

VOLUME SEVEN OF EIGHT

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN C. STANKO,

APPELLANT

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (JULY 31 – AUGUST 4, 2006)	
TESTIMONY	
DR. TOM SACHY	14
VOIR DIRE	17
TRIAL TRANSCRIPT (AUGUST 7-11, 2006) (GUILT PHASE)	
OPENING STATEMENT BY STATE	1205
OPENING STATEMENT BY DEFENSE	1217
TESTIMONY	
WARREN CHALK	1233
CHRISTINA LING	1240
DR. SCOTT BURNS	1297
KELLY WIRDZEK	1327
NEIL JOHNSON	1342
BILL PIERCE	1345
CHRIS POWELL	1369
JOHN GAUMER	1373
PETER CESTARE	1382
GEORGE SMITH	1386
ROBIN TAYLOR	1391
DR. KIM COLLINS	1400
STATE RESTS	1424
MOTIONS	1425
TESTIMONY	
DR. BERNARD ALBINIAK	1442
DR. JAMES W. THRASHER	1490
DR. MARC EINHORN	1606
DR. JOSEPH C. WU	1623
STEPHEN STANKO	1695

DR. THOMAS SACHY	1712
DR. PAMELA CRAWFORD	1862
DR. TORA BRAWLEY	1922
DR. WILLIAM BRANNON	1934
DR. KENNETH SPICER	1962
MOTIONS	2071
CLOSING STATEMENTS	2075
JURY CHARGE	2164
JURY RECHARGE SECTION OF INSANITY	2220
VERDICT	2226
MOTIONS	2231
TRIAL TRANSCRIPT (AUGUST 14-18, 2006) PENALTY PHASE	
OPENING STATEMENT (STATE)	2275
TESTIMONY	
VERNON HOUSE	2277
ELIZABETH BUCKNER	2292
DARRELL LEWIS	2430
KATHLEEN CROLLEY	2443
IDA BROOKS	2450
STEVE LEE	2469
JAMES JACKSON	2476
CHUCK PETRELLA	2497
BILL PIERCE	2508
ERIN HARDWICK	2541
RYAN COLEMAN	2550
DANA PUTNAM	2560
JASON WATSON	2603
DWAYNE PIPER	2607
DR. KIM COLLINS	2645
REBECCA CAHLY	2672
CHRISTINA LING	2687
MOTIONS	2724
OPENING STATEMENT (DEFENSE)	2732
TESTIMONY	
MICHAEL STANLEY	2741

SHIRLEASE MAYNARD	2747
VICTORIA JONES	2752
DONNA WILLIAMS	2792
CONNIE PRICE	2797
THRESLA DEWITT	2874
JOHN FULMER	2882
WINNIE WENZ	2896
MINNIE WENZ	2908
WANDA BROOKS	2912
THEDUS MAYO	2924
TIMOTHY MEACHUM	2942
DR. WU	2950
SANFORD GRAVES	3020
LOUIS MURDEN	3043
DR. JAMES THRASHER	3048
DALE DAVIS	3122
KAREN HANEBRINK	3130
PAM HARRELSON	3137
DR. SACHY	3173
GLORIA WILSON	3199
HEATHER TOLAR	3246
IRBY WALKER	3249
JOHN BERTANG	3257
GARY OWENS	3262
DR. EVELYN CALIFF	3277
DALE DAVIS	3305
MOTIONS	3341
CLOSING STATEMENTS	3388
CHARGE ON LAW	3485
VERDICT	3518
JURY POLLED	3520
SENTENCE	3529
POST-TRIAL MOTIONS	3529
TRANSCRIPT DATED MARCH 17, 2006	3542
CLOSED SESSION EX PARTE HEARING DATED JUNE 22, 2006	3598
MOTIONS HEARING DATED JUNE 22, 2006	3606
INDICTMENT	3729

NOTICE OF INTENT TO SEEK THE DEATH PENALTY	3733
NOTICE OF EVIDENCE IN AGGRAVATION OF THE PUNISHMENT	3734
STATUTORY INSTRUCTIONS	3737
AGGRAVATING CIRCUMSTANCES	3738
RECOMMENDATION OF DEATH SENTENCE	3739
SENTENCE OF DEATH.....	3740
AFFIRMATION OF DEATH SENTENCE	3741
VERDICT FORMS	3742
CERTIFICATE OF APPELLANT	3748

1 A WELL, THERE ARE SEVERAL POSSIBLE CAUSES FOR THIS KIND
2 OF ABNORMAL DECREASE IN THIS PARTICULAR PART OF THE BRAIN.
3 ONE A -- POSSIBLE CAUSE IS TRAUMATIC BRAIN INJURY.

4 AND THERE IS A HISTORY IN MR. STANKO'S CASE OF HIS
5 HAVING SUFFERED AN INCIDENT IN WHICH -- IN HIS SENIOR YEAR
6 OF HIGH SCHOOL HE WAS STRUCK IN THE BACK OF HIS HEAD AND
7 WAS NAUSEOUS AND HAD SOME ALTERNATE OF CONSCIOUS. SO
8 TRAUMATIC BRAIN INJURY CAN BE ONE FACTOR.

9 OTHER FACTORS CAN INCLUDE DEVELOPMENTAL BRAIN
10 ABNORMALITIES. AND SO IN SOME INDIVIDUALS, THE WIRING OF
11 THE BRAIN IN THE WOMB DOES NOT PROPERLY CONNECT AND SO
12 WHAT HAPPENS IS THAT WHEN THE CHILD IS BORN, THE CHILD CAN
13 HAVE ABNORMALITIES SUCH AS ABNORMAL REFLEXES SUCH AS A
14 MORO REFLEX OR OTHER--

15 Q WHAT IS THAT?

16 A THE MORO REFLEX IS A REFLEX IN WHICH YOU TAKE A BABY
17 AND YOU CRADLE IT IN YOUR HANDS AND THEN YOU SUDDENLY DROP
18 THE BABY, OF COURSE, WHILE YOU'RE CRADLING IT, AND
19 TYPICALLY THE BABY WILL THROW THEIR HAND OUT AND THEN
20 BRING THEIR HAND TOGETHER. THIS IS CALLED A MORO REFLEX.
21 AND IT'S A NORMAL REFLEX.

22 AND INDIVIDUALS WITH AN ABNORMAL BRAIN WIRING WOULD
23 HAVE SOME KIND OF IMPEDIMENT IN SOME OF THESE NATURAL
24 REFLEXES. THESE ARE VERY CRUDE TESTS, BUT NEVERTHELESS
25 THEY DO PROVIDE THE DOCTOR OR CLINICIAN WITH SOME INSIGHT

1 INTO WHETHER OR NOT THERE'S SOME KIND OF ABNORMAL WIRING
2 THAT DEVELOPED IN THE WOMB.

3 Q WELL, DR. WU, LET'S -- WE DON'T KNOW HOW THIS
4 HAPPENED TO MR. STANKO?

5 A WE DON'T KNOW SPECIFICALLY. THERE ARE SEVERAL
6 POSSIBILITIES INCLUDING THE POSSIBILITY OF TRAUMATIC BRAIN
7 INJURY, INCLUDING THE POSSIBILITY OF DEVELOPMENTAL BRAIN
8 ABNORMALITIES. I DON'T KNOW SPECIFICALLY FOR -- WITH A
9 CERTAINTY EXACTLY WHICH SPECIFIC CAUSES RESULTED IN THIS
10 KIND OF ABNORMALITY.

11 Q BUT IS THERE ANY DOUBT IN YOUR MIND THAT THE
12 ABNORMALITY IS THERE?

13 A NO, THERE'S NO DOUBT THAT THIS IS DEFINITELY AN
14 ABNORMALLY FUNCTIONING FLOOR OF THE FRONTAL LOBE.

15 Q IS HE'S HAD IT ALL HIS LIFE, AND I'M -- I DON'T KNOW
16 THAT HE HAS, OKAY, BECAUSE WE DON'T KNOW AS YOU JUST SAID
17 WHEN THIS HAPPENED.

18 A YES.

19 Q OR HOW IT HAPPENED.

20 A IT COULD BE A COMBINATION OF SEVERAL FACTORS.

21 Q WELL, IF IT HAPPENED AT BIRTH--

22 A YES.

23 Q -- WHY -- OR WHEN IS IT LIKELY TO MANIFEST ITSELF?

24 A WELL, ABNORMALITIES THAT ARE DEVELOPMENTAL SOMETIMES
25 DON'T MANIFEST UNTIL EARLY ADULthood.

1 Q WHY? WHY IS THAT?

2 A THE REASON WHY THIS OCCURS IS BECAUSE, FOR EXAMPLE,
3 IF YOU HAVE AN ABNORMALITY IN THE FRONTAL LOBE, THE
4 FRONTAL LOBE IS NOT REALLY CONNECTED TO REST OF THE BRAIN
5 UNTIL LATE ADOLESCENCE OR EARLY ADULTHOOD.

6 THERE IS A PROCESS CALLED MIONIZATION (SIC). THAT
7 IS, THESE ARE -- ARE TRACKS OR NERVE WIRING THAT IS --
8 CONNECT DIFFERENT PARTS OF THE BRAIN. AND THE FRONTAL
9 LOBE IS NOT FULLY CONNECTED THROUGHOUT THEIR BRAIN UNTIL
10 LATE ADOLESCENCE.

11 SO THAT'S WHY YOU CAN HAVE PEOPLE WHO HAVE ALMOST
12 LIKE A LITTLE TIMEBOMB IN THEIR HEAD THAT'S TICKING AWAY
13 AND DOESN'T BLOW UP UNTIL THE WIRING IS FULLY CONNECTED.

14 AND THERE ARE A NUMBER OF CONDITIONS. FOR EXAMPLE,
15 WE KNOW THAT CERTAIN FORMS OF SCHIZOPHRENIA, PEOPLE CAN
16 LOOK PERFECTLY NORMAL IN CHILDHOOD AND EARLY ADOLESCENCE
17 AND NOT UNTIL LATE ADOLESCENCE THAT ONE STARTS TO HEAR
18 VOICES.

19 AND WE KNOW THAT THERE'S ABNORMALITIES IN THE
20 MIGRATION OR CONNECTION THAT THE NERVE CELLS MAKE IN THE
21 WOMB.

22 FOR EXAMPLE, WE KNOW THAT IF YOU ARE PREGNANT AND YOU
23 HAVE A BAD FLU DURING YOUR SECOND TRIMESTER OF PREGNANCY,
24 YOU'RE MUCH MORE LIKELY TO HAVE SCHIZOPHRENIC OFFSPRING
25 BECAUSE DURING THAT SECOND TRIMESTER, THERE'S CERTAIN

1 Kinds of connections that are forming.

2 AND SO IF THE CONNECTIONS THAT ARE -- ARE SCREWED UP
3 BY, FOR EXAMPLE, A BAD FLU -- AND THIS HAS BEEN SOMETHING
4 THAT'S BEEN SHOWN PROBABLY 20, 30 STUDIES ALL AROUND THE
5 WORLD -- THAT IT CAN SIGNIFICANTLY INCREASE YOUR RISK.

6 AND SO -- AND YET IF YOU LOOK AT THESE KIDS DURING
7 EARLY CHILDHOOD OR EARLY HIGH SCHOOL, THEY LOOK PERFECTLY
8 NORMAL. IT'S NOT UNTIL LATE ADOLESCENCE THAT THEY START
9 TO BREAK DOWN, THEY START TO HEAR VOICES.

10 YET THEY HAVE HAD THIS PROBLEM ALL THEIR LIFE BECAUSE
11 THIS PROBLEM OCCURRED IN THE WOMB DURING THE SECOND
12 TRIMESTER OF BIRTH.

13 THERE ARE OTHER EXAMPLES OF THIS. FOR EXAMPLE, WE
14 KNOW THAT UNINTENSE PARENIA (SIC) IS A GENETIC ABNORMALITY
15 THAT DOESN'T MANIFEST UNTIL 40 OR 50. SO THERE'S MANY
16 EXAMPLES OF DEVELOPMENTAL ABNORMALITIES THAT ARE NOT
17 APPARENT UNTIL SOMETHING TRIGGERS IT AND -- AND IT CAN BE
18 TWO, THREE, FOUR, FIVE DECADES LATER IN LIFE.

19 Q TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, IS THAT
20 A POSSIBILITY WITH MR. STANKO?

21 A YES.

22 Q IN THIS TYPE OF DECREASED FUNCTION IN THE -- IN THE
23 FRONTAL LOBE?

24 A YES, IT IS.

25 Q ALL RIGHT. DR. WU, THANK YOU VERY MUCH. THAT'S ALL

1 I HAVE AT THIS TIME.

2 THE COURT: DO YOU HAVE ANY QUESTIONS FOR
3 WITNESS?

4 MR. HEMBREE: I DO, YOUR HONOR.

5 THE COURT: YOU MAY PROCEED.

6 MR. HEMBREE: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME.

8 CROSS-EXAMINATION

9 BY MR. HEMBREE:

10 Q DR. WU, WOULD YOU BRING BACK UP THE -- I BELIEVE YOU
11 CALLED IT THE DICOM SLIDES THAT YOU -- THAT YOU WERE SENT.

12 A YES.

13 Q ALL RIGHT, DR. WU. FIRST LET ME ASK YOU ABOUT THIS
14 CONTINUANCE PERFORMANCE TEST. I BELIEVE YOU TESTIFIED --
15 TELL ME IF I UNDERSTAND YOUR TESTIMONY ACCURATELY --
16 THAT -- THAT AN ACTIVE PET SCAN OR A PET SCAN THAT IS
17 CONDUCTED AFTER DOING A CONTINUANCE PERFORMANCE TEST IN
18 YOUR JUDGMENT OR YOUR OPINION IS -- IS A BETTER PET SCAN,
19 IT IS -- IT GIVES YOU A MORE ACCURATE READING OF THE
20 HEALTH OF THAT BRAIN OR THE -- OR MORE LIKELY TO SHOW
21 ABNORMALITIES THAT EXIST.

22 A WELL, THE PEER REVIEWED LITERATURE SUCH AS CHAN
23 PUBLISHED IN 2003 AND OTHERS, SUCH AS HOLCOMBE, SHOW THAT
24 THERE IS WHAT WE CALL REDUCED STATIC NOISE WITH A CPT
25 TASK.

1 AND SO IF YOU HAVE LESS STATIC OR NOISE, YOU'RE MORE
2 LIKELY TO DETECT AN ABNORMALITY THAN IF THERE'S A LOT OF
3 LIKE HISS IN THE BACKGROUND.

4 Q OKAY. THAT'S WHAT -- THAT'S MY QUESTION TO YOU. LET
5 ME CLARIFY IT AGAIN. I JUST -- I DON'T NEED THE -- I'M
6 NOT ASKING FOR THE REASONING BEHIND IT. I JUST NEED TO
7 KNOW IF I UNDERSTAND IT CORRECTLY -- THAT AN ACTIVE --
8 WHAT I'M CALLING AN ACTIVE PET SCAN OR A PET SCAN THAT HAS
9 BEEN CONDUCTED AFTER A SUBJECT HAS PERFORMED THIS
10 CONTINUANCE PERFORMANCE TEST IS GOING TO BE A MORE
11 ACCURATE PET SCAN FOR DETECTING ABNORMALITIES?

12 A THAT'S -- THE PEER REVIEWED LITERATURE SHOWS, YES.

13 Q AND THAT'S YOUR OPINION AS WELL?

14 A THAT'S MY OPINION AS WELL, YES.

15 Q OKAY. VERY GOOD. SO ANYONE WHO READS THAT PET SCAN,
16 NO MATTER WHO THEY ARE, ANYONE WHO READS THAT PET SCAN
17 WILL BE READING A HIGHER QUALITY PET SCAN THAN A RESTING
18 PET SCAN; CORRECT?

19 A THE PET SCAN ITSELF WILL BE A HIGHER QUALITY, BUT I
20 THINK WHAT WILL VARY WILL BE THE EXPERIENCE THAT THE
21 READER HAS IN SEEING SUCH SCANS.

22 Q WELL, BUT THERE -- REGARDLESS, IT'S A BETTER PET
23 SCAN?

24 A YES.

25 Q SO WHOEVER READS A BETTER PET SCAN HAS A BETTER

1 PRODUCT TO EVALUATE; CORRECT?

2 A YES, THERE'S GOING TO BE LESS NOISE.

3 Q FAIR ENOUGH. NOW, THE PET SCAN THAT -- OR THE
4 DATABASE THAT YOU'RE USING FOR THIS EXPERIMENT WITH THIS
5 SUBJECT AND YOUR OPINION REGARDING HIS ABNORMALITY IS
6 BASED ON A DATABASE THAT WAS DEVELOPED AT THE UNIVERSITY
7 OF CALIFORNIA IRVINE.

8 A YES.

9 Q SO IT'S -- IT'S -- IT IS KIND OF IN-HOUSE?

10 A YES.

11 Q AND IT WAS USING 56 SUBJECTS?

12 A YES.

13 Q AND THESE 56 SUBJECTS YOU DESCRIBE AS HAVING NORMAL
14 BRAINS.

15 A YES.

16 Q AND PLEASE TELL ME, HOW DO YOU DEFINE NORMAL BRAIN IN
17 DETERMINING WHICH 56 YOU'RE GOING TO USE?

18 A WELL, WE SCREEN THEM USING WHAT WE CALL A DIAGNOSTIC
19 INSTRUMENT CALLED A STRUCTURED CLINICAL INTERVIEW FOR
20 DIAGNOSIS.

21 Q OKAY. SO YOU TALKED TO THESE FOLKS. LET ME SEE IF I
22 UNDERSTAND THAT. YOU BASICALLY DID A -- A PSYCHIATRIC,
23 PSYCHOLOGICAL DIAGNOSIS OF THESE FOLKS TO MAKE A JUDGMENT
24 OR DETERMINATION WHETHER OR NOT THEY HAD SOME PSYCHIATRIC
25 CONDITION.

1 A OR NEUROLOGIC.

2 Q OR NEUROLOGICAL CONDITION THAT WOULD -- THAT WOULD
3 QUALIFY THEM FOR SOME SORT OF A DIAGNOSIS UNDER THE DSM4
4 OR OTHERWISE.

5 A YES.

6 Q OKAY. AND SO YOU TALKED TO THEM. AND AFTER TALKING
7 TO THEM OR GETTING -- MAYBE GIVING THEM SOME PSYCHOLOGICAL
8 TESTING, YOU DECIDED THEY -- THEY SEEMED NORMAL TO US.

9 A YES.

10 Q ALL RIGHT. NOW, ISN'T IT TRUE THAT THERE ARE FOLKS
11 THAT CAN HAVE ABNORMAL BRAINS OR THEY CAN -- THERE CAN BE
12 AN ABNORMALITY THAT IS REFLECTED IN THE BRAIN IN A PET
13 SCAN YET THEY ARE NOT DIAGNOSED WITH ANY PSYCHIATRIC
14 CONDITION?

15 A WELL, I WOULD SAY THAT THERE'S A TREMENDOUS WHAT WE
16 CALL VARIATION IN NORMALS. AND SO THE QUESTION BECOMES,
17 WELL, FOR EXAMPLE, IF YOU'RE LOOKING AT HEMATOCRIT OR RED
18 BLOOD CELL OR HEMOGLOBIN, YOU KNOW, THAT NORMAL HEMOGLOBIN
19 IS LIKE 15 OR SO IS THE NORMAL RANGE, AND YOU CAN USE A
20 CUT-OFF LIKE A CERTAIN VALUE IN ORDER TO SAY SOMEONE HAS
21 ANEMIA, BUT YOU MIGHT HAVE -- AN OCCASIONAL NORMAL MIGHT
22 HAVE VALUE BELOW THAT, BUT STILL YOU WOULD HAVE TO HAVE
23 SOME KIND OF CUT-OFF SO THAT MOST NORMALS WOULD BE ABOVE
24 THIS AND MOST PATIENTS WITH ANEMIA WOULD BE BELOW THIS.

25 AND THAT'S THE SAME THING WITH PET SCANS. THERE'S NO

1 ABSOLUTE PERFECT THRESHOLD. WHAT YOU DO IS YOU TRY TO
2 FIND A THRESHOLD WHERE MOST NORMALS WOULD BE ABOVE IT AND
3 MOST PATIENTS WITH SOME KIND OF ABNORMALITY WOULD BE BELOW
4 IT, BUT IT'S NOT GOING TO BE PERFECTLY SEPARATED.

5 Q BECAUSE EVERYBODY IS DIFFERENT.

6 A THERE IS A TREMENDOUS AMOUNT OF VARIATION.

7 Q TREMENDOUS AMOUNT OF VARIATION FROM BRAIN TO BRAIN TO
8 BRAIN.

9 A YES. AND--

10 Q YEAH. THAT'S NOT YOUR--

11 A -- THE QUESTION IS DOES THIS FALL OUTSIDE OF THAT
12 RANGE OF NORMAL VARIATION, AND -- AND IN MY OPINION THIS
13 FALLS OUTSIDE THAT TREMENDOUS VARIATION.

14 Q AND SO IT'S THEORETICALLY POSSIBLE THAT SOMEONE THAT
15 WAS PERFECTLY NORMAL BASED ON -- BASED ON THE DIAGNOSIS,
16 THE TESTING THAT YOU DID, THE DIAGNOSIS THAT YOU DID, THEY
17 DON'T SEEM TO HAVE ANY PSYCHIATRIC PROBLEMS, THEY SEEM
18 FINE, YOU PUT THEM IN THE NORMAL GROUP, YET -- YET THEIR
19 FRONTAL LOBE FUNCTION IS A LITTLE DIFFERENT THAN THIS
20 ONE'S, BUT IT'S LESS THAN THIS ONE'S FRONTAL LOBE
21 FUNCTION; CORRECT?

22 A WELL, WHAT WAS--

23 Q ISN'T THAT POSSIBLE, DOCTOR?

24 A WELL, THE WAY I WOULD ANSWER IT IS THAT WE WOULD LOOK
25 AT THE RELATIVE PROBABILITY SO THAT THE RELATIVE

1 PROBABILITY OF A NORMAL HAVING A VALUE THIS LOW WOULD BE
2 VERY LOW WHEREAS A RELATIVE PROBABILITY OF SOMEONE WITH A
3 BRAIN ABNORMALITY IS VERY HIGH, BUT IS NOT GOING TO BE
4 BLACK OR WHITE OR HUNDRED AND ZERO.

5 AND SO I WOULD SAY THERE WOULD BE A SMALL PERCENTAGE
6 OF NORMALS WHO MIGHT HAVE A VALUE THIS LOW, BUT IT WOULD
7 BE VERY SMALL, VERSUS A HIGH PERCENTAGE OF PEOPLE WITH A
8 BRAIN ABNORMALITY JUST LIKE YOU WOULD HAVE WITH TRYING TO
9 SEE IF SOMEONE IS ANEMIC.

10 WHEN YOU HAVE ANEMIA, YOU DRAW A CUT-OFF, AND THERE
11 MIGHT BE ONE OR TWO NORMALS THAT MIGHT HAVE A VALUE BELOW
12 THAT THAT WOULDN'T BE ANEMIC OR GOING TO HAVE A VALUE IN
13 THE SAME RANGE.

14 Q OKAY. LET ME TALK TO YOU ABOUT THE BRAINS, THOUGH,
15 NOT ABOUT ANEMIA.

16 A YES.

17 Q ISN'T IT TRUE, DOCTOR, THAT -- THAT A PERSON'S BRAIN
18 AND BRAIN FUNCTION AND EVEN BRAIN SIZE WILL CHANGE OVER
19 THE COURSE OF TIME?

20 A THERE IS A NORMAL VARIATION DUE TO AGING. WE KNOW
21 THAT AS PEOPLE GROW OLDER, THAT THERE IS A NORMAL DECREASE
22 IN FRONTAL LOBE ACTIVITY. SO BY THE TIME YOU'RE 50 OR 60,
23 YOUR FRONTAL LOBE IS NOT GOING TO BE AS HOT AS SOMEONE WHO
24 IS IN THEIR TWENTIES OR 30'S.

25 Q OH, SO FRONTAL LOBE ACTIVITY DECREASES WITH AGE?

1 A YES.

2 Q SO YOU WOULD EXPECT TO FIND UNDER -- UNDER YOUR --
3 THE PHINEAS GAGE THEORY THAT YOU'VE ADVANCED HERE TODAY
4 THAT MOST VIOLENT PEOPLE SHOULD BE OVER THE AGE OF 50 OR
5 60?

6 A WHAT I'M SAYING IS THAT WITH VIOLENCE, THAT THERE IS
7 A AREA IN THE BRAIN, THE FRONTAL LOBE, WHICH HAS BEEN
8 SHOWN TO BE ABNORMALLY PRESENT IN -- TO A MUCH HIGHER
9 DEGREE IN VIOLENT PEOPLE THAN IN NORMAL INDIVIDUALS.

10 Q UNDERSTOOD. SO BASED ON THAN THEORY, BASED ON WHAT
11 YOU'RE PRESENTING TO THIS JURY, AS FRONTAL LOBE FUNCTION
12 DECREASES WITH AGE, YOU WOULD EXPECT OLDER PEOPLE TO BE
13 MUCH MORE VIOLENT THAN YOUNGER PEOPLE.

14 A WELL, THAT WOULD BE A OBSERVED SIMPLIFICATION BECAUSE
15 THE BRAIN ISN'T -- CAN'T BE SIMPLIFIED TO THAT DEGREE.

16 Q WELL, YOU CERTAINLY SIMPLIFIED -- WOULDN'T YOU SAY
17 YOU SIMPLIFIED IT TO THAT DEGREE TODAY FOR THIS JURY
18 REGARDING MR. STANKO'S BRAIN?

19 A NO, I WOULDN'T. I WOULD SAY THAT I'M TRYING TO
20 PRESENT RESEARCH WHICH SHOWS THAT THE FRONTAL LOBE IS
21 IMPLICATED IN REGULATING BEHAVIOR BUT THAT WHAT I'M
22 LOOKING AT THE VARIATION IN THE NORMAL POPULATION, I AM
23 TAKING INTO ACCOUNT DIFFERENCES DUE TO AGING.

24 Q AND WHEN YOU'RE LOOKING AT -- WHEN YOU'RE DOING A
25 BRAIN SCAN OR WHEN YOU'RE DOING A PET SCAN, ISN'T IT TRUE

1 THAT ONE OF THE REASONS THAT THEY TURN THE LIGHTS OFF AND
2 THEY PUT THE SUBJECT IN A DARKENED ROOM IS TO SLOW DOWN OR
3 DECREASE OR SORT OF EVEN OUT THE ACTIVITY OF THE OCCIPITAL
4 LOBE WHICH IS IN THIS -- THIS SECTION HERE OF STATE'S
5 EXHIBIT 10, THIS IS THE OCCIPITAL LOBE, CORRECT?

6 THIS AREA IN THIS -- LET ME -- I WILL REFER TO THE
7 DIAGRAM YOU'VE GOT ON THE SCREEN. THIS AREA HERE IS THE
8 OCCIPITAL LOBE; CORRECT?

9 A YEAH, THAT'S CORRECT.

10 Q OKAY. SO IF -- ISN'T IT TRUE, DOCTOR, THAT ONE OF
11 THE REASONS THAT WHEN SUBJECTS ARE GIVEN A PET SCAN, THEY
12 TURN THE LIGHTS DOWN, THEY CAN BE -- CALM ROOM IS BECAUSE
13 THEY WANT TO BRING THAT -- THE ACTIVITY IN THAT OCCIPITAL
14 LOBE DOWN, DECREASE THE ACTIVITY OF THE EYES AND THE WORK
15 THAT THE EYES ARE DOING TO EVEN IT OUT WITH THE REST OF
16 THE BRAIN; TRUE?

17 A WELL, THE RESEARCH INDICATES THAT THE REST STATE
18 ACTUALLY HAS GREATER VARIABILITY THAN THE ACTIVATION STATE
19 AND SO--

20 Q NO, SIR. THAT'S NOT MY QUESTION.

21 A BUT MY--

22 Q I WILL LET YOU EXPLAIN YOUR ANSWER. MY QUESTION TO
23 YOU IS THIS. ISN'T IT TRUE THAT THE REASON THAT -- THAT
24 MEDICAL PROFESSIONALS USE THAT APPROACH IS TO SLOW DOWN
25 THE ACTIVITY IN THE OCCIPITAL LOBE. YES OR NO?

1 A NO.

2 Q OKAY. WHY DO THEY DO IT THEN?

3 A WELL, I -- THE REASON WHY MANY SAY REDUCE BECAUSE
4 THERE -- IS THE WAY THEY WERE TAUGHT TO DO IT. IT'S SORT
5 OF TRADITION. AND SO PEOPLE DO WHAT THEY WERE TAUGHT.
6 AND -- AND BECAUSE IT'S -- IT'S EASIER.

7 AND SO ESPECIALLY IF YOU'RE NOT A CENTER THAT HAS A
8 SPECIAL INTEREST IN NEUROPSYCHIATRIC DISORDERS AND YOU'RE
9 TRYING TO RUN A BUSY PET CENTER, THE SIMPLEST WAY OF
10 GETTING A PET SCAN IS TO HAVE THE SUBJECTS DOING NOTHING,
11 SO IT'S LOGISTICALLY MUCH EASIER.

12 Q NOW, THE -- GO BACK -- THIS IS THE POWERPOINT. GO
13 BACK TO THE SLIDE THAT YOU WERE USING.

14 A SURE.

15 Q AND I'M REALLY CURIOUS ABOUT THIS BECAUSE I'M LOOKING
16 AT THIS PET SCAN HERE.

17 A YES.

18 Q AND IT LOOKS TO ME LIKE THIS OCCIPITAL LOBE IS HOT,
19 WHAT I WOULD CALL HOT.

20 A YES.

21 Q IS THAT FAIR TO SAY?

22 A YES.

23 Q ALL RIGHT. BUT THEN I LOOK AT THE VERSION THAT YOU
24 PUT INTO YOUR SOFTWARE AND THE VINCI SOFTWARE AND
25 MR. STANKO'S OCCIPITAL LOBE LOOKS COLDS; CORRECT?

1 A WELL, NO. IF YOU'LL LOOK, YOU WILL NOTICE THAT THERE
2 IS SOME RED IN MR. STANKO.

3 Q RIGHT. THIS IS MR. STANKO AND THIS IS ALSO
4 MR. STANKO; ISN'T IT?

5 A THAT'S CORRECT. AND -- BUT THESE ARE DIFFERING
6 ANGLES AND DIFFERING CUTS.

7 Q WELL, THIS IS THE SAME -- I MEAN, THIS IS THE -- WHAT
8 IS THE CUT THIS WAY CALLED?

9 A WELL, IT'S -- I MEAN, IT WOULD BE THE Z AXIS ON
10 POWER--

11 Q SO THIS IS THE Z AXIS AND THIS IS THE Z AXIS;
12 CORRECT?

13 A WELL, IT'S A -- DIFFERING VALUES IN THE Z AXIS.

14 Q DIFFERENT VALUES IN THE Z AXIS?

15 A YES. SO YOU CAN HAVE HIGH OR LOW Z AXIS VALUES SINCE
16 THESE ARE NOT THE IDENTICAL ORIENTATION OR CUT.

17 Q WHY DON'T YOU SCAN UP. SCAN -- GO UP THE BRAIN A BIT
18 THROUGH THIS -- WITH THIS PET SCAN. WHOA, WHOA, WHOA.
19 SLOW IT DOWN. SO WE SEE HERE THAT THE ACTIVITY IN THE
20 OCCIPITAL LOBE HERE IN THE FRONTAL LOBES ARE PRETTY MUCH
21 IDENTICAL.

22 A YES.

23 Q OKAY.

24 A AS I HAVE MENTIONED EARLIER, THE HIGHER VALUES OR
25 HIGHER SLICES IN MR. STANKO'S BRAIN ARE VERY SIMILAR TO

1 THAT OF THE NORMALS. AND SO IT'S NOT AN ISSUE OF
2 DIFFERENCES IN WINDOWING BECAUSE IF THAT WERE THE CASE,
3 YOU WOULD SEE DIFFERENCES IN ALL SLICES.

4 Q LET ME ASK YOU THIS, DOCTOR, AND I'M NOT GOING TO --
5 I WANT TO BE VERY CAREFUL HOW I ASK THIS BECAUSE I DO
6 NOT -- I DON'T KNOW YOU WELL ENOUGH TO ASSAULT YOUR
7 INTEGRITY AND I'M NOT GOING TO DO THAT WITH THIS QUESTION.

8 HOWEVER -- BECAUSE YOU'VE ANSWERED IT IN ONE FORM.
9 IF YOU CHOSE, IF SOMEONE -- NOT YOU -- IF SOMEONE WERE SO
10 MOTIVATED, COULD THEY ADJUST THESE COLOR SCHEMES BY
11 MANIPULATING THIS COLOR BAR?

12 A THE WAY THIS SOFTWARE WORKS, IF YOU MANIPULATE THE
13 COLOR BAR, YOU WOULD BE ADJUSTING THE LEVEL FOR ALL
14 SLICES, NOT JUST FOR THIS SPECIFIC AREA OF THE FRONTAL
15 LOBE.

16 Q BUT YOU COULD PICK ONE SLICE, AND DOCTOR -- COULD YOU
17 WORK ON ONE SLICE AND MAKE A LITTLE ADJUSTMENT THERE AND
18 THEN TAKE ANOTHER SLICE AND MAKE A LITTLE ADJUSTMENT
19 THERE, MAKE ANOTHER SLICE -- IS THAT POSSIBLE?

20 A I MEAN, YOU COULD WRITE SOFTWARE SO THAT YOU CAN
21 SEPARATE--

22 Q GOT YA--

23 A -- THIS OUT, BUT IF YOU USE THIS SOFTWARE OR
24 INTEGRATE IT SO THAT WHEN YOU'RE CHANGING THE LEVEL FOR
25 THE BRAIN -- IS USING ALL SLICES. NOW, YOU CAN WRITE

1 SOFTWARE TO DO ANYTHING AND YOU COULD WRITE SOFTWARE THAT
2 CAN DELIBERATELY DISTORT THE IMAGE BY DELIBERATELY PICKING
3 DIFFERENT VALUES FOR DIFFERENT AREAS, BUT YOU CAN DO THAT
4 WITH A PAINTBRUSH.

5 I MEAN USE, YOU KNOW, A PAINTBRUSH OR A DOBY AND, YOU
6 KNOW, JUST PAINT IT IF YOU WANT TO TO DISTORT THE IMAGE.

7 Q AND DR. WU, HAVE YOU BEEN CONSULTED ON OTHER CRIMINAL
8 CASES OTHER THAN THIS ONE?

9 A YES, SIR.

10 Q HOW MANY OCCASIONS?

11 A I'M NOT SURE THE PRECISE AMOUNT. I WOULD SAY MORE
12 THAN 20.

13 Q MORE THAN 20?

14 A YES.

15 Q HAVE YOU ALWAYS BEEN CONSULTED BY THE DEFENSE?

16 A I WOULD SAY THAT -- YES.

17 Q OKAY. AND HAVE OFFERED THIS SIMILAR THEORY AND
18 TESTIMONY IN THOSE CASES AS WELL OR AT LEAST EVALUATION IN
19 THOSE CASES?

20 A WELL, I WOULD SAY THAT DIFFERENT CASES HAVE DIFFERING
21 PET SCAN, AND SO IT DEPENDS ON THE SPECIFICS OF THE CASE.

22 Q UNDERSTOOD. NOW, LET ME ASK YOU, DOCTOR, YOU HAVE
23 BEEN PAID -- OBVIOUSLY HAVE BEEN PAID FOR YOUR SERVICES IN
24 THIS CASE.

25 A WELL, I'M A SALARIED EMPLOYEE. ALL OF THE FEES THAT

1 THE CASE GENERATES GOES TO THE REGIANCE AT THE UNIVERSITY
2 OF CALIFORNIA.

3 Q OKAY. BUT YOU ARE PAID FOR YOUR SERVICE. SOMEONE IS
4 PAID FOR YOUR SERVICE.

5 A WELL, THE REGIANCE OF THE UNIVERSITY OF CALIFORNIA
6 ARE PAID. NOW, I'M A SALARY PROFESSOR, SO ALL OF THAT
7 MONEY GOES TO THE UNIVERSITY OF CALIFORNIA.

8 Q ALL RIGHT. WILL YOU RECEIVE ANY BENEFIT WHATSOEVER
9 FROM THAT -- FROM THOSE FUNDS, FROM THE INCOME THAT YOU'VE
10 GENERATED ON BEHALF OF THE UNIVERSITY OF CALIFORNIA?

11 A WELL, I WOULD SAY THAT THE INCOME DOES HELP TO
12 SUPPORT THE BRAIN IMAGING CENTER. IT HELPS TO PROVIDE
13 FUNDING FOR STAFF SALARY AND--

14 Q SO PERHAPS--

15 A -- SO THERE IS SOME INDIRECT BENEFIT.

16 Q CORRECT. AND WHAT ARE YOU CHARGING PER HOUR FOR YOUR
17 WORK ON THIS CASE?

18 A 200 PER HOUR.

19 Q \$200 PER HOUR?

20 A YES, SIR.

21 Q AND HOW MUCH MONEY IS BUDGETED FOR YOU TO CONCLUDE
22 YOUR WORK HERE?

23 A I BELIEVE IT WAS APPROXIMATELY 9000.

24 Q \$9000?

25 A YES, UH-HUH.

1 Q HAVE YOU -- HAVE YOU REACHED THAT AMOUNT OF--

2 A YES.

3 Q -- HAS YOUR BILL REACHED \$9000?

4 A YES, I BELIEVE IT HAS.

5 Q ALL RIGHT. HAS IT EXCEEDED \$9000?

6 A IT MAY. I DON'T KNOW.

7 Q OKAY. DO YOU THINK PROBABLY IT HAS?

8 A I THINK THAT IT LIKELY WILL EXCEED THAT AT -- BUT I'M
9 NOT A HUNDRED PERCENT SURE.

10 Q OKAY. AND WHAT DO YOU EXPECT YOUR BILL TO BE?

11 A I'M NOT SURE TO SAY THAT. I WOULD HAVE TO SIT DOWN
12 AND TRY TO FIGURE IT OUT.

13 Q THANK YOU, DR. WU.

14 THE COURT: ANY REDIRECT OF THE WITNESS?

15 MR. DIGGS: JUST VERY BRIEFLY.

16 THE COURT: YOU MAY PROCEED WHEN YOU'RE READY.

17 REDIRECT EXAMINATION

18 BY MR. DIGGS:

19 Q DR. WU, IF YOU FUDGED THE NUMBERS OR FUDGED THE
20 COLORS, WOULD THE NATIONAL INSTITUTE OF HEALTH DO BUSINESS
21 WITH YOU?

22 A NO. THE NATIONAL INSTITUTE OF HEALTH WOULD NOT WANT
23 ME TO BE ON A SCIENTIFIC REVIEW COMMITTEE REVIEWING HOW
24 FEDERAL FUNDS ARE DISTRIBUTED--

25 Q HOW ABOUT THE UNIVERSITY?

1 A NOR WOULD THE UNIVERSITY. I MEAN, THEY'RE -- THE
2 UNIVERSITY WOULD NOT WANT TO KEEP ME ON AS AN ACADEMIC.

3 Q THAT'S ALL I HAVE. THANK YOU VERY MUCH, DOCTOR.

4 THE COURT: ANY OBJECTION TO THE WITNESS BEING
5 EXCUSED FROM THE STATE?

6 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

7 THE COURT: FROM THE DEFENSE? DO YOU WANT TO
8 KEEP HIM SUBJECT TO RECALL, MR. DIGGS?

9 MR. DIGGS: YOUR HONOR, WE -- WE DON'T HAVE ANY
10 OBJECTION, BUT I'LL -- IN THE EVENT THAT CHANGES,
11 I'LL TAKE HIM.

12 THE COURT: THEN I WON'T EXCUSE HIM. I WILL
13 EXCUSE HIM SUBJECT TO BEING RECALLED FOR YOUR
14 BENEFIT.

15 MR. KELLY: THANK YOU.

16 THE COURT: DR. WU, YOU MAY STEP DOWN.

17 THE WITNESS: THANK YOU, YOUR HONOR.

18 THE COURT: YOU MAY PROCEED. WELL ACTUALLY,
19 COULD YOU ALL APPROACH FOR ME?

20 (WITNESS LEFT THE STAND.)

21 THE COURT: MR. DIGGS, YOU MAY PROCEED.

22 MR. DIGGS: YOUR HONOR, WE'D CALL SANFORD
23 GRAVES.

24 SANFORD GRAVES, AFTER
25 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE WITNESS: SANFORD COX GRAVES, G-R-A-V-E-S.

2 THE COURT: YOU MAY PROCEED.

3 DIRECT EXAMINATION

4 BY MR. KELLY:

5 Q MR. GRAVES, MY NAME IS GERALD KELLY. YOU AND I HAVE
6 NEVER MET; HAVE WE?

7 A NO, SIR. NO, SIR.

8 Q OKAY. BUT I BELIEVE YOU HAVE TALKED TO MY
9 INVESTIGATOR VICKY CHILDS OR DALE DAVIS?

10 A I BELIEVE I'VE SPOKEN TO VICKY CHILDS.

11 Q I WANT TO HAVE YOU TAKE A LOOK AT EXHIBIT NUMBER 36,
12 PLEASE.

13 A YES, SIR.

14 Q YOU RECOGNIZE WHAT THIS IS?

15 A IT APPEARS TO BE A -- WHAT I WOULD CALL AN ON CALL
16 LIST.

17 Q AND THAT'S THE LIST OF THE SOLICITORS WHO ARE ON CALL
18 IN THE FIRST 10 MONTHS OF 2005?

19 A BY ROLE CALL, WHAT DO YOU MEAN?

20 Q I SAID ON CALL.

21 A ON CALL, YES, SIR, THAT IS CORRECT.

22 Q AND YOU WERE ON CALL IN APRIL 1ST THROUGH APRIL THE
23 SEVENTH OF THAT YEAR; CORRECT?

24 A YES, SIR.

25 Q AND THEN ALSO LATER IN THE YEAR IN JUNE; CORRECT?

1 A YES, SIR.

2 Q DO YOU REMEMBER TALKING WITH A CITIZEN WHOSE NAME IS
3 CONNIE PRICE?

4 A I REMEMBER RECEIVING A NOTE THAT A CITIZEN HAD CALLED
5 AND I REMEMBER ATTEMPTING TO SPEAK TO THAT INDIVIDUAL AS
6 WELL. I DO NOT RECALL -- I MOST CERTAINLY TALKED TO HER,
7 BUT I DON'T RECALL ANYTHING THAT I SAID.

8 Q DID YOU TALK WITH CONNIE PRICE YOURSELF FACE TO FACE?

9 A I BELIEVE THAT I TALKED TO HER ON THE PHONE, SIR.

10 Q AND DO YOU REMEMBER WHEN YOU TALKED WITH HER?

11 A IT MUST HAVE BEEN DURING THAT WEEK, SIR, THAT I WAS
12 ON CALL.

13 Q OKAY. SO IT WOULD BE IN THE WEEK OF LAURA LING'S
14 MURDER; CORRECT?

15 A I BELIEVE THAT MS. LING WAS MURDERED ON THE EIGHTH IF
16 I'M NOT MISTAKEN, AND I WENT OFF CALL ON THE SEVENTH.

17 Q BUT YOU WERE THERE FROM THE FIRST THROUGH THE
18 SEVENTH?

19 A CORRECT, YOUR HONOR. WE DO -- EXCUSE ME. CORRECT,
20 WE SWITCH ON THURSDAYS.

21 Q AND THE FOURTH WOULD HAVE BEEN A MONDAY?

22 A I BELIEVE SO.

23 Q THE FOURTH WOULD HAVE BEEN MONDAY; CORRECT?

24 A I -- I BELIEVE SO, YES, SIR.

25 Q AND THEN THE SEVENTH WOULD HAVE BEEN THE DAY YOU CAME

1 OFF. THAT WOULD HAVE BEEN THURSDAY; CORRECT?

2 A YES, SIR.

3 Q THAT WOULD HAVE BEEN THE DAY BEFORE THE MURDER OF
4 LAURA LING; CORRECT?

5 A YES, SIR.

6 Q AND SHE TALKED TO YOU -- AND YOU WERE A SOLICITOR AT
7 THE TIME, ASSISTANT SOLICITOR?

8 A YES, SIR.

9 Q ARE YOU STILL AN ASSISTANT SOLICITOR?

10 A YES, SIR.

11 Q HOW LONG HAVE YOU BEEN AN ASSISTANT SOLICITOR?

12 A LITTLE OVER THREE YEARS.

13 Q DO YOU RECALL SPEAKING WITH CONNIE PRICE?

14 A I BELIEVE THAT I SPOKE WITH HER BASED ON A
15 CONVERSATION I HAD LATER ON WITH ANOTHER INDIVIDUAL. I
16 HAD RECEIVED A NOTE TO CALL HER. I BELIEVE THAT I CALLED
17 HER, YES, SIR.

18 Q WELL NOW, DO YOU REMEMBER THAT CONNIE PRICE WAS
19 COMPLAINING TO YOU ABOUT A MAN NAMED STEPHEN STANKO?

20 A I DON'T RECALL A CERTAIN INDIVIDUAL'S NAME AT ALL
21 THAT SHE SPOKE TO ME ABOUT.

22 Q DO YOU HAVE ANY IDEA WHAT SHE WAS TALKING TO YOU
23 ABOUT?

24 A UNAUTHORIZED PRACTICE OF LAW COMPLAINT.

25 Q AND WHAT WOULD THAT BE?

1 A THAT IS WHEN SOMEONE WHO IS NOT A LAWYER ACTS AS A
2 LAWYER.

3 Q WELL, DOES THAT SURPRISE YOU THAT THAT WOULD PROBABLY
4 HAVE BEEN STEPHEN STANKO?

5 A NOW OR THEN? WHEN? NOW?

6 Q YEAH, NOW.

7 A I DON'T UNDERSTAND THE QUESTION.

8 Q WELL, AT THE TIME SHE WAS TALKING TO YOU, YOU DIDN'T
9 HAVE ANY IDEA WHO STEPHEN STANKO WAS; CORRECT?

10 A NO, SIR. I HAD NO IDEA.

11 Q BECAUSE STEPHEN STANKO REALLY WASN'T KNOWN TO YOU AT
12 THAT TIME, CORRECT, UNLESS SHE TOLD YOU?

13 A WELL, I DON'T RECALL HER EVER TELLING ME WHAT -- ANY
14 NAME AT ALL, SO THE FACT THAT IF IT WAS A STEPHEN STANKO
15 OR ANYONE ELSE, SIR, I COULDN'T TELL YOU.

16 Q WELL SIR, DO YOU REMEMBER HOW LONG YOU TALKED WITH
17 HER?

18 A NO, SIR, I DO NOT KNOW.

19 Q DO YOU REMEMBER WHETHER IT WAS IN THE MORNING OR THE
20 AFTERNOON?

21 A I DO NOT KNOW, SIR.

22 Q DO YOU REMEMBER WHETHER IT WAS A MONDAY OR A TUESDAY
23 OR A WEDNESDAY OR A THURSDAY?

24 A NO, SIR, I DO NOT.

25 Q OR THE PREVIOUS FRIDAY?

1 A NO, SIR. I CANNOT TELL YOU WHEN I TALKED TO HER.

2 Q WHO WAS YOUR PARALEGAL?

3 A I HAVE AN ASSISTANT NAMED SARAH HOLMES.

4 Q HAVE YOU CHECKED WITH SARAH TO SEE IF YOU HAVE ANY
5 NOTES FROM BACK THEN WHEN CONNIE PRICE TALKED WITH YOU?

6 A SIR, WHEN I RECEIVED YOUR SUBPOENA, I ASKED MISS
7 HOLMES FOR ANY NOTES THAT SHE WOULD HAVE REGARDING ANY
8 PHONE LOGS AND I ALSO SEARCHED MY OWN OFFICE FOR ANY OF
9 THE -- BECAUSE YOU HAD SPECIFICALLY REQUESTED DOCUMENTS
10 RELATED TO THAT CONNIE PRICE PHONECALL, I WENT THROUGH MY
11 OLD CALENDARS, I WENT THROUGH ALL MY OLD PAPERS SEARCHING
12 TO SEE IF I HAD ANYTHING TO PROVIDE TO YOU. I FOUND
13 NOTHING.

14 Q WELL SIR, LONG ABOUT FRIDAY MORNING THE DEATH OF
15 LAURA LING AND THE INJURY TO HER DAUGHTER WERE WIDELY
16 PUBLISHED HERE IN THIS COUNTY; WAS IT NOT?

17 A YES, SIR.

18 Q AND DID YOU NOT SAY TO YOURSELF, ISN'T THAT THE GUY
19 THAT SHE TOLD ME ABOUT?

20 A NO, SIR, I DID NOT.

21 Q SHE DIDN'T TELL YOU THE NAME?

22 A I DON'T RECALL HER TELLING ME THE NAME IF SHE DID.

23 Q HOW LONG DID YOU TALK TO HER?

24 A YOU ASKED ME THAT, SIR. I DON'T RECALL.

25 Q YOU DON'T RECALL?

1 A NO, SIR.

2 Q WELL NOW, WHAT DID SHE TELL YOU ABOUT THE
3 UNAUTHORIZED PRACTICE OF THE LAW?

4 A I BELIEVE THAT SOMEONE HAD PREPARED DOCUMENTS THAT --
5 AND THEY WEREN'T -- SHE FOUND OUT THEY WEREN'T A LAWYER.

6 Q DID SHE ALSO TELL YOU THAT THE PERSON WHO WAS DOING
7 THIS WAS EXHIBITING UNUSUAL AND IN HER WORDS OFTEN BIZARRE
8 BEHAVIOR?

9 A NOT THAT I RECALL, SIR.

10 Q YOU MEAN SHE TALKED TO YOU ABOUT THE PERSON WHO WAS,
11 AS YOU SAY, WAS PRACTICING THE LAW UNAUTHORIZED AND SHE
12 DIDN'T MENTION THAT TO YOU?

13 A I BELIEVE YOU SAID THAT, SIR.

14 Q I SAID WHAT, SIR?

15 A THE UNAUTHORIZED PRACTICE OF LAW. YOU SAID--

16 Q DIDN'T YOU SAY THAT SHE GAVE YOU FACTS WHICH YOU
17 INTERPRETED TO BE THE UNAUTHORIZED PRACTICE OF THE LAW?

18 A NO, SIR.

19 Q YOU DIDN'T SAY THAT?

20 A NO, SIR. WHAT I RECEIVED WAS A PINK NOTE THAT SAID
21 CALL CONNIE PRICE AT A CERTAIN NUMBER REGARDING UPL,
22 UNAUTHORIZED PRACTICE OF LAW, IS WHAT I UNDERSTOOD THAT TO
23 MEAN.

24 Q AND DID YOU CALL HER?

25 A I BELIEVE I DID.

1 Q AND DID YOU TALK WITH HER?

2 A I BELIEVE I DID.

3 Q AND YOU DON'T REMEMBER WHAT YOU SAID?

4 A NO, SIR.

5 Q AND YOU DON'T REMEMBER THAT SHE SAID TO YOU THE MAN'S
6 NAME WAS STEPHEN STANKO?

7 A NO, SIR.

8 Q DIDN'T YOU ASK HER -- WOULD YOU AS AN ATTORNEY, IF I
9 CALLED YOU AND I'M A COMMON CITIZEN AND TOLD YOU THAT
10 SOMEONE WAS PREPARING PAPERS FOR ME AND NOT DELIVERING
11 THEM AND I WAS PAYING MONEY TO THEM AND THERE -- WHAT
12 WOULD YOU TELL THEM?

13 A WELL, IN THE PAST I HAVE REFERRED PEOPLE TO THE BAR.
14 I HAVE ALSO REFERRED PEOPLE TO DISCIPLINARY COUNSEL. AND
15 I HAVE ALSO REFERRED PEOPLE TO POLICE ON OCCASION.

16 Q WELL, IF THEY WERE A LAWYER, YOU'D SEND THEM TO THE
17 BAR; WOULDN'T YOU?

18 A ABSOLUTELY.

19 Q AND IF THEY WERE AN ATTORNEY, YOU WOULD SEND THEM TO
20 THE DISCIPLINARY COUNSEL; WOULDN'T YOU?

21 A MOST CERTAINLY.

22 Q BUT IF THEY WERE NOT A LAWYER, PRETENDING TO BE A
23 LAWYER, THEN IT WOULD HAVE TO GO TO THE LOCAL POLICE;
24 WOULD IT NOT?

25 A PERHAPS, SIR, IT SHOULD.

1 Q OR THE SHERIFF'S DEPARTMENT DEPENDING ON WHETHER IT'S
2 INSIDE THE MUNICIPALITY OF THE COUNTY; CORRECT?

3 A IF YOU SAY SO, SIR, YES, SIR.

4 Q I'M ASKING YOU, SIR. YOU PRACTICE LAW IN GENERAL
5 SESSIONS COURT?

6 A YES, SIR, I DO.

7 Q AND HAVE YOU PRACTICED FELONIES IN THAT COURT?

8 A YES, SIR, I HAVE.

9 Q OKAY. THEN WHAT DO YOU DO WHEN THERE'S A CRIME?
10 WHERE DO YOU SEND IT?

11 A THEY SHOULD REPORT TO THE POLICE.

12 Q IF IT'S IN THE MUNICIPALITY, YOU DO; DON'T YOU?

13 A WHAT DO YOU--

14 Q IN HORRY COUNTY YOU HAVE A HORRY COUNTY PD; CORRECT?

15 A YES, SIR, WE DO.

16 Q OKAY. SO THAT YOU CAN SEND THEM TO THE POLICE
17 DEPARTMENT BECAUSE THAT'S HORRY COUNTY PEOPLE; RIGHT?

18 A YES, SIR.

19 Q OKAY. WHERE DID YOU SEND IT?

20 A I DON'T RECALL SENDING HER ANYWHERE, SIR.

21 Q WHY NOT?

22 A I DON'T KNOW, SIR.

23 Q WELL, DO YOU DO THAT WITH HER OR WITH EVERYBODY?

24 A DO WHAT?

25 Q WHEN A CITIZEN COMPLAINS TO YOU THAT SOMEBODY IS

1 PRETENDING TO BE A LAWYER, DO YOU NOT SEND THEM ANYWHERE?

2 A TYPICALLY -- IF YOU'RE ASKING ME GENERAL QUESTION AS
3 TO WHAT I DO WHEN I GET AN UNAUTHORIZED PRACTICE OF LAW
4 COMPLAINT, I TYPICALLY ASK FOR MORE INFORMATION. I DO NOT
5 RECALL WHETHER OR NOT I ASKED MS. PRICE FOR MORE
6 INFORMATION. I SIMPLY DON'T REMEMBER.

7 BUT IN THE END OF MY EXPERIENCE, THE TIMES THAT I
8 HAVE REQUESTED MORE INFORMATION, I HAVE NEVER GOTTEN
9 ANYTHING. I DON'T KNOW IF I ASKED HER FOR ANYTHING IN
10 THIS SPECIFIC INSTANCE, BUT I KNOW I NEVER RECEIVED
11 ANYTHING.

12 Q AND YOU DIDN'T FOLLOW UP ON IT; DID YOU?

13 A NO, SIR.

14 Q DID YOU TAKE DOWN HER NAME AND A TELEPHONE NUMBER?

15 A I HAD IT ON A PINK SHEET OF PAPER.

16 Q YOU WHAT?

17 A I HAD IT ON A PINK SLIP AS A PHONECALL TO RETURN. I
18 RETURNED THAT CALL.

19 Q NO, I MEAN WHEN YOU TALKED WITH HER. IF I'M A
20 CITIZEN AND I CALL YOU AND I'M REPORTING A CRIME, WHAT
21 INFORMATION DID YOU TAKE FROM ME?

22 A TYPICALLY I WOULD TAKE YOUR NAME AND PHONE NUMBER.

23 Q AND WHAT WOULD YOU DO WITH IT?

24 A I WOULD -- WELL, THE CITIZEN THEIRSELF, WOULD -- I
25 WOULD INSTRUCT THEM TO CALL THE POLICE TYPICALLY.

1 Q WHAT WOULD YOU DO WITH THE INFORMATION YOU TOOK FROM
2 ME?

3 A FROM YOU?

4 Q YOU ASKED ME FOR MY NAME?

5 A HYPOTHETICALLY?

6 Q AND YOU WROTE MY NAME DOWN?

7 A YES, SIR.

8 Q AND YOU ASKED ME FOR MY TELEPHONE NUMBER AND YOU
9 WROTE IT DOWN, AND THAT'S ALL YOU ASKED ME ABOUT. WHAT
10 WOULD YOU DO WITH THE INFORMATION, TRASH IT?

11 A I IMAGINE I WOULD KEEP IT FOR SOME TIME. I DON'T
12 KNOW HOW LONG, BUT...

13 Q WELL, LAURA LING IS MURDERED WITHIN A WEEK. WOULD
14 YOU KEEP IT THAT LONG?

15 A I HAVE NO IDEA, SIR.

16 Q WHY DON'T YOU HAVE SOME IDEA?

17 A PARDON ME? WELL, I -- IF YOU WOULD LIKE TO KNOW HOW
18 I FOUND OUT THAT STEPHEN STANKO WAS INVOLVED IN THIS,
19 INVESTIGATOR BROWN CAME BY MY OFFICE, I DON'T KNOW,
20 WITHIN -- WITHIN TWO WEEKS AFTER MR. STANKO MURDERED THOSE
21 FOLKS, AND HE TOLD ME THAT, DID YOU TALK TO CONNIE PRICE?
22 AND I SAID, YES, SIR, I DID.

23 AND HE SAID, DID YOU KNOW THAT IT WAS STEPHEN STANKO?
24 AND I HAD A MOMENT WHERE I PAUSED AND I DID NOT KNOW THAT
25 IT WAS STEPHEN STANKO UNTIL INVESTIGATOR BROWN TOLD ME SO.

1 Q WELL, LET ME ASK YOU SOMETHING. WHAT'S THE OFFICE
2 POLICY IN THE SOLICITOR'S OFFICE WHEN A CITIZEN CALLS AND
3 IS PUT THROUGH TO YOU AND REPORTS A CRIME. WHAT'S THE
4 OFFICE POLICY?

5 A I DON'T KNOW A STATED POLICY, BUT COMMON SENSE WOULD
6 SAY TO ASSESS THEIR PROBLEM AND -- AND ADVISE THEM.

7 Q IS THERE NO OFFICE POLICY?

8 A NOT THAT I HAVE BEEN INSTRUCTED AS TO THOSE CALLS.

9 Q WELL, YOU KNOW, SIR, YOU'RE AN ATTORNEY; CORRECT?

10 A I AM AN ATTORNEY.

11 Q IT'S A LITTLE BIT BEYOND COMMON SENSE, ISN'T IT?
12 AREN'T ATTORNEYS GOING TO FOLLOW RULES, SO TO SPEAK,
13 WITHIN THE PROFESSION?

14 A YES, SIR.

15 Q OKAY. NOW, I'M ASKING YOU THIS QUESTION. WAS THERE
16 AN OFFICE POLICY THAT YOU WERE TO FOLLOW WHEN A CITIZEN
17 REPORTED A CRIME TO YOU?

18 A NO, SIR.

19 Q IS THERE ONE THERE NOW?

20 A NOT TO MY KNOWLEDGE.

21 Q ALL RIGHT. IF IT'S NOT AN OFFICE POLICY THERE, THEN
22 WHAT DOES A TRAINED ATTORNEY DO WHEN A CITIZEN CALLS THEM
23 AND REPORTS A CRIME?

24 A WHAT -- COULD YOU REPEAT THE QUESTION, PLEASE.

25 Q SIR, AS AN ATTORNEY, ARE YOU AN OFFICER OF THE COURT?

1 A YES, SIR.

2 Q WHAT DO YOU DO AS AN OFFICER OF THE COURT AND A
3 MEMBER OF THE SOLICITOR'S OFFICE WHEN A CITIZEN CALLS YOU
4 AND REPORTS CRIMES?

5 A TYPICALLY I WOULD REFER THEM TO THE POLICE BECAUSE
6 THERE'S OFTEN MORE BEHIND IT THAN I AM ABLE TO DO. SIR,
7 THE SOLICITOR'S OFFICE RECEIVES FILES FROM POLICE
8 AGENCIES.

9 I HAVE INVESTIGATORS THAT WILL ASSIST ME IN FILLING
10 THE GAPS ON FILES FOR CASES THAT ARE ALREADY MADE.
11 TYPICALLY WE DO NOT DEVELOP OUR OWN FILES. TYPICALLY WE
12 DO NOT INVESTIGATE OUR OWN CASES.

13 WE RECEIVE CASE FILES AND WE PROSECUTE THEM WITH THE
14 INFORMATION WE HAVE. IF THERE IS INFORMATION LACKING, WE
15 SEND FOLKS OUT TO FIND OUT THAT INFORMATION.

16 Q WELL, YOU DO GET CALLS FROM CITIZENS; DO YOU NOT?

17 A YES, SIR.

18 Q ALL RIGHT. IN FACT, HAVEN'T EVEN YOUR OWN NEIGHBORS
19 ASKED YOU FOR ADVICE OVER THE YEARS THAT YOU HAVE BEEN AN
20 ATTORNEY?

21 A YES, SIR.

22 Q HAVE -- PEOPLE DON'T JUST CALL YOU, DO THEY? THEY
23 WOULD MEET WITH YOU JUST BY HAPPENSTANCE AND ASK YOU FOR
24 ADVICE ON HOW TO PROCEED IN A CRIMINAL MATTER THAT THEY'RE
25 INVOLVED IN. DON'T THEY DO THAT?

1 A PEOPLE ASK ALL KINDS OF QUESTIONS.

2 Q DO THEY OR DO THEY NOT OVER YOUR CAREER PERIOD OF
3 TIME?

4 A YES.

5 Q OKAY. BUT WHEN THEY DO THAT OUT IN YOUR BACK YARD OR
6 THEY DO IT OUT IN YOUR COMMUNITY, THAT'S A DIFFERENT PLACE
7 THAN IN YOUR OFFICE. IS THAT NOT CORRECT?

8 A ALMOST BY DEFINITION.

9 Q WELL, BY DEFINITION OR OTHERWISE WHEN YOU'RE ON THE
10 JOB YOU'RE DEALING WITH THE PUBLIC AND THEY'RE MAKING
11 COMPLAINTS; RIGHT?

12 A NOT EVERYONE COMPLAINS.

13 Q SOME DO, DON'T THEY?

14 A WELL--

15 Q WELL, DID CONNIE?

16 A PARDON?

17 Q DID CONNIE COMPLAIN TO YOU?

18 A CONNIE HAD APPROACHED ME WITH A QUESTION.

19 Q CONNIE PRICE APPROACHED YOU WITH A QUESTION?

20 A SHE ASKED A -- SHE HAD A COMMENT ABOUT UNAUTHORIZED
21 PRACTICE OF LAW.

22 Q AND THAT DIDN'T -- AND YOU DIDN'T SAY, WELL, WHO IS
23 IT? WHAT'S THE NAME OF THIS PERSON?

24 A I DON'T RECALL ASKING THAT QUESTION.

25 Q WELL, YOU DIDN'T SAY, UM, WHERE DO YOU LIVE, MA'AM,

1 WHAT COUNTY?

2 A NO, SIR. I DON'T RECALL. I MIGHT HAVE. SIR, I
3 MIGHT HAVE. IF I DID, I DON'T RECALL.

4 Q WELL SIR, IF A CITIZEN FROM AROUND HERE CALLS YOU AND
5 YOU WERE GOING TO SUGGEST THAT THEY WENT TO GO TO A LAW
6 ENFORCEMENT AGENCY, YOU WOULD NEED TO KNOW WHAT COUNTY
7 THEY WERE IN; WOULDN'T YOU?

8 A YES, SIR.

9 Q BECAUSE YOU CAN'T BRING THE CHARGE UNLESS YOU BRING
10 IT IN THE COUNTY WHERE IT TAKES PLACE. IS THAT NOT RIGHT?

11 A YES, SIR.

12 Q SO YOU WOULD ASK THEM THAT; WOULDN'T YOU?

13 A SIR, I DON'T KNOW. IF YOU'RE ASKING ME SPECIFICALLY
14 AS TO CONNIE PRICE, I DON'T RECALL WHETHER I ASKED HER
15 ANYTHING.

16 Q WELL SIR, IF YOU'RE NOT GOING TO GIVE THEM ANY LEGAL
17 ADVICE, YOU SURE AIN'T GOING TO ASK THEM ABOUT THE COUNTY,
18 ARE YOU? ARE YOU?

19 A IF I'M NOT GOING TO GIVE--

20 Q IF I CALL YOU AND I'M A CITIZEN AND I'M REPORTING A
21 CRIME TO YOU AND YOU'RE NOT GOING TO GIVE ME ANY ADVICE AS
22 TO WHERE I SHOULD GO, YOU'RE CERTAINLY NOT GOING TO ASK ME
23 WHAT COUNTY I'M IN; RIGHT?

24 A I DON'T UNDERSTAND THE QUESTION.

25 Q WELL, IF YOU GO TO GIVE ADVICE TO SOMEBODY AS TO

1 WHERE TO FILE A CHARGE, YOU HAVE TO KNOW WHAT COUNTY;
2 DON'T YOU?

3 A YOU SHOULD KNOW THE COUNTY.

4 Q SIR, YOU ARE AN ATTORNEY; ARE YOU NOT?

5 A AS ARE YOU, SIR.

6 Q ALL RIGHT. AND SO YOU WOULD HAVE TO TELL THEM, ASK
7 THEM WHAT COUNTY THEY ARE IN IN ORDER TO TELL THEM WHERE
8 TO GO; ISN'T THAT RIGHT?

9 A WELL, ACTUALLY YOU COULD SAY, CALL THE POLICE. I
10 WOULD ASSUME THAT THE PERSON CALLING WOULD KNOW WHERE THEY
11 ARE.

12 Q WELL, LET'S FOLLOW UP ON THAT. YOU COULD ALWAYS SAY
13 TO THEM, WELL, CALL YOUR LOCAL POLICE STATION; RIGHT?

14 A YOU COULD SAY THAT, SIR, AND THAT WOULD PROBABLY BE
15 GOOD ADVICE.

16 Q DID YOU DO THAT?

17 A I DON'T RECALL WHETHER I DID OR NOT.

18 Q AND THAT'S BECAUSE YOU CAN'T REMEMBER; ISN'T IT?

19 A IF I CAN'T RECALL, SIR, I CAN'T REMEMBER.

20 Q AND YOU ALSO DON'T HAVE ANY NOTES ON IT EITHER; DO
21 YOU?

22 A NO, SIR. I DO -- I DO NOT HAVE ANY NOTES.

23 Q IS THAT THE WAY YOU'RE GOING TO CONDUCT BUSINESS OVER
24 AT THE SOLICITOR'S OFFICE FROM NOW ON? YOU -- IS THAT THE
25 WAY YOU'RE GOING TO TREAT YOUR CITIZENS FROM NOW ON OUT?

1 IS THAT THE WAY TO DO IT?

2 A I DON'T KNOW WHAT YOU'RE IMPLYING, SIR.

3 Q HOW MANY LAURA LINGS DO YOU WANT TO FIND?

4 MR. HUMPHRIES: I OBJECT, YOUR HONOR.

5 THE COURT: SUSTAINED.

6 MR. HUMPHRIES: THANK YOU.

7 THE COURT: THE JURY WILL DISREGARD THE LAST
8 QUESTION OF COUNSEL AND GIVE IT ABSOLUTELY NO
9 CONSIDERATION IN ITS DELIBERATIONS. YOU MAY
10 REPHRASE, MR. KELLY.

11 BY MR. KELLY:

12 Q AS AN ATTORNEY, IS THAT A PROPER WAY TO CONDUCT YOUR
13 BUSINESS WHEN A CITIZEN CALLS YOU?

14 A WELL, I HAVE BEEN WAITING HERE ALL DAY AND THERE'S
15 PROBABLY -- IT'S POSSIBLE THAT THE NEXT STEPHEN STANKO IS
16 ON MY VOICEMAIL AT THE OFFICE AND I HAVEN'T BEEN THERE TO
17 ANSWER THE CALL, SO...

18 Q BUT IF YOU DO, IS THAT THE PROPER WAY TO DO IT?

19 A SIR, I WILL TAKE EACH CALL AS THEY COME.

20 Q EXCUSE ME?

21 A I WILL TAKE EACH CALL AS THEY COME.

22 Q THANK YOU SO MUCH.

23 A THANK YOU, SIR.

24 MR. KELLY: APPRECIATE IT. YOUR WITNESS.

25 THE COURT: ANY QUESTIONS FOR THE WITNESS?

1 MR. HUMPHRIES: JUST A COUPLE.

2 THE COURT: YOU MAY PROCEED.

3 CROSS-EXAMINATION

4 BY MR. HUMPHRIES:

5 Q SAM, WE HAVE BEEN TALKING ABOUT A LOT OF
6 HYPOTHETICALS HERE TODAY. YOU HAVE TESTIFIED THAT YOU
7 DON'T RECALL THE SUBSTANCE OF THAT CALL FROM CONNIE. IS
8 THAT FAIR TO SAY?

9 A YES, SIR.

10 Q BUT IF, AS SUGGESTED BY THE DEFENSE, CONNIE PRICE HAD
11 TOLD YOU THAT THERE WAS SOMEONE THAT SHE SUSPECTED WAS
12 PRACTICING LAW WITHOUT A LICENSE, IF THAT WERE TRUE, WHAT
13 WOULD YOU HAVE DONE IN TERMS OF ASSISTING HER?

14 A TYPICALLY I WOULD HAVE REFERRED HER TO THE BAR OR THE
15 POLICE OR DISCIPLINARY COUNSEL.

16 Q OKAY. LET'S TALK JUST A BIT ABOUT ON CALL SERVICE.
17 WHAT ARE THE DUTIES OF AN ON CALL SOLICITOR FOR THE PERIOD
18 OF TIME THAT YOU'RE ON CALL?

19 A IT'S -- WE CALL IT ON CALL SOLICITOR. I BELIEVE THAT
20 THE TERM THAT WE USE IS ELA WHICH IS EARLY LEGAL
21 ASSISTANCE. TYPICALLY IT INVOLVES CALLS FROM POLICE
22 OFFICERS WHO HAVE QUESTIONS ABOUT CASES THAT THEY'RE
23 WORKING ON THE STREET AT THE TIME AND THEY WANT TO KNOW
24 CHARGING QUESTIONS. THAT IS PART OF IT.

25 AND THERE'S ALSO FOLKS THAT COME AND VISIT THE OFFICE

1 AS WELL AS -- CITIZENS THAT VISIT THE OFFICE AS WELL AS
2 CITIZENS THAT REACH US BY TELEPHONE. WHEN A PERSON SUCH
3 AS THAT CALLS, IT'S DIRECTED TO THE ON CALL SOLICITOR.

4 Q SO YOU GET EVERYBODY THAT WALKS IN THE DOOR OR CALLS
5 THAT ISN'T OTHERWISE ASSIGNED TO ANOTHER PROSECUTOR?

6 A YES, SIR.

7 Q ANY FORWARNING ABOUT THESE CALLS BEFORE THEY COME IN?

8 A NO, SIR. AND OFTEN TIMES WE'RE DOING OUR REGULAR JOB
9 DUTIES WHILE WE'RE DOING -- WE'RE CARRYING THE TELEPHONE
10 OR ANSWERING THE PINK PIECES OF PAPER WE GET, ET CETERA.

11 Q DO YOU GET JUST A FEW OF THEM OR A LOT OF THEM DURING
12 THE WEEK?

13 A I WOULD SAY TYPICALLY MORE THAN 20 IN A WEEK'S TIME.

14 Q AND LET ME ASK YOU IN GENERAL, SAM. WHEN A CITIZEN
15 CALLS YOU REGARDING A COMPLAINT, DO YOU GIVE THEM AN
16 OPPORTUNITY TO TELL YOU WHAT THE COMPLAINT IS?

17 A ABSOLUTELY.

18 Q AND DO YOU TRY TO THE BEST OF YOUR ABILITY TO ASSIST
19 THEM?

20 A YES, SIR.

21 Q INCLUDING REFERRING TO LAW ENFORCEMENT IF YOU DEEM IT
22 APPROPRIATE?

23 A YES, SIR.

24 Q AND LET'S SAY THAT JUST FOR INSTANCE CONNIE PRICE
25 ALLEGES THIS UNLAWFUL PRACTICE OF LAW IN HORRY COUNTY. TO

1 WHOM WOULD SHE HAVE BEEN REFERRED?

2 A AS I STATED, EITHER THE HORRY COUNTY POLICE -- I
3 DON'T RECALL WHAT I TOLD HER.

4 Q CERTAINLY.

5 A BUT TYPICALLY I WOULD REFER HER TO EITHER
6 DISCIPLINARY COUNSEL OF THE BAR OR THE BAR ITSELF OR THE
7 POLICE.

8 Q WOULD IT SURPRISE YOU THAT CONNIE PRICE IN FACT DID
9 ULTIMATELY CALL THE HORRY COUNTY POLICE DEPARTMENT?

10 A IF SHE HAD A COMPLAINT, THAT WAS THE PROPER PARTY
11 TO -- TO ASK.

12 Q THANK YOU SO MUCH.

13 THE COURT: ANY QUESTIONS IN REDIRECT?

14 MR. KELLY: NO, MA'AM.

15 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
16 EXCUSED FROM THE STATE?

17 MR. HUMPHRIES: NONE FROM THE STATE.

18 THE COURT: FROM THE DEFENSE?

19 MR. KELLY: NO, MA'AM.

20 THE COURT: SIR, YOU'RE EXCUSED.

21 THE WITNESS: THANK YOU.

22 THE COURT: YOU'RE WELCOME.

23 (WITNESS LEFT THE STAND).

24 THE COURT: MADAM FORELADY, LADIES AND
25 GENTLEMEN, IT'S 6:21. WE ARE GOING TO TAKE ADVANTAGE

1 OF THIS BREAK IN TESTIMONY TO TAKE OUR EVENING
2 RECESS.

3 DURING THE BREAK PLEASE HAVE NO DISCUSSION ABOUT
4 THIS CASE AMONG YOURSELVES. PLEASE LEAVE YOUR
5 NOTEPADS IN YOUR SEATS. I HOPE THAT YOU ALL HAVE A
6 RESTFUL AND ENJOYABLE EVENING. WE WILL SEE YOU IN
7 THE MORNING AT 9:30. IF YOU WOULD GO WITH YOUR
8 CUSTODIANS.

9 (JURY LEFT THE COURTROOM AT 6:21 PM.)

10 THE COURT: YOU MAY BE SEATED. IS THERE
11 ANYTHING THAT WE NEED TO TAKE UP THIS EVENING BEFORE
12 WE ADJOURN?

13 MR. HEMBREE: NO, YOUR HONOR, JUST DON'T KNOW --
14 NO REASON TO DO IT TONIGHT, BUT MAY WANT TO THINK
15 ABOUT. IT LOOKS LIKE WE MAY WRAP UP THE DEFENSE CASE
16 TOMORROW, AND I KNOW THE -- MAY WANT TO QUERY.

17 THE COURT: YOU INDICATED THAT -- OH, I'VE
18 ALREADY HAD THAT PLANNED INTO MY STRUCTURE.

19 MR. HEMBREE: SOMETHING ON MY MIND.

20 THE COURT: IT'S ALWAYS GOOD TO REMIND ME. NOT
21 A PROBLEM. AS I UNDERSTAND IT, YOU ALL HAVE -- AND
22 I'M REFERRING TO THE DEFENSE -- ABOUT MAYBE NINE MORE
23 WITNESSES TOMORROW? ONE FAIRLY LENGTHY. THE REST IS
24 FAIRLY QUICK?

25 MR. KELLY: YES, MA'AM.

1 THE COURT: IS THAT AN ACCURATE ESTIMATE?

2 MR. KELLY: YES, MA'AM. THAT'S ACCURATE.

3 THE COURT: THE STATE HAS ESTIMATED THAT THEY
4 MAY HAVE ONE REBUTTAL WITNESS. I ASSUME BASED ON
5 THAT SCHEDULE THAT WE SHOULD CONCLUDE TESTIMONY
6 TOMORROW.

7 I PLAN TO HAVE A CHARGE CONFERENCE AT THE
8 CONCLUSION OF THAT TESTIMONY. I HAVE BEEN WORKING ON
9 MY CHARGE AS WE HAVE BEEN LISTENING TO THIS LAST BIT
10 OF TESTIMONY.

11 AND I WILL ALSO HAVE ALREADY PREPARED THE
12 APPROPRIATE VERDICT FORMS THAT WILL GO TO THE JURY,
13 THAT BEING THE STATUTORY INSTRUCTIONS DOCUMENT, THE
14 RECOMMENDATION OF LIFE IMPRISONMENT, NO FINDING OF
15 AGGRAVATING CIRCUMSTANCES, THE RECOMMENDATION OF
16 DEATH DOCUMENT, AS WELL AS AGGRAVATING CIRCUMSTANCES
17 DOCUMENT.

18 AND I WILL HAVE COPIES -- IF YOU ALL WOULD BEAR
19 WITH ME -- I'M GOING TO HAVE MY CLERK MAKE COPIES OF
20 EACH OF THESE FOR ME SO THAT YOU WILL HAVE THEM
21 AVAILABLE TO YOU THIS EVENING TO REVIEW.

22 AND DR. SPICER, IS THAT HIS NAME? BECAUSE
23 DURING CHAMBERS -- AND I APOLOGIZE WE DIDN'T PUT THIS
24 ON THE RECORD. I TOLD YOU ALL THAT I WOULD DO
25 ANYTHING THAT WAS NECESSARY TO EXPEDITE HIM BEING

1 HERE IF THAT WERE NECESSARY.

2 MR. DIGGS: YOUR HONOR, WE ARE NOT GOING TO CALL
3 HIM. THANK YOU VERY MUCH.

4 THE COURT: OKAY. I JUST WANTED TO MAKE SURE
5 THAT THAT IS CLEAR THAT IF HE NEEDED MY ASSISTANCE,
6 THAT I STOOD READY TO ASSIST YOU AS WELL AS THE STATE
7 INDICATED A WILLINGNESS TO PROVIDE YOU WITH
8 ADDITIONAL PHONE NUMBERS OR OTHERWISE TO ASSURE HIS
9 APPEARANCE.

10 AND ACTUALLY WHAT I INDICATED TO YOU IS I
11 THOUGHT HE WAS VERY ACCOMMODATING AND I FIGURED IF
12 YOU JUST CALLED HIM, HE'D COME, AND YOU WOULDN'T HAVE
13 TO GO THROUGH THE NECESSITY OF SUBPOENA OR OTHERWISE.

14 MR. DIGGS: THANK YOU, YOUR HONOR.

15 THE COURT: YOU'RE WELCOME. OKAY. IS THERE
16 ANYTHING ELSE WE NEED TO TAKE UP BEFORE WE ADJOURN?

17 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
18 HONOR.

19 THE COURT: ANYTHING FROM THE DEFENSE?

20 MR. DIGGS: NO, YOUR HONOR.

21 THE COURT: OKAY. Y'ALL JUST BEAR WITH SUMMER,
22 SHE'LL GET YOU COPIES OF EACH OF THOSE SO YOU CAN
23 HAVE THEM AND I WILL ALSO GIVE YOU ALL A COPY OF MY
24 CHARGE. I MAY SIT HERE AND FINISH IT, AND SO I COULD
25 GET A COPY IN THE MORNING.

1 DO YOU ALL HAVE ANY PROPOSED CHARGES YOU ALL
2 WANT ME TO CONSIDER OR DO Y'ALL WANT TO FOLLOW THE
3 SAME PROCEDURE THAT WE DID THE LAST TIME WHICH IS TO
4 GO OVER IT AND THEN IF THERE IS ANYTHING Y'ALL WANT
5 TO GIVE ME...

6 MR. DIGGS: YOUR HONOR, I THOUGHT THAT WORKED
7 VERY WELL.

8 THE COURT: I JUST DON'T WANT Y'ALL TO GO TO
9 EXTRA WORK IF YOU DON'T HAVE TO.

10 MR. DIGGS: THANK YOU VERY MUCH.

11 THE COURT: YOU HAVE GOT ENOUGH ON YOUR PLATE.
12 AND IF WE CAN ELIMINATE THAT, I CERTAINLY WANT TO
13 MAKE GOOD USE. Y'ALL HAVE A GOOD EVENING. GET SOME
14 REST.

15 MR. HEMBREE: THANK YOU, JUDGE.

16 THE COURT: MR. KELLY, DO YOU NEED US TO HELP
17 YOU WITH ANYTHING OR ARE YOU STRAIGHT?

18 MR. KELLY: I THINK I'M STRAIGHT. THANK YOU.

19 THE COURT: YOU'RE WELCOME.

20 (COURT IN RECESS FOR EVENING.)

21 ***** AUGUST 17, 2006 *****

22 THE COURT: IS EVERYBODY READY?

23 MR. HEMBREE: STATE'S READY, YOUR HONOR.

24 THE COURT: IS THE DEFENSE READY?

25 MR. KELLY: YES, MA'AM.

1 THE COURT: ALL RIGHT. LET'S BRING IN THE
2 DEFENDANT. OH, WE NEED MR. STANKO. I THOUGHT WE
3 ALREADY BROUGHT HIM IN. I'M SORRY. I APOLOGIZE.

4 (DEFENDANT ENTERED THE COURTROOM.)

5 THE COURT: WE ALL SITUATED? IS THE STATE READY
6 TO PROCEED?

7 MR. HEMBREE: YES, YOUR HONOR.

8 THE COURT: THE DEFENSE READY TO PROCEED?

9 MR. DIGGS: YES, YOUR HONOR.

10 THE COURT: PLEASE BRING IN THE JURY.

11 (JURY ENTERED THE COURTROOM AT 9:45 AM.)

12 THE COURT: YOU MAY BE SEATED. LADIES AND
13 GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL EVENING.
14 WE APOLOGIZE FOR ANY DELAY. WE NEEDED TO GET OUR
15 TECHNOLOGY SET UP SO THAT WE COULD RUN WITHOUT
16 INTERRUPTION.

17 SO AGAIN, WE APPRECIATE YOUR TIME AND YOUR
18 PATIENCE. WE WILL NOW RESUME WITH THE TRIAL. MR.
19 DIGGS, MR. KELLY, YOU MAY PROCEED.

20 MR. DIGGS: CALL LOUIS MURDEN.

21 THE COURT: OH, YOU NEED YOUR PADS; DON'T YOU?
22 DID THE CLERK GO GET THEM?

23 LOUIS MURDEN, AFTER BEING
24 DULY SWORN, TESTIFIED AS FOLLOWS:

25 THE WITNESS: MY NAME IS LOUIS MURDEN,

1 M-U-R-D-E-N.

2 THE COURT: WAIT FOR A MOMENT FOR ME, MR. KELLY,
3 SO WE CAN PASS OUT THE NOTEPADS. EVERYBODY SITUATED?
4 SIR, IF YOU COULD PLEASE REPEAT YOUR NAME FOR US AND
5 SPELL YOUR LAST NAME FOR THE COURT REPORTER.

6 THE WITNESS: MY NAME IS LOUIS MURDEN, AND IT'S
7 SPELLED M-U-R-D-E-N.

8 THE COURT: AND SIR, WOULD YOU SCOOT YOUR CHAIR
9 A LITTLE CLOSER TO THE MICROPHONE FOR US AND SPEAK
10 DIRECTLY INTO IT? THANK YOU. MR. KELLY, YOU MAY
11 PROCEED.

12 MR. KELLY: THANK YOU, MA'AM.

13 THE COURT: YOU'RE WELCOME.

14 DIRECT EXAMINATION

15 BY MR. KELLY:

16 Q MR. MURDEN, THANK YOU FOR COMING THIS MORNING. TELL
17 THE JURY WHERE DO YOU WORK OR WHERE ARE YOU EMPLOYED?

18 A I'M A PSYCHOTHERAPIST IN PRIVATE PRACTICE AND I'M
19 EMPLOYED BY PROFESSIONAL COUNSELING ASSOCIATES
20 INCORPORATED.

21 Q AND DO YOU HOLD ANY DEGREES IN YOUR FIELD OF SCIENCE?

22 A YES. I HAVE A MASTER'S DEGREE IN SOCIAL WORK AND I'M
23 LICENSED AS A CLINICAL SOCIAL WORKER IN SOUTH CAROLINA.

24 Q AND MR. MURDEN, HOW LONG HAVE YOU BEEN INVOLVED IN
25 THIS TYPE OF PROFESSION?

1 A SINCE 1994.

2 Q AND MR. MURDEN, DO YOU KNOW OR ARE YOU FAMILIAR WITH
3 STEPHEN STANKO?

4 A YES, I AM.

5 Q AND TELL THE JURY HOW YOU ARE FAMILIAR WITH HIM.

6 A WELL, IN TWO WAYS. FROM THE PRESS, OF COURSE, AND
7 FROM -- FROM A TELEPHONE CALL THAT I RECEIVED AT -- WHERE
8 THE CALLER IDENTIFIED HIMSELF AS MR. STANKO.

9 Q AND WHEN WAS THIS THAT YOU RECEIVED THIS CALL?

10 A IT WAS ON APRIL THE FIFTH OF LAST YEAR.

11 Q APRIL THE FIFTH?

12 A YES, SIR.

13 Q ARE YOU LOOKING AT--

14 A APRIL 5TH, 2005.

15 Q ARE YOU LOOKING AT RECORDS TO REMIND YOU OF WHEN THE
16 CALL CAME IN?

17 A YES, SIR, A PAGE OF MY DAYTIMER IN WHICH I MADE A
18 NOTE OF THE CALL.

19 Q OKAY. AND SO YOU HAVE A WRITTEN RECORD OF THE CALL
20 COMING IN?

21 A YES, SIR.

22 Q AND DID YOU -- DO YOU HAVE A RECORD OR DO YOU
23 REMEMBER WHAT WAS THE CONTENT OF THE -- OF THE CALL?

24 MR. HEMBREE: YOUR HONOR, I MUST OBJECT. THE
25 OBJECTION IS HEARSAY.

1 THE COURT: PLEASE REPEAT THE QUESTION.

2 BY MR. KELLY:

3 Q DO YOU HAVE A RECOLLECTION OR A REPORT BEFORE YOU
4 THAT TELLS YOU THE CONTENT OF THE CALL?

5 THE COURT: PLEASE APPROACH. WELL... BEAR WITH
6 ME ONE MOMENT.

7 (WHEREUPON THERE WAS A BENCH CONFERENCE.)

8 THE COURT: THE OBJECTION IS SUSTAINED.
9 HEARSAY. THE WITNESS MAY SAY WHAT HE DID AS A RESULT
10 OF THE PHONECALL.

11 BY MR. KELLY:

12 Q DID YOU RECEIVE THIS CALL AT YOUR BUSINESS NUMBER?

13 A YES, SIR.

14 Q WAS THIS -- CONTENT OF THIS CALL HAVING TO DO WITH
15 YOUR BUSINESS WORK?

16 A YES, SIR.

17 Q DID IT HAVE ANYTHING TO DO WITH ANY PERSONAL MATTER
18 OF YOUR OWN OR ANYONE ELSE?

19 A NO.

20 Q AS A RESULT OF THIS CALL -- OR WHAT DID YOU DO?

21 A A TELEPHONE NUMBER WAS LEFT FOR A RETURN CALL AND I
22 DID CALL THAT NUMBER, BUT I DID NOT REACH ANYONE AT THAT
23 NUMBER.

24 Q DID YOU LEAVE ANY MESSAGE AT THAT NUMBER?

25 A I DON'T RECALL.

1 Q DO YOU -- YOU DON'T HAVE ANY NOTES OR RECORDS TO
2 REFLECT WHETHER YOU DID OR YOU DID NOT?

3 A NO, I DON'T.

4 Q AND WERE -- WERE YOU RETURNING THE CALL IN YOUR -- IN
5 YOUR PROFESSIONAL CAPACITY AS -- AND I WILL JUST REFER TO
6 IT AS A SOCIAL WORKER PROFESSIONAL?

7 A YES, SIR.

8 Q THANK YOU, SIR. YOUR WITNESS.

9 THE COURT: YOU MAY PROCEED.

10 MR. HEMBREE: THANK YOU, YOUR HONOR.

11 THE COURT: YOU'RE WELCOME.

12 CROSS-EXAMINATION

13 BY MR. HEMBREE:

14 Q MR. MURDEN, YOU DO SOCIAL WORK IN FAMILY -- FAMILY
15 COUNSELING?

16 A YES, SIR.

17 Q OKAY. I HAVE NO FURTHER QUESTIONS. THANKS.

18 THE COURT: ANY REDIRECT OF THE WITNESS?

19 MR. KELLY: NO, MA'AM. THANK YOU FOR COMING,
20 SIR.

21 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
22 EXCUSED BY THE STATE?

23 MR. HEMBREE: NONE FROM THE STATE.

24 THE COURT: BY THE DEFENSE?

25 MR. KELLY: NONE, MA'AM.

1 THE COURT: OKAY. SIR, YOU'RE EXCUSED.

2 (WITNESS LEFT THE STAND.)

3 THE COURT: YOU MAY PROCEED.

4 MR. DIGGS: YOUR HONOR, THE DEFENSE WOULD CALL
5 DR. JAMES THRASHER.

6 DR. JAMES THRASHER, AFTER
7 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. DIGGS:

10 Q DR. THRASHER, I WANT TO ASK YOU KIND OF TO GO OVER
11 AGAIN YOUR EDUCATION AND TRAINING.

12 A YES.

13 Q CAN YOU GIVE US THE BENEFIT OF ANY DEGREES YOU HOLD
14 IN YOUR AREA OF SPECIALTY OR IN YOUR PROFESSION?

15 A I HOLD A BACHELOR OF SCIENCE DEGREE FROM MY
16 UNDERGRADUATE SCHOOL TRAINING AND I HAVE A MEDICAL DEGREE
17 FROM MY MEDICAL SCHOOL TRAINING AND I HAVE A JURIS
18 DOCTORATE DEGREE FROM MY LAW SCHOOL TRAINING.

19 Q NOW, LET ME ASK YOU, HAVE YOU EVER PRACTICED
20 MEDICINE?

21 A EVER? YES.

22 Q AS A GENERAL PHYSICIAN?

23 A YES, I HAVE.

24 Q AND FOR HOW MANY YEARS?

25 A WELL, I GRADUATED IN 1965 AND I SPENT -- I WAS

1 LICENSED AT THAT TIME, WAS A LICENSED PHYSICIAN. SPENT
2 THE NEXT YEAR ON A GENERAL ROTATING INTERNSHIP WHERE I DID
3 GENERAL MEDICINE IN ALL AREAS.

4 Q ALL RIGHT. AND DID YOU EVER HAVE OCCASION TO DELIVER
5 A BABY?

6 A YES, I DID.

7 Q AND ON HOW MANY OCCASIONS?

8 A I THINK I ACCUMULATED A TOTAL OF ABOUT 350 DELIVERIES
9 TO MY EXPERIENCE.

10 MR. DIGGS: ALL RIGHT. YOUR HONOR, WE WOULD
11 OFFER THE WITNESS AS AN EXPERT IN GENERAL -- AS A
12 GENERAL PHYSICIAN.

13 THE COURT: ANY OBJECTIONS OR -- ANY QUESTIONS
14 OR OBJECTIONS?

15 MR. HEMBREE: NO QUESTIONS, NO OBJECTIONS, YOUR
16 HONOR.

17 THE COURT: SO ADMITTED. YOU MAY PROCEED.

18 BY MR. DIGGS:

19 Q DR. THRASHER, I WANT TO FOCUS YOUR ATTENTION NOW ON
20 THE MEDICAL RECORDS THAT HAVE BEEN INTRODUCED INTO
21 EVIDENCE IN THIS CASE. AND I WANT TO ASK -- WOULD YOU
22 COME UP AND HELP RE-ESTABLISH THIS CONNECTION FOR ME? ALL
23 RIGHT. AND GO PULL UP THOSE RECORDS, PLEASE MA'AM.

24 A WHICH ONE WOULD YOU LIKE?

25 Q CAN YOU PULL THEM UP? THEY ARE RUNNING? YOU SEE

1 THOSE?

2 A OVER--

3 Q YEAH, OKAY. NOW, YOU HAVE OPENED UP THE BABY'S
4 RECORDS, THE BIRTH RECORDS; CORRECT?

5 A I DID.

6 Q NOW, BEFORE WE GET TO THAT, LET ME ASK YOU, DID YOU
7 EVER HAVE OCCASION TO WORK IN A NAVAL HOSPITAL FACILITY?

8 A MANY TIMES.

9 Q AND IN WHAT CAPACITY?

10 A WELL, I WAS A -- I WAS A GENERAL STAFF PHYSICIAN AND
11 I WAS A PSYCHIATRIST IN TRAINING AND A GRADUATE
12 PSYCHIATRIST AND I BECAME A MEMBER OF EVERY MAJOR
13 COMMITTEE IN A MAJOR HOSPITAL AND I BECAME THE MEDICAL
14 DIRECTOR OF TWO LARGE NAVY HOSPITALS.

15 Q ALL RIGHT. MEDICAL DIRECTOR -- AS A MEDICAL DIRECTOR
16 OF A NAVAL HOSPITAL FACILITY, WHAT ARE YOUR
17 RESPONSIBILITIES?

18 A RESPONSIBLE FOR THE OVERALL DETAIL, GENERAL QUALITY
19 OF CARE THROUGHOUT THE WHOLE FACILITY.

20 Q QUALITY ASSURANCE?

21 A YES, QUALITY ASSURANCE.

22 Q WHAT WE WOULD KNOW AS QUALITY ASSURANCE?

23 A I WAS -- YES, QUALITY ASSURANCE WAS UNDER MY
24 AUSPICES. I RUN THE QUALITY ASSURANCE COMMITTEE IN A 2000
25 BED HOSPITAL. I -- I'M IN CHARGE OF IT IN FOUR HOSPITALS.

1 Q OKAY. AND THAT WOULD BE TWO IN THE NAVY AND TWO
2 WHERE?

3 A TWO IN CIVILIAN--

4 Q OKAY. ARE YOU FAMILIAR WITH NAVAL MEDICAL RECORDS
5 THAT RELATE TO NEWBORNS AND THEIR MOTHERS?

6 A YES.

7 Q HAVE YOU EVER FILLED THEM OUT?

8 A MANY TIMES.

9 Q HAVE YOU EVER REVIEWED THEM?

10 A MANY TIMES.

11 Q AND FOR WHAT PURPOSES?

12 A WELL, IF I DELIVERED AN INFANT, I HAD TO FILL THEM
13 OUT MYSELF AND SIGN THEM AND AUTHENTICATE THEM. AND THEN
14 IN QUALITY ASSURANCE I HAD TO REVIEW THEM FOR THE --
15 FOR -- IN -- FOR THEIR STATEMENT OF THE QUALITY OF CARE
16 GIVEN FOR ANY PARTICULAR CASE.

17 Q WHAT DID YOU LOOK FOR WHEN YOU WERE MAKING A
18 DETERMINATION OF QUALITY OF CARE?

19 A ACCURACY WITH A FINE TOOTH COMB, YOU KNOW, WHETHER
20 THEY INITIALED HERE OR DATED THIS OR CROSSED OUT WHAT
21 NEEDED TO BE CROSSED OUT AND FILLED IT BACK IN
22 APPROPRIATELY, EVERYTHING, AND IT HAD TO DO WITH THE --
23 THE ACTUAL DELIVERY OF CARE.

24 Q ALL RIGHT. LET'S GO THROUGH MR. STANKO'S RECORDS.
25 AND LET ME ASK YOU BEFORE WE -- ONE MORE QUESTION BEFORE

1 WE ACTUALLY LOOK AT THOSE. DID YOU CONDUCT THAT TYPE OF
2 REVIEW WITH RESPECT TO MR. STANKO'S BIRTH RECORDS AND THE
3 RECORDS OF HIS MOTHER?

4 A YES. I WENT OVER THEM QUITE THOROUGHLY.

5 Q ALL RIGHT. AND I WANT TO GET YOUR OPINION ON SOME OF
6 THE ENTRIES THAT ARE MADE THERE.

7 A SURE.

8 Q SO, WHAT DO WE HAVE HERE? LET'S LOOK AT WHAT WE HAVE
9 ON THE SCREEN. THIS IS THE FIRST PAGE OF THE -- OF THE
10 BABY'S BIRTH RECORDS?

11 A IT APPEARS TO BE, YES.

12 Q ALL RIGHT. AS YOU GO THROUGH, YOU CAN SCROLL DOWN.
13 AND WHEN WE GET TO A POINT THAT IS SPECIAL INTEREST TO
14 YOU, I WANT YOU TO COMMENT ON IT. AND OTHERWISE I'M GOING
15 TO ASK YOU TO COMMENT ON SOME THINGS THAT -- THAT I WANTED
16 TO BRING TO THE COURT'S ATTENTION.

17 A WELL, WHEN YOU ASKED ME TO -- TO SPOT SOMETHING
18 THAT'S OF SIGNIFICANCE TO ME, MAY BE EVERY SINGLE LINE.
19 MAY NOT BE PERTINENT TO WHAT YOUR POINT IS HERE. LIKE
20 TERM BIRTH OF A LIVING CHILD, HYPERBILIRUBINEMIA MEANING
21 JAUNDICE, AND PHYSIOLOGIC AND EXAGGERATED, AND HAD A
22 CIRCUMCISION, THOSE ARE ALL NORMAL, SIGNIFICANT BECAUSE
23 THEY'RE -- NOT ONLY A DELIVERY BUT A SURGICAL PROCEDURE
24 WAS PERFORMED.

25 Q OKAY. CONTINUE ON DOWN. AND IF YOU DON'T STOP

1 BEFORE, I'M GOING TO ASK YOU TO STOP ON PAGE FOUR THAT'S
2 INDICATED -- YOU SEE THE PAGES DOWN THERE? THAT'S PAGE
3 THREE OF 14?

4 A I DO.

5 Q ALL RIGHT. IF THERE'S ANYTHING PRIOR TO THAT THAT
6 YOU WANT TO COMMENT ON THAT YOU FEEL IS PERTINENT TO THIS
7 CASE, TO MR. STANKO'S CASE, PLEASE DO SO.

8 A WELL, OF COURSE, WE WANT TO MAKE SURE THAT WE HAVE
9 THE RIGHT PATIENT AND THE RIGHT RECORDS, SO THIS PAGE IS
10 CERTAINLY SIGNIFICANT. AND THE MOTHER'S SIGN THAT SHE
11 TOOK HER BABY, IDENTIFIED IT.

12 AND THIS IS PAGE FOUR OF 14. AND IT SAYS, KEEP THE
13 BABY ON D/W, THAT'S DEXTROSE AND WATER FEEDINGS THAT'S --
14 THAT'S NOURISHMENT THAT THEY GIVE A CHILD, AND THEY DID IT
15 BEFORE THE FORMULA WAS SPECIFICALLY ORDERED.

16 AND IT SAYS, KEEP BABY NEAR THE WINDOW OF THE
17 NURSERY, JUSTIFICATION TO FACILITATE CLOSE OBSERVATION,
18 AND CLOSE HAS BEEN EMPHASIZED.

19 Q ALL RIGHT. AND WHAT WINDOW ARE WE TALKING ABOUT
20 THERE?

21 A WELL--

22 Q WE'RE TALKING ABOUT WINDOW WHERE THE SUNLIGHT CAN
23 COME IN?

24 A NO, NOT AT ALL.

25 Q ALL RIGHT. EXPLAIN TO US WHAT'S MEANT BY THE WINDOW

1 IN THAT CONTEXT.

2 A NURSERIES ARE SET UP SO THAT THE NURSING STATION IS
3 SEPARATE AND APART FROM THE -- THE NURSERY ITSELF BECAUSE
4 THERE IS PHONES RINGING ALL DAY AND ALL NIGHT LONG, PEOPLE
5 COMING AND GOING, THE CLATTER OF CHARTS BEING PULLED OUT
6 AND SLAPPED DOWN AND OPENED UP, TALK AMONG THE STAFF GOING
7 ON.

8 AND THIS IS SET UP IN AN AREA THAT'S OUTSIDE THE
9 NURSERY ITSELF WHERE THE WINDOW -- SET UP TO BE ABLE TO
10 LOOK DIRECTLY INTO THE NURSERY TO SEE THE CHILDREN. AND
11 THAT ALLOWS THE NURSERY ITSELF TO MAINTAIN AN AIR OF
12 CALMNESS AND QUIETNESS FOR -- IN THE INTEREST OF THE -- OF
13 THOSE INFANTS. THEY FEED BETTER. THEY DO BETTER.

14 Q OKAY. AND SO THIS NOTE NUMBER TWO IS AN INSTRUCTION
15 TO KEEP THE BABY NEAR THE OBSERVATION ROOM?

16 A WELL, THEY -- OBVIOUSLY TO ME THEY WANTED IT NEAR THE
17 WINDOW BECAUSE THERE ARE COREMEN INSIDE HELPING TAKE CARE
18 OF THE CHILDREN AND IF THE COREMEN IS OUT OF THE NURSERY,
19 THEY WANT THAT BABY NEXT TO THE WINDOW SO THAT PEOPLE CAN
20 SEE IT SITTING IN THEIR SEATS.

21 Q WHY WOULD THEY DO THAT?

22 A BECAUSE THEY WANTED TO WATCH IT. THERE WAS SOMETHING
23 AMISS.

24 Q DO THEY DO EVERY BABY THAT WAY?

25 A NO.

1 Q ALL RIGHT. WHAT -- WHAT WOULD CAUSE THAT KIND OF
2 ENTRY INTO THE CHART?

3 A A PHYSICIAN'S CONCERN ABOUT THE -- THE CONDITION OF
4 THAT INFANT. THEY'RE WORRIED THAT SOMETHING MIGHT HAPPEN.

5 Q ALL RIGHT. CONTINUE ON AND LET'S REVIEW THROUGH
6 THESE RECORDS.

7 A OKAY.

8 Q HOLD IT THERE.

9 A SURELY.

10 Q WHAT ARE WE LOOKING AT ON THIS SCREEN?

11 A THIS IS A GRID THAT FORCES THE PHYSICIAN TO MAKE
12 SPECIFIC STATEMENTS ABOUT IMPORTANT THINGS CONCERNING THE
13 CONDITION OF AN INFANT IN THE PHYSICAL SENSE. AND THIS --
14 THIS WHOLE DISPLAY, YOU SEE A BUNCH OF -- WELL, THEY
15 DIDN'T PUT THE BIRTH WEIGHT, TEMPERATURE, CHARACTER OF CRY
16 AND OTHER MEASUREMENTS, THEY DIDN'T PUT THAT IN THERE.
17 THAT SHOULD BE THERE, BUT WE DON'T HAVE IT. THE OTHERS
18 ARE FILLED OUT.

19 Q ALL RIGHT. WHAT ARE THESE N'S AND O'S?

20 A WELL, THIS IS A PARTICULAR NOTATION THAT THIS
21 PHYSICIAN USED N MEANING--

22 Q HAVE YOU SEEN THIS BEFORE?

23 A YES.

24 Q AND WHAT DOES IT MEAN?

25 A N MEANING NORMAL AND O MEANING OBSERVED. IN OTHER

1 WORDS, THEY SAW THAT.

2 Q OKAY. SO IT DOESN'T MEAN ZERO IN TERMS OF NOTHING
3 THERE?

4 A NO.

5 Q JUST OBSERVED?

6 A NO. SOMETIMES IT'S A PLUS OR A MINUS AND THAT COULD
7 BE INTERPRETED THE SAME WAY.

8 Q OKAY.

9 A NEGATIVE -- MINUS MEANS NOT OBSERVED. PLUS WOULD
10 MEAN SEEN.

11 Q ALL RIGHT. SO N WOULD BE NORMAL, OR NOT OBSERVED.
12 IS THAT YOUR TESTIMONY?

13 A YES.

14 Q AND THE O WOULD BE OBSERVED?

15 A YES.

16 Q SO LET'S LOOK AT WHAT -- WHAT WAS OBSERVED ON
17 MR. STANKO'S BIRTH RECORDS AT THE TIME OF HIS BIRTH.

18 A CYANOSIS MEANS THAT--

19 Q OKAY. WHAT IS CYANOSIS?

20 A MEANS THAT HE WAS BLUE IN -- IN GENERAL COLOR.

21 Q WHY ARE BABIES BLUE?

22 A WELL, BABIES ARE BLUE FOR THE SAME REASONS ADULTS ARE
23 BLUE, THEY ARE LACKING OXYGEN.

24 Q ALL RIGHT.

25 A IN THEIR BLOODSTREAM.

1 Q WOULD THAT BE FOR -- OVER WHAT PERIOD OF TIME?

2 A IT DOESN'T -- IT DOESN'T GIVE THE TIME. IT DOESN'T
3 GIVE A TIME HERE.

4 Q WHAT WOULD BE YOUR EXPERIENCE TO MAKE THAT KIND OF
5 OBSERVATION?

6 A WELL--

7 Q HOW LONG DOES IT TAKE FOR A BABY TO TURN BLUE?

8 A OH, JUST TAKES A FEW MINUTES TO TURN BLUE.

9 Q WHAT--

10 A ANYBODY -- I MEAN, WITHOUT OXYGEN YOU CAN ONLY
11 SURVIVE FOR FOUR MINUTES. I MEAN, GO FIGURE.

12 Q ALL RIGHT. IS THAT A SIGNIFICANT OBSERVATION?

13 A YES.

14 Q AND WHY IS THAT?

15 A BECAUSE IT IMPLIES THE BABY IS SHORT OF OXYGEN.

16 Q AND THE IMMEDIATE -- IS THERE IMMEDIATE DANGER OR
17 RESULT THAT CAN OCCUR BECAUSE OF THE SHORTAGE OF OXYGEN?

18 A DEATH.

19 Q DEATH? AND PRIOR TO THAT, WHAT PARTS OF THE BODY
20 WOULD IT AFFECT?

21 A IT EFFECTS THE BRAIN FIRST.

22 Q OKAY. AND YOU WANT TO GO DOWN OR ACROSS?

23 A IT DOESN'T MATTER.

24 Q ALL RIGHT. LET'S GO ACROSS TO PALLOR.

25 A YES.

1 Q THIS PHYSICIAN OBSERVED PALLOR WITH MR. STANKO AT
2 THAT TIME. WHAT DOES THAT MEAN?

3 A WELL, SOME OF THESE MAY LOOK LIKE THEY ARE
4 CONTRADICTORY, BUT THEY ARE NOT. PALLOR WOULD MEAN
5 PALENESS. THIS BABY WOULD BE PALE AND BLUE.

6 Q WHY WOULD THAT NOT BE CONTRADICTORY WITH THE
7 CYANOSIS?

8 A WELL, BECAUSE IF IT WAS PINK, IF THE BABY WAS PINK,
9 WHICH WE EXPECT IN A NORMAL DELIVERY, THE PALLOR WOULD BE
10 NOT OBSERVED OR -- AND THE BLUENESS WOULD NOT BE OBSERVED.

11 Q IS THERE ANY SIGNIFICANCE TO THE FACT THAT HE'S
12 OBSERVING -- THE PHYSICIAN IS OBSERVING CYANOSIS AND
13 PALLOR AT THE SAME TIME?

14 A WELL, PALLOR COULD BE RELATED TO THE AUTONOMIC
15 NERVOUS SYSTEM THAT HAS TO DO WITH DILATING THE BLOOD
16 VESSELS ON THE SURFACE ON THE SKIN USUALLY MAKING THEM
17 PINK. IF THEY ARE PALE AND CYANOTIC, THEY ARE NOT
18 EXCHANGING -- THEY ARE NOT -- THEY ARE NOT GETTING ENOUGH
19 OXYGEN.

20 Q ALL RIGHT.

21 A AND ALSO THERE'S SOME QUESTION OF THE FUNCTION OF THE
22 AUTONOMIC NERVOUS SYSTEM.

23 Q ALL RIGHT. AND THAT IS CONTROLLED ULTIMATELY BY
24 WHAT?

25 A THE BRAIN.

1 Q ALL RIGHT. AND SO THESE ARE TWO OBSERVATIONS THAT
2 ARE MADE THAT CAUSE -- THAT CALL INTO QUESTION A PROBLEM
3 WITH THE BRAIN?

4 A YES, RAISES THE QUESTION CERTAINLY.

5 Q ALL RIGHT. AND HOW ABOUT ICTERUS? AM I PRONOUNCING
6 THAT CORRECTLY?

7 A YEAH, ICTERUS IS A -- IS A STATEMENT ABOUT THE YELLOW
8 COLOR TO THE SKIN TISSUE.

9 Q ALL RIGHT. SO IT'S ABOUT -- IT'S ANOTHER OBSERVATION
10 ABOUT HIS COLOR AND THE WAY HE APPEARED?

11 A YEAH, BUT IT'S USUALLY RELATED TO SOMETHING ELSE
12 WHICH WOULD BE A HIGH LEVEL OF BILIRUBIN WHICH IS A
13 BREAKDOWN COMPONENT OF THE HEMOGLOBIN THAT COLLECTS IN A
14 PERSON'S BLOODSTREAM.

15 WE SEE A LOT OF IT WITH HEPATITIS BECAUSE THE LIVER
16 IS SUPPOSED TO CLEAR IT AND PEOPLE WILL TURN AS YELLOW AS
17 YOUR YELLOW PAD THERE.

18 Q OKAY.

19 A THAT'S PROFOUND ICTERUS. NOW, INFANTS MAY HAVE
20 PHYSIOLOGIC ICTERUS AT BIRTH, AND IT'S PARTICULARLY
21 WORRISOME WHEN THERE'S AN RH INCOMPATIBILITY BETWEEN THE
22 MOTHER AND THE BABY.

23 Q WE DON'T HAVE THAT IN THIS CASE?

24 A THE MOTHER'S RH POSITIVE. I DON'T -- I DIDN'T SEE A
25 ENTRY ABOUT THE RH FACTOR IN THE BABY'S BLOODSTREAM.

1 Q BUT WHEN WOULD IT -- WHEN WOULD IT BE A PROBLEM
2 POSSIBLY, POTENTIALLY?

3 A AT OR BEFORE BIRTH AND AFTER BIRTH.

4 Q OKAY. AND AGAIN, WHAT ARE THE CONDITIONS THAT ARE
5 REQUIRED?

6 A INCOMPATIBILITY BETWEEN THE RH FACTOR IN THE MOTHER'S
7 BLOODSTREAM AND THE RH FACTOR IN THE BABY'S BLOOD.

8 Q ALL RIGHT. YOU CAN'T RULE THAT OUT HERE, BUT YOU
9 CAN'T RULE IT IN EITHER?

10 A YEAH, THERE'S NO STATEMENT AS--

11 Q OKAY.

12 A -- I DIDN'T FIND ANY STATEMENT AS TO THE RH IN THE
13 BABY'S BLOODSTREAM.

14 Q ALL RIGHT. LET'S GO DOWN TO THE NEXT -- WE HAVE
15 OBSERVED O ON MURMURS. WHAT DO YOU GATHER FROM THAT?

16 A THE HEART -- THE ONE BEFORE THAT, HEART WAS DESCRIBED
17 AS NORMAL. AND MURMURS ARE A DESCRIPTION OF HEART
18 FUNCTION USUALLY. AND WE LISTEN FOR A MURMUR IN A -- IN A
19 BABY'S HEART.

20 AND ONE WAS OBSERVED, BUT I'M NOT SURE THAT THERE --
21 THAT ONE WOULD BE PATHOLOGICAL, BE WORRISOME. THERE ARE
22 PHYSIOLOGIC MURMURS AS HUMAN BEINGS HAVE. ATHLETES HAVE
23 THEM ALL THE TIME --

24 Q IS--

25 A -- PHYSIOLOGIC HEART. BABIES CAN HAVE THEM IF THEIR

1 HEARTBEAT IS REALLY PICKED UP.

2 Q WHAT WOULD CAUSE THAT? DO YOU HAVE ANY IDEA?

3 A LACK OF OXYGEN, SHOCK.

4 Q SO THIS MURMUR OBSERVATION COULD BE DIRECTLY RELATED
5 TO THE CYANOSIS?

6 A IT COULD BE, YES.

7 Q AND THE LACK OF OXYGEN?

8 A IT COULD BE.

9 Q ALL RIGHT. LET'S GO DOWN TO THE NEXT OBSERVATION,
10 THE PARALYSIS.

11 A YES.

12 Q WHY WOULD PARALYSIS BE OBSERVED?

13 A WELL, PARALYSIS -- PARALYSIS OBSERVED IN AN INFANT IS
14 VERY WORRISOME. SOMETIMES THE MECHANICS OF DELIVERY CAN
15 RESULT IN A PARALYZED ARM OR LEG, THINGS LIKE THAT, AND
16 IT'S REALLY A DISASTER, SOMETIMES UNAVOIDABLE AND VERY
17 UNFORTUNATE.

18 SO YOU WOULD WANT -- WE WOULD WANT TO HAVE A STATE --
19 WAS ALREADY PARALYSIS--

20 Q AND WE DON'T HAVE ANY NOTATIONS IN HERE ABOUT ANY
21 KIND OF COMPLICATIONS WITH THE DELIVERY, THOUGH; DO WE?

22 A WELL, UP AT THE TOP OF THIS IT SAYS, INITIAL PHYSICAL
23 EXAMINATION. THE VERY LAST LINE SAYS, USE PROGRESS SHEET
24 TO -- FOR -- FOR ABNORMALITIES, DESCRIPTIONS, AND
25 ELABORATION. AND THESE SHOULD HAVE BEEN FOLLOWED UP--

1 Q TALKING ABOUT THIS LINE UP HERE, THE TOP?

2 A YES. YES. THE VERY LAST LINE, HARD TO READ, VERY
3 SMALL. BUT THE INSTRUCTIONS ARE TO USE A PROGRESS SHEET
4 TO EXPAND OR FOLLOW UP AND DESCRIBE THESE OBSERVATIONS
5 THAT ARE OF NOTE.

6 Q WAS THAT DONE IN THIS CASE?

7 A THERE WAS A PROGRESS SHEET THAT FOLLOWED, AND WE CAN
8 GET TO IT.

9 Q WE'LL GET TO IT IN A MINUTE. I WANT TO GO THROUGH IN
10 SEQUENCE. DO YOU RECALL IF IT WAS COMPREHENSIVE OR NOT?

11 A IT WAS NOT.

12 Q OKAY. NOW, LET'S LOOK AT THE NOTATIONS THAT ARE DOWN
13 HERE UNDER THE HEADING, ABNORMAL FINDINGS ON PHYSICAL
14 EXAMINATION.

15 A YES.

16 Q WHAT DO WE HAVE HERE?

17 A BABY HAS EXCESSIVE MUCUS AND HAS BEEN VOMITING
18 INTERMITTENTLY, HAS BEEN FORCEFUL VOMITING OF CLEAR FLUID
19 AND MUCUS DURING THE EXAMINATION. A FEEDING TUBE WAS
20 PASSED INTO THE STOMACH WITH -- WITHOUT DIFFICULTY AND
21 THREE CUBIC SONOMETERS OF FLUID WERE REMOVED AFTER WHICH
22 THE STOMACH WAS WASHED, LAVAGED.

23 Q ALL RIGHT. AS A PHYSICIAN, DOES THAT TELL YOU
24 ANYTHING?

25 A WELL, YES, PARTICULARLY THE FORCEFUL VOMITING.

1 Q WHY IS THAT?

2 A FORCEFUL PROJECTILE, SUDDEN VOMITING WITHOUT WARNING
3 IS OFTEN TIMES ASSOCIATED WITH INTRACRANIAL HEMORRHAGE.
4 IT'S A -- IT'S A WARNING THAT -- SOMEBODY'S JUST SUDDENLY
5 THROWS UP AND THEY PROJECT IT SEVERAL FEET OUT WITH LIKE A
6 SPASMODIC VOMITING, IT'S A WORRISOME SIGN.

7 Q OKAY. INTRA -- INTRACRANIAL HEMORRHAGE.

8 A YEAH, INTRA MEANING INSIDE, CRANIAL, INSIDE THE HEAD.

9 Q OKAY. DOES THAT HAVE ANY RELATION TO THE CYANOSIS,
10 TO THE BLUE COLOR OR IS IT COINCIDENTAL?

11 A WELL, IT COULD HAVE.

12 Q COULD BE?

13 A COULD BE, YES.

14 Q OKAY. LET'S CONTINUE ON.

15 A SURE. WELL, HERE'S A CONDITION AT DISCHARGE. LOOKS
16 LIKE IT'S JUMPING AHEAD A LOT HERE. BUT SEEMS CLINICALLY
17 WELL, BILIRUBIN WAS DOWN TO AN ACCEPTABLE LEVEL OF
18 19.1 MILLIGRAMS PERCENT. AND THE NEXT DAY IT WAS DOWN TO
19 17.8.

20 Q WHAT IS THE BILIRUBIN?

21 A THAT'S THE -- THIS STATEMENT IS A MEASURE OF THE
22 CONCENTRATION OF BILIRUBIN IN THE BLOODSTREAM.

23 Q WHICH IS RELATED TO WHAT? WHAT DOES THAT TELL US?

24 A IT'S A BREAKDOWN PRODUCT OF HEMOGLOBIN.

25 Q OKAY. IS THAT RELATED TO THE JAUNDICE?

1 A YES. IT'S AN EXPRESSION OF THE ACCUMULATION OF THAT.
2 AND IF IT GETS HIGH ENOUGH, YOUR SKIN WILL TURN YELLOW,
3 THE WHITES OF YOUR EYES WILL TURN YELLOW, ET CETERA.

4 Q AND CAN THAT BE RELATED IN ANY WAY TO A HEMORRHAGE OR
5 IS THAT SOMETHING DIFFERENT?

6 A I SUSPECT THAT'S SOMETHING DIFFERENT.

7 Q OKAY. LET'S CONTINUE ON AND KEEP -- KEEP UP WITH THE
8 REVIEW.

9 A HERE'S THE PROGRESS NOTES SHEET.

10 Q ALL RIGHT. CAN YOU READ THAT? HAVE YOU BEEN ABLE TO
11 MAKE OUT WHAT'S BEING SAID THERE?

12 A YES. IT'S...

13 Q READ IT FOR US.

14 A I WILL TRY. IT'S ONE 14, EXCESSIVE--

15 Q THE DAY AFTER -- THE DAY AFTER HIS BIRTH?

16 A YES. EXCESSIVE MUCUS AND INTERMITTENT VOMITING. ON
17 EXAM, BOWEL SOUND -- BOWEL SOUNDS ARE ACTIVE. NO
18 PERISTALSIS VISIBLE, NO...

19 Q IS THAT ABDOMINAL?

20 A NO ABDOMINAL MASSES, YEAH, NO ABDOMINAL MASSES, CHEST
21 IS CLEAR. AND -- I CAN'T MAKE OUT THE NEXT ONE.

22 Q SOMETHING WAS NORMAL?

23 A LET'S -- MAYBE I CAN INTERPRET IT LATER. LARGE
24 AMOUNT OF MUCUS PASSED DURING THE EXAM.

25 Q WHAT IS THAT? DOES THAT HAVE ANY SIGNIFICANCE?

1 A WELL, THE BABY STILL HAS INTERMITTENT VOMITING. THE
2 BOWEL SOUNDS ARE ACTIVE WHICH MEANS THAT, YOU KNOW, THE
3 INTESTINES ARE FUNCTIONAL AND THIS SAYS NO PERISTALSIS IS
4 VISIBLE.

5 AND PERISTALSIS IS THE MUSCULAR ACTION OF THE
6 INTESTINES TO PASS ITS CONTENTS DOWN THE LINE. AND IF
7 IT'S VISIBLE, IT MEANS THERE'S TROUBLE GOING ON IN THE
8 TUMMY, AND IT SAID THERE WAS NONE OBSERVED, SO THAT WAS
9 GOOD.

10 AND THERE WERE NO ABNORMAL MASSES. IN OTHER WORDS,
11 THERE WERE NO TUMORS OR GROWTHS IN THE -- THE LIVER WAS
12 NOT ENLARGED, AND THE CHEST WAS CLEAR. STILL CAN'T MAKE
13 OUT THAT NEXT WORD. LARGE AMOUNT OF MUCUS, WELL, YEAH.

14 Q LET ME ASK YOU IF -- AGAIN, IF THAT HAS ANY
15 SIGNIFICANCE OR COULD IT HAVE ANY SIGNIFICANCE, THAT MUCUS
16 IS CONTINUING?

17 A JUST THAT -- I -- IT DOESN'T SAY IT WAS VOMITED. IT
18 SAID IT WAS PASSED, SO THINGS ARE GOING THROUGH THE
19 INTESTINAL TRACT SUCCESSFULLY.

20 Q COULD IT HAVE ANY INFLUENCE OR AFFECT ON THE ABILITY
21 TO BREATHE?

22 A NOT WHILE IT'S IN THE INTESTINAL TRACT.

23 Q OKAY. BUT PRIOR TO THAT?

24 A COULD HAVE.

25 Q AND THIS MUCUS WAS IN THE INTESTINES?

1 A YES.

2 Q IS THAT WHAT YOU'RE SAYING?

3 A YES.

4 Q WHERE WOULD IT HAVE HAD TO START OUT?

5 A WELL, PROBABLY IN THE UPPER RESPIRATORY TRACT IN THE
6 SINUSES, NOSE, THROAT, CHEST.

7 Q OKAY. SO IT HAD BEEN THERE LONG ENOUGH TO PASS
8 THROUGH THAT AREA INTO THE INTESTINES?

9 A YES.

10 Q OKAY. NOW, LET'S GO THROUGH THE NEXT NOTE. CAN YOU
11 TELL US WHAT IS WRITTEN THERE?

12 A YEAH, THE BABY HAS A POOR MORO BUT FAIR SPONTANEOUS
13 MOVEMENT.

14 Q ALL RIGHT. WHERE IS THAT?

15 A SORRY? WHERE IS IT?

16 Q YEAH. WHEN YOU JUST READ, POOR MORO, CAN YOU POINT
17 THAT OUT AND TELL US WHAT LINE IT IS?

18 A WELL, IF YOU START THE TOP WRITTEN LINE, ONE, TWO --
19 THIRD LINE DOWN, THE LAST THREE WORDS, BABY HAS A POOR
20 MORO, DOWN ON THE SECOND TO THE NEXT LINE, BUT FAIR
21 SPONTANEOUS MOVEMENT AND DECREASED TRUNCAL RECURVATION
22 (SIC) REFLUX.

23 Q OKAY. I SEE, BABY HAS POOR MORO, BUT FAIR...

24 A SPONTANEOUS MOVEMENT.

25 Q ALL RIGHT. WHAT IS MORO?

1 A MORO IS A -- IT'S A -- FOR -- SHORTENED WORD FOR A
2 REFLEX THAT'S NORMALLY FOUND IN INFANTS. IT'S CALLED --
3 IN THE -- AND THE REAL NAME OF IT IS MORO ANDEMORNS, OKAY.
4 AND IT'S A REFLEX THAT'S MANIFEST BY A GRASPING, SUDDEN
5 DISPLAYING OF THE ARMS AND A REFLEX GRASPING, AND IT'S --
6 IT'S NORMAL IN NEWBORN INFANTS.

7 Q WHY WOULD AN INFANT HAVE A POOR MORO REFLEX?

8 A WELL, IT IMPLIES, IF IT'S NOT VERY GOOD, THEN THERE
9 MAY BE SOMETHING NEUROLOGICALLY GOING ON WITH THE BABY
10 WHEN THEY DON'T DO THAT.

11 Q ALL RIGHT.

12 A THEY JUST KIND OF FLOP.

13 Q OKAY. WOULD THERE BE ANY OTHER CAUSE OR IS IT
14 NEUROLOGICALLY RELATED?

15 A NO, IT'S A NEUROLOGICAL SIGN, CLEARLY.

16 Q AND COULD THAT BE CONSISTENT WITH WHATEVER CAUSED THE
17 BLUENESS IN THE COLOR?

18 A COULD BE, YES.

19 Q SO THAT COULD BE RELATED TO THE SAME POOR MORO
20 REFLEX?

21 A I THINK THEY ALL CAN BE INTERCONNECTED, YES.

22 Q ALL BE RELATED?

23 A YES.

24 Q OKAY. CONTINUE ON.

25 A AND DECREASED -- IT'S MORO, IT'S A -- HAS POOR MORO

1 BUT FAIR SPONTANEOUS MOVEMENTS. IN OTHER WORDS, THE
2 REFLEXES BROADEN -- THE MORO REFLEX IS BROUGHT ABOUT BY
3 POSITIONING AND MOVEMENT OF THE CHILD ITSELF.

4 THEN THEY GO ON TO SAY, OR WHOEVER IS WRITING IT,
5 WENT ON TO SAY THAT LEFT ALONE THE BABY HAS SPONTANEOUS
6 MOVEMENTS OF ITS OWN.

7 Q OKAY.

8 A WITHOUT BEING STIMULATED. THEN IT SAYS A DECREASED
9 TRUNCAL RECURVATION REFLEX.

10 Q DECREASED WHAT?

11 A TRUNK (SIC) RECURVATION REFLEX.

12 Q WHAT DOES THAT MEAN?

13 A WELL, THAT'S ANOTHER REFLEX THAT CAN BE BROUGHT ABOUT
14 DURING AN EXAMINATION OF AN INFANT. IT'S DONE BY HOLDING
15 OR PLACING THE BABY ON THE STOMACH AND, AND STIMULATING
16 THE MUSCLE AREA ON THE SKIN WITH A GENTLE SWEEPING MOTION
17 DOWN ALONGSIDE THE SPINAL CORD, DOWN ALONGSIDE THE SPINE,
18 AND WOULD -- IF IT'S NORMAL, IF THEY'RE INTACT AND THINGS
19 ARE WORKING RIGHT, THE INFANT WILL BEND ITS TRUNK IN THAT
20 DIRECTION AND DO IT LEFT AND RIGHT AND THEN IT WILL BEND
21 ONE WAY OR THE OTHER.

22 IT'S A -- THERE'S A MORE COMMON NAME FOR THIS REFLEX
23 CALLED THE SWIMMER'S REFLEX. BUT IT'S A -- ONE OF THE
24 MANY REFLEX -- EXAMINATIONS OF A BABY'S REFLEXES TO
25 ASCERTAIN WHETHER IT'S NORMAL OR NOT.

1 Q NORMAL ULTIMATELY WHERE?
2 A IN THE BRAIN.
3 Q OKAY. SO WE GOT THE POOR MORO AND A DECREASED --
4 WHAT DID YOU CALL IT?
5 A TRUNCAL RECURVATION REFLEX.
6 Q ALL RIGHT.
7 A IT'S THE SWIMMER'S REFLEX.
8 Q OKAY. LET'S CONTINUE ON.
9 A IT SAYS IMPRESSION -- IMP MEANS IMPRESSION.
10 VOMITING -- THE TWO WITH A LITTLE ZERO MEANS SECONDARY TO.
11 Q ALL RIGHT. THIS -- THIS WORD RIGHT HERE, THIS IS
12 A...
13 A I CAN'T SEE WHAT YOU'RE POINTING AT.
14 Q A SYMBOL, IT'S THE IMP UNDERLINED.
15 A YES.
16 Q AND YOU READ THAT AS IMPRESSION?
17 A YES, IT IS.
18 Q THE PHYSICIAN'S IMPRESSION WHO IS WRITING THIS CHART?
19 A AT THE TIME, YES.
20 Q ALL RIGHT. WHAT IS THE IMPRESSION THERE THAT'S
21 WRITTEN?
22 A THE VOMITING SECONDARY TO -- OR BECAUSE OF, QUESTION
23 MARK, MEANING POSSIBLE CEREBAL (SIC) DAMAGE I THINK IT
24 SAYS.
25 Q IS THAT EDEMA?

1 A THAT'S RIGHT. IT IS, YOU'RE RIGHT.

2 Q WHAT IS CEREBRAL EDEMA?

3 A SAYS POSSIBLE CEREBRAL EDEMA. THAT'S SWELLING OF THE
4 BRAIN.

5 Q OKAY.

6 A AND THEN THE NEXT ONE IS QUESTION MARK MEANING
7 POSSIBLE INTRACRANIAL HEMORRHAGE, MEANING BLEEDING INTO
8 THE BRAIN.

9 Q ALL RIGHT.

10 A AND THEN QUESTIONABLE ABDOMINAL PATHOLOGY.

11 Q ALL RIGHT. NOW, WOULD ABDOMINAL -- WHAT IS ABDOMINAL
12 PATHOLOGY?

13 A WELL, THEY ARE TALKING ABOUT SOMETHING WRONG IN THE
14 TUMMY.

15 Q OKAY.

16 A NOT SPECIFICALLY.

17 Q NOW, PRIOR TO THIS, ANY INDICATION THAT THERE'S
18 SOMETHING WRONG IN THE STOMACH AREA?

19 A THE VOMITING.

20 Q BUT -- THE PROJECTILE VOMITING?

21 A IS LESS LIKELY IT'S ABDOMINAL.

22 Q OKAY.

23 A IF THE BABY IS -- IF THE BABY HAS AN OBSTRUCTED
24 ABDOMINAL TRACT, THEN IT WILL FILL UP FAST AND THEY WILL
25 VOMIT A LOT, BUT IT'S A DIFFERENT CHARACTER OF VOMITING.

1 THEY SPIT UP AND SPIT UP AND SPIT UP BECAUSE IT CAN'T --
2 IT WON'T GO THROUGH.

3 Q ALL RIGHT. IF WE HAD ABDOMINAL PATHOLOGY HERE, WOULD
4 WE HAVE A BLUE -- A BLUE BABY?

5 A APPARENTLY.

6 Q I MEAN, COULD THAT -- IS THAT A LIKELY CAUSE FOR THE
7 BLUENESS?

8 A FOR THE--

9 Q WAS THE BLUE CAUSED BY LACK OF OXYGEN?

10 A I -- IT'S MORE LIKELY DUE TO A LACK OF OXYGEN.

11 Q ALL RIGHT. SO ON THE -- THIS PHYSICIAN GIVES US
12 THREE GUESSES ABOUT WHAT'S WRONG.

13 A THESE ARE HIS THREE IMPRESSIONS, AND IT'S--

14 Q THREE IMPRESSIONS, TWO OF WHICH RELATE TO THE BRAIN?

15 A YES.

16 Q ALL RIGHT. AND ONE THAT RELATES TO POSSIBLY THE
17 STOMACH.

18 A YES.

19 Q OKAY. OVERALL WHAT WOULD BE YOUR OPINION WITHIN A
20 REASONABLE DEGREE OF MEDICAL CERTAINTY ABOUT WHAT THE
21 LIKELY CAUSE WOULD BE?

22 A WELL, I -- THE CONCLUSION THAT THIS BABY'S IN
23 TROUBLE. TWO -- TWO OUT OF THREE IT'S SOMETHING WRONG IN
24 THE BRAIN.

25 Q AND GIVEN THE REFLEX OR THE POOR REFLEX--

1 A THEY'RE--

2 Q -- DOES THAT CORROBORATE YOUR OPINION?

3 A YEAH, THEY ARE INDICATORS OF PROBLEMS. YOU BET.

4 Q OKAY. LET'S CONTINUE ON.

5 A SURE. WELL, ON THE RIGHT HAND SIDE SAYS SILVER
6 NITRATE WAS ADMINISTERED. THEY PUT DROPS IN THE BABY'S
7 EYES TO -- TO AVOID INFECTIONS THAT ARE COMMON FROM
8 DELIVERY.

9 AND THEN IT SAYS, PLACED IN TRENDELENBERG POSITION,
10 WHICH IS A -- A HEAD DOWN FOOT UP POSITION THAT'S OFTEN
11 TIMES USED FOR FOLKS THAT ARE IN SHOCK SO THAT THE
12 PREFERENTIAL CIRCULATION WILL BE TO THE HEAD TO PRESERVE
13 FUNCTION OF THE BRAIN.

14 Q IS -- DOES THAT HAVE ANY SIGNIFICANCE TO YOU?

15 A YES, THEY -- THIS IS A BLUE, PALE BABY WITH BAD
16 REFLEXES AND THEY -- IF IT'S A CIRCULATORY PROBLEM, THEY
17 WANT IT -- THEY WANT TO COMPENSATE FOR IT AS MUCH AS THEY
18 CAN AND MAKE SURE THE -- PREFERENTIALLY GOES WITH THE
19 BRAIN, SO THEY PUT THE HEAD DOWN, FEET UP.

20 Q SO BLOOD WILL GO TO HIS HEAD, HIS BRAIN?

21 A EXACTLY.

22 Q AND THAT WAS THE PURPOSE?

23 A YES.

24 Q ALL RIGHT. AND THAT'S THE TRENDELENBERG POSITION.
25 THEY'VE NOTED THAT RIGHT HERE?

1 A YES.

2 Q COLOR. WHAT DOES IT SAY ABOUT COLOR?

3 A COLOR AND CRY IS GOOD.

4 Q OKAY.

5 A THEN AT THE BOTTOM IT SAYS...

6 Q CALL TO CHECK COREMEN -- LET ME--

7 A YEAH, CALL TO THE NURSERY BY THE COREMEN TO CHECK

8 RESPIRATIONS. SOUNDING AS IF NASALLY CONGESTED. SUCTION

9 NEGATIVE FOR MUCUS, ET CETERA.

10 Q ALL RIGHT.

11 A THEY TRIED TO CLEAR OUT THE NOSE AND NOTHING CAME

12 OUT.

13 Q ALL RIGHT. WHAT'S GOING ON HERE? WHERE ARE THOSE

14 SOUNDS COMING FROM, THESE RESPIRATIONS?

15 A PROBABLY FROM THE THROAT OR FROM THE CHEST.

16 Q PARDON?

17 A PROBABLY FROM THE THROAT OR THE CHEST.

18 Q ALL RIGHT. AND COULD THAT INTERFERE WITH HIS ABILITY

19 TO BREATHE OR TAKE IN OXYGEN?

20 A WELL, YES.

21 Q COULD IT MAKE HIM BLUE?

22 A YES.

23 Q ALL RIGHT. SO THAT'S CONSISTENT WITH THE LACK OF

24 OXYGEN?

25 A IT COULD BE, YES.

1 Q AND BLUE COLOR?

2 A COULD BE, YES.

3 Q OKAY. BUT -- BUT EVEN THOUGH THEY TRIED TO GET THE
4 MUCUS, WHATEVER IT WAS CAUSING -- BACK UP JUST A LITTLE
5 BIT. RIGHT THERE. ALL RIGHT. THEY TRIED TO REMOVE MUCUS
6 BUT THEY WEREN'T ABLE TO.

7 A WELL, WAS NEGATIVE. THEY DIDN'T GET ANYTHING.

8 Q BUT THE SOUNDS -- THE SOUNDS CONTINUED AND THE
9 OXYGEN -- POTENTIAL OXYGEN DEPRIVATION CONTINUED; CORRECT?
10 IS THAT WHAT THEY ARE TELLING US THERE?

11 A APPARENTLY THEY TRIED TO GET SOME -- TO CLEAR THE
12 AIRWAY BUT NOTHING CAME OUT, SO THE PROBLEM MORE THAN
13 LIKELY DID CONTINUE.

14 Q OKAY. NOW LET'S KEEP GOING. HE VOMITED?

15 A YEAH. THE INFANT VOMITED APPROXIMATELY 20 CUBIC
16 SONOMETERS OF CLOUDY FLUID WHICH HAD THE APPEARANCE OF
17 AMNIOTIC FLUID WHICH THE BABY WOULD BE -- WOULD HAVE, YOU
18 KNOW, THEY SWALLOWED THAT THROUGHOUT THEIR WHOLE
19 DEVELOPMENT IN THE WOMB.

20 Q OKAY.

21 A SO THAT -- THAT'S NOT ABNORMAL. NO APPARENT
22 ASPIRATION. THE WORRY WOULD BE WITH VOMITING THAT THE
23 CHILD OR ANY -- ANYBODY, IF THEY VOMITED, THEY MIGHT
24 REFLEXLY INHALE AND GET THAT INTO THEIR LUNGS WHICH IS A
25 CRISIS.

1 Q OKAY. NOW, THIS IS AN INFANT AND HE'S REPEATEDLY
2 VOMITING; CORRECT?

3 A YEAH.

4 Q AND THAT INTRODUCES THE POSSIBILITY OF WHAT?

5 A ASPIRATION MEANING THAT HE SUCKED SOME OF THAT DOWN
6 INTO HIS AIRWAY AND INTO THE LUNGS WHICH IS A -- IT'S A
7 REAL CRISIS.

8 Q A REAL CRISIS?

9 A CRISIS, YES, IF THEY DO THAT, YEAH, IF ANYBODY DOES
10 THAT.

11 Q COULD MAKE YOU TURN BLUE?

12 A YES. YES, IT CAN. IF YOU -- IF YOU HAVE EVER TAKEN
13 A DRINK OF SOMETHING AND IT WENT THE WRONG DIRECTION, YOU
14 GET A SOLID EXAMPLE OF WHAT ASPIRATION IS LIKE. AND IF IT
15 HAPPENS TO BE THE STOMACH CONTENTS WHICH IS LOADED WITH
16 ACID, IT IS REALLY SERIOUS. IT CAN CAUSE SERIOUS LUNG
17 PROBLEMS, RESPIRATORY FAILURE AND DEATH.

18 Q RESPIRATORY -- SAY AGAIN?

19 A IT COULD CAUSE RESPIRATORY FAILURE AND DEATH.

20 Q OKAY. LET ME ASK YOU, THIS NEXT NOTE ON -- STILL
21 HEARING THOSE CONGESTION SOUNDS.

22 A YES, THAT WAS--

23 Q HOW LONG -- HOW LONG HAD IT BEEN NOW THAT HE'S BEEN
24 HAVING THESE CONGESTION SOUNDS INDICATING A LIKELIHOOD OF
25 A PROBLEM BREATHING?

1 A FROM -- FROM FIVE, 10:00, 10 MINUTES AFTER FIVE IN
2 THE MORNING TO APPROXIMATELY 7:00 IN THE MORNING.

3 Q SO FOR A COUPLE OF HOURS?

4 A YES.

5 Q LONG ENOUGH TO CAUSE BRAIN DAMAGE?

6 A CERTAINLY IF IT WAS SEVERE, YES.

7 Q COULD IT BE SEVERE IF HE'S TURNING BLUE?

8 A YES.

9 Q ALL RIGHT. KEEP GOING.

10 A HE WAS TAKEN OUT FROM TRENDELENBERG POSITION.

11 Q SO THAT--

12 A AND THAT STATEMENT IS NOW AT THE TOP OF THE PAGE.

13 Q OKAY. AND THEY TOOK HIM -- SO ABOUT HOW LONG DID
14 THEY HAVE HIM SO -- POSITIONED SO THE BLOOD WAS GOING TO
15 HIS HEAD?

16 A MAYBE AS MUCH AS 24 HOUR -- I DON'T REMEMBER. I
17 DIDN'T CALCULATE THE TOTAL HOURS HERE. THAT WAS AT 2:00
18 ON A PARTICULAR DATE, 1:14, 2:00.

19 Q WAS TAKEN OUT OF TRENDELENBERG...

20 A AT 11:00, I'M SORRY.

21 Q 11?

22 A YEAH.

23 Q SO HOW LONG WAS THAT?

24 A I DON'T KNOW. I DON'T REMEMBER WHEN HE WAS PUT INTO
25 TRENDELENBERG, HAVE TO RUN IT ALL THE WAY BACK UP.

1 Q ALL RIGHT. BUT FOR A NUMBER OF HOURS.

2 A YES.

3 Q OKAY. LET'S CONTINUE ON. OKAY. WHAT'S GOING ON
4 HERE?

5 A WELL, DOCTOR EXAMINED BABY, DECIDED TO CONTINUE
6 DEXTROSE AND WATER, CLOSER OBSERVATION, ET CETERA, UNTIL
7 FURTHER NOTICE.

8 Q AND AGAIN, WHY ARE THEY DOING CLOSE OBSERVATION WITH
9 THIS CHILD AS OPPOSED TO ANY OTHER?

10 A WELL, BECAUSE OF THE OBVIOUS WORRISOME SYMPTOMS.

11 Q OKAY.

12 A BUT HE DID -- THERE'S NO -- THERE'S NO EXPANSION OF
13 WHAT HE FOUND ON THAT EXAMINATION, BUT SAYS WHAT HIS
14 DECISION WAS.

15 Q ALL RIGHT.

16 A AND ON THIS ONE I THINK IT'S AT 10 MINUTES PAST
17 MIDNIGHT, I THINK.

18 Q OKAY.

19 A WELL, WAIT A MINUTE. 1800... IF YOU SEE THAT 10 OUT
20 THERE AT THE--

21 Q YES.

22 A -- I CAN'T READ THE NUMBER BEFORE THAT. IT MAY BE
23 2010 WHICH WOULD BE 10 MINUTES AFTER EIGHT AT NIGHT. TO
24 THE RIGHT IT SAYS, MECONIUM STOOL TESTED FOR OCCULT BLOOD.
25 IN OTHER WORDS, THE BABY PASSED A BROWNISH LOOKING

1 MATERIAL ANALLY AND THEY TESTED IT FOR BLOOD.

2 Q WHAT DOES THAT MEAN?

3 A WELL, IT SHOULDN'T TEST POSITIVE FOR BLOOD. AND
4 THEY'RE LOOKING FOR A PATHOLOGY AND MAYBE THERE'S SOME
5 BLEEDING GOING ON INTERNALLY THAT'S CONTRIBUTING OR
6 COMPLICATING THE PROBLEM.

7 Q GOING ON WHERE?

8 A IT WOULDN'T BE FROM THE BRAIN. IT WOULD BE FROM SOME
9 OTHER PART OF THE -- YOU CAN'T -- DON'T FIND IT IN A STOOL
10 SAMPLE IF HE'S BLEEDING INTO THE BRAIN. IT WOULD HAVE TO
11 BE BELOW THE BRAIN AND IN THE RESPIRATORY OR ABDOMINAL
12 TRACT SOMEWHERE.

13 Q OKAY.

14 A AND THEY HAD SAID ABDOMINAL PATHOLOGY. SO THEY ARE
15 CHECKING TO SEE IF THERE'S SOMETHING GOING ON.

16 Q COULD IT HAVE BEEN IN THE LUNGS, RESPIRATORY AREA?

17 A YES. IT -- COUGHED UP AND SWALLOWED AND PASSED IN
18 THE STOOL, YES.

19 Q AND COULD IT HAVE BEEN ASSOCIATED WITH THOSE SOUNDS
20 THAT THEY HEARD INDICATING DIFFICULTY BREATHING?

21 A YES, IT COULD HAVE.

22 Q OKAY. ALL RIGHT.

23 A MOVING ON DOWN. IN THE SAME NOTE SAID THERE'S A
24 BROWN SPECK OF VOMITUS ON THE BABY'S BLANKET THAT WAS
25 PRESENT FROM THE 6:00 FEEDING, 1800, 6:00 FEEDING, 6:00 IN

1 THE EVENING. TESTED FOR OCCULT BLOOD AND IT'S POSITIVE
2 AFTER 40 SECONDS.

3 IN OTHER WORDS, BECAME A DARK AQUA BLUE COLOR.
4 THAT'S A CHEMICAL TEST THAT THEY JUST DROP IT ON THE
5 MATERIAL AND IT TELLS WHETHER THERE'S OCCULT BLOOD THERE.
6 OCCULT MEANING IT DOESN'T LOOK LIKE BLOOD.

7 Q MEANING WHAT?

8 A DOESN'T HAVE THE APPEARANCE TO THE EYEBALL OF IT
9 BEING BLOOD.

10 Q OKAY.

11 A IT WOULD TAKE A -- IT WOULD TAKE A MICROSCOPE TO
12 IDENTIFY IT OR A CHEMICAL TEST TO IDENTIFY IT, AND IT WAS
13 POSITIVE.

14 Q ALL RIGHT. SO HE'S GOT BLOOD IN HIS -- HE'S
15 VOMITING?

16 A VOMITUS, YES.

17 Q OKAY.

18 A SAYS 2330, THAT WOULD BE 11:30 AT NIGHT, SAYS CRY
19 LUSTY, INFANT ACTIVE, COLOR GOOD, WILL CLOSELY OBSERVE.
20 HMM. SIGNED BY THE PHYSICIAN. SO THEY'RE GOING TO
21 CONTINUE. IN SPITE OF THE CHILD'S BETTER APPEARANCE,
22 THEY'RE GOING TO BE CAUTIOUS AND WATCH.

23 Q OKAY.

24 A ATE WELL AND VOMITED. ATE WELL AND RETAINED ALL.
25 AND IT SAYS, TEMPERATURE IS NOW STABILIZING. WELL, AN

1 INFANT'S TEMPERATURE IS USUALLY TAKEN WITH A RECTAL
2 THERMOMETER AND THEY USUALLY RUN ABOUT 98.6 OR
3 APPROXIMATELY ABOUT THAT, MAYBE 99.

4 ADULTS WILL RUN 99 ROUTINELY. BUT INFANTS MIGHT RUN
5 A LITTLE BIT LOWER. AND I WENT BACK THROUGH THOSE, THOSE
6 TEMPERATURE RECORDS, AND YOU CAN SEE IT WAS DOWN TO -- AT
7 THE FAR LEFT NEAR THE BOTTOM AT 5:45 IN THE MORNING 96.4,
8 LITTLE LOW. LITTLE LOW.

9 Q OKAY.

10 A AND BACK DOWN TO 97, 97 EIGHT, AGAIN, AT 8:00 AND AT
11 8:30, SO STABILIZING. THERE'S A -- IF YOU LOOK AT THE
12 0200, 2:00 IN THE MORNING, WE'RE STARTING AT THE LEFT.
13 IT'S ABOUT FOUR LINES UP FROM THE BOTTOM AND OVER TO THE
14 RIGHT IT SAYS, ATE WELL.

15 THERE'S A C WITH A BAR ACROSS THE TOP OF THAT.
16 THAT'S THE -- THAT'S SCIENTIFIC OR MEDICAL NOTATION FOR
17 THE WORD WITH, W-I-T-H.

18 Q WITH PROBLEMS--

19 A WHAT IT SAYS LITERALLY IS ATE WELL WITH PROBLEMS
20 RETAINING ALL WITHOUT FURTHER EXPANSION.

21 Q WHAT ARE THEY DESCRIBING THERE TO YOU?

22 A WELL, THERE WAS SOME PROBLEMS WITH THE CHILD EATING.
23 AND UP AT THE TOP IT'S -- AT 1845, THE SECOND, THIRD LINE
24 DOWN, GO TO THE -- GO ACROSS YOU SEE, ATE WELL WITH NO
25 PROBLEMS.

1 SO -- AND THEN DOWN -- DOWN AT THREE LINE -- DOWN TWO
2 LINES IT SAYS, ATE WELL WITH PROBLEMS. SO IT LOOKS AS IF
3 THE CHILD IS HAVING PROBLEMS FROM TIME TO TIME FEEDING.

4 Q I SEE UP HERE YOU...

5 A SORRY.

6 Q ATE WELL WITH NO PROBLEMS.

7 A THEN UNDERNEATH IT--

8 Q ATE WELL WITH NO PROBLEM.

9 A OH, I'M SORRY. YEAH. IT DOES SAY, ATE WELL WITH NO
10 PROBLEM. I'M SORRY.

11 Q OKAY. THEN DOWN HERE IT SAYS, ATE WELL WITH
12 PROBLEMS?

13 A YES, EXACTLY.

14 Q ALL RIGHT.

15 A AND THEN YOU SEE FOUR LINES FURTHER, QUIET NIGHT WITH
16 PROBLEMS.

17 Q OKAY.

18 A BUT THEY'RE NOT FURTHER EXPLAINED. THEN AT 1400 ON
19 THIS PAGE, WHICH IS 2:00 IN THE AFTERNOON, TO THE FAR
20 RIGHT IT SAYS, ATE WELL WITH S WITH A BAR ACROSS THE TOP
21 MEANS WITHOUT.

22 Q ALL RIGHT. AND C WITH A BAR MEANS?

23 A WITH.

24 Q WITH? ALL RIGHT. SO THERE -- SOMETIMES HE DOESN'T
25 HAVE ANY PROBLEMS AND SOMETIMES HE DOES?

1 A APPARENTLY.

2 Q AND AT THIS -- DURING THIS PERIOD OF TIME ABDOMINALLY
3 HAVING PROBLEM HOLDING THAT--

4 A NONE DESCRIBED.

5 Q NONE DESCRIBED. OKAY.

6 A THEN YOU GO DOWN A FEW MORE LINES FROM THAT ONE, FIVE
7 LINES DOWN IT SAYS, ATE WELL WITH PROBLEM. 1400 NO
8 PROBLEMS. 1800 -- WELL, 2:00 AND THEN 6:00, IT -- 2:00 NO
9 PROBLEMS AND 6:00 SOME PROBLEM. THEN AGAIN IT -- IT'S
10 EITHER 9:00 OR 10:00. CAN'T TELL.

11 Q OKAY.

12 A TWENTY-ONE OR 22, ATE WELL WITH PROBLEMS AGAIN, AND
13 AGAIN AFTER THAT.

14 Q SO HE'S SHOWING PROBLEM WITH EVERY FEEDING EXCEPT
15 THAT ONE.

16 A ACCORDING TO THE RECORD, YES.

17 Q OKAY.

18 A THEN AT 2:00 IN THE MORNING UP IN THE MIDDLE OF THE
19 PAGE, ATE WELL WITHOUT PROBLEM.

20 Q OKAY. BECAUSE WE HAVE A SLASH AND AN S.

21 A YES.

22 Q AS OPPOSED TO A C.

23 A YES, IT LOOKS TO BE THAT -- SAYS WITHOUT.

24 Q OKAY.

25 A AGAIN AT THE BOTTOM OF THE PAGE, QUIET NIGHT WITHOUT

1 PROBLEMS, ATE WELL WITHOUT -- QUIET MORNING WITHOUT --
2 SEEMS LIKE THINGS WERE PRETTY STABLE AT THAT POINT ON DOWN
3 TO THE BOTTOM OF THE PAGE. EATING A GOOD AMOUNT.

4 Q OKAY.

5 A AND 1800 ON THAT DAY, 6:00 IN THE AFTERNOON WAS
6 DISCHARGED TO THE MOTHER.

7 Q ALL RIGHT. LET'S GO OVER TO THE MOTHER'S RECORDS FOR
8 A SECOND.

9 A SURE.

10 Q THAT'S -- THAT IS THE END OF HIS RECORDS.

11 A YES.

12 Q CORRECT?

13 A YES, THAT'S ALL -- THAT'S ALL WE HAVE.

14 Q LOOK OVER HERE ON THE MOTHER'S RECORD. OPEN UP THAT
15 BOX.

16 A I NEED TO EXPAND, YEAH. THERE WE GO.

17 Q THERE YOU GO.

18 A OKAY.

19 Q ALL RIGHT. NOW, YOU SERVED AT GUANTANAMO BAY
20 YOURSELF; DIDN'T YOU?

21 A YES, I DID, A LONG TIME AGO, YEAH, BUT NOT AS A
22 PHYSICIAN.

23 Q BUT NOT AS A PHYSICIAN. WHAT WAS YOUR ROLE IN THE
24 NAVY WHEN YOU WERE AT GUANTANAMO?

25 A I WAS A -- I HAD BEEN TRAINED IN ELECTRONICS AND I

1 WORKED ON ALL SORTS OF ELECTRONIC -- AVIATION ELECTRONIC
2 EQUIPMENT, RADAR EQUIPMENT AND ALTIMINARS (SIC) AND
3 COMMUNICATIONS GEAR AND MAGNETIC DETENTION EQUIPMENT.

4 AND I WAS TRAINED TO BECOME A COMBATOR CREWMAN AND I
5 FLEW IN THE BACK SEAT OF AIRCRAFT -- OFF OF AIRCRAFT
6 CARRIERS. OUR JOB WAS TO CHASE AND CATCH AND DEAL WITH
7 SUBMARINES.

8 Q OKAY. THAT'S INTERESTING.

9 A IT WAS VERY INTERESTING.

10 Q WELL, LET'S GO BACK TO THE MOM'S RECORDS NOW AND I
11 WANT YOU TO COMMENT ON HER RECORD FOR US, TOO.

12 A SURE.

13 Q AS IT RELATES TO STEPHEN.

14 A CERTAINLY.

15 Q ALL RIGHT.

16 A I WILL DO -- I'LL DO WHAT I CAN. CHART STARTS OUT
17 WITH A DIAGNOSTIC SUMMARY, THEN GIVES CLINICAL DIAGNOSIS
18 SINCE PREGNANCY, UTERINE DELIVERED.

19 Q OKAY.

20 A AND GRAND MULTIPARITY. THAT MEANS SHE HAS HAD IN THE
21 RANGE OF FIVE CHILDREN. WOMEN WITH GRAND MULTIPARITY ARE
22 WORRISOME TO PHYSICIANS WHO ARE IN LINE TO DELIVER BECAUSE
23 THEY CAN DELIVER IN AN INSTANT.

24 Q OKAY.

25 A THEY CAN HAVE PRECIPITOUS DELIVERIES WHICH CAN BE

1 INJURIOUS TO THE BABIES.

2 Q LET ME ASK YOU -- YOU MAY WANT TO COMMENT ON THIS
3 YOURSELF, BUT THERE'S NOTHING OUT OF THE ORDINARY WITH
4 THIS DELIVERY, SPONTANEOUS.

5 A NO.

6 Q HOW ABOUT THIS NEXT ENTRY?

7 A AMNIOTOMY. THAT MEANS THEY -- THEY BROKE HER WATER
8 IS WHAT IT SAYS.

9 Q THEY DID?

10 A THEY BROKE HER WATER.

11 Q OKAY.

12 A YEAH. HER -- HER MEMBRANES HADN'T RUPTURED WHEN SHE
13 GOT THERE, AND THE OPERATION WAS THAT THEY BROKE THEM.
14 AND THEN THIS SALPINGOTOMY, PARTIAL BILATERAL.

15 SALPINGOTOMY IS A -- IS A TUBE TYING TECHNIQUE FOR
16 STERILIZATION, AND IT'S CROSSED OUT.

17 Q WHY DID THEY CROSS IT OUT?

18 A WELL, DOESN'T SAY HERE.

19 Q ALL RIGHT. LET'S LOOK--

20 A IT WASN'T -- IT WASN'T CODED OUT. YOU SEE THE
21 NUMBERS TO THE RIGHT? THAT'S THE CODE THAT'S BEEN DONE,
22 AND THE SALPINGOTOMY WAS NOT PERFORMED, BUT IT DOESN'T
23 EXPLAIN IT HERE.

24 Q AND IS THAT WHAT WE CALL -- REFER TO AS A TUBAL
25 LIGATION?

1 A YES.

2 Q ALL RIGHT. NOW, THEY DIDN'T DO -- IT SAYS, APPROVED
3 FOR POSTPARTUM TUBAL BUT NOT DONE.

4 A YES, IT DOES.

5 Q AND WHY DID THEY NOT DO IT?

6 A IT SAYS, IN VIEW OF THE INFANT'S PROGNOSIS OF THE --
7 I'M SORRY -- IT SAYS, IN VIEW OF THE UNCERTAIN PROGNOSIS
8 IN THE BABY.

9 Q IT SAYS, SEE THE BABY CHART.

10 A YEAH.

11 Q ALL RIGHT. AND WE JUST LOOKED AT THAT.

12 A WE DID.

13 Q SO ALL OF THE THINGS THAT YOU HAVE NOTED FOR US WENT
14 INTO THE DECISION THAT THEY RECOMMEND NOT A -- NOT TO HAVE
15 THE TUBAL?

16 A IT APPEARS THAT WAY, YES. THAT SHE WANTED TO HAVE
17 MORE CHILDREN, THEN SHE OUGHT NOT TO HAVE HER TUBES TIED.
18 IT WAS A CHOICE TO MAKE.

19 Q NOW DR. THRASHER, DID YOU -- ARE THERE OTHER THINGS
20 IN THIS CHART, IN THE MOTHER'S CHART, THAT ARE IMPORTANT
21 TO YOU WITH RESPECT TO STEPHEN'S CASE OTHER THAN THINGS
22 THAT THEY WOULD HAVE JUST PUT IN THERE THAT WERE LIFTED
23 OUT OF THE BABY'S CHART?

24 A WELL, TO ME THE WHOLE CHART IS SIGNIFICANT.

25 Q ALL RIGHT. LET'S GO THROUGH IT.

1 A BUT YOU KNOW, AS IT RELATES TO THE MOTHER'S HEALTH
2 AND--

3 Q RIGHT.

4 A -- CARE DURING DELIVERY.

5 Q WE WANT TO FOCUS ON STEPHEN'S HEALTH--

6 A YEAH.

7 Q -- TODAY. IS THERE ANYTHING ELSE OF SUBSTANCE IN HER
8 CHART THAT WE CAN GET THAT'S IN ADDITION TO THE MATERIAL
9 OR INFORMATION THAT WE HAVE ALREADY GOTTEN FROM STEPHEN'S
10 RECORDS?

11 A WELL, THERE'S CONFIRMATION OF THE -- CANCELLING OF
12 THE EARLY APPROVAL, AND THEN THE CANCELLATION OF THE TUBAL
13 LIGATION.

14 Q ALL RIGHT.

15 A AND THEN DOWN BELOW THAT IT SAYS, EARLY VOMITING AND
16 POOR MORO.

17 Q ALL RIGHT. THAT'S AGAIN A REFERENCE TO THE--

18 A REFLEX.

19 Q -- REACTION -- REFLEX.

20 A REFLEX PROBLEM. AND IT'S FOLLOWED ON THE THIRD DAY
21 BY THE DEVELOPMENT OF JAUNDICE.

22 Q ALL RIGHT. SO THE MORO HAS NOTHING TO DO WITH THE
23 JAUNDICE UNLESS -- IN OTHER WORDS, JAUNDICE DID NOT CAUSE
24 THE MORO?

25 A WELL, IT COULD, BUT IN THIS CASE I DON'T THINK IT

1 DID. IT WOULD HAVE TO BE AN ENORMOUSLY HIGH LEVEL OF
2 BILIRUBIN FOR A LONG PERIOD OF TIME SO IT INVADED AND
3 IMPAIRED THE BRAIN.

4 Q ALL RIGHT.

5 A SO I DON'T THINK IT--

6 Q AND THE BILIRUBIN WOULDN'T HAVE BEEN THAT HIGH,
7 THOUGH, WITHOUT HIM HAVING JAUNDICE AT THAT TIME; CORRECT?

8 A NO. THAT'S CORRECT.

9 Q SO THE SEQUENCE HERE, THE POOR MORO AND THEN FOLLOWED
10 THE NEXT DAY BY JAUNDICE.

11 A THREE DAYS LATER.

12 Q THREE DAYS SHOWS HE HAD SOME KIND OF NEUROLOGICAL
13 PROBLEM BEFORE -- THREE DAYS BEFORE THE JAUNDICE?

14 A YES.

15 Q OKAY.

16 A YEAH, ON THAT TIME RECORD HERE, YEAH. THE REST IS --
17 SAYS CANCEL SURGERY IN THE MORNING. THAT'S -- THEY
18 CANCELED THE -- THE--

19 Q TUBAL--

20 A -- TUBAL LIGATION, AND THEN DOWN TO DISCHARGE. AND I
21 DON'T THINK THAT'S THE END OF IT. THIS GIVES SOME -- HER
22 HISTORY, HER ADMISSION, HER CONDITION, THAT SHE WAS
23 PUSHING, OBVIOUSLY IN LABOR.

24 ON THIS PAGE WHERE IT SAYS, LATE ENTRY, FHT IS FETAL
25 HEART TONES, AND THEY ARE 128. THEY ARE LISTENING TO THE

1 BABY'S HEARTBEAT. AND THAT'S A GOOD RANGE. AT -- 136 IS
2 NOT BAD.

3 THEN SOME MEDICINE SHE WAS ADMINISTERED TO MAKE HER
4 COMFORTABLE. HER BLOOD PRESSURE, CRUCIAL, SHE WAS
5 HYPERTENSIVE -- REALLY COMPLICATE THINGS. AND THIS IS
6 MANAGEMENT OF HER CONDITION AFTER DELIVERY.

7 FUNDUS IS FIRM, THE REASON, THE UTERUS IS SHRINKING
8 DOWN AS IT SHOULD. SHE'S SLEEPING, DOING OKAY. I'M JUST
9 GOING TO ROLL DOWN ON THROUGH THIS QUICKLY.

10 Q OKAY.

11 A AGAIN, 2000, 10:00 AT NIGHT SURGERY WAS CANCELED FOR
12 THE MORNING. AND AT SOME POINT HERE SHE STATED THAT SHE
13 WAS CONCERNED ABOUT THE CONDITION OF THE BABY. IT WAS PUT
14 IN A NOTE HERE, BUT I CAN'T SEE IT.

15 THERE IT IS. AT 2000, WHICH WAS 10:00 AT NIGHT,
16 PATIENT'S UP AND ABOUT THE WARD. SEE IT THERE?

17 Q YES.

18 A ONE, TWO, THREE -- FOUR LINES DOWN.

19 Q YES.

20 A APPREHENSIVE ABOUT THE BABY'S CONDITION. SHE WAS
21 NATURALLY WORRIED ABOUT HIM.

22 Q OKAY.

23 A LET'S SEE, WHAT ELSE HERE. THAT WAS THE DESCRIPTION
24 OF THE LABOR. IT WAS VERY QUICK. AGAIN, PROGRESS NOTE 1
25 15 08 (SIC).

1 Q NOW, THIS IS TWO DAYS AFTER THE BIRTH?

2 A YES. POSTPONE -- TUBAL LIGATION POSTPONED.

3 Q NOW, LET ME ASK YOU BEFORE YOU GO. THEY DESCRIBE HIS
4 STATE AS PRECARIOUS. DO YOU SEE THAT?

5 A YEAH. 115 IT SAYS, WILL POSTPONE PLANNED TUBAL
6 LIGATION IN VIEW OF PRECARIOUS STATE OF THE BABY WITH
7 VOMITING AND POSSIBLE INTRACRANIAL DAMAGE.

8 Q ALL RIGHT. WHAT DO YOU GATHER FROM THAT ABOUT THE
9 BABY'S STATE ON THAT DAY, TWO DAYS AFTER THE BIRTH?

10 A WELL, THEY WERE STILL WORRIED THAT THERE WAS
11 SOMETHING GOING ON IN THE BABY'S HEAD THAT COULD BE OF
12 MAJOR CONSEQUENCE FOR HIS SURVIVAL.

13 Q HOW OFTEN WOULD YOU SEE THE WORD PRECARIOUS USED TO
14 DESCRIBE THE STATE OF AN INFANT 48 HOURS AFTER BIRTH?

15 A WELL, CAN'T STATE THE FREQUENCY OF THE USE OF THE
16 WORD, BUT THE SIGNIFICANCE OF THE WORD IS RATHER NOTABLE
17 TO SAY THE LEAST.

18 Q SAY THAT AGAIN FOR US.

19 A I CAN'T -- I CAN'T TELL WHAT THE FREQUENCY OF THE USE
20 OF THE WORD PRECARIOUS MIGHT BE, BUT WHEN IT'S USED IN
21 THIS CONTEXT, IT IS OF SIGNIFICANT...

22 Q OKAY. THEY WERE--

23 A MEANING BECAUSE IT'S IMPLYING THIS BABY'S AT RISK FOR
24 DEATH.

25 Q AND BASED ON YOUR REVIEW OF THE RECORDS, THAT'S IN

1 CONJECTION (SIC) WITH WHAT KIND OF PROBLEM?

2 A WELL...

3 Q NEUROLOGICAL?

4 A PROBABLY BRAIN DAMAGE, YES.

5 Q ALL RIGHT. AND IN FACT, THEY SAY THAT, DON'T THEY?
6 POSSIBLE INTRACRANIAL DAMAGE?

7 A YES.

8 Q RIGHT HERE?

9 A YES, THEY DO, AT THE FAR RIGHT ON THAT PAGE.

10 Q OKAY.

11 A THE TOP.

12 Q ALL RIGHT. CONTINUE ON.

13 A WAS DISCHARGED. GOT BETTER AND DISCHARGED.

14 Q ALL RIGHT.

15 A DELIVERY NOTE. SEEMS THAT THINGS WENT WELL. THIS IS

16 A -- A CHART OF HER TEMPERATURE AND OTHER THINGS DURING
17 THE -- FROM THE DATE OF ADMISSION TO THE DATE OF DELIVERY
18 IN THE FIRST, SECOND, THIRD, FOURTH DAYS AFTER.

19 Q NOW, IS THIS MOM'S?

20 A THIS IS MOM.

21 Q OKAY. GO ON.

22 A AND IT SEEMS THINGS WERE FINE. AS KIND OF LIKE A
23 SUMMARY SHEET, A HOSPITAL SUMMARY OF WHAT WENT -- MAY HAVE
24 WENT ON. AND STATEMENT OF PROGRESS, THERE'S AN ANESTHESIA
25 NOTE THERE FROM THE MIDDLE OF THE PAGE AT 114 UNDER

1 DISCHARGE NOTE. AND IT SAYS, ON 1 17 SAYS DISCHARGED,
2 MEANING THE MOTHER--

3 Q YES.

4 A -- WITHOUT STERILIZATION PROCEDURE DUE TO UNCERTAIN
5 PROGNOSIS OF BABY.

6 Q ALL RIGHT. SO HIS PROGNOSIS -- ALL RIGHT. THAT'S
7 THE STATEMENT WITH RESPECT TO THE DECISION TO CANCEL THE
8 TUBAL LIGATION?

9 A NO. IT SAYS DISCHARGE WITHOUT STERILIZATION
10 PROCEDURE DUE TO THE UNCERTAIN PROGNOSIS OF THE BABY WOULD
11 MEAN TO ME THAT THE UNCERTAINTY PERSISTS.

12 Q OKAY. SO UNCERTAINTY NOT PAST BUT PRESENT?

13 A ON-GOING.

14 Q AT THE TIME OF MOM'S DISCHARGE?

15 A ON-GOING, YES.

16 Q OKAY.

17 A AND SHE WAS SCHEDULED FOR A FOLLOW-UP, CLOSE ON AFTER
18 THAT IN THE OUTPATIENT CLINIC. THIS IS A STATEMENT OF HER
19 PRIOR LABORS AND DELIVERIES.

20 Q OKAY.

21 A SHE HAD FOUR PRIOR CHILDREN, AND THE ANESTHESIA THAT
22 WAS USED, ET CETERA, AND THE -- THE TYPE OF DELIVERY --
23 THE FIRST ONE WAS A BREACH DELIVERY. THAT'S, YOU KNOW, A
24 STATEMENT OF HER CONDITION.

25 UM -- THE BABY WAS CONCEIVED WITH AN IUD ENTRY --

1 INTRAUTERINE DEVICE CALLED A LIPPES LOOP WHICH IS A
2 MECHANICAL BIRTH CONTROL PHYSICAL DEVICE THAT WAS PLACED
3 IN THE UTERUS THAT WOULD -- SUPPOSED TO HINDER
4 IMPLANTATION OF THE EGG, THE FERTILIZED EGG, INTO THE WALL
5 OF THE UTERUS.

6 AND SOMETIMES IT DOESN'T WORK. AND IT DIDN'T WORK IN
7 THIS CASE. IT SAYS, CONCEIVED WITH IUD LIPPES LOOP WHICH
8 WAS REMOVED FIVE WEEKS AFTER THE LAST MENSTRUAL PERIOD.

9 Q OKAY.

10 A SO...

11 Q ALL RIGHT. WE'RE ALMOST THROUGH. CONTINUE ON IF YOU
12 WOULD, PLEASE SIR.

13 A YES. THESE ARE HER PRENATAL VISITS. AND THIS IS A
14 STATEMENT OF HER TEMPERATURE AND PULSE RATE.

15 Q OKAY.

16 A AND THIS IS A MORE PHYSICAL, GRAPHICAL STATEMENT OF
17 SAME AND SIMILAR THINGS.

18 Q OF MOM'S...

19 A MOTHER. AND THESE ARE CONSENTS TO HAVE SURGERY.

20 Q PULL -- OKAY. THAT WAS A STATEMENT OF MOM'S
21 TEMPERATURE AND RESPIRATORY RATE?

22 A YES. THAT--

23 Q OKAY.

24 A -- THAT'S JUST ANOTHER WAY--

25 Q DOESN'T HAVE ANY RELATION TO STEPHEN?

1 A NO. SHOWS HIGHS AND THE LOWS. THEY WERE NOT OUT OF
2 RANGE, SO IT WOULDN'T BE ANTICIPATED THEY WOULD HAVE AN
3 AFFECT ON THE INFANT. IF THEY WERE WAY OUT OF RANGE, YES,
4 YOU BET, THEY MAY HAVE TO -- THEY MAY HAVE TO RUSH TO
5 DELIVER THE BABY BY CESAREAN OR WHATEVER, YEAH.

6 Q I SEE. ALL RIGHT. BUT THAT DIDN'T HAPPEN HERE?

7 A NO. NO, IT DID NOT.

8 Q ALL RIGHT. KEEP GOING.

9 A AND THIS -- THESE ARE -- THIS IS A PERMIT FOR HER TO
10 HAVE THE BILATERAL TUBAL LIGATION OF -- THE STERILIZATION
11 PROCEDURE. AND THIS IS AN AUTHORIZATION FOR DELIVERY AND
12 REPAIR.

13 REPAIR WOULD MEAN FOR A REPAIR OF A -- AN EPISIOTOMY,
14 WHICH IS AN INCISION SOMETIMES MADE AT THE DELIVERY TO
15 PREVENT UNDUE RIPPING AND TEARING OF MOTHER'S ANATOMY.

16 Q NOW, EVENTUALLY EVERYBODY WENT HOME. MOM WENT HOME
17 AND STEPHEN WENT HOME.

18 A YES.

19 Q A -- SIGNED OFF AND SAID, HE LOOKS OKAY TO US AT THIS
20 POINT, SO HE WAS READY TO GO?

21 A LOOKED WELL ENOUGH.

22 Q WHAT -- CAN WE GLEAM ANYTHING FROM THAT ACT, THE ACT
23 OF MERELY SENDING HIM HOME SAYING, OKAY, LOOKS FINE NOW,
24 DOES THAT UNDERMINE THE SEVERITY OF THE PRIOR CONCERN
25 ABOUT HIS HEALTH AND THE INDICATIONS OF INTRACRANIAL

1 DAMAGE OR NEUROLOGICAL DAMAGE?

2 A NO, NOT AT ALL, BECAUSE SUCH THINGS MAY OR MAY NOT
3 BECOME APPARENT FOR UP TO YEARS LATER.

4 Q OKAY.

5 A AND THEY GAVE HER A FOLLOW-UP APPOINTMENT IN THE
6 CLINIC TO FOLLOW THAT CHILD, WHICH IS ROUTINE ANY WAY.
7 AND THEY WOULD HAVE THESE NOTES TO REFER TO AND TO DO
8 WHATEVER EXAM--

9 Q I SEE.

10 A -- THEY NEEDED TO DO.

11 Q I SEE. LIKE EVEN NOW?

12 A EVEN NOW IT'S A -- A SIGNIFICANT INTEREST, OF COURSE.

13 Q OKAY.

14 A WE'RE TRYING TO -- WE'RE TRYING TO EXPLAIN SOMETHING
15 THAT'S GOING ON THESE DAYS, AND IT'S IMPORTANT TO LOOK
16 BACK THAT FAR AND KEEP THOSE THINGS IN MIND AS A POSSIBLE
17 SOURCE OR CAUSE OR INITIATING EVENT.

18 Q WOULD IT BE FAIR TO SAY THAT'S WHY THESE RECORDS WERE
19 KEPT IN THE FIRST INSTANCE?

20 A YES. RECORDS ARE REQUIRED TO BE KEPT STATUTORILY.
21 EACH JURISDICTION HAS ITS -- ITS MINIMUM. AND CHILDREN'S
22 RECORDS ARE -- HAVE AN EXTENDED -- USUALLY STATUTORILY,
23 AND IF THERE'S SOMETHING ABNORMAL, THEY ARE KEPT FOREVER.

24 Q DR. THRASHER, I APPRECIATE YOUR PATIENCE. I THANK
25 YOU FOR LISTENING. AND THAT'S ALL I HAVE AT THIS TIME.

1 THE COURT: ANY QUESTIONS FOR THE WITNESS?

2 MR. HEMBREE: YES, YOUR HONOR.

3 THE COURT: YOU MAY PROCEED.

4 CROSS-EXAMINATION

5 BY MR. HEMBREE:

6 Q DR. THRASHER, YOU TESTIFIED ON WEDNESDAY?

7 A I DID.

8 Q QUITE A WHILE?

9 A I'M SORRY?

10 Q FOR WHITE A WHILE, FOR A LONG PERIOD OF TIME.

11 A INDEED, ABOUT THREE AND A HALF HOURS.

12 Q YES, SIR. AND I THOROUGHLY CROSS-EXAMINED YOU AFTER
13 MR. DIGGS EXAMINED YOU.

14 A CERTAINLY DID.

15 Q AND ESSENTIALLY YOU'VE TESTIFIED TO THE SAME THINGS
16 TODAY THAT YOU TESTIFIED TO ON WEDNESDAY. IS THAT FAIR TO
17 SAY?

18 A WITH SOME EXCEPTION.

19 Q MINOR EXCEPTIONS, BUT ESSENTIALLY IN LARGE PART.

20 A SIGNIFICANT EXCEPTION, BUT IT'S NOT PERTINENT TODAY.

21 Q VERY GOOD. RIGHT. THERE WERE SOME ADDITIONAL THINGS
22 YOU TESTIFIED TO ON WEDNESDAY THAT YOU DIDN'T TESTIFY TO
23 TODAY.

24 A YES, OF COURSE, BECAUSE THEY DON'T PERTAIN TO TODAY.

25 Q AND DR. THRASHER, I'M GOING TO TRY TO -- I'M GOING TO

1 TRY TO BE VERY BRIEF BECAUSE I DID -- WE DID HAVE VERY
2 THOROUGH CROSS-EXAMINATION, SPENT A LOT OF TIME TOGETHER.

3 A YES, WE DID.

4 Q SO JUST SORT OF BEAR WITH ME FOR A MOMENT HERE.

5 A I WILL DO MY BEST.

6 Q THE FIRST THING I WANT TO TAKE YOU TO, AND I'M NOT
7 GOING TO BELABOR THESE RECORDS MUCH, BUT I'M GOING TO TAKE
8 YOU TO THE CLINICAL DIAGNOSIS FOR THE BIRTH RECORDS OF
9 STEPHEN STANKO. YOU'RE FAMILIAR WITH THOSE?

10 A YES, I HAVE BEEN OVER THEM.

11 Q IF YOU NEED TO LOOK AT THEM TO ASSIST IN YOUR
12 TESTIMONY, FEEL FREE TO DO THAT. BUT THE CLINICAL
13 DIAGNOSIS IS -- ISN'T IT TRUE IT SAYS, TERM BIRTH LIVING
14 CHILD. WOULD YOU LIKE TO TAKE A LOOK AT THEM?

15 A THAT'S ON HIS RECORD?

16 Q THAT'S IN HIS RECORD, YES, SIR.

17 A HANG ON A SECOND.

18 Q SURE.

19 MR. DIGGS: DOCTOR, DO YOU NEED US TO HELP YOU
20 PULL THAT UP?

21 THE WITNESS: I WILL FIGURE IT OUT. THAT DIDN'T
22 WORK. WELL, I CAN'T GET UP HERE.

23 BY MR. HEMBREE:

24 Q THERE YOU GO. IT'S ON THE LEFT.

25 A BIRTH.

1 Q THERE YOU GO.

2 A STORE...

3 Q LET'S GO TO THE TOP. SCROLL UP TO THE TOP. LET'S
4 START FROM THERE.

5 A AND THERE IT IS.

6 Q OKAY. NOW SCROLL DOWN UNTIL YOU GET TO, CLINICAL
7 DIAGNOSIS. THERE WE GO.

8 A YES.

9 Q RIGHT THERE. DIAGNOSTIC SUMMARY. CLINICAL
10 DIAGNOSIS. AND THIS IS DONE BY THE DOCTOR; CORRECT?

11 A YES.

12 Q TERM BIRTH LIVING CHILD?

13 A TRUE.

14 Q JAUNDICED?

15 A YES.

16 Q PHYSIOLOGICAL MAY BE EXAGGERATED?

17 A YES.

18 Q THERE'S NO DIAGNOSIS HERE OF ANY SORT OF BRAIN
19 INJURY; IS THERE?

20 A HE DID NOT PUT IT ON THERE.

21 Q THERE IS NO CLINICAL DIAGNOSIS OF A BRAIN INJURY?

22 A HE DID NOT PUT IT ON HERE.

23 Q WELL, NOW DOCTOR, LET ME ASK YOU THIS. IF YOU FOUND
24 A BRAIN INJURY AND YOU HAD DIAGNOSED THAT, WOULDN'T YOU
25 PUT IT IN THAT DIAGNOSIS?

1 A I WOULD TRY TO MAKE IT AS ACCURATE AS I COULD.

2 Q CERTAINLY YOU WOULD. AND--

3 A AND--

4 Q -- AND DO YOU HAVE ANY REASON TO BELIEVE, DOCTOR,
5 THAT THIS DOCTOR--

6 A EXCUSE ME--

7 MR. DIGGS: OBJECTION. HE'S TRYING TO ANSWER,
8 YOUR HONOR.

9 THE COURT: OVERRULED WITH THIS INSTRUCTION.
10 DOCTOR, PLEASE ANSWER THE QUESTION YES OR NO AND THEN
11 YOU MAY FULLY EXPLAIN YOUR ANSWER. DO YOU NEED THE
12 QUESTION REPEATED?

13 THE WITNESS: YES, PLEASE.

14 THE COURT: PLEASE REPEAT THE QUESTION.

15 BY MR. HEMBREE:

16 Q DOCTOR, IF YOU WERE THE TREATING PHYSICIAN OF THE 350
17 BABIES THAT YOU'VE TESTIFIED YOU HAVE DELIVERED, IF YOU
18 WERE THE TREATING PHYSICIAN AND YOU FOUND THAT THIS BABY
19 HAD BRAIN DAMAGE, YOU'D PUT IT IN THE CLINICAL DIAGNOSIS;
20 WOULDN'T YOU?

21 A YES, BUT--

22 Q AND IT'S NOT THERE; IS IT?

23 A NO, BUT -- CAN I FINISH?

24 Q PLEASE DO.

25 THE COURT: YOU MAY EXPLAIN YOUR ANSWER.

1 THE WITNESS: THANK YOU. IN THE CASE WHERE IT
2 IS NOT DEFINITELY DIAGNOSABLE AS A IDENTIFIED
3 PATHOLOGY, YOU COULD PUT IT IN HERE AS SUSPECTED.

4 BY MR. HEMBREE:

5 Q AND THERE WAS A -- THERE WAS A PLAN, WASN'T THERE,
6 DOCTOR, WHEN IT WAS SUSPECTED?

7 A SORRY?

8 Q WASN'T THERE A PLAN? DIDN'T THE DOCTOR HAVE A COURSE
9 OF -- A PLAN MADE IF THE PROBLEM PERSISTED IN THIS CASE?

10 A YES, HE DID.

11 Q HE DID. HE WAS GOING TO TAKE AN X-RAY IF THE
12 PROBLEMS PERSISTED; WASN'T HE?

13 A HE INTENDED TO.

14 Q HE DID. BUT HE DID NOT TAKE THAT X-RAY; DID HE?

15 A THERE IS NO INDICATION THAT HE DID.

16 Q CORRECT. BECAUSE THE BABY INDICATED THAT HE WAS
17 FINE. THE MORO REFLEXES GOT BETTER; CORRECT?

18 A IT DIDN'T SAY THAT.

19 Q YOU DIDN'T SAY THAT BECAUSE MR. DIGGS SKIPPED THAT
20 PART OF THE REPORT, BUT IT'S IN THE REPORT; ISN'T IT,
21 DOCTOR?

22 A THE MORO GOT BETTER? I DON'T SEE IT.

23 Q I'M GOING TO TAKE YOU THERE.

24 A OKAY.

25 Q WE ARE GOING TO TALK ABOUT IT. DOCTOR, THERE'S

1 FOLLOW-UP CARE FOR BABIES; ISN'T THERE?

2 A YES.

3 Q AS A MATTER OF FACT, NEWBORN BABIES GO TO THE DOCTOR
4 A LOT WHEN THEY ARE FIRST BORN. TRUE?

5 A USUALLY, YES.

6 Q YEAH, SURE.

7 A SOMETIME--

8 Q IT'S KIND OF THE COURSE OF -- THE STANDARD OF CARE IS
9 YOU GO TO THE DOCTOR LIKE ONCE A WEEK FOR A WHILE, THEN
10 YOU KIND OF GO TO ONCE A MONTH FOR A WHILE, AND THEN, YOU
11 KNOW, THEN IT SORT OF STRETCHES OUT AS THE BABY GETS
12 BIGGER AND STRONGER. TRUE?

13 A USUALLY, YES.

14 Q RIGHT. DO YOU HAVE ANY EVIDENCE, ANY EVIDENCE ON A
15 FOLLOW-UP VISIT THAT THIS BABY WAS IN ANY WAY SICK OR HAD
16 A BRAIN DEFECT?

17 A NO.

18 Q DOCTOR, YOU JUST TESTIFIED THAT IF THERE WERE
19 ABNORMALITIES IN THE FOLLOW-UP CARE, THOSE RECORDS WOULD
20 BE KEPT FOREVER.

21 A USUALLY, YES. DOESN'T MEAN THEY DID, BUT THEY --
22 USUALLY, YES.

23 Q BUT THAT'S THE STANDARD OF CARE?

24 A I WOULD EXPECT THAT.

25 Q THEY KEPT THE BIRTH RECORDS FOREVER. TRUE?

1 A YES.

2 Q THEY KEPT THE MOTHER'S RECORDS FOREVER. TRUE?

3 A YES.

4 Q SO WOULDN'T YOU HAVE EXPECTED IF THERE WERE
5 ABNORMALITIES DISCOVERED IN THE FOLLOW-UP CARE THAT THOSE
6 WOULD HAVE BEEN KEPT AS WELL?

7 A I WOULD HOPE THEY WOULD BE, YES.

8 Q AND YOU HAVE NO RECORD OF THAT?

9 A DIDN'T PROVIDE ANYTHING.

10 Q YOU DON'T HAVE A RECORD OF THAT -- WHEN THIS
11 DEFENDANT WAS A BABY, A SMALL CHILD, OR A LARGE CHILD; DO
12 YOU?

13 A RECORD OF WHAT?

14 Q RECORD OF BRAIN ABNORMALITIES. DO YOU HAVE A RECORD
15 OF BRAIN ABNORMALITIES WHEN THIS DEFENDANT WAS -- UNTIL
16 HIS 18TH BIRTHDAY?

17 A DIDN'T COME TO LIGHT UNTIL ABOUT THAT TIME, RIGHT.

18 Q BUT DO YOU HAVE EVIDENCE OF BRAIN ABNORMALITIES,
19 BRAIN ABNORMALITIES, PHYSIOLOGICAL BRAIN ABNORMALITIES
20 WHEN HE'S 18?

21 A ONLY A SUSPICION.

22 Q AND YOUR SUSPICION IS BASED ON WHAT, DOCTOR?

23 A HISTORY.

24 Q AND THAT'S THIS HISTORY THAT WE'RE LOOKING AT NOW?

25 A PARTLY.

1 Q NOW, I WANT TO TALK TO YOU ABOUT THESE N'S AND O'S.

2 A I'M SORRY?

3 Q I WANT TO TALK TO YOU TO ABOUT THE N'S AND THE O'S.

4 A ALL RIGHT.

5 Q SCROLL UP TO THAT SECTION. I THINK IT'S PAGE FOUR.

6 THERE WE GO. THERE WE GO. NOW DOCTOR, YOU'VE TESTIFIED

7 THAT IN YOUR OPINION, IN YOUR JUDGMENT, THE O MEANS

8 OBSERVED; CORRECT?

9 A YES.

10 Q NOW, YOU HAVE NOT CONSULTED WITH DR. MASON ON THIS

11 CASE; HAVE YOU?

12 A NO.

13 Q AND HE WAS THE DOCTOR THAT FILLED OUT THESE RECORDS,

14 I BELIEVE; CORRECT?

15 A YES.

16 Q NOW, I -- IT STRIKES ME AS CURIOUS THAT IN ALL THE
17 CATEGORIES WHERE YOU WERE LOOKING, IT'S A CHARACTERISTIC
18 OF THE CHILD WE SEE AN N, BUT IN ALL THE CATEGORIES THAT
19 ARE A PROBLEM, OKAY, A PROBLEM, NOT A CHARACTERISTIC, BUT
20 A PROBLEM, WE SEE THE O'S.

21 HYPOTHETICALLY, DOCTOR, IS IT -- LET'S JUST SAY THAT
22 I USE O TO DESIGNATE ZERO OR NOTHING. I WOULDN'T SAY
23 MURMURS WERE NORMAL; WOULD I? IT WOULDN'T MAKE SENSE TO
24 SAY MURMURS, NORMAL. IT WOULD SAY MURMURS ARE NEGATIVE,
25 MURMURS ARE NOT PRESENT IF THERE WERE NO MURMURS.

1 WOULDND'T YOU SAY THAT'S A FAIR WAY TO USE TO BE -- TO
2 COMMUNICATE MORE CLEARLY?

3 A THERE ARE PHYSIOLOGIC MURMURS WHICH ARE NORMAL.

4 Q THERE ARE MURMURS THAT ARE NORMAL, I UNDERSTAND THAT.
5 BUT IF YOU'RE -- IF YOU'RE CHECKING A BABY OUT ON THE
6 INITIAL EXAMINATION AND YOU'RE LISTENING FOR MURMURS,
7 YOU'RE LISTENING FOR A PROBLEM, AND YOU HEAR A PROBLEM,
8 YOU'RE NOT GOING TO SAY, THE PROBLEM IS NORMAL.

9 YOU'RE GOING TO SAY, YOU KNOW, HE EITHER HAS THEM OR
10 HE DOESN'T; RIGHT?

11 A YES.

12 Q AND IT'S YOUR TESTIMONY THAT YOU HAVE INTERPRETED
13 THESE ZEROS TO MEAN THAT THESE WERE OBSERVED?

14 A YES.

15 Q NOW, IT'S ALSO CURIOUS -- WELL, IT'S CURIOUS TO ME
16 THIS -- THAT RIGHT NOW BASED ON YOUR TESTIMONY, IF WE --
17 IF WE INTERPRET THOSE ZEROS AS OBSERVED AS OPPOSED TO
18 NEGATIVE, THIS BABY IS BLUE, YELLOW AND GRAY.

19 A BE -- YEAH, BE A MIXTURE OF BLUE, PALE AND YELLOW,
20 MAYBE GRAY, BLUISH GRAY, YELLOW PERHAPS.

21 Q THIS IS A RAINBOW CHILD; ISN'T IT, DOCTOR?

22 A I'M SORRY?

23 Q A RAINBOW CHILD, MANY COLORS?

24 A NO, THIS IS A SICK CHILD.

25 Q HE'S SICK IN HIS STOMACH; ISN'T HE?

1 A OH, YES.

2 Q OH, YEAH. IT'S SICK. IT'S VOMITED. AND IT'S GOT
3 SOME CONGESTION. AND HE GETS A LITTLE JAUNDICE WHICH GOES
4 DOWN IN A COUPLE OF DAYS. TRUE?

5 A TRUE.

6 Q TRUE. WOULDN'T YOU EXPECT, DOCTOR, THAT IF YOU HAD
7 HEART MURMURS IN THIS CHILD, THERE'S GOING TO BE SOMETHING
8 WRITTEN SOMEWHERE IN THAT REPORT THAT THIS BABY HAS HEART
9 MURMURS, THAT THEY ARE CONCERNED ABOUT IT. TRUE?

10 A YES. AND BY THE INSTRUCTIONS ON THIS PAGE IT'S
11 SUPPOSED TO BE ADDRESSED LATER. WASN'T ADDRESSED.

12 Q IT'S -- ACTUALLY IT'S NOT LISTED AT ALL. THERE IS NO
13 REFERENCE TO HEART MURMURS ANYWHERE IN THAT REPORT OR ANY
14 PROBLEM WITH THE HEART EXCEPT--

15 A EXCEPT FOR THIS--

16 Q -- ON THAT ZERO?

17 A THAT'S RIGHT.

18 Q OKAY. AND YOU KNOW, DOCTOR, THERE'S NO REFERENCE --
19 CYANOSIS, THE BABY TURNING BLUE, THAT'S PRETTY SERIOUS
20 STUFF; ISN'T IT?

21 A THAT'S VERY WORRISOME.

22 Q THAT'S SERIOUS STUFF. WE DON'T WANT THAT. IS THERE
23 ANY REFERENCE AT ALL IN THAT REPORT, ANY REFERENCE AT ALL,
24 TO THIS BABY HAVING CYANOSIS EXCEPT FOR THAT ZERO?

25 A NOT THAT I RECALL.

1 Q OKAY. AND PARALYSIS. NOW PARALYSIS, THAT'S REALLY
2 BAD; ISN'T IT?

3 A THAT'S...

4 Q VERY SERIOUS.

5 A SIGNIFICANT, YES, SIR.

6 Q IT'D GIVE YOU CONCERN IF YOU WERE THE TREATING
7 PHYSICIAN ON THIS BABY.

8 A INDEED I WOULD BE.

9 Q AND IF YOU SAY ZERO, AND THAT MEANS OBSERVED, THEN
10 DOCTOR, WOULDN'T YOU EXPECT THAT THERE WOULD BE SOME
11 NOTATIONS IN THE DIAGNOSIS OR -- OR IN THE NURSES' NOTES
12 OR IN THE DOCTORS' ORDERS SOMEWHERE ABOUT THIS BABY HAVING
13 PARALYSIS?

14 A I WOULD HOPE SO.

15 Q YOU WOULD HOPE SO, BUT THEY WEREN'T LISTED; WERE
16 THEY?

17 A NO.

18 Q NO.

19 A WELL, THE MORO WAS ADDRESSED IN OTHER LINES.

20 Q I AM SO GLAD YOU REMINDED ME ABOUT THAT. WE HAD SOME
21 POOR MORO ON THE 14TH; CORRECT?

22 A YES.

23 Q AND DOCTOR, I WANT TO TAKE YOU TO THE 15TH. YOU
24 DIDN'T -- MR. DIGGS DIDN'T ASK YOU ABOUT THE 15TH OR THE
25 16TH OR THE 17TH OR THE 18TH. LET ME TAKE YOU TO THOSE

1 DAYS.

2 IF YOU WILL, SCROLL DOWN TO THE DOCTOR'S NOTES ON
3 THOSE FOUR DAYS. THERE'S THE 17TH AND THE 18TH. LET'S
4 START WITH THE 15TH. HERE WE GO.

5 A WHAT PAGE ARE YOU LOOKING FOR?

6 Q THAT'S RIGHT. YOU'RE RIGHT ON IT. YOU'RE RIGHT ON
7 IT. RIGHT THERE. LET'S LOOK AT THE 15TH, JANUARY THE
8 15TH. DOCTOR COMES IN, CHECKS THE BABY. SAYS, BABY LOOKS
9 BETTER NOW; CORRECT?

10 A DOES.

11 Q GOOD SPONTANEOUS MOVEMENTS?

12 A AS BEFORE.

13 Q RIGHT. AND IT SAYS, MORO FAIRLY GOOD. LOOK AT IT
14 HARD, DOCTOR.

15 A I SEE IT.

16 Q IT SAYS, MORO FAIRLY GOOD; DOESN'T IT?

17 A YES, IT DOES.

18 Q YES, IT DOES. IT IMPROVED THE NEXT DAY.

19 A YES.

20 Q WHICH WOULD LEAD ONE -- LEAD A DOCTOR TO SAY, WELL,
21 MAYBE I DON'T NEED TO DO THIS X-RAY AFTER ALL, MAYBE THE
22 BABY JUST HAD A SICK STOMACH.

23 A THAT'S POSSIBLE, BUT IT DOESN'T SAY SO.

24 Q CERTAINLY. BUT HE DIDN'T DO THE X-RAY?

25 A NO RECORD OF IT.

1 Q AND THAT WOULD HAVE BEEN THE APPROPRIATE COURSE OF
2 ACTION IF THE BABY HAD ANY BRAIN DAMAGE?

3 A BACK THEN, YES.

4 Q RIGHT. NOW, NO VOMITING TODAY EXCEPT FOR MINIMAL
5 REGURGITATION?

6 A YES.

7 Q BABY'S TUMMY IS GETTING BETTER, TOO; RIGHT?

8 A HOPEFULLY, YES.

9 Q WELL, I MEAN, ACCORDING TO THE RECORDS. I'M NOT
10 TALKING ABOUT HOPEFULLY. ACCORDING TO THE RECORDS, IT
11 APPEARS THAT THE BABY IS GETTING BETTER.

12 A IT APPEARS THAT WAY.

13 Q THAT ISSUE IS RESOLVING ITSELF. MODERATE JAUNDICE ON
14 THE 16TH; RIGHT?

15 A RIGHT.

16 Q TAKING FEEDING WITHOUT DIFFICULTY; CORRECT?

17 A NO VOMITING.

18 Q NO VOMITING; CORRECT?

19 A YES.

20 Q BILIRUBIN DOWN?

21 A YES.

22 Q NEUROLOGICAL OKAY?

23 A YUP.

24 Q YOU DIDN'T GO OVER THAT WITH MR. DIGGS; DID YOU?

25 A NOPE.

1 Q NO. LET'S TAKE A LOOK AT THE 17TH, KIND OF AT THE
2 TOP OF THE PAGE. CLINICALLY DOING WELL; CORRECT?

3 A WHERE?

4 Q ON THE -- ON THE 17TH, AT THE TOP OF THAT SAME PAGE.
5 GO UP A LITTLE BIT. SCROLL UP IF YOU WOULD, DOCTOR.

6 A THAT'S WHERE WE WERE.

7 Q YEAH.

8 A THIS IS THE NEXT PAGE.

9 Q WELL, NO, SIR. YOU HAVE TO GO TO THE TOP OF THE PAGE
10 BECAUSE FOR WHATEVER REASON THEY LISTED THE 17 AND 18TH AT
11 THE TOP OF THE PAGE. THERE WE GO. SEE WHERE IT SAYS 17?

12 A YUP.

13 Q CLINICALLY DOING WELL?

14 A YES.

15 Q BILIRUBIN 19.1 PERCENT; RIGHT?

16 A YES.

17 Q ON THE 18TH BILIRUBIN DOWN TO 17.8 PERCENT. THAT'S A
18 GOOD THING; ISN'T IT?

19 A YES.

20 Q THAT'S AN ACCEPTABLE LEVEL; ISN'T IT?

21 A YES.

22 Q THE JAUNDICE IS RESOLVED?

23 A GETTING BETTER.

24 Q THE VOMITING HAS RESOLVED ACCORDING TO OTHER RECORDS.

25 A YES.

1 Q RIGHT? SOMETHING NO ABNORMALITIES ON THE PHYSICAL
2 EXAM?

3 A RIGHT, EXCEPT...

4 Q STILL SOME CONCERN ABOUT THE JAUNDICE; RIGHT?

5 A YES.

6 Q AND GOING TO GO BACK AND GET SOME MORE BILIRUBIN
7 LATER. AND THE BABY WAS LET -- WAS DISCHARGED ON THE
8 18TH. ISN'T THAT CORRECT, DOCTOR?

9 A TRUE.

10 Q THAT'S RIGHT. I WON'T TAKE YOU THROUGH THE REST OF
11 IT, DOCTOR. LET ME ASK YOU -- I'VE ASKED OTHER FOLKS
12 THIS. HOW MUCH ARE YOU BEING PAID PER HOUR FOR YOUR
13 TESTIMONY?

14 A I GET \$150 AN HOUR. I'M SORRY. YOU ASKED ME WHAT?

15 Q HOW MUCH ARE YOU BEING PAID?

16 A FOR...

17 Q THIS -- YOUR -- YOUR ASSISTANCE IN THIS CASE, YOUR
18 WORK--

19 A YOU DIDN'T SAY THAT.

20 Q WELL, YOUR -- FOR YOUR TESTIMONY, FOR IN COURT
21 TESTIMONY.

22 A YOU'RE ASKING ME HOW MUCH I'M PAID FOR MY TESTIMONY;
23 IS THAT CORRECT?

24 Q YES, SIR.

25 A NOTHING.

1 Q OKAY. YOU'RE WORKING--

2 A NOT A CENT. NOT A CENT.

3 Q -- YOU'RE WORKING FOR FREE?

4 A I DON'T GET PAID FOR MY TESTIMONY AT ALL.

5 Q OKAY. WELL, LET ME ASK YOU. YOU'RE BEING PAID FOR
6 YOUR TIME; CORRECT?

7 A EXACTLY.

8 Q OKAY. AND YOUR TIME IN COURT YOU'RE BEING PAID HOW
9 MUCH, DR. THRASHER?

10 A IT'S \$150 AN HOUR.

11 Q OKAY. HOW ABOUT YOUR TIME OUT OF COURT?

12 A SAME.

13 Q \$150 AN HOUR. AND HOW MUCH MONEY IS BUDGETED FOR
14 YOUR ASSISTANCE WITH THIS CASE?

15 A I HAVE NO IDEA.

16 Q HOW MUCH MONEY HAVE YOU -- HOW MUCH TIME HAVE YOU
17 SPENT WORKING ON THIS CASE?

18 A ALL DAY YESTERDAY AND PART OF TODAY AND THE PRIOR
19 SESSION.

20 Q PLUS YOU'VE DEVELOPED -- YOU HAVE INTERVIEWED THE
21 DEFENDANT?

22 A YEAH.

23 Q YOU HAVE DONE A REPORT, YOU'VE DONE AN EVALUATION.

24 A YES.

25 Q FOUND THAT HE WAS ANTISOCIAL?

1 A AMONG OTHER THINGS.

2 Q ALL RIGHT. SO HOW MUCH TIME TOTAL, DOCTOR? HOW MUCH
3 IS YOUR BILL IN THIS CASE?

4 A I DON'T KNOW.

5 Q WOULD YOU SAY -- HAVE YOU SPENT 10 HOURS ON THE CASE?

6 A YES.

7 Q MORE THAN 10?

8 A YES.

9 Q SIGNIFICANTLY MORE THAN 10?

10 A DON'T KNOW.

11 Q ALL RIGHT. I WON'T ASK -- THAT'S FINE, DR. THRASHER.

12 I DON'T HAVE ANY FURTHER QUESTIONS FOR YOU.

13 THE COURT: ANY REDIRECT?

14 MR. DIGGS: JUST A COUPLE ON FOLLOW-UP, YOUR
15 HONOR.

16 THE COURT: YOU MAY PROCEED.

17 REDIRECT EXAMINATION

18 BY MR. DIGGS:

19 Q DR. THRASHER, I'M SORRY. HOW MUCH ARE YOU BEING PAID
20 FOR YOUR TIME?

21 A 150 AN HOUR IS -- USUALLY.

22 Q ALL RIGHT. AND RIGHT NOW YOU HAVE AN OFFICE IN
23 MYRTLE BEACH; CORRECT?

24 A YES. I DO.

25 Q YOU HAVE AN OFFICE. YOU ARE PAYING OFFICE OVERHEAD

1 RIGHT NOW AS YOU SIT HERE; CORRECT?

2 A I DO.

3 Q HOW MUCH AN HOUR IS YOUR OFFICE OVERHEAD? DO YOU
4 KNOW?

5 A OH, AT THE OFFICE COST FOR A YEAR'S FUNCTION
6 INCLUDING SALARIES, ET CETERA, IS IN THE RANGE OF 72 TO
7 \$80,000 A YEAR.

8 Q ALL RIGHT. AND SO TRUTH BE KNOWN, YOU'RE -- IT'S
9 COSTING YOU INCOME TO BE HERE; IS THAT CORRECT?

10 A WELL, IF I'M NOT AT MY OFFICE AND SEEING PATIENTS, I
11 HAVE NO INCOME, SO...

12 Q OTHER THAN WHAT -- OTHER THAN THE \$150 WE ARE PAYING
13 YOU.

14 A BUT THE OFFICE GOES ON.

15 Q RIGHT.

16 A STAFF IS AT WORK AND--

17 Q ALL RIGHT. AND SO YOU HAVE THOSE EXPENSES. THEY
18 CONTINUE ON THROUGHOUT THE DAY REGARDLESS OF WHETHER
19 YOU'RE THERE PRODUCING INCOME FROM PATIENTS OR NOT?

20 A YEAH.

21 Q HOW MUCH INCOME CAN YOU EARN PER HOUR SEEING
22 PATIENTS?

23 A 150 AN HOUR.

24 Q OKAY. SO YOU BENEFIT NOTHING BY TAKING THIS CASE IN
25 TERMS OF YOUR INCOME IN FINANCIAL GAIN?

1 A NO, THERE'S NO INCREASE IN INCOME.

2 Q ALL RIGHT. NOW--

3 A IF I GET PAID.

4 Q ALL RIGHT. IF -- MR. HEMBREE POINTED OUT AND STATED
5 IN A LOUD TONE OF VOICE THAT THE NEUROLOGICAL WAS OKAY ON
6 THE 17TH.

7 A THAT WAS HIS TESTIMONY.

8 Q ALL RIGHT. DO THE RECORDS EVER SAY THAT THE REFLEX,
9 MORO REFLEX, AND THE OTHER -- WHAT WERE THE OTHER REFLEX
10 DEFICIENCIES THE BABY HAD?

11 A HAD THE TRUNCAL REFLEX--

12 Q OKAY.

13 A -- WAS ABNORMAL.

14 Q DOES IT EVER SAY THOSE REFLEXES ARE NORMAL?

15 A DOESN'T SAY NORMAL.

16 Q NEVER SAYS NORMAL; DOES IT?

17 A SAYS DECREASING, YEAH.

18 Q YEAH. AND IF -- WAS OBSERVED ON ONE DAY TO HAVE SOME
19 PERCEIVED IMPROVEMENT, BUT THEY NEVER SAID IT WAS NORMAL;
20 DID THEY?

21 A NO.

22 Q ALL RIGHT. AND--

23 A WELL, NOW, WAIT A MINUTE. A MORO WOULDN'T BE NORMAL
24 IN AN INFANT. WHAT THEY SAID WAS IT'S IMPROVING, IT WAS
25 AB -- IT WAS--

1 Q CORRECT.

2 A -- WITH ITS ABSENCE OR DECREASE IN THE PRESENCE OF
3 IT.

4 Q RIGHT.

5 A -- THAT'S -- ABNORMAL PART.

6 Q SO STEPHEN WAS NEVER -- THEY NEVER WROTE IN HIS CHART
7 THAT HIS MORO REFLEX AND THIS OTHER REFLEX, THAT THOSE
8 REFLEXES WERE NORMAL.

9 A NO, THEY DIDN'T.

10 Q WE NEVER SEE THAT IN THE RECORDS; CORRECT?

11 A DIDN'T SEE IT, NO.

12 Q NOW, AT THE SAME TIME THAT THE DOCTOR -- ONE DOCTOR
13 IS SAYING NEUROLOGICAL OKAY, WE HAVE ANOTHER DOCTOR
14 DESCRIBING STEPHEN'S CONDITION AS PRECARIOUS; ISN'T THAT
15 TRUE?

16 A YES.

17 Q ALL RIGHT. AND WE HAVE GOT THE MOM MAKING A DECISION
18 NOT TO HAVE THE TUBAL; ISN'T THAT TRUE?

19 A TRUE.

20 Q NOW, THAT'S THE STATE OF THE RECORDS; CORRECT?

21 A YES.

22 Q AND THAT'S ALL THAT WE CAN GLEAM, ALL WE CAN TELL
23 FROM THESE RECORDS?

24 A YEAH, DIRECTLY AND INFERENTIALLY.

25 Q LET ME ASK YOU, DR. THRASHER. DO YOU KNOW IF WE MADE

1 ANY EFFORT TO GET THE ADDITIONAL FOLLOW-UP RECORDS ON
2 STEPHEN STANKO?

3 A DO I KNOW IF YOU DID THAT?

4 Q DO YOU KNOW IF -- IF THE DEFENSE IN THIS CASE MADE
5 ANY EFFORT TO LOCATE THE FOLLOW-UP MEDICAL RECORDS FOR
6 STEPHEN STANKO AFTER HE WAS DISCHARGED FROM THE HOSPITAL?

7 A WELL, I DON'T KNOW DIRECTLY.

8 Q ALL RIGHT. YOU DON'T KNOW; DO YOU?

9 A NO.

10 Q NOW, THE FACT THAT THEY DON'T EXIST HERE IN THE
11 COURTROOM DOESN'T GIVE YOU ANY INFORMATION ABOUT WHETHER
12 AN EFFORT WAS MADE; DOES IT?

13 A NO.

14 Q ALL RIGHT. NOW, DO YOU KNOW ANYTHING ABOUT WHERE
15 MEDICAL RECORDS ARE STORED IN THE NAVY?

16 A THEY USED TO BE OUT IN ST. LOUIS, MISSOURI.

17 Q ALL RIGHT. ARE HOSPITAL RECORDS STORED AT THE SAME
18 PLACE OUTPATIENT RECORDS ARE STORED?

19 A THAT I DON'T KNOW.

20 Q ALL RIGHT.

21 A BUT IT WOULD BE -- IT WOULD MAKE SENSE THAT THEY
22 WOULD BE CONNECTED THAT WAY, YES.

23 Q ALL RIGHT. BUT YOU DON'T KNOW FOR SURE; DO YOU?

24 A NO, I DON'T.

25 Q ALL RIGHT. AND SO YOU -- YOU DON'T HAVE ANY OPINION

1 ABOUT WHETHER THERE ARE FOLLOW-UP RECORDS AND WHETHER
2 THEY'RE JUST OUT THERE TO BE GATHERED OR NOT; DO YOU?

3 A WELL, I DON'T, BUT I DO KNOW ONE THING. THEY HAD
4 A -- THEY HAD A HUGE FIRE OUT IN ST. LOUIS AND IT -- IT
5 BURNED UP A GOOD NUMBER OF MILITARY RECORDS INCLUDING NAVY
6 RECORDS. I DON'T KNOW WHETHER THE MEDICAL RECORDS WERE
7 INCLUDED IN THAT BATCH OF FILES THAT WERE LOST OR NOT.

8 Q WHEN WAS THAT?

9 A YEARS AGO. YEARS AGO.

10 Q AFTER MR. STANKO'S BIRTH?

11 A YES.

12 Q ALL RIGHT. THAT'S ALL I HAVE. THANK YOU.

13 RECROSS-EXAMINATION

14 BY MR. HEMBREE:

15 Q I GUESS WE'RE LUCKY TO HAVE THESE RECORDS; RIGHT,
16 DOCTOR?

17 A I HAVE NO IDEA.

18 Q WELL, A BIG FIRE, YOU KNOW, JUST DON'T KNOW. LET ME
19 ASK YOU ABOUT THIS, DOCTOR. I'VE JUST GOT ONE QUESTION.
20 WELL, ONLY ONE MORE QUESTION. YOU JUST TESTIFIED, I
21 BELIEVE, THAT THERE WAS NO INDICATION--

22 A I'D RATHER THE -- I'D RATHER HE WOULDN'T TOUCH ME.
23 WOULD THAT BE...

24 Q I'M SORRY. I WILL BE GLAD TO MOVE OVER HERE, DOCTOR.

25 THE COURT: I'M CERTAIN IT WAS INADVERTENT, BUT

1 I WILL MAKE SURE IT DOESN'T HAPPEN AGAIN.

2 MR. HEMBREE: IT WAS. I APOLOGIZE, DR.

3 THRASHER.

4 BY MR. HEMBREE:

5 Q DR. THRASHER, I HAD -- I UNDERSTAND YOUR TESTIMONY
6 JUST NOW WAS THAT THERE WAS NOTHING IN THIS RECORD THAT
7 INDICATED THAT THE MORO REFLEXES OF STEPHEN STANKO WERE
8 NORMAL; CORRECT?

9 A I SAID A MORO REFLEX IS NORMAL, THE DEFICIENCY OF THE
10 MORO REFLEX IS WHAT'S ABNORMAL.

11 Q CORRECT. AND THEN I BELIEVE THAT MR. DIGGS ASKED
12 YOU, THERE IS NEVER ANY INDICATION IN THIS RECORD THAT THE
13 MORO REFLEX WAS NORMAL. IS THAT CORRECT? IS THAT YOUR
14 TESTIMONY? LET ME ASK YOU THAT.

15 IS THERE ANY INDICATION IN THIS RECORD THAT THE MORO
16 REFLEXES ARE NORMAL?

17 A THERE ARE REFERENCES THAT IT'S ABNORMAL.

18 Q OKAY. IS THERE ANY INDICATION THAT THE MORO REFLEXES
19 ARE NORMAL?

20 A NOT TO MY RECOLLECTION.

21 Q ALL RIGHT. LET ME TAKE YOU BACK TO THE N AND O
22 CHART. THINK THAT'S ON PAGE FOUR. THERE WE GO. RIGHT
23 THERE. STOP RIGHT THERE. I WANT YOU TO LOOK ON THE LAST
24 LINE, SECOND TO THE END. WHAT'S THAT SAY, DOCTOR?

25 A MORO.

1 Q MORO. AND WHAT'S IT SAY? WHAT DOES IT INDICATE,
2 DOCTOR?

3 A NORMAL.

4 Q THANK YOU, DOCTOR.

5 THE COURT: ANYTHING FURTHER?

6 MR. DIGGS: I DON'T HAVE ANYTHING FURTHER.

7 THE COURT: ANY EXCEPTION TO THE DOCTOR BEING
8 EXCUSED FROM THE STATE?

9 MR. HEMBREE: NO, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. DIGGS: NO, YOUR HONOR.

12 THE COURT: DOCTOR, YOU'RE EXCUSED.

13 THE WITNESS: THANK YOU.

14 THE COURT: YOU'RE WELCOME.

15 (WITNESS LEFT THE STAND.)

16 THE COURT: MADAM FORELADY, LADIES AND
17 GENTLEMEN, YOU ALL HAVE BEEN SITTING OVER AN HOUR AND
18 A HALF. I'M GOING TO GIVE YOU A BRIEF MORNING BREAK
19 TO REFRESH YOURSELVES.

20 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE.
21 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. WE WILL BE
22 ABOUT 10 MINUTES. I HOPE YOU ENJOY YOUR BREAK.

23 (JURY LEFT THE COURTROOM AT 11:25 AM.)

24 THE COURT: ARE THEY IN THE ROOM? IS THE DOOR
25 CLOSED? YOU MAY BE SEATED. IS THERE ANYTHING BEFORE

1 WE BREAK?

2 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
3 HONOR.

4 THE COURT: ANYTHING FROM THE DEFENSE?

5 MR. DIGGS: NO, YOUR HONOR.

6 THE COURT: HAVE A GOOD BREAK.

7 (WHEREUPON A RECESS WAS HAD.)

8 THE COURT: I HAD MY CLERK CHECK WITH YOU ALL.
9 I MADE A TYPOGRAPHICAL ERROR IN MY HASTE LAST NIGHT
10 TO GET THE FORMS TO YOU. AND THE RECOMMENDATION OF
11 LIFE IMPRISONMENT HAD A PLACE FOR ALL 12 JURORS TO
12 SIGN.

13 OF COURSE, THAT IS NOT SUPPORTED BY STATUTE.
14 AND I THINK QUITE FRANKLY IT WAS JUST A SCRIVENER'S
15 ERROR WHEN MY SECRETARY WAS TRANSPOSING THOSE FORMS
16 FOR ME.

17 AND I HAVE PRINTED THE ACCURATE FORM AND HAD
18 SUMMER GIVE EACH OF YOU A COPY, AND YOU ALL CAN JUST
19 DESTROY THAT OTHER ONE.

20 MR. HUMPHRIES: WE TURNED OURS BACK INTO THE
21 COURT.

22 THE COURT: WELL, WE WILL... I KNOW, ANOTHER
23 TREE DEAD; RIGHT? AND SO -- AND ALSO AFTER THE
24 LUNCHEON RECESS I ANTICIPATE THAT I WILL BE GIVING
25 YOU ALL A COPY OF THE PROPOSED CHARGE. I'M JUST

1 DOING SOME FINE TUNING ON IT AS WE LISTEN TO THIS --
2 TO THE REMAINING TESTIMONY, TRYING TO CLEAN IT UP
3 JUST A LITTLE BIT AND TWEAKING IT.

4 SO -- AND THEN, OF COURSE, AT THE CONCLUSION OF
5 TESTIMONY TODAY, IF WE CONCLUDE TESTIMONY TODAY, WE
6 WILL HAVE, OF COURSE, THE CHARGE CONFERENCE PRIOR TO
7 ANY ARGUMENT.

8 AND IS THERE ANYTHING WE NEED TO TAKE UP BEFORE
9 WE PROCEED WITH THE TESTIMONY?

10 MR. DIGGS: NOT FROM US.

11 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
12 HONOR.

13 THE COURT: OKAY. THE NEXT QUESTION WAS, WHO IS
14 YOUR NEXT WITNESS?

15 MR. DIGGS: DALE DAVIS.

16 THE COURT: HOW LONG WILL THAT BE?

17 MR. DIGGS: SHORT.

18 THE COURT: OKAY. THE REASON I'M ASKING IS FOR
19 SCHEDULING FOR LUNCH BECAUSE THE LUNCH WILL BE IN FOR
20 THE JURY AT 12:30. AND I FIND WHEN WE BREAK AT
21 12:30, WE GET FAR MORE USE OUT OF THE AFTERNOON THAN
22 WHEN WE HAVE LATER BREAKS. SO I WANT TO TRY TO BREAK
23 AS CLOSE TO 12:30 AS POSSIBLE.

24 MR. KELLY: MA'AM, THERE MIGHT BE ONE SHORT
25 WITNESS THAT YOU MIGHT BE ABLE TO SQUEEZE IN AFTER

1 DALE DAVIS.

2 THE COURT: OKAY. FINE.

3 MR. KELLY: IS THIS -- WHAT, 12 NOW?

4 THE COURT: IT'S 12.

5 MR. KELLY: AND THEN AFTER THAT WILL BE A MORE
6 EXTENDED WITNESS.

7 THE COURT: OKAY. ALL RIGHT. WHY DON'T WE PLAN
8 TO PROCEED THAT WAY? PLEASE BRING IN THE JURY.

9 (JURY ENTERED THE COURTROOM AT 12:02 PM.)

10 THE COURT: YOU MAY BE SEATED. LADIES AND
11 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. I HOPE THAT
12 YOU ALL HAD A RESTFUL BREAK. WE WILL NOW RESUME WITH
13 TESTIMONY. YOU MAY PROCEED, MR. KELLY.

14 MR. KELLY: CALL DALE DAVIS.

15 DALE DAVIS, AFTER BEING
16 DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE COURT: YOU MAY PROCEED.

18 DIRECT EXAMINATION

19 BY MR. KELLY:

20 Q MRS. DAVIS, YOU ARE THE MITIGATION INVESTIGATOR FOR
21 THE DEFENSE?

22 A YES, SIR.

23 Q AND WHERE DO YOU LIVE, MA'AM?

24 A NORTH CHARLESTON.

25 Q AND ARE YOU MARRIED?

1 A YES.

2 Q AND DO YOU HAVE CHILDREN?

3 A I HAVE TWO SONS THAT ARE GROWN AND MARRIED.

4 Q AND HOW ARE YOU EMPLOYED AT THIS TIME?

5 A I WORK PRIVATELY AS A CAPITAL MITIGATION INVESTIGATOR
6 OR SPECIALIST ON DEATH PENALTY CASES.

7 Q SPEAK INTO THE MICROPHONE, PLEASE MA'AM.

8 A OKAY.

9 Q AND WHEN YOU SAY -- ARE YOU SELF-EMPLOYED?

10 A YES, I AM SELF-EMPLOYED.

11 Q AND SO YOU RUN YOUR OWN BUSINESS; CORRECT?

12 A YES.

13 Q AND HOW LONG HAVE YOU BEEN DOING MITIGATION
14 INVESTIGATION ON DEATH PENALTY CASES?

15 A SINCE 1998.

16 Q AND HOW MANY DEATH PENALTY CASES HAVE YOU WORKED ON
17 DURING THAT TIME?

18 A IN EXCESS OF 25.

19 Q DID YOU SAY 25?

20 A YES.

21 Q IS PART OF YOUR JOB TO COLLECT RECORDS?

22 A YES, THAT'S A MAJOR PART OF MY JOB.

23 Q AND HOW LONG HAVE YOU BEEN COLLECTING RECORDS FOR
24 DEATH PENALTY INVESTIGATIONS, DURING YOUR WHOLE CAREER?

25 A YES.

1 Q AND THAT WOULD BE HOW MANY YEARS?

2 A EIGHT YEARS.

3 Q AND HAVE YOUR RECORDS BEEN SUPPLIED TO BOTH THE
4 PROSECUTION AND THE DEFENSE IN DEATH PENALTY MATTERS
5 DURING THAT TIME?

6 A YES.

7 Q AND TO EXPERTS TO BOTH THE PROSECUTION AND THE
8 DEFENSE DURING THAT TIME?

9 A YES, PRIMARILY FOR THE DEFENSE, BUT IF REQUESTED,
10 THEY COULD ALSO BE SUPPLIED TO THE PROSECUTION.

11 Q YOU'RE MOST -- ARE YOU EVER EMPLOYED BY -- HAVE YOU
12 BEEN EMPLOYED BY ANYBODY OTHER THAN DEFENDANTS, MA'AM?

13 A NO, CAPITAL MITIGATION INVESTIGATOR IS PART OF A
14 DEFENSE TEAM.

15 Q AND THE RECORDS THAT YOU GENERATE ARE PRIMARILY
16 DEVELOPED FOR THE DEFENSE; CORRECT?

17 A YES, FOR THE MITIGATION OF...

18 Q BUT AS PART OF YOUR JOB YOU SUPPLY RECORDS TO THE
19 PROSECUTION THROUGH YOUR JOB; CORRECT?

20 A RIGHT, THROUGH THE ATTORNEY.

21 Q AND IN FACT YOU HAVE DONE THAT IN THIS CASE; IS THAT
22 RIGHT?

23 A YES, I BELIEVE SO.

24 Q HAVE YOU EVER BEEN QUALIFIED AS A -- AN EXPERT IN
25 RECORD KEEPING OR DISTRIBUTION?

1 A RECORD COLLECTION.

2 Q RECORD COLLECTION.

3 A COLLECTION.

4 Q YOU HAVE?

5 A YES.

6 Q HOW MANY TIMES?

7 A ONLY ONCE BY -- ONE OTHER TIME.

8 Q AND WHAT COURT WOULD THAT BE?

9 A IT WAS IN CHARLESTON COURT, GENERAL SESSIONS.

10 Q IS IT NORMAL THAT A PERSON IN YOUR PROFESSION WOULD
11 EVER BE CALLED AS A WITNESS IN A CASE?

12 A ONLY WHEN IT APPLIES TO RECORD GATHERING, THAT SORT
13 OF THING TYPICALLY.

14 Q OKAY.

15 MR. KELLY: I WOULD OFFER HER AS AN EXPERT IN
16 RECORDS COLLECTION.

17 THE COURT: ANY QUESTIONS OR OBJECTIONS?

18 MR. HUMPHRIES: NO, YOUR HONOR.

19 THE COURT: SO ADMITTED. YOU MAY PROCEED.

20 BY MR. KELLY:

21 Q NOW, DID YOU COLLECT RECORDS IN THIS CASE?

22 A YES, I DID.

23 Q DID YOU COLLECT BIRTH RECORDS IN THIS CASE?

24 A YES, I DID.

25 Q AND IN FACT, DID YOU COLLECT THE BIRTH RECORDS THAT

1 HAVE BEEN PUT INTO EVIDENCE IN THIS CASE?

2 A YES, I DID.

3 Q AND DID YOU ATTEMPT TO CORRECT -- COLLECT RECORDS OF
4 STEPHEN STANKO'S MEDICAL HISTORY FOLLOWING HIS BIRTH
5 RECORDS WHICH WOULD BE IN HIS EARLY CHILDHOOD?

6 A YES. AND IF I MIGHT EXPLAIN HOW THE MILITARY RECORD
7 KEEPING SYSTEM WORKS. IT WOULD...

8 Q YES, MA'AM. IF YOU WOULD EXPLAIN TO THE JURY AS AN
9 EXPERT HOW THE MILITARY RECORD KEEPING SYSTEM IS OPERATED.

10 A WHEN -- IN THE MILITARY RECORDS YOU HAVE TO GET A
11 SPECIFIC RELEASE FOR MILITARY RECORDS, BUT THEIR RECORDS
12 ARE MAINTAINED -- HOSPITAL RECORDS ARE MAINTAINED AT THE
13 HOSPITAL IN THIS -- FOR INSTANCE, IN GUANTANAMO BAY,
14 THAT'S WHERE HE WAS BORN, SO THAT HOSPITAL WOULD MAINTAIN
15 THOSE RECORDS.

16 HOWEVER, HIS FATHER WAS IN THE MILITARY, SO AS YOU
17 MOVE FROM BASE TO BASE, YOUR OUTPATIENT RECORDS WOULD
18 FOLLOW YOU SO THAT YOUR DOCTORS AT THE NEXT BASE WOULD
19 HAVE THE RECORDS, THE PRIOR RECORDS.

20 SO WHEN YOU COLLECT THOSE RECORDS, YOU HAVE TO DO TWO
21 SEPARATE THINGS, ONE FOR ANY IN-PATIENT TREATMENT AND A
22 SEPARATE FOR OUTPATIENT TREATMENT.

23 AND I GOT THE IN-PATIENT TREATMENT. I MADE MULTIPLE
24 ATTEMPTS TO GET THE OTHER BECAUSE IN THE COURSE OF
25 INTERVIEWING PEOPLE I HAD LEARNED OF A SIGNIFICANT HEAD

1 INJURY, AND I WAS TRYING VERY -- I GOT THOSE DATES, THE
2 DIFFERENT ATTEMPTS I MADE TO COLLECT THEM BECAUSE I WANTED
3 TO BE ABLE TO DOCUMENT THAT. BUT IN THE END, THEY COULD
4 NOT LOCATE THEM.

5 Q THE RECORDS YOU -- COULD NOT BE LOCATED IN ORDER TO
6 BE SUPPLIED TO YOU, MA'AM?

7 A NO, COULD NOT.

8 Q AND HAVE THE ATTORNEYS IN THIS MATTER SUPPLIED YOU
9 WITH THE -- WITH THE SUBPOENAS IN ORDER TO COLLECT ANY
10 RECORDS THAT WE WOULD THINK WOULD BE PART OF THE DEFENSE?

11 A YES, SUBPOENAS AND RELEASES OF YOUR CLIENT.

12 Q AND THE RECORDS THAT WERE REFERRED TO JUST RECENTLY
13 AS THE FOLLOW-UP RECORDS OF POSSIBLE BRAIN DAMAGE OR ANY
14 OTHER PHYSICAL INFORMATION OR HISTORY OF STEPHEN STANKO,
15 YOU ATTEMPTED TO COLLECT, BUT WERE UNABLE TO?

16 A YES, THOSE ARE ALL OUTPATIENT RECORDS, ANY KIND OF
17 FOLLOW-UP FOR BOTH HIS IN -- AS AN OUTPATIENT, AND I COULD
18 NOT LOCATE THEM. AND I MADE SEVEN SEPARATE ATTEMPTS TO
19 GET THEM.

20 Q MRS. DAVIS, ARE YOU BEING PAID FOR YOUR TIME IN THIS
21 CASE?

22 A YES.

23 Q HOW MUCH ARE YOU PAID PER HOUR FOR YOUR TIME IN THIS
24 CASE?

25 A I BELIEVE \$50 AN HOUR.

1 Q AND HOW MUCH -- WERE YOU PAID FOR YOUR TRAVEL, FOR
2 THE MILEAGE YOU TRAVELED?

3 A YES, SIR.

4 Q HOW MUCH YOU PAID FOR THE MILES THAT YOU TRAVELED?

5 A I BELIEVE INDIGENT DEFENSE PAYS THIRTY-FOUR AND A
6 HALF CENTS A MILE.

7 Q AND ARE YOU PAID DURING THE TIME OF THE TRIAL TO --
8 TO HAVE ROOMS AVAILABLE TO YOU HERE IN THIS AREA, IT BEING
9 AWAY FROM YOUR HOME?

10 A YES.

11 Q AND IS ALL OF THIS PAID BY COURT ORDER?

12 A YES, IT IS.

13 Q AND DO YOU PRESENT TO THE COURT ALL OF YOUR
14 CREDENTIALS PREVIOUS TO THE ORDERS BEING ISSUED?

15 A YES, I SUBMIT A RESUME WITH THAT.

16 Q AND DO YOU ALSO PRESENT TO THE COURT WHAT YOU EXPECT
17 THE NUMBER OF HOURS WILL BE ON THE CASE?

18 A YES.

19 Q AND DO YOU BASE THAT ESTIMATE ON YOUR PREVIOUS
20 EXPERIENCE?

21 A YES.

22 Q AND IS EVERY DIME THAT YOU'RE PAID PAID BY APPROVAL
23 OF THE COURT WITH THE APPROVAL OF THE CLERK OF COURT IN
24 WHICH THE COUNTY THE CASE IS -- IS HAD BY VOUCHER?

25 A YES.

1 Q AND THEN SUBMITTED IN COLUMBIA TO THE SOUTH CAROLINA
2 DEPARTMENT OF INDIGENT DEFENSE FOR PAYMENT?

3 A YES.

4 Q UNDER THOSE RULES, UNDER THEIR RULES, THAT'S HOW
5 YOU'RE PAID; IS THAT RIGHT?

6 A YES, SIR.

7 Q ARE YOU BEING PAID FOR ANY TESTIMONY?

8 A NO.

9 Q ARE YOU BEING PAID TO TELL THIS JURY ANYTHING AT ALL
10 BY ANYONE?

11 A NO. I HAD NOT EXPECTED TO TESTIFY.

12 Q SO THAT THE INFORMATION THAT YOU'RE GIVING TO THE
13 JURY NOW IS NOT PAID FOR AS THOUGH WE'RE ACTUALLY PAYING
14 YOU TO SAY SOME UNTRUTH. WE'RE NOT DOING THAT; ARE WE?

15 A NO.

16 Q I HAVE NO FURTHER QUESTIONS.

17 THE COURT: ANY QUESTIONS FOR THE WITNESS?

18 MR. HUMPHRIES: NO, YOUR HONOR. THANK YOU.

19 THE COURT: YOU MAY STEP DOWN.

20 (WITNESS LEFT THE STAND.)

21 THE COURT: YOU MAY PROCEED.

22 MR. KELLY: WE WOULD CALL PAM HARRELSON. OUT OF
23 ORDER, MA'AM. WE WILL CALL KAREN...

24 KAREN HANEBRINK, AFTER
25 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE WITNESS: MY NAME IS KAREN SALS HANEBRINK,
2 H-A-N-E-B-R-I-N-K.

3 THE COURT: YOU MAY PROCEED.

4 MR. KELLY: THANK YOU, MA'AM.

5 THE COURT: YOU'RE WELCOME.

6 DIRECT EXAMINATION

7 BY MR. KELLY:

8 Q MRS. HANEBRINK -- IS IT MRS. HANEBRINK?

9 A YES.

10 Q MRS. HANEBRINK, HOW ARE YOU EMPLOYED?

11 A I'M AN ATTORNEY WITH JEFFCOAT, PIKE AND NAPPIER.

12 Q AND HOW LONG HAVE YOU BEEN WITH THEM, MA'AM?

13 A TWO MONTHS.

14 Q AND PREVIOUS TO THAT AND AT THE TIME OF 2005 WERE YOU
15 EMPLOYED AT THE SOLICITOR'S OFFICE?

16 A YES, IN HORRY COUNTY.

17 Q MA'AM? HORRY?

18 A HORRY COUNTY.

19 Q AND WHAT WAS YOUR POSITION THERE?

20 A ASSISTANT SOLICITOR.

21 Q OKAY. MA'AM, I'D LIKE FOR YOU TO TAKE A LOOK AT
22 EXHIBIT NUMBER 36. DO YOU RECOGNIZE WHAT THAT IS, MA'AM?

23 A I RECOGNIZE THIS AS A -- A SCHEDULE THAT WE TYPICALLY
24 HAD IN THE SOLICITOR'S OFFICE OF OUR -- APPEARS TO BE OUR
25 ON CALL SCHEDULE.

1 Q AND--

2 A NO, I'M SORRY. IT'S NOT ON CALL SCHEDULE. I DIDN'T
3 LOOK CLOSE ENOUGH. I'M SORRY. THESE ARE COURT APPEARANCE
4 DATES BASED ON WHEN WE WERE ON CALL.

5 Q AND IS YOUR NAME ON THAT SCHEDULE IN THE FRONT OF
6 FEBRUARY, 2005?

7 A YES.

8 Q AND FROM THE 11TH TO THE 17TH OF FEBRUARY?

9 A CORRECT.

10 Q AND THEN NOT AGAIN UNTIL JUNE; CORRECT?

11 A LOOKS LIKE APRIL TO MAY, APRIL 29TH TO MAY 5TH.

12 Q I OVERLOOKED THAT. APRIL THE 29TH UNTIL MAY THE
13 FIFTH. THAT'S THE NEXT TIME THAT YOU'RE LISTED HERE;
14 CORRECT?

15 A CORRECT.

16 Q AND DO YOU -- DURING THAT TIME YOU WOULD BE SORT
17 OF -- WOULD YOU BE THE SOLICITOR TO WHOM INQUIRY WOULD BE
18 CHANNELED IN THE OFFICE? WAS THAT PART OF YOUR DUTIES?

19 A AS AN ON CALL PERSON TYPICALLY THEY WOULD COME TO THE
20 PERSON ON CALL.

21 Q DO YOU REMEMBER A TELEPHONE CALL FROM A CITIZEN NAMED
22 CONNIE PRICE?

23 A NOT SPECIFICALLY.

24 Q DO YOU REMEMBER ANY CONTACT WITH A CITIZEN NAMED
25 CONNIE PRICE OTHER THAN A TELEPHONE CALL?

1 A NO.

2 Q OKAY. WHEN YOU SAY YOU DON'T SPECIFICALLY REMEMBER
3 THE TELEPHONE CALL, DO YOU HAVE ANY RECOLLECTION OF A CALL
4 FROM CONNIE PRICE TO YOU?

5 A NO. SOMEONE ON THE PHONE GAVE ME A FACT PATTERN, AND
6 I VAGUELY RECALL A FACT PATTERN, AND I DON'T RECALL
7 WHETHER THAT IS FROM A TELEPHONE CALL OR FROM TALK ABOUT
8 THE OFFICE.

9 I DO NOT SPECIFICALLY RECALL THE SOURCE, BUT I DO
10 RECALL THE FACTS, THE BASIC FACTS.

11 Q WHAT WERE THEY?

12 MR. HEMBREE: OBJECTION, YOUR HONOR. HEARSAY.

13 THE COURT: SUSTAINED. HEARSAY. YOU CAN SAY
14 WHAT YOU DID AS A RESULT OF THE CONVERSATION.

15 BY MR. KELLY:

16 Q WELL, AS A RESULT OF THAT CONVERSATION AFTER HEARING
17 WHAT THE FACT PATTERN WAS, DO YOU REMEMBER GIVING ANY
18 ADVICE TO WHOEVER IT WAS THAT CALLED YOU?

19 A BECAUSE I DON'T SPECIFICALLY RECALL THAT PHONECALL, I
20 CANNOT SPECIFICALLY TELL YOU WHAT I DID IN THAT SITUATION.

21 Q WAS IT A -- WAS IT A CALL, A COMPLAINT FROM A CITIZEN
22 IN THE COMMUNITY?

23 MR. HEMBREE: OBJECTION. LEADING.

24 THE COURT: WHAT'S THE BASIS OF THE OBJECTION?

25 MR. HEMBREE: I WITHDRAW THE OBJECTION.

1 THE COURT: OBJECTION WITHDRAWN. YOU MAY
2 CONTINUE WITH THE QUESTION.

3 BY MR. KELLY:

4 Q DO YOU REMEMBER IF IT WAS A CALL OR COMPLAINT FROM A
5 CITIZEN IN YOUR COMMUNITY?

6 A BASED ON MY RECOLLECTION OR THE FACT PATTERN THAT WAS
7 GIVEN TO ME?

8 Q EITHER ONE OF THEM.

9 A I DON'T KNOW THAT IT WAS A COMPLAINT MORE THAN AN
10 INQUIRY.

11 Q AND DO YOU REMEMBER IN THE INQUIRY IF THE NAME
12 STEPHEN STANKO WAS USED?

13 MR. HEMBREE: OBJECTION, YOUR HONOR. THAT CALLS
14 FOR HEARSAY.

15 THE COURT: SUSTAINED. HEARSAY.

16 MR. HEMBREE: THANK YOU, MA'AM.

17 BY MR. KELLY:

18 Q WAS -- IF IT WERE AN INQUIRY OR A COMPLAINT, WHATEVER
19 THE INQUIRY OR COMPLAINT WAS ABOUT, DO YOU REMEMBER TAKING
20 ANY NAMES THAT YOU LATER CHECKED OR INVESTIGATED TO SEE
21 WHAT HAPPENED?

22 A MY JOB IS AN ASSISTANT SOLICITOR, IT'S NOT AS AN
23 INVESTIGATORY CAPACITY. THAT'S SOMETHING THAT THE POLICE
24 TAKE CARE OF. IF SOMEONE HAS SOMETHING THAT NEEDS TO BE
25 INVESTIGATED OR LOOKED INTO OR COMPLAINT OR A CRIME, THEN

1 THEY NEED TO GO TO THE POLICE DEPARTMENT TO DO THAT.

2 Q AND DID YOU -- YOU SAY THAT YOU HAVE SOME MEMORY OF
3 RESPONDING TO THE INQUIRY OR COMPLAINT?

4 A I HAVE A VAGUE MEMORY OF THAT FACT PATTERN WHICH
5 MEANS I MAY OR MAY NOT HAVE TAKEN A CALL ON THAT. IF --
6 IF I DID TAKE A CALL, IT WAS IN A LIMITED CAPACITY.

7 Q DO YOU HAVE ANY MEMORY OF WHAT THE INQUIRY OF THE
8 LADY WAS?

9 A MY LIMITED -- I WAS GIVEN A VERY LONG FACT PATTERN,
10 BUT MY MEMORY IS LIMITED TO WHETHER SOMEONE WAS OR WAS NOT
11 AN ATTORNEY.

12 Q WELL--

13 MR. HEMBREE: OBJECTION, YOUR HONOR. THAT
14 WAS -- THE QUESTION CALLED FOR HEARSAY AND THE
15 RESPONSE WAS HEARSAY.

16 MR. KELLY: MA'AM, I DIDN'T ASK ANYTHING ABOUT
17 HEARSAY--

18 THE COURT: I WILL GIVE HIM MORE LATITUDE. I
19 WILL OVERRULE THE OBJECTION.

20 MR. KELLY: MA'AM?

21 THE COURT: I OVERRULED THE OBJECTION. I'M
22 GOING TO GIVE YOU LATITUDE. PLEASE DON'T ELICIT
23 HEARSAY.

24 MR. KELLY: YES, MA'AM.

25 BY MR. KELLY:

1 Q I WAS ASKING, I BELIEVE, JUST BASED ON YOUR
2 RECOLLECTION WHETHER OR NOT YOU -- YOU RESPONDED TO IT IN
3 SOME WAY. I WASN'T ASKING WHAT IT WAS.

4 A IF SOMEONE HAD ASKED ME -- AN INSTANCE I ALREADY
5 SAID -- WHETHER OR NOT SOMEONE WAS AN ATTORNEY, I DON'T
6 HAVE A WORKING KNOWLEDGE OF EVERY ATTORNEY IN THE SOUTH
7 CAROLINA SYSTEM. I JUST DON'T. AND IT CHANGES EVERY
8 SINGLE DAY.

9 SO I WOULD HAVE GIVEN THAT PERSON A TELEPHONE NUMBER
10 TO THE BAR AND I WOULD HAVE NOT HAVE GOT OFF THE TELEPHONE
11 CALL WITHOUT ME GIVING THEM THE DIRECT NUMBER FROM MY
12 ROLODEX SO THAT THEY COULD CALL THE BAR AND ASK THEM
13 DIRECTLY.

14 Q ALL RIGHT. IF A PERSON SUPPOSEDLY HAD CALLED YOUR
15 OFFICE AT ANY TIME THAT YOU WERE EMPLOYED AT THE
16 SOLICITOR'S OFFICE IN HORRY COUNTY, WAS THERE A PROTOCOL
17 THAT YOU -- THE ATTORNEYS FOLLOWED OR -- OR A PROCEDURE IN
18 ORDER TO RESPOND TO CITIZENS CALLING?

19 A TYPICALLY THE ON CALL SOLICITOR WOULD RESPOND TO THAT
20 TELEPHONE CALL OR IF -- A PERSONAL VISIT OR WHATEVER. THE
21 PERSON ON CALL IS CONTACTED. IF THAT PERSON IS IN COURT
22 OR OTHERWISE OUT OF THE OFFICE MEETING WITH OFFICERS OR
23 WHATEVER, THEN THEY'D FIND ANOTHER SOLICITOR IN THE OFFICE
24 WHO CAN HELP OUT.

25 WE ESSENTIALLY WORK TOGETHER AND HELP EACH OTHER OUT

1 BECAUSE ON CALL YOU CAN'T DO YOUR NORMAL JOB AND DO EVERY
2 SINGLE THING ON CALL. SOMETIMES WE HAVE TO WORK TOGETHER
3 TO GET OUR JOBS DONE.

4 Q THANK YOU, MA'AM. I HAVE NO FURTHER QUESTIONS.

5 THE COURT: ANY QUESTIONS FOR THE WITNESS?

6 MR. HEMBREE: NO, YOUR HONOR.

7 THE COURT: ANY OBJECTION TO THE WITNESS BEING
8 EXCUSED?

9 MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. KELLY: NO, MA'AM.

12 (WITNESS LEFT THE STAND.)

13 THE COURT: MA'AM, YOU'RE EXCUSED. COUNSEL
14 APPROACH FOR ME, PLEASE.

15 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

16 MR. KELLY: WE WOULD CALL PAM HARRELSON.

17 GLORIA WILSON, AFTER
18 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE WITNESS: MY NAME IS GLORIA A WILSON,
20 W-I-L-S-O-N.

21 MR. KELLY: YOUR HONOR, I HAD CALLED PAM
22 HARRELSON. MY INVESTIGATORS HAVE ASKED MS. WILSON TO
23 COME FORWARD AND BE SWORN. HOWEVER, MS. WILSON WOULD
24 BE A LONGER WITNESS, MORE THAN...

25 THE COURT: OKAY. IS MS. HARRELLSON PRESENT?

24 Q BUT YOU TALKED WITH MY INVESTIGATORS, EITHER DALE
25 DAVIS OR VICKY JOHN?

1 A I TALKED WITH VICKY.

2 Q OKAY. WHERE ARE YOU NOW EMPLOYED?

3 A THE HORRY COUNTY SCHOOL DISTRICT.

4 Q HOW LONG HAVE YOU BEEN THERE?

5 A SINCE THE END OF NOVEMBER OF LAST YEAR.

6 Q AND PREVIOUS TO THAT WHERE DID YOU WORK?

7 A THE SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE,
8 AND PARDON SERVICES, HORRY COUNTY OFFICE.

9 Q HOW LONG WERE YOU AT THE HORRY COUNTY OFFICE?

10 A I STARTED IN THE HORRY COUNTY OFFICE IN NOVEMBER THE
11 FIRST OF 1995.

12 Q SO YOU WERE THERE ABOUT, WHAT, 10 YEARS?

13 A ABOUT 10 YEARS.

14 Q OKAY.

15 A MAYBE A LITTLE MORE.

16 Q I WANT TO -- WHAT -- ASK ME -- LET ME ASK YOU, WHAT
17 WERE YOUR DUTIES THERE DURING 2005?

18 A I WAS THE AGENT IN CHARGE OF THE COUNTY OPERATION. I
19 COORDINATED ALL THE ACTIVITIES OF THE OFFICE AND OVERSAW
20 ALL THE PERSONNEL THAT WORKED IN THE OFFICE.

21 Q WOULD YOU BE FAMILIAR WITH THE RECORDS ON FILES THAT
22 WOULD BE KEPT IN INDIVIDUAL CASES?

23 A WITH SOME OF THEM, NOT WITH -- I MEAN, I DIDN'T HAVE
24 A GOOD FAMILIARITY WITH ALL THEM, BUT WITH SOME OF THE
25 CASES.

1 Q LET ME -- LET ME ASK YOU TO LOOK AT SOMETHING. TAKE
2 A LOOK AT THIS DOCUMENT AND JUST TELL ME IF YOU RECOGNIZE
3 IT OR CAN YOU IDENTIFY IT.

4 A OKAY. IS A SCHEDULER DOCUMENTATION. IT'S THE --
5 IT'S A COMPUTERIZED RECORD KEEPING. THAT'S ALL THE
6 DOCUMENTATION ON A CASE. AS FAR AS FACE-TO-FACE VISITS
7 WITH OFFENDERS, TELEPHONE CALLS, OFFICE VISITS, ALL OF
8 THAT IS JUST THE DAY-TO-DAY ACTIVITIES OF SUPERVISING A
9 CASE.

10 Q WOULD YOU BE ABLE TO AUTHENTICATE FOR US IF THAT
11 WOULD BE AN OFFICIAL RECORD FROM YOUR OFFICE--

12 A YES, IT IS.

13 Q -- THAT YOU'RE LOOKING AT?

14 A YES.

15 MR. KELLY: I WOULD ASK TO ENTER IT INTO
16 EVIDENCE.

17 MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

18 THE COURT: MARKED AND ADMITTED WITHOUT
19 OBJECTION.

20 (WHEREUPON, DEFENDANT'S EXHIBIT 37 WAS ADMITTED
21 INTO EVIDENCE.)

22 BY MR. KELLY:

23 Q MA'AM, DO YOU RECALL THE TELEPHONE CALL THAT CAME
24 INTO THE PROBATION, PARDON, AND PAROLE OFFICE IN HORRY
25 COUNTY ON OR ABOUT JANUARY THE 26TH I BELIEVE OR 27TH OR

1 EITHER 28TH OF 2005?

2 A ARE YOU REFERRING TO THE CALL FROM THE US MARSHAL'S
3 OFFICE?

4 Q YES, MA'AM.

5 A I DO REMEMBER THAT COMING IN. I DON'T REMEMBER
6 TAKING THAT CALL, BUT I REMEMBER BEING ADVISED OF IT.

7 Q AND WERE YOU ADVISED OF IT IN YOUR CAPACITY AS -- IN
8 THE OFFICE?

9 A YEAH, I WAS ADVISED AS THE AGENT IN CHARGE.

10 Q BY THE AGENT IN CHARGE?

11 A NO, I WAS ADVISED AS MY JOB AS AGENT IN CHARGE.

12 Q AND WHO -- THIS IS A SCHEDULE THAT YOU'RE LOOKING AT
13 OF A PARTICULAR CASE; IS IT NOT?

14 A YES.

15 Q AND WHOSE -- I WILL JUST CALL IT WHOSE CASE. WHOSE
16 CASE WOULD THAT BE AS FAR AS THE PAROLEE?

17 A IT'S STEPHEN STANKO, BUT HE WAS NOT A PAROLEE. HE
18 WAS ON A COMMUNITY SUPERVISION PROGRAM.

19 Q OH, HE WAS ON A COMMUNITY SUPERVISION PROGRAM?

20 A YES, SIR.

21 Q AND IS THAT THE SCHEDULE OF ACTIVITIES THAT WOULD BE
22 LISTED BY THE SUPERVISING AGENT?

23 A IT WOULD BE BY THE SUPERVISING AGENT AND ANYBODY ELSE
24 IN THE OFFICE, ANY OTHER AGENT OR SUPERVISOR THAT TOOK
25 PHONECALLS AND THINGS ON HIS CASE.

1 Q AND THAT'S SO THAT THERE'S A -- A HISTORY OR A
2 RECORD?

3 A RIGHT.

4 Q AND SO IT WOULDN'T JUST HAVE TO BE HIS SUPERVISING
5 AGENT, IT COULD BE -- NORMALLY THAT MIGHT BE WHO THAT
6 WOULD BE, BUT IT MIGHT BE ANY OTHER AGENT; CORRECT?

7 A RIGHT. IT COULD BE ANYBODY THAT DEALT WITH HIM OR
8 SOMEBODY ELSE ABOUT HIS CASE.

9 Q IS THERE A WAY TO TELL BY LOOKING AT THE DOCUMENT IN
10 FRONT OF YOU WHO WOULD HAVE MADE A PARTICULAR ENTRY?

11 A SOMETIMES YOU CAN -- ON THIS PARTICULAR REPORT THAT'S
12 BEEN RUN, SOMETIMES YOU CAN TELL BECAUSE THE PERSON THAT
13 MADE THE ENTRY WOULD PUT THEIR INITIALS AT THE BOTTOM.
14 THAT'S NOT A REQUIREMENT, THOUGH, SO THAT DIDN'T ALWAYS
15 OCCUR.

16 ON THE ACTUAL COMPUTER SYSTEM, WHEN YOU PULL UP AN
17 ENTRY IT AUTOMATICALLY CLOCKS IN WHO MADE THE ENTRY UNDER
18 THEIR LOG-IN. ON THIS PARTICULAR PHONECALL THERE'S NOT A
19 WAY TO TELL OTHER THAN THERE IS AN AGENT'S INITIALS
20 WRITTEN ON THIS PRINTOUT.

21 Q WHO WOULD THAT BE?

22 A THE INITIALS HERE ARE GLORIA WILSON. SHE'S A
23 SUPERVISOR IN THE OFFICE.

24 Q AND WHO WOULD HAVE BEEN -- IS -- LET ME ASK IT THIS
25 WAY. WAS THERE A SUPERVISING AGENT FOR THAT PARTICULAR

1 CASE AS WELL?

2 A THERE WAS. ON THIS DATE IN JANUARY GLORIA WILSON WAS
3 ACTUALLY SUPERVISING THE CASE.

4 Q ALL RIGHT. AND WOULD THERE BE A PRIMARY SUPERVISING
5 AGENT OR ON -- THAT WOULD TAKE CARE OF, SAY, STEPHEN
6 STANKO'S CASE?

7 A YES, THERE WOULD.

8 Q AND WHO WOULD THAT HAVE BEEN?

9 A IT WAS GLORIA WILSON AT THAT TIME.

10 Q OKAY. SO YOU'RE AWARE THAT -- ON WHAT DATE DOES THAT
11 REVEAL THAT THE -- THE CALL CAME IN FROM THE US MARSHAL'S
12 OFFICE?

13 A IT WAS JANUARY 26TH, 2005.

14 Q DID YOU YOURSELF EVER MEET WITH STEPHEN STANKO?

15 A NOT THAT I REMEMBER. I CAN TAKE A FEW MINUTES AND
16 LOOK THROUGH HERE AND TELL YOU, PROBABLY ANSWER THAT
17 DEFINITELY.

18 Q JUST TO YOUR MEMORY, MA'AM, DO YOU?

19 A NOT THAT I RECALL. I RECALL SEEING HIM IN
20 MS. WILSON'S OFFICE, BUT I DON'T RECALL HAVING ANY
21 CONVERSATION OF ANY EXTENSIVE NATURE WITH HIM AND I DON'T
22 REMEMBER TALKING WITH HIM IN MY OFFICE.

23 Q DID YOU EVER TAKE ANY TELEPHONE CALLS FROM STEPHEN
24 STANKO OR ATTORNEY IRBY WALKER?

25 A I DID FROM IRBY WALKER.

1 Q AND WOULD THE TELEPHONE CALLS THAT YOU TOOK FROM IRBY
2 WALKER BE LISTED IN THE SCHEDULE THAT YOU HAVE BEFORE YOU?

3 A UH-HUH, IT IS. IT'S LISTED HERE ON JANUARY 28TH,
4 2005.

5 Q THAT WOULD BE TWO DAYS AFTER THE MARSHAL'S OFFICE
6 CALLED?

7 A UH-HUH.

8 Q AND YOU WOULD ACTUALLY HAVE TAKEN THAT CALL YOURSELF?

9 A I DID.

10 Q AND THAT ENTRY THAT WOULD BE THERE WOULD BE ONE YOU
11 MADE?

12 A YES.

13 Q READ IT TO ME, PLEASE MA'AM.

14 A IRBY WALKER CALLED, STATES SUPERVISOR WILSON HAD
15 CONTACTED SUBJECT AND HE WONDERED WHAT WAS GOING ON.
16 ADVISED HIM IT APPEARS SUBJECT -- IT APPEARS SHE HAD
17 CONTACTED SUBJECT ABOUT HIS FAILURE TO REPORT IN DECEMBER
18 AND JANUARY AS WELL AS HIS SUPERVISION FEE ARREARS.

19 WALKER STATES SUBJECT HAS THE SUPERVISION ARREARS TO
20 PAY TODAY AND HE WILL BRING HIM TO THE OFFICE. ADVISED
21 HIM THIS WOULD BE FINE. PWH. THAT'S MY INITIALS AT THE
22 END.

23 Q WHAT PAGE IS THAT ON, MA'AM?

24 A PAGE 14 OF 20.

25 Q SO THE ENTRY YOU MADE WAS THAT ATTORNEY WALKER

1 CALLED; IS THAT CORRECT?

2 A THAT'S CORRECT.

3 Q AND THAT HE SPOKE TO YOU ABOUT THE SUPERVISOR,
4 MS. WILSON?

5 A RIGHT, ABOUT A -- YEAH.

6 Q HAVING CONTACTED STEPHEN STANKO?

7 A RIGHT.

8 Q AND THAT -- WHO -- IT SAYS THAT HE WONDERED WHAT WAS
9 GOING ON. WHO IS, WOULD THAT BE IRBY WALKER?

10 A YES, SIR. I WAS REFERRING TO MR. WALKER THERE.

11 Q AND THEN YOU ADVISED HIM THAT IT APPEARED THAT WILSON
12 HAD CONTACTED -- SAYS, SHE HAD CONTACTED.

13 A RIGHT. THAT'S AGENT WILSON HAD CONTACTED MR. STANKO
14 ABOUT--

15 Q ABOUT WHAT?

16 A -- ABOUT NOT -- AGENT WILSON HAD CONTACTED MR. STANKO
17 ABOUT NOT REPORTING IN DECEMBER AND DURING HIS REPORT WEEK
18 IN JANUARY AND THAT HE WAS BEHIND ON HIS SUPERVISION FEE.

19 Q ALL RIGHT. NOW, THIS CAME IN ON THE 28TH OF JANUARY.

20 A RIGHT.

21 Q SO THIS IS -- DOES THIS SAY THAT STEPHEN STANKO DID
22 NOT REPORT AS ORDERED ON -- IN DECEMBER AND JANUARY? IS
23 THAT WHAT THAT MEANS?

24 A UH-HUH. HE DID NOT REPORT IN DECEMBER AND HE MISSED
25 EVERY -- EVERY OFFENDER HAS A SPECIFIED WEEK DURING THE

1 MONTH THAT THEY ARE TO REPORT, AND HE MISSED HIS WEEK
2 DURING JANUARY.

3 Q SO HE HAS -- HE HAD A PARTICULAR APPOINTMENT THAT HE
4 SHOULD HAVE KEPT, AND HE DIDN'T KEEP THAT ONE?

5 A HE HAD A SPECIFIC WEEK, YES, SIR.

6 Q CAN YOU TELL US WHAT THAT WOULD HAVE BEEN, WHAT WEEK
7 THAT WOULD HAVE BEEN HE SHOULD HAVE COME DOWN?

8 A I BELIEVE IT WAS -- I THINK THAT MS. WILSON'S TEAM
9 WAS THE FIRST FULL WEEK OF THE MONTH, SO IT WOULD HAVE
10 BEEN THE FIRST FULL WEEK OF JANUARY.

11 Q AND THEN DID -- DID YOU REPORT HERE THAT ATTORNEY
12 WALKER STATED THAT STANKO WOULD PAY HIS ARREARS ON THAT
13 DAY; CORRECT?

14 A YES.

15 Q AND THAT ATTORNEY WALKER WOULD BRING STEPHEN STANKO
16 INTO THE OFFICE.

17 A RIGHT.

18 Q DO YOU HAVE ANY RECOLLECTION OF WHEN HE WOULD HAVE
19 BRING (SIC) HIM INTO THE OFFICE?

20 A HE WAS GOING TO BRING HIM THAT DAY.

21 Q THAT DAY?

22 A YES, SIR.

23 Q DID YOU SEE THEM THAT DAY?

24 A I DON'T REMEMBER SEEING HIM THAT DAY, BUT I REMEMBER
25 HIM COMING IN.

1 Q YOU REMEMBER WHO COMING IN, IRBY WALKER?

2 A MR. STANKO WITH MR. WALKER.

3 Q TOGETHER?

4 A UH-HUH.

5 Q DID YOU SEE THEM IN YOUR OFFICE TOGETHER?

6 A I REALLY DON'T REMEMBER IF I SAW THEM IN THE OFFICE.

7 I JUST REMEMBER THAT THEY WERE DUE TO COME IN AND THAT

8 THEY DID COME IN AND SEE A -- DUTY AGENTS.

9 Q I'M SORRY. I MISSED THE LAST PART.

10 A THEY CAME IN AND SAW A DUTY AGENT. THERE'S AN AGENT

11 THAT HAS DUTY EVERY DAY THAT SEES PEOPLE WHO COME IN IF

12 THEIR PARTICULAR AGENT IS NOT IN THE OFFICE.

13 Q IS THAT REFLECTED HERE WHO THAT DUTY AGENT WOULD HAVE

14 BEEN?

15 A IT'S -- IT'S ON THE NEXT PAGE ON PAGE 15. IT SHOWS

16 128, 2005, OFFICE VISIT PROGRESS REPORT. IT DOESN'T

17 REFLECT ON HERE WHO THE AGENT WAS THAT SAW HIM THAT DAY.

18 Q NOW, IF -- TELL US AGAIN THE PROGRAM MR. STANKO WAS

19 ON.

20 A HE WAS ON COMMUNITY SUPERVISION PROGRAM.

21 Q WHAT DOES THAT MEAN, COMMUNITY SUPERVISION?

22 A COMMUNITY SUPERVISION PROGRAM IS A SPECIFIC PROGRAM

23 THAT THE LEGISLATORS PASSED THAT AN OFFENDER WHO HAS

24 SERVED TIME FOR AN OFFENSE WHICH IS NORMALLY VIOLENT BY

25 WHICH HE IS NOT ELIGIBLE FOR PAROLE WILL SERVE 85 PERCENT

1 OF HIS ACTIVE SENTENCE AND THEN HE IS RELEASED ON TWO
2 YEARS OF COMMUNITY SUPERVISION.

3 HE SUCCESSFULLY COMPLETES THE TWO YEARS OF
4 SUPERVISION, HE'S DISCHARGED FROM THE COMMUNITY
5 SUPERVISION PROGRAM AND HAS SATISFIED HIS ENTIRE SENTENCE.

6 IF HE DOES NOT SUCCESSFULLY COMPLETE IT, THEN HE CAN
7 BE VIOLATED AND A JUDGE CAN REVOKE UP TO ONE YEAR SERVICE
8 TIME ON THE COMMUNITY SUPERVISION CASE AFTER WHICH HE
9 WOULD BE RE-RELEASED AGAIN ON COMMUNITY SUPERVISION FOR A
10 TWO YEAR PERIOD.

11 Q NOW, YOU SAID THAT IF HE DIDN'T SUCCESSFULLY COMPLETE
12 THIS PROGRAM HE WAS ON--

13 A RIGHT.

14 Q -- A JUDGE COULD REVOKE HIS STATUS AND HE COULD GO
15 BACK TO PRISON?

16 A FOR UP TO ONE YEAR.

17 Q UP TO ONE YEAR?

18 A RIGHT.

19 Q AND HOW WOULD -- HOW WOULD MR. STANKO -- WHAT WOULD
20 THE PROCESS BE, MR. STANKO GOING IN FRONT OF THE JUDGE?

21 A A WARRANT OR A CITATION WOULD HAVE TO BE ISSUED
22 STATING SPECIFIC VIOLATIONS OF HIS SUPERVISION. THAT
23 WOULD BE SERVED ON HIM. IF IT WAS A WARRANT, HE WOULD BE
24 GIVEN A BOND BY A MAGISTRATE AND WE WOULD SET HIM A COURT
25 DATE.

1 DEPENDING ON THE VIOLATIONS, WHAT THEY WERE, HE WOULD
2 EITHER HAVE A PRELIMINARY HEARING IN FRONT OF A DEPARTMENT
3 HEARING OFFICER OR HE COULD GO TO -- DIRECTLY TO GENERAL
4 SESSIONS COURT AND HAVE A HEARING IN FRONT OF THE JUDGE.

5 Q AND WHO WOULD ISSUE THAT WARRANT IN ORDER TO START
6 THE PROCESS?

7 A SOMEONE IN OUR OFFICE, AN AGENT OR SUPERVISOR IN THE
8 PROBATION OFFICE.

9 Q WOULD IT NORMALLY BE WHOEVER WAS SUPERVISING HIS
10 CASE?

11 A IT COULD BE. NORMALLY IT WOULD.

12 Q HE WAS THERE -- IF THERE WERE -- AT THE TIME YOU WERE
13 THERE, IF SOMEONE WANT -- IF, FOR INSTANCE, AGENT GLORIA
14 WILSON WANTED TO ISSUE A WARRANT TO START THIS PROCESS,
15 WOULD SHE CLEAR THAT WITH YOU?

16 A SHE WOULD, AND THEN SHE WOULD ISSUE THE WARRANT.

17 Q OKAY. HAD AGENT WILSON BY THIS DATE ISSUED ANY KIND
18 OF A WARNING TO AGENT STANKO?

19 A SHE HAD SENT HIM A LETTER ADVISING HIM THAT HE WAS IN
20 VIOLATION BY MISSING THE REPORTS AND BEING DELINQUENT ON
21 HIS FEES AND HAD ADVISED HIM IN THAT LETTER TO REPORT BY
22 JANUARY THE 31ST.

23 Q AND CAN YOU TELL ME FROM THE RECORD IN FRONT OF YOU
24 WHEN THAT WOULD HAVE BEEN THAT THE--

25 A THAT WAS JANUARY THE 21ST.

1 Q JANUARY THE 21ST.

2 A UH-HUH.

3 Q AND I'D LIKE FOR YOU TO TAKE A LOOK AT THIS DOCUMENT
4 AND TELL ME IF YOU RECOGNIZE IT.

5 A THIS IS A WARRANT THAT I ISSUED ON STEPHEN STANKO
6 BASED ON THE PROBABLE CAUSE THAT HE HAD COMMITTED THE NEW
7 CRIMES THAT HE WAS FOUND GUILTY OF LAST WEEK.

8 Q AND WHAT'S THE DATE THAT YOU ISSUED THAT?

9 A I ISSUED IT APRIL THE 13TH, 2005.

10 Q THAT WOULD BE FIVE DAYS AFTER LAURA LING'S MURDER?

11 A RIGHT.

12 Q OKAY. WAS THERE ANY WARRANT EVER ISSUED BEFORE THAT?

13 A NOT THAT I REMEMBER.

14 MR. KELLY: WE ASK TO ENTER...

15 MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

16 THE COURT: MARKED AND ADMITTED WITHOUT
17 OBJECTION.

18 (WHEREUPON, DEFENDANT'S EXHIBIT 38 WAS ADMITTED
19 INTO EVIDENCE.)

20 BY MR. KELLY:

21 Q AND WHILE THAT'S BEING MARKED, LET ME ASK YOU A
22 QUESTION. WOULD NOT REPORTING FOR TWO MONTHS AND NOT
23 BEING PAID FEES, WOULD A WARRANT BE ISSUED FOR HIM?

24 A IT WOULD BE A VERY RARE CIRCUMSTANCE THAT THAT WOULD
25 HAPPEN. THOSE ARE ALL TECHNICAL VIOLATIONS. NONE ARE

1 LISTED AS COMMUNITY SAFETY VIOLATIONS IN THE DEPARTMENT
2 POLICY.

3 Q SO WE -- WHAT WOULD BE LOOKING FOR FOR A WARRANT TO
4 BE ISSUED WOULD BE A COMMUNITY SAFETY VIOLATION?

5 A UH-HUH, OR A PATTERN OF NOT REPORTING, CHANGING
6 RESIDENCE, ABSCONDING SUPERVISION, THINGS LIKE THAT.

7 Q AND WHAT -- GIVE US AN EXAMPLE OF A COMMUNITY SAFETY
8 VIOLATION.

9 A WELL, COMMUNITY SAFETY VIOLATION IS WHAT'S ACTUALLY
10 STATED IN THIS WARRANT, PROBABLE CAUSE TO BELIEVE THAT HE
11 COMMITTED THOSE CRIMES. THE FACT THAT HE -- WE CHARGED
12 HIM WITH BEING IN POSSESSION OF A FIREARM.

13 OTHER COMMUNITY SAFETY VIOLATIONS ARE -- CRIMINAL
14 DOMESTIC VIOLENCE IS CONSIDERED A COMMUNITY SAFETY
15 VIOLATION. THINGS LIKE ABSCONDING SUPERVISION, WHICH
16 MEANS THAT EMPLOYMENT AND RESIDENCE HAS BEEN CHANGED SO
17 THAT BASICALLY THE OFFENDER'S WHEREABOUTS ARE CONSIDERED
18 UNKNOWN MEANING HE'S FLED THE JURISDICTION OF THE
19 DEPARTMENT.

20 MR. KELLY: IF IT PLEASE THE COURT. YOUR HONOR,
21 I THOUGHT THAT THE WITNESS WOULD BE SHORTER THAN SHE
22 IS, BUT IT'S GOING TO BE MORE PROLONGED. IF YOU WANT
23 TO INTERRUPT--

24 THE COURT: LET'S PRESS AHEAD. I PREFER TO
25 FINISH THE WITNESS BEFORE LUNCH.

1 MR. KELLY: ALL RIGHT.

2 BY MR. KELLY:

3 Q DO YOU -- DURING THE TIME THAT YOU WERE AT THE
4 PROBATION, PARDON, AND PAROLE OFFICE IN CONWAY, DID YOU
5 EVER GET CALLS FROM CITIZENS COMPLAINING ABOUT PERSONS
6 UNDER SUPERVISION OF YOUR OFFICE?

7 A YES, SIR.

8 Q AND WHAT WAS THE NORMAL PROCEDURE IF SOMEONE DID
9 COMPLAIN? WHAT WOULD -- WHAT WOULD HAPPEN?

10 A IT WOULD -- IT'S ALL BASED ON THE TYPE OF COMPLAINT,
11 WHAT WAS STATED IN THE COMPLAINT. OFTEN TIMES WE WOULD,
12 YOU KNOW, YOU WOULD GIVE SOMEONE ADVICE ON WHAT STEPS THEY
13 SHOULD TAKE.

14 A LOT OF TIMES WE WOULD RECEIVE CALLS THAT NEEDED TO
15 BE DIRECTED TO THE POLICE AND WE WOULD, YOU KNOW, ADVISE
16 PEOPLE OF THAT. YOU KNOW, IF SOMEBODY -- I MEAN, DO YOU
17 WANT ME TO GIVE YOU EXAMPLES? I MEAN, I CAN'T THINK OF
18 ANOTHER WAY TO EXPLAIN IT.

19 Q WELL, GIVE ME ONE EXAMPLE.

20 A IF SOMEBODY CALLED AND REPORTED THAT SOMEBODY WAS
21 USING DRUGS, THEN THAT PERSON WOULD BE CALLED IN AND GIVEN
22 A DRUG TEST.

23 Q WHAT IF SOMEBODY -- SOMEBODY COMPLAINED THAT THEIR
24 BEHAVIOR IN THE COMMUNITY WAS APPARENTLY ABNORMAL, NOT --
25 NOT A CRIME, JUST STRANGE BEHAVIOR?

1 A THEN THEY -- PROBABLY THE OFFENDER WOULD BE CALLED IN
2 AND BE TALKED TO AND COUNSELED REGARDING THE COMPLAINT AND
3 CHANGES NEEDED IN THE BEHAVIOR.

4 Q IF -- IF THERE WERE A COMPLAINT AGAINST ONE OF YOUR
5 SUPERVISED PERSONS AND IT APPEARED THAT IT MIGHT BE SOME
6 TYPE OF CRIMINAL BEHAVIOR, WOULD THE SUPERVISING AGENT
7 THEMSELVES EVER CHECK IT OUT TO SEE -- WHEN I SAY CHECK IT
8 OUT, I MEAN INVESTIGATE IT IN SOME WAY -- TO DETERMINE IF
9 THE -- IF IT WERE FOUND?

10 A THEY WOULD PROBABLY TALK WITH THE OFFENDER ABOUT THE
11 BEHAVIOR, AND IF IT APPEARED FROM TALKING WITH THE PERSON
12 FILING THE COMPLAINT THAT THERE WAS CRIMINAL ACTIVITY
13 GOING ON, THEN THEY WOULD BE -- THAT PERSON WOULD BE
14 REFERRED TO CONTACT THE POLICE DEPARTMENT THAT HAD
15 JURISDICTION FOR A NEW CRIME SO THEY COULD INVESTIGATE A
16 POTENTIAL NEW CRIME.

17 Q SO THEY WOULD TALK WITH -- IF THERE WERE A COMPLAINT
18 ABOUT STANKO, THEY WOULD NORMALLY TALK WITH HIM. BUT YOU
19 SAID -- YOU SAY COMPLAINT, IS THERE EVER A WRITTEN -- YOU
20 ASK SOMEONE, COME TO THE OFFICE AND MAKE A WRITTEN
21 STATEMENT. IS THAT -- WAS THAT SOMETHING THAT WAS
22 NORMALLY DONE?

23 A THAT CAN BE DONE. IT'S NOT ALWAYS.

24 Q WHEN WOULD THAT BE DONE?

25 A DEPENDING ON THE NATURE OF THE COMPLAINT, THAT'S DONE

1 OFTEN TIMES IN CRIMINAL DOMESTIC VIOLENCE SITUATIONS.
2 SOMEONE CALLS AND COMPLAINS THAT THEY'RE BEING ASSAULTED
3 BY SOMEONE UNDER SUPERVISION, THEY MAY BE ASKED TO COME
4 INTO THE OFFICE AND MAKE AN AFFIDAVIT UNDER OATH BY, YOU
5 KNOW, IN FRONT OF A NOTARY SO THAT WILL GIVE THE AGENT
6 SOMETHING TO PRESENT IN COURT, SOME TYPE OF EVIDENCE.

7 Q WHAT IF YOU -- WHAT IF ONE OF YOUR SUPERVISING AGENTS
8 OR YOURSELF RECEIVED A CALL FROM A PERSON EMPLOYED IN A
9 LAW ENFORCEMENT AGENCY, NOT YOUR OWN, BUT ANOTHER LAW
10 ENFORCEMENT AGENCY, ADVISING YOU OF WHAT THEY CONSIDERED
11 TO BE SERIOUS BEHAVIOR AND A DANGER IN THE COMMUNITY?
12 WHAT WOULD BE THE NORMAL PROCESS THEN?

13 A IT WOULD DEPEND ON THE CIRCUMSTANCES.

14 Q WELL, LET'S SAY, FOR INSTANCE, THAT YOU -- YOU
15 YOURSELF KIND OF WORK THERE, RECEIVE A CALL FROM THE
16 UNITED STATES MARSHAL'S OFFICE AND THEY SAID WE HAVE
17 COMPLAINTS OF PEOPLE THAT THEY'RE BEING CONNED BY STEPHEN
18 STANKO AND THEY ARE SO AFRAID OF HIM THAT THEY CANNOT -- I
19 CAN'T CALM THEIR FEARS OF HIM?

20 WHAT WOULD -- WHAT KIND OF -- WHAT SHOULD BE DONE IN
21 A CASE LIKE THAT?

22 A I DON'T REMEMBER THAT HAPPENING.

23 Q IF IT DID HAPPEN, WHAT -- WHAT WOULD BE THE PROPER
24 PROTOCOL OR PROCEDURE?

25 A PROBABLY IF THOSE PEOPLE THEMSELVES CONTACTED THE

1 OFFICE, THEN THEY WOULD HAVE PROBABLY BEEN ADVISED THAT
2 THEY NEEDED TO AVOID CONTACT WITH THAT PERSON AND THAT
3 THEY ALSO NEED TO REPORT THE INCIDENTS TO THE POLICE
4 DEPARTMENT.

5 Q WELL, IF IT WERE SOMEONE FROM THE UNITED STATES
6 MARSHAL'S OFFICE SAYING THEY HAD RECEIVED A COMPLAINT AND
7 THEY HAD DETERMINED -- THEY HAD DISCOVERED THAT YOU WERE
8 SUPERVISING STEPHEN STANKO OR ANYBODY AT THE OFFICE, AND
9 THEY TOLD YOU THAT PEOPLE IN THE COMMUNITY SHOWED THAT
10 HE'S A -- A PHYSICALLY DOMINATING INDIVIDUAL AND THAT
11 THEY -- THAT THEY BELIEVED -- THEY BELIEVED THAT HE MAY BE
12 A DANGER TO THE COMMUNITY BASED ON THE REPORT, WHAT --
13 WHAT WOULD YOUR OFFICE DO?

14 WOULD YOU TELL THE MARSHAL, CALL YOUR -- CALL THAT
15 LADY OR THAT PERSON BACK AND TELL THEM TO GO SOMEPLACE, OR
16 WOULD YOU TAKE ACTION?

17 A WELL, I MEAN, I DON'T REMEMBER ANYBODY'S REPORTING
18 THAT STEPHEN STANKO WAS A DANGER TO THE COMMUNITY, THAT
19 THAT WAS REPORTED TO -- THROUGH THE US MARSHALS.

20 Q I'M NOT SAYING THAT, MA'AM. I'M ASKING THAT WHETHER
21 STEPHEN STANKO OR ANYBODY ELSE AND UNDER THOSE
22 CIRCUMSTANCES, WHAT SHOULD PROPERLY BE DONE? IT COULD
23 HAPPEN TODAY.

24 A WELL, WE -- THEY WOULD TRY TO FIND OUT THE PERSON'S
25 NAME THAT HAD CALLED AND A CONTACT NUMBER TO CONTACT THE

1 PERSON AND GET ADDITIONAL INFORMATION. THEY WOULD HAVE
2 BEEN REFERRED TO THE POLICE.

3 Q YOUR OFFICE WOULD HAVE REFERRED IT TO THE POLICE?

4 A WE WOULD HAVE HAD THE PERSON CONTACT THE POLICE.

5 Q WELL, WHAT IF THE NAME OF THE PERSON CALLING WERE NOT
6 AVAILABLE TO YOU, YOU -- IF THE -- THAT YOU WERE INFORMED
7 BY WHATEVER AGENCY CALLED YOU, I CAN'T GIVE YOU THAT NAME.

8 LET'S SAY THAT THEY SAID THAT TO YOU AND YOU'RE
9 TALKING TO A LEGITIMATE LAW ENFORCEMENT OFFICER. AND SO
10 NOW YOU'RE FACED WITH THIS COMPLAINT BUT YOU DON'T KNOW
11 WHO TO GET IN TOUCH WITH BECAUSE THEY WILL NOT SUPPLY IT
12 TO YOU.

13 A RIGHT..

14 Q WHAT WOULD YOU DO?

15 A PROBABLY CALL THE OFFENDER IN AND QUESTION HIM ABOUT
16 WHAT WE HAD HEARD, WHAT WE HAD BEEN TOLD.

17 Q WELL, IF YOU CALLED THEM IN AND THEY -- AND THEY
18 DENIED THEY -- STEP WAS?

19 A I DON'T KNOW WHAT OTHER STEPS COULD BE TAKEN IF YOU
20 DON'T HAVE ANYONE TO GO TO TO GAIN MORE INFORMATION.

21 Q WELL, DO YOUR AGENTS GO TO THE HOMES OF THE PERSONS
22 THAT THEY SUPERVISE?

23 A YES, THEY DO.

24 Q AND DO THEY ASK IF THEY ARE RENTING FROM SOMEONE WHO
25 THEY -- CONTACT THE PERSON WHO IS RENTING TO DETERMINE

1 THAT THEY ACTUALLY ARE RENTING?

2 A NOT ALWAYS. NOT IF THEY CAN VERIFY THE PERSON IS
3 LIVING THERE SOMEWHAT WITH ANOTHER WAY.

4 Q IF THEY CAN DO IT BY TELEPHONE, DO THEY DO IT BY
5 TELEPHONE?

6 A THEY CAN VERIFY BY TELEPHONE, BUT THEY DO MAKE
7 PERSONAL VISITS AT THE HOME ON A CERTAIN SCHEDULE THAT
8 THEY ARE REQUIRED TO MAKE THEM EVERY SO OFTEN.

9 Q THERE'S NOTHING -- THERE'S CERTAINLY NOTHING TO STOP
10 AN AGENT WHO IS SUPERVISING FROM GOING TO THE HOME OF A
11 PERSON SUPERVISED; CORRECT?

12 A RIGHT.

13 Q AND IN FACT, DON'T THEY SIGN SOME SORT OF PAPER TO
14 THE SUPERVISOR SAYING, I'M GOING TO COOPERATE AND YOU CAN
15 CHECK ON ANYTHING YOU WANT TO. DON'T THEY DO THAT?

16 A THEY SIGN SOMETHING -- THEY SIGN CONDITIONS, AND ONE
17 OF THE CONDITIONS IS THAT THEY WILL ALLOW VISITS FROM THE
18 AGENT AT THEIR HOME AND I THINK IT SAYS PLACE OF
19 EMPLOYMENT OR OTHER PLACES IN THE COMMUNITY.

20 Q SO FOR INSTANCE, IF SOMEONE SAID, I'M EMPLOYED AT
21 TARGET, THE AGENT, IF THEY JUST WANTED TO CHECK, COULD GO
22 TO TARGET AND CHECK JUST TO CHECK; CORRECT?

23 A THEY -- THEY COULD, BUT THE MORE NORMAL WAY
24 EMPLOYMENT IS VERIFIED IS BY SOMEBODY BRINGING A CHECK
25 STUB IN WHEN THEY COME MAKE THEIR ROUTINE OFFICE VISITS.

1 THAT'S NORM FOR VERIFYING EMPLOYMENT.

2 Q DO YOU NORMALLY JUST TAKE THE -- WAS IT A NORMAL
3 PRACTICE WHEN YOU WERE THERE TO JUST -- IF YOU GOT A
4 COMPLAINT FROM LAW ENFORCEMENT, YOU CALL THE SUPERVISED
5 PERSON IN, ASK THEM WHAT WAS GOING ON, AND IF THEY GAVE
6 YOU A REASONABLE EXPLANATION OR IF THEY WERE REPRESENTED
7 BY A ATTORNEY, AN ATTORNEY GAVE A REASONABLE EXPLANATION,
8 THAT WOULD BE THE END OF IT?

9 A IN YOUR SCENARIO WHERE WE HAD NO ONE ELSE TO GO TO
10 FOR ADDITIONAL INFORMATION, THAT'S ALL THAT COULD BE DONE.

11 Q WELL, WHAT ABOUT CALLING THE US ATTORNEY'S OFFICE
12 BACK AND TELLING THEM, HOW ABOUT GIVING US MORE
13 INFORMATION?

14 A THE US MARSHALS?

15 Q YES. IF THEY HAD CALLED AND TOLD YOU, WE BELIEVE
16 WE'VE GOT A SERIOUS MATTER HERE AND IT NEEDS PERHAPS YOUR
17 SPECIAL ATTENTION AND -- AND YOU HAD CHECKED WITH THE
18 PERSON SUPERVISED AND MAYBE EVEN AN ATTORNEY WHO
19 ACCOMPANIED THEM, WOULD THAT -- I'M JUST ASKING WOULD THAT
20 BE THE END OF IT OR WOULD YOU CALL BACK AND ASK FOR MORE
21 INFORMATION?

22 WOULD YOU DIG DOWN DEEPER OR WOULD YOU JUST LEAVE IT
23 THERE? WHAT WOULD YOU DO?

24 A I THINK IN THIS SCENARIO THAT OCCURRED WITH THE US
25 MARSHALS CALLING ABOUT MR. STANKO, THE INFORMATION WAS

1 RELAYED THAT THEY WERE JUST PROVIDING THAT INFORMATION
2 FOR -- JUST TO LET US KNOW OF THOSE, YOU KNOW, JUST TO
3 PROVIDE US THE INFORMATION.

4 I DON'T REMEMBER THEM SAYING -- MAKING ANY STATEMENTS
5 THAT HE WAS DANGEROUS OR IT WAS A REALLY SERIOUS
6 SITUATION. THEY JUST WANTED THE OFFICE TO BE AWARE THAT
7 THEY HAD RECEIVED PHONECALLS.

8 Q WELL, WASN'T -- IT WASN'T REPORTED TO YOU THAT THERE
9 WAS ANY DANGER; CORRECT?

10 A RIGHT.

11 Q AND -- AND YOU DIDN'T KNOW OF ANY BECAUSE YOU DIDN'T
12 TAKE THE CALL EITHER; CORRECT?

13 A RIGHT.

14 Q OKAY.

15 A I'M JUST LOOKING AT WHAT THE PERSON THAT TOOK THE
16 CALL DOCUMENTED--

17 Q I WAS JUST ASKING YOU HYPOTHETICALLY--

18 A RIGHT.

19 Q -- NOT ANYTHING ELSE. BUT LET ME ASK YOU THIS. IF
20 THE US MARSHAL'S OFFICE OR ANY OTHER LEGITIMATE AGENCY OR
21 PERSON REPRESENTING THAT AGENCY CALLED AND GAVE YOU A
22 PLACE WHERE THE COMPLAINING PARTY ALLEGED THAT THESE
23 ACTIVITIES WERE TAKING -- TAKING PLACE OR HAD TAKEN PLACE,
24 DID Y'ALL EVER CHECK THAT OUT YOURSELVES OR GO TO THAT
25 PLACE?

1 A I DON'T REMEMBER AN AGENT EVER GOING TO THE LIBRARY.

2 Q WELL, IN FACT, IN THIS PARTICULAR CASE THE -- IT'S IN
3 THE RECORDS THAT THE MARSHAL'S OFFICE REPRESENTED, TOLD
4 THEM, ALL YOU'VE GOT TO DO IS GO TO THE LIBRARY AND CHECK.
5 DID YOU -- YOU DIDN'T KNOW THAT THOUGH, DID YOU, THAT HE
6 HAD -- THAT THAT HAD BEEN SAID?

7 A NO.

8 Q HOW FAR WAS THE SOCASTEE LIBRARY FROM YOUR OFFICE?

9 A I DO NOT KNOW.

10 Q DO YOU KNOW WHERE THE SOCASTEE LIBRARY IS?

11 A I HAVE A GENERAL IDEA.

12 Q OKAY. GIVE ME THE GENERAL IDEA ABOUT HOW FAR IT WAS
13 FROM YOUR OFFICE.

14 A FROM CONWAY TO SOCASTEE, I REALLY DON'T KNOW. I
15 MEAN, IT MAY BE 20 MILES. I DON'T KNOW.

16 Q IT'S IN -- IS SOCASTEE IN HORRY COUNTY?

17 A YES. IT'S IN THE SOUTHERN END OF HORRY COUNTY.

18 Q WOULD IT DEPEND ON HOW SERIOUS THE SUPERVISING AGENT
19 TOOK THE INFORMATION AS TO WHAT WOULD HAPPEN?

20 A NO, I DON'T BELIEVE SO.

21 Q WHAT IF SOMEBODY CALLED UP AND SAID, I'M BEING BEATEN
22 BY ONE OF YOUR PEOPLE YOU'RE SUPERVISING, WHAT WOULD
23 HAPPEN THEN?

24 A THAT AGENT WOULD GO OUT TO THE HOME AND SEE WHAT WAS
25 GOING ON.

1 Q OR PICK UP THE TELEPHONE AND CALL THE LOCAL WHOEVER
2 NEAREST POLICE PEOPLE WERE; RIGHT?

3 A RIGHT.

4 Q OKAY. BUT IF THEY DIDN'T CALL AND SAY, I'M ACTUALLY
5 BEING HURT OR INJURED, BUT MERELY THAT I FEEL THREATENED
6 AND I -- I'M VERY SERIOUSLY WORRIED, THEN THAT'S SORT OF
7 THE NEXT THING; ISN'T IT?

8 WHAT WOULD BE YOUR NEXT THING TO DO BESIDES EITHER
9 GOING THERE OR PICKING UP THE TELEPHONE?

10 A IN THIS CASE THE -- I GUESS WHAT YOU CONSIDER A NEXT
11 STEP HAD ALREADY BEEN TAKEN WAS OUR UNDERSTANDING.

12 Q SO IT DIDN'T -- I KNOW--

13 A THAT THE LIBRARY -- OUR UNDERSTANDING WAS THE LIBRARY
14 PERSONNEL HAD ALREADY BEEN INFORMED OF THE CONCERNS OF
15 WHAT WAS GOING ON. AND THE PUBLIC LIBRARIES ARE NOT UNDER
16 OUR JURISDICTION TO DECIDE WHO CAN GO IN AND WHO CANNOT.

17 Q WELL, LET ME ASK YOU SPECIFICALLY. DID GLORIA WILSON
18 COME TO YOU AND REPORT TO YOU FACE TO FACE THE CONTENT OF
19 THE MARSHAL'S OFFICE CALL?

20 A I THINK THAT SHE DID. I REMEMBER BEING MADE AWARE OF
21 THE FACT THAT THE MARSHALS HAD CALLED ABOUT MR. STANKO. I
22 DON'T REMEMBER IF MS. WILSON TOLD ME THAT OR HOW I BECAME
23 AWARE OF THAT FACT.

24 Q AND YOU ALSO -- BUT YOU DO RECALL THAT WHEN SHE DID
25 MAKE HER REPORT TO YOU, YOU DIDN'T CONSIDER THAT THERE WAS

1 ANY DANGEROUSNESS TO THE COMMUNITY BY WHAT SHE SAID;
2 CORRECT?

3 A NO, BECAUSE THE CONCERN THAT WAS PORTRAYED TO US WAS
4 THAT HE WAS SPENDING A LOT OF TIME IN THE LIBRARY AND THAT
5 HE MIGHT BE PORTRAYING HIMSELF AS SOMETHING OTHER THAN
6 JUST THE AVERAGE CITIZEN.

7 Q DID...

8 A THAT HE MIGHT BE GIVING OUT LEGAL ADVICE.

9 Q DID MS. WILSON TELL YOU THAT SHE HAD BEEN TOLD THAT
10 THE MARSHAL'S OFFICE REPRESENTATIVE THOUGHT THAT
11 MR. STANKO SHOULD BE CAREFULLY SCRUTINIZED?

12 A NO, I DON'T REMEMBER THAT.

13 Q DID SHE TELL YOU THAT THE REPRESENTATIVE OF THE
14 MARSHAL'S OFFICE SAID THAT SPECIAL ATTENTION SHOULD BE
15 PAID TO STANKO TO SEE IF HE IN FACT DID REPRESENT A DANGER
16 TO THE COMMUNITY?

17 A NO, I DON'T REMEMBER THAT.

18 Q WAS THERE EVER A WRITTEN REPORT TO YOU RATHER THAN
19 JUST THIS FACE-TO-FACE MEETING THAT YOU HAD?

20 A YOU MEAN A WRITTEN REPORT FROM MS. WILSON OR FROM--

21 Q YES, MA'AM. WRITTEN REPORT FROM MS. WILSON.

22 A NO.

23 Q DID SHE TELL -- SAY TO YOU THAT -- DID MS. WILSON SAY
24 TO YOU THAT A REPRESENTATIVE OF THE MARSHAL'S OFFICE TRIED
25 TO CONVEY TO HER THAT THIS PERSON, STANKO, WAS A DANGER TO

1 THE COMMUNITY?

2 A NO.

3 Q ARE YOU AWARE OF -- WELL, LET ME ASK IT THIS WAY.
4 STEPHEN STANKO'S RECORD WAS KNOWN TO YOUR OFFICE AT THAT
5 TIME, WHAT HE WAS THERE FOR OR BEING SUPERVISED BY?

6 A CORRECT.

7 Q AND DID YOU TAKE SPECIAL ATTENTION WHEN THE CHARGES
8 THAT THEY'RE BEING SUPERVISED ON ARE CHARGES OF VIOLENT
9 CRIMES?

10 A HE WAS ON COMMUNITY SUPERVISION AND THOSE CASES ARE
11 SUPERVISED CLOSELY.

12 Q EXCUSE ME?

13 A BEING ON COMMUNITY SUPERVISION, HIS CASE WHEN HE WAS
14 FIRST RELEASED FROM PRISON WAS SUPERVISED EXTREMELY
15 CLOSELY.

16 Q WELL, HE WAS FIRST RELEASED -- WHEN DO THE RECORDS
17 SHOW HE CAME TO YOU?

18 A AUGUST, 2004.

19 Q AUGUST OF 2004.

20 A UH-HUH.

21 Q ALL RIGHT. THEN HE -- HE HAD TO REPORT PERHAPS IN
22 AUGUST; CORRECT?

23 A UH-HUH.

24 Q SEPTEMBER; CORRECT?

25 A NO, SIR. WHEN HE WAS INITIALLY RELEASED, HE WAS

1 REPORTING EITHER EVERY WEEK OR EVERY TWO WEEKS.

2 Q DID -- WHEN DID HE ACTUALLY BECOME SUPERVISED BY YOUR
3 OFFICE IN HORRY?

4 A AUGUST THE SECOND, 2004 IS WHEN WE HAD OUR INITIAL
5 CONTACT WITH HIM.

6 Q ALL RIGHT. SO SEPTEMBER, OCTOBER, NOVEMBER HE
7 WOULD -- SHOULD HAVE COME TO THE OFFICE AND THERE'S NO
8 RECORD THAT HE DID; CORRECT?

9 A WELL, HE MISSED DECEMBER.

10 Q WELL, THAT WAS DECEMBER AND JANUARY.

11 A RIGHT, BUT IT WAS DURING JANUARY.

12 Q EXCUSE ME?

13 A IT WAS STILL DURING THE MONTH OF JANUARY WHEN HE DID
14 COME IN.

15 Q WHAT DATE DID THE US MARSHAL CALL IN JANUARY?

16 A JANUARY THE 26TH.

17 Q AND DIDN'T YOU SAY THAT YOU BELIEVED THAT
18 MS. WILSON'S SUPERVISEES NORMALLY CAME IN THE FIRST WEEK
19 OF THE MONTH?

20 A RIGHT.

21 Q SO HE MISSED THOSE TWO?

22 A RIGHT. HE HAD MISSED HIS SCHEDULED WEEK IN JANUARY.

23 Q OKAY.

24 A BUT SHE HAD ALREADY CONTACTED HIM ABOUT THAT IN THE
25 WAY OF A LETTER.

1 Q IS THAT A RED FLAG WHEN YOUR SUPERVISEE DOESN'T COME,
2 DOESN'T REPORT AS THEY ARE ORDERED TO DO?

3 A WELL, THE AGENT INITIATES CONTACT WITH THEM TO FIND
4 OUT WHY THEY DID NOT COME IN.

5 Q WELL, ISN'T IT A RED FLAG? IS IT SOMETHING YOU HAVE
6 TO LOOK AT?

7 A WHEN THEY MISS ONE REPORT, YES, IT'S LOOKED AT, BUT
8 THEY ARE CONTACTED AND TOLD TO COME IN.

9 Q WELL, IN STANKO'S CASE NOT ONLY DID HE MISS -- HIS
10 UNDERLYING OFFENSES WERE VIOLENT, KIDNAPPING, AND A
11 CONVICTION OF ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
12 NATURE THAT WAS REDUCED FROM ASSAULT AND BATTERY WITH
13 INTENT TO KILL; CORRECT? THAT WAS IN YOUR RECORD?

14 A OKAY.

15 Q AND IN YOUR RECORDS ALSO AREN'T THE DEPARTMENT --
16 LINED -- WARRANTS THAT WERE ISSUED OR EITHER THE
17 INDICTMENTS IN HIS FILE?

18 A THEY'RE NOT ALWAYS. I DON'T KNOW IF THEY WERE IN HIS
19 CASE OR NOT.

20 Q ON TOP OF THAT, HE WAS -- HIS OTHER OFFENSES HAD TO
21 DO WITH CONNING PEOPLE OR DEFRAUDING PEOPLE. ISN'T THAT
22 CORRECT?

23 A I DON'T REMEMBER THAT. I WOULD HAVE TO LOOK AT HIS
24 FILE.

25 Q DO YOU HAVE HIS FILE WITH YOU?

1 A NO, I DON'T. I DON'T WORK FOR THE DEPARTMENT ANY
2 LONGER.

3 Q I FORGOT. BUT IF I WERE TO TELL YOU THAT IT'S IN
4 THIS RECORD THAT THERE WERE A NUMBER OF BREACHES OF TRUST
5 ON PROPERTY AND DEFRAUDING AT THE SAME TIME -- AROSE IN
6 THE SAME TIMEFRAME AS THE KIDNAPPING AND THE ORIGINAL
7 CHARGE OF ASSAULT AND BATTERY WITH INTENT TO KILL, IF I
8 TOLD YOU THAT, THEN DOES THAT CHANGE THE IDEA OF YOUR
9 COMING IN AND EXPLAINING IT AWAY?

10 A DON'T KNOW THAT IT CHANGES IT THAT MUCH SIMPLY
11 BECAUSE A SUPERVISING AGENT ON A DAY TO DAY BASIS DOES NOT
12 KNOW THE ENTIRE PRIOR RECORD OF EVERY OFFENDER ON THEIR
13 CASE LOAD. SUPERVISING AGENTS DEAL WITH WELL OVER A
14 HUNDRED DIFFERENT OFFENDERS ALL AT ONE TIME.

15 SO IT'S NOT HUMANLY POSSIBLE TO REMEMBER EVERYBODY'S
16 PRIOR RECORD THAT YOU SUPERVISE. AND THAT INFORMATION IS
17 NOT AVAILABLE ON THE COMPUTER WHICH IS WHERE ALL OTHER
18 DOCUMENTATION IS BEING MADE.

19 Q WELL, LETS SAY FOR INSTANCE YOU GET A CALL FROM THE
20 UNITED STATES MARSHAL'S OFFICE THAT'S -- THAT THIS
21 ACTIVITY IS GOING ON AND YOU JUST HAPPEN TO CHECK YOUR
22 FILE OR THE INFORMATION AVAILABLE TO YOU AND YOU FIND THAT
23 THE PREVIOUS OFFENSES MATCH--

24 MR. HUMPHRIES: OBJECTION. LEADING.

25 THE COURT: SUSTAINED. LEADING.

1 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

2 BY MR. KELLY:

3 Q YOUR -- YOUR SUPERVISING AGENT CAN ALWAYS CHECK--

4 MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

5 THE COURT: SUSTAINED. LEADING.

6 BY MR. KELLY:

7 Q CAN -- CAN YOU -- WHEN YOU WERE THERE, DID YOU
8 SUPERVISE PEOPLE?

9 A VERY RARELY DID I DIRECTLY SUPERVISE A CASE.

10 Q BUT YOU DID SUPERVISE CASES?

11 A SOME.

12 Q AND EVEN THOUGH YOU MIGHT HAVE A LARGE NUMBER OF
13 CASES, TELL ME--

14 MR. HUMPHRIES: OBJECTION.

15 THE COURT: BASIS FOR THE OBJECTION?

16 MR. HUMPHRIES: LEADING. I'M SORRY, YOUR HONOR.

17 THE COURT: SUSTAINED.

18 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

19 THE COURT: YOU MAY REPHRASE.

20 BY MR. KELLY:

21 Q WELL, IF THE COMPLAINT ARISES AND YOU FOCUS ON JUST A
22 SQUEAKY WHEEL GETTING OIL OVER IN PROBATION--

23 MR. HUMPHRIES: OBJECTION, LEADING, YOUR HONOR.

24 THE COURT: SUSTAINED. LEADING.

25 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

1 THE COURT: YOU MAY REPHRASE.

2 BY MR. KELLY:

3 Q IF THERE'S A COMPLAINT IN -- AT YOUR TIME IF YOU WERE
4 WORKING THERE ABOUT SOMEBODY YOU WERE SUPERVISING, WOULD
5 THAT FOCUS YOUR ATTENTION--

6 MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

7 THE COURT: SUSTAINED. LEADING.

8 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

9 THE COURT: YOU MAY REPHRASE.

10 BY MR. KELLY:

11 Q WHAT WOULD YOU DO IF THERE WERE A COMPLAINT ABOUT ONE
12 OF THE PEOPLE THAT YOU SUPERVISED WHILE YOU WERE THERE?

13 A DEPENDING ON WHAT OTHER CASES I HAD ALSO RECEIVED
14 COMPLAINTS ON AND WHAT ELSE WAS GOING ON IN THE REST OF MY
15 CASE LOAD, I WOULD INVESTIGATE THE CASE.

16 BUT A -- DEPENDING ON THE COMPLAINT, THAT COMPLAINT
17 MAY NOT BE THE MOST SERIOUS COMPLAINT THAT HAD COME IN
18 ABOUT AN OFFENDER AND IT MAY NOT BE A COMPLAINT THAT RED
19 FLAGGED ME AS SOMETHING THAT NEEDED MY IMMEDIATE ATTENTION
20 VERSUS SOMEONE ELSE.

21 I MEAN, YOU HAVE OVER A HUNDRED PEOPLE ON YOUR CASE
22 LOAD. YOU GET COMPLAINTS AND OTHER PEOPLE HAVE ISSUES AND
23 PROBLEMS COMING UP ALL THE TIME, OTHER CASES. YOU HAVE TO
24 DETERMINE WHICH ONE NEEDS YOUR ATTENTION FIRST AND THE
25 MOST.

1 Q AND YOU WOULD HAVE PRIORITIZE AND--

2 MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.

3 THE COURT: SUSTAINED. LEADING.

4 BY MR. KELLY:

5 Q DID YOU -- DID YOU SAY -- WELL, BASED ON WHAT YOU
6 JUST TOLD ME, THAT -- DOES THAT -- WHAT DOES THAT MEAN,
7 THAT IF YOU -- YOU WOULD CHECK ON IT AND MAKE A DECISION?

8 MR. HUMPHRIES: OBJECTION. LEADING, YOUR HONOR.

9 THE COURT: SUSTAINED. LEADING. YOU MAY

10 REPHRASE.

11 BY MR. KELLY:

12 Q HOW DID YOU MAKE DECISIONS -- HOW DID YOU MAKE A
13 DECISION ON WHAT TO DO IN THE PROBATION AND PAROLE OFFICE
14 UPON A COMPLAINT?

15 A BASED ON THE NATURE OF THE COMPLAINT, THE INFORMATION
16 GIVEN IN THE COMPLAINT AND HOW IT COULD BE VERIFIED OR
17 WHETHER IT COULD NOT BE VERIFIED, BASED ON -- SOMETIMES
18 THE INFORMATION IN THE COMPLAINT WOULD INDICATE THAT THE
19 PERSON COMPLAINING HAD ALREADY TAKEN THE STEPS THEY NEEDED
20 TO TAKE TO HAVE IT ADDRESSED IN OTHER AVENUES, AND BASED
21 ON WHAT ELSE WAS GOING ON WITH YOUR CASE LOAD. YOU DO
22 PRIORITIZE.

23 Q EXCUSE ME?

24 A YOU DO PRIORITIZE AND MAKE A DECISION IN YOUR BEST
25 JUDGMENT AND THE INFORMATION AVAILABLE.

1 Q MA'AM, I APPRECIATE -- I -- WE ISSUED A SUBPOENA TO
2 ASK YOU TO COME HERE TODAY; DIDN'T WE?

3 A RIGHT.

4 Q AND I WANT TO THANK YOU FOR RESPONDING TO THAT
5 SUBPOENA. AND AT THIS TIME I DON'T HAVE ANY FURTHER
6 QUESTIONS.

7 THE COURT: ANY QUESTIONS OF THE WITNESS?

8 MR. HUMPHRIES: NONE FROM THE STATE. THANK YOU.

9 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
10 EXCUSED FROM THE STATE?

11 MR. HUMPHRIES: NONE FROM THE STATE. THANK YOU.

12 THE COURT: FROM THE DEFENSE?

13 MR. KELLY: SUBJECT TO RECALL ONLY, MA'AM.

14 THE COURT: MA'AM, YOU'RE EXCUSED SUBJECT TO
15 RECALL.

16 THE WITNESS: THANK YOU.

17 (WITNESS LEFT THE STAND.)

18 THE COURT: MADAM FORELADY, LADIES AND
19 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
20 BREAK IN TESTIMONY TO TAKE OUR LUNCHEON RECESS.
21 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE IN
22 ANY WAY. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS.

23 AND AS ALWAYS, THE CLERK HAS BEEN EXTREMELY
24 GENEROUS AND HAS PROVIDED FOR YOUR LUNCH WHICH I
25 BELIEVE HAS ALREADY BEEN SET UP IN THE JURY ROOM FOR

1 YOU. WE HAD IT SCHEDULED TO ARRIVE AT 12:30.

2 IF YOU NEED ANYTHING, PLEASE LET THE BAILIFFS
3 KNOW. AND I ANTICIPATE THAT THE LUNCH BREAK WILL BE
4 ABOUT 45 MINUTES.

5 (WHEREUPON JURY LEFT THE COURTROOM AT 1:04 PM.)

6 THE COURT: IS THERE ANYTHING BEFORE WE BREAK
7 FOR LUNCH?

8 MR. HUMPHRIES: YES, YOUR HONOR, JUST ONE
9 SECOND.

10 THE COURT: OH, I'M SORRY. I DIDN'T REALIZE --
11 SORRY. I APOLOGIZE.

12 MR. HUMPHRIES: YOUR HONOR.

13 THE COURT: YES, SIR.

14 MR. HUMPHRIES: AS RELATES TO DEFENDANT'S
15 EXHIBITS 37 AND 38, BOTH CONTAIN REFERENCES TO THE
16 MURDER OF HENRY TURNER.

17 THE COURT: I GUESS WE NEED TO REDACT THAT.

18 MR. KELLY: YES, MA'AM. WE ASK IT BE REDACTED.

19 THE COURT: REMIND ME FOR THE RECORD WHAT 37 AND
20 38 ARE.

21 MR. HUMPHRIES: YES, MA'AM. THIRTY-SEVEN IS THE
22 APPOINTMENT LEDGER REPORT FOR STEPHEN STANKO.

23 THE COURT: OKAY.

24 MR. HUMPHRIES: AND 38 IS THE ARREST WARRANT FOR
25 STEPHEN STANKO.

1 THE COURT: OKAY.

2 MR. KELLY: I DON'T THINK IT'S BEEN PUBLISHED TO
3 THE JURY.

4 THE COURT: WHAT WE WILL DO IS WE WILL HAVE 37
5 AND 38 MARKED AS COURT'S EXHIBITS AND THEY WILL BE
6 SUBSTITUTED WITH REDACTED COPIES. AND IT WILL BE THE
7 DEFENSE'S RESPONSIBILITY TO REDACT THOSE AND PROVIDE
8 COPIES TO THE STATE.

9 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

10 MR. HEMBREE: THANK YOU, YOUR HONOR.

11 THE COURT: YOU'RE WELCOME. ANYTHING FURTHER
12 BEFORE WE BREAK FOR LUNCH?

13 MR. KELLY: NO, MA'AM.

14 MR. HUMPHRIES: NO. NOTHING FROM THE STATE.

15 MR. DIGGS: NO, YOUR HONOR.

16 THE COURT: OKAY. Y'ALL HAVE A GOOD LUNCH. WE
17 WILL BE AT EASE FOR ABOUT 45 MINUTES.

18 (COURT WAS IN RECESS FOR LUNCH.)

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. HEMBREE: YES, YOUR HONOR.

21 THE COURT: IS THE DEFENSE READY TO PROCEED?

22 MR. DIGGS: YES, YOUR HONOR.

23 THE COURT: BRING IN THE JURY.

24 (JURY ENTERED THE COURTROOM AT 2:12 PM.)

25 THE COURT: YOU MAY BE SEATED. LADIES AND

3172

1 GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL LUNCH.
2 WE WILL NOW RESUME WITH THE TRIAL. MR. KELLY OR MR.
3 DIGGS, YOU MAY PROCEED.

4 MR. DIGGS: YOUR HONOR, WE'D CALL DR. THOMAS
5 SACHY TO THE STAND.

6 DR. THOMAS SACHY, AFTER
7 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE COURT: YOU MAY PROCEED WHEN YOU'RE READY.

9 DIRECT EXAMINATION

10 BY MR. DIGGS:

11 Q AND DR. SACHY, I JUST WANT TO BRIEFLY REVIEW WHAT
12 YOUR EDUCATIONAL TRAINING AND WORK EXPERIENCE HAS BEEN IN
13 THE FIELD OF PSYCHIATRY.

14 A I HAVE TWO BACHELOR'S DEGREES, ONE IN GENERAL
15 STUDIES, ONE IN ELECTRICAL ENGINEERING WITH A MINOR IN
16 COMPUTER ENGINEERING. I HAVE MASTER'S THERE FROM THE
17 UNIVERSITY OF CALGARY IN CANADA.

18 I HAVE A MASTER'S DEGREE IN BIOLOGY FROM GEORGIA
19 STATE UNIVERSITY IN ATLANTA. I HAVE A MEDICAL DEGREE FROM
20 THE MEDICAL COLLEGE OF GEORGIA IN AUGUSTA. I HAVE MY
21 PSYCHIATRY RESIDENCY TRAINING FROM THE MEDICAL UNIVERSITY
22 OF SOUTH CAROLINA.

23 I HAVE A FELLOWSHIP IN BEHAVIORAL NEUROLOGY FROM THE
24 MEDICAL UNIVERSITY OF SOUTH CAROLINA. AND I HAVE A
25 FELLOWSHIP IN FORENSIC PSYCHIATRY FROM EMORY UNIVERSITY IN

1 ATLANTA. AND I HAVE BEEN IN PRIVATE PRACTICE NOW FOR
2 APPROXIMATELY FIVE YEARS.

3 MR. DIGGS: AND, YOUR HONOR, WE WOULD OFFER DR.
4 SACHY AS AN EXPERT IN PSYCHIATRY.

5 THE COURT: ANY OBJECTIONS OR QUESTIONS?

6 MR. HEMBREE: NO OBJECTION. NO QUESTIONS.

7 THE COURT: SO ADMITTED. YOU MAY PROCEED.

8 MR. DIGGS: THANK YOU.

9 BY MR. DIGGS:

10 Q DR. SACHY, THROUGHOUT THE COURSE OF THE TRIAL THE
11 TERM NEUROPSYCHIATRIC PATIENT HAS BEEN USED. CAN YOU TELL
12 US WHAT YOUR UNDERSTANDING OF WHAT THAT TERM MEANS?

13 A NEUROPSYCHIATRY IS REALLY WHAT PSYCHIATRY IS. ALL
14 PSYCHIATRIC DISORDERS, EVERY ONE OF THEM, IS DUE TO A
15 DYSFUNCTION IN THE BRAIN.

16 AND IF YOU LOOK AT IT FROM A LARGE OR A GROSS POINT
17 OF VIEW, YOU COULD CALL IN A NEUROLOGIST. IF YOU WANT TO
18 LOOK AT IT IN A FINE POINT OF VIEW, YOU CAN REFER TO A
19 NEUROPSYCHIATRIST.

20 BUT A NEUROPSYCHIATRIST LOOKS AT IT FROM BOTH THE
21 PSYCHIATRIC AND THE NEUROLOGICAL ASPECT.

22 Q ALL RIGHT. SO -- AND WHAT DO WE MEAN BY THE TERM
23 NEURO?

24 A HAVING TO DO WITH THE BRAIN.

25 Q ALL RIGHT. SO ANY TIME WE HEAR NEUROPSYCHIATRIST OR

1 NEUROPSYCHOLOGIST, NEURO -- NEUROLOGY, WE'RE TALKING ABOUT
2 STUDIES THAT DEAL WITH THE BRAIN?

3 A CORRECT.

4 Q AND SPECIFICALLY WHAT ABOUT THE BRAIN?

5 A ITS STRUCTURE, ITS FUNCTION.

6 Q OKAY. THE WAY IT'S SHAPED?

7 A THE WAY IT'S SHAPED, THE WAY IT WORKS.

8 Q OKAY. AND DO YOU TALK ABOUT OR LOOK INTO DIFFERENT
9 AREAS OF THE BRAIN OR DO YOU JUST LOOK AT THE WHOLE BRAIN
10 AND MAKE A DECISION OR USE THAT WHOLE STRUCTURE?

11 A THE BRAIN IS LIKE A VERY COMPLICATED COMPUTER THAT
12 CALLS ON SUB-COMPUTERS TO HELP DO ITS WORK. SO OUR HUMAN
13 BRAIN IS LIKE A CONGLOMERATION OF COMPUTERS WITH A MASTER
14 COMPUTER THAT CONTROLS OTHER SUB-COMPUTERS, SO THAT'S THE
15 BEST ANALOGY TO WHAT THE BRAIN IS.

16 Q HOW WELL -- HOW MUCH DO WE KNOW ABOUT HOW THE BRAIN
17 WORKS?

18 A WE KNOW IT VERY WELL.

19 Q GIVE US AN OVERVIEW OF WHAT IS GENERALLY KNOWN IN THE
20 SCIENCE TO ME OR MEDICAL...

21 A OUR BRAINS ARE A CONGLOMERATION OF PROTEIN, FAT AND
22 WATER. AND THEY USE CHEMICAL AND ELECTRICAL SIGNALS.
23 THERE ARE CELLS IN THE BRAIN THAT ARE MADE OF PROTEIN,
24 FAT, AND WATER THAT USE ELECTRICAL AND CHEMICAL SIGNALS TO
25 COMMUNICATE WITH EACH OTHER.

1 IN THAT WAY WE MEMORIZE THINGS, WE STORE THINGS, WE
2 BEHAVE, WE THINK, WE FEEL. IT'S ALL DONE WITH THOSE
3 NEURONS AND THE CHEMISTRY AND THEIR FUNCTION WITHIN THEM.

4 Q NOW, WHAT DO WE KNOW ABOUT HOW THE BRAIN RELATES TO
5 CONDUCT AND BEHAVIOR?

6 A WELL, OUR CONDUCT AND BEHAVIOR ARE DUE TO OUR BRAIN
7 FUNCTION.

8 Q AND WOULD IT BE FAIR TO SAY OUR CONDUCT AND BEHAVIOR
9 IS TOTALLY DEPENDENT UPON THE BRAIN FUNCTION?

10 A YES.

11 Q FOR EXAMPLE, PEOPLE WHO ARE BRAIN-DEAD -- WHAT DOES
12 BRAIN-DEAD MEAN AND WHAT EFFECT DOES THAT HAVE ON A
13 PERSON?

14 A BRAIN DEATH IS ABSOLUTE DEATH. IF I COULD STOP
15 ANYONE'S HEART IN THIS ROOM, THERE'S STILL A CHANCE OF
16 LIFE AS LONG AS THEY ARE NOT BRAIN-DEAD. BRAIN-DEAD IS
17 THE ABSENCE OF ALL ACTIVITY IN THE BRAIN.

18 I HAVE NOT HEARD OF CASES WHERE THAT HAS EVER BEEN
19 REVERSIBLE. WHEN BRAIN DEATH OCCURS, IT'S PERMANENT.

20 Q ALL RIGHT. TELL US WHAT AFFECT THAT THE BRAIN
21 FUNCTION AND THE BRAIN STRUCTURE CAN HAVE ON ONE'S
22 BEHAVIOR AND SPECIFICALLY WITH RESPECT TO AGGRESSION OR
23 CRIMINAL BEHAVIOR.

24 A OKAY. AS I SAID BEFORE, THERE ARE -- IT IS ACCEPTED
25 OR UNDERSTOOD IN MEDICINE THAT THERE ARE PARTS OF THE

1 BRAIN THAT CONTROL AGGRESSIVE IMPULSES. THEY ARE THE SAME
2 PARTS OF THE BRAIN THAT MODULATE OUR EMOTIONS, HELP US
3 INTERACT IN SOCIETY, IN CULTURE, SOCIOLOGICALLY.

4 AND WE KNOW THIS BECAUSE WHEN YOU DAMAGE THOSE AREAS
5 OF THE BRAIN, PEOPLE DON'T BEHAVE PROPERLY ANY MORE. THEY
6 DON'T THINK THE SAME ANY MORE. THEY ARE NOT THE SAME.

7 Q OKAY. AND IS IT A FREE CHOICE THAT THEY HAVE JUST TO
8 CHANGE THEIR BEHAVIOR OR IS THEIR BEHAVIOR A FUNCTION OF
9 THAT CHANGE IN THE BRAIN?

10 A WE HAVE SOME MEASURE OF FREE CHOICE, BUT THE MORE
11 DYSFUNCTIONAL OR ILL THE BRAIN IS, THE LESS CHOICE WE
12 HAVE. FOR INSTANCE, SOMEONE WITH ALZHEIMERS DISEASE HAS
13 ALMOST NO CHOICE IN THEIR BEHAVIOR.

14 SOMEONE WHO IS -- HAS A VERY HEALTHY BRAIN, THAT HAS
15 NO DEFICITS IN BRAIN FUNCTION, THEY HAVE MUCH MORE CHOICE
16 AVAILABLE TO THEM, BUT IT'S BECAUSE NATURE OR GOOD LUCK OR
17 GOOD FORTUNE HAS ALLOWED THEM TO HAVE A HEALTHY BRAIN.

18 Q IS THERE A CORRELATION BETWEEN ABNORMAL BRAIN
19 FUNCTION AND STRUCTURE TO ABNORMAL BEHAVIOR?

20 A I...

21 Q I THINK YOU KIND OF ANSWERED THAT QUESTION, BUT IS
22 THERE A DIRECT CORRELATION?

23 A YES, AND THAT'S AN ABSOLUTE DIRECT CORRELATION.

24 Q AND IS THERE ANYTHING THAT INDIVIDUAL WITH THE
25 ABNORMAL STRUCTURE OR ABNORMAL FUNCTION CAN DO TO STOP THE

1 BRAIN AND THOSE ABNORMALITIES FROM HAVING THAT TYPE OF
2 IMPACT ON THE BEHAVIOR OF THAT PERSON?

3 A THEY CAN TRY. FOR INSTANCE, IF ANYONE KNOWS ANYONE
4 WITH OBSESSIVE COMPULSIVE DISORDER, THEY HAVE THOUGHTS
5 THAT COME IN THEIR BRAIN CONTINUALLY THAT ARE VERY
6 UPSETTING TO THEM.

7 FOR INSTANCE, SOMEONE WITH OCD IN HERE MIGHT START
8 COUNTING THE LIGHT BULBS IN ALL THESE LIGHTS AND THEY
9 WOULD BE DRIVEN TO GREAT DISTRACTION COUNTING THEM OVER
10 AND OVER AND OVER.

11 THEY ARE AWARE THAT THEY ARE COUNTING. THEY ARE
12 AWARE THAT IT'S TAKING UP TIME AND ENERGY, AND IT BOTHERS
13 THEM. AND THEY TRY TO STOP IT, BUT THEY CAN'T STOP THE
14 THOUGHT TO COUNT.

15 NOW, THEY CAN SIT STILL AND QUIET AND PRETEND IT'S
16 NOT OCCURRING, BUT IT'S STILL BOTHERING THEM. THAT'S ONE
17 EXAMPLE.

18 Q WHAT ABOUT MR. STANKO'S BRAIN, FUNCTION, AND
19 STRUCTURE. OKAY. LET'S TALK ABOUT THAT JUST VERY BRIEFLY
20 BECAUSE WE HAVE SEEN MANY SCANS AND PICTURES AND THINGS
21 LIKE THAT.

22 BUT WHAT CAN YOU TELL US AFTER YOUR REVIEW OF THE
23 MATERIALS IN THE CASE -- TELL US AGAIN WHAT YOUR
24 UNDERSTANDING IS OF MR. STANKO'S BRAIN FUNCTION AND
25 STRUCTURE.

1 A WELL, I REVIEWED MR. STANKO'S MRI. AND IF WE HAD A
2 SLIDE PROJECTOR IN HERE, I WOULD ABSOLUTELY SHOW WITHOUT
3 QUESTION THAT HE HAS SHRINKAGE IN A PARTICULAR AREA OF HIS
4 BRAIN. AND I'M CERTAIN THAT I COULD DEMONSTRATE THAT TO
5 EVERYONE IN HERE.

6 I ALSO KNOW VIA PET SCANS AND BY VOLUMETRIC ANALYSIS
7 OF HIS BRAIN THAT HE HAS ABNORMAL AREAS OF SHRINKAGE IN
8 HIS BRAIN AND ABNORMAL AREAS OF FUNCTION.

9 Q NOW, YOU HAVE ALREADY TESTIFIED ABOUT THIS CHART, BUT
10 IS THIS -- THIS SUMMARIZES BASICALLY WHAT YOU'RE TALKING
11 ABOUT IN TERMS OF THE ABNORMAL STRUCTURE?

12 A IF WE TURN IT RIGHT SIDE UP.

13 Q VOLUMETRIC--

14 A YES.

15 Q -- ANALYSIS. AND AGAIN, WHAT'S MEANT BY THAT TERM?

16 A A COMPUTER USED STATISTICS TO LOOK AT HIS MRI, AND IN
17 AN OBJECTIVE NON-BIASED WAY IT CALCULATED HOW BIG THE
18 VARIOUS PORTIONS OF HIS BRAIN WERE.

19 AND IT PROVED MY VISUAL FINDINGS, BUT IT PROVED MUCH
20 MORE THAN THAT, THAT MR. STANKO HAS A SHRUNKEN LEFT
21 FRONTAL LOBE, SHRUNKEN SIDES OF HIS BRAIN, AND -- AND
22 ENLARGED AREAS OF HIS BRAIN THAT HOLD FLUID.

23 NOW, WHEN WE LOSE OUR BRAIN, FLUID REPLACES IT, NOT
24 AIR, NOT ANYTHING ELSE. FLUID.

25 Q WOULD IT HELP TO REFER TO THIS AT ALL?

1 A THE--

2 Q IF IT WOULDN'T, JUST TELL ME NO AND I'LL PULL IT
3 DOWN.

4 A WELL, JUST VERY QUICK, WHERE THE TWO LINES COME
5 TOGETHER ON THE FAR RIGHT, THAT ONE POINT IN THE TOP RIGHT
6 OF THE SCREEN, TOP RIGHT OF THAT PICTURE, MR. STANKO'S
7 GREATER -- THOSE ARE HIS VENTRICLES ON THESE FLUID FILLED
8 SACKS ON THE LEFT AND THE RIGHT OF HIS BRAIN, AND HE IS
9 GREATER THAN TWO STANDARD DEVIATIONS AWAY FROM NORMAL IN
10 ENLARGEMENT.

11 IN OTHER WORDS, IT'S NOT A FLUKE. HE HAS
12 SCIENTIFICALLY ACCURATELY DIAGNOSED VENTRICULAR OR FLUID
13 FILLED SPACE ENLARGEMENT IN HIS BRAIN WHICH IS NOT NORMAL.

14 IF IT WERE NORMAL, THAT DOT OR THOSE TWO DOTS WOULD
15 BE WITHIN THE BAND THAT WE SEE ON THAT DIAGRAM. THAT'S
16 WHAT NORMAL MEANS, IF YOU'RE WITHIN THAT BAND.

17 Q AND AGAIN, WHAT DOES THE VOLUMETRIC ANALYSIS SHOW
18 WITH RESPECT TO THESE LINES DOWN HERE IN THE MEDIAL AREA?

19 A WELL, MEDIAL JUST MEANS MIDDLE OR SIDE PORTIONS OF
20 HIS BRAIN. HE IS GREATER THAN FOUR STANDARD DEVIATIONS --
21 HIS BRAIN IS FOUR STANDARD DEVIATIONS SMALLER THAN THE
22 AVERAGE BRAIN ON THE SIDES HERE.

23 THAT MEANS ONE IN 10,000 PEOPLE HAVE -- HAVE SIDE
24 PARTS OF THEIR BRAIN THAT SMALL. IT'S FAR BEYOND NORMAL
25 ESPECIALLY FOR SOMEONE HIS AGE.

1 Q ALL RIGHT. AND AGAIN, THIS DOT RIGHT HERE, THIS --
2 THIS POINT REPRESENTS WHAT? AND AGAIN, IN -- AS SHOWN BY
3 THIS VOLUMETRIC ANALYSIS THAT WAS DONE IN THIS CASE.

4 A THAT IS A GREEN -- I THINK IT'S GREEN. I'M HAVING A
5 HARD TIME SEEING. THAT'S A GREEN LINE WHICH MEANS LEFT,
6 AND THAT DOT ON THE FAR LEFT SIDE OF THAT PAGE MEANS THAT
7 HIS LEFT FRONTAL LOBE RIGHT HERE IS SMALLER THAN NORMAL BY
8 GREATER THAN TWO STANDARD DEVIATIONS, WE SEE MINUS TWO,
9 IT'S BELOW THAT, WHICH MEANS IT'S NOT A FLUKE, IT'S NOT
10 RANDOM, IT'S NOT ERROR. IT'S SCIENTIFICALLY VALID AND
11 ACCURATE.

12 Q NOW, WITH RESPECT -- THAT YOU HAVE DONE -- YOU HAD
13 THIS DONE WITH THE USE OF AN MRI DATA FROM MUSC. AND YOU
14 ALSO HAD THE PET SCANS DONE FROM THAT SAME DATA BUT FROM
15 THE PET SCAN.

16 A PET SCAN, A DIFFERENT STUDY.

17 Q YES, SIR. AND YOUR -- YOUR PET SCAN ANALYSIS -- AND
18 WE HAVE HEARD DR. WU'S TESTIMONY YESTERDAY -- BUT HOW DOES
19 THAT ANALYSIS FIGURE INTO YOUR ANALYSIS OF MR. STANKO?

20 A MR. STANKO'S BEHAVIOR AGAIN IS RIGHT OUT OF THE BOOK.
21 IT'S RIGHT OUT OF THE TEXTBOOKS. AND IN THE LITERATURE IN
22 TEXTBOOKS, HIS BEHAVIOR IS CONSISTENT WITH BRAIN DAMAGE IN
23 THE BRAIN RIGHT ABOVE OUR EYEBALLS. THAT'S WHAT THE PET
24 SCANS SHOWED IN MR. STANKO.

25 Q AND IN TERMS OF THE DEFICIENT FUNCTION, CAN YOU GIVE

1 US A PERCENTAGE IN YOUR OPINION OF HOW DEFICIENT THAT
2 FUNCTION IS IN THAT AREA?

3 A JUST LOOKING AT IT AND IT ROTATED HERE IN THREE
4 DIMENSIONS, BUT ALSO IN SLICES, IT APPEARS TO BE
5 50 PERCENT REDUCTION. IN A WAY, IT WOULDN'T MATTER HOW
6 MUCH REDUCTION AS LONG AS THERE IS REDUCTION.

7 IT WOULD AFFECT US ALL DIFFERENTLY AND IT WOULD BE
8 DIFFICULT TO PREDICT, BUT HIS AREA OF HIS EYEBALLS WAS
9 VERY COLD LOOKING. AND THESE ARE IMAGES PRODUCED IN AN
10 UNBIASED, SCIENTIFICALLY ACCURATE WAY BY COMPUTER.

11 NO ONE PICKED THE COLORS TO SIT THERE. NO ONE IN MY
12 ESTIMATION ADJUSTED A WINDOW OR DID ANY KIND OF FUDGING TO
13 GET THOSE IMAGES.

14 Q NOW, LET ME ASK YOU, WOULD IT BE FAIR TO SAY THAT IF
15 YOU GOT A REDUCED -- YOU SAID IT WOULDN'T MATTER HOW MUCH
16 OF A PERCENTAGE THERE IS IN REDUCTION. BUT IF THERE IS A
17 REDUCTION BELOW NORMAL, WHAT WOULD BE CONSIDERED NORMAL,
18 IS IT SURPRISING THAT THERE WOULD BE ABNORMAL BEHAVIOR?

19 A NO, BECAUSE WE KNOW FOR CERTAIN WHAT THAT PART OF THE
20 BRAIN DOES AND WE KNOW IT BECAUSE WE HAVE HAD HUNDREDS OF
21 YEARS OF SEEING PEOPLE INJURED IN THAT PART OF THE BRAIN.

22 Q ALL RIGHT. LET'S ASSUME FOR A MOMENT THAT YOU NEVER
23 MET MR. STANKO AND NEVER INTERVIEWED HIM AND YOU KNEW
24 NOTHING ABOUT HIM. OTHER THAN THIS CHART, THE VOLUMETRIC
25 MRI ANALYSIS FROM DR. GUR AND -- UP IN PENNSYLVANIA AND

1 THE PET SCAN THAT WAS SUBMITTED BY DR. WU, AND YOU WERE
2 ASKED TO PREDICT BASED ON THAT KNOWLEDGE THIS MAN'S
3 BEHAVIOR. WHAT WOULD YOU SAY?

4 A PRONE TO EPISODES OF VIOLENCE, IMPULSIVITY, NOT
5 ACTING SOCIALLY APPROPRIATE, AND NOT AT ALL TIMES, BUT AT
6 TIMES, HE WOULD MEET THE -- I MEAN, ME KNOWING THAT
7 INFORMATION, I WOULD SAY HE MEETS THE CRITERIA FOR
8 BEING -- HAVING PSYCHOPATHY.

9 Q OKAY. AND ARE YOU SURPRISED NOW AFTER HAVING MET
10 MR. STANKO AND LEARNED ABOUT HIM AND HIS HISTORY, ARE YOU
11 SURPRISED AT HIS PAST BEHAVIOR?

12 A NO.

13 Q AND AGAIN, WHY IS THAT?

14 A A LIFE-LONG HISTORY, IT WOULD APPEAR, FROM RIGHT OUT
15 OF HIGH SCHOOL OF MANIPULATIVE -- MANIPULATIVE BEHAVIOR,
16 PATHOLOGICAL LYING. THAT'S DIFFICULT TO MAINTAIN I THINK
17 FOR A NORMAL PERSON OR FOR ANYONE IN A LIFE-LONG FASHION.

18 YOU KNOW, WHEN PEOPLE LIE, THEY TEND TO GET NERVOUS,
19 THEY BREAK OUT INTO A SWEAT. FOR INSTANCE, A -- JUST TRY
20 TO GIVE YOU AN EXAMPLE. SALES PEOPLE. SALES PEOPLE CALL.

21 I MEAN, IT'S A TOUGH JOB. THEY HAVE TO SELL ME
22 SOMETHING. THEY MAY NOT BELIEVE IN IT. BUT THEY
23 ESSENTIALLY HAVE TO KIND OF PUT ON A SHOW. BEING A
24 MANIPULATOR, AND A LIFE-LONG ONE, I THINK WOULD BE
25 ACTUALLY VERY HARD WORK UNLESS YOU'RE WIRED THAT WAY.

1 Q OKAY. AND NOW WE KNOW WIRED THAT WAY MEANS THEY --
2 DECREASED FUNCTION IN THAT AREA OF THE BRAIN, THE FRONTAL
3 LOBE BRAIN.

4 A IT'S BEEN SHOWN IN PEOPLE HURT THERE AND IT'S BEEN
5 SHOWN IN PSYCHOPATHS WHO HAVE BEEN STUDIED WITH PET SCANS.

6 Q WHO WERE JUST BORN THAT WAY?

7 A CORRECT.

8 Q AND NO AMOUNT OF TRAINING OR DISCIPLINE OR ANYTHING
9 ELSE IS GOING TO CHANGE THAT BRAIN FUNCTION. WOULD THAT
10 BE FAIRLY ACCURATE?

11 A CORRECT.

12 Q OKAY.

13 A IT WOULD BE LIKE, HOW MUCH TRAINING CAN WE GIVE
14 SOMEONE WITH ALZHEIMERS DISEASE OR PARKINSONS DISEASE OR
15 MENTAL RETARDATION, ET CETERA? DO WE FIX -- DO WE SEE
16 THEM CURED? WE DON'T.

17 Q ALL RIGHT. AND MR. STANKO'S BRAIN FUNCTION AND
18 STRUCTURE WOULD FALL INTO THAT TYPE OF CATEGORY?

19 A IT WOULD.

20 Q NOW, WHAT IS EMPATHY?

21 A EMPATHY IS THE ABILITY TO SEE SOMEONE ELSE'S POINT OF
22 VIEW AND TO ESSENTIALLY FEEL THEIR PAIN.

23 Q AND CAN -- DO -- DO WE KNOW -- DOES THE SCIENCE AND
24 MEDICAL COMMUNITY KNOW WHERE EMPATHY ORIGINATES IN THE
25 BRAIN?

1 A ABOVE YOUR EYEBALLS AND BEHIND YOUR NOSE. EXACTLY IN
2 THAT AREA THAT'S DARK ON HIS PET SCAN.

3 Q WHERE MR. STANKO HAS A BRAIN DYSFUNCTION?

4 A YES.

5 Q AND COULD EMPATHY HAVE AN AFFECT ON ONE'S CHARACTER?
6 AS YOU DEFINE GOOD CHARACTER OR BAD CHARACTER, WHAT ROLE
7 COULD EMPATHY PLAY IN THAT?

8 A YOUR CHARACTER IS HOW OTHER PEOPLE SEE YOUR BEHAVIOR
9 AND YOUR ATTITUDES. AND IF YOU LACK EMPATHY, YOU'RE GOING
10 TO HAVE A BAD CHARACTER.

11 Q AND THAT'S GOING TO BE A WAY OF LIFE ALL THE TIME FOR
12 THAT INDIVIDUAL. IS THAT TRUE?

13 A DEPENDING ON HOW MUCH LOSS OF FUNCTION THEY HAVE IN
14 THAT AREA. MORE LOSS OF FUNCTION, WORSE CHARACTER.

15 Q ALL RIGHT. AND SO LET'S SAY WE HAVE SOMEONE WHO
16 WANTED TO ASSESS THE CHARACTER OF AN INDIVIDUAL. WOULD IT
17 BE IMPORTANT TO KNOW ABOUT BRAIN FUNCTION, DEFICITS, OR
18 STRUCTURAL DEFICITS IN THAT BRAIN?

19 A WELL, IN THE YEAR 2006 IT IS, AND IT HAS BEEN
20 PROBABLY FOR 15 YEARS SINCE WE HAVE BEEN DOING THESE,
21 THIS -- THESE KINDS OF ANALYSIS ON PEOPLE LIKE MR. STANKO.

22 Q COULD ANYONE EVER MAKE A RELIABLE ASSESSMENT OF
23 ANYBODY'S CHARACTER WITHOUT THIS TYPE OF KNOWLEDGE OR
24 SCIENCE?

25 A WELL, THEY COULD MAKE A GUESS AT IT. BUT THE MORE

1 INFORMATION YOU HAVE, THE MORE POWER YOU HAVE TO MAKE
2 PREDICTIONS AND TO UNDERSTAND WHAT'S GOING ON. IF YOU
3 DON'T WANT TO KNOW THE TRUTH, IF YOU DON'T WANT TO SEE IT,
4 THEN YOU JUST WON'T KNOW.

5 Q LET ME TALK TO YOU ABOUT STEPHEN IN THE EVENT HE WERE
6 TO BE SENTENCED TO LIFE IMPRISONMENT.

7 A YES.

8 Q WOULD OTHER INMATES BE IN DANGER AROUND MR. STANKO?

9 A NOT TYPICALLY, NO.

10 Q WHY DO YOU SAY THAT?

11 A BECAUSE IN REVIEWING THIS -- THE LITERATURE, IT HAS
12 TO DO WITH BEHAVIORAL DISORDERS THAT HE HAS, THE
13 BEHAVIORAL DISORDER THAT HE HAS. IN PRISON THEY DON'T ACT
14 VIOLENTLY OR DON'T TEND TO ACT VIOLENTLY.

15 THEY ARE MANIPULATIVE. THEY USE THE SYSTEM TO THEIR
16 ADVANTAGE, BUT THEY DON'T GO AROUND SHANKING OTHER
17 PRISONERS OR ATTACKING OTHER PRISONERS. THEY ACTUALLY
18 SEEM TO BE WELL-BEHAVED.

19 BUT WHAT WE KNOW IS THIS. ONCE RELEASED FROM PRISON,
20 THEIR CHANCE OF VIOLENT ACTIVITY IS THREE TO FOUR TIMES
21 GREATER THAN IT WAS THAN WHILE THEY WERE IN PRISON. SO IN
22 PRISON THOSE--

23 Q STRUCTURE?

24 A -- THAT STRUCTURE KEEPS THE PSYCHOPATH AT LEAST IN
25 CONTROL. THE ONE WHO IT WOULDN'T KEEP IN CONTROL IS YOUR

1 MENTALLY RETARDED, VIOLENT INDIVIDUAL WHO HAS SUCH SEVERE
2 GLOBAL BRAIN DAMAGE THAT THEY'RE GOING AROUND PUNCHING
3 CONCRETE WALLS, ATTACKING GUARDS INCESSANTLY, FIGHTING
4 WITH OTHER INMATES WITH COMPLETE DISREGARD FOR THEIR OWN
5 HEALTH.

6 Q NOW, WE HAVE SEEN MR. STANKO. WE KNOW HE WAS IN
7 PRISON FOR EIGHT AND A HALF YEARS AND HAD A RELATIVELY
8 CLEAN RECORD THERE AS AN INMATE. AND THEN HE GETS OUT AND
9 THIS HAPPENS WITHIN MONTHS.

10 DOES THAT CORROBORATE, DO YOU -- WOULD YOU PUT THAT
11 FORWARD AS EVIDENCE TO SUPPORT YOUR CONCLUSIONS THAT
12 YOU'RE STATING NOW OR OPINIONS?

13 A WELL, YES. AND AGAIN, THE LAST TIME I TESTIFIED ONE
14 OF THE BOOKS I HAD SITTING IN FRONT OF ME, VIOLENCE AND
15 PSYCHOPATHY BY ADRIAN RAINE, THAT DATA IS RIGHT OUT OF
16 THAT TEXTBOOK. THAT IN JAIL, THESE PEOPLE, AS LONG AS
17 THEY HAVE THAT STRUCTURE, THEY -- THEY DON'T DO HORRIBLE,
18 TERRIBLE PREDATORY ACTS OF VIOLENCE.

19 Q JUST LIKE AT THE GEORGETOWN COUNTY DETENTION CENTER.
20 I DON'T THINK YOU WERE HERE, BUT WE HAVE HAD
21 CORRECTIONS -- OFFICERS COME IN FROM THE DETENTION CENTER
22 WHO SPOKE FAVORABLY OF MR. STANKO.

23 WOULD THAT BE SOMETHING THAT WOULD BE REPLICATED,
24 DUPLICATED IN PRISON, IN THE PRISON SETTING?

25 A I -- YES. I SUSPECT THE GUARDS IN PRISON WOULD END

1 UP HAVING A FAVORABLE, FRIENDLY WORKING RELATIONSHIP WITH
2 HIM, BUT JUST THE SAME AS THEY DID HERE. AGAIN, PART OF
3 HIS BRAIN DYSFUNCTION, IT ALLOWS HIM TO BE SUPERFICIALLY
4 CHARMING. THAT'S RIGHT OUT OF THE TEXTBOOKS.

5 THAT'S -- THAT'S WHAT FRONTAL LOBE HELPS US NOT TO
6 DO. IT'S GOOD TO BE CHARMING, BUT NOT IN A SUPERFICIAL
7 WAY.

8 Q NOW, LET ME ASK YOU ABOUT YOUR PRACTICE OVER IN
9 GEORGIA. WHAT -- WHAT IS THE NAME OF YOUR CLINIC?

10 A GEORGIA PAIN AND BEHAVIORAL MEDICINE.

11 Q BEHAVIORAL? AND HOW DOES -- HOW DO THOSE THINGS FIT
12 TOGETHER, PAIN AND BEHAVIORAL...

13 A WELL, CHRONIC PAIN DISORDERS ARE ALL TREATED WITH
14 MEDICATION AND OTHER PSYCHIATRIC MEDICATION, AND ANALGESIC
15 MEDICATIONS, BUT PEOPLE MAY NOT REALIZE WHERE WE TREAT
16 PAIN. WE APPRECIATE IT IN THE BRAIN.

17 IF YOU HAVE -- SOMEONE IN HERE HAS HAD BACK SURGERY
18 AND IT HAS FAILED AND THEY HAD THREE NECK SURGERIES OR TWO
19 BACK SURGERIES, WHEN WE USE MEDICATION TO EASE THAT PAIN
20 OR TO MODULATE IT, IT'S NOT DOING ANYTHING IN YOUR BACK.

21 IT'S DOING IT IN THE BRAIN, IN A SPECIAL PART OF THE
22 BRAIN CALLED THE THALAMUS AND THE BASAL GANGLIA. SO
23 TREATING CHRONIC PAIN IS ESSENTIALLY -- IT'S A PSYCHIATRIC
24 DISORDER.

25 Q OKAY. AND YOU HAVE A PRIVATE OFFICE?

1 A I DO. AND I--

2 Q YOU HAVE A STAFF?

3 A I HAVE A STAFF. AND I WOULD JUST LIKE TO ADD,
4 THOUGH, 50 PERCENT OF MY PRACTICE IS PAIN MANAGEMENT. THE
5 OTHER 50 PERCENT IS NEUROPSYCHIATRY, DEPRESSION, BIPOLAR,
6 OCD, ADD, ATTENTION DEFICIT DISORDER, CHILDREN WITH MENTAL
7 RETARDATION, CHILDREN WITH AUTISM, CHILDREN WITH
8 ASPERGER'S DISORDER, ALZHEIMERS PATIENTS, PARKINSONS
9 PATIENTS, DIFFUSE CORTICAL LEWY BODY DISORDER PATIENTS,
10 FRONTAL TEMPORAL DEMENTIA PATIENTS, STROKE PATIENTS,
11 EPILEPSY PATIENTS, HEAD INJURY PATIENTS.

12 Q HOW MANY PATIENTS DO YOU HAVE ACTIVELY IN YOUR
13 PRACTICE?

14 A FIVE TO 600.

15 Q AND YOU HAVE A STAFF THERE THAT OPERATES THE CLINIC
16 WHILE YOU'RE NOT THERE?

17 A I HAVE A STAFF OF THREE.

18 Q AND YOU HAVE HAD TO PAY YOUR OFFICE OVERHEAD
19 CONTINUALLY ALL THE TIME YOU HAVE BEEN DEVOTING TIME TO
20 THIS CASE. IS THAT--

21 A WHEN I'M NOT IN MY OFFICE, THERE IS NO INCOME BEING
22 GENERATED.

23 Q ALL RIGHT. AND HOW MUCH PER HOUR DO YOU NORMALLY
24 EARN IF YOU'RE SEEING A FULL SLATE OF PATIENTS WITHOUT
25 INTERRUPTION FROM OTHER THINGS SUCH AS THIS TRIAL?

1 A IN -- MAYBE \$200 AN HOUR IF I'M SEEING PATIENTS
2 CONSTANTLY THROUGHOUT THE DAY FROM EIGHT TILL SIX, EIGHT
3 TILL SEVEN.

4 Q ALL RIGHT. AND WHEN YOU DO FORENSIC WORK AWAY FROM
5 YOUR PRACTICE, HOW MUCH DO YOU NORMALLY CHARGE IN THAT --
6 FOR THAT TYPE OF CONSULTATION?

7 A FOUR TO \$500 AN HOUR BECAUSE THAT IS DONE ON MY
8 EVENING TIME AND MY WEEKENDS. I VALUE THAT TIME, BUT -- I
9 LOVE DOING FORENSICS. BUT THE PROBLEM WITH FORENSICS IS
10 YOU DO IT ON YOUR OWN TIME.

11 SO ONE OF THE PROBLEMS WE TEND TO HAVE IS WE DON'T
12 HAVE A LOT OF TIME JUST TO RELAX AND HAVE FUN.

13 Q HOW MUCH DOES IT COST YOU -- AND I UNDERSTAND THIS IS
14 PRIVATE, BUT IT'S BEEN MADE AN ISSUE IN THIS CASE. HOW
15 MUCH IS YOUR OFFICE OVERHEAD PER YEAR?

16 A ABOUT 100 TO \$130,000 A YEAR.

17 Q OKAY. AND THAT'S FOR...

18 A ELECTRIC, WATER, GRASS CUTTING, MAINTENANCE, MY
19 SALARIES -- MY STAFF'S SALARY, WHATEVER BENEFITS THEY GET,
20 EQUIPMENT, PAPER.

21 Q ALL RIGHT. NOW, YOU HAVE AN INTEREST IN EVIL; IS
22 THAT CORRECT? IS THAT ACCURATE?

23 A I'M FASCINATED BY IT AND IT IS ONE OF MY INTERESTS.
24 I WANT TO KNOW WHY PEOPLE DO TERRIBLE THINGS.

25 Q AND YOU HAVE BEEN USED AS A CONSULTANT IN

1 BROADCAST -- IS THAT TRUE?

2 A IN 2003 I WAS CONTACTED BY THE DISCOVERY CHANNEL, THE
3 LEARNING CHANNEL AND THE DISCOVERY CHANNEL. THEY WERE
4 DOING A DOCUMENTARY ON THE TRUE STORY BEHIND THE BOOK AND
5 MOVIE, THE EXORCIST.

6 Q OKAY.

7 A THEY -- I HAD AN INTEREST IN THE TRUE STORY BEHIND
8 THAT. I TRIED TO CONTACT THE INDIVIDUAL WHO LIVES IN
9 WASHINGTON DC WHO THAT STORY WAS BASED ON WHO LATER BECAME
10 ACTUALLY A FAMOUS SCIENTIST AT NASA, AND I WANTED TO
11 INTERVIEW HIM TO TRY TO FIND OUT WHAT PSYCHIATRIC OR
12 NEUROPSYCHIATRIC CONDITION HE MIGHT HAVE HAD THAT WOULD
13 HAVE MADE PEOPLE THINK HE WAS POSSESSED BY THE DEVIL.

14 Q OKAY.

15 A SO THE LEARNING CHANNEL SLASH DISCOVERY CHANNEL
16 CONTACTED ME AND INTERVIEWED ME, AND I WAS ON A
17 DOCUMENTARY ABOUT THAT STORY IN WHICH I DISCUSSED THE
18 NEUROLOGICAL AND PSYCHIATRIC CONDITIONS THAT COULD MIMIC
19 DEVIL POSSESSION OR MAKE SOMEONE THINK THEY WERE POSSESSED
20 BY THE DEVIL.

21 Q IS YOUR APPROACH TO EVIL AND POSSESSION AND THAT KIND
22 OF THING ONE WHERE YOU SEEK TO USE SCIENCE TO EXPLAIN THAT
23 TYPE OF ODD OR BIZARRE BEHAVIOR?

24 A ABSOLUTELY.

25 Q AND IS THAT WHAT DROVE OR DRIVES YOUR INTEREST IN

1 EVIL AND POSSESSIONS AND THOSE KINDS OF THINGS?

2 A YES. I'D LIKE TO KNOW WHY PEOPLE DO THESE THINGS.

3 Q DO YOU HAVE A -- AN OPINION AS TO WHETHER THE BRAIN
4 AND ITS FUNCTION AND STRUCTURE PLAYED A ROLE IN SO-CALLED
5 POSSESSION CIRCUMSTANCES OR CASES?

6 A YES.

7 Q AND WHAT IS THAT?

8 A EPILEPSY, BIPOLAR DISORDER, SCHIZOPHRENIA. THOSE ARE
9 PROBABLY THE THREE MAJOR MENTAL ILLNESSES THAT SOMEONE
10 IF -- IS DELUSIONAL, THEY MAY BELIEVE THAT THEY ARE
11 POSSESSED BY THE DEVIL.

12 IN FACT, I WILL JUST SAY THIS. THERE WAS A GREAT
13 COURTROOM MOVIE THAT CAME OUT A YEAR OR TWO AGO, EXORCISM
14 OF EMILY ROSE. THAT WAS BASED ON A TRUE STORY. AND THAT
15 GIRL IN GERMANY HAD TEMPORAL LOBE SEIZURE, AND IT WAS THE
16 CAUSE OF HER BELIEF IN HER POSSESSION.

17 Q DO YOU BELIEVE THAT STEPHEN STANKO COULD BE A
18 CONTRIBUTING INDIVIDUAL TO THE INMATE POPULATION, TO THE
19 CORRECTIONS SYSTEM, AND TO SCIENCE AT LARGE BASED ON THE
20 UNIQUENESS OF HIS FUNCTION, BRAIN FUNCTION AND STRUCTURE--

21 A YES.

22 Q -- IF HE WERE TO BE SENTENCED TO PRISON?

23 A YES.

24 Q AND YOU BELIEVE HE COULD BE HOUSED IN THAT PRISON --
25 STRUCTURED PRISON ENVIRONMENT SO AS NOT TO BE AN

1 UNREASONABLE RISK TO ANY OTHER CORRECTIONS PERSONNEL OR
2 INMATE?

3 A YES. AND IF I MIGHT ADD...

4 Q YES.

5 A THIS KIND OF STUDY, THE THREE -- THE TWO MAIN STUDIES
6 THAT WE GOT HERE, FROM THIS WILL COME A TIME WHEN WE WILL
7 BE ABLE TO FIND OR SEEK OUT THESE PEOPLE BEFORE THEY DO
8 HARM AND WILL BE ABLE TO EFFECT SOME KIND OF TREATMENT OR
9 SOME KIND OF INTERVENTION SO THAT THIS DOESN'T HAPPEN
10 AGAIN, AND THAT TIME WILL COME.

11 Q IS ANY -- DOES -- IS ANYONE INVOLVED IN TRYING TO
12 LEARN ABOUT TREATMENTS FOR THIS TYPE OF SITUATION THAT
13 STEPHEN HAS AT THIS POINT?

14 A VIOLENCE IN GENERAL, YES. AND THERE PROBABLY --
15 THERE ARE MEDICATIONS THAT COULD DECREASE ANY VIOLENT
16 IMPULSES THAT HE COULD HAVE OR ANY OF US WOULD HAVE. THEY
17 DEFINITELY EXIST.

18 Q DO YOU RUN ACROSS ANY PREJUDICES IN SOCIETY THAT ARE
19 AGAINST HELPING PEOPLE WHO DO VIOLENT ACTS AND HARM OTHER
20 PEOPLE?

21 A MOST DEFINITELY. AND IN FACT, JUST AS SOME PEOPLE
22 ARE WIRED TO DO WRONG, WE'RE KIND OF WIRED TO OSTRACIZE
23 THEM, SEEK VENGEANCE, PUNISH. IT'S PART OF A NORMAL
24 BRAIN'S WIRING AS WELL TO WANT TO DO THAT.

25 I GUESS WHAT WE STRIVE TO DO WHEN WE REALIZE WHAT'S

1 GOING ON IS GO ABOVE WHAT OUR WIRING IS AND TO ACT--

2 Q YOUR BELIEF IS--

3 A -- TURN--

4 Q I'M SORRY?

5 A TO TRY TO BE ABOVE WHAT OUR BASIC INSTINCTS DEMAND.

6 Q YOUR BELIEF IS THAT THIS TRAGIC CASE EFFECTUATED AN
7 AWAKENING?

8 A I'M SORRY. COULD YOU SAY THAT AGAIN?

9 Q THIS TRAGIC CASE CAN EFFECTUATE AN AWAKENING OF
10 SORTS?

11 A YES.

12 Q DR. SACHY, ANSWER ANY QUESTIONS THE SOLICITOR MAY
13 HAVE. THANK YOU.

14 THE COURT: YOU MAY PROCEED.

15 MR. HEMBREE: THANK YOU.

16 CROSS-EXAMINATION

17 BY MR. HEMBREE:

18 Q GOOD AFTERNOON, DR. SACHY.

19 A HELLO.

20 Q DR. SACHY, YOU WERE HERE I BELIEVE A WEEK AGO TODAY,
21 LAST THURSDAY, AND TESTIFIED FOR QUITE A PERIOD OF TIME.

22 A YES.

23 Q AND YOU HAVEN'T -- BASED ON WHAT I HAVE HEARD, YOU
24 HAVEN'T CHANGED OR ALTERED YOUR TESTIMONY IN ANY WAY SINCE
25 LAST THURSDAY.

1 A I DON'T BELIEVE SO.

2 Q I ONLY HAVE REALLY ONE QUESTION FOR YOU, AND IT
3 INVOLVES SOMETHING THAT'S HAPPENED SINCE THAT TIME.
4 DURING THE COURSE OF THE -- THE VICTIM IMPACT PORTION OF
5 THE STATE'S CASE IN THE PENALTY PHASE, THE -- CHRISTINA
6 LING WAS TESTIFYING.

7 A THAT'S THE YOUNG GIRL.

8 Q THE VICTIM, ONE OF THE VICTIMS. AND IN THE COURSE OF
9 HER TESTIMONY I NOTICED THAT THE DEFENDANT WAS WIPING
10 TEARS. NOW, WOULD ANYTHING -- TELL ME THIS, DOCTOR. THAT
11 TO ME SHOWS ONE OF TWO THINGS, AND YOU -- YOU TELL ME IF
12 THIS -- IF -- WHICH ONE YOU BELIEVE THIS IS.

13 IT EITHER SHOWS THAT THE DEFENDANT DOES HAVE A
14 CAPACITY FOR EMPATHY OR IT SHOWS THAT THE DEFENDANT IS
15 CONSCIOUSLY AND WITH PREMEDITATION ATTEMPTING TO
16 MANIPULATE THIS JURY.

17 DO YOU HAVE ANY OPINION AS TO THAT, DOCTOR?

18 A I DO. WHEN I WAS HERE THAT WEEK AND THERE WAS --
19 I -- I THINK IT WAS IN THE PRETRIAL HEARING AND WE WERE
20 TALKING ABOUT GETTING ALL THIS INTRODUCED, AND I THINK IT
21 WAS -- I THINK -- I BELIEVE IT WAS THE FIRST TIME
22 MR. STANKO EVER HEARD ME OR ANYONE ELSE CALL HIM A
23 PSYCHOPATH. I'D HATE TO BE CALLED THAT, AND I THINK HE
24 DIDN'T LIKE THAT.

25 AND IN FACT, HE WANTED TO HAVE A MEETING IN THE

1 WAITING ROOM OVER THERE WITH ME. AND WE WENT. AND I HAVE
2 TO ADMIT, I FELT A LITTLE NERVOUS AND I THINK SOME OTHER
3 PEOPLE MIGHT HAVE BEEN A LITTLE NERVOUS FOR ME, TOO.

4 BUT I SAT DOWN THERE. AND MR. STANKO WAS CRYING.
5 AND HE WAS WEEPING BECAUSE HE FELT -- HE ASKED ME IS THERE
6 ANY HELP, HOPE FOR HIM AS FAR AS HIS BRAIN AND HIS
7 BEHAVIOR. ESSENTIALLY THAT'S WHAT HE SAID.

8 AND I SAID, WELL, THINGS ARE GOING TO CHANGE. WE'RE
9 GETTING THESE IMAGES. WE ARE GOING TO FIGURE OUT HOW THIS
10 STUFF WORKS AND WE'RE GOING TO FIGURE OUT ONE DAY HOW TO
11 TREAT IT. AND HE WAS CRYING.

12 AND I FELT LIKE POOP. I FELT TERRIBLE. I FELT BAD
13 BECAUSE I SAW HIM CRYING, AND I THOUGHT IT WAS MY--

14 Q YOU FELT BAD?

15 A I FELT BAD. I THOUGHT THAT I WAS CAUSING HIM TO FEEL
16 BAD. AND WHAT HAPPENED WAS HE WAS CRYING. BUT THEN AN
17 INVESTIGATOR CAME IN WITH A NEWSPAPER THAT HAD HIS
18 PICTURE, AND SHE WASN'T PART OF THIS.

19 SHE JUST WALKED IN AND SAID, STEPHEN, LOOK, YOUR
20 PICTURE IS ON THE PAPER. AND HIS TEARS AND CRYING STOPPED
21 INSTANTANEOUSLY.

22 NOW, I KNOW WHAT PROBLEM HE HAS. I FEEL I KNOW. AND
23 THAT'S JUST PROOF OF WHAT HE HAS. AND I KNOW IN THAT
24 INSTANT HE DID MAKE A CONSCIOUS CHOICE TO SUDDENLY SWITCH
25 FROM TEARS TO, WOW, I'M ON THE FRONT PAGE. IT'S THE WAY

1 HIS SICK, BROKEN BRAIN WORKS.

2 AND IT -- IT MADE -- MY GUILT STARTED TO FADE FAIRLY
3 QUICK WHEN I SAW THAT AND AFTER A FEW MINUTES IT WAS GONE.
4 BUT EVEN -- IT TOOK MY GUILT A FEW MINUTES TO COME ON AND
5 DISSIPATE. WITH HIM, IT WAS LIKE THAT. AND I KNOW THAT'S
6 A DYSFUNCTIONAL BRAIN. DOES THAT HELP ANSWER YOUR
7 QUESTION?

8 Q WELL, I GUESS MY QUESTION WAS, DOES HE HAVE THE
9 CAPACITY FOR EMPATHY OR WAS HE MANIPULATING THIS JURY? I
10 THINK WHAT YOU'RE SAYING IS HE WAS MANIPULATING THIS JURY?

11 A I THINK HE -- HE CAN PROBABLY DO A LITTLE BIT OF
12 BOTH, BUT I THINK MANIPULATION IS A PART OF HIS BRAIN
13 DISORDER.

14 Q THANK YOU, DR. SACHY.

15 THE COURT: ANY FOLLOW-UP?

16 MR. DIGGS: LET ME FOLLOW UP. THANK YOU, YOUR
17 HONOR.

18 THE COURT: YOU'RE WELCOME.

19 REDIRECT EXAMINATION

20 BY MR. DIGGS:

21 Q COULDN'T THAT SIMPLY BE NEITHER OF THE TWO, BUT THIS
22 VENEER THAT SOMEONE LIKE STEPHEN LEARNS, HE KNOWS WHAT WE
23 EXPECT OF HIM IN CERTAIN SITUATIONS. COULDN'T HE SIMPLY
24 BE TRYING TO DO WHAT HE THINKS WE EXPECT OF HIM?

25 A WHEN THESE PEOPLE WITH THIS DISORDER ARE INTERVIEWED,

1 THEY WILL TELL THE PEOPLE INTERVIEWING THEM THAT THEY --
2 THE WAY THEY EXPERIENCE EMOTION, HUMAN EMOTION, IS
3 DIFFERENT THAN WE DO.

4 TO THEM IT'S SOMETHING THEY NEED TO LEARN, TO PUT ON
5 A MASK, TO SHOW EVERYONE ELSE, A SMILE, A CARING PAT ON
6 THE BACK. IF WE DO IT, WE ARE SMILING AND WE CARE. WHEN
7 THESE PEOPLE WITH THIS BRAIN DISORDER DO IT, IT'S JUST
8 PART OF THE GEAR THEY PUT ON EVERY DAY TO FUNCTION. SO...

9 Q TO BE ACCEPTED.

10 A TO BE ACCEPTED AND -- AND TO -- TO BENEFIT, TO GAIN,
11 TO SURVIVE. IT'S THEIR METHOD OF SURVIVAL.

12 Q THANK YOU, DOCTOR.

13 THE COURT: ANY OBJECTION TO THE WITNESS BEING
14 EXCUSED?

15 MR. HEMBREE: NOTHING. NO, NONE FROM THE STATE.

16 MR. DIGGS: NO, YOUR HONOR.

17 THE COURT: THANK YOU, SIR. YOU'RE EXCUSED.

18 YOU MAY PROCEED.

19 (WITNESS LEFT THE STAND.)

20 MR. KELLY: WE WOULD CALL GLORIA WILSON.

21 GLORIA WILSON, AFTER

22 BEING DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

23 THE WITNESS: MY NAME IS GLORIA A WILSON,

24 W-I-L-S-O-N.

25 THE COURT: YOU MAY PROCEED.

DIRECT EXAMINATION

1
2 BY MR. KELLY:

3 Q MRS. -- IS IT MS. WILSON, MA'AM?

4 A YES, MS.

5 Q MS. WILSON, MY NAME IS GERALD KELLY. I MET YOU
6 BRIEFLY DURING THE BREAK; DIDN'T I?

7 A YES.

8 Q AND BEFORE THAT YOU AND I HAVE NEVER MET; HAVE WE?

9 A NO, WE HAVE NOT.

10 Q OKAY. I WANT TO ASK YOU A FEW QUESTIONS, MA'AM.
11 WHERE ARE YOU NOW PRESENTLY EMPLOYED?

12 A I'M PRESENTLY EMPLOYED WITH THE SOUTH CAROLINA
13 DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES.

14 Q AND WHERE IS YOUR OFFICE?

15 A IN THE HORRY COUNTY OFFICE.

16 Q AND HOW LONG HAVE YOU BEEN WORKING THERE?

17 A TWENTY-THREE YEARS.

18 Q AND YOU HAVE BEEN WORKING -- YOU WERE WORKING THERE
19 IN 2005?

20 A I WAS.

21 Q AND IN 2005 WHAT WAS YOUR, YOU KNOW, EMPLOYMENT
22 TITLE?

23 A I'M A PROBATION AND PAROLE SUPERVISOR.

24 Q AND DID YOU -- DID YOU SUPERVISE STEPHEN STANKO?

25 A I DID.

1 Q AND WHAT PROGRAM WAS HE ON?

2 A COMMUNITY SUPERVISION.

3 Q AND HOW WAS HE ASSIGNED TO YOU?

4 A BY WAY OF A TRANSFER. ONE OF OUR AGENTS TRANSFERRED
5 TO THE LEXINGTON COUNTY OFFICE. AS A RESULT, I TOOK ON
6 HER CASE LOAD.

7 Q SO HE WAS ADDED TO YOUR CASE LOAD BY THE SUPERVISOR?

8 A NO, HE WAS NOT. I WAS SUPERVISING AN AGENT WHO WAS
9 TRANSFERRED TO THE LEXINGTON COUNTY OFFICE. AND WHEN
10 SOMEONE TRANSFERS, THE CASE LOAD IS EITHER DISPERSED AMONG
11 THE OTHER AGENTS OR THE SUPERVISOR AT THE TIME TAKES ON
12 THE SUPERVISION OF THE CASE LOAD.

13 Q SO YOU INHERITED THAT FILE?

14 A I DID.

15 Q AND DO YOU KNOW ABOUT WHEN YOU TOOK OVER?

16 A NOVEMBER OF '04.

17 Q I WANT YOU TO -- I'M GOING TO ASK THAT YOU LOOK AT
18 THIS DEFENDANT'S EXHIBIT NUMBER 37, PLEASE MA'AM. DO YOU
19 RECOGNIZE WHAT THAT DOCUMENT IS?

20 A I DO.

21 Q WHAT IS IT?

22 A THIS IS A PRINTOUT FROM THE APPOINTMENT LEDGER
23 SCHEDULE IN WHICH WE USE IN OUR OFFICE FROM OUR COMPUTERS
24 OF -- REPORTS OF MR. STANKO'S ACTIVITIES WHILE ON
25 SUPERVISION.

1 Q AND ON PAGE ONE IT STARTS OUT AT -- IF YOU WILL LOOK
2 THERE, PLEASE MA'AM. DOESN'T IT BEGIN IN AUGUST THE
3 SECOND, 2004?

4 A THAT IS AN APPOINTMENT DATE, YES.

5 Q AND AT THAT TIME WERE YOU -- WERE YOU THE SUPERVISING
6 AGENT OR WERE YOU TRAINING AT THAT TIME? YOU WERE
7 TRAINING; WEREN'T YOU?

8 A NO, SIR, I WAS NOT. NEITHER WAS I THE SUPERVISING
9 AGENT. AT THAT TIME I WAS A SUPERVISOR OF AN AGENT WHO
10 WAS SUPERVISING MR. STANKO'S CASE.

11 Q SO THE ENTRIES IN AUGUST AND IN SEPTEMBER AND IN
12 OCTOBER WERE NOT ENTRIES THAT YOU WOULD HAVE MADE;
13 CORRECT?

14 A CORRECT.

15 Q AND THE ENTRIES THAT YOU WOULD HAVE MADE WOULD HAVE
16 BEGUN I THINK YOU TOLD US NOVEMBER WHEN?

17 A MY INITIAL ENTRY IS NOVEMBER 5TH OF 2004.

18 Q AND DID YOU MAKE THE ENTRY OF NOVEMBER THE FIFTH,
19 2004?

20 A I DID.

21 Q AT THAT TIME HE WAS LIVING AT 620B TALL -- OAKS
22 DRIVE?

23 A ACCORDING TO THE DOCUMENTATION, YES.

24 Q AND THIS WOULD HAVE BEEN AN ENTRY YOU WOULD HAVE
25 MADE.

1 A YES.

2 Q AND YOU BELIEVED THAT TO BE TRUE?

3 A I BELIEVED THAT'S WHAT I DOCUMENTED AT THE TIME TO BE
4 TRUE, YES.

5 Q AND THIS WOULD BE JUST PART OF HIS FILE THAT YOU WERE
6 SUPERVISING ALONG WITH HIM?

7 A I DID NOT UNDERSTAND THE QUESTION, SIR.

8 Q THIS APPOINTMENT LEDGER REPORT, IF IT WERE IN HIS
9 FILE, WOULD JUST BE A PART OF THE FILE WHICH WAS IN YOUR
10 OFFICE FOR HIM?

11 A YES.

12 Q AND IN HIS FILE THAT WAS IN YOUR OFFICE THAT YOU WERE
13 SUPERVISING, WOULD IT HAVE HIS PREVIOUS RECORD?

14 A PROBABLY NOT.

15 Q DID YOU KNOW MR. STANKO'S PREVIOUS RECORD OF -- FROM
16 NOVEMBER?

17 A I KNEW WHAT I WAS -- THE OFFENSE FOR WHICH I WAS
18 SUPERVISING HIM ON.

19 Q WHAT WAS THAT?

20 A KIDNAPPING.

21 Q WHAT ABOUT THE -- YOU WEREN'T SUPERVISING HIM ON THE
22 ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE?

23 A NO, SIR, I WAS NOT.

24 Q AND THAT WAS BECAUSE HE'D SERVED THAT PENALTY, I'LL
25 CALL IT, AND HE WAS NOT BEING SUPERVISED FOR IT; CORRECT?

1 A APPARENTLY SO.

2 Q WELL, DID YOU KNOW THAT HE HAD BEEN CONVICTED OF A --
3 OF A REDUCED CHARGE OF ASSAULT AND BATTERY OF A HIGH AND
4 AGGRAVATED NATURE AT THE SAME TIME HE WAS CONVICTED OF
5 KIDNAPPING?

6 A AT THE TIME OF ASSUMING THE RESPONSIBILITY OF THE
7 CASE, NO, SIR.

8 Q WHEN DID YOU FIND THAT OUT?

9 A LATER ON IN HIS SUPERVISION.

10 Q WHEN WAS LATER ON IN HIS SUPERVISION?

11 A DURING THE COURSE -- IF I CAN RECALL, MAYBE LIKE
12 AFTER SUPERVISING HIM A COUPLE OF MONTHS OR SO MAYBE.

13 Q WELL, IF THAT WERE A COUPLE OF MONTHS AND BEGAN IN
14 NOVEMBER THE FIFTH, THAT WOULD BE -- ONE MONTH WOULD BE
15 DECEMBER, AND TWO MONTHS WOULD BE JANUARY THE FIFTH OR
16 THEREABOUTS; CORRECT?

17 A THAT'S A POSSIBILITY. AND I'M ASSUMING AT THE TIME
18 THAT THAT'S WHEN I FOUND OUT.

19 Q AND--

20 A AND THEY MAY EVEN BE AT THE TIME THAT WE RECEIVED A
21 CALL THAT SOMETHING TERRIBLE HAD HAPPENED.

22 Q YOU MEAN IN APRIL WHEN YOU FOUND OUT OR...

23 A THAT'S A--

24 Q -- RECEIVED NOTICE THAT -- THAT LAURA LING WAS DEAD
25 AND OTHER CRIMES WERE ALLEGED?

1 A YES.

2 Q OKAY. BUT PREVIOUS TO THAT TIME YOU DIDN'T KNOW THE
3 RECORD OF THE MAN YOU WERE SUPERVISING OTHER THAN
4 KIDNAPPING?

5 A NO, SIR, I DID NOT.

6 Q YOU DIDN'T KNOW THAT HE HAD MULTIPLE CHARGES OF
7 BREACH OF TRUST AND FRAUDULENT ACTIONS ON PROPERTY?

8 A NO, SIR, I DID NOT.

9 Q YOU DIDN'T TALK TO HIM ABOUT IT WHEN YOU TALKED WITH
10 HIM, WHAT HIS RECORD WAS?

11 A NO, SIR, I DID NOT.

12 Q IS THAT COMMON? IS THAT THE COMMON PRACTICE IN YOUR
13 OFFICE?

14 A THERE WAS NO NEED AT THE PRESENT TIME TO BRING UP HIS
15 PAST HISTORY BECAUSE I WAS SUPERVISING HIM ON COMMUNITY
16 SUPERVISION FOR KIDNAPPING.

17 Q SO THERE WOULD NEVER HAVE CAME A TIME THAT YOU FELT
18 THAT YOU NEEDED TO KNOW MORE ABOUT HIS PAST RECORD DURING
19 THE TIME YOU SUPERVISED HIM; CORRECT?

20 A NOT THAT I CAN RECALL, SIR.

21 Q ALL RIGHT. ON THAT SAME PAGE, I THINK THAT HE
22 VISITED YOUR OFFICE -- DID HE VISIT YOUR OFFICE AND DID
23 YOU MEET WITH HIM ON NOVEMBER THE FIFTH, 2004?

24 A I DID.

25 Q AND DID YOU MEET WITH HIM -- HE TOLD YOU AT THAT TIME

1 HIS EMPLOYER WAS DUTCH CRAFTERS; IS THAT CORRECT?

2 A HE DID.

3 Q DID YOU EVER MEET WITH THE OWNER OF DUTCH CRAFTERS
4 AND SPEAK WITH THE OWNER OF DUTCH CRAFTERS AND DETERMINE
5 IF THAT INFORMATION WAS ACCURATE?

6 A I DID NOT.

7 Q THAT'S A COMMON PRACTICE IN YOUR OFFICE?

8 A OUR OFFICE REALLY DOESN'T HAVE A COMMON PRACTICE PER
9 SAY. IT WOULD DEPEND ON THE SITUATION, WHAT'S GOING ON
10 WITH AN OFFENDER AT THE TIME, ET CETERA. BUT IT HAS BEEN
11 KNOWN -- IT IS KNOWN TO HAPPEN THAT WE WILL TAKE THEIR
12 WORD AT ITS FACE VALUE AT THE MOMENT.

13 Q SO IF -- IF THE PERSON WHO YOU WOULD SUPERVISE AT
14 THAT TIME -- AT THAT TIME IF THEY TOLD YOU THEY WORKED AT
15 A PARTICULAR PLACE AND YOU HAD NO PROBLEM WITH THEM, YOU
16 WOULDN'T CHECK; IS THAT CORRECT?

17 A THAT'S A STRONG PROBABILITY. WE WILL INSTRUCT THEM
18 PER POLICY THAT THEY ARE TO BRING VERIFICATION OF THEIR
19 EMPLOYMENT AND THEIR RESIDENCE ON A -- ON A VISIT.

20 Q AND TO SHOW THEIR EARNINGS WOULD VERIFY THAT--

21 A YES.

22 Q -- FOR SURE; CORRECT?

23 A YES.

24 Q LOOKING AT YOUR ENTRY FOR NOVEMBER THE FIFTH, 2004,
25 WERE THE EMPLOYMENT OR EARNINGS VERIFIED?

1 A ACCORDING TO MY DOCUMENTATION I DOCUMENTED IT WAS NOT
2 VERIFIED. HE WAS INSTRUCTED TO BRING VERIFICATION ON EACH
3 MONTH.

4 Q AND THEN THERE'S A ENTRY OF 12-06. IT SAYS, OFFICE
5 VISIT PROGRESS. AND DID YOU MEET WITH HIM AT THAT TIME?

6 A THAT WAS A NON-OCCURRED VIOLATION. HE DID NOT SHOW
7 AT THAT TIME.

8 Q HE DID NOT COME INTO YOUR OFFICE AND MEET WITH YOU AS
9 APPOINTED?

10 A EXACTLY.

11 Q NOW, WHEN HE WAS -- FIRST CAME UNDER SUPERVISION OF
12 THE CONWAY PROBATION, PARDON, AND PAROLE, DID HE SIGN WHAT
13 IS CALLED A COMMUNITY SUPERVISION PROGRAM CERTIFICATE?

14 A IF I MAY REFER. HE DID SIGN ON JULY 28TH OF '04.

15 Q AND DOESN'T EVERY OFFENDER WHO IS SUPERVISED OVER AT
16 YOUR OFFICE, DON'T THEY ALL SIGN THAT IF THEY'RE IN THAT
17 PROGRAM?

18 A UPON THEIR RELEASE, YES.

19 Q UPON THEIR RELEASE FROM PRISON?

20 A YES.

21 Q AND ISN'T -- ISN'T THAT COMMUNITY SUPERVISION PROGRAM
22 CERTIFICATE, DOESN'T THAT TELL THEM THEY HAVE TO MEET TO
23 MAKE THEIR APPOINTMENTS?

24 A YES.

25 Q AND IF THEY DON'T MEET AND MAKE THEIR APPOINTMENTS,

1 ONE WOULD STATE -- AGAIN OR PERHAPS EVEN THEN FACE
2 VIOLATION OF THEIR STATUS?

3 A IF THEY DO NOT MEET THEIR APPOINTMENT, IT IS
4 CONSIDERED A VIOLATION.

5 Q SO HE WAS IN VIOLATION OF HIS COMMUNITY SUPERVISION
6 PROGRAM CERTIFICATE IN DECEMBER?

7 A DECEMBER, BY NOT REPORTING.

8 Q THEN THE NEXT ENTRY, IF YOU WILL, MA'AM, IS JANUARY
9 THE 11TH. AT THAT POINT HE HAD NOT KEPT TWO APPOINTMENTS.
10 AND IT SAYS HERE, WITH VR. WHO IS VR?

11 A THAT'S VOC REHAB, VOCATIONAL REHABILITATION.

12 Q HE WAS SUPPOSED TO KEEP -- THAT WAS PART OF HIS
13 PROGRAM, TO GO TO VOC REHABILITATION?

14 A THERE IS NO DOCUMENTATION THAT THAT WAS A PART OF HIS
15 SUPERVISION PLAN.

16 Q I DON'T UNDERSTAND. WHY IS THIS HERE, OFFENDER HAS
17 NOT KEPT THE LAST TWO APPOINTMENTS WITH VR, AND HE HAS NOT
18 CONTACTED THEM SINCE OCTOBER THE 21ST, 2004, AND THEY WANT
19 TO KNOW OF -- WE WANT THEM TO KEEP CASE OPEN OR CLOSED.

20 A I CAN SPECULATE ONLY, SIR, AND I PREFER NOT TO
21 BECAUSE THAT WAS PRIOR -- PRIOR TO MY TIME OF SUPERVISION
22 OF THE CASE.

23 Q ALL RIGHT. AND I THOUGHT THAT YOU BEGAN YOUR
24 SUPERVISION OF THE CASE TWO MONTHS BEFORE THIS TIME OF THE
25 JANUARY 11TH THAT YOU BEGAN ON NOVEMBER THE 5TH.

1 A NOVEMBER OF '04, YES.

2 Q WELL, I'M LOOKING AT JANUARY THE 11TH OF '05. YOU
3 HAVE BEEN SUPERVISING FOR TWO MONTHS. IS THAT WHAT YOU'RE
4 LOOKING AT?

5 A YES, I AM.

6 Q DID I MISUNDERSTAND YOU TO SAY THAT YOU WERE NOT
7 SUPERVISING HIM AT THAT TIME?

8 A NO. WHAT YOU UNDERSTOOD OR WHAT I WAS TRYING TO
9 CONVEY TO THE COURT IS THAT PRIOR TO ASSUMING THE
10 RESPONSIBILITY OF SUPERVISION OF THE CASE, THERE WERE A
11 REFERRAL OR HE WENT OVER TO VR.

12 I DON'T KNOW HOW HE ACTUALLY GOT TO VR IS WHAT I'M
13 TRYING TO SAY. I DON'T KNOW IF HE TOOK IT UPON HIMSELF TO
14 GO, IF THE AGENT COMMUNICATED WITH VR. ALL I KNOW IS
15 ACCORDING TO THE DOCUMENTATION RECEIVED FROM VR, HE DID
16 NOT SHOW.

17 Q IS VR A STATE--

18 A VOCATIONAL REHABILITATION.

19 Q IS THAT A STATE AGENCY, MA'AM?

20 A IT IS.

21 Q SO THEY WERE CONTACTING YOU TO FIND OUT OR TO NOTIFY
22 YOU THAT HE HAD NOT ATTENDED FOR TWO MONTHS; CORRECT?

23 A YES.

24 Q AND YOU DIDN'T -- YOU DIDN'T KNOW ANYTHING ABOUT
25 THAT?

1 A NO, SIR.

2 Q AND IT WASN'T IN YOUR FILE?

3 A NO, SIR. IT MAY HAVE BEEN, BUT I OVERLOOKED IT --
4 INADVERTENTLY OVERLOOKED IT. I AM NOT SURE OF HIS
5 REFERRAL, WHY HE WENT THERE.

6 Q ALL RIGHT. ON THIS SAME DAY BUT A LITTLE BIT LATER
7 IN THE DAY, YOU MAILED A VIOLATION LETTER TO STEPHEN
8 STANKO; CORRECT?

9 A NO, SIR. THE LETTER WAS MAILED ON JANUARY 21ST OF
10 2005.

11 Q THE VIOLATION LETTER WAS NOT A LETTER COMING FROM
12 PROBATION, PARDON AND PAROLE?

13 A THAT WAS MAILED ON JANUARY 21ST OF 2005.

14 Q THAT'S WHAT I SAID, MA'AM. JANUARY 21ST, 2005.

15 A I MISUNDERSTOOD. I THOUGHT YOU SAID ON THE SAME DAY.
16 THE REFERRAL WAS RECEIVED THAT -- I MAILED THE LETTER AND
17 I'M TRYING TO MAKE A CORRECTION--

18 Q I APOLOGIZE. THAT'S 10 DAYS LATER.

19 A YES, SIR.

20 Q OKAY. I APOLOGIZE. TEN DAYS LATER AFTER THE 11TH
21 AND ON THE 21ST YOU DID MAIL TO HIM A VIOLATION LETTER;
22 CORRECT?

23 A YES.

24 Q AND WHAT WAS -- WHAT WAS THE VIOLATION THAT YOU WERE
25 BRINGING TO HIS ATTENTION?

3210

1 A I WAS INFORMING HIM OF HIS TWO MISSED REPORTS,
2 DECEMBER AND JANUARY, DELINQUENT FEES -- AND DELINQUENT
3 FEES.

4 Q HOW MUCH WAS HE DELINQUENT?

5 A ACCORDING TO THE DOCUMENTATION HERE WAS \$180
6 SUPERVISION FEE DELINQUENCY.

7 Q AND HOW -- WHAT DOES THAT 180 REPRESENT, HOW MANY
8 MONTHS MISSED?

9 A PROBABLY -- IT WOULD BE \$40 A MONTH, FOUR MONTHS --
10 WELL...

11 Q ALL RIGHT. OCTOBER AND NOVEMBER, DECEMBER AND
12 JANUARY, WOULD THAT BE WHAT IT MIGHT BE?

13 A POSSIBLY.

14 Q ALL RIGHT. ALSO, IN THAT LETTER DID YOU TELL HIM TO
15 REPORT ON -- IS IT ON JANUARY THE 31ST OF 2005 OR BY THEN?

16 A TO REPORT JANUARY 31ST, 2005.

17 Q AND TO REPORT TO YOU?

18 A YES.

19 Q AND DID THE LETTER CONTAIN THAT IF HE DIDN'T REPORT,
20 THAT HE WOULD VIOLATE AND YOU WOULD BRING A WARRANT FOR
21 REVOCATION STATUS?

22 A IF -- I HAVE TO SEE IF I CAN LOCATE THE LETTER, SIR.

23 Q DO YOU HAVE YOUR FILE?

24 A YES, SIR, I DO.

25 Q LOOK IN THERE AND SEE IF YOU'VE GOT IT.

1 A OKAY. (COMPLIED.) OKAY.

2 Q DOES THAT REMIND YOU OF WHAT YOU WROTE TO HIM?

3 A YES IT DOES, SIR.

4 Q AND DID YOU ISSUE A WARRANT AT THAT...

5 A WHAT WAS YOUR QUESTION?

6 Q WHAT -- WHAT DID YOU WARN HIM OF IN THE LETTER?

7 A YOU MUST REPORT TO MY OFFICE LOCATED 1201 THIRD
8 AVENUE IN CONWAY BY MONDAY, JANUARY 31ST, 2005 OR FURTHER
9 ACTION WILL BE TAKEN.

10 Q SO -- AND THEN WHEN YOU MET WITH HIM YOURSELF, DID
11 YOU TELL HIM WHAT THE RULES WERE AS FAR AS HOW HE MUST
12 BEHAVE, WHAT COULD HAPPEN IF HE DIDN'T...

13 A WHEN HE -- AT WHAT POINT?

14 Q WHEN YOU INITIALLY MET WITH STANKO TO TAKE OVER THE
15 FILE OR AT ANY TIME THEREAFTER WHERE YOU SUPERVISED, DID
16 YOU ADVISE HIM OF -- ON HOW HE MUST BEHAVE HIMSELF OR
17 CONDUCT HIMSELF AND WHAT WOULD HAPPEN IF HE DID NOT DO SO
18 PROPERLY?

19 A THEREAFTER, I--

20 Q THEREAFTER, AFTER THIS TIME?

21 A THEREAFTER, WHICH WOULD BE AFTER NOVEMBER OF '04,
22 I -- I DISCUSSED WITH HIM WHAT WOULD POSSIBLY HAPPEN.

23 Q WHAT'S THE WORST -- WHAT WAS THE WORST THING THAT
24 COULD HAPPEN TO HIM?

25 A THE WORST THING?

1 Q YES, MA'AM.

2 A THE WORST THING COULD HAPPEN IS A WARRANT BEING
3 ISSUED OR A CITATION BEING ISSUED AND HE RETURNED TO
4 COURT, AND THE COULD VIOLATE OR IMPOSE A DISPOSITION OF A
5 YEAR.

6 Q AND THAT -- IS THERE A DIFFERENCE BETWEEN THE WARRANT
7 AND THE CITATION?

8 A THE WARRANT JUST STATES THAT HE HAS TO BE -- THERE
9 WILL BE A BOND SET OR A BOND HEARING WILL BE HELD. A
10 CITATION STATES THAT HE WILL BE RELEASED ON HIS OWN
11 RECOGNIZANCE TO APPEAR BEFORE THE COURT AT THE TIME OF THE
12 DATE STIPULATED.

13 Q SO IF -- IF MR. STANKO OR ANYONE SIMILARLY SITUATED
14 AS HIM WERE TO REACH THAT POINT, WHO WOULD ISSUE THE
15 CITATION FOR THE WARRANT?

16 A THE CASE WOULD BE STAFFED WITH A SUPERVISOR, AND A
17 SUPERVISOR HAS THE AUTHORITY TO ISSUE CITATIONS.

18 Q WOULD THAT BE YOU?

19 A I AM A SUPERVISOR, YES.

20 Q AND YOU ARE ALREADY STAFFED ON THE FILE. WOULD YOU
21 BE THE ONE TO DO IT OR WOULD YOU HAVE TO TAKE IT UP THE
22 LADDER?

23 A ARE WE SPEAKING OF THIS CASE IN PARTICULAR OR JUST IN
24 GENERAL?

25 Q IN GENERAL.

1 A IN GENERAL IF AN AGENT BRINGS A CASE TO ME FOR
2 STAFFING, I WILL BE THE ONE TO STAFF IT.

3 Q AND SO IN PARTICULAR, IN THIS CASE, IF A WARRANT OR A
4 CITATION WERE TO BE ISSUED TO STANKO, YOU WOULD BE THE ONE
5 TO MAKE THAT DECISION?

6 A IN THIS PARTICULAR CASE IT WOULD -- IT WOULD HAVE
7 BEEN STAFFED OR REVIEWED WITH MY SUPERIOR.

8 Q BUT YOU WOULD HAVE BEEN THE PERSON FIRST OF ALL TO
9 RAISE THAT ISSUE THAT IT SHOULD BE DONE, AND THEN IT WOULD
10 BE--

11 A IN THIS PARTICULAR CASE, NO, SIR, I WOULD NOT HAVE
12 BEEN THE FIRST PERSON. THE MEDIA WAS THE FIRST PERSON TO
13 BRING IT TO OUR ATTENTION.

14 Q WELL, MA'AM, YOU ARE TALKING ABOUT BECAUSE OF LAURA
15 LING'S DEATH; CORRECT?

16 A I'M TALKING ABOUT THE SITUATION AND CIRCUMSTANCES
17 WHICH POSE A COMMUNITY SAFETY VIOLATION.

18 Q AND WHEN YOU SAID THE MEDIA BROUGHT IT TO OUR
19 ATTENTION; CORRECT?

20 A YES, THAT'S HOW WE HEARD ABOUT WHAT WAS GOING ON.

21 Q BUT, IF -- IF YOU WERE TO HAVE FOUND CAUSE EARLIER
22 SUCH AS HIM NOT SHOWING UP, CONTINUING NOT TO DO THAT, HAD
23 HE NOT, YOU WOULD BE THE PERSON TO BRING THAT TO THE
24 ATTENTION BY CERTIFICATE OF -- OR A WARRANT; CORRECT?

25 A IT WOULD DEPEND ON THE VIOLATIONS. AND THESE

1 VIOLATIONS WOULD NOT HAVE WARRANTS. BASED ON OUR POLICY
2 AND PROCEDURE AND BASED ON MR. STANKO'S PREVIOUS
3 SUPERVISION WOULD NOT HAVE WARRANTED A WARRANT OR CITATION
4 AT THE TIME.

5 WE WOULD HAVE ADDRESSED THE ISSUE, BUT NOT
6 NECESSARILY WITH A WARRANT OR A CITATION.

7 Q WELL, FIVE DAYS LATER -- IF YOU WILL LOOK AT YOUR
8 PAPERWORK THERE ON YOUR APPOINTMENT LEDGER REPORT--

9 A UH-HUH.

10 Q -- DID MRS. MAYO OF THE UNITED STATES MARSHAL SERVICE
11 CALL YOU? DID SHE CALL YOU?

12 A YES, I SPOKE WITH A PERSON BY THE NAME OF MRS. MAYO.

13 Q AND DID SHE GIVE YOU INFORMATION ON OR CONCERNING
14 MR. STANKO?

15 A SHE GAVE ME INFORMATION WITH -- WITH REGARDS TO
16 COMPLAINTS RECEIVED IN HER OFFICE WITH REFERENCE TO
17 MR. STANKO.

18 Q THIS ENTRY -- YOU MADE THIS WRITTEN ENTRY ON
19 JANUARY 26TH?

20 A JANUARY THE 26TH, YES.

21 Q READ IT TO US, PLEASE.

22 A MRS. MAYO, US MARSHAL, PHONE NUMBER 803-253-3966,
23 STATED THEY HAVE RECEIVED SEVERAL COMPLAINTS FROM PEOPLE
24 FROM THE SOCASTEE COMMUNITY STATING THAT SUBJECT IS TRYING
25 TO GET MONEY FROM THEM FOR LEGAL ADVICE AND FEES.

1 STATED SUBJECT IS DATING ONE OF THE EMPLOYEES AT THE
2 SOCASTEE LIBRARY, LAURA, AND THE COMMUNITY PEOPLE BELIEVE
3 THAT THE PERSONAL DATA IS COMING FROM HER. STATED HE HAS
4 SHOWN UP TO ONE OF THE HOMES OF THE OLDER WOMEN AND WAS
5 ASKED NOT TO COME BACK.

6 MRS. MAYO STATED IT SOUNDS AS IF SUBJECT IS ACTING AS
7 A CON ARTIST AND SHE JUST WANTED THIS OFFICE TO BE ALERT.

8 Q WELL, DID YOU -- DID YOU REPORT THIS TO PAMELA
9 HARRELSON?

10 A NO, SIR.

11 Q DID YOU -- DID YOU NOT GIVE HER ANY WRITTEN REPORT
12 OTHER THAN WHAT WE'RE LOOKING AT HERE?

13 A NO, SIR.

14 Q DID YOU EVER SPEAK WITH HER FACE TO FACE AND GIVE HER
15 INFORMATION CONCERNING WHAT WE'RE READING HERE?

16 A NOT THAT I CAN RECALL, SIR.

17 Q DO YOU RECALL PERHAPS TELLING HER THAT -- THAT
18 MR. STANKO MIGHT BE--

19 MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

20 THE COURT: SUSTAINED. LEADING. YOU MAY
21 REPHRASE.

22 BY MR. KELLY:

23 Q AFTER SPEAKING WITH THE US MARSHAL'S OFFICE, DID YOU
24 CONSIDER THAT THIS WAS A CHANGE -- THAT INFORMATION HAD
25 CHANGED YOUR VIEW OF MR. STANKO AS BEING A DANGER TO THE

1 COMMUNITY?

2 A NO, SIR. IT WAS AN ALLEGED COMPLAINT FOR WHICH BY
3 POLICY WE HAVE TO ADDRESS WITH THE OFFENDER.

4 Q IT DIDN'T LEAD -- YOU DIDN'T -- AFTER THIS TELEPHONE
5 CALL THAT YOU HAD WITH MRS. MAYO, YOU DIDN'T CONSIDER
6 THAT--

7 MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

8 THE COURT: SUSTAINED. LEADING. YOU MAY
9 REPHRASE.

10 BY MR. KELLY:

11 Q DID YOU CONSIDER OR WHAT DID YOU CONSIDER? HAD
12 ANYTHING CHANGED FOR YOU?

13 A NO, SIR, OTHER THAN A COMPLAINT THAT HAD TO BE
14 ADDRESSED WITH THE OFFENDER.

15 Q SO YOU SAW NO NEED TO CALL THE SOCASTEE LIBRARY?

16 MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.

17 THE COURT: SUSTAINED. LEADING.

18 BY MR. KELLY:

19 Q DID YOU CALL THE SOCASTEE LIBRARY?

20 MR. HEMBREE: OBJECTION. LEADING.

21 THE COURT: SUSTAINED. LEADING.

22 BY MR. KELLY:

23 Q DID -- DID YOU DO ANYTHING -- IS THAT LEADING, TOO?

24 THE COURT: WELL--

25 BY MR. KELLY:

1 Q WHAT DID YOU DO?

2 A UPON MR. STANKO'S REPORT TO MY OFFICE, I ADDRESSED
3 THE ALLEGED COMPLAINT WITH HIM.

4 Q AND THAT'S IT?

5 A YES, SIR.

6 Q AND WHY DID YOU NOT DO MORE THAN THAT?

7 A I'M A SUPERVISOR WITH FIVE AGENT -- FOUR AGENTS, FIVE
8 AGENTS, AND MR. STANKO, BECAUSE THERE WERE NO COMMUNITY
9 SAFETY ISSUES ADDRESSED AT THE TIME, I DID PER POLICY, AND
10 PER POLICY SAYS THAT I AM TO ADDRESS VIOLATIONS WITH THE
11 LEAST RESTRICTED SANCTION.

12 AND AT THAT TIME IT WAS A -- A REPRIMAND AT THAT
13 TIME. IT WAS ADVISING HIM OF THE CONSEQUENCES THAT COULD
14 POSSIBLY HAPPEN IF IN FACT THE ALLEGED COMPLAINTS WERE
15 TRUE. AND AT THAT TIME IT WAS, IF YOU ARE PORTRAYING
16 YOURSELF AS SUCH, THEN YOU NEED TO STOP.

17 Q WELL, DID YOU ASK HIM WAS HE DOING SUCH AND SUCH?

18 A I DID.

19 Q WHAT DID YOU ASK HIM WAS HE DOING?

20 A I INFORMED HIM OF THE ALLEGED COMPLAINTS AND I ASKED
21 HIM, ARE YOU -- IF I MAY REFER TO MY NOTES AGAIN, PLEASE
22 SIR?

23 Q PLEASE DO.

24 A AND I WILL BE SPECIFIC. I SPOKE WITH HIM ON
25 FEBRUARY 8TH OF 2005. I DISCUSSED THE US MARSHAL'S CALLS

1 WITH SUBJECT AND HE DENIED PORTRAYING HIMSELF AS ANY LEGAL
2 ADVISOR.

3 HE STATED THAT HE TALKED WITH A FEMALE BY THE NAME OF
4 CAROLYN AT THE LIBRARY ABOUT LEGAL MATTERS AND REFERRED
5 HER TO IRBY WALKER, NEVER DISCUSSED ANY FEES. HE WAS
6 INSTRUCTED TO PORTRAY HIMSELF AS WHO HE IS AND NO ONE
7 ELSE.

8 Q THAT IS THE ENTRY THAT YOU MADE HERE ON PAGE WHAT?

9 A MY PAGE IS CUT OFF, SO... MY PAGE NUMBER -- 16 OF 20.

10 Q THAT'S WHERE YOU SAY YOU DISCUSSED THE US MARSHAL'S
11 CALL WITH SUBJECT. WHAT DID YOU TELL HIM THE US MARSHAL
12 HAD SAID TO YOU?

13 A MAY I REFER TO THE US MARSHAL'S CALL, PLEASE?

14 Q YOU MAY REFER TO WHATEVER YOU CHOOSE IF IT HELPS YOU.

15 A TO BE SPECIFIC, I CANNOT BE. I CAN ONLY ASSUME THAT
16 I STATED TO HIM ABOUT THE COMPLAINTS RECEIVED BY THE US
17 MARSHALS WITH REFERENCE TO HIM PORTRAYING HIMSELF AS AN
18 ATTORNEY AT THE -- AT THE LIBRARY.

19 Q SO YOU TOLD STANKO THAT I RECEIVED A CALL FROM THE US
20 MARSHAL'S OFFICE. IS THAT WHAT YOU JUST TOLD ME?

21 A YES.

22 Q AND THE SUM AND SUBSTANCE OF IT WAS WHAT? THAT YOU
23 TOLD HIM, THIS IS WHAT THEY TOLD ME. AND WHAT IS IT THAT
24 YOU TOLD HIM?

25 MR. HEMBREE: YOUR HONOR, I OBJECT. ASKED AND

1 ANSWERED.

2 MR. KELLY: I DIDN'T GET IT.

3 THE COURT: I'M GOING TO GIVE -- IT WAS, BUT I'M
4 GOING TO GIVE HIM A LITTLE LATITUDE. YOU MAY ANSWER
5 THE QUESTION. MA'AM, YOU UNDERSTAND IT?

6 BY MR. KELLY:

7 Q WANT ME TO REPEAT THAT FOR YOU?

8 A PLEASE.

9 Q YOU MET WITH THE SUBJECT STANKO; CORRECT?

10 A YES.

11 Q AND YOU MET WITH HIM ON FEBRUARY THE EIGHTH; CORRECT?

12 A YES.

13 Q AND YOU TOLD HIM AT THAT TIME -- WELL, THE FIRST TIME
14 THAT YOU RECEIVED A CALL ABOUT HIS BEHAVIOR--

15 MR. HEMBREE: OBJECTION.. LEADING.

16 THE COURT: SUSTAINED. LEADING.

17 BY MR. KELLY:

18 Q IS THAT WHAT YOU DISCUSSED WITH HIM? IS THAT WHAT'S
19 HERE?

20 A YES.

21 Q AND WHAT DID YOU TELL HIM THAT THE US MARSHAL HAD
22 TOLD YOU?

23 A ACCORDING TO...

24 Q ABOUT HIS BEHAVIOR. ABOUT HIS BEHAVIOR.

25 A ACCORDING -- I TOLD HIM ABOUT THE COMPLAINT THAT WAS

1 RECEIVED THROUGH THE US MARSHALS WITH REFERENCE TO HIM
2 PORTRAYING HIMSELF AS A LEGAL ADVISER OR AN ATTORNEY.

3 Q ANYTHING OTHER THAN THAT?

4 A I CAN'T RECALL, SIR.

5 Q YOU DON'T -- YOUR NOTES WON'T HELP YOU?

6 A YOU WANT ME TO REPEAT...

7 Q NO, SIR. NO, MA'AM. YOU -- I'M JUST ASKING YOU, IS
8 THAT THE ONE SINGLE THING THAT YOU TOLD STANKO OR IS THAT
9 THE ONE SINGLE THING THAT YOU'RE TELLING US YOU REMEMBER
10 YOU TOLD HIM?

11 A I PROBABLY TOLD HIM A LOT. BUT I KNOW THAT THIS --
12 THIS IS -- THE MOST IMPORTANT PART IS THAT HE IS TO
13 REFRAIN FROM PORTRAYING HIMSELF AS SOMEONE THAT HE IS NOT
14 AND THE POSSIBLE CONSEQUENCES IF HE CONTINUES.

15 Q DID YOU TELL HIM -- WELL, WERE YOU AT ALL WORRIED
16 ABOUT STANKO BEING VIOLENT AT THAT TIME WITH ANYONE IN THE
17 COMMUNITY?

18 A THERE WAS NO COMPLAINTS OR REASON FOR ME TO THINK SO.

19 Q AT THE TIME AFTER -- AFTER SPEAKING WITH THE US
20 MARSHAL'S OFFICE, MRS. MAYO, THERE WAS NO REASON FOR YOU
21 TO THINK THAT HE WOULD BE VIOLENT IN ANY WAY; CORRECT?

22 A ACCORDING TO MY CONVERSATION WITH HER, SHE SAID THAT
23 WE NEED TO -- SHE WANTED TO INFORM HER -- INFORM US OF THE
24 COMPLAINT.

25 Q AND THE COMPLAINTS WERE? WHAT WERE THEY?

1 A THE COMPLAINTS WERE THAT HE WAS PORTRAYING HIMSELF AS
2 A LEGAL ADVISOR TO PERSONS AT THE LIBRARY OF SOCASTEE, IN
3 THE SOCASTEE COMMUNITY.

4 Q AND YOU SAW NO REASON TO FOLLOW THAT UP WITH
5 ANYBODY--

6 MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.

7 THE COURT: SUSTAINED. LEADING.

8 BY MR. KELLY:

9 Q DID YOU -- WHAT -- DID YOU FOLLOW UP?

10 MR. HEMBREE: YOUR HONOR, ASKED AND ANSWERED. I
11 OBJECT TO IT.

12 THE COURT: I'M GOING TO GIVE HIM A LITTLE
13 LATITUDE, ALTHOUGH IT HAS BEEN ASKED AND ANSWERED.

14 BY MR. KELLY:

15 Q DID YOU FOLLOW UP WITH ANYONE OTHER THAN STANKO?

16 A NO, I DID NOT, SIR.

17 Q AND THAT'S BECAUSE YOU DIDN'T SEE ANY REASON TO DO
18 THAT?

19 MR. HEMBREE: OBJECTION, YOUR HONOR. LEADING.

20 THE COURT: SUSTAINED. LEADING.

21 BY MR. KELLY:

22 Q WHY DID YOU NOT FOLLOW UP WITH ANYBODY INVOLVING
23 MR. STANKO?

24 A BECAUSE PER POLICY WE ARE TO ADDRESS THE ALLEGED
25 VIOLATIONS WITH THE OFFENDER, AND THAT'S WHAT I DID.

1 Q WELL, LET'S GO BACK HERE JUST A LITTLE BIT IN THIS
2 RECORD. ON THE 28TH, THAT WAS TWO DAYS AFTER MAYO'S CALL,
3 WHAT'S THE ENTRY THERE?

4 A THE TELEPHONE CONTACT?

5 Q READ IT TO US.

6 A 2-28-05 IRBY WALKER CALLED STATING SUPERVISOR WILSON
7 HAD CONTACTED SUBJECT AND HE WONDERED WHAT WAS GOING ON.
8 ADVISED HIM IT APPEARS SHE HAD CONTACTED SUBJECT ABOUT HIS
9 FAILURE TO REPORT IN DECEMBER AND JANUARY AS WELL AS HIS
10 SUPERVISION FEE ARREARS.

11 WALKER STATES THE SUBJECT HAS THE SUPERVISION FEE
12 ARREARS TO PAY TODAY AND HE WILL BRING THEM -- BRING HIM
13 TO THE OFFICE. ADVISED HIM, THIS WOULD BE FINE, PWH.

14 Q AND THAT WOULD BE PAM HARRELSON?

15 A YES.

16 Q AND DID YOU TALK WITH ATTORNEY WALKER YOURSELF?

17 A NO, SIR.

18 Q DID YOU RECEIVE THE FEES WHEN THEY WERE PAID?

19 A THEY CAME THROUGH THE OFFICE, SIR.

20 Q WERE YOU PRESENT WHEN THEY WERE OBTAINED?

21 A THE FEES ARE PAID DIRECTLY TO THE RECEPTION -- THE
22 RECEPTIONIST AT THE FRONT OFFICE.

23 Q DID ANYBODY ELSE BESIDES THE -- MRS. MAYO, UNITED
24 STATES MARSHAL'S OFFICE, CALL YOU TO MAKE YOU AWARE OF ANY
25 COMPLAINTS OF MR. STANKO'S BEHAVIOR?

1 A NO ONE CALLED ME, SIR.

2 Q DID CONNIE PRICE EVER CALL YOU?

3 A NO, SIR.

4 Q DID SHE -- TO YOUR KNOWLEDGE DID SHE EVER SPEAK WITH
5 ANYBODY IN YOUR OFFICE?

6 A TO MY KNOWLEDGE, NO, SIR.

7 Q IF I CALL TO MAKE A COMPLAINT ABOUT AN OFFENDER WHO
8 IS SUBJECT TO YOUR SUPERVISION AND GIVE YOU A COMPLAINT
9 ABOUT THEM, WOULD YOU EVEN TELL ME THAT THEY ARE BEING
10 SUPERVISED OR -- OR NOT?

11 A THERE'S A STRONG POSSIBILITY I WOULD DOCUMENT IT OR
12 SAY SOMETHING TO YOU.

13 Q WAS THERE EVER ANY REASON FOR YOU TO BELIEVE THAT
14 STEPHEN STANKO'S BEHAVIOR WAS REPORTED IN THE COMMUNITY TO
15 BE ODD OR BIZARRE?

16 A WE RECEIVE COMPLAINTS -- AT THE TIME, NO, SIR. I --
17 I KNOW THAT -- TO ANSWER YOUR QUESTION, NO, SIR.

18 Q WERE YOU SURPRISED THEN WHEN STEPHEN STANKO -- WAS
19 REPORTED THAT HE HAD MURDERED LAURA LING AND RAPED HER
20 DAUGHTER?

21 A I HAVE BEEN IN THE BUSINESS FOR 23 YEARS, AND VERY
22 LITTLE SURPRISE ME NOW-A-DAYS.

23 Q SO THAT DIDN'T SURPRISE YOU?

24 A LIKE I SAID, NOTHING -- VERY LITTLE SURPRISES ME
25 NOW-A-DAYS.

1 Q BUT I ASKED YOU SPECIFICALLY, DID IT SURPRISE YOU
2 WHEN IT WAS REPORTED THAT--

3 MR. HEMBREE: OBJECTION, YOUR HONOR. RELEVANCE.
4 AND IT'S BEEN ASKED AND ANSWERED TWICE.

5 THE COURT: I DON'T THINK IT'S BEEN ASKED AND
6 ANSWERED. AND I DON'T -- IT IS RELEVANT TO SOME
7 EXTENT. I'M GOING TO GIVE HIM SOME LATITUDE.

8 MR. HEMBREE: THANK YOU.

9 THE COURT: IT'S ACTUALLY LEADING, BUT YOU
10 DIDN'T MAKE THAT OBJECTION.

11 MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

12 THE COURT: WE NEEDED A LITTLE LEVITY.

13 BY MR. KELLY:

14 Q MA'AM, I'M NOT TRYING TO PUT ANY WORDS--

15 THE COURT: YOU MAY REPHRASE, MR. KELLY, AND
16 PROCEED.

17 BY MR. KELLY:

18 Q I'M NOT TRYING TO PUT ANY WORDS IN YOUR MOUTH, MA'AM,
19 BUT WHAT WAS YOUR REACTION WHEN IT WAS REPORTED IN THE
20 MEDIA THAT HE WAS IN VIOLATION OF YOUR POLICIES?

21 A KIND OF DISAPPOINTING PROBABLY, DISAPPOINTING AT HIS
22 BEHAVIOR OR ALLEGED BEHAVIOR.

23 Q SO YOU WERE DISAPPOINTED IN HIM?

24 A YES.

25 Q ALL RIGHT. WHAT SHOULD WE -- WHAT SHOULD WE DO IN A

1 SIMILAR SITUATION TO -- OR DO YOU HAVE AN OPINION?

2 MR. HEMBREE: OBJECTION, YOUR HONOR. THIS CALLS
3 FOR SPECULATION FROM THE WITNESS.

4 MR. KELLY: WELL MA'AM, SHE'S BEEN WORKING THERE
5 23 YEARS.

6 THE COURT: THERE'S NO OBJECTION PENDING. BEAR
7 WITH ME. THE FORM OF THE QUESTION IS PROBLEMATIC.
8 IT CALLS FOR SPECULATION. IF YOU LAY THE APPROPRIATE
9 FOUNDATION, YOU CAN REPHRASE. SUSTAINED.

10 MR. HEMBREE: THANK YOU, YOUR HONOR.

11 THE COURT: YOU'RE WELCOME.

12 BY MR. KELLY:

13 Q DO YOU HAVE AN OPINION ABOUT HOW WE COULD AVOID A
14 PERSON SUCH AS STANKO COMING IN UNDER THE RAIL?

15 A I DID NOT UNDERSTAND THE QUESTION.

16 Q DO YOU HAVE AN OPINION BASED ON YOUR EXPERIENCE IN
17 PROBATION, PARDON, AND PAROLE, OF HOW WE COULD DETECT A
18 PERSON SUCH AS STEPHEN STANKO SO HE DOESN'T -- HE'S NOT A
19 DANGER TO THE COMMUNITY, DOESN'T KILL--

20 A SHORT OF FOLLOWING 24-SEVEN, SIR, I DO NOT HAVE AN
21 OPINION.

22 Q FOLLOWING 24-SEVEN WOULD BE YOUR -- THAT WOULD BE
23 YOUR OPINION?

24 A I DON'T HAVE AN OPINION BECAUSE FROM THE 23 YEARS OF
25 EXPERIENCE WITH OUR -- WITH THE PROBATION AND PAROLE

1 DEPARTMENT OR IN LAW ENFORCEMENT, PERSONS YOU THINK THAT
2 THINGS ARE WELL AND TURNS OUT THAT THINGS AREN'T WELL.

3 AND NEGATIVE THINGS HAPPEN, AND YOU CAN DO YOUR BEST
4 SUPERVISION, THEY CAN PERSONIFY OR PROJECT THE BEST PERSON
5 THAT THEY CAN BE WHILE ON SUPERVISION WHEN YOU'RE IN
6 THEIR -- WHEN YOU'RE IN THEIR PRESENCE OR THEY'RE IN YOUR
7 PRESENCE, AND THEN THINGS HAPPEN.

8 SO TO ANSWER YOUR QUESTION, SIR, I DO NOT HAVE AN
9 ANSWER TO THAT.

10 Q WELL, MA'AM, DID YOU EVER DURING THE COURSE OF YOUR
11 SUPERVISION OF STEPHEN STANKO--

12 MR. HEMBREE: OBJECTION. LEADING, YOUR HONOR.

13 THE COURT: SUSTAINED. LEADING. YOU MAY

14 REPHRASE.

15 BY MR. KELLY:

16 Q WAS THERE ANY -- WAS ANY REASON THAT YOU KNEW OR
17 COULD SEE MEETING WITH STEPHEN STANKO THAT HE WAS IN NEED
18 OF MENTAL HEALTH COUNSELING?

19 A HE DID NOT PRESENT HIMSELF AS IN NEED OF MENTAL
20 HEALTH COUNSELING.

21 Q TAKE A LOOK AT PAGE 17, MA'AM.

22 A PAGE WHAT?

23 Q SEVENTEEN. WHAT'S THE DATE OF THE ENTRY AT THE TOP
24 OF THE PAGE?

25 A JANUARY -- NO. JANUARY 28TH OF '05.

1 Q PAGE 17, MA'AM. SEVENTEEN.

2 A OKAY.

3 Q I'M LOOKING -- I WILL GIVE YOU THE DATE, APRIL THE
4 FIFTH OF 2005.

5 A UH-HUH.

6 Q DO YOU HAVE AN ENTRY THERE?

7 A YES, I DO.

8 Q MAKE SURE WE'RE BOTH ON THE SAME PAGE. WHAT DID
9 STEPHEN STANKO STATE TO YOU WHEN YOU MET WITH HIM?

10 A SUBJECT STATED TO BE -- TO BEGIN COUNSELING AT GRAND
11 STRAND'S PSYCHIATRIC WITH -- IN MYRTLE BEACH.

12 Q DOESN'T IT READ, SUBJECT STATED TO BEGIN COUNSELING
13 STRAND'S PSYCHIATRIC, MYRTLE BEACH, LEWIS MYRTLE?

14 A YES, IT DOES.

15 Q IS THAT WHAT IT TOLD YOU?

16 A YES.

17 Q DID YOU INQUIRE WHY HE WAS DOING THAT?

18 A FROM MY PREVIOUS CONVERSATIONS, FEBRUARY, IF I'M NOT
19 MISTAKEN, HE WAS HAVING CONCERNS OR CONCERNS WERE BROUGHT
20 TO ME ABOUT HIM RE-INTEGRATING BACK INTO SOCIETY.

21 AT THAT TIME NAMES, PSYCHIATRISTS' AND PSYCHOLOGISTS'
22 NAMES WERE GIVEN TO HIM AS WELL AS SOUTH CAROLINA
23 EMPLOYMENT SECURITY TO HELP HIM ADDRESS THE ISSUES WITH
24 REFERENCE TO HIS RE-INTEGRATION.

25 Q OKAY. THAT'S ON WHAT DATE, APRIL THE FIFTH, 2005?

1 IS THAT CORRECT?

2 A YES. THE -- THE -- HIM GOING TO THE PSYCHIATRIC --
3 THE COUNSELING WAS APRIL 5TH. BUT FEBRUARY OF '05 WHEN HE
4 AND MS. LING CAME TO MY OFFICE, THE NAMES WERE GIVEN TO
5 THEM AT THAT TIME.

6 Q GIVE ME THE DATE IN FEBRUARY, MA'AM.

7 A FEBRUARY 8TH OF 2005.

8 Q ON FEBRUARY THE EIGHTH YOU'RE REFERRING TO THE ENTRY
9 THAT READS, HE WAS INSTRUCTED NOT TO PORTRAY HIMSELF AS
10 WHO HE -- TO PORTRAY HIMSELF AS WHO HE IS AND NO ONE ELSE.
11 AND GIRLFRIEND REQUESTED INFORMATION ON -- WHAT KIND OF
12 COUNSELING?

13 A PSYCHIATRIC COUNSELING.

14 Q TO HELP THIS OFFENDER BE RE-INTEGRATED BACK INTO
15 SOCIETY. AND YOU GAVE NUMBERS OF SLEUTH, CATLIFF (SIC)
16 AND HOLNICK; CORRECT?

17 A CORRECT.

18 Q YES -- BUT I'M ALSO REFERRING TO A LATER DATE.

19 A YES, SIR.

20 Q AND THAT LATER DATE IS APRIL THE FIFTH.

21 A YES.

22 Q LET'S TAKE A LOOK AT APRIL THE FIFTH WHICH IS TWO
23 MONTHS LATER. IS THIS A MEETING THAT YOU HAD WITH THE
24 SUBJECT STANKO ON APRIL THE FIFTH, THAT'S NOTES OF--

25 A IT IS.

1 Q WHAT DID HE TELL YOU? WHAT DID HE STATE TO YOU?

2 A HE STATED THAT HE BEGAN COUNSELING AT GRAND STRAND
3 PSYCHIATRIC, MYRTLE BEACH, WITH LOUIS MURDEN.

4 Q AND WHAT'S THE NEXT ENTRY? WHAT'S THE DATE OF THE
5 NEXT ENTRY? THAT WAS APRIL THE FIFTH. WHAT'S THE--

6 A APRIL 8TH OF 2005.

7 Q AND WHAT'S THE ENTRY THERE?

8 A WE RECEIVED A TELEPHONE CALL FROM LIEUTENANT STUBBS,
9 SHERIFF'S DEPARTMENT, GEORGETOWN, STATING SUBJECT KILLED
10 LIVED-IN FEMALE IN THE AM AND IS ON THE RUN. WANTED TO
11 KNOW IF I HAD ANY POSSIBLE LEADS. NONE NOTED.

12 ADVISED HIM TO GO BY THE GEORGETOWN PROBATION
13 DEPARTMENT AND SPEAK WITH AIC LOSKILL, AIC LOSKILL CAN
14 ASSIST HIM, VERIFICATION PURPOSES.

15 Q AND NOW, THAT'S ON THE APRIL THE EIGHTH. THAT'S THE
16 MEDIA DAY WE WERE TALKING ABOUT EARLIER; RIGHT? THE
17 NOTICE FROM THE MEDIA THAT THERE WAS A PROBLEM.

18 A YES.

19 Q OKAY. LET'S LOOK THREE DAYS LATER AT THE NEXT ENTRY.
20 YOU SEE THE LAST LINE IN THE FIRST PARAGRAPH?

21 A LAST LINE FIRST PARAGRAPH. YES.

22 Q READ THE LAST LINE IN THE FIRST PARAGRAPH.

23 A THIS AGENT ALSO MADE CONTACT WITH US MARSHAL STEWART
24 COTTINGHAM TO UPDATE HIM -- TO UPDATE HIM ADDITION -- WITH
25 ADDITIONAL INFORMATION.

1 Q THAT WAS YOU WHO MADE CONTACT WITH US MARSHAL STEWART
2 COTTINGHAM?

3 A NO, SIR. NO, SIR. IT WAS NOT.

4 Q THAT WAS YOUR OFFICE?

5 A SOMEONE FROM OUR OFFICE, YES.

6 Q HAD YOU TALKED WITH THE US MARSHAL'S OFFICE SINCE
7 MAYO HAD TALKED WITH YOU IN JANUARY?

8 A NO, SIR. I HAVE NOT.

9 Q AND YOU HADN'T GIVEN HIM ANY INFORMATION ABOUT STANKO
10 AFTER SHE TALKED TO HIM; RIGHT?

11 A NO, SIR.

12 Q YOU DIDN'T CALL HER BACK OR ANYTHING?

13 A NO, SIR.

14 Q DID -- YOU DIDN'T CALL ANY OTHER AGENCY; DID YOU?

15 A NO, SIR.

16 Q DIDN'T CALL THE MYRTLE BEACH PD?

17 MR. HEMBREE: YOUR HONOR, I OBJECT. IT'S
18 LEADING AS WELL AS ASKED AND ANSWERED.

19 THE COURT: SUSTAINED. LEADING.

20 MR. KELLY: YOUR WITNESS.

21 THE COURT: ANY QUESTIONS FOR THE WITNESS?

22 MR. HEMBREE: JUST A FEW.

23 THE COURT: YOU MAY PROCEED.

24 CROSS-EXAMINATION

25 BY MR. HEMBREE:

1 Q MS. WILSON, YOU'VE BEEN UP THERE A WHILE. I'M GOING
2 TO TRY TO BE AS BRIEF AS POSSIBLE. BUT I'M GOING TO REFER
3 YOU BACK TO YOUR REPORT OR TO THE REPORT OF YOUR
4 DEPARTMENT.

5 LET ME ASK YOU, THE -- YOU TESTIFIED THAT INITIALLY
6 YOU WERE NOT AWARE THAT THIS DEFENDANT HAD ADDITIONAL
7 CHARGES. IS THE REASON FOR THAT BECAUSE HE HAD FINISHED
8 HIS SERVICE ON THOSE CHARGES AND SO THOSE WERE NOT UNDER
9 THE SUPERVISION, CONTROL OF THE PROBATION DEPARTMENT?

10 A EXACTLY.

11 Q SO THE ONLY CHARGE THAT CAME TO YOU, BECAUSE THE
12 OTHER ONES WERE CONCLUDED, WERE TOTALLY COMPLETED BY THE
13 DEFENDANT, WAS THE KIDNAPPING CHARGE?

14 A YES.

15 Q GOT YA. NOW, LET ME TAKE YOU TO AUGUST THE 23RD,
16 GENERAL CONDUCT AND MISCELLANEOUS INFORMATION. WHAT
17 DID -- WHAT NOTES WERE MADE UNDER GENERAL -- EXCUSE ME --
18 AUGUST THE 23RD OF 2004. THAT'S THE NOTATION.

19 I'M JUST GOING TO KIND OF GO THROUGH THIS
20 CHRONOLOGICALLY, KIND OF DO A REVIEW OF THIS DEFENDANT'S
21 STATUS WITH YOUR DEPARTMENT OVER THE MONTHS HE WAS THERE.

22 ON AUGUST THE 23RD, 2004 WHAT DOES IT SAY UNDER,
23 GENERAL CONDUCT AND MISCELLANEOUS INFORMATION?

24 A CAN YOU -- I LEFT MY GLASSES, SO I'M HAVING
25 DIFFICULTIES HERE. AUGUST 23RD, 2004?

1 Q YES, MA'AM.

2 A OFFENDER STATED THAT HE THINKS THIS COMMUNITY
3 SUPERVISION CASE IS UNCONSTITUTIONAL AND HAS A -- AND HAS
4 A PENDING CASE. OFFENDER -- AND HAS A PENDING CASE.
5 OFFENDER SENT HIS FILE TO RD STEPP. HE THINKS IT WAS
6 STEPP.

7 Q OKAY. WHAT'S THE NEXT LINE?

8 A OFFENDER HAS A COCKY ATTITUDE AND THINKS HE IS ABOVE
9 EVERYONE ELSE. STATED THAT HIS FATHER IS BUYING A CAR AND
10 THEN WILL HAVE THAT -- THAT CAR.

11 Q GOT YA. HOW ABOUT ON THE -- HOW ABOUT ON THE 25TH.
12 THEY DID -- Y'ALL DID HOME ELECTRONIC MONITORING AND IT
13 WAS REPORTED ON THE 25TH, HOME DETENTION, ELECTRONIC
14 MONITORING?

15 A ARE WE TALKING ABOUT 958?

16 Q NO, MA'AM. I'M SORRY. AUGUST THE 25TH OF 2004.

17 A THERE WAS A HOME VISIT, YES.

18 Q THERE WAS A HOME VISIT AND EVERYTHING LOOKED GOOD;
19 RIGHT?

20 A THERE ISN'T ANYTHING TO THE CONTRARY DOCUMENTED.

21 Q OKAY. AND IT SAYS, OFFENDER AT HOME WITH -- AS
22 INSTRUCTED WITH ROOMMATE; CORRECT?

23 A OKAY. I AM NOT ON THE SAME PAGE YOU'RE ON THEN.

24 Q YES, MA'AM. IT'S ALL -- IT'S--

25 A HVPR. OKAY. OFFENDER AT HOME WITH ROOMMATE, YES.

1 Q AS INSTRUCTED. AND THE NEXT LINE SAYS, NO PROBLEMS;
2 RIGHT?

3 A YES.

4 Q ALL RIGHT. LET ME TAKE YOU TO HIS REPORTING DATE ON
5 AUGUST THE 30TH OF 2004. UNDER, GENERAL CONDUCT AND
6 MISCELLANEOUS INFORMATION. THE FIRST THING IT SAYS IS
7 GOOD ATTITUDE.

8 A YES.

9 Q ALL RIGHT. LET ME TAKE YOU TO -- LET ME TAKE YOU TO
10 SEPTEMBER 20TH OF 2004, GENERAL CONDUCT AND MISCELLANEOUS
11 INFORMATION. GOOD ATTITUDE. CORRECT?

12 A YES.

13 Q LET ME TAKE YOU TO SEPTEMBER 27TH OF 2004, GENERAL
14 CONDUCT AND MISCELLANEOUS INFORMATION. DOES IT SAY GOOD?

15 A YES.

16 Q TAKING YOU TO OCTOBER 12TH OF 2004 UNDER GENERAL
17 CONDUCT HE INDICATES HERE THAT HE WANTS TO MOVE TO NORTH
18 CAROLINA WITH HIS BROTHER, BUT THERE'S NO INDICATION THAT
19 THERE'S ANYTHING BAD GOING ON; CORRECT?

20 A RIGHT.

21 Q OKAY. HIS OFFICE VISIT ON OCTOBER THE 18TH OF 2004.
22 ONCE AGAIN, DISCUSSION ABOUT MAYBE TRANSFERRING TO NORTH
23 CAROLINA BUT NO PROBLEMS; CORRECT?

24 A CORRECT.

25 Q ON NOVEMBER THE FIFTH OF 2004, GENERAL CONDUCT AND

1 MISCELLANEOUS INFORMATION, COOPERATIVE; CORRECT?

2 A CORRECT.

3 Q NOW, THEN WE GET TO WHERE HE MISSED A COUPLE OF
4 APPOINTMENTS AFTER THAT, AND MISSED DECEMBER AND MISSED
5 JANUARY, AND YOU SENT HIM A LETTER THAT SAID, YOU BETTER
6 GET DOWN HERE OR ELSE, YOU KNOW, WE'RE GOING TO DO --
7 WE'RE GOING TO TAKE FURTHER ACTION I THINK IS WHAT YOUR
8 LETTER SAID; IS THAT RIGHT?

9 A YES.

10 Q AND YOU SENT HIM THE LETTER ON THE 21ST. YOU MAILED
11 IT OUT ON THE 21ST; CORRECT?

12 A YES.

13 Q OF THE -- OF JANUARY. AND ON JANUARY 28TH YOU GOT A
14 CALL BACK FROM HIS LAWYER.

15 A A CALL WAS RECEIVED IN THE OFFICE, YES.

16 Q RIGHT. FROM IRBY WALKER?

17 A YES.

18 Q AND HE SAID, MY CLIENT WILL COME DOWN AND CATCH UP
19 THE ARREARS AND HE'LL BE THERE?

20 A YES.

21 Q WE'LL TAKE CARE OF EVERYTHING. AND ISN'T THAT
22 EXACTLY WHAT THIS DEFENDANT DID?

23 A YES.

24 Q YEAH. BUT YOU DIDN'T HAVE ANY CONCERN THAT HE WAS
25 TRYING TO SKIP OUT ON YOU AT THAT POINT; DID YOU?

1 A NONE WHATSOEVER.

2 Q NO, BECAUSE HE SHOWED UP?

3 A YES.

4 Q RIGHT. AND I -- TAKING YOU TO THE REPORTING DATE ON
5 JANUARY 28TH, 2005. WHAT DOES IT INDICATE HIS ADDRESS IS
6 ON JANUARY 28TH OF 2005?

7 A JANUARY 28TH?

8 Q YES, MA'AM.

9 A FEBRUARY?

10 Q NO, MA'AM, JANUARY 28TH, 2005.

11 A OKAY. I HAVE A JANUARY 28TH, 2005. I HAVE TELEPHONE
12 CONTACT.

13 Q VERY WELL COULD BE. DOES IT SAY OFFENDER ADDRESS?

14 A NO, IT DOES NOT.

15 Q OKAY. LET ME ASK IF YOU HAVE THIS PAGE IN YOUR
16 DOCUMENT THERE YOU'RE REVIEWING?

17 A 15, 19?

18 Q YES, MA'AM.

19 A NO, I DO NOT. RIGHT HERE. WHAT PART?

20 Q RIGHT -- YEAH, THAT'S IT. YEAH. DO YOU SEE THE
21 NOTATION ON JANUARY 28TH OF 2005, WHAT HIS ADDRESS, HIS
22 NEW ADDRESS IS?

23 A YES.

24 Q AND WHAT IS IT?

25 A 3960 MURRELLS INLET, MURRELLS INLET, SOUTH CAROLINA.

1 Q AND WHAT DOES IT SAY ABOUT, STATUS OF MONIES OWED ON
2 JANUARY 28TH OF 2005?

3 A HE PAID \$140 SUPERVISION FEE THROUGH 1-18-05, PAID
4 \$60 ON INTENSIVE THROUGH 10-18-05.

5 Q AND GENERAL CONDUCT AND MISCELLANEOUS INFORMATION?

6 A IS GOOD.

7 Q RIGHT. AND THEN IF WE GO DOWN TO JANUARY 31ST OF
8 2005. ARE YOU CAUGHT UP TO ME?

9 A I'M WITH YOU.

10 Q OKAY. Y'ALL MADE A CONTACT TO VERIFY WHERE HE LIVED;
11 CORRECT?

12 A YES.

13 Q AND WHAT WAS THE RESPONSE THAT YOU RECEIVED ON THAT
14 CONTACT?

15 A THAT A YOUNG FEMALE WHO APPEARS TO BE HIGH SCHOOL AGE
16 VERIFIED SUBJECT RESIDES AT THE RESIDENCE BUT REFUSED TO
17 GIVE ANY OTHER INFORMATION. HOME VISIT CONDUCTED BY AGENT
18 LOSKILL.

19 Q LET ME TAKE YOU TO FEBRUARY THE EIGHTH. WELL, OF
20 COURSE, YOU RECEIVED THE CALL FROM THE US MARSHAL'S
21 SERVICE ON JANUARY 26TH OF 2005; CORRECT?

22 A YES.

23 Q I TAKE YOU TO FEBRUARY 8TH OF 2005. AND I BELIEVE
24 YOU HAVE ALREADY REFERRED TO THAT. THAT WAS THE DATE THAT
25 YOU HAD THE DISCUSSION WITH HIM ABOUT THIS REPORT?

1 A YES.

2 Q AND HE INDICATED THAT -- THAT -- HE DENIED IT; DIDN'T
3 HE?

4 A YES.

5 Q HE SAID THAT HE JUST TALKED TO SOMEBODY ABOUT LEGAL
6 ADVICE AND REFERRED THEM TO IRBY WALKER.

7 A HE DID.

8 Q AND SAID -- WELL, YOU SAID, WELL, DON'T DO IT ANY
9 MORE.

10 A SOMETHING SIMILAR TO THAT.

11 Q GOT YA. AND DID YOU CONSIDER THIS A SERIOUS
12 COMMUNITY DANGER VIOLATION?

13 A NO, I DID NOT.

14 Q DID YOU EVEN HAVE A -- DID YOU EVEN HAVE KNOWLEDGE OF
15 WHO WAS MAKING THE COMPLAINT?

16 A NO, I DID NOT.

17 Q NOW LET'S GO TO THE NEXT ENTRY. LET'S SEE. THAT
18 WOULD HAVE BEEN HIS -- HIS MONTHLY -- MONTHLY REPORTING
19 WAS ON FEBRUARY 8TH. THE NEXT MONTHLY REPORT, OFFICE
20 VISIT, WAS MARCH THE FIRST, 2005; CORRECT?

21 A YES.

22 Q AND IT SAID UNDER, GENERAL CONDUCT AND MISCELLANEOUS
23 INFORMATION, WHAT DOES IT SAY THERE?

24 A GOOD CONDUCT, NO PROBLEMS TO DISCUSS AT THIS TIME.

25 Q RIGHT. AND AS A MATTER OF FACT, UNDER STATUS OF

1 MONIES OWED, WHAT DOES IT SAY ABOUT THE STATUS OF THE
2 MONEY HE OWES?

3 A DEFENDANT IS CURRENT ON ALL FEES.

4 Q OKAY. HE ALSO EARLIER IN THAT -- IN THE NOTES THERE
5 INDICATES THAT HE HAS NO REFERRALS TO DISCUSS AT THIS
6 TIME. YOU SEE THAT UNDER REFERRALS?

7 A YES.

8 Q BUT HE STATES WHAT TO YOU?

9 A THIS WAS NOT TO ME. THIS WAS TO ANOTHER AGENT.

10 Q OKAY.

11 A HE STATES THAT HE IS VOLUNTARILY BEING COUNSELED AT
12 DUNES COUNSELING.

13 Q THAT WAS ON MARCH THE FIRST OF 2005?

14 A YES.

15 Q HE HAD ALREADY TAKEN IT ON HIMSELF TO GET HIM SOME
16 COUNSELING.

17 A YES.

18 Q AND HE HAD EXPRESSED HIS -- HE ALONG WITH HIS
19 GIRLFRIEND EXPRESSED SOME -- SOME INTEREST IN DOING THAT
20 BACK IN FEBRUARY?

21 A YES.

22 Q ALL RIGHT. NOW TAKING YOU TO APRIL THE FIFTH OF
23 2005. GENERAL CONDUCT. UNDER, GENERAL CONDUCT AND
24 MISCELLANEOUS INFORMATION, WHAT DOES IT SAY ABOUT
25 DEFENDANT STEPHEN STANKO ON APRIL THE FIFTH, 2005 WHEN HE

1 REPORTED TO YOUR OFFICE?

2 A COOPERATIVE. SUBJECT WAS VERY CALM AND APPEARED TO
3 BE MORE AT PEACE WITH HIMSELF.

4 Q THANK YOU, MS. WILSON. PLEASE ANSWER ANY QUESTIONS
5 THEY MAY HAVE FOR YOU ON REDIRECT.

6 THE COURT: ANY REDIRECT FOR THE WITNESS?

7 MR. KELLY: NO, MA'AM.

8 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
9 EXCUSED FROM THE STATE?

10 MR. HEMBREE: NO, MA'AM.

11 THE COURT: FROM THE DEFENSE?

12 MR. KELLY: NO, MA'AM.

13 THE COURT: MA'AM, YOU'RE EXCUSED.

14 (WITNESS LEFT THE STAND.)

15 MR. KELLY: ATTORNEY IRBY WALKER.

16 THE COURT: WE ARE GOING TO TAKE A BREAK. MADAM
17 FORELADY, LADIES AND GENTLEMEN, YOU ALL HAVE BEEN
18 SITTING PROBABLY CLOSE TO TWO HOURS. I'M GOING TO
19 GIVE YOU ALL A SHORT BREAK SO YOU CAN STRETCH YOUR
20 LEGS AND GET REFRESHED. I ANTICIPATE THAT THAT BREAK
21 WILL BE 10 TO 15 MINUTES.

22 DURING THE BREAK -- WHICH SHOULD GIVE YOU ALL AN
23 OPPORTUNITY TO -- SMOKE BREAK ALSO. DURING THE BREAK
24 PLEASE DO NOT DISCUSS THE CASE. PLEASE LEAVE YOUR
25 NOTEPADS IN YOUR SEATS AND LET YOUR CUSTODIANS KNOW

1 IF YOU NEED ANYTHING.

2 (JURY LEFT THE COURTROOM AT 3:51 PM.)

3 THE COURT: IS THERE ANYTHING BEFORE WE BREAK?

4 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
5 HONOR.

6 THE COURT: I WOULD JUST ADVISE ALL OF THOSE WHO
7 ARE IN THE GALLERY, IF YOU HAVE CELLPHONES OR OTHER
8 ELECTRONIC DEVICES, BY ORDER OF THE CHIEF JUSTICE,
9 THEY HAVE TO BE IN THE OFF POSITION.

10 IF THEY GO OFF DURING THE PROCEEDINGS, THEY WILL
11 BE CONFISCATED. THAT DOES NOT MEAN VIBRATE. IT
12 DOESN'T MEAN BEEPS. IT MEANS OFF. OKAY? THANK YOU.
13 WE WILL BE AT EASE.

14 MR. KELLY: THANK YOU, MA'AM.

15 (WHEREUPON A RECESS WAS TAKEN.)

16 MR. HUMPHRIES: YESTERDAY WE TALKED ABOUT THE
17 DISK WITH ALL PHOTOGRAPHS.

18 THE COURT: PHOTO DISK, YES. WAS IT EVER MOVED
19 INTO EVIDENCE?

20 MR. HUMPHRIES: THEY DID MOVE IT INTO EVIDENCE
21 AND WE ASKED THAT WE -- YOU KNOW, WE STIPULATED TO
22 ITS INTRODUCTION. THEY'VE PROVIDED NOW THIS DISK AND
23 JUST...

24 THE COURT: OKAY. IT WILL BE MARKED AND
25 ADMITTED AS DEFENSE NEXT IN LINE WITHOUT OBJECTION.

1 MR. HUMPHRIES: VERY GOOD. THANK YOU, YOUR
2 HONOR.

3 MR. DIGGS: YOUR HONOR, COULD I TAKE THAT WITH
4 ME OVERNIGHT AND BRING IT BACK TOMORROW?

5 THE COURT: YOU DON'T HAVE ANOTHER ONE? ONCE
6 IT'S ADMITTED INTO EVIDENCE, I CAN'T RELEASE IT.

7 MR. HUMPHRIES: YOU'VE GOT IT ON THE COMPUTER.
8 THAT'S WHERE YOU GOT IT FROM, FROM THE COMPUTER.

9 THE COURT: NOW, THE OTHER QUESTION I NEED FOR
10 THE COURT REPORTER'S BENEFIT IS I NEED TO KNOW IF THE
11 OTHER TWO DOCUMENTS, I BELIEVE THEY'RE 34 AND 35?

12 MR. HUMPHRIES: 37 AND 38.

13 THE COURT: 37 AND 38. I KNEW THEY WERE IN THE
14 THIRTIES -- HAVE BEEN REDACTED SO WE CAN SUBSTITUTE
15 THOSE FOR THE RECORD.

16 MR. KELLY: YES, MA'AM. WE BELIEVE THE LAST
17 WITNESS TOOK A PAGE WITH HER. AND IT'S PROBABLY A
18 BLANK PAGE IS WHAT IT IS. BUT MA'AM, WE ARE TRYING
19 TO GET A CLEAN--

20 THE COURT: OH, BECAUSE WE GAVE THE ONES THAT
21 WERE SUPPOSED TO BE MARKED AS COURT'S EXHIBITS BACK
22 TO THEM?

23 MR. KELLY: WE GOT IT BACK, MA'AM, AND SO...

24 THE COURT: I NEED THE ORIGINAL ONES THAT WE
25 WERE DISCUSSING, I NEED THOSE AS -- I'VE ALREADY MADE

1 THOSE COURT'S EXHIBITS.

2 MR. HUMPHRIES: THEY'VE REDACTED THOSE.

3 THE COURT: THEY'VE REDACTED THE ORIGINALS?

4 MR. KELLY: THOSE WERE CLEAN COPIES, MA'AM. WE
5 WILL GIVE YOU CLEAN COPIES.. WE REDACTED WHAT YOU HAD
6 BEFORE REVIEW, AND WE'LL JUST GIVE YOU BRAND NEW
7 CLEAN COPIES.

8 MR. HEMBREE: AS THE COURT'S EXHIBITS.

9 THE COURT: YEAH. I JUST WANTED FOR APPELLATE
10 PURPOSES FOR THE COURT TO KNOW WHAT HAS BEEN REDACTED
11 AND WHAT WAS ORIGINALLY BEING TALKED ABOUT. SO I
12 NEED THE ONE -- UNREDACTED ONE MADE COURT'S EXHIBITS,
13 AND THE REDACTED ONES WILL BE THE DEFENDANT'S
14 EXHIBITS.

15 AND I ACTUALLY WOULD LIKE TO GET THAT SQUARED
16 AWAY RIGHT NOW BEFORE WE DO ANYTHING ELSE BECAUSE IT
17 WILL GET LOST IN THE SHUFFLE.

18 MR. KELLY: YES, MA'AM.

19 THE COURT: DO Y'ALL NEED OUR ASSISTANCE? WHAT
20 DO YOUR RECORDS REFLECT THOSE EXHIBITS WERE?

21 COURT REPORTER: 37 AND 38.

22 THE COURT: WHAT WERE THEY?

23 COURT REPORTER: I DIDN'T GET TO WRITE A
24 DESCRIPTION DOWN IN MY NOTES. LOOKS LIKE 37 IS A
25 PRINTOUT FROM AN APPOINTMENT LEDGER.

1 THE COURT: FROM THE SOLICITOR'S OFFICE?

2 COURT REPORTER: I THINK IT WAS PROBATION.

3 THE COURT: YEAH, PROBATION.

4 COURT REPORTER: PROBATION. AND 38...

5 (WHEREUPON THERE WAS A PAUSE.)

6 MR. HUMPHRIES: JUDGE, STATE'S --

7 THE COURT: IT REALLY SHOULD BE A DEFENSE--

8 MR. HUMPHRIES: -- OR I MEAN DEFENSE. I'M
9 SORRY -- DEFENDANT'S 39, THEY HAVE ALSO INCLUDED THE
10 PROBATION, PARDON, AND PAROLE RECORDS ON HERE.
11 CERTAINLY THEY'RE NOT REDACTED.

12 THE COURT: YEAH, THEY'VE GOT TO BE REDACTED.

13 MR. HUMPHRIES: I MEAN, CAN WE JUST TAKE THEM
14 OFF OF THE DISK? I MEAN, THEY'VE GOT THE HARD
15 COPIES.

16 THE COURT: THAT WAS ON THE COMPUTER -- REDACT
17 IT FROM THAT DISK. THEY CAN MAKE ANOTHER DISK,
18 CAN -- PHOTOS IF THEY WANT. JUST MAKE ANOTHER COPY.
19 BUT I NEED YOU ALSO WORK ON THAT NOW.

20 MR. HUMPHRIES: DOES THE COURT REPORTER NEED TO
21 KEEP THESE SINCE IT'S ALREADY BEEN MARKED?

22 THE COURT: WE CAN SUBSTITUTE, BUT SHE NEEDS TO
23 LEAVE THAT WITH HER UNTIL IT'S DONE. DO YOU NEED
24 THAT TO MAKE ANOTHER COPY?

25 OFFICER: I HAVE GOT THE PROBATION, PARDON

1 RECORDS SCANNED IN ON THAT, SO -- TRYING TO FIND IT
2 SO I COULD GO AND PRINT...

3 THE COURT: WHAT WE'RE TRYING TO DO IS THAT'S
4 THE DISK THAT REPORTEDLY HAS THE POWERPOINT WITH ALL
5 HIS HIGH SCHOOL PICTURES. WHAT HAS BEEN ADMITTED
6 INTO THE RECORD ARE ONLY THOSE PHOTOS, THAT
7 POWERPOINT.

8 SO ANY DISK WE ADMIT CAN ONLY HAVE THOSE PHOTOS
9 ON IT, NOT THAT ADDITIONAL DOCUMENTATION. SO WHAT
10 I'M TRYING TO ASCERTAIN IS DO YOU NEED THAT DISK TO
11 MAKE THE CLEAN COPY OF THE PHOTO POWERPOINT, MAKE A
12 COPY OF THE -- CLEAN COPY OF THE POWERPOINT SO THAT
13 THEN I CAN SUBSTITUTE THAT FOR THAT ONE AND YOU CAN
14 HAVE THAT ONE BACK, THEN THAT ELIMINATES THE ISSUE.
15 BECAUSE OTHERWISE WE'RE GOING TO CONFUSE THE COURT
16 REPORTER AND THE RECORD.

17 (WHEREUPON, COURT'S EXHIBIT 13 WAS ADMITTED INTO
18 EVIDENCE.)

19 THE COURT: OKAY. DO WE HAVE THE CLEAN COPY OF
20 THE OTHER DOCUMENT THAT WE'VE BEEN DISCUSSING WITH --
21 THE DEPARTMENT OF PROBATION, PARDON, AND PAROLE
22 RECORDS? THE REDACTED COPY AND THEN THE ORIGINAL
23 COPY.

24 MR. HUMPHRIES: THE REDACTED COPIES ARE COMING.
25 WE'RE MAKING COPIES NOW.

1 THE COURT: OKAY.

2 MR. HUMPHRIES: I THOUGHT THEY WERE GOING TO
3 PRINT OUT A CLEAN COPY.

4 THE COURT: OKAY. DO YOU NEED THAT DISK TO DO
5 THAT?

6 OFFICER: THIS IS -- I HAVE ACTUALLY GOT...

7 THE COURT: OKAY.

8 MR. HUMPHRIES: YOUR HONOR, THEY HAVEN'T BEEN
9 FULLY REDACTED. WE ALREADY FOUND A COUPLE OF
10 REFERENCES WE--

11 THE COURT: ALL RIGHT. WELL, WE WILL JUST KEEP
12 THOSE AND BEFORE WE LEAVE TONIGHT WE WILL GET IT
13 STRAIGHT. ALL RIGHT. IS THERE ANYTHING ELSE BEFORE
14 WE PROCEED? FROM THE STATE?

15 MR. HUMPHRIES: NOT FROM THE STATE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. KELLY: NO, MA'AM.

18 THE COURT: PLEASE BRING IN THE JURY.

19 (JURY ENTERED THE COURTROOM AT 4:27 PM.)

20 THE COURT: YOU MAY BE SEATED. LADIES AND
21 GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE
22 WILL NOW RESUME WITH THE TRIAL. YOU MAY PROCEED.

23 MR. KELLY: CALL ATTORNEY IRBY WALKER. NO,
24 MA'AM. EXCUSE ME, HEATHER TOLAR.

25 THE COURT: YOU MAY PROCEED.

1 HEATHER TOLAR, AFTER
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE COURT: YOU MAY PROCEED.

4 DIRECT EXAMINATION

5 BY MR. KELLY:

6 Q MA'AM, WHERE ARE YOU EMPLOYED NOW?

7 A I'M EMPLOYED BY THE 15TH SOLICITOR'S -- CIRCUIT
8 SOLICITOR'S OFFICE.

9 Q AND WHAT IS YOUR JOB TITLE THERE?

10 A ASSISTANT SOLICITOR.

11 Q AND WERE YOU EMPLOYED THERE IN 2005?

12 A I WAS.

13 Q HOW LONG HAVE YOU BEEN THERE?

14 A I HAVE BEEN THERE SINCE I BELIEVE 2002.

15 Q DO YOU REMEMBER BEING THE SOLICITOR ON CALL IN --
16 FEBRUARY THE FOURTH THROUGH -- EXCUSE ME -- MARCH THE
17 FOURTH THROUGH MARCH THE TENTH, 2005?

18 A I DON'T RECALL BEING ON CALL ON THAT SPECIFIC DAY.

19 MR. KELLY: YOUR HONOR, COULD I ASK THAT SHE BE
20 SUPPLIED WITH EXHIBIT NUMBER 36?

21 THE WITNESS: YES. THIS INDICATES THAT I WAS ON
22 CALL MARCH THE FOURTH THROUGH THE TENTH OF 2005.

23 BY MR. KELLY:

24 Q OKAY. MA'AM, AS AN ASSISTANT SOLICITOR AT THAT TIME,
25 WOULD YOU HAVE BEEN ABLE TO ACCESS ANY INFORMATION BANK,

1 ANY COMPUTER BANK TO FIND OUT WHO IS ON -- WHO IS BEING
2 SUPERVISED BY THE DEPARTMENT OF PROBATION, PARDON, AND
3 PAROLE IN HORRY COUNTY?

4 A NO, I -- I DON'T THINK I HAVE ACCESS TO THAT. SOME
5 OF OUR ASSISTANTS MAY.

6 Q OKAY. DO YOU REMEMBER DURING 2005 AND BEFORE APRIL
7 THE EIGHTH PERHAPS WHEN YOU WERE HERE AND WERE RECEIVING A
8 CALL FROM A CITIZEN WHOSE NAME IS CONNIE PRICE?

9 A I DO NOT RECALL HER NAME SPECIFICALLY, BUT I -- I
10 KNOW OF THE PERSON WHOM YOU'RE REFERRING.

11 Q AND THE -- DO YOU SAY THAT YOU REMEMBER NOT HER NAME
12 BUT PERHAPS YOU WERE RECEIVING A CALL FROM HER EVEN THOUGH
13 NOT HER NAME?

14 A I DON'T SPECIFICALLY RECALL HER NAME, ALTHOUGH I -- I
15 CAME TO RECOGNIZE THAT THAT IS IN FACT HER NAME AFTER THE
16 FACT.

17 Q AND AS A RESULT OF HER CALLING YOU, DID YOU GIVE HER
18 ANY ADVICE, DO YOU REMEMBER?

19 A I DID.

20 Q WHAT DID YOU ADVISE HER?

21 A I ADVISED HER THAT SHE NEEDED TO GO TO THE COUNTY
22 CLERK'S OFFICE AND DETERMINE WHETHER OR NOT CERTAIN LEGAL
23 DOCUMENTS HAD BEEN FILED ON HER BEHALF. I ALSO ADVISED
24 HER TO CALL THE SOUTH CAROLINA BAR ASSOCIATION AND
25 DETERMINE WHETHER OR NOT MR. STANKO WAS IN FACT A LAWYER.

1 Q AND SO HER INQUIRY DID CONCERN MR. STANKO?

2 A YES.

3 Q DID YOU ADVISE HER OF ANYTHING ELSE, MA'AM?

4 A I DON'T BELIEVE THAT I GAVE HER ANY OTHER ADVICE.

5 Q ALL RIGHT. MA'AM, YOU'RE RESPONDING TO OUR SUBPOENA
6 TO BE PRESENT TODAY?

7 A THAT'S CORRECT.

8 Q I KNOW IT'S AN INCONVENIENCE. WE THANK YOU FOR
9 COMING. NO FURTHER QUESTIONS.

10 A THANK YOU.

11 THE COURT: ANY CROSS-EXAMINATION OF THE
12 WITNESS?

13 MR. HUMPHRIES: NO. THANK YOU.

14 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
15 EXCUSED FROM THE STATE?

16 MR. HUMPHRIES: NONE FROM THE STATE.

17 THE COURT: FROM THE DEFENSE?

18 MR. KELLY: NO, MA'AM.

19 THE COURT: YOU'RE EXCUSED. YOU MAY CALL YOUR
20 NEXT WITNESS.

21 THE WITNESS: THANK YOU.

22 (WITNESS LEFT THE STAND.)

23 THE COURT: YOU MAY CALL YOUR NEXT WITNESS.

24 MR. KELLY: ATTORNEY IRBY WALKER.

25 IRBY WALKER, AFTER

1 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE COURT: YOU MAY PROCEED.

3 DIRECT EXAMINATION

4 BY MR. KELLY:

5 Q MR. WALKER, MY NAME IS GERALD KELLY. I THINK WE MET
6 EARLIER TODAY WHEN YOU CAME TO THE COURTHOUSE; CORRECT?

7 A YES.

8 Q BEFORE THAT YOU AND I HAVEN'T MET; HAVE WE?

9 A NO, SIR.

10 Q I WANT TO ASK YOU SOME QUESTIONS ABOUT MR. STEPHEN
11 STANKO. DID YOU REPRESENT MR. STEPHEN STANKO IN THE YEAR
12 2005?

13 A I DO NOT PRESENT THAT I EVER PRESENTED HIM. I HELPED
14 HIM ON SOMETHING, BUT HE NEVER ACTUALLY PAID MY RETAINER
15 FOR WHAT HE WANTED ME TO REPRESENT HIM ON.

16 Q OKAY. ASK YOU TO LOOK AT THIS DOCUMENT, PLEASE SIR.

17 A YES, SIR.

18 Q DO YOU RECOGNIZE THAT?

19 A YES, SIR.

20 Q WHAT IS IT?

21 A THAT IS A FEE AGREEMENT THAT MY OFFICE USES.

22 Q AND IT IS BETWEEN WHOM AND WHOM?

23 A IT WOULD BE BETWEEN MY OFFICE AND MR. STANKO.

24 Q AND TO WHAT PURPOSE WAS YOUR OFFICE CONTRACTED?

25 A MR. STANKO ASKED ME TO HELP HIM IN CONNECTION WITH A

1 MOTION TO RECONSIDER A POST-CONVICTION RELIEF APPLICATION
2 MATTER AND A SEX OFFENDER MATTER, AND THIS SET FORTH THE
3 TERMS OF WHAT HE WAS TO PAY ME AND THE HOUR -- MY HOURLY
4 RATE.

5 Q SIR, THAT WAS A MATTER, WAS IT NOT, WHERE THERE WAS
6 AN ORDER ISSUED BY THE PCR COURT TO THE EFFECT THAT THERE
7 WAS NO SEX OFFENDER STATUS AGAINST HIM AND HE WANTED THAT
8 CLEARED UP WITH HIS PROBATION AND PAROLE OFFICE?

9 A THAT IS CORRECT, SIR.

10 Q AND IN FACT, DID YOU LOCATE THAT PCR ORDER AND SHOW
11 IT TO THE PROPER PERSONS AND THAT MATTER WAS CLEARED?

12 A NO, SIR. I LOCATED THE ORDER. MR. STANKO SENT ME AN
13 ORDER, BUT AGAIN, HE NEVER PAID -- HE NEVER FINISHED
14 PAYING MY RETAINER FEE.

15 Q WELL, THE -- SO THE JURY WILL UNDERSTAND, MR. WALKER,
16 WASN'T IT A MATTER THAT WHEN HE WAS RELEASED FROM PRISON--

17 MR. HEMBREE: OBJECTION, YOUR HONOR, AS TO
18 LEADING.

19 THE COURT: SUSTAINED. LEADING.

20 BY MR. KELLY:

21 Q WHEN HE -- TELL US -- TELL US HOW IT WAS
22 MISUNDERSTOOD THAT MR. STANKO WAS A -- LISTED AND STATUS
23 OF A SEX OFFENDER.

24 A THIS IS ALL I CAN TELL YOU, MR. KELLY. MR. STANKO
25 HAD BEEN REPRESENTED BY A FRIEND OF MINE FROM MANNING

1 NAMED HARRY DEVOE. WHEN HE MOVED TO HORRY COUNTY, HE CAME
2 TO MY OFFICE CONCERNED ABOUT TWO MATTERS.

3 THE MATTER TO WHICH YOU REFER WAS THIS. MR. STANKO
4 HAD APPARENTLY -- AND I ASSUME THIS HAD COME OUT.
5 MR. STANKO HAD APPARENTLY AT ONE POINT IN TIME PLED GUILTY
6 TO KIDNAPPING.

7 UNDER OUR LAW, IT IS POSSIBLE FOR KIDNAPPING TO BE
8 TREATED AS A SEX OFFENDER CRIME. IT IS ALSO POSSIBLE THAT
9 IT WILL NOT BE TREATED AS A SEX OFFENDER CRIME.

10 MR. STANKO HAD, AS I RECALL, HAD APPARENTLY OBTAINED
11 AN ORDER THAT -- HAD OBTAINED A FINDING RATHER IN A PCR
12 HEARING THAT HIS CRIME THAT HE HAD PLED TO DID NOT FIT THE
13 MODE FOR HIM BEING TREATED AS A REGISTERED SEX OFFENDER.

14 WHAT BROUGHT HIM TO MY OFFICE AMONG OTHER THINGS WAS
15 THE FACT THAT AT THAT TIME HE -- AS I RECALL, NOW, HE HAD
16 CONSIDERED MOVING TO NORTH CAROLINA AND THE NORTH CAROLINA
17 AUTHORITIES HAD NOTIFIED HIM THAT IN NORTH CAROLINA HE
18 WOULD BE REGISTERED. HE WOULD HAVE TO REGISTER AS A SEX
19 OFFENDER.

20 HE DID NOT BELIEVE THAT HE SHOULD HAVE TO DO THAT,
21 HE HAD FILED SOME KIND OF A WRIT OR SOMETHING IN EITHER
22 DORCHESTER OR BERKELEY COUNTY AND THEN HE HAD -- AND THE
23 JUDGE HAD APPARENTLY NEVER RULED ON IT.

24 HE HAD MOVED TO HORRY COUNTY AND HAD FILED A CHANGE
25 OF VENUE MOTION AND THE MATTER WAS HUNG UP. AND HE WANTED

1 ME TO BASICALLY UNHANG IT, FOR LACK OF A BETTER WAY OF
2 SAYING IT.

3 Q IT WAS -- IN SOUTH CAROLINA WHEN SOMEONE IS CONVICTED
4 OF KIDNAPPING, IF THERE'S A SPECIAL FINDING THEN -- THAT
5 THERE -- THAT PERSON CAN BE LISTED IN THE REGISTRY AS A
6 SEX OFFENDER; CORRECT?

7 A THAT IS CORRECT.

8 Q TAKE A LOOK AT THIS DOCUMENT AND TELL ME IF YOU
9 RECOGNIZE IT.

10 A YES, SIR. THIS IS A DOCUMENT MR. STANKO FURNISHED
11 ME.

12 Q ALL RIGHT.

13 MR. KELLY: I'D ASK IT BE ENTERED.

14 MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

15 THE COURT: MARKED AND ADMITTED WITHOUT
16 OBJECTION.

17 (WHEREUPON, DEFENDANT'S EXHIBIT 40 WAS ADMITTED
18 INTO EVIDENCE.)

19 BY MR. KELLY:

20 Q NOW SIR, WHAT -- WHO IS THE JUDGE THAT SIGNED THAT
21 ORDER?

22 A PAUL SHORT, JUDGE SHORT.

23 Q AND LOOKING -- LOOK IN THERE BACK TOWARDS THE LAST
24 PAGE OF -- THE NEXT TO LAST PAGE SO WE CAN PUBLISH TO THE
25 JURY THE JUDGE'S FINDING AS TO THE REGISTRATION THAT

1 STANKO -- AND THE SEXUAL OFFENDER REGISTER.

2 A ALL RIGHT. ON PAGE FIVE IT -- I ASSUME THIS IS WHAT
3 YOU WANT -- THIS COURT REVIEWED THE FACTS OF THE CASE AND
4 FINDS THERE IS NO ALLEGATION OR INDICATION OF A CRIMINAL
5 SEXUAL OFFENSE AGAINST THE VICTIM OF APPLICANT'S
6 KIDNAPPING.

7 CONSEQUENTLY THIS COURT FINDS THE TRIAL COURT DID NOT
8 INTEND FOR APPLICANT TO REGISTER AS A SEXUAL OFFENDER.
9 INSTEAD, THIS COURT FINDS THE TRIAL COURT, HAD IT BEEN
10 AWARE OF THE REQUIREMENT SECTION 23-3-430C15, WOULD HAVE
11 OPTED OUT THE APPLICANT.

12 THEREFORE THIS COURT VERIFIES APPLICANT'S SENTENCE
13 AND FINDS THE CONVICTION OF KIDNAPPING DID NOT INVOLVE
14 CRIMINAL SEXUAL OFFENSE. JUST STOP ME WHEN YOU WANT ME TO
15 STOP.

16 MR. HEMBREE: I MIGHT BE ABLE TO -- THE STATE
17 WOULD STIPULATE THAT THIS DEFENDANT IS NOT A
18 REGISTERED SEX OFFENDER AND SHOULD NOT HAVE BEEN A
19 REGISTERED SEX OFFENDER AS A RESULT OF HIS PREVIOUS
20 GUILTY PLEA TO KIDNAPPING.

21 MR. KELLY: WE WILL ACCEPT THAT, MA'AM.

22 THE COURT: SO STIPULATED. YOU MAY CONTINUE.
23 BY MR. KELLY:

24 Q AND THAT'S REALLY WHAT YOU WERE HIRED FOR WAS TO
25 STRAIGHTEN THAT MATTER OUT?

1 A THAT IS WHAT HE CONSULTED ME ABOUT, YES, SIR.

2 Q AND THAT ORDER THAT YOU HAVE IN YOUR HAND WAS -- WAS
3 A KEY DOCUMENT IN CLEARING THAT MATTER UP?

4 A YES, SIR.

5 Q NOW, MR. WALKER, IF YOU WOULD BE SO KIND, WERE YOU
6 RETAINED OR DID YOU REPRESENT MR. STANKO ON OR ABOUT THE
7 28TH OF JANUARY, JANUARY OF 2005, ON ANOTHER PAROLE,
8 PROBATION, PARDON DEPARTMENT MATTER?

9 A MR. KELLY, I DO NOT CONSIDER THAT I WAS RETAINED BY
10 MR. STANKO NOR DO I CONSIDER THAT I REPRESENTED HIM.
11 MR. STANKO HAD COME INTO MY OFFICE SOME TIME PRIOR TO THAT
12 AND HAD INTRODUCED HIMSELF TO ME.

13 HE -- AND AGAIN, I'M TRYING TO REMEMBER THIS. MY
14 FILE IS VERY SCANT WITH, YOU KNOW, IN TERMS OF WHY HE CAME
15 IN. BUT HE WAS--

16 Q MR. WALKER--

17 A -- HE WAS CONCERNED THAT PROBATION AND PAROLE MAY BE
18 ATTEMPTING TO VIOLATE HIS PROBATION AND PAROLE FOR SOME
19 REASON. AND IT COULD HAVE BEEN THAT HE WASN'T -- HE
20 HASN'T REPORTED OR SOMETHING. I DON'T REMEMBER WHAT IT
21 WAS. BUT HE HAD APPARENTLY SCHEDULED HIMSELF TO GO TO
22 PROBATION AND PAROLE THAT DAY OR MAYBE -- MAYBE NOT.

23 BUT I CALLED PROBATION AND PAROLE AND THEY ASSURED
24 ME, WHOEVER I SPOKE WITH OVER THERE, THAT HE WOULD NOT BE
25 GOING TO JAIL, THAT THEY WERE NOT GOING TO VIOLATE HIM AT

1 LEAST ON THAT DAY.

2 AND I WALKED HIM OVER AND SHOWED HIM WHERE -- HE AND
3 THIS LADY THAT, YOU KNOW, HE'S BEEN CONVICTED OF
4 KILLING -- I WALKED THEM OVER AND TOOK THEM TO THE FRONT
5 DESK AT PROBATION AND PAROLE, AND THEY CALLED SOMEBODY AND
6 I LEFT ESSENTIALLY. I MEAN, I DID THAT MORE AS A FAVOR TO
7 HIM.

8 Q AND THAT WAS LAURA LING AND STEPHEN STANKO THAT YOU
9 JUST WALKED OVER WITH?

10 A YES.

11 Q OKAY. AND DO YOU REMEMBER OR NOT IF THE PERSON YOU
12 SPOKE WITH WAS GLORIA WILSON?

13 A I DO NOT HAVE A CLUE, NO, SIR. COULD NOT TELL YOU.

14 Q AND DID YOU EVER HAVE ANY INFORMATION THAT THERE WERE
15 ANY REPORTS TO PROBATION AND PAROLE THAT YOU WERE ASKED TO
16 DEAL WITH HAD TO DO WITH ANY MISBEHAVIOR OF MR. STANKO IN
17 THE COMMUNITY?

18 A NO, I DON'T KNOW WHAT YOU'RE TALKING ABOUT. I CAN'T
19 RECALL ANYTHING LIKE THAT.

20 Q EXCUSE ME?

21 A I CAN'T RECALL ANYTHING LIKE THAT. ARE YOU ASKING ME
22 DID PROBATION AND PAROLE CONTACT ME?

23 Q YES. I'M ASKING YOU, WAS THERE EVER ANY CONTACT FROM
24 PROBATION AND PAROLE OR INFORMATION TO YOU FROM PROBATION
25 AND PAROLE THAT THEY HAD RECEIVED ANY INFORMATION THAT

1 WOULD -- THAT MR. STANKO WAS A PROBLEM IN THE COMMUNITY?

2 A NOT THAT I CAN RECALL, NO, SIR.

3 Q I HAVE NO FURTHER QUESTIONS FOR YOU.

4 THE COURT: ANY QUESTIONS FOR THE WITNESS?

5 MR. HEMBREE: NO, YOUR HONOR. I HAVE NO
6 QUESTIONS FOR MR. WALKER.

7 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
8 EXCUSED FROM THE STATE?

9 MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

10 MR. KELLY: NO. AND THANK YOU FOR COMING, MR.
11 WALKER.

12 THE WITNESS: THANK YOU, SIR.

13 THE COURT: MR. WALKER, YOU'RE EXCUSED.

14 (WITNESS LEFT THE STAND.)

15 THE COURT: YOU MAY PROCEED, MR. KELLY.

16 MR. KELLY: MR. JOHN BERTANG.

17 JOHN BERTANG, AFTER
18 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE COURT: YOU MAY PROCEED.

20 DIRECT EXAMINATION

21 BY MR. KELLY:

22 Q OFFICER BERTANG, THANK YOU FOR COMING TODAY. WHERE
23 ARE YOU PRESENTLY EMPLOYED?

24 A MYRTLE BEACH POLICE DEPARTMENT.

25 Q AND WERE YOU EMPLOYED AT MYRTLE BEACH POLICE

1 DEPARTMENT IN APRIL OF 2005?

2 A YES.

3 Q AND DID YOU HAVE AN APPOINTMENT WITH A CITIZEN NAMED
4 CONNIE PRICE ON THURSDAY, APRIL THE SEVENTH, 2005?

5 A I DON'T RECALL.

6 Q DID YOU HAVE -- DO YOU HAVE AN APPOINTMENT BOOK, A
7 LOG, THAT YOU BROUGHT WITH YOU?

8 A NO.

9 Q HAVE YOU -- WHEN YOU RECEIVED OUR SUBPOENA, DID YOU
10 CHECK IN ANY RECORDS OR INFORMATION THAT YOU HAD WHICH
11 SHOWED THAT YOU MIGHT HAVE HAD AN APPOINTMENT ON THAT DAY
12 9-31 WITH A CONNIE PRICE?

13 A YES.

14 Q AND DID YOU FIND ANY?

15 A NO, I DID NOT.

16 Q DO YOU HAVE ANY RECORD THAT SHOWED THAT SHE WAS NOT
17 WITH YOU?

18 A I HAVE A SUBPOENA THAT Y'ALL HAD SERVED ALSO. AND I
19 WAS PROVIDED A VISITOR'S INFORMATION LOG BOOK PRESENTED TO
20 ME BY THE OFFICE ASSISTANT FOR THE DETECTIVE DIVISION, AND
21 HER NAME IS NOT ON HERE.

22 Q MAY I SEE IT, PLEASE?

23 A YES, SIR. (COMPLIED.)

24 Q SIR --

25 MR. KELLY: TAKE IT BACK TO HIM.

1 BY MR. KELLY:

2 Q DO YOU SEE THAT THIS IS FROM THE YEAR 2006?

3 A YES.

4 Q BUT I'M REFERRING TO 2005.

5 A I UNDERSTAND THAT.

6 Q DID YOU -- DO YOU HAVE ANY RECORD THAT A CITIZEN
7 NAMED CONNIE PRICE AND ANOTHER CITIZEN NAMED GARY OWENS
8 CAME AND MET WITH YOU BY APPOINTMENT ON THURSDAY, APRIL
9 THE SEVENTH, 2005?

10 A NO, SIR. YOU HAD SERVED THIS SUBPOENA ON THE MYRTLE
11 BEACH POLICE DEPARTMENT ANNEX, AND THAT WAS THE FORM THAT
12 WAS PROVIDED TO ME.

13 Q DID YOU -- HAVE YOU EVER MET WITH ANYONE NAMED CONNIE
14 PRICE?

15 A IT SOUNDS FAMILIAR.

16 Q AND HOW DOES IT SOUND FAMILIAR, FROM WHAT SOURCE IN
17 YOUR MEMORY?

18 A FROM VICKY, VICKY CHILDS WHO IS SEATED RIGHT THERE,
19 SHE HAD TOLD ME THAT SHE--

20 MR. HEMBREE: OBJECTION, YOUR HONOR. HEARSAY.

21 THE COURT: SUSTAINED. HEARSAY. SIR, YOU
22 CANNOT SAY WHAT SOMEONE TOLD YOU. YOU CAN SAY WHAT
23 YOU DID AS A RESULT.

24 THE WITNESS: OKAY.

25 BY MR. KELLY:

1 Q DID ANY CITIZEN COME TO YOU TO YOUR KNOWLEDGE THE DAY
2 BEFORE LAURA LING WAS MURDERED AND ATTEMPT TO SPEAK TO YOU
3 ABOUT STEPHEN STANKO?

4 A I DON'T RECALL HIS NAME PRIOR TO THAT INCIDENT.

5 Q IF AN INCIDENT OF -- IF THAT DID TAKE PLACE, THEN YOU
6 DON'T HAVE ANY RECORD?

7 A IF WHAT TOOK PLACE?

8 Q IF INDEED THEY DID MEET WITH YOU, YOU DON'T HAVE ANY.
9 RECORD THAT THEY DID. IS THAT CORRECT?

10 A CORRECT.

11 Q AND YOU DON'T HAVE ANY MEMORY OF IT. IS THAT
12 CORRECT?

13 A IT VAGUELY -- VAGUELY SOUNDS FAMILIAR -- FAMILIAR
14 THAT -- I MEET WITH HUNDREDS AND HUNDREDS OF PEOPLE DURING
15 THE COURSE OF INVESTIGATIONS. I MEET WITH A LOT OF PEOPLE
16 WHEN IT COMES TO JURISDICTIONAL ISSUES AND THINGS, IT'S
17 SOMETHING THAT I MYSELF AM GOING TO OPEN UP A CASE ON,
18 THEN I WILL DO THAT AND ATTEMPT TO THOROUGHLY DOCUMENT IT.

19 IT'S ALSO OTHER TIMES THAT PEOPLE COME AND ASK
20 QUESTIONS ABOUT THINGS. AND ONCE I DETERMINE THAT IT'S
21 NOT IN THE MYRTLE BEACH POLICE DEPARTMENT JURISDICTION,
22 WHAT I DO IS I TRY TO HELP THEM OUT AS BEST I CAN AND SAY,
23 WELL, WHAT YOU PROBABLY NEED TO DO IS THIS, THIS, AND
24 THIS, AND THIS IS THE JURISDICTION THAT YOU NEED TO TALK
25 WITH IF YOU'D LIKE TO GET SOME RESOLUTION IN THE MATTER.

1 Q IS THAT WHAT YOU THINK YOU TOLD THEM?

2 A YES.

3 Q AND YOU HAVE SOME MEMORY OF THAT?

4 A VAGUELY. SHE HAD INTRODUCED HERSELF PRIOR TO --

5 PRIOR TO THE -- TO TESTIFYING I HAD OVERHEARD HER

6 INTRODUCE HERSELF TO SOMEONE ELSE AS CONNIE PRICE. AND

7 LIKE I SAY, VAGUELY FAMILIAR, BUT I -- I DON'T RECALL THE

8 SPECIFICS OF THE CONVERSATION.

9 Q THAT JOGGED YOUR MEMORY AND YOU HAVE A VAGUE MEMORY
10 OF THE MEETING, BUT ONLY A VAGUE MEMORY; CORRECT?

11 A VERY VAGUE, BUT I KNOW FOR A FACT I DON'T RECALL THE
12 NAME STEPHEN STANKO PRIOR TO THE INCIDENT, THE ACTUAL
13 INCIDENT THAT HAD HAPPENED ON OR ABOUT THE EIGHTH OF
14 APRIL.

15 Q BUT YOU DO HAVE A MEMORY YOU SAY OF A CITIZEN NAMED
16 CONNIE PRICE?

17 A NOT -- NOT PARTICULARLY THAT NAME. LIKE I SAID, SHE
18 HAD INTRODUCED HERSELF. AND BASED ON WHAT -- I CAN'T
19 COMMENT ON HEARSAY, BUT BASED ON THE EVENTS THAT --
20 THERE'S NOTHING ELSE I CAN ADD AS FAR AS THAT -- THAT
21 EVENING GOES.

22 Q NO FURTHER QUESTIONS.

23 THE COURT: ANY QUESTIONS FOR THE WITNESS?

24 CROSS-EXAMINATION

25 BY MR. HEMBREE:

1 Q SERGEANT BERTANG, SOCASTEE IS NOT IN THE JURISDICTION
2 OF THE MYRTLE BEACH POLICE DEPARTMENT; IS IT?

3 A THAT'S CORRECT, IT IS NOT.

4 Q SOCASTEE LIBRARY IS NOT IN THE MYRTLE BEACH
5 JURISDICTION?

6 A CORRECT.

7 Q THANK YOU, SIR.

8 THE COURT: ANY REDIRECT?

9 REDIRECT EXAMINATION

10 BY MR. KELLY:

11 Q SIR, IF -- IF CONNIE PRICE HAD MET WITH YOU AND SHE
12 HAD REPORTED TO YOU ALLEGED CRIMES AND MISBEHAVIORS WERE
13 IN YOUR DISTRICT, NOT TAKING PLACE AT THE LIBRARY, THEN
14 YOU WOULD HAVE RESPONDED; CORRECT?

15 A CORRECT.

16 MR. KELLY: I HAVE NOTHING FURTHER OF THE
17 WITNESS, JUDGE.

18 MR. HEMBREE: NO RE-CROSS.

19 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
20 EXCUSED FROM THE STATE?

21 MR. HEMBREE: NO, YOUR HONOR.

22 THE COURT: FROM THE DEFENSE?

23 MR. KELLY: GARY OWENS.

24 THE COURT: ANY EXCEPTION TO THIS WITNESS BEING
25 EXCUSED?

1 MR. KELLY: OH, NO, MA'AM.

2 THE COURT: SIR, YOU'RE EXCUSED.

3 THE WITNESS: THANK YOU.

4 THE COURT: YOU MAY CONTINUE.

5 (WITNESS LEFT THE STAND.)

6 GARY OWENS, AFTER BEING
7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. KELLY:

10 Q MR. OWENS, PLEASE SPEAK TO THE JURY OVER HERE SO THEY
11 CAN HEAR EVERYTHING YOU SAY. WHERE DO YOU LIVE, GARY?

12 A 5208 LEE LANE, MYRTLE BEACH, SOUTH CAROLINA.

13 Q AND HOW LONG HAVE YOU LIVED IN THIS AREA?

14 A IN THIS AREA?

15 Q YEAH.

16 A SINCE 1990.

17 Q AND WHAT KIND OF WORK DO YOU DO OR HAVE DONE?

18 A I HAVE DONE DRYWALL WORK AND WARRANTY WORK FOR
19 BUILDERS. AND THE LAST TWO YEARS I HAVE BEEN UP --
20 HAVEN'T BEEN DOING A WHOLE LOT. I WAS INJURED ON THE JOB
21 AND HURT MY BACK, HAVE A RUPTURED DISK AND, YOU KNOW,
22 LATELY I'VE JUST BEEN DOING LITTLE SIDE WORK FOR A FEW
23 PEOPLE I KNOW, YARD WORK AND HOUSE WORK, PAINTING. I WORK
24 PART-TIME WITH NICELY (SIC) PAINT.

25 Q DO YOU KNOW CONNIE PRICE?

1 A YES, I DO.

2 Q HOW DO YOU -- TELL THE JURY HOW YOU KNOW HER.

3 A I HAVE BEEN KNOWING CONNIE SINCE I WAS A TEENAGER. I
4 MET HER IN COLUMBUS, GEORGIA WHERE SHE LIVED WITH HER
5 FAMILY. HER FATHER WAS STATIONED AT FORT BENNING,
6 GEORGIA, AND I HAVE BEEN KNOWING HER SINCE WE WERE KIDS.

7 Q AND SHE'S A VERY GOOD FRIEND OF YOURS?

8 A OH, YES.

9 Q GARY, DO YOU REMEMBER THURSDAY, APRIL 7TH, 2005?

10 A YEAH.

11 Q THAT WOULD BE THE DATE BEFORE LAURA LING WAS
12 MURDERED. DO YOU REMEMBER THAT?

13 A YES, I DO.

14 Q WHAT DID YOU DO THAT MORNING?

15 A I DON'T REMEMBER A WHOLE LOT ABOUT THAT MORNING, BUT
16 I REMEMBER A LOT ABOUT THAT EVENING, THOUGH, WHEN...

17 Q WHAT I'M ASKING IS, IN PARTICULAR ON THAT DAY, WHICH
18 WAS A THURSDAY, DID YOU KEEP AN APPOINTMENT WITH--

19 MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.

20 THE COURT: SUSTAINED. LEADING.

21 MR. HUMPHRIES: THANK YOU.

22 BY MR. KELLY:

23 Q DID YOU SPEAK WITH--

24 MR. HUMPHRIES: OBJECTION, YOUR HONOR. LEADING.

25 THE COURT: WELL, I NEED TO HEAR THE WHOLE

1 QUESTION. MR. KELLY, YOU CAN CONTINUE.

2 BY MR. KELLY:

3 Q DID YOU SPEAK WITH OFFICER BERTANG?

4 A OH, YES. YES, I DID.

5 THE COURT: IT IS LEADING.

6 MR. HUMPHRIES: THANK YOU, YOUR HONOR. MR.

7 KELLY--

8 THE WITNESS: I FORGET A LOT OF DAYS, BUT--

9 THE COURT: SIR, THERE IS AN OBJECTION PENDING.

10 THE WITNESS: OKAY.

11 THE COURT: IF YOU COULD BEAR WITH ME. MR.

12 KELLY, IF YOU COULD REFRAIN FROM -- YOU MAY CONTINUE

13 YOUR ANSWER, SIR.

14 THE WITNESS: YES, I REMEMBER MEETING WITH

15 OFFICER BERTANG. ME AND CONNIE MET WITH HIM AT

16 MYRTLE BEACH ANNEX.

17 BY MR. KELLY:

18 Q ABOUT WHAT TIME?

19 A I THINK THE APPOINTMENT WAS -- WAS NINE OR 10:00 IN

20 THE MORNING, I BELIEVE. MIGHT HAVE BEEN 10.

21 Q HOW DID Y'ALL ARRIVE THERE?

22 A IN MY AUTOMOBILE.

23 Q WHY DID Y'ALL GO THERE AT THAT TIME?

24 A WENT THERE TO DISCUSS A FEW DIFFERENT THINGS WITH

25 HIM. WE WENT TO DISCUSS ABOUT STEPHEN STANKO AND SOME OF

1 THE THINGS HE WAS DOING, ABOUT THE CRIMES HE COMMITTED AND
2 HE WAS IMPERSONATING A LAWYER. THIS TIME WE KNEW IT. WE
3 HAD SOME DOCUMENTS THAT WE COMPARED.

4 ONE OF THEM HE BROUGHT US WE KNEW IT WAS A FORGERY
5 BECAUSE SIGNATURES DIDN'T MATCH. AND WE ALSO WENT THERE
6 TO TALK ABOUT A LAURA WILLIAMS, THAT -- A GIRL WE KNEW
7 THAT -- WE KNEW WE WANTED HER TO BE INVESTIGATED, SO...

8 Q HAVE YOU SEEN THIS OFFICER BERTANG SINCE THEN?

9 A YES, I SEEN HIM JUST A FEW MINUTES AGO--

10 Q WHERE DID YOU SEE HIM A FEW MINUTES AGO?

11 A -- IN THE WITNESS ROOM.

12 Q AND ON THAT DAY TELL US WHAT HAPPENED WHEN YOU --
13 FROM THE TIME Y'ALL WALKED IN TO THE POLICE STATION UNTIL
14 YOU LEFT.

15 A WE WALKED IN, FIRST WE MET -- THERE WAS A LADY IN THE
16 DESK. WE TOLD HER WE WAS THERE TO MEET WITH OFFICER
17 BERTANG. AND A FEW MINUTES LATER HE GOT THERE. WE WENT
18 IN AND TALKED TO HIM FOR 30, 45 MINUTES I KNOW AT LEAST.

19 Q WHERE DID YOU GO TO SPEAK WITH HIM?

20 A TO THE MYRTLE BEACH POLICE ANNEX BUILDING ON THE AIR
21 BASE.

22 Q ONCE YOU GOT INTO THE ANNEX, WHERE DID YOU GO IN THE
23 ANNEX TO MEET WITH HIM?

24 A IT WAS IN A SMALL ROOM LIKE DOWN ONE OF THE HALLS
25 THERE IN...

1 Q AND AS -- DID YOU YOURSELF SAY ANYTHING TO
2 MR. BERTANG ABOUT MR. STANKO YOURSELF?

3 A YES, I DID.

4 Q WHAT DID YOU SAY TO HIM?

5 A WELL, I SAID THAT HE WAS PRETENDING TO BE A LAWYER,
6 WE DIDN'T THINK HE WAS A LAWYER, AND THAT WE THOUGHT HE
7 THOUGHT HE WAS BECAUSE HE HAD BEEN TELLING, YOU KNOW, WE
8 CAUGHT HIM IN SOME LIES AND HIS LIES JUST GOT BIGGER AND
9 BIGGER AND A LOT OF THINGS HE SAID WE DIDN'T BELIEVE WAS
10 TRUE LIKE MEETING WITH THE GUY THAT RUN FOR PRESIDENT,
11 MR. EDWARDS, JOHN EDWARDS.

12 WE DIDN'T BELIEVE THAT, YOU KNOW. SO THERE WAS A LOT
13 OF THINGS HE WERE SAYING THAT WAS KIND OF FAR-FETCHED, YOU
14 KNOW.

15 Q WHEN DID YOU FIRST MEET STEPHEN STANKO?

16 A THAT WAS ON NOVEMBER 17TH, 2004.

17 Q WHY DO YOU REMEMBER THAT DAY?

18 A BECAUSE THE SAME DAY WE WENT TO THE LIBRARY. SHE
19 WANTED TO THANK MS. LING FOR INTRODUCING HER TO HIM. AT
20 THAT TIME WE THOUGHT HE WAS REALLY A LAWYER. AND HE DID,
21 YOU KNOW, HE KNEW THE LAW. WE -- HE IMPRESSED US, YOU
22 KNOW, WITH SOME OF HIS LAW STUFF.

23 AND ANY WAY, WE WENT TO -- SHE WANTED TO GO THANK
24 LAURA. AND WHILE I WAS THERE, I GOT A LIBRARY CARD. AND
25 I CALLED AND CHECKED, YOU KNOW, TO MAKE SURE THAT WHEN I

1 GOT THE CARD AND IT WAS ON NOVEMBER 17TH, 2004.

2 Q AND WHERE DID YOU MEET WITH MR. STANKO?

3 A WE MET HIM AT JOE'S RESTAURANT.

4 Q DID YOU PAY MR. STANKO ANY MONEY ON THAT OCCASION?

5 A NOT ON THAT OCCASION, NO.

6 Q DID YOU PAY MR. STANKO ANY MONIES BETWEEN THE 17TH OF
7 NOVEMBER OF 2004 AND THE LAST TIME YOU SAW HIM?

8 A OH, YES. YES I DID, ON SEVERAL DIFFERENT OCCASIONS.

9 Q OKAY. WHAT WERE YOU PAYING HIM MONEY FOR?

10 A WELL, FOR RESEARCH. AND THE LAST -- THE BIG CHECK WE
11 GIVE HIM WAS TO RETAIN A TRANSCRIPT OF A -- CONNIE'S CIVIL
12 TRIAL.

13 Q AND DID -- DID -- WAS THAT EVER PRODUCED?

14 A NO, IT WASN'T.

15 Q WERE ANY OF THE THINGS THAT WERE PROMISED PRODUCED?

16 A WELL, HE -- HE PRODUCED A FEW DOCUMENTS THAT WE FELT
17 WERE FORGED. HE DONE A LOT OF WORK. HE DONE A LOT OF
18 RESEARCH AND HE DONE A LOT OF WORK ON PAPER AND ON THE
19 COMPUTER. HE SHOWED US A LOT OF LAWS AND STUFF THAT HAD
20 BEEN BROKEN BY THE SOLICITOR'S OFFICE.

21 Q DID -- I HEARD YOU MENTION FORGED DOCUMENTS. WHAT
22 DOCUMENTS ARE YOU REFERRING TO?

23 A WELL, THE MAIN DOCUMENT WAS A DOCUMENT HE OBTAINED.
24 HE SAID HE OBTAINED IT FROM VICTOR ROSS (SIC) RESCINDING
25 THE DOCUMENT THAT HE HAD SIGNED FOR THE SOLICITOR'S

1 OFFICE.

2 Q AND WHOSE -- TO YOUR KNOWLEDGE WHOSE SIGNATURE HAD HE
3 FORGED?

4 A VICTOR ROSS (SIC).

5 Q WHEN WAS THE LAST TIME YOU SAW STEPHEN STANKO?

6 A LAST TIME I SEE HIM -- I DON'T EXACTLY REMEMBER THE
7 DATE, BUT I THINK IT WAS TWO DAYS BEFORE THE MURDER
8 OCCURRED OR THE -- WELL, MIGHT HAVE BEEN THE DAY BEFORE.
9 I THINK IT WAS TWO DAYS BEFORE.

10 Q TWO DAYS BEFORE THE DEATH OF LAURA LING.

11 A YES.

12 Q AND WHERE DID YOU SEE HIM?

13 A HE -- WELL, I WENT TO THE RECYCLING DUMP TO TAKE SOME
14 GARBAGE AND STUFF. AND WHEN I COME BACK, HE WAS PARKED IN
15 THE YARD.

16 Q COME BACK WHERE?

17 A TO CONNIE'S AT 5208 LEE LANE. HE WAS THERE TO TALK
18 WITH CONNIE, I THINK, BUT...

19 Q 5208 LEE LANE?

20 A YES, SIR.

21 Q WHAT COUNTY IS THAT IN?

22 A THAT'S HORRY COUNTY.

23 Q AND IS THE MYRTLE BEACH -- WHERE IS MYRTLE BEACH
24 POLICE DEPARTMENT, WHAT COUNTY?

25 A HORRY COUNTY.

1 Q WHAT WAS THE -- WHAT WAS STANKO'S BEHAVIOR AT --
2 COMPARE -- WELL, JUST TELL US WHAT HIS BEHAVIOR WAS LIKE
3 IN THE LAST WEEK THAT YOU SAW--

4 A IT HAD BECOME PRETTY ERRATIC. HE WAS TALKING ABOUT
5 CRAZY STUFF. THEN HE'D COME BY THE HOUSE ONE DAY TELLING
6 CONNIE HE NEEDED TO COME INSIDE AND CHECK HER WIRING AND
7 HER PLUMBING AND MAKE SURE EVERYTHING WAS UP TO CODE
8 BEFORE HE COULD FILE A LAWSUIT.

9 AND SHE THOUGHT THAT WAS PRETTY WEIRD AND I DID, TOO.
10 I KNEW SOMETHING WASN'T RIGHT. SOUNDED LIKE HE JUST
11 WANTED TO GET IN THE HOUSE FOR SOMETHING FOR -- I DON'T
12 KNOW, YOU KNOW. I DON'T KNOW WHAT THE REASON, BUT WE WERE
13 KIND OF WORRIED ABOUT HIM.

14 Q WHAT WAS HE LIKE? WHAT WAS HIS BEHAVIOR WHEN YOU
15 FIRST MET HIM?

16 A WELL, HE WAS PRETTY CALM AND, YOU KNOW, HAD A PRETTY
17 GOOD OUTLOOK AND ALL. HE SEEMED PRETTY NORMAL, YOU KNOW.
18 BUT I JUST -- I TOLD CONNIE AFTER WE MET HIM THE FIRST
19 TIME, I SAID THERE'S SOMETHING ABOUT HIM, THE WAY -- I
20 JUST LOOKED INTO HIS EYES AND I SAID SOMETHING --
21 SOMETHING IS NOT RIGHT WITH HIM.

22 HE'S JUST -- HE'S GOT THAT COLD STARE AND HE NEVER
23 BELIEVES -- HE'S GOT SHARK EYES.

24 Q THAT WAS IN NOVEMBER?

25 A THAT WAS, YEAH, NOVEMBER 17TH.

1 Q ALL RIGHT. AND DID -- DID HIS BEHAVIOR CHANGE OR
2 ALTER OVER THE TIME THAT YOU KNEW HIM FROM NOVEMBER TILL
3 APRIL?

4 A YES, ESPECIALLY TOWARDS THE END THERE WHEN HE FOUND
5 OUT SHE HAD BEEN TO TALK TO OFFICER BERTANG. THAT'S WHEN
6 IT REALLY CHANGED AND HE BECAME ERRATIC THEN. HE JUST --
7 HE JUST -- JUST DIDN'T ACT RIGHT.

8 Q HOW, HOW ERRATIC--

9 A WELL...

10 Q -- DID HE BECOME?

11 A JUST QUESTIONING HER ABOUT WHY DID YOU GO TALK TO
12 HIM, YOU KNOW, AND WHAT ARE YOU DOING TALKING TO HIM?
13 WHAT FOR? WHAT DID Y'ALL TALK ABOUT? YOU KNOW, HE WANTED
14 TO KNOW EVERYTHING. AND SHE TOLD HIM, I WENT TO TALK TO
15 HIM ABOUT YOU.

16 Q SO HE KNEW THAT?

17 A YEAH, HE KNEW THAT.

18 Q AND YOU WERE AWARE THAT HE KNEW THAT--

19 MR. HUMPHRIES: OBJECTION. LEADING.

20 THE COURT: LEADING. SUSTAINED.

21 BY MR. KELLY:

22 Q HOW WERE YOU AWARE THAT--

23 MR. HUMPHRIES: OBJECTION. LEADING.

24 THE COURT: SUSTAINED. LEADING.

25 BY MR. KELLY:

1 Q WHAT OTHER ERRATIC THINGS WAS HE DOING?

2 A WELL, JUST -- MOSTLY JUST, YOU KNOW, A BUNCH OF LIES
3 THAT HE WAS TELLING. HE WAS CONSTANTLY TELLING LIES. YOU
4 KNOW, HE SAID HE HAD A JAGUAR, BUT EVERY TIME I SEE HIM,
5 HE WAS DRIVING LAURA'S CAR.

6 AND YOU KNOW, MOSTLY JUST LIES, LIES ON TOP OF LIES.
7 I FINALLY FIGURED OUT HE WAS PATHOLOGICAL LIAR.

8 Q DID HE EVER TAKE A TRIP WITH CONNIE?

9 A YES. HE WAS SUPPOSED TO TAKE CONNIE TO MEET WITH --
10 WELL, HE ACTUALLY WANTED TO TAKE US BOTH, BUT I WAS SICK
11 THAT DAY AND I COULDN'T GO. AND HIM, CONNIE LEFT AND SHE
12 SAID--

13 MR. HUMPHRIES: OBJECTION AS TO WHAT CONNIE
14 SAID.

15 THE COURT: SUSTAINED. HEARSAY.

16 BY MR. KELLY:

17 Q DON'T TELL US WHAT SHE SAID. WHERE WERE THEY
18 SUPPOSED TO GO?

19 A SUPPOSED TO MEET WITH ROBERT EDWARDS IN NORTH
20 CAROLINA.

21 Q HOW DO YOU KNOW THAT?

22 A WELL, THAT'S WHAT HE HAD SAID -- THEY MADE, YOU KNOW,
23 WE WERE SUPPOSED TO GO. HE TOLD US A COUPLE OF DAYS
24 BEFORE HE WANTED US TO GO WITH HIM AND MEET WITH ROBERT
25 EDWARDS. HE TOLD US WHAT DAY WE WERE GOING AND HE WOULD

1 BE THERE TO PICK US UP.

2 Q WHAT WAS EDWARDS' CONNECTION INTO THE THREE OF YOU?

3 A HE SAID ROBERT EDWARDS WAS GOING TO HELP HIM AND --
4 WITH HER CIVIL TRIAL, WITH HER CIVIL CASE THAT HE WAS
5 GOING TO FILE FOR HER AGAINST THE SOLICITOR'S OFFICE.

6 Q DID HE EXHIBIT ANY AGGRESSIVE BEHAVIOR TOWARDS YOU?

7 A OH, NO, NEVER TOWARD ME.

8 Q DID YOU -- DID -- TOWARDS CONNIE IN YOUR PRESENCE?

9 A NOT IN MY PRESENCE, NO.

10 Q OR TOWARDS ANYBODY ELSE IN YOUR PRESENCE?

11 A NEVER IN MY PRESENCE, NO.

12 Q HOW OFTEN WOULD HE HAVE CONTACTED YOU AND CONNIE?

13 A SOMETIMES DAILY.

14 Q WHY SO OFTEN DO YOU THINK?

15 A I DON'T KNOW. HE JUST COME BY, HE'D CALL SOMETIME.
16 LIKE SOMETIMES HE'D CALL AND SAY HE'S IN COLUMBIA OR HE'S
17 IN CONWAY. AND THEN FIVE MINUTES LATER HE'D SHOW UP IN
18 THE YARD AND HE'D BE THERE.

19 Q AFTER MEETING WITH OFFICER BERTANG AT MYRTLE BEACH
20 PD, WERE YOU SATISFIED WITH THE RESULTS OF THE MEETING?

21 A OH, NO. NO.

22 Q WHY NOT?

23 A IT'S JUST A -- WEIRD SPIN ON IT. THEY REFER US TO
24 HORRY COUNTY, HORRY COUNTY REFERRED HER TO THEM, YOU KNOW,
25 JUST BACK AND FORTH. NOBODY WANTED TO DO ANYTHING, SO...

1 Q DID -- DON'T TELL ME WHAT OFFICER BERTANG SAID TO
2 YOU, BUT DID BERTANG -- OFFICER BERTANG GIVE Y'ALL ANY
3 ADVICE BEFORE YOU LEFT?

4 A HE JUST SAID IT--

5 MR. HUMPHRIES: OBJECTION.

6 BY MR. KELLY:

7 Q DON'T TELL ME WHAT HE SAID.

8 THE COURT: SUSTAINED. HEARSAY.

9 BY MR. KELLY:

10 Q JUST ANSWER. DID HE GIVE YOU ANY ADVICE?

11 A YES.

12 Q AND IF YOU HAD ACTED ON THAT ADVICE, WHERE WOULD YOU
13 HAVE GONE?

14 A BACK TO THE SAME PLACE THAT SENT TO HIM.

15 Q WHERE?

16 A BACK TO THE SAME PEOPLE WHO SENT US TO HIM.

17 Q AND WHERE WOULD THAT HAVE BEEN?

18 A THAT WOULD BE HORRY COUNTY SOLICITOR'S OFFICE, HORRY
19 COUNTY POLICE DEPARTMENT.

20 Q THANK YOU.

21 MR. KELLY: I HAVE NO FURTHER QUESTIONS.

22 THE COURT: ANY QUESTIONS FOR THE WITNESS?

23 CROSS-EXAMINATION

24 BY MR. HUMPHRIES:

25 Q LAURA WILLIAMS, WHO IS THAT?

1 A IT'S A GIRL WHO CONNIE'S FATHER KNOWS. HER FATHER
2 USED TO BE A MYRTLE BEACH POLICE. HE'S DEAD NOW, BUT HE
3 WAS A RETIRED MYRTLE BEACH POLICEMAN. HER SISTER WORKS AT
4 MYRTLE BEACH POLICE DEPARTMENT, TOO.

5 Q AND Y'ALL WANTED TO GO TALK TO SERGEANT BERTANG ABOUT
6 LAURA WILLIAMS?

7 A YES.

8 Q WHAT DID SHE DO?

9 A WELL, IT WAS SOMETHING TO DO WITH CONNIE'S MOTHER'S
10 DEATH. HER MOTHER HAD DIED AND LAURA HAD STOLE HER CREDIT
11 CARDS AND HER MILITARY ID AND WENT AND RUN UP A BUNCH OF
12 BILLS WITH HER CREDIT CARD.

13 Q SO Y'ALL DIDN'T GO TALK TO -- AT THAT TIME DETECTIVE
14 BERTANG JUST ABOUT STEPHEN STANKO?

15 A NOT JUST ABOUT HIM, NO.

16 Q NO. THERE WERE OTHER THINGS YOU WANTED TO TALK
17 ABOUT.

18 A YEAH, THAT ONE OTHER THING, YEAH.

19 Q AND LET ME ASK YOU, IF DEFENDANT STANKO HAD GIVEN YOU
20 BACK OR GIVEN CONNIE BACK -- ACTUALLY IT WAS YOUR MONEY;
21 WASN'T IT?

22 A YES.

23 Q IT WAS. IT WASN'T CONNIE'S MONEY. YOU GAVE IT TO--

24 A I GAVE IT TO HIM, YES.

25 Q -- HIM FOR HER?

1 A YES, FOR HER.

2 Q AND IF HE HAD GIVEN Y'ALL THE MONEY BACK, Y'ALL
3 WOULDN'T HAVE GONE TO THE POLICE; WOULD YOU?

4 A YES.

5 Q EXCUSE ME?

6 A YES, WE WOULD.

7 Q IF HE HAD GIVEN YOU YOUR MONEY BACK, YOU'D HAVE STILL
8 GONE TO THE POLICE?

9 A WE DIDN'T WANT -- WE DONE BEEN TO THE POLICE.

10 Q THAT'S WHAT I'M ASKING. I'M ASKING -- JUST LISTEN TO
11 MY QUESTION. I'M ASKING, IF AFTER HAVING REQUESTED YOUR
12 MONEY PRIOR TO GOING TO THE POLICE, IF HE -- AFTER ASKING
13 FOR YOUR MONEY, HE HAD GIVEN YOU YOUR MONEY, YOU WOULD
14 HAVE NEVER THEN GONE TO SEE DETECTIVE BERTANG; WOULD YOU?

15 A IT'S HARD TO SAY. I DON'T KNOW. I MIGHT NOT HAVE,
16 BUT I KNOW SHE WOULD.

17 Q WELL, WE -- I CAN ONLY ASK YOU.

18 A YEAH.

19 Q IF YOU'D GOT YOUR MONEY BACK--

20 A WELL--

21 Q -- THAT WOULD HAVE REALLY BEEN THE END OF--

22 A I WOULDN'T HAVE BEEN SATISFIED, NO.

23 Q WOULDN'T HAVE BEEN SATISFIED?

24 A NO, I WOULDN'T.

25 Q WITH YOUR MONEY BACK.

1 A NO.

2 Q OKAY.

3 A NO, I WOULDN'T BE SATISFIED WITH NOTHING LESS THAN
4 JUSTICE.

5 Q OKAY.

6 A WHICH IS HARD TO GET AROUND HERE.

7 Q IS IT?

8 A IT SURE IS. I HAVE SEEN THAT.

9 Q HAVE YOU?

10 A YES, I HAVE. YOU WANT TO KNOW WHERE?

11 Q NO. THAT'S FINE.

12 A OKAY.

13 Q THANK YOU NOW.

14 THE COURT: ANY REDIRECT FOR THE WITNESS?

15 MR. KELLY: NO, MA'AM.

16 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
17 EXCUSED FROM THE STATE?

18 MR. HUMPHRIES: NONE FROM THE STATE.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NO, MA'AM.

21 THE COURT: SIR, YOU'RE EXCUSED.

22 (WITNESS LEFT THE STAND.)

23 THE COURT: YOU MAY PROCEED.

24 MR. DIGGS: YOUR HONOR, WE HAVE ONE ADDITIONAL
25 WITNESS, BUT THAT WITNESS HAS A COMPUTER. WE WOULD

1 LIKE TO HAVE JUST TWO OR THREE MINUTES TO CONNECT IT
2 UP TO THE SCREEN.

3 THE COURT: GO RIGHT AHEAD.

4 MR. DIGGS: THANK YOU.

5 THE COURT: YOU'RE WELCOME.

6 (WHEREUPON THERE WAS A PAUSE.)

7 MR. DIGGS: WE'RE GOING TO CALL DR. EVELYN
8 CALIFF TO THE STAND AT THIS POINT.

9 THE COURT: OKAY. PLEASE COME TO THE WITNESS
10 STAND, PLEASE, AND BE SWORN.

11 DR. EVELYN CALIFF,
12 AFTER BEING DULY SWORN, TESTIFIED AS FOLLOWS:

13 THE WITNESS: MY NAME IS EVELYN C CALIFF,
14 C-A-L-I-F-F, AS IN FRANK.

15 DIRECT EXAMINATION

16 BY MR. DIGGS:

17 Q NOW DR. CALIFF, YOU PREPARED A POWERPOINT
18 PRESENTATION TO HELP YOU EXPLAIN YOUR TESTIMONY IN THIS
19 CASE?

20 A SOME OF THEM.

21 Q ALL RIGHT. AND YOU HAVE SOMEONE HERE TO HELP YOU--

22 A YES.

23 Q -- CONNECT YOUR COMPUTER UP TO OUR SCREEN.

24 A CORRECT.

25 Q ALL RIGHT.

1 MR. HUMPHRIES: YOUR HONOR, JUST FOR PURPOSES OF
2 THE RECORD, MR. DIGGS HAS SHOWN ME HARD COPIES OF--

3 THE COURT: NO SPEAKING STATEMENTS IN THE
4 PRESENCE OF THE JURY.

5 MR. HUMPHRIES: I WAS JUST STIPULATING TO THE
6 EVIDENCE.

7 THE COURT: OKAY.

8 MR. HUMPHRIES: THAT'S ALL I WAS DOING.

9 THE COURT: ALL RIGHT. REDACT ALL THE REST OF
10 IT THEN, IF YOU STIPULATE.

11 MR. HUMPHRIES: STIPULATE TO THE POWERPOINT
12 WHICH HAS BEEN SHOWN TO ME BY HARD COPY, AND I WILL
13 STIPULATE TO DR. CALIFF'S EXPERTISE IN THE AREA OF
14 FAMILY COUNSELING.

15 THE COURT: OKAY. SO ADMITTED.

16 MR. DIGGS: THANK YOU.

17 THE COURT: YOU'RE WELCOME. STIPULATION NOTED
18 FOR THE RECORD.

19 MR. HUMPHRIES: THANK YOU.

20 THE COURT: YOU'RE WELCOME.

21 BY MR. DIGGS:

22 Q RATHER THAN WASTE TIME ON IT, DR. CALIFF, YOUR --
23 IT'S A POSSIBILITY -- MY UNDERSTANDING WE'RE LACKING A
24 PROGRAM ON THAT PARTICULAR COMPUTER THAT WILL ALLOW US TO
25 THROW THAT IMAGE OVER HERE.

1 SO LET'S JUST GO AHEAD AND DO YOUR TESTIMONY WITHOUT
2 THAT PARTICULAR POWERPOINT, AND PERHAPS WE COULD -- WE
3 WILL GO THROUGH THIS. IF NEED BE, WE CAN INTRODUCE THE
4 HARD COPY, BUT LET'S JUST GO AHEAD AND HAVE YOU TESTIFY
5 ABOUT YOUR INVOLVEMENT IN THIS CASE.

6 TELL US A LITTLE BIT ABOUT YOUR EDUCATION AND YOUR
7 PROFESSIONAL DEGREES, PLEASE MA'AM. TELL US WHAT YOU DO.
8 A THAT'S A VERY HARD THING TO DO SINCE I DO SO MUCH,
9 BUT I'M GOING TO WORK AT IT REALLY HARD. IT IS A -- AN
10 INTERESTING THING THAT WHEN YOU'RE IN PRIVATE PRACTICE AND
11 YOU SEE ALL TYPES OF CLIENTS AND PATIENTS BUT YOU ALSO DO
12 MANY OTHER THINGS LIKE A LOT OF NON-PROFIT THINGS WHICH
13 HAPPENS TO BE -- CONSUMES A TREMENDOUS AMOUNT OF TIME
14 THROUGH THE PARENTS ANONYMOUS THAT I DO, PLUS TEENS -- I
15 DO A TRIP FOR A TEEN NON-PROFIT THAT HAS A LOT OF PARENTS
16 AND KIDS AND SO FORTH.

17 SO I DON'T HAVE AN AWFUL LOT OF TIME FOR MY OWN
18 PRIVATE PRACTICE, BUT SUPPOSED TO BE PART-TIME AND IS NOT.
19 BUT I DO DO AS MUCH AS I CAN IN THAT. AND WHEN I DO THAT,
20 I HAVE A PRIVATE PRACTICE AT MYRTLE BEACH.

21 Q AND WHAT DO YOU DO IN PRIVATE PRACTICE? WE HAVE
22 INTRODUCED YOU AS AN EXPERT IN FAMILY COUNSELING.

23 A RIGHT.

24 Q WHAT DO YOU DO IN YOUR PRIVATE PRACTICE IN THAT
25 REGARD?

1 A WELL, IT'S NOT ONLY FAMILIES, THAT'S -- I DO ALMOST
2 ANYTHING THAT MOST COUNSELORS DO. I HAVE A -- CAN YOU
3 HEAR ME IF I SIT BACK?

4 THE COURT: PULL THE MICROPHONE A LITTLE CLOSER
5 TO YOU OR PULL YOUR CHAIR UP A LITTLE BIT CLOSER,
6 THEN WE CAN START LIKE THAT.

7 THE WITNESS: THERE WE GO.

8 THE COURT: OKAY.

9 THE WITNESS: ONE OF THE THINGS THAT I DO IN MY
10 PRIVATE PRACTICE IS THAT I HAVE CLIENTS WHO HAVE
11 DEPRESSION, ANXIETY. I WORK WITH SCHOOL PROBLEMS,
12 VISITATION.

13 I AM A COURT MEDIATOR, DIVORCE MEDIATOR
14 THROUGH -- DO A GOOD BIT OF THAT. I ALSO PROVIDE A
15 LOT OF TEACHING, CONSULTANTSHIP, AND OTHER ISSUES
16 RELATED TO MANY -- THE THINGS THAT I DO.

17 BY MR. DIGGS:

18 Q DO YOU DO COUNSELING AND EVALUATIONS OF FAMILIES WITH
19 RESPECT TO FAMILY -- FAMILY DYNAMICS, MEANING THE
20 INDIVIDUAL MEMBERS WITHIN THE FAMILY AND THE FAMILY
21 STRUCTURE AND WHAT MIGHT BE CHARACTERIZED AS A
22 DYSFUNCTIONAL FAMILY AS OPPOSED TO A FAMILY THAT IS NOT
23 DYSFUNCTIONAL?

24 A I DO. ONE OF THE THINGS THAT I DO IN ABOUT, ABOUT 40
25 PATIENTS THAT ARE FAMILIES, TOTAL FAMILIES A WEEK, IS I

1 HAVE TRAINING FOR THEM, BUT BEFORE I CAN PLACE THEM IN ANY
2 KIND OF SERVICES, I HAVE TO EVALUATE THEM. MOST OF THEM
3 HAVE VERY DIFFICULT SITUATIONS.

4 SO IN ASSESSING THEM, I HAVE EVERYTHING FROM ALCOHOL
5 AND DRUGS -- AND AS AN ADDICTION SPECIALIST, I DO WORK
6 WITH INDIVIDUALS IN THAT ANY WAY, SO WE DO SOME ASSESSMENT
7 THERE.

8 I ALSO ATTEMPT TO FIND OUT ALL OF THE DIAGNOSIS THAT
9 THEY MAY HAVE SO THAT WHEN WE'RE WORKING IN FAMILY
10 COUNSELING, WHAT WE DO IS WE HAVE -- LEAVE NO STONE
11 UNTURNED TO BE ABLE TO MAKE SURE THAT THAT FAMILY
12 PROGRESSES.

13 Q ALL RIGHT. NOW, ARE THERE -- DO PEOPLE DO RESEARCH
14 INTO THIS KIND OF ISSUE IN TERMS OF DYSFUNCTIONAL FAMILIES
15 AND IS THERE A RECOGNIZED KIND OF A DEFINITION OF A
16 DYSFUNCTIONAL FAMILY OR CATEGORIES OF DYSFUNCTIONAL
17 FAMILIES?

18 A RIGHT. DYSFUNCTIONAL--

19 Q TELL US ABOUT THAT.

20 A DYSFUNCTIONAL FAMILY IS CERTAINLY ANYTHING THAT
21 CAUSES A FAMILY AS A DYSFUNCTION NOT TO BE A FAMILY OR TO
22 BE ABLE TO OPERATE OR TO LIVE AND TO DO A GOOD JOB WITH
23 THEIR CHILDREN. SO ANYTHING CAN BE DYSFUNCTIONAL.

24 HOWEVER, WHEN WE TALK ABOUT DYSFUNCTIONAL FAMILIES,
25 WE TALK ABOUT THINGS LIKE ALCOHOLIC FAMILIES, THOSE WHO

1 HAVE MAYBE ILLNESSES, THOSE WHO HAVE POVERTY AND CERTAIN
2 HEALTH ISSUES MAYBE COMING UP AS SO THEY CANNOT DO A GOOD
3 JOB OF LIVING AND HAVING THEIR FAMILY MEMBERS EXCEL.

4 SO ALMOST ANYTHING IS A DYSFUNCTION, AND MOST OF US
5 HAVE SOME. IF WE ARE NOT -- NONE OF US ARE PERFECT AND
6 NEITHER HAVE I FOUND ANY PERFECT FAMILIES.

7 HOWEVER, IF SOMETHING BECOMES CHRONIC OR IT CAUSES
8 DIFFICULTY AND YOU CANNOT GET AN ANSWER FOR IT, THEN --
9 AND GET SOME HELP WITH IT, THEN IT BECOMES A LIABILITY
10 THERE IN THE FAMILY.

11 IT IS VERY INTERESTING THAT THE RESEARCH SHOWS MANY
12 DIFFERENT KINDS OF THINGS THAT OCCUR IN FAMILIES THAT
13 CAUSE THEM TO NOT DO WELL IN THE COMMUNITY AND WE HAVE A
14 LOT OF PEOPLE WHO ARE JUST IN POVERTY, AND SO SOME OF THE
15 ISSUES THERE ARE CAUSING DIFFICULTY FOR THEM.

16 Q I KNOW IN AN ARTICLE THAT YOU HAD PROVIDED ME THAT
17 KIND OF SET OUT AN OVERVIEW OF THIS PARTICULAR TOPIC,
18 DR. -- IS IT KIZIARD -- HAD IDENTIFIED FOUR MAJOR -- OR
19 FOUR TYPES OF DYSFUNCTIONAL FAMILIES THAT SHE HAD STUDIED
20 OR THAT THE DOCTOR HAD STUDIED. AND ONE OF THEM WAS A
21 RIGIDLY DOGMATIC FAMILY SYSTEM. WHAT IS THAT?

22 A DOGMATIC MEANS THAT THERE ARE VERY MANY THINGS WITHIN
23 THE FAMILY THAT ARE NOT AVAILABLE BECAUSE THERE ARE SOME
24 RIGIDITY ISSUES THERE. AND IF YOU ARE LOOKING AT A FAMILY
25 MEMBER WHO MIGHT BE THE PERSON IN THE FAMILY THAT IS IN

1 CONTROL OF THIS FAMILY, THEN IT CAUSES A TREMENDOUS AMOUNT
2 OF PROBLEMS, DOES ALSO MAKE SURE THAT IT IS CLASSED AS A
3 DYSFUNCTIONAL SITUATION.

4 Q NOW, CAN YOU TELL US ABOUT STEPHEN'S FAMILY AND
5 WHETHER IN YOUR OPINION IT SHOWED SIGNS -- HIS FAMILY
6 SHOWED SIGNS OF ANY DYSFUNCTION?

7 A VERY MUCH SO.

8 Q AND TELL US ABOUT THAT AND HOW.

9 A WHEN I DID THE GENOGRAM THAT WE WOULD BE ABLE TO
10 SEE -- BY THE WAY, I HAVE AN EXTRA COPY. WOULD YOU LIKE
11 FOR ME TO GIVE IT TO THE JUDGE?

12 Q WELL, LET ME SHOW YOU. IS THIS WHAT YOU'RE TALKING
13 ABOUT?

14 A YES.

15 MR. DIGGS: YOUR HONOR, COULD WE HAVE THIS
16 MARKED AS A DEFENDANT'S EXHIBIT?

17 THE COURT: PLEASE LET THE DEFENSE -- I MEAN THE
18 STATE SEE IT.

19 MR. HUMPHRIES: DON'T HAVE ANY OBJECTION.

20 THE COURT: MARKED AND ADMITTED WITHOUT
21 OBJECTION.

22 (WHEREUPON, DEFENDANT'S EXHIBIT 41 WAS ADMITTED
23 INTO EVIDENCE.)

24 BY MR. DIGGS:

25 Q DO YOU HAVE AN EXTRA COPY THERE?

1 A I DO.

2 Q IS THAT YOUR LAST COPY?

3 A NO.

4 THE COURT: DID YOU NEED IT?

5 MR. DIGGS: NO, YOUR HONOR. YOU CAN KEEP THAT.

6 THE WITNESS: I HAVE ANOTHER ONE.

7 BY MR. DIGGS:

8 Q IF YOU HAVE ANOTHER COPY, MAYBE YOU COULD LET ME USE
9 IT. I'M GOING TO LEAVE THAT UP THERE AND -- THE JURORS
10 WHO WANT TO FOLLOW ALONG WITH IT. ALL RIGHT.

11 I HAD ASKED YOU ABOUT STEPHEN'S FAMILY AND YOU WERE
12 GOING TO TELL US IN YOUR OPINION HOW HIS FAMILY MIGHT FIT
13 INTO THIS PARTICULAR STRUCTURE THAT WAS IDENTIFIED BY
14 DR...

15 A WITHIN ALL THE INFORMATION THAT I WAS ABLE TO GATHER,
16 THERE WERE MANY DYSFUNCTIONAL ISSUES, BUT PROBABLY THE ONE
17 THAT WAS THE HARDEST FOR THE CHILDREN WAS THE FACT THAT
18 THE FATHER WAS VERY RIGID. HE WAS MORE MILITARY.

19 HE DID -- HE SEEMED TO IN MANY CASES REJECT SOME OF
20 HIS CHILDREN AND THEIR WAYS. IF -- IF THE CHILD DID NOT
21 DO SOMETHING THAT HE WANTED THE CHILD TO DO, HE WOULD
22 WITHDRAW.

23 AND IT WAS ALMOST LIKE -- WE CALL IT ABUSE WHEN
24 SOMEONE GETS VERY SILENT AND DOES NOT SPEAK TO YOU. AND I
25 FOUND THAT WAS ONE OF THE OVERRIDING ISSUES WITH

1 MR. STANKO.

2 Q AND--

3 A AND HE COULD NEVER GET ENOUGH -- MR. STANKO COULD
4 NEVER GET ENOUGH PLEASANT THINGS FROM HIM. HE WAS ALWAYS
5 TRYING -- WHAT SOME PEOPLE CALL APPROVAL ADDICTION. HE
6 WAS ALWAYS TRYING TO GET ATTENTION AND KINDNESS FROM HIM.

7 Q OKAY. NOW, YOU'RE TALKING ABOUT STEPHEN AND HIS
8 RELATIONSHIP WITH HIS FATHER?

9 A YES.

10 Q WHO WE HAVE HEARD WAS IN THE MILITARY.

11 A RIGHT. HE WAS AT ONE POINT. BUT IF -- AS I LOOKED
12 FURTHER IN THIS FAMILY -- AND I WILL COME BACK TO HIM IN
13 JUST A MINUTE -- BUT THERE WERE OTHER ISSUES. EACH OF THE
14 CHILDREN SEEMED TO DEAL WITH THIS DIFFERENTLY.

15 ONE CHILD WAS A -- A PERSON WHO WAS REBELLING AND DID
16 NOT SEEM TO TRY TO PLEASE THE FATHER. THERE WAS ANOTHER
17 ONE WHO -- ONE OF THE GIRLS -- WHO WANTED TO TRY TO
18 PLEASE, WAS KIND OF FEARFUL OF BEING ABLE TO STAND UP AND
19 DID NOT WISH THE APPROVAL TO BE TAKEN AWAY FROM HER.

20 THERE WAS ANOTHER ONE, THE OTHER YOUNG LADY, WHO
21 EARLIER IN THE TIME WAS SORT OF REBELLING AGAINST HIM, BUT
22 THEN NOW-A-DAYS SEEMS LIKE SHE IS LEANING MORE TOWARD
23 GETTING HIS ATTENTION AND WORKING WITH HIM, TRYING TO
24 PLEASE HIM, IN OTHER WORDS.

25 Q DO YOU KNOW WHAT STEPHEN'S RELATIONSHIP WITH -- WITH

1 HIS FATHER IS TODAY?

2 A I KNOW THAT HE HAD NOT SPOKEN TO -- HIS FATHER HAD
3 NOT SPOKEN TO HIM IN 10 YEARS.

4 Q AND BASED ON YOUR REVIEW AND IN YOUR EXPERT OPINION,
5 YOUR REVIEW OF THE MATERIALS THAT WERE PROVIDED TO YOU IN
6 THIS CASE--

7 A YES, SIR.

8 Q -- AND YOUR INTERVIEWS WITH MR. STANKO, WHY HAS THERE
9 BEEN THIS 10 YEAR GAP IN ANY COMMUNICATION BETWEEN STEPHEN
10 STANKO AND HIS FATHER?

11 A HE DISPLEASED HIS FATHER EVEN THOUGH HE WAS GOOD IN
12 SCHOOL AND DID REALLY WELL UP UNTIL HE DID NOT GET INTO
13 THE MILITARY ACADEMY.

14 Q OKAY.

15 A AND HE HAD VISION PROBLEMS. AND SO WHEN HE DID NOT
16 GET INTO THE MILITARY ACADEMY, HE BECAME RATHER DEPRESSED,
17 AND THAT WAS BECAUSE OF HIS EYES.

18 Q THAT'S STEPHEN?

19 A UH-HUH.

20 Q OKAY.

21 A HE BECAME DEPRESSED, BUT HIS FATHER DID NOT GIVE HIM
22 ANY -- I GUESS WE WOULD CALL IT ANY SUPPORT FOR NOT -- FOR
23 HAVING THE DISABILITY WITH THE EYES AND NOT GETTING IN
24 BECAUSE HE WAS -- HE WAS BRILLIANT IN SCHOOL, DID A GREAT
25 JOB, AND TRIED TO GET IN.

1 Q YES, MA'AM. AND THAT -- STEPHEN WAS A GOOD STUDENT?

2 A YES, HE WAS.

3 Q WELL-BEHAVED?

4 A BUT THE ISSUE WAS THEN AFTER THAT WHEN HE BECAME
5 DEPRESSED, THEN -- ABOUT THAT -- FEELING THAT THAT WAS
6 REALLY THE THING THAT HIS FATHER WOULD TRULY LIKE ABOUT
7 HIM, THAT HE COULD GET IN BECAUSE THERE WERE OTHER KIDS IN
8 THE FAMILY WHO HAD WANTED IN, AND -- BUT HE WAS JUST NOT
9 SUPPORTING IN THAT.

10 AND FROM THAT TIME ON IT APPEARED TO ME FROM ALL
11 THE -- THE THINGS THAT I HAVE SEEN AND READ THAT IT
12 APPEARED TO ME THAT HE WENT DOWNWARD.

13 Q NOW, STEPHEN HAS TWO -- HIS TWO PARENTS ARE ALIVE?

14 A YES.

15 Q AND HE HAS HOW MANY SIBLINGS ALIVE?

16 A HE HAS TWO SISTERS WHO ARE ALIVE. HE ALSO HAS A
17 BROTHER WHO IS ALIVE.

18 Q AND HE HAS ONE DECEASED BROTHER; ISN'T THAT CORRECT?

19 A YES.

20 Q SO THERE ARE FIVE IMMEDIATE FAMILY MEMBERS--

21 A YES.

22 Q -- WHO ARE ALIVE AND WELL--

23 A YES.

24 Q -- TODAY. AND THEY ARE -- CAN YOU DESCRIBE THEIR
25 ECONOMIC CIRCUMSTANCES? ARE THEY RELATIVELY WHAT WE WOULD

1 CALL MIDDLE CLASS, FOR EXAMPLE?

2 A I WOULD SAY SO.

3 Q AND IN GOOD HEALTH?

4 A THEY ARE IN PRETTY GOOD HEALTH. I THINK THEY HAVE
5 SOME -- FROM ALL I CAN TELL THEY HAVE SOME MENTAL ISSUES
6 THEMSELVES THAT THEY PROBABLY NEED SOME COUNSELING.

7 Q LET ME ASK YOU THIS. DO YOU KNOW THAT MR. STANKO IN
8 THIS TRIAL IS ON TRIAL FOR HIS LIFE?

9 A I DO.

10 Q WHAT -- DO YOU HAVE ANY COMMENT ABOUT THE FACT THAT
11 THROUGH THIS ENTIRE PROCESS, NOT ONE FAMILY MEMBER HAS
12 EVER APPEARED IN COURT IN SUPPORT OF HIM?

13 A I WAS VERY SAD THAT -- I THOUGHT HIS SISTER PEGGY WAS
14 PROBABLY GOING TO BE ABLE TO COME--

15 Q YES, MA'AM.

16 A -- AND SHE HAD TRIED TO GET HERE, BUT IT JUST --
17 THERE WERE TOO MANY THINGS AND SHE JUST DID NOT NOR WOULD
18 SHE COME WHEN WE WERE TRYING TO GET HER HERE BECAUSE SHE
19 SEEMED TO -- EVEN AFTER ALL OF HER THERAPY, SHE SEEMED TO
20 BE PULLING OUT OF SOME OF THE ISSUES THAT SHE HAD.

21 BUT SHE'S HAD THERAPY A LONG TIME. AND TO MY
22 KNOWLEDGE SHE'S THE ONLY ONE OF ANY OF THEM WHO HAVE HAD
23 THERAPY. AND--

24 Q NOW, IS THE ABSENCE -- OR HE HAS -- IT'S OBVIOUS AT
25 THIS TIME IN THIS TRIAL THERE'S NO FAMILIAL SUPPORT--

1 A THERE IS NOT.

2 Q -- THAT STRUCTURE. IS -- IN YOUR EXPERT OPINION AND
3 AS A COUNSELOR BASED ON WHAT YOU KNOW ABOUT THE FAMILY
4 STRUCTURE WITH -- IS THAT SURPRISING TO YOU OR WOULD IT
5 HAVE BEEN PREDICTABLE?

6 A IT WOULD BE PREDICTABLE TO ME.

7 Q WHY? WHY IS THAT?

8 A ANY TIME YOU HAVE ONE MEMBER OF THE FAMILY THAT
9 EVERYONE EVOLVES AROUND AND YOU HAVE A -- AN ENABLER WHO
10 WOULD HAVE BEEN A SPOUSE, MOTHER--

11 Q MOM?

12 A -- AREA, THEN EVERYTHING IN THAT FAMILY EVOLVES
13 AROUND THAT IDEA, THAT THOUGHT, THAT LIKING, MAKING SURE
14 EVERYTHING IS OKAY WITH THAT, OR YOU START REBELLING
15 AGAINST.

16 THAT'S BEEN THE GENERAL USUAL KIND OF DYSFUNCTIONAL
17 FAMILY ISSUES IN THESE KIND OF THINGS.

18 Q AND WOULD IT BE FAIR TO SAY -- AND I DON'T WANT TO
19 PUT WORDS IN YOUR MOUTH ABOUT IT -- BUT THERE IS NO ONE AT
20 THIS TIME IN THE FAMILY REBELLING, THEY ARE STILL
21 REVOLVING AROUND THE FATHER'S INFLUENCE OVER THE FAMILY
22 UNIT--

23 A THAT'S TRUE.

24 Q -- EVEN THOUGH THEY'RE WELL INTO THEIR ADULT YEARS
25 AND EMANCIPATED?

1 A THEY ARE. AND I CAN UNDERSTAND HIS FATHER'S
2 FEELINGS, AS WE ALL WOULD ABOUT ANY CHILD, BUT NOT FOR 10
3 YEARS. THAT'S VERY HARD. MOST OF US WHO ARE PARENTS
4 REALIZE THAT OUR CHILDREN ARE NOT GOING TO BE PERFECT AND
5 WE DO HAVE TO UNDERSTAND AND TRY TO HELP IN EVERY WAY WE
6 CAN WHEN THINGS START.

7 Q ALL RIGHT. NOW, CAN THE TYPE OF DYSFUNCTIONAL FAMILY
8 STRUCTURE THAT WE'RE DESCRIBING HERE, CAN IT ACTUALLY HAVE
9 AN INFLUENCE ON A CHILD'S CONDUCT AND PERSONALITY AND
10 CHARACTER AND SO FORTH AS THEY MATURE AND GROW?

11 A ALWAYS. YOU ALWAYS--

12 Q AND WHY DO YOU SAY THAT AND TELL US HOW.

13 A IF YOU BEGIN TO NOT BE APPROVED OF AND YOU STILL ARE
14 TRYING SO HARD TO GET APPROVAL FROM SOMEONE AND YOU BEGIN
15 TO LOOK AT THOSE THINGS, YOU START BUILDING YOURSELF UP.

16 AND I THOUGHT IT WAS REALLY INTERESTING ON THOSE WHO
17 HAVE ASSESSED MR. STANKO THAT MOST ALL THE TIME THEY CAME
18 IN WITH NARCISSISTIC PERSONALITY DISORDER, AND I CAN
19 UNDERSTAND THAT BECAUSE IT'S TRULY--

20 Q BEFORE YOU GO ON WITH THAT, TELL US WHAT THAT
21 DISORDER MEANS. WHAT DO YOU MEAN BY NARCISSISTIC
22 DISORDER?

23 A IT MEANS THAT YOU REALLY THINK YOU'RE GREAT AND
24 YOU'RE ALWAYS GRANDIOSO, AND -- BUT ACTUALLY WHAT THAT
25 MEANS IS NOT THAT. WHAT IT MEANS IS MANY DIFFERENT

1 THINGS, BUT MOST OF THE TIME YOU HAVE LOW SELF-ESTEEM,
2 WHEN YOU DO NOT FEEL THAT YOU HAVE -- INSIDE THAT YOU HAVE
3 ANY REAL GOOD THINGS ABOUT YOU.

4 Q NOW, DID YOU HAVE AN OPPORTUNITY TO LOOK AT THE
5 MEDICAL EVIDENCE THAT HAD BEEN PROVIDED TO STEPHEN IN HIS
6 DEFENSE IN THIS CASE, PARTICULARLY THE PET SCANS AND MRI
7 DATA?

8 A I DID.

9 Q AND HOW WOULD YOU CHARACTERIZE -- OR KNOWING THE
10 FUNCTIONAL IMPAIRMENT IN MR. STANKO, STEPHEN STANKO'S
11 BRAIN, WITH THE FAMILY STRUCTURE THAT HE GREW OUT OF--

12 A WELL, I--

13 Q -- COULD THERE BE -- HOW WOULD THAT -- HOW WAS THAT
14 LIKELY TO WORK OR INTERPLAY IF AT ALL--

15 MR. HUMPHRIES: I'M GOING TO OBJECT TO THIS
16 BEING OUTSIDE THE AREA OF HER EXPERTISE IF SHE'S
17 GOING TO TESTIFY ABOUT PET SCAN AND THE MRI.

18 THE COURT: LAY THE APPROPRIATE FOUNDATION.
19 SUSTAINED.

20 BY MR. DIGGS:

21 Q IF -- WITHIN YOUR AREA OF EXPERTISE IN TERMS OF
22 FAMILY DYNAMICS, WOULD -- IS THE FAMILY STRUCTURE HERE
23 SOMETHING THAT WOULD ASSIST MR. STANKO IN A POSITIVE WAY
24 OR IN A NEGATIVE WAY?

25 A WHETHER OR NOT HE HAD ANY KIND OF DAMAGE--

1 Q YES, MA'AM.

2 A -- TO THE BRAIN--

3 Q YES.

4 A -- IT WOULD BE VERY -- JUST REAL REASONABLE, I WOULD
5 THINK TO ANYBODY IN THIS COURTROOM AS WELL AS MYSELF FROM
6 SEEING MANY CASES, THAT WHEN YOU HAVE NO SUPPORT, EVEN A
7 BABY WILL FAIL TO THRIVE. IF YOU DO NOT PICK THE BABY UP,
8 IF YOU DO NOT HOLD THE BABY, YOU DO NOT TALK TO THE BABY.

9 AND IN MY WORK WITH THAT, I HAVE SEEN MANY CHILDREN
10 FAIL TO THRIVE BECAUSE THAT IS NOT DONE. IF YOU FOLLOW
11 THAT ALL THE WAY UP TO THE GRADE SCHOOL, TO HIGH SCHOOL,
12 AND ON UP TO THE MILITARY ACADEMY AND OTHER THINGS WHERE
13 YOU HAVEN'T BEEN INVOLVED IN BAD THINGS, WHERE YOU ARE NOT
14 A -- A DRUGGIE, YOU ARE NOT DOING ANY OF THE JUVENILE
15 THINGS THAT WE OFTEN SEE TRIED UNTIL YOU GET THROUGH HIGH
16 SCHOOL AND THEN YOU ARE HURT WITH A LOT OF ISSUES THERE.

17 I THINK -- AND ANOTHER CONTRIBUTING THING THERE WAS
18 WHEN HIS -- WHEN HIS BROTHER WAS KILLED BECAUSE HE WAS
19 VERY CLOSE TO HIM. AND I BELIEVE THAT BOTH OF THOSE
20 THINGS, BUT PARTICULARLY HIMSELF, WHEN I INTERVIEWED HIM,
21 IT WAS THE ONLY TIME I SAW SOME REAL FEELINGS--

22 Q UH-HUH.

23 A -- FROM HIM IS WHEN WE TALKED ABOUT THAT. AND THAT
24 GOES INTO, WHEN YOU SEE A PERSON EXAGGERATE, WHEN YOU SEE
25 THEM BE A PATHOLOGICAL LIAR BECAUSE THEY'RE HOLDING

1 THEMSELVES UP, AND THEY ARE ALSO TELLING EVERYBODY ELSE
2 WHAT THEY DO AND THEY CAN DO THIS AND THEY CAN DO THAT,
3 AND IT'S REALLY -- IT'S UNDERSTANDABLE TO ME WHY PEOPLE DO
4 THAT.

5 I DON'T SAY THAT IT'S RIGHT, BUT IT IS
6 UNDERSTANDABLE. AND WHAT WE TRY TO DO IS TO GET PEOPLE TO
7 SEE WHAT THE TRUTH IS, AND YOU THEN KNOW WHO YOU ARE AND
8 YOUR REAL SELF, YOU GET IN THERE AND YOU DON'T HAVE TO
9 DEPEND ON ANOTHER PERSON FOR YOUR IDENTITY, BUT SOMEBODY
10 HAS TO LEAD YOU THAT WAY WHEN YOU COME UP IN A VERY RIGID
11 HOME, AND THAT'S ALL THE PERSON YOU WANTED TO PLEASE.

12 Q WHEN DID STEVE STOP GETTING SUPPORT FROM HIS FAMILY
13 IN HIS LIFE, IF YOU KNOW?

14 A I DON'T THINK HE EVER TRULY HAD VERY MUCH SUPPORT,
15 BECAUSE OF EVERYTHING I HAVE BEEN ABLE TO SEE, HE WAS THE
16 ONE WHO WANTED TO GET GOOD GRADES. HE WAS GETTING SUPPORT
17 AWAY FROM HOME.

18 NOW, HIS MOTHER GAVE HIM SOME, BUT SHE COULD NOT
19 INTERCEDE BETWEEN THE FATHER WHO WAS HER CHARGE AND THE
20 ENABLER FOR HIM. AND SO I DO NOT BELIEVE HE EVER REALLY
21 HAD A LOT OF SUPPORT.

22 Q ARE YOU SURPRISED THAT HE HAD ON OCCASIONS
23 EXCEPTIONAL RELATIONSHIPS WITH HIS TEACHERS?

24 A NO, NO, NO, I'M NOT. AND THE REASON I WOULDN'T BE IS
25 BECAUSE WHEN KIDS ARE NOT HAPPY AT HOME OR THEY'RE NOT

1 GETTING SUPPORT AT HOME, WHERE DO THEY GO? IF THEY ARE
2 SMART, THEY LOOK AT A GOOD ONE THERE IN SCHOOL.

3 AND MANY OF US HAVE HAD TEACHERS, THEY HAVE BEEN
4 EXCELLENT FOR US, AND THEY ARE THOSE -- ROLE MODEL THAT WE
5 NEEDED, AND WE MOVE FORWARD WHEN THAT HAPPENS.

6 AND JUST IN COUNSELING, IF I HAVE A CHILD THAT
7 SOMEONE IS NOT SPEAKING, THEY ARE VERBALLY -- THEY ARE
8 VERBALLY ABUSED AND THEY ARE NOT SPEAKING UP AND THEY ARE
9 NOT LOOKING AT WHO THEY ARE, JUST HAVING CONTACT WITH ME,
10 AND OTHER COUNSELORS PROBABLY WOULD BE THE SAME, FOR A
11 WEEK, YOU CAN SEE THEM START CHANGING.

12 BUT WHEN YOU WORK WITH THE PARENT AND YOU SAY, NOW
13 LOOK, PARENT, THIS IS WHAT'S HAPPENING, THEN YOU START
14 SEEING EVEN MORE SUCCESS.

15 AND THAT'S HOW I SEE THE ISSUE THAT YOU'RE ASKING ME,
16 HAD HE -- HAD SOMEONE BEEN ABLE TO INTERVENE AT THAT TIME,
17 I BELIEVE THAT HE WOULD NOT HAVE ENDED UP WHERE HE IS NOW.

18 BUT I DO KNOW THAT IT'S EASY WHEN YOU HAVE DAMAGE.
19 FOR INSTANCE, THERE WAS A THING WAY BACK WHEN HE WAS BORN,
20 HE HAD JAUNDICE, AND I JUST HAPPENED TO FIND THAT.

21 Q YES, MA'AM.

22 A VERY FEW PEOPLE THAT I HAD TALKED TO HAVE TALKED
23 ABOUT ANY OF THAT. BUT WHEN YOU HAVE A BLOOD
24 INCOMPATIBILITY AND O NEGATIVE OR O POSITIVE, IT'S
25 INTERCHANGED, OR MAYBE THERE'S SOME OTHER REASON FOR THAT,

1 THEN IT HAS SOME DAMAGE TO YOU BECAUSE I HAVE HAD SEVERAL
2 FAMILIES WHERE WE FIND THAT OUT. THAT'S WHEN THINGS
3 HAPPEN. SO TO ME I'M COMING AT THIS FROM HOW I SEE
4 THINGS.

5 Q I UNDERSTAND.

6 A THESE ARE REASONABLE, THEY ARE DOWN TO EARTH THINGS
7 THAT I HAVE SEEN EVERY WEEK.

8 Q DR. CALIFF, HOW MANY TIMES HAVE YOU BEEN ASKED TO
9 TESTIFY AS AN EXPERT IN COURTS IN THIS JUDICIAL CIRCUIT?

10 A ONLY BEEN IN GEORGETOWN ABOUT THREE OR FOUR TIMES.

11 Q WELL, IT'S THE SAME CIRCUIT AS HORRY.

12 A I KNOW, BUT I REALLY CAN'T TELL YOU HOW MANY TIMES
13 BECAUSE IT'S A LOT.

14 Q A LOT?

15 A IT'S A LOT.

16 Q ALL RIGHT. DR. CALIFF, WE APPRECIATE YOUR TIME THIS
17 AFTERNOON AND I APPRECIATE YOUR COMING IN TO TALK TO US
18 ABOUT IT. AND I WOULD ASK YOU TO ANSWER ANY QUESTIONS
19 THAT THE SOLICITOR MAY HAVE.

20 THE COURT: YOU MAY PROCEED.

21 MR. HUMPHRIES: JUST A FEW.

22 CROSS-EXAMINATION

23 BY MR. HUMPHRIES:

24 Q HI. HOW ARE YOU?

25 A I'M FINE. THANK YOU.

1 Q WHAT DOES DEFENDANT STANKO'S BROTHER JEFFREY DO FOR A
2 LIVING?

3 A HE -- I NEED MY LITTLE THING TO REMEMBER.

4 Q I WILL BE GLAD -- THIS?

5 A YES. IF IT'S ON THAT ONE.

6 Q OH, IT'S NOT.

7 A IT'S IN MY OTHER NOTES PROBABLY, BUT I KNOW THAT HE
8 WENT TO -- HE WENT TO -- I'D JUST FORGOTTEN THE NAME OF
9 WHERE HE IS NOW, THAT HE WORKS, BUT I KNOW HE WENT TO THE
10 MILITARY ACADEMY AND I KNOW THAT HE WAS DOING SOMETHING,
11 BUT I HAVE FORGOTTEN WHERE IT IS.

12 Q OKAY. YOU -- WELL, LET ME ASK YOU THIS. MAYBE THIS
13 IS A BETTER WAY. WITH WHOM DID YOU SPEAK IN ORDER TO
14 FORMULATE YOUR OPINIONS IN REGARD TO DEFENDANT STANKO AND
15 HIS FAMILY?

16 A I SPOKE TO HIM. I READ ALL THE REPORTS. FATHER,
17 MOTHER WOULD NOT SPEAK TO ME. COULD NOT GET MR. JEFFREY
18 ON THE PHONE. SO ABOUT TWO AND A HALF WEEKS AGO THEN IS
19 WHEN I GOT INTO THIS, AND YOU WERE JUST ABOUT INTO THE
20 COURT THEN, SO I COULD NOT DO ALL OF THAT.

21 I HAD TO LOOK AT ALL OF THE TESTIMONY. I HAD TO LOOK
22 AT DR. CRAWFORD, WHAT PEOPLE HAVE SAID AND TRY TO
23 FORMULATE IT FROM THERE.

24 Q OKAY.

25 A PLUS THE E-MAILS FROM THE SISTER.

1 Q WELL, WHICH SISTER WAS THAT?

2 A THAT WAS PEGGY.

3 Q PEGGY. AND WHERE DOES SHE LIVE?

4 A SHE IS -- SHE WAS TO BE FLOWN FROM HERE, AND I
5 BELIEVE SHE WAS IN CALIFORNIA.

6 Q DO YOU KNOW WHAT SHE DOES FOR A LIVING?

7 A EXCUSE ME?

8 Q DO YOU KNOW WHAT SHE DOES FOR A LIVING?

9 A I CAN'T REMEMBER THAT.

10 Q WHAT ABOUT CYNTHIA, HIS OTHER SISTER?

11 A SHE IS DOWN IN CHARLESTON, AND I DON'T RECALL WHAT
12 HER JOB IS RIGHT NOW.

13 Q OKAY. SO YOU HAVE SPOKEN WITH THE DEFENDANT, YOU--

14 A YES, AND THE INTERVENTION SPECIALIST.

15 Q THE INTERVENTION--

16 A THE INTERVENTION SPECIALIST, I SPOKE TO HER AND I SAW
17 HER RECORDS WHERE SHE HAD -- SOMEBODY HAD SENT SOMETHING
18 TO HER IN WRITING. I JUST LOOKED AT ALL THE RECORDS AS
19 WELL.

20 Q OKAY. YOU DIDN'T SPEAK TO THE SISTER IN CHARLESTON?

21 A NO. I COULD NOT GET HER, BUT I DID TRY.

22 Q OKAY. OF COURSE, YOU'RE AWARE THAT -- THAT NONE OF
23 HIS SURVIVING SIBLINGS HAVE PRESENTED PROBLEMS IN REGARD
24 TO CRIMINAL ACTIVITY.

25 A I AM AWARE OF THAT. I DID CHECK ON THAT. BUT...

1 Q YES, MA'AM.

2 A BUT YOU'RE AWARE THAT EVEN THOUGH THEY DIDN'T HAVE
3 THAT, BY YOUR INVOLVEMENT WHERE I HAVE FOUND OUT THAT THEY
4 ARE NOT DOING AS WELL AS THEY NEED TO DO NOW.

5 Q AND AGAIN, YOU -- YOU BASE THAT ON WHAT?

6 A YOUR EXPERTS' REPORTS, ALL THE REPORTS OF ANYONE WHO
7 HAS PROVIDED THE INFORMATION HERE, THE CONVERSATIONS WITH
8 THE INTERVENTION SPECIALISTS, THEN WITH--

9 Q WELL, BUT I DON'T WANT TO INTERRUPT YOU. YOU CAN
10 FINISH THAT ANSWER, BUT TELL -- LET'S MAKE SURE WE KNOW
11 WHO WE ARE TALKING ABOUT WHEN YOU SAY THE INTERVENTION
12 SPECIALIST.

13 A DALE.

14 Q WHO -- WHERE IS -- WHERE IS DALE?

15 A SHE'S RIGHT THERE (INDICATING.)

16 Q I'M SORRY. RIGHT THERE. I NEVER KNEW DALE -- SORRY.
17 WORKS FOR THE DEFENDANT.

18 A AND I CAN'T REMEMBER HER LAST NAME. SORRY.

19 Q THAT'S ALL RIGHT. AND WE'RE BOTH CONFUSED.

20 A BUT SHE HAS TIMES THAT SHE PICKED UP OR GOT -- I DID
21 LOOK AT THE SCHOOL RECORDS, SO I KNOW THAT. BUT--

22 Q DO YOU KNOW, OF COURSE, HE DID VERY WELL IN SCHOOL?

23 A YES, HE DID.

24 Q THERE WAS -- AT LEAST AS IT RELATES TO SCHOOL WORK
25 AND EXTRACURRICULAR ACTIVITIES IN SCHOOL--

- 1 A YES.
- 2 Q -- THERE WAS NO OBVIOUS FAILURE TO THRIVE IN THAT
- 3 ENVIRONMENT; IS THAT--
- 4 A NO, THERE WAS NOT.
- 5 Q OKAY. AND--
- 6 A AND THE TEACHER ALSO SHOWS THAT.
- 7 Q RIGHT. RIGHT.
- 8 A I DID READ THE NEWSPAPERS ON ALL THE OTHERS.
- 9 Q OKAY. YOU -- YOU MENTIONED THAT YOU ACTUALLY DID SEE
- 10 SOME REAL FEELINGS FROM THE DEFENDANT; DID YOU?
- 11 A I DID. THAT WAS THE ONLY TIME, THOUGH.
- 12 Q AND -- AND CERTAINLY BASED ON YOUR REVIEW OF THE
- 13 AVAILABLE INFORMATION THAT YOU HAD--
- 14 A CORRECT.
- 15 Q -- YOU WOULD CONCEDE THAT THE MOTHER DID PROVIDE SOME
- 16 SUPPORT FOR DEFENDANT STANKO?
- 17 A AS LONG AS IT DIDN'T CONFLICT.
- 18 Q WITH THE FATHER?
- 19 A UH-HUH. YES.
- 20 Q AND -- AND CLEARLY YOU -- YOU FOUND AS WELL THAT HE
- 21 GOT SUPPORT FROM SOME VERY GOOD ROLE MODELS IN SCHOOL?
- 22 A HE DID.
- 23 Q AS WELL AS NEIGHBORS?
- 24 A HE DID.
- 25 Q AND OF COURSE, THIS -- THIS STATES THE OBVIOUS. AND

1 I'M NOT TAKING A SHOT AT YOU, BUT YOU'RE NOT A MEDICAL
2 DOCTOR?

3 A I AM NOT.

4 Q OKAY. AND -- BUT YOU DID HAVE SOME COMMENTS ABOUT
5 JAUNDICE?

6 A EXCUSE ME?

7 Q JAUNDICE.

8 A JAUNDICE. IT IS IN THE REPORT.

9 Q CERTAINLY. NO QUESTION. AND YOU FOUND THAT TO BE
10 PROBLEMATIC IN YOUR EXPERIENCE WHEN IT COMES TO--

11 A YES. AS I SAID, I'M SPEAKING FROM MY VERY REAL
12 STANCE. AND ALSO WHEN YOU'RE TALKING ABOUT THE OTHER, AS
13 FAR AS THE WHOLE FAMILY, YOU REMEMBER WHEN I FIRST
14 STARTED, I MENTIONED THAT WHEN I SEE THESE KINDS OF ISSUES
15 WHERE THERE IS THE DOGMATICNESS AND YOU SEE USUALLY --
16 THEY'LL ALMOST FALL INTO PLACE.

17 NOT THAT I AM MAKING THEM LIKE THESE, BUT IT -- IT
18 JUST MAKES SENSE, THOUGH, WHEN YOU READ OTHER THINGS AND
19 YOU SEE ALL OF THIS, YOU'RE PRETTY WELL SURE HOW IT'S
20 COMING OUT.

21 AND THEN IT DOES FIT IN ALSO WITH NARCISSISTIC THINGS
22 BECAUSE THEY ARE PATHOLOGICAL LIARS, THEY MANIPULATE, THEY
23 DO ALL SUCH, SO IT'S PRETTY GOOD REASON.

24 Q AND YOU ALSO FOUND HIM TO BE ANTISOCIAL; DID YOU NOT?

25 A HE HAS TENDENCIES FOR ANTISOCIAL. HE IS NOT A FULL

1 ANTISOCIAL, BUT HE IS IN THAT CLUSTER WHICH IS ALL THREE
2 OR FOUR OF THOSE.

3 Q AND SO -- SO YOUR OPINION IS THAT HE IS NOT FULLY
4 ANTISOCIAL, BUT HE HAS SOME TENDENCIES?

5 A HE HAS MORE NARCISSISM THAN HE HAS BEING SOCIOPATH,
6 BUT HE CERTAINLY HAS A LOT OF PSYCHOPATHIC ISSUES.

7 Q AND I THINK ANTISOCIAL, THAT -- IN SORT OF COMMON
8 PARLANCE, THAT JUST REALLY MEANS YOU'RE MEAN; DOESN'T IT?
9 ISN'T THAT...

10 A SAY THAT ONE MORE TIME.

11 Q ANTISOCIAL, REALLY YOU'RE JUST SORT OF MEAN; AREN'T
12 YOU?

13 A YOU ARE SOMEWHAT PASSIVE, BUT YOU'RE NOT PASSIVE AT
14 TIMES. YOU JUST DON'T CARE ABOUT PEOPLE AND IT DOESN'T
15 BOTHER YOU. YOU CAN KILL THEM AND NOT LAUGH. AND THAT'S
16 A TERRIBLE THING.

17 Q CERTAINLY IT IS. AND NARCISSISM -- WELL, LET'S NOT
18 EVEN GO THERE.

19 A OH, COME ON.

20 Q SUFFICE IT TO SAY THAT YOUR OPINION IS BASED ON THE
21 RIGIDITY OF HIS FATHER IN THE HOUSEHOLD IN GENERAL AND HIS
22 LACK OF SUPPORT FROM THE FAMILY IN GENERAL, THAT HE
23 DEMONSTRATED -- LATER DEMONSTRATED A FAILURE TO THRIVE?

24 A NO. I DIDN'T USE THAT ON HIM, BUT HE FAILED TO
25 DEVELOP BECAUSE HE WAS IN A DYSFUNCTIONAL SITUATION, AND

1 HIS PARTICULAR PERSONALITY AND THE LOCATION IN THE FAMILY
2 FOR WHATEVER REASON -- BECAUSE I WAS NOT THERE -- BUT THE
3 FUNCTIONING OF THAT FAMILY CAUSED HIM TO -- TO -- TO DO
4 THINGS THAT HE HAD -- LACKING OF THE ATTENTION THAT HE
5 NEEDED, AND THEREFORE HE DID NOT DEVELOP ON FORWARD.

6 BUT WHEN HE RECEIVED IT OUT OF OTHER PEOPLE, HE DID
7 THRIVE BECAUSE YOU CAN LOOK AT THOSE RECORDS AND YOU CAN
8 FIND THAT OUT.

9 Q SURE.

10 A AND YOU ALSO KNOW THAT WHEN HE THRIVED, THE ONLY
11 TIME -- EVERY RECORD SHOWS THAT HE HAD ANY PROBLEMS WAS
12 WHEN HE FAILED THERE OR WHEN HE WAS HIT IN THE HEAD WITH A
13 BOTTLE.

14 Q I AM GLAD YOU MENTIONED THAT.

15 A I KNEW YOU WOULD BE.

16 Q HE GOT HIT IN THE HEAD WITH A BOTTLE. WHO TOLD YOU
17 ABOUT THAT?

18 A I READ THAT AND HE TOLD ME, AND I ALSO ASKED ABOUT
19 IT.

20 Q HE -- ALL RIGHT. HE TOLD YOU ABOUT IT. AND FROM
21 WHAT SOURCE DID YOU READ IT?

22 A I READ IT IN THE NEWSPAPER. I ASKED THE -- I ASKED
23 THE -- AND THE SPECIALIST, THE INTERVENTION PERSON WHO HAD
24 REVIEWED A LOT OF DIFFERENT THINGS, AND I LOOKED AT HER
25 RECORDS.

1 Q YES, MA'AM.

2 A BUT HE HAD -- IT HAD BEEN SAID IN MANY, MANY CASES,
3 AND THAT HE EXPLAINED WHAT IT WAS. SO IT APPEARED THAT
4 WHEN HE WAS HIT IN THE HEAD WITH A BOTTLE THAT THAT HAD
5 SOME PROBLEMS, BUT I CANNOT PROVE THAT.

6 Q CERTAINLY. NO, I WOULDN'T -- WOULDN'T ASK YOU--

7 A THANK YOU.

8 Q -- TO DO THAT. WHEN DID HE GET HIT IN THE HEAD WITH
9 A BOTTLE? AT WHAT AGE?

10 A NINETEEN -- FORGOTTEN THE DATES. I'D HAVE TO LOOK IT
11 UP IN MY NOTES, BUT IT WAS BACK -- I CAN'T REMEMBER THE
12 DATE. I TRULY DON'T.

13 Q YOU -- AND IN TERMS OF HIS AGE DO YOU RECALL?

14 A NO, I REALLY DON'T.

15 Q YOU DON'T.

16 A I'M BAD WITH NUMBERS.

17 Q THAT'S ALL RIGHT. THAT'S ALL RIGHT. IT HAPPENED
18 WELL BEFORE HE GOT OUT OF HIGH SCHOOL. THAT'S FAIR TO
19 SAY; ISN'T IT?

20 A I BELIEVE. I'M TRYING TO THINK FOR SURE THAT IT DID
21 HAPPEN. I KNOW THE CIRCUMSTANCE, BUT I REALLY DON'T
22 REMEMBER THE DATE AND THE TIME. BUT I THOUGHT THAT IT
23 HAPPENED BECAUSE OF CERTAIN SITUATIONS WHERE HE WAS TRYING
24 TO HELP A GIRL, BUT THAT DIDN'T MATTER TO ME.

25 I JUST WANTED TO KNOW WHAT WAS THE KINDS OF THINGS

1 THAT HAPPENED TO HIM THAT COULD HAVE CAUSED PROBLEMS.

2 Q SURE. BUT NOW, YOU HAVE NOT SEEN ANY -- THERE HAVE
3 BEEN NO MEDICAL REPORTS CONNECTED--

4 A THEY JUST REPORT IT. THEY DO NOT SAY THAT IT
5 HAPPENED.

6 Q OKAY. I GOT YA.

7 MR. HUMPHRIES: BEG THE COURT'S INDULGENCE JUST
8 ONE MOMENT.

9 BY MR. HUMPHRIES:

10 Q AND DOCTOR, AS YOU TESTIFIED, YOU HAVE BEEN INVOLVED
11 IN THIS CASE FOR ABOUT TWO AND A HALF WEEKS?

12 A THREE.

13 Q THREE WEEKS?

14 A YES, SIR.

15 Q THANK YOU, DOCTOR.

16 THE COURT: ANY REDIRECT?

17 MR. DIGGS: NO, YOUR HONOR.

18 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
19 EXCUSED FROM THE STATE?

20 MR. HUMPHRIES: NONE FROM THE STATE.

21 THE COURT: FROM THE DEFENSE?

22 MR. DIGGS: NO, YOUR HONOR.

23 THE COURT: MA'AM, YOU'RE EXCUSED.

24 (WITNESS LEFT THE STAND.)

25 THE COURT: COUNSEL MAY PROCEED.

1 MR. DIGGS: YOUR HONOR, A VERY BRIEF WITNESS,
2 MRS. DAVIS.

3 DALE DAVIS, AFTER BEING
4 DULY REMINDED OF OATH, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. DIGGS:

7 Q NOW MRS. DAVIS, WHAT DID YOU DO WITH RESPECT TO THE
8 BEER BOTTLE MEDICAL RECORDS AND YOUR EFFORTS TO OBTAIN
9 COPIES OF THOSE RECORDS?

10 A I -- I HAD WRITTEN IT BEFORE. I'M SORRY. I DON'T
11 HAVE IT WITH ME. BUT I MADE SEVEN SEPARATE ATTEMPTS.
12 INITIALLY I SENT THE INFORMATION AND GOT BACK THE BIRTH
13 RECORDS, BUT DID NOT GET THE OUTPATIENT RECORDS BECAUSE IT
14 WAS A SEPARATE SOURCE.

15 I E-MAILED ABOUT THEM. I SENT ANOTHER LETTER. THEN
16 I CALLED THE NAVAL HOSPITAL IN CHARLESTON BECAUSE THAT WAS
17 THE LAST PLACE FOR TREATMENT. AND THAT'S HOW OUTPATIENT
18 MEDICAL RECORDS ARE FILED, BY THE LAST PLACE OF TREATMENT.

19 SO I CALLED AND SPOKE WITH THE RECORDS PERSON THERE
20 MRS. POWE, P-O-W-E. SHE MADE ATTEMPTS TO ACHIEVE THEM FOR
21 ME AS WELL. AT ONE POINT THEY LOCATED SOMETHING ON A
22 COMPUTER THAT THE LAST TIME HE WAS SEEN WAS IN 1988, BUT
23 THEY COULD NOT LOCATE THE ACTUAL FILES.

24 Q NOW, STEPHEN HAD REPORTED THIS INCIDENT TO YOU, IS
25 THAT CORRECT, THE BEER BOTTLE INCIDENT?

1 A INITIALLY, YES.

2 Q AND YOU HAD OTHER SOURCES FOR THAT INFORMATION?

3 A YES, I DID.

4 Q HOW MANY SOURCES?

5 A THREE SOURCES, TWO WHO WERE EYE WITNESSES TO IT.

6 Q ALL RIGHT. AND SO IT WASN'T SIMPLY SOME TALE STEPHEN
7 TOLD YOU. YOU HAD, THROUGH YOUR INVESTIGATION, DETERMINED
8 THIS EVENT HAD OCCURRED, WHEN IT OCCURRED, WHERE IT
9 OCCURRED, AND YOU SOUGHT THE MEDICAL RECORDS BASED ON WHAT
10 YOUR INVESTIGATION REVEALED?

11 A AND AS A RESULT OF THOSE CONVERSATIONS I KNEW THAT
12 THE MEDICAL RECORDS WOULD HAVE BEEN AT CHARLESTON NAVAL
13 HOSPITAL--

14 Q YES, MA'AM.

15 A -- WHERE HE SOUGHT EMERGENCY TREATMENT.

16 Q ALL RIGHT. AND JUST LIKE ALL THE OTHER RECORDS AFTER
17 THE DISCHARGE FROM THE HOSPITAL, YOU WERE NOT ABLE TO
18 LOCATE ANY OF THOSE RECORDS AND GET THOSE FROM THE NAVY?

19 A NONE OF THE OUTPATIENT RECORDS.

20 Q ALL RIGHT. THANK YOU VERY MUCH. ONE MORE QUESTION.
21 WITHOUT YOUR NOTES IN FRONT OF YOU, WHEN DID THAT INCIDENT
22 OCCUR?

23 A IT WAS EITHER IN THE SPRING OF HIS JUNIOR YEAR OR HIS
24 SENIOR YEAR. THE TWO PEOPLE THAT WERE THERE WERE NEITHER
25 ONE CERTAIN AND NEITHER WAS MR. STANKO.

1 Q ALL RIGHT. BUT IT WAS EITHER IN HIS -- THE 11TH OR
2 12TH GRADE?

3 A RIGHT. AND IT WAS DURING GIRLS' SOFTBALL SEASON,
4 SO...

5 Q ALL RIGHT. THANK YOU VERY MUCH. ANSWER ANY
6 QUESTIONS COUNSEL MAY HAVE.

7 MR. HUMPHRIES: NOTHING. THANK YOU.

8 THE COURT: YOU MAY STEP DOWN.

9 (WITNESS LEFT STAND.)

10 THE COURT: MADAM FORELADY, LADIES AND
11 GENTLEMEN, WE NEED TO TAKE A SHORT BREAK FOR THE
12 PURPOSE OF SCHEDULING. DURING THIS BREAK PLEASE DO
13 NOT DISCUSS THE CASE.

14 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. I
15 ANTICIPATE THAT IT WILL BE FAIRLY SHORT. IF YOU NEED
16 ANYTHING, PLEASE LET THE BAILIFFS KNOW.

17 (JURY LEFT THE COURTROOM AT 5:56 PM.)

18 THE COURT: YOU MAY BE SEATED. MR. STANKO, IF
19 YOU WOULD STAND RAISE YOUR RIGHT HAND AND BE SWORN.

20 STEPHEN STANKO, AFTER
21 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

22 THE COURT: PLEASE STATE YOUR NAME FOR THE
23 COURT.

24 THE DEFENDANT: STEPHEN CHRISTOPHER STANKO.

25 THE COURT: MR. STANKO, AT THIS TIME I'M GOING

1 TO EXPLAIN TO YOU CERTAIN OF YOUR RIGHTS, AND I
2 EXPLAINED THOSE TO YOU AT THE CONCLUSION OF THE GUILT
3 PHASE OF THE TRIAL, AND I'M REQUIRED, OF COURSE,
4 AGAIN TO ADVISE YOU OF YOUR RIGHTS NOW THAT WE
5 HAVE -- ARE QUICKLY APPROACHING THE END OF THE
6 PENALTY PHASE OF THE TRIAL SO THAT YOU CAN DETERMINE
7 WHETHER YOU IN FACT WANT TO TESTIFY BEFORE THIS JURY.

8 AND AGAIN, AS I INDICATED, I'M GOING TO EXPLAIN
9 TO YOU CERTAIN OF YOUR RIGHTS. IF YOU DO NOT
10 UNDERSTAND ANYTHING THAT I SAY, PLEASE LET ME KNOW.
11 IF YOU WANT ME TO EXPLAIN ANYTHING IN MORE DETAIL,
12 PLEASE LET ME KNOW. DO YOU UNDERSTAND?

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: SIR, WE HAVE NOW REACHED THE STAGE
15 OF THE TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE, SO
16 TO SPEAK, IN THE PENALTY PHASE OF THIS TRIAL.

17 YOU HAVE THE RIGHT TO CLAIM THE PROTECTIONS
18 GIVEN TO YOU BY THE FIFTH AMENDMENT TO THE
19 CONSTITUTION OF THE UNITED STATES. THIS AMENDMENT
20 STATES IN PART THAT NO PERSON SHALL BE COMPELLED IN
21 ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF.

22 THIS MEANS THAT YOU CANNOT BE REQUIRED TO
23 TESTIFY IN THIS CASE. YOU, OF COURSE, HAVE THE RIGHT
24 TO TESTIFY ON YOUR OWN BEHALF. HOWEVER, NO ONE CAN
25 MAKE YOU TESTIFY. THIS IS A PERSONAL RIGHT AND NO

1 ONE CAN WAIVE THIS RIGHT EXCEPT YOU.

2 IF YOU DECIDE TO TESTIFY, AS I'VE EXPLAINED
3 PREVIOUSLY, YOU WILL BE SUBJECT TO THE SAME RULES
4 THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED
5 AND CROSS-EXAMINED ON ANY RELEVANT ISSUE IN THIS
6 CASE.

7 IN ADDITION, IF YOU HAVE ANY CONVICTIONS
8 INVOLVING DISHONESTY OR FALSE STATEMENT OR FOR CRIMES
9 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR AND
10 THIS COURT DETERMINES THAT THE PROBATIVE VALUE OF
11 ADMITTING THIS EVIDENCE WITH OUTWEIGHS ITS
12 PREJUDICIAL EFFECT TO YOU, THE SOLICITOR WILL BE ABLE
13 TO INTRODUCE YOUR RECORD TO ATTACK YOUR CREDIBILITY.

14 AND I BELIEVE WE WENT OVER THIS EARLIER AND I
15 INDICATED TO YOU HOW -- WHAT THE COURT'S INCLINATION
16 WAS IN A WORST CASE SCENARIO REGARDING YOUR RECORD.
17 IF YOU'LL BEAR WITH ME ONE MOMENT, I WILL GO OVER
18 THAT WITH YOU AGAIN.

19 MR. HUMPHRIES: YOUR HONOR.

20 THE COURT: YEAH.

21 MR. HUMPHRIES: THEY ARE A MATTER OF RECORD
22 ALREADY.

23 THE COURT: THEY ARE, BUT I MADE SOME NOTATIONS
24 TO MYSELF REGARDING THE PROBATIVE VERSUS THE
25 PREJUDICIAL VALUE AND ALSO REGARDING WHETHER I WAS

1 GOING TO LET YOU ASK HIM ABOUT ALL OF THE BREACH OF
2 TRUSTS REGARDING THE AGE OF THOSE BREACH OF TRUSTS
3 CONVICTIONS, AND I WANT TO MAKE SURE THAT I'VE
4 ADVISED HIM CONSISTENTLY WITH THAT AGAIN.

5 THE DEFENDANT: YOUR HONOR?

6 THE COURT: YES.

7 THE DEFENDANT: WITH REGARD TO TESTIFYING ON THE
8 STAND.

9 THE COURT: YES, SIR.

10 THE DEFENDANT: WE CAN EVADE THAT BECAUSE AT
11 THIS POINT I'M NOT GOING TO DO THAT, MA'AM.

12 THE COURT: OKAY, BUT I STILL HAVE TO GO THROUGH
13 THEM.

14 THE DEFENDANT: YES, MA'AM.

15 THE COURT: AND I HAVE TO MAKE SURE THAT YOU
16 MAKE A KNOWING AND VOLUNTARY WAIVER OF THAT RIGHT--

17 THE DEFENDANT: I UNDERSTAND.

18 THE COURT: -- SO THAT THE RECORD IS PRESERVED.
19 THE STATE INDICATED THAT THEY WOULD BE SEEKING TO
20 INTRODUCE THE FOLLOWING RECORD. A GRAND LARCENY FROM
21 MARCH 8TH OF 1995. A BREACH OF TRUST FROM MARCH 8TH
22 OF 1995. KIDNAPPING FROM JULY OF 2004. AND ABHAN
23 FROM 1996.

24 THE DEFENDANT: KIDNAPPING WAS '96, MA'AM.

25 THE COURT: YEAH. OH, THAT'S THE 2004--

1 THE DEFENDANT: YES, MA'AM.

2 THE COURT: YOU KNOW WHAT, IT WAS '96. I
3 APOLOGIZE. I WAS LOOKING AT THE -- YOU PLED ON
4 JULY 4 -- ACTUALLY IT WOULDN'T HAVE BEEN JULY 4TH
5 BECAUSE THAT'S A HOLIDAY AND IT'S A CHAMBERS WEEK,
6 BUT IN ANY EVENT, THAT'S WHAT I HAVE WRITTEN DOWN.

7 THE DEFENDANT: YES, MA'AM.

8 THE COURT: 7-29-96.

9 THE DEFENDANT: YES, MA'AM.

10 THE COURT: AN ABHAN FROM 1996. TWO BREACH OF
11 TRUSTS WITH FRAUDULENT INTENT WHICH WERE PLED AT THE
12 SAME TIME THE KIDNAPPING AND ABHAN WHICH YOU RECEIVED
13 10 YEARS CONCURRENT.

14 ALSO TWO OTHER ADDITIONAL BREACH OF TRUSTS WITH
15 FRAUDULENT INTENT FROM JULY 29TH, 1996. LOOKS LIKE
16 THERE ARE FOUR ADDITIONAL COUNTS OF BREACH OF TRUST
17 WITH FRAUDULENT INTENT JULY 29TH, 1996 AS WELL AS TWO
18 COUNTS OF OBTAINING MONEY BY FALSE PRETENSES FROM
19 JULY 31ST, 1996, AND OBTAINING PROPERTY BY FALSE
20 PRETENSES FROM JULY 29TH, 1996.

21 AND I BELIEVE THE RECORD SPEAKS FOR ITSELF. BUT
22 JUST IN THE EVENT FOR PURPOSES OF PRESERVING THE
23 RECORD, I ADVISED YOU AT THAT TIME THAT THE -- ALL OF
24 THE OFFENSES THAT INVOLVE LARCENY OR THEFT, OF
25 COURSE, ARE NOT SUBJECT TO THE COURT'S BALANCING TEST

1 AND THEY CAN COME IN AUTOMATICALLY PURSUANT TO THE
2 ANALYSIS FROM THE AL AHMIN CASE.

3 AS REGARDS THE BREACH OF TRUST, THOSE ALSO WOULD
4 COME IN AS THEY WOULD BE IN THE NATURE OF STEALING OR
5 LARCENY AND WOULD NOT ALSO -- WOULD ALSO NOT BE
6 SUBJECT TO THE BALANCING TEST, BUT I ADVISED THE
7 STATE THAT I MIGHT LIMIT SOME OF THEM JUST BECAUSE OF
8 THE BREADTH OF THEM, I WAS NOT CERTAIN THAT THEY
9 WOULD NOT BE MORE PREJUDICIAL THAN PROBATIVE AS -- AS
10 WELL AS I ADVISED THEM THAT I WAS -- ALLOW THEM TO
11 ASK YOU IF YOU WERE CONVICTED OF A FELONY ON THE
12 KIDNAPPING AND THE ABHAN AND NOT GO INTO THE FACT
13 THAT THEY WERE -- THAT IT WAS AN ABHAN, THE
14 KIDNAPPING, BECAUSE THEY ARE SO VERY SIMILAR TO THE
15 OFFENSES FOR WHICH YOU ARE NOW STANDING TRIAL.

16 SIR, DO YOU UNDERSTAND THAT THAT IN EFFECT WOULD
17 BE THE RECORD THAT THE STATE WOULD BE SEEKING TO
18 INTRODUCE AGAINST YOU?

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: AND DO YOU ALSO UNDERSTAND AS THE
21 COURT HAS EXPLAINED REGARDING THEIR ABILITY TO
22 IMPEACH YOU WITH THOSE OFFENSES, THAT THE COURT HAS
23 EXPLAINED ITS PERCEPTION OF THE WORST CASE SCENARIO
24 IN TERMS OF THE ADMISSIBILITY OF THOSE CONVICTIONS?

25 THE DEFENDANT: YES, MA'AM.

1 THE COURT: SIR, DO YOU UNDERSTAND WHAT I'VE
2 JUST EXPLAINED TO YOU--

3 THE DEFENDANT: YES, MA'AM.

4 THE COURT: -- REGARDING YOUR RIGHTS?

5 THE DEFENDANT: YES, MA'AM.

6 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT
7 I'VE JUST EXPLAINED TO YOU?

8 THE DEFENDANT: NO, MA'AM.

9 THE COURT: HAVE YOU DISCUSSED FULLY WITH YOUR
10 ATTORNEYS WHETHER YOU SHOULD OR SHOULD NOT TESTIFY?

11 THE DEFENDANT: YES, MA'AM, I HAVE.

12 THE COURT: DO YOU WISH TO SPEAK WITH THEM ANY
13 FURTHER AT THIS TIME ABOUT THAT ISSUE?

14 THE DEFENDANT: NO, MA'AM, THERE'S NO NEED.

15 THE COURT: AND SIR, DO YOU WISH TO TESTIFY?

16 THE DEFENDANT: NO, MA'AM.

17 THE COURT: AND YOU ARE WAIVING THAT RIGHT
18 FREELY AND VOLUNTARILY AND OF YOUR OWN WILL; IS THAT
19 CORRECT?

20 THE DEFENDANT: YES, MA'AM.

21 THE COURT: DO YOU FEEL THAT YOU'RE OPERATING
22 PURSUANT TO ANY DURESS OR AT ANY UNDUE PRESSURE IN
23 NOT TESTIFYING?

24 THE DEFENDANT: NO, MA'AM.

25 THE COURT: ARE YOU SUFFERING FROM ANY MENTAL

1 DISABILITIES OTHER THAN THE ONES THAT YOUR ATTORNEYS
2 HAVE ADVANCED IN TERMS OF THE THEORY OF THIS CASE OR
3 UNDER THE INFLUENCE OF ANY DRUGS OR ALCOHOL?

4 *THE DEFENDANT:* NO, MA'AM.

5 *THE COURT:* MR. STANKO, I'M ALSO GOING TO ASK
6 YOU A SERIES OF QUESTIONS REGARDING YOUR LEGAL
7 REPRESENTATION. I AM NOT, HOWEVER, TRYING TO IN ANY
8 WAY BREACH THE ATTORNEY CLIENT PRIVILEGE.

9 AND IF YOU FEEL AT SOME POINT THAT YOU'RE GOING
10 TO ANSWER SOME OF MY QUESTIONS WITH ANYTHING THAT MAY
11 WELL COMPROMISE YOUR REPRESENTATION, PLEASE MAKE ME
12 AWARE OF THAT SO THAT I CAN CLEAR THE COURTROOM AND
13 SPEAK WITH YOU PRIVATELY WITH ONLY YOUR ATTORNEYS AND
14 THE COURT REPORTER. DO YOU UNDERSTAND?

15 *THE DEFENDANT:* YES, MA'AM.

16 *THE COURT:* SIR, HAVE YOU BEEN SATISFIED WITH
17 YOUR ATTORNEYS' SERVICES?

18 *THE DEFENDANT:* YES, MA'AM.

19 *THE COURT:* HAVE THEY ANSWERED ALL OF YOUR
20 QUESTIONS?

21 *THE DEFENDANT:* YES, MA'AM.

22 *THE COURT:* HAVE YOU MET WITH THEM FOR AS LONG
23 AND AS OFTEN AS YOU FELT IT NECESSARY TO ADEQUATELY
24 REPRESENT YOU?

25 *THE DEFENDANT:* YES, MA'AM.

1 THE COURT: HAVE YOU UNDERSTOOD YOUR TALKS WITH
2 THEM?

3 THE DEFENDANT: YES, MA'AM.

4 THE COURT: HAVE THEY FULLY DISCUSSED WITH YOU
5 MATTER OF STRATEGY EMPLOYED IN THIS TRIAL? AGAIN,
6 DON'T COMPROMISE ANYTHING THAT WOULD BE PRIVILEGE.
7 THE QUESTION ONLY CALLS FOR A YES OR NO ANSWER.

8 THE DEFENDANT: TO THE BEST OF MY KNOWLEDGE THEY
9 HAVE.

10 THE COURT: ARE YOU AWARE OF ANYTHING THEY'VE
11 KEPT FROM YOU?

12 THE DEFENDANT: NOT THAT THEY HAVE KEPT FROM ME,
13 NO, MA'AM.

14 THE COURT: OKAY. HAVE THEY FULLY DISCUSSED
15 EVERYTHING WITH YOU?

16 THE DEFENDANT: I BELIEVE SO.

17 THE COURT: IS THERE ANYTHING MORE YOU WOULD
18 HAVE YOUR LAWYERS DO FOR YOU THAT THEY HAVE NOT
19 ALREADY DONE ON YOUR BEHALF? AGAIN, I DON'T WANT YOU
20 TO COMPROMISE THEIR REPRESENTATION.

21 IF YOU FEEL THERE'S SOMETHING YOU NEED TO TELL
22 ME AND THAT I NEED TO CLEAR THE COURTROOM, PLEASE
23 MAKE THAT DESIRE KNOWN.

24 THE DEFENDANT: AT THIS POINT, NO, MA'AM.

25 THE COURT: AND AGAIN I ASK THE QUESTION, IS

1 THERE ANYTHING MORE YOU WOULD HAVE THEM DO FOR YOU
2 THAT THEY HAVE NOT ALREADY DONE ON YOUR BEHALF?

3 *THE DEFENDANT:* YOUR HONOR...

4 *THE COURT:* DON'T COMPROMISE.

5 *THE DEFENDANT:* WELL, I DON'T WANT YOU TO THINK
6 THAT I -- IT'S NOT SOMETHING I WOULD LIKE TO SPEAK IN
7 FRONT OF THE SOLICITOR.

8 *THE COURT:* PARDON ME?

9 *THE DEFENDANT:* I DO HAVE SOMETHING I'D LIKE TO
10 TALK TO YOU ABOUT ABOUT MY ATTORNEY, BUT NOT IN FRONT
11 OF THE SOLICITOR OR ANYONE ELSE. I DON'T...

12 *THE COURT:* WELL, THAT'S WHY I TOLD YOU I DON'T
13 WANT YOU TO COMPROMISE THE ATTORNEY CLIENT PRIVILEGE.
14 IF THERE'S SOMETHING YOU WANT TO DISCUSS WITH ME, LET
15 ME KNOW, PLEASE--

16 *THE DEFENDANT:* YES, MA'AM.

17 *THE COURT:* -- AND I WILL LET THE -- CLEAR THE
18 COURTROOM.

19 *THE DEFENDANT:* YES, PLEASE.

20 *THE COURT:* PLEASE CLEAR THE COURTROOM WITH THE
21 EXCEPTION OF ESSENTIAL PERSONNEL WHICH IS THE COURT
22 REPORTER, MY LAW CLERK, AND THE ATTORNEYS.

23 (WHEREUPON THE COURTROOM WAS CLEARED.)

24 *THE COURT:* I'M MAKING SURE ALL THE TV MONITORS
25 ARE OFF. OKAY. MY QUESTION TO YOU, MR. STANKO, WAS

1 THERE ANYTHING MORE THAT YOU WOULD HAVE YOUR
2 ATTORNEYS DO FOR YOU THAT THEY HAVE NOT ALREADY DONE
3 ON YOUR BEHALF?

4 YOUR ANSWER WAS NOT -- WAS NO. AND THEN I ASKED
5 THE QUESTION AGAIN AND YOU SAID YOU NEEDED TO DISCUSS
6 SOMETHING WITH ME OUTSIDE OF EVERYONE ELSE'S
7 PRESENCE.

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: OKAY. I'M LISTENING.

10 THE DEFENDANT: YOUR HONOR--

11 THE COURT: I'M JUST STANDING UP TO STRETCH MY
12 LEGS.

13 THE DEFENDANT: YOU AS WELL AS ANYONE
14 UNDERSTANDS THE APPELLATE CONCEPTS AND EVERYTHING
15 ELSE. AND I UNDERSTAND WHAT YOU HAVE BEEN ASKING ME
16 AT EVERY POINT WHEN THE -- THE CLOSE, LIKE THIS.

17 THE ONLY THING THAT I HAVE IS THAT THERE ARE
18 THINGS THAT MAY BE IN STRATEGY OR THROUGHOUT THE
19 PROCESS THAT I WOULD HAVE LIKED TO HAVE SEEN
20 ADDITIONAL WITNESSES BROUGHT IN THAT WE HAD
21 ORIGINALLY DISCUSSED, THINGS OF THAT NATURE. I
22 WONDER IF THESE TWO MEN HAVE DONE EVERYTHING
23 POSSIBLE...

24 THE COURT: I'M SORRY. REPEAT THE LAST
25 SENTENCE. NOT THE -- JUST THE LAST FEW WORDS YOU

1 JUST SAID. WELL ACTUALLY, LET ME LOOK AT THE...

2 COURT REPORTER: I DIDN'T HEAR A COUPLE OF THEM.

3 THE COURT: YEAH. REPEAT WHAT YOU JUST SAID TO
4 ME, MR. STANKO, BECAUSE THE COURT REPORTER DIDN'T
5 HEAR YOU EITHER. THIS IS WHAT YOU SAID. YOU SAID,
6 YOU SAID -- THE ONLY THING I HAVE IS THAT THERE ARE
7 THINGS THAT MAY BE IN STRATEGY OR THROUGHOUT THE
8 PROCESS THAT I WOULD HAVE LIKED TO HAVE SEEN
9 ADDITIONAL WITNESSES BROUGHT IN THAT WERE ORIGINALLY
10 DISCUSSED, THINGS OF THAT NATURE.

11 I WOULD -- THEY HAVE DONE -- I BELIEVE THEY HAVE
12 DONE EVERYTHING POSSIBLE.

13 THE DEFENDANT: I BELIEVE THAT THEY HAVE DONE
14 EVERYTHING POSSIBLE AND THEY HAVE BEEN ZEALOUS IN
15 THEIR DEFENSE OF ME AND IN PRESENTING THE ISSUES AND
16 EVERYTHING ELSE.

17 MY CONCERN IS THE COLLOQUY THAT YOU'RE ASKING
18 ME, IN THE FUTURE WHEN I RAISE OTHER CONCERNS THAT I
19 HAVE HAD THROUGH THIS PROCESS--

20 THE COURT: IF YOU'VE GOT CONCERNS, YOU NEED TO
21 RAISE THEM NOW BECAUSE THIS IS--

22 THE DEFENDANT: IT'S TOO LATE NOW--

23 THE COURT: NO, IT'S NOT TOO LATE BECAUSE I HAVE
24 SPOKEN WITH YOU AT LENGTH ON MANY OCCASIONS.
25 HINDSIGHT I THINK FORTUNATELY IS 20/20.

1 AND I THINK THAT YOU AND I HAVE HAD SOME VERY
2 STRAIGHT-FORWARD DISCUSSIONS AND YOU HAVE BEEN GIVEN
3 EVERY OPPORTUNITY TO VOICE ANY CONCERNS THAT YOU MAY
4 HAVE HAD AND THE COURT HAS TAKEN EVERY ACTION
5 POSSIBLE TO CORRECT ANY CONCERNS THAT YOU HAVE HAD.

6 AND THE REASON THAT I HAVE HAD THESE COLLOQUIES
7 WITH YOU IS TO MAKE SURE THAT THE COURT'S
8 INSTRUCTIONS HAVE CONTINUED TO BE FOLLOWED AND BEEN
9 PUT INTO EFFECT.

10 THE DEFENDANT: YES, MA'AM.

11 THE COURT: AND YOU HAVE NEVER AT ANY POINT
12 INDICATED TO ME ANYTHING OTHER THAN SATISFACTION.

13 THE DEFENDANT: YES, MA'AM. AND WHAT I HAVE NOT
14 EVER HAD A CHANCE TO DO IS ACTUALLY DO THE RESEARCH
15 ON, FOR INSTANCE, IF WITNESSES WERE PLACED UP ON THE
16 STAND BY THE STATE THAT SAID CERTAIN THINGS, WHILE
17 SOME OF IT WAS TRUE, SOME OF IT WAS NOT TRUE, AND
18 OTHER WITNESSES WERE AVAILABLE WHO COULD HAVE BEEN
19 BROUGHT IN TO CONTRADICT THOSE--

20 THE COURT: YOU NEED TO MAKE YOUR LAWYERS AWARE
21 OF WHO THOSE WITNESSES ARE SO THEY CAN CALL THEM
22 BEFORE THEY CLOSE YOUR CASE. THAT'S YOUR
23 RESPONSIBILITY.

24 THE DEFENDANT: BUT IN THE PENALTY PHASE NOW IS
25 TOO LATE. WHEN IT WAS IN THE GUILT PHASE IT COULD

1 HAVE BEEN DONE, IN THE GUILT PHASE.

2 THE COURT: WELL, MR. STANKO, I ASKED YOU THAT
3 AT THE GUILT PHASE AND YOU INDICATED TO ME THAT YOU
4 WERE PERFECTLY SATISFIED WITH YOUR LAWYERS' SERVICES
5 AND YOU HAD NO COMPLAINTS AT THAT TIME.

6 THE DEFENDANT: AND AGAIN, THIS IS THE POSITION
7 THAT I'M IN NOW.

8 THE COURT: OH, NO, NO. NO. IT'S NOT THE
9 POSITION THAT YOU'RE IN NOW. THE COURT VERY CLEARLY
10 ARTICULATED THOSE QUESTIONS TO YOU AND YOU HAD MORE
11 THAN AMPLE TIME TO VOICE THAT TO THE COURT AND BEFORE
12 YOUR COUNSEL RESTED IN ORDER TO BRING THESE WITNESSES
13 FORWARD, AND THAT IS PRECISELY WHY I ASKED THE
14 QUESTIONS AT THE TIME THAT I DID BECAUSE HINDSIGHT IS
15 ALWAYS 20/20.

16 AND I'M CERTAIN YOUR PERSPECTIVE WOULD BE VERY
17 DIFFERENT IF THE JURY'S VERDICT HAD BEEN DIFFERENT.

18 THE DEFENDANT: I DON'T THINK IT WOULD HAVE
19 BECAUSE I'M NOT -- I'M NOT CHANGING AT THIS POINT--

20 THE COURT: I THINK YOU'RE A VERY ARTICULATE
21 MAN, MR. STANKO, AND YOU HAVE NEVER BEEN SHY ABOUT
22 TELLING ME ANYTHING. AND I THINK IF YOU HAD CONCERNS
23 AT THAT TIME, YOU WOULD HAVE TOLD ME. YOU HAVE NEVER
24 BEEN SHY ABOUT TELLING ME ANY OTHER TIME.

25 THE DEFENDANT: GO BACK TO YOUR STATEMENT. I

1 DON'T THINK IT WOULD HAVE MADE ANY DIFFERENCE
2 REGARDING WHAT HAPPENED BECAUSE MY DEFENSE -- I HAVE
3 ALWAYS BEEN IN COMPLETE AGREEMENT WITH BOTH OF THESE
4 GENTLEMEN ON MY--

5 THE COURT: OKAY. AND THAT'S THE NATURE OF MY
6 QUESTION. THE NATURE OF MY QUESTION IS, ARE YOU
7 SATISFIED -- YOU KNOW, THEY DON'T HAVE TO HAVE YOUR
8 CONSENT IN THEIR STRATEGY. THEY ONLY HAVE TO DISCUSS
9 IT WITH YOU.

10 THE DEFENDANT: AND I HAVE NEVER ASKED THEM TO,
11 JUDGE.

12 THE COURT: BUT I THINK THAT THEY PROBABLY HAVE
13 GONE BEYOND THAT AND I THINK TO SOME EXTENT THEY HAVE
14 GOTTEN YOUR COMPLETE CONSENT IN STRATEGY.

15 THE DEFENDANT: AND I SAID -- YOUR HONOR, IF I
16 COULD FINISH. I HAVE SAID -- I HAVE NEVER -- AND I
17 HAVE NEVER TRIED TO RUN THIS DEFENSE IN ANY WAY,
18 SHAPE OR FORM, AND I BELIEVE BOTH OF THEM WILL TELL
19 YOU THAT.

20 I HAVE NEVER EVER TRIED TO CONVEY WHAT I THOUGHT
21 EITHER ONE OF THEM SHOULD DO BECAUSE I HAVE BELIEVED
22 IN EVERYTHING THAT THEY DID.

23 THE COURT: OKAY.

24 THE DEFENDANT: BUT WHAT I AM SAYING NOW IS THE
25 QUESTIONS YOU'RE ASKING ME ON A MATTER OF RECORD IN

1 APPELLATE PROCEDURES IS GOING TO BE THE NUMBER ONE
2 DEFENSE AGAINST THE STATE TO SAY, WELL, JUST LIKE
3 YOU'RE SAYING RIGHT NOW ON EVERY POINT.

4 AND I'M NOT SAYING THAT -- I'M NOT SAYING
5 EVERYTHING THAT THEY HAVE DONE HASN'T BEEN FANTASTIC,
6 JUDGE. WHAT I'M SAYING IS YOU'RE ASKING ME TO --
7 ANYTHING THAT I MIGHT BRING UP LATER THAT I DID NOT
8 KNOW AT THE TIME OR DIDN'T SEE OR VISUALIZE, I'M NOT
9 GOING TO BE ABLE TO--

10 THE COURT: MR. STANKO, THE ONLY QUESTIONS THAT
11 YOU CAN ANSWER THIS COURT IS TO THE BEST OF YOUR
12 ABILITY NOW.

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: NONE OF US ARE CLAIRVOYANT. WE
15 DON'T KNOW WHAT'S GOING TO HAPPEN IN THE FUTURE. MY
16 CONCERN IS NOT AN APPEAL.

17 QUITE FRANKLY, I DON'T SET ON THE APPELLATE
18 COURT AND THAT IS NOT MY CONCERN.

19 THE DEFENDANT: RIGHT.

20 THE COURT: MY ONLY CONCERN RIGHT NOW IS THAT
21 YOU HAVE A FAIR TRIAL, THAT IF YOU ARE -- THAT YOUR
22 LAWYERS ARE ZEALOUSLY ADVOCATING ON YOUR BEHALF AND
23 THAT YOU ARE SATISFIED WITH THEIR SERVICES.

24 IF THERE'S SOME WITNESSES YOU WANT TO CALL, YOU
25 NEED TO MAKE THEM AWARE OF IT RIGHT NOW SO THAT THEY

1 CAN DO IT BEFORE THEY CLOSE YOUR CASE.

2 AND THAT IS PRECISELY WHY THE COURT IS ASKING
3 YOU RIGHT NOW AT THIS SPECIFIC TIME. THERE'S NOTHING
4 RANDOM ABOUT MY TIMING. I DELIBERATELY AM ASKING YOU
5 THESE QUESTIONS RIGHT NOW BEFORE THEY RESTED BECAUSE
6 THEY'VE CALLED THEIR LAST WITNESS.

7 I'M ASKING THE QUESTION RIGHT NOW SO THAT IF YOU
8 NEED ADDITIONAL TIME TO GET WHOMEVER YOU THINK YOU
9 WANT HERE TO TESTIFY, THAT YOU CAN DO IT BECAUSE YOU
10 ONLY GET ONE SHOT.

11 AND THAT IS PRECISELY WHY I'M ASKING THESE
12 QUESTIONS. THAT IS PRECISELY WHY I'M ASKING THEM
13 RIGHT NOW. I THINK YOU HAVE BEEN AROUND ME ENOUGH TO
14 KNOW I DON'T DO ANYTHING RANDOMLY.

15 *THE DEFENDANT:* I NEVER SAID YOU DID, JUDGE.
16 YOU'RE PUTTING WORDS IN MY MOUTH. I NEVER SAID THAT
17 I THOUGHT YOU -- I NEVER SAID -- I NEVER SAID
18 ANYTHING TO CONTRADICT YOUR RULINGS OR SAY THAT YOU
19 WEREN'T BEING FAIR.

20 *THE COURT:* MR. STANKO, I'M NOT -- I'M SIMPLY
21 SAYING TO YOU, IF YOU HAVE SOME CONCERN, YOU NEED TO
22 MAKE IT KNOWN. IF THERE ARE WITNESSES YOU WANT TO
23 CALL, YOU NEED TO TELL THEM RIGHT NOW--

24 *THE DEFENDANT:* THEY CAN'T BE CALLED. IT'S TOO
25 LATE, JUDGE.

1 THE COURT: WELL, THAT'S FOR THE COURT TO
2 DETERMINE WHETHER IT'S TOO LATE. I DON'T KNOW THAT.
3 SO IF THERE ARE WITNESSES, ADDITIONAL WITNESSES THAT
4 YOU WANT TO CALL, YOU NEED TO MAKE YOUR ATTORNEYS
5 AWARE OF IT RIGHT NOW SO THAT THEY CAN DO SOMETHING
6 ABOUT IT.

7 THE DEFENDANT: MAY I GIVE YOU AN EXAMPLE?

8 THE COURT: SURE.

9 THE DEFENDANT: EVERYTHING THAT'S HAPPENED,
10 CHRISTINA, IT'S -- TO TELL THE TRUTH, WOULD HAVE DONE
11 EVERYTHING THAT THEY NEEDED DONE, BUT THERE WERE
12 ADDITIONAL THINGS THAT WERE SAID IN TESTIMONY THAT
13 WERE -- TO THE JURY WOULD LOOK HORRENDOUS.

14 WHEN NICK, HER BROTHER, COULD HAVE BEEN BROUGHT
15 IN TO SHOW THAT THAT WASN'T TRUE.

16 THE COURT: YOU'RE ASSUMING HE WOULD HAVE COME?

17 THE DEFENDANT: MA'AM?

18 THE COURT: YOU'RE ASSUMING HE WOULD HAVE COME.
19 HE IS ONE HUNDRED MILES OUTSIDE THE JURISDICTION OF
20 THIS COURT. WE HAVE NO WAY OF MAKING SURE HE COMES.

21 THE DEFENDANT: BUT HE WAS HERE.

22 THE COURT: YOU'RE STILL ASSUMING HE WOULD HAVE
23 TESTIFIED CONSISTENT WITH WHAT YOU -- DO YOU REALLY
24 THINK HE IS GOING TO COME IN THIS COURT AND TESTIFY
25 CONSISTENTLY TO HELP YOU IN THIS INSTANCE?

1 THE DEFENDANT: I THINK IF ANYONE IN THAT FAMILY
2 WOULD HAVE TOLD THE TRUTH, JUDGE, IT WOULD HAVE BEEN
3 HIM.

4 THE COURT: WELL, IT'S STILL NOT TOO LATE TO
5 CALL HIM.

6 THE DEFENDANT: IT CAN'T BE INTRODUCED IN THIS
7 PHASE.

8 THE COURT: WELL, WHY NOT? I DON'T KNOW. I'M
9 NOT YOUR ADVOCATE. YOU NEED TO DISCUSS THAT WITH
10 YOUR LAWYER--

11 THE DEFENDANT: THEY TOLD ME.

12 THE COURT: -- AND HELP THEM MAKE AN ASSESSMENT
13 ABOUT WHETHER THEY NEED TO CALL HIM OR NOT. IT'S NOT
14 TOO LATE.

15 THE DEFENDANT: JUDGE, THEY HAVE DONE EVERYTHING
16 THAT THEY COULD HAVE. I'M HAPPY WITH WHATEVER THEY
17 HAVE...

18 THE COURT: WELL, I'M TELLING YOU VERY CLEARLY,
19 MR. STANKO, AND I NEED YOU TO KNOW -- AND AGAIN, I'M
20 VERY SINCERE BECAUSE I'M A BELIEVER IN THIS SYSTEM,
21 AND I'M A BELIEVER THAT IT WORKS.

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: AND IF THERE ARE ANY -- IF THERE IS
24 ANYTHING ELSE YOU WANT YOUR LAWYERS TO DO, HINDSIGHT
25 JUST LIKE ANY OTHER AREA OF OUR LIFE, WILL NOT

1 BENEFIT YOU.

2 THE DEFENDANT: RIGHT.

3 THE COURT: HINDSIGHT IS ALWAYS 20/20. WE
4 ALWAYS SEE THINGS MORE CLEARLY IN HINDSIGHT. IF
5 THERE IS SOMETHING OR A WITNESS THAT YOU WANT THEM TO
6 CALL, I AM PUTTING YOU ON NOTICE RIGHT NOW THAT YOU
7 NEED TO MAKE THEM AWARE OF IT SO THAT THEY CAN ENLIST
8 THE COURT'S ASSISTANCE IN DOING WHATEVER IT IS YOU
9 FEEL THAT YOU WANT THEM TO DO THAT IS WITHIN THE
10 REALM OF POSSIBILITY TO BE DONE.

11 AND AGAIN, I AM NOT YOUR ADVOCATE. I AM NOT THE
12 STATE'S ADVOCATE. I DIDN'T SEE THE GLOBAL PICTURE OF
13 THIS ENTIRE CASE. I HAVE -- IT DOESN'T MATTER TO ME
14 WHAT THE JURY DOES. THEY ARE THE FACT FINDERS.

15 MY ONLY FUNCTION IS TO EQUIP THEM WITH THE LAW
16 AND TO BE THE GATEKEEPER REGARDING, YOU KNOW, THE
17 EVIDENTIARY RULES, PROCEDURES, STATUTES AND
18 OTHERWISE.

19 IF THERE ARE WITNESSES THAT YOU FEEL YOU WANT
20 CALLED IN THIS CASE, I AM PUTTING YOU ON NOTICE THAT
21 YOU NEED TO MAKE MR. DIGGS AND MR. KELLY AWARE OF IT
22 SO THAT IT CAN BE DONE IF THEY FEEL THAT IT'S
23 STRATEGICALLY IN YOUR BEST INTEREST THAT IT CAN BE
24 DONE BEFORE THEY REST THIS CASE WHILE WE HAVE THE
25 TIME TO TAKE CARE OF IT.

1 THE DEFENDANT: TO THE BEST OF MY KNOWLEDGE,
2 MA'AM, THEY HAVE DONE EVERYTHING THAT THEY COULD.
3 THEY HAVE REPRESENTED ME WELL.

4 THE COURT: AND REALLY, QUITE FRANKLY,
5 MR. STANKO, I THOUGHT ABOUT WHAT YOU JUST SAID ABOUT
6 MISS LING'S BROTHER. YOU KNOW, THE COURT INSTRUCTED
7 THE JURY THAT THEY WERE THE SOLE JUDGES OF THE
8 CREDIBILITY AND BELIEVABILITY OF THE TESTIMONY OF
9 WITNESSES.

10 AND IF YOUR CONCERN WERE ABOUT HER ACTUAL
11 BEHAVIOR IN THE HOUSEHOLD, YOUR LAWYERS DID AN
12 EXCELLENT JOB OF CROSS-EXAMINING HER AND IMPEACHING
13 HER AND HAVING HER ADMIT THAT SHE WAS NOT A MODEL
14 CHILD.

15 THE DEFENDANT: NO, IT WASN'T ABOUT THAT. SHE
16 ADMITTED THAT BEFORE THEY EVEN GOT UP THERE, JUDGE.

17 THE COURT: BUT I'M SAYING THAT...

18 THE DEFENDANT: JUDGE, I JUST VIEW THAT AS--

19 THE COURT: WELL, I JUST WANTED YOU TO KNOW THAT
20 IN TERMS OF YOUR -- THAT, YOU KNOW, THE JURY IS THE
21 SOLE JUDGE OF THE CREDIBILITY--

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: -- OF WITNESSES. AND I THINK THEY
24 HAD A FULL VIEW OF--

25 THE DEFENDANT: I DIDN'T WANT -- I -- I USE THAT

1 AS AN EXAMPLE JUST FOR ONE. THERE WERE--

2 THE COURT: WELL, AGAIN, IF YOU HAVE CONCERNS
3 ABOUT OTHER WITNESSES BEING CALLED, I'M GOING TO TAKE
4 A BRIEF RECESS AND YOU NEED TO LET THEM KNOW WHO THEY
5 ARE BECAUSE THIS WILL BE YOUR ONLY OPPORTUNITY TO DO
6 IT, AND IF YOU FORGO THIS OPPORTUNITY, THAT ONE WILL
7 BE ON YOU BECAUSE THE COURT -- THE RECORD WILL
8 REFLECT THAT I HAVE GIVEN YOU A FULL OPPORTUNITY TO
9 DO IT AND THAT MR. -- AND I AM GOING TO INQUIRE OF
10 MR. DIGGS AND MR. KELLY WHETHER -- I'M NOT GOING TO
11 GO INTO YOUR STRATEGY BECAUSE IT'S REALLY NOT MY
12 BUSINESS WHAT THEIR STRATEGY IS, BUT ONCE YOU PROVIDE
13 THEM WITH THAT INFORMATION, THEY WILL HAVE TO
14 DETERMINE STRATEGICALLY WHETHER THEY BELIEVE IT IS
15 IN YOUR BEST INTEREST.

16 THEY MAY WELL MAKE THE DECISION THAT CALLING
17 THESE ADDITIONAL WITNESSES ARE NOT IN YOUR BEST
18 INTEREST AND THAT IT IS CONTRARY TO YOUR STRATEGY IN
19 THE CASE. I DON'T KNOW.

20 I CAN'T MAKE THAT ASSESSMENT. BUT THE ONLY
21 THING THAT I CAN ADVISE YOU IS THAT YOU NEED TO MAKE
22 THEM AWARE OF IT. THEY CANNOT ADVISE YOU IF THEY ARE
23 NOT FULLY INFORMED OF YOUR THOUGHT.

24 AND THAT IS WHY I ASKED BECAUSE IT IS MY FULL
25 UNDERSTANDING BASED ON MY CONTACT IN THIS CASE THAT

1 YOUR LAWYERS HAVE FULLY DISCUSSED THEIR STRATEGY IN
2 THIS CASE AND YOU HAVE BEEN ADVISED ALL ALONG, THAT
3 THEY HAVE NOT MADE ANY DECISIONS WITHOUT FULLY
4 DISCUSSING THOSE MATTERS WITH YOU. IS THAT CORRECT,
5 MR. KELLY AND MR. DIGGS?

6 MR. KELLY: IT IS, MA'AM.

7 THE COURT: THAT HAS BEEN THE COURT'S PERCEPTION
8 AND THAT HAS BEEN WHAT YOU'VE REPRESENTED TO THE
9 COURT.

10 THE DEFENDANT: WE HAVE DISCUSSED IT, MA'AM.

11 THE COURT: OKAY. NOW, DO YOU HAVE ANY
12 COMPLAINTS ABOUT THEIR SERVICES?

13 THE DEFENDANT: NO, MA'AM.

14 THE COURT: AND ARE YOU COMPLETELY SATISFIED
15 WITH YOUR LAWYERS' SERVICES?

16 THE DEFENDANT: BEST OF MY KNOWLEDGE, YES,
17 MA'AM.

18 THE COURT: HAVE YOU MADE THESE STATEMENTS TO ME
19 FREELY AND VOLUNTARILY AND OF YOUR OWN WILL?

20 THE DEFENDANT: YES, MA'AM.

21 THE COURT: DO YOU FEEL THAT YOU HAVE BEEN
22 COERCED IN ANY WAY OR UNDER ANY DURESS TO MAKE THESE
23 STATEMENTS TO THE COURT?

24 THE DEFENDANT: NO, MA'AM, I HAVEN'T.

25 THE COURT: ARE YOU SUFFERING FROM ANY MENTAL

1 DISABILITIES OR UNDER THE INFLUENCE OF ANY DRUGS OR
2 ALCOHOL THAT WOULD AFFECT THE STATEMENTS THAT YOU
3 JUST MADE TO THE COURT REGARDING YOUR ATTORNEYS'
4 REPRESENTATION?

5 THE DEFENDANT: NO, MA'AM.

6 THE COURT: DO YOU FEEL THAT YOU HAVE BEEN
7 COERCED IN ANY WAY TO MAKE THESE STATEMENTS TO THE
8 COURT?

9 THE DEFENDANT: NO, MA'AM.

10 THE COURT: NOW, I'M GOING TO GIVE YOU A FEW
11 MINUTES. AND ACTUALLY WHILE I HAVE EVERYBODY OUT OF
12 THE COURTROOM, I MIGHT AS WELL TAKE THIS UP NOW ALSO,
13 IT'S REALLY NOT NECESSARY THAT THEY BE HERE.

14 YOU ARE AWARE -- LET ME ASK YOU. MR. KELLY AND
15 MR. DIGGS, HAVE YOU FULLY EXPLAINED TO MR. STANKO HIS
16 RIGHT THAT HE HAS THE LAST ARGUMENT IN THIS PHASE?

17 MR. DIGGS: YOUR HONOR, WE DISCUSSED THAT. I
18 KNOW I'VE DISCUSSED IT WITH STEPHEN. I'M SURE MR.
19 KELLY HAS.

20 THE COURT: AND MR. KELLY?

21 MR. KELLY: YES, MA'AM.

22 THE COURT: AND DO YOU ALL BELIEVE HE'S FULLY
23 INFORMED THAT HE HAS THE RIGHT TO THE LAST ARGUMENT?

24 MR. KELLY: YES, MA'AM.

25 MR. DIGGS: YES, MA'AM.

1 THE COURT: DO YOU ALL PLAN TO OPEN AS WELL AS
2 CLOSE OR DO YOU SIMPLY PLAN TO CLOSE?

3 LAW CLERK: JUDGE, JUST A SECOND. THERE IS
4 SOMEBODY OUT THERE.

5 THE COURT: THAT'S A DEPUTY.

6 LAW CLERK: IS THAT ALL RIGHT?

7 THE COURT: YEAH, HE CAN'T HEAR WHAT WE'RE
8 SAYING. ALL RIGHT.

9 LAW CLERK: I JUST WANTED TO MAKE SURE BEFORE WE
10 WENT ANY FURTHER.

11 MR. DIGGS: YOUR HONOR, I DON'T BELIEVE WE'VE
12 MADE A DECISION ON THAT YET. WE HAVEN'T REALLY
13 DISCUSSED WHAT...

14 THE COURT: OKAY. WELL, YOU CAN LET ME KNOW
15 THAT.

16 MR. DIGGS: OKAY.

17 THE COURT: I JUST NEED TO KNOW -- I WAS ASKING
18 MORE FOR SCHEDULING PURPOSES THAN ANYTHING ELSE.

19 MR. DIGGS: ALL RIGHT. YOUR HONOR, I PROBABLY
20 WOULD NOT OPEN. I DON'T KNOW HOW MR. KELLY FEELS.

21 MR. KELLY: YOU MEAN ON THE LAW, MA'AM?

22 THE COURT: YES, SIR.

23 MR. KELLY: I DON'T INTEND TO OPEN ON THE LAW
24 MYSELF, MA'AM.

25 THE COURT: OKAY.

1 MR. DIGGS: YEAH. AND I REALLY DON'T AT THIS
2 POINT EITHER.

3 THE COURT: OKAY. MR. STANKO, HAVE YOUR LAWYERS
4 FULLY EXPLAINED TO YOU YOUR RIGHT TO HAVE THE LAST
5 ARGUMENT IN THIS PHASE OF THE TRIAL?

6 THE DEFENDANT: YES, MA'AM.

7 THE COURT: AND YOU FULLY UNDERSTAND THAT?

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: HAVE YOUR LAWYERS ALSO EXPLAINED TO
10 YOU THAT YOU HAVE THE RIGHT TO ADDRESS THE JURY
11 DURING THIS PHASE OF THE TRIAL IN CLOSING ARGUMENT?

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: AND MR. STANKO, MR. KELLY, HAVE YOU
14 FULLY EXPLAINED TO MR. STANKO HIS RIGHT TO FULLY --
15 TO ADDRESS THE JURY IN CLOSING ARGUMENT AT THE -- IN
16 THIS PHASE OF THE TRIAL?

17 MR. DIGGS: YOUR HONOR, I DISCUSSED IT WITH HIM.

18 MR. KELLY: YES, MA'AM.

19 THE COURT: AND DO YOU BELIEVE HE FULLY
20 UNDERSTANDS THAT RIGHT?

21 MR. DIGGS: HE DOES.

22 MR. KELLY: HE DOES, YOUR HONOR.

23 THE COURT: SIR, AGAIN, HAVE YOUR LAWYERS FULLY
24 EXPLAINED TO YOU YOUR RIGHT TO ADDRESS THE JURY IN
25 CLOSING ARGUMENT DURING THIS PHASE OF THE CASE?

1 THE DEFENDANT: YES, MA'AM.

2 THE COURT: AND HAVE YOU UNDERSTOOD YOUR TALKS
3 WITH THEM?

4 THE DEFENDANT: YES, MA'AM.

5 THE COURT: DO YOU FEEL YOU NEED TO TALK WITH
6 THEM ANY MORE REGARDING THIS RIGHT?

7 THE DEFENDANT: WHAT WE'RE GOING TO DO IS I'M
8 GOING TO WRITE DOWN -- I CAN'T ANSWER YES OR NO.
9 WHAT WE'RE GOING TO DO IS I'M GOING TO THINK AND
10 WRITE DOWN WHAT I INTEND TO SAY TONIGHT AND WE'RE
11 GOING TO LOOK AT IT IN THE MORNING, AND THEN ONCE WE
12 TALK IN THE MORNING THE LAST TIME--

13 THE COURT: AND THEN MAKE YOUR FINAL DECISION?

14 THE DEFENDANT: THEN MAKE -- RIGHT NOW I'M IN
15 AGREEMENT WITH WHAT THEY SAID, BUT I WANT THEM TO
16 READ IT FIRST AND THEN MAKE ONE LAST DECISION.

17 THE COURT: OKAY.

18 THE DEFENDANT: AND THAT WON'T TAKE BUT 10
19 SECONDS.

20 THE COURT: AND YOU ALL HAVE FULLY EXPLAINED TO
21 HIM WHAT HE WOULD BE CONFINED TO IN MAKING HIS
22 ARGUMENT; CORRECT?

23 MR. DIGGS: YOUR HONOR, WE DISCUSSED THAT, YES.

24 THE COURT: MR. KELLY?

25 MR. KELLY: YES, MA'AM.

1 THE COURT: AND YOU BELIEVE HE'S FULLY ADVISED--

2 MR. KELLY: YES.

3 THE COURT: -- REGARDING THE LIMITATIONS.

4 MR. KELLY: I DO, MA'AM.

5 MR. DIGGS: YES, MA'AM.

6 THE COURT: ALL RIGHT. MR. STANKO, WHAT I WILL
7 DO THEN IS I WILL RESERVE THE REST OF OUR DISCUSSION
8 REGARDING THIS UNTIL THE MORNING BECAUSE THE NEXT
9 SERIES OF MY QUESTIONS WOULD BE WHETHER YOU WANT TO
10 ADDRESS THE JURY IN CLOSING ARGUMENT.

11 BUT WHAT I WILL DO IS GIVE YOU THE FULL
12 OPPORTUNITY TO DISCUSS THAT THIS EVENING WITH YOUR
13 COUNSEL AND THEN WE WILL RESUME IN THE MORNING. THE
14 FIRST THING THAT I WILL DO IS AGAIN I WILL QUESTION
15 YOU REGARDING YOUR RIGHT TO ADDRESS THE JURY IN FINAL
16 ARGUMENT SO THAT YOU CAN HAVE A FULL OPPORTUNITY TO
17 DISCUSS THAT WITH YOUR LAWYERS IN MORE DETAIL.

18 IS THERE ANY EXCEPTION TO THE COURT HANDLING IT
19 THAT WAY?

20 MR. DIGGS: NO, YOUR HONOR.

21 MR. KELLY: NO, MA'AM.

22 THE COURT: ALL RIGHT. LET'S BRING EVERYBODY
23 BACK IN. ACTUALLY, I WILL GIVE YOU ALL A FEW MINUTES
24 TO TALK TO MR. STANKO. I'M GLAD YOU REMINDED ME.

25 IF THERE ARE ANY OTHER WITNESSES YOU WANT YOUR

1 LAWYERS TO CALL, YOU NEED TO MAKE THEM AWARE OF IT
2 RIGHT NOW BECAUSE WHEN YOU COME -- WHEN I COME BACK,
3 BEFORE I BRING EVERYBODY BACK IN, I'M GOING TO
4 ASCERTAIN FROM THEM WHETHER YOU'VE PROVIDED THEM WITH
5 THAT INFORMATION SO THAT FOR SCHEDULING PURPOSES I
6 CAN DECIDE WHETHER THEY -- OR I WON'T DECIDE -- SO
7 THEY CAN DECIDE WHETHER THEY NEED TO REST TODAY OR
8 WHETHER WE WILL HAVE CLOSING ARGUMENTS AND CHARGE IN
9 THE MORNING OR WHETHER I NEED TO GIVE THEM ADDITIONAL
10 TIME TO PROCURE OTHER WITNESSES. WE WILL BE AT EASE
11 FOR A FEW MOMENTS.

12 MR. DIGGS: THANK YOU, YOUR HONOR.

13 THE COURT: YOU'RE WELCOME.

14 (WHEREUPON A RECESS WAS HAD.)

15 THE COURT: OKAY. MR. STANKO, PURSUANT TO OUR
16 CONVERSATION JUST A FEW MOMENTS AGO THE COURT TOOK A
17 BREAK TO GIVE YOU AN ADDITIONAL OPPORTUNITY TO
18 DISCUSS WITH MR. DIGGS AND MR. KELLY THE OPPORTUNITY
19 TO CALL ANY OTHER WITNESSES THAT YOU MIGHT FEEL THAT
20 ARE NECESSARY IN YOUR REPRESENTATION.

21 HAVE YOU HAD A FULL OPPORTUNITY TO DISCUSS THOSE
22 MATTERS WITH YOUR LAWYERS?

23 THE DEFENDANT: YES, MA'AM, WE DISCUSSED IT.

24 THE COURT: AND HAVE YOU FULLY ADVISED THEM OF
25 ANY ADDITIONAL WITNESSES YOU WISH FOR THEM TO CALL

1 BEFORE THEY REST?

2 *THE DEFENDANT:* YES, MA'AM. WE DISCUSSED THAT.

3 *THE COURT:* OKAY. MR. KELLY AND MR. DIGGS, HAS
4 MR. STANKO FULLY ADVISED YOU PURSUANT TO THE COURT'S
5 LAST COLLOQUY WITH HIM REGARDING ANY ADDITIONAL
6 WITNESSES?

7 MR. DIGGS: YES, MA'AM.

8 MR. KELLY: YES, MA'AM. SAID HE DIDN'T HAVE
9 ANY.

10 *THE COURT:* OKAY. AND THAT -- MR. STANKO, YOU
11 ARE FULLY CONFIDENT IN THAT ANSWER?

12 *THE DEFENDANT:* YES, MA'AM.

13 *THE COURT:* OKAY. AND YOU DO NOT DESIRE YOUR
14 ATTORNEYS TO CALL ANY ADDITIONAL WITNESSES PRIOR TO
15 THE CLOSE OF YOUR CASE?

16 *THE DEFENDANT:* NO, MA'AM.

17 *THE COURT:* AND YOU UNDERSTAND THAT THIS WILL BE
18 YOUR FINAL OPPORTUNITY TO DO THAT?

19 *THE DEFENDANT:* YES, MA'AM.

20 *THE COURT:* AND YOU UNDERSTAND THAT THE COURT
21 CAN, IS WILLING TO GIVE YOU ADDITIONAL TIME TO DO
22 THAT IF THAT IS YOUR DESIRE.

23 *THE DEFENDANT:* I UNDERSTAND THAT YOU WILL DO
24 THAT, MA'AM.

25 *THE COURT:* AND UNDERSTANDING THAT, YOU STILL DO

1 NOT WISH TO CALL ANY ADDITIONAL WITNESSES?

2 THE DEFENDANT: THAT'S CORRECT.

3 THE COURT: OKAY. ALL RIGHT. LET'S PROCEED.

4 WELL, LET ME ASK ANOTHER QUESTION. MR. STANKO, ARE
5 YOU DOING THAT FREELY AND VOLUNTARILY AND OF YOUR OWN
6 WILL?

7 THE DEFENDANT: YES, MA'AM.

8 THE COURT: AND YOU DO NOT FEEL -- DO YOU FEEL
9 THAT YOU'RE UNDER ANY DURESS OR COERCION IN ANSWERING
10 THE COURT'S QUESTIONS?

11 THE DEFENDANT: NO, MA'AM.

12 THE COURT: OKAY. YOU'RE NOT UNDER THE
13 INFLUENCE OF ANY DRUGS OR ALCOHOL; IS THAT CORRECT?

14 THE DEFENDANT: THAT'S CORRECT.

15 THE COURT: OKAY. GO AHEAD AND TELL EVERYBODY
16 THEY CAN COME BACK FOR ME, MR. DIGGS, THEN WHAT I
17 WILL ASSUME WE'LL DO IS YOU ALL WILL REST IN THE
18 PRESENCE OF THE JURY, I WILL LET THEM GO, DO A QUICK
19 CHARGE CONFERENCE.

20 SUMMER HAS COPIES OF THE CHARGE FOR YOU ALL
21 SHE'S GOING TO GIVE YOU. Y'ALL ALREADY HAVE THE
22 FORMS, AND SO THEN GO OVER THE CHARGE.

23 MR. KELLY: YES, MA'AM.

24 THE COURT: OH, AND WE NEED TO DEAL WITH THE
25 EXHIBITS. HAVE WE GOT THEM...

1 COURT REPORTER: PRETTY MUCH. MRS. DAVIS HAS --
2 I'VE GOT THE DISK WITH THE PICTURES...

3 (OFF-THE-RECORD DISCUSSION WAS HAD WITH THE CLERK.)

4 THE COURT: HAVE THEY BEEN FULLY REDACTED? HAS
5 HE HAD A CHANCE TO FULLY REDACT THEM? HAVE THEY BEEN
6 FULLY REDACTED?

7 MR. HEMBREE: YES. I'VE BEEN THROUGH THEM, YOUR
8 HONOR. THEY'RE FULLY REDACTED.

9 THE COURT: OKAY. ALL RIGHT. I JUST WANT TO BE
10 SURE...

11 (OFF-THE-RECORD DISCUSSION WAS HAD WITH COURT
12 REPORTER AND ATTORNEYS.)

13 THE COURT: ALL RIGHT. I HAVE ALREADY COVERED
14 WITH MR. STANKO IN YOUR ABSENCE HIS SATISFACTION WITH
15 COUNSEL, HIS RIGHT TO TESTIFY, AND HIS RIGHT TO
16 ADDRESS THE JURY IN FINAL ARGUMENT.

17 WE WILL CONTINUE QUESTIONING HIM REGARDING HIS
18 RIGHT TO ADDRESS THE JURY IN FINAL ARGUMENT IN THE
19 MORNING. HE NEEDS ADDITIONAL TIME TO DISCUSS THAT
20 WITH HIS LAWYERS.

21 WHAT -- WE ANTICIPATE THAT THE DEFENSE IS GOING
22 TO REST. ARE THERE GOING TO BE ANY REPLY WITNESSES?

23 MR. HEMBREE: NO, YOUR HONOR.

24 THE COURT: AND THEN I WILL -- WE'LL HEAR ANY
25 MOTIONS THEN WE'LL HAVE A CHARGE CONFERENCE AND I

1 WILL ADVISE THE JURY WE'RE TO HAVE CLOSING ARGUMENT
2 AND CHARGE IN THE MORNING.

3 NOW, IS THERE ANYTHING THAT YOU ALL ANTICIPATE
4 THAT WE'RE GOING TO HAVE TO TAKE UP IN THE MORNING
5 PRIOR TO STARTING AT 9:30? BECAUSE IF WE DO, I WANT
6 TO ADJUST THE SCHEDULE BECAUSE I DON'T WANT THE JURY
7 WAITING IF WE HAVE THINGS WE NEED TO TAKE CARE OF.

8 MR. HUMPHRIES: NOT AS LONG AS WE'RE GOING TO GO
9 THROUGH THE CHARGE AND THE FORM TONIGHT.

10 THE COURT: Y'ALL ANTICIPATE ANYTHING?

11 MR. DIGGS: WE DON'T HAVE ANYTHING.

12 THE COURT: OKAY. AND IS THERE ANY EXCEPTION TO
13 US PROCEEDING AS THE COURT HAS INDICATED?

14 MR. DIGGS: NOT FROM THE DEFENSE.

15 THE COURT: FROM THE STATE?

16 MR. HEMBREE: NOT FROM THE STATE, YOUR HONOR.

17 THE COURT: YOU CAN BRING IN THE JURY, PLEASE.

18 (JURY ENTERED THE COURTROOM AT 6:50 PM.)

19 THE COURT: YOU MAY BE SEATED. LADIES AND
20 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE NEEDED TO
21 TAKE UP SOME ADMINISTRATIVE MATTERS AS WELL AS SOME
22 MATTERS OF LAW OUTSIDE OF YOUR PRESENCE SO THAT WE
23 COULD KNOW HOW WE WILL BE PROCEEDING WITH THE
24 DURATION OF THE PROCEEDINGS. THE DEFENSE MAY
25 PROCEED.

1 MR. DIGGS: YOUR HONOR, THE DEFENSE WILL REST AT
2 THIS POINT.

3 THE COURT: ARE THERE ANY REBUTTAL WITNESSES
4 FROM THE STATE?

5 MR. HEMBREE: NO REBUTTAL WITNESSES FROM THE
6 STATE, YOUR HONOR.

7 THE COURT: MADAM FORELADY, LADIES AND
8 GENTLEMEN, BOTH THE STATE AND THE DEFENSE HAVE
9 RESTED. THE NEXT PHASE -- THERE'S SOME MATTERS OF
10 LAW I NEED TO TAKE UP WITH THE ATTORNEYS, AND IT
11 REALLY IS NOT EFFICIENT AT ALL TO HAVE YOU ALL WAIT
12 WHILE WE DO THAT.

13 AND IN ANY EVENT, THE NEXT STAGE OF THE PROCESS
14 WILL BE CLOSING ARGUMENT AND THE COURT'S CHARGE ON
15 THE LAW.

16 AND WE WILL DO THAT -- AND WE WOULDN'T BE ABLE
17 TO START THAT TONIGHT ANYWAY BECAUSE I ANTICIPATE IT
18 WILL TAKE A WHILE AND I WOULD IMAGINE YOU ALL ARE
19 WEARY AND NEED SOME DINNER AND THAT WOULD NOT BE AN
20 EFFICIENT USE OF OUR TIME.

21 WE WILL HAVE CLOSING ARGUMENT AND CHARGE IN THE
22 MORNING BEGINNING AT 9:30. DURING THIS BREAK PLEASE
23 DO NOT DISCUSS THIS CASE IN ANY WAY. PLEASE LEAVE
24 YOUR NOTEPADS IN YOUR SEATS.

25 AND IF I -- I ASSUME -- IS DINNER BEING BROUGHT

1 IN TO THEM TONIGHT OR THEY GOING OUT? YOU ALL WILL
2 BE GOING OUT. MR. MCLEOD HAS BEEN GIVEN THE
3 INSTRUCTIONS REGARDING THAT.

4 AND I HOPE YOU ALL HAVE A WONDERFUL DINNER, A
5 GOOD REST, AND WE WILL SEE YOU IN THE MORNING. HAVE
6 A GOOD EVENING.

7 (JURY LEFT THE COURTROOM AT 6:51 PM.)

8 THE COURT: YOU MAY BE SEATED. MY CLERK HAS
9 PROVIDED YOU WITH COPIES OF THE COURT'S PROPOSED
10 CHARGE. BUT BEFORE WE DO THAT, ARE THERE ANY MOTIONS
11 NOW THAT BOTH THE STATE AND THE DEFENSE HAVE RESTED?

12 MR. DIGGS: YOUR HONOR, WE WOULD RENEW THE
13 MOTIONS FOR THE DIRECTED VERDICT ON THE AGGRAVATING
14 CIRCUMSTANCES GIVEN THAT ALL THE EVIDENCE IS IN, AND
15 IT WOULD BE BASICALLY ON THE SAME GROUNDS THAT WE
16 PREVIOUSLY STATED IN THE RECORD.

17 THE ADDITIONAL GROUNDS FOR A DIRECTED VERDICT --
18 AT THIS POINT WE WOULD ASK FOR DIRECTED VERDICT OF
19 LIFE IMPRISONMENT ON THE BASIS THAT THE WEIGHT OF THE
20 EVIDENCE COMPELS THAT FINDING AT THIS POINT BASED ON
21 ON THE MENTAL STATUS OF THE DEFENDANT.

22 IT REALLY -- THE WEIGHT OF THE EVIDENCE IN THIS
23 PHASE INDICATES THAT THERE WAS A MENTAL DEFECT, THAT
24 IT WAS OR IS A CAUSE FOR ABERRANT BEHAVIOR OF
25 MR. STANKO.

1 IT WOULD BE A VIOLATION OF THE EIGHTH AMENDMENT,
2 I WOULD SUBMIT, AS CRUEL AND UNUSUAL TO PUT SOMEONE
3 TO DEATH WHO IS LABORING UNDER THE DEFECT THAT
4 MR. STANKO HAS.

5 AGAIN, IT'S SHOWN BY THE WEIGHT OF THE EVIDENCE
6 IN THE CASE. SO WE'D MAKE THAT ADDITIONAL MOTION AT
7 THIS TIME, YOUR HONOR. AND THE -- BOTH THE SOUTH
8 CAROLINA STATE CONSTITUTION AND THE EIGHTH
9 AMENDMENT--

10 THE COURT: I ASSUME YOU SAID YOU WERE RENEWING
11 PREVIOUS MOTIONS THAT YOU MADE ON DIRECTED VERDICT--

12 MR. DIGGS: YES, MA'AM. YES, MA'AM. AND
13 BECAUSE THERE'S NO--

14 THE COURT: THE AGGRAVATING FACTORS?

15 MR. DIGGS: ON THE AGGRAVATING FACTORS. AND
16 SINCE THERE'S NOT ANY ADDITIONAL EVIDENCE AT THIS
17 POINT FROM THE PROSECUTION, WE WOULD STAND BY OUR
18 ARGUMENT, YOUR HONOR. I DON'T THINK I NEED TO REPEAT
19 IT UNLESS YOU...

20 THE COURT: ANYTHING FURTHER?

21 MR. DIGGS: NOTHING FURTHER.

22 THE COURT: ANY RESPONSE FROM THE STATE?

23 MR. HEMBREE: YOUR HONOR, AS TO THE MOTION FOR
24 DIRECTED VERDICT ON PREVIOUS GROUNDS, THE STATE WOULD
25 RELY ON ITS PREVIOUS ARGUMENTS, ITS RULINGS OF THE

1 COURT AS WELL.

2 AND AS TO THE ADDITIONAL -- THE ADDITION TO THE
3 MOTION FOR DIRECTED VERDICT BY MR. DIGGS THAT THE --
4 THAT -- REQUESTING A DIRECTED VERDICT BECAUSE THE --
5 OF THE DEFENDANT'S MENTAL STATE, YOUR HONOR, WE WOULD
6 SUBMIT THAT THAT IS -- FIRST HAS BEEN REJECTED, AT
7 LEAST IN THE GUILT PHASE WAS REJECTED IN FINDING THEY
8 HAD REJECTED THAT HE WAS INSANE TO REACH THE VERDICTS
9 THAT THEY REACHED.

10 HOWEVER, IT IS APPROPRIATE TO CHARGE THE
11 STATUTORY MITIGATING CIRCUMSTANCE AND IT IS A
12 QUESTION OF FACT FOR THE JURY. SO -- AND THERE IS
13 CERTAINLY CONTRADICTORY TESTIMONY ON THE RECORD
14 THAT -- THAT CREATES A -- A JURY ISSUE, AND WE WOULD
15 SUBMIT THAT IT SHOULD BE CHARGED AS A STATUTORY
16 MITIGATING -- STATUTORY MITIGATING CIRCUMSTANCE.

17 THE COURT: WHEN CONSIDERING A MOTION FOR
18 DIRECTED VERDICT, THE COURT IS REQUIRED TO VIEW THE
19 EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE.
20 AND THE COURT IS CONCERNED WITH THE EXISTENCE OR
21 NON-EXISTENCE OF EVIDENCE AND NOT ITS WEIGHT.

22 IT'S NOT FOR THE COURT TO ACT AS THE FACT
23 FINDER. AND THIS IS NOT A SITUATION WHERE THERE'S A
24 MERE SUSPICION OF GUILT BEING RAISED.

25 THE COURT WOULD FIND THAT THERE IS SUBSTANTIAL

1 DIRECT EVIDENCE -- THERE IS DIRECT EVIDENCE AS WELL
2 AS SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE -- SUBSTANTIAL
3 CIRCUMSTANTIAL EVIDENCE REASONABLY TENDING TO PROVE
4 THAT AN AGGRAVATING OR AGGRAVATING CIRCUMSTANCES
5 EXIST.

6 THE ISSUES RAISED BY THE DEFENSE REGARDING THE
7 DEFENDANT'S MENTAL STATUS ARE JURY QUESTIONS. THEY
8 ARE SUSCEPTIBLE OF MORE THAN ONE INFERENCE. WHETHER
9 THE DEFENDANT SUFFERS FROM ANY MENTAL ABNORMALITY IS
10 CLEARLY A QUESTION OF FACT. AND WHETHER A DEFECT
11 EXISTS IS CLEARLY A QUESTION OF FACT BOTH APPROPRIATE
12 FOR THE JURY'S CONSIDERATION.

13 THE COURT WILL WITHOUT -- AND IN THE INTEREST OF
14 TIME -- THE DEFENSE AT THE CLOSE OF THE STATE'S CASE
15 MOVED FOR DIRECTED VERDICT ON EACH OF THE AGGRAVATING
16 CIRCUMSTANCES, AND THOSE BEING -- BOTH THOSE BEING
17 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF
18 CRIMINAL SEXUAL CONDUCT IN ANY DEGREE, THE MURDER WAS
19 COMMITTED WHILE IN THE COMMISSION OF A KIDNAPPING,
20 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF
21 ROBBERY WHILE ARMED WITH A DEADLY WEAPON, THE MURDER
22 WAS COMMITTED WHILE IN THE COMMISSION OF LARCENY WITH
23 THE USE OF A DEADLY WEAPON, THE MURDER WAS COMMITTED
24 WHILE IN THE COMMISSION OF A PHYSICAL TORTURE.

25 THE COURT WILL RELY ON ITS PREVIOUS RULINGS AND

1 WILL NOT AGAIN IN THE INTEREST OF TIME RESTATE THOSE.
2 THE ONLY AMENDMENT THAT THE COURT WILL MAKE TO ITS
3 RULING -- MR. DIGGS MADE A VERY INTERESTING ARGUMENT
4 REGARDING THE CRIMINAL SEXUAL CONDUCT ASPECT OF IT
5 WHEN HE WAS ARGUING HIS DIRECTED VERDICT WHICH
6 PROMPTED ME TO GO BACK AND DO A LITTLE MORE RESEARCH
7 BECAUSE I KNEW I READ A CASE ON POINT BUT COULD NOT
8 REMEMBER THE CITATION.

9 AND THE ISSUE THAT HE RAISED WAS THAT THE PERSON
10 WHO WAS MURDERED HAD TO BE THE OBJECT OF A CRIMINAL
11 SEXUAL CONDUCT.

12 THERE ARE SUPREME COURT CASES ON POINT THAT
13 INDICATE THAT THAT DOES NOT IN FACT HAVE TO BE THE
14 CASE.

15 AND THE SUPREME COURT HAS DEFINED THAT, WHILE IN
16 THE COMMISSION OF, TO MEAN WHEN THE ACTS ARE
17 CONSUMMATED IN A CONTINUOUS SERIES OF ACTS WITH THE
18 MURDER ARE IN THE SAME PLACE AND ARE NOT SEPARATED BY
19 ANY SUBSTANTIAL LAPSE OF TIME.

20 THE FACT THAT THE CRIMES ARE COMMITTED AFTER THE
21 MURDER AND UPON A DIFFERENT VICTIM DOES NOT
22 INVALIDATE THEM AS STATUTORY AGGRAVATING
23 CIRCUMSTANCES.

24 AND THAT IS BASED ON STATE VERSUS JONES WHICH IS
25 288 SOUTH CAROLINA ONE 340, SOUTHEAST SECOND 782,

1 WHICH CERT WAS DENIED BY THE UNITED STATES SUPREME
2 COURT WHICH I BELIEVE IS ON POINT IN THAT -- AND I
3 JUST FELT THAT I NEEDED TO APPEND THE COURT'S RULING
4 TO THAT EXTENT.

5 BUT OTHERWISE THE COURT WILL RELY ON ITS
6 PREVIOUS RULING. AND I THINK WE WENT THROUGH A GREAT
7 AMOUNT OF DETAIL REGARDING THE MOTIONS FOR DIRECTED
8 VERDICT AND THE COURT MADE ITS FINDINGS AND AT THAT
9 TIME AND FOUND THAT VIEWING THE EVIDENCE IN THE LIGHT
10 MOST FAVORABLE TO THE STATE THERE IS DIRECT AND
11 SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE REASONABLY
12 TENDING TO PROVE THE AGGRAVATING CIRCUMSTANCE --
13 REASONABLY TENDING TO PROVE AN AGGRAVATING
14 CIRCUMSTANCE OR AGGRAVATING CIRCUMSTANCES AND THAT
15 THOSE MATTERS ARE APPROPRIATELY SUBMITTED TO THE
16 JURY.

17 THE COURT, OF COURSE, IS CONCERNED WITH THE
18 EXISTENCE OR NON-EXISTENCE OF EVIDENCE AND NOT ITS
19 WEIGHT. IT IS NOT THE COURT'S PREROGATIVE TO ACT AS
20 THE FACT FINDER AND WEIGH EVIDENCE.

21 AND THE COURT WOULD APPLY THAT SAME RULING TO
22 THE DEFENDANT'S MOTION FOR A DIRECTED VERDICT, THE
23 SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE,
24 AND THE FINDING IS NOT FOUND FOR THE PURPOSES OF THE
25 RECORD.

1 NOW, I -- AS REGARD THE FORM, I HAD MY LAW CLERK
2 GIVE ALL THE FORMS, STATUTORY FORMS TO YOU THAT WILL
3 BE SUBMITTED TO THE JURY. WE HAD TO CORRECT ONE OF
4 THEM.

5 I APOLOGIZE FOR THE SCRIVENER'S ERROR IN COPYING
6 THOSE FILES. AND I BELIEVE WE HAVE ALREADY PROVIDED
7 THOSE TO YOU, THAT BEING THE FINDING OF THE SENTENCE
8 OF LIFE IMPRISONMENT.

9 AND JUST SO THAT WE ARE ALL ON THE SAME PAGE,
10 MAKE SURE THAT YOU HAVE THE SAME FORMS, DO YOU ALL
11 HAVE THOSE FORMS THAT WOULD BE SENT TO THE JURY WOULD
12 BE AGGRAVATING CIRCUMSTANCES...

13 THAT, OF COURSE, WOULD READ PURSUANT TO STATUTE,
14 WE THE JURY IN THE ABOVE-ENTITLED CASE FIND BEYOND A
15 REASONABLE DOUBT THE FOLLOWING STATUTORY AGGRAVATING
16 CIRCUMSTANCES WITH SPACES PROVIDED FOR THEM TO WRITE
17 THAT OUT AND THEN A PLACE FOR EACH JUROR TO SIGN.

18 RECOMMENDATION OF SENTENCE OF DEATH PENALTY,
19 WHICH IS MUCH THE SAME, WE THE JURY IN THE
20 ABOVE-ENTITLED CASE HAVING FOUND BEYOND A REASONABLE
21 DOUBT THE EXISTENCE OF THE FOLLOWING STATUTORY
22 AGGRAVATING CIRCUMSTANCES, GIVES A PLACE FOR THEM TO
23 LIST THOSE, NOW RECOMMEND TO THE COURT THAT THE
24 DEFENDANT, STEPHEN CHRISTOPHER STANKO, BE SENTENCED
25 TO DEATH WITH THE FORM WITH THE ALLOTTED LINES

1 PURSUANT TO STATUTE FOR THE JURORS TO SIGN.

2 THE STATUTORY INSTRUCTIONS WHICH REFLECT, IN
3 DETERMINING WHETHER TO RECOMMEND THAT THE DEFENDANT,
4 STEPHEN CHRISTOPHER STANKO, BE SENTENCED BY THE COURT
5 TO LIFE IMPRISONMENT OR TO DEATH YOU MAY CONSIDER THE
6 FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES.

7 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION
8 OF CRIMINAL SEXUAL CONDUCT IN ANY DEGREE, THE MURDER
9 WAS COMMITTED WHILE IN THE COMMISSION OF KIDNAPPING,
10 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF
11 ROBBERY WHILE ARMED WITH A DEADLY WEAPON, THE MURDER
12 WAS COMMITTED WHILE IN THE COMMISSION OF LARCENY WITH
13 THE USE OF A DEADLY WEAPON, THE MURDER WAS COMMITTED
14 WHILE IN THE COMMISSION OF PHYSICAL TORTURE.

15 YOU MAY ALSO CONSIDER THE FOLLOWING MITIGATING
16 CIRCUMSTANCES. AND I INCLUDED THE LAST ONE BECAUSE I
17 DID THIS EARLY AND I WAS NOT CERTAIN HOW THE FACTS
18 WOULD SHAKE OUT.

19 I KNOW IN THE GUILT PHASE THAT THERE WAS SOME
20 INDICATION POTENTIALLY ABOUT PROVOCATION, BUT I --
21 AFTER HAVING LISTENED TO THE PENALTY PHASE, I DON'T
22 THINK IT'S SUPPORTED BY THE FACTS AND I WOULD NOT
23 CHARGE THAT.

24 BUT I WOULD CHARGE -- I MEAN, I WILL INCLUDE,
25 YOU MAY ALSO CONSIDER THE FOLLOWING MITIGATING

1 CIRCUMSTANCES. THE MURDER WAS COMMITTED WHILE THE
2 DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR
3 EMOTIONAL DISTURBANCE, THE CAPACITY OF THE DEFENDANT
4 TO APPRECIATE THE CRIMINALITY OF THE CONDUCT OR TO
5 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF LAW WAS
6 SUBSTANTIALLY IMPAIRED.

7 AND AS I INDICATED, I WAS GOING TO ELIMINATE
8 NUMBER THREE BECAUSE I DON'T THINK IT'S SUPPORTED
9 FACTUALLY.

10 AND THEN ALSO THE CATCH-ALL WHICH IS PROVIDED
11 AND WILL BE CHARGED, YOU MAY ALSO CONSIDER ANY
12 NON-STATUTORY MITIGATING CIRCUMSTANCE.

13 THE NEXT FORM WILL BE RECOMMENDATION OF SENTENCE
14 OF LIFE IMPRISONMENT. WE THE JURY IN THE
15 ABOVE-ENTITLED CASE HAVING FOUND BEYOND A REASONABLE
16 DOUBT THE EXISTANCE OF THE FOLLOWING STATUTORY
17 AGGRAVATING CIRCUMSTANCES NOW RECOMMEND TO THE COURT
18 THAT THE DEFENDANT, STEPHEN CHRISTOPHER STANKO, BE
19 SENTENCED TO LIFE IMPRISONMENT WITH, OF COURSE, THE
20 APPLICABLE PLACES FOR THE FOREPERSON TO SIGN AND DATE
21 THE FORM.

22 AND THE LAST, NO FINDING OF AGGRAVATING
23 CIRCUMSTANCES. WE THE JURY IN THE ABOVE-ENTITLED
24 CASE ARE UNABLE TO UNANIMOUSLY AGREE ON THE EXISTENCE
25 OF ANY AGGRAVATING CIRCUMSTANCE.

1 AND OF COURSE, PARENTHETICAL OR CIRCUMSTANCES,
2 WITH A PLACE FOR THE FOREPERSON TO SIGN AND DATE THE
3 FORM.

4 ARE THERE ANY EXCEPTIONS TO THE FORMS OF THE
5 STACK -- WHICH ARE PROVIDED BY STATUTE TO BE PROVIDED
6 TO THE JURY? FROM THE STATE?

7 MR. HUMPHRIES: NONE FROM THE STATE.

8 THE COURT: FROM THE DEFENSE?

9 MR. DIGGS: YOUR HONOR, I MAY HAVE MADE THIS
10 ARGUMENT BEFORE. I JUST -- QUITE FRANKLY I DON'T
11 KNOW IF THERE'S CASE LAW ON IT OR NOT. THERE MAY BE.

12 BUT ON THE RECOMMENDATION OF SENTENCE LIFE
13 IMPRISONMENT, I WOULD OBJECT TO THAT FORM ON THE
14 GROUNDS THAT AS THE JUROR -- I WOULD MOVE THAT WE
15 STRIKE THAT FIRST SENTENCE THE, HAVING FOUND BEYOND A
16 REASONABLE DOUBT THE EXISTANCE OF THE FOLLOWING
17 STATUTORY AGGRAVATING CIRCUMSTANCES.

18 I WOULD STRIKE -- I WOULD MOVE TO STRIKE THAT
19 BECAUSE IT PUTS UNDUE PRESSURE ON THE JUROR. LET'S
20 SAY THAT THE JUROR WHO WANTS TO VOTE FOR LIFE
21 IMPRISONMENT, IT ALLOWS THE OTHER JURORS TO SAY,
22 LOOK, WE HAVE GOT THESE STATUTORY AGGRAVATING
23 CIRCUMSTANCES, BUT STILL YOU INSIST ON VOTING FOR
24 LIFE AND SO, YOU KNOW, AND IT JUST DOESN'T MAKE ANY
25 SENSE. AND SO...

1 THE COURT: WELL, I THINK THAT THE COURT'S
2 INSTRUCTIONS ARE GOING TO BE SO CLEAR THAT THE
3 WORDING OF THIS FORM IS NOT GOING TO CREATE ANY
4 CONFUSION BECAUSE THEY HAVE ANOTHER FORM THAT ADVISES
5 THEM THEY CAN FIND NO STATUTORY AGGRAVATING
6 CIRCUMSTANCE.

7 SO IF THEY DON'T FIND ONE, THEY OF COURSE WILL
8 NOT FILL THIS OUT AT ALL. THEY SIMPLY WILL -- FOR
9 LIFE IMPRISONMENT. BUT THE INSTRUCTIONS ARE VERY
10 CLEAR THAT THEY CAN GIVE HIM LIFE FOR ANY REASON AT
11 ALL.

12 IT DOESN'T MATTER. THEY DON'T HAVE TO. AND
13 THEY WILL BE INSTRUCTED THAT IF THEY FIND NO
14 STATUTORY AGGRAVATING CIRCUMSTANCES, THEY ARE TO STOP
15 DELIBERATING ALTOGETHER.

16 MR. DIGGS: OKAY. I WANT TO MAKE SURE THAT THE
17 COURT UNDERSTANDS MY--

18 THE COURT: I DO UNDERSTAND.

19 MR. DIGGS: OKAY.

20 THE COURT: AND WHAT I'M SAYING IS THAT IT'S NOT
21 AMBIGUOUS AND IT DOES NOT CREATE A PROBLEM BECAUSE
22 ITS INSTRUCTIONS ARE SO VERY CLEAR. THERE ARE TWO
23 PAGES DEVOTED TO THEM KNOWING THAT THEY DON'T HAVE TO
24 MAKE THAT FINDING, THAT THEY SHOULD NOT FEEL COERCED
25 IN ANY WAY, BUT THEY DON'T HAVE TO COMPROMISE IN ANY

1 WAY IN MAKING THAT FINDING AND THAT THEY DON'T HAVE
2 TO JUSTIFY. IT COULD BE WHAT WE CALL A MERCY
3 VERDICT.

4 MR. DIGGS: I WOULD ASK--

5 THE COURT: NO REASON AT ALL.

6 MR. DIGGS: I'M SORRY. I CUT YOU OFF THERE,
7 JUDGE. I DIDN'T MEAN TO DO THAT.

8 THE COURT: WELL, IN ORDER FOR THEM TO CONTINUE
9 TO DELIBERATE THEY HAVE TO FIND A STATUTORY
10 AGGRAVATING CIRCUMSTANCE.

11 MR. DIGGS: RIGHT. BUT THE -- I JUST WANTED TO
12 REMOVE ANY ADDED PRESSURE OR COERCION THERE FOR A
13 JUROR TO VOTE LIFE BECAUSE IT'S KIND OF LIKE STARING
14 THEM RIGHT HERE IN THE FACE, WELL, YOU FOUND
15 STATUTORY AGGRAVATING CIRCUMSTANCES, THEN HOW YOUR --
16 VOTE LIFE? SO--

17 THE COURT: WELL, HAVE YOU READ THE PROPOSED
18 CHARGE?

19 MR. DIGGS: YOUR HONOR, I KNOW THAT YOU'VE
20 COVERED IN YOUR CHARGE--

21 THE COURT: WELL, THE PROPOSED CHARGE--

22 MR. DIGGS: YES, MA'AM.

23 THE COURT: -- REALLY CONTRADICTS WHAT YOU JUST
24 SAID BECAUSE IT TELLS THEM THAT THEY HAVE TO FIND
25 STATUTORY AGGRAVATING CIRCUMSTANCES TO CONTINUE

1 DELIBERATING, OTHERWISE IT'S AUTOMATIC IF THEY CAN'T
2 FIND STATUTORY AGGRAVATING CIRCUMSTANCE.

3 THE INSTRUCTIONS ARE VERY CLEAR. IT TELLS THEM,
4 EVEN IF YOU FIND STATUTORY AGGRAVATING CIRCUMSTANCES,
5 YOU ARE NOT REQUIRED, YOU ARE NOT COMPELLED TO GIVE
6 THE DEATH SENTENCE, THAT EVEN IF YOU -- AND I
7 ENCOURAGE YOU TO READ THOSE, AND ACTUALLY I'LL FOR
8 PURPOSES OF THE RECORD GO TO THOSE PAGES SO THAT --
9 IT'S ACTUALLY -- AND I'M NOT GOING TO READ THEM ALL
10 BECAUSE THERE ARE PROBABLY FIVE SEPARATE PLACES IN
11 THE CHARGE--

12 MR. DIGGS: YOUR HONOR, WE -- I HAVE READ -- I
13 HAVE READ THOSE AND YOUR HONOR IS RIGHT, IT IS IN THE
14 CHARGE, BUT WE WOULD JUST MAKE THAT ONE EXCEPTION.
15 TAKE THAT ONE EXCEPTION TO THAT PARTICULAR...

16 THE COURT: ANY RESPONSE FROM THE STATE?

17 MR. HUMPHRIES: NO, YOUR HONOR. I, TOO, HAVE
18 READ YOUR CHARGE AND I THINK IT'S CRYSTAL CLEAR AS TO
19 HOW THE JURY IS TO PROCEED, AND I DO NOT CONCEDE THAT
20 IT WOULD PUT ANY JUROR UNDER ANY ADDED PRESSURE.

21 YOUR CHARGE MAKES IT VERY CLEAR THAT UNDER ANY
22 CIRCUMSTANCES OR FOR NO REASON AT ALL THEY CAN GIVE A
23 LIFE SENTENCE.

24 THE COURT: AND IT SAYS, THIRD ELEMENT YOU MAY
25 CONSIDER IF YOU SHOULD CONCLUDE THAT A STATUTORY

1 AGGRAVATING CIRCUMSTANCE EXISTS IS WHETHER THE
2 DEFENDANT SHOULD BE SENTENCED TO LIFE IMPRISONMENT
3 WITHOUT THE POSSIBILITY OF PAROLE FOR ANY REASON OR
4 FOR NO REASON AT ALL.

5 THIS IS WHAT HAS BEEN TRADITIONALLY REFERRED TO
6 AS A RECOMMENDATION OF MERCY. AND SHOULD SUCH BE
7 YOUR DECISION, YOU WOULD SO INDICATE BY RETURNING TO
8 THE COURT THE RECOMMENDATION OF LIFE IMPRISONMENT
9 FORM WHICH WILL BE SIGNED BY THE FOREPERSON ALONE.

10 IN OTHER WORDS, YOU MAY CHOOSE TO RECOMMEND LIFE
11 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE IF YOU
12 FIND THE STATUTORY OR NONSTATUTORY MITIGATING
13 CIRCUMSTANCE OR YOU MAY CHOOSE TO RECOMMEND LIFE
14 IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE AS AN
15 ACT OF MERCY. I THINK THAT'S VERY CLEAR.

16 MR. DIGGS: YOUR HONOR, THAT WOULD BE THE ONLY
17 EXCEPTION THAT I HAVE. THANK YOU VERY MUCH.

18 THE COURT: THERE ARE ALSO SEVERAL OTHER PLACES
19 WHERE THE COURT EMPHASIZES THAT, THAT THEY ARE NOT
20 BOUND IN ANY WAY TO RECOMMEND THE DEATH SENTENCE.
21 THE COURT WILL NOTE YOUR EXCEPTION FOR THE RECORD.

22 I BELIEVE THAT THE FORMS THAT THE COURT IS USING
23 REFLECT ACCURATELY WHAT THE STATUTORY MANDATE IS--

24 MR. DIGGS: THANK YOU, YOUR HONOR.

25 THE COURT: -- MANDATES ARE. ALL RIGHT. NOW,

1 AS REGARD TO THE PROPOSED CHARGE, THE COURT WILL
2 GIVE -- WHICH IS ALMOST IN SOME FORM VERY MUCH LIKE
3 THE INSTRUCTIONS GIVEN IN THE GUILT PHASE.

4 THE JURY WILL BE TOLD WHAT THEIR
5 RESPONSIBILITIES ARE AND WHAT THE COURT'S
6 RESPONSIBILITIES ARE, THAT THEY ARE THE SOLE JUDGES
7 OF THE CREDIBILITY AND BELIEVABILITY OF THE WITNESSES
8 WHO ARE TESTIFYING IN THE CASE.

9 THEY WILL BE GIVEN SOME GUIDELINES AS TO HOW
10 THEY ARE TO JUDGE WITNESS CREDIBILITY AND
11 BELIEVABILITY.

12 I WILL INSTRUCT THEM THAT THE FACT THAT THE
13 DEFENDANT DID NOT TESTIFY IS NOT TO BE CONSIDERED IN
14 ANY WAY IN THEIR DELIBERATIONS OR DISCUSSED AND THAT
15 THEY ARE NOT TO DRAW ANY INFERENCES FROM IT
16 NEGATIVELY TOWARD HIM AND THAT THE SUBJECT IS NOT TO
17 BE DISCUSSED AT ALL, THAT HE HAS NO BURDEN OF PROOF,
18 THE BURDEN REMAINS ON THE STATE TO MEET THEIR BURDEN
19 OF PROOF BEYOND A REASONABLE DOUBT.

20 GIVE THEM THE CHARGE ON EXPERT WITNESS TESTIMONY
21 AND HOW THAT IS TO BE JUDGED. I WILL INSTRUCT THEM
22 THAT WHILE THEY ARE THE FINDERS OF THE FACTS, THE
23 COURT IS THE INSTRUCTOR OF THE LAW AND THEY MUST
24 FOLLOW THE LAW AS CHARGED BY THE COURT.

25 I WILL GIVE THEM THE SAME CHARGE FROM THE STATE

1 VERSUS GRIPPON REGARDING CIRCUMSTANTIAL AND DIRECT
2 EVIDENCE.

3 GIVE A LIMITING INSTRUCTION REGARDING THE FACT
4 THAT THEY HAVE HEARD PRIOR OFFENSES OF THE DEFENDANT,
5 THAT THEY ARE TO CONSIDER THOSE ONLY AS TO EVIDENCE
6 OF HIS CHARACTER, HIS CHARACTERISTICS, BUT NOT AS
7 PROOF OF THE ALLEGED STATUTORY AGGRAVATING
8 CIRCUMSTANCES.

9 AND I WILL TELL THEM THAT THEY CAN GIVE THIS
10 TESTIMONY WHATEVER WEIGHT THEY DEEM APPROPRIATE UNDER
11 THE CIRCUMSTANCES OF THE CASE.

12 I WILL THEN GIVE THEM A CHARGE REGARDING
13 REFERENCE TO THE COURT'S PREVIOUS CHARGE AND
14 DEFINITION OF, OF COURSE, THE OFFENSES UPON WHICH
15 THEY FOUND THE DEFENDANT GUILTY AND WILL INCORPORATE
16 BY REFERENCE AND INSTRUCT THEM THAT IF THEY DESIRE TO
17 HAVE THE COURT RE-INSTRUCT THEM ON THOSE DEFINITIONS
18 OR ELEMENTS, TO ADVISE THE COURT, AND OF COURSE I
19 WILL DO THAT IF THEY DESIRE.

20 I WILL THEN GIVE THEM THE ELEMENT OF PHYSICAL
21 TORTURE.

22 MR. HUMPHRIES: WHILE WE'RE AT THAT POINT AND--

23 THE COURT: IT'S DONE TWO WAYS. SOMETIMES
24 JUDGES -- MOST JUDGES DON'T RE-CHARGE ALL THE
25 ELEMENTS.

1 MR. HUMPHRIES: I DON'T HAVE ANY EXCEPTION TO
2 YOUR NOT -- NOT CHARGING THOSE OFFENSES WHICH ARE
3 CLEARLY BY INDICTMENT. THE ONLY ONE THAT IS ARGUABLY
4 NOT BY THE INDICTMENT BESIDES PHYSICAL TORTURE IS THE
5 LARCENY, USE OF A DEADLY WEAPON. AND IT'S A SMALL
6 MATTER. THERE IS--

7 THE COURT: YOU KNOW, I HAVEN'T THOUGHT ABOUT
8 THAT. THAT -- THAT IS A LEGITIMATE CONCERN. LET
9 ME... DO YOU HAVE A PROPOSED CHARGE IN THAT REGARD,
10 MR. HUMPHRIES?

11 MR. HUMPHRIES: I DO NOT, BUT WE CAN GET YOU
12 ONE. THAT'S NO PROBLEM.

13 THE COURT: THINK ABOUT THAT FOR A MOMENT, THEN
14 I'LL GO ON AND WE'LL COME BACK TO IT.

15 MR. HUMPHRIES: VERY GOOD. AND WHILE WE'RE AT
16 THIS POINT, THE STATE WOULD REQUEST THAT THE COURT
17 CHARGE IN COMMISSION OF JUST SO THE JURY WOULD HAVE A
18 CLEAR UNDERSTANDING BECAUSE THAT ISN'T REALLY A
19 SEPARATE -- IT'S A SEPARATE FINDING, IF YOU WILL.

20 THEY FOUND THE CHARGES BUT THERE MAY BE SOME
21 CONFUSION ABOUT WHAT IN THE COMMISSION OF MEANS. AND
22 IT'S TRADITIONALLY CHARGED. AND SO WE WOULD REQUEST
23 THAT CHARGE JUST AS -- JUST AS THE COURT ESPOUSED
24 JUST A FEW MINUTES AGO, WE HAVE NO EXCEPTION TO THE
25 LANGUAGE THAT -- THAT YOU JUST GAVE US IN THAT

1 REGARD.

2 BUT IT IS SOMETHING THAT'S JUST A BIT DIFFERENT
3 THAN THE CHARGE AS INDICTED.

4 THE COURT: WE'LL COME BACK TO IT.

5 MR. HUMPHRIES: YES, MA'AM.

6 THE COURT: I WILL CHARGE THE ELEMENTS OF
7 PHYSICAL TORTURE WHICH ARE FAIRLY BOILER PLATE.

8 MR. DIGGS: AND YOUR HONOR, I JUST -- WHILE
9 YOU'RE ON THAT POINT, I THINK IT WOULD BE APPROPRIATE
10 TO INTERPOSE AN OBJECTION TO THAT PARTICULAR CHARGE
11 ON THE SAME GROUNDS THAT WE REQUESTED A DIRECTED
12 VERDICT ON PHYSICAL TORTURE.

13 THE COURT: YEAH. I THINK CONSIDERING THE
14 EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE
15 THERE IS DIRECT EVIDENCE AND SUBSTANTIAL
16 CIRCUMSTANTIAL EVIDENCE THAT THE VICTIM, LAURA LING,
17 WAS TORTURED PRIOR TO HER DEATH.

18 AND THE TORTURE BY ITS VERY DEFINITION BASED ON
19 CASE LAW IS THE VICTIM IS SUBJECTED TO SERIOUS
20 PHYSICAL ABUSE BEFORE DEATH. TORTURE OCCURS WHEN THE
21 VICTIM IS SUBJECTED TO AGGRAVATED BATTERY.

22 THE CHARGE THEN GOES ON TO DEFINE AGGRAVATED
23 BATTERY. PHYSICAL TORTURE IS THE INTENTIONAL
24 INFLECTION OF SERIOUS BY HORRIBLE OR INHUMAN ABUSE
25 UPON THE BODY OF ANOTHER BEFORE DEATH.

1 THE INSTANTANEOUS DEATH OF THE VICTIM DOES NOT
2 CONSTITUTE TORTURE. PHYSICAL TORTURE MAY INCLUDE THE
3 MALICIOUS INFLECTION OF BODILY HARM TO ANOTHER BY
4 DEPRIVING HIM OF A MEMBER OF HIS BODY OR BY RENDERING
5 A MEMBER OF HIS BODY USELESS OR BY SERIOUSLY
6 DISFIGURING HIS BODY OR A MEMBER OF HIS BODY OR THE
7 INTENTIONAL AND UNMERCIFUL PROLONGING OF SEVERE PAIN
8 AND ABUSE UPON THE BODY OR THE INTENTIONAL AND
9 UNMERCIFUL INFLECTION OF SERIOUS AND INTENTIONAL
10 PHYSICAL PAIN AND ABUSE TO THE BODY OF ANOTHER.

11 AND WITHOUT BELABORING THE POINT, PHYSICAL
12 TORTURE IS SUPPORTED BY THE TESTIMONY OF DR. COLLINS
13 AND BY CHRISTINA LING. AND THAT'S A QUESTION OF FACT
14 FOR THE JURY.

15 MR. DIGGS: YES. THANK YOU, YOUR HONOR. I JUST
16 WANTED TO -- I DIDN'T WANT THE RECORD TO SHOW THAT WE
17 WAIVED THAT OBJECTION. I OBJECT, YOU KNOW, I -- BY
18 NOT OBJECTING TO A CHARGE.

19 THE COURT: OH, CERTAINLY. I KNEW YOU HAD MADE
20 THAT CONTEMPORANEOUS OBJECTION.

21 MR. DIGGS: THANK YOU.

22 THE COURT: I WILL THEN CHARGE JUST BOILER PLATE
23 LANGUAGE REGARDING THE COURT EXPLAINING TO THEM THE
24 TWO POSSIBLE VERDICTS THAT THEY HAVE, WHICH IS DEATH
25 WHICH IN THE STATE IS BY ELECTROCUTION OR LETHAL

1 INJECTION OR BY LIFE IMPRISONMENT WITHOUT THE
2 POSSIBILITY OF PAROLE.

3 AND I WILL EXPLAIN TO THEM THAT THE SENTENCES
4 MEAN EXACTLY WHAT THEY SAY PURSUANT TO STATE VERSUS
5 WILLARD GRAY DAVIS AND THAT THEY SHOULD NOT INFER
6 THAT THEY MEAN ANYTHING DIFFERENT OTHER THAN THEIR
7 ORDINARY AND PLAIN MEANING.

8 I WILL EXPLAIN TO THEM THAT LIFE MEANS LIFE
9 WITHOUT THE POSSIBILITY OF PAROLE AND THAT DEATH
10 MEANS DEATH BY ELECTROCUTION OR LETHAL INJECTION.

11 AND THEN I WILL EMPHASIZE AND EXPLAIN TO THEM
12 THAT THEIR SENTENCING RECOMMENDATIONS WILL BE
13 FOLLOWED BY THE COURT WHICH MEANS THAT -- THAT THE
14 COURT WILL FOLLOW THEIR RECOMMENDATION.

15 I WILL THEN EXPLAIN TO THEM THE RECOMMENDATION
16 OF DEATH FORM, AND BASICALLY EXPLAIN THE STATUTE TO
17 THEM IN THAT THEIR DECISION MUST BE UNANIMOUS AND
18 THAT THEY MUST HAVE A FINDING OF AGGRAVATING
19 CIRCUMSTANCES.

20 THE NEXT FORM THAT WILL BE EXPLAINED TO THEM IS
21 THE FINDING OF STATUTORY AGGRAVATING CIRCUMSTANCES,
22 AND EXPLAIN TO THEM EXACTLY WHAT A STATUTORY
23 AGGRAVATING CIRCUMSTANCE IS. GO THROUGH THAT WITH
24 THEM.

25 I WILL THEN EXPLAIN TO THEM THE STATUTORY

1 INSTRUCTIONS FORM AND EXPLAIN TO THEM THE STATUTORY
2 AGGRAVATING CIRCUMSTANCES THAT ARE ALLEGED AND ADVISE
3 THEM THAT THOSE ARE THE ONLY ONES THAT THEY CAN
4 CONSIDER.

5 I WILL THEN EXPLAIN TO THEM REASONABLE DOUBT. I
6 WILL THEN AGAIN USE VICTOR VERSUS NEBRASKA. THE JURY
7 WILL THEN BE ADVISED THAT THEY ARE NEVER REQUIRED TO
8 RECOMMEND THE DEATH PENALTY EVEN IF THEY FIND THAT
9 THE STATUTORY AGGRAVATING CIRCUMSTANCES EXISTED AT
10 THE TIME THE OFFENSE OCCURRED.

11 I WILL THEN EXPLAIN TO THEM IF THEY FIND THAT
12 THE STATUTORY AGGRAVATING CIRCUMSTANCES EXISTED, IT
13 AGAIN JUST REINFORCES THAT THEY NEED TO FILL THAT OUT
14 ON THE FORM THAT IS PROVIDED AND THAT THEY MUST ALL
15 AGREE AND SIGN THAT FORM.

16 I WILL ALSO EXPLAIN TO THEM THAT IF THEY FIND
17 THAT A STATUTORY AGGRAVATING CIRCUMSTANCE DOES NOT
18 EXIST, THE FORM THAT THEY WILL HAVE TO FILL OUT IN
19 THAT REGARD AND THAT THEY SHOULD -- THEY WOULD NOT BE
20 AUTHORIZED TO RECOMMEND THE DEATH PENALTY, THAT THEIR
21 RECOMMENDATION MUST BE LIFE WITHOUT THE POSSIBILITY
22 OF PAROLE.

23 AND IF THEY FIND BEYOND A REASONABLE DOUBT
24 BASICALLY -- I'M SORRY, GOT AHEAD OF MYSELF -- AGAIN,
25 BASICALLY JUST GOES INTO MORE DETAIL EXPLAINING THE

1 RECOMMENDATION OF DEATH PENALTY FORM IN CONNECTION
2 WITH THE STATUTORY AGGRAVATING CIRCUMSTANCES FORM AND
3 HOW THEY ARE TO FILL THAT OUT.

4 I WILL THEN GO THROUGH WITH THEM THE EXPLANATION
5 OF WHAT LIFE IN PRISON -- THE LIFE IMPRISONMENT FORM
6 AND EXPLAIN THE STATUTE AND GO THROUGH WITH THEM
7 AGAIN THAT -- AGAIN REINFORCE THAT THEY ARE NOT
8 REQUIRED TO RECOMMEND DEATH EVEN IF THEY FIND
9 STATUTORY AGGRAVATING CIRCUMSTANCE -- YOU ALL RIGHT?
10 EVERYBODY IS SO TIRED AND THOSE SEATS ARE VERY
11 SLIPPERY.

12 THEN OUTLINE FOR THEM THE THREE DECISIONS THAT
13 THEY SHOULD CONSIDER IN REACHING THEIR DECISION WHICH
14 IS WHETHER THE EXISTENCE OF A STATUTORY MITIGATING
15 CIRCUMSTANCE WAS SUPPORTED BY THE EVIDENCE, WHETHER
16 THE EXISTENCE OF ANY OTHER NON-STATUTORY MITIGATING
17 CIRCUMSTANCE WAS SUPPORTED BY THE EVIDENCE, AND
18 WHETHER FOR ANY REASON YOU CAN THINK OF OR FOR NO
19 REASON AT ALL THE DEFENDANT SHOULD BE SENTENCED TO
20 LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

21 THEN I WILL EXPLAIN TO THEM WHAT A STATUTORY
22 MITIGATING CIRCUMSTANCE IS, AND EXPLAIN TO THEM WHICH
23 ONES THEY CAN CONSIDER AND REFER AGAIN TO THE
24 STATUTORY INSTRUCTIONS WHICH WILL LIST THE STATUTORY
25 MITIGATING CIRCUMSTANCES, AND I WILL ALSO TELL THEM

1 THAT YOU MAY ALSO CONSIDER -- I APOLOGIZE. MY MIND
2 IS MOVING A LITTLE SLOW.

3 I WILL LIST FOR THEM THE STATUTORY MITIGATING
4 CIRCUMSTANCES WHICH WE HAVE ALREADY GONE OVER WHICH
5 WILL BE ONE AND TWO. AND I WILL ALSO EMPHASIZE THAT
6 THEY CAN CONSIDER ANY NON-STATUTORY MITIGATING
7 CIRCUMSTANCE, AND I WILL EXPLAIN TO THEM WHAT THAT
8 IS.

9 AND THAT THE DEFENDANT HAS NO BURDEN TO
10 ESTABLISH MITIGATING OR A STATUTORY OR A
11 NON-STATUTORY MITIGATING CIRCUMSTANCE. I WILL ADVISE
12 THEM THAT THEY ARE TO CONSIDER AGGRAVATING AND
13 MITIGATING CIRCUMSTANCES AND ADVISE THEM THAT THEY
14 CAN STILL FIND THE DEATH, THAT DEATH IS APPROPRIATE
15 EVEN IF THEY FIND THAT THERE ARE MITIGATING
16 CIRCUMSTANCES, AND THAT THAT IS NOT A BAR FROM THE
17 IMPOSITION OF THE DEATH PENALTY.

18 I WILL THEN ALSO ADVISE THEM THAT -- WHAT WE
19 HAVE ALREADY GONE OVER WHICH IS THE RECOMMENDATION
20 THAT THEY HAVE THE ABILITY EVEN IF THEY FOUND AN
21 AGGRAVATING CIRCUMSTANCE TO HAVE A LIFE WITHOUT THE
22 POSSIBILITY OF PAROLE SENTENCE MERELY AS A MERCY
23 SENTENCE AND THAT THEY COULD DO THAT FOR NO REASON AT
24 ALL AND THAT THEY DO NOT HAVE TO EXPLAIN THAT, THE
25 REASON FOR THAT.

1 AND, OF COURSE, ADVISE THEM IT MUST BE A
2 UNANIMOUS DECISION. AND THEN I WILL JUST BASICALLY
3 SUMMARIZE THE ENTIRE CHARGE FOR THEM AGAIN IN THE
4 LAST PAGES WHICH IS I'M JUST GOING TO SUMMARIZE WHAT
5 YOU HAVE BEEN GIVEN WHICH IS THE FORMS, THE STATUTORY
6 INSTRUCTIONS -- AND I'M NOT GOING TO GO THROUGH ALL
7 THAT. IT'S JUST A SUMMARY BASICALLY OF THE COURT'S
8 CHARGE.

9 AND AGAIN, REINFORCING THAT THEY CAN FIND THE
10 LIFE SENTENCE FOR ANY REASON WHATSOEVER AND THAT THEY
11 DO NOT HAVE TO -- I WILL DEFINE THE SENTENCE OF
12 DEATH, AND THAT NO REASON HAS TO BE GIVEN AT ALL FOR
13 THEIR POSITION.

14 NOW, IS THERE ANY -- I PUT FUTURE DANGEROUS --
15 CHARGE ON FUTURE DANGER IN THERE OUT OF AN ABUNDANCE
16 OF CAUTION BECAUSE I THINK IT WAS RAISED BY SOME OF
17 THE DEFENDANT'S TYPOLOGICAL WITNESSES.

18 IN A VERY BROAD WAY THE CHARGE IN GENERAL
19 ADDRESSES FUTURE DANGEROUSNESS. IT'S A VERY SHORT
20 CHARGE. IT JUST SAYS IF YOU'RE GOING TO SENTENCE THE
21 DEFENDANT TO DEATH, YOU MUST ASSUME THAT THE SENTENCE
22 WILL BE FOLLOWED BY TO COURT.

23 IF A RECOMMENDATION OF DEATH IS NOT MADE, THE
24 SENTENCE SHALL BE SENTENCED TO LIFE IN PRISON WITHOUT
25 THE POSSIBILITY OF PAROLE PURSUANT TO STATE VERSUS

1 SOUTHERLAND WHEN THE ISSUE IS RAISED.

2 AND WHEN THE JURY IS INCAPABLE BASICALLY OF
3 REACHING A VERDICT, THEY SHOULD NOT BE LEFT WITH THE
4 IMPRESSION THAT -- THEY NEED TO BE LEFT WITH THE
5 IMPRESSION THAT THAT IS WHAT WILL HAPPEN, THAT HE
6 WILL BE SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF
7 PAROLE.

8 AND THEN BOILER PLATE LANGUAGE REGARDING THEM
9 BEING FAIR AND IMPARTIAL, NOT BEING INFLUENCED BY
10 ANYTHING OUTSIDE THE EVIDENCE IN THIS CASE AND NOT
11 BEING INFLUENCED BY SYMPATHY, PASSION, PREJUDICE, OR
12 PUBLIC OPINION, OR SOME OTHER ARBITRARY FACTOR THAT
13 SHOULD NOT BE CONSIDERED, AND THE -- BASICALLY
14 SENDING THEM IN TO DELIBERATE WITH THE FORMS.

15 ARE THERE ANY EXCEPTIONS TO THE COURT'S CHARGE
16 AS PROPOSED FROM THE STATE?

17 MR. HUMPHRIES: NONE OTHER THAN THOSE ADDITIONS
18 PREVIOUSLY MENTIONED, YOUR HONOR.

19 THE COURT: FROM THE DEFENSE?

20 MR. DIGGS: NONE OTHER THAN WHAT WE HAVE ALREADY
21 SAID.

22 THE COURT: LET ME ASK A QUICK QUESTION, MR.
23 DIGGS. DO YOU HAVE ANY EXCEPTION TO THE COURT
24 CHARGING THAT LANGUAGE, WHILE IN THE COMMISSION OF,
25 WHAT THAT MEANS?

1 MR. DIGGS: YOUR HONOR, YOU -- I THINK -- I
2 WOULD SUBMIT THE CHARGE IS FINE AND THE COURT DOESN'T
3 EVEN HAVE TO ADD TO -- IT GIVES -- GETS TO BE A
4 COMMENT ON THE FACTS.

5 THE COURT: IF I WERE TO SAY, WHILE IN THE
6 COMMISSION OF A CRIME AS DEFINED -- WHEN THE CRIMES
7 ARE CONSUMMATED IN A CONTINUOUS SERIES OF ACTS WITH
8 THE MURDER, ARE IN THE SAME PLACE, AND ARE NOT
9 SEPARATED BY ANY SUBSTANTIAL LAPSE OF TIME. AND I
10 WOULDN'T PROBABLY SAY ANYTHING MORE THAN THAT.

11 MR. HUMPHRIES: THAT'S SATISFACTORY.

12 THE COURT: ANY EXCEPTION TO THAT?

13 MR. DIGGS: YOUR HONOR, WE WOULDN'T...

14 MR. HUMPHRIES: YOUR HONOR, THAT LANGUAGE IS
15 SATISFACTORY TO THE STATE. WHAT WE HAVE TO KEEP IN
16 MIND IS THAT, IN THE COMMISSION OF, IS A TERM OF ART.

17 THE COURT: WELL, NOT NECESSARY. I THINK MOST
18 OF IT IS COMMON SENSE. WHILE IN THE COMMISSION OF
19 MEANS DURING -- MEANS AT THE SAME TIME. I DON'T
20 THINK THERE'S ANY AMBIGUITY ABOUT IT. I WILL THINK
21 ABOUT IT OVERNIGHT.

22 MR. HUMPHRIES: VERY GOOD.

23 MR. DIGGS: VERY GOOD.

24 THE COURT: I DON'T WANT TO MAKE ANY
25 INADMISSIBILITY COMMENT ON THE FACTS AND I DON'T WANT

1 IT TO BE PERCEIVED THAT WAY. I WILL -- ONCE I REST A
2 LITTLE BIT, I'M GOING TO READ IT AGAIN AND READ IT AS
3 A WHOLE AND SEE IF THERE'S ANY AMBIGUITY.

4 BUT I THINK THAT THE AVERAGE LAYPERSON WHEN YOU
5 SAY IN THE COMMISSION OF, THEY THINK THE SAME TIME,
6 SIMULTANEOUS, DURING. I THINK IT'S A -- I THINK FOR
7 US IT'S A TERM OF ART, BUT I THINK THE AVERAGE
8 LAYPERSON KNOWS -- CAN RELY UPON COMMON SENSE TO KNOW
9 WHAT THAT MEANS, BUT I WILL DEBATE AND WHETHER I --
10 IF I INCLUDE THAT, ANY OF THAT LANGUAGE, HOWEVER, IT
11 WILL SIMPLY SAY UNDER SOUTH CAROLINA CODE ANNOTATED
12 16-3-20 SUBSECTION C(1) AGGRAVATING CRIMES ARE
13 COMMITTED WHILE IN THE COMMISSION OF A CAPITAL MURDER
14 WHEN THEY ARE CONSUMMATED IN A CONTINUOUS SERIES OF
15 ACTS WITH THE MURDER OR IN THE SAME PLACE AND ARE NOT
16 SEPARATED BY ANY SUBSTANTIAL LAPSE IN TIME.

17 MR. HUMPHRIES: THAT'S -- THAT'S WHAT WE
18 WOULD... DOES YOUR HONOR WISH US TO PREPARE A CHARGE
19 FOR THE LARCENY? I'D SUBMIT...

20 THE COURT: IF YOU HAVE SOMETHING AVAILABLE THAT
21 I CAN LOOK AT, THAT WOULD BE HELPFUL.

22 MR. HUMPHRIES: I CAN DRAFT -- THERE'S NO
23 PROBLEM WITH THAT. IF WE PULL THE LARCENY ELEMENTS
24 OUT OF THE ARMED ROBBERY AND USE THE DEADLY WEAPON,
25 THAT'S THE SAME THING.

1 I'M NOT TRYING TO PUSH IT BACK OFF ON THE COURT.
2 I WILL BE GLAD TO DO IT, BUT YOU'VE ALREADY GOT IT ON
3 YOUR COMPUTER.

4 THE COURT: THERE ANY EXCEPTION TO CHARGING
5 LARCENY?

6 MR. DIGGS: IN -- IN WHAT CONTEXT? MAKE SURE...

7 THE COURT: DEFINE LARCENY IN THE -- DEFINE A
8 DEADLY WEAPON -- LARCENY IS STEALING.

9 MR. DIGGS: YOUR HONOR, I DON'T HAVE ANY
10 OBJECTION TO YOU DEFINING THAT IN THE CHARGE.

11 THE COURT: PROBABLY BE LIKE A RE-RUN.

12 MR. DIGGS: YES, I DON'T -- NO--

13 THE COURT: IT WOULD SAY THE SAME THING WHICH IS
14 IT WOULD DEFINE LARCENY AND THEN IT WOULD JUST SAY,
15 THE FOLLOWING OBJECTS IN WHICH ARE DEFINED BY THE
16 STATUTE ARE CONSIDERED DEADLY WEAPONS.

17 AND THEN I WOULD CHARGE A HAND IS -- CAN BE
18 CONSIDERED A DEADLY WEAPON DEPENDING UPON FACTS AND
19 CIRCUMSTANCES, BUT IT'S UP TO YOU TO DETERMINE THAT
20 BASED ON YOUR VIEW OF THE ENTIRE -- WHAT'S IN THE
21 RECORD IN THIS CASE, ALTHOUGH THAT'S NOT THE EXACT
22 LANGUAGE I WILL USE--

23 MR. DIGGS: JUST SUBJECT TO THE PREVIOUS
24 DIRECTED VERDICT STYLE MOTION, NO, YOUR HONOR,
25 WOULDN'T HAVE A SPECIFIC OBJECTION TO THAT LANGUAGE.

1 THE COURT: OKAY. YOU ALL GIVE ME ABOUT FIVE
2 MINUTES, I'M GOING TO DRAFT THAT CHARGE, AND I PREFER
3 THAT WE LOOK AT IT BEFORE WE LEAVE TONIGHT. SO WE
4 WILL BE AT EASE FOR ABOUT FIVE MINUTES.

5 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

6 THE COURT: YOU'RE WELCOME.

7 (WHEREUPON A RECESS WAS HAD.)

8 THE COURT: OKAY. WE'RE READY? I AM GOING TO
9 REFLECT OVERNIGHT WHETHER I'M GOING TO DEFINE IN THE
10 COMMISSION OF, AND I WILL LET YOU KNOW IN THE
11 MORNING.

12 I NEED TO ACTUALLY HAVE SOME DINNER AND REST MY
13 EYES AND MY MIND FOR A MINUTE AND THEN READ IT AGAIN
14 BECAUSE RIGHT NOW IT'S ALL LOOKING LIKE THE SAME PAGE
15 TO ME--

16 MR. HUMPHRIES: I UNDERSTAND.

17 THE COURT: -- NO USE TO ANYONE. AND THEN I'LL
18 MAKE THAT DECISION BASED ON WHETHER I CAN PUT IT ALL
19 INTO PERSPECTIVE OR WHETHER I THINK IT AMBIGUOUS.

20 I WILL CHARGE FOR THE PURPOSES OF THE
21 AGGRAVATING CIRCUMSTANCES THE MURDER IS COMMITTED
22 WHILE IN THE COMMISSION OF LARCENY, USE OF DEADLY
23 WEAPON AS FOLLOWS.

24 IN ORDER TO PROVE LARCENY, THE STATE MUST PROVE
25 BEYOND A REASONABLE DOUBT THE DEFENDANT TOOK THE

1 PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF
2 ANOTHER PERSON WITHOUT THAT PERSON'S CONSENT AND
3 CARRIED IT AWAY.

4 PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS
5 WITHIN A PERSON'S REACH, INSPECTION, OBSERVATION, OR
6 CONTROL SO THAT THE PERSON COULD, IF NOT OVERCOME
7 WITH VIOLENCE OR PREVENTED BY FEAR, OBTAIN POSSESSION
8 OF THE PROPERTY.

9 THE STATE MUST SHOW THAT THE DEFENDANT CARRIED
10 AWAY WITH THE INTENT TO PERMANENTLY DEPRIVE THE OWNER
11 OF THE PROPERTY, CONVERT THE PROPERTY TO THE
12 DEFENDANT'S OWN USE.

13 THE SLIGHTEST REMOVAL OF THE PROPERTY OR THE
14 COMPLETE POSSESSION OF THE PROPERTY EVEN FOR AN
15 INSTANCE BY THE DEFENDANT IS SUFFICIENT TO SHOW THE
16 TAKING AND CARRYING AWAY OF PROPERTY.

17 THE TAKING AND CARRYING AWAY OF THE PROPERTY
18 MUST HAVE BEEN DONE BY PUTTING THE OWNER OF THE
19 PROPERTY IN FEAR OF VIOLENCE.

20 A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR
21 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
22 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS
23 A DEADLY WEAPON DEPENDS ON FACTS AND CIRCUMSTANCES IN
24 EACH CASE.

25 THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WHICH

1 MAY BE DEADLY WEAPONS. PISTOL, SHOTGUN, RIFLE, DIRK,
2 DAGGER, KNIFE, SLINGSHOT, METAL KNUCKLES, RAZOR,
3 GASOLINE, FIREBOMB, MOLOTOV COCKTAIL, AND LIGHTER
4 FLUID. A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS
5 NOT OPERATING.

6 A HAND OR FIST IS NOT NORMALLY CONSIDERED A
7 DEADLY WEAPON. HOWEVER, UNDER SOME CIRCUMSTANCES
8 DEPENDING ON THE MANNER AND MEANS OF ITS USE, THE
9 WOUND INFLICTED AND OTHER RELEVANT FACTS, A HAND OR A
10 FIST MAY BE CONSIDERED A DEADLY WEAPON.

11 IT IS FOR YOU TO DECIDE IN THIS CASE BEYOND A
12 REASONABLE DOUBT WHETHER OR NOT A HAND OR FIST IS A
13 DEADLY WEAPON.

14 ORDINARY OBJECTS MAY BECOME DEADLY WEAPONS WHEN
15 THE FACTS SHOW THAT THEY HAVE BEEN USED TO INFLICT
16 SERIOUS BODILY INJURY, SERIOUS BODILY HARM, OR DEATH.

17 THIS IS A FACTUAL QUESTION -- WELL, I WILL TELL
18 YOU ACTUALLY I WILL SAY THE SAME THING -- IT'S FOR
19 YOU TO DECIDE IN THIS CASE BEYOND A REASONABLE DOUBT
20 WHETHER OR NOT AN ORDINARY OBJECT IS A DEADLY WEAPON.

21 MR. HUMPHRIES: NO EXCEPTION FROM THE STATE.

22 THE COURT: ANY EXCEPTION FROM THE DEFENSE OTHER
23 THAN THE EXCEPTION OF THE SUBMISSION OF THE
24 AGGRAVATOR TO THE JURY?

25 MR. DIGGS: NO, YOUR HONOR.

1 THE COURT: OKAY. AND I WILL INSERT THAT RIGHT
2 AFTER I CHARGE PHYSICAL -- WELL, I WILL PROBABLY
3 CHARGE BEFORE PHYSICAL TORTURE BECAUSE I WILL DO IT
4 IN THE ORDER THAT THEY ARE BASICALLY LISTED.

5 SO AFTER I GIVE THE BOILER PLATE CHARGE, IF I
6 CHARGE IN THE COMMISSION OF -- I WOULD PROBABLY
7 CHARGE IT WHEN I'M EXPLAINING WHAT THE STATUTORY
8 AGGRAVATORS ARE, BUT I AM NOT CERTAIN THAT I'M GOING
9 TO CHARGE THAT, BUT I'M GOING TO READ IT AND LET YOU
10 KNOW IN THE MORNING.

11 ARE THERE ANY OTHER EXCEPTIONS, ADDITIONS, OR
12 MODIFICATIONS?

13 MR. HUMPHRIES: NO, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

15 MR. DIGGS: NO, YOUR HONOR.

16 THE COURT: OKAY. Y'ALL HAVE A GOOD NIGHT. GET
17 SOME REST. SEE YOU IN THE MORNING.

18 MR. KELLY: THANK YOU, MA'AM.

19 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

20 (COURT IN RECESS FOR EVENING.)

21 ***** AUGUST 18, 2006 *****

22 THE COURT: AS A PRELIMINARY MATTER I NEED TO
23 CONCLUDE QUESTIONING OF MR. STANKO REGARDING HIS
24 DESIRE TO GIVE A CLOSING ARGUMENT, AND I WILL DO THAT
25 SHORTLY, BUT I HAVE SOME ADMINISTRATIVE -- FOR LACK

1 OF A BETTER WAY OF PUTTING IT -- THINGS I NEED TO
2 DEAL WITH PRELIMINARILY.

3 FIRST I'D ASK THAT YOU ALL IGNORE ANY
4 SCRIVENER'S ERRORS OR TYPOS IN THE PROPOSED CHARGE.
5 I WAS MORTIFIED LAST NIGHT WHEN I READ IT. THAT'S
6 WHAT HAPPENS WHEN YOU DO YOUR OWN TYPING. REALLY
7 THERE WEREN'T THAT MANY, BUT THERE WERE ENOUGH THAT I
8 WANTED YOU ALL TO EXCUSE THOSE FOR ME.

9 NOW ALSO -- ALSO WHEN I WENT THROUGH THE CHARGE
10 LAST NIGHT I FOUND SOME SCRIVENER'S ERRORS IN THE --
11 NOT MAJOR SCRIVENER'S ERRORS, BUT SCRIVENER'S ERRORS
12 IN THE VERDICT FORMS THAT WILL BE GOING TO THE JURY,
13 AND MY CLERK IS CORRECTING THOSE NOW.

14 ALSO AFTER DOING SOME ADDITIONAL RESEARCH, I
15 HAVE USED AN ALTERNATIVE FORM THAT ONE OF MY
16 COLLEAGUES HAD USED IN THE PAST THAT AFTER
17 RESEARCHING IT, I DO NOT -- I AM THINKING NOW THAT HE
18 MUST HAVE USED THAT CHARGE, THAT PARTICULAR VERDICT
19 FORM FOR SOME SPECIFIC FACTUAL CIRCUMSTANCE THAT I'M
20 UNAWARE OF, AND I DID NOT HAVE AN OPPORTUNITY TO
21 SPEAK WITH HIM ON LAST NIGHT.

22 I ASSUME HE HAD A GOOD REASON FOR DOING IT THAT
23 WAY. BUT AFTER RESEARCHING IT, I DON'T THINK THAT
24 IT'S THE APPROPRIATE VERDICT FORM TO USE FOR LIFE, AT
25 LEAST NOT IN THIS CASE.

1 AND SO I AM RE-DOING THE FORM AND IT WILL READ
2 CONSISTENT WITH MY INSTRUCTIONS THAT WE THE JURY
3 RECOMMEND THAT THE DEFENDANT, STEPHEN CHRISTOPHER
4 STANKO, BE SENTENCED TO LIFE IN PRISON. I THINK THAT
5 IS THE APPROPRIATE WAY THAT THE VERDICT FORM SHOULD
6 READ.

7 THEY DO NOT HAVE TO FIND A STATUTORY AGGRAVATING
8 CIRCUMSTANCE TO GIVE HIM LIFE. THEY DON'T HAVE TO
9 HAVE ANY REASON AT ALL.

10 AND AGAIN, AS I INDICATED, HE MUST HAVE USED
11 THAT FORM FOR SOME VERY PARTICULAR FACTUAL
12 CIRCUMSTANCE WHERE EVERYBODY AGREED THAT WAS
13 APPROPRIATE, BUT IT CERTAINLY IS NOT FACTUALLY
14 APPLICABLE IN THIS CASE, AND SO THAT IS BEING
15 CORRECTED ALSO.

16 AND I WOULD HAVE MY LAW CLERK -- SHE'S DOING
17 THAT NOW, SO THAT WILL BE CORRECTED. AGAIN, IT WILL
18 SIMPLY READ, WE THE JURY IN THE ABOVE-ENTITLED CASE
19 RECOMMEND TO THE COURT THAT THE DEFENDANT, STEPHEN
20 CHRISTOPHER STANKO, BE SENTENCED TO LIFE IN PRISON.

21 ALSO ON FURTHER REFLECTION REGARDING THE
22 CHARGE -- I CONSIDERED THE STATE'S REQUEST TO CHARGE
23 IN THE COMMISSION OF. AND AFTER READING THE CHARGE,
24 I THINK THAT THAT LANGUAGE IS ESSENTIALLY ENCOMPASSED
25 IN THE COURT'S CHARGE BECAUSE THERE IS AN -- I WILL

1 TELL YOU WHICH PAGE -- TWO PLACES IT MAKES REFERENCE.

2 ON PAGE 14 WHERE I WAS DESCRIBING AGGRAVATING
3 CIRCUMSTANCES -- AND I WON'T READ THE WHOLE THING.
4 IT JUST SAYS, THE OFFENSE OF MURDER WHEN THE TWO
5 OCCUR TOGETHER. AND I THINK THAT THAT CLEARLY REFERS
6 TO IN THE COMMISSION OF.

7 AND ALSO AT PAGE 19 WHERE I -- AGAIN I AM
8 EXPLAINING AGGRAVATING CIRCUMSTANCES LISTED ON THE
9 SHEET AS STATUTORY AND INSTRUCTION EXISTED AT THE
10 TIME OF THE MURDER, WHICH I THINK CLEARLY REFLECTS IN
11 THE COMMISSION OF.

12 NOW, IF THE JURY ASKED FOR A SPECIFIC DEFINITION
13 OF WHAT THAT MEANS, THEN I WILL CHARGE THE OTHER
14 LANGUAGE AS AN ADDITIONAL INSTRUCTION. BUT I THINK
15 THE TOTALITY OF THE CHARGE IS CLEAR.

16 MR. HUMPHRIES: THAT WAS GOING TO BE MY ONLY
17 QUESTION. WE DON'T EXPECT TO THAT. THANK YOU, YOUR
18 HONOR.

19 THE COURT: YOU'RE WELCOME. NOW, ALSO SO THAT
20 YOU ALL WILL NOT BE -- AND I DON'T REALLY LIKE THE
21 TERM BLIND-SIDED -- SO YOU WILL BE AWARE THAT I DID
22 MODIFY THE STATE VERSUS GRIPPON CIRCUMSTANTIAL
23 EVIDENCE CHARGE.

24 I WILL LEAVE OUT THE LAST PARAGRAPH WHERE IT
25 TALKS ABOUT AFTER WEIGHING ALL THE EVIDENCE IF YOU'RE

1 NOT CONVINCED THAT THE GUILT OF THE DEFENDANT --
2 BECAUSE, OF COURSE, THE PURPOSE OF THIS STAGE OF THE
3 PROCEEDING IS NOT GUILT, AND FACTUALLY I DON'T THINK
4 IT'S APPLICABLE AND I THINK THE FIRST TWO PARAGRAPHS
5 REALLY EXPLAIN TO THEM THE DIFFERENCE BETWEEN
6 CIRCUMSTANTIAL AND DIRECT EVIDENCE AND THAT THERE IS
7 NO GREATER DEGREE OF CERTAINTY REQUIRED OF IT.

8 AND I THINK TO CHARGE THE REST OF THAT WOULD BE
9 VERY CONFUSING FOR THE JURY BECAUSE I ALREADY
10 EXPLAINED TO THEM THAT GUILT IS NOT THE ISSUE IN THIS
11 PHASE OF THE TRIAL. SO I JUST WANTED YOU ALL TO KNOW
12 THAT THAT WILL BE OMITTED.

13 MR. HUMPHRIES: NO EXCEPTION, YOUR HONOR.

14 THE COURT: ANY EXCEPTION?

15 MR. DIGGS: WE'RE IN AGREEMENT.

16 THE COURT: AND THEN ALSO ON THE REASONABLE
17 DOUBT, VICTOR VERSUS NEBRASKA, I HAVE MODIFIED THAT.
18 AND ACTUALLY I ALSO, JUST OUT OF AN ABUNDANCE OF
19 CAUTION -- KNOW I'M BACKING ON YOU. GIVE ME ONE
20 SECOND.

21 A LIMITING INSTRUCTION -- UNDER THE LIMITING
22 INSTRUCTION WHERE IT SAYS THAT TO -- BE THE LAST
23 LINE -- THIS MAY BE CONSIDERED BY YOU IF YOU CONCLUDE
24 IT IS TRUE ALONG WITH ALL THE OTHER EVIDENCE AS YOU
25 MAY GIVE THIS TESTIMONY WHATEVER WEIGHT YOU DEEM

1 PROPER UNDER THE CIRCUMSTANCES OF THIS CASE.

2 AND I WAS GOING TO ADD AS IT RELATES TO THE
3 DEFENDANT'S CHARACTER AND CHARACTERISTICS TO MAKE
4 SURE THAT IT IS NOT CONFUSING. BECAUSE WHEN I READ
5 IT LAST NIGHT, I FELT LIKE I WAS TELLING THEM IT'S
6 FOR A LIMITED PURPOSE, BUT WHEN I KIND OF -- YOU CAN
7 CONSIDER IT FOR WHATEVER YOU WANT.

8 BUT I THINK I NEED TO THROW BACK IN THERE THAT
9 IT'S ONLY FOR HIS CHARACTER AND CHARACTERISTICS, YOU
10 KNOW, THAT EVEN THOUGH THEY'RE LOOKING AT THE
11 TOTALITY OF THE RECORD, THEY STILL CAN ONLY, YOU
12 KNOW, IF THEY DEEM IT'S TRUE, ONLY CONSIDER IT ON HIS
13 CHARACTER AND HIS CHARACTERISTICS.

14 IS THERE ANY EXCEPTION TO THE COURT ADDING THAT?

15 MR. HUMPHRIES: NO, YOUR HONOR.

16 MR. DIGGS: NO, YOUR HONOR.

17 THE COURT: THANK YOU. I ALSO DURING THE COURSE
18 OF THE CHARGE WILL PROBABLY INSTRUCT THE JURY THAT,
19 WHEN I SAY LIFE IMPRISONMENT AND LIFE WITHOUT THE
20 POSSIBILITY OF PAROLE, THEY ARE THE SAME THINGS AND
21 THEY ARE BEING USED INTERCHANGEABLY.

22 I DON'T KNOW EXACTLY WHEN I WILL SAY THAT, BUT I
23 KNOW THAT THE VERDICT FORM IS GOING TO SAY LIFE
24 WITHOUT THE POSSIBILITY OF PAROLE, AND I DON'T WANT
25 THAT TO CAUSE ANY CONFUSION.

1 MR. DIGGS: THANK YOU, YOUR HONOR.

2 THE COURT: AND I WANT IT TO BE VERY CLEAR FOR
3 THEM THAT WHETHER I SAY LIFE IMPRISONMENT OR I SAY
4 LIFE WITHOUT THE POSSIBILITY OF PAROLE, THEY ARE
5 INTERCHANGEABLE TERMS. IS THERE ANY EXCEPTION TO THE
6 COURT DOING THAT?

7 MR. HUMPHRIES: NOT FROM THE STATE, YOUR HONOR.

8 MR. DIGGS: NO, YOUR HONOR.

9 THE COURT: AND ALSO I'M GOING TO MODIFY MY
10 REASONABLE DOUBT CHARGE ON VICTOR VERSUS NEBRASKA
11 BECAUSE AGAIN THE VERY BOTTOM PORTION OF IT TALKS
12 ABOUT GUILT, AND THAT IS REALLY NOT WHAT WE'RE
13 DEALING WITH, AND I WILL TELL YOU EXACTLY WHAT I'M
14 GOING TO SAY, AND THAT IS AT PAGE 16 OF THE PROPOSED
15 CHARGE.

16 WHAT DO I MEAN BY THE TERM PROVING BEYOND A
17 REASONABLE DOUBT? THE STATE HAS THE BURDEN OF
18 PROVING THE AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES
19 BEYOND A REASONABLE DOUBT.

20 SOME OF THEM MAY HAVE SERVED AS JURORS IN CIVIL
21 CASES WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY
22 TO PROVE THAT A FACT WAS MORE LIKELY TRUE THAN NOT
23 TRUE. SUCH IS BY THE GREATER WEIGHT OR PREPONDERANCE
24 OF THE EVIDENCE.

25 IN CRIMINAL CASES THE STATE'S PROOF MUST BE MORE

1 POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE
2 DOUBT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
3 LEAVES YOU FIRMLY CONVINCED -- AND I WILL LEAVE OUT
4 THE REST OF THAT SENTENCE BECAUSE FACTUALLY IT IS NOT
5 APPLICABLE BECAUSE IT REFERS TO HIS GUILT AND THAT IS
6 NOT PURPOSE OF THESE PROCEEDINGS -- AND I WILL SAY,
7 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES
8 YOU FIRMLY CONVINCED.

9 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE
10 KNOW WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES
11 THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY
12 POSSIBLE DOUBT.

13 AND THEN I WILL MODIFY THE REST OF IT AS
14 FOLLOWS. IF BASED ON YOUR CONSIDERATION OF THE
15 EVIDENCE YOU ARE FIRMLY CONVINCED THAT THE STATE HAS
16 MET THEIR BURDEN OF PROOF, YOU MAY FIND AN
17 AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES.

18 IF ON THE OTHER HAND YOU THINK THERE IS A REAL
19 POSSIBILITY THE STATE HAS NOT MET THEIR BURDEN, YOU
20 MUST GIVE THE DEFENDANT THE BENEFIT OF THAT DOUBT.

21 IS THERE ANY EXCEPTION TO THE COURT'S
22 MODIFICATION?

23 MR. HUMPHRIES: NOT FROM THE STATE, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. DIGGS: NO, YOUR HONOR.

1 THE COURT: OH, AND ALSO, SUMMARY ON PAGE --
2 STOPPED NUMBERING. I'M SORRY. IT WOULD BE PAGE 26
3 WHEN I WAS DOING THE SUMMARY AND LISTING THE FORMS, I
4 HIT -- I GUESS I HIT BACKSPACE AND IT ELIMINATED A
5 NUMBER. IT ALSO ELIMINATED ONE OF THE
6 CAPITAL THINGS.

7 I DIDN'T REALIZE UNTIL I WAS READING IT LAST
8 NIGHT IT WENT FROM THREE TO FIVE. SO APPARENTLY I
9 HIT A BUTTON AND IT ELIMINATED NUMBER FOUR.

10 ACTUALLY NUMBER FIVE IS NUMBER FOUR AND IT
11 ELIMINATED NUMBER FIVE WHICH IS THE NO FINDING FOR
12 AGGRAVATING CIRCUMSTANCES. SO I WOULD -- INCLUDE
13 THAT.

14 AND IT'S FUNNY, YOU KNOW, ONCE YOU HAVE
15 SOMETHING TO EAT AND A LITTLE REST AND YOU READ
16 SOMETHING AGAIN -- I REALIZED HOW COMPLETELY
17 DELIRIOUS WE PROBABLY WERE LAST NIGHT AT 7:30, WELL,
18 ALMOST 8:00 ACTUALLY.

19 SO AGAIN, I APPRECIATE YOU ALL'S COURTESIES THAT
20 YOU'VE EXTENDED TO THE COURT AND THOSE CHANGES AND
21 MODIFICATIONS WILL BE MADE. ARE THERE ANY EXCEPTIONS
22 FROM THE STATE?

23 MR. HUMPHRIES: NONE FROM THE STATE, YOUR HONOR.

24 THE COURT: FROM THE DEFENSE?

25 MR. DIGGS: NO, YOUR HONOR.

1 THE COURT: OKAY. TELL YOU WHAT WE'RE GOING TO
2 DO. MR. STANKO, IF YOU WOULD STAND FOR ME, PLEASE.
3 I WOULD REMIND YOU THAT YOU'RE STILL UNDER OATH.

4 THE DEFENDANT: YES, MA'AM.

5 THE COURT: MR. STANKO, HAVE YOU HAD A FULL
6 OPPORTUNITY TO DISCUSS WITH YOUR ATTORNEYS YOUR RIGHT
7 TO ADDRESS THE JURY IN CLOSING ARGUMENT?

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: DO YOU BELIEVE THAT THEY HAVE
10 ANSWERED ALL OF YOUR QUESTIONS?

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: DO YOU NEED TO SPEAK WITH THEM ANY
13 MORE AT THIS TIME REGARDING THAT ISSUE?

14 THE DEFENDANT: NO, MA'AM.

15 THE COURT: MR. DIGGS AND MR. KELLY, HAVE YOU
16 FULLY EXPLAINED TO MR. STANKO HIS RIGHT TO ADDRESS
17 THE JURY IN THIS PHASE OF THE TRIAL?

18 MR. DIGGS: YES, MA'AM.

19 MR. KELLY: YES, MA'AM.

20 THE COURT: DO YOU BELIEVE YOU UNDERSTAND --
21 THAT HE UNDERSTANDS YOUR EXPLANATION AND HIS RIGHTS?

22 MR. DIGGS: YES, MA'AM.

23 MR. KELLY: YES, MA'AM.

24 THE COURT: DO YOU BELIEVE THAT YOU NEED ANY
25 MORE TIME TO SPEAK WITH HIM REGARDING THAT ISSUE?

1 MR. DIGGS: YOUR HONOR, I WOULD LIKE JUST A
2 MINUTE OR SO.

3 THE COURT: OKAY.

4 MR. DIGGS: STILL HAVE...

5 THE COURT: MR. KELLY?

6 MR. KELLY: NO, MA'AM. I DON'T NEED ANY MORE
7 TIME, BUT I WILL BE HAPPY TO SPEAK WITH HIM.

8 THE COURT: AND MR. STANKO, I WILL ASK THE SAME
9 QUESTION. DO YOU BELIEVE THAT YOU'VE UNDERSTOOD THE
10 EXPLANATION THAT YOUR ATTORNEYS HAVE PROVIDED TO YOU
11 REGARDING YOUR RIGHT TO ADDRESS THE JURY IN CLOSING
12 ARGUMENT?

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: DO YOU WISH TO SPEAK WITH THEM ANY
15 MORE AT THIS TIME?

16 THE DEFENDANT: APPARENTLY MR. DIGGS WANTS TO.

17 MR. DIGGS: YOUR HONOR, I...

18 THE COURT: I'M NOT -- YOU DON'T HAVE TO EXPLAIN
19 TO ME. I'M GOING TO GIVE YOU MORE TIME TO DO THAT
20 AND THEN WE'LL RESUME AND I WILL CONTINUE AND
21 CONCLUDE THE QUESTIONING.

22 AFTER THAT I ANTICIPATE THAT THE FORMS WILL HAVE
23 BEEN PRINTED AND WE WILL BE READY FOR CLOSING
24 ARGUMENT. OKAY?

25 MR. DIGGS: THANK YOU, YOUR HONOR.

1 THE COURT: IT'S 9:34. I'M GOING TO GIVE YOU
2 ABOUT FIVE MINUTES AND THEN WE WILL PROCEED.

3 (WHEREUPON THERE WAS A PAUSE.)

4 THE COURT: OKAY. MR. STANKO, IF YOU WOULD
5 STAND, PLEASE. MR. STANKO, HAVE YOU HAD A FULL
6 OPPORTUNITY TO DISCUSS WITH YOUR ATTORNEYS WHETHER
7 YOU WISH TO OR DO NOT WISH TO ADDRESS THE JURY IN
8 FINAL ARGUMENT?

9 THE DEFENDANT: YES, MA'AM.

10 THE COURT: AND DO YOU FEEL THAT THEY HAVE FULLY
11 EXPLAINED YOUR RIGHTS TO YOU?

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: DO YOU FEEL THAT YOU UNDERSTAND THE
14 DISCUSSIONS THAT YOU HAD WITH THEM?

15 THE DEFENDANT: YES, MA'AM.

16 THE COURT: DO YOU FEEL YOU NEED ANY ADDITIONAL
17 TIME TO SPEAK WITH THEM ABOUT WHETHER YOU SHOULD OR
18 SHOULD NOT HAVE -- SHOULD OR SHOULD NOT PRESENT
19 ARGUMENT IN THIS STAGE OF THE TRIAL?

20 THE DEFENDANT: NO, MA'AM.

21 THE COURT: AND SIR, DO YOU WISH TO ADDRESS THE
22 JURY IN CLOSING ARGUMENT?

23 THE DEFENDANT: NO, MA'AM.

24 THE COURT: MR. DIGGS AND MR. KELLY, HAVE YOU
25 FULLY EXPLAINED TO MR. STANKO HIS RIGHT TO ADDRESS

1 THE JURY IN CLOSING ARGUMENT?

2 MR. DIGGS: YES, MA'AM.

3 MR. KELLY: YES, MA'AM.

4 THE COURT: DO YOU BELIEVE HE UNDERSTANDS, HAS
5 UNDERSTOOD YOUR DISCUSSIONS WITH HIM?

6 MR. DIGGS: YES, HE DOES.

7 MR. KELLY: YES, MA'AM.

8 THE COURT: DO YOU FEEL YOU NEED ANY FURTHER
9 TIME TO DISCUSS THIS MATTER WITH HIM?

10 MR. DIGGS: NO, MA'AM.

11 MR. KELLY: NO, MA'AM.

12 THE COURT: AND DO YOU AGREE WITH HIS DECISION
13 NOT TO ADDRESS THE JURY IN CLOSING ARGUMENT?

14 MR. DIGGS: I AGREE WITH HIM.

15 MR. KELLY: I DO, MA'AM.

16 THE COURT: IS THERE ANYTHING FURTHER IN REGARDS
17 TO THAT MATTER FOR THE PURPOSES OF THE RECORD THAT WE
18 NEED TO COVER?

19 MR. DIGGS: NOT FROM ME. NO, MA'AM.

20 MR. KELLY: NO, MA'AM.

21 THE COURT: DID YOU ALL DECIDE LAST NIGHT
22 WHETHER YOU WANT TO OPEN AND CLOSE OR WHETHER YOU
23 SIMPLY WANT TO CLOSE?

24 MR. DIGGS: YOUR HONOR, WE'RE NOT GOING TO OPEN.

25 THE COURT: ALL SET. NOW, MY OTHER QUESTION

1 BECOMES -- AND AGAIN, PLEASE DON'T FEEL RESTRICTED BY
2 THE QUESTION. HOW -- I JUST NEED IT FOR PURPOSES OF
3 SCHEDULING FOR LUNCH AND OTHERWISE FOR THE JURY.

4 HOW LONG DO YOU ALL ANTICIPATE THAT YOUR CLOSING
5 ARGUMENTS WOULD BE?

6 MR. HEMBREE: THE STATE'S ARGUMENT SHOULD BE 45
7 MINUTES TO AN HOUR.

8 THE COURT: AND THE DEFENSE?

9 MR. DIGGS: YOUR HONOR, MINE WOULD BE ABOUT
10 FORTY-FIVE MINUTES AS WELL.

11 THE COURT: SO THAT'S TWO HOURS. THAT WILL PUT
12 US AT 12. THEIR LUNCH GENERALLY COMES AT 12:30. ALL
13 RIGHT.

14 MR. DIGGS: YOUR HONOR, THAT DOESN'T INCLUDE MR.
15 KELLY'S, HOWEVER. THAT WOULD JUST BE ME ALONE.

16 THE COURT: OKAY. I ASSUME YOU ALL HAVE DIVIDED
17 DIFFERENT ASPECTS OF THE ARGUMENT THAT YOU ALL ARE
18 GOING TO MAKE?

19 MR. DIGGS: YES, MA'AM.

20 THE COURT: OKAY.

21 MR. KELLY: AND I WILL ARGUE FIRST.

22 THE COURT: OKAY.

23 MR. KELLY: AND I PROBABLY WILL GO 45 MINUTES TO
24 AN HOUR.

25 THE COURT: OKAY.

1 MR. KELLY: MA'AM, MAY I BE SEATED OVER THERE
2 WHEN I ARGUE?

3 THE COURT: YES, SIR. AND WE WILL TAKE A BREAK
4 IF WE NEED TO TO GET YOU SITUATED. WHATEVER IS MOST
5 CONVENIENT FOR YOU IS WHAT WE WILL DO.

6 MR. KELLY: THANK YOU, MA'AM.

7 THE COURT: IS THERE ANYTHING FURTHER BEFORE WE
8 BRING IN THE JURY?

9 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
10 HONOR.

11 THE COURT: FROM THE DEFENSE?

12 MR. DIGGS: NO, YOUR HONOR.

13 THE COURT: THE OTHER THING THAT I -- HAVE YOU
14 ALL GONE OVER THE EVIDENCE TO MAKE SURE THAT IT IS
15 ALL IN ORDER AND THAT IT IS AS YOU ALL ANTICIPATE?

16 MR. HUMPHRIES: WE HAVEN'T THIS MORNING. AND
17 THERE WILL BE -- WE WILL BE USING A NUMBER OF
18 EXHIBITS DURING THE CLOSING. IF WE COULD CHECK IN
19 AFTER THE -- AFTER THE ARGUMENTS -- I DON'T KNOW WHAT
20 EXHIBITS THE DEFENSE MAY USE, BUT... I THINK WE CAN
21 DO THAT IN FAIRLY QUICK ORDER AFTER THE ARGUMENTS OR
22 BEFORE THE CHARGE OR AT THE LUNCH BREAK AT THE VERY
23 LEAST.

24 THE COURT: OKAY. WELL, I THINK WE -- I PLAN ON
25 ARGUMENT BEING DONE.

1 MR. HUMPHRIES: I'M SORRY, MA'AM?

2 THE COURT: I WOULD HOPE THAT WE'RE DONE WITH
3 ARGUMENT AND CLOSING BEFORE -- I MEAN, AND MY
4 CHARGE -- MY CHARGE WILL TAKE ABOUT 25 MINUTES BEFORE
5 THE JURY HAS LUNCH, BUT I WILL WING IT. I'LL SEE HOW
6 I AM -- I'M NOT GOING TO HAVE THEM LISTENING TO THE
7 CHARGE WHILE THEY'RE HUNGRY.

8 MR. HUMPHRIES: I UNDERSTAND.

9 THE COURT: ALL RIGHT. PLEASE BRING IN THE
10 JURY. AND ALSO, BEFORE THE JURY COMES IN, PLEASE BE
11 REMINDED THAT ALL MEMBERS OF THE GALLERY SHOULD HAVE
12 THEIR CELLPHONES OFF. NOT ON VIBRATE BUT OFF. IF
13 THEY GO OFF DURING ARGUMENT, THEY WILL BE CONFISCATED
14 BY THE AUTHORITIES.

15 (JURY ENTERED THE COURTROOM AT 9:51 AM.)

16 THE COURT: LADIES AND GENTLEMEN, I HOPE THAT
17 YOU HAD A RESTFUL EVENING. WE APPRECIATE YOUR
18 PATIENCE.

19 WE HAD SOME SCHEDULING MATTERS AND OTHERWISE TO
20 GO OVER THIS MORNING AND OTHER MATTERS OF LAW SO THAT
21 WE COULD PROCEED IN THIS PHASE OF THE TRIAL
22 UNINTERRUPTED.

23 SO WE APPRECIATE YOUR PATIENCE AGAIN. WE DO NOT
24 TAKE YOUR TIME FOR GRANTED. PLEASE GIVE THE BAILIFFS
25 AN OPPORTUNITY TO PASS OUT YOUR NOTES.

1 (WHEREUPON THERE WAS A PAUSE.)

2 THE COURT: DOES EVERYONE HAVE THEIR NOTES?
3 LADIES AND GENTLEMEN, AS I EXPLAINED ON LAST NIGHT,
4 WE'VE NOW REACHED THE STAGE OF THIS PHASE OF THE
5 TRIAL WHERE WE WILL HAVE CLOSING ARGUMENTS AND THE
6 COURT'S CHARGE ON THE LAW.

7 YOU WILL FIRST HEAR FROM THE STATE AND THEN HEAR
8 FROM THE DEFENSE. OUR STATUTES PROVIDE THAT THE
9 DEFENDANT GETS LAST ARGUMENT AFTER WHICH, AND
10 DEPENDING ON THE TIMEFRAME, WE'LL EITHER BREAK FOR
11 LUNCH OR HAVE THE COURT'S CHARGE ON THE LAW.

12 WE'LL MAKE THAT DECISION AS WE GET CLOSER IN
13 TIME AND LOOK AND SEE HOW CLOSE WE ARE TO THE
14 LUNCHEON HOUR BECAUSE I DON'T WANT YOU ALL TRYING TO
15 LISTEN TO THE CHARGE ON AN EMPTY STOMACH.

16 SO I WOULD MAKE THOSE DECISIONS AS WE GO ALONG
17 IN THE PROCESS. I WOULD ASK THAT YOU GIVE THE
18 ATTORNEYS YOUR UNDIVIDED ATTENTION.

19 MR. HEMBREE: THANK YOU, YOUR HONOR. MAY IT
20 PLEASE THE COURT.

21 THE COURT: YES, SIR.

22 CLOSING STATEMENT

23 MR. HEMBREE: IF NOT THESE ACTS, THEN WHAT? IF
24 NOT THAT DEFENDANT, THEN WHO? IF NOT AT THIS TIME,
25 THEN WHEN?

1 A LONG TIME AGO DURING THE JURY QUALIFICATIONS,
2 THE BEGINNING, VERY FIRST BEGINNING MOMENTS OF THIS
3 PROCESS, OF THIS TRIAL, EACH AND EVERY ONE OF YOU
4 TOOK AN OATH.

5 YOU MADE A PROMISE. YOU MADE A PROMISE TO ME.
6 YOU MADE A PROMISE TO THIS DEFENDANT. AND YOU MADE A
7 PROMISE TO THE COURT THAT GIVEN SUFFICIENT EVIDENCE,
8 FACTS AND CIRCUMSTANCES, YOU WOULD NOT ONLY CONSIDER
9 THE DEATH PENALTY, BUT YOU WOULD IMPOSE THE DEATH
10 PENALTY. YOU HAVE REACHED THAT POINT IN THIS
11 PROCESS.

12 THERE ARE SOME GUIDELINES IN CONSIDERING
13 STATUTORY AGGRAVATING CIRCUMSTANCES, MITIGATING
14 CIRCUMSTANCES, AND REACHING YOUR VERDICTS ON THE
15 PENALTY IN THIS CASE.

16 JUDGE JEFFERSON WILL REVIEW THOSE GUIDELINES
17 WITH YOU IN THE COURSE OF HER CHARGE. HOWEVER, I
18 WANT TO GIVE YOU A BRIEF ROADMAP OF MY OWN SO YOU CAN
19 BEGIN THINKING, YOU CAN START THE -- AT LEAST
20 UNDERSTANDING THE PROCESS OF HOW YOU'RE TO REACH THIS
21 VERDICT, HOW YOU'RE SUPPOSED TO ANSWER THE QUESTIONS.

22 FIRST, AND THIS IS A MUST, THIS IS A REQUIREMENT
23 UNDER SOUTH CAROLINA LAW. THE FIRST QUESTION FOR YOU
24 TO ANSWER IN THIS CASE, IN THIS PART OF THE CASE, ARE
25 THERE ANY STATUTORY AGGRAVATING CIRCUMSTANCES,

1 BECAUSE IF YOU DON'T FIND ANY STATUTORY AGGRAVATING
2 CIRCUMSTANCES, THEN THE DEATH PENALTY IS NOT
3 APPROPRIATE, AND IT WOULD BE YOUR DUTY, IT WOULD BE
4 YOUR RESPONSIBILITY TO SAY NO STATUTORY AGGRAVATING
5 CIRCUMSTANCES, LIFE WITHOUT PAROLE. THAT'S -- THAT'S
6 THE RIGHT ANSWER IF YOU FIND NO STATUTORY AGGRAVATING
7 CIRCUMSTANCES.

8 HOWEVER, IF YOU FIND THE EXISTENCE OF AT LEAST
9 ONE -- ONE IS THE -- ONLY ONE IS REQUIRED. IF YOU
10 FIND THE EXISTENCE OF AT LEAST ONE STATUTORY
11 AGGRAVATING CIRCUMSTANCE, THEN IT IS YOUR
12 RESPONSIBILITY TO CONSIDER ALL THE OTHER EVIDENCE,
13 ALL THE CIRCUMSTANCES, THE MITIGATING CIRCUMSTANCES,
14 EVERYTHING, AND TO REACH A VERDICT REGARDING THE
15 PENALTY THAT IS JUST, A VERDICT OF LIFE WITHOUT
16 PAROLE OR DEATH.

17 NOW, I'D LIKE TO TAKE A MOMENT AND REVIEW WITH
18 YOU THE STATUTORY AGGRAVATING CIRCUMSTANCES THAT THE
19 STATE HAS ALLEGED IN THIS CASE. AND YOU'LL HAVE A
20 FORM VERY MUCH LIKE THE ONE I'M HOLDING.

21 JUDGE JEFFERSON WILL GIVE IT TO YOU WHEN YOU ARE
22 ASKED TO BEGIN YOUR DELIBERATIONS ON THE PENALTY.
23 AND THE STATE HAS ALLEGED FIVE STATUTORY AGGRAVATING
24 CIRCUMSTANCES FOR YOU TO CONSIDER. REMEMBER, ONLY
25 ONE IS NEEDED. IN THIS CASE WE ALLEGE FIVE.

1 THAT THE MURDER WAS COMMITTED WHILE IN THE
2 COMMISSION OF A CRIMINAL SEXUAL CONDUCT IN ANY
3 DEGREE. THAT DOES NOT REQUIRE THAT THE CRIMINAL
4 SEXUAL CONDUCT BE AGAINST THE MURDER VICTIM, JUST
5 THAT IT BE IN THE COURSE OF, IN THE PROCESS OF, IN
6 THE COMMISSION OF.

7 THE MURDER IS COMMITTED IN THE COMMISSION OF
8 THESE OTHER ACTS, EXTREME CRIMES. THAT THE MURDER
9 WAS COMMITTED WHILE IN THE COMMISSION OF KIDNAPPING.
10 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION OF
11 ROBBERY WHILE ARMED WITH A DEADLY WEAPON.

12 NUMBER FOUR, THE MURDER WAS COMMITTED WHILE IN
13 THE COMMISSION OF LARCENY WITH THE USE OF A DEADLY
14 WEAPON, THEFT. AND FIVE, THE MURDER WAS COMMITTED
15 WHILE IN THE COMMISSION OF PHYSICAL TORTURE.

16 NOW, LET ME KIND OF CUT TO THE CHASE IN SOME OF
17 THESE. YOU HAVE HAD THE BENEFIT OF CONSIDERING THE
18 EVIDENCE IN THE GUILT PHASE.

19 YOU HAVE MADE AS A JURY A FINDING THAT THERE WAS
20 A MURDER. YOU HAVE MADE A FINDING THAT THERE WAS
21 CRIMINAL SEXUAL CONDUCT. YOU HAVE MADE A FINDING
22 THAT THERE WAS A KIDNAPPING. YOU HAVE MADE A FINDING
23 THAT THERE WAS AN ARMED ROBBERY. THOSE CRIMES HAVE
24 ALREADY BEEN PROVEN TO YOU.

25 AND IF YOU RECALL, THERE WAS A POINT IN THE

1 TRIAL WHEN THE STATE MOVED TO INCORPORATE -- KIND OF
2 A LITTLE THING, WOULDN'T HAVE BEEN SOMETHING THAT YOU
3 MIGHT HAVE EVEN NOTICED -- BUT STATE MOVED TO
4 INCORPORATE ALL OF THE EVIDENCE FROM THE FIRST PHASE
5 INTO THE SECOND PHASE.

6 AND OF COURSE, THE DEFENSE AGREED. IT'S THE
7 APPROPRIATE THING TO DO. YOU HAVE THE BENEFIT OF ALL
8 THAT EVIDENCE THAT YOU'VE ALREADY CONSIDERED TO MAKE
9 YOUR DECISION ON THESE THREE OFFENSES, THESE THREE
10 AGGRAVATORS. FOUR.

11 SO THIS IS EASY. I MEAN, THIS IS EASY STUFF ON
12 THESE THREE. THE FOURTH ONE IS NOT CHARGED AS A
13 SEPARATE CRIME. IT WASN'T IN THE INDICTMENT AS A
14 SEPARATE CRIME, BUT IT'S SORT OF A FIRST COUSIN OF
15 ARMED ROBBERY, THAT THERE WAS A LARCENY OR A THEFT
16 THAT WAS COMMITTED WITH THE USE OF A DEADLY WEAPON.

17 A DEADLY WEAPON WAS USED IN SOME FORM OR FASHION
18 IN THE PROCESS, IN THE ENTIRE PROCESS. WHILE IN THE
19 COMMISSION OF IS A VERY BROAD DEFINITION, A BROAD A
20 PERIOD OF TIME.

21 AND FINALLY, THE FIFTH, BECAUSE THERE'S NOT A
22 SPECIFIC CRIME IN SOUTH CAROLINA OF PHYSICAL TORTURE,
23 IT'S JUST A CONCEPT. IT'S AN -- IT'S A LEGAL
24 PRINCIPLE. IT'S GOT A LEGAL DEFINITION.

25 AND PHYSICAL TORTURE IN SOUTH CAROLINA IS

1 DEFINED IF -- THAT PHYSICAL TORTURE OCCURS WHEN THE
2 VICTIM IS SUBJECTED TO SERIOUS PHYSICAL ABUSE BEFORE
3 DEATH, THE INTENTIONAL INFLECTION OF SERIOUS ABUSE
4 UPON THE BODY OF ANOTHER.

5 LAURA LING. FOLKS, SHE DIDN'T DIE INSTANTLY.
6 SHE WAS BEATEN, BOUND, THROAT CUT, BEATEN SOME MORE,
7 BEATEN SOME MORE, AND ULTIMATELY STRANGLED BY THIS
8 DEFENDANT'S BARE HANDS CRUSHING VIRTUALLY ALL THE
9 STRUCTURES IN HER THROAT BACK TO HER SPINE.

10 DR. COLLINS TESTIFIED THAT JUST THE
11 STRANGULATION WOULD HAVE TAKEN UP TO A MINUTE, NOT TO
12 MENTION THE ABUSE, BRUISES, BEATING. THE SEVERITY IS
13 APPALLING.

14 THE HEAD INJURIES, THE FACIAL INJURIES, BEATEN
15 AGAIN AND AGAIN. DESCRIBED BY CHRISTINA LING, THAT
16 DEFENDANT STANKO ACTUALLY PULLED HER DYING MOTHER OFF
17 THE FLOOR, PULLED HER UP TO STRIKE HER AGAIN.
18 PROVES. STRANGLED.

19 FOLKS, IT CAN BE NO DOUBT THAT IN THIS CASE
20 THERE WAS INDEED SERIOUS, PROLONGED PHYSICAL TORTURE.
21 THAT IS AMAZING. IF NOT THESE ACTS, THEN WHAT?

22 MR. KELLY SAID -- KIND OF A LONG TIME AGO, STOOD
23 BEFORE YOU AND HE SAID, DON'T JUDGE ME BY THE CLOTHES
24 I WEAR, DON'T JUDGE ME BY THE HAT I WEAR, DON'T JUDGE
25 ME BY WHAT I SAY, JUDGE ME BY WHAT I DO.

1 I SUBMIT TO YOU THAT'S EXACTLY WHAT YOU SHOULD
2 DO IN THIS CASE. YOU JUDGE THAT DEFENDANT BY WHAT HE
3 DOES.

4 LET'S GO BACK A LITTLE BIT. GO BACK A FEW
5 YEARS, QUITE A FEW YEARS, ALMOST 10 YEARS -- 10 YEARS
6 AGO. ELIZABETH MCLENDON BUCKNER. YOU HEARD FROM HER
7 A FEW DAYS AGO.

8 SHE WAS THE GIRLFRIEND FOR QUITE A WHILE, ON
9 AGAIN, OFF AGAIN, BUT FOR A FAIRLY LONG PERIOD OF
10 TIME WAS THE GIRLFRIEND OF DEFENDANT STANKO. THEY
11 LIVED IN AN APARTMENT IN GOOSE CREEK. SHE WAS THE
12 PRIMARY BREAD WINNER IN THAT FAMILY.

13 SHE TRIED TO HELP HIM. HE GOT INTO SOME
14 TROUBLE. HE DIDN'T HAVE A PLACE TO STAY. AND SHE
15 CARED FOR HIM. SHE WANTED TO SEE HIM DO WELL. SHE
16 SAW HIS POTENTIAL. SHE KNEW HE HAD ABILITY. SHE
17 KNEW HE HAD TALENT.

18 AND I THINK IT'S PRETTY CLEAR TO SAY THAT AS
19 MISGUIDED AS SHE WAS IN HER ABILITY TO TURN THIS
20 DEFENDANT AROUND, SHE TRIED. SHE TRIED TO GET HIM TO
21 COUNSELING. SHE GOT A LAWYER. SHE GAVE HIM A PLACE
22 TO STAY.

23 SHE TRIED TO HELP HIM GET JOBS. SHE TRIED TO
24 SUPPORT HIM. SHE TRIED TO GIVE HIM TRUST, TO BUILD
25 HIM UP, TO HELP HIM OUT, THE HAND THAT FEEDS HIM.

1 BUT HE, YOU KNOW, JUST PLAY IT STRAIGHT. HE
2 JUST WASN'T WILLING TO PUT IN THE EFFORT. HE HAD THE
3 ABILITY, HE JUST DIDN'T WANT TO DO THE WORK. HE
4 WANTED IT RIGHT NOW. HE WANTED WHAT HE WANTED WHEN
5 HE WANTED IT.

6 IT'S INTERESTING ELIZABETH MCLENDON SAID THAT.
7 HEARD THAT TWICE IN THIS TRIAL. HE WANTED WHAT HE
8 WANTED WHEN HE WANTED IT. AND HE WANTED PEOPLE TO
9 THINK HE WAS IMPORTANT AND HE WANTED PEOPLE TO THINK
10 HE WAS RICH AND HE WANTED PEOPLE TO THINK THAT HE WAS
11 ALL THESE THINGS THAT HE WAS NOT. THAT'S WHERE HE
12 FOUND HIS IDENTITY, ABOUT HIS EGO.

13 WELL, ELIZABETH MCLENDON KNEW THE TRUTH. SHE
14 KNEW THE TRUTH. AND SHE GREW WEARY OF THE TRUTH OVER
15 AND OVER AGAIN BEING REVEALED TO HER ONLY BY HER
16 PROBING.

17 SHE GOT TIRED OF THE LIES. SHE GOT TIRED OF HIS
18 DISHONESTY. SHE HAD SEEN IT BEFORE AND SHE
19 CONFRONTED HIM. SHE CONFRONTED HIM SEVERAL TIMES,
20 BUT FINALLY WHEN THE CHARM DIDN'T WORK, WHEN THE LIES
21 DIDN'T WORK, WHAT DID HE DO?

22 HE HAD A FUSS, RIGHT? WHAT DID HE DO? HE
23 DIDN'T BEAT HER UP THAT NIGHT. HE DIDN'T TRY TO KILL
24 HER THAT NIGHT WHEN THEY HAD THE FUSS. HE WAITED.
25 SHE WENT TO BED. HE WAS OUT ON THE COUCH.

1 GETS UP IN THE MORNING, SOAKS A RAG IN BLEACH
2 AND SOME SORT OF 409, A CLEANER, AND TRIES TO KILL
3 HER IN HER BED AS SHE'S JUST WAKING UP. SHE WAS A
4 VERY -- IN A VERY VULNERABLE POSITION.

5 SHE WAS NOT -- IT WASN'T A FAIR FIGHT. STUFFS
6 IT IN HER MOUTH. THEY SCRAP. THEY TUSSLE. HE
7 FINALLY TIES HER UP, FEET AND HANDS, DRAGS HER INTO
8 THE BATHROOM. I DON'T KNOW WHAT HE WAS THINKING HE
9 WAS GOING TO DO.

10 DRAGS HER INTO THE BATHROOM, SITS HER ON THE
11 TOILET, HE TAKES A SHOWER, HE SHAVES, HE GETS READY,
12 HE PACKS UP AND HE LEAVES. TRIED TO KILL HER. THIS
13 ISN'T WORKING. THIS ISN'T WORKING. WHY ISN'T THIS
14 WORKING? IT WORKED ON TV.

15 TRIED TO MURDER HER. HE JUST WASN'T VERY GOOD
16 AT IT. HE WAS A FAILURE AT MURDER ONE TIME. A
17 FAILURE. BUT THAT WAS THE PLAN. THAT'S WHAT HE
18 INTENDED TO DO.

19 HE LEFT, HE FLED, HE WENT TO ANOTHER TOWN.
20 ULTIMATELY HE WAS ARRESTED. BUT WHAT HAPPENED HERE?
21 THEY PICK HIM UP. WHERE DID HE MAKE HIS MISTAKE?
22 WHERE DID HE MAKE HIS MISTAKE?

23 WELL, MCLENDON'S ALIVE, AND HE -- SHE GOES TO
24 THE POLICE. SHE REPORTS IT. SHE CALLS THEM RIGHT
25 AWAY. THEY ARREST HIM. HE'S CONVICTED. TEN YEARS.

1 DOES THAT EIGHT AND A HALF YEARS IN PRISON.

2 WHAT DID HE LEARN FROM PRISON? WHAT LESSONS DID
3 HE GET? HE LEARNED HOW TO BE A BETTER CON-MAN. HE
4 LEARNED HOW TO BE A BETTER CRIMINAL.

5 COMES BACK INTO THE COMMUNITY. 2004. HE MEETS
6 A NICE LADY. SHE WORKS AT THE SOCASTEE LIBRARY. HER
7 NAME IS LAURA LING. SHE'S A SINGLE PARENT. SHE'S
8 RAISING THREE KIDS. SHE'S GOING BACK TO SCHOOL. GOT
9 A MASTER'S DEGREE, WORKING FULL-TIME, LOVES TO HELP
10 YOU, LOVES PEOPLE.

11 AND HE TAKES HIS JAILHOUSE SKILLS ALONG WITH HIS
12 NATURAL ABILITIES AND HE BEGINS THE CON. HE BEGINS
13 THE CON ON LAURA LING.

14 HE ULTIMATELY CONVINCES HER OR THEY COME TO THE
15 CONCLUSION THAT HE CAN LIVE HERE WITH HER, MURRELLS
16 INLET ROAD, IN LAURA'S HOME ALONG WITH LAURA'S
17 DAUGHTER, TWO SONS THAT -- ONE IS OFF TO SCHOOL, ONE
18 IS LIVING WITH HIS FATHER AT THIS POINT.

19 AND THINGS ROCK ALONG PRETTY GOOD FOR HIM FOR A
20 WHILE. HE'S GOT A PLACE TO STAY. GOT A CAR HE CAN
21 USE WHENEVER HE NEEDS TO. GOT PLENTY OF FOOD. GOT A
22 WOMAN THAT LOVES HIM, CARES ABOUT HIM, LOOKING OUT
23 FOR HIM.

24 HE'S MAKING -- HE'S REPORTING TO HIS PROBATION
25 OFFICER. THAT'S GOING ALONG PRETTY GOOD. MISSES A

1 COUPLE OF MEETINGS, BUT THEN HE GETS STRAIGHT. THEY
2 TALK TO HIM ABOUT IT. HE CATCHES UP HIS FEES.

3 DOESN'T MISS ANY MORE MEETINGS. EVERY MONTH
4 RIGHT ON TIME, GOOD. EVERYTHING IS GOING GOOD, GOOD,
5 GOOD. ALL THE WHILE -- ALL THE WHILE HE IS WORKING A
6 SCAM ON ANY LIVING SOUL HE CAN FIND.

7 ANYBODY THAT HE CAN FIND THAT'S VULNERABLE AND
8 NEEDS HELP, THEY'RE IN A SPOT, HE'S RIGHT THERE FOR
9 THEM. HE SETS UP AT THE SOCASTEE LIBRARY, WORKING
10 OUT OF THE LIBRARY MEETING FOLKS THAT, YOU KNOW, JUST
11 NEED SOME HELP.

12 HE'S SLICK. HE TALKS THE TALK. HE DRESSES THE
13 RIGHT WAY. HE'S IN A COAT AND TIE. LOOKS LIKE A
14 LAWYER. TALKS LIKE A LAWYER. CARRIES HIMSELF LIKE A
15 LAWYER.

16 HE FOOLS A LOT OF PEOPLE. HE HAS THEM GOING
17 NOW. HE'S COLLECTING MONEY FROM THEM. HE'S PICKING
18 UP -- I NEED SOME FILING FEES FROM YOU AND I WILL
19 NEED SOME FEES FROM YOU TO GO BUY -- GO PAY FOR THE
20 COURT TRANSCRIPT, AND WELL, I'VE GOT SOME LEGAL
21 RESEARCH, I WILL NEED TO GET SOME FEES FOR THAT.

22 AND OH YEAH, AND BY THE WAY, WE'RE GOING TO GO
23 UP AND SEE -- WE'LL GO UP AND SEE SENATOR JOHN
24 EDWARDS ABOUT YOUR CASE, MA'AM, BECAUSE, YOU KNOW,
25 HE'S A VERY NOTABLE PLAINTIFFS' ATTORNEY AND WE'VE

1 CONSULTED WITH HIM AND WE'RE GOING TO GET HIM WORKING
2 ON YOUR CASE, YES, MA'AM, OH, YES, WE CAN DO THAT FOR
3 YOU.

4 HE TELLS THEM WHAT THEY WANT TO HEAR. HE PLAYS
5 UPON THEIR DESIRES, SOMETIMES THEIR FEARS, THEIR
6 NEEDS. HE'S A GOOD LISTENER. GOOD LISTENER. GIVE
7 HIM A LITTLE BIT, AND MAN, HE RUNS IT, HE TAKES OFF.
8 GOOD CON-MAN. GOOD LIAR.

9 BUT LIKE ANY CON-MAN, EVENTUALLY, ULTIMATELY IT
10 CATCHES UP TO HIM. ALWAYS DOES. AND IN STEPHEN
11 STANKO'S CASE IT'S -- IT'S AS IF ALL THE GAMES AND
12 ALL THE LIES ARE CONVERGING ON THIS ONE POINT.

13 THEY'RE ALL COMING TOGETHER AT A CERTAIN MOMENT
14 IN TIME ON APRIL THE SEVENTH. ON THAT DAY HE'S
15 TALKING TO IDA BROOKS. YOU REMEMBER MRS. BROOKS?
16 NICE LITTLE LADY FROM -- LIVES NEAR SOCASTEE OR IN
17 SOCASTEE NEAR THE HIGH SCHOOL?

18 FEDERAL EXPRESS PACKAGE IS COMING, MRS. BROOKS.
19 FEDERAL EXPRESS PACKAGE IS COMING. IT'S COMING.
20 IT'S COMING. IT SHOULD BE HERE. THE PACKAGE IS
21 GOING TO BE HERE ANY DAY FROM THE VETERANS
22 ADMINISTRATION. I DON'T KNOW WHAT THE PROBLEM IS.
23 YES, MA'AM, I KNOW.

24 WENT TO SEE HER ALMOST EVERY DAY. HE WAS GOING
25 OVER THERE A LOT, STAYING IN VERY CLOSE CONTACT WITH

1 HER.

2 YOU'VE GOT STEVE LEE. NOW, STEVE LEE IS A
3 LITTLE DIFFERENT. MRS. BROOKS, SHE'S PRETTY
4 EASY-GOING. SHE'S NOT GOING TO -- WHAT'S SHE GOING
5 TO DO?

6 NOW, STEVE LEE, THE MECHANIC FROM MURRELLS
7 INLET? STEVE LEE GAVE HIM A THOUSAND DOLLARS. HE
8 TAKES STEVE LEE'S MONEY AND YOU DON'T DELIVER, HE'S A
9 MECHANIC, HE KNOWS HOW TO TAKE CARE OF BUSINESS.

10 HE'S GOING TO GET THAT THOUSAND DOLLARS OUT OF
11 YOU EITHER OUT OF YOUR POCKET OR OUT OF YOUR HIDE.
12 AND HE SAW HIM ON THE SEVENTH AT 2:30 AT THE FOOD
13 LION AND STEVE LEE SAYS, YOU HAVE MY MONEY TOMORROW,
14 GOT IT? GOT IT. LIES RUN OUT. LIES ARE RUNNING
15 OUT.

16 PROBATION DEPARTMENT. NOW, THE PROBATION
17 DEPARTMENT, THEY WEREN'T HOT ON HIS TRAIL. HE HAD
18 BEEN DOING WHAT HE WAS SUPPOSED TO DO, PAYING HIS
19 FEES, COMING IN, HAD A GOOD ATTITUDE, WAS IN THERE ON
20 THE FIFTH, APRIL THE FIFTH. SAID HE SEEMED TO BE AT
21 PEACE WITH HIMSELF. HE'S DOING GOOD ACCORDING TO
22 THEM.

23 BUT THERE HAD BEEN THIS REPORT BACK IN JANUARY
24 ABOUT HIM MAYBE PASSING HIMSELF OFF AS A LAWYER, AND
25 THEY BROUGHT HIM IN. THEY SAID, LOOK HERE, WHAT'S

1 THIS ABOUT YOU PASSING YOURSELF?

2 NO, NO, NO, I -- I JUST TALKED TO THAT LADY AND
3 SHE -- SHE WANTED SOME LEGAL ADVICE AND I REFERRED A
4 LAWYER TO HER, IRBY WALKER.

5 YES, I -- YEAH, I SENT HER TO IRBY WALKER, WHICH
6 HAD SOME PLAUSIBLE -- THERE'S SOME BELIEVABILITY
7 BECAUSE GUESS WHO HAD SHOWED UP AT THE PROBATION
8 OFFICE WITH HIM. IRBY WALKER. THAT MAKES SENSE.

9 AND I DIDN'T TALK ABOUT ANY FEES WITH HIM. AND
10 I, YOU KNOW, FEES ARE GOING TO HAVE TO BE DISCUSSED
11 WITH MR. WALKER. THEY NOTED THAT. SO WELL NOW, YOU,
12 YOU KNOW, DON'T BE DOING THAT ANY MORE, STOP IT. AND
13 THEY HADN'T HAD ANY OTHER REPORTS.

14 BUT THIS DEFENDANT KNEW THAT PROBATION KNEW
15 ABOUT THIS. THEY HAD NOTED IT. THEY HAD IT IN THEIR
16 RECORDS. THEY HAD ALREADY GIVEN HIM THAT FIRST
17 WARNING. HOW MANY WARNINGS IS HE GOING TO GET?

18 HOW MANY TIMES IS HE GOING TO BE ABLE TO RUN
19 THAT STORY PAST THE PROBATION AGENT BEFORE SOMEBODY
20 FIGURED IT OUT?

21 AND I THINK PROBABLY THE MOST TELLING OR
22 COMPELLING WITNESS ON THIS ISSUE WAS CONNIE PRICE.
23 YOU REMEMBER CONNIE PRICE?

24 SHE HAD DEALT WITH HIM -- AND INTERESTINGLY, HE
25 WAS OVER THERE ALL THE TIME AT HER HOUSE, TOO. ALL

1 THE TIME. GIVING HIM A BUNCH OF MONEY, GIVING HIM
2 MONEY OVER THE COURSE OF TIME.

3 BUT SHE WAS -- GOT ILL WITH THAT. SHE WANTED
4 HER MONEY BACK. SHE HAD A CONTRACT DISPUTE. THESE
5 DOCUMENTS AREN'T ANY GOOD, THAT'S NOT WHAT I PAID
6 FOR. I PAID YOU GOOD MONEY, I WANT MY DOCUMENTS OR I
7 WANT MY MONEY.

8 YOU KNOW, WE'VE GOT TO GET THIS RIGHT. WE'VE
9 GOT TO GET THIS SETTLED. AND AS A MATTER OF FACT, IF
10 YOU DON'T GIVE ME BACK MY MONEY, I'M GOING TO GO SEE
11 THE POLICE.

12 AND SHE DID. AND SHE CALLED THEM. OR TALKED TO
13 THEM ON THE SEVENTH -- ON THE SEVENTH AND SAID, LET
14 ME TELL YOU ONE THING, MR. -- MR. PARALEGAL, I HAVE
15 BEEN TO SEE THE POLICE ABOUT YOU. I HAVE ALREADY
16 REPORTED YOU. I TALKED TO THEM ABOUT YOU AND I'M NOT
17 GIVING UP. I AM NOT GIVING UP.

18 THE WHEEL HAD COME OFF, FOLKS, AND THIS
19 DEFENDANT KNEW IT. AND THE ONE THING THAT HE WAS NOT
20 GOING TO DO VOLUNTARILY IS GO BACK TO PRISON. THAT
21 WASN'T THE PLAN. THAT ISN'T GOING TO WORK.

22 HE DIDN'T WANT TO GO TO PRISON WITH ELIZABETH
23 MCLENDON. SHE KNEW TOO MUCH. I'VE GOT TO SHUT YOU
24 UP. GOT TO SHUT YOU UP. THAT'S WHAT HE SAID TO HER.
25 AND HE TRIED TO KILL HER.

1 DIDN'T WANT TO GO TO JAIL THEN. HE DID. NOW HE
2 HAD A TASTE OF IT, HE HAD BEEN TO PRISON, AND HE
3 KNEW -- HE KNEW THAT HE DIDN'T WANT TO GO THERE.

4 SO WHAT'S HE DO? HE'S GOT NO CAR. HE'S GOT NO
5 MONEY AND NO PLACE TO GO, AND THE NOOSE IS GETTING
6 TIGHTER.

7 FOLKS, I CAN'T TELL YOU WHAT HAPPENED THAT LED
8 TO THE ASSAULT ON LAURA LING. YOU KNOW. YOU HAVE
9 HEARD THE EVIDENCE.

10 WE KNOW FROM THE TESTIMONY THAT LAURA LING AND
11 STEPHEN STANKO SEEMED TO BE GETTING ALONG WHEN THEY
12 WENT TO BED. THEY WENT TO BED ABOUT 10:30, 11:00,
13 SOMETHING LIKE THAT. WENT IN THE ROOM, SHUT THE
14 DOOR.

15 CHRISTINA LING WAS UP FOR A LITTLE WHILE LONGER.
16 AND SHE WENT TO BED. SHE WENT TO SLEEP. AND THEN
17 THIS LITTLE BITTY HOUSE, FAIRLY SMALL HOUSE, SHE DID
18 NOT HEAR AN ASSAULT.

19 NOW, THAT SEEMED ODD. I DON'T KNOW. BUT I KNOW
20 THIS. DR. COLLINS TESTIFIED LAURA LING DIDN'T HAVE
21 WHAT SHE CONSIDERS DEFENSIVE WOUNDS, THIS AREA OF THE
22 BODY, HANDS, FRONT OF THE HANDS HERE.

23 SHE DID HAVE SOME SCRAPES ON HER KNUCKLES. YOU
24 CAN LOOK AT THOSE. YOU CAN SEE THEM YOURSELF. THEY
25 ARE SCRAPES. THEY ARE NOT -- AND I THINK IT'S GOOFY

1 TO SUGGEST THAT SOMEBODY'S GOING TO FEND OFF BLOWS
2 LIKE THIS.

3 PEOPLE JUST DON'T DO IT THAT WAY. IT JUST
4 DOESN'T WORK THAT WAY. THAT'S WHY THE DOCTOR SAID, I
5 DON'T CONSIDER THEM DEFENSIVE, THEY DON'T FALL INTO
6 THE CATEGORY, THE DEFINITION OF DEFENSIVE WOUNDS.
7 DIDN'T HEAR IT AND DIDN'T HAVE ANY DEFENSIVE WOUNDS.

8 NOW, THAT'S CIRCUMSTANTIAL. THAT'S NOT DIRECT
9 EVIDENCE. BUT IT'S CERTAINLY EVIDENCE THAT THIS
10 DEFENDANT SOMEHOW, EITHER BY STRIKING THE VICTIM ON
11 THE HEAD, BEATING HER IN THE FACE WHILE SHE WAS
12 ASLEEP, I DON'T KNOW, BUT INCAPACITATED HER TO THE
13 POINT THAT HE COULD GET AN ADVANTAGE ON HER AND TIE
14 HER HANDS BEHIND HER BACK, AND AT THAT POINT HE COULD
15 BEAT ON HER, CUT HER THROAT, DO WHATEVER HE WANTED TO
16 AT WILL.

17 BUT -- AND HE -- AND HE -- WITHOUT ANY DEFENSE
18 WHATSOEVER. HENCE, NO DEFENSIVE WOUNDS.

19 HE BEATS LAURA LING DOWN, TIES HER UP. HE BEATS
20 HER DOWN. HE CUTS HER THROAT AND HE PUSHES HER OFF
21 THE BED ON TO THE FLOOR WHERE SHE'S ON HER BACK LIKE
22 THIS.

23 BUT SHE'S STILL ALIVE. WE KNOW THAT. WE KNOW
24 THIS BECAUSE THERE WAS A MIRACLE OR TWO MIRACLES IN
25 THIS CASE. THERE WAS ONE -- THAT WAS THE FIRST ONE.

1 WHAT -- IF YOU'RE GOING TO KILL THE WITNESSES
2 AND STEAL THE CAR AND STEAL THE ATM CARD AND THE
3 GUITAR AND THE SUITCASE AND TAKE OFF AND FLEE, WHY
4 DIDN'T YOU JUST KILL THEM? JUST KILL THEM AND BE
5 DONE WITH IT IF THAT'S ALL THAT'S GOING TO HAPPEN.

6 NOT IN THIS DEFENDANT'S HEART. WHY GO INTO A 15
7 YEAR OLD CHILD'S ROOM AND DRAG HER OUT ASLEEP AND
8 BEAT HER DOWN AND TIE HER UP AND RAPE HER AND ENJOY
9 IT AND TALK TO HER WHILE YOU'RE DOING IT.

10 THIS DEFENDANT, HE'S LEARNED TO BE A BETTER
11 CRIMINAL. HE WANTS WHAT HE WANTS WHEN HE WANTS IT.
12 HE KNOWS HE'S GOING TO KILL HER. WHY NOT? WHY NOT
13 HAVE A LITTLE FUN ON THE WAY.

14 WHEN HE FINISHED WITH HER, HOLD HER DOWN
15 PRESSING ON HER HEAD, KNEE IN HER BACK WITH ONE HAND
16 AND CRUSH WITH THE OTHER THE THROAT OF THE MOTHER --
17 IT'S THIS FAR APART. IT'S THIS FAR APART.

18 YOU CAN SEE HOW CLOSE, JUST HOW CLOSE THE AREA
19 THAT CHRISTINA ENDED UP WHEN SHE GOT TO THE PHONE --
20 OFF THE FLOOR, GET TO THE PHONE, HER MOTHER'S BODY
21 WAS HERE. THIS IS -- IT'S -- IT'S JUST -- I MEAN,
22 IT'S A FOOT OR TWO FEET THAT SEPARATED THESE TWO
23 WOMEN.

24 AND HE KILLED THE MOTHER. TIME TO KILL THE
25 DAUGHTER. CUT HER THROAT, LAY THEM ON THE FLOOR.

1 SHE TRIES TO GET UP, HUH-UH-UH. ONE LAST BLOW TO THE
2 HEAD, SHE GOES OUT.

3 YOU KNOW, CHRISTINA LING WITHOUT A MOTHER AND
4 ONLY BY THE GRACE OF GOD DID SHE NOT GO JUST THE WAY
5 HER MOTHER. HE'S LEARNED FROM HIS MISTAKES. GET RID
6 OF THE WITNESSES. THAT'S HOW TO AVOID PRISON. IT'S
7 UN-CALLED FOR.

8 HE'S LEARNED. AND I WILL SAY THIS, FOLKS. WE
9 CANNOT AFFORD TO ALLOW HIM TO BECOME A BETTER
10 CRIMINAL. IT'S JUST TOO DANGEROUS AND TOO
11 FRIGHTENING.

12 HE -- HE STEALS THE CAR. HE GOES THROUGH THE
13 POCKETBOOK OF CHRISTINA LING, A TEENAGER'S
14 POCKETBOOK. HE GOES THROUGH THE POCKETBOOK OF LAURA
15 LING, STEALS THE ATM CARD AT LEAST. WE KNOW THAT.

16 STEALS THE SUITCASE. PACKS HIS CLOTHES. LOADS
17 UP. HE'S GOT SOME -- LITTLE BIT OF TIME. STEALS THE
18 MUSTANG, BELONGS TO LAURA LING.

19 TAKES OFF, GOES TO THE ATM MACHINE, CLEANS OUT
20 THE BANK ACCOUNT, AND NOW HE'S GOT A CAR AND NOW HE'S
21 GOT THE MONEY, BUT HE KNOWS THAT CAR WILL LINK HIM
22 RIGHT BACK TO LAURA LING.

23 THAT RED MUSTANG KIND OF STANDS OUT. THAT'S NOT
24 THE KIND OF VEHICLE HE NEEDS, SO HE DITCHES IT. GETS
25 RID OF IT. GETS ANOTHER CAR, KIND OF A PLAIN LOOKING

1 LITTLE MAZDA TRUCK. USES THAT AND FLEES.

2 THIS IS A PLAN. THIS IS A MAN WHO CALLS HIS
3 PLAN. HE'S ALWAYS THINKING. AS HE SITS THERE RIGHT
4 NOW, RIGHT NOW WITH HIS ATTORNEY, HE'S GOT A PLAN. I
5 DON'T KNOW WHAT IT IS. I DON'T KNOW WHAT THE NEXT
6 STEP IS, BUT THERE IS A PLAN.

7 HE KNOWS HE'S GOT TO GET OUT OF TOWN, SO HE
8 DOES. AND WHERE DOES HE END UP? AUGUSTA, GEORGIA.
9 AND WHAT'S GOING ON? THE MASTER'S. LOTS OF PEOPLE
10 IN TOWN. LOT OF STRANGERS, LOTS OF STRANGE FACES.
11 LOTS OF BIG-SHOTS.

12 PEOPLE TALKING A LOT OF -- TALKING, BRAGGING,
13 BRAGGING, SPEND A LOT OF MONEY. PRETTY GOOD PLACE.
14 NOT A BAD PLACE TO HIDE OUT AT THE TIME. A LOT OF
15 NEW FACES IN TOWN.

16 YOU KNOW, HE'S THINKING. GOT A PLAN. DECIDES
17 TO STAY THERE A FEW DAYS, AND IN THE PROCESS MEETS
18 DANA PUTNAM. GOOD HEAVENS. CHILLING. CHILLING.

19 FOLKS, SHE FELL FOR HIM. HE USED THAT JAILHOUSE
20 CHARM ON HER. HE IMPRESSED HER. HE LISTENED. SAID
21 THE RIGHT THINGS. GOT HER GOING. RAN THE CON ON
22 HER. WORKING PRETTY GOOD.

23 AT LEAST AT FIRST IT'S WORKING GOOD. AND THEN
24 HE -- HE'S PUSHING A LITTLE TOO FAST. AND, YOU KNOW,
25 HE CALLS HER UP ONE NIGHT AND SAYS, HEY, I JUST GOT

1 STOPPED BY THE POLICE, SORT OF HAVING A BAD NIGHT.

2 SHE SAYS, NO, I'M SORRY, BUT YOU'RE NOT COMING
3 BACK TONIGHT, NO, NO, NO, SOMETHING, SOMETHING,
4 SOMETHING'S WRONG.

5 GIVES HER A BRACELET FROM LAURA LING. SHE
6 SAID -- HOW DID YOU FEEL WHEN YOU LEARNED -- I THINK
7 THAT'S DISGUSTING. SAME WORD. THAT'S THE SECOND --
8 IN THIS CASE, A LIE, TELL THAT STORY. I DON'T KNOW
9 WHERE IT WILL STOP. DON'T KNOW. THERE'S NO WAY TO
10 SAY. BUT I KNOW HE NEEDS TO STOP TODAY.

11 IF NOT THIS DEFENDANT, THEN WHO? LOOK AT WHAT
12 YOU MADE ME DO. AND I LOVED HER. THIS DEFENDANT IS
13 A MASTER, A MASTER AT SHIFTING THE BLAME TO OTHERS,
14 SHIFTING THE RESPONSIBILITY.

15 IT'S ALWAYS SOMEBODY ELSE'S FAULT. ALWAYS
16 SOMEBODY ELSE'S FAULT. IS -- HE BLAMES OTHERS TO --
17 TO HIDE HIS EVIL AND HIS FAILURES. YOU KNOW, IT WAS
18 ELIZABETH BUCKNER'S FAULT, YOU DON'T TRUST ME. I'M
19 DOING THIS FOR YOU. I FAILED BECAUSE YOU DON'T HAVE
20 FAITH IN ME. IT'S YOUR FAULT, MS. BUCKNER.

21 IT'S FEDERAL EXPRESS'S FAULT. FEDERAL EXPRESS
22 DIDN'T GET HERE. I DON'T KNOW WHAT HAPPENED.
23 FEDERAL EXPRESS BLEW IT, YOU KNOW, BLAME FEDERAL
24 EXPRESS.

25 IT'S JOHN EDWARDS' FAULT. HE CANCELLED THE

1 APPOINTMENT. CAN'T SEE HIM TODAY. THAT WAS WHAT WE
2 WERE GOING TO DO. JOHN EDWARDS COULDN'T MAKE IT.

3 IT'S CHRISTINA LING'S FAULT THAT HER MOTHER'S
4 DEAD? AND THEN WHEN BUCKNER -- WHEN HE RAN OUT OF
5 EXCUSES, YOU KNOW, HE TOLD HER THIS AND HE TOLD HER
6 THIS, IT'S LIKE PEELING BACK THE SKIN OF AN ONION,
7 YOU KNOW, YOU PEEL ONE BACK AND PEEL ANOTHER BACK AND
8 PEEL ANOTHER BACK AND PEEL ANOTHER BACK, AND FINALLY
9 HE JUST RAN OUT -- HE JUST RAN OUT OF EXCUSES WITH
10 HER.

11 WHAT DOES HE SAY? THE BAD GUY AS -- IS BACK.
12 THE DEVIL MADE ME DO IT. EXCUSE AFTER EXCUSE. HE
13 KNOWS IT'S AN EXCUSE AND KNOWS EXACTLY WHAT HE'S
14 DOING. HE'S GOT A PLAN.

15 HIS BRAIN MADE HIM DO IT. BRAIN MADE HIM DO IT.
16 IT IS ON ITS OWN, JUST GOES AND DOES THINGS, AND
17 WHILE I'M OVER HERE, MY BRAIN IS OUT RUNNING AROUND
18 MURDERING AND RAPING PEOPLE.

19 WHAT HE SAID IN THE GUILT PHASE. WHAT HE SAID
20 IN THE GUILT PHASE WAS THIS. WHAT HE DID WAS SO BAD,
21 SURELY HE MUST BE CRAZY. HE'S NOT CRAZY. AND IN THE
22 PENALTY PHASE HE HAD THE--

23 MR. DIGGS: YOUR HONOR, I OBJECT.

24 THE COURT: BASIS.

25 MR. DIGGS: HE UNDERSTANDS THE LIMITATIONS.

1 THE COURT: NO SPEAKING OBJECTIONS.

2 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

3 THE COURT: THE OBJECTION IS WITHDRAWN AFTER
4 CLARIFICATION. YOU MAY CONTINUE.

5 MR. HEMBREE: THANK YOU.

6 THE COURT: YOU'RE WELCOME.

7 MR. HEMBREE: IN THE PENALTY PHASE THIS
8 DEFENDANT CALLS 12 WITNESSES AND HAS THE UNMITIGATED
9 GALL TO SAY, THE SYSTEM MADE ME DO IT. IF ONLY THE
10 SOLICITOR'S OFFICE HAD STOPPED ME. IF ONLY THE
11 POLICE HAD ARRESTED ME.

12 IF ONLY THE PROBATION DEPARTMENT HAD REVOKED ME,
13 SOME JUDGE HAD SENT ME BACK TO PRISON, LAURA LING
14 WOULD BE ALIVE TODAY.

15 AND TO PUT A DEDICATED PUBLIC SERVANT, A
16 COLLEAGUE, ON THE WITNESS STAND, SANFORD GRAVES, A
17 YOUNG LAWYER THAT WORKS IN OUR OFFICE, TO PUT HIM ON
18 THE STAND AND TO IMPLY, TO ASK IF YOU'D DONE YOUR
19 JOB, WOULDN'T LAURA LING BE ALIVE TODAY, IS
20 OFFENSIVE. IT MAKES ME ANGRY. IT SHOULD MAKE YOU
21 ANGRY, TOO. SO--

22 MR. KELLY: OBJECTION.

23 THE COURT: BASIS.

24 MR. KELLY: BLAMING THE JURY.

25 THE COURT: PLEASE APPROACH. AND I ASSUME MR.

1 DIGGS WILL APPROACH FOR MR. KELLY.

2 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

3 THE COURT: THE OBJECTION IS SUSTAINED. LADIES
4 AND GENTLEMEN, YOU WILL DISREGARD THE SOLICITOR'S
5 LAST STATEMENT. YOU WILL GIVE IT ABSOLUTELY NO
6 CONSIDERATION IN YOUR DELIBERATIONS. MR. HEMBREE,
7 YOU MAY CONTINUE.

8 MR. HEMBREE: THANK YOU, YOUR HONOR.

9 THE COURT: YOU'RE WELCOME.

10 MR. HEMBREE: FOLKS, EVERYBODY DID THE RIGHT
11 THING. ALL 12 OF THOSE WITNESSES DID WHAT THEY WERE
12 SUPPOSED TO DO.

13 THEY REFERRED THEM TO THE APPROPRIATE PEOPLE,
14 THE PROBATION AGENT, COUNSEL, THEY HAD -- THEY DIDN'T
15 HAVE A WITNESS. THEY JUST HAVE A VAGUE REPORT.

16 THEY COUNSELED THE DEFENDANT ABOUT IT, CHECKED
17 INTO IT, DIDN'T FIND OUT ANYTHING -- NOTHING FROM
18 HIM, EVERYTHING ELSE LOOKED GOOD. THEY FOLLOWED THE
19 RULES. THEY DID IT THE WAY IT WAS SUPPOSED TO BE
20 DONE. THERE WAS JUST NO STOPPING THIS DEFENDANT.
21 NONE OF THAT WOULD HAVE STOPPED HIM.

22 AND THEN, OF COURSE, IN THE -- IN THE PENALTY
23 PHASE WE HEARD A PRESENTATION ABOUT THE MENTAL STATE
24 OF THE DEFENDANT. THE REHEATED DR. WU, RE-FRIED DR.
25 SACHY, AND KIND OF A -- MAYBE A -- DON'T KNOW IF IT'S

1 REJUVENATED DR. THRASHER.

2 BOTTOM LINE, FOLKS -- AND CONNIE PRICE. I WANT
3 TO TALK ABOUT HER. THEY OFFERED HER TO SHOW THE
4 STATE OF MIND, CONDITION OF THE MIND OF THE DEFENDANT
5 IN THIS CASE.

6 AND MR. KELLY KEPT ASKING HER, DIDN'T HE -- HE
7 SHOWED BIZARRE BEHAVIOR, CRAZY AND BIZARRE BEHAVIOR.
8 AND SHE WOULD GO, YEAH, YEAH. SHE WOULD AGREE WITH
9 HIM, YEAH, YEAH, BIZARRE.

10 WELL, HOW DID HE -- HOW DID HE SHOW HIS BIZARRE
11 BEHAVIOR? WELL, HE MADE APPOINTMENTS AND HE BROKE
12 THEM. OKAY. AND, YOU KNOW, WHEN I QUESTIONED HIM
13 ABOUT IT, HE TOLD SOME -- SOME LIES ABOUT IT.

14 YOU KNOW, THAT'S -- I FELT THAT WAS BIZARRE.
15 NOT BIZARRE FOR THIS DEFENDANT. AND, YOU KNOW, THE
16 LIES JUST SEEMED TO GET BIGGER AND BIGGER. FOLKS,
17 THE FIRST LIE -- CONNIE PRICE SAID HE HAD RACE HORSES
18 AND AN AIRPLANE.

19 IT WAS A BIGGIE. IT WAS A GOOD SIZED LIE FROM
20 THE VERY GET-GO. THE LIES WERE ALL THE SAME ALL THE
21 WAY THROUGH. HIS BEHAVIOR WAS NO DIFFERENT.

22 WHAT THE DIFFERENCE WAS WAS THE STATE OF MIND
23 FOR CONNIE PRICE. SHE'S THE ONE THAT STARTED TO
24 FIGURE IT OUT. AT THE BEGINNING IT WAS JUST BIZARRE,
25 BUT SHE DIDN'T SEE IT. SHE DIDN'T SPOT IT.

1 SHE FIGURED IT OUT AS SHE WENT ALONG. AND THEN
2 WHEN SHE FIGURED IT OUT, SHE SAID, HEY, WHY IS THE
3 GUY LYING TO ME? THAT'S PRETTY CRAZY. WHAT'S UP
4 WITH THAT?

5 CONNIE PRICE WASN'T -- WASN'T NO BIZARRE
6 BEHAVIOR. WASN'T NO MADNESS GOING ON HERE, JUST
7 PLAIN LIES UPON LIES, SAME STUFF HE'S BEEN DOING FROM
8 THE GET-GO.

9 YOU HAVE HEARD FROM THE -- YOU HAVE HEARD FROM
10 THE -- HAVE ONE ADDITIONAL, MRS. CALIFF. NOW, MRS.
11 CALIFF WAS RIGHT INTERESTING BECAUSE MRS. CALIFF
12 SAID, WELL, IT REALLY ISN'T HIS BRAIN.

13 SHE SAYS HE'S GOT SOME ANTISOCIAL TENDENCIES,
14 SOME TENDENCIES, BUT HE'S ACTUALLY MORE NARCISSISTIC
15 THAN HE IS ANTISOCIAL. SO, YOU KNOW, THAT'S THE
16 PROBLEM. AND YOU KNOW WHY? BECAUSE HIS DAD WAS
17 STRICT ON HIM. DAD WAS STRICT ON HIM. LOOK AT THIS
18 YOUNG MAN'S LIFE AS A YOUNG MAN.

19 LOOK AT HIS LIFE. THERE IS NO EVIDENCE OF HIS
20 TROUBLED YOUTH. THERE IS EVIDENCE THAT HE WAS SMART,
21 HE DID GOOD IN SCHOOL, HE PLAYED SPORTS, HE HAD
22 DATES, HE HAD -- REALLY WAS QUITE AN EXCEPTIONAL
23 STUDENT, WAS A VERY GOOD STUDENT, GRADUATED 15TH IN
24 HIS CLASS.

25 GOOD. GOOD. GOOD. GOOD. GOOD. HE'S -- HE'S

1 PLEASANT. GOT GOOD MANNERS. TEACHER TESTIFIED,
2 YEAH, GOOD KID ALL THE WAY THROUGH. ALL THE WAY
3 THROUGH UNTIL HE GOT OUT IN THE REAL WORLD AND DIDN'T
4 WANT TO DO THE WORK, AND HE WANTED WHEN HE WANTED
5 IT -- WANTED WHAT HE WANTED WHEN HE WANTED IT, AND
6 IT -- AND THAT ISN'T HOW IT WORKS.

7 HIS LIFE IS THE INDICATOR THAT -- THE HISTORY IS
8 AN INDICATOR. THAT'S WHAT SHOWS IT, WHAT THIS
9 DEFENDANT IS REALLY LIKE.

10 NOW, WE KNOW THAT DEFENDANT STANKO CHRONICALLY
11 BLAMES OTHERS, CHRONICALLY LIES, CHRONICALLY CONS
12 PEOPLE, CHRONICALLY MANIPULATES. WE KNOW ALL THESE
13 THINGS.

14 BUT WHAT ELSE DO WE KNOW ABOUT HIM? WE KNOW --
15 WE KNOW THAT HE THINKS HE'S SMARTER THAN EVERYBODY
16 ELSE. WE KNOW THAT HE ALWAYS HAS A PLAN. WE KNOW
17 THAT HE CAN CHOOSE TO BEHAVE WHEN HE WANTS TO.

18 THOSE GUARDS FROM THE JAIL? NO PROBLEM. MODEL
19 INMATE. IF HE WANTS TO, HE'S GOT THE CAPACITY TO DO
20 WHAT HE NEEDS TO DO. HE KNOWS RIGHT FROM WRONG AND
21 HE KNOWS HOW TO CARRY OUT RIGHT AND WRONG WHEN HE
22 WANTS TO. THAT'S WHAT HE HAS DONE.

23 WE KNOW THAT HE IS A -- NOT ONLY A TALENTED
24 LIAR, BUT ACCORDING TO DR. SACHY HE'S ATTEMPTED TO
25 MANIPULATE YOU. WE -- I SAID THIS FIVE TIMES, I WILL

1 PROBABLY SAY IT THREE MORE. HE WANTS WHAT HE WANTS
2 WHEN HE WANTS IT. WE KNOW THAT.

3 WE KNOW THAT HE WANTS TO BE A LAWYER. OUT AT
4 THE JAIL, HE WAS KIND OF THE CELLBLOCK LITIGATOR.
5 THEY -- THEY NEEDED -- THEY GOT A COMPLAINT, STEPHEN
6 STANKO, ALMOST ATTORNEY AT LAW, AT YOUR SERVICE.

7 AT THE LIBRARY, YOU NEED A LAWYER, STEPHEN
8 STANKO, ALMOST ATTORNEY AT LAW, AT YOUR SERVICE.
9 HE'S READY TO SET UP SHOP AGAIN.

10 DEPARTMENT OF CORRECTIONS? HE GOING TO HANG
11 A -- STEPHEN STANKO, ALMOST A LAWYER, AT YOUR
12 SERVICE. WE KNOW HE'S ANTISOCIAL.

13 KNOW WHAT THAT MEANS? WE TALKED ABOUT THAT.
14 YOU HAVE HEARD ABOUT THAT. MEANS HE'S MEAN. MEANS
15 HE DOES BAD STUFF AND HE DOESN'T FEEL BAD ABOUT IT.
16 ANTISOCIAL. HE'S A BAD MAN. IT'S WHAT WE CALL BAD
17 MEN.

18 HE JUST -- DOESN'T GET TO HIM. DOESN'T HAVE
19 THAT LEVEL OF EMPATHY THAT SOME OTHERS HAVE A GREATER
20 CAPACITY FOR.

21 WE KNOW THAT HE LOVES HIMSELF, NARCISSISTIC.
22 LOVES HIMSELF, JUST THE WAY I AM. WE KNOW THAT HE
23 IS -- HE'S LEARNED TO BE A BETTER CRIMINAL.

24 WE KNOW THAT HE'S A KIDNAPPER, A RAPIST, A
25 THIEF, A ROBBER, AND A MURDERER. AND WE KNOW, IF YOU

1 BELIEVE DR. SACHY, CAN'T FIX IT. WE KNOW THAT YOU'RE
2 A -- COWARD.

3 HE DOESN'T STAND UP TO STEVE LEE MAN TO MAN IN
4 THE PARKING LOT OF THE FOOD LION. NO SIR. NO,
5 MA'AM. HE ATTACKS A WOMAN IN HER BED WITH A RAG THAT
6 HE THINKS IS GOING TO BE LIKE CHLOROPHANE, GOING TO
7 KNOCK HER OUT AND KILL HER.

8 TIES HER UP, A WOMAN. HE ATTACKS ANOTHER WOMAN
9 IN HER BED, TIES HER UP, BEATS HER, CUTS HER THROAT,
10 CHOKES HER TO DEATH. PULLS A TEEN-AGED GIRL OUT OF
11 HER BED, TIES HER UP, RAPES HER, BEATS HER, CUTS HER
12 THROAT, LEAVES HER FOR DEAD.

13 THAT'S ONE COURAGEOUS CRIMINAL; ISN'T HE?
14 COWARD. FOLKS, THAT'S NOT THE SCARIEST PART ABOUT
15 THIS. HE IS TERRIFYING. AND THE REASON HE'S
16 TERRIFYING IS BECAUSE YOU NEVER SEE HIM COMING. HE'S
17 THAT GOOD.

18 NOW, HE USES WEAPONS LIKE OTHER CRIMINALS. HE
19 USES NECKTIES, TIE YOU UP. HE USES A KNIFE, CUTS
20 YOUR THROAT. HE USES HIS HANDS TO BEAT YOU, CHOKE
21 THE LIFE OUT OF YOU.

22 ARMED HIMSELF WITH A GUN. HAD THAT IN HIS
23 POSSESSION WHEN HE WAS ARRESTED. PRETTY COMMON
24 ELEMENTS, WEAPONS TO BE USED.

25 BUT STEPHEN STANKO IS DIFFERENT. BECAUSE THE

1 WEAPONS HE USES THAT HE USES MOST EFFECTIVELY ARE HIS
2 CHARM, HIS INTELLIGENCE, HIS CLOTHES, HIS SPEECH, HIS
3 EDUCATION.

4 HE USES THE TRUST THAT HE CAN BUILD WITH YOU.
5 HE EVEN USES PRAYER. DANA PUTNAM SAT WITH HIM AND
6 PRAYED WITH HIM. HE PERVERTS AND TWISTS EVERY GIFT
7 AND TALENT, EVERY ABILITY THAT ANYONE THAT HAS EVER
8 BEEN IN HIS LIFE HAVE GIVEN TO HIM.

9 HE TWISTS IT AND PERVERTS IT INTO EVIL, THE VERY
10 THINGS, THE SAME TOOLS THAT ARE THE INGREDIENTS OF A
11 SUCCESSFUL LIFE.

12 AND AS HIS OWN LAWYER POINTED OUT IN ONE
13 QUESTION, WHEN THE CHARM DOESN'T WORK, HE TURNS TO
14 VIOLENCE.

15 NOT THIS TIME, THEN WHEN? I'M PROUD OF EACH AND
16 EVERY DECISION YOU HAVE MADE, NOT JUST WITH ALEX, BUT
17 IN EVERY DAY LIFE, AND I SUPPORT YOU TO THE FULLEST.

18 YOU HAVE BEEN MY MOM, MY DAD, MY TENNIS-MATE, MY
19 FRIEND, MY MENTOR THROUGH THE GOOD AND THE BAD. TO
20 BE HONEST, I'M SURE WE'VE STILL GOT A LOT OF BAD
21 AHEAD OF US. BUT JUST KNOW THAT I'M GOING TO BE
22 STICKING IT OUT THERE WITH YOU. I LOVE YOU VERY
23 MUCH, CHRISTINA.

24 COURAGE TO HAVE SUFFERED THAT HARD, THE COURAGE
25 TO SIT ON THAT STAND AND TELL THAT -- THAT EXPERIENCE

1 TO 12 STRANGERS IS NOT AMAZING, IT'S A MIRACLE.

2 I'M ASKING YOU STICK IT OUT AND FULFILL YOUR
3 OATH. I'M ASKING YOU TO GIVE CHRISTINA LING JUSTICE,
4 TO GIVE LAURA LING JUSTICE, AND TO GIVE DEFENDANT
5 STEPHEN STANKO JUSTICE.

6 AND I WILL ASSURE YOU, EACH AND EVERY ONE OF
7 YOU, THAT JUSTICE IS THE LAST THING DEFENDANT STANKO
8 WANTS BECAUSE JUSTICE IN THIS CASE IS THE SENTENCE OF
9 DEATH.

10 THE COURT: LADIES AND GENTLEMEN, YOU ALL HAVE
11 BEEN SITTING ABOUT 45, 48 MINUTES. I WANT YOU TO
12 STAND UP FOR ME AND GET YOUR BLOOD CIRCULATING A
13 LITTLE BIT. MR. DIGGS, YOU CAN GO AHEAD AND DO WHAT
14 YOU NEED TO DO.

15 MR. DIGGS: THANK YOU, YOUR HONOR.

16 THE COURT: DOES ANYONE NEED TO GO TO THE
17 RESTROOM? JUST GET YOUR BLOOD CIRCULATING. WE ARE
18 GOING TO GET SITUATED. BEAR WITH US. WHENEVER
19 YOU'RE READY, YOU CAN SIT DOWN.

20 (WHEREUPON THERE WAS A PAUSE.)

21 THE COURT: ARE YOU READY, MR. KELLY?

22 MR. KELLY: YES, MA'AM.

23 THE COURT: LADIES AND GENTLEMEN, WE WILL
24 CONTINUE CLOSING ARGUMENT. IF YOU WOULD GIVE THE
25 ATTORNEYS YOUR UNDIVIDED ATTENTION.

CLOSING STATEMENT

MR. KELLY: LADIES AND GENTLEMEN, I WANT TO
START BY TELLING YOU THAT WE APPRECIATE -- I'M
TALKING ABOUT THE DEFENSE ATTORNEYS -- I KNOW THE
STATE DOES, TOO, YOUR PATIENCE IN THIS MATTER.

THE SECOND PHASE IS COMPLICATED AND THAT'S
REALLY WHY IT'S TAKING SO MUCH TIME TO PUT IT UP.
AND LET ME ALSO APOLOGIZE -- I'M A LITTLE OUT OF
BREATH. I'M NOT -- HAVEN'T REALLY GOT MY BREATH
BACK.

BUT I WANT TO APOLOGIZE FOR HAVING TO SIT IN
ORDER TO TALK TO YOU OR NOT BEING ABLE TO STAND UP
WHEN YOU COME INTO THE ROOM. I DON'T DISRESPECT YOU
IN THAT WAY AND I KNOW YOU KNOW THAT, BUT I WANT TO
TELL YOU THAT.

AND LET ME TELL YOU, I WAS GOING DOWN SOME
STAIRS THE OTHER NIGHT. I WAS STAYING OUT AT PAWLEYS
PLANTATION, MY WIFE AND I, AND IN THE CONDO NEXTDOOR
UPSTAIRS MY TWO INVESTIGATORS WERE SHARING AN
APARTMENT THERE.

AND ALONG ABOUT 9:00 I WENT OVER THERE TO WORK
ON THE CASE. A LITTLE BIT BEFORE MIDNIGHT I FINISHED
AND I WAS COMING DOWN THE STAIRS AND I FELL.

AND I GOT -- MANAGED TO GET BACK UP THE STAIRS
AND TO CALL MY WIFE. AND WHEN WE WERE ABLE TO LOOK

1 AT THE SCENE DOWN THERE, VICKY HELPED ME COME DOWN
2 THE STAIRS SO THEY COULD TAKE ME TO THE HOSPITAL, MY
3 WIFE DROVE ME THERE, THOUGHT IT WOULD BE QUICKER THAN
4 GETTING EMS OVER THERE.

5 AND WHEN I WAS COMING DOWN THE STAIRS THEN I
6 COULD LOOK DOWN TO THE BOTTOM OF THE STAIRS AND AT
7 THE BOTTOM OF THOSE STAIRS WHERE THE CONCRETE IS AND
8 WHERE THE LOWER STEPS WERE, IT WAS LIKE A LARGE, DARK
9 POOL.

10 AND LATER WHEN WE EXAMINED RIGHT ACROSS FROM
11 THOSE STAIRS, RIGHT WHERE THAT POOL WAS, THERE WAS A
12 LIGHT THAT WAS OUT. THERE WAS ONE OTHER LIGHT DOWN
13 THERE, BUT IT WAS ON THE OTHER SIDE OF A -- THE
14 BANISTER POLE, AND SO IT ONLY GAVE A PARTIAL LIGHT.
15 AND AS A RESULT OF THAT, I TOOK THIS FALL.

16 NOW, WHEN I FIRST TALKED TO YOU, WE TALKED ABOUT
17 TRUTH BEING LIKE A LIGHT. AND I ASK YOU, IS THE
18 TRUTH THE LIGHT? AND I THINK SOME OF YOU AGREE WITH
19 ME IT IS.

20 AND I ASKED YOU, SHOULD TRUTH BE THE LIGHT THAT
21 GUIDES OUR PATH AS WE ATTEMPT TO MAKE OUR DECISIONS.
22 AND I THINK YOU AGREE WITH ME.

23 AND I WENT ON TO SAY THAT I BELIEVE THAT YOU CAN
24 TRY TO CONCEAL THE TRUTH, BUT THAT IT WOULD FINALLY
25 SHINE OUT LIKE A BEACON ON A HILL NO MATTER HOW YOU

1 TRY AND CONCEAL IT. MIGHT TAKE TIME, BUT IT WILL
2 FINALLY COME OUT.

3 WELL, ALSO THAT LITTLE LIGHT THAT WAS BEHIND
4 THAT POLE DOWN THERE, THAT WAS A HALF-LIGHT. THAT
5 DIDN'T HELP ME MUCH WHEN I FELL. AND A HALF TRUTH
6 DOESN'T HELP US MUCH TO SHINE ON OUR PATH EITHER.

7 NOW, YOU ARE THE JUDGES OF THE TRUTH, OF THE
8 FACTS. AND WHEN I FIRST TALKED WITH YOU, I TALKED
9 ABOUT ONE OF THE THINGS THAT WOULD BE COMPLEX FOR YOU
10 TO DEAL WITH AND MAKE YOUR DECISIONS ON WOULD BE WHY
11 THIS HAPPENED, HOW AND WHY.

12 WHEN AND WHERE AND WHAT HAPPENED, THOSE ARE
13 PRETTY CLEAR. NOW, I HAVE GOT A NUMBER OF THINGS I
14 WANT TO TALK TO YOU ABOUT. I SEE IT'S FIVE MINUTES
15 UNTIL THE HOUR.

16 I'M NOT GOING TO TAKE UP ANY MORE OF YOUR TIME
17 THAN I HAVE TO, BUT IT'S A LOT OF FACTS. WE HAVE
18 BEEN HERE -- I DON'T EVEN KNOW HOW MANY DAYS WE HAVE
19 BEEN WORKING ON THIS.

20 LET ME TALK FIRST OF ALL ABOUT AN ASPECT OF THIS
21 CASE THAT YOU'RE GOING TO HAVE TO DECIDE BECAUSE
22 THERE ARE AGGRAVATING CIRCUMSTANCES THAT ARE CLAIMED
23 CALLED STATUTORY AGGRAVATING CIRCUMSTANCES. THOSE
24 WERE EXPLAINED TO YOU BY THE SOLICITOR, AND THE JUDGE
25 HAS EXPLAINED THOSE TO YOU AS WELL.

1 AND THEY WERE LISTED AND THEY ARE LISTED IN OUR
2 LAW AS AGGRAVATING CIRCUMSTANCES. THAT'S FOR YOU TO
3 DECIDE. THE JUDGE WILL GIVE YOU THE BURDEN OF PROOF.
4 THE BURDEN OF PROOF IS BEYOND ANY REASONABLE DOUBT.

5 THERE ARE ALSO STATUTORY MITIGATING
6 CIRCUMSTANCES. I'M GOING TO TALK ABOUT THOSE. NOW,
7 I KNOW YOU HADN'T MADE UP YOUR MIND BECAUSE YOU WERE
8 SITTING AS JUDGES AND YOUR OATH AND YOUR -- AND YOUR
9 INSTRUCTIONS HAVE BEEN, DON'T MAKE UP YOUR MIND UNTIL
10 YOU HEAR EVERYTHING.

11 SO OPEN YOUR MIND UP AND GIVE ME THE OPPORTUNITY
12 TO TALK TO YOU. I HAVE GOT SOME NOTES HERE THAT I
13 HAVE MADE. AND THIS IS WHAT THE JUDGE IS GOING TO
14 TELL YOU, BECAUSE I COPIED IT RIGHT OUT OF HER
15 INSTRUCTIONS THAT SHE'S GOING TO READ TO YOU. SHE
16 SHOWED THEM TO US.

17 AND THIS IS ONE OF THE THINGS THAT YOU HAVE TO
18 CONSIDER. YOU MIGHT HAVE WONDERED, WHY ARE THESE
19 DOCTORS COMING BACK UP HERE AGAIN AFTER WE HAVE
20 ALREADY HEARD THEM AND WE DECIDED HE'S NOT INSANE AND
21 WE DECIDED THAT HE'S NOT MENTALLY ILL, GUILTY BUT
22 MENTALLY ILL, SO WHAT ARE THEY COMING BACK UP HERE
23 FOR?

24 WELL, IT'S BECAUSE YOU HAVE ANOTHER ISSUE YOU
25 HAVE TO THINK ABOUT, YOU HAVE TO DECIDE. AND HERE IT

1 IS. I AM JUST GOING TO READ IT TO YOU.

2 THAT THE MURDER WAS COMMITTED WHILE THE
3 DEFENDANT WAS UNDER THE INFLUENCE OF MENTAL OR
4 EMOTIONAL DISTURBANCE. THAT'S SOMETHING THAT YOU'LL
5 HAVE TO DECIDE.

6 WHETHER OR NOT THE DEFENDANT COMMITTED THE
7 MURDER -- AND I WILL JUST READ IT AS IT IS -- MURDER
8 WAS COMMITTED WHILE THE DEFENDANT WAS UNDER THE
9 INFLUENCE OF MENTAL OR EMOTIONAL DISTURBANCE.

10 AND THERE WILL BE ANOTHER ONE THAT YOU'LL HAVE
11 TO CONSIDER. THESE ARE STATUTORY MITIGATING
12 CIRCUMSTANCES. THAT MEANS THEY'RE WRITTEN INTO THE
13 LAW.

14 THE CAPACITY OF THE DEFENDANT TO APPRECIATE THE
15 CRIMINALITY OF HIS CONDUCT OR TO CONFORM HIS CONDUCT
16 TO THE REQUIREMENTS OF LAW WAS SUBSTANTIALLY
17 IMPAIRED.

18 WELL, YOU SEE, THAT IS -- THAT IS DIFFERENT,
19 ISN'T IT, FROM WHAT YOU DECIDED EARLIER ABOUT
20 INSANITY AND GUILTY BUT MENTALLY ILL. THOSE ARE
21 DIFFERENT STANDARDS. AND THE JUDGE WILL INSTRUCT YOU
22 ON THOSE.

23 NOW, IN THE SECOND HALF OF THE CASE WE PUT UP A
24 LOT OF EVIDENCE AND -- AND THAT EVIDENCE, I'M GOING
25 TO TALK TO YOU ABOUT, I'M GOING TO TALK TO YOU ABOUT

1 IT, HAVING TO DO WITH STANKO'S MENTAL ABILITY.

2 WE WERE TRYING TO SHOW -- WE SHOWED YOU EVIDENCE
3 THAT YOU DIDN'T SEE IN THE FIRST PART OF THE TRIAL
4 BECAUSE REALLY IT DIDN'T REALLY BELONG THERE.

5 SOME OF IT COULD HAVE COME IN THERE. IT COULD
6 HAVE BEEN BROUGHT IN BY THE STATE OR BY THE DEFENSE.
7 BUT THERE WAS NEW EVIDENCE. YOU DIDN'T HEAR ABOUT
8 THE -- A CONNIE PRICE.

9 I DON'T THINK YOU EVEN HEARD ABOUT MR. LEE OR
10 AND I BELIEVE IT WAS JEFFERSON, ABOUT THE LADY WHO
11 WAS CONNED OUT OF HER \$25 AND HER STORE WAS CONNED
12 OUT OF THE HUNDRED DOLLARS. YOU DIDN'T HEAR THAT.

13 WE SUBMIT TO YOU THAT THAT IS REAL EVIDENCE OF
14 HIS MENTAL STATE. AND WHEN THE EXPERT SPOKE TO YOU
15 THE SECOND TIME AROUND, I DIDN'T THINK IT WAS
16 RE-FRIED OR RE-HASHED OR WARMED OVER, REJUVENATED.

17 I THOUGHT IT WAS -- IN FACT, I KNEW THAT IT
18 SPOKE NOT ONLY TO EARLIER ISSUES, BUT IT SPOKE TO
19 THIS NEW ISSUE AS WELL.

20 NOW, HIS -- WE'RE NOT BLAMING THE SYSTEM HERE.
21 THAT'S NOT WHAT WE'RE DOING. I MIGHT HAVE GONE A
22 LITTLE BIT TOO FAR WHEN I GAVE YOU MY OPENING. I'M A
23 PASSIONATE KIND OF MAN. IF I SEE SOMEBODY LYING
24 UNDER OATH OR I THINK THEY ARE, I GO FOR THEM.

25 IF I SEE SOMEBODY THAT I THINK IS TELLING A HALF

1 TRUTH TO A JURY, I GO AFTER THEM. AND SOMETIMES I GO
2 TOO FAR, PERHAPS, BUT -- AND IF I DID BEFORE YOU,
3 DON'T HOLD IT AGAINST HIM. HOLD IT AGAINST ME.

4 NOW, I -- WHEN WE'RE TALKING ABOUT STANKO'S
5 MENTAL WHATEVER YOU WANT TO CALL IT, WE HAVE TO ASK
6 OURSELVES HOW INTENSE WAS IT? WHAT WAS HIS HISTORY?
7 HOW DID IT DEVELOP? WHAT WAS GOING ON? WHAT DID
8 PEOPLE SEE? WHAT DOES THAT MEAN TO US GIVEN WHAT THE
9 DOCTORS TOLD US?

10 AND I'M GOING TO NOW TALK TO YOU ABOUT WHAT THE
11 JUDGE IS GOING TO TELL YOU ABOUT HOW TO JUDGE THE
12 CREDIBILITY OF WITNESSES. AND IF SHE -- SHE ALREADY
13 TOLD YOU IN THE FIRST INSTRUCTIONS ABOUT HOW TO DO
14 THIS, AND SHE IS GOING TO REPEAT IT.

15 I COPIED IT RIGHT OUT OF HER INSTRUCTIONS. I
16 WANT TO READ IT TO YOU, IF I COULD FIND IT. IT IS
17 CALLED PASSING ON THE CREDIBILITY OF WITNESSES. THIS
18 IS LONG ESTABLISHED LAW.

19 IT COMES DEEP OUT OF THE COMMON LAW OF THE
20 ENGLISH SPEAKING PEOPLE WHO NURTURED THE JURY SYSTEM
21 IN ORDER TO DETERMINE WHO IS TELLING THE TRUTH ABOUT
22 SOMETHING.

23 AND THIS IS WHAT SHE'S GOING TO INSTRUCT YOU.
24 YOU CAN CONSIDER THE Demeanor OF A WITNESS. THAT'S
25 HOW THEY SHOW THEMSELVES. THAT IS THE APPEARANCE AND

1 MANNER OF A WITNESS FROM THE WITNESS STAND. THAT'S
2 ONE WAY YOU CHOSE. THERE ARE 12 OF THEM THERE.

3 IT'S HARD TO RUN SOMEBODY BY YOU IF YOU'RE BEING
4 HONEST WITH YOURSELVES AND WITH ONE ANOTHER AND
5 FREELY DISCUSS CREDIBILITY OF THE WITNESSES, IT'S
6 ALMOST IMPOSSIBLE TO TRICK YOU.

7 SECOND, WHETHER THE WITNESS EXHIBITED TO YOU ANY
8 INTEREST, ANY BIAS, ANY PREJUDICE OR ANY MOTIVE IN
9 THE CASE.

10 AND THIRD, WHETHER A WITNESS'S TESTIMONY WAS
11 CONTRADICTED ON THE ONE HAND OR SUPPORTED AND
12 CORROBORATED ON THE OTHER.

13 AND FOURTH, THE OPPORTUNITY FOR KNOWLEDGE
14 CONCERNING THE THINGS ABOUT WHICH A WITNESS TESTIFIED
15 AS WELL AS THE REASONABLENESS OF THE TESTIMONY.

16 AND I SUBMIT TO YOU AS JUDGES OF THE FACTS WHEN
17 YOU DISCUSS WHETHER YOU BELIEVE THIS ONE OR YOU
18 BELIEVE THAT ONE, YOU SHOULD USE THOSE STANDARDS THAT
19 ARE GIVEN TO YOU TO DO THAT.

20 NOW LET'S TALK ABOUT THESE WITNESSES. AND LET
21 ME SAY, MR. DIGGS IS GOING TO TALK TO YOU ABOUT
22 SOMETHING DIFFERENT I GUESS -- I GUESS THAN I DO.
23 I'M NOT GOING TO TALK TO YOU ABOUT PET SCANS OR HOW
24 THEY WORK OR ANYTHING ELSE.

25 YOU NOTICED THAT MR. DIGGS, HE PUT UP THAT

1 INFORMATION. I MAINLY PUT UP WHAT THEY CALL FACT
2 INFORMATION.

3 AS I TOLD YOU FROM THE BEGINNING WHEN I FIRST
4 TALKED TO YOU, YOU'RE THE JUDGES OF THE FACTS, SO I'M
5 GOING TO TALK SOME FACTS WITH YOU, BUT I HAVE TO ALSO
6 TALK SOME LAW AS WELL.

7 SO LET'S TALK ABOUT THE HISTORY OF IT AND SEE
8 WHAT YOU THINK ABOUT IT. AND LET'S TRY TO KEEP THE
9 HALF TRUTHS OUT OF IT. LET'S TRY TO TELL IT THE WAY
10 IT IS.

11 LET'S TALK ABOUT THE MENTAL REALITY THAT IS
12 SITTING HERE BEHIND ME IN STEPHEN STANKO'S HEAD.
13 WHAT IS THE MENTAL REALITY THAT'S SITTING BACK HERE
14 AT THIS TABLE AND WHAT WAS IT WHEN THESE CRIMES TOOK
15 PLACE AND ANYWHERE ELSE YOU WANT TO LOOK IN HIS LIFE,
16 SEE WHAT IT IS.

17 DR. THRASHER. JUST FOR A MOMENT ON DR.
18 THRASHER. I LIKED DR. THRASHER. THOUGHT HE WAS VERY
19 INFORMATIVE. I THOUGHT HE TOLD THE TRUTH. AND HE
20 SAID -- HERE'S WHAT HE SAID ABOUT HIM. WELL, ONE OF
21 THE THINGS, NOT ALL OF THE THINGS.

22 HE SAID HE'S DISPASSIONATE. HE'S NOT SUBFUSED
23 (SIC) WITH SADNESS OR CRYING. HE'S NOT WHAT YOU
24 WOULD EXPECT NORMALLY. NORMAL MIGHT BE SOME KIND
25 OF -- HE CALLED IT VOLCANIC SADNESS AND FEAR. FEAR

1 OF WHAT?

2 FEAR OF YOUR JUDGMENT. YOU'RE GOING TO MAKE THE
3 JUDGMENT DOES HE SPEND THE REST OF HIS NATURAL LIFE
4 IN PRISON OR DOES HE GET PUT TO DEATH. THAT'S THE
5 ONLY THING YOU'RE GOING TO DECIDE IF YOU FIND AN
6 AGGRAVATING CIRCUMSTANCE BECAUSE YOU HAVE TO FIND AT
7 LEAST ONE BEFORE THE JURY IS ALLOWED TO DO THAT.

8 AND I'M GOING TO TALK ABOUT THAT FOR A FEW
9 MINUTES LATER ON. WELL, YEAH. AND WHEN WE SAY,
10 WELL, WHAT ABOUT IT, DOC, DR. THRASHER, WHAT ABOUT
11 IT?

12 HE SAID, AND SO DID THE REST OF THEM, IF YOU'RE
13 A PSYCHOPATH, YOU'RE A PSYCHOPATHIC PERSONALITY,
14 THAT'S THE WAY IT IS. AND HE ALSO SAID ABOUT
15 GUANTANAMO.

16 WELL, YOU KNOW, WHEN I WENT OVER TO THE
17 EMERGENCY ROOM -- AND LET ME TELL YOU. I SAT OVER
18 THERE FOR ABOUT AN HOUR AND A HALF. THEY TOOK MY
19 INFORMATION AND THEN I GOT TO SEE A DOCTOR. HE WAS
20 THE DOCTOR ON CALL THERE.

21 AND I THINK HE WAS A GOOD DOCTOR. AND THEY TOOK
22 X-RAYS OF MY LEG AND THEN TOLD ME WHAT THE PROBLEM
23 WAS, AND TOOK X-RAYS OF MY FINGER, TOLD ME WHAT THEY
24 THOUGHT THE PROBLEM WAS AND WHAT I OUGHT TO DO.

25 AND ONE THING THAT THEY TOLD ME WAS, YOU'LL BE

1 OKAY FOR THREE OR FOUR DAYS WITH YOUR LEG TIED UP THE
2 WAY IT IS, BUT YOU NEED TO SEE AN ORTHOPEDIST. OKAY?
3 ALL RIGHT.

4 I WANT TO SEE THE BEST DOCTOR I CAN, YOU KNOW.
5 MY HEALTH AND BEING ABLE TO WALK IS IMPORTANT TO ME
6 JUST LIKE IT IS ANYBODY ELSE, AND I WANT -- I WANT
7 GOOD DOCTORS. I WANT GOOD ADVICE. THAT'S WHAT I'M
8 LOOKING FOR.

9 AND I THINK THAT WE OUGHT TO BELIEVE THAT DOWN
10 AT GUANTANAMO BACK IN 1968 THE NAVY DOCTORS DOWN
11 THERE KNEW WHAT THEY WERE DOING AND THEY TRIED TO
12 REPORT IT AS BEST THEY COULD NOT ONLY FOR THEMSELVES
13 BUT FOR ANY FUTURE PEOPLE.

14 NOW, THE STATE HAS FOUGHT TO KEEP THAT OUT AND
15 TO CONVINCE YOU THAT THIS WAS NOT A DAMAGED BABY.
16 WELL, THAT'S FOR YOU TO DECIDE WHETHER HE WAS A
17 DAMAGED BABY OR NOT.

18 BUT THEY SAID THEY BELIEVE FROM THOSE REPORTS
19 THAT WERE MADE BY THOSE DOCTORS DOWN THERE THAT THAT
20 WAS THE CASE. AND THE EVIDENCE OF THAT, IF ITS TRUE,
21 DOESN'T HAVE TO BE PROVED.

22 DON'T FORGET, IT'S -- THE DEFENDANT DOESN'T HAVE
23 TO PROVE ANYTHING BEYOND A REASONABLE DOUBT AT THIS
24 POINT I THINK. THAT'S JUST INFORMATION THAT YOU CAN
25 ACCEPT IT AS IT IS. IF YOU BELIEVE IT, FINE.

1 IF YOU DON'T BELIEVE IT, SOME OF YOU DON'T I'M
2 SURE, I'M SURE THAT YOU DON'T WANT TO HEAR ME TALK
3 ABOUT IT. PROBABLY BORING YOU RIGHT NOW, BUT IT'S
4 GOT TO BE SAID BY ME TO YOU.

5 NOW, THEY FOUGHT VERY HARD TO KEEP OUT THIS
6 EVIDENCE OF THESE PET SCANS AS WELL BECAUSE IT HAS TO
7 DO WITH WHAT THEY WANT TO CALL BAD BEHAVIOR OR EVIL
8 OR THE DEVIL IN HIS HEAD OR THE DEVIL MADE ME DO IT.

9 IS THE MAN ILL? IS HE SICK? DOES HE HAVE A
10 SICKNESS? AND WHAT IS THE SICKNESS AND HOW DOES IT
11 AFFECT OTHERS? THAT'S REALLY WHAT YOU'RE DECIDING
12 AGAIN, NOW THAT YOU'RE DECIDING IT ON -- IN A
13 DIFFERENT WAY THAN YOU DID EARLIER.

14 YOU HAVE DECIDED HE'S NOT INSANE AND HE DIDN'T
15 MEET THE STANDARD OF GUILTY BUT MENTALLY ILL. OKAY?
16 AND EVEN IF YOU DECIDE THAT HE MEETS THIS MITIGATING
17 CIRCUMSTANCE, YOU CAN STILL -- ALL 12 OF YOU CAN VOTE
18 TO PUT HIM TO DEATH.

19 IF YOU ALL 12 UNANIMOUSLY DECIDE TO DO THAT,
20 THAT'S WHAT IT WOULD TAKE AND EACH ONE OF YOU WOULD
21 HAVE TO SIGN. IF YOU ALL -- IF YOU RECOMMEND IT AS A
22 JURY THAT HE WOULD RECEIVE LIFE IN PRISON, IF YOU
23 RECOMMENDED IT, IT WOULD HAVE TO ALSO BE UNANIMOUS.

24 BUT WHILE I'M TALKING ABOUT IT, I'LL JUST GET IT
25 OUT OF THE WAY. THE JUDGE WILL ALSO -- AND I TOOK

1 THIS DIRECTLY OUT OF HER INSTRUCTIONS THAT SHE WILL
2 READ THIS TO YOU HERSELF.

3 SHE'LL QUOTE A CASE CALLED STATE V SOUTHERLAND,
4 AND THIS IS WHAT THE CASE SAYS. CASE SAYS, IF A
5 RECOMMENDATION OF DEATH IS NOT MADE, THE DEFENDANT
6 SHALL BE SENTENCED TO LIFE IMPRISONMENT WITHOUT THE
7 POSSIBILITY OF PAROLE.

8 IF A RECOMMENDATION OF DEATH IS NOT MADE, THE
9 DEFENDANT SHALL BE SENTENCED TO LIFE IMPRISONMENT
10 WITHOUT THE POSSIBILITY OF PAROLE. SHE'LL TELL YOU
11 THAT.

12 AND THAT WILL BE SOMETHING THAT YOU'LL HAVE TO
13 TRY TO UNDERSTAND AS BEST YOU CAN AND DEAL WITH IT AS
14 TO WHAT ITS MEANING ACTUALLY IS. IN OTHER WORDS, 12
15 PEOPLE CAN--

16 MR. HUMPHRIES: OBJECTION, YOUR HONOR. MATTER
17 OF LAW.

18 THE COURT: BASIS.

19 MR. HUMPHRIES: I DON'T MIND APPROACHING WITH
20 MR. DIGGS.

21 (WHEREUPON A BENCH CONFERENCE WAS HELD WITH MR.
22 DIGGS AND MR. HUMPHRIES, THEN MR. DIGGS APPROACHED
23 MR. KELLY AND CONFERRED.)

24 MR. KELLY: NO, MA'AM. I WAS NOT ABOUT TO ARGUE
25 THAT.

1 THE COURT: OKAY. THE OBJECTION IS WITHDRAWN.
2 YOU MAY CONTINUE, MR. KELLY.

3 MR. KELLY: I SEE NOW IT'S ABOUT 12 MINUTES
4 AFTER, SO I'M GOING TO TRY TO PUSH ON THROUGH. YOU
5 KNOW WHAT ELSE DR. THRASHER SAID? HE SAID THERE WAS
6 NO HISTORY OF EXPLOSIVE VIOLENCE IN STEPHEN STANKO'S
7 HISTORY.

8 LET'S TALK ABOUT THAT FOR A MINUTE. OKAY? I'M
9 GOING TO TALK ABOUT THE WITNESSES. I THINK THEY HAD
10 HIGH CREDIBILITY. THESE THREE WITNESSES HAD HIGH
11 CREDIBILITY UNDER THE TEST.

12 REMEMBER THE THREE OFFICERS DOWN AT THE
13 GEORGETOWN DETENTION CENTER? ALL THREE SAID THAT
14 DURING THE TIME THAT HE WAS DOWN THERE, NO VIOLENCE.
15 WHAT THEY DID SAY IS THAT HE WAS HELPFUL, YOU MIGHT
16 SAY, BECAUSE HE WOULD BRING THE GRIEVANCES THAT THE
17 CELLBLOCK MIGHT HAVE FORWARD IN ORDER TO -- NO
18 EXPLOSIVE VIOLENCE THERE.

19 FOR EIGHT AND A HALF YEARS WHEN HE WAS IN OUR
20 PRISON SYSTEM FOR BEING CONVICTED OF KIDNAPPING, HE
21 GOT A 10 YEAR SENTENCE AND HE SERVED EIGHT AND A HALF
22 YEARS BEFORE HE WAS RELEASED TO THE SUPERVISION HERE
23 IN HORRY COUNTY, NO WRITE-UPS.

24 THAT MEANS THERE WERE NO INFRACTIONS. NOT JUST
25 NO VIOLENCE, HE DIDN'T BREAK ANY RULES. EIGHT AND A

1 HALF YEARS. AND SO YOU MIGHT SAY, WAIT A MINUTE, IS
2 THAT THE SAME FELLOW WHO GOT PUT IN JAIL FOR HIS
3 CRIMINAL ACTIVITY WITH ELIZABETH MCLENDON? YEAH.

4 WELL, HOW WAS THAT EXPLAINED? IT'S EXPLAINED
5 BECAUSE THEY SAY THAT THESE PSYCHOPATHS, AS HE IS,
6 HE'S A PSYCHOPATH, UNDER STRUCTURE THEY REALLY DON'T
7 HAVE VIOLENCE. IT'S WHEN THEY ARE UNSTRUCTURED,
8 THAT'S WHEN YOU HAVE TO BEGIN TO LOOK OUT.

9 SO IN THE PRISON SYSTEM HE'S NEVER -- HAS NEVER
10 BEEN ANY VIOLENCE AT ALL. DO YOU THINK THAT STEPHEN
11 STANKO WAS TRYING TO CON US BACK BEFORE HE MET US SO
12 THAT WHEN HE DID EVIL DEEDS IN THE FUTURE WE WOULD
13 SAY, OH, LOOK, HE DIDN'T HAVE ANY VIOLENCE IN THE
14 PAST?

15 I DON'T THINK SO. DO YOU THINK THAT'S
16 REASONABLE? THINK THAT'S JUST THE WAY IT IS.

17 AND IF YOU REJECT WHATEVER YOU REJECT, YOU
18 SHOULD -- FROM THE WITNESS STAND, YOU REALLY SHOULD
19 APPLY THE SAME TEST THAT I TALKED TO YOU ABOUT.
20 OKAY.

21 BUT WELL, WHAT ABOUT ELIZABETH MCLENDON? LET'S
22 TALK ABOUT HER FOR A FEW MINUTES, GET HER OUT OF THE
23 WAY, HER HISTORY. HAS A LONG HISTORY THERE. SHE
24 SAID HE WAS CONNING PEOPLE, HE WAS -- HE WAS USING
25 THEIR -- THEIR MONEY, HE WAS DOING WHATEVER SHE SAID

1 HE WAS DOING, AND THEN THERE CAME A TIME -- AND IF
2 YOU LOOK CLOSELY, IT IS A HIGH STRESS TIME.

3 WHAT'S GOING ON AROUND THEM? IT'S A HIGH STRESS
4 TIME GOING ON. HE'S CLAIMING TO HAVE HIS OWN CAR LOT
5 AND GOING INTO BUSINESS WITH HIS NEXTDOOR NEIGHBOR,
6 AND HE'S BALANCING ALL OF THIS. IT'S COMING DOWN
7 AROUND HIS EARS.

8 AND SHE IS UNHAPPY WITH HIM BECAUSE THEIR LIFE
9 IS MISERABLE TOGETHER. HIS LIFE WITH HIM ON A SOCIAL
10 LEVEL WOULD ALWAYS BE THE CAUSE OF HIS MENTAL DEFECT,
11 HIS BRAIN.

12 NEVER GOING TO DO IT, NEVER GOING TO HAVE A
13 SUCCESSFUL RELATIONSHIP WITH STEPHEN STANKO ON THAT
14 LEVEL BECAUSE HE'S NOT GOING TO BE HONEST WITH YOU
15 AND HE'S GOING TO SAY TO YOU THINGS LIKE HE TOLD HER,
16 OH, IT WAS A SURPRISE, I WAS GOING TO, YOU KNOW,
17 SURPRISE, AND I'M ALSO GETTING A BUSINESS FOR YOU.

18 SHE WASN'T HAVING ANY MORE. YOU KNOW, I TALKED
19 TO HER FOR ABOUT TWO HOURS AND I WENT OVER WITH
20 HER -- WERE YOU BORED BY THAT? DID YOU THINK I WAS
21 JUST DRAGGING THAT ALONG JUST TO HAVE SOMETHING TO
22 DO?

23 I WAS DOING THAT FOR YOU SO YOU WOULD SEE WHAT
24 HAPPENED, NOT A HALF TRUTH, BUT WHAT DID HAPPEN OUT
25 OF HER OWN MOUTH AND IN RELATION TO WHAT SHE ACTUALLY

1 WROTE WITH HER OWN HAND IMMEDIATELY AFTER IT TOOK
2 PLACE SO YOU WOULD SEE THIS HISTORY THAT'S REALLY
3 THERE.

4 WELL, THE -- YOUR SOLICITOR SAID SOME THINGS,
5 BUT I THINK HE MIGHT HAVE LEFT A FEW OUT. YOU
6 REMEMBER -- I THINK ONE THING HE LEFT OUT WAS THAT
7 WHEN STEPHEN STANKO HAD TAKEN HER TO THE BATHROOM, HE
8 SAID DRUG HER TO THE BATHROOM, BUT HE AFTER -- AND HE
9 DID OVERPOWER HER AND HE DID TIE HER UP.

10 AND HE TOOK HER TO THE BATHROOM AT ONE POINT
11 WHERE HE SAT HER EITHER ON THE TOILET OR BY -- ON THE
12 EDGE OF THE BATHTUB, AND WHAT WAS HE DOING? HE WAS
13 HUMMING. HE WAS HUMMING.

14 MATCH THAT UP WITH WHAT DR. SACHY SAID, HOW HE
15 CHANGED FROM, WHAT'S GOING TO HAPPEN TO ME, AND SACHY
16 FEELING GUILTY ABOUT IT TO, OH, MY PICTURE IS IN THE
17 PAPER. IS THAT A BAD PERSON? NOT ACCORDING TO THE
18 DOCTOR. BAD IS NOT THE RIGHT WORD.

19 HE'S A PSYCHOPATHIC PERSONALITY. HE'S AN ILL,
20 SICK PERSON. AND LIKELY HE BECAME THAT WAY AT BIRTH.
21 AT BIRTH. IS THERE ANY EVIDENCE OF ANY DRUG USE BY
22 HIM? NO.

23 IS THERE ANY EVIDENCE OF ANY ALCOHOL ABUSE BY
24 HIM OTHER THAN WHAT YOU GOT WHEN YOU WENT TO THE BLUE
25 MARLIN AND HE WAS DOWN AT THE TAVERN DOWN IN AUGUSTA?

1 NO.

2 SO IT'S NOT REALLY SELF-INDUCED. YOU HAVE TO
3 TAKE THEM AS YOU FIND THEM. HAVE TO LOOK AT HIM AS
4 HE IS WHEN YOU MAKE YOUR DECISION. AND YOU SHOULD
5 LOOK AT HIM IN A FULL LIGHT OF WHAT'S GOING ON.

6 WHAT ELSE DID HE DO WHEN HE WAS IN THE BATHROOM
7 AND LOOKING IN THE MIRROR, ACCORDING TO HER? HE
8 TALKED TO HIMSELF. AND WHEN HE CAME OUT, HE TALKED
9 TO THE ROOM. SHE THOUGHT THAT WAS EXTREMELY ODD
10 BEHAVIOR.

11 WHAT DID HE DO BEFORE HE WALKED OUT OF THE
12 HOUSE? HE STOPPED THE COO COO CLOCK. HE WENT OVER
13 AND STOPPED THE PENDULUM ON THE COO COO CLOCK. WHAT
14 ELSE DID HE DO? HE UNTIED HER FEET.

15 AND THEN WHAT ELSE DID HE DO? WHEN HE LEFT, HE
16 CALLED THE NEIGHBOR AND HE SAID, THOSE CARS ARE
17 STOLEN, AND TOLD THE NEIGHBOR THAT.

18 THEN WHEN HE GOES TO GREENVILLE, HE CALLS BACK
19 TO THE HOUSE HE HAS LIVED IN HIMSELF WHERE ELIZABETH
20 IS, WHERE HE KNOWS -- SHE TOLD US, I ASKED HER --
21 SHE'S GOT A DEVICE THAT SHOWS THE NUMBER YOU'RE
22 CALLING FROM.

23 THIS IS THE GENIUS STANKO WHO HE CAN'T -- HE --
24 HE CAN'T MAKE IT WORK. EVERYTHING HE DOES IS A
25 FAILURE BECAUSE HE CAN'T PLAN.

1 HE CAN DO THINGS, YEAH, THAT'S TRUE, BUT THERE'S
2 SOME THINGS THAT HE JUST CAN'T GET IT DONE. AND HE
3 CALLED AND IN ESSENCE GAVE THEM THE NUMBER. AND IN
4 FACT, THAT'S WHAT THE OFFICER WHO WENT UP THERE TOLD
5 YOU, REMEMBER? YOU REMEMBER THAT?

6 AND THEN WHEN HE CAME BACK, THE OFFICER SAID HE
7 GAVE A FULL CONFESSION, WROTE OUT A COMPLETE
8 CONFESSION TO EVERYTHING HE HAD DONE. IT TOOK A
9 COUPLE HOURS. IT MIGHT HAVE TAKEN TWO AND A HALF
10 HOURS.

11 I WAS WORN OUT, I KNOW THAT, WHEN I GOT THROUGH
12 DOING MY JOB OF ASKING HER ABOUT THIS SO -- SO YOU
13 WOULD KNOW. AND THEN I ALSO ASKED HER ABOUT THIS
14 LETTER, JUST ONE OF THE LETTERS, BUT I ASKED HER
15 ABOUT THE LETTER.

16 I SAID, WHAT ABOUT THIS LETTER? SAID, YEAH, I
17 WROTE THE LETTER. AND WHAT WAS IT ABOUT? IT WAS
18 ABOUT -- SHE WAS SAYING, TELL THOSE PEOPLE UP THERE
19 WHO ARE GOING TO EVALUATE YOU THE TRUTH ABOUT WHAT
20 THE PROBLEM IS.

21 DON'T FORGET WHAT SHE SAID TO YOU. SHE SAID,
22 YEAH, I THOUGHT THERE WAS SOMETHING BAD WRONG WITH
23 HIM. SHE HAD TAKEN HIM TO A DOCTOR. SHE NAMED HIM,
24 WASN'T -- HIS NAME WAS RANDY WADE DOWN IN CHARLESTON.

25 SURE, STANKO IS GOING TO DO WHATEVER HE NEEDS TO

1 DO TO CON HIS WAY TO WHEREVER HE HAPPENS TO BE. HE
2 NEVER BUILDS ANYTHING OR ACCUMULATES ANYTHING OR
3 REALLY EVER GETS AWAY WITH ANYTHING.

4 BUT IF YOU LOOK AT HIS HISTORY, YEAH, HE'LL GO
5 DOWN THERE, AND HE WILL PROBABLY CON THE DOCTOR, TOO.
6 WHY NOT? HE'S ILL. HE'S SICK. HE'S NOT NORMAL.
7 THERE'S AN INGREDIENT MISSING IN THE RECIPE WITH HIM.
8 THAT'S -- THAT'S IT.

9 BUT THAT'S JUST WHAT I THINK. SO YEAH, I DON'T
10 THINK HE WAS DOWN THERE BECOMING A BETTER KILLER.
11 ISN'T THAT WHAT THE SOLICITOR SAID? HE SAID -- IN
12 FACT, HE ASKED YOU, HE SAID -- HE SAID -- I THINK HE
13 SAID -- I DON'T SEE IT IN THE NOTES, BUT AS MY MEMORY
14 SERVES ME, HE SAYS HE'S DANGEROUS, DON'T LET HIM
15 BECOME BETTER THAN WHAT HE IS AND WHAT HE DOES.

16 WELL, THE HISTORY DOESN'T SHOW THAT. HISTORY
17 SHOWS THAT IF YOU PUT HIM IN LIFE -- IN PRISON FOR
18 LIFE, THE SAME THING IS GOING TO HAPPEN IN THE FUTURE
19 THAT'S ALREADY HAPPENED. HIS STRUCTURE WILL BE
20 THERE.

21 IN OTHER WORDS, WHERE DO YOU PUT SICK PEOPLE
22 LIKE THAT? WHAT DO YOU DO WITH THEM, KILL THEM? IS
23 THAT -- IS THAT THE ANSWER? WELL, THAT'S FOR YOU TO
24 DECIDE, DECIDE WHAT TO DO.

25 NOW, EVEN DR. CRAWFORD -- I'M NOT GOING TO

1 DREDGE ALL THIS UP. BUT I AM GOING TO SAY ONE OF TWO
2 THINGS. SHE SAID, I DON'T THINK THE DEFENDANT COULD
3 HAVE EMPATHY.

4 WELL, THAT'S WHAT EVERYBODY SAID. SHE SAID, I
5 DON'T THINK HE COULD HAVE EMPATHY. WE DON'T KNOW
6 HOW. WELL, SHE DOESN'T KNOW HOW, THAT'S TRUE, BUT
7 THE OTHER DOCTORS HAD A BETTER IDEA HOW IT CAN BE
8 THAT YOU DON'T HAVE EMPATHY.

9 AND SHE WAS ASKED, OH -- OR SHE DID SAY IT COULD
10 BE BRAIN STRUCTURE OR BRAIN FUNCTION. ALTHOUGH SHE'S
11 NOT AN EXPERT IN THAT AREA, SHE DID SAY THAT. IT
12 COULD BE -- IT COULD BE.

13 BUT OF COURSE, THE STATE IS SAYING THERE ISN'T
14 ANY, HE HASN'T GOT ANY BRAIN MISFUNCTION (SIC). HE
15 HASN'T GOT ANY BRAIN STRUCTURE PROBLEM.

16 DID -- DID DR. WU HELP US UNDERSTAND THAT? I
17 THINK I SAID TO YOU WHEN I CLOSED LAST TIME, HEY,
18 THIS AIN'T RIGHT, THEY'RE USING PEOPLE ASLEEP IN A
19 ROOM OVER HERE AND OVER HERE IT'S ACTIVE.

20 I MEAN, THAT'S NOT FAIR; IS IT? YOU KNOW, I'M
21 NOT -- I DON'T -- I'M NOT A PSYCHIATRIST, BUT IS THAT
22 FAIR? DR. WU SAID THAT DON'T WORK, THAT JUST DOESN'T
23 WORK. IT DOESN'T GIVE YOU A FAIR RESULT. OKAY?

24 BE TOUGH ON STANKO. BELIEVE ME, YOU'RE GOING
25 TO -- YOU'RE GOING TO EITHER PUT HIM TO DEATH OR

1 YOU'RE GOING TO PUT HIM IN PRISON FOR THE REST OF HIS
2 LIFE, OKAY, BUT BE FAIR.

3 KEEP YOUR MIND OPEN AND BE FAIR TO THE MAN NO
4 MATTER HOW MUCH YOU HATE WHAT HE DID, NO MATTER HOW
5 YOU'RE DISGUSTED BY WHAT HE DID.

6 BUT SHE COULDN'T -- CRAWFORD COULDN'T GIVE US
7 ANY EXPLANATION BECAUSE IT'S JUST OUTSIDE HER FIELD.
8 FOR HER, BEHAVIOR WAS ITS OWN EXPLANATION. THAT'S
9 WHAT IT IS FOR THE SOLICITOR'S OFFICE. HE IS WHAT HE
10 DOES. THAT'S NOT WHAT I SAID TO YOU.

11 I DID SAY, I DON'T CARE WHAT HAT YOU OR ANYBODY
12 ELSE WEARS, YOU KNOW, TRUTH IS THE TRUTH AND THAT'S
13 IT. IT DOESN'T MAKE ANY DIFFERENCE TO ME WHO LIES ON
14 THE WITNESS STAND.

15 IF I'M GOING TO CROSS-EXAMINE AND I THINK YOU'RE
16 NOT TELLING THE TRUTH, I'M GOING TO FIND OUT. BUT
17 THIS AIN'T ABOUT ME. THIS IS -- THIS IS -- AT THIS
18 POINT THAT WE'RE TALKING ABOUT NOW WE ARE NOT LEAVING
19 LAURA LING OUT OF THIS OR HER DAUGHTER, EITHER ONE.

20 BUT THIS HAS LARGELY TO DO WITH STEPHEN STANKO
21 BECAUSE SHE ADMITTED SHE COULD NOT TESTIFY TO THE
22 KNOWLEDGE OF FRONTAL LOBES AND PET SCANS. SHE DID
23 SAY, I THINK HE DID IT BECAUSE HE WAS ANGRY.

24 WELL, YOU KNOW WHAT THE DOCTOR SAID ABOUT THAT
25 ANGER, IF YOU SET THAT THING OFF, STANKO IS 6 FEET

1 FOUR, WEIGHS A COUPLE HUNDRED POUNDS, HE'S A YOUNG
2 MAN, AND YOU SET -- SET HIM OFF WITH THIS DEBILITY
3 (SIC) HE'S GOT WITH ANGER, AND HE GETS SET OFF -- THE
4 STATE SAYS HE WASN'T SET OFF, STATE SAYS HE PLANNED
5 IT -- BUT SET HIM OFF AND IT WON'T -- THOSE FRONTAL
6 LOBES WON'T HOLD HIM.

7 HE'S GOT PLENTY OF HORSEPOWER. HE'S LOADED WITH
8 HORSEPOWER, BUT HE AIN'T GOT NO STEERING. HIS
9 STEERING AIN'T WORKING. HE CAN'T HOLD THE ROAD, BUT
10 HE'S GOT TONS OF INTELLECT.

11 BUT DOCTORS -- I THOUGHT THEY SAID, DIDN'T YOU,
12 Y'ALL THE ONES TO DECIDE, THAT INTELLECT, THAT IS --
13 THAT CAN BE INTACT WITH ALL THE DAMAGE YOU WANT.

14 WHAT ABOUT THE MAN THEY SHOWED WHO HAD THE SPIKE
15 DRIVEN THROUGH HIS HEAD IN THE LAST CENTURY WHERE
16 THEY FIRST BEGAN TO DISCOVER YOU CAN HAVE FULL
17 INTELLECTUAL FUNCTIONING, BUT YOUR FRONTAL LOBES CAN
18 BE DAMAGED, COMPLETELY CHANGE YOUR BEHAVIOR.

19 NOW, DR. SPICER -- I'M GOING TO SAY A FEW WORDS
20 ABOUT HIM. I'M GOING TO GET OFF OF THIS, NOW. BUT
21 YOU KNOW, I RAKED DR. SPICER OVER THE COALS WHEN I
22 WAS UP HERE LAST TIME.

23 MAYBE I SHOULDN'T HAVE BEEN SO HARSH WITH HIM.
24 BUT HE SAID THAT HE HAD DR. LEONI -- YOU REMEMBER
25 THIS -- HE HAD DR. LEONI WHO WAS ONE OF HIS

1 COLLEAGUES EXAMINE THE PET SCAN THAT HE PRODUCED AND
2 THAT DR. LEONI SAID THAT PET SCAN WAS PERFECTLY
3 NORMAL.

4 YOU REMEMBER HIM TELLING YOU THAT? BUT DID DR.
5 SPICER ADMIT BUT -- DR. SPICER ADMITTED THAT IN THIS
6 SET OF IMAGES -- GET THE RIGHT PAGE HERE NOW -- I
7 DON'T THINK HE TOLD DR. LEONI THAT HE HAD TWO
8 DIFFERENT SUBJECT MATTERS THE WAY WE FOUND OUT FROM
9 DR. WU, BECAUSE IF YOU DON'T TELL THEM THAT, THEN DR.
10 LEONI, WHOEVER HE IS, BECAUSE HE DIDN'T COME IN HERE
11 AND TALK TO YOU, DR. LEONI WOULD ONLY GET A HALF
12 TRUTH ON THAT.

13 AND ALSO, DR. LEONI ADMITTED THAT IN THIS SET OF
14 IMAGES, THAT MEANS THE ONES PRODUCED BY WU, REDUCED
15 BRAIN FUNCTION WAS DISPLAYED. HE JUST SAID -- HE
16 EVEN SUGGESTED THAT WU CRANKED DOWN OR NARROWED DOWN
17 OR FUDGED THE IMAGES.

18 THAT'S THE SAME DR. WU THAT Y'ALL SAW. YOU
19 THINK THAT THAT'S THE GUY WHO DID THAT? AND SPICER'S
20 GOT THESE -- HE'S JUGGLING THIS STUFF? I CALL THAT
21 DISHONEST MYSELF.

22 AND I DON'T THINK IT'S FAIR TO -- JUST BECAUSE
23 IT'S STANKO AND YOU MIGHT DESPISE WHAT HE HAS DONE,
24 AT LEAST BE FAIR TO THE GUY. WHAT ARE YOU AFRAID OF?

25 ARE YOU AFRAID HE'S GOING TO SPEND HIS LIFE IN

1 PRISON RATHER THAN BEING PUT TO DEATH? IS THAT WHAT
2 THE FEAR IS?

3 BUT JUDGING THE CREDIBILITY OF WITNESSES IS UP
4 TO YOU. ALTHOUGH SPICER ADMITTED THAT SURGEONS USE
5 THREE DIMENSIONAL DISPLAY THAT WU CREATED, HE CALLED
6 IT FLASHY AND NOT USEFUL, AND HE CLAIMED SLICES WERE
7 BETTER THAN THAT.

8 CALLED IT FLASHY, NOT USEFUL. AND ALTHOUGH DR.
9 SPICER WAS UNQUALIFIED TO BE A MEMBER OF A PEER
10 REVIEW COUNCIL OR PANEL, HE WAS JUST UNQUALIFIED TO
11 DO IT, ON A PET SCAN RESEARCH, DIDN'T HAVE THE
12 QUALIFICATION.

13 AND HE HAD NEVER PUBLISHED ANY RESEARCH ON PET
14 SCANS OR PET SCAN RESEARCH OR SERVED ON ANY PEER
15 REVIEW PANEL IN THIS AREA OF THE SCIENCE. HE
16 SUGGESTED THAT DR. WU, WHO IS THE FOREMOST LEADING
17 EXPERT IN THE UNITED STATES, THAT WAS A PRODUCT TO BE
18 DISREGARDED.

19 OKAY. WELL, I THINK THAT'S REASON THAT MR.
20 DIGGS -- HE WILL HAVE TO TELL YOU, BUT I THINK THAT'S
21 THE REASON WE BROUGHT HIM BACK SO THAT WE COULD
22 DETERMINE THIS THING TO -- MORE PRECISELY, YOU COULD.

23 I'M GOING TO SAY A FEW WORDS ABOUT SACHY AND
24 THEN I'M GOING TO GO TO THE OTHER FACT WITNESSES.
25 YOU KNOW, HE IDENTIFIED BRAIN ABNORMALITIES AND HE

1 EXPLAINED THE LIMBIC SYSTEM AND HE POINTED TO THE
2 RAGE OF THE ACTS AND THE INCONSISTENT TRIVIAL ACTS
3 LIKE TAKING THE BRACELET. IT'S DESPICABLE.

4 DID YOU SEE HOW DANA PUTNAM SAID, I WAS
5 DISGUSTED BY THAT WHEN I FOUND OUT THAT THE BRACELET
6 THAT HE HAD GIVEN ME WAS ONE THAT HE HAD TAKEN FROM
7 THIS WOMAN THAT YOU DECIDED THAT HE HAD MURDERED.
8 WELL, YEAH.

9 BUT THE DOCTORS SEE IT AS A TRIVIAL ACT DURING
10 THIS TIME WHICH IS EMBLEMATIC OF HIS -- THE SYMPTOMS
11 OF HIS BEING A PSYCHOPATH, BEING SICK, BEING ILL.
12 THAT'S WHAT THAT WAS; WASN'T IT?

13 HE SUGGESTED THAT THE REMORSE OF THE DEFENDANT
14 MIGHT SHOW WAS A MASK OF SANITY. AND HE REPEATEDLY
15 POINTED TO THE DEFENDANT'S MENTAL DISORDER AND MENTAL
16 ILLNESS.

17 HE SUGGESTED HE MIGHT HAVE CONTINUED THIS
18 BEHAVIOR IF NOT STOPPED OR ARRESTED. WELL, WE KNOW
19 ABOUT THAT BECAUSE HE WAS NOT STOPPED OR ARRESTED.

20 HE WAS NOT IDENTIFIED AS WHAT HE WAS UNTIL HE
21 HAD MURDERED LAURA LING AND HAD RAPED CHRISTINA LING,
22 HAD KIDNAPPED THEM BOTH, AND DONE THE OTHER THINGS
23 YOU CONVICTED HIM OF, AND HAD BEEN ARRESTED DOWN IN
24 AUGUSTA. YEAH, WE KNOW THAT FOR CERTAIN.

25 THAT IS OUTSIDE THE PRISON SYSTEM. INSIDE THE

1 PRISON SYSTEM HE SHOWS NO PROBLEM. HE POINTED OUT
2 THAT THE CRIMES WERE NOT WELL THOUGHT OUT. THE STATE
3 SAYS HE'S THIS BIG PLANNER. NO, I DON'T THINK SO.

4 HE NOTED A CALLOUS MANNER OF FACT DISCUSSION OF
5 THE VICTIMS AND SAID THE DEFENDANT WAS COLD AFTER THE
6 FACTS BUT NOT DURING THE ACTS. DURING THE ACTS HE
7 WAS NOT COLD AND DETACHED, WASN'T A -- IT WASN'T A
8 COLD BLOODED MURDER CERTAINLY.

9 AND HE SAID HIS OPINIONS WERE BASED ON THE
10 LITERATURE AND THE SCIENCE. WELL, SO MUCH FOR THE
11 SCIENTISTS. LET'S NOW TALK ABOUT THE OTHER FACT
12 WITNESSES, NOT THE EXPERTS. OKAY? AND BEAR WITH ME
13 WHILE WE GO THROUGH THEM.

14 THIS IS GOING TO BE VERY UNPLEASANT FOR THE --
15 FOR ANYBODY TO HEAR. IT'S UNPLEASANT FOR -- I -- MAY
16 I ASK, YOUR HONOR -- I CAN'T GET UP. CAN I ASK ONE
17 OF MY INVESTIGATORS TO GO OVER HERE AND REMOVE THIS
18 OFF OF THE FRONT OF THE...

19 THE COURT: CERTAINLY.

20 MR. KELLY: UP HERE. I'M NOT TALKING ABOUT
21 THOSE. YEAH, EVERYTHING. TAKE IT OFF. IT'S
22 UNPLEASANT TO LOOK AT THESE PICTURES, BELIEVE ME.

23 IT'S UNPLEASANT TO CONTEMPLATE IN ANY WAY WHAT
24 TOOK PLACE. AND IT'S UNPLEASANT TO HEAR ABOUT IT.
25 I'M NOT DREDGING IT UP TO HURT ANYBODY'S FEELINGS AT

1 ALL.

2 I'M TALKING TO YOU ABOUT IT BECAUSE YOU'RE THE
3 JUDGES, JUDGES. THAT'S WHY I'M TALKING TO YOU.

4 HERE IS WHAT LAURA LING (SIC) SAID. I'M ONLY
5 QUOTING HER. YOU MAY DISAGREE WITH ME, BUT I'M ONLY
6 RECOUNTING TO YOU AND I'M ONLY REPEATING TO YOU WHAT
7 CHRISTINA LING TOLD YOU UNDER OATH ON THE RECORD.

8 ONE THING SHE SAID THAT I THOUGHT WAS STRIKING,
9 SHE SAID, IS THIS REALLY STEPHEN? YOU REMEMBER HER
10 SAYING THAT? REMEMBER HER SAYING, WHEN IT WAS
11 HAPPENING I THOUGHT, IS THIS REALLY STEPHEN?

12 WELL, HERE COMES THE AIRPLANE AND IT'S FLYING
13 THROUGH THE SKY AND THERE'S A PILOT AND THE PILOT IS
14 RUNNING THE PLANE. THE PLANE IS NOT RUNNING THE
15 PILOT.

16 AND IF THERE'S A PROBLEM WITH THAT PILOT, THE
17 PLANE IS GOING TO HAVE PROBLEMS. AND IF THERE'S
18 ENOUGH OF A PROBLEM WITH THAT PILOT, THAT PLANE IS
19 GOING TO CRASH.

20 AND WHEN SHE -- SHE WAS LOOKING AT THE PLANE,
21 THAT'S FOR SURE. THAT PILOT IS UP IN HER HEAD.
22 THAT'S OUR BRAIN. AND SOMETHING HAD SHIFTED.

23 HOW DID SHE KNOW HIM UP UNTIL THAT TIME? WHAT
24 MADE HER SAY THAT? BECAUSE THIS WAS A COMPLETELY
25 DIFFERENT PERSON. WAS HE LYING IN WAIT THE WAY THE

1 SOLICITOR SAYS? WELL, LET'S CONTINUE TO SEE WHAT SHE
2 SAID.

3 SHE SAYS THAT HE STRUCK HER MOTHER'S FACE BEFORE
4 HE GOT ON THE BED. WHY DID HE STRIKE THE MOTHER IN
5 THE FACE BEFORE HE GOT ON THE BED? WHAT'S THE
6 MEANING OF THAT?

7 IF HE'S ONLY AFTER LAURA LING (SIC), WHY IS HE
8 PUNISHING THE MOTHER? WHAT'S THAT ALL ABOUT? THE
9 MOTHER WAS LYING ON THE FLOOR. HER HANDS WERE TIED
10 BEHIND HER BACK. SHE WAS MOANING. SHE WAS TOTALLY
11 DISABLED.

12 WHY IN THE PRESENCE OF THE DAUGHTER DID HE
13 CONTINUE OR AT THAT TIME PUNISH THE MOTHER OR STRUCK
14 THE MOTHER? I SUPPOSE THE STATE WOULD SAY, BECAUSE
15 HE DID IT, THAT'S JUST THE BEHAVIOR, HE'S A MEAN
16 PERSON.

17 BUT WHAT ELSE DID SHE ALSO SAY? SHE WAS TURNED
18 ON HER BACK. SHE WAS FACE DOWN ON THE BED. SHE
19 SAID, HE TURNED ME ON MY BACK AND THEN HE SAID TO
20 HER, LOOK WHAT YOU DID. HE TURNED HER OVER TO LOOK.

21 AND THE STATE SAYS HE DOES THAT TO EVERYBODY.
22 SO IN THE MIDDLE OF A MURDER AND A RAPE HE'S GOING TO
23 BLAME IT ON THE PERSON HE'S RAPING? I GUESS THAT'S
24 THE LOGIC THAT THE STATE IS SAYING.

25 BUT WHAT ACTUALLY HAPPENED? HE TURNS HER ON HER

1 BACK SO SHE CAN SEE, AND SHE (SIC) SAYS, LOOK WHAT
2 YOU DID, I LOVED HER. AND CHRISTINA SHOOK HER HEAD,
3 NO, BECAUSE CHRISTINA HADN'T DONE ANYTHING.

4 CHRISTINA SAYS SHE SHOOK HER HEAD NO. AND HE
5 LOOKED AT ME AND HE SAID, LOOK WHAT YOU DID. IN
6 OTHER WORDS, HE REPEATED IT.

7 HE'S -- WHAT'S GOING ON THERE? WELL, IT BEGINS
8 TO MAKE SENSE IF YOU JUST TAKE ONE THING THAT STANKO
9 TOLD THE DOCTORS, AND THAT IS THAT LAURA LING -- AND
10 I'M NOT DEFAMING HER OR SAYING ANYTHING BAD ABOUT
11 HER, DON'T GET MAD AT ME AND DON'T GET MAD AT HIM
12 FROM ME TALKING ABOUT THE FACTS, OKAY.

13 BUT HE SAYS THAT THE FIGHT ERUPTED WHEN SHE
14 SAID, I'M GOING TO -- MY DAUGHTER HAS ACCUSED YOU AND
15 I'M GOING TO TURN YOU IN AND YOU'RE GOING TO GO TO
16 PRISON, YOU'RE NOT GOING ANYWHERE. THAT'S WHAT WAS--

17 MR. HEMBREE: OBJECTION, YOUR HONOR. SIDE BAR?

18 THE COURT: PLEASE APPROACH.

19 (WHEREUPON A BENCH CONFERENCE WAS HELD WITH MR.
20 DIGGS AND MR. HEMBREE.)

21 THE COURT: THE OBJECTION IS SUSTAINED. MR.
22 KELLY, MR. DIGGS IS GOING TO GIVE YOU SOME
23 INSTRUCTIONS, THEN YOU MAY PROCEED WITH YOUR
24 ARGUMENT.

25 (MR. DIGGS CONFERRING WITH MR. KELLY.)

1 THE COURT: YOU MAY CONTINUE.

2 MR. KELLY: THANK YOU, MA'AM.

3 THE COURT: YOU'RE WELCOME.

4 MR. KELLY: THEN AFTER HE HAD SAID THAT, AFTER
5 HE TURNED HER OVER AND MADE HER LOOK AT THE MOTHER,
6 AFTER HE HAD DONE THESE THINGS THAT WE TALKED ABOUT,
7 THEN HE LIFTED UP HER HEAD AND ATTEMPTED TO CUT HER
8 THROAT. THEN SHE -- SHE SAID THAT.

9 AND THEN SHE SAID SHE -- HE MADE HER LIE DOWN AT
10 HER MOTHER'S FEET. SO IT'S NOT JUST ABOUT CHRISTINA
11 LING NOW. IT HAS TO DO WITH LAURA LING AS WELL.

12 AND WE DON'T KNOW, BUT WE CAN ONLY PIECE IT
13 TOGETHER. THE ONLY LIVE WITNESS WE'VE GOT IS
14 CHRISTINA LING. SHE DOESN'T KNOW.

15 WE HAVE TO PIECE IT TOGETHER AS BEST WE CAN TO
16 SEE REALLY WHAT WAS THE STATE OF MIND OF THIS MAN AT
17 THAT TIME.

18 BUT SHE DID SAY SOMETHING ELSE THAT I THOUGHT
19 THE STATE TRIED TO KEEP OUT AS BEST THEY COULD, BUT
20 IT FINALLY CAME IN. AND THAT WAS THAT WHEN SHE
21 CALLED THE 9-1-1, SHE TOLD THEM ON THE -- AND IT'S ON
22 THE TAPE -- THAT SHE THOUGHT THERE WAS SOMEBODY ELSE
23 THERE, SHE HEARD HIM TALKING TO SOMEBODY ELSE.

24 NOW, TALKING LIKE TO THE ROOM IS SOMETHING THAT
25 HE -- HE HAD DONE EARLIER WHEN HE WAS DOWN AT

1 ELIZABETH'S HOUSE. THAT WAS SOMETHING THAT BEGINS TO
2 REFLECT OUT OF THAT SICKNESS THAT HE MIGHT HAVE HAD
3 AT THAT TIME AS WELL.

4 AND HOW DO WE KNOW IT WAS BEFORE THEY GOT THERE?
5 BECAUSE ON THE TAPE SHE TELLS THE 9-1-1 OPERATOR THAT
6 AND THEN SHE SPELLS HIS NAME AT LEAST TWO TIMES, THEN
7 SHE SAYS SHE SEES A FLASHLIGHT OUTSIDE THE WINDOW,
8 THEN THEY COME TO THE DOOR.

9 THE OFFICERS THEMSELVES SAID THEY WENT AROUND
10 THE HOUSE FIRST BEFORE THEY CAME IN. WELL, THAT'S
11 ALL I HAVE GOT TO SAY ABOUT THAT, BUT I THINK THAT
12 THAT SHOWS THAT IT WASN'T JUST THAT HE WAS -- IT WAS
13 LAURA -- THAT IT WAS CHRISTINA LING.

14 AND WHAT DID DOCTOR -- WHAT DID THE NURSE WHOSE
15 NAME WAS WIRDZEK, SHE DESCRIBED CHRISTINA WHEN THEY
16 TOOK HER TO THE HOSPITAL AS BEING CLEAR, I TAKE THAT
17 TO MEAN CLEAR-MINDED, AND SHE WANTED TO KNOW WHAT
18 HAPPENED.

19 WELL, YOU KNOW, WE ON THE DEFENSE, WE'RE NOT
20 TRYING TO BLOW A SMOKESCREEN OVER THE JURY OR THE
21 FAMILY. WE ARE ALSO TRYING TO DETERMINE REALLY WHAT
22 DID HAPPEN ALSO. AND I HOPE WE HAVE HELPED TO DO
23 THAT.

24 NOW LET'S GO TO CONNIE PRICE. WHAT IS CONNIE
25 PRICE LIKE? CONNIE PRICE WAS LIKE A -- SHE'S LIKE A

1 GUARDIAN ANGEL. SHE DIDN'T SAVE LAURA LING, BUT SHE
2 DID A LOT OF THINGS SHE -- THAT TRIED TO EXPOSE
3 STANKO FOR WHAT HE WAS.

4 AND I'M NOT SAYING THAT ANYBODY SHOULD HAVE DONE
5 THIS, THAT, AND THE OTHER. I'M TALKING ABOUT WHY SHE
6 DID WHAT SHE DID. OKAY? SHE -- SHE ONLY GOT ONE
7 EYE. BUT CONNIE PRICE IS A CITIZEN WHO NEVER TURNED
8 A BLIND EYE TO STEPHEN STANKO'S BEHAVIOR.

9 CONNIE PRICE WAS A CITIZEN WHO KNOCKED ON THE
10 DOOR TIME AND TIME AGAIN. AND WHY? WHY DID SHE DO
11 THAT? THAT'S THE POINT. BECAUSE TALKING ABOUT THE
12 MENTAL STATE OR THE MENTAL HEALTH OF STEPHEN STANKO.

13 SHE CALLED THE LIBRARY BECAUSE IT'S NEARBY.
14 SHE'S ALWAYS DEPENDED ON THE LIBRARY SHE TOLD YOU.
15 AND SHE CALLED THERE FOR INFORMATION. SHE HAD A --
16 WAS IT HER MOTHER WHO DIED, AND THERE WAS A PROBATE,
17 AND THEY PUT HER THROUGH TO THE RESEARCH LIBRARIAN
18 WHO HAPPENED TO BE LAURA LING.

19 AND SHE SAID LAURA LING HELPED HER AND SPENT
20 TIME WITH HER TO FIND OUT WHAT SHE HAD TO SAY. AND
21 SHE -- SHE AND GARY WERE BOTH GRATEFUL ABOUT IT AND
22 THEY WENT OVER THERE THE NEXT DAY.

23 THAT'S WHEN GARY GOT HIS CARD. DO YOU REMEMBER
24 GARY SAYING HE GOT HIS CARD ON THE 17TH, TO THANK
25 THEM, AND THEY MET WITH STEPHEN STANKO ON THAT

1 MORNING.

2 AND HOW WAS HE DECKED OUT? HE WAS DECKED OUT,
3 HE HAD A BRIEFCASE AND HE LOOKED LIKE A PROFESSIONAL.
4 THAT WAS ONE OF THE THINGS THAT HE DID. AND THEY
5 THOUGHT -- SHE THOUGHT THAT HE WAS A LAWYER AND SHE
6 LATER FOUND OUT HE WASN'T.

7 SHE SAID -- I THINK SHE TOLD YOU SHE DIDN'T
8 REALLY CARE AT THAT POINT. HE WAS WILLING TO HELP
9 HER, FINE. YES, SHE DID SAY HE SAID HE HAD BOATS AND
10 HE SAID HE HAD THIS, AND THAT, AND THE OTHER.

11 WELL, HE WAS ALWAYS TELLING THAT. BUT IF HE WAS
12 A LAWYER, MAYBE -- OR SAYING HE WAS A LAWYER, MAYBE
13 HE WAS TRYING TO IMPRESS HER THAT HE WAS SUCCESSFUL
14 AS A LAWYER BECAUSE HE CERTAINLY DIDN'T HAVE
15 ANYTHING.

16 I DON'T THINK THAT'S THE OUTRAGEOUSNESS THAT SHE
17 WAS TALKING ABOUT. SHE WAS TALKING ABOUT THE
18 OUTRAGEOUSNESS AS IT AFFECTED HER. AND SHE SAID --
19 AND WE PUT INTO EVIDENCE FOR YOU -- THIS FORGERY
20 OF -- NOW, GET THIS. THINK ABOUT IT.

21 THE FORGERY OF JUDGE VICTOR RAWL'S SIGNATURE ON
22 OFFICIAL COURT DOCUMENTS. AND IF YOU LOOK AT THOSE,
23 THOSE DOCUMENTS, YOU WILL SEE THAT THE FORGERY IS
24 NOTARIZED BY ANOTHER FORGERY, AND THAT WOULD BE THE
25 FORGERY OF THE CLERK OF COURT OF THAT COUNTY.

1 AND SHE SAID, I ALREADY HAD A SIGNATURE, ONCE I
2 MATCHED THESE THINGS UP, GARY AND I, HEY, SOMETHING
3 IS WRONG HERE. SO WHAT DID SHE DO? SHE CALLED
4 LAWYER IRBY. DOES HE WORK FOR YOU?

5 AND YOU HEARD WHAT SHE SAID. YOU ALSO HEARD
6 IRBY, WHAT HE SAID ABOUT WHAT WENT ON. SHE NOT ONLY
7 CALLED IRBY, SHE CALLED -- SHE NAMED SOME OTHER
8 LAWYERS THAT SHE CALLED, SAID SHE WAS UNABLE TO GET
9 THROUGH TO THEM ON IT, SHE SAID SHE TALKED TO IRBY,
10 IRBY SAID FINE, HE DOES GOOD WORK.

11 I DON'T REMEMBER HER SAYING THAT HE SAID HE
12 WORKED FOR IRBY, BUT SHE SAID, I WAS -- THAT SETTLED
13 IT DOWN. I BELIEVE THAT WAS MARCH THE EIGHTH. AT
14 ANY RATE -- OR IT MAY HAVE BEEN EVEN EARLIER.

15 SOME TIME AROUND MARCH THE EIGHTH SHE CALLED --
16 AND NOW I'M JUST TALKING ABOUT -- NOT THE TIMELINE,
17 NOT THE OTHER THINGS THAT ARE GOING ON IN STANKO'S
18 LIFE, BUT SHE STARTS TO CALL AROUND.

19 SHE CALLS DONNA WILLIAMS, THE CLERK OF COURT FOR
20 HORRY COUNTY FOR GENERAL SESSIONS COURT. CAME IN
21 HERE. AND YOU REMEMBER HER? NOW, TALK ABOUT A --
22 CREDIBILITY OF A WITNESS.

23 I MEAN, THE CLERK -- IF YOU GET UP TO THE CLERK
24 OF COURT, YOU'RE -- GET SOMEBODY WHO PROBABLY IS
25 TELLING YOU THE TRUTH. AND SHE SAID, YEAH, I

1 REMEMBER, SHE DID CALL.

2 CONNIE SAID THAT SHE WAS REFERRED BY DONNA
3 WILLIAMS TO HEATHER TOLAR, AND SHE SAID THAT HEATHER
4 TOLAR REFERRED HER TO PROBATION AND PAROLE. HEATHER
5 TOLAR CAME IN HERE. SHE WAS ONE OF THE SOLICITORS.

6 THERE WERE SANFORD GRAVES, KAREN HANEBRINK,
7 HEATHER TOLAR, TIM MEACHUM, THEY ALL HAD SOME
8 RECOLLECTION THAT CONNIE HAD CALLED. YEAH, I JUMPED
9 SQUARE ON THE TOP OF SANFORD GRAVES.

10 AND THE JUDGE CALLED ME DOWN AND SAID I WAS
11 BADGERING HIM, WHICH I -- I HAVE TO ADMIT I LOST MY
12 TEMPER AND I SHOULDN'T HAVE SAID TO HIM WHAT I DID
13 SAY.

14 HE HAD SAID TO ME, WELL, WHEN I GET BACK TO THE
15 OFFICE, THERE'S PROBABLY ANOTHER CALL LIKE THAT.
16 WHEN HE SAID THAT, I LOST -- LOST MY COMPOSURE, I
17 HAVE TO ADMIT.

18 AS FAR AS I CAN REMEMBER THEY SAID THERE WASN'T
19 ANY POLICY THERE AND THEY GAVE THE BEST ADVICE THEY
20 COULD, AND THAT'S WHAT THEY SAID. WELL, FINE. WHAT
21 DOES THAT PROVE FOR YOU? ONLY THIS.

22 HER -- SHE WAS SO INTENSE AT THAT TIME, SHE WAS
23 CALLING THESE PEOPLE. THAT'S HOW BAD HIS BEHAVIOR
24 WAS. MATCH UP HER BEHAVIOR WITH MAYO FROM THE OFFICE
25 OF THE MARSHAL, US MARSHAL.

1 NOW, WE ARE TALKING ABOUT PEOPLE WHO HAVE
2 INFORMATION ABOUT STANKO AND WHAT DO THEY DO ABOUT
3 IT. I THINK YOU GOT TO LOOK AT THE -- AND SEE HOW
4 CLOSE THEY WERE AND WHAT DID THEY THINK ABOUT IT AND
5 WHY.

6 MAYO SAID -- SHE SAID, I DON'T WANT TO GIVE YOU
7 THE NAME OF THESE PEOPLE, I PROMISED THEM I WOULDN'T
8 DO IT, GOT MORE THAN ONE CALL, AND THEY SAID -- WHAT
9 DID THEY SAY? WHAT DID SHE SAY TO US?

10 SHE SAID, WHEN I RECEIVED A COMPLAINT ABOUT THIS
11 FELLOW, I RAN HIM THROUGH NCIC THROUGH THE
12 INFORMATION BANK AND I DETERMINED THAT HE WAS UNDER
13 SUPERVISION IN SOUTH CAROLINA AND I CALLED COLUMBIA I
14 THINK AND THEN I CALLED HORRY COUNTY.

15 AND I HAVE GOT SOMEBODY AT HORRY COUNTY AT THE
16 PROBATION, PARDON, AND PAROLE OFFICE ON THE PHONE AND
17 I TOLD THEM, I SAID STEPHEN STANKO APPEARED TO BE
18 CONTROLLING THE LIBRARY OF SOCASTEE AND THE
19 LIBRARIAN.

20 AND SHE SAID THERE WAS SOME PATRONS IN THE
21 LIBRARY WHO WERE FEARFUL OF HIM. THAT'S WHAT SHE
22 SAID SHE TOLD. AND SHE SAID THAT HE HAD PRESENTED
23 HIMSELF AS AN ATTORNEY OR AN INVESTOR OR AN
24 INVESTIGATOR FOR VARIOUS LAW FIRMS, AND THAT HE EVEN
25 WORE HANDCUFFS FROM HIS WAISTBAND.

1 NOW, THAT'S STARTING TO GET A LITTLE UNUSUAL I
2 WOULD SAY. SHE SAID, I TOLD HIM THAT HE HAD A FULL
3 CONTROL OF LAURA LING'S OFFICE -- SHE MENTIONED LAURA
4 LING BY NAME -- COMPUTER EQUIPMENT, ET CETERA, AND
5 WAS IN THERE ON AN ALMOST DAILY BASIS CONDUCTING SOME
6 TYPE OF BUSINESS OR RESEARCH AND HAD TO BE
7 UNDISTURBED.

8 SHE'S TELLING THIS TO GLORIA WILSON. GLORIA
9 WILSON IS ON THE OTHER END OF THE PHONE. AND THIS IS
10 ABOUT JANUARY THE 26TH. NOW, THIS IS ACCORDING --
11 YOU HAVE TO DETERMINE WHETHER YOU -- YOU'RE GOING TO
12 BELIEVE THIS WOMAN WHO IS -- I BELIEVE -- WHAT DID
13 SHE SAY, HOW MANY YEARS WAS SHE AT THE US ATTORNEYS'
14 OFFICE? TWENTY YEARS. AND SHE WAS ADMINISTRATIVE
15 SUPPORT ASSISTANT TO OPERATION INTERCEPT.

16 SO YOU HAVE TO DETERMINE, WELL, I'M GOING TO
17 BELIEVE HER? IS SHE CREDIBLE OR NOT? I TOLD THEM
18 THAT HE WAS OFFERING HIMSELF AS A REPRESENTATIVE TO
19 REPRESENT LEGALLY MEMBERS OF THE COMMUNITY IN
20 EXCHANGE FOR RETAINER FEES.

21 AND I TOLD THEM THAT HE HAD ALREADY EXPRESSED TO
22 AT LEAST ONE PERSON THAT HE HAD RESEARCHED THEIR
23 HOLDINGS AND THROUGH SOME LOCAL COMPUTER SYSTEM AND
24 HE KNEW THEIR PROPERTIES, WHAT THEY OWNED, AND WHAT
25 TAX BRACKET THEY WERE IN, AND FOR A FEE HE WOULD

1 REDUCE THEIR TAXATION.

2 THIS IS WHAT SHE'S TELLING GLORIA WILSON WHO IS
3 HIS SUPERVISING AGENT. WHAT'S THE POINT OF THIS?
4 THIS IS SOMEBODY WHO HAS COMPLAINED ABOUT THIS
5 BEHAVIOR WHICH IS ODD AND EXTREME AND THAT THEY'RE
6 FEARFUL OF HIM TO SOMEBODY WHO IS SUPERVISING HIM AND
7 FOR WHAT PURPOSE?

8 WELL, I THINK SHE TOLD US. AND SHE SAID, I SAID
9 THAT MY SOURCE OF INFORMATION WAS EXTREMELY,
10 EXTREMELY AFRAID AND THAT NOTHING I COULD SAY COULD
11 SEEM TO ALLEVIATE ANY OF THE CALLER'S FEARS.

12 SO SHE'S TELLING THE SUPERVISING AGENT OF THE
13 PERSON WHO IS STANKO WHO IS MAKING THIS PERSON SO
14 EXTREMELY, EXTREMELY AFRAID, SHE'S TELLING THIS
15 SUPERVISING AGENT THIS.

16 BECAUSE WHY? IT HAS TO DO WITH HIS MENTAL
17 HEALTH. THAT'S WHY. AND SHE SAID, I TOLD THE CALLER
18 THAT IF STANKO WAS A CON-ARTIST, THAT GENERALLY THEY
19 WERE -- CON-ARTISTS WOULD NOT BE -- THEY DIDN'T HAVE
20 ANY -- REPRESENT ANY PHYSICAL HARM, BUT NOTHING I
21 COULD DO COULD ALLEVIATE THEIR FEARS.

22 SHE SAID THE CONVERSATION LASTED SEVERAL
23 MINUTES. I DON'T REMEMBER ALL THAT I SAID, BUT I
24 JUST TRIED TO CONVEY THAT PERHAPS THIS PERSON WAS A
25 DANGER TO THE COMMUNITY.

1 COMMUNITY SAFETY IS SUPPOSED TO BE PRETTY
2 IMPORTANT I GUESS EVERYWHERE WE GO. AND WHY IS SHE
3 SAYING THAT? BECAUSE SHE EVIDENTLY -- I THINK WE
4 HAVE TO INFER -- TO BELIEVE THAT SHE HAD A SERIOUS,
5 SERIOUS ENOUGH TO SEARCH OUT THESE AND FIND THAT HE'S
6 BEING SUPERVISED AND THEN GIVE NOTICE OF IT.

7 AND THEN SHE ALSO SAYS THIS. I ASKED HER, WHAT
8 DID YOU EXPECT? AND SHE SAID, WELL, I EXPECTED THAT
9 THE PROBATION OFFICER AT LEAST WOULD TAKE A LOOK AT
10 WHAT I HAD REPORTED, AND I EVEN RECALL SAYING THAT IF
11 YOU WANT TO FIND HIM, IF THE INFORMATION I'M GIVING
12 YOU IS CORRECT, JUST GO TO THE LIBRARY.

13 WHERE IS STEPHEN STANKO? GO TO THE LIBRARY,
14 THAT'S WHERE THE COMPLAINT CAME FROM. AND SO I
15 EXPECTED THAT HIS FILE WOULD BE CAREFULLY SCRUTINIZED
16 AND THAT HE -- SPECIAL ATTENTION WOULD BE PAID TO HIM
17 TO SEE IF IN FACT HE DID REPRESENT A DANGER TO THE
18 COMMUNITY.

19 SEEMS FAIR ENOUGH TO ME. LOGICAL ENOUGH TO ME.
20 SO SHE'S REPORTING THIS ABERRANT BEHAVIOR, IF THAT'S
21 WHAT YOU WANT TO CALL IT. BUT WE KNOW STEPHEN STANKO
22 BECAUSE WE HAVE SEEN HIS BIRTH RECORDS, WE HAVE SEEN
23 PICTURES OF HIM AS A CHILD, WE HAVE HEARD THE DOCTORS
24 WHO EXAMINED HIM, SO WE HAVE GOT AN OVERVIEW, BUT
25 NONE OF -- THAT SHE DIDN'T HAVE.

1 AND HE WAS A DANGER, OF COURSE, AND HE WAS ILL.
2 I ASKED HER, I THINK, WHAT WAS YOUR REACTION WHEN THE
3 STANKO CASE OF MURDER AND FLIGHT AND RAPE AND
4 KIDNAPPING CAME TO YOUR OFFICE, WHAT WAS YOUR
5 REACTION THEN?

6 SHE SAID, I'M NOT SURE I CAN DESCRIBE IT. AND I
7 ASKED HER, TRY TO DESCRIBE IT. SHE SAID, WELL, I
8 JUST SAID, YOU KNOW, WELL, THAT'S HIM. WHEN I --
9 WHEN I GOT THE PAPERWORK, I SAID, THAT'S HIM, THAT'S
10 HIM, THAT'S THE GUY.

11 OF COURSE, I'M NOT READING IT LIKE SHE SAID IT.
12 YOU CAN SEE THE EMOTION POURING OUT OF HER ON THE
13 WITNESS STAND.

14 SHE SAID, I CAME BACK INTO THE OFFICE ABOUT FIVE
15 MINUTES LATER AND THAT'S WHEN I REACTED THAT WAY AND
16 SAID, OH MY LORD, THAT'S HIM, THAT'S HIM. AND SO I
17 IMMEDIATELY PLACED A CALL TO THE LIBRARY, THAT'S THE
18 SOCASTEE LIBRARY, BECAUSE I DID NOT KNOW AT THE TIME
19 WHO THE VICTIMS WERE FOR SURE, SO I CALLED TO ASK FOR
20 LAURA AND WAS TOLD SHE WOULD NOT BE IN THAT DAY.

21 THAT WOULD HAVE BEEN APRIL THE NINTH. SHE --
22 SHE CALLED DOWN HERE IN JANUARY, 26TH, 28TH. OKAY.
23 WHAT'S THAT GOT TO DO WITH ANYTHING? IT'S GOT TO DO
24 WITH HIS -- HIS -- WHAT'S GOING ON IN HIS HEAD, HIS
25 DISABILITY, OR WHATEVER YOU WANT TO DETERMINE IT TO

1 BE.

2 NOW, WE TALKED WITH PAM HARRELSON. WE CALLED
3 HER TO THE WITNESS STAND. AND SHE SAID, GLORIA
4 WILSON CAME TO ME AND FACE TO FACE TOLD ME ABOUT THE
5 CALL. YES, I KNEW THE CALL CAME IN. YOU REMEMBER
6 THAT? I KNEW THE CALL.

7 BUT WHEN WE TALKED WITH GLORIA WILSON, SHE SAID,
8 NO, I DIDN'T TALK TO HER, DIDN'T WRITE ANY REPORT
9 EITHER. YOU SEE HOW THE FURTHER YOU GET AWAY FROM
10 WHAT'S HAPPENING THE LESS YOU MIGHT TAKE THE
11 SERIOUSNESS OF THIS THAT BOTH MAYO AND CONNIE BOTH
12 SAW.

13 THE SOLICITOR SAID THAT I WAS ATTACKING THESE
14 PEOPLE. I'M NOT ATTACKING THESE PEOPLE. THIS IS
15 JUST A SIMPLE FACT THAT -- THAT HIS -- THE REPORT OF
16 HIS MENTAL, HIS BEHAVIOR, IF YOU WANT TO CALL IT
17 NOTHING MORE THAN THAT, WAS GETTING OUT AND THAT IT
18 WAS BECOMING A PUBLIC SAFETY MATTER.

19 NOW, WHAT'S GOING ON WITH CONNIE ALL THIS TIME?
20 SHE IS CALLING PEOPLE. SHE SAID SHE CALLED THE US
21 ATTORNEY'S OFFICE. THIS CALL THAT MAYO GOT COULD NOT
22 HAVE COME FROM CONNIE.

23 IT HAD TO BE SOMEBODY ELSE BECAUSE CONNIE WASN'T
24 COMPLAINING ABOUT THE LIBRARY. SHE WAS COMPLAINING
25 ABOUT STANKO BECAUSE HE WAS DEFRAUDING HER.

1 AND HOW DOES THAT ESCALATE? I AM NOT GOING TO
2 SPEND A LOT OF TIME GOING OVER IT. I HAVE BEEN
3 TALKING TO YOU NOW FOR AN HOUR AND 10 MINUTES. I
4 KNOW YOU'RE SICK OF LISTENING TO ME.

5 BUT YOU KNOW, I HAVE GOT TO FINISH WHAT I AM
6 DOING. STANKO HAD GOTTEN TO THE PLACE THAT HE WAS
7 COMING TO HER HOUSE WITH BANDAIDS ON HIM SAYING THAT
8 HE HAD TO GO TO THE DOCTOR AND GET SHOTS.

9 HE WAS CALLING AND -- AND THAT DIDN'T MATCH UP
10 AT ALL. HE WOULD CALL AND SAY HE WAS UP THE ROAD
11 HERE AND HE WOULD SHOW UP A FEW MINUTES LATER. HE
12 WAS BECOMING -- HIS BEHAVIOR WAS BECOMING BIZARRE.

13 SHE TOLD HIM -- HE HAD STRUNG OUT THE CON WITH
14 HER SAYING THAT IT WAS MR. EDWARDS UP IN NORTH
15 CAROLINA AND JUDGE RAWL'S -- RAWL'S NAME AGAIN -- AND
16 SENATOR THOMAS AND SOMEBODY FROM 48 HOURS WERE ALL
17 DOWN IN MYRTLE BEACH, BUT THEY COULDN'T MEET WITH HER
18 AND THAT THEY WOULD HAVE TO GO TO CHARLOTTE.

19 THEY WENT HALF-WAY UP THE ROAD AND CAME BACK
20 DOWN. ALL OF THIS IS GOING ON. THIS -- THIS IS
21 GOING ON. YOU THINK FOR A MINUTE THAT YOU -- YOU'D
22 HAVE TO BE DELUSIONAL TO THINK THAT THIS IS NOT GOING
23 TO FALL IN ON TOP OF HIM. THIS IS A GUY WHO IS
24 SUPPOSED TO HAVE A GENIUS IQ.

25 IDA BROOKS. IT'S GOING ON THE SAME TIME. AND

1 WHAT WE'RE PUTTING THIS UP HERE BEFORE YOU IS IS TO
2 SHOW YOU WHAT WE BELIEVE HIS MENTAL STATE WAS AND HIS
3 SICKNESS THAT WAS THERE.

4 FINALLY THEY GO TO -- THERE'S -- CONNIE GOES
5 DOWN TO THE -- OR MAKES AN APPOINTMENT ON MONDAY,
6 APRIL THE FOURTH, TO GO DOWN AND TALK WITH THE
7 INVESTIGATOR WHO TURNS OUT TO BE MR. BERTANG DOWN AT
8 THE OFFICE OF THE MYRTLE BEACH PD AND ARRIVES FOR THE
9 APPOINTMENT WHICH IS THURSDAY AT 9:30.

10 THIS IS 16 HOURS BEFORE LAURA LING'S MURDER, AND
11 SHE CAN'T GET THE STORY OUT. THAT'S WHAT SHE SAID.
12 AND GARY SAYS SO, TOO.

13 BERTANG SAID RIGHT HERE ON THE STAND -- FIRST OF
14 ALL HE RESPONDED TO MY SUBPOENA BY BRINGING ME THE
15 WRONG YEAR, 2006. AND I GOT NOTHING AGAINST HIM.
16 BUT WHAT DID HE SAY?

17 HE SAID, I DO VAGUELY REMEMBER IT. THAT MUCH HE
18 DID SAY. BUT WHAT DOES THAT SHOW? I'M NOT ATTACKING
19 BERTANG AND I'M NOT ATTACKING MYRTLE BEACH POLICE.

20 HEY, IF IT'S A HOUSE DIVIDED AGAINST ITSELF, IT
21 NEEDS TO STRAIGHTEN ITSELF OUT. THAT'S NOT MY
22 PROBLEM. IT'S NOT WHAT I'M TALKING ABOUT.

23 I'M NOT TRYING TO CONVINCE YOU TO GIVE STANKO
24 LIFE BECAUSE MAYBE THESE PEOPLE DID OR MAYBE THESE
25 PEOPLE DIDN'T DO ANYTHING. I'M TALKING ABOUT PEOPLE

1 WHO REPORTED STANKO'S ABERRANT BEHAVIOR.

2 AND WHY? BECAUSE THEY WERE CONCERNED ABOUT HIM.
3 I THINK, THOUGH, THE DEPUTY SOLICITOR ASKED GARY WHEN
4 HE WAS ON THE STAND, YOU KNOW, WASN'T IT JUST MONEY?
5 IF YOU GOT YOUR MONEY -- IN FACT, CONNIE SAID EARLY
6 ON, IF HE'D HAVE GIVEN ME MY MONEY OR MY PAPERS,
7 THAT'S WHAT I WANTED.

8 BUT SHE ALSO SAID THAT JUST BECAUSE BERTANG
9 DIDN'T LISTEN TO HER, THAT WASN'T GOING TO STOP HER.
10 SHE WAS GOING TO KEEP RIGHT ON GOING. AND IN FACT,
11 SHE DID.

12 ON THE -- ON APRIL THE NINTH WHEN IT CAME ON THE
13 TV THAT THESE HORRENDOUS CRIMES HAD TAKEN PLACE, SHE
14 CALLED 9-1-1 AND SHE SAID SHE BELIEVED THAT STANKO
15 MIGHT BE IN COLUMBIA BECAUSE HE HAD TOLD HER THAT HE
16 HAD TO GO UP THERE AND GET AN AWARD.

17 WELL, AS IT TURNED OUT, HE ACTUALLY HAD GONE TO
18 COLUMBIA IT SEEMS. AND WHAT DID HE DO UP THERE?
19 THIS SAME PSYCHOPATHIC BEHAVIOR, SAME THING.

20 IF HE SHOWED GENUINE REGRET, THEN HE WOULDN'T BE
21 WHAT HE IS. YOU THINK HE'S FOOLING US ON THAT? I
22 DON'T THINK SO. I THINK THE DOCTORS ARE RIGHT, ALL
23 AGREE ON IT. WHAT THEY DON'T AGREE ON IS TO WHAT
24 EXTENT.

25 YOU WILL REMEMBER, HOWEVER, THAT WHEN -- IN

1 DECEMBER, IN JANUARY WHEN LAURA AND STEPHEN STANKO
2 WENT TO THE PROBATION OFFICE, THEY WERE TELLING THEM
3 THAT THEY WERE GOING TO ARRANGE MENTAL HEALTH
4 COUNSELING FOR HIM. THAT'S ONE THING THEY WERE
5 TRYING TO DO.

6 ALSO LAURA HAD ARRANGED -- SHE HAD TOLD THE
7 OFFICIAL PEOPLE THAT THEY WERE COMMON LAW MAN AND
8 WIFE, AND HE WAS ADDED ON TO HER INSURANCE. AND I
9 THINK THE LOGICAL INFERENCE IS SO HE COULD GET
10 INSURANCE WHICH INCLUDED MENTAL HEALTH INSURANCE.

11 I'M NOT ASKING YOU TO CONDONE WHAT YOU HAVE
12 DETERMINED THAT STEPHEN STANKO DID. I'M NOT ASKING
13 YOU TO DO THAT AT ALL.

14 EACH OF YOU MUST INDIVIDUALLY DECIDE WHAT THIS
15 PENALTY SHOULD BE BASED ON THE LAW AS GIVEN TO YOU,
16 NOT WHAT THE PERSON NEXT TO YOU THINKS, NOT WHAT THE
17 PERSON NEXT TO YOU YOU MIGHT THINK OF KNEW OR
18 THINKING WHAT YOU THINK, BUT YOU MUST DO IT YOURSELF.
19 THAT'S WHAT YOU MUST DO.

20 SO LET'S TALK ABOUT THE PENALTY AND THEN I'M
21 GOING TO QUIT. OKAY? AND I APPRECIATE YOU TALKING
22 TO ME. IF I HAVE DONE ANYTHING TO OFFEND YOU,
23 FORGIVE ME. I DIDN'T MEAN TO DO IT. AND DON'T HOLD
24 IT AGAINST STANKO IF I HAVE DONE SOMETHING TO YOU.

25 LET'S TALK ABOUT THE PENALTY. YOU KNOW, WE

1 VALUE OUR LIBERTY AND OUR FREEDOM, SOME OF US, AS
2 MUCH AS WE VALUE OUR LIVES.

3 WE PRAISE PATRICK HENRY FOR SAYING, I KNOW NOT
4 WHAT OTHERS MAY DO, BUT AS FOR ME, GIVE ME LIBERTY OR
5 GIVE ME DEATH. AND WE APPLAUD THAT. THAT'S -- TO US
6 THAT'S -- THAT'S A PATRIOT SAYING SOMETHING.

7 WE VALUE THAT. I HAVEN'T BEEN DOWN HERE IN
8 GEORGETOWN EXCEPT JUST TO PASS THROUGH. I LIVE DOWN
9 IN HAMPTON COUNTY. THIS IS BEAUTIFUL DOWN HERE. I
10 HAVE BEEN STAYING DOWN HERE BECAUSE I -- I HAVE TO.
11 IT'S ROUND TRIP 300 MILES TO WHERE I LIVE.

12 AND WHERE I GO IN THE AFTERNOON, I CROSS OVER
13 YOUR RIVERS DOWN HERE. IT'S GORGEOUS. THIS IS
14 BEAUTIFUL COUNTRY. AND -- BUT EVERYWHERE YOU GO
15 ALMOST, IT'S -- IT'S A BEAUTIFUL WORLD. AND SOME
16 PLACES IT'S STILL PRISTINE WORLD.

17 TO BE LOCKED AWAY FROM THAT THE REST OF YOUR
18 NATURAL LIFE, THAT IS A SEVERE PENALTY, AND SOME
19 PEOPLE WOULD SAY MUCH MORE SEVERE THAN DEATH. WHEN
20 YOU'RE DEAD, NO MORE SUFFERING.

21 SUFFER WHEN YOU'RE ALIVE. SO YOU'RE GOING TO
22 SUFFER, AND THAT'S FOR CERTAIN. LIFE IN PRISON IS
23 NOT A INSUBSTANTIAL PENALTY. IT'S SERIOUS STUFF.

24 NOBODY IS REWARDING ANYBODY BY PUTTING THEM IN
25 PRISON FOR THE REST OF THEIR LIFE WHERE THEY'RE GOING

1 TO HAVE TO DEAL WITH WHATEVER IT IS UNTIL THEY DRAW
2 THEIR LAST BREATH.

3 I DON'T KNOW ABOUT YOU, BUT I HAVE HEARD PEOPLE
4 SAY THAT THEY'D RATHER BE DEAD THAN TO BE IN PRISON
5 FOR THE REST OF THEIR LIFE.

6 AND I'D SAY THIS TO YOU. IF THE ULTIMATE
7 PENALTY WAS LIFE IN PRISON RATHER THAN DEATH, THEN
8 THE STATE WOULD BE SAYING, GIVE HIM THE ULTIMATE
9 PENALTY.

10 BUT WHAT IS APPROPRIATE? IS IT APPROPRIATE?
11 LET ME ASK YOU THIS QUESTION AND TAKE IT WITH YOU
12 WHEN YOU GO INTO YOUR ROOM. WHAT IS APPROPRIATE HERE
13 IF HE'S A SICK GUY, AND HE -- HE CAN'T REALLY -- IF
14 YOU REACH A CERTAIN PLACE, THE GASKET FLOWS.

15 AND DOESN'T JUST WHAT I TALKED TO YOU ABOUT,
16 WHAT CONNIE PRICE BROUGHT UP, DOESN'T THAT SHOW JUST
17 HOW OUTLANDISH, BIZARRE BEHAVIOR. YOU REMEMBER WHAT
18 HE SAID? HE SAID, ANYBODY COULD SEE IT, ALL YOU HAD
19 TO DO WAS LOOK. OKAY.

20 GIVING STANKO LIFE IS NOT RUBBER STAMPING
21 ANYTHING FOR HIM OR TURNING YOUR BACK ON ANYBODY OR
22 ANYTHING ELSE. DON'T BE STAMPEDED INTO THINKING
23 THAT.

24 I APPRECIATE YOU LISTENING TO ME AND I TOOK UP A
25 LOT OF YOUR TIME, AND THANK YOU. THAT'S ALL I HAVE

1 TO SAY.

2 THE COURT: MADAM FORELADY, LADIES AND
3 GENTLEMEN, I'M GOING TO GIVE YOU A BRIEF OPPORTUNITY
4 TO REFRESH YOURSELVES BEFORE WE CONCLUDE CLOSING
5 ARGUMENTS.

6 I ANTICIPATE THAT WE WILL FINISH CLOSING
7 ARGUMENTS, THAT WE WILL BREAK FOR LUNCH, AND THEN I
8 WILL GIVE YOU THE COURT'S CHARGE ON THE LAW.

9 DURING THIS BREAK PLEASE HAVE NO DISCUSSION
10 AMONG YOURSELVES ABOUT THE CASE. I HOPE YOU ENJOY
11 YOUR BREAK. I ANTICIPATE IT WILL BE RELATIVELY
12 SHORT. I WOULD LIKE TO FINISH CLOSING ARGUMENTS. IF
13 YOU WOULD GO WITH YOUR CUSTODIANS.

14 I'M SORRY, MR. KELLY. I APOLOGIZE. I SHOULD
15 HAVE GOTTEN YOU SITUATED FIRST.

16 (JURY LEFT THE COURTROOM AT 12:15 PM.)

17 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
18 FOR ABOUT FIVE MINUTES.

19 (WHEREUPON A RECESS WAS TAKEN.)

20 THE COURT: IS THE STATE READY TO PROCEED?

21 MR. HEMBREE: YES, YOUR HONOR.

22 THE COURT: DEFENSE READY TO PROCEED?

23 MR. DIGGS: YES, YOUR HONOR.

24 THE COURT: ALL RIGHT. PLEASE BRING IN THE
25 JURY.

1 (JURY ENTERED THE COURTROOM AT 12:41 PM.)

2 THE COURT: YOU MAY BE SEATED. LADIES AND
3 GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE
4 WILL NOW RESUME WITH CLOSING ARGUMENT. MR. DIGGS,
5 YOU MAY PROCEED WHEN YOU'RE READY.

6 MR. DIGGS: THANK YOU VERY MUCH, YOUR HONOR.
7 MAY IT PLEASE THE COURT.

8 THE COURT: YES, SIR. THE COURT IS PLEASED.
9 YOU MAY PROCEED.

10 CLOSING STATEMENT

11 MR. DIGGS: THE SOLICITOR ASKED IN HIS COMMENTS
12 AND STATEMENT, IF NOT NOW, THE DEATH PENALTY IS NOT
13 GIVEN IN THIS CASE, THEN WHEN WOULD WE GIVE IT?

14 AND I WOULD RESPOND THAT THE ULTIMATE PUNISHMENT
15 SHOULD BE RESERVED FOR PEOPLE WHO HAVE A HEALTHY
16 BRAIN THAT IS NOT DEFECTIVE, WHO HAS THE ABILITY TO
17 CONDUCT THEMSELVES ON A LEVEL PLAYING FIELD, WHO ARE
18 NOT ASLEEP AT THE WHEEL AS THAT CAR THAT STEPHEN IS
19 GOES BARRELLING DOWN THE HIGHWAY.

20 I THOUGHT THAT WAS A VERY GOOD EXAMPLE OR
21 ANALOGY THAT MR. KELLY MADE. IF WE COULD SAY THAT
22 STEPHEN WAS IN FULL CONTROL, LIKE A HEALTHY BRAIN,
23 PEOPLE WITH A HEALTHY BRAIN, THEN THAT WOULD BE, I
24 WOULD SUBMIT TO YOU, SOMEBODY YOU WANT TO CONSIDER AS
25 A CANDIDATE FOR PUTTING TO DEATH.

1 BUT YOU KNOW WHAT? I WOULD SUBMIT TO YOU THAT
2 THERE'S NO QUESTION AT THIS POINT, THERE IS NO
3 QUESTION, THAT STEPHEN HAS A MENTAL -- A BRAIN
4 DEFECT.

5 YOU KNOW, IT'S -- I WOULD SUBMIT IT'S NO
6 DIFFERENT FROM ANY OTHER KIND OF DEFECT, PHYSICAL
7 DEFECT THAT ONE WOULD HAVE WITH THE BODY THAT WE CAN
8 SEE AND THAT WE CAN OBSERVE HOW IT AFFECTS THEIR
9 CONDUCT AND THEIR INTERACTION WITH OTHER PEOPLE, HOW
10 THEY LIVE THEIR LIVES.

11 IT JUST SO HAPPENS THAT WITH THIS KIND OF DEFECT
12 IT AFFECTS ONE'S BEHAVIOR. WE HAVE HEARD EXPERT
13 AFTER EXPERT CONFIRM THAT FOR US. THERE'S NO
14 QUESTION ABOUT THAT.

15 AND THERE'S NO QUESTION I WOULD SUBMIT TO YOU
16 THAT EVERY WITNESS, YOU KNOW WHAT -- FOR THE STATE OR
17 FOR THE PROSECUTION, EVERY WITNESS THAT GOT ON THAT
18 STAND HAS TOLD US WHO HAVE -- WHO HAVE HAD -- EVERY
19 WITNESS WHO HAS HAD INTERACTION PERSONALLY WITH
20 STEPHEN STANKO, THAT THAT INTERACTION IS EITHER A
21 REMARKABLE EXPERIENCE OR A VERY BIZARRE EXPERIENCE.

22 NOT ONE PERSON WHO HAS TAKEN THE STAND IN THIS
23 CASE HAS EVER DESCRIBED HIM AS NORMAL. EVEN THE
24 GIRLS, THE YOUNG LADIES UP IN COLUMBIA, THE YOUNG
25 LADY WHO SPENT SEVERAL HOURS TALKING TO HIM AT A BAR.

1 SHE OBVIOUSLY SAW SOMETHING IN STEPHEN THAT
2 INTERESTED HER, THAT, YOU KNOW, WHERE SHE MAINTAINED
3 HER ATTENTION FOR HOURS, SEVERAL HOURS ON THAT FRIDAY
4 WHERE STEPHEN WAS TELLING HER SON -- SERIES OF
5 STORIES ABOUT, YOU KNOW, HIS PAST, WHO HE WAS, AND
6 WHAT EDUCATION HE HAD AND ALL OF THOSE THINGS.

7 AND THE YOUNG LADY FROM AUGUSTA WHO OBVIOUSLY
8 BECAME ENAMORED WITH STEPHEN, IT WAS A REMARKABLE
9 EXPERIENCE FOR HER. AND LOOK WHAT STEPHEN'S
10 EXPERIENCE WAS WITH LAURA AND CHRISTINA.

11 YOU KNOW, THEY'RE VERY -- THEY'RE -- THEY'RE OUT
12 OF THE ORDINARY. THEY'RE ALL EXTRAORDINARY
13 ENCOUNTERS. AND HE'S AN EXTRAORDINARY MAN BECAUSE OF
14 THIS DEFECT THAT HE HAS THAT AFFECTS HIS BEHAVIOR.

15 IT'S ONE POINT THAT I WANT TO CLEAR UP. LET'S
16 GO TO THE BIRTH RECORDS. AND THE SOLICITOR CORRECTLY
17 POINTED OUT YESTERDAY WE DID HAVE A NORMAL MORO THERE
18 IN THAT CHART.

19 BUT -- AND THIS THING, THIS DOCUMENT IS IN
20 EVIDENCE AND YOU CAN READ IT WHEN YOU TAKE IT BACK TO
21 DELIBERATE. THIS THING SAYS UP HERE, TO BE COMPLETED
22 WITHIN 24 HOURS OF BIRTH. OKAY.

23 AND SO WHEN THEY WERE FILLING THIS THING OUT
24 EARLY ON IN STEPHEN'S LIFE AFTER JUST A FEW HOURS,
25 THEY DIDN'T NOTICE ANY MORO PROBLEM. ALL RIGHT?

1 THEY NOTICED ALL THESE OTHER THINGS. HE WAS
2 BORN BLUE. THEY PUT THAT DOWN HERE. CYANOSIS,
3 PALLOR -- I CAN'T READ IT MYSELF, BUT YOU'LL HAVE
4 ICTERUS OR SOMETHING LIKE THAT. YES, ICTERUS.

5 YOU HEARD DR. THRASHER EXPLAIN WHAT THOSE THINGS
6 WERE AND WHAT THE LIKELY CAUSES OF THOSE THINGS WERE.
7 AND THIS WAS IN 24 HOURS. AND IF YOU CAN SCROLL DOWN
8 UNTIL -- KEEP GOING -- A FEW HOURS LATER IN STEPHEN'S
9 LIFE. STOP.

10 BABY HAS A POOR MORO. BABY HAS POOR MORO. A
11 FEW HOURS LATER IN STEPHEN'S LIFE THEY RECOGNIZE
12 THAT. AND THEREAFTER THEY NEVER PUT IN HIS RECORD HE
13 WAS NORMAL.

14 MAYBE APPEARED A LITTLE BETTER, APPEARED A
15 LITTLE IMPROVED, BUT THEY NEVER SAY THAT WAS NORMAL
16 THEREAFTER. THEY ONLY SAW IT NORMAL IN THE FIRST FEW
17 HOURS OF THE BOY'S LIFE, AND THEN ITS MANIFESTED
18 ITSELF.

19 NOW -- JUST LEAVE THAT -- THE PURPOSE OF THIS
20 PHASE, AND I BELIEVE THE JUDGE IS GOING TO CHARGE
21 THIS, CERTAINLY YOU CAN GLEAM THIS FROM THE TYPE OF
22 EVIDENCE THAT'S BEEN INTRODUCED IN THIS PENALTY
23 PHASE.

24 THE PURPOSE OF THIS PHASE IS TO LEARN AS MUCH
25 ABOUT STEPHEN'S CHARACTER AS YOU CAN BECAUSE OUR

1 CONSTITUTION BOTH IN THE STATE AND IN THE US REQUIRE
2 THAT YOU KNOW ALL ABOUT HIM, AS MUCH AS EITHER SIDE
3 CAN PRESENT ON THAT QUESTION BECAUSE THE US SUPREME
4 COURT HAS SAID THAT THAT IS A REQUIREMENT.

5 YOU KNOW, IF THERE'S ANYTHING GOOD ABOUT THE
6 GUY, BEFORE YOU MAKE A DECISION YOU SHOULD KNOW THOSE
7 THINGS. IF THERE IS ANYTHING BAD ABOUT HIM, YOU
8 SHOULD KNOW THOSE THINGS, EVEN THOUGH THEY WOULDN'T
9 BE ADMISSIBLE IN THAT FIRST PHASE OF THE TRIAL.

10 AND SO THAT'S WHY YOU'VE HEARD SOME THINGS THIS
11 WEEK THAT YOU DID NOT HEAR IN THE PENALTY -- IN THE
12 GUILT PHASE. THAT'S WHY, BECAUSE IT GIVES US MORE
13 INFORMATION ABOUT HIM.

14 AND I FELT LIKE WE OWED A DUTY TO YOU TO BRING
15 DR. WU BACK AND LET HIM ADDRESS THE SUGGESTION. NOW,
16 HERE'S WHAT DR. SPICER SAID. AND I ASKED HIM THIS
17 TWICE.

18 AND I WOULD SUBMIT TO YOU THAT IT'S VERY
19 IMPORTANT BECAUSE HE WAS A STATE'S WITNESS. THE
20 PROSECUTION PUT HIM ON THE STAND AS THEIR WITNESS.
21 AND HE SAID THIS, AND YOU'LL REMEMBER THIS I THINK IF
22 YOU THINK BACK ON IT.

23 ARE YOU SAYING, DR. SPICER, THAT IF DR. WU DID
24 NOT FUDGE THE WINDOW THAT HE'S GOT DIMINISHED
25 FUNCTION OF THE FRONTAL LOBE? AND HE SAID YES.

1 EITHER DR. WU FUDGED IT OR THE BOY'S GOT A
2 DIMINISHED FUNCTION IN HIS FRONTAL LOBE. THAT'S WHAT
3 DR. SPICER SAID.

4 NOW, DR. WU CAME BACK. AND DID WE WARM HIM
5 OVER? NO, BECAUSE I WANTED YOU TO BE ABLE TO AGAIN
6 ASSESS THAT MAN'S CREDIBILITY WHO DOES WORK FOR THE
7 NATIONAL INSTITUTE OF HEALTH AND THE US GOVERNMENT.

8 ALL RIGHT. YOU THINK HE'S GOING TO FUDGE THE
9 NUMBERS? NO. I WOULD SUBMIT TO YOU DR. SPICER AT
10 THIS POINT WOULD SAY THE MAN'S NOT GOING TO FUDGE THE
11 NUMBERS.

12 BUT DR. WU EXPLAINED TO YOU WHAT YOU CAN LOOK TO
13 TO MAKE SURE THAT HE DIDN'T, AND THAT WAS THAT FULL
14 RANGE OF SCALE FROM ZERO TO 256 ON THE COLOR
15 SPECTRUM, THAT THE BRIGHTEST REDS ARE ASSIGNED IN
16 BOTH THE DATABASE AND IN MR. STANKO THAT TWO --
17 NUMBER 255 OR 256.

18 THAT'S THE HIGHEST IN BOTH DIAGRAMS. AND THE
19 ZERO OR THE ONE IS THE LOWEST, THE HIGHEST BEING THE
20 RED UP HERE AND THE LOWEST BEING THE BLUE. AND
21 THAT'S WHY WE BROUGHT DR. WU BACK.

22 AND DR. WU ALSO SAID SOMETHING ELSE THAT WAS
23 VERY INTERESTING, THAT COMMERCIALY AVAILABLE
24 SOFTWARE THAT CONVERTS THE PET SCAN DATA INTO THE
25 IMAGES USES AN AT REST DATABASE. AND THAT'S JUST

1 LIKE DR. SPICER SAID. WE USE AN AT REST DATABASE.

2 AND HE USED AN AT REST DATABASE BECAUSE WE KNOW
3 NOW THAT THE DATABASE COMES WITH THE SOFTWARE. SO
4 DR. SPICER HAD THE WRONG SOFTWARE FOR THIS PARTICULAR
5 KIND OF NEUROPSYCHIATRIC ANALYSIS.

6 AND YOU KNOW, I DON'T BLAME HIM FOR THAT. HE'S
7 A RADIOLOGIST. I DON'T KNOW HOW MANY
8 NEUROPSYCHIATRIC PATIENTS HE SEES. I DON'T THINK HE
9 SEES ANY BECAUSE THAT'S NOT HIS AREA OF SPECIALTY.

10 BUT DR. WU DOES. HE'S SEEN 5000 OF THOSE KINDS
11 OF SCANS. AND AGAIN, THE NATIONAL INSTITUTE OF
12 HEALTH AND THE US GOVERNMENT RELY ON HIM. AND I
13 WOULD SUBMIT YOU DON'T GET ANY MORE CREDIBLE THAN
14 THAT. THE MAN CAME HERE TWICE ALL THE WAY FROM
15 CALIFORNIA. YOU JUST DON'T GET ANY MORE CREDIBLE.

16 AND THE REASON THAT'S SO CRITICAL IS BECAUSE
17 WHEN YOU LOOK AT THIS CHARACTER, STEPHEN'S CHARACTER,
18 WE ARE LEARNING -- WE DON'T LIVE IN THE 1800'S ANY
19 MORE OR THE 1900'S ANY MORE. WE'RE IN THE 21ST
20 CENTURY. OKAY.

21 WE DON'T HAVE TO LOOK BACKWARDS LIKE SOME
22 PEOPLE, PAM CRAWFORD, FOR EXAMPLE, WHO SAID, WELL,
23 THIS IS THE WAY WE HAVE ALWAYS DONE IT. I DON'T KNOW
24 WHY HE DOES THESE THINGS, HE JUST DOES THEM.

25 BUT YOU KNOW WHAT? SOME PEOPLE WHO LOOK

1 FORWARD, LIKE DR. WU AND DR. SACHY, CAN EXPLAIN WHY.
2 WE DON'T HAVE TO LIVE IN DARKNESS ANY MORE. WE CAN
3 LIVE WITH AN UNDERSTANDING OF WHAT'S GOING ON IN THE
4 BRAIN.

5 AND YOU KNOW WHAT THEY ARE FINDING OUT? THE
6 BRAIN IS JUST LIKE THE BODY. IF IT'S BROKEN, IT
7 DOESN'T WORK WELL AND IT AFFECTS WHAT YOU CAN DO AND
8 WHAT -- WHAT YOU CAN DO, WHETHER YOU CAN BEHAVE
9 PROPERLY OR WHETHER YOU CAN'T BEHAVE PROPERLY.

10 YOU KNOW, AND IT DOESN'T MATTER -- IF YOU HAVE
11 ALZHEIMERS OR IF YOU KNOW SOMEONE WHO DOES AND YOU
12 WANT THEM -- YOU WANT TO TRY TO HELP THEM NO MATTER
13 HOW MUCH YOU SIT THEM DOWN TO TELL THEM TO CHANGE
14 THEIR BEHAVIOR, THEY'RE NOT GOING TO.

15 AND I WOULD SUBMIT TO YOU THAT'S THE WAY STEPHEN
16 IS. HE'S NOT GOING TO CHANGE. AND IF WE KILL HIM
17 INSTEAD OF LOOKING FORWARD, WE LOOK BACK AND WE KILL
18 HIM, WE'RE GOING TO LOSE THIS OPPORTUNITY TO
19 UNDERSTAND HOW THIS MIGHT HAPPEN AGAIN AND HOW WE CAN
20 PREVENT IT AGAIN AND HOW WE CAN CHANGE AND MAKE
21 PEOPLE LIKE LAURA LING SAFE INSTEAD OF VICTIMS.

22 IF YOU KILL STEPHEN AND REJECT THE FACT THAT
23 THIS MAN HAS A BRAIN DEFECT, HE HAS A DEFECT, LAURA'S
24 DEATH BECOMES A STATISTIC, OKAY, AND THAT'S ALL.

25 BUT NOW LAURA IN HER DEATH CAN GIVE MEANING TO

1 HER DEATH. SHE CAN HELP YOU EXPLAIN TO US HOW THIS
2 HAPPENED. THIS MAN WHO WAS THE LIGHT -- WITH THE
3 EXCEPTION OF HER CHILDREN -- AT THAT MOMENT THE LIGHT
4 OF HER LIFE.

5 CHRISTINA SAID HE BRIGHTENED UP HER LIFE. SHE
6 LOVED HIM. AND STEPHEN LOVED HER. HOW DOES HE DO
7 THIS? DR. SACHY EXPLAINED IT.

8 DR. THRASHER, DR. WU, THEY ALL -- THEY KNOW WHAT
9 THIS AREA OF THE BRAIN IS FOR, AND IT'S NOT WORKING
10 IN STEPHEN. AND ARE WE GOING TO MAKE A DECISION?
11 WELL, WE'RE GOING TO KILL HIM ANY WAY. THAT'S WHAT
12 WE DEAL -- THAT'S HOW WE DEAL WITH IT AND THAT'S JUST
13 THE WAY IT'S GOING TO BE.

14 I WOULD SUBMIT TO YOU THAT CHARACTER, WHAT WE
15 THINK OF GOOD CHARACTER, PEOPLE WHO ARE GOOD AND DO
16 GOOD THINGS, YOU KNOW, YOU LEARN THAT. THERE'S NO
17 DOUBT ABOUT IT.

18 IT'S -- LEARNING PROCESS IS A PART OF IT. BUT A
19 LOT OF IT, EMPATHY, FOR EXAMPLE, YOU'RE NOT GOING TO
20 HAVE GOOD CHARACTER AND HAVE A GOOD RELATIONSHIP WITH
21 OTHER PEOPLE AND DO SOCIETY, YOU KNOW, MEET SOCIETAL
22 OBLIGATIONS TO OTHER PEOPLE.

23 YOU'RE NOT GOING TO DO THAT IF YOU DON'T HAVE
24 EMPATHY FOR THEM. YOU'RE JUST NOT. YOU'RE NOT GOING
25 TO BE ABLE TO DO THOSE THINGS. AND WE SEE THAT AS

1 BAD CHARACTER.

2 AND HISTORICALLY WE'VE THOUGHT, THEY CHOOSE TO
3 DO THOSE. HE'S LAZY, HE DOESN'T WANT TO WORK, HE
4 DOESN'T WANT TO PUT OUT THE EFFORT. THAT'S BOLOGNA
5 BECAUSE STEVE WAS AN EXCELLENT STUDENT THROUGH
6 SCHOOL, AND YOU SAW THOSE THINGS.

7 I WOULD SUBMIT TO YOU THAT WAS AN EXCELLENT
8 PRESENTATION OF WHO HE WAS. BUT DR. WU SAID, AND DR.
9 SACHY, THAT THIS TYPE OF DEFECT REALLY DOESN'T BEGIN
10 TO MANIFEST ITSELF UNTIL THE MORE MATURE YEARS.

11 THAT'S WHY HE DIDN'T DO IT -- HE DIDN'T ACT OUT
12 AS A CHILD BECAUSE EVERY CHILD HAS, I WOULD SUBMIT TO
13 YOU, A LOWER FUNCTIONING FRONTAL LOBE THAN AN ADULT.
14 THAT'S WHY THEY DO IMMATURE THINGS.

15 THEY DIDN'T REALLY NOTICE -- NOW, MR. HOUSE
16 MIGHT HAVE NOTICED -- HE SAID STEPHEN WAS A
17 PATHOLOGICAL LIAR FOREVER. YOU KNOW. HE -- MAYBE HE
18 KNEW STEPHEN, YOU KNOW, BECAUSE OF HIS RELATIONSHIP,
19 STEPHEN'S RELATIONSHIP WITH MR. HOUSE'S SON.

20 MAYBE HE SAW THINGS EARLIER THAN OTHER PEOPLE.
21 BUT LOOK, WHAT IS MORE TELLING ABOUT STEPHEN'S
22 PERSONALITY AND WHO HE IS THAN TO BE REJECTED BY HIS
23 OWN FAMILY.

24 THEY JUST -- STEPHEN'S ON TRIAL FOR HIS LIFE AND
25 THEY'RE NOT EVEN HERE, NOT ONE OF THE FIVE, NOT TO

1 MENTION AUNTS AND UNCLES, COUSINS, NOT ONE PERSON.

2 IT'S BECAUSE HE IS SO BIZARRE AND SO UNUSUAL AND
3 NOBODY UNDERSTOOD ABOUT WHY HE WAS THAT WAY. THEY
4 JUST THREW IN THE TOWEL AND GAVE UP ON HIM, HIS
5 FAMILY DID.

6 THAT IS A TEST OF THE TRUTHFULNESS OF WHAT WE'RE
7 SAYING. IT'S A BENCHMARK. YOU KNOW, IT'S KIND OF
8 LIKE THE GOLD STANDARD. THE SOLICITOR'S MENTIONED
9 THE GOLD STANDARD IN THIS TRIAL.

10 TO BE FULLY REJECTED BY EVERYBODY IN YOUR
11 FAMILY, THAT'S A PRETTY HARD THING TO DO. AND YOU
12 THINK HE TRIED TO DO THAT? I WOULD SUBMIT TO YOU HE
13 DIDN'T. I WOULD SUBMIT TO YOU THERE'S NOTHING IN THE
14 WORLD THAT -- I MEAN, HE GREW UP WITH THESE PEOPLE.
15 HE LOVES THESE PEOPLE TO THE EXTENT THAT HE CAN.

16 YOU THINK HE WOULD WILLINGLY KICK HIS FAMILY OUT
17 OF HIS LIFE, ALL OF THEM, EVEN HIS SISTERS AND HIS
18 BROTHERS AND HIS PARENTS, HIS MOM?

19 IT'S BECAUSE OF THIS. IT DOESN'T WORK PROPERLY.
20 AND IT'S CRITICAL TO PROPER FUNCTIONING AND YOUR
21 CONDUCT AND TO GOOD, ACCEPTABLE CHARACTER. IT'S
22 CRITICAL.

23 AND THAT KIND OF PERSON IN OUR SOCIETY WE DON'T
24 PUT TO DEATH ANY MORE BECAUSE NOW WE CAN UNDERSTAND
25 THIS. WE CAN UNDERSTAND WHAT DRIVES THE BEHAVIOR.

1 AND IT'S NOT A SERIES OF BAD CHOICES AND
2 DECISIONS THAT HE MAKES, AND IT'S NOT MERELY A MATTER
3 OF SAYING, LOOK, YOU DO THIS, SON, AND THIS -- THESE
4 ARE GOING TO BE THE CONSEQUENCES YOU'RE GOING TO
5 SUFFER ANY MORE THAN -- THAT'S NOT GOING TO WORK ANY
6 MORE THAN TELLING AN ALZHEIMERS PATIENT, YOU DO THAT
7 AGAIN AND YOU'RE GOING TO PAY THE PRICE. IT'S THE
8 SAME THING. IT IS THE SAME THING I WOULD SUBMIT TO
9 YOU.

10 AND FOREVER WE HAVE KNOWN PEOPLE WHO WERE
11 PSYCHOPATHS, YOU KNOW, AND HAS A VERY BAD -- BRINGS
12 UP BAD IMAGES, DREDGES UP, YOU KNOW, EVIL, MEAN, JUST
13 ALL AROUND BAD, EVIL DOINGS. YOU KNOW.

14 AND WE THINK, BOY, HOW COULD THEY DO THAT TO
15 PEOPLE? BUT YOU KNOW WHAT? I WOULD SUBMIT TO YOU
16 IT'S JUST A DEFECT IN THE BRAIN AND IT'S NOTHING MORE
17 OR NOTHING LESS. THEY DON'T CHOOSE TO DO IT. THAT'S
18 THE WAY THEIR BRAIN WORKS.

19 AND SOLICITOR SAYS BUT FOR THE GRACE OF GOD
20 THERE GO I OR YOU. SAME WITH THIS. IT COULD HAPPEN
21 TO ANY OF US, AND IT HAPPENS A LOT.

22 BUT AT LEAST NOW -- AND YOU KNOW WHAT? IN
23 MEDICINE THEY HAVE KNOWN THAT FOR A LONG TIME. WHY
24 ARE WE BLIND TO IT IN THE LEGAL SYSTEM? WHY DO WE
25 PUT ON THE BLINDERS? WELL, YOU KNOW, IN THIS CASE WE

1 DO.

2 AND NOW YOU HAVE HEARD AN EXPLANATION TO
3 CHRISTINA'S QUESTION, HOW DID THIS HAPPEN, WHY DID
4 THIS HAPPEN. WE KNOW NOW BASICALLY WHY IT HAPPENED.

5 DR. WU, THRASHER, SACHY, CALIFF, ALBINIAK, GUR,
6 AND CRAWFORD ALL IN SOME FORM OR ANOTHER SAID THIS
7 BOY'S NOT NORMAL. CRAWFORD SAID HE'S NOT INSANE, BUT
8 NO, I CAN'T SAY HE'S NORMAL.

9 DR. BRANNON WITH THE MRI, HE KNEW HOW TO DO IT
10 IN THE OLD DAYS, BUT HE NEVER HEARD OF DR. GUR AND HE
11 NEVER HEARD OF VOLUMETRIC ANALYSIS OF AN MRI.

12 DR. BRANNON HAD NEVER HEARD OF THIS TYPE OF
13 ANALYSIS, BUT THE PEOPLE WHO READ THE JOURNALS IN
14 MEDICINE, MODERN SCIENCE AND RESEARCH, THEY'VE HEARD
15 OF IT.

16 DR. ALBINIAK SAID HUNDREDS OF ARTICLES ARE
17 WRITTEN ABOUT IT. BUT DR. BRANNON DIDN'T KNOW ABOUT
18 IT BECAUSE HE DOESN'T READ THE ARTICLES ANY MORE.

19 HE'S NOT UP TO DATE WITH WHAT HE SHOULD BE UP TO
20 DATE WITH TO COME IN HERE AS AN EXPERT AND TESTIFY
21 WHEN A MAN'S LIFE IS AT STAKE. AND THE SAME WITH DR.
22 SPICER.

23 WHEN DR. WU CAME UP AND EXPLAINED HIS TECHNIQUE
24 AND EXPLAINED THERE WAS NO MOVING OF THE WINDOW, DID
25 DR. SPICER COME BACK AND SAY, OH, NO, NO. NO, HE

1 DIDN'T. I WOULD SUBMIT TO YOU HE THREW IN THE TOWEL.

2 AND SO WHEN DR. SPICER SAYS, THIS IS A
3 SIDE-SHOW, WE ASK -- YOU KNOW, IT'S FUN TO WATCH, BUT
4 IT'S NOT VERY HELPFUL. THE NATIONAL INSTITUTE OF
5 HEALTH APPARENTLY DOESN'T AGREE WITH THAT OPINION AND
6 NEITHER DOES THE US GOVERNMENT BECAUSE THEY USE DR.
7 WU.

8 AND I FEEL RELATIVELY AT EASE IN URGING UPON YOU
9 TO USE HIM AS WELL. HE'S RELIABLE. HE'S A STRAIGHT
10 SHOOTER.

11 I THOUGHT DR. CALIFF'S TESTIMONY WAS RELEVANT
12 BECAUSE UNDER THE BEST OF CIRCUMSTANCES I BELIEVE
13 STEPHEN WOULD HAVE HAD A DIFFICULT TIME, AND I WOULD
14 SUBMIT THAT'S WHAT THE TESTIMONY SHOWS.

15 IT'S A TOUGH STRUCTURE, A HARD DISCIPLINARIAN, A
16 MILITARY MAN IN THE NAVY. UNDER THE BEST OF
17 CIRCUMSTANCES IT WOULD HAVE BEEN HARD FOR HIS FAMILY
18 TO PRODUCE, YOU KNOW, GOOD, HEALTHY CHILDREN.

19 STEPHEN HAD -- HE'S GOT THE MISSING MATTER,
20 MISSING MATTER IN HIS BRAIN. HE'S GOT FUNCTION
21 DEFICIT OVER HERE WHERE IT'S NOT WORKING PROPERLY,
22 AND HE'S GOT A REALLY DIFFICULT FAMILY CIRCUMSTANCE
23 TO COME OUT OF IN ORDER TO BE HEALTHY.

24 HE'S GOT -- THE BOY'S NEVER GOTTEN A BREAK IN
25 HIS LIFE EXCEPT FOR LAURA. YOU KNOW, THAT WAS THE

1 ONE BREAK HE'S GOTTEN. AND WHAT DID HE DO WITH HER?
2 HE KILLED HER.

3 AND WHAT HAPPENS TO SOCIETY IF STEPHEN LIVES?
4 WHAT HAPPENS? WOULD YOU WANT TO BE LOCKED UP WITH
5 HIM? INITIALLY YOU MIGHT SAY, WELL, NO, I WOULDN'T,
6 YOU KNOW, LOOK WHAT HE CAN DO.

7 BUT IN EIGHT AND A HALF YEARS HE DID WELL. FOR
8 THE PAST YEAR HE'S DONE WELL. YOU HEARD THE GUARDS
9 THEMSELVES -- THEY'RE NOT GOING TO COME DOWN HERE AND
10 FUDGE TRUTH. I MEAN, THEY TOLD YOU WHAT THEY THOUGHT
11 OF STEPHEN.

12 HE IS SMART. AND IN A STRUCTURED ENVIRONMENT HE
13 CAN BE A LEADER, HE CAN BE -- HE CAN USE THOSE THINGS
14 LIKE HE DID BACK IN HIGH SCHOOL IN THAT ENVIRONMENT.
15 HE CAN DO THAT IN THE PRISON SYSTEM.

16 DR. SACHY SAID THERE ARE STUDIES THAT SHOW THAT
17 PSYCHOPATH -- AND I WOULD SUBMIT THAT WE'RE NOT --
18 THAT WORD IS GOING TO FADE OUT OF OUR LANGUAGE
19 LEXICON, IT'S GOING TO FADE AWAY WHEN WE UNDERSTAND
20 THESE PEOPLE JUST HAVE DEFECTS, AND STEPHEN'S IS
21 PROBABLY FROM BIRTH OR PROBABLY SHORTLY THEREAFTER
22 FROM A LACK OF OXYGEN, WHEN HE CAME OUT BLUE.

23 SO HE HAS ALL OF THESE QUALITIES THAT ARE APART
24 FROM THIS INABILITY TO CONTROL WHAT HAPPENED WITH
25 LAURA. HE CAN BE IN A -- A LEADER.

1 DR. SACHY INDICATED THAT THE STUDY SHOWED THAT
2 WITH PEOPLE WITH THIS KIND OF DEFECT, DEFECT IN THEIR
3 BRAIN, DON'T COMMIT CRIMES IN THAT STRUCTURED
4 SETTING.

5 IT'S ONLY OUT IN SOCIETY WHERE THEY CAN PRAY ON
6 A WEAKER PERSON. BUT IN PRISON IT'S ABOUT SURVIVAL,
7 AND -- SO PSYCHOPATHS, PEOPLE WITH BRAIN DEFECTS, DO
8 WELL BECAUSE THEY -- THEY DON'T GET IN THAT MODE
9 WHERE THEY WANT TO STRIKE OUT AND TAKE ADVANTAGE OF
10 OTHER PEOPLE.

11 STEPHEN COULD BE AN INMATE LEADER, HE COULD BE A
12 GOOD INMATE WITH HIS INTELLIGENCE AND THE OTHER
13 ABILITIES HE HAS, HE COULD BE HELPFUL TO THE INMATES.
14 AND THERE ARE A LOT OF INMATES IN THERE WHO NEED ALL
15 THE HELP THEY CAN GET FROM WHATEVER SOURCE.

16 AND HE WOULDN'T BE A THREAT TO CORRECTIONS
17 OFFICERS BECAUSE HE HAS GOOD -- THE HISTORY HAS
18 SHOWN, NINE AND A HALF YEARS, 10 YEARS, DURING HIS
19 INCARCERATION IN THE SCDC, SOUTH CAROLINA DEPARTMENT
20 OF CORRECTIONS, AND GEORGETOWN, HE HAS HAD A GOOD
21 RELATIONSHIP, 10 YEARS OF THE TRACK RECORD.

22 THE TRACK RECORD ON THE OUTSIDE IS ELIZABETH
23 MCLENDON AND LAURA LING. TRACK RECORD ON THE INSIDE
24 IN THAT STRUCTURED ENVIRONMENT, GOOD, 10 YEARS.

25 WHEN -- IF YOU AS A JUROR WANT TO MAKE A

1 DECISION FOR LIFE, YOU HAVE THE RIGHT TO DO THAT.
2 YOU HAVE A RIGHT TO DO THAT. AND YOU DON'T HAVE TO
3 ABIDE -- YOU DON'T HAVE TO HAVE THAT DICTATED TO YOU
4 BY ANYBODY ELSE.

5 THAT'S WHY YOU ARE ON THIS JURY, FOR YOU TO MAKE
6 A DECISION. IT'S YOUR DECISION. YOU ARE THE ONE
7 THAT WILL SIGN YOUR NAME TO THE VERDICT FORM.

8 BUT WHAT IS IMPORTANT IS THIS. REMEMBER THIS.
9 MAKE SURE THIS IS A DECISION THAT YOU WANT TO MAKE
10 BECAUSE TOMORROW -- ONCE YOU MAKE THIS DECISION
11 TODAY, YOU CANNOT GO BACK AND SAY, I WANT TO CHANGE
12 MY VOTE, I THOUGHT ABOUT IT SOME MORE OR FOR SOME
13 OTHER REASON I WANT TO CHANGE. NOW, I SENTENCED HIM
14 TO DEATH THEN, BUT NOW I WANT TO VOTE LIFE.

15 YOU WILL NOT HAVE THAT CHANCE. YOU HAVE GOT TO
16 MAKE YOUR DECISION NOW. TALK ABOUT BEING UNDER
17 PRESSURE. YOU HAVE GOT TO MAKE YOUR DECISION TODAY,
18 NOT TOMORROW AND NOT NEXT WEEK, NOT NEXT YEAR IF
19 STEPHEN IS IN SOME APPEAL PROCESS OR SOMETHING,
20 NOT -- NOT -- NOW. NOW.

21 AND I WOULD SUBMIT TO YOU THAT IN THE 21ST
22 CENTURY, EVEN THOUGH HORRIBLE THINGS HAPPENED TO
23 LAURA AND TO CHRISTINA, WE CAN UNDERSTAND FINALLY HOW
24 THAT CAN HAPPEN INSTEAD OF HOW CAN SOMEBODY DO SUCH A
25 THING.

1 IT IS A DEFECT IN THEIR BRAIN AND OUR BEHAVIOR
2 IS A PRODUCT OF OUR BRAIN AND THE WAY IT FUNCTIONS.
3 IT IS NO MORE COMPLICATED AND NO MORE SIMPLE.

4 AND I WOULD SUBMIT TO YOUR IN OUR SOCIETY, 21ST
5 CENTURY, 2006, WE AS A COLLECTIVE BODY MAKE A
6 DECISION NOT TO KILL THESE PEOPLE ANY MORE, NOT TO
7 BURN THE WITCHES, BUT TO UNDERSTAND THEIR CONDUCT FOR
8 WHAT IT IS, AND SENTENCE THE MAN TO LIFE. HE'S NOT
9 GOING TO BE PAROLED.

10 AND LAURA WILL HAVE CONTRIBUTED IN HER DEATH TO
11 AN ADVANCEMENT OF THIS SOCIETY AND THIS CIVILIZATION,
12 THIS COUNTY WHERE SHE LIVES, BECAUSE YOU ARE HER
13 NEIGHBORS AND FELLOW CITIZENS IN THE COMMUNITY.

14 YOU HAVE BEEN VERY ATTENTIVE AND I -- YOU KNOW,
15 I HAVE TRIED TO LOOK TO CATCH SOME OF YOU NOT PAYING
16 ATTENTION OR NOT LISTENING, BUT I -- I HAVEN'T SEEN A
17 SINGLE ONE OF YOU DO THAT, AND I -- AND I KNOW
18 STEPHEN APPRECIATES IT, AND I KNOW ALL OF THE DEFENSE
19 PEOPLE APPRECIATE IT AND I KNOW THE SOLICITOR'S
20 OFFICE AND THE SOLICITOR'S EMPLOYEES APPRECIATE IT.

21 THANK YOU VERY MUCH FOR LISTENING, AND I
22 APPRECIATE YOUR ATTENTION.

23 THE COURT: MADAM FORELADY, LADIES AND GENTLEMEN
24 OF THE JURY, THE NEXT PART OF THIS PROCESS WILL BE
25 THE COURT'S CHARGE ON THE LAW. AND I'M GOING TO GIVE

1 YOU THE OPTION AND YOU CAN TELL ME WHAT YOU ALL WOULD
2 LIKE TO DO.

3 MY CHARGE WILL BE ABOUT 20 TO 25 MINUTES. YOUR
4 LUNCH AS I UNDERSTAND IT IS HERE AND READY. I WILL
5 GIVE YOU ALL THE OPTION. YOU CAN BREAK NOW AND WE
6 CAN HAVE LUNCH OR WE CAN PUSH FORWARD AND THE COURT
7 CAN GIVE YOU ITS CHARGE AND THEN YOU CAN HAVE LUNCH.

8 I'M LOOKING -- Y'ALL LOOK LIKE YOU MAY WANT TO
9 GO AHEAD AND HAVE LUNCH WHICH IS NOT A PROBLEM. I
10 JUST WANT TO GIVE YOU ALL THE OPTION. Y'ALL WANT TO
11 HUDDLE RIGHT QUICK?

12 (WHEREUPON THERE WAS A PAUSE WHILE JURORS
13 CONFERRED.)

14 FORELADY: LET'S GO ON.

15 THE COURT: OKAY. IT IS THE GENERAL CONSENSUS
16 OF THE JURY FOR THE RECORD THAT THEY WOULD PREFER
17 THAT WE GO FORWARD WITH THE COURT'S CHARGE.

18 JURY CHARGE

19 THE COURT: MADAM FOREPERSON AND MEMBERS OF THE
20 JURY, YOU HAVE HEARD THE TESTIMONY AND EVIDENCE AND
21 THE ARGUMENTS OF THE STATE AND THE DEFENDANT IN THIS
22 CASE AND I WILL NOW EXPLAIN TO YOU THE LAW THAT
23 APPLIES TO THIS CASE.

24 UNDER THE CONSTITUTION AND LAWS OF SOUTH
25 CAROLINA YOU ARE THE SOLE FINDERS OF THE FACTS IN

1 THIS CASE. I DO NOT HAVE THE RIGHT TO PASS UPON THE
2 FACTS OR EVEN TO EXPRESS ANY OPINION AS TO THE FACTS
3 OF THIS CASE.

4 YOU ARE NOT TO INFER ANYTHING THAT I HAVE SAID
5 DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE
6 ADMISSIBILITY OF EVIDENCE OR OTHERWISE OR ANYTHING
7 THAT I NOW SAY DURING THE COURSE OF THIS INSTRUCTION
8 TO YOU THAT I HAVE ANY OPINION ABOUT THE FACTS IN
9 THIS CASE. THE LAW DOES NOT PERMIT ME TO HAVE AN
10 OPINION ABOUT THE FACTS.

11 LADIES AND GENTLEMEN, I INSTRUCT YOU TO
12 DISREGARD AND DISABUSE FROM YOUR MIND ANY MATTERS
13 ORDERED STRICKEN FROM THE RECORD DURING THE COURSE OF
14 THIS TRIAL, IF THERE HAVE BEEN ANY.

15 YOU ARE THE SOLE JUDGES OF THE FACTS OF THE
16 CREDIBILITY AND BELIEVABILITY OF THE WITNESSES WHO
17 HAVE TESTIFIED IN THIS CASE. IT IS YOUR DUTY, AS I
18 HAVE INSTRUCTED YOU, TO DETERMINE THE EFFECT, THE
19 VALUE, THE WEIGHT, AND THE TRUTH OF THE EVIDENCE THAT
20 HAS BEEN PRESENTED DURING THIS TRIAL.

21 NECESSARILY YOU MUST ASSESS THE CREDIBILITY OF
22 WITNESSES -- BLESS YOU -- WHO HAVE TESTIFIED IN THIS
23 CASE. AS I HAVE EXPLAINED PREVIOUSLY, CREDIBILITY IS
24 SIMPLY A LEGALISTIC TERM MEANING THE BELIEVABILITY OF
25 WITNESSES WHO HAVE TESTIFIED IN THIS MATTER.

1 IT BECOMES YOUR DUTY TO ANALYZE AND TO EVALUATE
2 THE EVIDENCE AND DETERMINE THAT EVIDENCE THAT
3 CONVINCES YOU OF ITS TRUTH.

4 IN PASSING UPON THE CREDIBILITY OF THE WITNESSES
5 WHO HAVE TESTIFIED IN THIS MATTER YOU MAY TAKE INTO
6 CONSIDERATION MANY THINGS.

7 YOU MAY CONSIDER THE DEMEANOR OF THE WITNESS,
8 THAT IS THE APPEARANCE AND MANNER OF A WITNESS FROM
9 THE WITNESS STAND, WHETHER THE WITNESS HAS EXHIBITED
10 TO YOU ANY INTEREST, ANY BIAS, ANY PREJUDICE OR OTHER
11 MOTIVE IN THIS CASE, WHETHER A WITNESS'S TESTIMONY
12 WAS CONTRADICTED ON THE ONE HAND OR SUPPORTED AND
13 CORROBORATED ON THE OTHER HAND, THE OPPORTUNITY FOR
14 KNOWLEDGE CONCERNING THOSE THINGS ABOUT WHICH A
15 WITNESS HAS TESTIFIED AS WELL AS THE REASONABLENESS
16 OF THE TESTIMONY.

17 YOU CERTAINLY DO NOT DETERMINE CREDIBILITY OR
18 BELIEVABILITY BY COUNTING THE NUMBER OF WITNESSES
19 PRESENTED. YOU MAY BELIEVE A PART OF THE TESTIMONY
20 OF A WITNESS AND REJECT THE REMAINING PART OF THE
21 TESTIMONY OF THAT SAME WITNESS.

22 IF YOU HAVE A GOOD AND SOUND REASON YOU MAY
23 BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR
24 REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY.

25 YOU MAY BELIEVE ONE WITNESS AS AGAINST MANY OR

1 MANY AGAINST ONE. THESE CONSIDERATIONS, HOWEVER, YOU
2 DO NOT EXERCISE ARBITRARILY, BUT IF IN YOUR GOOD
3 JUDGMENT THERE IS A SOUND REASON IN THE RECORD OF
4 THIS CASE FOR THE CONSIDERATION OF THESE FACTORS, YOU
5 MAY DO SO.

6 I INSTRUCT YOU AND EMPHASIZE THAT THE FACT THAT
7 THE DEFENDANT DID NOT TESTIFY IS NOT A FACTOR TO BE
8 CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATIONS
9 AND IN YOUR CONSIDERATION ON THE QUESTION OF PENALTY
10 IN THIS CASE.

11 IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER
12 WHATSOEVER. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT
13 TO REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT
14 MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS.

15 I REPEAT. UNDER YOUR OATH YOU ARE TO DRAW
16 ABSOLUTELY NO CONCLUSIONS WHATSOEVER FROM THE FACT
17 THAT THE DEFENDANT IN THIS CASE DID NOT TESTIFY. THE
18 FACT THAT THE DEFENDANT DID NOT TESTIFY SHOULD NOT
19 EVEN BE DISCUSSED IN THE JURY ROOM.

20 THE BURDEN OF PROOF, AS I HAVE STATED TO YOU, IS
21 ON THE STATE. THE DEFENDANT HAS NO BURDEN OF PROOF
22 IN THIS CASE. THE BURDEN REMAINS ON THE STATE TO
23 MEET THEIR BURDEN OF PROOF BEYOND A REASONABLE DOUBT.

24 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
25 WITNESSES TO TESTIFY AS TO THEIR OPINIONS OR

1 CONCLUSIONS. AN EXCEPTION HOWEVER TO THIS RULE DOES
2 EXIST AS TO THOSE WHOM WE CALL EXPERT WITNESSES.

3 EXPERT WITNESSES ARE WITNESSES WHO BY EDUCATION
4 AND EXPERIENCE HAVE BECOME AN EXPERT IN SOME ART,
5 SCIENCE, PROFESSION OR CALLING. THESE WITNESSES MAY
6 STATE THEIR OPINIONS AS TO RELEVANT AND MATERIAL
7 MATTERS IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT
8 AND MAY ALSO STATE THEIR REASONS FOR THE OPINION.

9 YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED
10 IN EVIDENCE IN THIS CASE LIKE ANY OTHER EVIDENCE.
11 GIVE IT THE WEIGHT YOU THINK IT DESERVES.

12 IF YOU DECIDE THAT THE OPINION OF AN EXPERT
13 WITNESS IS NOT BASED UPON SUFFICIENT EDUCATION AND
14 EXPERIENCE OR IF YOU SHOULD CONCLUDE THAT THE REASONS
15 GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND OR THAT
16 THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY
17 DISREGARD THE OPINION ENTIRELY.

18 AN EXPERT WITNESS'S TESTIMONY IS TO BE GIVEN NO
19 GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY
20 BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE
21 NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION EVEN
22 THOUGH IT IS NOT CONTRADICTED.

23 LADIES AND GENTLEMEN, THE SAME CONSTITUTION AND
24 LAWS WHICH MAKE YOU THE FINDERS OF THE FACTS AND THE
25 EVIDENCE, AS I HAVE JUST EXPLAINED TO YOU, MAKE ME,

1 THE JUDGE, THE SOLE AND ONLY INSTRUCTOR OF THE LAW.

2 YOU MUST ACCEPT AS CORRECT THE LAW WHICH I
3 INSTRUCT AND APPLY IT TO THE EVIDENCE AS YOU FIND IT
4 AND REACH YOUR VERDICT.

5 AND FINALLY I INSTRUCT YOU IN THAT REGARD THAT
6 YOU, OR FOR THAT MATTER I, SHOULD NOT BE CONCERNED
7 ABOUT WHAT WE THINK THE LAW OUGHT TO BE BUT RATHER
8 WHAT I INSTRUCT YOU THE LAW TO BE.

9 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
10 GENERALLY PRESENTED DURING A TRIAL AS I EXPLAINED
11 PREVIOUSLY, DIRECT EVIDENCE AND CIRCUMSTANTIAL
12 EVIDENCE.

13 DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO
14 ASSERTS OR CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT
15 SUCH AS AN EYE WITNESS.

16 CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF
17 FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
18 FACT.

19 THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN
20 THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR
21 CIRCUMSTANTIAL EVIDENCE NOR IS A GREATER DEGREE OF
22 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
23 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE
24 EVIDENCE IN THIS CASE.

25 LADIES AND GENTLEMEN, I FURTHER CHARGE YOU THAT

1 EVIDENCE OF PRIOR CRIMES OR MISCONDUCT BY THE
2 DEFENDANT SHOULD NOT BE CONSIDERED AND MAY NOT BE
3 USED AS PROOF OF ANY STATUTORY AGGRAVATING
4 CIRCUMSTANCE OR CIRCUMSTANCES ABOUT WHICH I WILL
5 INSTRUCT YOU LATER IN THIS INSTRUCTION.

6 HOWEVER, YOU MAY CONSIDER SUCH EVIDENCE ONLY AS
7 TO THE DEFENDANT'S CHARACTER, HIS -- AND HIS
8 CHARACTERISTICS, BUT NOT AS PROOF OF THE ALLEGED
9 STATUTORY AGGRAVATING CIRCUMSTANCES.

10 THIS MAY BE CONSIDERED BY YOU IF YOU CONCLUDE IT
11 IS TRUE ALONG WITH ALL OF THE OTHER EVIDENCE AND YOU
12 MAY GIVE THIS TESTIMONY WHATEVER WEIGHT YOU DEEM
13 PROPER UNDER THE CIRCUMSTANCES OF THIS CASE AS IT
14 RELATES TO THE DEFENDANT'S CHARACTER AND HIS
15 CHARACTERISTICS.

16 LADIES AND GENTLEMEN, I HAVE PREVIOUSLY DEFINED
17 FOR YOU THE ELEMENTS OF EACH OFFENSE IN THE FIRST
18 PHASE OF THIS TRIAL.

19 I FURTHER INSTRUCT YOU IN CONSIDERATION OF THE
20 ISSUES BEFORE YOU, THE COURT'S PRIOR CHARGE ON THE
21 DEFINITIONS OF THE OFFENSES IS FULLY INCORPORATED IN
22 THIS INSTRUCTION ON THE LAW IN THIS PHASE OF THE
23 TRIAL.

24 HOWEVER, IF YOU NEED ANY FURTHER GUIDANCE FROM
25 THE COURT OR NEED ANY ELEMENTS OR DEFINITIONS OF

1 THESE OFFENSES RE-CHARGED, PLEASE LET THE COURT KNOW
2 AND I WILL ACCOMMODATE YOUR REQUEST.

3 LADIES AND GENTLEMEN, I FURTHER INSTRUCT YOU
4 THAT IN ORDER TO PROVE LARCENY THE STATE MUST PROVE
5 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT TOOK THE
6 PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF
7 ANOTHER PERSON WITHOUT THE PERSON'S CONSENT AND
8 CARRIED IT AWAY.

9 PROPERTY IS IN THE PRESENCE OF A PERSON IF IT IS
10 WITHIN THE PERSON'S REACH, INSPECTION, OBSERVATION,
11 OR CONTROL SO THAT THE PERSON COULD, IF NOT OVERCOME
12 WITH VIOLENCE OR PREVENTED BY FEAR, RETAIN POSSESSION
13 OF THE PROPERTY.

14 THE STATE MUST SHOW THAT THE DEFENDANT CARRIED
15 THE PROPERTY AWAY WITH THE INTENT TO PERMANENTLY
16 DEPRIVE THE OWNER OF THE PROPERTY AND TO CONVERT THE
17 PROPERTY TO THE DEFENDANT'S OWN USE.

18 THE SLIGHTEST REMOVAL OF THE PROPERTY OR THE
19 COMPLETE POSSESSION OF THE PROPERTY, EVEN FOR AN
20 INSTANT, BY THE DEFENDANT IS SUFFICIENT TO SHOW A
21 TAKING AND CARRYING AWAY OF THE PROPERTY.

22 THE TAKING AND CARRYING AWAY OF THE PROPERTY
23 MUST HAVE BEEN DONE WITH VIOLENCE OR BY PUTTING THE
24 OWNER OF THE PROPERTY IN FEAR OF VIOLENCE.

25 A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT, OR

1 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
2 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS
3 A DEADLY WEAPON DEPENDS ON THE FACTS AND
4 CIRCUMSTANCES OF EACH CASE.

5 THE FOLLOWING ARE EXAMPLES OF INSTRUMENTS WHICH
6 MAY BE DEADLY WEAPONS: A PISTOL, A SHOTGUN, A RIFLE,
7 A DIRK, A DAGGER, A KNIFE, A SLINGSHOT, METAL
8 KNUCKLES, A RAZOR, GASOLINE, A FIREBOMB, OR MOLOTOV
9 COCKTAIL, AND LIGHTER FLUID.

10 A GUN MAY BE A DEADLY WEAPON EVEN IF IT IS NOT
11 OPERATING. A HAND OR A FIST IS NOT NORMALLY
12 CONSIDERED A DEADLY WEAPON. HOWEVER, UNDER SOME
13 CIRCUMSTANCES, DEPENDING ON THE MANNER AND MEANS OF
14 ITS USE, THE WOUNDS INFLICTED, AND OTHER RELEVANT
15 FACTS, A HAND OR A FIST MAY BE CONSIDERED A DEADLY
16 WEAPON.

17 IT IS FOR YOU TO DECIDE IN THIS CASE BEYOND A
18 REASONABLE DOUBT WHETHER OR NOT A HAND OR A FIST IS A
19 DEADLY WEAPON.

20 ORDINARY OBJECTS MAY BECOME DEADLY WEAPONS WHEN
21 THE FACTS SHOW THAT THEY HAVE BEEN USED TO INFLICT
22 SERIOUS BODILY HARM OR DEATH. IT IS FOR YOU TO
23 DECIDE IN THIS CASE BEYOND A REASONABLE DOUBT WHETHER
24 OR NOT AN ORDINARY OBJECT IS A DEADLY WEAPON.

25 LADIES AND GENTLEMEN, I FURTHER INSTRUCT YOU

1 THAT TORTURE OCCURS WHEN THE VICTIM IS SUBJECTED TO
2 SERIOUS PHYSICAL ABUSE BEFORE DEATH. TORTURE OCCURS
3 WHEN THE VICTIM IS SUBJECTED TO AGGRAVATED BATTERY.

4 WHAT IS AGGRAVATED BATTERY? AN AGGRAVATED
5 BATTERY IS AN UNLAWFUL ACT OF VIOLENT INJURY TO THE
6 PERSON OF ANOTHER ACCOMPANIED BY CIRCUMSTANCES OF
7 AGGRAVATION SUCH AS THE USE OF A DANGEROUS OR DEADLY
8 OBJECT, THE INFLECTION OF SERIOUS BODILY INJURY WITH
9 THE INTENT TO COMMIT FELONY, A GREAT DISPARITY
10 BETWEEN THE AGES AND PHYSICAL CONDITION OF THE
11 PARTIES, A DIFFERENCE IN THE SEXES.

12 PHYSICAL TORTURE IS THE INTENTIONAL INFLECTION
13 OF SERIOUS, VIAL, HORRIBLE, OR INHUMAN ABUSE UPON THE
14 BODY OF ANOTHER BEFORE DEATH. THE INSTANTANEOUS
15 DEATH OF THE VICTIM DOES NOT CONSTITUTE TORTURE.

16 PHYSICAL TORTURE MAY INCLUDE THE MALICIOUS
17 INFLECTION OF BODILY HARM TO ANOTHER BY DEPRIVING HIM
18 OF A MEMBER OF HIS BODY OR BY RENDERING A MEMBER OF
19 HIS BODY USELESS OR BY SERIOUSLY DISFIGURING HIS BODY
20 OR A MEMBER OF HIS BODY OR THE INTENTIONAL AND
21 UNMERCIFUL PROLONGING OF SEVERE PAIN AND ABUSE UPON
22 THE BODY, OR THE INTENTIONAL AND UNMERCIFUL
23 INFLECTION OF SERIOUS AND EXTENSIVE PHYSICAL PAIN AND
24 ABUSE TO THE BODY OF ANOTHER.

25 MADAM FORELADY, LADIES AND GENTLEMEN OF THE

1 JURY, IT NOW BECOMES YOUR DUTY TO DECIDE WHAT
2 SENTENCE YOU WILL RECOMMEND THAT THIS COURT IMPOSE
3 UPON THE DEFENDANT.

4 THERE ARE TWO VERDICTS YOU ARE TO CONSIDER IN
5 THIS CASE. ONE IS THE DEATH PENALTY WHICH IN THIS
6 STATE IS BY ELECTROCUTION OR BY LETHAL INJECTION.
7 AND THE OTHER IS LIFE IMPRISONMENT.

8 YOU SHOULD UNDERSTAND THAT THESE SENTENCES MEAN
9 WHAT THEY SAY, THAT IS, IF YOU RECOMMEND THAT THE
10 DEFENDANT BE SENTENCED TO DEATH, HE WILL ACTUALLY BE
11 PUT TO DEATH BY ELECTROCUTION OR BY LETHAL INJECTION.

12 AND IF YOU RECOMMEND THAT THE DEFENDANT -- THAT
13 THE DEFENDANT BE SENTENCED TO LIFE IMPRISONMENT, HE
14 WILL ACTUALLY BE SENTENCED TO LIFE IMPRISONMENT
15 WITHOUT THE POSSIBILITY OF PAROLE.

16 LADIES AND GENTLEMEN, I INSTRUCT YOU THAT OFTEN
17 DURING THE COURSE OF THIS INSTRUCTION I MAY REFER TO
18 LIFE IMPRISONMENT OR LIFE IMPRISONMENT WITHOUT THE
19 POSSIBILITY OF PAROLE. I INSTRUCT YOU THAT THOSE
20 TERMS MEAN THE SAME THING, ALTHOUGH I WILL USE THEM
21 INTERCHANGEABLY.

22 IN YOUR DELIBERATIONS YOU ARE NOT TO SPECULATE
23 THAT THESE SENTENCES OF DEATH AND LIFE IMPRISONMENT
24 WITHOUT THE POSSIBILITY OF PAROLE MEAN ANYTHING
25 DIFFERENT FROM THEIR ORDINARY AND PLAIN MEANING.

1 LADIES AND GENTLEMEN, PLEASE UNDERSTAND YOUR
2 SENTENCING RECOMMENDATION WILL BE FOLLOWED BY THIS
3 COURT.

4 THE ORDER IN WHICH I EXPLAIN THESE TWO SENTENCES
5 HAS NO SIGNIFICANCE WHATSOEVER AND IS IN NO WAY A
6 RECOMMENDATION BY THIS COURT AS TO WHICH SENTENCE YOU
7 SHOULD CHOOSE TO RECOMMEND. IT IS SIMPLY THAT ONE
8 MUST BE STATED FIRST AND SO FORTH.

9 BY THIS RECOMMENDATION OF SENTENCE FORM WHICH I
10 HOLD IN MY HAND -- AND THESE WILL ALL GO BACK INTO
11 THE JURY ROOM WITH YOU -- YOU, THE JURY, MAY
12 RECOMMEND THAT THIS COURT SENTENCE THE DEFENDANT TO
13 DEATH.

14 PLEASE OBSERVE THAT IMMEDIATELY BELOW THE BODY
15 OF THE RECOMMENDATION THERE ARE 12 LINES AS I'M
16 REFERRING TO ON THE FORM. THIS IS WHERE, SHOULD YOU
17 DECIDE TO RECOMMEND THE DEATH PENALTY, EACH ONE OF
18 YOU WOULD SIGN YOUR NAME.

19 IT IS THE LAW IN THIS STATE, MADAM FOREPERSON
20 AND MEMBERS OF THE JURY, THAT A RECOMMENDATION FOR
21 IMPOSITION OF THE DEATH PENALTY BE A UNANIMOUS
22 RECOMMENDATION AND THAT EACH AND EVERY JUROR SIGN HIS
23 OR HER NAME TO THE RECOMMENDATION FORM.

24 I WILL NOW READ TO YOU THE TEXT OF THIS FORM.
25 WE THE JURY IN THE ABOVE-ENTITLED CASE HAVING FOUND

1 BEYOND A REASONABLE DOUBT THE EXISTENCE OF THE
2 FOLLOWING STATUTORY AGGRAVATING CIRCUMSTANCES.

3 TO WIT -- AT THIS POINT THERE IS A PLACE ON THE
4 FORM PROVIDED FOR THE FOREPERSON TO WRITE SUCH
5 CIRCUMSTANCES ABOUT WHICH I WILL INSTRUCT YOU LATER.
6 IN OTHER WORDS, I WILL DEFINE FOR YOU WHAT AN
7 AGGRAVATING CIRCUMSTANCE IS.

8 AND THE BALANCE OF THE FORM READS -- NOW
9 RECOMMENDS TO THE COURT THAT THE DEFENDANT, STEPHEN
10 CHRISTOPHER STANKO, BE SENTENCED TO DEATH, END QUOTE.

11 AND OF COURSE, AGAIN, AS I'VE INDICATED, THERE'S
12 A PLACE FOR THE FOREPERSON TO SIGN AND FOR EACH AND
13 EVERY MEMBER OF THE JURY TO SIGN THEIR NAME.

14 NOW, FOR THIS RECOMMENDATION TO BE MADE, THAT IS
15 THAT THE DEFENDANT BE SENTENCED TO DEATH, YOU MUST
16 FIRST FIND THAT A STATUTORY AGGRAVATING CIRCUMSTANCE
17 OR CIRCUMSTANCES EXISTED BEYOND A REASONABLE DOUBT.

18 WHAT IS A STATUTORY AGGRAVATING CIRCUMSTANCE?
19 IT IS A FACT, AN INCIDENT, A DETAIL, OR AN OCCURRENCE
20 WHICH THE SOUTH CAROLINA GENERAL ASSEMBLY HAS
21 DECLARED BY STATUTE WOULD MAKE WORSE, THAT IS
22 AGGRAVATE, THE OFFENSE OF MURDER WHEN THE TWO OCCUR
23 TOGETHER.

24 IN OTHER WORDS, IT IS SOMETHING WHICH INCREASES
25 THE ENORMITY OR ADDS TO THE INJURIOUS CONSEQUENCES OF

1 THE OFFENSE.

2 THERE IS ANOTHER SHEET OF PAPER THAT WILL GO
3 BACK INTO THE JURY ROOM WITH YOU AND IT IS ENTITLED,
4 STATUTORY INSTRUCTIONS. AND AGAIN, THIS FORM WILL GO
5 INTO THE JURY ROOM WITH YOU AND IT BASICALLY SETS OUT
6 EXACTLY WHAT I AM GOING TO EXPLAIN TO YOU AS WE GO
7 FURTHER IN THIS INSTRUCTION.

8 YOU WILL HAVE, AGAIN AS I HAVE INDICATED, THIS
9 PAPER IN THE JURY ROOM WITH YOU. THE BODY OF THE
10 FORM STATES AS FOLLOWS: IN DETERMINING WHETHER TO
11 RECOMMEND THAT THE DEFENDANT, STEPHEN CHRISTOPHER
12 STANKO, BE SENTENCED BY THE COURT TO LIFE
13 IMPRISONMENT OR TO DEATH, YOU MAY CONSIDER THE
14 FOLLOWING STATUTORY CIRCUMSTANCES.

15 THE MURDER WAS COMMITTED WHILE IN THE COMMISSION
16 OF CRIMINAL SEXUAL CONDUCT IN ANY DEGREE; THE MURDER
17 WAS COMMITTED WHILE IN THE COMMISSION OF A
18 KIDNAPPING; THE MURDER WAS COMMITTED WHILE IN THE
19 COMMISSION OF ROBBERY WHILE ARMED WITH A DEADLY
20 WEAPON; THE MURDER WAS COMMITTED WHILE IN THE
21 COMMISSION OF LARCENY WITH THE USE OF A DEADLY
22 WEAPON; OR THE MURDER WAS COMMITTED WHILE IN THE
23 COMMISSION OF PHYSICAL TORTURE.

24 LET ME EMPHASIZE TO YOU THAT THESE ARE THE ONLY
25 CIRCUMSTANCES YOU MAY CONSIDER AS AGGRAVATING

1 CIRCUMSTANCES.

2 SHOULD YOU FIND, AND IT MUST BE A UNANIMOUS
3 FINDING, THAT IS A FINDING BY EACH AND EVERY ONE OF
4 YOU -- SHOULD YOU FIND THAT THE STATE HAS PROVEN
5 BEYOND A REASONABLE DOUBT THE EXISTENCE OF ONE OR
6 MORE OF THE CIRCUMSTANCES LISTED ON THE STATUTORY
7 INSTRUCTIONS, THEN YOU WOULD BE AUTHORIZED, WHICH IS
8 TO SAY PERMITTED, TO CONSIDER RECOMMENDING TO THIS
9 COURT THAT THE DEFENDANT BE SENTENCED TO DEATH.

10 WHAT DO I MEAN BY THE TERM PROVEN BY A
11 REASONABLE DOUBT? THE STATE HAS THE BURDEN OF
12 PROVING THE AGGRAVATING CIRCUMSTANCE OR CIRCUMSTANCES
13 BEYOND A REASONABLE DOUBT.

14 AND AGAIN, AS I EXPLAINED EARLIER, SOME OF YOU
15 MAY HAVE SERVED AS JURORS IN CIVIL CASES WHERE YOU
16 WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A
17 FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY
18 THE GREATER WEIGHT OR THE PREPONDERANCE OF THE
19 EVIDENCE.

20 IN CRIMINAL CASES THE STATE'S PROOF MUST BE MORE
21 POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE
22 DOUBT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT
23 LEAVES YOU FIRMLY CONVINCED.

24 THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE
25 KNOW WITH ABSOLUTE CERTAINTY. AND IN CRIMINAL CASES