

VOLUME FOUR OF SIX

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

VOLUME FOUR
1501 - 2000

Appeal from Greenville County

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

RECEIVED

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BRAD KEITH SIGMON,

PETITIONER

S.C. SUPREME COURT

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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1 facilities during the course of this series of events?

2 A No, sir, in fact, as I said before, we let him --
3 we stopped and -- he wanted cigarettes, so we stopped to
4 got him cigarettes. During the course of statement --
5 or the taking of the statement, it did take quite a
6 while, we got him some food. We let him use the rest
7 room. Any time he asked to use the rest room, we didn't
8 say, hey, let's wait a minute, let's finish this, we
9 would stop right where we were, stop taking the
10 statement, somebody would escort him to the rest room.
11 I think there was a drink machine there at the police
12 department, any time he wanted something to drink, we
13 would get it for him. If he was hungry, we would get it
14 for him. We also allowed him to smoke cigarettes there
15 during the course of taking of the statement. So we did
16 our best to provide whatever he needed, to be fed, to
17 use the rest room, to be comfortable during the course
18 of that statement, sir.

19 Q All right. And after that, did he in fact sign the
20 wavier of rights, which is State's Exhibit 15A?

21 A He did so. The first thing I asked him to do after
22 reading it and asking if he understood it, was to make
23 initials along the left side of the page there.

24 Q I'm sorry. Explain that. Go over that. We didn't
25 go over that. On the left-hand side of each one of the

1 rights?

2 A Yes, sir.

3 Q That's his initial, BS?

4 A Yes, sir, he put those initials there.

5 Q Did you explain to him that you wanted those put
6 there and the purpose?

7 A I did. I explained that if he was willing to waive
8 his rights and speak to me, that I would ask him to put
9 his initials here, and by doing that I told him by
10 putting your initial on each one of those lines, it
11 indicates that you have read it, that you understood it,
12 and that's what you want to do, and by initialing next
13 to the waiver that you've read the waiver, that you
14 understand the wavier, what it means, and that you would
15 like to waive your rights and go ahead and give a
16 statement. And he indicated that he did want to do
17 those things, did want to waive his rights, want to give
18 a statement, he went ahead and initialed each of those
19 lines, and then I asked him to sign the form.

20 Q Okay. And then the form is dated and timed also?

21 A Yes, sir, it is.

22 Q When -- what are times on it?

23 A The time -- the bottom right-hand side of the page
24 is 4:10 p.m., and that indicates the general time the
25 reading of the form began.

1 Q Um-hm.

2 A And then the bottom left-hand side of the page,
3 4:12 p.m., indicates when we finished reading that and
4 the signatures had been placed on the form.

5 Q Okay. And the signature on the bottom left is your
6 signature?

7 A Yes, sir, that's my signature.

8 Q And did he in fact give you a statement, or talk
9 with you?

10 A Yes, sir, he talked extensively with us, and gave a
11 written statement, sir.

12 Q And when you say extensively, when -- what period
13 of time are we are talking that this covered?

14 A This covered an approximate four hour period of
15 time. From the time we filled out this form until the
16 time the statement was completed, it took about four
17 hours to accomplish.

18 Q Was this a question and answer, or was it a
19 statement by him pretty much on his own?

20 A There was very little if any questioning and
21 answering. I simply asked him to go ahead and tell us
22 what happened and he spoke. And as he spoke, I typed it
23 on a computer with a monitor and printer and everything
24 right there on that table in front of us. And I simply
25 took down what he was telling me. As he spoke it to me,

1 I typed it in the computer.

2 Q All right. And let me show you what's been marked
3 as State's Exhibit 15, ask if you can identify that?

4 THE COURT: Is that 15B?

5 MR. ARIAIL: No, it's 15, I'm sorry. This is 15A.

6 THE COURT: Okay.

7 THE WITNESS: Yes, sir, I know what it is.

8 BY MR. ARIAIL:

9 Q All right. And what is that?

10 A That is the original statement that I took from Mr.
11 Sigmon in Gatlinburg, Tennessee.

12 Q All right. And on the back page, it has two
13 signatures. Are you familiar with those?

14 A Yes, sir, I am.

15 Q Whose signatures are those?

16 A The one on the left side is my signature. The one
17 on the right side is the signature of Mr. Sigmon.

18 MR. ARIAIL: All right. Your Honor, I would offer
19 this if it hasn't already been admitted.

20 MR. EPPES: Without objection, Your Honor.

21 THE COURT: Okay.

22 (State's Exhibit Number 15 was marked and filed.)

23 BY MR. ARIAIL:

24 Q Your Honor, we would like to -- well, let me do
25 this first, Mr. McNamara. In regard to State's Exhibit

1 15, the statement, at no time during the course of the
2 taking of the statement, or the waiver of rights
3 signing, the admonition of rights, did Mr. Sigmon
4 indicate to you he wanted the services of an attorney,
5 or he wanted to consult with an attorney?

6 A No, sir, he did not.

7 Q Did he at any time tell you he didn't want to talk
8 to you anymore and attempt to stop talking?

9 A No, sir, to the contrary, he was quite adamant
10 about getting everything out into the open and off his
11 chest.

12 Q All right. And is this State's Exhibit 15, then,
13 the product of that conversation, or interview, or his
14 statement?

15 A Yes, sir, it is.

16 Q Now, when this was finished tell me how -- or tell
17 us how you concluded the signing of the statement, and
18 the reading over, and that sort of thing?

19 A Once the statement was finished, at the end I asked
20 him, is that all you have to say. He was free to give
21 5, 6, 7, 10 more pages if he felt he wanted to include
22 in that in his statement. The statement, I told him at
23 the beginning and at the end, was his statement, in his
24 words, and what he wanted to say. So we had it printed
25 out and him to read it. I didn't want him to read it

1 off the screen of the computer system, so it was printed
2 out. He read it, which took some time given the length
3 of the statement. And again he was asked, is there
4 anything else you'd like to change. I told him it's
5 simply a matter of going back into the computer,
6 everything was saved on the computer, typing in some key
7 strokes, changing or fixing whatever needed to be fixed.
8 He read the entire statement and was satisfied that that
9 was the statement he wanted to give and told me so. And
10 then we had him sign the statement, sir.

11 Q All right. And did he -- after signing the
12 statement, did he also initial the statement?

13 A He did. We went through the same process as on the
14 admonition and waiver. I said him again, I need you to
15 read the whole statement, each and every word, each and
16 every paragraph, because I'm going to ask you to initial
17 each one. And again, by initialing it, it indicates
18 that you have read it, that you have understood it -- or
19 that you understand what's on there, that that is
20 exactly what you want to say, that is the truth and that
21 that is your statement. So he went through that
22 statement, and again it took a while, but he read each
23 and every paragraph, he initialed them all, he signed
24 the back of the form, and at that point we were
25 completed.

1 MR. ARIAIL: All right. Your Honor, at this time
2 we would like to publish for the jury his statement.
3 And what I -- I would like to do if -- I would read
4 along and let them follow with me.

5 THE COURT: You going to reading it, Mr. McNamara
6 going to read it?

7 MR. ARIAIL: I was going to read it.

8 THE COURT: Okay.

9 MR. ARIAIL: Whatever the Court prefers.

10 THE COURT: It's your case. Whatever.

11 MR. ARIAIL: What I would like to do is ask the
12 Court's indulgence, if during this process I could
13 possibly sit down, if I decide to?

14 THE COURT: We'll let you do that.

15 MR. ARIAIL: If I ---

16 THE COURT: Do you want to go ahead and pour a
17 glass of water?

18 MR. ARIAIL: No, no -- well, I probably better get
19 a glass water. All right. You ready? You got page
20 one?

21 MS. HERVEY: Um-hm.

22 MR. ARIAIL: My name is Brad Keith Sigmon. I am 43
23 years old and live at 950 East Darby Road in Taylors,
24 South Carolina, 29687. I am giving this statement to
25 Investigator Mike McNamara of the Greenville County

1 Sheriff's Office. The giving of this statement is
2 taking place in the Gatlinburg Police Department in
3 Gatlinburg, Tennessee, on Tuesday, May 8, 2001, at
4 approximately 4:10 p.m.

5 I have known Becky Barbare for the past 10 years.
6 We became involved when I lived at my mom's house and
7 Becky lived across the street. Becky and my mom were
8 best friends. Becky would come across the street
9 wearing sexy clothes, taunting me. She would look at
10 me and smile with pretty eyes. She's a beautiful
11 woman.

12 The first time we went out was Christmas Eve of
13 1997. Becky was still living with her husband Troy
14 Barbare at that time. For about the next month we had a
15 relationship that took place over the phone. Then I
16 told Becky that if she wanted us to continue, that I
17 wanted to be with her. We went to Motel 6 on Interstate
18 Highway -- excuse Interstate 85 and made love for a
19 couple of hours.

20 The next day she came to my job in the morning and
21 told me that she was moving out on Troy. I gave her
22 money to help her to be able to move out. She didn't
23 have no money and she had a piece of a junk car, so
24 that's why I gave her the money. We had a steady
25 relationship from that point on. We were still trying

1 to be discrete for sake of the children and the family,
2 because Becky was still married to Troy. We went on
3 that way for about three months and then she moved back
4 in with Troy for about six or seven months.

5 During the time she had gone back to Troy, she
6 would call me up. She said that she was calling to see
7 how I was doing, but every time she called I told her
8 that I loved her and I was waiting for her to come back
9 to me. She did come back to me and we are together for
10 the next three years.

11 We started to have problems around this past
12 October of 2000. I had spent my whole life savings on
13 her. She was still used to me spending all of my money
14 on her. She was used to me spending 500 to 1,000 every
15 other week.

16 In December Becky met this guy named Keith Merrill.
17 She met him through the cleaners where she worked. She
18 worked at Milliken Cleaners on Pointsett Highway. Keith
19 come in to have his clothes cleaned and he gave Becky
20 his business card, and on the back of the Milliken -- of
21 a Milliken Cleaners card he wrote his name and cell
22 phone number in big bold black letters.

23 On a Wednesday about three or four weeks ago, Becky
24 and I were still living together, and she left me
25 sitting at the house because she didn't want me to smoke

1 in her new car. This was the initial start of all of
2 this, because when she came back, I kicked the coffee
3 table over and broke some glasses or table knickknacks.
4 She called the police on me and I was gone when they
5 came. I had gone to get me something to eat, and when I
6 came back the police were there. I told the police
7 officers that I would go ahead and spend the night at my
8 mom's house. My sister Kelly came to pick me up and she
9 and I went out to a night club.

10 A day or two after that Becky told me that she
11 wanted to break up and she said that we were over. She
12 said this even though she still stayed with me and slept
13 with me. Some time went by and her attitude didn't
14 change and she still wanted me to leave. Since December
15 we had been getting a lot of hang up calls. If I picked
16 up the phone, the person would hang up. Becky would
17 always go into the bedroom and talk, and I thought she
18 was talking to Keith, but I wasn't sure. After that I
19 had star 69 put on the phone, and I used it to call back
20 on another hang up. The guy told me that he didn't --
21 he didn't call but he was real concerned about me
22 talking to Becky while he was on the phone with me. I
23 could tell that he was -- really knew Becky.

24 Becky had then told me that she was going to do
25 right by me. She told me that she wasn't trying and

1 that she was going to try and make things right. The
2 next day Becky's father David gave me papers and said
3 that Becky wanted me out of the trailer. Becky's
4 parents, David and Gladys lived there on the same
5 property next to where Becky and I were living. He gave
6 me some eviction papers that said that I had to be out
7 in two weeks. That was on a Saturday. Later the next
8 week I talked to David and he said that he hated he had
9 to do that, but it was what Becky wanted him to do.

10 When I would see Becky she would act different each
11 time. One time she was wanting me to go and the next
12 time she was loving me and wanting me to stay. One time
13 after we made love she still told me that she didn't
14 want to be with me anymore. I started crying and I got
15 down on my knees and I asked her why she didn't want me
16 anymore. She told me that I -- it was because of my
17 drinking. I told her that I would stop drinking and
18 that I would go to AA and go to church. She said, no,
19 that she didn't want to be with me anymore.

20 A few weeks ago I went into Becky's pocket book and
21 found a business card with Keith Merrill's name and
22 phone number. There was also two pieces of paper with
23 numbers on it. One of them belonged to this guy named
24 Jerry, who's an old boyfriend of hers. I confronted her
25 with the number and she said that he was just a friend

1 and that she had the number since December and that they
2 had only talked two or three times. I had already
3 called Keith's number and I left a message for him
4 telling him who I was and that I was going to kick his
5 ass.

6 That same night I found the numbers Becky moved out
7 of our house and she moved next door to her parent's
8 house. After that I got a call from Keith. He told me
9 that he was a Marine and that I needed to get out of
10 Becky's house and leave her alone. Every night I went
11 by -- to Becky's parents' house and she was on the phone
12 talking to Keith. I would go by her bedroom and she
13 would be sitting on the bed talking to Keith on the
14 phone. I had been put on trespass notice at her job so
15 I couldn't go there to see her. One time I saw her on
16 the road and I followed her and she pulled into a fire
17 department on State Park Road and I just went on. I
18 would eat lunch where I could see the cleaners. I could
19 see her car where she parked, when she left, the whole
20 nine yards. I wanted to know if she was really seeing
21 somebody else.

22 About a week before I did this horrible thing, I
23 called Becky and told her that I had moved out. She
24 said -- she had said that when I moved out we would go
25 out and say good bye. I had moved to the Cape Cod Inn

1 in Anderson. She told me she would think about it. She
2 told me to call her that afternoon at her mama's. I
3 went out and I bought her some sexy clothes, and I
4 waited for her. I waited and I waited, and she never
5 did call me or come to me. I called her parents begging
6 them to tell me where she was. I knew that she was out
7 with Keith. I just knew it. I went to a pay phone to
8 call Keith and I talked to him. He told me that he was
9 in Florida and that he hadn't seen Becky all night.

10 By the time I had got back to the Becky had already
11 gotten home. I pulled up and walked on the porch. I
12 asked her if she had been out with Keith. She smiled
13 and said, yes. She told me that they had gone to
14 Chimney Rock and they had had a good time. I busted out
15 crying and asked her how could she tell me to call her
16 when she knew she was going with him. I told her how
17 much I loved her and I cried, and I begged her -- begged
18 her to take me back. She looked beautiful. Her hair
19 looked damp like she had just had taken a shower and
20 just brushed it.

21 She told me that -- I'm sorry, I'll let you change
22 it.

23 She had told me that she had gone to his hotel room
24 after that. That they had french kissed and that he
25 reached up and rubbed her titties. She said that he

1 drove her back to her house and she drove home. I was
2 hurting inside so bad because of what she had told me.
3 I couldn't think of anything else. I loved her so much
4 and it hurt what she did to me. She was going to start
5 playing him like she played me. I just couldn't stand
6 the thought of her in bed with another man.

7 Thursday night I decided that she wasn't going to
8 have the weekend to go off with him and go out of town
9 with him. Her actions were telling me that she was
10 going after Keith and I knew she didn't want me anymore.
11 The way she did me the week before I couldn't let her
12 go. Every penny I made I gave to her, but I didn't --
13 it didn't make any difference. She told me that she was
14 going to go out with other people and there was nothing
15 I could do about it. I knew she meant that she was
16 going to go out with Keith.

17 I decided that I was going to tie Gladys and David
18 up and I was going to take her and disappear with her
19 and stay with her and talk with her and get the answers
20 to the questions I had. After that I was going to kill
21 her and myself, or just myself. I wasn't hard-set on
22 killing her, just myself.

23 That night I went down to a friend's house. His
24 name is Kente, and he worked for me on the tree service.
25 I would tell him about the -- these crazy thoughts I

1 had, and he would tell me that this girl wasn't worth
2 it. His wife told me that she was playing me for a fool
3 and I needed to forget about her. I had done everything
4 I could think of to give me that one chance, or to just
5 kiss me good bye and she wouldn't do it. I knew that
6 she was just playing me along again, and I didn't want
7 to do that road again.

8 At Kente's house I saw this guy named Geno. I had
9 seen him there before and he had worked on Kente's car
10 before. I had talked to him about doing some work on my
11 truck. I asked if he would go with me. I told him
12 that I was going to go to Becky's up -- go -- excuse me,
13 go -- going to go tie Becky's parents up and kidnap her,
14 then kill her and myself. He asked what was in it for
15 him, and I told him that I would buy him \$200 worth of
16 crack. I went and bought the crack and gave it to Geno
17 a little bit at a time.

18 We left there and went to Lowe's to buy some tape
19 to tape her parents up, but they were closed. I stopped
20 at this Amoco and bought some duct tape and filled the
21 car with gas. We went up to Ms. Hightowers. She is a
22 dear friend of mine and lives on 290. We parked my car
23 next to the barn. My car is a 1995 red Camaro. We
24 walked back up the street to my trailer. Geno and I
25 stayed in the trailer all night.

1 About five or six times I asked Geno if he'd
2 changed his mind, that I would take him back, but he
3 told me that he would stick it out with me. I seen
4 Becky on the phone that night, laughing, giggling and
5 talking.

6 In the morning, I waited and made sure that Renee
7 and Eric went to work, and that both the children were
8 taken to school. I didn't want them to be in harms way.
9 I figured that with them all gone, that would give me
10 six to eight hours to do what I needed to do. I wanted
11 Geno to take Gladys' car and put it somewhere so that
12 they would think that they had just went out for the day
13 and nobody would be looking for them.

14 I saw Becky leave to take the kids to school. I
15 went over to her parent's house about five minutes later
16 with Geno. I went in the side door where the
17 screened-in porch is, and I went in. And as I went in,
18 Geno told me he had to leave, and that he couldn't do
19 this and he ran off. I thought David would still be in
20 bed because he usually slept until 8:30 or 9:00 in the
21 morning. The side door was unlocked.

22 I went inside. David was right there at the door,
23 and he turned around and ran back towards his bedroom,
24 and he yelled for Gladys to get his gun. And I hit him
25 in the back of the head a few times with a baseball bat.

1 The baseball bat had been under the porch at my trailer,
2 and I took it with me when I went over to the Larkes. I
3 took it over there just for intimidation purposes. I
4 wasn't going to use it to hurt them. I did tell Geno
5 that I might tap them both on top of the head so that
6 they would know that I meant it and so they would not
7 call the police. I never intended to kill either of
8 them.

9 After I hit David on the head, I saw Gladys right
10 behind him. She ran back towards the living room, she
11 and I ran after her. When I got to the living room was
12 sitting in one of the chairs. She was just sitting
13 there, and I hit her a couple of times in the head with
14 the baseball bat. Then I went back in the kitchen and
15 David was still moving, so I hit him some more. Then I
16 went back to the living room and Gladys was still
17 moving, so I hit her again.

18 After I hit them, I went into the bedrooms and I
19 got the blankets off of the beds and I covered each of
20 them up. It made me sick what I did, and I couldn't
21 stand to look at them. I never hurt nobody in my life.
22 Then I went into their bedroom and I looked for David's
23 gun. I pulled the phone out and looked under the bed.
24 I knew that most people kept a gun under the bed. David
25 never told me that he had a gun there, and what I was

1 really looking for was the .22 rifle that David had
2 loaned me before to kill some wild cats. There was no
3 gun under the mattress, but I did find one in the chest
4 of drawers next to the bed. I think it was a .22 or a
5 .25 and it was a silver ball. I didn't even check to
6 see if it was loaded.

7 When I was in the bedroom, I pulled the phone line
8 out because I didn't want the Larkes to be able to get
9 up and call the police after I left with Becky. When we
10 went in the house, Geno had duct tape with him, and when
11 he ran off he took it with him and left it outside. I
12 kept running back and forth making sure David and Gladys
13 wasn't getting up, looking at the window making sure
14 Becky wasn't coming back.

15 I sat the bat that I had used to hit the Larkes on
16 the dryer near the door. In the bedroom that Becky was
17 staying, the one in the front of the house, I took a
18 necklace from the top of the chest of drawers. It was a
19 silver necklace that I had bought her for Christmas. I
20 ended up bringing it back to her trailer next door and I
21 left it there.

22 I stood at the doorway waiting for Becky. I saw
23 her pull up and I stayed at the door right where she
24 couldn't see me until she opened up the door. When she
25 opened up the door, I shoved her back towards the

1 washing machine so that she couldn't see her dad --
2 daddy. She started to scream, so I pulled the gun out
3 and showed it to her so she would shut up. She told me
4 that I was scaring her and that if I would stop that she
5 would be my friend. I told her it was too late for
6 that, and I didn't want to just be her friend, that I
7 wanted to be her man. She said okay, okay, and that we
8 would try again and that she would stop talking to
9 Keith. I made he (sic) walk out the door and she asked
10 to drive and I told her no, and I made her give me the
11 keys. She asked where was her mama and daddy, and I
12 told her that I got them tied up in the bedroom and that
13 they were okay.

14 We got in and I drove the backroads so that I could
15 come out on 290 where my car was parked. I wanted to be
16 able to jump right into my car and go to North Carolina.
17 When we got to the stop sign, she opened the door and
18 started yelling for help and the people near that used
19 car lot started looking at us and I took off up the road
20 up to 290 heading towards Traveler's Rest. I had to
21 grab ahold of her shirt and her hair to keep her from
22 jumping out of the car. She managed to shove the car
23 into park and it started to slow down. I let go of her
24 to shift it back, and that's when she jumped out. I
25 guess we were going about 15 miles an hour. There were

1 cars and traffic and people everywhere.

2 I jumped and I emptied the gun at her. I was
3 trying to kill her. My intention was to kill her and
4 then myself. That was my intention all along. If I
5 couldn't have her I wasn't going to let anybody else
6 have her. And I knew it had gotten to the point where I
7 couldn't have her. I chased after her and after I shot
8 at her. I went up to her and pointed the gun at her
9 head, and I pulled the trigger but it was empty. I
10 didn't know how many bullets were in it and I didn't
11 know the gun was empty.

12 After that I jumped back into her car and I took
13 off. I went into that housing development down the road
14 near where my car was at. I couldn't let anybody know
15 where my car was because that was my means of escape. I
16 went into the development, and I seen the woods and I
17 figured I could hide the car and it would give me enough
18 time to get to my car. A citizen seen me coming out of
19 the woods and I knew I had to hide right away. I
20 crawled under the first house I found, and I covered
21 myself up with dirt so that nobody could find me. I
22 come out of the house about five hours later and they
23 were -- and they were still pulling Becky's car out of
24 there. I looked right at a cop and he looked at me, but
25 I guess he didn't see me. I went back under the house

1 until about dusk, and when I came out of it -- when I
2 came out it was clear, and I went into the woods.

3 I saw all of the helicopters flying around looking
4 for me, and I avoided them all. I crawled on my belly
5 through a field to a barn on Mrs. Hightowers' brother's
6 property. I spent Friday night in the bar, and I left
7 about an hour or two before daybreak. I watched my car
8 about half the night until I saw them tow it away.

9 I went across the street and I thought about going
10 to my mama's house, but I didn't want to cause her
11 problems and grief, so I doubled through the woods back
12 to my place on East Darby Road. Before I went in I
13 spent about three hours watching for movement and sound
14 to see if anyone was at the trailer. Then I went in and
15 stayed inside for about an hour. I took a shower and
16 changed into a pair of Becky's jogging shorts and some
17 T-shirts that I could put on. I shaved my mustache off
18 and cleaned up so that if anyone saw me they wouldn't
19 recognize me. I even took Gwen's reading glasses and
20 put them on to try and change my appearance.

21 After I left the trailer, I stayed in the woods and
22 made a bed up under two grown over trees. I was right
23 there about 100 yards away from my trailer. I saw a
24 helicopter flying around, then I crawled under a big
25 drainage ditch because I knew that the heat sensors

1 couldn't find me under there. After that I made my way
2 over to O'Neal Grocery and stayed in the woods waiting
3 for it to open. After it opened I waited until it
4 looked pretty quiet and so I went in. As soon as I went
5 in the man asked me if I was that killer they were
6 looking for. I bought some cigarettes and two Pepsi's
7 and I left.

8 I saw -- I saw a man inside the store that I was
9 sure had recognized me, so I ran into the woods and hid
10 under a big old pine tree. I thought they had me
11 because they kept circling around me for two solid
12 hours. I just stayed covered in dirt and mud until the
13 next morning. After they left I still stayed there and
14 didn't move because they would leave and come back,
15 leave and come back. The next morning I went straight
16 towards the power lines and I headed towards Lake
17 Robinson. I went up in them houses and I made a dash
18 through the development.

19 I got into the swamp and I was sinking up to my
20 waste and chest, and I couldn't go through it any more,
21 so I went near this million dollar housing development.
22 I waited until they got through working and I went into
23 one of the houses under construction and found some duct
24 tape that I used to tape my shoes up. They were like
25 casual dress shoes. I kept walking through the woods

1 and I came out near my Uncle Lewis Burrell's
2 (phonetically) house. I knew that road would take me to
3 Sandy Flat, and I went down to the Sandy Flat Grocery
4 and bought two cans of Coke from the machine. I also
5 went into the dumpster to look for something to eat but
6 I didn't find anything. This is around 11:00 or 12:00
7 at night.

8 After I left, there was a man in a white Chrysler
9 pulled up to the stop sign and he saw me walking up
10 towards the rock quarry. I seen him slow down, and as
11 soon he pulled off, I took off back across 290 and a
12 Deputy Sheriff with two others cars came flying up and I
13 knew I had been spotted. I went down that road and
14 there were two bridges there, and I crawled up under the
15 metal bridge so that the helicopter couldn't find me. I
16 hit back on the road and three Chow dogs came after me.
17 I had a stick with me and I kept them away. Half a mile
18 down the road, the dogs were still coming after me.

19 The night I was at Sandy Flat Grocery was Thursday
20 night. My philosophy was patience, if nobody was around
21 it was time to move. If somebody was around then I
22 couldn't move. The night of Sandy Flat I didn't sleep.
23 I stayed up all night, and the day, and I finally hit
24 State Park Road. This was Friday. It was up near
25 Traveler's Rest. And I saw a motor home. I knocked on

1 the door of the motor home. It was out by itself in the
2 woods. And there were no houses around. I had already
3 watched and shaved and cleaned up so I looked like a
4 jogger. I was going to tell them that I was out of
5 water and I needed something to eat or drink. When
6 nobody answered the door I left. I was starving to
7 death. And I went back to the motor home. I knocked on
8 the door again and nobody answered, so I tried another
9 door and it was open. And I went in and it was empty.
10 I went inside and ate some food that was there.

11 I saw that there was a mobile phone inside. I
12 thought about calling my sister Kelly and asking her to
13 come pick me up, but I didn't want to get her into
14 trouble. I thought about my brother Mike, and I called
15 him, and I told him exactly where I was at. I asked him
16 to come get me, but he told me couldn't do it, that he
17 was afraid that he would get arrested. I told Mike that
18 I was at State Park Road, and he said that he didn't
19 know where it was at. I told him that I loved him and I
20 hung up.

21 I called back a second time and talked to Mike
22 again. This time my other brother Davey was there and I
23 talked to the both of them. They both tried to get me
24 to turn myself in and I told them I wouldn't -- that I
25 wouldn't. After I called my brother, I called my friend

1 Kente. I asked Kente to come get me and he refused. He
2 told me that his car was tore up and that he wasn't
3 going to do it. He said that he didn't want to get
4 involved with me. I also called Mary Boggs, but she
5 would never answer the phone. I decided that nobody
6 would come and help me, so I went back and watched the
7 motor home. I waited in the woods watching the motor
8 home and I realized that nobody was coming to get it.
9 At around 6:30 or 6:45 p.m. on Friday I got in the motor
10 home and found the keys in an ashtray on the counter. I
11 took off in motor home and got on Highway 25. I had a
12 jacket with me and I left it by where the motor home
13 was. There is a river near the motor home and I left
14 the jacket by the river. It was Becky's jacket. I went
15 up 25 and I went straight to Asheville. I found a
16 K-mart and I bought \$400 worth of camping equipment,
17 clothes and food. I stopped a couple times and bought
18 gas. I also stopped near Hendersonville and bought a
19 fishing rod, two cartons of cigarettes, some canned
20 goods and a couple of Cokes. After I left the K-mart, I
21 saw a sign that said Blue Ridge Parkway and I took it
22 all the way to Gatlinburg, Tennessee.

23 I got to Gatlinburg around six o'clock Saturday
24 morning. I rode around looking for an inconspicuous
25 place to park the van. I checked out some places to

1 hide out. I found a place and unloaded all the stuff
2 that I had bought back in the woods. I brought the
3 motor home to a hotel in Gatlinburg I got a taxi to take
4 me back out to the motor home. I don't remember the
5 name of the taxi company but I have their card in my
6 wallet. He changed -- changed (sic) me \$20 and I paid
7 him in cash. When I got back I went back up to where my
8 stuff was and I stayed Friday night and Saturday night.

9 On Sunday I was seen by a couple who was walking
10 and they waved at me. I knew I had to leave, and I
11 packed everything up and walked up the trail like I was
12 a hiker. I left a lot of my stuff up there in the woods
13 so I could walk out. I saw these two women in their
14 60s, and I told them that my wife had left because my
15 daughter was sick and that I needed a ride. I gave her
16 \$10 and they gave me a ride back into Gatlinburg. From
17 there I made my way back to the motor home. I watched
18 it for about 30 minutes to see if anyone was in it.
19 Then I got in it and drove to Pigeon Forge.

20 I went into Food City and bought about \$80 worth of
21 canned goods. It is still in the motor home. Sunday
22 night I rode around for hours looking for a place to
23 stay. Near the Ranger station I found a place and
24 unloaded all my stuff into the woods. I took the motor
25 home back to the Welcome Center in Gatlinburg and parked

1 it there. I took a trolley back into town and I hiked
2 it back to where I left my stuff. Then it was raining.
3 I was soaking wet and all of my stuff was soaking wet.
4 I didn't want to stay where I was because it was too
5 close to the rangers and all of the traffic.

6 Monday morning I went to Gatlinburg to find another
7 place to stay. I found a campground, and it was -- I
8 was -- I found a campground and I was going to stay
9 there except you needed a code to get into the bathroom.
10 I left that place and went to a laundromat and washed
11 and dried all my clothes. After the clothes were done,
12 I went to another campground. I think it was Smoky
13 Mountain Campground and I checked in. I took a shower
14 and I went back to the motor home.

15 When I was at the first campground that day, I
16 called my mom. I told her I was sorry for the shame
17 that I had caused her. I told her happy Mother's Day
18 and I asked her if she wanted me to turn myself in. She
19 told me to turn myself in.

20 After my shower and going back to the motor home, I
21 went back outside to check on my tent, which I had been
22 drying because it was wet. A car pulled up to me and
23 two guys got out and pointed guns at me and told me to
24 freeze and get on my knees. I laid down on the ground
25 and they asked me who I was, and I told them I was Brad

1 Sigmon. Then they handcuffed me and took me to the
2 police station.

3 While I was out on the run in Greenville, I had
4 with me a backpack, a sleeping bag, three shirts, two
5 jogging pants, a sweat shirt, two pocket knives, a Duke
6 Power stick, most of the stuff I just left in the woods
7 along the way.

8 I have given this statement voluntarily and of my
9 own free will. Investigator McNamara has not made any
10 promises or threats toward me, and I know what I am
11 doing. I am not under the influence of any alcohol or
12 drugs at the time of this statement, and my degree of
13 education is the 12th grade. End of statement. Signed,
14 Brad Keith Sigmon, witnessed by Investigator Michael
15 McNamara.

16 BY MR. ARIAIL:

17 Q Now, Mr. McNamara, while you were taking that
18 statement, is there any information that Mr. Sigmon gave
19 you that is not contained in the statement?

20 A Yes, sir.

21 Q What is that?

22 A We had gotten to a point in the statement where he
23 was telling me he had hid under the house back in
24 Greenville, and he told me about the gun that he had
25 used to shoot Becky with he had left in the dirt under

1 the house. So at that point we stopped the taking of
2 the statement briefly right there, and I conferred with
3 Sergeant Mike Brown who was sitting right behind me. We
4 made arrangements to make phone calls to Greenville so
5 that folks here could get that weapon. We didn't want
6 it -- you know, that weapon sitting out there where
7 somebody else could get ahold of it and certainly it was
8 evidence in our case and we wanted to get it. So at
9 that point I stopped the statement. We stayed in the
10 room, made a phone call or two, and stopped for a couple
11 of minutes, and at the time that I went back to read --
12 to continue taking the statement, I simply left out the
13 fact that he told me where he had left the gun. It
14 should be in there. It's not in there. I just forgot
15 to put it in there. And I just picked up right where we
16 left off.

17 Q And when you made the call back to Greenville to
18 instruct people here about where the gun was, were
19 efforts then made to secure that gun?

20 A Yes, sir.

21 Q All right. Was that gun so located under that
22 house?

23 A It was found exactly where Mr. Sigmon had told us
24 he had left it, yes, sir.

25 MR. ARIAIL: That's all I have of this witness.

1 Please answer any questions either defense counsel may
2 have.

3 THE WITNESS: Yes, sir.

4 RECROSS-EXAMINATION

5 BY MR. EPPES:

6 Q Officer McNamara, I've learned my lesson about my
7 voice. I'm going to try to stay put over here so
8 everybody can hear me. When you got up there to see Mr.
9 Sigmon in Tennessee, he cooperated in every way, didn't
10 he?

11 A Yes, sir, he did.

12 Q He waived extradition?

13 A He did.

14 Q What's extradition?

15 A Extradition is where you -- since we apprehended --
16 since he was apprehended in Tennessee, he had to either
17 agree to voluntarily come back to Greenville and face
18 the charges, or they would hold a hearing for him to
19 determine whether he would be forced to go back to
20 Greenville. He chose to waive any extradition
21 proceedings and told the judge in Sevierville that he
22 was willing and wanted to come back to Greenville.

23 Q He -- once he was caught, he was going to answer
24 for what he had done, right?

25 A Sir?

1 Q Once he was caught he was going to ---

2 MR. ARIAIL: Object to the leading.

3 THE COURT: Well, it's cross-examination. Any
4 other objection to that question? Overruled. Go ahead.

5 THE WITNESS: Once he was caught ---

6 MR. EPPES:

7 Q He was going to answer for what he had done, he was
8 ready to do that, wasn't he?

9 A He was ready to tell us exactly what he did.

10 Q All right. As a matter of fact we had -- there
11 was -- there was another proceeding in this case, at
12 that point didn't you tell me, you said Mr. Sigmon said
13 he was glad to see you, glad you were there?

14 A Yes, sir.

15 Q Do you recall him saying that?

16 A I do.

17 Q And about from the time you set eyes on him, he
18 started talking about how he wanted to give his
19 statement, wanted to tell you what happened?

20 A That's correct.

21 Q He was captured without incident, correct?

22 A Yes, sir.

23 Q You rode in the back with him on the way back from
24 Tennessee, didn't you?

25 A Yes, I did.

1 Q Why did you do that?

2 A Security reasons.

3 Q He was secured?

4 A He was secured with handcuffs. And I believe we
5 used leg shackles and he was secured with handcuffs.

6 Q So you stayed back there with him for security?

7 A Yes, sir.

8 Q Did he ever give you any reason to be afraid of
9 him? Did he ever do anything to give you any pause?

10 A Other than what he was charged with and what he had
11 confessed to doing, no, sir, he never made outward
12 attempts to escape or gave us any indication he would
13 attempt to do, sir.

14 Q Thank you. And during -- you conducted the
15 investigation, during the 10 days that he was on the
16 run, he didn't hurt anybody, did he?

17 A Not as far as we're aware, no, sir.

18 Q And based on his confession and the tips that you
19 had been given, you know that people saw him, that he
20 got close to people and that y'all just missed him,
21 right?

22 A Yes, sir.

23 Q That includes at the O'Neal Grocery where the guy
24 said, hey, aren't you the guy from TV they're looking
25 for?

1 A Yes, sir.

2 Q Now, you mentioned this gun in the house at
3 Mountain Crest. Is that the .22 that you were looking
4 for?

5 A Yes, sir.

6 Q And if Mr. Sigmon had not told you about that gun,
7 would you have ever found it, you think?

8 A If he had not tell us where it was specifically,
9 probably not unless just for some reason we decided to
10 back track and do things we had already done in an
11 attempt to find things we hadn't, but probably not,
12 sir.

13 Q Okay. He told you in his confession on the last
14 page, there was a little -- next to the last
15 paragraph -- do you have that with you?

16 A I don't, sir.

17 Q Okay. Let me get you a copy. On that next to last
18 page he gave you kind of a laundry list of what he had
19 on the run in Greenville, didn't he?

20 A Yes, sir.

21 Q The next to last paragraph of the last page, I'm
22 sorry.

23 A I see it, yes, sir.

24 Q He said I had a backpack, a sleeping bag, three
25 shirts, two jogging pants, a sweat shirt, two pocket

1 knives, and a Duke Power stick. He told you all that?

2 A Yes, he did.

3 Q And prior to that, he told you about leaving
4 Becky's jacket next to the trailer?

5 A Yes, sir.

6 Q In this statement?

7 A Yes, sir.

8 Q And after he told you all of that, you went out and
9 found all this stuff, didn't you? I don't know if you
10 found everything but I know you found the Duke Power
11 stick, I know you found the jacket, I believe you found
12 the sleeping bag, is that correct?

13 A Yes, sir, we found several items.

14 Q In your investigation of Mr. Sigmon, while you were
15 hunting for him, what did he do for a living?

16 A He worked for a tree service.

17 Q What did he do for the tree service?

18 A Apparently climbed trees, cut limbs and helped cut
19 the trees, also did the cutting of trees.

20 Q So he would climb up in a tree, hang from a rope
21 and cut limbs?

22 A That's what I was told, yes, sir.

23 Q Using chain saws and other implements of
24 destruction?

25 A Yes, sir.

1 Q That's hard work, do you think?

2 A I would imagine it was, sir.

3 Q Okay. He was a pretty strong, agile guy, did you
4 make that observation?

5 A No, sir, I couldn't make an observation like that.

6 Q That's fine. Now, he initialed both this
7 admonition and wavier, every paragraph, initial -- I
8 think he initialed it about nine times and signed it?
9 He initialed every paragraph of his confession and
10 signed it, correct?

11 A Yes, sir.

12 Q Ever show any hesitancy to initial anything?

13 A No, sir.

14 Q He followed all your instructions, read every
15 paragraph, said that's fine, and then put his initials
16 beside it?

17 A He read the entire -- he read the entire statement
18 and then went back when he was finished with that and
19 one by one initialed the paragraphs.

20 Q Okay. So he read the whole statement and then
21 initialed the paragraphs?

22 A Yes, sir.

23 Q Now, this statement -- about the first -- look
24 at -- I want you to look at it and see if you agree with
25 me, that about the first two and a half pages of this

1 statement is nothing but Brad Sigmon's story to you, his
2 statement to you about his relationship with Rebecca
3 Barbare?

4 A Yes, sir, that's true.

5 Q Okay. And he told you in here a lot about her
6 relationship with Keith Merrill?

7 A He spoke about it, yes, sir.

8 Q All right. Okay. Now, he told you about the crime
9 itself, didn't he?

10 A Yes, he did.

11 Q In gruesome detail, didn't he?

12 A Yes, he did.

13 Q Okay. I want to talk about that a little bit,
14 okay?

15 A Yes, sir.

16 MR. EPPES: Your Honor, I'm going to need this
17 dohickey again. Can you cut down the lights? Your
18 Honor, I'm putting up on the screen State's Exhibit 6C,
19 and I don't know how to reduce it. Their technology is
20 better than mine, Your Honor, I will say that. Thank
21 you.

22 THE COURT: Now you confused her.

23 MR. EPPES: I have that effect on people, Your
24 Honor. That's fine just like that. Can I use that
25 laser pointer, please?

1 BY MR. EPPES:

2 Q Now, Officer McNamara, Brad gave you a very
3 detailed confession, didn't he?

4 A Yes, he did, sir.

5 MR. EPPES: Your Honor, can I bend this?

6 THE COURT: Sure.

7 BY MR. EPPES:

8 Q He told you about coming across to the back door,
9 correct?

10 A Yes, sir.

11 Q He said Geno Strube was with him, didn't he?

12 A He did.

13 Q And when he got to the back door, Geno Strube said,
14 I'm out of here, and Brad told him to leave, correct?

15 A That's what he said, yes, sir.

16 Q Then he walked across here, and I believe he opened
17 the door and confronted David Larke, correct?

18 A Correct.

19 Q Okay. This is about 24 feet 8 inches, so this is a
20 little less -- about 20 feet right there, isn't it?

21 A Without measurements ---

22 Q Well, there's the measurements right there.

23 A Yes, sir.

24 Q Officer Thrasher testified to those previously.

25 A Yes, sir.

1 Q You were here for his testimony about these
2 distances, weren't you?

3 A I was.

4 Q Okay. So it's about 24 feet, and then about 5 feet
5 inside the door he found David Larke, hit him several
6 times in quick succession, and then he moved across the
7 house to where Ms. Larke was right there next to the
8 telephone, hit her several times in quick succession,
9 went back to David Larke, hit him again, went back to
10 Gladys Larke and hit her again, is that correct?

11 A That's what told me, yes, sir.

12 Q Okay. Now, Mr. Sigmon told you all these details
13 about the crime, and he told you all these details about
14 all his movement, is there anything from your
15 investigation that you uncovered to make you think any
16 his statements were not truthful?

17 A No, sir.

18 Q Okay. Now, you see here the living room -- or the
19 kitchen is about 16 feet, 10 inches, almost 17 feet,
20 correct?

21 A Yes, sir.

22 Q Okay. And this room is about 10 feet, correct?

23 A Yes, sir.

24 Q Okay. This room is about another 15 feet, 8
25 inches, correct?

1 A Yes, sir.

2 Q So Deputy Thrasher said this morning that this
3 distance from David Larke to Ms. Larke was about 40
4 feet, right?

5 A Yes, sir.

6 Q Okay. He also said that the distance from this
7 side of the courtroom to over there at the wall was
8 about 20, 25 feet, didn't he?

9 A I believe he did, sir.

10 Q Okay. So if you walk over there and back you'd be
11 covering about the same amount of distance as from there
12 to there, correct?

13 A Yes, sir.

14 Q And if you walked from the back door to here,
15 that's about 24 feet, so if you walked again from right
16 here to over in front of the jury box to the other wall,
17 that would be about 20, 24 feet, wouldn't it?

18 A Yes, sir.

19 Q Okay. Now, we come to the technological part. You
20 can cut that off, please. Thank you. Deputy McNamara,
21 I'm going to go through this with you again. Do you
22 know to work a stopwatch?

23 A Yes, sir.

24 Q Okay. Right here on this stopwatch, you push stop
25 and then you push start, do you see, and then over here

1 you clear it to zero. Okay. Now, I'm going to get over
2 here and do a couple things, and then we'll start
3 talking and I'll tell you when to start it. When I say
4 go, which is when Brad Sigmon told you he said, go, to
5 Geno, that's when I want you to start it, but I will
6 tell you when to start it too, okay?

7 A Yes, sir.

8 Q Okay. Now, you're familiar with this bat, aren't
9 you?

10 A Yes, sir.

11 Q Okay. All right. Brad Sigmon comes from the
12 house, he comes in to the Larke's screen porch, and at
13 that point he says, go, now I want you to start that
14 stop watch, start it. Okay. Now, he walks across the
15 porch, pretty deliberately. I think he said he ran at
16 some point in his statement. He opened the door. He
17 was confronted by David Larke. He walked five feet,
18 caught David Larke who was running back to the back, is
19 that correct?

20 A That's what he said.

21 Q Okay. And he hit David Larke, one, two, three,
22 four, I don't know how many times, we know he hit him
23 nine times altogether, correct?

24 A Yes, sir.

25 Q Then at that point David Larke was disabled on the

1 floor, correct?

2 A Yes, sir.

3 Q Okay. Then Mr. Sigmon walked through the kitchen,
4 okay, and then he goes through the dining room, okay,
5 and then he goes on all the way through the living room
6 to where Gladys Larke was sitting in a chair beside the
7 telephone, do you remember that?

8 A Yes, sir.

9 Q And that's what his statement said he did, isn't
10 it?

11 A Yes, it does.

12 Q And that's the distance he covered just about,
13 isn't it?

14 A Yes, sir.

15 Q And then he hit Gladys Larke, one, two, three,
16 four, again, we don't know how many, but we know it was
17 nine times altogether according to what the Solicitor
18 said, okay. Then he went back to David Larke. He
19 rained down the rest of these blows, one, two, three,
20 four, and then he went back to Gladys Larke. Now, he
21 was -- he said he was running some too, so I don't know
22 was going on, but I have been walking, I'm as slow as
23 Methuselah. One, two, three, four. At that point the
24 fatal blows had been struck, correct?

25 A Yes, sir.

1 Q So Mr. Sigmon had broken in the house and killed
2 David Larke and killed Gladys Larke, press stop on your
3 stop watch. How much time is that?

4 A One minute, 39 seconds.

5 Q All right. Thank you. One minute, 39 seconds?

6 A Yes, sir.

7 Q Is that a pretty fair description of the way you
8 think this murder happened?

9 A I would say with specifics to what he told me and
10 the motions he said went through. But in terms of how
11 long exactly to the minute, to the second it took him to
12 go in there and do these things, I can't even begin to
13 tell you if a minute, 39 seconds is accurate.

14 Q You don't have any idea?

15 A No, sir.

16 Q But you don't know of anything he told in his
17 statement that was not true?

18 A No, sir.

19 MR. EPPES: Thank you, Officer.

20 THE WITNESS: Yes, sir.

21 THE COURT: Redirect?

22 MR. EPPES: No, sir, I'm not quite done.

23 The court: I thought thank you meant you were
24 done.

25 MR. EPPES: No, I was thanking him for actually

1 handling the machine correctly, because he may be the
2 only one in here that can.

3 BY MR. EPPES:

4 Q Officer McNamara, bear with me. I made notes on
5 every single piece of paper that you touched. There's a
6 lot of paper. Now, Officer McNamara, how much time
7 total did you spend with Mr. Sigmon?

8 A A little more than 24 hours. We left Greenville on
9 the 7th the early evening and did not return home until
10 the 8th late evening, close to midnight if I remember,
11 sir.

12 Q Is it fair to say that during the time you were
13 with him, if you said jump, he said how high?

14 A It's fair to say that he was very cooperative.

15 Q He was cooperative. If you asked him to do
16 something he did it, didn't it?

17 A Anything that we did ask him to do, he did, yes,
18 sir.

19 Q And from the first moment he met you, the first
20 thing he wanted to do was get this horrible story off
21 his chest, wasn't it?

22 A That's what he told us, yes, sir.

23 MR. EPPES: Officer McNamara, thank you very much.

24 THE WITNESS: Yes, sir.

25 THE COURT: Anything on redirect?

1 MR. ARIAIL: No, sir.

2 THE COURT: All right. Thank you, sir. You can
3 step down. All right. Mr. Foreman, ladies and
4 gentlemen, let me send you back to your jury room. I'm
5 going to determine if you're going to try to get a
6 little bit more testimony in or if we're going to go
7 ahead and break for the evening. I'm going to talk Mr.
8 McCloud, see where your reservations are, things like
9 that. While you're back there, don't talk about the
10 case.

11 (The jury exited the courtroom at 5:38 p.m.)

12 THE COURT: Who is your next witness?

13 MS. STROM: Your Honor, we don't have any more
14 witnesses here this evening. Our next witness will be
15 here first thing in the morning. I apologize. I
16 thought it would take a little bit longer. And I have
17 the next witness who will be -- is very short, scheduled
18 to be here tomorrow morning. I think we'll take half a
19 day tomorrow.

20 THE COURT: Okay.

21 MR. EPPES: Your Honor, one issue, I would like to
22 take about five minutes and talk with my team to
23 determine whether or not we need for these officers from
24 Tennessee to stay, because I know they would stay, but
25 if I don't have to have them stay, I just as soon let

1 them go.

2 THE COURT: All right. Okay. We'll be at ease on
3 the case as far as the spectators are concerned. We'll
4 take a five minute break, come back in, back on the
5 record as far as any other matters, and what to do with
6 the Tennessee people. All right. Five minute -- well,
7 let's see. I can go ahead and send the jury down. Let
8 me go ahead and bring them in and admonish them for the
9 night. Go ahead and bring the jury back.

10 (The jury entered the courtroom at 5:40 p.m.)

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, we are going to go ahead and break for the
13 night. I probably could have just let you go, but I
14 need to bring you back in just to tell you again, don't
15 talk about the case amongst yourselves. You're going to
16 get tired of me saying that, but I am required by law to
17 tell you that for very good reasons. But any way, y'all
18 have a very good evening. We'll start back at nine
19 o'clock in the morning. And just don't talk about the
20 case. All right. Everybody else remain seated while
21 the jury leaves.

22 (The jury exited the courtroom at 5:41 p.m.)

23 THE COURT: All right. Is Dr. Ward going to
24 testify tomorrow?

25 MR. ARIAIL: Yes, sir.

1 THE COURT: All right. I did not admonish people
2 earlier and everybody has done a very good job holding
3 their emotions through some pretty tough testimony, but
4 I imagine tomorrow's testimony will be very graphic. I
5 will not allow displays of emotions. If someone thinks
6 they are going to have trouble controlling their
7 emotions, then they need to leave before Dr. Ward
8 testifies. We'll take a five minute break and come back
9 and handle witnesses.

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

12 MR. EPPES: Your Honor, were prepared to release
13 the three witnesses from Gatlinburg, Tennessee.

14 THE COURT: Okay. All right. Why don't we do
15 this, we'll release them but make sure they're still
16 under subpoena, and you know, if something happens and
17 we need, we can get them back in four or five hours
18 notice.

19 MS. STROM: Yes, sir.

20 THE COURT: All right. Anything else before we
21 break for the evening?

22 MR. ARIAIL: We have this issue of the -- Dr.
23 Martin and I honestly don't know how to resolve it. You
24 sort of told us we need to resolve it, and I just want
25 to tell ---

1 THE COURT: No, you know, as far as the Court is
2 concerned, he's under subpoena, and I will -- you know,
3 I will accommodate, you know, by ordering transportation
4 back, but you know, that's all I can do from this side
5 of the bench. But he's under subpoena, and somebody
6 needs to make sure he understands that.

7 MR. EPPEES: Your Honor, we're going to communicate
8 that with him tonight, and with the Court's permission
9 we're going to tell him that you authorized a plane
10 ticket back here, coach class, for when we call him.

11 THE COURT: That's fine. And have y'all tried to
12 stipulate anything as far as his testimony?

13 MR. EPPEES: No, we would be happy to try to.
14 They've just got the medical records. We could tell
15 them what we're interested in.

16 MR. ARIAIL: Well, I mean, they obviously need to
17 tell us what it is.

18 MR. EPPEES: Well, sure.

19 THE COURT: Why don't you get him up here tonight
20 and let them go through whatever they're ask going to
21 ask him and see if it's something you can stipulate to.
22 If it's opinions and things like that, and you don't
23 think you can, then he's coming back.

24 MR. ARIAIL: I'm agreeable.

25 THE COURT: Okay.

1 MR. ARIAIL: But I mean ---

2 THE COURT: All right. Do you have -- it's not to
3 presume anything, but do you have statutory instructions
4 on verdict forms in the penalty phase that you've used
5 in the past, proposed, for this Court?

6 MR. ARIAIL: We have them.

7 THE COURT: Okay. Would you go ahead and prepare
8 those over night so I can be looking at them just ahead
9 of time. Do y'all have any you want me to look at?

10 MR. EPPES: Yes, sir, we're going to have some
11 proposed ones also as well.

12 Your Honor, excuse me?

13 THE COURT: Yes, sir.

14 MR. EPPES: Could we see the Court's planned charge
15 on these charges?

16 THE COURT: Yep. Do you want to look at them after
17 we break?

18 MR. EPPES: That will be fine.

19 THE COURT: Are you just interested in murder,
20 or ---

21 MR. EPPES: Right now I'm interested in seeing
22 murder and manslaughter. I can't tell you how we're
23 going to go yet, Your Honor.

24 THE COURT: Well, let me ask you this, I haven't
25 heard anything that would led to manslaughter.

1 MR. EPPES: I understand that.

2 THE COURT: And -- so there's more coming? Okay.
3 Well, you said earlier that you thought in the record of
4 the statements -- have we had -- all statements are in?

5 MR. ARIAIL: Yes.

6 THE COURT: I thought you said in the statements
7 there was -- there was sufficient legal basis to charge
8 manslaughter.

9 MR. EPPES: Your Honor, I have argued with myself
10 back and forth, back and forth for the last six months,
11 my co-counsel and I have discussed it, and every now and
12 then we'll see a glimmer of it, and I just hate to
13 foreclose myself, because Your Honor, I see case after
14 case where the issue of manslaughter was not raised and
15 it was a problem, and I just hesitate to waive it, or
16 talk to you about it and admit to anything until I have
17 seen the State's entire case.

18 THE COURT: Okay. Well, yeah, I mean, the answer
19 is, I'll give you my murder and manslaughter charge.
20 Why don't I just -- and I may not charge it verbatim,
21 because I go through and make little notes, but I'll
22 print off another copy of that.

23 MR. ARIAIL: Can you get us two?

24 THE COURT: Yeah. I mean, I'll print out
25 everything. It's probably got murder, voluntary,

1 involuntary, self-defense.

2 MR. EPPES: And burglary as well?

3 THE COURT: Burglary, I just read the statute.

4 MR. EPPES: Okay.

5 THE COURT: I don't have a burglary per se charge.
6 Now, if you want to submit something on burglary, I'll
7 be glad to look at it. The -- the circumstances are
8 that, what, it was night time -- it wasn't night time.

9 MS. STROM: No, sir. Committed an act of violence
10 against the non-participant of the crime.

11 THE COURT: Okay. What else?

12 MR. ARIAIL: Entered without consent.

13 THE COURT: What else? Anything else?

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

15 THE COURT: Go print that out and give it to them.
16 All right. We'll be at ease on the case until -- here's
17 what we're going to start doing. Since we always start
18 late, we're going back at about quarter 'til, and handle
19 any little things, and that way we'll hopefully start at
20 nine o'clock. So we'll reconvene at nine o'clock.

21 MR. ARIAIL: The order on the records and the
22 opinions and -- we're fast getting there.

23 THE COURT: Here's your order.

24 MR. ARIAIL: Signed?

25 THE COURT: Signed. Very minor charges.

1 MR. ARIAIL: Photocopy it and give one to Mr.
2 Eppes.

3 THE COURT: Make two copies so I can have a copy.

4 THE CLERK: Do you want me to write on this copy,
5 or do you want me to stamp the time?

6 THE COURT: You can write on it and certify it
7 later. Just date and time.

8 If they finish in the morning, not to divulge any
9 strategy or anything, but do you anticipate this
10 would -- we could get a verdict Friday night?

11 MR. EPPES: I think it's possible, yes, sir.

12 MR. ARIAIL: Well, what I was going to stay, we
13 should -- we should finish by 11 o'clock.

14 THE COURT: Okay. Well, the only reason I'm
15 asking, is if the waiting period is Saturday, they may
16 do something out of town with them, and they just need
17 to plan.

18 MR. EPPES: As long as it's not Gatlinburg, Your
19 Honor.

20 THE COURT: All right. Is there going to be
21 anything else we need on the record because ---

22 MR. ABDALLA: No, sir.

23 THE COURT: All right. We're going to be at ease
24 then, and I will get you the charge. We'll get you
25 copies of the order.

1 MR. EPPES: Should we leave somebody up here for
2 that, Your Honor?

3 THE COURT: Okay. Well, I'm not running it over to
4 your office.

5 (Court recessed for the evening.)
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1 (The following proceedings were held on July 19,
2 2002, as follows:)

3 THE COURT: All right. What do we have pretrial?
4 Anything? You've got to have something.

5 MR. ABDALLA: We have nothing from the defense,
6 Your Honor.

7 MS. STROM: Nothing from the State, Your Honor.

8 THE COURT: Oh, Mr. Eppes is standing.

9 MR. EPPES: Mr. Sigmon would like to thank you for
10 getting his shower and shave, Your Honor.

11 THE COURT: You're most welcome. Did y'all look
12 over the murder charge? Is that -- any problem with
13 that?

14 MR. ABDALLA: Yes, Your Honor.

15 MR. EPPES: No, Your Honor, no objection.

16 MR. ABDALLA: Yeah, there is. Sorry, Your Honor,
17 we're not apparently on the same page here. The
18 transferred intent is not relevant.

19 THE COURT: Oh, I understand that. I told you I
20 was ---

21 MR. ABDALLA: I'm sorry.

22 THE COURT: --- giving you everything,
23 manslaughter, that's just a general ---

24 MR. ABDALLA: Right, we understand.

25 THE COURT: That's not what I'm going to charge.

1 Anything else?

2 MS. STROM: You had asked that I get for you what
3 we used in a prior case on statutory charges.

4 THE COURT: Yeah.

5 MS. STROM: I have that for you.

6 THE COURT: Statutory charges?

7 MS. STROM: Yes, sir, and verdict forms.

8 THE COURT: Okay. I just need the verdict forms,
9 but I'll look at your charges too. I'm sure mine ---

10 MR. ABDALLA: Can we get a copy of those?

11 MS. STROM: I'll get a copy made for them.

12 THE COURT: That's fine. Get a copy made during
13 the break and -- all right. You anticipate going until
14 11 o'clock still?

15 MR. ARIAIL: Yes, sir.

16 THE COURT: All right. What I would like to do is
17 have a brief private side-bar with them so I can know --
18 I don't want them to -- well, can you tell me how far
19 past 11:00 you will go?

20 MR. EPPES: Yes, sir.

21 THE COURT: About how far?

22 MR. EPPES: Side-bar, if we may?

23 THE COURT: I want to talk to them privately,
24 Solicitor.

25 MR. ARIAIL: The whole proceeding is ex-parte.

1 (A bench conference was held with just the defense
2 counsel.)

3 THE COURT: All right. Bring the jury. Remind me
4 to put that side-bar on the record. No cell phones, no
5 beepers on, I assume, in the audience.

6 (The jury entered the courtroom at 9:05 p.m.)

7 THE COURT: Good morning.

8 THE JURY: Good morning.

9 THE COURT: I trust y'all had a good evening.
10 We're ready to continue with the testimony in this case.
11 Solicitor.

12 MS. STROM: The State calls Teresa Horton.

13 THE CLERK: Put your left hand on the Bible,
14 please, ma'am, and raise your right hand.

15 TERESA HORTON

16 Having been first duly sworn, testified as follows:

17 THE CLERK: State your name for the record, please.

18 THE WITNESS: I'm Teresa Horton.

19 THE CLERK: Thank you. Be seated.

20 THE COURT: Pull your chair close, that way you can
21 speak right into the microphone.

22 DIRECT EXAMINATION

23 BY MS. STROM:

24 Q State your full name for the ---

25 MR. EPPES: Your Honor, can we take up a matter

1 outside the presence of the jury?

2 THE COURT: Okay. Can we do it at side-bar?

3 MR. EPPES: Yeah, we can, Your Honor.

4 (A bench conference was held.)

5 MR. EPPES: Thank you, Your Honor.

6 MS. STROM: May I continue, Your Honor?

7 THE COURT: Yes, you may.

8 BY MS. STROM:

9 Q Please state your name for the record.

10 A I'm Teresa Annette Horton.

11 Q Ms. Horton, I need you to keep your voice up so all
12 the jurors over here and I can hear you, all right?

13 A Okay.

14 Q Where are you employed?

15 A I work for myself. I'm an attorney.

16 Q And back in April of 2001, where were you living?

17 A I was living in a recreational vehicle on land that
18 I own off the Enoree Road, the street number is 30
19 Enoree Road in Traveler's Rest.

20 Q And I want to show you what's been marked as
21 State's Exhibit Number 12A.

22 MR. ABDALLA: Without objection, Your Honor.

23 THE COURT: All right.

24 (State's Exhibit Number 12A was marked and filed.)

25 BY MS. STROM:

1 Q I ask you, do you recognize that?

2 A Of course.

3 Q What is that a photograph of?

4 A That's a photograph of the RV I was living in in
5 April.

6 Q Okay. I'd like to direct your attention to May
7 3rd, 2001. If you would, tell the jury what occurred
8 then?

9 A I was working late in my office, and I came home
10 about seven o'clock because I was scheduled to meet a
11 friend. A friend was going to bike up and have a cup of
12 tea with me, and so I came home around seven o'clock
13 expecting him around 7:30, and my RV wasn't there, it
14 just wasn't there.

15 Q It was there that morning when you left to go to
16 work?

17 A Yes, I walked out of it to go to work and it wasn't
18 there when I got home.

19 Q Did you find any note left there, or any money,
20 or anything of that nature left there where that RV
21 was?

22 A I found nothing on my land that did not already
23 belong to me except a couple of empty beer cans, and I
24 can't remember, maybe a cigarette butt, but certainly
25 not a note and certainly no money.

1 MS. STROM: Court's indulgence, Your Honor.

2 (State's Exhibit Number 16 was marked for
3 identification.)

4 BY MS. STROM:

5 Q I show you what's been marked as State's Exhibit
6 Number 16. Do you recognize that?

7 A It seems to be a blow up version of my -- of my
8 vehicle registration for this Lazy Days RV that is
9 mine.

10 Q So this is the vehicle registration form for that
11 motor home that we saw on the photograph?

12 A That is correct.

13 MS. STROM: Court's indulgence? Please answer any
14 questions the defense may have.

15 THE COURT: Mr. Abdalla.

16 MR. ABDALLA: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. ABDALLA:

19 Q Good morning, Ms. Horton. Now, when was your van
20 first missing?

21 A I don't know precisely when it was first missing.
22 When I first discovered it, it was May the 3rd, 2001,
23 at -- in the evening when I got home.

24 Q And when did you have it returned to you?

25 A I don't know precisely. I got a call -- it's

1 easier for me to do it by the days and how things
2 happened, is that all right?

3 Q Well, let's do it this way. When you first got
4 home and found your van was missing -- I'm saying van,
5 is that a correct term?

6 A RV actually.

7 Q And found your RV missing, did you find anything,
8 any indication that somebody had taken it?

9 A Except its absence?

10 Q Right.

11 A No, I found a beer can or two and that's all.

12 Q Did you not mention something about a pair of pants
13 at one point?

14 A I beg your pardon?

15 Q Did you ever mention anything about a pair of
16 pants?

17 A Those were my pants.

18 Q Right, right, right. I asked you if there was a
19 pair of pants left there?

20 A Yes. I'm sorry. They were my pants, yes.

21 Q Yes, I understand. But they appeared to have been
22 left there by somebody?

23 A On purpose, yes, they did.

24 Q That's what I was referring?

25 A I'm sorry.

1 Q That's fine. I don't want you to be nervous here.
2 You know more about this system than I probably do.
3 Were they folded neatly, where they crumbled up, how
4 were they ---

5 A It was very a curious thing. The RV is parked on
6 a -- what will become a garage slab, and one pair of my
7 jeans were neatly folded, quite neatly folded and
8 carried probably 3 or 400 feet to a table that I had in
9 another part of my lot, and left there. So yes, a pair
10 of my pants were left on that property, neatly folded.

11 Q And to the best of your knowledge, had those pants
12 been in the RV prior to that?

13 A Oh, yes.

14 Q After -- well, let me back up. When you first got
15 it back, did it show signs of having been maliciously
16 ransacked?

17 A No.

18 Q It didn't. Were you personnel effects left intact,
19 but for the fact that some stuff was taken?

20 A Everything I owned was in -- everything that I was
21 living with was inside that RV. There were a pair of
22 hiking boots that were left out just thrown out on the
23 garage slab with the strings, the ties had been pulled
24 out of them, and that was the only thing that was like
25 randomly, casually left that was mine. My boots were

1 out on the slab and the pants were neatly folded
2 elsewhere. The hoses to the RV, I think they had just
3 been left on the slab, but not a ransacked sort of way,
4 no.

5 Q All right. And had you learned who had taken your
6 RV by the time you had got it returned to you?

7 A Yes, I was informed about that.

8 Q Do you know the circumstance of the situation
9 Mr. Sigmon was in and all, the crimes he was charged
10 with?

11 A Yes, I did.

12 Q And when you returned to your van, how did it feel
13 for you to be in there?

14 A It was very surprising because it wasn't -- it
15 didn't feel ugly at all.

16 MR. ABDALLA: Thank you. I have no further
17 questions.

18 THE COURT: Any other questions?

19 MS. STROM: No, sir, Your Honor.

20 THE COURT: Thank you, ma'am. You're relieved from
21 your subpoena.

22 MS. STROM: The state calls John Divittorrio.

23 THE CLERK: Place your left hand on the Bible,
24 please, sir, and raise your right hand.

25 JOHN DIVITTORRIO

1 Having been first duly sworn, testified as follows:

2 THE CLERK: State your name for the record.

3 THE WITNESS: John E. Divittorio.

4 THE CLERK: Thank you. Be seated.

5 DIRECT EXAMINATION

6 BY MS. STROM:

7 Q Please state your name for the record.

8 A John Edwards Divittorio.

9 Q And by whom are you employed?

10 A Greenville County Sheriff's Office.

11 Q In what capacity?

12 A Auto theft investigator.

13 Q Let me -- you need to keep your voice up so all
14 these jurors can hear you. You were so employed with
15 the Greenville County Sheriff's Office back in April and
16 May of 2001?

17 A Yes, ma'am.

18 Q How long have been employed with the Sheriff's
19 office?

20 A Since 1987.

21 Q I want to direct your attention back to May 8,
22 2001. Were you aware of the incident that had occurred
23 regarding the Larkes and their killings?

24 A Yes, ma'am.

25 Q Did you have an occasion on May 8, 2001, to

1 participate in the investigation and recovery of a
2 weapon?

3 A Yes, ma'am.

4 Q Please tell this jury about that? How did you come
5 to look for this weapon?

6 A I was advised by Sergeant Blakely that a pistol may
7 be under a crawl space at a house located on Mountain
8 Crest Drive, and to make arrangements with the homeowner
9 to gain access to that crawl space.

10 Q Were you aware at that time that Mr. Sigmon had
11 been taken into custody in Gatlinburg, Tennessee?

12 A Yes, ma'am.

13 Q Did you in fact go to the house at Mountain Crest
14 and go up under the house?

15 A Yes, ma'am, I did.

16 Q Please describe for this jury what you found
17 underneath the house at -- that's at 215 Mountain Crest,
18 correct?

19 A I believe so, yes.

20 Q Tell this jury what you observed?

21 A I crawled up underneath the crawl space and was
22 advised that it may be up against a wall by Sergeant
23 Blakely, that the pistol may be buried. When I got
24 up -- I moved one or two pieces of stone, clay stone,
25 rock, I observed the pistol and then I backed out and

1 called forensics.

2 Q So you -- after you noticed it, you backed out and
3 called forensics, did you stay there at the residence to
4 secure that pistol until forensics arrived?

5 A Yes, ma'am, I did.

6 Q Did you notice anything unusual up under the house,
7 other than the weapon?

8 A There appeared to be a place that had been dug out
9 and there was insulation pulled from the -- from the top
10 of the insulation that covered the floor.

11 Q With regard to this weapon that you located, did
12 you actually collect it?

13 A No, I didn't. A forensics officer came out there
14 and collected the weapon.

15 Q So you left it there where you saw it?

16 A I never disturbed the weapon.

17 MS. STROM: Court's indulgence again, Your Honor.
18 Please answer any questions the defense may have.

19 THE COURT: Any questions, Mr. Abdalla?

20 MR. ABDALLA: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. ABDALLA:

23 Q Mr. Divittorio?

24 A Yes, sir.

25 Q Good morning. I believe you said you found this

1 weapon on May 8, 2001?

2 A I don't recall the exact day. I was advised that
3 the weapon may be under the house the night before and
4 to make arrangements with the homeowner.

5 Q And what -- who was the person who advised you of
6 that?

7 A Sergeant Larry Blakely.

8 Q Sergeant Blakely. And you said you went under the
9 house and you found the gun and you didn't disturb it.
10 How did you find it? Was there ---

11 A He advised me that it may be located under a vent
12 on the front of the house, so I crawled and went
13 directly to the location where the vent was and moved a
14 few stones and found it, pieces of brick.

15 Q Do you have -- I apologize?

16 A That's okay.

17 Q Do you know where the information was -- came from
18 that led to the discovery of the gun?

19 A No, sir, I do not.

20 Q Did you later learn that Mr. Sigmon had told the
21 officers where the gun was located?

22 A I assumed that.

23 MR. ABDALLA: All right. Thank you. I have no
24 further questions.

25 THE COURT: All right. You can step down. You're

1 released from your subpoena.

2 MS. STROM: The State calls Chris Bryan.

3 THE COURT: Mr. Bryan, you can assume the stand.
4 You're still under oath, do you understand that?

5 CHRIS BRYAN

6 Having been previously sworn, testified as follows:

7 THE WITNESS: Yes, sir.

8 THE COURT: Go ahead and slide your chair forward.
9 If you would, speak into the MIC.

10 REDIRECT-EXAMINATION

11 BY MS. STROM:

12 Q Officer Bryan, if you would, again, please remind
13 this jury where you're employed and in what capacity?

14 A I work for Greenville County, Department of Public
15 Safety, forensic division, crime scene technician.

16 Q Did you have an occasion on May 8, 2001, to go to
17 215 Mountain Crest?

18 A Yes, I did.

19 Q What was the purpose of your going to 215 Mountain
20 Crest?

21 A I was called to respond there at the request of
22 Detective Divittorrio and Detective Brown, in reference
23 to some items of evidence involving this case that had
24 been observed, for the collection and preservation of
25 that evidence, and the photographing and documentation

1 of that evidence.

2 Q And did you so document the evidence and the
3 condition up underneath the house at 215 Crescent (sic)
4 Drive?

5 A Yes, I did.

6 Q If you would, please describe to this jury what you
7 observed about the general area up underneath the house
8 at 215 Crescent (sic)?

9 A The house was -- itself was built on a hill, so the
10 entrance to under -- to the crawl space was almost --
11 you could stand up, but as you go underneath it it gets
12 smaller and smaller. At one point, at the farthest
13 corner, there is a minimum of two rows of concrete block
14 actually between the surface of the ground and the
15 bottom of the floor I guess you'd call it. It's very --
16 you had to be on your stomach literally to be able to
17 move around in there, it is was so tight. And there was
18 a lot of pipes of course running under this house. It
19 was a very large house, a lot of pipes, a lot of wires.
20 So you literally had to be on your hands and knees. I
21 had the aid of a flashlight to get under there, but
22 otherwise it would be dark unless you had the door open
23 and had ambient light from the daylight to let you in,
24 but you need a flashlight because it's very dark when
25 you get further and further up underneath this house.

1 Q I'm going to show you what's been marked as State's
2 Exhibit 18C and D. And first just ask you, do you
3 recognize those?

4 A Yes, I recognize these photographs.

5 Q Are these photographs they you took?

6 A Yes, they are.

7 Q Are they accurate representations of underneath the
8 house at 15 Crescent Drive?

9 A Yes, they are.

10 MR. ABDALLA: We have no objection, Your Honor.

11 THE COURT: Without objection, Exhibits 18C and D
12 are in evidence.

13 (State's Exhibit Numbers 18C and 18D were marked
14 and filed.)

15 BY MS. STROM:

16 Q Publish to the jury State's Exhibit 18C. Would
17 you please describe for the jury what you're seeing in
18 State's 18C?

19 A This is the crawl space, north east corner of the
20 residence. On the left you observe two rows of concrete
21 block and then in front there's about seven rows of
22 brick. What you see in front appears to be row of
23 insulation used to insulate a house, and there also is a
24 space that appears to have been dug out about the shape
25 of a -- where an individual could lay in that hollowed

1 out area, or dug out area. Mounds of dirt on the -- in
2 this particular picture on your right side, and the
3 walls on the left.

4 Q So basically this is showing a dug out area
5 underneath the house at 215?

6 A That is correct.

7 Q And 18D is just another view of that same area?

8 A That is correct.

9 Q I show you what's been marked as State's Exhibit
10 18A and B. And ask you, do you recognize those?

11 A Yes, I recognize these photographs as ones I took.

12 Q And they are accurate representations of what you
13 found underneath the house at 215 Mountain Crest?

14 A That is correct.

15 MR. ABDALLA: Without objection, Your Honor.

16 THE COURT: Without objection 18A and 18B are now
17 evidence.

18 (State's Exhibit Numbers 18A and 18B were marked
19 and filed.)

20 BY MS. STROM:

21 Q If you would, please describe for the jury what we
22 are seeing in State's Exhibit 18A? And if you need a
23 pointer, I believe we have one. The laser button is
24 right there.

25 A This is the section of the crawl space underneath

1 the house, along the north wall, some distance away from
2 the actual dug out area. This is a wall area here, and
3 this is the handgun itself, buried in the mud and the
4 dirt and the rock.

5 Q And State's Exhibit 18B?

6 A This is after the handgun had been removed from the
7 dirt and rock. I placed it on a brown piece of paper to
8 make it show up a little bit better, and after I looked
9 into actually what type it was, it a Clerk revolver, .32
10 caliber, serial number was 845443.

11 Q What condition -- in what condition did you find
12 that weapon in terms of the bullets in the gun? Were
13 there any live ammunition, that type of thing?

14 A There was no live ammunition inside the weapon.
15 It's a five shot revolver. There were four cartridges
16 casings, which means they had already been fired. And
17 one of the cylinders was open, so there was nothing in
18 it. And they were all heads stamped W. W. .32 Smith and
19 Wesson.

20 Q So there were four spent casings and then one of
21 the cylinders was empty?

22 A That is correct.

23 Q I show you what's been marked as State's Exhibit
24 Number 18.

25 MR. ABDALLA: May I approach the witness, Your

1 Honor?

2 BY MS. STROM:

3 Q Do you need to open that in order to see what's --
4 or are you aware of what's in Exhibit Number 18?

5 A This is a box that I labeled the evidence, Clerk
6 revolver, as I described to you earlier.

7 Q And that is the weapon that we saw in the
8 photographs?

9 A That is correct.

10 Q Did you collect that from underneath 215 Mountain
11 Crest?

12 A That is correct.

13 Q Would you open that and verify that that is the
14 same weapon? That is the same ---

15 A That is the same weapon.

16 MS. STROM: Your Honor, at this time we would offer
17 State's 18 into evidence.

18 MR. ABDALLA: Without objection, Your Honor.

19 THE COURT: Without objection.

20 (State's Exhibit Number 18 was marked and filed.)

21 BY MS. STROM:

22 Q And in -- there's a small envelope that is also in
23 this box. What is contained in that small envelope?

24 A In that small envelope are the four cartridge
25 casings that were removed from the revolver.

1 Q And the weapon is in what is called a safe
2 position, or cannot be fired at this time?

3 A Correct. Before I packaged it, I placed it in a
4 manner of -- packaged it in a manner which it could not
5 be fired.

6 MS. STROM: Thank you. Please answer any questions
7 the defense may have.

8 RECROSS-EXAMINATION

9 BY MR. ABDALLA:

10 Q Good morning, Mr. Bryan.

11 A Good morning.

12 Q I want to ask you a question. If you were walking
13 through the neighborhood -- was it Mountain Crest the
14 area you were in?

15 A That was the main road going in, yes, sir.

16 Q Would you have found that weapon?

17 A No, sir.

18 Q And how did you learn the weapon was located under
19 that house?

20 A I was given information by the Investigator
21 Divittorio and Investigator Brown.

22 Q And from Investigator Brown did you learn that --
23 how they discovered the gun was located under that
24 house?

25 A It was my understanding they received information

1 that that was the location.

2 Q And you don't -- you don't know to this day from
3 whom it came?

4 A To the best of my recollection it came from the
5 defendant.

6 Q Thank you. Can I approach, please? I don't recall
7 the number, it's State's Exhibit 18, the gun. Now,
8 this -- is this a rare gun?

9 A Not rare, it's just -- it's not rare, no. It's
10 not -- I don't think this company is in existence. I'm
11 not sure if it's mass produced anymore.

12 Q You said Smith -- S. and W.?

13 A The caliber in which that weapon is chambered is
14 called a Smith and Wesson caliber.

15 Q Smith and Wesson caliber?

16 A But that's -- it doesn't necessarily means that's
17 the maker or the manufacturer of the gun. That's just
18 the caliber of the casing or the cartridge that you have
19 to use in that weapon to make it fire.

20 Q I see. And the casings are they rare? Is that a
21 rare type?

22 A No.

23 Q Is it a bullet one can buy at K-mart or anywhere?

24 A That is correct.

25 Q You said when you found the gun it had four empty

1 cartridges, correct?

2 A That's correct.

3 Q And there was an empty chamber?

4 A There was -- as I stated earlier, there are five
5 cylinders, five holes in that revolver. Four of those
6 were filed with cartridges casing which had been fired,
7 and one was empty.

8 Q And you have no knowledge or indication from what
9 you uncovered as to when those rounds were fired, is
10 that correct?

11 A That's correct, I have no knowledge.

12 MR. ABDALLA: One moment, Your Honor.

13 BY MR. ABDALLA:

14 Q I know I asked you earlier about the availability
15 of those bullets. If you wanted to reload it, you could
16 just go to K-mart and buy those rounds?

17 A Most -- correct. Most sporting goods stores carry
18 that type of caliber, that type of cartridge.

19 MR. ABDALLA: Thank you very much.

20 THE COURT: Anything else?

21 MS. STROM: No, sir, Your Honor. We'd ask that he
22 be excused.

23 THE COURT: All right. Any problem releasing him
24 from his subpoena at this time?

25 MR. EPPES: Can I check one thing, Your Honor?

1 THE COURT: Sure.

2 MR. ABDALLA: Let's have him under subpoena. We'll
3 call him if we need him.

4 THE COURT: You can go back to work, just make sure
5 we can get you. You're on duty now?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. Make sure we can get you.

8 MS. STROM: The State calls Eugene Strube.

9 THE CLERK: Put your left hand on the Bible,
10 please, sir, and raise your right hand.

11 EUGENE STRUBE

12 Having been first duly sworn, testified as follows:

13 THE CLERK: State your name for the record, please
14 sir.

15 THE WITNESS: Eugene Strube.

16 THE CLERK: That you. You can be seated.

17 DIRECT EXAMINATION

18 BY MS. STROM:

19 Q Good morning, Mr. Strube.

20 A Good morning.

21 Q I need you to state your full name again for the
22 record. If you would ---

23 THE COURT: Hold on. If you would, slide you chair
24 closer to the microphone that way you can speak directly
25 into the microphone, Mr. Strube. All right.

1 BY MS. STROM:

2 Q State your full name again for the record.

3 A Eugene Strube.

4 Q I need for you to keep your voice up like that and
5 speak direct into that microphone because everybody here
6 needs to hear you.

7 A All right.

8 Q Mr. Strube, how old are you?

9 A I'm 47.

10 Q And do you know the defendant, Brad Sigmon?

11 A Yes.

12 Q How do you know him?

13 A Just in passing.

14 Q Do you recall when you first met Brad Sigmon?

15 A Yes, I do.

16 Q Please tell this jury when you met -- first met
17 him?

18 A Well, it was -- it was at Kente Young's house. I
19 was working on his car and he pulled up in the driveway.

20 Q Whose car were you working on?

21 A Kente Young's.

22 Q And when was this?

23 A Maybe from now, probably about year and a half.

24 Q Was it prior to April 27, 2001?

25 A Yes, it was.

1 Q You were at Kente Young's house and that's when you
2 first met Brad Sigmon. How many times do you think you
3 saw Brad Sigmon?

4 A Three or four times.

5 Q Three or four times?

6 A Yes.

7 Q And where would that be?

8 A At Kente Young's.

9 Q Did you ever see him prior to April 26th outside of
10 Kente Young's house? I mean, did y'all socialize
11 together, or was every time you saw him at Kente Young's
12 house?

13 A No, every time I saw him was at Kente's.

14 Q I want to direct your attention to April 26, 2001.
15 Do you recall that day?

16 A Yes.

17 Q Okay. Did you see Brad Sigmon that day?

18 A Yeah.

19 Q Where did you see him?

20 A At Kente Young's.

21 Q Do you know approximately what time it was that you
22 saw him?

23 A About 8:30 in the evening.

24 Q Please tell this jury what was Brad Sigmon's
25 demeanor when you saw him that evening?

1 A Well, he was agitated, and excited, and agitated,
2 I'd say.

3 Q What were you doing over at Kente Young's house
4 that night?

5 A Working on a car.

6 Q And when Brad Sigmon got there, did y'all have any
7 conversation?

8 A Not right away, no.

9 Q At any time while he was there, did y'all have a
10 conversation?

11 A Yes, we did.

12 Q And what was that about?

13 A Well, he said to me that he was going to be on
14 Greenville's Most Wanted, and that he was having
15 problems with his girlfriend.

16 Q Did he say anything else about having problems with
17 girlfriend?

18 A Well, he was going to get her. He was going to
19 make sure she couldn't go to the beach that weekend.

20 Q When he was saying these things, were you saying
21 anything to him?

22 A No.

23 Q Did y'all stay at Kente Young's house all night or
24 what did you do?

25 A No, about -- I guess about nine o'clock or so, he

1 asked me if I wanted to go out with him, and I said,
2 sure, I'll go out for a couple of beers with you, and we
3 got in my car and I had to drive my car home, drop my
4 car off, and he followed me there. We dropped my car
5 off and then we got in his car and he drove to -- to a
6 gas station on 291, bought some beer and then he took
7 I guess about a 30 minute ride through the back roads
8 to ---

9 Q What kind of car was he driving?

10 A A Camaro.

11 Q Do you remember what color?

12 A Red.

13 Q And where did y'all go after you left the gas
14 station?

15 A To some farm. He -- I thought it was his
16 grandmother's place. It was about a 30 minute ride for
17 us.

18 Q And what did y'all do when you got to the farm?

19 A Left the car there, and he said it was about a 500
20 yard walk to his house. And of course that 500 yards
21 turned into about a mile or so. And went to the house
22 and he said, wait, a minute, and he went around the
23 other side of the building and then he came and let me
24 in.

25 Q Okay. From where the car was to where you got to

1 the house, you said y'all walked?

2 A Right.

3 Q Did you walk on the road, or did walk in the woods,
4 or what did you do?

5 A Walked on the road all the way to just before the
6 house, then we cut through the woods, a shortcut through
7 the woods.

8 Q And describe this house? Was it a trailer, was it
9 a brick house? What type of house was it?

10 A It was a trailer.

11 Q Did you go in the front door or the back door?

12 A The back door.

13 Q Could you get in through the back door?

14 A No.

15 Q So what happened?

16 A He said wait a minute and he went around to the
17 other side and opened the door.

18 Q Did he let you in through the back door?

19 A Yes, he did.

20 Q What happens when y'all get inside this trailer?

21 A Well, we sat down and went into the back room and
22 started drinking beer.

23 Q Were you doing anything else?

24 A Yes.

25 Q What were you doing?

1 A We were smoking some crack.

2 Q And was he saying anything at this time, was Brad
3 Sigmon talking to you at this time?

4 A Well, he was more agitated, walking around, then he
5 was talking to me. He said that he was going to get
6 Becky for leaving him the way she did, and that she was
7 supposed to go to the beach that weekend with this new
8 boyfriend or something, and he was going to make sure
9 that she didn't go.

10 Q And did he tell you what he was going to do?

11 A I don't -- no, that -- not exactly. He said that
12 was going to -- he was going to stop her. That's --
13 that's what I understood that evening. And that later
14 on that night, might have been around four o'clock in
15 the morning, I don't know, somewhere, it was very late,
16 he said he was going over there to rob her parents and
17 to tie her parents up, and that when she came home he
18 was going to take care of her.

19 Q And was he gathering any type of items while he was
20 telling you this, or throughout the evening was he
21 gathering any type of items?

22 A Well, he was putting stuff in a bag that was on the
23 washing machine.

24 Q Could you tell what he was putting in the bag?

25 A An extension cord, duct tape, a pair of stockings,

1 a pair of socks, I think that was about it.

2 Q Did you ever see a baseball bat?

3 A Yes.

4 Q There in that trailer where y'all were?

5 A Yes, I did.

6 Q And where was it?

7 A It was on the floor in front of the dryer, or
8 washer, whatever that machine was.

9 Q Was that in the same area as the panty hose, the
10 duct tape and the extension cord?

11 A Yes.

12 Q Tell this jury what happened throughout the evening
13 and into the next morning?

14 A Okay. Well, through the evening we smoked crack,
15 and then we ran out of crack, so we just laid around. I
16 went to sleep on the couch. I was exhausted. And he
17 was strolling back and forth. And when I woke up, he
18 said, it's not time yet, and I went back to sleep. And
19 then I woke up a couple hours later and he said it was
20 time, and I said, time for what. He said, I'm going to
21 get -- take care of Becky's parents, so he can get ahold
22 of Becky, and ---

23 Q And did y'all leave the trailer at that time?

24 A Yes, we did.

25 Q And what happened when y'all got outside the

1 trailer that y'all were in?

2 A We got to the back of that -- the other trailer,
3 and I said, man, I can't do this, you know, this isn't
4 right, and he said, good, get the hell out of here.

5 Q So what did you do?

6 A I got the hell out of there.

7 Q Okay. And before you left there, where was the
8 last place you saw Brad Sigmon?

9 A Heading towards the other trailer.

10 Q And what did he have with him, if anything?

11 A He had the bat with him. He had the bag with him.

12 Q The bat and the bag?

13 A Right.

14 Q Did you ever go into the other trailer that's now
15 been referred as the Larke's trailer?

16 A No.

17 Q Okay. The trailer that you were in with Brad, did
18 he ever tell you whose trailer that was?

19 A Yeah, he said it was his.

20 Q Okay. When you left the trailer -- when you left
21 the trailer, or outside, between the two trailers, where
22 did you go?

23 A I went right to the road and walked down the road
24 to a stop sign, made a right, walked down the road some
25 more. I went to like a gas -- an old gas station where

1 they rent trucks, about a mile a way. That's where I
2 went.

3 Q And what did you do when you got there?

4 A Well, I went there to call my wife to tell her I'd
5 be home late, that I was stranded, and I was talking to
6 the guys that were working there.

7 Q What were you telling the guys that worked there?

8 A Well, I got stranded out here, and the next thing I
9 know here comes this white Honda Passport screaming up
10 the side street, the passenger door is open. I look and
11 I see Brad and he's got -- he's got Becky with him, or I
12 assume it's Becky, because I don't know Becky. I don't
13 know what she looks like.

14 Q Had you ever met Becky before?

15 A No.

16 Q The only person you had met was Brad Sigmon?

17 A That's correct.

18 Q Okay. When you see this -- I believe you said it
19 was a white vehicle?

20 A Yes.

21 Q Was Brad driving or was he the passenger?

22 A He was driving.

23 Q And what happened?

24 A He pulled up to the stop sign, the passenger door
25 was open and this women was screaming, and he made a

1 right-hand turn, went down the road, turned around
2 somehow and came become towards us, but he was in a
3 ditch about a block away, and I saw the woman on the
4 lawn, like maybe she jumped out of the vehicle, I don't
5 know, but she was on the lawn, and then he came back up
6 past me again and made a right-hand turn into a
7 development.

8 Q And after he made the right-hand turn into the
9 development, did you see him at any other time that day?

10 A No.

11 Q I want to go back from when you left the trailer
12 that -- outside of the trailer and went up to that
13 business that you said rented U-Hauls, or something like
14 that?

15 A That's correct.

16 Q How long do you think it took to get there,
17 approximately?

18 A I'd say 15 minutes, maybe 20 minutes at the most.

19 Q When you were up there at that business, you saw
20 that white vehicle and heard the screaming, what did you
21 think at that time?

22 A I thought, oh, boy, there he goes, he must have
23 done something.

24 Q Did you call the police?

25 A No, the gentleman that was with me made the initial

1 call. I suggested we call the police. I didn't suggest
2 it, actually we yelled it, and ran inside and there was
3 a younger guy there and he made the initial call to the
4 police.

5 Q So the young guy went in there and called the
6 police?

7 A Yes, that's correct.

8 Q Did you stay around there until the police got
9 there?

10 A No, I left. I went walking down the road, because
11 I was going to try to get home.

12 Q Mr. Strube, you presently have pending charges in
13 my office, correct?

14 A That's correct.

15 Q Okay. One is unrelated to this incident, and one
16 is related to this incident, correct?

17 A That's correct.

18 Q Have I made you any promises regarding your charges
19 for your testimony here today?

20 A No.

21 Q I want to go back to when you woke up that next
22 morning and y'all left the trailers. I believe you had
23 said that earlier in the morning, or late that evening,
24 y'all had already run out of crack, is that right?

25 A That's correct.

1 Q So at the time that you -- that y'all -- you and
2 Brad Sigmon left the one trailer to go outside and then
3 you take off, were either of you under the influence of
4 crack at that time?

5 A No.

6 MS. STROM: Court's indulgence. Please answer any
7 questions the defense may have.

8 MR. ABDALLA: One moment, please.

9 THE COURT: All right. Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. ABDALLA:

12 Q Good morning, Mr. Strube.

13 A Good morning.

14 Q I believe we've met previously, is that correct?

15 A Yes.

16 Q Are you aware that the Solicitor has made an
17 agreement with your attorney to take all sentencing --
18 sentence options into consideration regarding your
19 charges?

20 A No.

21 Q You're not? Are you expecting to get out of jail
22 as soon as this is completed?

23 A No, not really. I still got to answer to a charge.

24 Q What charge is that?

25 A Accessory.

1 Q And that's not going to be considered within the
2 context of this?

3 A Not that I know of.

4 Q You haven't been told that?

5 A No, sir.

6 Q You weren't told that in consideration for truthful
7 testimony all sentencing options are available in a
8 guilty plea?

9 A No, I was told there was no deal whatsoever.

10 Q So if I had a letter advising ---

11 MS. STROM: Objection, Your Honor.

12 THE COURT: Sustain the objection.

13 BY MR. ABDALLA:

14 Q What are your pending charges, Mr. Strube?

15 A Assault and battery with intent to kill, and
16 accessory before the act of a felon (sic).

17 Q Thank you. Now, you said you saw Brad, going back
18 to the original -- to the beginning of this story, only
19 a few times before this evening, is that correct?

20 A That's correct.

21 Q The evening of April 26th?

22 A That is correct.

23 Q And on the evening of April 26th, you in fact were
24 getting intoxicated with Brad, you were drinking beer
25 and smoking crack, isn't that correct?

1 A I wasn't drinking beer.

2 Q I'm sorry, I thought you said that. I apologize.
3 When you went over to the trailer, you weren't drinking
4 any?

5 A I didn't drink any beer.

6 Q Did you drink anything?

7 A Water.

8 Q All right. I misunderstood. So all you did was
9 smoke crack?

10 A Yes.

11 Q And during the course of the evening, how long did
12 you say were at the trailer with Brad?

13 A All night

14 Q All night. And all you did was smoke crack all
15 night?

16 A That's all I did.

17 Q How much crack was that?

18 A Oh, I don't know. It's something -- a couple
19 hundred dollars worth.

20 Q A couple hundred dollars worth of crack? As a
21 matter of fact you smoked so much crack you were sick,
22 isn't that true, the next morning?

23 A I smoked so much crack I was sick, I got sick off
24 the first hit. See crack -- if crack is -- if crack is
25 strong you'll get sick. You don't have to smoke but one

1 and if it's strong you get sick off the one.

2 Q You said that while you were smoking crack and
3 while you were spending the evening with Brad, he was
4 very agitated, isn't that right?

5 A Yes.

6 Q And this was in regard to his girlfriend, Becky?

7 A Yes.

8 Q And he said he was going to get Becky and take her,
9 correct?

10 A That's what he said.

11 Q And didn't you say he never had any intention of
12 hurting the Larkes or killing the Larkes as you said?

13 A I didn't say anything like that.

14 Q You never said he didn't intent to kill the Larkes?

15 A I didn't say anything like that.

16 Q So if I put somebody up, based on a prior
17 conversation, that person would be lying if they said
18 that?

19 MS. STROM: Objection, Your Honor.

20 THE COURT: I sustain the objection. You can put
21 him on notice if you intend to impeach him, but that's
22 not the way to do it. Tell him the person's name, the
23 time he made the statement.

24 BY MR. ABDALLA:

25 Q Do you remember a conversation you had with me, Mr.

1 Eppes, and Rick Kerns from our office?

2 A Yes.

3 Q And do you remember Mr. Kerns, who -- stand up, Mr.
4 Kerns, who was in the interview room of the jail during
5 the course of that interview?

6 A Yes.

7 Q All right. And you're saying -- you're denying you
8 made the statement that Brad never intended to kill
9 anybody?

10 A No, I'm not denying that. What I'm denying is I
11 didn't say it at that time. What Brad did -- Brad said
12 all he was going to do to the Larkes was going to rob
13 them.

14 Q I thought you told me tie them up, but anyway.

15 A Tie them up and rob them, that's what he was going
16 to do to the Larkes.

17 Q Now, you said that -- you also that day, did you
18 not say, you smoked so much crack -- you smoked a good
19 bit of crack?

20 A What day was that?

21 Q The day I mentioned?

22 A The night you mean?

23 Q The evening, the interview in the jail?

24 A Yes, yes.

25 MR. ABDALLA: It was on the 19th of June, to be

1 specific. Beg the Court's indulgence for a moment.

2 THE COURT: Yes.

3 BY MR. ABDALLA:

4 Q Do you recognize State's Exhibit Number 8? If I
5 can approach the witness?

6 A Yes, I do.

7 Q And tell the -- if you would, tell the jurors --
8 would you tell the jurors about that stuff? I mean it's
9 obvious what it is, but explain ---

10 A This is the stuff that he gathered together and put
11 in the plastic bag.

12 Q All right. And do you recall what the purpose of
13 any of this was?

14 A To tie up the Larkes with.

15 Q And there are how many extension cords here?

16 A I think there was two of them.

17 Q Okay. Would that be one for each?

18 A Apparently.

19 Q Wasn't there also some duct tape?

20 A Yeah, there was a roll of duct tape.

21 Q A roll of duct tape. Thank you. And was there a
22 pair of panty hose?

23 A Yes, there was.

24 Q And didn't Brad tell you that was so nobody would
25 have to know who you were?

1 A That's correct.

2 MR. ABDALLA: Thank you. I need one moment, Your
3 Honor.

4 THE COURT: Okay.

5 BY MR. ABDALLA:

6 Q So I don't think I was totally hallucinating
7 regarding the drinking episode, was Brad drinking when
8 you got to the trailer?

9 A Yes, he was.

10 Q And did he drink a good bit?

11 A He drank a six-pack that I know of.

12 Q All right. You fell asleep at one o'clock in the
13 morning, isn't that right?

14 A Somewhere around there.

15 Q Somewhere around there. And then after you fell
16 asleep, didn't you say that Brad stayed up all night
17 pacing?

18 A Yes.

19 Q You'd wake up about every hour and he'd still be
20 pacing, getting more agitated?

21 A Yes.

22 Q And didn't you also say that he smoked a good bit
23 of crack?

24 A Yes, I did.

25 Q Would you say he smoked at least as much as you

1 did?

2 A Yes.

3 Q And you had at least a couple hundred dollars worth
4 of crack?

5 A Right.

6 Q And lastly you too have a pending charge of assault
7 and battery with intent to kill. Didn't that involve a
8 baseball bat?

9 A Yes, it did.

10 MR. ABDALLA: Okay. Thank you, Your Honor. I have
11 no further questions.

12 THE COURT: Anything on redirect?

13 MS. STROM: No, sir.

14 THE COURT: All right. If you would just sit right
15 there. Mr. Foreman, ladies and gentleman, let's take a
16 brief break at this time. We'll be with you in about
17 five minutes. While you're back in the jury room, don't
18 discuss this case.

19 (The jury exited the courtroom at 9:55 a.m.)

20 THE COURT: Do you have a lawyer on your pending
21 charges?

22 THE WITNESS: Yes, I do.

23 THE COURT: Who is that?

24 THE WITNESS: Chris Posey.

25 THE COURT: Okay. I just wanted to make sure. All

1 right. He can step down. I just wanted to make sure
2 his lawyer was here.

3 MS. STROM: I just want to put on the record that
4 he was present during his testimony, Your Honor.

5 THE COURT: Okay. All right. Step down.

6 MR. ABDALLA: Your Honor, at this point I'd like to
7 put in as an exhibit the letter received from us -- from
8 Betty Strom from the Solicitor's office regarding any
9 sentencing options for the defendant. Okay.

10 THE COURT: Not in evidence.

11 MR. EPPES: Not in evidence as an exhibit, Your
12 Honor.

13 MS. STROM: Not as evidence in this case.

14 THE COURT: Okay. I guess we're ---

15 MR. EPPES: Your Honor -- Your Honor, we made a
16 motion that all deals would be revealed to this Court.
17 It was our opinion that a surreptitious deal may have
18 taken place, I'm not accusing the Solicitor's office of
19 anything, but the Court instructed ---

20 THE COURT: Does that mean you're accusing Mr.
21 Posey?

22 MR. EPPES: No, sir. I'm certainly not accusing
23 Mr. Posey who, as Your Honor know, is the son my father
24 wishes he had sometimes. So I just want to put it in
25 the record to preserve it, that that's what the State

1 gave me in response to this Court's instruction.

2 THE COURT: That's fine.

3 MR. EPPE: About an agreement.

4 THE COURT: Okay. It's for ID purposes only.

5 MR. EPPE: Thank you.

6 (Defendant's Exhibit Number 4 was marked for
7 identification.)

8 THE COURT: All right. You want a short break?
9 Let me see one lawyer on each side. What was the
10 side-bar about? I've got to put that on later.

11 MR. EPPE: The reason for Teresa Horton, Your
12 Honor.

13 MR. ARIAIL: What?

14 MS. STROM: Teresa Horton's testimony regarding ---

15 THE COURT: Oh, okay. There was an objection to
16 Ms. Horton's testimony because the grand larceny of the
17 van was stolen. My ruling was it was all part of res
18 gestae of the case, it was part of his escape, so it was
19 relevant, and also it corroborates the statement he
20 gave. All right. Let me just -- this is nothing.

21 (A bench conference was held.)

22 THE COURT: All right. A five minute break.

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

25 THE COURT: Have a seat. Bring the jury.

1 (The jury entered the courtroom at 10:10 a.m.)

2 THE COURT: All right. Call your next witness,
3 please.

4 MR. ARIAIL: The State calls Selena Riddle.

5 THE CLERK: Put your left hand on the Bible,
6 please, ma'am, and raise your right hand.

7 SELENA RIDDLE

8 Having been first duly sworn, testified as follows:

9 THE CLERK: State your name for the record, please.

10 THE WITNESS: Selena Joanna Riddle.

11 THE CLERK: Thank you. Be seated.

12 MR. EPPEES: Your Honor, before this witness
13 testifies, we'd like to take something outside the
14 presence of the jury.

15 THE COURT: All right. Mr. Foreman, ladies and
16 gentlemen, let me ask you to step back to your jury
17 room. While you're back there, don't discuss this case,
18 please.

19 (The jury exited the courtroom at 10:11 a.m.)

20 THE COURT: All right. What is it, please, sir?

21 MR. EPPEES: Your Honor, if you will recall my -- I
22 made a motion in limine concerning this witness, because
23 it's my belief this witness has knowledge of hearsay
24 statements, and I wanted to make sure that she did not
25 repeat them to the jury, and also want to make sure the

1 Solicitor cannot inquire about them.

2 THE COURT: All right. And what were those hearsay
3 statements?

4 MS. STROM: Your Honor, statements made, excuse me,
5 by Mr. Larke, David Larke to Ms. Riddle.

6 THE COURT: Okay. I recall.

7 MS. STROM: And I have instructed Ms. Riddle not to
8 discuss anything that Mr. Larke has said to her, and in
9 fact I have framed my questions such that I start my
10 questions off by saying not going into what was said,
11 but based upon that what was his demeanor.

12 THE COURT: All right. Ms. Riddle, don't say
13 anything that someone else told you unless I tell you
14 that it's okay. All right?

15 THE WITNESS: Okay.

16 THE COURT: All right. Bring the jury.

17 (The jury entered the courtroom at 10:13 a.m.)

18 THE COURT: All right. Ms. Strom.

19 MS. STROM: Thank you.

20 DIRECT EXAMINATION

21 BY MS. STROM:

22 Q Ms. Riddle, if you would, please state your name
23 for the record.

24 A Selena Joanna Riddle.

25 Q Okay. Ms. Riddle, I'll need for you to either sit

1 up a little closer and speak directly into the
2 microphone. You have a soft voice, and I need all these
3 jurors to hear you.

4 A Okay. Selena Joanna Riddle.

5 Q And where are you employed?

6 A I own a company called Paper Doll, Paper Doll Legal
7 Services.

8 Q What do you do as part of Paper Doll Legal
9 Services?

10 A We're process service. We serve papers for the
11 attorneys.

12 Q You serve papers on individuals at the request of
13 attorneys, or Magistrate's, or anyone else?

14 A Yes, we do.

15 Q Okay. Did you have an occasion to be requested to
16 serve papers on a Brad Sigmon?

17 A Yes, I did.

18 Q Where did that request -- who made that request?

19 A A gentleman by the name of Mr. Larke.

20 Q And what type of papers were you serving on Brad
21 Sigmon?

22 A It was a rule to show cause and to vacate.

23 Q What is that commonly known as?

24 A What?

25 Q A rule to vacate or show cause, do you also call it

1 an eviction notice?

2 A An eviction notice, yes, um-hm.

3 Q I'm going to show you what's been marked as State's
4 Exhibit Number 20, which is a two-page document, or
5 two-page exhibit I should say.

6 THE COURT: Oops. Okay. Just slide it back on.
7 We'll put it on afterwards.

8 BY MS. STROM:

9 Q Do you recognize State's Exhibit Number 20?

10 A Yes, I do.

11 MS. STROM: Show it to defense counsel very
12 briefly.

13 MR. EPPES: Without, objection, Your Honor.

14 THE COURT: Okay. Without objection Number 20 is
15 an exhibit.

16 (State's Exhibit Number 20 was marked and filed.)

17 BY MS. STROM:

18 A Ms. Riddle, I believe you testified -- what is
19 State's Exhibit Number 20?

20 A It's a rule to vacate or show cause and eviction.

21 Q That is what you served on Brad Sigmon?

22 A Yes, it is.

23 Q Or a copy thereof you served on Brad Sigmon?

24 A Yes, it is.

25 Q And when did you serve that on Brad Sigmon?

1 A It was on April the 19th, 2001 at approximately --
2 approximately nine o'clock p.m.

3 Q And the rule to vacate is for Brad Sigmon to vacate
4 which premises? What's the address?

5 A The address was 950 East Darby Road, Taylors, South
6 Carolina.

7 Q Prior to serving that paper -- let me back up, the
8 second page of that document is actually your
9 certificate of service, correct?

10 A Yes, it is.

11 Q Which you certify that on that date you served him
12 with that document?

13 A That's correct.

14 Q Prior to serving Brad Sigmon with the eviction
15 paper, how long had you had those papers?

16 A I had received it like three or four days before
17 that. I'll have to look. Well ---

18 Q You had them for a few days prior to that date of
19 service?

20 A Yes, I did, um-hm.

21 Q And not going into what Mr. Larke said to you, but
22 how many times approximately did he contact you
23 regarding serving these papers?

24 A It got as many as like four to seven times a day.

25 Q Four to seven times a day he was calling you?

1 A Yes, he was.

2 Q Regarding serving these papers?

3 A Yes, he was.

4 Q And again not going into what he said to you, but
5 based upon what he said, could you make a determination
6 as to his demeanor?

7 MR. EPPES: Objection, Your Honor.

8 THE COURT: What is the objection?

9 MR. EPPES: The objection is she is not the proper
10 judge of demeanor.

11 THE COURT: Overruled.

12 BY MS. STROM:

13 Q What was his demeanor?

14 A Very, very desperate and afraid.

15 Q At some point from the time that you first received
16 these eviction papers until the time that you served the
17 eviction papers, did you have a conversation with
18 Mrs. Larke? And again, not going into what was said,
19 but did you have a conversation with her?

20 A Yes, I did.

21 Q And what was her demeanor?

22 A Very desperate and afraid also.

23 Q When you served the eviction papers on Brad Sigmon
24 on the 19th, did you thereafter have a conversation with
25 Mr. Larke?

1 A Yes, I did.

2 Q And again not going into what was said, but what
3 was his demeanor at that time, once you informed him
4 that the papers had in fact been served?

5 A Total relief, and excitement.

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

7 THE COURT: Um-hm.

8 MS. STROM: Please answer any questions the defense
9 may have.

10 THE COURT: Mr. Abdalla.

11 MR. ABDALLA: Actually Mr. Eppes will handle it.

12 THE COURT: Mr. Eppes.

13 MR. EPPES: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. EPPES:

16 Q Hey, Ms. Riddle.

17 MR. EPPES: Mark that, please, for identification.
18 (Defendant's Exhibit Number 5 was marked for
19 identification.)

20 BY MR. EPPES:

21 Q When did you serve those papers?

22 A It was April the 19th, 2001.

23 Q What day of the week was that?

24 A It was a Thursday?

25 Q Do you know when Brad Sigmon vacated those

1 premises?

2 A No, sir, I do not.

3 Q Okay. Let me show you what's been marked as
4 Defendant's Exhibit 5. Do you recognize that?

5 A This is a subpoena to me.

6 Q Yes, ma'am. Is it a copy of a subpoena that was
7 served upon you by my investigator in this case?

8 A Yes, sir.

9 Q You remember Gerald Ravan, don't you?

10 A Yeah, he served it at our office.

11 Q And you've known Gerald before?

12 A I've talked with him.

13 Q Yeah. You gave a statement concerning this matter
14 to the police, it was signed by Paul Silvaggio of the
15 Sheriff's Office, witnessed by him. Do you remember
16 that?

17 A That's true.

18 Q Do you know -- do you recall saying in that
19 statement, you know, it was really amazing he was one of
20 the nicest persons I have ever served before?

21 A Yes, sir, I did say that.

22 MR. EPPES: Okay. Thank you. I have no further
23 questions.

24 THE COURT: Anything else?

25 MS. STROM: No, sir, Your Honor. We'd ask that she

1 be excused.

2 THE COURT: You're released. Thank you.

3 MS. STROM: State calls Nick Patel.

4 THE COURT: Come up here, please, sir.

5 THE CLERK: Put your left hand on the Bible and
6 raise your right hand.

7 THE COURT: Other way.

8 MR. ABDALLA: Judge, can we approach, side-bar?

9 THE COURT: Go ahead and swear him.

10 NICK PATEL

11 Having been first duly sworn, testified as follows:

12 THE CLERK: What is your name?

13 THE WITNESS: Nick Patel.

14 THE CLERK: Okay. Be seated. Have a seat.

15 THE COURT: Come on up.

16 (A bench conference was held.)

17 DIRECT EXAMINATION

18 BY MS. STROM:

19 Q Mr. Patel, if you would, you need to speak directly
20 into that microphone so all the jurors can hear you. I
21 need for you to state your name one more time for the
22 record.

23 A Nick Patel.

24 Q Patel?

25 A Um-hm.

1 Q Where do you work?

2 A At Cape Cod Inn.

3 Q Cape Cod Inn, where is that located?

4 A In Anderson, South Carolina.

5 Q What do you do there?

6 A I'm the manager of there and work at the front.

7 Q You're the manager of there and you work at the
8 front desk?

9 A Front desk, yeah.

10 Q I show you what's been marked as State's Exhibit
11 Number 21. I need for you to look at that document. Do
12 you recognize that document?

13 A Yes.

14 Q Is that document that is normally -- is that
15 document made in your normal course of business?

16 A Yes.

17 Q And that document is kept as part of your regular
18 business?

19 A Um-hm, yes.

20 Q Which is basically you run a hotel or a motel?

21 A Right.

22 MS. STROM: Okay. Your Honor, we'd offer State's
23 Exhibit Number 21 into evidence at this time.

24 MR. ABDALLA: Without objection.

25 THE COURT: All right, 21 is an exhibit.

1 (State's Exhibit Number 21 is marked and filed.)

2 MS. STROM: Your Honor, I think this would be
3 difficult to see on that screen, so I'm just going to
4 use it with the witness here.

5 BY MS. STROM:

6 Q If you would, Mr. Patel, on State's Exhibit Number
7 21, does that show that Brad Sigmon was a registered
8 guest at your motel?

9 A Yes.

10 Q Okay. When did he check in?

11 A 4/21/01.

12 Q 4/21/01. And when was his check out date?

13 A It was 4/27.

14 Q 4/27?

15 A Um-hm.

16 Q And does it show two payments by Mr. Sigmon
17 regarding his bill there?

18 A Right.

19 Q What date were those?

20 A 4/21.

21 Q 4/21.

22 A 4/23.

23 Q Four what?

24 A Twenty-third.

25 Q Twenty-third. Okay. So this shows that Brad

1 Sigmon checked in on 4/21/2001 and his check out date
2 was 4/27?

3 A Um-hm.

4 MS. STROM: Court's indulgence, Your Honor? Thank
5 you. Please answer any questions the defense may have.

6 THE COURT: Mr. Abdalla.

7 MR. ABDALLA: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. ABDALLA:

10 Q Good morning, Mr. Patel.

11 A Good morning.

12 Q I just have a couple questions. May I approach the
13 witness, please? On State's Exhibit Number 21, it
14 appears to be receipt from the Cape Cod Inn in Anderson,
15 that's on Clemson Boulevard in Anderson, correct?

16 A Right.

17 Q And you said you were the manager?

18 A Yeah, I'm the manager there, and one of the
19 partners.

20 Q You're the manager and one of the partners?

21 A Right.

22 Q All right. Now, I see that you have daily rate of
23 38.95, is that correct? Right there. Am I reading that
24 correctly, \$38.95?

25 A Yeah, the -- plus two days he paid 24.99, then he

1 paid 38.95, because he wanted to stay long and I gave
2 him, break out.

3 Q Now, on April 21st, there was a payment of \$148.35
4 in cash?

5 A Um-hm.

6 Q And again on April 23rd, there was a payment of
7 \$250, a total on the bottom of \$398.85 (sic). Using
8 really quick math, that comes out to approximately 10
9 days. Furthermore, up here it says check in 4/21 at
10 12:39 p.m.?

11 A Right.

12 Q And he was due out on 4/30, actually it says nine
13 nights, is that correct? Just what the document says.
14 Is that not -- did I not read it correctly?

15 A No, that's right.

16 Q Okay.

17 A What he did he first paid is just ---

18 THE COURT: You got to speak up. Speak into the
19 microphone, please, sir.

20 BY MR. ABDALLA:

21 Q Here's what I want to ask though, isn't it a fact
22 that he paid \$385?

23 A Right.

24 Q And it says up here, nights, nine?

25 A Yeah.

1 Q And it says, check out, April 30, 2001, correct?

2 A Right.

3 Q I realize he didn't stay there until then, but ---

4 A Right.

5 Q But I just wanted that done.

6 A Correct.

7 MR. ABDALLA: One moment, Your Honor. Thank for
8 your testimony, Mr. Patel.

9 THE COURT: All right. Thank you, sir, you can
10 leave.

11 MS. STROM: We'd ask that he be excused.

12 MR. ABDALLA: Without objection.

13 THE COURT: Without objection.

14 MS. STROM: The State calls Charles Hall.

15 THE CLERK: Put your left hand on the Bible,
16 please, sir, and raise your right hand.

17 CHARLES HALL

18 Having been first duly sworn, testified as follows:

19 THE CLERK: State your name for the record, please,
20 sir.

21 THE WITNESS: Charles Edward Hall.

22 THE CLERK: Thank you. Be seated.

23 DIRECT EXAMINATION

24 BY MS. STROM:

25 Q Sir, if you would, please state your name for the

1 record.

2 A Charles Edward Hall.

3 Q I need for you to speak directly into the
4 microphone so all these jurors can hear you.

5 A All right.

6 Q Where do you work?

7 A Ashland Tree Service.

8 Q What do you do there?

9 A I cut trees underneath power lines for Duke Power.

10 Q How long have you been there?

11 A For about three months now.

12 Q Prior to that where were you working?

13 A I was doing side jobs on my own basically, and I
14 worked for another tree service about two and a half
15 months, really wasn't amounted to nothing.

16 Q How long have you been in that business of cutting
17 trees?

18 A Nineteen and a half years.

19 Q Did you have an occasion back in April of 2001, to
20 be working with Brad Sigmon?

21 A Yes, ma'am.

22 Q And that was in the same type of business, tree
23 cutting business?

24 A Yes, ma'am, it was.

25 Q What was Mr. Sigmon's position in relation to you?

1 A He was my boss.

2 Q Did you know him prior to working with him?

3 A Off and on. I met him a year before that, and it
4 was real brief on a job. He liked the way I climbed and
5 asked if I would come to work for him.

6 Q And how long did you work for him?

7 A I would say about three, maybe four months.

8 Q I want to direct your attention back to April 26,
9 2001, and ask, do you recall that day?

10 A Is that the day before everything happened?

11 Q It's the day before everything happened.

12 A Yes, I do.

13 Q Did you have an occasion to see Brad Sigmon on that
14 day?

15 A Yes, I saw him in the morning and that evening.

16 Q Where did you see him that morning?

17 A The morning we were working in Regency Park,
18 cutting trees down in a residential area, and he was --
19 he came up in the truck.

20 Q Did you see him throughout the day?

21 A I saw him in the morning when he came to get the
22 big truck to take it to the dump, and when he got back
23 around four o'clock.

24 Q Did you see him later on that evening?

25 A Yes, about 8:30, 8:00 or 8:30 that night.

1 Q About 8:00 or 8:30. And where was that?

2 A It might have been a little bit later than that.

3 It was at my house.

4 Q And how was it that you saw him over at your house?

5 What happened?

6 A Well, after work -- we didn't get home until
7 probably 7:00, 7:30 that night, and about half an hour,
8 45 minutes later Brad showed up, and we were just
9 sitting there having a couple beers, talking, and Brad
10 showed up and he was -- already taken a shower, clean
11 and everything, and he asked if I knew where he could
12 buy a gun.

13 Q He asked you if you knew where he could buy a gun?

14 A Yes.

15 Q What did you tell him?

16 A I told him no I didn't. And he asked Mike Shaw,
17 one of the other people that used to work with us, he
18 had a .44 magnum in his car.

19 MR. EPPES: Objection, Your Honor.

20 THE COURT: What's the objection.

21 MR. EPPES: He's -- if he's going to talk about Mr.
22 Shaw said ---

23 THE COURT: He hasn't said anything that Mr. Shaw
24 said.

25 BY MS. STROM:

1 Q Was Mr. Shaw present there at your house at the
2 same time?

3 A Yes, he was.

4 Q What did -- you said Brad Sigmon asked you where
5 you -- where he could buy a gun. Did you know a place
6 where he could buy a gun?

7 A No, I didn't. Then he turned to Mike and asked him
8 if he could buy his .44 Magnum for \$500.

9 Q And was a weapon sold to Brad Sigmon at that time?

10 A Not to my knowledge. Mike said he liked his gun
11 too much.

12 THE COURT: Don't say what somebody else said
13 unless I give you permission to.

14 THE WITNESS: Yes, sir.

15 BY MS. STROM:

16 Q Did Brad Sigmon make any statements to you as to
17 why he wanted this gun?

18 A He said he was going to -- he wanted to kill Becky
19 and her boyfriend.

20 Q What was his demeanor while he was over there at
21 your house?

22 A I could tell he had been drinking, but I mean, he
23 seemed coherent.

24 Q Was he calm, was he agitated, was he ---

25 A He wasn't really agitated. He was basically pretty

1 calm.

2 Q In your experience with Brad Sigmon, has he ever
3 made any comment regarding Becky's parents, the Larkes?

4 A No, ma'am, none at all, not to my knowledge.

5 Q On the night of the 26th, you said that Brad Sigmon
6 said wanted the gun in order to kill Becky?

7 A He said he wanted to purchase a gun because he was
8 wanting to kill that F.ing bitch, excuse my language.

9 Q What were you telling him at this time?

10 A I told him just to let it go, because I mean,
11 there's more fish in the sea, and he said, yeah, I ought
12 to, and that's basically the end of the conversation.

13 Q Approximately how long do you think Brad Sigmon was
14 at your house?

15 A Fifteen minutes, maybe 20 tops.

16 Q Did you see Brad Sigmon anymore after that?

17 A No, ma'am.

18 MS. STROM: Court's indulgence? Again, please
19 answer any questions the defense may have.

20 THE COURT: Mr. Eppes.

21 CROSS-EXAMINATION

22 BY MR. EPPES:

23 Q Hey, Mr. Hall. How are you doing?

24 A Fine. Yourself?

25 Q Good. Did you like working for Brad Sigmon?

1 A Oh, yes. He was a great boss, one of the best I've
2 ever worked for.

3 Q Did you make a lot of money?

4 A I made good money with him.

5 Q Did he make a lot of money when you worked there?

6 A I'm not exactly sure what he made.

7 Q That's fair. When he -- I have a statement from
8 you that you gave to Detective Wes Smith. Do you recall
9 that?

10 A Vaguely, yes, sir.

11 Q Okay.

12 A He came on the job.

13 Q In that statement you talked about this past
14 Wednesday, April 25th, meaning the April 25th before
15 April 27th, 2001, and you said Brad came to work and
16 said he had been drinking since 8:00 a.m., do you
17 remember that?

18 A Yes, sir, I do.

19 Q You said he didn't seem drunk, but he seemed
20 agitated, hyped up on something?

21 A He did seem -- he was on something other than just
22 drinking. He was -- it definitely just wasn't alcohol.

23 Q Did you ask him what it was?

24 A No, sir.

25 Q Do you know what it was?

1 A No, sir. It was none of my business, I didn't ask.

2 Q Tell me about tree cutting. What do you do?

3 A You carry a chainsaw, you wear spikes and a saddle,
4 and you climb up a tree, and you take the limbs down and
5 top out the tree, and you come down and you drop the
6 trunk of the tree.

7 Q Do you have to be pretty strong and agile to do
8 that?

9 A Yes, sir, you do.

10 Q Is Brad strong and agile?

11 A Oh, sure is. He's a very good climber.

12 Q Is he really strong?

13 A Yes, sir.

14 Q He's a very powerful man?

15 A Oh, yes.

16 Q Not afraid of heights?

17 A No, sir.

18 Q Boy, I am. Is -- Brad told you he wanted a gun to
19 kill Becky and her boyfriend?

20 A Yes, sir. He said if I catch them together, I'm
21 going to kill both of them.

22 Q Did -- he talked about them a lot, didn't he?

23 A For about two weeks up until this happened, that's
24 about the only time he really talked about Becky. He
25 just said he wanted to get back together with her, he

1 loved her.

2 Q He said he had wanted to get back together with
3 her?

4 A Yes.

5 Q Did you call -- did you call the police department
6 after this happened?

7 A No, sir, I did not.

8 Q Okay.

9 A I didn't even know it happened until I saw it on
10 the news.

11 MR. EPPES: Thank you, Mr. Hall. I really
12 appreciate it.

13 MS. STROM: Nothing further from this witness.
14 We'd asked that he be excused.

15 THE COURT: All right. You're released from your
16 subpoena. Next witness.

17 MR. ARIAIL: Call Dr. Michael Ward.

18 THE CLERK: Place your left hand on the Bible,
19 please, sir, and raise your right hand.

20 DR. MICHAEL WARD

21 Having been first duly sworn, testified as follows:

22 THE CLERK: State your name for the record, please.

23 THE WITNESS: Michael Eugene Ward.

24 THE CLERK: Thank you. Be seated.

25 DIRECT EXAMINATION

1 BY MR. ARIAIL:

2 Q Dr. Ward, if you would, state your name, please,
3 sir.

4 A Michael Eugene Ward.

5 Q Keep your voice up just like that. What is your
6 present occupation and profession?

7 A I'm a pathologist. I'm a forensic pathologist, and
8 I'm the medical examiner in Greenville County.

9 Q And what are the duties and responsibilities of
10 that position, medical examiner?

11 A The medical examiner is charged with investigating
12 a cause and manner of death that occur in Greenville
13 County.

14 Q And that applies to any death?

15 A That is correct.

16 Q And in particular, do you participate in deaths
17 that may be classified as a homicide?

18 A Yes, I do.

19 Q Give us your educational background for that
20 position?

21 A I have a Bachelor's Degree in Biology from the
22 University of Alabama. I received my Master's Degree in
23 Forensic Science from the University of Alabama in
24 Birmingham. I received my medical degree from the
25 University of South Alabama in Mobile. I did a four

1 year Anatomic Pathology residency at the Medical
2 University of South Carolina in Charleston, and a one
3 year fellowship in Forensic Pathology at the office of
4 the Medical Investigator at the University of New
5 Mexico. I am Board Certified in both Anatomic and
6 Forensic Pathology by the American Board of Pathology.

7 Q And other than education, what training have you
8 had to occupy this present position?

9 A During the -- during the fellowship portion of
10 my -- of my training, it's an intensive year in death
11 investigation, to include scene investigation,
12 ballistics, wound interpretation, as well as doing
13 multiple autopsies. Not only that, but each year I
14 attend two national meetings that deal with continuing
15 education in the area of Forensic Pathology.

16 Q Tell us the -- other than that experience -- well,
17 how long have you been the medical examiner in
18 Greenville County?

19 A For six years.

20 Q Prior to that, what experience did you have in that
21 area?

22 A Prior to coming to Greenville I worked as the
23 Associate Medical Examiner for the State of New Mexico
24 for two and one half years, and prior to that I was in
25 my training at both a fellow and a resident.

1 Q Have you previously testified in this court?

2 A Yes, I have.

3 Q Have you been qualified as an expert in this court
4 and any other courts?

5 A Yes, I have.

6 Q And what is the field of expertise in which you
7 have qualified in this court and other courts?

8 A In Anatomic and Forensic Pathology.

9 Q And the number of times you've been so qualified?

10 A Greater than 75.

11 Q And how many autopsies would you estimate you have
12 done in your career?

13 A Approximately 3,000.

14 MR. ARIAIL: Your Honor, we would offer Dr. Ward
15 as an expert in the field of Anatomic and Forensic
16 Pathology.

17 THE COURT: Any voir dire?

18 MR. ABDALLA: No objection.

19 THE COURT: On his credentials? Beg your pardon?

20 MR. ABDALLA: I said without objection, Your Honor.

21 THE COURT: Okay. All right. I declare him to be
22 an expert in Anatomical and also Forensic Pathology.

23 BY MR. ARIAIL:

24 Q Doctor, what is -- first, what is pathology?

25 A Pathology is the study of disease and how disease

1 process affect man.

2 Q And what is forensic pathology?

3 A Forensic pathology takes that one step further in
4 investigation or determining how disease process, and in
5 this -- in some cases including trauma or injuries, how
6 they result in death, the interpretation of those
7 injuries, and the presentation of those results in the
8 courtroom.

9 Q And is a part of forensic pathology actual crime
10 scene visitation or crime scene examination?

11 A Yes, it is.

12 Q And did you on -- have occasion on April the 27th,
13 2001, to visit the scene of the death of Gladys and
14 David Larke at 948 East Darby Road?

15 A Yes, I did.

16 Q And on April the 27th, did you perform an autopsy
17 on both Gladys and David Larke?

18 A Yes, I did.

19 Q And as a result of visiting the scene and
20 conducting the autopsy on these individuals, were you
21 able to determine the cause of death for each victim?

22 A Yes, I was.

23 Q What was the cause of death for Gladys Larke?

24 A She died as a result of blunt force trauma of the
25 head.

1 Q And also David Larke?

2 A He also died as a result of blunt force trauma of
3 the head.

4 Q When you talk about blunt force, what's the
5 difference between blunt force and some other type of
6 trauma to the head?

7 A There are three very general types of trauma that
8 we describe, especially to the head. You can have a
9 penetrating trauma, which would be a gun shot wound,
10 where the bullet actually penetrates through the bone
11 into the brain. There is sharp force entries, which
12 would be a knife, so you would have stabs or cuts. And
13 then there is blunt trauma, which is an object that
14 impacts the head or impacts the body. It's not sharp.
15 It does not penetrate into the body, but it causes
16 injuries on the outside of the body that are transmitted
17 to the inside of the body.

18 Q And based on the type of trauma then you're able to
19 focus on what type of instrument may have been used to
20 create the trauma?

21 A That's correct.

22 Q Okay. When you went to the scene on April the
23 27th, did you observe evidence of injuries to the bodies
24 of Gladys and David Larke?

25 A Yes, I did.

1 Q Did you record those findings and also the findings
2 on your autopsy examination in a report?

3 A Yes, I did.

4 Q And as a part of that report, do you also prepare
5 drawings?

6 A I do.

7 Q And did you bring those drawings to court?

8 A Yes, I did.

9 Q Let me ask if you have the drawings, specifically
10 first, drawings from the autopsy of David Larke? I'm
11 going to hand you -- these have been marked 22A, B, C,
12 D, E, and F, correct?

13 A Yes.

14 Q And are these modifications at my request of your
15 actual drawings made during the course of the autopsy?

16 A Yes, they are.

17 Q All right. But they contain the same information
18 as on the autopsy drawings?

19 A Same information as the originals, yes.

20 MR. ARIAIL: All right. Thank you. Your Honor, we
21 would offer these.

22 MR. ABDALLA: Your Honor, I wouldn't object to the
23 drawing but for the fact that there are red numbers
24 added to which I would object to.

25 THE COURT: Red numbers?

1 MR. ABDALLA: Yes, sir.

2 THE COURT: All right. What are the significance
3 of the numbers?

4 MR. ARIAIL: The number denote the various injuries
5 that we're going to talk about, one, two, three, four.

6 THE COURT: Is the objection to the color or ---

7 MR. ABDALLA: Color, and they're not on the
8 original drawing, Your Honor.

9 THE COURT: Okay. Overruled.

10 (State's Exhibit Numbers 22A through 22E were
11 marked and filed.)

12 BY MR. ARIAIL:

13 Q All right. Dr. Ward, in regard to both the
14 drawings and your report, I want to walk through with
15 you your various findings that you made during the
16 course of the examination and to record -- or report to
17 this jury what you found. First, give me -- what's the
18 general information you had regarding David Larke, such
19 as height, weight, that sort of thing?

20 A At the time of autopsy, Mr. Larke weighed
21 approximately 60 pounds, and was 70 inches in height, or
22 5 feet 10 inches.

23 Q Five, ten, and weighed 160?

24 A Yes, sir.

25 Q He was a male and stated age was what?

1 A Sixty-two years.

2 Q Sixty-two years of age. And at the time that you
3 observed him was he fully dressed?

4 A Fully clothed, was wearing tennis shoes with socks.
5 He had on blue work style pants with underwear, a white
6 long sleeved shirt, which was buttoned, and a T-shirt
7 beneath that.

8 Q And did you approximate a time of death?

9 A At the time of the scene investigation, Mr. Larke
10 had minimal cooling of his body. He had very little
11 stiffening or rigomortis. My impression was he had not
12 been long -- had not been dead for a very long period of
13 time.

14 Q And what time approximately do you remember that
15 you arrived on the scene?

16 A I examined Mr. Larke at approximately 10:30 a.m.

17 Q All right. Let me show you what's been marked as
18 State's Exhibit Number 22A. You know how to operate
19 that, I assume. Now, looking at State's Exhibit 22A,
20 first, for the jury's information, the head drawing, is
21 that a standard drawing that you have, that you record
22 on for all of your autopsies?

23 A Yes, it is.

24 Q Okay. If you would, let's talk about -- starting
25 with those that are numbered, and before we go to each

1 one, how many total number of injuries did you find on
2 the head and neck of David Larke?

3 A The numbered injuries include the lacerations or
4 tears of the skin to Mr. Larke. And there were nine of
5 those injuries?

6 Q All right. What is a laceration?

7 A A laceration is a tear in the skin caused by a
8 blunt object, and we define -- we distinguish
9 lacerations from other injuries to the skin, such as
10 cuts or stab wounds. Lacerations will have scratches,
11 or abrasions on their wound margins, and they will have
12 tissue bridging, or pieces of tissue that are still
13 trying to hold the skin together. If they had been cut
14 with a knife, then the wound margins would be sharp and
15 the tissue underneath it would have been cut as well,
16 but when caused by a blunt objection striking and
17 stretching and tearing the skin then we get these
18 resulting abrasions or scratches of the wound margins,
19 and the tissue underneath that still tries to stay
20 connected.

21 Q All right. And there were nine separate
22 lacerations?

23 A There were.

24 Q All right. And based on your examination, could
25 you determine whether or not those were individually or

1 separately inflected?

2 A They were individually inflected.

3 Q All right. Now, let's look at the item number one,
4 and tell us what that is?

5 A Item number one is here to the left forehead.

6 That's a laceration. The tear in the skin is this
7 inverted y-shaped tear, and the area of darkening around
8 it is the abrasion of the skin, or the scratching of the
9 skin caused by the striking object. This is a
10 laceration that's approximately one inch in length. And
11 it extends through the full thickness of the skin of the
12 scalp here and extends down to underlying bone.

13 Q And was there any fracture underlying that?

14 A No, sir, there was not.

15 Q All right. And then number two is -- well, let me
16 go back just a second. Did you -- well, go ahead.
17 Number two, talk about number two, the fracture there.

18 A Laceration number two is right here at the outer --
19 called the lateral campus (phonetically), or the outside
20 of the left eye here. It's a non-full thickness, or it
21 doesn't go all the way through the skin, but it's a
22 partial tear in the skin, and extends down into the soft
23 tissues here. It was approximately three quarters of an
24 inch in length. There was no palpable fracture, or I
25 could not feel any break in the bones beneath that

1 laceration.

2 Q Now, the shaded areas over the eyes, what does that
3 indicate?

4 A The shaded areas of the eyes are -- are
5 peri-orbital, or around the eye contusions. They're
6 bruises. And they're the result of blood seeping into
7 the soft tissues around the eyes as a result of basilar
8 skull fractures, and these are skull fractures that --
9 of -- of the bones of the face behind the eyes and
10 behind the nose.

11 Q And when you say the bones behind the face
12 fractured, what does fractured mean?

13 A The bones are broken, and so the bones -- the bones
14 behind these structures here, behind the eyes and behind
15 the nose, penetrated to the cranial vault where the
16 brain is. And when these are fractured, then blood is
17 allowed to seep into the soft tissues of the front part
18 of the face, so you get these -- these peri-orbital
19 contusions here.

20 Q It looks like bruising?

21 A Yes, it does. It looks like a black eye.

22 Q And what was, based on your examination, the cause
23 of the fracture of the bones behind the eyes and the
24 face?

25 A The blunt force trauma of the head, the multiple

1 blows to the head resulting in multiple skull fractures
2 of the calvarium, or the top of the head as well as the
3 bones behind the face.

4 Q All right. Let's go to number ---

5 A There's one other injury on this page if you want
6 to do it.

7 Q Oh, I'm sorry. Right.

8 A There is an area in the left forehead extending
9 down into the left side of the face, of a little bit
10 more faint bruising, or an -- it's a bruise of the skin.
11 More than likely this did not result as a direct blow to
12 the skin. At the time of the scene investigation, Mr.
13 Larke's head was laying on the left, so that this part
14 of his face would be in contact with the floor. He has
15 other lacerations and blunt injury to this right side of
16 his face and right side of his head, and very likely
17 that when this side of his head was being impacted, this
18 side of his head was against the floor causing this
19 bruising to happen.

20 Q Okay. Thank you. Looking at what's been marked as
21 State's Exhibit 22B, and that -- orient us, if you
22 would, what we're looking at there?

23 A This is the top of the head. It's a diagram of the
24 top of the head of Mr. Larke. It shows what's called
25 the right parietal region of the skull -- or of the

1 scalp, three separate lacerations. Number five, six and
2 seven. Number five is -- two of them are obliquely
3 oriented lacerations. Number five is 1.7 inches in
4 length. Number six is 1.2 inches in length. And 1.7 is
5 about three-quarters of an inch in length. All of them
6 are full thickness in that they penetrate all the way
7 through the skin down to the underlying bone. And at
8 the time of autopsy, I was able to feel boney fractures,
9 or fractures of the skull, breaks of the bone beneath
10 these lacerations. And each is surrounded by an area of
11 contusion here, or bruising.

12 Q All right. When you say you were able to
13 determine -- feel bone fractures, what does that mean,
14 when you feel the bone fractures?

15 A During the autopsy we go through layers. We look
16 at the outer portion of the body, and then we start to
17 look at the inside of the body. As we're doing the
18 outer portion of the autopsy we try to anticipate what
19 we may find. So as I'm feeling with my fingers the
20 depths of these wounds to see if they go all the way
21 through, to see if there is any underlying injury, I'm
22 able to feel the bone. And as I move my finger across
23 that bone I can feel that there has been a break, or a
24 disruption of that bone, and I can tell that it's --
25 there's going to be a skull fracture. That certainly

1 indicates a greater amount of force required to break
2 the bone than it would be just to tear the skin.

3 Q This one had torn skin, fractured bone underneath
4 and the skull, and then the shaded area is bruising or
5 blood collecting?

6 A That's correct.

7 Q Let me show you State's Exhibit Number 22D.

8 A State's Exhibit D is a diagram of the right side of
9 the head of Mr. Larke showing -- starting on the right
10 side of the forehead and extending back into the
11 temporal region, a large laceration of skin which is
12 three inches in length with its surrounding abrasion.
13 There was a palpable -- there was -- I was able to feel
14 beneath this laceration a skull fracture as well.

15 Q So the skull underneath that wound was also broken?

16 A That's correct.

17 Q State's Exhibit Number 22E?

18 A 22E is a diagram of the left side of the head of
19 Mr. Larke, showing a laceration in what would be called
20 the left parietal region, which is one and a half inches
21 in length. I was not able to feel a fracture associated
22 with this one, excuse me, however, it did extend all the
23 way through the skull down to the underlying bone, but
24 there was no palpable fracture that I could feel.

25 Q State's Exhibit 22C?

1 A State's Exhibit 22C is a diagram of the back
2 portion of the head of Mr. Larke, showing two separate
3 lacerations. One that's been numbered as number eight,
4 which is about one and three-quarter inches in length,
5 and number nine which is two inches in length. Both of
6 these are again full thickness. They go all the way
7 through the skin to the underlying bone, and each of
8 them is associated with a skull fracture that I could
9 feel.

10 Q A skull fracture related to these also?

11 A That's correct.

12 Q Okay. Now, so in summary as to these, Mr. Larke
13 had wounds to the top of his head, the left side of his
14 head, the right side of his head, the back of his head,
15 and front of his head?

16 A That's correct.

17 Q Nine total?

18 A Nine total.

19 Q In addition to those nine lacerations and related
20 skull fractures, did you find any other evidence of
21 injury to his head and neck?

22 A Besides the lacerations that we described, there
23 were bruises to the tip of each ear, there were -- there
24 was a large bruise involving the left -- yes, there is a
25 large bruise involving the musculature beneath the left

1 shoulder in this area here. And then there was a
2 bruise on the back of the right hand. As we took the
3 injuries -- as we continued the autopsy, went from the
4 outside inward, we saw lacerations to the head. We saw
5 the skull fractures that we've described, and these were
6 primarily centered here on the right side, the back.
7 And these from the right side extended towards the front
8 to involve the bones of the base of the skull, basilar
9 skull fractures. They went all the way across so at the
10 time of autopsy you were able to move the head in such a
11 way that these created a hinge-type fracture, in that
12 the skull was basically almost broken in two. There
13 were hemorrhage around the brain called subarachnoid
14 hemorrhage, which is blood that has collected on the
15 outer surface of the brain, and there were also bruises
16 of the brain itself beneath these areas of impact, as
17 well associated with the skull fractures to the base of
18 the brain -- base of the skull.

19 Q Did I ask you also as part of this to prepare what
20 is now marked as State's 22F, a drawing showing a
21 sideview, or cross-section of the skull?

22 A Yes, you did.

23 Q Did you review this? Is this accurate as far as
24 relates to this case?

25 A It is.

1 MR. ARIAIL: All right. Your Honor, we'd like to
2 offer this as far as an illustration.

3 MR. ABDALLA: No objection. Without objection,
4 Your Honor.

5 THE COURT: What number is that, please, sir?

6 MR. ARIAIL: That is 22F.

7 (State's Exhibit Number 22F was marked and filed.)

8 BY MR. ARIAIL:

9 Q Okay. Dr. Ward, going back to what you're talking
10 about, looking at a cross-section, explain to us, if you
11 would, when you're talking about the subdural space, the
12 arachnoid, the brain, the dura, the bone and the scalp
13 as to how those are all constructed, and then in this
14 case what specifically happened to Mr. Larke?

15 A From the outside in, there's initially the skin
16 covered with hair, which is in contact with the
17 underlying bone. This is the bones of the skull here,
18 and they move around, or they follow around to the front
19 side of head, and these are the bones of the base of the
20 skull. Beneath the bone, however, attached to it is
21 this thick fibrous tissue layer called the dura, it runs
22 along the inner-surface of the bone. Then there is an
23 actual space where spinal fluid resides normally, called
24 the subdural space, and that -- that's cerebral spinal
25 fluid just bathes the brain and helps protects it and

1 gives it lubrication. So it occupies here this subdural
2 space. Then beneath that is the brain. On the outer
3 surface of the brain is a thin layer of tissue called
4 the arachnoid and it envelopes the brain -- excuse me,
5 the entire brain as it moves around. Then beneath the
6 arachnoid is the substance of the brain itself.

7 Mr. Larke had nine separate tears in the skin,
8 these lacerations. He had boney fractures of this
9 portion here. And he had blood that had collected
10 beneath this arachnoid layer, and it -- so beneath the
11 arachnoid but on top of the brain, called subarachnoid
12 hemorrhage, and he also had bruising, or bleeding into
13 the substance of the brain, not only beneath the impact
14 sights, but also along the front -- the anterior
15 surface, or the front portion in association with the
16 basilar skull fractures.

17 Q And what caused that bleed to -- the collection of
18 the bleeding in the brain and the other injuries,
19 actually injuries to the brain.

20 A The blunt trauma to the head is -- is transmitted
21 as force to the head causing skull fractures. These --
22 these fractures are then pressed downward such that they
23 impact the brain causing the bruising to the brain. The
24 bruises to the front surface of the brain are the result
25 of the brain itself actually coming in contact with

1 those roughened portions of the basilar skull fractures.
2 So it's -- it's bruising at the impact site and also at
3 the fracture site as a result of the blunt trauma to the
4 head.

5 Q All right. Let me hand you what is marked as
6 State's Exhibit Number 7, and if you'll examine that and
7 then I would like to ask you, from your examination
8 would the injuries be -- that you have described, be
9 consistent with being inflicted by State's Exhibit
10 Number 7?

11 A Yes, they would.

12 Q Assuming that this bat, State's Exhibit Number 7,
13 was used, how much force would you have to have to
14 accompany each blow, or the different blows that you
15 have described?

16 A To achieve a laceration and associated skull
17 fracture, it would take a great deal of force. With
18 each -- with this bat, it would take a great deal of
19 force to create those types of injuries.

20 Q So if -- in baseball terms, if you -- how would you
21 describe, if you were swinging that bat, that that bat
22 would have been swung in terms of just something we can
23 relate it to in terms of baseball?

24 A This would be -- this would be a full swing. This
25 would be trying to hit, you know, the ball out of the

1 park, or trying to hit, you know, the ball hard. This
2 was not a bunt. This was not a check swing. This was a
3 full swing with the baseball bat.

4 Q And are you familiar with the term defense wound?

5 A Yes, I am.

6 Q Did you observe any defense wounds in regard to Mr.
7 Larke?

8 A Yes, I did.

9 Q And explain to the jury what a defense wound is?

10 A Defensive injuries are injuries that are associated
11 with certain types of -- of other types of injuries. We
12 often see them with stab wounds. We often see them with
13 sharp force injuries, and we very often see them with
14 blunt trauma. Defensive injuries are injuries that are
15 to parts of the body that are generally considered to be
16 non-lethal, but are what you would expect to see if
17 someone were trying to put their hands up, or their arms
18 up to try to ward off a blow. So they're very often on
19 the back of the hands, on the wrists, sometimes the
20 upper part of the arms, as we get our hands up to
21 protect our more vital spaces, our head, our chest, and
22 to ward off a blow.

23 Q Did you observe any such wounds on Mr. Larke?

24 A I did.

25 Q And where were they located?

1 A He had a large bruise to the back of his right
2 hand.

3 Q All right. Now, specifically as to Gladys Larke,
4 did I also request that you prepare some drawings for
5 demonstrative purposes in court?

6 A Yes, you did.

7 Q Did you do that?

8 A I did.

9 MR. ARIAIL: State's Exhibit 22G, H and I, Your
10 Honor.

11 MR. ABDALLA: Without objection, Your Honor, except
12 as previously noted.

13 (State's Exhibit Numbers 22G through 22I were
14 marked and filed.)

15 BY MR. ARIAIL:

16 Q Now, you also have a report concerning the autopsy
17 of Mrs. Larke?

18 A Yes, I do.

19 Q You also observed her condition at the scene of the
20 crime?

21 A That's correct.

22 Q All right. What -- give me general information,
23 height, weight, age, that sort of thing?

24 A Mrs. Larke weighed approximately 130 pounds, was
25 five -- 63 and a half inches, or five feet, three and a

1 half inches in length, and appeared compatible with her
2 reported age of 59 years.

3 Q All right. And her stated age was what?

4 A Fifty-nine years.

5 Q Let me show you what's been marked as State's
6 Exhibit anybody 22G -- well, let's do this, 22H. Are
7 familiar with that?

8 A Yes, I am.

9 Q All right. Explain to us -- we're looking down at
10 the top of her head?

11 A That's correct.

12 Q And how many total lacerations or blunt force
13 injuries did Mrs. Larke have to her head and neck?

14 A She had nine lacerations to the top of her head and
15 to the back of her head.

16 Q And were, based on your examination, each of these
17 separately inflicted?

18 A Yes, they were.

19 Q Now, starting with number one, just go through and
20 relate to us what each one of those represents?

21 A Number one is the one closest to the front. Here's
22 the nose, and the ears for orientation. Number one is
23 this slightly curved shaped laceration with its
24 associated abrasion. It's approximately two inches in
25 length, and each one of these lacerations to the head I

1 was able to feel fractures beneath it. So there was
2 fracture beneath number one. And number two is this
3 large laceration here to the midportion of the top of
4 the head. It was a little more than two and a half
5 inches in length. It blends, or merges with a separate
6 laceration of the head that we numbered number three,
7 which was three inches in length, and at the time of the
8 autopsy we were able to tell that this is a separate and
9 distinct wound. It's -- sometimes you get tears
10 associated -- separate tears associated with a
11 laceration that you can -- there is the impact site and
12 there may be a separate tear, but on looking at this
13 one, this one is -- was felt to be a distinct and
14 separate wound tear, and it was just close enough to
15 number three that there wound margins merged together.
16 Number four is this large somewhat irregular looking
17 laceration which was, again, about two and a half inches
18 in length. Number five was two and a half inches in
19 length. And number six was a little more than two
20 inches in length. Again, each one of these was full
21 thickness. It went all the way through the skin down to
22 the underlying bone, and with each one of these
23 lacerations I was able to feel an associated skull
24 fracture.

25 Q Okay. State's Exhibit 22G?

1 A 22G is a diagrammatical representation of the back
2 side of the head of Mrs. Larke, showing three separate
3 lacerations, seven, eight, and nine. Seven was 2.4
4 inches, or two and a half inches in length. Eight was
5 one inch in length. And nine was almost two inches in
6 length. Again, each one of these lacerations was all
7 the way through the skin to the underlying bone, and
8 with these lacerations I was also able to feel
9 underlying skull fractures.

10 Q So each of the nine wounds inflicted to the head of
11 Gladys Larke resulted in skull fractures?

12 A That's correct.

13 Q Now, based on your examination, having gone to the
14 scene, conducted an autopsy, seen the position of Mrs.
15 Larke, were you able to formulate an opinion as to the
16 most probable means of how those wounds were inflicted
17 to her head?

18 A You mean, the position of her head or ---

19 Q Yes, position of her head.

20 A When looking at the wounds together, that six of
21 these wound are essentially on the same part of the
22 head, they're all on the very top of the head, and it --
23 it's most likely that the head remained in that
24 position, and that all of these wounds were -- were
25 rendered at or about the same time. They're all in the

1 same general direction. They're all in the same portion
2 of the head. They are -- these three separate wounds
3 are on a separate portion of the head, the back part of
4 the head. From the scene investigation, Mrs. Larke was
5 sitting in a chair, and the back of that chair was up
6 against a wall. And it would have been very
7 difficult -- it would have been impossible to -- to
8 inflict this type of wound with her head upright. You
9 just wouldn't have been able to swing an instrument hard
10 enough and impact her head with her sitting up right,
11 because there would have been a wall right here. So
12 it's most likely that at the time that these wounds --
13 three wounds to the back of the head were inflicted,
14 Mrs. Larke's head was forward, flexed forward with her
15 chin down towards her chest, exposing the back part of
16 her head.

17 Q Did you further examine these lacerations and
18 fractures to determine the extent of the underlying
19 damage?

20 A Yes, I did.

21 Q And if you would, we'll go back to State's Exhibit
22 22F, and explain to us what happened?

23 A Excuse me. On Mrs. Larke, within the region of the
24 top of the head, and especially on the right side, but
25 also in the back there were extensive skull fractures.

1 So the lacerations again are in the skin. There's
2 extensive fracture of the bones of the calvarium and a
3 portion of these fractures had occurred -- there was
4 obvious -- there was evidence that a portion of the bone
5 had been broken with another impact following that, with
6 a piece of the bone being driven downward such that this
7 thick fibrous tissue layer was also torn. So she had a
8 dural laceration, or tearing of the thick fibrous
9 tissue, and a portion of the bone driven down such that
10 it impacted the brain causing, again, this subarachnoid
11 hemorrhage.

12 Q Let me go back to that in just a second and
13 clarify. You said the first -- one blow would hit the
14 head and break the bone and then there was a second
15 blow?

16 A That's correct.

17 Q And that second blow would do what with the bone?

18 A The bone -- the bone of the skull is already
19 broken, and so another impact close to that would take
20 that broken piece and more easily move it around, moving
21 it downward, causing it to -- the sharp edges of this
22 bone to actually tear the dura overlying the brain -- or
23 beneath the bone and overlying the brain.

24 Q All right. Any brain impact?

25 A Yes. She also had a subarachnoid hemorrhage as did

1 Mr. Larke. And she -- the fractures of this portion of
2 her skull extend towards the front again, giving her
3 basilar skull fractures, and she also had some
4 contusions, or bruising of the brain, the front part of
5 her brain as well here. This is a good diagram to
6 demonstrate that as these basilar skull fractures, as
7 they come around here in this portion of the skull
8 directly communicate with the sinuses. When we breathe
9 our air goes up through these spaces in the bone called
10 your sinuses. With the fracture of this bone here,
11 blood is allowed to get into these sinus cavities, and
12 so that when we breathe, instead of having your air go
13 up through these what should be just spaces, they are
14 now blood filled spaces, and Mrs. Larke had evidence of
15 this by not only having this fracture but she also had
16 within her lungs blood, within the airways and out into
17 the -- or out into the substance of the lung, indicating
18 that she was alive following the injuries that caused
19 her basilar skull fractures, and was breathing through
20 these fractured sinuses and inhaling that blood down
21 into her lungs.

22 Q So as the blows were being inflicted, she was still
23 alive, breathing, drawing this blood in?

24 A That's correct.

25 Q All right. Now, did she have contusions -- you

1 said contusions to the brain, she had hemorrhages
2 overlying the brain?

3 A That's correct.

4 Q I have asked you to look at what's been marked as
5 State's Exhibit Number 7, the bat. And I will ask you
6 in regard to Mrs. Larke, if the bat, the wounds are
7 consistent with the ones that you found on her body?

8 A Yes, they are. Yes, they are.

9 Q Consistent in that they could have been inflicted
10 by that object?

11 A Correct.

12 Q I will ask you once again, also in regard to the
13 degree of force that would have been necessary to
14 inflict these wounds on Mrs. Larke's head?

15 A Much as to Mr. Larke's head, these are not trivial
16 swings with this bat. These are full force, great deal
17 of energy transmitted, homerun type swings.

18 Q All right. In your exam of -- autopsy, or on the
19 scene, did you also note any other blunt force injuries
20 to Mrs. Larke's body? I'm going to show you what's been
21 marked as State's Exhibit Number 21I. This likewise is
22 a standard form drawing that you use?

23 A That's correct. This is a diagram they shows both
24 the front and back portion of the body of -- in this
25 case representing Mrs. Larke. The shaded areas are

1 bruises of the skin. There is one to the back of the
2 left elbow. There are two to the back and inner aspect
3 of the left wrist, a bruise to the inner aspect -- the
4 back and inner aspect of the right forearm, and within
5 the right wrist there is a grouping of bruises and
6 superficial abrasions, or scratches of the skin.

7 Q Are those consistent with being called defensive
8 wounds?

9 A Yes, they would be.

10 Q And if you would, based on your examination,
11 training, and experience, demonstrate to the jury how
12 you believe these most likely occurred in Ms. Larke's
13 case?

14 A The most consistent way to get these type of
15 injuries, given the trauma or the injuries to
16 Mrs. Larke's head, would be if she put her arms up
17 across her head like this, so as she's getting blows to
18 the top of her head, they're also impacting the elbow
19 and the inner aspects of the forearms and wrists.

20 Q And could these blows indicated by the marks on her
21 arms, could they have also been separate blows from
22 those shown on the head?

23 A I believe them to be, yes.

24 Q All separate? So that the bruising indicates
25 additional blows, in addition to the ones you found on

1 the head, or have you formed an opinion on that?

2 A I think that each of the bruises to the forearms --
3 let's see if I can explain this. I think each one of
4 these is a separate impact to the forearm. I don't
5 believe I can say whether each one of these would be
6 blows 10, 11, 12, 13 and 14, or if they make have
7 occurred at the same time as some of the blows to the
8 top of the head.

9 Q All right. And based on the information that you
10 have obtained, and your examination, you say you did
11 determine that Mrs. Larke was alive for some period of
12 time. Do you have an estimate of how long she may have
13 been -- survived?

14 A My estimate would be a few minutes, and when
15 pressed that would be in the range of three to five
16 minutes.

17 Q How about Mr. Larke?

18 A Mr. Larke was face down when he was discovered at
19 the time of the scene investigation, and the blood
20 present from his basilar skull fractures is going to
21 probably gravity, and so it's leaking out over his nose
22 as opposed to staying in his sinuses. He did not have
23 blood present within his airways. Although there was a
24 fair amount of blood present at the scene, similar
25 injuries to Mr. Larke as to Mrs. Larke, somewhat similar

1 circumstances, my estimate would be about the same time,
2 a few minutes, three to five.

3 Q Okay. Now, Dr. Ward, when you visited the
4 residence of Mr. and Mrs. Larke, it was located in
5 Greenville County, correct?

6 A That's correct.

7 MR. ARIAIL: Thank you. Answer any questions that
8 either defense counsel may have.

9 THE COURT: Mr. Abdalla.

10 MR. ABDALLA: May I have one, moment, Your Honor,
11 please?

12 CROSS-EXAMINATION

13 BY MR. ABDALLA:

14 Q Good morning, Dr. Ward, it's still morning. As a
15 matter of fact, we've met previously?

16 A That's correct.

17 Q I'm intimated, you have too much education. Now,
18 you testified about the blunt force trauma. You say
19 there were approximately nine strikes to each of the
20 victims in this case, isn't that true?

21 A That's correct.

22 Q And with regard to Mr. Larke, there was some
23 bruising, let me see if I can find the correct exhibit,
24 I apologize, State's Exhibit Number 22A, if I could show
25 this to the witness, for instance near the eye?

1 A Yes, there is.

2 Q And what I was just going to ask you about that, do
3 you remember where the body was found?

4 A To some degree, yes.

5 Q All right. I was actually looking for the other
6 diagram which I can't find. But Mr. Larke's body was
7 found in the kitchen and there were a counter and a
8 refrigerator there or something, do you remember what
9 the -- what was surrounding him? I mean, his body
10 wasn't in a wide open space, isn't that correct?

11 A That's correct.

12 Q And was there some type of counter or something
13 nearby, do you remember that?

14 A One portion of the body was opened to the room.
15 The opposite side was up against, or not necessarily up
16 against, I don't remember exactly that much, but closer
17 to either a refrigerator or a counter.

18 Q Okay. And is it possible when he was struck that
19 at least one of those injuries could have been from
20 contact with the counter or something on the way down,
21 one of the side of his head or whatever, not the blunt
22 force but to the smaller ones?

23 A Of the injuries on Mr. Larke, the possibility that
24 it would be a secondary injury on an injury that
25 occurred following a collapse or an impact to the floor,

1 could possibly explain the bruising to the left side of
2 the face and could possibly explain the superficial --
3 the more superficial laceration to the outer side of the
4 eye.

5 Q Thank you. Those were the ones I was referring to.
6 Wasn't there also bruising to the shoulder?

7 A There was.

8 Q And I believe we had discussed this previously and
9 if Mr. Larke was struck over the head with the bat, is
10 it possible that it grazed and hit his shoulder, so that
11 was -- could that have been done by one blow to the head
12 and grazed the shoulder?

13 A That's correct, it could be.

14 Q You didn't testify to any injuries to the lower
15 extremities, is that correct?

16 A That's correct.

17 Q There is no injury to the lower extremity of either
18 David or Gladys Larke, is that correct?

19 A That's correct, there were none.

20 MR. ABDALLA: If I could approach the witness, Your
21 Honor. I'd like these items marked as Defense Exhibits,
22 for identification, 2 and 3. I don't believe we have
23 any others.

24 (Defendant's Exhibit Numbers 6 and 7 were marked
25 for identification.)

1 MR. ABDALLA: That's why I couldn't find the other
2 stuff, 6 and 7. I'm sorry, I need a moment to review
3 one of these items. I apologize to the Court and
4 everybody else who has to wait. I picked up the wrong
5 things. Can I have these marked at Defense Exhibits for
6 identification with those same numbers?

7 THE COURT: As long as you tear those up.

8 MR. ABDALLA: We'll tear these up.

9 THE COURT: So we don't confuse the record.

10 MR. ABDALLA: That's true. Can I just take these
11 off here?

12 THE COURT: Yeah.

13 (Defendant's Exhibit Numbers 6 and 7 were remarked
14 for identification.)

15 MR. ABDALLA: Thank you.

16 BY MR. ABDALLA:

17 Q I hold in my hand Defense Exhibit Number 6 for
18 identification, which is the certificate of death.
19 Would you please tell me on that form what you estimated
20 the time of death to be?

21 A Approximately 8:00 a.m.

22 Q Thank you. And now Defendant's Exhibit marked for
23 identification Number 8, would you do the same with that
24 form as well?

25 A Approximately 8:00 a.m.

1 Q So you do say that David and Gladys Larke,
2 according to your estimation, died at approximately 8:00
3 a.m.?

4 A That's an estimation of their time of death, yes.

5 MR. ABDALLA: Thank you. I'd move to enter these
6 into evidence.

7 THE COURT: Without objection?

8 MR. ARIAIL: No objection.

9 THE COURT: All right. They are not exhibits.

10 (Defendant's Exhibit Numbers 6 and 7 were filed.)

11 MR. ABDALLA: Thank you.

12 BY MR. ABDALLA:

13 Q You said a great deal of force was used with these
14 wounds, isn't that correct?

15 A That's correct.

16 Q And you said that as far as these nine lacerations
17 go, the serious blunt force trauma lacerations were done
18 consistently as far as force, am I correct in
19 determining that there was no real difference in the
20 first blow versus the second blow, with regard to the
21 force used, they were indistinguishable, is that fair to
22 say?

23 A That's fair to say, yes.

24 Q Is it also fair to say that any of these blows
25 could have been rendered somebody dead? Could the force

1 that was used on these blows kill the person?

2 A I'm not sure that I can say that any single blow
3 would have caused death, and that it's a culmination of
4 multiple blows that resulted in death.

5 Q Would you say a couple could have caused death?
6 Surely doesn't have to go to nine?

7 A It -- it becomes difficult to separate out, you
8 know, injuries that resulted in death. The most likely
9 scenario is that as a result of these multiple injuries
10 that over -- as the blows were continued to be inflicted
11 with skull fracturing resulting, loosening of this bone,
12 bone being driven downward, that the trauma becomes
13 worse. And so instead of it just being the energy
14 transmitted from a single blow of this blunt force
15 trauma, that we also have somewhat penetrating injury of
16 these bone fragments down into the brain. So that the
17 more blows you have certainly the more trauma you have.
18 Now, where to draw the line, you know, three, four,
19 five, six or seven, I don't know how to do that.

20 Q Okay. There is a pattern on State's Exhibit Number
21 22H of six blows to the head of Gladys Larke?

22 A Yes.

23 Q Is it safe to say that a person standing over Mrs.
24 Larke, or whatever the position was, was just raining
25 blows down over her head in a consistent pattern, with

1 the grouping of those being that close together?

2 A Yes, it would be consistent to say that.

3 Q Okay. Would it also be consistent with what you
4 have learned that loss of consciousness could have been
5 within a matter of seconds?

6 A Yes.

7 Q Okay. Dr. Ward, what is adrenalin?

8 A Adrenalin is -- another name for that is
9 epinephrine, or norepinephrine. It's a substance
10 released from our adrenal glands that causes us to
11 respond to certain situations. The adrenal glands are
12 called the fight or flight glands, and that when
13 adrenalin is released it causes an increase in blood
14 pressure, an increase in heart rate. It helps us to
15 respond to stressful situations.

16 Q And how does it -- how does it help -- what does it
17 do for your energy level?

18 A I don't know that it does anything for your energy
19 level. It certainly increases your heart rate, your
20 blood pressure. It's suspected that in certain
21 situations can increase strength.

22 Q Can increase strength. Is that consistent with,
23 and you'll stop me here if I'm wrong, but you'll hear
24 stories of somebody lifting a heavy object of a loved
25 one that normally they wouldn't be able to achieve?

1 A That's correct.

2 Q Would you say that the person who committed this
3 crime was pretty hyped up at that time based on what
4 you've seen?

5 A I don't know have an opinion about that.

6 Q No opinion. Is it inconsistent with a person being
7 hyped up on either adrenalin, drugs or whatever?

8 A No, it's not inconsistent.

9 Q Another thing I discussed with you -- or would like
10 to discuss with you is, have you ever heard of overkill?

11 A Yes, I have.

12 Q And is overkill something that this could be
13 consistent with, from your theories of overkill?

14 A Overkill is a situation that is described when
15 there are much more injuries inflicted than you would
16 expect to be necessary to cause death. They're often
17 seen in domestic types of relationships. Most often
18 described in homosexual types of relationships where one
19 of the partners is killing the other. Most often
20 described with stab wounds where there are numerous,
21 and we're talking about 20, 30, 40 stab wounds to the
22 chest area, to the face area, to vital areas, inflicting
23 much more damage than would be necessary to cause
24 death. So if you take these types of injuries and add
25 them up to nine, could that be called overkill, you

1 know, there may or may not be, as we discussed before,
2 I don't know when the Larkes became non-responsive,
3 unconscious, and I don't know what blow was the coup de
4 grace, and after that were the overkill. But if you --
5 in the broad category, it's possible to include this in
6 overkill.

7 Q Thank you. Dr. Ward isn't it true that you have
8 numerous photos of these people that are much gross
9 than -- much worse than what we've seen already?

10 A There's photographs that depict the lacerations,
11 yes.

12 MR. ABDALLA: Thank you. Let me ask -- may I have
13 one moment, Your Honor? No more questions.

14 THE COURT: Anything on redirect, Solicitor?

15 MR. ARIAIL: Just one thing on this death
16 certification.

17 REDIRECT EXAMINATION

18 BY MR. ARIAIL:

19 Q What is the manner of death? Do you list that?

20 A Do you mean what is manner of death or what is
21 the ---

22 Q What is the manner of death in this instance,
23 described as -- or cause of death?

24 A The cause of death is that -- is the injury or
25 disease process that causes that person to become dead

1 at that time.

2 Q And in this ---

3 A And -- I'm sorry.

4 Q --- I'm sorry. Go ahead.

5 A And the cause of death for both Mr. and Mrs. Larke
6 was blunt force trauma of the head.

7 Q All right. And the manner of death as denoted on
8 these forms is what?

9 A As homicide.

10 Q And what does that mean?

11 A Death of an individual at the hand of another.

12 Q All right. And that was your determination?

13 A That's correct.

14 Q And when you're talking about these multiple
15 blows, what actually happens to the body that causes it
16 to die, the blood loss, or describe exactly what
17 happens?

18 A In these two deaths there was not much blood loss.
19 These two deaths are a disruption of the electrical
20 impulses of the brain. The brain speaks to itself and
21 various parts of its brain through electrical and
22 neurotransmitter impulses. Blunt trauma to the head is
23 mechanical force that becomes translated as an
24 electrical force, and enough trauma to the head can
25 disrupt enough electrical impulses that the brain is no

1 longer able to appropriately direct the body's
2 responses. So that over a period of time, if you damage
3 your brain enough, and enough of these electrical
4 impulses are disrupted, then the brain no longer is able
5 to tell your body what it needs to do. It's no longer
6 able to tell your body when to breathe. It's no longer
7 able to control heart rate, blood pressure. And so
8 after that, then the automatic portion takes over and
9 your body will breathe on its own for a few minutes,
10 your heart will beat on its own for a few minutes, but
11 without the impulses from the brain, then those are
12 lost.

13 Q And the body just shuts down?

14 A That's correct.

15 MR. ARIAIL: Thank you, Doctor. That's all we have
16 of this witness.

17 THE COURT: All right. Thank you. You're excused
18 from your subpoena. Make sure you don't have any
19 exhibits when you leave.

20 MR. ARIAIL: He is not excused.

21 THE COURT: Okay.

22 MR. ARIAIL: May be subject to recall.

23 THE COURT: Okay. You can go about your business,
24 we'll call you if we need you.

25 THE WITNESS: Thank you.

1 THE COURT: Solicitor?

2 MS. STROM: May we have a side-bar very briefly,
3 Your Honor?

4 THE COURT: Sure.

5 (A bench conference was held.)

6 THE COURT: All right. Mr. Foreman, ladies and
7 gentlemen, let me send you back to the jury room for
8 just a few minutes. We'll be with you shortly.

9 (The jury exited the courtroom at 11:46 a.m.)

10 THE COURT: Everybody else have a seat, please.

11 All right, Solicitor.

12 MR. EPPES: Your Honor, could we step outside while
13 we're doing this.

14 THE COURT: To do what?

15 MR. EPPES: To discuss our case in chief.

16 THE COURT: Don't go far. We're still in session.
17 Everybody else just remain seated.

18 (A pause in the trial took place, after which, the
19 trial continued as follows:)

20 MR. ARIAIL: Your Honor, the State would rest at
21 this time.

22 THE COURT: All right. Now, does the defense have
23 anything to offer?

24 MR. EPPES: Your Honor, the defense would rest at
25 this time.

1 THE COURT: All right. Now, Mr. Sigmon, if you
2 will, raise your right hand.

3 BRAD SIGMON

4 Having been first duly sworn, testified as follows:

5 THE COURT: All right. I need you to answer some
6 questions. If at any time you do not understand my
7 questions let me know. You understand that the State
8 has rested their case, so we've reached that stage of
9 the trial where you make present a defense. Do you
10 understand that?

11 MR. SIGMON: Yes, sir.

12 THE COURT: All right. You don't need to stand,
13 that's fine. You understand that you have the right to
14 testify in your own behalf at this stage?

15 MR. SIGMON: Yes, sir.

16 THE COURT: All right. You understand that no one
17 can make you testify at this stage?

18 MR. SIGMON: Yes, sir.

19 THE COURT: All right. In the event that you have
20 a record of moral turpitude, or something that carries
21 more than a year on your record in the last 10 years,
22 you understand the Solicitor would be able to introduce
23 that record for impeachment purposes if you did testify?

24 MR. SIGMON: Yes, sir.

25 THE COURT: All right. But if -- if he did that,

1 and I don't know if you have a record, but if he did, I
2 would instruct the jury they could not hold that against
3 you as far as their determination of guilt or innocence
4 on this trial. I would instruct them that the only
5 reason that record was introduced is for impeachment
6 purposes. Do you understand that?

7 MR. SIGMON: Yes, sir.

8 THE COURT: Do you understand that I will give the
9 jury a charge, if you decide not to testify, I will tell
10 them they could not hold that against you in any way
11 whatsoever. Do you understand that?

12 MR. SIGMON: Yes, sir.

13 THE COURT: Have you had enough time to make up
14 your mind whether or not you want to testify?

15 MR. SIGMON: Yes, sir.

16 THE COURT: All right. Do you understand that the
17 decision to testify is yours and yours alone? In other
18 words, you certainly could listen to your lawyers, and
19 you could talk to family members, you could talk to your
20 lawyers, but the ultimate decision on whether someone
21 waives the right is that person's. Do you understand
22 that?

23 MR. SIGMON: Yes, sir.

24 THE COURT: All right. Have you had enough time to
25 talk with your lawyers, family members about your

1 decision of whether or not to testify?

2 MR. SIGMON: Yes, sir, I have.

3 THE COURT: And again, you have -- your lawyers
4 have told me that you have decided not to testify, is
5 that correct?

6 MR. SIGMON: Yes, sir, but I have a question
7 though?

8 THE COURT: Yes, sir.

9 MR. SIGMON: Will I be allowed to speak for a
10 minute at the end of trial?

11 THE COURT: You would have the right to address the
12 jury, yes, sir.

13 MR. SIGMON: Yes, sir.

14 THE COURT: All right. Well, let me get to that.
15 Can you tell me now if you intend to address the jury in
16 closing statements?

17 MR. SIGMON: Yes, sir, I do.

18 THE COURT: All right. Okay. Anything else on
19 that issue? All right. Then what I'm going to do is
20 bring the jury back, let you rest, let the defense
21 rest, then we will -- I'm going to send them to lunch.
22 They are going to not bring lunch, they're going to take
23 them out, that will give y'all a little more time to get
24 ready for your arguments. I'll hear motions at this
25 time, and then we'll come back at -- how long -- do

1 y'all want to come back at 1:15 or 1:30?

2 MR. ABDALLA: 1:30.

3 THE COURT: Well, if I said 1:30 or 2 o'clock, what
4 would you say?

5 MR. ABDALLA: I would say two o'clock because I was
6 really hoping to get a breather for lunch and not have
7 to ---

8 THE COURT: All right, 1:30.

9 MR. ABDALLA: We can't -- we can't have 2:00?

10 THE COURT: No. Okay. If I said 2:00 or 3:00,
11 what would you have said?

12 MR. ABDALLA: 2:00, 2:00 is fine.

13 THE COURT: No, 1:30 is where we're going. All
14 right. Bring the jury in.

15 MR. ARIAIL: Did you ask for motions at this time,
16 or are you going ---

17 THE COURT: I'm going to send the jury first.

18 MR. ARIAIL: Okay.

19 (The jury entered the courtroom at 11:55 a.m.)

20 THE COURT: All right. Solicitor, your next
21 witness.

22 MR. ARIAIL: The State rests, Your Honor. That's
23 the entire case on behalf of the State.

24 THE COURT: All right. Is the defense ready to
25 proceed?

1 MR. ABDALLA: Your Honor, the defense is going to
2 rest. We're not going to present ---

3 THE COURT: All right. Mr. Foreman, ladies and
4 gentlemen, you have heard all the testimony and evidence
5 that you're going to hear in this case. What I'm going
6 to do is, I'm going send you to lunch, not bring it in.
7 We're going to send you out. That will give the
8 attorneys a little more time to prepare for their
9 closing arguments, and also give you a chance to get out
10 and get some fresh air. We will begin back at 1:30.
11 You may be back in the jury room before then, but we'll
12 come back at 1:30 in court and have closing arguments
13 and my charge on the law. While you're outside the
14 courtroom, don't talk about this case with anyone,
15 including among yourselves. Have a good lunch. We'll
16 see you back at 1:30. All right. Everybody else remain
17 seated, please.

18 (The jury exited the courtroom at 11:56 a.m.)

19 THE COURT: All right. Anything from the State?

20 MR. ARIAIL: No.

21 THE COURT: Defense?

22 MR. EPPES: Your Honor, two quick points. First,
23 the defense would like to inform the Court that we will
24 not be asking for a manslaughter charge.

25 THE COURT: Okay.

1 MR. EPPES: Secondly ---

2 THE COURT: What about self-defense?

3 MR. EPPES: We will not be asking for a
4 self-defense charge.

5 THE COURT: Okay.

6 MR. EPPES: Secondly, we would request that the
7 Court give us some guidance as to what your plan is for
8 scheduling, assuming the jury will come back kind of
9 quickly.

10 THE COURT: Are you talking about assuming there's
11 a guilty verdict and the next stage?

12 MR. EPPES: Yes.

13 THE COURT: Okay. If it is -- well, 1:30, 2:30.
14 How long you going to argue, half hour each, something
15 like that? My charge. We're talking about them getting
16 it at 3:00. If they came back with a verdict by 4:00,
17 or 4:30, or something, then I would consider -- I would
18 listen to you, but I would consider starting back
19 Saturday at that same hour, going until, you know, seven
20 o'clock at night or so. But I'll also consider waiting
21 until Sunday morning, but those are the two options.

22 All right. Any motions?

23 MR. ABDALLA: None, Your Honor.

24 THE COURT: Well, let me ask you this, do you have
25 to make a motion to preserve anything at this time? I

1 mean, I know you're conceding guilt but ---

2 MR. ABDALLA: I feel like it's kind of futile to
3 raise a motion for a directed verdict when we don't
4 believe that the evidence is not there. That's the only
5 motion I've ever made at this point.

6 THE COURT: Well, I think you need to make that
7 motion to protect the record.

8 MR. ABDALLA: Okay. We make a motion for a
9 directed verdict for the defendant.

10 THE COURT: Denied.

11 MR. EPPES: Thank you, Your Honor. We were hoping
12 that would be good grounds for a PCR.

13 MR. ABDALLA: We just wanted to set you up so you
14 could say no.

15 THE COURT: All right. Anything as far as charge,
16 besides murder and burglary? And the burglary charge
17 is -- is real simple. It's -- it's sort of an edited
18 version of Irwin's 12-1. I have Irwin up here if you
19 want to look at it. Circumstantial evidence, failure of
20 the defendant to testify, expert witness, confession,
21 anything else of a -- I mean, other than reasonable
22 doubt and all that stuff? Anything else?

23 MR. ABDALLA: Nothing from the defense.

24 THE COURT: Okay.

25 MR. ARIAIL: Which reasonable doubt charge are you

1 using?

2 THE COURT: I'll probably use both of them. I'll
3 use -- I'll use Victor v. Nebraska, but I'll also use
4 State v. Manning.

5 MR. ABDALLA: Is that hesitate, Your Honor?

6 THE COURT: Yeah. Reasonable doubt is the kind of
7 doubt that would cause a reasonable person to hesitate
8 to act. If you have such a doubt as to the guilt of the
9 defendant, then he would be entitled to a verdict of not
10 guilty. And then it goes on, clearly convinced, real
11 possibility, Victor v. Nebraska.

12 All right. Anything else? All right. We'll see
13 you back at 1:30. Y'all step up here. What is the
14 order of argument?

15 MR. ABDALLA: I believe we're not going to require
16 them to open, if that's what you're asking? Unless
17 there's something I don't know. It goes State, defense,
18 then defendant is my understanding, am I incorrect on
19 that?

20 THE COURT: It goes State, defendant, then
21 defendant?

22 MR. ABDALLA: Defense and then defendant, I'm
23 sorry.

24 MR. EPPE: Well, I don't know -- I thought the
25 statute did not specify whether the defendant spoke

1 first or second.

2 THE COURT: I don't know if it does or does not.

3 MR. EPPES: We would plan to go State, defendant,
4 defense.

5 THE COURT: Anything on that?

6 MS. STROM: They're always entitled to the last
7 argument.

8 THE COURT: What?

9 MS. STROM: I said they're always entitled to the
10 last argument.

11 THE COURT: I understand that. I'm saying -- you
12 know, defendant, defense?

13 MS. STROM: That's not defined as far as which way
14 it has to go.

15 THE COURT: All right. So the order is going to be
16 the State, defendant, defense?

17 MR. ABDALLA: Anything I know, is we're not
18 required to do an opening, but I don't want to do that.

19 MR. EPPES: No.

20 MR. ABDALLA: I'm saying ---

21 THE COURT: Well, if you opened, what would you
22 open on, the law?

23 MR. ABDALLA: I know, it's just silly to me.

24 THE COURT: Okay. Thank you.

25 MS. STROM: Thank you.

1 THE COURT: Off the record. All right.

2 (A lunch recess was taken, after which, the trial
3 continued as follows:)

4 THE COURT: There will be no moving around during
5 the arguments or my charge, no coming and going.
6 Depending on the length of the argument, we may take a
7 break before my charge, but I just need to let everybody
8 know that if they need to leave they need to leave now.
9 All right. Anything before.

10 MR. ARIAIL: Your Honor, could we request that you
11 specifically instruct, if the defendant is in fact going
12 to address this jury, instruct him that his limitations
13 are to stay within this record and not to address the
14 issue of penalty, and to stay within the facts of the
15 record, so we'll maintain some level of decorum without
16 us having to object.

17 THE COURT: Okay. What's your position?

18 MR. EPPES: Your Honor, that's not going to be a
19 problem.

20 THE COURT: Okay. All right. You understand, Mr.
21 Sigmon, the only -- the only thing you can comment on is
22 what's been in the record and at this point in time it
23 would not be proper to talk about penalty?

24 MR. SIGMON: Yes, sir, I understand.

25 THE COURT: All right. Anything else? All right.

1 Bring the jury. Do you need the indictments for
2 arguments?

3 MR. ARIAIL: No, sir.

4 THE COURT: Whose making your ---

5 MR. ABDALLA: May I approach?

6 THE COURT: You got an exhibit?

7 MR. ABDALLA: Yes, sir. Sorry about that.

8 THE COURT: We won't put you in jail.

9 (The jury entered the courtroom at 1:36 p.m.)

10 THE COURT: All right. I trust y'all had a good
11 lunch. We are, as you know, through with the testimony
12 in the case. We are at the point where the attorneys
13 will address you in closing arguments. The order of
14 arguments will be the Solicitor will argue first, they
15 carry the burden of proof in this case. The defendant,
16 Mr. Sigmon, has the opportunity to address you. And
17 then Mr. Abdalla will make the argument for the defense
18 in this case. I will remind you that what the attorneys
19 say is not evidence in the case. The evidence you have
20 is from the witnesses, from the exhibits, but I do
21 invite your careful attention to these arguments. My
22 charge will about 20 or 30 minutes. Depending on how
23 long the arguments are, we'll either go directly into my
24 charge or we'll take a short break then come back for my
25 charge, and then you will have it for your

1 deliberations.

2 Solicitor.

3 MR. ARIAIL: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 MR. ARIAIL: May it please the Court?

6 Mr. Foreman, ladies and gentlemen of the jury, in
7 thinking about what I was going to talk about at the end
8 of this case, I really wasn't sure what to say, because
9 when we started this case I heard them say to you that
10 he was guilty and that that was the only verdict that
11 could be reached. But since then, we have proceeded
12 through cross-examination of every witness on every
13 point, so it becomes necessary that I talk to you in
14 length about what we have established in this case,
15 because I don't know what they are going to say when
16 they get up here afterwards. And they do have the
17 opportunity to speak to you after I do.

18 I don't know what they're attempting to prove. I
19 don't know what they're going to suggest to you, but I
20 would say at some point throughout the closing argument,
21 you're going to hear that it was somebody else's fault,
22 other than Brad Sigmon. It's either that God turned his
23 back on him, as he suggested to the police in
24 Gatlinburg, or that Becky shunned him, or that Geno
25 didn't stick out the deal and as a result caused him to

1 do something. But somewhere I suggest to you you're
2 going to hear that Brad Sigmon was not at fault, that
3 one of these other incidents came into play to somehow
4 reduce his liability.

5 They have the last argument. In fact the defendant
6 has the opportunity to argue to you also. But they have
7 the chance to get up last and argue to you, and I
8 suggest to you and urge you to hold them to what they
9 told you when they first addressed you, and that was
10 that this defendant is guilty, and there is no other
11 verdict that you can return but guilty, and that the
12 only issue in this case is what sentence he gets.

13 Don't allow them to manipulate you into facing
14 something -- or some other issue. That's what Brad
15 Sigmon tried to do with the police. Brad Sigmon is a
16 manipulator, and Brad Sigmon tried to manipulate the
17 police. He thought he could talk and talk and talk to
18 the officers and tell them so much that he could talk
19 his way out of his trouble. He did the same with Selena
20 Riddle. He was so nice, he was so nice in his trouble,
21 that she thought he was a nice person. And sitting
22 there right now in his chair ---

23 THE COURT: All right. Solicitor, I apologize.
24 Who has the phone?

25 MS. BARKER: I'm sorry, Your Honor. I thought it

1 was off. I'm sorry, Your Honor.

2 THE COURT: All right. Go ahead.

3 MR. ARIAIL: Sitting there right now, he's certain
4 that he can talk to you in seeing it in some other light
5 other than ---

6 MR. ABDALLA: Objection, Your Honor.

7 THE COURT: What's the objection?

8 MR. ABDALLA: I believe he's shifting the burden of
9 proof, Your Honor.

10 THE COURT: Overruled. Go ahead.

11 MR. ARIAIL: Because he believes he can manipulate
12 you into looking at this case differently than what it
13 is. That's his style, control, manipulation. And when
14 you look at that, when he gets his opportunity to talk
15 to you, you hold him -- if he takes advantage of that
16 opportunity, you hold him to the same statement that he
17 made to you in the beginning, that he is guilt.

18 But let's point out a couple important facts.
19 First, Brad Sigmon wasn't willing to talk to anybody
20 until he got caught. And when he got caught he
21 didn't -- before he got caught he didn't try to talk to
22 the police. He shunned his parents' advice to turn
23 himself in. He ran and hid for 10 days to avoid
24 capture. But when he was caught he was cooperative.
25 And that's the same as it is with this trial. He tells

1 you in the beginning of the case, or the opening
2 statement that he was guilty, but then throughout the
3 entire process he goes through cross-examination trying
4 to make points. So I'm going to anticipate some of the
5 things they may argue to you. I may be wrong. They may
6 not argue any of these. But in order to represent the
7 State properly, it's necessary that we do that.

8 His statements to the police, beginning first in
9 Gatlinburg and then to Detective McNamara, those were
10 the results of 10 days of planning and getting his
11 statements together. In fact, you might have noticed
12 that the statement he made to Detective Williams said he
13 scratched it out because he thought it was too cold, it
14 was too cold, and he wanted it to sound better. He was
15 planning at that time how this presentation should be
16 made to whoever was listening, the police, the jury, the
17 judge, the prosecutor, but he was attempting at that
18 time to manipulate. And I wonder are -- if the
19 statement -- if he had had more opportunity to think
20 about it, would he have made more outlandish claims?

21 But the main thing, as I said in the beginning,
22 just keep your eye on the ball. The issue here is the
23 murder of David and Gladys Larke. That's what this is
24 about. It's not about his love life. It's not about
25 his problems with the job. It's not about his problems

1 with anything else in his life. It's about what he
2 intended to do on the morning of April the 27th, when he
3 went to Gladys and David Larke's house.

4 And we told you in the beginning, and I did in my
5 opening statement, that he would prove to you that
6 burglary and murder were the charges, and that burglary
7 and murder would be established to you, all elements of
8 them, beyond a reasonable doubt, and in fact beyond any
9 and every doubt. And I submit to you that we have done
10 that.

11 We have proven beyond all doubt that these two
12 elderly, virtually defenseless people were brutally
13 beaten, after their home was wrongfully entered for
14 criminal purposes, and that Brad Sigmon is the one who
15 did that.

16 Mr. Larke was 62 years of age. He was 5 feet 10
17 inches tall, and he weighed 160 pounds. Ms. Larke was
18 59 years old. She was 5 feet 3, and she weighed 130
19 pounds. These are small, elderly, slight people. And
20 yet they were having to deal in that instance with
21 this young, very agile, strong, stocky, athletic
22 individual.

23 And this case is serious business, and it's for
24 serious people, and it's for serious consideration. So
25 we urge you at this point to give serious consideration

1 to the elements. And let's take a little bit of --
2 think a little bit about it. I suggest to you that at
3 some point throughout this proceeding, Mr. Sigmon or
4 his attorneys, whoever, is going to urge you that one
5 of these other reasons caused him to act out. But
6 it's time to hold Mr. Sigmon accountable, it's time to
7 hold him responsible to the heinous acts that he
8 committed.

9 When you look at this case objectively, you start
10 from the very beginning. He planned the entire event.
11 He recruited help from his friend Geno. He talked about
12 it for days in advance. It was what was on his mind.
13 He went shopping for the supplies to get it done. He
14 tried to buy a gun to use and was unsuccessful in doing
15 that. He ignored every person that told him, leave it
16 alone, let her go, get this off your mind. He stuck
17 with it and kept his plan. He hid his car in an
18 excluded place so he would have an escape route. He
19 snuck to the trailer in the dark of night, knowing he
20 had been evicted, knowing he was on trespass notice,
21 knowing he was not supposed to be there, entered the
22 trailer from the back, went in and stayed in the
23 trailer, and waited and waited until the perfect moment
24 that he saw that he had planned, when David Larke would
25 be asleep and the children would be gone to school,

1 and he could sneak in the back and take care of his
2 plan.

3 If this was a man who just lost if for a short
4 period of time, he would not have fled, he would not
5 have hid, he would have turned himself in at that time.
6 But he did not. And he ran and hid and avoided capture
7 for 10 days.

8 We have proved the elements of burglary. We have
9 proved the house was entered. We have proved it was
10 entered without consent. We proved that while he was in
11 there he committed an act of physical violence to a
12 person who was not a participant to the crime. Those
13 are the elements of burglary.

14 And we have proved murder in the both instances.
15 We have proved that he beat to death both Gladys and
16 David Larke with a baseball bat. And look at the issue
17 of aforethought and malice.

18 Aforethought, I told you in the beginning, and His
19 Honor will charge you, requires only that the defendant
20 at the time he struck the fatal blow intend to take that
21 act. I submit to you that he knew when he hit Gladys
22 and David, he knew what he was doing. He took that
23 baseball bat in his hand and he hit each of them nine
24 times, maybe more. He crushed their skulls. And he
25 knew when he was doing it the very act of doing it, if

1 you can envision such an act, he knew it was a death
2 blow.

3 Why did he attack them? Motive is never an element
4 the State must prove. We must never prove why somebody
5 did something. Because why is a mental concept that
6 we may never know. All we must prove is that he did do
7 it.

8 But I will suggest to you a reason why he did it.
9 And he needed to do it because he needed to eliminate
10 Gladys and David. Gladys and David were Becky's rock.
11 Gladys and David were the ones that let Becky come home
12 to live with them when she had trouble with Brad. They
13 had evicted him. They had supported her. But without
14 them, she was vulnerable. And his whole plan was
15 manipulation and control, and with them out of the way,
16 Becky was a better target for him. And that's what this
17 case is about.

18 So I submit to you he knew when he went in he was
19 going to kill them. He had to to get Becky under his
20 control.

21 Now, I was thinking about what it must have been
22 like for Gladys and David Larke right before this
23 occurred. Their daughter was breaking up with Brad
24 Sigmon. He obviously was stalking her based on his own
25 admissions in his confession. He was watching her eat

lunch. He was following her at which she had to stop off at the fire department. He could see her at work. He was looking through her bedroom window constantly. He was on their property. This is property he didn't own, but he was on their property. He couldn't -- they couldn't get him off. They put him on trespass notice. They finally evicted him. But he wouldn't vacate the trailer until he got the eviction papers. Mr. Larke was so desperate that even Selena Riddle, the process server, could detect it in his voice. He was desperate and he was afraid, so was Mrs. Larke. And in all of that they got Brad Sigmon off of the property and they were relieved. And he took up residence at the Cape Cod Inn where he stayed for approximately a week in Anderson County. And they were happy.

But he returned and he returned with malice in his heart. And malice is an evil spirit, wickedness, depravity. And His Honor will tell you it is a heart bent on mischief. Those are the legal definitions. But what it really is is meanness, just plain meanness.

And put this in perspective, and I want you to think through this, and it will be difficult to do, but just think through the amount of meanness we're going to talk about.

1 Here we had two elderly people, one 59, one 62,
2 enjoying the golden years of their retirement. They're
3 living, breathing human beings. They never harmed a
4 sole. Even Brad said David Larke was the kindest man he
5 knew. And they were just trying to help their daughter
6 through a tough time. And he went over there with
7 malice, carrying a bat, after he couldn't buy a gun, and
8 why else would a strong, agile, athletic, tree climber
9 take an bat with him to deal with a 5'3", 130 pound
10 woman, and 5'10", 160 pound man, unless he intended to
11 use it. And when you consider malice, I want you to
12 consider how much meanness it would take to hit a
13 living, breathing human being in the head with a
14 baseball bat, and after you hit that person in the head,
15 to hit that person again and again and again, and to
16 hear the sound of that bat crushing against that
17 skull, seeing the blood that you're drawing from that
18 poor innocent victim and feeling and hearing the
19 whack, whack. That is depravity of spirit, ladies
20 and gentlemen. That is meanness beyond any
21 definition.

22 And then think about this little lady 5'3", 130
23 pounds, who runs and gets in the security of her
24 Lazy-boy recliner in her living room. That's where she
25 sat to watch TV. That's where she sat to talk on the

1 telephone. And in he comes with the bat. Vulnerable,
2 sitting there with her hands up over her head, and he
3 hits her nine times. And you saw the description, and
4 you saw the diagrams of Dr. Ward gave us. And he
5 listened to that bat hit that little lady's head time
6 and time and time again. And he heard her moan, and
7 then he heard David moan. And he went back to David.
8 And when he got back to David he whacked him some more
9 with that bat. And then at the time they were both
10 completely defenseless, yet he continued to hit and hit
11 and hit.

12 How long did the beating go on? I don't know. I
13 don't know if it went on for a minute and 39 seconds or
14 whether it went on for as long as it took Eugene Strube
15 to leave that back door and walk all the way, a mile
16 and a half, to the store. But it took a long time. And
17 if you were there for a minute and 39 seconds, unloading
18 18 bashes of a baseball bat to the head of another
19 living human being, you would know that malice existed
20 in the mind of Brad Sigmon, or it does not exist
21 anywhere.

22 This is true, when they asked Dr. Ward was this
23 overkill, yes, this was overkill. This was malicious,
24 meanness and overkill. And this man needs to be held
25 accountable for one of the most heinous crimes that you

1 can imagine. He's a murderer. And you should tell him
2 he's a murderer with your verdict.

3 Thank you.

4 THE COURT: From the defense?

5 MR. ABDALLA: Thank you, Your Honor. Mr. Sigmon is
6 going to address the Court -- or the jury.

7 THE COURT: Mr. Sigmon.

8 MR. SIGMON: Ladies and gentlemen of the jury ---

9 THE COURT: You're going to have to speak up.

10 Would you pull that microphone towards you, please, sir.

11 MR. SIGMON: Ladies and gentlemen of the jury, I am
12 guilty. There is no excuse for what I did. It's my
13 fault. I'm not trying to blame anyone else for it. And
14 I'm sorry. To the Larke family, I'm sorry to y'all
15 also.

16 MR. ARIAIL: Your Honor, I would object to the ---

17 THE COURT: Overruled. Mr. Abdalla.

18 MR. ABDALLA: Thank you, Your Honor.

19 Well, ladies and gentlemen of the jury, good
20 afternoon. I'm glad this phase of the trial is over,
21 and I expect you are too. As you recall when I came
22 before you at the very onset of the trial, I did
23 instruct you, I said to you, you're going to find our
24 client guilty of the crimes he's charged with. I didn't
25 realize I was being deceptive at that time as the

1 Solicitor has indicated. I didn't realize it was
2 deceptive to answer any of the why's of the case or to
3 look into why things happened. I didn't realize that
4 was deception. But of course you the jurors are going
5 to make that final determination. If you think
6 everything we're doing is simply an excuse to justify
7 these acts, then we have not represented our client
8 correctly.

9 We have never said that. We have never said there
10 is an excuse for killing people, especially the way this
11 was done. As a matter of fact, I told you at the
12 beginning, and indicated during the course of the trial,
13 that these facts are going to get so ugly that you have
14 no idea. What went on so far in just the trial phase,
15 and they knew we were admitting our guilt, and they
16 didn't put in some of the stuff that will be put in
17 during the penalty phase. You're going to see pictures
18 that are extremely cruel, gruesome. You can attach any
19 adjective whatsoever you'd like to. They're going to
20 make you sick.

21 And you are probably going to wonder how can we
22 give fair consideration to sparing his life. But that's
23 what I asked you from the beginning. The manipulation
24 that this all about is just asking you to spare his
25 life. Life without parole in the South Carolina,

1 Department of Corrections, maximum security, that's not
2 a slap on the wrist. I don't think you would believe
3 that. That's for you to decide.

4 This is a tough crime. There are really bad facts
5 here. You know when you go back to the night he
6 spent -- as a matter of fact, the Solicitor referred to
7 the 10 days that he was on the run trying to concoct
8 this story, the manipulation. How about the 10 days
9 leading up to it, the planning, the manipulation? All
10 of the testimony I believe you heard, and you know what
11 you heard better than I'm reciting it, spoke of a man
12 who was coming unwound, wrapped up tight. He was after
13 Becky. And that was his plan, to get Becky. There is
14 no excuse. It's not God's fault. It's not Gino's
15 fault. It's Brad's fault. It's not Becky's fault. The
16 girl lost her parents.

17 But there are reasons why crimes occur. None of
18 the -- none of the -- the reasons don't make excuses.
19 There is a difference. I hope you don't see it as not a
20 difference. If we were offering it as an excuse, we
21 would tell you there's a defense to it and he's not
22 guilty. We're not. We're offering it as mitigation,
23 just saying, yes, he's guilty, but he doesn't deserve to
24 die. Otherwise there is no point in going on with the
25 trial. Any time anybody commits an act, just kill them.

1 And I know that there are some people who think that
2 might be the right way to handle things. But my job is
3 to represent our client and do what I believe in. And I
4 hope you believe in a life sentence, but you'll make
5 that decision after hearing a lot more evidence. As I
6 said, it's going to get a lot uglier before it gets
7 better.

8 The evidence from the witness stand was from a few
9 people that talked about Brad's obsession, how he was
10 after Becky, he wanted to get here. There is not one
11 witness that I heard say that he intended to go and kill
12 David and Gladys Larke.

13 The one thing that will be final when you reach
14 your verdict, this afternoon I would assume, is that the
15 Larke family can rest in peace because at that point the
16 person who killed Gladys and David Larke will be in the
17 South Carolina, Department of Corrections for the rest
18 of his life.

19 We told you before, he's not going to get out other
20 than in a pine box, whether he's executed or spends his
21 life there. Your decision will determine when it
22 happens.

23 And Gene Strube is the last person that saw Brad
24 Sigmon before these acts occurred, and Gene Strube said
25 he didn't intend to kill anybody. Who could better

1 assess Brad's mind-set at that time than Gene Strube?
2 Who could better assess what he said to him, what Brad
3 had told Gene Strube he was going to do -- Geno. And
4 again, this isn't an excuse. This is simply what
5 happened. Geno talked about the cords here, one for
6 each of the victims. This wasn't pretty. We're not
7 sitting here saying this is a pretty thing, even if it
8 came off properly. People would have been tied up,
9 hopefully not hurt, but it didn't go that way.

10 Geno left at the door. You saw the panty hose at
11 the door jam. And Brad went in anyway. He said -- the
12 word chickened out was used. He said Brad -- Geno
13 didn't chicken out, Geno got good sense, good sense came
14 to Geno, I wish good sense had came to me.

15 There is no way to undo the deaths of these two
16 fine people, and we're all sorry for that. And nothing
17 any of this does returns those two fine people. But
18 we're asking you to consider sparing the life of Brad
19 Sigmon.

20 You can believe that he orchestrated all this, that
21 all this was planned. The 10 days leading up to the
22 event, he was just pretending to be crazy. And the 10
23 days he was on the run he was orchestrating this
24 brilliant statement implicating himself in everything.
25 I hope you don't reach that conclusion. The fact that

1 this is a man who lost control and killed two fine
2 people, but we're going to ask you to spare his life
3 when it's all said and done.

4 I thank you.

5 THE COURT: All right. Now, Mr. Foreman, I
6 indicated my charge will be 20, 25 minutes. I'll be
7 glad to give you a break or we can go straight into it.
8 I know you had a big lunch. Is everybody good for
9 another 10 or 25 minutes? All right.

10 Now, Mr. Foreman, members of the jury, the State of
11 South Carolina charges this defendant, Brad Keith
12 Sigmon, with the offense of murder on two different
13 indictments and also on burglary. You are to concern
14 yourself only with the offenses for which the defendant
15 was charged. The indictments have been read to you, so
16 I will not repeat them. What's contained in them, you
17 will have those indictments in your jury room during
18 your deliberations, but I do remind you, as I said in
19 my opening statement, these are not evidence in this
20 case.

21 Now, to the indictments the defendant has entered
22 pleas of not guilty, which places upon the State of
23 South Carolina the burden of proving the defendant
24 guilty. I tell you that a person charged with
25 committing a criminal offense in South Carolina is never

1 required to prove himself innocent. It is a vital,
2 important rule of law that the defendant in a criminal
3 trial, no matter how great or serious may be the offense
4 for which he's charged, must always be presumed innocent
5 until his guilt has been proven beyond a reasonable
6 doubt. This presumption of innocence remains with the
7 defendant at all times throughout the trial and until
8 the jury has, based upon the testimony and evidence
9 presented, reached a verdict of guilty beyond a
10 reasonable doubt. For it is the solemn oath of a jury,
11 if not clearly convinced of the guilt beyond a
12 reasonable doubt to the contrary, to acquit the
13 defendant, or to find him not guilty. So the burden of
14 proof is upon the State to establish evidence to your
15 satisfaction of guilt beyond a reasonable doubt of this
16 defendant here on trial for two counts of murder and for
17 burglary.

18 Now, what is a reasonable doubt? A reasonable
19 doubt is the kind of doubt that would cause a reasonable
20 person to hesitate to act. If you have such a doubt as
21 to the guilt of the defendant, then you would -- he
22 would be entitled to a verdict of not guilty.
23 Reasonable doubt may arise from the evidence which is in
24 the case, or from the absence or lack of evidence in the
25 case. You alone must make the determination of whether

1 or not the doubt exists as to the guilt of this
2 defendant.

3 I didn't ask you, usually I ask at the beginning if
4 anybody has had jury service, but if some of you had and
5 were sitting on civil cases, at that time you were told
6 it was only necessary to prove that fact is more likely
7 true than not. In criminal cases, the State's proof
8 must be more powerful than that. Again, it is beyond a
9 reasonable doubt. Proof beyond a reasonable doubt is
10 proof that leaves you firmly convinced of the
11 defendant's guilt. I tell you there are very few things
12 in the world we know with absolute certainty, and in
13 criminal cases the law does not require proof that over
14 comes every possible doubt. If based upon your
15 consideration of the evidence, you are firmly convinced
16 of that the defendant is guilty of the crimes charges,
17 then you must find him guilty. If on the other hand,
18 you think that there is a real possibility that he's not
19 guilty, you must give him the benefit of that doubt and
20 find him not guilty.

21 Now, Mr. Foreman, members of the jury, under the
22 Constitution and laws of South Carolina, you are the
23 finders of fact in this case. I don't have the right to
24 express my opinions as to the facts. If I, again, have
25 done anything during the course of the trial that would

1 indicate to you that I have a position on the
2 truthfulness of a witness, or which side should prevail,
3 just disregard that. You are the judges of -- the sole
4 judges of the credibility, which means the
5 believability of each of the witness who have testified
6 in this case.

7 In passing upon their credibility you may take into
8 consideration many things. And I told -- talked to you
9 about these things in individual voir dire, and at the
10 beginning, but you would look at the demeanor, or the
11 manner of the witness as he testified, did the witness
12 appear to be telling the truth, or maybe the witness was
13 hesitant in answering a question. You look at whether
14 the witness had a reason to be biased or prejudiced.
15 Did he have a reason to give the testimony that he or
16 she -- she gave. You look at whether a witness'
17 testimony was contradicted on the one hand or supported
18 or corroborated on the other hand. You do not determine
19 credibility or believability by counting the number of
20 witnesses that might have testified for either side.
21 You may believe a small portion of what a witness has
22 said, or disregard the larger, or vice versa. You may
23 believe one witness as against many, or many as against
24 one. All these things you will consider bearing in mind
25 that you must give the defendant the benefit of any

1 reasonable doubt.

2 Now, the same Constitution and code of laws that
3 make you finders of fact, as I've just described, make
4 me the sole and only instructor on the law. It simply
5 means that you must accept the law that I give to you as
6 the proper law and apply that law in this case.

7 Now, briefly, as to looking at the evidence, before
8 I get into the specific charge of burglary and murder,
9 let me tell you that there are two types of evidence
10 which are generally presented during a trial, direct
11 evidence and circumstantial evidence. Direct evidence
12 is the testimony of a person who asserts or claims that
13 they have actual knowledge of a fact, such as an eye
14 witness. So if someone comes in and says they've
15 heard something, or they saw something, and you believe
16 that witness, then that would conclusively prove that
17 point.

18 Circumstantial evidence is a little bit different.
19 It is proof of a chain of facts and circumstances that
20 indicate the existence of another fact. The law makes
21 absolutely no distinction between the weight or value to
22 be given to direct evidence or circumstantial evidence,
23 nor is a greater degree of certainty required of
24 circumstantial evidence than of direct evidence. You
25 are to weigh all of the evidence in this case.

1 Now, I instruct you, ladies and gentlemen, and
2 emphasize to you the fact that a defendant did not
3 testify is not a factor that is to be considered by you
4 in any way in your deliberations, and in your
5 consideration of the question of guilt or innocence of
6 this defendant. It must not be considered by you in any
7 manner whatsoever. The reason is that the defendant has
8 the Constitutional right to remain silent. And the
9 assertion of this right must not be considered by you in
10 your deliberations. I repeat under your oath you are
11 not to draw any conclusions whatsoever from the fact
12 that the defendant in this case did not testify. Mr.
13 Foreman, the fact that the defendant did not testify
14 should not even been discussed in the jury room.

15 Now, the burden of proof, as I have stated to you,
16 is on the State. The defendant is not required to prove
17 his innocence. The burden of proof remains with the
18 State, again, beyond a reasonable doubt.

19 I charge you that although lay witnesses are
20 limited to testifying about facts within their
21 knowledge, and are not allowed to give opinions, certain
22 witnesses, who by training, education, or experience,
23 who are considered experts in a particular field, may
24 give opinions in that field, based upon the facts of the
25 matter. And they may testify as to their conclusions,

1 and these opinions and conclusions constitute evidence
2 to be considered by you in connection with all the other
3 evidence and testimony in the case. That is to say, you
4 may consider the expert's opinion just as you do all the
5 other evidence in the case. It is for you the jury to
6 give it such weight as you in your experience and
7 discretion may determine. By this I mean that you must
8 weigh such evidence and either accept it or reject it in
9 the same manner you do all other evidence.

10 Now, the Court generally determines the
11 admissibility of evidence. I instruct you with regard
12 to alleged statements by the defendant, that you, ladies
13 and gentlemen of the jury, make the ultimate
14 determination of whether or not the defendant made the
15 statements, and if he did make the statement, whether it
16 was made by the defendant voluntarily and of his own
17 free will, and finally, just what weight if any should
18 be given to the statement.

19 I charge that you must determine the alleged
20 statement was the product of an essentially free and
21 unconstrained choice by the maker. If you determine
22 it was, and the burden of proof is on State to prove
23 that as all other facts, then you may give it such
24 further consideration as you deem proper. If you the
25 determine the alleged statement was not the free and

1 voluntary expression of the defendant, then you may not
2 consider it at all.

3 In determining whether a defendant's will was
4 overcome in obtaining a statement, you should consider
5 both the characteristics of the accused, and the details
6 of the interrogation. That's often referred to as the
7 totality of the circumstances. Some of the factors that
8 you may consider, are the age or the youth of the
9 accused, his education or lack of education, his mental
10 ability, in other words his IQ, his capacity, his
11 intelligence level, his background and environment, and
12 also the advice or lack of advice of the accused of his
13 Constitutional rights, including but not limited to the
14 procedural safeguards known as the Miranda warnings.
15 That is the right to remain silent, that a statement
16 could be used against him in a court of law, the right
17 to have a lawyer present, if he's an indigent, that --
18 that is he could not afford a lawyer, that one would be
19 appointed to represent him, and also that he could stop
20 making a statement at any time.

21 You may also consider other factors such as the
22 place and the length of detention and the nature of
23 questioning. You the jury must carefully scrutinize all
24 the surrounding circumstances before you give any weight
25 to an alleged statement. You must be satisfied beyond a

1 reasonable doubt that it was made by the accused, again,
2 un-influenced by a promise of reward, threat, or injury,
3 or diminution of rights.

4 Now, there is one indictment for burglary in the
5 first degree. Let me tell you what that constitutes.
6 Mr. Foreman, ladies and gentlemen, under 16-11-311 of
7 South Carolina code of laws, burglary in the first
8 degree is defined as the entering of a dwelling house of
9 another without consent and with the intent to commit a
10 crime therein, as I will define for you, and which is
11 also accompanied by a circumstance. And a circumstance
12 alleged in this case is that when entering, or while in
13 the house, or in fleeing, the defendant caused physical
14 injury to someone that was not a participant in the
15 crime. There are four essential elements that must be
16 proved beyond a reasonable doubt when we talk about
17 burglary in the first degree, that the defendant entered
18 into a dwelling house of another without consent with
19 the intent to commit a crime.

20 They are, first, that there must be an entering.
21 The State must prove that there was an entering. That
22 is that the defendant actually went inside the house or
23 some part of the house. Number two, the entry must be
24 without consent. Aside from -- let me back up. As to
25 the entering, no force need be used to gain entry.

1 The second element is, the entry must be without
2 consent. Aside from the usual and normal understanding
3 of that phrase, without consent, the term entry also
4 means to enter a building by using deception, artifice,
5 trick, or misrepresentation to gain consent to enter
6 from a person who is in lawful possession.

7 The third element is the place entered must be a
8 dwelling house. The term dwelling house simply means
9 any building inhabited by a person or persons, and in
10 which they customarily sleep.

11 And fourth, the defendant must have the intent to
12 commit a crime. The mere entry into a dwelling without
13 consent is not a violation of the burglary statute, it
14 is only where there is an intent to commit a crime,
15 whether it be a felony or a misdemeanor, that the crime
16 is complete. Proof of intent rests with inference from
17 conduct. I tell that it does not matter that the
18 intended crime have to be completed.

19 Also, in addition to the four elements that I've
20 just gone over with you, the accompanying circumstance
21 that is relied on in this case is that when the -- when
22 entering, or while he was in the house, or while fleeing
23 the house, the defendant in this case caused physical
24 injury to someone not participating in the crime. So
25 you would have to find that beyond a reasonable doubt as

1 well as the four elements that I just read to you beyond
2 a reasonable doubt.

3 The last two indictments, Mr. Foreman, ladies and
4 gentlemen, charge this defendant with murder. The
5 defendant is charged with murder. The State must prove
6 beyond a reasonable doubt that the defendant killed
7 another person with malice aforethought. Malice is
8 hatred, ill will or hostility towards another person.
9 It is the intentional doing of a wrongful act without
10 just cause or excuse and with the intent to inflict an
11 injury or under circumstances that the law will infer an
12 evil intent. So malice, again, is evil, ill will,
13 hatred towards another.

14 Malice aforethought, the word aforethought does not
15 require that malice exist for any particular length of
16 time before the act is committed, but malice must exist
17 in the mind of the defendant just before or at the time
18 of the act committed. Therefore, there must be a
19 combination of that evil intent and the act.

20 Malice aforethought may be expressed or inferred.
21 The terms expressed and inferred malice don't mean
22 different types of malice, they merely mean different
23 ways that malice may be shown. That is either by direct
24 evidence, that would be expressed, or by inference from
25 the facts and circumstances which are proved.

1 Express malice is shown when a person speaks words
2 which express hatred or ill will for another, or when
3 the person prepared beforehand to do the act which was
4 later accomplished. For example, lying in wait for the
5 victim, or any other act of preparation going to show
6 that the deed was within the defendant's mind that would
7 be express malice.

8 What is inferred malice? Malice may be inferred
9 from conduct showing a total disregard for human life.
10 Inferred malice may also arise when the deed is done
11 with a deadly weapon. A deadly weapon is any article,
12 instrument or substance which is likely to cause death
13 or great bodily injury. Whether an instrument has been
14 used as a deadly weapon depends on the facts and
15 circumstances of the case. The following are examples
16 of instruments which may be a deadly weapon, a pistol, a
17 shotgun, a rifle, or a knife, but I also tell you that
18 ordinary objects may become deadly weapons when the
19 facts show that they had been used to inflict serious
20 bodily harm or death. If one intentionally kills
21 another during the commission of a felony, then the
22 inference of malice may also arise.

23 Now, I have given you several examples of what
24 might be inference malice. If facts are proved beyond a
25 reasonable doubt sufficient to raise an inference of

1 malice, like I have just explained to your satisfaction,
2 this inference would simply be an evidentiary fact to be
3 taken into consideration by you along with all the other
4 evidence in the case, and you may give it the weight
5 that you decide it should receive.

6 Now, Mr. Foreman, ladies and gentlemen, you have
7 been selected as fair jurors sworn to impartially try
8 and determine the facts of this case. When you comply
9 with your oath to do so, then no one will have the right
10 to criticize your verdict, and you will have fully
11 discharged your duties as jurors at least in this stage.
12 You are to decide this case according to the testimony
13 that you have heard from the lips of the sworn
14 witnesses, along with other evidence that's been
15 introduced.

16 Now, Mr. Foreman, I tell you that punishment,
17 penalty, possible sentences are not an issue at this
18 stage, and implore you, don't let that enter into your
19 deliberations. I instruct you not to do so.

20 There are three indictments. You will see the face
21 of the indictment. On the back side of each indictment,
22 there is a place at the bottom that says, verdict. The
23 possible verdicts in this case are the same. There are
24 two possible verdicts on each indictment, don't attach
25 any significance to the order I give them to you,

1 obviously I have to give them to you in some order. The
2 first possible verdict is not guilty. If that's your
3 verdict then you would write, not guilty, the two words,
4 not guilty, and then you would sign your name as
5 foreperson, date it today's date, which is July the
6 19th. The second possible verdict is guilty. If
7 that's your verdict, then you would write that one
8 word, guilty, again sign your name and date it today's
9 date.

10 Each of these indictments needs to be considered
11 individually. One verdict on one doesn't rest on the
12 verdict of another. In other words, you could have, you
13 know, not guilty on all of them, guilty on all of them,
14 guilty on one, not guilty on two. You understand what
15 I'm saying?

16 MR. THAMES: Yes, sir.

17 THE COURT: Whatever your verdicts are, they must
18 be unanimous. That is, all 12 of you must agree to the
19 verdicts.

20 Now, at this time I'm going to send you back to
21 your jury room. Do not begin your deliberations. I
22 will bring you back in for very brief further
23 instructions. Okay.

24 (The jury exited the courtroom at 2:20 p.m.)

25 MR. EPPES: Your Honor.

1 THE COURT: All right. Yes, sir.

2 MR. ABDALLA: No objection to the statement from
3 the defense, Your Honor.

4 THE COURT: Did you have something, Mr. Eppes?

5 MR. EPPES: No, I just -- my head just spun around,
6 that's all.

7 THE COURT: Okay. I thought you were saying
8 something.

9 MR. EPPES: I did too, and then I realized I
10 wasn't.

11 THE COURT: I didn't know you were sputtering, I
12 thought you were trying to say something.

13 All right. Any exceptions from the State?

14 MR. ARIAIL: None, Your Honor.

15 THE COURT: All right. Then we need to -- we need
16 to be prepared to segregate the three alternates into a
17 separate jury room. If you would bring the jury back.

18 Now, have y'all been through the exhibits, are they
19 all up there? We'll wait until they come back in.

20 (The jury entered the courtroom at 2:22 p.m.)

21 THE COURT: All right. Now, that concludes my
22 charge. The three alternates will need to be taken out.
23 We will segregate you into a separate jury room. You
24 will not participate in the deliberations of guilt or
25 innocence in this case, but your duties are not

1 discharged. I still need you to remain with us. Did
2 you have anything in the jury room you need to get out,
3 sweaters, purses, things like that? All right. If you
4 would take those three, let them go to the jury room,
5 get what they need and then take them to a separate jury
6 room, please, ma'am. If you would follow Doris.

7 (The three alternate jurors exited the courtroom at
8 2:23 p.m.)

9 THE COURT: Let me know when they're out of the
10 jury room, please, sir. And then we'll let you go out
11 and begin your deliberations. All right. Now, Doris
12 has the three indictments. You may go ahead and begin
13 your deliberations. I'm going to make -- I always do
14 this, have the attorneys go through the exhibits to make
15 sure we have them all, make sure there's not something
16 that's marked for only ID that's in there that you're
17 not supposed to have. Also, do you have gloves? Okay.
18 Would you give those to Doris. I don't know if you want
19 to handle some of the items, if you do, that's fine. If
20 you want to wear the gloves, we'll have those for you.
21 You can go ahead and follow your bailiff and begin your
22 deliberations.

23 (The jury exited the courtroom at 2:25 p.m.)

24 (The jury began their deliberations at 2:25 p.m.)

25 THE COURT: All right. Anything before we go off

1 the record? I want the attorneys to go through the
2 exhibits. Anything else?

3 MR. ARIAIL: Nothing.

4 THE COURT: Okay. Now, everybody else remain
5 seated, don't talk. Madam Clerk, Madam Court Reporter,
6 if you would go over there and check off the exhibits,
7 please.

8 (The exhibits were checked.)

9 THE COURT: All right. For the record, the State
10 agrees that all the exhibits are correct?

11 MR. ARIAIL: Yes, Your Honor.

12 THE COURT: And the defense also?

13 MR. ABDALLA: Yes, Your Honor.

14 THE COURT: Okay. All right. You may give --
15 knock on the door and hand those to the foreperson,
16 please. All right. Anything before we break?

17 MS. STROM: Just to hand up the charge that you had
18 asked me for yesterday, and we've provided a copy to the
19 defense counsel, verdict forms and charge.

20 THE COURT: Anything else, from the defense?

21 MR. ABDALLA: Nothing, Your Honor.

22 THE COURT: All right. We'll be at ease pending a
23 verdict. Don't go far.

24 (A recess was taken while the jury deliberated.)

25 THE COURT: All right. I understand we have a

1 verdict. Again, I will not allow any displays of
2 emotions. If anybody thinks they cannot control their
3 emotions, they need to go ahead and step out at this
4 time. Any display of emotion will be treated as
5 contempt and I will incarcerate. Bring the jury.

6 (The jury entered the courtroom at 3:15 p.m.)

7 THE COURT: All right. Now, Mr. Foreman, have you
8 reached a verdict in these three cases?

9 MR. THAMES: We have.

10 THE COURT: Are they unanimous verdicts, all 12
11 have agreed?

12 MR. THAMES: Yes, sir.

13 THE COURT: Would you please hand the indictments
14 to your bailiff.

15 All right. This is indictment 2001-GS-23-7629, the
16 State versus Brad Keith Sigmon, indicted for burglary,
17 first degree, the verdict is guilty. Signed William H.
18 Thames, Jr., today's date, 7/19/2002. The second
19 indictment is 2001-GS-23-7631, indictment for murder,
20 the verdict is guilty, William H. Thames, Jr., today's
21 date, 7/19/2002. And finally, 2001-GS-23-7630, the
22 State versus Brad Keith Sigmon, indicted for murder, the
23 verdict is guilty, signed William H. Thames, Jr., dated
24 today's date, 7/19/2002. These are your verdicts so say
25 you all?

1 THE JURY: Yes.

2 THE COURT: All right. You need to pole the jury.
3 Ladies and gentlemen, Madam Clerk is going to call each
4 of your names out. The question is, were these your
5 verdicts in the jury room and are they still your
6 verdicts. You would answer yes or no to that question
7 when your name is called.

8 THE CLERK: William H. Thames, Jr.

9 MR. THAMES: Yes.

10 THE CLERK: Robert A. Wharton.

11 MR. WHARTON: Yes.

12 THE CLERK: Rebecca A. Hembree.

13 MS. HEMBREE: Yes.

14 THE CLERK: Christina Sullivan.

15 MS. SULLIVAN: Yes.

16 THE CLERK: Sandra Norris.

17 MS. NORRIS: Yes.

18 THE CLERK: Douglas Johnson.

19 MR. JOHNSON: Yes.

20 THE CLERK: Leanne Flack.

21 MS. FLACK: Yes.

22 THE CLERK: Herman S. McDuffee.

23 MR. McDUFFEE: Yes.

24 THE CLERK: Brenda K. Hillman.

25 MS. HILLMAN: Yes.

1 THE CLERK: Tracy N. McCarthy.

2 MR. MCCARTHY: Yes.

3 THE CLERK: John D. Powell.

4 MR. POWELL: Yes.

5 THE CLERK: Nathan A. Turner.

6 MR. TURNER: Yes.

7 THE COURT: All right. Now, let me get the
8 alternates brought back in, please.

9 (The alternate jurors entered the courtroom at
10 3:18 p.m.)

11 THE COURT: All right. For the alternates, I need
12 to inform you that the jury in this case has unanimously
13 returned verdicts of guilty on all three indictments.
14 So now we will not sequester you from them. You may
15 rejoin them. It will be necessary for you and all of
16 you to proceed into the penalty phase. At this time I'm
17 going to send you all back to your jury room. Don't
18 talk about this case. And I'll tell you -- I will bring
19 you back in with some further instructions and tell you
20 when we are going to resume this proceedings. Okay. If
21 you would follow your bailiff, please.

22 (The jury exited the courtroom at 3:20 p.m.)

23 THE COURT: Motions?

24 MR. ABDALLA: I have no motions to make, Your
25 Honor.

1 THE COURT: Again, I think you need to make your
2 customary motions at the end of the case.

3 MR. ABDALLA: I make a motion to disregard the
4 verdict.

5 THE COURT: All right. I will deny that. All
6 right. Now, anything other than deciding when we're
7 going to resume. There are other things -- let's talk
8 about when we're going to resume. My strong inclination
9 is to start at 3:30 tomorrow afternoon and go ahead and
10 proceed with some of the testimony. What's the State's
11 position?

12 MR. ARIAIL: That's fine, agreeable with the State.
13 And our request would be that if we run -- if we can run
14 long enough, the State may be able to finish its
15 presentation in the penalty phase tomorrow afternoon.

16 THE COURT: Do y'all have any idea about how long
17 your case will take?

18 MR. ABDALLA: It may take as much as day. I can't
19 say for sure, Judge, because as quickly as this has gone
20 so far.

21 THE COURT: Okay. All right.. For the record, the
22 verdict was returned at 3:20 p.m. All right. Then
23 we'll begin at 3:30 tomorrow afternoon. I don't intend
24 to work that late, 6:00 or 7:00, something like that,
25 so ---

1 MR. ARIAIL: That's fine.

2 THE COURT: Okay. All right. Do you want to take
3 a break and come back and handle some of these other
4 issues, or go ahead ---

5 MR. EPPES: Your Honor, can I ask you a question?

6 THE COURT: Sure.

7 MR. EPPES: How do you anticipate working on
8 Sunday, starting on Sunday morning, starting Sunday
9 afternoon?

10 THE COURT: I would say probably go ahead and start
11 Sunday morning. I don't -- we don't have to start at
12 9:00 necessarily. Sort of depends -- I know you can't
13 tell me exactly how long you're going to take. I mean,
14 if you're less than a day and you think we can get a
15 verdict Sunday night, then, you know, we may try to do
16 that. I'm not pushing anybody. We got all next week.
17 So ---

18 MR. EPPES: Your Honor, we can -- we'll be able to
19 let you know this afternoon, first thing in the morning.

20 THE COURT: Okay. My desire would be not to wait
21 until like one o'clock to start.

22 MR. EPPES: That's fine.

23 THE COURT: Okay. All right. On the issue of
24 psychiatric records, I have reviewed the records and
25 there were four sets of records that have been

1 submitted. I find that the vast majority are in no way
2 relevant to any issue or any possible issue in the case.
3 There are some prior Piedmont Center mental health
4 records from '92 or '93 that I am going to give to each
5 side with the following order. There will be a
6 protective order following these records. They are not
7 to be duplicated by either side. They will be collected
8 and put into the record, sealed, after the case is over.
9 They can be shown only to expert witnesses that might
10 testify as to them. Obviously your client will be privy
11 to them also. I'm going to put the other records,
12 sealed, the ones I don't think are relevant into the
13 record, and I am going to mark the ones I gave so
14 there's not an issue as to what was given to you. I'm
15 going to mark them as -- the ones that were given to you
16 and put them in that same sealed envelope. Any
17 questions about that?

18 MR. ABDALLA: No, Your Honor.

19 THE COURT: Now, these are off microfilm.
20 There's -- we have checked, there's no better way to
21 make them legible, but I think they're legible enough
22 for you. If you will give one of those to each side.
23 Also, give each side one of these. Also, I'm going to
24 give each of you a copy of the statutory
25 instructions -- excuse me, my charge in the penalty

1 phase, so you can look at that, see if you got any
2 objections, additions, deletions. Also, I'm going to
3 edit those but I do intend to give the jury a copy of
4 those instructions. So -- all right. The timing of you
5 delivering your expert report to the State, needs to be
6 addressed.

7 MR. EPPES: Your Honor, we believe we can provide
8 those by five o'clock today, provided the State can
9 provide us with theirs by five o'clock today.

10 THE COURT: All right. What -- I can't remember,
11 did we make this reciprocal?

12 MR. EPPES: Yes, sir.

13 THE COURT: Exchange at five o'clock?

14 MR. ARIAIL: First, I don't think we made it
15 reciprocal, but we don't have any problem with that.
16 Secondly, we don't have any experts.

17 THE COURT: All right. Does -- is Dr. Ward going
18 to testify in the second phase? And if he's -- if he
19 is, is he going to testify to anything differently than
20 he did?

21 MR. ARIAIL: No, and they have his full report on
22 the -- both autopsies, and that would be it. They've
23 interviewed him.

24 MR. EPPES: Your Honor, they do have one expert,
25 Mr. Sligh, although I said that I would not -- I asked

1 them if they wanted the report from Mr. Aiken and they
2 said no. We never said that about Mr. Sligh. He's a
3 prison expert. If his testimony is going to be
4 substantially in conformance with his testimony in the
5 Laney case, I believe he testified in the Laney case, or
6 the Woods case, he testified in one of them, if it's
7 going to be substantially the same, I don't need a
8 report. If there's going to be any differences, I'd
9 like to know about it.

10 THE COURT: Okay. I don't know who these people
11 are. This is a State's expert obviously?

12 MR. ARIAIL: He is not an expert. He'd simply be a
13 fact witness to testify, if we so call him, as to what
14 exists -- rights exist in prison for one type of inmate
15 as opposed to another. He's just a fact witness.

16 THE COURT: All right. No opinions, no ---

17 MR. ARIAIL: He has no opinions.

18 THE COURT: No underlying data, no testing, no --
19 all right. Can you just, for the defense say -- I don't
20 know what case he testified in, will it be substantially
21 the same as he testified in?

22 MR. ARIAIL: Be substantially. I hope we've done a
23 little bit more work in that area, but pretty much the
24 same.

25 THE COURT: Okay. No other experts from the State

1 besides that, besides Dr. Ward and possibly this Sligh
2 fellow?

3 MS. STROM: No.

4 THE COURT: All right. Then if the defense would
5 provide what is required at five o'clock?

6 MR. EPPES: Yes, sir.

7 THE COURT: All right. Then what other issue are
8 out there?

9 MR. EPPES: Your Honor, I don't want to put a
10 burden on the courthouse guys, but it would be a lot
11 easier for us if we could have Mr. Sigmon brought over
12 tomorrow at say 11:00 or 12 o'clock so that anybody
13 needs to talk to him we could talk to him here rather
14 than have to go down to the jail and back.

15 THE COURT: Are we talking about just general
16 family visits or ---

17 MR. EPPES: No, no, I'm talking about preparation
18 for the penalty phase of the case, Your Honor.

19 THE COURT: Okay. All right. Then why don't we
20 feed him an early lunch and get him up here by 12:00 or
21 12:30, and -- are you going to have him downstairs and
22 they can visit him down there?

23 MR. EPPES: That will be fine.

24 THE COURT: All right. Between 12:00 and 12:30, if
25 you would have Mr. Sigmon up, showered and shaved.

1 MR. EPPES: Thank you, Your Honor.

2 THE COURT: All right. What else. All right. Can
3 you tell me now the aggravating factors the State is
4 relying on? I guess it's in the notice but it's double
5 murder?

6 MS. STROM: Yes, sir. Commission of a burglary.

7 THE COURT: Burglary. Torture I think was one?

8 MS. STROM: Yes, sir, torture.

9 THE COURT: All right. Are you relying on the
10 kidnapping?

11 MS. STROM: Court's indulgence for just one second?
12 Not on the kidnapping.

13 THE COURT: Those three. I'm not saying the
14 evidence supports them, but just those three. Now,
15 do you want to tell me, you don't have to, the
16 mitigating -- statutory mitigating you're considering?
17 If you don't want to that's fine. But what I would like
18 you to do, if you don't want to, is just write them on a
19 piece of paper. I will put them in my statutory
20 instructions for the jury. I can delete if the evidence
21 doesn't support them, but if y'all would do that. All
22 right.

23 MR. EPPES: Your Honor?

24 THE COURT: Yes, sir.

25 MR. EPPES: I think the Court is anticipating us

1 making a motion about torture. I will have a copy of
2 that to your office before five o'clock.

3 THE COURT: Okay.

4 MR. EPPES: And to the Solicitor.

5 THE COURT: Well, you don't need -- before five
6 o'clock today?

7 MR. EPPES: Yeah.

8 THE COURT: Well, we got plenty of time. All
9 right. What else. All right. We are at ease until
10 3:30 tomorrow afternoon then.

11 I'm sorry. That was my fault. I forgot the jury
12 was out there. All right. Bring the jury in.

13 (The jury entered the courtroom at 3:31 p.m.)

14 THE COURT: All right. Now, Mr. Foreman, ladies
15 and gentlemen, there is a mandatory 24 hour waiting
16 period before we begin the penalty phase. We're going
17 to begin that penalty phase tomorrow afternoon at 3:30.
18 I don't know how long it will last. It will definitely
19 last into Sunday, maybe Monday. I don't anticipate it
20 will be much past that, probably Monday. I think that
21 SLED will have some different options, for you tomorrow
22 morning. They're just not going to keep you at the
23 hotel. I don't know what entertainment they have or
24 what they'll have for you to do, but they'll have
25 something for you. While you are away, don't discuss

1 this case. Do not discuss the case amongst yourselves
2 or with anyone else. We'll see you back at 3:30
3 tomorrow afternoon. All right. Everybody else remain
4 seated while the jury leaves, please.

5 (The jury exited the courtroom for the evening at
6 3:33 p.m.)

7 THE COURT: All right. With that, we are at ease.

8 (Court's Exhibit Number 15 was marked and filed.)

9 (Court recessed for the evening.)
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1 (The following proceedings were held on July 20,
2 2002, as follows:)

3 THE COURT: All right. Could I have a look at the
4 photos that are intending to be offered? I have, for
5 the record, reviewed these before pursuant to an earlier
6 motion.

7 MS. STROM: In fact, Your Honor reviewed more. We
8 have taken out some we have previously showed to the
9 defense counsel and to you.

10 THE COURT: Okay. All right. You've seen these?

11 MR. ABDALLA: Your Honor, may I have a look at the
12 these photos. They were shown ---

13 MR. EPPES: We've seen the list they have right
14 there.

15 THE COURT: That's -- that's ---

16 MR. ARIAIL: They had already seen those.

17 THE COURT: --- far fewer than I had seen.

18 MR. ARIAIL: Sure.

19 THE COURT: You're not going to use the overhead
20 projector?

21 MR. ARIAIL: Not unless the Court directs us to.

22 THE COURT: No, I'm just wondering about the
23 audience, that's why.

24 MR. ARIAIL: Right.

25 THE COURT: All right. Hand those back to the

1 Solicitor. All right. Is there an objection?

2 MR. ABDALLA: We would object, Your Honor. They
3 are unfairly prejudicial, and the rules of evidence
4 still apply even in the penalty phase.

5 THE COURT: All right. I find that they are
6 probative as to this defendant's character and also to
7 the circumstances of the crime. They are not outweighed
8 by any prejudicial value, and I would allow them to be
9 admitted.

10 MR. ABDALLA: May I add one thing?

11 THE COURT: Sure.

12 MR. ABDALLA: I'd like to add that they are
13 cumulative to the testimony that's already in evidence.
14 They have put photo -- I mean put diagrams in with --
15 with markings of the injuries, and these are clearly
16 just to inflame the passions of the jury, Your Honor.

17 THE COURT: All right. You're protected.

18 MR. ABDALLA: Thank you.

19 THE COURT: All right. Notice of motion and motion
20 to prohibit discussion of alleged aggravating
21 circumstance of physical torture during sentencing
22 proceeding. Are you having anyone testify as to
23 torture? I mean, I know you're testifying as to the
24 circumstances of the crime, but ---

25 MR. ARIAIL: It would be the circumstances of the

1 crime and that deduction of torture, the previous
2 testimony of Dr. Ward that there was three to five
3 minutes of life, and that -- the number of blows being
4 themselves the element of torture.

5 THE COURT: All right. And that would all be
6 circumstances of the crime. Whether I charge torture as
7 an aggravating circumstance or not, my question is, is
8 anybody at this stage going to be discuss this as an
9 aggravating circumstance, calling it an aggravating
10 circumstance, or even using the word torture at this
11 point in time?

12 MS. STROM: No, sir.

13 THE COURT: Okay. All right. Then what -- Mr.
14 Eppes, at this point in time would that cover this
15 motion?

16 MR. EPPES: Yes, Your Honor. If they're not going
17 to -- if they're going to mention the word torture, then
18 we'll be happy to renew this motion after the testimony.

19 THE COURT: Okay. I'll see if there is -- you
20 understand the standard is if there's any evidence.

21 MR. EPPES: Yes, sir.

22 THE COURT: All right. Have you made sure these
23 are all clocked in?

24 MR. EPPES: No, sir. There's no Clerk's office
25 today.

1 THE COURT: Okay. No clerks here today. All
2 right. Motion in -- to limit the testimony of James
3 Sligh. Is this a case in chief witness at this stage?

4 MR. ARIAIL: Yes, sir.

5 THE COURT: And his testimony is?

6 MR. ARIAIL: His testimony will be essentially the
7 day in the life of a prisoner in -- serving life without
8 parole, what privileges, what amenities, what advantages
9 this individual will have.

10 THE COURT: Well, you're holding up hands, that's
11 fine, but ---

12 MR. EPPES: Your Honor, what Mr. Sligh has
13 testified to before is a day in the life of a prisoner
14 life without parole and then he's talked about how
15 horrible -- how much worse death row is, how the
16 security on death row is tighter and restrictions are
17 more, and what it does is it gives the jury things about
18 punishment other than death to consider, and that's not
19 proper testimony. They should be considering life or
20 death. If they want to consider the conditions in life
21 without parole, that's fine, but if they want to
22 consider the conditions on death row, that may be
23 something that sways them. Well, they say, he's
24 tight -- locked up a little tighter ---

25 THE COURT: Is there comparison testimony? Does he

1 go further and talk about death row?

2 MR. ARIAIL: It was a comparison testimony, and
3 before he threw his hands up, I was going to finish, the
4 second part will be I will ask him to go through a day
5 in the life of a prisoner on death row. And the
6 argument being that -- that whether it's contrasted or
7 not, the jury decision is an individualized assessment
8 of the proper punishment and now that they are told the
9 truth as the defense in that says, we're telling
10 everybody the truth about sentencing, and that is what
11 he's going to be doing for the rest of his life, we
12 think that that is clearly admissible. Now, the
13 contrast is not to show that there is a greater degree
14 of security on death row, and that's not even mentioned.
15 I don't think we even talked about that. They may infer
16 that, but the focus is that his privileges, even while
17 he's on death row, for whatever limited period of time
18 he's there, are substantially limited as compared to
19 those of somebody who is on life without parole.

20 THE COURT: All right. They're limited to victim
21 impact, character of the defendant, statutory
22 aggravating circumstances, are they not?

23 MR. ARIAIL: What?

24 THE COURT: As far as the testimony and evidence
25 that you put up. I mean, I can see how this might be

1 reply testimony to something, but you -- have you got
2 something that -- to show me where this has been ---

3 MR. ARIAIL: No, it hasn't been ruled upon by
4 Appellate Court. The only thing I can show is that we
5 did it last time.

6 THE COURT: Okay.

7 MR. ARIAIL: And it's just -- it's logical to me
8 and I will take full responsibility for it. I'm the one
9 that created the idea to start with. We went and did
10 this last time, because what -- you know, before when
11 the Court didn't tell the jury what life without parole
12 meant, then it wasn't relevant, because you couldn't
13 get -- it just wasn't relevant to get in, because they
14 kept us out of punishment, but now that they've gotten
15 -- they went to the Supreme Court, the defense did, and
16 they -- they pushed and pushed this point ad nauseam to
17 the point they got it, but now I think we have a right
18 to explain to them what does that mean. What does life
19 without parole mean? They have hammered this jury in
20 its venire -- I mean its voir dire over and over again,
21 this is life without parole, life without parole, he's
22 coming out in a pine box one way or the other, yatta
23 yatta yatta (phonetically), but I want to show them
24 where he's living, because this is nothing more than a
25 small little town that's got a restaurant and all that.

1 THE COURT: They don't have any objection to the
2 life without parole.

3 MR. ARIAIL: Well, I thought that's what we were
4 arguing about.

5 THE COURT: No, they said they did not. Their
6 objection is to then saying what life is like on death
7 row.

8 MR. ARIAIL: Well, I wasted all that argument. I
9 thought they were objecting to that.

10 THE COURT: No.

11 MR. ARIAIL: I thought you asking me why I needed
12 to justify it.

13 THE COURT: No. Their objection is to -- to
14 telling them about life on death row.

15 MR. ARIAIL: Well, if you've got a right to tell
16 them about life on ---

17 THE COURT: I'm not saying you have a right to tell
18 them about that, but they're not objecting to it, so
19 we're not ---

20 MR. ARIAIL: Well, I hadn't thought about that
21 aspect of it.

22 THE COURT: Okay. Well, I have always been under
23 the impression that aggravating circumstances are
24 limited to statutory aggravating circumstances with the
25 addition of character of the defendant, with the

1 addition of victim impact. And I have never known, you
2 know, a category of other non-statutory aggravating
3 circumstances.

4 MR. ARIAIL: Okay.

5 THE COURT: All right. So I'm going to limit you
6 to -- Mr. Sligh's testimony to life -- a day in the life
7 of a life sentence. All right. Anything else?

8 MS. STROM: Your Honor, before we begin, go ahead
9 and clear this matter up before we start, is I have
10 shown to the defense counsel photographs of the victims
11 in this case in life photographs. I did not know if
12 they had an objection to them, but I wanted to go ahead
13 and bring that to the Court's attention, because that
14 will be the first witness after opening statements.

15 MR. EPPES: You're talking about the life
16 photographs?

17 MS. STROM: Right.

18 MR. EPPES: I have no objection.

19 THE COURT: All right. Anything else from the
20 State? Anything from the defense?

21 MR. ABDALLA: No, Your Honor.

22 THE COURT: Okay.

23 MR. ARIAIL: No, sir.

24 THE COURT: All right. Are you going to make an
25 opening statement, Solicitor?

1 MS. STROM: I would make an opening statement.

2 THE COURT: Are you making an opening statement?

3 MR. EPPES: Yes, sir, Your Honor.

4 THE COURT: Okay. All right. Bring the jury.

5 Let me see the indictments, please. All cell phones
6 off.

7 MR. ARIAIL: Is Ms. Barker here today?

8 THE COURT: She just walked in, that's why I asked.

9 MR. ARIAIL: She's been instructed and given
10 photographs on how to turn it off.

11 THE COURT: All right. Let the record reflect that
12 it is 3:34. The 24 hour waiting period has passed.

13 (The jury entered the courtroom at 3:34 p.m.)

14 THE COURT: Good afternoon. All right. Mr.
15 Foreman, ladies and gentlemen of the jury, this
16 defendant Brad Keith Sigmon was convicted yesterday,
17 July the 19th, 2002, for the offenses of murder, two
18 counts, and also for the offense of burglary, and
19 therefore it becomes necessary for us to hold an
20 additional proceeding which will determine the
21 punishment that the Court is to impose upon the
22 defendant. The two possible punishments are life
23 without any possibility of parole, or death, again,
24 which in South Carolina is by electrocution or lethal
25 injection. From time to time we call this a

1 recommendation of sentence, but I will tell you that any
2 sentence you impose will be the sentence that -- that I
3 will impose. So the -- if I use the term
4 recommendation, it's just because we used to call it a
5 recommendation, sometimes it's still called a
6 recommendation of sentence, but it is not a
7 recommendation, it is the sentence that will be carried
8 out by this Court and by the State of South Carolina.

9 Section 16-3-20 of the South Carolina code of laws
10 as amended provides in part as follows, a person who is
11 convicted or pleads guilty to murder must be punished
12 either by death or by imprisonment for life. That
13 section is further amended, also provides in part, upon
14 conviction a defendant of murder -- of a defendant of
15 murder, the Court shall conduct a separate hearing to
16 determine the punishment, whether the defendant should
17 be sentence to death or life. So the purpose in
18 conducting this proceeding which we are now engaged in
19 is to determine where Mr. Brad Keith Sigmon should be
20 sentenced by the Court to death or to life
21 imprisonment.

22 With respect to your particular role in this
23 proceeding you will recommend to the Court whether it
24 should be the sentence to sentence this defendant, Mr.
25 Sigmon, to death or life imprisonment. During this

1 proceeding the State and defendant will have the
2 opportunity to introduce additional evidence in
3 aggravation and extenuation, or in mitigation. Both
4 sides will have the opportunity to present arguments for
5 and against the death penalty.

6 Should you recommend a sentence of life
7 imprisonment, or whether you should recommend a sentence
8 of death that is the only issue you're involved in here.
9 After the last argument has been made to you concerning
10 the punishment that should be imposed by the Court upon
11 the defendant, I will certainly give you more
12 instructions. These are simply meant as an introductory
13 instructions.

14 Now, at this time the attorneys will have the
15 opportunity to make opening statements to you. At the
16 conclusion of this proceeding they will have the
17 opportunity to make closing arguments. I again tell you
18 that what the attorneys say is not evidence in this
19 case, but I do invite your careful attention to their
20 statements. Ms. Strom.

21 MS. STROM: May it please the Court, Your Honor?
22 Good afternoon, ladies and gentlemen. I may move away
23 from the podium. I'm short. You might not be able to
24 see me behind it so -- as His Honor told you, we are now
25 at the process of your beginning to make the

1 determination of what sentence to impose, and that
2 process may be a lengthy one, may not be a lengthy one.
3 We do not expect it to take that long in terms of the
4 presentation of the evidence. But as His Honor charged
5 you and told you, it's basically going to be the same
6 type of proceeding. We give opening statements, just
7 like we did in the first phase. You will receive
8 evidence. We then give closing statements as we did in
9 the first phase. And then His Honor will charge you the
10 law, and then you would begin your deliberations. So
11 it's the same procedure, it's just you're deciding a
12 different issue.

13 The issue that you're here to decide is what is the
14 appropriate penalty. What is the penalty to be imposed
15 upon this defendant for committing this crime. Is it
16 simply to hand out or hand down a serious sentence or a
17 serious punishment? I submit to you, ladies and
18 gentlemen, that your oath and your duty requires you to
19 go further, because it's not simply, do I hand down a
20 serious sentence, because everyone agrees that life
21 without parole is a serious sentence. The death penalty
22 is a serious sentence. Your job, your duty, your oath
23 requires you to go further and make an individualized
24 assessment of this defendant and the crime that he
25 committed, and make a determination as to which of the

1 two penalties is the appropriate penalty.

2 You may say, why did we go through that first
3 phase, especially in light of the fact that the
4 defendant got up here at the close of the case and told
5 you that he committed the crime. So why did we go
6 through that first phase? There are several reasons why
7 we went through that first phase, and a few of them are
8 this, you're going to be the ones who make the decision
9 as to punishment. Each of you needed to be comfortable
10 and confident and certain of this defendant's guilt
11 before you decide his punishment. And also, ladies and
12 gentlemen, you get to consider everything that was
13 introduced in the first phase. Just because it related
14 to guilt does not mean that you cannot consider it in
15 sentencing. You consider everything in the sentencing
16 phase. In fact, you will see that's one of the things
17 that we do is re-introduce, not through a lengthy
18 process but simply just asking the Court to re-submit
19 this evidence into the sentencing phase of the trial.
20 Those are some reasons we had to go through the first
21 phase of this trial, that you will know the
22 circumstances of this crime.

23 When I talked to about you will be receiving
24 evidence just as you did in the first phase, His Honor
25 has already talked to you, and talked about that in voir

1 dire, that it's going to be evidence in aggravation and
2 possibly evidence of mitigation. Evidence in
3 aggravation, as His Honor talked to you about, would be
4 things such as the defendant's character, victim impact,
5 how the deaths of David and Gladys Larke affected their
6 family. You will also get to consider the circumstances
7 of the crime, the nature of the crime. And as part of
8 that, ladies and gentlemen, you will be receiving
9 photographs of that crime scene. You will be receiving
10 photographs taken at the autopsy of David and Gladys
11 Larke. I tell you this now to prepare you for that,
12 because they are gruesome photographs, and they may be
13 difficult to view, but I ask that you look at them. I
14 ask that you review them and carefully consider them,
15 because that is the nature of this crime. Those
16 photographs will show you the circumstances of this
17 crime and the conduct of Brad Sigmon.

18 His Honor told you that you may also hear evidence
19 in mitigation. Those may be things such as his
20 background, had a bad childhood, could be things
21 involving drug abuse, or under the control of someone
22 else, I think is one of the items that the judge
23 mentioned to you. You are to consider all those things,
24 and you must consider all those things. But you take
25 all off that, you take all the aggravation and all the

1 mitigation, and determine what is appropriate.

2 After His Honor instructs you on the law, after
3 you've received all the evidence and the attorneys argue
4 to you in closing statements, His Honor will instruct
5 you as to the law in this case and what you are to
6 consider and how you are to go about your deliberations.
7 Unlike in the first phase, where there were a lot of
8 guidelines as far as expert testimony, circumstantial
9 evidence, credibility of witnesses, he gave a lot of
10 instructions, and he will give you some of those same
11 instructions, but really there is one essential rule in
12 this phase of a trial, and that is before you can even
13 consider imposing the death penalty, all 12 of you must
14 first agree and find beyond a reasonable doubt the
15 existence of a statutory aggravating circumstance.

16 When we went through void dire, we talked about
17 things in the abstract. We talked about a murder plus
18 an armed robbery, a murder plus a rape. Well, now that
19 we're in the trial of this case, we can talk about
20 particulars to this case. The State submits the murders
21 of two people, that is a statutory aggravating
22 circumstance. That the murder was committed while the
23 commission of a burglary, that qualifies as a statutory
24 aggravating circumstance. I submit to you, ladies and
25 gentlemen, that by your verdict yesterday you have found

1 those statutory aggravating circumstances. But, still,
2 it is a process that you must go through in your jury
3 room to first find a statutory aggravating circumstance
4 before you can even consider imposing the death penalty.
5 Once you find a statutory aggravating circumstance, then
6 you go to determine the penalty.

7 We talked with each of you individually at voir
8 dire trying to get an assessment of how you would react
9 in this type of situation. What your views were. Would
10 be fair to both side's request. We've also selected you
11 as being fair and impartial jurors. Every one in this
12 courtroom and in this courthouse appreciates the solemn
13 nature of what we're asking you to do. Everyone knows
14 this is not an easy decision to make, and I think some
15 of you even said that in voir dire, that it would not be
16 an easy decision, but if it was the decision that you
17 felt was right you could do it. It's not an easy
18 decision, but most of the decisions that are necessary
19 are not easy ones to make. They are the difficult
20 decisions to make, but they are necessary.

21 Each of you come in here individually with your own
22 backgrounds, your own beliefs, your own experiences in
23 life, and you individually must decide the sentence to
24 be imposed, but once each and every one of you have made
25 your individual decisions and it's an unanimous

1 decision, then you came together as one and you speak
2 for this community. You come together as one voice, one
3 voice after each of you has individually decided, and
4 one voice says, this is the penalty that I believe, that
5 we believe, that this community believes is right and is
6 just. Thank you. Thank you, Your Honor.

7 THE COURT: Mr. Eppes.

8 MR. EPPES: Thank you, Your Honor. I'm nervous as
9 a cat. I've never done this before. I'm going to start
10 by addressing one thing. It's never necessary to kill
11 another human being. It's never necessary to kill Brad
12 Sigmon, he's locked up for the rest of his life. I'm
13 going to start where I was going to start.

14 I was thinking last night, I was really hoping the
15 Solicitor was going to talk because he always starts
16 with that, I was thinking last night.

17 COURT REPORTER: Mr. Eppes, I can't hear you.

18 THE COURT: I can't hear you either.

19 MR. EPPES: He always starts with that, because he
20 wants to communicate with y'all. He wants to give y'all
21 a feeling of understanding about this Court system.
22 Sometimes that's hard for me to do. I grew up hanging
23 around the court system. My father was a criminal
24 defense lawyer. My grandfather was. And I've been
25 around the machinery of justice in South Carolina my

1 whole life. I've seen criminals. I've seen lawyers.
2 I've seen judges, court clerks, everybody. I've been
3 around them. And I am a criminal defense lawyer, and
4 I'm proud of what I do. I was thinking about this case
5 last night, and I was thinking about it in January, and
6 February, and March, and April, May, June and July. I
7 hadn't been thinking about much of anything else since
8 it started. It's been all I've been thinking about is
9 how to convince you 12 people, I didn't know you, but I
10 was thinking about how to convince you to spare Brad
11 Sigmon's life. John Abdalla and I have talked about it
12 for hours. We've got other people that help us, that
13 talk about it.

14 And I just want to make clear, because the
15 Solicitor's close yesterday bothered me, I want to make
16 clear to you right now that if there is a way, if
17 there's a way I can think of to conjole (phonetically),
18 to manipulate you, or anything else to convince you that
19 Brad Sigmon does not need to die, that it is not
20 necessary for Brad Sigmon to die, I'm going to do it.
21 Okay. Let's don't make any bones about that. That's
22 where we are. That's what we are.

23 We worked on this case -- we worked on this case
24 for two months without knowing what the heck we were
25 going to do. You know, we're sitting there looking,

1 who, what, when, where, why. We looked at it. We
2 looked at it. We looked at it. He was as guilty as he
3 could be of murder. He did it. There is no question
4 about it.

5 And they didn't need the why. The Solicitor said
6 it yesterday himself. He said, why doesn't matter in a
7 murder case. Why does not matter in a murder case, but
8 why does matter in a death penalty case. Everybody in
9 this room wants to know why this happened. Everybody in
10 this room wants to know what lead to the horrible events
11 at 948 Darby Road that day. And I'll tell you something
12 else, why is not about Rebecca Larke. Why is only about
13 one person. It's about Brad. It's about Brad Sigmon.

14 Now, the fact of the matter is Brad Sigmon's life
15 and Rebecca Larke's life have been entwined. They have
16 been entwined for three years. And because of that,
17 because of that, the interaction of their life, their
18 breakup is an integral part of this story. It is not an
19 unfamiliar story. Money got tight, and when money gets
20 tight relationships change. When money changes,
21 relationships change. Every married person knows that.
22 After the money got tight things started getting bad.
23 Mr. Sigmon started drinking. He took drugs. You're
24 going to hear about that.

25 You're going to hear why. Ms. Larke -- Ms. Barbare

1 found a new man. There is nothing wrong with that.
2 Good sense left Mr. Sigmon. You heard the officer from
3 Tennessee. He said, Brad said I don't know why good
4 sense come to Gino and it didn't come to me. He didn't
5 know why. That's a big why. Why did this happen? But
6 the biggest why is the one you have to answer. The
7 biggest why is looking at all the evidence and deciding
8 why Brad Sigmon should die or why he should live.

9 Now, the manipulation business. I really can't
10 tell you how much that bugs me. I don't think lawyers
11 manipulate. Lawyers are like lenses, the lens on your
12 glasses, or the lens on your camera, or the lens on your
13 binoculars. A lawyer takes that lens and focuses it on
14 what they want you to see out of that witness box, or
15 out of this evidence. A lawyer takes those binoculars
16 and says, hey, don't look at this right here, look way
17 down the road at that. That's a lawyer's job and that's
18 what we do.

19 Now, the Solicitor wants you to think that any
20 explanation of this case is -- is an excuse. There is
21 no excuses. Like we told you when you sat right up
22 here, I told just about everyone one of you, or John
23 did, one of us did, by the time you get in that box, and
24 we're at this stage, you're going to have a convicted
25 murderer in front of you.

1 Now, everybody in the room then, but you, knew that
2 you were going to be right here. You were the only
3 person. We had to do it hypothetically, but everybody
4 in the room knew it. And what you have to hear now is
5 aggravation and mitigation. And mitigation means the
6 reasons to give the lesser punishment, and aggravation
7 means to make worse, to aggravate, to make worse, the
8 reasons to give the greater punishment. There is only
9 two punishment, lesser and greater. There's not an in
10 between and then you're going up or down. Lesser or
11 greater. Mitigation, aggravation. I don't like
12 mitigation as a words. I've working on this case and
13 working on this argument and mitigation sounds like an
14 excuse. It sounds like a rationale. It sounds like
15 something that you don't want to consider because you
16 know that he's guilty. You know that he did it.

17 Now, our mitigation case is going to be very
18 simple. It's going to take a few witnesses, but it's
19 going to be the whys of this crime. It's going to be
20 the whys of the circumstances leading up to it. It's
21 going to be the whys of Brad Sigmon's life. Why did
22 this happen? What was the trigger that set Brad off?
23 And the trigger is here and I'm going to tell you about
24 it in closing statements. The trigger is something
25 that's already been put before you.

1 The second part of mitigation is going to be the
2 part about Brad Sigmon, the person, the person that a
3 family out here loves. Brad Sigmon the person is loved
4 and we're going to tell you why.

5 And then the Solicitor is going to do aggravation.
6 And aggravation has two parts too. The first part is
7 going to show you, they're going to argue to you that
8 Brad Sigmon is a monster, a monster that cannot be
9 caged.

10 And the second part -- ladies and gentlemen, I
11 practiced this a dozen times and I've messed it up every
12 time, so I'm just going to tell you that right now. The
13 second part is victim impact evidence. They're going to
14 show, the Solicitor's office, that David and Gladys
15 Larke were loved and/or missed. You're going to hear
16 about two wonderful people. You're going to see
17 pictures of them during happy times that's going to
18 break your heart. I know, because it breaks my heart.

19 I want to talk to you about this evidence now
20 because I'm going to get to arguing later, and I don't
21 want to argue about this. I'll tell you there is
22 nothing I could say that makes the loss of these two
23 people right. I've thought about it, there is nothing I
24 can say to make up for the loss this family suffered.
25 There is nothing I can say that seems appropriate. If

1 Brad died right now would that bring them back, I'd tell
2 you right now let's make the swap.

3 You're going to hear about Gladys Larke. You're
4 going to hear that she was David Larke's wife. You're
5 going to hear that she was irreplaceable to a lot of
6 people. She was a mother. She was a daughter. She was
7 a grandmother. She was an aunt. She was a sister. She
8 was a friend. She was a cousin. She was a neighbor.
9 Gladys Larke was all of these things to some many
10 people.

11 And you're going to hear about David Larke, Gladys'
12 husband. He too was a son, and a father. He was a
13 brother. He was a cousin. He was an uncle. He was a
14 friend. He was a neighbor. He was somebody you stood
15 outside with and smoke a cigarette. He was a good
16 person.

17 These people were a fiber of their families. They
18 were the fiber of their community. They were the fibers
19 of our community, because we all live in Greenville. We
20 all live in Greenville. Ladies and gentlemen, they were
21 irreplaceable, I can't make an excuse for it. I can't
22 make a mitigation for it. I can't say anything about it
23 that changes that. It's there. You have to consider
24 it. You have to put the weight on it and you have to
25 decide what importance it has in this case.

1 Now, that's going to be the prosecution's case.
2 They're going to put it forward. We're going to put
3 forward our case. And you're going to look at it
4 through the lens of the way the Solicitor's office and
5 we communicate it to you.

6 Now, the Solicitor said in his opening argument
7 follow the fall the ball. Did you see him say that, he
8 said, follow the ball. Everybody look at the ball.
9 Okay. The Solicitor's case isn't about the ball. The
10 Solicitor's case is about this bat. The Solicitor's
11 case is about this bat and the damage it did.

12 Dr. Ward is coming back. Dr. Ward is coming back
13 and he's going to put in photographs instead of these
14 documents, instead of these charts. And I think
15 Detective Thrasher or one of these guys is coming back
16 and he's going to show you photographs of the way the
17 Larke's looked in that house. And the photographs are
18 horrific. The damage done with this baseball bat in a
19 matter of seconds was horrible. The Solicitor wants you
20 focusing on the damage done.

21 Now, Dr. Ward is going to talk about some other
22 things too. Dr. Ward is going to talk about overkill.
23 I think you may remember Dr. Ward said something about
24 overkill in his first testimony. He said overkill often
25 happens in domestic situations. This case is about a

1 domestic situation. Then the Solicitor in his
2 closing -- I always take notes on what he says, he said
3 in his closing, overkill, yes, this was overkill. He
4 says that. So we're going to see if Dr. Ward will
5 expand for you what overkill is when you're keeping your
6 eye on the bat and the damage done.

7 Now, the bat is not the whole sorry here. There
8 were other tools taken as part of this great plan.
9 You've got the bat and you've got the electric cords.
10 These were part of the plan. You heard about it. You
11 heard about it in three of Mr. Sigmon's confessions.
12 You've heard about it from Mr. Strube. The plan was to
13 tie David and Gladys Larke up. There was duct tape
14 somewhere. There were the lost panty hose for Gene
15 Strube. Do you remember the -- I think it's Officer
16 Thrasher who said he took a picture of the panty hose
17 and didn't pick them up, and Gene Strube said they had
18 them there to cover his face. They needed to cover his
19 face because the plan was for the Larkes to live.

20 Now, you already know that what the plan was
21 doesn't matter in a murder case. The Solicitor told you
22 twice and the judge told you once, about malice
23 aforethought. There is no question there was malice
24 aforethought here. The Solicitor told you about it in
25 his opening statement. He said only that the defendant

1 at the time this -- I can't even read it anymore, only
2 that defendant -- I got it written down twice which is
3 good. Not for days, not for minutes, not for moments,
4 just the intent to strike the fatal blow. You're guilty
5 of murder if at the time you strike the fatal blow you
6 intended to do the harm. Brad Sigmon is guilty of
7 murder. Brad Sigmon is guilty of murder because after
8 Geno left, he went in that house, he did his
9 destruction. He did that horrible destruction and he
10 did it with intent. He went the house bent on mischief
11 and did he it. There was malice aforethought.

12 The Solicitor talked yesterday about -- I guess
13 yesterday, about Brad the schemer, Brad the great
14 manipulator. I hope I never have a client again that
15 manipulates the police by talking to them so much. He
16 confessed three times. He confessed on the phone to his
17 mama, crying in anguish. That's what Carrie Harbin said
18 from this stand. He confessed on the phone, crying in
19 anguish. Then he confessed to Mr. Williams. And --
20 Officer Williams and Officer Mr. McCarter from
21 Gatlinburg. Remember Officer Williams said he had to
22 pat him on the arm a couple times because he got
23 emotional. Then he confessed to Officer McNamara, seven
24 and a half written pages. He confessed to things they
25 didn't even know about. He told them about Geno. He

1 told them how to find this gun.

2 Now, let me ask you, master planner, master
3 manipulator, curies a .32. Okay. Do you think when he
4 got to K-mart he thought, dad burn, I should have kept
5 that gun? He wanted this gun as far as away from him as
6 possible. You know why? Because he felt horrible about
7 it. He felt horrible about this crime. As soon as he
8 was caught, he confessed, he confessed, he confessed.
9 He would confess again. That's what he did. He
10 confessed.

11 Now, the Solicitor made a big point of telling you
12 some element of the proof of this crime was that he ran.
13 Ladies and gentlemen, I submit to you after this
14 horrible crime, who wouldn't run? The ramifications of
15 it are obvious. But also true is when he was caught he
16 wanted to unburden himself. He wanted to unburden
17 himself of the great weight of these crimes. There was
18 no manipulation there. There was no manipulation there
19 at all. He chose to unburden himself and that's
20 important.

21 Now, the master plan again, the master plan with
22 electric cords, this duct tape, that's not a master
23 plan -- oh, and crack cocaine. You always want to throw
24 crack cocaine into the mix when you're developing a
25 master plan. You always want to hire a crack head to

1 come with you. I'm going to have two words for you
2 about a master plan in my closing statement. I want you
3 to remember that.

4 I'll going to tell what these are, I'll tell what
5 these are, these tools, these tools that he went out and
6 purchased, these tools.

7 MS. STROM: Your Honor, I'm going to object. These
8 are getting into arguments, it's not proper.

9 THE COURT: I sustain the objection. Mr. Eppes,
10 this is an outline of what you intend to show.

11 MR. EPPES: Yes, sir, Your Honor. Okay. I will.
12 We're going to show you that these tools were the tools
13 of a man who had trouble solving problems. They're the
14 tools of a man what had trouble with anger management.
15 They're the tools of a man with hostility. They're the
16 tools of a man that had very, very bad problems. He
17 didn't have any way to resolve them.

18 You're going to hear about Brad's family life when
19 he grew up. You're going the hear about Brad's family.
20 You're going to hear that he has a learning disability.
21 We're going to tell you how he faced the world when he
22 was a free man, his problems with drugs and alcohol.
23 We're going to tell you how all this makes him respond
24 to pressure and stress. He doesn't handle things well,
25 and guess what, he's in jail for the rest of his life.

1 He's going to stay in jail for the rest of his life.
2 And he deserves to stay in jail for the rest of his
3 life.

4 Now, there is going to be prison evidence too. The
5 Solicitor is going to have somebody come in and he's
6 going to talk to you about how nice the conditions are
7 in the penitentiary, the good food, the friendly
8 companionship. You're going to hear about all that.
9 And we're going to respond to that with a former warden
10 from a maximum security facility in the South Carolina,
11 Department of Corrections. And he's going to tell you
12 what prison life is going to be like for Brad.

13 You're going to hear all this, probably more.
14 Don't follow the miss direction, follow the evidence.
15 Follow the evidence you hear from up there. Follow the
16 evidence you see here. Then you will reach a decision
17 you will be proud of.

18 It's important to Brad Sigmon. He knows a few
19 things already. He knows you're going to decide his
20 fate. He knows that after tomorrow he'll never wear a
21 suit again. He knows that after tomorrow he'll never be
22 in a public place again without shackles. You're the
23 last people he will ever sit in a room with that do not
24 have business or personal ties to the Department of
25 Corrections. You're the last people he will ever see

1 that are not part of the criminal justice machinery.
2 Examine all the evidence and consider his fate fairly.
3 Thank you.

4 THE COURT: All right. Call your first witness.

5 MS. STROM: Your Honor, at this time the State
6 would move all evidence presented in the guilt phase of
7 this trial into the penalty phase.

8 THE COURT: All right. Anything with regard to
9 that motion from the defense?

10 MR. EPPES: I'm sorry?

11 THE COURT: Anything with regard to that motion
12 from the defense?

13 MR. EPPES: Motion to include all evidence in the
14 record?

15 THE COURT: Yes, sir.

16 MR. EPPES: No, no, sir.

17 THE COURT: All right. Granted.

18 MS. STROM: Thank you. The State calls Darryl
19 Larke.

20 THE CLERK: Put your left hand on the Bible,
21 please, sir, and raise your right hand.

22 DARRYL LARKE

23 Having been first duly sworn, testified as follows:

24 THE CLERK: State your name for the record, please,
25 sir.

1 THE WITNESS: Darryl Lark.

2 THE CLERK: Thank you. Be seated.

3 DIRECT EXAMINATION

4 BY MS. STROM:

5 Q Mr. Larke, if you would, please state your full
6 name for the record?

7 A David Darryl Larke.

8 Q And where are you employed?

9 A I'm a minister. I pastor church at Fountain Life
10 Pentecostal Holiness Church in Piedmont, South Carolina.

11 Q And you were the son of Gladys and David Larke?

12 A Yes.

13 Q Are you married?

14 A Yes.

15 Q Do you have any children?

16 A Yes.

17 Q How many children?

18 A One.

19 Q What is your wife's name?

20 A Wanda Larke.

21 Q How many brothers and sisters did you have -- do
22 you have?

23 A I have three sisters and one brother.

24 Q If you will, I want to go into a little bit about
25 David and Gladys Larke, and what kind of people they

1 were. Were they working at the time of their death?

2 A Daddy was retired and Mama sat with a lady at night
3 to offer care for her, an elderly lady.

4 Q And how often would she do this?

5 A She did it five days a week.

6 Q And your father was retired from what employment?

7 A He was a supervisor at the bleachery at the time.

8 Q At the bleachery?

9 A Yes.

10 MS. STROM: Okay. I'm going to show you what's
11 been marked as State's Exhibits 23A, B, C and D. These
12 have previously been show to defense counsel, Your
13 Honor.

14 MR. ABDALLA: All those are without objection, Your
15 Honor.

16 (State's Exhibit Numbers 23A through D were marked
17 and filed.)

18 BY MS. STROM:

19 Q Do you recognize those photographs?

20 A Yes, I do. That's my mama and daddy and our
21 family.

22 MS. STROM: Publish these to the jury at this time,
23 Your Honor?

24 THE COURT: Yes, ma'am. You may proceed, Ms.
25 Strom.

1 MS. STROM: Thank you, Your Honor.

2 BY MS. STROM:

3 Q Mr. Larke, please tell this jury how the murder of
4 your parents has affected your life?

5 A As with any one fine family, mama and daddy was the
6 center of everything that we did. Not only has my heart
7 been broken, my heart is empty, the loneliness that I
8 live with every day.

9 Q Mr. Larke, if you can please tell this jury some of
10 the things that you and your father used to do together?

11 A Well, I am who I am today because of him and my
12 mom. He taught me like any other child who's taught by
13 their parents, he taught me to fish. He taught me how
14 to hunt. He taught me how to enjoy life. He taught me
15 to be responsible. Daddy and I spent a lot of time
16 together. I saw them often every week.

17 The last few years, dad and I have a lot of
18 building projects. We were in the course of building my
19 house when this happened. We'd been working for year
20 and a half. I live in a house that he died four weeks
21 before its completion. He and I worked together a lot
22 on the things that we did. Every morning when I wake up
23 I see his marks at my house, knowing that he will never
24 see that house that he built with me. It's difficult
25 for me to deal with, but the memories are there and I'm

1 thankful of those memories, but we did everything
2 together.

3 He was with me all the time. Every chance I got,
4 he was with me. And I know I will never have those
5 opportunities again. They have been taken from me, and
6 I live with that for the rest of my life, not just his
7 death but the way he died, that's what's difficult for
8 me to deal with. Knowing that for 43 years he took care
9 of me, he was there, and I will never have the
10 opportunity to be there for him, to where he could have
11 died with some kind of dignity and grace, support and
12 love from his family, and knowing that the last person
13 he saw wasn't me, or his family, but the murderer that
14 took his life, and I deal with that every day.

15 And I guess that's the most difficult thing I go to
16 bed with, I wake up with it, and I live with it every
17 day, that the last time I saw my mama was at the
18 driveway when she kissed me, and we laughed together,
19 and I turned away and walked away that Wednesday,
20 knowing that the last person that she saw was him, and
21 that's the hardest thing for me to deal with, that they
22 didn't get look at their family, or those that loved
23 them, that cared for them, that nurtured them and helped
24 them in their senior years, but I didn't have that
25 opportunity. I can't really explain to you the loss

1 that I feel to this jury or anyone in this courthouse.
2 I know that my life has been totally shattered, that not
3 only my dealing with their death but the way they died.
4 And to me it's hard for me to say and explain what I
5 feel.

6 MS. STROM: Thank you, Mr. Larke. Please answer
7 any questions the defense may have.

8 MR. EPPES: No questions. Thank you, Mr. Larke.

9 THE COURT: All right. Thank you, Mr. Larke. You
10 can step down.

11 MS. STROM: The State calls Renee Smith.

12 THE CLERK: Place your left hand on the Bible,
13 please, ma'am, and raise your right hand.

14 RENEE SMITH

15 Having been first duly sworn, testified as follows:

16 THE CLERK: State your name for the record.

17 THE WITNESS: Renee Smith.

18 THE CLERK: Thank you. Be seated.

19 DIRECT EXAMINATION

20 BY MS. STROM:

21 Q Please state your full name for the record?

22 A Renee Geneva Leolla Larke Smith.

23 Q And you were the daughter of Gladys and David
24 Larke?

25 A Yes, I was their youngest daughter.

1 Q Their youngest daughter. We've heard a little bit
2 already about your parents. Tell this jury, number one,
3 what your relationship was with your parents, and then
4 how their deaths have affected you and your family?

5 A My parents were my best friends. I'm sorry.

6 Q It's okay. Take your time.

7 A I -- the best way to put how I feel right now is I
8 feel like I'm living somebody else's life. I live next
9 to my parents, so I see them every day. I work at a
10 bank. I work 8:00 to 5:00 and when I would come in, I
11 wouldn't even go home, I would go straight up there
12 because I ate dinner with them every night. And my
13 routine when I got there, and I just lived this routine
14 every day, and I don't know what to do now because I
15 would go in and my dad would always be sitting in his
16 chair, either right there on the front porch and I would
17 speak to him and my mom would be in the kitchen cooking.
18 And I would go in there and sit down until she got done.
19 And then right before supper I laid her medicine out.
20 She had to take medicine because she was in the hospital
21 about a year ago with a heart attack and there was
22 certain medications she had to take, and I always laid
23 out their medicine, and I would sit down and eat dinner
24 and then I would go home, and it was that way Monday
25 through Friday, and at this point I just don't know -- I

1 wake up now and don't know what to do when I get home
2 because on Saturdays we always went -- I went shopping
3 with my mom. Our routine was we always went out to eat
4 on Saturday night, so to me the most difficult is
5 they're not there for me to do my original routine every
6 day.

7 Q Ms. Smith, do you have any children?

8 A Yes, I have -- was actually three months pregnant
9 when this happened, and so he's now -- he just turned
10 nine months old. My mom was supposed to go with me to
11 the ultrasound about two weeks after this happened, and
12 she was counting the days down to find out if it was --
13 going to be a boy or girl, and -- and then she's
14 normally -- my mom and dad always showed up when a
15 grandchild was born, and I didn't have that, and it was
16 very difficult because this is my only child, this was
17 my first child. And I actually named him after my dad.
18 I named him Zachary William. William, is my dad's first
19 name.

20 MS. STROM: Court's indulge, Your Honor.

21 BY MS. STROM:

22 Q Ms. Smith, how has the deaths of your parents
23 affected your life in your family and your extended
24 family?

25 A We have not met for any holidays since this has

1 happened. We can't do that. We were a close family.
2 We met for every holiday, Labor Day, Memorial Day. We
3 always went to my brother's lake house because my mom
4 and dad loved to ride on his pontoon. And we haven't
5 been able to meet for any holidays. Christmas we just
6 kind of did our own thing. It doesn't -- like I said,
7 it just seems like I'm living somebody else's life,
8 because we're used to being a family and it's just like
9 that part of it is gone.

10 MS. STROM: Thank you. Please answer any questions
11 the defense may have.

12 MR. ABDALLA: We have no questions. Thank you.

13 THE COURT: Thank you, ma'am. You can step down.
14 Call your next witness, please.

15 MS. STROM: The State calls Cecil Thrasher.

16 THE COURT: Mr. Thrasher, come on up. You are still
17 under oath from your prior oath.

18 MR. THRASHER: Yes, sir.

19 CECIL THRASHER

20 Having been previously sworn, testified as follows:

21 THE COURT: Okay. How on just a minute.

22 (A bench conference was held.)

23 THE COURT: All right. Mr. Lynch, anybody that's
24 on the solicitor staff or the defense staff can come in
25 or out. Everybody else will remain seated, can't go

1 out. Nobody else can come in. Okay.

2 REDIRECT-EXAMINATION

3 BY MS. STROM:

4 Q Officer Thrasher, you testified in the earlier
5 proceeding that you were one of the forensic technicians
6 who processed 948 East Darby Road, correct?

7 A Yes, ma'am.

8 Q And I show you what has been marked as State's
9 Exhibit 25A, B, C and D. Ask you to look at those and
10 tell me if those are an accurate representation of the
11 scene on that day?

12 A Yes, they are. These are four photos I took on the
13 scene that day.

14 MS. STROM: All right. You don't need to clip
15 them. Your Honor, they've previously been shown to
16 defense counsel but I'll show them again at this point.
17 We would offer these at this time, Your Honor.

18 THE COURT: All right. Subject to my prior ruling,
19 and ---

20 MR. ABDALLA: Previous objection.

21 THE COURT: All right. You may ---

22 MS. STROM: Permission to publish?

23 THE COURT: You may publish them to the jury.

24 (State's Exhibit Numbers 25A through D were marked
25 and filed.)

1 MS. STROM: I have no further questions of this
2 witness. Your Honor, I would just like the opportunity
3 for all the jurors to view the photographs.

4 THE COURT: Okay. Just put them on the table.

5 MS. STROM: I don't have any questions. Please
6 answer any questions.

7 MR. ABDALLA: We have no questions.

8 THE COURT: Thank you, sir. You can step down.

9 THE WITNESS: Thank you.

10 MS. STROM: Your Honor, we'd ask that he be
11 excused.

12 MR. ABDALLA: That's fine. Without objection.

13 THE COURT: All right. Let's take a short break at
14 this time. Mr. Foreman, I'm going to send you back to
15 your jury room. Don't talk about this case, but we'll
16 take a short break. Everybody else remain seated,
17 please, while the jury leaves.

18 (The jury exited the courtroom at 4:32 p.m.)

19 THE COURT: All right. Mr. Lynch, is there
20 something over that glass there? Please have a seat.

21 MR. LYNCH: No.

22 THE COURT: Okay. I noticed people standing in the
23 hallways. I want a deputy out there. I want everybody
24 out of that hallway. Just like we had yesterday. All
25 right. The rules are real simple. We're going to take

1 a break. You need to be back in your seats. You cannot
2 get up and leave during this portion of the trial. If
3 you're locked outside, you're going to have to stay out
4 in the hallway, not in this little alcove here.

5 Mr. Lynch, I really want you to do that. That --
6 the foreperson has complained about being distracted by
7 people standing there.

8 We'll take a 10-minute break.

9 (A short recess was taken, after which, the trial
10 continued as follows:

11 THE COURT: All right. Anything before we proceed?
12 All right. Bring the jury.

13 (The jury entered the courtroom at 4:50 p.m.)

14 THE COURT: All right. Call your next witness.

15 MR. ARIAIL: Call Dr. Michael Ward.

16 THE COURT: All right. Dr. Ward, you are still
17 under oath, you understand that?

18 DR. WARD: Yes, sir.

19 THE COURT: All right. Thank you.

20 DR. MICHAEL WARD

21 Having been previously sworn, testified as follows:

22 REDIRECT-EXAMINATION

23 BY MR. ARIAIL:

24 Q Dr. Ward, you've previously been sworn and
25 testified and qualified as an expert. I will ask you

1 again to keep your voice up just like you did in your
2 previous testimony. During the course of your prior
3 testimony I asked you if you had performed an autopsy
4 and you gave us details of that. During the course of
5 that autopsy did you have occasion to also make
6 photographs as the normal part of your autopsy process?

7 A Yes, I did.

8 Q Let me show you these documents here and ask if
9 these are the photographs that you take -- or you took
10 in this particular case?

11 A Yes, they are.

12 MR. ARIAIL: All right. Your Honor, these have
13 been previously marked ---

14 THE COURT: Go ahead show them to the defense.

15 MR. ARIAIL: --- as State's Exhibit 24.

16 THE COURT: All right. Subject to the prior
17 hearing and my ruling in that.

18 (State's Exhibit Numbers 24A through H were marked
19 and filed.)

20 BY MR. ARIAIL:

21 Q Dr. Ward, are these photographs -- do these
22 photographs depict the injuries which you previously
23 testified about and described on the drawings that we
24 presented at the guilt phase of this proceeding?

25 A Yes, they do.

1 MR. ARIAIL: Your Honor, we'd like to publish these
2 to the jury at this time.

3 THE COURT: All right. Go ahead.

4 MR. ABDALLA: Subject to our previous objection.

5 BY MR. ARIAIL:

6 Q Dr. Ward, on these photographs, while the jury is
7 looking at them, there are certain numbers. The number
8 133 is that -- and number 134.

9 A On each photograph there is an identification
10 number, one is labeled -- a group of these are labeled
11 A01-133, which is the unique autopsy number assigned to
12 Mrs. Larke. And the other number is A01-134, which is
13 the unique autopsy number assigned to Mr. Larke.

14 Q And this may seem like a rather obvious question,
15 but just for the record, would there be pain associated
16 with the infliction of these wounds?

17 A Yes, there would be.

18 MR. ARIAIL: Thank you, Dr. Ward. Answer any
19 questions that either defense counsel may have.

20 RE CROSS-EXAMINATION

21 BY MR. ABDALLA:

22 Q Good afternoon, Dr. Ward.

23 A Good afternoon.

24 Q Yesterday I asked you about a phenomenon called --
25 referred to as overkill. And I believe your testimony

1 was something to do with multiple hits. What I'd like
2 you to do is explain that a little further today.

3 A In a -- in particular fashion, or just to reiterate
4 my testimony from yesterday?

5 Q Reiterate your testimony from yesterday and then
6 I'd like you to expand on it. Let me go from there if
7 you would.

8 A As I said yesterday, overkill is a phenomenon that
9 is sometimes described in deaths where there are many
10 more injuries present than you would think necessary to
11 cause death. These are often a sharp force injuries
12 where there are many more stab wounds present, generally
13 in vital areas, the neck, the abdomen, around the heart,
14 to the chest. And the impression that you have at the
15 time of autopsy is that these injuries were inflicted
16 very, very rapidly, as in stab, stab, stab, stab, stab,
17 without any -- without any intervening time. And just
18 without any thought to what's going on. And that even
19 some of these wounds can be presented as being post
20 mortal. Again, in literature these are often described
21 in domestic situations, very often in homosexual
22 situations, where one partner is dissatisfied with the
23 relationship and kills the opposite partner. That's the
24 basics of the overkill description.

25 Q And you said stab, stab, stab, stab, stab, could

1 that likely also be hit, hit, hit, hit, because you were
2 referred to -- I believe you answered my question that
3 the hits were in succession with a baseball bat?

4 A It certainly could be, yes.

5 MR. ABDALLA: Thank you. One moment, please. I
6 have no further questions. Thank you.

7 MR. ARIAIL: Just a couple for clarification.

8 REDIRECT-EXAMINATION

9 BY MR. ARIAIL:

10 Q Overkill mainly relates to domestic situations?

11 A That has been my experience, yes.

12 Q And in this particular case you're not able to
13 determine how fast these wounds were inflicted?

14 A No, I'm not.

15 Q And I will ask you to assume that the defendant has
16 given a statement indicating that wounds were inflicted,
17 he moved to another area and inflicted wounds on --
18 first on Mr. Larke, then moved to another room,
19 inflicted on Mrs. Larke, and then heard Mr. Larke
20 moaning and returned to that location to inflict
21 additional wounds, and then heard Mrs. Larke moaning and
22 apparently still alive, and went back to that area to
23 inflict additional wounds. Is that typical of overkill?

24 A Not -- my impression, no. That -- my impression of
25 overkill is once the acts start that it continues

1 without interruption, with repetitive strikes, blows,
2 stabs, whichever you'd like to describe, without
3 interruption, and there is no leaving and returning to
4 the victim to repeat that process.

5 MR. ARIAIL: Thank you.

6 THE COURT: All right. Thank you, sir. You can
7 step down. You are released from your subpoena.

8 THE WITNESS: Thank you.

9 MS. STROM: Your Honor, may we speak with you
10 briefly?

11 THE COURT: All right.

12 (A bench conference was held.)

13 THE COURT: Remind me to put that on the record,
14 please, ma'am.

15 MS. STROM: Your Honor, at this time the State
16 would introduce the prior criminal history of Brad
17 Sigmon.

18 MR. ABDALLA: Your Honor, the only thing I do
19 state the objection that was indicated at the side-bar
20 on one ---

21 THE COURT: Okay. We'll ---

22 MR. ABDALLA: --- clarification on the one charge.

23 THE COURT: We'll put that on the record.

24 MR. ABDALLA: Thank you.

25 THE COURT: Yes, ma'am.

1 MS. STROM: Madam Court Reporter, I failed to give
2 a number to this. Would you please give me a State's
3 Exhibit Number.

4 (State's Exhibit Number 26 was marked and filed.)

5 MS. STROM: State's Exhibit Number 26. And if I
6 may summarize for the jury, Your Honor?

7 THE COURT: Yes, ma'am.

8 MR. ARIAIL: October 22, 1984, driving under
9 suspension, third offense, and hit and run with personal
10 jury out of Richland County. January 17, 1987,
11 shoplifting, first offense, out of Greenville County.
12 Number three, November 11, 1988, driving under
13 suspension, fourth offense, out of Sumter County.
14 9/21/90, unlawful use of the telephone out of Clarendon
15 County. November 3, 1991, driving under the influence,
16 second offense, out of Greenville County. January 17,
17 2001, violation of ABC law, Anderson County.

18 THE COURT: All right. Those certified copies of
19 charges and indictments?

20 MS. STROM: Yes, sir, Your Honor.

21 THE COURT: Okay. All right. Call your next
22 witness.

23 MR. ARIAIL: Call Ms. Tomberlin.

24 THE CLERK: Put your left hand on the Bible,
25 please, ma'am, and raise your right hand.

CHERYL TOMBERLIN

Having been first duly sworn, testified as follows:

THE CLERK: State your name for the record, please.

THE WITNESS: Cheryl Tomberlin.

THE CLERK: Thank you. Be seated.

DIRECT EXAMINATION

BY MR. ARIAIL:

Q Would you state your name, please, ma'am.

A Cheryl Tomberlin.

Q And, Ms. Tomberlin, if you would, keep your voice up just like that so these last two jurors on this end can hear you. I want to ask you if -- where do you presently reside?

A In Tennessee.

Q And prior to residing in Tennessee and in earlier years, were you married to Mr. Brad Sigmon?

A Yes, sir.

Q When were you married to Mr. Sigmon? When did y'all get married?

A In April of 1977.

Q And how old were you when you got married?

A Sixteen.

Q And how old was he?

A Nineteen.

Q And where did y'all get married?

1 A In Sumter County.

2 Q In South Carolina?

3 A South Carolina.

4 Q All right. How long had you known Mr. Sigmon, just
5 roughly, before you got married and how had you come to
6 know him, meet him, that sort of thing?

7 A I had probably known him since I was about 12, 14.
8 I met him through his sister. I was good friends with
9 his sister, both his sisters.

10 Q And his sister lived where?

11 A In Sumter County.

12 Q And that's where you lived?

13 A Yeah.

14 Q You grew up in that area?

15 A Pretty much so, on and off.

16 Q What was -- what were your parents -- were they
17 connected with the Air Force?

18 A Air Force, yeah. We lived on the Air Force base.

19 Q And you would -- you moved from place to place when
20 you were younger?

21 A Yes, sir.

22 Q And did you and Mr. Sigmon eventually get divorced?

23 A Yes, sir.

24 Q And who filed for the divorce?

25 A I did.

1 Q And what were the grounds for the divorce?

2 A Habitual drunkenness (sic) and physical cruelty.

3 Q And when was the divorce finalized?

4 A In November.

5 Q Of?

6 A 1990.

7 Q 1990?

8 A '89.

9 Q All right. Let me show you -- show you a copy of
10 your final divorce decree, and the date.

11 A December of 1990.

12 MR. ARIAIL: All right. Your Honor, we would like
13 to offer as a State's exhibit, a certified true and
14 correct copy from the Clerk of Court of Clarendon
15 County, final decree of divorce.

16 THE COURT: Have you seen it?

17 MR. EPPES: Let me look at it.

18 THE COURT: Have you seen it before?

19 MR. EPPES: I think so, Your Honor, but I just want
20 to look at it real quick.

21 MR. EPPES: Thank you. Without objection, Your
22 Honor.

23 THE COURT: All right. What is the number on it,
24 Solicitor?

25 MR. ARIAIL: I don't have a number. We need to

1 assign one to it. Twenty-seven.

2 (State's Exhibit Number 27 was marked and filed.)

3 MR. ARIAIL: Your Honor, if I can publish a portion
4 of it before I proceed with further testimony?

5 THE COURT: Yes, sir.

6 MR. ARIAIL: On page two of paragraph -- excuse me
7 page two the final decree signed by Family Court Judge,
8 S. H. Bellstrom, reads, five, plaintiff has proved her
9 case for divorce on the grounds of physical cruelty and
10 habitual drunkenness. The marriage is beset by
11 violence. On June the 2nd, 1990, the defendant beat the
12 plaintiff about the body, placing her in fear for her
13 life and safety, and reviving all incidents of physical
14 cruelty in the past. The defendant is also in the habit
15 of consuming alcoholic beverages in excess and becoming
16 intoxicated.

17 BY MR. ARIAIL:

18 Q Ms. Tomberlin, starting with 1978, when you were
19 married to Mr. Brad Sigmon, I want to talk about a few
20 of the incidents of physical violence that this judge's
21 decree and order talks about. I want to start in 1978.
22 Do you remember the first act of physical violence you
23 encountered with Mr. Sigmon?

24 A After we were married?

25 Q Yes?

1 A We had gotten in an argument one night and he had
2 hit me, so I called the police on him from the next door
3 neighbor's house. And the police come. I remember them
4 talking to me. I remember them talking to him. And
5 they left.

6 Q All right. And after they left -- did you have any
7 children at that time?

8 A No, sir.

9 Q Were you pregnant?

10 A Yes, sir.

11 Q And after they left, tell us what happened?

12 A After they left, he held me on the couch all night
13 long and he kept calling me Cindy, which was the name of
14 his old girlfriend, and then it was like he would look
15 at me and he would realize I wasn't Cindy and that would
16 make him mad. He would say, oh, you're not Cindy,
17 you're that bitch I married, and he would hit me and he
18 would go in a rage of fit, and he would get up and he
19 would hit the wall, and that just continued all night
20 long. It was like he was going to teach me a lesson for
21 calling the police on him. It was ---

22 Q Did he tell you that?

23 A Yeah. It was something you just didn't do, was
24 call the police on him.

25 Q Now, after -- after that event in 1978 or '79, did

1 you in fact have children by Mr. Sigmon?

2 A Yes, sir.

3 Q Your oldest child is -- was born when?

4 A June 13th.

5 Q Of what year, '79?

6 A 1978.

7 Q '78. All right. And that child's name is Robbie?

8 A Robbie.

9 Q All right. And when you had -- after you had
10 Robbie did you have -- well, before you had Robbie, did
11 you ever attempt to leave Mr. Sigmon?

12 A Yes, sir.

13 Q And where did you -- how did you attempt to do
14 that?

15 A I told him I needed to go back to Sumter and visit
16 his family, and they're real good friends of ours that
17 lived next door to my parents, and he agreed and drove
18 me down there. And when I was down there I called my
19 mom and told her I wanted to come home.

20 Q And where was your mother living?

21 A She was living in California.

22 Q All right.

23 Q And she bought me an airline ticket and arranged
24 for me to fly out to California.

25 Q And did you do that?

1 A Yes, sir.

2 Q And did you go to California?

3 A Yes, sir.

4 Q Did you have -- did Mr. Sigmon attempt at any time
5 to stop you from going to California?

6 A Yes, sir.

7 Q How did he do that?

8 A He had found out was I leaving him, I was going
9 back to California, and he come down and I was at his
10 parents', his real father and step-mother's house, and
11 he knocked on the door, either he come in and he jerked
12 me out of the house and pulled me into the car. And he
13 was driving around and he was real mad. He told me he
14 knew what I was planning on doing, and he was hitting me
15 and saying I wasn't going to leave him, he wasn't going
16 to let me leave him. And I was crying and I begged him,
17 okay, I promise I won't leave you if you'll just take me
18 back to your parents house so I can get my clothes. And
19 he did, he took me back there and dropped me off at his
20 parent's house. And his step-mom was there with a gun.
21 She pulled a gun on him. And the neighbor come by and
22 picked me up and took me to the airport.

23 Q And did you go to California?

24 A Um-hm.

25 Q And how long were you in California before you

1 re-encountered Mr. Sigmon, approximately?

2 A It wasn't long. A month, two weeks.

3 Q Did he come to California?

4 A Yes, sir.

5 Q And did y'all reunite as a married couple?

6 A Yes, sir.

7 Q And did you birth a child? Your first child was
8 born in California?

9 A Yes, sir.

10 Q Now, did you attempt to leave him again in
11 California?

12 A Yes, sir.

13 Q And where did you go then?

14 A I flew back to South Carolina to live with my
15 father.

16 Q Did you tell him you were leaving?

17 A No, sir.

18 Q And how long was it before you re-encountered Mr.
19 Sigmon?

20 A Probably a couple months, a month or two.

21 Q And did you call him, or did he just show up?

22 A He just showed up. We were going down the road and
23 there he was. He just showed up.

24 Q And after he showed up, was there -- did you and he
25 again reunite as a married couple?

1 A Not right away, but eventually.

2 Q All right. And when you did, after that did you --
3 where were you living?

4 A We was living with my sister.

5 Q And did you ---

6 A In Columbia.

7 Q In Columbia?

8 A Yeah.

9 Q And is that where you reunited your marriage?

10 A Yes, sir.

11 Q Now, did an incident occur in Columbia in regard to
12 Robbie after another encounter you had with Mr. Sigmon?

13 A Yes, sir.

14 Q Tell us what happened?

15 A It had snowed that day. It was in January. And he
16 was at work. And my sister and I were working and we
17 called the plant and they said for us to report anyway.
18 And when we got up there they had closed it because the
19 snow had gotten worse, and my sister said, let's go to
20 the mall and have a cup of hot chocolate and look
21 around. And so we did. And when we got home he was
22 real mad because he said he had seen on TV that the --
23 the plant had been closed down. He wanted to know where
24 was we at and what was we doing. And we started
25 arguing. And I like bowed up to him a little and just

1 told him, you know, this is my daddy's place, he's
2 paying for it, and I don't have to take this off of you,
3 and things were supposed to be different, and if you
4 don't like it you can get out, you can leave.

5 Q And did he leave?

6 A He picked Robbie up and scooped him up in his arms
7 and took him, and he had stolen the car keys and we
8 didn't know it and he put him in the car and I was
9 banging on the doors to, please, don't take my baby from
10 me. And he left and took Robbie.

11 Q From that day in Columbia in January of 1980?

12 A Um-hm.

13 Q How old was Robbie when he took him?

14 A He was 18 months old.

15 Q And when is the next time that you heard -- heard
16 or saw Robbie?

17 A He was two and a half years old.

18 Q Did you know where Mr. Sigmon went?

19 A No, sir.

20 Q Okay.

21 A I would call his mama. I did everything I could to
22 find him. My father paid for a private detective. We
23 went to Greenville several times. We would look and we
24 would search. And I would call his mama and I would beg
25 her, I just want my baby back, please. And she would

1 laugh at me on the phone and she would say, what baby,
2 you got a baby, I didn't know you had a baby. She would
3 ask me if I was drunk or something.

4 Q And how did you finally -- did you eventually
5 re-establish contact with Mr. Sigmon?

6 A Yes, sir.

7 Q And how did you do that?

8 A I was about eight months pregnant with our daughter
9 then, and I went up there and I got in touch with a
10 relative, I don't -- an aunt or something, who got in
11 touch with him, and I left her the motel number where we
12 were staying at, and Brad called me and he told me to
13 come to a certain location. And I went to that
14 location. His step-father had drove him there. And
15 then we went somewhere, I can't remember where we went,
16 but I couldn't see Robbie that night.

17 Q All right. And did you stay with Mr. Sigmon that
18 night?

19 A (Witness nodded her head.)

20 Q Then were -- did you see Robbie the next day?

21 A The next day, yeah, I got to see Robbie.

22 Q And did you reunite with Mr. Sigmon at that time?

23 A Yes, sir.

24 Q And why?

25 A Because I was just -- I was broken. I wanted my

1 baby. It was like if I kept my baby I had to stay with
2 him. He always made it clear if I left him he was going
3 to take the baby. I could go, but Robbie had to stay
4 with him.

5 Q All right. And after you reunited with him at that
6 time, how long did y'all stay together before moving
7 back to -- back to Manning?

8 MR. EPPES: Your Honor, I've let the Solicitor lead
9 a long time. I would just ask that he ask proper
10 questions.

11 THE COURT: All right. Don't lead your witness.

12 MR. ARIAIL: I didn't hear it, what the objection
13 was. Was it leading?

14 THE COURT: Yeah, the objection was leading.

15 BY MR. ARIAIL:

16 Q Well, let me do it this way. Where did -- did you
17 and Mr. Sigmon move to after -- or from Greenville?

18 A We stayed in Greenville for a while. My daughter
19 was born. And then I had a third child, another son.

20 Q When was the third child born?

21 A August of '83.

22 Q And all of that occurred in Greenville?

23 A Yes, sir.

24 Q And during this period of time, was there physical
25 violence still occurring?

1 A Yes, sir.

2 Q Then in 19- -- after 1983, how long did you stay in
3 Greenville?

4 A We moved briefly in about 1985 or '86 up to
5 Illinois. We weren't up there very long. And my
6 grandmother was dying, and that's what made us move to
7 Manning, South Carolina.

8 Q And after you moved to Manning, South Carolina, did
9 you begin to -- did things change?

10 A Yes, sir.

11 Q How did they change?

12 A I don't know. I was just like broken down by him.
13 I had just put in my head that if I left him I wouldn't
14 never get to see Robbie, even though Robbie was 10 by
15 then -- or 9 or 10, and my aunt, I became real close to
16 her, and she would talk to me, and she would tell me
17 that I didn't have to put up with that kind of
18 treatment. And I would always try to explain to her,
19 but you don't understand, you know, if I left him he
20 would take Robbie. He never wanted to take the other
21 two. He never threatened to take the other two, he was
22 always just going to take Robbie. My aunt said one day,
23 she said, well, let him take Robbie. Robbie's not a
24 little baby, a little tiny infant in his arms anymore.
25 He knows his mama and loves his mama. And he knows how

1 to get in touch with her. And it was just -- I don't
2 know, something just clicked in my head, it was like,
3 yeah, you know, that's not a threat over my head no
4 more, he can't hang Robbie over my head and I just got a
5 little bit of independence with her talking to me,
6 helping me and ---

7 Q What did you do?

8 A I did stuff that he wouldn't never let me do
9 before.

10 Q Like?

11 A I wore makeup. I cut any hair. Stuff he just was
12 real controlling about during our marriage that he
13 didn't like for me to do.

14 Q All right. And after you began to do that, was he
15 absent from the home for a while?

16 A Yes, sir.

17 Q And then -- what was he absent for?

18 A He had went to jail for a while.

19 Q And while he was in -- was that when this
20 independence occurred, during this period?

21 A Um-hm.

22 Q Now, when he came back, you eventually filed for
23 divorce according to the divorce decree, and there --
24 referenced in there is -- it says on June the 2nd of
25 1990, the defendant beat the plaintiff. Tell us about

1 that incident?

2 A Well, after he had gotten out of jail and we
3 were -- got back together, things just got really bad.
4 He wasn't working. My son Robbie was taking karate,
5 and I had brought him home from class one day, and Brad
6 was -- started hitting him in the back of his head, and
7 he was saying, oh, you're tough now, aren't you, you
8 think you can whip your old man now don't you. And
9 Robbie was begging him, you know, daddy, please don't,
10 just stop. And Brad would hit him a couple more times
11 and Robbie turned around and did some kind of little
12 karate kick on him, and he hit him -- kicked him pretty
13 hard, and Brad slapped him and knocked him down to the
14 floor. And I should have done something about it then,
15 but I didn't This is -- the rest of that week we just
16 kept fighting. And one night I was in the kitchen and
17 he come up behind me and he was groping at me and I told
18 him to leave me alone. And we started arguing and
19 fighting, and he slapped me and started to hit me. So
20 the next morning I went down and I got a restraint
21 against him, and the police made him leave the house on
22 a Monday.

23 Q Did you file for divorce at that time?

24 A Yes, sir.

25 Q And the divorce was granted, and you had your

1 hearing in November?

2 A Yes, sir.

3 Q Do you remember going to that hearing?

4 A Yes, sir.

5 Q And do you remember leaving that hearing?

6 A (Witness nodded her head.)

7 Q And when you left that hearing where did you go?

8 A I went to my aunt's house. I was so happy like for
9 the first time in years, I was just so happy. I just
10 felt, I don't know, like a big burden was off of me,
11 almost guilty that nobody should feel that happy.

12 MR. ARIAIL: All right. Let me ask if I could,
13 Your Honor, publish to the jury another portion of the
14 divorce decree?

15 THE COURT: Yes, sir.

16 MR. ARIAIL: Paragraph 8 on page 3, the defendant
17 shall be restrained, prohibited and forbidden to
18 communicate, or attempt to communicate with the
19 plaintiff in any way, or to enter or attempt to enter
20 the plaintiff's place of residence, employment,
21 education or to contact the plaintiff at any location
22 whatsoever, except for the specific purpose of effecting
23 visitation.

24 BY MR. ARIAIL:

25 Q Now, with that restraining order in place and

1 after your divorce, did you have any additional contact
2 with -- or did you have contact with Mr. Sigmon?

3 A Yes, sir.

4 Q Tell the jury about that incident?

5 A He would call daily, nightly, all hours. He would
6 threaten me. He would -- would quote, 'til death do us
7 part, just remember that. He would call sometimes and
8 say that he had just hired somebody to kill me. It was
9 constant threatening me, harassing me over the phone. I
10 never visually saw him around during that time, but he
11 knew everything I was doing. If I went to school, he
12 knew about it. If I got a different car, he'd call me
13 the next morning and ask me, is that your car. He just
14 seemed to know everything I was doing during that time.

15 Q Did you personally come in contact with him after
16 your divorce hearing?

17 A Yes, sir.

18 Q Where?

19 A At the home me and my children lived at.

20 Q Whose home -- where was that located? Were you
21 still in Marion?

22 A Manning.

23 Q Manning.

24 A Manning, South Caroline.

25 Q Tell the jury what happened?

1 A We lived in the grandma's old house. It was a big
2 old house. It had no heat. So I would close off the
3 doors and we would sleep in two rooms, and usually I
4 would sleep on the couch and the kids would sleep on a
5 pallet on the floor. And the only heat I had was a
6 Kerosene heater to heat it up. And he called me one
7 night. It was around 12:00, 12:30 in the morning. The
8 phone rung and I answered it and it was him. And he was
9 just cussing and just threatening me. And I just hung
10 up on him.

11 Q Let me ask you at that time where did he live?

12 A He lived in Greenville.

13 Q And you were living in Manning?

14 A Um-hm.

15 Q Okay. This is when the call was made?

16 A Yes, sir. And it kind of rattled me a little,
17 that -- you know, just the things he said to me. And I
18 cut the TV on for some light. I didn't cut no lights
19 on. I just cut the TV on. I didn't even have the
20 volume cut up on it. And I heard a car, but my driveway
21 was real long. So I thought it was maybe somebody
22 turning around in my uncle's driveway. He lived across
23 the street from me. And my dog was chained up, because
24 I had just had him treated. And my dog was barking.
25 And I could tell by the way he was starting to carrying

1 on that something -- that somebody was out there. And I
2 looked out the window and I could see somebody out
3 there. So I got to the phone and I called the police,
4 and I told them that somebody was out -- was walking
5 around outside my yard. And the next thing I knew he
6 was on the porch. And the room we were in had three
7 doors, and so you could come in any three doors to get
8 into that one part of the room. And he was trying the
9 door knobs, opening up the doors. And eventually he
10 just went to the back kitchen door and just kicked it
11 down, and knocked over the heater.

12 Q Did you know this was him coming in?

13 A Yeah. I knew it was about him because the doors
14 had no curtains to them, and I could see him. I was
15 crouched underneath a desk that I had. And I was
16 whispering to the police trying to tell them where I
17 lived so they could hurry up and get out there.

18 Q Did he come in?

19 A Um-hm.

20 Q How did he come in?

21 A He kicked open the back door.

22 Q What happened when he came in?

23 A I stood up and I told him he wasn't supposed to be
24 there, and I had called the police. And he came around
25 the couch and my kids were asleep on the floor. And I

1 remember my daughter screaming because he had stepped on
2 her. And he jerked the phone out of my hands. And he
3 was telling the kids to wake up, wake up, kids, and they
4 were kind of like stirring. And I sat down on the
5 couch, and then he sat down next to me, and he was
6 saying, you see how easy it is for daddy to come visit
7 y'all, like he was just there for a visit or something.
8 And I said, Brad, and I tried to say it with authority
9 in my voice so maybe, you know, he wouldn't think I was
10 real, real scared of him, I told him, I said, Brad,
11 you're not supposed to be here and I want you to leave.

12 Q What time of day was this?

13 A It was at night. It was about 12:30, 1:00 in the
14 morning.

15 Q Midnight?

16 A Um-hm.

17 Q All right. Go ahead.

18 A And he just -- it was just like he lost it. He
19 just got over on me and he just started choking me and
20 he told me to shut the F. up, I didn't have anything to
21 say about it, and that he was going to kill me. And
22 then all I remember is the room was just like it was
23 going dark on me, and I was thinking, well, you're
24 killing me now, you're doing it now. And I reached for
25 a gun and I shot him.

1 Q Where was the gun?

2 A It was in my purse by the couch.

3 Q How many times did you shoot him?

4 A Twice.

5 Q And did he leave the residence after you shot him?

6 A Yes, sir.

7 Q And after that incident did you have any other
8 contact with Mr. Sigmon?

9 A A short while after he was hurt, I -- I thought he
10 was outside, but I can't never say for sure.

11 MR. ARIAIL: Well, don't go into it if you don't
12 know he was outside. Let me ask you this, did he ever
13 express to you, never mind, I will withdraw that
14 question. Answer any questions of either defense
15 counsel. Thank you, Ms. Tomberlin.

16 THE COURT: Mr. Eppes.

17 MR. EPPES: Your Honor, Ms. Tomberlin has refused
18 to talk to us. So could we have a short break to
19 discuss the testimony?

20 THE COURT: All right. Mr. Foreman, ladies and
21 gentlemen, we'll -- I'm going to send you to your jury
22 room. Don't discuss this case. We'll be with you
23 shortly.

24 (The jury exited the courtroom at 5:37 p.m.)

25 THE COURT: All right. You want her to go out at

1 this time?

2 MR. ARIAIL: Yes. If that's what ---

3 THE COURT: Get your victim witness to escort her
4 out, please. All right. Come on -- you can step down.
5 Don't talk about your testimony while you're off the
6 stand.

7 (Ms. Tomberlin exited the courtroom.)

8 THE COURT: All right. Ten minutes?

9 MR. EPPEs: Thank you.

10 THE COURT: Take a 10 minute break.

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

13 THE COURT: All right. We need the witness on the
14 stand. Is there going to be cross?

15 MR. EPPEs: Yes, sir.

16 (Ms. Tomberlin entered the courtroom.)

17 THE COURT: Come back to the stand, please, ma'am.
18 All right. Bring the jury.

19 (The jury entered the courtroom at 5:52 p.m.)

20 THE COURT: All right. Cross-examination.

21 CROSS-EXAMINATION

22 BY MR. EPPEs:

23 Q Hi, Ms. Tomberlin.

24 A Hi.

25 Q My name is Frank Eppes. We've never spoken before,

1 have we?

2 A No, sir.

3 Q As a matter of fact, people that have been working
4 with me that are representing Brad in this matter have
5 been trying to contact you about six or eight months,
6 haven't they?

7 A No, sir.

8 Q Has a woman named Paige Tarr ever called you or had
9 other people call and ask you to call her back?

10 A No, sir.

11 Q Has a man named Gerald Ravan ever asked people to
12 have you to call him?

13 A No, sir. My son has called me.

14 Q Okay. Has he asked you to call people to help Mr.
15 Sigmon?

16 A This evening he did.

17 Q Okay. Did you do that?

18 A No, sir, I had just gotten back to the motel.

19 Q Yes, sir (sic).

20 THE COURT: Did you say this evening.

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. Go ahead.

23 BY MR. EPPES:

24 Q Did you work when you were married to Mr. Sigmon?

25 A On and off.

1 Q When you were pregnant with your son Robbie, did
2 you hit your stomach because you wanted -- didn't want
3 to be pregnant?

4 A No, sir.

5 Q If I told you that Virginia Wooten is going to
6 testify to that, would you change your statement?

7 A No, sir.

8 Q Did you ever lose custody of Robbie after the
9 incident where your shot Mr. Sigmon?

10 A Yes, sir.

11 Q And who did you lose custody of Robbie to?

12 A Virginia Wooten.

13 Q Okay. And who's Virginia Wooten?

14 A His grandmother.

15 Q She is Robbie's grandmother?

16 A Yes, sir.

17 Q Isn't she also Brad's mother?

18 A Yes, sir.

19 Q Okay. And when you talked about her husband,
20 you're talking about Donnie Wooten, right?

21 A Yes, sir.

22 Q Okay. Now, did you ever physically abuse Brad
23 Sigmon?

24 A No, sir. I hit him one time.

25 Q Just one time?

1 A That I can recall.

2 Q If I told you that Donnie Wooten was going to
3 testify that you had hit him constantly, would you
4 change your testimony?

5 A No, sir.

6 Q In this incident that you talked about where you
7 shot Mr. Sigmon, how many times did you shoot him?

8 A Twice.

9 Q He had three bullet wounds, did you know that?

10 A No, sir.

11 Q Okay. He had three bullet wounds, was anybody else
12 there shooting at him?

13 A No, sir.

14 Q Could it be possible that you're mistaken that you
15 shot him three times?

16 A Yes, sir. I was always told twice.

17 Q Okay. Did you shoot anyone else that night?

18 A Yes, sir.

19 Q Okay. Who was that?

20 A My son.

21 Q Your son Robbie?

22 A Yes, sir.

23 Q Okay. Now, after you shot Robbie, did you go to
24 the hospital with him?

25 A Yes, sir.

1 Q Okay. You had a restraining order against Mr.
2 Sigmon at this time, did you not?

3 A Yes, sir.

4 Q Because it was in the divorce papers, right?

5 A Yes, sir.

6 Q And you say he kicked in the door, threatened your
7 life and had you down and you shot him in self-defense,
8 is that correct?

9 A Yes, sir.

10 Q And yet he was never prosecuted, he was never
11 convicted, he never went to jail for any of this, isn't
12 that correct?

13 A Yes, sir.

14 Q Why is that?

15 A Because when I talked to the Prosecutor about it,
16 they had filed -- told me that they had filed charges,
17 that they weren't picking him up right away because he
18 needed surgery. He was released from the hospital with
19 backs (sic), and he needed more surgery on his stomach.
20 And the State wasn't going to pick up his hospital bill.
21 And it took a while for him to get surgery. I'm not
22 sure how long it took. It was -- I don't know. I can't
23 say. I know it was a while. I want to say about a
24 year, but I can't remember. I'm not sure about that.
25 And after that, he just never really was easy to find.

1 And by the time he was served with papers and I went to
2 the courthouse to talk with the District Attorney, it
3 was about four, five years later, and basically they
4 just told me it wasn't a strong case, because they
5 didn't have the gun no more. They didn't have the 911
6 tape no more, and that he needed more surgery, and that
7 the jury would probably look at him and say that he got
8 his punishment.

9 Q So the Prosecutor just dropped these charges?

10 A I signed the paper, but he told me it just really
11 wasn't a case anymore.

12 MR. EPPES: Thank you, ma'am.

13 THE COURT: Anything on redirect?

14 MR. ARIAIL: Just one question.

15 REDIRECT-EXAMINATION

16 BY MR. ARIAIL:

17 Q When Robbie was shot during this incident, how did
18 he get shot?

19 A At the time I didn't know it, but he was on top
20 of his daddy's back, telling him, don't daddy, don't
21 daddy. He was trying to pull him off of me. And when I
22 shot Brad, he got shot in the arm.

23 Q Robbie got shot in the arm?

24 A Um-hm.

25 Q One of the bullets that had hit Brad?

1 A (Witness nodded her head.)

2 MR. ARIAIL: Thank you.

3 THE COURT: Thank you, ma'am. Step down.

4 MR. ARIAIL: Could she be excused, Your Honor?

5 THE COURT: Yeah, you're free to go.

6 MR. EPPES: Your Honor.

7 THE COURT: I will keep her under subpoena. She's
8 free to go.

9 MR. ARIAIL: State's case, Your Honor.

10 THE COURT: All right. Now, Mr. Foreman, ladies
11 and gentlemen, that's the State's case in the penalty
12 phase. We'll take a short break and come back and begin
13 the defense case. While you're back in the jury room,
14 don't talk about this case. We'll be with you in about
15 10 minutes.

16 (The jury exited the courtroom at 6:00 p.m.)

17 THE COURT: All right. Anything before we take a
18 break?

19 MR. EPPES: Your Honor, we told all our witnesses
20 nine o'clock in the morning. I'm sorry about that. We
21 anticipated the State's case would take longer.

22 THE COURT: You don't have any witnesses here?

23 MR. EPPES: We don't have any witnesses here that
24 are prepared to testify. I'm sorry, Your Honor.

25 THE COURT: No Virginia Wooten, no Donnie Wooten?

1 MR. EPPES: They're all here, but in light of that
2 testimony, we'd really like some time to prepare, to
3 work them with, to discuss this matter.

4 THE COURT: How many witnessed do you anticipate
5 you're going to have in this phase?

6 MR. EPPES: We'll be done tomorrow.

7 THE COURT: That's not my question. How many
8 witnesses do you think you will have in this phase?

9 MR. EPPES: Your Honor, hold on, I've got my --
10 it's right at 10, Your Honor.

11 THE COURT: All right. And you're telling me that
12 of those 10 witnesses there are none that are prepared
13 to testify?

14 MR. EPPES: One second, Your Honor. I'll look.
15 Your Honor, the only witnesses that I would be prepared
16 to testify are witnesses that have direct knowledge
17 about the events that she just testified to and we'd
18 really like the time to prepare them.

19 THE COURT: All right. Well, what if we took a 10
20 or 15 minute break? I mean, obviously you knew she was
21 on the witness list, obviously you -- they've shown you
22 the divorce decree as an exhibit.

23 MR. EPPES: Your Honor, until yesterday it was our
24 understanding that she was not going to testify. And
25 although we have discussed these matters briefly with

1 these witnesses, we are not at this time prepared to
2 proceed.

3 THE COURT: Well, I guess my question is, how long
4 will it take you -- let me do it this way. Are they
5 going to testify to other matters?

6 MR. EPPES: Yes, sir.

7 THE COURT: Donnie Wooten?

8 MR. EPPES: Yes, sir.

9 THE COURT: And Virginia Wooten?

10 MR. EPPES: Yes, sir.

11 THE COURT: And I assume you've prepared them to
12 talk about other matters?

13 MR. EPPES: Yes, sir.

14 THE COURT: Okay. Then if we take a break, 15, 20
15 minutes, I would think that would be sufficient to talk
16 to them about ---

17 MR. EPPES: Yes, sir.

18 THE COURT: Okay. But now, does that upset the
19 order in which you intend to call them?

20 MR. EPPES: Yes, sir, it does.

21 THE COURT: All right. Bring the jury in. What
22 time did you want to start in the morning?

23 MR. ARIAIL: Nine.

24 MR. EPPES: Nine is fine.

25 MR. ARIAIL: Excuse me. I'm sorry.

1 THE COURT: Tomorrow is Sunday. I'll leave that up
2 to you.

3 THE COURT: Nine or 10:00. I'm not going to wait
4 until 1:00 or 2:00. All right. The only thing I was
5 thinking was letting them ---

6 MR. ABDALLA: Can we ask the jury what they'd like,
7 regarding Sunday?

8 MR. ARIAIL: We'll start when you tell us.

9 THE COURT: Okay. Hold them outside for just a
10 minute. What -- I know you can't anticipate exactly
11 how long your case will take, but do you anticipate that
12 we would argue and charge, and deliberate tomorrow
13 evening?

14 MR. EPPES: Yes, sir, Your Honor.

15 THE COURT: Okay. Then in that case I say go
16 ahead and start at 9:00 and just -- okay. Bring the
17 jury in.

18 (The jury entered the courtroom at 6:03 p.m.)

19 THE COURT: All right. Mr. Foreman, ladies and
20 gentlemen, this is a good breaking point. I had sort of
21 anticipated we might go a little bit further tonight,
22 but this is a logical place to break for the evening.
23 I'm going to go ahead and say we're going to begin at
24 nine o'clock in the morning. I thought about starting
25 just a little bit later, but I think there's a good

1 chance we can go ahead and get the testimony in,
2 arguments and my charge and begin your deliberations in
3 this case tomorrow. That's why I want to go ahead and
4 just start back at nine o'clock, and plus you'll get
5 back to the motel at a reasonable time tonight. My
6 usual admonitions, don't talk about this case with
7 anyone. And -- I guess that's it. I'll see in the
8 morning at nine o'clock. Y'all have a good evening.
9 Follow the bailiffs. Everyone else remain seated,
10 please.

11 (The jury exited the courtroom for the evening at
12 6:05 p.m.)

13 THE COURT: All right. All right. I'm going to --
14 I have changed -- I have edited the statutory
15 instructions pretty dramatically. So before you give me
16 your comments, let me give each of y'all another copy.
17 I will give you the statutory instructions, and I have
18 just thrown in anything that's possible. My giving you
19 these things does not mean they're going to be charged.
20 Obviously I'm going to -- I may well edit both
21 aggravating and mitigating. I don't know. I'm just --
22 I just put in anything that I think is possible. And
23 then the sentence of death, the life sentence, and the
24 affirmation of aggravating circumstances. So I'm going
25 to give each one of y'all a folder. I will continue to

1 look at it for any grammatical errors. I tried to take
2 out anything that indicates a recommendation. So -- did
3 y'all have anything you wanted to submit? I know the
4 State submitted some.

5 MR. EPPES: (Shook his head.)

6 THE COURT: Okay. Then you need to look carefully
7 at those.

8 MR. SIGMON: Your Honor?

9 THE COURT: You need to communicate through your
10 lawyers, Mr. Sigmon. I can't communicate with you
11 directly.

12 MR. EPPES: Your Honor, Mr. Sigmon wanted to have
13 time to consult with us downstairs.

14 THE COURT: I will order that. You just -- I mean,
15 you need -- why not in here?

16 MR. EPPES: We're going to want to have some family
17 members come in and speak with him and so he wants a
18 place where we can do that.

19 THE COURT: Well, I'm not ordering that. If
20 they -- I'm not going to order them to do anything
21 that's outside of their security.

22 MR. EPPES: It's not visitation, it's preparation,
23 Your Honor, but yes, sir.

24 THE COURT: Okay.

25 MR. EPPES: I understand.

1 THE COURT: Caroline?

2 MR. SIGMON: Your Honor?

3 MR. EPPES: Your Honor, we would also ask that Mr.
4 Sigmon be brought up here at 7:30 in the morning for
5 preparation?

6 THE COURT: Y'all need him?

7 MR. EPPES: We're going to need him.

8 THE COURT: You fine with that?

9 A DEPUTY: Yes, sir.

10 THE COURT: You can have him up here at 7:30?

11 What else? Anything else from the State?

12 MR. ARIAIL: No, Your Honor.

13 THE COURT: Anything else?

14 MR. EPPES: Nothing.

15 THE COURT: All right. We'll be at ease until nine
16 o'clock in the morning.

17 (Court recessed for the evening.)

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1 (The following proceedings were held on July 21,
2 2002, as follows:)

3 THE COURT: All right. You need -- anybody in the
4 hallway that needs to come in, you need to make an
5 announcement. Everybody out. If they're going to come
6 in, they need to come in. All right. Ladies and
7 gentlemen, I assume most of you were here yesterday, the
8 same rules. Nobody will come in or go out during the
9 course of the witness' testimony or while Court is in
10 session, other than staff for the Solicitor or the
11 defense team.

12 Is there anything before we start, from the State?

13 MS. STROM: Yes, sir, Your Honor. I don't know if
14 you want to go over it at this time, but the charge and
15 the verdict forms that way maybe changes could be made
16 while the testimony is being presented.

17 THE COURT: All right. Have y'all had a chance to
18 look over them?

19 MR. EPPES: Yes, sir, Your Honor.

20 THE COURT: What's -- which one you looking at?

21 MS. STROM: The first one is the aggravating
22 circumstances.

23 THE COURT: Yeah.

24 MS. STROM: Misspelling in the aggravating.

25 THE COURT: In the heading?

1 MS. STROM: Yes, sir.

2 THE COURT: Yeah, we've already corrected that.

3 Thank you. My clerk doesn't know how to spell.

4 MS. STROM: Then to the charge itself.

5 THE COURT: Yes.

6 MS. STROM: On page five. The first paragraph
7 after you list numbers one, two and three.

8 THE COURT: Right.

9 MS. STROM: You may consider as, I would ask that
10 you include the word statutory aggravating
11 circumstances.

12 MR. EPPE: Without objection, Your Honor.

13 THE COURT: Well, no.

14 MR. EPPE: I see.

15 THE COURT: They're the only aggravating
16 circumstances. In other words, the statutory
17 aggravating circumstances are only aggravating
18 circumstances. So to put statutory aggravating in there
19 would indicate that they might consider other
20 aggravating.

21 MS. STROM: I guess my concern was we have been
22 talking to them about aggrav- -- evidence in
23 aggravation, evidence in mitigation. I didn't want them
24 to think that's the only thing they could consider or
25 just those three things.

1 THE COURT: Okay.

2 MS. STROM: They consider the other evidence in
3 aggravation, but these are the only statutory
4 aggravating circumstances.

5 THE COURT: Okay. I'll look at that. All right.

6 MS. STROM: Then as to page six, the continuation
7 of page five onto page six, it says, if you still have a
8 reasonable doubt as to the existence of such a
9 circumstance then you would not be authorized to impose
10 the death penalty, your sentence must be life
11 imprisonment. My reading of the statute, Your Honor, is
12 if they do not find the statutory aggravating
13 circumstance, then they go no further, it then comes
14 back to the Court.

15 THE COURT: All right. Tell me what you're
16 reading.

17 MS. STROM: I'm trying to find it again. It's in
18 the very last -- it's in paragraph C of ---

19 THE COURT: 16-3 ---

20 MS. STROM: Dash 20, and in the supplement it's on
21 page 28, Your Honor.

22 THE COURT: Okay.

23 MS. STROM: In the middle of that first full
24 paragraph, if the jury does not unanimously find any
25 statutory aggravating circumstance, or circumstances

1 beyond a reasonable doubt, it shall not make a
2 sentencing recommendation. It goes further to say,
3 where a statutory aggravating circumstance is not
4 found, the trial judge shall sentence the defendant.

5 THE COURT: Okay. All right.

6 MS. STROM: That some objection as to page 10,
7 right after number -- your enumerated number four, you
8 then have that same language, then you would go no
9 further, your sentence must be for life imprisonment.

10 THE COURT: All right.

11 MS. STROM: Also on page 10, the paragraph, should
12 you decide to impose, that very last sentence I think is
13 just a misprint, because I think you went on into the
14 next paragraph, where it says, is, comma, it must be a
15 unanimous one.

16 THE COURT: Yeah. Okay. Gotcha.

17 MS. STROM: That's all from the State, Your
18 Honor.

19 THE COURT: All right. From the defense?

20 MR. EPPES: Your Honor, as to the charge, the
21 statutory instruction for mitigating circumstance, we
22 would ---

23 THE COURT: Yes, sir.

24 MR. EPPES: --- request that you put, you must
25 seriously consider the following mitigating

1 circumstances. Similarly on the second page in the
2 last sentence, we'd ask that you put, you should
3 seriously consider any non-statutory mitigating
4 circumstances.

5 THE COURT: Well, did you want to put that on the
6 aggravating circumstance too, or ---

7 MR. EPPES: Don't want to.

8 THE COURT: Well, don't you think -- I'll change
9 may to must on all three.

10 MR. EPPES: Okay.

11 THE COURT: Okay.

12 MR. EPPES: Similarly, Your Honor, on page seven
13 in -- of your total instructions, 8.3 (sic).

14 THE COURT: Whether?

15 MR. EPPES: Yes, sir. Whether for any reason you
16 think you can think of, I would suggest that be changed
17 to, for no reason at all, comma, including as an act of
18 mercy, the defendant should be sentenced to life
19 imprisonment.

20 THE COURT: Don't I put that in there somewhere?

21 MR. EPPES: Yes, sir, it's in there later, but I
22 just think to be consistent.

23 THE COURT: All right. I'm not going to do that,
24 but go ahead.

25 MR. EPPES: Okay. Will you note my objection to

1 that, Your Honor?

2 THE COURT: Yes, sir.

3 MR. EPPES: Thank you. Further down in that
4 second full paragraph, under statutory mitigating
5 circumstance.

6 THE COURT: Yeah.

7 MR. EPPES: Second line, which in fairness and
8 mercy must be considered, I would request that you
9 change may to must.

10 THE COURT: All right.

11 MR. EPPES: Again on page eight, when you read
12 the paper if you change it to must on the text of
13 the ---

14 THE COURT: Tell me where you're ---

15 MR. EPPES: I'm sorry. Page eight, third line,
16 where you say, you may also consider the follow
17 mitigating, I would ask for must.

18 THE COURT: All right. Hold on, let me go back
19 and -- I need to change it on page five also, may to
20 must. All right.

21 MR. EPPES: Are you ready?

22 THE COURT: Yeah.

23 MR. EPPES: On page nine, in the second full
24 paragraph which begins, the third element, on the fourth
25 line.

1 THE COURT: Gotcha.

2 MR. EPPES: Again, or for no reason at all or
3 simply as an act of mercy, I would request that simply
4 as an act of mercy be put in there too.

5 THE COURT: Well, the next sentence ---

6 MR. EPPES: I know.

7 THE COURT: Okay. All right. Your objection is
8 noted.

9 MR. EPPES: Thank you, Your Honor. That's all that
10 the defense has, Your Honor.

11 THE COURT: All right. All right. Anything
12 else?

13 MR. ABDALLA: Nothing else from the defense, Your
14 Honor.

15 THE COURT: Anything else?

16 MS. STROM: Oh, no, sir, I'm sorry.

17 THE COURT: Okay. All right. Bring the jury.

18 (The jury entered the courtroom at 9:10 a.m.)

19 THE COURT: Good morning. We're ready to continue
20 with the testimony. Mr. Abdalla.

21 MR. ABDALLA: Defense calls Cheryl Tomberlin.

22 THE COURT: All right. Come up, please, ma'am.
23 You're still under oath from yesterday. Do you
24 understand that?

25 MS. TOMBERLIN: (Witness shook her head.)

1 THE COURT: Okay.

2 CHERYL TOMBERLIN

3 Having been previously sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. EPPES:

6 Q Good morning, Ms. Tomberlin.

7 A Good morning.

8 Q Sorry we had to call you back today, but I had to
9 get my head in order to ask you some questions. Okay?

10 A Okay.

11 Q You know you're still under oath, right?

12 A Yes, sir.

13 Q Okay. I'm going to review some of things you said
14 yesterday, okay?

15 A Okay.

16 Q You were married at the age of 16, correct?

17 A Yes, sir.

18 Q And you married Brad Sigmon, he was 19, right?

19 A Yes, sir.

20 Q And he dropped out a week before graduation to
21 marry you, didn't he, a week before high school
22 graduation?

23 A I don't believe he was going to school.

24 Q Okay. Now, you were Kelly Sigmon, that's Brad's
25 sister, you were her good friend, weren't you, at that

1 time?

2 A Yes, sir.

3 Q Okay. The times you had with Mr. Sigmon, they
4 weren't all bad, were they?

5 A No, I mean, no, sir.

6 Q He put a roof over your head, is that correct?

7 A Barely at times, but ---

8 Q But you had a roof over your head, didn't you?

9 A Yes, sir.

10 Q And you had three kids together, didn't you?

11 A Yes, sir.

12 Q So you conceived those three children together,
13 didn't you?

14 A Yes, sir.

15 Q Now, you talked about him taking Robbie on a snowy
16 day, correct?

17 A Yes, sir.

18 Q Okay. And during that I think you said six months
19 or so that he was with Robbie, that you didn't know
20 where Robbie was, did you ever go to court to try to get
21 Robbie back?

22 A Yes, sir.

23 Q Okay. Do you have those papers with you?

24 A No, sir.

25 Q Okay. Did you ever talk to the Department of

1 Social Services about getting Robbie back?

2 A No, sir.

3 Q You did not?

4 A No, sir. I went to court twice. I would -- my
5 father paid for a private defective. I would go to
6 Greenville, and I figured if he was up there with his
7 mom, he would be working and Robbie be in a day care. I
8 would go to day care centers and I would look.

9 Q Thank you. Now, eventually your relationship broke
10 up and you were divorced and that's the time when you
11 shot Mr. Sigmon twice, didn't you?

12 A Yes, sir.

13 Q As a result of your shooting him, he wore a
14 colostomy bag for period of time, right?

15 A Yes, sir.

16 Q And he was sick to his stomach and had diarrhea
17 virtually every day, is that correct?

18 MR. ARIAIL: Your Honor, this is his witness, he
19 called her, and I would object to him leading her.

20 THE COURT: All right. I'm going to rule that
21 since you called her initially that I'll allow
22 cross-examination. Go ahead.

23 BY MR. EPPES:

24 Q That's correct, he was sick and had diarrhea every
25 day as a result of those gun shot wounds?

1 A I knew he was sick and he needed more surgery.

2 Q Okay. Thank you. Now, you testified that he came
3 in the house, and after he came in the house he stepped
4 on one of your kid's hands, and it woke them up, right?

5 A Yes, sir.

6 Q And he was never convicted of him shooting you --
7 of you shooting him -- he was never convicted of
8 breaking in the house, excuse me?

9 A No, sir.

10 Q And you were never convicted of shooting him, were
11 you?

12 A No, sir.

13 Q But a few years later you fought Virginia and
14 Donnie Wooten, Brad's mother and step-father for custody
15 of Robbie Sigmon, correct?

16 A Yes, sir.

17 Q You fought them in court, didn't you?

18 A Yes, sir.

19 Q And they got custody of Robbie Sigmon, didn't
20 they?

21 A Temporary custody.

22 Q They got custody of Robbie Sigmon, didn't they?

23 A Yes, sir.

24 Q And did you ever say in a conversation to anyone
25 that you had shot Brad Sigmon and gotten away with it?

1 A No, sir.

2 MS. EPPES: Ms. Tomberlin, thank you for coming
3 back. Answer any questions the Solicitor may have.

4 THE COURT: Anything?

5 MR. ARIAIL: Nothing.

6 THE COURT: All right. Thank you, ma'am. You are
7 now released from your subpoena. Thank you for being
8 here.

9 THE WITNESS: Thank you.

10 THE COURT: Next witness.

11 MR. EPPES: Your Honor, I will call Donnie Wooten.
12 to the stand.

13 THE COURT: All right. Donnie Wooten. All right.
14 Have you got somebody out there getting these witnesses
15 in? They need to be.

16 MR. EPPES: No, sir, I don't, but I will remedy
17 that right now.

18 THE COURT: That will make things run a lot
19 smoother. Have you got plenty of staff there to ---

20 MR. EPPES: I apologize, Your Honor. We fixed
21 it.

22 THE COURT: That's fine. Just as long as we
23 don't ---

24 THE CLERK: Put your left hand on the Bible,
25 please, and raise your right hand.

DONNIE WOOTEN

Having been first duly sworn, testified as follows:

THE CLERK: State your name for the record, please.

THE WITNESS: Donnie Wooten.

THE CLERK: Thank you. Be seated.

DIRECT EXAMINATION

BY MR. EPPES:

Q State your full name for the record.

A My name is Donnie Wooten.

Q Mr. Wooten, what do you do for a living?

A I work for -- in the gas business. I install gas logs and change out balls (sic) for gas logs?

Q Where do you live?

A I live at number

Q How far is that from

A Probably about a mile and a half, a couple miles at the most.

Q Who did you live with?

A I live with Brad's mother, Virginia.

Q How long have y'all been married?

A Oh, 23, 24 years.

Q Were you able to observe Brad Sigmon's relationship with his wife, Cheryl Tomberlin?

A Part of it, yes, sir.

Q Did you ever see any violence by Brad against

1 Cheryl Tomberlin?

2 A No, sir.

3 Q How about the contrary, did you ever see any
4 violence by Cheryl against Brad?

5 A I have only saw her hit -- slap him a couple times,
6 but that's it.

7 Q Tell us about Brad a little bit. How long have you
8 known him?

9 A I've known Brad Since he was 16 years old.

10 Q And as a 16 year old growing up, did he live in the
11 house with you?

12 A Yes, sir.

13 Q How was he to his ---

14 A He was just like a normal kid.

15 Q How did you interact with him?

16 A We got along good, had no problems.

17 Q Did you ever discipline him?

18 A Not really, no, sir.

19 Q Did you ever need to?

20 A Not really.

21 Q How would he react if you asked him to do
22 something?

23 A He'd just always say ,yes, sir, and do what I told
24 him to do.

25 Q Have you seen Brad on a regular basis since that

1 time?

2 A Yes, sir.

3 Q And how has he seemed when you've seen him?

4 A He seemed fine.

5 Q How does he treat his mother?

6 A He treats her nice, good.

7 Q How did he treat you?

8 A Fine, good, real good.

9 Q How does he treat the rest of his family?

10 A Nice.

11 Q How does he treat other people when you've ---

12 A As far as I know he treats everybody fine, you
13 know, decent.

14 MR. EPPES: Excuse me one second, Your Honor.

15 BY MR. EPPES:

16 Q Mr. Wooten?

17 A Yes, sir.

18 Q Do you know the Larke family?

19 A Yes, sir.

20 Q What's your impression of them?

21 A Real nice people.

22 MR. EPPES: Thank you. Mr. Wooten, we have no
23 further questions.

24 THE WITNESS: Thank you.

25 MR. EPPES: If you would answer any questions the

1 Prosecutor has.

2 THE COURT: Solicitor?

3 MR. ARIAIL: No questions.

4 THE COURT: All right. Thank you, sir. Step down.
5 Next witness.

6 MR. ABDALLA: Call Robbie Sigmon.

7 THE COURT: Robbie Sigmon. All right. You're not
8 required to leave now. You can, but -- are you Robbie
9 Sigmon?

10 MR. ROBBIE SIGMON: Yes, sir.

11 THE COURT: Come on up, please, sir. Place your
12 left hand on the Bible, raise your right hand.

13 ROBBIE SIGMON

14 Having been first duly sworn, testified as follows:

15 THE CLERK: State your name for the record, please,
16 sir.

17 THE WITNESS: Robbie Sigmon.

18 THE CLERK: Thank you. Be seated.

19 DIRECT EXAMINATION

20 BY MR. ABDALLA:

21 Q Good morning, Robbie.

22 A Good morning.

23 Q Would you please put your name into the record.

24 A My name is Robbie Jerrell (phonetically) Sigmon.

25 Q And do you know Brad Sigmon?

1 A Yes, sir, I do.

2 Q How's he related to you?

3 A That's my father.

4 Q And who is your mother?

5 A Cheryl Tomberlin.

6 Q Now, Robbie, I know we spoke yesterday for a while,
7 and are you nervous about being here?

8 A Yes, sir.

9 Q And I also know it puts you in a bad situation, and
10 I apologize for having to put you in this position, but
11 I have to ask you a few questions. When were you born,
12 first of all?

13 A June 13th -- June 13th, '78.

14 Q And were you mom and dad together shortly after
15 that time, do you recall?

16 A Yes, sir, as far as I know they were married the
17 whole time I was -- before I was born.

18 Q Okay. And of course there was an incident that I
19 don't believe you were present for that was testified to
20 regarding a shooting with your mother and father?

21 A No, sir, I wasn't here when my mom testified.

22 Q Right. But were you present when that incident
23 occurred?

24 A Yes, sir, I was.

25 Q Well, I first want to set up the incident. I want

1 you to tell the jury in your own words that evening?

2 Start with you first remember going to bed and where you
3 were sleeping and where everybody was located?

4 A We lived in an old holiday house that didn't have
5 no heating and air, so we all stayed in the living room.
6 The kitchen area was combined. And in this room there
7 was two ways in. There was two doors. One was on one
8 side and one was on the other side. And my mom was
9 laying on the couch, and I was laying right next to her
10 and then it was my brother and my sister. And I woke up
11 that night because daddy was standing on my hand, and I
12 looked up and seen that it was my daddy, and I said,
13 daddy, you're standing on my hand. As he turned to me
14 and started to say, son, I'm sorry, I heard something
15 that sounded like firecrackers. I got scared. I was
16 like 9 or 10 years old. So I ran to the side of the
17 couch and I hid. I put my head down, and that's when
18 I -- my arm went numb from here to my shoulder, and then
19 when I raised up, I looked at my arm, and I realized I
20 had been shot. My whole arm went numb, and I went
21 outside. At this time there ---

22 Q Okay. Wait now. At any time were you on your
23 father's back?

24 A No, sir, I never got on my father's back, or
25 touched him at all.

1 Q Okay. And the only other question I want to ask
2 you, is this occurred in late 1990, November of 1990,
3 how old would have you been at that time, 12? Would
4 that be about 12?

5 A Yes, sir, somewhere in there.

6 Q Tell me a little bit about your father, how he was,
7 how he treated you? Did he ever abuse you?

8 A No, sir. My father never abused me. He was good
9 to me. He was a loving father. I remember one year for
10 my birthday he bought me a dirt bike. It was the
11 happiest birthday I ever had in my life. He got me a
12 bike instead of getting insurance, because I had always
13 wanted one. We used to play all the time. He'd come
14 home from work and he'd play outside with us. And me
15 and my daddy had a good relationship. I used to help
16 him work all the time. You know, he's -- he was there
17 for me.

18 Q And I'm not trying to pit you against your parents,
19 but I think it's safe to say though that the marriage
20 wasn't a good marriage?

21 A No, sir, it wasn't a good marriage.

22 Q Did you observe your parents hitting each other?

23 A No, sir, I never seen my mother or my father hit
24 each other.

25 Q Okay. Now, tell me about the relationship with

1 Becky? Were you aware of anything with the relationship
2 with Becky?

3 A Yes, sir. They didn't have a real good
4 relationship. Every time there was a problem, Becky
5 would call me up. She was real controlling over my
6 daddy. She wanted to know where he was at all the time.
7 She didn't -- she didn't really like daddy spending time
8 with me. She ---

9 Q Did she ever call you?

10 A Yeah, she would call me any time her and daddy
11 would get into it about anything. If daddy would come
12 home and had a beer or two, she'd call me up, your daddy
13 has been drinking, and she would be ranting and raving,
14 you know, talk to your daddy, you know. So I'd talk to
15 daddy, and he'd say, son, I'm all right, everything is
16 okay, Becky's just mad because I had a beer before I
17 came home, you know. And I'd talk to him, and you know,
18 and it would calm her down because I had talked to him,
19 you know, so ---

20 Q As you saw -- as you saw it how did he treat Becky?

21 A He treated her good as gold. I mean, she got her
22 hair done once a month. She got her nails done once a
23 week. She went to the tanning bed. He kept her up.
24 She didn't work. He took care of both her kids. He
25 gave her everything. What more could you ask for? He

1 loved her unconditionally.

2 Q One more thing. I have to go back to the incident
3 that occurred at the house. Was there ever any evidence
4 that there was a break-in the night your mother shot you
5 and your father?

6 A No, sir. I don't never remember seeing any doors
7 broken, or any windows broken, or other anything like
8 that.

9 MR. ABDALLA: Thank you. I have no further
10 questions of this witness.

11 MR. ARIAIL: No questions.

12 THE COURT: Thank you. Step down.

13 MR. EPPES: Thank you, Robbie.

14 THE COURT: Next witness.

15 MR. EPPES: We call Doug Kelly.

16 THE CLERK: Put your left hand on the Bible and
17 raise your right.

18 DOUG KELLY

19 Having been first duly sworn, testified as follows:

20 THE CLERK: State your name for the record, please.

21 THE WITNESS: My name is Doug Kelly.

22 DIRECT EXAMINATION

23 BY MR. EPPES:

24 Q Would you state your name, and rank, and what you
25 do for a living?

DOUG KELLY - Direct by Mr. Eppes

1 A Again, my name is Doug Kelly. I'm a homicide
2 investigator with the Greenville County Sheriff's
3 Office.

4 Q Okay. Were you involved in the investigation of
5 the case against Brad Sigmon?

6 A Yes, sir, as a support role to Investigator
7 McNamara.

8 Q Okay. I'm going to show you what's been marked as
9 Exhibit 5A and 5B. Do you recognize those?

10 A Yes, sir.

11 Q What are they?

12 A That's the vehicle that we seized as being part of
13 this investigation and believed to belong to Brad
14 Sigmon.

15 Q That's Brad Sigmon's Camaro, isn't it?

16 A Correct, yes, sir.

17 MR. EPPES: Okay. Would you mark this for
18 identification, please.

19 (Defendant's Exhibit Number 8 was marked for
20 identification.)

21 BY MR. EPPES:

22 Q I'm going to show you a document that's been marked
23 as exhibit 8 for -- Defendant's Exhibit 8 for
24 identification. And I'm going to first ask you if you
25 see your signature on that document?

1 A I do, yes, sir.

2 Q What is that document?

3 A It's a document -- a search warrant that I obtained
4 on Brad Sigmon's vehicle, the Camaro.

5 Q The Camaro? You searched that Camaro and took
6 things out of it?

7 A I did, sir.

8 Q Okay. Did you take everything out of it?

9 A As far as taking anything out of it, we had ID
10 units out there. They seized these articles as we took
11 them out, and then they placed them in property and
12 evidence.

13 Q Did you see the documents that were taken out of
14 it, though?

15 A Yes, sir, I do.

16 Q And was one of those documents a suitcase?

17 A Yes, sir.

18 MR. EPPES: Can you mark this as Defendant's
19 Exhibit 9.

20 THE COURT: This is for ID?

21 MR. EPPES: For ID right now, yes, Your Honor.

22 (Defendant's Exhibit Number 9 was marked for
23 identification.)

24 MR. EPPES: Your Honor, I'd request that this
25 search warrant be entered into evidence.

1 MR. ARIAIL: No objection.

2 THE COURT: Without objection. It's now ---

3 MR. EPPES: Defendant's Exhibit Number 8.

4 MR. ARIAIL: I assume it includes the return
5 attached to it?

6 MR. EPPES: Yes, sir, the return is attached to it,
7 I believe. Detective, is the return attached to that
8 search warrant?

9 THE WITNESS: Yes, sir.

10 MR. EPPES: Well, I don't know how to put it where
11 it's not between you and the jury. Let's try over
12 there. Your Honor, could I move this tray, please?

13 (Defendant's Exhibit Number 8 was filed.)

14 BY MR. EPPES:

15 Q Do you recognize the suitcase, Detective?

16 A Yes, sir. I believe it's the same suitcase that we
17 seized out of the Camaro.

18 Q Is that -- what's that sheet of paper on top of it?

19 A That's the property and evidence sheet that I
20 completed and filled out and entered this piece of
21 property into evidence -- or into our property and
22 evidence section.

23 Q And does it include -- does it list what's in the
24 suitcase?

25 A I don't think -- the only we listed was blue

1 suitcase with miscellaneous items, clothing items.

2 Q Okay. Did you look in the suitcase?

3 A Yes, sir, I did like through it. Didn't
4 specifically document everything that's in it.

5 Q Would you open it right now and look through it
6 again for me, please?

7 THE COURT: Do you want some gloves?

8 BY MR. EPPES:

9 Q I'll hold it for you, Detective. Now, do these
10 appear to be the same contents of the suitcase that were
11 in it at the time you examined it?

12 A Yes, sir, as far as I recall, it was like the way
13 the suitcase was when I first saw it.

14 Q And what we've got in here, we've got a bunch of
15 pants, is that correct?

16 A Yes, sir.

17 Q And ---

18 A Men's pants?

19 Q And a photographer album with photographs in it?

20 A Yes, sir.

21 Q Some sort of cassette tape, some sneakers, some
22 men's and women's underwear, a key?

23 A Yes, sir.

24 Q A friendship warms the heart coffee mug, a
25 container of massage oil, a receipt from W. S. Badcock

1 Corp- -- Furnishing, here's a trespass notice?

2 A Yes, sir.

3 Q A mug, some shirts and socks. It looks like a
4 bunch of miscellaneous documents, bills and such, some
5 notes and a Bible?

6 A Yes, sir, as I recall that's basically what was in
7 there.

8 Q Are these the materials you recall were in there at
9 the time you inspected it?

10 A Yes, sir.

11 Q And at the time you inspected this, Mr. Sigmon was
12 a fugitive, wasn't he?

13 A Correct, sir.

14 Q And at the time that you inspected this, you were
15 looking for any clues as to his intentions to travel or
16 his whereabouts, weren't you?

17 A Yes, sir, anything that would be associated with
18 Brad Sigmon or the Larke family.

19 Q So at the time you probably looked through this
20 thing pretty closely, didn't you?

21 A As far as just looking through it, and then just
22 documented as we collected it. We probably went through
23 it.

24 MR. EPPES: Your Honor, I would move that this
25 suitcase be entered into evidence.

1 THE COURT: All right. Let me have a little
2 side-bar real quick.

3 (A bench conference was held.)

4 THE COURT: All right. I'm going -- it's marked
5 for identification at this time. All right. Anything
6 further of this witness?

7 MR. EPPE: Detective Kelly, I'm going to help you
8 close the suitcase. I appreciate your help.

9 THE WITNESS: Thank you.

10 MR. EPPE: Answer any questions the Solicitor has.

11 MR. ARIAIL: No questions.

12 THE COURT: All right. Thank you, sir. Can he be
13 released from his subpoena?

14 MR. EPPE: He may be released from his subpoena.

15 MR. ARIAIL: No objection.

16 THE COURT: Next witness.

17 MR. ABDALLA: Ricky Sims.

18 THE CLERK: Put your left hand on the Bible,
19 please, sir, raise your right hand.

20 RICKY SIMS

21 Having been first duly sworn, testified as follows:

22 THE CLERK: State your name for the record, please,
23 sir.

24 THE WITNESS: Ricky Harold Sims.

25 THE COURT: Thank you. Be seated.

DIRECT EXAMINATION

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BY MR. ABDALLA:

Q Good Morning, Mr. Sims.

A Good morning.

Q Would you please put your name on the record for the Court?

A My name is Ricky Harold Sims.

Q And how old are you?

A Forty-two

Q And where do you live, Mr. Sims.

A Piedmont area.

Q And how long have you lived there?

A The last two months.

Q Prior to that, where did you live?

A 551 East Darby Road.

Q And where is that in relationship to the Larkes and Ms. Barbare?

A I'd say possibly a mile away.

Q And how do you know the parties in this case? For instance, do you know Becky Barbare?

A Yes, I do.

Q And how do you know her?

A She's my first wife.

Q And when were you married to her?

A '82.

1 Q And how long were you married?

2 A Five and a half years.

3 Q Do you have any children together?

4 A Yes, we do. We have two kids, Ricky David and
5 Gwendolyn Amanda.

6 Q Okay. During the course of your relationship with
7 Ms. Barbare, did you ever have any violence against --
8 any violence?

9 MR. ARIAIL: Your Honor, I'm going to object. I
10 don't know what the relevance of that would be to this
11 particular case.

12 MR. ABDALLA: Your Honor, it's very relevant to the
13 facts in this case.

14 THE COURT: Mr. Foreman, ladies and gentlemen, let
15 me get you to step out, please. While you're back there
16 don't discuss this case.

17 (The jury exited the courtroom at 9:40 a.m.)

18 THE COURT: All right. Relevance?

19 MR. ABDALLA: Your Honor, it's relevant to our
20 defense because in fact the State presented a witness
21 that testified that she shot Mr. Sigmon. Yeah, his
22 first wife of course. And we're trying to establish a
23 pattern of Mr. Sigmon getting involved with
24 relationships that are not very healthy. And Ricky Sims
25 we believe can offer testimony about a relationship that

RICKY SIMS - Direct by Mr. Abdalla

1 was not healthy but then ---

2 THE COURT: With?

3 MR. ABDALLA: With violence, involved violence.

4 THE COURT: With Ms. Barbare?

5 MR. ABDALLA: With Ms. Barbare, who was then Brad
6 Sigmon's girlfriend and the events as we know finally
7 lead to what happened. I think it's very relevant to
8 the matters before this Court, and I think the jury
9 should be allowed to hear that and weigh that how they
10 please.

11 THE COURT: Well, I don't know what -- at this
12 point it is not relevant unless you tell me you're going
13 to tie it up or unless -- unless you put up any
14 psychiatrist or psychologist first, but at this
15 particular time it's not relevant.

16 MR. ABDALLA: Your Honor, we are -- I'm sorry.

17 THE COURT: Well, I need to know what they're going
18 to say, because -- I mean, what are your psychiatrists
19 or psychologists going to say that would make this
20 testimony relevant?

21 MR. ABDALLA: The psychologist is going to testify
22 that Mr. Sigmon had -- is going -- the psychologist is
23 going to testify about his drug abuse and the patterns
24 of his behavior. And the social worker is going to
25 testify about his relationships past and present, or I

1 should say up to the point of this event and the
2 relevance they have, which would be the proper
3 foundation, I believe, for this witness.

4 THE COURT: All right. My ruling is that you're
5 going to have to lay the foundation first.

6 MR. ABDALLA: All right. Thank you.

7 THE COURT: All right. Do you still want this
8 witness on the stand?

9 MR. EPPES: Your Honor, if you -- if you want to
10 tell the jury of your ruling while he's on the stand,
11 then he can be on the stand, otherwise ---

12 THE COURT: Okay.

13 MR. EPPES: --- you can let him come down.

14 THE COURT: All right. Bring the jury.

15 (The jury entered the courtroom at 9:46 a.m.)

16 THE COURT: All right. Mr. Foreman, ladies and
17 gentlemen, I have sustained the last objection by the
18 Solicitor. My instructions are to disregard the
19 question by Mr. Abdalla, and the response by this
20 witness. I have ruled that way because it is -- the
21 testimony was irrelevant. Mr. Sims may be recalled
22 later on if that issue should arise and should become
23 relevant, but at this time that's my ruling. All right.
24 Any other ---

25 MR. ABDALLA: No, and this witness, we'll release

1 him until -- subject to recall.

2 THE COURT: All right. Was there any
3 cross-examination of the earlier ---

4 MR. ARIAIL: No.

5 THE COURT: All right. Thank you, Mr. Sims, you
6 can step down. Next witness.

7 MR. EPPES: Your Honor, we call Matt Tally.

8 THE CLERK: Put your left hand on the Bible,
9 please, and raise your right hand.

10 MATT TALLY

11 Having been first duly sworn, testified as follows:

12 THE CLERK: State your name for the record, please.

13 THE WITNESS: Jonathan Matthew Tally.

14 THE COURT: Thank you. Be seated.

15 DIRECT EXAMINATION

16 BY MR. EPPES:

17 Q Good morning, Officer Tally.

18 A Good morning. How you doing?

19 Q I'm good. How are you?

20 A Pretty good.

21 Q What do you do for a living?

22 A I work at the Greenville County Detention Center as
23 a FTO, field training officer.

24 Q What do you do down there?

25 A I train new officers on the ins and outs of the

1 detention center.

2 Q How long you worked in the detention center, sir?

3 A Two years.

4 Q And in the course of those two years, have you had
5 the opportunity to speak with and deal with Brad Sigmon?

6 A Yes, sir.

7 Q How would you evaluate him as an inmate?

8 A He's just like any other inmate, as far as I've
9 never had any problems with him personally.

10 Q Would you comment about his aggressive or violent
11 nature?

12 A The only time that I've ever seen him aggressive is
13 between -- with another younger officer and I stepped in
14 at that time and calmed the situation down.

15 Q And would you comment about his threats for
16 violence in the Greenville County Detention Center?

17 A I've never heard him threaten anybody.

18 Q Where did you interact with Mr. Sigmon, which pod?

19 A Yellow pod and red pod.

20 MR. EPPES: Thank you, Officer Tally.

21 THE COURT: Any cross?

22 MR. ARIAIL: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. ARIAIL:

25 Q Officer Tally, are you familiar with that report?

1 A No, sir, this was not me.

2 Q I understand that, but -- I know it wasn't you, but
3 are you familiar with it?

4 A No, ma'am -- I mean no, sir, I'm not.

5 Q Is an inmate in the Greenville County Detention
6 Center authorized to have a visitor's pass in his
7 possession?

8 A No, sir.

9 Q And if he had such a visitor's pass, would that be
10 a violation of -- a security violation?

11 A Yes, sir.

12 Q Would that be deemed to be a significant security
13 violation?

14 A Yes, sir.

15 MR. ARIAIL: Thank you.

16 THE COURT: Thank you, sir. You can step down.
17 Next witness.

18 MR. EPPES: Your Honor, we'd would like to call
19 Julia Moore.

20 THE COURT: Julia Moore.

21 THE CLERK: Put your left hand on the Bible,
22 please, ma'am, and raise your right hand.

23 JULIA MOORE

24 Having been first duly sworn, testified as follows:

25 THE CLERK: State your name for the record, please?

1 THE WITNESS: Julia Moore.

2 THE CLERK: Thank you. Be seated.

3 THE COURT: You need to come closer to the
4 microphone, I think. You need to speak right into it.

5 DIRECT EXAMINATION

6 BY MR. EPPES:

7 Q Hi, Ms. Moore.

8 A Hi, how are you?

9 THE COURT: Okay. You need to slide your chair a
10 little bit closer.

11 BY MR. EPPES:

12 Q Have we ever met before today?

13 A No, sir.

14 Q Never had any conversation?

15 A No, sir.

16 Q Okay. When I subpoenaed you, I asked you to bring
17 some documents. Did you bring them?

18 A Yes, sir.

19 Q Okay. What did you bring?

20 A I saw Mr. Sigmon three times in the course of ---

21 Q Just tell me about the documents, I'm sorry?

22 A Okay. It's progress notes.

23 Q Okay. What's your job in the jail?

24 A I'm a licensed professional counselor. I see any
25 inmate who request to via a 502, or if anyone comes in

1 on violent charges, I'm asked to see them by Detention.

2 Q Do you see them on a regular basis?

3 A No, sir.

4 Q Even when they come in on violent charges?

5 A No, sir.

6 Q Okay. Can I look at those documents, please?

7 A Yes, sir, please.

8 MR. EPPES: Would you mark these as an exhibit?

9 MR. ARIAIL: For identification?

10 MR. EPPES: For identification, yes, sir.

11 (Defendant's Exhibit Number 10 was marked for
12 identification.)

13 BY MR. EPPES:

14 Q While the Solicitor is looking at that, tell us a
15 little more, what kind of qualifications do you have for
16 what you do?

17 A To be licensed professional counselor and on top of
18 the Bachelor's Degree, you have to take a 48-hour
19 graduate course work in counseling and then you have to
20 have two -- two years of unsupervised supervision. In
21 other words, your supervisor isn't on site with your
22 job, and you pay that person to supervise you. And then
23 after that you take a national certification test and
24 then you get your license.

25 THE COURT: Let me stop you. Some jurors are

1 having a difficult time hearing you.

2 THE WITNESS: I'm sorry.

3 THE COURT: It's not your fault. The microphones
4 don't work to well. If you would slide real close to
5 that microphone.

6 THE WITNESS: Okay.

7 BY MR. EPPES:

8 Q Would you repeat that for us?

9 A Yes, sir. To become a licensed professional
10 counselor you have to take your four year Bachelor's
11 Degree, and then you have to take a two year graduate
12 course work in counseling, some sort of counseling. My
13 case work was general counseling. You have a two year
14 internship at that point where you work with an off-site
15 supervisor who you discuss weekly problems and cases
16 with to get experience, and then you take a national
17 certified exam, and after you jump through all the hoops
18 then they give you your license.

19 Q Now, would you look at these three documents and
20 tell me whether that's your writing on them.

21 A Yes, sir, that's my writing.

22 Q On all three of them?

23 A Yes, sir.

24 Q Did you sign all three of them?

25 A Yes, sir.

1 Q And tell me what they are again?

2 A They're our progress notes. It's notes that we
3 take when we interview someone.

4 Q When you interview a prisoner?

5 A A client, yes, sir.

6 Q Okay. Do you recall why you came to interview Mr.
7 Sigmon on these three occasions?

8 A Mr. Sigmon came in, according to the timeline, on
9 the 9th of May, and any time someone comes in on violent
10 charges, the Detention Center asks me to sit and speak
11 with him for a few minutes, or however long it takes,
12 to try to deem placement within the facility. We
13 determine -- we attempt to determine, based on behaviors
14 that we see, suicidal ideations, or homicidal ideations,
15 ideations being thoughts. And that was my first
16 encounter with Mr. Sigmon.

17 Q And what day was that?

18 A This was the 9th of May.

19 Q May 9th of 2001?

20 A Yes, sir.

21 Q And what did you conclude about Mr. Sigmon on that
22 day?

23 A At that point he seemed not to be any danger to
24 himself or anyone else.

25 Q Did you consider any ideations?

1 A Yes, sir, we always consider that. And I asked --
2 I always ask specifically. That is one of my questions
3 that I always ask, and along with person, place, time,
4 situation, orientation, and those things, and Mr. Sigmon
5 didn't indicate either to me nor did I see any behavior
6 in him that would indicate to me that he was suicidal or
7 homicidal at that point.

8 Q And in fact you checked that off on the form,
9 didn't you?

10 A Yes, sir, I did.

11 Q Okay. Now, what's the next page to that document?
12 Did you sign that form, I'm looking at the first page?

13 A Yes, sir.

14 Q Okay. Turn to the second page?

15 A All right.

16 Q When was that?

17 A This was the 24th of September.

18 Q Of 2001?

19 A Yes, sir, I'm sorry.

20 Q And what -- why did you come to see Mr. Sigmon on
21 that date?

22 A Mr. Sigmon had written a 502, an M502, which is an
23 inmate request form to see medical, dental, or mental
24 health, and he had -- he had sent a 502 to mental health
25 stating that he needed to see our psychiatrist for a

1 medication check.

2 Q Um-hm.

3 A And we, myself and my co-worker, we go and screen
4 the people who need to see the doctor to base it on
5 that.

6 Q So you do basically -- what kind of consulting
7 screen did you call it?

8 A We just -- I don't really have a name for it, sir.
9 We just try to determine, based on sleeping and other
10 situations like that, if they need to see the
11 psychiatrist further, or if we can just do a chart
12 review, sometimes we'll just do a chart review.

13 Q And did you take that form with you, that same
14 form?

15 A Yes, sir.

16 Q And did -- you filled that out, didn't you?

17 A Yes, sir.

18 Q And what did you have to do before you filled out
19 that form?

20 A I had to interview Mr. Sigmon. I was probably with
21 him, I would say on the average for a medication
22 request, I may spend 5 to 10 minutes with an individual.

23 Q Okay. And once again on that form, did you
24 consider homicidal ideation?

25 A Yes, sir, we discussed that as always.

1 Q And what did you conclude about that?

2 A He said that, no, at that point he was not
3 indicating or showing any suicidal or homicidal
4 ideations.

5 Q Okay. And did you sign that form?

6 A Yes, sir, I did.

7 Q And you see your signature on it?

8 A Yes, sir.

9 Q Okay. Go to the third page, please?

10 A All right, sir.

11 Q Now, does the third page reflect the third meeting
12 with Mr. Sigmon?

13 A Yes, sir, it does.

14 Q When did that take place?

15 A This was February 4th of 2002.

16 A Okay. And what was the cause for that meeting with
17 Mr. Sigmon.

18 A Once again it was a -- was a medication increase
19 request.

20 Q Okay. And what happened at that meeting?

21 A Did the same thing I do with all medication
22 requests. I spoke with the individual and he explained
23 to me he was just really under a lot of stress and would
24 I please have him see Dr. Martin, which I did.

25 Q Okay. And at that time did you make any notes as

1 to suicidal or homicidal ideations?

2 A Yes, sir, once again I asked and observed behavior,
3 and he indicated none, nor did I see any.

4 MR. EPPES: Your Honor, I would move that this
5 document be admitted into evidence.

6 MR. ARIAIL: Objection, Your Honor.

7 THE COURT: All right. What's the objection?

8 MR. ARIAIL: The objection is she's testified as to
9 it and the testimony is the best evidence of it and the
10 document itself is -- contains other information that's
11 not relevant to this case.

12 THE COURT: All right. I'm going to leave it for
13 ID, and I'll rule during break, along with the suitcase.

14 MR. EPPES: Your Honor, can I ask a few more
15 questions about this document?

16 THE COURT: Yeah.

17 MR. EPPES: Thank you.

18 BY MR. EPPES:

19 Q Ms. Moore?

20 A Yes, sir

21 Q Where did you get those copies of that document you
22 have in your hand?

23 A It's medical records, sir.

24 Q And where are the medical records kept?

25 A In the medical clinic at the Greenville County

1 Detention Center.

2 Q And are those records kept by the Detention Center
3 in the course of its normal business?

4 A Yes, sir.

5 Q And they're kept there as a record that's kept in
6 the normal course of business of the Greenville County
7 Detention Center?

8 A Yes, sir.

9 MR. EPPES: Your Honor, I once again move these
10 documents into evidence.

11 THE COURT: And I'll rule on it during break.

12 MR. EPPES: That's fine, Your Honor. I have no
13 further questions. Thank you, Ms. Moore.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. ARIAIL:

17 Q Ms. Moore, could I just look at one thing on there?

18 A Yes, sir.

19 MR. ARIAIL: Thank you. No questions.

20 THE COURT: All right. Thank you. You can step
21 down. Leave the exhibit.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Next witness.

24 MR. EPPES: Your Honor, I call Rosa Jones to the
25 stand.

1 THE CLERK: Up here, please, ma'am. Put your left
2 hand on the Bible and raise your right hand.

3 ROSA JONES

4 Having been first duly sworn, testified as follows:

5 THE CLERK: State your name for the record, please.

6 THE WITNESS: Rosa Ann Jones.

7 THE CLERK: Thank you. Be seated.

8 DIRECT EXAMINATION

9 BY MR. EPPES:

10 Q Hi, Ms. Hones, how you doing?

11 A Hi.

12 Q What's your job -- where do you work?

13 A Greenville County Detention Center.

14 Q What do you do down there.

15 A I'm the third shift nurse at the County Detention
16 Center.

17 Q How long have you been doing that?

18 A Three years.

19 Q What do your duties include in that job?

20 A Making initial assessment when the inmates come in
21 to find out what medical problems they have.

22 Q Okay. Anything else?

23 A No, just make sure they get their medications
24 they're on, you know, upon coming in.

25 Q What training do you have to be a nurse?

1 A LPN.

2 Q You mean, ---

3 A LPN, Licensed Practical Nurse.

4 Q Okay. And tell me about the education you have to
5 do to get that training?

6 A It's really just a one year course in the nursing
7 program itself.

8 Q Okay. When did you have occasion to meet Brad
9 Sigmon?

10 A I don't know the date. I assume it was in May when
11 he came in. I guess the -- well, it was third shift.

12 Q Was it May of 2001?

13 A Yeah, I think so.

14 Q Was it when he was first brought into the detention
15 center by Detective McNamara?

16 A That's correct.

17 Q Okay. Did you have a conversation with Brad Sigmon
18 at that point?

19 A I did. He was seen by me to find out what his
20 medical problems were.

21 Q How did he act to you?

22 A He was -- he was sad, and he acted sort of
23 remorseful to me when he came into the office that --
24 when I seen him.

25 Q Did you know what he had been arrested for?

1 A Yes, I did.

2 Q And he seemed remorseful for it?

3 A He did at the time.

4 MR. ARIAIL: Object to him leading, Your Honor.

5 THE COURT: Don't lead your witness, please, sir.

6 MR. EPPES: Thank you. I don't have anymore
7 questions. Thank you.

8 THE COURT: Any examination?

9 MR. ARIAIL: No, Your Honor.

10 THE COURT: All right. Thank you, ma'am. You're
11 released from your subpoena. Next witness.

12 MR. EPPES: Your Honor, we need to set up for a
13 couple of witness. Could we take a break?

14 THE COURT: Sure. All right. Mr. Foreman, ladies
15 and gentlemen, let me let you go back to the jury room.
16 We'll take our -- an early break, mid-morning. Don't
17 discuss this case. It might be a little bit longer. I
18 got to rule on a couple things and they got to set up,
19 and then we'll need to take our break. It may be 15
20 minutes or so. All right.

21 (The jury exited the courtroom at 10:05 a.m.)

22 THE COURT: All right. As to Exhibit 10, what
23 specifically is the objection, Solicitor? You said it
24 contained something irrelevant or not testified to as
25 well.

1 MR. ARIAIL: Well, it's got just -- I didn't get a
2 chance to read the entire thing, but it's just a -- it's
3 just got all sorts of information in there. Several
4 statements in there are self-serving as I glanced over
5 it.

6 THE COURT: Such as, the use of cocaine, or ---

7 MR. ARIAIL: Well, and there are other things,
8 but -- let me look at again.

9 THE COURT: Okay. Well, I don't see ---

10 MR. ARIAIL: I might not have an objection.

11 THE COURT: Unless you can point me out something
12 specific.

13 MR. ARIAIL: Specific.

14 THE COURT: I don't know.

15 MR. ARIAIL: I just -- general ---

16 THE COURT: All right. And while you're doing that
17 I am going to have an ex-parte conversation with the
18 defense about the suitcase. If y'all would step over
19 here.

20 (A bench conference was held with defense counsel.)

21 THE COURT: All right. Now as to 10?

22 MR. ARIAIL: Ten, we would withdraw the objection
23 as to the face of each one of these. Unfortunately,
24 these are copies, apparently somebody has written on the
25 back of -- in black ink on first page and she didn't

1 identify that as being hers.

2 MR. EPPES: Your Honor, I didn't even notice it.

3 MR. ARIAIL: And we would object to that.

4 THE COURT: Okay.

5 MR. EPPES: Can I see what's on the back.

6 THE COURT: Paxil, 10 milligrams in the morning,
7 Elavil, 75 milligrams, something, depression recurrent.
8 These are obviously copies. That's obviously not
9 copies, somebody -- that's not part of the original.

10 MR. ARIAIL: And if you want to white it out,
11 that's fine.

12 THE COURT: Okay. Why don't we just make a copy of
13 the front. Can we take the sticker off? Take the
14 sticker off, make a copy of the front without this on
15 the back and mark it as an exhibit. All right. Now,
16 anything else you want to say about the suitcase,
17 Solicitor?

18 (Defendant's Exhibit Number 10 was filed.)

19 MR. ARIAIL: My only objection on the suitcase was
20 the contents of the documents and what they may contain,
21 which I don't know.

22 THE COURT: All right. Then during this break,
23 I'll let you look at the contents of those documents.

24 MR. ARIAIL: All right.

25 THE COURT: And I'll rule on those contents.

1 MR. ARIAIL: All right.

2 THE COURT: As to everything else, I'm going to
3 admit it subject to withdrawing. There's no need for a
4 whole suitcase full of underwear going back to the jury,
5 so I would retain the right to withdraw any of the items
6 in the suitcase itself if it's not tied in later on
7 either through arguments or through witnesses. Do you
8 understand that ruling, Mr. Abdalla, Mr. Eppes?

9 MR. ABDALLA: Yes, Your Honor.

10 MR. EPPES: Yes, Your Honor, I do.

11 THE COURT: All right. And so then if you would,
12 go ahead and during the break look at those. You're
13 going to have to look at them up here with Madam Court
14 Reporter. All right. Anything else? All right. We'll
15 take a 15 minute break. I need another conversation
16 with defense. I just want to find if I need to feed
17 them lunch, bring it in, send them out, timing.

18 MR. ARIAIL: That's fine. We'd just like to talk
19 to you occasionally.

20 (A bench conference was held only with defense
21 counsel.)

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

24 THE COURT: All right. Anything before I bring the
25 jury?

1 MR. ARIAIL: Your Honor, we would object to the
2 items outside the suitcase. It's Bible with a number
3 of -- several pages of handwritten interpretations,
4 apparently -- I'm assuming by the defendant. Then there
5 are two or three pages of notes found in there that deal
6 with quotations of scripture, and application to life
7 and that sort of thing. We would object to that on the
8 basis of State versus Patterson, where we obviously
9 can't argue about religion, you can't -- it would seem
10 that you could not introduce evidence one way or the
11 other.

12 THE COURT: All right. Everything else is okay?

13 MR. ARIAIL: Everything else is all right.

14 THE COURT: All right. Then ---

15 MR. EPPES: May I respond?

16 THE COURT: Yes, sir.

17 MR. EPPES: Your Honor, as to religion, I believe
18 if those items were packaged in the suitcase and the
19 suitcase was in that vehicle, I believe they're fair
20 consideration for the jury, if they were taken as
21 evidence. However, I would be willing to -- to leave
22 out the written scripture verses and just leave the
23 Bible.

24 THE COURT: All right. Well, I'll leave the Bible.
25 I'll reserve ruling on -- all right. By consent we're

1 taking out all the written stuff. Okay. So can we
2 separate that out right now?

3 MR. ARIAIL: It's on top. We've already separated
4 it out.

5 THE COURT: I can't see what's down there. All
6 right. So what's pending is -- go ahead withdraw those.
7 Just -- all right. These items need to be placed in an
8 envelope and they need to go back to property and
9 evidence as part of that property sheet. The Bible I
10 will rule on. Everything else is in, subject to me
11 withdrawing it if it's not tied up. Everybody clear on
12 that?

13 MR. ABDALLA: Yes, sir.

14 THE COURT: Is any -- can I go ahead and put these
15 in an envelope?

16 MR. EPPES: Yes, sir, I don't have any objection.

17 THE COURT: All right. Go put those in an
18 envelope. They can go back to P and E. You can take
19 the Bible, it's part of that ID. All right. Bring the
20 jury.

21 (Defendant's Exhibit Number 9 was filed.)

22 THE COURT: Who's your next witness. Let's go
23 ahead and get them in.

24 MR. ABDALLA: I've already sent for them. It's
25 going to be Shirley Furtick.

1 THE COURT: Shirley?

2 MR. ABDALLA: Furtick, F-u-r-t-i-c-k.

3 She is a social worker.

4 (The jury entered the courtroom at 10:31 a.m.)

5 THE COURT: You're Ms. Furtick?

6 MS. FURTICK: Yes.

7 THE COURT: All right. Come on up, please, ma'am.

8 THE CLERK: Put your left hand on the Bible,
9 please, ma'am, and raise your right hand.

10 SHIRLEY FURTICK

11 Having been first duly sworn, testified as follows:

12 THE CLERK: State your name for the record, please.

13 THE WITNESS: Shirley Delores Furtick.

14 THE CLERK: Would you spell your last name, please?

15 THE WITNESS: F-u-r-t-i-c-k.

16 THE CLERK: Thank you. Be seated.

17 THE COURT: Ms. Furtick, as you get comfortable, if
18 you'd slide your chair forward, speak directly into that
19 microphone. That will amplify your voice and everybody
20 will be able to hear you, okay?

21 THE WITNESS: All right.

22 THE COURT: Mr. Abdalla.

23 DIRECT EXAMINATION

24 BY MR. ABDALLA:

25 Q I had to check my watch, I lost track of time.

1 Good morning, Ms. Furtick.

2 A Good morning.

3 Q Could you please tell us your name?

4 A My name is Shirley Delores Furtick.

5 Q And Ms. Furtick, where do you live?

6 A I live at 4815 Hambee Street, Columbia, South
7 Carolina.

8 Q And what is your profession?

9 A I am a clinical social worker.

10 Q And where are you employed?

11 A I'm employed with the South Carolina, Department of
12 Mental Health.

13 Q Please tell the jurors what licenses you hold?

14 A I am a licensed clinical social worker, licensed by
15 the Board of Social Work Examiners, and I'm also a
16 licensed marriage and family therapist.

17 Q What board certification do you hold?

18 A I'm board certified by the Academy of Social
19 Workers.

20 Q Ms. Furtick, could you tell us about your
21 educational background?

22 A I received my Bachelor's of Science Degree with a
23 concentration in Social Work from Benedict College,
24 Columbia, South Carolina, in 1970. In 1972, I received
25 my Master's Degree in Social Worker from the University

1 of South Carolina, College of Social Work.

2 Q And Ms. Furtick, could you tell -- or could you
3 define what a clinical social worker is?

4 A A clinical social worker is a mental health
5 professional who has a Master's Degree in Social Work
6 from an accredited college of Social Work, and there is
7 a field practicum intern, as well as years of
8 supervision, and the individual is licensed by a
9 licensing body. Clinical Social Workers diagnose and
10 treat mental illness as well as other disorders. They
11 are -- or can be found in various kinds of settings,
12 including mental health private practice. Our services
13 are reimbursable by insurance, and we do provide about
14 65 percent of mental health services in the United
15 States.

16 Q Okay. Thank you. And tell us, how does a clinical
17 social worker differ from a case worker in the
18 Department of Social Services?

19 A Case workers are not academically trained. Case
20 workers case manage. Their training is typically
21 acquired on the job and many times that is through
22 inservice, but they're not trained in social work.

23 Q Thank you. Please describe your work experience
24 for the Court?

25 A After completing my internship, I was employed with

1 Lutheran Social Services of Iowa, as a clinical social
2 worker, where I did bio-psycho social assessments, and
3 treatment and supervised a home for juvenile girls. I
4 began employment with the Family Service Center in
5 Columbia, South Carolina. There I was a clinical social
6 worker. I treated and diagnosed emotional disorders
7 with individuals, families, and worked with groups, and
8 I was also program director for a Traveler's Aids
9 Program. I then began employment with the South
10 Carolina, Department of Mental Health, where I currently
11 work, and I've been in various positions over the 8
12 years or so I've been with department, in clinical
13 social work as well as administrative supervision and
14 program monitoring.

15 Q To what professional organizations do you belong,
16 Ms. Furtick?

17 A I am a member of the National Association of Social
18 Workers, the American Association of Marriage and Family
19 Therapists, Rotary International, and the South Carolina
20 Jail Administrators Associations.

21 Q Do you hold any appointments or elected positions
22 with those organizations?

23 A I'm the current regional representative for the
24 region 6 of the National Association of Social Workers,
25 leadership identification committee. I represent six

1 states in the southeast, Georgia, South Carolina, North
2 Carolina, Mississippi, Alabama and Florida. I have held
3 past leadership as the president of the South Carolina
4 Chapter of the National Association of Social Workers,
5 secretary for the South Carolina Chapter of Marriage and
6 Family Therapists. I have for the past three years been
7 secretary of Oclaire Rotary and I have been appointed to
8 Leadership South Carolina, class of '98.

9 Q Have you held any teaching positions?

10 A Yes.

11 Q In social work?

12 A Yes. I taught one term with the University of
13 South Carolina, College of Social Work, Human Behavior
14 in Practice course.

15 Q And as a clinical social worker, are you called
16 upon to train other mental health professionals in the
17 United States?

18 A Yes.

19 Q Could you tell us a few states where you've
20 conducted training and given presentations on mental
21 health issues?

22 A I've trained of course here in South Carolina.
23 I've trained in Georgia. I've trained in Hawaii. I've
24 trained in, all these together, the state of
25 Massachusetts. I've trained in Pennsylvania, and the

1 District of Columbia, as well as London, England.

2 Q Ms. Furtick, could you describe your work
3 experience in the work of forensic social work at the
4 William Hall Institute?

5 A William S. Hall Psychiatric Institute is a division
6 of -- of the Department of Mental Health. While
7 employed there, I was Chief of Social Work Services
8 where I supervised social work -- clinical social work
9 staff. I also conducted bio-psycho social assessments.
10 I supervised clinical staff in our not guilty by reason
11 of insanity, MGRI, not competent to stand trial program,
12 and I served as the designator for the Probate Court in
13 looking at folk's readiness for discharge or continued
14 stay in the hospital.

15 Q Ms. Furtick, in the course of your forensic
16 evaluation experience, did you conduct an assessment
17 that is considered standard practice for clinical social
18 workers?

19 A Yes.

20 Q And what -- what's that assessment called?

21 A That's the bio-psycho social assessment.

22 Q And what is bio -- I'm sorry, bio-psycho social
23 assessment?

24 A The bio-psycho social assessment is a method that
25 clinical social workers use to get information, explore

1 histories of persons that were clients in this case that
2 we're working with to help us to explain how they came
3 to be who they are. We used -- I might say, the way
4 that we do them is we do them through interviews. We
5 talk to not only the client, we talk to client family
6 members. We talk to colleagues. We get records,
7 whether those are medical railroads, school records,
8 hospital records, as many records as we can get from
9 different sources to provide consistency. We talk to
10 other professionals who may have had contact, been
11 involved with the individual, and we also develop audio
12 pictures, or diagrams that we can use to condense the
13 information, because there's just volumes and volumes of
14 information that can be just overwhelming. And so when
15 we do like Court presentations we use audiovisuals to
16 show that information.

17 Q Thanks. Ms. Furtick, why isn't this just another
18 excuse for bad behavior?

19 A The -- the bio-psycho social does not excuse
20 behavior. What we try to do is to explain the behavior.

21 Q And why ---

22 A To give some understanding and insight.

23 Q Sorry. Why is it important to interview other
24 people?

25 A It's important to interview other people because

1 what we want to do is get as wide a view of the
2 individual as possible. If we just relied on the
3 information of the individual, then we don't have any
4 way of having and looking at consistencies or
5 inconsistencies in the information that we're getting.

6 Q What kind of records do you typically review, and
7 why is it important to review records?

8 A We look at any records that can be obtained and are
9 available. It's important to look at those records.
10 Well, an example might be, suppose I interviewed a
11 school teacher that said that the individual was having
12 some problems in school, and the information that I got
13 from the individual was that they did very well in
14 school, was having no problems. There may have been
15 some psychological testing that may have supported or
16 not supported what the teacher interviewed was saying.
17 So this gives us a way of comparing and looking for the
18 consistency in what we're getting in trying to help us.
19 And once we find that inconsistency, then we have to
20 balance it and find out where the inconsistencies are
21 and why. So reviewing the records and getting records
22 are very important, very important to the assessment.

23 Q Now, Ms. Furtick, bio-psycho social assessment is a
24 pretty long word. What do clinic social workers mean
25 when they talk about the bio part of that assessment?

1 A The bio part -- bio part of the assessment, again
2 we look at medical records. We look at bio-chemical,
3 neurological issues, genetic issues, whatever issues
4 there might be biologically to explain behavior.

5 Q So you're setting yourself up as a doctor when you
6 discuss medical findings you discover during the course
7 of your assessment?

8 A No, no, no, no. If you were to go to a doctor, a
9 doctor is going to ask you about your medical history,
10 want to know who in your family -- well, I'll use
11 myself, who in my family has heart problems, and as I
12 look at my family, there's a whole group of those in my
13 family with heart problems. So the risk of me having
14 heart problems is very high. So helping us to look at
15 that information and look at patterns is why we need to
16 look at the medical records. If an individual has had a
17 head injury and that head injury was never picked up or
18 noticed, many times head injuries that occur in
19 childhood, in later adult life can have significant
20 impact on how a person functions.

21 Q Thank you. What about the psychological part of
22 your assessment? You're not trained as a psychologist
23 either, are you?

24 A No. Psychologists do testing, that's what they do.
25 We -- clinical social workers rely on psychologists for

1 the tests, and we're not trained in testing, but we can
2 review the testing information and consult with a
3 psychologists to help us again identify issues and do
4 away with any inconsistencies that we find.

5 COURT REPORTER: Hold on one second.

6 (The Court Reporter changed tapes.)

7 BY MR. ABDALLA:

8 Q And how about the social part of your assessment?

9 A Social workers are trained in systems, clinical
10 social workers. We're trained to look at the whole
11 person in their environment, every aspect of their
12 environment. We are not born or raised in a vacuum. We
13 come in contact with initially our immediate family,
14 extended family, wider communities, all of those help to
15 influence who we are. We look at institutions that the
16 person may be involved in. In looking at the
17 communities, we might do home visits, we assess
18 economic, socioeconomic of the family, what kinds of
19 impact this may have had on the individual. Religious
20 institutions, again schools. All of this makes up the
21 whole person, and the persons are influenced by those
22 institutions.

23 Q Why do you consult with other professionals?

24 A Consulting with other professionals again is to
25 help with any inconsistencies. Reviewing literature as

1 well as talking with or consulting with professionals in
2 their area of expertise on issues that we are
3 identifying helps to, again, explain what we're finding.

4 Q And why do you visits homes in the communities?

5 A To look at the environment of which the person is
6 living in, grew up in, involved in, and what
7 interactions they're having within that environment.

8 Q And why do review studies and research?

9 A Many times as social issues come about, there's a
10 lot of literature about those social issues, and when we
11 identify issues, it's good practice to look at what's
12 out there in the field, what's being said about those
13 issues, and what kinds of studies have been done
14 regarding those issues, and how they influence
15 individuals.

16 Q Why do you use visual aids to demonstrate your
17 findings?

18 A To help condense the information so that -- there's
19 just so much of it so that it's not so overwhelming.

20 Q What is the purpose of a bio-social -- bio-psycho
21 social assessment?

22 A The purpose of a bio-psycho social assessment is to
23 provide information about the individual and how they
24 came to be as they are and their circumstances.

25 Q Ms. Furtick, do clinical social workers diagnose

1 and treat mental problems?

2 A Yes.

3 Q And did clinical social workers contribute as
4 advisors to the contents of the Diagnostic and
5 Statistical Manual for Psychiatric Disorders?

6 A Yes.

7 Q What is that manual?

8 A That's -- that's a text, a book used by persons in
9 mental health to diagnose and treat mental illness and
10 mental disorders.

11 Q And after you put this information together, what
12 do you do with it?

13 A We use the information to do a treatment plan if
14 we're in a mental health study, or a clinical setting, a
15 private setting, where we're trying to help the client
16 identify issues, needs and resources. In this setting,
17 a court setting, we use the information to put together
18 and identify how the person got to be the way they are.

19 Q What kind of training is required to gain expertise
20 in conducting these assessments?

21 A A Master's in Social Work.

22 Q And do psychiatrist -- do psychiatrists or
23 psychologists do bio-psycho social assessment?

24 A No.

25 Q And why not?

1 A They're not trained to do bio-psycho social
2 assessments.

3 Q Do they routinely rely on clinical social workers
4 to do these assessments?

5 A Yes. In fact, in mental health settings, the
6 treatment team is generally composed of the
7 psychiatrist, psychologist and the social worker, and in
8 some instances a nurse, and the responsibility of the
9 social worker is to obtain the bio-psycho social
10 assessment.

11 Q Ms. Furtick, how many years have you been
12 conducting bio-psycho social assessments?

13 A Approximately 30 years.

14 MR. ABDALLA: Your Honor, I'd ask that Ms. Furtick
15 be qualified as a clinical work expert in conducting
16 bio-psycho social assessments and presenting her
17 findings and opinions based on that assessment.

18 THE COURT: Any voir dire?

19 MR. ARIAIL: We have no questions.

20 THE COURT: All right. Any objection?

21 MR. ABDALLA: Thank you, Your Honor.

22 THE COURT: Any objection.

23 MR. ARIAIL: No.

24 THE COURT: All right. I so declare her to be.

25 BY MR. ABDALLA:

1 Q Ms. Furtick, did you conduct interviews in
2 preparation for your assessment?

3 A Yes, I did.

4 Q Would you please list who you interviewed?

5 A I interviewed Brad Sigmon on May 24h, June 26th and
6 July 2nd. I interviewed Virginia Wooten on June 4th,
7 Virginia and daughter Kelly on June 11th, Virginia and
8 daughter Starlett on June 19th, Virginia and daughter
9 Startlett and sister -- Virginia's sister Brenda Clark
10 on June 25th. And Ronnie Sigmon on July 1. I also had
11 telephone contacts with Patrick Conyo (phonetically) and
12 Patricia Conyo on July 6th. These are step-siblings of
13 Brad Sigmon. And I spoke with Davey Sigmon on July
14 14th. This is Brad Sigmon's brother.

15 Q And did you review records for this assessment?

16 A Yes, I did.

17 Q And would please list the records you reviewed?

18 A I reviewed the records of Richland Memorial
19 Hospital, the Greenville Detention Center, the SLED,
20 State Law Enforcement Division records, South Carolina
21 Department of Correction records and all other records,
22 reports that were provided by the defense attorneys.
23 Any my purpose in reviewing these records was to look
24 for history and confirm dates.

25 Q Did you consult or review the reports of other

1 professionals who have assessed Mr. Sigmon?

2 A Yes.

3 Q And have you prepared visual or demonstrative --
4 visual aids to demonstrate your findings?

5 A Yes.

6 Q And are these visual aids in keeping with accepted
7 professional social work practices?

8 A Yes.

9 Q Ms. Furtick, you said that there are patterns of
10 behavior that tend to run in families. Did you prepare
11 a visual aid to demonstrate what you learned about the
12 Sigmon family?

13 A Yes.

14 Q What's this chart called?

15 A This chart is called a genogram.

16 MR. ABDALLA: One moment, Your Honor.

17 BY MR. EPPE:

18 Q Could you tell us what a genogram is?

19 A A genogram is like a family tree. It's used to map
20 relational -- in this case relational loss, separation
21 and death. And what we do with a genogram is that it
22 provides a condensed visual of the family situation and
23 environment.

24 MR. ABDALLA: May I approach, Your Honor, the
25 witness?

1 BY MR. ABDALLA:

2 Q Would you please step down, Ms. Furtick, and ---

3 THE COURT: You're going to have to keep your voice
4 elevated if you step down.

5 THE WITNESS: Okay.

6 THE COURT: I need to be able to hear you. The court
7 reporter needs to be able to hear you.

8 MR. ABDALLA: Both of us are going to have that
9 problem, so let's make sure we speak up.

10 THE COURT: Has this been marked?

11 MR. ABDALLA: No, I'm sorry. I need to have this
12 marked as defendant's exhibit -- I'm sorry, I don't know
13 what number we're on.

14 THE COURT: What ---

15 MR. ABDALLA: For identification.

16 THE COURT: Eleven. Is this without objection?

17 MR. ARIAIL: Well, he's marking -- he's not even
18 marking it, it's just a demonstrative aid.

19 THE COURT: Do you intend to offer it for the jury?

20 MR. ARIAIL: He said he did not.

21 MR. ABDALLA: No, I do ---

22 MR. ARIAIL: He says he's planning to offer it. We
23 have no objection.

24 THE COURT: All right. The only thing is if --
25 after the trial is over, I'm going to make you to reduce

1 it so we don't have to store it.

2 MR. ABDALLA: Yes, sir. I believe we have a
3 smaller version of this already. At this point I would
4 like this marked as Defendant's Exhibit Number 11.

5 (Defendant's Exhibit Number 11 was marked and
6 filed.)

7 BY MR. ABDALLA:

8 Q All right. You can step down. Ms. Furtick, if you
9 would, please step down.

10 MR. THAMES: Your Honor, could we please place it
11 up front?

12 THE COURT: All right.

13 MR. ABDALLA: Can people see this, the jury? Is
14 there anyone who cannot see this? Your Honor, would the
15 jurors be able to move if they couldn't see?

16 THE COURT: Well, I'd rather you centrally locate
17 it if they can't see.

18 MR. ABDALLA: All right. Am I blocking anybody
19 where I'm positioned? I'll step over here.

20 BY MR. ABDALLA:

21 Q Would you explain to the jury what's on the chart,
22 please?

23 A Okay. This is the family of Brad Sigmon. And this
24 is the family that he grew up in, and this is the family
25 of his parents, and this is the family of their parents.

1 And this is the family of Brad Sigmon. So we're looking
2 at four generations of family in this genogram.

3 Q Ms. Furtick, what do the circles and squares
4 indicate?

5 A The circles are females in the family, and the
6 squares represent the males in the family. The triangle
7 shape represents a miscarriage, or death of a child at
8 birth.

9 Q And where is Brad on this chart?

10 A Brad is here.

11 Q And where are the parents?

12 A Virginia is here and Ron is here.

13 Q And where are his brothers and sisters and what are
14 their names?

15 A Mike is the next oldest brother and he's here.
16 Starlett is the next oldest sister here, then Davey, and
17 here is Kelly.

18 Q And how about his grandparents on his mother's side
19 of the family?

20 A Alma and Herman Burrell (phonetically).

21 Q And his grandparents on his father's side of the
22 family?

23 A Raymond Maude and Frank Sigmon are the parents of
24 Ronnie Sigmon.

25 MR. ABDALLA: Can you return to the stand, Ms.

1 Furtick? Is this obtrusive? Can I allow this to stay
2 here for a while?

3 THE COURT: Sure.

4 BY MR. ABDALLA:

5 Q Ms. Furtick, are the life experiences of parents
6 important in terms of how they parent their own
7 children?

8 A Yes.

9 Q What did you learn about his mother's background
10 history?

11 A Virginia Wooten was -- was -- the mother, was an
12 only child. She was married at age 16. She divorced
13 her husband when Virginia was eight. She -- after the
14 divorce, she and Virginia's two siblings moved in with
15 Virginia's grandmother, who was the caretaker for the
16 children while the mother worked. The grandmother died
17 when Virginia was about 12 or 13. At the age of 16 --
18 15, Virginia left the home and moved to Texas where she
19 was married in Mexico at the age of 16.

20 MR. ABDALLA: I realize now I have the exhibit
21 between the witnesses and myself. So can the jury at
22 least see this? I realize it may not be a perfect view,
23 but are you able to see it at all? If it's in this
24 position?

25 MR. THAMES: No, we got a couple jurors that cannot

1 see it.

2 THE COURT: Why don't you just put it right there
3 in the middle?

4 MR. THAMES: Put it in the middle.

5 MR. ABDALLA: Is that fine?

6 BY MR. ABDALLA:

7 Q I apologize. I've got to clarify two things. When
8 were Virginia and her mother married, did you already
9 say?

10 A When were ---

11 Q Virginia Sigmon and her mother married? What did
12 you just say a moment ago in your testimony about their
13 marriage?

14 A I said her mother was married at the age of 16.

15 Q Sixteen.

16 A And Virginia was also married at the age of 16.

17 MR. ARIAIL: Your Honor, could I just interpose at
18 this point, I think -- I would object to her just
19 reciting what is hearsay, until or unless she has set
20 forth some opinion. I think that's what the rules
21 require, is for her to set some opinion. And then she
22 can bolster, or under -- give underlying data for that
23 opinion. But just to recite all of this data without an
24 opinion, I would object to that. And I'm referring to
25 rule 705.

1 THE COURT: All right. Why don't you get her to
2 say what her ultimate opinion is going to be and then
3 back up and do this, and you can go over the reasons for
4 her opinion at the end. Comply with the rule.

5 MR. ABDALLA: Well, Your Honor, I understand that,
6 and I'm not arguing with your ruling, but could she not
7 rely on her own findings based on the fact that she's an
8 expert in that field? I'll do what the Court says, but
9 I just wanted to ask ---

10 THE COURT: Do it as I say, state the opinion, what
11 she's going to testify to and then ---

12 BY MR. ABDALLA:

13 Q All right. Would you please tell the jury, tell
14 the Court what your finding is, what your assessment is?

15 A I believe there is -- is a visual on conclusions.

16 MR. ABDALLA: I'm sorry, Judge, this out of order.
17 I apologize. Your Honor, I believe we've already handed
18 a copy of this to the Court, and there was a letter --
19 it's in a letter form, a presentation of these
20 conclusions. We've presented one to the Solicitor. At
21 this time I'd like to move to have this marked for
22 identification, Defendant's Exhibit Number 12.

23 THE COURT: For ID?

24 MR. ABDALLA: For ID. I said for ID, I'm sorry, or
25 I thought I did.

1 (Defendant's Exhibit Number 12 was marked for
2 identification.)

3 MR. ABDALLA: Here's another copy for the Court,
4 Your Honor, in case.

5 THE COURT: I've got one.

6 MR. ABDALLA: All right. I'll keep one for myself
7 as I can't see it as well.

8 BY MR. ABDALLA:

9 Q First, Ms. Furtick, can I ask you to identify these
10 conclusions, and I can show ---

11 A Yes.

12 Q --- the letter form. Are these your conclusions
13 and your findings?

14 A That's correct.

15 MR. ABDALLA: At this time, I'd like to move this
16 into evidence as Defendant's Exhibit Number 12 that's
17 marked for identification.

18 MR. ARIAIL: I would object to the chart going into
19 evidence.

20 THE COURT: I sustain the objection. She can
21 testify to it. You can use it as demonstrative
22 evidence, but I mean, that is ultimately her ultimate
23 report?

24 MR. ABDALLA: That's correct, Your Honor.

25 THE COURT: All right. I won't allow that in.

1 MR. ABDALLA: Thank you.

2 BY MR. ABDALLA:

3 Q All right. Ms. Furtick, would you please tell the
4 Court about your assessment, your conclusions?

5 A Okay. May I come there?

6 Q Yeah.

7 A I don't have a copy of it. As a result of the
8 interviews, and talking with various family members, and
9 talking with Brad and reviewing his records, and looking
10 at the issues and the home environment and the time that
11 Brad was growing up, what I have concluded is that, one,
12 Brad was born to a mother who was a teenager. His
13 father was abusing alcohol. Both had childhood lives
14 that were characterized by significant loss of
15 relationships. His mother from the age of -- or had six
16 kids all of which were unplanned from the age of 17 to
17 22, with the oldest being five and the youngest being
18 five months. The oldest was Brad.

19 Brad's earliest childhood was one of losses and
20 neglect. His teen mother, not only was she trying to
21 cope with a newborn infant, she was coping with
22 adjusting to military life, as well as coping with the
23 loss of the relationships in her family by moving from
24 Danville, Virginia, to Texas. She did not have supports
25 of extended family as she adjusted to these moves and

1 losses. She became pregnant with Brad, she had her
2 first miscarriage in the first year of the marriage, and
3 within three weeks of the pregnancy she lost the child.
4 And Brad was conceived approximately six weeks following
5 that miscarriage. So she was dealing with these
6 stressors, except in having to deal with a pregnancy.

7 At the age of five, Brad's parents moved him and
8 his siblings to the Philippines. Here we have a 22 year
9 old mother with five -- well, four toddlers, one infant,
10 age five months, and the oldest toddler, age five,
11 moving across country to the Philippines. During the
12 pregnancy with her sixth child, who is Kelly, she is not
13 with her husband. Ronnie has already been reassigned
14 and gone to the Philippines. She is with these children
15 by herself and she has someone to come in and stay with
16 the kids while she delivers the sixth child. And then
17 she packs them up and she has to move across the county
18 with them.

19 By the age of 7 and throughout his teen years there
20 was several separations by Brad's parents, and they
21 lived -- for vary periods of -- for various reasons. So
22 there was significant loss during these early years when
23 the parents were not there on a consistent basis.

24 By 16, Brad had lived in 10 states. His family
25 life became more uncertain as he was moved back and

1 forth between his parents and step-parents. The parents
2 had separated by them. One was contemplating marriage.
3 Ronnie was contemplating marriage. Brad was from his
4 mom's house to his dad's house, his mom's house to his
5 dad's house. Those relationships just never quite
6 resolved.

7 He was still in high school at the age of 19. Nine
8 weeks before graduation, he drops out of high school to
9 get married. He had limited skills during the early
10 years of the marriage, which resulted in numerous jobs,
11 blue collar, unskilled jobs.

12 He -- and if I just might back up here a minute.
13 At the age of 16, another significant event for Brad was
14 that he was not only what we call a surrogate parent or
15 caretaker for his younger siblings, but he was also a
16 provider for the family in helping the mother to
17 financially provide for the children. He went to work
18 at age 16 while also trying to attend school.

19 By adult age, Brad's relationships with others were
20 pretty much characterized by fears of rejection, fears
21 of abandonment. He -- for him what got replayed with
22 this was all of his earlier fears around rejections,
23 loss and his own self-esteem. When he would experience
24 these fears, what would happen for him is that he would
25 become confused. He was very much, from what I learned,

1 a giving person, very materialistic in relationships,
2 and generally was taken advantage of. And once taken
3 advantage of, it was a situation of why me.

4 So again, rejection, again loss, becoming over
5 emoted, over aroused, impulsive and having poor judgment
6 as to how he deals with all that.

7 Q Thank you. If you would return to the stand. All
8 right. Now, back up. What did you learn about Brad's
9 father's background?

10 A Ronnie Sigmon, actually I -- if I can just step
11 down again for a minute?

12 Q Sure.

13 A Back and forth.

14 Q Sure.

15 A And one thing we want to remember in looking at
16 this is we're talking about a long ago period of time.
17 Brad is now 44.5. His parents are in their 60s. So a
18 lot of this information, they may not have remembered
19 exact dates, or exact descriptions of the events, how
20 they happened, when they happened, who did what, et
21 cetera, et cetera.

22 In talking with Ronnie about his family, what we
23 find, again, are loss. His mother is -- has three
24 marriages. And his mother is one of 11 children. She
25 is the second child of 11 children born to her parental

1 union. There are two other sons in her first marriage.
2 During her second marriage to Ronnie's father, Brad
3 Sigmon, Ronnie is born.

4 Ronnie is raised by his maternal grandparents,
5 because the parents are working. He's raised by the
6 maternal parents until the age of 12, when he then -- or
7 he would go home on weekends, but most of his weekends
8 were spent with his paternal grandparents, until he was
9 age 12, when he went back to the parents' home.

10 Ronnie's interaction was pretty much with the maternal
11 family. There was very little interaction with his
12 father's family to the point that maybe, okay, we could
13 not get clear from him the names of his paternal
14 grandmother and grandfather, and that's generally
15 something folks will remember.

16 Further, Ronnie, he joined the military at age 21.
17 He was in basic training and came home on leave and
18 asked Virginia to marry him. Ronnie was a twin. His
19 brother died at birth. He was still born. So basically
20 what I learned about Ronnie and Virginia is that they
21 both experienced -- experienced some significant loss
22 themselves during their childhood years.

23 Q Would you please tell the Court and jury how his
24 parents met?

25 A Ronnie and Virginia were introduced by a girlfriend

1 of Virginia's.

2 Q And how old was his dad at that time?

3 A Ronnie was 2- -- well, at that point he would have
4 been 20. They dated about 15 months, if I recall
5 correctly, before marrying.

6 Q And his mother was how old?

7 A I don't know how old Ronnie's mother was.

8 Q No, no, I'm sorry.

9 A How old was Virginia?

10 Q Yeah.

11 A She was 15 when they met.

12 Q All right. Where did they live after they married?

13 A Once they married -- well, Ronnie was home on leave
14 and Virginia's mother gave permission for Virginia to
15 travel to Amarillo, where Ronnie was stationed, so that
16 they could be married. He needed clearance from the
17 military to take leave to marry. Virginia stayed with
18 friends of Ronnie's until he could get this clearance.
19 And they were married in New Mexico, I believe.

20 Q And did they start a family right away?

21 A Not right away. The first year of the marriage,
22 Ronnie completed his basic training. Virginia worked
23 at Woolworths, I believe. And as I said earlier, she
24 became pregnant and miscarried her first child about 13
25 months or so into the marriage.

1 Q And who was her next child?

2 A Her next child was Brad.

3 Q Who was that?

4 A Brad.

5 Q Brad. And when was he born?

6 A Brad was born November 12, '57.

7 Q And how old was his mother at that time?

8 A She would have been 17.

9 Q And you said -- did you say already Brad's father
10 was in the service?

11 A Yeah.

12 Q Okay. And at that time were they still living --
13 which state were they ---

14 A At that time he had completed his basics, and they
15 had moved to Big Springs, Texas, where they remained for
16 the next five years.

17 Q Describe the early environment in the home?

18 A The early environment of that five years, is
19 that ---

20 Q Yeah.

21 A Virginia did not work. Of course she's had
22 multiple successive pregnancies. Ronnie was working
23 during the day, would come home in the evening.
24 Virginia, feeling -- even though he was preg- -- I mean
25 was present at all of the birthings of the children, he

1 was with her in the delivery, he would frequently go out
2 in the evenings, and she would be left with the
3 children. If she were to go out, she usually had to
4 take the children with her. I did not get a sense of --
5 of again, support. She had contact with her family.
6 This contact was basically they came once a year to
7 Virginia, or to South Carolina, where they visit a month
8 or so with the family and returned to wherever they
9 were staying at the time. So the communication and the
10 contact with the family was mostly by telephone or
11 correspondence.

12 Q You also said in your conclusions that Brad --
13 Brad's mother had six unplanned pregnancies, with five
14 children born. Do you have a visual aid to
15 demonstrate ---

16 A Yes.

17 Q --- the time period of those births?

18 MR. ARIAIL: We have no objection to it being
19 marked as ID at this time for her to use as a visual aid
20 to talk about her findings of fact based on conversation
21 she had with these people.

22 THE COURT: Okay.

23 MR. ABDALLA: Thank you. Please mark this as
24 Defendant's Exhibit for ID number 13.

25 (Defendant's Exhibit Number 13 was marked for

1 identification.)

2 BY MR. ABDALLA:

3 Q Would you please step down from the witness stand
4 and review this, Exhibit Number 13 that was marked for
5 identification. Would you please review the chart for
6 the jury?

7 A Well, what we have here is significant issues for
8 Virginia during Brad's early childhood, particularly the
9 age from birth to age five. Now, I had mentioned
10 earlier about the losses that Virginia and Ronnie
11 experienced in their life, in terms of relationships, so
12 what we have is a teen mother who is separated by choice
13 from her own mother and she's having these children and
14 there is no support.

15 And one of the things that happens with parenting
16 is that parenting, and you know this, is probably the
17 biggest career that we will ever have, and we're not
18 trained for it. And we kind of learn how to parent by
19 trial and error, or we imitate what we've seen from
20 others, basically our own parents or folks around us.
21 But if you have experienced those losses, you don't have
22 that. So you learn to parent by trial and error, if you
23 do not have a support system of friends.

24 Again, while the family lived in military housing,
25 close confinements, one way, when you got this many

1 children, of controlling those, while controlling is not
2 a good word, managing, maintaining little ones is you
3 keep them pretty regimented, so that they understand
4 what kinds of behavior is expected of them.

5 So what we have is a teen age mother with no
6 support who miscarried at the age of 17. She's at work.
7 She miscarried. She doesn't know that she's having a
8 miscarriage. Co-workers offer support through this
9 time. She goes to a military doctor the following day
10 who says, oh, you may have miscarried. Okay. And then
11 six weeks later, she is again pregnant. Has she had
12 enough time to grieve the loss of that miscarriage? Was
13 she even ready to have that infant? We have a
14 16-year-old, married for one year, she's still in the
15 process of getting to know her husband. She is still
16 getting -- in the process of learning to be a wife. She
17 is still in the process of learning to be a military
18 wife, and again with no supports. So emotionally
19 attentiveness to the needs of her children would not
20 have been consistent.

21 And in looking at this chart, what you will also
22 see is that in between those pregnancies there was a
23 significant 6 to 10 month time that she was not
24 pregnant, but about to conceive or had the care of an
25 infant as well as a toddler, and having that many small

1 children around is very difficult when you're trying to
2 adjust to numerous other stressors that are going on and
3 taking care of children. And again at 21, when she
4 conceives her sixth child, she is the caretaker for the
5 four toddlers. She is alone, and she is preparing them
6 to move across country alone.

7 Q Ms. Furtick, what is -- in your opinion what is
8 the effect of this on -- the significance of this period
9 on Brad's life?

10 A One of the early issues for children is the issue
11 of trust and bonding. Infants instinctively bond to the
12 caretaker. The caretaker instinctively bond to the
13 infant. The learning to trust that that physical,
14 emotional presence is going to be there is very
15 important for children, particularly for infants in
16 their early years. If that is taken away or is not
17 consistent, children learn not to trust relationships.
18 As adults this creates significant problems in how they
19 choose relationships, how they maintain those
20 relationships, and what happens to them when they loose
21 those relationships, because what they're doing is they
22 have not resolved the initial loss relationship, so each
23 subsequent relationship is a reminder of the feelings,
24 emotions in end to that initial loss.

25 Q You spoke of neglect. What do social workers,

1 clinical social workers mean when they speak of neglect?

2 A When we talk about neglect, we're talking about
3 basic human needs. And the basic human needs that we
4 have are for food, shelter, clothing, all of that is a
5 basic human need. Brad had that. Education, Brad has
6 that. However, the family did move a lot. The moves
7 can be very disruptive in terms of being able to settle
8 down and complete, so that was a problem area for Brad.
9 The other neglect we look at would be the emotional
10 neglect. And that's the piece that I was talking about
11 where the mother, because of her responsibilities for
12 all of these kids, could not have been consistently
13 emotionally available to all of these kids at the same
14 time.

15 Q In your opinion, did Brad suffer any developmental
16 losses?

17 A Yes.

18 Q And what were they?

19 A What happens for children when they don't complete
20 this, is that many times many will end up feeling
21 depression. They will have -- develop anxious habits.
22 They are unable to again establish and maintain healthy
23 relationships, and generally they tend to be over
24 reactive and overly involved or attached to
25 relationships, when there is some great loss to that

1 relationship they become more clingy and have a need to
2 hold onto it.

3 Q You can return to the stand, Ms. Furtick, unless
4 you need to refer further to the chart. What is the
5 importance, Ms. Furtick, of a child learning
6 relationship skills?

7 A The importance of learning the relational skills is
8 that's how we develop our social mores. Children learn
9 and imitate how to deal with people in their wide world
10 from the relationships within their immediate family.
11 What's important for them is that they play. Play helps
12 them to develop social mores. If Johnny gets angry,
13 takes his toys and goes home, that's okay. The world is
14 not going to end. Okay. Sally don't want to date you
15 anymore, that's okay. The world is not going to end.
16 There will still be people -- still be people around to
17 protect love and care for you and the world is not going
18 to fall apart because you lose one person. Again, they
19 learn the rules about what's -- you can do, what you can
20 do in relationships and they learn boundaries about how
21 they can maintain equilibrium in those boundaries in
22 terms of give and take and sharing, reciprocity, giving
23 and sharing, taking and giving. And they develop
24 competence, self-esteem in themselves, in -- and in
25 relationships, in work, in all aspects of their adult

1 life.

2 Q And what happens to children who miss out on those
3 skills? How did that effect their -- their -- them in
4 terms of how they handle rejection?

5 A There are numerous studies that say that children
6 who have difficult relationships with losses generally
7 have problems have early as juveniles. They generally
8 will end up in the juvenile or adult correctional
9 system.

10 Q And does neglect ever effect children in a way that
11 they would more likely end up with difficulties in
12 school and in relationships?

13 A It could hurt them in their school relationships,
14 sometimes they can be so attune to what's going on
15 that -- in the home environment, in the community
16 environment, that when in school it's very easy for them
17 to be distracted, not learning, daydreaming, sleeping,
18 can happen very easily.

19 Q You said that in the conclusions that Brad had some
20 difficulties in school, could you expand on those?

21 A Yeah. When -- when Brad was five the family moved
22 from Big Springs -- I keep wanting to say Big City --
23 Big Springs, Texas, to the Philippines, Brad was to
24 begin first grade there. In interviewing the family we
25 had difficulty trying to get dates and ages to match. I

1 think it's interesting Brad's age falls on -- his
2 birthday follows on the cuff. So when it's his birthday
3 he's in between ages because it's November going into
4 December. So everything is on the cuff, of five to six,
5 six to seven, kind of stuff.

6 So he starts school at five or six in the
7 Philippines, but has difficulty adjusting to school. He
8 would go to school but then -- the mother would take him
9 to school, then he would leave and try to find his way
10 back home off military base from the school. Mother,
11 Virginia, ended up eventually have to go and spend time
12 with him in the school, inviting the teacher to the home
13 so that Brad could get to know her in his home
14 environment and feel comfortable in the school. Again,
15 a significant loss for Brad because the teacher became
16 involved with him, but once he began to adjust and feel
17 comfortable in the school, this went on for about six
18 weeks, he became just another kid in the classroom.

19 When they returned to the states, because of the
20 educational standards of the two educational systems,
21 Brad had to repeat the first grade. And had some
22 difficulties with that -- with those classes.

23 Q Ms. Furtick, you described the family relationships
24 wherein Brad's early childhood he began to separate --
25 his parents began to separate and they would frequently

1 leave with one child or the other?

2 A Yes. There were periods in the marriage when one
3 or the other parent would leave and the children would
4 be left in the care of the other parent for extended
5 periods of time. Virginia's mother at varying periods
6 would come into the home and was one of the caretakers
7 for the children.

8 Q What was the status of the marriage at that time?

9 A During those periods of time there continued to be
10 some drinking. There were times of financial stress due
11 to the unemployment. And the military history there was
12 a lot of movement with varying lengths of stay in 10
13 different states.

14 Q What did you learn about why Brad's mother was
15 leaving his father, the frequency in which she was
16 leaving?

17 A The frequency had to do with the marital
18 relationship.

19 Q And why was that?

20 A Again, with the stress of the five children,
21 perhaps not always feeling appreciated. The father
22 would be away at work and she again was primary
23 caretaker.

24 Q All right. And how old did you say Brad was when
25 they moved to the Philippines?

1 A He was age five.

2 Q And did the problems worsen when they returned to
3 the states?

4 A Yes.

5 Q And how old was Brad when they began separating on
6 a regular basis?

7 A There were several separations throughout -- before
8 the separation and divorce.

9 Q Did the family live in one place when these
10 separations were taking place?

11 A No.

12 Q And what about the drinking, was it continuing
13 during this period?

14 A Yes.

15 Q And when you said that by the age of 16 Brad had
16 lived in 10 states, what significance does that hold for
17 you in terms of his childhood development?

18 A Okay. I believe we have a visual here.

19 MR. ARIAIL: We have no objection to it being
20 marked for ID at this time.

21 THE COURT: All right. For demonstrative purposes
22 only.

23 MR. ARIAIL: To assist her testimony of the facts
24 she learned during her investigation.

25 MR. ABDALLA: I would like this marked as Defense

1 Exhibit 14 for ID purposes only.

2 (Defendant's Exhibit Number 14 was marked for
3 identification.)

4 BY MR. ABDALLA:

5 Q Ms. Furtick, could you please step down off the
6 stand and describe what I'm about to put in front of the
7 jury?

8 A Yeah. What you have here is a map of the family's
9 moves over a -- a -- pretty much what 16 -- 10 year
10 period. Again, as we talk about losses and attachments,
11 and bonding with things and situation. What we here is
12 at age five they're moving from Big Springs and going to
13 the Philippines. They're in the Philippines almost two
14 years, not quite two years, and he starts school. So we
15 assume that he completed school here. He leaves the
16 Philippines and the family moved to Arizona, where they
17 are living for about four months. We're not sure if
18 they're summer months, winter months, in between the
19 school months, or after school months, but we know that
20 they are there for about four months. We leave Arizona,
21 and we move to Hampton. We live in Hampton for a period
22 with the -- with Ronnie's mother. We leave Hampton and
23 we go to -- I'm sorry, this is -- we're living with -- I
24 forgot I think it may have been Virginia's brother, the
25 brother is down here.

1 Q Do you have any notes that you'd like to refer to
2 at this time?

3 A No, I don't. But this move here to Danville when
4 Brad was 9, they lived for a short of period of time
5 with in-laws. So what we see is that during critical
6 ages, of -- personality development, self-esteem
7 development, the children in this family are moved
8 before they are able to attach to relationships,
9 significant relationships. How do you form
10 relationships with peers in school? Okay. We know that
11 while Brad was very engaging and had lots of friends,
12 don't have a sense of how connected those relationships
13 was because he didn't stay there long enough to have any
14 long term meanings in those relationships.

15 Then we come to Danville. And from Danville we go
16 out to Seattle, where we stay for two years. In here
17 the family is having some financial problems. Dad has
18 been out of the army. He's resigned, so he goes to a
19 job in Seattle, where they stay for about two years.
20 When that job is up, again, we're moving and we're are
21 coming to Greenville, Taylors area and we see a lot of
22 interaction right here in the Taylors area, because
23 that's where most of the extended family had congregated
24 and was living. So there was a lot of movement in and
25 around Taylors, Sumter, Greenville area for this family.

1 Q Thank you. When did Brad's parents divorce?

2 A I believe they divorced in 1977.

3 Q And with whom did Brad live at that time?

4 A Brad was living with his father.

5 Q Was he still in school?

6 A Yes.

7 Q And where were his brothers and sisters?

8 A The brothers and sisters were also with the father.

9 Q What did you learn about the impact of this family
10 environment on his brothers and sisters?

11 A With the brothers and sisters of Brad, I believe --
12 again, ability to sustain, maintain relationships. Both
13 of Brad's sisters have experienced separations in
14 relationships with their significant others. I did not
15 talk -- I believe Davey is married and I don't
16 believe -- I don't anything about his marital
17 relationships. I can't speak for that. Mike, I don't
18 know anything about his relationships. So the pattern
19 in the family is loss of the relationships, the
20 separations, and the inability to maintain and sustain
21 the relationships.

22 Q Ms. Furtick, are you through with the map, the map
23 that's underneath there?

24 A Yeah.

25 MR. ABDALLA: Your Honor, at this time I would like

1 to move Defense Exhibit, marked for identification,
2 Number 14 into evidence.

3 THE COURT: What is it?

4 MR. ABDALLA: We do have a smaller copy obviously.

5 THE COURT: Well, what is the State's position?

6 MR. ARIAIL: These are her facts and from --
7 derived from conclusions and hearsay. I mean what that
8 is is actually just a recitation of what other people
9 have told her.

10 THE COURT: All right.

11 MR. ARIAIL: From that standpoint we would object
12 to it being a part of the record.

13 THE COURT: Anything you want to say?

14 MR. ABDALLA: Well, Your Honor, it is very
15 relevant. She's testified to all the facts here and I
16 think it would be an aide for the jury, it would help
17 them in any determination ---

18 THE COURT: I'll allow the map in.

19 MR. ABDALLA: Thank you. I'd like this marked for
20 evidence.

21 (Defendant's Exhibit Number 14 was filed.)

22 BY MR. ABDALLA:

23 Q How long did Brad stay in school?

24 A He was in school until the age 19. He dropped out
25 of school nine weeks before graduation and married.

1 Q And why did he drop out?

2 A To get married.

3 Q Oh, to get married. Do you know anything about
4 Brad and Cheryl, how they met?

5 A Brad and Cheryl met while Brad was living in
6 Sumter, or visiting Sumter with his father.

7 Q And how old was Cheryl when she and Brad met?

8 A Cheryl was age 16 when she and Brad met. Brad was
9 19.

10 Q And were they in Sumter?

11 A They were in Sumter. Pardon me, Cheryl was turning
12 16.

13 Q Okay. Did they have any children?

14 A They have three children.

15 Q How many years were they married?

16 A Brad and Cheryl were -- I believe were married a
17 total of 13 years. Again, relationships, there were
18 numerous separations during the 13 year period.

19 Q Now, during your interviews for this period of
20 time, did you attempt to contact his wife Cheryl?

21 A No, I did not. I believe the investigator did.

22 Q All right. Were you able to speak with her?

23 A No, I was not

24 Q Thank you. Did you -- what kinds of jobs did Brad
25 hold over the next few years?

1 A Brad worked several jobs. As I said, he dropped
2 out of school, so he was not particularly skilled. He
3 had a lot of unskilled job. He worked at Barby
4 (phonetically) during the first year -- or the first
5 several months of his marriage with Cheryl. He had
6 employment at -- in construction over the years. He had
7 employment as a salesman. He did roofing and
8 contracting. His employment was usually short term
9 until he began working for Duke Power company. And that
10 was his longest period of employment, which I believe
11 was about six years until he began working,
12 self-employment, working for himself, cutting trees, and
13 then it was with the Duke Power that he gained skills in
14 tree cutting.

15 Q And how did he perform these jobs -- perform on
16 them, I should say, not perform, how did he perform on
17 his jobs?

18 A What I learned from Brad was he didn't like orders.
19 He would -- and there was marital conflict. Shortly
20 after they were married, they lived -- when they got
21 married they lived with Virginia and Donnie Wooten for a
22 time. They lived with Ronnie and Ronnie's second wife
23 Patricia for a time. So they were in and out of the two
24 families. Then they got their own home, mobile home,
25 and shortly after moving into that mobile home, they --

1 Cheryl leaves and goes to California with her mother and
2 step-dad. Brad remains in Taylor, and later, a couple
3 months later is called by Cheryl and informed that she
4 was pregnant. And at this time he leaves. So a lot of
5 his moving with his jobs coincided with the ins and outs
6 of the marriage and the conflict there.

7 Q Okay. You said that Brad was -- had no use -- had
8 no skills to live independently or to work consistently
9 and this lead to the use of alcohol and other drugs. Do
10 you -- how did this affect Brad's behavior during
11 adulthood?

12 A Well, one thing that Brad learned was to get
13 attention you have to do things and please -- to please
14 other folks. And he saw his role as provider and
15 caretaker. He, in relationships, selected females who
16 were young, immature. He in many ways became parent,
17 took care of them, provided for them. And when they
18 would start to reject him, he couldn't understand that,
19 and he would get depressed and he would self-medicate
20 his depression with his alcohol.

21 Q Okay. How long ---

22 COURT REPORTER: Hold on one second.

23 THE COURT: Hold on just a minute.

24 MR. ABDALLA: I'm sorry.

25 THE COURT: Got to change paper.

1 (Court reporter changed paper.)

2 BY MR. ABDALLA:

3 Q I kind of lost track. I know you were talking
4 about Brad's relationships, and I'm sorry for
5 summarizing, what did you say about women, something
6 about immature -- I guess let me bootstrap that. Did
7 your conclusions point to why Brad, or if Brad would be
8 attracted to women with any kind of history of violence,
9 or problems with relationships with men?

10 A The attraction would be that sometimes
11 personalities come together, we don't know why they come
12 together, but they just kind of find each other, and
13 many times unstable personalities will find unstable
14 personalities, and they will melt. Like personalities
15 will come together and attach to each other and they
16 will go along fine until they have a sense of some -- or
17 perceived unmet need, or -- and usually people have
18 immediate -- have issues of immediate gratification.
19 They want what they want and they want it right now.
20 Okay. And when that right now is not satisfied, then
21 you know, they get angry, they might have temper
22 tantrums, they might throw things, they might do
23 whatever to release, or they might use substance and
24 alcohol. And occasionally these personalities, these
25 folks will attract one another.

1 Q You said that Brad's relationships were
2 characterized by fears of rejection, abandonment, and
3 loss. In your opinion, what impact did this have on
4 Brad's behavior in relationships?

5 A In relationships? When the -- when Brad seemed to
6 lose the relationship, he, with other relationships,
7 would become like of a lifeline. He would try to reach
8 out, whether it was to the siblings or his parents,
9 that's where he would try to reach out. One comment
10 that Brad made to me was that you could ---

11 MR. ARIAIL: Object to the comments that Brad made
12 to her as being hearsay.

13 MR. ABDALLA: Your Honor ---

14 THE COURT: Overruled. Go ahead.

15 THE WITNESS: One of the comments he made was that
16 you can only trust your family and the military. And
17 the military is a close-knit unit and they take care of
18 you. And your family takes care of you. So when you're
19 in a rut you reach to your family and you reach to the
20 military because that's all you have. And what we see
21 with Brad is what he had that was consistent in his
22 family relationship was this sibling group, his
23 relationship with his sisters and his brothers. They
24 were always there. They were together. He looked out
25 for them. They took care of each other. They shared.

1 They served as each other's confidants. So that was the
2 most stable, ongoing, consistent relationship that he
3 had experienced.

4 BY MR. ABDALLA:

5 Q In your opinion, how did this affect his ability to
6 use good judgment and insight?

7 A Not well.

8 Q All right.

9 A Just ability to accept a relationship. He's very
10 engaging. He would engage relationships very well, very
11 easily. He has a gift to gab, was very friendly,
12 outgoing. However, it's difficult for him to sustain
13 those relationships.

14 Q What was the impact of the loss of judgment, and
15 insight, and impulse control when combined with drug
16 use?

17 A Very poor.

18 Q And in your opinion, why was Brad a high risk to
19 end up in serious trouble over a relationship?

20 A Because of his need to be attached and involved in
21 relationship for whatever giving materialistically, the
22 overall issue is to be loved, accepted unconditionally,
23 and when that does not happen, again, he becomes hyper,
24 arousal, over-emoted, over reactive, and you can combine
25 alcohol with that, then one becomes very impulsive and

1 erratic.

2 Q Would that include alcohol or drugs?

3 A Alcohol or drugs.

4 MR. ABDALLA: One moment, please. Let me have just
5 one moment, Your Honor, to review these exhibits and
6 those marked for identification.

7 THE COURT: All right.

8 MR. ABDALLA: Your Honor, at this time as an aid
9 for the jury I'd ask that Defendant's Exhibits 13 marked
10 for identification be placed into evidence. And I would
11 have a reduced ---

12 THE COURT: Let me see it.

13 MR. ABDALLA: --- form for the jury.

14 THE COURT: All right. What's your position as to
15 13?

16 MR. ARIAIL: I'm not sure what it is.

17 MR. ABDALLA: I apologize.

18 MR. ARIAIL: That's all right. Same objection. I
19 mean, it's her information that's she's already
20 testified about, information she's gathered through
21 conversations that are hearsay.

22 THE COURT: Are you going to move all of them in?

23 MR. ABDALLA: I'd like to, Your Honor, and
24 I have two of the four so far.

25 THE COURT: I know, and I was being liberal with

1 you. I didn't know you were going to keep trying to
2 move them in.

3 MR. ABDALLA: Well, this is the only other one I
4 wanted in.

5 THE COURT: All right. Then I would allow that one
6 in.

7 MR. ABDALLA: Thank you, Your Honor. I need to
8 have this one marked as Defendant's Exhibit Number 13,
9 marked into evidence.

10 (Defendant's Exhibit Number 13 was filed.)

11 MR. ABDALLA: Thank you, Your Honor. I appreciate
12 it. I have no further questions of this witness.
13 Please answer any questions the Solicitor has.

14 THE COURT: All right. You need to withdraw the
15 ones that are just for ID. You may have already done
16 that, but at the conclusion ---

17 MR. ABDALLA: I didn't. I have to do that.

18 THE COURT: All right. Cross-examination.

19 MR. ARIAIL: Just briefly, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. ARIAIL:

22 Q Ms. Furtick, Brad Sigmon had how many brothers and
23 sisters?

24 A There are two sisters and two brothers.

25 Q All right. So four siblings. And as I read your

1 conclusions, all of those would have applied to all of
2 those children, as they were growing up and moving and
3 being separated from their parents or whatever?

4 A Right.

5 Q And none of those brothers or sisters have
6 committed a murder of killing of two people with a
7 baseball bat?

8 MR. ABDALLA: Objection, Your Honor.

9 THE COURT: Overruled.

10 THE WITNESS: Not that I'm aware of.

11 MR. ARIAIL: Thank you.

12 THE COURT: Thank you, ma'am. You can step down.

13 MR. ABDALLA: Your Honor, can I have one question
14 on redirect since the solicitor ---

15 THE COURT: Okay.

16 REDIRECT-EXAMINATION

17 BY MR. ABDALLA:

18 Q Do you know if the other siblings are on
19 medications for the use of alcohol, or drugs, or
20 anything?

21 THE COURT: Do you know whether the other
22 siblings are on medications for the use of alcohol
23 or drugs?

24 THE WITNESS: I believe there are.

25 BY MR. ABDALLA:

1 Q Do they have any kind of psychological problems?

2 A I believe there are.

3 Q Thank you. How many of them would you say from
4 your interviews?

5 A One has been clinically diagnosed and two have had
6 some other problems.

7 MR. ABDALLA: Thank you.

8 THE COURT: All right. You can step down. Thank
9 you, ma'am. She can be released?

10 MR. ABDALLA: Yes, Your Honor.

11 MR. ARIAIL: No objection.

12 THE COURT: All right. Mr. Foreman, ladies and
13 gentlemen, we're going to take a break at this time.
14 I'm going to go ahead and have you look at some menus,
15 order lunch, so we can bring lunch in today. That will
16 help expedite things hopefully. While you're back in
17 the jury room, don't discuss this case.

18 (The jury exited the courtroom at 12:00 p.m.)

19 THE COURT: All right. Let's try to clean up the
20 record. I had been trying to put these side-bars on the
21 record. I know that we had a side-bar yesterday I
22 didn't put on the record. That was about his criminal
23 record. And everybody agreed as to -- the Solicitor
24 wanted to know if the -- y'all had any objection to the
25 cover sheet going in, I can't remember what else, but I

1 think that's all we need to put on the record as to that
2 one.

3 MR. ABDALLA: With regard to the prior record?

4 THE COURT: Yeah.

5 MR. ABDALLA: The only objection I had, Your Honor,
6 was that I just wanted to have it amended, or have an
7 instruction given to the jury that the telephone charge
8 was reduced to a Magistrate offense, because he served
9 about a year or so for that charge.

10 THE COURT: Well, the charge he plead to wasn't
11 reduced to a Magistrate charge. You're saying that if
12 he'd be convicted today it would now carry less time
13 than it did when he was convicted?

14 MR. ABDALLA: That's correct, Your Honor.

15 THE COURT: All right. And I declined to charge
16 that.

17 MR. ABDALLA: All right.

18 THE COURT: All right. And today we had a side-bar
19 about the suitcase and what the objection was, and I
20 think the record is fine to all that. Does anybody else
21 remember anything we need to put on the record from
22 side-bar. I had an ex-parte side-bar with y'all about
23 the suitcase also. And I can't remember any others.
24 All right. I also had one on the relevance of Ricky
25 Sims' testimony, but I put that ruling on the record,

1 and ruled that if y'all tied stuff together he would
2 come back and testify. So I think that one is on the
3 record.

4 MR. ABDALLA: Yes, Your Honor. We would move that
5 at this time we have laid the proper foundation.

6 THE COURT: Well, we'll argue about that. You're
7 planning on calling him next?

8 MR. ABDALLA: Not necessarily next.

9 THE COURT: I'm not sure I have heard anything
10 that would make that relevant, but we'll talk about
11 that later. All right. Anything before we take a
12 break?

13 MR. ABDALLA: Nothing from the defense.

14 THE COURT: All right. We're going to take a 10 or
15 15 minute break.

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

18 THE COURT: Is that ---

19 MR. ARIAIL: It is. And, Your Honor, there's
20 apparently going to be a slide show, or CD, or computer
21 demonstration we've never seen. And so if it's going to
22 be put up, we would like to see it before it gets in
23 front of the jury, just to make sure that it's not
24 something ---

25 THE COURT: What is it?

1 MR. EPPES: Your Honor, it's a slide show from Dr.
2 Alex Morton. He's our psychopharmacologist. Your
3 Honor, what we did, and what we'll do at this time,
4 anticipating a one o'clock lunch break, we'll be to call
5 several witness now, get us to the one o'clock lunch
6 break. At that time if the Solicitor's office wanted to
7 see the slides, they could look at them, and then put
8 Dr. Morton up right after lunch.

9 THE COURT: I'm not saying we're going to have a
10 one o'clock lunch break, it maybe 1:30, I don't know.

11 MR. EPPES: I will put on a bunch of witness,
12 and ---

13 THE COURT: I'm not telling you how to try your
14 case, you can do it any way you want to. Tell me
15 what's on the film, in case you call him now? What's on
16 there?

17 MR. EPPES: What, sir?

18 THE COURT: What's on there?

19 MR. ABDALLA: Well, Your Honor, there's a bunch of
20 slides that deal with Dr. Morton's assessment of cocaine
21 and its effects on the brain, and its effects on
22 behavior and whatnot. This is going to be kind of a
23 lengthy presentation, so I would prefer to wait until,
24 if there is a lunch break, after the lunch break since
25 we just had a lengthy witness.

1 THE COURT: You can do it whatever way you want to.
2 I'm not telling you how call your witnesses.

3 MR. ABDALLA: Okay. But that's what's on the
4 slides, just a series of panels that ---

5 THE COURT: Where are -- you got hard copies of
6 those panels?

7 MR. ABDALLA: I don't know.

8 MR. ARIAIL: That would be sufficient for us.

9 THE COURT: Okay.

10 MR. ABDALLA: Your Honor, I'm going to show these
11 to defense counsel (sic), if I may. These are not
12 necessarily the ones we have. What happened is we got
13 together late last night and altered what he was going
14 to do, and some of those panels, maybe all of them are
15 here, but they're similar to this. The only alternative
16 I have is to give them to the Solicitor and give them an
17 opportunity to review these slides.

18 THE COURT: Well, I'm not going to take a break to
19 do that. Just give him those copies, just let him look
20 at them. You don't need to stand there with him. Just
21 give ---

22 MR. ARIAIL: I would also think -- believe we're
23 going to have to have a hard copy in the record at some
24 point.

25 THE COURT: I don't know if they're for

1 demonstrative purposes or ---

2 MR. ABDALLA: That's right, they're for
3 demonstrative purposes or ---

4 THE COURT: All right.

5 MR. ABDALLA: And I'd ask that those be returned,
6 because it's the only ones we're actually going to
7 have.

8 THE COURT: All right. And again, I'm not telling
9 you what witness to call, just -- you can call anybody
10 you want to. All right. Bring the jury. Just for your
11 planning purposes, it takes about an hour to get lunch
12 up here, and we did not order until -- we're in the
13 process of ordering now, so we're going to go until at
14 least until 1:30 or maybe further, just because the
15 place we're ordering from is real busy. It's one of the
16 few places open today.

17 (The jury entered the courtroom at 12:25 p.m.)

18 THE COURT: All right. We're going to continue
19 with the testimony. When lunch gets here, they'll tell
20 me, and I'll break at the most convenient place after
21 I'm informed lunch is here. Since we ordered it so late
22 it might be close to 1:30 or so.

23 All right. Call your next witness.

24 MR. EPPES: Call Troy Barbare, Your Honor.

25 THE CLERK: Put your left hand on the Bible,

1 please, sir, and raise your right hand.

2 TROY BARBARE

3 Having been first duly sworn, testified as follows:

4 THE CLERK: State your name for the record.

5 THE WITNESS: Troy Barbare, Sr.

6 THE CLERK: Thank you. Be seated.

7 DIRECT EXAMINATION

8 BY MR. EPPES:

9 Q Hi, Mr. Barbare.

10 A How you doing?

11 Q We've met before, haven't we?

12 A Yes, sir.

13 Q And I want to talk briefly about your relationship
14 with Rebecca Barbare.

15 A Yes, sir.

16 Q When did you meet Rebecca Barbare?

17 A I have known her practically all her life, since
18 she lived -- since she was actually a baby.

19 Q Okay. Did you know her when she was married to
20 Ricky Sims?

21 A Yes, sir.

22 Q When did you start dating her?

23 A About two weeks after her and Ricky had split up.

24 Q They were separated at that time?

25 A She -- they had been separated for about two weeks.

1 Q Were they divorced?

2 A No, sir, they wasn't divorced.

3 Q Describe for me, if you would, the course of your
4 relationship?

5 MR. ARIAIL: Your Honor, I don't see the relevance
6 of this testimony.

7 THE COURT: All right. Side-bar.

8 (A bench conference was held.)

9 THE COURT: All right. I'm going to -- I'm going
10 to listen on a -- I'm going to listen to what he says.
11 I may not let you go as far as you think you ought to
12 have the right to go, Mr. Eppes.

13 MR. ARIAIL: Can I rest and not have to jump up and
14 down?

15 THE COURT: You need to let me know if you think
16 it's ---

17 MR. ARIAIL: Okay.

18 THE COURT: --- crossed yet another line to object
19 to. All right. Go ahead. What's the question?

20 BY MR. EPPES:

21 Q Describe your relationship with Rebecca Barbare,
22 from the time you started dating her? Mr. Barbare, you
23 can be brief.

24 A Okay. About three months after we was dating, she
25 became pregnant with my son Troy, Jr., and we was just

1 dating, and she wound up renting a place and everything.
2 And I would go down there and stay with her and my
3 step-daughter, my step-daughter now, which at the time
4 wasn't. Troy Jr. was born April 19th. And about two
5 weeks after he was born, she was renting a place and I
6 had a trailer that I had bought, a new trailer, set up.
7 And I hadn't been living in it yet, so I decided there
8 wasn't no place in her -- no sense in her paying rent on
9 a place when I had a trailer and everything. So I moved
10 everybody down to my trailer. And we had a pretty good
11 relationship and everything. I worked ---

12 THE COURT: I'm going to stop you. I'm not going
13 to have a narration. You can ask questions and he can
14 respond to the questions. We're not going to have a
15 story told up here.

16 BY MR. EPPES:

17 Q Mr. Barbare, when did y'all get married?

18 A September 6th of 1990.

19 Q And when did y'all get divorced?

20 A April 1st of 2002.

21 Q This year?

22 A Yes, sir.

23 Q Okay. Tell us briefly, there came a time when you
24 and your wife separated for a short period of time,
25 correct?

1 A Yes, sir.

2 Q Tell me about that?

3 A We had been having a little bit of problem, you
4 know, nothing significant or anything like that. All
5 marriages have ups and downs. I went to work one day, I
6 was driving a trash route at the time, came home from
7 work that night and she had moved out.

8 Q Where did she move to?

9 A Her brother Darryl has a -- had a trailer and there
10 wasn't anybody -- he wasn't renting it to anybody at the
11 time, and she took up residence in that trailer.

12 Q Did she start a relationship with anybody at that
13 time?

14 A She was seeing Brad.

15 Q Brad Sigmon?

16 A Yes, sir.

17 Q And how long did that last?

18 A Approximately six weeks.

19 Q About six weeks?

20 A Yes, sir.

21 Q She's living in the trailer dating Brad Sigmon?

22 A Yes, sir.

23 Q And then what happened?

24 A She decided that she wanted to call it off with
25 Brad and come back to me.

1 Q Okay. Now, during this period of time, you and
2 Brad had words a couple times, didn't you?

3 A The only time we had words was when she decided
4 that she was wanting to go back to me, and he called me
5 one night to tell me some stuff about my wife or
6 whatever, and I told him he basically wasn't telling me
7 nothing I didn't already know, because I had been, you
8 know, with her for a period of about seven, eight years
9 or so at the time.

10 Q Did he ever apologize to you for that?

11 A Yes, sir, about a week after me and her got back
12 together, he called the house, Becky answered the phone
13 and she handed the phone to me, and I got on the phone
14 and he told me was sorry for what he had said that night
15 when he called me, and I apologized to him.

16 Q Is that the only bad words y'all have ever had?

17 A Towards each other, yes, sir.

18 Q Now, did there come a time when you and Ms. Barbare
19 separated again?

20 A Yes, sir.

21 Q And when was that?

22 A The night that we split up was like November the
23 2nd of '89 -- but, now, we went to Court I think it was
24 November the 12th of 1989, and that was for the order of
25 protection.

1 Q Now, '89 or '98.

2 A Well, I say '89, I mean '98.

3 Q Okay. And you went to court on an order of
4 protection?

5 MR. ARIAIL: I'm going to object getting into
6 what ---

7 THE WITNESS: Yes, sir.

8 MR. ARIAIL: --- their divorce was about and all
9 that, unless they lay some other foundation as to why
10 that would be relevant.

11 THE COURT: Sustain the objection.

12 BY MR. EPPES:

13 Q Okay. After that time, where did Ms. Barbare live?

14 A She moved in with her mother and father.

15 Q Did she stay with her mother and father for an
16 extended period?

17 A Sir?

18 Q Did she live with mother and father from then until
19 now?

20 A No, not -- just for a brief period of time.

21 Q Then where did she go?

22 A Her and Brad got back to seeing each other again.

23 Q Did they move in together?

24 A Eventually.

25 Q And at that time was Troy Jr. living with the two

TROY BARBARE - Direct by Mr. Eppes

1 of them?

2 A Yes, sir.

3 Q And how did Brad Sigmon treat Troy Jr?

4 A They got along good.

5 MR. ARIAIL: I don't know how he could know that.
6 He wasn't living there.

7 THE COURT: Well, what's the relevance of how he
8 treated Troy Jr?

9 MR. EPPES: Your Honor, this is ---

10 THE COURT: What's the relevance, why ---

11 MR. EPPES: He -- he was taking care of another
12 man's child and this man can say what he observed
13 personally about how Brad treated his son.

14 THE COURT: And you're introducing that for general
15 good character?

16 MR. EPPES: Yeah.

17 THE COURT: Okay. All right.

18 BY MR. EPPES:

19 Q Sir, let me rephrase the question. What did you
20 observe personally about the way Brad Sigmon treated
21 your son, Troy Jr?

22 A Him and Troy Jr. was -- they got along pretty good
23 together.

24 Q Did you ever have any complaints about the way Brad
25 treated him?

1 A Not to my knowledge.

2 MR. EPPES: Thank you, sir.

3 THE COURT: Any questions?

4 MR. ARIAIL: No, Your Honor.

5 THE COURT: All right. You're -- you can step
6 down. Next witness. Next witness.

7 MR. EPPES: Your Honor, we'd like to call Mr. Keith
8 Merrill.

9 THE COURT: Come on up, sir. Place your left hand
10 on the Bible and raise your right hand.

11 KEITH MERRILL

12 Having been first duly sworn, testified as follows:

13 THE CLERK: State your name for the record.

14 THE WITNESS: Harry Keith Merrill.

15 THE CLERK: Thank you. Be seated.

16 DIRECT EXAMINATION

17 BY MR EPPES:

18 Q Hi, Mr. Merrill.

19 A How you doing?

20 Q I'm okay. We've spoken before, haven't we?

21 A Yes, sir, we have.

22 Q Okay. What is your address?

23 A My address now

24 Q That's where you live?

25 A (Witness nodded his head.)

1 Q Who did you live there with?

2 A Rebecca.

3 Q She's your wife?

4 A Yes, sir.

5 Q Who owns the house?

6 A We do.

7 Q Mr. Merrill, in the period of time after Ms.
8 Barbare ended her relationship with Brad Sigmon -- let
9 me start this way. How did you meet Rebecca Barbare?

10 A I was traveling, and I was looking for a dry
11 cleaners when I was in Greenville, and she had worked at
12 the dry cleaners where I dropped off some laundry.

13 Q Did y'all become friends?

14 A Just acquaintances at the time, just, you know,
15 dropping off dry cleaning, that's it.

16 Q Did there come a time when she ended her
17 relationship she had and y'all started talking to one
18 another?

19 A When she ended her relationship I didn't start
20 talking to her until I received a phone call from Brad.

21 Q Okay. Brad Sigmon called you? What did he say?

22 A He was -- he was pretty mad about, he found a card,
23 a business card of mine where I had dropped off at the
24 dry cleaners, which I had not only given to Becky but
25 I'd given to a few other people that she worked with,

1 and from what I gathered when he called me and left
2 voice messages, I finally -- I didn't know who he was.
3 I called his -- I called him back when he left the
4 number. So after I had gotten five or six phone threats
5 on my voice mail, and I asked who he was, and he told me
6 who he was, and at the time I thought it was just
7 something where Becky had tried to make him jealous or
8 whatever. And so I called Becky and asked her, you
9 know, because I got the number to Milliken Cleaners, and
10 I called and asked her why she was giving me a card to
11 her boyfriend, are you trying to make him jealous or
12 something, and she said, no, we split up, I moved back
13 in with my parents, and he broke into the car, into her
14 car, got in her purse and took out her wallet, which had
15 a few other business cards.

16 Q Okay. Did he -- did Mr. Sigmon ask you to stay
17 away from Becky Larke?

18 A Sure.

19 Q Did he tell you wanted to have a chance to continue
20 his relationship?

21 A Sure. He always states that if I didn't stay away
22 from her he would kill me.

23 Q Okay. And during that period of time, after they
24 broken up, did you and Rebecca Larke start to talk to
25 one another on the phone?

1 A When they broke up, I really didn't start talking
2 to her until after he had started calling me. So then
3 we developed kind of a friendship relationship. Like I
4 said, I was traveling so -- and I'm from Florida, so I
5 didn't really call home and talk to the parents, but
6 after this relationship ended, yes, I continued talking
7 to Becky on a friendship relationship.

8 Q And was that prior to the time that the Larkes were
9 killed?

10 A Prior to, sure.

11 Q Okay. And did y'all have an occasion to -- about a
12 week before the Larkes were killed to go to Chimney
13 Rock?

14 A She -- yes, we did. But to elaborate on that, she
15 didn't get to do a lot, because she felt like she was
16 being watched all the time, whenever she went to work,
17 so I said, if you want to get away, meet me at Wal-mart,
18 we'll go have lunch at Chimney Rock, we'll go take some
19 pictures, and that's we did. And she went home.

20 Q Did you go by and show her where you lived before
21 she went home?

22 A Where I lived?

23 Q Weren't you ---

24 A Where I was traveling?

25 Q Yeah.

1 A Don't really show people where you're living when
2 you're traveling.

3 MR. EPPES: All right. Thank you.

4 THE COURT: Any questions.

5 MR. EPPES: One second, Your Honor.

6 THE COURT: I'm sorry. I thought ---

7 MR. EPPES: Nothing further, Your Honor.

8 THE COURT: All right. Any questions?

9 MR. ARIAIL: No, sir.

10 THE COURT: All right. You're released. Thank
11 you, sir.

12 THE WITNESS: Thank you.

13 THE COURT: Next witness.

14 MR. EPPES: Your Honor, we'd like to call Officer
15 Putnam.

16 THE COURT: Mr. Putnam. Excuse me, Ms. Putnam.
17 I apologize.

18 THE CLERK: Put your left hand on the Bible,
19 please, ma'am, and raise your right hand.

20 VALERIE PUTNAM

21 Having been first duly sworn, testified as follows:

22 THE CLERK: State your name for the record, please.

23 THE WITNESS: Valerie Denise Putnam.

24 THE CLERK: Thank you. Be seated.

25 THE COURT: As you make yourself comfortable, slide

1 your chair forward and speak right into the microphone,
2 please, ma'am. You might need to move forward to do it,
3 or slide forward. All right.

4 DIRECT EXAMINATION

5 BY MR. EPPES:

6 Q Officer Putnam, where do you work?

7 A Greenville County Detention Center.

8 Q What you do down there?

9 A I'm a detention officer.

10 Q During your work as a detention officer, have you

11 had an occasion to interact with Brad Sigmon?

12 A Yes.

13 Q How often?

14 A Every now and then, whenever they put me in the pod
15 there to work.

16 Q All right. And how has your interaction -- would
17 you describe, please, your interaction with Mr. Sigmon?

18 A Well, when I seen him it would be when I would be
19 monitoring the pods. I would see him during dinner time
20 and during rec. time when they're out.

21 Q Did he ever pose a threat to you?

22 A No, sir.

23 Q Was he always pleasant to be around?

24 A Yes.

25 Q Describe talking to him? Have you ever talked to

1 him much?

2 A Basically during rec. time, it would be not too
3 much, short and brief.

4 Q Do you think in the Greenville County Detention
5 Center that he's been a threat to anyone?

6 A No, sir.

7 MR. ARIAIL: Your Honor, I'm going to object to him
8 leading, leading her.

9 THE COURT: All right. Don't lead the witness,
10 please, sir.

11 BY MR. EPPES:

12 Q When you're -- when you're a detention officer, you
13 make evaluations of whether or not an inmate is a danger
14 to other inmates or security personal, don't you?

15 A I don't make evaluations. What I do is observe.
16 If the person in the pod is showing out, I'll call
17 Sergeant to let him know what's going on, but while I
18 have been working there, when I work the yellow pod,
19 I've never had no problems out of him.

20 Q And Mr. Sigmon has been in yellow pod?

21 A Yes, sir.

22 MR. EPPES: Thank you.

23 THE COURT: Questions?

24 MR. ARIAIL: No, Your Honor.

25 THE COURT: Thank you, sir.

1 You are released from your subpoena. You can step
2 down. Thank you, ma'am. Next witness.

3 MR. ABDALLA: (Inaudible)

4 THE COURT: Who?

5 MR. ABDALLA: Your Honor, we had a little
6 miscommunication. I apologize. We're calling Terry
7 Bradley. He's going to go get him right this second.

8 THE COURT: Okay. Come on up, Mr. Bradley. Put
9 your left hand on the Bible and raise your right hand.

10 TERRY BRADLEY

11 Having been first duly sworn, testified as follows:

12 THE CLERK: State your name for the record, please.

13 THE WITNESS: Terry Martin Bradley.

14 THE CLERK: Thank you. Be seated.

15 THE COURT: Move your chair close to the microphone
16 as you make yourself comfortable, and speak into the
17 microphone, please, sir.

18 DIRECT EXAMINATION

19 BY MR. ABDALLA:

20 Q Good morning.

21 A Good morning.

22 Q Actually it's good afternoon. Could you please
23 tell the jury who you are?

24 A I'm Terry Martin Bradley.

25 Q And how old are you, Mr. Bradley?

1 A I'm 40 years old.

2 Q And where do you live?

3 A I live in Tigerville, right off 290.

4 Q And by whom are you employed?

5 A Winn Dixie.

6 Q And do you have -- what else do you do in the
7 course of your life other than just work and -- do you
8 have a family?

9 A Yes, sir, I sure do. I have a wife and a daughter.

10 Q And do you do anything else in relation to
11 interaction with people?

12 A Yes, sir, I go up to the Greenville County
13 Detention Center and hold Bible class on Thursday
14 nights.

15 Q And during the course of those Bible classes, have
16 you had cause to meet Mr. Sigmon, who's seated at the
17 table next to Mr. Eppes?

18 A Yes, I have.

19 Q Do you recall about when it was you first met Mr.
20 Sigmon?

21 A Last -- end of May or first of June, somewhere
22 around in there, last year.

23 Q Last year?

24 A Yes, sir.

25 Q And tell the jury about your meeting with Mr.

1 Sigmon? How did that happen?

2 A We was holding the Bible class and I didn't know
3 who he was at the time. Of course a lot of people come
4 and go. And I had the Bible class, and he came in and
5 sat through the class that night. And I just got to
6 know him through that. He would come, you know, on a
7 regular basis, and I would get to know him, know who he
8 was.

9 Q And at that time did you say you did or did not
10 know who he was other, than his name?

11 A I didn't then, no, sir.

12 Q And how did he come across to you?

13 A He was interested, came faithfully to it, seemed
14 like he wanted to find out more.

15 Q Did he attend those Bible classes on a regular
16 basis?

17 A Yes, sir, he did.

18 Q And his 15 months at the Department of Corrections
19 what -- how would you characterize his attendance?

20 A I would say he's very faithful in coming. I think
21 he showed enthusiasm to simply learn more about God.

22 Q Did he seem sincere to you in your impression?

23 A He did to me.

24 Q And about how many times has he missed Bible
25 classes?

1 A While he was actually present there in the yellow
2 pod, I would say probably twice.

3 Q And how often are they held?

4 A Every Thursday night.

5 Q Every Thursday?

6 A That's when I go.

7 Q And can you tell me about an interaction you
8 observed between Mr. Sigmon and another inmate once?
9 You said -- we spoke previously, is that not correct?

10 A Right.

11 Q And can you describe an interaction with Mr. Sigmon
12 and Bible class?

13 A Yeah. There was a young man that Brad brought into
14 Bible class that night and I didn't know him at the
15 time, but come to find out he wasn't the same faith as I
16 was, and ---

17 Q What do you mean by that?

18 A Well, he was of Muslim faith. I was -- of course
19 I'm a Christian, and I talked to him after the class,
20 and we were talking about Jesus being God, and I talked
21 to him, and he had some questions that he wanted to ask
22 me because he was searching is what he told me, this guy
23 was, and so I talked with him, and you know -- and then
24 I never seen him again. Probably another four months
25 down the road, Brad told me that ---

1 MR. ARIAIL: I have to object to what Brad told
2 him, Your Honor, it's hearsay.

3 THE COURT: Why would it not be hearsay?

4 MR. ABDALLA: Well, Your Honor, this is going --
5 first of all, this all has to do with Brad's character.
6 The fact -- the issue of religion was brought up by ---

7 THE COURT: It can go to character, but it can also
8 be self-serving. Why would it not be hearsay?

9 MR. ABDALLA: It's not being offered for the truth
10 of the matter asserted, other than the fact that with
11 this person ---

12 THE COURT: All right. Side-bar, please. Let me
13 hear what the responses are.

14 (A bench conference was held.)

15 THE COURT: All right. We'll put all that on the
16 record at the next break.

17 MR. ABDALLA: Let me have one moment, Your Honor,
18 please.

19 THE COURT: All right. First of all, I sustain the
20 objection as to ---

21 MR. ABDALLA: The hearsay?

22 THE COURT: Yeah, the hearsay.

23 BY MR. ABDALLA:

24 Q Mr. Bradley, forgetting about what anybody said,
25 don't talk about what Mr. Sigmon may have said to you

1 regarding this person, from your observation directly,
2 or from anything you heard directly from that person,
3 what did you learn about that person?

4 THE COURT: You don't -- what person are you
5 talking about?

6 MR. ABDALLA: I don't know the fellow's name, Your
7 Honor. The person who was -- the person who was a
8 Muslim.

9 THE WITNESS: Marcus was his first name.

10 BY MR. ABDALLA:

11 Q Right. Marcus. And what did you learn about him
12 the next time you met him?

13 A I learned that he had been converted, he had been
14 saved is what -- I think were the words.

15 Q Did he attend your Bible classes?

16 A He did that one time, he attended it, and then he
17 came back into the pods and he -- of course a lot of
18 people come in and I don't know their names but I know
19 their faces, and ---

20 Q So how would you characterize Brad's involvement in
21 the Bible group and whatever his mission was, was it
22 active, or whatever, or you tell me your words?

23 A Well, I would say it was active because, you know,
24 he -- for one, he brought the guy into the Bible study
25 and the guy heard the Gospel, and of course the Lord

1 done the rest of the work in the man's life. I guess
2 what stood out about that was that -- that I have a
3 little prayer request log that I take up in the jail,
4 and what the guys do is they write down their requests
5 in this book, and it was logged in that book that night
6 that the guy had received Christ as his Savior, and that
7 kind of -- you know, that was a witness to me that, you
8 know, and Brad had been the one to log that entry in,
9 and he was more or less saying in his prayer request
10 that he was thankful that the guy was saved, and he was
11 praising God for it, and of course I was praising God
12 too.

13 MR. ABDALLA: Thank you. At this time I want to
14 get into the contents of this suitcase.

15 THE COURT: Right up here.

16 MR. ABDALLA: Pardon?

17 THE COURT: Are those the things in particular?

18 MR. ABDALLA: Oh yes. Thank you, Your Honor. At
19 this time I would like this marked as Defendant's ---

20 THE COURT: What's the Bible? What's the number on
21 the Bible?

22 MR. ABDALLA: I don't see a ---

23 THE COURT: No, I'm talking about the exhibit
24 number, Madam Court Reporter.

25 COURT REPORTER: Nine.

1 THE COURT: Nine? Do you want to mark that as 9A?

2 MR. ABDALLA: 9A for identification.

3 (Defendant's Exhibit Number 9A was marked for
4 identification.

5 BY MR. ABDALLA:

6 Q Mr. Bradley, I'm going to show you what's been
7 marked as Defendant's Exhibit 9A for identification.
8 Could you identify what this is?

9 THE COURT: It's already been identified as a
10 Bible. That's all he's asking, is it a Bible?

11 THE WITNESS: Okay. Yes, sir, a King James Bible,
12 yes, sir.

13 BY MR. ABDALLA:

14 Q All right. Let me do something else, and I don't
15 want you to get specific about this information,
16 because -- do you have any personal knowledge about this
17 Bible?

18 A No, sir, I don't.

19 Q All right. Defendant's Exhibit Number 9A as marked
20 for identification came from a suitcase, Exhibit 9,
21 which has been entered into evidence, but this Bible
22 itself is not into evidence. This was found in the
23 suitcase that came from the vehicle of Brad Sigmon, the
24 '95 Camaro. What I'd like to ask you what these
25 notations mean to you in general? I don't want you to

1 read any of them into the record or say anything about
2 them, because you can't firsthand know who wrote those
3 in here, can you?

4 A No, sir.

5 Q What would they -- what would those annotations
6 suggest to you?

7 MR. ARIAIL: Your Honor, I don't know that he's
8 qualified to render an opinion on what they may suggest.

9 THE COURT: Well, I think your question needs to be
10 more specific. What do they suggest about the owner of
11 the Bible?

12 MR. ABDALLA: Yes, Your Honor.

13 THE COURT: All right. Well, I would allow that
14 question. Can you flip through that Bible, very briefly
15 and ---

16 THE WITNESS: Are you talking about the notes?

17 MR. ABDALLA: Just the notes here, notes, any
18 notes, underlining, anything with the Bible, highlights.

19 THE COURT: What might that tell you about the
20 owner of that Bible is the question.

21 THE WITNESS: Well, he's definitely been in it.
22 There's a lot of notes in here. It looks like my Bible
23 really, a lot -- like I have my Bible marked all through
24 it, you know, for references and that kind of thing.

25 BY MR. ABDALLA:

1 Q Would the person who owned this Bible be an
2 active -- does it appear the person who owned this Bible
3 was an active reader of the Bible and ---

4 A Yes, sure.

5 Q Anything else?

6 A I would think so, yes, sir, with it, you know, worn
7 too like it is.

8 MR. ABDALLA: Your Honor, at this time I'd like to
9 have this marked -- have this entered as Defense Exhibit
10 Number 9A.

11 THE COURT: Well, it's actually in. The suitcase
12 is in.

13 MR. ABDALLA: I understand but ---

14 THE COURT: And everything in it is in.

15 MR. ABDALLA: Okay.

16 THE COURT: Subject to my prior ruling that if it's
17 not tied up I will bring it out. So you don't need to
18 move that in at this time. Okay?

19 MR. ABDALLA: Okay. Thank you.

20 (Defendant's Exhibit Number 9A was filed as part of
21 Defendant's Exhibit Number 9.)

22 THE COURT: I think that was my prior ruling.

23 MR. ABDALLA: Yes. If I could have one moment?

24 BY MR. ABDALLA:

25 Q Did you have an opportunity to judge or observe

1 Brad's character at the jail?

2 A Yes, sir, while I'm there.

3 Q And based on that what you would say? What do you
4 know?

5 A About his character?

6 Q Yes, sir, Mr. Bradley. Would say that just by
7 knowing him on Thursday nights that he's -- you mean,
8 about his character?

9 Q Yes. From what you've observed. You don't know
10 him, other than what you found out about him later, that
11 he killed two people, but I'm talking about your
12 observations of him?

13 A Yeah. Well, you know, his character is one that as
14 far as the Bible study goes he was -- he would come
15 participate, you know, and he seemed to be involved with
16 the class, seemed to be a normal average person, as far
17 as, you know, people come together in a Bible study,
18 that kind of atmosphere.

19 Q All right.

20 A Just seemed nothing out of the ordinary with him.
21 Of course I don't go in and ask the guys who -- what
22 they're there for. That's not my purpose.

23 Q So you're saying he didn't seem any different than
24 the other guys who had lesser crimes?

25 A No, not really.

1 MR. ABDALLA: All right. Thank you. No further
2 questions.

3 THE COURT: Anything on cross?

4 MR. ARIAIL: No, Your Honor.

5 THE COURT: All right. You can step down. Thank
6 you, sir. Next witness.

7 MR. ABDALLA: Brenda Burrell Clark.

8 THE COURT: I'm not sure anybody heard that.

9 MR. ABDALLA: Brenda Burrell Clark.

10 THE COURT: Up here, please, ma'am. Put your left
11 hand on the Bible, please, and raise your right hand.

12 BRENDA CLERK

13 Having been first duly sworn, testified as follows:

14 THE CLERK: State your name for the record, please.

15 THE WITNESS: Brenda Clark.

16 THE CLERK: Thank you. Be seated.

17 THE COURT: Slide your chair close up that way you
18 can speak right into the microphone. That should do
19 good. Thanks. Mr. Abdalla.

20 MR. ABDALLA: Thank you.

21 DIRECT EXAMINATION

22 BY MR. ABDALLA:

23 Q Good afternoon, Ms. Clark.

24 A Good afternoon.

25 Q Would you please tell the jury who you are, and the

1 Court?

2 A I'm Brenda Clark.

3 Q And what's your maiden name?

4 A Burrell.

5 Q And how many -- who are you related to in court?

6 A Virginia Wooten is my sister.

7 Q All right. And Virginia Wooten is?

8 A Is Brad's mother.

9 Q And who did you marry?

10 A I married James Clark.

11 Q And who are your children?

12 A I have a son David and a daughter Angie.

13 Q And your parents are?

14 A Alma and Herman Burrell.

15 Q How many years older is Virginia than you?

16 A She's six years older than I am.

17 Q And do you know who she married?

18 A She married Ronnie Sigmon.

19 Q And do you know where they lived?

20 A They lived in Texas.

21 Q And how soon after they married did they have
22 children?

23 A I think about 18 months, two years.

24 Q Who was the first one born?

25 A Brad.

1 Q And why is he special to you?

2 A Brad was my first nephew, and I was very proud of
3 him. I was very happy to be an aunt.

4 Q And how old was he when you first saw him?

5 A He was about six months old.

6 Q And could you describe -- tell the jury what he was
7 like as a baby?

8 A Well, he -- he was -- he was a happy little baby.
9 And he was -- I thought he was the greatest baby that
10 had ever been around, but he was just a happy little
11 baby.

12 Q And how about as he got older?

13 A He was a happy child when I was around him, and he
14 just seemed like a normal child that did normal
15 childhood things.

16 Q Can you tell us about his interaction with the
17 family? How -- did he like family get-togethers? Can
18 you tell about that?

19 A Yes. For a lot of years we weren't together very
20 much because my sister and Brad's father and the
21 children were all away, because they were in the
22 military. But when things got better and -- I mean
23 changed, and they were around us more, we would have
24 family get-togethers. And for the past several years we
25 would meet at my sister's house, at Virginia and

1 Donnie's house, to have Christmas get-togethers, and
2 Brad was there and he always loved to be around the
3 family. I especially remember his big hugs and his big
4 laughs, and always to hug me and say, I love you, Aunt
5 Brenda.

6 Q And did you feel like he was sincere?

7 A Oh, yes, I know it. I mean you could feel it.

8 Q Of course you're his aunt, you're going to say
9 that, right?

10 A Well, that's true, but Brad was -- he's a loving,
11 carrying person, the person that I know.

12 Q Okay. And as long as you've known him, what would
13 you would say stands out about him, as far as your
14 relationship with him?

15 A His outwardness, his outgoing, his -- just his
16 general attitude, and loving life, loving family and
17 loving to be around people.

18 MR. ABDALLA: Thank you. I have no further
19 questions.

20 THE COURT: Any questions?

21 MR. ARIAIL: No, Your Honor.

22 THE COURT: All right. Thank you, ma'am. You can
23 step down. Next witness.

24 MR. EPPES: Can we consult for one second, Your
25 Honor?

1 THE COURT: Um-hm.

2 MR. EPPES: We'd like to call Captain Michelle
3 Melton, please.

4 THE CLERK: Put your left hand on the Bible,
5 please, ma'am, and raise your right hand.

6 MICHELLE MELTON

7 Having been first-duly sworn, testified as follows:

8 THE CLERK: State your name for the record, please.

9 THE WITNESS: Sonja Michelle Melton.

10 THE CLERK: Thank you. Be seated.

11 DIRECT EXAMINATION

12 BY MR. EPPES:

13 Q Hi, Captain Melton.

14 A Good morning.

15 Q Tell me what your job is?

16 A I manage the operations of the Greenville County
17 Detention Center.

18 Q How long have you done that?

19 A I have been in the position of Captain since 1997.

20 Q Describe your job duties to me?

21 A Mine are pretty much administratively related. I
22 manage 6 Lieutenants and approximately 200 officers as
23 they oversee the inmate population.

24 Q And over the last several years, you and I have had
25 time -- had occasions to talk from time to time about

1 various of my clients, correct?

2 A That's correct.

3 Q Okay. Captain Melton, we've talked before about
4 Brad Sigmon, correct?

5 A That's correct.

6 Q And I issued a subpoena for you in this case,
7 didn't I?

8 A Yes, sir.

9 Q And as a result -- well, tell me what that yellow
10 document is in front of you?

11 A It's referral information from me to go back to
12 refresh my memory on any event that you may call or the
13 prosecution -- Prosecutor my call.

14 Q Okay. Is it concerning inmate Brad Sigmon?

15 A Yes, sir.

16 Q Is it fair to say you oversee the jail?

17 A Yes, sir.

18 Q Describe the jail for us? This is the Greenville
19 County Detention Center, right?

20 A Yes, sir.

21 Q Describe it for me?

22 A We have three buildings. Building number one is
23 direct super vision. It has approximately four general
24 population housing units. Three of those are for --
25 excuse me, two of those are for male offenders, one is

1 for female offenders. Then we have a maximum security
2 unit in that building. We have three additional units
3 that are smaller in nature that are for medical, mental
4 health and the -- basically it's a step-up unit for
5 individuals that are diabetic and epileptic.

6 Q Describe for me, if you will, the three main units
7 for men in that facility?

8 A If I may, it's only two for men and one for
9 females, general population. And all three of those
10 units basically are housed for 80 offenders, but because
11 of our population, it's increased, naturally. You have
12 to have a certain custody level to go into that unit. A
13 custody level is driven based on your past criminal
14 history and the disposition of those cases, and as well
15 as known institutional behavior problems, and anything
16 else that maybe present with any related information
17 from law enforcement officers or medical or mental
18 health staff.

19 Q Okay. And what are the two mens' facility -- what
20 did you call them, not facilities?

21 A We have a linear style, which is the old jail,
22 which is on 4 McGee Street, which is associated with the
23 law enforcement center. That's basically -- I go in and
24 check on those offenders every 9 to 30 minutes. When I
25 walk away from that unit the biggest guy on the cell

1 block runs the cell block. Direct supervision as I was
2 speaking about a moment ago, which is blue/yellow pod.
3 That type of environment, there are two officers in that
4 area constantly, with observation, that's behavior
5 driven for the inmate. If the inmate makes a mistake,
6 he or she goes to what we call a time out. They may be
7 required to do some insignificant disciplinary action,
8 such as go wash the walls, or write 50 times, I won't do
9 this action again, very insignificant. Then we have a
10 third building, which is the work release facility. It
11 holds 177 male -- excuse me, 176 male and female
12 offenders that are waiting to go into the community and
13 work, or maybe used as in-house workers.

14 Q Okay. Tell me about the blue and yellow pods?

15 A Blue and yellow pods are for male offenders, medium
16 security and less. There are provisions provided in our
17 department to do an override and hold offenders up there
18 that may have a higher custody level. The reason we
19 would do an override is because the status of an
20 individual, somebody's medical or mental state, also if
21 you have a high profile case that an individual is more
22 suited, if you're going to place them in general
23 population, to put them in direct supervision where
24 there's constant officer interaction and observation.

25 Q Okay. Of the two, blue pod and yellow pod, which

1 is the lower of the security of the two pods?

2 A Blue and yellow are the same. Red pod is our
3 maximum security unit. And in red pod there are 12 beds
4 designated female and I want to say 36 beds designated
5 for male offenders, and those are single occupancy
6 cells.

7 Q Okay. And those are medium and lower security?

8 A Blue and yellow.

9 Q Blue and yellow. And red is your high security
10 pod?

11 A That's correct.

12 Q Okay. Now, you're familiar with inmate Sigmon's
13 records, aren't you?

14 A Yes, sir.

15 Q Okay. When he came in, I believe we've already had
16 testimony he came in on the night of May 9, 2001 -- I
17 may have it a day off, I'm not sure?

18 A That's correct.

19 Q He came in on the night of May 9th?

20 A Correct.

21 Q Okay. Where would he have been assigned when he
22 came in?

23 A Due to the significance of his case, high profile,
24 after he was cleared by our medical and mental health
25 staff, he would have been re-housed to the red pod,

1 which is our maximum security, for a review of at least
2 72 hours up to a 30 day period.

3 Q Okay. And how long did he stay there in the red
4 pod?

5 A On May the 9th he was assigned into the red pod.
6 On June the 4th of 2001, I re-housed him to the yellow
7 pod.

8 Q Okay. Now, how was his conduct during this period,
9 from May 9th to June 4th of 2001?

10 A We had no behavioral problems out of this
11 individual.

12 Q He behaved himself?

13 A Yes.

14 Q Okay. Now, after June 4th, he went to yellow pod?

15 A That's correct.

16 Q So that means y'all made a determination that he
17 was a medium security risk or lower, is that correct?

18 A He was still classified, if I recall, as a
19 high/medium, but we did an override, which doesn't make
20 that insignificant, it just makes us -- it makes us able
21 to better manage that individual in a different
22 environment, other than in our linear style jail. Not
23 reactionary. We're there. We're watching the behavior,
24 interaction between one inmate, also as the interaction
25 with the officers.

1 Q Now, how -- why was Mr. Sigmon classified as
2 high/medium?

3 A It goes back to his past behavior if he was in our
4 facility, any past criminal and the disposition of those
5 criminal charges.

6 Q Do you mean his record or his performance in the
7 facility?

8 A No -- both. Any known institutional behaviors
9 problems that he may have had in our facility prior to
10 the book date of May 9th, 2001, as well as any
11 incarceration period within the United States of
12 America, his NCIC would have been pulled, and his
13 behavior from any other Institution that would have been
14 significant would have also been sent to our agency.

15 Q Did you notice any behavior from other
16 institutions?

17 A I don't have any noted, no, sir.

18 Q Okay. So is it possible he was high/medium
19 security because of -- because of his record?

20 A That and the severity of the charges.

21 Q Severity of the charges.

22 A Current charges, correct.

23 Q Would you say the severity of the charges was the
24 main reason?

25 A Yes, sir.

1 Q And how did he perform in yellow pod?

2 A Fine. He had some very insignificant problems over
3 the 15 months of his incarceration period in our
4 facility.

5 Q Okay. Now, there came a time when he went back to
6 red pod, didn't he?

7 A That's correct.

8 Q What lead up to that?

9 A In January of 2002, I received a phone call from
10 Keith Merrill requesting that Mr. Sigmon be re-housed to
11 the red pod. It's not uncommon for family members or
12 friends of victims to call in and request segregation if
13 they felt like an individual was getting treated better
14 than what the victims had been. They want them
15 segregated. Based on the conversation that I had with
16 Mr. Merrill, he was under the impression that Mr. Sigmon
17 was trying to conspire with another inmate to finish off
18 the last victim and possibly himself. Because of that
19 information, I was given a secondary individual to speak
20 with, which was Deputy McNamara of the Greenville County
21 Sheriff's Office. I contacted Deputy McNamara. I was
22 reassured that they had provided some investigation into
23 it, and they found no merit to suggest there was a
24 conspiracy inside our facility. However, we did not
25 stop there. We went ahead and I did a random cell

1 search. And when we did we hit Mr. Sigmon's room and
2 two other rooms, during the cell search, during that
3 period, we came across an ink pen that they were not
4 authorized to have. It was on Mr. Sigmon's person, as
5 well as a visitation pass, which he is not allowed to
6 have as well. Go ahead.

7 Q Continue.

8 A The visitation pass is for those individuals that
9 are coming into our facility that are going to have
10 contact visits with inmates. So it's actually a
11 contraband item and would facilitate an escape in our
12 facility.

13 Q What kind of visitation pass was it?

14 A Professional visit.

15 Q Okay. Now, let's go back to the -- to this report
16 of another inmate. Do you know that inmate's name?

17 A My recollections is Mr. Irby.

18 Q Jerry Irby?

19 A Jerry Irby.

20 Q Okay. And you talked to Detective McNamara. Do
21 you see him in the room?

22 A Yes.

23 Q Is that him right there (indicating)?

24 A Yes, sir.

25 Q And he told you it was not a substantive threat?

1 A That's correct.

2 Q Thank you. And this visitation pass, did you talk
3 to Mr. Sigmon about it?

4 A I did.

5 Q Okay. And he knew he wasn't supposed to have it,
6 didn't he?

7 A That's correct.

8 Q Okay. Did he provide you with any information that
9 was relevant to the security of the jail?

10 A May I refer to a note?

11 Q Yes.

12 A And I quote, Mr. Sigmon ---

13 MR. ARIAIL: I'm going to object to quoting Mr.
14 Sigmon, Your Honor.

15 THE COURT: All right. Side-bar. Let me have
16 that.

17 (A bench conference was held.)

18 THE COURT: All right.

19 MR. ARIAIL: We'll withdraw that.

20 THE COURT: Okay. All right. The question is,
21 what did he tell you about having that pass? You were
22 getting ready to quote what he said to you. Go ahead.

23 THE WITNESS: Okay. You know how it is when you
24 first get locked up, you're trying to find a way to get
25 out of here. He further stated that he had had the pass

1 for approximately six weeks or longer. And that if he
2 had had the opportunity or wanted to, he would have
3 possibly walked away from our facility, but he did not
4 use the pass. He did not know how to get rid of the
5 pass, so he just concealed it in his room.

6 BY MR. EPPES:

7 Q Did he tell you anything about the professional
8 visitation room?

9 A Yes.

10 Q What he did say about that?

11 A He said that he had been left downstairs in the
12 professional visitation area on numerous occasions
13 unattended, and that if he wanted to get out of the jail
14 at that time he could have utilized the pass.

15 Q I want to talk about the professional visitation
16 room in a second, but before that, have you changed your
17 procedures at the detention center concerning
18 professional visitors since that time?

19 A Yes, sir.

20 Q And how did you change it?

21 A The passes are now numbered. They are counted for
22 during shift changes. As well as when you come into the
23 detention center, if you are required to have that pass
24 when going into professional visitation, you are
25 required to provide a photo ID of yourself.

1 Q Okay. Now, describe the professional visitation
2 room for me?

3 A Coming into the jail or the area?

4 Q Just describe the area itself.

5 A Okay. The area itself is an open bar area, similar
6 to the front portion of this courtroom here. There are
7 six to seven large interview rooms to your left and back
8 to your right. Outside of that area are two housing
9 units that are always occupied by officers, supervising
10 that area as well as reviewing the outside activities in
11 the hallway and in that professional visitation area.
12 There had been an area established for a civilian staff
13 member in the past to sit in there during visitation
14 periods. However, we had not placed anyone in there
15 unless it was a high risk inmate being brought down from
16 one of our -- what we consider the red pod, our
17 segregation unit. Other than that we never manned that
18 area, and since then we have changed.

19 Q But now you do?

20 A Correct.

21 Q Okay. Now, this -- this professional visitation
22 area is there a security camera in there?

23 A There is not.

24 Q Okay. So where do you go -- if you're trying to
25 get out of the jail from the professional visitation

1 area, is there a door?

2 A Yes, there is.

3 Q Describe that door for me?

4 A It's a 12 guage steel door. To access that door,
5 you have to engage an intercom system. The operator on
6 the other side is a security officer with the detention
7 center. He acknowledges who is accessing the intercom
8 system, asks what your business is, and then you're
9 allowed to enter into what we call the security
10 vestibule. During this period of time, there is another
11 door that you have to engage a secondary intercom. At
12 that time an officer engages a conversation again to
13 determine who's coming through. There's no cameras
14 there either.

15 Q Okay. Now, that room is about -- it's about six --
16 eight by eight ---

17 A Eight by eight.

18 Q --- six by six, something like that?

19 A Right.

20 Q But it has clear windows on both sides of it,
21 doesn't it?

22 A It does not for the central control room operator.
23 That operator can't see that.

24 Q I understand that, but it has a window that you can
25 look back into the professional visitation ---

1 A Correct.

2 Q And then it has a window that looks out into that
3 round room, right?

4 A Correct.

5 Q Okay. So there is a door out of this little --
6 what did you call it?

7 A A security vestibule?

8 Q Vegetable, I thought ---

9 A Not vegetable, vestibule.

10 Q Vestibule, okay. And so there's another door, is
11 that the same, that 12 steel ---

12 A Correct, 12 guage steel door, security door.

13 Q And so that's a big heavy door too?

14 A It's a heavy door.

15 Q And you have to push a button and somebody has to
16 click you through?

17 A Correct.

18 Q Okay. Now, where do you go from the vestibule?

19 A After you clear the second door, you go into a
20 common area, which is basically considered our secured
21 portion of our jail. It's the center core of our jail.
22 It's where offenders who have been released and visitors
23 are basically doing an ingress -- or excuse me, an
24 egress from our facility. They're leaving our facility.
25 To your left is at least two officers that are working

1 central control, that are supposed to be ensuring the
2 proper ingress and egress into our building.

3 Q Okay. Two officers in central control, and is that
4 a room with a window that's almost as long as the jury
5 box, correct?

6 A Correct. There's three large frames.

7 Q And there's control panels below it?

8 A Correct.

9 Q And you can look straight out the window and see
10 anybody in that room, correct?

11 A Correct.

12 Q And so you go to another 12 guage steel door, don't
13 you?

14 A Yes, sir.

15 Q And at that point those two officers have to
16 eyeball you?

17 A Correct.

18 Q And after those officers eyeball you, they push a
19 button to open that door?

20 A Correct.

21 Q Now, are you out then?

22 A No, sir, you have one last door to go through.

23 Q Okay. What happens -- what happens in -- is this
24 another vestibule?

25 A Yes, it is.

1 Q Describe it for me?

2 A It's --

3 Q Excuse me, can I go back one second?

4 A Yeah.

5 Q The round room, are there security cameras in
6 there?

7 A There are not.

8 Q Okay.

9 A Okay. The last basically solid door security
10 vestibule that you walk through that area is maintained
11 by civilian employees who are allowing ingress and
12 egress from our facility for visitation purposes. Those
13 individuals access that door and allow you out.

14 Q Okay. And before they access that door, are they
15 supposed to eyeball you?

16 A Yes, sir.

17 Q And identify who you are?

18 A Yes, sir.

19 Q Identify what you're wearing?

20 A Yes, sir.

21 Q And that's before they go through another 12 gauge
22 steel door to get out onto the street?

23 A Yes, sir.

24 Q So if somebody wanted to go out through the
25 visitor -- professional visitors section, first of all,

1 they'd have to get down there, which means they'd have
2 to see a professional?

3 A Yes, sir.

4 Q Correct? So they'd have to get permission to get
5 down there. Then they would have go through, one, two,
6 three, four doors?

7 A That's correct.

8 Q They'd be eyeballed by the two people in the big
9 central room, correct?

10 A That's correct.

11 Q And then they'd have to be eyeballed by the two
12 people in the other room?

13 A That's correct.

14 Q Okay. So four people?

15 A At least.

16 Q Okay. Maybe more?

17 A Maybe more.

18 Q Because if there's detention officers walking
19 around in that central room, they're certainly going to
20 eyeball you too?

21 A Yes, sir.

22 Q Okay. And the professional visitation room,
23 there's always people looking in and out of there
24 because the infirmary is right on the other side, isn't
25 it?

1 A Correct.

2 Q And there's always officers in the infirmary,
3 correct?

4 A That's correct.

5 Q You can see straight through a series of windows, I
6 think there's about three windows?

7 A Yes, sir.

8 Q Into the infirmary?

9 A Yes, sir.

10 Q Okay. I lost my train of thought. Bear with me
11 one second.

12 A Okay.

13 Q Okay. So what happened to Brad Sigmon after you
14 found this professional visitation pass on him?

15 A I went up and spoke with him. Based on his
16 statements, the severity of the item that he had,
17 because it is considered a tool to facilitate an escape,
18 I made the addition to re-house him into our segregation
19 unit, red pod.

20 Q Describe red pod for me?

21 A There are four sections in our red pod. One
22 section is isolated for female offenders, 12 beds,
23 single occupancy, and then I think said 36 beds that are
24 single occupancy that are for male offenders. The
25 offenders are maintained in there. They have limited

1 recreation periods, limited access to phone calls. Most
2 of their activities are in their individual cells, very
3 limited outside activities. There are -- those inmates
4 are also dressed in red jumpsuits, brought out. Any
5 time they're outside their individual cells, they're
6 placed in leg irons and waist restraints.

7 Q Any time they're outside of their cell?

8 A Yes. Unless they're out for a shower.

9 Q Okay. And when you're in yellow pod, what color
10 jumpsuit do you wear?

11 A Orange.

12 Q How did Mr. Sigmon do back in the red pod?

13 A When he was initially placed in red pod, he went on
14 a hunger strike to protest what was going on. We ended
15 up going up and intervening and speaking to him from a
16 medical standpoint. I went up and spoke with him and
17 reassured him that there may be provisions provided with
18 his behavior in the red pod for him to go back into our
19 general population unit. And other than that, I had no
20 behavioral problems out of Mr. Sigmon.

21 Q His hunger strike, did it last very long?

22 A No.

23 Q He would kind of eat one meal a day?

24 A One meal a day, take a drink.

25 Q So how long did he stay in red pod?

1 A He went in -- January the 15th he went in, of 2002.
2 And I removed him out of red pod April the 24th, 2002.

3 Q Why did you remove him out of red pod?

4 A He had shown no significant behavioral problems. I
5 placed him back into general population with the
6 expectation that he would go back to red pod upon his
7 trial beginning.

8 Q And -- so you put him in general population on
9 April ---

10 A --- 24th, 2002.

11 Q And he stayed there until when?

12 A July 2, 2002.

13 Q Okay. Did you have any significant behavior
14 problems from him during that period of time?

15 A No.

16 Q Okay. Now he's in red pod, correct?

17 A That's correct.

18 Q And he's in red pod where any time he's transported
19 he has hand shackles and leg shackles?

20 A Correct.

21 Q Any time he's out of his cell, that's the way he's
22 dressed?

23 A That's correct.

24 Q Okay. Will he remain in red pod until he's handed
25 over to the South Carolina, Department of Corrections?

1 A No. Once the trial began and there was a
2 conviction, he was relocated to our intake and release
3 area, on a 15-minute observation.

4 Q What does that mean?

5 A We have placed in him our booking area. There are
6 more officers down there. That area is monitored by
7 cameras that provides an insight to any behavior that
8 would suggest that this individual may become suicidal?

9 Q Has he had any behavioral problems there?

10 A No, he hasn't.

11 Q Okay. And when he moves around down there, is he
12 also shackled?

13 A Yes, he is.

14 Q When he is done with this trial what -- where will
15 he be located until he's handed over to the Department
16 of Corrections?

17 A He will stay in our intake and release area.

18 Q He will stay there the whole time?

19 A That's correct.

20 Q Regardless of anything else?

21 A That's correct.

22 Q And then he'll be handed over to the Department of
23 Corrections?

24 A That's correct.

25 Q In hand shackles and leg shackles?

1 A I believe that is how they transport them, that's
2 correct.

3 Q With a chain around his waist?

4 A Correct.

5 Q Officer Melton, have you interacted with Mr. Sigmon
6 over the past year or so?

7 A I have.

8 Q A lot or a little, how would you describe that
9 interaction?

10 A I've probably had six or seven interactions with
11 Mr. Sigmon.

12 Q How would you describe it?

13 A He's extremely polite and well mannered with me. I
14 have walk up on some conversations that he's had with
15 officers since the trial has begun where he's agitated.
16 Other than that, he's been very well mannered and
17 respectful.

18 Q Is it -- is it typical to have situations where
19 when a trial of this magnitude begins, a trial like this
20 where somebody's life begins (sic), that the stress
21 level increases and you see them more agitated?

22 A My past experience is yes.

23 Q How has Mr. Sigmon behaved himself since he's been
24 in the Greenville County Detention Center?

25 A Other than the insignificant problems that he's had

1 in the pods, very small issues, and the visitors pass,
2 there have been no complaints by staff, and no
3 documentation that would suggest anything unusual.

4 A How do you believe he'll be at the South Carolina
5 Department ---

6 MR. ARIAIL: I object to that, Your Honor.

7 THE COURT: Sustained. Sustain the objection.

8 MR. ARIAIL: No way she can form an opinion on
9 that.

10 BY MR. EPPES:

11 Q Is there anything that you have noticed about his
12 conduct that you would say is typical of anything, or
13 indicates anything to you?

14 MR. ARIAIL: Your Honor, I think he's leading, or
15 fishing here. She's not an expert in this area.

16 THE COURT: All right. I actually was talking to
17 Caroline and I didn't hear the question. Would you
18 repeat the question, Mr. Eppes.

19 MR. EPPES: Is there anything about his conduct or
20 behavior that indicates anything to you about Mr.
21 Sigmon?

22 THE COURT: All right. The objection is what?

23 MR. ARIAIL: It's just -- it's a backdoor effort to
24 try to get into what she can't ---

25 THE COURT: All right. I'm going to require that

MICHELLE MELTON - Direct by Mr. Eppes

1 you ask a more specific question than that.

2 BY MR. EPPES:

3 Q Describe what you have observed about Mr. Sigmon?

4 A Well, well mannered, respectful, well presented in
5 his communication skills and his appearance, actively
6 involved in religious activities. He goes about
7 business and -- in an institution as expected.

8 Q Would you discuss what you have observed about him
9 in determining whether he would be a threat to one of
10 your officers or the other inmates?

11 A I'm sorry, I missed the first part of your
12 question.

13 Q Would you discuss what you have observed about him
14 that would or may be a threat to other officers or
15 inmates?

16 A I haven't observed anything other than him having
17 possession of a visitation pass that would suggest a
18 danger to staff or to the community.

19 Q And you punished him for having that pass, and put
20 him in back in the yellow pod, correct?

21 A Yes, sir.

22 Q And yellow pod is a medium or lower security pod,
23 correct?

24 A Yes, sir.

25 Q And his high/medium security status has been based

1 almost completely on the charges against him, correct?

2 A Yes, sir.

3 MR. EPPES: Captain Melton, thank you. The
4 Solicitor is going to ask you some questions.

5 THE COURT: Any questions?

6 MR. ARIAIL: No, Your Honor.

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

8 THE WITNESS: Okay.

9 THE COURT: You're free to go.

10 THE WITNESS: Thank you, sir.

11 THE COURT: All right. Now, Mr. Foreman, ladies
12 and gentlemen, your lunch is here, so we'll take a
13 break. I'm going to break at least until 2:15, and we
14 don't have to start back at 2:15 if you're not ready to.
15 But any time after 2:15, if you're ready to, we'll go
16 ahead and start back. While you're back in the jury
17 room, don't discuss this case, please.

18 (The jury exited the courtroom at 1:35 p.m.)

19 THE COURT: All right. Let's see we had a side-bar
20 about -- during Troy McBride's (sic) testimony about he
21 and Becky's relationship. Anything we need to put on
22 the record as to that?

23 MR. ABDALLA: Barbare.

24 THE COURT: What did I say?

25 MR. ABDALLA: Troy Barbare. You said McBride.

1 THE COURT: I'm sorry. Anything we -- I can't
2 remember. All right. We had a side-bar about the
3 Muslim inmate interaction with Brad and Bible study.
4 Anything we need to put on the record as to that?

5 MR. ABDALLA: Nothing from the defense, Your
6 Honor.

7 THE COURT: It seems like you had an objection.

8 MR. ABDALLA: I did object, but he got it in. I
9 wanted to present the fact that he had converted the --
10 helped convert the inmate.

11 THE COURT: That's right.

12 MR. ABDALLA: But that came in.

13 THE COURT: You backdoored it.

14 MR. ABDALLA: I backed into it.

15 THE COURT: All right. We had a side-bar about
16 quoting Sigmon on the security breach and you withdrew
17 that and we ended up putting that in the record.
18 Anything else we need to put on any of the three
19 side-bars since the last break?

20 MR. ABDALLA: Nothing, Your Honor.

21 THE COURT: All right. Anything we need to cover
22 before we break for lunch?

23 MR. ABDALLA: Just ask what the Court's schedule is
24 anticipated to be? I think if we started back at 2:30,
25 we'd be ---

1 THE COURT: We're starting at 2:15, be through by
2 when?

3 MR. ABDALLA: Probably 90 minutes altogether I
4 would say. That's really ---

5 MR. EPPES: That sounds about right.

6 THE COURT: Well, we're going to have an option.
7 This is taking a little bit longer, which there's
8 nothing wrong. As I said, we have all week, but we're
9 going to have to decide if we're going to submit it
10 tonight or tomorrow. And in that regard, I will have to
11 ask the jury what they want to do, and in that regard
12 I'm going to sort of need to know how long you
13 anticipate you're going to argue, so I can tell them,
14 you know, arguments and charge are going to take this
15 long and you wouldn't have it until this time. We'll
16 make that decision later, but that's something you're
17 going to need to be ready to tell them. We'll be at
18 east until 2:15.

19 (A lunch break was taken, after which, the trial
20 continued as follows:)

21 THE COURT: All right. Anything before we start
22 back? Anything before we start back?

23 MR. ARIAIL: The only question I had was, assuming
24 we finish at say four o'clock.

25 THE COURT: Arguments be at 4:05.

1 MR. ARIAIL: No, you've been here before. I know
2 you better than that. What we have -- my argument if I
3 could have just a little time ---

4 THE COURT: Yeah.

5 MR. ARIAIL: --- would be much, much shorter. I
6 don't anticipate a lengthy argument at all. This ain't
7 going to be a 45 minuter.

8 THE COURT: Okay. You don't have any idea -- you
9 know how many people are going -- are you both going to
10 make arguments?

11 MR. EPPES: Just me.

12 THE COURT: All right.

13 MR. EPPES: My client may speak.

14 THE COURT: Your client will speak?

15 MR. EPPES: We'll let you know.

16 THE COURT: Okay. Can you tell me how many more
17 witnesses you have?

18 MR. EPPES: Four.

19 THE COURT: All right. We're just going to have to
20 plow ahead and see how far we get. All right. Bring
21 the jury.

22 (The jury entered the courtroom at 2:22 p.m.)

23 THE COURT: All right. Mr. Foreman, ladies and
24 gentlemen, we are ready to continue with the testimony.
25 Mr. Eppes.

1 MR. EPPES: Your Honor, there has been -- I meant
2 to do this earlier, and I apologize, but there has been
3 a lot of testimony about Mr. Sigmon's tree service. And
4 I just want to put in the 2001/2002 Anderson phone book,
5 which includes an ad for the Best for Less Tree
6 Service, Brad Sigmon, owner. It's without the objection
7 of the Prosecution. I'd like to have it marked as an
8 exhibit and published to the jury.

9 THE COURT: Can we just put in the page?

10 MR. EPPES: Your Honor, we I'd like to do is just
11 put the phone book in and let them take a look at it.
12 We can get a photocopy of the page and put it in the
13 record.

14 THE COURT: All right.

15 MR. ARIAIL: That is without objection.

16 MR. EPPES: Why don't you just put it on the page
17 and that way we can just photocopy the page with the
18 stamp and we can put the stamp back where it was.

19 (Defendant's Exhibit Number 15 was marked and
20 filed.)

21 MR. EPPES: Mr. Foreman.

22 THE COURT: All right. Next witness.

23 MR. ABDALLA: Call Alex Morton.

24 THE COURT: Alex Morton.

25 THE CLERK: Put your left on the Bible, please,

ALEX MORTON - Direct by Mr. Abdalla

1 sir, and raise your right hand.

2 ALEX MORTON

3 Having been first duly sworn, testified as follows:

4 THE CLERK: State your name for the record, please.

5 THE WITNESS: William Alexander Morton, Jr.

6 THE CLERK: Thank you. Be seated.

7 DIRECT EXAMINATION

8 BY MR. ABDALLA:

9 Q Mr. Alexander (sic), would you please tell the
10 Court and jury what your name is?

11 A My name is William Alexander Morton, Jr.

12 Q And where do you live?

13 A I live in Charleston, South Carolina, actually in
14 Mt. Pleasant.

15 Q And can you tell me a little bit about your
16 background, what your profession?

17 A Yes. I'm a teacher and a pharmacist at the Medical
18 University of South Carolina in Charleston, South
19 Carolina.

20 Q And what do you teach?

21 A I teach psychopharmacology, which is basically the
22 study of drugs that effect the brain, which includes
23 prescribed drugs as well as elicit drugs.

24 Q And what pharmacy school did you attend?

25 A I received my Bachelor's at the University of North

1 Carolina in 1972, and my Doctorate in Pharmacy from the
2 University of Tennessee in 1975.

3 Q Do you have internships or residencies -- where did
4 you do your internship or residency?

5 A I did my internship at Cabaras (phonetically)
6 Memorial Hospital, and did a clinical residency at UC
7 San Francisco.

8 Q And what's your area of specialty?

9 A I specialize in drugs that affect the human brain.
10 I specialize specifically in substances of abuse and any
11 psychiatric medications.

12 Q And are you Board Certified?

13 A Yes, I am Board Certified. I'm Board Certified in
14 psychiatric pharmacy practice and was Board Certified in
15 1996.

16 Q And what's your present position?

17 A Currently I'm a full professor of pharmacy at MUSC
18 and also associate professor of psychiatry and
19 behavioral sciences at MUSC.

20 Q And tell me a little bit about your duties as an
21 associate professor of psychiatry and behavioral
22 sciences?

23 A Mainly it's to teach, do research, and provide
24 service. My teaching is mainly to second and third year
25 psychiatric residents, as well as medical students. Of

1 course pharmacy students fall under the College of
2 Pharmacy. I practice on the adult inpatient unit of the
3 CDAP, which is the Center for Drug and Alcohol Program,
4 where it's an adult inpatient unit, which is fairly
5 short term stay, 7 to 21 days for people with chemical
6 dependency disorders and dual diagnosis disorders.

7 Q And what are your duties?

8 A Duties are to evaluate and assess patients, and
9 make recommendations as far as drug therapy for these
10 patients, help decide if medication is indicated, often
11 because when people have been using substances, it's not
12 clear if they have a psychiatric disorder in addition to
13 that. So also help do education groups for the patient,
14 do education groups for the staff, staff attendings, but
15 provide information specifically about medicines there
16 on the -- on the floor.

17 Q And do you see patients yourself?

18 A Yes, I do.

19 Q And did you evaluate and assess patients?

20 A Yes, I do.

21 Q Tell us a little bit about that, please?

22 A Well, I've been with the University for about 26
23 years, and for about 17 years I have worked in clinical
24 research, and that's where a patient would come in with
25 a particular problem. I would assess them, evaluate

1 them, see if they are eligible to participate in the
2 study, come into the study, I would then meet with a
3 psychiatrist and we would review diagnostic criteria. I
4 don't do any diagnosis, but the psychiatrist does that.
5 If they are eligible for the study, they would then come
6 into the study and I would see them on a weekly or
7 monthly basis, anywhere from 6 weeks up to 104 weeks.

8 And then sometimes -- often times I'll follow patients
9 after they have completed the study, if -- if they would
10 like to provide -- if they would like to get some
11 continued follow up there at the Medical University.

12 Q Do you do anything with patients with drugs?

13 A Yes. I -- both inpatient and outpatient. I'm
14 involved in two clinical studies right now, use of two
15 medicines to treat cocaine craving and cocaine
16 withdrawal. So I'm involved in those two studies right
17 this minute.

18 Q And approximately how many patients have you
19 evaluated?

20 A For?

21 Q Cocaine.

22 A Cocaine, probably over my lifetime I have to
23 estimate that, but it would be between 6 and maybe 7,000
24 patients with cocaine abuse and dependence.

25 Q For example what type of disorders or ---

1 A Well ---

2 Q What would the treatment be?

3 A I'd be involved in treating their withdrawal. I'd
4 be involved in treating their craving, relapse
5 prevention treatment programs. I'd also be involved in
6 a number of anxiety and depression studies, different
7 types of depression, bi-polar depression, uni-polar
8 depression, recurrent major depression. There have been
9 a number of studies that I have been involved in over
10 the years.

11 Q When you talk about bi-polar and uni-polar is there
12 term that's more familiar of some of us?

13 A Well -- yes, I'm -- more often it's just referred
14 to as depression or manic depression.

15 Q Thank you. And you've been talking about
16 assessments, do you do any diagnosis?

17 A No, sir, I do not diagnose.

18 Q What do you do?

19 A I mainly provide what I would consider rational
20 drug therapy. Once the diagnosis has been made,
21 there -- if pharmacological treatment or drug treatment
22 is indicated, I would be involved in developing a plan
23 or having them come into a program, and I would either
24 be their primary practitioner or work with the treatment
25 team to provide them treatment.

1 A And you said you'd been at the Medical University
2 of South Carolina since when?

3 A Since 1976.

4 Q Do you have -- what are your past activities while
5 you've been at the Medical University?

6 A While I've been there, I've worked on a number of
7 services. I have worked on all of the general
8 psychiatric unites. Some units specialize in just
9 schizophrenia, and some would specialize in maybe mood
10 disorders, some would specialize in alcohol and drug,
11 which is what I'm currently doing. I have worked
12 some on the child and adolescent unit. I've worked on
13 the consult service, and that would be the service, for
14 instance, when someone on the burn unit developed severe
15 depression, we would go and evaluate them and see if an
16 anti-depressant was indicated. I have worked at the VA
17 Hospital, where I worked on the inpatient unit. Also at
18 the VA Hospital, there I did follow a small group of
19 patients, about 130 patients for three or four years,
20 outpatient.

21 Q Do you have any other involvement with alcohol and
22 drug programs?

23 A In the past I have. At the Charleston County
24 Hospital at one point they did have an alcohol and
25 psychiatric unit. That has since closed, but I worked

ALEX MORTON - Direct by Mr. Abdalla.

1 there for about nine years. And also worked at the
2 Femicall (phonetically) Hospital which was an inpatient
3 unit in Charleston, South Carolina. I work there for
4 about 14 years mainly as a consultant looking at
5 patients when they came in, trying to make sense out of
6 some of the symptoms of the drugs that they were taking,
7 because a lot of times people would be taking more than
8 one drug and it's very hard to sort out what's going on.
9 So I would be involved in making recommendations as well
10 as doing education with the staff there regarding drugs.

11 Q Did you ever work at Femicall?

12 A Femicall, yes.

13 Q Oh, okay. And what were your duties there?

14 A Again patient assessment, patient education, staff
15 education, again make sure that the medications that
16 were prescribed were indicated, because all drugs have
17 some side effects, so try to make sense out of -- out of
18 what patients were taking when they first came in.

19 Q And any workshops or presentations you've
20 conducted?

21 A I have done -- over the last 26 years at the
22 Medical University, yes, I've done a number of workshops
23 both in the area of psychiatric drugs, substance abuse,
24 more specifically about -- probably about 40
25 specifically regarding substance abuse, and another 70

1 workshops and presentations locally, nationally, on
2 drugs that are used to treat psychiatric disorders.

3 Q Anything specific you can give us examples of at
4 this time?

5 A I'm -- well, I present at the national symposium
6 for substance abuse pharmacists. I also presented in
7 1986 at the first South Carolina Cocaine Abuse
8 Conference. That's when we started recognizing it as
9 being a real problem, and I presented some data there.
10 I presented there three or four times at the South
11 Carolina School of Alcohol and Drug Dependence, which
12 moves around from city to city in South Carolina every
13 year. And just general presentations. Ask the Expert
14 at MUSC where patients come in and will have a -- or
15 patients and staff, or education for whoever wants to
16 come in that evening and ask questions specifically
17 about drugs.

18 Q And do you have any publications?

19 A Yes, sir.

20 Q And approximately how many?

21 A I think I have between 43 and 45, depending on
22 what's being published right now. About 15 or 17 of
23 them that are specifically on substance abuse. The
24 others are regarding psychiatric issues, mostly
25 psychiatric issues. There may be several other drugs --

1 several other studies that don't have to do specifically
2 with psychiatric medicines, but around 45 I would say.

3 Q And where have you ever testified? Have you ever
4 testified in court?

5 A Yes, sir, I have.

6 Q And where have you testified?

7 A I have testified here in South Carolina. I have
8 testified in North Carolina. I have testified in
9 Virginia and Alabama.

10 Q And what type of cases?

11 A A mixture of cases. I've probably testified
12 overall about 18 times and 15 of those have been --
13 involve capital cases, 11 specifically regarding cocaine
14 use and how it might have affect someone's behavior. So
15 then there are other malpractice cases, one or two
16 malpractices, and then I have testified for the defense
17 as well as the prosecution regarding substance abuse
18 problems.

19 MR. ABDALLA: Your Honor, at this time I would like
20 to move Mr. Alexander (sic) as an expert in
21 psychopharmacology addictions and have him qualified as
22 an expert in that.

23 THE COURT: Any voir dire?

24 MR. ARIAIL: Just a couple questions.

25 VOIR DIRE BY MR. ARIAIL:

1 Q As part of this, have you interviewed Mr. Sigmon?

2 A Yes, sir.

3 Q And have you interviewed Mr. Strube?

4 A No, sir.

5 Q Did you hear Mr. Strube testify?

6 A No, I don't think so. I don't know who Mr. Strube
7 is.

8 Q And did anybody tell you what Mr. Strube testified
9 about?

10 A I don't -- that's -- that name is new to me.

11 MR. ARIAIL: Okay. I don't have any other
12 questions on voir dire.

13 THE COURT: All right. Any objection to him being
14 considered an expert in psychopharmacology?

15 MR. ARIAIL: We don't have ---

16 MR. ABDALLA: Addictions and psychopharmacy
17 practice, Your Honor.

18 MR. ARIAIL: According to the rules we understand
19 they're -- we're not objecting.

20 THE COURT: Okay. So declared.

21 MR. ABDALLA: Thank you, Your Honor.

22 BY MR. ABDALLA:

23 Q When did you exam Mr. Sigmon?

24 A I saw Brad Sigmon on May the 10th of this year,
25 2002.

1 Q And did you review records in conjunction with your
2 visit with Brad?

3 A I reviewed records afterwards. I reviewed records
4 that had to do with his medical and psychiatric
5 condition. I reviewed some records of his South
6 Carolina, Department of Detention records. I reviewed
7 his statement. I reviewed one statement anyway. I
8 reviewed some other things too.

9 Q Did you consult with anybody in addition to
10 reviewing records and visiting Mr. Sigmon?

11 A Yes, I consulted with two physicians, Dr. Donna
12 Schwartz Watts, and also consulted with Dr. Ernest
13 Martin. I consulted with Shirley Furtick also.

14 Q Did you consult with anyone else regarding Mr.
15 Sigmon?

16 A Ms. Paige Tarr.

17 Q Okay. What did you find? As a result of all those
18 things, what did you find?

19 A Overall I found three main things after I evaluated
20 him and consulted with other people. And the first one
21 is that he indeed does have a medical disorder of the
22 brain called recurrent major depressive disorder. That
23 second of all, he indeed does have chemical dependency
24 disorders, specifically regarding cocaine, alcohol and
25 marijuana, and some past use of other substances. And

1 third of all, that these interacted such that he was
2 using a number of substances to treat his depression and
3 temporarily was probably helping on a very brief period
4 of time, but overall made that depression worse.

5 Q How did make you sense of Brad's drug use?

6 MR. ARIAIL: Your Honor, I'm going to -- I would
7 interpose an objection here to relevance in that there
8 is no testimony or evidence in this record that Brad
9 Sigmon has used drugs, except for the one reference by
10 Mr. Strube, and we're injecting an issue here where
11 there is no factual basis in the record. Now, if this
12 witness is going to -- the idea is that he's going to
13 bootstrap it by saying I talked to some other people, I
14 talked to Mr. Sigmon, I think he needs to detail or --
15 or delineate a basis before we go forward, otherwise I'm
16 going to object that there's nothing in the record to
17 support this testimony.

18 MR. ABDALLA: Your Honor?

19 THE COURT: Yes, sir.

20 MR. EPPES: I have a couple things to say about
21 that. First, Mr. Sigmon's statements goes to his drug
22 use on more than one occasion. Secondly, Shirley
23 Furtick has testified to drug use. And Dr. Alexander
24 (sic) has spoken to Mr. Sigmon himself. And I believe
25 he's free to make any inferences as an expert on these

1 matters and put them before the jury.

2 THE COURT: Well, are you going to the issue of --
3 are you going to a general issue of psychological
4 problems, are you -- are you going to the issue of night
5 before leading up to eight o'clock in the morning what
6 he did?

7 MR. ABDALLA: Well, a little bit of both. Going
8 through the issue of a drug problem that -- that played
9 a major part in the events of April 27th, the night
10 before and into that morning, Your Honor.

11 THE COURT: Well, this witness said he interviewed
12 Brad Sigmon.

13 MR. ABDALLA: Yes, Your Honor.

14 THE COURT: Can you lay a foundation as to what Mr.
15 Sigmon may have told him about drug use that night?

16 MR. ABDALLA: Sure. For just that night or in
17 general?

18 THE COURT: Well, you've already -- well, the
19 objection is there is nothing in the record that shows
20 that he was on drugs that night, other than Mr. Strube
21 said they used them earlier.

22 MR. ABDALLA: Your Honor, can I question the
23 witness on these matters?

24 THE COURT: That's what I'm asking you to do.

25 MR. ABDALLA: Because there's -- all right.

1 THE COURT: I was asking you to try to lay a
2 foundation.

3 MR. ABDALLA: You did say that. I was about to
4 respond differently, but I decided I would ask the
5 questions of the witness first.

6 BY MR. ABDALLA:

7 Q In your conversation with Mr. Sigmon, did you learn
8 anything about any drug use he may have been involved
9 in?

10 A Yes, sir, I did.

11 Q What was that?

12 A I learned about his past as well as present drug
13 use, which includes illicit substances as well as
14 prescribed substances.

15 Q And can you discuss what they involved, any of
16 them?

17 A Yes. Where would you like for me to start
18 specifically?

19 Q Well, let's start within the last 10 years.

20 A Well, in the last 10 years have involved prescribed
21 medications, Elavil, which is also know Amitriptyline.

22 Q What is that used for?

23 A That is an anti-depressant medication, usually used
24 to treat depression most often, but also can be used for
25 other disorders.

1 Q All right. And did you learn anything about his --
2 anybody who's diagnosed him as being depressed? Did
3 anybody diagnose him as being depressed at the law
4 enforcement center since he's been in jail?

5 A Yes, they did. Dr. Martin diagnosed him as having
6 major depressive disorders, and I think in the notes it
7 says depression. When I consulted with him on -- he
8 said that it did meet what they call DSM4 criteria,
9 Diagnostic Statistical Manual, 4th edition of the
10 American Psychiatric Association, that it did meet
11 criteria for major depressive disorder. That's the term
12 we usually use. And it's very much recurrent in nature
13 depression.

14 Q Can you tell the jury what the DSM4 classification
15 is of major depression, without getting too technical?

16 MR. ARIAIL: Your Honor, I feel restrained to
17 object to this also. I mean, he's just testifying about
18 what somebody else said who hadn't come into this
19 courtroom and said it.

20 THE COURT: All right. I sustain the objection
21 without the proper foundation.

22 MR. ABDALLA: Your Honor, I believe under rule
23 702 -- 703, he's allowed to rely on information he
24 has ---

25 THE COURT: Under certain circumstances with a

1 proper foundation.

2 BY MR. ABDALLA:

3 Q Who else did you speak with regarding any drug
4 abuse or depression that Brad Sigmon had?

5 A I talked with Dr. Donna Schwartz Watts. I talked
6 with Ms. Shirley Furtick.

7 Q What did Dr. Schwartz Watts tell you, if anything,
8 about depression?

9 A She also said ---

10 MR. ARIAIL: Objection. Same objection.

11 THE COURT: Sustained. With out the proper
12 foundation, he cannot testify what some other expert
13 told him. You simply need to lay the proper foundation.

14 MR. ABDALLA: I understand.

15 MR. ARIAIL: You Honor, could we have a side-bar on
16 that?

17 (A bench conference was held.)

18 BY MR. ABDALLA:

19 Q What did you base your information on? What have
20 you learned specifically about the night of the
21 incident?

22 A I based my information on my clinical interview
23 with Brad Sigmon on May the 10th.

24 Q And did you learn of any drugs that were used on
25 that night?

1 A Yes, I did.

2 Q What did you learn was used that night?

3 A I learned that he -- the day before the incident
4 that he had used cocaine, also that he had used alcohol.
5 As how much -- as far as how much cocaine he used, it's
6 somewhere -- he estimated it about \$50 worth of the
7 crack form of cocaine. And he estimated that evening
8 before the incident somewhere between two mixed drinks
9 as well as later on half a bottle of peppermint
10 Schnaaps.

11 Q And based on that, can you make my conclusions with
12 any degree of scientific certainty?

13 A Yes.

14 Q And what would that conclusion be?

15 A Those conclusions would be, one, that it's
16 consistent with his other history that he gave me of his
17 continuing drug use, as well as its effect probably on
18 mental functioning and psychological functioning that
19 evening as well as the next 7, 14 to 28 days after --
20 after using them.

21 Q Is this information a type you would reasonably
22 rely upon in making your conclusions as an expert in
23 psychopharmacology addictions and ---

24 A Yes, sir, it is.

25 MR. ABDALLA: Okay. Your Honor, I would say that

1 at this time he could express opinions on it.

2 THE COURT: I think the objection earlier was when
3 you were asking him about other doctors reports, Dr.
4 Schwartz Watts, people like that. If he uses such
5 reports and even opinions and other doctors reports to
6 form his own opinions, and it's usually done in his
7 practice ---

8 MR. ABDALLA: Okay.

9 THE COURT: --- then I'll allow it. So that's the
10 foundation. Do you understand the question? Do you
11 understand the question?

12 MR. ABDALLA: You're asking if he's using
13 information that is usually relied by experts in that
14 field?

15 THE COURT: I don't want to ask the question. The
16 issue is -- the objection was you were getting ready to
17 go into other doctors' reports.

18 MR. ABDALLA: Right.

19 THE COURT: And without the foundation that he used
20 those reports in forming his own opinion in this case,
21 and these types of reports are normally used in his
22 profession, then he can't use them.

23 MR. EPPES: Can we have a moment, Your Honor?

24 THE COURT: Yes, sir.

25 MR. ABDALLA: I apologize. I was totally confused.

1 My apologies to the Court.

2 THE COURT: That's all right.

3 BY MR. ABDALLA:

4 Q All right. You talked to Dr. Schwartz Watts?

5 A I did.

6 Q And the information that you obtained from her, is
7 it the type of information that you would normally rely
8 upon to make your conclusions as an expert in
9 psychopharmacology?

10 A I would utilize that information. At the Medical
11 University of South Carolina, on the inpatient treatment
12 team that I work every day, we rely on each other, work
13 as a team. There is psychiatrist. There is me, a
14 psychopharmacologist. There's a social worker, a nurse.
15 There is a clinician. And we all get together and
16 assess what we saw, and challenge each other as far as
17 is this the right diagnosis, is this the right treatment
18 plan. We may all interview the patient independently.
19 Sometimes we'll interview them together to arrive at
20 this conclusion.

21 So I saw Mr. Sigmon, and I got my impression, and
22 what I wanted to do so was to see if the other two
23 doctors, the doctor who was actually treating him, as
24 well as a doctor who had consulted on him, was seeing
25 some of the same things. I had several questions just

1 as I might have questions at the hospital, or some of
2 those treatment studies that I have been involved in, I
3 would say, does this man have so and so diagnosis, did
4 you find this. I specifically asked, does Brad Sigmon
5 have obsessive compulsive disorder, and I was told no,
6 he did not have obsessive compulsive disorder but he
7 certainly has quite a number of obsessions and
8 ruminations, but he doesn't have specifically the
9 disorder.

10 So I had a number of questions, and I was -- and I
11 knew what he had told me, and I had also formed my
12 opinions about why he was using certain substances based
13 on my past experience, and I was wanting to confirm that
14 with the other two doctors as well as the social worker,
15 as far as -- and get their opinions, but I had my own
16 opinion.

17 MR. ARIAIL: Your Honor, I'm going to withdraw my
18 objection and let him proceed along those lines without
19 objection.

20 THE COURT: Let me just ask this, did you rely on
21 those reports from the other doctors in assessing Mr.
22 Sigmon, and forming your opinions in this case?

23 THE WITNESS: I relied on them, yes.

24 THE COURT: Okay. There we go.

25 BY MR. ABDALLA:

1 Q So how do you asses Brad's drug use?

2 A Well, there -- I make sense of it in that there are
3 three or four issues that are present with him. One
4 really significant issue is he has genetic
5 pre-disposition to develop a chemical dependency
6 disorder, whether it be alcohol or cocaine. He has a
7 family history -- he has the biology of addiction in him
8 that has been passed on, and he will pass it on. That's
9 one thing I noticed. I noticed that developmentally
10 there were a number of issues that I will just say that
11 there were a number of losses and it appeared to be
12 chaotic in the household at times and this was -- when I
13 looked at the chronology that Shirley Furtick provided
14 me as we discussed, there were certain losses as well as
15 there were certain things that were not present there.
16 So when people use substances, that's important to know
17 possibly what benefit they're getting out of the
18 substance, what's driving the substance dependence.
19 This is a complex illness. It is truly a complex
20 illness and no one has all the answers, but -- but we're
21 trying to look at what makes him an addict and other
22 people not an addict.

23 Q Do you have a slide program to help explain these?

24 A Yes, sir, I do.

25 MR. ABDALLA: Your Honor, at this time I would like

1 Dr. Alexander (sic) to present these slides, if I may?

2 THE COURT: All right. Do you want him to stay on
3 the stand and use the laser pointer?

4 MR. ABDALLA: Yeah, I would.

5 THE COURT: Do we have the laser pointer still, or
6 not?

7 MR. ABDALLA: This is something I need help
8 from ---

9 MR. EPPES: Have him come down.

10 MR. ABDALLA: Yeah, I need you to come down.

11 THE COURT: All right. You can step down. Just
12 keep your voice up, please, sir.

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you.

15 THE WITNESS: At this point the projector should
16 turn on. All right. Good.

17 (Mr. Abdalla and Dr. Morton had a discussion that
18 was inaudible)

19 THE COURT: You can't -- you can't have private
20 conversations with each other. Anything you say has to
21 be on the record.

22 MR. ABDALLA: Oh, I'm sorry. I will.

23 BY MR. ABDALLA:

24 Q What does cocaine do to the brain?

25 A Cocaine is one of the most profound drugs that we

1 have in society today. And what it does is within --
2 depending on how you use it, you can use it by injecting
3 it, snorting, or smoking it. If you smoke it, somewhere
4 between five and eight seconds later you have an
5 instantaneous increase in the brain chemical dopamine.
6 And dopamine is the brain's money, the brain's reward
7 system, it's the chemical that teaches people to do
8 things again.

9 Q Why do people use these things, what -- drugs,
10 cocaine?

11 A Well, cocaine causes a change about as fast as any
12 drug around. Five to eight seconds is pretty profound.
13 Initially people might use drugs because it's fun, or
14 there are just a number of reasons. Seldom do I see
15 people using drugs in my practice that -- and they're
16 having fun. Typically they're using it to self-medicate
17 themselves. And the two things that they self-medicate
18 themselves for are a psychiatric disorder as well as the
19 result of withdrawal from using the drugs. So people
20 are trying to normalize themselves if they have a
21 psychiatric disorder as well as normalize themselves
22 from their use. So they use drugs to be normal. And
23 that's the same way that an alcoholic or someone with
24 significant alcohol use would drink a drink in the
25 morning, not to get drunk or get high, but to be normal

1 so they could go about their normal daily activities.

2 Q So then go from there and talk about an addiction.

3 A Well, addiction is basically the loss of control of
4 use. Not everyone is an addict. Some people use a
5 substance, use it once have a beer, and then -- it
6 doesn't matter what time or where, but they stop. And
7 they have the biological -- what we would say the
8 biological chemistry to stop. Others go on to use as
9 much as there is, despite major consequences in their
10 life, despite the fact that their world can be basically
11 crumbling around them, they still would use a substance.

12 Q And why do some people become addicts and others
13 don't?

14 A Well, again, genetics have a lot to do with it.
15 Who your father is and what genetic properties he
16 imported. Who your grandfather is and what genetic
17 properties he imported to his father. And the same,
18 what genetic properties would you import to your
19 children. That has a lot to do with it, but it's not
20 that whole answer for sure. What good things you've
21 got, or didn't get growing up, or what losses you had,
22 or didn't have growing up is a factor. Issues in
23 adolescence are a factor. Sometimes people start use
24 and they have a -- really no real reason you would say
25 for them to become addicted and it's nothing you can

1 find exactly, but we do know that some of those growing
2 up factors, genetic factors, pre-disposed psychiatric
3 disorders. If you're very shy or anxious, and you could
4 not talk to anyone, a drink of alcohol would relax you
5 so you could talk, or so you could dance. If you're
6 very depressed, if you had the biologic symptom of
7 depression, cocaine would relieve that like within one
8 or two minutes. Now, they may not -- the person that's
9 using it may not appreciate that they're worse the next
10 day or two days later, but momentarily those things have
11 gone away, those feelings and thoughts that they have.
12 So I think hereditary, what it was like the first 12
13 years of your life, what adolescence was like, and do
14 you have a psychiatric disorder are all the things that
15 we look at.

16 Q Do you have any slides at this point you want to go
17 through?

18 A Yes. I'd like to go through these. I started off
19 talking about the effects of the depression on the
20 brain. Depression is a medical problem. It's not just
21 feeling a little sad for a day. We're talking about
22 feeling sad every day, usually every day for at least
23 two weeks, often goes into months, unremitting
24 depression where you're sad as well as other physical
25 symptoms of depression. So it's not just being a little

1 blue. It's really a profound medical disorder that
2 affects about 17 percent of the population at one time
3 or another in their lifetime. The symptoms are
4 profound. I'll go over those. There is treatment
5 available. We're starting to get people to come into
6 treatment, and there a number of drug treatments as well
7 as non-drug treatments that are available. Often we use
8 the combination when available.

9 Consequences of no treatment are that people get
10 worse. They don't work. They can't parent. They can't
11 do their job correctly. They get to the point that they
12 would rather be dead than alive. And they self-medicate
13 because they're very depressed and they use and they
14 feel -- feel better. So we almost always recommend
15 pretty significant treatment.

16 And this is what I was saying earlier, some issues
17 in depression are similar to issues in addiction. There
18 is a genetic predisposition. One of the problems is
19 that not everyone comes out and says, I'm depressed or
20 goes and gets diagnosed and treated. Certain losses,
21 losing the good things, and certain stressors, getting a
22 lot of the bad things, those seem to also fit into the
23 people that get depressed. If you lose parenting from
24 your parents, either because they weren't there, they
25 died, they -- they were there but they weren't there

1 emotionally, those would be factors. If someone was
2 abusing you, giving you the bad stuff that normally
3 people wouldn't get, that would -- that would be a
4 factor. So those are some of the issues that we look at
5 in patients that are depressed.

6 THE COURT: Let me stop you just a minute.

7 THE WITNESS: Yes, sir.

8 THE COURT: This isn't a lecture. This isn't a
9 narration. It's a question and answer process. So I'll
10 let you go on for about five minutes, but we need to
11 have some questions in here, please, sir.

12 MR. ABDALLA: Why can't -- thank you, Judge.

13 BY MR. ABDALLA:

14 Q Why can't people just stop -- why can't some people
15 just stop?

16 A Stop using drugs?

17 Q Stop using drugs, right?

18 A Some people -- well, if they have don't have the
19 biochemistry to stop, they can't stop. If genetically
20 they cannot make the chemicals that are necessary, that
21 would be one issue. The other is -- I don't know the
22 exact answer. No one knows the exact answer. But there
23 are certain factors that we look at. If you have a
24 raging depression with symptoms like these, if you have
25 all of these symptoms and they all go away when you use

1 a substance, whether it be alcohol, marijuana, cocaine,
2 it's going to be hard to say, don't use this drug when
3 it makes you temporarily feel better.

4 Q All right. And do you -- from your studies, that
5 Brad is suffering from any those symptoms up there?

6 A Yes, he is. He's -- and I have a slide for that.

7 Q All right.

8 A In red are some of the symptoms that Brad has had
9 and currently does have when I last saw him in May. His
10 suicidal thoughts were high when he first came in. They
11 are no longer current. He still has problems with
12 maintaining sleep, sleeping straight through the night.
13 He still has ruminations. A rumination is a thought
14 that someone says, I'm going to reflect on this, and
15 they have a little control over it, and they keep coming
16 back to it, but they go over and over and over it.
17 Obsessions is where a thought comes in your mind and you
18 don't seem to have control over it. So he has that. He
19 lost some weight, he's gained it back. He has some
20 fatigue, that's less of a problem on his
21 anti-depressants. Agitation and restlessness is a
22 component of his depression. Profound sense, negative
23 sense of who he is, feeling bad about himself, or sense
24 of worthlessness, feeling guilty, as well as a depressed
25 mood, just not being able to feel good. The only thing

1 I didn't really see that he had dropped off was a lack
2 of interest in doing things, such as working, although I
3 would guess that most people that have some of these
4 their work is impaired to some degree.

5 Q And I don't know if you have a slide to go along
6 with this, but could you tell the jurors what withdrawal
7 means, something about withdrawal?

8 A Withdrawal is something that everyone would have,
9 whether they're alcoholic or non-alcoholic, dependant or
10 non-dependant. You use a substance that affects the
11 brain, and then you stop it, you will get the opposite
12 effect. So if someone uses alcohol and it depresses the
13 nervous system, and they relax a little bit, they have
14 one drink, stopping with their one drink, three or four
15 hours later they might be a little on edge, nothing to
16 say, gosh, I'm anxious and feel bad, but they wouldn't
17 be as relaxed as they were before their drink.

18 Depending on how much people use would depend on how
19 severe the withdrawal is. Alcohol withdrawal, and
20 alcohol withdrawal is the most severe type of withdrawal
21 that we have and we have to treat it, because if we
22 didn't treat it, one out of every 10 people would die.

23 So we take a medicine that's similar to alcohol, put it
24 in place of alcohol, and slowly stop it. That way
25 people do not go through having seizures, having

1 hallucinations, having elevated temperature and having
2 blood pressure problems and die from those
3 complications. Cocaine is a stimulate, and it
4 stimulates just about every part of the body. And when
5 people quit using cocaine, they have a crash, and it
6 comes down. And people feel tired, they feel like they
7 have no energy, they lose appetite, they lose interest
8 in things. They might sleep a large amount, or they
9 might have broken sleep.

10 Q I would like to get specific with this case. Is
11 Brad -- there's testimony in the record that Brad and
12 another individual used \$200 worth, or whatever the
13 exact amount was, of crack cocaine the night before this
14 incident, during the early morning hours.

15 A Yes, sir.

16 Q Now, how would that effect something that took
17 place maybe five or six hours later, as far as ---

18 MR. ARIALL: I'm going to object to the form of the
19 question. The question was -- he said that Brad told
20 him \$50 worth.

21 MR. ABDALLA: There's testimony in the record that
22 says otherwise.

23 THE COURT: Well, overruled. Go ahead.

24 THE WITNESS: Brad's use of cocaine the night
25 before, somewhere between 50 and \$100 of -- from what I

1 read, there was \$250 present (sic). There's a tendency
2 for people that use drugs to minimize sometimes how much
3 -- how much they've used, but the effects would have
4 been that fact that he was -- that was not the only time
5 he was using cocaine, he gives me a history of using
6 about \$100 to two or three times a week over the last
7 three or four years, sporadically. He would use up to
8 about \$100 and that would be about six rocks of cocaine.

9 BY MR. ABDALLA:

10 Q All right.

11 A The effect would be pretty profound depression.
12 Now, he already has depression, so it would be a
13 worsening of depression. Typically, and I did not --
14 and he did not do this, but typically when people have
15 bad withdrawal like that they would use cocaine again
16 and normalize temporarily. After the incident which
17 he's charged and found guilty of, he gives me no history
18 that he used cocaine afterwards, but he would have still
19 be in some cocaine withdrawal and that cocaine
20 withdrawal can last up to six weeks. That's probably
21 the main cause why people relapse and go back to use,
22 and that's partly what we're studying to have -- how to
23 prevent people ---

24 THE COURT: Mr. Abdalla, you're going to have to
25 give this witness a little more guidance and ask a

1 question, please.

2 MR. ABDALLA: I apologize, Your Honor.

3 BY MR. ABDALLA:

4 Q In more brief responses, what are the long term
5 effects of cocaine on the brain?

6 A Depression.

7 Q And can you tell us -- tell the jury about
8 kindling?

9 A Kindling is just exactly what it is. Kindling is
10 fat wood. Little fire starts bigger fires. Little
11 sparks in the brain cause bigger sparks in the brain.
12 Little symptoms lead to bigger symptoms. Little
13 suspicions leads to paranoia. Paranoia is a very common
14 symptom of cocaine use, and we talk about it kindling
15 these side effects. So there's a worsening of symptoms.

16 MR. ABDALLA: You can return to the stand because
17 we'll stop the slide show.

18 THE COURT: Do you want the lights up?

19 MR. ABDALLA: Lights up, please.

20 BY MR. ABDALLA:

21 Q All right. The night before Mr. Sigmon killed
22 these people, we've already discussed the fact -- you
23 already went into the fact that he used cocaine,
24 alcohol, whatever. I don't how much you know about the
25 facts and evidence, but the fact that two people were

1 beaten with a baseball bat, beaten to the death over the
2 head, is this in any way consistent with the efferent
3 behavior -- it's efferent behavior, but can you find any
4 consistency between what he did and somebody who was
5 suffering from whatever diseases it is you uncovered?

6 A Well, his -- his actions are consistent with a
7 significant number of people that have used large
8 amounts of cocaine, both during and after -- after their
9 use, and that is violent behavior. That is behavior
10 that doesn't make sense, of agitation, impulsive type
11 behavior.

12 Q So he would have been irritable is that what you're
13 saying?

14 A He would have been irritable, yes.

15 Q All right. And if you were also to compound this
16 with not sleeping that night, what would that have done?
17 I said compound, what would have happened from him not
18 sleeping that night, in addition to the use of alcohol
19 and drugs?

20 A I think that would have been a minor stressor. I
21 think the fact that he has depression would be more of a
22 major depressor. But being sleep deprived people don't
23 make very good decisions, that's for sure, but I ---

24 Q So you're saying that the sleep depravation is
25 going to go -- to affect his decision making, and what

1 about the use of drugs and alcohol?

2 A The use of drugs and alcohol would certainly impair
3 his ability to think clearly, whether he's using at the
4 time or going through some of the withdrawal, so it
5 would effect his ability to -- to make good decisions,
6 problem solve, make sense out of his world.

7 Q All right. One more -- a couple more things I want
8 to talk about. What is dopamine?

9 A Dopamine is the brain chemical that we all have,
10 that is used in our reward system. We have a reward
11 system to do four things. We have a reward system to
12 drink fluids, so we don't starve. And when we drink we
13 get rewarded. We have a reward system to eat food.
14 When we eat, we get rewarded so we don't starve. We
15 have a reward system to have sexual reproduction. If we
16 didn't, if sex was not exciting or feeling good, people
17 would not do it, and we would not have any more babies,
18 so the population continues. And fourth of all, we
19 have -- we have dopamine released every time we do that.
20 Fourth of all, when we take care of our kids, and hold
21 them and love them, we have dopamine released. Therefore
22 it's a pleasurable experience, there's a more likelihood
23 that we would do that. So we are dopamine based driven
24 animals.

25 Q Do drugs effect that at all, cocaine specifically?

1 A Cocaine specifically, yes. But I would also add
2 that every drug of abuse directly or indirectly comes
3 down to affect dopamine, and it seems to be how fast
4 dopamine is released.

5 Q And what about adrenalin? Does the use of cocaine
6 have any affect on adrenalin?

7 A Yeah, cocaine is not selective for the brain
8 chemicals that it releases. It releases and causes an
9 increase in three other chemicals, one of which is
10 adrenalin. At some point people will run out of
11 these -- these brain drugs, norepinephrine,
12 noradrenalin, epinephrine or adrenalin, and serotonin.

13 Q So, Dr. Martin, however many hours later, if he
14 were to go into a house with a baseball bat, what would
15 his adrenalin -- what would his energy level likely to
16 be?

17 A It would ---

18 Q Based on what, your -- your understanding?

19 A It would likely be elevated. He would more than
20 likely have elevations in adrenalin, noradrenalin.
21 These are not pleasant effects. It's not something that
22 people like to feel. Often people will self-medicate
23 with other drugs, either alcohol or -- or valium, or
24 sometimes people will use opiates, so they won't have
25 this agitated feel about them secondary to them using

1 cocaine. It's not a pleasant sensation.

2 Q All right. A person depressed, for the sake of
3 assumption, is about to undertake this master scheme of
4 going in and tieing somebody up. He's armed with some
5 cords, and a baseball bat. He and another fellow, Brad
6 Sigmon of course, go to the Larke's door, but at the
7 last minute, as we understand, his cohort leaves. The
8 plan was to tie them up. What about -- well, what you
9 know Brad Sigmon, about his abuse of alcohol and drugs,
10 about his depression, what would cause him to then go
11 into the house and kill these people without ---

12 MR. ARIAIL: Your Honor, I think -- I object to
13 that being outside the scope of this individual's
14 expertise.

15 BY MR. ABDALLA:

16 Q Well, let me ask it this was. He has -- do you
17 know the facts of the case?

18 A Yes, I do.

19 Q All right. When Brad went in there and was hitting
20 the Larkes with the baseball bat, you know about that?

21 A Yes, I saw -- I saw the crime photos of that.

22 Q Eight to nine times in the head. Is there anything
23 that is consistent there with your theories of
24 depression or any other theories you have?

25 A It's more consistent with a symptom we see with