

12 THE COURT: And if you were seated on a jury and
13 you thought the proper sentence was death, would you
14 vote for a death sentence?

15 MR. O'CONNELL: Yes, I would.

16 THE COURT: All right. Now, Mr. O'Connell, if you
17 and your fellow jurors thought the proper sentence was
18 death, each of you would have to sign your name to the
19 verdict form. I'm telling you that. Do you understand
20 that now?

21 MR. O'CONNELL: I do now, yes.

22 THE COURT: Okay. And if you thought that that was
23 the proper sentence, would you sign that verdict form?

24 MR. O'CONNELL: Yes, I would.

25 THE COURT: Okay. Now, I'm going to let the --

1 Madam Strom, Ms. Strom is assisting Bob Ariail, the
2 Solicitor, in the prosecution of this case, and then this
3 is Frank Eppes and John Abdalla, they're representing
4 Mr. Sigmon. Mr. Strom will talk to you first and then
5 Mr. Eppes will talk with you, okay?

6 MR. O'CONNELL: Yes, sir.

7 MS. STROM: Thank you, Your Honor.

8 THE COURT: Ms. Strom.

9 QUESTIONING BY MS. STROM:

10 Q Good morning, Mr. O'Connell.

11 A Good morning.

12 Q It's going to seem like we're asking the same thing
13 the judge just asked you so bear with us, because what
14 we're trying to do is get jurors who can be fair to both
15 sides.

16 A Yes.

17 Q Who can fairly consider the State's request to
18 impose the death penalty and fairly consider the
19 defendant's request to impose a life sentence, okay?

20 A Yes, ma'am.

21 Q What do you think the purpose of the death penalty
22 is?

23 A I think socially most people want it to deter the
24 crime itself. I reserve the right to -- to exact -- not
25 so much revenge, but a closing on the surviving families

1 of whoever was killed or ---

2 Q Okay. So you do see it as a proper punishment in
3 some circumstances?

4 A Yes, ma'am.

5 Q Okay. Do you have anything in your religious
6 background, political background, upbringing, or
7 anything that you can think of that would interfere with
8 your ability to impose the death penalty if you thought
9 it was the appropriate sentence?

10 A No, I wouldn't.

11 Q And as far as signing the verdict form, and it's
12 sometimes called the death warrant, okay, it's actually
13 the document that follows a defendant down to the
14 Department of Corrections. It's the legal document that
15 carries out the execution. If you believed that the
16 death penalty was the appropriate penalty, could you
17 sign your name to that death warrant?

18 A Yes, I could.

19 Q Okay. We all understand it may be difficult and a
20 difficult decision, but if you felt it was the right
21 decision, you could do it?

22 A Yes, ma'am.

23 Q Okay. The judge talked to you about the two-part
24 process and in the second phase is where you will hear
25 the evidence in aggravation and the evidence in

1 mitigation. And in those types of situation, a jury has
2 already found a defendant guilty of murder. Okay. The
3 defendant has been convicted of murder. There are no
4 legal defenses. Okay. His Honor talked to you about
5 the fact that there may or may not be mitigating
6 circumstances presented. That you would have found the
7 defendant guilty of murder, found an aggravating
8 circumstance, but even in those situations, even if
9 there is no mitigation, a jury can still impose a life
10 sentence. You understand that?

11 A Yes, ma'am.

12 Q Okay. And even in those situations, you could
13 consider and could impose a life sentence if you felt it
14 was the appropriate sentence?

15 A Yes, ma'am.

16 Q Even if there was no mitigation?

17 A Yes, ma'am.

18 Q Okay. Equally, if you felt the appropriate
19 sentence was death, you could impose that sentence?

20 A Yes.

21 MS. STROM: Okay. Court's indulgence, Your Honor?
22 That's all I have. Thank you.

23 THE COURT: All right. Mr. Eppes.

24 QUESTIONING BY MR. EPPES:

25 Q How you doing?

1 A I'm a little nervous.

2 Q Oh, I'm sorry. I'll try not to make you nervous.
3 Congratulations on getting married. I saw you got
4 married a couple weeks ago.

5 A Thank you very much.

6 Q We're trying to find out your views on the death
7 penalty, and we need that to determine, you know, your
8 appropriateness as a juror and your ability to be fair.
9 I guess you've said that the purpose of the death
10 penalty, you said three things that I wrote down,
11 deterrence, you said almost a revenge aspect and then a
12 closing -- closure, I guess, for survivors?

13 A Yes.

14 Q Are there any other -- are there any other purposes
15 you think the death penalty serves?

16 A I believe since -- it's ironic that I bring this
17 up, I believe the -- the new laws pertaining to DUI
18 offenses has really deterred that crime, and in the
19 beginning I never thought it would

20 Q Um-hm?

21 A But it has, and I really don't notice the
22 statistics on -- on murders and violent crimes and have
23 they dropped or not, but I believe if it's working in
24 the DUI aspect of the law, I think harsher punishments
25 are working there, so maybe capital punishment for

1 murder may also deter that crime as well.

2 Q Um-hm. You know capital punishment has been around
3 a long time?

4 A Yes, sir.

5 Q Okay. Now, we've talked about this trial phase and
6 this sentencing phase. Okay. You understand that once
7 you get to the sentencing phase, there is no requirement
8 in the law of capital punishment? There is no law that
9 says if A, B, C, D took effect, capital punishment is
10 the punishment. What the law says is if you get to the
11 sentencing phase of the trial you have to weigh the
12 factors, the aggravating factors and the mitigating
13 factors, and each of the jurors sitting as judge and
14 jury themselves must determine for their own self life
15 without parole or capital punishment.

16 A Yes, sir.

17 Q Okay. Now, do you understand -- do you believe --
18 let me ask, do you believe that life without parole is a
19 serious punishment for aggravated murder?

20 A Yes, I do.

21 Q Okay. And does life without parole serve a
22 purpose, the same purposes as capital punishment?

23 A I've never really thought of it that way. I'm not
24 sure. I don't know if I could come up with a correct
25 answer without really thinking about it.

1 Q There is no correct answer. The question is, do
2 you think that life -- well, let me ask you, do you
3 think life without parole has a deterrent effect?

4 A Sure, I think all punishment has a deterrent
5 effect.

6 Q All punishment?

7 A (Witness nodded his head.)

8 Q And do you think all punishment provides a measure
9 of revenge or a measure of closure?

10 A Yes, sir, I do.

11 Q Okay. So life without parole for a crime is a very
12 serious punishment that may have the exact same effects
13 as capital punishment, do you believe that?

14 A I don't believe that, no.

15 Q You don't believe that?

16 A No, sir.

17 Q Why not?

18 A I believe -- I don't know. I believe myself I
19 would rather face life in imprisonment than capital
20 punishment, so I don't know if I would keep them on the
21 same corridor, or same line so to speak.

22 Q Um-hm. You recognize that capital punishment is a
23 more severe form of punishment?

24 A Yes, sir, I do.

25 Q Okay. Now, we start of -- we start off -- in a

1 death penalty trial you would start off with a -- with a
2 phase that determines the defendant's innocence or
3 guilt. Do you understand that?

4 A Yes, sir.

5 Q And at that phase all the defenses that the State
6 of South Carolina has said are defenses for murder that
7 make it justifiable homicide, self-defense, alibi,
8 insanity, accident, every defense there is that's all
9 decided and that person is judged guilty beyond a
10 reasonable doubt of murder, and most probably of an
11 aggravating crime, like armed robbery or rape before we
12 even move over to the sentencing phase. Do you
13 understand that?

14 A Yes, sir.

15 Q So in the sentencing phase the person that you're
16 being asked to judge is already judged an aggravated
17 murderer, a murderer that the Legislature of the State
18 of South Carolina says is eligible for the death
19 penalty. Do you understand that?

20 A Yes, sir.

21 Q Okay. Now, at the point the defendant is going to
22 come forward and he's going to tell you things about his
23 background, things about drugs or alcohol, things about
24 his relationships, other things that might not provide
25 an excuse, not provide a reason, but just explain to you

1 the background of this circumstance -- these
2 circumstances that got him here convicted of murder,
3 things about his life that might be good about him, that
4 weren't part of whether or not he was guilty or innocent
5 for murder. Do you understand that?

6 A Yes, sir.

7 Q Now, knowing that that defendant is guilty of an
8 aggravated murder, would you be able to give fair
9 consideration to those things, or are you going to
10 think, well, an aggravated murderer ought to be executed
11 every time?

12 A I believe when I was younger I would be quicker to
13 judge, but I think as I get older, I listen more and I
14 take a little longer to make my decision.

15 Q Okay. You understand the seriousness of that
16 decision, a man's life hangs in the balance?

17 A Yes, sir, I do.

18 Q Okay. Now, I think I know the answer to this but
19 I'm going to ask it anyway. In this jury box you would
20 sit with 11 other people, and in the sentencing phase
21 you would go back in the back you would give
22 consideration to everything. Do you understand that?

23 A Yes, sir.

24 Q Okay. Now, at some point they'd want you to sign a
25 death warrant. And the death warrant gets signed by

1 you, and it follows -- it would follow the prisoner all
2 the way through the Department of Corrections to the
3 execution chamber, and that's what they would read
4 before he was executed. Do you understand that?

5 A Yes, sir.

6 Q Okay. Your name would be on it forever, his file
7 where he was killed by the State of South Carolina with
8 your name on that warrant, you'd be comfortable signing
9 that if you believe he should be executed?

10 A If I thought he deserved it, I would sign it.

11 Q Okay. Now, when you're in the jury box and making
12 a decision, if you believed, if you thought in your
13 heart that he should be sentenced to life without
14 parole, and the other 11 jurors believed he should be
15 executed, and they're saying, come on, we got to go, we
16 all agree, we need to get out of here, we've been here a
17 week and a half, would you be able to -- to stick with
18 your convictions, to show the courage of your
19 convictions?

20 A You may call it narrow mindedness or an honor
21 streak, but yes, I would stick to my conviction.

22 Q I really expected you to say that. Now, on the
23 opposite of that, if all 11 jurors believed one thing
24 and you were with them, and there was one person holding
25 out, there's one person that says, nope, don't think

1 it's right, I think we ought to go the other way, either
2 way, life without parole or death -- and you understand
3 that life without parole is forever, there's no getting
4 out in South Carolina any more, you understand that?

5 A Yes, sir, I do now.

6 Q Okay. Well, if you have had a juror, and that one
7 juror was sitting alone by themselves, and you were with
8 the majority and y'all could leave, you knew it would be
9 over if this person sided, would you respect that
10 person's decision? You might try to persuade them, but
11 would you respect their ---

12 A Yes, sir, I would.

13 Q Okay. Now, some of the evidence you might get in
14 this case is going to be from victims, from the people
15 who have lost loved ones. In a case where you were
16 faced with evidence from someone who lost a loved one,
17 heart wrenching evidence, would you still be able to
18 fairly consider any evidence in mitigation in reaching
19 your decision between life without parole and execution?

20 A I think so.

21 Q Well, would ---

22 A I mean ---

23 Q Would a family's loss have an unfair sway over you?

24 MS. STROM: Objection, Your Honor.

25 THE COURT: I will sustain the objection.

1 BY MR. EPPES:

2 Q Would you be able to be fair in considering victim
3 impact evidence as it related to mitigation evidence in
4 relating -- deciding your -- making your decision?

5 A I think I could, yes.

6 MR. EPPES: Okay. Mr. O'Connell, I got to check
7 with somebody, I think I'm done. Thank you. Okay. One
8 second, Your Honor? Thank you, Your Honor.

9 THE COURT: Let me give you that letter. You are
10 qualified to serve on this jury. That does not mean you
11 are going to serve. It does mean you need to be
12 prepared to serve. We're going reconvene at four
13 o'clock. After we get our jury -- we're going to pick
14 jurors through the morning and then come back at four
15 o'clock to pick the jury. So you need to go ahead and
16 come back at four o'clock. Come back with a suitcase
17 packed with enough clothes for seven or eight days,
18 comfortable clothes. Pack any other needs you have,
19 medications, things like that.

20 When you come back, leave your suitcase in the car,
21 because most jurors are not going to serve. Most of
22 them are going to be going home. Park in the Hyatt
23 parking garage. Did you park over there on Monday
24 morning?

25 MR. O'CONNELL: Yes, I did.

1 THE COURT: Okay. Park there. Spring Street is
2 the street between the Hyatt and the courthouse. If
3 you come out the garage entrance to Spring Street,
4 directly across the street is the garage entrance to
5 this courthouse. I want you to come there because I'm
6 trying to keep the jurors out of the public corridors
7 where the families are and the media is, and keep y'all
8 separate. Bailiffs will be down there to meet you.
9 They'll bring you up here when all the jurors are here,
10 and then we'll pick the jury. If you are selected on
11 the case, then you will not have any direct contact with
12 your family or your work. You're at Partners
13 International?

14 MR. O'CONNELL: Yes, sir.

15 THE COURT: We can get a message to your wife, or
16 family, or Partners if necessary. In other words, you
17 can write out a message, with a name and number, and the
18 bailiffs or SLED agents can call and they can send a
19 message. Likewise on that piece of paper are two
20 emergency numbers, day or night. If there is an
21 emergency we can handle it. They can just call that
22 number, one of those numbers and we can handle any
23 emergencies that come up.

24 All right. So four o'clock, Hyatt garage, leave
25 your suitcase, come on over here. Any questions about

1 that?

2 MR. O'CONNELL: No, sir.

3 THE COURT: All right. Do not talk about this case
4 with anyone. Obviously you can tell your wife you've
5 got to come back at four o'clock, things like that, but
6 don't talk about the substantive facts of the case. If
7 someone tries to talk to you, tell them you're on the
8 panel and you can't talk about it. If they persist,
9 take their name and give that to the bailiff and we'll
10 handle that. Don't watch any TV, listen to the radio
11 about this case, read anything in the paper. All right.
12 See you at four o'clock in the afternoon.

13 MR. O'CONNELL: All right. Thank you, sir.

14 THE COURT: Thank you.

15 (Mr. O'Connell exited the courtroom.)

16 THE COURT: Anything from the State on this last
17 juror?

18 MS. STROM: No, sir.

19 THE COURT: From the defense?

20 MR. EPPES: Nothing, Your Honor.

21 THE COURT: Anything on Mr. Crawford I need to know
22 about?

23 MS. STROM: No, sir.

24 THE COURT: He heard facts of the case. Bring in
25 Mr. Crawford.

1 (Mr. Crawford entered the courtroom.)

2 THE COURT: You are Louis Crawford?

3 MR. CRAWFORD: Yes, sir.

4 THE COURT: I'm Joe Watson. Let me reintroduce
5 myself. Go ahead and make yourself comfortable. As you
6 do, slide your chair forward so you can speak into the
7 microphone.

8 MR. CRAWFORD: Okay.

9 THE COURT: There you go. That's perfect. Mr.
10 Crawford, when you respond to my questions and the
11 attorneys' questions, if you would, speak verbally, say
12 yes or no, because the clerk -- I mean the court
13 reporter is taking down everything that is said, there's
14 a back-up system that is recording, so it needs to be
15 able to hear everybody's voice. I'll remind you you're
16 still under oath, your oath you took Monday? Do you ---

17 MR. CRAWFORD: Yes, sir.

18 THE COURT: Have you complied with my prior
19 instructions not to talk with anyone about this case,
20 not to watch anything on TV, read the paper?

21 MR. CRAWFORD: No, sir, I didn't watch anything on
22 TV.

23 THE COURT: Beg your pardon?

24 MR. CRAWFORD: No, sir, I didn't watch anything on
25 TV.

1 THE COURT: Okay. So you have complied with my
2 instructions?

3 MR. CRAWFORD: Yes, sir.

4 THE COURT: All right. You indicated on Monday
5 that you had heard some facts of this case, is that
6 correct?

7 MR. CRAWFORD: On TV.

8 THE COURT: Was that back when it happened?

9 MR. CRAWFORD: Yes, sir.

10 THE COURT: All right. Can you recall any of the
11 facts that you saw on TV back then?

12 MR. CRAWFORD: No, just vaguely. I just remember
13 that it happened, where it happened, and that's all I
14 remember.

15 THE COURT: All right. Did it happen near where
16 you live? I notice you live in Taylors.

17 MR. CRAWFORD: I live in Taylors. My
18 brother-in-law lives over on Darby Road.

19 THE COURT: Is that in the Blue Ridge area?

20 MR. CRAWFORD: Yes, sir.

21 THE COURT: All right. Did he know any of the
22 people that -- have you talked with him?

23 MR. CRAWFORD: I haven't talked to him. I saw him
24 on Christmas at a family gathering, but I didn't -- we
25 didn't discuss anything, it was just family matters.

1 THE COURT: From what you recall in the media, have
2 you formed any opinions about this case? Specifically,
3 have you formed any opinions about the guilt or the
4 innocence of this defendant?

5 MR. CRAWFORD: No, sir.

6 THE COURT: All right. Again, I'm going to be
7 asking you a number of questions. These questions may
8 seem personal at times. If you get offended, hold it
9 against me, don't hold it against the State and don't
10 hold it against Mr. Sigmon for sure. There are no right
11 answers, no wrong answers. Everybody in this courtroom
12 will respect your opinions and your answers, but we do
13 need your honest and full answers to these questions.
14 Most of the discussions you and I will have are about
15 penalty. And I need to make sure that it's clear with
16 you that just because we're talking about penalty that
17 does not indicate anything about Mr. Sigmon. Do you
18 understand that?

19 MR. CRAWFORD: Yes, sir.

20 THE COURT: As Mr. Sigmon sits there, he is
21 presumed to be innocent. Do you understand that?

22 MR. CRAWFORD: Yes, sir.

23 THE COURT: Unfortunately, this process, we have to
24 talk about penalty up front in order to make sure we get
25 the -- the proper jury. Let -- before I talk with you

1 about a capital case and death penalty, I need to ask
2 you generally, if you were seated on a jury in a
3 criminal trial, would you listen to the law that the
4 judge charged to you and accept that law as the proper
5 law and apply that law in the case?

6 MR. CRAWFORD: Yes, sir.

7 THE COURT: Would you do that even if you may not
8 agree with that law?

9 MR. CRAWFORD: Yes, sir.

10 THE COURT: All right. Let me get you an example
11 of what I mean, just because you hesitated. Some people
12 might think, for instance, that marijuana should be
13 legal. And that's fine if that's their opinion. If
14 they come to court and they're called to sit on that
15 type of a jury, that type of case, the question is, can
16 they set that opinion aside and accept the law that the
17 judge gives them that marijuana is illegal, and follow
18 that law? Do you understand what I'm saying?

19 MR. CRAWFORD: Yes, sir.

20 TH COURT: What you've told me is that you could
21 accept the law and apply it if I tell you that's what
22 the law is, is that correct?

23 MR. CRAWFORD: Yes, sir.

24 THE COURT: In a criminal case, the State has the
25 burden of proving a defendant guilty beyond a reasonable

1 doubt. Have you heard that term before?

2 MR. CRAWFORD: Yes, sir.

3 THE COURT: All right. And that's the burden. If
4 you sat on a case and if the State had not proved
5 someone guilty beyond a reasonable doubt, would you vote
6 not guilty? If the State had not met their burden of
7 proof, would you vote that the person was not guilty?

8 MR. CRAWFORD: If the State had not met their
9 burden?

10 THE COURT: Right.

11 MR. CRAWFORD: Yes, sir, I would vote not guilty.

12 THE COURT: Okay. That would be the proper vote.
13 And if you found the State had met their burden of
14 proof, they had proved the person guilty, would you vote
15 guilty?

16 MR. CRAWFORD: Yes, sir.

17 THE COURT: All right. Now, did you read my
18 two-page letter on Monday about the death penalty and
19 about death penalty trials?

20 MR. CRAWFORD: Yes, sir.

21 THE COURT: You understand that it's not every
22 murder case that is subject to the death penalty?

23 MR. CRAWFORD: Yes, sir.

24 THE COURT: The State is allowed to seek the death
25 penalty only in cases of what we call aggravated murder.

1 The examples I used in my letter were murder during the
2 course of an armed robbery, murder during the course of
3 a rape. Another example would be the murder of a small
4 child. In other words, the State law set out about 10
5 different instances when the State can seek the death
6 penalty. Do you understand that?

7 MR. CRAWFORD: Yes, sir.

8 THE COURT: Even when the State can seek the death
9 penalty, you understand the penalty is not automatic?
10 That simply means that we empanel a jury, and that jury
11 decides what the proper punishment is if they convict
12 the person. Do you understand that?

13 MR. CRAWFORD: Yes, sir.

14 THE COURT: A death penalty trial is divided into
15 two parts. The first part is called the trial phase,
16 and that is where the jury sits and decides if the
17 person is not guilty or guilty. If the person is not
18 guilty then everybody goes home. If the person is found
19 guilty of murder, then the trial moves to that second
20 phase. The same jury comes back and they listen to more
21 testimony and more evidence, and that testimony and
22 evidence is presented on the issue of what punishment
23 the person should receive. There are two types of
24 evidence that are presented in that second stage. There
25 is evidence in aggravation presented by the State, and

1 there is evidence in mitigation presented by the
2 defense. The State presents aggravating evidence in
3 order to convince the jury that death is the proper
4 sentence. And the defense presents mitigating evidence
5 in order to convince the jury that life without parole
6 is the proper sentence. Do you understand that?

7 MR. CRAWFORD: Yes, sir.

8 THE COURT: The only two possible punishments are
9 life with absolutely no possibility of parole and death.
10 In other words, the person has already been convicted of
11 a murder and something else, to be in this penalty
12 phase. Evidence in aggravation can include many
13 different things. It might be evidence about the
14 defendant himself. It might be about his character,
15 he's got a particularly bad character. It might be that
16 he's got a long history of crimes of violence. The
17 State may present evidence in aggravation about the
18 crimes itself, additional evidence about how bad the
19 crime was. They might present victim impact evidence,
20 where surviving family members would talk about the loss
21 they have suffered from the death of their loved one.
22 Different things like that is evidence in aggravation.
23 Do you understand that concept?

24 MR. CRAWFORD: Yes, sir.

25 THE COURT: And then evidence in mitigation is --

1 is generally evidence about the defendant that's
2 presented by the defense. It might be something like
3 the defendant suffered from a mental problem at the time
4 he committed the crime. The defendant might have been
5 under the influence of someone else when he committed
6 the crime. He might be a particularly young defendant
7 that should deserve consideration as opposed to somebody
8 older who knew better. He might have a very clean
9 record, never been in trouble with the police before.
10 Any number of things might be presented by the defense
11 to convince jury that the proper sentence is life in
12 jail. Do you understand that?

13 MR. CRAWFORD: Yes, sir.

14 THE COURT: Now, let me tell you a couple more
15 things. Before a jury in a death penalty trial can vote
16 for a death sentence, they must find beyond a reasonable
17 doubt not only the murder but an aggravated
18 circumstance. I think you understand that?

19 MR. CRAWFORD: Yes, sir.

20 THE COURT: But even when they find an aggravated
21 circumstance beyond a reasonable doubt, they never have
22 to invoke the death penalty, they can always give the
23 defendant a life sentence. In other words, a jury can
24 find beyond a reasonable doubt not only murder but a
25 number of aggravating circumstances, and they could find

1 that there is no mitigating circumstances, but they can
2 still give a life sentence. Do you understand that?

3 MR. CRAWFORD: Yes, sir.

4 THE COURT: Understanding this whole procedure, I
5 need to ask you, Mr. Crawford, what generally is your
6 position on capital punishment? Would you say that you
7 are generally for the death penalty, generally against,
8 how do you feel?

9 MR. CRAWFORD: Explain capital punishment? I
10 mean ---

11 THE COURT: All right. In South Carolina, capital
12 punishment means the death penalty. When I say capital
13 punishment, I mean the death penalty. And that is
14 either death by electrocution or death by lethal
15 injection. Okay?

16 MR. CRAWFORD: Okay.

17 THE COURT: So have you thought much about the
18 death penalty before, whether you were for it, or
19 whether you were against it?

20 MR. CRAWFORD: I'm for it.

21 THE COURT: Okay. Before -- if you sat on a jury
22 in a capital case and you thought the proper sentence
23 was a life sentence, would you vote for a life sentence?

24 MR. CRAWFORD: Based on the evidence?

25 THE COURT: Yeah. Based on the evidence -- based

1 on the evidence of the crime itself, how bad it was,
2 based on all the evidence about the defendant in
3 mitigation, if you thought the proper sentence was life,
4 would you vote for life?

5 MR. CRAWFORD: Yes, sir.

6 THE COURT: And if you thought the proper sentence
7 was death, would you vote for death?

8 MR. CRAWFORD: Yes, sir.

9 THE COURT: All right. Would you automatically
10 vote for life or death, or would you listen to all the
11 evidence before you made up your mind as to life or
12 death?

13 MR. CRAWFORD: I would listen to all the evidence.

14 THE COURT: Okay. So before you made up your mind,
15 would you give meaningful consideration to the evidence
16 presented by the State and to the mitigating evidence
17 presented by the defense before you made up your mind as
18 to what sentence would be proper?

19 MR. CRAWFORD: Yes, sir.

20 THE COURT: All right. And finally, Mr. Crawford,
21 if you thought the proper sentence was death, you would
22 have to sign your name to the verdict form, with all the
23 other jurors. If you thought that was the proper
24 sentence, could you do that?

25 MR. CRAWFORD: Yes, sir.

1 THE COURT: All right. I'm going to ask the
2 attorneys if they want to ask you any questions. Who's
3 first? This is Frank Eppes. He's representing Mr.
4 Sigmon. He's going to ask you some questions and then
5 somebody from the Solicitor's office will ask you
6 questions.

7 QUESTIONING BY MR. EPPES:

8 Q Hi, Mr. Crawford.

9 A How you doing?

10 Q This is John Abdalla, my co-counsel, and Brad
11 Sigmon, my client.

12 A Um-hm.

13 Q You mentioned that your brother-in-law lives over
14 on Darby Road?

15 A Yes, sir.

16 Q Did you ever talk about the circumstances of ----

17 A No, sir, I did not see them or go around them when
18 it happened.

19 Q You've never even spoke to your brother-in-law
20 about it?

21 A No, sir.

22 Q You knew it was over there on the same street but
23 that was all?

24 A Yes, sir.

25 Q Okay. Why are you for the death penalty?

1 A Well, I believe, you know, if you take somebody's
2 life, I mean it's not right. The Bible says you
3 shouldn't murder someone, and that's just -- I just feel
4 that way, that you shouldn't take somebody's else life.

5 Q If you take somebody else's life, do you feel like
6 you ought to be executed for it?

7 A Yes, based on what -- what the evidence was, that's
8 the way I feel.

9 Q Okay. Now, what purpose do you think that serves?

10 A I personally believe it would deter it -- that --
11 you know.

12 Q Do you think it serves any other purpose?

13 A No, sir.

14 Q Deterrence is the only purpose?

15 A That's the way I feel about it.

16 Q Now, there's no right or wrong answer here.

17 A Yes, sir.

18 Q We're just trying to understand your beliefs and
19 how you feel, to get an idea of your ability to be fair
20 and impartial if you get sworn into that jury box.

21 A Yes, sir.

22 Q So don't think it matters is what you say, nobody
23 here is going to fret about your opinions one way or
24 another.

25 A Yes, sir.

1 Q Do you believe that every case of aggravated murder
2 ought to result in the death penalty?

3 A No, not every case. You know, I don't know how to
4 explain that, but I don't believe every -- you know,
5 every case is, sometimes if it's a fit of anger, you
6 know, something like that.

7 Q So in a case of fit of anger or something, you
8 don't think that would be ---

9 A Yeah, I believe -- I mean, if you lose your cool
10 and kill somebody, you know, that's -- that's -- you
11 should have more control.

12 Q Should you be executed for it?

13 A Sir?

14 Q Should you be executed for it?

15 MS. HERVEY: Your Honor, I'm going to object to
16 this line of questioning as case specific.

17 THE COURT: Overruled.

18 MR. CRAWFORD: Yes, I think you need to be
19 executed.

20 BY MR. EPPES:

21 Q Okay. Now, the judge has told you there is a guilt
22 phase of this trial?

23 A Yes, sir.

24 Q And at the guilt phase of the trial, a jury would
25 decide whether someone was innocent or guilty under the

1 law of South Carolina?

2 A Um-hm.

3 Q And at the guilt phase of the trial, the defendant
4 would put forward any evidence he has of self-defense.

5 A Yes, sir.

6 Q Or alibi, or insanity.

7 A Um-hm.

8 Q Do you know what all those things mean?

9 A Yes, sir.

10 Q Any reason at all that under the law of South
11 Carolina this taking was not intentional, or was
12 accidental, or anything at all about that. Do you
13 understand that?

14 A Yes.

15 Q Okay. And if he was convicted at that stage, he
16 would be found guilty of an intentional taking of
17 someone's life with malice aforethought. Do you
18 understand that?

19 A Yes, sir.

20 Q Okay. Now, at that stage the jury would be asked
21 to start considering the death penalty. And the
22 prosecution would be presenting factors of aggravation.
23 These factors of aggravation might include murder and
24 armed robbery, murder and rape, murder and the killing
25 of a child, other things. Okay. So you've got a case

1 of aggravated murder. All right. Now, at that point
2 the defendant has no legal reason for doing it.

3 A Yes, sir.

4 Q He's done it. What he's going to offer to you then
5 is his -- things to explain the situation to you, to
6 explain that he had a bad childhood, to explain to you
7 that he was -- he was drinking or there were drugs
8 involved, to explain that he had anger issues, that he
9 got mad and popped off at the head like you mentioned
10 before. He's going to explain those to you. Now, if
11 you have -- if you're faced with somebody that's
12 convicted of an aggravated murder, this horrible murder
13 that the State of South Carolina said is aggravated
14 murder, are you going to be able to give fair
15 consideration to, you know, anger management issues from
16 his youth, things like that?

17 MS. HERVEY: Objection, Your Honor.

18 THE COURT: Sustain the objection.

19 BY MR. EPPES:

20 Q Are you going to be able to give fair consideration
21 to these mitigating factors and decide -- and consider
22 possibly giving him life without parole, or are you
23 going to say, well, you know, he ought to be punished,
24 he ought to be executed?

25 A Yes, I would be able to weigh the -- the

1 circumstances.

2 Q And you'd be able to consider fairly a life without
3 parole sentence even though he was guilty of aggravated
4 murder?

5 THE COURT: We're not asking you to vote on a
6 particular case. The issue is, can you consider
7 mitigating evidence before you invoke the sentence --
8 before you decide on life or death?

9 MR. CRAWFORD: Yes, sir, I would be able to.

10 THE COURT: All right. Next question.

11 BY MR. EPPES:

12 Q Okay. Okay. You would be able to sit in this jury
13 box with 11 other jurors and sign a death warrant, send
14 that death warrant to Columbia for the execution of this
15 person, if you found in all the factors that that was an
16 appropriate sentence?

17 A Yes, sir.

18 Q Okay. Now, if all 11 jurors disagreed with you,
19 and were pressuring you to go the other way, whether it
20 was life without parole or the death penalty, would you
21 be able to withstand that pressure and stick to your
22 convictions?

23 A Yes, unless they would point out something that
24 would change my mind.

25 Q Okay. And if you were one of the 11 jurors and you

1 were thinking that one of the punishments, life without
2 parole or death was appropriate, would you respect the
3 beliefs of one juror, or would you -- you wouldn't call
4 them names and scream at them or anything, you would try
5 to reason with them, but if they stuck to their guns,
6 you would respect them, wouldn't you?

7 A Yes, sir.

8 Q Okay. Now, we talked -- we've been talking about
9 life without parole or death, and you said that, you
10 know, deterrence is one of the things that you think is
11 important about the death penalty. Life without parole
12 means you never get out the jail. The judge sometimes
13 says you go home in a box with either sentence. Do you
14 understand that?

15 A Yes, sir.

16 Q Now, do you consider life without parole to be a
17 serious sentence for a crime of aggravated murder?

18 A Yes, sir.

19 Q You think that it is a sentence that could fit the
20 crime in the right circumstances?

21 A Yes, sir.

22 Q Okay. So you don't believe every aggravated murder
23 means you have to be executed? Mr. Crawford, if you
24 believe that, you can tell us, it's not a problem.

25 A Yes, sir, I believe that.

1 Q You believe that every aggravated murderer should
2 be sentenced to execution?

3 A Yes, sir.

4 Q Every time, no questions asked?

5 THE COURT: What was the question, I didn't hear
6 it?

7 MR. EPPES: Every aggravated murder ought to be
8 punished by execution, and he said yes, sir.

9 THE COURT: All right. Any other questions?

10 MR. EPPES: I have one more question.

11 THE COURT: Ask the question.

12 BY MR. EPPES:

13 Q Mr. Crawford?

14 A Yes, sir.

15 Q You've told me that, you just told me that every
16 aggravated murder should lead to execution. Can you
17 really fairly consider mitigating factors if that's your
18 belief?

19 THE COURT: All right. That's been asked and
20 answered numerous times, Mr. Eppes.

21 MR. EPPES: Okay.

22 THE COURT: All right. Ms. Hervey.

23 QUESTIONING BY MS. HERVEY:

24 Q Mr. Crawford, my name is Mindy Hervey. I'm an
25 Assistant Solicitor here in South Carolina. I work for

1 Solicitor Bob Ariail. He's an elected official here in
2 Greenville and Pickens County, and Deputy Solicitor
3 Betty Strom. I've just got a couple questions that kind
4 of came out at the end of Mr. Eppes' questions that I
5 want to clarify, see if I understood what you were
6 saying, because I can't see around Mr. Eppes and
7 sometimes I can't hear around him either, okay.

8 A That's fine.

9 Q And I think they've explained the process to you as
10 to how this will go about, or how this trial will
11 proceed, or how any capital trial will proceed in this
12 state. And let me just see if I understand correctly.
13 My understanding is that if you participated and
14 convicted an individual of a murder that was eligible
15 for the death penalty, and then sat and listened to all
16 the evidence in the sentencing phase, that you would
17 want to hear both the aggravating evidence, the State's
18 evidence about why the murder was particularly bad, and
19 the evidence that the defendant might bring for you
20 about why either the murder wasn't particular bad or why
21 the defendant should be given leniency, is that correct?

22 A Yes, ma'am.

23 Q And if the judge instructed you that you had to
24 follow the law, that these were the things you had to
25 consider, the State's evidence about why the murder was

1 aggravated, and the defendant's evidence, if any, about
2 mitigation, you would follow the law and consider that
3 evidence, wouldn't you?

4 A Yes.

5 Q You wouldn't say, my own personal belief is that
6 that type of evidence doesn't matter and I'm not going
7 to consider that?

8 A No, ma'am, I would go by the evidence.

9 Q You would follow the law?

10 A Yes, ma'am.

11 Q All right. And even -- you answered Mr. Eppes'
12 question that you believe every aggravated murderer
13 deserves to be executed, does that mean that you would
14 automatically vote for the death penalty and wouldn't
15 consider the defendant's evidence, or you wouldn't
16 consider life without parole?

17 A I would consider the evidence that was presented to
18 me.

19 Q Okay. So you wouldn't automatically vote, you
20 would want to hear that evidence?

21 A Yes, ma'am.

22 Q And you would want to determine what the
23 appropriate punishment was?

24 A Yes, ma'am.

25 Q And would you give fair and meaningful

1 consideration to the sentence of life without parole?

2 A Yes, ma'am.

3 MS. HERVEY: Thank you.

4 THE COURT: All right. Mr. Crawford, let me give
5 you a letter, sir. You are qualified to serve as a
6 juror on this case. That does not mean you will
7 actually be picked, but it does mean several things. It
8 means you need to pack your suitcase, prepared to
9 served, prepared to be sequestered and prepared to stay
10 for seven or eight days. Go ahead and pack comfortable
11 clothes. Pack any medications, things like that that
12 you might need. I want you to return to the courthouse
13 at 4:00 p.m. today. You need to park over in the Hyatt
14 parking garage. That's where you parked on Monday
15 morning. Is that where you parked Monday?

16 MR. CRAWFORD: Yes, sir.

17 THE COURT: All right. Then if you would, come to
18 the Spring Street garage entrance to this courthouse.
19 Spring Street is the road between the Hyatt parking
20 garage and the courthouse.

21 MR. CRAWFORD: Yes, sir.

22 THE COURT: All right. If you came out the Spring
23 Street garage entrance to the Hyatt parking garage,
24 directly across the street is the Spring Street -- is
25 the entrance to the courthouse parking garage. I'm

1 having jurors come there, because I don't want them to
2 come into the public hallways, okay.

3 MR. CRAWFORD: Yes, sir.

4 THE COURT: Leave your suitcase in your car. Come
5 on up. We'll pick a jury. If you were selected then we
6 will take you -- we'll sequester you at that point. If
7 not, you'd be able to go home.

8 Now, you will not be able to have any direct
9 contact with anyone during the course of the trial. If
10 you need to send a message to someone, we can do -- make
11 a call for you. There are two emergency numbers if
12 someone needs to contact you on an emergency basis, you
13 can give them those numbers. Do you have any questions?

14 MR. CRAWFORD: No, sir.

15 THE COURT: All right. Don't talk with anyone
16 about this case. If someone tries to talk to you, take
17 their name and give it to the bailiff. Don't watch
18 anything on TV, don't read anything in the paper about
19 this case. Okay?

20 MR. CRAWFORD: Yes, sir.

21 THE COURT: I will see you at four o'clock today.

22 MR. CRAWFORD: Yes, sir.

23 THE COURT: Thank you.

24 (Mr. Crawford exited the courtroom.)

25 THE COURT: All right. Anything from the State on

1 Mr. Crawford?

2 MS. HERVEY: Nothing.

3 THE COURT: From the defense?

4 MR. EPPES: Your Honor, we object to this witness
5 because he testified -- or this juror, he testified that
6 he would give the death penalty in every aggravated
7 murder.

8 THE COURT: All right. I find this juror's views
9 will not prevent or substantially impair his performance
10 of his duties as a juror in accordance with his
11 instructions and his oath, and I find that he stated
12 over and over that he will give meaningful consideration
13 to the mitigating circumstances as presented by the
14 defense and instructed by the Court. It is my definite
15 impression that he will return a verdict in accordance
16 with the law. He's qualified.

17 The next panel only has five. That was simply a
18 mistake, but we are now on Juanita Stacey. Anything
19 about Ms. Stacey? All right. Bring in Ms. Stacey.

20 MS. HERVEY: She did not sign her form.

21 THE COURT: We're going to move faster, Mr. Mauldin
22 is leaving.

23 (Ms. Stacey entered the courtroom.)

24 THE COURT: All right. Good morning.

25 MS. STACEY: Good morning.

1 THE COURT: You are Juanita Stacey?

2 MS. STACEY: Yes, sir.

3 THE COURT: I am Joe Watson. If you would, have a
4 seat, make yourself comfortable. And as you make
5 yourself comfortable, pull your chair forward so you can
6 speak into the microphone. Ms. Stacey, I need for you,
7 when you respond to my questions, to answer verbally,
8 don't shake your head or nod your head, because there's
9 a back-up system. The court reporter is taking down
10 everything that is said, but there's a back-up system
11 that is a recording system, and it has hear your voice.
12 It can't record a nod or a shake of the head. Okay?

13 MS. STACEY: Okay.

14 THE COURT: You understand that you're still under
15 oath from the oath you took on Monday morning?

16 MS. STACEY: Yes.

17 THE COURT: And have you complied my prior
18 instructions not to talk about this case with anyone?

19 MS. STACEY: Yes.

20 THE COURT: I'm going to be asking you some
21 questions as well as the attorneys. I tell you up front
22 take there are no right answers, there are no wrong
23 answers. Whatever opinions you may have, whatever
24 answers you give, everyone in this courtroom will
25 respect. But I do tell you, we need your open and

1 honest answers to these questions. I believe you said
2 that you had not heard anything about this case, is that
3 correct?

4 MS. STACEY: Correct.

5 THE COURT: And you did not know any of the
6 witnesses, I believe?

7 MS. STACEY: Correct.

8 THE COURT: All right. Now, most of what I'm going
9 to talking about with you deals with penalty. I need to
10 make sure you understand up front that just because
11 we're talking about penalty, that does not indicate
12 anything about the defendant, Mr. Sigmon, in this case.
13 Do you understand that?

14 MS. STACEY: Yes.

15 THE COURT: Okay. As he sits there he's presumed
16 to be innocent, even though we're talking about penalty.
17 Do you understand that?

18 MS. STACEY: Okay.

19 THE COURT: Because of the nature of this type of
20 case, it's sort of backwards. We have to talk about
21 penalty before the case even starts in order to make
22 sure we get a fair jury. Do you understand that?

23 MS. STACEY: Okay.

24 THE COURT: Now, before I talk with you about
25 capital cases, if you were seated on a trial in a

1 criminal case, would you listen to the law that the
2 judge charged, and accept that law as the proper law of
3 the State, and apply that law in the case?

4 MS. STACEY: Yes, sir, I would.

5 THE COURT: Would you do that even if you might not
6 agree with the law?

7 MS. STACEY: Yes.

8 THE COURT: Okay. You understand that the State
9 has the burden of proving a defendant guilty beyond a
10 reasonable doubt?

11 MS. STACEY: Yes.

12 THE COURT: And if you were sitting on a case and
13 you thought the State had not proved somebody guilty
14 beyond a reasonable doubt, would you vote not guilty?

15 MS. STACEY: Yes.

16 THE COURT: And if thought they had met their
17 burden of proof and proved somebody guilty beyond a
18 reasonable doubt, would you vote guilty?

19 MS. STACEY: Yes.

20 THE COURT: Did you read my two-page letter about
21 capital cases that I handed out ---

22 MS. STACEY: Yes.

23 THE COURT: --- the Clerk handed out on Monday?
24 Did know much about the death penalty in South Carolina
25 before coming to court?

1 MS. STACEY: No.

2 THE COURT: Did you know we had a death penalty?

3 MS. STACEY: No.

4 THE COURT: All right. You understand that it is
5 not every murder case that is subject to the death
6 penalty, it is only these aggravated murder cases where
7 the State can seek the death penalty? Do you understand
8 that?

9 MS. STACEY: Yes.

10 THE COURT: And you understand that even when we
11 talk about aggravated murder, I think the example I gave
12 was murder plus an armed robbery, or murder plus a
13 sexual assault, even when we talk about that type of
14 case, the penalty is not automatic, that simply means
15 the State can seek the death penalty in those type of
16 cases? Do you understand that?

17 MS. STACEY: Yes.

18 THE COURT: And what we do is we empanel a jury in
19 these type of cases and they sit in a two-part trial.
20 The first part, the trial phase is like any other case
21 where the issue is guilty or not guilty. If the verdict
22 is not guilty, then everybody goes home. If the verdict
23 is guilty, then you move to that second phase to decide
24 punishment. Do you understand that?

25 MS. STACEY: Yes.

1 THE COURT: In the second phase, it is like another
2 trial. There is more testimony that's presented, more
3 evidence that's presented. And that testimony and
4 evidence is presented to assist the jury in deciding
5 what the proper punishment is. And if the jury gets to
6 that second stage, then the defendant has already been
7 convicted of a murder plus something else. Do you
8 understand that?

9 MS. STACEY: Yes.

10 THE COURT: So the State will put up what's called
11 aggravating evidence, and that evidence is an attempt by
12 the State to convince the jury that the proper sentence
13 is death. And the defense would put up mitigating
14 evidence. And that evidence is presented to convince
15 the jury that the proper sentence is life without
16 parole. Do you understand that?

17 MS. STACEY: Yes.

18 THE COURT: There are only two possible things
19 that's going to happen to a defendant if he gets to that
20 second stage. He's going to get life without any
21 possibility of parole or he's going to receive death,
22 which in South Caroline is by electrocution or lethal
23 injection. Do you understand that?

24 MS. STACEY: Yes.

25 THE COURT: Now, going back to that type of

1 evidence. The State presents aggravating evidence and
2 that might be any number of things. It might be
3 evidence about the defendant. Maybe he has a long
4 history of crimes of violence. It might be additional
5 evidence about the crime, just how bad a crime was it.
6 It might be victim impact evidence, where members of the
7 family of the victim talk about their loss. Again, all
8 that evidence is presented in an attempt to convince the
9 jury that the proper sentence is death. Then the
10 defense puts up mitigating evidence. Mitigating
11 evidence is evidence about the defendant generally. For
12 instance, he might have suffered from some sort of
13 mental disorder at the time he committed the crimes. He
14 might be a very youthful person as opposed to someone
15 older who might be held less responsible. It might be
16 that he was under the influence of someone else when he
17 committed the crime. It might he has no prior record
18 whatsoever. And all these things, again, are presented
19 by the defense to convince the jury that life is the
20 proper sentence. Do you understand that?

21 MS. STACEY: Yes, sir.

22 THE COURT: Now, the last couple things I need to
23 tell you about a capital trial, before a jury in a
24 capital case can vote for the death penalty, they must
25 find beyond a reasonable doubt the existence of an

1 aggravating factor. Do you understand that?

2 MS. STACEY: Yes.

3 THE COURT: In other words, it has to be that -- it
4 has to not only be murder but plus that armed robbery
5 plus that murder. Another factor is murder of a small
6 child. You would have to find that the child was under
7 a certain age. But even when the jury finds an
8 aggravated factor beyond a reasonable doubt, that does
9 not mean that they have to give the death penalty. A
10 jury never has to give the death penalty. Do you
11 understand that?

12 MS. STACEY: Yes.

13 THE COURT: A jury could find that there are
14 several aggravating factors and the jury could find
15 there are no mitigating factors, but still give a life
16 sentence. Do you understand that?

17 MS. STACEY: Yes.

18 THE COURT: Understanding that whole procedure, we
19 need to understand your positions, your feelings about
20 capital punishment. Would you say, Ms. Stacey, that
21 generally you're for the death penalty, generally you're
22 against it, how do you feel?

23 MS. STACEY: Generally against.

24 THE COURT: All right. Does that mean that you
25 could never vote for the death penalty in a case?

1 MS. STACEY: No.

2 THE COURT: All right. So if a case were
3 aggravated enough, you could vote for the death penalty?

4 MS. STACEY: Yes.

5 THE COURT: All right. If you were sitting on a
6 jury and you thought the proper punishment was life, you
7 could vote for life?

8 MS. STACEY: Yes.

9 THE COURT: And if were sitting on a jury and you
10 thought the proper sentence was death, you could vote
11 for death?

12 MS. STACEY: Yes.

13 THE COURT: All right. Before you made that
14 decision of life or death, would you give meaningful
15 consideration to all the aggravating evidence that's
16 presented and meaningful consideration to all the
17 mitigating evidence that's presented before you made up
18 your mind?

19 MS. STACEY: Yes.

20 THE COURT: Okay. I would assume you would want to
21 know not only everything about the crime but also
22 everything about a defendant before you made that life
23 or death decision, is that a fair statement?

24 MS. STACEY: Yes.

25 THE COURT: All right. If you and the other jurors

1 thought the proper sentence was death, you would have to
2 sign your name to the verdict form. Could you do that
3 if you thought that was the proper sentence?

4 MS. STACEY: Yes.

5 THE COURT: All right. Now, I'm done. I'm going
6 to let the other attorneys talk with you. Ms. Strom.
7 This is Betty Strom. She is going to -- she's helping
8 Solicitor Bob Ariail, that's the Solicitor, prosecute
9 this case. She's going to talk to you. And then this
10 is John Abdalla over here, with the mustache. He and
11 Frank Eppes are representing Mr. Sigmon. Mr. Abdalla
12 will ask you a few questions after Ms. Strom is through.

13 MR. STROM: Thank you, Judge.

14 QUESTIONING BY MS. STROM:

15 Q Good morning, Ms. Stacey.

16 A Good morning.

17 Q I want to talk to you in a little bit more detail
18 about your opinions on the death penalty. And I think
19 you understood the process of this being a two-part
20 process. The first phase is to determine whether a
21 defendant is guilty or not guilty, and then the second
22 phase is to determine the appropriate sentence.

23 A Yes.

24 Q Okay. And what we're looking for are jurors who
25 can be fair to the State's request to impose the death

1 penalty and the defendant's request to impose a life
2 sentence. Do you understand? That's what we're looking
3 for, people who can be fair to both sides.

4 A Yes.

5 Q Okay. You initially said that you were generally
6 against the death penalty?

7 A Yes.

8 Q Can you tell me a little bit about that, why you
9 are against the death penalty or how you came to that
10 decision?

11 A I believe that people can -- for one, I am
12 spiritual and I believe there is forgiveness, and that
13 one can turn their life and make a mistake.

14 Q Okay. Would that religious belief, that spiritual
15 belief substantially impair your ability to impose the
16 death penalty?

17 A No, because they can make amends with Christ too
18 before going to death too.

19 Q Okay. You told the judge you believe if the
20 circumstances were appropriate you could vote for death?

21 A Yes.

22 Q Do you have any hesitancy in that whatsoever to
23 your conviction to be able to do that?

24 A No.

25 Q Okay. He also talked to you about signing the

1 verdict form, which is -- if all 12 jurors agree that a
2 death sentence is the appropriate sentence, all 12 must
3 sign that verdict form and that verdict form is also
4 sometimes referred to as the death warrant. It goes to
5 the Department Corrections, which is the legal document
6 used to carry out the sentence, okay. If you believe
7 that the death sentence was the appropriate sentence,
8 could you sign that verdict form?

9 A Yes.

10 Q Okay. You would not hesitate to sign it -- the
11 fact -- the mere fact that you had to sign that form
12 would not interfere with your ability to consider the
13 evidence and arrive at a decision?

14 A No.

15 Q Okay. His Honor told you that in South Carolina
16 life mean life without parole. There is no possibility
17 of parole?

18 A Yes.

19 Q Okay. Knowing those are the two options, life
20 without parole and the death penalty, would you
21 automatically vote for one or the other?

22 A No.

23 MS. STROM: Okay. Court's indulgence, Your Honor.
24 Thank you, Ms. Stacey.

25 MS. STACEY: You're welcome.

1 THE COURT: Mr. Abdalla, any questions?

2 MR. ABDALLA: Yes, sir, Your Honor. Thank you.

3 QUESTIONING BY MR. ABDALLA:

4 Q Good morning, Ms. Stacey. I'm John Abdalla and I
5 work here at the Public Defender Office and I represent
6 Mr. Sigmon. Frank Eppes is my co-counsel. Now, I
7 understand you say you could give fair consideration to
8 both a life or death sentence if you're chosen to be on
9 the jury, is that correct?

10 A Yes..

11 Q And just a couple of things I wanted to go over
12 with you. If you were seated on the jury and you had
13 reached the sentencing phase of trial, or either phase
14 for that matter, your convictions were that he should be
15 either executed or not executed and you were in the
16 absolute minority, there was only one or two of you with
17 that view, would you be able to stick to your
18 convictions on that? In light of the fact that people
19 may be saying things like, I want to go home, we've been
20 talking about this for hours, would you be able to stick
21 to your beliefs?

22 A With those excuses that you gave me, I would be
23 able to stick with my ---

24 Q Well, I guess I can't get too specific, but what
25 I'm asking, there is going -- all 12 of you jurors are

1 judges of the facts, the facts as you see them, and
2 you'll make your decision based on your conscience,
3 those facts, apply them and make a decision. Are you
4 going -- have your mind changed if you make up your
5 mind, or are you going to stick to what you think ---

6 MS. STROM: I would object to the form of that
7 question, Your Honor.

8 THE COURT: I'm going to sustain that. Let me
9 just -- sitting on a jury is a give and take process,
10 you understand that? Everybody discusses their ideas
11 and every juror should respect the opinions of other
12 jurors. Do you understand that?

13 MS. STACEY: Yes.

14 THE COURT: And every juror should be willing to
15 reassess their position, you know, to see in their own
16 mind if they're correct. Do you understand that?

17 MS. STACEY: Yes.

18 THE COURT: But if you're firmly convinced that
19 your position is correct then you have the absolute
20 right to hold to that position, you understand that?

21 MS. STACEY: Yes.

22 THE COURT: Okay. So I don't think -- I agree with
23 you, if somebody says, let's go home, you know, that's
24 not something that would convince you to change your
25 mind, but if someone said, well, listen to us, you know,

1 think about reassessing your position, would you at
2 least listen to them and reassess your position?

3 MS. STACEY: Yes.

4 THE COURT: And then if you did not think -- if you
5 weren't convinced to change your position, would you, as
6 he said, stick to your guns and hold your position?

7 MS. STACEY: Yes.

8 THE COURT: Okay. Thank you.

9 MR. ABDALLA: The judge expressed it better. I
10 didn't mean to suggest that you should close your mind,
11 I just wanted to see if you would stick to your
12 convictions, hold to that. Thank you. I have no
13 further questions.

14 MS. STROM: Your Honor?

15 THE COURT: Yes.

16 MS. STROM: We did not address one issue that I
17 think the Court needs to address, and that is the
18 signing of the form?

19 THE COURT: Okay. I'm sorry, and I have not done
20 that with a lot of people. I noticed that you did not
21 sign your declaration on this. Was that just an
22 oversight? In other words, this is just the information
23 that was sent to you a month or so ago that you filled
24 out.

25 MS. STACEY: It was just an oversight.

1 THE COURT: Okay. And I think I asked you on
2 Monday, but I'll simply ask you again, everything in
3 this is true and accurate?

4 MS. STACEY: Yes.

5 THE COURT: You don't want to make any changes?

6 MS. STACEY: I can't remember what I wrote down,
7 but ---

8 THE COURT: All right. Well, I'm not going to let
9 you make any changes even if you wanted to. All right.
10 You are qualified to serve, Ms. Stacey. That does not
11 mean you will be selected on this jury, that simply
12 means that you are one of a number of qualified jurors.
13 We're going to bring the qualified jurors back at four
14 o'clock this afternoon. You need to be prepared to
15 serve. You need to be prepared to be sequestered and
16 live in a motel for seven or eight days if necessary.
17 Pack comfortable clothes, pack enough clothes. I'm not
18 saying the trial is going to last that long, but we just
19 need to be prepared. Go ahead and pack a suitcase.
20 Leave the suitcase in your car when you return at four
21 o'clock today. Park in the Hyatt parking garage. Is
22 that where you parked Monday morning?

23 MS. STACEY: Yes.

24 THE COURT: Okay. Park there, and then come
25 straight across the street to the garage entrance to

1 this courthouse, and that's a little bit different
2 because the garage entrance is on Spring Street. When
3 you went to the Hyatt garage, did you go in from College
4 up by the entrance to the Hyatt, or did you come in
5 Spring Street?

6 MS. STACEY: Spring Street.

7 THE COURT: Okay. Directly across from that garage
8 entrance is the garage entrance to the courthouse. You
9 probably didn't notice it, but it's right there.

10 MS. STACEY: With the wires there?

11 THE COURT: Yeah, that's right, the gate and all
12 that. The gate will be up. There will be bailiffs
13 there to meet you. I'm trying to keep the jurors out of
14 the public hallways where family members on both sides
15 are, there's a lot of press in the hallway, stuff like
16 that, okay. So what I want you to do is to come up our
17 private way and then when all the jurors are here, then
18 we'll bring you over here and we'll select a jury at
19 that time, okay?

20 MS. STACEY: Okay.

21 THE COURT: Now, pack any medications, any special
22 needs, as well as your clothes, leave your suitcase in
23 the car. You will not be able to have any direct
24 contact with your family or your work people while
25 you're on jury duty. If you need to get a message to

1 someone, then we can do that. The bailiffs can make a
2 call for you, deliver any messages. On that letter are
3 two emergency numbers, a day time number and a night
4 time number. Give that to your family members. We can
5 handle any emergency. Again, they won't be able to talk
6 to you but we will be able to handle any emergencies
7 that come up. Do you have any questions?

8 MS. STACEY: This is including Saturday and Sunday,
9 right?

10 THE COURT: Yes, ma'am, definitely Saturday and
11 Sunday.

12 MS. STACEY: Okay.

13 THE COURT: Okay. I'm not sure we'll work on
14 Sunday or we may not work on Sunday morning, just --
15 we'll just have to see where we are in the trial, but
16 we'll -- yes.

17 MS. STACEY: But I'll still be ---

18 THE COURT: You'll be sequestered until the trial
19 is over. Okay?

20 MS. STACEY: Okay.

21 THE COURT: Now, don't talk with anyone about this
22 case. Obviously you can tell your family members you
23 got to come back at 4:00 and your might be sequestered,
24 but don't talk about the facts of this case with anyone.
25 If someone tries to talk with you, take their name and

1 we'll handle that situation, report that to a bailiff.
2 Don't look at the paper, don't watch any TV, don't
3 listen to the radio, any account of this case, okay?

4 MS. STACEY: Okay.

5 THE COURT: See you at four o'clock.

6 MS. STACEY: Okay.

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

8 MS. STACEY: You're welcome.

9 THE COURT: All right. Yeah, I forgot to tell you,
10 you might want to bring someone with you that can drive
11 your car home if you're sequestered, okay, if you're
12 picked. That's probably better than leaving it over in
13 the garage for a week or so. That person that comes
14 with you will not be able to come up the private
15 staircase, they'll have to come around and come in
16 the -- where you came in Monday morning.

17 MS. STACEY: Okay.

18 THE COURT: And then they'll -- this is courtroom
19 8, so they can come down to courtroom 8 and see what's
20 going on, okay?

21 MS. STACEY: Okay.

22 THE COURT: All right. Thank you. Thank you.

23 (Ms. Stacey exited the courtroom.)

24 THE COURT: All right. Anything with regard to
25 this last juror, from the State or the defense?

1 MS. STROM: No, sir.

2 MR. ABDALLA: None, Your Honor.

3 THE COURT: And anything on Ms. Weston?

4 MS. STROM: Your Honor, Ms. Weston is married to
5 Jeff Weston who is employed with our office.

6 THE COURT: Oh, y'all got any position?

7 MR. ABDALLA: Our position is it would put her in
8 an awkward spot as well.

9 THE COURT: Beg your pardon?

10 MR. ABDALLA: I think it would put her in an
11 awkward spot. I think it should -- she should not be
12 qualified.

13 THE COURT: What's y'all's position? Is she a
14 lawyer? Does anybody know her?

15 MS. HERVEY: No, she -- I know, her. She works --
16 she's an Operations Manager at the airport.

17 MR. ARIAIL: I wouldn't want to put her in her in
18 that position, wouldn't want to put him that position.

19 THE COURT: Okay. I think that's very fair. I
20 think there's some horrible cases out there that
21 probably say that wouldn't disqualify them but we're not
22 going to take a chance on that. So I will remind
23 everybody we are down into the possibly third alternate
24 if that would help speed things up. Bring in Mr.
25 Weston, please.

1 MR. ARIAIL: You didn't think we're aware of that?

2 (Ms. Weston entered the courtroom.)

3 THE COURT: You can stand right there. Okay. You
4 are Rosylin Weston?

5 MS. WESTON: I am.

6 THE COURT: Do you know any of these people?

7 MS. WESTON: Yeah, a few of them.

8 THE COURT: All right. Everybody agrees that it
9 would be unfair to put you in the position of serving
10 on this type of case, because Jeff's your husband,
11 and ---

12 MS. WESTON: Thank you.

13 MS. HERVEY: And leaving your children with Jeff
14 would be a hardship.

15 MS. WESTON: As a matter of fact, Your Honor, they
16 told me when they found out I might have to be
17 sequestered, they said, tell the judge whatever you have
18 to but don't leave us with was Daddy for more than two
19 weeks.

20 THE COURT: All right. Well, they owe me one then.

21 MS. WESTON: They do.

22 THE COURT: Thank you very much. You're free to
23 go.

24 MS. WESTON: Thank you.

25 (Ms. Weston exited the courtroom.)

1 THE COURT: Anything on Carol Petty? Well, we just
2 made up ground. I'm going to take a two-minute break --
3 a five-minute break, and then we'll come back with Ms.
4 Petty.

5 (A short recess was taken, after which, the trial
6 continued as follows:)

7 THE COURT: Okay. Bring in Carol Petty.

8 (Ms. Petty entered the courtroom.)

9 THE COURT: Okay. You are Carol Petty?

10 MS. PETTY: I am.

11 THE COURT: I'm Joe Watson. If you would, have a
12 seat, and as you get comfortable, slide your chair up so
13 you can speak into the microphone.

14 MS. PETTY: All right. I will.

15 THE COURT: All right. Ms. Petty, I will remind
16 you that you're under oath. And I'm going to ask you if
17 have you complied with my instructions from Monday not
18 to talk with anyone about this case?

19 MS. PETTY: I have.

20 THE COURT: Now, I think, if my notes are correct,
21 that you did not respond that you recalled seeing
22 anything about this case?

23 MS. PETTY: I did not.

24 THE COURT: Okay. And you did not know any of the
25 witnesses?

1 MS. PETTY: No, I do not.

2 THE COURT: All right. I'm going to ask you some
3 questions and then the lawyers for the Solicitor's
4 office and for the defendant in this case will ask you
5 some questions. Some of these questions, I'm sure, will
6 seem like we're invading your privacy. Hold that
7 against me, don't hold it against the State or don't
8 hold it against Mr. Sigmon. There are no right answers,
9 no wrong answers. We will respect any answers that you
10 give and any opinions that you may have about these
11 issues, but we do need your open and honest answers to
12 these questions. Okay?

13 MS. PETTY: Okay.

14 THE COURT: Now, mostly what I will be talking with
15 you about deals with the issue of penalty. And I need
16 to make sure you understand up front that just because
17 we're talking about penalty that does not indicate
18 anything about Mr. Sigmon. Do you understand that?

19 MS. PETTY: Yes.

20 THE COURT: As he sits there he is presumed to be
21 innocent. Do you understand that?

22 MS. PETTY: Yes.

23 THE COURT: This process is a little bit backwards.
24 We have to talk about punishment before there's even a
25 trial in order to make sure we get a fair jury. Do you

1 understand that?

2 MS. PETTY: Yes, I do.

3 THE COURT: Before I talk with you about penalties
4 and death penalty trials, I'm going to ask you generally
5 about sitting on a trial as a juror in a criminal case.
6 If you were a juror, would you listen to the law that I
7 charge, and would you accept that law as the proper law
8 and would you apply that law in the case?

9 MS. PETTY: I would do that.

10 THE COURT: Would do that even if you may not agree
11 with that law?

12 MS. PETTY: If it is the law.

13 THE COURT: Okay. An example -- and the reason I
14 ask that, is some people might have a notion as to what
15 they think the law was or they might have a notion as to
16 what they think the law should be, and that's fine, as
17 long as they can separate that and disregard that and
18 accept the law the judge gives as the proper law,
19 because that's what their oath says they have to do. Do
20 you understand that?

21 MS. PETTY: Yes.

22 THE COURT: In a criminal case, the State has the
23 burden of proving a defendant guilty beyond a reasonable
24 doubt. You've heard that term before?

25 MS. PETTY: Yes.

1 THE COURT: If you were on a jury and if you sat
2 and listened to the evidence and you thought that the
3 State had not met their burden of proof, had not proved
4 someone guilty, would you vote not guilty in that case?

5 MS. PETTY: If they had not proved their ---

6 THE COURT: Right.

7 MS. PETTY: Would I vote them not guilty?

8 THE COURT: Yes.

9 MS. PETTY: Yes, I would.

10 THE COURT: And that is what you should do. And
11 conversely, if you felt the State had met their burden
12 of proof and they had proved someone guilty beyond a
13 reasonable doubt, would you vote guilty in that case?

14 MS. PETTY: I would.

15 THE COURT: All right. Now, did you read my
16 two-page letter on Monday about the death penalty?

17 MS. PETTY: I did.

18 THE COURT: Did you know much about the death
19 penalty in South Carolina before you came to court?

20 MS. PETTY: I did not.

21 THE COURT: Did you know we had the death penalty?

22 MS. PETTY: Yes.

23 THE COURT: Do you understand now that it is not
24 every murder that is even subject to the death penalty?

25 MS. PETTY: I do now.

1 THE COURT: All right. The examples I gave of
2 the -- of an aggravated murder is murder during an armed
3 robbery, murder during a sexual assault. Our State law
4 set out about 10 or 11 instances where the State can
5 seek the death penalty. Murder of a judge is one,
6 murder of a small child, different things like that.

7 Now, even when we talk about an aggravated murder,
8 the penalty is by no means automatic. That simply means
9 the State can seek the death penalty. And if they seek
10 the death penalty, then what we do is we empanel a jury
11 and that jury sits in a bifurcated, or two-part trial.
12 The first trial is the trial phase and that's like any
13 other case, the issue is whether the defendant is not
14 guilty or guilty. If he's not guilty then obviously it
15 doesn't go any further. If a defendant is convicted of
16 a murder plus the armed robbery, or a murder plus the
17 rape, then that same jury comes back to court, after a
18 brief waiting period, they come back and they hear more
19 testimony and more evidence.

20 That second phase, the testimony and evidence deals
21 with what punishment they should receive. In other
22 words, if you entered the second phase, that person has
23 been convicted of a cold blooded murder plus something
24 else, and the State will introduce evidence in
25 aggravation. That evidence will be introduced to try to

1 convince the jury that the proper punishment is death.
2 And the defense will introduce evidence in mitigation.
3 That is evidence that they hope will mitigate the
4 punishment and convince the jury that life is the proper
5 sentence. Mitigating evidence does not excuse the
6 person. It's not like self-defense, alibi, anything
7 like that, because he's already convicted. Do you
8 understand that?

9 MS. PETTY: Yes.

10 THE COURT: If you get to the penalty phase, there
11 are only two possible punishments. I mean, something is
12 going to happen to this guy, he's either going to get
13 life in jail or -- without any possibility of parole, or
14 he or she is going to receive the death penalty, which
15 in South Carolina is death by electrocution or by lethal
16 injection. Now, examples of aggravating evidence that
17 the State would present might to be evidence about the
18 defendant. Maybe he's a mean person. Maybe he has a
19 long history of crimes of violence. It might be
20 additional evidence about the crime itself, additional
21 evidence about how aggravated it is. It might be victim
22 impact evidence. Loves ones may get up and talk about
23 the loss, what it has meant to them. All this evidence
24 is introduced to convince the jury that the proper
25 punishment is death. Mitigating evidence presented by

1 the defense is -- it can be anything. Generally it's
2 about the defendant himself, like he suffered from a
3 mental disorder at the time he committed the crime. He
4 was a relatively young person, maybe he should be
5 treated differently than somebody that's older and more
6 responsible. Maybe he was under the influence of
7 someone else. Maybe he's never been in trouble with the
8 law, got a clean record. The sky is the limit, but
9 that's the type of evidence. All right. You understand
10 that process?

11 MS. PETTY: Yes.

12 THE COURT: One more thing before I ask about your
13 position. In the penalty phase, before a jury can vote
14 for the death penalty, they have to find aggravating
15 circumstances beyond a reasonable doubt. They would
16 have to find that the person was a police officer that
17 was killed if that's the aggravating circumstance, or
18 they would have to find that armed robbery. But even
19 when the jury finds an aggravated circumstance, they do
20 not have to give the death penalty. A jury could find
21 several aggravating factors, it could be an armed
22 robbery plus a rape, plus a murder, something like that.
23 They could find several aggravating factors, they could
24 find no mitigating factors, and they could still give a
25 life sentence. In other words, a jury can always give a

1 life sentence if they think that's appropriate. Do you
2 understand that?

3 MS. PETTY: Yes.

4 THE COURT: Understanding that whole procedure,
5 then I'm sure you appreciate, Ms. Petty, we need to know
6 generally how you feel about the death penalty. Would
7 you say you are generally in favor, generally opposed
8 or, how do you feel about capital punishment?

9 MS. PETTY: I'm generally in favor.

10 THE COURT: Okay. Does that mean that you would
11 vote for the death penalty in every case of aggravated
12 murder?

13 MS. PETTY: In every case, probably not.

14 THE COURT: Okay. In other words, the question is,
15 would you give meaningful consideration to the
16 aggravating evidence that's presented by the State and
17 charged by the judge, and meaningful consideration to
18 the mitigating evidence put up by the defense and
19 charged by the judge before you reached your decision?

20 MS. PETTY: Yes.

21 THE COURT: Okay. Would you want to know as much
22 as you could, not only about the crime but about the
23 defendant before you made your decision of life or
24 death?

25 MS. PETTY: Yes, I certainly would.

1 THE COURT: Would you automatically vote for the
2 death penalty if given a choice between life and death?

3 MS. PETTY: No.

4 THE COURT: All right. Now, if you thought that
5 the proper sentence was life, you could give life?

6 MS. PETTY: Yes.

7 THE COURT: If you thought the proper sentence was
8 death, you could give death?

9 MS. PETTY: Yes.

10 THE COURT: If you thought the proper sentence was
11 death, and if all the other jurors thought that was the
12 proper sentence, they would be required to sign the
13 verdict form, all 12 people have to sign their name.
14 That's sometimes referred to as the death warrant. If
15 you thought that was the proper punishment, could you do
16 that?

17 MS. PETTY: If I was 100 percent sure, I could do
18 that.

19 THE COURT: That's fine. All right. I'm going to
20 let the attorneys ask you some questions now. This is
21 Mr. Abdalla. He represents Mr. Sigmon, and then Mr.
22 Eppes also represents him. Then somebody from the
23 Solicitor's office will ask you some questions. Mr.
24 Abdalla.

25 MR. ABDALLA: Thank you, Your Honor.

1 THE COURT: Yes, sir.

2 QUESTIONING BY MR. ABDALLA:

3 Q Ms. Petty, my name is John Abdalla, as the judge
4 just told you. I'm representing Mr. Sigmon. Frank
5 Eppes is also representing Mr. Sigmon. He's seated next
6 to my client.

7 A Okay.

8 Q I would like to ask you a few more questions
9 regarding the death penalty. I hope you're not nervous?

10 A No, I'm fine.

11 Q Okay. Good. You're doing better than most.

12 THE COURT: You are.

13 BY MR. ABDALLA:

14 Q Suppose the situation is this, there is somebody on
15 trial and you're sitting on the jury, and they have been
16 convicted of aggravated murder. I mean I'm sorry --
17 they've been convicted of murder. The judge will
18 instruct you about aggravating factors. Those will
19 include things such as an armed robbery, killing of a
20 small child, whatever the aggravating factor is. In this
21 case it is another charge. You have convicted them and
22 it's your belief as a juror that there is no doubt that
23 this is the person. Now it's just up to you to
24 determine what the sentence is going to be. After you
25 determine the aggravating factor does apply, then

1 there's evidence beyond a reasonable doubt, and you have
2 got that locked in your mind, you're just not kind of
3 sure with a wink and a nod this is it, slam dunk, are
4 you still at that point going to be able to give
5 meaningful consideration to a life sentence?

6 A If it is has been in my mind that I am 100 percent
7 sure that this person is guilty and has met all of the
8 requirements for the death penalty, I could consider
9 that, but I would think that I would more favor the
10 death penalty.

11 Q All right. Now, you understand -- and I'm
12 painting the worse picture here, that there will be
13 evidence presented that's called victim impact
14 evidence. Family members who may have essentially
15 lost somebody, and they may have lost more than one
16 person, it just depends on what the circumstances
17 are. And you'll hear this powerful testimony from
18 the stand and it will be incredibly sad. Will you
19 still be able to consider the life sentence as a
20 serious option to the death penalty under those
21 circumstances?

22 MS. STROM: Your Honor, I would object to the form
23 of the question.

24 THE COURT: Go ahead. You can answer.

25 MS. PETTY: Could you repeat that very last part.

1 BY MR. ABDALLA:

2 Q Well, what I was asking is if you could still
3 seriously consider life as an option to the death
4 penalty, given the victim impact testimony and you are
5 positive that that's the right person who's committed
6 these crimes.

7 A Well, I think yes, I can still consider it.

8 Q Okay. That's all I can ask you. What is your
9 belief regarding the death penalty, can you tell me a
10 little bit about that.

11 A Well, I support it in cases that, you know, if I
12 could be 100 percent sure in my own mind that this
13 person is guilty and is guilty of the things that the
14 judge has just, you know, discussed, I would have to say
15 that I would support it.

16 A All right. I understand that. What is your -- let
17 me ask it this way. What do you think is accomplished
18 by administering the death penalty in society? What
19 does it accomplish?

20 A Well, I think in certain circumstances people
21 really need to be removed from our society, and I think
22 it often is a -- gives a picture that we would like to
23 paint to those people who may be considering things that
24 are not really the right thing to do. I'm not sure it
25 really is a deterrent, but I think it's -- I think it's

1 a good thing for our society to be able to have that as
2 a possible punishment for -- you know, from -- for some
3 really dreadful crime.

4 Q Let me flip the table here. What do you think the
5 purpose of life -- a life sentence is?

6 A Well ---

7 Q Now, you do understand in this case, let me -- the
8 judge explained it to you, I imagine you understand life
9 means life without parole?

10 A Yes, I do. I do.

11 Q Sorry.

12 A What do I think about life in prison, is that what
13 you're asking me? What do I think of that?

14 Q Right. You just answered the purpose of having the
15 death penalty, what do you think about having life
16 without parole?

17 A What do I think about my making that decision or
18 what do I ---

19 Q No, what are your views on life without parole?

20 A Well, I think in certain circumstances if there
21 is a -- you know, if there's a shred of doubt then I
22 don't think I could ever vote for the death penalty,
23 as long -- and I think that that would be the case,
24 where -- you know, if there was some doubt in my mind,
25 I could never -- I could never vote for the death

1 penalty, but if there -- if all the circumstances really
2 pointed to the guilt of this person then -- in my mind
3 if there was a tiny shred of evidence that he was not
4 guilty, I could not do anything other than life in
5 prison. That's what -- I don't know if I'm making
6 myself clear or not.

7 Q Yes, you did, but you kind of confused me, and I
8 don't want to ask a question over again, but the way you
9 led me was that if -- does that mean contrary to what
10 you said earlier ---

11 A No.

12 Q --- that you would not consider a life sentence if
13 you were positive 100 percent?

14 A If I was positive 100 percent then I would -- in
15 own mind, I would feel that I was -- in good conscience
16 I could vote for the death penalty, but I would have to
17 make absolutely sure in my own mind that there was not a
18 shred of evidence that would indicate that there could
19 be a reasonable doubt. In that circumstance, if, in my
20 own mind, I thought there was a tiny reasonable doubt,
21 then I would have to vote for the life imprisonment
22 rather than the death penalty. If there was absolutely
23 no question in my mind and all the evidence points to
24 that, then I feel like I would vote for the death
25 penalty.

1 Q So I understand that if you're 100 percent
2 sure -- and there is no right or wrong answer here,
3 please ---

4 A Yeah, I know. I understand that, but I'm just --
5 you know, I'm trying to make myself clear too, and I'm
6 not sure that I am.

7 Q Well, these are tough ideas.

8 A Yeah.

9 Q So what I heard you say, and I guess I got confused
10 too, is that if you're 100 percent sure, all the
11 aggravators were met, there's no doubt, no doubt
12 absolutely?

13 A If there's no doubt absolutely.

14 Q No doubt.

15 A Absolutely no doubt then ---

16 Q Hypothetical, no doubt.

17 A --- I would vote for the death penalty.

18 Q Every time?

19 A I think. Yes, I guess -- I mean, yes, if there's
20 absolutely no doubt, then I would vote for the death
21 penalty.

22 Q Every time?

23 A Yeah, yes.

24 MR. ABDALLA: One moment, please, if you could
25 indulge me.

1 BY MR. ABDALLA:

2 Q The judge is going to instruct you that there are
3 certain mitigators. He talked to you briefly about
4 that, mitigation. Now, mitigation, as distinguished
5 from what defenses are, are completely different. A
6 defense is a legal matter and that would be determined
7 in the trial phase. In other words, you would be
8 looking at a client, a person, after the conviction who
9 has failed the test such as self-defense, accident,
10 anything else, none of the other criteria that would
11 apply to the defense in the case, alibi, it's him.

12 A Okay.

13 Q It's a murder. You might view it a cold blooded
14 murder, a heartless murder, however you want to describe
15 it. It's a murder and it's got the aggravating factor.
16 At that point, what you earlier indicated was that since
17 it fits those criteria, you would apparently vote for
18 death every time. Now, I want to ask you, there are
19 these other concepts called mitigators, mitigation, and
20 it's something the defense may put up, may not, it's not
21 mandatory. My first question is, I think you already
22 answered it, if there was nothing else, you would vote
23 for death. Did I misstate that?

24 A You did not.

25 Q Thank you. If on the other hand -- and you don't

1 have to do anything with this evidence. This isn't a
2 requirement, but if there were things such as drug
3 abuse, bad family background, things like that, it's not
4 a defense to the crime, but does that change your view
5 toward death versus life?

6 A Yes.

7 Q So you would weigh those considerations and could
8 you give a life sentence?

9 THE COURT: You need to say yes or no. She's
10 nodding yes.

11 MS. PETTY: Yes.

12 BY MR. ABDALLA:

13 Q Okay. Could you give a life sentence then in that
14 situation?

15 A Yes.

16 MR. ABDALLA: All right. Thank you.

17 THE COURT: Ms. Strom.

18 MS. STROM: Just very briefly, Your Honor.

19 THE COURT: Okay.

20 QUESTIONING BY MS. STROM:

21 Q Ms. Petty, my name is Betty Strom. I'm the Deputy
22 Solicitor. That's Bob Ariail, the Solicitor. That is
23 Mindy Hervey an Assistant Solicitor. We'll be
24 prosecuting any cases that came through Greenville
25 County.

1 A Okay.

2 Q Basically what I understood you to say is that you
3 would want to hear as much information as possible
4 before you made that ultimate decision?

5 A Yes.

6 Q Okay. And you would be fair to both sides and
7 consider all the evidence as His Honor instructed you to
8 consider?

9 A Yes.

10 Q You would follow the instructions of His Honor?

11 A Yes.

12 MS. STROM: Thank you. I have no further
13 questions.

14 THE COURT: All right. Let me just ask you a
15 couple follow-up questions because I got not confused,
16 but you know, this process is sort of unfair to jurors,
17 but as I understood when I was talking to you, you said
18 that you would not invoke the death penalty unless you
19 were 100 percent sure that was the proper punishment.

20 MS. PETTY: That's what I said, yes.

21 THE COURT: And that sort of led a couple times
22 when you said that you would vote for the death penalty
23 in every case of aggravated murder if you were 100
24 percent sure the defendant was guilty?

25 MS. PETTY: Right.

1 THE COURT: Now, I need to ask you again if -- let
2 me put it this way, would you, before you made your mind
3 up as to what the proper punishment should be, would you
4 listen to and give meaningful consideration to the
5 mitigating evidence that's presented by the defense and
6 charged by the judge before you made up your mind of
7 life or death?

8 MS. PETTY: I would.

9 THE COURT: And if you thought that life was the
10 proper punishment, would vote for life?

11 MS. PETTY: I would.

12 THE COURT: And could you vote for life in a case
13 of aggravated murder if you thought that was the proper
14 sentence?

15 MS. PETTY: I would -- could.

16 THE COURT: Okay. All right. You are qualified to
17 serve as a juror. Let me give you this piece of paper
18 and explain things to you. That does not mean you would
19 actually be picked as a juror, that simply means you are
20 qualified. We're going to bring all qualified jurors
21 back at four o'clock this afternoon to pick the jury.
22 You need to return to court at four o'clock prepared to
23 be selected, which means prepared to be sequestered.
24 That means you need to go ahead and pack a suitcase with
25 enough clothes for seven or eight days. I would suggest

1 pack comfortable clothes because you're going to be
2 sitting most of the day in the jury box. You will be at
3 the motel at night or various restaurants around town.

4 Now, go ahead and pack your suitcase, pack any
5 medications, any kind of special needs you have. Don't
6 bring that suitcase into the courthouse. I want you to
7 go ahead and park in the Hyatt parking garage. Is that
8 where you parked on Monday?

9 MS. PETTY: Same place as Monday.

10 THE COURT: All right. And then Spring Street is
11 the street that separates the Hyatt from the courthouse.
12 If you come out the garage entrance to the Hyatt on
13 Spring Street, directly across the street is the garage
14 entrance to this courthouse.

15 MS. PETTY: Yes.

16 THE COURT: I'm having jurors come there. I don't
17 want them to come through the public hallways where
18 there are family members and there's press out there.

19 MS. PETTY: You want me to park my car in the Hyatt
20 and come across the street?

21 THE COURT: And there will be bailiffs there to
22 meet you, and deputies.

23 MS. PETTY: At the entrance to the garage in the
24 parking lot where I parked this morning?

25 THE COURT: Right across from ---

1 MS. PETTY: Okay. All right.

2 THE COURT: I want you to come to the garage
3 entrance to the courthouse.

4 MS. PETTY: Okay.

5 THE COURT: Which is directly across the street.

6 MS. PETTY: Okay.

7 THE COURT: There's going to be police officers out
8 there that will help you, escort you across the street,
9 things like that.

10 MS. PETTY: All right.

11 THE COURT: If you are selected, you would not be
12 able to have any direct contact with any family members,
13 or business people. We can get a message to them if
14 necessary. You can write out the message, name and
15 number, and the bailiff can make a call for you. If
16 there is an emergency, on this letter are two emergency
17 numbers where people can contact you. Do you have any
18 questions?

19 MS. PETTY: I do have just one question.

20 THE COURT: All right.

21 MS. PETTY: You're saying that we need to be
22 prepared for seven or eight days, starting today?

23 THE COURT: Yes, starting tonight.

24 MS. PETTY: Okay. The only problem is, I have a
25 plane ticket and reservation on the 27th, which is past

1 eight days, but I just want to make sure that ---

2 THE COURT: The 27th is what day?

3 MS. PETTY: A Saturday.

4 THE COURT: We'll be done.

5 MS. PETTY: Okay. That's all I need to know.

6 THE COURT: Okay. Don't talk with anyone about
7 this case. If someone tries to talk to you, take their
8 name and report that to the bailiff. Don't read the
9 paper or anything about this case.

10 MS. PETTY: I have one more question.

11 THE COURT: Okay.

12 MS. PETTY: When we -- when we return at four
13 o'clock this afternoon, then by the end of this day will
14 we know whether we need to stay or not?

15 THE COURT: Yeah, by 4:30 you'll know.

16 MS. PETTY: Okay. That's fine.

17 THE COURT: And you might want to bring someone
18 with you, because if you're selected they might want to
19 take your car home rather than leave it over there.

20 MS. PETTY: Okay. So I can bring someone with me?

21 THE COURT: They can't come up the private way.
22 They'll have to come around just like you did on Monday,
23 and come through the screen and then come to courtroom 8
24 on the third floor.

25 MS. PETTY: And they can wait there?

1 THE COURT: They can wait and then if you are
2 selected, SLED agents will have to go with you to get
3 your suitcase out of the car and then they can take your
4 car home.

5 MS. PETTY: Okay.

6 THE COURT: Okay?

7 MS. PETTY: Okay.

8 THE COURT: All right. We'll see you at four
9 o'clock.

10 MS. PETTY: All right. I park the same place this
11 afternoon that I did this morning? No, you just told me
12 differently.

13 THE COURT: No, on Monday morning.

14 MS. PETTY: I really was paying attention. Okay.
15 I got it.

16 THE COURT: Thank you very much.

17 (Ms. Petty exited the courtroom.)

18 THE COURT: All right. Anything with regard to
19 this juror from the State?

20 MS. STROM: No, sir.

21 THE COURT: From the defense?

22 MR. ABDALLA: None, Your Honor.

23 THE COURT: All right. We're on Charles Durham.
24 Anything on Mr. Durham? See number 20, wife was a
25 victim of two bank robberies, house broken into.

1 MR. ARIAIL: Has two sets of twins?

2 THE COURT: Huh?

3 MR. ARIAIL: He has two sets of twins.

4 THE COURT: Does he?

5 MR. ARIAIL: Um-hm.

6 THE COURT: Bring the juror in.

7 (Mr. Durham entered the courtroom.)

8 THE COURT: You are Charles Durham -- Buck Durham,
9 excuse me?

10 MR. DURHAM: Yes.

11 THE COURT: How you doing? I'm Joe Watson. Just
12 have a seat. And as you make yourself comfortable,
13 slide your chair forward that way you can speak into the
14 microphone, and that way your voice will be amplified,
15 and the reason we need to do that is the court reporter
16 is taking down everything that is said, but there is a
17 back-up system, so you can't shake your head, nod your
18 head, you need to answer verbally. Mr. Durham, I will
19 remind you that you're under oath. Have you complied
20 with prior instructions not to talk with anyone about
21 this case?

22 MR. DURHAM: Yes.

23 THE COURT: And I believe you indicated that you
24 had actually heard about this case prior to coming to
25 court, was that back when it happened?

1 MR. DURHAM: That's correct.

2 THE COURT: All right. Did you read any articles
3 leading to up the actual case being called for trial?
4 In other words, there was a little bit of ---

5 MR. DURHAM: Just when it first made the news.

6 THE COURT: Okay. Do you recall -- can you tell us
7 what details, if any, you recall about the case?

8 MR. DURHAM: That there had been a manhunt in
9 northern Greenville County, that two people had died.

10 THE COURT: Okay. Anything else?

11 MR. DURHAM: Just that they locked down some
12 schools.

13 THE COURT: Okay. From what you read or saw in the
14 media, have you formed any opinions about the guilt or
15 the innocence of this defendant?

16 MR. DURHAM: No.

17 THE COURT: Okay. If you were selected on the jury
18 in this case, can you set aside what you heard outside
19 of the courtroom and judge this case solely on the facts
20 and evidence that are presented here in the courtroom?

21 MR. DURHAM: Yes.

22 THE COURT: Now, I'm going to ask you a number of
23 questions and some of the lawyers will ask you
24 questions. I will tell you there are no wrong answers,
25 there are no right answers, some of these may seem of a

1 personal nature. If they're offensive to you, hold it
2 against me, don't hold it against the State of South
3 Carolina, and certainly do not hold it against the
4 defendant, Mr. Sigmon. We will respect any answers that
5 you give. Everybody in the courtroom will respect your
6 position and opinion on some of the issues we talk
7 about, but we do need your open and honest answers to
8 these questions. Most of what I'm going to talk to you
9 about deals with penalty, but I need to make sure that
10 you understand up front that by virtue of the fact we're
11 talking about penalty, that does not indicate anything
12 about Mr. Sigmon. Do you understand that?

13 MR. DURHAM: Yes.

14 THE COURT: As he sits there, he's presumed to be
15 innocent. Do you understand that?

16 MR. DURHAM: Yes, sir.

17 THE COURT: It's unfortunately sort of a backward
18 process where we have to talk about penalty before the
19 trial starts, but we have to do that in order to pick a
20 fair jury. Do you understand that?

21 MR. DURHAM: (Nodded his head.)

22 THE COURT: Before I talk to you about penalty and
23 capital cases, I'm going to ask you generally, if you
24 were called to sit on a jury in a criminal case, would
25 you listen to the law that is charged by the judge and

1 would you accept that law as the proper law and apply
2 that law in the case?

3 MR. DURHAM: Yes.

4 THE COURT: Would you do that even though you might
5 not necessarily agree with the law?

6 MR. DURHAM: Yes.

7 THE COURT: All right. That's sort of a trick
8 question. Everybody hesitates on that one. But
9 here's -- here's why I ask that, because some people
10 come to court with a preconceived notion as to what the
11 law is, and they get to court and the law is different,
12 and that's fine, as long as they can set it aside. Some
13 people come to court with a notion as to what they think
14 the law should be. An example would be somebody who
15 thinks that marijuana should be legalized. That's fine
16 to have that opinion, but if they were called to sit on
17 a drug case, a marijuana case, they would need to set
18 that opinion aside and be able to accept the law that
19 the judge gives, that is that marijuana is illegal, and
20 apply that law. That's what I'm talking about. And you
21 have told me that you could do that, if ---

22 MR. DURHAM: That's correct.

23 THE COURT: Okay. Do you understand that the State
24 has the burden of proving a defendant guilty beyond a
25 reasonable doubt?

1 MR. DURHAM: Yes.

2 THE COURT: You've heard that term before? If you
3 were sitting on a jury and if you did not find the State
4 had met their burden of proof, they had not proved
5 somebody guilty beyond a reasonable doubt, would you
6 vote not guilty?

7 MR. DURHAM: That's correct, I would not.

8 THE COURT: All right. And if that -- the converse
9 of that is if you found that the State had met their
10 burden of proof, and they had proved someone guilty
11 beyond any reasonable doubt, would you vote guilty?

12 MR. DURHAM: I would.

13 THE COURT: Now, did you know much about the death
14 penalty in South Caroline prior to coming to court on
15 Monday? Did you know we had the death penalty?

16 MR. DURHAM: Yes, I knew we had one.

17 THE COURT: Did you read my letter?

18 MR. DURHAM: Yes, I did.

19 THE COURT: Was that a little bit helpful in
20 explaining things?

21 MR. DURHAM: Yes.

22 THE COURT: All right. You understand that it is
23 not every murder case that is subject to the death
24 penalty, it has to be one of these legally aggravating
25 murders? There are 9, or 10, or 11 circumstances where

1 the State can seek the death penalty. The examples I
2 gave would be murder during an armed robbery, murder
3 during a rape, another is the murder of a judge, murder
4 of a police officer, murder of a small child. These are
5 aggravating circumstances that our Legislature has said
6 distinguishes, I guess, regular murder from aggravating
7 murder and allows the State to seek the death penalty.
8 Do you understand that?

9 MR. DURHAM: Yes.

10 THE COURT: And do you understand that even when we
11 talk about aggravating murders, the penalty is not
12 automatic, that simply allows the State to seek the
13 death penalty. What we do is we empanel a jury and the
14 jury not only decides guilt or innocent, but if they
15 decide the person is guilty, they become the sentencing
16 authority, they decide what the punishment is. Do you
17 understand that?

18 MR. DURHAM: Yes.

19 THE COURT: It is a two-part process, a bifurcated
20 trial. The first stage is just like any other trial,
21 the issue is whether the defendant is guilty or not
22 guilty. If he's not guilty everybody goes home. If the
23 defendant is found guilty, then the jury, after a brief
24 waiting period, comes back in the same courtroom, same
25 attorneys, and they hear additional testimony and

1 evidence. This testimony and evidence is about the
2 issue of punishment. That testimony and evidence is
3 offered by the State and the defense in order to assist
4 the jury in deciding what the proper punishment is. Do
5 you understand that if we get to the penalty phase, the
6 person has been convicted of a cold blooded murder plus
7 something else? The only two possible outcomes at that
8 point are life without any possible of parole or death,
9 which is by electrocution or lethal injection. Do you
10 understand that?

11 MR. DURHAM: Yes, I do.

12 THE COURT: And again, if there are two types of
13 evidence that would be introduced at that stage. The
14 State would put up evidence in aggravation. And then
15 that evidence is an attempt to convince the jury that
16 death is the appropriate punishment. And the defense
17 would put up evidence in mitigation, and that's evidence
18 not to excuse what the person did, he's already been
19 convicted of the murder, but it's evidence that would
20 mitigate what punishment he should receive, and it's
21 offered in an attempt to convince the jury that life is
22 the appropriate sentence.

23 Examples of aggravating evidence could be a number
24 of things. It might be evidence about the defendant
25 himself. Maybe he's a violent person. Maybe he's got a

1 long history of convictions for crimes of violence. It
2 might be additional evidence about the crime, to show
3 how aggravated the crime it was. It might be victim
4 impact evidence, where members of the family or the
5 victim would talk about their loss and the community's
6 loss because of these murders. Do you understand that
7 concept of aggravated evidence?

8 MR. DURHAM: Yes, I do.

9 THE COURT: And then the defense, again, would put
10 up -- would put up mitigating evidence, and that
11 generally is evidence about the defendant himself. In
12 other words, it might be that he suffered from a mental
13 problem at the time he committed the crime, or he was
14 under the influence of someone else when he committed
15 the crimes, or maybe the defendant is very young and
16 should be treated differently than someone who's younger
17 and more responsible. Maybe the defendant has
18 absolutely no record. He's never been in trouble
19 before. Things like that are offered in an attempt to
20 convince the jury that the proper punishment is life.
21 Do you understand that?

22 MR. DURHAM: Yes.

23 THE COURT: Last thing I need to tell you before I
24 get into some of your opinions is in a -- if a jury gets
25 to the penalty phase, the only way they can invoke the

1 death penalty is if they find beyond a reasonable doubt
2 the existence of aggravating circumstances, or an
3 aggravating circumstance. But even when they find
4 beyond a reasonable doubt the aggravating circumstance
5 that does not mean they have vote for death, they can
6 always vote for life. A jury could find numerous
7 aggravating circumstances, like it might be murder plus
8 a rape and armed robbery and a burglary, something like
9 that. So they could find numerous aggravating
10 circumstances and they could find no mitigating
11 circumstances, but they can still vote for life. Do you
12 understand that?

13 MR. DURHAM: Yes, sir.

14 THE COURT: All right. Understanding that whole
15 procedure, I need to ask you, generally what is your
16 opinion about capital punishment, Mr. Durham? Would you
17 say you're generally for it, generally against it,
18 generally how do you feel?

19 MR. DURHAM: I support the State law. I'm for it.

20 THE COURT: Okay. Is that a position you've held
21 for a long time or something you've grown into or
22 evolved into?

23 MR. DURHAM: That's been evolved into.

24 THE COURT: Okay. Is it based on any sort of
25 religious background, upbringing, or just philosophical

1 position?

2 MR. DURHAM: I would say more philosophical.

3 THE COURT: Okay. Now, does that mean you would
4 automatically vote for the death penalty in every case
5 of aggravated murder?

6 MR. DURHAM: No.

7 THE COURT: All right. Would you, if you were
8 selected on this type of case, listen to and give
9 meaningful consideration to the aggravating
10 circumstances that's presented by the State and give
11 meaningful consideration to the mitigating circumstances
12 presented by the defendant before you made a decision of
13 life or death?

14 MR. DURHAM: Yes.

15 THE COURT: All right. If you thought the proper
16 punishment was life, would you vote for a life
17 sentence?

18 MR. DURHAM: Yes.

19 THE COURT: If you thought the proper punishment
20 was death, would you vote for the death sentence?

21 MR. DURHAM: Yes.

22 THE COURT: You -- if you and the other jurors
23 thought that death was the appropriate sentence, each
24 of you would have to affix your name, sign your name
25 to the verdict form, which is sometimes referred to

1 as the death warrant. If you thought that was the
2 proper sentence, would and could sign your name to
3 that form?

4 MR. DURHAM: Absolutely.

5 THE COURT: Okay. Now, I'm going to let the
6 attorneys talk with you for a minute and then I will
7 talk to you after they get through. This is Betty
8 Strom. She is the Deputy Solicitor. Bob Ariail is the
9 Solicitor. They are prosecuting this case. And then
10 this is John Abdalla, with the moustache, and then next
11 to him is Frank Eppes, they're the attorneys for Mr.
12 Sigmon, the defendant. Okay. Ms. Strom.

13 MS. STROM: Thank you.

14 QUESTIONING BY MS. STROM:

15 Q Mr. Durham, how are you?

16 A Fine.

17 Q Good. First of all, I'm going to tell you up front
18 that a lot of our questions are going to seem like
19 they're the exact same questions the judge asked, so
20 we're just trying to get a feel for what your position
21 is, okay? And to do that what we're going to do is to
22 make sure we have jurors who can be fair to the State
23 and to the defendant, okay? What I need to know -- I'm
24 going to restate what I think I heard you say when you
25 were talking with the judge and correct me if I say

1 anything that is incorrect. My understanding is that
2 generally you are in favor of the death penalty, or you
3 support the law that allows the death penalty?

4 A That's correct.

5 Q But you don't think it's appropriate in every case?

6 A No.

7 Q You would have to hear the facts of that case and
8 as much information as you could possibly hear before
9 you made that decision?

10 A That's correct.

11 Q You would not go into that decision making process
12 with your mind already made up as to which penalty to
13 impose?

14 A That's right.

15 Q Okay. His Honor talked about the fact that the
16 State could only seek the death penalty when it's a
17 murder plus an aggravating circumstance, right?

18 A Yes.

19 Q Okay. When you get to the sentencing phase ---

20 THE COURT: Mr. Durham, I'm going to give you some
21 water, just because you coughed a couple times. I don't
22 know if you need it, but there it is.

23 BY MS. STROM:

24 Q When you get to the sentencing phase, the jury has
25 already convicted the defendant of murder, there are no

1 legal defenses, or any legal defenses that may have been
2 presented and have been rejected and the jury has
3 convicted that person of murder. Do you understand
4 that?

5 A Yes.

6 Q So there won't be additional legal defenses
7 presented. It would be evidence in aggravation as His
8 Honor described to you, and evidence in mitigation,
9 maybe some things about the crime or maybe about the
10 defendant himself. My understanding is you would want
11 to hear all that information and you would carefully
12 consider all of that information before you made that
13 decision?

14 A That's correct.

15 Q Just because it was a murder plus an aggravating
16 circumstance, you would not automatically go one way or
17 the other?

18 A No.

19 Q And His Honor talked to you briefly about the fact
20 that if it were a murder plus an aggravating
21 circumstance, the jury is never required to give the
22 death penalty, they can always impose a life sentence
23 simply as an act of mercy. Did you understand that?

24 A Yes.

25 Q Okay. And you could consider a life sentence in

1 any situation? Not saying that you would necessarily
2 vote for it, but you would consider it?

3 A Right.

4 MS. STROM: Okay. Court's indulgence? Thank you.

5 THE COURT: Thank you. All right. Mr. Abdalla.

6 MR. ABDALLA: Thank you.

7 THE COURT: Yes, sir.

8 QUESTIONING BY MR. ABDALLA:

9 Q Mr. Durham, as the judge told you, my name is John
10 Abdalla, and I represent the defendant, along with Frank
11 Eppes, who's seated next to me. And Mr. Sigmon is our
12 client, he's seated at the table. You indicated on your
13 form that your wife was the victim of two bank
14 robberies, is that correct?

15 A That's correct.

16 Q And your house was broken into?

17 A Twice.

18 Q Twice. Okay. In all those cases -- in any of
19 those cases were the defendants -- were the people ever
20 arrested, convicted, what ---

21 A In the two bank robberies, they were, yes.

22 Q And about how long ago was that?

23 A In the early to mid '70s.

24 Q I'm sorry?

25 A In the early '70s and the mid '70s.

1 Q Okay. Was that around here?

2 A In Greenville County, yes.

3 Q Okay. And the bank robbery -- I'm sorry, the
4 burglary, when was that?

5 A That was about three years ago.

6 Q And was it a major burglary or just minor?

7 A Just minor.

8 Q Did you know the people in any of these
9 circumstances?

10 A Never met any of them.

11 Q I didn't hear you.

12 A We had not met any of the perpetrators.

13 Q All right. And did the arrest, conviction,
14 whatever happened to the burglary?

15 A The burglary is still an open case.

16 Q Okay. Well, how did these -- did these events
17 shape your thinking towards capital punishment at all,
18 would you say?

19 A Against capital punishment, no, but against
20 punishment, yes.

21 Q Okay. And understand there is no right or wrong
22 answers here, so I'm not trying to trick you into
23 anything. I think you've already made your views quite
24 clear. You seem -- you said you're absolutely for the
25 death penalty. My concern is, if you have a situation

1 where you're on a jury and the person has been
2 convicted, and Ms. Strom went over this pretty much, and
3 you found beyond a reasonable doubt that in your view
4 it's definitely the guy, let's say there's no doubt.
5 The legal standard is beyond a reasonable doubt. For
6 the sake of argument, you're left with no doubt, not a
7 legal doubt, no doubt. You have a murderer, you're now
8 dealing with that you have to pass sentence on. So he's
9 been convicted of murder and say an armed robbery, or a
10 killing of a judge, or a small child, whatever one of
11 the aggravating factors would be, at that point are you
12 still going to be able to give meaningful consideration
13 to a life sentence, or would you feel like at that
14 point, well, you know -- well, what would you feel,
15 believe?

16 A After the guilty plea would be rendered?

17 Q After the guilty verdict has been rendered, and
18 like I said, for the sake of this hypothesis, you're
19 certain it's him, there's not, well, maybe, but maybe
20 it's not him, I want that erased from the equation.

21 A It would be difficult not to.

22 Q Difficult not to. Could you give consideration to
23 things, or would they not phase you, such as drug,
24 alcohol use, bad past, you know, bad family life, any of
25 that kind of stuff?

1 A It would be difficult.

2 MR. ABDALLA: Can I have one moment, Judge?

3 BY MR. ABDALLA:

4 Q You said it would be difficult for you to give fair
5 consideration to those things, is that true?

6 A I will give fair consideration to it, I just
7 couldn't tell you what I would do.

8 Q That's fine. But you would give fair
9 consideration?

10 A Yes.

11 MR. ABDALLA: Thank you.

12 THE COURT: All right. Let me give you this
13 letter. Mr. Durham, you are qualified to serve as a
14 juror in this case. That certainly does not mean you
15 will be selected, it simply means you need to be ready
16 to serve if you were picked. We're going to bring the
17 entire panel back at four o'clock this afternoon. You
18 need to go ahead and pack a suitcase for seven or eight
19 days stay in a motel. If you are selected you will be
20 sequestered. Go ahead and pack any medication, any
21 other things you will need to live for seven or eight
22 days. I'm not saying the case will last that long, I'm
23 just saying be prepared for that.

24 When you come back at four o'clock today, park in
25 the Hyatt parking garage where you parked on Monday.

1 Come across Spring Street, which is the street between
2 the Hyatt parking garage and the courthouse. Directly
3 across from the garage entrance to the Hyatt garage on
4 Spring Street is the garage entrance to this courthouse.
5 I'm bringing the jury in that way to keep them out of
6 the public hallways where the media is and where the
7 families are. So there will bailiffs down there to
8 meet all jurors, escort them upstairs. When all
9 jurors are here then we'll bring the jury in and we'll
10 select a jury at that time. If you are picked then the
11 SLED agents will take you to your car to get your
12 suitcase.

13 You might want to bring someone with you that way
14 if you are selected they can drive the car home, if not
15 we'll make arrangements for the car somehow, but that
16 might just be a little bit more convenient. If you
17 bring someone with you, they would not be able to come
18 up through the private corridor. They'll have to come
19 around like you did on Monday, come through, and then
20 come -- they would come to courtroom number eight on the
21 third floor. That's -- courtroom eight on the third
22 floor is where we are right now.

23 We -- if you're sequestered will not be able to
24 have any direct contact with your business or your
25 family. If you need to get a message to someone we can

1 accomplish that, by having you write out the message,
2 the name, the number, and the bailiffs will make the
3 call for you. If someone needs to get in touch with you
4 on an emergency basis, there are two phone numbers on
5 there, a day time number and a night time number. Any
6 questions?

7 MR. DURHAM: No.

8 THE COURT: All right. Don't talk about this case
9 with anyone, other than just general information about
10 when you have to be back, things like that. If someone
11 tries to contact you, or persists to talk to you after
12 you tell them you can't talk to them, take their name
13 and give that to the bailiff and we'll handle that
14 situation. Also, don't read anything in the paper,
15 watch anything on TV, don't listen to any radio account
16 of this proceeding, okay?

17 MR. DURHAM: Okay. Will I have an opportunity
18 after 4:00 to notify my business?

19 THE COURT: No.

20 MR. DURHAM: Okay.

21 THE COURT: You need to go ahead and tell them
22 that ---

23 MR. DURHAM: If I don't show up, I'm here.

24 THE COURT: That's about it.

25 MR. DURHAM: Okay.

1 THE COURT: All right. Thank you very much, Mr.
2 Durham. We'll see you at four o'clock.

3 (Mr. Durham exited the courtroom.)

4 THE COURT: Anything for the record on Mr. Durham,
5 from the State?

6 MS. STROM: No, sir.

7 THE COURT: From the defense?

8 MR. ABDALLA: No, Your Honor.

9 THE COURT: All right. I can't believe this is the
10 last one. This is the last time I get to say all this.
11 I'll be saying it in my sleep. Anything about Mr.
12 Pritchard?

13 MR. ABDALLA: Nothing from the defense.

14 MS. STROM: No, sir.

15 THE COURT: All right. Bring in Jimmy Pritchard.
16 Okay. He's in the rest room. If y'all want to stand up
17 and stretch, you're welcome to just for a second.

18 (Mr. Pritchard entered the courtroom.)

19 THE COURT: I am Joe Watson. Where is Mr. Eppes?

20 MR. ABDALLA: I don't know how we can lose someone.

21 THE COURT: Okay. We'll wait just a second.

22 (Mr. Eppes entered the courtroom.)

23 The COURT: All right. You understand that you're
24 still under oath from the oath you took on Monday?

25 MR. PRITCHARD: Yes, sir.

1 THE COURT: All right. Go ahead and slide your
2 chair close to the microphone. The court reporter is
3 taking down everything that is said, but there is a
4 back-up system that is recording everything. That means
5 that everybody has to speak up, you can't nod your head,
6 shake your head, and you need to speak into the
7 microphone. You have -- have you complied with my
8 instructions not to talk about this case with anyone?

9 MR. PRITCHARD: Yes, sir.

10 THE COURT: All right. And I believe my notes say
11 that you did not respond when I asked if you had heard
12 anything about this case. You don't recall seeing
13 anything on TV, or reading ---

14 MR. PRITCHARD: No, sir, I do not.

15 THE COURT: And you don't know any of the witnesses
16 that were on that witness list, I believe?

17 MR. PRITCHARD: No, sir, I do not.

18 THE COURT: Okay. Mr. Pritchard, I'm going to ask
19 you a number of questions and then one of the lawyers
20 from each side will have a chance to ask you questions.
21 Some of these questions are going to seem to be of a
22 personal nature. If you're offended, hold that against
23 me, don't hold it against the State of South Carolina
24 and don't hold it against this defendant, okay?

25 MR. PRITCHARD: All right.

1 THE COURT: There are no wrong answers, no right
2 answers. Everybody in this courtroom will respect
3 whatever answers you give and whatever position you have
4 on some of these issue, but we do need your honest and
5 full answers to these questions.

6 MR. PRITCHARD: All right.

7 THE COURT: What I'm going to be talking about
8 . mostly deals with penalty, but I need to make sure you
9 understand up front that by the virtue of the fact that
10 we're talking about penalties, that does not that
11 indicate anything about Mr. Sigmon. Do you understand
12 that?

13 MR. PRITCHARD: Yes, sir.

14 THE COURT: In other words, as Mr. Sigmon sits
15 there, he is presumed to be innocent. Do you understand
16 that?

17 MR. PRITCHARD: Yes, sir.

18 THE COURT: Now, this system is unfortunately a
19 little bit backward, because we have to talk about
20 penalty before we even start the case, but we have to do
21 that to make sure we have a fair and impartial jury in
22 this case, okay?

23 MR. PRITCHARD: Yes, sir.

24 THE COURT: Now, before I talk with you about
25 penalty, I'm going to ask you just a couple general

1 questions about sitting on a criminal trial jury. If
2 you were selected on a jury in a criminal case, would
3 you listen to the law that is charged by the judge and
4 accept that law as the proper law and apply that law in
5 the case?

6 MR. PRITCHARD: Certainly.

7 THE COURT: Would you do that even though you may
8 not agree with the law?

9 MR. PRITCHARD: Yes, sir.

10 THE COURT: Okay. Do you understand that the State
11 has the burden of proving a defendant guilty beyond a
12 reasonable doubt?

13 MR. PRITCHARD: Yes, I do.

14 THE COURT: You've heard that term before, I
15 assume? If you were sitting a jury and if you felt the
16 State had not proved him guilty beyond a reasonable
17 doubt, they had not met their burden of proof, would you
18 vote not guilty?

19 MR. PRITCHARD: Absolutely.

20 THE COURT: All right. And conversely, if you
21 found the State had met their burden of proof, would you
22 vote guilty?

23 MR. PRITCHARD: Yes, sir.

24 THE COURT: All right. I gave you a two-page
25 letter Monday, or the Clerk did, from me about a capital

1 trial in general. Did you review that letter?

2 MR. PRITCHARD: Yes, sir, I did.

3 THE COURT: And did you know much about the death
4 penalty in South Carolina before you came to court?

5 MR. PRITCHARD: No, I did not.

6 THE COURT: Did you know we had the death penalty?

7 MR. PRITCHARD: Actually, no.

8 THE COURT: Okay. That's fine, but -- some people
9 do, some people don't. Do you understand from reading
10 that letter that it's not every murder case that is
11 subject to the death penalty, it has to be one of these
12 aggravated murders?

13 MR. PRITCHARD: I do understand that.

14 THE COURT: And the examples I gave were murder
15 during an armed robbery, murder during a rape. Murder
16 of a judge is another one. There are about 10 or 11 or
17 12 circumstances where the State Legislature has said
18 these are aggravated circumstances that allows the State
19 to seek the death penalty. Murder of a small child is
20 one. But even when we talk about aggravating murder, do
21 you understand the penalty is not automatic, that simply
22 means the State can seek the death penalty in that case?

23 MR. PRITCHARD: Yes, I do.

24 THE COURT: All right. And the law is a little bit
25 different also, a lot different, because in that type of

1 case, the jury is the one who actually hands down the
2 sentence if there is a conviction. In most cases the
3 judge is the one that sentences, but in these type of
4 cases, the citizens of the State decide when we invoke
5 the death penalty and when we do not. Do you understand
6 that?

7 MR. PRITCHARD: Yes, sir, I do.

8 THE COURT: All right. The process is a bifurcated
9 trial, a two-part trial. The first phase is called the
10 trial phase and that -- that is like any other case
11 where the issue is whether the defendant is not guilty
12 or guilty. If he's not guilty everybody goes home. If
13 that person is convicted, then the same jury, after a
14 brief waiting period, comes back to court and they will
15 decide between two possible sentences. In other words,
16 once you enter that guilt -- excuse me, that penalty
17 phase, the person has already been convicted of a cold
18 blooded murder, and usually been convicted of something
19 else too, like the armed robbery. So they come back and
20 they hear more testimony and more evidence. They'll
21 hear evidence from the State called aggravating
22 evidence, and that evidence is put in to convince the
23 jury that the proper sentence is death. And from the
24 defense they hear mitigating evidence and that is
25 evidence that doesn't excuse what he did, but it might

1 mitigate what punishment he should receive, and that
2 evidence is put up by the defense in order to convince
3 the jury that life is the proper sentence. Do you
4 understand that?

5 MR. PRITCHARD: Yes, sir, I do.

6 THE COURT: And let me just tell you right now,
7 when I say a life sentence, I mean life with absolutely
8 no possibility of parole. Do you understand that?

9 MR. PRITCHARD: Yes, sir.

10 THE COURT: It used to be in cases like this, there
11 might have been a 30-year parole eligibility. That is
12 not the law now. There is no parole. Do you understand
13 that?

14 MR. PRITCHARD: Yes, sir.

15 THE COURT: And then death in South Carolina means
16 death by lethal injection or by electrocution. So
17 anyway, you're in this penalty phase and the State puts
18 up aggravating evidence. Any number of things might be
19 aggravating evidence. It might be evidence about the
20 defendant. Maybe he's just a mean character. Maybe
21 he's got a long history of crimes of violence. They
22 might put up additional evidence about the crime itself.
23 Of course you've already heard about the crime itself in
24 the trial phase, but they might put up additional
25 evidence about how aggravated the case was. They may

1 well put up what's called victim impact evidence. That
2 would be family members who would talk about the loss of
3 the victim and what it has meant to them and the
4 community. And again, all that evidence is put up by
5 the State to help guide the jury, and help -- help
6 convince them that death is the possible sentence.

7 Then the defense again puts up mitigating evidence.
8 And again, it can be any number of things. Mitigating
9 evidence is generally about the defendant himself.
10 Maybe the defendant suffered from a mental problem when
11 he committed the crime. Maybe he was under the
12 influence of someone else. Maybe he was a particularly
13 young defendant and should be treated differently than
14 someone who is older and wiser. Maybe he has a
15 completely clean history, never been in trouble before.
16 Any number of things might be presented in mitigation,
17 again to help guide the jury and assist them in reaching
18 a verdict, and there they would be attempting to get a
19 verdict of life.

20 Now, just one more thing I need to explain to you
21 about the penalty phase. A jury cannot invoke the death
22 penalty unless they find beyond any reasonable doubt an
23 aggravating circumstance. But even when they do that,
24 that certainly does not require them to vote for the
25 death penalty, that simply allows them to. A jury could

1 find numerous aggravating circumstances. I mean, it
2 could be a murder during a burglary, during a rape, you
3 know, several things, and a jury could find no
4 mitigating evidence that's supported by the evidence in
5 the case, but they can still give a life sentence. In
6 other words, a jury can always give a life sentence if
7 they think that is appropriate. Do you understand that?

8 MR. PRITCHARD: Yes, sir.

9 THE COURT: All right. Understanding that whole
10 process, the bifurcated trial, the aggravating and
11 mitigating evidence, I'm sure you appreciate that we
12 need to generally know what your feelings are about
13 capital punishment. Would you say you are generally for
14 the death penalty, generally against the death penalty,
15 generally how do you feel?

16 MR. PRITCHARD: Generally I think that the death
17 penalty can be justified in certain cases. The main
18 problem that I have with the death penalty is that I
19 understand that, you know, it's possible for an innocent
20 person to be convicted, so you know, once the death
21 penalty is executed, of course that can't be undone, so
22 that kind of gives me a problem with the death penalty.
23 However, you know, as far as justice being served, you
24 know, particularly when you consider the victims in the
25 case, you know, it seems as though the death penalty can

1 be justified. But for me the problems lies, you know --
2 I guess I would say if there was enough evidence to
3 remove that shadow of doubt, then I could see the death
4 penalty as being just.

5 THE COURT: Okay. Are you telling me you think
6 there's a proper place in our society for the death
7 penalty?

8 MR. PRITCHARD: I do.

9 THE COURT: Okay. And are you telling me that you
10 if thought it was the appropriate punishment that you
11 could vote for it?

12 MR. PRITCHARD: Yes, I am.

13 THE COURT: If you thought a life sentence was the
14 appropriate punishment, could you vote for a life
15 sentence?

16 MR. PRITCHARD: Yes, I could, sir.

17 THE COURT: Would you automatically vote one way or
18 the other in a case of an aggravated murder conviction?

19 MR. PRITCHARD: Automatically?

20 THE COURT: Yeah.

21 MR. PRITCHARD: I would say it would have to depend
22 on the circumstances.

23 THE COURT: Okay. That's the way it's supposed to
24 be. That's the way the whole system is set up, to give
25 you aggravating circumstances, to give you mitigating

1 circumstances, to help guide you to that decision. So
2 if you're on a jury, would you give meaningful
3 consideration to the aggravating circumstances presented
4 by the State and charged by the judge, and the
5 mitigating circumstances presented by the defense and
6 charged by the judge before you made up your mind as to
7 life or death?

8 MR. PRITCHARD: Of course.

9 THE COURT: Okay. That's -- I would think that's
10 what you would want to do. I assume you would want to
11 know not only as much about the crime as you could, but
12 also as much about the defendant before you made that
13 decision of life or death?

14 MR. PRITCHARD: Yes, sir.

15 THE COURT: Okay. Now, I'm going to let the -- let
16 me back up. If you thought the proper sentence was
17 death, you and the other jurors would have to sign your
18 name, each individually, to the verdict form. Do you
19 understand that?

20 MR. PRITCHARD: Yes, sir.

21 THE COURT: And -- and sometimes that's referred to
22 as a death warrant, because that is the actual legal
23 document that is the mechanics to carry out the
24 execution if there is an execution. If you thought that
25 was the proper punishment, could you sign that verdict

1 form?

2 MR. PRITCHARD: Yes, sir.

3 THE COURT: Okay. Now, I'm going to ask -- this is
4 John Abdalla, with the mustache. He is one of the
5 attorneys representing the defendant. Seated next to
6 him is Frank Eppes, who's the other attorney. And then
7 the Solicitor's staff is there, they'll ask you
8 questions after Mr. Abdalla.

9 QUESTIONING BY MR. ABDALLA:

10 Q Good morning, Mr. Pritchard.

11 A Hi.

12 Q I'm going to ask you a few questions, and of course
13 there's no right answers. Nothing to be nervous about.

14 A Okay.

15 Q The only thing I'd like to ask you are a couple
16 points about the death penalty. What do you think the
17 death penalty accomplishes, just personal views?

18 A My personal view is that it's an attempt by society
19 to achieve justice.

20 Q What do you ---

21 A When a particular wrong has been committed.

22 Q All right.

23 A You know, I guess when the death penalty for me is
24 executed, you know, it's a terribly sad thing, you know,
25 because you already have one person who's dead, and you

1 kind of think, well, what do you accomplish really by
2 killing another person, and the only way that I can see
3 that it accomplishes anything is to provide some form or
4 some justice for the victim.

5 Q And is there -- so you're essentially defining
6 closure for the victims, is that fair?

7 A Well, I think it's ---

8 Q Some sense of closure?

9 A Correct. I mean, you know -- I don't know about
10 closure, I think it's justice. You know, when a person
11 has been, I guess wronged, or somebody has been
12 wrongfully killed, you know, then there has to be some
13 form of justice. I mean, you're not -- you're not
14 giving anything back to the victim's families or
15 anything, at least there is some consequence.

16 Q Then is it safe to assume -- well, what do you
17 think about life without parole, is that not giving
18 anything back, is that justice, what is your view about
19 life without parole?

20 A I'm not sure.

21 Q All right. You defined the death penalty as
22 serving justice, serving the ends of justice, in not so
23 many words.

24 A Right.

25 Q How do you view life without parole?

1 A Well, I think life without parole, you know, is
2 also a certain penalty, you know. You know, I think
3 that there are cases where life without parole would be
4 warranted, you know. Like I told the judge, I think
5 that it would depend on each particular case, you know,
6 and the arguments presented.

7 Q If --- I'm sorry. Are you finished?

8 A That's fine.

9 Q If you had a situation where you sat on a jury and
10 a person has been convicted by the jury, and you
11 believed -- I know the one doubt you had, those doubts
12 are gone, absolutely no doubt in your mind you had the
13 right person, and he was guilty of an inexcusable
14 murder. So that means the defenses are gone. It's no
15 longer an excusable killing, it's not an inexcusable
16 murder. All right. And you also have the aggravating
17 factors, which maybe -- include the additional killing
18 of a child, or an armed robbery, all of this evidence to
19 your satisfaction is not beyond a reasonable doubt, but
20 for your personal satisfaction, it's pretty much beyond
21 all doubt. At that point can you give meaningful
22 consideration to a life sentence?

23 A Of course.

24 Q Okay.

25 A I mean, you know, as the judge was saying, a death

1 penalty is not required.

2 Q Right.

3 A It's what ---

4 Q I just wondered.

5 A Certainly I can.

6 Q And you have your right to a personal view, you
7 might at that point say otherwise, and I wanted to make
8 certain I understood where you were on that.

9 A Right.

10 MR. ABDALLA: That's fine. I have no further
11 questions. Thank you so much.

12 THE COURT: Ms. Strom. This is Betty Strom. She's
13 the Deputy Solicitor for Bob Ariail, the Solicitor.
14 She's going to ask you a very few questions.

15 MS. STROM: Very few.

16 QUESTIONING BY MS. STROM:

17 Q My understanding is what you basically told the
18 Judge and Mr. Abdalla is that you could be fair to both
19 sides?

20 A I believe I could, yes.

21 Q You could fairly consider the State's request to
22 impose the death penalty, and you could fairly consider
23 the defense's request for life in prison?

24 A Yes, ma'am.

25 Q And you could vote for either penalty if you

1 believe that that were the appropriate sentence?

2 A Correct.

3 MS. STROM: Okay. Thank you.

4 THE COURT: All right. Let me give you this, Mr.
5 Pritchard. You are qualified as a juror in this case.
6 That does not mean you will actually serve as a juror.
7 That simply means you need to be ready to serve. We're
8 going to bring the jury panel back at four o'clock this
9 afternoon and pick the jury. You need to go ahead and
10 pack a suitcase, prepared to stay as a guest of the
11 County for seven or eight days. Pack comfortable
12 clothes would be my suggestion. If you want to wear a
13 tie, that's fine, but you certainly don't have to. Go
14 ahead and pack any kind of medications, any other
15 special needs that you have.

16 When you come back at four o'clock, park in the
17 Hyatt parking garage where you parked on Monday. Is
18 that where you parked on Monday?

19 MR. PRITCHARD: Yes, sir.

20 THE COURT: Okay. It's the municipal parking
21 garage that's connected to the Hyatt.

22 MR. PRITCHARD: Right.

23 THE COURT: Leave your suitcase in your car, come
24 to the Spring Street garage entrance.

25 MR. PRITCHARD: Is that all on here?

1 THE COURT: No, Spring -- well. I don't think so.
2 Let me look. The road that is between the Hyatt and the
3 courthouse is Spring Street.

4 MR. PRITCHARD: Okay.

5 THE COURT: There are two entrances to the garage
6 to the Hyatt. There is one on College Street, up near
7 the entrance to the Hyatt, and there's one on Spring
8 Street. If you come out the Spring Street entrance,
9 there will be deputies there and bailiffs there, and
10 then directly across the street is the garage entrance
11 to the courthouse. I'm bringing the jury in through the
12 garage and up the private corridors, because there are
13 family members and media out in the hallway, and I
14 wanted to keep y'all separate from that. So what I want
15 you to do is leave your suitcase in the car, come to the
16 garage entrance to the courthouse, which is on Spring
17 Street. Then you will be escorted up by the bailiffs.
18 When all the jurors are here, we'll bring you in and
19 we'll pick a jury.

20 If you are selected, then -- let me back up. It
21 would be helpful if you brought someone with you to
22 drive your car back if you are selected. If you don't
23 have someone to bring with you, we'll manage to get your
24 car back to your house or back to the hotel if need be,
25 but it would just be helpful if you could do that. If

1 you bring someone with you, they will not be able to
2 come through the private corridors. They'll have to do
3 what you did on Monday, go to the front courthouse and
4 then they can come up the courtroom 8 on the third
5 floor, and they can watch the jury selection process, if
6 there's enough room in here.

7 Don't talk about this case with anyone. If anyone
8 tries to talk with you, then take their name and give
9 that name to the bailiffs. Don't ready anything in the
10 paper, watch anything on TV about this case.

11 If you need to -- you will not have any contact
12 directly with any family members while you're
13 sequestered. If you need to get a message to them, we
14 can do that. SLED agents or bailiffs can take a
15 message, and a number and a name, and they can make the
16 call for you. There are two emergency numbers on that
17 paper. If someone needs to get in touch with you on an
18 emergency basis only, they can do that through those two
19 numbers. It's not an information hotline, don't -- you
20 know, they won't be able to tell people how long you're
21 going to be sequestered or anything like that, but we
22 can handle any emergencies that come up. Okay? All
23 right. I will see you back at four o'clock.

24 MR. PRITCHARD: Okay. Can I ask a question?

25 THE COURT: Yes, sir.

1 MR. PRITCHARD: If I am not selected today, will I
2 be ---

3 THE COURT: You'll be free to go, that's it. Okay?

4 MR. PRITCHARD: All right.

5 THE COURT: All right. Thank you. See you at
6 4:00.

7 MR. PRITCHARD: Okay.

8 (Mr. Pritchard exited the courtroom.)

9 THE COURT: All right. Anything from y'all? I've
10 got a few things I need to go over. Anything from y'all
11 before ---

12 MS. STROM: Nothing as to that juror.

13 THE COURT: Okay. Yeah, anything to that juror for
14 the record?

15 MS. STROM: No, sir.

16 MR. ABDALLA: Nothing, Your Honor.

17 THE COURT: All right. Anything else before we
18 come back and pick the jury.

19 MR. EPPES: Your Honor?

20 THE COURT: Yes, sir.

21 MR. EPPES: You said we were going to come back
22 about 3:30 to pick the jury?

23 THE COURT: Yeah.

24 MR. EPPES: We've got a -- Your Honor, there's a
25 couple people helping us do that. Could we have a room

1 with Mr. Sigmon at three o'clock to go over that
2 information?

3 THE COURT: What can we do -- Where's Steve? The
4 answer is yes. We've just got to -- they need Mr.
5 Sigmon with them to decide on jury selection, put it up
6 on a board or something like that, decide who they're
7 going to strike. Can we do that in a jury room or ---

8 SERGEANT McCALL: Yeah, we'll work it out.

9 THE COURT: Or how big is that room right there?
10 Is it large enough?

11 MR. EPPES: The conference room right over there?
12 Yeah, I believe it's big enough.

13 THE COURT: Well, I'll let security -- my direction
14 to them is to accomplish that at three o'clock, but will
15 they do it, that's up to them.

16 MR. EPPES: That's fine. We'll just come up here
17 about three o'clock, Your Honor.

18 THE COURT: All right. Anything else? You know,
19 you say about 3:00, I want to be ready to go, I want to
20 be ready to pick this jury at four o'clock.

21 MR. EPPES: At four o'clock, yes, sir.

22 THE COURT: Okay. We're going to strike without
23 the jury at 3:30, but I'm saying we ain't -- we're going
24 to move along.

25 MR. EPPES: We know you're in a hurry, Your Honor.

1 THE COURT: I'm not in a hurry.

2 MR. EPPES: Okay.

3 THE COURT: But we're not going to have this jury
4 sitting around.

5 MR. EPPES: Your Honor, one more issue. Mr. Sigmon
6 has two Bibles in his personal effects that he feels is
7 important to have with him at the trial and at night as
8 he prepares for each day of trial. He's in the red pod
9 right not as a security measure because this is a death
10 penalty trial. I believe this is a special situation
11 where he should be able to have his two Bibles.

12 THE COURT: I will not direct the jail to do
13 anything that violates their policy. I can put in a
14 request if -- you know, but I'm not going to tell them
15 to do anything. I'm not going to tell any security
16 people, or any Department of Corrections, or jail people
17 to do anything that violates their policy.

18 MR. EPPES: Could we at least get them sent over
19 here for the trial?

20 THE COURT: Well ---

21 MR. EPPES: She actually told him they could be
22 subpoenaed and that he could have them back for the
23 duration of the trial.

24 THE COURT: If you want to subpoena them, you can
25 get them up here. I will -- if I can make a call, I --

1 you know, you ---

2 MR. EPPES: Would you call them and check, Your
3 Honor?

4 THE COURT: Okay. You need to give me a name, a
5 number, and you want me to have those ---

6 MR. EPPES: Captain Melton,

7 THE COURT: Who?

8 MR. EPPES: Captain Melton is usually the best
9 person to call.

10 THE COURT: Write it down for me.

11 MR. ABDALLA: I'll write it down.

12 THE COURT: Okay. All right. Anything else? Why
13 can't we just get him a Bible from around here?

14 MR. EPPES: He has notes in his personal Bible,
15 Your Honor.

16 THE COURT: Anything else? All right. When we
17 pick this jury, y'all need to be prepared to be flexible
18 in that we don't know everybody is going to use all
19 their strikes. Most likely you will, but if someone
20 intends to strike number -- juror number 27, then you're
21 not going to reach 27, do you understand what I'm
22 saying, you'll get your jury before you get to 27, so 27
23 would be first person on the -- the first alternate, and
24 you may not be -- and I'll give you time, after we get
25 the main jury, to see who's left and see how you want --

1 you know, give you a couple minutes, and you may not use
2 all your strikes on the first alternate, but what I'm
3 saying is, we're going to go sequentially no matter
4 where we're at. Okay? That's the easy part.

5 The hard part is going to be if I get the jury
6 panel up here and we've lost somebody or we have a
7 fallout as we sometimes do, or you know, somebody's read
8 something about it, you know, and we've already struck,
9 then you know, we're going to have to send the jury back
10 over there, give y'all a few minutes to restrike based
11 on the new set up, but you're going to have to be able
12 to do that pretty quickly. I mean, you're going to know
13 pretty much and that's probably not going to happen, but
14 I'm just telling you, you need to be prepared under the
15 system to be flexible. Any other questions?

16 All right. I'm going to have the two o'clock panel
17 and the four o'clock panel come back at six o'clock,
18 with the six o'clock panel, just in case we need to
19 qualify more people. I don't think that's going to
20 happen, but I'll have that available. All right.
21 Then we will reconvene back in here at 3:30 to blind
22 strike -- when I say blind strike, strike the jury
23 without the jury present, and also -- everybody have a
24 seat, please. And also to handle any Batson motions
25 that we may have. Okay? All right. Thank you very

1 much.

2 Police can transport them up with him, or just give
3 them to him, what am I asking?

4 MR. ABDALLA: Just transfer them back to his pod, I
5 believe.

6 MR. EPPES: You can bring them up here, or you can
7 just allow him to keep them in his pod, either one is
8 fine.

9 MR. ABDALLA: Whatever.

10 THE COURT: Well, if they keep them in his pod,
11 are y'all going to let him bring them up every day, back
12 and forth, does he want one in the courtroom, what
13 is ---

14 SERGEANT MCCALL: We don't care about the Bible,
15 we've got Bible in the cells up here.

16 THE COURT: All right. So my request is to let him
17 have one a Bible in his cell. Okay.

18 MR. EPPES: Thank you, Your Honor.

19 (Court's Exhibit Numbers 2 and 3 were marked and
20 filed.)

21 (A short recess was taken, after which, the trial
22 continued as follows:)

23 THE COURT: Okay. Mr. Abdalla is standing, he must
24 have something.

25 MR. ABDALLA: Of course. Judge, I just have one

1 request and I know initially you're going to reject, but
2 I just wish -- at least hear me out, I need to put it on
3 the record anyway. I'm going to request that we not do
4 a dry strike. I did not understand the implications of
5 the dry strike. I know it's your decision, but what I
6 would request you to do is, in the interest of
7 efficiency, the problem that I see is with a dry strike
8 is if a juror doesn't show up, we have to start all over
9 and restrike. And I was curious to know if we just
10 waited until four o'clock and found out who is here and
11 then did our strike, if we wouldn't, in the long run,
12 possibly save more time. And I would request the
13 Court's indulgence in that.

14 THE COURT: And the idea is that you're giving away
15 some strategy by -- if we have to restrike again?

16 MR. ABDALLA: Both of them, Your Honor. Of course
17 we're giving away strategy, is number one, of course
18 we're giving away strategy, and secondly, that we can --
19 we would end up losing time if we have to restrike, or
20 if we just waited to find out if they're here and did
21 it, I'm sure they're just like we are, ready to go.

22 THE COURT: I guess the only problem is, we keep
23 them waiting if there's any Batson issues. I guess
24 there's not likely to be a Batson issue. What -- I
25 mean, I assume you would use your same strikes, it would

1 just be if somebody didn't show that you had struck, you
2 had -- you would ---

3 MR. ABDALLA: We would have to reshuffle and of
4 course that would change strategy.

5 THE COURT: We're not reshuffling.

6 MR. EPPES: We would have to reshuffle our strikes,
7 Judge.

8 MR. ABDALLA: Yeah, that's what I mean, not
9 reshuffle the jury. Right, that's what I mean by
10 reshuffle, and of course I didn't explain it. We know
11 who's in the 27, and that's what we discussed
12 downstairs. If for some reason one or two jurors don't
13 show, that bumps one or two people that are in alternate
14 stack up there and that might change the way we strike,
15 and of course it would. And I think in the long run, if
16 that were the case, it would actually be quicker to just
17 wait until they're here.

18 THE COURT: It's not quicker if everybody shows up.

19 MR. ABDALLA: No, I understand that. That's the
20 only way we end up losing time is if everybody shows.
21 And if they show up before four o'clock, we're ready to
22 go at a moment's notice.

23 THE COURT: Step out and if see how many are
24 actually here, just give me a number count. Did you
25 show the other side each of these?

1 MS. REESE: Your Honor, I did not.

2 THE COURT: How about just showing them to them?

3 MS. REESE: I will.

4 THE COURT: Would it safe time if I just made the
5 State strike first and not let them strike, and then let
6 them strike last?

7 MR. ARIAIL: It doesn't matter. Let's have at it.

8 THE COURT: All right. We'll wait. Do y'all want
9 to take a little break?

10 MR. ABDALLA: Thank you, Judge.

11 MR. EPPES: Your Honor, can we ---

12 THE COURT: Oh, as to the Bible, I talked to the
13 Captain, and she will not allow it. She had legitimate
14 purposes for not doing that, and I said fine. She said
15 that she's already letting him bathe and shave everyday,
16 which is ---

17 MR. SIGMON: No, she has not.

18 THE COURT: Well, that's what she said. Then y'all
19 need to let her know that's not happening, but -- you
20 know, she'll make some accommodations, but that is not
21 one of them that she'll make.

22 MR. EPPES: Can we have it brought over here? Do
23 we need to subpoena it or ---

24 THE COURT: I didn't ask about it over here. I
25 forgot.

1 MR. EPPES: I will make arrangements for that.

2 I'll talk with the Captain about it. Thank you.

3 THE COURT: Okay.

4 MR. EPPES: Your Honor, Mr. Sigmon wants to change
5 before he sees the jury this afternoon. We're going to
6 try to get clothes brought up here to do that.

7 THE COURT: We're not going to delay. He looks
8 fine. If -- if you can get it accomplished by four
9 o'clock.

10 MR. EPPES: Okay. Can we go back in this room and
11 discuss this some more, Your Honor?

12 THE COURT: That's up to security.

13 MR. EPPES: Thank you, Your Honor.

14 (A short recess was taken, after which, the trial
15 continued as follows:)

16 THE COURT: All right. We have all the jurors but
17 one. He was one that we thought -- we left messages on
18 several machines, but we finally found a number and got
19 him. He's on his way. Since we know he's on his way,
20 we're going to go ahead and start this procedure. Is
21 there anything before we start?

22 MR. ABDALLA: The only thing I'd like to do for the
23 defense is renew all objections we had to any jurors.

24 THE COURT: Okay.

25 MR. ABDALLA: If I wasn't clear, as to

1 qualifications. I can clear that up.

2 THE COURT: All right. Madam Clerk, give us a jury
3 please.

4 THE CLERK: Number 375, Robert A. Wharton. What
5 says the State?

6 MR. ARIAIL: Present him.

7 THE CLERK: What says the defendant?

8 MR. ABDALLA: Seat the juror.

9 THE CLERK: Number 239, Barbara S. Miller. What
10 Says the State?

11 MR. ARIAIL: Present her.

12 THE CLERK: What says the defense?

13 MR. ABDALLA: Strike her.

14 THE CLERK: Number 297, Vivian M. Richardson. What
15 says the State?

16 MR. ARIAIL: Strike her.

17 THE CLERK: Number 54, Rebecca A. Hembree. What
18 says the State?

19 MR. ARIAIL: Present her.

20 THE CLERK: What says the defendant?

21 MR. ABDALLA: Seat the juror.

22 THE CLERK: Number 30, John H. Brailsford. What
23 says the State?

24 MR. ARIAIL: Present him.

25 THE CLERK: What says the defendant?

1 MR. ABDALLA: Strike him.

2 THE CLERK: Number 63, Matthew Childress. What
3 says the State?

4 MR. ARIAIL: Strike him.

5 THE CLERK: Number 238, Christina W. Sullivan.
6 What says the State?

7 MR. ARIAIL: Present her.

8 THE CLERK: What says the defendant?

9 MR. ABDALLA: Seat the juror, please.

10 THE CLERK: Number 261, Sandra L. Norris. What
11 says the State?

12 MR. ARIAIL: Present her.

13 THE CLERK: What says the defendant?

14 MR. ABDALLA: Seat the juror.

15 THE CLERK: Number 214, Denise L. Lindstrom. What
16 says the State?

17 MR. ARIAIL: Present her.

18 THE CLERK: What says the defendant?

19 MR. ABDALLA: Strike her.

20 THE CLERK: Number 189, Douglas L. Johnson. What
21 says the State?

22 MR. ARIAIL: Present him.

23 THE CLERK: What says the defendant?

24 MR. ABDALLA: One moment, please. Please seat the
25 juror.

1 THE COURT: You can sit down, but don't let anybody
2 else in during this process. I'm sorry. The State said
3 present. Who ---

4 MR. ABDALLA: And the defense says to seat him.

5 THE COURT: Okay.

6 THE CLERK: Number 125, Elma H. Gilliam. What says
7 the State?

8 MR. ARIAIL: Present him (sic).

9 THE CLERK: What says the defendant?

10 MR. ABDALLA: Strike her.

11 THE CLERK: 114, Leanne O. Flack. What says the
12 State?

13 MR. ARIAIL: Present her.

14 THE CLERK: What says the defendant?

15 MR. ABDALLA: Seat the juror.

16 THE CLERK: 236, Herman S. McDuffee. What says the
17 State?

18 MR. ARIAIL: Present him.

19 THE CLERK: What says the defendant?

20 MR. ABDALLA: Please seat the juror.

21 THE CLERK: Number 103, Cynthia A. Elmore. What
22 says the State?

23 MR. ARIAIL: Present her.

24 THE CLERK: What says the defendant?

25 MR. ABDALLA: Strike the juror.

1 THE CLERK: 163, Brenda K. Hillman. What says the
2 State?

3 MR. ARIAIL: Present her.

4 THE CLERK: What says the defendant?

5 MR. ABDALLA: Please seat the juror.

6 THE CLERK: 106, Robert D. Evans. What says the
7 State?

8 MR. ARIAIL: Excuse Mr. Evans, please, ma'am.

9 THE CLERK: 148, Leon C. Harmon. What says the
10 State?

11 MR. ARIAIL: Present him.

12 THE CLERK: What says the defendant?

13 MR. ABDALLA: Strike the juror.

14 THE CLERK: 317, Phillip W. Shoopman. What says
15 the State?

16 MR. ARIAIL: Present him.

17 THE CLERK: What says the defendant?

18 MR. ABDALLA: Strike the juror.

19 THE CLERK: 233, Tracy N. McCarthy. What says the
20 State?

21 MR. ARIAIL: Present him.

22 THE CLERK: What says the defendant?

23 MR. ABDALLA: Seat the juror.

24 THE CLERK: 52, Garven P. Cannon. What says the
25 State?

1 MR. ARIAIL: Present him.

2 THE CLERK: What says the defendant?

3 MR. ABDALLA: Strike the juror, please.

4 THE CLERK: 282, John D. Powell. What says the
5 State?

6 MR. ARIAIL: Present him.

7 THE CLERK: What says the defendant?

8 MR. ABDALLA: Seat the juror, please.

9 THE CLERK: 46, Judith K. Byrd. What says the
10 State?

11 MR. ARIAIL: Excuse Ms. Byrd.

12 THE CLERK: 149, John M. Harris. What says the
13 State?

14 MR. ARIAIL: Present him.

15 THE COURT: What says the defendant?

16 MR. ABDALLA: Strike the juror, please.

17 THE CLERK: 165, Robert W. Holland. What says the
18 State?

19 MR. ARIAIL: Present him.

20 THE CLERK: What says the defendant?

21 MR. ABDALLA: Strike the juror, please.

22 THE COURT: That's it for y'all's strikes. We have
23 nine seated, is that correct?

24 THE CLERK: Ten.

25 MR. ABDALLA: Ten.

1 THE COURT: Okay. Go ahead.

2 THE CLERK: 357, Nathan A. Turner. What says the
3 State?

4 MR. ARIAIL: Present him.

5 THE CLERK: What says the defendant?

6 MR. ABDALLA: Seat the juror.

7 THE CLERK: 54, Mary D. Myers. What says the
8 State?

9 MR. ARIAIL: Excuse Ms. Myers.

10 THE CLERK: 342, William H. Thames, Jr. What says
11 the State?

12 MR. ARIAIL: Present him.

13 THE CLERK: What says the defendant?

14 MR. ABDALLA: Seat the juror, please.

15 THE COURT: That's 12?

16 THE CLERK: Um-hm, yes, sir.

17 THE COURT: All right. Starting with number 28,
18 for the alternate. One strike for the State, two for
19 the defense.

20 THE CLERK: Number 57, Sandra H. Carver. What says
21 the State?

22 MR. ARIAIL: Present her.

23 THE CLERK: What says the defendant?

24 MR. ABDALLA: Carver?

25 THE CLERK: Carver, Sandra H. Carver.

1 MR. ABDALLA: Strike the juror, please.

2 THE CLERK: Number 168, Nora Ruiz Horne. What says
3 the State?

4 MR. ARIAIL: Excuse her in this case, please,
5 ma'am.

6 THE CLERK: Number 29, Janet M. Braeckelaere. What
7 says the State?

8 MR. ARIAIL: Present her.

9 THE CLERK: What says the defendant?

10 MR. ABDALLA: Seat the juror, please.

11 THE COURT: All right. Beginning with number 31,
12 for the second alternate.

13 THE CLERK: Number 76, Betty C. Cox. What says the
14 State?

15 MR. ARIAIL: Present her.

16 THE CLERK: What says the defendant.

17 MR. ABDALLA: Strike her.

18 THE CLERK: Number 66, Betty J. Clark. What says
19 the State?

20 MR. ARIAIL: Present her.

21 THE CLERK: What says the defendant?

22 MR. ABDALLA: Present her.

23 THE COURT: All right. Let's go ahead and get a
24 third alternate with number 33.

25 THE CLERK: Number 263, Michael V. O'Connell. What

1 says the State?

2 THE COURT: Y'all need a minute.

3 MR. ABDALLA: Yes, one moment.

4 THE COURT: They do.

5 MR. MAULDIN: We apologize, because we only knew
6 that you were going to go through two, but we can come
7 up with three, if would just give us a second, Your
8 Honor.

9 THE COURT: No problem.

10 MR. EPPES: We're ready, Your Honor.

11 THE CLERK: 263, Michael V. O'Connell. What says
12 the State?

13 MR. ARIAIL: Present him.

14 THE CLERK: What says the defendant?

15 MR. ABDALLA: Seat the juror, please.

16 THE COURT: All right. Is there anything with
17 regard to the method of selecting this jury, from the
18 State?

19 MR. ARIAIL: No, Your Honor.

20 THE COURT: Anything regarding the method of
21 selecting this jury from the defense?

22 MR. ABDALLA: One moment, please, Your Honor.
23 Other than the renewal of our challenges with regard to
24 the jurors. We have no Batson matters, just with
25 qualifications, but no Batson issue.

1 THE COURT: Okay. All right. Step out and see if
2 Brailsford is here, please.

3 MR. EPPE: Your Honor, can we ask the clerk to
4 verify the jurors, before you call the jury, to make
5 sure everybody is in agreement.

6 THE COURT: Hold on a second. Say that again?

7 MR. EPPE: Just read off the 12 jurors to make
8 sure all our lists jive.

9 THE COURT: All right. That's fine. Go ahead.

10 THE CLERK: Do you want the numbers too?

11 THE COURT: Either way.

12 MR. ABDALLA: Either way.

13 THE CLERK: All right. Robert A. Wharton, Rebecca
14 Hembree, Christina Sullivan, Sandra Norris ---

15 THE COURT: Slow. Go ahead.

16 THE CLERK: Douglas Johnson, Leanne Flack, Herman
17 McDuffee, Brenda Hillman, Tracy McCarthy, John Powell,
18 Nathan Turner, William Thames, Jr., Janet M.
19 Braeckelaere as alternate number one. Alternate number
20 two is Betty J. Clark, and alternate number three is
21 Michael V. O'Connell.

22 THE COURT: Is that correct?

23 MR. ABDALLA: That's what we've got.

24 THE COURT: All right. Now, Mr. Brailsford is
25 still not here. He's on his way. I think it would be

1 best to wait until he got here, because otherwise y'all
2 be striking a juror that's not here and he wouldn't be
3 here to stand up. So let's take a short break, wait for
4 him to get here, and then we'll bring the jury in.
5 Okay.

6 (A short recess was taken, after which, the trial
7 continued as follows:)

8 MR. ARIAIL: Judge, can I point ou that Mr. Mauldin
9 is up at the table again.

10 THE COURT: Not during the jury selection, he's not
11 going to be.

12 MR. ARIAIL: I just want to make sure, since he
13 hasn't been introduced.

14 MR. ABDALLA: Actually we were rectifying that as
15 he was speaking.

16 THE COURT: Is there anything before we bring the
17 jury in to strike them?

18 MR. ARIAIL: Nothing from the State.

19 MR. ABDALLA: Nothing from the defense.

20 THE COURT: Do you know who you're going to strike?
21 I can call the roll and have them stand just so you can
22 look at them? I mean it's not going change your
23 strikes. Does that need to be done? Okay. Then I'm
24 going to have them stand just like they would in a
25 normal case and we're going to proceed. All right. I

1 need to make that hallway as completely cleared all the
2 way down to six, and any press that's out there needs to
3 be behind the screen. Okay. Nobody in the hallway
4 except the jurors you're bringing in and the bailiffs.
5 Okay? Bring me the jury.

6 MR. ABDALLA: Judge, are you going to have them
7 walk up here? All right. I didn't understand.

8 THE COURT: I mean, do you want them to?

9 MR. ABDALLA: I just -- it doesn't matter.
10 Whatever the preference is, I just wasn't familiar with
11 the way ---

12 THE COURT: If we hadn't already struck, generally
13 what I would do is go ahead and just call the roll and
14 have them stand so you can look at them one last time to
15 make sure you've connected your information to a face,
16 but that's not necessary this time.

17 MR. ARIAIL: You're going to have them stand back
18 here.

19 THE COURT: What?

20 MR. ARIAIL: You're going to have them stand back
21 here.

22 MR. ABDALLA: Judge, are you going to swear the
23 jury tonight?

24 THE COURT: Shhh.

25 MR. ABDALLA: Oh, I'm sorry.

1 (The jury entered the courtroom at 4:50 p.m.)

2 THE COURT: All right. Ladies and gentlemen of the
3 jury panel, let me thank you for your patience. Not
4 only in the recent wait but also for the last three
5 days. We are now going to strike a jury in this case.
6 When your name is called, if you would please stand
7 where you are. Some courthouses you come forward and
8 stand and face the attorneys, but I will just have you
9 stand in place. The State will have the opportunity to
10 either accept you or strike you. The defense will then
11 have an opportunity to accept you or strike you. The
12 State gets five strikes. The defense gets 10 strikes.
13 There is no science to picking a jury. Don't be
14 offended if you are not selected. We'll then proceed
15 and pick two or three alternates, depending on if we
16 have enough jurors. Again, when your name is called,
17 stand. If you are selected, then go ahead and bring any
18 personal belongings up with you, your pocket books,
19 anything like that. Are you ready? All right.

20 THE CLERK: Number 375, Robert A. Wharton. What
21 says the State?

22 MR. ARIAIL: Present him.

23 THE CLERK: What says the defendant?

24 MR. ABDALLA: Swear the juror.

25 THE CLERK: Come forward, please, sir, and have a

1 seat in the jury box. Number 239, Barbara S. Miller.

2 What says the State?

3 MR. ARIAIL: Present Ms. Miller.

4 THE CLERK: What says the defense?

5 MR. ABDALLA: Strike Ms. Miller.

6 THE CLERK: You may be excused in this case.

7 Number 297, Vivian M. Richardson. What says the State?

8 MR. ARIAIL: Please excuse Ms. Richardson in this
9 case, please, ma'am.

10 THE CLERK: You may be excused in this case.

11 Number 154, Rebecca A. Hembree. What says the State?

12 MR. ARIAIL: Present Ms. Hembree.

13 THE CLERK: What says the defendant?

14 MR. ABDALLA: Please swear Ms. Hembree.

15 THE CLERK: Come forward, please, ma'am, and have a
16 seat in the jury box. Number 30, John H. Brailsford.

17 What says the State?

18 MR. ARIAIL: Present Mr. Brailsford.

19 THE CLERK: What says the defendant?

20 MR. ABDALLA: Please excuse Mr. Brailsford.

21 THE CLERK: You may be excused in this case.

22 Number 63, Matthew Childress. What says the State?

23 MR. ARIAIL: Excuse Mr. Childress, please, ma'am.

24 THE CLERK: You may be excused in this case.

25 Number 238, Christina W. Sullivan. What says the State?

1 MR. ARIAIL: Present Ms. Sullivan.

2 THE CLERK: What says the defendant?

3 MR. ABDALLA: Please swear Ms. Sullivan.

4 THE CLERK: Come forward, please, ma'am, and take a
5 seat in the jury box. Number 261, Sandra L. Norris.

6 What says the State?

7 MR. ARIAIL: Present Ms. Norris.

8 THE CLERK: What says the defendant?

9 MR. ABDALLA: Please swear Ms. Norris.

10 THE CLERK: Come forward, please, ma'am, and take a
11 seat in the jury box. Number 214, Denise L. Lindstrom.

12 What says the State?

13 MR. ARIAIL: Present Ms. Lindstrom.

14 THE CLERK: What says the defendant?

15 MR. ABDALLA: Excuse Ms. Lindstrom.

16 THE CLERK: You may be excused in this case.

17 Number 189, Douglas L. Johnson. What says the State?

18 MR. ARIAIL: Present Mr. Johnson.

19 THE CLERK: What says the defendant?

20 MR. ABDALLA: Please swear Mr. Johnson.

21 THE COURT: Come forward, please, sir, and have a
22 seat in the jury box. Number 125, Elma H. Gilliam.

23 What says the State?

24 MR. ARIAIL: Present Ms. Gilliam.

25 THE CLERK: What says the defendant?

1 MR. ABDALLA: Please excuse Ms. Gilliam.

2 THE CLERK: You may be excused in this case.

3 Number 114, Leanne O. Flack. What says the State?

4 MR. ARIAIL: Present Ms. Flack.

5 THE CLERK: What says the defendant?

6 MR. ABDALLA: Please swear Ms. Flack.

7 THE CLERK: Come forward, please, ma'am. Number

8 236, Herman S. McDuffee. What says the State?

9 MR. ARIAIL: Present Mr. McDuffee.

10 THE CLERK: What says the defendant?

11 MR. ABDALLA: Please swear Mr. McDuffee.

12 THE CLERK: Come forward, please, sir, and have a
13 seat in the jury box. Number 103, Cynthia A. Elmore.
14 What says the State?

15 MR. ARIAIL: Present Ms. Elmore.

16 THE CLERK: What says the defendant?

17 MR. ABDALLA: Excuse Ms. Elmore.

18 THE CLERK: You may be excused in this case.

19 Number 163, Brenda K. Hillman. What says the State?

20 MR. ARIAIL: Present Ms. Hillman.

21 THE CLERK: What says the defendant?

22 MR. ABDALLA: Please swear Ms. Hillman.

23 THE CLERK: Come forward, please, ma'am. Number
24 106, Robert D. Evans. What says the State?

25 MR. ARIAIL: Excuse Mr. Evans in this case, please,

1 ma'am.

2 THE CLERK: You may be excused in this case.

3 Number 148, Leon C. Harmon. What says the State?

4 MR. ARIAIL: Present Mr. Harmon.

5 THE CLERK: What says the defendant?

6 MR. ABDALLA: Please excuse Mr. Harmon.

7 THE CLERK: You may be excused in this case.

8 Number 317, Phillip W. Shoopman. What says the State?

9 MR. ARIAIL: Present Mr. Shoopman.

10 THE CLERK: What says the defendant?

11 MR. ABDALLA: Excuse Mr. Shoopman.

12 THE CLERK: You may be excused in this case.

13 Number 233, Tracy N. McCarthy. What says the State?

14 MR. ARIAIL: Present Mr. McCarthy.

15 THE CLERK: What says the defendant?

16 MR. ABDALLA: Please swear Mr. McCarthy.

17 THE CLERK: Come forward, please, sir, and have a

18 seat in the jury box. Number 52, Garven P. Cannon.

19 What says the State?

20 MR. ARIAIL: Present Mr. Cannon.

21 THE CLERK: What says the defendant?

22 MR. ABDALLA: Please excuse Mr. Cannon.

23 THE CLERK: You may be excused in this case.

24 Number 282, John D. Powell. What says the State?

25 MR. ARIAIL: Present Mr. Powell.

1 THE CLERK: What says the defendant?

2 MR. ABDALLA: Please swear Mr. Powell.

3 THE CLERK: Come forward, please, sir, and have a
4 seat in the jury box. Number 46, Judith K. Byrd. What
5 says the State?

6 MR. ARIAIL: Excuse Ms. Byrd in this case, please,
7 ma'am.

8 THE CLERK: You may be excused in this case.
9 Number 149, John M. Harris. What says the State?

10 MR. ARIAIL: Present Mr. Harris.

11 THE COURT: What says the defendant?

12 MR. ABDALLA: Please excuse Mr. Harris.

13 THE CLERK: You may be excused in this case.
14 Number 165, Robert W. Holland. What says the State?

15 MR. ARIAIL: Present Mr. Holland.

16 THE CLERK: What says the defendant?

17 MR. ABDALLA: Please excuse Mr. Holland.

18 THE CLERK: You may be excused in this case.
19 Number 357, Nathan A. Turner. What says the State?

20 MR. ARIAIL: Present Mr. Turner.

21 THE CLERK: What says the defendant?

22 MR. ABDALLA: Please swear Mr. Turner.

23 THE CLERK: Come forward, please, sir, and have a
24 seat in the jury box. Number 54, Mary D. Myers. What
25 says the State?

1 MR. ARIAIL: Please excuse Ms. Myers in this case.

2 THE CLERK: You may be excused in this case.

3 Number 342, William H. Thames, Jr. What says the State?

4 MR. ARIAIL: Present Mr. Thames.

5 THE CLERK: What says the defendant?

6 MR. ABDALLA: Please swear Mr. Thames.

7 THE CLERK: Come forward, please, sir, and take a
8 seat in the jury box.

9 THE COURT: All right. Gentlemen, starting with
10 number 28 on our list for the first alternate.

11 THE CLERK: Number 57, Sandra H. Cruise.

12 THE COURT: Carver.

13 THE CLERK: Carver, I'm sorry. What says the
14 State?

15 MR. ARIAIL: Present Ms. Carver.

16 THE CLERK: What says the defendant?

17 MR. ABDALLA: Please excuse Ms. Carver.

18 THE CLERK: You may be excused in this case.

19 Number 168, Nora Ruiz Horne. What says the State?

20 MR. ARIAIL: Please excuse Ms. Horne in this case.

21 THE CLERK: You may be excused in this case.

22 Number 29, Janet M. Braeckelaere. What says the State?

23 MR. ARIAIL: Present Ms. Braeckelaere.

24 THE CLERK: What says the defendant?

25 MR. ABDALLA: Please swear Ms. Braeckelaere.

1 THE COURT: Come forward, please, ma'am, you'll be
2 an alternate in the case.

3 THE COURT: All right. Starting with number 31 on
4 our list for the second alternate.

5 THE CLERK: Number 76, Betty C. Cox. What says the
6 State?

7 MR. ARIAIL: Present Ms. Cox.

8 THE CLERK: What says the defendant.

9 MR. ABDALLA: Please excuse Ms. Cox.

10 THE CLERK: You may be excused in this case.

11 Number 66, Betty J. Clark. What says the State?

12 MR. ARIAIL: Present Ms. Clark.

13 THE CLERK: What says the defendant?

14 MR. ABDALLA: Please swear Ms. Clark.

15 THE CLERK: Come forward, please, ma'am, you'll be
16 an alternate in the case.

17 THE COURT: All right. Starting with number 33 on
18 our list, the next alternate.

19 THE CLERK: Number 263, Michael V. O'Connell. What
20 says the State?

21 MR. ARIAIL: Present Mr. O'Connell.

22 THE CLERK: What says the defendant?

23 MR. ABDALLA: Please swear Mr. O'Connell.

24 THE CLERK: Come forward, please, sir, you'll be an
25 alternate in the case.

1 THE COURT: All right. Before I dismiss the
2 balance of this panel, again, is there anything from the
3 State, yes or no, with regard to the selection of this
4 jury?

5 MR. ARIAIL: No, Your Honor.

6 THE COURT: From the defense?

7 MR. ABDALLA: Nothing from the defense, Your Honor.

8 THE COURT: Okay. Let me start with the balance of
9 the panel, and again, thank you for your patience. This
10 concludes your service for this week. By law you're not
11 allowed to serve on jury duty again this year, and you
12 now have an exemption for 2003 and 2004. If you're
13 called to jury duty in this courthouse, you can tell
14 Madam Clerk you've done your duty and you won't have to
15 return. You are free to go at this time. What you will
16 need to do is exit the front of the courthouse, and go
17 around to the Hyatt parking garage through the front
18 doors of the courthouse. Thank you very much.

19 (The jury panel left at 5:05 p.m.)

20 THE COURT: All right. Now, Mr. Thames, I'm going
21 to ask that you be the foreperson of this jury. You do
22 not need to move at this point, but during the course of
23 this trial, just so I can keep track of everyone, if you
24 would assume the first seat on the front row on this
25 end. My alternates are Ms. Braeckelaere and Ms. Clark

1 and Mr. O'Connell. Y'all need to keep those three
2 seats. I don't care who sits in what seat, that doesn't
3 matter, but if y'all would just, when you came in, it
4 probably would be best if Mr. Thames was the 7th person
5 that comes in. You will not have a chair that's affixed
6 to the -- is not a permanent fixture, and then you three
7 would be the last three that comes in. Everybody just
8 fill in the front row and then fill the second row, that
9 way I can keep track of everyone.

10 All right. If you would, go out and get my SLED
11 agents, please, and my bailiffs. Mr. Lynch, if you will
12 come up also. I need the SLED agents also.

13 (The bailiffs and the SLED agents entered the
14 courtroom.)

15 THE COURT: Okay. If y'all would, just move over
16 this way, I'll introduce you to the jury when the time
17 comes. Where's Captain Merck? Come on in, folks. If
18 y'all you would come over here.

19 All right. If the bailiffs and the SLED agents
20 would raise their right hand, Madam Clerk is going to
21 administer your oath to you.

22 (The bailiffs and the SLED agents were duly sworn
23 to keep the jurors sworn, and to suffer no one to
24 speak to them, or either speak to them yourselves
25 about this case at 5:07 p.m.)

1 THE COURT: All right. Now, ladies and gentlemen
2 of the jury, let me introduce you to your keepers for
3 the next few days. I'm going to start with the SLED
4 agents. These ladies and gentlemen are going to be your
5 main keepers at night and will be with you at the hotel.
6 They will take you to breakfast and dinner each night.
7 The head of the detail is Rick McCloud. Mr. McCloud.
8 Also Buck Cockerel (phonetically) is with us. You don't
9 need to remember these names but I'm just going to
10 start. Frank Thomas is with us. Dorothy Meeks, Ms.
11 Meeks. Jim Rogers, and Dean McGaha (phonetically).
12 Thank you. And the bailiffs that will be handling you
13 generally during the day are Doris Daily. You probably
14 already met some of them. Ben Jenkinson, Captain Merck,
15 if you would raise your hand, also David Lynch, and Mr.
16 Bond also.

17 Now, these people have taken an oath not to -- to
18 take care of you and to make sure that no one talks to
19 you and that includes not talking to you about this
20 case. They can talk to you but just not about the case.
21 All right. Y'all can leave at this time.

22 (The bailiffs and SLED agents exited the
23 courtroom.)

24 THE COURT: Now, ladies and gentlemen the next
25 order of business is to administer your oath. The

1 proper response to that oath is, I will. If you would
2 please stand and raise your right hand, Ms. Morris will
3 administer your oath.

4 (The jury was sworn to well and truly try this case
5 at 5:09 p.m.)

6 THE COURT: All right. Thank you. Have a seat.
7 Now, ladies and gentlemen, we're going to break for the
8 evening in just a minute. I was hoping we could get a
9 little bit of testimony in, but there's a little bit of
10 time that's going to necessitate getting your luggage
11 from your cars and getting to you to the motel and
12 getting you settled in. Ms. Flack, you don't have your
13 clothes, is that correct? Okay. That's fine. What
14 we'll do probably is go to hotel and then one of the
15 agents will drive you to your home and let you pack and
16 get your luggage and things. Does everybody else --
17 anybody else have that problem? Everybody's got
18 everything they need? Yes, ma'am.

19 A JUROR: I have my daughter's carseat in my car.

20 THE COURT: Okay. We'll handle any problems like
21 that. Believe me, these agents are used to this type of
22 duty, and that will not be a problem. Let me thank you
23 in advance for your service. This is a different type
24 of case and it is an inconvenience to you. It is
25 disruptive to your home lives and your business lives,

1 but I hope you appreciate the seriousness of the task
2 you're undertaking and you appreciate the fact that we
3 do have to sequester you. Of course everything will be
4 on Greenville County, your hotel, your meals.

5 We cannot provide any alcohol. If you are a person
6 who is used to having a toddy with dinner or after
7 dinner, that's fine. I will limit it to two, that's
8 just my personal rule, if you want it, but you would
9 have to pay for it out of your own pocket, and that's
10 totally up to you.

11 You'll find that you're going to be put in a suite
12 hotel, so you'll have plenty of room to move around.
13 You will find the telephones are disconnected and your
14 TVs are not in there. There is a large common room that
15 you will be able to gather in and there is a TV in
16 there, but there will be a SLED agent, that if something
17 comes on, he'll cut the TV off, if the news is on or
18 something like that. They have some rules and they
19 might even have some pamphlets and stuff that they'll
20 tell you. It's -- we'll make it as convenient as we
21 possibly can for you.

22 I wanted to go ahead and get this accomplished
23 today, get you settled in. We're going to start
24 promptly at nine o'clock. Do you not talk about this
25 case among yourselves. Obviously you're going to be

1 living together, get to know each other, but do not talk
2 about the case.

3 The reason we tell you that is sometimes if someone
4 starts talking about something, they may subconsciously
5 start forming opinions about those matters and that
6 would not be fair until you've heard all the evidence in
7 the case and until you've heard my charge on the law. So
8 my instructions are, don't talk to you anyone. The SLED
9 agents won't talk to you about the case, don't talk
10 about it amongst yourselves.

11 All right. With that, I'm going to send you back
12 to your jury room. They're probably going to have to
13 take you over to the Hyatt three or four at a time to
14 get your luggage. Does anybody have family members here
15 to drive their cars home? Everybody else's car is in
16 the Hyatt. Okay. And they'll decide if they want to
17 arrange for you to take your car to the hotel or take it
18 home or leave it in the Hyatt. It's really sort of up
19 to you, but we'll try to get all that accomplished
20 tonight. All right. If you would follow Doris, she'll
21 take you to your jury room. I'll see you in the
22 morning.

23 (The jury exited the courtroom at 5:12.)

24 THE COURT: Mr. Eppes, I looked at your charge for
25 the first time. I want to tinker with it. I didn't

1 like it, but I'm going to tell them something tomorrow
2 about other agents from SLED testifying.

3 MR. EPPES: That's fine.

4 THE COURT: I just wanted to let you know I hadn't
5 forgotten about you. Anything else we need to
6 accomplish tonight. Are y'all going to -- are you going
7 to go ahead and set up the projector and what y'all need
8 tonight so we'll be ready to go in the morning?

9 MR. ARIAIL: Yes, sir.

10 THE COURT: All right. Do you need more access to
11 your client tonight or are y'all ready to go? There was
12 an issue of the tape and being able to see that. Have
13 y'all ---

14 MR. EPPES: He's watching it during breaks and I
15 think that's worked out okay. It will be fine.

16 THE COURT: Okay.

17 MR. EPPES: Your Honor, if it's possible, our
18 investigator would like to talk to Brad here for 20
19 minutes before he goes back to prison.

20 THE COURT: We'll accomplish that. Okay. All
21 right. Anything else? And you got a great
22 investigator, I just want to put that on the record.

23 MR. ARIAIL: May we move this podium?

24 THE COURT: No, let's -- let do this. I have
25 marked -- let's go ahead and do the jury stuff on the

1 record. I have marked the two things that were given to
2 the juries as Court's Exhibits, the things that were
3 given to them on Monday morning, my letter and the
4 witness list. We need to go ahead and put into the
5 record all the juror returns and we need to put into the
6 record the nine people that didn't show and the -- what
7 happened to them. So go ahead. What do you want to put
8 in first?

9 MS. PLUMLEY: Okay. The ones that didn't show.

10 THE COURT: All right.

11 MS. PLUMLEY: You just want their name and then
12 what happened?

13 THE COURT: Tell me the names and ---

14 MS. PLUMLEY: Number 26, Alice Bonner. She was
15 transferred to the afternoon panel and served.

16 THE COURT: That's because she showed up late?

17 MS. PLUMLEY: Showed up late.

18 THE COURT: Okay.

19 MS. PLUMLEY: Was a no show.

20 THE COURT: We transferred her to the two o'clock
21 panel.

22 MS. PLUMLEY: Juror number 75, Larry Cowlah, did
23 not show up, showed up late. And he served on the two
24 o'clock panel this week.

25 THE COURT: Okay.

1 MS. PLUMLEY: Juror number 112, did not show up,
2 left several messages. He did call back, works third
3 shift. He has been transferred to the September panel.

4 THE COURT: He didn't even show up by two o'clock.
5 Okay.

6 MS. PLUMLEY: Juror number 137, David Hall, showed
7 up late, did bring a doctor's note. Was excused.

8 THE COURT: And he's the one that had said
9 something about a doctor's note before.

10 MS. PLUMLEY: Had a kidney stone.

11 THE COURT: That's right. Had a kidney stone.

12 MS. PLUMLEY: Juror number 171, did not show. I
13 did get in touch with her. She has several small
14 children, did not have a sitter, asked to be transferred
15 and ---

16 THE COURT: And I told you to get an affidavit from
17 her. Did she sign the affidavit?

18 MS. PLUMLEY: No, that was another one.

19 THE COURT: Okay. Well, she'll have to sign an
20 affidavit if she hasn't.

21 MS. PLUMLEY: Okay. Juror number 273, Duane Pike.
22 Did not show, got in touch with, left messages. He's
23 been transferred to the September panel.

24 THE COURT: Okay.

25 MS. PLUMLEY: Juror number 319, did not show, got

1 in touch with her. She stated that she didn't have
2 transportation and had sent it in before and you excused
3 her.

4 THE COURT: Okay.

5 MS. PLUMLEY: Juror 331, did show later that
6 evening, and she did sit downstairs for a while. It's
7 Debra Stenhouse. She's been transferred to the
8 September panel. Juror 348, Vickie Thompson, did not
9 show, said she sent in a doctor's note, and she has been
10 excused.

11 THE COURT: Okay. She says she sent one in, and
12 you said you hadn't got it?

13 MS. PLUMLEY: Right, I didn't get it.

14 THE COURT: But you told her to go ahead and send
15 it again.

16 MS. PLUMLEY: Those are the no shows.

17 THE COURT: Right. Okay. All right. Anything
18 else?

19 MS. PLUMLEY: Then I have all the ones that were
20 excused, the reports to -- packaged up for the court
21 reporter.

22 THE COURT: All right. We'll make those a part
23 of the record. Anything else before we go for the
24 evening?

25 MS. PLUMLEY: I just need you to sign that. That's

1 it for me.

2 THE COURT: All right. Nine o'clock in the
3 morning.

4 MR. ABDALLA: Thank you, Your Honor.

5 MR. EPPES: Your Honor, Mr. Sigmon has ---

6 THE COURT: This -- this happens every night. When
7 I say anything else, you got to let me know before
8 people start standing. Everybody have a seat. We're
9 still in court.

10 MR. EPPES: Hasn't had a shower and shave in the
11 last three days.

12 THE COURT: All right. Give him a shower and
13 shave. If there's a problem I'll call the jail.

14 MR. EPPES: Thank you, Your Honor.

15 THE COURT: Anything else?

16 MR. ARIAIL: We have this order that apparently we
17 have a disagreement about, about the production. Why
18 don't we submit it to you. You don't have to decide it
19 now. Just let us know in the morning.

20 THE COURT: Is that on the medical records or ---

21 MR. ARIAIL: The medical records and the opinions
22 of the experts.

23 MR. EPPES: Medical records we have an agreement
24 on, Your Honor. It's not a problem.

25 MR. ARIAIL: All right. Well, let me have it.

1 I'm going to handle it right now.

2 MR. ARIAIL: The draft was that of the State. The
3 blue markings are that of Mr. Eppes.

4 THE COURT: Well, I can't even read what you wrote. --

5 MR. EPPES: Your Honor, my concern is two --
6 two-fold. Number one, they asked that all data to be
7 included in the report. I don't think that's a
8 requirement, or is possible. The data includes all the
9 records of Mr. Sigmon that have been done. I believe if
10 we have identified the records that should be -- data,
11 that should be sufficient. Secondly, they asked for all
12 underlying assumptions. Your Honor, I just think all
13 underlying assumptions ---

14 THE COURT: I agree. Print out another copy of
15 this, I will edit it myself. We'll do it in the
16 morning. Have it for me at nine o'clock. What else?
17 Don't -- this is the last chance. Don't start talking
18 after the court reporter gets up.

19 MR. ARIAIL: We'll move -- the equipment will be
20 here, and I'm just saying it's going to be a little
21 tight in there with the podium.

22 THE COURT: Well, what's wrong with turning the
23 podium to the -- you don't intend to use the podium ever
24 at all?

25 MR. ARIAIL: No, sir, nope.

1 THE COURT: Are you -- we're going to move it back
2 there, I thought.

3 MR. ARIAIL: Move it back there.

4 THE COURT: All right. Do you need the podium for
5 opening statements?

6 MR. ABDALLA: No, sir.

7 MR. ARIAIL: No, sir.

8 THE COURT: All right. Nobody is going to put any
9 notes on that table during opening statements. If you
10 want to do it without notes, that's fine. You can hold
11 them in your hands or you can use the podium.

12 MR. ABDALLA: I don't want the podium.

13 MR. ARIAIL: If I lay them on the table accidentally,
14 you're not to put me in jail tomorrow, are you?

15 THE COURT: Yes, sir, I am. I'm going to -- you
16 know.

17 MR. ARIAIL: I'm telling you, I'm libel to lay them
18 down. It's a life long habit talking from that table,
19 and I will try. I'll do my best, I hope. Maybe I'll
20 print it out on index cards.

21 THE COURT: I just don't want them reading guilty
22 as sin upside down or something like that.

23 MR. ARIAIL: Well, no, it won't be ---

24 THE COURT: That's why I want the podium there, and
25 that's why I want the podium back there. I don't want

1 any notes on the table or on the rail. Every time
2 somebody puts something on the table or the rail, you
3 got two or three jurors not paying attention to anything
4 but trying to read upside down.

5 MR. ABDALLA: And I'm going to use the podium them.

6 THE COURT: All right. We're going to leave the
7 podium there. You can stand beside it or use it. We'll
8 take a break and move it back during -- when the trial
9 starts. You can turn -- we'll turn it around.

10 MR. ARIAIL: All right. Can we move the table and
11 then put the podium up a little closer. We can slide
12 the table down to that end.

13 THE COURT: There's no need to move the table. We
14 don't need to start moving furniture in here. We can
15 turn the podium and you can stand next to it, and you'll
16 be just as close as if the table is there. All right.
17 Now, before I go off the record, is there anything else
18 from anybody?

19 A DEPUTY: The six o'clock jurors are starting to
20 come in downstairs.

21 THE COURT: Okay. We're going to need to put them
22 in courtroom 7, and when they get here I'll talk to
23 them.

24 A DEPUTY: All right, sir.

25 THE COURT: Actually, I don't need to talk to them.

1 You can just turn them around as they come in. Make
2 sure you check them off so -- okay.

3 MS. PLUMLEY: The ones for tomorrow, in the
4 message, I can release them?

5 THE COURT: Right. All right. Okay. Anything
6 else? All right. We're at ease until nine o'clock.

7 (Court's Exhibit Numbers 4 through 14 were marked
8 and filed.)

9 (Court recessed for the evening.)
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1 (The following proceedings were held on July 18th,
2 2002, as follows:)

3 THE COURT: Yes, sir.

4 MR. EPPES: Your Honor, as an initial matter, we
5 had problems against last night with Detention Center
6 about the shower and shave. I've got an order prepared,
7 I'd like for you to sign it. I've showed it to the
8 Solicitor. And I would like to hand up to the Court.

9 THE COURT: All right.

10 MR. ARIAIL: Your Honor, the only thing I would
11 point out, I don't represent the Detention Center,
12 obviously, unless they've got some good reason I don't
13 know about, but maybe we ought to check with them before
14 we order them to do something.

15 THE COURT: I'll call the Captain. I'll amend that
16 order, instead of holding them in contempt. What else?

17 MR. EPPES: Your Honor, we have a couple in limine
18 motions we'd like to bring to the Court's attention.

19 THE COURT: All right.

20 MR. EPPES: First of all, we have a motion in
21 limine concerning the potential testimony of Selena
22 Riddle. Your Honor, Selena Riddle is a process server,
23 who served a notice of eviction on Mr. Sigmon. And --
24 and we believe that the Solicitor seeks to introduce
25 certain hearsay testimony from the victims in the case

1 through this witness, and we'd like to exclude -- we'd
2 like to preliminarily move to exclude that. I would
3 like a hearing or voir dire on the witness prior to her
4 testimony to insure that hearsay evidence will not come
5 in.

6 THE COURT: All right. The witness' name is?

7 MR. EPPES: Selena Riddle.

8 THE COURT: Selena Riddle. Is she a real witness?
9 I mean, is she ---

10 MS. STROM: Yes, sir.

11 THE COURT: Do you intend to call her?

12 MS. STROM: Yes, sir.

13 THE COURT: All right. And you think she is going
14 to testify as to hearsay testimony concerning Mr. And
15 Mrs. Larke, what they said?

16 MR. EPPES: Yes, sir. In her statement, Ms. Riddle
17 stated that Mr. Larke expressed to her a fear for his
18 life in concern with the service of the trespass notice
19 to Mr. Sigmon, and we believe the State is going to try
20 to put in that evidence to prove their case against Mr.
21 Sigmon. We believe that is unlawful hearsay testimony.

22 THE COURT: Well, is that what that witness would
23 testify to?

24 MS. STROM: Your Honor, she would testify to the
25 demeanor of the Mr. Larke and the number of times that

1 he called her in order to get these papers served on
2 Brad Sigmon, and she would testify that his demeanor was
3 that he was very afraid, that -- I have instructed her
4 not to go into specific comments made by Mr. Larke, but
5 that she could testify as to his demeanor and the -- the
6 number of times that he has called her to get the
7 eviction papers served.

8 THE COURT: All right.

9 MR. EPPES: Your Honor, at the minimum, I would
10 request that the Court outside the presence of the jury
11 instruct that witness as -- as to keeping out that
12 hearsay testimony.

13 THE COURT: Okay. All right. You need to remind
14 me of that when that witness is called, please, sir.

15 MR. EPPES: I will, Your Honor.

16 THE COURT: All right.

17 MR. EPPES: Your Honor, as a second matter,
18 pursuant to Ring v. Arizona, I'd like to state for the
19 Court and provide a motion to the Solicitor, the
20 defendant, Your Honor, stands ready, willing and able to
21 plead guilty to these crimes, provided that the Court
22 will provide him with a jury trial as to sentencing. I
23 believe Your Honor is familiar with Ring v. Arizona, in
24 which the Supreme Court of the United States held that
25 if the Court -- if the State has a proceeding for a

1 finding of aggravated circumstances, that the defendant
2 is entitled to a jury trial to that.

3 THE COURT: Correct.

4 MR. EPPES: And, Your Honor, it is our belief that
5 the South Carolina statute puts Mr. Sigmon in the unfair
6 position of having to choose to have a jury trial as to
7 his guilty in order to preserve his right to a jury
8 trial as to his sentence. We believe that under the
9 holding in Ring v. Arizona that this is improper. In
10 addition to that, we believe that the Court should
11 accept a guilty plea and because the statute of the
12 State of South Carolina is in direct conflict with the
13 United States State's Constitution that you should
14 accept the guilty plea and sentence Mr. Sigmon to life
15 in prison.

16 I understand the Court is going to rule against me
17 on this, but I believe that is the way the law should
18 be.

19 THE COURT: All right. It's your position that
20 your client is being denied a jury trial at the penalty
21 phase?

22 MR. EPPES: Yes, sir.

23 THE COURT: All right. Well, it would be my
24 position that that is not the issue. What he in essence
25 is being denied is the right to plead guilty. He can --

1 he can have a jury trial at the penalty phase by having
2 a trial now. And so what he's being denied is his right
3 to plead guilty. My ruling is that there is no
4 prejudice to that because he can at this trial shorten
5 this proceeding very greatly by in essence pleading
6 guilty. I mean, you can stand up in opening statements
7 and tell this jury he is guilty of murder, and I assume
8 that would shorten this phase of the trial. You can
9 stand up in closing statement and tell the jury that
10 they need to go ahead and return a verdict of guilty on
11 the murder cases. I will instruct them that the only
12 way you can have a jury trial on the penalty phase is to
13 have a trial at this phase. So if that were the
14 procedure, tell me what prejudice there would be ---

15 MR. EPPES: Your Honor ---

16 THE COURT: --- to your client?

17 MR. EPPES: Your Honor, the Legislature of South
18 Carolina provides my client with the opportunity to
19 plead guilty. They prohibit him from having a jury
20 trial as to the aggravated sentence if he does that.
21 That is prejudice to him if he has go through a guilt
22 phase hearing, the jury is going to think, well, this is
23 a bunch of legal mumbo jumbo.

24 THE COURT: If I tell the jury the only way he can
25 have a jury trial on the penalty phase is to have a

1 trial in this phase ---

2 MR. EPPES: Um-hm.

3 THE COURT: --- I mean he can -- he can get on the
4 stand and testify he's guilty. You can tell them he's
5 guilty. I mean, I understand it's a dilemma, but that
6 dilemma was there before Ring v. Arizona. That dilemma
7 has always been there. So that Ring v. Arizona does not
8 change anything. You have to make a choice whether
9 you're going to fight guilt and perhaps lose credibility
10 in the penalty phase, or admit guilt, and -- I mean,
11 that's a strategic decision. But Ring doesn't change
12 any of that.

13 MR. EPPES: Your Honor, if I may?

14 THE COURT: Yes, sir.

15 MR. EPPES: I believe my objection is noted. I'd
16 like to note one more thing.

17 THE COURT: Yes, sir.

18 MR. EPPES: The Supreme Court in Ring v. Arizona
19 said, if a proceeding is in place that deprives the
20 defendant of that opportunity, it is unconstitutional.
21 That is the cruz of our position here, and I wanted to
22 make that for the record.

23 THE COURT: I understand. And my ruling is that
24 there is not a proceeding that prohibits that.

25 MR. EPPES: Thank you, Your Honor.

1 THE COURT: Okay. All right. Anything else
2 pre-opening statements?

3 MR. ABDALLA: One moment, Your Honor, if I may?

4 THE COURT: Yes, sir.

5 MR. EPPES: Your Honor, I have one more matter for
6 the Court. The Court asked me about sequestration of
7 witnesses. I would like to have basically four sets of
8 witnesses sequestered. I'd like to have the Gatlinburg
9 police officers sequestered. I'd like to have the
10 Gatlinburg police officers sequestered. I would like to
11 have the individuals, I believe their names are
12 Steadman, Creehan, that were at the scene of the Rebecca
13 Larke shooting, sequestered. I would like to have ---

14 THE COURT: Steadman and ---

15 MR. EPPES: Creehan, C-r-e-e-h-a-n

16 THE COURT: Creehan. Okay.

17 MR. EPPES: And if there are any other witnesses
18 about that Locust Hill scene.

19 THE COURT: Locust?

20 MR. EPPES: Hill.

21 THE COURT: All right.

22 MR. EPPES: I'd like to have them sequestered. I
23 would like to have -- if more than one -- well, actually
24 more than one of the individuals that observed -- that
25 allegedly observed Mr. Sigmon at the scene of the Honda

1 Passport, I'd like to have them sequestered. I'd like
2 to have Keith Merrill sequestered.

3 THE COURT: Who is he?

4 MR. EPPES: Keith Merrill is Ms. Larke's husband --
5 Ms. Barbare's husband, I'm sorry.

6 THE COURT: And what is he going to testify to
7 that's ---

8 MR. EPPES: Your Honor, I don't know if he's going
9 to be a witness at all, but if he's to be a witness for
10 the Prosecution, I'd like to have him sequestered.

11 THE COURT: You have to give me a reason.

12 MR. EPPES: Your Honor, he's going to testify as --
13 if he's going to testify, he's going to testify about
14 conversations with -- with Mr. Sigmon and about his
15 relationship with Rebecca Larke. There's going to be a
16 lot of testimony, we believe, about that relationship
17 and we'd like to have him sequestered for that.

18 THE COURT: Again, why? I mean, is somebody going
19 to testify to something that would duplicate what he
20 says?

21 MR. EPPES: Yes.

22 THE COURT: Who?

23 MR. EPPES: I believe Rebecca Barbare will. I
24 believe it's possible certain of the officers will.

25 THE COURT: All right. Anybody else?

1 MR. EPPES: That's all, Your Honor.

2 THE COURT: All right. Now, as to the Gatlinburg
3 police officers, we had the Jackson v. Deno hearing, as
4 I recall different people did different things. What --
5 what's your position, Solicitor? I mean, is there
6 anything wrong with going ahead and sequestering all of
7 them except the first one that's going to testify?

8 MR. ARIAIL: No, they won't be here until later,
9 and we'll take care of that.

10 THE COURT: All right. Just make sure that by the
11 time you get to that testimony that the -- you know,
12 they're sequestered. All right.

13 MR. ARIAIL: If it would be all right with the
14 Court, then we'll just put them over in our conference
15 room in my office somewhere, rather than over on this
16 side.

17 THE COURT: That's fine. Steadman and Creehan,
18 anybody else going to testify besides those two, to the
19 Locust Hill scene?

20 MS. STROM: The only other witness to that, Your
21 Honor, is possibly Officer Mathias, and Clifford
22 Goodson, who will be the first witness to testify.

23 THE COURT: All right. Then Goodson can remain in
24 and sequester the others. Who of -- your first witness
25 doesn't need to be sequestered but the others would need

1 to be.

2 MS. STROM: Yes, sir.

3 THE COURT: So Steadman, Creehan and Mathias need
4 to be sequestered. Honda Passport, how many witness are
5 there?

6 MS. STROM: Two, Your Honor. Richard Wendell and
7 Robert Richardson.

8 THE COURT: All right. Whoever your first one is
9 can be in here, but the second one needs to be
10 sequestered. And then Keith Merrill, I would sequester
11 him.

12 MS. STROM: He's not a witness for the State.

13 MR. ARIAIL: We're not calling him.

14 MS. STROM: We're not calling him.

15 THE COURT: Was he on your list?

16 MR. ARIAIL: He's on his list.

17 MS. STROM: I believe he's on the defense's list.

18 THE COURT: All right. Well, he would still need
19 to be sequestered. You're sequestering your own
20 witness?

21 MR. EPPES: Yes, Your Honor.

22 THE COURT: Okay. All right. Any reciprocal
23 requests?

24 MR. ARIAIL: Well, Your Honor, obviously we don't
25 know what they're going to put up, so -- or if anything.

1 So I guess we'd just ask that the rule be made mutual.
2 If they've got duplicate witnesses they know about,
3 then ---

4 THE COURT: Without divulging any strategy, would
5 you just, as an officer of the Court, tell me that if
6 you've got duplicate witnesses you will subpoena
7 (sic) -- not the first one but any subsequent ones,
8 please, sir?

9 MR. EPPES: Your Honor, yes, if we have duplicate
10 witnesses putting up information about the same facts,
11 we'll sequester them before we call the first one.

12 THE COURT: Okay. All right. Anything else
13 pretrial? All right. I will have a few preliminary
14 comments to the jury, and then we'll have opening
15 statements, and then we'll take a short break, move the
16 podium and go into the trial. All right. Bring the
17 jury in. Where are the indictments, please?

18 (The jury entered the courtroom at 9:15 a.m.)

19 THE COURT: Good morning.

20 THE JURY: Good morning.

21 THE COURT: I trust you had a good evening. We are
22 ready to proceed with this trial. I'm going to have a
23 few introductory comments for you.

24 I think y'all know this, but where the State seeks
25 the death penalty as it does here, then the trial is a

1 bifurcated trial. The first part of trial, which we are
2 about to begin, is to determine the guilt or the
3 innocence of this defendant. At the conclusion of the
4 first trial, should the verdict of the jury be guilty,
5 and I certainly make no recommendation as to what the
6 verdict should be, if the defendant is convicted of the
7 crime of murder, then we will proceed to that second
8 proceeding. This second proceeding is a sentencing
9 proceeding, in which extenuating, aggravating and
10 mitigating circumstances may be introduced into evidence
11 and may be considered by you the jury. Should such a
12 proceeding be necessary, I will further instruct you as
13 to the law of that proceeding.

14 Please derive no inference from what I have just
15 told you as to what your verdict should be. The purpose
16 of me telling you this is to emphasize to you that you
17 are not at this point to be considering punishment or
18 sentence in this case. As I told each of you during the
19 individual voir dire, the sole issue at this stage is
20 the guilt or innocence of the defendant, Mr. Sigmon in
21 this case.

22 Now, as I said, we are about to begin the trial of
23 the case against Brad Keith Sigmon. He has been
24 indicted for -- on three indictment. The first
25 indictment alleges burglary, that on the 27th day of

1 April of last year that he entered the dwelling of David
2 and Gladys Larke at 948 East Darby Road, without their
3 consent, and with the intent to commit a crime. The
4 second indictment alleges murder, on April the 27th,
5 2001, that Brad Keith Sigmon, did kill Gladys Larke by
6 means of beating her about the head, back, arms and
7 legs, and that she died as a proximate result thereof.
8 And finally, the last indictment alleges, on April the
9 27th, Mr. Sigmon killed David Larke by the same means.

10 Now, these indictments are not evidence. They are
11 merely the vehicle, the piece of paper that brings this
12 case to the courtroom. You will have these indictment
13 with you in the jury room during your deliberations, but
14 I emphasize to you they are not evidence in this case.

15 Now, I talked to you, some of you I talked to more
16 than others, about your role in this case. In any case,
17 whether it's a civil or criminal case, there is a
18 dispute about what the facts are, generally there's a
19 dispute. And what we do as a county, and state, and
20 country is when there is a dispute between corporations
21 in a civil case, or between citizens in a civil case,
22 or here between the government and a citizen, then what
23 we do is we impanel a jury to decide the facts of that
24 dispute. In deciding the facts of the case, you will
25 have to judge the credibility and the believability of

1 witnesses and decide what weight to give each witness'
2 testimony. . And you use your common sense. That's what
3 the whole jury system is based on. It doesn't matter
4 what your background is. What you bring to this process
5 is your collective common sense. And there are many
6 things that you would look at.

7 You would look at the demeanor of a witness as he
8 or she testified. You would look at whether a witness's
9 testimony was inconsistent or consistent. A witness may
10 have -- the testimony from the stand may be inconsistent
11 or perhaps the person has given a prior statement that's
12 inconsistent with what he testifies to in court. You
13 observe the witness closely. You look at whether they
14 have any reason to give the testimony they did, if they
15 have an interest in the outcome of the case, a possible
16 bias, a possible prejudice. You look at whether the
17 witness' testimony is supported by the other evidence
18 that's in the case and the other testimony, or maybe
19 it's weakened. You can believe as much or as little of
20 each witness' testimony as you deem proper. You can
21 believe one witness as against several, or several as
22 against one. All these things you do applying your
23 common sense.

24 Now, that means that it is your duty to pay close
25 attention to the witness' testimony, to observe the

1 witness and also pay close attention to the attorneys
2 and their statements.

3 Now, you are the sole judges of the facts. I have
4 nothing to do with the facts. If I do anything during
5 the course of the trial that might indicate to you that
6 I have a position on the facts, disregard that, because
7 that would be invading your province. An example might
8 be that I rule on an objection, someone stands up and
9 objects, and I sustain that objection, I don't let
10 someone testify to something, that doesn't mean I favor
11 one side or the other, that doesn't mean I don't believe
12 that witness, I'm simply following the rules of evidence
13 as I know them. So do not infer anything from what I do
14 during the course of the trial, that I have any position
15 on the facts.

16 Likewise, the lawyers will talk with you about the
17 facts. They will talk with you about the facts at two
18 different times. They will talk to you in their opening
19 statements about the facts, and they will talk to you in
20 their closing arguments about the facts. I invite your
21 careful attention to what they say. In opening
22 statements it will be a good outline of what the issue
23 are, what they intend to show during the trial. However,
24 what they say is not evidence.

25 They're not going to mislead you, they're all

1 excellent lawyers, but here's what sometimes happens.
2 Sometimes a law will say something in their opening
3 statement, I intend to prove this, or this witness will
4 testify to such and such, and then that doesn't happen
5 during the course of the trial, maybe that witness
6 doesn't testify to that. So the point is, you have to
7 keep separate what the lawyers tell you and the facts
8 you hear from the witnesses, and judge this case solely
9 from the testimony of the witnesses and other evidence
10 that is introduced.

11 Likewise, a good number of you had read something
12 about the case or seen something on TV about the case,
13 and I admonished you during individual voir dire and I
14 will admonish you again, you have to keep that separate.
15 In other words, it's fine if you saw something or read
16 something, but you have to judge this case solely from
17 the facts that you hear in the courtroom.

18 I mentioned objections, there will be times when
19 someone will object, and we'll have a side-bar over
20 here. I'll try not to send you out of courtroom too
21 much. There will be times when I have to send you out
22 as we discuss a legal matter or something. Do not get
23 mad at either side if they object and I have to send you
24 out. The main thing I want to tell you is, don't
25 speculate about what we're talking about. Obviously if

1 we're having a conversation outside your earshot, then
2 that's meant for you not to -- not to hear it, and so
3 you don't need to speculate on what somebody might have
4 testified to if I had let them testify or something like
5 that.

6 Again, you are not to talk about this case. Your
7 keepers, the bailiffs and SLED agents are sworn to -- to
8 protect you from outside influences basically, and they
9 certainly will not talk to you, but also you are not to
10 talk amongst yourselves about this case until -- until I
11 give you the charge on the law and tell you you can
12 begin your deliberations.

13 I do not allow note taking. Most judges do not
14 allow note taking. I don't think the facts will be hard
15 to follow. The reason judges do not allow note taking,
16 sometimes if somebody is taking notes, there is no
17 guarantee that those notes are accurate. That might
18 give somebody, you know, more credibility in the jury
19 room or something, but what they have may not be exactly
20 right. So you will recall these facts from you what
21 you've heard and that's what you will base your decision
22 on in this case.

23 Mr. Foreman, it's your duty to preside in the jury
24 room over the deliberations, and it is also your job to
25 be the spokesman for the jury here in the courtroom.

1 And the SLED agents may ask you to be the spokesman for
2 the jury on things like, where you want to eat dinner
3 and things like that. But I will tell you more about
4 your duties a little bit later.

5 Now, mentioning the SLED agents, ladies and
6 gentlemen, that are your keepers. They are retired SLED
7 agents. None of them are active. It is their duty,
8 again, to keep you sequestered and free from outside
9 influences. They've done it many times in many
10 different cases. During the course of this trial active
11 SLED agents may testify in this case. I think some of
12 them were listed on the witness list. I tell you,
13 attach no significance to that. Your keepers are
14 professionals, they've done this many times before.
15 They will respect your verdict whatever it is. If it is
16 not guilty, they certainly have been on cases where
17 that's been the verdict. If your ultimate sentence, if
18 we get to the sentencing phase, is life, again, they
19 will respect your opinion, and appreciate your service
20 as we all do.

21 The last thing I think one or two of you asked, all
22 the cameras sitting there, asked about, you know, are we
23 going to be on TV, something like that. There has been
24 media coverage of jury selection. There certainly will
25 be media coverage of the case. The rules are that your

1 names will never appear in the papers as far as who's
2 serving on the jury, and the camera is positioned to
3 where it will never show your face. So I just tell you
4 that. Sometimes people are uncomfortable about that,
5 and it's positioned where they can, I guess, see me, and
6 see the -- see the witnesses on the stand would be the
7 main thing, and see the attorneys, but it's over your
8 shoulder, so it will never -- never show you.

9 All right. Is there anything else I need to cover
10 from the State preliminarily?

11 MR. ARIAIL: No, Your Honor.

12 THE COURT: From the defense?

13 MR. ABDALLA: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, we --
15 the procedure will be that the opening statements, the
16 State carries the burden of proof in the case. I'll
17 tell you about that burden of proof, or I already have,
18 beyond a reasonable doubt, but because they carry the
19 burden of proof, they'll make the opening statement,
20 followed by the defense. We'll take a short break then,
21 and then come back and begin the testimony. After all
22 the testimony and evidence has been received, then the
23 attorneys will address you again in closing arguments,
24 that will be in a couple days. Then you will hear my
25 charge on the law, that's my duty to give the law in the

1 case and to referee the case, and then you will have it
2 for your deliberations.

3 The last thing I again caution you is, do not
4 consider penalty at this phase. You're here to
5 determine at this stage the guilt or innocence of Mr.
6 Sigmon. Solicitor Ariail.

7 MR. ARIAIL: Thank you, Your Honor. Do you have
8 the indictments?

9 THE COURT: Yes, sir.

10 MR. ARIAIL: Mr. Foreman, ladies and gentlemen of
11 the jury, my name is Bob Ariail. We've met earlier, but
12 I want to reintroduce myself and also to introduce you
13 to who will be assisting me. Betty Strom is the Deputy
14 Solicitor for the 13th Circuit, and she also will be
15 assisting me in the presentation of this case, along
16 with Mindy Hervey, one of my assistants also seated at
17 the counsel table.

18 I went home last night and thought about what I was
19 going to say. After doing this for some 26, 27 years
20 you think you have your statement pretty well organized.
21 I thought about the 15 people who had gone off in those
22 cars from the parking lot who had the look of deer in
23 the headlights yesterday afternoon about what had
24 happened to us and we'd been going along fine in our
25 lives and all of a sudden we were put in a group and

1 taken off to a motel. And I went home, sat down with my
2 family and had dinner like I normally do, and y'all went
3 to a restaurant and got to know each other. So I
4 started thinking that we had tried during the early part
5 of the week to tell you what you were going to do and
6 how the process was going to go. But we know so much
7 about it and have done it so many times, it's hard to
8 communicate it to somebody in a sense that you really
9 understand it. Well, we tell you not to be nervous
10 answering questions, and obviously everybody was still
11 nervous at the end, and the reason was because you
12 didn't know what questions we were going to ask you. We
13 knew what questions we were going to ask and we knew
14 what answers we were probably going to get, but we were
15 still asking the questions and so you were nervous.

16 So the purpose of the opening statement is to tell
17 you where I am going with this case and tell you what
18 you will hear over the next two days. And it's not
19 going to be a lengthy case and it's not going to be a
20 complicated case, but it will be a short case, and as I
21 estimate it we will finish our testimony in a period of
22 two days if not shortly thereafter.

23 But the judge told you, and you have met a number
24 of people, you've met the bailiffs, they will assist
25 you. You've met the Clerk of Court. You've met the

1 court reporter. You've met the judge and defense team.
2 And you have met us. And all of us have a role in this
3 function.

4 Your role, as the judge told you, was to talk
5 about -- in his opening instructions he told you you
6 were to find the facts. And I remember when I was in
7 law school, somebody told me that was the jury's
8 function, I said to myself, what does that mean, finder
9 of facts. What that really means, and I'm going to put
10 that in simple terms as I can, if you're two people
11 riding into an intersection and they collide, and both
12 of them say the light was red on the other side, and it
13 was green for them, a jury is empaneled to determine
14 what the facts are. Whose light was red. And that's
15 what you do. What we do is bring you the evidence to
16 let you make that factual decision. The light was red on
17 this side and it was green on this side, applying your
18 common sense, your everyday experiences to a situation
19 in which you're familiar. But before you can understand
20 what the facts are, what facts maybe important to
21 determine, you've got to know what decision you have to
22 make.

23 You're not going to make a decision in this case
24 about green lights and red lights. You're going to make
25 a decision in this case about three charges, and those

1 three charges are the charges that the judge published
2 you in the indictments, and this is because this is a
3 criminal case.

4 The first charge is an indictment for burglary
5 first degree, which charges that Brad Keith Sigmon, did
6 in Greenville County, on or about the 27th of day of
7 April, 2001, willfully and unlawfully enter the dwelling
8 of Gladys and David Larke, located at 948 East Darby
9 Road, without consent, and with -- and with the intent
10 to commit a crime therein, and caused physical injury to
11 the persons who were not participants in the crime.

12 The second two charges -- charges two and three,
13 are murder, both are the same except they involve
14 different individuals. They charge that Brad Keith
15 Sigmon, did, in Greenville County, or about the 27th day
16 of April 2001, unlawfully and with malice aforethought,
17 kill Gladys Larke by means of beating her about the
18 head, back, arms and legs, and Gladys Larke died as a
19 proximate result thereof. And the second indictment
20 charges the same, that Brad Keith Sigmon, did, on April
21 the 27th of 2001, unlawfully and with malice
22 aforethought kill David Larke by means of beating him
23 about the head, back, arms and legs, and that as a
24 proximate result thereof David Larke did die.

25 Those -- those are the charges that the State has

1 brought to trial today, and that is what this case is
2 about. And those are decisions you're going to have to
3 make. And in regard to burglary, burglary is simply
4 entering the dwelling of another without consent with
5 the intent to commit a crime while you're in there. And
6 while you're in there you cause physical harm to
7 another. So those are the four elements, the four
8 elements of that crime, entering the dwelling of
9 another, without consent, with intent to commit a crime
10 while you're in there, and while you're in there you
11 cause physical injury to a person. That is burglary
12 first degree as defined in this State. We're going to
13 prove to you those four elements.

14 Murder -- murder in this State is defined -- and I
15 refer to it as in this State, because everybody watches
16 TV, and the TV definition of murder is not murder.
17 Murder is the felonious killing of a human being with
18 malice aforethought. The elements of murder are that an
19 individual has to kill another human being, that's the
20 first element. And it has to be accompanied by malice
21 aforethought.

22 Let's talk about a forethought, because everyone
23 wants to talk about premeditation, or things about
24 premeditation. But forethought is not premeditation.
25 Premeditation is not an element of murder in this State.

1 A forethought requires that at the time the fatal blow
2 is struck, the perpetrator has in his mind the intent to
3 strike the fatal blow regardless of how shortly before
4 it occurred. Doesn't have to be planned for days or
5 weeks or even months. It's at the time the fatal blow
6 is struck, the perpetrator had in his mind the intent to
7 strike that fatal blow. Doesn't even require to have
8 the intent to kill, just have the intent to strike that
9 fatal blow, which the law -- or the person would
10 reasonably know would cause the victim to die.

11 Malice is the second element that you will have to
12 find. Malice is a term of art. It is the state of
13 mind. It is an intent. Malice is maliciousness. It is
14 meanness. The law will talk about a heart depraved of
15 social duty, a heart intent on mischief. It is
16 meanness, maliciousness, evil spirit. Malice is a state
17 of mind so that we infer it, we infer it or deduce it
18 from the circumstances of the crime. Rarely will you
19 ever see a case in which the malice is overtly stated.
20 It's going to be deduced from something, particularly
21 the nature of the crime..

22 You're going to have three issues you'll need to
23 decide in this case. One is, was there a burglary at
24 the home of Gladys and David Larke on April the 27th.
25 Two, were David and Gladys Larke murdered on April the

1 27th. And did the defendant commit the murder. Those
2 are the three elements that we are going to walk you
3 through in a very organized, concise and prepared case
4 to establish each one of those elements beyond any doubt
5 to your satisfaction.

6 What we will establish to you is that on the
7 morning of April the 27th, Gladys and David Larke got up
8 as their usual routine and their home was entered, and
9 both of them were beaten about the head. Each was
10 struck nine times in the head. They died as a result of
11 that, and Dr. Michael Ward, a local forensic
12 pathologist, will testify to you that of those nine
13 blows, all -- nine blows to each, 18 total blows, that
14 nine blows to each one's head, that they died as a
15 result of the blows to the head and that those blows to
16 the head, were consistent with a baseball bat found on
17 the washer and drier in the Larke residence.

18 Now, I'm going to warn you now, the testimony
19 regarding these injuries will be extremely graphic. It
20 will be potentially upsetting to some of you to have to
21 see and hear this type of evidence, but it is absolutely
22 necessary that we establish it to you.

23 Now, secondly, did the defendant -- the last issue,
24 did the defendant commit these crimes. And the answer
25 to that will be a resounding yes. Now, we will

1 establish this in several ways, but the primary way
2 we'll establish it will be that the defendant confessed
3 to -- on two separate occasions. On May the 7th, after
4 he was captured in Gatlinburg, Tennessee, 10 days after
5 this offense, he confessed to the Gatlinburg Police
6 Department detectives who arrested him. On, May the
7 8th, when the Greenville County Sheriff's Office
8 detectives arrived in Gatlinburg to bring him back to
9 Greenville, he confessed to them. Those confessions are
10 both in writing. We will publish them to you. We will
11 give you copies of them. And the later one will take
12 some time to publish as it was total seven and a half
13 page typed confession that detailed every event that
14 took place from the time he planned these events until
15 they were over.

16 Now, these will establish the defendant's guilt
17 beyond any doubt. But beyond that we will bring to you
18 an individual by the name of Eugene Strube. Mr. Strube
19 is an individual who happened to be with Mr. Sigmon the
20 night before, on April the 26th of 2001, and spent the
21 night with him in the trailer behind the Larke's
22 residence. A trailer from which Mr. Sigmon had been
23 evicted some week before. But they spent the night in
24 there, and Mr. Strube was a part of the plan to carry
25 out the events that occurred on the morning of April

1 27th, but Mr. Strube will tell you and tell -- the
2 testimony will confirm, that as they approached the
3 Larke residence and as Mr. Sigmon was entering, Mr.
4 Strube chickened out and ran. And Mr. Strube will come
5 to court and testify as to what he knew about what had
6 happened.

7 Now, I don't have any idea what the defense may
8 tell you, if anything, about what is going to happen.
9 But we have organized our case because we don't know
10 what the defense may or -- may say. They have no
11 obligation to say anything. But we have organized to
12 focus this case on the murder of David and Gladys Larke
13 and the burglary of their home on April the 27th. And
14 that's what we came here to prove and that's what we
15 will prove, that they were in fact murdered by Mr.
16 Sigmon, and they were murdered on April the 27th, after
17 he burglarized their home. The law requires us to prove
18 that. The law requires us to bring that evidence to a
19 jury and present it to you. But this case is about the
20 murder of Gladys and David Larke and that is all it is
21 about, regardless of what someone may try to tell you
22 that it maybe about. If someone attempts to direct your
23 attention to something else, just keep in focus that
24 Gladys and David Larke were murdered on April 27, 2001,
25 and that's what we're here to talk about.

1 And I will remind you about that person in our
2 lifetime who has been quoted most of all, Yogi Berra,
3 who said, you can't hit it unless you keep your eye on
4 the ball. And the eye on the ball in this case is that
5 Gladys and David Larke were murdered on April the 27th,
6 2001. And if you're not focused on that, then your eye
7 is not on the ball.

8 And in summary we will prove to you that Brad
9 Sigmon entered the house of Gladys and David Larke on
10 April 27th, that he did so with the intent to commit a
11 crime therein, and while was in there he entered without
12 any consent, and that while he was in there, he in fact
13 committed two very brutal gruesome and heartless murders
14 of these two elderly people, that he fled the scene and
15 he stayed -- avoided capture for some 10 days until he
16 was finally captured in Gatlinburg, Tennessee, and
17 returned to Greenville after which he had given two
18 confessions as to all of these events. Thank you.

19 THE COURT: Mr. Abdalla.

20 MR. ABDALLA: Thank you, Your Honor. Ladies and
21 gentlemen of the jury, good morning. My name is John
22 Abdalla, and as I told you before, my co-counsel is
23 Frank Eppes. Mr. Sigmon is my client. He's next to Mr.
24 Eppes. Also people coming in and out of the courtroom
25 are going to be Rick Kerns, who's stand -- sitting

1 behind our chair, and Kate Luther, she's an intern at
2 our office, and there will be another person, Paige
3 Tarr, who works for our office during the course of this
4 case, and she'll be coming and going during the course
5 of the trial.

6 The Solicitor told you to keep your eye on the ball
7 as Yogi said, but the fact is, and I will tell you right
8 now, you're going to find my client, Brad Sigmon,
9 guilty. The judge said that attorneys clarify issues,
10 and there's only one issue in this case and it's going
11 to be whether Brad Sigmon lives or dies.

12 You're going to find Brad Sigmon guilty of entering
13 the Larke's home. You're going to find unlawfully
14 breaking into it. You're going to find Brad Sigmon
15 guilty of killing Gladys Lark. And you're going to find
16 Brad Sigmon guilty of killing David Larke.

17 As the Solicitor told you, he confessed to it. He
18 confessed to it more than one time, that he was caught
19 and confessed. You're job is to reach the ultimate
20 decision in this case, whether Brad Sigmon lives or
21 dies. The question that arises is -- or the questions
22 generally that we ask are who, what, when, where and
23 why. Who is this about? In a sense it's about Brad
24 Sigmon, that's why this trial is going on. It's about
25 the Larkes too of course, but it's about the life or

1 death of Brad Sigmon.

2 What happened are these horrible crimes that he
3 committed. The pictures you're going to see are going
4 to be so gruesome, they'll be more horrible than
5 anything you've ever seen in your life. Because Mr.
6 Sigmon took a bat and swung it and killed the Larkes.
7 There is no way to soft pedal this. It's ugly.

8 When it happened was April 27, 2001, at eight
9 o'clock in the morning, and it all happened about the
10 time it takes most of us to get our cup of coffee.
11 Where was on East Darby Road. That's in the Blue Ridge
12 area, between Taylors and Blue Ridge -- yeah, Blue
13 Ridge.

14 And the ultimate question now is why. The reason
15 we're here, you're here is why did this happen. Why did
16 Brad Sigmon on April 27th go into the Larkes' home and
17 kill these people? That's the question that haunts us,
18 and as I said, that will influence your ultimate
19 decision.

20 And you may wonder, well, why are we here? Well,
21 I'll tell you why you're here. Because if Brad Sigmon
22 were to plead guilty, he wouldn't have a right to a jury
23 to determine his sentence. So we didn't want to play
24 any games with you and say, oh, he's not guilty because
25 something's going on here. Brad needs you to make the

1 final decision. You're going to make a decision in the
2 guilt phase, and I ask all of you to listen to all of
3 the evidence, because all of this evidence is important.
4 Whether you're going to find him guilty or not, because
5 I told you you will find him guilty, but all of the
6 evidence is important, because ultimately it will come
7 down to the final decision to make. So please listen to
8 all of the evidence, everything you're going to hear
9 from that witness stand and every exhibit you see
10 presented is going to actually answer the questions why.
11 Why is the issue in this case.

12 When I was having breakfast this morning with my
13 wife and my daughter, my daughter who is nine said,
14 daddy, is court like -- is court a fight like a war.
15 And I said, well, court is usually a civil battle, or
16 more than civil. And I didn't tell her this, I said in
17 this case it's all out war because it's quite personal,
18 because the Prosecutor in this case is asking you to
19 kill my client, Brad Sigmon. They are not going to
20 settle for life without parole. And you've already been
21 instructed by the judge that life without parole in the
22 maximum security of South Carolina Department of
23 Corrections means he will never get out. The only way
24 he's going to leave the Department of Corrections is in
25 a pine box. It's not a matter of if he dies there or

1 where he's going to die, it's a matter of when he's
2 going to die. And your decision is going to be the
3 ultimate influence on that.

4 Each of you is the sole judges of the facts you
5 will hear. And each of you will be instructed on the
6 law. The judge will instruct you on the law. Anything
7 the attorneys say, if it's a contradiction to what the
8 judge says, you obviously follow what the judge says.
9 Anything we says about the facts that differs from your
10 recollection, don't hold it against us as trying to
11 change the facts, sometime we forget, we're just like
12 you. We're like everybody, we all forget facts, get
13 things mixed up.

14 There's not a lot to say right now except this.
15 The decision you make, the final decision you make is
16 going to be the most important decision Brad Sigmon
17 hears for the rest of his life.

18 I thank you for your attention.

19 THE COURT: Mr. Foreman, ladies and gentlemen,
20 let's take a short break at this time. If you would,
21 follow the bailiffs to the jury room. While you're back
22 there, don't talk about the case. We'll be with you in
23 about five minutes.

24 (The jury exited the courtroom at 9:50 a.m.)

25 MR. ARIAIL: Could we have about 15 or 20 minutes

1 to -- in light of all that to -- we think we can prune
2 this. It's going to take a little work.

3 THE COURT: Well ---

4 MR. ARIAIL: I hate to delay them.

5 THE COURT: That's fine, but before you do that, I
6 don't know exactly what's in this -- these confessions.
7 Is there anything that would lead me to charge
8 manslaughter?

9 MR. EPPES: Your Honor, there are things in the
10 confession from him that -- that talk about -- that make
11 it a crime of passion. They're in there. The temporal
12 relationship of them is very extended. Is a charge of
13 manslaughter appropriate, I can tell you it's probably
14 appropriate under the law.

15 THE COURT: Well, then would you be requesting it?
16 I mean, before he starts honing down his case, I'm
17 trying ---

18 MR. EPPES: I've got to see the evidence, Your
19 Honor, before I can make that determination.

20 THE COURT: Well, okay.

21 MR. EPPES: I'm sorry, but that's ---

22 THE COURT: That's fine. All right. You still
23 need 10 or 15 minutes?

24 MR. ARIAIL: No, not in light of that.

25 THE COURT: Okay. That's why I asked the question.

1 MR. ABDALLA: May I have moment?

2 THE COURT: What?

3 MR. ABDALLA: May I have a moment?

4 THE COURT: Yeah. We're going to take about a five
5 minute break. We need to get some of bailiffs in here.
6 We need to redo the podium. You want to help them do
7 that?

8 COURT REPORTER: Yes, sir.

9 THE COURT: All right. We're off the record.
10 Don't -- don't ask me anything.

11 (A short recess was taken, after which, the trial
12 continued as follows:)

13 MR. EPPES: Your Honor, there was one other thing
14 I wanted to address.

15 THE COURT: All right.

16 MR. EPPES: I didn't understand the technology.

17 THE COURT: Okay. All right. Did I sign an order
18 on the Detention Center record?

19 MS. REESE: Yes. Actually I left one for you to
20 sign? If that is it.

21 MR. ARIAIL: Are you sure you -- he's asking about
22 Detention Center records.

23 MS. REESE: Yes, the Detention Center records, the
24 one that I put up there for you to -- it would be the
25 one with regard to the expert witnesses. Everybody

1 agrees on the Detention Center order language.

2 MR. ARIAIL: The question is, did you get it back?

3 MS. REESE: No, that's what I was telling him, I
4 didn't get it back.

5 THE COURT: No, I didn't sign it. You need to file
6 it and make sure it's part of the record.

7 MS. REESE: Yes, sir. Do you see a copy of the
8 .other order up there? Okay.

9 THE COURT: Changing it as we speak.

10 MS. REESE: Okay.

11 THE COURT: Are y'all ready to proceed?

12 MS. STROM: State's ready.

13 MR. ABDALLA: Yes, Your Honor.

14 THE COURT: All right. Bring the jury in.

15 MS. STROM: With the first witness, Your Honor, I'm
16 going to be using a diagram. I've shown it to Mr. Eppes
17 and Mr. Abdalla, and they have no objection to it.

18 THE COURT: And is it going to be introduced as an
19 exhibit?

20 MS. STROM: Yes, sir.

21 THE COURT: All right. After the trial is over can
22 you substitute it with --

23 MS. STROM: Yes, sir, because it's ---

24 THE COURT: You can take it off and fold it.

25 MS. STROM: Yes, sir.

1 MR. EPPES: Your Honor, what I was jumping up like
2 a crazy man, when they use that screen ---

3 THE COURT: You can slide down.

4 MR. EPPES: Well, will there be a way for Mr.
5 Sigmon to see what's on the screen or will he ---

6 THE COURT: By sliding down.

7 MR. EPPES: Just -- okay.

8 (The jury entered the courtroom at 10:04 a.m.)

9 THE COURT: All right. Solicitor, call your first
10 witness.

11 MS. STROM: The State calls Clifford Goodson.

12 THE CLERK: Put your left hand on the Bible and
13 raise your right hand.

14 CLIFFORD GOODSON

15 Having been first duly sworn, testified as follows:

16 THE CLERK: State your name for the record.

17 THE WITNESS: Clifford E. Goodson.

18 THE CLERK: Thank you. Be seated.

19 DIRECT EXAMINATION

20 BY MS. STROM:

21 Q Mr. Goodson, I'm going to have you state your full
22 name for the record.

23 A My full name is Clifford E. Goodson.

24 Q Okay. I need for you to keep your voice up like
25 that so all these jurors can hear you. All right.

1 A Yes, ma'am.

2 Q Where do you work?

3 A I run my own business on the corner of Styles and
4 Locust Hill Road.

5 Q What is the name of your business.

6 A Goodson Auto Repair.

7 Q And that is at the corner of Styles Road and Locust
8 Hill Road?

9 A Yes, ma'am.

10 Q I want to show you what has been marked as State's
11 Exhibit Number 1.

12 MS. STROM: Mr. Eppes, I believe you have seen
13 this.

14 MR. EPPES: Your Honor, we've looked at this
15 document and we have no objection to it.

16 THE COURT: All right.

17 MS. STROM: Admit State's Exhibit on into evidence.

18 THE COURT: Without objection.

19 (State's Exhibit Number 1 was marked and filed.)

20 MS. STROM: You can put the easel right over there.

21 BY MS. STROM:

22 Q Before I put this on the easel, I want to make sure
23 you recognize State's Exhibit Number 1.

24 A Yes, ma'am.

25 Q We have been over State's Exhibit Number 1?

1 A Yes, ma'am.

2 Q And if you would, using the pointer, will you come
3 down and point out to the jury where your business is?

4 A Yes, ma'am.

5 THE COURT: All right. Mr. Goodson, when a witness
6 leaves the stand, sometimes I can't hear them or
7 sometimes the jurors can't hear, because you're not
8 amplified, so if you would, speak up.

9 THE WITNESS: Yes, sir.

10 THE COURT: Also as -- don't block the chart from
11 the jury's view. I think you'll do fine with the
12 pointer.

13 THE WITNESS: Yes, sir.

14 BY MS. STROM:

15 Q Let me first ask you, Mr. Goodson, this is the area
16 of Locust Hill Road and 290 -- also known as 290, is
17 that correct?

18 A Yes, ma'am. Yes, ma'am.

19 Q That's also called the Blue Ridge area?

20 A Yes, ma'am.

21 Q All right.

22 A And my business is right here on the corner.

23 Q I need you to speak up.

24 A My business is right here on the corner of Locust
25 Hill and Styles.

1 MS. STROM: All right. Thank you. You may
2 return to your seat. Your Honor, I'm going to leave
3 the diagram up there so the jurors will a reference
4 point.

5 THE COURT: Okay.

6 BY MS. STROM:

7 Q Mr. Goodson, that area of Blue Ridge, Styles road,
8 and that whole area, that's all in the Greenville
9 County, correct?

10 A Yes, ma'am.

11 Q I would like to direct your attention back to April
12 27, 2001, at approximately 8:30 that morning, can you
13 please tell this jury what happened that morning? Do
14 you recall that day?

15 A Yes, ma'am, I do.

16 Q What happened? What were you doing?

17 A We were out front cleaning up a -- one of my
18 trailers, one of the guys that just helps me on the
19 weekends, and this guy walks up, he said he'd been out
20 all night drinking, somebody left him.

21 Q What did this guy look like?

22 A Kind of heavy set about like myself, like he'd been
23 out drinking all night, had glasses on, excuse me, and
24 wanting to know directions back to Greenville.

25 Q And did you give him directions back to

1 Greenville?

2 A Yes, ma'am.

3 Q Okay. And did anything unusual happen while you
4 were talking to this guy who was wanting directions?

5 A Yes, ma'am. Right there at the corner of Styles
6 and Locust Hill, I heard breaks squeal and then I heard
7 a lady scream, and the door flew open on a Honda
8 Passport. The car that was sitting there and she was
9 screaming for, you know, help real loud, and then it
10 took off and went up highway 290 towards Traveler's
11 Rest. The door ---

12 Q Did anything --

13 A The door was still open on the car like she was
14 trying to climb out. And up the road about 300 yards,
15 there was some men doing some landscaping, she finally
16 jumped out about 60 miles per hour, is what it looked
17 like. She rolled over in that yard. And the Passport
18 went on up and did a bootleg turn and came back. It
19 come back ---

20 Q When you say a bootleg turn, what's that?

21 A He turned around, 190 degrees, and come back the
22 other way, and pulled over where she had jumped out. I
23 saw somebody get out and run over there to her. They
24 get back in it then and come back down by the shop. And
25 there's a subdivision across the street from me called

1 Oakland. That's the last time -- it turned into Oakland
2 and that's the last time I saw it.

3 Q I want to go back and using this diagram and slow
4 down just a little bit.

5 A Okay. Haven't been here before, sorry.

6 Q That's quite all right. I want you to use this
7 diagram. Step down again. Again keep your voice up.

8 A Yes, ma'am.

9 Q Point out to the jury where you were at at
10 approximately 8:30 that morning on April the 27th,
11 2001?

12 A All right. That morning my shop building is here,
13 we were out front sweeping out a trailer, and cleaning
14 it out, washing it, right next -- right on Locust Hill
15 Road right there.

16 Q So you were outside your business?

17 A Yes, ma'am, it was a beautiful morning.

18 Q Okay. And I believe you said that you heard a
19 woman screaming?

20 A Yes, ma'am.

21 Q Okay. And you looked in that direction?

22 A To Styles Road, right there.

23 Q And what did you see at Styles Road?

24 A A white Passport with the door hanging open.

25 Q Which door was hanging open?

1 A Passenger door.

2 Q The passenger door to a white Honda Passport?

3 A Yes, ma'am.

4 Q All right. And what could you see in that
5 passport?

6 A Well, all I could see was somebody behind the
7 steering wheel of the car holding onto her, trying to
8 get control of it and take off. He was trying to hold
9 her in the car.

10 Q And she was screaming?

11 A Yes, she had her feet hanging out the door, the
12 passenger door.

13 Q And where did the white Honda passport go?

14 A He made a right up through here. And she jumped
15 out right here, and then he went up and done what I call
16 a bootleg turn right here, and come back and stopped.
17 The person driving it got out, went over to her, come
18 back, come back down to this subdivision, went into this
19 subdivision, the last time I saw him.

20 Q Okay. And how many people -- after the person did
21 the bootleg turn and came back and stopped, how many
22 people got back into the SUV?

23 A One.

24 Q One. You may retake the stand. Thank you. And
25 the last time you saw that SUV was when it turned onto

1 Mountain Crest into Oakland subdivision?

2 A Yes, ma'am.

3 MS. STROM: Okay. Court's indulgence, Your Honor?

4 THE COURT: Yes, ma'am.

5 MS. STROM: Thank you. Please answer any questions
6 the defense may have.

7 THE COURT: Mr. Abdalla.

8 MR. ABDALLA: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. ABDALLA:

11 Q Good morning, Mr. Goodson.

12 A Good morning, sir.

13 Q Mr. Goodson, you said you were at work that
14 morning?

15 A Yes, sir.

16 Q And what time do you generally get to work?

17 A Oh, 7:00, 7:30, something like that.

18 Q And was this around 8:15 did you say?

19 A Yes, sir.

20 Q Okay. If -- and at that time you said you saw the
21 Passport coming down the road?

22 A We had heard the breaks squeal on the Passport at
23 the stop sign. There's a stop sign right there.
24 That's when we got our attention because she was
25 screaming.

1 Q And how many people did you see in the Passport?

2 A Two.

3 Q Did you know anybody in there?

4 A No, sir.

5 Q Could you tell whether it was a man, or a woman,
6 two men?

7 A I could tell it was a woman. I really couldn't
8 tell if it was a man driving the vehicle or not, but
9 long hair, you know. I really couldn't see him because
10 he had her pulled to him, or the person.

11 Q All right. Did you see anything else involving
12 this case, other than what you just testified to?

13 A Only I saw -- I got a good look at the driver when
14 he came back by, that's the only time I got a good look
15 at the driver.

16 Q Okay. That's all? You witnessed no other portion
17 of this incident?

18 A No, sir.

19 MR. ABDALLA: Can I have one moment, Your Honor?

20 THE COURT: Yes, sir.

21 MR. ABDALLA: No further questions. Thank you, Mr.
22 Goodson.

23 MS. STROM: Very briefly, Your Honor.

24 THE COURT: All right.

25 Ms. STROM: Just a few more questions.

REDIRECT EXAMINATION

BY MS. STROM:

Q On the -- when the Honda SUV came back by, you said you got a good look at the driver?

A Yes, ma'am.

Q Could you tell at that point if was a man or a woman?

A It was a man.

MS. STROM: Thank you. I have no further questions.

THE COURT: All right. You can step down. Thank you, sir.

THE WITNESS: Thank you.

THE COURT: Next witness, please.

MS. STROM: The State calls Steven Paul Steadman. Your Honor, we'd ask that Mr. Steadman (sic) be excused.

THE COURT: All right. Any objection?

MR. ABDALLA: No objection.

THE COURT: All right. Mr. Goodson, you're released from your subpoena, sir.

THE WITNESS: Thank you, sir.

THE COURT: Yes, sir.

THE CLERK: Put your left hand on the Bible and raise your right hand.

1 STEVEN PAUL STEADMAN

2 Having been first duly sworn, testified as follows:

3 THE CLERK: State your full name for the record,
4 please.

5 THE WITNESS: Paul Steadman.

6 THE CLERK: Thank you. Be seated.

7 DIRECT EXAMINATION

8 BY MS. STROM:

9 Q If you would, sir, please state your name for the
10 record.

11 A Steven Paul Steadman.

12 Q Okay. I'm going to need you to speak up and speak
13 into that microphone so all these jurors ---

14 THE COURT: Go ahead and slide your chair close to
15 the microphone and speak right into it, if you would,
16 please, sir.

17 THE WITNESS: Steven Paul Steadman.

18 BY MS. STROM:

19 Q That's great. Where do you work?

20 A Bi-Lo.

21 Q And were you working for Bi-Lo back on April the
22 27th, of 2001?

23 A Yes, ma'am.

24 Q What shift were you working then?

25 A Third.

1 Q How long have you worked for Bi-Lo?

2 A Four years.

3 Q Back on April 27th of 2001, between 8:00 and 8:30,
4 where were you?

5 A Going up 290.

6 Q 290 is also considered -- excuse me, called Locust
7 Hill Road?

8 A Yes, ma'am.

9 Q Okay. What were you doing? Where were you going?

10 A Me and a bunch of buddies were going fishing.

11 Q Approximately where were you -- well, let me ask it
12 this way, did anything unusual happen while you were on
13 290?

14 A Yes, ma'am.

15 Q Tell this jury what happened. Where were you and
16 what happened?

17 A There -- I seen a woman jump out of a car going up
18 290. We were probably about a mile and a half past the
19 Exxon station. I pulled over to the side of the road to
20 help. Let me start over. First, I was going up 290,
21 had left the Exxon station, had got some gas. We went
22 up 290, there was a truck in front of me, then another
23 car. I seen a woman jump out of the car, roll off the
24 side of the road, start waving her hands. She fell to
25 the ground.

1 Q I'm going to stop you. What color was the vehicle
2 that the woman jumped out of?

3 A It was a white Passport.

4 Q A white Passport?

5 A (Witness nodded his head.)

6 Q Okay. She jumped out the passenger side or the
7 driver's side?

8 A Passenger.

9 Q What did you see after you saw her jump out?

10 A The white passport immediately did a u-turn right
11 in the middle of the road. I pulled over to the side of
12 the road and started walking. Dialed 911, got out of my
13 car, started walking back towards them, probably got
14 about half way in between them, the white Passport pulls
15 back up and there's a man jumped out of it and starts
16 running at her, shooting at her.

17 Q Starts running at the woman who had earlier jumped
18 out of the Passport?

19 A Yes, ma'am.

20 Q He was doing what at her?

21 A Shooting at her.

22 Q Could you hear it? Could you see it? What was
23 it?

24 A I could hear it. It sounded like a cap gun, and I
25 seen smoke coming from it.

1 Q Okay. What else did you observe about this man and
2 this woman?

3 A She was frantic. I didn't see him. After he fired
4 the shots, he ran back and jumped in the car and took
5 off.

6 Q Do you know approximately how many times he shot at
7 her?

8 A Two or three, I'm not really certain. I don't
9 remember exactly how many.

10 Q Okay. More than one?

11 A Yes, it was more than one.

12 Q When the person was shooting at this woman, how far
13 away were they? How far away was the man from the
14 woman?

15 A Probably from me to you.

16 Q Did they ever get any closer?

17 A Yes, ma'am.

18 Q What happened then? Tell me about that?

19 A He ran up on her, shot at her one more time, then
20 turned around and went back to the car.

21 Q When he ran up on her, how close did he get? And
22 you can stop me as to where he got.

23 A Okay. Right there.

24 Q Right here?

25 A About right there.

1 Q Okay. And what did he do at that time?

2 A He held his hand out and shot one more time.

3 Q Okay. When he held his hand out, did you hear gun
4 fire at that point?

5 A Yes, ma'am.

6 Q Okay. And at that point after they got that
7 close, what if anything happened? What did the man
8 do?

9 A He turned around, and ran back to the car and
10 jumped in it and took off.

11 Q Which way did he go when he took off?

12 A Back towards the Exxon station.

13 Q Back towards the Exxon station. I want to bring
14 you down. I'm going to need you to keep your voice up.
15 I want to show you what is State's Exhibit Number 1.
16 Like I said, you got to keep your voice up, because you
17 won't have the microphone, okay?

18 A Okay.

19 Q I need you to step back this way so the jury can
20 see the diagram and you can point to it.

21 A Okay.

22 Q You and I have looked at this map before, correct?

23 A Yes, ma'am.

24 Q All right. Locust Hill Road and Styles Road,
25 you're familiar with that area?

1 A Yes, ma'am.

2 Q Okay. Which direction were you traveling?

3 A I was going up Locust Hill Road this way.

4 Q So you were traveling from this direction of 290
5 up?

6 A Yes, ma'am.

7 Q All right. And where was it that you saw the white
8 Passport?

9 A It was in this area here, right beside the house.

10 Q What kind of house was that? Was that that house
11 under construction?

12 A Yes, ma'am.

13 Q Okay. That's when you first saw the white SUV?

14 A Yes, ma'am.

15 Q When you saw it turn around, it comes back in this
16 downward direction, correct?

17 A Yes, ma'am.

18 Q Okay. Did you see it once it went past you? Did
19 you see which way it went?

20 A No, ma'am. I just -- it went back towards Greer.

21 Q Okay. And where the man was shooting at the woman,
22 where did that occur?

23 A That was in this field right beside the house.

24 Q Thank you. You may retake the stand. I believe
25 you testified that you immediately got on the phone with

1 911?

2 A Yes, ma'am.

3 Q Did you go up to this woman who was being shot at?

4 A Yes, ma'am.

5 Q What was her condition? What was her demeanor?

6 A She was frantic, scared, worried about her parents
7 and her kids.

8 Q Was they crying?

9 A I believe so. I'm not real sure.

10 Q You said she was frantic?

11 A Yes, ma'am.

12 Q What if anything did she tell you at that time?

13 MR. ABDALLA: Objection, Your Honor, to hearsay.

14 THE COURT: All right. What is your position, why
15 would that not be hearsay?

16 MS. STROM: Your Honor, excited utterance.

17 THE COURT: All right. I will allow it. Go ahead.

18 BY MS. STROM:

19 Q What if anything did she tell you when you went up
20 to her?

21 A She said that she was worried about her kids in
22 school. She said that her parents -- she said he had
23 her parents tied up and she needed somebody to go out
24 there. She wanted somebody to go to the school and
25 check on her kids.

1 Q She wanted somebody to go to the school to check on
2 her kids. She was worried about her parents. Did she
3 say who had done this to her?

4 A Yes, the woman I was talking to on 911 asked me to
5 ask her and she said it was Brad Sigmon.

6 Q So she told you it was Brad Sigmon who had done
7 this?

8 A (Witness nodded his head.)

9 Q Do you recall other people coming up to you and the
10 woman there in that field?

11 A Yes, ma'am.

12 Q Do you recall was one of them a fireman?

13 MR. ABDALLA: Objection, she's leading.

14 THE COURT: Sustain the objection. Don't lead the
15 witness, please.

16 MS. STROM: Yes, sir.

17 THE WITNESS: Yes, ma'am. He was -- he got there
18 about the same time I did. He got to the woman -- he
19 got to the woman before I did.

20 BY MS. STROM:

21 Q So there was another person there?

22 A Yes, ma'am.

23 MS. STROM: Thank you. Please answer any questions
24 the defense may have.

25 MR. ABDALLA: May I have one moment, Your Honor?

CROSS-EXAMINATION

BY MR. ABDALLA:

Q Mr. Steadman?

A Yes, sir.

Q Good morning.

A Good morning.

Q Now, you said you were on the 290 going towards the Exxon station, is that correct?

A We had already passed the Exxon station.

Q All right. You passed the Exxon station, sorry, I had it backwards. And are you in a car?

A Yes.

Q What kind of car were you in?

A A '99 Firebird.

Q And you're driving in which direction? Going towards Traveler's Rest or the other way?

A Towards Traveler's Rest.

Q And where were you going at that time?

A We were going to -- we were going fishing. I was by myself.

Q All right.

A And I stopped to get some gas at the Exxon station and my friends went on.

Q Do you normally go fishing that early?

A We also had to go when we got off work.

1 Q Where do you work?

2 A I work for Bi-Lo.

3 Q Oh, that's right. I'm sorry. You testified to
4 that. What time do you get off work?

5 A We got off -- supposed to get off at 6:00, but we
6 didn't get off that day until around 7:00 I believe.

7 Q And did go to directly from work to head out
8 fishing?

9 A No, sir. We waited until a couple more of our
10 buddies got there and then we went.

11 Q All right. Was that about eight o'clock when you
12 left, give me an idea?

13 A I don't remember honestly.

14 Q You were going down 290 at that time when you saw
15 this incident? Was that in that same time frame?

16 A It was early morning. I'm not sure exactly what
17 time it was.

18 Q All right. Was it around eight o'clock or so, is
19 that fair, or ---

20 A It was somewhere around eight o'clock, I believe.
21 I'm not real certain.

22 Q Do you know anything about this case other than the
23 stuff you saw between the man and the woman in the car?

24 A No, sir.

25 MR. ABDALLA: Okay. Thank you very much, Mr.

1 Steadman. I have no further questions.

2 MS. STROM: I have nothing further for this
3 witness, Your Honor.

4 THE COURT: Thank you. You can step down. Can he
5 be released from his subpoena?

6 MS. STROM: Oh, we would ask that he be excused,
7 Your Honor.

8 THE COURT: Any objection?

9 MR. ABDALLA: No objection.

10 THE COURT: Thank you. You're released from your
11 subpoena.

12 MS. STROM: The State calls Mr. Michael Creehan.

13 THE CLERK: Put your left hand on the Bible,
14 please, sir, and raise your right hand.

15 MICHAEL CREEHAN

16 Having been first duly sworn, testified as follows:

17 THE CLERK: State your full name for the record,
18 please.

19 THE WITNESS: Michael Creehan.

20 THE CLERK: Thank you. Be seated.

21 DIRECT EXAMINATION

22 BY MS. STROM:

23 Q Please state your full name for the record?

24 A Michael George Creehan.

25 Q Mr. Creehan, by whom are you employed?

1 A Employed by the City of Greer, Fire Department.

2 Q And how long have you been with the Fire
3 Department?

4 A Eight years.

5 Q I want to direct your attention back to April 27th
6 of 2001, between the hours of 8:00 a.m. and 8:30 a.m.
7 do you recall that?

8 A Yes, ma'am, I do.

9 Q Please tell this jury where you were and what you
10 were doing at that time?

11 A I had gotten off work at approximately 8:15, and
12 was traveling to my residence above Traveler's Rest. I
13 was taking highway

14 Q Which direction were you traveling?

15 A I was traveling northbound.

16 Q You were traveling north?

17 A Yes.

18 Q What if anything occurred there on 290? Did
19 anything grab your attention?

20 A As I was going up the road I ran into a --
21 basically a traffic jam, a slow down in traffic, and as
22 I rounded a curve, the traffic got almost to a stop, and
23 off to the right side of the road I saw a woman
24 stumbling, appeared to be injured, at which time I
25 pulled off the shoulder of the road, drove past several

1 cars on the shoulder of the road and came to a stop,
2 exited my vehicle to see if I could help her in any way.

3 Q When you went up to this woman, did you obtain any
4 information as to who she was?

5 A I did not get her name at that time.

6 Q What if anything did you observe about her? Did
7 she have any wound to her?

8 A She had several injuries. She had a -- what
9 appeared to be a laceration to the top of her head. She
10 had an injury to her ankle and several abrasions and
11 contusions on her arms, back, shoulders.

12 Q If you would, please describe for this jury what
13 her demeanor was?

14 A She was extremely upset, near hysterics.

15 Q What if anything did she say to you? You're point
16 in being there was to render aid, correct?

17 A Yes.

18 Q Did she make any comments to you, or say anything
19 to you about what had happened?

20 A She said she had been shot.

21 MR. ABDALLA: Objection, Your Honor, again.

22 THE COURT: Overruled.

23 BY MS. STROM:

24 Q She said she had been shot?

25 A Yes, ma'am. And she was -- by the time I got to

1 her, there were several other people there and she
2 was extremely worried about her children and her
3 parents.

4 Q And did she say why she was worried about her
5 parents?

6 A She said that her boyfriend had threatened her
7 children and told her that he had killed her parents.

8 Q Her boyfriend had told her he had killed her
9 parents?

10 A Yes, ma'am.

11 Q Did you remain there with her until law enforcement
12 arrived?

13 A Yes, law enforcement and EMS.

14 MS. STROM: Court's indulgence, Your Honor? Thank
15 yes, sir. Answer any questions the defense may have,
16 Mr. Creehan.

17 THE COURT: Mr. Abdalla.

18 CROSS-EXAMINATION

19 BY MR. ABDALLA:

20 Q Good morning, Mr. Creehan.

21 A Good morning.

22 Q You said at 8:15 that morning, correct me if I'm
23 wrong, you were driving down

24 A No, sir, I left work at approximately 8:15. It was
25 a little after that when was I northbound on Highway

1

2

Q Where is that in relation to where you work?

3

4

A I live -- work in the city of Trave- -- Greer, excuse me, which I was at our main station on Pointsett Street, which is downtown, at the intersection of

6

7

8

Q All right. About how far is that from the incident?

9

10

A It's approximately seven miles, in that neighborhood.

11

12

Q Do you know anything about this case other than the stuff you saw ---

13

MS. STROM: Objection, Your Honor.

14

THE COURT: Side-bar, please.

15

(A bench conference was held.)

16

17

THE COURT: All right. Rephrase the question, please. And somebody remind me to put that on the record at the next break.

18

19

MR. ABDALLA: Yes, sir.

20

BY MR. ABDALLA:

21

22

Q Did you witness anything else other than what you saw that day?

23

A No, sir.

24

25

Q You just saw the woman, you never saw the man, is that correct?

1 A That's correct.

2 MR. ABDALLA: Okay. I have no further questions.

3 Thank you.

4 THE COURT: Anything on redirect?

5 MS. STROM: No, sir, Your Honor.

6 THE COURT: All right. Thank you. You are
7 released from your subpoena without objection.

8 MR. ABDALLA: Without objection, Your Honor.

9 THE COURT: All right. Thank you, sir. Thank you
10 for being with us.

11 MS. STROM: Thank you. The State calls Richard
12 Wendell.

13 THE CLERK: Put your left hand on the Bible,
14 please, sir, and raise your right hand.

15 RICHARD WENDELL

16 Having been first duly sworn, testified as follows:

17 THE CLERK: State your name for the record, please,
18 sir.

19 THE WITNESS: Richard Wendell.

20 THE CLERK: Thank you. Be seated.

21 THE COURT: Make yourself comfortable. Get close
22 to that microphone and speak right into it, sir.

23 THE WITNESS: Okay.

24 THE COURT: You might want to slide up a little
25 bit.

DIRECT EXAMINATION

BY MS. STROM:

Q Good morning. If you would, please state your name for the record.

A Richard Lee Wendell.

Q And I need you to keep your voice up just like that so all these jurors can hear you, all right?

A Okay.

Q Mr. Wendell, by whom are you employed?

A I'm self-employed.

Q As what?

A As a carpenter.

Q And how long have you been self-employed as a carpenter?

A Ten years.

Q I want to direct your attention to April 27th of 2001, and ask you, were you working in that area of Oakland subdivision?

A Yes, ma'am, I was.

Q What were doing there?

A We had just started framing a house.

Q Started framing a house?

A Yes, ma'am.

Q Would you tell this -- did anything unusual happen that day?

1 A Yes, ma'am, just as we started work that morning,
2 there was a commotion out in the yard in front of us.

3 Q When you say just when you started working that
4 morning, about what time was that?

5 A We had gotten started about 8:00, this was probably
6 between 8:30 and 9:00, you know, we didn't look at our
7 watches.

8 Q Okay. And what did you notice?

9 A We seen a white SUV come through the driveway and
10 then it sort of veered to the left and went across in
11 front of us and ended up in the woods.

12 Q When you saw this SUV coming, where was the first
13 place you saw the SUV?

14 A Coming down the driveway.

15 Q The driveway of the house you were framing?

16 A Yes, ma'am, coming down the driveway of the house
17 we were framing.

18 Q And was that driveway a paved driveway, or was it a
19 dirt road, or was it sort of a make-shift driveway, what
20 was it?

21 A It was a gravel driveway that they had made for the
22 construction entrance of the yard.

23 Q And when you saw the SUV come down the driveway,
24 could you tell how many people were in it?

25 A No, ma'am, not when I noticed it.

1 Q When -- I believe you said it turned left?

2 A Yes, ma'am.

3 Q And where did it go at that time?

4 A Went across the front yard and across a small ditch
5 and then into the woods.

6 Q So it crossed a small ditch?

7 A Yes, a ditch, yes, ma'am.

8 Q What happened -- did the vehicle come to a stop?

9 A Yes, ma'am. I heard the engine shut off and we
10 noticed somebody coming out of the woods.

11 Q How many people did you notice coming out of the
12 woods?

13 A Just one.

14 Q Could you tell if it were a man or a woman?

15 A It looked like a man.

16 Q Could you tell if he were white or black?

17 A Yes, ma'am, he was white.

18 Q So one white male comes out of the wooded area
19 where you saw the SUV go?

20 A Yes, ma'am.

21 Q And where did that person -- in what direction did
22 that person go?

23 A Away from us, towards the roads.

24 Q Would that be towards Mountain Crest, or would that
25 be towards the main road that your house was being built

1 on -- the house was being framed on?

2 A I don't know the names of the roads right there.

3 Q All right. That's fine. I want to show you what's
4 been marked as State's Exhibit Number 1, which is this
5 diagram. You may step down, but I really need for you
6 to keep your voice up. You have a little bit of a soft
7 voice. I need you to keep it up.

8 A That's the first time I heard that.

9 Q First time you heard that, but I need you to keep
10 your voice up. You have seen -- and I'm going to need
11 for you to stand on this side of the diagram so all the
12 jurors can see. You've seen this map before, you and
13 I've gone over this map before?

14 A Yes, ma'am.

15 Q All right. This area here being Locust Hill Road,
16 also known as 290?

17 A (Witness nodded his head.

18 Q This road being Mountain Crest, this being Valley
19 View Road. Approximately where were you when you saw
20 the SUV?

21 A We would have been right in this -- right here.

22 Q All right. And where did you see -- and that's the
23 place where you saw the SUV?

24 A Yes, ma'am.

25 Q And which direction did you see the white male

1 walking after the SUV came to a stop?

2 A He came out of these wood and he was walking back
3 up this way.

4 Q All right. Thank you. You may retake the stand.
5 After you saw the white male walking back towards the
6 main road, did you have -- did you have any contact with
7 him?

8 A No, ma'am.

9 Q Did you see him again after that?

10 A No, ma'am.

11 Q After you saw the man walking towards the road, did
12 you go down to where the SUV was?

13 A Yes, ma'am.

14 Q Okay. And what did you notice when you saw that
15 down there? What condition was it in?

16 A The engine was off. The truck was just sitting
17 there in the woods, as if it had tried to turn and the
18 trees around it just stopped it from going anywhere.

19 Q You didn't go into that vehicle at all?

20 A No, ma'am.

21 Q Just looked at it?

22 A Yes, ma'am.

23 Q And then I believe that officers with the
24 Greenville County Sheriff's office ---

25 MR. ABDALLA: Objection, Your Honor. She's leading

1 the witness.

2 MS. STROM: I'll rephrase.

3 THE COURT: All right. Don't lead, please.

4 BY MS. STROM:

5 Q Did anyone else arrive there at that scene?

6 A Yes, ma'am.

7 Q And who were they?

8 A Greenville County Sheriffs.

9 MS. STROM: Thank you. I have no further
10 questions. Please answer any questions the defense may
11 have.

12 THE COURT: Mr. Abdalla.

13 CROSS-EXAMINATION

14 BY MR. ABDALLA:

15 Q Good morning, Mr. Wendell.

16 A Good morning.

17 Q You said you witnessed a man get out of the -- out
18 of that SUV?

19 A No, sir, I witnessed him leaving the scene.

20 Q Leaving the scene, I apologize.

21 A Yes, sir.

22 Q Did you witness anything else firsthand about this
23 case? Did you see anything else about this man or ---

24 A No, sir, not that I recall.

25 Q And do you know whose SUV that was?

1 A At the time, I did not.

2 Q Right, and that's what I'm -- that's the
3 information I'm looking for. And you said something
4 about the fact that it had gone down in some trees
5 or ---

6 A Yes, sir, it had turned -- when it come down the
7 driveway, it turned left across the yard, went across a
8 small ditch, into the woods, and apparently the trees in
9 the woods stopped the vehicle from going any further.

10 MR. ABDALLA: One moment, please.

11 BY MR. ABDALLA:

12 Q You said you did not go into the SUV, you ---

13 A No, sir, we did not go into the SUV.

14 Q And do you know whose SUV it is now?

15 A Yes, sir.

16 Q And whose is that?

17 A Becky Barbare's.

18 MR. ABDALLA: One moment, please. Thank you. No
19 further questions.

20 MS. STROM: I have no further questions of this
21 witness, Your Honor. We'd ask that he be excused.

22 THE COURT: Any objection?

23 MR. ABDALLA: No.

24 THE COURT: All right. You're released from your
25 subpoena. Thank you for being with us.

1 THE WITNESS: Thank you.

2 MS. STROM: The State calls Robert Richardson.

3 THE CLERK: Up here, please, sir. Put your left
4 hand on the Bible, please, sir, and raise your right
5 hand.

6 ROBERT RICHARDSON

7 Having been first duly sworn, testified as follows:

8 THE CLERK: State your full name for the record,
9 please.

10 THE WITNESS: Robert D. Richardson.

11 THE CLERK: Thank you. Be seated.

12 THE COURT: Slide your chair forward, speak right
13 into the microphone, please, sir.

14 DIRECT EXAMINATION

15 BY MS. STROM:

16 Q Sir, if you would, state your name again for the
17 record?

18 A Robert Delong (phonetically) Richardson.

19 Q I need you to keep your voice up like that and
20 speak into the microphone so all these jurors can hear
21 your. By whom are you employed?

22 A Fed-Ex Freight.

23 Q And were you so employed with them back on April
24 the 27th of 2001?

25 A Same company, American Freightways, and then they

1 were bought out.

2 Q Back on April 27, 2001, between the hours of 8:00
3 a.m. and 8:30 a.m., could you please tell this jury
4 where you were and what you were doing?

5 A I was on 290 going toward Greer, and my wife was
6 taking me work.

7 Q And who was driving?

8 A My wife was -- no, I'm sorry, I was.

9 Q You were driving?

10 A Yes.

11 Q Your wife was a passenger?

12 A She was a passenger, yes.

13 Q What time did you have to be at work?

14 A I believe it was 10 o'clock, 9:00 or 10:00.

15 Q What if anything unusual happened while you were on
16 290?

17 A Excuse me?

18 Q What if anything unusual happened while you were on
19 290?

20 A In the process of going to work, we noticed a
21 vehicle coming at us and a body fell out of the vehicle,
22 and it looked like it struck the pavement and rolled
23 around like a ragdoll, and she jumped up and started
24 waving at traffic, and I wasn't sure, you know, what was
25 going on. I thought somebody had threw her out.

1 Q Okay. What did you do?

2 A I was wanting to stop. Was so much traffic around,
3 I went up I guess about a quarter of a mile or so, maybe
4 a little further, and I turned around to come back to
5 see what was going on.

6 Q So you were traveling -- first let me show you
7 what's been marked as State's Exhibit number 1, you can
8 step down, this diagram. You've seen this diagram,
9 correct?

10 A Yes.

11 THE COURT: Speak up while you're down there,
12 please, sir.

13 THE WITNESS: Yes, sir.

14 BY MS. STROM:

15 Q And stand so -- sort off to the side so all the
16 jurors can see the diagram.

17 A Okay.

18 Q Which direction were you traveling,

19 ?

20 A Okay. I was coming towards

21 Q You were coming down 290?

22 A Down 290.

23 Q All right. And you saw someone, I believe you say,
24 fall out of a vehicle?

25 A Fall out of a vehicle, and I went down, I believe I

1 turned around somewhere right here, and I -- as soon as
2 I turned -- as soon as I turned around, I looked and saw
3 the same vehicle turning down Mountain Crest, and so I
4 pursued the vehicle at a high rate of speed. As soon as
5 I turned, I lost the vehicle. I knew it was all
6 dead-ends, and I know there was no where he could have
7 went, so I pursued the vehicle down to the end of the T
8 here, and I went into the cul-de-sac, and as I come out
9 of the cul-de-sac, I saw someone walking across the road
10 and we stopped, and I backed up, and that's when I saw
11 him go behind the buildings there. I stopped to get out
12 of my car, I was going to pursue him on foot, and when I
13 got out of my vehicle to pursue him on foot, it looked
14 to me as he pulled a small caliber pistol, and of course
15 I got back in my vehicle and left.

16 Q When you say he pulled a small caliber pistol, what
17 did he do with it?

18 A Pointed it at me.

19 Q Pointed it at you?

20 A Yes, ma'am.

21 Q And at that point what did you do?

22 A I got back in my vehicle, because my wife was with
23 me, and I left.

24 Q Okay. Did you see in what direction -- he was on
25 foot?

1 A He was on foot.

2 Q Did you see what direction he left?

3 A All I know is he disappeared behind the house. I
4 didn't take any chances.

5 Q All right. Thank you. You may retake the stand.
6 I believe you testified that when you were turning
7 around to go back and see if you could help, that you
8 saw the same vehicle turn onto Mountain Crest?

9 A Yes.

10 Q That's the same vehicle that you saw the person
11 jump out of the car?

12 A Yes, it was.

13 MS. STROM: Court's indulgence, Your Honor. Thank
14 you. Please answer any questions the defense may have.

15 THE WITNESS: Yes, ma'am.

16 CROSS-EXAMINATION

17 BY MR. ABDALLA:

18 Q Good morning, Mr. Richardson.

19 A Good morning.

20 Q Let me start off trying to clear one thing up. You
21 said this happened between 9:00 and 10:00 in morning?

22 A No, I had to be to work around 9:00 and 10:00.

23 Q I'm sorry. Okay.

24 A Yes.

25 Q Okay. Do you know anything about this crime other

1 than -- do you have any firsthand knowledge other than
2 what you've testified to already?

3 A Just what the news papers -- or the news ---

4 THE COURT: The question was firsthand knowledge,
5 something you saw, first ---

6 THE WITNESS: On, no, no, sir.

7 BY MR. ABDALLA:

8 Q And do you know if the man who pointed the gun at
9 you was charged with ---

10 MS. STROM: Objection, Your Honor, I don't think
11 that's relevant.

12 THE COURT: Overruled. He can ask that.

13 BY MR. ABDALLA:

14 Q Was he charged with pointing a gun at you?

15 A Not that I'm aware of.

16 MR. ABDALLA: Let me have one moment, please.

17 BY MR. ABDALLA:

18 Q So what you say is you saw the woman in the field
19 and you saw the man chase her into the woods, and that's
20 all you saw in this case.

21 A I saw her falling fall out of the vehicle. I saw
22 her waving at traffic, trying to get someone to stop.
23 She was really scared. I couldn't stop. So I went up
24 the road and turned around, and when I turned around I
25 saw the vehicle turn down the road.

1 MR. ABDALLA: Okay. Thank you.

2 THE COURT: All right. Thank you, sir. You can
3 step down.

4 MS. STROM: May he be excused, Your Honor?

5 THE COURT: All right. Any objection? Any
6 objection to him being excused?

7 MR. EPPES: No, Your Honor.

8 THE COURT: All right. Is the next witness on this
9 same area or are we moving to a different area?

10 MS. STROM: To the same area, but very limited,
11 Your Honor.

12 THE COURT: Okay.

13 MS. STROM: And if I may have just one quick moment
14 with defense counsel?

15 THE COURT: I was just -- I'm going to take a break
16 in the next -- now or in the next 10 minutes or so. I'm
17 just asking you if this is a good time for a break?

18 MS. STROM: Now would be a good time for a break.

19 THE COURT: All right. Mr. Foreman, ladies and
20 gentlemen, let's take a short break at this time. We'll
21 accommodate any smokers at this time. While you're back
22 there, don't discuss this case. Everybody else remain
23 seated while the jury leaves, please.

24 (The jury exited the courtroom at 10:50 a.m.)

25 THE COURT: All right. The objection of the State

1 was more an admonition. The question was, did the
2 witness know more about this case. She was afraid that
3 that was an open-ended question that might open some
4 doors. So it was more, I guess, of a warning to the
5 defense on that question. The question was rephrased
6 with that witness. Anything else we need to put on the
7 record before we break?

8 MR. ABDALLA: No, Your Honor.

9 MS. STROM: Your Honor, only that I'd like to
10 advise the defense counsel that the next witness is
11 Chris Bryan. He will be called a couple times during
12 this proceeding, and I just wanted to let them know that
13 at this point I was only going to talk to him about
14 finding the SUV, and I would be bringing him back up for
15 other areas. I didn't want them to think that that
16 would be the extent of his testimony.

17 MR. EPPES: Your Honor, that's without objection.

18 THE COURT: Okay. All right. We'll take a break.
19 About 10 minutes.

20 (A short recess was taken, after which, the trial
21 continued as follows:)

22 THE COURT: My secretary talked to Captain Melton.
23 She said your client had a shower last night. So it
24 hadn't been three days without a shower. They're only
25 allowed to shave three times a week, but I have signed

1 an order that he can be allowed to bathe and shave each
2 morning. So if there's a problem, let me know.

3 MR. EPPES: Thank you, Your Honor.

4 THE COURT: All right. Bring the jury in.

5 (The jury entered the courtroom at 1:15 a.m.)

6 THE COURT: Next witness, please.

7 MS. STROM: The State calls Chris Bryan.

8 THE CLERK: Put your left hand on the Bible,
9 please, and raise your right hand.

10 CHRIS BRYAN

11 Having been first duly sworn, testified as follows:

12 THE CLERK: State your name for the record, please.

13 THE WITNESS: Christopher Bryan, last name spelled
14 B-r-y-a-n.

15 THE CLERK: Thank you. Be seated.

16 DIRECT EXAMINATION

17 BY MS. STROM:

18 Q Please state your full name for the record?

19 A Christopher B. Bryan.

20 Q I need for you to keep your voice up like that so
21 everybody can hear you. By whom are you employed?

22 A Greenville County, Department of Public Safety,
23 Forensics Division.

24 Q What is your position there?

25 A I'm a Forensic Evidence Technician.

1 Q Please tell this jury basically what you do as a
2 Forensic Evidence Technician?

3 A Respond to crime scene, gather and collect
4 evidence, photograph a crime scenes, process the
5 evidence for latent fingerprints, sketch a crime scene,
6 depicting location of necessary evidence and/or victims
7 present.

8 Q Okay. I want to direct your attention to April 27,
9 2001. Do you recall that day?

10 A Yes, I do.

11 Q Were you asked to respond to the area of North
12 Valley View Drive?

13 A Yes, I was.

14 Q Okay. Have you seen -- I believe you've seen
15 State's Exhibit Number 1, correct, which is this
16 diagram? If you'll step down.

17 A Yes, I have.

18 Q You and I have been over this diagram?

19 A That's correct.

20 Q If you will, please orientate the jury to
21 -- and the subdivision?

22 A This is -----, which is South Carolina
23 --, I believe.

24 Q You need to keep your voice up so the court
25 reporter and all the jurors can hear you.

1 A s the entrance road to the
2 subdivision from At the
3 end of the roadway o the intersection
4 of , the cul-de-sac on the right, and the
5 vicinity is right in this vicinity where I was directed
6 to.

7 Q Thank you. You may return to the stand. When you
8 responded to that location, what if anything did you
9 observe there?

10 A I observed a vacant lot, a house being built, under
11 construction on the very back part of the lot. To my
12 left was a heavily wooded area, very thick with
13 vegetation. I could barely observe a faint trail where
14 it appeared that a vehicle had been driven, or something
15 had been driven up into that heavily wooded area. As I
16 approached closer, I could see the glimpse of a white
17 vehicle in that wooded area.

18 Q Did you do any documentation, photographic
19 documentation of that vehicle as you got closer to it?

20 A Yes, I did.

21 MS. STROM: Your Honor, these have previously been
22 shown to the defense counsel.

23 MR. EPPES: Your Honor, these come in -- these can
24 be a piece of evidence without further ado, no
25 objection.

1 THE COURT: All right. Without objection. How
2 many are there?

3 MS. STROM: There's two photographs, Your Honor,
4 State's Exhibit 2A and 2B.

5 (State's Exhibit Numbers 2A and 2B were marked and
6 filed.)

7 MS. STROM: I show you what's been ---

8 THE COURT: Hold on just a minute. Who's got a
9 cell phone? All right. Take the cell phone from her,
10 please. The law in this State is there are no beepers,
11 or cell phones in a courthouse or a courtroom. If
12 you've got one, cut it off. Go ahead.

13 BY MS. STROM:

14 Q You have State's Exhibits 2A and 2B. Are those the
15 photographs you took there that day?

16 A Yes, they are.

17 Q And those were of the SUV that you saw there?

18 A That is correct.

19 Q If you would, please describe for the jury the
20 condition of that SUV at the time you found it?

21 A At the time I found the vehicle, as I said earlier,
22 it had been driven -- appeared to have been driven up
23 into this heavily wooded area, very thick with brush,
24 small trees, large trees. When I found the vehicle, it
25 had ran over several small trees and appeared that it

1 could not be moved any further forward. It would have
2 to be physically towed or pulled out with a wench of
3 some type to be removed from its present location.

4 Q And did you in fact have it towed?

5 A Yes, I did.

6 MS. STROM: Your Honor, at this time we would like
7 to publish State's Exhibits 2A and 2B.

8 THE COURT: Okay.

9 BY MS. STROM:

10 Q The first is State's Exhibit 2A. If you would,
11 simply describe to the jury what we're seeing in State's
12 Exhibit 2A?

13 A This is the heavily wooded area located in the
14 vicinity of 219 North Valley View drive. This is the
15 final location, resting location of where the vehicle
16 stopped and could not be moved, or under its own power
17 be moved forward. Heavy vegetation, I observed, thick
18 trees, poison oak vines, small trees, very thick
19 vegetation, very dense.

20 Q State's Exhibit 2B, which is just a different view
21 of the same area and the same vehicle, is that correct?

22 A That's correct. The vehicle turned out to be 1996
23 Honda Passport.

24 MS. STROM: Court's indulgence, Your Honor. Thank
25 you. Please answer any questions the defense may have.

1 THE COURT: You want the photos for cross?

2 MR. EPPES: Yes, please.

3 THE COURT: Okay.

4 MR. EPPES: Did you say kill them?

5 THE COURT: No, I said, do you want them?

6 MR. EPPES: Oh, I'm sorry, Your Honor, I just
7 misunderstood. Will you cut that off, cut the light
8 off?

9 THE COURT: I just didn't want to cut it off and
10 cut the lights on again if you were going to use it,
11 that's why I asked.

12 MR. EPPES: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. EPPES:

15 Q Officer, Bryan, you found a piece of rope in the
16 car, didn't you?

17 A That's correct.

18 Q Okay. The car belonged Rebecca Larke, didn't it?

19 A I did not actually run the tag to know exactly who
20 it belonged to. I'm not -- I can't say for certain.

21 Q Do you know that now?

22 A I believe it does.

23 Q And the guy that got out of the bar was Brad
24 Sigmon, wasn't it?

25 A I don't know. I didn't see anybody get out of the

1 car.

2 Q Do you now believe that to be the case?

3 A I don't have enough evidence to say who was
4 present.

5 MR. EPPES: That's absolutely fine. Officer Bryan,
6 thank you very much.

7 THE COURT: All right. You're free to go. Thank
8 you very much.

9 MS. STROM: Your Honor, he is subject to being
10 recalled.

11 MR. EPPES: Yes.

12 THE COURT: Okay. That's correct. You are still
13 under subpoena. You may go back to your duties, we'll
14 call you when we need you.

15 THE WITNESS: Thank you, sir.

16 MS. STROM: The State calls Gary Gilstrap.

17 THE CLERK: Put your left hand on the Bible,
18 please, sir, and raise your right hand.

19 GARY GILSTRAP

20 Having been first duly sworn, testified as follows:

21 THE CLERK: State your name for the record, please.

22 THE WITNESS: Gary Gilstrap.

23 THE CLERK: Thank you. Be seated.

24 THE COURT: Go ahead and slide your chair a little
25 bit closer to the microphone and make yourself

1 comfortable.

2 DIRECT EXAMINATION

3 BY MS. STROM:

4 Q Again, if you would, please state your name for the
5 record?

6 A I am Gary Gilstrap.

7 Q I need for you to keep your voice up like that so
8 everyone can hear you. By whom are you employed?

9 A I'm employed with the Greenville County Sheriff's
10 Office.

11 Q In what capacity?

12 A I'm a deputy. I'm an investigator at this point
13 with the Sheriff's Office here in Greenville.

14 Q How long have you been with the Sheriff's Office?

15 A I've been a deputy with Greenville County since
16 1988.

17 Q When did become an investigator?

18 A Nine months ago.

19 Q Okay. Back on April 27, 2001, you were a deputy?

20 A Yes, I was.

21 Q What were your duties as a deputy with the
22 Greenville County Sheriff's Office?

23 A I was a community deputy assigned to the -- what we
24 call area one, or the northern part of Greenville
25 County.

1 Q Did you have occasion on April 27, 2001, to go to
2 the area of 290, which is also known as

3
4 A Yes, I did. My shift work was from nine o'clock in
5 the morning until five in the evening. It was on a
6 Friday. When I signed on, obviously heard a lot of
7 radio traffic referring to the area of ----
8 which was in my area. I called my supervisor, asked him
9 if I could be of any assistance. He said for me to be
10 en route to his location at the

11
12 Q And did you go to that area?

13 A Yes, I did.

14 Q As a result of speaking -- did you speak with your
15 supervisor when you got to that area?

16 A Yes, I did. When I arrived on the scene, I asked
17 him what could I do, he said just go be in the area,
18 we're looking for a white male involved in a shooting.
19 That's all the information he gave me. I left the
20 subdivision at that time.

21 Q And where did you go when you left the subdivision?

22 A Only one entrance into that subdivision. I pulled
23 off out of that subdivision onto
24 - went to my left on going
25 away from -- if you're coming from Greer going away from

1 the city of Greer, and I noticed that there was a big
2 open field, if you're facing the subdivision, it would
3 be to the right. I saw some old barns that were
4 adjacent to this field. I pulled -- I was driving a
5 Blazer at the time. I pulled up a little dirt road to
6 these barns, up into that area there.

7 Q Did you find anything when you were up in that area
8 next to the barns?

9 A Yes, I did. When I pulled up, there wasn't a farm
10 house per se there, there was just out buildings, barns
11 where hay was stored. I saw a fairly new red Chevrolet
12 Camaro that was parked next to one of the barns.

13 Q When you saw this Camaro parked next to the barn,
14 what if anything did you do?

15 A Well, very carefully pulled up behind the Camaro,
16 kind of watching the barn at the same time, got a tag
17 number off the -- off the car, backed away, called
18 dispatcher and asked them to run this tag number. And
19 it was just a few seconds she replied that the vehicle
20 belonged to a Brad Sigmon. At that point my supervisor
21 I had spoke with at Oakland said -- asked me where I was
22 at with that vehicle, and I explained to him, and he
23 said, that's our suspect, and I proceeded to back up a
24 little further and waited, and he instructed me to wait
25 for other assistance to check these out buildings where

1 I was at.

2 Q I'm going to have you step down and look at State's
3 Exhibit Number 1, and I'm going to ask that you keep
4 your voice up so everybody can hear you. You're
5 familiar with State's Exhibit Number 1?

6 A Yes.

7 Q You and I have been over State's Exhibit Number 1?

8 A That's correct.

9 Q If you would please show this jury -- if you would,
10 orientate this jury as to where you first arrived on the
11 scene to talk with your supervisor?

12 A Okay. This is the entrance. One
13 entrance here into the subdivision. Came in here, met
14 with the supervisor in this area right here. I pulled
15 back out onto the main road out of the subdivision. I
16 turned left. Here's the open field that I mentioned,
17 and there's a little dirt road right here that goes up
18 to some out buildings, a big large barn where hay was
19 stored, and in this area right in here is where the
20 Camaro was seen, right beside one of the barns.

21 Q Okay. Thank you. You may retake the stand. I'm
22 going to show you what's been marked as State's Exhibit
23 Number 5A and 5B, previously shown to defense counsel.

24 MR. EPPES: Your Honor, we have no objection to
25 these as being admitted into evidence.

1 THE COURT: Those are photos?

2 MS. STROM: Yes, sir, 5A and 5B.

3 BY MS. STROM:

4 Q Ask you to look at State's 5A and 5B. Do you
5 recognize those photographs?

6 A Yes, I do. This is the red Camaro that I saw that
7 was beside the barn. It's got the tag number that I had
8 dispatch run through the DMV files to see who it
9 belonged to.

10 Q And those photographs were taken at a later time,
11 correct.

12 A Yes, it is.

13 Q Okay. They're not taken at the place where you
14 actually saw the vehicle, but later after it was
15 impounded?

16 A This is after impoundment.

17 MS. STROM: I would like to publish these to the
18 jury at this time, Your Honor.

19 THE COURT: All right. They're entered without
20 objection.

21 (State's Exhibit Numbers 5A and 5B were marked and
22 filed.)

23 BY MS. STROM:

24 Q That's State's exhibit 5A, and Exhibit 5B is just a
25 different view of the same vehicle, correct?

1 A That's correct.

2 Q And that's the Camaro you saw by the barn off
3 Locust Hill Road?

4 A That is the Camaro.

5 MS. STROM: Court's indulgence, Your Honor? Thank
6 you. Please answer any questions the defense may have.

7 MR. EPPES: I'm going to use this, if that's okay.

8 THE COURT: Okay. We'll let you.

9 CROSS-EXAMINATION

10 BY MR. EPPES:

11 Q Officer Gilstrap ---

12 THE COURT: Other way.

13 MR. EPPES: Oh. There's no way for me to work
14 something like this, Judge. There we go. Thank you.

15 BY MR. EPPES:

16 Q Officer Gilstrap, I notice the trunk is open to
17 that Camaro in that picture, do you see that?

18 A Yes.

19 Q Did you look in the trunk of the car, was there a
20 suitcase in there?

21 A Did not go in the vehicle whatsoever. The vehicle
22 was secured. The trunk was shut, locked when I saw
23 it -- the last time I saw it.

24 Q So you don't have any information about what was in
25 the car?

1 A Only what I could see through the interior of the
2 car through the window itself.

3 Q Okay. Thank you. Can you cut that light on,
4 please.

5 THE COURT: Are you through with the photos?

6 MR. EPPES: Yes, sir, I am, Your Honor.

7 BY MR. EPPES:

8 Q Officer Gilstrap, would you step down here, please?

9 A Yes.

10 MR. EPPES: Okay.

11 THE COURT: Do you want the pointer? Will y'all
12 lend him the pointer?

13 MS. STROM: Yes, sir, I will.

14 MR. EPPES: I can use my long stubby arm, Your
15 Honor, if you'd like.

16 BY MR. EPPES:

17 Q You found the Camaro -- well, let's talk about this
18 first? You went into the -----
19 first, how far did you go into it?

20 A It's Oakland subdivision,

21 Q Oh, I'm sorry. How far did you go down
22

23 A All the way down to the end here.

24 Q Where it hits

25 A Yes.

1 Q And the -- when you're at , it looks
2 like there's -- it looks like there are two houses on
3 the corner of , is that
4 correct?

5 A Yes, that's correct.

6 Q And are there any houses on -- and there's one
7 house on the other side of -- going towards
8 where they got identified this map, Passport located, is
9 that correct? You can go look at it closer. I'm just
10 pointing.

11 A Are you asking if there's a house right here?

12 Q There's one -- it looks like there's one house
13 right there, right?

14 A One house here.

15 Q So the Passport, one house, and then right across
16 the street there are two houses on the corner, right?

17 A That's correct.

18 Q Okay. Now, coming back over here to this Camaro,
19 okay, you say it was in an out building or a barn?

20 A It was beside an out building. It wasn't inside
21 the building.

22 Q Did it look like anybody lived right there?

23 A There's -- there was a brick home right in this
24 area right here, that -- there was no old farmhouses in
25 front of these barns directly, it was just below it

1 there.

2 Q Okay. Do you know in relationship to this Camaro
3 how far the place where this Camaro was located is from
4 the home of Brad Sigmon's mother, Virginia Wooten and
5 her husband Donnie?

6 A I have no idea.

7 MR. EPPES: Thank you, sir. You can sit back down.
8 I'm a little bit more hyper than my co-counsel, so y'all
9 excuse me for that.

10 BY MR. EPPES:

11 Q Now, this Camaro, sir, it belonged to Brad Sigmon,
12 right?

13 A That's what the plate revealed when we ran it
14 through the computer system, that's right.

15 MR. EPPES: Thank you very much.

16 MS. STROM: I have no further questions of this
17 witness. And I'd ask that he be excused.

18 THE COURT: Do you need him for any kind of recall
19 or just excused?

20 MR. EPPES: No, Your Honor, he can be excused.

21 THE COURT: Thank you, sir, you're released from
22 your subpoena, Mr. Gilstrap.

23 MS. STROM: Your Honor, at this time we would
24 offer -- again, reshow it to defense counsel, they've
25 previously been shown this, a certified copy of the

1 registration of the Camaro.

2 THE COURT: What exhibit number is that?

3 MS. STROM: State's Exhibit Number 5.

4 THE COURT: All right. Without objection.

5 (State's Exhibit Number 5 was marked and filed.)

6 MS. STROM: May I publish to the jury, Your Honor,
7 very briefly?

8 THE COURT: Yeah.

9 MS. STROM: Showing the license plate number
10 274-JKA, registered to Brad Keith Sigmon.

11 THE COURT: Okay.

12 MS. STROM: Thank you, Your Honor.

13 THE COURT: Next witness.

14 MR. ARIAIL: The State calls Deputy Cianfarano.

15 THE CLERK: Put your left hand on the Bible,
16 please, sir, and raise your right hand.

17 JEREMY CIANFARANO

18 Having been first duly sworn, testified as follows:

19 THE CLERK: State your full name for the record,
20 please, sir.

21 THE WITNESS: Deputy Jeremy Cianfarano.

22 THE CLERK: Thank you. Please be seated.

23 DIRECT EXAMINATION

24 BY MR. ARIAIL:

25 Q Try it this way. State your name again, please,

1 sir.

2 A Deputy Jeremy Cianfarano.

3 Q And Deputy Cianfarano, by whom are you employed?

4 A The Greenville County Sheriff's Office.

5 Q And how long have you been employed with the
6 Greenville County Sheriff's Office?

7 A Going on three years now, sir.

8 Q Okay. If you would just keep your voice up just
9 like that, so these last two jurors down here can hear
10 you. What I want to do is direct your attention back to
11 April the 27th of 2001, and ask you at that time you
12 were employed with the Greenville County Sheriff's
13 Office?

14 A Yes, sir.

15 Q And in what capacity were you working with the
16 Sheriff's Office?

17 A I was a uniformed patrol officer.

18 Q And did you have an occasion to become involved in
19 an investigation that led -- or you were dispatched to
20 950 East Darby Road?

21 A Yes, sir, I was.

22 Q Where were you when you received that dispatch?
23 What time of day are we talking about and give me
24 general location?

25 A It was somewhere around nine o'clock, and I was

1 actually down off

2

3 Q Okay. And how did you go, just describe to us how
4 you get to from the Wal-Mart on Wade
5 Hampton?

6 A The road directly beside Wal-Mart is Tappan Drive,
7 which leads out Warehouse, which then you take a right,
8 and that takes you out to Rutherford Road. At that time
9 I took left and went up to Stallings Road, which will
10 take me up to Reid School Road, then also I got onto
11 Meece Bridge, which will take you directly out to --
12 Meece Bridge will take me to , which I
13 took a right on East Darby which took me out to 290,
14 which at that time all I had to do was cross over
15 and it was just down a little further on the
16 right.

17 Q Okay. And how long did this take you, this trip?

18 A I'd say no longer than 10 minutes at the most.

19 Q And when you arrived at , are
20 you familiar with this photograph, or aerial photograph
21 that we have there?

22 A Yes, sir.

23 Q If you would, feel free -- if you stand up and
24 point at something, just keep your voice up so the jury
25 can hear you and the court reporter can. Show us where

1 950 East Darby road is located on that diagram, the
2 trailer you actually responded to, or the residence?

3 THE COURT: Give him the pointer.

4 THE WITNESS: It would be right here.

5 BY MR. ARIAIL:

6 Q All right. I'm sorry, speak up.

7 A It's going to be at this location here, sir.

8 Q All right. And the label on that is -- on the
9 diagram is what?

10 A The Larke residence.

11 Q Larke's residence. All right. Did you know where
12 the Larke's residence was before you went?

13 A At the time there was no markings on the road which
14 gave us an indication which driveway was Mr. Larke's
15 residence. So when I arrived, I went down to the second
16 driveway to the right.

17 Q Okay. And did you go down that driveway?

18 A Yes, sir.

19 Q Did you -- and when you say -- was somebody else
20 with you in your car?

21 A No, sir, I just had another officer that was
22 responding along with me.

23 Q In a separate car?

24 A Yes, sir.

25 Q All right. And when you arrived and you went in to

1 the first driveway that you turn in, what did that take
2 you to?

3 A Actually the driveway we went down took us to this
4 first trailer, which was directly beside the Larke
5 residence. At that time, not knowing exactly which
6 residence was the Larke's residence, we then knocked
7 on the doors, went around and checked the back door,
8 nobody appeared to be home. And then we noticed
9 there was an additional trailer in the rear which is
10 shown to be Becky's trailer. Being three trailers in
11 that particular area, there was no indication of
12 what -- there were no numbers to specify which trailer
13 was what, so at that time I had stepped across this
14 yard to check this house, and I realized at that time
15 that was the house we were supposed to be at to begin
16 with.

17 Q You can go ahead and have a seat then. Now, once
18 you determined or eliminated the first two and went to
19 the third residence, tell us what you did?

20 A Okay. When we left the first residence and went to
21 Mr. Larke's residence, I then went around the side of
22 the house. There was a screened -- there was a screened
23 porch on the right side of the trailer. Myself along
24 with another officer went in the screened door --
25 screened opening there, which the door was already

1 opened. I stepped onto the porch and which then in turn
2 led to a door which was directly on the right, which
3 lead into the residence.

4 Q All right. Let me ask you, before you do that,
5 what information had you received as to your purpose in
6 going to that residence?

7 A The only information I was given on the radio was
8 to check the welfare of the occupants of the home and
9 make sure to see if they were okay.

10 Q All right. That's where -- you were going there to
11 check on them?

12 A Yes, sir.

13 Q Go ahead. You get to the back porch and what
14 happened?

15 A Okay. As we got onto the porch, we approached the
16 trailer door which had already been opened, at that time
17 not knowing if somebody was still inside, the subject
18 was still inside, we had drew our weapons just to be on
19 the safe side.

20 Q When you say the door was open, was it standing
21 open or just unlocked?

22 A It was unlocked.

23 Q All right. It was closed but unlocked?

24 A Um-hm.

25 Q All right.

1 A We had knocked on the door and nobody -- nobody had
2 responded at that time. We had opened the door and
3 identified ourselves as working for the Sheriff's --
4 Greenville County Sheriff's Office. And at that time my
5 focus was directed down towards the kitchen area,
6 visually looking for somebody, if somebody was still
7 inside, possibly a suspect of some kind. As I -- as we
8 were standing, I had noticed a blanket to my right on
9 the floor. I had no reason -- you know, I had no idea
10 what the blanket was there for, whatever reason, until I
11 had saw some blood. There was a pool of blood just
12 beside the blanket itself. Like I say, my focus was
13 directed towards the kitchen area as far as if somebody
14 was still in the trailer, I was protecting myself as
15 well as the officer that was with me. At that point I
16 was covering for that officer which he then had
17 grabbed a corner of the blanket and lifted it up
18 enough to see what was under the blanket, which he
19 then saw somebody -- someone under there, and there
20 was a large amount of blood coming out from under the
21 blanket there, and there appeared to be no life
22 whatsoever in that particular person. At that time we
23 had to step around that subject that was on the floor
24 and started clearing the house, checking for other
25 victims as well as possibly somebody else being in the

1 house.

2 Q Now, for those people that may not be in law
3 enforcement, explain what clearing the house means?

4 A Okay. I -- basically we go from room to room
5 checking to see if possibly a subject is still there as
6 well as other victims, that if we do find them maybe get
7 them medical assistance.

8 Q What room -- after you moved through the kitchen,
9 what room did you go to next?

10 A After moving through the kitchen, which lead us out
11 into the living room, and at that point we had noticed a
12 recliner with a sheet that was covered over the
13 recliner, which had some blood stains that you could
14 visibly see from the outside. And at that time I had
15 covered for the other officer, which he then grabbed the
16 sheet, lifted it up enough to see what was underneath
17 the sheet and when he did that, he could tell there was
18 no life whatsoever in that particular person. So he
19 covered the person back up and we proceeded then to
20 clear the rest of the house, into the bedrooms as well.
21 There was some additional bedrooms in the back of the
22 trailer.

23 Q Looking for other victims or ---

24 A Yes, sir.

25 Q All right.

1 A And at that point, once we cleared the house, we
2 had found no more victims, as well -- you know, nobody
3 else being in the house, we then exited the house and I
4 then secured some crime scene tape and secured a scene,
5 which -- and did not allow anybody else in the
6 residence, and then notified a supervisor what we had.

7 Q All right. So once you cleared the residence,
8 determined -- located what appeared to be two victims,
9 did you then exit the residence?

10 A Yes, we did.

11 Q Other than picking up a corner of the blanket as
12 you -- or the cover and the sheet, did you disturb
13 anything else in the residence?

14 A No, sir.

15 Q When you go outside, you put up crime scene tape,
16 what does that mean?

17 A It just puts a barrier up for -- which doesn't
18 allow anybody else beyond that line, media, other
19 people, which, you know, keeps something from being
20 disturbed as far as evidence.

21 Q Okay. Other than the two victims of -- the two
22 bodies that you saw, did you locate anyone else in the
23 residence?

24 A No, sir.

25 MR. ARIAIL: Thank you. Answer any questions that

1 either defense counsel may have.

2 CROSS-EXAMINATION

3 BY MR. EPPES:MR. EPPES:

4 Q Officer -- is it Cianfarano?

5 A Cianfarano.

6 Q Office Cianfarano, you mentioned you went first to
7 the trailer that's identified on that map as Becky's
8 trailer, and then you went to the Larke's residence, is
9 that correct?

10 A Actually the first trailer we went to was the one
11 before Becky's trailer on the left.

12 Q Okay. Then you went to the brown trailer, which is
13 marked as Becky's trailer, correct?

14 A No, we did not go to that particular trailer first.
15 We went to the trailer directly across to the Larke's
16 residence.

17 Q I'm sorry, I misunderstood. How far is it from the
18 brown trailer to the Larke's residence?

19 A I would say no more than 50, 75 yards at the most.
20 I didn't measure it myself. I just -- from looking at
21 it, I believe about that far.

22 Q Thank you. And when you got in the Larke
23 residence, the bodies of David Larke and Gladys Larke
24 were there covered with -- one with a blanket and one
25 with a sheet, correct?

1 A At that time I was not familiar with the residents
2 of the home and being both bodies were covered up, I --
3 at that time I didn't know who Mr. and Mrs. Larke were,
4 but we did have two bodies inside.

5 Q Do you now know that the bodies of David and Gladys
6 Larke were covered with a sheet?

7 A Yes, sir.

8 Q One with a blanket, one with a sheet?

9 A Yes, sir.

10 MR. EPPES: Thank you, sir.

11 THE COURT: Anything else, Solicitor?

12 MR. ARIAIL: No, Your Honor.

13 THE COURT: All right. Is this witness subject to
14 recall or can he be released from his subpoena?

15 MR. ARIAIL: You would move to release him. I
16 don't think -- we don't plant to recall him.

17 MR. EPPES: Your Honor ---

18 THE COURT: Is that okay?

19 MR. EPPES: --- he can be released from his
20 subpoena.

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

22 THE WITNESS: Thank you.

23 MR. ARIAIL: Call Cecil Thrasher.

24 THE CLERK: Put your left hand on the Bible,
25 please, sir, and raise your right hand.

CECIL THRASHER

Having been first duly sworn, testified as follows:

THE CLERK: State your name for the record, please, sir.

THE WITNESS: Cecil Vann Thrasher.

THE CLERK: Thank you. Be seated.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q State your name, please, sir.

A Cecil Vann Thrasher.

Q Mr. Thrasher, if you would keep your voice up so these last two jurors can hear you, just like that. By whom are you employed?

A The Greenville County, Department of Public Safety, crime scene section.

Q And the crime scene section of the Department of Public Safety, in what capacity do you work there?

A As a forensics officer.

Q And a forensic officer, for the jury, what does a forensic officer do?

A We process crime scenes.

Q Collect evidence?

A Yes, sir.

Q All right. And when you process a crime scene, just explain some of the things that you do?

1 A Well, we view the crime scene, we photograph it,
2 identify and collect evidence.

3 Q And did you have an occasion on April the 27th of
4 2001, to become involved in an investigation of
5 processing the crime scene of the residence of Gladys
6 and David Larke?

7 A Yes, sir, I did. I responded to the crime scene at
8 948 East Darby Road.

9 Q And did you determine as part of that whose
10 residence that was?

11 A That was the residence of David and Gladys Larke.

12 Q As part of your processing of the scene, do you
13 also prepare diagrams?

14 A Yes, sir, we do.

15 Q And did I request you to make certain modifications
16 to those diagrams for -- on the originals for the
17 purpose of Court testimony?

18 A Yes, sir.

19 Q Let me show you what has been marked as State's
20 Exhibits 6A, B and C. Are these the documents that I
21 requested that you modify from the originals?

22 A Yes, sir, Your Honor.

23 MR. EPPE: Without objection.

24 THE COURT: All right. Then classify these as
25 what, charts, maps?

1 MR. ARIAIL: Diagrams.

2 THE COURT: All right. Without objection they are
3 exhibits.

4 (State's Exhibit Numbers 6A, 6B and 6C were marked
5 and filed.)

6 BY MR. ARIAIL:

7 Q Now, as a part of the processing of the scene, were
8 you also present when photographs were taken of both the
9 interior and exterior of the residence?

10 A Yes, sir, I was.

11 Q Let me show you these photographs and ask you if
12 these are accurate representations of the scene at the
13 time you were present?

14 A Yes, sir, they are.

15 MR. ARIAIL: I have one of these, Your Honor, that
16 does not have a sticker.

17 THE COURT: What number are these, Solicitor?

18 MR. ARIAIL: They are exhibit -- let me check, I
19 think it is 7.

20 THE COURT: The sticker would say. Mr. Eppes, what
21 does ---

22 MR. EPPES: Your Honor, this one says blank.

23 THE COURT: Ah-ha.

24 MR. EPPES: They all say blank as a matter of fact.

25 MR. ARIAIL: They would be 9A through whatever.

1 THE COURT: How many are there? I'll count.

2 MR. EPPES: One, two, three, four, five, six,
3 seven, eight, nine, ten. There are ten, Your Honor.

4 THE COURT: Okay. Any objection to those before we
5 mark them?

6 MR. EPPES: I'm just about done with them, Your
7 Honor. Madam Court Reporter, I said there were 10 of
8 them, didn't I?

9 COURT REPORTER: Yes, sir.

10 THE COURT: Any objection?

11 MR. EPPES: No objection, Your Honor.

12 THE COURT: So that will be 9A through J. We'll
13 enter the numbers later. Go ahead.

14 MR. ARIAIL: Okay. That's fine.

15 MR. ARIAIL: Well, I'm going to start putting them
16 up, so I better mark them.

17 THE COURT: That's right. That's what we want,
18 because he's going to have to refer to them as A, B, C,
19 or D.

20 (State's Exhibit Numbers 9A through 9J were marked
21 and filed.)

22 BY MR. ARIAIL:

23 Q Now, using these diagrams that you have made and
24 also to -- using the photographs, I want to walk you
25 through and orient the jury to the scene. And as part

1 of this, your process of doing a crime scene processing,
2 do you also make a report?

3 A Yes, sir, we do.

4 Q All right. And it's a written typed report that
5 you submit and file?

6 A Yes, sir.

7 Q Okay. If you need to, during the course of this,
8 you can refer to your notes, just let us know when
9 you're doing so, otherwise we'll assume that you are
10 recognizing this from memory. All right. I want to
11 publish what is marked as State's Exhibit 6C. All
12 right. Starting with the entrance off the back screened
13 porch, tell us what notations you made and what is
14 reflected on this diagram? What I'm going to do, if you
15 don't mind, is I'm going to give you this pointer, it's
16 a laser pointer, it just puts a red beam up there,
17 rather than you getting up and walking up there, if
18 you'd just point to the various parts of the diagram and
19 orient the jury as to what we're looking at?

20 A Let me figure out how to work it. Okay.

21 Q Oh, the pointer.

22 A Okay. I got it. Okay. Coming in the back --
23 well, prior to coming in the back door, there is a
24 gravel driveway to the right of the residence, and this
25 leads around back, and there is a covered garage back

1 there, just a metal garage, doesn't have any sides. In
2 that gravel driveway, there were two areas which
3 appeared that two tires had been spinning, going -- and
4 to the left of the driveway, there was two extension
5 cords and a pair of white socks.

6 Q All right. And were they -- how were they
7 contained, were they just laying loose on the ground?

8 A They were just laying on the ground.

9 Q All right. Not in a bag or anything like that?

10 A No, sir. And then coming in the back door of the
11 screened porch, there was a plastic bag containing panty
12 hose right in the middle of the doorway. To the left of
13 this, there was a washer and drier, and lying on the top
14 of this washer and drier was a short wood bat and had
15 suspected blood stains on it. Going back, there was a
16 short hallway here, David Larke was laying face down on
17 the left side of his face with his feet towards the
18 doorway. His left arm was underneath him and his right
19 arm was up against a potato bin and that hand was laying
20 down by his side. There were suspected blood stains, a
21 large pool of blood around Mr. Larke's head and blood
22 stains further out. The refrigerator was right to the
23 left of this and on top of that was a lock change
24 receipt and a trespass notice.

25 Q All right.

1 A To the left of the kitchen was the sink and the
2 stove. There was a small dining room table with four
3 chairs on the right side. Going from the kitchen, there
4 was a six-chair dining room table. And proceeding on
5 into the living room, there was an easy chair and a
6 display cabinet and then a hall way with the bathroom on
7 the left and a bedroom down at the end and another
8 bedroom on the right. Right at this corner of the door
9 frame to the bathroom I located suspected tissue and
10 hair fibers. There was no linen on the bed in this end
11 bedroom. Coming back out there was a blanket laying on
12 the floor. There was an easy chair here in which
13 Ms. Larke was sitting, and a bedspread which when I --
14 on my arrival had been covering Ms. Larke. There was a
15 telephone table here. The telephone base was in this
16 chair and the receiver was over in this chair here.
17 Going into the master bedroom which is off to the right
18 of living room, there was a bedside table, which had
19 been over turned, a lamp was laying down. There was a
20 telephone there. The wall plug appeared to have been
21 ripped from the wall. The top mattress of this bed had
22 been pushed over and the blankets and sheets were in
23 disarray. This is the double glass door entrance to the
24 master bedroom, and on the exterior handle of the right
25 side door there appeared to be blood stain there. And

1 this is the master bathroom.

2 Q All right. That's the overall of the residence?

3 A That was the overall scene, yes, sir?

4 Q Okay. Now, you mentioned a few things along the
5 way. Let me refer to some of the photographs. First,
6 looking at photograph 9A and give -- if you would, just
7 tell the jury what you're looking at with that
8 photograph?

9 A Okay. This is the Larke residence here, and this
10 is the covered garage out back, and at the far end of
11 this is the entrance that we first came in on the rear
12 screened porch.

13 Q You can't see the screened porch from ---

14 A No, sir, you can't see it from this photograph.

15 Q All right. And back here on the left is the rail
16 and this walkway. What is in that area?

17 A In this area here, sir?

18 Q Right?

19 A That's another mobile home back there.

20 Q Okay. Now, you mentioned on your way in, that you
21 found some cords. I want to show you what's been marked
22 as State's Exhibit Number 9B. Ask you if you can
23 identify that?

24 A Yes, sir. That's the two extension cords and then
25 that -- and that is the white socks laying on top of it.

1 Q And did you collect those items?

2 A Yes, sir, I did.

3 Q All right. I want to show you what's in a bag
4 marked as State's Exhibit Number 8, and ask you if
5 collected that item?

6 MR. EPPES: Your Honor, may I approach?

7 THE COURT: Him or ---

8 MR. EPPES: Well, as he opens it, I'd like to see.

9 THE COURT: Sure. Sure.

10 THE WITNESS: Yes, sir, these are the items I
11 collected. I have my initials on the inside of the
12 socks.

13 BY MR. ARIAIL:

14 Q C T?

15 A C T, yes, sir.

16 Q All right. And it's a pair of white socks?

17 A A pair of white socks and a brown and white
18 extension cord.

19 MR. ARIAIL: All right. Your Honor, we'd like to
20 offer this as State's Exhibit Number 8 at this time.

21 THE COURT: As one item?

22 MR. ARIAIL: Um-hm.

23 THE COURT: Okay.

24 MR. EPPES: Without objection.

25 THE COURT: Okay. Without objection.

1 MR. EPPES: Your Honor, what exhibit are those?

2 THE COURT: Eight.

3 MR. ARIAIL: Eight.

4 (State's Exhibit Number 8 was marked and filed.)

5 BY MR. ARIAIL:

6 Q Let me ask you to look at what has been marked as
7 State's Exhibit 6B, and for the purposes of the record,
8 that's simply a close up or focus drawing of the kitchen
9 area that you previous described in the overall drawing
10 from 6A?

11 A Yes, sir, it was.

12 Q All right. What I'd like you to do, if you would,
13 you've done several of those -- been through several of
14 the items, but coming in the back door, in particular,
15 you talked about a bag containing panty hose?

16 A Yes, sir.

17 Q Let me show you what's been marked as State's 9J,
18 and ask if you -- is that the item we're referring to?

19 A Yes, it is.

20 Q And tell us exactly what it was?

21 A It was a white plastic bag containing panty hose.

22 Q Okay. And now inside -- or down here in the bottom
23 of the picture is -- looks like what's known as five
24 quarter board on the exterior?

25 A Yes, sir.

1 Q Exterior porch. Down here on the bottom?

2 A Yes, sir.

3 Q I apologize, I'm blocking. Is that what is known
4 as the exterior porch?

5 A Yes, sir, that is the boards on the screen porch.

6 Q All right. Now, when you enter you're coming --
7 what's this little back area here that you see
8 between -- that's got the wall right there, what is
9 that?

10 A This wall from the kitchen just leads directly into
11 that, and to the left of this is the laundry room.

12 Q All right. And straight ahead through there on the
13 floor is a -- it looks to be some sort of quilt or
14 cover, what is that?

15 A That was a bed spread which was covering the lower
16 portion of Mr. Larke's legs and it went up to
17 approximately his left shoulder and there was also a
18 blue plaid shirt that was laying over his left shoulder.

19 Q And that photograph depicts the location of Mr.
20 Larke at that time?

21 A Yes, sir.

22 Q That's where -- when you arrived?

23 A Yes, sir.

24 Q Okay. Now, going back to the diagram, you said on
25 the left when you came in there was a washer, drier?

1 A Yes, sir.

2 Q All right. And on the top of the washer, drier you
3 mentioned a baseball bat?

4 A Yes, sir.

5 Q Let me show you -- will you point that out for us
6 one more time?

7 A The baseball bat was laying across both machines.

8 Q Let me show you what's been marked as State's
9 Exhibit 9G. Could you show us the baseball bat in that
10 photograph?

11 A Yes, sir, that's the bat.

12 Q Okay. And I'll show you State's Exhibit 9H. Ask
13 you if you can ---

14 A Yes, sir, that was the handle end of the bat.

15 Q A close up shot of it?

16 A Yes, sir.

17 Q All right. And 9I?

18 A Yes, sir, that's the head end of the bat.

19 Q All right. Is that the way -- is that an accurate
20 representation of the way you found the bat at the time
21 you collected it?

22 A That was the way I found it when I first entered
23 the residence.

24 Q All right. Did you have occasion to collect that
25 bat?

1 A Yes, sir, I did.

2 Q All right. Let me show you what's -- let me show
3 you this bag here.

4 MR. EPPES: May I approach the witness, Your Honor?

5 THE COURT: What's that?

6 MR. EPPES: May I come up and watch too?

7 THE COURT: Yes, sir.

8 BY MR. ARIAIL:

9 Q There should be an evidence tag on there marked
10 State's Exhibit Number 7. And is this the bat that you
11 collected?

12 A Yes, sir, this is the bat. Yes, sir, my initials
13 are embedded in the handle end of the bat.

14 Q Okay. And the bag that's inside of here, is what,
15 the brown paper bag?

16 A That's the original bag I put the bat in to collect
17 it.

18 MR. ARIAIL: Okay. Your Honor, we would offer this
19 as State's Exhibit Number 7.

20 MR. EPPES: Without objection, Your Honor.

21 THE COURT: In evidence?

22 MR. EPPES: Into evidence.

23 THE COURT: All right. Without objection.

24 (State's Exhibit Number 7 was marked and filed.)

25 MR. ARIAIL: I'm going to show you what we have

1 marked as State's Exhibit 6A. And Your Honor, for the
2 purpose of the record, I think I referred earlier to the
3 larger diagram as 6A it was actually marked -- the
4 larger diagram, for purposes of record, marked as 6C.

5 THE COURT: All right. Thank you.

6 BY MR. ARIAIL:

7 Q This being 6A, a close up of the living room area
8 that you previously described from 6C?

9 A Yes, sir, it is.

10 Q All right. And you had talked about a number of
11 things there. You had talked about a sheet, some blood
12 stains, some tissue, a telephone, and a lamp?

13 A Yes, sir.

14 Q All right. And are those all depicted in that?

15 A Yes, sir. The only thing that's not depicted is
16 the receiver of the telephone being in this easy chair
17 over here.

18 Q Now, what is the focus of that diagram, in the
19 center there, the person seated in the chair?

20 A Was Gladys Larke.

21 Q All right. And was that the actual position of Ms.
22 Larke at the time you arrived?

23 A Yes, sir.

24 Q And it notes, eye glasses in her possession also?

25 A There was a gold colored pair of eye glasses under

1 her right forearm, against her right leg.

2 Q Between her leg and her forearm?

3 A Yes, sir.

4 Q And you discovered this after you removed the
5 sheet?

6 A After we took off the bedspread, yes, sir.

7 Q Okay. So let me walk you through this and show you
8 what we've marked as State's Exhibit 9F, and ask you if
9 that was the picture that you saw when you entered the
10 living room?

11 A Yes, sir, it was.

12 Q Now, is Ms. Larke underneath that cover?

13 A Yes, she is.

14 Q All right. And where is the telephone that you're
15 talking about, in the other easy chair?

16 A There is the base and the handset is in that chair
17 there.

18 Q And the lamp shade?

19 A You can just see the very top of the lamp shade
20 there.

21 Q I'm going to show you what's been marked as State's
22 Exhibit 9E. Same -- same general location, other side
23 of her chair?

24 A Yes, sir, to the right of Ms. Larke's chair.

25 Q All right. And that depicts what?

1 A The over turned lamp and a telephone with the
2 receiver in an adjacent easy chair.

3 Q Let me go back just for a moment to 6A and ask you,
4 this shows suspected blood stains. You had talked
5 earlier about some tissue and hair?

6 A Yes, sir.

7 Q Did you discover that in that particular area?

8 A It was -- this is the bathroom in this location
9 here, and walking this way down the hallway, it was just
10 on the right-hand side of the doorway, approximately
11 three quarters of the way down.

12 Q All right. Did you have an occasion to remove the
13 sheet from Ms. Larke?

14 A Yes, sir, I did.

15 Q And did you conduct an examination to determine
16 what the nature of her injuries?

17 A Yes, sir, it appeared she had head injuries. There
18 was blood running down her face, several areas of blood
19 stains around both shoulders, on her pants, on the easy
20 chair between her pants. To the right side of her chair
21 in this area here there was a linear pattern, just a
22 line pattern of blood drops. It was a line and then it
23 kind of went to one side.

24 Q And what was -- what significance did that carry to
25 you?

1 A That would indicate that some item with blood on it
2 had been held over that scene and moved in that
3 direction.

4 Q All right. Item held over, say that again?

5 A An item would have been held over the area where
6 the blood had been dropped, and it would have had a
7 sufficient number -- amount of blood on it to make that
8 number of drops.

9 Q I got you. All right. Now, the -- did you have
10 occasion to also remove the covering from David Larke?

11 A Yes, sir, I did.

12 Q And did you observe the nature of his injuries?

13 A Yes, sir. He also appeared to have head injuries.
14 There was blood throughout his hair, and there was a
15 large pool of blood underneath his head. And at the
16 edge of the pool of blood there appeared to be projected
17 blood stains out from that.

18 Q Now, when you say -- you testified earlier about
19 his position. How was his head positioned on the floor?

20 A He was laying face down on the floor and his face
21 was slightly on the right side -- or the left side, I'm
22 sorry.

23 Q Tilted towards the left side?

24 A Yes, sir.

25 Q The right side would have been more up?

1 A Yes, sir.

2 Q Okay. Now, you talked a little bit in the other
3 drawing, 6C, about the condition -- items you observed
4 in the master bedroom, and I want to refer you to
5 State's Exhibit 9D, and ask you if you could point to us
6 what you were talking about on that?

7 A Yes, sir. This is the master bed here. This would
8 have been the headboard. This is the bedside table,
9 which had been overturned, a lamp overturned. That was
10 a telephone. This was a telephone cord in this area
11 here, and a little further down is another telephone.

12 Q Okay. And was the cord still connected to the
13 phone?

14 A Yes, sir.

15 Q Was the phone cord still connected to the outlet in
16 the wall?

17 A No. The outlet had been pulled away from the wall.

18 Q The entire outlet?

19 A Yes, sir.

20 Q All right. Let me show you what's been marked as
21 Exhibit 9C. Make reference to also. Just a larger view
22 of the bedroom?

23 A Yes, sir. This is the master bed again with the
24 clothing messed up on the bed, and then this is the
25 bottom mattress, and this is the top mattress. The top

1 mattress had been pushed over to the right.

2 Q The mattress then had been moved?

3 A Yes, sir.

4 MR. ARIAIL: Thank you, Mr. -- Officer. I think
5 that's all I have. Let me check my notes. Your Honor,
6 if you could indulge me just a moment? That's all I
7 have. Thank you. Answer any questions that either
8 defense counsel may have for you.

9 MR. EPPES: Your Honor, would the Court indulge me
10 for about 30 seconds, I just want to get my arms around
11 this for a second.

12 THE COURT: Okay.

13 MR. EPPES: Your Honor, I'm ready to start.

14 THE COURT: You may.

15 MR. EPPES: I may need help with this machine. I'm
16 obviously incompetent to handle it.

17 MR. ARIAIL: Ms. Hervey will help.

18 MR. EPPES: Thank you, Ms. Hervey.

19 THE COURT: All right.

20 CROSS-EXAMINATION

21 BY MR. EPPES:

22 Q Mr. Thrasher -- are you Officer Thrasher, is
23 that ---

24 A Yes, sir.

25 Q Or are you Sergeant, I'm not ---

1 A Officer.

2 Q Okay. Officer. I'm just going to kind of follow
3 the Solicitor, I guess. There's a lot of information
4 here, and I want to get it in front of the jury. Thank
5 you. I got it upside down. Now, this exhibit 6C,
6 that's not your original drawing of this -- of this --
7 it's been altered a little bit, hasn't it?

8 A Yes, sir, it has.

9 Q Okay. Would you pull back a little for me? In
10 your original -- the courtroom is too small, Judge. In
11 the original -- I'm going to show you your original
12 right now. Is that your original drawing of this
13 diagram.

14 A Yes, sir, it is.

15 MR. EPPES: Okay. I'd like to mark this as Exhibit
16 1, I guess, Defendant's Exhibit 1, Your Honor, just for
17 the reference of the witness.

18 MR. ARIAIL: He's offering it into evidence, we
19 have no objection.

20 MR. EPPES: Okay. I'd be happy to admit it into
21 evidence then.

22 THE COURT: You've got to offer it.

23 MR. EPPES: I would like to offer it into evidence.

24 THE COURT: Then it's without objection.

25 Defendant's Exhibit 1.

1 MR. EPPES: May I have it back, Ms. Sprague? Thank
2 you.

3 (Defendant's Exhibit Number 1 was marked and
4 filed.)

5 BY MR. EPPES:

6 Q Officer, this is Defendant's Exhibit 1. Now, the
7 difference between it and the other one, it's got some
8 cleaned up things, but you've got these distances marked
9 off identified down at the bottom, correct?

10 A Yes, sir.

11 Q Okay. I think I'm just going to put this on the
12 board. Thank you. Okay. Now, you've got these
13 distances up here, and they're not in as good as focus,
14 so I'm going to switch back. I'm sorry, Your Honor.
15 Okay. All right. Okay. Now, the main distances, first
16 of all, that we can see from here, the width of the
17 trailer is 24 and a half feet, is that correct, Officer?

18 A I thought it was 24.8

19 Q Okay, 24.8 feet. Would you point that out to the
20 jury, please. Okay. And the kitchen area has 16 feet
21 10 inches under it, correct?

22 A Yes, sir.

23 Q Okay. Point that out to the jury for me, please.
24 Now, what distance does that measurement encompass, is
25 it just to those two walls of the kitchen itself?

- 1 A To the two walls of the kitchen, yes, sir.
- 2 Q Would you point that out, please.
- 3 A That would be that wall there and this one here.
- 4 Q Okay, 16 feet?
- 5 A Sixteen foot, ten inches.
- 6 Q Okay. And the living room is 15 feet -- 15 feet
- 7 eight inches, right?
- 8 Q Yes, sir.
- 9 A And that's the two walls there?
- 10 A Yes, sir.
- 11 Q Okay. Now, how wide is that a little kitchen area?
- 12 A The dining room area?
- 13 Q Yes.
- 14 A I didn't measure that.
- 15 Q Do you have an idea for how wide it is?
- 16 A About 8 to 10 feet. It was relatively small.
- 17 Q So -- so if you include that distance, the distance
- 18 between that doorway where David Larke's body was found
- 19 and the chair where Ms. Gladys Larke was found, is --
- 20 is give or take a foot or so, 40 feet, is that about
- 21 right?
- 22 A Approximately I would say.
- 23 Q Approximately 40 feet?
- 24 A Maybe not quite that far.
- 25 Q Maybe a little less than 40 feet?

1 A Yes, sir.

2 Q Okay. Now, I'm terrible with distances. In the
3 courtroom how far is 40 feet? From -- would from the
4 bar right there behind Mr. Ariail to the back wall,
5 would that be 40 feet?

6 A That looks a little less than 40 feet.

7 Q Okay. So from the front of Mr. Ariail's counsel
8 table to the back wall, would that be 40 feet?

9 A Maybe from -- from this desk to the rear row looks
10 more like 40 feet.

11 Q Where the lady is in the blue dress back there?

12 A Yes, sir.

13 Q Would be 40 feet?

14 A Yes, sir.

15 Q From right where your hand is ---

16 A Well, the last row before the back row.

17 Q Okay. Before the back row. From where your hand
18 is right here?

19 A Yes, sir.

20 Q To there, that would be about 40 feet?

21 A That would be my approximation.

22 Q Give or take. Okay. Now, the width of this
23 trailer -- or house and the porch is 24 feet, 8 inches,
24 right?

25 A Yes, sir.

1 Q Okay. Is that -- is that distance about like this
2 right here, from the wall to this table?

3 A Approximately.

4 Q That's probably about 8 feet, isn't it?

5 A Approximately.

6 Q Okay. Thank you. All right. Now -- now, the
7 picture, 9A -- thank you. This picture 9A, the home on
8 the right is the Larke's home, correct?

9 A Yes, sir.

10 Q That stairway on the left, do you know that to be
11 what's referred on this map over here as Becky's
12 trailer?

13 A Yes, sir.

14 Q Okay. And I'm not going to make you figure out how
15 far it is in the courtroom, but how far is it from the
16 front steps of that trailer to the back door of the
17 Larke's trailer?

18 A To the back screen porch door?

19 Q Yes, sir. Yes, sir.

20 A I'd say maybe 85 feet.

21 Q Okay. If I told you I counted off 56 paces between
22 that stairway and that door, would that sound about
23 right to you?

24 A That wouldn't surprise me.

25 Q My strides are two and a half or three feet?

1 A I'm not very good at estimating distance, that's
2 why I have a ruler.

3 Q Okay. What do you use when you measure your
4 distances inside a -- inside a crime scene like that?

5 A I have a 100 foot metal tape.

6 Q A metal tape?

7 A Yes, sir.

8 Q So somebody will hold one end and you'll hold the
9 other end, and you read it off like a surveyor?

10 A Yes, sir.

11 Q Okay. Now, this exhibit -- okay. This exhibit 9B,
12 these items right here, okay, they were in this bag
13 right here, aren't they?

14 A Yes, sir.

15 Q Okay. And that's two socks?

16 A Yes, sir.

17 Q Two socks, and two of the longest dadgum
18 (phonetically) extension cords I've ever seen. Okay.
19 Two -- one is longer than the other. Two extension
20 cords?

21 A Yes, sir.

22 Q Okay. And these two socks and two extension cords
23 were sitting right beside where two tires spun out, is
24 that right?

25 A They were near it. The driveway was a little

1 further over here and these were -- they weren't far
2 from the edge of the driveway, but the tire marks were
3 further back towards the back of the trailer.

4 Q Towards the back door?

5 A Yes, sir.

6 Q The back door on that screened porch?

7 A Yes, sir.

8 Q There was about 28 feet across from the door that
9 goes inside the trailer?

10 A Excuse me, I didn't ---

11 Q It's about 28 feet from the door that goes
12 inside? The trailer is about 28 feet wide? From the
13 back door when you go inside on the porch to the
14 trailer is about -- to the doorway is about 28 feet,
15 right?

16 A I still don't understand the question.

17 Q Let me show you Exhibit 1 again. Do you have it or
18 do I -- there you go. You see on here you marked the
19 trailer as being about 28 -- 24.8 feet?

20 A Yes, sir.

21 Q Twenty-four feet, eight inches. So from the back
22 door of the porch, where you saw the tire marks, to
23 the -- to the door of the house, that's less than 24
24 feet, isn't it?

25 A From here to this area?

1 Q Yes, from the back door of the screened porch to
2 the back door of the house, is less than 24 feet?

3 A Yes, sir, that would be less.

4 Q Okay. Got it right the first try. Okay. Okay.
5 Can you make it a little smaller for me? A little
6 bit -- just like that, just a little more. Okay. Now,
7 point out those panty hose to me, please.

8 A Right in the doorway here.

9 Q Okay. Was that one pair of panty hose or two pairs
10 of panty hose?

11 A I didn't collect that. I just noticed that it was
12 a plastic bag containing panty hose.

13 Q Did anybody collect it?

14 A No, sir.

15 Q So it was just left there?

16 A Yes, sir.

17 Q Okay. You never opened it up, saw what was it?

18 A No, sir, I just observed the panty hose in it.

19 Q
20 It appears to be sheer panty hose, the kind that if you
21 stretch them you can see through, is that ---

22 A I have no idea, sir.

23 Q You have no idea?

24 A Panty hose is all I could tell.

25 Q Okay. All right. Now, how far is it -- it looks

1 like it's about five feet, but tell me how far it is
2 from those panty hose into the house to the quilt that
3 was covering Mr. Larke?

4 A To this -- this end of the ---

5 Q Yes.

6 A Approximately five feet maybe.

7 Q Okay. About five feet. And as we've said before,
8 Mr. Larke was under there, wasn't he?

9 A Yes, sir, he was.

10 Q Okay. Was there anything else in that bag? Did
11 you look in that bag at all?

12 A No, sir.

13 Q Did anybody look in that bag?

14 A No, sir.

15 Q Why not?

16 A It seemed to be an item common to that area of the
17 laundry room.

18 Q Excuse me?

19 A It seemed to be an item common to the laundry room
20 area.

21 Q Panty house in a plastic bag?

22 A Yes, sir.

23 Q Would be in the laundry room area?

24 A Yes, sir.

25 Q Okay. I want to talk about Exhibit 6A for a

1 minute. Okay. Thank you. Ms. Larke was found in that
2 chair, correct?

3 A Yes, sir.

4 Q The blanket covered her, correct?

5 A Yes, sir.

6 Q And besides that chair was a telephone table with a
7 telephone, correct?

8 A Yes, sir.

9 Q Okay. Okay. Well, I said that, I want to go back
10 to it. Okay. Now, that -- that line of suspected blood
11 stains, you said it was a linear pattern of suspected
12 blood stains?

13 A Yes, sir, it was in a line. It was blood drops in
14 a line.

15 Q Okay. Do you know anything about blood splatter?

16 A Yes, sir, I do.

17 Q Okay. Would that line of blood stains be
18 consistent with a person standing in one place swinging
19 a bat several times like this on a victim, and after the
20 first blow a victim starts to bleed, correct?

21 A Yes, sir. One blow would bring the blood to the
22 surface.

23 Q And after the second blow the blood will splatter
24 as you come back and you go forward, you will get more
25 blood as you're hitting somebody and it will splatter

1 and if all the blows are inflicted in basically the same
2 motion, the splatter will be in a linear pattern, isn't
3 that correct?

4 A Yeah, the cast off stains will be in a linear
5 pattern.

6 Q If a person is standing still, using the same
7 motion like somebody chopping wood, right?

8 A Yes, sir.

9 Q Okay. Is that what you think happened in this
10 case?

11 A Well, on those blood stains that we're talking
12 about, the linear stains, they were all circular in
13 diameter, which would indicate that it dropped straight
14 down at approximately a 90 degree angle from whatever
15 object contained the blood.

16 Q Like it was somebody holding it?

17 A Yes, sir.

18 Q Okay. Thank you. Okay. This blood stain -- you
19 found a blood stain in the next room, didn't you?

20 A Which room, sir?

21 Q Where you've got the little north arrow?

22 A Right on the right side of the bathroom door
23 frame.

24 Q Um-hm.

25 A It was tissue and hair particles.

1 Q Okay. Would that indicate to someone -- okay.
2 Thank you, Ms. Hervey. Would that indicate that someone
3 had pulled something back with great force to kind of
4 sling it over there?

5 A Either that or once the object hit the head it
6 could have went out that way also.

7 Q But it would indicate great force, wouldn't it?

8 A Some type of force was exerted on it, yes, sir.

9 Q It's fair to say a pretty great force, somebody
10 died, correct?

11 A Yes, sir, it was a bit of force.

12 Q Okay.

13 MS. HERVEY: For the record it's 6C.

14 MR. EPPES: Thank you.

15 BY MR. EPPES:

16 Q Okay. Now, you found a receipt for a change of
17 lock and a trespass notice, didn't you?

18 A No, sir, officer Campbell found that.

19 Q Officer Campbell found that?

20 A Yes, sir.

21 Q Did you ever have cause to see them?

22 A I saw them later on, not at the scene.

23 Q Did you notice what was written on them?

24 A I didn't -- I don't really know.

25 Q Did you notice that Rebecca Larke's name was on

1 the trespass notice and the receipt for the change of
2 locks?

3 A No, sir, I just observed them briefly. I didn't
4 read them or anything.

5 Q Did you notice that Keith Merrill's name was on the
6 change -- the form for the change of locks?

7 A No, sir.

8 Q And right above his name it said, paid?

9 A No, sir.

10 MR. EPPES: Okay. You can cut the lights back on,
11 please. Your Honor, if you'll give me one second,
12 please. Officer Thrasher, thank you very much.

13 THE WITNESS: Okay.

14 THE COURT: Redirect?

15 MR. ARALIA: No, Your Honor.

16 THE COURT: Released from his subpoena?

17 MR. ARIAIL: We'd request that he be excused, yes,
18 sir.

19 MR. EPPES: No objection, Your Honor.

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

21 You're free to go. Go ahead and take that bag and give
22 it to the Solicitor. Who's your next witness?

23 MR. ARIAIL: Wayne Campbell.

24 THE CLERK: Put your left hand on the Bible,
25 please, sir, and raise your right hand.

WAYNE CAMPBELL

Having been first duly sworn, testified as follows:

THE CLERK: State your name for the record, please, sir.

THE WITNESS: Wayne Taylor Campbell.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q Mr. Campbell, by whom are you employed?

A The Greenville County Sheriff's Office.

Q All right. And I want to direct your attention back to August the 27th, 2001. Were you employed with the Greenville County Sheriff's Office at that time?

A No, sir, I was not.

Q Who were you employed with at that point?

A Department of Public Safety, crime scene division.

Q And as a forensic technician?

A That's correct, sir.

Q And as a part of those duties -- or as a part of that employment on that date, did you have occasion to respond to the area of

A That's correct, sir.

Q And did you also accompany, meet, see Cecil Thrasher, another forensic technician at that location?

A That's correct.

Q I want to show you what's been marked as State's

1 Exhibit 10A and 10B, and ask -- along with the
2 accompanying evidence sheet, and ask if you had occasion
3 to collect these items?

4 A That's correct, sir.

5 Q That's part of your regular duties?

6 A Yes, sir, at that time it was.

7 Q My lawyer says ---

8 THE COURT: You said August 27th, you mean April
9 27th?

10 MR. ARIAIL: That's a product of the illness. It's
11 April, I'm sorry. It's April 27th.

12 THE COURT: Okay.

13 MR. ARIAIL: And I may do that a little more
14 frequently than I used to. Thank you. Your Honor, we'd
15 like to offer these.

16 THE COURT: Have you put numbers on them yet?

17 MR. ARIAIL: Yes, sir.

18 THE COURT: I'm sorry, what numbers?

19 MR. ARIAIL: 10A and 10B.

20 MR. EPES: Without objection, Your Honor.

21 THE COURT: All right.

22 (State's Exhibit Numbers 10A and 10B were marked
23 and filed.)

24 BY MR. ARIAIL:

25 Q If you would -- do you mind moving those from --

1 do you have the ---

2 A No, I don't.

3 Q Now, when you see WC3, what does the WC mean for
4 the jury's ---

5 A It's my initials, Wayne Campbell, first and last
6 initial.

7 Q And that's how you identify pieces of evidence, by
8 initials and numbers?

9 A That's correct. In a large case as this was,
10 you -- when you involve several technicians, we use our
11 initials, first and last, and then a number behind it,
12 and this is WC2.

13 Q All right. Let me show you State's Exhibit 10B.

14 THE COURT: All right. And I apologize for not
15 keeping up. These are without objection?

16 MR. EPPES: Yes, sir, Your Honor.

17 THE COURT: All right.

18 BY MR. ARIAIL:

19 Q 10B is a notice that -- is a letter notice to
20 notify someone on a preprinted form of trespass notice?

21 A That's correct, sir.

22 Q And in this particular one it is signed, David
23 Larke, and under his name the word printed in
24 parenthesis is, signator, and issued to Brad Sigmon?

25 A That's correct.

1 Q And then underneath his signature are three other
2 names?

3 A Correct, sir.

4 Q Rebecca Barbare, Renee Smith and Gladys Larke?

5 A Yes, sir.

6 Q Show you what's been marked as State's Exhibit --
7 as State's Exhibit 10A, an invoice from American Lock
8 and Key. Did you locate that?

9 A Yes, sir, I did.

10 Q And do you know any of the names to there? It says
11 Rebecca, 950 East Darby Road, and then at the bottom
12 it's got Howard Merrill and got some telephone number.
13 Do you know any of these people?

14 A No, sir, I do not.

15 Q And has your investigation revealed any of those
16 people, who they were?

17 A I do not know who they were, sir.

18 MR. ARIAIL: That's all. Answer any questions that
19 either defense counsel may have, Mr. Campbell.

20 CROSS-EXAMINATION

21 BY MR. EPPES:

22 Q Hi, Officer Campbell. Okay. You see this receipt
23 from American Lock and Key?

24 A Yes, sir.

25 Q Okay. Can you cut the lights on for me? Thank

1 you. Okay. Now, do you notice on this receipt that
2 most of the receipt is printed in black ink? The
3 handwriting on it, most of the receipt is in black
4 ink?

5 A Yes, sir, except a small portion in the center of
6 it.

7 Q Okay. And what does the small portion in the
8 center say?

9 A Paid, Visa, Howard Merrill, in parenthesis, 336
10 344-0280.

11 Q And that's in blue ink, isn't it?

12 A That's correct.

13 Q Okay. Kind of looks like it was all written at the
14 same time?

15 A I have no way of knowing, sir.

16 Q Can you cut the light back off for me. Okay.
17 Now, show me the part that says, paid, visa, that's in
18 blue ink with that pointer, with this -- do you have
19 the -- is this it? Yeah, I believe there's something
20 on here. Laser. Yeah, if you use that laser right
21 there. Laser.

22 A What you're referring to is this right here.

23 Q Okay. And the, paid, Visa, is in blue ink?

24 A Yes, sir, it is.

25 Q Howard Merrill is in blue ink?

1 A And the phone number, correct.

2 Q And that phone number. Now, that 336 number is
3 that -- is that a Greenville exchange to your knowledge?

4 A I have no idea, sir.

5 Q You don't know whether it's a Greenville exchange
6 or maybe a North Carolina exchange?

7 A I have no knowledge, sir.

8 MR. EPPES: Okay. Thank you, Officer Campbell.

9 THE WITNESS: Yes, sir.

10 THE COURT: Redirect?

11 MR. ARIAIL: None.

12 THE COURT: Is this witness going to be recalled?

13 MR. ARIAIL: No, sir. No, sir.

14 MR. EPPES: He can go with our permission.

15 THE COURT: All right. Thank you. You're released
16 from your subpoena. I've ordered lunch. I'm going to
17 break when lunch gets here. So just keep plowing
18 ahead.

19 MR. ARIAIL: All right. The next one would --
20 could be right lengthy.

21 THE COURT: Well, you can either call a short one
22 before, or we'll break in the middle of him.

23 MR. ARIAIL: All right. Call mike McNamara.

24 THE CLERK: Put your left hand on the Bible,
25 please, sir, rise your right hand.

MICHAEL McNAMARA

Having been first duly sworn, testified as follows:

THE CLERK: State your name in the record, please.

THE WITNESS: Michael McNamara.

THE CLERK: Thank you. Be seated.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q State your name, please, sir.

A Michael McNamara.

Q And by whom are you employed?

A I'm employed by the Greenville County Sheriff's Office.

Q And in what capacity are you employed with the Sheriff's Office?

A I'm a homicide investigator with the violent crimes unit.

Q And in that capacity -- well, how long have you been in law enforcement?

A I have been in law enforcement for 17 years.

Q How long have you been with Greenville County Sheriff's Office?

A Approximately seven and a half, sir.

Q And did you have occasion, as a violent crimes unit investigator, to become involved in the investigation of the deaths of Gladys and David Larke on April the 27th

1 of 2001?

2 A Yes, I did.

3 Q Tell us, if you would, what your first involvement
4 was, when it was, and what you did?

5 A On the week that includes April the 27th, was the
6 week that I'm on call. We rotate call in the homicide
7 unit on a weekly basis and that was my week to take
8 call. When the call came in, we went to 948 East Darby
9 Road to investigate this incident. I was the lead
10 investigator. I assumed responsibility for the overall
11 investigation given that I was on call, that it what was
12 my turn to take whatever came in. We were notified in
13 the morning hours, exactly when I can't recall, but
14 fairly early in the business day. We arrived at about
15 eight o'clock in the morning, and some time in the next
16 hour or so we were notified that we had a situation in
17 the northern part of Greenville County, along East Darby
18 Road -- actually at that point along Locust Hill Road.
19 And they requested we respond up to 948 East Darby Road
20 to investigate possible deaths at that location.

21 Q All right. 948 East Darby Road and 950 East Darby
22 Road, are you familiar with the difference?

23 A Yes, sir, I am.

24 Q Let me show you a couple of exhibits. This will be
25 State's Exhibit 9A, and identified on the right is the

1 Larke's trailer?

2 A Yes, sir.

3 Q And on the left, that's been referred to as Becky's
4 trailer?

5 A Yes, sir.

6 Q Which one is 948?

7 A 948 is the residence identified as the Larke
8 trailer, sir.

9 Q That's the one on the right of Exhibit 9A?

10 A Yes, sir.

11 Q 950 is where?

12 A 950 is the trailer is where you see the walkway and
13 the white wooded rail porch.

14 Q Okay. Let me show you one other exhibit that has
15 been referred -- or identified as State's 10A. That
16 refers to 950 East Darby road, is that the Larke's
17 trailer or is that Becky's trailer?

18 A That is Becky's trailer.

19 Q Are you familiar with this document?

20 A Yes, sir, I have seen it before.

21 Q So the State's Exhibit Number 10A, the American
22 Lock and Key change of locks receipt applied to 950 East
23 Darby Road, or Becky's trailer?

24 A Yes, sir.

25 Q Not the Larke's trailer?

1 A That's correct.

2 Q Now, going forward, tell us when you -- when you
3 received your information, did you respond immediately
4 to the scene at 948 East Darby Road?

5 A Yes, sir, we did. We drove -- or I drove right
6 from the law enforcement center up to 948 East Darby
7 Road.

8 Q And not in great detail, but walk us through what
9 you did as a homicide detective in a scene like this?

10 A Yes, sir. By the time I had arrived along with at
11 least one other homicide investigator, uniformed patrol
12 units, marked units, people that wear uniforms had
13 already been there and had already been inside the
14 house. So we knew by the time we got there that were
15 two individuals dead inside the house.

16 One of the first things we do in a situation like
17 that is put our heads together outside, any homicide
18 investigators that might go into the house, or otherwise
19 investigate the scene, as well as our supervisors. We
20 have sergeants, lieutenants, and captains, and the
21 entire rank structure for CID as well as the Sheriff's
22 Office. We put our heads together and consider a course
23 of action that we wanted to take in order to ensure we
24 did this properly and investigated these deaths in a
25. proper manner.

1 There were representatives there from the coroner's
2 office as well, as is the usual case on any death
3 investigation that we work. And again, we put out heads
4 together with those folks and decided how to approach
5 the house. We limited the number of people that went
6 into the house in order to prevent from disturbing any
7 potential evidence or anything we might need inside the
8 house. So a couple of us got together and went to the
9 house, including one the forensic crime scene units, one
10 of those gentleman that have already testified.

11 Overall photographs are taken by the crime scene
12 folks, just to get an overall picture from the outside
13 what the scene looks like. And once they are satisfied
14 that they have that documented properly, our next step
15 would be to look inside the house or inside the scene
16 wherever it maybe. So in this instance, we did go
17 inside the house briefly with a representative from the
18 coroner's office and a representative from forensic
19 division. Took a very brief look at what was inside
20 that house for ourselves to get an overall view, and
21 then immediately backed out again. And from that
22 point forward it's simply additional documenting of
23 evidence.

24 We have crime scene technicians taking additional
25 photographs of everything inside the residence, all the

1 rooms, which is how they furnish the diagrams, through
2 viewing the photographs and making notations and
3 measurements. And at that point, once all the
4 photographs were taken inside the house and outside the
5 house, if the scene is completely documented with
6 photographs and video tape, we go through the process of
7 identifying, collecting any potential items of evidence.
8 And those items of evidence are again identified,
9 marked, photographed again, and then collected by the
10 forensic crime scene personnel.

11 Q All right. And during this entire time that you're
12 doing this, did Dr. Michael Ward, the -- a forensic
13 pathologist come to the scene?

14 A Yes, sir, Dr. Ward did come to the scene.

15 Q And his purpose in coming to the scene was what?

16 A With two victims there -- knowing that autopsies
17 are imminent, we like for him to get a look at the scene
18 to see what the overall scene was like as opposed to
19 receiving the bodies at the hospital in the morgue and
20 conducting an autopsy there. He can therefore recall,
21 as he does the autopsies, how the victims were situated,
22 how they were positioned. We can normally show him
23 photographs, but obviously the preferred method would be
24 to have Dr. Ward come out there and for himself take a
25 look at where the bodies are and how they're positioned

1 inside the house.

2 Q And did he so come?

3 A Yes, sir, he did come.

4 Q Now, after you collected and processed the scene,
5 did you begin to focus on a suspect?

6 A We did, sir.

7 Q All right. And what was that based on?

8 A We had an officer meet with Rebecca Barbare in the
9 hospital where she was receiving medical treatment for
10 her gunshot wound and some other injuries sustained on
11 Locust Hill Road, and in speaking with her we learned
12 that the gentleman that she claimed was responsible for
13 this was Mr. Brad Sigmon, and that was how we identified
14 him as a suspect at that point.

15 Q Now, in identifying the suspect, in order to locate
16 the suspect, what did you do?

17 A There was an extensive manhunt, if you will, from
18 that point forward. We knew who we were looking for.
19 We had descriptions of him. We used dozens and dozens
20 of deputies constantly from the Sheriff's Office. We
21 used bloodhound tracking teams, man tracking teams, the
22 helicopter was up constantly. It was an all effort to
23 locate Mr. Sigmon in that area because the last instance
24 that we had heard was that he had left from that Honda
25 Passport and was on foot somewhere in the vicinity, so

1 we were hopeful at that point that we could locate him
2 shortly thereafter in that general area and it was an
3 all effort then to that somewhat small area at that
4 time, since it was shortly after the crime had occurred,
5 to try to find him.

6 Q All right. And what area were you focusing the
7 manhunt in?

8 A Basically that area there, if you will, sir.

9 Q That's on State's Exhibit Number 1?

10 A Correct, sir. From the area between where the
11 Larke residence and Becky's trailer is located all the
12 way to and including the area that indicates the
13 Passport was located. We thought it likely that he
14 would be somewhere within that area still at the point
15 we started to investigate this.

16 Q And that manhunt included -- you described a number
17 of things. Did it also include a door to door officer
18 contact with the residents?

19 A Yes, sir, that morning it did. As given the time
20 frame that we were there, where it had occurred shortly
21 before that, we had officers go to houses specifically
22 in that Oakland subdivision as well as surrounding areas
23 in an attempt to see if he was possibly there and maybe
24 gotten into another home, or maybe some of the other
25 residents had seen him or somebody matching that

1 description walking to or from that area to give us a
2 better idea where he might be?

3 Q And did you location Mr. Sigmon on April the 27th?

4 A No, sir, we did not.

5 Q After April the 27th, did you take other efforts --
6 when you did not locate him, did you begin to take other
7 efforts to determine his whereabouts?

8 A We did, sir.

9 Q What were those?

10 A One of the first things we did was try to meet with
11 family members of Mr. Sigmon in an effort to first
12 secure their help in finding Mr. Sigmon, and asking them
13 to be cooperative with us in the event that they heard
14 from Mr. Sigmon, as well as determine -- or be sure for
15 ourselves that he was not with them, that they had not
16 harbored him in the short time that he was gone. His
17 parents in fact live very close to where it's labeled,
18 Styles, on that diagram. So we knew we had family
19 members right there in that general vicinity and we
20 wanted to make sure that he had not gone back there.

21 Q And did you go meet with the family members?

22 A I did, yes, sir.

23 Q And did you seek their cooperation?

24 A Yes, sir.

25 Q And did you receive their cooperation?

1 A Yes, sir, we did.

2 Q All right. And you met with his mother and his
3 step-father?

4 A That's correct, sir.

5 Q His sister?

6 A Yes, sir.

7 Q Anyone else?

8 A Not immediately, no, sir.

9 Q Were you able to -- go ahead from there, after
10 securing their cooperation, what was the cooperation
11 that you received? What were you trying to do?

12 A We felt fairly certain that at some point Mr.
13 Sigmon would at least try to make contact with family
14 members and in -- in that way of thinking we wanted to
15 make sure they would call us, and we had spoken to Mrs.
16 Wooten, which is Brad Sigmon's mother, and Mr. Wooten,
17 which is Brad Sigmon's father-in-law, at their home and
18 asked for their cooperation. We assured them that we
19 would do the best we could to bring Mr. Sigmon in
20 without anybody else being hurt, anything else happening
21 to anyone else, and that the quicker we got him in
22 custody the better off everybody would be. We just
23 simply asked them, please, call us if you hear from him
24 in any way, shape or form, if you're contacted or see
25 him, please, call us immediately and let us know.

1 Q And after you made that contact, did the manhunt
2 continue on a daily basis?

3 A On a daily basis, virtually 24 hours a day, yes,
4 sir.

5 Q And did you have reported sightings of Mr. Sigmon
6 in the area to which deputies responded or you followed
7 up on?

8 A We did. We actually had numerous reported
9 sightings of Mr. Sigmon over the course of the next five
10 to seven, nine days.

11 Q Okay. And over the course of the next five, seven,
12 nine days that you referred to, was Mr. Sigmon located?

13 A No, sir, not over the course of those days.

14 Q Did you at any point in the -- that period receive
15 contact from the defendant's mother regarding contact
16 that she had had?

17 A Yes, sir, I did.

18 Q And when was that?

19 A Actually the day after the incident occurred, I
20 received a phone call from Mrs. Wooten, and she told me
21 that she had heard from Brad. Brad had called her and
22 that they had had a brief conversation over the phone.

23 THE COURT: Solicitor, are you getting into a new
24 area where it would be a good break or ---

25 MR. ARIAIL: No, but ---

1 THE COURT: All right. Then in the next five
2 minutes ---

3 MR. ARIAIL: I can break right here and just stop
4 right here without going ---

5 THE COURT: Okay. Lunch is here.

6 MR. ARIAIL: Okay. We don't want to delay that.

7 THE COURT: Okay. All right. Just sit right
8 there.

9 MR. ARIAIL: I'll call Mr. McNamara back.

10 THE COURT: All right. Mr. Foreman, ladies and
11 gentlemen, your lunch is here, so I'm going to let you
12 break for lunch. While you're back there, do not
13 discuss this case in any way. If you would let the
14 bailiffs know when you've had lunch and when you're
15 ready to resume, we'll begin back. All right. Follow
16 the bailiff, please. Everybody else remain seated,
17 please.

18 (The jury exited the courtroom at 1:03 p.m.)

19 THE COURT: All right. Mr. McNamara, during the
20 lunch break, please don't talk about your testimony with
21 anyone. You can step down now.

22 THE WITNESS: Yes, sir.

23 THE COURT: You can talk to people, just don't talk
24 about your testimony.

25 THE WITNESS: Yes, sir.

1 THE COURT: All right. We are going to break for
2 lunch. We'll resume when the jury is done with their
3 lunch, but not before a quarter 'til 2:00. That will
4 give you about 45 minutes for lunch at a minimum. They
5 may want to take longer, but if they're ready to start
6 at a quarter 'til, we're going to. All right.

7 MR. ABDALLA: Are we going to be called or do we
8 need to come back to the courtroom?

9 THE COURT: You need to be ready to go at quarter
10 'til. All right. We're at lunch.

11 (A lunch recess was taken, after which, the trial
12 continued as follows:)

13 THE COURT: All right. Anything before Mr.
14 McNamara comes back up?

15 MR. ABDALLA: Yes, Your Honor.

16 THE COURT: Did you say yes?

17 MR. ABDALLA: Yes, Your Honor.

18 MR. EPPES: Your Honor, I have one matter.

19 THE COURT: All right.

20 MR. EPPES: We have a DVD player we thought would
21 work with the Solicitor's contraption. It will not.
22 Could we have Rick -- it's not necessary for this
23 witness, could we have Rick find a television in the
24 back and get it set up where it works? He says he has
25 to have your permission to get a television.

1 THE COURT: Yeah.

2 MR. EPPES: Thank you, Your Honor. You work with
3 him.

4 MR. ABDALLA: Your Honor, we intend to call as a
5 witness Dr. Martin -- Dr. Martin. He's a psychologist
6 from the jail, and it's scheduled to go during the
7 penalty phase. He however has a vacation and it's been
8 planned for quite a while and his family is starting
9 tomorrow after- -- tomorrow evening. We'd request the
10 Court allow us to either do a video tape deposition, or
11 whatever it would take. Of course the Solicitor would
12 have adequate opportunity to cross-examine and then
13 present it at another ---

14 THE COURT: Where's his vacation?

15 MR. ABDALLA: I believe it's Disney World. He's
16 taking 10 children, and since it's not very long
17 examination -- I don't anticipate it to be very long
18 examination, there's just a couple points I need to get
19 from him, I'm asking the Court to consider that we do
20 that either tonight or tomorrow. We could either take
21 him out of order, he's actually scheduled for the
22 penalty phase, or we could do a deposition.

23 THE COURT: When is -- he's leaving tomorrow?

24 MR. ABDALLA: Tomorrow afternoon.

25 THE COURT: What's tomorrow? Friday. For how

1 long?

2 MR. EPPES: For a week.

3 THE COURT: All right. Solicitor, what's your
4 position?

5 MR. ARIAIL: I was just going to suggest maybe they
6 ought to put it in writing to see if we can stipulate to
7 it. If we can't, you know, then it may be that I go --
8 we can go talk to him or something, and eliminate the
9 problem, whatever it is. If it's just -- if it's going
10 to be opinions that sort of thing, that's going to be
11 different. If it's just going to be, you know, he's
12 treated him or whatever.

13 MR. ABDALLA: It would just be basic conclusions,
14 and we can either video tape him or the ---

15 THE COURT: Well, conclusions, opinions?

16 MR. ABDALLA: We'll, it's based upon his record
17 from the jail files, which they have access to.

18 THE COURT: Well, is he under subpoena?

19 MR. ABDALLA: Yes, sir.

20 THE COURT: Right now he's under subpoena. If
21 y'all can't agree to either depose him or stipulate to
22 his testimony, he'll have to be here. That's up to
23 y'all. Y'all can bring me a consent order to depose
24 him, or -- I can't order the State to ---

25 MR. ABDALLA: And this just came to light, so I

1 apologize that I'm springing it on anybody.

2 THE COURT: Well, I'm trying to make a ruling here.
3 I can't order him to be deposed, you know, in the middle
4 of the trial. So y'all can either agree to something
5 or, you know, he'll have to be under subpoena. Now, I
6 can -- I can order payment for a flight for him to come
7 back on, you know, Monday or whatever to testify if that
8 has to be done.

9 MR. ABDALLA: I will try my best to work it out
10 with the State.

11 THE COURT: Okay. Anything else?

12 MR. ARIAIL: Probably a good time to talk -- since
13 the jury is out, remember in the Jackson v. Deno there
14 was some questions asked about remorse.

15 THE COURT: No, I don't.

16 MR. ARIAIL: Well, specifically they asked Mr.
17 Williams and they asked Mr. McNamara. They got varying
18 responses of did the defendant show remorse. Our
19 position is that's not relevant. That's -- we can't
20 bring it up. They can't bring it up. And to ask
21 witnesses to speculate as to whether or not he was
22 remorseful as to the killings or whether he was
23 remorseful he got caught, that sort of thing.

24 THE COURT: All right, well I would -- what's your
25 position? I think the -- did he seem remorseful

1 would be their opinion. You can say, was he crying, was
2 he out of control, was he excited, you know, they can
3 describe that, but ---

4 MR. EPPES: That will be fine, Your Honor.

5 THE COURT: Okay. Does that answer your question?

6 MR. ARIAIL: That's fine. We won't have the issue.

7 THE COURT: Okay. Bring the jury in. I'm sorry.
8 Hold on. Mr. McNamara, come back up here. All right.
9 You need to make an announcement in the hallway that if
10 they're coming in, they're going to come in. I'm not
11 going to have people trickling in. Okay.

12 THE BAILIFF: Yes, sir.

13 THE COURT: I can't remember, were you part of the
14 Jackson v. Deno hearing?

15 THE WITNESS: Yes, sir.

16 THE COURT: You took a statement from him?

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Are you putting the
19 statement in through the witness now?

20 MR. ARIAIL: No.

21 THE COURT: So you're going to recall him later?
22 Have you made that clear to Mr. Eppes?

23 MS. STROM: I will.

24 THE COURT: All right. Bring the jury in.

25 (The jury entered the courtroom at 2:03 p.m.)

1 THE COURT: All right. Mr. Foreman, I got a
2 message that some of y'all were cool, and I have tried
3 to address that. I will tell you the temperature system
4 in your new courthouse is a little bit fickle. If you
5 cut it up it little might end up five degrees or more
6 warmer or -- and vice versa, but I have instructed them
7 to try to cut it up a little bit. Let me just suggest
8 tomorrow that you bring a light jacket or sweater if
9 you've packed it, that way you'll be prepared if it's
10 chilly or not we can handle that, but we'll try to
11 address that.

12 All right. If you would continue with your direct
13 examination, Mr. Ariail.

14 MR. ARIAIL: Thank you, Your Honor.

15 BY MR. ARIAIL:

16 Q Mr. McNamara, I believe we had reached the point
17 where we were talking about efforts that you had made as
18 the lead investigator in the investigation of the death
19 of Mr. And Mrs. Larke as to efforts to locate the
20 suspect Mr. Sigmon, and I believe we got to the point
21 that you had made contact with the members of his
22 family, particularly his mother, step-father and sister.
23 And I had asked, I believe the last question was, did
24 Ms. Wooten, his mother, call you back regarding contacts
25 she had received from Mr. Sigmon?

1 A Yes, sir, she did.

2 Q And when was the first one?

3 A I believe the day after the incident occurred we
4 received a phone call. I should correct that, sir. I
5 had a conversation with Mrs. Wooten. During the course
6 of that conversation it became clear that she had indeed
7 heard from Brad the day of the murders.

8 Q And where did that conversation take place?

9 A At the law enforcement center, sir.

10 Q And thereafter what efforts did you enter into with
11 Mr. And Ms. Wooten regarding future notification in the
12 event Mr. Sigmon contacted them?

13 A Well, when we realized Mr. Sigmon had made contact
14 with his family, specifically his mother and step-father
15 through a phone call, we asked them if they would agree
16 to have a system enabled which can be enabled on
17 anybody's telephone whereby they would -- if they
18 received a call from Brad, they would punch in a
19 designated number and that would enable the phone
20 company to lock in that number that called. In other
21 words, if they received a call from Brad, after the
22 phone was hung up, they would punch in a number, or star
23 and a two digit number, it would lock -- or log the
24 phone call that Brad had called from and enable us to
25 retrieve that through the phone company, and Mrs. -- Mr.

1 and Mr. Wooten did agree to have that service enabled to
2 their telephone, sir.

3 Q All right. And did thereafter you receive further
4 information from Ms. Wooten that Mr. Sigmon had in fact
5 contacted her?

6 A Yes, sir.

7 Q When was the next time you received that?

8 A On May 7th -- well, he had contacted her again in
9 between that, since between the day it occurred and May
10 7th, there was another one or two contacts by her -- or
11 by Mr. Sigmon to his mother, which she tried to get him
12 to turn himself in and otherwise bring himself forward,
13 but was not successful on that. And then on May 7th,
14 she received a phone call and notified us that she had
15 just received a phone call from her son.

16 Q Are the phone calls -- the other two contacts
17 earlier than May the 7th, were they made at a time where
18 the tracing apparatus was installed on the Wooten's
19 phone?

20 A No, sir. We had made an attempt to obtain
21 another system of tracking phone calls and were not
22 able to at that point to do so, and it was after those
23 other phone calls were received, we realized, well,
24 we're missing these phone calls, we're missing where
25 he's calling from, and we need to do so something

1 else. That's when we approached the Wootens and asked
2 their cooperation in enabling that service. And the
3 phone call received on May 7th was received after the
4 service was enabled.

5 Q All right. And as a result of that phone call on
6 May 7th, was -- were you contacted by Ms. Wooten?

7 A Yes, sir.

8 Q And was the tracking system in place?

9 A It was, sir.

10 Q And were you able -- or was the -- well, what --
11 once the tracking system is in place, explain to the
12 jury how that works? Who do you contact to find out
13 where the number came from?

14 A We would contact Bell South. Once the number was
15 locked in by them pressing the buttons, we would call
16 Bell South and tell them at this phone number a phone
17 call was received that we wanted traced, and the folks
18 at that residence had pressed the proper buttons to lock
19 that number in. They would retrieve the phone call from
20 their records or data base and with authorization --
21 previous authorization from the family they would
22 provide us with a phone number and location where that
23 call came from.

24 Q And is the -- when the number is pressed in, does
25 the person who has received the call have the ability to

1 determine where that telephone call -- from which it --
2 from where it came?

3 A They do not. It simply allows the phone company to
4 log that call, track that call.

5 Q Okay. And based on that conversation, or contact
6 with Bell South, were you able to determine the
7 origination point of the phone call made to Ms. Wooten?

8 A We were, sir. There were two phone calls that day
9 on the 7th. With the first phone call, after Ms. Wooten
10 contacted us, said she had pressed the buttons, and that
11 the phone call was trying to be logged by the phone
12 company, the phone company responded to us and said they
13 had not locked it, and I believe Ms. Wooten also said
14 they received a message once the buttons were pressed
15 that the phone call was not able to be traced for some
16 reason. Subsequent to that another phone call was
17 received by Mrs. Wooten. She did the same thing,
18 pressed the buttons and called us. That phone call was
19 traced. We did contact Bell South and they gave us a
20 location -- a number and location where that phone call
21 originated from.

22 Q And what was the location of the origination of
23 that phone call?

24 A Gatlinburg, Tennessee.

25 Q As a result of obtaining that information, what did

1 you do in regard to -- or in regard -- or in relation to
2 the Gatlinburg Police Department?

3 A We -- and not myself as I was at the Wooten house
4 shortly after these calls came in, but investigators
5 with my office made contact directly with the folks in
6 Gatlinburg, Tennessee, at the police department, and
7 provided them with a photocopied photograph of Mr.
8 Sigmon and asked them to go to that location to check to
9 see if anybody who matched that description was there
10 from where that phone call came in from.

11 Q All right. Following that contact did you
12 subsequently go to Gatlinburg, Tennessee?

13 A I did.

14 Q And when did you go?

15 A That evening. We had been informed by Gatlinburg
16 that they had indeed gone to where the number was and
17 through a brief investigation were able to location Mr.
18 Sigmon and had taken him into custody up in Gatlinburg,
19 Tennessee. And we made arrangements that evening to
20 pack some things to travel to Gatlinburg.

21 MR. ARIAIL: That's all the questions I have of
22 this witness at this time on this subject. He is
23 subject to recall regarding what took place in
24 Gatlinburg after. I turn him over to cross-examination
25 at this time.

CROSS-EXAMINATION

BY MR. EPPES:

Q Hey, officer.

A How are you, sir?

Q We've talked about this case before and I've told you -- I've told you that you make my job a lot easier because this file is the most organized file I have ever seen. I'm going to mark as Defendant's Exhibit 2 a copy of your report in this case.

MR. ARIAIL: Your Honor, could we see ---

(Defendant's Exhibit Number 2 was marked for identification.)

MR. EPPES: Can you tell me what this is?

MR. ARIAIL: Whoa, whoa, whoa.

THE COURT: He's ---

MR. EPPES: May I show the witness?

THE COURT: Beg your pardon?

MR. ARIAIL: I would object to the introduction of this document.

MR. EPPES: I hadn't moved to introduce it, Your Honor.

THE COURT: Mark it as an ID.

MR. ARIAIL: ID, that's fine.

THE COURT: Defendant's ID 2. Can you identify that?

1 THE WITNESS: Yes, I can.

2 BY MR. EPPES:

3 Q What is it?

4 A Let me take a brief look at it before I answer,
5 sir. It appears almost -- a copy of almost my entire
6 supplemental report concerning my investigation of the
7 case. It appears that the last page is not with it,
8 sir.

9 Q Can't find the last page. I found 16 of 17.
10 That's what the last -- the last page of that exhibit
11 you have says 16 of 17, correct?

12 A Correct, sir.

13 Q That is pages 1 through 17, 16 through 17, correct?

14 A What is here appears to pages 1 through 16 of 17
15 pages, yes, sir.

16 Q I bragged on your organization, I can't find page
17 17. Now, what is -- tell me what this report is again?

18 A It's the supplemental report that I submit when I
19 finish completing my part in the investigation, sir.

20 MR. EPPES: Okay. Judge, can I move this? For
21 some reason it's bugging me.

22 BY MR. EPPES:

23 Q Okay. And what -- what information is included on
24 here in general terms?

25 A In general terms what's in here is what I have

1 done. In some instances it includes a synopsis of
2 statements that I have taken from people. It includes
3 in some instances a synopsis of what other investigators
4 had done. It's in general what we did in the
5 investigation.

6 Q Okay. And this report covers the period from -- it
7 says incident day and time, Friday, April 27th at 8:30
8 a.m. on the front -- on the first page, is that correct?

9 A That's correct, sir.

10 Q And the last page reflects your arrest of Mr.
11 Sigmon in -- and the statement he gave to you?

12 A That's correct, sir.

13 Q So this period we've been talking about from the
14 time of the crime to -- to the time of Mr. Sigmon's
15 arrest, this is your general report about all of that?

16 A That's correct, sir.

17 Q And you were the supervising officer for that
18 period of time?

19 A Lead investigator. There were supervisors above me
20 that I worked for.

21 Q Okay. Now, Solicitor -- I read your report but I
22 wanted to make this clear, okay. Ms. Wooten called you
23 the day -- did she call you the day of the incident or
24 the day after?

25 A It would be the day after. We did not receive

1 notice that day that she had received -- I did not
2 receive notice, I should say, nor did I receive
3 information from anybody in the office that we had
4 received calls from Mrs. Wooten involving calls from
5 Brad Sigmon.

6 Q All right. And what did she tell you the day
7 after?

8 A She came in the day after with her daughter Kelly
9 McDonald, and we were trying to trace some phone calls
10 or hits on cell towers that had been made, and we were
11 trying to track down the different relatives and obtain
12 statements, and Ms. Wooten brought Kelly McDonald in
13 with her. And during the course of the conversation in
14 my office with Ms. Wooten, she told me then that she had
15 indeed received a call from Brad on Friday, the day the
16 killings occurred.

17 Q Okay. Is that what your report reflects?

18 A I'd have to read it, sir.

19 Q Would you take a quick look. I'll try to point you
20 to the place, but I've lost my place in my outline. Are
21 you looking at page 10 of 17?

22 A I am, sir.

23 Q Okay. And you're looking in the second full
24 paragraph of that page?

25 A Yes, sir, I see where it indicates Saturday as the

1 date of contact.

2 Q Ms. Wooten actually told you that Mr. Sigmon called
3 her on Saturday morning, isn't that correct?

4 A Yes, sir.

5 Q And she told you that on Saturday, did she not?

6 A Without reading which date ---

7 Q It looks like it was later than that, I apologize
8 for that. At the top it appears that that took place on
9 April 30th, is that correct? If you're looking at ---

10 A Actually from what I wrote in here, from what's
11 contained in here it does not specify what the date was.

12 Q So you're not sure, but she told you about it,
13 didn't she?

14 A She did not come forward with the information as
15 when it occurred. She did not come forward with the
16 fact that she had received a phone call at the time Brad
17 called. It was only during our conversation at the law
18 enforcement center that that information came out, yes,
19 sir.

20 Q Now, I understand that now. The next two times
21 that he called, you didn't have a trace on the phone?

22 A We did not.

23 Q Okay. And she called you and told you about those,
24 or did you call her and say, hey, has he called?

25 A She called us and told us about those.

1 Q She told you about both of them?

2 A Yes, sir.

3 Q And at point you asked to put a trace on her phone?

4 A Yes, sir. As I had said, we were in the process of
5 trying to put a trace on the phone through other means,
6 that up until that point was not successful. So after
7 that we figured the easier thing to have her do was just
8 that feature that was available to her through the phone
9 company.

10 Q So you were trying to put a trace on her phone
11 without her knowing it?

12 A No, we were trying to work out the specifics of how
13 to do that and if that were a possibility for us, but at
14 that point it was not a legal possibility.

15 Q You hadn't decided whether you were going to tell
16 her about the trace or not, or ---

17 A No, we wanted to retrieve the phone calls. Our
18 only option at that point was to retrieve them long
19 after they had been made. It was in our opinion
20 optimally to get them when the calls were received to
21 try to get a better idea where he was, but the procedure
22 that we were trying to use then was to retrieve a record
23 of the phone calls received at that number, and it was
24 taking us days to get that record, as opposed to getting
25 it in just a couple hours. If we could have gotten them

1 in a couple hours afterward that would have sufficed for
2 us, but we were getting those records days later and it
3 just wasn't working for us.

4 Q Okay. But you were doing that without asking her?

5 A Obtaining the records, correct, sir, through court
6 orders and subpoenas, yes, sir.

7 Q Okay. And she told you about two phone calls you
8 didn't know about?

9 A Correct. We had not received the information on
10 those phone calls as it was taking too long.

11 Q And then you said, hey, Ms. Wooten -- Ms. Wooten,
12 stand up. Is that Ms. Wooten?

13 A That's her, yes, sir.

14 Q Brad Sigmon's mother? Thank you, Ms. Wooten. You
15 can sit down. Once you went up to her and said, hey,
16 Ms. Wooten, can we trace the phone calls, she said yes,
17 didn't she?

18 A She did.

19 Q And you traced the next phone call they got from
20 Brad, yes?

21 A Not the next one. There were two in fairly close
22 succession. We traced the second one, sir.

23 Q Could you -- was there a problem with the mechanics
24 in the first one, or was it ---

25 A It doesn't indicate. It simply says that the phone

1 call was not able to be traced. It didn't give a
2 reason.

3 Q I see. But that's not on Ms. Wooten's behalf,
4 that's something with the mechanism of it, correct?

5 A Yes, sir, that's correct.

6 Q Okay. Then the next call that came in was for this
7 campground in Tennessee and it came in and you went up
8 there and Mr. Sigmon -- well, you didn't go right away,
9 but Mr. Sigmon was arrested as a result of that,
10 correct?

11 A Yes, sir.

12 Q Were you looking for him in Tennessee?

13 A No, sir.

14 Q Did you have any reason to believe he was in
15 Tennessee?

16 A No, sir.

17 Q Was he driving a van in Tennessee that had been
18 stolen from Greenville, South Carolina?

19 A He was apprehended in possession of a recreational
20 vehicle, an RV, yes, sir.

21 Q Did you have any idea he was in it?

22 A No, sir.

23 Q Okay. Is it possible that without the help of Ms.
24 Wooten, that Mr. Sigmon would not have been caught?

25 A Yes, sir.

1 Q Okay. Now, I want to talk to you about a couple of
2 other things here. Okay. You mentioned you contacted
3 Mr. Sigmon's family to try to gain information about him
4 and catch him, correct?

5 A Yes, sir.

6 Q Okay. I believe on page 9 of your report you talk
7 about contacting Mr. and Ms. Wooten on April the 27th,
8 right?

9 A Yes, sir, we did.

10 Q Did they cooperate with you?

11 A Yes, they did.

12 MR. EPPES: Okay. Now -- can he come up, Your
13 Honor, please?

14 THE COURT: Um-hm.

15 MR. EPPES: Can I use your pointer.

16 THE WITNESS: Here you go.

17 BY MR. EPPES:

18 Q You got it. You use it. Okay. Now, show me where
19 you found the Camaro.

20 A Right in that general vicinity there, sir.

21 Q Now, show me where Ms. Wooten's house is. I've
22 been trying to figure this out.

23 A That should be their house right there.

24 MR. EPPES: Okay. So right there. I'm putting a
25 Post-It sticker on there. Is that okay? A Post-It

1 sticker that says, Wooten?

2 MR. ARIAIL: Oh, sure.

3 MR. EPPES: Thanks.

4 BY MR. EPPES:

5 Q Right there, that's the Wooten's house, right?

6 A Yes, sir.

7 Q So the killings took place up here, the Camaro was
8 found here, Wooten's house is just rock throwing
9 distance away from that car, right?

10 A It's fairly close, yes, sir.

11 THE COURT: Speak up, please.

12 THE WITNESS: It's fairly close, yes, sir.

13 THE COURT: Thank you.

14 BY MR. EPPES:

15 Q The car -- Rebecca Larke's car that -- Rebecca
16 Larke Barbare's car that Mr. Sigmon got out of is right
17 down here and the gun -- well, there -- it says, gun
18 found, on there, I guess we'll talk about that later.
19 But all this happened here between that trailer and
20 where -- between the Larke's residence and where all
21 this stuff was found, you found Mr. Sigmon's car and his
22 mama's house, right?

23 A Yes, sir.

24 Q Okay. And you went to his mama's house, right?

25 A I did not that night.

1 Q Somebody did?

2 A Somebody from the office did, yes, sir.

3 A Did they cooperate?

4 Q Yes, they did.

5 Q Okay. Did you put a stakeout or a SWAT team on the
6 house in case he tried to come around, you said you knew
7 he was in the area of this map?

8 A No, we had an enormous presence in this whole area
9 here. Like I said, we were focusing on that area
10 because we thought -- actually felt confident that he
11 was still in that area. So this whole area was
12 blanketed, not necessarily just that area right around
13 his mother's house.

14 Q Okay. Did you consciously not keep a presence on
15 her house?

16 A Yes, sir. We certainly weren't going to sit a
17 patrol car in the driveway knowing that he would not
18 return to the house if that is what he elected to do at
19 that point.

20 Q But you could have watched him more surreptitiously
21 if you wanted to, and you chose not to, didn't you?

22 A Yes, sir.

23 Q Why is that?

24 A As I said before, just the whole presence in that
25 area, the helicopter was up constantly from the

1 afternoon into the evening, additional patrols were
2 brought in and the area was basically blanketed in an
3 attempt to find him.

4 Q Didn't you develop an opinion -- and if I put words
5 in your mouth, but you tell me if I'm wrong, but didn't
6 you develop an opinion over the course of your
7 investigation, in talking to the family, that if he made
8 his way to the Wooten's house that Ms. Wooten and her
9 husband would do everything they could to turn him in,
10 or to get him to turn himself in?

11 A I felt after speaking with them that they would
12 make an attempt to get him to turn himself in if they
13 came across him, yes, sir.

14 Q So you made a conscious decision to kind of give
15 him the chance to get to that house to keep him and
16 other people out of harms way?

17 A No, sir, I wouldn't say that. We more or less
18 didn't feel that he would go back to the house at that
19 point. It's kind of obvious with his parents home being
20 right in that location that that might -- it's just a
21 little too obvious for us. We didn't feel he'd run
22 right back to his mom and step-dad's house.

23 Q Okay. Did you think he'd go into that -- Becky's
24 trailer up here?

25 A No. I can tell you I did not think he would go in

1 there.

2 Q Do you have any information that he did?

3 A Yes, sir.

4 Q Okay. You can take a seat again, Detective. Okay.

5 Now, I made reference to the Wootens. Back there with

6 Ms. Wooten is Donnie Wooten. Donnie, would you stand

7 up? You've met him before, hadn't you?

8 A Yes, sir, I have.

9 Q And he coopered with you too, didn't he?

10 A Yes, sir, he had.

11 Q Okay. Now, behind there is Mike Wooten ----

12 MS. WOOTEN: Sigmon.

13 BY MR. EPPES:

14 Q Mike Sigmon, I'm sorry, Mike, I apologize. I got
15 names running -- okay. You recognize Mike Sigmon, don't
16 you?

17 A I do, sir.

18 Q Okay. Now, during the course of this
19 investigation, Mike Sigmon was working with another guy
20 named McNabb, wasn't he?

21 A Yes, sir.

22 Q And Mike Sigmon, while working with Mr. McNabb, got
23 a call from Brad Sigmon, didn't he?

24 A Yes, sir.

25 Q And Mr. McNabb heard about it, talked to Mike about

1 it, kind of snuck out of where they were working and
2 called you or somebody affiliated with the Sheriff's
3 Department and said that Mike had heard from Brad,
4 didn't he?

5 A Yes, sir.

6 Q And by the time he got back -- somebody from the
7 Sheriff's Department got back over there to talk to Mike
8 Sigmon, Mike Sigmon had called the Anderson Sheriff's
9 Department to tell them about talking to Brad, hadn't
10 he?

11 A Yes, sir.

12 Q Okay. Okay. Now, Mr. Sigmon worked -- Brad Sigmon
13 worked with a fellow named Tim Weiczorek, didn't he?

14 A Yes, sir.

15 Q Okay. And members of the Sigmon family told you
16 about that work relationship and got you in touch with
17 Tim, didn't they?

18 A Actually -- sorry, I do not remember how we
19 received that information.

20 Q Okay. Look at page 11 of your report, see if that
21 refresh your recollection.

22 A Yes, sir, that's correct.

23 Q And Mr. Weiczorek told you about a bunch of cell
24 phone calls from Brad's family asking him to turn
25 himself in to a cell phone that Brad's family would have

1 thought he had access to, didn't he?

2 A Yes, sir.

3 Q Now, all this investigation was going on, you got a
4 lot of calls and tips, didn't you?

5 A Yes, we did.

6 Q And you searched for Mr. Sigmon night and day,
7 didn't you?

8 A Yes, sir, we did.

9 Q And you got real close to him several times, I
10 believe at O'Neal grocery and some other places, isn't
11 that correct?

12 A Yes, sir. After speaking with Mr. Sigmon after he
13 was apprehended, he did tell us that we were very close
14 to catching up with him on several occasions.

15 Q Okay. And one of the calls you got was from a guy
16 named Keith Merrill, wasn't it?

17 A I know I spoke to Mr. Merrill, but ---

18 Q Look at page 10 of your report.

19 MR. ARIAIL: Your Honor, I don't want to cut him
20 off, but I mean we're getting into continuing hearsay,
21 hearsay.

22 MR. EPPES: I'm just asking him if he got the call,
23 Your Honor.

24 THE COURT: Well, let me talk to you at side-bar
25 for a minute.

1 (A bench conference was held.)

2 THE COURT: All right. Repeat the last question
3 again, Mr. Eppes. I'm sorry.

4 BY MR. EPPES:

5 Q You got called by Keith Merrill, didn't you?

6 A Yes, sir.

7 MR. EPPES: Okay. That's my last question. Now,
8 Defective, you're going to stay, I've got some more
9 questions for you, but I believe the Prosecution is
10 going to ask you some stuff first.

11 THE WITNESS: Certainly.

12 MR. EPPES: Thank you.

13 THE COURT: At this time or ---

14 MR. ARIAIL: We're going to -- we'll recall him.

15 THE COURT: Any redirect on what we've gone over so
16 far?

17 MR. ARIAIL: No, sir.

18 THE COURT: All right. You're obviously still
19 under subpoena.

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Step down.

22 MR. ARIAIL: He will remain in the courtroom.

23 THE COURT: Right.

24 MR. ARIAIL: That's still ID.

25 THE COURT: For ID only.

1 MR. ARIAIL: Call Gary McCarter.

2 THE CLERK: Put your left hand on the Bible,
3 please, sir, and raise your right hand.

4 GARY McCARTER

5 Having been first duly sworn, testified as follows:

6 THE CLERK: State your name for the record, please.

7 THE WITNESS: Gary McCarter.

8 THE CLERK: Thank you. Be seated.

9 DIRECT EXAMINATION

10 BY MR. ARIAIL:

11 Q State your name for the record, please.

12 A Gary McCarter.

13 Q Mr. McCarter, by whom are you employed?

14 A The Gatlinburg Police Department.

15 Q And that's in Gatlinburg, Tennessee?

16 A Yes, sir.

17 Q How long have you been employed with the Gatlinburg
18 Police Department?

19 A Approximately 15 years.

20 Q And were you so employed on May the 7th of 2001?

21 A Yes.

22 Q And on that date did you have occasion to become
23 involved in the arrest of Brad Sigmon?

24 A Yes, sir, I did.

25 Q Tell the jury exactly what transpired that led up

1 to you being involved in the arrest of Mr. Sigmon?

2 A We had received a call from the authorities in
3 South Carolina about a double homicide,
4 kidnapping suspect that was in our area, and he had
5 placed a phone call from the Twin Creeks Campground that
6 was located right next to the police department, and
7 they explained to me the circumstances behind the case
8 and approximately how long ago the call had been made.

9 Q All right. And this was a conversation you had
10 with somebody from the Greenville County Sheriff's
11 Office?

12 A Yes, the gentleman was an investigator there and he
13 knew me from some previous situation that we had worked
14 on together.

15 Q All right. And as a result of that conversation,
16 what action did you or members of the Gatlinburg Police
17 Department take?

18 A Detective Williams and I were both standing there
19 together and so we knew that we needed to to gather some
20 information about Mr. Sigmon, some picture of him would
21 be in order, so we received a picture of him and we then
22 decided to take that to the Twin Creeks Campground,
23 which Detective Williams, he did that.

24 Q All right. And you didn't go with him?

25 A No, I did not.

1 Q And when he returned -- did he return and have a
2 conversation with you, or did he call you over the
3 telephone?

4 A He returned to the police station and -- and told
5 me what he had found out at the campground.

6 Q And as a result of that, did you leave the police
7 department?

8 A Yes, we did.

9 Q All right. Where did you go?

10 A We travelled 321 East to a campground that used to
11 be used called Trout Creek. It's now Camping in the
12 Smokies, and it was there where we spotted the vehicle
13 that the lady at Twin Creeks said this person was
14 driving.

15 Q All right. So when you went to -- Mr. Williams
16 went to the first campground there was information
17 regarding a vehicle that the suspect was driving?

18 A Yes, business was kind of slow at this time so we
19 didn't have a lot of customers in Gatlinburg, and the
20 lady, said, yeah, he was just here, he was on the phone.
21 That's what Detective Williams told me that she had
22 said, and said he's in like a cream and blue camper and
23 -- with some damage to the right side of it, and said he
24 just left here.

25 Q Okay. And as a result of that information y'all

1 went then to the one that you know is now under the name
2 Camping in the Smokies?

3 A That's correct.

4 Q Were you in a -- either one of y'all in a uniform
5 or plain clothes?

6 A We were dressed like we are now, basically.

7 Q And what kind of car were you driving, a marked
8 car, or unmarked?

9 A Oh, it was a Ford Focus, unmarked.

10 Q Unmarked. And did you go to the Camping in the
11 Smokies Campground?

12 A Yes, we did.

13 Q And what did you observe when you went there?

14 A When we pulled in the campground, you can see it
15 from the roadway, but we went ahead and pulled in and we
16 could see the camper that they had described in the far
17 right corner of the campground, and then we just backed
18 across the street and sat up on top of the hill and
19 shortly thereafter we saw a gentleman walking towards
20 the bathhouse from the camper.

21 Q Okay. And as -- at that time what did you and
22 Detective Williams do?

23 A Mr. Sigmon, he's -- was pretty well built and so
24 his T-shirt and his jeans were fitting snugly enough to
25 where we could see him and that we felt that this was

1 the time we should move in and try to apprehend him, so
2 that's what we did.

3 Q All right. So you moved in how? Did you walk over
4 there or did you drive?

5 A The place where we were parked was just across the
6 street from there, so we had to drive across the street.

7 Q And when you drove across the street, relate to us
8 what you said to Mr. Sigmon and what occurred?

9 A He was approaching the bathhouse and he was just --
10 not inside it, but almost inside it as we pulled in in
11 our car and we both just got out of the car, and
12 Detective Williams and I both were telling him to put
13 his hands up and we had our guns drew on him, told him
14 to -- who we were and what was going on.

15 Q All right. And at the time that you did that, did
16 he comply with your request to put his hands up?

17 A Yes, he did.

18 Q And then did you direct him to do anything else?

19 A Yeah, he was asked to get on the ground and he did
20 do that too.

21 Q Did he make any statements to you at that time --
22 or not to you, or did he make any statements period?

23 A Yeah, he was asking how he got caught, and he said
24 it was the phone call and he was like, oh, my God, what
25 have I done, and he was like, sad, weeping type.

1 Q All right. Now, at the time that these statements
2 were made, did you then advise him of his rights?

3 A Yes, I did.

4 Q All right. What did you tell him?

5 A Well, I told him that, you know, Mr. Sigmon, you
6 don't really need to make any statements right now. You
7 need to understand your rights, and I quoted them to him
8 as best as I could.

9 Q All right. Did you not have them in written form?

10 A No, sir, not on me.

11 Q All right. So what did you quote him as best as
12 you can recall?

13 A I said, you know, you have the right to remain
14 silent, anything you say can and will be used against
15 you in a Court of Law. If you cannot afford an attorney
16 one would be appointed for you, and if you choose to
17 talk to us you can, but you've got the right to stop
18 talking at any time until you get an attorney. And I
19 just tried to tell him the best that I could.

20 Q All right. And did he thereafter talk to you?

21 A Well, yeah, he was very cooperative with us.

22 Q Did he talk to you about anything related to this
23 case?

24 A I think at that time he might have made some
25 statements about, you know, if -- about 45 more minutes

1 and you boys wouldn't have caught me, and -- but nothing
2 much. We were telling him, you know, here's what we got
3 to do, and we had things we had to do right then.

4 Q All right. Did you ask him at that time -- or did
5 someone come from the police department at that time to
6 transport him?

7 A That's correct. We called for a marked unit to
8 come to transport him.

9 Q All right. And did you and Detective Williams at
10 any time -- or thereafter go back to the law enforcement
11 center?

12 A Yes, right after that.

13 Q All right. Now, did you -- you didn't ride to the
14 law enforcement -- or to the police department with Mr.
15 Sigmon?

16 A No, we drove the car back there.

17 Q So you and Mr. Williams went together?

18 A Yeah.

19 Q At any time during your conversation with him,
20 while you were giving him his rights, while he was
21 talking to you, did he at any time tell you he wanted
22 for -- wanted the services of an attorney or have an
23 attorney made available to him?

24 A No, sir.

25 MR. ARIAIL: Answer any questions that either

1 defense counsel has.

2 MR. EPPES: Your Honor, before I start asking
3 Officer McCarter some questions, I have a matter I would
4 like to take up outside the presence of the jury.

5 THE COURT: Okay. Mr. Foreman, ladies and
6 gentlemen, let me get you to step back to your jury
7 room. While you're back there, don't talk about the
8 case.

9 (The jury exited the courtroom at 2:37 p.m.)

10 THE COURT: All right.

11 MR. EPPES: Your Honor, Mr. McCarter mentioned that
12 Mr. Sigmon was wanted for kidnapping, and before I
13 questioned him, I just wanted to make sure that he
14 realizes the kidnapping charge is not on trial here
15 and -- and we'd like to not have him mention if at all
16 possible.

17 THE COURT: Okay. The Solicitor has opted to go
18 just on the murder and the burglary. You probably
19 didn't know that because you hadn't been here. So the
20 related kidnapping, and grand larceny, and assault and
21 battery with intent to kill are not on trial. So I will
22 agree with Mr. Eppes, if you'll just not mention that.

23 MR. EPPES: Grand larceny concerns the mobile home
24 so ---

25 THE COURT: Oh, okay. All right. You understand?

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: Okay. Anything else?

3 MR. EPPES: I would like to ask the Solicitor, are
4 y'all going to use him again for other things, or is he
5 not going to be used for -- okay. Your Honor, I'm going
6 to question him within just the scope of what the
7 Solicitor has covered with him, but then I'm not going
8 to want to excuse him right now.

9 THE COURT: Okay.

10 MR. EPPES: Thank you. That's fine.

11 THE COURT: Then while we're on this, and I'm just
12 looking at my notes at the Jackson v. Deno, I don't
13 remember the -- another 45 minutes and you would have
14 been caught, was that mentioned in Jackson v. Deno?

15 MR. EPPES: No, sir, it was not.

16 THE COURT: Did y'all have notice of that
17 statement?

18 MR. EPPES: No, sir, we did not.

19 THE COURT: All right. I thought the objection was
20 going to be. I mean ---

21 MR. ARIAIL: Nor did we.

22 THE COURT: Okay.

23 MR. EPPES: Your Honor, an instruction to the jury
24 will be fine, if you could do that.

25 THE COURT: Well, what do you want me to instruct

1 them?

2 MR. EPPES: Just tell them to disregard it.

3 THE COURT: Well, the Solicitor said he didn't know
4 he said it. I mean, he's already brought it up.

5 MR. EPPES: Your Honor, that will be fine.

6 THE COURT: I mean, I think it might almost bring
7 too much attention to it.

8 MR. EPPES: It's fine the way it is. Thank you.

9 THE COURT: All right. Okay. You do have
10 cross-examination of this witness?

11 MR. EPPES: Yes, I do, Your Honor. I just wanted
12 to make sure he was aware of that.

13 THE COURT: All right. Bring the jury back in.
14 Hold up.

15 MS. STROM: I was just going to step out and tell
16 the other witnesses not to mention the kidnapping
17 charges, as well if that was all right with defense
18 counsel?

19 MR. EPPES: That would be fine.

20 THE COURT: Since they're sequestered and that
21 would be something that came up in court, she would be
22 doing that with your consent.

23 MR. EPPES: Yes, sir.

24 THE COURT: And my instructions.

25 MR. EPPES: Thank you.

1 MR. ABDALLA: And anything -- any other
2 out-of-court statements that we're not aware of. Any
3 other out-of-court statements that we're not aware of.

4 THE COURT: Well, you know, were there written
5 reports from the Gatlinburg people that were provided to
6 y'all and to the ---

7 MS. STROM: Yes, sir.

8 THE COURT: Okay.

9 MR. ARIAIL: There were summaries, yes, and we've
10 given them of course the copies.

11 THE COURT: Okay. All right. I mean, I don't know
12 if -- I don't know exactly how to instruct them on that.
13 I mean, I can't tell them to testify just what's in
14 their report but -- we'll handle it if it comes up.

15 MR. ABDALLA: Well, Your Honor, the only thing we
16 could ask is that in the Jackson Deno hearings that
17 there were a couple statements that were approved,
18 anything outside of that, if the Solicitor would
19 instruct the witness not ---

20 THE COURT: Well, technically these were not
21 statements that were made in response to police
22 questioning, so I'm not sure technically they're -- they
23 would be covered, but that statement was not covered in
24 the Jackson v. Deno hearing, but -- all right. If you
25 would instruct those witnesses that -- not to mention

1 kidnapping, grand larceny, assault and battery with
2 intent to kill.

3 MS. STROM: Yes, sir.

4 THE COURT: All right. Bring the jury in.

5 MR. EPPES: May I approach the court reporter while
6 the jury is coming in to have something marked ahead of
7 time

8 THE COURT: You may. As long as you don't knock
9 anything over when you come up.

10 MR. EPPES: I'm trying to.

11 (Defendant's Exhibit Number 3 was marked for
12 identification.)

13 THE COURT: Is this his supplemental?

14 MR. EPPES: Sir?

15 THE COURT: What is this?

16 MR. EPPES: This is an affidavit that he did in
17 requesting a search warrant.

18 (The jury entered the courtroom at 2:42 p.m.)

19 THE COURT: All right. Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. EPPES:

22 Q Officer McCarter, it's nice to see you again.

23 A Thank you.

24 THE COURT: This is defendant's ID 3?

25 MR. EPPES: Yes, sir, it's Exhibit 3.

1 BY MR. EPPES:

2 Q Officer McCarter, you may not need to look at that,
3 I want to ask you a couple of questions and that's there
4 to refresh your recollection now. Mr. Sigmon wants me
5 to be nice to you because he says you were very nice to
6 him, I just want to tell you that.

7 A Thank you.

8 Q We met before? There was a hearing before, and you
9 and I have met before, correct?

10 A Yes.

11 Q One thing I didn't ask you at that hearing, you got
12 a search warrant for that van, didn't you?

13 A Yes, um-hm.

14 Q And you asked for some specific items that you
15 wanted to search for in the mobile home that was with
16 Mr. Sigmon, do you remember that?

17 A Not the particular items. I can only assume what I
18 would have asked for would be things pertaining to the
19 situation.

20 Q All right. Where would you have gotten that
21 information about things that pertaining to the
22 situation?

23 A From the authorities in South Carolina.

24 Q From the authorities ---

25 A Yeah, they were with us.

1 Q Okay. They were with you when you arrested Mr.
2 Sigmon?

3 A No, when we got the search warrant.

4 Q When you got the search warrant. And one of the
5 things you asked for in that search warrant was a .22
6 caliber pistol, wasn't it?

7 A I would have to look and see.

8 THE COURT: You can refer to it.

9 BY MR. EPPES:

10 Q You can refer to it to refresh your recollection.

11 A If that's what it says.

12 Q Take a look it and let's see if ---

13 MR. EPPES: May I approach the witness, Your
14 Honor?

15 THE COURT: Point it out to him.

16 BY MR. EPPES:

17 Q If you will look at right here.

18 A Okay, yeah.

19 Q And that says .22 caliber pistol, doesn't it?

20 A Okay, yeah.

21 Q So you were looking for a .22 caliber pistol at the
22 request of the authorities in South Carolina?

23 A Yes.

24 Q Okay. You can set that on down. Now, Mr. Sigmon
25 was very cooperative, wasn't he?

1 A Yes, he was.

2 Q Okay. And as quick as you got there, he put his
3 hands up in the air and he got very emotional, didn't
4 he?

5 A He would go back and forth.

6 Q You were with him for an extended period of time,
7 weren't you?

8 A Over the next day and so, yes.

9 Q And sometimes he would just bust out crying for no
10 reason?

11 A That's true.

12 Q And really wailing and stuff?

13 A Not for no reason.

14 Q Well, tell -- why?

15 A Well, I assume because of what happened.

16 Q Thank you. But he would periodically break out
17 crying when you were talking to him, kind of wail when
18 he talked, correct?

19 A Yes, sir.

20 Q He cooperated with you all the way?

21 A Yes, he did.

22 Q Were you ever afraid of him? I know you treat
23 every suspect with care.

24 A I respected what he was telling me and took it to
25 be as honest as he could tell me, when he told me, I'm

1 not going to hurt or do anything, but I still treated
2 him with respect too, in trying to keep everything
3 safe.

4 MR. EPPES: Yes, sir. Okay. Thank you. Now,
5 Officer, we're going to have to ask you to stay, we may
6 need you again later. Thank you.

7 THE COURT: All right. If you would -- do you want
8 him to stay sequestered or ---

9 MR. EPPES: Yes, Your Honor, I'd like him to stay
10 sequestered.

11 THE COURT: All right. I don't know what your ---
12 room you're in, but I'm going to have to ask you to go
13 ahead and leave the courtroom at this time, but you're
14 still under subpoena, okay?

15 THE WITNESS: Yes, sir.

16 THE COURT: All right. Thank you. Next witness.

17 MR. ARIAIL: Call Carrie Harbin.

18 THE CLERK: Put your left hand on the Bible,
19 please, ma'am, and raise your right hand.

20 CARRIE HARBIN

21 Having been first duly sworn, testified as follows:

22 THE CLERK: State your name for the record,
23 please.

24 THE WITNESS: Carrie Harbin.

25 THE CLERK: Thank you. Be seated.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q Ms. Harbin, if you would, state your name for the record.

A Carrie Harbin.

Q Keep your voice up just like that, or you might even want to go ahead and scoot your chair so the microphone can pick you up a little bit better.

THE COURT: Scoot your chair forward.

BY MR. ARIAIL:

Q There you go. By whom are you employed?

A The Gatlinburg Police Department.

Q In what capacity are you employed with the police department?

A I'm a dispatcher and a jailer.

Q What is the responsibilities -- well, let me go back. Were you so employed on May the 7th of 2001?

A Yes, I was.

Q And on that day, did you have an occasion to come in contact with Mr. Brad Sigmon?

A Yes, I did.

Q Now, when you came in contact with him, was that in your capacity as a dispatcher or as a jailer?

A As a jailer.

Q Now, what were you going -- what were you doing

1 with Mr. Sigmon that caused you to come in contact with
2 him?

3 A I was brought into the jail to be his booking
4 officer.

5 Q And the jail is located in Gatlinburg where?

6 A It's there at the main facility, the main police
7 Department.

8 Q At the main police department?

9 A Yeah.

10 Q Okay. And when -- how large a facility is it?

11 A It's -- it's contained in the downstairs of the
12 city hall complex, which is just one large building.

13 Q All right. And how many cells does it have, 15,
14 20?

15 A No, sir, we have one holding cell, a male cell,
16 female cell, a male drunk tank and a female drunk tank.

17 Q Okay. So it's small?

18 A Yes.

19 Q All right. Now, the booking area is -- that you
20 talked about, is that where you met with Mr. Sigmon?

21 A Yes, it was.

22 Q Describe that to us for the jury, what is it?

23 A It's a small room with a table where we do our
24 booking process, and counters that hold our paperwork
25 and everything. It's quite a small room with just a

1 normal size table.

2 Q And in that -- you met in that room with Mr.
3 Sigmon. What is the paperwork that you wanted to
4 perform or complete?

5 A We have just a standard booking form that we go
6 through that asks questions for name, and address,
7 Social Security, date of birth.

8 Q Sort of like name, rank, serial number, and ---

9 A Yes, sir.

10 Q --- closest kin, that sort of thing? All right.
11 Did you know anything about the events that had led to
12 Mr. Sigmon being charged?

13 A No, I did not.

14 Q Did you -- while he was in your presence, did you
15 ask him anything about those events?

16 A No, I did not.

17 Q Was there any need as a result of your forms to
18 have to ask about any of that?

19 A No, sir.

20 Q Now, while he was with you in the booking area, who
21 else was present?

22 A To start with, there were quite a few people in the
23 room, the detectives, myself, Officer Walker and the
24 Chief of Police.

25 Q All right. And as the booking process began, that

1 is as you were taking the information, how many people
2 remained in the room?

3 A Just myself and Officer Walker.

4 Q Officer Walker. And Officer Walker is a male
5 member of the police department?

6 A Correct, he's a patrolman.

7 Q A patrolman. And who had requested that he be
8 present?

9 A The Chief.

10 Q Now, how long did the booking process take?

11 A It took probably something around 20 to 25 minutes,
12 just to get the information that I needed.

13 Q And you handwrote it on the form?

14 A Correct.

15 Q And you stayed in this room the entire time?

16 A Correct.

17 Q Anybody come and go, other than you and Mr. Walker
18 being present?

19 A No, sir.

20 Q Okay. And the booking area is it subject to a
21 video camera?

22 A Yes, sir, it is.

23 Q And what type of video camera system is it?

24 A It's a motion video camera. It works only when
25 there is someone in the room. It remains on for 10

1 minutes after the room is empty. Does not turn back on
2 until there is motion picked up in the room again.

3 Q All right. And was that camera readily visible?

4 A Yes.

5 Q Now, at the end of the booking process, did you
6 receive any requests from Mr. Sigmon?

7 A He requested a phone call.

8 Q He requested to make one?

9 A Yes.

10 Q And did he tell you who he was going to make it to?

11 A He asked to call his mother.

12 Q And did he have a number, or did you have the
13 number?

14 A I did have the number. We have to have them call
15 collect if it's a long distance number. He had given me
16 the number as his next of kin, but I let him make his
17 phone call. I just picked the line and showed him to
18 press 9 and he continued the phone call.

19 Q Now, this telephone call, the phone he used, where
20 was it located in the room?

21 A It's right on the table where we were sitting the
22 entire time.

23 Q And is there anything else in this room besides
24 this table and the two chairs -- or three chairs you
25 were sitting in and the telephone?

1 A Other than just old notebooks that are on top of
2 the cabinets and the fingerprint table.

3 Q All right. Nothing else?

4 A No.

5 Q Is there any area where it's partitioned, or an
6 area separate in the room, or is it one big room?

7 A It's just one room.

8 Q Okay. And you gave him the telephone, or you
9 pushed the button -- did you dial 9?

10 A I dialed 9, yes.

11 Q And is it a dial phone, or was it a touch tone?

12 A It's a touch tone.

13 Q And who dialed the remaining numbers?

14 A Mr. Sigmon.

15 Q Okay. And did he in fact have a conversation?

16 A Yes, he did.

17 Q Was someone on the other end of the line?

18 A Yes.

19 Q And he had represented he was calling his mother?

20 A Correct.

21 Q What did you do at the time? What did you do at
22 the time that he began to make this telephone call?

23 A I -- my normal practice is to sit there and wait
24 until they're done.

25 Q And did he see you sitting?

1 A Yes.

2 Q Mr. Walker sitting there also?

3 A Yes.

4 Q Anybody come in and out of the room?

5 A No, not that I recall.

6 Q During this conversation -- and I assume having the
7 conversation is -- or making a phone call by a person
8 who has been detained is a fairly normal practice?

9 A Correct.

10 Q During this conversation, did you think something
11 unusual was occurring that -- that caused you to take
12 notes about this conversation?

13 A Just the topic of conversation.

14 Q All right. And what was the topic of conversation
15 that caught your attention?

16 A Once he told his mother he had been caught in
17 Gatlinburg, he went on to describe what had taken
18 place.

19 Q All right. Describe what had taken place? Did he
20 describe what took place in Gatlinburg or was he
21 describing what had taken place in Greenville?

22 A In Greenville.

23 Q And when that -- that conversation began, had you
24 or Mr. Walker in any way indicated to him that he had an
25 expectation of any kind of privacy?

- 1 A No, sir.
- 2 Q He was talking freely in front of the two of you?
- 3 A Yes, sir.
- 4 Q Did you start to take notes?
- 5 A Yes, I did.
- 6 Q Did Mr. Welcomer start to take notes?
- 7 A Yes.
- 8 Q Did Mr. Sigmon see you taking notes?
- 9 A I was sitting right next to him, I believe he did.
- 10 Q And do you recall exactly -- or from your notes --
- 11 well, after you took those notes, did you transcribe
- 12 them or reduce those notes to a written report?
- 13 A Yes, I did.
- 14 Q How did go about doing that?
- 15 A I, from memory and the things that I had written
- 16 down, wrote a handwritten report and then proceeded to
- 17 retype it.
- 18 Q Okay. And tell us, if I can, what Mr. Sigmon
- 19 talked about with the person on the other end of the
- 20 phone that he represented to be his mother?
- 21 MR. EPPES: Your Honor, I'm sorry. I need to take
- 22 up another matter outside the presence of the jury.
- 23 THE COURT: All right. Mr. Foreman, ladies and
- 24 gentlemen, let me ask you to step out. Don't talk about
- 25 the case. We'll be with you shortly.

1 (The jury exited the courtroom at 2:57 p.m.)

2 THE COURT: All right, sir.

3 MR. EPPES: Your Honor, with an open ended question
4 like that, as you'll recall when we discussed it during
5 the Jackson v. Deno hearing and all reference to this --
6 this retaining of Jim Barnes for some other charge,
7 needed to be kept out of the -- kept out of the
8 testimony. And I just wanted to make sure that the
9 Solicitor and Ms. Harbin remembered that discussion.
10 Because frankly, I didn't remember it until she was on
11 the stand.

12 THE COURT: Okay. I had forgotten also, and I'm
13 looking at my notes. You understand that that
14 portion -- there's something about an aggravated
15 robbery?

16 MR. ARIAIL: Yes, sir.

17 MR. EPPES: Yes, sir.

18 MR. ARIAIL: Armed robbery.

19 THE COURT: Is Jim Barnes -- is that a different
20 case?

21 MR. ARIAIL: No -- oh, a different case from this
22 case?

23 THE COURT: Yes, sir.

24 MR. EPPES: It was 20 years ago, Your Honor.

25 THE COURT: And so any reference to aggravated

1 robbery, Mr. Barnes, what else?

2 MR. EPPES: Aggravated robbery, Mr. Barnes, any
3 previous criminal activities other than the ones here.

4 THE COURT: I put a note in my margin, no, I will
5 not talk to anyone any more. I don't know if that's
6 something he said. I can't remember.

7 MR. EPPES: That's his mama telling him not to talk
8 anymore, and he said, no, mama, I won't talk anymore.

9 THE COURT: All right.

10 MR. EPPES: And then proceeded to talk about Mr.
11 Barnes.

12 THE COURT: Okay. All right. So any reference to
13 aggravated robbery and Mr. Barnes, we're not going to
14 talk about. You had already been admonished of that?

15 THE WITNESS: Yes, sir.

16 THE COURT: Okay. All right.

17 MR. ARIAIL: There's also one other reference in
18 her notes, I don't know if they care about it or not,
19 about Kente Young, who he always bought his marijuana
20 from and introduced him to Geno.

21 MR. EPPES: Your Honor, if they want to put in
22 about Kente, they can have at it.

23 THE COURT: Who?

24 MR. ARIAIL: Her notes reflects that Kente Young,
25 who he had always bought his marijuana from and

1 introduced him to Geno.

2 THE COURT: Who's Geno?

3 MR. ARIAIL: Geno is the accomplice with him.

4 THE COURT: All right. You plan to go into that?

5 MR. ARIAIL: Well, unless I'm going to be able to
6 specifically start leading her as to certain areas, I'm
7 going to ask her to recite what her notes said, and
8 that's about where we're going, but otherwise I'm going
9 to have to say -- you know, and I can go down this and
10 kind of corral it.

11 THE COURT: You can do that. You can say, did he
12 every say anything about Geno so and so. I mean, not
13 saying that's -- you can ask her questions about what
14 she wrote down without it being a leading question.

15 MR. ARIAIL: Okay. All right. I have difficulty
16 doing that sometimes.

17 THE COURT: What's that?

18 MR. ARIAIL: I have difficulty doing that
19 sometimes.

20 THE COURT: You have difficulty not leading, I
21 agree with that. All right. Bring the jury.

22 MR. ARIAIL: Doing right good with that -- excuse
23 me, doing right well with that.

24 THE COURT: Who's the school teacher?

25 MS. STROM: Not a teacher.

1 MR. ARIAIL: English major.

2 (The jury entered the courtroom at 3:00 p.m.)

3 THE COURT: All right. Continue.

4 BY MR. ARIAIL:

5 Q Ms. Harbin, I wanted to -- you got to the point
6 that you were taking notes about this conversation. Let
7 me go into and specifically what conversation you
8 overheard. Did Mr. Sigmon, when he began to discuss the
9 events that had occurred in South Carolina, did he
10 indicate to you that he had in fact -- or indicate to
11 the person on the telephone that he had been to Becky's
12 house -- or he intended to go Becky's house that night?

13 A Yes, he did.

14 Q And did he say what his intention in going there
15 was?

16 A He said his intention was to make Becky spend time
17 with him.

18 Q And did he indicate whether he went there alone or
19 was accompanied by someone?

20 A He said he was accompanied by an acquaintances
21 named Geno.

22 Q He mentioned Geno by name as Geno?

23 A Just as Geno.

24 Q Now, did he explain -- or state what his
25 intentions -- his and Geno's intentions were in going to

1 the Larke residence?

2 A He said that he had taken Geno to assist him in
3 tying up her parents so he could take her to spend time
4 with him.

5 Q All right. And what did he say happened in regard
6 to Geno when they got the house?

7 A He said once they had got to the house and went to
8 go to the door, he said Geno had took off running.

9 Q I'm sorry?

10 A He said Geno had taken off running.

11 Q Okay. And after Geno had taken off running, what
12 did he say his resolve was at that time?

13 A That he was already there, he may as well go in and
14 finish what he was there for.

15 Q And did he indicate that he had met Mr. Larke when
16 he went into the residence?

17 A Yes, he had said that he spoken with -- I knew him
18 as David, that's how he referred to him as, and he met
19 with David and Gladys.

20 Q All right. And did he relate what -- did they have
21 a conversation or what happened?

22 A He did say that he had spoke with them about the
23 troubles that he was having, and ---

24 Q And the trouble he was having with?

25 A With Becky.

1 Q Okay.

2 A And at that point he said that David had tried to
3 leave the room, and that he knew he had guns in the
4 house, and that he was afraid he was going to go get a
5 gun, and that he had hit him.

6 Q Okay. Did he describe what he had hit with him?

7 A No, he never said what.

8 Q And did he say he hit him more than one time?

9 A Yes, he said that he hit him and said that he just
10 lost it and kept hitting him.

11 Q All right. And did he relate to you what had taken
12 place with Gladys?

13 A He -- he had -- he had spoken of unloading a gun by
14 shooting the gun, and I -- at that point I wasn't sure
15 who he was talking about, only he never used a name,
16 just said her. I did not know if he was speaking of
17 Gladys or not.

18 Q And -- but he spoke of unloading the gun on her?

19 A Yes.

20 Q All right. Did you assume that that was the lady
21 Gladys or ---

22 A I thought that he was talking about Gladys.

23 Q Okay. All right. Now -- but you weren't positive
24 of that?

25 A No, I was not.

1 Q Did he go along to discuss at that time with
2 whoever was on the other end of the phone about what he
3 did after he left that scene?

4 A Yes, he did. He went on to say that when he left
5 he was hiding in the woods and trying to get away from
6 the police, and was -- had hid under a house.

7 Q He specifically talked about hiding under a house?

8 A Yes, he did.

9 Q Do you remember, did he give any details about what
10 he did while he was hiding under the house?

11 A He said that he had laid down and covered himself
12 up with dirt.

13 Q Do you recall -- did he relate how long he had been
14 there?

15 A He said he had been there about 12 hours.

16 Q All right. And then -- did he relate to you where
17 he -- or relate in the conversation where he had went
18 after the 12 hours?

19 A Yes. He said he had gone through the woods and
20 walked along and had returned to his residence to change
21 clothes, and said at that point he shaved off his
22 moustache and went to a grocery store to buy cigarettes
23 and continued on.

24 Q Okay. And did he relate to you -- or in that
25 conversation about having a car?

1 A About having a car, yes. I'm sorry. He said that
2 he did have a car in the woods, but when he got to that
3 point that there were helicopters, and so he went ahead
4 and just left the vehicle there.

5 Q All right. Did he discuss with the person on the
6 telephone about a motor home?

7 A Yes, he did. He said once he had been traveling
8 for a while and was trying to go to Traveler's Rest. He
9 said that he located a motor home and there were keys in
10 it, and he said there was cooler, and he had left some,
11 money, I believe he said like seven dollars and a note
12 saying, sorry, for taking your stuff, and left in the
13 motor home.

14 Q Okay. During the time that you were -- this
15 conversation was going on, did Mr. Sigmon at any time
16 attempt to hide what he was saying, cover his mouth,
17 talk quietly, or in any way disguise from you that he
18 was relating the entire events that he had related on
19 the telephone?

20 A No, he did not. He was speaking openly.

21 MR. ARIAIL: Okay. Thank you. Answer any
22 questions that Mr. Eppes or Mr. Abdalla have.

23 MR. EPPES: Your Honor, would this be a good time
24 to take a break?

25 THE COURT: Just keep going.

1 MR. EPPES: Your Honor, I have some equipment I
2 need to get in here.

3 THE COURT: For cross-examination?

4 MR. EPPES: Yes.

5 THE COURT: Oh, okay. All right. Well, let's go
6 ahead and take a break. Mr. Foreman, ladies and
7 gentlemen, I'm going to send you back to your jury room
8 while we're setting that up. We'll take about a 10
9 minute break. While you're back there, don't discuss
10 the case.

11 Remain seated please.

12 (The jury exited the courtroom at 3:10 p.m.)

13 MR. EPPES: I'm sorry, Your Honor.

14 THE COURT: That's all right. All right. You can
15 step down. While you're down, don't talk about your --
16 don't talk about your testimony with anyone. You can
17 talk to people, just don't talk about your testimony,
18 okay?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Mr. Eppes, I didn't mean
21 you specifically, but when you got up people started
22 getting up.

23 MR. EPPES: I'm sorry, Your Honor.

24 THE COURT: All right. We'll take about a 10
25 minute break.

1 (A short recess was taken, after which, the trial
2 continued as follows:)

3 THE COURT: Right there in the middle. Come on in.
4 All right. Ms. Harbin, where is she? Come back up,
5 please, ma'am.

6 MR. ARIAIL: Your Honor, I think we have a much
7 bigger issue than just turning the VCR on. What he --
8 what he's attempting to do -- what he's attempting to
9 do, as I understand it, is excerpt from the tape certain
10 portions. And they are -- number one, they are not
11 relevant to any aspect of this trial issue of guilt,
12 guilt or innocence.

13 THE COURT: I don't know what he's trying to do.

14 MR. ARIAIL: And that's why I -- he can show you.
15 He's got his -- he's got his little transcript typed up
16 of each page so he can show you. And there's absolutely
17 no legal relevance to any of this other than just
18 cluttering the record with extraneous matters about
19 her -- his relationship with Becky --- or excuse me, not
20 even his relationship, it's full of his recitation of
21 hearsay of other people's statements, David, Gladys and
22 Becky.

23 THE COURT: This is stuff that ---

24 MR. EPPES: This is stuff -- I'm sorry, Your Honor.

25 THE COURT: From the telephone conversation?

1 MR. ARIAIL: He is reciting in the telephone
2 conversation, telling his mother this is what Becky
3 said, this is what Gladys said, and this is what David
4 said, none of which is relevant to the issue of guilt.
5 It may be -- conceded, it may be something they can get
6 in in penalty, but it's certainly not relevant to the
7 defendant's guilt or innocence.

8 THE COURT: All right.

9 MR. EPPES: Your Honor, two things. Okay. First
10 of all, it's a simple matter of cross-examination.
11 What the witness said about basically the first half of
12 this telephone conversation that she eavesdropped,
13 well, there was some trouble with Becky. There is
14 extensive -- there's extensive statements on the tape
15 that they have about, quote, the trouble with Becky.
16 Okay. That is what most of this is that I'm seeking to
17 introduce.

18 Second, I didn't tell them to put in a telephone
19 conversation. They got two written confessions that
20 we're going to have a whole brouhaha about later, but
21 this tape is a conversation. They had tape of the
22 entire conversation, they chose to pick out what they
23 wanted under South Carolina rule of evidence 106. If
24 you put in a statement or something like that, you're
25 entitled to hear the whole thing. Now, if you look at

1 the note of that -- do you have the rule, Your Honor?

2 THE COURT: Pass it up.

3 MR. EPPES: I'm going to hand you my copy of the
4 rule, because if you read the note of that, it says in
5 the common law when a conversation was introduced into
6 writing -- it says first, when part of a document or
7 writing is introduced into evidence, the remainder may
8 be introduced by the other party. Then it says the same
9 applies to conversations. Then it says, and I've
10 highlighted this part, the party seeking to introduce
11 the remainder of written recorded statement, remember it
12 applies to conversation too, can now require the
13 remainder to be introduced at the same time the other
14 part of the written recorded statement is introduced.
15 This rule does not change the order of proof as to the
16 remainder of an unrecorded conversation, the party
17 seeking to bring out the remainder must do so during
18 cross-examination or during that party's case. But I
19 can put it in.

20 THE COURT: Well, does it not have to be relevant
21 to what's already been put in?

22 MR. EPPES: No, sir, it's a part of the totality---

23 COURT REPORTER: Slow down.

24 MR. EPPES: Well, you told me to be loud. It's a
25 part of the totality ---

1 THE COURT: I didn't tell you to be disrespectful.

2 Just ---

3 MR. EPPES: I'm sorry, Your Honor.

4 THE COURT: Just do it calmly.

5 MR. EPPES: Okay. All right. How much do you
6 intend to put in? How long is the tape?

7 MR. EPPES: Your Honor, the whole tape, start to
8 finish, involving the entire four and a half hour
9 tape, I believe clocks out to about 25 minutes. I've
10 shown them the statements I seek to put in and they
11 are ---

12 THE COURT: Well, are you going to fastforward to
13 it or ---

14 MR. EPPES: Five note -- I've got just the parts
15 I'm seeking to put in cut out.

16 THE COURT: On this VCR tape?

17 MR. EPPES: On this VCR tape.

18 THE COURT: Well, I thought you had to put the
19 whole thing in?

20 MR. EPPES: No, sir. No, sir.

21 THE COURT: Okay. All right. Anything additional
22 you want to put on that issue?

23 MR. ARIAIL: No, sir, just that it's not relevant.

24 THE COURT: All right. I'm going to allow it.

25 MR. EPPES: Thank you.

1 THE COURT: Now, do you want the whole 25 minutes
2 played?

3 MR. ARIAIL: Yes, sir.

4 THE COURT: All right. We're going to play the
5 whole 25 minutes.

6 MR. EPPES: Your Honor, the whole 25 minutes -- the
7 whole 25 minutes of his conversation with Ms. Harbin?
8 The entire 25 minutes on this tape is not just his
9 conversation with Ms. Harbin. It is excerpts of his
10 entire time at the Gatlinburg Police Department.

11 THE COURT: And you intend to play the whole 25
12 minutes of that tape?

13 MR. EPPES: Not during Ms. Harbin's testimony.
14 This is just excerpts that I have for various witnesses.

15 THE COURT: Do you intend to show 25 minutes of
16 this at this time or just excerpts?

17 MR. EPPES: I just want to show the excerpts.

18 THE COURT: Okay. And so what else is on that 25
19 minutes?

20 MR. EPPES: Well, the excerpts are divided section
21 by section by section. I can watch them and cut them
22 off after the sections that I want.

23 THE COURT: But in all fairness, if we're going to
24 go ahead and put in the whole tape, why not go ahead and
25 do that -- excuse me, the tape of the whole telephone

1 conversation? And how long is the telephone
2 conversation?

3 MR. EPPES: The whole conversation is about 20, 25
4 minutes.

5 THE COURT: Okay. Well, you know, he's putting in
6 a little bit, you're putting in a little bit, why not
7 put the whole thing in?

8 MR. EPPES: Well, we can't put in the end about Jim
9 Barnes, but otherwise that's fine.

10 THE COURT: All right. And is that what -- is --
11 in fairness -- I mean, are you going to come back and
12 want -- I mean, this is ridiculous.

13 MR. ARIAIL: Yes, yes, I am.

14 THE COURT: Okay.

15 MR. ARIAIL: And my objection is still that it's
16 not relevant.

17 THE COURT: I have ruled on that objection.

18 MR. ARIAIL: I understand. So then I would have to
19 say I want the whole thing.

20 THE COURT: So I'm telling you to put in the entire
21 tape but cut it off before the Jim Barnes part.

22 MR. EPPES: Your Honor, they have the original of
23 that tape.

24 THE COURT: All right. Where's the original?

25 MR. ARIAIL: Property and evidence room.

1 THE COURT: I mean, I had a copy, so surely
2 somebody has got a copy.

3 MS. STROM: We've got a copy.

4 MR. ARIAIL: We have a copy back here, Your Honor,
5 it's just not the original, but it's a start.

6 THE COURT: All right. Does anyone object if a
7 copy is played? No objection. Go get a copy.

8 MR. EPPES: Okay. Get that.

9 THE COURT: Where you at?

10 MR. EPPES: Right about where she's about -- he's
11 about to use the phone. They're finishing up some
12 questions right now.

13 THE COURT: Do they got the handcuffs off?

14 MR. EPPES: Yes, sir, he's got the handcuffs off.
15 He's calling the -- rewind it a little bit. All right.
16 Let's rewind it to about there. Okay. Your Honor, we
17 are ready to go.

18 THE COURT: All right. Bring the jury.

19 MR. ARIAIL: Well, can I have one moment?

20 THE COURT: Yes, sir.

21 MR. ARIAIL: I'd like to ask you, if you would, to
22 read this case that is -- it's a 2002 opinion, it's the
23 State versus Privera Pina (phonetically), which is
24 directly on point with this. It deals with the fact
25 that rule 106 does not apply to oral conversations, it

1 only applies to written statements, and the Court in
2 that case upheld the trial Court's decision not to allow
3 in oral statements, particularly oral self-serving
4 statements made by a defendant that were not part of a
5 written ---

6 THE COURT: Well, it's -- the rule applies to
7 written or recorded statements. This is recorded via
8 the video.

9 MR. ARIAIL: Well, I don't have all of it printed
10 off yet, but we are getting it printed off.

11 THE COURT: Well, I mean the other question is,
12 does it relate to what was put in, and that's what I was
13 asking before I read the rule. And in all fairness,
14 does it relate to it, does it need to be considered with
15 it? And you're telling me this relates to what Ms.
16 Harbin testified to?

17 MR. EPPES: Your Honor, the segments that I sought
18 to put in, the first one has to do with the trouble with
19 Betty -- with Becky. And the second has to do with a
20 discussion involving Mrs. Larke, Geno and Becky. The
21 fourth one has to do with Becky. The fifth one has to
22 do with God, and I would keep that one out if you'd
23 like, and that's them.

24 THE COURT: Well ---

25 MR. EPPES: And I'd just as soon put in excerpts,

1 but if they want to put in the whole thing I'm happy
2 to.

3 THE COURT: All right. Okay. I have read it. I'm
4 going to allow it. All right. Bring the jury.

5 MR. EPPES: Your Honor, could I -- Ms. Harbin is
6 going to retake the stand?

7 THE COURT: Yeah. But she needs to sit up here for
8 25 minutes?

9 MR. EPPES: No, sir, she can -- she can go down,
10 but I want her to identify the people on the tape.

11 THE COURT: Okay. Ms. Harbin, come on up.

12 MR. EPPES: Actually, if she can see the thing from
13 the witness stand, I'd like for her to watch it.

14 THE COURT: Okay.

15 MR. EPPES: Your Honor, one final thing. I'm going
16 to stop it before we get to that issue that we've been
17 discussing.

18 THE COURT: Okay. That will be in his control.

19 MR. EPPES: I understand that, Your Honor.

20 THE COURT: For the record.

21 MR. EPPES: For the record.

22 (The jury better the courtroom at 3:40 p.m.)

23 THE COURT: Mr. Foreman, I apologize for the delay.
24 We had technical difficulties. We are now ready for
25 cross-examination.

CROSS-EXAMINATION

BY MR. EPPES:

Q Ms. Harbin, hi. How are you doing?

A Hi.

Q You mentioned that there was a video tape of this telephone conversation?

A Yes.

Q And we have here a VCR we hope that is going to play this video tape. First thing I'm going to do is I'm going to push play and let you watch it for just a second and then stop it to kind of let you set the stage for the jury, and then we're going to play the tape for them. And since I -- have you ever seen the tape?

A Yes, I have.

Q Okay. Well, I'm going to let you watch it again, because after it's done, I may want to ask you some questions about it, okay?

THE COURT: Could she set it up before? Could she tell them -- well, go ahead.

MR. EPPES: Well, I'm going -- I just want to set the stage for them, and then ---

THE COURT: Okay.

BY MR. EPPES:

Q Okay. Right now it's being played with the sound

1 off so you can tell us what's going on here, ladies and
2 gentlemen. Okay. Now, this is the interview room -- or
3 what do you call this room?

4 A This is the booking room.

5 Q Okay. Now, Your Honor, tape shows 1607 23, 24, 25.
6 Okay. Can y'all see? Okay.

7 THE COURT: We'll cut the lights when we get to it.

8 BY MR. EPPES:

9 Q Now, over here on the left of the screen, who is
10 that with the police shirt on?

11 A That is Officer Walker.

12 Q Okay. And over here in the far right of the screen
13 in the corner, who is that?

14 A That is me.

15 Q Okay. And that I'm pointing to, kind of in the
16 middle of you and Officer Walker, who is that?

17 A That's Mr. Sigmon.

18 Q And in this tape, he's got the phone already to his
19 ear, does not he?

20 A Yes.

21 Q Okay. And that's -- oh, Lord. That's at 1507.
22 I'm not believing this. This thing is dangerous to me.
23 Okay. I'm going to rewind -- well, actually I'm going
24 to push play and see how the sound works. Turn the
25 sound up. The sound doesn't work at all. Is that Mr.

1 Sigmon's voice?

2 A Yes.

3 Q Okay. Okay.

4 MR. EPPES: Your Honor ---

5 THE COURT: Let's do this. Mr. Foreman, let me ask
6 you step back out for just a minute. While you're back
7 there, don't discuss the case. Let me have you step
8 back to the jury room.

9 (The jury exited the courtroom at 3:42 p.m.)

10 THE COURT: Okay. Shut the door. All right. I'm
11 going to let you cross-examine this witness without any
12 tape or video. The rule allows you to put it in. You
13 don't have to put it in on cross-examination. If you
14 think it's relevant to the portions of this statement
15 that she published, you can put it in later. Go ahead
16 and cross-examine her.

17 MR. EPPES: Thank you, Your Honor.

18 THE COURT: If you want to put it in later ---

19 MR. EPPES: That's fine.

20 THE COURT: Go ahead and roll that TV back. You
21 got any cross-examination of her?

22 MR. EPPES: Yes, sir, I do.

23 THE COURT: All right. Roll the TV back. Bring
24 the jury.

25 MR. EPPES: Thank you, Your Honor. I'm sorry.

1 THE COURT: That's all right. You don't need to
2 roll it back. We've got bailiffs that can do this.

3 THE COURT: Did I approve moneys for an expert to
4 have all this?

5 MR. EPPES: You haven't yet, Judge, it came to me
6 last week.

7 THE COURT: It won't be much.

8 MR. EPPES: Yes, sir, Your Honor, I understand.

9 THE COURT: Bring the jury in.

10 (The jury entered the courtroom at 3:44 p.m.)

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, obviously we're having even more technical
13 problems than we initially thought. We're going to
14 continue with cross-examination without the video. If
15 the video is introduced, we can do it a later time, but
16 we're going to proceed without it. All right.

17 BY MR. EPPES:

18 Q Officer Harbin, this conversation, I've seen the
19 video, is about 25 minutes long, is that right?

20 A Yes.

21 Q The conversation with ---

22 A The conversation portion.

23 Q --- with Mr. Sigmon's mother?

24 A Yes.

25 Q And during that conversation, you mentioned -- you

1 said that he mentioned having trouble with Becky,
2 correct?

3 A Yes.

4 Q And he had an extensive discussion of his problems
5 with his ex-girlfriend, didn't he?

6 A I don't clearly recall to tell you the truth.

7 Q Okay. Okay. Did you take any significant notes
8 concerning Mr. Sigmon's discussion of his trouble with
9 his girlfriend?

10 A Not -- I basically took notes on the main pertinent
11 portions and wrote simple statements.

12 Q Okay. Do you recall Mr. Sigmon saying the phrase,
13 poor Gladys, I swear, mama, I swear I didn't mean to
14 hurt her, if that boy had come in with me, if he'd just
15 come in and had everything just to tie them up so me and
16 Becky could go, as I was going in he took off and ran?
17 Do you recall any of that? Does that sound like a
18 rendition of that conversation?

19 A I recall the portion about him talking about his --
20 the person that was with him running, yes.

21 Q You don't recall him saying, poor Gladys?

22 A No, I do not.

23 Q Do you recall a conversation about calling up
24 Rebecca Barbare on Saturday and asking her to go out to
25 dinner that night?

1 A I don't recall.

2 Q That's fine. There's no reason you have to. It's
3 not a memory contest. Do you recall a conversation
4 about a previous date with Rebecca Barbare where Mr.
5 Sigmon told his mother about a date in which he had sex
6 with Ms. Barbare and asked her why it was so good, and
7 she said, so you will know what you're missing when I'm
8 with somebody else?

9 A I do vaguely remember that.

10 Q He reported that conversation to his mother?

11 A Yes.

12 Q What else do you remember about that conversation?

13 A Like I said, it's a vague memory. I do remember
14 him speaking about that they had had a date and they had
15 gone out, also remember him saying that they were
16 supposed to go out that evening, that he was going to
17 the house, he was supposed to come get her that
18 afternoon.

19 Q And she didn't show up?

20 A Right.

21 Q She went with someone else?

22 A Correct.

23 Q Do you recall who she went with?

24 A No, I do not recall.

25 Q Do you recall him saying the name Keith?

1 A No, I don't. I don't recall that name.

2 Q Okay. Do you recall him at any time during the
3 conversation saying to his mother, I loved her so much,
4 I still love her, God held me, I love her so much?

5 A I do remember him saying that he did love her.

6 Q Did he say it with anguish in his voice?

7 A Yes, he was -- you know, he was -- seemed upset
8 quite of the time he talked, yes.

9 Q He was emotional, wasn't he?

10 A Yes.

11 Q And he was pouring his heart out to his mother in
12 front of you, right?

13 A Yes.

14 Q Do you recall -- do you recall Mr. Sigmon saying
15 the phrase, no, she's not guilty as me, she didn't hurt
16 nobody except my heart?

17 A I don't. I don't clearly recall.

18 Q Okay. Do you recall Mr. Sigmon telling his mother,
19 Mom, God took his hand away from me when I turned away
20 from him a long time ago?

21 A Yes, I do recall him saying that.

22 Q He did say that?

23 A Yes.

24 Q He also said, I prayed and I cried, I sat in the
25 woods and I cried for hours, good Lord forgive me, and I

1 don't think he ever heard me, do you remember him saying
2 that?

3 A Not -- no, I don't remember him saying all that.

4 Q So the only thing you remember is, God took his
5 hand away from me when I turned from him a long time
6 ago?

7 A Um-hm.

8 Q Okay. Did Mr. Sigmon ever say anything during this
9 conversation about a trip he had made to Gatlinburg with
10 Rebecca Barbare?

11 A I don't recall that.

12 Q Now, I have in my notes of the Solicitor's
13 examination of you that you said that Mr. Sigmon said
14 that his intention at all times was to make Becky spend
15 time with him?

16 A Yes.

17 Q During that conversation he told his mother when
18 you listened that -- that he had no intention to hurt
19 the Larkes, is that correct?

20 A Yes.

21 Q And he also told his mother at that time, when he
22 was talking about David Larke, that I just lost it and
23 kept hitting him?

24 A Yes.

25 Q I just lost it, are those Mr. Sigmon's words?

1 A I don't know if they're exactly his words, but as I
2 recall it they were.

3 Q He mentioned in -- you mentioned in your testimony
4 with the Solicitor that he had gone home to the house he
5 had lived in, is that correct?

6 A Yes.

7 Q Do you know anything about which house that is?

8 A No, I do not.

9 Q And when he took this mobile home on the way to
10 Traveler's Rest, he said to his mother, I left them some
11 money?

12 A I remember him saying that, yes.

13 Q And a note saying, I'm sorry I took your truck?

14 A (Witness nodded her head.)

15 Q Okay. And all this time he's spoke freely, he
16 wasn't concerned about whether you or anybody else was
17 in the room, that he wasn't concern with your taking
18 notes?

19 A He spoke freely and I was sitting right next to him
20 and -- and I believe that he was not concerned with the
21 fact that I was.

22 Q He was talking to his mother, right?

23 A Correct.

24 Q Do you have any reason to doubt the veracity, the
25 truthfulness of anything he said during that

1 conversation?

2 A No.

3 MR. EPPES: Okay. Ms. Harbin, thank you.

4 THE COURT: Any redirect?

5 MR. ARIAIL: No, Your Honor.

6 THE COURT: Okay. Thank you, ma'am. You can step
7 down.

8 MR. ARIAIL: Can she be excused?

9 MR. EPPES: Your Honor, I want to talk about it
10 with my counsel before ---

11 THE COURT: Okay. Let me ask you to stay.
12 Don't -- don't leave without the Court's permission.

13 THE WITNESS: Yes, sir.

14 THE COURT: Okay. You need to leave the courtroom
15 though.

16 THE WITNESS: Okay.

17 THE COURT: Just don't leave the courthouse or
18 Greenville. Next witness.

19 MR. ARIAIL: Tim Williams.

20 THE CLERK: Put your left hand on the Bible,
21 please, sir, and raise your right hand.

22 TIM WILLIAMS

23 Having been first duly sworn, testified as follows:

24 THE CLERK: State your name for the record, please
25 sir.

1 THE WITNESS: Tim Williams.

2 THE CLERK: Thank you. Be seated.

3 DIRECT EXAMINATION

4 BY MR. ARIAIL:

5 Q State your name for the record, please, sir.

6 A Tim Williams.

7 Q Mr. Williams, by whom are you employed?

8 A City of Gatlinburg, Tennessee, Police Department.

9 Q And how long have you been with the Gatlinburg City
10 Police Department?

11 A About 15 years.

12 Q And what is your capacity that you work with the
13 police department there?

14 A Detective.

15 Q And how long -- were you a detective on May the
16 7th, 2001?

17 A Yes, I was.

18 Q And on that day, did you have occasion to meet with
19 Mr. Brad Sigmon?

20 A Yes, I did.

21 Q Now, we've already heard earlier from Detective
22 McCarter about going to the Camping in the Smokies
23 Campground, relating to the arrest. And really what I
24 want to do is to leave there and go back to the law
25 enforcement -- but you were a part of the arrest with

1 Detective McCarter?

2 A Yes, sir.

3 Q And did you also return to the law enforcement
4 center?

5 A Yes, I did.

6 Q After you returned -- or from the time that you
7 arrested Mr. Sigmon, when you first came in contact with
8 him, until later that afternoon, did you have any
9 conversation with him, and specifically were you
10 involved in the booking process?

11 A No, I wasn't.

12 Q Did you have any conversation with him until later
13 that afternoon?

14 A No, sir,

15 Q Now, I want to direct your direction to after the
16 booking process. Did you have a conversation, or come
17 in contact with Mr. Sigmon for the purpose of having a
18 conversation with him?

19 A Yes, I did.

20 Q Tell us how that transpired?

21 A Myself and Detective McCarter felt that he might be
22 willing to give a statement. We contacted the
23 Greenville authorities, asked them if they'd like for us
24 to attempt to take a statement from him, they said they
25 would. So we then went to speak with Mr. Sigmon.

1 Q All right. And where was Mr. Sigmon located?

2 A He was in the booking room.

3 Q Still in the booking room?

4 A Yes.

5 Q Was anybody with him?

6 A I believe he was in a holding cell at the time we
7 went back there.

8 Q Okay. And the holding cell is off the booking
9 area?

10 A Yes.

11 Q Was he brought to the area?

12 A Yes, he was.

13 Q And did you have a conversation with him about
14 whether or not he wanted to talk to you?

15 A Yes, I did.

16 Q Prior to having that conversation, did you advise
17 him of his Constitutional rights?

18 A Yes, I did.

19 Q All right. Let me show you what's marked as a
20 whole, two pages, as State's Exhibit Number 11, and ask
21 you if that is a document you recognize?

22 A Yes, it is.

23 Q What is that?

24 A That's an admonition and wavier. It's a rights
25 form that we read them and a wavier that they can sign

1 if they choose to speak with us.

2 Q And is that a wavier of rights form that you
3 completed and read to Mr. Sigmon and had him sign?

4 A Yes, it is.

5 Q All right. Is that a -- that is the original of
6 that?

7 A Yes, sir.

8 Q Okay.

9 MR. EPPE: Your Honor, Exhibit 11 is an admonition
10 and wavier form signed by Brad Sigmon, and the reverse
11 side of it is the beginning of a statement he gave
12 Detective Williams, and second -- Officer Williams, and
13 on the second page is the second page of his statement
14 to Officer Williams, and we will allow it into evidence
15 without objection.

16 THE COURT: Okay.

17 (State's Exhibit Number 11 was marked and filed.)

18 BY MR. ARIAIL:

19 Q Officer Williams, before you began the
20 conversation, what do you do, and specifically what did
21 you do in regard to Mr. Sigmon as to the method in which
22 you advised him of his Constitutional rights?

23 A Well, I read from the form, read to him his rights,
24 asked him if he understood them, he indicated he did,
25 asked him if he wanted to speak with us, he indicated he

1 did, then I read to him the wavier and asked if he
2 agreed with that to please sign the form.

3 Q Okay. And so the jury will understand what
4 exactly -- read to the jury what you read to him as his
5 rights?

6 A Before we ask you any questions you must understand
7 your rights. You have a right to remain silent.
8 Anything you say can be used against you in a court.
9 You have the right to talk to a lawyer for advice before
10 we ask any questions, and to have him with you during
11 questioning. If you cannot afford to hire a lawyer, one
12 will be appointed to represent you before any
13 questioning if you wish one. If you decide to answer
14 any questions now without a lawyer present, you will
15 still have the right to stop answering at any time. You
16 also have the right to stop answering at any time until
17 you talk to a lawyer. That's the rights part. And do
18 you want me to do the wavier also?

19 Q Well, just at that point did you make an assessment
20 after reading that to him as to whether or not he
21 understood those?

22 A Yes, he indicated he did.

23 Q All right. And how did he do that? Did y'all have
24 a conversation about it?

25 A I asked him if he understood his rights and if he

1 wished to speak with us, and he said yes without
2 hesitation.

3 Q Now, prior to that -- or while in your presence,
4 had anyone made any promise to him or made -- or made
5 any promises or threats to him?

6 A No, sir.

7 Q Had anybody placed a hand on him, or were any
8 officers in his presence that were armed?

9 A No, sir.

10 Q In fact, were you carrying a sidearm while you were
11 in his presence?

12 A No, sir.

13 Q And the reason for that is?

14 A They're not allowed in the booking area, jail area.

15 Q You have to check it somewhere else?

16 A We lock them in the gun safe, yes, sir.

17 Q Were you dressed in uniform or dressed in plain
18 clothes?

19 A Plain clothes.

20 Q Were any promises of leniencies or award, such as
21 if you'll cooperate and give us a statement we'll give
22 you a lesser charge, or try to work in that ---

23 A No, sir.

24 Q Did you know much about the case in Greenville?

25 A No, sir, I did not.

TIM WILLIAMS - Direct by Mr. Ariail 1526

1 Q Did anybody else with the Gatlinburg Police
2 Department, either Detective McCarter or anybody else
3 know much about it?

4 A Just the basics, nothing in detail, sir.

5 Q Okay. Had anyone attempted to deprive Mr. Sigmon
6 of any basic necessities, such as food, or the ability
7 to use the rest room, or a drink, or anything of that
8 nature?

9 A No, sir.

10 Q Was he provided food and drink during the course of
11 your conversation with him?

12 A Yes, he was.

13 Q Did he request that, or did y'all bring it to him
14 voluntarily?

15 A I think we asked him if he wanted any, and he
16 indicated he did, or he might have -- he may have
17 mentioned it, that I don't recall, but he was given
18 food.

19 Q All right. You said you thought he understood.
20 Were his answers to you responsive, answers to your
21 questions responsive?

22 A Yes.

23 Q Did you have any indication about his person or
24 anything in his demeanor that would indicate that he was
25 under the influence of alcohol, drugs, or any other

1 substances?

2 A No, sir.

3 Q Did he indicate to you in any way that he may be
4 suffering from any sort of mental illness, or
5 deprivation, or depression, or anything that would
6 affect his mental faculties?

7 A No, sir.

8 Q Was he in control of his emotions?

9 A He was emotional.

10 Q All right. But was he in control of them?

11 A He seemed to be, yes, sir.

12 Q Now, did he read this form, or did he read any of
13 it back to you?

14 A I believe he read it to himself, yes, sir.

15 Q You turned it and gave it to him?

16 A Yes, sir.

17 Q All right. How were y'all seated at this table?

18 A He was at the end of the table. I was here.

19 Detective McCarter was there.

20 Q All right. So it would be like if he was -- he was
21 here, you would be here?

22 A Yes, sir.

23 Q And Detective McCarter would be over there?

24 A Yes, sir.

25 Q So he's at the sort of the narrow end of the table

1 and you're at the wide end?

2 A Yes, sir.

3 Q All right. And anybody else in the room?

4 A No, sir.

5 Q Anybody else come into the room during the course
6 of the conversation?

7 A Not that I recall.

8 Q All right. Now, did you read to him that portion
9 of his form, admonition and waiver that dealt with the
10 waiver of rights?

11 A Yes, I did.

12 Q And read that exactly how he would have been
13 instructed?

14 A I have read this statement of my rights, and I
15 understand what my rights are. I'm willing to make a
16 statement and answer questions. I do not want a lawyer
17 at this time. I understand what I'm doing. No promises
18 or threats have been made to me and no pressure or
19 coercion of any kind has been used against me.

20 Q Did you read that to him?

21 A Yes.

22 Q Did he indicate he understood it?

23 A Yes.

24 Q Is there any evidence of coercion, promises,
25 inducements, leniency, depravations that were

1 undertaken, similar to the questions I asked you before?

2 A No, sir.

3 Q Did he indicate to you that he wanted to talk to
4 you?

5 A Yes, he did.

6 Q As a result of that, what did you tell him to do?

7 A I said if you agree with that -- after he read the
8 waiver, I said, if you agree with that, sign the form
9 and we'll talk.

10 Q And did he sign the form?

11 A Yes, he did.

12 Q And did you sign the form also?

13 A Yes, I did.

14 Q How about Detective Mc Carter?

15 A Yes, he did.

16 Q And did you put the time on it?

17 A Yes, sir.

18 Q Date and time?

19 A Yes, sir.

20 Q What was the date?

21 A May 7, 2001.

22 Q And the time?

23 A Five sixteen p.m.

24 Q All right. And did a conversation -- as far as you
25 were concerned, did he appear to understand and to

1 voluntarily and intelligently waive the rights that
2 you had instructed him that he had, and did he
3 voluntarily and intelligently engage in a conversation
4 with you?

5 A Yes, he did.

6 Q Now, this conversation, did you talk to him, ask
7 him questions, question and answer, or tell us what was
8 the form of it?

9 A He actually initiated the conversation after he
10 signed the form, he said, I want to tell you before we
11 start, I broke no law in your state, or your city, and
12 he just continued talking from that point, and went into
13 great detail about his relationship and what had
14 happened.

15 Q All right. And when you say he went into great
16 detail, how long did this conversation take place?

17 A Hour and a half or more, I would imagine.

18 Q That's in the -- sitting in the booking room?

19 A Yes.

20 Q During the time of that conversation, did you or
21 Detective McCarter ask him any questions?

22 A I'm certain we did, sir, I don't recall
23 specifically what any of those were though.

24 Q Did you ask many?

25 A A few.

1 Q A few questions?

2 A Yes.

3 Q All right. Then would you describe it as mostly he
4 was doing -- he was talking?

5 A He was telling the story.

6 Q All right. Were you making notes or was Detective
7 McCarter making notes about this story?

8 A No, sir.

9 Q Okay. When you got -- how did you determine that
10 you had come to the end of the story?

11 A He basically told us from the time he met Rebecca
12 until the time he committed these crimes, fled from the
13 crimes, his plans, his intentions, how he ended up in
14 Gatlinburg, and we asked him if he would write a
15 statement summarizing what he just told us, which he
16 did.

17 Q All right. Was there any conversation about the
18 length of that statement, or how long it would take to
19 write it, did y'all talk about it?

20 A No, sir, we just basically asked him if he would
21 put in writing what he just told us and --

22 Q Did you provide him a form for that?

23 A Yes, sir, it's the same form that he had signed,
24 the wavier form, just the other side.

25 Q Okay. It's on the back? All right, sir. Just

1 for purposes of record, the -- State's Exhibit Number
2 11 is composed of two pieces of paper, front and back
3 of each, and the wavier form you've already testified
4 about, if you flip it over on the back, here's the
5 statement?

6 A Yes, sir.

7 Q And the statement is actually two pages, goes onto
8 the ---

9 A Yes, sir.

10 Q --- second page of another similar form?

11 A Yes, sir.

12 Q All right. And did he handwrite the statement or
13 did you write it?

14 A He wrote that.

15 Q Did he write it out on his own, was he telling you
16 as he went along, or were you asking him, or how did
17 that take place?

18 A He asked some questions along the way as far as
19 what we wanted. I told him I'm not going to put any
20 words in his mouth, just basically write what he had
21 told us.

22 Q All right. And did he do that?

23 A Yes, he did.

24 Q Now, let me -- what I'm showing to you is a copy
25 of -- what I'm showing to you on the presenter is a copy

1 of State's Exhibit Number 11, the back of the waiver of
2 rights form, correct?

3 A Yes, sir.

4 Q And whose writing is that?

5 A That's Mr. Sigmon's.

6 Q And the first part is scratched out?

7 A Yes, sir.

8 Q Lines are drawn through it. Who drew those lines
9 through it?

10 A Mr. Sigmon.

11 Q Could you tell us -- well, underneath the line, did
12 he write that?

13 A Yes, he did.

14 Q All right. What did the line -- why were the lines
15 scratched on it?

16 A At one point while writing this, he got frustrated,
17 I believe, for misspelling a word, and scratched it out
18 and indicated to me he wished to start over. We told
19 him not to worry about it, we couldn't spell either,
20 just to continue on that form, which he did.

21 Q All right. He continued to write?

22 A Yes, sir.

23 Q All right. And did he write on onto page two?

24 A Yes.

25 Q All right. Is that page two?

1 A Yes, sir.

2 Q And his signature?

3 A Yes.

4 Q All right. And that's what's on Number 11, State's
5 Exhibit Number 11?

6 A Yes, sir.

7 MR. ARIAIL: All right. Your Honor. I would like
8 to publish this to the jury if I could?

9 MR. EPPES: Without objection.

10 THE COURT: Publish that in putting it up on the
11 board, or reading it?

12 MR. ARIAIL: Reading it while it's up on the board,
13 or giving the jury sufficient time to read it.

14 THE COURT: Either way you want to do it.

15 MR. ARIAIL: I'd just as soon read it and they can
16 follow along, and we'll change to page two when I get to
17 page two.

18 THE COURT: All right.

19 MR. ARIAIL: It says, Friday morning my intentions
20 were to -- my intentions were with a friend to go into
21 Mr. and Mrs. Larke's home to tie them up, then to kidnap
22 Becky so I could talk to her. As Geno and I started
23 into the back door, he changed his mind and took off.
24 As a rule Mr. Larke, David was usually sleeps to about
25 9:00 a.m., so I expected him to be in the bed. The plan

1 was to go in to tie Gladys, Geno, while I ran into
2 David's room and tie him up, but he was up and on his
3 way out the back door. He saw me and said, Gladys, get
4 my gun. So I ran into the house and hit him once or
5 twice, I don't remember. Then as Gladys ran into the
6 living room, I hit her and the next thing I know I'm
7 waiting on Becky to come back from taking the children
8 to school. I pushed her up into the laundry room and
9 pulled the gun out on her. I had gotten the gun out of
10 David's bedroom desk drawer. She said, okay, Brad, I'll
11 be your friend, and I made her get into the SUV, as I
12 drove to where I hid my car. She opened the passenger
13 door and started yelling, help. So I took off to -- so
14 I took off. She managed to put the van in park, and as
15 I went to put it back into drive, she jumped out. So I
16 turned around and went back and shot her. My intentions
17 were to kill her and then myself. Signed, Brad Sigmon,
18 May 7, 2001. God, forgive me, on the bottom left
19 corner.

20 That's State's Exhibit 11, Your Honor.

21 BY MR. ARIAIL:

22 Q At any time during the -- the reading of the
23 rights, the conversation you had with him for an hour
24 and a half, or the handwriting of this statement, did
25 he -- he at any time ask to speak to an attorney?

1 A No, sir.

2 Q Did he at any time tell you he wanted an attorney
3 before making the statement?

4 A No, sir.

5 Q Did he at any time indicate that he did not want to
6 talk to you or that he wanted to cease talking?

7 A No, sir.

8 Q At any time anyone other than you and Detective
9 McCarter were in the room?

10 A I don't believe so, sir.

11 Q During the -- while you're in the booking room,
12 this is the same booking room where Ms. Harbin had
13 booked him earlier?

14 A Correct.

15 Q And it has a motion activated video recorder?

16 A Yes, sir.

17 Q Was all of this statement and the events
18 surrounding the statement that you just testified to all
19 recorded by video?

20 A Yes, sir.

21 Q And you've reviewed that video tape?

22 A Yes, sir.

23 MR. ARIAIL: Thank you, sir. Answer any questions
24 that either defense counsel may have.

25 THE COURT: Mr. Eppes.

CROSS-EXAMINATION

BY MR. EPPES:

Q Officer Williams, and you correct me if I'm wrong, but on the back of this form -- where's the copy that's in evidence? Do you have it, or is it back here? Here it is. On the back of this form, you put a time. What is that time?

A 1716, which is 5:16 p.m.

Q 5:16 p.m. Okay. Now, my records of your conversation with Mr. Sigmon show me that the video tape showed that that conversation started around 1716, so that jives with the start of the conversation, right?

A Yes, sir.

Q That's when you start reading these rights. Now, that ended by my count at sometime after 1914, somewhere in there. I'm not 100 percent sure about that, I didn't put down the exact end time. What time is 1914?

A 7:14.

Q That would be two hours, isn't it?

A Yes, sir.

Q Now, I sat and down and wrote that out. I just sat there and wrote that out. It didn't take me long, took me about five minutes.

A Right.

1 Q You talked for two hours?

2 A Quite sometime, yes, sir.

3 Q Okay. Now, the squiggles -- can you make it

4 smaller, please. Now, these squiggles, now, you said

5 something about a misspelled word. Okay. Well, I paid

6 attention to that, because we talked once before, didn't

7 we?

8 A Yes, sir.

9 Q And you said -- you said, you know there was this

10 misspelled words, usually, I think you said, because he

11 scratched it in there.

12 A Yes, sir.

13 Q Okay. Now, I went back and looked at the tape. I

14 never saw that. Okay, but what I did see was Mr. Sigmon

15 say, I want to start over on this thing, okay, this is

16 what you want me to sign, something along those lines,

17 do you recall him saying that?

18 A No, sir, not specifically, sir.

19 Q Okay. Now, we have this video tape. I can't ---

20 MR. ARIAIL: Your Honor, he's got the video tape,

21 let him put it in evidence.

22 MR. EPPES: I can't make it work, Judge.

23 THE COURT: Hold on. Hold on. If you're going to

24 object, you need to stand up and say objection so he

25 needs to quit talking. And what's your ---

1 MR. ARIAIL: I object.

2 THE COURT: --- objection?

3 MR. ARIAIL: The objection is, that he is
4 testifying.

5 THE COURT: I sustain the objection. You know,
6 you're testifying that you wrote out the statement and
7 it took five minutes, that's not evidence in the record.
8 What's in the video tape that you saw was not in the
9 record. You can show the video tape.

10 MR. EPPES: Thank you, Your Honor.

11 BY MR. EPPES:

12 Q Do you remember Mr. Sigmon stating about the
13 video -- excuse me, about the statement, about this
14 statement as he scratched it out, that it sounds cold,
15 that it sounds so cold?

16 A Now that you mention that, yes, sir, I do.

17 Q You do you recall that?

18 A Yes, sir.

19 Q And he expressed a desire to start over, correct?

20 A I don't recall if that was the reason, but I recall
21 now that you said that him making a statement to that
22 effect.

23 Q Um-hm. Do you recall telling him that you were
24 going to have the background that he had given to you in
25 the conversation that he had given to you that lead up

1 to these events that he confessed to you?

2 A I'm sorry, would you repeat that question.

3 Q Do you recall telling him that you were going to
4 have the background that he had given to you in this two
5 hour conversation that lead up to these events?

6 A I don't understand what you're asking me.

7 THE COURT: Have it where?

8 BY MR. EPPES:

9 Q At trial? Mr. Sigmon, said, are you coming to the
10 trial and you said probably, do you recall that?

11 A If he asked me, I'm sure that was probably my
12 answer, but I don't recall it.

13 Q Okay. Now, you mentioned that he told you the
14 history of this relationship during this two hour
15 conversation?

16 A Yes.

17 Q Do you remember that?

18 A Yes.

19 Q Now, do you remember him talking about how in
20 November, 2000, he started having financial problems?

21 A The specifics and details of it, I don't recall, I
22 just remember he -- how he had come to know this girl,
23 fell in love with this girl, the problems they began
24 having, and the events leading up to these events.

25 Q Do you remember him telling that his truck burned

1 up and he lost his business?

2 A Yes, I do.

3 Q He told you that?

4 A Yes.

5 Q Did he tell you at that point he started drinking
6 and he started -- he started having problems in the
7 relationship because he was fighting, because he didn't
8 have any money?

9 A I recall him saying they were having problems, and
10 that there was at one point I believe he had been asked
11 to leave the residence by some officers because he had
12 been drinking and turned over a table or something to
13 that effect. There was problems and arguments.

14 Q Did he say whether the officers had arrested him at
15 that time?

16 A I'm sorry?

17 Q Did he say whether the officers had arrested him at
18 that time?

19 A I'm wanting to say yes, but I don't ---

20 Q You don't remember?

21 A --- recall?

22 Q Did he talk about Ms. Barbare leaving him and
23 starting to go around with another man some?

24 A Yes.

25 Q Do you remember that other man's name?

1 A I want to say Kevin, Keith, Kevin?

2 Q Was it Keith?

3 A Keith or Kevin?

4 Q Okay. Now, when he was talking about this, did he
5 tell you how frustrated he was about it?

6 A Yes, he did.

7 Q Okay. Did he describe for you, during this two
8 hour conversation, how he packed his things to leave,
9 and asked her if he would leave would she please go out
10 with him again after he left?

11 A I believe he did, yes.

12 Q He did? And did he tell you that while he was
13 packing up, she came over to sort out whose things were
14 his and whose things were hers and they engaged in some
15 heavy petting?

16 A I don't recall that part, sir. I can't say it
17 happened.

18 Q Do you recall a conversation with him about a date
19 that they had after Ms. Barbare's son's baseball game
20 when they went back to the house and had sex, and he
21 asked her why it was so good, and she said because it's
22 the last time you're getting it or something like that?

23 A I don't recall that, sir?

24 Q You don't recall? Okay. Now, did he talk about
25 the Saturday before this horrible incident that's on

1 this confession, did he talk about calling Ms. Barbare
2 in the morning and asking to see her that evening
3 because he had moved out, and her saying call me at
4 three or four o'clock and then not being there?

5 A I do recall that, yes, sir.

6 Q And did he talk how angry that made him because he
7 thought that after he moved out they were going to go
8 out one more time?

9 A I recall their relationship was on again, off
10 again, yes, sir.

11 THE COURT: Yes, sir. Okay. Mr. Eppes, would you
12 use microphone, and would you slide closer up to that
13 and speak into the microphone. You want this -- can we
14 raise the lights or ---

15 MR. EPPES: Yes, sir, we can. I'm sorry.

16 BY MR. EPPES:

17 Q So do you recall this conversation about this
18 Saturday night?

19 A I recall him indicating that a date had been broken
20 by her. When that was, I don't recall, but yes, I
21 recall that.

22 Q And did he tell that when he saw her that night,
23 later he saw her at her house dressed to kill with her
24 hair wet like she had just taken a shower?

25 A I recall him saying that she was dressed to -- I

1 don't know if it was to kill but dressed very nice.

2 Q Do you remember anything about her hair being wet?

3 A I don't recall that.

4 Q Did you recall him saying that on this date that
5 she went to this man Keith's motel room?

6 A I believe so, yes.

7 Q Okay. And they engaged in some heavy petting, or
8 petting, do you recall that, and she told him about
9 it -- told Mr. Sigmon about it?

10 A I recall I believe she did tell him about some
11 encounter they had, I don't know when that was though.

12 Q Now, when -- Mr. Sigmon talked to you at length,
13 longer I think than that ---

14 A Yes, sir.

15 Q -- than that testimony -- than that written
16 statement about the incident at the house, didn't he?

17 A Oh, yes.

18 Q And did you recall him saying that while at the
19 house he said, I'm sorry, David, God, I'm so sorry?

20 A He probably did, I don't recall specifically, but
21 he was -- yes, he probably did say that.

22 Q During this -- during this conversation with him,
23 did he occasionally get emotional?

24 A Yes, he did.

25 Q And he would break down and start crying, wouldn't

1 he?

2 A Yes, he would.

3 Q And several times you reached over and patted him
4 on the arm?

5 A Yes, sir.

6 Q Do you recall Mr. Sigmon saying about David Larke,
7 he would never hurt nobody, he's the kind of man that
8 took his shirt off his back to give it, he was as decent
9 a man as they come?

10 A Yes, I do.

11 Q He said that about Mr. Larke?

12 A Yes, sir.

13 Q Now, he mentioned Geno in this confession, this
14 fellow Geno that was supposed to go with him?

15 A Yes.

16 Q Did he ever get that guy's last name?

17 A No, I didn't.

18 Q Okay. Do you recall in this two hour conversation
19 that Mr. Sigmon said to you, I know that good sense come
20 to him at the last second and it didn't come to me,
21 talking about Geno?

22 A I believe he did say something to that effect, yes,
23 sir.

24 Q Did he say it twice, I know that good sense come to
25 him at the last second, and it didn't come to me, good

1 sense come to him and it didn't come to me?

2 A I would have to review the tape, sir. He may
3 have.

4 Q But he said something like that?

5 A Yes.

6 Q Okay. Now, do you recall saying to Mr. Sigmon, but
7 your intentions, I mean, that was there, I mean, you did
8 intend to get her, we know the reason for that, what you
9 didn't intend to happen was for anybody to get hurt, but
10 it happened, do you remember saying that?

11 A Not specifically, no, because we didn't ---

12 Q Was that in the general context of some of the
13 things you might have said to -- or would have said to
14 Mr. Sigmon.

15 A Yes.

16 Q Did you say, Mr. Sigmon, I don't think you went
17 there intending to kill anybody, things just got bad and
18 got bad fast and before you knew it there they were, and
19 you seem to be sorry, you seem to be remorseful? Did
20 you say that?

21 A Yes, sir, that's probably something I said.

22 Q Did you also say this is your chance to put it down
23 that you are sorry, that you did not intend for it to
24 happen?

25 A I probably did, sir.

1 Q And in response to that he wrote down this
2 statement?

3 A He wrote the statement, I don't know what it was in
4 response to specifically, but it may have been.

5 Q At all times Mr. Sigmon seemed to be truthful,
6 trying to explain things to you as best he could, didn't
7 he?

8 A Yes, he did.

9 MR. EPPES: Thank you, Officer Williams.

10 THE COURT: Anything on redirect, Solicitor?

11 MR. ARIAIL: No.

12 THE COURT: All right. Do you want this witness to
13 stay under subpoena?

14 MR. EPPES: For now, Your Honor.

15 THE COURT: All right. If you would, go back to
16 wherever you're being sequestered and we'll let you know
17 when you can leave.

18 THE WITNESS: Yes, sir.

19 THE COURT: Next witness.

20 MR. ARIAIL: Call Mr. McNamara.

21 THE COURT: All right. You're ---

22 (Court reporter changed paper.)

23 THE COURT: You ready? You understand you're still
24 under oath?

25 MR. McNAMARA: Yes, sir, I do

MICHAEL McNAMARA

Having been previously sworn, testified as follows:

REDIRECT EXAMINATION

BY MR. ARIAIL:

Q You're Mike McNamara, and you've identified yourself previously and your position. I want to talk a little bit about -- I believe I think the last time we stopped, you had just learned of the arrest of Mr. Sigmon and you were prepared to go to Gatlinburg?

A Yes, sir.

Q And did you go to Gatlinburg on May the 7th of 2001?

A Yes, sir, I did.

Q Did you go alone or were you accompanied by someone?

A I was accompanied by Sergeant Mr. Mike Brown from the Greenville County Sheriff's Office.

A And is Sergeant Mike Brown, is he one of your supervisors.

A Yes, sir, he's my immediate supervisor.

Q Immediate supervisor. All right. And what was your purpose in going to Gatlinburg?

A To take custody of Mr. Sigmon, bring him back to Greenville.

Q When you got there to Gatlinburg, what --

1 approximately what time did you arrive?

2 A Probably mid-evening sometime. We left in the
3 afternoon, late afternoon hours. It's about two and a
4 half hour ride up to Gatlinburg from here. By the time
5 we got up there, it was early to middle evening.

6 Q All right. And when you went -- where did you go?

7 A We went directly to the Gatlinburg Police
8 Department.

9 Q Was Mr. -- who did you come in contact with there?

10 A There we came in contact with Detective Williams
11 and Detective McCarter.

12 Q Was Mr. Sigmon at the Gatlinburg Police Department?

13 A He was not.

14 Q Where was he?

15 A We were informed he had been taken to the Sevier
16 County Detention Facility, in Sevierville, Tennessee.

17 Q All right. And how far away is that?

18 A Probably about 10 or 15 miles or so. It's about a
19 20 minutes ride or so, sir.

20 Q All right. And that is the local -- would be the
21 local county detention facility?

22 A Yes, sir.

23 Q Sevierville is in Gatlinburg, or in Sevier County,
24 Tennessee?

25 A They are.

1 Q All right. Pretty much like the Greenville
2 Detention Center and the Mauldin jail?

3 A Yes, sir.

4 Q All right. So when you got to the Gatlinburg
5 Police Department, you found out he was not there, what
6 did you do at that time?

7 A At that time we met briefly with Detective McCarter
8 and Detective Williams, and we got the information that
9 they had got for us, and they explained to us how they
10 had gotten Mr. Sigmon into custody and the events that
11 had occurred before we got up there that day. There was
12 not much else to do there other than to plan our events
13 for the next day to pick up Mr. Sigmon and what we were
14 going to do, so we got a hotel room and stayed there in
15 Gatlinburg.

16 Q All right. Now, when you got up the next morning,
17 where did you go?

18 A The next morning we stopped at the impound facility
19 where they had taken the motor home to, from the
20 exterior quickly viewed that and organized how we would
21 have that processed by forensic units. They did not
22 have the people readily available in Gatlinburg,
23 Tennessee, to do the processing on the motor home, so we
24 arranged for folks from Greenville County's forensic
25 unit to come up and get the motor home processed.

1 Q So you arranged for that, and how long did that
2 take?

3 A A short amount of time, sir.

4 Q And then where did you go?

5 A We went to the Sevier County detention facility,
6 sir.

7 Q And when you arrived there what -- did you come in
8 contact with Mr. Sigmon?

9 A We did.

10 Q All right. And where was he located when you first
11 came in contact with him?

12 A What appeared to be a booking room of sorts, where
13 they were -- we were told he was in a place that was
14 reserved for when they're going to release inmates from
15 that facility. He was in a room with one of the
16 detention guards there in the detention center.

17 Q And did you take custody of him?

18 A Yes, sir, we did.

19 Q And where did you go from the Sevierville facility?

20 A I'm sorry, sir?

21 Q Where did you go after you left the Sevierville --
22 well, did you leave the Sevierville County Detention
23 Center?

24 A We did.

25 Q And the reason that you left was what?

1 A To bring Mr. Sigmon back to Greenville.

2 Q And as you began going back to Greenville, what
3 transpired? Did you stop?

4 A We stopped at one point to get cigarettes for Mr.
5 Sigmon at a store, and then we stopped again at the
6 Gatlinburg City Police Department, sir.

7 Q And what did you stop at the Gatlinburg City Police
8 Department for?

9 A As we left the -- actually once we arrived at the
10 detention facility, we spoke briefly with Mr. Sigmon and
11 again we put him in the patrol car. Sergeant Mike Brown
12 drove the vehicle. I sat in the back seat directly next
13 to Mr. Sigmon. He talked rather constantly and told
14 us -- or told me that he wanted to talk to us and he
15 wanted to tell us what had happened in Greenville. He
16 wanted to tell us everything that had occurred from the
17 time the incidents occurred until the time we caught up
18 with him in Gatlinburg, Tennessee. He was very adamant
19 about wanting to talk to us. So we felt wise to take
20 his statement there in Gatlinburg as opposed to telling
21 him to wait and hold on and driving all the way back to
22 Greenville, South Carolina, and taking his statement
23 when we got back to Greenville.

24 Q Now, why didn't you take his statement at the
25 Sevierville County Detention Facility?

1 A Two reason. Basically they were, one, in my
2 opinion, not equipped to do that. There was no
3 sufficient room or interview area, that's not normally
4 part of what they do, it's simply a detention facility,
5 for us to go ahead and take a statement there, nor
6 computer equipment or things of that nature which
7 would have helped in taking the statement. Secondly,
8 they were very concerned with getting him out of there.
9 A large contingent of media personnel from Greenville
10 had flown up and driven up. Their parking lot was
11 overrun with media trucks. Their facility was overrun
12 with media personnel, and they were not happy with
13 that. They simply wanted him out of their custody,
14 and we arranged to do that as quickly as we could for
15 them.

16 Q So you went back to the Gatlinburg Police
17 Department?

18 A That's correct, sir.

19 Q And where did you go in the Gatlinburg Police
20 Department?

21 A There's an area where the detective's offices are,
22 where Detective McCarter and Detective Williams and
23 several other detectives work, which includes another
24 large open area with chairs and some other furniture,
25 and that's where went to take the statement, sir.

1 Q And up until that time, you had been in the car
2 with Sergeant Mike Brown driving and you riding in the
3 back with Mr. Sigmon?

4 A Yes, sir.

5 Q And anybody else in the car?

6 A No, sir, just the three of us.

7 Q And throughout this time you say he -- your plan
8 was he was talking and wanted to tell you all about it
9 and so you went back to Gatlinburg?

10 A Yes, sir.

11 Q All right. Describe this room for us, this
12 detective division area?

13 A It's roughly twice the size of the jury box there,
14 also with a large open area. There were three or four
15 detective officers where each detective has his or her
16 own individual office. And up front of that, there is a
17 large open area with some file cabinets, a table, not
18 unlike the one in front of the jury box, couch and
19 several others places to sit. On the table was a
20 laptop -- I'm sorry, a desktop type computer, monitor, a
21 printer and a keyboard.

22 Q All right. And where did you sit?

23 A At this table I described, I sat right next to Mr.
24 Sigmon at that table, sir.

25 Q Did you -- how did y'all sit at the table? Were

1 y'all side by side, or end to end, or what?

2 A We were side by side. We were both at the wide
3 side of the table, where we could both see the computer
4 equipment that was up on the table.

5 Q What was your intention in regard to the computer
6 equipment on the table?

7 A That was the equipment that we were going to use to
8 take the statement as opposed to either having Mr.
9 Sigmon write the statement out or myself writing down
10 what he says. I find it much easier to take a statement
11 on a computer. I can type fairly quickly and pretty
12 much keep pace with what he's saying and that was the
13 preferred method for us to take his statement.

14 Q Now, prior to taking his statement, after you got
15 the computer set up and ready to do that, did you advise
16 Mr. Sigmon of his rights?

17 A I did.

18 Q And specifically let me show you what's been marked
19 as State's Exhibit Number 15A and ask you if you
20 recognize that document?

21 A Yes, sir, I do.

22 Q What is that?

23 A That is the original admonition and waiver form
24 that I read and Mr. Sigmon signed.

25 Q And where did you get that form from?

1 A This was provided to us from the folks in
2 Gatlinburg, Tennessee. It's very similar, basically
3 contains the same general wording that we use on our
4 forms here in Greenville.

5 Q All right. And did you have Mr. Sigmon sign that
6 form and did you sign that form?

7 A Yes, sir, we all signed.

8 Q So that's the original of the one that you used?

9 A Yes, sir, it is.

10 MR. ARIAIL: Your Honor, we would like to offer
11 this.

12 THE COURT: Any objection?

13 MR. EPPES: No objection, Your Honor.

14 THE COURT: All right. Without objection.

15 (State's Exhibit Number 15A was marked and filed.)

16 BY MR. ARIAIL:

17 Q If you will tell this jury how you went about
18 advising Mr. Sigmon of his rights?

19 A As I said, we sat together at the table, on the
20 same wide side of the table, and I took the form here
21 that I have in my hand, and set it between the two of
22 us on the table, and read through each and every
23 statement -- or line that's on this form in its entirety
24 as he sat there and looked at the form and, in my
25 opinion, read along with me, not out loud, but read it

1 along with me as I read the form out loud to him.

2 Q Okay. Tell the jury and read in the record exactly
3 what you read to him?

4 A Before we ask you any questions, you must
5 understand your rights. You have the right to remain
6 silent. Anything you say can be used against you in
7 court. You have the right to talk to a lawyer for
8 advice before we ask you any questions and to have him
9 with you during questioning. If you cannot afford a
10 lawyer, one will be appointed to represent you before
11 any questioning if you wish one. If you decide to
12 answer questions now without a lawyer present, you would
13 still have the right to stop answering at any time. You
14 also have the right to stop answering at any time until
15 you talk to a lawyer.

16 Q And that's what's on that form, State's Exhibit
17 15A?

18 A Yes, sir.

19 Q And you read that to him?

20 A I read it aloud to him, yes, sir.

21 Q Did he follow along with you?

22 A He appeared to, yes, sir.

23 Q And did he indicate at any time to you that he
24 didn't understand what was going on?

25 A No, sir, he did not.

1 Q Did he read anything -- or did you ask him to read
2 anything?

3 A Yes, sir.

4 Q What did you ask him to read?

5 A I asked him to read out loud to me the line that
6 says, you have the right to talk to a lawyer for advice
7 before we ask you any questions, and to have him with
8 you during questioning.

9 Q And did he read that to you?

10 A He did, sir, he read it out loud.

11 Q All right. And after he read that to you, what did
12 you do next?

13 A Read the wavier of rights, the next paragraph at
14 the bottom of the page.

15 Q All right. And exactly how did you read it to him?

16 A I have read this statement of my rights, and I
17 understand what my rights are. I am willing to make a
18 statement and answer questions. I do not want a lawyer
19 at this time. I understand and know what I am doing.
20 No promises or threats have been made to me, and no
21 pressure or coercion of any kind has been used against
22 me.

23 Q And did you ask him to read that, or read along
24 with you?

25 A Along with me, sir.

1 Q And did he appear to understand what you were
2 reading to him?

3 A Yes, sir, he did.

4 Q Did he indicate to you at any time that he didn't
5 understand what was going on?

6 A No, sir, he did not.

7 Q Did -- at any time throughout the questioning and
8 advisement of right -- or excuse me, the reading of the
9 waiver and advisement of rights, did he indicate he
10 wanted to exercise his right to an attorney?

11 A No, sir, he did not.

12 Q Did he indicate to you he did not wish to talk to
13 you?

14 A No, sir, he did not.

15 Q Did you in fact observe his demeanor and how he was
16 responding to form an opinion as to whether or not he
17 was voluntarily and intelligently waiving those rights
18 which you have advised him of?

19 A Yes, sir. As I said, I had extensive -- I
20 shouldn't say as much conversation, as he spoke to me
21 extensively on the ride from Sevierville to Gatlinburg,
22 as well as when we got to the Gatlinburg Police
23 Department, he was very adamant about wanting to talk
24 about -- wanting to give a statement and wanting to tell
25 us in detail what had happened here in Greenville. So I

1 had no concerns that he not freely and voluntarily
2 giving this information. It was something he had spoken
3 out loud that he wanted to do.

4 Q And was his conversation responsive to your
5 questions?

6 A Yes, sir, it was, and again, we did have
7 conversation in the car throughout the ride back there,
8 and in my mind it was -- in my opinion rather, it was a
9 normal conversation, just conversation, answers and
10 questions as we are having right now, sir.

11 Q And did he indicate to you in any way that he was
12 either under the influence of alcohol or medications, or
13 that he in any way had lost control of his mental
14 faculties?

15 A No, sir. In regard to alcohol, drugs or
16 medications, I asked him specifically at the beginning
17 of the taking of the statement was he under the
18 influence of any of those items. He said that he was
19 not. And in the course of speaking to him for the half
20 hour, 45 minutes to an hour prior to the taking of the
21 statement, my feelings was that he certainly was in
22 possession of his faculties, and based on how he spook
23 to me, how he answered me and the conversation we had,
24 the interaction we did having during the time we were
25 together.

1 Q During the time you were with him, from the time
2 you left Sevierville until the time you got to
3 Gatlinburg, read him his rights, read him the wavier,
4 did you or anyone in your presence exercise any coercion
5 or pressure, make any threats to him in regarding making
6 a statement?

7 A No, we did not.

8 Q Was there any physical pressure applied or anyone
9 lay any hands on him?

10 A No, sir, nobody did that.

11 Q Did anyone make him any promises of leniency or
12 reduced charges, or any other similar type things
13 involving sentencing ---

14 A No, sir.

15 Q --- in ---

16 A I'm sorry, sir?

17 Q In exchange for a statement?

18 A No, sir, we never discussed the charges or
19 sentencing at any point, sir.

20 Q Were there any inducements made to him, such as
21 setting a low bond, or similar type inducements if he
22 would give you a statement.

23 A No, sir, we never discussed that topic.

24 Q Did you deprive him of any necessities, such as
25 food, or drink, the right to use the rest room