

VOLUME III OF V

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM EDGEFIELD COUNTY

R. Knox McMahon, Circuit Court Judge

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

STEVEN BARNES,

APPELLANT

Appellate Case No. 2010-178247

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1 THE COURT: Madam Clerk, are all jurors present
2 and accounted for?

3 THE CLERK: We're missing two. All the
4 qualified jurors are present.

5 THE COURT: The qualified panel is present?

6 THE CLERK: Yes, sir.

7 THE COURT: Perhaps, then, if you will, please,
8 call the roll of just the qualified panel of 43, I believe
9 it is.

10 When your name is called, ladies and gentlemen,
11 if you would just stand and state that you are present in
12 the courtroom. This will be the 43 members of the
13 qualified panel.

14 Madam Clerk.

15 THE CLERK: Juror 282, Shirley J. West.

16 THE COURT: Ms. West, thank you.

17 THE CLERK: 157, Lynn M. Koenig; 75, Thomas J.
18 Devilbiss.

19 THE JUROR: Devilbiss.

20 THE COURT: Thank you.

21 THE CLERK: 152, Otis M. Key; No. 19, Emily S.
22 Blackburn; 146, Steven F. Jordan; 265, Margaret M.
23 Thompson; No. 11, Aaron J. Asforis; 140, William A.
24 Jennings; 97, Gayle G. Garry; 111, Phillip B. Griffin;
25 228, Joseph B. Rowland; 33, Alexis C. Brunson; 183,

1 Kanette V. Miller; No. 12, Charles A. Bafford; 222, Joseph
2 Robbins, Jr.; 129, J. Christian Hoffmann; 156, Tammy Renee
3 Kirby; 244, Kaitlin S. Smith; 270, David W. Tuttel; 65,
4 John S. Culbreath; 212, Ronnie Posey; 267, Randall C.
5 Thrower; 283, Richard M. Wheatley; 94, Sean M. Gamble;
6 131, Elizabeth H. Holmes; 26, Don R. Boyd, Jr.; 37,
7 Crystal B. Busbee; 62, Matthew C. Cox; 10, Allene Andrews;
8 264, Charles R. Thomasson; 223, Pamela C. Roberson; 25,
9 Donald E. Bowen; 136, Crystal R. Hughes; 151, Danny L.
10 Key; 77, Alice J. Doren; 242, Amy C. Skinner; 134, Linda
11 M. Hook; 145, David B. Jones; 20, Lydia F. Blain; 85,
12 Harold D. Farrer; 100, Mark P. Gillingham; 114, Robert J.
13 Hall.

14 Thank you.

15 THE COURT: All right. And that appears to be
16 all of the jurors in the qualified panel that are present.

17 Ladies and gentlemen of the qualified jury panel
18 whose names we have just called and you indicated your
19 presence, is there any member of that jury panel, the
20 qualified panel, that needs to speak with me concerning
21 any matter concerning your continued participation in this
22 jury selection process? If so, please stand.

23 All right. And I believe this is Ms. Miller; is
24 that correct?

25 THE JUROR: Yes, sir.

1 THE COURT: And your name and number, please?

2 THE JUROR: One thirty-four.

3 THE COURT: One thirty-three?

4 THE JUROR: One thirty-four.

5 THE COURT: I'm sorry?

6 THE JUROR: One thirty-four.

7 THE COURT: All right. And yes, ma'am, your
8 name and number, please?

9 THE JUROR: Gayle Garry, 97.

10 THE COURT: All right. Thank you.

11 Ms. Miller, if you would please come forward for
12 me, please. I'm going to step around here to the court
13 reporter.

14 How are you this morning?

15 THE JUROR: Fine. How are you?

16 THE COURT: Good. Do you feel good?

17 THE JUROR: I'm feeling all right.

18 THE COURT: All right. And I believe you had
19 your doctor's appointment yesterday; is that correct?

20 THE JUROR: Yes, sir.

21 THE COURT: I have a document from your doctor,
22 Dr. Richard Hatch, that indicates the time of your
23 pregnancy and that you have gestational diabetes, that you
24 were seen in the office once a week and on a special
25 diabetic diet and he recommends that you not be

1 sequestered for jury duty; is that correct?

2 THE JUROR: Yes, sir.

3 THE COURT: As a result of that, are you asking
4 to be excused from this panel?

5 THE JUROR: For now, yes.

6 THE COURT: All right. Certainly.

7 Solicitor?

8 MR. MYERS: No questions.

9 MR. HARTE: No questions.

10 THE COURT: Any objections?

11 MR. MYERS: No, sir.

12 MR. HARTE: No, sir.

13 THE COURT: All right. Ms. Miller, I would like
14 to thank you very much for your participation in this
15 process this week. We would love to have you stay with us
16 but certainly understand your particular situation. Good
17 luck and Happy New Year.

18 THE JUROR: Thank you.

19 THE COURT: All right. If you would just go
20 back and perhaps have a seat.

21 This is a part of the jury panel over here on
22 the left; is that correct, Madam Bailiff?

23 Ms. Miller, if you would just please go back and
24 have a seat over on the left. Thank you very much.

25 (Juror complies.)

1 THE COURT: Juror No. 183, Kanette V. Miller,
2 Qualified No. 14, has now been excused from service on
3 this jury based on a doctor's certificate with the consent
4 of both of the parties.

5 All right. Linda M. Hook, Juror No. 134. If
6 you'd come forward, please, Ms. Hook.

7 Good morning. How are you today?

8 THE JUROR: I wasn't needing to have to be
9 excused, I just had a question if we are sequestered.

10 THE COURT: Sure. If it's important to you,
11 it's important to me.

12 THE JUROR: I have a position at work where I do
13 my work from a computer. If we're sequestered, will I be
14 able to do that?

15 THE COURT: I have talked with the chief of the
16 jury sequestration team this morning, and right now my
17 plans are to allow the jurors to use their laptop
18 computers in a common room that we will have set up.
19 There would also be members of the jury sequestration team
20 there to monitor that, not that I don't trust you or any
21 other member of the jury panel, but it does have to be
22 monitored.

23 I asked this question this morning, if I had any
24 computer geeks or nerds on my jury sequestration team, I
25 do not this time, but I told them they could check it by

1 history.

2 So given that, if you wouldn't have objections
3 to them checking --

4 THE JUROR: I don't.

5 THE COURT: -- I'll check with the attorneys,
6 but I don't believe they would have any objections
7 whatsoever --

8 MR. HARTE: No problem, Your Honor.

9 THE COURT: -- to her working on her computer.

10 And I assume that doesn't have anything to do
11 with any legal issues or anything?

12 THE JUROR: It does not.

13 THE COURT: Thank you very much. You may stay
14 with us. Thank you very much.

15 No. 134 is going to remain with us.

16 (Juror returns to her seat.)

17 THE COURT: All right. Number 97, I believe,
18 Ms. Gayle Garry; is that correct?

19 Ms. Garry, if you'd come forward for me, please.

20 Good morning, Ms. Garry. How are you?

21 THE JUROR: Good. I just want to get some
22 clarification.

23 THE COURT: Sure.

24 THE JUROR: When we talked the other day about
25 my trip --

1 THE COURT: Sure.

2 THE JUROR: -- you had said to me that I
3 shouldn't worry about it.

4 THE COURT: Easy for me to say, I guess.

5 THE JUROR: Exactly. And I was just wondering
6 if we got to the point where we were going to have to stay
7 longer, what would happen?

8 THE COURT: Well, I just don't think the trial's
9 going to take that long. I have conferred with the
10 attorneys in the matter. As I recall, the date of your
11 trip is the 23rd of November of this year.

12 THE JUROR: Yes.

13 THE COURT: Which I believe that is Tuesday
14 week?

15 THE JUROR: Yes, 11 days.

16 THE COURT: Right.

17 THE JUROR: I just want to be fair to everybody.

18 THE COURT: Yes, ma'am. I just don't think
19 we're going to be here that long. I think it's going to
20 be concluded. If we are, you'll make your trip.

21 Any objections to that?

22 MR. HARTE: Absolutely not.

23 MR. MYERS: No, Judge.

24 THE COURT: Any objection to saying if she is a
25 member of the primary jury, I would be able to replace her

1 with an alternate so that she makes her trip on the 23rd
2 of November if we're still here on the 23rd of November?

3 MR. HARTE: I talked with the Solicitor. He nor
4 I are planning to be here on the 23rd.

5 THE JUROR: That's fine. I just want to make
6 sure.

7 THE COURT: No, ma'am, I would want to make
8 sure, too, even if I was going to Augusta to see my
9 granddaughter or grandson, I understand that.

10 THE JUROR: Okay.

11 THE COURT: And I want you to understand that
12 also.

13 THE JUROR: Okay.

14 THE COURT: If I felt like you weren't going to
15 make it I'd certainly tell you now because I like to tell
16 people the bad news up front. I don't want to have to
17 come back later and say, Well, you know, I'm going to talk
18 to you. I understand you have a trip planned.

19 THE JUROR: And this is very important.

20 THE COURT: I know it's very important. It's
21 prepaid and I think it's outside of the time in which the
22 case will go.

23 THE JUROR: Okay.

24 THE COURT: I've got that from both of the
25 attorneys, they agree with me on that.

1 THE JUROR: That's perfect.

2 THE COURT: So the three of us wouldn't be
3 wrong. You'll make it.

4 THE JUROR: Okay. Very good.

5 THE COURT: Thank you very much. Thank you for
6 staying with us, Ms. Garry.

7 (Juror returns to her seat.)

8 THE COURT: All right. Is this Ms. Skinner?

9 THE JUROR: Yes, sir.

10 THE COURT: All right. No. 242, if you'd come
11 forward for me, please, Ms. Skinner.

12 Yes, ma'am, Ms. Skinner.

13 THE JUROR: I have a general question.

14 THE COURT: Sure.

15 THE JUROR: But anyway, my daughter pointed out
16 on my medication I have no refills.

17 THE COURT: All right.

18 THE JUROR: I have an appointment on the 18th to
19 get the doctor to refill my medication.

20 THE COURT: What is the time of your appointment
21 on the 18th?

22 THE JUROR: 5:45 -- 5:30. He stays open late on
23 Thursday.

24 THE COURT: All right. Probably what I would do
25 if we're in trial on the 18th is have a member of the jury

1 sequestration team escort you to your doctor's
2 appointment. Is it in Augusta or Aiken?

3 THE JUROR: Aiken.

4 THE COURT: All right. I would probably have a
5 member of that team escort you to your doctor's
6 appointment in that regard. And I think the 18th is a
7 week from today?

8 THE JUROR: Yes, sir, Thursday.

9 THE COURT: Okay.

10 THE JUROR: I got my teeth cleaned this morning.

11 THE COURT: Well, good. We're glad to have you
12 with us. Thank you very much.

13 THE JUROR: That's all I wanted to say.

14 (Juror returned to her seat.)

15 THE COURT: Ms. Blackburn, No. 19.

16 Ms. Blackburn, if you'd come around for me,
17 please.

18 Good morning, Ms. Blackburn. How are you?

19 THE JUROR: Fine.

20 THE COURT: Tell me your situation.

21 THE JUROR: I was trying to get childcare in the
22 morning to get my child to school and being I'm the one,
23 that she depends on me.

24 THE COURT: Sure.

25 THE JUROR: And I haven't been able to work

1 anything out.

2 THE COURT: All right. I am going to excuse you
3 from service on this jury. You would need to sign an
4 affidavit with the Clerk's office that you were unable to
5 made adequate arrangements for the care of your daughter.

6 And you also have your mother.

7 THE JUROR: Right.

8 THE COURT: How old is your mother?

9 THE JUROR: She's 57, but she's blind.

10 THE COURT: You may want to have them add that
11 also, your mother's situation on the affidavit.

12 I want thank you for attempting to make those
13 arrangements for us. I appreciate your participation. I
14 wish you could stay with us, but I certainly understand.
15 Good luck to you.

16 And when you go back and have a seat, have a
17 seat over there with Mrs. Miller, that lady on the second
18 row.

19 THE JUROR: Okay.

20 THE COURT: Thank you very much.

21 (Juror returned to her seat.)

22 MR. HARTE: For the record, Your Honor, no
23 objection.

24 THE COURT: Thank you very much.

25 Solicitor, no objection?

1 MR. MYERS: No objection.

2 THE COURT: Let me ask the panel one more time
3 before you leave, Mr. Harte.

4 Now are there any members of the qualified jury
5 panel, any other members that have any questions, have any
6 concerns, have any issues that I need to address prior to
7 jury selection? If so, speak now.

8 (No response.)

9 THE COURT: Thank you very much. Thank you for
10 your presence today. Thank you for your participation and
11 all your hard work to this point.

12 Ladies and gentlemen of the jury panel that I
13 have not addressed, those of you who are not part of the
14 qualified panel, please don't think I have forgotten about
15 you or am ignoring you in any way. I will certainly
16 address you all once we have conducted and completed the
17 jury selection process.

18 I also appreciate y'all's participation
19 throughout these proceedings and y'all's presence today.
20 And as I say, I have not forgotten about you and will
21 address you all once we have completed the jury selection
22 process.

23 Did the last two jurors that were not part of
24 the qualified panel appear, Madam Clerk?

25 THE CLERK: I don't think so.

1 THE COURT: All right. I'm going to have the
2 sheriff check on them, please, and find out why they
3 failed to appear today.

4 Gentlemen, you all may review the juror list and
5 just indicate to me when you are ready to proceed.

6 Did Ms. Blackburn sign the affidavit, Madam
7 Clerk?

8 THE CLERK: Yes, sir.

9 THE COURT: And you have the affidavit from
10 Ms. Miller's doctor? I handed that to you?

11 THE CLERK: Yes, sir.

12 (Pause.)

13 MR. HARTE: Defense is ready, Your Honor.

14 THE COURT: Thank you.

15 Is the State ready?

16 MR. MYERS: Yes, sir.

17 THE COURT: All right. Ladies and gentlemen,
18 we're now going to begin the jury selection process.
19 Those of you that are in the qualified panel, that have
20 remained in the qualified panel, when your name is called,
21 if you would please come forward to the Clerk's bench, the
22 rail right in front of the Clerk. If you would then turn
23 around and face back out, in other words, face away from
24 me back out to the courtroom, back out toward your peers.

25 The Clerk, once you have arrived, will ask the

1 State first, "What say the State?" The State will respond
2 either "Seat the juror," or "Excuse the juror." If the
3 State responds, "Seat the juror," the Clerk will then ask
4 the defense, "What say the defense?" Defense will then
5 respond either "Seat the juror," or "Excuse the juror."

6 The Clerk will advise you, "You have been
7 seated," and you will certainly hear the responses of the
8 State and the defense. Then have a seat over to my right
9 if you are selected as a member of the jury panel in the
10 jury box as directed by our bailiff. If you are excused,
11 you would then return to your seat.

12 The State has five strikes, the defense has ten
13 strikes that they may exercise; in other words, they may
14 excuse five members from the panel as far as the primary
15 12 on the jury panel, the State may; the defense may
16 excuse ten.

17 After we have selected the primary jury of 12,
18 we will then proceed to select the alternates in the same
19 process.

20 It's kind of like at home: You'll receive
21 directions of what to do. If you have any concerns, just
22 ask me or the Clerk, but you'll know whether to move to
23 the jury box or back to your seat.

24 All right. Madam Clerk, if you would give us
25 our jury panel, please.

1 THE CLERK: Juror 282, Shirley J. West, (Black
2 female).

3 THE COURT: Ms. West, if you'd turn around and
4 face back out to your peers. Thank you very much, Ms.
5 West.

6 Madam Clerk.

7 THE CLERK: What sayeth the State?

8 MR. MYERS: Present Ms. West.

9 THE CLERK: What sayeth the defense?

10 MR. HARTE: Please swear the juror.

11 THE CLERK: If you'll have a seat in the jury
12 box.

13 THE COURT: Ms. West, if you'd please have a
14 seat in the jury box. Juror No. 1.

15 THE CLERK: No. 157, Lynn M. Koenig, (White
16 female).

17 What sayeth the State?

18 MR. MYERS: Present Ms. Koenig.

19 MR. HARTE: Please swear the juror. I'm sorry,
20 please excuse the juror. I'm sorry.

21 THE COURT: Thank you very much, Ms. Koenig.
22 You may return to your seat.

23 THE CLERK: Juror 75, Thomas J. Devilbiss,
24 (White male).

25 What sayeth the State?

1 MR. MYERS: Present Mr. Devilbiss.

2 THE CLERK: What sayeth the defense?

3 MR. HARTE: Please swear the juror.

4 THE CLERK: Have a seat.

5 Juror 152, Otis M. Key, (Black male).

6 What sayeth the State?

7 MR. MYERS: Present Mr. Key.

8 THE CLERK: What sayeth the defense?

9 MR. HARTE: Please swear Mr. Key.

10 THE CLERK: No. 146, Steven F. Jordan, (White
11 male).

12 THE COURT: You're kind of in no man's land,
13 Mr. Jordan.

14 THE CLERK: What sayeth the State?

15 MR. MYERS: Present Mr. Jordan.

16 THE CLERK: What sayeth the defense?

17 MR. HARTE: Please excuse Mr. Jordan from the
18 trial of this case.

19 THE CLERK: Juror 265, Margaret M. Thompson,
20 (White female).

21 What sayeth the State?

22 MR. MYERS: Excuse Ms. Thompson.

23 THE COURT: Thank you very much, Ms. Thompson.
24 You may return to your seat.

25 THE CLERK: Juror No. 11, Aaron J. Asforis,

1 (Black male).

2 What sayeth the State?

3 MR. MYERS: Excuse Mr. Asforis.

4 THE CLERK: Juror 140, William A. Jennings,

5 (White male).

6 What sayeth the State?

7 MR. MYERS: Present Mr. Jennings.

8 THE CLERK: What sayeth the defense?

9 MR. HARTE: Please excuse Mr. Jennings from the
10 trial of this case.

11 THE COURT: Thank you, Mr. Jennings. You may
12 return to your seat.

13 THE CLERK: Juror 111, Phillip B. Griffin.

14 THE COURT: What about Ms. Garry?

15 THE CLERK: I'm sorry. Wait a minute.

16 Juror 97, Gayle G. Garry, (White female).

17 What sayeth the State?

18 MR. MYERS: Present Ms. Garry.

19 THE CLERK: What sayeth the defense?

20 MR. HARTE: Please swear the juror.

21 THE CLERK: Juror 111, Phillip B. Griffin,

22 (Black male).

23 What sayeth the State?

24 MR. MYERS: Present Mr. Griffin.

25 THE CLERK: What sayeth the defense?

1 MR. HARTE: Please swear the juror.

2 THE CLERK: Juror 228, Joseph B. Rowland, (White
3 male).

4 What sayeth the State?

5 MR. MYERS: Present Mr. Rowland.

6 THE CLERK: What sayeth the defense?

7 MR. HARTE: Please excuse Mr. Rowland from the
8 trial of this case.

9 THE CLERK: Juror 33, Alexis C. Brunson, (Black
10 female).

11 What sayeth the State?

12 MR. MYERS: Present Ms. Brunson.

13 THE CLERK: What sayeth the defense?

14 MR. HARTE: Please swear Ms. Brunson.

15 THE CLERK: Juror 12, Charles A. Bafford, (White
16 male).

17 What sayeth the State?

18 MR. MYERS: Present Mr. Bafford.

19 THE CLERK: What sayeth the defense?

20 MR. HARTE: Please excuse Mr. Bafford from the
21 trial of this case.

22 THE CLERK: Juror 222, Joseph Robbins, Jr.
23 (Black male).

24 What sayeth the State?

25 MR. MYERS: Present Mr. Robbins.

1 THE CLERK: What sayeth the defense?

2 MR. HARTE: Please swear Mr. Robbins.

3 THE CLERK: 129, Joseph C. Hoffmann, (White
4 male).

5 What sayeth the State?

6 MR. MYERS: Present Mr. Hoffmann.

7 THE CLERK: What sayeth the defense?

8 MR. HARTE: Please excuse Mr. Hoffmann from the
9 trial of this case.

10 THE CLERK: 156, Tammy Renee Kirby, (White
11 female).

12 What sayeth the State?

13 MR. MYERS: Present Ms. Kirby.

14 THE CLERK: What sayeth the defense?

15 MR. HARTE: Please excuse Ms. Kirby from the
16 trial of this case.

17 THE CLERK: Juror 244, Kaitlin S. Smith, (White
18 female).

19 What sayeth the State?

20 MR. MYERS: Excuse Ms. Smith.

21 THE CLERK: Juror 270, David W. Tuttel, (White
22 male).

23 What sayeth the State?

24 MR. MYERS: Present Mr. Tuttel.

25 THE CLERK: What sayeth the defense?

1 MR. HARTE: Please swear Mr. Tuttel.

2 THE CLERK: Juror 65, John S. Culbreath, (White
3 male).

4 What sayeth the State?

5 MR. MYERS: Present Mr. Culbreath.

6 THE CLERK: What sayeth the defense?

7 MR. HARTE: Please excuse Mr. Culbreath from the
8 trial of this case.

9 THE CLERK: 212, Ronnie Posey, (Black male).

10 What sayeth the State?

11 MR. MYERS: Present Mr. Posey.

12 THE CLERK: What sayeth the defense?

13 MR. HARTE: Please swear Mr. Posey.

14 THE CLERK: 267, Randall C. Thrower, (White
15 male).

16 What sayeth the State?

17 MR. MYERS: Present Mr. Thrower.

18 THE CLERK: What sayeth the defense?

19 MR. HARTE: Please swear Mr. Thrower.

20 THE CLERK: 283, Richard M. Wheatley, (White
21 male).

22 What sayeth the State?

23 MR. MYERS: Excuse Mr. Wheatley.

24 THE CLERK: Juror 94, Sean M. Gamble, (White
25 male.)

1 What sayeth the State?

2 MR. MYERS: Present Mr. Gamble.

3 THE CLERK: What sayeth the defense?

4 MR. HARTE: Please swear Mr. Gamble.

5 THE CLERK: 131, Elizabeth H. Holmes, (White
6 female).

7 What sayeth the State?

8 MR. MYERS: Present Mrs. Holmes.

9 THE CLERK: What sayeth the defense?

10 MR. HARTE: Please excuse the juror from the
11 trial of this case.

12 THE CLERK: Juror 26, Don R. Boyd, Jr. (White
13 male).

14 What sayeth the State?

15 MR. MYERS: Excuse Mr. Boyd.

16 THE CLERK: Juror 37, Crystal B. Busbee, (White
17 female).

18 What sayeth the State?

19 MR. MYERS: Present Ms. Busbee.

20 THE CLERK: What sayeth the defense?

21 MR. HARTE: Please swear the juror.

22 THE COURT: Is that 12, Madam Clerk?

23 THE CLERK: Yes, sir.

24 MR. HARTE: Your Honor, can I have a moment to
25 reconfigure?

1 THE COURT: I apologize?

2 MR. HARTE: Can I have a moment to reconfigure
3 my numbers?

4 THE COURT: Certainly.

5 All right. That would be the 12 members of the
6 primary jury is now selected. I'll give the attorneys a
7 moment before we begin the process of selecting the
8 alternates.

9 Just let me know when you're ready.

10 MR. HARTE: I'm ready, Your Honor.

11 THE COURT: Solicitor, are you ready?

12 MR. MYERS: Yes, sir.

13 THE COURT: All right. Madam Clerk, if you
14 would give us our first alternate.

15 THE CLERK: Juror 62, Matthew C. Cox, (White
16 male).

17 What sayeth the State?

18 MR. MYERS: Present Mr. Cox.

19 THE CLERK: What sayeth the defense?

20 MR. HARTE: Please excuse Mr. Cox.

21 THE CLERK: Juror No. 10, Allene Andrews, (Black
22 female.)

23 What sayeth the State?

24 MR. MYERS: Excuse Ms. Andrews.

25 THE CLERK: 264, Charles R. Thomasson, (White

1 male).

2 What sayeth the State?

3 MR. MYERS: Present Mr. Thomasson.

4 THE CLERK: What sayeth the defense?

5 MR. HARTE: Please excuse Mr. Thomasson.

6 THE CLERK: 223, Pamela C. Roberson, (White
7 female).

8 What sayeth the State?

9 MR. MYERS: Present Mrs. Roberson.

10 THE CLERK: What sayeth the defense.

11 MR. HARTE: Swear Ms. Roberson.

12 THE COURT: All right. Ms. Roberson is our
13 first selected alternate. Alternate 2.

14 THE CLERK: Juror 25, Donald E. Bowen, (White
15 male).

16 What sayeth the State?

17 MR. MYERS: Present Mr. Bowen.

18 THE CLERK: What sayeth the defense?

19 MR. HARTE: Please excuse Mr. Bowen.

20 THE CLERK: 136, Crystal R. Hughes, (White
21 female).

22 What sayeth the State?

23 MR. MYERS: Excuse Ms. Hughes.

24 THE CLERK: 151, Danny L. Key, (White male).

25 What sayeth the State?

1 MR. MYERS: Present Mr. Key.

2 THE CLERK: What sayeth the defense?

3 MR. HARTE: Please swear Mr. Key.

4 THE COURT: All right. Mr. Key is our second
5 selected alternate.

6 THE CLERK: No. 77, Alice J. Doren, (White
7 female).

8 What sayeth the State?

9 MR. MYERS: Present Ms. Doren.

10 THE CLERK: What sayeth the defense?

11 MR. HARTE: Please excuse Ms. Doren.

12 THE CLERK: 242, Amy C. Skinner, (White female).
13 What sayeth the State?

14 MR. MYERS: Present Mrs. Skinner.

15 THE CLERK: What sayeth the defense?

16 MR. HARTE: Please excuse Ms. Skinner.

17 THE CLERK: 134, Linda M. Hook, (White female).
18 What sayeth the State?

19 MR. MYERS: Present Ms. Hook.

20 THE CLERK: What sayeth the defense?

21 MR. HARTE: Please swear Ms. Hook.

22 THE COURT: All right. Ms. Hook will be our
23 third selected alternate.

24 (The jury is impaneled at 10:19 a.m.)

25 THE COURT: Are there any motions regarding the

1 jury selection process from the State?

2 MR. MYERS: No, sir.

3 THE COURT: From the defense?

4 MR. HARTE: No, Your Honor.

5 THE COURT: Thank you very much.

6 Ladies and gentlemen of the jury panel that have
7 been selected as jurors in the trial of this case,
8 momentarily I'm going to ask you to step to your new
9 temporary home, your jury room, with your bailiff. I need
10 to deal and give certain instructions to your colleagues.

11 During this brief recess, and I will give you
12 more fuller and complete charges and instructions upon
13 your return to the courtroom, but during this brief
14 recess, during all recesses during the trial of this case,
15 you're not to discuss this case with anyone. That
16 includes your fellow jurors or anyone else.

17 You will not be authorized to discuss this case
18 with anyone at any time until you have heard all the
19 evidence and testimony in the trial of this case, the
20 closing arguments by the attorneys, and the instruction on
21 the law by the Court, and further instructed by the Court
22 to begin your deliberations with your fellow jurors in
23 your jury room.

24 You're not to discuss the case in any manner
25 with anyone.

1 So I'm going to ask you to momentarily step to
2 your jury room with your bailiff. I will have you out
3 here shortly and will give you further instructions
4 concerning your jury service and give you the agenda for
5 the day.

6 If you would please go with your bailiff at this
7 time. Thank you very much.

8 (The jury left open court at approximately 10:21
9 a.m.)

10 THE COURT: Ladies and gentlemen of the jury
11 panel, I would like to thank you very much for your
12 participation during this process this week. Again, I
13 apologize to you for the disruption in your personal and
14 professional lives, particularly given the fact that
15 because of some health issues I had to delay the trial for
16 one week. I really apologize to you for that, that I was
17 not able to attend court during the week of 1 November of
18 2010. I was about to say 2002, but that's not going to
19 work. But be that as it may, I do very much appreciate
20 y'all's working with us in this process.

21 I would particularly like to thank those
22 individuals that went through what is sometimes a grueling
23 process of questioning by the Court and by the attorneys.
24 The jurors -- this is the only procedure I'm aware of in
25 South Carolina where jurors are questioned by the

1 attorneys on individual voir dire. It is a very time
2 consuming process. The lawyers have worked very hard
3 throughout this week to get us to this point. I don't
4 know of any days that we left before 6 p.m. this week in
5 attempting to get the panel so that we could move on with
6 the process. And obviously it's very important, because
7 the goal is to select a fair and impartial and qualified
8 juror, jury, to hear the trial of this case.

9 Momentarily I am going to excuse you from your
10 jury service for the remainder of the day and the
11 remainder of the week. You do not have to come back.
12 That includes each and every one of you, again with my
13 thanks for your participation.

14 With that being said, are there any questions?

15 (There was no response.)

16 THE COURT: Thank you very much. It has been my
17 honor and privilege to be with each and every one of you.
18 I hope to see you in the future. Have a pleasant day.

19 Good luck to you, Ms. Miller.

20 (The remaining jury panel members were Excused
21 at 10:37 a.m.)

22 (A break was taken.)

23 THE COURT: Solicitor and Mr. Harte, I'm having
24 the jury sequestration team come out now. I will give the
25 jury certain instructions. I will then have the Clerk

1 swear the jury sequestration team and all the bailiffs.
2 They will then be introduced. The jury panel will then be
3 turned over to the jury sequestration team. They're going
4 to secure their cars in the parking lot between county
5 council and magistrate here. If anyone wants to have
6 their cars picked up, if they leave their keys they can
7 make arrangements for that. They'll take them to the
8 motel, get them situated in their rooms, their clothing
9 situated, they will have lunch and then they will return.

10 In talking with Mr. McLeod, the head of the jury
11 sequestration team, he thinks 2 o'clock might be pushing
12 it, but he is going to -- that's going to be his goal, to
13 return at 2, maybe 2:30. Obviously I told him we're not
14 going to start until they get back anyway. I assume you
15 all don't want to start the trial until the jury's in
16 place. But if it takes them until 2:30, it takes them
17 until 2:30. I'm going to give them whatever adequate time
18 they need.

19 I'm not going to swear the jury now until they
20 get back. I'll do a brief opening when they get back and
21 you all do the openings and then we'll call the witnesses.

22 Anything you all want to add or do you all have
23 any questions or concerns?

24 Solicitor?

25 MR. MYERS: No, sir.

1 THE COURT: Mr. Harte?

2 MR. HARTE: Your Honor, after the jury is taken
3 to begin being put in the motel, I do have a question.

4 THE COURT: After?

5 MR. HARTE: Yes, sir.

6 THE COURT: All right. We can hear that before
7 they get back?

8 MR. HARTE: Yes, sir.

9 THE COURT: All right. Certainly. We'll just
10 make sure we hear it.

11 How about the jury sequestration team, where are
12 they at? Just have them come in here and have a seat over
13 here in the jury box.

14 (Jury sequestration team enters the courtroom.)

15 THE COURT: Good morning.

16 (Jury sequestration team responds "good
17 morning.")

18 THE COURT: You all can have a seat in the grand
19 jury box right now.

20 Mr. McLeod, I'm going to bring the jury in and
21 give them some instructions. Then we'll have the Clerk
22 bring you all around and the bailiffs and do the swearing
23 and introductions, so you all can have a seat right now.

24 All right. Anything before we bring in our
25 jury, Solicitor?

1 MR. MYERS: No, sir.

2 THE COURT: Mr. Harte?

3 MR. HARTE: No, Your Honor.

4 THE COURT: All right. Bring us our jury,
5 please.

6 (The jury came into open court at approximately
7 10:41 a.m.)

8 THE COURT: All right. It appears our jury is
9 back present in the courtroom.

10 Ladies and gentlemen, I'm going to give you some
11 further instructions concerning your jury service for the
12 week. Then I'm going to respond to some of your questions
13 that you have asked concerning your personal items, your
14 automobiles and notifying home and work.

15 Then I'm going to have the Clerk swear the jury
16 sequestration team and introduce those members of the team
17 to you.

18 After that, I will turn you all over to the jury
19 sequestration team to secure your automobiles. You will
20 then be taken to the motel, issued your rooms, get your
21 rooms set up, your clothing, then you'll have lunch and
22 you'll return back to the courthouse and the courtroom.
23 I'm aiming for about 2 o'clock today, it may be a little
24 bit later, and upon your return we will then begin the
25 trial of the case and work a full afternoon.

1 But I do want to again remind you that -- and
2 before the trial is over you'll be able to repeat this
3 back to me, I'm sure -- but I do again want to remind you,
4 do not discuss this case with anyone. That includes your
5 fellow jurors or anyone else. If anyone tries to talk
6 with you about the case, if you can, get that person's
7 name, but at any rate, notify the Court.

8 Further, do not watch, listen to, or read any
9 news accounts of the case.

10 Now, your news coverage, news accounts will be
11 limited, it will be restricted, that's part of the duties
12 and responsibilities of the jury sequestration team;
13 however, I would further advise you, do not expose
14 yourself to any news accounts of the case, should there be
15 any.

16 Further, and you've heard me say do not do any
17 independent investigation or any investigation on the
18 Internet.

19 You will have access to your personal computers
20 if you brought them. They will be secured in a common
21 room by the jury sequestration team and it will be
22 monitored. That does not mean that I mistrust any of
23 y'all to use your computer in any inappropriate manner to
24 look up anything about the case, but as I said to one of
25 the jurors during the jury selection process, it's

1 somewhat like President Reagan, it's trust but verify, and
2 I have to verify for the record. But you will have access
3 to that.

4 But I do advise you under our rules of the South
5 Carolina Supreme Court, you may not use a computer,
6 cellular phone, or other electronic device with
7 communication capabilities or any other method to obtain
8 or disclose information about the case at any time and
9 when you're not in court.

10 Information about the case includes but is not
11 limited to the following: Information about a party,
12 witness, attorney, or court officer; news accounts of the
13 case; information collected through juror research on any
14 topic raised or testimony offered by any witness; or
15 information collected through juror research on any other
16 topic the juror might think would be helpful in deciding
17 the case.

18 As you recall, and I will further instruct you
19 before we begin the trial, you must decide the case based
20 on the evidence and the testimony that you hear in this
21 courtroom, the sworn witnesses testifying under oath, and
22 any diagrams or exhibits or photographs. I don't know
23 what the evidence is. I don't know anything at all about
24 the case, just like you do not know anything at all about
25 the case, but you must decide the case based on what you

1 hear in this courtroom and the law as I instruct you on
2 the law uninfluenced by any outside information, media or
3 otherwise, uninfluenced by passion, prejudice, bias, or
4 any other improper consideration.

5 And remember, ladies and gentlemen, keep an open
6 mind about the case. Do not begin your deliberations, do
7 not make any decisions until you've heard all the evidence
8 and testimony, the closing instructions -- the closing
9 arguments by the attorneys, the instructions on the law by
10 the Court, and then directed by the Court to begin your
11 deliberations.

12 I will respond to these questions very briefly.
13 What do they do with their cars?

14 There is a parking lot between the magistrate's
15 office and the county council office, I understand, right
16 down here below the courthouse, and as soon as I turn you
17 over to the jury sequestration team, you'll be able to
18 place your cars in there.

19 The members of the jury team will gather up the
20 keys to those automobiles. Obviously if anyone wants to
21 notify their family member to come get their automobile,
22 the jury sequestration team will have the keys and if you
23 notify them, they can make arrangements to pick your
24 automobile up if you do not want it left in that lot, so
25 that will be taken care of momentarily.

1 I understand one lady did not bring her personal
2 items. A member of the jury sequestration team will make
3 arrangements to get those items for whoever that lady is.
4 They will take care of that for you.

5 You'll find that these individuals are very
6 experienced at this and very professional in their
7 dealings with you and will accommodate you in any manner
8 in which they can, so that will be taken care of.

9 When can they call home and/or work?

10 I've asked the chief of the jury sequestration
11 team to make arrangements while we're on this break to
12 where you can notify your family that you have been
13 selected as a member of this jury and that you are
14 sequestered and contact information and such and also your
15 work, so we're going to try and accomplish that during
16 this break between now and 2 o'clock this afternoon.

17 You certainly can ask questions of the jury
18 sequestration team. They have certain duties and
19 responsibilities. They're not to discuss with you
20 anything about the case. You are not to ask them any
21 questions about the case. They are here to secure you
22 during the sequestration, to provide for your needs as far
23 as housing, as far as sustenance, and any issues that may
24 arise among folks, among our lives, during a few days'
25 period of time when there are 15 of you.

1 All right. Mr. McLeod, if you and other members
2 of the team would come around and I would ask the Clerk
3 and also the bailiffs, if all the bailiffs would please
4 come around also to be sworn by the Clerk.

5 Do we have all our bailiffs present, Madam
6 Clerk?

7 THE CLERK: Yes, sir.

8 THE COURT: All right. And you all can come
9 forward also, Mr. Bailiff, Madam Bailiff.

10 All right. Madam Clerk, if you would please
11 administer the oath to the sequestration team and to the
12 bailiffs in the presence of the jury and the parties.

13 THE CLERK: Raise your right hand, please.

14 Do each of you swear that you will keep the jury
15 in the appointed housing, that you will allow no person to
16 speak to them without leave of the Court, that you will
17 not speak to them regarding this case, nor permit them to
18 speak with another about this case, that you will present
19 them at this Court at the appointed times and seek to
20 their case and safety while they're in your charge so help
21 you God?

22 (All jury sequestration team members and
23 bailiffs respond with "I do.")

24 THE COURT: All right. Madam Clerk, would you
25 introduce, please, the chief of the jury sequestration

1 team and your bailiffs and then thereafter perhaps
2 Mr. McLeod can introduce the actual members of his team.

3 THE CLERK: Mr. Rick McLeod, Mr. Buck Cockrell,
4 Mr. Vans Boone, Mr. Frank Thomas, Mr. Bobby Jenkins.

5 THE COURT: All right. And that, ladies and
6 gentlemen, are the members of the jury sequestration team.
7 Mr. McLeod is the chief of the jury sequestration team.

8 All right. Madam Clerk.

9 THE CLERK: Ms. Vivian Timmerman, Ms. Mary
10 McCary, Mr. Daniel Johnson, and Mr. Butch Bull.

11 THE COURT: All right. And if you'll notice,
12 there is not a female member of the jury sequestration
13 team and Ms. Timmerman is going to fulfill those duties
14 and responsibilities, so there will also be a lady as a
15 part of the jury sequestration team in that regard.

16 Is there any other information I need to provide
17 the jury prior to turning them over to the jury
18 sequestration team, Madam Clerk?

19 THE CLERK: No, sir.

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

21 Mr. McLeod, I am going to entrust the care,
22 keeping, and custody of the jury to you and the members of
23 your team. I would ask you to please make arrangements
24 for their housing, to get them settled in the motel, to
25 have them lunch, let them know their families, secure

1 their automobiles, and please return to us as close to 2
2 o'clock as you can. That's my target. If you're running
3 late, we're obviously not going to start without you,
4 Mr. McLeod, and without our jury, but if you can get back
5 at 2 o'clock, but if it takes a little longer, we
6 certainly understand. All right?

7 MR. McLEOD: Yes, sir.

8 THE COURT: All right. With that being said,
9 ladies and gentlemen of the jury, if you would please go
10 with Mr. McLeod and other members of the team and hope you
11 have a pleasant check-in and a pleasant lunch and we'll
12 see you at 2 o'clock.

13 (The jury left open court at approximately 10:54
14 a.m.)

15 THE COURT: All right. Anything further from
16 the State, Solicitor?

17 MR. MYERS: No, sir.

18 THE COURT: All right. Mr. Harte, do you have a
19 motion now?

20 MR. HARTE: I do, Your Honor.

21 THE COURT: All right. I'll be glad to hear
22 from you.

23 MR. HARTE: Your Honor, this case, and in order
24 to make this motion I'm going to need to give you some
25 background about the case.

1 THE COURT: Yes, sir.

2 MR. HARTE: This case involves a kidnapping in
3 Georgia, Richmond County, Georgia, an alleged kidnapping.

4 THE COURT: Richland County?

5 MR. HARTE: Richmond.

6 THE COURT: Richmond County. All right.

7 MR. HARTE: And then subsequently the victim's
8 body was found in Edgefield.

9 The lead investigator in the Richmond County
10 Sheriff's Office was a man, or is a man named Investigator
11 Richard Roundtree.

12 THE COURT: Richard Roundtree?

13 MR. HARTE: Yes, sir.

14 THE COURT: All right.

15 MR. HARTE: Yesterday shortly before lunch we
16 learned that there had been an investigation of
17 Investigator Richard Roundtree by the Georgia Bureau of
18 Investigations for improper conduct with one of the
19 State's witnesses in this case. Her name is Charlene
20 Thatcher. There were allegations that while she was
21 incarcerated, he had improperly taken her from the jail to
22 his offices in the Richmond County Sheriff's Office and
23 that perhaps there had been some sexual activity at that
24 location. There was at least some undocumented which
25 leads me to believe there were some documented interviews

1 that took place.

2 The investigation began, according to our
3 information, as a result of letters from prison from
4 Charlene Thatcher to Richard Roundtree which were found
5 either on his desk or in his desk or somewhere.

6 Charlene Thatcher is a co-defendant in this
7 case. Richard Cave is a co-defendant in this case.

8 THE COURT: Richard Cave?

9 MR. HARTE: Yes, sir.

10 THE COURT: All right.

11 MR. HARTE: And Antonio Griffin is a
12 co-defendant in this case. All three were interviewed by
13 Investigator Richard Roundtree.

14 We believe that the investigation by the Georgia
15 Bureau of Investigations, the letters from Thatcher to
16 Richard Roundtree, any interviewed witnesses regarding the
17 investigation of Investigator Richard Roundtree should
18 have been disclosed to us years ago. We believe this --

19 THE COURT: You haven't given me, and perhaps
20 you know it, you just haven't stated, what is the time
21 frame of these allegations and this investigation, Mr.
22 Harte?

23 MR. HARTE: The investigation was five years
24 after the arrest. So it would have been around 2007/2008.

25 THE COURT: I thought there was arrested --

1 after whose arrest?

2 MR. HARTE: Our client, the three other people.

3 THE COURT: I thought your client -- and I'm
4 just trying to get the time frame straight -- I thought he
5 wasn't arrested or didn't come to South Carolina until
6 2004.

7 MR. HARTE: Right. But he was in Georgia
8 serving time on other charges and he was arrested on this
9 charge in 2002.

10 THE COURT: All right. He was arrested in 2002
11 and then made no demand under the interstate detainer
12 until 2004?

13 MR. HARTE: Correct, 2005.

14 THE COURT: The first part of 2005?

15 MR. HARTE: Yes, sir, 2005.

16 THE COURT: So you're saying it was within five
17 years of 2002, so the investigation was in 2007? I'm just
18 trying to get the time frame.

19 MR. MYERS: The defendant wasn't arrested on
20 these charges and he was brought to South Carolina.

21 THE COURT: Yes, see, that's what I'm trying to
22 flesh out, the actual timing of his arrest. Now, he may
23 have had a hold on him in Georgia, I don't know.

24 MR. HARTE: But -- maybe I'm --

25 THE COURT: And I'm just trying to get the time

1 frame.

2 MR. HARTE: -- confusing myself.

3 My client was charged with the kidnapping in
4 Georgia of the victim in this case.

5 THE COURT: Yes, sir.

6 MR. HARTE: He was charged in Georgia for
7 kidnapping.

8 THE COURT: All right.

9 MR. HARTE: And that was in 2002.

10 THE COURT: Yes, sir.

11 MR. HARTE: He was tried then in 2003 on
12 unrelated charges in Columbia County, Georgia.

13 THE COURT: Unrelated charges?

14 MR. HARTE: Unrelated charges.

15 THE COURT: All right.

16 MR. HARTE: And he was convicted and sentenced.

17 In 2005, he filed a petition for the interstate
18 agreement on detainers and was brought over here in 2005.

19 THE COURT: And when was this investigation of
20 Investigator Roundtree?

21 MR. HARTE: According to our information, the
22 letters were located in 2008 and the investigation was
23 conducted at about that time, 2008.

24 THE COURT: All right.

25 MR. HARTE: Your Honor, the State's case in this

1 trial is based at least primarily on the investigation
2 done by Investigator Roundtree back in 2001, early 2002.
3 We believe that this information that certainly the
4 sheriff's department and the GBI and those people were
5 aware of should have been made available to us under Brady
6 and under Rule 5.

7 The integrity of the investigation is seriously
8 tainted if the lead investigator was guilty of misconduct
9 in his investigation and in his carrying it out with the
10 witness in this case. We believe it's in clear violation
11 of Rule 5 and Brady.

12 We specifically asked for any other evidence or
13 information which might lead to evidence tending to lessen
14 the credibility of any potential witnesses for the State.

15 We also requested all documentation resulting
16 from interviews by any law enforcement officers.

17 Clearly even if there was not sexual contact
18 between the investigator and the witness, there were
19 interviews which were documented, and we should have been
20 entitled to that.

21 We believe we should have been entitled to
22 review the Georgia Bureau of Investigation's records from
23 their investigation into Mr. Roundtree and see if there
24 are any witnesses that were interviewed on that which
25 might affect his credibility and the credibility of

1 Charlene Thatcher and the credibility of Richard Cave and
2 the credibility of Antonio Griffin.

3 We believe this is a serious -- and William
4 Harris -- excuse me -- that's another witness, but it's
5 not a co-defendant.

6 We believe this is a serious violation of Rule 5
7 and Brady.

8 If the integrity of the Richmond County
9 Sheriff's Office investigation is tainted, I believe it
10 taints the entire case. And we would ask Your Honor to
11 find that there has been a violation of Brady and that the
12 case be dismissed. And, of course, we would cite Brady
13 versus Maryland, 373 U.S. 83, 1963. Giglio versus United
14 States, 405 U.S. 150, 1972. And United States versus
15 Agurs, A-G-U-R-S, 427 U.S. 97, 1976.

16 Your Honor, it's our opinion that this case is
17 based almost exclusively on the testimony of the witnesses
18 that I've named, all of which were initially under the
19 contact of this Investigator Richard Roundtree.

20 THE COURT: All right. Thank you, Mr. Harte.
21 Solicitor.

22 MR. MYERS: I found out about this investigation
23 when he stood up and started talking. I have never been
24 given anything by the Georgia Bureau of Investigation. I
25 didn't know the Georgia Bureau of Investigation was

1 involved in this case. This is all new to me.

2 I don't have anything. If I had anything, they
3 certainly would have gotten it because we have given them
4 everything we have. And I don't know anything about a
5 Georgia Bureau of Investigation at any time, or what it
6 was about, the results of it, or what it was alleged to
7 be. This is totally new to me, Your Honor.

8 THE COURT: All right.

9 MR. HARTE: Two points with regards to that, and
10 I want to add one other thing.

11 THE COURT: Certainly.

12 MR. HARTE: My understanding of Brady and the
13 discovery rules, and I'm not saying that I doubt the
14 Solicitor one minute, one second.

15 THE COURT: I understand that.

16 MR. HARTE: But I believe that the State of
17 South Carolina is responsible for whatever agency failed
18 to produce or give the information to the State. I
19 believe that, for instance --

20 THE COURT: Well, there is a case, Santobello
21 versus New York, that says the left hand's supposed to
22 know what the right hand's doing.

23 MR. HARTE: Correct.

24 THE COURT: But I'm not sure as far as the State
25 of South Carolina, if that's the left hand, I'm not sure

1 the Georgia Bureau of Investigation is any body part to
2 the State of South Carolina. I would have to -- I would
3 actually have to research that particular issue.

4 I don't disagree if it were SLED, if it were the
5 Johnston PD or something like that, but quite frankly, I
6 would have to revisit -- the case I'm familiar with is
7 Santobello versus New York.

8 Of course, there's also that line of cases -- I
9 don't know that the Solicitor has any more access to
10 GBI -- the South Carolina Solicitor would have any more
11 access to GBI records than the defense.

12 MR. HARTE: Well, Your Honor --

13 THE COURT: Those are out-of-state records and
14 there are cases, death penalty cases, for example, Platt
15 and Arnold, if the items are just as accessible to the
16 State -- or to the defense as they are to the State,
17 there's no violation because they could be subpoenaed by
18 the defense.

19 MR. HARTE: Well, Your Honor, the problem is, we
20 didn't know about this until less than 12 hours yesterday.

21 THE COURT: And I don't question you one moment
22 on that, but the Solicitor's saying he didn't know about
23 it until you got up and started talking.

24 MR. HARTE: Yes, sir. And I believe the
25 Solicitor because I know Donnie Myers to be an honest

1 person.

2 THE COURT: And I believe you, Mr. Harte,
3 because I know you personally --

4 MR. HARTE: Somebody from the 11th Circuit
5 Solicitor's Office informed our investigator late
6 yesterday that they were aware of this investigation in
7 Georgia, that they had interviewed Richard Roundtree, he
8 had denied any wrongdoing and they weren't going to call
9 him as a witness because of it.

10 THE COURT: So Mr. Roundtree's not going to be a
11 witness?

12 MR. MYERS: Yes, sir, I plan on calling him.
13 He's on the witness list.

14 MR. HARTE: He is on the witness list, but I'm
15 just quoting what information I was given.

16 THE COURT: Well, who in the Solicitor's office
17 informed the defense of that?

18 MR. HARTE: Do you have the name?

19 MR. TARR: Our investigator, Carl McNair,
20 informed me that he had spoken with an investigator with
21 the 11th Circuit Solicitor's Office and that they had
22 informed -- he called them when we found out the
23 information and he said, "Do you all know anything about
24 this?" "They said, Yes, we heard about it, we interviewed
25 him about it, he denied it and we're not calling him as a

1 witness."

2 And Carl could tell you who it is. I wasn't a
3 party to that conversation. I'm relaying what our
4 investigator told me.

5 THE COURT: Well, does anybody know if the
6 information exists?

7 MR. MYERS: I have no idea, Your Honor. All
8 this is news to me. I've never asked anybody anything
9 about that. Never been told anything about it.

10 MR. HARTE: Your Honor, we are also aware, and
11 we learned about this yesterday also, that a jailer at the
12 Richmond County Sheriff's Department or Richmond County
13 Jail was convicted of having sex with Charlene Thatcher
14 while she was incarcerated.

15 THE COURT: Is he a witness?

16 MR. HARTE: No, but the case -- according to our
17 information, that case was investigated by Richard
18 Roundtree.

19 THE COURT: I should say is he or she a witness.

20 MR. HARTE: 2003 was the date of that.

21 MR. TARR: We're attempting to locate him right
22 now.

23 THE COURT: Well, that would seem to be a
24 collateral matter to me.

25 MR. HARTE: I agree.

1 THE COURT: It would seem to be, but --

2 MR. TARR: Unless he has information about
3 whether she had also been with Mr. Roundtree.

4 THE COURT: Sure, but I can't speculate in that
5 regard right now. If you've got a third party that's had
6 sex with an inmate and was convicted, that appears to be a
7 collateral matter. I just don't have enough information.

8 MR. HARTE: Your Honor, in each of these cases,
9 the witnesses that I named to you, Richard Cave, Antonio
10 Griffin, Charlene Thatcher, and William Harris were
11 interviewed by Richard Roundtree without a tape-recording
12 or anything like that and subsequently were put on tape
13 for a taped statement in each of those cases.

14 THE COURT: Well, at this point I'll take it
15 under advisement.

16 I'll be glad to sign an out-of-state subpoena
17 for those documents if someone wants to prepare a
18 subpoena, for the GBI documents on the investigations --

19 MR. HARTE: And the letters?

20 THE COURT: -- if someone can serve them.

21 MR. HARTE: And the letters?

22 THE COURT: I'll be glad to sign a subpoena, an
23 out-of-state subpoena for those documents.

24 MR. TARR: Your Honor, it's our opinion that
25 this is pure Brady material and it's not a part -- so we

1 would ask that the State -- the State can get it a lot
2 easier we can. They cooperate with Richmond and Edgefield
3 ---

4 THE COURT: I'm saying I'll sign an out-of-state
5 subpoena. I thought I was the State, too. I mean, I'm
6 trying to get the documentation the only way I have the
7 authority to get it.

8 If I turn to the Solicitor and I say,
9 "Solicitor, get this documentation," if he can pick up a
10 phone and call, that's fine. I don't know if he can do
11 that or not.

12 I'm saying I will put the force of the Court
13 behind the documentation -- behind an order to try to get
14 this documentation if it exists. That's all I'm saying,
15 Mr. Tarr.

16 Solicitor, would you have someone check and see
17 if these documents exist and if you can get it in any
18 easier manner?

19 MR. MYERS: I'll be glad to.

20 THE COURT: All right. Thank you very much,
21 Solicitor.

22 And as I say, I'll be glad to sign an
23 out-of-state subpoena to try to get the information in
24 that regard and take it under advisement.

25 MR. MYERS: Is there a particular person that

1 I'm supposed to contact? Where is the office located?
2 Because I don't know. If they can tell me who's got it
3 and where it is --

4 MR. HARTE: I'm sure that GBI has offices in
5 Augusta, Georgia Bureau of Investigation.

6 Your Honor, I want to make it clear that we're
7 not asking just for the GBI investigation records, we're
8 asking for copies of the letters --

9 THE COURT: I understand.

10 MR. HARTE: -- copies of any documentation of
11 these interviews that took place between Mr. Roundtree and
12 Ms. Thatcher.

13 THE COURT: Well, that would come from
14 Mr. Roundtree, correct?

15 MR. HARTE: I don't believe --

16 THE COURT: Copies of any documentation of his
17 interviews would come from Mr. Roundtree.

18 MR. HARTE: Well, Richmond County Sheriff's
19 Office. I don't know about allowing Mr. Roundtree to be
20 here.

21 MR. MYERS: Everything that we've got --

22 THE COURT: From Richmond County?

23 MR. MYERS: -- from the Richmond County
24 Sheriff's Department has been turned over to the defense.

25 MR. HARTE: Well, you would think they would

1 have given them information about this investigation then.

2 MR. MYERS: Well, now did the sheriff's
3 department investigate?

4 MR. HARTE: Our information is GBI investigated
5 it. The sheriff's department's certainly aware of it.

6 MR. MYERS: Is there a particular person at the
7 sheriff's department? They've switched over sheriffs
8 recently.

9 MR. HARTE: Sheriff Ronnie Strength.

10 THE COURT: That's the only name I know down
11 there is Sheriff Ronnie Strength, only because I knew him
12 when he was Major Ronnie Strength.

13 MR. MYERS: He wasn't the sheriff back in 2002.

14 MR. HARTE: He was the sheriff in 2008 when GBI
15 investigated.

16 MR. MYERS: I'll get somebody -- I'll get the
17 SLED agent to call over there.

18 THE COURT: All right. And as I say, if you
19 want me to sign an out-of-state subpoena for it, I'll be
20 glad to do it. I would like to look at the documentation
21 if it exists. I'll also take it under advisement as far
22 as the Santobello issue as to whether or not Georgia is
23 the left hand to South Carolina the right hand. I don't
24 know the answer to that question.

25 MR. HARTE: The knowledge of the investigator in

1 the 11th Circuit is imputed to the Solicitor.

2 MR. MYERS: Pardon me?

3 THE COURT: If you put somebody's knowledge --
4 he says knowledge of the investigator --

5 MR. HARTE: We'll get Investigator McNair up
6 here and we'll put him on the stand.

7 THE COURT: He says knowledge of the
8 investigator of the 11th Circuit is imputed to the
9 Solicitor. That was Mr. Harte's statement.

10 I don't know who that is at this point, that
11 Mr. McNair may have talked with.

12 MR. HARTE: He does. We'll get him up here.

13 THE COURT: And I will assure you if there is
14 such an individual, he should advise the Solicitor of that
15 so the Solicitor can follow up on it.

16 MR. HARTE: Absolutely.

17 THE COURT: I would agree with that.

18 MR. HARTE: I believe his first name is Mack.

19 THE COURT: And I don't know who that is.

20 MR. HARTE: I don't either.

21 THE COURT: All right. Anything further?

22 MR. HARTE: No, Your Honor.

23 THE COURT: Solicitor?

24 MR. MYERS: No, sir.

25 THE COURT: All right. We're shooting for 2

1 o'clock. Thank you very much.

2 (A lunch break was taken.)

3 (WHEREUPON, State's Exhibits Nos. 1-16 were
4 marked for identification only.)

5 THE COURT: Before the jury comes in, any
6 follow-up with the motions that we've heard which I still
7 have under advisement prior to the break on the
8 Brady/discovery issues, Mr. Harte?

9 MR. HARTE: Your Honor, I have just received a
10 rather thick file that I'm told does contain some of the
11 material, maybe all the materials I'm looking for. I
12 haven't had a chance to look through it, but at this time
13 I wouldn't have anything further.

14 THE COURT: All right. I would ask if you would
15 please make a copy of that file for the Court. And also
16 if any of the witnesses come up that you refer to prior to
17 you having the opportunity to review that, if you'd please
18 let me know. I'll certainly give you an opportunity to
19 review the file.

20 I still don't have the exact sequence of the
21 information or the results of the information to determine
22 its admissibility or inadmissibility, but I want to make
23 sure you get the opportunity to review it and that I also
24 get the opportunity to view it, and if there is any parts
25 of it you think are suitable for cross-examination, that

1 you have the opportunity to review those parts before the
2 witness is released from cross-examination.

3 MR. HARTE: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. MYERS: We didn't give him that file so I --

6 MR. HARTE: Well, this did not come from them.

7 It came from our investigator. And I don't know what the
8 file is. It looks like it may be the --

9 THE COURT: All right.

10 MR. HARTE: It looks like it may not be the file
11 I was looking for. I'm not sure.

12 MR. TARR: This is just a file that the reporter
13 from the Augusta Chronicle had, that he wrote a story
14 which is where we got our information. So our objection
15 to the failure to disclose under Brady and Kyle and Giglio
16 is still ongoing because we have not seen anything.

17 THE COURT: I understand that. I understand
18 that and you understand I haven't ruled on it.

19 MR. TARR: Yes, Your Honor.

20 THE COURT: I just want to make sure when I do
21 rule I know what I'm ruling on, that's all I'm saying.

22 MR. TARR: Yes, sir.

23 THE COURT: I don't want to rule in the blind,
24 so to speak. I'm going to have to look at the
25 information, if it is available.

1 MR. TARR: Yes, sir.

2 THE COURT: I haven't made any ruling whatsoever
3 on the issue, and we're going to press on with the trial.

4 MR. HARTE: And as I understand it in talking
5 with the Solicitor, they are attempting to obtain access
6 to what we've asked for.

7 THE COURT: Solicitor.

8 MR. MYERS: I requested SLED agent Mike Perry
9 contact GBI and the Richmond County Sheriff's Office. He
10 is not back yet. I'm told he called and said so far he
11 has been unsuccessful in obtaining any materials or
12 finding anybody who knows anything about this. All his
13 inquires have been in the negative.

14 THE COURT: All right. Thank you very much. If
15 you all would just keep me posted.

16 And as I say, I don't want a witness to get out
17 of pocket. For example, Mr. Harte, if you think there is
18 information for which you can cross-examine that witness
19 on, I'll be able to rule on that, and if it's information
20 in the file, I'd like to look at it. That's the only
21 point I wanted to make.

22 MR. HARTE: Thank you, Your Honor.

23 THE COURT: And I have not made any rulings
24 whatsoever on the Brady or the discovery issue.

25 MR. HARTE: I understand.

1 THE COURT: All right. Anything further before
2 we bring out our jury?

3 MR. MYERS: Not from the State.

4 MR. HARTE: No, Your Honor.

5 MR. MYERS: Oh, yes, there is one thing.

6 THE COURT: Yes, sir.

7 MR. MYERS: During the break we got with Mr.
8 Harte and we have pre-marked Exhibits 1 through 16,
9 State's Exhibits, without objection.

10 THE COURT: Is that correct, Mr. Harte?

11 MR. HARTE: That's correct, Your Honor.

12 THE COURT: All right. Exhibits 1 through 16
13 have been marked without objection.

14 MR. MYERS: Yes, sir.

15 (WHEREUPON, State's Exhibits Nos. 1-16 were
16 admitted into evidence.)

17 THE COURT: All right. Captain, there's been
18 some concern brought up by the attorneys that the
19 courthouse is locked and perhaps witnesses may arrive and
20 not know how to get in the courthouse.

21 POLICE OFFICER: Yes, sir.

22 THE COURT: Have you made any arrangements for
23 that? Although I realize you're not manager of either the
24 State nor the Defense's witnesses, I guess I'm still
25 looking to you to advise me.

1 POLICE OFFICER: I can post somebody out there,
2 but, you know, I need to know who's coming by name.

3 THE COURT: All right. Well, I assume since
4 we're going to be in the State's trial for the case in
5 chief today, you'll know who your witnesses are and you'll
6 have somebody shepherding them; is that correct,
7 Solicitor?

8 MR. MYERS: Yes, sir.

9 THE COURT: Do you have anyone coming, Mr. Tarr
10 or Mr. Harte? Do you want to give the names to the
11 Captain so that he can make sure they're directed
12 properly?

13 I keep that door locked so that people aren't
14 pulling on it and disturbing you all while you're trying
15 your case.

16 MR. TARR: Yes, Your Honor. We're just -- all
17 the doors in the courthouse are locked.

18 THE COURT: I understand.

19 MR. TARR: That's why I'm just letting the Court
20 know that.

21 THE COURT: I understand. But do you have any
22 names you want to give the Captain today that may show up
23 to testify? I saw your investigator come through the back
24 earlier.

25 I didn't know if you had anyone else coming. If

1 you want to give them the names, I'll make sure they
2 shepherd them properly.

3 Sir?

4 MR. TARR: No, Your Honor.

5 THE COURT: All right. Well, if you do, let me
6 know and we'll get that addressed.

7 MR. TARR: Yes, sir.

8 THE COURT: All right. Bring us our jury,
9 please.

10 (The jury came into open court at approximately
11 2:04 p.m.)

12 THE COURT: All right. Welcome back, ladies and
13 gentlemen. I hope you got settled in and had a lunch, a
14 decent lunch.

15 Madam Clerk, will you please administer the oath
16 to our jurors.

17 THE CLERK: Please stand and raise your right
18 hand.

19 (WHEREUPON, the jury was sworn at 2:07 p.m.)

20 THE CLERK: Please be seated.

21 THE COURT: Thank you very much, ladies and
22 gentlemen.

23 Was there any member of the jury panel who was
24 unable to take the oath? If so, please stand.

25 (There was no response.)

1 THE COURT: All right. Then would you please
2 identify for me, please, if you are an alternate? Raise
3 your hand.

4 (Alternate jurors complied.)

5 THE COURT: All right. I would like the
6 alternates grouped together, Madam Bailiff. If they do
7 not mind moving down here. You stay there and if you'd
8 move down and move over. I need to keep up with numbers
9 and alternates.

10 THE BAILIFF: Do you need them by one, two, and
11 three?

12 THE COURT: Ma'am?

13 THE BAILIFF: Do you want them by one, two, and
14 three?

15 THE COURT: No, ma'am. But as long as they're
16 grouped together, that's fine. Thank you very much.

17 And I will probably appoint a jury foreperson
18 either towards the end of the day or the first of the day
19 in the morning.

20 Ladies and gentlemen, I'm going to give you some
21 opening remarks and some opening instructions at this
22 time. After that, I will explain to you the procedures we
23 will follow in the trial of this case. If you'd please
24 give me your complete and undivided attention.

25 Under the law of South Carolina, where the State

1 seeks the death penalty as it does here, the trial is a
2 bifurcated one; that is, it is a trial which may be held
3 in two parts.

4 First, the first part of the trial is held
5 before the jury to determine whether the defendant is
6 guilty or not guilty. That is the phase of the trial that
7 we are presently holding.

8 At the conclusion of the first part of the
9 trial, should your verdict be not guilty, that would --
10 not guilty of murder, that would conclude the trial and
11 there would be no need for that second part, that
12 sentencing phase.

13 At the conclusion of the first part of the
14 trial, should the verdict of the jury be guilty, if the
15 defendant is convicted of the crime of murder, that is
16 when that second proceeding will be held.

17 The second proceeding is a sentencing proceeding
18 at which extenuating aggravating or mitigating
19 circumstances may be introduced into evidence and
20 considered by you, the jury, should such a proceeding be
21 necessary. I would further instruct you at that time.

22 Please derive no inference on what I have just
23 told you, or the procedure we follow, as to what your
24 verdict should be. The purpose of my telling you this is
25 to emphasize, to emphasize that you are not to consider

1 punishment or sentence in this phase of the trial. This
2 is the phase of the trial solely for your focus on the
3 issue of whether or not the defendant is guilty or not
4 guilty. You should base your decision on the evidence
5 that is presented during this trial and the law, as I
6 instruct you on the law.

7 Ladies and gentlemen, the cases we're about to
8 try are the cases of the State versus Steven Louis Barnes.
9 What I will now say is intended to serve as an
10 introduction to the trial of the case. I will also
11 instruct you on general areas of the law; however, these
12 remarks are not a full charge on the law that applies in
13 this case. I will instruct you on the full charge of the
14 law that applies to this case at the end of the trial
15 before you retire to consider your verdict. This is
16 merely an explanation of the procedure that we will follow
17 in the trial so that you may better understand what may be
18 happening.

19 I got a note from the jurors, from the bailiff
20 that indicated a question, "Can we take notes?" I also
21 have that written down on my pad to address it with you.

22 My response to that is yes, you may take notes.
23 I will give you several instructions concerning notes.

24 Some of you may be note takers, some of you may
25 not be note takers. I am a note taker, and then I find at

1 the end, I can't read my notes sometime. However, if you
2 want to take notes, you may certainly do so.

3 You will not have access to your notes in the
4 jury room until the case is submitted to you for your
5 deliberation. In other words, what that means is that
6 during the breaks and the evening hours you turn your
7 notes upside down on your chair. They would be secured by
8 the Clerk's office over the evening hours and returned
9 back to you the next morning.

10 Also remember in taking notes, in judging the
11 credibility of witnesses, sometimes the demeanor of the
12 witness may be important. When you're writing you're
13 looking down and writing your notes, you may miss a
14 particular nuance in a person's demeanor that could help
15 guide you in your determination of the believability or
16 the credibility of a particular witness.

17 I would further advise you that no juror's notes
18 has any more force, effect, or authority than another
19 juror's independent recollection. They have no greater
20 weight or value just because it is written down.

21 However, at the end of this instruction to you
22 and before we start the trial, if any of you want note
23 pads, I'll certainly have the Clerk provide pads and
24 pencils for your note taking.

25 Now, ladies and gentlemen, the defendant is

1 charged by indictments filed with this Court with the
2 crimes of kidnapping and murder.

3 As to the crime of kidnapping, the State must
4 prove beyond a reasonable doubt that the defendant
5 knowingly and unlawfully seized, confined, inveigled,
6 decoyed, kidnapped, abducted, or carried away another
7 person without authority of law.

8 To do a thing unlawfully is to do it willfully
9 against the law. Knowingly means with knowledge,
10 consciously, not accidentally. Seize means to take hold
11 of suddenly or forcefully. Confine means to limit,
12 restrict, or enclose close within bounds, imprisonment, or
13 shelter, or keep in. Inveigle means to lure, entice, or
14 lead astray by false representation, promises, or other
15 deceitful means. Decoy means to lure by, or as if by a
16 decoy. A decoy is something to entice a person into a
17 trap.

18 The defendant is also charged with the crime of
19 murder. The State must prove beyond a reasonable doubt
20 that the defendant killed another person with malice
21 aforethought.

22 Malice is hatred, ill will, or hostility towards
23 another person. It is the intentional doing of a wrongful
24 act without just cause or excuse and with an intent to
25 inflict an injury and under circumstances that the law may

1 infer an evil intent.

2 I will further explain all the elements of those
3 charges to you in my closing remarks.

4 Now, ladies and gentlemen, the fact that the --
5 I remind you the fact that the defendant was arrested,
6 charged, and indicted in this case is not evidence in this
7 case and cannot be considered by you as evidence of guilt
8 in this case, nor does it create any presumption or
9 inference of guilt. These documents, ladies and
10 gentlemen, these indictments are simply the formal written
11 instruments which contain the charges made against the
12 defendant. They are the formal documents by which this
13 case is brought into court.

14 The defendant has pled not guilty to these
15 indictments. The State, therefore, has the burden of
16 proving each and every element of the indictment beyond a
17 reasonable doubt. A reasonable doubt is the kind of doubt
18 that would cause a reasonable person to hesitate to act.

19 Some of you may have served in the past as
20 jurors in civil cases where you were told that it is only
21 necessary to prove that a fact is more likely true than
22 not true, such as by the greater weight or the
23 preponderance of the evidence.

24 In criminal cases, the State's proof must be
25 more powerful than that; it must be beyond a reasonable

1 doubt. Proof beyond a reasonable doubt is proof that
2 leaves you firmly convinced of the defendant's guilt.

3 Ladies and gentlemen, there are very few things
4 in this world that we know with absolute certainty, and in
5 criminal cases, the law does not require proof that
6 overcomes every possible doubt. If based on your
7 consideration of all the evidence you are firmly convinced
8 that the defendant is guilty of the crime or crimes
9 charged, you must find the defendant guilty. If on the
10 other hand, you think there is a real possibility that the
11 defendant is not guilty, you must give the defendant the
12 benefit of the doubt and find him not guilty.

13 It will be your duty, ladies and gentlemen, to
14 decide whether the State has met its burden of proof.

15 As I said, the defendant is not -- has pled not
16 guilty to these indictments. That plea puts the burden on
17 the State to prove the defendant's guilty. A person
18 charged with committing a criminal offense in South
19 Carolina is never required to prove himself innocent. I
20 charge you that it is an important rule of the law that a
21 defendant in a criminal trial, no matter what the
22 seriousness of the charge may be, will always be presumed
23 to be innocent of the crimes for which the indictments
24 were issued unless guilt has been proven by evidence
25 satisfying you of that guilt beyond a reasonable doubt.

1 Ladies and gentlemen, this presumption of
2 innocence does not end when you begin your deliberations,
3 but it accompanies the defendant throughout the trial
4 until you reach a verdict of guilt based on the evidence
5 satisfying you of that guilt beyond a reasonable doubt.

6 The presumption of innocence is like a robe of
7 righteousness placed about the shoulders of the defendant
8 which remains with the defendant until it has been
9 stripped from the defendant by evidence satisfying you of
10 the defendant's guilt beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory, it is not just a legal phrase, it is a substantial
13 right to which every defendant is entitled unless you, the
14 jury, are satisfied from the evidence of the defendant's
15 guilt beyond a reasonable doubt.

16 Your purpose as jurors is to find and determine
17 the facts. You are the sole judges of the facts. If at
18 any time I make any comments regarding the facts, you must
19 disregard it. You are to determine the facts from the
20 testimony you hear and the other evidence introduced in
21 court. It is up to you to determine the inferences which
22 you feel may properly be drawn from the evidence.

23 It is especially important that you perform your
24 duty of determining the facts diligently and
25 conscientiously because ordinarily there is no way to

1 correct an erroneous determination of the facts by a jury.

2 On the other hand, ladies and gentlemen, and
3 with equal emphasis, the same law that makes you the
4 judges of the facts makes me the judge of the law. The
5 law as given by the Court is the only law you may
6 consider. You must accept it and follow it, even though
7 you may disagree with it.

8 I cannot tell you what the facts are. You
9 cannot disagree with me about what the law is or should
10 be. Your job is to take the law as I give it to you and
11 apply it to the facts as you find them to be from the
12 testimony of the witnesses and any other evidence
13 introduced. After doing that, you will render your
14 verdict, a true and just verdict, under the solemn oath
15 that you have just taken.

16 It is important to keep to open mind and not
17 decide any issue in the case until all the evidence has
18 been presented and the parties have made their closing
19 arguments and I have instructed you on the law in this
20 case.

21 It is your solemn responsibility to determine
22 the guilt or innocence of the defendant and your verdict
23 must be based solely on the evidence as it is presented to
24 you in this trial and on the law as I instruct you during
25 and at the close of the trial.

1 Now, in just a few moments, ladies and
2 gentlemen, the Solicitor will make what is called an
3 opening statement in which the Solicitor will explain to
4 you the issues in the case, or at least what the
5 solicitors think the issues in the case are.

6 Mr. Harte or Mr. Tarr, one of the attorneys for
7 the defendant, may also make an opening statement,
8 although they are not required to do so.

9 What the attorneys tell you during their
10 openings is not evidence in the case; it is their
11 contention as to what the issues are.

12 The evidence in this case will be presented to
13 you by the testimony of sworn witnesses from this witness
14 stand and/or by any exhibits that may be introduced into
15 evidence.

16 From time to time during the trial you may hear
17 one of the attorneys say something like, "Your Honor, I
18 believe we have a question of law or a matter of law to
19 discuss with you," or, "Your Honor, may we approach the
20 bench?" Sometimes I myself might find it necessary to
21 excuse you from the courtroom for a short while so that
22 the attorneys and I can discuss a matter of law. The
23 reason for this is because you are the judges of the facts
24 in the case, and sometimes when I am discussing matters of
25 law with the attorneys, it may be necessary for me to make

1 some comment about the facts in connection with ruling
2 whether or not a particular law applies. I'm not supposed
3 to tell you what I think the facts are, so I will excuse
4 you from the courtroom while these discussions take place
5 so that in no way will you be influenced by anything that
6 I might say or do in connection with the facts.

7 In determining what the true facts are in this
8 case, you must decide whether or not testimony of
9 witnesses is believable. It will be my responsibility to
10 rule as a matter of law as to whether certain testimony is
11 admissible at all or not, but once the testimony is
12 admitted, whether or not you believe it is solely for you
13 to determine.

14 Deciding whether to believe a witness, ladies
15 and gentlemen, is using your good judgment and your common
16 sense. You have a right to consider the interest of any
17 witness, the bias of any witness, the prejudice of any
18 witness, the opportunity for the witness to have seen the
19 matters and things about which the witness may testify,
20 and the way that the witness acts on the witness stand.
21 You have the right to consider anything in the record that
22 will help you evaluate the testimony, the credibility, the
23 believability of the witness.

24 That means it will be your duty to pay close
25 attention to these witnesses, to observe them, to listen

1 to them, to pay close attention to the attorneys and to
2 the Court. Don't let your thoughts wander but give strict
3 attention to the testimony in this case so that at the end
4 of all the testimony, after the arguments of counsel and
5 the charge on the law by the Court, you will then be in a
6 position to determine what the true facts are and to apply
7 the law to those facts and thus render a true and just
8 verdict.

9 Just some housekeeping matters, ladies and
10 gentlemen.

11 From time to time you may see me on my computer.
12 I assure you I don't check email, I don't play games or
13 none of that. A legal issue may come to my mind and I may
14 do research on that. I also have my law clerk,
15 Ms. Parker -- excuse my manners for not having introduced
16 Ms. Parker to you. I say my law clerk, it's my lawyer I
17 should say. But I'm generally doing research on that.

18 Also, if you cannot hear a witness, particularly
19 those of you that may be further from the witness stand,
20 please raise your hand, speak up, get my attention or the
21 attention of one of the fine bailiffs. If you can't hear
22 a witness, you won't be able to determine what the witness
23 said, the credibility of the witnesses, so please get my
24 attention and we'll have them speak up.

25 If there are any items or documents of evidence

1 introduced during the course of the trial, many times
2 they're handed to the jury in the jury box and they're
3 passed among you while you're out here in your jury box.
4 You may look at those items all you wish. Please
5 understand if I allow any evidence, any items into
6 evidence, you will also have those items with you in your
7 jury room at the time of your deliberations. And again,
8 look at them all you want to in this courtroom in your
9 jury box, but understand that's not the only time, the
10 last time you'll have an opportunity to view those items.

11 One final thing: Breaks. I tell jurors very
12 simply, and it's an easy rule: When I want to take a
13 break, we'll take a break. That's about the only
14 authority I have I think sometimes.

15 Well, it isn't some type of judicial marathon.
16 If you sit out here too long, if you need a break, you
17 need to take a break, a refresher, just please raise your
18 hand. You all will take y'all's break, we will take ours.
19 I generally try to work in the courtroom about an hour and
20 15 minutes, an hour and 30 minutes between breaks,
21 depending on where we're at with a particular witness.
22 Again, if you need a break, please raise your hand. This
23 is not some type of marathon.

24 And finally, in order to preserve everyone's
25 rights, I give the parties an opportunity to object to

1 anything I said.

2 Any exceptions, Solicitor?

3 MR. MYERS: No, sir.

4 THE COURT: Mr. Harte?

5 MR. HARTE: No, Your Honor.

6 THE COURT: All right. Mr. Harte, do I need to
7 have any ex parte interview with the defendant prior to
8 opening?

9 MR. HARTE: No, Your Honor.

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

11 All right. We will now begin the trial of the
12 case.

13 Solicitor, you may address the jury.

14 MR. MYERS: Thank you, Your Honor.

15 Labor Day of 2001, while people were
16 celebrating, this was a horrible day for a 16-year-old,
17 Samuel Sturrup. That day he was at home with his mother,
18 Ms. Shirley Sturrup.

19 Stand up, Shirley.

20 That's his mother.

21 He took a bath, got dressed, and he left. Ms.
22 Sturrup never saw him again. She didn't see him
23 September 3rd on Labor Day. She didn't see him the
24 following week in September, or the following week in
25 September, or the following week in September.

1 She didn't see him the first of October, or the
2 second week in October, or the third week in October, or
3 the end of October.

4 She didn't see him the first week in November,
5 the second week in November.

6 But around the 19th and the 20th of November,
7 what was left of Samuel Sturrup was found. And there
8 wasn't much evidence.

9 She didn't know where her son was. Didn't know
10 what happened to him. She went over there and she talked
11 with people. She was antsy. She filed a missing person's
12 report to the Georgia authorities because she lives in
13 Augusta, Georgia, on Dublin Street, right there on the
14 corner.

15 And then the last November, Randy Doran here
16 with the Edgefield Sheriff's Department had to call the
17 Georgia authorities and tell them what they'd found over
18 here in Edgefield. They had to tell Ms. Sturrup.

19 What could have happened? Well, the Edgefield
20 authorities started working with the Georgia authorities
21 and they were looking around trying to find what could
22 have happened to 16-year-old Samuel Sturrup. Who could
23 have done what they did to him and how could they leave
24 him where he was left? There was hardly anything left.

25 And they kept working. They worked in November,

1 they worked in December, they worked in January of '02.
2 And finally about January the 17th of 2002, an arrest was
3 made, the defendant, Steven Louis Barnes, and some other
4 people were arrested.

5 People started talking about it, telling what
6 happened to Samuel Sturup over something they did. It's
7 not pretty.

8 The defendant, Steven Louis Barnes, he liked to
9 control people and he'd get young people and keep them
10 around him, people who weren't as big as he was, who
11 weren't as strong as he was, and that's what he did on
12 Labor Day. And he had someone to bring Samuel Sturup
13 over to a house that you're going to see.

14 You're going to hear about that house. They
15 call it the green house. It's in
16 Augusta, Georgia, right off Washington Road. And Samuel
17 Sturup was brought over to that house -- he's 16 years
18 old -- and then some other people were ordered to come to
19 the house, too, some other teenagers, some still in high
20 school.

21 The defendant, Steven Louis Barnes, accused
22 Samuel Sturup of stealing some money from him. He
23 accused other people, too, but he accused Samuel Sturup
24 of taking some money from him that weekend when the
25 defendant took Samuel Sturup on a night trip.

1 He kept telling Sam, "Where's my money? Where's
2 my money?" Sam kept saying, "I don't have any money,
3 somebody else took the money."

4 And he started beating on Samuel. The defendant
5 beat him, the defendant ordered other people to beat him.

6 The defendant got finally a bunch of people
7 around him, at least three teenagers, two of which still
8 in high school and two of them got Sam -- and one girl who
9 was a teenager. He ordered them to beat on Sam. You're
10 going to hear from them.

11 Finally two brothers pull up. Samuel said,
12 "Just take me home. Just take me home." The defendant,
13 Steven Louis Barnes, said, "I'll take you home." And
14 Samuel was placed in the trunk of the car. And two cars
15 took off, Sam in the trunk of one.

16 The defendant in charge of all this, he was the
17 leader. He was making the decisions. He had the gun.
18 And he came across the river, came into Edgefield County,
19 came down Highway 25 and took a right off the road called
20 Community Road. And they went on down Community Road to
21 where it went into Lakeview Road, then turned into a dirt
22 road, then it turned into some woods. And then they go
23 across one big field and through a little small dirt road
24 and trees all around after another hay field to some woods
25 where a gate was.

1 Mr. Barnes, the fellow in charge and the leader,
2 ordered Samuel to be taken out of the trunk at night. At
3 night. He gives orders: You're going to cross over that
4 gate and you're going to march into the woods. And
5 Samuel, after being in the trunk, when they get down into
6 those woods the defendant says everybody's got to shoot
7 him. He says, "I want y'all's hands to be dirty, too, so
8 you won't tell on us," because he's in charge.

9 The teenage girl, crying, he forces her to hold
10 a gun while he holds another gun to her back and he says,
11 "Either you shoot him or I'll shoot you." She doesn't
12 want to. And she helped him pull the trigger and that gun
13 unloads into his stomach.

14 He's still alive. He's still talking. He still
15 wants to go home.

16 Some other shots are taken. Some went into the
17 ground. You'll hear a SLED agent testify about going out
18 there and finding bullets in the area.

19 And two teenage boys and that teenage girl,
20 they're going to testify and they're going to tell you
21 about that night in those woods and they're going to say
22 it was either shoot or be shot by the leader, the one
23 calling the plans, Steve Louis Barnes. Big Man. That's
24 what they call him, Big Man. Some said they closed their
25 eyes and shot in the ground. And that's what happened out

1 in those woods and all that chaos.

2 They're not each going to say the same thing.
3 Who could remember exactly what was going on? But one
4 thing they're all going to tell you, the coup de grace,
5 the last bullet, was fired by the defendant, Steven Louis
6 Barnes, in the back of the head of Samuel Sturup. It
7 went down into his skull and lodged in the brain.

8 Other people started going back to their car.
9 One fellow stayed there to watch Samuel Sturup die and
10 make sure he was dead, Big Man, Steven Louis Barnes.

11 I tell you that, that man right over there, put
12 a bullet into the back of the head of a 16-year-old kid
13 and stayed there and watched him die and left him in the
14 woods.

15 That's where he was the second week of
16 September, the third week of September, the fourth week of
17 September, the first week in October, the second week in
18 October, the third week in October, the end of October
19 right on up to when Randy Doran and the officers were
20 called out to Community Road because a fellow found a
21 skull in his yard with a bullet hole in the back of his
22 skull. Samuel Sturup's skull. They left him there for
23 the animals.

24 You'll hear this testimony. And we have to
25 prove it to you beyond a reasonable doubt.

1 I'm Donnie Myers, I'm the Solicitor, and I
2 welcome that. I welcome that.

3 Ervin Maye, Assistant Solicitor and Frank Young,
4 Assistant Solicitor, we'll be presenting the case. And
5 it's not going to be pretty.

6 One man called the shots. One man got these
7 people together, these people who really didn't know each
8 other. One person was the center of the wheel and he was
9 bringing the other ones in. Teenagers. Giving orders,
10 telling them what to do. One man decided that somebody's
11 going to die. It's going to Samuel Sturup. And I'm
12 going to make sure because I'm the big man. Going to
13 carry it out, putting that pistol in the back of Samuel
14 Sturup's head.

15 You listen to the witnesses. They'll be called
16 everything, I'm sure. They'll be saying they're the worst
17 of the worst type of witnesses you've ever seen. But see
18 if you don't hear every one of those witnesses say one
19 thing in common: The person who put that gun to the back
20 of the head of Samuel Sturup and pulled that trigger and
21 made sure he couldn't get up and go anywhere and stayed
22 there and watched him until he died, Steven Louis Barnes,
23 Big Man.

24 Did he kidnap Samuel Sturup? Yes, he did. He
25 kidnapped him on September the 3rd or 4th when this went

1 on.

2 He did all of this, and we only have to show
3 one. He unlawfully seized, he unlawfully confined him,
4 inveigled, decoyed, kidnapped, he abducted and he carried
5 away Samuel Sturup. And I submit to you that's going to
6 be proven beyond a reasonable doubt that one man on
7 September the 3rd or September the 4th feloniously,
8 willfully, and with malice aforethought killed Samuel
9 Sturup by means of shooting him.

10 Samuel Sturup died in Edgefield County as a
11 result of that. Big Man, Steven Louis Barnes, whose name
12 is on these indictments, I submit to you that evidence
13 will prove beyond all reasonable doubt he's guilty of
14 murder, but that's for you to decide.

15 As the judge told you, listen to the witnesses.
16 Listen whenever I ask them questions, when one of the
17 assistants ask them questions. Listen to them when they
18 cross-examine them, and listen when they attack them. And
19 they can say they're the worst people in the world and do
20 all kind of stuff, but whatever those teenagers -- there's
21 one thing: Big Man kidnapped Samuel Sturup. More
22 importantly, Big Man fired the bullet in the back of his
23 head and left him there and watched him die.

24 We ask you for justice, and your verdict will
25 speak justice. We don't ask you for anything less or

1 anything more.

2 Thank you.

3 THE COURT: Thank you very much, Solicitor.

4 Again, Mr. Harte, I do not need to take up any
5 matters prior to opening?

6 MR. HARTE: May we approach the bench, Your
7 Honor?

8 THE COURT: Yes, sir.

9 (A bench conference was held with the judge and
10 attorneys in the presence of the jury but out of the
11 hearing of the jury.)

12 THE COURT: Mr. Harte, you may address the jury.

13 MR. HARTE: Ladies and gentlemen, this is
14 normally the time when I would be introducing myself to
15 you, but as you know, we've already had conversation back
16 and forth individually with each one of you with me and
17 with the judge and the solicitor. So -- and the reason
18 for that is, of course, because of just how important this
19 case is. It's a death penalty case. It's extremely
20 important. It's probably the most important thing that
21 happens in our criminal justice system.

22 And just as any other case, the burden of proof
23 is the same in a death penalty as it is in any other case:
24 The State has to prove its case, its allegations in the
25 indictments beyond a reasonable doubt.

1 His Honor talked to you a little bit about that
2 in his opening remarks, that beyond a reasonable doubt is
3 the most necessary, the highest -- that proof that is
4 required in any case. There are other types of proof as
5 he pointed out. There's the greater weight or the
6 preponderance. There is clear and convincing. But
7 nowhere in the system is there greater proof required than
8 what we're doing right here, and that is the beyond a
9 reasonable doubt.

10 Now, the Solicitor is an excellent storyteller.
11 He obviously is extremely good at telling you a story,
12 because he just did that. And I want you to hold him to
13 that story. And I want to you hold him to that story by
14 looking at the evidence this comes from that witness
15 stand. Because what the Solicitor just said is not
16 evidence. Not one word of it is evidence. It's his story
17 based upon his witnesses.

18 And yes, we are going to ask you to judge the
19 credibility of those witnesses. The judge will tell you
20 at a later time that when you look at credibility, you can
21 look at just about anything. He's already mentioned the
22 demeanor on the witness stand, how the witnesses act on
23 the witness stand, do the witnesses tell the same story or
24 do they different stories. The Solicitor's already
25 indicated, Oh, there's going to be differences, there's

1 going to be differences. Do they say the same thing today
2 or tomorrow or whenever they get on the witness stand as
3 they've said before? Or are they saying something
4 different?

5 So I want you to hold the Solicitor to what he
6 said. I want you to hold him to prove beyond a reasonable
7 doubt that Steven Barnes is the one that kidnapped Samuel
8 Sturup, that Steven Barnes is the one that carried him
9 out to the place in Edgefield, that Steven Barnes required
10 and made other people shoot him, Sam Sturup, and you hold
11 him that Steven Barnes was the last person to shoot him
12 and he's the one that shot him in the head.

13 THE COURT: Thank you very much, Mr. Harte.

14 Solicitor, you may call your first witness.

15 MR. MYERS: We'd call Grover Dais.

16 THE COURT: All right. Mr. Dais.

17 And, ladies and gentlemen of the jury, by order
18 of the Court, the witnesses are sequestered except for the
19 chief investigating officer, the evidence custodian, and
20 of course members of the victim's family are allowed to
21 remain in the courtroom under the Victim/Witness Bill of
22 Rights. The other witnesses have been sequestered by
23 order of the Court. They're not being disrespectful in
24 any manner. It may take a few minutes to get them in the
25 courtroom.

1 All right. Thank you very much.

2 THE CLERK: Raise your right hand and place your
3 left hand on the Bible.

4 GROVER DAIS, after being duly sworn, testified
5 as follows:

6 THE WITNESS: Grover Dais, Jr.

7 THE COURT: Can you adjust that microphone any,
8 Madam Clerk?

9 THE WITNESS: First name Grover Dais, Jr.

10 THE COURT: Thank you, Mr. Dais. And if you'd
11 keep your voice up for us, please, so all members of the
12 jury can hear you.

13 Solicitor.

14 DIRECT EXAMINATION

15 BY MR. MYERS:

16 Q Mr. Dais, back in 2001 where did you live?

17 A North Augusta, South Carolina.

18 Q Is that in Edgefield County?

19 A Yes, sir.

20 Q And what major highway is Community Road off of?

21 A Highway 25.

22 Q Now, around Labor Day of that year, were you home or
23 were you somewhere else?

24 A No, sir. I was incarcerated, South Carolina
25 Department of Corrections.

GROVER DAIS - Direct Exam by Mr. Myers

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1 Q On Labor Day of 2001?

2 A On Labor Day?

3 Q Yes, sir.

4 A I was at home.

5 Q And what were you doing?

6 A I resided at Augusta, Georgia,
7 between that and in Aiken.

8 Q Now, were you out in your yard any of that day?

9 A Yes, sir, during the month of -- well, during this
10 month of September, back probably at these two addresses.
11 And the later part of September I put in for an
12 application to move back into my home at

13 . I didn't get approved because I need some cleaning
14 up done and it was during sometime November that I started
15 doing this cleaning.

16 I can't remember the dates, but this one
17 afternoon I was out cleaning and what appears to be a
18 human skull -- well, it was a skull, and upon
19 investigating it was kind of a hole or something in the
20 back of it. And looking at the teeth, it appears to be a
21 human skull. I contacted the Edgefield authority. An
22 officer arrived. And he got out, he investigated, he
23 looked at it, he returned and told me not to touch it. He
24 called a second car and when they arrived, I think it was
25 the sergeant. After then, he told me that the area

1 probably be concealed as a crime scene.

2 Next to arrive was an investigator in the
3 sheriff's department, and which they did, they sealed that
4 area off.

5 Later that day I was contacted by the sheriff's
6 department that that area was concealed off, it was a
7 crime scene. I had talked with the sheriff's department,
8 I think it's Sheriff Dobey. The next -- well, I resided
9 back at -- after they concealed the area off, that I could
10 do no more cleaning there, no more building because there
11 was a building in process. The next day I talked to
12 Sheriff Dobey and because it was a crime scene, there was
13 no building. I couldn't.

14 Later on that night I was contacted by my dad
15 that Edgefield County needed an approval to search that
16 property for other remains. The approval was made through
17 my dad and through my sister because they was co-owners of
18 the property.

19 Several days later I was contacted by
20 Investigator Doran. Investigator Doran met me at
21 . He showed me the actual place or he took
22 me over to where they actually found the body.

23 Q Now, you're talking about Randy Doran here?

24 A Yes, sir.

25 Q Now, when you found that skull out in the yard, did

GROVER DAIS - Direct Exam by Mr. Myers

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1 you move it anywhere or touch it?

2 A No, sir.

3 Q There was officers that came out there, they took
4 charge of the scene?

5 A Yes, sir.

6 Q Now, in that area that Investigator Doran later took
7 you back, was that around your house?

8 A Yes, sir, it was another property between 50 or
9 75 feet adjacent from my house behind the building at the
10 edge of a field.

11 Q And did you notice anything around that area previous
12 to finding the skull?

13 A Well, previously?

14 Q Before you found the skull.

15 A Well, it was me and my next-door neighbor, because I
16 hadn't seen her in over two years. It was some
17 buzzards -- well, probably 20, maybe 25 feet in a big pine
18 tree -- I imagine 10, 15 of them that I noticed for
19 several days. And she was on her way out, she was going
20 to the doctor, and I asked her had she noticed this and
21 she said, well, they had been surrounding that area for
22 the last couple of days. But then by being deer season,
23 which I'm a hunter, I thought it might have been a deer or
24 something maybe shot, that they was actually at a deer or
25 maybe something else, but I never did go down to

1 investigate as to what, you know, the buzzards was really
2 after.

3 MR. MYERS: Thank you, Mr. Dais. Answer any
4 questions they may have.

5 THE COURT: Mr. Harte, Mr. Tarr?

6 MR. HARTE: No questions.

7 THE COURT: Mr. Dais, thank you very much. You
8 may step down. You may be excused.

9 Ladies and gentlemen, did all members of the
10 jury get pads that wanted pads? Anybody want a pad?
11 Raise your hand.

12 (Jurors raised hands.)

13 THE COURT: Madam Clerk, would you take care of
14 that for me, please?

15 THE CLERK: Yes, sir.

16 THE COURT: How many? One, two, three, four?
17 It's like an auction.

18 All right. Do all the jurors that wanted a pad
19 have a pad?

20 THE BAILIFF: Yes, sir.

21 THE COURT: All right. Thank you very much,
22 Madam Bailiff.

23 Solicitor, you may call your next witness.

24 MR. MYERS: We'd call Randy Doran to the stand,
25 please.

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1 THE COURT: All right. Detective Doran, if
2 you'd come around and be sworn, please.

3 RANDY DORAN, after being duly sworn, testified
4 as follows:

5 THE CLERK: Have a seat. State your full name
6 and spell your last name, please.

7 THE WITNESS: Randy Doran. The last name's
8 D-O-R-A-N.

9 DIRECT EXAMINATION

10 BY MR. MYERS:

11 Q Who are you employed by?

12 A Edgefield County Sheriff's Office.

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

14 A Nineteen years and eleven months.

15 Q Were you with the sheriff's department back in 2001?

16 A Yes, sir, I was.

17 Q Now, did you have occasion to go out on Community
18 Road around November 19th of 2001?

19 A Yes, sir, I did.

20 Q And what was the purpose of going out there?

21 A I was contacted by my captain, Roger Lowe, to respond
22 to That was approximately about 3:30
23 in the afternoon. I arrived on the scene about 3:40 that
24 same afternoon.

25 I was met with Sergeant Chris Aston, Deputy

1 Marty English, Captain Lowe on the scene. They advised me
2 of the situation that they were called out to.

3 Q What did you discover out there?

4 A It was a human skull on the property of

5

6 Q Whose property is that?

7 A Grover Dais.

8 MR. MYERS: Randy, I'm going to ask you to step
9 down here just a minute, please.

10 Referring to State Exhibit No. 2, Your Honor.

11 THE COURT: All right. State's 2 without
12 objection, correct?

13 (Mr. Harte nods.)

14 THE COURT: All right. Thank you, Mr. Harte.

15 (WHEREUPON, State's Exhibit No. 2, having been
16 previously marked, was admitted into evidence.)

17 BY MR. MYERS:

18 Q If you left out of Edgefield right here at the
19 courthouse, how would you get from Edgefield here out to
20 Community Road?

21 A Edgefield, back down where No. 1 is, you'd follow all
22 the way down Highway 25 to Trenton at the Pine House
23 Crossroad, which is where Billy's Superstore also --

24 THE COURT: Keep your voice up a little bit for
25 us, Detective, okay?

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1 THE WITNESS: From Edgefield, just follow
2 Highway 25 to Trenton at the Pine House Crossroad, which
3 is also Billy's Superstore is located in that area. You'd
4 take a right turn onto Highway 25 towards North Augusta
5 and you'd follow 25 approximately ten to 12 miles down
6 until it turns into a four-lane.

7 Once you got on the four-lane, you'd probably go
8 another three-quarters of a mile or so and you'd come to
9 this intersection right here, it's Community Road to the
10 left.

11 BY MR. MYERS:

12 Q While you're there I want to refer to State's Exhibit
13 No. 3. Where is Highway 25 on that diagram?

14 A Highway 25 would be the yellow line coming from North
15 Augusta back towards Trenton.

16 Q And where is Community Road?

17 A Community Road is that intersection of Community and
18 Jacob McKie Road which is the -- where the car
19 wash/laundromat owned by Mr. Bright at that intersection.

20 Q What is it now?

21 A It's McKie's Pavilion now. It's several small stores
22 in that building.

23 Q Is that the building with the blue top?

24 A Yes, sir.

25 Q All right. Now, when you go down Community Road,

1 does Community Road go straight or what?

2 A Once you turn on Community Road, you probably go
3 two-tenths of a mile, you take a right turn, more like a
4 yield to the right.

5 Q Okay. And how far down Community Road would be
6 Grover Dais' home?

7 A Approximately probably about a mile.

8 Q Okay. Now, you're going down that road. Would
9 Grover's house be on the right or on the left?

10 A It would be on the left.

11 Q As you're coming in?

12 A Yes, sir.

13 Q On that diagram where would it be?

14 A On the diagram, once you come down Community Road on
15 past Lakeview Road, once you pass Lakeview Road, Mr. Dais'
16 is on the left-hand side at

17 Q Right there?

18 A Yes, sir.

19 Q Now, what is this road here that keeps on going?
20 Where Community turns off, what's that road?

21 A That's Lakeview Road. It runs all the way down.

22 Q Is that paved or dirt?

23 A It's paved.

24 Q All right.

25 A It makes a 90-degree turn and it comes all the way

RANDY DORAN - Direct Exam by Mr. Myers

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1 back over to Community Road.

2 Q All right. Now, if you kept going straight rather
3 than making the turn, what is that?

4 A When you get to the 90-degree turn on Lakeview,
5 you're going to come to a dirt road that goes straight
6 ahead. It's called Lakeview Extension.

7 Q All right. Now, right at Grover's house, did you
8 take some photographs out there that day?

9 A Yes, sir, I did.

10 Q Let me hand you what is marked as State's Exhibit No.
11 5. Do you recognize that?

12 A Yes, sir, I do.

13 Q What is that?

14 A It's a human skull.

15 Q And where was that picture taken?

16 A It was taken in the yard of Grover Dais,
17

18 THE COURT: State's 5 is already in evidence
19 without objection, correct?

20 MR. HARTE: Yes, Your Honor.

21 (WHEREUPON, State's Exhibit No. 5, having been
22 previously marked, was admitted into evidence.)

23 BY MR. MYERS:

24 Q What is this right here, Mr. Doran?

25 A It's a hole to the back of the head.

1 Q Did you later take some other remains to a
2 pathologist in Newberry?

3 A Yes, sir, I did.

4 Q What was that hole determined to be?

5 A A gunshot wound.

6 Q Now, what else did you all do that day, Randy?

7 A After we located the skull and took the photograph of
8 the skull, Deputy English had went over and was in the
9 area of _____, which is across the street
10 from _____ kind of a right angle back towards North
11 Augusta, and he had located what we thought at the time
12 was a femur bone, leg bone.

13 Q Did you take custody of that?

14 A Yes, sir.

15 Q Now, come down here minute again. If you'd stand
16 right back over here and use this pointer.

17 Referring to State's Exhibit No. 3, where was
18 the leg bone found?

19 A Driveway _____ is right here at the ditch area. It was
20 laying in the ditch to the left side, the ditch end of the
21 driveway.

22 Q Let me get this other chart here to help a little.

23 State's Exhibit No. 4, is that more or a less a
24 blown up area down around Grover Dais's house?

25 A Yes, sir, it is.

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1 Q Where is his house on this chart?

2 A Right here.

3 Q And where was the skull found?

4 A The skull was found out in the front yard, right in
5 this area.

6 Q And where was the leg bone found?

7 A In the driveway of .

8 Q If you'll stay right there for me.

9 Referring to State's No. 12, do you recognize
10 that?

11 A Yes, sir, I do.

12 THE COURT: State's 12 without objection,
13 Mr. Harte?

14 MR. HARTE: Yes, Your Honor.

15 THE COURT: Thank you.

16 (WHEREUPON, State's Exhibit No. 12, having been
17 previously marked, was admitted into evidence.)

18 BY MR. MYERS:

19 Q What is that a picture of?

20 A This is a picture of the Community Road area, which
21 is Grover Dais's residence, which is

22 Q And where was the skull found in that photograph?

23 A The skull was located between this light pole and a
24 tree in the yard.

25 Q Go ahead.

1 A It was found in the front, about halfway between
2 light pole and the tree, about 15 to 20 feet from the
3 highway.

4 Q And referring to Photograph No. 5, it's got something
5 like a fence back here in the background?

6 A Yes, sir.

7 Q What is that fence?

8 A You can see the fence right here along the front of
9 the property. You have several little openings in there.

10 Q If you would, on State's Exhibit No. 3, would you put
11 this sticker on that's got the word "skull" on it and just
12 put it about where it was found. Then I'm going to ask
13 you the same thing where it says "leg bone," stick it on
14 there about where the leg bone was found.

15 A (Witness complies.)

16 Q Thank you.

17 Step down here if you would.

18 Now, the word "leg bone" and "skull" is on the
19 other side of the road. Now, the skull was found on which
20 side of the road?

21 A The left side.

22 Q Over here?

23 A Yes, sir.

24 Q As you're coming down?

25 A That's right.

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- 1 Q And where was the leg bone found?
- 2 A The leg bone was found on the right side coming down.
- 3 Q What is this right here?
- 4 A It's the driveway to .
- 5 Q Can you see that driveway on that photograph?
- 6 A Yes, sir, you can.
- 7 Q Where it is? Show us where it is.
- 8 A The driveway's right here.
- 9 Q Now, you can sit back down.
- 10 What day was that on?
- 11 A That was on a Monday, November the 19th.
- 12 Q On State's Exhibit No. 1, this calendar, it would be
- 13 a Monday, November the 19th?
- 14 A Yes, sir.
- 15 Q If I write "skull" on here, that would be right?
- 16 A Yes, sir.
- 17 Q If I write "leg bone" on here, that would be right?
- 18 A Yes, sir.
- 19 Q Now, did you all find anything else that Monday?
- 20 A No, sir.
- 21 Q What did you do -- what else did you do on Monday?
- 22 Did you all stay up Monday night or what?
- 23 A We stayed there approximately about another hour,
- 24 hour and a half or so searching the wooded area behind
- 25

1 Q Now, when you say is that the house -- side road
2 where Grover's house is? That the side of the road where
3 the leg bone was found?

4 A The side where the leg bone was located.

5 Q Back to the left of that photograph, back over here?

6 A Yes, sir.

7 Q Did you find anything?

8 A No, sir.

9 Q Okay. What did you do the next day on the 20th?

10 A The 20th of -- I'd met with some of the County Line
11 and Merriweather fireman at the County Line Fire
12 Department. We had called them the night before to help
13 us do a search of the area the next morning, which was on
14 the 20th.

15 Q Now, if we look at No. 4, which is the blown up --
16 come down here, please.

17 You said on the 19th you all searched on the
18 other side of the road?

19 A Yes, sir.

20 Q On the 20th, which side of the road did you all
21 search on?

22 A The morning of the 20th we actually went back to the
23 side of and searched that area more.

24 Q All right. Did you find anything?

25 A No, sir.

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1 Q Then what did you do?

2 A We actually -- about an hour or so we actually
3 crossed back over Community Road to the back side of
4 Grover Dais's house in the wooded area off of

5

6 Q All right. Now, State's Exhibit 15, Randy, look at
7 it. I have a few questions about that.

8 What is this right here?

9 A That is Mr. Grover Dais's residence.

10 Q All right. And up in here is where the skull was
11 found?

12 A Yes, sir.

13 Q Now, you said you started searching back behind his
14 house.

15 A Yes, sir.

16 Q And what, if anything, did you find?

17 A Well, we got over into that area, the area that was
18 located -- the first thing we located was a pair of blue
19 jean pants.

20 Q And about where on that diagram did you find the blue
21 jean pants?

22 A It would have been approximately back in this area
23 right in here.

24 Q Now, how did you all get to that area in there?

25 A Well, first we all walked through, you know, from

1 Community Road to the wooded area.

2 Q Okay.

3 A After we located the pants and the other items, we
4 noticed that this field started opening up back in that
5 area.

6 Q You said a field started opening up back in that
7 area. Now, which field are you talking about here,
8 referring to State's Exhibit No. 4?

9 A This field here.

10 Q Okay. And when you got right along in this area
11 right in here, just before you went into the woods, what,
12 if anything, did you notice?

13 A I noticed a metal gate.

14 Q A metal gate. Was anything else around that gate?

15 A A barb wire fence.

16 Q I'm going to show you State's Exhibit No. 6. And
17 what is that a picture of?

18 A That's a picture of the metal gate I was describing
19 and also the fence post with the barb wire fence going
20 down to the right and to the left of the gate.

21 Q Now, on State's Exhibit No. 4, when it says "gate"
22 right here, is that the gate you're talking about?

23 A Yes, sir.

24 Q All right. And you said it was a field that opened
25 up?

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1 A Yes, sir, a hay field.

2 Q All right. Now, did you all -- you said you came in
3 this way from the woods. How did you all get back around
4 to this field?

5 A We went back out on Community Road and came back down
6 and turned back down right on to Lakeview Road.

7 Q All right. Let me show you this right here, State's
8 Exhibit No. 3.

9 You said you got back out on Community Road?

10 A Yes, sir.

11 Q And what did you do?

12 A Once we got back out on Community Road right at Mr.
13 Grover Dais's residence, we went back up and hit Lakeview
14 Road.

15 Q Uh-huh.

16 A We went down Lakeview Road to a 90-degree turn and
17 made a right turn onto Lakeview Extension, which is a dirt
18 road; followed the dirt road on down to a hayfield that
19 was in that area; noticed an opening between the hayfield
20 and turned down that hayfield and came on down to another
21 wooded area right in this area, which is a small dirt road
22 with woods on both sides, and that's when the second
23 hayfield started opening up which led me down to the metal
24 gate.

25 Q Back where the gate was?

1 A Yes, sir.

2 Q Now, I've got two photographs here to show you.

3 First, No. 14, what does that show?

4 A Right through this area right here is actually
5 Lakeview Extension, which is a dirt road which comes in
6 off of Lakeview Road. It opens up to a hayfield, which is
7 on the left-hand side coming in. The opened area that I
8 was speaking about earlier is the hayfield to the right.

9 Q Which field did you all go in?

10 A We made this right turn in this hayfield here and
11 went down.

12 Q What is that right there?

13 A It's a wooded area with a small dirt road that goes
14 down through there that opens up to the second hayfield
15 and that's where the gate was.

16 Q All right. Now, here's a picture looking in a little
17 better.

18 THE COURT: What number is that, Solicitor?

19 MR. MYERS: That would be No. 13.

20 THE COURT: No. 13?

21 MR. MYERS: Yes, sir.

22 BY MR. MYERS:

23 Q That's just from a different view but showing the
24 same thing as No. 14?

25 A Yes, sir.

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1 Q Now, I see something right down over here. Was
2 anything down over there?

3 A Yes, sir, there's a mobile home over there.

4 Q All right, sir.

5 THE COURT: It's what, sir?

6 THE WITNESS: A mobile home.

7 BY MR. MYERS:

8 Q I want to show you one more now.

9 I'm going to show you one looking back this way.
10 It's No. 16. What does that show?

11 A This shows Community Road. This is Mr. Grover Dais's
12 house. This is the wooded area behind Mr. Dais's house.
13 That area right there is about where the metal gate is
14 that opens up to a hayfield. You go back up to this area.
15 It's a small dirt road which leads into another hayfield
16 that's headed back out towards Lakeview Extension.

17 Q To kind of get an overview of all of this, No. 11,
18 what does No. 11 show?

19 A No. 11 shows Highway 25, Community Road, which this
20 was at that time a laundromat, a car wash that Mr. Bright
21 owned at the time.

22 Q That's the blue-roofed building?

23 A Yes, sir. And you take a left onto Community Road.
24 Community Road bears to your right. You go up Community
25 Road. About in that area right there is where Lakeview

1 Drive came in to Community Road.

2 Q Now, those two hayfields that you were talking about?

3 A Yes, sir.

4 Q Are they pretty far up?

5 A Yes, sir.

6 Q This is not the hayfield there?

7 A No, sir.

8 Q It's on the other side of these woods back over
9 there?

10 A Yes, sir.

11 Q Do you know about how far it was from out here where
12 Community Road and 25 is from there down to that dirt road
13 where you turn to go into the hayfield?

14 A About seven-tenths of a mile.

15 Q Now, I want to ask you, when y'all went over that
16 gate right here, did you all cross over or did you open it
17 or what did you do?

18 A We eventually opened it.

19 Q All right. And then you went on in there and that
20 gate would have been right along in here you say?

21 A Yes, sir, right in that area.

22 Q And then you went into these woods?

23 A Yes, sir.

24 Q Now, you're saying you found some more stuff there.
25 What did you find?

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1 A Earlier I stated we found a pair of pants, blue jean
2 pants. That's the first thing I located.

3 Q How was it in there? Was it open in there? Was
4 it -- could you describe it?

5 A Yes, sir. That time of year most of the leaves had
6 fell on the ground and most of the trees didn't have any
7 leaves or anything still on them or anything. It was kind
8 of an open area in there.

9 Q Did you see any kind of pathways in there?

10 A Yes, sir.

11 Q I want to show you State's Exhibit No. 7. Can you
12 tell the jury what State's Exhibit No. 7 is?

13 A Yes, sir. That's the -- once we crossed over into
14 where the gate was the path area opened up and probably
15 15 feet or so on the other side of the metal gate.

16 Q Now, you said you found some pants. What kind of
17 pants did you find?

18 A Blue jean pants.

19 Q All right. Now I want to show you State's Exhibit
20 No. 8 first. What's that?

21 A It's a pair of blue jean pants with a belt buckle. I
22 noticed in the right front pocket he had a set of keys
23 with a key ring. It had an emblem on it of a Monte Carlo.
24 He also had a Bi-Lo bonus card and a Kroger bonus card.

25 Q Look at State's Exhibit No. 9. Does that show that

1 better?

2 A Yes, sir.

3 Q Where were you talking about the keys and the cards?

4 A The keys was on this ring here in the right pants
5 pocket.

6 Q Did you take possession of those keys?

7 A Yes, sir, I did.

8 Q And the grocery store cards?

9 A Yes, sir, I did.

10 Q Now, what about that belt buckle? Where is the
11 buckle to that belt? Do you see it?

12 A Yes, sir, right here.

13 Q And tell me, what can you tell me about that belt?
14 Do you notice anything on it?

15 A I couldn't really tell what the buckle was made out
16 of, but once we got to examine the pants some more, we
17 located a name on the back of the belt.

18 Q On the back of the belt?

19 A Yes, sir.

20 Q And what was the name on the back of the belt?

21 A Samuel.

22 Q Samuel. Was anything else in those pants?

23 A We found a one-dollar bill.

24 Q Did you take possession of that?

25 A Yes, sir.

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1 Q Did you keep those pants and belt?

2 A Yes, sir.

3 Q And do you still have them?

4 A No, sir.

5 Q What happened to them?

6 A We had it destroyed because there was so much body
7 fluid.

8 Q Were any bones inside the pants?

9 A Yes, sir. I think it was in the right leg there was
10 a leg bone inside those pants.

11 Q What else did you locate in that area?

12 A Out to the right-hand side approximately five to six
13 feet we located a yellow lighter, a cigarette lighter.

14 Q What else did you find?

15 A Just beyond these pants headed that way we located an
16 area that was real dark in color.

17 Q I show you State's Exhibit No. 10. Does that help
18 you any?

19 A Yes, sir.

20 Q What is that?

21 A This was an area where we located -- it looks like a
22 bunch of body fluid stains were in that area. We also
23 located the bottom jaw bone in that area and also with
24 some lose teeth in that area.

25 Q Any other bones?

1 A Not in that area, just the jaw bone and the loose
2 teeth.

3 Q Was there any other area where you found some other
4 bones?

5 A Yes, sir.

6 Q Where was that area?

7 A It was all over. The bones was all over the place in
8 this whole area right in here.

9 Q Did you collect all of those?

10 A Yes, sir, we collected what we could find.

11 Q Now I want to ask you, referring to No. 9, the key
12 chain and the Bi-Lo card and the other card, did you take
13 possession of that?

14 A Yes, sir, I did.

15 Q Did you destroy that or you kept it?

16 A We have that.

17 Q You've still got it?

18 A Yes, sir.

19 Q May I see it, please?

20 A (Witness complies.)

21 Q The one-dollar bill that you said you found, did you
22 keep that?

23 A Yes, sir.

24 Q Was there anything else you found in that area?

25 A Yes, sir. The area with the picture we had up

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1 earlier --

2 Q Which one?

3 A The body stain.

4 Q Referring to State's Exhibit No. 10?

5 A Approximately in this area to the right was a brass
6 .40-caliber shell casing.

7 Q Did you take possession of that?

8 A Yes, sir.

9 Q You got that?

10 A Yes, sir.

11 Q May I see it?

12 A (Witness complies.)

13 MR. MYERS: Your Honor, we offer in the
14 .40 caliber shell casing, the one-dollar bill, and the key
15 chain.

16 MR. HARTE: No objection, Your Honor.

17 THE COURT: All right. That would be 17 and 18,
18 Solicitor?

19 MR. MYERS: There's three of them.

20 THE COURT: Seventeen, 18, and 19?

21 MR. MYERS: Yes, sir.

22 THE COURT: What is that marked?

23 MR. MYERS: Seventeen's the key chain, 18 is the
24 one-dollar bill, and 19 is the shell casing.

25 THE COURT: State's 17, 18, 19 are in evidence

1 without objection.

2 MR. MYERS: Thank you, sir.

3 (WHEREUPON, State's Exhibits Nos. 17, 18, 19
4 were marked for identification and received into
5 evidence.)

6 BY MR. MYERS:

7 Q Nineteen, and you found this shell casing where?

8 A It was to the right side of where the body stain was.

9 Q And then the one-dollar bill, was it on the ground or
10 where was it, referring to No. 18?

11 A It was in his pants pocket, yes, sir.

12 Q I'm not going to take it out.

13 You said something about a Monte Carlo. Can you
14 see it without taking it out?

15 A Yes, sir.

16 Q If you could show it to the jury.

17 A (Witness complies.)

18 Q Can you see that Bi-Lo Bonus card in there?

19 A Yes, sir.

20 Q You can have a seat.

21 Randy, that Bi-Lo Bonus card, what did you all
22 do in relation to it?

23 A I recorded the serial number off of it. After we got
24 through with processing the crime scene I made a phone
25 call to the Bi-Lo Corporation and I was advised by the --

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1 MR. HARTE: Your Honor, I'm going to object to
2 anything that he was advised.

3 BY MR. MYERS:

4 Q As a result of talking to --

5 THE COURT: I overrule the objection. You may
6 go ahead.

7 BY MR. MYERS:

8 Q As a result of talking to the Bi-Lo people and
9 getting information, what action did you take?

10 A What action did I take?

11 Q Yes, sir.

12 A I notified Richmond County Sheriff's Office of some
13 information that I had found.

14 Q All right. Did you give them some information that
15 you'd found out?

16 A Yes, sir.

17 Q And what were you -- why were you contacting them?

18 A Well, the information came back to a last name of
19 Sturupp --

20 MR. HARTE: Objection, Your Honor. Again, this
21 is hearsay.

22 BY MR. MYERS:

23 Q Did you ask them for anything? Did you ask the
24 authorities in Georgia for anything?

25 A Yes, sir.

1 Q What did you ask them for?

2 A I asked them did they have anybody by the last name
3 of Sturrup missing from their area.

4 Q Did they have one?

5 A Yes, sir.

6 Q And did you supply them with the address?

7 A I did.

8 Q Did you tell them to contact somebody, that you all
9 had found the remains?

10 A Yes, sir.

11 Q And later on that week did you make a phone call
12 yourself to that person they told you to contact?

13 A Yes, sir.

14 Q Who did you call?

15 A Mrs. Shirley Sturrup.

16 Q Did you go see Mrs. Shirley Sturrup?

17 A Yes, sir, I did.

18 Q Where did she live at?

19 A She lived at Augusta, Georgia.

20 THE COURT: What road, Mr. Doran?

21 THE WITNESS: Let me make sure I'm right.

22 THE COURT: What road?

23 THE WITNESS: It was Augusta,
24 Georgia.

25 BY MR. MYERS:

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- 1 Q This is Mrs. Sturup right here?
- 2 A Yes, sir, it is.
- 3 Q Did you tell her what you had found over there?
- 4 A Yes, sir.
- 5 Q What did you tell her as to the keys and stuff?
- 6 A I asked her did she know anything about those keys
7 and the Bi-Lo Bonus card and the Kroger bonus card and the
8 emblem of a Monte Carlo and two house keys on the ring.
- 9 Q Now -- so the 20th is where you collected these
10 items here?
- 11 A Yes, sir.
- 12 Q So if I just put "other items on the 20th," would
13 that be right?
- 14 A Yes, sir.
- 15 Q What did you do on the 21st? That would be --
16 we're looking at Monday was the 19th, the 20th was a
17 Tuesday, the 21st was on Wednesday, what did you do on
18 that day?
- 19 A I went to Newberry, South Carolina, to Dr. Sexton's
20 office.
- 21 Q And Dr. Sexton's a pathologist?
- 22 A Yes, sir.
- 23 Q Does autopsies or whatever?
- 24 A Yes, sir.
- 25 Q What did you take to Dr. Sexton?

1 A Took the skull, the leg bone, and several other bones
2 that was located the next day.

3 Q How about that bottom jaw bone that y'all found?

4 A Yes, sir.

5 Q Anything that you found you took to him?

6 A Yes, sir.

7 Q Now, did you obtain anything else to take to Dr.
8 Sexton?

9 A Some dental records.

10 Q Pardon?

11 A Dental records.

12 Q Dental records from whom? What dental records from
13 what person?

14 A Samuel Sturup.

15 Q And did you have an occasion to get some extra dental
16 records to take up to Dr. Sexton later on?

17 A I did.

18 Q And who were those dental records of?

19 A Samuel Sturup.

20 Q Did you stay up there for Dr. Sexton to examine what
21 you brought to him?

22 A Yes, sir, I did.

23 Q Some photographs were taken?

24 A Yes, sir.

25 Q Now, you said you had contacted the Georgia

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- 1 authorities on the 21st I guess it was?
- 2 A It was actually on the 20th.
- 3 Q On the 20th, the day you all got the skull?
- 4 A Yes, sir.
- 5 Q And the day you got the Bi-Lo card?
- 6 A Yes, sir.
- 7 Q And for the rest of November and December, did you
- 8 work jointly with another law enforcement agency?
- 9 A Yes, sir, I did.
- 10 Q What law enforcement agency?
- 11 A SLED and Richmond County Sheriff's Office.
- 12 Q Richmond County Sheriff's Office in Georgia?
- 13 A Yes, sir.
- 14 Q And with SLED?
- 15 A Yes, sir.
- 16 Q Now, on January -- what day was the autopsy?
- 17 A The 21st of November.
- 18 Q Can I write "autopsy" on the 21st?
- 19 A Yes, sir.
- 20 Q That would have been on the Wednesday?
- 21 A Yes, sir.
- 22 Q What day did you go meet with Mrs. Sturrup?
- 23 A The 25th.
- 24 Q The 25th. What day would that have been on?
- 25 A A Friday.

1 Q In November?

2 A The 23rd, sorry.

3 Q Now, let's move on into January.

4 On January 23rd, you all do anything that day?

5 A Yes, sir.

6 Q What did you do on January 2nd?

7 A Went back to the crime scene.

8 Q And what was the reason for going back to the crime
9 scene on January 23rd?

10 A I was contacted by Investigator Richard Roundtree.

11 Q Who is he with?

12 A With the Richmond County Sheriff's Office.

13 Q As a result of him contacting you, what did you do?

14 A We went to -- myself and Captain Little went to their
15 office that morning of the 23rd.

16 Q In Georgia?

17 A Yes, sir.

18 Q As a result of the conversation you had with them,
19 did you obtain some additional information about this
20 case?

21 A Yes, sir.

22 Q And then what did you do?

23 A We left his office and met back in Edgefield County
24 at the crime scene about 3 o'clock that same day.

25 Q And was any other law enforcement agencies called

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1 over to the crime scene?

2 A Yes, sir.

3 Q Who was that?

4 A SLED was called. SLED's crime scene was called out
5 to meet us --

6 Q SLED's crime scene --

7 A -- to meet us there.

8 Q Is that January 23rd?

9 A Yes, sir.

10 Q Did the SLED crime scene people meet you there?

11 A Yes, sir.

12 Q Who was in charge of that SLED crime scene?

13 A Steven Curtis.

14 Q Agent Curtis of SLED, did he conduct more search or
15 crime scene investigation?

16 A He did.

17 Q Now, what month was the defendant arrested?

18 A What month?

19 Q Yes, sir.

20 A January of 2002.

21 Q And did you all arrest him or did somebody else
22 arrest him?

23 A Richmond County Sheriff's Office.

24 Q Georgia arrest him?

25 A Yes, sir.

1 Q Were some other people arrested over there, too?

2 A Yes, sir.

3 Q Was one of them a lady named Charlene Thatcher?

4 A Yes, sir.

5 Q What was done with Charlene Thatcher on the 23rd?

6 A She was brought to the crime scene over in Edgefield
7 along with Investigator Richard Roundtree and Investigator
8 Carr.

9 Q Who?

10 A Investigator Carr, a female investigator.

11 Q A female investigator and Investigator Roundtree?

12 A Yes, sir.

13 Q Brought Charlene Thatcher over there?

14 A Right.

15 Q And what did Charlene Thatcher do when she got there?

16 A We met at 25 at Community Road. They actually got in
17 my vehicle. We proceeded to go down Lakeview Road.

18 Q Going down Lakeview Road?

19 A Yes, sir. Once we got to Lakeview Extension, which
20 was the dirt road --

21 Q Yes, sir.

22 A -- we proceeded down the dirt road area --

23 Q Yes, sir.

24 A -- it opened back up to the hayfield to your left.

25 Kept on going down the dirt road. There's a dirt road to

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1 the right that she became familiar with.

2 Q How about you come down and explain where you went.

3 You're talking about State's No. 13?

4 A Lakeview Extension starts back in here with the dirt
5 road. We came in through this dirt road, came into this
6 area here. This is the hayfield I was talking about that
7 opened up to the left. We got down to this area right
8 here and there's an opening into the hayfield to the
9 right. She immediately knew that hayfield.

10 MR. HARTE: Objection, Your Honor.

11 THE COURT: I'll sustain the objection.

12 BY MR. MYERS:

13 Q When you got to that hayfield, did she direct or did
14 you go somewhere at her direction?

15 A Yes, sir.

16 MR. HARTE: I object to this part about --

17 THE COURT: That would be hearsay. I'll sustain
18 the objection.

19 MR. MYERS: Okay.

20 BY MR. MYERS:

21 Q Where did you end up going out there?

22 A We ended up turning to the right and going across
23 this hayfield to this area right here, the wooded
24 area/dirt road, and came into a second hayfield and went
25 all the way down to a metal gate.

1 Q Now, Randy, all this area right here, all of that,
2 what county is that in?

3 A Edgefield County.

4 MR. MYERS: Thank you. You can have a seat.
5 Thank you, Randy. Answer any questions they may
6 have.

7 THE COURT: All right. I think I'll take a
8 brief recess prior to cross-examination.

9 Ladies and gentlemen of the jury panel, if you'd
10 leave your pads upside down in your seat, please.

11 Please remember during this brief recess, do not
12 discuss this case with anyone. That would include your
13 fellow jurors or anyone else.

14 Remember to keep an open mind. Do not begin
15 your deliberations until you're instructed to do so.

16 You may now go with your bailiff. We'll take
17 about a 15-minute recess.

18 Thank you very much.

19 If everyone would please remain seated until the
20 jury retires.

21 (The jury left open court at approximately 3:43
22 p.m.)

23 THE COURT: As far as the attorneys, one of the
24 jurors as she was walking out, I believe it's Ms. Garry,
25 she stopped momentarily and leaned over the bench and

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1 said, When they mention SLED, she doesn't know what that
2 means.

3 MR. HARTE: I had made a note of it.

4 THE COURT: My response to that is -- to her
5 was, Okay, but I'd advise both the prosecutor and the
6 defense --

7 MR. HARTE: I'd made a note.

8 THE COURT: All right. Thank you very much.
9 We'll be in recess for about 15 minutes.

10 (A break was taken.)

11 THE COURT: Anything before we bring out the
12 jury?

13 MR. MYERS: No, sir.

14 THE COURT: Mr. Harte?

15 MR. HARTE: No, sir.

16 THE COURT: Mr. Doran.

17 All right. If you'd bring us our jury, please.

18 (The jury came into open court at approximately
19 4:01 p.m.)

20 THE COURT: Y'all are back in the same seats?
21 Kind of territorial. Nothing wrong with that, of course.
22 I may be able to learn your names.

23 All right. We're continuing the trial of the
24 case by the cross-examination of the detective by Mr.
25 Harte.

1 Mr. Harte, you may proceed.

2 MR. HARTE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. HARTE:

5 Q Mr. Doran, SLED is the State Law Enforcement
6 Division; isn't that correct?

7 A That's correct, sir.

8 Q And they assist local law enforcement agencies and
9 that sort of thing and they also have their own
10 investigative units; is that correct?

11 A Yes, right, sir.

12 Q They work statewide?

13 A That's right.

14 Q In addition to that, they have their own laboratories
15 to do forensic work and that sort of thing; is that
16 correct?

17 A Yes, sir.

18 Q And they also have access to other agencies really
19 around the country that perhaps can do some more
20 sophisticated stuff that may have the equipment or the
21 money for it; is that also correct?

22 A I would think so. I'm not sure about that.

23 Q But there's no question that when you refer to SLED,
24 you're talking about agents, SLED agents who actually work
25 in the field. And I believe -- I don't remember if you

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- 1 mentioned Mike Perry's name, but he's one of them?
- 2 A That's correct.
- 3 Q Did he work with you on this case?
- 4 A Yes, sir.
- 5 Q But you also when you talk about SLED, you're talking
6 about examination of evidence, examination of guns and
7 bullets and casings and matching that up and all that kind
8 of stuff as well as the agents in the field?
- 9 A That's correct.
- 10 Q And I think they used to have an arson team. I don't
11 know if they still do or not.
- 12 A Yes, sir.
- 13 Q Did you send items to SLED to be examined in this
14 case?
- 15 A I did.
- 16 Q Did you send the pants?
- 17 A No, sir.
- 18 Q Did you send the key ring?
- 19 A No, sir.
- 20 Q Did you send the Bi-Lo or the Kroger -- was it
21 Kroger?
- 22 A Yes, sir.
- 23 Q Bonus cards?
- 24 A Right.
- 25 Q Did you send those?

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- 1 A No, sir.
- 2 Q Did you send the keys?
- 3 A No, sir.
- 4 Q Did you send the belt?
- 5 A No, sir.
- 6 Q Did you send the dollar bill?
- 7 A No, sir.
- 8 Q Did you send the yellow lighter?
- 9 A No, sir.
- 10 Q Now, you worked closely with Investigator Richard
- 11 Roundtree in the investigation of this case?
- 12 A Yes, sir.
- 13 Q Once you determined that Samuel Sturup was from the
- 14 Augusta area, the Richmond County area, it became clear
- 15 that they were going to be involved -- Richmond County
- 16 Sheriff's Department was going to be heavily involved in
- 17 this investigation?
- 18 A Yes, sir.
- 19 Q And, in fact, when it came to interviewing witnesses
- 20 and that sort of thing, they were probably more in the
- 21 lead than you were or the Edgefield people were?
- 22 A Yes, sir.
- 23 Q Would that be correct?
- 24 A Yes, sir.
- 25 Q But at the same time, you and Richmond County

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1 Sheriff's Department shared information?

2 A Yes, sir.

3 Q You kept Investigator Roundtree informed of your work
4 and what you were doing and he kept you informed of his
5 work, his interviews, and the results like that; is that
6 correct?

7 A Yes, sir.

8 Q So it would be correct to say that they were -- to an
9 extent, they were relying on the integrity of your
10 investigation and you were relying on the integrity of
11 their investigation?

12 A Yes, sir.

13 Q Would that be a fair statement?

14 A Yes, sir.

15 Q Now, there were other people arrested besides
16 Charlene Thatcher and Richard Cave, weren't there?

17 A Yes, sir.

18 Q Who were they?

19 A Antonio Griffin.

20 Q Okay.

21 A Julio Hunsberger and Alex Hunsberger.

22 Q And what was the other?

23 A Alex Hunsberger.

24 Q And where were Antonio Griffin -- where was Antonio
25 Griffin arrested?

- 1 A In Richmond County.
- 2 Q Where was Julio and Alex Hunsberger arrested?
- 3 A Edgefield County.
- 4 Q Edgefield County?
- 5 A Yes, sir.
- 6 Q Who is, or do you know who William Harrison (sic) is?
- 7 A Yes, sir.
- 8 Q Who is he?
- 9 A Mr. Barnes' stepbrother.
- 10 Q Steven Barnes' stepbrother?
- 11 A Yes, sir.
- 12 Q Was he ever arrested?
- 13 A No, sir.
- 14 Q Did you have occasion, along with Mike Perry, to
15 interview Mr. William Harris in December of 2001?
- 16 A Yes, sir.
- 17 Q And did he give you a statement at that time?
- 18 A Yes, sir.
- 19 Q Did Mr. Harrison (sic) tell you on that occasion --
- 20 MR. MYERS: Objection.
- 21 THE COURT: Yes, that would be hearsay.
- 22 MR. HARTE: All right. Your Honor, I believe
23 that under Kyles versus Whitley, which is 514 U.S. 419,
24 115 Supreme Court 1555, it's a 1995 case, that where the
25 defense is attacking the integrity or the thoroughness of

1 the investigation, that I can even ask questions
2 concerning statements of people who were not arrested in
3 the case or considered suspects.

4 MR. MYERS: Not when I don't get the right to
5 cross-examine what he said. That's pure hearsay. That is
6 hearsay.

7 THE COURT: I'll be happy to hear from you. Let
8 me see a copy of the statement.

9 MR. HARTE: I don't have a copy of the case,
10 Your Honor.

11 THE COURT: Not a copy of the case, a copy of
12 the statement.

13 All right. Yes, sir, this would be hearsay.

14 MR. HARTE: Your Honor, in addition to --

15 THE COURT: Wait just a minute, please.

16 Ladies and gentlemen of the jury panel, please
17 step momentarily to your jury room.

18 Do not discuss the case during this brief
19 recess.

20 (The jury left open court at approximately 4:10
21 p.m.)

22 THE COURT: I'm glad to hear from you, Mr.
23 Harte.

24 MR. HARTE: Your Honor, in addition, I was
25 arguing it's not hearsay because we're not offering it for

1 the truth of the matter asserted. We're offering it to
2 show that the Georgia or Richmond County Sheriff's
3 Department failed to follow up on a potential suspect in
4 the case.

5 And if I could read from the Kyles versus
6 Whitley case, they're talking a witness, Beanie --

7 THE COURT: A witness what?

8 MR. MYERS: Named Beanie --

9 THE COURT: All right.

10 MR. HARTE: And they say on page 1571, "Even if
11 Kyles's lawyer "-- and this is the defense lawyer -- "had
12 followed the more conservative course of leaving Beanie
13 off the stand, though, the defense could have examined the
14 police to good effect on their knowledge of Beanie's
15 statements and so have attacked the reliability of the
16 investigation in failing even to consider Beanie's
17 possible guilt and in tolerating (if not countenancing)
18 serious possibilities that incriminating evidence had been
19 planted in that case."

20 THE COURT: Where is there a serious possibility
21 of incriminating evidence being planted?

22 MR. HARTE: Mr. William Harrison (sic) denied --
23 well, he stated that Samuel Sturup was with him all day
24 the day before Labor Day and most of the day the next day.
25 He was offered a polygraph which he said he would take and

1 then refused to take the polygraph.

2 He then came to Investigator Roundtree and had
3 exact knowledge of everything that had happened to Samuel
4 Sturrupe. He claimed he got it from my client, but his
5 knowledge was exact and precise.

6 THE COURT: I still don't see how it's not
7 hearsay. You can ask this officer if he followed up on
8 any statement given by Mr. Barnes, but there's no way that
9 you can say it's not hearsay. You are offering it for the
10 truth of the matter asserted.

11 MR. HARTE: I don't think it's true. I think
12 it's a lie. Why would I be offering it as the truth of
13 the matter asserted if I thought it was a lie?

14 MR. MYERS: May I ask what the basis for this
15 was? He said something about an investigation.

16 MR. HARTE: I'm talking about the reliability of
17 the investigation in Georgia where they had a suspect who
18 happens to be the last person that this victim's mother
19 saw him with, William Harrison (sic), and he has
20 conflicting stories and they never followed up on it.

21 THE COURT: Well, first, he's not a Georgia
22 investigator.

23 MR. HARTE: That's why I went through the part
24 about exchanging information, about relying on each other.

25 He was present during the first statement, and

1 he's certainly aware of what happened on the second
2 statement.

3 THE COURT: All right. Mr. Tarr, did you want
4 to say something? I usually only hear from one attorney,
5 but I'll be glad to hear from you.

6 MR. TARR: Your Honor, we're not offering it for
7 the truth of the matter. In fact, Mr. Harris has already
8 admitted in a trial he lied in that statement.

9 THE COURT: I'm not interested in what
10 Mr. Harrison (sic) admitted to.

11 MR. TARR: That's Mr. Harris's statement.

12 THE COURT: I understand that, Mr. Tarr.

13 MR. TARR: He's already admitted in another
14 trial that that is a lie. So we're not offering it for
15 the truth of that. We're offering to show that they did
16 nothing to track down him as a suspect. This case is
17 directly on point with Kyles versus Whitley. Beanie would
18 be William Harris in this case. Beanie fed the police --

19 THE COURT: Information on the homicide. It was
20 somewhere in the south. I'm not exactly sure who is --
21 it's B-E-A-N-I-E, correct?

22 Yes, sir. All right.

23 MR. TARR: They said that the attorney for Kyles
24 could question the police even if Beanie didn't testify
25 about the statements he gave to them and the failure to

1 even consider him as a suspect. Because it's not hearsay.
2 We're not offering any of these statements as that they're
3 true at all. We're offering the effect it had on the
4 investigator and what he did or did not do as a result of
5 that statement and why he didn't consider him as a suspect
6 when he was the last person seen with the victim in this
7 case.

8 THE COURT: Nobody's testified he's the last
9 person that seen him alive.

10 MR. TARR: There will be plenty of testimony
11 about that.

12 THE COURT: Well, nobody's testified to that.
13 You're asking me to assume facts that's not even in
14 evidence in that regard. You're asking me to assume
15 hearsay facts to decide that this statement by a party
16 that's not even present can come into evidence.

17 MR. TARR: The Solicitor's saying that he
18 wouldn't be able to cross-examine. He's on his witness
19 list to call. Now if he chooses not to call him --

20 MR. MYERS: That was on y'all's witness list.
21 You all had him listed. He wasn't on mine.

22 MR. TARR: Well, you got an out-of-state
23 subpoena for him.

24 MR. MYERS: I don't care what I got. I can --

25 THE COURT: Wait a minute. That doesn't matter.

1 The Rules of Evidence don't change just because a person
2 is or is not included on a witness list.

3 MR. HARTE: Your Honor, I would request that
4 Mr. -- and I said Harrison several times. I meant Harris.
5 I would request that a copy of Mr. Harris's statement be
6 put in the record, but I want to make clear that I'm not
7 offering it into evidence during the State's case.

8 THE COURT: All right. Well, I haven't ruled
9 yet.

10 MR. HARTE: Oh, I thought -- sure sounded like
11 it to me.

12 THE COURT: No, I haven't ruled yet.

13 Mr. Tarr.

14 MR. TARR: Your Honor, Justice Souter said that
15 the most conservative approach a defense attorney can take
16 in a case is challenging the State's case and pleads
17 investigation of the case.

18 Clearly we're allowed to ask him about what he
19 did or did not do and ask him about the statements that
20 were given that -- Your Honor, we submit that it's not
21 true. We're not offering it for the truth. I would tell
22 the Court right now it's false and the person who wrote it
23 has admitted it's false.

24 THE COURT: All right. Solicitor.

25 MR. MYERS: I'm kind of lost, Your Honor. They

1 want to prove the ineffectiveness of the Georgia
2 investigation for a case we're trying in South Carolina.
3 If that's the theory of it all, I don't see how that
4 applies. Why Georgia didn't arrest somebody and why
5 Georgia didn't charge somebody has got nothing to do with
6 this. It's collateral, it's irrelevant. And not only
7 this, it's putrid hearsay is what it is.

8 MR. HARTE: Your Honor --

9 THE COURT: I've never heard that term. I have
10 to look that rule up.

11 MR. HARTE: It's a new term for me, too.

12 Your Honor, we're also saying Edgefield should
13 have followed up.

14 MR. MYERS: Followed up on what? The guy never
15 was in South Carolina. What are you going to follow up
16 on?

17 MR. HARTE: He lives in South Carolina.

18 MR. MYERS: What are you going to follow up on,
19 saying the Edgefield department was ineffective, too?

20 THE COURT: Well, this statement that Mr. Harte
21 has handed up to me is a statement of William Harrison
22 (sic) dated 5 December 2001. The statement was taken by
23 Special Agent Mike Perry and Sergeant Randy Doran. And it
24 appears that it's witnessed by Mr. Perry and Mr. Doran.

25 If it's not being offered for the truth of the

1 matter asserted, then I don't see why the substance of the
2 statement would be admissible.

3 I think you can ask this officer, Did you take a
4 statement from William Harris, the stepbrother of
5 Mr. Barnes? I believe he's already responded he knew who
6 Mr. Barnes was. I don't recall if he responded that he
7 took the statement or not. And then can you ask him: Did
8 you follow up in your police investigation on any of the
9 information that was provided to you by Mr. Harris? The
10 answer is yes or no. If he says no; in other words, You
11 didn't follow up on any of that information? No. Because
12 part of it is being offered for the truth of the matter
13 asserted because you're trying to tie it in with him being
14 the last person to see the victim alive. And you can mark
15 it for identification purposes also at this time.

16 MR. HARTE: Thank you.

17 THE COURT: Of course, you don't lose the final
18 closing argument anyway in a case such as this if it comes
19 into evidence, but I still think you can ask those
20 questions as to whether or not he followed up on the
21 statement that was given as part of his investigation in
22 that regard, but unless I see more, the substance of the
23 statement is not admissible. All right?

24 MR. HARTE: Thank you, Your Honor.

25 THE COURT: So if you want to have it marked as

1 Defense 1 for identification purposes.

2 Do you want to put something else on the record,
3 Mr. Tarr?

4 MR. TARR: Just wanted to note our objection
5 under the Sixth, Eighth, and Fourteenth Amendment rights
6 to present a defense and the violation of his due process
7 rights.

8 THE COURT: Well, I'm not sure what the defense
9 is. You told me the defense is the integrity of the
10 police investigation.

11 MR. HARTE: No, sir. That's not the defense.
12 That's --

13 MR. TARR: The integrity of the police
14 investigation.

15 MR. HARTE: That's not our defense. That's our
16 reason why we think we can go into this.

17 THE COURT: Well, I thought you're saying I'm
18 not allowing you to offer a defense. I'm allowing you to
19 cross-examine this officer on the integrity of the police
20 investigation. I thought that's what you were trying to
21 do, Mr. Tarr.

22 MR. TARR: If we can't get into false statements
23 made to the police, then we're not being allowed to
24 cross-examine --

25 THE COURT: No, sir. No, sir. You're talking

1 about the integrity of a police investigation and whether
2 or not he followed up. You can ask him. So you don't
3 know whether it's true or not. I don't see how that ever
4 goes to the actual substance of what the statement is.
5 You're trying to say, well, it's not for the truth of the
6 matter asserted and still get it in that Mr. Harris was
7 the last person to see him alive after his murder. I
8 don't understand that it can be a shield and a sword.

9 MR. TARR: We're not trying to get that in
10 through that. We fully expect the victim's mother to
11 testify to that. That's not --

12 THE COURT: And that may happen.

13 MR. HARTE: Or it may not.

14 THE COURT: Or it may not, exactly. It may not.
15 And I can't recall on what may or may not happen.

16 But it will be marked for identification
17 purposes --

18 MR. HARTE: Thank you very much, Your Honor.

19 THE COURT: And if you ever -- it can be
20 revisited at the appropriate time.

21 Madam Clerk, would you hand this to the court
22 reporter and have it marked Defense Exhibit No. 1 for
23 identification purposes.

24 Anything further, Mr. Harte?

25 MR. HARTE: No, Your Honor.

1 THE COURT: Bring us our jury, please.

2 (WHEREUPON, Defendant's Exhibit No. 1 was marked
3 for identification only.)

4 (The jury came into open court at approximately
5 4:23 p.m.)

6 THE COURT: All right. Thank you very much,
7 ladies and gentlemen, for your patience with the Court.

8 We'll now continue with the cross-examination of
9 Mr. Doran by Mr. Harte.

10 You may continue, Mr. Harte.

11 BY MR. HARTE:

12 Q All right. Investigator Doran, did you take some
13 carpet from the trunk of Julio Hunsberger's car?

14 A No, sir.

15 Q Did some other law enforcement --

16 A State Law Enforcement Division did.

17 Q State Law Enforcement. And was that taken to SLED to
18 be tested?

19 A Yes, sir.

20 Q And was it thought there might be blood on the
21 carpet?

22 A Yes, sir.

23 Q Was there?

24 A No, sir.

25 Q Now, you said that you took a statement from William

1 Harris; is that right?

2 A Actually Agent Perry took the statement.

3 Q But you were present?

4 A Yes, sir.

5 Q All right. And was that statement or any subsequent
6 statements followed up on?

7 A It was followed up on to the best of our ability. He
8 quit communicating with us after this statement was
9 written.

10 Q Do you know if any law enforcement department or
11 division or agency ever took carpet from the trunk of his
12 car?

13 A Not to my knowledge.

14 MR. HARTE: Thank you. That's all I have.

15 THE COURT: All right. Any redirect, Solicitor?

16 MR. MYERS: No, sir.

17 THE COURT: All right. Then the statement's
18 marked Defense No. 1 for identification.

19 Thank you, Detective. You may step down.

20 Solicitor, you may call your next witness.

21 MR. MAYE: The State calls Richard Cave.

22 THE CLERK: Raise your right hand and place your
23 left hand on the Bible.

24 RICHARD CAVE, after being duly sworn, testified
25 as follows:

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1 THE CLERK: Have a seat. State your full name
2 and spell your last name, please.

3 THE WITNESS: Richard Cave, C-A-V-E.

4 THE COURT: Mr. Cave, you're going to have to
5 speak up so all the members of the jury can hear you.
6 Please repeat your name and spell your last name.

7 THE WITNESS: Richard Cave, C-A-V-E.

8 THE COURT: Thank you very much.

9 DIRECT EXAMINATION

10 BY MR. MAYE:

11 Q Mr. Cave, tell us a little bit about where you're
12 from originally. Where did you grow up?

13 A Augusta, Georgia.

14 Q Do you have family members over in Augusta?

15 A Yes, sir.

16 Q Okay. Who were your family members, who were you
17 living with back in 2001?

18 A My mother, stepdad, sister, two brothers.

19 Q Okay. What neighborhood did you live in over there
20 at that time?

21 A Miller Street around Laney.

22 Q Okay. What were you doing back in 2001? What were
23 you doing day in and day out?

24 A I was in high school, 12th grade.

25 Q In 12th grade. What school did you go to over there?

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- 1 A Lucy Laney.
- 2 Q So you were a senior at Lucy C. Laney over there?
- 3 A Yes, sir.
- 4 Q Tell the ladies and gentlemen of the jury how you
5 first met Steven Louis Barnes, the defendant in this case.
- 6 A I met him at a party.
- 7 Q At a party. What kind of party was it?
- 8 A A birthday party.
- 9 Q Okay. Was it at your house or where was it?
- 10 A It was at a female friend's house.
- 11 Q Okay. When you met him there, did you all converse
12 or did you talk or what happened when you met him there?
- 13 A Yes, sir, I went to buy a car.
- 14 Q Okay. You wanted to buy a car?
- 15 A Yes, sir.
- 16 Q Okay. Were you all talking about an automobile?
- 17 A Yes, sir.
- 18 Q How did that take place?
- 19 A We was discussing the price of a box Chevy.
- 20 Q A box Chevy?
- 21 A A box Chevy, yes, sir.
- 22 Q Help me. What's a box Chevy?
- 23 A Between -- it's the years between '82 and '92.
- 24 Q Chevrolet?
- 25 A Yes, sir.

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1 Q Okay. Based on that conversation, did you start
2 hanging around Steven Barnes?

3 A Yes, sir.

4 Q Let me just ask you this for the record. Is Steven
5 Barnes, the person you met there at that party, is he
6 present here in this courtroom today?

7 A Yes, sir.

8 Q Could you point him out for me?

9 A Right there. (Witness points to the defendant.)

10 Q How's he dressed and where is he seated?

11 A He have a tan shirt on.

12 Q Between the two gentlemen there with the suits on?

13 A Yes, sir, with a low cut.

14 MR. MAYE: Your Honor, I'd like for the record
15 to reflect he's identified the defendant, Mr. Barnes, in
16 this case.

17 THE COURT: So reflected.

18 BY MR. MAYE:

19 Q Once you met him there at that party, what was
20 y'all's relationship like? Did you see him on a regular
21 basis or what happened?

22 A Only when we'd got out to clubs, that's it.

23 Q When you would go out to clubs?

24 A Yes, sir.

25 Q Okay. What was that like? What would you do?

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1 A We'd hang out and just listen to music, that's all.

2 Q Okay. What kind of -- what clubs did you all go to?
3 About how many times did you all do that? Do you have any
4 idea?

5 A No, sir. It was a good little bit of time, though.

6 Q Okay. Were you working anywhere at the time?

7 A No, sir.

8 Q Okay. Let me ask you this. Now you're a senior in
9 high school, so how old would you have been back then?

10 A Seventeen.

11 Q Seventeen years old?

12 A Yes, sir.

13 Q How old was Mr. Barnes? Was he in school with you or
14 how old was he?

15 A Had to be between 22, 23.

16 Q Okay. So he was not in school with you?

17 A No, sir.

18 Q Did you know him before you went to that party?

19 A No, sir.

20 Q Okay. Were you working anywhere at the time?

21 A No, sir, I had no job.

22 Q Okay. Did you have much in the way of money at that
23 time since you weren't working?

24 A No, sir. No, sir.

25 Q Okay. When you went to the club and you had to get

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1. in, who paid?

2. A Steven Barnes.

3. Q Okay. Why did you like hanging out with Steven
4. Barnes? What did you all have in common? What was the
5. nature of y'all's relationship?

6. A Females, money, and the car of course.

7. Q He had cars?

8. A Yes.

9. Q What kind of cars did he have?

10. A I seen two Chevrolets; a Monte Carlo, a different
11. kind, a white Caprice, things of that nature.

12. Q Okay. You being 17 years old, were you into cars at
13. the time? Was that part of the appeal?

14. A Yes, sir.

15. Q And he had girlfriends around, too, and you liked
16. that to, didn't you?

17. A Yes, sir.

18. Q Okay. And when you went to the clubs, who paid?

19. A Steven Barnes.

20. Q Okay. Let's talk about Labor Day weekend of 2001.
21. Labor Day weekend. At that point in time, about how long
22. had you known Mr. Barnes, the defendant in this case?

23. A About three months.

24. Q About three months' time?

25. A Yes, sir.

- 1 Q Okay. What happened Labor Day weekend of 2001?
2 Where did you go that weekend?
- 3 A Labor Day weekend, I was at the house.
- 4 Q Okay. Where did you go?
- 5 A Steven Barnes called me to the green house.
- 6 Q Okay. Let me ask you this. Who were you with at the
7 time that you got that call?
- 8 A Me and Tony Griffin.
- 9 Q Tony Griffin?
- 10 A Antonio Griffin.
- 11 Q Antonio Griffin. How did you know Antonio?
- 12 A We went to school together.
- 13 Q Okay. Did he go to the same school that you went to?
- 14 A Yes, sir, Laney.
- 15 Q Okay. About how long had you known him?
- 16 A Since '97.
- 17 Q Were you all pretty good friends?
- 18 A Yes, sir.
- 19 Q Did you all hang out together on a regular basis?
- 20 A We was in the band together.
- 21 Q In a band or the band?
- 22 A The band, the Laney band, the marching band.
- 23 Q You all were in the marching band together?
- 24 A Yes, sir.
- 25 Q Where were you two when you received the call from

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1 Mr. Barnes?

2 A At my house.

3 Q Okay. Based on that call, what did he ask you to do
4 when you got that call?

5 A Come to Cherry Street, the green house.

6 Q To Cherry Street to the green house?

7 A Yes, sir.

8 Q Were you familiar with the place that he was asking
9 you to go to?

10 A Yes, sir.

11 Q Okay. How did you and Antonio get there, if you all
12 went?

13 A I got my stepdad to take us over there.

14 Q Okay. Did he take you two over there?

15 A Yes, sir.

16 MR. MAYE: We'll mark that as State's id at this
17 point.

18 (WHEREUPON, State's Exhibit No. 20 was marked
19 for identification only.)

20 BY MR. MAYE:

21 Q Let me show you what's marked State's Exhibit 20 for
22 ID. Let me show you that photograph and ask you if you
23 can recognize that.

24 A Yes, sir.

25 Q What is that?

1 A It's the green house.

2 Q Is this the house that your stepdad took you and
3 Antonio to at the request of Mr. Barnes?

4 A Yes, sir.

5 Q Does this picture fairly and accurately show that
6 house?

7 A Yes, sir.

8 MR. MAYE: I move to admit it into evidence,
9 Your Honor.

10 THE COURT: Mr. Harte?

11 MR. HARTE: No objection.

12 THE COURT: State's 20 in evidence without
13 objection.

14 MR. MAYE: Thank you.

15 (WHEREUPON, State's Exhibit No. 20 was admitted
16 into evidence.)

17 BY MR. MAYE:

18 Q While I wait for the high tech way, let's do it like
19 this. Come on off the stand here if you would. Come on
20 down here for me.

21 State's 20, is that the green house that you're
22 talking about that you went to there to see Mr. Barnes?

23 A Yes, sir.

24 Q Okay. Had you been there before?

25 A Yes, sir.

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1 Q Did you know that to be a house that Mr. Barnes, the
2 defendant, frequented?

3 A Yes, sir.

4 Q Okay. Thank you. You can go back to the witness
5 stand.

6 So you and Antonio load up and go over there.
7 Who is there when you get to the green house and what's
8 happening?

9 A Charlene Thatcher, Steven Barnes, Antonio Griffin,
10 and me.

11 Q What is going on when you arrive? What happens?

12 A Steven Barnes and Samuel Sturup is arguing.

13 Q What were they arguing about?

14 A Some money.

15 Q Let me ask you this. At that point in time, Samuel
16 Sturup, did you know who he was?

17 A No, sir.

18 Q Was he a friend of yours?

19 A No, sir.

20 Q Was there any connection between either you or
21 Antonio to Samuel Sturup?

22 A No, sir.

23 Q This was the guy he was arguing with when you got
24 there?

25 A Yes, sir.

1 Q Okay. What was being said and what was the nature of
2 the argument that they were having?

3 A Sam was explaining that he didn't have the money that
4 Barnes was accusing him of stealing.

5 Q Stealing some money?

6 A Yes, sir.

7 Q What kind of things was Mr. Barnes saying to Sam?

8 A Where's the money was, where the cheese was.

9 Q How is he referring to that?

10 A His cheese or stuff like that.

11 Q Describe Sam. What did he look like? What kind of
12 fellow was he?

13 A About my height, brown skin, heavy set.

14 Q Okay. Do you think he was older than you, younger
15 than you?

16 A No, he was younger.

17 Q He was younger than you?

18 A Yes, sir.

19 Q Okay. In addition to the argument that was
20 happening, what else happened as they were arguing over
21 whether or not Sam had any money of Mr. Barnes?

22 A Sam started saying that he doesn't have the money and
23 Steven started beating him with the fist, a pole, and a
24 shock absorber..

25 Q He started beating him with what?

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1 A His fist, a pole, and a shock absorber.

2 Q Did you actually see him strike Sam and hit him?

3 A With the shock absorber, yes.

4 MR. MAYE: I'd like to mark this for
5 identification if I could.

6 (WHEREUPON, State's Exhibit No. 21 was marked
7 for identification only.)

8 MR. MAYE: Your Honor, this is State's 21 for
9 ID.

10 THE COURT: All right.

11 BY MR. MAYE:

12 Q Mr. Cave, just look at this and tell me if that's
13 consistent with what you saw --

14 A Yes, it is.

15 Q -- Mr. Barnes strike Samuel Sturup with.

16 A Yes, sir.

17 Q Okay. Is Mr. Barnes just talking to him about that
18 one time or did they go back and forth on it repeatedly?

19 A Repeatedly.

20 Q Okay. After they argued and he was struck, did
21 anybody else arrive and did anybody else come to the area?

22 A Yes, Willie Harris appeared.

23 Q Okay. Willie Harris. Who is he?

24 A His little brother.

25 Q How did you know who he was? And when you say "his

1 little brother," who's little brother?

2 A Steven Barnes' little brother.

3 Q Okay. What did they call Mr. Harris?

4 A Little Man.

5 Q What did they call the defendant, Steven Louis
6 Barnes?

7 A Big Man.

8 Q Day to day what did you all call him?

9 A Big Man.

10 Q So Big Man is Steven Barnes --

11 A Yes, sir.

12 Q And Little man is his brother, Mr. Harris?

13 A Yes, sir.

14 Q Okay. What did Mr. Harris do once he arrived on the
15 scene there?

16 A After he seen Steven and Sam arguing, he confronted
17 Sam and pointed a gun in his face.

18 Q In Sam's face?

19 A Yes, sir.

20 Q Okay. Did you see any other guns out there? Did
21 anybody else have a gun there?

22 A No, sir.

23 Q Okay. What happened next? What was the next thing
24 happened? Who all is there at this point in time?

25 A Willie Harris, Steven Barnes, Charlene Thatcher,

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1 Antonio Griffin, and me.

2 Q Okay. What does Mr. Barnes do next? What does he
3 say?

4 A He tells us to jump on Sam.

5 Q He tells -- who is "us"? Who does he tell to jump on
6 Sam?

7 A Me and Antonio Griffin.

8 Q Okay. What happens as a result of him saying for you
9 all to jump on him? What happens?

10 A Samuel Sturup and Antonio Griffin started fighting.

11 Q What was Mr. Barnes doing while they were fighting?
12 Was he telling them to stop, was he encouraging them?
13 What was he doing?

14 A Standing back looking.

15 Q Okay. Do they eventually stop fighting?

16 A Yes, sir.

17 Q Okay. What did Sam say? What was the first thing
18 that you heard him say in response to Mr. Barnes'
19 assertions that he had taken some money from him? What
20 did you hear Sam say?

21 A At first he was saying he doesn't have the money.
22 Then he changed the story and saying the money was at his
23 momma house.

24 Q Okay. What else did he say in regard to any
25 explanation about any money that Mr. Barnes had fussing at

1 him about?

2 A That the money was in his bathroom and behind the
3 toilet.

4 Q Okay. So the first thing he started talking about
5 was that he didn't have the money?

6 A Yes, sir.

7 Q Did you hear him that say repeatedly?

8 A Yes, sir.

9 Q Okay. Did he blame anybody else for taking the
10 money?

11 A He said Charlene Thatcher.

12 Q Who said Charlene Thatcher took it?

13 A Sam.

14 Q Okay. As a result of that, did that create a ruckus
15 when he blamed Charlene?

16 A They started arguing.

17 Q Okay. After he blamed Charlene, what did he say
18 about where the money was to him?

19 A It was at his house in the back of his toilet in the
20 bathroom.

21 Q What did Steven Barnes say when Sam Sturrup told him
22 the money's behind the toilet back at his house?

23 A If he go to his house and he don't mind the money,
24 they're going to kill everybody in the house.

25 Q Okay. Did he describe it as his house or his

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1 mother's house?

2 A His mother house.

3 Q Okay. Once Mr. Barnes told him he was going to go
4 back and kill everybody at the house if the money wasn't
5 there, did Sam's story change?

6 A Yes, it did.

7 Q What did he then start saying after Mr. Barnes told
8 him he's going back to the house and kill everybody?

9 A He don't have the money.

10 Q Why did he say that he had told him that the money
11 was back at the house?

12 A He just wanted to stop the beating.

13 Q After Sam indicated to him that he just told him the
14 tale about the money being at the house so he could stop
15 the beating, what was the next thing that happened? What
16 did Mr. Barnes do? Did you see him do anything?

17 A After Sam told him he doesn't have the money, that's
18 when he left and he got on the phone.

19 Q What do you mean he left? Did he leave the area
20 completely?

21 A No, unh-unh. He got -- he walked a few feet away
22 from me, or from the crowd, and he got on the phone and
23 called somebody.

24 Q Could you tell what was being said?

25 A No, sir.

1 Q Okay. But he made a phone call?

2 A Yes, sir.

3 Q Did you observe him having conversation with someone?

4 A Yes, sir.

5 Q Shortly after the time that he made that call, what
6 happened?

7 A The Hunsbergers showed up.

8 Q Who are the Hunsbergers?

9 A Alex and Julio.

10 Q Okay. Let me ask you this. At the time these two
11 guys show up, did you know what their names were?

12 A No, sir.

13 Q Had you ever seen them before?

14 A No, sir.

15 Q Tell the ladies and gentlemen of the jury what these
16 two guys that you say are named Alex and Julio, what did
17 they look like? What are they like?

18 A Puerto Rican.

19 Q Puerto Rican guys?

20 A Yes, sir.

21 Q Okay. Once the Hunsbergers arrive, who talks to them
22 and who did they interact with?

23 A Steven Barnes.

24 Q Okay. Can you see them conversing and talking?

25 A Yes, sir.

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- 1 Q All right. Are they talking and carrying on
2 communication with either you or Antonio?
- 3 A No, sir.
- 4 Q Who are they talking to?
- 5 A Steven Barnes.
- 6 Q After he communicates with the Hunsbergers, what does
7 Steven Barnes tell all of you to do?
- 8 A Get inside the car.
- 9 Q Where does he tell you and Sam that y'all are going?
- 10 A Back to his mother house.
- 11 Q He tells you and Sam and everybody there that you all
12 are going back --
- 13 A To the mother house.
- 14 Q Did Sam indicate that he wanted to go home?
- 15 A Yes, sir.
- 16 Q Did Mr. Barnes tell him that he would take him home?
- 17 A Yes, sir.
- 18 Q What did he tell you all to do then?
- 19 A Get inside the car.
- 20 Q Whose car did you get inside?
- 21 A Steven Barnes.
- 22 Q What kind of car was that?
- 23 A A white Caprice.
- 24 Q Okay. Who all got in the Caprice?
- 25 A Steve Barnes, Charlene Thatcher, Antonio Griffin, and

1 me.

2 Q You all got in the Caprice?

3 A Yes, sir.

4 Q Is this a box Caprice or a round Caprice or --

5 A A round Caprice.

6 Q I know you know about the box Caprice. When did the
7 round Caprices start?

8 A About '93; '92, '93.

9 Q Okay. That's after. So this is a bubble Caprice?

10 A A little newer.

11 Q Okay. Did you see the Hunsbergers pull up?

12 A Yes, sir.

13 Q Were they in an automobile together when they got
14 there?

15 A Yes, sir.

16 Q Okay. Did you see the Hunsbergers and Sam Sturup
17 get in the car?

18 A No, sir.

19 Q Did you see that?

20 A No, sir.

21 Q Okay. Is this daytime or is this nighttime?

22 A It's nighttime.

23 Q About what time was it when you and Antonio initially
24 went over there?

25 A 10 p.m.

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- 1 Q About 10 p.m. So it's dark?
- 2 A Yes, sir.
- 3 Q Okay. Once you all pull out there from the green
4 house, you all were in the bubble Caprice?
- 5 A Yes, sir.
- 6 Q Hunsbergers are in their car?
- 7 A Yes, sir.
- 8 Q Where do you believe Sam is at that time?
- 9 A Inside the Hunsbergers' car.
- 10 Q With them?
- 11 A Yes, sir.
- 12 Q Okay. Who leads the way and where do you go?
- 13 A The Hunsbergers headed towards Carolina.
- 14 Q Towards South Carolina?
- 15 A Yes, sir.
- 16 Q Do you remember what kind of road you were on?
- 17 A We was on a highway.
- 18 Q You were on the highway?
- 19 A Yes, sir.
- 20 Q Were you on the interstate?
- 21 A Yes, sir.
- 22 Q What path did you take? Did you go across the
23 bridge?
- 24 A Yes, sir.
- 25 Q Got to, don't you?

- 1 A Yeah, to get to Carolina, yeah.
- 2 Q Okay. Did you know where you were going?
- 3 A No, sir.
- 4 Q Who was leading the way?
- 5 A The Hunsbergers.
- 6 Q Who was driving the car that you were in?
- 7 A Steven Barnes.
- 8 Q Okay. If you know the road name, fine, but if you
9 don't -- just basically tell me, did you all turn off the
10 interstate?
- 11 A Yes, sir.
- 12 Q Describe to me kind of size-wise what road did you
13 all first turn off on? What kind of road was that?
- 14 A A smaller intersection.
- 15 Q Was it a big road, a highway?
- 16 A Kind of, yes.
- 17 Q Was it as big as the interstate?
- 18 A No.
- 19 Q Okay. Did you all have an occasion to turn off of
20 the second road, the smaller road?
- 21 A Yes, sir. Yes, sir.
- 22 Q Was that a smaller road still?
- 23 A Yes, sir.
- 24 Q Okay. Once you all turned onto the smaller road,
25 tell the ladies and gentlemen what you remember about

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- 1 going down that road.
- 2 A After we leave the smaller road we end up on a dirt
3 road. The dirt road leads to an open area, a grass area.
- 4 Q Okay.
- 5 A We go to the grass area, riding to a narrow path.
6 Once you leave the narrow path, it opens up to a bigger
7 area.
- 8 Q So you're in a bigger area and next down it goes into
9 another --
- 10 A Another open field.
- 11 Q Okay. I want you to take a look at State's 13. Can
12 you see from there where you are on the stand?
- 13 A Yes, sir, I can see.
- 14 Q This area in here, is that consistent with the area
15 that you all turned off into first?
- 16 A Yes, sir.
- 17 Q That's the open field area?
- 18 A Yes, sir.
- 19 Q How about this area in here?
- 20 A That's the narrow path.
- 21 Q How about back in here?
- 22 A That's where we ended up at.
- 23 Q Okay. Once you all get back up into here, into this
24 area, what happens? Who's in front?
- 25 A The Hunsbergers in front.

1 Q Okay. Where do you all get out of the car at?

2 A In the grass area right there.

3 Q In here; is that correct?

4 A Yes, sir.

5 Q Okay. What does Barnes tell you all to do when you
6 all pull up in the second area there and stop? What does
7 he advise you to do?

8 A Get out the car.

9 Q Who does he tell to get out?

10 A Me, Thatcher, Antonio Griffin.

11 Q What's the next thing you saw?

12 A I see him walk towards the Hunsbergers' car and get
13 Sam out the car.

14 Q Where did they get Sam out of and who got him out?

15 A Steven got him out the trunk.

16 Q He was where?

17 A In the trunk.

18 Q When you left the green house, did you see how they
19 had loaded up to leave?

20 A No, sir.

21 Q When was the first time that you were aware that
22 Samuel Sturup was in the trunk of that car on the drive?

23 A When we got to that grass area.

24 Q What condition was he in? What did you observe about
25 him as they got him out?

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1 A He appeared beat up.

2 Q Okay. Who told him to get out?

3 A Steven Barnes.

4 Q What was the next thing that happened after
5 Mr. Barnes told him to get out and got him out, what
6 happened?

7 A He told Sam to walk towards the gate area and we
8 follow.

9 Q He told Sam to get out and he ordered y'all to
10 follow?

11 A Yes, sir.

12 Q Where did you go from this cleared field right here,
13 the second one?

14 A Towards the end of the field there's a fence.

15 Q This area?

16 A Yes, sir.

17 Q Let me show you what's been marked State's Exhibit 6.
18 Do you recognize that?

19 A Yes, sir.

20 Q Where is that area and how is that significant as you
21 all were leaving the car area with Sam in front?

22 A We walked toward and he told us one by one hop over
23 the fence.

24 Q He told you what?

25 A To hop over the fence.

1 Q What did you all do as a result of what he told you
2 to do?

3 A We jumped the fence.

4 Q Okay. Where did you all then go?

5 A To another gate.

6 Q When you got to this side of the gate there, which
7 way did you all go?

8 A To your right.

9 Q This way?

10 A Yes, sir.

11 Q Now, about what time was it at this point in time?

12 A It had to be about 12.

13 Q Okay. Did you have any idea how to get to the place
14 that you ended up at?

15 A No, sir.

16 Q Did you know where in the world you were?

17 A No, sir.

18 Q At that point in time, had you ever seen Sam Sturupp
19 and the Hunsbergers before that?

20 A No, sir.

21 Q Take a look at State's 7. Once you all went over the
22 fence, how did you all proceed through the woods?

23 A We was kind of walking until we got to the open area
24 right there.

25 Q Through here?

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- 1 A Yes, sir, the path.
- 2 Q Okay. Where did the path open up to? What happened?
- 3 You tell me. As y'all are marching, who's where?
- 4 A Sam's in front of us; me, Antonio Griffin, Charlene
- 5 Thatcher walking behind him.
- 6 Q Are the Hunsbergers still with you?
- 7 A They walking behind us.
- 8 Q Okay.
- 9 A And we walk down the path and it leads to another
- 10 smaller open area.
- 11 Q When you all get to this smaller open area, tell the
- 12 jury what happens when you get there.
- 13 A Steven tells everybody that they got to shoot.
- 14 Q Prior to that time period, was there any discussion
- 15 between Sam and Mr. Barnes about the money?
- 16 A Yeah, Sam continue to tell him that he doesn't have
- 17 the money.
- 18 Q What is Barnes saying during this time?
- 19 A He better find his money or he going to wind up dead.
- 20 Q What did he tell you all to do?
- 21 A Everybody shoot the gun.
- 22 Q What did he say would happen if you didn't shoot him?
- 23 A Going to wind up dead.
- 24 Q What did he do in order to initiate or start this
- 25 process?

- 1 A He gave the gun to Charlene Thatcher.
- 2 Q What was Charlene Thatcher doing at that time?
- 3 A Crying.
- 4 Q Was she enthusiastically grabbing the gun or what was
5 she doing?
- 6 A No, Steven Barnes gave her the gun.
- 7 Q He gave her the gun?
- 8 A Yes, sir.
- 9 Q What did he do at that point in time once he gave her
10 the gun? Where did he stand and what he did do?
- 11 A Charlene's on my right side and Steven's behind her
12 and helping her, with his arms around her and helping her
13 hold the gun and pointing the gun at Sam.
- 14 Q Where's he standing in relationship to her?
- 15 A Behind her with his arms around her.
- 16 Q Where's the gun?
- 17 A Charlene has it pointing at Sam.
- 18 Q What is he saying to her as he's behind her with the
19 gun helping her point?
- 20 A Better shoot the gun.
- 21 Q What does he say will happen if she doesn't shoot?
- 22 A She'll -- she going to die.
- 23 Q What's the next thing you saw?
- 24 A Sam hit the ground after she pulled the trigger.
- 25 Q Did you hear a gun go off?

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- 1 A Yes, sir.
- 2 Q What was the effect on Sam Sturup?
- 3 A He fall and hit the ground.
- 4 Q Was he making any noise? What did he do?
- 5 A He grabbed his stomach and hit the ground.
- 6 Q Okay.. Did all the rest of you shoot?
- 7 A Yes, sir.
- 8 Q Do you know whether you shot, do you know whether you
- 9 hit him?
- 10 A No, sir.
- 11 Q But you know you shot?
- 12 A Yes, sir.
- 13 Q Who told you to shoot?
- 14 A Steven Barnes.
- 15 Q What did he say would happen if you didn't shoot?
- 16 A You're going to end up like Sam.
- 17 Q Did he tell you all that just one time or more than
- 18 one time?
- 19 A Through the whole thing.
- 20 Q Where did you all then go after the shooting took
- 21 place?
- 22 A We went back to the car.
- 23 Q Who was the last one to get back to the car as you
- 24 all went back?
- 25 A Steven Barnes.

1 Q As you went back to the car, did you hear another
2 shot?

3 A Yes, sir.

4 Q Where did you all then go when you all got back to
5 the clearing?

6 A Went to the Hunsbergers.

7 Q You all were in the clearing when you come back out
8 after the shooting?

9 A Yes, sir.

10 Q Correct?

11 A Yes, sir.

12 Q Did you all go through the field back over to this
13 trailer area?

14 A Same where we came out.

15 Q And ended up where, here?

16 A At the Hunsbergers, yes, sir.

17 Q What was your concern at the time? What did you
18 bring up, if anything, to Mr. Barnes about the situation
19 at that point in time?

20 A How did he know that Sam won't get up and run to the
21 nearest house.

22 Q What made you -- what led you to believe that there
23 were houses nearby? What did you see?

24 A I seen lights in the windows.

25 Q So what did you ask Mr. Barnes?

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1 A How do you know Sam won't get up and go to the
2 nearest house.

3 Q And what did he tell you as a result of you asking
4 him about Sam getting up and possibly going for help?

5 A He told us not to worry about it because he shot Sam
6 in the head and watched him die.

7 Q What happens when you get back to the Hunsbergers?

8 A He told all of us to sit down.

9 Q What does he say to y'all when you get back to the
10 Hunsbergers' trailer after the shooting's taken place?

11 A Not to mention what happened, that he'll find out if
12 anybody went to the police. He wanted everybody to get
13 their hands dirty so nobody could go to the police.

14 Q Was that his explanation for why everybody had to
15 shoot?

16 A Yes, sir.

17 Q What else did he ask you as you're there at the
18 Hunsbergers?

19 A How we felt.

20 Q What did you tell him?

21 A I told him I didn't know.

22 Q Did you do anything there to indicate to Mr. Barnes
23 that you were going to tell on him?

24 A No, sir, I couldn't.

25 Q Where did you all go after you left the Hunsbergers?

1 A We went back going towards the bridge and stopped at
2 the bridge.

3 Q Let me ask you this. What vehicle did you leave --
4 use to leave the Hunsbergers' trailer there and go back?

5 A The white Caprice.

6 Q Who drove?

7 A Steven.

8 Q Who told you it was time to go?

9 A Steven.

10 Q What happened on the way back to Georgia?

11 A We stopped at the bridge.

12 Q What bridge are you talking about?

13 A The one that leads to Georgia.

14 Q You stopped on the big bridge?

15 A Yes, sir, to go over the river.

16 Q Okay. What happened when you stopped on the bridge?

17 A Steven gave Antonio Griffin the gun with the bag and
18 tell him to throw it in the river.

19 Q Out there at the scene, could you tell how many guns
20 there were?

21 A No, sir.

22 Q Was it dark or was it light?

23 A It was still dark.

24 Q So you don't know exactly how many guns were at the
25 scene?

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1 MR. HARTE: Objection to the leading nature of
2 the question.

3 THE COURT: Rephrase the question.

4 BY MR. MAYE:

5 Q Do you have any idea of the number of firearms --

6 A No, sir.

7 Q -- tossed over there?

8 A No, sir..

9 Q Had you seen Steven Barnes with a pistol?

10 A Yes, sir.

11 Q What did Antonio do with the bag? Who gave it to
12 him?

13 A Steven gave Antonio the bag with the gun in it and
14 told him to throw it in the river.

15 Q What did he do as a result of being told to do that?

16 A He went and throw it in the river.

17 Q What happened next? Where did you all go?

18 A Back to the green house.

19 Q Back to the green house?

20 A Yes, sir.

21 Q Where did you all stay the remainder of the night?

22 A He told us to stay there that night.

23 Q Okay. How did you get home? Who took you?

24 A Steven Barnes dropped me off.

25 Q Okay. What did Mr. Barnes tell you on the way to

1 dropping you off in regards to everything that had
2 happened?

3 A If I would tell anybody I would end up like Steven --
4 I mean like Sam.

5 Q What else did he tell you in regards to the
6 investigation? Did he give you any details about
7 information?

8 A That I didn't go to the doors or he'll find out.

9 Q What did he tell you about tracking back to anybody?

10 A He'll find out.

11 Q Okay. Did he give you any information regarding
12 where the investigation -- or why you wouldn't be a
13 suspect?

14 A Yeah. He said Sam and Steve -- Sam was the only
15 one -- Steven's the only one that know Sam so we don't
16 have to worry about anything leading to us.

17 Q What did he tell you to do?

18 A Burn the clothes.

19 Q To burn what?

20 A Burn our clothes.

21 Q Who did he tell to burn your clothes?

22 A Antonio Griffin.

23 Q Did you give Antonio Griffin your clothes?

24 A Yes, sir.

25 Q Were they burned?

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- 1 A Yes, sir.
- 2 Q Where were they burned at?
- 3 A Antonio Griffin's house.
- 4 Q Who was giving instructions about what was to be done
5 after the killing took place?
- 6 A Steven Barnes.
- 7 Q Who told you what to do and instructed you as to what
8 to do?
- 9 A Steven Barnes.
- 10 Q Who warned you not to say anything?
- 11 A Steven Barnes.
- 12 Q You got arrested, though, didn't you?
- 13 A Yes, sir.
- 14 Q Before you were arrested, did you tell anybody what
15 you and Steven Barnes and the Hunsbergers and Antonio,
16 what all of you had done out there?
- 17 A No, sir.
- 18 Q Why not?
- 19 A I was scared.
- 20 Q If the police had not come and arrested you, would
21 you have ever told a soul?
- 22 A No, sir.
- 23 Q Why not?
- 24 A I feared for my life.
- 25 Q From who?

1 A Steven Barnes.

2 Q Why were you afraid of Steven Barnes?

3 A I seen what he did with Sam and I didn't want to end
4 up like him.

5 Q Let me ask you this. You've got an orange jumpsuit
6 on. Where do you reside now?

7 A In Georgia State Prison.

8 Q As a result of the beating that Sam took over in
9 Georgia at the green house on Cherry Street, did you plead
10 guilty to aggravated assault?

11 A Yes, sir.

12 Q How much time did you get in Georgia?

13 A Eighteen years.

14 Q Okay. You also got charged with kidnapping for what
15 took place over there at that house, didn't you?

16 A Yes, sir.

17 Q But you didn't plead to that, did you?

18 A No, sir.

19 Q You took the plea and how much time did you get?

20 A Eighteen years.

21 Q Has anybody ever told you what's going to happen to
22 you over here in South Carolina where the murder took
23 place?

24 A No, sir.

25 Q Have you had any discussions with anybody as to

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1 what's going to happen to any potential charges that you
2 might face as a result of the events that led to Sam
3 Sturup's death here in Edgefield?

4 A No, sir.

5 Q Have you been made any promises?

6 A No, sir.

7 Q Has anybody given you any hope of reward or offered
8 you anything in order to get you to testify here today
9 before this jury?

10 A No, sir.

11 MR. MAYE: Answer any questions the defense has.

12 THE COURT: Thank you, Solicitor.

13 Mr. Harte.

14 CROSS-EXAMINATION

15 BY MR. HARTE:

16 Q Mr. Cave, when you first arrived at the green house
17 and you say that Steve Barnes and Sam were arguing,
18 they -- at that point there was no blows being passed?

19 A They was arguing.

20 Q And then at some point in time you say that Steven
21 started beating Sam with his fist?

22 A Yes, sir.

23 Q And also with some type of shock thing that's similar
24 to what's been shown you there?

25 A Yes, sir.

1 Q How many times did he hit him with the shock
2 absorber?

3 A Once.

4 Q Where did he hit him?

5 A On the elbow.

6 Q On the elbow?

7 A With the shock absorber.

8 Q How many times did he hit him with his fist?

9 A Multiple times. Multiple times.

10 Q Multiple times.

11 Where was he hitting him?

12 A In the face.

13 Q Was he bleeding?

14 A A little bit.

15 Q When he got out of the Hunsbergers' trunk, was he
16 bleeding then?

17 A Yes, sir.

18 Q Where was Antonio Griffin when Steve Barnes was
19 hitting Samuel?

20 A Out with us outside. It was outside.

21 Q You all were all right there?

22 A Yes, sir.

23 Q So if you saw Steven Barnes hitting Sam Sturupp,
24 Antonio Griffin should have seen it, too, shouldn't he?

25 A Yes, sir.

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- 1 Q You guess so or you know so?
- 2 A I said yes, sir.
- 3 Q Now, the whole time that this went on, you never saw
4 more than one gun, did you?
- 5 A What incident you talking about? At the green house?
- 6 Q The whole -- yes, sir. Well, no, that's right
7 because you saw William Harris stick a gun in Sam's face?
- 8 A In Sam's face, uh-huh.
- 9 Q What kind of gun was that?
- 10 A It was automatic.
- 11 Q Automatic. Did he stick it in his mouth?
- 12 A Yes, sir.
- 13 Q That was a yes, sir?
- 14 A Yeah.
- 15 Q And then at some point in time you say that Steve
16 told Tony and you to fight Sam?
- 17 A Yes, sir.
- 18 Q And what happened then?
- 19 A Sam and Tony started fighting.
- 20 Q Sam and Tony started fighting?
- 21 A Yes, sir.
- 22 Q You didn't fight?
- 23 A No, sir.
- 24 Q You never hit him?
- 25 A Never.

1 Q Do you admit or deny that you told Investigator
2 Roundtree that everybody hit him?

3 A I didn't hit him.

4 Q I didn't ask you that. I said do you admit or deny
5 in a statement given to Investigator Roundtree you told
6 him that everybody hit Sam?

7 A I probably did.

8 Q Probably did.

9 Now, when you also gave that statement to
10 Investigator Roundtree, you initially told him you didn't
11 know anybody by the name of Tony, did you?

12 A Yes, sir.

13 Q And that was a lie?

14 A I didn't give him my statement yet.

15 Q That was a lie. And you admitted that in the trial,
16 the Hunsberger trial in Richmond County, Georgia, that you
17 would be willing -- you admitted you were willing to lie
18 to protect somebody as you did to try to protect Tony?

19 A It didn't seem like that. That's the way they put
20 it.

21 Q It didn't seem like that?

22 A No, sir.

23 Q But that's what happened?

24 A No. They asked me why I pled to aggravated assault.

25 Q No, sir. I'm talking about when you were asked about

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1 having told Investigator Roundtree that you didn't know
2 anybody by Tony, you did that to protect Tony, so you
3 admitted that you would lie to protect somebody?

4 A They was talking about the aggravated assault.

5 MR. HARTE: Give me one minute, Your Honor.

6 (Pause.)

7 BY MR. HARTE:

8 Q I'm going to show you a portion of the transcript
9 from the Hunsberger trial. It's Bates Stamp 2009.

10 All right. The question by the defense lawyer,
11 you said, "I eventually answered the question." That's
12 about that you did know Tony?

13 A Yes, sir.

14 Q And he said, "You didn't at first, though, correct?
15 You were trying to look out for Tony at that time I would
16 guess; is that right?"

17 And you said what? "You could say that."

18 "You were trying to keep him from getting
19 involved, correct?"

20 Your answer was, "You could say that."

21 "I mean if you could tell a lie and keep Tony
22 out of it, you were willing to do it, right?"

23 And your answer is, "You're right."

24 Is that correct?

25 A If that's what it says.

1 Q Now with regards to your plea, you pled to aggravated
2 assault?

3 A Yes, sir.

4 Q Even though you never hit him?

5 A Yes, sir.

6 Q And when the judge asked you if you were pleading
7 guilty because you were in fact guilty, you did in fact
8 commit an aggravated assault, you told him yes, didn't
9 you?

10 A Yes, sir.

11 Q That was a lie, wasn't it?

12 A Yes, sir.

13 Q So you lied to the judge?

14 A No, I didn't lie to the judge, no.

15 Q Did you hit Sam?

16 A No, I didn't hit Sam.

17 Q But you pled to hitting him.

18 A They asked me why I did plead in the Hunsberger
19 trial, and I told them.

20 Q I'm talking about at your plea. The judge asked you,
21 "Are you pleading guilty because you did commit this
22 crime," and you said yes?

23 A Yes.

24 Q And that was a lie?

25 A No, it wasn't no lie.

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1 Q Did you hit him?

2 A No, sir.

3 Q Sounds like a lie to me.

4 MR. MAYE: Your Honor, I'm not sure if that was
5 a question. I object to that.

6 THE COURT: If you'd rephrase that question, Mr.
7 Harte.

8 BY MR. HARTE:

9 Q Do you think that would sound like a lie to somebody
10 else?

11 A Yeah, it would.

12 Q Now when you were interviewed by Investigator
13 Roundtree, you also said, did you not, that you just went
14 along with the interview when you identified Julio and
15 Carlos or Carlos; isn't that correct?

16 A Yes, sir.

17 Q When you got to the scene out there -- let me ask you
18 this. Have you ever been back out there?

19 A You talking about the field?

20 Q To that area that you identified so clearly for the
21 Solicitor awhile ago. Have you ever been back out there
22 after that night?

23 A Yeah.

24 Q When?

25 A I can't recall the date.

- 1 Q Was it recently?
- 2 A Yeah.
- 3 Q In the last few weeks?
- 4 A No, sir.
- 5 Q Last month?
- 6 A Yes, sir.
- 7 Q Could you find it on your own?
- 8 A No, sir.
- 9 Q And, in fact, when you were asked if you could
10 retrace your steps and find that place again at the
11 Hunsberger trial, you said no?
- 12 A Yes, sir, I did say that.
- 13 Q And you couldn't have found that, could you?
- 14 A No, sir.
- 15 Q So you were shown where it was?
- 16 A Yes, sir.
- 17 Q Yes. Now, when you got out there, shot him, or
18 Charlene Thatcher was the first one to shoot, right?
- 19 A Yes, sir.
- 20 Q Who was the second one to shoot?
- 21 A I was.
- 22 Q And when Charlene Thatcher shot, you're saying that
23 Steve was standing behind her with his arms around her?
- 24 A Yes, sir.
- 25 Q Both arms around her?

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- 1 A Yes, sir.
- 2 Q You clearly saw that?
- 3 A Yes, sir.
- 4 Q There's no question in your mind about that?
- 5 A I'm positive.
- 6 Q What did Charlene do after she shot?
- 7 A He told everybody after you shoot you go back to the
- 8 car, so she started heading toward the car.
- 9 Q To your knowledge, did she ever go back?
- 10 A Go back where?
- 11 Q To where Sam was?
- 12 A I don't know.
- 13 Q Well, what did you do after you shot him?
- 14 A I went back to the car.
- 15 Q Was she ahead of you?
- 16 A Yes, sir.
- 17 Q Did you see her?
- 18 A Yeah, she was front of me.
- 19 Q Was she at the car when you got there?
- 20 A Yeah.
- 21 Q She got there before you did?
- 22 A Yes, sir.
- 23 Q Did she ever leave to go back?
- 24 A No, sir.
- 25 Q You're certain of that?

- 1 A Yes, sir.
- 2 Q No question about it?
- 3 A No, I don't have no question about it.
- 4 Q Okay. And who did you hand the gun to?
- 5 A Antonio.
- 6 Q When you shot, where did you shoot?
- 7 A Towards the ground.
- 8 Q Did you shoot where it would have hit Sam Sturupp?
- 9 A I couldn't know.
- 10 Q You don't know?
- 11 A No, sir.
- 12 Q How many shots did you hear -- well, let me ask you
- 13 this. When the Solicitor asked you about shots after you
- 14 left, I believe you said you heard one shot?
- 15 A Yes, sir. I said everybody came back to the car.
- 16 There's one more person left back there.
- 17 Q Did you hear any shots after you left before the one
- 18 shot?
- 19 A Yeah, four more shots after I left.
- 20 Q Four more?
- 21 A After I left.
- 22 Q How many people were there?
- 23 A Four more.
- 24 Q And then there was another single shot?
- 25 A There was four more. The last shot Steven shot.

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- 1 Q Did you see Steve shoot?
- 2 A No, sir.
- 3 Q In fact, did you see Steve shoot at any time?
- 4 A He was the last one back there.
- 5 Q Did you see Steve shoot at any time?
- 6 A No.
- 7 Q In your statement to Investigator Roundtree, do you
- 8 admit or deny that you never said anything about that you
- 9 were worried Sam might get up and run?
- 10 A Sir?
- 11 Q Do you admit or deny that you never said anything to
- 12 Investigator Roundtree about saying you were scared Sam
- 13 was going to get up and run?
- 14 A No, we never discussed that.
- 15 Q Never discussed it?
- 16 A Not with Roundtree, no.
- 17 Q And, in fact, you never told him about going to the
- 18 Hunsbergers' house after the shooting, did you?
- 19 A There's a lot of information left out.
- 20 Q Is that because you didn't remember it well back
- 21 then?
- 22 A No, because I was younger.
- 23 Q Do you remember it better now, nine years later?
- 24 A You got different transcripts and trial coming up,
- 25 it'll eventually come back to you.

1 Q So you had the opportunity to read over all your
2 previous testimony and statements and things like that?

3 A Yes.

4 Q And you've done that recently?

5 A Yes.

6 Q So a lot of what you're going by is the testimony,
7 not necessarily what you remember?

8 A Yeah, a lot of it's what I remember.

9 Q A lot of it's what you remember, a lot of it's what
10 you read from the transcripts?

11 A Both.

12 Q Both.

13 Now, you said that when you all got to the
14 scene, that Sam was steady talking; I believe that was the
15 words you used today?

16 A Going towards the woods?

17 Q When you all are going towards --

18 A Yes, sir.

19 Q -- where the shooting took place?

20 A Yes, sir.

21 Q You admit or deny that you told Investigator
22 Roundtree that while you all were doing that, Sam, he
23 didn't say nothing I'm saying, he didn't say nothing?

24 A Down while we was in the wood area he didn't say
25 nothing.

RICHARD CAVE - Cross-Exam by Mr. Harte

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1 Q Did you tell Investigator Roundtree that Sam didn't
2 say nothing?

3 A Down at the wood area.

4 Q Down at the wooded area where the shooting took place
5 he said nothing?

6 A He said nothing.

7 Q You're sure about that?

8 A Yes, sir.

9 Q William Harris had a lot of cars, too, didn't he?

10 A I'm not sure.

11 Q You didn't hang around him?

12 A No, sir.

13 Q Were the cars that you saw him with, they were
14 tricked out pretty good, weren't they?

15 A Yes, sir.

16 Q Had TVs in them?

17 A Not the one I seen. They had rims and nice paint
18 job, though.

19 Q Steve's cars, he had a lot of cars, but they weren't
20 tricked out like William's, were they?

21 A All of them that Steve had was pretty much well kept.

22 Q Well kept, but no rims and TVs and stuff like that,
23 you didn't see anything like that?

24 A Yes, I did.

25 Q You did?

- 1 A Yeah.
- 2 Q What?
- 3 A The box Chevy, the one I wanted to buy, had a nice
4 paint job and rims.
- 5 Q Which one now?
- 6 A The box Chevy.
- 7 Q The box Chevy had a TV?
- 8 A No.
- 9 Q No TV?
- 10 A No.
- 11 Q Did anybody else get beat up at the green house
12 before you all left?
- 13 A No, just Sam. Just Sam.
- 14 Q Just Sam.
- 15 MR. HARTE: One moment, Your Honor.
- 16 (Pause.)
- 17 BY MR. HARTE:
- 18 Q Mr. Cave, you got a pretty good deal over in Georgia,
19 didn't you?
- 20 A A pretty good deal?
- 21 Q Yes, sir.
- 22 A Ain't no good deal about serving time.
- 23 Q Kidnapping carries a life sentence in Georgia,
24 doesn't it?
- 25 A I'm not sure. I don't know.

RICHARD CAVE - Cross-Exam by Mr. Harte

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1 Q Your lawyer didn't tell you what you were facing with
2 a kidnapping charge?

3 A I mean I don't know exactly. The laws change every
4 day. I couldn't tell you.

5 Q You don't know what you were facing back there when
6 you pled guilty?

7 A I know I was facing some time, yeah. That's all that
8 matter, facing time.

9 Q And in your plea agreement and at the plea they told
10 you --

11 MR. MAYE: Objection, Your Honor.

12 THE COURT: Overruled.

13 BY MR. HARTE:

14 Q They told you that they were putting the kidnapping
15 charge on the dead docket, didn't they?

16 A I don't know. I can't remember.

17 Q And that if you didn't continue to cooperate, they
18 could bring that charge back, didn't they?

19 A I don't know.

20 Q You don't know that? Your lawyer didn't tell you
21 that?

22 A I say I know, but I don't remember that.

23 Q Now, you haven't been promised anything to testify
24 here today?

25 A No, sir.

RICHARD CAVE - Cross-Exam by Mr. Harte

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1 Q So you know that you're still facing potential
2 kidnapping and murder over here in South Carolina?

3 A It could be.

4 Q Do you hope it's just not?

5 A Also, yeah.

6 Q Do you expect that your testimony is going to help
7 you to avoid that?

8 A I believe in God. That's all I can do. It's out of
9 my hands.

10 Q Do you know when your death penalty case will be
11 tried?

12 A No, I do not.

13 Q But you know that's an option?

14 A It's a big possibility, yeah.

15 Q But you're expecting that your testimony will keep
16 that from happening, aren't you?

17 A I couldn't tell you.

18 MR. HARTE: Couldn't tell me.

19 Thank you.

20 THE COURT: Anything further, Mr. Harte?

21 MR. HARTE: No, sir.

22 THE COURT: Solicitor, redirect?

23 MR. MAYE: No. Thank you.

24 THE COURT: All right. Mr. Cave, you may return
25 to the -- where you at, the Edgefield County Detention

1 Center?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. You'll be placed in
4 custody.

5 Do you have someone to take him into custody?

6 MR. MAYE: Yes, sir.

7 THE COURT: Solicitor.

8 MR. MAYE: Your Honor, my next witness is Dr.
9 Sexton. If I could just have a brief recess.

10 THE COURT: We'll take a few minute recess. I'm
11 going to tell the jury what our schedule is.

12 Will that be the last witness for the day?

13 MR. MYERS: I believe we have one short witness
14 and then Dr. Sexton will be the last one.

15 THE COURT: All right. We'll take us a break
16 then.

17 We have one short witness and then Dr. Sexton,
18 who is the pathologist. I would like to accommodate him
19 because of some scheduling issues tonight.

20 I think what we'll do is take about a 15-minute
21 recess.

22 Please leave your pads upside down on your
23 chair.

24 Do not discuss the case during this brief
25 recess. Thank you very much.

1 If everyone would remain in place, please, while
2 the jury retires.

3 (The jury left open court at approximately 5:22
4 p.m.)

5 THE COURT: There's a question from one of our
6 jurors.

7 MR. MYERS: The same one that wanted to know
8 what SLED was?

9 THE COURT: No, sir, I think that was adequately
10 covered. "I now understand what SLED is."

11 I've always wanted to ask this question myself.

12 "What do we do when we cannot understand what a
13 witness says and the attorney does not repeat what they
14 say?"

15 With these fine trial attorneys, you usually
16 don't have a problem.

17 MR. MAYE: I always try to repeat what they say,
18 Your Honor.

19 THE COURT: It's usually repeated.

20 I would keep that in mind. Of course I'm behind
21 the witnesses and it's difficult for me to understand
22 them. You just have to make sure they speak up. I'll
23 leave that to the fine trial attorneys to decide what the
24 answer to that question is.

25 All right. We'll be in recess for about 15

1 minutes.

2 (A break was taken.)

3 (WHEREUPON, State's Exhibits Nos. 22-28 were
4 marked for identification only.)

5 THE COURT: Ready, Solicitor, Mr. Harte?

6 MR. MYERS: Yes, sir.

7 MR. HARTE: Yes, sir.

8 MR. MAYE: May it please the Court.

9 Your Honor, we've got several exhibits for Dr.
10 Sexton that we have pre-marked.

11 Madam Court Reporter, could you tell me what
12 those numbers are, from where to where?

13 THE COURT REPORTER: Starting with 22 through
14 28.

15 THE COURT: Twenty-two through 28?

16 THE COURT REPORTER: Yes, sir.

17 THE COURT: Without objection?

18 MR. HARTE: Yes, without objection.

19 THE COURT: Twenty-two through 28.

20 (WHEREUPON, State's Exhibits Nos. 22-28 were
21 admitted into evidence.)

22 (The jury came into open court at approximately
23 5:40 p.m.)

24 THE COURT: All right. Our jury's back present
25 in the courtroom.

1 Solicitor, you may call your next witness.

2 MR. MYERS: Jim Gordon.

3 THE COURT: All right. Mr. Gordon.

4 THE CLERK: Raise your right hand.

5 JAMES GORDON, after being duly sworn, testified
6 as follows:

7 THE CLERK: Have a seat. State your full name
8 and spell your last name, please.

9 THE WITNESS: I'm James Gordon, G-O-R-D-O-N.

10 DIRECT EXAMINATION

11 BY MR. MYERS:

12 Q Mr. Gordon, by whom are you employed?

13 A I work for the Richmond County Sheriff's Office in
14 Augusta, Georgia.

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

16 A I've been in law enforcement since 1986.

17 Q And what are your duties in at present?

18 A I am with the Richmond County Crime Scene Unit. My
19 duties are to collect evidence, reconstruct incidents.

20 Q Now, back in 2002, on January the 25th, did you
21 have an occasion to go to

22 A I did.

23 Q And was that to look for certain things?

24 A It was.

25 Q Now, can I show you this, please, sir?

JAMES GORDON - Direct Exam by Mr. Myers

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1 A Yes, sir.

2 Q Is that a map of where Cherry Street is?

3 A Location, yes, sir.

4 MR. MYERS: We'd offer this.

5 MR. HARTE: No objection.

6 THE COURT: All right.

7 (WHEREUPON, State's Exhibit No. 29 was marked
8 for identification and received into evidence.)

9 BY MR. MYERS:

10 Q Referring to State's No. 29 -- do you want to come
11 down here?

12 A Yes, sir.

13 Q This road right here?

14 A Yes, sir, that's I-20.

15 Q I-20. And this road right here?

16 A Would be Washington Road.

17 Q Washington Road?

18 A Yes, sir.

19 Q And then you go down to Washington Road and there's a
20 label there that's not focused very well, but is that
21 where is?

22 A That would be correct.

23 Q Now, this thing right here, what is that right there
24 that goes right by

25 A That's the Riverwatch Parkway.

1 Q All right. And just below the Riverwatch Parkway,
2 what is that, that dark line?

3 A The railway, the railroad.

4 Q Railroad tracks?

5 A Yes, sir.

6 Q And you can stay there if you want to.

7 I want to refer to State's Exhibit No. 20.

8 First of all, down at the bottom, do you
9 recognize that?

10 A Yes, sir, that would be the mailbox at that location.

11 Q All right, sir. And the mailbox right here, is this
12 the house?

13 A Yes, it is.

14 Q Do you remember what the color of that house was?

15 A Whitish beige. More white. You can't see it quite
16 here.

17 Q All right. Now, you're collecting evidence, you're
18 not one of the people that goes out and runs down
19 witnesses and stuff like that. You're the custodian of
20 evidence collected?

21 A That's correct.

22 Q Crime scene unit?

23 A That's correct.

24 Q Good. Now, around this house out in the yard area,
25 did you see a ladder out there?

JAMES GORDON - Direct Exam by Mr. Myers

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1 A I did.

2 Q And did you obtain anything from where that ladder
3 was?

4 A At the location of the ladder toward the rear of the
5 property were two items that were on the ground at that
6 location.

7 Q All right. And about where would that ladder have
8 been?

9 A Right around here toward the back of the house.

10 Q The back of the house?

11 A Yes, sir.

12 Q And did you take these photographs?

13 A I did.

14 Q And does that show what you found near that ladder?

15 A It does.

16 MR. MYERS: We'd offer these two in evidence,
17 Your Honor.

18 THE COURT: Exhibits 30 and 31, Solicitor?

19 MR. MYERS: Yes, sir, 30 and 31.

20 THE COURT: Without objection?

21 MR. HARTE: Correct, Your Honor.

22 THE COURT: All right.

23 (WHEREUPON, State's Exhibits Nos. 30-31 were
24 marked for identification and received into
25 evidence.)

1 BY MR. MYERS:

2 Q Referring to State Exhibit No. 31, is that the
3 ladder?

4 A Yes, sir.

5 Q Is that photograph in the right position?

6 A Yes, sir, it is.

7 Q And what did you obtain near that ladder?

8 A At the ladder there were what were air supports for
9 cars basically.

10 Q Supports for cars?

11 A Yes, sir.

12 Q And referring to State's Exhibit No. 30, is that a
13 close-up look at it?

14 A Yes, it is. There's a red one and a black one.

15 Q Did you take those into your possession?

16 A I did.

17 Q I want to show you what's been marked as State's 21
18 for identification.

19 A That would be the black one.

20 Q That's the black one?

21 A Yes, sir.

22 Q And that was at

23 A That's correct.

24 MR. MYERS: Thank you, sir.

25 Now that's just for identification purposes.

JAMES GORDON - Direct Exam by Mr. Myers

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1 Your Honor, we'd offer it in as an exhibit.

2 MR. HARTE: Objection, Your Honor. I object on
3 the grounds that there hasn't been a proper foundation.

4 THE COURT: All right. State's 21 in evidence
5 subject to Defense's objections.

6 (WHEREUPON, State's Exhibit No. 21 was admitted
7 into evidence.)

8 MR. MYERS: Thank you, sir.

9 If you would, Mr. Gordon, answer any questions
10 they may have.

11 CROSS-EXAMINATION

12 BY MR. HARTE:

13 Q Mr. Gordon, was any testing done on that item?

14 A I performed some tests and sent some items off to be
15 tested from it.

16 Q Was anything found as relevant to this case from that
17 testing?

18 A I do not know, sir.

19 Q Where did you send it to?

20 A I've sent it to the Georgia Bureau of Investigation,
21 their lab, the swabs I took from that location and also a
22 fiber found on one of the struts, the air struts.

23 Q And this was in 2002?

24 A Yes, sir.

25 Q And you ain't got a report back yet?

1 A Whoever the case file, sir, on the case, Investigator
2 Scott White would have followed up on that.

3 MR. HARTE: Thank you.

4 THE COURT: Anything further, Mr. Harte?

5 MR. HARTE: No, Your Honor.

6 MR. MYERS: Nothing further from him subject
7 being recalled on another matter later on.

8 THE COURT: All right. Thank you very much for
9 being with us this evening, Mr. Gordon. You may step
10 down. You may be excused subject to being recalled.

11 THE WITNESS: Thank you, sir.

12 THE COURT: You may call your next witness,
13 Solicitor.

14 MR. MAYE: The State calls Dr. Joel Sexton.

15 THE COURT: All right. Dr. Sexton.

16 (WHEREUPON, State's Exhibit No. 32 was marked
17 for identification only.)

18 THE CLERK: Raise your right hand.

19 DR. JOEL SEXTON, after being duly sworn,
20 testified as follows:

21 THE CLERK: Have a seat. State your full name
22 and spell your last name, please.

23 THE WITNESS: Dr. Joel Steven Sexton. The last
24 name is spelled S-E-X-T-O-N.

25 DIRECT EXAMINATION

DR. JOEL SEXTON - Direct Exam by Mr. Maye

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1 BY MR. MAYE:

2 Q Dr. Sexton, if you would, I know you've given your
3 name for the record here. Could you give the ladies and
4 gentlemen of the jury a little bit of information about
5 yourself, in what capacity in which you -- I believe
6 you're retired now, so what you have previously worked as
7 and what your particular area of expertise is.

8 A I graduated from the University of Virginia in 1958.
9 I was on a Naval scholarship, so I went into the service
10 and served three years in the Navy, starting out on the
11 first guided missile cruiser, The Galveston.

12 When I finished those three years of service, I
13 then attended at that time it was called the Medical
14 College of South Carolina in Charleston where I received a
15 master's in chemistry. I was at a doctorate program, but
16 the department was so small at that time that there were
17 only three doctors running the chemistry department. One
18 of them didn't have a Ph.D., one was in charge of the lab,
19 and the other one became the president of the school, so I
20 went on into medical school, finishing in 1968 with an
21 M.D. degree and becoming licensed to practice in South
22 Carolina.

23 I then attended the residency and internship
24 program at the Medical University, finishing that in 1972
25 and becoming nationally board certified in anatomic

1 pathology, clinical pathology, and forensic pathology.

2 I stayed on at the Medical University and taught
3 in the area of forensic pathology. I conducted autopsies
4 for cases all over the state of South Carolina and
5 occasionally from other locations. I used to do about 650
6 autopsies a year for the various states -- for the various
7 counties in our state.

8 MR. HARTE: Your Honor, defense would stipulate
9 that Dr. Joel Sexton is a qualified expert in forensic
10 medicine.

11 THE COURT: All right. Solicitor.

12 MR. MYERS: Your Honor, I'd certainly go along
13 with that. I would like him to go on just a little bit
14 farther in regard to his expertise and his background in
15 this regard, but I am going to offer him as an expert in
16 area of forensic pathology.

17 THE COURT: All right. You may continue,
18 Solicitor.

19 BY MR. MAYE:

20 Q Dr. Sexton, go ahead and tell us a little bit,
21 complete the information about your background and the
22 capacity you work.

23 A I was the head of the Forensic Section of the
24 Department of Pathology at the Medical University until I
25 moved to Newberry in 1983 to put our four children through

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1 college. I couldn't do that on a professor's salary.

2 I was the Director of the Pathology Department
3 at the Newberry County Memorial Hospital and had a private
4 practice at Newberry Pathology Associates, and that
5 private practice did autopsies. We started out with only
6 a few hundred, but we got up to almost 800 a year for most
7 of the coroners in the upper part of the state.

8 I retired from that full-time practice of
9 hospital pathology and forensic pathology in 2008, and
10 since that time I've simply been doing consulting and
11 testifying in trials that had not been completed.

12 Q Dr. Sexton, about how many counties would you do that
13 work for in South Carolina?

14 A How many cities --

15 Q How many different counties would you do that work
16 for in South Carolina?

17 A When I was at the Medical University, I'm sure I
18 probably testified in most all of the counties, although
19 Columbia has its own medical examiner system and so does
20 Greenville and at one time Charleston did.

21 In fact, I failed to mention that I was the
22 Charleston County medical examiner from 1973 until 1983,
23 which was an appointee and it's the medical equivalent of
24 a coroner. We had the responsibility of examining all the
25 deaths that occurred in our county that were not treated

1 by a physician, and even those that were treated, to make
2 sure the physician felt comfortable with signing the death
3 certificate. So I had that capacity as well.

4 Q Dr. Sexton, how many times have you been qualified as
5 an expert witness in the state courts of South Carolina
6 and other states, approximately?

7 A Over 700 time.

8 Q How many autopsies do you think you've done?

9 A Well over 8,000. And when I was in Charleston, I was
10 the person in charge of the section so I supervised two
11 other pathologists. So that plus I've had two other
12 pathologists work for me in Newberry, so maybe a like
13 number.

14 Q Board certified in forensic pathology?

15 A That's correct.

16 MR. MAYE: I am offering him as an expert in the
17 area of forensic pathology.

18 THE COURT: All right. And defense so
19 stipulated to it.

20 Ladies and gentlemen of the jury panel, normally
21 a person cannot give opinion testimony. Normally when a
22 person testifies, they must testify as to what they either
23 saw, heard, or sensed by smell, or something of that
24 nature.

25 However, there is an exception when someone is

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1 qualified because of education or experience in a
2 particular art, science, field, or profession, that they
3 are permitted to give their opinions in certain areas if
4 the Court qualifies them that way.

5 This witness will be -- this witness, Dr. Joel
6 Sexton, will be qualified in the area of forensic
7 pathology to give opinion testimony in that area. That
8 does not mean that you must accept the opinion, but it is
9 evidence that you, the jury, can use in any way you see
10 fit.

11 Thank you, Solicitor. You may continue.

12 BY MR. MAYE:

13 Q Dr. Sexton, I know we qualified you as an expert in
14 forensic pathology. Could you basically tell the ladies
15 and gentlemen of the jury what is a forensic pathologist
16 and what does that mean?

17 A As I mentioned, I went through medical school and
18 became a licensed practitioner of medicine before doing my
19 residency in pathology. So a pathologist is an M.D. and
20 in the area of pathology, though, we study tissue and
21 fluids from the body, so that a pathologist oftentimes in
22 a laboratory setting is responsible for making sure that
23 the tests run by technologists are run properly with
24 proper controls to make sure they're accurate.

25 In the area of surgical pathology, we do the

1 examination under the microscope of tissue removed at
2 surgery to determine if there's cancer present or some
3 other condition that's treatable and to what extent it's
4 present.

5 In addition, the hospital pathologist
6 occasionally does autopsies on persons dying in the
7 hospital to help that physician learn more about that
8 particular disease or illness to help treat other patients
9 in the future.

10 Forensic pathologists have this base of
11 knowledge, but they also have additional training, because
12 what we see in people that die is totally different from
13 what is seen in the hospital setting. A person that dies
14 oftentimes doesn't necessarily get to the hospital, or if
15 they do, they're simply pronounced dead, and so the
16 findings that we see in forensic pathology are a totally
17 different area. We have to depend on findings that you
18 might not expect to find in a living person.

19 It's a little more difficult than a
20 veterinarian. At least the dog might bite you if you hurt
21 him by pushing the wrong place. But in forensic
22 pathology, we go internally to look for the answer in most
23 of these cases by doing a forensic autopsy.

24 Q Dr. Sexton, let me get straight to it.

25 On November the 21st of 2001, were you provided

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1 with information and human remains and were you asked to
2 conduct an autopsy of remains that were later identified
3 as Samuel Sturupp, the victim in this case at hand?

4 A Yes, that's correct.

5 Q Could you tell the ladies and gentlemen of the jury
6 what information that you drew on to conduct this autopsy,
7 what you did in order to conduct and carry out the
8 autopsy, and later tell us what the results of that are.

9 A We were presented with some bones that had been
10 discovered when a dog brought a bone into the area of a
11 residence and law enforcement then, at our urging, looked
12 further and found more bones. We were able to put these
13 into a configuration of one body.

14 There were the lower leg bones, both of those
15 present on either side; the upper left leg bone, the femur
16 was present, and part of the left pelvis.

17 There was part of the left shoulder bone, or the
18 scapula, and the skull as well as some of the vertebral
19 bodies from the neck and the chest region.

20 And we could tell from putting these together
21 that there was only one skeleton there, and we could also
22 see that there was only one injury there, and that was a
23 gunshot wound to the back of the head.

24 And what we do in cases like this is we try to
25 get as much history as we can also. And we were told that

1 there was a pair of pants found at the scene, and shown
2 photographs of those, and that there was the name of a
3 Samuel Sturrup, Jr. on the back of that belt.

4 There was also a set of keys at the scene that
5 did unlock the residence where Samuel Sturrup, Jr. resided
6 and a key tag from Bi-Lo that was in his sister's name.

7 So we had that information as well as medical
8 records to examine and were able to identify him by these
9 facts that I just mentioned and comparing the dental
10 records that we were presented with with what was present
11 in the skull.

12 Q Dr. Sexton, let me stop you just a second here.

13 Did you have known dental x-rays or samples from
14 Sam Sturrup, Jr. that you were able to compare and
15 contrast with what was found at the scene there?

16 A Correct. We had dental records from the dentist that
17 had examined him earlier and had found two very large
18 cavities and filled one of them with a permanent amalgam,
19 or a filling, and the other with a temporary filling
20 because it was very painful and it had to wait until the
21 infection goes down to put a permanent in.

22 Q Dr. Sexton, I'm going to show you -- we've already
23 got several exhibits pre-marked here, the first of which
24 is marked State's 26, but I have this rendering that I
25 will give you. I will give you this pointer right here.

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1 Dr. Sexton, could you demonstrate any of your
2 findings that are significant on that State's exhibit,
3 which is State Exhibit No. 26, and how that was able to
4 assist you in conducting the autopsy and making an
5 identification of the remains that were brought to you?

6 A What we're seeing here is an illustration of the
7 surface, what we call the occlusal surface, the part that
8 you bite down with of the upper and lower jaw, this being
9 the upper jaw at this point and this the lower jaw. And
10 you can see that there's a restoration here and a cavity
11 that I'll talk about momentarily.

12 But you can also see that we've checked off that
13 teeth are present, and we've indicated here's a missing
14 tooth with a socket that is open, and here's another,
15 indicating that simply that tooth fell out after death and
16 after the body had become skeletonized and was simply
17 missing. It does not help us say anything about what was
18 true during life because those teeth are just missing.

19 The one over here in the upper jaw, No. 3, it
20 has an amalgam on the distal and occlusal surfaces, which
21 is in this location. This is the occlusal surface, this
22 is the distal surface. And that filling is still present,
23 the filling that was put in by the dentist who sent the
24 records.

25 Down here in the lower jaw, No. 30, has a large

1 cavity that has not got a filling in place. This was the
2 one that was infected and did not get a permanent
3 restoration or filling but a temporary one until the tooth
4 was in a condition where it could be filled completely
5 with a permanent filling. And these do match the
6 descriptions that we saw in the dental records for each of
7 these teeth by number and what was present at the time.

8 Recognize that teeth have a multiple number of
9 surfaces. They've got the occlusal surface, they've got
10 the Buccal and lingual surfaces, distal and mesial
11 surfaces, so finding fillings in different areas on a
12 particular tooth can be very unique as well as the shape
13 of that restoration.

14 MR. HARTE: Your Honor, the defense will
15 stipulate that the remains that were found on
16 November 19th, 2001, belong to Samuel Sturrup.

17 THE COURT: All right. Solicitor.

18 MR. MAYE: That's fine.

19 BY MR. MAYE:

20 Q Dr. Sexton, let me ask you this. Could you talk some
21 about some of your findings? I'm going to show you
22 State's 24. This is a rendering of that same exhibit on a
23 smaller scale. Could you talk to me about some of your
24 findings in your autopsy?

25 And I've got a copy of a report here, an autopsy

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1 report that you generated that's been pre-marked as
2 State's 32. Could you tell us about, to start with, the
3 condition of the bones? Had the bones been worked on or
4 gnawn by animals or was there damage that was subsequent
5 to death from which you could tell?

6 A Yes, there was. And the significance of that is the
7 fact that part of what we do when we first receive a
8 skeleton is try to identify the age, race, sex, and height
9 of the individual as well as any trauma that might be
10 present. This is an accurate copy of my original autopsy
11 report.

12 And in this case, we were not able to do
13 anything as far as the height because the bones that were
14 recovered had been eaten on each end and also affects the
15 determination of age. Usually some of these bones don't
16 stop growing until you're in the late teens, 18 to even
17 20, and those growth centers will heal. Prior to that,
18 the actual top of the growth centers, say the top of your
19 leg bone can be separated from the rest of the bone
20 because it's actually still growing at a growth center,
21 but because of the destruction by the animals, we weren't
22 able to establish the age or the height.

23 But we were able to determine based on the fact
24 that there was negroid hair there and some other features
25 of a skeleton that fit with the negroid race as well as

1 finding some indication of not his height or his -- give
2 me just a moment -- not his height or his -- hang on a
3 second. Let me get my glasses.

4 I used to wear them all the time. Now I don't
5 have to since my cataract's been removed.

6 His age. We could tell his sex, that he was
7 definitely a male based on the sciatic notch in the pelvis
8 and then we were able to identify him. So the fact that
9 they were gnawed away, though, made it a little difficult
10 to determine about certain injuries.

11 Sometimes on a skeleton we can actually see
12 knife wounds. We've had a number of cases like that, but
13 in this case, because there's only a portion of the
14 skeleton and because the body is skeletonized, there could
15 have been other injuries that we would not be able to
16 detect that were only in the soft tissue.

17 Q Dr. Sexton, what did you find in regard to the
18 remains that led you to some sort of conclusion about what
19 the cause of death was with the remains that you were able
20 to exam there?

21 A The only injury that we saw was a gunshot wound high
22 on the back of the head that had still in the skull
23 embedded on the left side the bullet that came through
24 that hole. It was a copper-jacketed bullet. The core, or
25 the lead portion of it around which the jacket fits, had

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1 separated, but both were found on the left side. And
2 there was some brain issue. Even though the skeleton had
3 become skeletonized, there was still some preserved brain
4 tissue and blood clot inside the skull to help us
5 understand that this was a gunshot wound that occurred
6 during life, otherwise there would not have been a blood
7 clot there.

8 Q Dr. Sexton, let me show you what's been marked as
9 State's Exhibit 22, those photographs that you took at
10 autopsy of the bullet fragments that were removed,
11 projectile fragments that were removed from the skull of
12 the individual that you later identified as Samuel
13 Sturup, the victim in this case.

14 A Yes, that's correct. And this photograph does match
15 the photograph that I took.

16 And you can see here, this is the lead core that
17 has been flattened out because of the impact inside the
18 skull as well as hitting the skull itself.

19 The back of the skull is one of the thickest
20 parts of the skull. These are little fragments of the
21 jacket, and this is the jacket itself. The base of the
22 jacket you can see down inside here is a hollow area.

23 Normally the bullet would fit down, the lead
24 core would fit down inside this jacket. In this case,
25 this is a single bullet that has penetrated the skull,

1 impacted the inside of the skull after it had mushroomed
2 and partially fragmented.

3 Q What is the approximate caliber of that projective?

4 A When we examine bullets like this, we at least look
5 at the base of the bullet. This shows the inside, but in
6 looking at the base of the bullet, we can take a reticule
7 that I have that's in hundredths of an inch and get an
8 idea of what the diameter of that bullet is.

9 I do a lot of competitive shooting and have
10 since I started school in 1964 -- or '54, excuse me -- and
11 this was a bullet that measured .40 inches, or a
12 .40-caliber bullet as opposed to the .45, which is .451,
13 452. So this was a .45. It's too large to be a .38 and
14 too small to be a .45, but did measure consistent with a
15 .40 caliber.

16 Q A .40 caliber projectile. Were you provided with a
17 cartridge as well, a .40 caliber cartridge, not the
18 projectile or bullet but the cartridge that holds the
19 propellant, were you provided with that as well?

20 A We were told that was found at the scene. We did not
21 find that in the body, but that was something that was
22 found at the scene was a .40 caliber cartridge.

23 Q And you were informed of that at the time of the
24 autopsy?

25 A Yes, that's correct.

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1 Q Dr. Sexton, based on what you found, what was your
2 expert opinion as to the cause of death as to the person,
3 the remains that were identified as Samuel Sturrup? What
4 caused his death? What did you classify it as in your
5 report?

6 MR. HARTE: Object to the form of the question,
7 Your Honor.

8 THE COURT: All right. That's a compound
9 question. If you'd rephrase the question, Solicitor.

10 BY MR. MAYE:

11 Q Dr. Sexton, what did you find as the cause of death
12 in your report?

13 MR. HARTE: Objection to the form.

14 THE COURT: I'll sustain it. He's an expert
15 witness, a scientific witness. He'd have to give you the
16 standard.

17 BY MR. MAYE:

18 Q Did you generate a written report in this case, Dr.
19 Sexton?

20 A Yes, I did.

21 Q Let me show you what's been marked State's Exhibit 28
22 that's already in evidence in this case.

23 A Yes, this is an accurate copy of my autopsy report.

24 Q Could you tell us what you found as to the cause of
25 death that's contained in that report?

1 MR. HARTE: Objection to the form of the
2 question.

3 THE COURT: Sustained.

4 BY MR. MAYE:

5 Q Based on your examination, did you reach a conclusion
6 as to what the cause of death was?

7 A Yes, I did.

8 Q What was that?

9 MR. HARTE: Objection to the form of the
10 question.

11 THE COURT: I've sustained the objection. You
12 have to form the proper question, Solicitor. He's an
13 expert witness and you have to meet the proper standard.

14 BY MR. MAYE:

15 Q Based on your examination of all the remains that you
16 found, do you have an expert opinion as to the cause of
17 death in this case?

18 A I do.

19 THE COURT: Sustained.

20 Step out a moment, please. Step out very
21 briefly.

22 Leave your pads.

23 Do not discuss the case during this brief
24 recess.

25

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1 (The jury left open court at approximately 6:13
2 p.m.)

3 THE COURT: What is the basis of your objection,
4 Mr. Harte?

5 MR. HARTE: Your Honor, I don't want to tell him
6 how to ask questions, but the question is what if -- if he
7 has an opinion to a reasonable degree of forensic
8 pathology certainty.

9 THE COURT: All right. Solicitor.

10 MR. MAYE: I'll ask the question.

11 THE COURT: I agree. It's got to be in the
12 proper -- Judge Pyle taught me that one day --

13 MR. MAYE: I won't forget it.

14 THE COURT: I didn't learn it the same day he
15 taught it to me.

16 MR. MAYE: I was going to ask to a reasonable
17 degree of medical certainty was my next try. I won't
18 forget it now.

19 THE COURT: All right. I just didn't want to
20 belabor the point.

21 MR. HARTE: Judge Peeples taught me, and I
22 promise you I did not forget it after the first time that
23 I was taught.

24 THE COURT: I'm sure you didn't.

25 Bring us our jury.

1 Thank you, Mr. Harte. Thank you, Mr. Maye.

2 (The jury came into open court at approximately
3 6:16 p.m.)

4 THE COURT: Thank you very much for indulging
5 us, ladies and gentlemen, and for your patience.

6 Solicitor, you may continue.

7 BY MR. MAYE:

8 Q Dr. Sexton, to a reasonable degree of medical
9 certainty, do you have an expert opinion as to the cause
10 of death based on the remains of Samuel Sturup that you
11 examined in this case?

12 A Yes, I do.

13 Q What would that be?

14 A I mentioned earlier that it was a gunshot wound to
15 the back of the head that passed into the brain. It
16 passed from that point high on the back of the head down
17 to the left side of the brain.

18 Inside the skull, the brain has multiple lobes.
19 Some of these affect your conscious level, but what
20 affects your heartbeat and respirations is down at the
21 base of the brain. And going as it did across to the left
22 side, it would have gone through what we call a ventricle,
23 which is a fluid-filled space inside the left side of the
24 brain. And as you know, if some energy hits a fluid, it's
25 distributed evenly in every direction, and that would go

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1 down to the base of the brain through the canal that goes
2 through the medulla, which is a part of the brain that
3 controls your heartbeat and respiration.

4 So this gunshot wound to the back of the head
5 would have caused probably immediate unconsciousness and
6 the likelihood would be that the person would not have
7 survived because it did go through the ventricles. It's
8 rare for a person to survive a shot through the
9 ventricles.

10 So in my opinion, and also I mentioned that
11 there was a blood clot there, so this was not a shot that
12 occurred after death but a shot during life. He may have
13 been suffering from some other injuries, but his heart was
14 still beating at that time.

15 So in my opinion, within reasonable medical
16 certainty, the cause of death was the trauma to the brain
17 due to the gunshot wound to the head.

18 Q Dr. Sexton, could you come down here and show me what
19 information you would have as to your estimation of the
20 bullet path of travel on my head? Could you point that
21 out for us and show the jury approximately what angle it
22 would be?

23 A Sure. Facing the jury, if it comes here in the back
24 of the head at about this location, close to the midline,
25 and facing down towards this location, it's going down to

1 the left and towards the front, ending up here just behind
2 the temporal region just above the ear on the left side.

3 Q Dr. Sexton, assuming I'm in approximately the same
4 position or I'm on my knees or downward, could you tell us
5 anything about the path of travel or whether or not the
6 person that was the shooter would have had to have been
7 higher or lower?

8 A Recognizing your head is mobile, so depending on what
9 position the person, in this case Mr. Sturup's head was
10 in, all I can say is that the path of the bullet was
11 downward and to the left, so the gun barrel is somewhere
12 along that path.

13 Q Okay.

14 A So if Mr. Sturup was standing, the person doing the
15 shooting would have to be higher, on some higher level
16 unless Mr. Sturup's head was bent forward. If Mr.
17 Sturup was kneeling, the person could be standing over
18 him and cause that kind of wound. If he was bent forward,
19 a person in front of him could actually cause that kind of
20 wound. It depends on the position of the two and the
21 position of the head.

22 MR. MAYE: If you could mark this just for ID.

23 (WHEREUPON, State's Exhibit No. 33 was marked
24 for identification only.)

25 BY MR. MAYE:

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1 Q Dr. Sexton, I'm going to show you what's marked
2 State's Exhibit 33. I've got it marked for ID in this
3 case, but I'm going to offer it, and I don't think there's
4 any objection to it coming in as State's Exhibit 33, and
5 ask you if you could examine that and tell me what it is.

6 A This container is a container that I properly
7 sealed -- it's got my initials and date on the top of
8 it -- that has Samuel Sturup, Jr.'s name and autopsy
9 number on it, and it's designated to go to the ballistics
10 laboratory. It's been resealed, so I'm opening it so I
11 can actually examine the bullet. Because I put a mark on
12 the bullet that requires a magnifying glass to see to help
13 me know for sure it's the same bullet.

14 Okay. My mark is on the bullet.

15 The bullet and the fragments match the
16 photograph I took of those, including the jacket base
17 which also has my mark on it. So this is the bullet, the
18 whole bullet, the fragmented bullet that I removed from
19 the head of Samuel Sturup, Jr.

20 MR. MAYE: Dr. Sexton, answer any questions the
21 defense has for you.

22 THE COURT: Thank you, Solicitor.

23 Mr. Harte:

24 CROSS-EXAMINATION

25 BY MR. HARTE:

1 Q Dr. Sexton, because -- and I think you alluded to
2 this -- because the person's head is moveable as well as
3 his body and because the weapon that was used is also
4 moveable, then it is really impossible to tell what
5 position the victim was when he was shot, isn't it?

6 A That's correct.

7 Q Could have been standing, could have been kneeling,
8 could have been on the ground, laying on the ground, and
9 you can't even tell whether the person was in front of him
10 or behind him?

11 A Yes, all of those are correct.

12 Q And there's no question that what we're dealing with
13 here is one bullet?

14 A That's correct, just one bullet that has fragmented
15 into its individual components.

16 Q And I gather from your opinion and what you said
17 earlier, it would -- your opinion would not preclude that
18 there were other potentially fatal injuries?

19 A That's correct, because there was a lot of soft
20 tissue that I was not able to examine.

21 MR. HARTE: Thank you, Dr. Sexton. Nice to see
22 you again.

23 THE COURT: Redirect, Solicitor?

24 MR. MAYE: Just one.

25 REDIRECT EXAMINATION

DR. JOEL SEXTON - Redirect Exam by Mr. Maye

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1 BY MR. MAYE:

2 Q Dr. Sexton, you can't tell anything based on the
3 advanced state of decomposition as to this body as to
4 whether or not there was the potential that other rounds
5 could have passed through soft tissue? There's nothing
6 for you to examine in order to base that conclusion, is
7 there?

8 MR. HARTE: Objection to the leading nature of
9 the question.

10 THE COURT: I will allow the question. The
11 doctor's an expert.

12 You may answer the question if you know the
13 answer.

14 THE WITNESS: State that one more time.

15 BY MR. MAYE:

16 Q Dr. Sexton, did you have soft tissue or did you just
17 have bones?

18 A Just bones.

19 Q If bullets passed through soft tissue, there was no
20 way for you to reach any conclusion in regard to that
21 looking at bones, was there?

22 A That's correct.

23 Q The only way you could have found that would have
24 been if you had injuries on bones that indicated that; is
25 that correct?

1 A That's correct.

2 Q So you do not have any way of forming any expert
3 opinion as to whether or not other rounds went through
4 soft tissue into the body of the person who's deceased?

5 A Correct, there's no way to tell with no soft tissue
6 as to whether other shots were fired at this individual
7 that entered only the soft tissue.

8 Q But you can tell based on your expert opinion to a
9 reasonable degree of medical certainty that shot to the
10 head, that round entering the brain would have been fatal
11 definitely?

12 A Yes, that's correct.

13 Recognize there are certain types of injuries
14 that are more rapid and more lethal than others. A person
15 could be bleeding from other injuries that might
16 eventually cause death, but the fatal shot, particularly
17 in this case in the head, and there was a clot that was
18 sent to SLED and was analyzed and there were no drugs
19 present in it, so we know the person bled from that
20 gunshot wound.

21 A body that just decomposes, the tissue becomes
22 liquid with time, but you don't have blood clots. But
23 when the injury occurs during life, then the blood comes
24 out of the vessels and forms a clot that can stay intact
25 for a pretty good period of time and even be analyzed as

DR. JOEL SEXTON - Redirect Exam by Mr. Maye

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1 in this case.

2 So the fact that he bled from the gunshot wound
3 indicated to me, as a forensic pathologist with 40 years
4 of experience, that he in fact was alive at the time that
5 gunshot occurred. He may have been dying from other
6 wounds or may not have had any other wounds. Can't really
7 tell because there's no other soft tissue to exam.

8 MR. MAYE: Thank you, Dr. Sexton.

9 THE COURT: Recross, Mr. Harte?

10 MR. HARTE: No, sir.

11 THE COURT: Thank you.

12 Thank you very much, Doctor. Thank you for
13 being with us.

14 Any objection to Dr. Sexton being excused,
15 Solicitor?

16 MR. MYERS: Sir?

17 THE COURT: Any objection to the doctor being
18 excused?

19 MR. MYERS: Certainly not.

20 MR. HARTE: No, sir.

21 THE COURT: All right. Thank you very much for
22 being here, Doctor.

23 THE WITNESS: Thank you, Your Honor.

24 THE COURT: All right. I take it that will be
25 the last witness of the evening as we had planned.

1 Ladies and gentlemen of the jury panel, I would
2 remind you again that during this evening recess you're
3 not to discuss this case with anyone. That includes your
4 fellow jurors or anyone else. If anyone tries to talk
5 with you about the case, please try to get their names and
6 let me know immediately.

7 Do not watch, read, or listen to any news
8 accounts about the case should there be any.

9 Please recall that you are not to use your
10 computer, cellular phone, or other electronic devices with
11 communication capabilities or any other method to obtain
12 or disclose any information about the case when you're not
13 in court. Information about the case includes but is not
14 limited to the following: Information by a party to a
15 witness, an attorney, court officer; news accounts of the
16 case; information collected through juror research on any
17 topic raised or testimony offered by any witness; or
18 information collected through juror research on any other
19 topic the juror might think would be helpful in deciding
20 the case. Of course, as you are well aware, your
21 movements and such access to the news media will be
22 restricted by members of the jury sequestration team.

23 Please just keep an open mind about the case and
24 do not begin your deliberations until I instruct you to do
25 so.

1 Mr. Gamble, do you have class tonight?

2 THE JUROR: Yes, sir.

3 THE COURT: What time, 8 o'clock on the
4 Internet?

5 THE JUROR: Yes, sir.

6 THE COURT: All right. And I have spoken with
7 the officers about that --

8 THE JUROR: Yes, sir.

9 THE COURT: -- with Mr. McLeod.

10 All right. And your notes, if you'll either
11 leave them on your chair upside down or pass them up to
12 the bailiff. They will be secured for the evening hours.

13 We'll start at 9:30 in the morning as far as
14 jury is concerned.

15 All right. I'm waiting for Mr. McLeod.

16 All right. I'll let them know. They may go on
17 to their jury room with you, Madam Bailiff. They're
18 leaving now. I'll send them to the jury room.

19 See you in the morning.

20 (The jury left open court at approximately 6:30
21 p.m.)

22 THE COURT: Thank you. Anything further,
23 Solicitor?

24 MR. MYERS: No, sir.

25 THE COURT: Mr. Harte?

1 MR. HARTE: No, sir.

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

3 See you all. I'll be here about 9 if you all have any
4 motions you want heard before our starting time at 9:30.
5 I'd like to start at 9:30 with the jury.

6 (Discussion was held off the record.)

7 (State's Exhibit No. 27 was withdrawn.)

8 (The proceedings were concluded for the day and
9 reconvened on November 12, 2010.)

10 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

11 VOLUME 4 OF 9

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF EDGEFIELD)	2005-GS-19-273
)	2005-GS-19-457

STATE OF SOUTH CAROLINA)	
)	
vs.)	TRANSCRIPT OF RECORD
)	VOLUME 5
STEVEN LOUIS BARNES,)	
DEFENDANT)	

November 12, 2010
 Edgefield, South Carolina

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, JUDGE.

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1309

1 MR. MAYE: Beg the Court's indulgence.

2 Your Honor, we have two exhibits that I think we
3 had pre-marked, 32 and 33, the report and all, that I
4 don't think we got on the record that were in. The three
5 pages of the record and all, I think we agreed would come
6 in, Dr. Sexton's report.

7 THE COURT: Okay.

8 MR. MAYE: Just the last one for Dr. Sexton,
9 that was all I was talking about. I just wanted to make
10 sure that we had on the record that those are in by
11 agreement, 32 and 33.

12 (WHEREUPON, State's Exhibits Nos. 32, 33 were
13 admitted into evidence.)

14 THE COURT: All right. Is the State ready?

15 MR. MAYE: Yes, sir, Your Honor, the State is
16 ready. I don't see the boss right here, but I'm ready,
17 Your Honor.

18 THE COURT: Is the defense ready?

19 MR. HARTE: Yes, Your Honor.

20 THE COURT: All right. I just wanted to revisit
21 two issues for the record, one of them I meant to place on
22 the record yesterday afternoon.

23 I think I ruled on State's Exhibit No. 31, which
24 I believe is the correct number, that is the shock
25 absorber; is that correct? 31's the shock absorber?

1 MR. MAYE: A photo of the shock absorber, I
2 believe, is 31, and the shock absorber itself is 21.

3 THE COURT: What item was it, then, that the
4 Solicitor offered that Mr. Harte objected to?

5 MR. HARTE: It was the shock absorber. I just
6 don't know the number.

7 THE COURT: All right. I thought he used the
8 number 31 at the time. If it was 21, State's Exhibit No.
9 21, I ruled -- overruled Mr. Harte's objection. I then
10 failed to put on the record later on that the reason for
11 my ruling on the proper foundation and the chain of
12 custody, I find that the item in issue is a non-fungible
13 item of evidence, that if it is evidence that is unique
14 and identifiable, the establishment of a strict chain of
15 custody is not required.

16 As I recall the testimony, the item was shown to
17 witness Cave who identified it as being consistent with an
18 item that he observed the defendant striking the victim on
19 the elbow with. Then the testimony of Officer Gordon with
20 the Richmond County Sheriff's Department was that the item
21 along with a similar but different colored type item was
22 recovered in the yard, at the address -- I
23 believe it's Augusta, Georgia -- and I
24 think the date was 23 January of '02, might have been 25
25 January of '02. I think coupling those two and it being a

1 non-fungible item, it is then admissible at that point.

2 Of course, Mr. Harte very astutely
3 cross-examined Mr. Gordon as to any testing that was
4 performed on it, the lack of the results after all these
5 years, the fact that there was a fiber. So I think it
6 goes to the weight, not the credibility, not the
7 admissibility of the item.

8 I would cite for that State versus Glenn --
9 further, there's testimony the item is in substantially
10 the same condition -- but State versus Glenn, 429 SE2nd
11 393, and State versus Kahan, K-A-H-A-N. I do not have
12 that cite. It's a homicide case out of Florence, South
13 Carolina. And State versus Freiburger,
14 F-R-E-I-B-U-R-G-E-R, 620 SE2nd 737.

15 The other issue I would like to revisit briefly,
16 last night I reviewed --

17 MR. HARTE: Excuse me, Your Honor.

18 THE COURT: Yes, sir.

19 MR. HARTE: Before you go to the other issue --

20 THE COURT: Yes, sir.

21 MR. HARTE: -- if I could first of all be noted
22 that we take exception to that ruling.

23 THE COURT: Yes, sir.

24 MR. HARTE: Also, Your Honor, with regards to
25 the testing that was done in Georgia, I wanted to put on

1 the record that we never received any reports from that
2 testing in our discovery on those matters either.

3 THE COURT: All right. Solicitor, do you have
4 any results of the reports of the testing on the shock
5 absorber from Georgia?

6 MR. MYERS: We do not.

7 THE COURT: Thank you very much.

8 All right. You're protected on the record in
9 that regard, Mr. Harte.

10 The other issue I wanted to revisit very briefly
11 is I reviewed last night Defense Exhibit No. 1 for
12 identification, which is the statement of William Harris
13 taken by, according to the testimony, H.M. Perry,
14 witnessed by Randy Doran on 5 December 2001.

15 I then reviewed the case of Kyles versus
16 Whitley, W-H-I-T-L-E-Y, 514 US 419, a 1995 United States
17 Supreme Court case.

18 As I reviewed Kyles versus Whitley, that
19 involved a Brady violation by the failure of the Louisiana
20 prosecutor, or prosecutors, to hand over certain evidence
21 to Kyles or his defense attorney during the course of not
22 one but two capital murder cases in the state of Georgia.
23 There were various items that were not disclosed to the
24 defense that included several statements, telephone calls,
25 paper statements given to an individual that was

1 identified basically by the name Beanie, B-E-A-N-I-E; he
2 had a number of aliases. However, the Court used that
3 acronym, Beanie, to identify him throughout their
4 decision.

5 This is a disclosure case. It's a Brady case.

6 The Court goes on in dicta to say that if the
7 Beanie information had been turned over to the defense,
8 along with some other information that the prosecutor
9 failed to turn over, that the defense would have been able
10 to present a more and complete information to the jury
11 concerning perhaps the fact that Beanie was what appeared
12 to be a good suspect, that might even have planted
13 evidence and such like that, but also it would go to the
14 fact that the integrity of the police investigation, of
15 the slovenliness, if that's a proper word, of the police
16 investigation.

17 This is not an evidentiary case. A circuit
18 judge in Louisiana never ruled on the admissibility. All
19 the information that was pointed out to me by the defense
20 is dicta. There was never any ruling that that would be
21 admissible. No circuit judge ever had the opportunity, if
22 they call them circuit judges in the state of Louisiana,
23 to rule on that.

24 I reaffirm my ruling that Defense Exhibit 1 for
25 identification is hearsay and is not admissible.

1 However, I further reaffirm my ruling that the
2 defense may cross-examine witnesses as to the integrity of
3 the police investigation, or the slovenliness of the
4 police work, or conduct in this particular case with
5 well-formed questions. I am not prohibiting the defense
6 in any manner from cross-examining any witness or any
7 officer that would have knowledge of that lack of
8 integrity or presence of slovenliness in the police
9 investigation.

10 With that being said, if the defense would like
11 to have me recall Detective Doran for any additional
12 cross-examination with properly formed questions in that
13 regard, I will allow you to do so.

14 As I do recall, Detective Doran's testimony, he
15 stated there was this statement, that they attempted to
16 follow up on this statement and that Mr. Harris thereafter
17 would not cooperate.

18 There's also testimony in the record now if it
19 goes to a Holmes issue or a third-party guilt issue, that
20 I believe Mr. Cave testified that he observed William
21 Harris pointing a gun and perhaps placing the gun in the
22 mouth of the victim. So that's out and, of course, that
23 may be proper fodder for cross-examination.

24 But I would reaffirm my evidentiary ruling in
25 regard to Kyles versus Whitley.

1 Kyles versus Whitley also goes to the issue that
2 you look at the cumulative effect of non-disclosed
3 information, and it's clear that the Harris statement was
4 disclosed in this case as the defense used it during the
5 course of the cross-examination of the detective.

6 And, Mr. Tarr, if you care to put anything on
7 the record in that regard, you may certainly do so.

8 I don't want to go through all the testimony of
9 Beanie and how I think it is very different substantively
10 to the statement that's been handed this Court in regards
11 to Mr. Harris.

12 If the issue on Mr. Harris from this is, Did you
13 investigate whether or not Mr. Harris was the last person
14 to see Samuel Sturup alive, that is a properly formed
15 question. I think that could be asked if you want to
16 recall the witness.

17 But, then again, if you want to place anything
18 else on the record for your protection and your client's
19 protection, you may certainly do so.

20 MR. TARR: Just briefly.

21 Again, we reiterate, we did not offer the
22 statement for the truth of the matter asserted. In fact,
23 what we were trying to show was that Investigator Doran
24 later learned that that statement was not true from
25 Mr. Harris's own mouth and so --

1 THE COURT: You can ask him that. You can
2 recall him and ask him, Did you later determine that the
3 statement of December 5th of 2001 was, in fact, not a
4 truthful statement? You just cannot go into the substance
5 of the statement, that he gave later a conflicting
6 statement. I'm not prohibiting that. I am prohibiting
7 the substance of this statement, under state evidentiary
8 rules, under hearsay.

9 MR. TARR: Yes, Your Honor. And for the record,
10 we understand your ruling.

11 THE COURT: Yes, sir.

12 MR. TARR: For the record, we do note our
13 objection as not offering it for the truth of the matter
14 and we stand by our reading of Kyles versus Whitley.

15 THE COURT: Well, it's clear to me that Kyles
16 versus Whitley is not an evidentiary ruling, although
17 Justice Souter obviously goes into various issues that the
18 defense perhaps could have brought up. Still, there's no
19 circuit judge -- and, quite frankly, I didn't go back and
20 research Kyles versus Whitley last night to see if it was
21 retried at some point in time and if there were ever any
22 state evidentiary rulings or whether or not it was
23 resolved in some manner. I may do that at some point.

24 MR. TARR: And I have not done that, Your Honor.

25 THE COURT: Yes, sir. I may do that, but it

1 is -- obviously that's just my ruling. I appreciate your
2 respecting it, and I think you're protected on the record.
3 If you do not, you may place other issues on the record in
4 that regard.

5 MR. TARR: I think I'm done, Your Honor, but if
6 I could have just one moment to speak with Mr. Harte.

7 THE COURT: Certainly. Yes, sir, certainly.
8 You take all the time you need, Mr. Tarr.

9 (Pause.)

10 MR. HARTE: Your Honor, we would like to have
11 Investigator Doran recalled for a very brief
12 cross-examination.

13 THE COURT: All right. I will allow that.
14 Solicitor, do you have anything in that regard?

15 MR. MYERS: No, sir.

16 THE COURT: All right. Do you have anything you
17 would like to add to Kyles versus Whitley from the State's
18 position, Solicitor?

19 MR. MYERS: No, sir.

20 THE COURT: All right. Anything further? I'm
21 sorry for the delay, but anything further before we bring
22 in our jury, Mr. Solicitor?

23 Anything further, Mr. Maye, before we bring in
24 our jury?

25 MR. MAYE: No, Your Honor.

1 THE COURT: Mr. Harte?

2 MR. HARTE: No, Your Honor.

3 THE COURT: All right. Would you all object if
4 we recall Mr. Doran upon the return of the jury?

5 MR. MYERS: No, sir, no objection.

6 THE COURT: All right. Thank you very much.
7 And we'll do that after they get seated.

8 If you'd bring us our jury, please.

9 I would like Mr. Key placed in the foreman's
10 position also. Mr. Otis Key, I have appointed him
11 foreperson of the jury. I had an election in their
12 absence.

13 (The jury came into open court at approximately
14 9:45 a.m.)

15 THE COURT: It appears our jury is back present
16 in the courtroom.

17 Good morning, ladies and gentlemen of the jury
18 panel.

19 THE JURORS: Good morning.

20 THE COURT: I hope you had a pleasant evening.
21 None of you look worse for the wear. You all look very
22 well.

23 Mr. Gamble, did you do your studying?

24 THE JUROR: Yes, sir.

25 THE COURT: Is that correct?

1 THE JUROR: Yes, sir.

2 THE COURT: Good.

3 All right. Everyone have their pads?

4 In your absence, I held an election, and I
5 appreciate Mr. Otis Key volunteering to be the foreperson
6 of our jury.

7 Thank you very much for serving in that
8 capacity, Mr. Key. You would be the jury's spokesperson
9 here in the courtroom.

10 THE JURY FOREPERSON: Yes, sir.

11 THE COURT: You would also be responsible for
12 writing and signing the verdict as far as this phase of
13 the trial. Obviously, again, going back, this may be the
14 only phase of the trial, you understand that?

15 THE JURY FOREPERSON: Yes, sir.

16 THE COURT: But I will give you further
17 instructions concerning that.

18 If the jury has any concerns as far as their
19 housing or anything of that nature that you think you need
20 to take up with the Court that can't be resolved by the
21 jury sequestration team, just write me out a note if you
22 talk with the jury in that regard.

23 All right. I'm sure you'll perform your
24 function admirably, but thank you very much.

25 THE JURY FOREPERSON: Yes, sir.

1 THE COURT: I apologize for the delay. I assure
2 you it was entirely my fault. The attorneys were present,
3 in fact they were here early and working, both sides. I
4 know you will not hold it against anyone. If you do,
5 please hold it against me.

6 We're going to begin this morning with the
7 recall of Detective Doran.

8 If you'd come back around, Mr. Doran. You are
9 still under oath.

10 Mr. Harte.

11 MR. HARTE: Thank you, Your Honor.

12 RANDY DORAN, after being recalled and reminded
13 he is still sworn, testifies as follows:

14 CONTINUED CROSS-EXAMINATION

15 BY MR. HARTE:

16 Q Investigator Doran, if you remember yesterday, we
17 talked about a statement that was made by William Harris.

18 A Yes, sir.

19 Q Do you remember that?

20 A Yes, sir.

21 Q And I showed it to you. The judge ruled that the
22 contents were not admissible because it was hearsay. Do
23 you recall that?

24 A Yes, sir.

25 Q All right. And William Harris is Steven Barnes' half

1 brother; is that correct?

2 A Yes, sir.

3 Q And he was never arrested in regard to this offense?

4 A No, sir.

5 Q After you obtained that statement, you and I believe
6 it was SLED Agent Perry; is that right?

7 A That's right.

8 Q Mike Perry. After you two obtained that statement,
9 did you later determine within a matter of maybe a couple
10 or three weeks that that statement was, in fact, false?

11 A Richmond County Investigator Richard Roundtree talked
12 to him on several different occasions and I'm not familiar
13 with what he actually told Investigator Roundtree.

14 Q So you don't know whether the statement is false or
15 not?

16 A No, sir.

17 MR. HARTE: Thank you.

18 Could we have just one moment, your Honor?

19 THE COURT: Yes, certainly, Mr. Harte.

20 (Pause.)

21 MR. HARTE: I'm sorry, Your Honor.

22 THE COURT: That's quite all right. Take
23 whatever time you need, Mr. Harte.

24 (Pause.)

25 BY MR. HARTE:

RANDY DORAN - Continued Cross-Exam by Mr. Harte

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1 Q Do you remember testifying at the Julio Hunsberger
2 trial?

3 A Yes, sir.

4 Q And do you remember on cross-examination, you were
5 asked if you remembered talking to Will Harris?

6 A Yes, sir.

7 Q You were asked would it surprise you to know that he
8 now says that's an lie, what he told you? And would you
9 admit or deny that you said it would not surprise you?

10 A That's correct.

11 Q And then you were asked at that time, did you
12 think -- at that time, did you think he was telling you
13 the truth or not? Do you admit or deny that you said "no,
14 sir"?

15 A No, sir.

16 Q You don't admit that?

17 A Nope. Well, let me explain.

18 Q Let me ask you this. At the time he gave you that
19 statement, did you think he was telling you the truth?

20 A No, sir.

21 Q And in the course of your investigation and in
22 sharing information with Investigator Roundtree, didn't
23 you, in fact, find he had contradicted that statement?

24 A The only thing I can tell you is when he was talking
25 to Investigator Roundtree, that I found through

1 Investigator Roundtree that Mr. Harris never came into
2 South Carolina.

3 Q That he told him he never came into South Carolina?

4 A Sir?

5 Q That he told Investigator Roundtree that he never
6 came into South Carolina?

7 A Correct.

8 Q Aren't all of William Harris' statements in the case
9 file, in your case file?

10 A Just this one.

11 Q You don't have the statements that he gave -- the
12 statement he gave Richard Roundtree?

13 A If I do, I hadn't read it.

14 MR. HARTE: Nothing further.

15 THE COURT: Thank you very much, Mr. Harte.
16 Solicitor, anything on redirect?

17 MR. MYERS: Yes, sir.

18 REDIRECT EXAMINATION

19 BY MR. MYERS:

20 Q Randy, would you have any authority whatsoever to
21 charge somebody in Georgia with any type of crime in
22 Georgia?

23 A No, sir.

24 Q During this investigation, did you obtain any
25 evidence whatsoever that William Harris was out on

RANDY DORAN - Redirect Exam by Mr. Myers

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1 Community Road on Labor Day night in 2001?

2 A No, sir.

3 Q Any evidence whatsoever that he was in South Carolina
4 on that day?

5 A No, sir.

6 MR. MYERS: Thank you.

7 THE COURT: Recross, Mr. Harte?

8 MR. HARTE: No, your Honor.

9 THE COURT: Thank you very much. You may step
10 down.

11 Solicitor, you may call your next witness.

12 MR. MAYE: The State would call Antonio Griffin.

13 THE COURT: Members of the jury, by the way, I
14 did share your concerns with the attorneys about perhaps
15 not being able to understand witnesses fully and
16 completely and to try to repeat the answers as best they
17 could. Of course, that's also part of a person's
18 demeanor, I would take it, in that regard. But if you
19 cannot understand a witness, cannot hear a witness, just
20 raise your hand and we'll try to do better. Thank you
21 very much.

22 Madam Clerk.

23 THE CLERK: Raise your right hand, please, and
24 place your left hand on the Bible.

25 ANTONIO GRIFFIN, after being duly sworn,

ANTONIO GRIFFIN - Direct Exam by Mr. Maye

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1 testified as follows:

2 THE CLERK: State your full name and spell your
3 last name, please.

4 THE WITNESS: Antonio Griffin, G-R-I-F-F-I-N.

5 DIRECT EXAMINATION

6 BY MR. MAYE:

7 Q Mr. Griffin, now speak up as much as you can and talk
8 over here where I can hear you and all the jurors can hear
9 you. Okay?

10 Tell the ladies and gentlemen of the jury where
11 you're from. Back in 2001, where were you living?
12 Where'd you grow up?

13 A Augusta, Georgia.

14 Q Okay. Did you have family over there at that time?

15 A Yes, sir.

16 Q Okay. Who were they?

17 A Family?

18 Q Your family members. Who were you living with?

19 A My mom, brothers, grandmothers, aunts, uncles,
20 cousins, the whole family from Augusta.

21 Q You live your life over there?

22 A Yes, sir.

23 Q Back in 2001, tell the jury what you were doing at
24 that time. Were you in school?

25 A In school, working.

ANTONIO GRIFFIN - Direct Exam by Mr. Maye

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- 1 Q What grade were you in? How old were you?
- 2 A I was in the twelfth grade. I was 18.
- 3 Q Okay. What school did you go to over there?
- 4 A Lucy Laney.
- 5 Q Did you go to school with Mr. Cave?
- 6 A Yes, sir.
- 7 Q Okay. How did you know Mr. Cave?
- 8 A We was in the band together, went to school together
- 9 four years. We worked together, too.
- 10 Q Where did you all work together?
- 11 A Worked at KFC together?
- 12 Q Okay. Were you all friends?
- 13 A Yes, sir.
- 14 Q Okay. How do you know the defendant in this case,
- 15 Steven Louis Barnes?
- 16 A I met him through a female that I was with.
- 17 Q Do you remember who she was and what the circumstance
- 18 was that you were around this girl?
- 19 A Yes, sir.
- 20 Q Who was she?
- 21 A Erica Scott.
- 22 Q Who was she to you at the time?
- 23 A Well, we broke up. When we got back together, she
- 24 was my girlfriend, that's when I met Steven Barnes.
- 25 Q Okay. Did you ever go anywhere or do anything with

1 Mr. Barnes as a result of you meeting him through your
2 girlfriend there?

3 A Yes, sir. The first day I met him, we went to the
4 club together, a club called The County Line.

5 Q Okay. Who all else went?

6 A Me and my girlfriend, Richard Cave and some more
7 people. We was in three cars.

8 Q Were there a lot of girls?

9 A Yes, sir.

10 Q How old were you at the time?

11 A Eighteen.

12 Q Okay. Was that some appeal to you, to go places with
13 Mr. Barnes because there were a lot of girls around?

14 A Yes, sir.

15 Q Okay. Let's talk about Labor Day weekend of 2001.
16 Did you get together with Mr. Cave over that weekend?

17 A Yes, sir.

18 Q Where did that take place?

19 A What do you mean?

20 Q Where did you all get together at? Where did you
21 meet up at?

22 A Richard house.

23 Q While you all were there at his house, did somebody
24 call you all?

25 A Yes, sir.

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1 Q Did you talk to him?

2 A Yes, sir.

3 Q As a result of that conversation, where did you go
4 and who called you?

5 A Steven Barnes called us and told us to meet him at a
6 house on Washington Road called the green house.

7 Q Okay. Let me show you what's State's 20 in evidence.
8 You ever seen that house?

9 A Yes, sir.

10 Q What is that?

11 A The green house.

12 Q Who hung out there?

13 A Barnes.

14 Q Tell the ladies and gentlemen of the jury what was
15 happening when you got to the green house, when you and
16 Cave -- how did you get there?

17 A Richard's stepdad dropped us off.

18 Q Okay. And once he dropped you all off, what was
19 happening? Tell the ladies and gentlemen of the jury
20 about what was going on there.

21 A We went down there -- we got to the house and they
22 was arguing over money.

23 Q Who was arguing over money?

24 A Big Man and Sam.

25 Q What name did you know Steven Barnes by?

1 A Big Man.

2 Q That's what you called him?

3 A Yes, sir.

4 Q Stop right now and ask you: Is Big Man, or Steven
5 Louis Barnes, is he present here in this courtroom today?

6 A Yes, sir.

7 Q Could you point him out to the ladies and gentlemen
8 of the jury?

9 A The guy between the two lawyers.

10 MR. MAYE: Your Honor, I'd just like the record
11 to reflect that he's identified the defendant Mr. Barnes
12 in this case.

13 THE COURT: So reflected.

14 BY MR. MAYE:

15 Q Again, who was arguing and what were they arguing
16 over when you got to the green house?

17 A Big Man and Sam, they's arguing over some money.

18 Q What was Sam saying in regard to their argument over
19 the money back to Mr. Barnes?

20 A Saying that he didn't have the money.

21 Q What was Mr. Barnes saying to him?

22 A That he did have the money, he wanted his money.

23 Q Tell them everything that you heard him say or
24 anything that you could remember that they had in this
25 going back and forth about whether or not he had his money

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1 or not.

2 A We got down there and they was arguing about the
3 money, whatever. And he said Sam had the money, and I
4 didn't know who Sam was, and he told Sam -- he come to us
5 and he said, "Here's Sam, he got the money." They started
6 arguing again about the money. He told me and Richard,
7 "Jump on him."

8 Q Let me ask you this: Did you even know who Sam was
9 by name there?

10 A No, sir.

11 Q Had you ever seen him before?

12 A I saw him before.

13 Q But did you know his name?

14 A No, sir.

15 Q Did you have any interaction or did you have any
16 problem with the individual known as Sam Sturup or had
17 you ever seen him before?

18 A No, sir.

19 Q Except for one time before?

20 A Yes, saw him before one time.

21 Q What happened next?

22 A Well, he asked me and Richard to jump on him. I
23 looked at Richard, Richard looked at me because it was
24 crazy for him to say something like that. We didn't know
25 what was going on, we just walked up there into this. I

1 guess Sam thought we was going to jump on him for real,
2 all of us together right there, and he swung and hit me,
3 we got to fighting. I admit it, me and him started
4 fighting, but the fight didn't last long. They broke it
5 up. Big Man broke it up, him and his brother broke it up.

6 Q Who ordered you to do that?

7 A Big Man.

8 Q Did you see Steven Barnes hitting Sam Sturup out
9 there that day?

10 A Yes, sir.

11 Q One time or more than one time?

12 A More than one time.

13 Q What's the next thing that you observed between them?
14 You said he was hitting him. What did Sam do and what
15 happened next?

16 A After the fight, they broke it up, they got back to
17 arguing about the money. And Little Man was there, too.
18 That's his brother.

19 There was a car in the yard. He was chasing him
20 around the car trying to catch him, they arguing about the
21 money. Somehow Sam went back to one of the porches on the
22 side of the house. He was talking to him while Sam was
23 around the porch and he was hitting him in his face,
24 asking him where the money is. Sam kept saying he didn't
25 have the money, whatever.

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- 1 Q Who was hitting him?
- 2 A Big Man.
- 3 Q What was the next thing you had -- let me ask you
4 this: When first confronted by Mr. Barnes about "where's
5 my money," what did Sam say?
- 6 A He didn't have it.
- 7 Q Okay. What happened next?
- 8 A Sometime after that, he was -- mentioned that China
9 might have had the money. They called her out the house.
- 10 Q Who said China might have the money?
- 11 A Sam said it.
- 12 Q What happened once he made that assertion?
- 13 A Well, Big Man and Little Man called out the house.
14 She came out the house and they asked her, "Where my money
15 at?" She didn't know what was going on. She's telling
16 them they had the money, so he started beating her with a
17 broom. She fell back through the screen door.
- 18 Q Who started beating China?
- 19 A Big Man.
- 20 Q What else -- what's China's name?
- 21 A Charlene. But I knew her as China then.
- 22 Q Okay. Who was she to Mr. Barnes in this case? Was
23 that a girlfriend?
- 24 A Girlfriend all I knew about.
- 25 Q So he starts beating on her when the allegations go

1 that she's got the money. What happens next?

2 A Well, he was beating her. She was trying to run, but
3 she couldn't get away. She tried to go in the house but
4 couldn't, so she fell back through the screen, the other
5 screen door. They asked her to come back out and bring
6 her purse. She came and got it and emptied it on the
7 porch. They didn't find no money. So she's like, "I told
8 you I ain't got no money, I told you I ain't got no
9 money."

10 He was like, "Well, he must be lying then."

11 She's like, "Yeah, he lying, I ain't got no
12 money."

13 He's like, "Well, if he's lying on you, hit him
14 with the broom. Go over there and hit him with the
15 broom."

16 She's like, "No, I can't hit him with no broom."

17 He said, "Bitch, if you don't hit him, I'm going
18 to beat you again."

19 She was like, "All right." So she got the broom
20 and came over there and was tapping on him. So Big Man
21 and Little Man --

22 Q What do you mean she was tapping on him?

23 A Like she was scared. She was just tapping him, not
24 even hard, just tapping him with the broom. And they was
25 laughing and he's like, "Hit him hard." So she started

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1 hitting him a little bit harder.

2 He's like, "Just go on in the house, go on in
3 the house." So she come back in the house.

4 Q Okay. What was the next thing Sam said?

5 A Well, he smoked a cigarette after that. You know,
6 everything didn't happen right like that. He asked us
7 what we thought. We was like, we don't know, we don't
8 know what's going on. So he went back asking about the
9 money again. Then that's when Little Man name came up,
10 that he might have the money.

11 Q Who brought that up, Little Man's name inserted in
12 this?

13 A Sam did.

14 Q Sam did. What happened once he said maybe Sam's
15 got -- I mean once -- maybe Little Man's got it, what
16 happened?

17 A Well, Little Man got mad. Like, "What? I've got
18 money. I ain't got to steal." He pulled out a stack of
19 money. "I got money. I ain't got to steal from my
20 brother," this and that. So they argued back and forth.
21 Then Little Man pulled a gun out. Like, "I'll kill you
22 right here. Say it again. Say I got the money. Matter
23 of fact, open your mouth, open your mouth." And he made
24 Sam open his mouth and put the gun in his mouth. They was
25 arguing then. Sam was talking to him, "Why the gun? I'm

1 sorry, I'm sorry, man."

2 He's like, "Say it again. No, say it again."

3 Big Man actually stopped him from shooting him.

4 He calmed down and put the gun back in his pants.

5 Q What happened next after they got into it? Did it
6 stop between Little Man and Sam at that point?

7 A Then it stopped. Then I remember Little Man got on
8 his phone, he went to the street, and he came back and
9 told Big Man he was going to go, and he left.

10 Q Was that the last you saw of Little Man, his little
11 brother, Mr. Harris, that night?

12 A Yes, sir.

13 Q You certain he never came back?

14 A No, sir.

15 Q Okay. What happened once Little Man left? What
16 happened between Barnes and Sam?

17 A He went back asking Sam again about his cheese,
18 asking him about his money.

19 Q Asking him about his what?

20 A Cheese.

21 Q What was he referring to, "cheese"?

22 A Money.

23 Q Okay.

24 A Asking about his money. He kept saying he didn't
25 have it, he didn't have it. Then he's like, "All right."

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1 He went back and smoked some more cigarettes. "What you
2 all think?"

3 Q He asked who, "What you all think?"

4 A He asked me and Richard, "What you all think?"

5 We was like, "Man, we don't know, man."

6 So he went back and asked him again after he
7 started smoking another one, that's when Sam said, "Yeah,
8 man, I got your money, man, I got your money."

9 So he's like, "Where it's at?"

10 He's like, "I got it at home."

11 He said, "At home? So your momma's got it?"

12 He's like, "No, man, I got it hid. Got it hid."

13 "Where?"

14 He said, "I got it hid behind the toilet."

15 He's like, "Why I know your momma ain't got it?"

16 He's like, "I got it hid good, man. I got it,
17 man. I got it, man."

18 He's like, "So you're telling me we go to your
19 house, I'm going to get my money?"

20 He's like, "Yeah."

21 So he's like, "All right."

22 I remember he said something about "We going to
23 wait 'til your momma go to work." I guess he said
24 something like it was after 12 a.m. when his momma go to
25 work or something like --

1 Q Slow down. Not quite so fast.

2 What was he saying about his momma and going to
3 work?

4 A Big Man said, "We going to wait" -- told Sam, "We
5 going to wait 'til your momma go to work in the morning.
6 He said she go to work sometime in the morning. Because
7 he say, "If we go up there now and you try to ask for
8 help, I'm going to kill everybody in the house." So he's
9 like, "You go and get my money." He's like, "All right?"

10 So Sam said, "Yeah."

11 So he went back and stopped asking him about the
12 money.

13 When he did go back to asking about the money,
14 he said, "So you mean to tell me we go up there I'm going
15 to get my money?" So Sam ain't answering, he's just
16 looking at him. So he jumped at him. He was like, "No,
17 man, I ain't got the money. I just wanted you to stop
18 hitting me."

19 So he's like, "What? You do have the money.
20 You want a grill in your mouth. I know you got the
21 money." So we --

22 Q Wanted what?

23 A A grill in his mouth.

24 Q Gold teeth?

25 A Yeah, gold teeth.

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1 Q Okay.

2 A So he hit him again. That's when he pulled out the
3 gun. He's like, "I'm through it, I'm through it." He
4 said, "We're going to go for a walk." That's when he
5 called China out the house and told me and Richard to walk
6 with him. That's when we went on the railroad tracks.

7 Q What was said before Sam changed his story again to
8 "I don't have it?" What did he say specifically that he
9 would do if he went to the house and the money was not
10 there?

11 A No. He said, "We going to wait and go to your house,
12 but if you try to scream for help or something, I'm going
13 to kill everybody in the house."

14 Q Once he told him he'd kill everybody in the house,
15 how did Sam's story change?

16 A He told him he didn't have the money then. He say he
17 just wanted him to stop hitting him. That's why he told
18 him he had the money.

19 Q So what did Barnes then begin to do to him again?

20 A He hit him.

21 Q Okay. So I interrupted you, but you said he called
22 for China. What happened next?

23 A He said, "Everybody come on," and that's when he
24 pulled out the gun and he went to the railroad tracks.

25 Q Who all went to the railroad tracks?

1 A Me, Sam, Big Man, China, Richard.

2 Q What happened when you got up to the railroad tracks?

3 A We got to the railroad tracks and he told Sam to walk
4 off in front of us, walk before us, like five people. So
5 we walking down the railroad tracks and we stopped and he
6 told China he's going to give China the gun. He's like,
7 "Shoot him. Since he's talking about you had the money,
8 shoot him."

9 China's like, "No, I ain't going to shoot him.
10 I ain't going to shoot him. I got a child, don't want
11 that on my head."

12 So he's like, "Bitch, if you don't kill him, I'm
13 going to let him kill you, because one of you all got my
14 money."

15 So he's playing like he going to give Sam the
16 gun. Sam was actually reaching for it. So she started
17 crying and grabbed Big Man, "Please don't let him shoot
18 me, please don't let him shoot me."

19 So he started laughing. He's like, "No, I ain't
20 going to let him shoot you. I ain't going to let him
21 shoot you."

22 So he turned around and looked at me and
23 Richard, "You all want to shoot him?"

24 Like, "No, man."

25 So he started laughing again. That's when Sam

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1 said, "Man, just take me home. Man, I ain't got the
2 money. Just take me home."

3 He's like, "All right, I'm going to take you
4 home, man."

5 Q He told him, "I'll take you home," at that point?

6 A He said he'd take him home. That's when we went back
7 to the house.

8 Q Once you all went back to the house, what did Steven
9 Barnes do?

10 A Well, me -- China went back in the house. Me and
11 Richard sat on the porch. And there's another porch in
12 the back of the house on the side. That's where Sam went
13 and sat. Big Man walked up the street on his phone. He
14 got on his phone. He walked up the street.

15 Q What happened shortly after the time that Barnes made
16 that call?

17 A Well, we came back down the street just as another
18 car pulled up.

19 Q Who got out of that car?

20 A Two brothers, two dudes got out of the car.

21 Q Who were they?

22 A Hunsbergers.

23 Q Did you know the Hunsberger brothers at that time?

24 Had you ever see them before?

25 A No. That's my first time seeing them.

1 Q But they showed up after he made that call?

2 A Yes, sir.

3 Q Who did they interact with and talk to when they got
4 there?

5 A When they got out of the car, they went to the street
6 where Big Man was. They talked to him for a brief little
7 minute. Then Big Man called me and Richard to them, to
8 the street. He's like, "Look, man, I'm going to take him
9 home since he want to go home so bad."

10 They're like, "No, man, we'll ride. We should
11 take him home."

12 "You all go and get in my car." That's when he
13 called China out the house and told everybody to go get in
14 his car.

15 Q He told y'all to get in his car. What kind of car
16 was that?

17 A It was a white bubble Caprice.

18 Q Okay. What happens next after you all get in the
19 car? Where do you all start going?

20 A Carolina. Went across the water and went to
21 Carolina.

22 Q Let me stop you right here.

23 You've got an orange jumpsuit on today. Where
24 are you currently residing?

25 A Prison.

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1 Q Where?

2 A Georgia.

3 Q Okay. Based on the beating that Sam Sturup took
4 over there in Georgia at the green house, did you plead
5 guilty to aggravated assault?

6 A Yes, sir.

7 Q How much time did you get?

8 A Eighteen years.

9 Q You also got charged with kidnapping, didn't you?

10 A Yes. They dropped that.

11 Q But you took a plea and you got an 18-year sentence
12 in Georgia. You're serving that now, aren't you?

13 A Yes, sir.

14 Q Let me ask you this: In regard to any potential
15 charges you face over here, murder or anything else, has
16 anybody ever made you any promises as to what is to happen
17 to your charges here?

18 A No, sir.

19 Q Okay. Has anybody promised you anything in regard
20 for your testimony here?

21 A No, sir.

22 Q When I stopped you, you were telling the jury about
23 going over there and y'all were in the bubble car. Where
24 was the other car that the Hunsbergers were in when y'all
25 started over there? How did you all go and proceed?

1 A They was in front of us. We was following them.

2 Q Okay. Did you see the Hunsbergers and Sam get in
3 that other car? Did you see how that happened?

4 A No, sir. He told us go get in his car. We just went
5 and got in his car. First thing you know, they came out
6 the yard and we was following them.

7 Q Okay. Who was leading the way at that point in time?

8 A The car in front of us, the two brothers.

9 Q Where did you all go? Just tell the jury as much as
10 you know about where you went.

11 A We went across the water, I remember that, going down
12 the street for a couple of minutes. We turned off on
13 another street and we turned off on a dirt road and turned
14 off in a field.

15 Q Do you remember going across the bridge, you all
16 coming into South Carolina?

17 A Yes, sir.

18 Q Okay. Describe for the ladies and gentlemen of the
19 jury where you all ended up. The last sequence, you said
20 you all went on a dirt road. What do you remember once
21 y'all got off that dirt road?

22 A We went in a field, through a field.

23 Q Okay. Had you ever been there before?

24 A No, sir.

25 Q Would you have had any idea how to find that place?

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1 A No, sir.

2 Q Okay. You went into a field. What else do you
3 remember at that point in time?

4 A We got out of the car. First we was in another
5 field. The car in front of us stopped and we stopped.
6 And I remember Big Man got out of the car and the driver
7 of the other car got out. They came and talked like five
8 seconds, they got back in the car, they both turned off
9 their headlights. We still followed them through some
10 trees to another field. That's when we stopped.

11 Q I'm going to ask you to take a look at State's
12 Exhibit 13 up there on that board. Field here, another
13 field here. Do you remember -- is that consistent with
14 the area that you went to that night?

15 A Yes, sir.

16 Q Okay. Do you remember where it was that you all
17 finally stopped in that area?

18 A We stopped in another field.

19 Q Okay. Once you all stopped in that other field, what
20 happened?

21 A We stopped. Big Man told everybody, "Get out of the
22 car." We get out of the car. Big Man had a gun and the
23 driver of the other car had a gun, too.

24 Q One of the Hunsbergers?

25 A Yes, sir.

1 Q Okay. Where was Sam?

2 A They opened the trunk. He was in the trunk.

3 Q At that point in time, did you have any idea that Sam
4 Sturrup was in the trunk of that car?

5 A No, sir.

6 Q Okay. Who got him out?

7 A Big Man.

8 Q What happened after he got Sam out of the trunk of
9 the Hunsbergers' car?

10 A He got out of the trunk and he asked him to walk
11 before us, and he didn't want to move. He's like, "If you
12 don't move, I'm going to shoot you right here." That's
13 when Sam walked off. We walked across the field to these
14 trees and we stopped at a gate.

15 Q Let me stop you for a second here.

16 Once you got to the gate, what did you all do
17 and who told you to do anything?

18 A All us had to hop over this gate. We went through
19 the woods and came to this open little part inside the
20 woods.

21 Q What happens once you all got up into that area of
22 the woods, what was the next thing that happened?

23 A We got there. He told Sam to walk off from us.
24 Well, he did. So he said, "Look, everybody going to
25 shoot. I'm going to make China shoot first." Then she

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1 said everything fouled up, so she like -- she started
2 crying again. "No, I told you I don't want to shoot him,
3 I don't want to shoot him."

4 He's like, "Bitch, if you don't kill him, I'm
5 going to kill you."

6 He looked at me and Richard and said, "That go
7 for you all, too."

8 He'd just asked us at the railroad track if we
9 wanted to shoot him, and we told him no. So we knew that
10 meant for us, too. We going to shoot, too, or we going to
11 die, too.

12 Q What conversations was Sam having with him about it?
13 Did he say anything?

14 A I mean, the last thing he said, he was like, "Man,
15 before you do it, I ain't got your money." That's the
16 last thing he said.

17 Q What did Barnes then do?

18 A Well, he gave China the gun and he walked behind us.
19 China's just sitting there pointing and crying. And after
20 awhile, she was like she don't know how to shoot, she
21 don't know how to do it. So he came behind her and aimed
22 forward saying, "All you got to do is pull the trigger."
23 So he backed up again, backed up behind everybody, and she
24 stood there like 60 seconds, a long time, just standing
25 there crying, pointing the gun, and she shot him. Sam

1 grabbed himself.

2 And the other brother, one of the Puerto Rican
3 guys, they snatched the gun up. He shot, and that's when
4 Sam fell on the ground. He shoved me the gun and said,
5 "Go ahead, go on." So I walked up and I shot at the
6 ground.

7 Q Do you know whether you hit him or not?

8 A No, I shot at the ground. I made sure I shot at the
9 ground.

10 Q Okay.

11 A So gave Richard the gun. Richard walked up beside
12 the other brother, he had his own gun. He shot. That's
13 when Barnes got the gun. "You all go back to the car, you
14 all go back to the car."

15 We ran back through the woods, jumped the gate.
16 By the time I got across the field, heard another shot,
17 that's when we got to the car, turned around and there's
18 Barnes and China was coming out the woods.

19 Q Okay. Where did you all go then?

20 A We went to a trailer. I remember we going to a
21 trailer.

22 Q Whose trailer was that?

23 A I didn't know whose trailer it was at first, but I
24 guess it was the Hunsbergers' trailer.

25 Q Okay. Let me ask you this. What did Steven Barnes

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1 say in regards to whether or not this guy could get up and
2 go anywhere? Was there any question about that, and what
3 was his response?

4 A I immediately asked him. When we was in the car
5 before we got to the trailer, I was scared, you know, so I
6 asked Barnes, you know, "How you know this man ain't going
7 to get up, try and go ask for help or something?" When I
8 left the woods, he was still alive. He was just on the
9 ground crying. He was still alive when I left the woods.

10 He said, "No, man. Everything's straight.
11 Everything's straight."

12 I was like, "Man, how you know? That man might
13 get up and go try to get some help."

14 He was like, "Man, I shot him in the head. Man,
15 he ain't going to get up."

16 Q Okay. What happened when you got back to the
17 Hunsbergers' trailer?

18 A We got to the trailer. He told all of us -- me,
19 China and Richard sitting in the living room, and the
20 other brothers, they went to the back of the trailer. So
21 we was there for a while. He came back to the living room
22 after awhile, asked for a cigarette. You know, I ain't
23 even smoke. I was just nervous. You know, I got cousins
24 who smoke cigarettes, they told me it calmed your nerves,
25 so I smoked a cigarette. He sat there with us. He was

1 like, "How do you all feel?"

2 I'm like, "Man, I'm all right."

3 So he's like, "If it come down to it, you all
4 think you all could do it again?" I looked at him. He
5 started laughing. He got up. He's like, "You all get out
6 of here." Got up, went back to the back of the trailer.

7 After awhile, he came back out, gave him a bag,
8 we got in the car and headed back to Augusta.

9 Q Who got in the car?

10 A It's me, Richard, Charlene, and Big Man.

11 Q Did the Hunsbergers stay behind?

12 A Yes, sir.

13 Q What happened on the way back?

14 A When we got back, Big Man gave me a bag because he's
15 in the front seat in front of me. He's like, "I want you
16 to throw this in the water." We stopped. So when we
17 stopped I got out the car. He told me, "Get back in." He
18 said, "I want to wait until all the cars go by." So after
19 the cars went by, he's like, "Go ahead." So I just step
20 foot out the door and I threwed it in the water and got
21 back in the car.

22 Q Okay. Where did you go then?

23 A Went back to the green house.

24 Q Okay. After you all got back to the green house,
25 when was it that Barnes took you all home?

ANTONIO GRIFFIN - Direct Exam by Mr. Maye

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1 A The next day.

2 Q Okay. Tell the ladies and gentlemen of the jury
3 about what transpired on the trip back with him taking you
4 home and what was said.

5 A He took us home. He took me home first. Stopped in
6 my front yard, gave me a bag, and he's like, "Here, I want
7 you to burn these. You can burn these?" I was like,
8 "Yeah." He said, "I want you all to burn you all clothes,
9 too. Make sure you get Richard's and go burn his."

10 Q What was in the bag that he gave you?

11 A Clothes.

12 Q Okay.

13 A So he's like, "Look, man, keep you all mouth closed.
14 If anything happens, it's going to fall back on me and my
15 brother because we the last ones with him, you know what
16 I'm saying? He was last seen with us. His momma don't
17 know you all, his sister don't know you all, you know what
18 I'm saying, so you all keep your mouth closed. Anything
19 happen, the same thing happen to you all."

20 I'm like, "Look, man, you ain't got to worry me
21 saying nothing."

22 Q He said if you all don't keep you all's mouth shut,
23 what?

24 A The same thing happen to you all.

25 Q Did you take the clothes from him at that point in

1 time?

2 A Yes, sir.

3 Q Did you get Mr. Cave's clothes as well?

4 A I got his clothes the next day.

5 Q You got his clothes the next day. What did you do
6 with the clothes?

7 A Burned them in my backyard.

8 MR. MAYE: If I can mark this for ID.

9 (WHEREUPON, State's Exhibit No. 34 was marked
10 for identification only.)

11 BY MR. MAYE:

12 Q Let me show you what's been marked State's Exhibit 34
13 for ID. Tell me if you recognize that.

14 A Yes, sir, it's the barrel in my backyard that I burnt
15 the clothes in.

16 Q Does that fairly and accurately depict the barrel
17 that you burned those clothes in?

18 A Yes.

19 MR. MAYE: Your Honor, I move to admit this into
20 evidence.

21 MR. HARTE: No objection.

22 THE COURT: State's 34 is in evidence without
23 objection.

24 (WHEREUPON, State's Exhibit No. 34 was admitted
25 into evidence.)

ANTONIO GRIFFIN - Direct Exam by Mr. Maye

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1 BY MR. MAYE:

2 Q What all did it entail with you burning those
3 clothes?

4 A Sir?

5 Q What all did that entail with you burning those
6 clothes? What all did you have to do to carry that out?

7 A Just throw some lighter fluid on it and burned it.

8 Q Okay. Who told you to do that?

9 A Big Man.

10 Q Was that something that would have occurred to you to
11 do if he had not told you?

12 A No, sir.

13 Q What happened next after you burned up the clothes?

14 A Well, time went by.

15 Q Did you tell anybody?

16 A No, sir.

17 Q Okay. When was the next time that anything occurred
18 involving the death of Sam Sturupp with you?

19 A I mean, I was in school sometime later and we was in
20 a class. Everybody in the class had to read newspaper
21 articles and we had to explain yourself, what it meant to
22 you. And the girl sitting next to me read that the body
23 was found. And I asked her to let me read it after she
24 read it. She let me read it. And when I got home, Barnes
25 called me, he's like, "You heard?" I said, "Yeah, man, I

1 heard."

2 Q What was the article about?

3 A They found Sam.

4 Q Found his body?

5 A Yes, sir.

6 Q So he called you that same day?

7 A Yes, sir.

8 Q What was the conversation that he had with you?

9 A He asked me did I hear about what happened and I told
10 him, "Yeah, I found out at school."

11 And he said, "Look, man, the same thing, you all
12 just keep your mouth closed like I said. We're just going
13 to tell these folks, man, you know, that we dropped him
14 off with some little girl or something like that." But he
15 was like, "You ain't got nothing to worry about, man.
16 Folks don't even know you all. You all just be cool.
17 Like I said, same thing happen to you all."

18 I said, "Look, you don't have to worry about me
19 saying anything."

20 Q What other conversations did you have with him after
21 that?

22 A Well, before then -- I talked to him the next day
23 after the incident, he told me he called his brother and
24 told him what happened, told him that he killed him or
25 whatever.

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1 He said what his brother said, "You had to do
2 what you had to do."

3 Then sometime after that, he called me and told
4 me that -- he was, "Like, man, guess what?"

5 I was, like, "What?"

6 He said, "Man, I went in my backyard. Man, I
7 seen little pieces of paper all over the ground."

8 I said, "Yeah."

9 He said, "Yeah, so I thought it's the trigger
10 man, and there's where the stash was, where I hid the
11 money," and he's like, "The dogs got hold of some money.
12 Man, he -- Sam told the truth, he didn't never take the
13 money."

14 I was like, "What?"

15 He's like, "Yeah, man, the money was right there
16 in the backyard. The dogs got ahold to it.

17 I was like, "Man."

18 He's like, "Yeah, what's done is done."

19 Q Prior to getting arrested, did you ever tell on
20 Mr. Barnes?

21 A No, sir. Never talked about it. Tried to put it
22 behind me.

23 Q If they hadn't found that body, would you have ever
24 told anybody?

25 A Not to this day.

1 MR. MAYE: Beg the Court's indulgence.
2 Answer any questions the defense has for you.

3 THE COURT: Thank you, Solicitor.

4 Mr. Harte.

5 MR. HARTE: May we have just a moment, Your
6 Honor?

7 THE COURT: Yes, sir, certainly.

8 (Pause.)

9 CROSS-EXAMINATION

10 BY MR. HARTE:

11 Q Mr. Griffin, you said that you just had a regular
12 fight with Sam?

13 A Yes, sir.

14 Q You didn't hit him with anything?

15 A No, sir.

16 Q Did you see anybody else hit him with anything?

17 A No, sir.

18 Q Were you there the whole time?

19 A When we got there, I was there all that night.

20 Q Right. After you and Richard Cave got there, you
21 were there the whole time?

22 A Yes, sir.

23 Q Richard was there the whole time?

24 A Yes, sir.

25 Q And you didn't hit him, Sam, with any objects?

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

1195

1 A No, sir.

2 Q You didn't see anybody hit Sam with any objects?

3 A No, sir.

4 Q Now, you pled to aggravated assault and battery?

5 A Aggravated assault.

6 Q Aggravated assault, excuse me. And you got 18 years
7 for that?

8 A Yes, sir.

9 Q And they dropped the kidnapping charge which you
10 could have gotten life for?

11 A Yes, sir.

12 Q Except they didn't drop it, they put it on what's
13 called the dead docket over in Georgia, which means that
14 they can bring it back up if you don't continue
15 cooperating; isn't that correct?

16 A I don't know about that.

17 Q Your lawyer didn't tell you that?

18 A No, sir. He told me the plea, said they'd drop the
19 kidnapping, you plead out to aggravated assault. If you
20 go to trial, you're facing life plus 20. He said, "Like
21 it's in your best interest."

22 I was like, "Man, I didn't do nothing but fight
23 him."

24 He's like, "It's your best interest. It's the
25 best we can do." So I took the plea.

1 Q And in order to take the plea, you had to agree to
2 testify against Julio Hunsberger, didn't you?

3 A I had to admit that, to aggravated assault.

4 Q And testify against Julio Hunsberger or you wouldn't
5 have gotten that deal?

6 A No, I don't know about that.

7 Q And testify here or the people in Georgia might pull
8 that deal from you?

9 A No, that wasn't told to me.

10 Q Now, when you got to the -- one second.

11 Do you recall testifying in Julio Hunsberger's
12 trial?

13 A Yes, sir.

14 Q Do you admit or deny that when talking about your
15 plea deal, you said, "I thought it was something against
16 Steven Barnes, just testify against Steven Barnes and I
17 just sign the paper," talking about the plea deal?

18 A No.

19 Q You deny saying that?

20 A I don't remember. There was a lot of stuff said that
21 day. That was a couple of years ago.

22 Q There was a lot of stuff said.

23 A Yeah.

24 Q But you don't deny that you said that back then?

25 A If I did, I don't remember saying it. I ain't saying

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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1 I didn't. I just don't remember.

2 Q You seem to have an excellent memory about what you
3 say happened on September 3rd and 4th. That was even
4 further ago than that, wasn't it?

5 A Yes, sir.

6 Q Now, when you got to the green house, you came with
7 Richard?

8 A Yes, sir.

9 Q And when you got there, Sam was already there?

10 A Yes, sir.

11 Q Steven was already there?

12 A Yes.

13 Q And Little Man was already there. Little Man is
14 Steve's half brother, isn't he?

15 A Yes, sir.

16 Q And you knew that?

17 A Yeah, at the time I did knew they were brothers.

18 Q And China was there, Charlene Thatcher?

19 A I found out later she was there.

20 Q She was in the house?

21 A Yes, sir.

22 Q Now this isn't -- Steven doesn't live in that house,
23 does he? Or did he?

24 A I was told that was his uncle house.

25 Q Huh?

1 A I was told it was his uncle's house.

2 Q It's his uncle's house, but people hung out there?

3 A Yes, sir.

4 Q Little Man hung out there a lot?

5 A Yes, sir.

6 Q Little Man was crazy, wasn't he?

7 A What you mean?

8 Q Well, were you scared of William Harris?

9 A Well, yeah. That was his brother.

10 Q Why were you scared of him?

11 A If I would've told about the case, he -- his brother
12 about did something to me, too.

13 Q No, I'm talking about back then, in September of
14 2001.

15 A When I first met him, I wasn't scared of nobody, no.

16 Q Do you remember -- do you admit or deny in the trial
17 of Julio Hunsberger, you were asked, "Are you scared of
18 Harris?"

19 And you said, "Of course I was. That was Little
20 Man, Big Man's brother."

21 "Were you scared of him? What made you
22 frightened about him?"

23 Your answer was, "He was crazy. Little Man,
24 crazy, carrying pistols everywhere they go."

25 A Yeah, because he said "they," everywhere they go.

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

1199

- 1 Q But you were scared of William Harris?
- 2 A Both of them.
- 3 Q Why did you hang around them, then?
- 4 A I had to. I mean, after this incident happened --
- 5 Q No, I'm talking about before that. Why were you
- 6 hanging around with them on September 3rd if you were
- 7 scared of them?
- 8 A September 3rd?
- 9 Q September 3rd, 2001.
- 10 A The day of the incident?
- 11 Q The day of the incident.
- 12 A We wanted to go to the club.
- 13 Q So you would go with people you're scared of?
- 14 A I wasn't scared of them until after the incident
- 15 happened.
- 16 Q But that's not what you testified to back in Julio
- 17 Hunsberger's trial, is it? Is it?
- 18 A Whatever that say. Like I said, it was a lot of
- 19 stuff said that day. Them transcripts ain't even
- 20 accurate.
- 21 Q Oh, so the transcript from the trial is not accurate?
- 22 A A lot of them transcript's not accurate.
- 23 Q Have you had a chance to read over them?
- 24 A A chance to read over them?
- 25 Q You've been studying on them?

1 A I know what I said.

2 Q You've been studying on them, haven't you?

3 A No.

4 Q You're saying today that you saw Steven Barnes hit
5 Sam numerous times; is that correct?

6 A Yes, sir.

7 Q Do you remember an interview you had with Richard
8 Roundtree on January 23rd, 2002?

9 A Yes, sir.

10 Q Do you admit or deny that you told him that Steven
11 Barnes just hit Sam a couple of times?

12 A Yes, sir.

13 Q You admit it?

14 A Yes, sir.

15 Q So that was a lie?

16 A What you mean a couple of times? Numerous times the
17 same thing to me.

18 Q A couple of times and numerous times are the same
19 thing to you?

20 A More than one time.

21 Q But there's no question William Harris put a gun in
22 Sam's mouth and said, "I'm going to kill you"?

23 A Yes, sir.

24 Q Did you believe he was going to kill him?

25 A Yes, sir.

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

1201

1 Q Do you believe that if Steven Barnes had not stopped
2 him, that he would have killed him right then and there?

3 A Yes, sir.

4 Q That Little Man would have done it?

5 A Yes, sir.

6 Q Now, you stated that there was a time when Steven was
7 hitting Charlene Thatcher with a broom?

8 A Yes, sir.

9 Q Where was Richard Cave when that happened?

10 A Standing with me.

11 Q Could he see what was going on?

12 A Yes.

13 Q And there's no question in your mind that Steven was
14 hitting her with the broom; no question in your mind,
15 you're not mistaken about that?

16 A No, sir.

17 Q Now, after you all left the green house, who was in
18 the -- what car were you in?

19 A The car with Big Man.

20 Q I'm talking about when you left the green house to
21 come over to South Carolina.

22 A In the car with Big Man.

23 Q In the car with Big Man?

24 A Yes, sir.

25 Q I thought you said the car that picked you up. And

1 what car was that?

2 A A white bubble Caprice.

3 Q Where were you sitting?

4 A Front seat.

5 Q Did you have any idea what was going to happen?

6 A No, sir. He said he was going to take him home.

7 Q Take him home. Did you wonder when you went across
8 the river?

9 A No, sir. I'd never been to his house.

10 Q You weren't really paying a lot of attention, were
11 you?

12 A No, sir.

13 Q You were playing with the CD and the television,
14 weren't you?

15 A Yes, sir, I was.

16 Q There was a television and a CD in that particular
17 car?

18 A There was a little screen, like a little Play Station
19 screen or something. He had a CD player in his car and a
20 CD album with a bunch of CDs. I was looking through that
21 while we was riding.

22 Q And you were playing with it on the way?

23 THE COURT: Did you answer that? I didn't hear
24 you answer it.

25 BY MR. HARTE:

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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- 1 Q You were playing with it?
- 2 A Yes, sir.
- 3 Q Now, after you all got to the place where this
4 happened, the first person to shoot the gun was China?
- 5 A Yes, sir.
- 6 Q The second person to shoot the gun was one of the
7 Hunsbergers?
- 8 A Yes, sir.
- 9 Q There's no question in your mind about that?
- 10 A No, sir.
- 11 Q You're absolutely sure?
- 12 A Yes, sir.
- 13 Q Was Charlene Thatcher present when -- do you know
14 which Hunsberger it was? Was it Julio or Alex? You don't
15 know?
- 16 A No, sir.
- 17 Q All right. But one of them was the second person to
18 shoot?
- 19 A Yes, sir.
- 20 Q And then who was the third person to shoot?
- 21 A I was.
- 22 Q And was Charlene and the Hunsberger who had already
23 shot still there when you shot?
- 24 A Yes, sir.
- 25 Q Who was the next person to shoot?

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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- 1 A Richard.
- 2 Q Was Charlene and the Hunsberger that had shot and you
3 present when Richard shot?
- 4 A Yes.
- 5 Q And then you said that other Hunsberger shot him with
6 his own gun?
- 7 A Yes, sir.
- 8 Q That's four shots, correct? Charlene, one
9 Hunsberger, you, Richard --five shots, I'm sorry.
- 10 A Five shots.
- 11 Q Five shots?
- 12 A Yes, sir.
- 13 Q And then you and Richard and the two Hunsbergers and
14 Charlene left?
- 15 A No, Charlene stayed.
- 16 Q Charlene stayed?
- 17 A Yes, sir.
- 18 Q So you and Richard and the two Hunsbergers left, and
19 you all left at the same time?
- 20 A Yes, sir.
- 21 Q Got back to the car at about the same time?
- 22 A Yes, sir.
- 23 Q And then you heard another shot?
- 24 A Yes, sir.
- 25 Q Now, you say here today that Steven Barnes told you

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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1 that he, Sam, was not going anywhere because he had shot
2 him in the head?

3 A Yes, sir.

4 Q Do you admit or deny that on January 23rd of 2002,
5 when you were interviewed by Richard Roundtree, that you
6 said, "I don't remember who shot him in the head; I know I
7 couldn't have shot him in the head." You admit or deny
8 saying that?

9 A I could have said that.

10 Q Do you admit or deny saying in answer to this
11 question from Mr. Roundtree, "You don't know who shot him
12 in the head?"

13 And your answer is, "No, sir"?

14 A I could have.

15 When I got investigated, they came to school to
16 lock me up. I didn't know the police was looking for me
17 or nothing.

18 It was time later that I got locked up after the
19 incident, I tried to put all this behind me. I tried to
20 forget about it. So all this caught me off guard. I'm in
21 class, I get locked up, and I go -- he investigated me
22 first and I kept my mouth closed. I still tried to keep
23 my mouth closed. I thought he was going to take me back
24 to school, talk to me and take me back to school. So I
25 was really trying to still keep my mouth closed. He'd ask

1 me a question, I'd answer it, that's it. I ain't going
2 into detail.

3 Q So you lied?

4 A I didn't lie.

5 Q Then you're lying today?

6 A What you mean I'm lying today?

7 Q Well, you're saying Steven told you he shot him in
8 the head. In January of 2002, you said you didn't know
9 who shot him in the head.

10 A When he investigated me --

11 Q Which time are you lying, Mr. Griffin?

12 A -- I was still trying to keep my mouth closed.

13 Q Which time are you lying, Mr. Griffin?

14 A I'm telling the truth today. I told the truth in the
15 Hunsberger case. That was nine years ago when I got
16 investigated by Roundtree.

17 Q But your memory apparently is better today than it
18 was then?

19 A Yes, sir. I've had nine years to think about what
20 happened.

21 Q And you said you talked to Steven on a couple of
22 occasions after this about the incident?

23 A Yes, sir.

24 Q Do you remember on that same interview -- in that
25 same interview and the question, "And you seen Big Man

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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1 sometimes after that, but you all never talked about the
2 incident?"

3 And your answer was, "Yes, sir."

4 Do you admit or deny that?

5 A I remember being asked that have I talked to anybody
6 since the incident, anybody else, and I said no.

7 Q That was actually one of the other questions. But
8 this one was specifically about Big Man.

9 "And you've seen Big Man sometimes after that,
10 but you all never talked about the incident?"

11 And your answer was, "yes, sir."

12 A I did talk to him --

13 Q Do you admit or deny that?

14 A I could have said that, but I did --

15 Q You could have said that. So you were lying about
16 that, or are you lying today?

17 A I'm telling the truth today.

18 Q So you must have lied then?

19 A No.

20 Q Now, this walk down to the railroad track at the
21 green house, Richard made that walk with you all?

22 A Yes, sir, for my knowledge.

23 Q What do you mean "for your knowledge"?

24 A From my knowledge, what I can remember, everybody
25 went down to the railroad track.

1 Q Everybody went to the railroad track. But it was
2 Steven Barnes who said, "We're going down to the railroad
3 track"?

4 A Yes, sir.

5 Q Did you see William Harris hit China with the
6 broomstick?

7 A Both of them was right there while she was getting
8 beat.

9 Q And when y'all got down to the spot where Sam was
10 shot, he was talking, he was saying things?

11 A Who was?

12 Q Sam.

13 A Yes, sir.

14 Q He was saying, "I didn't take the money"?

15 A When we got to the railroad track?

16 Q No, no, no. I'm talking about down where he actually
17 got shot, unless he got shot at the railroad track. Is
18 that where he got shot?

19 A No, in Carolina in the field.

20 Q Correct.

21 A The last thing he said was he didn't take the money.

22 Q That was at the very spot where he was shot?

23 A Yes, sir.

24 Q And Richard Cave was there when that was said?

25 A Yes, sir.

ANTONIO GRIFFIN - Cross-exam by Mr. Harte

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1 THE COURT: Anything further, Mr. Harte?

2 MR. HARTE: One second, Your Honor.

3 THE COURT: All right. Certainly.

4 MR. HARTE: No, sir.

5 THE COURT: All right, sir.

6 MR. HARTE: I have no other questions.

7 THE COURT: Thank you, Mr. Harte.

8 Redirect, Solicitor?

9 MR. MAYE: No, Your Honor. Thank you.

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

11 Sheriff, if you'd please take Mr. Griffin back
12 into your custody.

13 How long do you think your next witness will be,
14 Solicitor?

15 MR. MYERS: Very short.

16 THE COURT: All right. If it's a short witness,
17 why don't you call your next witness. Thank you very
18 much.

19 All right. Yes, sir, I believe you're still
20 under oath. This is Mr. Gordon.

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Thank you very much,
23 Mr. Gordon. You're still under oath.

24 THE WITNESS: Thank you, sir.

25 MR. HARTE: Refresh my memory on this witness's

JAMES GORDON - Redirect Exam by Mr. Myers

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1 name.

2 THE COURT: Richmond County Sheriff's Department
3 Crime Scene.

4 THE WITNESS: James Gordon.

5 MR. HARTE: James Gordon?

6 THE WITNESS: Yes, sir.

7 JAMES GORDON, after being recalled and reminded
8 he is still sworn, testifies as follows:

9 REDIRECT EXAMINATION

10 BY MR. MYERS:

11 Q Now, Mr. Gordon, you testified yesterday about going
12 to

13 A Yes, sir.

14 Q On January 23rd, did you have occasion to go to a
15 residence off of Wrightsboro Road in Augusta?

16 A I did, sir, I went to

17 THE COURT: what road?

18 THE WITNESS:

19 THE COURT: ?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Thank you.

22 BY MR. MYERS:

23 Q I want to hand you what's been marked as State's
24 Exhibit 34. Who took that photograph?

25 A I did.

JAMES GORDON - Redirect Exam by Mr. Myers

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1 Q And why was that barrel of any interest?

2 A The barrel was of interest because items had been
3 burned in that barrel and I believe that is what we were
4 looking for at the time in reference to an incident that
5 had taken place.

6 Q What is this photograph of?

7 A This is a photograph of items from that location.

8 Q The barrel at that location?

9 A Yes.

10 MR. MYERS: Your Honor, we'd offer this in
11 evidence.

12 THE COURT: That would be No. 35, Madam Court
13 Reporter?

14 MR. HARTE: No objection.

15 THE COURT: That's 35, Solicitor?

16 MR. MYERS: State's 35.

17 THE COURT: State's 35 is in evidence without
18 objection.

19 (WHEREUPON, State's Exhibit No. 35 was marked
20 for identification and received into evidence.)

21 BY MR. MYERS:

22 Q Now, there is the barrel there. It's kind of
23 crooked, let me turn it. What was that stuff over to the
24 left right there where those rocks are?

25 A Next to the barrel was a fire pit where apparently

1 somebody had tried to also burn some items. If they did
2 it, it spilled out of the barrel I do not know, but it's a
3 fire pit. A fire had started there also.

4 Q And when you looked in that barrel, what did you see?

5 A It was pretty dark. It was like a sludge. I had to
6 take the barrel with me.

7 Q So it was in pretty bad condition?

8 A Yes, sir.

9 Q Were you able to get some things out?

10 A Yes, sir.

11 Q Now, I show you State's 35.

12 A Yes, sir.

13 Q Who collected those items?

14 A I did.

15 Q And where did you get those items from?

16 A They were collected from that location there. They
17 would have been from that location there.

18 Q All right, sir. And it's kind of hard to tell what
19 that is, but it appears to be some glasses up top?

20 A That was some metal-framed glasses. I didn't know if
21 they were -- the glass had melted apparently out of them.

22 Q Okay. And this stuff over to the right in the middle
23 and down to the bottom, what were those things?

24 A They were mostly clumps of paper I couldn't discern.
25 There was a key ring, which is the circular item, with no

JAMES GORDON - Redirect Exam by Mr. Myers

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1 keys on it. I believe there was a handle of a razor and
2 that's basically -- those kind of items.

3 Q Any type of cloth remnants or cloth material?

4 A Yes, sir. There were -- I believe it was several
5 pieces of cloth. These I couldn't make out really what
6 type it was. I could tell it was cloth because it had a
7 weave pattern.

8 Q But basically in pretty bad condition?

9 A Yes, sir.

10 MR. MYERS: If you would answer any questions
11 the defense has.

12 THE COURT: Thank you, Solicitor.

13 Mr. Harte.

14 RE-CROSS-EXAMINATION

15 BY MR. HARTE:

16 Q Mr. Gordon, was anything -- what did you do with the
17 items after you collected them?

18 A Basically what I did with them was I eventually
19 submitted these to -- the cloth items to the GBI, again,
20 to have them tested for any -- basically biological
21 evidence.

22 Q And did you get any reports back?

23 A I didn't get any reports back. I do not know the --
24 I do not know what was returned.

25 Q So, again, here we are almost nine years later and

1 we've got no report from something that was sent to the
2 Georgia Bureau of Investigations in 2002; is that right?

3 A I do not have the report, no, sir, I don't.

4 Q If there was a report, should it be in the Richmond
5 County case file?

6 A Yes, it would have probably been in the case file put
7 together by I would say Investigator Scott White.

8 Q And if he neglected to put those in the file, that
9 would be an omission, wouldn't it?

10 A I do not know. I assume he got the reports.

11 MR. HARTE: No further questions.

12 THE COURT: Redirect, Solicitor?

13 MR. MYERS: No further questions.

14 Could he be excused now?

15 THE COURT: Any objections to Officer Gordon
16 being excused?

17 MR. HARTE: No, I excused him yesterday.

18 THE COURT: Sir?

19 MR. HARTE: No objection.

20 THE COURT: Thank you very much for being with
21 us today. You may now be excused.

22 Your next witness will be a little lengthier,
23 Solicitor?

24 MR. MYERS: Yes, sir.

25 THE COURT: All right. Perhaps now would be a

1 good time to take a brief recess, ladies and gentlemen.

2 Please leave your note pads out here.

3 If everyone would remain in place until the jury
4 retires.

5 Remember, do not discuss the case during this
6 brief recess. We'll take about 15 minutes.

7 Thank you very much. You may now go with the
8 bailiff.

9 (The jury left open court at approximately
10 10:57 a.m.)

11 THE COURT: All right. Court will be in recess
12 15 minutes.

13 (A break was taken.)

14 (WHEREUPON, The Court's Exhibit No. 2 was marked
15 for purposes of the record.)

16 THE COURT: All right. Anything, Solicitor,
17 before we bring in our jury?

18 MR. MYERS: No, sir.

19 THE COURT: All right. Mr. Harte?

20 MR. HARTE: I didn't hear you, Your Honor.

21 THE COURT: Anything before we bring in our
22 jury?

23 MR. HARTE: No, Your Honor.

24 THE COURT: All right.

25 MR. MAYE: May it please the Court. I do have

1 some exhibits that we might be able to dispense with that
2 might speed the process up. I'm going to let Mr. Harte
3 look at these, if it pleases the Court, if that's all
4 right.

5 THE COURT: Certainly.

6 (WHEREUPON, State's Exhibits Nos. 36-52 were
7 marked for identification only.)

8 THE COURT: Bring us our jury, please.

9 (The jury came into open court at approximately
10 11:25 a.m.)

11 THE COURT: All right. Welcome back, ladies and
12 gentlemen.

13 It appears our jury is back in place.
14 Solicitor, you may call your next witness.

15 MR. MAYE: The State calls Stephen Curtis to the
16 stand, South Carolina Law Enforcement Division.

17 THE COURT: All right. Mr. Curtis, if you'd
18 please be sworn.

19 STEPHEN CURTIS, after being duly sworn,
20 testified as follows:

21 THE CLERK: Have a seat. State your full name
22 and spell your last, please.

23 THE WITNESS: Stephen Curtis, C-U-R-T-I-S.

24 MR. MAYE: Your Honor, before we begin, we have
25 a number of photographs and exhibits that are in by

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1 stipulation with both parties in this case, I believe
2 beginning with State's Exhibit No. 36.

3 And, Madam Court Reporter, could you tell me the
4 numbers?

5 THE COURT REPORTER: State's 36 through 52.

6 MR. MAYE: Thirty-six through 52 in by
7 stipulation, Your Honor.

8 THE COURT: All right. Is that correct, Mr.
9 Harte?

10 MR. HARTE: It is, Your Honor.

11 THE COURT: All right. State's 36 through 52
12 are in evidence without objection by stipulation.

13 (WHEREUPON, State's Exhibits Nos. 36-52 were
14 admitted into evidence.)

15 DIRECT EXAMINATION

16 BY MR. MAYE:

17 Q Mr. Curtis, just introduce yourself to the ladies and
18 gentlemen of the jury. Tell them where you've been
19 employed and what your particular area of expertise was in
20 law enforcement at your time of employment at the events
21 of this trial.

22 A Okay. Well, currently I'm a professor of criminal
23 justice at Horry-Georgetown Technical College down in
24 Myrtle Beach. But prior to that, I was an agent with the
25 South Carolina Law Enforcement Division, SLED. I retired

1 from there in 2008.

2 My last couple of years there, I was lieutenant
3 in charge of the internal affairs section, but prior to
4 that, the previous eight years, I was an agent assigned to
5 the crime scene latent print division there in Columbia.
6 And then prior to that, I was a deputy sheriff with the
7 Richland County Sheriff's Office. I held several
8 positions there from road deputy to investigator. My last
9 couple of years there, I was the sergeant over the
10 robbery-homicide section. That's dating back to the
11 beginning of my law enforcement career, back to the
12 mid-eighties.

13 Q Officer Curtis, for a large portion of the time that
14 you have been a law enforcement officer, has your
15 specialty been crime scene analysis, work in crime scene?

16 A Yes, sir. The majority of it was spent doing violent
17 crime work and probably three-fourths of that time, I was
18 working in the capacity of crime scene investigator or
19 analyst.

20 Q Did you have specialized training in that regard?

21 A Yes, sir, I did.

22 Q Let me ask you this: At the request of the Edgefield
23 County Sheriff's Department, did you respond to a location
24 off Lakeview Road in Edgefield County on January 23rd of
25 2002?

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1 A Yes, sir, I did.

2 Q Okay. Could you please tell the ladies and gentlemen
3 of the jury about what you did and what you found as a
4 result of your assistance to the Edgefield County
5 Sheriff's Department?

6 A The position I was in at the time, an agent being
7 assigned to a crime scene latent print unit, we were
8 responsible or responding rather for the state at the
9 request of local law enforcement to assist them usually
10 with the investigations of violent crimes.

11 In this particular instance, they had informed
12 me that they had a homicide or found the remains of a
13 person I believe had been killed in the commission of a
14 homicide there. And they had worked the crime scene, but
15 had gotten some additional information and wanted me to
16 come down and go through the crime scene, in particular
17 looking for some projectiles or spent bullets that may
18 have been fired during this incident from some information
19 they'd gotten, basically to come and do a little bit of an
20 excavation, or dig, for some of the bullets in some
21 locations they thought may be where we could recover some
22 of these projectiles at was the main thrust for me coming
23 down here that day.

24 Q What did you do when you arrived? And I already have
25 in evidence here a diagram which is in evidence, State's

1 Exhibit 36, of the area here. Is that a diagram that you
2 recognize?

3 A Yes, sir. That's a crime scene sketch that I did as
4 part of a blowup of my file on this particular incident.
5 It's got my name and the case number there assigned to
6 that.

7 That's just a rough diagram of the layout of the
8 scene. It's not an architectural drawing or anything to
9 scale or anything like that, but basically just shows the
10 relationship and the location of the scene and the
11 relationship of some of the items recovered during my
12 processing of this crime scene.

13 Q Please relate to the ladies and gentlemen of the jury
14 what you did to process the scene, what your findings
15 were. And if you need to refer to any photographs or
16 items that are of interest, if you'd hand them to me, I'll
17 post them for the jury.

18 A Well, basically, they wanted us to come down and just
19 go through the scene again and particularly look and could
20 we find any additional projectiles or bullets that had
21 been fired during this incident.

22 So one of the first steps getting there, getting
23 briefed by the officers there, I spoke with Sergeant Doran
24 at the time. He met us out there and one of other SLED
25 agents was with him. And they pointed out the area where

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1 they had recovered the remains, that kind of thing. So we
2 do a rough diagram, taking a few approximate measurements
3 there and then go in and photograph the scene as we find
4 it, creating a historical record for later presentation in
5 court or possibly to be used during the investigation of
6 other questions that may come up as information coming in.

7 What the sketch shows, though, is back at the
8 edge of the -- off of the road there, Lakeview Road,
9 through a couple of pastures we got to an area that was
10 fenced in with a gate. And then from the gate moving
11 backwards, we found a couple of items there. There were a
12 couple of scraps of blue denim material that were there, a
13 couple of bones. I don't know if they were human or
14 animal bones, whatever they were, and then the main area
15 where they recovered the remains when they were out there
16 the month before and that's where we focused on digging
17 and sifting through the dirt in an attempt to try and
18 recover some of those projectiles over there.

19 And we were able to find two or what appeared to
20 be projectiles. I collected those, took them back to
21 Columbia and sent them to the firearms department.

22 BY MR. MAYE:

23 Q Would you please relate or refer to any photographs
24 that might assist the jury in helping orient them to
25 certain items that you found that were of interest to you

1 as a crime scene specialist?

2 A In finding the cloth material photograph here,
3 photograph one or the marker one there in the exhibit --
4 I'm not sure what the exhibit number is there. Again,
5 that appeared to be something that --

6 Q For the record, that is State's 48.

7 A -- appeared to be something that wouldn't normally
8 have been there. So as a measure of precaution, we try to
9 collect things that could possibly be evidence at the
10 time, not knowing for sure, but that didn't appear to be
11 part of any of the leaves, pine straw, any of that kind of
12 stuff, so we collected that as well.

13 Q Okay.

14 A Item 7, again staying with the cloth material, back
15 of the diagram is another piece of cloth material.

16 Q That's State's 41.

17 A Item 2 was a -- State's 39 was a piece of what looked
18 like bone or appeared to be bone.

19 Q That's on State's 39.

20 A Item 3, which is State's 44, appeared again to be a
21 bone.

22 At this point, I'm not an anthropologist or
23 anything, but obviously appear to be some type of bones
24 there at the crime scene. So, again, the job is to
25 collect them and maybe analysis needs to be done later on

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1 to make that determination.

2 And then Item 4 was another bone.

3 MR. HARTE: What exhibit is that, please?

4 MR. MAYE: It's State's 46.

5 THE WITNESS: And then the last two photographs,
6 Exhibit 37 is one of the metal objects or projectiles or
7 appeared to be a projectile to me when we dug it up.

8 We just took a shovel -- this was about six
9 inches into the ground. We took that up and we have a
10 sifter, which is basically a piece of mesh wire stretched
11 out over on a couple of boards and we dump the dirt in it
12 and shake it back and forth in the dirt, the small debris
13 will fall out and anything larger will remain in there.
14 And that, again, appeared to be one of the projectiles.

15 And then State's 38 is the second one as well.
16 So those were collected and taken back to Columbia.

17 And that's the object in my hand when I had
18 gloves on.

19 And again, that was our primary focus, could we
20 find any additional projectiles based upon some of the
21 information that they had gathered during their
22 investigation, that there may have been more than one shot
23 fired there, that kind of thing.

24 Q But you were never provided with a firearm to take
25 back for comparison, were you?

1 A No, sir, not at that time.

2 Q Okay. What else did you find? Did you conduct any
3 measurements or determine how far a distance that things
4 were there at the scene?

5 A We just did a rough measurement.

6 Now, the actual location off of Lakeview Road
7 was roughly, I think, three-quarters of a mile or so off
8 of the road itself. And then starting at the fence or the
9 gate area, we kind of measured back from there, and on my
10 sketch I've got marked the distances from the gate post
11 just to give a rough idea how far into the woods past that
12 point they were. That is on the diagram there.

13 Q Did you recover and take certain items back to the
14 lab with you?

15 A Yes, sir, the two projectiles I took back and the
16 three pieces of -- or, I'm sorry, the two pieces of denim
17 material we took back. The denim material I sent to the
18 DNA processing unit and the two projectiles I sent to the
19 firearms unit for analysis.

20 Q To your knowledge, there were never any firearms that
21 were submitted for additional --

22 A No, sir. I mean, if later on they had recovered a
23 gun or something like that, then Edgefield County would
24 have submitted that directly to SLED in Columbia. It
25 wouldn't have gone through me, it would have gone directly

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1 to the firearms department if that had come up later on.

2 MR. MAYE: Beg the Court's indulgence.

3 Please answer any questions the defense has for
4 you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Harte.

7 CROSS-EXAMINATION

8 BY MR. HARTE:

9 Q I guess it's Mr. Curtis now, isn't it?

10 A Yes, sir.

11 Q Mr. Curtis, as I understand it, all you did was
12 gather up these items and send them to the various
13 laboratories?

14 A Yes, sir, the original crime scene area.

15 Q So did you ever get any reports back on the results
16 of any testing that was done?

17 A I wouldn't have got those. I would have generated a
18 report myself and my report just consisted of the fact
19 that I came to the scene, took photographs, collected some
20 items, and then distributed them to the departments, the
21 different forensic departments at SLED. So any reports
22 from those departments would have been sent directly to
23 Edgefield County.

24 Q All right. When you were asked about a firearm, you
25 initially said not at that time, but you never received a

1 firearm?

2 A I never did, because when we were out there at the
3 scene, they didn't have one and one wasn't given to me to
4 bring back. And then I was never contacted about a
5 firearm again.

6 But like I said, if Edgefield County had
7 recovered one at a later date, then they could have turned
8 that into SLED in Columbia and not gone through me but
9 gone directly to the department.

10 Q You never would have known that?

11 A No, sir, it's possible that I wouldn't.

12 Q So far as you know, I mean, you don't even know what
13 caliber projectile you found, do you?

14 A No, sir. No, I don't. I mean, that's not my area of
15 expertise.

16 Q You don't know if there's any DNA results or any
17 fingerprints or anything like that?

18 A No. The way that we worked at SLED, as a crime scene
19 agent, I would collect material that I thought was
20 relevant or could produce some kind of results and then
21 distribute them -- when I get back to Columbia, distribute
22 them to the various departments. Then any items that I
23 might have worked for latent prints, blood splatter
24 analysis, footprints, tire tracks, anything like that, I
25 would have issued a report on, but none of that was

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1 involved in here. So something like DNA or ballistics,
2 that department itself would have issued a report and then
3 I listed Sergeant Doran as the contact person here, so
4 they would have directly sent any reports to him or to the
5 sheriff's office.

6 Q But you did send it to the appropriate laboratory?

7 A Yes, sir.

8 MR. HARTE: Thank you. I have no further
9 questions.

10 MR. MYERS: May he be excused, Your Honor?

11 MR. HARTE: Yes.

12 THE COURT: All right. Yes, sir. Thank you
13 very much. Thank you for being with us, Mr. Curtis.

14 THE WITNESS: Yes, sir.

15 THE COURT: And you may be excused. Thank you
16 very much.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right. Solicitor, you may call
19 your next witness.

20 MR. MYERS: Madam Clerk, if you will swear her
21 in.

22 THE CLERK: Step right up here, please. Raise
23 your right hand, please, and put your left hand on the
24 Bible.

25 CHARLENE THATCHER, after being duly sworn,

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1 testified as follows:

2 THE CLERK: Have a seat. State your full name
3 and spell your last name, please.

4 THE WITNESS: Charlene M. Thatcher,
5 T-H-A-T-C-H-E-R.

6 DIRECT EXAMINATION

7 BY MR. MYERS:

8 Q Ms. Thatcher, where are you from originally?

9 A Massachusetts.

10 Q Did you ever move from Massachusetts to Georgia?

11 A Yes, sir.

12 Q And what city in Georgia?

13 A Augusta, sir.

14 Q Pardon me?

15 A Augusta, sir.

16 Q And about when was this that you moved from
17 Massachusetts to Augusta, Georgia?

18 A August 1st, 2001.

19 Q August 1st, 2001?

20 A Yes, sir.

21 Q Now, while you were in Augusta, later on around the
22 latter part of August of 2001, did you become acquainted
23 with a person named Steven Barnes?

24 A Yes, sir.

25 Q And did he have a nickname?

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- 1 A Yes, sir.
- 2 Q What was it?
- 3 A Big Man, sir.
- 4 Q Now, did you start to associate with him?
- 5 A Yes, sir.
- 6 Q I want to take you up -- and when was it that you
7 became acquainted with him in August?
- 8 A August 27th, 2001, sir.
- 9 Q August the 27th?
- 10 A Yes, sir.
- 11 Q Now, I want to take you about a week later, Labor Day
12 weekend.
- 13 A Yes, sir.
- 14 Q 2001, that weekend, were you in his presence during
15 that weekend?
- 16 A Yes, sir.
- 17 Q Did you, he, and other people go somewhere that
18 weekend night?
- 19 A Yes, sir.
- 20 Q Where did you all go?
- 21 A To the club, sir.
- 22 Q To the club?
- 23 A Yes, sir.
- 24 Q Were there other people with you?
- 25 A Yes, sir.

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- 1 Q Do you remember any of them's names?
- 2 A A few.
- 3 Q What names do you remember?
- 4 A Sam Sturup, Richard Cave, Antonio Griffin, and a few
5 other people I can't remember.
- 6 Q Okay. Did you know Sam Sturup very well?
- 7 A No, sir.
- 8 Q Now, I want to take you on to Labor Day. Labor Day
9 would have been September 3rd. That was on Monday.
- 10 On that Monday, did you happen to be in the
11 presence of Steven Barnes, Big Man?
- 12 A Yes, sir.
- 13 Q And did you go meet him or he come to meet you?
- 14 A He came to me, sir.
- 15 Q Did you all go anywhere?
- 16 A Yes, sir. To Cherry Street.
- 17 Q Cherry Street?
- 18 A Yes, sir.
- 19 Q And where on Cherry Street did you go?
- 20 A To a house that belonged to somebody that was
21 acquainted to Barnes.
- 22 Q And did that house have a name?
- 23 A Yes, we nicknamed it the Green.
- 24 Q The Green?
- 25 A Yes, sir.

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1 MR. MYERS: Beg the Court's indulgence one
2 moment, Your Honor.

3 THE COURT: Yes, sir. Certainly.

4 (Pause.)

5 BY MR. MYERS:

6 Q Can you see that very well?

7 A Yes, sir.

8 Q Is that the green house?

9 A Yes, sir.

10 Q Now, when you got over to the green house, did
11 anybody else ride with you and Mr. Barnes?

12 A No, sir.

13 Q When he picked you up, what did he tell you -- why
14 did he want you to go with him? What did he say to you?

15 A We're going on a mission.

16 Q Going on a mission?

17 A Yes, sir.

18 Q Did he explain that to you?

19 A No, sir.

20 Q And when you got over to the green house, did you
21 stay outside or did you go inside?

22 A I went inside, sir.

23 Q Did some other people arrive at the green house?

24 A Yes, sir.

25 Q Who do you remember arriving?

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- 1 A William Harris, sir.
- 2 Q Who is William Harris?
- 3 A Barnes' brother, sir.
- 4 Q And has he got a nickname?
- 5 A Little Man, sir. He arrived with Sturrupe, sir. I'm
6 sorry. I forgot to say that.
- 7 Q He arrived with Samuel Sturrupe?
- 8 A Yes, sir.
- 9 Q And did some other people later on come up?
- 10 A Yes, sir, Griffin and Cave.
- 11 Q Griffin and Cave came up there?
- 12 A Yes, sir.
- 13 Q Now, were you outside with them or were you inside
14 the house?
- 15 A I was inside, sir.
- 16 Q And who told you to go inside?
- 17 A Barnes, sir.
- 18 Q All right. Could you hear what was going on outside?
- 19 A Yes, sir.
- 20 Q What was going on outside?
- 21 A Cave and Griffin were fighting Sturrupe because Barnes
22 told them to.
- 23 Q Barnes told Cave and Griffin to do what?
- 24 A To fight Sturrupe.
- 25 Q Did you hear Big Man saying anything to Sam?

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- 1 A Not really, sir. I could hear everyone saying
2 something, but I couldn't really tell what they were
3 saying.
- 4 Q Right. Did you see any kind of confrontation between
5 Big Man and Sam?
- 6 A Not when I was in the house, sir, no.
- 7 Q Pardon me?
- 8 A Not when I was in the house, sir, no.
- 9 Q At some point, were you asked to come outside?
- 10 A Yes, sir.
- 11 Q And who asked you to come outside?
- 12 A William Harris came in the house and started beating
13 on me and Barnes ordered me to come out the house.
- 14 Q Okay. So after you came out of the house, what
15 happened?
- 16 A Barnes started beating on me.
- 17 Q Why?
- 18 A I really didn't know at that point.
- 19 Q Later on did you find out why?
- 20 A Yes, sir.
- 21 Q Why?
- 22 A Because he wanted to know who stole his money and it
23 was between Sturrup and I. That was his suspicion.
- 24 Q All right. Who stole some money, either Sam Sturrup
25 or you?

- 1 A Yes, sir.
- 2 Q Now, you said Big Man started to beating on you?
- 3 A On me, yes, sir.
- 4 Q Did he hit you with anything?
- 5 A No, just his body.
- 6 Q Now, did he accuse you of stealing some money?
- 7 A Yes, sir.
- 8 Q Did you steal any money?
- 9 A No, sir.
- 10 Q Did you tell him that?
- 11 A Yes, sir.
- 12 Q Did he accuse Sam of stealing money?
- 13 A Yes, sir.
- 14 Q What did Sam say?
- 15 A That he didn't. At first he said he didn't.
- 16 Q You said at first he didn't?
- 17 A Yes.
- 18 Q And then did he change his story?
- 19 A Yes, sir, after getting beat up.
- 20 Q Who beat him up?
- 21 A Barnes and Cave and Griffin.
- 22 Q Okay. And how did he change his story? How did Sam
- 23 change his story?
- 24 A I don't really know how to answer that.
- 25 Q Well, did he say "I don't have the money" or change

CHARLENE THATCHER - Direct Exam by Mr. Myers

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1 it in any way?

2 MR. HARTE: Objection to the form of the
3 question, Your Honor.

4 THE COURT: Overruled.

5 BY MR. MYERS:

6 Q After he said, "I don't have any money," did he
7 change his story in any way of who had the money?

8 A He did after he got scared.

9 Q How did he change it?

10 A He said that he has the money underneath his bed at
11 his house.

12 Q He had the money at his house --

13 A Yes, sir.

14 Q -- under a bed?

15 A Yes, sir.

16 Q What did Big Man say about that?

17 A He said, "What about your sister and your mother,
18 they may be home."

19 Q He said what?

20 A He said, "What about your mother and sister,"
21 Sturup's mom and sister, "that they may be home."

22 Q And what did Barnes say about that?

23 A That's what he said to Sturup.

24 Q What did Sam say?

25 A He said, "Just please let him go home and he'll give

1 him his money, he just wants to be done with this."

2 Q What did Big Man say about taking him home?

3 A He said sarcastically, "You're going home."

4 Q Barnes said to Sam sarcastically, "You're going
5 home"?

6 A Yes, sir.

7 Q What did he mean by that?

8 MR. HARTE: Objection, Your Honor.

9 THE COURT: What's the basis?

10 MR. HARTE: Calls for speculation on what the
11 defendant thought.

12 THE COURT: I thought he was asking her her
13 interpretation of that.

14 MR. HARTE: I believe his question was, "What
15 did he mean by that?"

16 MR. MYERS: That's all right. I'll withdraw it.

17 THE COURT: All right. Either withdraw it,
18 Solicitor, or rephrase your question. I would sustain the
19 objection.

20 BY MR. MYERS:

21 Q Now, did he take Sam home?

22 A No, sir.

23 Q Did he ever ask you to hit Sam, Barnes, did he ever
24 ask you to hit Sam?

25 A To hit him, sir? Yes, sir.

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1 Q With what?

2 A With a large metal object that looks like a wrench,
3 but it's really large.

4 Q Did Barnes ever ask you to hit Sam with anything
5 else?

6 A No, sir.

7 Q Did they ever use anything to hit you with over your
8 feet or hands or body?

9 A Yes, sir, just a broom. William Harris hit me with a
10 broom.

11 Q With a broom?

12 A Yes, sir.

13 Q Did Barnes ever order you to take that broom and hit
14 Sam?

15 A I don't recall, no, sir.

16 Q But you remember a broom; is that right?

17 A Yes, sir.

18 Q Now, did William Harris, Little Man, did he stay
19 there?

20 A Not after awhile, sir. After we engaged in hitting
21 Sam, he got a call and left, William Harris did.

22 Q Little Man got a call and left?

23 A Yes, sir.

24 Q Did he ever come back to the green house?

25 A No, sir.

- 1 Q Now, with William Harris gone, you're there?
- 2 A Yes, sir.
- 3 Q Steven Barnes still there?
- 4 A Yes, sir.
- 5 Q What about Sam, is he still there?
- 6 A Yes, sir.
- 7 Q What about Cave, is he still there?
- 8 A Yes, sir.
- 9 Q And what about Griffin?
- 10 A Griffin, yes, sir.
- 11 Q Now, did the five of you -- while you were there, did
- 12 you all remain there at the green house or did you all
- 13 walk anywhere or what?
- 14 A After awhile of going back and forth with the
- 15 questioning, me and Sam, about the money --
- 16 Q Who was questioning you?
- 17 A Barnes.
- 18 Q Yes, ma'am.
- 19 A He decided that -- Barnes decided that me, Griffin,
- 20 Cave and Sturup would all go to the train tracks.
- 21 Q Now, the train tracks. You can't see this very good
- 22 here.
- 23 This house right here up top --
- 24 A Yes, sir.
- 25 Q -- are the train tracks on this side of the house or

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- 1 on the other side of the house?
- 2 A They're on this side.
- 3 Q Back over here to the left?
- 4 A Yes, sir.
- 5 Q So you're pointing that the train tracks are back on
6 that side of the house back over here?
- 7 A Yes, sir.
- 8 Q Looking at the house, it's back over on the left side
9 of the house?
- 10 A Yes, sir.
- 11 Q Now, did you all go down to the train tracks?
- 12 A Yes, sir, we did.
- 13 Q And what happened when you all walked down to the
14 train tracks?
- 15 A Barnes ordered Sturup to walk ahead of him and I.
- 16 Q Do what now?
- 17 A Barnes ordered Sturup to walk ahead of Barnes and I
18 and Cave and Griffin were to stand in the back of Barnes
19 and I.
- 20 Q Okay.
- 21 A And Barnes told me to shoot Sturup, and I was
22 pleading with him, no, I did not want to shoot Sturup, so
23 he --
- 24 Q You're pleading to do what now?
- 25 A I was pleading with Barnes that I did not want to

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- 1 shoot Sturup.
- 2 Q What did Barnes want you to shoot Sturup with?
- 3 A With a .45 Ruger.
- 4 Q A Ruger?
- 5 A Yes, sir.
- 6 Q And who had the Ruger?
- 7 A Barnes, sir.
- 8 Q Where did he have it?
- 9 A In his hands, sir, his right hand.
- 10 Q All right. And you said you didn't want to shoot
- 11 Sam?
- 12 A No, sir.
- 13 Q What happened after that?
- 14 A So Barnes told Sam Sturup, "Well, here's the gun,
- 15 you can shoot her, she don't want to shoot you. Prove to
- 16 me that you didn't steal my money." And he was about to
- 17 hand it to Sam and Sam came running up and I grabbed
- 18 Barnes' arm and I was, like, holding onto him, telling
- 19 him, "Please don't do this."
- 20 Q What happened?
- 21 A He didn't.
- 22 Q What else happened out there on the railroad tracks,
- 23 Ms. Thatcher?
- 24 A After a little while, Barnes decided that Cave and
- 25 Griffin were going to get Sam and walked ahead of him and

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1 I.

2 Q Cave and Griffin were going to get Sam and walk ahead
3 of you all?

4 A Yes, sir.

5 Q What direction were they going in?

6 A Well, the train track's on the left-hand side, so you
7 take a right and go up the train tracks. We had to turn
8 around, so they went to the left this time.

9 Q Okay. So you were coming back?

10 A Yes, sir.

11 Q And what happened when Cave and Griffin and Sam were
12 in front of you and you were back there with Big Man?

13 A I'm sorry?

14 Q What happened when you all were walking back? Cave
15 and Griffin and Sam in front of you and you were back
16 there with Big Man, what happened?

17 A Big Man asked me -- well, he didn't ask me, he told
18 me, "You're going to kill him," referring to Sturupp.

19 Q Said you're going to kill Sturupp?

20 A Yes, sir.

21 Q Right then or what?

22 A No. He just told me that I'm going to.

23 Q What did you do?

24 A I didn't want to.

25 Q Out on the railroad tracks, did Barnes ever say

1 anything to Sam about being shot?

2 A Not -- not like that, no. He just --

3 Q How did he say it?

4 A He just told us that one of us was going to shoot
5 each other.

6 Q Now, you all walking back on the railroad tracks,
7 walking back to the green house?

8 A Yes, sir, on Cherry Street.

9 Q Did Barnes say anything else about shooting or dying?

10 A He told everybody that was present at the time, the
11 five people -- Cave, me, Griffin, Barnes and Sturupp --
12 that somebody is going to die tonight. And eventually
13 after the Hunsbergers came, we all knew that it was going
14 to be Sturupp because he told Sturupp that he was going to
15 die.

16 Q Who told Sturupp he was --

17 A Barnes, sir.

18 Q So Barnes said, "Somebody is going to die tonight"?

19 A Yes, sir.

20 Q And then he told Sturupp that he was going to die
21 tonight?

22 A Later on, yes, sir.

23 Q Later on?

24 A Yes, sir.

25 Q All right. Now, you get back to the green house and

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1 you said something about the Hunsbergers.

2 A Yes, sir. Earlier on Barnes phoned them on his cell
3 phone and they came, like, right -- not as soon, but a
4 little while after we got off the train tracks.

5 Q You heard Barnes call the Hunsberger brothers?

6 A Yes, sir. I don't know which one, but I know he
7 called one of them.

8 Q And then they arrived a little later?

9 A Yes, sir.

10 Q Let me ask you a question. When Barnes said that
11 you're going to kill Sam, why did he want you to kill him?

12 A I have no idea, sir.

13 Q He didn't give you a reason?

14 A No, sir.

15 Q All right. You get back to the green house now, off
16 the railroad tracks and back to the green house; is that
17 correct?

18 A Yes, sir.

19 Q Did anything happen from then until the time that the
20 Hunsberger brothers arrived?

21 A Only Barnes saying to Sam that he's going to die,
22 what does he want for his last meal.

23 Q Barnes told Sam he was going to die and what?

24 A What does he want to eat for his last meal.

25 Q What did Sam want to eat for his last meal?

1 A Yes, sir.

2 Q Did Sam say anything?

3 A Yes, sir, but I really can't remember what he asked
4 for. But I know he didn't get it.

5 Q What happened after the Hunsberger brothers arrived?

6 A Barnes told Sturup to enter the Hunsbergers' trunk
7 of their car.

8 Q You saw that?

9 A Yes, sir.

10 Q And who else was in the Hunsbergers' car? Barnes was
11 in the trunk, who else was in the car?

12 A Sturup was in the trunk, sir.

13 Q Sturup was in the trunk?

14 A And after they put him in the trunk, they meaning the
15 Hunsbergers, and Barnes pointing the gun at him, Sturup,
16 and the Hunsbergers went inside their vehicle and then me,
17 Barnes, Cave, and Griffin all went inside Barnes' vehicle.

18 Q What kind of vehicle was that?

19 A A white Chevy Caprice.

20 Q Where did you think you all were going?

21 A I had no clue.

22 Q Now, you said that at one time, Barnes told Sam he
23 would take him home?

24 A Yes, sir. A few times he said that, sir.

25 Q Pardon?

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- 1 A A few times he told him that he would take him home,
2 because Sam kept asking him to take him home.
- 3 Q So it happened more than one time?
- 4 A Yes, sir.
- 5 Q Did you know where Sam lived?
- 6 A No.
- 7 Q Did you know where Cave and Griffin lived?
- 8 A No, sir.
- 9 Q Did you know where the Hunsbergers lived?
- 10 A No, sir.
- 11 Q Did you know Cave and Griffin very well up to that
12 point?
- 13 A Not at all, sir.
- 14 Q Did you know the Hunsberger brothers very well?
- 15 A No, sir.
- 16 Q Now, after everybody got in the cars, what happened?
- 17 A The Hunsbergers took off first, pulled out and drove
18 first, and then Barnes followed behind them.
- 19 Q At this point, did you know where you were going?
- 20 A I still didn't know, sir.
- 21 Q Do you have any idea what road you took or where you
22 went?
- 23 A No, sir.
- 24 Q Where did you end up?
- 25 A On an open field property with a lot of, like, trees

1 and stuff.

2 Q Do you know how you got down to that open field
3 property?

4 A Meaning? I don't understand what you're saying.

5 Q Do you know how -- what road you took to get down to
6 that property?

7 A No, sir.

8 Q Was it all paved?

9 A No, sir. It was a dirt road, like woodsy looking.

10 Q Now, tell me about this open field. What do you
11 know?

12 A It's very big. It's got a lot of trees and grass and
13 a fence at the end on the right.

14 Q There on the right?

15 A Yes, sir.

16 Q Did you all park up close to the fence?

17 A No, sir.

18 Q Where did you park?

19 A We parked where the opening starts on that part of
20 the field.

21 Q Okay. And what happened when the cars stopped?

22 A Everyone that I named earlier -- Cave, Griffin,
23 Barnes -- exited the vehicle that I was in, and I exited,
24 too. And then the Hunsbergers exited their vehicle and
25 helped Sam out of the trunk.

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- 1 Q So they got Sam out of the trunk?
- 2 A Yes, sir.
- 3 Q What happened then?
- 4 A Barnes told Sam to walk ahead of everybody.
- 5 Q Did Sam do that?
- 6 A Yes, sir.
- 7 Q All right. Now, y'all are walking. Are you in the
8 woods yet or are you out in the field?
- 9 A We're still in the field, sir.
- 10 Q Out in the field. And then you walked down, you said
11 down to the right down there where the fence is?
- 12 A Yes, sir.
- 13 Q Was there something else other than a fence down
14 there?
- 15 A There was a little barbed wire.
- 16 Q Okay. Right down where that barbed wire was, do you
17 remember anything else being out there that you had to
18 cross over?
- 19 A Just that black fence.
- 20 Q Okay. Now, did you stop there at the fence?
- 21 A No, sir. I went -- I had to get help, but I went
22 over the fence, climbed over it.
- 23 Q And when everybody got over the fence, what happened
24 then?
- 25 A Barnes told Sturrup, "Pick a place to die. Just stop

1 walking where you want to die."

2 Q Now, you all are in an open field now or what are you
3 in?

4 A No, sir, behind the fence. It's like really crowded
5 up with trees.

6 Q When you got out of that car before you all walked
7 down to the fence --

8 A Yes, sir.

9 Q -- and the stuff down there, did you kind of look
10 around to see where you were?

11 A Yes, sir.

12 Q Did you make any statements?

13 A Yes, sir. I told Barnes that this place was
14 beautiful.

15 Q You told Barnes "This place was beautiful"?

16 A Yes, sir.

17 Q What did he say?

18 A He said that I'll never forget this place.

19 Q You'll never forget this place?

20 A Yes, sir.

21 Q And then going down to the fence or whatever,
22 crossing over, Barnes tells Sam to pick a place to die.
23 What happens next?

24 A Sam walked maybe like 10, 15 feet -- no less, maybe
25 more -- and stopped, and Barnes was standing behind me. I

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1 was standing right here, and the other four people were on
2 this side of me, and Barnes told me to shoot Sam.

3 Q Let me ask you this: Have you got any idea about
4 what time of night this is?

5 A I have absolutely no clue, but I know it was really
6 late.

7 Q Do you know whether it was before midnight or after
8 midnight? Do you have any idea?

9 A I really don't know, sir.

10 Q You don't know what time, don't know where you were?

11 A No, sir.

12 Q Were there any lights out there?

13 A No, sir, it was dark.

14 Q It was dark out there?

15 A Yes, sir.

16 Q Now, Barnes said for you to shoot Sam?

17 A Yes, sir.

18 Q Were you going to be the only one to shoot?

19 A No, sir.

20 Q Who else was going to shoot him?

21 A Barnes, Cave, Griffin, and the Hunsberger brothers.

22 Q How do you know that?

23 A Because they all had guns.

24 Q Now, was anybody giving orders about the shooting?

25 A Just Barnes, sir.

1 Q What was he saying?

2 A He was telling us that we all have to shoot or we'll
3 be shot along with him.

4 Q You all have to shoot or be shot?

5 A Yes, sir.

6 Q When he gave you the gun, you were going to be the
7 first one to shoot?

8 A Yes, sir.

9 Q Did you shoot Sam?

10 A Not willingly, but yes, sir, I did.

11 Q How did that happen?

12 A Barnes held a gun to my back and held my hand and
13 made me shoot Sam when I covered my eyes.

14 Q What do you mean -- he had a gun to your back?

15 A Yes, sir.

16 Q And what do you mean he held your hand?

17 A He held my hand and made me shoot Sam.

18 Q How did he hold your hand?

19 A He held my arm out and made sure that I aimed at Sam,
20 then he let it go and I shot him.

21 Q And he was behind you at that time?

22 A Yes, sir, with a gun to my back, sir.

23 Q Where did you shoot Sam?

24 A I believe in the stomach because that's where I
25 aimed.

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1 Q The stomach area?

2 A Yes, sir. But I covered my eyes so I really don't
3 know.

4 Q What happened after you shot him?

5 A Barnes shot Sam in the head.

6 Q All right. Did the other fellows shoot, too?

7 A Yes, sir.

8 Q Okay. Are you real clear on what order everybody
9 shot?

10 A No, sir. Because at that time I was distraught.

11 Q Were you crying?

12 A Yes, sir. I was freaking out.

13 Q Now, you said that Sam was shot in the head by
14 Barnes?

15 A Yes, sir.

16 Q How do you know that?

17 A Because after I'd shot, sir, I passed him the gun and
18 he shot immediately after I passed it to him.

19 Q Shot Sam in the head?

20 A Yes, sir.

21 Q Now, when Barnes shot Sam in the head, were you there
22 with him?

23 A Yes, sir. I was standing in the same spot that I was
24 already in.

25 Q You saw Barnes shoot Sam in the head?

- 1 A Yes, sir.
- 2 Q And did you all leave right then?
- 3 A No, sir.
- 4 Q Why?
- 5 A Because the other man that was present shot him, too.
- 6 Q All right. Who are the last ones to leave?
- 7 A Barnes and I.
- 8 Q You all were the last two to leave?
- 9 A Yes, sir.
- 10 Q Why were you all the last two to leave?
- 11 A Because Barnes was watching and making sure that Sam
- 12 was dead.
- 13 Q Were you there when he was watching Sam die?
- 14 A Yes, sir.
- 15 Q Were you still freaking out at that time?
- 16 A Yes, sir. I just wanted to leave.
- 17 Q You were pretty upset then?
- 18 A I was more than pretty upset, sir.
- 19 Q Any doubt in your mind that Steven Louis Barnes, Big
- 20 Man, shot Samuel Sturup in the head?
- 21 A No, sir.
- 22 Q Any doubt in your mind that he stayed there and
- 23 watched Sam die?
- 24 A No.
- 25 Q Were you wanting to stay there with him?

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- 1 A No, I didn't want to, but I was afraid to leave him
2 or turn around because I was scared he was going to shoot
3 me.
- 4 Q What did you and Barnes do after Sam died then?
- 5 A After he sat there watching him die -- and I'm
6 guessing he was satisfied, I don't really know -- but one
7 of the Hunsbergers was, like, "Come on, China, let's go."
8 So I was pulling on Barnes, like asking him, "Come on,
9 let's go, we've got to go." And eventually he gave in and
10 we all left.
- 11 Q Did you go back to the car?
- 12 A The cars, yes, sir.
- 13 Q Now, you said somebody called you China?
- 14 A Yes, sir.
- 15 Q Is that your nickname, China?
- 16 A It was my nickname, sir.
- 17 Q Was?
- 18 A Yes, sir.
- 19 Q And which car do you get in?
- 20 A The same Chevy Caprice with Barnes.
- 21 Q Who got in the same Chevy Caprice?
- 22 A Cave, Griffin, me and Barnes.
- 23 Q The Hunsbergers got in their car?
- 24 A Yes, sir.
- 25 Q And where did you go then?

1 A We went back to the same property, but it was in a
2 trailer.

3 Q What happened in the trailer?

4 A Everybody sat down in the living room. And Barnes
5 asked everyone how did they feel about what just happened.
6 And everybody basically answered that they was cool with
7 it. And the Hunsbergers in the process of things were
8 getting plastic bags and towels so they could clean the
9 guns and put them in a plastic bag.

10 Q Did you say you were cool with it?

11 A Yes, sir.

12 Q Why?

13 A Because I was scared. And I didn't want him to think
14 that I was, you know, betraying him or anything because I
15 was scared for my life.

16 Q Now, who left the trailer?

17 A Me, Barnes, Cave, and Griffin, sir.

18 Q Got back in the white Caprice?

19 A Yes, sir.

20 Q And where did you all head?

21 A We headed back to Augusta, sir, but stopped at a
22 bridge.

23 Q Stopped at a bridge?

24 A Yes, sir.

25 Q Why did you stop at the bridge?

CHARLENE THATCHER - Direct Exam by Mr. Myers

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- 1 A To get rid of the two guns.
- 2 Q What were they in?
- 3 A A plastic bag, sir.
- 4 Q Okay. Who said to stop at the bridge?
- 5 A Barnes was in control of the car, sir. So nobody
- 6 really said to stop.
- 7 Q And who threw -- or what happened to the gun?
- 8 A Griffin got the bag and walked to the side of the
- 9 bridge and dropped it in the water.
- 10 Q Who told him to drop the bag of guns over the bridge?
- 11 A Barnes.
- 12 Q After you all crossed that bridge after dropping the
- 13 guns in the river, where did you all go?
- 14 A We went back to Cherry Street, sir.
- 15 Q To the green house?
- 16 A Yes, sir.
- 17 Q The clothes that you had on --
- 18 A Yes, sir.
- 19 Q -- what happened to those clothes?
- 20 A The next morning when Barnes took me back to the
- 21 motel where I was staying at with Griffin and Cave, they
- 22 came, too, and he collected all our clothes.
- 23 Q Who collected them?
- 24 A Barnes, and told us that he was going to burn them.
- 25 Q So clothes would be burned?

1 A Yes, sir, including my sneakers, too.

2 Q Now, let me ask you this: Why didn't you tell
3 anybody what happened to Sam?

4 A Why did I tell everybody?

5 Q Yes, ma'am.

6 A Because it was wrong and I thought, you know, his mom
7 would like to know, because she came to the house.

8 Q Let me ask you this: Why didn't you tell somebody
9 what had happened to Sam? Why didn't you report what
10 happened to him?

11 A Well, I didn't tell a lot of people, sir, but
12 everyone I told, told me not to say anything because I
13 would be in prison for the rest of my life. And it scared
14 me because I have a ten-year-old son, so -- and I don't
15 want to be prison for the rest of my life.

16 Q When you all left out of those woods and you drove to
17 the trailer and then you left the trailer and stopped at
18 the bridge and rode back in, did Barnes give you all any
19 type of instructions of what to say about the killing?

20 A He told me never to say anything about the killing,
21 not to talk about it ever again.

22 Q Or what?

23 A Or he will kill me.

24 Q He tell you that one time?

25 A No, many times, because I always brought it up and I

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1 always asked him about it.

2 Q How old were you when you came to Georgia on
3 August 1st, 2001?

4 A I was 17 and a half, sir.

5 Q Now, there's another house on Cairo Street.

6 A Cairo Court, sir.

7 Q Cairo Court. Are you familiar with that house?

8 A Yes, sir, because I moved into it around the end of
9 September, the beginning of October, sir.

10 Q And who was in control of that house?

11 A Barnes, sir.

12 Q Did you know Sam Sturup's mother?

13 A No, sir.

14 Q Did she ever come to that house on Cairo Court?

15 A Yes, sir.

16 Q Did she talk to anybody?

17 A She talked to Barnes, sir.

18 Q What did she ask Barnes?

19 MR. HARTE: Objection, Your Honor. Hearsay.

20 MR. MYERS: It's a defendant and somebody else
21 having a conversation, Your Honor, in the defendant's
22 presence.

23 THE COURT: You still have an objection?

24 MR. HARTE: Yes, sir, I think that's still
25 hearsay.

1 THE COURT: Yes, I'd think that would be
2 hearsay, Solicitor.

3 MR. MYERS: Of a defendant having a conversation
4 with somebody?

5 THE COURT: Well, it's -- his statements aren't
6 hearsay.

7 I will be glad to hear you, Solicitor. Maybe
8 I -- maybe it's spun right by me.

9 MR. MYERS: That's all right. I'm going to call
10 Ms. Sturup anyhow.

11 THE COURT: All right.

12 BY MR. MYERS:

13 Q What did Barnes say to Ms. Sturup about Sam?

14 A Well, when he was asked where --

15 Q No. What Barnes say?

16 A What did he say? That he did not kill him and that
17 he would --

18 Q He did not kill who?

19 A Sturup, and that for her to not think like that and
20 that he'll let her know if he hears from Sam.

21 Q Now, you're in a prison suit, too?

22 A Yes, sir.

23 Q All right. You pled guilty to aggravated assault?

24 A And armed robbery, sir.

25 Q And got what?

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1 A Eighteen years, sir, to 20; serve 18, two years'
2 probation.

3 Q How long have you been in prison?

4 A Nine years, sir, including the county time.
5 January 16th makes nine years.

6 MR. MYERS: Answer any questions the defense may
7 have.

8 THE COURT: Thank you, Solicitor.

9 Mr. Harte.

10 CROSS-EXAMINATION

11 BY MR. HARTE:

12 Q The plea deal that you got over in Georgia was in two
13 counties, wasn't it?

14 A Yes, sir, Columbia and Richmond, sir.

15 Q Columbia and Richmond?

16 A Yes, sir.

17 Q But the prosecutor over there is the same one, right?
18 Danny Craig was the prosecutor for both counties, wasn't
19 he?

20 A Yes, sir.

21 Q So he made the deal for your testimony in both
22 Columbia County on the armed robbery and in Richmond
23 County on the aggravated assault?

24 A I would assume so, sir.

25 Q Well, you signed the plea agreements. Wasn't they

1 signed by the same prosecutor?

2 A Yes, sir.

3 Q And that plea deal was for 18 years on each to run
4 concurrent?

5 A Yes, sir.

6 Q That means that you don't add an 18 to an 18 for 36.

7 A No, sir.

8 Q When you're serving one sentence, you're serving the
9 other?

10 A Yes, sir.

11 Q And you got an 18-year sentence?

12 A Yes, sir.

13 Q And then in addition to that, you had charges dropped
14 in Columbia County and charges dropped in Richmond County?

15 A Yes, sir.

16 Q Although they weren't really dropped. They were put
17 on a dead docket where they could be brought back up,
18 weren't they?

19 A Yes, sir.

20 Q And they told you that if you don't continue to
21 cooperate, we're going to bring those charges back up?

22 A No, sir.

23 Q They didn't tell you that?

24 A No.

25 Q But you knew that?

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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- 1 A No.
- 2 Q You didn't know that you could have those charges
3 brought back up?
- 4 A No, sir.
- 5 Q Now, in preparation for this trial, you read over
6 your statement?
- 7 A No, sir.
- 8 Q You haven't been shown your statement?
- 9 A What do you mean, sir?
- 10 Q The statement that you gave to Richard Roundtree?
- 11 A I have all of my legal paperwork.
- 12 Q Did you read it in preparation for this testimony?
- 13 A No, because I know it by heart, sir.
- 14 Q You memorized it?
- 15 A No. I know it, sir.
- 16 Q You didn't read your statement --
- 17 A I don't need to, sir.
- 18 Q -- a single time?
- 19 A No, sir.
- 20 Q You have mental problems, don't you?
- 21 A Yes, sir.
- 22 Q You suffer from schizophrenia?
- 23 A No, sir.
- 24 Q You suffer from -- or have suffered from
25 schizophrenia?

1 A No.

2 Q You have -- you do or have suffered from obsessive
3 compulsive disorder?

4 A Yes, sir.

5 Q You have or do suffer from bipolar disorder?

6 A Yes, sir. And post-traumatic stress disorder, and
7 that's it, sir.

8 Q How about ADD, attention deficit disorder?

9 A No.

10 Q How about ADHD?

11 A No, sir. Can I say something, sir?

12 Q No, sir. No, ma'am.

13 A Okay.

14 THE COURT: You can answer Mr. Harte's questions
15 now. If he asks you a question and you can answer it and
16 then you can explain your answer.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right.

19 BY MR. HARTE:

20 Q Do you recall testifying in a trial in Columbia
21 County on -- in 2002, 2003, something like that?

22 MR. MYERS: I have no absolutely no objection to
23 this line of questioning, but based on that, I may be able
24 to ask certain questions myself about that if the door is
25 opened.

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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1 THE COURT: All right.

2 BY MR. HARTE:

3 Q Do you remember testifying at the trial?

4 A Yes, sir, I do.

5 Q And were you asked about your mental illness at that
6 trial?

7 A I don't remember, sir.

8 Q Do you admit or deny that you said that you suffered
9 from schizophrenia, OCD, ADD, and ADHD?

10 A I really don't remember, sir.

11 Q After you were arrested, you gave Investigator
12 Richard Roundtree a statement; is that correct?

13 A Yes, sir.

14 Q He works for the Richmond County Sheriff's
15 Department?

16 A Yes, sir. But I gave him the statement four days
17 after being arrested.

18 Q And after that time on at least seven occasions, he
19 came to the jail and got you and took you to his offices
20 at the Richmond County Sheriff's Department, didn't he?

21 A Yes, sir.

22 Q And did he further question you in regards to this
23 case?

24 A Sometimes, sir.

25 Q Did he make a recording of those statements?

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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1 A Yes, sir, he did.

2 Q He did?

3 A Yes, sir. Not at those times, though. That one
4 time, the first time he came to see me, he recorded me.

5 Q I'm talking about the other times.

6 A No.

7 Q The seven other times?

8 A No.

9 Q Of those seven times, how many times did he question
10 you or talk to you about this case?

11 A Maybe three.

12 Q Did you and he engage in sexual activity during those
13 times?

14 A No, sir.

15 Q Are you aware of an investigation by the Georgia
16 Bureau of Investigations --

17 MR. MYERS: Objection. There's no foundation
18 for that. There's absolutely no foundation for that
19 question.

20 THE COURT: I would sustain that objection. Of
21 course, you can ask her a well-framed question, but not
22 that. I don't know that she'd have any personal knowledge
23 or know anything of an investigation.

24 BY MR. HARTE:

25 Q Were you ever questioned by anyone with the Georgia

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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- 1 Bureau of Investigations with regards to --
- 2 A Yes, I was, sir.
- 3 Q Let me finish the question.
- 4 A Sorry.
- 5 Q -- about your visits to Investigator Roundtree's
- 6 office?
- 7 A Yes, sir, I was, sir.
- 8 Q William Harris was Investigator Roundtree's snitch,
- 9 wasn't he?
- 10 A I believe so.
- 11 Q You believe so?
- 12 A Yes, sir.
- 13 Q Did you testify in the Hunsberger trial in Richmond
- 14 County?
- 15 A No, sir.
- 16 Q Now, had you known Steven Barnes and William Harris
- 17 prior to August of 2001?
- 18 A No, sir.
- 19 Q But you came to know both of them in a fairly short
- 20 period of time?
- 21 A I came to know both of them the same day. I met them
- 22 at the same time.
- 23 Q Okay. And they didn't get along very well, did they?
- 24 A No, sir.
- 25 Q They fought a lot, didn't they?

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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- 1 A They quarreled a lot, yes, sir.
- 2 Q When I say "fought," I meant they argued a lot?
- 3 A Yes, sir.
- 4 Q Now, when you got to the house on Cherry Street,
5 what's called the green or green house, was William Harris
6 and Sam Sturupp there? Were William Harris and Sam
7 Sturupp there?
- 8 A No, sir, not yet.
- 9 Q They came after you and Steve Barnes got there?
- 10 A Yes, sir.
- 11 Q And you were told to go into the house, so you didn't
12 see any of the fighting or anything; is that correct?
- 13 A Yes, sir, I did.
- 14 Q You just heard it?
- 15 A Yes, sir.
- 16 Q Did you hear anything or see anything that would have
17 indicated that William Harris put a gun in Sam's mouth or
18 in his face?
- 19 A No, I did not see that, sir.
- 20 Q Did you see Little Man with a gun?
- 21 A Not that I recall, sir, no.
- 22 Q Now, when you got beat up, it was by?
- 23 A William Harris and Barnes.
- 24 Q So William Harris hit you with the broomstick?
- 25 A Yes, sir. He was trying to shove it up my private

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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- 1 area, sir.
- 2 Q That was William Harris doing that?
- 3 A Yes, sir.
- 4 Q Where were Richard Cave and Antonio Griffin when that
- 5 was going on?
- 6 A Standing there, sir.
- 7 Q So they should have seen you getting beat with that
- 8 broomstick?
- 9 A Yes, sir.
- 10 Q No question about that?
- 11 A No.
- 12 Q And not too long after that, you all end up walking
- 13 from the green house to the railroad tracks; is that
- 14 correct?
- 15 A Yes, sir.
- 16 Q Whose idea was that?
- 17 A Barnes, sir.
- 18 Q Do you admit or deny that on January 22nd in your
- 19 interview with Investigator Richard Roundtree, that you
- 20 told him, "So it was, like, confusing. I said -- because
- 21 I was like -- I was real mad. And I was like, shit, put
- 22 him on the tracks and wait for the train to come and
- 23 there'll be an accident, like that, you know what I'm
- 24 saying? Everybody gets hit by a train. That is kind of
- 25 true, if you walk on the track"?

1 You admit or deny telling Richard Roundtree that
2 you said that?

3 A Yes, sir. I said that after the fact, that we were
4 already on the railroad tracks.

5 Q You neglected to mention that earlier in your
6 testimony?

7 A I was not asked that, sir.

8 Q Now, you say that Steve Barnes carried a .45?

9 A Yes, sir.

10 Q Not a .40?

11 A No, sir.

12 Q Now, I notice that the statement that you said Steve
13 Barnes said while you were still at the green house,
14 telling you that you were going to kill him, that's not in
15 your statement to Investigator Roundtree, is it?

16 A I don't know, sir. I would hope it is.

17 Q Well, do you admit or deny that it's in there? It's
18 not in there?

19 A I admit that it's in there.

20 Q Do you admit or deny that it's not in there, that
21 statement is not in there?

22 A I don't know what to tell you, sir.

23 Q Do you admit or deny that your hearing Steven Barnes
24 telling Sturrup, "You're going to die," after leaving the
25 railroad tracks, that that's not in the statement to

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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1 Richard Roundtree?

2 A I believe it is, sir. It might not be on that. It
3 might be on the tape.

4 Q In that case let me give you an entire copy of your
5 statement and you read through it and see if it's in there
6 or not, okay?

7 A Sir, there's discrepancies in there. If you listen
8 to the tape, it will be on there.

9 Q There are discrepancies in there?

10 A In that case, yes, there is.

11 Q So the court reporter from Georgia who says "I
12 certify that the foregoing is an interview from an audio
13 tape of fair quality transcribed by me, Patricia J.
14 Harmon, the undersigned court reporter," that she got it
15 wrong?

16 A I can't help that she can't understand my accent,
17 sir.

18 Q You don't seem to have an accent.

19 A Not now. I've been in Georgia for ten years, sir.

20 Q So what you're saying is that this statement is
21 wrong?

22 A I'm not saying that it's wrong, but I'm saying that
23 it left out a few things, sir.

24 Q All right. Do you want to read the statement or do
25 you want to tell me or admit that the "eat for your last

1 meal" is not -- or "What do you want to eat for your last
2 meal" is not in there?

3 A Do I want to what, sir?

4 Q Do you want to read your statement or do you want to
5 just admit that "Do you want to eat for your last" --
6 "What do you want to eat for your last meal" is not in
7 there?

8 A I really don't know, sir.

9 Q Do you want to read your statement or do you want to
10 admit that "Pick a place to die" is not in there?

11 A I don't know, sir.

12 Q Did you know the Hunsbergers at all prior to that
13 night?

14 A I think I knew one of them, sir.

15 Q Which one?

16 A I think it was Julio.

17 Q And he used to hang around with William all the time,
18 didn't he?

19 A Now that I don't know, sir.

20 Q Did you ever hear William call him his home boy?

21 A No, sir.

22 Q What does "a home boy" mean?

23 A Someone that you're acquainted with from home.

24 Q Kind of like your best guy, best man?

25 A I don't know about that, sir.

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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1 Q Where were Cave and Griffin when Sam got in the
2 trunk?

3 A I think already in the vehicle, sir.

4 Q Okay. Are you on medication today?

5 A No, sir. I've been off medication for two years,
6 sir.

7 Q When you were in the woods where Sam was shot, Steve
8 Barnes did not put his arms around you, did he?

9 A Yes, he did, sir.

10 Q Well, how could he put his arms around you and put a
11 gun to your back at the same time?

12 A One arm, sir. Not arms.

13 Q Well, that was my question: Did he put his arms
14 around you?

15 A I apologize.

16 Q So what's the answer to the question?

17 A One arm, sir.

18 Q Now, there's no question in your mind -- I'll get to
19 that in just a moment.

20 Isn't it a fact or do you admit or deny -- well,
21 let me ask you this: You said all the others had guns?

22 A Not all, sir.

23 Q I thought that's what you testified to earlier. Is
24 that not right?

25 A Yes, that's right, sir.

1 Q So how many had guns?

2 A There were only three guns present, sir: The one in
3 my hand, and the one in one of my other four
4 co-defendants' hands, and then the one in Barnes' hand.

5 Q And the others besides yourself were all bound to do
6 it, weren't they?

7 A I believe so, sir.

8 Q And, in fact, they were cheering you on when you had
9 the gun? They were saying, "Do it, do it, do it."

10 A Not cheering, sir, telling me to shoot.

11 Q They were telling you, "Do it, do it, do it"?

12 A Yes, sir.

13 Q And there's no question that you fired the first
14 shot?

15 A No question, sir.

16 Q And there is no question that immediately Barnes or
17 someone shot Sam in the head?

18 A There's no question that Barnes shot Sam in the head.

19 Q Immediately after you shot him?

20 A Immediately, sir.

21 Q How -- what position was Sam Sturup in when you shot
22 him?

23 A That I can not recall, and that's being honest.

24 Q That's amazing that you can recall everything in your
25 statement without reading it but not remember that?

CHARLENE THATCHER - Cross-Exam by Mr. Harte

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1 A That's just something that slipped my mind, sir.

2 It's a traumatic experience.

3 Q Do you recall saying that he was on his knees?

4 A Not really, sir.

5 Q After you shot, what did he do?

6 A That I don't recall neither. You talking about Sam?

7 Q Yes.

8 A That I don't recall neither, sir. I kind of freaked
9 out after I shot him, sir.

10 Q Do you know what position he was in when the second
11 shot was fired?

12 A No, sir.

13 MR. HARTE: If you'd give me a moment, Your
14 Honor.

15 THE COURT: Yes, sir.

16 (Pause.)

17 MR. HARTE: No further questions.

18 THE COURT: Thank you.

19 Redirect, Solicitor?

20 REDIRECT EXAMINATION

21 BY MR. MYERS:

22 Q Ms. Thatcher, when you all got in that car and came
23 across the river over into Edgefield County and out in the
24 woods, too, was William Harris, Big Man's half brother,
25 was he with you?

1 A No, sir.

2 Q Okay. At the house, at the green house to begin
3 with, who was in charge of giving the orders?

4 A Barnes, sir.

5 Q On the railroad tracks, who was in charge of giving
6 the orders?

7 A Barnes, sir.

8 Q Over in those woods and out in that field when Sam
9 was murdered, who was in charge of giving the orders?

10 A Barnes, sir.

11 MR. MYERS: Thank you, ma'am.

12 THE COURT: Recross, Mr. Harte?

13 MR. HARTE: No, sir.

14 THE COURT: Thank you very much.

15 Sheriff, if you would please take Ms. Thatcher
16 back into custody.

17 All right. I see it's 12:36. You have another
18 witness between now and 1 o'clock, Solicitor, or will it
19 take long?

20 MR. MYERS: Your Honor, I have two witnesses
21 left, and I would request a break before we get to them.
22 But I'll tell the Court, they won't be very long.

23 THE COURT: All right. That will be fine,
24 Solicitor.

25 No objections?

1 MR. HARTE: None, Your Honor.

2 THE COURT: All right. Did you have something
3 else now?

4 MR. HARTE: No, sir.

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

6 All right. Mr. Foreman, ladies and gentlemen of
7 the jury panel, I think now we'll take our luncheon
8 recess.

9 I would remind you during this recess, do not
10 discuss this case with anyone. That includes your fellow
11 jurors, your lunch mates, which will be your fellow
12 jurors, or anyone else. If anyone tries to talk with you
13 about the case, please let me know immediately.

14 Remember to keep an open mind about the case.
15 And do not begin your deliberations until I instruct you
16 to do so.

17 With that being said, you may now go with the
18 bailiff to your jury room. I'm sure the jury
19 sequestration team will meet you promptly thereafter.

20 We'll be back -- let's say we'll start back
21 about 2:15, or upon you all's return if it's later.

22 Thank you very much.

23 (The jury left open court at approximately 12:38
24 p.m.)

25 THE COURT: All right. Did you have something

1 further, Mr. Harte?

2 MR. HARTE: I just wanted to put on the record,
3 it's my understanding of the law that if a witness -- or
4 in this particular case, Ms. Charlene Thatcher -- that she
5 had not read her previous statement in preparation for
6 trial, and that if the Solicitor's office, any member
7 thereof or any law enforcement investigative agency is
8 aware of the fact that it's a lie, I believe they're
9 required to disclose that to us.

10 THE COURT: All right. Do you care to respond,
11 Solicitor?

12 MR. MYERS: I didn't follow really what he said.

13 THE COURT: In other words, she testified that
14 she did not read her statement in preparation for
15 testimony. Mr. Harte's position is that if any member --
16 you or any member of your staff knows that to be a lie,
17 you would have to disclose it. In other words, if you
18 know or any member of your staff, if you know that she did
19 read her statement in preparation of her testimony,
20 therefore, you know she perjured herself on the stand, for
21 that or any other issue, I believe the law is that the
22 solicitor would have to disclose that.

23 MR. MYERS: I didn't give her a copy of her
24 statement.

25 THE COURT: In other words, you don't know that

1 that's -- as far as you know, that's a true statement --
2 her statement, her statements on the stand about --

3 MR. MYERS: All I can say is her lawyer has been
4 given discovery just like Mr. Harte, but I have never gone
5 over her statement with her or had her to read it or
6 anything else in my presence.

7 MR. HARTE: Your Honor, but it's not limited to
8 just him.

9 MR. MYERS: I've been with her every time she
10 has been interviewed.

11 THE COURT: All right. And he said he's been
12 with her every time she's been interviewed.

13 MR. HARTE: And I take his word for it.

14 THE COURT: Certainly.

15 MR. HARTE: But he was saying "I haven't" and
16 the rule is across the board.

17 MR. MYERS: I have been the only one in my
18 office to question her, prepare her.

19 THE COURT: All right. Madam Clerk, would you
20 please place Mr. Barnes under oath for me.

21 MR. HARTE: Your Honor, we'd like to do that
22 after lunch.

23 THE COURT: I'm going to give him just a few
24 comments concerning his right to testify or not to
25 testify. He can be thinking about it over lunch, and then

1 I'm going to revisit it at the close of the State's case.

2 MR. HARTE: I thought you were going to do it
3 now.

4 THE COURT: All right.

5 THE CLERK: Raise your right hand, please.

6 STEVEN BARNES, after affirmation,
7 testified as follows:

8 THE DEFENDANT: I believe in Allah.

9 THE COURT: What was your response?

10 MR. HARTE: He believes in Allah, Your Honor.

11 THE COURT: Do you affirm that your responses
12 will be truthful?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Would you tell me your
15 full name, please?

16 THE DEFENDANT: Steven Barnes.

17 THE COURT: And how old are you, Mr. Barnes?

18 THE DEFENDANT: Thirty-two.

19 THE COURT: Let's go back to that first
20 question. Tell me your full name.

21 THE DEFENDANT: Steven Louis Barnes.

22 THE COURT: And, again, how much education do
23 you have?

24 THE DEFENDANT: Eleventh grade.

25 THE COURT: All right. The only issue I wanted

1 to cover with you just very generally and briefly now, and
2 I am going to recover it at a later point this afternoon,
3 and I go over this with everyone who is on trial and
4 require their responses to be under oath or under
5 affirmation, which yours are, I understand under
6 affirmation to tell the truth.

7 Do you understand, Mr. Barnes, that you have a
8 right to testify yourself, that you may do so? Do you
9 understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you also understand that you have
12 a right not to testify if you choose to do so?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: No one can force you to testify.
15 You have an absolute right to remain silent. And if you
16 choose not to testify, I will tell this jury that they
17 cannot hold your silence against you in any way. I will
18 tell them that they are not to discuss that in the jury
19 room. Do you understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I would imagine that the decision
22 about what you testify or not is a very important decision
23 to you; is that correct?

24 THE DEFENDANT: That's correct.

25 THE COURT: And the decision about whether you

1 testify or not is your decision to make and yours alone.
2 I expect that you may confer with your attorneys whose
3 opinions you value on important decisions and others
4 whether you testify or not to testify; is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that your decision
7 to testify or not to testify is your decision, it is your
8 call?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: At this time, do you have any
11 questions you would like to ask me about your right to
12 testify or your right not to testify?

13 THE DEFENDANT: No, sir.

14 THE COURT: At this time, do you have any
15 questions that you would like to ask me about what I would
16 inform the jury panel if you chose not to testify?

17 THE DEFENDANT: No, sir.

18 THE COURT: Does the defendant, Mr. Barnes, have
19 any record that would subject him to impeachment under
20 Rule 609 if he chose to testify, Solicitor?

21 MR. MYERS: He has a possession with intent to
22 distribute cocaine and he has -- I know he's got an armed
23 robbery, he's got kidnapping, he's got pandering, I
24 believe.

25 THE COURT: What is it?

1 MR. MYERS: Pandering, p-a-n-d-e-r-i-n-g.

2 He's got terroristic threats. Some of those are
3 on several counts. Mr. Harte may have it over there, but
4 I left my stuff in the back room. I could get it for you.

5 THE COURT: Would all of those be within the
6 ten-year period of time?

7 MR. MYERS: Yes, sir.

8 THE COURT: The possession with intent to
9 distribute cocaine?

10 MR. MYERS: That was in '98.

11 THE COURT: In '98.

12 MR. HARTE: That would not be within ten years.

13 MR. MYERS: That would be within the time frame
14 of this crime.

15 That's okay. We wouldn't bring that up.

16 THE COURT: All right.

17 MR. MYERS: The rest of them are 2003.

18 THE COURT: And what about the armed robbery --
19 the others are what?

20 MR. MYERS: 2003.

21 THE COURT: So the armed robbery, the
22 kidnapping, and the terroristic threats would be within
23 the ten-year period of time and they all carry sentences
24 in excess of the rule, one year or more?

25 MR. MYERS: I'm not sure about the pandering.

1 THE COURT: I'm not sure. What is pandering,
2 Solicitor?

3 MR. MYERS: That's something in Georgia.

4 THE COURT: Is that an ordinance?

5 MR. MYERS: No, it's a statute, a state statute.

6 He was tried on all of these in Columbia County,
7 the Superior Court of Columbia County, at the same time
8 and he got life plus 51 years.

9 MR. HARTE: Your Honor, he also has a conviction
10 in South Carolina and is presently serving that sentence.

11 MR. MYERS: That's right, throwing of bodily
12 fluids.

13 THE COURT: All right. Well, it appears that
14 if -- do you agree, Mr. Harte, that he has an armed
15 robbery conviction?

16 MR. HARTE: Yes, sir.

17 THE COURT: A kidnapping conviction?

18 MR. HARTE: Yes, sir.

19 THE COURT: Terroristic threats, several counts?

20 MR. HARTE: I don't remember looking at that. I
21 don't know how many.

22 THE COURT: And then the other -- I'm trying to
23 think -- throwing bodily fluids at a correctional officer;
24 is that correct?

25 MR. MYERS: Yes, sir.

1 MR. HARTE: Yes, sir.

2 THE COURT: All right. Do you agree that those
3 would subject him to impeachment under 609?

4 MR. HARTE: Yes, sir.

5 THE COURT: All right. And, Mr. Barnes, the
6 only reason I bring that up is if you chose to testify,
7 and I would not consider the pandering, given the fact I
8 don't have any information on what that is -- but if you
9 chose to testify, the Solicitor could ask you if you have
10 those convictions on your record. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Couldn't go into the details of them
13 or anything of that nature, but I would advise the jury
14 that if they were to consider those at all, they can only
15 be considered as to the issue of credibility and may not
16 be considered for any other purpose. Do you understand?

17 THE DEFENDANT: Yes, sir. That's what I want to
18 explain to you.

19 THE COURT: Sir?

20 THE DEFENDANT: Whenever you finish with that,
21 I've got something I want to say.

22 THE COURT: All right, sir. But do you
23 understand what I said?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Yes, sir.

1 MR. MYERS: He also had a burglary conviction
2 along with the armed robbery.

3 THE COURT: All right. We'll get to that.
4 Let's make sure we get all of that absolutely straight
5 upon my additional review of his right to testify or not
6 to testify.

7 Do you have any questions of the Court at this
8 time concerning your right to testify or not to testify?

9 THE DEFENDANT: Yes, sir, I do have a question.

10 THE COURT: All right. If you'd speak up for me
11 a little bit, please.

12 THE DEFENDANT: Yes, sir. I'm going to confer
13 with my lawyers first, but you do understand the discovery
14 issues in my case. And I'm going to confer with my
15 lawyers before, you know, but if I do decide to testify, I
16 would like to proffer what I was going to state to you --
17 what I was going to state on the stand so -- because if
18 they bring anything of that, that's prejudicial to me. So
19 I'd like to proffer the testimony, you know what I'm
20 saying, especially due to the Brady violation, the
21 substantial Brady violation in this case, I would like to
22 proffer for record that in case you deny it, then so the
23 appeal court could have something to offer on your ruling.

24 THE COURT: I'm not sure I'm tracking what
25 you're saying, Mr. Barnes.

1 THE DEFENDANT: What I'm saying is that my
2 convictions, that's the burglary --

3 THE COURT: Yes, sir.

4 THE DEFENDANT: -- that they're prejudicial to
5 me if I get on the stand. What I'm trying to say is due
6 to the Brady violation in this case, you see what I'm
7 saying, you know, they'll be highly prejudicial if that
8 was to come up.

9 THE COURT: I'll be glad to review them before
10 you make your decision under 403 analysis and State versus
11 Colf, C-O-L-F. I'll be glad to do that. I just want you
12 to have that information now so you have the opportunity
13 to confer. I'm not asking you to make your decision now.
14 You understand?

15 THE DEFENDANT: Yes, I understand. I'm going to
16 confer with them first and see if we can come to an
17 agreement, then I'll get on the stand.

18 THE COURT: All right. We'll revisit that --
19 we'll revisit that at some later point in the trial.
20 Thank you very much.

21 Anything further before we take our recess,
22 Solicitor?

23 MR. MYERS: Not from the State, Your Honor.

24 THE COURT: Mr. Harte, it sounds like the
25 solicitor will be resting shortly after we return, so you

1 all need to be prepared to present witnesses.

2 MR. HARTE: Yes, sir.

3 THE COURT: All right. Thank you very much.
4 Court will be in recess until 2:15.

5 (A lunch break was taken.)

6 THE COURT: Anything from the defense before we
7 bring in our jury?

8 MR. HARTE: No, Your Honor.

9 THE COURT: The State?

10 MR. MYERS: No, sir.

11 THE COURT: All right. If you'd bring in our
12 jury, please.

13 (The jury came into open court at approximately
14 2:20 p.m.)

15 THE COURT: Good afternoon, ladies and
16 gentlemen. Hope you all had a pleasant lunch.

17 We're continuing the trial of the case by the
18 presentation of testimony by the State in its case in
19 chief.

20 Solicitor, you may call your next witness.

21 MR. MYERS: We'd call Mrs. Shirley Sturupp.

22 THE COURT: All right. If you'd come around,
23 please, Ms. Sturupp.

24 THE CLERK: Raise your hand, please.

25 SHIRLEY STURUP, after being duly sworn,

1 testified as follows:

2 THE CLERK: Have a seat. State your full name
3 and spell your last name, please.

4 THE WITNESS: Shirley Sturrup, S-T-U-R-R-U-P.

5 DIRECT EXAMINATION

6 BY MR. MYERS:

7 Q Ms. Sturrup, where do you live?

8 A Augusta, Georgia.

9 Q Samuel was your son?

10 A Yes, sir.

11 Q What was his full name?

12 A Samuel James Sturrup, Jr.

13 Q Labor Day of 2001, how old was he?

14 A Sixteen.

15 Q And what grade in school was he in?

16 A Ninth.

17 Q Ninth grade?

18 A Yes, sir.

19 Q Would you describe your son as a leader or a
20 follower?

21 A He was more or less a follower in that people
22 impressed him, you know.

23 Q Now, September 3rd, I think that was Labor Day; is
24 that correct?

25 A That's correct.

1 Q Was your son home that day?

2 A He came home with Will. Will brought him home. He
3 was not home that day.

4 Q Okay. Will brought him home?

5 A Will brought him there, and walked into my house, sat
6 on my couch, uninvited.

7 Q And who is Will?

8 A Will is William Harris, Steve's half brother.

9 Q And what did your son do when he got home,
10 Mrs. Sturrup?

11 A Well, he went in, took a shower, he said he was going
12 to a cookout.

13 Q Who did he leave with?

14 A He left with Will Harris.

15 Q When he left that day, did you ever see him again,
16 Mrs. Sturrup?

17 A No, sir.

18 Q Now, when he didn't come home for several days, did
19 you become alarmed?

20 A Yes, sir.

21 Q What did you start doing?

22 A Pacing and walking and praying and searching. You
23 know, people that I knew who knew my son in the area in
24 the neighborhood, I would go and ask if they had seen Sam.

25 Q Yes, ma'am. Did there come a time when you filed a

SHIRLEY STURRUP - Direct Exam by Mr. Myers

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1 missing person's report?

2 A Yes, sir.

3 Q Now, later on in November 2001, did some officers
4 from Edgefield County get in touch with you?

5 A Yes, sir.

6 Q And Randy Doran here, did he come and talk with you
7 on Dublin?

8 A Yes, sir.

9 Q Told you what they had found?

10 A Yes, sir.

11 Q Now, I want to ask you, Mrs. Sturrup, Photograph No.
12 9, do you recognize those pants?

13 A Yes, sir.

14 Q Whose pants were those?

15 A My son Samuel's.

16 Q Now, there's a belt on those pants. Do you recognize
17 that belt?

18 A Yes, sir.

19 Q What do you recognize about it?

20 A I recognize the buckle.

21 Q Kind of a large buckle?

22 A Large buckle.

23 Q Was anything written on that buckle that's familiar
24 to you about?

25 A His name Samuel was engraved in the back of the belt.

1 Q You see in the pocket there, there's some stuff in
2 the pocket, looks like a key chain or a card or something?

3 A Yes, a Bi-Lo, Bi-Lo card.

4 Q Do you recognize that?

5 A Yes, sir.

6 Q Now, State's Exhibit No. 17, Ms. Sturru, the keys
7 here, you know what those keys are?

8 A Yes, sir.

9 Q What are they?

10 A The key to my house, the regular lock and the double
11 lock.

12 Q And the Bi-Lo card, do you recognize that?

13 A Yes, sir.

14 Q How do you recognize that?

15 A Well, we all have Bi-Lo cards and some -- there was
16 more than enough. We usually get two, but there was more
17 than enough, so somehow Samuel had that one.

18 Q And the Bi-Lo card would be registered to your
19 address?

20 A Yes, sir.

21 Q Now, did you know the defendant, Steven Barnes?

22 A Only through Sam. I really didn't know him. I just
23 knew he went to -- Sam called him Steve. That's the only
24 reference, I heard him Sam call him Steve.

25 Q Now, did you know where Steven Barnes lived?

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1 A Yes, sir.

2 Q Was this in an area near you or far away from you or
3 what?

4 A In the neighborhood, yes, sir.

5 MR. MYERS: We'd offer this map in evidence,
6 Your Honor.

7 THE COURT: That would be State's 53 without
8 objection, Mr. Harte?

9 MR. HARTE: Correct, Your Honor.

10 (WHEREUPON, State's Exhibit No. 53 was marked
11 for identification and received into evidence.)

12 BY MR. MYERS:

13 Q On 53, Mrs. Sturrup, does your house -- is it on
14 here,

15 A Yes, sir.

16 Q And what color is it written in?

17 A It's in yellow.

18 Q Down in the right here?

19 A On the right, yes.

20 Q And you were living there at that time?

21 A Yes, sir.

22 Q And you said you knew Mr. Barnes, he lived in the
23 neighborhood; is that right?

24 A Yes, sir.

25 Q Did you at any time ever go to his house and ask

- 1 about your son?
- 2 A Yes, sir.
- 3 Q How many times?
- 4 A Two times.
- 5 Q And which house did you go to?
- 6 A The Cairo address.
- 7 Q Would you step down here, please, ma'am?
- 8 Is Cairo written there which you're talking
- 9 about?
- 10 A Right there,
- 11 Q That's where he lived?
- 12 A Yes, sir.
- 13 Q And this is where you lived?
- 14 A Yes, sir.
- 15 Q Thank you.
- 16 A Thank you.
- 17 Q Is that where you went to talk with Steven Barnes?
- 18 A Yes, sir.
- 19 Q And what did you ask him?
- 20 A I asked him had he seen my son.
- 21 Q What did he say?
- 22 A He said, "No, ma'am." He said, "If I hear from him,
- 23 I will let you know."
- 24 Q Did he say anything else?
- 25 A No, sir.

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1 Q Then you said you went back a second time?

2 A Yes, sir.

3 Q What did you ask him the second time?

4 A Well, he wasn't there when I arrived. His dad was
5 there. So I said "Well, where is Steve?"

6 He said, "He's not here."

7 MR. HARTE: Excuse me, Your Honor. We have to
8 object on the grounds of hearsay.

9 THE COURT: All right. If you'd rephrase that
10 question.

11 BY MR. MYERS:

12 Q Did Steve Barnes later arrive at that Cairo address?

13 A Yes, sir, he did.

14 Q Did you have a conversation with him?

15 A Yes, sir, I did.

16 Q And what did you ask him, Mrs. Sturrup?

17 A Same question: "Have you seen my son?"

18 Q And what did he say this time?

19 A He said he's probably with that little old white
20 girl.

21 Q Did you know who he was talking about?

22 A Not a clue.

23 Q Did he say anything else?

24 A I said, "Who is she? How old is she?"

25 And he said, "18".

1 And I said, "Well, if he -- if she's
2 contributing to the delinquency of a minor, there's going
3 to be hell to pay."

4 Q Did you have any further conversations with him?

5 A He said, "If I hear from him, I'll let you know."

6 Q Is that the last thing he said?

7 A Yes, sir.

8 Q And then after that is when Edgefield got in touch
9 with you? After that conversation with Steven Barnes, it
10 was after that that the Edgefield authorities got in touch
11 with you about finding the remains of your son; is that
12 correct?

13 A Yes, sir.

14 MR. MYERS: Thank you, Ms. Sturrup. Please
15 answer any questions the defense has.

16 THE COURT: Thank you.

17 Mr. Harte.

18 CROSS-EXAMINATION

19 BY MR. HARTE:

20 Q Ms. Sturrup, my name is Bob Harte. How are you?

21 A Fine.

22 Q Ms. Sturrup, the last time you saw Sam, who was he
23 with?

24 A He was with William Harris.

25 Q And after that time -- or let me ask you this:

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1 Before that time, did Will come over to the house, to your
2 house?

3 A Yes, sir. He and Sam used to hang together.

4 Q Uh-huh.

5 A Will has played basketball in my yard when they were
6 younger.

7 Q Right.

8 A Yes, sir.

9 Q After September 3rd, 2001, did Will ever come back to
10 your house?

11 A No, sir.

12 Q Did you have occasion to have a phone conversation
13 with Will after September 3rd when you still didn't know
14 where Sam was?

15 A Will called my house around the holidays in December.
16 He asked to speak to me. And I said, "You need to" --

17 MR. MYERS: Your Honor, I hate to cut her off,
18 but we're getting into some hearsay.

19 MR. HARTE: If I could phrase it for you, maybe
20 I can help.

21 THE COURT: Thank you.

22 BY MR. HARTE:

23 Q Did you have a conversation with him about Sam?

24 Don't tell me what he said.

25 A Yes, sir.

1 Q Now, after that -- and you were present at the
2 Hunsberger trial?

3 A Yes, sir.

4 Q Did you determine that what he had told you in that
5 phone conversation was a lie?

6 A Yes, sir.

7 MR. HARTE: Thank you, ma'am.

8 MR. MYERS: No further questions.

9 Your Honor, may she come down?

10 THE COURT: Yes, sir.

11 Thank you very much, Ms. Sturrup. You may step
12 down.

13 MR. MYERS: Your Honor, with the testimony of
14 Ms. Sturrup, the State would rest its case in chief at
15 this time.

16 THE COURT: All right. Thank you very much,
17 Solicitor.

18 I can't quite see our juror over here. Could
19 you move this podium?

20 MR. MYERS: I'm sorry.

21 THE COURT: That's all right, Solicitor. If
22 you'd just move it for me, please.

23 Now, don't move too fast, Solicitor. You might
24 trip.

25 MR. MYERS: You're right about that.

1 THE COURT: Mr. Foreman, ladies and gentlemen of
2 the jury, as you heard, the State has just announced that
3 it has rested its case in chief. That means you've heard
4 all the evidence and all the testimony that you will hear
5 from the State in its case in chief.

6 I have certain matters that I must take up with
7 the attorneys at this time. I would ask you to please
8 step to your jury room with your bailiff. Do not discuss
9 the case during this brief recess..

10 Leave your notes upside down on your chair.

11 Remember to keep an open mind. Do not begin
12 your deliberations until you're directed to do so.

13 You may now go with your bailiff.

14 (The jury left open court at approximately 2:34
15 p.m.)

16 THE COURT: All right. Mr. Harte, let me get
17 one thing straight for the record before I go any further.

18 As I understand it, State's Exhibits No. 1
19 through 53 are in evidence without objections except
20 State's 21 and 31, 21 being the shock absorber, 31 being
21 the photograph of the shock absorber. And there is no
22 State's Exhibit No. 27.

23 Is that right, Madam Court Reporter?

24 THE COURT REPORTER: Yes, Judge, it is.

25 THE COURT: Is that correct, Solicitor?

1 MR. MYERS: I think it is, Your Honor.

2 THE COURT: Is that your understanding, Mr.
3 Harte?

4 MR. HARTE: No, Your Honor, it's not.

5 THE COURT: All right.

6 MR. HARTE: With regards to Investigator --
7 former SLED Agent Steven Curtis, I was shown Exhibits 36
8 through 52, and I said that I had no problem with those
9 and we agreed that they could be entered into evidence.
10 But during his testimony, Mr. Curtis only identified Nos.
11 36, 37, 38, 39, 41, 44, 46, and 48, and as a result --

12 THE COURT: Tell me those 40 numbers again.

13 MR. HARTE: 44, 46, and 48. And as a result of
14 the other exhibits not being published to the jury and not
15 being identified by Mr. Curtis, I don't think they're
16 properly in evidence.

17 MR. MAYE: Your Honor, it was my understanding
18 that they were coming in by stipulation. And if that was
19 not my understanding, I would have certainly gone through
20 those individually and gone through my individual --

21 THE COURT: Well, they still have to be
22 identified, though, Solicitor. They have to be identified
23 even though they're by stipulation.

24 Let me see if I have those numbers correct.
25 From between 36 and 52 --

1 MR. HARTE: Yes, sir.

2 THE COURT: Let me track your numbers, Mr.
3 Harte.

4 MR. HARTE: Yes, sir.

5 THE COURT: Your testimony --

6 MR. HARTE: I'm not sworn.

7 THE COURT: I need you to swear Mr. Harte.

8 Your statement to the Court is 36, 37, 38, 39,
9 44, 46, 48 were identified by Mr. Curtis?

10 MR. HARTE: And 41.

11 THE COURT: And 41?

12 MR. HARTE: Yes, sir.

13 THE COURT: All right.

14 MR. HARTE: And I listed them out and I checked
15 them off as he put them in, and if you remember, I even
16 asked one time what the number was. So I think I'm
17 accurate with those, Your Honor.

18 THE COURT: Well, let me ask the Solicitor then.
19 I know Mr. Young had been tracking numbers.

20 Do you all have any different numbers in that
21 regard, Solicitor or Mr. Young, as to what Mr. Curtis may
22 have identified?

23 MR. YOUNG: I have 36 through 39 as ID, Your
24 Honor. I have 41 and 42 as ID'd. I have 44 and 45 as
25 ID'd and I have 46 through 48.

1 THE COURT: So you had 42 and 45?

2 MR. YOUNG: Yes, sir. I put a little squiggly
3 when he said he didn't --

4 MR. HARTE: And 47.

5 MR. YOUNG: I have 47 and 48.

6 THE COURT: I'm sorry. I'm not tracking it.

7 MR. YOUNG: I apologize.

8 THE COURT: Which ones do you have that you say
9 Mr. Curtis identified that Mr. Harte said Mr. Curtis did
10 not identify?

11 MR. YOUNG: Okay. Your Honor, again, I only had
12 a squiggly by 45. Again, what I have is I marked them off
13 as soon as he identified them as well. 36 through 39, 41
14 and 42, 44 and 45 -- excuse me, 44 through 48 actually.

15 MR. HARTE: So 42, 45, 47 would be the three
16 that we did not have the same -- if I could look at those.

17 THE COURT: All right. Would you look at those?

18 MR. HARTE: Where would those be, Solicitor?

19 MR. MAYE: Which ones?

20 MR. HARTE: 42, 45, and 48.

21 THE COURT: Now, you agree with 48 already. You
22 gave me the No. 48.

23 MR. HARTE: 42, 45, and 47. Thank you.

24 And I have no problems with those three. I'll
25 accept those.

1 THE COURT: So that would be which three
2 additional?

3 MR. HARTE: 42, 45, and 47.

4 THE COURT: So if I've tracked your numbers
5 correctly then, Mr. Harte, your position is that
6 Mr. Curtis did not identify 40, 43, 49, 50, 51, and 52?

7 MR. HARTE: Correct.

8 MR. MAYE: 43 and 49?

9 THE COURT: It's 40, 43, 49, 50, 51, and 52.

10 MR. HARTE: Your Honor --

11 THE COURT: Yes, sir, Mr. Harte.

12 MR. HARTE: Never mind. I apologize.

13 THE COURT: All right.

14 MR. HARTE: I'm trying to have two
15 conversations.

16 MR. MAYE: Not 43, 40, 49. Which other ones are
17 we looking for?

18 THE COURT: 50, 51, 52. I think there's just
19 six of them, Solicitor.

20 MR. MAYE: That's fine, Your Honor. Some of
21 these are duplicates anyway.

22 THE COURT: All right. So let me get the record
23 straight on the numbers as I understand them.

24 1 through 35 with the exception of 21 and 31, 21
25 being the shock absorber, 31 being the photograph of the

1 shock absorber, 1 through 35 are in evidence without
2 objection, and there is no 27. Is that correct?

3 MR. HARTE: That is my understanding, Your
4 Honor.

5 THE COURT: You objected to 21 and 31, the shock
6 absorber and the photograph of shock absorber. I
7 overruled your objections. Those are in evidence.

8 MR. HARTE: Yes, sir.

9 THE COURT: Additionally, the following are in
10 evidence by stipulation of the parties and identification
11 by Detective Agent Curtis: 36, 37, 38, 39, 41, 42, 44,
12 45, 46, 47 -- no, sir, 46 and 48.

13 MR. HARTE: No, sir, 47 also.

14 THE COURT: And 47 and 48?

15 MR. HARTE: Yes, sir.

16 THE COURT: The following are not in evidence:
17 40, 43, 49, 50, 51, and 52.

18 MR. HARTE: That's my understanding.

19 THE COURT: And then State's 53 is in evidence
20 without objection.

21 MR. HARTE: Yes, sir.

22 THE COURT: All right. Do those numbers add up
23 with everybody now?

24 (WHEREUPON, State's Exhibits Nos. 1-39, 41, 42,
25 44, 45, 46, 47, 48, 53 were previously marked for

1 identification and received into evidence.)

2 (WHEREUPON, State's Exhibits Nos. 40, 43, 49,
3 50, 51, 52, having been previously marked, were
4 marked for identification only.)

5 THE COURT: All right. And do you have any
6 motions?

7 MR. HARTE: Yes, Your Honor.

8 THE COURT: All right.

9 MR. HARTE: I would move for a directed verdict
10 of not guilty on the grounds that the State has failed to
11 present sufficient evidence from which a reasonable jury
12 could find the defendant guilty beyond a reasonable doubt.

13 I would also base my motion and reiterate my
14 motion to dismiss on the grounds of Brady violations and
15 Kyles versus Whitley arguments.

16 THE COURT: All right. Well, as to the motion
17 for directed verdict, I would deny that motion both as to
18 the kidnapping and as to the murder. There is direct
19 evidence that the defendant was the individual who was in
20 charge of the kidnapping and did, in fact, kidnap Samuel
21 Sturrup from Cherry Street in Augusta, Georgia, and had
22 him brought across the South Carolina state line into
23 Edgefield County.

24 There's further direct evidence from one
25 witness, Charlene Thatcher, that she observed the

1 defendant shoot Mr. Sturup in his head and remain until
2 Mr. Sturup died.

3 Additionally, there is testimony from two
4 witnesses, Richard Cave and Antonio Griffin, direct that
5 Mr. Barnes had a weapon and then circumstantial that the
6 last shot they heard, that Mr. Barnes was the individual
7 that was still at the location where Mr. Sturup had been
8 shot, but not fatally; that they heard another shot and
9 then later on, the defendant made the statement that,
10 "He's not going to go anywhere. I shot him in the head."
11 The fact that he was shot in the head is of course
12 corroborated by the findings of the autopsy of Dr. Joel
13 Sexton, the pathologist.

14 Although there may be conflicting testimony,
15 that only gives reason for why it is a jury issue. The
16 jury must determine the credibility of the witnesses and I
17 must look at the case at this point and the facts
18 favorable to the non-moving party. So the standard that I
19 must apply would have to deny your motion for directed
20 verdict as to kidnapping and murder.

21 MR. HARTE: Thank you, Your Honor.

22 THE COURT: There's additional evidence and
23 testimony of statements after the fact, the threats and
24 such like that that would also be circumstantial evidence.

25 Now, as to the motion on Brady, I guess the

1 first question would go back to the Solicitor.

2 Solicitor, do you have any evidence from
3 Richmond County Sheriff's Department or the Georgia Bureau
4 of Investigation, A, do you have any at all? And, B, if
5 you do, has any of it not been disclosed?

6 MR. MYERS: No, sir. And if you all would like
7 to hear from Agent Mike Perry about the content of those
8 folks, he tells me that GBI says they don't have an
9 investigation.

10 THE COURT: All right. I think Brady is founded
11 on disclosure or lack of disclosure.

12 I further have -- and I'll be glad to hear from
13 Mr. Perry, if you would like for me to, if you'd like to
14 make that a part of the record, of course, Mr. Harte. But
15 I don't know what authority the South Carolina
16 solicitor -- in fact, I don't think the South Carolina
17 solicitor would have any authority over law enforcement
18 agencies that are not South Carolina law enforcement
19 agencies. But if you want to take testimony --

20 MR. HARTE: I don't think -- I certainly accept
21 the Solicitor's word for what he's been told.

22 THE COURT: All right.

23 MR. HARTE: But I do know, Your Honor, that
24 there has been testimony that there were matters sent to
25 the GBI to be examined and those reports have not been

1 disclosed, so that --

2 THE COURT: I understand that and I heard that
3 testimony.

4 MR. HARTE: -- so I would add those to our list
5 of failure to disclose under Brady.

6 MR. MYERS: And I tried to find some reports on
7 that. There are no reports from the GBI.

8 THE COURT: I do understand that, and I recall
9 that testimony from, I believe, Detective Gordon. On both
10 times he testified, I think he testified twice, once
11 concerning Cherry Street and once concerning Wrightsboro
12 Road, and However,
13 again, if that is material that does exist, the Solicitor
14 has informed the Court that he does not have it and the
15 South Carolina solicitor would have no authority over the
16 Georgia Bureau of Investigation or the Richmond County
17 Sheriff's -- Richmond County, Georgia sheriff's
18 department.

19 I'll be glad to hear from you certainly, Mr.
20 Tarr.

21 MR. TARR: Your Honor, we would ask that you not
22 rule at this time due to the fact that we may have
23 additional evidence to present tomorrow on that single
24 Brady.

25 THE COURT: I'll be glad to keep it under

1 advisement in that regard --

2 MR. TARR: Yes, sir.

3 THE COURT: -- in that regard, the motion was
4 made at this time and that's why I was addressing it at
5 this time.

6 MR. TARR: Yes, sir.

7 THE COURT: But I will be glad to do that, Mr.
8 Tarr.

9 MR. TARR: Thank you.

10 THE COURT: All right.

11 MR. HARTE: Your Honor --

12 THE COURT: And you want Mr. Perry here
13 tomorrow?

14 MR. TARR: I don't believe that would be
15 necessary.

16 THE COURT: All right. Thank you, Mr. Tarr.

17 MR. HARTE: Your Honor, I would like to put into
18 evidence the Augusta Chronicle article which was what we
19 discovered on Wednesday or Thursday -- I lose track of the
20 days -- which was the basis for our request for the
21 report. I would like to put that in.

22 THE COURT: All right. You can mark it as a
23 Court's exhibit, but if you'd show it to the Solicitor.
24 Solicitor, have you seen it?

25 MR. MYERS: That's all right. If it's not the

1 State Newspaper, it's not credible.

2 MR. HARTE: Well, if it was from the Aiken
3 Standard, I'd put it in as incredible.

4 MR. TARR: And, Your Honor, the investigation
5 may have just been by Mr. Roundtree's superiors and not
6 the GBI.

7 Closer reading of that article indicates that it
8 was an investigation conducted by the sheriff's
9 department.

10 So in that regard, we would ask that the State,
11 if they've contacted the sheriff's department, to ask the
12 same questions about the investigation, or if they have
13 not done so, to please do so before we revisit this issue
14 in the morning.

15 THE COURT: All right. And another issue, of
16 course, is I offered to sign an out-of-state subpoena, for
17 whatever weight and value it may have in the state of
18 Georgia in that regard.

19 There are some cases -- in fact, death penalty
20 cases, I believe -- that would say items are as
21 discoverable as to both parties and if the State didn't
22 provide them, that would not be a discovery violation.

23 And, you know, if material exists, I want you
24 all to have it if you want it, and if I can assist the
25 defense in getting it, if my signature on a document has

1 any force and effect in Georgia, I would be glad to sign
2 that document and you can have someone serve it in that
3 regard.

4 But, Solicitor, if Agent Perry had also checked
5 with Richmond County Sheriff's Department, or do you know?

6 MR. MYERS: Could I get the defense attorneys to
7 tell Agent Perry what they want him to do?

8 THE COURT: You don't need my permission to do
9 that. They'll do it, that's fine. I don't have any
10 objection to that. I'm not an investigator or an
11 investigative arm of government.

12 MR. TARR: I'd be happy to talk to them.

13 THE COURT: Let's do that. I'll take it under
14 advisement, Mr. Tarr. I don't have a problem with that.

15 MR. HARTE: I think the solicitor said he
16 doesn't have an objection to this being placed --

17 MR. MYERS: I'll make copies of it.

18 THE COURT: It's a Court exhibit then.

19 MR. MYERS: I routinely don't interview
20 newspaper people to prepare a case.

21 THE COURT: I understand.

22 (WHEREUPON, The Court's Exhibit No. 3 was marked
23 for purposes of the record.)

24 THE COURT: Any other motions, Mr. Harte?

25 MR. HARTE: No, Your Honor.

1 THE COURT: All right. Let me -- I want to
2 revisit with Mr. Barnes -- he doesn't have to stand yet.
3 Give me just a moment.

4 Before he stands, let me go back and revisit
5 just the issue and settle his record.

6 I want to know what Mr. Barnes' record is that
7 the State thinks would be impeachable under 609, whether
8 it be 609(A) or (B), if you can tell me, and what the
9 convictions were and when they were and what the sentences
10 were.

11 MR. MYERS: There is a conviction in Edgefield,
12 I think it's 2008, throwing bodily fluids at a
13 correctional officer.

14 And Georgia, there is a written order -- and we
15 can make this a part of the record if you want to, Your
16 Honor -- on the 15th of December of 2003, Superior Court
17 Judge Carl C. Brown, Augusta Judicial Circuit, imposed the
18 following sentences in a case tried in Columbia County:
19 Armed robbery, life; burglary of a residence, 20 years
20 imprisonment to be served consecutively to the armed
21 robbery; kidnapping, 20 years to be served consecutively
22 to the sentences imposed in one and two; Count 5 and Count
23 6, terroristic threats, five years in prison as to each
24 count to be served concurrently with each other, but
25 consecutively to the sentences in Counts 1, 2, 3.

1 Counts 8 and 9 is pandering, P-A-N-D-E-R-I-N-G,
2 12 months imprisonment as to each count to be served
3 concurrently with each other, but consecutively to the
4 sentences in 1, 2, 3, 5, and 6.

5 Possession of a firearm during the commission of
6 a crime, five years consecutively with Counts 1, 2, 3, 5,
7 6, 8.

8 It is the intent of this Court that the
9 aforesaid sentences be interpreted to impose upon the
10 defendant a penitentiary sentence of life plus 51 years in
11 the above-styled case and that life plus 51 is to be
12 served consecutively to a Richmond County probation charge
13 which was five years, four months and 27 days.

14 Your Honor, I can hand this order up to the
15 Court. You might be able to follow it a little better.

16 THE COURT: All right. Thank you.

17 All right, Mr. Harte.

18 MR. HARTE: Yes, sir.

19 THE COURT: As to the throwing bodily fluids in
20 April of '08, what is the Defense's position as to that
21 charge?

22 MR. HARTE: I believe, Your Honor, that would
23 fall under Rule 609(A)(1).

24 THE COURT: All right. And I would further find
25 under 609(A)(1), that the evidence that the accused had

1 been convicted of the crime of throwing bodily fluids is
2 admissible. I have determined that the probative value of
3 admitting that evidence outweighs its prejudicial effect
4 to the accused.

5 Now, what is the Defense's position as to the
6 convictions of December 15th of '03 for, as I understand
7 it, armed robbery, burglary of a residence, kidnapping,
8 terroristic threats, pandering, and possession of a
9 firearm during the commission of a violent crime?

10 MR. HARTE: Your Honor, if you determine that
11 the probative value of admitting the evidence outweighs
12 its prejudicial effect, then I believe all the pandering
13 would fall under 609(A) (1). If you note the sentence
14 under the pandering, as I understand when the Solicitor
15 read it out, it was one year.

16 MR. MYERS: We will withdraw those.

17 THE COURT: You'd withdraw the pandering?

18 MR. MYERS: Yes.

19 THE COURT: All right. Thank you.

20 MR. HARTE: In that case, the others, depending
21 on Your Honor's ruling as to their prejudicial effect and
22 probative value that's determined.

23 THE COURT: All right. I have concerns with
24 three of these: Kidnapping, first because it's very
25 similar to the crime for which -- it's similar to the

1 crime in name for which he's on trial. I don't know if
2 it's the same type of situation; I have no idea of the
3 facts of the case.

4 I further have an issue with the possession of a
5 firearm during the commission of a violent crime.
6 Although he is not charged with that or indicted for that
7 in South Carolina -- to my knowledge, he's not. If he is,
8 it hasn't been called for trial. He could have been.

9 As to those two, I would find that the names of
10 those crimes are very close akin to the charges in this
11 case and that he could be questioned if he has a felony
12 conviction. I take it both of those are felonies in
13 Georgia.

14 So he could be asked if he has a prior
15 conviction for armed robbery, if he has a prior conviction
16 for burglary of a residence, and if he has a prior
17 conviction for another felony and another felony during
18 that same incident. I take it this is all one incident in
19 that regard.

20 Do you understand my ruling on that, that I
21 think it's --

22 MR. HARTE: I do, Your Honor. He can be asked
23 if there are two unnamed felonies, that they would not --
24 those two felonies would not be named.

25 THE COURT: But there's no allegation of armed

1 robbery in this case. There's no allegation of burglary
2 of a residence. Therefore, he can be asked directly on
3 those.

4 MR. HARTE: I understand your ruling.

5 THE COURT: Now, my other issue is terroristic
6 threats. That seems to be -- that carries a lot of
7 baggage with it in and of itself, I think, additional
8 value, I should say. Regardless of the baggage of a
9 felony, just on the name, I would further rule that he
10 could be asked if he had three additional felony
11 convictions at the same time along with the armed robbery
12 and the burglary of a residence.

13 Now, Mr. Harte, you realize the jury doesn't
14 know what those are, and in their mind, they may not
15 speculate what they are, but they could think it could be
16 greater. I mean, they could think it could be something
17 worse than possession of a firearm.

18 MR. HARTE: I certainly -- I certainly
19 understand that.

20 THE COURT: All right. Anything additional
21 you'd like for me to consider as far as the 609(A)
22 probative value analysis?

23 MR. HARTE: No, sir.

24 THE COURT: All right. You understand my
25 ruling, Solicitor?

1 MR. MYERS: You mentioned armed robbery and
2 burglary.

3 THE COURT: And then three unnamed felonies.

4 MR. MYERS: Three unnamed felonies.

5 THE COURT: And I take it all three of those are
6 felonies. Am I correct on that, is terroristic threats in
7 Georgia a felony? If you all would just confirm that for
8 the record.

9 And, Solicitor, you can check that, if it's a
10 felony or a misdemeanor. They all carry over one year,
11 they would be admissible under the 609(A) (1).

12 MR. MYERS: And I've got the statute, but I
13 don't believe the punishment.

14 THE COURT: All right. Just make sure it's
15 factually correct, that they are felonies and none of them
16 misdemeanors. And show that to Mr. Harte and get that in
17 the record.

18 MR. HARTE: Your Honor, I want to say that -- I
19 mean Georgia law, anything over a year is a felony.

20 THE COURT: And I don't know.

21 MR. MYERS: This says not less than one or more
22 than five.

23 THE COURT: If someone could just confirm that
24 for the record, Solicitor. I don't want him to be asked
25 if he's had felony convictions if they're misdemeanors.

1 They'd still be admissible if they carry over a year.
2 It's just they wouldn't be felonies unless they are
3 felonies in Georgia. That's my only concern at this
4 point.

5 And you think anything over a year in Georgia is
6 a felony?

7 MR. HARTE: No, I'm told I'm wrong about that.
8 But I can't imagine kidnapping wouldn't be a felony.

9 THE COURT: Kidnapping would be a felony.

10 MR. HARTE: I can't imagine possession of a
11 weapon during the commission of a violent crime wouldn't
12 be a felony.

13 THE COURT: Terroristic threats.

14 MR. HARTE: Terroristic threats.

15 THE COURT: All right. We can confirm that.

16 MR. HARTE: Yes, sir.

17 THE COURT: All right. Mr. Barnes, would you
18 stand for me, please.

19 Again, Madam Clerk, would you give Mr. Barnes
20 the affirmation as an oath. But he's not going to swear,
21 he's just going to affirm. Just place him under
22 affirmation.

23 STEVEN BARNES, after affirmation,
24 testified as follows:

25 THE CLERK: State your full name.

1 THE DEFENDANT: Steven Louis Barnes.

2 THE CLERK: Thank you.

3 THE COURT: Thank you very much, Mr. Barnes.

4 And speak up for me, please, so that I can hear you.

5 I'm revisiting the issue with you now of your
6 right to testify or not to testify.

7 You understand that the State has now rested.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you understand now, your side
10 has the opportunity to present evidence or testimony. If
11 you choose to call witnesses in your behalf, you may do
12 so. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Further, if you choose to testify,
15 you may testify yourself. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: If you do take the witness stand and
18 testify, as you've heard, I have ruled that the solicitor
19 could ask you if you have a conviction for throwing bodily
20 fluids at correctional officers in April '08. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Further, the solicitor could ask you
24 if you have a conviction for armed robbery, burglary of a
25 residence, and three unnamed felony convictions on

1 December 15th of '03. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I would tell the jury, of course,
4 that they would use that evidence as to your prior record,
5 if they use it at all, solely on the issue of your
6 credibility or your believability. Do you understand
7 that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you had an opportunity over the
10 luncheon recess to talk with your lawyer about your right
11 to testify or not to testify?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And you understand, Mr. Barnes, that
14 should you choose not to testify, I would tell this jury
15 that they cannot hold the fact that you do not testify
16 against you. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I will tell this jury that you have
19 an absolute right to remain silent and the exercise of
20 that right cannot be used against you. Do you understand
21 that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I would further tell this jury that
24 they're not to even discuss that matter of the fact that
25 you do not testify whatsoever or give it any weight and

1 value in deliberations and in their consideration of their
2 verdict in this case. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, whatever decision you have
5 made, Mr. Barnes, is it your decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has anyone threatened you or coerced
8 you in any manner to get you to testify or not to testify?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anyone used any threats of
11 violence or any force against you to get you to testify or
12 not testify?

13 THE DEFENDANT: No, sir.

14 THE COURT: No one's twisted your arm or
15 anything of that nature?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you made your decision as to
18 whether or not you are going to testify?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And what is your decision?

21 THE DEFENDANT: I'm not going to testify.

22 THE COURT: You're not going to testify.

23 Is that a decision -- do you have any questions
24 you would like to ask me about your right to testify or
25 not to testify?

1 THE DEFENDANT: I did, but after conversations
2 with --

3 THE COURT: Speak up a little bit. I'm sorry.

4 THE DEFENDANT: I talked with my lawyers in the
5 back and I don't think it's in my best interest.

6 THE COURT: All right. And you've made that
7 decision freely and voluntary?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Of your own freewill and accord?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Thank you very much. Do
12 you have any questions you want to ask me in that regard?

13 THE DEFENDANT: No, sir.

14 THE COURT: Thank you very much, Mr. Barnes.
15 You may be seated.

16 Anything further before we bring our jury out,
17 Mr. Harte?

18 MR. HARTE: No, sir.

19 THE COURT: Y'all intend to offer or present any
20 evidence or testimony?

21 MR. HARTE: No, sir.

22 THE COURT: All right. So the defense intends
23 to rest at this time?

24 MR. HARTE: Correct, Your Honor.

25 THE COURT: Well, we're going to take a break

1 before we bring the jury back out. It's now after
2 3 o'clock. We'll take about a 15-minute break. That will
3 give us to about 3:25.

4 What is you all gentleman's pleasure as far as
5 arguing and charging?

6 MR. MAYE: Whenever you're ready, Your Honor,
7 whenever the Court's ready.

8 MR. HARTE: Your Honor, I would prefer to have
9 some time to prepare my closing argument. I would request
10 that we argue and charge in the morning.

11 THE COURT: Do you have any objection to that,
12 Solicitor?

13 MR. MYERS: No objection.

14 THE COURT: All right. Why don't we do that,
15 then? We'll take about a 15-minute recess, we'll come
16 back in and I'll certainly explain to the jury where we're
17 at. I will give the defense an opportunity to present any
18 evidence. You'll have to formally rest in front of the
19 jury. We'll have an early evening for them and we'll
20 start back fresh at 9:30.

21 Solicitor?

22 MR. MYERS: I agree with them that we're going
23 to have to probably go over some charges and other things
24 anyhow.

25 THE COURT: All right. Well, if you all have

1 any requests to charge, you need to submit it to me now
2 because I'm going to have my charge ready tonight before I
3 leave, if you all have any.

4 Now, where does that leave us with the Brady
5 motion if you rest? It's still on the table; is that
6 correct, Mr. Tarr?

7 MR. TARR: Yes, Your Honor.

8 THE COURT: All right. Very well. Well, let's
9 take about a 15-minute recess before we bring our jury
10 back. Thank you all very much.

11 (A break was taken.)

12 THE COURT: All right. Anything before we bring
13 the jury in?

14 MR. MYERS: Yes, sir.

15 THE COURT: All right.

16 MR. MYERS: No, nothing. I thought you said
17 were we ready for the jury.

18 THE COURT: All right.

19 MR. HARTE: No, Your Honor.

20 THE COURT: All right. Bring us our jury,
21 please.

22 (The jury came into open court at approximately
23 3:24 p.m.)

24 THE COURT: All right. Welcome back, ladies and
25 gentlemen of the jury panel.

1 As you recall, the State has rested its case in
2 chief. What that means is that you've heard all the
3 evidence and testimony you're going to hear from the State
4 in its case in chief.

5 The defense now has the opportunity to present
6 evidence or testimony if the defense chooses to do so.

7 As you recall, I have said numerous times to you
8 that the State has the burden of proving its case beyond a
9 reasonable doubt.

10 The defendant has no burden. The defendant is
11 presumed to be innocent. The defendant does not have to
12 prove himself innocent. However, a defendant may present
13 evidence and testimony if the defendant chooses to do so.

14 So what we'll do now is we'll turn to Mr. Harte
15 and Mr. Tarr, and ask Mr. Harte, you may call your first
16 witness.

17 MR. HARTE: Your Honor, the defense rests.

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

19 The defense has now rested, ladies and gentlemen
20 of the jury panel. What that means is that you've now
21 heard all the evidence and all the testimony that are you
22 going to hear in the trial of this case as far as this
23 phase is concerned.

24 Please recall that just because I use that term
25 "this phase" does not mean there's going to be a second

1 phase. It's just the terminology I use as far as the
2 guilt phase is concerned.

3 Well, what does that mean for us and our jury
4 panel? I guess what the real question is, what does it
5 mean for you?

6 It is now 3:26 in the afternoon. We're at the
7 point of closing arguments by the attorneys and the
8 instruction on the law by the Court. That could take
9 several hours. As you'll recall, I have said several
10 times I do not believe in conducting a judicial marathon.
11 So we're going to stop for the evening and we're going to
12 start back fresh at 9:30 in the morning.

13 Upon your return at 9:30 in the morning, we will
14 go directly into the closing arguments by the attorneys.
15 The procedure we will follow is the solicitor will close
16 first on behalf of the State, followed thereafter by the
17 attorney for the defendant.

18 Please recall my instructions. I'm sure you can
19 repeat them back to me by now. Do not discuss this case
20 with anyone. If anyone tries to talk with you about the
21 case, please try to get that person's name; at any rate,
22 let me know immediately.

23 I realize your activities are restricted and
24 limited, but do not watch, listen, or read any news
25 reports or news accounts about the case.

1 Remember to keep an open mind about the case.
2 Do not begin your deliberations until you've heard all the
3 evidence and testimony, which you have, the closing
4 arguments by the attorneys, the instruction on the law by
5 the Court, and then directed by the Court to begin your
6 deliberations. As I state, we will start that process at
7 9:30 in the morning.

8 So you all have an early evening this afternoon.
9 I hope you'll have a pleasant evening, and I will see you
10 at 9:30 in the morning.

11 Please leave your notes upside down on your
12 chairs. They will be secured by the Clerk's office over
13 the evening hours.

14 You may now go with the bailiff to the jury
15 room. Thereafter, you will be secured by the jury
16 sequestration team. Thank you very much.

17 (The jury left open court at approximately
18 3:29 p.m.)

19 THE COURT: Anything further, Solicitor?

20 MR. MYERS: No, sir.

21 THE COURT: All right. Mr. Barnes, again, would
22 you please stand?

23 And, Madam Clerk, would you please give
24 Mr. Barnes the affirmation.

25 STEVEN BARNES, after affirmation,

1 testified as follows:

2 THE COURT: Mr. Barnes, my law clerk did look up
3 the issue of felony versus misdemeanor in Georgia. It is
4 a felony for any crime that carries a sentence in excess
5 of 12 months. So those other three charges that I ruled
6 the solicitor could have asked you about would be felony
7 charges in that regard.

8 That's under 16-1-3 of the Code of Georgia
9 Annotated and 16-11-37, terroristic threats and acts in
10 that regard.

11 The next thing I want to discuss with you, in a
12 death penalty case such as this, the defense always has
13 the right to make the final closing argument. So the
14 procedures you heard me tell the jury that we follow is
15 the solicitor would close first; thereafter, followed by
16 your attorneys, or attorney.

17 I want to discuss with you your right to make a
18 final statement after both closing arguments.

19 Do you understand that you have a right
20 personally to address the jury after the closing arguments
21 of the attorneys? Do you understand that, Mr. Barnes?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. And do you have any
24 questions you would like to ask me about your right to
25 make a final statement?

1 THE DEFENDANT: So do you mean after everything?

2 THE COURT: Speak up for me, please.

3 THE DEFENDANT: After closing arguments of both
4 sides?

5 THE COURT: Yes, sir.

6 THE DEFENDANT: Can I make a statement?

7 THE COURT: You have the right to make a final
8 statement to the jury. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. In other words, the
11 solicitor would close, do a closing argument, your
12 attorney would make a closing argument, then you have a
13 right to make a final statement after the attorneys'
14 closing arguments to the jury. Do you understand?

15 THE DEFENDANT: Yes, sir. I've got a question.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: Okay. Now, to what extent can I
18 question -- I mean, what you said, I can address the jury,
19 right?

20 THE COURT: Yes, sir.

21 THE DEFENDANT: I want to make sure I
22 understand.

23 THE COURT: Yes, sir, I want to make sure you
24 understand.

25 THE DEFENDANT: So, I mean, to what extent can I

1 address them? That's what I'm trying to say.

2 THE COURT: Well, I think you can address the
3 jury and relate or talk about any facts in evidence in the
4 record, any inferences drawn from the facts and how they
5 may apply to the law.

6 Do you agree with that, Mr. Harte?

7 MR. HARTE: I do, Your Honor. I think there is
8 a line there where he cannot testify.

9 THE COURT: Correct.

10 THE DEFENDANT: What do that mean?

11 THE COURT: So you're limited to the facts in
12 the record.

13 THE DEFENDANT: Straight to the record.

14 THE COURT: And the reasonable inferences that
15 may be drawn from the facts in the record. Do you
16 understand that?

17 THE DEFENDANT: I'll do that.

18 THE COURT: Sir?

19 THE DEFENDANT: Yes, sir. Pardon me.

20 THE COURT: Do you understand?

21 THE DEFENDANT: Yeah. Yes, sir.

22 MR. HARTE: I want to make sure he understands
23 that he would not be able to say to the jury, "I didn't
24 kill Sam Sturrup. I wasn't out there." That's testimony.
25 He could only comment on the evidence and the testimony.

1 THE COURT: That's in the record.

2 MR. HARTE: Which I intend to do.

3 THE COURT: Do you understand that?

4 THE DEFENDANT: Yes, sir, I understand it.

5 THE COURT: All right. If you went outside of
6 the record or the reasonable inferences drawn from the
7 record, the solicitor may object. And if the solicitor
8 objected, I may, depending on my determination of whether
9 or not that's a well-founded objection, I might sustain
10 that objection, I might overrule that objection, but it's
11 not for purposes of you testifying. Do you understand?
12 It's a final statement that you can make before the
13 jury -- after the attorneys have addressed the jury. Do
14 you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you have an absolute right to
17 make that final statement.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Is there anything else that you
20 would like to ask me about your right to make that final
21 statement?

22 THE DEFENDANT: Well, I assume that my lawyers
23 know the guidelines because, of course, I'm going to
24 present it to them first before I, you know, come out here
25 and, you know, don't have all these objections and stuff

1 like that.

2 THE COURT: Yes, sir. Certainly. And you don't
3 have to make your decision tonight. I want you to -- you
4 can discuss that further with your attorneys. You could
5 prepare yourself in any manner in which you choose to
6 prepare yourself, by a written statement where you would
7 have your notes or by your memory of the statement or
8 practicing or whatever you choose to do. Do you
9 understand?

10 THE DEFENDANT: Yes, sir, I understand.

11 THE COURT: But I do want to make you fully
12 aware that you have the right to make that statement.
13 I'll ask you tomorrow whether or not you're going to make
14 a statement, but you do not have to make that decision
15 tonight. But I did want to fully advise you of your right
16 to make a statement to the jury. Do you understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Any other questions?

19 THE DEFENDANT: Like I say, whatever additional
20 questions I have, I'll consult with my lawyers. But as
21 for you, no, sir.

22 THE COURT: All right. Consult with your
23 lawyers and we'll revisit this in the morning. Okay?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Thank you very much,

1 Mr. Barnes.

2 Anything else I need to further cover in that
3 regard, Mr. Harte and Mr. Tarr?

4 MR. HARTE: No, Your Honor.

5 THE COURT: All right. Solicitor?

6 MR. MYERS: No, sir.

7 MR. HARTE: I do need to renew my motion for
8 directed verdict on the grounds that we stated at the end
9 of the State's case.

10 THE COURT: All right. Thank you. Your motions
11 for directed verdict are renewed, noted, and my rulings at
12 the close of the State's case are reaffirmed.

13 MR. HARTE: Thank you.

14 THE COURT: And I would deny those motions.
15 Anything further?

16 MR. HARTE: No, sir.

17 THE COURT: All right. How much time do you all
18 think you need to argue?

19 MR. MAYE: I wouldn't imagine very long. Judge,
20 I can't imagine that it would be anything that would be so
21 unusual in length that it would be outside of the normal
22 range. I can't imagine --

23 THE COURT: What's the normal range, 30 minutes,
24 20 minutes, something like that?

25 MR. MAYE: Your Honor, I usually run out of

1 steam by then.

2 THE COURT: All right. And I'm not holding you
3 to it. I just want an idea in my mind. I'm not going to
4 tell the jury. I just want an idea.

5 MR. HARTE: Every time I do this, I end up about
6 15 minutes over what I think it's going to be, so I'm
7 going to say an hour.

8 THE COURT: All right. That's fine.

9 Requests to charge?

10 MR. MYERS: Are you going to share with us what
11 you're going to charge?

12 THE COURT: I have my standard charge. I'm
13 going to charge -- I mean, as far as beyond the standard
14 general criminal law, I'm going to charge criminal intent,
15 murder, and kidnapping. I charged fully my kidnapping
16 charge in the opening.

17 MR. HARTE: What was that?

18 THE COURT: I charged my full kidnapping charge
19 in the opening.

20 MR. HARTE: I noticed that.

21 THE COURT: In my opening I did that. I didn't
22 charge the full murder charge. I kind of condensed that
23 down because they had been somewhat exposed to it during
24 voir dire.

25 Do you want it all, Solicitor, or a copy of all

1 of it? I can have my clerk print it out.

2 MR. MYERS: No, sir. I'd like to read the
3 kidnapping charge. I was listening to some of it. I know
4 you define the elements and everything else?

5 THE COURT: Yes, sir. And define those
6 different words of decoy, inveigle, abduct, carry away,
7 those type of things.

8 MR. MYERS: I don't need it. When you charge
9 that a kidnapping offense is a continuing offense?

10 THE COURT: Yes, sir. I will -- I think there
11 is a case that's directly on point in that regard.

12 MR. MYERS: There is, yes, sir.

13 THE COURT: Could you just give me a case to
14 cite for the record perhaps? I'll get my law clerk to get
15 one. I know there are cases. In fact, State versus Hall
16 out of Lexington County may be once such case.

17 MR. MYERS: Hall would be one.

18 THE COURT: Or maybe State versus Jeffries, but
19 I will charge that kidnapping is a continuing offense.

20 Any specific requests to charge, Mr. Harte?

21 MR. HARTE: Your Honor, I'm looking at my
22 ancient Ervin book here -- not Ervin Maye. Do you plan to
23 charge impeachment by inconsistent statements?

24 THE COURT: I can add that.

25 MR. HARTE: I'd appreciate that.

1 THE COURT: All right.

2 MR. HARTE: And just generally the credibility.

3 THE COURT: I have a general credibility charge.

4 MR. HARTE: I would like to see that, if
5 possible, in the morning.

6 THE COURT: All right. I add a couple of words
7 to the credibility charge I print it out. I add "using
8 your good judgment and common sense." It's not actually
9 in my charge, but I do add that.

10 MR. HARTE: I'm sure you have witness conviction
11 of a crime?

12 THE COURT: Let me look at that charge. Do you
13 have a particular charge that you want in that regard?

14 MR. TARR: No, Your Honor, just in general,
15 whenever I've had a trial with witnesses that have been
16 convicted, there's a general charge that I'm sure Your
17 Honor has.

18 THE COURT: Well, that general charge is they're
19 qualified to testify and the fact that they have a
20 criminal record may be used by the jury for whatever
21 weight and value they so choose to give solely as to the
22 issue of credibility?

23 MR. HARTE: Yes, sir.

24 THE COURT: All right. I'll add that.

25 I did not charge any identification issue. I

1 have not charged any alibi issue. No lesser-included
2 offense.

3 MR. HARTE: To show how old this book is, it
4 says, "Evidence of conviction of a crime of moral
5 turpitude can be considered by you in determining whether
6 a witness is truthful or worthy," something along those
7 lines, but obviously without the "moral turpitude."

8 THE COURT: Yes, I have a charge out of the book
9 that I use.

10 All right. If you all have any others, I'll be
11 here by 9 in the morning, if you'd just get them to me on
12 both sides.

13 All right. Thank you all very much.

14 Court will be in recess until 9:30 in the
15 morning.

16 (The proceedings were concluded for the day and
17 reconvened on November 13th, 2010.)

18 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

19 VOLUME 5 OF 9
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STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
 COUNTY OF EDGEFIELD ___) 2005-GS-19-273
) 2005-GS-19-457

STATE OF SOUTH CAROLINA)
)
) vs.)
) TRANSCRIPT OF RECORD
) VOLUME 6
 STEVEN LOUIS BARNES,)
 _____ DEFENDANT)_

November 13, 2010
 Edgefield, South Carolina

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, JUDGE.

A P P E A R A N C E S:

DONALD V. MYERS, SOLICITOR
 ERVIN J. MAYE, ASSISTANT SOLICITOR
 H. FRANKLIN YOUNG, III, ASSISTANT SOLICITOR
 Attorneys for the State

ROBERT J. HARTE, ESQ.
 DAVID B. TARR, ESQ.
 Attorneys for the Defendant

CAROL M. THUEME, RPR
 Official Court Reporter

I N D E X

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WITNESSES:

PAGE

(There were no witnesses sworn.)

CLOSING ARGUMENTS:

Mr. Maye
Mr. Harte

1353
1399

CHARGE OF THE COURT

1430

VERDICT

1460

EXHIBITS

Court's

ID EVD

4 16-1-3 Georgia Code
5 16-11-37 Georgia Code
6 Sentence/Final Disposition
7 Jury note

1345
1345
1345
1471

1 THE COURT: All right. Before we bring our jury
2 out, there's certain matters that I would like to address
3 and resolve.

4 First off, the Brady motion. Anything further
5 on the Brady motion?

6 MR. HARTE: Not by way of evidence, Your Honor.

7 The thing that I do want to make on the record
8 very briefly, I understand it's your position that the
9 Solicitor does not have authority over out-of-state or
10 other state jurisdictions or law enforcement agencies.
11 But my reading of Brady is that if that other law
12 enforcement -- other state's law enforcement agency is
13 involved in the investigation, as was testified to here,
14 and is aware of potentially Brady material or any reports
15 or documents, test results, that sort of thing, that it's
16 incumbent upon that law enforcement agency to produce that
17 material to the solicitor.

18 If the solicitor doesn't get it, it's not his
19 fault, but the State's case is affected by the Brady
20 error.

21 And I understand your position, and I just
22 wanted to put my alternative position on the record for
23 the future.

24 THE COURT: All right. And, Mr. Tarr, if
25 there's anything you'd care to add.

1 MR. TARR: No, Your Honor.

2 THE COURT: All right. Solicitor, anything
3 you'd care to add on the Brady motion?

4 MR. MYERS: No, sir.

5 THE COURT: All right. Well, I am denying the
6 motion to dismiss the case based on any alleged Brady
7 violation. I find that there has not been a Brady
8 violation and that the issue goes to one of disclosure.

9 There are obviously four elements to Brady
10 itself, as I understand the law.

11 "An individual asserting a Brady violation must
12 demonstrate that the evidence is, one, favorable to the
13 accused; two, in the possession of or known by the
14 prosecution; three, was suppressed by the State; and four,
15 was material to the accused's guilt or innocence or was
16 impeaching."

17 I'm citing that language which, of course, sites
18 Kyles versus Whitley, 514 U.S.2nd 419, and that is
19 language from Riddle versus Ozmint, 631 SE2nd 70, which is
20 a post-conviction relief on a capital murder case.

21 I find that it has been presented to the Court
22 that there was no evidence in the possession of or known
23 to the prosecutor that was suppressed by the State;
24 therefore, there would be no Brady violation.

25 Again, I would revisit the issue, and I

1 understand Mr. Harte's and Mr. Tarr's position that the
2 solicitor has no authority over any foreign law
3 enforcement agency; that no investigating officer of the
4 Richmond County Sheriff's Department testified in this
5 case -- a crime scene officer did, Mr. Gordon, but no
6 investigating officer -- that the solicitor dispatched a
7 SLED agent with the State Law Enforcement Division to
8 contact the Richmond County Sheriff's Department and
9 Georgia Bureau of Investigation to attempt to locate any
10 information, that was not successful, so there has been no
11 failure to disclose any information in regards to this
12 that would be a Brady violation.

13 Further, I would note on Court Exhibit No. 1,
14 that is a newspaper article dated September the 16th of
15 2008, referring to an Investigator Richard Roundtree of
16 the Richmond County Sheriff's Department, in which it
17 states from this article that "Investigator Roundtree
18 checked Charlene Thatcher out of the Richmond County jail
19 on at least seven occasions between January of 2002 and
20 August, 2003. She had been arrested in 2001 in the 2001
21 kidnapping and murder of 16-year-old Samuel James
22 Sturup."

23 In that regard, Ms. Thatcher was very
24 professionally cross-examined concerning that matter. She
25 testified that she was taken from the Richmond County

1 Detention Center on seven occasions by Investigator
2 Roundtree, that only one of those was a recorded
3 conversation, the first one; that of the remaining, only
4 three additional did they ever discuss the Sturup case.

5 Further, the allegation that the defense brought
6 to the attention of the Court was not only that she was
7 removed from the detention center by Investigator
8 Roundtree and taken to his office in the Richmond County
9 Sheriff's Office, but there was an alleged sexual
10 relationship between Ms. Thatcher and Investigator
11 Roundtree. She was asked that on cross-examination, the
12 State did not object to that questioning. The witness
13 denied that.

14 Further, from Court's Exhibit No. 1, it appears
15 that was investigated and found to be unfounded.

16 So even if there were a Brady violation as to
17 that information, the witness that was allegedly subjected
18 to some type of -- allegedly subjected to some type of
19 improper interviewing by Investigator Roundtree or conduct
20 by Investigator Roundtree was cross-examined in that
21 regard and denied it, the point of the Court being that
22 the trial jury has all that information in front of it and
23 will be able to place whatever weight and value it so
24 chooses on that.

25 So I find specifically there has not been a

1 Brady violation and that even if there were, that the
2 witness has been -- the witness Thatcher has been
3 cross-examined in that regard.

4 Mr. Harte.

5 MR. HARTE: Your Honor, just for the record, I
6 wanted to make sure that the Court was aware that we were
7 not limiting our motion to just the question of the
8 investigation of Mr. Roundtree but also the reports from
9 the GBI on samples sent to them from the shock absorber.
10 I think there were samples from a trash can or some kind
11 of barrel as well as the tapes that Ms. Thatcher said Mr.
12 Roundtree made of the interviews that she had with him
13 that did concern this case and the improper times that he
14 took her out of the jail.

15 THE COURT: All right. And I would add again
16 that Mr. Harte adequately and very professionally
17 cross-examined Ms. Thatcher on numerous prior inconsistent
18 statements.

19 Also, he cross-examined Officer James Gordon
20 concerning the items that Mr. Gordon secured from
21 and Augusta, Georgia,
22 on various dates concerning this investigation and the
23 fact that he had no reports, was not aware if there were
24 any reports, and reports would have gone to an
25 investigator with Richmond County. The Solicitor

1 indicates to me, or indicates to the Court, that he was
2 not provided with any reports.

3 Further, on cross-examination, that information
4 was brought out in front of this jury. They may take that
5 into account concerning the integrity of the process or
6 the failure to properly conduct forensic evaluations.
7 That may be, in fact, favorable to the defendant, that
8 there are no reports concerning any forensic testing on
9 any of those items. But I understand that is part of your
10 motion.

11 MR. HARTE: Just trying to make the record
12 clear.

13 THE COURT: Anything further in regard to the
14 Brady motion?

15 MR. HARTE: No, Your Honor.

16 THE COURT: Thank you. Thank you very much.

17 The other issue I do want to mark for the
18 record, the information my law clerk looked up under the
19 Georgia statutes concerning his prior record. I thought I
20 had those in front of me. I will mark those for the
21 record. Here they are, concerning 16-11-37, terrorist
22 threats and acts, and 16-1-3, definition concerning felony
23 means a crime punishable by death, by imprisonment for
24 life, or by imprisonment for more than 12 months.

25 If you would hand those to the court reporter.

1 I also want to mark as a Court's exhibit a
2 sentence and final disposition on Mr. Barnes where he was
3 sentenced by Judge Carl C. Brown of the Augusta Judicial
4 Circuit. That would be Court's Exhibit No. 4.

5 If you'd mark those, Madam Court Reporter.

6 (WHEREUPON, The Court's Exhibits Nos. 4, 5, 6
7 were marked for purposes of the record.)

8 THE COURT: Next finally, gentlemen, is the
9 charge.

10 I do intend to charge language that under State
11 versus Hall that "kidnapping is a continuing offense. The
12 offense commences when, one, if wrongfully deprived of
13 freedom and continues until freedom is restored." I did
14 not have that as part of my charge.

15 MR. HARTE: I have no objection to that, Your
16 Honor.

17 THE COURT: And further, I changed up some of
18 the language on prior inconsistent statement.

19 The way I had it in the charge I gave you last
20 night, that the Court provided you and the solicitor last
21 night, it says, "There had been prior inconsistent
22 statements." That's a charge on the law -- excuse me --
23 that's a charge on the facts, I think.

24 The language I use is, "You may use evidence, if
25 any, that a witness has made a prior statement that is not

1 consistent with the witness's testimony given at trial.

2 To decide whether to believe a witness, you may
3 also use evidence of earlier contradictory statements, if
4 any, to determine the truth of those statements. It's up
5 to you to decide whether to believe the earlier
6 statements, any earlier statements, or the testimony given
7 at trial.

8 If a witness has shown to have knowingly
9 testified untruthfully concerning any material matter, you
10 may consider this in determining whether to trust the
11 witness's testimony as to other matters. You may reject
12 all the testimony of a witness or give all or part of the
13 testimony the weight you think it deserves."

14 I think if I say there had been prior
15 inconsistent statements, that that's a charge on the
16 facts.

17 MR. HARTE: Well, Your Honor, as I see it, you
18 only changed the first sentence.

19 THE COURT: Primarily only changed the first
20 sentence.

21 MR. HARTE: I was a little slow getting to the
22 page, but --

23 THE COURT: Yes, sir.

24 MR. HARTE: -- the way I had read it was, "There
25 has been evidence presented that witnesses have made prior

1 statements." I don't read that as the Court saying that
2 there are prior inconsistent statements. I read that to
3 say there has been evidence, and certainly there has been
4 evidence, multiple questions on cross-examination, so I
5 would object to your changing what you had originally put
6 in, but I want to make sure that the -- what you
7 originally had was in the record.

8 "There has been evidence presented that
9 witnesses have made prior statements which are not
10 consistent with the witness's present testimony. You may
11 use this evidence to determine whether to believe the
12 witness. You may also use evidence of the earlier
13 contradictory statements to determine the truth of those
14 statements. It is up to you to decide whether to believe
15 the earlier statements or the testimony given at trial.

16 If the witness is shown to have knowingly
17 testified untruthfully concerning any material matters,
18 you may consider those in determining whether to trust the
19 witness's testimony as to other matters. You may reject
20 all testimony of that witness or give all or part of the
21 testimony the weight you think it deserves."

22 I believe that's the way you had it originally.

23 THE COURT: Yes, sir, that is the way I have it.
24 I do think the first sentence is a charge on the evidence
25 or on the facts. It's up to the jury to determine whether

1 or not there's been prior inconsistent statements, so I
2 changing it in that regard, but I think you're protected
3 on the record.

4 Any other requests for charges, Mr. Harte?

5 MR. HARTE: No.

6 THE COURT: Solicitor?

7 MR. MYERS: No, sir.

8 THE COURT: And, finally, Mr. Barnes, would you
9 stand for me, please.

10 Madam Clerk, would you give Mr. Barnes the
11 affirmation.

12 THE CLERK: Raise your right hand, please.

13 STEVEN BARNES, after affirmation,
14 testified as follows:

15 THE CLERK: State your full name, please.

16 THE DEFENDANT: Steven Louis Barnes.

17 THE CLERK: Spell your last name.

18 THE DEFENDANT: B-A-R-N-E-S.

19 THE CLERK: Thank you.

20 THE COURT: All right. Mr. Barnes, I do want to
21 revisit with you the issue that we covered yesterday
22 afternoon.

23 You understand that you have a right to make a
24 final closing statement to the jury after the solicitor's
25 closing argument, after your attorney's closing argument.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Did you have an
4 opportunity to discuss that with your attorneys over the
5 evening recess?

6 THE DEFENDANT: Well, I spoke with David Tarr.

7 THE COURT: All right.

8 THE DEFENDANT: I was hoping that after the
9 closing I could conversate with them then and then come to
10 my decision then after conferring with them.

11 THE COURT: Well, once I start the closing,
12 Mr. Barnes, depending on the timing, we may not take a
13 break.

14 Have you not made your decision? Is that what
15 you're telling me?

16 THE DEFENDANT: That basically I just want --
17 it's that if you can, I'd like to take a little break so I
18 can --

19 MR. TARR: Could I have one moment to say
20 something to Mr. Barnes?

21 THE COURT: Yes, sir.

22 (Pause.)

23 THE COURT: All right. Mr. Tarr.

24 MR. TARR: I'm done conferring.

25 THE COURT: All right. Mr. Barnes.

1 THE DEFENDANT: Yeah, that's what I was asking,
2 if I can have a minute to break.

3 THE COURT: All right. I will allow that,
4 Mr. Barnes.

5 So what we'll do is we'll bring the jury in, the
6 solicitor will close, your attorney will close. Depending
7 on how long the solicitor is, we may or may not take a
8 break between the solicitor and your lawyer. And at the
9 conclusion of your lawyer's closing, I will give you a
10 brief recess to talk again with your attorneys.

11 Does anyone know of any case in which that would
12 be prohibited or not appropriate procedure? Do you know,
13 Mr. Tarr?

14 MR. TARR: I don't, Your Honor.

15 THE COURT: All right. Solicitor?

16 MR. MYERS: It's discretionary.

17 THE COURT: All right. I will do that, then,
18 and give you another opportunity to speak briefly for a
19 moment with your attorney, considering the seriousness of
20 the case that we're engaged in.

21 MR. TARR: Thank you, Your Honor.

22 THE COURT: Thank you, Mr. Tarr. Thank you,
23 Mr. Barnes.

24 All right. We'll now get started.

25 Anything further before we bring our jury in,

1 Solicitor?

2 MR. MYERS: No, sir.

3 THE COURT: Anything further, Mr. Harte or Mr.
4 Tarr?

5 MR. HARTE: No, sir.

6 THE COURT: All right. Thank you very much.
7 If you'd bring us our jury, please.

8 (The jury came into open court at approximately
9 9:57 a.m.)

10 THE COURT: Good morning, ladies and gentlemen
11 of the jury panel. I hope you all had a pleasant evening.

12 As you will recall, the State rested its case
13 yesterday afternoon and thereafter the defense rested.
14 You've heard all the evidence and all the testimony you're
15 going to hear in the trial of this case at this juncture.

16 We're now at the point of closing arguments by
17 the attorneys. The procedure we follow in South Carolina
18 is the solicitor presents the closing argument on behalf
19 of the State first, followed thereafter by the attorney
20 for the defendant.

21 Ladies and gentlemen, I believe you'll recall
22 the State has the burden of proving its case beyond a
23 reasonable doubt; that the defendant is presumed to be
24 innocent.

25 Although the closing arguments by the attorneys

1 are not evidence, it is important and different from the
2 opening statements. It's true arguments. They may
3 comment on the facts, reasonable inferences to be drawn
4 from the facts, and how that applies to the law.

5 After all the statements of these parties,
6 closing arguments of the parties, I will then instruct you
7 and charge you on the law which you are to apply to the
8 facts of this case. Depending on the timing, we may take
9 a break between the closings or we may not, it just
10 depends on how long each closing lasts, but I would ask
11 you, ladies and gentlemen, to please give the attorneys
12 your complete and undivided attention.

13 I would further remind everyone in the
14 courtroom, I do not allow any movement or any entering or
15 leaving during any time in which the attorneys are
16 addressing the jury or anytime when the Court is
17 addressing the jury. So if you think you can't stay for
18 the entire process, I'd ask you to please leave at this
19 time.

20 All right. Thank you very much.

21 Solicitor, you may address the jury.

22 MR. MAYE: May it please the Court, Your Honor.

23 THE COURT: Yes, sir.

24 MR. MAYE: Good morning, ladies and gentlemen.

25 (The jurors respond "good morning.")

1 MR. MAYE: Winston Churchill once said that the
2 highest duty that a citizen has during peacetime is
3 service on a jury. And all of you that have been taken
4 away from your normal lives and put in a motel are seeing
5 the ultimate example of that. But this is vitally
6 important for everybody here in Edgefield County because
7 you sit as the judges of the facts in this case. And you
8 heard the facts from this stand up here. Just assuredly
9 as Judge McMahon is up there wearing a robe, you're the
10 judges of the facts.

11 At the beginning of Labor Day weekend 2001,
12 Samuel Sturrup, Jr. was a healthy, robust 16-year-old
13 young man from Augusta who lived with his mother and his
14 sister. By the end of Labor Weekend 2001, Samuel Sturrup
15 was in another state, in a place he'd never seen or been
16 to, lying in the woods with a bullet in his head, dead.
17 He knew 16 summers, 16 winters, but not anymore because he
18 was dead at that time with a bullet in his head.

19 The State's got the burden of proof in this case
20 and we told you at the outset, we welcome it. We've got
21 to prove this case beyond a reasonable doubt, Solicitor
22 told you we're going to prove it beyond all doubt that
23 you're sitting about 25 feet from a kidnapper and a
24 murderer.

25 By November 19th of 2001, Samuel Sturrup had

1 gone from an intact person with a bullet in his head lying
2 dead in the woods here in Edgefield County, which is one
3 of the things that we've got to prove in this case, right
4 here in Edgefield County, he had gone from an intact
5 person with a bullet in his head to a dark spot on the
6 ground. Everything that was flesh and blood of Samuel
7 Sturup was a dark spot in the ground in the soil right
8 here in Edgefield County, what little bit remained, what
9 the animals did not consume, what the buzzards did not
10 eat, and what the dogs had not drug away.

11 It's an old courthouse. Had a lot of jurors
12 that have sat in here over the years. And we're talking
13 about murder in this case. Now, we're also talking about
14 kidnapping, but we're talking about murder, and that's a
15 little different ballgame.

16 Going back as far back as 1390 -- this is just
17 when they started writing -- there's an old proverb that
18 said, "Murder will out." When I think back, I didn't pay
19 much attention in literature to understand, but when I
20 went back and looked, it was all the way back to Chaucer;
21 he wrote about it in the Canterbury Tales. "Murder will
22 out." That literally means murder will become public.
23 "Murder will out that seek we day by day."

24 Shakespeare wrote about it in 1596: "Truth will
25 come to light; murder cannot be hid long." It basically

1 means that a murder's always going to be discovered.
2 Something's going to come out. It might start with a
3 whisper. In this case, the skull of a human being with a
4 bullet hole in the back of it in a man's yard. And you
5 heard that's how it started, with a whisper. It went from
6 that to a set of car keys, a Bi-Lo Bonus card, all the
7 things that they found there.

8 Now, you've heard from a lot of witnesses in
9 this case. It ended up with a pair of pants, an empty
10 pair of pants was all that was left of Samuel Barnes
11 scattered over a couple of acres there.

12 And the police came, because you heard all those
13 witnesses. You heard Grover Dais come up and say, "I
14 found a skull in the backyard and I called the police."
15 They started whispering at that point in time and
16 information started coming forward.

17 When the law enforcement officers got there and
18 they saw that skull and they looked and they searched and
19 they looked and they went over several acres and
20 eventually came upon this pair of pants. And they
21 continued the whispering with the things they found in
22 those pants, a set of car keys, a Bi-Lo Bonus card. They
23 found out Samuel Sturrup, Jr. was somebody that a mamma
24 had been looking for. She had been going all over the
25 place trying to find him when he didn't come home day

1 after day, week after week, trying to find her boy. She
2 eventually filed a missing person's report.

3 It wasn't Randy Doran's first day as an
4 investigator. When they found these remains, they began
5 to look around. Who's missing? Who is somebody looking
6 for? Samuel Sturup.

7 Now we brought in here Dr. Joel Sexton. It must
8 have taken him 20 minutes to go through his credentials,
9 and I apologize, it's a long process in this case to talk
10 about his expertise as a forensic pathologist and all of
11 the steps that he went through in order to identify this
12 body, dental records, looking at everything he could. He
13 told you that the animals had gnawed away so much of the
14 bones here that he couldn't even tell how old this body
15 was. We're talking about remains spread out over a couple
16 of acres, the flesh and blood of a 16-year-old young man
17 reduced to a dark spot in the ground here in the soil in
18 Edgefield.

19 Dr. Sexton told you all of the things that he
20 did in this case to identify that body and to say
21 conclusively that the remains in that woods, what little
22 bit was left of Samuel Sturup, I can tell you
23 scientifically, this is the body of Samuel Sturup, Jr.

24 And they took those remains, even though they
25 could have skipped all of that. Is there a momma alive

1 who couldn't recognize the clothes of her son that she had
2 been washing and keeping up, the belt that he wore, the
3 keys to her house? She had the answer that she had been
4 seeking since Labor Day of 2001. She knew where her son
5 was, he was dead.

6 No matter how you try to cover it up, no matter
7 how you try to hide it, when you're taken from over in
8 Augusta, Georgia, and you drive into another state and you
9 go down dirt roads and you go out in the middle of the
10 woods in completely another state, murders going to come
11 out. Something's going to whisper and start speaking and
12 it's going to come out. And it did. They got their
13 information. They talked to witnesses, eye witnesses that
14 were there, and it started unraveling.

15 And the Solicitor told you when he got up on his
16 opening statement and talked about how this began, but
17 let's back up because now the 12 of you have heard the
18 facts in this case and you've got so much more information
19 to process now exactly what happened. You've got the full
20 picture painted for you, the whole song, because you've
21 heard the facts from the stand up here.

22 And we know that that day that Steven Barnes was
23 picking up his girlfriend, Charlene Thatcher, and telling
24 her, "We're going on a mission." Remember that, "We're
25 going on a mission." And we know now they end up at the

1 green house and we know now that Samuel Sturup, Jr. left
2 his momma's house never to be seen alive again by her with
3 William Harris, Little Man, Steve Barnes' brother, William
4 Harris. And we'll talk about him more later. And they
5 end up at the green house.

6 The next thing you hear and the next thing that
7 sets in motion to the events that led to the murder and
8 kidnapping of Samuel Sturup is Antonio Griffith and
9 Richard Cave, high-school students that played together in
10 the band were at that house and they get a call from who?
11 Steven Louis Barnes, Big Man. "Come on over to the green
12 house." Two high-school kids who told you what's on
13 17-year-old boys' minds, what captures their attention?
14 Cars, girls, and money. The Big Man. They had fallen in
15 with him and knew him, and they told you up here on the
16 stand how they got to know him and they told you honestly
17 why they started hanging out with him, that he had lots of
18 girls around, and they were drawn to that. Because that's
19 the kind of people, as you'll see this case unfold, that
20 Steven Louis Barnes, the Big Man, surrounded himself with.
21 He --

22 MR. HARTE: Objection, Your Honor. There's no
23 testimony in the record about the kind of people
24 Mr. Barnes run around with.

25 THE COURT: All right. Mr. Foreman, ladies and

1 gentlemen of the jury panel, you are the fact-finders.
2 You are the judges of the facts of the case. It will be
3 up to you to determine the facts of the case and the
4 reasonable inferences to be drawn from the case. That
5 will be my charge on that. What the attorneys argue to
6 you is not evidence. It's solely and completely up to you
7 to determine the facts of the case.

8 Solicitor, you may proceed.

9 Thank you, Mr. Harte.

10 MR. MAYE: Antonio Griffin and Richard Cave,
11 high-school boys, Charlene Thatcher that you heard from
12 the stand, a 17-and-a-half-year-old girl that was his
13 girlfriend, that's who gathered together at the green
14 house, and on Labor Day weekend of 2001, that's who he
15 surrounded himself with, because Steven Louis Barnes, the
16 Big Man, those are the people that he summoned there to
17 the green house.

18 Mr. Harris has already brought Sam Sturup, Jr.
19 there to the green house where they've all testified in
20 this case they hung out. It was a house which Mr. Barnes
21 had the connection. That's why they went to the green
22 house, these high-school boys, that 17-and-a-half-year-old
23 girl who was the girlfriend of Mr. Barnes in this case,
24 the Big Man. That's who got summoned to the green house.

25 What Mr. Cave and Mr. Griffin tell you when they

1 get there, what's happening? Big Man, Mr. Barnes, and Sam
2 Sturup, Jr. are arguing and fussing and Mr. Barnes in
3 this case is accusing Sam of getting some money. "Where's
4 my money? Where's the cheese? You're going to tell me
5 where my money is. Where is my money?" And they're
6 arguing back and forth. And that's not enough, and it
7 turns to violence.

8 And these high-school kids that he's surrounded
9 himself with at this point in time that are impressed with
10 him -- and I want you to remember Ms. Sturup when she
11 testified, what did she tell you about her son? He was
12 impressed by him.

13 It's not enough that he's confronting this man
14 and beating on him and intimidating him and putting on a
15 show and a spectacle for all the people that he got
16 assembled and he surrounded himself there, because that's
17 very important in this case. Because this is beyond the
18 murder of a teenager, this is a spectacle because he needs
19 an audience in this case to carry out his mission.

20 He sets these two high-school boys on Sam
21 Sturup, a 16-year-old that's hanging out with them, has
22 come to the green house, "You all two put a beating on
23 him, get him." And they tell you it's on at that point in
24 time. And at least Antonio Griffin says they went at it,
25 and they fought. Over the money.

1 And what's Sam saying? "I don't have your
2 money." All the witnesses told you that. The story
3 changed, and how it changed. When the beatings start, "I
4 don't have your money, I don't have it," as he's getting
5 beaten, as he continues -- as Mr. Barnes, who started
6 beating him, as he's order other people to start beating
7 him, the story starts changing, "Maybe China's got it,
8 maybe Ms. Thatcher's got it," to stop this beating. He's
9 going to try something out because that's not working for
10 him. He's in the clutches of these people at this point
11 in time, 16 years old. "Maybe China's got it, maybe it's
12 China."

13 And you're hearing what she's got to say, the
14 17-and-a-half-year-old girlfriend. "Get her out here.
15 You got the money?" And it starts in on her.

16 Whatever happens, beating with brooms, whatever
17 went on out there at that house, there was a
18 confrontation. Ms. Thatcher got up and she told you what
19 happened. She told you when there was any insinuation
20 that she had the money, she took the beating. Why?
21 Steven Louis Barnes, the Big Man. Because he's calling
22 the shots out there and he's controlling and manipulating
23 all of these people out there while he's got an audience.

24 What happens next? After they dump her
25 pocketbook out, after they look and decide, well, the

1 focus turns right back to Sam Sturup, Jr. What happens?
2 At some point in time he gets out in there, "Well, maybe
3 your brother's got it, maybe Mr. Harris has got it,
4 William Harris." That doesn't work either. That gets him
5 a beat-down with a gun in his face. We'll talk about
6 Mr. Harris later.

7 He leaves there. Mr. Harris, he's gone.

8 You heard Investigator Doran get up there,
9 there's no evidence that he ever went to South Carolina.
10 All of the witnesses told you, he left, he was gone.

11 What does Sam start saying then? What's the
12 next thing when the attention turns back to him? "I don't
13 have any of your money."

14 They've already gone to the railroad tracks.
15 He's pitting one against the other. "Somebody's going to
16 die. Somebody's got my money."

17 He's takes him on down the railroad tracks. He
18 beats him. Whether or not he got beat with fists or
19 shocks or anything else he got beat with, he took a
20 beating there. Why? Because Steven Louis Barnes, the Big
21 Man wants it, and he had his audience there and he was
22 carrying on that spectacle and he was on a mission with an
23 audience. And he took a beating and he went down on the
24 railroad tracks, and it continued.

25 And he's playing games and taunting these people

1 back and forth. He's got Charlene Thatcher, this
2 17-year-old-and-a-half girl, he's got her scared that
3 she's going to get -- that she's going to die. Somebody's
4 going to die. Guns were present, guns were produced.
5 He's got a gun. He's up there telling the two of them,
6 pitting them together, playing a game for his amusement,
7 "Somebody's got my money and somebody's going to die."

8 What's Charlene say? She begs him. He's going
9 to offer up the gun to Sam. I guess that's going to test
10 who's got it at that point in time. "I'll just give the
11 gun to Sam over here and maybe he'll shoot you," this
12 17-year-old girl. What's she say? "I grabbed on to him,
13 I begged him, no, no, no, don't let him shoot me." He's
14 laughing, because it's all for his amusement, it's a
15 mission, it's a spectacle. He's surrounded himself with
16 these kids, pitting one against the other just to instill
17 fear in them.

18 And it goes from the railroad tracks and it
19 continues on. And ultimately after the beating that he
20 took and all that he suffered there, what does he offer
21 up? "The money is at the house. It's at my momma's
22 house. It's behind the commode. It's there at the
23 house."

24 And you just remember, you heard the witnesses
25 in this case. He keeps trying. No matter what

1 inconsistencies there were in their statements, he keeps
2 trying. All of them told you that. That's how Sam's
3 story changed.

4 He wants to go home. He says, "The money is
5 there at my house, at my mom's house behind the commode.
6 Take me there." But Steven Barnes? You heard in this
7 case, what does he tell him? "If I go to that house and
8 there's not any money there or you cry out and you tell
9 them what's going on here, I'm going to kill everybody at
10 the house," where his mom and sister are.

11 No matter how much he wanted to go home -- and,
12 ladies and gentlemen, you bring into this courtroom the
13 sum total of all of your life experiences, and the
14 collective wisdom of all of you and the life experiences
15 far outstrips that of any one person. As you judge the
16 facts, as you listen to what happened here, that you bring
17 into this courtroom all of your life experiences.

18 When kids get hurt, where do they want to go?
19 They're like homing pigeons, they want to go home.
20 Sixteen years old, way too big to be clinging to anybody's
21 coattails anymore, but not old enough to be a man. Where
22 does he want to go when trouble starts? He wants to go
23 home. He's going to get himself back to his momma's
24 house.

25 But Mr. Barnes tells him what's going to take

1 place, the Big Man. "If I go back there and that money's
2 not there, you just told me that to get back home, I'm
3 going to kill everybody at the house."

4 But we know one thing: Samuel Sturup, Jr.
5 loves his family members enough that he didn't take the
6 Big Man, Mr. Barnes, there to carry out whatever he would
7 have carried out against his family members. He changed
8 his story and he said, "I lied." Why? "To get you to
9 stop beating me."

10 So what's the next thing about it? The Big Man
11 that's on a mission, he makes a call. He gets on his cell
12 phone. And who shows up as a result of his call? Who is
13 he summoning there but Alex and Julio Hunsberger, two men
14 hard enough to help him with a kidnapping and to provide
15 him with a place for a murder, that's who he summons.

16 Now he surrounded himself with putting on this
17 spectacle up to this point in time for some high-school
18 boys and a 17-and-a-half-year-old girl as he carries out
19 his mission, and that's what this is all about. It's way
20 beyond a murder, just being mad at somebody, killing
21 somebody. This is a spectacle, an execution, a mission,
22 and it's in place. He calls the Hunsbergers and they show
23 up. And he orders, Barnes, the Big Man, he orders
24 everybody to get in the car. Sam says, "I just want to go
25 home."

1 "I'll take you home," is what Mr. Barnes tells
2 him. "I'll take you home." It's kind of prophetic.

3 He tells them to get in the car. Antonio
4 Griffin and Cave told you they got in the car, they didn't
5 know where he was headed. Remember, we'll talk about the
6 links and how people knew each other in this case. They
7 didn't really know him. They didn't have any beef with
8 Sam Sturupp, Jr. These people don't have much connection
9 other than the fact that they all know Steven Barnes.

10 "Get in the car." They didn't see the
11 Hunsbergers because they were from South Carolina. They
12 didn't see Steven Barnes in this case hold him at gun
13 point and put him in the trunk of an automobile, because
14 they told you they didn't know he was in the trunk until
15 they got to South Carolina. Charlene Thatcher did. She
16 saw it. She saw the Hunsbergers there providing the car.
17 She saw Steven Louis Barnes, the Big Man in this case, put
18 this 16-year-old young man at gun point into the trunk of
19 a car, kidnapped him.

20 The judge is going to charge you -- we're going
21 to talk more about the law, and the judge is going to
22 charge you with what the law is in this case, and he's
23 going to tell you about kidnapping. I submit to you he'll
24 tell you about kidnapping.

25 Kidnapping is a continuous offense. The offense

1 commences when one is wrongfully deprived of freedom and
2 continues until freedom is restored. And it doesn't
3 matter if it happened in Georgia, it doesn't matter if it
4 happened in China and they stuck him in a helicopter and
5 flew to South Carolina. It's a continuing crime and it
6 doesn't matter where it began.

7 It doesn't matter if it began at the green house
8 at in Augusta, Georgia, or in China. It
9 continues until freedom is restored.

10 And in this case his freedom never got restored
11 because he was lying dead in South Carolina. He never got
12 his freedom back. And it was a continuing crime. And
13 Steven Louis Barnes was the reason that he was in the
14 trunk of a car. And the ride in a trunk of a car is one
15 step removed from a ride in the back of a hearse, and they
16 started to South Carolina.

17 Cave and Griffin and Thatcher told you they
18 didn't have any connection with a field at the end of a
19 dirt road, from one field to another and back in the woods
20 in the backyard of the Hunsbergers over here in Edgefield
21 County, South Carolina. They had no idea where they were
22 going.

23 The Hunsbergers did. Steven Louis Barnes, the
24 Big Man, he knew where he was going, and he knew why.
25 Over and over and over again he let everybody know. He

1 knew why, and he was kidnapping Sam Sturup, Jr.

2 As he rode over here in South Carolina, his last
3 ride in the trunk of an automobile, as they all rode in
4 that Caprice of Mr. Steven Louis Barnes, the Big Man, and
5 they came over across the bridge into South Carolina and
6 came all the way down, down those dirt roads, turned off
7 25, Community Road, Lakeview, Lakeview Extension, went
8 through one field, went through that choke point, went
9 into that second field, and they all told you that, they
10 didn't know where to get there, how to get there, or
11 anything about that spot. But as Steven Barnes told
12 Charlene Thatcher in this case, "It's a place you'll never
13 forget."

14 What happens when they get there? They get Sam
15 Sturup, Jr. out of the trunk of the Hunsbergers' car.
16 Mr. Barnes, the Big Man in this case, because he's calling
17 the shots, he's got a gun, gets him out of the trunk of
18 that car. I tell you what, if Sam Sturup, Jr. wasn't
19 kidnapped when they stuffed him in the trunk of a car in
20 Augusta, Georgia, he was kidnapped when they got him out
21 and they marched him out into those woods. And they all
22 get in a line and they go across this gate and they all
23 told you, it's a place they'll never forget. He sends
24 them across the gate down across a field on a path and
25 into a clearing in the woods right here in Edgefield

1 County, Sam Sturup, Jr. in front, all of them in tow,
2 Steven Louis Barnes, the Big Man, calling the shots.

3 What's he telling them along the way? He's
4 already asked him what he wants for his last meal. "Pick
5 a spot where you want to die." And he gets him out there
6 and it continues on.

7 And you heard it in this case, Sam Sturup, Jr.
8 Begged for his life, "Don't kill me, I don't have your
9 money." But Steven Louis Barnes is on a mission, and he's
10 got an audience, and he's calling the shots in this case.
11 He's got this young man in front of the line and they
12 march him out there into that field.

13 And every single witness in this case told you,
14 who was the first person that shot? Charlene Thatcher.
15 Why? He's been pitting them against each other all
16 evening. He's been playing games and manipulating this
17 for his amusement and putting on a spectacle and pitting
18 one against the other.

19 "Somebody's going to die because somebody's got
20 my money." Somebody has offended the Big Man. "Somebody
21 has taken something and made me mad, so somebody's going
22 to die."

23 And Charlene Thatcher told you that she went out
24 there and she didn't know who that was going to be, but
25 she's got an idea, because he's already asked Sam Sturup

1 what he wants for his last meal. As they're all trooping
2 out there at Mr. Barnes' direction in this case, he's
3 already asked him, "Pick a spot where you want to die."

4 They told you in this case, she didn't want to
5 do it. She was scared to do it, but she did it. However
6 it happened, whether he got behind her with both hands or
7 one hand, however it took place, she fired that shot, the
8 first one that struck Sam Sturupp, Jr.

9 What order the shots were, who knows. We're
10 talking about teenagers in the middle of the woods nine
11 years ago at the scene of a murder in the dark. Everybody
12 shot. Now whether or not Antonio shot into the ground,
13 who shot where, who knows. Who knows, but they all shot.
14 Because Steven Louis Barnes, the Big Man in this case, had
15 dictated, "You either shoot or you get shot." Because
16 it's all a part of the mission, it's all a part of the
17 plan, because everybody's going to get their hands dirty.
18 They all shot him. They shot or they would have gotten
19 shot. And they all come back out of the woods.

20 And these two young men, they didn't want to
21 tell anybody and they sure didn't want to go to jail
22 because you know that conversations took place at that
23 point time, and they knew what was going on, the ring of
24 truth over and over again. What did both of them tell you
25 they said? "How do you know that he's dead? How do you

1 know that he won't get up?" Because they've shot him out
2 here in the dark. "How do you know he won't get up and go
3 to one of them houses and get some help?" "I know because
4 I shot him in the head and I watched him die. He's not
5 going anywhere." Steven Louis Barnes, the Big Man.

6 Who else had any ill will, who else had any
7 motive, any bad feelings towards Sam Sturup, Jr. other
8 than Steven Louis Barnes? And the hand of one is the hand
9 of all. That's the law in South Carolina. It doesn't
10 make any difference.

11 The only reason that Sam Sturup, Jr. is dead is
12 because Steven Louis Barnes wanted him dead. Whoever hit
13 him, wherever he got shot, in the belly, in the head. But
14 you don't have to guess about that. Because they asked
15 him. He was the last one out of the woods.

16 It wouldn't have gone as part of his plan to
17 have wounded this young man and let him get up and go to a
18 house. And you better believe that this man is hard
19 enough and it wouldn't have been part of his plan to let
20 Sam Sturup, Jr. get up and go somewhere. He made sure he
21 was dead and he waited on him to die and he shot him in
22 the head and he put this slug in the head of a 16-year-old
23 young man who's momma's never seen him since.

24 Why? Because it was a spectacle. It was beyond
25 murder. It was an execution by Big Man with an audience.

1 That's the purpose of this. It ended his life out there.

2 They go back to the Hunsbergers' house and he's
3 asking them at that point in time, "How do you all feel?
4 Think you could do it again?" Laughing. Because he's
5 manipulating them and he's pulling the strings on these
6 kids, whether or not he's putting them on Sam Sturup, Jr.
7 over there at the green house or saying one's going to
8 shoot the other or manipulating them or beating on them
9 himself or whatever humiliation and punishment that they
10 were putting on Sam Sturup, Jr. Whatever it was, he's
11 calling the shots.

12 This is a show for his benefit as he surrounds
13 himself with these people that have a connection to Steven
14 Louis Barnes, the Big Man. There is no other way possible
15 that all of these people that don't have any
16 interconnection between each other could have all ended up
17 in the middle of the night over Memorial Day (sic) weekend
18 in 2001 down a dirt road, across two fields, across a
19 gate, across a fence and into a clearing in the middle of
20 the woods in the middle of the night in Edgefield County,
21 but for the fact that Steven Louis Barnes, the Big Man,
22 set these wheels in motion and wanted it to happen. No
23 other way. It could not have happened. Nobody else has
24 got the connections. These are unconnected and these
25 people don't know each other.

1 But I tell you, Steven Louis Barnes, that's the
2 audience that he brought and he made sure that everybody
3 shot, and as he told them, everybody got their hands
4 dirty. Because this is a mission. This is a way to carry
5 out a murder, to kill someone and have an audience.

6 Because it wouldn't be enough if he had a beef
7 with Sam Sturupp, Jr., it wouldn't have been enough for
8 him to have caught him out by himself and just killed him
9 with no witnesses. Oh, no, that wouldn't have been good
10 enough for the Big Man, Steven Barnes. He needs an
11 audience. Because this is beyond a murder. This is a
12 spectacle. I'm the Big Man, and if you cross me and you
13 take anything from me or you wrong me, somebody's going to
14 die. And that's not enough without an audience. It means
15 nothing.

16 If he'd carried Sam Sturupp, Jr. out there by
17 himself and killed him, that wouldn't have been part of
18 the mission or the plan. There's no other reason. He
19 needed an audience and he needed it such that nobody else
20 could tell on him.

21 So he forced all of them to take shots, all of
22 them to get their hands dirty, and he started telling them
23 right from the time it was over, "Y'all all got your hands
24 dirty, y'all all are in this," because he knew they
25 couldn't tell on him. He could carry out a murder with an

1 audience and they wouldn't be able to talk about it
2 because they all participated. That's the mission.

3 And the evil that would be in a man's heart, the
4 malice, the meanness to carry this out in such a fashion
5 so that he could have an audience, and that's exactly what
6 this is about. And they left there, they got in the car,
7 the Hunsbergers stayed behind, two men hard enough to help
8 him after he put him in the trunk of the car. The
9 Hunsbergers are hard men, there's no doubt about that.
10 Because you've got to know, they knew where they were
11 going. They didn't stop at some house. They drove out
12 into a field. They didn't hesitate or stop --

13 MR. HARTE: Objection, Your Honor. He's
14 commenting on something about the Hunsbergers and what
15 they knew and there's nothing in the record about that.

16 THE COURT: All right. Again, ladies and
17 gentlemen, you are the judges of the facts in the case and
18 the reasonable inferences to be drawn from the facts in
19 this case. The facts are as you find them to be, not as
20 the attorneys may argue.

21 Thank you, Mr. Harte.

22 You may continue, Mr. Maye.

23 MR. MAYE: Take the facts as you heard them in
24 this case.

25 Did you hear one witness say that they stopped

1 anywhere? They went straight out there to the woods. The
2 Hunsbergers knew where they were going and what for. They
3 provided him with a place to carry out this mission. They
4 were men hard enough to participate in a kidnapping. It
5 didn't make any difference. And don't let anybody try to
6 push the kidnapping off on the Hunsbergers because they
7 drove him over and it started over there. It doesn't make
8 any difference at what point in time it jumps on, when
9 they got him out of the trunk of the car, when they put
10 him in the trunk of the car, when he marched him out into
11 the woods at gun point telling him to pick a place to die,
12 at any point in time that's kidnapping. Don't let anybody
13 tell you that the kidnapping was on the Hunsbergers, which
14 I'll bet you'll hear. Steven Louis Barnes set this in
15 motion, and the kidnapping continued. It doesn't matter
16 if it started in Augusta, it doesn't matter if it started
17 when they opened up the trunk of the car and let him out
18 into the woods. If you restrain somebody against their
19 will for any length of time, it's kidnapping.

20 He gets the crew that he's brought with them,
21 the Hunsbergers stay behind and he leaves Sam Sturup out
22 there in the woods for this whole process to start, this
23 16-year-old man with a bullet in his brain because of the
24 Big Man. And the wheels are still turning. He's got a
25 plan in place because he's thinking, he's scheming. Gun

1 or guns, whatever they were, when they stopped at the
2 bridge, Steven Louis Barnes, the Big Man, he's got it all
3 put together. He's puts the guns in a bag because he
4 knows, the bullets in the body, if they do find anything
5 they're going to need guns to match it. He's smart enough
6 to know that. He's not throwing away firearms for any
7 other purpose and has Antonio Griffin throw them in the
8 Savannah River, and they're somewhere between the I-20
9 bridge and Savannah, who knows, not to be found.
10 Scheming, planning, carrying out the mission in this case,
11 threatening these people, "If you tell, the same thing's
12 going to happen to you." Manipulating these individuals,
13 intimidating them.

14 He takes them back, eventually takes Cave and
15 Griffin back home. What's he tell them once he takes them
16 back home? "If you tell, the same thing's going to happen
17 to you."

18 What do you think these 17-year-old men thought
19 at that point in time, these young men, these high-school
20 kids, over the theft of some money there's a man lying in
21 the woods with a bullet in his brain in South Carolina?
22 You think that caused them a little pause on crossing the
23 Big Man, Steven Louis Barnes? The fact that he's put on
24 this spectacle and killed somebody over what he says is
25 over some money? How about telling on somebody for

1 committing a murder? The Big Man.

2 And he's scheming, "Burn your clothes." And
3 he's already taken enough steps at this point in time to
4 gather together the other clothes the people were wearing
5 that were out there at this scene in South Carolina
6 because he knows it's going to take two things to convict
7 him up here in Edgefield County, it's going to take guns
8 to match the ballistics, it's going to take witnesses to
9 testify against him, and it's going to take some sort of
10 forensic evidence and maybe those clothes would be a link
11 in the chain because he's thinking about some day that he
12 might be in a courtroom then. "Burn your clothes." He's
13 already gathered together their clothes and he gives them
14 to Antonio Griffin.

15 And what does Antonio Griffin do? No, he
16 doesn't go to the police. He burns the clothes. You've
17 heard the term "trust but verify"? He told you in this
18 case and the police says they followed up on all this, "I
19 burned the clothes in my backyard." The ring of truth.
20 Antonio Griffin said, "I burned the clothes in the
21 backyard." And what happens when the investigators go out
22 in Georgia, what do they find? Clothes burned in the
23 backyard in a barrel just like he said. Who's idea was
24 that? The Big Man, Steven Louis Barnes, getting ready at
25 some point in time that he might have to face the music

1 for causing the death of Samuel Sturup, Jr., all the way
2 back when they burned the clothes.

3 And he's telling China at the same time, she
4 told you up here under oath, he told her over and over
5 again, "Anything happens, the same thing's going to happen
6 to you." He's made his point, he's carried out this
7 mission. He's completed a murder, he's intimidated the
8 witnesses that were there, he's gotten rid of the
9 evidence, part of the mission that he's set in motion out
10 there Labor Day weekend of 2001.

11 But, like I said, murder will come out. It
12 might start with a whisper, but it's going to come out.
13 And, like I said, it doesn't matter if it's a skull drug
14 up in the yard or a set of keys or a whisper, it's going
15 to soon start speaking. And it did. What does Griffin
16 tell you at that point in time? He's sitting in class
17 later on. When does it all come out? Well, they find the
18 body. And they know Sam Sturup's missing and they start
19 looking around and trying to figure out what happened in
20 this case.

21 Now, Barnes is smart. He's already told them,
22 "Y'all just keep your mouth shut." He just needs to keep
23 the witnesses out. He doesn't need anybody talking.
24 Y'all just keep your mouth shut and y'all will be okay.
25 If there's anything, it will come back on me. No

1 connection in between you all and his momma and his sister
2 or anybody that would know you all. Just be quiet. You
3 two keep your mouth shut or the same thing will happen to
4 you. He's neutralized the witnesses in this case. He's
5 gotten rid of the gun. They've burned up the clothes in
6 this case. He's home free.

7 But what happens? It comes out in the paper.
8 Griffin tells you he's in whatever kind of class he was in
9 and somebody was reading it in the paper. He looks at it
10 and he knows and the same day word has hit the street.
11 Who calls him? The Big Man, Steven Louis Barnes. "You
12 see that?"

13 "Yep."

14 "Found the body. Just keep your mouth closed.
15 I told my brother, Mr. Harris in this case, I
16 told him what happened."

17 What was his response? What did Little Man tell
18 him, William Harris? "You did what you had to do." I
19 told him.

20 Who's the only one in this circle of the people
21 that were out there that night -- you know the folks that
22 were out there -- William Harris, Jr., Little Man's not in
23 South Carolina. Randy Doran told you up here under oath
24 there's not one bit of evidence to indicate that William
25 Harris, Little Man, was anywhere other than over in

1 Georgia, that he ever came to South Carolina, and there's
2 not.

3 Who does Steven Barnes tell this outside the
4 circle of people that are there? Little Man. That's who
5 he tells. He tells Little Man about it. What's Little
6 Man's response? "Well, you did what you had to do."

7 What happens next? After he told William
8 Harris, what happens? These young men told you they're
9 sitting in school when they get jerked up. These
10 witnesses tell you next thing you know they're being
11 interviewed. Coincidentally, the same people that were
12 out there are getting interviewed by the police. And they
13 talk.

14 And, ladies and gentlemen, I'm going to talk to
15 you a little bit, but I submit to you, you will hear in
16 meticulous detail any possible thing that they told to
17 anybody in this case categorially anything that was
18 different in their story with a checkmark anytime or
19 anything cataloged that they said that was the least bit
20 different, any indiscrepancies in their testimony,
21 anything they said that was different -- when they went
22 and talked to Roundtree the first time, these are kids
23 that got snatched up.

24 Sure, they didn't tell it right. Big Man had
25 already told them, "Keep your mouth shut." Antonio

1 Griffin started off by telling them he didn't even know --
2 they didn't know each other. Sure they lied to Roundtree.
3 These are kids, high-school kids that get snatched up in a
4 murder. You think they want to put themselves in the
5 middle of that?

6 The police sure knew who to go talk to because
7 they had Cave, Griffin, and Thatcher because you all have
8 heard that, they interviewed them. And Mr. Barnes' plan
9 fell apart. Because he told his brother, his plan fell
10 apart. Because the witnesses when they got pushed, they
11 told. That wasn't a part of his plan.

12 His plan was that he was going to get them to
13 all have their hands dirty and participate in this and
14 drag themselves in the middle of the murder of Sam Sturrup
15 or he was going to drag them in, so they'd have no choice
16 but to keep their mouth shut.

17 But it didn't work that way. They took their
18 licks. They got prosecuted for aggravated assault and
19 they're doing 18 years in Georgia. And they haven't faced
20 anything yet in South Carolina and don't know what's going
21 to happen to them. But they talked.

22 You heard from the Defense's cross that they
23 testified in the Hunsberger trial, at least the two young
24 men did. They talked. And you know categorially if they
25 asked them anything, you better believe some smart people

1 looked at anything that's ever been written down that they
2 said to pick out anything that they said that was
3 different up here or in any way contradicted, any subtle
4 part of their testimony.

5 I submit to you, these are high-school kids in
6 the middle of the night on a night nine years ago and they
7 told a story. It doesn't match up.

8 Let me tell you one thing: If three witnesses
9 got up here and they told you exactly the same story word
10 by word by word of an event that occurred nine years ago
11 in the nighttime during the middle of a murder with shots
12 being fired, if they told you exactly the same story,
13 those are three people that were coached and sat down in a
14 room together and all got their stories straight, because
15 it isn't going to be the same with every person on every
16 detail. It's not going to happen.

17 And you better believe if they've testified in
18 that regard, they've gotten the same cross-examination in
19 regard to that. Too close, matches too much, you all have
20 all been together and talking about this, you all got your
21 stories straight ahead of time.

22 But it's still got the ring of truth over and
23 over again. You can take what they told you, the things
24 that were said, the statements of Steven Barnes, who was
25 calling the shots, when people showed up, what they were

1 told, and it rings true over and over again.

2 And sure these kids have tried to minimize their
3 involvement in the case. They tried to minimize it when
4 they talked to Roundtree. Their stories didn't match up
5 about who was beating who out there at the house. They
6 don't want to admit to that. They won't bring themselves
7 to admit it.

8 Whether or not one of them was beating on him,
9 all of them was beating on him, it didn't make a nickle's
10 worth of difference. The hand of one is the hand of all,
11 and they've gotten popped for it. They're doing 18 years.
12 High-school kids and a 17-and-a-half-year-old female,
13 they're doing 18 years over there in Georgia for their
14 part in just the beating that took place out there. The
15 hand of one is the hand of all.

16 Steven Louis Barnes, the defendant in this case,
17 he's the one that set this in motion. But they didn't get
18 a pass. Nobody got a pass but William Harris.

19 Let's back up and talk a little bit about
20 William Harris in this case. I'm not going to get to come
21 back up here and argue to you again, but you don't leave
22 your common sense at home when you come up here to the
23 courthouse. And let's think about what we do know about
24 Mr. Harris.

25 We know from the cross-examination that he was a

1 snitch. I think they mentioned Roundtree. What's a
2 snitch? A snitch is somebody that tells on people
3 confidentially to police, who tells what they know. We
4 know that from the cross-examination of Ms. Thatcher up
5 here.

6 What else do we know about him? He and Barnes
7 didn't get along. They fought. We know that. That's in
8 the record up here, the cross-examination. Weren't they
9 fighting, weren't they at each other's throat, just mean,
10 bad men?

11 We also know from Antonio Griffin, who's the one
12 person that wasn't there in South Carolina out there the
13 night at the scene where they killed Sam Sturup, Jr. that
14 knew about this? Barnes told Harris what they'd done.
15 "You did what you had to do." He's the only person out
16 there outside this circle and we know he's a snitch for
17 Roundtree. And of all the people that put the beating on
18 Sam Sturup, Jr. out there at that house on Cherry Street
19 in Augusta, who's the only person that did not get charged
20 and did not go to jail? He put a gun in his mouth. He
21 was beating as well.

22 Use your common sense. I'd say William Harris
23 did what he had to do as well. Why do you think those
24 prosecutors and the police didn't charge him over in
25 Georgia? Why would they do that? Why would he be the

1 only person -- he's the only one outside the circle of
2 people that are there in South Carolina that knows about
3 this because Barnes told him. He's a snitch for
4 Roundtree.

5 Who goes and snatches these kids up and starts
6 talking to them and stops the wheels and the collapse of
7 the mission, of the plan of Mr. Barnes in motion?
8 Roundtree.

9 Oh, but in this case you heard Charlene say in
10 this case when she gets cross-examined, "Did you have sex
11 with him?" "Did you have sex with him?" We're just going
12 to throw that in because you can bet that you're going to
13 hear some twisted tortured tail about how Little Man fit
14 in this. You can bet that's coming, because there was no
15 other reason to ask her that. Nothing's in the record
16 about it other than a denial, but we'll argue it at this
17 point in time, and that's what it's going to be, twisted
18 around at this point in time.

19 Every witness has told you Steven Louis
20 Barnes -- see if they're going to tell you a little bit
21 different, some twisted tortured conspiracy between the
22 police and coaching people. It's falling apart quickly.
23 Use your common sense.

24 These two young men, Cave and Griffin, they
25 wouldn't have any reason to name anybody other than Steven

1 Louis Barnes.

2 Ms. Thatcher in this case, they alleged, oh,
3 there's with Roundtree and some unholy conspiracy between
4 all of them to frame Mr. Barnes in this case. That is
5 stringing in a gnat.

6 The simple truth of this matter is that the
7 mountain of evidence that you heard up here and the three
8 eye witnesses point the finger squarely at Steven Louis
9 Barnes, the Big Man over here, and anything else and going
10 through, Do you admit or deny, Do you admit or deny every
11 time they could come up with some inconsistency,
12 checkmark, you can bet you're going to hear those read
13 back and beat over your head for the next hour, anything
14 they said, because that's all they've got. Stomp their
15 feet, kick up a cloud of dust, pick out any inconsistency
16 with anything any of them have said.

17 And sure they lied to Roundtree to start with.
18 Absolutely. And as I told you, if their stories matched
19 identically, then they were coached, because they're not
20 all going to tell it with every detail the same way. But
21 you can sure bet that you're going to hear everything they
22 said that's different as though they lied, stomp up a
23 cloud of dust in between you and the truth of the matter,
24 that you're sitting 25 feet from a kidnapper and a
25 murderer. That's all that's about, kicking up a cloud of

1 dust. And you're going to hear it here -- see it here,
2 excuse me.

3 But you remember what I told you: It's going to
4 come out and the plan's going to fall apart because it's
5 different.

6 And, boy, this was a different kind of murder.
7 Because usually a murder's over something other than a
8 spectacle as well.

9 But it was not enough to commit a murder in this
10 case. It's far beyond a murder, a public spectacle, an
11 execution with an audience, manipulated, engineered, a
12 mission carried out by Steven Louis Barnes. And he's
13 thinking and scheming from the outset, how he can do it
14 and how he can have an audience and how he can have people
15 be afraid and fear the Big Man, that if you cross me,
16 you're going to die. If nobody told about it, never
17 answer to it, walk away from it, just plain. But murder
18 will come out. It will come out.

19 As I said, I'm not going to get up here again to
20 talk to you, I don't have that chance, but I tell you
21 what, you'll also hear from the defense in this case, oh,
22 they didn't do this and they didn't do that, they didn't
23 perform any ballistics on the slug they got out of the
24 ground, they didn't do any scientific tests, they didn't
25 do any DNA, they didn't look at this shock absorber over

1 here to see what was on there, stomping up a cloud of
2 dust. They didn't have any guns to compare the slugs to
3 because Steven Louis Barnes had taken care of that.

4 The guns that were used in this are somewhere
5 between here and Savannah not to be found. There will be
6 no ballistics to be compared. There's nothing they can
7 do. What are they going to compare them to? Oh, they
8 didn't do that. Nothing to do.

9 They've got three eye witnesses. The story
10 matches. The truth fits together.

11 Never mind if their stories -- if they have any
12 inconsistencies about the order of where things were shot,
13 as I told you, they all told you the same thing, they told
14 you, and the ring of truth rung out over and over again,
15 all the key points in action.

16 Harris wasn't over there. Officers told you
17 under oath he wasn't. And anything they did in the way of
18 forensic testing, it would be a sword or a shield, one way
19 or another.

20 These shock absorbers right here, did they do
21 any tests on them to see if they could get anything out of
22 it?

23 And, by the way, see, the truth keeps ringing
24 through. What did he tell you, one of the things, Mr.
25 Cave, that they beat him with was a shock absorber. And

1 lo and behold, when they go back over there to the green
2 house and look around all that time later, what's laying
3 out there? A shock absorber. And he doesn't live at that
4 house. He didn't know what was there unless he saw it.
5 Believe, trust, but verify. And the cops went back out
6 there and they did that.

7 What if they had gotten some evidence off of the
8 shock absorber that linked back to Mr. Barnes? He lived
9 there, he hung out there, they'd be up here telling you in
10 this case, Oh, that's the house where he was, he probably
11 took those shocks off of something. Have you got anything
12 laying in here? Oh, he probably hurt his hand when he was
13 taking the shocks off. It'd be something. It'd be
14 something stomping up a cloud of dust. It didn't make one
15 bit of difference.

16 The police in this case, they went, they looked
17 in the burn barrel, they found clothes, they verified it.
18 They heard it, they verified it. There was a shock there.
19 Who got beat with the shock? Sam Sturup, Jr. Who
20 wielded it? Big Man. Did they all beat on him? Hand of
21 one, hand of all. This was all done at the request, it
22 was all set in motion by Steven Louis Barnes.

23 What difference does it make? They all paid
24 their price for that. They're doing 18 years on that and
25 they have no idea what's going to happen to them, of what

1 they participated in here in South Carolina.

2 But all those people were told to shoot or get
3 shot. There was one man there that wasn't under any such
4 pressure to do it and there was one man that had motive
5 and there was one man that wanted Sam Sturup, Jr. dead,
6 and he's sitting right here in this courtroom, Steven
7 Louis Barnes, Big Man.

8 The judge is going to talk to you about what the
9 law is in this case. When we get through with all the
10 arguing, the judge is going to charge you with what the
11 law is.

12 And I submit to you, murder -- now you take the
13 law as the judge gives it to you. Judge McMahon is the
14 absolute authority on the law here, and you take what he
15 tells you.

16 But murder is the killing of any person with
17 malice aforethought, either express or implied.

18 Murder, we've got to prove some things to you.
19 We've got to prove that it happened here in Edgefield
20 County.

21 You look at that dark spot in that photograph,
22 State's 10, and State's 4, an empty pair of pants with the
23 leg bone of a 16-year-old young man. There's a Bi-Lo
24 Bonus card, Sam on there, that Dr. Sexton told you who it
25 is because he went back to his childhood dentist and got

1 his dental records and that's what it took to identify
2 this young man. You look at that dark stain on the ground
3 right here in this soil in Edgefield County and y'all
4 decide whether or not the verdict speaks the truth, that
5 Sam Sturup, Jr.'s dead in Edgefield County. Because
6 those are two of the things we've got to prove, his death
7 and it was Sam Sturup, Jr and it happened in Edgefield
8 County. That part screams pretty good evidence of that.

9 One of the things we've got to prove is malice
10 is present. What's malice? The old cases used to say
11 malice is a depraved heart bent on wickedness. You take
12 malice, that meanness. That's all it is. Doing something
13 terrible without excuse, just pure meanness.

14 You know, was there ever any money? Did the dog
15 really chew it up as one of them said Mr. Barnes told him?
16 Who knows. But we know that Steve Louis Barnes, the
17 defendant in this case, had the meanness and the malice in
18 his heart to want Sam Sturup dead. Because he is dead.
19 He's got a bullet to the brain, and that took place
20 because Big Man, for whatever reason. Because he stole
21 some money? Who knows. Is it because he wanted to kill
22 somebody to make himself a feared big man? Only he knows.
23 It was malice and it was meanness that resulted and a
24 young man's body laid in the woods here and was spread out
25 over an acre and a half here in Edgefield County from the

1 malice and meanness in this man's heart.

2 Did he do it aforethought? Think about it ahead
3 of time. What did he tell Charlene when he picked her up?
4 "I'm on a mission." Who did he summon? The Hunsbergers.
5 Where did they bring him? Edgefield County, all the way
6 away from where they were other there at that house.
7 Don't let anybody suggest to you he got killed over there.
8 It doesn't fit. Bullets in the ground verified. He was
9 shot there and there was more than one slug in the ground.

10 You can see the photographs. He had enough
11 planning to get the Hunsbergers over there to provide him
12 with a place. He brought two men in there hard enough to
13 help him carry out a kidnapping.

14 You think he thought about it? You think he
15 planned it?

16 And the scheming didn't stop then. He's
17 covering his bases. He's intimidating his witnesses.
18 He's throwing the guns away, he's burning the clothes. He
19 didn't make this all up as it went along. He had it in
20 his mind. He thought about it ahead of time. He told
21 them out there at the green house, "Somebody's going to
22 die. What do you want for your last meal?" You better
23 bet he thought about it.

24 Let's talk about kidnapping. Who put him in the
25 trunk of the car? Steven Louis Barnes at gun point.

1 Hunsbergers may have driven him, but it was because Steven
2 Louis Barnes wanted him in the trunk of that car.

3 The judge is going to charge you that
4 kidnapping, whoever shall unlawful seize, confine --
5 confine, inveigle, decoy, kidnap, abduct, or carry away
6 any other person by any means whatsoever without authority
7 of law. This was a kidnapping.

8 Did Sam Sturup, Jr. think he was going home,
9 that they will take him home? Did he try to fool him when
10 he was putting him in the trunk of the car? Did he think
11 they were really going to take him home? Probably not.
12 But would it matter for kidnapping? No. He was trying to
13 trick him to get him in the trunk of the car. He tried to
14 fool him into getting in there. It doesn't make any
15 difference. The bottom line is he was in the trunk of the
16 car.

17 And I told you the judge is going to charge you,
18 kidnapping is a continuous event. It's a continuing
19 event. It commences when one is deprived of freedom and
20 continues until freedom is restored. Whether it started
21 over there in Augusta, whether it started when they got
22 him out of the trunk of the car over here in Edgefield
23 County and marched him into the woods, he wasn't going
24 anywhere except to his burial and his freedom never got
25 restored. That goes on, I guess in this case, until the

1 end of time because he's dead. He never got it back. It
2 was taken from him by Steven Barnes and it was all set in
3 motion by Steven Barnes.

4 As I told you at the outset, all of you are
5 going back in that jury room and deliberate and bring into
6 this courtroom your collective wisdom. I'm not going to
7 get up here and talk to you again.

8 I know you're going to hear every single thing
9 that any witness said that they think is different, and
10 they've had a long time to go for it. They'll tell you
11 that they either prepared for it ahead of time or they
12 lied then or they're lying now and they'll check off and
13 you'll hear everything. And I submit to you, it's all got
14 the ring of truth over and over again on the key points.
15 It's not by accident.

16 You bet if they ever said anything different
17 than what you hear about the differences up here it didn't
18 happen, because some smart people looked to try to see
19 everything about it. The police did their job in this
20 case and they charged the right man. There weren't any
21 forensic tests that would have amounted to one hill of
22 beans in this case. You've got the sworn testimony of
23 three people that have got a lot to lose by coming up here
24 and implicating themselves.

25 They were hammered over and over again, "You

1 know you can face the death penalty. What's going to
2 happen to your charges over here?" High-school kids,
3 middle of the night at a murder scene, but it's got the
4 ring of truth.

5 They say, and I told you at the beginning, but
6 in summary, by whispering and speaking -- it's sometimes
7 whispering, others speak -- but murder cries out or
8 shrieks in ways. And you heard it up here in this
9 courtroom singing in full song in unison.

10 You've got all the evidence before you. You've
11 got the sworn witnesses, the testimony of the witnesses
12 that have testified.

13 Let the smoke settle so that when the dust gets
14 stomped up you're still going to be sitting 25 feet from a
15 kidnapper and a murderer, a man with a malicious heart
16 that wanted a 16-year-old young man to die, and it
17 happened.

18 The word "verdict" means to speak the truth. It
19 comes from the Latin word "veredicto." That's literally
20 what it means, to speak the truth. Come back with a
21 verdict that speaks the truth.

22 When the dust all settles, there sits a murderer
23 and a kidnapper and the man responsible for the death of
24 Sam Sturup, Jr.

25 MR. HARTE: Objection, Your Honor. The

1 Solicitor's placing his personal opinion into the record,
2 State versus Koontz.

3 THE COURT: I don't believe his argument is
4 such. He said "when the dust all settles." Of course,
5 you can rephrase it, I submit, in that regard.

6 Perhaps I would sustain that.

7 MR. HARTE: Thank you, Your Honor.

8 THE COURT: If you'd rephrase that, Solicitor.

9 MR. MAYE: You take the facts as you heard them
10 here in this courtroom and you come back with a verdict
11 that speaks the truth. And if you believe you're sitting
12 25 feet from a kidnapper and a murderer, you come back
13 with a verdict that speaks the truth and does justice to
14 everybody.

15 Appreciate your close attention.

16 THE COURT: Thank you very much, Solicitor.

17 Mr. Foreman, ladies and gentlemen of the jury, I
18 believe before we hear from the attorney for Mr. Barnes, I
19 believe we'll take a brief recess so that you can move
20 about for a few moments. So we'll take about a 15-minute
21 recess.

22 Please remember, do not discuss this case during
23 this recess. You're not authorized to discuss the case
24 until you've heard all the closings and the charge and
25 instruction on the law by the Court and directed by the

1 Court to begin your deliberations with your fellow jurors.

2 Please leave your notes upside down on the
3 chair. And we'll take again about a 15-minute recess.

4 Thank you very much.

5 (The jury left open court at approximately 11:06
6 a.m.)

7 THE COURT: All right. Before we begin our
8 recess, perhaps, Mr. Barnes, during this recess you would
9 also have an opportunity to speak with your attorneys
10 concerning your right to make a final statement, even
11 though I will give you another opportunity if you request
12 one after the attorney closes with the jury. All right?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Court will be in recess
15 15 minutes. Thank you very much.

16 (A break was taken.)

17 THE COURT: All right. We're back on the
18 record.

19 Mr. Barnes, would you please stand? Did you get
20 an opportunity to talk with your attorney?

21 THE DEFENDANT: Well, I'm still conferring.

22 THE COURT: That's fine. At the conclusion
23 of -- I'm making an assumption -- I'm assuming Mr. Harte
24 will want to present the closing on behalf of Mr. Barnes;
25 is that correct?

1 MR. HARTE: That's correct, Your Honor.

2 THE COURT: All right. At the conclusion of Mr.
3 Harte's closing, we will take a brief recess and I will
4 revisit that issue with you, Mr. Barnes.

5 Anything further?

6 (There was no response.)

7 THE COURT: All right. Thank you. If you'd
8 bring us our jury, please.

9 (The jury came into open court at approximately
10 11:21 a.m.)

11 THE COURT: All right. It appears our jury is
12 back present in the courtroom.

13 Again, ladies and gentlemen, we're now through
14 with the State and the closing argument will be presented
15 by one of the attorneys for the defendant on behalf of
16 Mr. Barnes.

17 If you remember, the State has the burden of
18 proving this case beyond a reasonable doubt. The
19 defendant is presumed to be innocent, he does not have to
20 prove himself innocent.

21 Recalling that what the attorneys say is not
22 evidence, but please give them your complete and undivided
23 attention.

24 Thank you very much.

25 Mr. Harte.

1 MR. HARTE: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. HARTE: Solicitor, Mr. Foreman, ladies and
4 gentlemen of the jury, at various times law enforcement
5 people, lawyers, prosecutors, judges get approached and
6 they're asked a question. The question would go something
7 like this. If somebody falsely accuses you of something,
8 one or more people falsely accuse you of something, can I
9 be arrested? The answer is yes.

10 They say, Well, if somebody continues to falsely
11 accuse me of something, can I be put to trial? And the
12 answer is yes.

13 And if I'm falsely accused of something, can I
14 go to jail or even worse? And the answer is yes.

15 But there's a safeguard. Some people would say
16 the safeguard is the presumption of innocence. I would
17 say it's the jury, because the jury is the only entity
18 that has the power to keep that presumption of innocence
19 on a person who is falsely accused.

20 The jury was actually created in England and was
21 originally considered a grand jury to protect the people
22 from the power of the king. It was a buffer between the
23 people and the king.

24 There are different types of evidence. Two
25 distinctions of evidence are probative evidence and

1 demonstrative evidence.

2 Demonstrative evidence is like photographs,
3 maps, calendars, things that demonstrate. That's where
4 the word "demonstrative" comes from.

5 . Probative evidence in a physical sense are
6 things such as DNA, fingerprints, ballistics, the various
7 chemical tests.

8 In this case, through no fault of law
9 enforcement, there's not a lot of them. There's very
10 little. You have three bullets that you can't match to a
11 gun because we don't have no gun. You have a shell
12 casing, I believe, and you can't match it to a gun because
13 we have no gun.

14 We have some swabs that were taken from this
15 shock absorber, and we have the shock absorber, but for
16 some reason we don't have the reports. And I assure you,
17 if the reports had come back and somehow there had been
18 something to connect Steve Barnes to that shock absorber
19 other than it was a house where he sometimes was at --
20 didn't live there, he was at -- you would have heard it.
21 The solicitor would have presented that.

22 We do have the report from the burned -- I'm
23 sorry -- a report from the Hunsbergers' trunk that Officer
24 Doran said they thought there might be some blood in
25 there, but that came back negative.

1 So there's very little probative physical
2 evidence in this case. And again, it's not through any
3 fault of law enforcement.

4 Make no mistake about it: In order for you to
5 convict Steven Barnes of kidnapping and murder, you must
6 believe Richard Cave, Antonio Griffin, Charlene Thatcher,
7 and you must believe them beyond a reasonable doubt. You
8 are the only judge of the credibility of the witnesses.

9 I'm not going to presume to tell you how you
10 should do that, how you should decide. I'm going to tell
11 you what factors you can consider and what testimony I
12 think is significant in determining whether you should
13 believe Richard Cave, Antonio Griffin, or Charlene
14 Thatcher.

15 One of the things that the judge has already
16 mentioned is the demeanor on the witness stand.

17 In everyday life, we interface with other people
18 and we make judgment decisions on whether we find those
19 people credible or not. Do it every day. And some things
20 can develop in our minds as to what kind of demeanor we're
21 looking for if somebody's being truthful with us and some
22 things that might indicate that somebody's not being
23 truthful with us.

24 Richard Cave mumbled a lot. He often mumbled
25 during cross-examination when he was being faced with an

1 answer that was different or contradicting what he'd
2 previously said.

3 Antonio Griffin would blow it off, "Well, I
4 might have said "-- "Well, the tape's wrong, the
5 transcript's wrong."

6 Charlene Thatcher, every time she got questioned
7 about a contradictory statement, she lowered her head.

8 Another thing that you look for in terms of
9 credibility of witnesses is whether the testimony is
10 corroborated or contradicted by physical evidence.

11 As I've already indicated, we don't have a lot
12 of physical evidence in this case to either contradict or
13 corroborate, but all three of the witnesses in this case
14 who matter said that Sam Sturup was beat, that he was
15 bleeding. The only evidence that we have was from the
16 Hunsbergers' trunk where all three say he was at, but
17 there was no blood in that trunk, so that contradicts
18 those statements.

19 Another thing that you can look at in the
20 credibility of a witness is whether or not the witness has
21 anything to gain by telling the story that they're
22 telling.

23 Now, these people are not 17 and 18 anymore,
24 just like Steven was nine years younger than he is today
25 when this was going on. The Solicitor would make it sound

1 like they're still 17 or 18 and he was as old then as he
2 is now. But those three witnesses by their testimony were
3 facing a life sentence in the state of Georgia. And we
4 didn't get the testimony as to what the maximum for an
5 aggravated assault is, but considering what they
6 participated in and did, they got a pretty good deal.
7 They'll serve some time in Georgia and probably get
8 paroled and they'll be out on the streets.

9 They don't know what the solicitor's going to
10 do. They said they don't know. But surely right now,
11 they're going to serve their 18 years and be out.

12 So do they have something to gain? Even if they
13 don't know what the solicitor's going to do with their
14 case, they certainly hope to get better than what Steven
15 Barnes is.

16 And, finally, in terms of credibility you deal
17 with whether it's corroborated or contradicted by other
18 witnesses or by their prior statements.

19 I know that some of you all are taking notes.
20 Others of you I'm sure will have memories of some of the
21 statements that they made that were inconsistent with each
22 other, with other statements that they made. I'm going to
23 go down a few of them. If you think of others, certainly
24 you can use those. If you find that I have mistakenly
25 said one that nobody here recollects, just go by what the

1 judge says is the law. Don't go by what the solicitor
2 says or I say.

3 Cave, Richard Cave and Antonio Griffin differed
4 about Steven hitting Sam with this pipe or the shock or
5 whatever it was. One said they saw him do it, the other
6 said they didn't see it. They both said they were
7 standing right there the whole time.

8 There was a disagreement about whether -- there
9 was a contradiction between the witnesses about Harris
10 hitting China. Griffin and Cave, neither one said
11 anything about Harris hitting China with a broomstick.
12 She said not only did he hit her, he tried to poke her in
13 the private parts.

14 Cave denied hitting Sam, but he pled to it, and
15 in a statement he said everybody hit Sam. Cave doesn't
16 say anything about a walk out on the railroad tracks.
17 Griffin and Thatcher say they went out on the railroad
18 tracks and the things that happened over there.

19 Thatcher says that while they were all right
20 there and walking back to the railroad tracks, Steven
21 said, "You're going to die tonight. What do you want for
22 your last meal?" Neither Cave nor Griffin say anything
23 about that.

24 Thatcher says that she saw Sam being put in the
25 trunk of the car and that Griffin and Cave were standing

1 right there. They said, "We didn't know he was in the
2 trunk of the car."

3 Cave said that William Harris had a tricked up
4 car, had tricked up cars, had CDs and televisions in them.
5 He said that Steven's Caprice didn't have CD, TV. And
6 yet, Antonio Griffin said, "When we were coming over to
7 South Carolina, I was playing video games on the TV."

8 Solicitor says that the order of shooting is not
9 important. The order of shooting is important. Solicitor
10 Myers in his opening statement said, "But one thing
11 they're all going to tell you, coup de grace, the last
12 bullet was fired by Steven Louis Barnes in the back of the
13 head of Samuel Sturrup." I want you to remember in my
14 opening argument, I said you needed to hold him to that.
15 That was not the testimony.

16 If you remember correctly, Charlene Thatcher
17 said the second shot was the shot fired into Sam's head,
18 that it was fired by Steven Louis Barnes. She said -- and
19 on cross-examination I said, "You immediately handed him
20 the gun and he shot Sam?" and she said yes. Cave says he
21 was second. This is interesting. Griffin says one of the
22 Hunsbergers was second, and they only presumed that Steven
23 was the last because they hear a gunshot down in the
24 woods. And that's totally contradictory because Cave says
25 we left one at a time, China left first, I left second,

1 Antonio came along and then the Hunsbergers. Griffin
2 says, "We all left at the same time except for China and
3 Steven." And China says they all left and ran up there
4 and left me and Steven there. And that's important.

5 Cave and Griffin said, "We didn't want to do it,
6 we were scared to do it, we were really worried about
7 doing it, we didn't want to do it, we thought we would get
8 killed." Charlene says that the others were screaming and
9 hollering, "Do it, do it, do it."

10 And they each tell a different number of guns.
11 And I sure wish it was, but I think it was Cave said there
12 was one, Griffin said there were two, China said there
13 were three. At first she said everybody had one. Then
14 when I questioned her about that, she said there were
15 three guns. And yet Mr. Griffin says, "I only threw two
16 into the river."

17 And then of course there's this story about the
18 dog eating the money.

19 All those contradictions can be used by you as
20 inconsistencies in determining whether to believe Cave,
21 Griffin, and Thatcher. Because I repeat, the only way you
22 can convict Steven Barnes of kidnapping and murder is by
23 believing those three witnesses beyond a reasonable doubt.

24 After this all happened, at least three weeks
25 later, and we know that because we know that Ms. Sturup

1 did not report Sam missing for three weeks, Charlene says
2 that Ms. Sturup came to Steven's house and she was there.

3 Now, this is a girl who says she was scared to
4 death, she was crying, she was upset, this was a horrible
5 experience, and yet three weeks later she's still with
6 Steven Barnes, the man that the solicitor just ripped
7 apart as being an evil, evil man and capable of anything,
8 that she's still with him?

9 Maybe the most despicable thing of the testimony
10 of these people was when Charlene Thatcher attempted to
11 get that lady, Ms. Sturup, involved in their conspiracy
12 of falsehood. She told you on the witness stand when Mrs.
13 Sturup came to the house, Steven told her, "I didn't kill
14 Sam." Yesterday that lady got on the stand and she had
15 every opportunity to get up there and say, Oh, yeah,
16 that's exactly what Sam -- Steven said. Don't you think
17 if he'd have said that she would have remembered that?
18 She's got too much integrity for that. The solicitor gave
19 her every chance. And don't you know the mother of a
20 murdered 16-year-old would be sorely tempted, sorely
21 tempted to fall into that trap? To her credit, to her
22 integrity, she refused to say, "Steven told me, 'I didn't
23 kill Sam.'"

24 You can't blow off these inconsistencies. You
25 can't blow off these contradictions.

1 You can't say, well, these were 16-year-old
2 kids, it was nine and a half years ago, they just don't
3 remember it real well. This was an event that being
4 present at would never be forgotten.

5 It's ironic that seven or eight days after this
6 event happened that something happened everybody in this
7 courtroom remembers as if it happened yesterday, and we
8 weren't directly involved, 9-11-2001. We weren't on the
9 streets of New York City. We weren't outside the
10 Pentagon. We weren't in the field in Pennsylvania. But I
11 remember it like it was yesterday.

12 I submit to you that if this thing happened the
13 way they're trying to say it happened, they would remember
14 it precisely.

15 What do you do as a person -- not you as an
16 individual -- what does a person do when they tell part of
17 the truth and partly a lie? Where is the discrepancy
18 going to come from? Where are the contradictions going to
19 come from? It's going to come from the part that's the
20 lie. It's going to come from the part that's the lie.

21 Where are the discrepancies and contradictions
22 in this case? It's in their testimony about Steven
23 Barnes. It's in their testimony about Steven Barnes.

24 What has the State proved beyond a reasonable
25 doubt in this case? The State has proved that Charlene

1 Thatcher, Richard Cave, and Antonio Griffin came to
2 Edgefield, South Carolina, that very probably William
3 Harris came in his tricked-up car with his TV and his CD,
4 and that possibly the Hunsbergers came.

5 They've proved, and it's consistent, that
6 Charlene Thatcher fired a shot, that Richard Cave fired a
7 shot, and Antonio Griffin fired a shot.

8 I would like to think that we can put great
9 confidence in our law enforcement people and their
10 abilities. Three people, three bullets. If there had
11 been other bullets out there, don't you think that SLED
12 investigator would have found them? Three people, three
13 bullets.

14 One thing that they did talk about that was just
15 totally inconsistent with what the State's position is,
16 back at the green house, Richard Cave and Antonio Griffin
17 said that William Harris put a gun either in or right at
18 Sam's mouth, and one of them said, "I believe he was going
19 to shoot him." Steven Barnes stepped in and stopped him.
20 This is the man that's going to have this great grandiose
21 plan about killing somebody who's going to prevent what
22 his goal is?

23 I would submit to you that there is a real
24 possibility that four or five people, excluding Steven
25 Barnes, came over to South Carolina with Sam Sturupp. I

1 don't know what it's about. I wish we'd have had some
2 Georgia investigators to talk about what their
3 investigation was so we could find out something about
4 what this is all about. We don't know. We don't know
5 whether it's gang related, we don't know whether it's girl
6 related, or it's drug related.

7 We do know that Charlene and Richard and Antonio
8 came over to South Carolina, and maybe others, and they
9 went in the woods and they killed Sam Sturup. Just as
10 there's no evidence from Investigator Doran that William
11 Harris came over, there's no physical evidence that Steven
12 Barnes was there. None at all.

13 But those people came over and they killed Sam
14 Sturup, and they went somewhere and I think it is quite
15 logical that it can be deduced from the evidence, they
16 said, What are we going to do if we get caught? What are
17 we going to do if we get caught? Well, let's blame it on
18 Steven.

19 Maybe William Harris is there and he says, You
20 know, my brother and I, we don't get along, we don't -- we
21 fight all the time -- whatever reasons they have for that
22 fighting -- I want to blame Steven if we get caught.

23 And there's no conspiracy of law enforcement,
24 there's no hidden conspiracy. They're just saying, What
25 are we going to do? Blame somebody else. Like our

1 politicians, it's always somebody's else's fault.

2 So they did get caught, and they did blame
3 Steven. But the inconsistencies, the contradictions about
4 Steve trips them up.

5 It's a horrible feeling being falsely accused of
6 something. You can't sleep, you can't eat. You feel
7 helpless. You're feeling attacked from all sides. But
8 there's a safeguard. There's a safeguard for Steven
9 Barnes. It's you.

10 THE COURT: Thank you very much, Mr. Harte.

11 Mr. Foreman, ladies and gentlemen of the jury
12 panel, although we've been out here for a shorter period
13 of time, I'm still going to take a brief recess. I have
14 one matter I must take up with the attorneys outside of
15 your presence prior to my instructions to you. However,
16 I'm going to shorten our recess this time. I would say
17 we'll take about a ten-minute recess.

18 Do not discuss the case during this brief
19 recess.

20 Please leave your notes upside down on your
21 chair.

22 Thank you very much. You may now go with your
23 bailiff.

24 (The jury left open court at approximately 11:53
25 a.m.)

1 THE COURT: All right. We'll take about a
2 ten-minute recess.

3 Mr. Barnes, you may discuss the issue during
4 this brief recess with your attorneys as to your right of
5 whether or not you want to make a statement to the jury.

6 Please realize that upon my return to the
7 courtroom I will ask you for your final answer.

8 All right. Thank you very much.

9 MR. TARR: Thank you.

10 (A break was taken.)

11 THE COURT: Mr. Barnes, would you please stand
12 for me, please.

13 All right. Now we're back on the record.

14 We've been in recess again about ten minutes.
15 Did you have the opportunity to talk with your attorneys
16 about your right to make a final statement to the jury --

17 THE DEFENDANT: Yes, sir.

18 THE COURT: -- during this guilt phase?

19 THE DEFENDANT: Yes, sir, I have.

20 THE COURT: Do you need any more time to talk
21 with your attorneys?

22 THE DEFENDANT: Yes, sir, I do. And I was
23 hoping that maybe we would take a break and give me time
24 to get it into my head. I'm not trying to delay the
25 process of the Court.

1 THE COURT: What kind of time are you referring
2 to, Mr. Barnes?

3 THE DEFENDANT: One hour.

4 THE COURT: No, sir, I would not be able to give
5 one hour.

6 THE DEFENDANT: Well, what's the most you can
7 give?

8 THE COURT: I'm not going to do this like an
9 auction in that regard.

10 THE DEFENDANT: I understand.

11 THE COURT: And, of course, I explained to you
12 yesterday the procedure we follow, that the State closes,
13 the defense closes, and after that defense closing you
14 have a right to make a final statement. Of course, it's a
15 very serious matter, I understand that. It's obviously a
16 very serious matter to you, Mr. Barnes.

17 THE DEFENDANT: Yes, it is.

18 THE COURT: Have you made your decision?

19 THE DEFENDANT: Yes, I have. My intention, you
20 know, I'm still talking to my lawyer, but I mean, I assure
21 you that, just like you said, we had talked about it last
22 night, you know.

23 THE COURT: And what is your decision?

24 THE DEFENDANT: Well, my intentions are -- I
25 mean, my intention is to do this, but I still want to try

1 to get enough time to consult --

2 THE COURT: And when you say "do this," you mean
3 make a final statement?

4 THE DEFENDANT: Yeah, make a final statement.

5 THE COURT: All right. That's fine.

6 I will give you 15 more minutes, Mr. Barnes, and
7 at that time we're going to go forward. I'm going to
8 bring the jury back in and you need to be prepared to make
9 your final statement.

10 It's now by my computer 12:03, and as you
11 noticed, I try to stay on point. People's time is very
12 important to me.

13 I will give you until 12:20. That is actually
14 17 minutes. Is that correct math?

15 All right. We'll be in recess.

16 MR. TARR: Your Honor, if he doesn't make a
17 statement, you're not going to instruct the jury that he
18 had a right to make one; is that correct? If he doesn't
19 make one, you're not going to tell them that he had a
20 right to make one and he's choosing not to?

21 THE COURT: Oh, no. Maybe I don't understand
22 your question. Speak up.

23 MR. TARR: If he doesn't speak to the jury --

24 THE COURT: If he doesn't speak to the jury --

25 MR. TARR: -- you're not going to say