

VOLUME IV OF V

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM EDGEFIELD COUNTY

R. Knox McMahon, Circuit Court Judge

RECEIVED

NOV - 9 2012

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

STEVEN BARNES,

APPELLANT

Appellate Case No. 2010-178247

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

VOLUME IV OF V
PAGES 1501-2000

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

MELODY J. BROWN
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

DONALD V. MYERS
Solicitor, Eleventh Judicial Circuit
205 East Main Street
Lexington, SC 29072
(803) 785-8352

Attorneys for Respondent

INDEX

INDEX	i
PRE-TRIAL TRANSCRIPT DATED NOVEMBER 5, 2010	1
TRIAL TRANSCRIPT VOLUME I, NOVEMBER 8, 2010	87
COLLOQUY REGARDING SELF-REPRESENTATION	124
TESTIMONY	
DR. DAVID PRICE	
In Camera Examination by Mr. Tarr	135
In Camera Examination by the Defendant, Mr. Barnes	142
In Camera Examination by the Court.....	149
RULING ON SELF-REPRESENTATION	159
COLLOQUY REGARDING MOTION ON THE INTERSTATE	
AGREEMENT ON DETAINERS	161
MOTION TO SEQUESTER WITNESSES	166
QUALIFYING OF JURORS INDIVIDUALLY	
SHIRLEY WEST	
Examination by the Court	171
Direct Examination by Solicitor Myers	175
Cross Examination by Mr. Harte.....	178
LYNN KOENIG	
Examination by the Court	182
Direct Examination by Mr. Tarr.....	184
Cross Examination by Solicitor Myers	189
THOMAS DEVILBISS	
Examination by the Court	200
Direct Examination by Solicitor Myers	203
Cross Examination by Mr. Harte.....	204
OTIS KEY	
Examination by the Court	208
Direct Examination by Mr. Tarr.....	211
Cross Examination by Solicitor Myers	215

EMILY BLACKBURN

Examination by the Court	219
Direct Examination by Solicitor Myers	222
Cross Examination by Mr. Harte.....	224
Re-Examination by the Court	225

STEVEN JORDAN

Examination by the Court	229
Direct Examination by Mr. Tarr.....	234
Cross Examination by Solicitor Maye	238
Redirect Examination by Mr. Tarr	241
Re-Examination by the Court.....	250

MARGARET THOMPSON

Examination by the Court	259
Direct Examination by Solicitor Myers	264
Cross Examination by Mr. Harte.....	266

AARON ASFORIS

Examination by the Court	271
Direct Examination by Mr. Tarr.....	279
Cross Examination by Solicitor Myers	281

CHRISTOPHER STANSELL

Examination by the Court	285

WILLIAM JENNINGS

Examination by the Court	288
Direct Examination by Mr. Tarr.....	292
Cross Examination by Solicitor Maye	295

GAYLE GARRY

Examination by the Court	298
Direct Examination by Solicitor Myers	302
Cross Examination by Mr. Harte.....	305

PHILLIP GRIFFIN

Examination by the Court	309
Direct Examination by Mr. Tarr.....	312
Cross Examination by Solicitor Myers	314

TRIAL TRANSCRIPT VOLUME II, NOVEMBER 9, 2010.....	320

QUALIFYING OF JURORS INDIVIDUALLY

JOSEPH ROWLAND

Examination by the Court	325
Direct Examination by Solicitor Myers	332
Cross Examination by Mr. Harte.....	335

ALEXIS BRUNSON	
Examination by the Court	339
Direct Examination by Mr. Tarr	343
Cross Examination by Solicitor Myers	345
TASHA ROBERTSON	
Examination by the Court	348
Direct Examination by Solicitor Myers	355
KANETTE MILLER	
Examination by the Court	361
Direct Examination by Mr. Tarr	367
Cross Examination by Solicitor Maye	372
SHERENE MOORE	
Examination by the Court	381
Direct Examination by Solicitor Myers	392
CHARLES BAFFORD	
Examination by the Court	397
Direct Examination by Mr. Tarr	402
Cross Examination by Solicitor Myers	406
DIANN MCCARY	
Examination by the Court	409
Direct Examination by Solicitor Myers	413
JOSEPH ROBBINS, JR.	
Examination by the Court	415
Direct Examination by Mr. Tarr	420
Cross Examination by Solicitor Myers	424
CHRISTIAN HOFFMANN	
Examination by the Court	429
Direct Examination by Solicitor Myers	434
Cross Examination by Mr. Harte	438
DENNIS PETERSON	
Examination by the Court	444
Direct Examination by Mr. Tarr	448
TAMMY KIRBY	
Examination by the Court	451
Direct Examination by Solicitor Maye	460
Cross Examination by Mr. Harte	463
VALERIE MOORE	
Examination by the Court	466
Direct Examination by Solicitor Maye	468

BRYANT CARROLL	
Examination by the Court	470
NANCY PRICE	
Examination by the Court	476
Direct Examination by Mr. Tarr	484
Cross Examination by Solicitor Maye	488
Re-Examination by the Court.....	489
RUBY BUSSEY	
Examination by the Court	494
Direct Examination by Solicitor Maye.....	496
Cross Examination by Mr. Harte.....	500
VOLUME II	
RUBY BUSSEY	
Cross Examination by Mr. Harte (Continued).....	501
Re-Examination by the Court.....	502
KAITLIN SMITH	
Examination by the Court	505
Direct Examination by Mr. Tarr.....	510
Cross Examination by Solicitor Maye	513
DAVID TUTTELL	
Examination by the Court	517
Direct Examination by Solicitor Maye.....	522
Cross Examination by Mr. Harte.....	524
SAMUEL YOUNG	
Examination by the Court	530
NANCY SNODGRASS	
Examination by the Court	535
Direct Examination by Solicitor Maye.....	540
Cross Examination by Mr. Harte.....	542
Re-Examination by the Court.....	546
JOHN CULBREATH	
Examination by the Court	551
Direct Examination by Mr. Tarr.....	558
Cross Examination by Solicitor Maye	561
RONNIE POSEY	
Examination by the Court	564
Direct Examination by Solicitor Maye.....	569
Cross Examination by Mr. Harte.....	570
REBECCA PUETZ	
Examination by the Court	574

TESSA STEED	
Examination by the Court	584
Direct Examination by Mr. Harte.....	586
JOSEPH BROWN	
Examination by the Court	589
SCOTT LANDERS	
Examination by the Court	598
Direct Examination by Solicitor Maye.....	600
Cross Examination by Mr. Harte.....	602
RANDALL THROWER	
Examination by the Court	603
Direct Examination by Mr. Tarr.....	611
Cross Examination by Solicitor Maye	614
KATHERINE GALLAGHER	
Examination by the Court	620
RICHARD WHEATLEY	
Examination by the Court	625
Direct Examination by Mr. Tarr.....	631
Cross Examination by Solicitor Maye	634
TRIAL TRANSCRIPT VOLUME III, NOVEMBER 10, 2010	
644	
QUALIFYING OF JURORS INDIVIDUALLY	
SEAN GAMBLE	
Examination by the Court	651
Direct Examination by Solicitor Myers	661
Cross Examination by Mr. Harte.....	664
ELIZABETH HOLMES	
Examination by the Court	667
Direct Examination by Mr. Tarr.....	674
Cross Examination by Solicitor Myers	677
DON R. BOYD	
Examination by the Court	681
Direct Examination by Solicitor Myers	687
Cross Examination by Mr. Harte.....	690
CRYSTAL BUSBEE	
Examination by the Court	694
Direct Examination by Mr. Tarr.....	699
Cross Examination by Solicitor Maye	702

MATTHEW C. COX	
Examination by the Court	706
Direct Examination by Solicitor Myers	711
Cross Examination by Mr. Harte.....	712
CHRISTIE GULLEDGE	
Examination by the Court	715
ALLENE ANDREWS	
Examination by the Court	718
Direct Examination by Solicitor Myers	725
Cross Examination by Mr. Harte.....	727
CHARLES R. THOMASSON	
Examination by the Court	733
Direct Examination by Mr. Tarr.....	737
Cross Examination by Solicitor Maye	739
GLENN GOBAT	
Examination by the Court	743
Direct Examination by Solicitor Myers	752
Cross Examination by Mr. Harte.....	753
PAMELA ROBERSON	
Examination by the Court	758
Direct Examination by Mr. Tarr.....	763
Cross Examination by Solicitor Maye	766
JERMAINE ALLEN	
Examination by the Court	769
Direct Examination by Solicitor Maye.....	775
Cross Examination by Mr. Harte.....	778
ERIC ABNEY	
Examination by the Court	780
Direct Examination by Mr. Tarr.....	786
JOSEPH FRIAR	
Examination by the Court	787
Direct Examination by Mr. Harte.....	788
KAREN PADGETT	
Examination by the Court	790
Direct Examination by Mr. Tarr.....	794
Cross Examination by Solicitor Maye	796
Redirect Examination by Mr. Tarr	798
Re-Examination by the Court	800
Recross Examination by Solicitor Maye.....	805
Redirect Examination by Mr. Tarr	806

BRYANT FULMORE	
Examination by the Court	815
DONALD BOWEN	
Examination by the Court	817
Direct Examination by Mr. Tarr	824
Cross Examination by Solicitor Maye	827
GLENN GOBAT	
Examination by the Court	830
Direct Examination by Mr. Harte	833
LACEY HARRISON	
Examination by the Court	836
Direct Examination by Mr. Harte	837
CRYSTAL HUGHES	
Examination by the Court	839
Direct Examination by Mr. Tarr	842
Cross Examination by Solicitor Maye	845
DANNY L. KEY	
Examination by the Court	849
Direct Examination by Solicitor Maye	853
Cross Examination by Mr. Harte	855
MARY OUZTS	
Examination by the Court	858
ALICE DOREN	
Examination by the Court	863
Direct Examination by Mr. Tarr	869
Cross Examination by Solicitor Maye	872
BRENDA DUGAR	
Examination by the Court	876
Direct Examination by Solicitor Myers	883
Cross Examination by Mr. Harte	883
FRANK GORDON, JR.	
Examination by the Court	886
AMY SKINNER	
Examination by the Court	890
Direct Examination by Mr. Harte	902
DAVID JONES	
Examination by the Court	918
Direct Examination by Mr. Harte	922

LINDA HOOK

Examination by the Court	928
Direct Examination by Solicitor Maye.....	932
Cross Examination by Mr. Harte.....	934

JOHN VERDERY

Examination by the Court	940

JANET CUMBEE

Examination by the Court	942
Direct Examination by Mr. Harte.....	949
Cross Examination by Solicitor Maye	951
Redirect Examination by Mr. Harte	956

LYDIA BLAIN

Examination by the Court	959
Direct Examination by Solicitor Maye.....	962
Cross Examination by Mr. Harte.....	964

HAROLD FARRER

Examination by the Court	967
Direct Examination by Mr. Tarr.....	971

MARK GILLINGHAM

Examination by the Court	975
Direct Examination by Solicitor Myers	978
Cross Examination by Mr. Harte.....	979

ROBERT J. HALL

Examination by the Court	981
Direct Examination by Mr. Tarr.....	990

TRIAL TRANSCRIPT VOLUME IV, NOVEMBER 11, 2010	1000

VOLUME III

JURY SELECTION	1016

INSTRUCTIONS TO JURORS.....	1033

BRADY MOTION	1040

OPENING STATEMENT BY SOLICITOR MYERS.....	1075

OPENING STATEMENT BY MR. HARTE.....	1083

TESTIMONY

GROVER DAIS

Direct Examination by Solicitor Myers	1086

RANDY DORAN	
Direct Examination by Solicitor Myers	1091
Cross Examination by Mr. Harte.....	1124
RICHARD CAVE	
Direct Examination by Solicitor Maye.....	1141
Cross Examination by Mr. Harte.....	1175
JAMES GORDON	
Direct Examination by Solicitor Myers	1194
Cross Examination by Mr. Harte.....	1199
DR. JOEL SEXTON	
Direct Examination by Solicitor Maye.....	1201
Cross Examination by Mr. Harte.....	1222
Redirect Examination by Solicitor Maye	1223
TRIAL TRANSCRIPT VOLUME V, NOVEMBER 12, 2010	1230
TESTIMONY	
RANDY DORAN	
Cross Examination by Mr. Harte (Continued)	1245
Redirect Examination by Solicitor Myers.....	1248
ANTONIO GRIFFIN	
Direct Examination by Solicitor Maye.....	1250
Cross Examination by Mr. Harte.....	1280
JAMES GORDON	
Redirect Examination by Solicitor Myers.....	1296
Recross Examination by Mr. Harte	1299
STEPHEN CURTIS	
Direct Examination by Solicitor Maye.....	1303
Cross Examination by Mr. Harte.....	1311
CHARLENE THATCHER	
Direct Examination by Solicitor Myers.....	1314
Cross Examination by Mr. Harte.....	1345
Redirect Examination by Solicitor Myers.....	1359
SHIRLEY STURRUP	
Direct Examination by Solicitor Myers.....	1373
Cross Examination by Mr. Harte	1380
MOTION FOR A DIRECTED VERDICT.....	1389
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	1403
RENEWED MOTION FOR A DIRECTED VERDICT.....	1417

TRIAL TRANSCRIPT VOLUME VI, NOVEMBER 13, 2010	1423
COLLOQUY REGARDING BRADY MOTION	1425
CHARGE CONFERENCE	1431
CLOSING ARGUMENT BY SOLICITOR MAYE	1439
CLOSING ARGUMENT BY MR. HARTE	1485

VOLUME IV

DEFENDANT'S STATEMENT TO THE JURY	1509
CHARGE ON THE LAW	1516
VERDICT	1546
TRIAL TRANSCRIPT VOLUME VII, NOVEMBER 15, 2010	1560
INSTRUCTIONS TO THE JURORS	1574
TESTIMONY	

CARLA WILLIAMSON

Direct Examination by Solicitor Myers	1587

NATHANIEL GOODWIN

Direct Examination by Solicitor Young	1595

SCOTT GAY

Direct Examination by Solicitor Myers	1600
Cross Examination by Mr. Tarr	1610

JASON VINSON

Direct Examination by Solicitor Maye	1616
Cross Examination by Mr. Tarr	1624

GREGORY SMITH

Direct Examination by Solicitor Myers	1626
Cross Examination by Mr. Tarr	1646

ROE BRUNSON

Direct Examination by Solicitor Myers	1648
Cross Examination by Mr. Tarr	1653

BILL ANDERSON

Direct Examination by Solicitor Myers	1657

TONY BAUGHMAN	
Direct Examination by Solicitor Myers	1667
DAVID VICTOR BOYD	
Direct Examination by Solicitor Myers	1673
Cross Examination by Mr. Tarr.....	1678
DONNA PELLMAN	
Direct Examination by Solicitor Myers	1679
ROBERT WEST	
Direct Examination by Solicitor Young.....	1684
Cross Examination by Mr. Tarr.....	1688
LYNN WHITE	
Direct Examination by Solicitor Young.....	1689
LAWRENCE TINDALL	
Direct Examination by Solicitor Young.....	1696
CHARLES DAY	
Direct Examination by Solicitor Young.....	1703
ROBERT BERRY	
Direct Examination by Solicitor Young.....	1707
Cross Examination by Mr. Tarr.....	1716
RANDALL COX	
Direct Examination by Solicitor Young.....	1717
JAMES CARTER	
Direct Examination by Solicitor Young.....	1721
IRVIN THOMPSON	
Direct Examination by Solicitor Young.....	1724
HEIDI PRESSLEY	
Direct Examination by Solicitor Young.....	1728
SHEDALL STEVENS	
Direct Examination by Solicitor Young.....	1734
GLADYS MASON	
Direct Examination by Solicitor Young.....	1739
LEIGH BOUKNIGHT ENLOW	
Direct Examination by Solicitor Young.....	1747
ALISON SHUSTER	
Direct Examination by Solicitor Young.....	1758

JAMES FLORIDA	
Direct Examination by Solicitor Young.....	1764
MARCUS SMITH	
Direct Examination by Solicitor Young.....	1769
Cross Examination by Mr. Tarr.....	1783
SHIRLEY NEWBY	
Direct Examination by Solicitor Myers	1784
POLLY HALL	
Direct Examination by Solicitor Young.....	1787
Cross Examination by Mr. Tarr.....	1792
EMMETT LUMPKINS	
Direct Examination by Solicitor Young.....	1808
Cross Examination by Mr. Tarr.....	1815
JEANETTE MOXLEY	
Direct Examination by Solicitor Young.....	1817
Cross Examination by Mr. Tarr.....	1821
RICHARD ROUNDTREE	
Direct Examination by Solicitor Myers.....	1822
Cross Examination by Mr. Tarr.....	1832
JAMES BLACKWELL	
Direct Examination by Solicitor Young.....	1836
Cross Examination by Mr. Tarr.....	1840
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	1843
TRIAL TRANSCRIPT VOLUME VIII, NOVEMBER 16, 2010	1850
TESTIMONY	
CAROLYN NORMAN FAIN	
Direct Examination by Solicitor Maye.....	1861
Cross Examination by Mr. Tarr.....	1867
CHARLENE THATCHER	
Direct Examination by Solicitor Myers.....	1869
Cross Examination by Mr. Tarr.....	1898
ALICIA PARKER BUTLER	
Direct Examination by Solicitor Myers.....	1903
Cross Examination by Mr. Tarr.....	1931
JANA McCARTY	
Direct Examination by Mr. Tarr (In Camera)	1940

LASHONDA LOTT	
Direct Examination by Solicitor Myers.....	1946
JANA McCARTY	
Direct Examination by Solicitor Myers.....	1959
Cross Examination by Mr. Tarr.....	1975
JAMES HARRISON	
Direct Examination by Solicitor Myers.....	1979
NADIA BRASWELL	
Direct Examination by Solicitor Maye.....	1981
GERALD TANKSLEY	
Direct Examination by Solicitor Maye.....	1994
DR. JOEL SEXTON	
Direct Examination by Solicitor Maye.....	1998

VOLUME V

DR. JOEL SEXTON	
Direct Examination by Solicitor Maye (Continued).....	2001
SHIRLEY STURRUP	
Direct Examination by Solicitor Myers.....	2006
MOTION FOR A DIRECTED VERDICT OF LIFE	2013
DR. MARTI LORING	
Direct Examination by Mr. Tarr.....	2017
Cross Examination by Solicitor Myers	2044
Redirect Examination by Mr. Tarr	2063
Recross Examination by Solicitor Myers.....	2066
DR. DONNA SCHWARTZ-WATTS	
Direct Examination by Mr. Tarr.....	2067
Cross Examination by Solicitor Maye	2112
DR. ALEXANDER MORTON	
Direct Examination by Mr. Tarr.....	2139
Cross Examination by Solicitor Myers	2173
DR. DAVID PRICE	
Direct Examination by Mr. Tarr.....	2180
Cross Examination by Solicitor Myers	2192
TRIAL TRANSCRIPT VOLUME IX, NOVEMBER 17, 2010	2206
CHARGE CONFERENCE.....	2209

COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	2231
CLOSING ARGUMENT BY SOLICITOR MYERS	2242
CLOSING ARGUMENT BY MR. TARR.....	2279
CHARGE ON THE LAW	2296
JUROR QUESTION	2326
VERDICT	2329
SENTENCING	2338
ORDER BY JUDGE KEESLEY ON DETAINER ISSUE DATED MAY 27, 2005.....	2345
NOTICE OF INTENT TO SEEK THE DEATH PENALTY DATED DECEMBER 13, 2005 ..	2348
ORDER ASSIGNING JUDGE MCMAHON DATED JANUARY 25, 2010.....	2349
INSTRUCTIONS LETTER AND CAPITAL JUROR QUESTIONNAIRE	2350
JUROR #203 QUESTIONNAIRE.....	2355
JURY VERDICT SHEET (AGGRAVATING CIRCUMSTANCES).....	2361
JURY VERDICT SHEET (DEATH SENTENCE).....	2362
INDICTMENTS	2363
CERTIFICATE OF COUNSEL.....	2367

1 anything --

2 THE COURT: No, sir, not in any way. If we come
3 back after 12:20 and he has changed his mind, I'm bringing
4 the jury out and going right into my closing. I'll just
5 say now's the point in time in which I will instruct you
6 on the law.

7 MR. TARR: Thank you.

8 THE COURT: All right. Just please keep in mind
9 now, your jury's sitting back there waiting. All right?

10 THE DEFENDANT: I'll keep that in mind, sir.

11 THE COURT: All right. We'll be in recess until
12 promptly at 12:20. Thank you very much.

13 (A break was taken.)

14 THE COURT: All right. Mr. Barnes, have you
15 made your decision?

16 Mr. Barnes, did you not hear me?

17 THE DEFENDANT: Yes, I did make my decision.

18 THE COURT: All right. And what is your
19 decision?

20 THE DEFENDANT: I'm going to do it.

21 THE COURT: Sir?

22 THE DEFENDANT: I'm going to do it.

23 THE COURT: All right. You want to make a final
24 statement to the jury; is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Is that correct?

2 THE DEFENDANT: Yes, sir.

3 MR. HARTE: Your Honor, I have a motion at this
4 time.

5 THE COURT: All right. Yes, sir, I'll be glad
6 to hear your motion.

7 MR. HARTE: Your Honor, as you previously ruled,
8 I think it was a week, not quite a week ago -- it was
9 Monday -- based on Indiana verses Edwards; is that
10 correct?

11 MR. TARR: That's correct.

12 MR. HARTE: -- that Mr. Barnes, while competent
13 to stand trial, is not competent to conduct his own case
14 as his own attorney. And I would proffer Dr. David
15 Price's testimony be included with this motion. If he is
16 not competent to represent himself in trial, I fail to see
17 how he can be competent to make this weighty a decision to
18 make a statement to the jury.

19 THE COURT: All right.

20 MR. HARTE: And I would ask that I be allowed to
21 make the decision for him based on that issue.

22 THE COURT: All right. Thank you.

23 Any response, Solicitor?

24 MR. MYERS: No, sir.

25 THE COURT: All right. I would find that based

1417

1 on the fact that he is competent to stand trial and that
2 as far as I know, he has an absolute right to make a final
3 statement.

4 The right to an attorney is not absolute under
5 Edwards and State versus Starnes. And I founded the
6 grounds of my decision in the fact that it was not
7 absolute.

8 I think by statute that a death penalty
9 defendant in South Carolina has the right to make a final
10 statement to the jury, and I would find that he is
11 competent to exercise that right.

12 I further find that -- and you made the
13 decision, Mr. Barnes, and Mr. Tarr. I would further find
14 that the State rested yesterday afternoon at 14:38 hours
15 and thereafter the defendant rested and court probably
16 concluded by 16:00 yesterday afternoon. He's had the
17 afternoon hours of yesterday, the evening, this morning,
18 I've given him several breaks, several opportunities to
19 talk with you and Mr. Tarr. In fact, I gave him an
20 additional 15 minutes.

21 It appears he's been looking at notes on a legal
22 pad that indicates to me that perhaps he has prepared a
23 final statement. He did ask lucid questions about his
24 right to make a final statement when questioned and he's
25 talked to his attorneys several times to make sure he was

1 clear on what the parameters or the guidelines or the
2 boundaries are, so I would find that I will deny your
3 motion, Mr. Harte, and find that that's a personal
4 decision by Mr. Barnes and he's competent to make that
5 decision. It is not affected by my ruling under Indiana
6 versus Edwards.

7 MR. HARTE: Again, I would like to have Dr.
8 Price's previous testimony placed in the record and I
9 would like the opportunity at a later time to get him back
10 to testify if he has an opinion whether or not Mr. Barnes
11 is competent to make this decision at this point.

12 THE COURT: I have some concern that I make my
13 decision and then I have information come into the record
14 later.

15 MR. HARTE: Well, the point is, Your Honor --

16 THE COURT: I've taken into account Dr. Price's
17 prior testimony concerning his mental condition, his
18 cognitive ability, his grandiose ideas, his paranoia and
19 so forth. I don't want something coming in on the heels
20 or after the fact.

21 MR. HARTE: I understand. I think it was prior
22 to Indiana verse Edwards and State versus Starnes the
23 right to an attorney or the right to represent yourself
24 was an absolute right, and I just want to make sure -- I
25 realize I'm going to be asking you to make new law, but I

1 want to make sure the record is protected for this issue,
2 for a later court, if need be, to review the issue of
3 whether or not if somebody's competency level to make this
4 position is less than the competency to stand trial.

5 THE COURT: Yes, sir.

6 MR. HARTE: Thank you.

7 THE COURT: I think you're protected on the
8 record.

9 MR. HARTE: I hope so.

10 THE COURT: I think you're protected on the
11 record. I don't know what an appellate court might say
12 about that.

13 MR. HARTE: I hope so.

14 THE COURT: I think you're protected.

15 Stand up for me, please, Mr. Barnes.

16 Mr. Barnes, do you have any questions you would
17 like to ask me about your right to make a final statement?

18 THE DEFENDANT: Yes, sir, just to pretty much go
19 back over what you said yesterday to what extent that I
20 can.

21 THE COURT: Well, you can make a final statement
22 to the jury. You may not testify. You can comment on the
23 facts and the reasonable inferences to be drawn from the
24 facts and the law.

25 Is there anything you'd like to add to that, Mr.

1 Tarr?

2 MR. TARR: No, Your Honor.

3 THE COURT: Have you discussed that with him?

4 MR. TARR: I have discussed his right.

5 THE COURT: Have you discussed the boundaries of
6 his final statement?

7 MR. TARR: Yes, sir.

8 THE COURT: In your opinion, does he understand
9 that?

10 MR. TARR: I'm not sure. I can't really answer
11 whether or not he understands that. I know he wants to do
12 some things that I don't think would be allowed, like
13 putting the discovery notebooks up on the table when
14 they're not in evidence.

15 THE COURT: Yes, sir, you cannot do that.

16 MR. TARR: And I advised him that I disagree
17 with his decision.

18 THE COURT: Discovery is not an issue for this
19 trial jury. Discovery is not an issue on the guilt or the
20 innocence of the defendant.

21 You can comment, as your attorney has very
22 adroitly commented, for example, the lack of forensic
23 testing, the lack of physical evidence, but you can't
24 comment on procedural issues. That's not before this
25 jury.

1 THE DEFENDANT: Your Honor, once again, I
2 conversated with, you know, about that issue and you said
3 that it's not allowed. I mean, I'm supposed to consult
4 with my attorneys and ask questions. So, you know, once
5 again, he stands up saying, Well, you know, that's
6 something I want to do, but he told me that it's not
7 allowed.

8 THE COURT: And you're not going to do that?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right.

11 THE DEFENDANT: See, that's why I was asking you
12 that I need a little more time to prepare.

13 THE COURT: Well, you've had since 16:00 hours
14 yesterday.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you have any other questions?

17 THE DEFENDANT: That's about it.

18 THE COURT: All right. Now physically, Sheriff,
19 where do you want Mr. Barnes?

20 MR. HARTE: Your Honor, he has indicated he will
21 stay here.

22 THE COURT: All right. And, Mr. Barnes, I would
23 advise you, it's difficult to hear in this courtroom at
24 times. I would advise you to speak up because if the jury
25 can't hear you, they can't take into account what your

1 final statement may be. Do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Anything further,
4 Mr. Barnes?

5 THE DEFENDANT: No, sir. I'm just looking at my
6 notes.

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

8 All right. Yes, sir, Solicitor.

9 MR. MYERS: Nothing. I was just standing up,
10 Your Honor.

11 THE COURT: All right. If you would bring us
12 our jury, please.

13 (The jury came into open court at approximately
14 12:30 p.m.)

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

17 Thank you very much, ladies and gentlemen, for
18 your continued focus and attention during the trial of
19 this case and this stage of the proceedings. I appreciate
20 your patience with the Court very much.

21 We're now at the stage where the defendant,
22 Mr. Barnes, has the opportunity to make a final statement
23 to you. Mr. Barnes will make a final statement to you
24 from standing in front of the location where he is
25 presently seated. I would ask you to please give

1 Mr. Barnes your complete and undivided attention as you
2 have done to all the parties during the course of this
3 trial.

4 Mr. Barnes, you may now address the jury. Just
5 please recall to keep your voice up.

6 THE DEFENDANT: Ladies and gentlemens of the
7 jury, I know you heard a lot of things today about
8 Mr. Barnes, but I want you to keep in mind the testimony
9 of Cave and Griffin and Charlene Thatcher, how they
10 said -- how Cave said that he was innocent. And we
11 testified in front of the judge in the Hunsberger trial,
12 how he said he was innocent, that he never hit nobody, he
13 never did anything. Think about what they gained.

14 The solicitor came to them for an 18-year plea,
15 said yeah, yeah, testify against Mr. Barnes, that's with
16 Griffin, but he denied it. That's what the State told him
17 in South Carolina -- excuse me, not in South Carolina. I
18 rephrase that. Excuse me. In Georgia. They compelling
19 them to testify against Mr. Barnes. Straight hearsay.

20 Charlene Thatcher, she get on the stand and tell
21 you that yeah, all them involved, that they was willing,
22 yeah, yeah, shoot, do it, do it, do it. But when Griffin
23 and Cave get on the stand, it's a whole different story.

24 What they hiding? There's things missing.

25 Did you hear Mrs. Sturup get on the stand and

1 say that William Harris was the last one seen with
2 Sturup? Did you hear that? Did you as the jurors hear
3 that?

4 Not only that, just like my attorney, Bob Harte,
5 did an excellent job, and I appreciate everything, right
6 along with David Tarr.

7 When they said that -- when Charlene Thatcher
8 said that she was at the house, at the house when Mrs.
9 Sturup pulled up, saying yeah, Mr. Barnes said that this,
10 this, this. You heard the testimony. But then
11 Mrs. Sturup get on the stand and said, Well, Mr. Barnes
12 said that Sam was last seen with a white girl or
13 something, something in a white car or something, that he
14 didn't have nothing to do with it.

15 Think about how many inconsistencies, think
16 about what's missing.

17 Now, you all watch CSI, you all watch all these
18 famous TV shows. Come on now. Can they take a bullet and
19 find out what type of gun it is? It's that simple.
20 What's so hard in that?

21 Did they put anybody on the stand to tell you
22 all what type of gun it was? But China, when she get on
23 the stand, what she tell you? Everybody got a gun, three
24 people got a gun.

25 Remember when my lawyer cross-examined Griffin,

1 Cave, and Charlene Thatcher, what they said about the dead
2 docket, that they didn't come over here and testify what
3 was going to happen. What was going to happen? They can
4 kick back the charge that was dead docket and it'd come
5 back. That's a life sentence in Georgia. They denied
6 that. "Oh, we don't know nothing about that."

7 How many times do these people got to sit here
8 and lie in the courtroom in front of justices, justices,
9 judges, investigators?

10 But see, one thing Griffin didn't tell you, but
11 I'm going to tell you, see, when he made the first
12 statement to Investigator Roundtree and we testified in
13 the Hunsberger trial, it was different. But he said here
14 that he looked through his paperwork, his transcripts and
15 things. You know what that's called? Let me describe to
16 you all what it's called. A motion to discover. It got
17 every investigative report, every statement made by
18 anybody. It's that simple. Now they remember it good,
19 they could tell you what it feel like, but soon as my
20 lawyer cross-examined Cave, huh, he had to be shown it.
21 How can somebody be shown something and they supposed to
22 know where it at?

23 Griffin said, We watch the television, I watch
24 television, I wasn't pay any attention. But when he was
25 on the stand, he sure enough now how to describe that

1 scene with that chart. But he's watching television and
2 listening to the CD player and didn't pay attention.
3 That's purely hearsay.

4 I heard a wise man say there, how else can
5 somebody watch TV and know exactly where the crime scene
6 at?

7 Use your common sense as jurors. You add up all
8 the evidence and things that's missing. They've got a
9 shock absorber right there. Ask yourself a question as
10 jurors, does the shock -- they touching it and everything.
11 You got one person said this man got beaten with a shock
12 absorber, there's blood on it, and they touching it like
13 it ain't -- they just touching it, touching it. Did they
14 test it for blood? What evidence?

15 Now, you heard the man from GBI get on the stand
16 and stated there was fibers. I watch CSI and all them
17 investigative shows. There was fibers on that shock
18 absorber that's going to go back in the evidence room, I
19 assume. Fibers.

20 And when my lawyer asked him, Well, what fibers?
21 Well, it was handed over to the other investigator, White.
22 Did he testify today to tell you what the results of the
23 fibers is? That's very important in this case. Because
24 if you're going to swing something on somebody and the
25 fibers grab off and snatch, would it be important in the

1 case if they got the Dickie pants and the shirt that they
2 said they got in evidence? Wouldn't that be important in
3 this case in front of y'all jurors? Wouldn't that be
4 important? Don't you all want to see that?

5 All you're hearing today is putrid hearsay, the
6 lowest, the lowest of hearsay.

7 The only three people that can try to put
8 somebody at the scene is liars. They done told you
9 they're liars many times. How many times they have to
10 tell you they lie? Lie, lie, lie.

11 "I'm innocent."

12 "But didn't you take a plea?"

13 "I'm innocent."

14 "Testify against Mr. Barnes, we just want
15 Mr. Barnes, we'll work with you."

16 You as jurors pay attention to the evidence, the
17 things that is missing.

18 The State's got to prove beyond a reasonable
19 doubt that Steven Louis Barnes committed a crime. I could
20 sit right here at this table, put my feet on the table,
21 eat peppermints and don't have to prove nothing. They got
22 the burden. I have the presumption of innocence.

23 When you go back in that jury room you're going
24 to see an instruction in there that says, states about the
25 credibility of the witnesses, how you all want to look at

1 it.

2 There's so many things that's lacking in this
3 case, it's ridiculous. I thank, I thank South Carolina
4 for having the law that gives me a right to address the
5 jury after the solicitor and my wonderful attorneys, to
6 address you all.

7 Now there's only so far I can go, and I'm going
8 to stay within the arena. I'm not going no farther than
9 that.

10 I'm going to stay with what the judge tell me to
11 do. I'm going to give this judge respect. He sit up
12 there and he want to see justice done. You, as jurors,
13 want to see justice done. Sam, Mrs. Sturup, and his
14 sister want to see justice done. This whole courtroom
15 want to see justice done.

16 The State got to prove this case beyond a
17 reasonable doubt. They put three inconsistent statements,
18 pure hearsay with no corroborating evidence, none
19 whatsoever.

20 They said they went in a barrel behind Griffin's
21 house. You all heard the testimony. Went into the trash
22 can and pulled out clothing fibers. Huh. Very
23 interesting. But when my lawyer asked the investigator,
24 "Well, did you take it?"

25 "Yes. Well, we sent it off and I think

1 Investigator White would have that."

2 You, as jurors, do you think that's important,
3 to have that test, that there was actually clothing? I
4 mean you see burnt glasses and paper. Did you hear
5 Griffin and Cave said anything about some paper being
6 thrown in the trash?

7 But, you see, those exhibits you're going to
8 take back there.

9 Of course the evidence shows that a murder had
10 occurred against Mrs. Sturup and his sister -- I mean
11 this family. You see that, the evidence is there all the
12 way.

13 And every show that -- whoever testified in this
14 trial, it's evident that they committed a crime.

15 Once again, there's only so far I can go, but
16 use your common sense. That's the one thing God blessed
17 us with, common sense.

18 It's so easy to pick up that stuff and go
19 through everybody's statement, investigator reports.

20 How many times these people got to go to each
21 trial and tell lies after lies after lies after lies after
22 lies after lies after lies after lies?

23 Y'all heard every testimony. When y'all go back
24 in that jury room, I pray that you all look at the
25 evidence in this case. Hold the State to their burden.

1 Hold it.

2 I have no further questions. I have nothing
3 further.

4 THE COURT: Thank you very much, Mr. Barnes.
5 You may take your seat.

6 All right. Ladies and gentlemen of the jury
7 panel, if you'd please turn and face me and give me your
8 complete and undivided attention. I am now going to
9 charge or instruct you on the law that applies to the
10 facts of this case.

11 The way I cover the law is I cover the general
12 criminal law that applies to all criminal cases in South
13 Carolina. I will then cover the specific charges in the
14 indictments in the order of murder, kidnapping, criminal
15 intent. Finally, I will cover the form of verdict.

16 Generally, I will give you the caption of the
17 paragraph of the area I'm fixing to cover, and when I
18 change from one subject matter to the next, I will try to
19 alert you by giving you that caption.

20 This is scripted. It's probably in excess of 20
21 pages. I would ask you again to please give me your
22 complete and undivided attention. It may take 30 minutes
23 to give you this charge, or this instruction.

24 The charge, arrest, indictment are not evidence.
25 The indictments charge the defendant with murder and

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

10 Multiple charges. The indictments in this case
11 allege two different offenses against the defendant. The
12 charges are Indictment 2005-GS-19-457, murder, and
13 Indictment No. 2005-GS-19-273, kidnapping.

14 Each indictment charges a separate and distinct
15 offense. You must decide each indictment separately on
16 the evidence and the law that applies to it uninfluenced
17 by your decision as to the other indictment. The
18 defendant may be found not guilty or guilty on both or any
19 or all of the offenses charged. You will be asked to
20 write a separate verdict of guilty or not guilty as to
21 each indictment.

22 Presumptive innocence. The defendant has pled
23 not guilty to these indictments, and that plea puts the
24 burden on the State to prove the defendant guilty. A
25 person charged with committing a criminal offense in South

1 Carolina is never required to prove himself innocent.

2 I charge you that it is an important rule of the
3 law that a defendant in a criminal trial, no matter what
4 the seriousness of the charge may be, will always be
5 presumed to be innocent of the crimes for which the
6 indictments were issued unless guilt has been proven by
7 evidence satisfying you of that guilt beyond a reasonable
8 doubt. This presumption of innocence does not end when
9 you begin your deliberations, but it accompanies the
10 defendant throughout the trial until you reach a verdict
11 of guilty based upon the evidence satisfying you of that
12 guilt beyond a reasonable doubt.

13 The presumption of innocence has been said to be
14 like a robe of righteousness placed about the shoulders of
15 the defendant which remains with the defendant until it
16 has been stripped from the defendant by evidence
17 satisfying you of the defendant's guilt beyond a
18 reasonable doubt.

19 The presumption of innocence is not a mere legal
20 theory. It is not just a legal phrase. It is a
21 substantial right to which every defendant is entitled
22 unless you, the jury, are satisfied from the evidence of
23 the defendant's guilt beyond a reasonable doubt.

24 Reasonable doubt. What is a reasonable doubt in
25 the law? A reasonable doubt is the kind of doubt that

1 would cause a person to hesitate to act.

2 The State has the burden of proving the
3 defendant guilty beyond a reasonable doubt. Some of you
4 may have served as jurors in the past in civil cases,
5 where you were told that it is only necessary to prove
6 that a fact is more likely true than not true, such as by
7 the greater weight or the preponderance of the evidence.
8 In criminal cases, the State proof must be more powerful
9 than that. It must be beyond a reasonable doubt.

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

12 Ladies and gentlemen, there are very few things
13 in this world that we know with absolute certainty, and in
14 criminal cases the law does not require proof that
15 overcomes every possible doubt. If, based on your
16 consideration of the evidence, you are firmly convinced
17 that the defendant is guilty of the crimes charged, you
18 must find the defendant guilty. If on the other hand, you
19 think there is a real possibility that the defendant is
20 not guilty, you must give the defendant the benefit of the
21 doubt and find him not guilty.

22 Duties of jury and trial judge. I remind you
23 that, during this trial, you and I have certain distinct
24 duties to perform. As the trial judge, it is my
25 responsibility to preside over the trial of this case, and

1 I also have the duty to rule on admissibility of the
2 evidence offered during the trial. You are to consider
3 only the competent evidence before you. If there was any
4 testimony ordered stricken from the record in this case
5 during the trial, you must disregard that testimony. You
6 are to consider only the testimony which has been
7 presented from this witness stand and the exhibits which
8 have been made part of the record in this case, any
9 reasonable inferences therefrom, and any stipulation of
10 the counsel.

11 I have the additional duty to charge or instruct
12 you the law that applies to this case. As the presiding
13 judge, I am the sole judge of the law of this case, and it
14 is your duty as jurors to accept and apply the law as I
15 now state it to you. If you already have any idea as to
16 what the law is or what the law ought to be and it does
17 not agree with what I now tell you the law is, you just
18 abandon your idea because you are sworn, you have taken an
19 oath to accept and apply the law exactly as I state it to
20 you.

21 In every case tried in this court before a jury,
22 the jury becomes the sole and exclusive judge of the facts
23 in a case. A trial judge cannot intimate, state, comment
24 on, or make any statement to a trial jury about the facts
25 in a case. Since you, the jury, are the sole judges of

1 the facts in this case, you are not to infer from what I
2 have said during the progress of this trial in ruling on
3 the admissibility of evidence, or otherwise, or anything
4 that I now say during the course of this instruction to
5 you, that I have any opinion about the facts in this case.
6 The law does not allow me to have an opinion about the
7 facts in this case. That is a matter solely for you, the
8 jury, to determine. As jurors, using your good judgment
9 and common sense, it is your duty to determine the effect,
10 the value, the weight, and the truth of the evidence
11 presented during this trial.

12 Direct and circumstantial evidence. There are
13 two types of evidence which are generally presented during
14 a trial, direct evidence and circumstantial evidence.

15 Direct evidence is the testimony of a person who
16 claims to have actual knowledge of a fact, such as an eye
17 witness. It is evidence which immediately establishes the
18 main fact to be proved.

19 Circumstantial evidence is proof of a chain of
20 facts and circumstances indicating the existence of a
21 fact. It is evidence which immediately establishes
22 collateral facts from which the main fact may be inferred.
23 Circumstantial evidence is based on inference and not on
24 personal knowledge or personal observation.

25 The law, our law, makes absolutely no

1 distinction between the weight and the value to be given
2 to either direct or circumstantial evidence. Nor is there
3 a greater degree of certainty required of circumstantial
4 evidence than of direct evidence. You should weigh all
5 the evidence in the case. After weighing all the evidence
6 in the case, if you're not convinced of the guilt of the
7 defendant beyond a reasonable doubt, you must find the
8 defendant not guilty.

9 Credibility of witnesses. Necessarily, you, the
10 jury, must determine the credibility of the witnesses who
11 have testified in this case. Credibility simply means
12 believability. It becomes your duty as jurors to analyze
13 and to evaluate the evidence and determine which evidence
14 convinces you of its truth.

15 In determining the believability of witnesses
16 who have testified in this case, you may believe one over
17 several. You may believe a part of the testimony of a
18 witness and the reject the remaining part of the testimony
19 of that same witness. You may believe the testimony of
20 the witness in its entirety or reject the testimony of the
21 witness in its entirety. You may consider whether any
22 witness has exhibited to you any interest, bias,
23 prejudice, or other motive in this case. You also may
24 consider the appearance or the demeanor or the manner of a
25 witness while on the witness.

1 A person who has a past criminal record is
2 competent to testify during a trial. A past record does
3 not affect the ability of a witness to testify. The past
4 record may only be considered by you, if at all, in
5 determining the witness' credibility. In other words,
6 it's whatever weight and value, if any, you choose to give
7 that testimony, if any.

8 Remember, you are the sole judges of the facts
9 in the case and of the believability of any and all
10 witnesses who have testified.

11 You may use evidence, if any, that a witness has
12 made a prior statement that is not consistent with the
13 witness' testimony at trial, to decide whether to believe
14 the witness. You may also use evidence, if any, of any
15 earlier contradictory statements to determine the truth of
16 any statements. It is up to you to decide whether to
17 believe any earlier statements or testimony given at
18 trial.

19 If a witness is shown to have knowingly
20 testified untruthfully concerning any material matter, you
21 may consider this in determining whether to trust the
22 witness' testimony as to other matters. You may reject,
23 as I stated previously, all the testimony of a witness or
24 give all or part of the testimony the weight and value you
25 think it deserves. Again, ladies and gentlemen, you would

1 use your good judge and common sense in determining the
2 credibility or the believability of any and all witnesses
3 that have testified in this trial.

4 Expert witnesses. The Rules of Evidence
5 ordinarily do not permit witnesses to testify to opinions
6 and conclusions. An exception to this rule exists for the
7 witness that we call "expert witnesses." A witness who,
8 by education or experience, has become expert in some art,
9 science, profession, or calling may state an opinion as to
10 relevant and material matters, in which the witness claims
11 to be an expert, and may also state the reasons for the
12 opinion.

13 You should consider any expert opinion received
14 in evidence in this case and, like any other evidence,
15 give it the weight you think it deserves. If you decide
16 that the opinion of an expert is not based on sufficient
17 evidence or experience, or if you conclude that the
18 reasons given in support of these opinions are not sound,
19 or that the opinion is outweighed by other evidence, you
20 may disregard the opinion in its entirety.

21 An expert witness' testimony is to be given no
22 greater weight than that of other witnesses simply because
23 the witness is an expert. Further, you are not required
24 to accept an expert's opinion, even though it is not
25 contradicted.

1 I instruct you and I emphasize that the fact
2 that the defendant did not testify is not a factor to be
3 considered by you in any way in your deliberations and in
4 your considerations on the question of the guilt or the
5 innocence of the defendant. It must not be considered by
6 you in any manner whatsoever. A defendant has a
7 constitutional right to remain silent, and the assertion
8 of this right must not be considered by you in your
9 deliberations. I repeat, under your oath, you are to draw
10 no conclusions whatsoever from the fact that the defendant
11 in this case did not testify. The fact that this
12 defendant did not testify should not even be discussed in
13 the jury room. The burden of proof, as I have stated to
14 you, is on the State. The defendant is not required to
15 prove his innocence. The burden of proof remains on the
16 State to prove guilt beyond a reasonable doubt.

17 Ladies and gentlemen, I will now begin
18 explaining to you the offenses that are charged in the
19 indictments in this case, beginning with murder.

20 The defendant is charged with murder. The State
21 must prove beyond a reasonable doubt that the defendant
22 killed another person with malice aforethought malice.

23 Malice is hatred, ill-will, or hostility towards
24 another person. It is the intentional doing of a wrongful
25 act without just cause or excuse and with the intent to

1 inflict an injury or under circumstances that the law
2 would infer an evil intent.

3 Malice aforethought does not require that malice
4 exists for any particular time before the act is
5 committed, but malice must exist in the mind of the
6 defendant just before and at the time that the act is
7 committed. Therefore, there must be a combination of the
8 previous evil intent and the act.

9 Malice aforethought may be express or inferred.
10 These terms, "express" or "inferred" do not mean different
11 kinds of malice but merely the manner in which malice may
12 be shown to exist. That is either by direct evidence or
13 by inference from the facts and circumstances which are
14 proved.

15 What is express malice? Express malice is shown
16 when a person speaks words which express hatred or ill
17 will for another or when the person prepared beforehand to
18 do the act which was later accomplished; for example,
19 lying in wait for a person or any other acts of
20 preparation going to show that the deed was within the
21 defendant's mind would be express malice.

22 Malice may be inferred from conduct showing a
23 total disregard for human life. Inferred malice may also
24 arise when the deed is done with a deadly weapon. A
25 deadly weapon is any article, instrument, or substance

1 which is likely to cause death or great bodily harm.
2 Whether an instrument has been used as a deadly weapon
3 depends on the facts and circumstances of each case.

4 The following are examples of instruments which
5 may be deadly weapons: A pistol, a shotgun, a rifle, a
6 dirk, a dagger, a knife, a sling shot, metal knuckles, a
7 razor, gasoline, a fire bomb or Molotov cocktail, lighter
8 fluid.

9 If one intentionally kills another during the
10 commission of a felony, the inference of malice may arise.
11 The facts are proved beyond a reasonable doubt sufficient
12 to raise an inference of malice to your satisfaction, this
13 inference would simply be an evidentiary fact to be taken
14 into consideration by you, along with all other evidence
15 in the case, and you may give it the weight that you
16 decide it should receive. That is the charge on the
17 offense of murder.

18 Kidnapping. If you would please, ladies and
19 gentlemen, continue with your complete and undivided
20 attention. I assure you, the end of my charge is in
21 sight.

22 The defendant is charged with kidnapping. The
23 State must prove beyond a reasonable doubt that the
24 defendant knowingly and unlawfully seized, confined,
25 inveigled, decoyed, kidnapped, abducted, or carried away

1 another person without authority of law.

2 To do a thing unlawfully is to do it willful
3 against the law.

4 Knowingly means with knowledge, consciously, not
5 accidentally.

6 Seize means to take hold of suddenly or
7 forcibly.

8 Confine means to limit, restrict, or enclose
9 within bounds, imprison, or shut or keep in.

10 Inveigle means to lure, entice, or lead astray
11 by false representations, promises, or other deceitful
12 means.

13 Decoy means to lure by, or as if by a decoy. A
14 decoy is something to entice another person into a trap.

15 Kidnap is to remove a person against his will by
16 unlawful force or by fraud.

17 Abduct means to carry off secretly or by force
18 for illegal purpose.

19 Carry away means to remove.

20 The State does not have to prove the defendant
21 did all of these things. Instead, if you find beyond a
22 reasonable doubt that the defendant did any of these
23 things, you may find the defendant guilty of kidnapping.

24 Something done without authority of law is
25 something which the law does not sanction, permit, allow,

1 condone, or provide justification for.

2 The kidnapping does not have to be for any
3 personal or monetary gain for any illegal purpose, but may
4 be for any reason whatsoever.

5 I would further charge you, ladies and
6 gentlemen, kidnapping is a continuing offense. The
7 offense commences, begins, when one is wrongfully deprived
8 of freedom and continues until freedom is restored.

9 Intent. In order to establish criminal
10 liability, criminal intent is required. For example, the
11 mental state required to be proven by the State for a
12 particular crime might be purpose, intent, knowledge,
13 recklessness, or criminal negligence. Criminal intent
14 must be proved by the State beyond a reasonable doubt.
15 Criminal intent is always a matter that must be determined
16 by the jury from the circumstances surrounding the
17 situation. There is no way to prove intent to a
18 mathematical certainty. There is no way medical science
19 can dissect a person's brain and determine what that
20 person had in mind, so the law says criminal intent may be
21 inferred from the circumstances shown to have existed.
22 That is how you make your determination of whether or not
23 the element requiring intent is present. It is not
24 necessary to establish intent by direct and positive
25 evidence, but intent may be established by inference in

1 the same way as any other fact, taking into consideration
2 the acts of the parties and all the facts and
3 circumstances of the case.

4 Criminal intent is a mental state, a conscious
5 wrongdoing. It is up to you to determine what the
6 defendant intended to do based on the circumstances shown
7 to have existed.

8 Ladies and gentlemen, that concludes the charge
9 as to the substantive offenses of murder and kidnapping.

10 Now I'm going to cover the jury verdict and
11 verdict form.

12 There are two possible verdicts that you may
13 find in this case as to each indictment: Guilty or not
14 guilty. There's absolutely no significance whatsoever to
15 the order in which I state or list these possible
16 verdicts; it's simply that one must be stated first.

17 Ladies and gentlemen, your verdict must be a
18 unanimous one. All 12 of you must agree. Your verdict
19 must be based on the evidence and the testimony presented
20 in the case, the reasonable inferences to be drawn
21 therefrom, and the law as I have instructed you the law.
22 Your verdict may not be based on bias, passion, prejudice,
23 or any other undue consideration that is not in evidence
24 in this case.

25 Mr. Foreman, you will have with you in the jury

1 room, along with all the items of evidence that have been
2 introduced, what is labeled a verdict form. It has the
3 caption of the case, State of South Carolina versus Steven
4 Louis Barnes, the indictment numbers, and then it reads:
5 Please mark the appropriate verdict below and follow the
6 accompanying instructions carefully, number one and number
7 two.

8 Number one, as to the charge of murder, we, the
9 jury, unanimously find. It then has a line and then the
10 word "guilty." Under that it has a line and the word "not
11 guilty."

12 If after your deliberation as to the charge of
13 murder you find that the State has proven its case beyond
14 a reasonable doubt and you have reached that unanimous
15 verdict, I would ask you to please check to the left of
16 the word "guilty," then circle both the check mark and the
17 word "guilty."

18 If after your consideration of that indictment
19 of murder you find that the State has failed to prove its
20 case beyond a reasonable doubt, that you unanimously
21 determine that the defendant is not guilty, I would ask
22 you to please check to the left of the words "not guilty,"
23 and circle both your checkmark and the words "not guilty."

24 Number two is as to the charge of kidnapping,
25 we, the jury, unanimously find the defendant, again guilty

1 or not guilty. Once you have reached a unanimous verdict
2 as to that charge and you've checked to the left whatever
3 the verdict is, circle both the checkmark and word or
4 words.

5 Once you have reached those unanimous verdicts,
6 Mr. Foreman, I would ask you to please sign in the
7 location that says "Presiding Juror," and date it. If you
8 reach a verdict today, I believe it's the 13th of November
9 of 2010. If you would date it, please, 13 November of
10 2010. That is not to imply that you must reach your
11 verdict today, but date it whenever you, the jury, reaches
12 that unanimous verdict.

13 When the jury has agreed on those unanimous
14 verdicts and you have signed and properly filled out the
15 form and signed your name as foreperson, if you would
16 please then knock on the jury room door, inform the
17 bailiff that you've reached a verdict. At that time we
18 will receive you back into the courtroom.

19 I'm going to ask you momentarily to return to
20 your jury room, but do not begin your deliberations until
21 you are told to do so by the Clerk or the bailiff. I must
22 speak one final time outside your presence with the
23 attorneys.

24 If I do not have to bring you back out for any
25 further instructions, or Mr. Foreman, ladies and

1 gentlemen, I will -- what will happen is our three
2 alternates would come out of your jury room, all the
3 evidence will be presented, all the items that were
4 introduced into evidence would be brought to the jury room
5 along with the verdict forms, and you will then be
6 instructed to begin your deliberations by the Clerk.

7 If you have any questions during the course of
8 the deliberations, Mr. Foreman, if you'd please just write
9 out a note for me. I'm not going anywhere. If you'd
10 knock on the jury room door, give it to the bailiff, they
11 will bring it to my attention and I will respond as
12 promptly as possible.

13 With that being said, I'm going to ask you to
14 please leave your notes upside down on your chair. All 15
15 of you may go to the jury room at this time. Again, I may
16 have to bring you back out for further instruction. If
17 not, we will follow that other procedure and deliver the
18 evidence, removing the alternates.

19 Thank you very much for your complete and
20 patient participation, ladies and gentlemen.

21 (The jury left open court at approximately 1:16
22 p.m.)

23 THE COURT: Any exceptions from the State?

24 MR. MYERS: No, sir.

25 THE COURT: Defense?

1 MR. HARTE: Yes, Your Honor. According to my
2 paying attention, you did not charge prior record of
3 witnesses.

4 THE COURT: Yes, I believe I did. I believe I
5 charged it.

6 MR. HARTE: I thought you went from expert
7 testimony straight to failure of the defendant to testify.

8 THE COURT: I did go from expert to failure to
9 testify. I moved prior record, prior inconsistent
10 statements. It came right under credibility. And perhaps
11 you were following the old form.

12 MR. MYERS: I was following the old form. You
13 did go a couple of pages out of order.

14 THE COURT: I had my law clerk place prior
15 record and prior inconsistent statement directly after
16 credibility. Then I moved to expert and then I went into
17 defendant's --

18 MR. HARTE: If that is correct, Your Honor, then
19 the only objection I have is to my previous objection with
20 regards to prior inconsistent statements.

21 THE COURT: All right. Thank you very much, Mr.
22 Harte and Mr. Tarr.

23 All right. If you all will check the exhibit
24 numbers and if you all would please get them in order.

25 MR. MYERS: Your Honor, could I ask, it's after

1 1 o'clock now. Is the jury going to leave and eat or are
2 they going to stay here?

3 THE COURT: I don't know. I have not discussed
4 that with the Clerk.

5 Are you bringing them lunch today?

6 THE CLERK: We have made some reservations.

7 THE COURT: All right. Well, then perhaps what
8 I should do is bring the jury out and tell them I'm going
9 to send them to lunch first and upon their return from
10 lunch, I'll bring them back in the jury room at that point
11 in time, I would remove the alternates and submit the case
12 for their consideration.

13 Do you have any objections?

14 MR. MYERS: No, sir.

15 THE COURT: Do you have any objection to that,
16 Mr. Harte?

17 MR. HARTE: I'm sorry? No, sir.

18 THE COURT: Do you have any objection?

19 MR. HARTE: No, sir.

20 THE COURT: All right. Then we'll bring them
21 out.

22 Madam Clerk, have you secured their notes during
23 this luncheon recess?

24 THE CLERK: Yes, sir.

25 MR. HARTE: Are you going to allow them to take

1 their notes into their deliberations?

2 THE COURT: Yes, I'll allow them to have them
3 during their deliberations.

4 MR. HARTE: That's what I thought.

5 (The jury came into open court at approximately
6 1:21 p.m.)

7 THE BAILIFF: Judge, I have one's still in the
8 bathroom. Sorry.

9 THE COURT: All right. Would you check on the
10 juror for us, please.

11 (Juror enters the courtroom at 1:22 p.m.)

12 THE COURT: All right. The jury is back present
13 in the courtroom.

14 I don't know how I am about time. I didn't
15 realize it was 1:23. I apologize to you for that.

16 I think given the fact that it's 1:20 and your
17 very efficient and professional Clerk of Court has already
18 made arrangements for y'all's lunch, to go out. I'm going
19 to send you all to lunch now with the jury sequestration
20 team.

21 I would remind you during this luncheon recess,
22 do not discuss this case with anyone, that includes your
23 lunch mates and your fellow jurors.

24 Family, friends, anyone else, if anyone tries to
25 talk with you about the case, please let me know

1 immediately.

2 Remember, do not watch, listen to, or read any
3 news reports about the case.

4 Remember to keep an open mind. Do not begin
5 your deliberations until I've instructed you to do so.

6 What will happen is upon your return from lunch,
7 I shall bring you back into the jury room to make sure
8 you're reassembled, you're retired, and then I will submit
9 the case to you.

10 So do not discuss the case during the luncheon
11 recess. Remember to keep an open mind. Do not begin your
12 deliberations until I instruct you to do so.

13 You may now go with your bailiff for your
14 luncheon recess. Leave your notes upside down on your
15 chair. The Clerk will secure them during the recess.

16 Thank you very much. I hope you all have a
17 pleasant lunch.

18 (The jury left open court at approximately 1:24
19 p.m.)

20 THE COURT: Court will be in recess until 2:30.

21 (A lunch break was taken.)

22 THE COURT: All right. Mr. Harte.

23 MR. HARTE: Your Honor, during the break we went
24 through the exhibits and I believe they are all in order,
25 so there's no need for us to do that again except for one

1 thing.

2 And apparently I didn't catch it either, but
3 apparently Dr. Sexton's autopsy report was put in twice,
4 once with Exhibit 28 and once with Exhibit 32. They're
5 identical. I talked with Solicitor Maye and he said he
6 had no problem withdrawing 32 and just send one report
7 back.

8 MR. MAYE: That's correct, Your Honor. Exhibit
9 32's got some Bates stamp things on there.

10 I think actually what might have happened, I
11 think, is we put it into evidence and I think as we were
12 putting some things on the overhead up there, it just got
13 in, and we marked them with numbers and I think it just
14 got in twice. I'm pretty sure of that. The Bates stamped
15 one is the one that I had, so I consent to that.

16 THE COURT: Make sure that 32 and those other
17 numbers are segregated now.

18 MR. HARTE: And I have checked that.

19 THE COURT: So the other numbers are segregated
20 with 32?

21 MR. HARTE: Yes, sir. They will not go back to
22 the jury.

23 THE COURT: You need to check them.

24 MR. HARTE: I've already checked them, unless
25 the solicitor would like to check them.

1 (A discussion was held off the record.)

2 (WHEREUPON, State's Exhibit No. 32 was withdrawn
3 from evidence.)

4 THE COURT: If you'd bring us our jury, please.

5 (The jury came into open court at approximately
6 2:56 p.m.)

7 THE COURT: All right. Our jury is back present
8 in the courtroom.

9 Welcome back, ladies and gentlemen. I'm going
10 to ask you momentarily to return to your jury room.

11 I will ask the alternates, that's Juror No. 223,
12 Juror No. 151, and Juror No. 134 to remain in the
13 courtroom momentarily while the primary jury retires to
14 its jury room.

15 Mr. Foreman, ladies and gentlemen, when you
16 receive the items of evidence, the verdict form, you'll
17 then be informed by bailiff or the Clerk that you may
18 begin your deliberations.

19 Madam Clerk, at that same time if you'll return
20 the note pads to the jurors at the same time that the
21 exhibits and the form of verdict goes into the jury room.

22 THE CLERK: Yes, sir.

23 THE COURT: Mr. Foreman, if you have any
24 questions, any member of the jury has any questions during
25 the course of your deliberations, if you'd please write

1 out a note for me, sign your name as the presiding juror,
2 knock on the jury room door, there will be a bailiff
3 posted outside who will bring it to my attention.

4 With that being said, if the 12 members of the
5 primary jury would please retire to the jury room and
6 await further instructions to begin your deliberations.

7 (The jury left open court at approximately 2:28
8 p.m.)

9 THE COURT: All right. As for the alternates,
10 you'll now be held in a separate location from the primary
11 jury.

12 I would advise you that during the progress of
13 the jury deliberations you, all three of you all are not
14 to deliberate; in other words, you're not to discuss the
15 case amongst yourselves or with anyone else.

16 If anyone tries to talk with you about the case
17 during this interim period, please let me know
18 immediately. Again, you're not to deliberate.

19 You will be escorted back into the courtroom at
20 the time that your colleagues render a verdict, so you'll
21 be back in the jury room at that time.

22 Did you need something from the jury room?

23 THE JUROR: I think Ms. Vivian was going to get
24 our purses.

25 THE COURT: All right. And, Madam Clerk, do you

1 have a separate location to sequester these three jurors?

2 THE CLERK: Yes, sir.

3 THE COURT: All right. If the bailiff would
4 please escort them to that location.

5 (WHEREUPON, the three alternate jurors left the
6 courtroom at 2:59 p.m.)

7 THE COURT: All right. It's now my
8 understanding that the State and the defense have reviewed
9 the exhibits; is that correct?

10 MR. HARTE: Yes, Your Honor.

11 THE COURT: And you all are confident that the
12 exhibits going into the jury room are those that were
13 introduced into evidence and those for ID purposes only
14 have been segregated from the ones that were introduced
15 into evidence?

16 MR. HARTE: I am confident of that, Your Honor.

17 THE COURT: Solicitor?

18 MR. MYERS: Yes, sir.

19 THE COURT: All right. Thank you.

20 Here is the form of verdict for the foreman if
21 anyone cares to see it. It also needs to go to the jury
22 room.

23 Madam Clerk, it appears that everything for the
24 jury and the foreman has now been reviewed by the State
25 and by the defense; is that correct, Mr. Harte?

1 MR. HARTE: Yes, sir.

2 THE COURT: And you have no objections?

3 MR. HARTE: No, Your Honor.

4 THE COURT: All right. Madam Clerk, if you
5 would advise the jury that upon receipt of all the
6 evidence and the jury verdict form they may begin their
7 deliberations.

8 Thank you very much. And we'll await the jury's
9 verdict.

10 (WHEREUPON, the jury began deliberations at
11 approximately 3:00 p.m.)

12 (A recess was taken.)

13 THE COURT: Bring us our jury, please.

14 (The jury ceased deliberations and came into
15 open court at approximately 4:25 p.m.)

16 THE COURT: All right. It appears our primary
17 jury has returned to the courtroom.

18 Mr. Foreman, I understand the jury would like a
19 break to go outside and walk around a few minutes?

20 THE JURY FOREPERSON: Yes, sir.

21 THE COURT: All right, sir.

22 And the only reason I brought you out is I must
23 advise you that during this recess, you may not discuss
24 this case with anyone, that includes your fellow jurors or
25 anyone else. If anyone tries to talk with you about the

1 case during this recess, please let me know immediately.

2 You'll, of course, be in the control of the jury
3 sequestration team, with those members that are now
4 present, and the bailiffs.

5 Do not discuss the case during the recess.

6 Upon returning to the jury room, do not restart
7 your deliberations until all 12 of the jurors are back
8 present in the courtroom.

9 Do you have any questions about that,
10 Mr. Foreman?

11 THE JURY FOREPERSON: No, sir.

12 THE COURT: All right. I think it's about 4:30.
13 Actually, it's 4:28. Fifteen, twenty minutes?

14 THE JURY FOREPERSON: Yes, sir.

15 THE COURT: If I say 4:50, that's about 22
16 minutes. Would that be appropriate?

17 THE JURY FOREPERSON: Yes, sir.

18 THE COURT: All right. If you all would please
19 be back in your jury room, and again, you'll be in the
20 custody of the bailiffs and the jury sequestration team.

21 You may now go with your bailiff to go outside
22 for your break.

23 I won't bring you back out if you need any more
24 breaks. Just let me know.

25 THE JURY FOREPERSON: Yes, sir.

1 THE COURT: You have my instructions in that
2 regard.

3 THE JURY FOREPERSON: Yes, sir.

4 THE COURT: Thank you very much.

5 (The jury left open court at approximately 4:30
6 p.m.)

7 THE COURT: Any objections, Solicitor?

8 MR. MAYE: None from the State, Your Honor.
9 Thank you.

10 THE COURT: Mr. Harte?

11 MR. HARTE: No, Your Honor.

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

13 (A break was taken.)

14 (Jury deliberations resumed at 4:46 p.m.)

15 THE COURT: All right. I received a note from
16 the jury that indicates, "We have reached -- we reached a
17 verdict," signed by the foreperson.

18 I would advise that this can be a very difficult
19 time for spectators, and I do not tolerate any outbursts
20 in any manner. If you feel like you cannot control
21 emotions at this time, I would ask you to please leave the
22 courtroom.

23 All right. If you would please have the -- yes,
24 sir.

25 MR. HARTE: Your Honor, just one thing.

1 I'm informed, and I haven't had time to research
2 it, that a defendant in a capital case does not have the
3 absolute right to make a statement in the guilt phase. I
4 would like my request that I be allowed to make the
5 decision for him be reflected on the record as an
6 objection to him making that statement.

7 THE COURT: Making the statement that he's
8 already made in the guilt phase?

9 MR. HARTE: Yes, sir.

10 THE COURT: All right. I think you were
11 previously protected on the record.

12 MR. HARTE: I just wanted to make sure.

13 THE COURT: All right. Anything further?

14 MR. HARTE: No, sir.

15 THE COURT: If you'd have the bailiff please
16 bring us the jury and the three alternates.

17 (The jury came into open court at approximately
18 5:31 p.m.)

19 THE COURT: All right. It appears that our jury
20 is back present in the courtroom.

21 Madam Clerk.

22 THE CLERK: Mr. Foreman, have you reached a
23 verdict?

24 THE JURY FOREPERSON: Yes, ma'am, we have.

25 THE CLERK: Would you please pass it to the

1 bailiff.

2 THE JURY FOREPERSON: Yes, ma'am.

3 THE COURT: Thank you very much.

4 All right. The verdicts appear to be in the
5 proper form.

6 Mr. Barnes, would you please stand?

7 State of South Carolina versus Steven Louis
8 Barnes, Indictment Nos. 2005-GS-19-273 and 2005-GS-19-457.

9 As to the charge of murder: We, the jury,
10 unanimously find the defendant guilty.

11 As to the charge of kidnapping: We, the jury,
12 unanimously find the defendant guilty, signed by our
13 foreperson as presiding juror, dated, 11-13-10.

14 If this be the verdict of each and every member
15 of the jury, if you'd please so indicate by raising your
16 right hand.

17 (Jurors raise their hands.)

18 THE COURT: All hands are raised. Thank you
19 very much. You may place your hands down.

20 Mr. Harte.

21 MR. HARTE: Yes, Your Honor.

22 THE COURT: Do you wish the jury to be polled?

23 MR. HARTE: Yes, Your Honor.

24 THE COURT: All right. Madam Clerk, would you
25 poll the jury for us, please?

1 You may be seated, Mr. Barnes and Mr. Harte.

2 The Clerk will ask you a question as to each
3 member of the jury. The question would be: Are these
4 your verdicts? Are they still your verdict? The answers
5 of course would be either yes or no. And please raise
6 your hands so we can identify you as the Clerk calls your
7 name.

8 Madam Clerk.

9 THE CLERK: Otis M. Key, Alexis C. Brunson --

10 THE COURT: No, ma'am. Do them one at a time.
11 In other words, Otis M. Key, are these your verdicts, are
12 they still your verdict?

13 THE CLERK: Okay. Are these your verdicts and
14 are they still your verdicts, Otis M. Key, yes or no?

15 THE JURY FOREPERSON: Yes.

16 THE CLERK: Alexis C. Brunson, were these your
17 verdicts and are these your verdicts still?

18 THE JUROR: Yes, they are.

19 THE CLERK: Crystal B. Busbee, was this your
20 verdict in the jury room and is it still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Thomas V. (sic) Devilbiss, was this
23 your verdict in the jury room and is it still your
24 verdict?

25 THE JUROR: Yes.

1 THE CLERK: Sean M. Gamble, was this your
2 verdict in the jury room and is it still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Gayle Garry, was this your verdict
5 in the jury room and is it still your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Phillip B. Griffin, was this your
8 verdict in the jury room and is it still your verdict?

9 THE JUROR: Yes, it is.

10 THE CLERK: Ronnie Posey, was this your verdict
11 in the jury room and is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Joseph Robbins, Jr., was this your
14 verdict in the jury room and is it still your verdict?

15 THE JUROR: Yes, it is.

16 THE CLERK: Thomas C. Thrower, was this your
17 verdict in the jury room and is it still your verdict?

18 THE COURT: Repeat that name, please.

19 THE CLERK: Randall C. Thrower.

20 THE JUROR: Yes, ma'am.

21 THE CLERK: David W. Tuttel, was this your
22 verdict in the jury room and is it still your verdict?

23 THE JUROR: Yes, it is.

24 THE CLERK: Shirley J. West, was this your
25 verdict in the jury room and is it still your verdict?

1 THE JUROR: Yes, it is.

2 THE CLERK: Thank you.

3 THE COURT: All right. All jurors have now been
4 polled.

5 Anything further for the jury panel from the
6 defense?

7 MR. HARTE: No, Your Honor.

8 THE CLERK: From the State?

9 MR. MYERS: No, sir.

10 THE COURT: All right. Mr. Foreman, ladies and
11 gentlemen of the jury, I must take up some matters
12 momentarily with the attorneys in the case. I'm going to
13 ask you momentarily to step back to your jury room. The
14 alternates will now rejoin you. You step back to your
15 jury room.

16 Again, I would advise you, you're not to discuss
17 this case with anyone. That includes your fellow jurors
18 or anyone else. If anyone tries to talk with you about
19 the case, please let me know immediately.

20 I will bring you back out prior to turning you
21 over to the jury sequestration team for the evening. I
22 will bring you back out momentarily and give you further
23 instructions. But again, you're not to discuss the case.
24 Deliberations are now ended as far as the guilt phase of
25 the trial is concerned.

1 With that being said, Mr. Foreman, ladies and
2 gentlemen of the jury panel, if you would please return to
3 your jury room and remembering and following my
4 instructions.

5 Thank you very much.

6 (The jury left open court at approximately 5:37
7 p.m.)

8 MR. HARTE: Your Honor, before we go any
9 further --

10 THE CLERK: Yes.

11 MR. HARTE: What happened with the one name that
12 didn't answer?

13 THE COURT: I don't think he heard the name and
14 then he answered, Mr. Thrower.

15 MR. MYERS: I think what happened was the first
16 name was wrong. I believe Madam Clerk called out the
17 wrong first name.

18 MR. HARTE: I mean, I counted 12, but I didn't
19 understand what happened with that.

20 THE COURT: I just thought he didn't hear his
21 name. I didn't realize it was the wrong name, first name,
22 but it was Mr. Thrower and he then raised his answer and
23 answered in the affirmative.

24 Motions, Mr. Harte.

25 MR. HARTE: Your Honor, I move for a new trial

1 based on my previous motions and previous arguments
2 regarding Brady and the other matters.

3 THE COURT: All right. I would respectfully
4 deny your motion. I would reaffirm all my trial rulings
5 and rulings under your Brady motion and all other motions
6 and matters.

7 Any other motions?

8 MR. HARTE: No, sir.

9 THE COURT: By statute, of course, Mr. Harte,
10 the proceedings as far as the sentencing phase must be
11 conducted by the trial judge before the trial jury as soon
12 as practical after the lapse of 24 hours unless waived by
13 the defendant. That's under 16-3-20(B).

14 Does the defendant waive the 24-hour waiting
15 period?

16 MR. HARTE: No, Your Honor.

17 THE COURT: All right. With that being said, it
18 is now 5:24 p.m. on Saturday, the 13th of November of
19 2010. It would be my suggestion that we begin the phase
20 two sentencing phase of the trial Monday, the 15th, at
21 9:30 a.m.

22 Do you have any objections to that, Mr. Harte?

23 MR. HARTE: No.

24 THE COURT: Solicitor?

25 MR. MYERS: No objection.

1 THE COURT: And, of course, that will cover the
2 24-hour waiting period and additional time.

3 MR. HARTE: Yes, sir.

4 THE COURT: All right. What I propose to do now
5 is bring the jury out, give them some instructions,
6 explain to them the procedures as far as the 24-hour
7 waiting period. I certainly will not advise them that the
8 defendant has the right to waive that, but I will advise
9 them that the law requires the 24-hour waiting period.
10 Rather than start at some late hour tomorrow afternoon, we
11 would start Monday morning, and then thereafter I have a
12 few matters I would like to address with the attorneys
13 concerning the sentencing phase going into Monday.

14 All right. If you would please bring us our
15 jury panel.

16 (The jury came into open court at approximately
17 5:40 p.m.)

18 THE COURT: All right. Ladies and gentlemen,
19 before I tell you the procedure and the schedule, I would
20 like to ask Mr. Thrower, when your name was first called
21 you did not respond that you indicated your name had been
22 called. Can you tell me why?—Did you not hear your name?

23 THE JUROR: No, sir. I actually thought she had
24 said somebody else's name. It did not sound like my name.

25 THE COURT: Well, it didn't to me either, quite

1 frankly.

2 THE JUROR: I apologize.

3 THE COURT: No, no, you don't owe me an apology.
4 But then you heard your name and you answered up; is that
5 correct?

6 THE JUROR: Yes, sir. Yes, sir.

7 THE COURT: All right. Thank you very much,
8 Mr. Thrower. I just wanted to clarify that for the
9 record.

10 Mr. Foreman, ladies and gentlemen of the jury,
11 as you recall from Monday, I had indicated to the jury
12 that I intended to work an abbreviated schedule on
13 Saturday. Obviously we did not work an abbreviated
14 schedule on Saturday, but that's fine. And I intended to
15 work a part day on Sunday. However, the law requires a
16 minimum 24-hour waiting period between the guilt phase and
17 the sentencing or penalty phase. Twenty-four hours, of
18 course, would take us to a minimum time of 5:42 or
19 approximately 6 o'clock tomorrow evening.

20 Rather than start the sentencing phase, the
21 penalty phase of this trial 6 o'clock tomorrow evening,
22 we're going to take the day off. You're going to take the
23 day off.

24 Again, I remind you during this recess you're
25 not to discuss this case with anyone, that includes your

1 fellow jurors or anyone else. If anyone tries to talk
2 with you about the case, please let me know immediately.

3 Remember, do not watch, listen to, or read any
4 news accounts about the case. Remember to keep an open
5 mind going into this penalty phase and do not -- and
6 throughout the penalty phase.

7 Do not begin your deliberations until you've
8 heard all the evidence and testimony, the closing
9 arguments by the parties, the instructions on the law by
10 the Court and directed by the Court to begin your
11 deliberations.

12 Now, I have talked with your Clerk. I have also
13 talked with Mr. McLeod. They have some activities planned
14 for you that you may want to participate in or may not.
15 I'll let you discuss this amongst yourselves and with
16 Mr. McLeod and with the Clerk.

17 They have activities; for example, I generally
18 make, and the Clerk has made arrangements for, a morning
19 non-denominational service if anyone would like to attend.
20 If there is no interest, of course, that's obviously not a
21 requirement. It's just an activity. If anyone wants to
22 attend, that will be available. They also have a location
23 that you all can go to for lunch, for some exercise, for
24 some relaxation. They'll also have movies. They can
25 discuss this in further detail with you.

1 I further talked to Mr. McLeod about family
2 visitation sometime tomorrow afternoon if it fits within
3 the schedule under the guidance and the control of the
4 jury sequestration team. They will explain all these
5 options to you and, as I say, you can discuss that amongst
6 yourselves.

7 I want you to be as comfortable as we can make
8 you -- I say "we," as the jury sequestration team can make
9 you during this break during this period of time. Put
10 this out of your mind, don't revisit it whatsoever, and we
11 will start back promptly at 9:30.

12 With that being said, if you would please go
13 with your bailiff to your jury room. Then the jury
14 sequestration team and the Clerk will meet with you and
15 then you all will be transported back tonight.

16 I hope you have a pleasant evening. I hope you
17 have a pleasant day tomorrow. In fact, there's two
18 members of our jury sequestration team there. But you may
19 now go with your bailiffs to the jury room.

20 (The jury left open court and were excused for
21 the day at approximately 5:46 p.m.)

22 THE COURT: Solicitor, is there a written notice
23 of statutory aggravating circumstances the State intends
24 to rely upon?

25 MR. MYERS: Yes, sir.

1 THE COURT: Has that been served on Mr. Barnes
2 and Mr. Harte?

3 MR. MYERS: Yes, sir.

4 THE COURT: Do you have a copy of it?

5 MR. MYERS: I have one in the back that I can
6 get.

7 THE COURT: All right. Can you provide me or
8 have one of your employees get me a copy of it?

9 MR. MYERS: Yes, we'll get it right now.

10 THE COURT: All right. Thank you.

11 All right. The Notice of Evidence in
12 Aggravation of Punishment, Mr. Harte, you have a copy of
13 that?

14 MR. HARTE: Your Honor, I do. Mr. Tarr's
15 material is over here, and I don't know where it is in
16 that material.

17 THE COURT: All right. Well, I reviewed it at
18 this point and it does indicate that "The State will seek
19 to introduce as evidence in aggravation of punishment to
20 be imposed on the defendant. The evidence is listed
21 herein below." And the two statutory aggravating
22 circumstances that the State intends to rely-on, only one
23 of which would be necessary, is the State alleges that
24 "The murder of Samuel J. Sturup was committed while in
25 the commission of a kidnapping, citing Section

1 16-3-20(C) (A) (1) (b), Code of Laws of South Carolina, 1976,
2 as amended, and two, the State alleges that the murder of
3 Samuel J. Sturup was committed while in the commission of
4 physical torture under 16-3-20(C) (A) (1) (h), Code of Laws
5 of South Carolina, as amended."

6 There's obviously other evidence that may be
7 presented, but that would be the only two statutory
8 aggravating circumstances upon which the State will rely.
9 Do you understand that?

10 MR. HARTE: That is what I recollect from having
11 read it.

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

13 Anything further before we take our recess until
14 Monday, Solicitor?

15 MR. MYERS: No, sir.

16 THE COURT: Mr. Harte?

17 MR. HARTE: No, sir.

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

19 Court will be in recess until 9:30 Monday, 15
20 November, 2010.

21 Thank you very much.

22 (WHEREUPON, The Court's Exhibit No. 7 was marked
23 for purposes of the record.)

24 (The proceedings were concluded for the day and
25 reconvened on Monday, November 15, 2010.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

*** END OF REQUESTED TRANSCRIPT OF RECORD ***

VOLUME 6 OF 9

1 CERTIFICATE OF REPORTER

2
3
4 STATE OF SOUTH CAROLINA)
5 COUNTY OF EDGEFIELD)
6
7

8 I, CAROL M. THUEME, RPR, Official Court Reporter for
9 the 11th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of General Sessions
14 for Edgefield County, South Carolina, on the 13th day of
15 November, 2010.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19
20 June 18th, 2011

21 
22

23 CAROL M. THUEME, RPR
24 Circuit Court Reporter
25

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 7
STEVEN LOUIS BARNES,	)	
DEFENDANT	—)	

November 15, 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

1		
2	WITNESSES:	PAGE
3	CARLA WILLIAMSON	
4	Direct Examination by Mr. Myers	1501
5	NATHANIEL GOODWIN	
6	Direct Examination by Mr. Young	1509
7	SCOTT GAY	
8	Direct Examination by Mr. Myers	1513
9	Cross-Examination by Mr. Tarr	1524
10	JASON VINSON	
11	Direct Examination by Mr. Maye	1529
12	Cross-Examination by Mr. Tarr	1538
13	GREGORY SMITH	
14	Direct Examination by Mr. Myers	1540
15	Cross-Examination by Mr. Tarr	1560
16	ROE BRUNSON	
17	Direct Examination by Mr. Myers	1562
18	Cross-Examination by Mr. Tarr	1567
19	BILL ANDERSON	
20	Direct Examination by Mr. Myers	1571
21	TONY BAUGHMAN	
22	Direct Examination by Mr. Myers	1581
23	DAVID VICTOR BOYD	
24	Direct Examination by Mr. Myers	1587
25	Cross-Examination by Mr. Tarr	1592

1	DONNA PELLMAN	
2	Direct Examination by Mr. Myers	1593
3	ROBERT WEST	
4	Direct Examination by Mr. Young	1598
	Cross-Examination by Mr. Tarr	1602
5	LYNN WHITE	
6	Direct Examination by Mr. Young	1603
7	LAWRENCE TINDALL	
8	Direct Examination by Mr. Young	1610
9	CHARLES DAY	
10	Direct Examination by Mr. Young	1617
11	ROBERT BERRY	
12	Direct Examination by Mr. Young	1621
13	Cross-Examination by Mr. Tarr	1630
14	RANDALL COX	
15	Direct Examination by Mr. Young	1631
16	JAMES CARTER	
17	Direct Examination by Mr. Young	1635
18	IRVIN THOMPSON	
19	Direct Examination by Mr. Young	1638
20	HEIDI PRESSLEY	
21	Direct Examination by Mr. Young	1642
22	SHEDALL STEVENS	
23	Direct Examination by Mr. Young	1648
24	GLADYS MASON	
25	Direct Examination by Mr. Young	1653

1	LEIGH BOUKNIGHT	
2	Direct Examination by Mr. Young	1660
3	ALISON SHUSTER	
4	Direct Examination by Mr. Young	1672
5	JAMES FLORIDA	
6	Direct Examination by Mr. Young	1678
7	MARCUS SMITH	
8	Direct Examination by Mr. Young	1683
	Cross-Examination by Mr. Tarr	1697
9	SHIRLEY NEWBY	
10	Direct Examination by Mr. Myers	1698
11	POLLY HALL	
12	Direct Examination by Mr. Young	1701
13	Cross-Examination by Mr. Tarr	1706
14	EMMETT LUMPKINS	
15	Direct Examination by Mr. Young	1722
	Cross-Examination by Mr. Tarr	1729
16	JEANETTE MOXLEY	
17	Direct Examination by Mr. Young	1731
18	Cross-Examination by Mr. Tarr	1735
19	RICHARD ROUNDTREE	
20	Direct Examination by Mr. Myers	1736
	Cross-Examination by Mr. Tarr	1746
21	JAMES BLACKWELL	
22	Direct Examination by Mr. Young	1750
23	Cross-Examination by Mr. Tarr	1754
24		
25		

1	EXHIBITS			
2	State's		ID	EVD
3	54	Conviction	1503	1503
4	55	Conviction	1503	1503
5	56	Conviction	1503	1503
6	57	Convictions Board	1508	1700
7	58	Aerial photo	1517	1517
8	59	Gun	1533	1534
9	60	Magazine	1533	1534
10	61	Property receipt	1534	1535
11	62	Rifle	1553	1553
12	63	Revolver	1553	1553
13	64	Body armor	1554	1554
14	65	Ski mask	1554	1554
15	66	Diagram	1555	1555
16	67	Video	1558	1558
17	68	Convictions	1593	1594
18	69	Diagram	1601	1735
19	70	Convictions	1699	1699
20	71	Tube with weapons	1726	1727
21				
22				
23				
24				
25				

1 THE COURT: Before we bring our jury out, one
2 issue -- and I'll be glad to take this up ex parte if you
3 would prefer, Mr. Tarr and Mr. Harte -- I think that if
4 the defense is going to concede anything about the crimes
5 or anything else, there should be a discussion with the
6 defendant about whether he understands what his counsel is
7 going to concede and whether he agrees with the
8 concession.

9 I, of course, had that conversation with Mr.
10 Harte pre-opening of the guilt phase. He said there would
11 not be any concessions.

12 Do I need to have that discussion at this stage?

13 MR. TARR: Yes, Your Honor.

14 THE COURT: Solicitor, do you object to that
15 being ex parte?

16 MR. MYERS: No, sir, I don't.

17 THE COURT: All right. If you all would please
18 leave. And any of your witnesses, if they would also
19 leave.

20 (Solicitors and prosecution witnesses leave the
21 courtroom.)

22 THE COURT: All right. Those that remain in the
23 courtroom, of course, are ordered that you may not discuss
24 anything that you hear during the course of this
25 proceeding with anyone. Obviously that would include any

1 of the prosecutors or any of the witnesses for the
2 prosecution.

3 All right. Mr. Tarr, Mr. Harte.

4 MR. TARR: Yes, Your Honor.

5 THE COURT: My question is -- and like I say, I
6 think this is the law. I think if you're going to concede
7 anything in your opening about the crime or anything else,
8 that I should have a discussion on the record with you and
9 with your client as to whether or not he understands that
10 and agrees with those concessions.

11 MR. TARR: Yes, Your Honor.

12 As part of asking or telling the jury that we
13 respect their verdict and allowing them to arrive at a
14 decision of what should happen in this case and feeling
15 like they need to understand the circumstances of Mr.
16 Barnes's life and understanding how someone can get to a
17 point where they can commit an act such as he's been
18 convicted of, I think it may be necessary to concede that
19 the act was committed and by Mr. Barnes.

20 THE COURT: All right. Mr. Barnes, would you
21 please stand for me, please?

22 Good morning, Mr. Barnes.

23 THE DEFENDANT: Good morning, sir.

24 THE COURT: How are you?

25 THE DEFENDANT: I'm all right.

1 THE COURT: I'm going to ask the Clerk to give
2 you the affirmation.

3 Madam Clerk.

4 STEVEN BARNES, after affirmation,
5 testified as follows:

6 THE CLERK: State your full name, please.

7 THE DEFENDANT: Steven Louis Barnes.

8 THE COURT: All right. Mr. Barnes, did you hear
9 what your attorney just told the Court?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And as I understand it, or as I
12 heard if -- and if I'm incorrect, Mr. Tarr, please correct
13 me -- as I understand it, there would be a concession that
14 you committed the crime.

15 Is that my understanding, Mr. Tarr?

16 MR. TARR: Yes, Your Honor. As part of our
17 respecting the verdict and not wanting to have any
18 impression left on them that there is no remorse, that
19 would be our position.

20 THE COURT: Well, of course, you could do that
21 without conceding the commission of the crime. You know,
22 you could say, "We do respect your verdict and we're going
23 to present evidence or testimony to you that we would like
24 for you to consider, whether it's statutory mitigating,
25 non-statutory mitigating, to see how a person that may be

1 convicted or that has been convicted of a crime such as
2 this would have arrived at that point to commit that
3 crime." I think that may be a little different than what
4 I just stated.

5 Do you understand, Mr. Barnes? Would you like
6 to address the Court?

7 THE DEFENDANT: Yes, sir, I'd like to address
8 the Court.

9 We had a private discussion about that. I
10 object to it. I'm innocent. I mean, despite the fact
11 what the jury said. I do have a right to appeal it all
12 the way through.

13 THE COURT: Sir?

14 THE DEFENDANT: All the way to the Supreme
15 Court.

16 THE COURT: Certainly.

17 THE DEFENDANT: So, I mean, just what 12 men say

18 --

19 THE COURT: Or 12 men and women.

20 THE DEFENDANT: Say it again?

21 THE COURT: Twelve men and women.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Yes, sir. So you're not conceding
24 any issue as to your guilt?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. And you understand that
2 then, Mr. Tarr?

3 MR. TARR: Yes, Your Honor.

4 THE COURT: Mr. Harte?

5 MR. HARTE: Your Honor, if I could just talk to
6 him.

7 (Counsel conferring with defendant.)

8 THE DEFENDANT: You know, Your Honor, I say it
9 like this: There's only one judge and that's God, so
10 whatever decision the jury come back with is already meant
11 to be.

12 THE COURT: Is already what?

13 THE DEFENDANT: I say whatever decision the jury
14 come back with is already meant to be. Just like I'm
15 telling the Court and telling my lawyers right now, I did
16 not commit the crime and I don't want them to go forth
17 with it now. If they want to say, "Well, you know, do not
18 execute somebody because he got this background," this,
19 that and the third, there's other ways to go about doing
20 it rather than saying that Mr. Barnes committed this
21 crime.

22 THE COURT: All right. I understand.

23 THE DEFENDANT: That's all I'm saying.

24 THE COURT: Well, with that being said, Mr.
25 Tarr, your client does not concede to those concessions,

1 so I assume you would then not present those concessions
2 to the jury?

3 MR. TARR: Yes, Your Honor, if that's his wish.

4 MR. HARTE: Well, Your Honor, I just want to put
5 on the record that just like I felt that he is not
6 competent to represent himself, he's not competent to make
7 a statement to the jury at the end of the guilt phase,
8 he's not -- I would submit and ask that Dr. Price's
9 testimony be put in with this, that he would not be
10 competent to make this decision.

11 THE COURT: Yes, sir. And -- well, as I take
12 it, and when I say I don't want to belabor the point, I
13 will belabor the point until such time as I understand it.

14 As I understand it, Mr. Barnes has no objections
15 to having his attorneys address the jury somewhere along
16 the lines of Mr. Foreman, ladies and gentlemen of the
17 jury, we realize that you have returned a verdict of
18 guilty against Mr. Barnes for murder and kidnapping this
19 past Saturday, and at this stage the sole issue is what
20 the appropriate punishment should be. And obviously you
21 make that decision and can only make that decision on the
22 death penalty, you're only permitted to if there is found
23 the existence of a statutory aggravating circumstance
24 beyond a reasonable doubt. And even if you find that, you
25 do not have -- you're never required to give the death

1 penalty, and we would like to present to you certain
2 information that may arise to the level of statutory
3 mitigating circumstances or non-statutory mitigating
4 circumstances for you to consider, which under your oath
5 you said you would, prior to determining what the
6 appropriate sentence should be.

7 I do not think, but I'm not telling you
8 gentlemen how to try your case, nor Mr. Barnes what his
9 response should be, I do not think you'd have to concede
10 the issue of guilt to make those arguments, and it appears
11 your client does not concede any issue of guilt.

12 And I do think he is competent to stand trial
13 and I think he's competent to make that decision and
14 competent to assist in his defense, although I previously
15 found that based on the testimony of Dr. Price and my
16 observations and such, the items I put in the record
17 earlier, that he may not have the ability -- or did not,
18 not may not -- that he did not have the ability to
19 knowingly and intelligently waive his right to counsel and
20 proceed pro se. I do think he's competent to stand trial
21 and competent to assist in his defense.

22 Anything further you'd like to place on the
23 record in that regard?

24 MR. TARR: No, Your Honor.

25 THE COURT: Mr. Barnes.

1 THE DEFENDANT: I have something first.

2 You know, I'd like to go through this list of
3 things that they've got, but I don't want no fraud to come
4 upon this Court by things he might try to address in
5 mitigation, these experts or whatever you want to call
6 them when they stand up, so, you know, if something is
7 said that's incorrect, I would like to object to that, you
8 know, because I don't want nothing to come out that ain't
9 true.

10 THE COURT: Well, you're going to have to
11 discuss that with your attorney. You're competent to
12 assist --

13 THE DEFENDANT: I just wanted that put on the
14 record.

15 THE COURT: You're competent to assist in your
16 own defense. You can't object. You can talk with your
17 lawyers about it, but, you know, if there's any evidence
18 of any statutory or non-statutory mitigating circumstance,
19 I'm going to certainly include those statutory mitigating
20 circumstances and those non-statutory mitigating
21 circumstances on the statutory instruction form.

22 I haven't heard the evidence at this point
23 myself, Mr. Barnes.

24 And if you get to that point during the course
25 of the mitigation, Mr. Harte and Mr. Tarr, if you need to

1 have a hearing outside of the presence of the jury, all
2 you'd have to do -- as you know, this is not a judicial
3 marathon, I'm not quite Judge Timmerman yet and I don't
4 think I ever will be, at least not of the legal mind that
5 he possessed -- but anytime you want a hearing outside of
6 the presence of the jury concerning the matter, not just
7 mitigation, but any other matter, all you'd have to do is
8 stand up and tell me. All right?

9 MR. HARTE: Yes, sir.

10 THE COURT: Anything further?

11 MR. TARR: No, Your Honor.

12 THE COURT: Do you think this adequately covers
13 this issue, Mr. Tarr?

14 MR. TARR: Yes, Your Honor.

15 THE COURT: Mr. Harte?

16 MR. HARTE: Yes, sir.

17 THE COURT: Mr. Barnes?

18 THE DEFENDANT: Yes, sir.

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

20 Sheriff, if you would please have the
21 prosecution and prosecution witnesses return to the
22 courtroom.

23 (Solicitors and prosecution witnesses return to
24 the courtroom.)

25 THE COURT: All right. Solicitor, anything

1 before we bring in our jury from the State?

2 MR. MYERS: No, sir.

3 THE COURT: Anything further from the defense?

4 MR. TARR: No, Your Honor.

5 THE COURT: All right. As I understand the
6 procedure, I will give a very brief pre-charge, then there
7 will be an opening statement by the State, by the
8 prosecution, and then the defense will be allowed to give
9 the second opening statement.

10 All right. Bring us our jury, please.

11 (The jury came into open court at approximately
12 9:42 a.m.)

13 THE COURT: Good morning, ladies and gentlemen
14 of the jury panel. I hope you all had a pleasant day off
15 yesterday. Thank you for your continued participation in
16 this very important process and your continued focus and
17 attention.

18 Mr. Foreman, ladies and gentlemen of the jury,
19 because one of the offenses in which you found the
20 defendant guilty of this past Saturday was murder, it is
21 necessary that we now conduct a separate sentencing
22 proceeding.

23 During this sentencing proceeding, the State and
24 the defendant will have the opportunity to present
25 additional evidence to you in extenuation, aggravation, or

1 mitigation, and both sides will have an opportunity to
2 present arguments for and against the death penalty.

3 The burden of proof is on the State to prove the
4 existence of at least one statutory aggravating
5 circumstance beyond a reasonable doubt. The defendant
6 again has no burden of proof.

7 South Carolina Code Section 16-3-20 provides
8 that if during this sentencing proceeding the State proves
9 and you find beyond a reasonable doubt the existence of at
10 least one statutory aggravating circumstance, you, the
11 jury, will then recommend the sentence of either life in
12 prison without the possibility of parole or the death
13 penalty.

14 Ladies and gentlemen, the statute uses the word
15 "recommendation," and it provides that the jury must
16 recommend the sentence. But let me tell you, however,
17 that it is not a recommendation, it is the imposition of a
18 sentence. I am required to follow the recommendation that
19 you make when you find the existence of a statutory
20 aggravating circumstance. So whatever recommendation you
21 make to this Court, this Court will impose that sentence.

22 Please do not begin to make up your minds until
23 we have gone through all phases of this proceeding.

24 You have had the opportunity to listen to all
25 the evidence in extenuation, mitigation, or aggravation.

1 You've heard the final arguments by all the parties. You
2 have received my final instructions, and you hear each
3 other's views on what the appropriate sentence should be.
4 Only then will you be in a position, the right position,
5 to make up your mind as to the appropriate sentence.

6 Just as I told you throughout last week, do not
7 talk with anyone about the case in any way or expose
8 yourself to any information about this case outside of
9 this courtroom. Do not discuss the case until you've
10 heard again all the arguments, all the evidence, the
11 charge on the law by the Court, and then directed by the
12 Court to begin your deliberations with your fellow jurors
13 in your jury room.

14 Ladies and gentlemen, the procedure we'll follow
15 is that the State will have a brief opening statement,
16 thereafter followed by one of the attorneys for the
17 defendant, and thereafter the State will begin presenting
18 its evidence. So if you'd please continue to give the
19 parties your complete and undivided attention.

20 Solicitor, you may address the jury.

21 MR. MYERS: Thank you, Your Honor.

22 Not every murder brings the death penalty in its
23 wake. It's only those murders which the law says must
24 have other things involved, and that's the aggravating
25 circumstances the judge is talking about.

1 This is a death penalty case. We have to prove
2 to you that at least one aggravating circumstance is
3 involved.

4 We have notified the defendant that we're going
5 to prove to you that the murder was committed during the
6 commission of a kidnapping, and he murdered Samuel
7 Sturup, he kidnapped him. And, number two, that the
8 murder was committed and there was physical torture
9 involved. And there was physical torture involved in what
10 they did to that 16-year-old young man. And it's our job
11 as the judge says to prove either one of these to your
12 satisfaction beyond a reasonable doubt, kidnapping and/or
13 the physical torture.

14 This part of the case, some refer to it as the
15 sentencing phase or the punishment phase, the penalty
16 phase, and in this part of the case we bring out
17 additional evidence. What you would base your verdict on
18 is what you'll hear in the courtroom, and it's about a
19 crime, the circumstances of a crime, and the character of
20 the person who committed the murder. That's what we're
21 going to talk about is character, his one-man crime wave
22 in Augusta, in Richmond County, Washington Road.

23 He likes kidnapping. He thrives on confining
24 people and restricting their movement. Because, you see,
25 after he kidnapped and murdered Samuel Sturup, on New

1 Year's Eve of 2001 going into 2002, he kidnapped and
2 robbed some men over in Columbia, Georgia. We're going to
3 tell you about that. The people who were robbed are going
4 to testify.

5 He committed an armed robbery, he committed
6 burglary of a residence while people were in the
7 residence. He committed a kidnapping, confining their
8 movement in the residence. He committed terrorist acts.
9 He had a gun.

10 And he wasn't supposed to even have a gun, not
11 be around a gun, because you see in 1999, he was convicted
12 of possession of cocaine with intent to distribute, a
13 felony, and a felon can't have a gun. But he didn't
14 comply with the rules.

15 He committed some other crimes. You're going to
16 hear how he's acted since he's been in prison, and he's
17 been in jail since January the 17th of 2002, when he was
18 arrested.

19 He committed crimes while he was in jail. He
20 got another 15 years in South Carolina in this courtroom
21 for throwing bodily fluids on a correctional officer over
22 here at the Edgefield County Jail. We're going to tell
23 you about that.

24 We're going to tell you about how he acted in
25 jails, in prisons, wherever they took him. He didn't want

1 to comply with the rules. He doesn't want to comply with
2 the law.

3 And he loves to restrict people because he had
4 an escort service, AA Angels Escort Service, where he
5 would get young girls and sell their bodies and he would
6 keep the money. And he would keep them confined in the
7 house. He would take them to their jobs and have them
8 perform certain jobs and the money would be turned over to
9 him, and when they were through they'd be taken back to
10 his house on Cairo Court, that same house where Mrs.
11 Sturup went over and asked him about what happened to her
12 son. Not just one, not just two, not just three, he had
13 them coming and going.

14 And how he kept them in line was giving them
15 drugs. He's a drug dealer, too. And how he really kept
16 them in line was to physically assault them, physical
17 abuse, mental abuse.

18 That house he had them in, they couldn't get
19 out. It had steel bars on the front door. It had alarms
20 all around. He had keys to get in and out from the
21 outside and the inside that he controlled. He had cameras
22 outside the house to see who was coming and going so he
23 could look and see who was approaching his house.

24 And for his enjoyment, he would have some of the
25 girls to beat up others.

1 When he was arrested on the early morning hours
2 of January the 17th, they had to get a wrecker to pull
3 that iron bar off of the front door so the officers could
4 go in.

5 He wasn't there by himself. He was there with
6 some of the women that he abused and some of the men and
7 women that he had selling their bodies so he could collect
8 the rewards.

9 There was one young girl you're going to hear
10 about who had been there only about a week or so. She
11 came over, a friend brought her over, and once she went in
12 that house she couldn't leave. She begged, she begged him
13 to let her go back to her momma. He said, "I can't do
14 that, I can't do that because you'll tell them, tell the
15 police, and I'll kill you." He was not kidding. He loves
16 to threaten to kill people.

17 When he was arrested, he had more guns in the
18 house, and he would point that gun at the people and
19 threaten to kill them if they didn't do what he said. He
20 would pistol whip some of them.

21 Some of them who were at the house when the
22 police went in, Thatcher, she was in there. Another girl,
23 she was in there. Another girl, she was in there.

24 A girl you all have heard about, Keisha Burton,
25 also known as Patricia Rouse, she was in there. She

1 helped Barnes run the operation and she was kind of his
2 main girl. She went to trial with him in Columbia County
3 and they were convicted of that robbery, that burglary,
4 that kidnapping, terrorist acts. He got life plus 51
5 years in Columbia County just for that.

6 So we're going to talk about the character,
7 we're going to talk about the person we're dealing with,
8 and we're going to talk about the aggravating
9 circumstances, because the death penalty fits this case.

10 Now I'll tell you right now, we'll have more
11 witnesses in this phase than we had in the first phase.
12 We'll probably have over 50 witnesses because of his
13 character, his crime, his brutality, his kidnapping, his
14 total disregard not only for the law but for fellow human
15 beings.

16 So listen to the evidence, folks, both sides,
17 and then go to your jury room and see if we haven't
18 already proven kidnapping, physical torture, two
19 aggravating circumstances. And for this crime and for the
20 character of this defendant, we submit to you, the death
21 penalty is warranted and it's the appropriate punishment
22 for Steven Louis Big Man Barnes.

23 THE COURT: Thank you, Solicitor.

24 Mr. Tarr, you may address the jury.

25 MR. TARR: Ladies and gentlemen, we respect your

1 verdict in the guilt phase in this case and we ask you at
2 this time to please not hold it against Mr. Harte or
3 myself for putting the State's case to the test. This is
4 an adversarial system, and we are adversaries, and it was
5 our job to put their case to the test, and that's what we
6 did. And you've come back with your verdict, and we
7 respect that.

8 There can be no doubt that what Mr. Barnes was
9 convicted of is a horrible, horrible crime, and you will
10 never hear us attempt to minimize the seriousness of that
11 crime at any point in this trial.

12 But one thing we would like for you to remember,
13 that whatever your sentence is, a life sentence or the
14 death penalty, neither one of those sentences is going to
15 bring Samuel Sturup back, and we submit to you that
16 neither one of those sentences is going to make anyone,
17 especially the mother, Mrs. Sturup, feel any better
18 because she is not going to have her son back either way.

19 The Solicitor has mentioned to you a number of
20 other prior bad acts, some of which resulted in
21 convictions that they're going to present to you as
22 evidence of his character and the physical and mental and
23 sexual abuse that they say he committed upon others. And
24 the question in all of your minds I'm sure is how can
25 someone get to the point where they are convicted of such

1 a horrible act, such horrible acts. And during jury
2 qualification, the reason that we chose you is because
3 each one of you said you were the types of jurors that
4 would not automatically impose a death sentence just
5 because someone was convicted of murder, that you wanted
6 to hear all of the evidence, not just the horrible things
7 that the State says he committed, not just the horrible
8 crimes and the horrible acts that are going to be
9 presented to you.

10 But what does all of the evidence say about
11 Mr. Barnes and how he got to this point today? I'm going
12 to talk to you just for a minute about some of those
13 things that you're going to hear.

14 When Mr. Barnes' mother, Tammy, was 12 years
15 old, she was raped. From the moment she was raped and
16 conceived a child, she has hated that child, and that
17 child is Steven Barnes. She resented him, she has hated
18 him, she has rather wished that he was dead from the
19 moment he was conceived. It's to the point that if we
20 were to call her to testify here, that she would testify
21 for the State. And it's not because he is a horrible
22 person, it's because she hated him from the moment he was
23 conceived and every time she looked at his face after he
24 was born he reminded her of her rapist. Twelve years old.

25 From the moment he was born, he was beaten

1 incessantly. I'm not just talking about being spanked and
2 all. I'm talking about being beaten with anything she
3 could get her hands on.

4 Now during the time she was pregnant she met a
5 man who was 34 or 35 years older than her -- she was 12
6 years old -- 46 years old and takes her into his home.
7 She ends up marrying this man. This was Mr. Barnes
8 stepfather, Joseph Harris. Mr. Barnes got to witness him
9 beat her, rape her, and shoot at her multiple times. This
10 is what Steven Barnes was learning about how to treat
11 other people.

12 Not only did Tammy hate him and resent him, she
13 neglected him, beat him. There were times in his life
14 that he spent up to a year away from her, living with his
15 grandparents. She had 17 brothers and sisters.

16 And I know what you're thinking, well, maybe
17 during those times maybe his life got a little bit better,
18 maybe he didn't have to deal with the abuse. It got
19 worse, because he was beaten and sexually abused during
20 that time. They treated him as a punching bag. They
21 treated him as the red-headed stepchild, the product of a
22 rape, someone who did not deserve to be living.

23 Now, what effect did this have on young Steven
24 Barnes? Well, at six years old he began wanting to kill
25 himself. Now I ask you, how many six year olds have you

1 come across in your everyday life who are contemplating
2 suicide?

3 He tried to stab himself at age seven. He tried
4 to cut his wrists at age 13. He tried to overdose on
5 Haldol, which was the medication prescribed for him during
6 one of his many mental health hospitalizations.

7 Ladies and gentlemen, all of the abuse that he
8 suffered early in his life led him to be suicidal,
9 depressed. He's had 16 mental health diagnoses during his
10 formative years, six prior involuntary mental health
11 inpatient treatments he's gone through, up to a month at a
12 time at times.

13 You're going to hear from several different
14 doctors and a social worker who have had an opportunity to
15 review all of those records and had an opportunity to
16 speak with Mr. Barnes and who have attempted to get
17 cooperation from his family. You're going to hear that
18 his mother spoke to our witnesses one time reluctantly,
19 refused to give any information about any other family
20 members who might be able to help shed some light on
21 Mr. Barnes' life so that you as a jury could have all of
22 the information and you could make a decision on what
23 should happen to him.

24 Because, ladies and gentlemen, as you heard in
25 jury qualification, to bring a death sentence back, each

1 one of you is going to have to sign your name putting
2 Mr. Barnes under a sentence of death. How are you going
3 to be able to do that without considering everything in
4 this case?

5 The question is, do you want to do to Mr. Barnes
6 what his mother has wanted to happen to him since the
7 moment he was conceived? Do you want him to die just like
8 she's wanted him to die for 31 years? Do you want to do
9 to Mr. Barnes what he's tried to do to himself on three
10 different occasions, which is kill himself, starting at
11 six years old? Are you for the first time in Mr. Barnes'
12 life going to show him just a little bit of mercy?

13 And I know the State's going to say, "Well,
14 we've proved to you and you've found that there was
15 absolutely no mercy shown to Samuel Sturup." But if all
16 the physical abuse and mental abuse and sexual abuse that
17 they're going to say Steven Barnes inflicted on others, if
18 that is so horrible, which it is, how is it not equally as
19 horrible that he experienced all three of those things
20 himself from the time he was born until he was kicked out
21 of his mother's house at 18?

22 These are the things that you have to think
23 about. These are the things that you have to weigh. And
24 whatever your decision is, a life sentence or the death
25 penalty, it will not bring Samuel Sturup back.

1 Thank you.

2 THE COURT: Thank you. Thank you very much, Mr.
3 Tarr.

4 Solicitor, you may call your first witness.

5 MR. MYERS: We'd call Ms. Carla Williamson.

6 THE COURT: Ms. Williamson, if you'd come
7 around, please, and be sworn.

8 THE CLERK: Raise your right hand and place your
9 left hand on the Bible.

10 CARLA WILLIAMSON, after being duly sworn,
11 testified as follows:

12 THE CLERK: State your full name and spell your
13 last name, please.

14 THE WITNESS: Carla Williamson,
15 W-I-L-L-I-A-M-S-O-N.

16 DIRECT EXAMINATION

17 BY MR. MYERS:

18 Q Ms. Williamson, where do you work?

19 A At the Richmond County Clerk's office.

20 Q Is that the Clerk of Court like Ms. Newby here?

21 A Yes, sir.

22 Q And part of those duties, what courts do you all work
23 with on keeping records?

24 A The felony division, which is superior court; the
25 state court, which is misdemeanor, and the juvenile

1 courts.

2 Q That's the criminal cases?

3 A Yes, sir.

4 Q And did we ask you to provide us with some paperwork
5 on the convictions by Steven L. Barnes?

6 A Yes, sir.

7 Q I ask you to look at these three documents. And is
8 there a certificate on the back from your office that
9 those are true certified copies?

10 A Yes, sir.

11 Q Do you have to keep those in your office; is that
12 correct?

13 A Yes, sir.

14 Q And were those papers in the office that you work in
15 with the records?

16 A Yes, sir.

17 Q And you're part of the records keeping for that
18 office, too?

19 A Yes, sir.

20 Q Are those convictions for Steven L. Barnes?

21 A Yes, sir, they are.

22 MR. MYERS: Your Honor, we would offer these
23 three into evidence.

24 THE COURT: Mr. Tarr?

25 MR. TARR: No objection, Your Honor.

CARLA WILLIAMSON - Direct Exam by Mr. Myers

1503

1 THE COURT: May I see them very quickly,
2 Solicitor?

3 MR. MYERS: Yes, sir.

4 THE COURT: All right. And no objections, Mr.
5 Tarr?

6 MR. TARR: No objection.

7 THE COURT: Thank you, Solicitor.

8 MR. MYERS: Thank you, sir.

9 (A discussion was held off the record.)

10 THE COURT: All right. State's 54, 55, and 56.

11 Oh, yes, certainly you may take notes. Do you
12 not have your notes?

13 All right. I apologize. The bailiff will get
14 your notes right now.

15 If we can just delay until they get their pads
16 to them, Solicitor.

17 MR. MYERS: Yes, sir.

18 (Pause.)

19 (WHEREUPON, State's Exhibits Nos. 54, 55, 56
20 were marked for identification and received into
21 evidence.)

22 THE COURT: Ladies and gentlemen of the jury,
23 prior to the return of your bailiff with your notes, I
24 would advise you as far as evidence of other crimes, the
25 State may introduce evidence of other crimes that the

1 defendant allegedly committed in the past. I charge you
2 that the evidence of these crimes, these other crimes, may
3 not be considered as substantive evidence of a statutory
4 aggravating circumstance, but if you are convinced that
5 the defendant committed these crimes, or any of them, you
6 may consider them as evidence of his character. These may
7 be considered along with all the other evidence and you
8 may give them whatever weight and value you deem
9 appropriate and proper under the circumstances of this
10 case.

11 Thank you.

12 All right. Madam Bailiff, you may hand out the
13 notes.

14 (Pause.)

15 THE COURT: All right. Does everyone have notes
16 and pens that want notes and pens?

17 THE BAILIFF: Yes, Your Honor.

18 THE COURT: All right. Thank you, Madam
19 Bailiff.

20 All right. Solicitor, you may proceed. Thank
21 you for that delay.

22 BY MR. MYERS:

23 Q Now, Ms. Williamson, State's Exhibit No. 54 has three
24 pages on it, the first sentence, the charging indictment,
25 and then your certification of this?

CARLA WILLIAMSON - Direct Exam by Mr. Myers

1505

1 A Yes, sir.

2 MR. MYERS: May I publish this to the jury, Your
3 Honor?

4 THE COURT: Yes, sir, you may.

5 MR. MYERS: State of Georgia versus Steven L.
6 Barnes, State Court of Richmond County, Georgia.

7 Charged on 11 November 1996 for a stop sign
8 violation and no insurance. He got 12 months probation on
9 each charge to run consecutive.

10 BY MR. MYERS:

11 Q Now, state court, y'all are the clerk for the state
12 court?

13 A Yes, sir.

14 Q Is that a misdemeanor court or a felony court?

15 A Misdemeanor.

16 Q State's Exhibit No. 55 is still three pages,
17 certification, charging indictment, and the sentencing
18 report?

19 A Yes, sir.

20 Q State Court of Richmond County, Steven Barnes,
21 charging paper. He's charged with simple battery against
22 a Marvin Jones on the 11th day of September, 1998. He's
23 sentenced to 12 months probation on October 29th, 1998.

24 And that was misdemeanor or felony court?

25 A Misdemeanor.

1 Q All right. State's Exhibit No. 54, the same
2 three-page document?

3 A That's the same one, state court.

4 Q Now, 56, what court is that in?

5 A That's in superior court, felony division.

6 Q So that's a felony charge then?

7 A Yes, sir.

8 Q The charging paper, that on the 14th day of October,
9 1998, that Steven Louis Barnes did possess cocaine with
10 intent to distribute a Schedule 2 controlled substance in
11 violation of the Georgia Controlled Substance Act on
12 May the 7th, 1999. The judge sentences him to ten years
13 probation and a fine for possession of cocaine with intent
14 to distribute; is that correct?

15 A Yes, sir.

16 Q This first one here that I mentioned to you, the
17 traffic thing, failed to stop and no insurance, what day
18 was that sentence handed down by the judge?

19 A December 13th, 1996.

20 Q Thank you, ma'am.

21 Ms. Williamson, on this board, will this be
22 connect right here? It says a stop sign-violation and no
23 proof of insurance on November 11th, 1996. He got 12
24 months probation and a fine on both, and the sentencing
25 date was December 13th, 1996?

CARLA WILLIAMSON - Direct Exam by Mr. Myers

1507

1 A Yes, sir.

2 Q On the other one, it's on 9-11-98, he's charged with
3 simple battery, October 29th, '98, he got 12 months
4 probation and a fine?

5 A Yes, sir.

6 Q And then the felony conviction, that on October 14th
7 of '98, he got possession of cocaine with intent to
8 distribute, ten years probation and a twenty-five hundred
9 dollar fine on May the 7th of '99?

10 A Yes, sir.

11 MR. MYERS: Ms. Williamson, if you would, please
12 answer any questions --

13 THE COURT: Are you going to mark that as a
14 Court exhibit?

15 MR. MYERS: I will, yes, sir.

16 THE COURT: All right.

17 Mr. Tarr.

18 MR. TARR: No questions, Your Honor.

19 THE COURT: Any objections?

20 MR. TARR: No objection.

21 THE COURT: All right. That would be State's 57
22 for identification purposes only because there are others
23 on there; is that right?

24 MR. MYERS: Yes, sir.

25

1 (WHEREUPON, State's Exhibit No. 57 was marked
2 for identification only.)

3 THE COURT: And you have no questions of Ms.
4 Williamson, Mr. Tarr?

5 MR. TARR: No questions.

6 THE COURT: Thank you.

7 Thank you very much for being with us, Ms.
8 Williamson. You may step down.

9 Solicitor, you may call your next witness.

10 MR. YOUNG: Your Honor, the State calls
11 Nathaniel Gene Goodwin.

12 THE COURT: Are the witnesses sequestered? Do
13 we still have the witnesses sequestered during the
14 penalty?

15 MR. TARR: Yes, Your Honor.

16 THE COURT: All right. They are sequestered
17 then. Thank you.

18 And tell me the name again, Solicitor?

19 MR. YOUNG: Nathaniel Gene Goodwin.

20 THE COURT: Nathaniel Gene Goodwin?

21 MR. YOUNG: Yes, sir.

22 THE COURT: All right. Thank you.

23 If you'd please stand until the Clerk
24 administers the oath for me, please.

25 THE CLERK: Raise your right hand, please, and

NATHANIEL GOODWIN - Direct Exam by Mr. Young

1509

1 place your left hand on the Bible.

2 NATHANIEL GOODWIN, after being duly sworn,
3 testified as follows:

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

6 THE WITNESS: Nathaniel Eugene Goodwin. That's
7 G-O-O-D-W-I-N.

8 THE COURT: All right. Solicitor.

9 DIRECT EXAMINATION

10 BY MR. YOUNG:

11 Q Officer Goodwin, you're a deputy with the Richmond
12 County Sheriff's Office?

13 A Yes, I am.

14 Q Obviously from the uniform that's who you are.

15 Can you tell us how long you've been in law
16 enforcement, sir?

17 A Twenty-two years.

18 Q During the past, are you familiar with making an
19 arrest on Steven Louis Barnes on or about October 14th,
20 1998?

21 A Yes, sir.

22 Q When you made that arrest, sir, what capacity were
23 you fulfilling at that time? Were you a sheriff's deputy
24 or were you something else?

25 A I was working in the narcotics division for the

1 Richmond County Sheriff's Office.

2 Q Would you tell the jury exactly what your
3 investigation was directed at and how it went together?

4 A On the date in question, we executed a search warrant
5 at a motel called Horns Motor Lodge, which is located at
6 1520 Gordon Highway, Augusta, Richmond County, Georgia,
7 Room 228.

8 Q Is that a motel?

9 A Yes, it is.

10 Q Could you tell us what happened when you executed
11 this search warrant?

12 A Prior to executing the search warrant, we normally
13 make what's called a pre-arrest raid plan. Basically what
14 we do is we set up and make plans on how we execute the
15 search warrant.

16 Basically when we arrived at the scene, myself
17 and Investigator Allen Martin located Steven Louis Barnes
18 and another man by the name of Rodriguez Curry sitting in
19 a chair right outside the room. The room door was open
20 and there were two other investigators, Investigator Chuck
21 Brosnan and Investigator Joseph Padillo, they went inside
22 the room and located a black female by the name of Essence
23 Lewellen who was standing at the back of the doorway, at
24 which time we secured the room and all the suspects
25 involved and we conducted a search.

NATHANIEL GOODWIN - Direct Exam by Mr. Young

1511

1 Q Did your search reveal any evidence of any drugs or
2 narcotics at that time?

3 A Yes, sir, we did. We searched the room and located
4 one pair of men's pants which was laying on the floor of
5 the room and inside the right front pants pocket of those
6 pants was a clear piece -- I'm sorry, one piece of paper
7 containing approximately six grams of crack cocaine.

8 Q Were any weapons located?

9 A Yes, sir. We also located one .22-caliber revolver
10 which was located between the mattress and the box spring
11 inside of the motel room.

12 Q How much cocaine was this?

13 A It was approximately six grams, but the actual
14 official weight after being field tested, expertly tested
15 weighed out to be four grams of crack cocaine.

16 Q Did you maintain any surveillance of the room before
17 the actual arrest occurred?

18 A Yes, we did. In order to get a search warrant, we
19 have to do a preliminary investigation.

20 Basically I received information from a
21 confidential and reliable informant that a subject by the
22 name of Steve was selling crack cocaine out of Room 228,
23 at which time after receiving that information we set up
24 surveillance on the room, at which time we observed
25 several black males/black females going to the room,

1 staying for short periods of time and leave, which is
2 actually conducive of drug activity.

3 Q Sir, are you aware of the outcome of the charges that
4 you brought against Mr. Barnes?

5 A Yes, sir. Mr. Barnes was arrested and convicted of
6 possession of cocaine with intent to distribute.

7 Q All right. In Georgia is that a felony?

8 A Yes, it is.

9 Q Thereafter, once a person's been convicted in the
10 state of Georgia for the crime of possession with intent
11 to distribute cocaine as a felony, is it lawful or
12 unlawful for them to be ever in possession of a firearm?

13 A It is indeed unlawful to possess a firearm after
14 you're convicted in the state of Georgia of a felony.

15 Q Okay. Now, there was another person in the room I
16 understand that was arrested?

17 A Yes, sir.

18 Q Her name was Ms. Lewellen I think you mentioned?

19 A Yes, sir.

20 Q What outcome came as to her charges?

21 A Her case was nol prossed, which means they declined
22 to prosecute based on the evidence that came up after the
23 arrest.

24 Q And that was what?

25 A To my knowledge, Mr. Barnes claimed responsibility

NATHANIEL GOODWIN - Direct Exam by Mr. Young

1513

1 for the crack cocaine.

2 MR. YOUNG: No further questions. If you'd
3 please answer any questions the defense may have.

4 THE COURT: Thank you, Solicitor.

5 Mr. Tarr.

6 MR. TARR: No questions, Your Honor.

7 THE COURT: Thank you. Thank you for being with
8 us today, Deputy Goodwin. You may step down.

9 Any objection to the deputy being excused?

10 MR. MYERS: No, sir.

11 THE COURT: Thank you. You may be excused.

12 You may call your next witness, Solicitor.

13 MR. MYERS: Scott Gay.

14 THE COURT: G-A-Y.

15 MR. MYERS: Yes, sir.

16 THE COURT: All right.

17 THE CLERK: Raise your right hand and place your
18 left hand on the Bible.

19 SCOTT GAY, after being duly sworn, testified as
20 follows:

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

23 THE WITNESS: My name is Scott Dalton Gay,
24 G-A-Y.

25 DIRECT EXAMINATION

1 BY MR. MYERS:

2 Q Mr. Gay, where are you employed?

3 A With the Richmond County Sheriff's Office in Augusta,
4 Georgia.

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

6 A A little over 20 years.

7 Q And what division are you in?

8 A I'm in charge of the Special Operations Division
9 currently.

10 Q Back in January of 2002, or January 12th of 2002,
11 what division were you in?

12 A I was in charge of the Crime Suppression Team for the
13 Richmond County Sheriff's Office.

14 Q Now, on that day, did you have an occasion to be
15 associated with other officers relating to a matter
16 concerning Steven Louis Barnes?

17 A Yes, sir, I sure did.

18 Q What did you all do?

19 A We were instructed to stake out a hotel on Washington
20 Road, the West Bank Inn, and look for a vehicle that was
21 going to be occupied by a Hispanic female, and that was
22 all the information that we had, that they would be coming
23 up to the West Bank Inn.

24 Q All right. And were you the only officer there at
25 the West Bank Inn?

SCOTT GAY - Direct Exam by Mr. Myers

1515

1 A No, sir, there was other officers there. Myself and
2 Deputy Danny Whitehead were in the same undercover vehicle
3 together out in the parking lot looking for the vehicles
4 as they came through the parking lot.

5 Q This is a motel?

6 A A motel?

7 Q This is a motel?

8 A Yes, sir.

9 Q West Bank Inn?

10 A Yes, sir.

11 Q And were any officers inside the motel?

12 A Yes, sir, several officers were inside.

13 Q What was their approach?

14 A It was a sting operation looking for escort services
15 to be coming to hotel rooms to provide services to
16 clients.

17 Q Okay. You were to be on the lookout for a car. Did
18 that car arrive?

19 A Yes, sir. Yes, sir, it did.

20 Q All right. Now, what happened concerning that
21 vehicle? Who did you observe in the vehicle?

22 A Well, the vehicle pulled into the parking lot and we
23 could tell that there was a Hispanic individual that was
24 in the passenger's front seat, and that was what our
25 target was. And it was driven by a male, and that was all

1 we could tell at that point. What we thought was the
2 target vehicle was there with the target, which was a
3 Hispanic female.

4 They parked, got out of the vehicle, the
5 Hispanic female got out of the vehicle, and I radioed and
6 let the folks know that were working the sting operation,
7 that we thought that the target was there. Of course, we
8 didn't have an absolute description of the target, but the
9 person that we thought that was the target was
10 approaching.

11 Q All right. After you made that call, what happened?

12 A They parked. She got out of the front seat on the
13 passenger's side. And it was wintertime, it was cold.
14 She had a fur jacket on -- it was some type of fur -- and
15 it was bulky and I remember that she took that fur jacket
16 off while she was standing beside the car and placed it on
17 the front seat, shut the door and went upstairs -- I
18 believe it was Room 212 at the West Bank Inn -- and she
19 was there for a little while.

20 While she was in there, another female that was
21 in the back seat, which we did not even know she was
22 there -- she just popped down, and it kind of shocked us
23 that, you know, we didn't see her -- and she went up the
24 steps. And at that time we were instructed by the
25 investigators inside to apprehend the driver. So that's

SCOTT GAY - Direct Exam by Mr. Myers

1517

1 what myself and Danny Whitehead attempted to do, was to
2 apprehend the driver.

3 Q If you'll give me a second, please, sir.

4 A Yes, sir.

5 Q Have you seen this aerial photograph?

6 A Yes, sir.

7 Q Does that photograph include the West Bank Inn for
8 which you're testifying to?

9 A Yes, sir, it does.

10 MR. MYERS: We'd offer this in evidence, Your
11 Honor.

12 THE COURT: All right. This would be State's
13 58.

14 Any objection?

15 MR. TARR: No, Your Honor.

16 THE COURT: State's 58, aerial photograph, is in
17 evidence without objection.

18 (WHEREUPON, State's Exhibit No. 58 was marked
19 for identification and received into evidence.)

20 BY MR. MYERS:

21 Q If you'd step down, please.

22 A Yes, sir.

23 Q I'm going to ask you to stand right here and speak
24 loudly enough for this lady to hear you and the jury.

25 A Yes, sir.

1 Q If you'll mash this button, show the jury where the
2 West Bank Inn is.

3 A The West Bank Inn is this building right here. This
4 is Washington Road, this is Boy Scout Road.

5 Q Now, let me ask you, how far is that on Washington
6 Road, how far is that from the interstate, I-20?

7 A I-20 is that direction, less than a mile, probably a
8 half a mile.

9 When you come off of I-20 on to Washington Road,
10 when you come down the ramp you make a left, you go back
11 underneath I-20 and then you come to a Circle K and Krispy
12 Kreme Doughnuts and then there's an old Hardee's and then
13 that's the gas station, the old Circle K. This is a -- I
14 believe that's an old Hardee's restaurant and then there's
15 the West Bank Inn right here, and that's McDonald's at the
16 corner.

17 Q Where's the Krispy Kreme? You all know where that
18 is?

19 A We know where the Krispy Kreme is, it's right there.

20 THE COURT: Is that going back in towards
21 Augusta or going back towards McCormick?

22 THE WITNESS: It's eastbound going towards the
23 old city.

24 THE COURT: All right. I just can't see it from
25 here. Thank you.

SCOTT GAY - Direct Exam by Mr. Myers

1519

1 THE WITNESS: Yes, sir.

2 THE COURT: I didn't mean to interrupt you.

3 BY MR. MYERS:

4 Q Going towards Augusta National Golf Course?

5 A Sir?

6 Q Is it going towards Augusta National Golf Course?

7 A Yes, it's going towards the Augusta National Golf
8 Court.

9 THE COURT: Thank you.

10 BY MR. MYERS:

11 Q Now, where did that car come in?

12 A We observed it -- we were parked somewhere right here
13 and we observed it come around here. And, of course, we
14 were watching every vehicle that came by.

15 The only description that we had was a Hispanic
16 female at the time, and we watched the vehicle come by.
17 And it pulled either into the first parking spot along the
18 building or the second one. And it might have been
19 halfway. I cannot remember if it's the first one or the
20 second one.

21 And we were parked back here, because the target
22 room was on the second floor upstairs, so we knew that
23 they would either have to take the steps where -- it would
24 be more convenient to take the steps at this end versus
25 the opposite end, and we were parked about halfway because

1 we wanted to have visual sight of the room and be able to
2 identify any vehicles that came through the parking lot.

3 Q When they came up and parked, which direction was the
4 vehicle headed?

5 A It was heading back towards Washington Road, which
6 would have been in a north direction.

7 Q Now, you saw the first female get out the passenger's
8 car, which would have been where you all were?

9 A Yes, sir.

10 Q And she went up and you said she threw her coat back
11 in?

12 A Yes, she took the jacket off, the fur jacket, and
13 laid it on the seat.

14 Q The second one got out that you didn't know was in
15 there?

16 A Yes, sir.

17 Q A female?

18 A Yes, sir.

19 Q And then you got a call that said what?

20 A To apprehend the driver.

21 Q What did you do?

22 A Well, myself and Deputy Whitehead, we -- you know, we
23 had a couple of seconds and it was, do we block the
24 vehicle in with our car or do we approach on foot and try
25 to apprehend the driver that way? I decided because we

SCOTT GAY - Direct Exam by Mr. Myers

1521

1 were in such close proximity and it was a parking lot --
2 it was congested -- that by the time we backed out, it
3 would just be easier for us to run up to the vehicle and
4 extricate the driver from that point, and that's when
5 myself and Deputy Whitehead left our unmarked patrol car
6 and ran to -- I ran to the rear driver's side of the
7 vehicle and I identified myself as Sheriff's Office.

8 Q What did you say?

9 A I identified myself as being with the Sheriff's
10 Office, to stop and to freeze. It was at that point that
11 the windows were up, he put the car in drive and he took
12 off. Well, it had rained earlier that day, so the tires
13 were spinning. You know how slippery asphalt can be. He
14 took off from this position here and I was running beside
15 the vehicle beating on the driver's window with my hand,
16 Sheriff's Office, stop; Sheriff's Office, stop; stop,
17 Sheriff's Office. Well, he was looking at me and at the
18 same time trying to look at the road and he was driving
19 with one hand and patting the seat with the other hand.
20 And I couldn't -- I knew he was looking for something in
21 the seat, but I didn't know exactly what he was looking
22 for.

23 Well, with me beating on the window, myself and
24 Danny Whitehead chasing him, we're both yelling commands
25 for him to stop, stop, stop, the exit is right here. And

1 if you're not careful, you'll miss that exit, and he
2 missed it -- luck was with us that day -- he missed it and
3 came to this location right here. And I believe there was
4 cars or something right there so he couldn't go any
5 further, but we got him to stop right there and we removed
6 him out of the vehicle.

7 Q Let me ask you this now. When that car left the
8 right side and went around to the front and then to the
9 left side when he stopped?

10 A Yes, sir.

11 Q What were you doing? Did you have a hold of the car
12 or what were you doing, just hitting on the window or
13 what?

14 A I was beating on the window trying to get -- to
15 either break the window and reach in there and cut the car
16 off if I could or just get his attention, something to
17 stop the vehicle. I know it's not the wisest thing to do,
18 but we had limited time and I thought that if I could just
19 get him slowed down I could either get a hold of him or
20 cut the car off, so that's what I was trying to do.

21 Q You got around on the left side and why did the car
22 stop?

23 A Nowhere to go. It kind of went into this direction
24 right here and there's a wall right here and there's no
25 place for him to go. And that's when myself, Deputy

SCOTT GAY - Direct Exam by Mr. Myers

1523

1 Whitehead and Jason Vinson went and detained him, removed
2 him from the vehicle and placed him in custody.

3 Q Who was it?

4 A Steven Barnes.

5 Q Okay. Now you can have a seat.

6 A Yes, sir.

7 Q Did you have an occasion, you or the other officers,
8 to look over on the right? You said he was reaching over
9 to the right passenger's seat?

10 A Yes, he was reaching on the seat.

11 Q And is that the same seat that the first lady got out
12 and had thrown her coat back in?

13 A Yes, sir.

14 Q Were you able to look inside the car?

15 A Yes, sir.

16 Q What did --

17 A We removed the jacket and I could see that there was
18 a firearm on a seat, a large one at that.

19 Q Did you look at that firearm?

20 A I did.

21 Q Okay. Could you examine that, please?

22 A Yes, sir, that's it.

23 Q That's the gun that was in the car?

24 A Yes, sir.

25 Q Now, who took possession of that gun?

1 A Investigator Jason Vinson.

2 Q Jason Vinson?

3 A Yes, sir.

4 Q Was Mr. Barnes let go or was he arrested?

5 A No, he was arrested.

6 Q Being a convicted felon in Georgia, could he legally
7 have a gun?

8 A No, sir, he cannot.

9 MR. MYERS: Answer any questions they have for
10 you.

11 THE COURT: All right.. Mr. Tarr.

12 CROSS-EXAMINATION

13 BY MR. TARR:

14 Q What's your title? I missed it.

15 A I'm a lieutenant of Special Operations, sir.

16 Q It's Lieutenant Gay?

17 A Yes, sir.

18 Q Mr. Barnes didn't do anything with -- you didn't see
19 him get the gun and point it at anybody, did you?

20 A No, sir.

21 Q You just saw him patting the seat?

22 A I saw what I thought was reaching for something. I
23 didn't know what it was until after.

24 Q You don't know whether he was looking to just maybe
25 hide something he wasn't supposed to have or whether he

SCOTT GAY - Cross-Exam by Mr. Tarr

1525

1 was trying to reach for it to point it at somebody?

2 A Are you asking me my opinion?

3 Q No. I'm asking you, you didn't see him -- you don't
4 know what he was doing?

5 A No, sir. But he wasn't trying to hand me some M&Ms.

6 Q What I'm saying is, he wasn't supposed to have the
7 gun, so you don't know whether he was trying to hide the
8 gun under the seat or whether he was trying to use it?

9 A No, sir, I do not.

10 MR. TARR: That's all I have.

11 THE COURT: Redirect, Solicitor?

12 MR. MYERS: No, sir. He may be excused.

13 THE COURT: Thank you.

14 Any objections to Lieutenant Gay being excused?

15 MR. TARR: No, Your Honor.

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

17 Lieutenant, you may step down. You may be
18 excused.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: All right. Hold on just a minute,
21 Solicitor.

22 MR. MYERS: Yes, sir.

23 THE COURT: All right. Mr. Foreman, ladies and
24 gentlemen of the jury, I realize you've only been out here
25 a little over 45 minutes; however, we need to take a brief

1 recess at this time.

2 Please leave your notes upside down on your
3 chair.

4 Do not discuss the case during this recess.

5 Remember to keep an open mind. Do not begin
6 your deliberations until I instruct you to do so.

7 You may now go with your bailiff.

8 (The jury left open court at approximately 10:41
9 a.m.)

10 THE COURT: All right. Court will be in recess
11 15 minutes. Thank you very much.

12 (A break was taken.)

13 THE COURT: All right. One matter before we
14 bring our jury in.

15 Here is a copy of the Guidelines for Safe
16 Handling of Firearms as Evidence in the Courtroom,
17 Procedures for the Safe Handling of Firearms as Evidence
18 in the Courtroom.

19 Madam Clerk, would you give a copy of this to
20 the prosecution and a copy to the defense?

21 I'm assuming any firearms, that has the
22 procedure for handling them, and I'm further assuming it
23 will be placed on the record that they're unloaded, that
24 they're open, that there are trigger locks or gun locks.

25 I realize a firearm has not yet been introduced

1 into evidence, but I did want to cover that very quickly.

2 MR. MYERS: Yes, sir, we put trigger locks on
3 them.

4 THE COURT: All right. All of them have trigger
5 locks?

6 MR. MYERS: Yes, sir.

7 THE COURT: And they won't be pointed at anybody
8 such as that; is that correct?

9 MR. MYERS: This one right here, I can show you
10 it's got the trigger lock.

11 THE COURT: Mr. Tarr, I can charge the jury in
12 this regard, that it won't be pointed at anybody and such
13 like that. If you prefer, I normally do that, but I'll
14 leave up to you.

15 MR. TARR: Whatever Your Honor normally does. I
16 have no objection.

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

18 And I intend to try to go up until 1 o'clock now
19 when the jury comes back out.

20 All right. Anything before we bring in our
21 jury, Solicitor?

22 MR. MYERS: No, sir, not from the State.

23 THE COURT: Mr. Tarr?

24 MR. TARR: No, Your Honor.

25 THE COURT: Bring us our jury, please.

1 And there are other firearms also, Solicitor?

2 MR. MYERS: Yes, sir.

3 THE COURT: Is there any ammunition, Solicitor?

4 MR. MYERS: There's ammunition in the box there,
5 Your Honor.

6 THE COURT: I can't hear you.

7 MR. MYERS: No, sir, they've taken it out.

8 THE COURT: Sir?

9 MR. MYERS: They've removed the ammunition.

10 THE COURT: And it's not going into evidence?

11 MR. MAYE: No, sir, for safety's sake we're not
12 going to do that.

13 THE COURT: All right.

14 (The jury came into open court at approximately
15 10:56 a.m.)

16 THE COURT: All right. Our jury is back present
17 in the courtroom.

18 Just very briefly, ladies and gentlemen of the
19 jury, there may be a firearm or firearms offered into
20 evidence in the courtroom. I would advise you that any
21 and all firearms offered into evidence will be unloaded at
22 all times, they will never be pointed at you or any other
23 person. Further, they will have gun locks on them. If
24 they're semi-automatic, the slide will be to the rear and
25 they will safety locks through the barrel in that regard.

1 There will be no ammunition offered into evidence. They
2 will be handled by the barrel only unless otherwise
3 requested and ordered by the trial judge.

4 As I stated, no firearm will be pointed at the
5 jury, judge, court personnel, or spectators. They will
6 also be -- they will always be pointed either at the
7 ceiling or the floor.

8 And, Solicitor, my understanding, all of them
9 are unloaded and their triggers have gun locks in place;
10 is that correct?

11 MR. MYERS: That's correct, yes, sir.

12 THE COURT: Thank you, Solicitor. You may call
13 your next witness.

14 MR. MAYE: The State calls Jason Vinson.

15 THE COURT: All right. Mr. Vinson, if you'd
16 come in, please.

17 THE CLERK: Raise your right hand and place your
18 left hand on the Bible.

19 JASON VINSON, after being duly sworn, testified
20 as follows:

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

23 THE WITNESS: Sergeant Jason Vinson,
24 V-I-N-S-O-N.

25 DIRECT EXAMINATION

1 BY MR. MAYE:

2 Q Sergeant Vinson, if you would, tell the ladies and
3 gentlemen of the jury where you're currently employed,
4 tell them where you were employed back in 2002 and a
5 little bit about your background in law enforcement.

6 A I'm currently employed with the Richmond County
7 Sheriff's Office. I work for the Special Investigations
8 Unit over there in the violent crimes division.

9 During this period of time of this particular
10 incident, I was employed with the narcotics division of
11 Richmond County as an investigator.

12 Q Okay. Let me ask you this. What division were you
13 helping? Was it vice that you were helping?

14 A This particular evening, yes, it was the vice
15 division. We were providing cover for the officer that
16 was working the undercover and also providing security for
17 the whole operation.

18 Q Is there often overlap between the various divisions?
19 I know you all were working for different divisions, you
20 said you worked narcotics, but is there an overlap with
21 that?

22 A There is. We seem to target the same individuals.
23 Also, with violent crimes it's the same thing, pretty much
24 the same individuals are doing these different crimes, so
25 we kind of do overlap and assist each other quite a bit.

JASON VINSON - Direct Exam by Mr. Maye

1531

1 Q Now, you all were conducting what was a sting for
2 prostitution at West Bank Inn on this evening in 2002,
3 sometime around January 12th of 2002?

4 A That's correct.

5 Q Tell the ladies and gentlemen of the jury what your
6 involvement was, what you saw or observed and did.

7 A On that particular evening, I was on the outside
8 perimeter, which is the security part. The operation was
9 being run from the inside, from a room -- there's adjacent
10 rooms -- and basically there was communication between the
11 people that were providing the immediate coverage in the
12 room and then the outside cover where I was.

13 As I recall, there was a situation where money
14 was to be brought to a car and there was a couple of times
15 where it was up in the air whether someone was going to
16 come get it or whether it was going to go down.

17 I do recall towards the end a female was going
18 back leaving the room with the undercover money. At that
19 point there was a car with a male later identified as the
20 defendant parked outside.

21 Q Mr. Barnes?

22 A Yes, Mr. Barnes.

23 Q Okay.

24 A As we went to go, part of the team stopped her, and
25 at that point I observed Sergeant Gay trying to make

1 contact with the driver and he began to speed off in the
2 parking lot.

3 Q Now, he made contact. What's he actually doing? You
4 said "making contact." What's happening?

5 A As he's speeding off, he's actually banging on the
6 windows, screaming "Stop, Sheriff's Office," just running
7 with the car as it went around the front of the motel
8 towards the Washington Road area.

9 As it went around, at that point I'm running
10 down the -- I guess it's the walkway in front of the rooms
11 on the first floor and I'm trying to catch up with him.

12 Once I come around the building, the car has
13 slid to a stop and myself and I'm going to say it was
14 Deputy Danny Whitehead and Sergeant Gay began to tussle
15 with him to get him out of the car, get him into custody.
16 A brief struggle. Finally got handcuffs on him.

17 Sergeant Gay told me to secure the car, he kept
18 reaching for something. As I went into the car, I located
19 a firearm on the front seat, passenger's seat, a Ruger
20 .45-caliber pistol.

21 Q Let me show you this. And let me just caution you,
22 our rules, they say to hold it by the barrel and point it
23 at the ceiling or the floor when you have it.

24 I'm going to show you at this point in time --
25 MR. MAYE: And I guess it's marked for

JASON VINSON - Direct Exam by Mr. Maye

1533

1 identification at this point in time, Madam Court
2 Reporter, these two items here.

3 (WHEREUPON, State's Exhibits Nos. 59-60 were
4 marked for identification only.)

5 BY MR. MAYE:

6 Q I'm going to show you two items, the first of which
7 is marked State's 60 for ID, the second of which is
8 State's 59 for ID, and ask that you take a look at those
9 and tell me if you can identify them and how.

10 A This is a Ruger P-9745 pistol, Serial No. 663-25626.
11 It is tagged in my handwriting with the case number,
12 Richmond County Case No. 02-007873. This was -- that
13 particular case number was assigned to this incident.
14 Also, with the defendant name of Steven Louis Barnes also
15 in my handwriting.

16 Q Is that the .45 caliber automatic pistol and one of
17 the two magazines that you seized there at the scene there
18 from Mr. Barnes?

19 A Yes, it is.

20 THE COURT: What number is which, Sergeant?

21 THE WITNESS: The magazine is Exhibit No. 60 and
22 the firearm is Exhibit No. 59.

23 MR. MAYE: I move those into evidence at this
24 point in time, Your Honor.

25 THE COURT: Mr. Tarr?

1 MR. TARR: No objection, Your Honor.

2 THE COURT: State's 59 and State's 60 are in
3 evidence without objection.

4 (WHEREUPON, State's Exhibits Nos. 59-60 were
5 admitted into evidence.)

6 MR. MAYE: Madam Court Reporter, would you mark
7 this for identification as well.

8 (WHEREUPON, State's Exhibit No. 61 was marked
9 for identification only.)

10 BY MR. MAYE:

11 Q Officer Vinson, let me show you State's 61 for ID.
12 What is that document? What is it a fair and accurate
13 representation of?

14 A It is a copy of the Richmond County Sheriff's Office
15 Property Receipt No. 102-174. This particular property
16 receipt was filled out by myself for the firearm and for
17 the two magazines and 12 rounds of ammunition for the
18 firearm which is sitting right in front of me.

19 Q Is that a fair and accurate representation of the
20 property receipt as you filled it out upon seizing that
21 weapon, the ammunition, and the two magazines?

22 A Yes, sir, it is.

23 MR. MAYE: At this time I move to admit it into
24 evidence, Your Honor.

25 MR. TARR: No objection.

JASON VINSON - Direct Exam by Mr. Maye

1535

1 THE COURT: State's 61 is in evidence without
2 objection.

3 (WHEREUPON, State's Exhibit No. 61 was admitted
4 into evidence.)

5 BY MR. MAYE:

6 Q Officer Vinson, now you've got in front of you there
7 a firearm, pistol.

8 A Yes, sir.

9 Q And you also -- I believe it's State's 60 --
10 identified it as a magazine. What's a magazine? We're
11 not talking about Time or Newsweek there. What is that?
12 Tell them what that is.

13 A It is a part to a firearm which contains the actual
14 ammunition. The magazine will contain ammunition and put
15 it into the gun and allows it to go into battery to fire
16 the weapon. To load and unload a semi-automatic weapon,
17 you take the magazine out or you place the magazine in.

18 Q Some people call that a clip. That's not, I know,
19 technically right for an auto pistol --

20 A Yes, sir.

21 Q -- but that's the clip is what some people call it?

22 A Yes, sir, that's a common term.

23 Q Okay. Now, you also received from your receipt from
24 what you said up here 12 rounds of .45 caliber auto
25 ammunition, unfired rounds, correct?

1 A That's correct.

2 Q Okay. Tell them about the condition of the weapon as
3 you seized it in regard to where was the ammunition in
4 relation to the pistol.

5 A The firearm was loaded, one was chambered, in the
6 chamber. The magazine that was in the gun was also loaded
7 to full capacity, which if I'm not mistaken, is eight
8 rounds in the magazine and one in the chamber.

9 The other magazine had the remainder of the four
10 rounds. It only had four and it was also with the gun.

11 Q Now, that's a double-action automatic. So in the
12 condition that it was in, was it ready to be fired upon
13 picking it up and pulling the trigger?

14 A Yes, sir.

15 Q Okay. And there was how many magazines?

16 A Two magazines: One in the gun was fully loaded, one
17 in the seat only had four rounds to the best of my
18 knowledge.

19 Q All right. Now, you got the pistol, the mag
20 evidence, and you took it into custody?

21 A Yes, sir.

22 Q It was Steven Louis Barnes; is that correct?

23 A Yes, sir.

24 Q And it took three of you to get him out; is that
25 correct?

JASON VINSON - Direct Exam by Mr. Maye

1537

1 A Yes, sir.

2 Q Were you familiar with Steve Louis Barnes? Tell the
3 ladies and gentlemen of the jury why you knew him and why
4 you were familiar with him.

5 A Just prior to this, I was working a confidential
6 source who had worked with me in the narcotics division.
7 The source and myself had targeted Mr. Barnes for
8 distributing crack cocaine and powder cocaine, had
9 information on a house on Cherry Street, which was at the
10 time next to a CellularOne building. Also, the source had
11 brought up different motels --

12 Q Is that collectively known as the green house in law
13 enforcement circles?

14 A Yes, sir, the green house, yes, sir.

15 Q Okay.

16 A This particular source had brought up the different
17 motels where --

18 MR. TARR: Your Honor, we'd object to any
19 hearsay statements.

20 THE COURT: Sustained.

21 BY MR. MAYE:

22 Q Don't go into what anybody told you. What were you
23 preparing to do in regards to carrying out the narcotics
24 investigation involving the distribution of unlawful
25 narcotics involving Steven Louis Barnes? What were you

1 working on at the time and preparing to do?

2 A At the time I was prepared to make controlled
3 purchases from that residence on Cherry Street at the
4 quote, unquote green house.

5 Q Had you as a narcotics officer already identified him
6 as a target --

7 A Yes, I had.

8 Q -- and were you making the steps to prepare that at
9 the time of his arrest?

10 THE COURT: Was any of that ever done? Was any
11 of that ever done?

12 THE WITNESS: No, sir, that happened --

13 THE COURT: Then that's not admissible. That's
14 stricken from the record. You're not to consider that.

15 MR. MAYE: Answer any questions defense has for
16 you.

17 THE COURT: Mr. Tarr.

18 CROSS-EXAMINATION

19 BY MR. TARR:

20 Q Now, you say the gun was found on the seat of the
21 car?

22 A Yes, sir.

23 Q It was right there on the passenger's seat?

24 A Yes, sir.

25 Q Okay. And he never attempted to use that gun against

JASON VINSON - Cross-Exam by Mr. Tarr

1539

1 you officers in any way?

2 A From what I saw, I wasn't able to -- from my vantage
3 point able to see him go for the gun. I was merely trying
4 to catch back up with the car.

5 Q You're one of the three officers that got him out of
6 the car?

7 A By the time I got there, it took me and the other two
8 to get him actually out of the driver's seat.

9 Q Okay. But he didn't get out of the car with the gun
10 in his hand, even though it was sitting right there on the
11 seat?

12 A No, he did not.

13 MR. TARR: That's all I have, Your Honor.

14 THE COURT: Redirect, Solicitor?

15 MR. MYERS: No more questions, Your Honor. May
16 he be excused?

17 THE COURT: Any objections?

18 MR. TARR: No, Your Honor.

19 THE COURT: Thank you for being with us today,
20 Sergeant. You may step down and you may be excused.

21 All right. Madam Clerk.

22 THE CLERK: Raise your right hand, please.

23 GREGORY SMITH, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat. State your full name

1 and spell your last name, please.

2 THE WITNESS: My full name is Gregory T. Smith.
3 The last is spelled S-M-I-T-H.

4 THE COURT: All right. Solicitor.

5 DIRECT EXAMINATION

6 BY MR. MYERS:

7 Q Mr. Smith, where are you employed?

8 A Currently with the Columbia County Sheriff's Office.

9 Q Prior to being with the Columbia County Sheriff's
10 Office, did you also serve with other law enforcement
11 agencies?

12 A I did. I was with the Richmond County Sheriff's
13 Office for 23 years.

14 Q How long have you been in law enforcement total?

15 A About 25 years total.

16 Q Now, let me take you back, if we could, to 2001.
17 What division were you in in 2001?

18 A In 2001 I was with the vice -- correction -- I was
19 with the violent crimes division in 2001.

20 Q Violent crimes division. What capacity were you in
21 with the violent crimes division?

22 A I was a sergeant with the violent crimes division,
23 supervised about 25 investigators.

24 Q All right, sir. Did you all ever receive a missing
25 person's report on a Samuel Sturup?

GREGORY SMITH - Direct Exam by Mr. Myers

1541

1 A Yes, sir, we did.

2 Q You were familiar with that?

3 A Yes, sir.

4 Q Were you involved in trying to find anything out
5 about that missing person's report?

6 A Supervising the investigator working the case, that's
7 correct. I was very familiar with the case.

8 Q Now, on in to 2001, 2002, were you transferred to
9 another division?

10 A I was. I was transferred to the vice division.

11 Q And what does the vice division do?

12 A We basically investigated gambling and prostitution
13 and also we were over all the alcohol licenses in Richmond
14 County.

15 Q Now, having moved from the violent crimes division to
16 the vice division, are you in charge of the vice division,
17 too?

18 A That's correct.

19 Q And did you still keep track of what was going on
20 with the Samuel Sturup matter?

21 A Yes, sir.

22 Q Why?

23 A It was just one of those cases that we had that we
24 had information of where he was hanging, who he was
25 hanging out with, but we didn't really have anything

1 concrete. His body was discovered before I left violent
2 crimes. We felt pretty certain that he was deceased
3 anyway. And so when I went to the vice division --
4 anyway, I set up a sting operation to try to kind of break
5 that case free a little bit, so to speak.

6 Q Now, working with the vice division, did you ever
7 become involved with a Steven Louis Barnes?

8 A I did.

9 Q Was he one of the violent crimes or the vice thing?
10 In which capacity were you familiar with Barnes?

11 A Well, we knew that Mr. Sturup was, for lack of a
12 better word, we'll say running buddies with Mr. Barnes.
13 We felt like there was some connection there in that case.
14 We also knew that Mr. Barnes ran a prostitution/escort
15 service. And so when I went to the vice division, we
16 really didn't know that much about Mr. Barnes in terms of
17 where he lived and that kind of -- he was really good
18 about kind of flying low under the radar. And so what we
19 did was set up a sting operation in an attempt to arrest
20 Mr. Barnes so we could get some information and maybe have
21 a chance to interview him about Mr. Sturup.

22 Q Now, was that sting operation that you set up, was
23 that at the West Bank Inn on Washington Road?

24 A Yes, sir.

25 Q And that was specifically set up for Mr. Barnes?

GREGORY SMITH - Direct Exam by Mr. Myers

1543

1 A That's correct.

2 Q You said he ran a prostitution thing or escort thing.
3 Do you remember what the name of it was?

4 A AA Angels.

5 Q AA Angels. How was it advertised?

6 A Just as that in the Yellow Pages, AA Angels.

7 Q Yellow pages, the phone book?

8 A That's correct.

9 Q Now, how did you set up this sting at the West Bank
10 Inn? What did you do?

11 A Well, what we do, or did in this case, is we got two
12 rooms next to each other. We had the one room wired for
13 video and audio. We used a microwave transmitter to
14 transmit to the television of the room next door so that
15 the takedown team for the room itself would be next door
16 and we could actually see and hear everything in realtime
17 as it was occurring, and we were also videotaping that as
18 well. And so we had an undercover officer go into the
19 room that's wired, call the escort service and, we call
20 it, order the girl. And so they sent a girl up to the
21 room.

22 Q Who was the girl that came up to the room?

23 A Ms. Thatcher was her name. I don't recall her first
24 name.

25 Q Ms. Thatcher. And was any money delivered to

1 Ms. Thatcher?

2 A She was given \$200 by the undercover officer.

3 Q And what did she do with the money?

4 A Well, initially she was going to go back and take it
5 to Mr. Barnes, but the undercover told her no, he wasn't
6 going to let her leave the room without -- with the money,
7 thinking she may take off. So she made a phone call, if I
8 remember correctly, and another young lady came up to the
9 room, got the money, and then went back to the car where
10 Mr. Barnes was at.

11 Q This other young lady, do you recall her name?

12 A Canady I believe was her name.

13 Q Canady. And what was her age?

14 A She was like 15 or 16.

15 Q Now, Thatcher, the one in the room, Canady, the one
16 that came and got the money, what happened to them?

17 A They were both taken into custody that night, and we
18 both interviewed them. Ms. Canady, I guess, was really
19 the first one to start working with us and she actually --
20 she and I went physically to Mr. Barnes' residence, she
21 showed us where he lived at. She didn't know the address.
22 She was basically a runaway from out of town.

23 Q What street was that on?

24 A That was

25 Q All right. She showed you that residence?

GREGORY SMITH - Direct Exam by Mr. Myers

1545

1 A That's correct.

2 Q Was Mr. Barnes also taken into custody that night?

3 A He was.

4 Q Now, Ms. Canady begins to talk; is that right?

5 A Yes.

6 Q As a result of your conversation with her, do you
7 call any other law enforcement agencies?

8 A Yeah. We notified the Columbia County Sheriff's
9 Office because she had told us about a robbery that they
10 had committed a couple of days previous in Columbia
11 County.

12 Q Now, after bringing Columbia County in on it and
13 after her showing you the house on Cairo, did you ever go
14 by that house anymore?

15 A Yeah. I did several ride-bys, just mainly during the
16 daylight hours to get a good look at the house so in
17 preparation for a search warrant, looking for any
18 obstacles or anything that would alert Mr. Barnes to our
19 arrival.

20 Q What did you observe about that house on Cairo?

21 A Well, the doors were -- had metal bars on the doors.
22 There were also video cameras mounted to the outside of
23 the residence so that he could see the yard, the street,
24 the front door. Those were all things that we needed to
25 know about.

1 Q Now, did you all put into works raiding that house?

2 A Could you repeat that?

3 Q Did you all make plans to raid the house on Cairo?

4 A We did. I met with some of the members of the
5 Richmond County SWAT team. That's not necessarily a
6 normal thing for us to do, but we were very much aware of
7 his propensity for danger, violence. We also knew he was
8 arrested with a gun at the takedown at the hotel.

9 We were told there were weapons involved in the
10 residence itself, and then, of course, we had to breach a
11 door that was fortified, so we had a lot of obstacles to
12 content with.

13 So, yeah, we met with the SWAT team and came up
14 with a plan and had a meeting early the morning of the
15 search warrant.

16 Q Did you obtain a search warrant yourself for the
17 house?

18 A Yes, I did.

19 Q And were also arrest warrants for Mr. Barnes
20 obtained?

21 A That's correct.

22 Q Now, up to this time you talked with Ms. Canady, the
23 15 or 16 year old over there at the West Bank Inn when you
24 all took him down; is that right?

25 A That's right.

GREGORY SMITH - Direct Exam by Mr. Myers

1547

1 Q She cooperated?

2 A Yes.

3 Q And have you ever heard the name Jana McCarty?

4 A Yes.

5 Q Had any conversations been had with Jana McCarty by
6 any of the officers?

7 A Yes, sir.

8 Q Now, if you would, tell the jury, when did you all
9 plan on entering the house on Cairo?

10 A Well, we went in the early morning hours, and I
11 believe it was the 17th.

12 Q The 17th of January?

13 A Yes.

14 Q Why were you going in the early morning hours?

15 A Well, we met at 4:30, and I think we actually went in
16 the house around 6 a.m. that morning, but the idea behind
17 that was to hopefully catch everybody asleep. The idea,
18 as we knew we were going to be up against multiple people,
19 we knew there were firearms in the residence, we knew what
20 we were dealing with in terms of Mr. Barnes, and so we
21 wanted to do everything we could to reduce the chance of
22 anybody getting hurt, ourselves as well as the people in
23 the house.

24 Q All right, sir. Now, what about the iron door on the
25 front door? What plans were made to get past that iron

1 door?

2 A We actually paid a wrecker service to come. And so
3 what we did, it was a flat-bed wrecker and we took the
4 cable, extended it before we went to the house, had a hook
5 on it, of course, and then when he backed up to the door,
6 we connected the cable to the door and then he drove off
7 and pulled the barred door off of the front of the house,
8 which enabled us to then get in the house.

9 Q And what was the plans for going -- how were you
10 going to get past the wooden door after the iron bar door
11 was ripped off? How were you going to get in there?

12 A Well, basically just used a battering ram to get in.
13 A flash-bang device was used. That was just basically
14 pretty standard procedure when you're dealing with a house
15 with firearms in it. The idea is if anybody's in that
16 room, it will just disorient them for a few seconds and
17 hopefully give us time to get in, take the people down and
18 get them on the ground before they have a chance to react.

19 Q So you had a battering ram to get into the wood door.

20 Now, tell me a little bit about this flash-bang
21 device.

22 A Uh-huh.

23 Q What is that?

24 A The flash-bang device is, we'll call it, a minor
25 explosive device, but essentially it's not designed to

GREGORY SMITH - Direct Exam by Mr. Myers

1549

1 hurt anybody. It's just a loud explosion and a bright
2 flash of light. It's designed to just disorient your
3 equilibrium and some other things that help you keep your
4 senses about yourself and your balance. And the effects
5 last a matter of seconds. I mean, even though you've used
6 it, you've still got to get in fast and get everybody
7 under control quickly.

8 Q Was that accomplished?

9 A Yes, sir.

10 Q About how many officers did you all have out there?

11 A We had a minimum of ten. I don't recall the exact
12 number, but it was every bit of ten.

13 Q All right. Were all of them to go into the house or
14 did you have some of them in rooms?

15 A Yeah, we had a perimeter set up. In fact, when we
16 went in, Mr. Barnes went out a back window and actually
17 made it over a fence and was caught by one of the
18 perimeter officers that was -- they were outside the
19 perimeter of the residence, outside the fence line, so to
20 speak. So when he got over the fence and took off
21 running, it was just a matter of seconds before one of the
22 other officers had caught him and handcuffed him and
23 brought him back.

24 Q Do you know who this officer was that caught him?

25 A Deputy Roe Brunson.

1 Q Now, once you get inside the house, you said
2 Mr. Barnes jumped out the window?

3 A Right.

4 Q How many people were inside the house?

5 A I'm thinking there were four females besides
6 Mr. Barnes there.

7 Q Do you know their names?

8 A I have them in here. Lashonda Lott, Keisha Burton,
9 Marsha Rogers, and Charlene Thatcher.

10 Q Lashonda Lott, do you know how old she was?

11 A Lashonda was 17.

12 Q Keisha Burton, how old is she?

13 A Keisha was 22.

14 Q Marsha Rogers, how old was she?

15 A Eighteen.

16 Q And Charlene Thatcher?

17 A She was 18 as well.

18 Q Now, Charlene Thatcher, was that the same one that
19 had come to the West Bank Inn on the 12th?

20 A That's correct.

21 Q Now, when you're inside, did you have an occasion to
22 go inside of Mr. Barnes' bedroom?

23 A Yes, I did.

24 Q What did you see as to surveillance materials in
25 there?

GREGORY SMITH - Direct Exam by Mr. Myers

1551

1 A There were four television sets, one for each of the
2 four surveillance cameras that were outside. They were
3 all on, so he obviously knew we were there. We also found
4 some marijuana that he had dumped into the toilet before
5 he had ran out the back door, or the back window, the
6 bedroom window he was in.

7 Q Let me ask you about these surveillance cameras.

8 When you arrived there that morning, where did
9 you park?

10 A I actually parked down the street about two houses.

11 Q Why?

12 A Well, I was thinking that I was outside of the range
13 of the cameras being that far away from his house, but as
14 it turned out, he could actually see the car. Now, my car
15 was a Grand Prix GT so it wasn't obviously a police car,
16 but there's no question. It was on one of the TV screens
17 where I parked.

18 Q So he had a pretty wide range?

19 A Yeah.

20 Q Now, you said something was in the toilet. What was
21 that?

22 A Marijuana.

23 Q Okay. And did you see some other items there, too;
24 is that correct?

25 A We did.

1 Q Now, let me ask you, what kind of weapons did you
2 seize from Mr. Barnes' house?

3 A There was a .22 rifle and a .38 revolver that were
4 seized.

5 Q Do you recognize that?

6 A I do.

7 Q The rifle, was it in this case?

8 A It was.

9 MR. MYERS: Just for convenience I'm not going
10 to put the case in evidence.

11 We would offer in this rifle and this pistol
12 into evidence.

13 THE COURT: Officer, is the rifle clear?

14 THE WITNESS: Yes, sir.

15 MR. MYERS: Yes, sir.

16 THE COURT: And you have a lock on them?

17 THE WITNESS: Both of them have a lock.

18 THE COURT: Trigger locks?

19 THE WITNESS: That's correct.

20 THE COURT: Thank you.

21 All right. Looks like this would be State's 62
22 and 63, Mr. Tarr.

23 MR. TARR: No objection.

24 THE COURT: All right. The rifle would be
25 State's 62, the .38 revolver is State's 63 without

GREGORY SMITH - Direct Exam by Mr. Myers

1553

1 objection.

2 (WHEREUPON, State's Exhibits Nos. 62-63 were
3 marked for identification and received into
4 evidence.)

5 BY MR. MYERS:

6 Q Now, State's Exhibit 63, that pistol, what caliber is
7 that?

8 A That's a .38-caliber pistol.

9 Q And 64 (sic), the rifle, what caliber is that?

10 A That's a .22.

11 THE COURT: It's 62.

12 MR. MYERS: Sixty-two, yes, sir.

13 BY MR. MYERS:

14 Q It's a .22?

15 A Yes, sir.

16 Q Did you seize any cash?

17 A We did. We seized \$5,370 in cash.

18 Q Do you recognize this item?

19 A Yes, sir, that's a set of body armor that was
20 recovered at the scene as well.

21 MR. MYERS: We offer this in evidence, Your
22 Honor.

23 THE COURT: Mr. Tarr.

24 MR. TARR: No objection.

25 THE COURT: All right. That is State's 64, a

1 set of body armor; is that correct?

2 MR. MYERS: Yes, sir.

3 THE COURT: It's in evidence without objection.

4 (WHEREUPON, State's Exhibit No. 64 was marked
5 for identification and received into evidence.)

6 BY MR. MYERS:

7 Q Do you recognize this?

8 A Yes, sir, that's a black ski mask that was recovered
9 from actually the vehicle that was in the backyard at that
10 same residence.

11 MR. MYERS: Offer this into evidence, Your
12 Honor.

13 THE COURT: Mr. Tarr?

14 MR. TARR: No objection, Your Honor.

15 THE COURT: State's 65 is in evidence without
16 objection.

17 (WHEREUPON, State's Exhibit No. 65 was marked
18 for identification and received into evidence.)

19 BY MR. MYERS:

20 Q This black ski mask, was that later turned over to
21 another law enforcement agency?

22 A To the Columbia County Sheriff's Office.

23 Q In relation to a crime by Mr. Barnes over there?

24 A That's correct, an armed robbery that occurred.

25 Q We'll come back to that in just a minute.

GREGORY SMITH - Direct Exam by Mr. Myers

1555

1 Now, did you find anything in the house as it
2 related to how the prostitutes should act when they were
3 sent out on calls, what they should do?

4 A That's correct. I found two handwritten notes with
5 numbered instructions on exactly what they were supposed
6 to do when they were handling a call.

7 Q And did you take those and we had copies made of
8 them; is that correct?

9 A That's correct.

10 MR. MYERS: We offer this into evidence, Your
11 Honor.

12 MR. TARR: No objection, Your Honor.

13 THE COURT: All right. They're just one board?

14 MR. MYERS: One board that's got both of the
15 notes on one board.

16 THE COURT: All right. State's 66 in evidence
17 without objection, Mr. Tarr?

18 MR. TARR: Without objection.

19 THE COURT: All right.

20 (WHEREUPON, State's Exhibit No. 66 was marked
21 for identification and received into evidence.)

22 BY MR. MYERS:

23 Q You said it was two sheets of paper?

24 A Right.

25 Q And we put them on one board, that being one and this

1 being one?

2 A That's correct.

3 Q Could you go down that list of the rules?

4 A The first note we found was numbered exactly as the
5 first 15: Before walking in, ask if they're a cop, CID,
6 or affiliated with police in any way.

7 No. 2: Make sure they answer no to these
8 questions.

9 No. 3: Have them touch you to be sure he is not
10 one.

11 No. 4: Receive money off the table.

12 No. 5: Count it.

13 No. 6: Bring it out to the car.

14 No. 7: Call to check in.

15 No. 8: Get down to business.

16 No. 9: Always wear a condom for everything.

17 No. 10: Try to receive tips for extra
18 activities.

19 No. 11: Only give them one nut unless they pay
20 for multiple ones.

21 No. 12: When done check out, which meant call.

22 No. 13: Use fake name.

23 No. 14: Get all info on tricks.

24 And No. 15: Satisfy your customer.

25 The second list that we found, or note, actually

GREGORY SMITH - Direct Exam by Mr. Myers

1557

1 started at number ten -- we never did locate the rest of
2 it -- but No. 10 was put money in a safe place.

3 No. 11: Always count money.

4 No. 12: Do not let them eat you or kiss you on
5 the mouth.

6 No. 13: Do not use their condoms.

7 And No. 14: Stay in control and always check in
8 and out.

9 Q Have a seat, please.

10 Now, the entry to that house on the early
11 morning of January the 17th and the wrecker going in and
12 the flash-bang getting people under control and going
13 through the house, did you have a person with you
14 videotaping?

15 A We did, Investigator Piper, one of our crime scene
16 technicians.

17 Q Have you seen this?

18 A Yes, sir, I have.

19 Q And you've reviewed it and you've initialed it?

20 A That's correct.

21 Q Is this the videotape that was taken in making the
22 arrest and going to Mr. Barnes' house?

23 A Yes, sir.

24 MR. MYERS: We offer this in evidence, Your
25 Honor.

1 THE COURT: All right. Mr. Tarr?

2 MR. TARR: No objection.

3 THE COURT: All right. State's 67, the video,
4 is in evidence without objection.

5 (WHEREUPON, State's Exhibit No. 67 was marked
6 for identification and received into evidence.)

7 THE COURT: Are you going to publish it at this
8 time, Solicitor?

9 MR. MYERS: Yes, sir, I am. As soon as he gets
10 this fixed up, we'll play it for the jury.

11 THE COURT: You can't fix it up, Solicitor?

12 MR. MYERS: No, sir. I don't know anything
13 about technology. I'm kind of like you, Your Honor.

14 (Videotape played.)

15 BY MR. MYERS:

16 Q Now, you said this happened on January 17th, 2002. I
17 think it was on that day.

18 A Yes, sir.

19 Q Barnes was arrested on that day?

20 A Yes, sir.

21 Q Now, you said that you'd worked with Columbia County
22 and you notified them?

23 A That's correct.

24 Q You notified them of Mr. Barnes being arrested?

25 A We did.

GREGORY SMITH - Direct Exam by Mr. Myers

1559

1 Q Now, the ladies in the house there, there was only
2 one man and that was the fellow that was brought back in
3 right there at the end and had his underwear on, had long
4 hair, Mr. Barnes?

5 A Yes, sir.

6 Q And the women, were they then interviewed by various
7 officers in your department?

8 A They were.

9 Q And as a result of that, did Columbia County bring
10 charges against him for armed robbery, burglary, and other
11 things?

12 A That's correct, they did.

13 Q And is that how that ski mask relates to the Columbia
14 County case?

15 A Yes, sir.

16 Q As a matter of fact, did you testify in that Columbia
17 County case against him?

18 A I did.

19 Q And then thereafter Edgefield brought murder charges
20 against him?

21 A Yes, sir.

22 Q Officer, I have one more question.

23 I heard some dogs barking on that tape. Were
24 there dogs around the house or in the backyard?

25 A Those were neighbors' dogs that were barking.

1 Q I also heard some alarms.

2 A That was a burglar alarm on his residence.

3 Q So he had burglar alarms, too?

4 A That's correct.

5 MR. MYERS: That's all we have. If you'd answer
6 any questions the defense may have.

7 THE COURT: Thank you, Solicitor.

8 Mr. Tarr.

9 CROSS-EXAMINATION

10 BY MR. TARR:

11 Q At the time of that video -- we've heard some
12 testimony about ages of the women involved in this case.
13 Mr. Barnes was 23 years old at the time of that tape,
14 wasn't he?

15 A I suppose, yes.

16 Q Do you have his birthday? His birthday is

17

18 A I don't know that I have that.

19 Q Well, we'll get into that later. Don't worry about
20 it.

21 Now, you testified that based on a surveillance
22 camera, some TVs that were in the bedroom, that
23 Mr. Barnes, if he were looking at the TVs, would have been
24 able to see you all pull up?

25 A Yes, sir, that's correct.

GREGORY SMITH - Cross-Exam by Mr. Tarr

1561

1 Q And you said that the marijuana in the toilet looked
2 like somebody tried to flush it?

3 A Correct.

4 Q And you also found two weapons in the house?

5 A That's correct.

6 Q So if Mr. Barnes had seen people pull up and had time
7 to try to flush marijuana, he also would have had time to
8 get one of these weapons and use them on you if he'd
9 wanted to, wouldn't he?

10 A You know, I really don't recall where they were
11 located during the search, so I don't know that -- I don't
12 know that he had had easy access to it. I just don't
13 recall where they were at, where they were located in the
14 house.

15 Q Well, you have no idea where the marijuana was that
16 was in the toilet, do you?

17 A Yeah, it was in the bathroom in the master bedroom,
18 which is where he went out the back window at.

19 Q Right. You don't know where the marijuana was before
20 it was in the toilet?

21 A No, I don't.

22 Q So you don't know how far he was able to go get that
23 and put it in the toilet?

24 A Correct.

25 Q But if he saw y'all pull up and thought y'all were

1 police and there's two guns in the house and he wanted to
2 use them, he had time to do that?

3 A I don't know that for a fact.

4 MR. TARR: That's all I have, Your Honor.

5 THE COURT: Redirect, Solicitor?

6 MR. MYERS: No, sir. He can be excused.

7 THE COURT: Thank you very much for being with
8 us.

9 THE WITNESS: Yes, sir.

10 THE COURT: Any objections to the officer being
11 excused?

12 MR. TARR: No, Your Honor.

13 THE COURT: All right. You may step down and
14 you may be excused.

15 THE CLERK: Raise your right hand.

16 ROE BRUNSON, after being duly sworn, testified
17 as follows:

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

20 THE WITNESS: Roe Ensor Brunson, B-R-U-N-S-O-N.

21 DIRECT EXAMINATION

22 BY MR. MYERS:

23 Q Mr. Brunson, where are you presently employed?

24 A Georgia Department of Corrections.

25 Q And prior to that where were you employed?

ROE BRUNSON - Direct Exam by Mr. Myers

1563

1 A Richmond County Sheriff's Department.

2 Q How long have you been in law enforcement?

3 A Approximately 13 years.

4 Q Now, were you part of the team that went out to Cairo
5 Court on January 17th of 2002, to enter Mr. Barnes'
6 residence and to arrest him?

7 A Yes, sir, I was part of the SWAT team.

8 Q Now, if you could step down here for me.

9 A Yes, sir.

10 Q I don't know whether you've seen this exhibit or not,
11 but it's Exhibit No. 53. the front door
12 would be right here?

13 A Yes, sir.

14 Q Does that orient you to that?

15 A Yes, sir.

16 Q Now, if you would, Mr. Brunson, using this pointer
17 right here, just mash that button and show us where you
18 were that early morning hours.

19 A I was responsible for the side and rear of the
20 residence, so I was positioned about right here.

21 Q That's the back of the house?

22 A The side and rear, yes, sir.

23 Q And is there anything around that backyard? Is it
24 open or was it enclosed?

25 A It has a fence around it.

1 Q A fence around it?

2 A A fence around the rear of the residence.

3 Q Now, I heard on the tape of them going inside, I
4 heard some dogs barking. Did you see any dogs around
5 there?

6 A Yes, sir.

7 Q Where did you see some dogs?

8 A Right at the rear of the residence, approximately
9 three perhaps. I think they're rottweilers. I'm not
10 sure.

11 Q They were within that enclosed fence?

12 A Yes, sir.

13 Q Pit bulls or rottweilers?

14 A Something like that.

15 Q And when you were back there, what did you observe?

16 A I exited the vehicle first to cover the rear of the
17 residence.

18 Q Yes, sir.

19 A While the entry team went to the front.

20 Q Uh-huh.

21 A Hung there to make -- attempt to make entry. I
22 observed the suspect, our target, exit the rear of the
23 window -- the rear window of the residence.

24 Q Now, you said "attempt to make entry." What do you
25 mean by that?

ROE BRUNSON - Direct Exam by Mr. Myers

1565

1 A They hadn't completely made entry yet. He exited the
2 rear of the residence.

3 Q Could you tell whether or not the wrecker had pulled
4 off that iron door yet or not?

5 A I think it was in the process of doing that.

6 Q Okay. So about that time he came out the back
7 window?

8 A Yes, sir.

9 Q And what did you do?

10 A I reported that I had the suspect on foot exiting the
11 rear of the residence and I was in pursuit.

12 Q All right. Which way did he go and what did you do?

13 A He exited the rear of the residence right here and
14 ran directly to the rear of the residence behind me.

15 Q All right. Where were you?

16 A I was directly adjacent parallel to him. He didn't
17 notice me and I was running parallel to him as he was
18 running.

19 Q You were running on the street area?

20 A On the street area.

21 Q And how far did he get?

22 A He got to the rear of this residence, which I ran
23 around to the front to cover if he attempted to come out.

24 Q Did he attempt to come out?

25 A I stopped him in the side driveway of that residence.

1 Q Did you draw your gun on him?

2 A Yes, sir.

3 Q Did you order him down?

4 A I put him on the ground, sir.

5 Q What was he wearing?

6 A A t-shirt and boxer shorts, no shoes or socks.

7 Q What did you do once you got him down?

8 A I handcuffed him and took him into custody. I
9 radioed the rest of the team that I had the suspect in
10 custody. They asked for my location. I radioed my
11 location. They asked if they needed to come there. I
12 informed them that I could come to their location.

13 Q So you came back around to the house?

14 A Yes, sir, I left and came back to the residence.

15 Q Okay. Now, you said as he was running back across
16 the yard, you were running parallel to the street?

17 A Yes, sir, right here.

18 Q And what did you say about him noticing you?

19 A He didn't notice me.

20 Q He didn't notice you. Okay. And then I guess you
21 lost sight of him when you went around the front of that
22 house?

23 A When he went to the rear of the residence?

24 Q Yes, sir.

25 A I circled around to the front to cut him off.

ROE BRUNSON - Direct Exam by Mr. Myers

1567

1 MR. MYERS: Okay. Thank you, sir. Please
2 answer any questions the defense may have for you.

3 THE COURT: Mr. Tarr.

4 CROSS-EXAMINATION

5 BY MR. TARR:

6 Q Did Mr. Barnes have a weapon on him when you
7 apprehended him?

8 A No, sir.

9 Q So he didn't attempt to use a weapon on you or any
10 other officer that evening?

11 A Say it again, sir?

12 Q He didn't attempt to use a weapon against any of the
13 officers that day?

14 A He didn't have a weapon, sir.

15 Q There were two that were found in the house, correct?

16 A I don't know. I didn't search the house, I didn't
17 search the residence.

18 MR. TARR: That's all I have, Your Honor.

19 MR. MYERS: May he be excused, Your Honor?

20 THE COURT: Any objection?

21 MR. TARR: No objection.

22 THE COURT: You're excused.

23 Mr. Foreman, ladies and gentlemen, we're going
24 to take another recess.

25 Please leave your notes upside down on your

1 chair. Do not discuss the case during this brief recess.
2 We'll take about ten minutes.

3 Thank you very much. You may go with your
4 bailiff.

5 (The jury left open court at approximately 11:50
6 a.m.)

7 THE COURT: I am informed that the defendant
8 takes medication that requires him to frequently use the
9 restroom. It's requested that I certainly take a break,
10 so I'm going to do that. We'll take ten minutes. It's
11 11:49 at this time.

12 Thank you very much. Court will be in recess
13 for ten minutes.

14 (A break was taken.)

15 THE COURT: Anything before we bring our jury
16 out, Solicitor?

17 MR. MYERS: Not from the State, Your Honor.

18 THE COURT: Mr. Tarr?

19 MR. TARR: Your Honor, my client wishes to
20 request an ex parte hearing.

21 THE COURT: I'm sorry?

22 MR. TARR: My client wishes to request an ex
23 parte hearing.

24 THE COURT: Do you have any objection,
25 Solicitor?

1 MR. MYERS: No, sir.

2 THE COURT: All right. If you all would step
3 out, please.

4 (Solicitors and prosecution witnesses leave the
5 courtroom.)

6 THE COURT: All right. Mr. Barnes.

7 THE DEFENDANT: Your Honor, I object to the
8 State bringing in evidence of things that I have not been
9 convicted of in Georgia. Like, for instance --

10 THE COURT: Wait a minute. I'm not sure why
11 this is ex parte. If it's just an evidentiary issue that
12 has nothing to do with attorney/client privilege, you can
13 make the objection -- he can talk with you and you can
14 make the objection to Mr. Tarr.

15 MR. TARR: Your Honor, I'm not objecting, and I
16 think he's got a problem with me not objecting. That's
17 why he wanted it ex parte.

18 THE COURT: Well, that's -- I don't see the
19 point on an evidentiary issue, but I'm not here to
20 second-guess the trial tactics of your attorney.

21 THE DEFENDANT: Like I said, a lot of that is
22 prejudicial, that they bringing this stuff in and I ain't
23 even been convicted.

24 THE COURT: Yes, sir. And under the law of
25 South Carolina, that is admissible.

1 I have further given them a limiting instruction
2 already that that can only be used as it goes to your
3 character and it may not be used to prove a statutory
4 aggravating circumstance.

5 THE DEFENDANT: Well, I'd still like it for a
6 ground as for appeal on that issue because it's highly
7 prejudicial.

8 THE COURT: Well, that is the law in South
9 Carolina, that you can go into a person's character,
10 violation of the law, prior conduct, whether it has or has
11 not been subject to conviction.

12 All right. Anything further?

13 THE DEFENDANT: That's it.

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

15 As far as the spectators in the courtroom, you
16 may not discuss this ex parte issue with anyone, including
17 anyone from the prosecutor's office.

18 If you'd get the Solicitor for me, please,
19 Sheriff.

20 THE SHERIFF: Yes, sir.

21

22 (Solicitors and prosecution witnesses re-enter
23 the courtroom.)

24 THE COURT: All right. Bring us our jury,
25 please.

1 (The jury came into open court at approximately
2 12:04 p.m.)

3 THE COURT: All right. Jury back present in the
4 courtroom.

5 Solicitor, you may call your next witness.

6 MR. MYERS: Yes, sir.

7 THE CLERK: Raise your right hand and place your
8 left hand on the Bible.

9 BILL EUGENE ANDERSON, after being duly sworn,
10 testified as follows:

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

13 THE WITNESS: Bill Eugene Anderson,
14 A-N-D-E-R-S-O-N.

15 THE COURT: All right. Solicitor.

16 DIRECT EXAMINATION

17 BY MR. MYERS:

18 Q Mr. Anderson, do you know an individual named Tony
19 Baughman?

20 A Yes, sir.

21 Q How do you know him?

22 A I've been knowing him about 40 years. He's -- I was
23 married to his older sister.

24 Q All right. Do you know an individual named Victor
25 Boyd?

1 A Yes, sir.

2 Q How long have you known him?

3 A I've been knowing him about the same time, about 40
4 years.

5 Q You all have a relationship together?

6 A Yes, sir.

7 Q Now, on New Year's Eve, December 31st, 2001,
8 January 1st, 2002, did the three of you all have an
9 occasion to be together?

10 A Yes, sir.

11 Q And whose house were you staying at?

12 A David Boyd's.

13 Q Now, y'all had been out some that New Year's Eve
14 night?

15 A Yes, sir.

16 Q And where is Mr. Boyd's house located?

17 A Pleasant Home Road.

18 Q Where?

19 A In Columbia County.

20 Q Columbia County, Georgia?

21 A Yes, sir.

22 Q You all get back to the house that night and what did
23 you and Mr. Baughman decide to do?

24 A Well, we decided that -- we'd been out drinking that
25 night. We went to the Waffle House, decided we wanted to

BILL ANDERSON - Direct Exam by Mr. Myers

1573

1 have a little activity, and we got in the phone book and
2 called an escort service.

3 Q All right. Now, had anyone of you three just come
4 into a pretty good size of money?

5 A Yes, sir.

6 Q Who was that?

7 A Tony Baughman.

8 Q And how did he come into this sum of money?

9 A A lawsuit.

10 Q Did he carry it in his wallet or his pocket?

11 A Front pocket.

12 Q And do you know roughly how much it was?

13 A All total in the house that night, probably \$27,000.

14 Q Do you know how much Mr. Baughman had on him?

15 A I think he had like 18,000.

16 Q Okay. Now, when y'all called an escort service --

17 A That's roughly. I don't really know how much he had.

18 Q That's good.

19 A I mean, he had the money. He's the one that paid for
20 everything.

21 Q All right. When you called the escort service, was
22 there an agreement about price, how much it would cost?

23 A Yes, sir.

24 Q And later on -- how many girls did you all order?

25 A Two.

1 Q Later on, did two of them show up?

2 A Yes, sir, it was two, and there was another woman in
3 the car that was in the driveway.

4 Q Okay. So one stayed out in the car and two came in?

5 A Yes, sir.

6 Q Okay. What race were they?

7 A One was white and one was black.

8 Q One was white and one was black?

9 A Uh-huh.

10 Q Now, who gave them -- who paid them the money?

11 A Tony.

12 Q Did he pull out that wad?

13 A No. What the deal was is when they first come in,
14 Tony had all his money on him. And then when they -- when
15 the girls seen the money, they said, "I got to go make a
16 phone call," so they went outside.

17 While they was outside, he decided he was going
18 to give Vic the money. Vic didn't want no part of none of
19 this so he went in his room and locked the door and
20 watched TV, and he had the money back in his room. Tony
21 didn't have but like \$350 on him, I think.

22 Q So Mr. Baughman, the wad of money he had, he took it
23 back and gave it to Mr. Boyd who was back in the back
24 room?

25 A Yes, sir.

BILL ANDERSON - Direct Exam by Mr. Myers

1575

- 1 Q Now, after the two girls went outside and made a call
2 and came back in, did you all engage in sexual activity?
- 3 A Yes, sir.
- 4 Q You and Mr. Baughman?
- 5 A Yes, sir.
- 6 Q What, if anything, happened when this was going on?
- 7 A Do what now?
- 8 Q What, if anything, happened when you were having sex
9 with one of the girls?
- 10 A What happened?
- 11 Q Did she claim she was going to need more money for
12 something?
- 13 A Well, she claimed that I fouled.
- 14 Q Claimed what?
- 15 A Claimed that I fouled.
- 16 Q You fouled?
- 17 A The condom come off and she claimed that I fouled and
18 she had to call her pimp or whatever, I reckon, and it
19 come out to be Mr. Barnes there.
- 20 Q Okay. And she said you fouled, that she wanted more
21 money to --
- 22 A Yeah, more money.
- 23 Q How much more money did she want?
- 24 A Five hundred more dollars.
- 25 Q Did you all agree to give her \$500?

1 A No.

2 Q And what happened then?

3 A Well, I done heard enough of it and I was through so
4 I went back and laid down in my bed back there. And I
5 reckon about 15 minutes later I heard a loud truck or a
6 car come up. I couldn't be able to see what it was. I
7 know it needed a muffler on it or whatever. It was loud.

8 Q Yes, sir.

9 A And I heard somebody knocking on the door, which
10 Mr. Baughman and the two girls was still in the living
11 room.

12 Q The two girls are still inside the house?

13 A Right.

14 Q Who came to the door?

15 A Mr. Barnes come to the door.

16 Q What did he have in his hand?

17 A He didn't -- at first he didn't have nothing in his
18 hand. I asked him, I said, "What the hell, what's going
19 on here?" By that time he threw that mask down, pulled
20 out that gun and put it to me, talking about "Where's the
21 cheese?" I'm like, "What you mean the cheese?" "Talking
22 about the money." I said, "There ain't no money here."
23 He said, "I know there's some money here, we done seen the
24 money here."

25 So I kept barking with him back and forth, you

1 know, and by that time he tell you, said, "I should have
2 killed you when I come in the door." He said, "I done
3 killed one. You don't believe me, ask her." It was that
4 tall black girl that was in the house.

5 Q He told you, "I should have killed you when I came in
6 the door"?

7 A Yes. "When I first come in, I should have killed
8 you."

9 Q He said, "I've already killed one, and if you don't
10 believe it, ask the black girl"?

11 A Right.

12 Q Where was he pointing the gun?

13 A He had it to my head the whole time. And then he
14 asked -- wanted to know where the cheese was. Then Tony
15 said, "I ain't got -- all I've got is \$350." He said,
16 "Well, give me the money."

17 He knew there was more money in there because
18 them girls done told him they done seen all the hundred
19 dollar bills, you know, the money he got off the insurance
20 settlement.

21 When they found out that there was somebody else
22 in the back room -- I don't know what would have ended up
23 that night if they wouldn't have found out the door was
24 locked and there was somebody else in the back. They
25 didn't think there's but two of us there.

1 Q Thought it was just you and Mr. Baughman there?

2 A Yes.

3 Q They didn't know --

4 A They didn't know Mr. Boyd was in the back room back
5 there.

6 So, you know, after the fact that it was all
7 over with, his room was all the way back in the back to
8 the -- going down that way it was to the right and my room
9 was to the left, where I come out. And he said he opened
10 the door and looked down through there and seen that he
11 had the gun on me. That's when he called the police.

12 Q So Mr. Boyd's in the back bedroom and he looked out
13 and saw what was going on?

14 A Yeah.

15 Q He called the police and they didn't know he was back
16 there?

17 A No.

18 Q He had the money back there with him?

19 A Yes.

20 When they found out -- when they seen the light
21 come, they panicked and left. And it wasn't a minute the
22 Columbia County Sheriff's Department was there asking us
23 what happened, so we told them what happened.

24 Q How many times did Mr. Barnes threaten you that night
25 with the gun?

BILL ANDERSON - Direct Exam by Mr. Myers

1579

1 A He had the gun on me the whole time. I reckon, you
2 know, I was as big as he was back then. I done lost
3 50 pounds since then. I weighed 260 pounds then. I was
4 as big as he was. And I reckon I was a threat to him, you
5 know. He had the gun on me the whole time.

6 Q State's Exhibit No. 65, does that look familiar?

7 A Yes, sir.

8 Q How?

9 A That's what he -- when he first come to the door, he
10 didn't have that on. He was just wanting -- I mean -- and
11 then after I started like, "What are you doing here?" you
12 know, that's when he threw it down and pulled the gun.

13 Q Okay.

14 A And what I'm saying, I don't really know what would
15 have been the outcome if he didn't knew that Mr. Boyd was
16 in the back room because I done seen his face, I done
17 called AAA Angel Service in the phone book. I mean, it
18 wouldn't be too hard to find out who this is. I mean,
19 there ain't no telling what he'd have did to me if he
20 wouldn't have been scared -- I mean run out that quick.
21 Ain't no telling where I'd be right now.

22 Q State's 59, does that look familiar?

23 A Yes, sir. That's the gun he had to my head.

24 Q When he ran out, what did the girls do? Did they run
25 out with him?

1 A Yeah. Well, what the deal was, we didn't have the
2 money. All he seen was the \$350. The other girls had
3 done seen the money.

4 Q Yes, sir.

5 A The cheese as he called it.

6 Q Uh-huh.

7 A Okay. He wanted to know where that was. So they
8 kind of like rummaged through the kitchen, the bathroom,
9 and the bedrooms. And then when they got back to that
10 locked door and they seen the light come on, that's when
11 they knew that somebody could have been calling the
12 police. "Let's get out of here." That's when they left.
13 They all left at the same time.

14 I don't know if the two girls got in his car or
15 whatever he come up with or they got in the other girl's
16 car. I know there was two automobiles out there, the one
17 they come up in and the one he pulled up in.

18 Q Okay. And you say he got \$350 more dollars from Bill
19 --

20 A No, he got -- I'm Bill. He got it from Tony, but his
21 name is Charles.

22 Q All right. Now, they were tried in Columbia County.
23 Did you testify over there?

24 A Oh, yes, sir.

25 MR. MYERS: Answer any questions they have for

BILL ANDERSON - Direct Exam by Mr. Myers

1581

1 you, sir.

2 THE COURT: Thank you, Solicitor.

3 Mr. Tarr.

4 MR. TARR: No questions, Your Honor.

5 THE COURT: Thank you very much. You may step
6 down.

7 All right. Solicitor, you may call your next
8 witness.

9 THE CLERK: Raise your right hand.

10 CHARLES TONY BAUGHMAN, after being duly sworn,
11 testified as follows:

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

14 THE WITNESS: Charles Tony Baughman,
15 B-A-U-G-H-M-A-N.

16 DIRECT EXAMINATION

17 BY MR. MYERS:

18 Q What name do you go by, Charles or Tony?

19 A Tony.

20 Q Tony, do you know Bill Anderson back here?

21 A Yes, sir.

22 Q Have you known him for a good while?

23 A Since I about 12 years old.

24 Q And David Victor Boyd, do you know him?

25 A Yes, sir.

1 Q How long?

2 A Probably 40 years.

3 Q Now, the three of y'all were together on New Year's
4 Eve, December 31st, '01 to January 1st '02; is that
5 correct?

6 A Yes.

7 Q Whose house did you all stay at?

8 A David Victor Boyd's.

9 Q Okay. And when you all got back over to the house
10 that night, who called the escort service?

11 A Bill Anderson.

12 Q Okay. And did you all order some girls?

13 A Yes, sir.

14 Q Did any arrive? Any girls arrive?

15 A Two of them did.

16 Q Two of them did. Now, did you all engage in sexual
17 activity?

18 A Yes, sir.

19 Q Now, were both of them white or both of them black or
20 what?

21 A One was white and one was black.

22 Q Okay. Now, had you had some money on you at that
23 time?

24 A Probably about \$12,000.

25 Q Okay. And where did you get that from?

CHARLES TONY BAUGHMAN - Direct Exam by Mr. Myers

1583

- 1 A I got a lawsuit.
- 2 Q All right, sir. Now, when the girls came in, who
- 3 paid the girls?
- 4 A I did.
- 5 Q And did you have that money with you?
- 6 A Yes, sir.
- 7 Q And when the girls got the money, what did they do?
- 8 A They went out to the car.
- 9 Q Okay. What did you do with the rest of the money in
- 10 your pocket?
- 11 A I gave it to David Victor Boyd to take to his
- 12 bedroom.
- 13 Q Now where was David Victor Boyd during this? Was he
- 14 out in the living room with you all? Was he involved in
- 15 that or what?
- 16 A No, he was in the bedroom. I gave it to him, the
- 17 money.
- 18 Q He was back in the bedroom and you gave him the
- 19 money?
- 20 A Right, yeah.
- 21 Q Now, while Bill was having sex with the girl he was
- 22 with, did anything occur unusually or an argument start or
- 23 something?
- 24 A Her and Bill had a disagreement because he was having
- 25 sex with her and the rubber came off. She wanted \$500 for

1 it.

2 Q Did she call it anything?

3 A She called it a foul, or something like that. And
4 that's when she got on the telephone after he wouldn't pay
5 \$500.

6 Q She made a call?

7 A Yes, sir.

8 Q After she made a call, did anybody else come to the
9 front door?

10 A Probably 20 minutes later this guy came in the door
11 and Bill walked to the door and said, "Who are you?" And
12 that's when he pulled the mask down and pulled the gun
13 out.

14 Q Pull the mask down on his face and pulled the gun
15 out?

16 A Yes.

17 Q What did this fellow say? What did he want?

18 A He wanted the money.

19 Q What did he call it money?

20 A He called it cheese.

21 Q And how much was he wanting?

22 A He just wanted all the money. And I gave him what
23 money I had in my back pocket, which came to about three
24 fifty.

25 Q And was he threatening anybody while he was in there?

CHARLES TONY BAUGHMAN - Direct Exam by Mr. Myers

1585

- 1 A He said -- he told Bill he should have shot him when
2 he walked in the door.
- 3 Q Did he threaten you?
- 4 A No, sir. He pointed the gun at me a couple of times.
- 5 Q Pardon me?
- 6 A He pointed the gun at me two or three times.
- 7 Q He pointed the gun at you two or three times?
- 8 A Yeah.
- 9 Q Did he ever point the gun at Bill?
- 10 A Yeah. He kept it on Bill a pretty good bit.
- 11 Q Now, where was David Victor Boyd during all of this?
- 12 A In the bedroom.
- 13 Q In the bedroom?
- 14 A And the girls back there hit the door, and when the
15 light came on, on the cell phone, that's when Bill told
16 them he was calling the police and they ran out the door.
- 17 Q That's when Victor had a light on back there and he
18 said that he's calling the police and they ran out the
19 door?
- 20 A Yeah. Yes, sir.
- 21 Q Did the man with the ski mask also run out?
- 22 A Yeah.
- 23 Q What about the two girls?
- 24 A All of them ran.
- 25 Q Did you -- how close did you get to that gun that

1 night?

2 A I was probably about five, six foot from him.

3 Q You didn't get to see the fellow's face? When you
4 saw him, he had the mask on; is that right?

5 A Yes, sir.

6 Q Now, Steven Louis Barnes was tried over in Columbia
7 County for robbing you all; isn't that right?

8 A Yes, sir.

9 Q Burglary in the house, other crimes?

10 A Yes.

11 Q You testified in that case, too?

12 A Yes, sir.

13 MR. MYERS: All right, sir. If you would,
14 answer any questions they might have.

15 THE COURT: Thank you, Solicitor.

16 Mr. Tarr.

17 MR. TARR: No questions.

18 THE COURT: Thank you very much, Mr. Baughman.
19 You may step down.

20 Solicitor, call your next witness.

21 THE CLERK: Raise your right hand and place your
22 left hand on the Bible.

23 DAVID VICTOR BOYD, after being duly sworn,
24 testified as follows:

25 THE CLERK: Have a seat. State your full name

1 for the record and spell your last name, please.

2 THE WITNESS: David Victor Boyd, B-O-Y-D.

3 DIRECT EXAMINATION

4 BY MR. MYERS:

5 Q Mr. Boyd, do you know Tony Baughman and Bill
6 Anderson?

7 A Yes, sir.

8 Q For a good while?

9 A Pretty much all my life. I come up with Tony
10 Baughman from the time I was born and been knowing Bill
11 probably since I was in elementary school.

12 Q Where do you work?

13 A SRS.

14 Q And what's your job over there?

15 A I'm a supervisor over the coatings.

16 Q Now, New Year's Eve, December 31st, '01 to
17 January 1st, '02, were you with Bill and Tony?

18 A Well, actually they was with me. We was all
19 together.

20 Q Staying at your house?

21 A Yes, sir.

22 Q When you all got back to the house that night, what
23 did Tony and Bill do?

24 A Well, they called an escort service. We'd been in
25 the Wafflehouse and they was hollering they was wanting

1 some dessert and that they said they was going to call an
2 escort service. And I really wasn't too crazy about that
3 and I told them, and then they said, "Well, it's in the
4 phone book, in the Yellow Pages." I said, Well, if you
5 can call an escort service out of the phone book, I
6 figured it'd be pretty safe to do, you know, which I
7 didn't want no part of it. At the time I was married and
8 I didn't want to participate in it. I said, "You all can
9 do what you want to do. I'm going to go back there in my
10 room and go to bed."

11 Q You went back to your room?

12 A Yes, sir.

13 Q All right, sir. Were you outside when the girls came
14 in or were you in the front room when the girls came in?

15 A No, sir, I was back there in my bedroom.

16 Q Now, at any time did Tony ever bring some money back
17 there to you?

18 A Yes, sir.

19 Q And what did you do with that money?

20 A Took it and put it under the bed.

21 Q Did you know how much it was?

22 A It's probably around -- I'd probably say it was close
23 to \$12,000, \$13,000.

24 Q All right. You had the money back there with you?

25 A Yes, sir.

1 Q All right. When they were out there with the girls,
2 what's the next thing that you knew something was going on
3 out there?

4 A Well, the next thing I know, I heard a loud noise and
5 they was hollering and commotion going on in there and I
6 said to myself, Well, this is a fine thing here. I
7 figured what done happen is they done called and the
8 police or something had come in and busted up maybe the
9 escort service that they'd called or something. So then I
10 opened my door and I looked down the hallway, and when I
11 looked down the hallway, then is when I seen a guy with a
12 black hood and with a pistol hollering, demanding money
13 from them, hollering he wanted the cheese, wanted to know
14 where the cheese was.

15 Q Who was he hollering at?

16 A He was hollering at Bill and Tony. He was hollering
17 at anybody that could have it, you know, possibly that
18 might know where it was at.

19 Q Did you see that gun that he had?

20 A Yes, sir, I seen it.

21 Q Was he pointing it at anybody?

22 A Yes, sir. He had it on Bill Anderson, had it pointed
23 at Bill.

24 Q Could you hear him say anything to Bill?

25 A Yeah, he told Bill, he said -- Bill had told him --

1 when he come in, Bill had told him, said, "Ain't nobody
2 told you to come in. What you even come in here to start
3 for?"

4 And he said, "Well, to tell you the truth," he
5 said, "Hey, you better shut up." He said, "I should have
6 killed you when I come through the door to start with."
7 He said, "I done killed one." He said, "If you don't
8 think I have, ask them. I should have killed you when I
9 come through the door." He said, "I'll kill you, too."

10 So at that time I realized then that it wasn't
11 the police. And so I stayed there in the room thinking
12 maybe they would leave, but no, at the time he ordered for
13 them to go -- they ransacked through my house, went all
14 through there and stole some jewelry and stuff and I heard
15 him threatening and telling Tony to give him the cheese
16 and Tony give him \$350. And when he -- he was ready to go
17 and the girls told him, said, "No, there's more money than
18 that here." So they ransacked my house, stole some
19 jewelry. And they couldn't get in the one door where I
20 was at. Then when they couldn't get in it, he was going
21 to come back there and blow the door down while I was
22 holding --

23 Q How do you know he was going to blow the door down?

24 A Because he told them, he said, "Y'all stay here." He
25 said, "I'm fixing to go back there and blow that door

1 down."

2 Well, I'm holding the door blocked with my
3 shoulder where they can't kick it open. And I know that
4 you can put your hand through a door, so if I go to hold
5 the door shut and he shoots through the door, he's going
6 to shoot me. So I leaned down, opened up my cell phone,
7 and when I did you could see the light come on at the
8 bottom of the door. At that time I heard one of the say,
9 "I just seen a light come on." And when they did, Bill
10 said, "Yeah, and the police has just been called," and
11 then that's when they fled out of there.

12 Q The man with the gun and the two girls, they all ran
13 out?

14 A Yes, sir.

15 Q And had you called the police?

16 A Yes, sir.

17 Q Did they get their shortly?

18 A They got there I'd say within a minute.

19 Q Okay. Now, Steven Louis Barnes, he was tried over in
20 Columbia County for these crimes. Did you testify in that
21 trial?

22 A Yes, sir.

23 Q He was convicted over there?

24 A Yes, sir.

25 MR. MYERS: If you could, answer any questions

1 they have for you.

2 THE COURT: Thank you, Solicitor.

3 Mr. Tarr.

4 CROSS-EXAMINATION

5 BY MR. TARR:

6 Q Did the man with the mask ever blow the door down?

7 A Sir?

8 Q Did the man with the mask ever blow the door down?

9 A No, sir.

10 Q Did he ever shoot through the door?

11 A No, sir.

12 Q Did he ever shoot a weapon at any time that night?

13 A No, sir.

14 MR. TARR: That's all I have, Your Honor.

15 THE COURT: Anything in redirect?

16 MR. MYERS: No, sir. May he be excused, Your
17 Honor?

18 THE COURT: Yes, sir. Thank you. You may step
19 down. You may be excused.

20 Any objection?

21 MR. TARR: No, Your Honor.

22 THE COURT: All right, Solicitor.

23 MR. MYERS: Your Honor, my next witness is the
24 records keeper. Can I see if she's here?

25 THE COURT: Certainly, yes, sir.

1 THE CLERK: Raise your right hand.

2 DONNA PELLMAN, after being duly sworn, testified
3 as follows:

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

6 THE WITNESS: My name is Donna Lee Pellman.
7 That's P-E-L-L-M-A-N.

8 THE COURT: All right. Solicitor.

9 DIRECT EXAMINATION

10 BY MR. MYERS:

11 Q Ms. Pellman, where are you employed?

12 A I'm employed with Columbia County.

13 Q And in what capacity?

14 A Pardon me?

15 Q In what capacity?

16 A I work for the Clerk of Superior Court as a deputy
17 clerk.

18 Q And in that capacity, you're in charge of keeping
19 various court records; is that right?

20 A That's correct.

21 Q And did we request that you all give us a certified
22 copy of some records on a Steven Louis Barnes?

23 A That is correct.

24 (WHEREUPON, State's Exhibit No. 68 was marked
25 for identification only.)

1 BY MR. MYERS:

2 Q Now, this is a Certification of Record: State of
3 Georgia versus Steven Louis Barnes. It has a case number
4 down here and these are the materials with it. I think
5 it's 163, and it's got 163.

6 Is that the indictment and this is the sentence,
7 the results of the trial against Steven Louis Barnes?

8 A This is an indictment and this is the verdict along
9 with the sentence, yes, sir.

10 Q And along with the guilty?

11 A Yes, you're correct.

12 MR. MYERS: We would offer this in evidence at
13 this time, Your Honor.

14 MR. TARR: No objection, Your Honor.

15 THE COURT: All right. I believe it would be
16 State's 68; is that correct?

17 MR. MYERS: I think it is, Your Honor.

18 THE COURT: State's 68 in evidence without
19 objection.

20 (WHEREUPON, State's Exhibit No. 68 was admitted
21 into evidence.)

22 BY MR. MYERS:

23 Q On State's Exhibit No. 68, on the verdict of the
24 jury, it's got the charges over here and guilty on the
25 right side; is that right?

1 A That's correct.

2 Q And the counts here, Count 1, 2, 3, 5, 6, 8, 9, and
3 14, those counts would be in the indictment back here at
4 end as they relate to the guilty verdicts; is that
5 correct?

6 A That's correct.

7 MR. MYERS: Your Honor, could I publish the
8 sentence at this time?

9 THE COURT: Yes, sir, you may publish it.

10 MR. MYERS: It's an order by the judge of
11 Superior Court, Carl C. Brown, Superior Court of Columbia
12 County, State of Georgia, State of Georgia versus Steven
13 Louis Barnes.

14 The above-styled matter was tried by a jury on
15 November 10 through 13 of 2003, and the jury found the
16 defendant guilty on Counts 1, 2, 3, 5, 6, 8, 9, and 14 of
17 the indictment.

18 Accordingly, it is now ordered that the
19 defendant be sentenced to confinement in the penal system
20 or such other institution as the Commissioner of the
21 Georgia Department of Corrections may direct for the
22 following terms of years: Armed robbery, life in
23 imprisonment; burglary of a residence, 20 years
24 imprisonment to be served consecutive to the armed
25 robbery; kidnapping, 20 years imprisonment to be served

1 consecutively to the armed robbery and the burglary; Count
2 5, terroristic threats, Count 6, terroristic threats, five
3 years imprisonment on each count to run concurrently --
4 consecutively to the other counts; Count 8, pandering,
5 Count 9, pandering, 12 months imprisonment on each to be
6 served concurrent with each other but consecutive with the
7 other sentences; Count 14, possession of a firearm during
8 the commission of a crime, five years imprisonment
9 consecutively to the sentences in the other counts.

10 Simultaneously to the imposition of the sentence
11 in this case, the Court conducted a probation revocation
12 hearing as to the sentence previously imposed in Richmond
13 County Superior Court. The Court revoked the remaining
14 term of that sentence, five years, four months, 27 days,
15 to be served consecutively to all the other sentences.

16 It is the intent of this Court that the
17 aforesaid sentences be interpreted to impose upon the
18 defendant a penitentiary sentence of life plus 51 years in
19 this case and to be served consecutively to the Richmond
20 County indictment probation revocation.

21 BY MR. MYERS:

22 Q Referring to State's 57, Your Honor, is this correct
23 on that sentence: Life imprisonment, armed robbery; 20
24 years for burglary of a residence; 20 years kidnapping;
25 five years terroristic threats; five years terroristic

1 threats; 12 months pandering; 12 months pandering; five
2 years possession of a weapon during a crime; and five
3 years, four months, 27 days for the cocaine probation that
4 was in Richmond County?

5 A That's correct.

6 MR. MYERS: Thank you. If you would, please,
7 ma'am, answer any questions they may have.

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you, Solicitor.

10 Mr. Tarr.

11 MR. TARR: No questions, Your Honor.

12 THE COURT: Thank you very much. You may be
13 excused, Madam Clerk. You may step down.

14 Any objections to Ms. Pellman being excused?

15 MR. MYERS: We so request, Your Honor.

16 MR. TARR: No objection.

17 THE COURT: Thank you. You may be excused.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: All right. Solicitor.

20 THE CLERK: Raise your right hand, please.

21 ROBERT WEST, after being duly sworn, testified
22 as follows:

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

25 THE WITNESS: Robert West. The last name is

1 spelled W-E-S-T.

2 THE COURT: All right. Solicitor.

3 DIRECT EXAMINATION

4 BY MR. YOUNG:

5 Q Sergeant West, you're in uniform. What uniform does
6 that represent?

7 A I work for the Richmond County Sheriff's Office in
8 Augusta, Georgia.

9 Q What's your job assignment?

10 A I'm a tower sergeant for the Richmond County Jail.

11 Q Sir, in your job as a tower sergeant for the Richmond
12 County Jail, do you act also in the capacity of hearing
13 matters affecting discipline by inmates while they're in
14 your facility?

15 A Yes, any controversy or any type of infraction
16 involving an inmate has to go through me and then through
17 the captain.

18 Q Okay. Did you act as a hearing officer on the
19 disciplinary report infraction involving Steven Louis
20 Barnes?

21 A Yes, sir, I did.

22 Q Sir, and he was incarcerated in your facility during
23 what time, sir?

24 A From January 17th of '02 through February 18th of
25 '04.

1 Q And during that period of time, you did hear such a
2 disciplinary infraction report regarding his behavior
3 while he was in your facility?

4 A Yes, I did.

5 Q Now, what was the nature of that infraction?

6 A Well, I talked to Mr. Barnes and the other inmate,
7 his name was Christopher Loggins. When I talked to
8 Mr. Barnes, he said it was just a misunderstanding. Then
9 when I talked to --

10 Q Just a moment. Before you digress, tell us what was
11 the nature of the infraction itself.

12 A Well, what had happened, both inmates were apparently
13 on lockdown and Mr. Barnes had a roommate at the time and
14 somehow he got -- usually when you have two guys in a
15 room, one will come out and the other one will try and
16 sneak out. And what happened, he had another inmate get
17 the deputy that was working the tower at the time, get his
18 attention, and they popped the door. And I think they
19 were about to feed lunch at the time, and when
20 Mr. Loggins' door was open, Mr. Barnes ran up the steps
21 into the -- Loggins' room and a small fight escalated from
22 there.

23 Q So what was the type of infraction? What would you
24 call that type of infraction? Assault on an inmate?

25 A Yes, we call it assault on an inmate.

1 Q Okay. And during that period of time, sir, you were
2 actually given the responsibility to conduct the hearing
3 itself?

4 A Yes, sir, I did.

5 Q And you did conduct such a hearing?

6 A Yes.

7 Q Was a plea entered as a result of this by Mr. Barnes?

8 A A guilty plea.

9 Q And was he found guilty?

10 A Yes, he was. He was given 15 days on disciplinary
11 lockdown.

12 Q So would you just -- you used that term and explain
13 to the jury what "lockdown" means.

14 A Well, when we put them on any type of disciplinary
15 lockdown, they lose all privileges, no telephone, store
16 calls, no recreation time. If we give them administrative
17 lockdown, it's pretty much for their own protection but
18 they still get all their privileges.

19 Q So he was in that capacity during that period of
20 time?

21 A Yes, a disciplinary lockdown.

22 Q And what was the date of that?

23 A I think it was -- it happened November the 28th of
24 '03.

25 Q November what day, sir?

1 A November, looks like, the 28th of '03.

2 Q Do you have the report in your hand?

3 A Yes, I do.

4 Q Okay. Would you take a look at the first lines
5 regarding the officer entered the report information?

6 A Uh-huh.

7 Q And would you look down at the date entered just
8 below his report line, the month, day, and time?

9 A Oh, 11-27-03.

10 Q All right. Thank you, sir. So actually it's
11 forwarded from that time, it's forwarded to you?

12 A Yes. That was my mistake.

13 Q Thank you, sir.

14 MR. YOUNG: May I have this marked, please,
15 ma'am.

16 (WHEREUPON, State's Exhibit No. 69 was marked
17 for identification only.)

18 BY MR. YOUNG:

19 Q Sir, would that correctly denote, then, on this
20 chart, which has been marked as State's Exhibit No. 69 for
21 identification, the first entry that I've exposed on the
22 top of this chart, does that correctly reflect the date
23 and the incident?

24 A Yes.

25 Q And where it occurred?

1 A Yes, it does.

2 Q So the correct thing would be 11-27-03, assault on an
3 inmate at the Richmond County Detention Center?

4 A Yes.

5 MR. YOUNG: Thank you, sir. Would you please
6 answer any questions the defense has for you.

7 THE COURT: Thank you, Solicitor.

8 Mr. Tarr.

9 CROSS-EXAMINATION.

10 BY MR. TARR:

11 Q Would you characterize this incident as a small
12 fight?

13 A Yes, I would. It wasn't a major fight.

14 Q Okay. And a small fight among two inmates would
15 probably be considered by you to be one of the most
16 common, least serious infractions?

17 A Yeah. Just minor injuries, no substantial injuries.

18 Q In terms of being around inmates at a jail, this
19 probably isn't that big of a deal to you compared to a lot
20 of things you see in the jail?

21 A Not really.

22 MR. TARR: Thank you. That's all I have.

23 THE COURT: Redirect?

24 MR. YOUNG: No questions, Your Honor.

25 THE COURT: Thank you very much. You may step

ROBERT WEST - Cross-Exam by Mr. Tarr

1603

1 down.

2 MR. YOUNG: We ask that the witness be excused.

3 THE COURT: Any objection?

4 MR. TARR: No objection.

5 THE COURT: All right. Solicitor.

6 THE CLERK: Raise your right hand, please, and
7 place your left hand on the Bible.

8 LYNN C. WHITE, after being duly sworn, testified
9 as follows:

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

12 THE WITNESS: Lynn C. White, W-H-I-T-E.

13 DIRECT EXAMINATION

14 BY MR. YOUNG:

15 Q Ms. White, you're dressed in a nice set of clothes.
16 You don't have a uniform on. Do you ever wear a uniform?

17 A Yes, sir, I did.

18 Q How long did you do that?

19 A I was in the Florida prison system for 13 and a half
20 years and then in the Georgia system for approximately six
21 and a half years.

22 Q Where did you last work in the Georgia state prisons?

23 A Ware State Prison in Waycross, Georgia.

24 Q Is that where you're from, ma'am?

25 A No, sir. Originally I'm from Tallahassee, but that

1 is where I reside now.

2 Q Yes, ma'am. Did you work for them during the period
3 of time of April of 2004?

4 A I did.

5 Q And during that period of time, did you perform the
6 duties of a corrections officer there in Ware State
7 Prison?

8 A Yes, sir, I did.

9 Q And during that period of time, did you have
10 occasions to prepare a report regarding an act of
11 discipline by Mr. Steven Louis Barnes?

12 A I did, sir.

13 Q And what kind of infraction was that?

14 A It was a disciplinary infraction where we had count
15 and the inmates were instructed to stand by their doors
16 for count. Mr. Barnes did not stand by his door. He
17 slept during count, so he was written up.

18 Q Now, by "written up" meaning on what kind of offense?
19 What would you call that?

20 A Failure to follow, C-15.

21 Q So it's a standard thing --

22 A Yes, sir.

23 Q -- you'd fill out for every one of these?

24 A Yes, sir.

25 Q And what happens to that kind of report?

LYNN WHITE - Direct Exam by Mr. Young

1605

1 A Then it's sent to the supervisor and then it goes
2 before a hearing officer.

3 Q Okay. All right. You are -- ma'am, at that time --
4 what date do you recall that incident occurring on?

5 A April 23rd, '04.

6 Q April 23rd of '04?

7 A Yes, sir.

8 Q I want to show you what's been marked as State's
9 Exhibit No. 69 for identification. This carries the date
10 of 4-23-04, failure to follow instructions at Ware State
11 Prison. Does this chart accurately reflect that type of
12 offense for that day?

13 A Yes, sir, it is.

14 Q And so once that occurred, once that report's written
15 up, what happens to it and where does it go?

16 A It goes to the supervisor that's in charge, the
17 lieutenant or whoever's in charge at that point of our
18 shift, and then he forwards it to the hearing officers.
19 They have a hearing on the infraction to see whether or
20 not they grant that it was an infraction and then they
21 decide what's going to happen at that point, whether, for
22 example, they take store call or they take phone calls or
23 different things like that.

24 Q Now, let me ask you this. When this count occurred,
25 just briefly, is this something that happens every day?

1 A Every day, yes, sir, several times a day. The
2 inmates know that they're going to be counted, they know
3 what time count time is, they're instructed -- in fact, on
4 this particular day, they were instructed at least ten
5 minutes before count time to prepare for count, and at the
6 point that we talked in to count, they were instructed to
7 stand by their door for count.

8 Q Is that announced somewhere to everybody?

9 A Over the intercom, yes, sir.

10 Q Does everybody hear it?

11 A Yes, sir.

12 Q How many inmates do you suppose are in this
13 particular section at that time?

14 A In that particular section I had 56 on the A side, 54
15 approximately on the B side, if my memory serves me
16 correctly.

17 MR. YOUNG: Okay. Would you please answer any
18 questions Mr. Tarr has for you.

19 THE COURT: Thank you very much, Solicitor.
20 Mr. Tarr.

21 MR. TARR: No questions, Your Honor.

22 THE COURT: Thank you very much for being with
23 us today. You may step down.

24 THE WITNESS: Thank you, sir.

25 MR. YOUNG: Your Honor, I have a number of

1 witnesses that are still at Ware State Prison who just
2 arrived.

3 Could she be excused?

4 THE COURT: Any objection to her being excused?

5 MR. TARR: No, Your Honor.

6 MR. YOUNG: I'd like to check and see their
7 status, if they're available to come in and testify now.
8 They've traveled from Ware State Prison in Waycross this
9 morning.

10 THE COURT: What are you asking me?

11 MR. YOUNG: I would like to make sure they're
12 here so I can call the next witnesses out.

13 THE COURT: Certainly. If they're here, call
14 the next witness.

15 (Pause.)

16 MR. YOUNG: Your Honor, I'm informed they're out
17 in the parking lot.

18 THE COURT: All right. Well, perhaps now would
19 be a good time to take our luncheon recess.

20 Mr. Foreman, ladies and gentlemen of the jury, I
21 understand your Clerk has made arrangements for your lunch
22 today. I'm not sure where you're going, but I'm sure she
23 has -- she's in charge of it and it will be fine, I'm
24 sure.

25 Please remember, do not discuss this case with

1 anyone during this recess. If anyone tries to talk with
2 you, please let me know.

3 Remember to keep an open mind. Do not begin
4 your deliberations until you're instructed to do so by the
5 Court.

6 We'll say 2 o'clock to give you an extra 11
7 minutes. It's 12:49. No, it doesn't. We'll still say
8 2 o'clock.

9 Court will be in recess until 2 o'clock.

10 Thank you very much. Hope you all have a
11 pleasant time.

12 (The jury left open court at approximately 12:50
13 p.m.)

14 THE COURT: All right. Anything further,
15 Solicitor?

16 MR. MYERS: No, sir.

17 THE COURT: Mr. Tarr?

18 MR. TARR: No, Your Honor.

19 THE COURT: All right. Court will be in recess
20 until 2 o'clock. Thank you.

21 (A lunch break was taken.)

22 THE COURT: One of the jurors indicated to a
23 member of the jury sequestration team that she may know or
24 may know through her mother one of the witnesses in the
25 case, Mr. Anderson. She didn't realize originally that

1 she may know or know of him through her mother.

2 Do you want me to bring her out and interview
3 her in that regard, Mr. Tarr?

4 MR. HARTE: Are we talking about one of the ones
5 who just testified?

6 THE COURT: I think so, Mr. Anderson.

7 MR. MYERS: He was one of the victims over in
8 the robbery in Columbia County.

9 THE COURT: He was Witness No. 7.

10 MR. TARR: I don't think that will be necessary.

11 THE COURT: All right.

12 MR. TARR: I'll leave that to the Court's
13 discretion.

14 THE COURT: No, I'm asking you all. That's the
15 information I have. I'll be glad to bring her out and
16 interview her in that regard. The information I have is
17 she probably doesn't know him personally but may know of
18 him through her mother.

19 MR. TARR: If I can confer with my client just
20 briefly.

21 THE COURT: Certainly.

22 (Pause.)

23 MR. TARR: No, Your Honor.

24 THE COURT: All right. Anything before we bring
25 out our jury, Solicitor?

1 MR. MYERS: No, sir.

2 THE COURT: Mr. Tarr?

3 MR. TARR: No, Your Honor.

4 THE COURT: Bring us our jury, please.

5 (The jury came into open court at approximately
6 2:07 p.m.)

7 THE COURT: All right. Our jury is back present
8 in the courtroom. I hope you all had a pleasant lunch.

9 Solicitor, you may call your next witness.

10 MR. YOUNG: Thank you, Your Honor.

11 The State calls Captain Lawrence Tindall.

12 THE CLERK: Raise your right hand and place your
13 left hand on the Bible.

14 LAWRENCE TINDALL, after being duly sworn,
15 testified as follows:

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

18 THE WITNESS: Lawrence Young Tindall. Last
19 name, T-I-N-D-A-L-L.

20 DIRECT EXAMINATION

21 BY MR. YOUNG:

22 Q Captain Tindall, how are you today, sir?

23 A Doing fine, sir.

24 Q Sir, where do you work?

25 A I work at Ware State Prison.

LAWRENCE TINDALL - Direct Exam by Mr. Young

1611

1 Q Now, you're wearing the uniform of a corrections
2 officer. How long have you been doing that?

3 A Twenty-one plus years.

4 Q And this particular job you have at Ware State
5 Prison, that's where you've been the whole time or did you
6 work --

7 A Yes, sir, I started as a CO.

8 Q So you've come right up through the ranks then?

9 A Yes, sir.

10 Q Captain Tindall, if you wouldn't mind telling the
11 jury what you do when you hear matters involving
12 disciplinary infractions. You do act as a hearing
13 officer, correct?

14 A I still do. Most of the time now my lieutenants
15 handle the hearings as the hearing officer, but I do
16 occasionally still have to hear it if they're involved in
17 the incident.

18 Q As you came up through the ranks back in, I guess it
19 would be, 2004, that you actually acted as the hearing
20 officer on certain matters involving Steven Louis Barnes?

21 A Yes, sir.

22 Q Okay. Would you just tell the jury what you do as a
23 hearing officer, what that job entails?

24 A Okay. The hearing officer -- the incident report is
25 done, you have your disciplinary report written, it's

1 investigated, then the hearing officer takes all the
2 investigation, the evidence just like you would in a court
3 and take the testimony of the defendant, which would be
4 the inmate at the time, and making a reasonable assertion
5 of what actually went on and render a verdict on it just
6 like the jury would do.

7 Q And you're acquainted with a correctional officer by
8 the name of Lynn White?

9 A Yes, sir.

10 Q And do you recall receiving a report regarding a
11 disciplinary infraction on Steven Louis Barnes dated in
12 terms of the date of the incident, April 23rd, 2004?

13 A Yes, sir, I have it in front of me.

14 Q And did you receive that report for purposes of
15 conducting a hearing?

16 A Yes, sir, that was received -- the inmate at the time
17 took what we call a negotiated plea. It would be like a
18 plea bargain in a court for a lesser sentence. And being
19 this was his first incident of this type, then we allowed
20 him to take a negotiated plea.

21 Q Okay. And so his opportunity to take the negotiated
22 plea, then I assume that would have been a guilty plea,
23 correct?

24 A It is a guilty plea. He pled guilty to the charge
25 and he's found guilty.

LAWRENCE TINDALL - Direct Exam by Mr. Young

1613

1 Q Okay. And can you tell us what the failure to follow
2 instructions means? When you're hearing that as a hearing
3 officer, what does that mean to you?

4 A That's any verbal direction that's given to an inmate
5 at the time. If he disregards that instruction, that's a
6 failure to follow instruction.

7 Q And obviously that's something you take into
8 consideration a lot?

9 A Yes, sir.

10 Q And is that a minor or more serious matter?

11 A It's a high severity level charge.

12 Q Why is that?

13 A Just if an inmate fails to follow a legal order, just
14 like anyone fails to follow a legal order of a state
15 trooper or whatever, it could lead to something more
16 serious.

17 Q Okay. So it's the start of bad things?

18 A It's the start of bad things.

19 Q Okay. And so you did hear that particular matter,
20 you negotiated a plea with him, and then you came to some
21 resolution of what kind of punishment to impose?

22 A Yes, sir. I give him 60 days store and phone
23 restriction. I probated it, which means it's a probated
24 sentence for 60 days, and if he had another infraction, I
25 could pull this back up and give him that plus whatever I

1 gave him on the next.

2 Q So if I rephrase that, does that mean that you gave
3 him a punishment but you suspended it if he didn't get in
4 any more trouble?

5 A That's correct.

6 Q So for that period of, what, 90 days?

7 A Sixty days.

8 Q Sixty days, he was on -- you know, if you get in any
9 more trouble, that's the end of it?

10 A It was 90 days. I was reading it wrong.

11 Q Okay. So he had 90 days not to get in any more
12 trouble?

13 A Yes, sir.

14 Q All right. Now, you're also familiar pretty much all
15 the corrections officers that work out there at that time,
16 correct?

17 A Yes, sir.

18 Q Is one of those named Julie Rise?

19 A Yes, sir.

20 Q And did you also receive a report of infraction from
21 her sometime on or about September 16th, 2004?

22 A Yes, sir.

23 Q Okay. And what did she report to you in that
24 particular infraction?

25 MR. TARR: Hearsay, Your Honor.

LAWRENCE TINDALL - Direct Exam by Mr. Young

1615

1 THE COURT: Excuse me? I didn't hear you.

2 MR. TARR: A hearsay objection.

3 THE COURT: That's sustained.

4 MR. YOUNG: All right. Well, I'll rephrase it.

5 Thank you.

6 BY MR. YOUNG:

7 Q Did you get a report to act on on the matter of an
8 infraction?

9 A Yes, sir. I had -- the inmate was charged with two
10 infractions, another failure to follow instructions and an
11 insubordination charge at the same time.

12 Q Okay. And those two matters, then, the first one you
13 got was for 4-23-04 and the second one you got was what
14 date?

15 A 9-16-04.

16 Q Would that have been -- that would have been outside
17 of 90 days?

18 A That's outside the 90 days.

19 Q Okay. So he was on good behavior for 90 days and
20 then he had another incident?

21 A Uh-huh.

22 Q All right. And was there a guilty plea or a plea of
23 some kind in that case?

24 A No, he pled not guilty to both charges.

25 Q Did you conduct a hearing?

1 A Yes, sir, conducted a hearing and found him guilty on
2 both charges.

3 Q And at this time when you received the report and
4 made a decision to impose that particular form of
5 punishment, can you explain what kind of punishment was
6 involved in this decision in this case?

7 A Okay. On this particular incident, I give him 14
8 days isolation, but I also probated that for 60 days, but
9 I give him ten days extra duty in the dormitory.

10 Q So he had -- what would isolation involve?

11 A That means he would be in the segregation unit in a
12 one-man cell by himself with nothing but his jumpsuit and
13 his legal material, his Bible, stuff like that.

14 Q So you made him do the ten days extra duty and hung
15 the rest of it over his head?

16 A I did.

17 MR. YOUNG: All right. Well, sir, would you
18 answer any questions that the defense may have.

19 THE COURT: Thank you, Solicitor.

20 Mr. Tarr.

21 MR. TARR: No questions, Your Honor.

22 THE COURT: Thank you. And thank-you for being
23 with us today. You may step down.

24 Any objections to this witness --

25 MR. YOUNG: I'm sorry. Your Honor, can I

LAWRENCE TINDALL - Direct Exam by Mr. Young

1617

1 briefly have him identify something?

2 BY MR. YOUNG:

3 Q Sir, let me pull off both of these tabs here. Are
4 those two reported dates of 9-16-04 and 4-04-05, are those
5 two tabs two incident dates that you --

6 A No, the 4-23-04 and the 9-16-04.

7 MR. YOUNG: Okay. Thank you. Thank you very
8 much.

9 THE COURT: Anything further, Solicitor?

10 MR. YOUNG: No, sir.

11 THE COURT: Thank you.

12 Thank you for being with us today.

13 All right. You may call your next witness.

14 MR. YOUNG: The State calls Charles Day, Your
15 Honor.

16 THE CLERK: Raise your right hand and place your
17 left hand on the Bible.

18 CHARLES DAY, after being duly sworn, testified
19 as follows:

20 THE WITNESS: Charles Lynn Day, D-A-Y.

21 THE COURT: All right. Solicitor.

22 DIRECT EXAMINATION

23 BY MR. YOUNG:

24 Q Officer Day, you're in the uniform of an officer,
25 appears to be a Georgia corrections officer; is that

1 correct?

2 A Yes, sir.

3 Q And, sir, how long have you been a corrections
4 officer?

5 A A little over 11 years.

6 Q And so where do you work?

7 A Ware State Prison.

8 Q And what do you do there?

9 A I am a correctional sergeant at this time.

10 Q Okay. And you were also working there at Ware State
11 Prison during the period of time in 2005, April of that
12 year?

13 A Yes, sir.

14 Q Sir, did you have occasion on April 4th, 2005, to
15 report to higher authorities an incident involving
16 Mr. Steven Louis Barnes?

17 A Yes, sir, I had a failure to follow DR. An inmate
18 was in admin segregation and we go around every 30 minutes
19 signing the door sheets and they're supposed to get up and
20 get inspection ready. Inmate refused to get up and get
21 inspection ready and stayed in the bed.

22 Q Stayed in bed. Now, ~~sir~~, will you explain to us what
23 that means in terms of day-to-day life in a prison, what
24 does that mean to you for a person to not get up and go
25 when they're supposed to go?

CHARLES DAY - Direct Exam by Mr. Young

1619

1 A When you're assigned to lockdown, they're brought
2 down to lockdown in admin seg for not being able to live
3 in the general population, for causing problems. So when
4 you're assigned down there and the inmate continues not to
5 do what you instruct the inmate to do, it makes it harder
6 on the officer down there because they expect more out of
7 the inmate and try to rehabilitate him to get him back in
8 the population.

9 Q So it's a stricter set of rules?

10 A Yes, sir.

11 Q So when people say go, they mean to go?

12 A Yes, sir.

13 Q You got to do what they say?

14 A Yes, sir.

15 Q And on this particular date, what specifically did he
16 not do?

17 A He didn't get out of bed and get ready for
18 inspection.

19 Q Okay. And what time of day is that usually done?

20 A It's anywhere from around 9:30 to 11:30. It varies.

21 Q Does it get announced ahead of time or put over the
22 intercom or tell anybody anything coming?

23 A Yes, sir, at least an hour to 45 minutes prior.

24 Q So by the time a person comes up and doesn't get up,
25 he's had several opportunities to do it already?

1 A Yes, sir.

2 Q You don't write them up just the first time, do you?

3 A No, sir. Most of the time I don't write them up
4 until after the inspection team comes through and leaves.

5 Q Okay. So on this day you took that particular action
6 and wrote him up on that particular charge. And then what
7 action do you take once you write up this matter and put
8 it in the report?

9 A I forward it to the supervisor. The supervisor has
10 to sign it and forward it on for investigation and
11 disciplinary hearing.

12 Q Okay. Do you know who that would have been in that
13 case?

14 A The disciplinary hearing officer on this one was
15 Lieutenant Barry.

16 Q Lieutenant Barry?

17 A Yes, sir.

18 Q All right. Now your particular incident that you're
19 talking about happened at what time of day?

20 A 11:05.

21 Q 11:05. Was there an act of insubordination
22 associated with it or just a straight failure to follow?

23 A Just a straight failure to follow.

24 Q Sir, this is showing you the chart, which is State's
25 Exhibit No. 56 -- excuse me, I'm sorry, State's 69 dated

CHARLES DAY - Direct Exam by Mr. Young

1621

1 4-4-05, failure to follow instructions, Ware State Prison.
2 Would that comport with the information you just gave the
3 Court?

4 A Yes, sir.

5 MR. YOUNG: Thank you. Would you answer any
6 questions that the defense may have for you, sir.

7 THE WITNESS: Yes, sir.

8 THE COURT: Mr. Tarr.

9 MR. TARR: No questions, Your Honor.

10 THE COURT: Thank you very much, Sergeant. You
11 may step down.

12 All right. You may call your next witness.

13 MR. YOUNG: Thank you, Your Honor. Lieutenant
14 Berry.

15 THE CLERK: Raise your right hand.

16 ROBERT BERRY, after being duly sworn, testified
17 as follows:

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

20 THE WITNESS: My name is Robert Berry. Last
21 name is B-E-R-R-Y. I'm a lieutenant at Ware State Prison
22 in Waycross, Georgia.

23 DIRECT EXAMINATION

24 BY MR. YOUNG:

25 Q Lieutenant Berry, how long have you been a

1 correctional officer at Ware State?

2 A I've currently been there, December 1st will be 21
3 years.

4 Q In that period of time, have you had the occasion to
5 perform the duties of a hearing officer?

6 A Yes, sir, I was.

7 Q What does that mean you do?

8 A The hearing officers hold the disciplinaries that the
9 officers write on inmates. They hold them in a court-like
10 setting and determine whether the inmate's guilty or
11 innocent of the charges that's been brought against him.

12 Q Sir, I want to ask you if during the period of time
13 between -- basically during the month of April 2005, have
14 you had occasion to act as a hearing officer on one or
15 more violations against an inmate known as Steven Louis
16 Barnes?

17 A Yes, I did.

18 Q How many did he have at that time?

19 A I believe there was three that I heard on Mr. Barnes.

20 Q Three different infractions?

21 A Sir?

22 Q You had three different infractions at that time?

23 A There was actually four infractions on three
24 disciplinaries.

25 Q Okay. So you actually had three reports to work on

1 several involving more than one infraction?

2 A Right.

3 Q Okay. Did you have a reported investigation
4 forwarded to you for action dated April 4th, 2005?

5 A Yes.

6 Q Who was that forwarded to you by?

7 A That would have come from -- Officer Charles Day had
8 written a disciplinary report for a failure to follow
9 instructions.

10 Q Okay. Did you also receive another one the same day
11 from another person?

12 A Yes. There was actually two of him that day. The
13 first one that day was by Sergeant Travis Martin who was
14 over the SERT team at the time.

15 Q Tell me what SERT team is.

16 A A SERT team is like a special intelligence unit.
17 They do investigations inside the prison and do
18 shakedowns. And the DR that was written by Sergeant
19 Martin, they were moving the -- they were shaking a
20 building down and they was giving the inmates instructions
21 to move their property to the gymnasium where they could
22 go through all their property, and it appears that
23 Mr. Barnes failed to do so and became insubordinate with
24 the staff members when he was questioned about doing it,
25 and he didn't want to do it.

1 Q And what were the -- do you have a time difference
2 between those two reports on the same day?

3 A About four hours. There was four hours between them.

4 Q Officer Day's report came first then?

5 A No, Sergeant Martin's report was first that day, and
6 his occurred at 7:42 that morning when the inmate refused
7 to tote his property and --

8 MR. TARR: Your Honor, I object to hearsay.
9 Sergeant Martin's not here.

10 THE COURT: I sustain the objection.

11 BY MR. YOUNG:

12 Q All right. Sir, just tell us what was the infraction
13 that you received information on.

14 A Insubordination and failure to follow instruction.

15 Q And that was from Sergeant Martin?

16 A Yes.

17 Q Okay. And that report investigation had an incident
18 time put on it; is that correct?

19 A Yes, 07:42 in the morning.

20 Q And you also received one from Charles Day --

21 A Right..

22 Q -- for the same day. And that particular time was
23 what?

24 A 11:05.

25 Q With regard to this manner of what he allegedly

1 didn't do, okay --

2 A Right.

3 Q -- it has to do with two different things, right,
4 one's failure to follow instructions and insubordination?

5 A Insubordination, correct.

6 Q Explain the difference between those two.

7 A Failure to follow instructions is basically
8 self-explanatory, it's failure to follow a rule, a lawful
9 order that's been given to the inmate. As long as the
10 orders that officers give them is not life threatening or
11 violate their rights, they're required to carry them out.
12 He was told to pack his property and he did not do so.

13 And the insubordination, that is disrespect in
14 either verbal or actions towards the officer.

15 Q Okay. You had to conduct a hearing into both of
16 these matters, correct?

17 A Right.

18 Q On these basically three different matters on the
19 same day?

20 A Right.

21 Q Okay. And what was the alleged act of
22 insubordination?

23 A The -- he's --

24 MR. TARR: Objection to reading the report.

25 THE COURT: Rephrase the question, Solicitor.

1 BY MR. YOUNG:

2 Q All right. Did you receive information as to the
3 allegation that he allegedly committed which amounted to
4 insubordination?

5 A Yes, I did.

6 Q And what was that act?

7 MR. TARR: Objection, Your Honor.

8 THE COURT: I sustain the objection.

9 BY MR. YOUNG:

10 Q This act of insubordination that you investigated,
11 did you make any inquire into both of these?

12 A Yes.

13 Q And at the time you made that inquiry, did you make a
14 conclusion as to whether he had done or not done these
15 acts?

16 A Yes.

17 Q And what --

18 A He was found guilty on both charges.

19 Q That was with regard to the --

20 A Insubordination and failure to follow instructions.

21 Q All right. How about those with regard to Charles
22 Day later that day?

23 A Yes, he was found guilty on those also.

24 Q What were his please in all those things?

25 A These DRs, he actually didn't enter a plea. He was

1 actually -- it was a court setting and he was found
2 guilty. And you're wanting his sanctions?

3 Q Yes. What sanctions did you impose?

4 A On the insubordination/failure to follow, those are
5 high severity DRs and he received 14 days isolation and 90
6 days store, phone, or library restriction and 90 days
7 package and 90 days personal property restriction.

8 Q Was that for all those that you just mentioned?

9 A Yes. No, that's just for the insubordination/failure
10 to follow instructions DR that Sergeant Martin wrote him.

11 Q Okay. Well, what did that involve? What does that
12 mean when you get those kind of sanctions?

13 A That means he's isolated to a cell for 14 days, that
14 he does not get any of his personal property for those 14
15 days. He gets all his state clothes taken. He's only
16 allowed a jumpsuit and like his Bible and his hygiene
17 items. He don't get to get any store items, use the
18 telephone or anything like that.

19 Q When you say store items?

20 A Commissary, potato chips, drinks, stuff that he can
21 buy if people send him money. So he's denied all that.

22 But in addition to that, we have -- that charge
23 actually is high severity and you can give them 90 days of
24 isolation -- I mean 90 days of restriction from those
25 items, and he was restricted from going to the store,

1. using the phone, using the library, and 90 days of
2. receiving a package from home, and all of his personal
3. property was confiscated for 90 days before it was
4. returned to him.

5. Q So it's just store that away and he gets them later?

6. A Right, 90 days later he gets them back.

7. Q Okay. And what kind of a penalty or sanction did you
8. impose for the incidents of 4-4-05 that happened involving
9. Officer Day?

10. A Officer Day's DR, he received 90 days package
11. restriction and 90 days store restriction, meaning that he
12. could not receive a package from home and he could not go
13. to the store in the prison for 90 days also.

14. Q Were those offenses for those types of sanctions run
15. together and served --

16. A They'd be on top of what he already had. If he
17. already was serving 90 days, they would add to it and make
18. it 180 days.

19. Q So it would be consecutive?

20. A Right, consecutive.

21. Q I'm showing you now State's Exhibit No. 69 for
22. identification and it bears the dates of 4-4-05 for
23. failure to follow instructions and insubordination at Ware
24. State Prison and also for 4-4-05, failure to follow
25. instructions. Would that comport with the information

1 that you just provided the Court?

2 A Yes, it would.

3 Q You also indicated that there was an instance you
4 managed also on 4-7-05; is that correct?

5 A That's correct.

6 Q What did that involve in terms of sanction?

7 A The DR that he received on 4-7 was for failure to
8 follow instructions also.

9 Q And what type of sanction did you impose? Did you
10 conduct a hearing and make a finding?

11 A Yes, I did. He was found guilty and he received 14
12 days isolation and 90 days property restriction again and
13 90 days package restriction again.

14 Q When did you actually conduct that hearing?

15 A That hearing was conducted on 4-20-05.

16 Q And were all these hearings conducted on the same day
17 or was that subsequent?

18 A No. The other two hearings were conducted on the
19 11th of April, 4-11.

20 Q So at the conclusion of these first two, you then
21 conducted another hearing in this other matter?

22 A Correct.

23 Q And added this additional sanction?

24 A Right. That's correct.

25 Q Taking a look again at State's Exhibit No. 69,

1 4-7-05, failure to follow instructions at Ware State
2 Prison. Would that also comport with the information you
3 just provided to the Court?

4 A Yes, sir, that's correct.

5 MR. YOUNG: Would you please answer any
6 questions that the defense may have.

7 THE COURT: Thank you, Solicitor.

8 Mr. Tarr.

9 CROSS-EXAMINATION

10 BY MR. TARR:

11 Q Do you know whether it was after the
12 April 20th hearing when Steven was -- that Steven was
13 sent to the Valdosta State prison for mental evaluation?

14 A Do what now?

15 Q Do you know whether it was after the April 20th
16 hearing that Steven was sent to Valdosta State Prison for
17 mental evaluation?

18 A No, sir, I don't have that information.

19 Q You don't know when that occurred?

20 A No, sir, I don't.

21 MR. TARR: That's all.

22 THE COURT: Redirect?

23 MR. YOUNG: No further questions, Your Honor.

24 THE COURT: Thank you. You may step down.

25 THE WITNESS: Thank you, sir.

1 THE COURT: All right. You may call your next
2 witness.

3 MR. YOUNG: Thank you, Your Honor. Randall Cox.

4 THE CLERK: Raise your right hand, please.

5 RANDALL COX, 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: My name is Randall Cox, C-O-X.

10 DIRECT EXAMINATION

11 BY MR. YOUNG:

12 Q Officer Cox, where do you work, sir?

13 A I work at Ware State Prison.

14 Q And how long have you been there, sir?

15 A I've been there 12 years.

16 Q Okay. Did you work for Ware State Prison back in the
17 time frame of 2005?

18 A Yes, sir.

19 Q And during that period of time, did you become
20 acquainted with an inmate by the name of Steven Louis
21 Barnes?

22 A Yes, sir.

23 Q Did, in fact, you actually file disciplinary reports
24 on him at some point in time?

25 A Yes, sir.

1 Q Do you recall filing such reports on him on the 15th
2 of April, 2005?

3 A Yes, sir.

4 Q Okay, sir. And how many reports did you file that
5 day?

6 A Two.

7 Q What times were they involved --

8 THE COURT: Excuse me just a minute.

9 Sheriff, tell them to either be quiet or I'm
10 going to hold them in contempt. That's the third time.

11 Thank you, Solicitor. I didn't mean to
12 interrupt. You may continue.

13 MR. YOUNG: That's all right, Your Honor.

14 BY MR. YOUNG:

15 Q Did you file two such reports, sir?

16 A Yes, sir.

17 Q And was there a time difference between the events
18 that led to those reports?

19 A Yes, sir.

20 Q What was the time difference?

21 A One report was at 7:45 in the morning and the other
22 one was at 9:30. _____

23 Q Okay, sir. And these reports, sir, these two
24 different reports, can you tell us that first such report,
25 the one you filed in the morning at 7:45 --

1 A Yes, sir. Inmate was given direct orders to make his
2 room, get it ready for inspection. Inmate had items on
3 his bed and was not dressed. He was laying in bed.

4 Q Okay. What would that mean, then, what kind
5 infraction would that be?

6 A That would be a C-15, which is failure to follow
7 instructions, and unkempt cell.

8 Q Now, that seems like not keeping your room up. Is it
9 more than that? What's involved in having an unkempt
10 cell?

11 A Well, he has items scattered that are supposed to be
12 stored away inside his property locker. So he was given
13 direct orders earlier when we come on at 6 o'clock in the
14 morning on our shift and he's told to put the items away,
15 or I told him to put the items away and he did not follow
16 my instructions.

17 Q Okay. So you wrote him up for both separate
18 offenses?

19 A Yes, sir.

20 Q Then later in the day you had occasion also to write
21 him up for other infractions. Can you tell us about
22 those?

23 A Yes, sir. The are infraction was C-15, which is
24 failure to follow instructions again, and G-3, which is
25 not shaving.

1 Q What does that mean, not shaving?

2 A Inmate --

3 Q Is it like it sounds or more than that?

4 A The inmate had a beard and was told to shave and he
5 refused to shave.

6 Q Okay. So when you receive that information and you
7 prepare a report, do you do something with that report?

8 A Yes. I wrote the report and had my supervisor sign
9 off on it.

10 Q And where does it go from there?

11 A It goes -- it's served after the supervisor signs off
12 on it and then it goes up to OID, Office of Inmate
13 Discipline.

14 Q Okay. And what do they do with it there?

15 A They investigate the DR.

16 Q Okay. At some point was a hearing conducted on it?

17 A Yes.

18 Q Who conducted that hearing?

19 A Lieutenant Thompson, I believe. It's on the DR.

20 Q I can't hear you, sir.

21 A Lieutenant Thompson.

22 Q Lieutenant Thompson?

23 A Yes.

24 Q And he conducted that hearing at some time later?

25 A Yes, sir.

1 MR. YOUNG: All right. Would you please answer
2 any questions the defense may have.

3 THE COURT: Mr. Tarr.

4 MR. TARR: No questions, Your Honor.

5 THE COURT: All right. Thank you very much,
6 Mr. Cox. You may step down.

7 All right. Solicitor, you may call your next
8 witness.

9 THE CLERK: Raise your right hand, please.

10 JAMES CARTER, after being duly sworn, testified
11 as follows:

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

14 THE WITNESS: James Carter, C-A-R-T-E-R.

15 DIRECT EXAMINATION

16 BY MR. YOUNG:

17 Q Mr. Carter, you're wearing the uniform of a
18 corrections officer for the Georgia Department of
19 Corrections; is that correct?

20 A Yes, sir.

21 Q Sir, how long have you been working for them?

22 A September will make 13 years.

23 Q Sir, your job is to do what?

24 A I'm sorry?

25 Q What's your job?

1 A I'm a correctional officer, maintain security,
2 accountability, and watch over inmates and stuff like
3 that.

4 Q Care, custody, and control of inmates?

5 A Yes, sir. And we, you know, make sure that the
6 inmates are doing what they're supposed to and following
7 instructions and stuff like that.

8 Q Okay. Sir, do you recall in the past having in your
9 care, custody, and control an inmate by the name of Steven
10 Louis Barnes?

11 A Yes, sir.

12 Q And back specifically in April of 2005, did you have
13 occasion to write up an infraction report on him?

14 A Yes, sir.

15 Q And what kind of infraction was that, sir?

16 A It was a DR for failure to follow instructions and
17 growing and wearing a beard. He was told to shave and he
18 refused to do so.

19 Q Okay. And is that something that you report to other
20 people or you just keep it to yourself?

21 A No, it's reported to the disciplinary hearing
22 officer.

23 Q Okay. You know who that went to?

24 A Lieutenant Thompson.

25 Q Now, when you wrote this up, sir, and you put it

1 forward to Lieutenant Thompson, did you get involved later
2 in the actual hearing process?

3 A Did I?

4 Q In other words, did they come back to you and ask
5 what happened?

6 A No, sir. We write the disciplinary hearing and it
7 progresses on to the disciplinary hearing officer and
8 then, you know, it goes after that --

9 Q If there's any questions they'd come to you?

10 A No, sir. I mean, if there's something, you know, as
11 far as any discrepancies with the DR, they'll come to you.

12 Q They'd check with you then?

13 A Right.

14 MR. YOUNG: If you'd answer any questions the
15 defense has for you.

16 MR. TARR: No questions, Your Honor.

17 THE COURT: Thank you very much, Officer Carter.
18 You may step down.

19 Solicitor, you may call your next witness.

20 THE CLERK: Raise your right hand.

21 IRVIN THOMPSON, after being duly sworn,
22 testified as follows:

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

25 THE WITNESS: Irvin Elijah Thompson,

1 T-H-O-M-P-S-O-N, Thompson.

2 DIRECT EXAMINATION

3 BY MR. YOUNG:

4 Q So you're in civilian attire today?

5 A Yes, sir, I'm retired from the state now.

6 Q What did you do for the state?

7 A I was a disciplinary hearing officer and lieutenant.

8 Q Lieutenant, where did you work?

9 A Ware State Prison.

10 Q How long did you work there?

11 A Twenty-two years.

12 Q When did you retire?

13 A I retired -- November 1st was my first day of
14 actual retirement.

15 Q Okay. So you just recently took off the uniform?

16 A Yes, sir.

17 Q Okay. Lieutenant Thompson, in your capacity as a
18 correctional officer and disciplinary hearing officer, did
19 you have occasion to hear the matter involving
20 disciplinary infractions involving Steven Louis Barnes?

21 A Yes, sir, I did on three different occasions.

22 Q Do you recall the dates of those matters that you
23 heard in terms of the incident dates and what were the
24 dates involved?

25 A On 4-15-05 at 7:45 in the morning, Officer Cox wrote

1 Inmate Barnes a disciplinary for unkempt cell and failure
2 to follow instructions, and I heard the DR on 5-4, and
3 based on the factual statement, he was found guilty.

4 Q Okay.

5 A And another DR Officer Cox wrote at 9:30 in the
6 morning on 4-15, and I heard the DR on 4-5 also, and based
7 on the factual statement, he was found guilty on the DR.

8 Q And then you heard another one also?

9 A And then on 4-18-05 at 11:45, Officer Carter wrote
10 him up for failure to follow instructions and growing a
11 beard, and I heard it on 5-4, and based on the factual
12 statement, he was found guilty.

13 Q Okay, sir. Let me show you what's been marked as
14 State's Exhibit No. 69 for identification. So if I pull
15 this first one off, you heard one for 4-15-05?

16 A Yes, sir, for unkempt cell and failure to follow
17 instructions.

18 Q And you heard one on 4-15-05 for?

19 A Failure to follow instructions and for wearing a
20 beard.

21 Q And you heard one also for the incident date of
22 4-18-05?

23 A Yes, sir, for failure to follow instructions and for
24 wearing a beard.

25 Q All right, sir. And you found him guilty on all of

1 those matters?

2 A Yes, sir, I did.

3 Q All right, sir. Can you start with the first one of
4 those in sequence and tell me what the sanction was you
5 imposed.

6 A On the first one, it was a failure to follow
7 instructions and unkempt cell, and I found him guilty. I
8 give up 90 days store, phone, and package restriction.

9 On the DR on 4-15 for wearing a beard, I give
10 him 90 days store, phone, and library restriction.

11 And on the DR for Officer Carter, I give him 60
12 days package restriction.

13 Q Okay. So for him to serve all these sanctions, would
14 he have the chance to serve all these sanctions at the
15 same time, all those 90 days would run together?

16 A No, sir, they all run consecutively.

17 Q Each one would have to be served after the other?

18 A Yes, sir.

19 Q Okay. Just to make sure, when you say 90 days
20 library, what does that mean?

21 A That means that he was not able to go to the library
22 with the exception of law library for 90 days.

23 Q Okay. So there's a library that they can go to?

24 A Yes, sir, even in lockdown they're required -- he's
25 required to go down there twice a week.

1 Q Okay. And with regard to the other one, it's phone
2 privileges?

3 A Phone privileges means his phone was cut off for 90
4 days. He couldn't use them.

5 And the package restriction was anything that
6 come in the institution that was sent into him as far as
7 package-wise, unless it was legal material, it was kept.

8 MR. YOUNG: All right, sir. Thank you very
9 much. Would you please answer any questions the defense
10 may have for you.

11 MR. TARR: No questions, Your Honor.

12 THE COURT: Thank you very much, Mr. Thompson.

13 THE WITNESS: Yes, sir.

14 MR. YOUNG: Judge, our next series of witnesses
15 are local, but I'll have to see if they're in the back
16 room right now waiting on me.

17 THE COURT: All right, sir.

18 (Pause.)

19 MR. YOUNG: The State calls Heidi Presley, Your
20 Honor.

21 THE CLERK: Raise your right hand and place your
22 left hand on the Bible.

23 HEIDI PRESLEY, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat. State your full name

1 and spell your last name, please.

2 THE WITNESS: Corporal Heidi Presley,
3 P-R-E-S-L-E-Y.

4 THE COURT: All right. Solicitor.

5 MR. YOUNG: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY MR. YOUNG:

8 Q Corporal Presley, where do you work?

9 A Edgefield County Sheriff's Office. I've been there,
10 it will be 14 years in January.

11 Q Fourteen years. What do you do?

12 A I work in the jail in dispatch.

13 Q Okay. And have you always worked in jail dispatch?

14 A Most of the time. I was on the road for a period of
15 two and a half years in that 14 years.

16 Q In that period of time that you've been performing
17 your duties in the jail, does part of that process involve
18 things like classification and other matters?

19 A Yes, sir.

20 Q Okay. Do you also perform the duties of an ordinary
21 correctional officer when you've had matters come to your
22 attention that you have to deal with on a daily basis?

23 A Yes, sir.

24 Q Okay. Do you recall Steven Barnes as an inmate?

25 A Yes, sir.

HEIDI PRESLEY - Direct Exam by Mr. Young

1643

1 Q Okay. And do you recall actually having to file a
2 report on him on August 9th, 2005?

3 A Yes, sir.

4 Q Can you tell the Court what that involved?

5 A At that time I was on shift and Mr. Barnes called me
6 to the control room and he had told me that he had finally
7 figured out what I was talking about when I said that you
8 all are going to get what you asked for.

9 Him and several other inmates were showing out
10 in the hallway and causing a problem and they was told
11 that they would have loss of their privileges if they
12 didn't cut it out.

13 Well, then he said that he figured that out and
14 that if I kept on, I was going to get what I was asking
15 for, and then he was laughing in a very scary way -- he
16 started higher and went down low -- and he said several
17 other things.

18 And then he told one of the inmates down the
19 hall, Steven Tyler, "You hear what I told her. Now I got
20 her worried. She's thinking about what I'm going to do."

21 And I took that as a threat and wrote it up in
22 incident report form and turned it over to my lieutenant.

23 Q Okay. And these reports go to who?

24 A Lieutenant Polly Hall.

25 Q Lieutenant Polly Hall?

1 A Uh-huh.

2 Q And as a result of that, she will then act on
3 anything to be done?

4 A That's right.

5 Q Now, you said you did act as classification?

6 A I did.

7 Q Tell me what that means.

8 A When inmates come in, each of them are classified on
9 a different level according to their current charge and
10 then you look at their rap sheet from their previous
11 charges, whether they had convictions or non-convictions
12 on those charges, the degree of violence for those
13 charges, and according to all that, you put them together
14 and it depends on whether they get classified as a general
15 pop or, you know, a low security inmate up to a maximum
16 security inmate.

17 Q Okay. The person who comes in with Mr. Barnes'
18 particular background and situation, what kind of
19 classification is he put in?

20 A He was originally put into a medium classification,
21 which because of the -- being sentenced and then the
22 nature of the charges that he had on him, that was the
23 highest level of classification other than putting him on
24 complete and total isolation.

25 Q All right. So what did it mean for a person to be --

HEIDI PRESLEY - Direct Exam by Mr. Young

1645

1 I think the term -- do you know what the term 23/7 means?

2 A Yes.

3 Q What does that mean?

4 A Yes. You're locked down 23 hours. It's actually 23
5 and one. You're locked down 23 hours of the day, you get
6 one hour recreation. And that comes as an administrative
7 lockdown when either you're causing an extreme amount of
8 problems to where the officers don't feel like it's safe
9 to have you in with other general population, that for his
10 safety and the other inmates' safety, he's isolated for
11 that period of time.

12 Q I'm showing you what's been marked as State's Exhibit
13 No. 69, and I'm showing on here the date of 8-9-05:
14 Threatening a correctional officer, and I've got the
15 Edgefield County Detention Center as the location. Would
16 that be a correct restatement of what happened in that
17 particular incident?

18 A Yes, sir.

19 Q All right. Let me ask you with regards to the second
20 matter here, on November 2nd of 2007, or November 3rd of
21 2007 I should say, did you have a reason to also file an
22 incident report on him regarding matters --

23 A Yes, sir, I did.

24 Q Okay. Can you tell us briefly what those are?

25 A There was a situation on the shift before where

1 Inmate Barnes had threw urine on one of our officers. So
2 that morning -- because of the lack of manpower on the
3 night shift, that morning when there was more manpower, we
4 had to come in and do a cell extraction to clean out the
5 cell of any items that could be used against the officers.
6 There were several officers involved. We used the taser.
7 We extracted Mr. Barnes from his cell and took him to the
8 dayroom. Once he was secured in the dayroom, several of
9 us went into his cell. Immediately when you walked into
10 the cell, immediately on the left on the floor there's a
11 food flap on the cell door that you could put your hand
12 through. That's what we used to pass the food. There
13 were four bottles -- I believe it was four -- containing
14 urine, and they were like squirt bottles, like shampoo
15 bottles or baby oil bottles and they were used to squirt
16 the urine down the hall. We removed those and several
17 stockpiled items that he wasn't supposed to have in his
18 cell, hygiene items, papers, and he had stuff on his
19 walls. The vents were clogged up for the air conditioner
20 and heating. The main thing we got out of there that was
21 our top priority was the urine bottles. Once we got
22 everything out and put in its proper places and labeled
23 and put up, we moved Mr. Barnes back to his cell at which
24 time he told us as long as he could piss or shit, that we
25 would continue to have a problem. And then that was the

HEIDI PRESLEY - Direct Exam by Mr. Young

1647

1 end of the incident. At that time the incident report was
2 done and forwarded to Lieutenant Hall, who was also
3 present during the shakedown.

4 MR. YOUNG: If you'd please answer any questions
5 the defense may have for you.

6 THE COURT: Thank you, Solicitor.

7 Mr. Tarr.

8 MR. TARR: No questions, Your Honor.

9 THE COURT: Thank you very much for being with
10 us today, Officer. You may step down.

11 MR. YOUNG: Your Honor, can I recall her for
12 just a moment? I was looking for something that I just
13 could not see, and I just found it.

14 THE COURT: Who do you want to recall?

15 MR. YOUNG: Recall her just one moment.

16 THE COURT: All right.

17 BY MR. YOUNG:

18 Q I asked you earlier about that matter involving the
19 extraction of the cell. The date for that was what?

20 A It was 11-3-2007. There was a typo on the report.

21 Q Okay. Would you take a look at this chart here that
22 I'm handing you which is State's Exhibit No. 69. It bears
23 the date of 11-3-07: Cell extraction, Edgefield County
24 Detention Center.

25 A Yes, sir.

1 Q Would that be a correct statement?

2 A Yes, sir.

3 MR. YOUNG: Thank you.

4 I have no further questions, Your Honor.

5 THE COURT: Thank you.

6 Any cross-examination at this time, Mr. Tarr?

7 MR. TARR: No, Your Honor.

8 THE COURT: All right. Thank you again,

9 Officer.

10 All right. Solicitor.

11 MR. YOUNG: The State calls Shedall Stevens.

12 THE CLERK: Raise your right hand and place your
13 left hand on the Bible.

14 SHEDALL STEVENS, after being duly sworn,
15 testified as follows:

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

18 THE WITNESS: Shedall Latoya Stevens,
19 S-T-E-V-E-N-S.

20 DIRECT EXAMINATION

21 BY MR. YOUNG:

22 Q Officer Stevens, where do you work?

23 A Edgefield County Detention Center.

24 Q And how long have you been doing that?

25 A Twelve years.

SHEDALL STEVENS - Direct Exam by Mr. Young

1649

1 Q Twelve years. What are you responsible for doing on
2 a day-to-day basis?

3 A Seeing about the inmates, booking inmates in,
4 processing them, mugshots, just making sure they have what
5 they need.

6 Q Okay. And do you recall in the past coming into
7 contact with an inmate by the name of Steven Louis Barnes?

8 A Yes.

9 Q In terms of your contact with Steven Louis Barnes, do
10 you also recall filing -- being involved with an incident
11 him about the 5th of January of 2006?

12 A Yes.

13 Q Can you tell the Court what happened?

14 A I was in the control room and Officer Baynam came to
15 the control courtroom and stated --

16 Q Don't say what Officer Baynam said. Say what you
17 saw.

18 A I was advised -- well, Inmate Barnes wanted to speak
19 with Sergeant Harris. So I called Sergeant Harris and
20 advised him and I let Barnes know that Sergeant Harris was
21 going to come speak with him. Barnes called the control
22 room again and I asked Barnes what was wrong with his tray
23 and he stated, "I'm going to show you what's wrong with
24 it," and he threw the tray out in the hallway and he had
25 liquid in a lotion bottle and he squirted it up the

1 hallway on the trustees and in the refrigerator where all
2 the food is located.

3 Q What was that fluid?

4 A What was --

5 Q What was that fluid?

6 A It was urine.

7 Q He sprayed it out in the hallway?

8 A Yes.

9 Q And who did he hit?

10 A The trustee.

11 Q What was the trustee's job?

12 A He prepares the food trays and delivers them to the
13 inmates.

14 Q Okay. And when you talk about food trays, would you
15 describe to the Court what this looks like?

16 A It's a metal tray and it has meat and two vegetables
17 in it, and there's bread, utensils.

18 Q And what do you do to get it ready to serve it?

19 A You have to get it from outside in the refrigerator,
20 put it in the oven and let it cook for an hour and a half.
21 You have to set up the food cart.

22 Q Okay. And when urine gets on food, what happens to
23 the food?

24 A It has to be thrown away and the whole process has to
25 be done over.

SHEDALL STEVENS - Direct Exam by Mr. Young

1651

- 1 Q What time of day was this?
- 2 A Around lunchtime, around 12.
- 3 Q Okay. And how many food trays were involved?
- 4 A Fifty-two.
- 5 Q Fifty-two food trays?
- 6 A Uh-huh.
- 7 Q What happened?
- 8 A They were all thrown away because they were ruined.
- 9 Q And what had to happen to the feeding of the inmates?
- 10 A We had to go outside and get more trays and recook
- 11 them and set the food cart up over again.
- 12 Q So how much delay would that have been?
- 13 A About a two- to three-hour delay.
- 14 Q Did you notice an effect that day on how it affected
- 15 the other inmates?
- 16 A They were upset.
- 17 THE COURT: What was that question?
- 18 MR. YOUNG: If she knows the effect that day as
- 19 to how it affected the other inmates.
- 20 THE WITNESS: They were upset.
- 21 THE COURT: I won't allow that. Ask another
- 22 question.
- 23 MR. YOUNG: All right.
- 24 BY MR. YOUNG:
- 25 Q Now, these food trays, are there other things besides

1 just food items in terms of meat and potatoes and stuff
2 like that, other things involved? When preparing this
3 food tray, does it just come with just the food and no
4 drink?

5 A No, there's tea, utensils, bread.

6 Q All of it?

7 A Uh-huh, yes.

8 Q So soup to nuts as they'd say, everything?

9 A Yes.

10 Q What day did you say this happened?

11 A On January 5th.

12 Q If the date January 5th is reflected on this chart
13 with the words "sprayed urine on food trays and inmate,
14 Edgefield County Detention Center," would that be a
15 correct statement?

16 A Yes.

17 MR. YOUNG: Would you please answer any
18 questions the defense may have for you.

19 THE COURT: All right. Mr. Tarr.

20 MR. TARR: No questions, Your Honor.

21 THE COURT: Thank you very much. You may step
22 down.

23 Solicitor.

24 MR. YOUNG: The State calls Gladys Mason.

25 THE CLERK: Raise your right hand.

SHEDALL STEVENS - Direct Exam by Mr. Young

1653

1 GLADYS MASON, after being duly sworn, testified
2 as follows:

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

5 THE WITNESS: Gladys Mason, M-A-S-O-N.

6 DIRECT EXAMINATION

7 BY MR. YOUNG:

8 Q Ms. Mason, what is your job today?

9 A I am deputy sheriff and a law enforcement victim
10 advocate.

11 Q Have you always done that job?

12 A No, sir.

13 Q Okay. How long have you been working with the
14 sheriff's department?

15 A I've been working for the sheriff's department since
16 January of 2003.

17 Q January of 2003, what did you come in doing?

18 A I was a jail officer and a dispatcher.

19 Q So you worked as a corrections officer and as a
20 dispatcher handling calls that came in?

21 A Yes, sir.

22 Q Okay. And during that period of time that you
23 performed those duties as a corrections officer, did you
24 come into contact with Steven Louis Barnes?

25 A Yes, sir.

1 Q In fact, did you file an incident report on him
2 involving a problem he had in the jail on August 6th,
3 2005?

4 A Yes, sir.

5 Q August the 6th, 2005, tell the Court what happened.

6 A August 6th, 2005, I actually was ending shift and
7 another corporal was coming on, and at the end of the
8 shift you have to do a count, you count inmates and make
9 sure everybody's there and accounted for. And I did
10 notice that Inmate Barnes and another inmate, Inmate
11 Bibbs, were throwing fluids across at each other's cells.

12 Q Throwing fluids across each other at the cells?

13 A Throwing at each other's cells through the flaps that
14 are open on the cell doors.

15 Q Okay. And what actions had to be taken?

16 A I told the next corporal who was coming in on the
17 next shift, and I don't know her actions that were taken.

18 Q Okay. So that was just simply passing off the
19 problem to the next shift as they came in?

20 A Right. As she came in, right.

21 Q And where was this fluid located?

22 A In the hallway on the doors.

23 Q On the doors?

24 A And on the cell doors.

25 Q Okay. But you also had another occasion on August

GLADYS MASON - Direct Exam by Mr. Young

1655

1 the 10th, 2005, to prepare an incident report?

2 A Yes.

3 Q What did you do?

4 A On August 10th, 2005, I did notice that there was
5 water coming from under the cell doors, that Inmate Barnes
6 and there was another inmate at the time named Inmate
7 Pixley, water was coming from up under their cells.

8 I asked them, you know, why did they flood their
9 cells, and Inmate Pixley said some derogatory words. And
10 water was coming from up under the cells and I noticed it
11 was up under their cells and they both admitted that they
12 were flooding their cells.

13 Q How do you do that?

14 A They both told me they were flooding their cells.

15 How do they flood their cells?

16 Q Yes.

17 A Oh, sometimes they'll put sheets off the bed in the
18 cells and flush the toilets or just thick sheets or paper
19 towel or paper in the sinks and turn the water on, and
20 they flood.

21 Q Okay. And later that day also there was another
22 matter, was there not, that came up?

23 A Yes, sir.

24 Q Okay. Now, is this after the matter of the cell
25 flooding had been dealt with? Do you remember what

1 happened to deal with the cell flooding?

2 A It was after the cells were flooded. The water was
3 turned off, because you can turn off the water to each
4 individual cell without turning off like that whole side.
5 And later on I was going down the hall, C hall, with the
6 trustees.

7 The trustees have to pass out trays to feed the
8 inmates and we do have to go with them to make sure that
9 each inmate gets a tray. And at that time I noticed that
10 Inmate -- Mr. Barnes had a cup, a styrofoam cup. And
11 that's what we give the inmates, you know, to drink their
12 tea out of. And he was holding it out his flap, and he
13 told me, he said, "Move, Gladys."

14 And I was like, you know, "What's going on?"

15 And he said, "Move, or I'm going to get you."

16 And at that time he told another inmate to open
17 the door. And there's a door that goes to D and E hall.
18 There's a door before you get to D and E side, and he told
19 another inmate to open the door and the inmate opened the
20 door -- I told the inmate not to, but the inmate opened
21 the door. And I went up to Mr. Barnes and I took the cup
22 out of his hand and I said, "What's this?"

23 And he said, "What do you think it is?"

24 And I said, "It's urine."

25 And he said, "Well, she won't let me use my

GLADYS MASON - Direct Exam by Mr. Young

1657

1 toilet. I can't use my toilet."

2 So I took the styrofoam cup out of his hand and
3 gave it to the trustees and they discarded it for me,
4 flushed it down the toilet.

5 Q The dates of these two incidents are August 10th,
6 2005?

7 A Yes, sir.

8 Q Let me show you what's been marked as State's Exhibit
9 No. 69 for identification. The chart shows information on
10 August 9th, 2005: Throwing fluids, Edgefield County
11 Detention Center, as regards to that first incident
12 report. Is that a correct statement?

13 A August 6th, 2005, throwing fluids.

14 Q I'm sorry. I'm upside down. It's August 6th.

15 A Yes, sir.

16 Q I superimposed the six.

17 And then the next one is August 10th, 2005:
18 Flooded toilet in cell. Is that also a correct statement
19 for Edgefield County Detention Center?

20 A Yes, sir.

21 Q Both those entries are accurate reflections of what
22 happened?

23 A Yes, sir.

24 MR. YOUNG: Please answer any questions the
25 defense may have.

GLADYS MASON - Direct Exam by Mr. Young

1658

1 THE COURT: Thank you, Solicitor.

2 Mr. Tarr.

3 MR. TARR: No questions, Your Honor.

4 THE COURT: Thank you very much, Deputy Stevens.
5 You may step down.

6 Mr. Foreman, ladies and gentlemen of the jury, I
7 think now we'll take us about a 15-minute recess.

8 Please leave your notes upside down on your
9 chair.

10 Do not discuss the case during this brief
11 recess.

12 You may now go with your bailiff.

13 (The jury left open court at approximately 3:11
14 p.m.)

15 THE COURT: All right. Court will be in recess
16 for 15 minutes.

17 (A break was taken.)

18 THE COURT: All right. Anything from the State
19 before we bring in our jury?

20 MR. YOUNG: Your Honor, during the break Mr.
21 Tarr and I had a discussion about the witnesses that
22 previously testified from the Edgefield County Detention
23 Center, we agreed there'd be no objection to excusing
24 them.

25 THE COURT: All right. Is that correct, Mr.

1 Tarr?

2 MR. TARR: Yes, I don't object to anybody
3 leaving when they're done.

4 THE COURT: All right. Anything further from
5 the defense, Mr. Tarr?

6 MR. TARR: No, Your Honor, not from the defense.

7 THE COURT: All right. Bring us the jury,
8 please.

9 I hope you all have enough witnesses until about
10 6 or 7 o'clock tonight, a minimum of 6 o'clock.

11 MR. YOUNG: Your Honor, at this point I have
12 nine witnesses.

13 THE COURT: We've done nine from 2:08 to 3:10.
14 So an hour and two minutes we went through nine witnesses.
15 If you keep up that pace, it's 3:25, by 4:30 you'll have
16 those nine witnesses if you keep that pace. The pace
17 could slow down, could speed up. I intend on working
18 until 6 o'clock tonight.

19 MR. YOUNG: Yes, sir.

20 THE COURT: So make sure you all have witnesses.

21 MR. TARR: Based on my talks with Solicitor
22 Myers, we're going to have all of our witnesses here
23 tomorrow sometime prior to lunch. He indicated it's going
24 a little faster than he thought, so we may actually get a
25 witness before lunch.

1 THE COURT: May actually what?

2 MR. TARR: We may actually get a witness up
3 before lunch.

4 THE COURT: All right. Very good.

5 MR. TARR: I'm going to have them here so that
6 we can get them all in.

7 THE COURT: Nine more witnesses will give us 30,
8 so I assume there's 25 more somewhere. There's supposed
9 to be 55 witnesses.

10 MR. YOUNG: I believe the Solicitor has several
11 witnesses after me, Your Honor.

12 (The jury came into open court at approximately
13 3:29 p.m.)

14 THE COURT: All right. The jury's back present
15 in the courtroom.

16 Solicitor, you may call your next witness.

17 MR. YOUNG: Thank you, Your Honor. The State
18 calls Leigh Bouknight.

19 THE CLERK: Raise your right hand and place your
20 left hand on the Bible.

21 LEIGH BOUKNIGHT, after being duly sworn,
22 testified as follows:

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

25 THE WITNESS: My name is Corporal Leigh

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1661

1 Bouknight Enlow, E-N-L-O-W.

2 DIRECT EXAMINATION

3 BY MR. YOUNG:

4 Q Corporal Bouknight, where do you work?

5 A Edgefield County Sheriff's Office.

6 Q And how long have you been working for Edgefield
7 County Sheriff's Office?

8 A Five years.

9 Q What's your job?

10 A I am corporal.

11 Q What does a corporal mean?

12 A Supervisor.

13 Q Okay. What do you do as a corporal and a supervisor?

14 A Supervise up to 70 inmates, helping prepare food,
15 give them things that is required within my job
16 description.

17 Q Okay. And up to 70 inmates, is that sort of like
18 it's a variable number, right?

19 A Yes, sir.

20 Q So it can be as high as that?

21 A Yes, sir.

22 Q How low has it ever gotten?

23 A I would say about 40.

24 Q Not lower than 40 but not more than 70?

25 A Yes, sir.

1 Q Okay. And you say you've been working for them how
2 long?

3 A Five years.

4 Q So you were working for the Edgefield County
5 Sheriff's Office back in 2006, in November?

6 A Yes, sir.

7 Q Okay. As of your job supervising the day-to-day
8 activities of inmates, do you have to maintain a lot of
9 vigilance of what's going on?

10 A Yes, sir.

11 Q Why is that?

12 A We have to know what's going on at all times
13 actually. You have inmates -- like I said, up to 70
14 inmates. We need to know what they're doing. And if
15 they're doing things they're not supposed to be doing, we
16 need to make sure we take care of that situation, too,
17 sir.

18 Q Okay. And you're acquainted with Steven Louis
19 Barnes?

20 A Yes, sir.

21 Q Was he an inmate there under your supervision during
22 2006?

23 A Yes, sir.

24 Q Do you recall the day of November 3rd, 2006?

25 A Yes, sir.

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1663

1 Q Okay. Now, November 3rd, 2006, did you file an
2 incident report concerning something that happened with
3 Inmate Barnes?

4 A Yes, sir. On that date, Inmate Barnes called to the
5 control room and stated that his room was too cold. I
6 then notified Lieutenant Jagers on this situation, about
7 him being too cold in his cell.

8 Inmate Barnes then stated that he needed someone
9 to come down to check his room. Per Lieutenant Hall, she
10 stated to give Inmate --

11 Q Don't get into what Lieutenant Hall said.

12 A Okay.

13 Q Just tell me what you did.

14 A Okay. We offered Inmate Barnes a blanket. Inmate
15 Barnes refused his blanket.

16 Inmates Barnes then threw urine out of the
17 bottom flap onto the floor, to the refrigerator and
18 icebox.

19 Inmate Barnes then stated that we would not be
20 able to feed in the afternoon because he would throw
21 whatever he had in his cell onto the stove and into the
22 refrigerator.

23 Q Now, I want you to help explain the position of this
24 cell that Inmate Barnes was occupying in relation to this
25 thing you called the control room --

1 A Yes, sir.

2 Q -- in relation to the refrigerator, in relation to
3 stove that's being used in this feeding. Can you describe
4 that?

5 A Yes, sir. Mr. Barnes' assigned cell was C-2. Across
6 the hall is where we kept our icebox and our stove where
7 we prepared meals, and also our refrigerator. We put
8 meals inside the refrigerator.

9 Q Now, is this a standard refrigerator?

10 A Yes, sir.

11 Q So you just -- like a regular -- you just open the
12 door and there it is?

13 A Yes, sir.

14 Q Okay. And is this -- are there devices that help
15 these trustees perform the food functions were talking
16 about here, delivering the food? What kind of devices do
17 they use? Do they have anything to help them deliver it?

18 A Yes, sir, they have a food cart. They'll put the --
19 load the trays on the food cart or either -- whenever
20 they're taking the food out of the refrigerator, they'll
21 load it on the cart as well.

22 Q Okay. And Inmate Barnes, you said he has a door to
23 his cell of course?

24 A Yes, sir.

25 Q Describe this door.

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1665

1 A It's a flap. It's an open flap where you will serve
2 food or whatever we need to give inmates, medication or
3 whatever. The flap was actually on the bottom.

4 Mr. Barnes had to be served from the bottom flap.

5 Q Why was that?

6 A Sir?

7 Q Why was he having to be served on the bottom?

8 A For prior incidents of dashing, throwing what
9 appeared to be urine or whatever he had in his cell he
10 would throw.

11 Q Okay. And this bottom flap, are we talking about
12 right on --

13 A The very bottom.

14 Q The very bottom of the cell door?

15 A Yes, sir.

16 Q And what kind of door is it, wood, metal?

17 A Metal.

18 Q Okay. And he's able to communicate somehow with you
19 all. How's he able to do that? If he's inside the cell,
20 how's he able to communicate?

21 A By hitting a buzzer inside of his cell to the control
22 room.

23 Q Okay. So you can hear what's going on from the
24 control room and understand what's going on in that cell
25 if he called you?

1 A Yes, sir, that's correct.

2 Q You say you saw this incident happen and you made the
3 report of it, correct?

4 A That's correct, sir.

5 Q When you say he messed up what was there, what was
6 there in terms of numbers of trays of food and so forth?
7 Lots of food or just a little bit?

8 A A lot of food.

9 What the officers would do, we would load our
10 refrigerator every day for the next working day, and
11 there's probably about 140 to 200 meals in that
12 refrigerator.

13 Q Okay. And what happened as a result of what
14 happened? In other words, the spraying or throwing or
15 whatever was involved that was thrown out in the hallway
16 and on the refrigerator, what happened to all that food?

17 A The food was destroyed. We had to throw it away.

18 Q Throw it away. And do you keep enough food to get
19 some more food or is there another storage place there or
20 do you have to actually get another order?

21 A We'll have to go out to our -- another refrigerator
22 and get more food, but we would have to order more food
23 because that food was destroyed.

24 Q So it kind of just has a trickle-down effect --

25 A Yes, sir.

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1667

1 Q -- all the way down?

2 A Yes, sir.

3 Q And the county pays for all that?

4 A That's correct.

5 Q And you prepared this report and sent it on?

6 A Yes, sir.

7 Q And how did he put this -- did he actually say words
8 about what would happen if you attempted to try to serve
9 food again?

10 A Yes, sir. He also stated that if we would open --
11 you know, tell us not to open the flap. If we would open
12 the flap, you know, he would dash the refrigerator and the
13 stove or either the icebox.

14 Q This happened on 11-30 of '06?

15 A That's correct, sir.

16 Q On that date, 11-30, '06, threatening to throw urine
17 on refrigerator and icemaker, was there an icemaker
18 involved?

19 A Yes, sir.

20 Q And an icemaker is also in line of sight or basically
21 of directional throwing distance of this fluid that came
22 out?

23 A That's correct, sir.

24 Q Okay. Now, what happens to all the ice?

25 A If -- at the time the icebox was closed, but if the

1 inmates -- not inmates -- if the trustees are going in and
2 preparing food, then if the icebox is open, then whatever
3 was thrown would be in the icebox and then you'd have
4 to -- the trustees or officers would have to go and dump
5 the entire icebox and start all over again, sir.

6 Q 11-30-06: Throwing urine on refrigerator and
7 icemaker in Edgefield County Detention Center, that would
8 be a correct statement?

9 A Yes, sir.

10 Q Now, you have to take precautions since you're
11 feeding food to ensure that the sanitary conditions are
12 met there?

13 A Yes, sir.

14 Q What does that involve if something like this is
15 sprayed out?

16 A Okay. We would have to -- if we're feeding, we would
17 have to go in and again throw out the trays, disinfect the
18 entire area. It prolongs everything. It put us back
19 about probably 45 minutes to an hour of our job duties.

20 Q Okay. And you also had an opportunity to file a
21 report on an incident on April 29th of 2007 --

22 A That's correct, sir.

23 Q -- involving Mr. Barnes?

24 A Yes.

25 Q Can you relate to the Court what that one was?

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1669

1 A Flooding the dayroom with water.

2 On that particular day, Inmate Barnes was having
3 rec, having his rec time. His rec time was over. After
4 his rec time was over, Barnes called to the control room,
5 hit the buzzer and told the officers to hold up one
6 moment, hold up a minute is what he said. The officers
7 then went down.

8 Officer Prince walked down to the dayroom where
9 Mr. Barnes was and saw that the entire floor was covered
10 in water. I also saw that the floor was covered in water
11 from the control room on our monitor.

12 I then asked Mr. Barnes why did he flood the
13 cell and he stated because Officer McNeal would not give
14 him his Tylenol at 12 o'clock.

15 Q Was there some medication that he was supposed to
16 receive at noon or something like that?

17 A Yes, sir. We do have noon meds, yes, sir, that's
18 correct.

19 Q And as a result of him not receiving that, that's his
20 explanation of why he went ahead and did that flooding of
21 the dayroom?

22 A Yes, sir.

23 Q Now, the dayroom means something to you I'm sure in
24 your day-to-day activities, but what does it mean in terms
25 of what goes on in your detention center? What is the

1 dayroom for?

2 A It's for -- inmates are there to have their rec. At
3 this time Mr. Barnes was having only one-hour rec,
4 recreation where he would shower, watch TV, or use the
5 phone.

6 Q Okay. And when he's in his recreation area, if he
7 chooses to use that opportunity to flood that area, what
8 happens then to the use of the dayroom?

9 A We can't use the dayroom. The dayroom was flooded.
10 Water covered the entire dayroom, so we couldn't use the
11 dayroom. We'd have to have trustees come in and open the
12 back door or either try to push the water out through the
13 drain in the shower.

14 Q And all that water, then, is it clean water?

15 A Is it clean water?

16 Q Yes.

17 A It comes from the shower.

18 Q So it's clean water from the shower --

19 A Yes, sir.

20 Q -- but it's all over the floor?

21 A It's all over the floor, that's correct.

22 Q And now you've got to clean that up. And do other
23 inmates have the opportunity to use the facilities for
24 that period of time?

25 A No, sir. Again, we're on a time schedule at the

LEIGH BOUKNIGHT ENLOW - Direct Exam by Mr. Young

1671

1 sheriff's office. Whenever inmates are having their rec
2 time, that's one hour after that, and Mr. Barnes when he
3 flooded the cell, therefore that pushes us back probably
4 about 30, 40 minutes to clean that water up.

5 Q So therefore the facilities would not be available
6 for that period?

7 A That's correct, sir.

8 Q What was the date of this again?

9 A Sir?

10 Q What was the date of this again?

11 A April 29th.

12 Q So then it would be a correct statement that on
13 April 29th, 4-29-07: Flooded shower area at Edgefield
14 County Detention Center, that would be a correct statement
15 of the infraction involved in this particular situation?

16 A Yes, sir.

17 Q And you reported this on to who?

18 A Lieutenant Hall.

19 MR. YOUNG: If you'd answer any questions the
20 defense has.

21 THE COURT: Mr. Tarr, any questions?

22 MR. TARR: No questions, Your Honor.

23 THE COURT: Thank you very much for being with
24 us.

25 THE WITNESS: Okay.

1 THE COURT: All right. You may call your next
2 witness.

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

5 ALISON SHUSTER, after being duly sworn,
6 testified as follows:

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

9 THE WITNESS: My name is Corporal Alison
10 Shuster, S-H-U-S-T-E-R.

11 DIRECT EXAMINATION

12 BY MR. YOUNG:

13 Q Corporal Shuster, where do you work and for how
14 long?

15 A I work for Edgefield County Sheriff's Office and I've
16 been there eight years.

17 Q What's your job?

18 A I'm currently the classification officer.

19 Q Okay. What did you do before that time?

20 A I was a corporal in the detention center.

21 Q What was your job in that regard?

22 A I supervised the inmates and some of the staff, make
23 sure the security of the jail and make sure they get fed
24 and do everyday tasks.

25 Q Care, custody and control of inmates?

ALISON SHUSTER - Direct Exam by Mr. Young

1673

1 A Right. Yes, sir.

2 Q Okay. During that period of time while you were a
3 correctional officer there in the detention center, did
4 you come in contact with Steven Louis Barnes?

5 A Yes, sir.

6 Q Okay. And did you file an incident report concerning
7 an incident involving him on April -- excuse me,
8 February 3rd, 2007?

9 A Yes, sir.

10 Q Could you relate to the Court what happened?

11 A On that date I was advised by officers that Inmate
12 Barnes had tried to push his way out of the dayroom where
13 he was receiving his rec. They were able to push him back
14 in and close the door and lock it.

15 We called officers in to get them to assist us
16 with moving Inmate Barnes. He refused to be handcuffed as
17 was our policy to move him and at that time a struggle
18 ensued with officers. And at that time while the struggle
19 was going on, the handcuffs were jammed and we had to call
20 Edgefield Fire Department to get them cut off.

21 And after everybody had left, Inmate Barnes then
22 sprayed urine onto the open refrigerator, which was across
23 from his cell, and ruined, I believe it was, 56 trays.

24 Q Now, putting these handcuffs on him, how many
25 officers did it take to get that accomplished?

1 A According to the report --

2 Q Well, no, can you tell me how many it took, or not?

3 A It's four officers.

4 Q Okay. And once these handcuffs got on him, was there
5 regular force involved or was it --

6 A No, they used a good bit of force to get him to --

7 MR. TARR: Objection, Your Honor. It's been
8 going on for a while, but our objection is to hearsay.
9 She wasn't involved and she's going off a report from
10 somebody else.

11 THE COURT: I can't tell whether she was or
12 wasn't. If she does have no -- if she does not have any
13 personal knowledge, it would obviously be hearsay,
14 Solicitor. If she has personal knowledge, it's not
15 hearsay.

16 BY MR. YOUNG:

17 Q You observed this?

18 A Yes, sir, I observed.

19 Q And during the course of observing this and this
20 force being used, that's when the handcuffs became locked
21 up or they couldn't get them off?

22 A Right, yes, sir. They became jammed. We couldn't
23 get them -- once he was taken to the cell and they were
24 trying to remove the cuffs for us to leave the cell, we
25 were unable to remove them.

ALISON SHUSTER - Direct Exam by Mr. Young

1675

1 Q So pretty much your job as supervisor is to get the
2 help necessary to get this job done, to get him moved?

3 A Correct.

4 Q And then extra help was necessary?

5 A Yes, sir.

6 Q And then when he got jammed, what did you do?

7 A We called someone that could get them off, which was
8 the Edgefield Fire Department.

9 Q And how did they get them off?

10 A With cutters, bolt cutters.

11 Q They used bolt cutters to cut the handcuffs off of
12 him?

13 A Yes, sir.

14 Q Okay. How long did all that take?

15 A Approximately 45 minutes to an hour.

16 Q Okay. And that's just moving from where to where?

17 A From the dayroom to his cell on C hall, which is
18 about 100 yards.

19 Q So at the conclusion of all that, he's back in his
20 cell, right?

21 A Yes, sir.

22 Q He's got the handcuffs off?

23 A Yes, sir.

24 Q And then what happened?

25 A He sprayed urine out of his cell onto the -- down the

1 hallway, which the refrigerator was right there that we
2 store food in.

3 Q Was the door open?

4 A Yes, sir.

5 Q What happened to all the food in there?

6 A We had to throw it away because it had urine on it.

7 Q What did you have to do because it had urine sprayed
8 on it to start with? Was there anything else you have to
9 do to maintain sanitary conditions?

10 A Yes, sir. We had to sanitize the refrigerator as
11 well as the hallway, the floor. Anything it touched we
12 had to sanitize it.

13 Q How long did all that take?

14 A Probably an hour or more.

15 Q What time of day was this?

16 A Around 3 o'clock in the afternoon.

17 Q Is that when it started or is that when it ended?

18 A It ended around 4 o'clock. It started at 3.

19 Q Now, what time do you all feed?

20 A We feed between 5 -- 4:30 and 5.

21 Q What did this do to the feeding schedule?

22 A It -- we were delayed by at least a couple hours.

23 Q This happened on what day again?

24 A It was February 3rd, 2007.

25 Q This entry reads: February 3rd, 2007, refused to be

ALISON SHUSTER - Direct Exam by Mr. Young

1677

1 handcuffed, sprayed liquid in refrigerator.

2 The liquid is urine, right?

3 A Yes, sir.

4 Q Edgefield County Detention Center. Would that be a
5 correct statement?

6 A At Edgefield County Detention Center, yes, sir.

7 MR. YOUNG: Please answer any questions the
8 defense may have.

9 THE COURT: Mr. Tarr.

10 MR. TARR: No questions.

11 THE COURT: Thank you. Thank you for being with
12 us today, Officer.

13 THE WITNESS: Thank you.

14 THE COURT: All right. Solicitor.

15 MR. YOUNG: Thank you, Your Honor. The State
16 calls James Florida.

17 THE COURT: James what?

18 MR. YOUNG: Florida, as in the state.

19 THE CLERK: Raise your right hand.

20 JAMES FLORIDA, after being duly sworn, testified
21 as follows:

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

24 THE WITNESS: My name is James Patrick Florida,
25 Jr. Last name is spelled F-L-O-R-I-D-A.

1 DIRECT EXAMINATION

2 BY MR. YOUNG:

3 Q Officer Florida, where do you work?

4 A I work for the Edgefield County Sheriff's Office,
5 sir.

6 Q What do you do?

7 A Currently I'm a deputy sheriff/school resource
8 officer.9 Q Okay. That means you're involved where in this
10 county? What school are you in?11 A I do Merriweather Middle Schools and Jet Middle
12 Schools.

13 Q Do you perform that function for both those schools?

14 A Sir?

15 Q Do you perform that function for both those schools?

16 A Yes, sir.

17 Q Now, how long have you been in law enforcement?

18 A Twenty-five years, since 1986.

19 Q And did you work for the Edgefield County Sheriff's
20 Department in 2007?

21 A Yes, sir, I did.

22 Q And when you worked in that capacity in 2007, where
23 did you work?24 A I worked in the jail, I was a jail officer, and then
25 moved up as a corporal, as a shift supervisor.

JAMES FLORIDA - Direct Exam by Mr. Young

1679

1 Q Okay. What were your duties there in 2007?

2 A Booking, maintaining the jail, keeping order in the
3 jail, make sure the daily routines and functions are
4 properly done.

5 Q Now, did you -- in regard to being shift supervisor,
6 were you responsible for day shift and other shift
7 assignments as well?

8 A Yes, sir. I mainly work night shift at the jail.

9 Q Do you recall filing -- do you know if Steven Louis
10 Barnes was an inmate?

11 A Yes, sir.

12 Q Okay. And knowing him as an inmate, did you have an
13 occasion to prepare an infraction report on him in
14 February -- excuse me, September 7th, 2007?

15 A Yes, sir, I did.

16 Q And when you filed that report, can you tell us what
17 happened?

18 A I was working the control room that morning right
19 before shift change and we was in the process of passing
20 out breakfast trays and things. I heard a loud boom in
21 the hallway, which was right next to the control room. I
22 went outside and I could see where Barnes had thrown urine
23 in milk cartons outside his bottom flap of his floor onto
24 the food trays, and the refrigerator was open where the
25 trustees was still putting butter and juices on the cart

1 and he'd thrown urine everywhere, onto the trays inside
2 the refrigerator, onto the trays that we just got through
3 cooking, and on the milk cartons and everything.

4 Q Okay. So how much food was involved in this case?

5 A We had -- I'm not sure exactly how many inmates we
6 had there, but all the trays were on the cart, anywhere
7 from 40 to 70 trays, plus the milks, the juices, the
8 butters.

9 And when we do the trays, once we bring them
10 inside to cook, we go back outside and fill the tray up --
11 I mean the refrigerator up for their lunch meals. All
12 those trays were ruined.

13 I'm not sure exactly how many trays total
14 involved were ruined because we had to go back and take
15 all those out, throw them away, clean up the whole area,
16 get everything cleaned up and sanitized real good, get
17 more trays out of the freezer, bring them inside and let
18 them thaw and then recook them. And that means all the
19 inmates get breakfast real late because it takes at least
20 45 minutes to an hour to cook the trays for the inmates
21 and set everything up and serve them.

22 Q So that's another schedule problem?

23 A Yes, sir, because normally the night shift right
24 before we leave, that's the first thing we do is take care
25 of the meds and take care of the breakfast trays so the

JAMES FLORIDA - Direct Exam by Mr. Young

1681

1 morning shift when they come in, they can start their
2 regular routine as far as things that need to be done on a
3 timely schedule in the jail on day shift, and that sets
4 them back.

5 Q And he called the -- had he called the control room
6 prior to this happening?

7 A Yes, sir, he called and complained about the eggs on
8 his tray.

9 Q So he already had his food?

10 A Yes, sir, he had gotten his tray.

11 Q So he has his food and then the urine comes out?

12 A Yes, sir.

13 Q How did he get it out of the cell?

14 A There's a bottom flap which is on his door where they
15 had served him his food. They opened up the flap and
16 served him his tray and stuff and that's when he threw the
17 milk cartons of urine out into the hallway.

18 Q How many were there?

19 A About two or three. When he threw the first one, I
20 wasn't out there. When I come around the corner, I seen
21 him throw at least two more outside the flap. And you can
22 smell and see the urine everywhere.

23 Q Okay. What time of day was this?

24 A Sir?

25 Q What time of day was this?

1 A It was early morning, probably about 6:10 in the
2 morning. Because we do shift change around 7.

3 Q So this entry showing 9-7-07: Throwing urine on
4 refrigerator meals, Edgefield County Detention Center,
5 would that be a correct statement?

6 A Yes, sir.

7 Q Location and time?

8 A Yes, sir, exactly.

9 MR. YOUNG: If you'd answer any questions the
10 defense may have.

11 THE COURT: Mr. Tarr.

12 MR. TARR: No questions, Your Honor.

13 THE COURT: Thank you, Deputy Florida. You may
14 step down.

15 All right. Solicitor.

16 MR. YOUNG: Thank you, Your Honor. The State
17 calls Marcus Smith.

18 Your Honor, I ask that these witnesses that have
19 just testified, that they be excused.

20 THE COURT: Any objections?

21 MR. TARR: No, Your Honor.

22 THE COURT: They may be excused.

23 MR. YOUNG: Thank you, sir.

24 THE CLERK: Raise your right hand.

25 MARCUS SMITH, after being duly sworn, testified

1 as follows:

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

4 THE WITNESS: Marcus Smith, S-M-I-T-H.

5 DIRECT EXAMINATION

6 BY MR. YOUNG:

7 Q Mr. Smith, where do you work?

8 A At the Edgefield County Sheriff's Office.

9 Q What's your job there?

10 A I'm a detention officer in the jail.

11 Q What do you do? Tell the Court what you do.

12 A Basically I'm to maintain the safety of the inmates
13 and make sure that everything is pretty much running
14 smooth, no one's in any type of danger.

15 Q Have a regular routine you follow?

16 A Yes, sir, for the most part.

17 Q In connection with that routine that you do in your
18 job, did you come into contact with Steven Louis Barnes?

19 A Yes, sir.

20 Q And do you recall filing an incident report on August
21 5th, 2005, concerning some things he may have done?

22 A Yes, sir. On that particular day -- well, night --
23 we were -- it was about 10 o'clock. He and another inmate
24 had an altercation. They were throwing things back and
25 forth.

1 I stood between the two doors basically trying
2 to keep the flaps closed so that they couldn't throw
3 anything. That lasted about an hour.

4 And when we came in and did a lockdown, we moved
5 the other inmate to another room so that they wouldn't be
6 across from each other, and pretty much diffused it that
7 way.

8 Q Could you hear any verbal abuse by Inmate Barnes?

9 A He was pretty irate. He said a couple of obscenities
10 towards the inmate. I don't know exactly what the
11 disagreement was between the two, but he was really -- you
12 know, he was upset.

13 Q And so the control issue did what?

14 A It threw us off a little bit. Usually around 10 we
15 try and start getting things together for -- like at that
16 time doing meds at 11 and lockdown was at 11. So anything
17 that they needed between 11 and 10 o'clock, like toilet
18 paper or anything like that, we weren't really able to
19 give it to them, you know, it threw us off that way.

20 Q And that's because of what? What were you doing?

21 A I was standing there holding the flaps closed so that
22 they couldn't throw things at each other.

23 Q And how long did that go on?

24 A About an hour.

25 Q The date was August 5th, 2005?

MARCUS SMITH - Direct Exam by Mr. Young

1685

1 A Yes, sir.

2 Q So showing you State's Exhibit No. 69 for
3 identification, and I pulled off the tab showing
4 August 5th, 2005: Throwing a food tray, Edgefield County
5 Detention Center. Would that be a correct statement of
6 the location and date?

7 A Yes, sir.

8 Q Is that the only incident report filed for him?

9 A No, sir.

10 Q Did you have occasion to subsequently file another
11 incident report on him, this one October 29th, 2005? Do
12 you recall such an incident report involving you and I
13 believe Corporal Presley?

14 A Yes, sir. On that date, before we had come into work
15 they had put into effect a -- where we were locking the
16 flaps after we did dinner and everything like that. The
17 flaps were to stay locked the entire night. Well,
18 Mr. Barnes wasn't too happy about that. So that morning
19 when I went to feed him his breakfast tray, I sat the tray
20 inside the flap.

21 We fed him in the bottom flap because he has two
22 flaps on his door. The top flap stayed locked and then
23 the bottom flap we passed him his tray in.

24 So as I went to give him his tray or pass the
25 tray inside, I was going to lock the flap back, he threw a

1 tray out and I jumped back.

2 When I jumped back, I realized that I had left
3 the key in the flap. So I went back to get the key. That
4 time he came towards the door and we were basically
5 struggling over the keys.

6 Q Let me stop you right there.

7 A Yes, sir.

8 Q What kind of keys are we talking about?

9 A These keys open pretty much all the doors in the
10 jail.

11 Q Every key to the jail?

12 A Yes, sir.

13 Q So if he had those keys he could have opened any cell
14 he could have got to?

15 A If he -- he wouldn't have been able to open the doors
16 because of where the top flap was locked. And the only
17 way that he could have really done anything was if that
18 flap maybe had been unlocked. It would have just caused a
19 problem because we'd have had to go into the cell to get
20 the keys back from him and things of that nature. But
21 other than that, there was nothing really that he could
22 have done with the keys, but, you know, it's a control
23 issue if he had gotten them.

24 Q And this flap we're talking about, which flap is it
25 that he had -- that the lock was on and you had the key?

MARCUS SMITH - Direct Exam by Mr. Young

1687

1 A It was the bottom flap.

2 Q Okay. And so you said it was a struggle over the
3 keys. What kind of struggle?

4 A My hands were on the key and he was trying to push my
5 hands off of the key. And it was more or less like he was
6 trying to get me to break the key off in the lock so that
7 we couldn't use it anymore. And at that time I was just
8 trying to keep from breaking the lock and, you know, just
9 keeping the key in the lock at the time; he couldn't pull
10 it out.

11 And Corporal Presley was in the control room.
12 She came out and she grabbed his arm and peeled it off so
13 we got the keys back, and that was pretty much the end of
14 that situation.

15 Q It took the two of you to get his hands off of you?

16 A Yes, sir, because, you know, I'm using one hand and
17 trying to keep the key from being, you know, broken off or
18 taken and the other one to kind of push his hands off of
19 mine.

20 Q And this is from the bottom flap in his door?

21 A Yes, sir. And I'm in a crouched position at that
22 time trying to do this.

23 Q Did he have anything to say at the conclusion of all
24 this?

25 A He stated that "every time that my fucking flap is

1 closed, this is going to happen."

2 Q How about using the words that he used?

3 A Okay. He stated that "this would happen, the same
4 thing would happen every motherfucking thing -- every
5 motherfucking time the flap is opened."

6 Q Okay. What is the date of that incident?

7 A 10-29-05.

8 Q So I'm showing you State's Exhibit 69 again, 10-29-05
9 is the date: Throwing a food tray at a correctional
10 officer, attempting to steal jail keys, Edgefield County
11 Detention Center. Would that be a correct statement of
12 what happened on that day at that location?

13 A Yes, sir.

14 Q Okay. And you also had an occasion to file another
15 incident report, did you not?

16 A Yes, sir.

17 Q Do you recall the incident report on June 30th, 2006?

18 A Yes, sir.

19 Q Okay. What happened on that particular situation?

20 A On that particular day, Inmate Barnes called the
21 control room and asked to speak to me and there was
22 another officer in the control room, Officer Turner I
23 believe it was. He asked for me and Officer Turner told
24 him that he could, you know, convey to him whatever it was
25 that he needed to speak to me about because I was busy at

MARCUS SMITH - Direct Exam by Mr. Young

1689

1 the time. Officer Barnes wasn't -- well, Inmate Barnes
2 wasn't happy about that response so he threw a food tray
3 out of the flap and started throwing what smelled like
4 urine out of his flap also.

5 Q Was it urine?

6 A Yes, sir.

7 Q So this is another incident where he throws food and
8 urine out of the bottom flap?

9 A Yes, sir.

10 Q What was the date of this incident?

11 A 6-30-06.

12 Q Looking again at State's Exhibit 69 for
13 identification, the date given here on the chart is
14 6-30-06: Throwing food and urine on hall, Edgefield
15 County Detention Center. Would that be a correct
16 statement?

17 A Yes, sir.

18 Q Yet again a few days later, July 9th, 2007, did you
19 have occasion in another manner in which an incident
20 report was filed? Do you recall that incident?

21 A Yes, sir.

22 Q This particular incident, what time of day are we
23 talking about?

24 A About 2:30 in the afternoon.

25 Q What happened on that day?

1 A Okay. We're getting ready to serve trays, our lunch
2 trays, and Inmate Barnes was in his cell and our trustees
3 were getting the trays together to serve them and Inmate
4 Barnes threw a carton of milk up the hallway, and before
5 he did it he yelled "move, move," you know, telling the
6 trustees to get out of the way. He threw a carton of milk
7 up the hallway and it had some -- I think maybe the milk
8 was old or something that was in it, and he threw it up
9 the hallway. And they had just cleaned up a mess that he
10 had made, I think, earlier that day also, because we
11 usually serve around 11, 12 o'clock.

12 Q So this is the second time in the day?

13 A Yes, sir.

14 Q Okay. And on this particular occasion, you had to
15 stop what you're doing?

16 A Yes, sir.

17 Q What happened to the food?

18 A The first time or --

19 Q No, the second time.

20 A The second time. I don't think --

21 Q If you don't recall, you don't recall.

22 A Yes, sir. At that time, I think we had already taken
23 the trays out of the oven, we're about to start serving,
24 and then he yelled "move, move," so, you know, we got out
25 of the way. And the milk carton hit the wall or whatever,

MARCUS SMITH - Direct Exam by Mr. Young

1691

1 but he didn't manage to get anything on the trays that
2 day.

3 Q Okay. So the food was spared that day?

4 A Yes, sir.

5 Q Okay. Was there anything else that went into the
6 hallway while he was there?

7 A I think a couple more trays came out of his flap, but
8 other than that, nothing -- we weren't delayed again in
9 feeding that day.

10 Q At least a second time?

11 A Yes, sir, a second time.

12 Q That was on 7-9-07?

13 A Yes, sir.

14 Q Now, wasn't there also something he actually sprayed
15 into the hall?

16 A He sprayed the walls with what smelled like urine,
17 smelled like urine and looked like urine, so something --

18 Q Well, you know what urine looks like and smells like?

19 A Yes, sir.

20 Q Was it?

21 A Yes, sir.

22 Q 7-09-07: Sprayed urine in hall, Edgefield County
23 Detention Center. Would that be a correct statement?

24 A Yes, sir.

25 Q That's off of State's Exhibit No. 69 for

1 identification.

2 Now, there's also another report, August 24th,
3 2007. Do you know what happened?

4 A Yes, sir.

5 Q What happened on that day?

6 A This particular morning we were moving him to the
7 dayroom to take a shower. On the way to the room, to the
8 cell, Inmate Barnes walked in front of us like he always
9 does. He stopped at, I think it was C-5, stopped at Cell
10 C-5 and what appeared to be toiletries at the time, he
11 took his lotion bottle, squirted urine into the cell on
12 Inmates Dennis Stricker and Benjamin Beckwith.

13 Q So actually got it into the cell?

14 A Yes, sir.

15 Q And when he got it into the cell, how did he do that?
16 What was the means of delivery?

17 A The lotion bottle was filled with urine.

18 Q Well, how did -- oh, so it was a lotion bottle filled
19 with urine?

20 A Yes, sir.

21 Q You said he was on his way to where?

22 A The dayroom.

23 Q What was the purpose of going to the dayroom?

24 A To take a shower and he gets his hour rec. In the
25 dayroom is where we allow them to watch TV and take

MARCUS SMITH - Direct Exam by Mr. Young

1693

1 showers.

2 Q When you go to the dayroom, you're supposed to carry
3 your toiletries with you when you go?

4 A Yes, sir.

5 Q And that was on 8-24-07?

6 A Yes, sir.

7 Q So I'm showing you on State's Exhibit 69: Throwing
8 urine on -- excuse me -- sprayed urine in another cell,
9 the date 8-24-07, Edgefield County Detention Center.

10 A Yes, sir.

11 Q That's a correct statement as well?

12 A Yes, sir.

13 Q Did there ever come a day when you came into contact
14 with Inmate Barnes and he did something to you?

15 A Yes, sir.

16 Q Do you recall the date of November 3rd, 2007?

17 A Yes, sir, I do.

18 Q What happened on that day?

19 A I went to give Inmate Barnes his medication, and when
20 I went to give him his medication once again through the
21 bottom flap, I was in a crouched position and I had given
22 him --

23 Q Can I ask you to stop right there just one moment?

24 A Yes, sir.

25 Q Okay. When you went to give him his medication?

1 A Yes, sir.

2 Q Okay. This is part of what you do?

3 A Yes, sir.

4 Q This is part of what you do every day?

5 A Yes, sir.

6 Q And every day you go to various cells and you give
7 inmates what they need?

8 A Yes, sir.

9 Q Just like you'd have to give it to a little child?

10 A Yes, sir.

11 Q And you have to go to the bottom flap?

12 A Yes, sir.

13 Q And you have to get in a crouched position?

14 A Yes, sir.

15 Q Are you vulnerable at that point?

16 A Yes, sir. There's not much you can really do as far
17 as, you know, you can try and jump out of the way of
18 things, but other than that, there's not really much that
19 you can do.

20 Q And when you offer medications to a person, how are
21 you doing that? I mean, how do you go about that process?
22 What do you do?

23 A Okay. We have an med book that they have to sign.
24 So I'm basically opening up my book, I give him the med
25 book to sign, he signs it, I give him his medication and

MARCUS SMITH - Direct Exam by Mr. Young

1695

1 then I can walk off.

2 Q That's what's supposed to happen?

3 A Well, you're supposed to watch him take it also, so
4 yes, sir.

5 Q What happened then?

6 A After he had signed the book and he had gotten his
7 medication, I looked up the hallway and he threw out urine
8 on me while I was in the crouched position, two cups of
9 urine he threw out of the cell, after which the deputies
10 told me to open the door. I opened the door, they went
11 in, they subdued him.

12 At that time I walked up the hall, changed into
13 an inmate uniform, and they brought him out of the cell.
14 They laid him in his own urine, at which time I was
15 standing there at the end of the hall, and when they stood
16 Inmate Barnes up, he looked directly at me and said, "Yes,
17 I dashed you," meaning that he threw urine on me, at which
18 time I went into the control room.

19 They had taken him to the dayroom to get a
20 shower. I then left the jail, went home and took a shower
21 myself.

22 Q How did you have to dress to go home?

23 A I wore an inmate uniform home.

24 Q Where did it strike you?

25 A Crotch area.

1 Q Okay.

2 A Yes, sir.

3 MR. YOUNG: Please answer any questions the
4 defense has.

5 Excuse me just a moment.

6 (Pause.)

7 MR. YOUNG: Please answer any questions the
8 defense has.

9 THE COURT: Thank you, Solicitor.

10 MR. YOUNG: Just one moment, Your Honor.

11 (Pause.)

12 BY MR. YOUNG:

13 Q Now, as a result of all this, was Steven Louis Barnes
14 arrested?

15 A Was he arrested?

16 Q Yes, sir.

17 A He was charged, yes, sir. He was charged with
18 throwing bodily fluids on an officer.

19 Q And you came in this courtroom?

20 A Yes, sir.

21 Q And you testified from that witness stand as to what
22 happened?

23 A Yes, sir.

24 Q And he went to trial on it?

25 A Yes, sir.

MARCUS SMITH - Direct Exam by Mr. Young

1697

1 Q And he was convicted?

2 A Yes, sir.

3 MR. YOUNG: Please answer any questions the
4 defense has for you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Tarr.

7 MR. TARR: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. TARR:

10 Q And Mr. Barnes received 15 years in the Department of
11 Corrections for that, correct?

12 A Yes, sir.

13 Q Okay. And shortly thereafter I believe he was moved
14 out of the Edgefield County Jail into the Department of
15 Corrections?

16 A Yes, sir.

17 Q Did you have any reason to come in contact with him
18 since then or keep tabs on what's been going on with him?

19 A No, sir.

20 MR. TARR: That's all I have, Your Honor.

21 THE COURT: Thank you.

22 Redirect, Solicitor?

23 MR. YOUNG: No thank you, Your Honor.

24 THE COURT: Thank you very much for being with
25 us, Deputy. You may step down.

1 THE WITNESS: Yes, sir.

2 THE COURT: All right. Solicitor.

3 MR. MYERS: We'd call Ms. Shirley Newby to the
4 stand, please.

5 THE COURT: All right. Ms. Newby.

6 Madam Clerk, would you swear Ms. Newby in,
7 please?

8 THE CLERK: Raise your right hand and place your
9 left on the Bible.

10 SHIRLEY NEWBY, after being duly sworn, testified
11 as follows:

12 THE CLERK: Have a seat and state your name.

13 THE WITNESS: My name is Shirley Van Newby,
14 N-E-W-B-Y.

15 DIRECT EXAMINATION

16 BY MR. MYERS:

17 Q Ms. Newby, you're the Clerk of Court?

18 A Yes, sir.

19 Q And did you give us some certified copies of original
20 documents in your office on Steven Louis Barnes?

21 A Yes, sir.

22 Q Is that the conviction for throwing the bodily fluids
23 and the sentence?

24 A Yes, sir.

25 Q The indictment and the sentencing sheet?

SHIRLEY NEWBY - Direct Exam by Mr. Myers

1699

1 A Yes, sir.

2 MR. MYERS: We offer this in evidence, Your
3 Honor.

4 THE COURT: Mr. Tarr.

5 MR. TARR: No objection, Your Honor.

6 THE COURT: All right. That would be State's
7 70; is that right?

8 THE COURT REPORTER: Yes, Judge.

9 THE COURT: State's 70 is in evidence without
10 objection.

11 (WHEREUPON, State's Exhibit No. 70 was marked
12 for identification and received into evidence.)

13 MR. MYERS: May we publish it, Your Honor?

14 THE COURT: Yes, sir.

15 MR. MYERS: The indictment for Steven Louis
16 Barnes here in Edgefield County on or about November 3rd,
17 2007, for unlawfully throwing bodily fluids on Officer
18 Marcus Smith, who is an employee of the Edgefield County
19 Detention Center, in violation of Section 24-13-470 of the
20 South Carolina Code of Laws.

21 He was found guilty and he was sentenced to 15
22 years in prison and it was consecutive to any other term
23 sentenced.

24 THE COURT: Thank you.

25 BY MR. MYERS:

SHIRLEY NEWBY - Direct Exam by Mr. Myers

1700

1 Q Now, referring to 57, Ms. Newby, based on that
2 document, is this correct?

3 A Yes, sir.

4 Q Throwing bodily fluids on November 3rd, '07, and he
5 was tried on March 13th, '08 and got a 15-year sentence?

6 A Yes, sir.

7 MR. MYERS: Your Honor, we now offer in
8 Exhibit 57 as an exhibit.

9 THE COURT: Mr. Tarr.

10 MR. TARR: No objection, Your Honor.

11 THE COURT: State's 57 is now in evidence
12 without objection.

13 (WHEREUPON, State's Exhibit No. 57, having been
14 previously marked for identification, was received
15 into evidence.)

16 MR. MYERS: Thank you, ma'am. That's all we
17 have. Answer any questions the defense may have.

18 MR. TARR: No questions, Your Honor.

19 THE COURT: Thank you very much. You may step
20 down.

21 MR. YOUNG: The State calls Lieutenant Polly
22 Hall.

23 THE CLERK: Raise your right hand and place your
24 left hand on the Bible.

25 POLLY HALL, after being duly sworn, testified as

SHIRLEY NEWBY - Direct Exam by Mr. Myers

1701

1 follows:

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

4 THE WITNESS: Polly Ann Hall, H-A-L-L.

5 DIRECT EXAMINATION

6 BY MR. YOUNG:

7 Q Ms. Hall, where do you work?

8 A Edgefield County Sheriff's Office.

9 Q What's your job?

10 A Administrator.

11 Q Administrator for what, ma'am?

12 A Of the jail and the 911 dispatch area.

13 Q Okay. And that basically puts you in charge, just
14 short of the sheriff, of all administrative and other
15 matters involving the jail?

16 A Yes, sir.

17 Q So you work directly with the sheriff?

18 A Yes, sir.

19 Q As part of your job, do you receive reports of
20 infractions by inmates while they're there in your care,
21 custody and control?

22 A Yes, sir, I do.

23 Q And are you acquainted with Steven Louis Barnes?

24 A Yes, sir.

25 Q And he was an inmate in your facility during what

1 period of time?

2 A It was May 18th, '05 to March 14 of '08.

3 Q Now, you were the jail administrator during that
4 period of time?

5 A Yes, sir.

6 Q Can you tell me what you were able to do or not do as
7 a result of receiving reports of infractions involving
8 Mr. Barnes?

9 A Really wasn't too much we could do because of his
10 classification. When he came in, he was classified as the
11 highest that we could set. Once there, there was nowhere
12 else we could put him as far as, you know, the reports
13 that I received on him, I couldn't put him anywhere else
14 in our facility. He wasn't classified to go anywhere else
15 but where he was at.

16 Q And so in terms of your doing the job of being jail
17 administrator, did you have to make decisions about what
18 happened when these reports came in and as things got bad
19 or worse or better, you had to adjust that, that process
20 with each inmate is what you're saying?

21 A Yes, sir.

22 Q Why --

23 A Tried to anyway. But when you're classified -- he
24 was classified the highest that could go in our facility.

25 It all depend, you know, on what happened.

POLLY HALL - Direct Exam by Mr. Young

1703

1 There was nothing really else we could do. We couldn't
2 put him nowhere else in the facility because he wasn't
3 classified to go there. I couldn't put him in with other
4 inmates because of his behavior.

5 Q So he had pretty much a single cell all to himself?

6 A All to himself. If we tried to put somebody in there
7 with him, he would threaten to harm that person, so he had
8 to be placed by himself.

9 Q Now, before you came in here, I showed you a graphic
10 representation of these infractions that involved
11 Edgefield County Detention Center; is that right? You've
12 seen those?

13 A Yes, sir.

14 Q You've seen every one of those?

15 A Uh-huh.

16 Q You've seen reports on every one of those?

17 A Uh-huh.

18 THE COURT: Can you answer yes or no for me?

19 THE WITNESS: I'm sorry. Yes, sir.

20 THE COURT: Thank you.

21 BY MR. YOUNG:

22 Q In connection with your duties and responsibilities
23 and in making decisions on what to do for him, you still
24 say you couldn't do anything more?

25 A No, sir.

1 Q And how about the situation with regard to the
2 circumstances with where he was located on a hall?

3 A The way our facility is designed, he was first
4 located -- C hall is just a straight hall. He was located
5 down at the end. He started throwing things, so we had to
6 move him up towards the front.

7 Because of where he was at, at the beginning
8 there was a door there and he would tie a string around it
9 and bang it back and forth, caused disruption that way, so
10 we moved him up to closer toward where the control room,
11 which had a flap for the food and also a flap down at the
12 bottom so he could be shackled if need be.

13 Q Okay. So what do you mean by "shackled if need be"?

14 A When he got to where he was very disruptive, would
15 threaten the officers and other inmates, we had to start
16 shackling him before he was taken even out of his cell to
17 go to the dayroom for his rec.

18 Q Okay. And so the circumstances you had, was there
19 any more secure a cell in the facility that you could put
20 him?

21 A No.

22 Q So for purposes of just security, that was the most
23 secure cell?

24 A Yes, sir.

25 Q Now, you're aware of the fact that feeding occurs in

POLLY HALL - Direct Exam by Mr. Young

1705

1 that hall, correct?

2 A Yes, sir.

3 Q You're aware of the fact that food trays are
4 delivered from refrigerators and ovens in that hall?

5 A Yes, sir.

6 Q And did you receive reports about urine and other
7 matters being thrown into the food and in the
8 refrigerators?

9 A Yes, sir. See, actually we had several complaints of
10 throwing of unknown liquid, several complaints of throwing
11 of urine into the hallway and also throwing onto the
12 refrigerator and the food cart.

13 Q Let me just ask you. You've seen what's already on
14 this chart.

15 A Uh-huh.

16 Q You know what Edgefield County's listing of
17 infractions are?

18 A Right.

19 Q Are these all the reports?

20 A No, that's not. I've got a total of -- disruption of
21 order, I had a total of 16 reports; bodily fluids, I had
22 four reports; throwing unknown liquid, I had a total of
23 nine; food complaints, a total of five; arranging
24 contraband, I had three on that; assaults, and a total of
25 11 reports on threats towards officers and other inmates.

1 Q That's for that period of time?

2 A Yes, sir.

3 Q So what kind of inmate was he?

4 A He was one of the most disruptive inmates we've ever
5 housed from the period that I was there.

6 Q Can you think of one that was more disruptive?

7 A No.

8 MR. YOUNG: Please answer any questions the
9 defense has.

10 THE COURT: Mr. Tarr.

11 CROSS-EXAMINATION

12 BY MR. TARR:

13 Q If Steven receives a sentence of life without parole,
14 would he be housed in the Edgefield County Jail or the
15 South Carolina Department of Corrections?

16 A Department of Corrections.

17 Q And do you have any information on his recent
18 behavior in the South Carolina Department of Corrections?

19 A No, sir, I don't.

20 MR. TARR: That's all I have, Your Honor.

21 THE COURT: Anything on redirect, Solicitor?

22 MR. YOUNG: No further questions, Your Honor.

23 We ask this witness be excused.

24 THE COURT: Thank you very much, Lieutenant.
25 You may step down.

POLLY HALL - Cross-Exam by Mr. Tarr

1707

1 Any objection to the lieutenant being excused?

2 MR. TARR: No, Your Honor.

3 THE COURT: You may be excused.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Mr. Foreman, ladies and
6 gentlemen, we'll take us about a 15-minute recess.

7 I'll remind you during this recess, do not
8 discuss the case.

9 If you'll leave your notes upside down on the
10 chair.

11 Thank you very much.

12 (The jury left open court at approximately 4:29
13 p.m.)

14 MR. MYERS: Your Honor?

15 THE COURT: Yes, sir.

16 MR. MYERS: We have three SCDC correctional
17 officers who should have been here sometime ago that have
18 never been to Edgefield before. And I'm asking Jeff
19 Bentley to check and see where they are.

20 THE COURT: All right.

21 MR. MYERS: And we'll have those three and one
22 more witness. After those testify, we would like to break
23 for today and we will rest our case before lunch tomorrow.

24 THE COURT: All right. How many witnesses do
25 you think you'll have tomorrow, Solicitor?

1 MR. MYERS: About nine or ten. It's gone, quite
2 frankly, faster than what we anticipated.

3 THE COURT: All right. So we're going to wait
4 and see if the three plus one show up?

5 MR. MYERS: Three plus one more.

6 THE COURT: And Detective Bentley's going to
7 check on that now?

8 MR. MYERS: Yes, sir.

9 THE COURT: And if they show up, you want to
10 take them today?

11 MR. MYERS: Well, they're on the way. We want
12 to take them --

13 THE COURT: You want to take them today?

14 MR. MYERS: Yes, sir.

15 THE COURT: And then you want to break?

16 MR. MYERS: I want to take those three
17 correctional officers and one more witness and then break
18 after that.

19 THE COURT: All right. And then you think
20 you'll rest by lunchtime tomorrow?

21 MR. MYERS: I told Mr. Tarr that earlier today.
22 And I told them yesterday that we would rest after lunch.
23 I think we may rest before lunchtime.

24 THE COURT: All right. And, Mr. Tarr, I think
25 you've already said you'll have your witnesses that will

1 number around four to five?

2 MR. TARR: We've got four.

3 THE COURT: Four. And they'll be here prior to
4 lunch tomorrow?

5 MR. TARR: I've kind of just been playing it by
6 ear, Your Honor. I've informed them that probably around
7 12. I've told them it might be earlier, that I was going
8 to let them know as the day progressed.

9 THE COURT: All right. Well, if we have to take
10 an earlier luncheon recess, we can do that. We'll work
11 with you on your witnesses.

12 MR. TARR: Thank you, Your Honor.

13 THE COURT: And you think the other people will
14 be completed tomorrow?

15 MR. TARR: I think if they finish before lunch,
16 especially if we're able to get one in before lunch of
17 ours, I think we'll definitely be done tomorrow and can
18 argue and charge on Wednesday.

19 MR. MYERS: Yes, sir.

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

21 Court will be in recess. Let me know when those
22 witnesses get here.

23 MR. MYERS: I will. Thank you, Your Honor.

24 THE COURT: All right. Thank you. Court will
25 be in recess.

1 (A break was taken.)

2 THE COURT: Before we bring out our next
3 witness, I would like to revisit one issue, and it's the
4 last issue Mr. Barnes brought up ex parte.

5 Is it necessary for me to address that issue ex
6 parte at this time, Mr. Harte -- excuse me, Mr. Tarr?

7 MR. TARR: Is it necessary to address?

8 THE COURT: Ex parte.

9 MR. TARR: The issue that we talked about
10 earlier?

11 THE COURT: Yes, sir.

12 MR. TARR: I don't think so.

13 THE COURT: Do you want to ask Mr. Barnes if he
14 wants me to address it ex parte?

15 MR. TARR: I'm confused.

16 THE COURT: Concerning non-convictions.

17 MR. TARR: Yes, he would like to.

18 THE COURT: Do you object, Solicitor?

19 MR. MYERS: No, sir.

20 THE COURT: If you'd give me just a moment,
21 then, and let me address this with Mr. Barnes.

22 MR. MYERS: Yes, sir.

23 (Solicitors and prosecution witnesses leave the
24 courtroom.)

25 THE COURT: All right. Those that remain are

1 ordered that you may not discuss anything during the
2 course of this hearing with any member of the prosecution
3 or prosecution team.

4 Mr. Barnes, now precisely what items of evidence
5 are you objecting to that were not subject to prior
6 convictions?

7 THE DEFENDANT: Sir, the firearm charges, the
8 pandering charges.

9 THE COURT: Firearm and what?

10 THE DEFENDANT: The firearm charges, the
11 pandering charges.

12 THE COURT: Now, the pandering you were
13 convicted of, I believe.

14 THE DEFENDANT: No, sir. That was in the
15 Columbia County incident.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: I'm talking about the Richmond
18 County --

19 THE COURT: I never heard anything else about
20 another pandering charge.

21 THE DEFENDANT: Yes, sir. That's Richmond
22 County.

23 THE COURT: I never heard anything about a
24 pandering charge in Richmond County.

25 MR. HARTE: I believe that came out of the

1 arrest at the motel.

2 MR. TARR: The West Bank Inn.

3 THE COURT: But there was never any testimony
4 that he was charged with pandering at that time, was
5 there?

6 MR. TARR: No, I don't think there was, no.

7 THE COURT: I think it was just that he was
8 arrested and had the firearm under the fur coat. Now
9 correct me if my memory's not correct on that.

10 MR. HARTE: I think you're right.

11 THE COURT: But that's the one you're talking
12 about, the West End Motel --

13 THE DEFENDANT: The West Bank Inn incident --

14 THE COURT: With the firearm?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And what other one?

17 THE DEFENDANT: The incident when they raided my
18 house.

19 THE COURT: All right. And that's the firearms,
20 marijuana, and they raided your house. That's on 17
21 January of 2002?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right.

24 THE DEFENDANT: And I believe they've got
25 somebody on the witness list named Lashonda Lott and I

1 don't know if they'll call her or not. This person, I've
2 never been convicted on that person for any wrongdoing.

3 THE COURT: Well, I can't rule on something
4 that's never been presented --

5 THE DEFENDANT: Okay.

6 THE WITNESS: -- either way. If she's called as
7 a witness, you're going to have to alert the Court in that
8 regard. I've heard her name as one of the females that
9 were in your residence at the time Richmond County raided
10 your residence, I believe.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I believe that's correct, but that's
13 all I know is I've heard her name and her age, and I don't
14 remember her age right now.

15 So it's just those two incidents?

16 THE DEFENDANT: Okay. And also the incidents on
17 throwing bodily fluids on an officer.

18 THE COURT: All that's separate and distinct.

19 THE DEFENDANT: Okay.

20 THE COURT: Now, all that's disciplinary actions
21 brought against you in various institutions. And
22 obviously that couldn't have been part of your objection
23 at the time because that hadn't been testified to by then.

24 THE DEFENDANT: Well, that's separate right now.
25 I don't want to digress and go off course.

1 THE COURT: Well, I don't want to digress yet.
2 I want to revisit and we'll digress in a moment.

3 Are those the only two instances?

4 THE DEFENDANT: Let me make sure for the record.
5 Richmond County -- just give me a second?

6 THE COURT: Sure.

7 THE DEFENDANT: I think that's it, Your Honor,
8 on that evidence, the Columbia County incident and the
9 drug charges.

10 THE COURT: All right. So it's those two
11 instances?

12 THE DEFENDANT: Yes.

13 THE COURT: West Inn, isn't that right, West Inn
14 Motel?

15 MR. HARTE: West Bank Inn.

16 THE COURT: West Bank Inn, all right, and your
17 residence on Cairo Street?

18 THE DEFENDANT:

19 THE COURT: C-A-I-R-O, Cairo?

20 THE DEFENDANT: Yes, sir, Cairo.

21 THE COURT: All right. Well, I want to address
22 those.

23 First off, that testimony came in unobjected to.
24 Thereafter, Mr. Barnes brought to the Court's attention ex
25 parte that he objected, although his attorney didn't. He

1 didn't object to the Court at the time and, of course,
2 there is no hybrid representation so he would not have
3 been in a position to object.

4 The third witness that's testified was Scott
5 Gay. The fourth witness was Sergeant Jay Vinson, I
6 believe, V-I-N-S-O-N. I believe those are the two
7 witnesses that testified concerning the West Bank Inn.

8 Their testimony was eye witness testimony that
9 there was a sting going down and ultimately they were
10 notified from the officers that were observing the room
11 where the sting was going down to arrest the driver of the
12 vehicle, take him or her into custody that had brought the
13 females to that location.

14 They testified as to an attempt to arrest that
15 individual when the individual drove off, missed the exit
16 while they were banging on the window, at least Detective
17 Gay was, identifying themselves, that the individual in
18 the vehicle was patting or trying to reach under a fur
19 coat in the passenger's side that had been left there by
20 one of the females that had exited the vehicle.

21 There is a line of cases where conduct and prior
22 bad acts that are not subject to convictions is admissible
23 in a penalty phase of a capital case restricted of course
24 to the individual defendant and his actions, behavior or
25 character.

1 That's citing State versus Bryant, 642 SE2nd
2 582. There's also State versus George. It's 476 SE2nd
3 903.

4 Further, I think the law is clear that to
5 present this type of testimony does not require clear and
6 convincing standard under 404(b). However, when I do a
7 404(b) analysis, I find there is clear and convincing
8 testimony as to the testimony at the West Bank Inn from
9 eye witness testimony.

10 404(b) is evidence of other crimes, wrongs, or
11 acts is not admissible to prove the character of a person
12 in order to show action in conformity therewith. It may,
13 however, be admissible to show motive, identity, existence
14 of a common plan or scheme, the absence of mistake.

15 But I have applied that clear and convincing
16 standard both to the West Inn and the raid testimony as to
17 the firearms and the marijuana, that there's eye witness
18 testimony concerning his security of his house, the fact
19 that he had weapons.

20 Further, the witness just prior to these
21 witnesses of Detective Smith and Deputy Brunson, who
22 arrested him at the raid, and prior to that was Brunson
23 and Gay, and prior to that was Nathaniel Goodwin. Goodwin
24 testified that he's the one that arrested him for
25 possession with intent to distribute crack cocaine. He

1717

1 pled to possession with intent to distribute cocaine. He
2 was on probation for a felony for ten years and could not
3 have a firearm.

4 So I also find the standard of clear and
5 convincing evidence, although that's not necessary. I
6 find that the probative value outweighs any prejudicial
7 effect.

8 Further, I've already charged and given the jury
9 a limited instruction concerning prior bad acts and prior
10 crimes and I'm going to give them another one before they
11 leave tonight and will give them another one -- when I say
12 another one, the same language in that regard during my
13 final instructions to the jury.

14 So with that being said, if you have other
15 issues when other witnesses testify, you or your attorney,
16 you need to bring it to your attorney's attention and I'll
17 be glad to address it.

18 Anything further, Mr. Barnes?

19 THE DEFENDANT: Yes, sir. When you close out, I
20 want bring to your attention of State versus Johnson.

21 THE COURT: Richard Dale Johnson?

22 THE DEFENDANT: 360 SE2d 317, 1987.

23 THE COURT: All right. Give me just a moment
24 and let me see if that's Richard Dale Johnson. Give me
25 the cite again.

1 THE DEFENDANT: 360 SE2d 317.

2 THE COURT: 360 SE2d what?

3 THE DEFENDANT: 317.

4 THE COURT: 317. That is Richard Charles
5 Johnson. I'm sorry, I missed his middle name. That's a
6 homicide in Jasper County. All right.

7 THE DEFENDANT: That states that the evidence
8 that was brought forth by the State was not material at
9 all, excessive detail, and they don't even establish no
10 evidence of the crime.

11 THE COURT: "Evidence of other crime or prior
12 bad acts is inadmissible to show criminal propensity or to
13 demonstrate the accused as a bad individual. Evidence of
14 other crime is never admissible unless necessary to
15 establish a material fact or an element of the crime
16 charged. And even if evidence of other crimes is deemed
17 relevant and admissible, evidence may still be excluded if
18 its probative value is substantially outweighed by the
19 danger of undue prejudice."

20 I believe that was during the course of the
21 guilt phase.

22 This evidence would not have been admissible, in
23 my opinion, during the course of the guilt phase. There
24 are different rules, for example, autopsy photographs --
25 just for an example -- may not be admissible during the

1 course of the guilt phase, and they may be admissible --
2 victim impact testimony.

3 But I have looked at Richard Charles Johnson's
4 case, and I'll review it again tonight. I'll be glad to
5 do that.

6 THE DEFENDANT: Your Honor, as for the penalty
7 phase and the guilt phase as to 404(b), are they the same
8 or are they not the same when it comes down to it?

9 THE COURT: Generally they are not the same.
10 Generally, in my opinion, the State does not have to
11 present clear and convincing evidence of prior convictions
12 or prior bad acts. However, I have taken the additional
13 step as far as these prior bad acts to analyze it under
14 the clear and convincing standard and find that it has met
15 the clear and convincing standard as to the West Bank
16 Motel and as to the Cairo Street address and the weapons
17 in that regard because you had eye witness testimony.

18 THE DEFENDANT: Okay. Well, I appreciate it. I
19 know there's not no hybrid representation. I appreciate
20 you going back over it. Is there any way it could be a
21 continuing objection? Because you know I can't do it
22 myself.

23 THE COURT: I think you're protected --

24 THE DEFENDANT: I just want to make sure.

25 THE COURT: -- for whatever weight and value you

1 stand up and addressing me ex parte in the record, you've
2 addressed me ex parte, it's on the record, Mr. Barnes.

3 THE DEFENDANT: I just wanted to make sure.

4 THE COURT: Now as far as a continuing
5 objection, if some more testimony comes in, you're going
6 to have to address it. I don't know what may come in. I
7 can't give a blanket objection for the future because I
8 can't predict the future. I can't say what may come in
9 with the next witness or the next witness or the next.

10 Did I misunderstand you?

11 THE DEFENDANT: No, sir. I mean, you know,
12 there's no such thing in South Carolina as hybrid
13 representation.

14 THE COURT: That's right.

15 THE DEFENDANT: You know, and your discretion is
16 not to be abused in this matter. You know, if you was to
17 rule or give some type of leeway in this matter in regards
18 to certain issues that manifested and counsel do not
19 objection, like we did this situation.

20 THE COURT: Well, again, you're represented by
21 Mr. Harte and Mr. Tarr.

22 THE DEFENDANT: I understand.

23 THE COURT: And I have long since made that
24 decision, Mr. Barnes. But obviously this is a serious
25 matter to you, as it should be. It's probably more

1721

1 serious to you than -- it's as serious to you as anyone in
2 this courtroom, and I have given you the leeway to allow
3 you to have these in camera ex parte hearings provided the
4 Solicitor didn't object in regards to that.

5 THE DEFENDANT: Yes, sir, I agree.

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

7 If you'd get the prosecutor for me, Sheriff.

8 (Solicitors and prosecution witnesses return to
9 the courtroom.)

10 THE COURT: Thank you, Solicitor. Are we ready
11 for the jury, Solicitor?

12 MR. MYERS: Yes, sir.

13 THE COURT: Anything further, Mr. Tarr?

14 MR. TARR: No, Your Honor.

15 THE COURT: Bring us our jury in.

16 (The jury came into open court at approximately
17 5:09 p.m.)

18 THE COURT: All right. Welcome back, ladies and
19 gentlemen. We have scheduled about four more witnesses
20 for today. I would like to complete that. I do not think
21 it will be lengthy testimony. I'd like to complete these
22 four witness today and then we'll start back fresh in the
23 morning.

24 With that being said, Solicitor, you may call
25 your next witness.

1 MR. YOUNG: The State calls Sergeant Emmett
2 Lumpkin, Your Honor.

3 THE COURT: All right.

4 THE CLERK: Raise your right hand.

5 EMMETT LUMPKINS, after being duly sworn,
6 testified as follows:

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

9 THE WITNESS: My name is Emmett Bolen Lumpkins,
10 L-U-M-P-K-I-N-S, Lumpkins.

11 THE COURT: All right. Solicitor.

12 MR. YOUNG: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. YOUNG:

15 Q Mr. Lumpkin, can you tell the Court what you do and
16 where you work?

17 A I'm a correctional officer for the South Carolina
18 Department of Corrections. I work at Lieber Correctional
19 in Ridgeville.

20 Q Okay.

21 A I'm right now dorm sergeant.

22 Q And you're going to have to tell some of the folks
23 where that is because they may not know where Ridgeville
24 is.

25 A Ridgeville is between Orangeburg and Summerville on

EMMETT LUMPKINS - Direct Exam by Mr. Young

1723

1 Highway 78.

2 Q Okay, sir. And how long have you been doing this job
3 for Lieber Correctional Institute?

4 A Thirteen years, sir.

5 Q Sir, are you familiar with an inmate by the name of
6 Steven Louis Barnes?

7 A Yes, sir.

8 Q And have you, in fact, in the past filed a
9 disciplinary infraction report against Mr. Barnes?

10 A Yes, I have.

11 Q Okay, sir. Do you recall doing such a thing on
12 January 22nd, 2009?

13 A Yes, sir.

14 Q Can you tell us what offenses that you listed in
15 connection with that infraction report?

16 A He was charged and convicted of possession of a
17 weapon.

18 Q Okay, sir. And was there anything else he was
19 charged with?

20 A No, sir.

21 Q Would you check your report there very quickly, if
22 you can, and see?

23 Here, I have a copy of it. See if you can
24 recognize that.

25 A Yes, sir. The reason why I didn't mention the cell

1 phone is because I didn't have it as evidence.

2 Q Okay. That's fine. And what date and time did this
3 occur on again?

4 A It was in the morning-time before breakfast, around
5 between 4 and 5. I don't have the report with me, but
6 between 4 and 5 in the morning.

7 Q Okay, sir. And what type of incident led to this
8 infraction?

9 A We conduct cell searches periodically, and I was told
10 by an informant that he may have a shank in his room, so
11 we conducted a cell search, which gave us these.

12 MR. TARR: Your Honor --

13 BY MR. YOUNG:

14 Q Were you, in fact, part of this team that went into
15 the cell?

16 A Yes, sir, I was, and I was the one that actually
17 found the shanks.

18 Q Okay. Tell me how this particular event happened.
19 Just give the Court a description of what happened.

20 A Well, I got an informant on maximum security that
21 asked for me personally. I went to see him and he said
22 that --

23 MR. TARR: Your Honor, object to any hearsay.

24 BY MR. YOUNG:

25 Q Just without going into that, you had an informant

EMMETT LUMPKINS - Direct Exam by Mr. Young

1725

1 report of something in his cell?

2 A Yes, sir.

3 Q Okay. Would it have been contraband that you had a
4 report on?

5 A Yes, sir.

6 Q Okay. And therefore you went into the cell, and how
7 did you conduct the cell search?

8 A I took two other officers with me and we went through
9 our standard search procedures, and I started searching
10 the baseboard, pulling off a molding from the floor in
11 which I found a hole in the wall with a cell phone,
12 charger, and two shanks.

13 Q Okay. Now, sir, you used that word shank, and I'm
14 going to ask you what a shank is.

15 A A shank is a makeshift knife or anything to harm
16 someone, usually metal. Since it's engineered, they use
17 anything from bandages, swabs, anything around it to keep
18 from harming the hands, and if you look at it, it's got a
19 sharp tip to it.

20 Q Okay. And you recovered shanks as a result of this
21 search?

22 A Yes, sir.

23 Q And are those the shanks you've been holding up?

24 A Yes, they are, sir.

25 Q And those are specifically the shanks, the ones you

1 recovered?

2 A Yes, sir.

3 Q How do you know that?

4 A We proceeded to fill out an evidence card, and the
5 evidence card stays attached to whatever container we put
6 them, and the container is usually sealed.

7 Q Okay. And is that the evidence -- is that the
8 evidence slip that you filled out and the container and
9 the shanks that you recovered?

10 A Yes, they are.

11 MR. YOUNG: Could I have this marked, please?

12 (WHEREUPON, State's Exhibit No. 71 was marked
13 for identification only.)

14 BY MR. YOUNG:

15 Q I've had marked as State's Exhibit No. 71, which is a
16 clear, what appears to be a plastic-type tube containing
17 two metal objects. I'm not sure of the length, but
18 however these are bearing an evidence tag with a Case No.
19 9015 -- 090152, indicating a date of recovery of 1-22-09
20 at approximately 4:55 a.m.

21 Sir, do you recognize this document and those --
22 and the actual exhibit within that tube?

23 A Yes, sir. That's my signature, sir.

24 Q Your signature's on the evidence tag?

25 A Yes, sir.

EMMETT LUMPKINS - Direct Exam by Mr. Young

1727

1 Q Affixed to the tube?

2 A Yes, sir.

3 MR. YOUNG: The State would offer Exhibit No.
4 71.

5 MR. TARR: No objections, Your Honor.

6 THE COURT: State's 71 is in evidence without
7 objection.

8 (WHEREUPON, State's Exhibit No. 71 was admitted
9 into evidence.)

10 BY MR. YOUNG:

11 Q While preparing your report, did you forward it to
12 anyone?

13 A We usually just turn it into our supervisor or shift
14 captain and then it goes through the disciplinary
15 procedures.

16 Q And does it go to a hearing officer at some point?

17 A Yes, sir.

18 Q Do you know this hearing officer's name that heard
19 the particular offense in this case?

20 A Mr. Blackwell.

21 Q Mr. Blackwell heard that offense?

22 A Yes, sir.

23 Q At sometime later? Do you recall that they conducted
24 a hearing sometime later?

25 A Yes, sir.

1 Q And the specific offenses that you listed him for
2 were what again?

3 A Possession of a weapon, sir.

4 Q And what about the cell phone?

5 A The cell phone was exhibited, but the charge that I
6 actually wrote was in possession of a weapon and the cell
7 phone charger.

8 Q So those two offenses, possession of a cell phone --

9 A Charger.

10 Q -- and possession of the charger and possession of
11 these two weapons.

12 Okay. So that was reported to the hearing
13 officer?

14 A Yes, sir.

15 Q Is the cell phone considered contraband as well?

16 A Yes, sir, it's contraband.

17 Q The date is 1-22-09, the heading is possession of
18 contraband and a weapon, Lieber Correctional Institute.
19 Would that be a correct statement of the incident charged
20 and date?

21 A Yes, sir.

22 THE COURT: Let me see that, please, Solicitor.

23 All right. Thank you.

24 MR. YOUNG: This is State's Exhibit No. 69 which
25 Officer Lumpkin identified.

EMMETT LUMPKINS - Direct Exam by Mr. Young

1729

1 Would you answer any questions the defense may
2 have for you.

3 THE COURT: Thank you, Solicitor.

4 Mr. Tarr.

5 CROSS-EXAMINATION

6 BY MR. TARR:

7 Q Sergeant Lumpkin, there was never any allegation that
8 Steven attempted to use those shanks, was there?

9 A No, sir.

10 Q Okay. And he admitted that they were his?

11 A No, sir, he did not admit it.

12 Q There was a hearing conducted?

13 A There was a hearing conducted.

14 Q Okay. Now, you're over the dorm that he's in; is
15 that what your job is?

16 A Yes, sir.

17 Q Okay. And up until recently when he was moved to
18 McCormick, had you been over that dorm since this
19 incident?

20 A Yes, sir, I have, for the last three years.

21 Q Okay. So January 27th, '09, from then up until just
22 recently, Mr. Barnes was under your custody and --

23 A January 22nd, yes, sir. But they frequently move
24 inmates around, so there's time periods that I probably
25 hadn't seen him for three, four months, or he could even

1 be transferred because a dorm has 250 inmates. If I'm
2 gone three or four days, they might transfer.

3 Q When was the last time that you remember seeing him?

4 A Approximately three months ago, sir.

5 Q Okay. Did you have much contact with him at that
6 time?

7 A No, sir.

8 Q Have you talked to him much in the last few months?

9 A I actually hadn't seen him in about two to three
10 months, sir, and even then, it was for accountability
11 purposes.

12 Q Okay. So there would be other officers that would
13 have more direct contact with him on a daily basis?

14 A Yes, sir, but those officers rotate also. So 250
15 inmates, sir, and different officers come in different
16 days.

17 MR. TARR: That's all the questions I have.

18 THE COURT: Redirect?

19 MR. YOUNG: No questions, Your Honor.

20 THE COURT: Thank you, Officer for being with us
21 today. You may step down.

22 Any objections to the officer being excused?

23 MR. TARR: No, Your Honor.

24 MR. YOUNG: No, sir. Thank you.

25 THE COURT: Thank you very much. You may be

EMMETT LUMPKINS - Cross-Exam by Mr. Tarr

1731

1 excused.

2 MR. YOUNG: The State calls Jeanette Moxley.

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

5 JEANETTE MOXLEY, after being duly sworn,
6 testified as follows:

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

9 THE WITNESS: My name is Officer Jeanette Vera
10 Moxley, M-O-X-L-E-Y.

11 DIRECT EXAMINATION

12 BY MR. YOUNG:

13 Q Ms. Moxley, where do you work, ma'am?

14 A I work at Lieber Corrections facility.

15 Q Where is that located again?

16 A That is located on Campbell Thickett Road -- Wilborn
17 Road off Campbell Thickett in Ridgeville, South Carolina.

18 Q Yes, ma'am. Do you know Steven Louis Barnes?

19 A I do.

20 Q And how do you know him?

21 A He was in my unit, Sunner unit, which I worked.

22 Q Okay. And during the course of the time that he was
23 in your unit, did you serve as correctional officer on or
24 about February 5th, 2009?

25 A Yes, sir.

1 Q Did you file an incident report or disciplinary
2 infraction report regarding something that you observed
3 Inmate Barnes doing?

4 A I did, sir.

5 Q Can you tell us what you observed happen?

6 A It was at count time, had inmates returning from
7 programs. I had to open up the cell to let the roommate
8 in. I opened up the door and Inmate Barnes came swinging,
9 came out swinging, striking Inmate Bradley in the chest
10 and shoulder and in the head.

11 Q What did you observe him do? What did you observe
12 Mr. Barnes do, Inmate Barnes? Once he struck him, did he
13 do anything else?

14 A He just kept swinging. He was looking to do some
15 harm to him.

16 Q Okay. What actions did you take?

17 A I contacted Lieber Control and asked for first
18 responders. Sergeant Lumpkins came right across the hall
19 to help.

20 Q And when Sergeant Lumpkins arrived, what happened?

21 A He stopped the fight.

22 Q Now, in connection with that incident, did you file
23 an infraction report?

24 A I did.

25 Q What did you list as the infraction?

JEANETTE MOXLEY - Direct Exam by Mr. Young

1733

- 1 A Striking an inmate with or without a weapon.
- 2 Q Okay. And that was based upon what you observed
- 3 happening with him using his hands?
- 4 A Yes, sir.
- 5 Q To strike the other inmate?
- 6 A Yes, sir.
- 7 Q Did the other inmate receive any form of treatment?
- 8 A Yes, sir.
- 9 Q Where did he receive that treatment?
- 10 A To my knowledge, at the infirmary.
- 11 Q And what kind of injuries were they?
- 12 A He had a cut on his eye and he suffered some bruising
- 13 on his chest and shoulders.
- 14 Q Did you observe this inmate, I believe you mentioned
- 15 his name was Bradley, did you observe him being drug
- 16 anywhere?
- 17 A Yes, sir.
- 18 Q How did that happen? What did you observe?
- 19 A That when Inmate Barnes was swinging and knocked him
- 20 down, he had him by the leg and he was trying to pull him
- 21 towards the edge of the tier.
- 22 Q Okay. Is there a drop at the edge of that tier?
- 23 A Yes, sir.
- 24 Q How far?
- 25 A Oh, gosh, 20 feet, 30 feet maybe.

1 Q Okay. But he stopped when Lieutenant Mr. Lumpkins
2 showed up?

3 A Yes, sir.

4 MR. YOUNG: No further questions for this
5 witness.

6 BY MR. YOUNG:

7 Q Excuse me a minute. Let me get you to identify this.
8 Ma'am, you gave me a time as to when this
9 happened, what time of day?

10 A In my incident, it was right around 7:20, 7:30.

11 Q Okay. So then the date was the 5th of February,
12 2009?

13 A Yes, sir.

14 Q And the incident was striking another inmate and it
15 occurred at Lieber Correctional Institute?

16 A Correct.

17 Q Would that be a correct statement of the date, the
18 event, and the location?

19 A Yes, sir, it is.

20 MR. YOUNG: Thank you.

21 Your Honor, these two boards have been presented
22 as State's Exhibit No. 69. There are two boards. They're
23 numbered in the top corners as 1 and 2. We now offer them
24 into evidence.

25 THE COURT: Any objections?

JEANETTE MOXLEY - Direct Exam by Mr. Young

1735

1 MR. TARR: No, Your Honor.

2 THE COURT: State's 69 Board 1 and State's 69
3 Board 2 in evidence without objection.

4 (WHEREUPON, State's Exhibit No. 69 was admitted
5 into evidence.)

6 MR. YOUNG: Please answer any questions the
7 defense may have for you.

8 CROSS-EXAMINATION

9 BY MR. TARR:

10 Q Are you aware of any infraction reports against
11 Mr. Barnes since February 5th, 2009?

12 A No, sir.

13 MR. TARR: That's all I have, Your Honor.

14 THE COURT: Redirect?

15 MR. YOUNG: No, sir.

16 THE COURT: All right. Thank you very much for
17 being with us today, Officer. You may step down.

18 Any objection to the officer being excused?

19 MR. TARR: No, Your Honor.

20 MR. YOUNG: No, Your Honor.

21 THE COURT: All right. And you may be excused.
22 Thank you very much.

23 MR. YOUNG: Your Honor, if I could check and see
24 if Mr. Blackwell's here.

25 THE COURT: All right.

1 MR. MYERS: While he's doing that, I'll call a
2 witness out of order.

3 THE COURT: All right. If you want to give him
4 a moment, if he's here. We can check.

5 (Pause.)

6 THE COURT: All right, then, Solicitor, you may
7 call your witness.

8 THE CLERK: Raise your right hand.

9 RICHARD ROUNDTREE, after being duly sworn,
10 testified as follows:

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

13 THE WITNESS: Richard Roundtree,
14 R-O-U-N-D-T-R-E-E.

15 DIRECT EXAMINATION

16 BY MR. MYERS:

17 Q What is your current occupation, Mr. Roundtree?

18 A I'm currently the field operation supervisor for
19 Richmond County Board of Education, Public Safety
20 Department.

21 Q And being with the school system, what are your
22 duties?

23 A In this course with Augusta, Richmond County, I
24 supervise approximately 40 officers. We're in charge of
25 56 sites, school sites, approximately 32,000 students,

RICHARD ROUNDTREE - Direct Exam by Mr. Myers

1737

1 5,000 employees. I handle the training of all our field
2 officers, supervise the daily operation of all the public
3 safety officers and conduct all felony investigations for
4 the Board of Education for Augusta, Richmond County.

5 Q How many schools?

6 A Fifty-six.

7 Q And how many students?

8 A Thirty-two thousand student, five thousand employees.

9 Q And you've got 40 officers?

10 A That's correct.

11 Q Prior to then, were you in law enforcement?

12 A That's correct.

13 Q How long have you been in law enforcement?

14 A A total of 17 years. I started in 1993.

15 Q Now, were you with the Richmond County Sheriff's
16 Department at any time?

17 A That's correct, from '96 after consolidation until
18 2009.

19 Q Consolidation meaning the City of Augusta and the
20 county sheriff's department going together?

21 A That's correct. I originally started my career with
22 Augusta Police Department in 1993. In 1996, the city and
23 county merged into one police department and I continued
24 that employment until last year when I took the job at the
25 Board of Education.

1 Q In the case of Samuel Sturup, who was the lead
2 investigator with Richmond County Sheriff's Department?

3 A After the remains were found, I became the lead
4 investigator on that particular case.

5 Q After what?

6 A After the remains were found in South Carolina.

7 Q After the remains were found?

8 A That's correct.

9 Q And thereafter did you work with Randy Doran over at
10 the Edgefield County Sheriff's Office?

11 A That's correct.

12 Q Now, during this -- do you know Mrs. Sturup?

13 A I do.

14 Q Now, were you also involved with an investigation
15 starting in Columbia County on Mr. Barnes?

16 A That's correct.

17 Q There's been some testimony about the West Bank Inn
18 on Washington Road. Were you familiar with what happened
19 there?

20 A Yes, sir, I was.

21 Q Were you present?

22 A I was not present. I was made aware of the
23 investigation because it was starting to tie into some of
24 leads that I was following in Mr. Sturup's death.

25 Q Now, leading up to January the 17th, the morning

RICHARD ROUNDTREE - Direct Exam by Mr. Myers

1739

1 Mr. Barnes was arrested, were you the lead investigator
2 leading up to that time?

3 A Into the death of Samuel Sturup, that's correct.

4 Q Were you present when the house on Cairo Court was
5 entered and Mr. Barnes was arrested?

6 A Yes, I was part of the entry team. And in addition
7 to being lead investigator, I was also a member of our
8 SWAT team since 1995.

9 Q So you were part of the SWAT team that went in; is
10 that correct?

11 A That's correct.

12 Q Now, before -- well, during that time, the people who
13 were arrested inside the house, do you remember some of
14 their names?

15 A At the time Steven Barnes was arrested outside the
16 house. Charlene Thatcher was inside the house, Keisha
17 Burton was inside the house. A Lashonda Lott was inside
18 the house and I believe maybe one other person, but those
19 I know for certain were inside the house when we made
20 entry. Mr. Barnes was captured outside the house.

21 Q All right, sir. Now, Marsha Rogers, did you say that
22 was one?

23 A That's correct, along with a Patricia Rouse. She
24 also went by Keisha Burton. They're the same individual.

25 Q Okay. Now, Patricia Rouse, also known as Keisha

1 Burton, what was her relationship with Mr. Barnes?

2 A As the investigation went forward, he was -- she was
3 his main prostitute, his main girl. She actually ran the
4 day-to-day activities of the house, arranged escorts for
5 the girls on Mr. Barnes' behalf, and also participated in
6 the discipline of the girls at direction of Mr. Barnes.

7 Q Okay. Now, you attended the Columbia County case,
8 the armed robbery, the burglary, the kidnapping case over
9 in Columbia County?

10 A That's correct. I was subpoenaed to testify in that
11 case, yes, sir.

12 Q Was anyone tried with Mr. Barnes?

13 A Yes, Ms. Rouse, again Keisha Burton, were the two
14 tried in that particular case.

15 Q And was she found guilty?

16 A She was.

17 Q And what did she get?

18 A She received a 25-year sentence.

19 Q Did you have an occasion to talk with some of the
20 girls who worked with Mr. Barnes?

21 A That's correct.

22 Q There's a name been mentioned, Jana McCarty. Did you
23 ever have an occasion to talk with her?

24 A That's correct. I conducted, I believe, at least two
25 interviews with Ms. McCarty.

RICHARD ROUNDTREE - Direct Exam by Mr. Myers

1741

1 Q And did you talk with her before or after Mr. Barnes
2 was arrested?

3 A It would be both.

4 Q Both?

5 A Yes, sir.

6 Q Charlene Thatcher, did you get to talk with her after
7 the arrest of Mr. Barnes?

8 A On several occasions, that's correct.

9 Q Marsha Rogers?

10 A I don't know if I particularly talked to Marsha
11 Rogers.

12 Again, in this particular case, when we made the
13 arrest there was so many people in the house and our
14 investigative team starts to break up individuals and
15 speak to different individuals and then they bring the
16 information back to me and I review it and put in as part
17 of the case file.

18 I know Ms. Rogers was interviewed, but I don't
19 know if I particularly interviewed her or I did a
20 summation of another investigator and then compiled it
21 into my investigative report.

22 Q Charlene Thatcher and Marsha Rogers, they were
23 working as prostitutes in the escort service?

24 A That's correct. And also Ms. Burton or Patricia
25 Rouse, that's correct.

1 Q What was the name of the escort service?

2 A AA Angels Escort Service.

3 Q Now, there was another girl there, Lashonda Lott, who
4 was in the house?

5 A That's correct.

6 Q Was she ever charged with anything?

7 A No. Apparently Ms. Lott, as the investigation
8 continued, that she had only been there approximately a
9 week. It was originally thought that she was part of the
10 prostitution ring, but we later learned that she had been
11 recruited, they were trying to incorporate her into the
12 ring, and later found out that she actually had been held
13 there against her will for several days.

14 Based on our investigation that night with
15 corroborating witnesses, they actually charged the
16 individuals at the house with false imprisonment of
17 Ms. Lott, so she was never charged. It turned out that
18 she had been assaulted while she was there.

19 MR. TARR: Your Honor, I object to any hearsay
20 statements.

21 THE COURT: I would sustain the objection.

22 MR. MYERS: Thank you.

23 BY MR. MYERS:

24 Q Mr. Barnes, was he charged with crimes against
25 Lashonda Lott?

RICHARD ROUNDTREE - Direct Exam by Mr. Myers

1743

1 A That's correct. He was charged with battery and also
2 the false imprisonment of Ms. Lott.

3 Q Okay. Now, did you talk or did you know of a girl
4 named Keanna Kennedy or Canaday?

5 A Ms. Kennedy or Canaday, she was a subject in a sting
6 operation that was put on by other members of my
7 department, our vice/narcotics ring, which tied back to
8 Mr. Barnes, as I became aware of her existence.

9 Q That was at West Bank Inn?

10 A That's correct.

11 Q And do you know what her date of birth is?

12 A Her date of birth is .

13 Q 1984. Do you have any idea where she is now?

14 A No, I do not.

15 Q She talked with you all, too, and gave you some
16 information; is that correct?

17 A That's correct. Again, other investigators within
18 our department was working that sting operation. We know
19 at the time Mr. Barnes, which I was doing an
20 investigation, we shared information, so she made
21 statements to our investigators, not me particularly.

22 Q Melody Cowling, did that name come up?

23 A Yes, Ms. Cowling was another name of a prostitute
24 that came up that was involved with Mr. Barnes'
25 prostitution ring.

1 Q Do you have any idea where Melody Cowling is today?

2 A I do not.

3 Q Did the name Nadia ever come up?

4 A It came up several times when interviewing the girls.
5 I was never able to ascertain who this Nadia was. Her
6 name constantly came up as being involved in the ring with
7 Mr. Barnes and/or supplying him with other means of
8 weapons throughout the course of the investigation. I was
9 never able to ascertain her last name during the course of
10 my investigation.

11 Q So you all weren't able to find her?

12 A I was not.

13 Q Nadia.

14 Now, what evidence -- well, who did you talk
15 with pretty much that broke the case, that you were able
16 to find out who was there when Mr. Sturup was murdered?

17 A William Harris, the half brother of Mr. Barnes, the
18 defendant. He's the one that came forward with the
19 initial information.

20 Q All right, sir. And after him, who was the second
21 person to provide a lot of information?

22 A Charlene Thatcher.

23 Q Now there's been the name of two other fellows, the
24 Hunsberger brothers, Alex and Julio.

25 A Uh-huh.

RICHARD ROUNDTREE - Direct Exam by Mr. Myers

1745

1 Q Were they tried in Georgia?

2 A Yes, both were tried in Augusta, Richmond County,
3 that's correct.

4 Q Richmond County?

5 A Augusta, Richmond County.

6 Q Did you testify in their trial?

7 A Yes, sir.

8 Q What kind of sentence did they receive?

9 A Both of them received life sentences in connection
10 with the beating and disappearance of Samuel Sturup.

11 Q For the Georgia crimes?

12 A Yes, sir.

13 Q As a matter of fact, after Ms. Thatcher cooperated,
14 was she ever taken back to the scene where Samuel Sturup
15 was murdered?

16 A Yes, sir. Ms. Thatcher, along with some South
17 Carolina investigators, myself and Lieutenant Doran drove
18 Ms. Thatcher back to South Carolina where she started to
19 give us directions as to where to go and actually drove
20 her to the area, actually walked us into the crime scene
21 and directly up to the property where they shot and killed
22 him.

23 Q Jana McCarty, you talked to her before and after
24 Mr. Barnes had been arrested?

25 A That's correct.

1 Q Was any of those interviews conducted in Wilkes
2 County?

3 A At least one them, yes, sir.

4 Q At least one in Wilkes County, Georgia?

5 A That's correct.

6 THE COURT: All right. Solicitor, would you all
7 approach a minute just momentarily?

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

11 THE COURT: All right. Thank you, Solicitor.
12 Thank you, Mr. Harte, Mr. Tarr.

13 You may continue, Solicitor.

14 BY MR. MYERS:

15 Q At the end of 2001 and the beginning of 2002, who was
16 the number one person you all were investigating in
17 Augusta, Georgia?

18 A That was Steven Louis Barnes.

19 MR. MYERS: Please answer any questions the
20 defense may have.

21 THE COURT: All right. Mr. Tarr, Mr. Harte.

22 CROSS-EXAMINATION

23 BY MR. TARR:

24 Q I believe you indicated Ms. Canaday's birthday was
25 ?

RICHARD ROUNDTREE - Cross-Exam by Mr. Tarr

1747

1 A That's correct.

2 Q And the raid on the Cairo Court house was on
3 January -- okay. I'm sorry about that. I retract that
4 statement.

5 The sting operation at the West Bank Inn was in
6 January of 2002. There's some testimony that Ms. Canaday
7 was only 15 or 16 at that time. Based on my math, she
8 actually would have been 17 at that time. Do you have any
9 information different than that?

10 A No. The information provided on the jail booking
11 sheet listed her date of birth as

12 Q So in January of '02 she would have been 17, not 15
13 or 16?

14 A In January of '02? In January of '02 that would have
15 made her, what, 17, and it would be 18 in March.

16 Q Let me ask you, of the seven times that you checked
17 Charlene Thatcher out of her jail cell and brought her
18 over to talk, how many of those seven times did you
19 actually discuss this case?

20 A Each of the times that Ms. Thatcher was brought to
21 CID was in reference to this particular case.

22 Q Okay. So all seven times she was brought over there
23 was in reference to this case?

24 A That's correct. You're saying seven. It might even
25 have been more.

1 Q Okay. And were you investigated by your superiors at
2 your department due to a possible improper relationship
3 with her?

4 A That is incorrect.

5 Q There was not an investigation done about a possible
6 improper relationship?

7 A Not to my knowledge, not an investigation, no.

8 Q You were never questioned about that?

9 A No, I was not questioned, no.

10 Q Are you aware whether Charlene Thatcher was ever
11 questioned about that?

12 A I'm not certain. I know I was never investigated in
13 reference to an improper relationship with Charlene
14 Thatcher.

15 Q In fact, weren't you investigated after several
16 letters that she had written you were found in your
17 office?

18 A Again, I was never questioned about an improper
19 relationship between myself and Charlene Thatcher. I was
20 investigated in my department for a violation of policy
21 for taking case files home, taking them from the
22 department.

23 Q Did you tape any of the interviews that you had with
24 Charlene Thatcher?

25 A Yes, some of the interviews were taped.

RICHARD ROUNDTREE - Cross-Exam by Mr. Tarr

1749

1 Q How many?

2 A That I couldn't tell you exactly how much, but it
3 would be listed in the case file.

4 Q And where are those tapes?

5 A All the tapes and evidence in reference to this case
6 would be in the Richmond County evidence room.

7 MR. TARR: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 (Pause.)

10 MR. TARR: That's all I have, Your Honor.

11 THE COURT: Redirect, Solicitor?

12 MR. MYERS: No, sir. May he be excused?

13 THE COURT: Certainly.

14 Officer Roundtree, thank you for being with us
15 today.

16 Any objections to the officer being excused?

17 MR. TARR: No, Your Honor.

18 THE COURT: Thank you very much. You may be
19 excused.

20 THE WITNESS: Thank you.

21 MR. MYERS: I think the last witness has arrived
22 now.

23 THE COURT: All right.

24 THE CLERK: Raise your right hand, please.

25 JAMES BLACKWELL, 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: My name is James Russell
5 Blackwell, B-L-A-C-K-W-E-L-L.

6 DIRECT EXAMINATION

7 BY MR. YOUNG:

8 Q Mr. Blackwell, where do you work and what do you do?

9 A South Carolina Department of Corrections,
10 disciplinary hearing officer.

11 Q Yes, sir. You do this for what institution?

12 A Lieber, MacDougall, and Coastal.

13 Q So you're on the road?

14 A Yes, sir.

15 Q So when you conduct these hearings, you take reports
16 from the officers that submit them and then you conduct a
17 hearing and make sure the proper hearing's conducted and
18 make a finding, correct?

19 A Correct.

20 Q Sir, in connection with that, did you have occasion
21 to make findings with regard to incident reports on a
22 Steven Louis Barnes dated January 22nd, 2009 to
23 February 2nd, 2009, at Lieber Correctional Institute?

24 A I did.

25 Q Yes, sir. And Mr. Barnes' incident report on

JAMES BLACKWELL - Direct Exam by Mr. Young

1751

1 January 22nd, 2009, that incident report, what infractions
2 did you inquire into?

3 A He was charged with 898 and 811. That's possession
4 of a cell phone and possession of a weapon.

5 Q Yes, sir. Were pleas entered by Inmate Barnes in
6 connection with those?

7 A There was.

8 Q What pleas did he enter?

9 A For the possession of a cell phone, he entered a plea
10 of not guilty. And possession of a weapon, he entered a
11 plea of guilty.

12 Q After conducting the hearing, sir, did you enter a
13 finding?

14 A I did.

15 Q What was your finding, sir?

16 A Guilty on both charges.

17 Q Okay, sir. With regard to that incident, these were
18 possession of a cell phone and possession of a weapon, did
19 you enter sanctions against him?

20 A I did.

21 Q What type of sanctions, sir?

22 A For possession of a cell phone, the sanction was 180
23 days loss of canteen, telephone, and visitation privileges
24 and 180-day disciplinary detention, 30 days loss of good
25 time.

1 For possession of a weapon, it was 180 days loss
2 of canteen, telephone, and visitation privileges and 90
3 days disciplinary detention.

4 Q Are those to run consecutive or concurrent with each
5 other?

6 A Consecutive.

7 Q Okay. Now, sir, what do these exactly involve when
8 you say canteen? What does that mean?

9 A Inmates are allowed to purchase things from the
10 canteen, items from the canteen. When we restrict that,
11 then they're no longer obligated to go to the canteen, can
12 go to the canteen.

13 The same thing with the telephone. They have
14 telephone privileges, they have people they can call on
15 the telephone. However, when their telephone privilege is
16 restricted, they no longer can use those telephone
17 services.

18 And also visitation, they no longer have --
19 their people can no longer come and visit them during that
20 time of restriction.

21 Q Sir, what does disciplinary detention mean?

22 A Disciplinary detention is an inmate is separated from
23 the general population and placed in lockup. It's like a
24 jail inside of a prison.

25 Q Sir, with regard to the other incident report that

JAMES BLACKWELL - Direct Exam by Mr. Young

1753

1 you had, the incident being 2-5-09, submitted by Jeanette
2 Moxley, do you recall the particular plea that was entered
3 by the inmate on that one?

4 A It was a charge of 810, striking an inmate with or
5 without weapon, and he entered a plea of guilty.

6 Q He did plead guilty to that, sir?

7 A He did.

8 Q Did you enter a finding of guilty?

9 A Found him guilty as well, yes.

10 Q What was the sanction that you entered for that?

11 A 180 days loss of canteen, telephone, visitation
12 privileges, 90 days disciplinary detention, and 30 days
13 loss of good time, \$50 restitution.

14 Q And was this to run consecutive or concurrent with
15 the other offenses?

16 A Consecutive.

17 Q How many days was he actually put into lockup for
18 each one of those?

19 A That he was actually placed in lockup?

20 Q Yes, sir.

21 A I wouldn't know that. I would give the sanctions up
22 to the institution to determine whether or not he'd get
23 out early or not. The sanctions, the total sanction days
24 that was given was 180, 90, that would be 270, and 90,
25 360.

1 Q All right, sir. What day did he come into your
2 institution?

3 A Entered the institution -- I actually don't have that
4 time frame with me that he was actually brought into the
5 institution.

6 Q Do you know what he was doing when he was brought to
7 the Department of Corrections?

8 A No, sir.

9 MR. YOUNG: I have no further questions. Please
10 answer any questions the defense may have.

11 THE COURT: Mr. Tarr.

12 MR. TARR: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. TARR:

15 Q So Mr. Barnes pled guilty to the weapons charges?

16 A Yes, sir.

17 Q There was some testimony earlier that he had not.

18 There's no allegation that was presented to you
19 that he ever attempted to use those weapons?

20 A No, sir.

21 Q And, to your knowledge, he hasn't had any infraction
22 reports on him since February 10th, 2009?

23 A He hasn't come before me for any.

24 Q But, to your knowledge, he hasn't had any?

25 A Correct.

JAMES BLACKWELL - Cross-Exam by Mr. Tarr

1755

1 Q And you can still be written up for infractions when
2 you're in lockup, can't you?

3 A Yes, sir.

4 MR. TARR: That's all I have, Your Honor.

5 THE COURT: Redirect, Solicitor?

6 MR. MYERS: No, sir.

7 THE COURT: Thank you very much, Mr. Blackwell.
8 Thank you for being with us this evening. You may step
9 down.

10 Any objections to this officer being excused?

11 MR. MYERS: None, Your Honor.

12 THE COURT: You may be excused.

13 All right, Solicitor, would that conclude the
14 presentation of the testimony for the today?

15 MR. MYERS: Yes, sir.

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

17 Mr. Foreman, ladies and gentlemen of the jury, I
18 believe we're now going to take our evening recess.

19 I would again remind you during this recess, do
20 not discuss the case with anyone, that includes your
21 fellow jurors or anyone else.

22 Do not watch, listen to, or read any news
23 accounts of the case. Remember to keep an open mind.

24 Do not begin your deliberations until I direct
25 you to do so.

1 If you'd pass your notes up, they will be
2 secured by the Clerk's office over the evening hours.

3 You may now go to your jury room to be
4 transferred by the jury sequestration team.

5 And I hope you all have a pleasant evening. See
6 you at 9:30 in the morning. Thank you very much.

7 (The jury left open court at approximately 5:54
8 p.m.)

9 THE COURT: All right. A couple of things
10 before we break for the evening.

11 Would someone hand me, please, State's Exhibit
12 No. 59 and State's Exhibit No. 65?

13 MR. MYERS: Pardon me, sir?

14 THE COURT: Would someone hand me, please,
15 State's Exhibit 59 and State's Exhibit 65? Fifty-nine is
16 the weapon, I believe, and 65 is the ski mask, I believe.

17 MR. MYERS: Exhibits 59 and 65, Your Honor.

18 THE COURT: And as I understand the testimony in
19 regards to these items, State's Exhibit No. 59 is the
20 weapon that was under the fur coat that was in the
21 automobile at the West Bank Motel?

22 MR. MYERS: That's correct.

23 THE COURT: All right. And State's Exhibit 59
24 is also the weapon that's been identified that was used in
25 the armed robbery/burglary/kidnapping/possession of a

1 firearm and pandering and terrorist threat charges in
2 Columbia County.

3 MR. MYERS: That's correct.

4 THE COURT: All right. So this weapon, States's
5 59, was used in a crime for which Mr. Barnes has been
6 convicted; is that correct?

7 MR. MYERS: That's correct.

8 THE COURT: State's Exhibit No. 65 is a ski mask
9 that was recovered from an automobile by the Richmond --
10 out of an automobile by the Richmond County Sheriff's
11 Department at the Cairo Street residence on the date of
12 the raid on I believe 17 January of '02?

13 MR. MYERS: Yes, sir.

14 THE COURT: This ski mask has also been
15 identified as being used in the crimes for which
16 Mr. Barnes was convicted in Columbia County?

17 MR. MYERS: That's correct.

18 THE COURT: All right. I'd also make that part
19 of the record in regard to previously rulings, Mr. Tarr
20 and Mr. Harte.

21 Mr. Barnes, please stand for me.

22 Mr. Barnes, at the rate we're going, the State
23 would probably rest by lunchtime tomorrow. I don't know
24 that I necessarily need to re-advise you concerning your
25 right to testify; however, I'm going to do so.

1 You understand you have a right to testify or
2 not to testify in this phase of the trial?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And if you choose not to testify, I
5 will tell this jury that they cannot hold the fact that
6 you did not testify against you, that they should not even
7 discuss that in the jury room. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You understand that the right to
10 testify or not to testify is your right, is your call to
11 make. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: No one has threatened you or coerced
14 you in any manner to get you to testify or to not testify?

15 THE DEFENDANT: No, sir.

16 THE COURT: Before in the guilt phase, we talked
17 about settling your record. Quite frankly, I think by the
18 time the State rested, your record would already be in
19 front of the jury, but they could still ask you about
20 those convictions, do you understand, if you chose to
21 testify?

22 THE DEFENDANT: Well, I've got some questions
23 about that.

24 THE COURT: All right.

25 THE DEFENDANT: Say, for example, you know, like

1 I got to testify in that trial?

2 THE COURT: In the guilt phase?

3 THE DEFENDANT: Yes, sir, in Columbia County
4 case.

5 THE COURT: All right. You're talking about
6 Columbia County?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 THE DEFENDANT: So if you want to call that the
10 guilt phase --

11 THE COURT: No, sir, I'm just talking about the
12 guilt phase of this trial. But you're talking about your
13 Columbia County trial?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Go right ahead.

16 THE DEFENDANT: Okay. Say, for example, you
17 know, they was to cross-examine me in the matters here
18 today, I mean if they was to say, "Well, Mr. Barnes, have
19 you been convicted with so and so charges? Yes." But
20 trying to go into details and ask me additional questions,
21 I'm going to plead the Fifth.

22 THE COURT: Well, that's a decision you would
23 have to make, Mr. Barnes. The testimony's out in regards
24 to that. Two victims and an eye witness has already
25 testified in that regard. Various officers have testified

1 concerning the recovery of various items of evidence. But
2 again, I do want to advise you, you have an absolute right
3 to testify or not to testify in the penalty phase of this
4 trial. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You also have a right to make the
7 final closing argument to the jury.

8 As I understand it, and I'm sure the Solicitor
9 or Mr. Tarr or Mr. Harte will correct me if I'm wrong,
10 does the defense have the right to an opening in the
11 penalty phase?

12 MR. MYERS: Have a right to open?

13 THE COURT: Yes, sir.

14 MR. MYERS: Not that I know of, sir.

15 THE COURT: All right. Do you know?

16 MR. TARR: I'm not aware.

17 MR. MYERS: The order in the penalty phase is
18 pretty much the same as --

19 THE COURT: It's the Solicitor goes first.

20 MR. MYERS: Yes, sir.

21 THE COURT: Then the lawyer for -- your lawyer's
22 second, and then you would have the right to make a final
23 argument. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you understand that parameters

1 of that argument.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do I need to review that with you
4 any further?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. Well, just be pondering
7 that, both your right to testify or not to testify and
8 your right to make a closing argument. We'll revisit it
9 tomorrow.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Thank you very much.
12 Anything further, Solicitor?

13 MR. MYERS: No, sir.

14 THE COURT: Mr. Tarr?

15 MR. TARR: No, Your Honor. Requests to charge,
16 is it okay to have them by the end of the day tomorrow
17 since we probably wouldn't get to it?

18 THE COURT: Well, yes, that will be fine. If
19 you have them any earlier, I wouldn't mind. And I also
20 have to get the forms prepared. So as far as any
21 statutory mitigating circumstances or non-statutory
22 mitigating circumstances you would want me to consider to
23 submit, if you could have those, say, right after lunch
24 perhaps, and then we'll review the list also, the entire
25 list.

1 All right. Anything further?

2 MR. TARR: No, sir.

3 THE COURT: Court will be in recess until 9:30.

4 Thank you very much.

5 (The proceedings were concluded for the day and
6 reconvened on November 16, 2010.)

7 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

8 VOLUME 7 OF 9

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

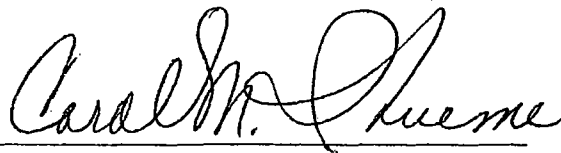
1 CERTIFICATE OF REPORTER

2
3
4 STATE OF SOUTH CAROLINA)
5 COUNTY OF EDGEFIELD)
6
7

8 I, CAROL M. THUEME, RPR, Official Court Reporter for
9 the 11th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of General Sessions
14 for Edgefield County, South Carolina, on the 15th day of
15 November, 2010.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19
20 June 30, 2011

21 
22

23 CAROL M. THUEME, RPR
24 Circuit Court Reporter
25

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 8
STEVEN LOUIS BARNES,	)	
DEFENDANT	)	

November 16, 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

1		
2	WITNESSES:	PAGE
3	CAROLYN NORMAN FAIN	
4	Direct Examination by Mr. Maye	1775
5	Cross-Examination by Mr. Tarr	1781
6	CHARLENE THATCHER	
7	Direct Examination by Mr. Myers	1783
8	Cross-Examination by Mr. Tarr	1812
9	ALICIA PARKER BUTLER	
10	Direct Examination by Mr. Myers	1817
11	Cross-Examination by Mr. Tarr	1845
12	JANA McCARTY	
13	In Camera Direct Examination by Mr. Tarr	1854
14	LASHONDA LOTT	
15	Direct Examination by Mr. Myers	1860
16	JANA McCARTY	
17	Direct Examination by Mr. Myers	1873
18	Cross-Examination by Mr. Tarr	1889
19	JAMES HARRISON	
20	Direct Examination by Mr. Myers	1893
21	NADIA BRASWELL	
22	Direct Examination by Mr. Maye	1895
23	GERALD TANKSLEY	
24	Direct Examination by Mr. Maye	1907
25	DR. JOEL SEXTON	
	Direct Examination by Mr. Maye	1912

1	SHIRLEY STURRUP	
2	Direct Examination by Mr. Myers	1920
3	DR. MARTI LORING	
4	Direct Examination by Mr. Tarr	1931
	Cross-Examination by Mr. Myers	1958
5	Redirect Examination by Mr. Tarr	1977
	Recross-Examination by Mr. Myers	1980
6		
7	DR. DONNA SCHWARTZ-WATTS	
	Direct Examination by Mr. Tarr	1981
8	Cross-Examination by Mr. Maye	2026
9	DR. ALEXANDER MORTON	
10	Direct Examination by Mr. Tarr	2053
	Cross-Examination by Mr. Myers	2086
11		
12	DR. DAVID PRICE	
	Direct Examination by Mr. Tarr	2094
13	Cross-Examination by Mr. Myers	2106
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS			
2	State's		ID	EVD
3	72	Photo	1843	1843
4	73	Photo	1872	1872
5	74	Handcuffs	1910	1910
6	75	Photo	1914	1914
7	76	Photo	1914	1914
8	77	Photo (Withdrawn)		
9	78	Photo	1914	1914
10	79	Photo	1914	1914
11	80	Photo	1914	1914
12	81	Photo	1920	1920
13	82	Photo	1920	1920
14	83	Science award	1920	1920
15	84	Photo	1920	1920
16	85	Photo	1920	1920
17	Defense			
18	2	Genogram	1927	1941
19	3	Timeline	1927	1948
20	4	Mental illness chart	1927	1948
21	5	Dr. Schwartz-Watts report	1987	
22				
23				
24				
25				

1 THE COURT: All right. Just very generally and
2 briefly, I would like to cover several matters.

3 First off, the defendant brought to my attention
4 State versus Richard Charles Johnson. The cite he gave
5 was 360 SE2nd 317, for the proposition that prior crimes
6 or prior bad acts may not be admissible.

7 I reviewed State versus Richard Charles Johnson,
8 both 360 SE2nd 317, the 1987 case, and 14 SE2nd 547, the
9 1991 case.

10 A close reading of those cases indicates to me
11 that the evidence presented was all during the guilt phase
12 concerning the Swanson murder. And in the first trial, it
13 was extensive, to the extent that the Court reversed it.
14 The analysis was entirely under Lyles and prejudicial
15 effect versus probative value.

16 None of his prior crimes were introduced in the
17 guilt phase, his being Mr. Barnes.

18 Also, when you read the 1991 case, you find that
19 the evidence in a redacted form somewhat, or a lesser
20 form, was introduced, and the Court in the 1991 case
21 states "Upon review of the record, we find that the
22 prejudicial effect of the evidence did not outweigh its
23 probative value. The evidence concerning the Swanson
24 murder, which was the first murder, was the only evidence
25 which establishes Johnson's motive and intent in the

1 murder of Trooper Smalls. These cases would not apply to
2 the sentencing phase as far as prior bad acts or prior
3 crimes are concerned in this case."

4 Further, I have -- although I'm not required to
5 do so, I did review the prior bad act evidence of West
6 Bank Motel and the raid on the defendant's residence on
7 Cairo Street under a standard of clear and convincing
8 evidence.

9 Clear and convincing evidence is not required at
10 this stage as far as prior bad acts are concerned because
11 it's not a Lyles analysis, but I find there has been clear
12 and convincing evidence of those prior bad acts and
13 crimes.

14 I also intend to give a prior bad acts charge
15 this morning when the jury comes out concerning the
16 limiting instruction, which I did during the testimony of
17 the first witness that testified to prior bad acts, and
18 I'm going to reaffirm that again.

19 Anything you'd like to add, Mr. Tarr or
20 Mr. Harte?

21 MR. HARTE: No, Your Honor.

22 THE COURT: Thank you. Mr. Tarr?

23 MR. TARR: No, Your Honor.

24 THE COURT: The other issue I have is some
25 testimony that came in with, I believe it would be the

1 30th witness yesterday, Detective Roundtree.

2 There was some testimony that this defendant was
3 charged with battery and false imprisonment.

4 What happened to that charge, Solicitor?

5 MR. MYERS: They're on the dead docket.

6 THE COURT: What does that mean?

7 MR. MYERS: The dead docket in Georgia, Your
8 Honor. Mr. Harte talked about it through all the
9 cross-examination. It's when you convict somebody and
10 they have a substantial sentence and you put those on a
11 Georgia dead docket, but they can be brought back up at
12 any time.

13 THE COURT: Does the State intend to go into
14 that any further?

15 MR. MYERS: Not to the charges, but to the
16 victim, I do. I won't ask her about bringing charges.

17 THE COURT: I have some concerns that there's
18 evidence or testimony in the record that he was charged
19 with two crimes for which there's no conviction and now
20 they've been transferred to that docket.

21 MR. MYERS: Yes, sir. It's kind of like a
22 contingent docket, and I can go back in and get the
23 research on it. It's like a contingent docket that's
24 still pending, but that can be brought back up on a motion
25 of the defendant or the State. So they're not dismissed,

1 if that's what you're concerned with. It's just in a
2 holding status.

3 And on the case he's talking about, it doesn't
4 apply to that, because we've checked into that.

5 THE COURT: You all have any position in this
6 regard, Mr. Harte or Mr. Tarr?

7 MR. HARTE: Your Honor, I believe that they
8 would have to present some direct evidence concerning
9 those matters before they could be considered by the jury.

10 THE COURT: And that was my concern that there
11 was -- for example, you've had the testimony, and I went
12 through it yesterday, of Detective Gay and Vinson,
13 Sergeant Vinson, and Sergeant Smith and Deputy Brunson,
14 you've had that direct line, those eye witness type of
15 officers.

16 MR. MYERS: And that victim will testify this
17 morning.

18 THE COURT: All right.

19 MR. MYERS: But I will not ask her about any
20 charges. I'm just going to bring out the facts that
21 support them.

22 THE COURT: Well, I may revisit that issue on
23 those charges. And the defense may want to ponder it, at
24 least, because I've not made a decision now, if you'd want
25 some type of curative instruction.

1 MR. HARTE: Yes, sir. I think it depends on
2 what the testimony is.

3 THE COURT: All right. And that concerned me,
4 quite frankly. And many times the defense may not want
5 curative instructions because it could unduly highlight
6 it, but that's a decision you all would have to make.

7 All right. Thank you all very much.

8 Anything further before we bring in our jury,
9 Mr. Tarr?

10 MR. TARR: Yes, Your Honor. I'd like some
11 guidance from the Court regarding -- we've got a number of
12 rap sheets on some witnesses that are coming up that are
13 out of state and they're kind of difficult to read for a
14 couple of reasons. They're different from South Carolina.

15 THE COURT: Sure.

16 MR. TARR: And also the charges, you know, I'm
17 not familiar with other states' laws and whether they
18 carry more than a year. So if they don't involve
19 dishonesty, I don't know for sure whether or not I can get
20 into like if the Solicitor --

21 MR. MYERS: I have no objection to them bringing
22 out anything on prior record.

23 THE COURT: Yes, sir. And that would actually
24 be the Court's position at this stage of the proceeding.
25 If they provided you the rap sheets, you ask them, Mr.

1 Tarr.

2 Is that correct, Solicitor, you don't have any
3 objection?

4 MR. MYERS: No objection. They can bring out
5 anything they want to.

6 MR. TARR: Thank you, Your Honor.

7 THE COURT: Anything further, Mr. Tarr?

8 MR. TARR: No, Your Honor.

9 THE COURT: Solicitor?

10 MR. MYERS: No, sir.

11 THE COURT: All right. Bring us our jury,
12 please.

13 (The jury came into open court at approximately
14 9:43 a.m.)

15 THE COURT: Good morning, ladies and gentlemen.
16 I hope you all had a pleasant evening.

17 Before we begin today, I do want to recharge you
18 that the State has presented to you for your information
19 facts concerning the defendant's alleged prior and
20 subsequent crimes and prior and perhaps subsequent bad
21 acts.

22 You must remember that previous or earlier
23 convictions or subsequent crimes or alleged crimes or bad
24 acts are not and may not be used as proof of statutory
25 aggravating circumstances. They cannot be used for that

1 purpose. The previous and subsequent allegations of
2 crimes or prior bad acts may only be considered by you in
3 reference to the character of the defendant and for no
4 other purpose.

5 The defendant is on trial for his life, and it
6 is important that you have for your consideration all
7 pertinent information about him.

8 This evidence may be considered by you and given
9 whatever weight and value, if any, that you feel is
10 appropriate and it is entitled to.

11 I would emphasize again that these alleged
12 offenses and prior bad acts may not be used by you as
13 evidence of statutory aggravating circumstances which the
14 State relies on, but you may, if you choose, consider this
15 as evidence of the defendant's character or
16 characteristics as they bear logical reference to the
17 crime for which he has been charged.

18 All right. We're continuing the trial of the
19 case at this phase by the presentation of evidence and
20 testimony by the State in its case in chief. I would ask
21 you to please continue to give the parties your complete
22 and undivided attention.

23 Solicitor, you may call your next witness.

24 MR. MAYE: The State would call Carolyn Norman
25 Fain.

1 THE COURT: All right, Ms. Fain.

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

4 CAROLYN NORMAN, after being duly sworn,
5 testified as follows:

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

8 THE WITNESS: Carolyn Marie Norman, N-O-R-M-A-N.

9 DIRECT EXAMINATION

10 BY MR. MAYE:

11 Q Ms. Norman, if you would, just speak up as much as
12 you could.

13 Tell the ladies and gentlemen of the jury where
14 you're originally from.

15 A I was born in Lincolnton.

16 THE COURT: Born where?

17 THE WITNESS: In Lincolnton, Georgia.

18 THE COURT: Thank you.

19 THE WITNESS: And I moved to New Orleans.

20 BY MR. MAYE:

21 Q How old were you when you went down to New Orleans?

22 A About six.

23 Q About six years old? What age did you stay down
24 there and live in New Orleans 'til?

25 A 'Til I was about 19.

1 Q At about 13, did you start kind of living on the
2 streets and working as a prostitute in the Quarter and all
3 in New Orleans?

4 A Yes, sir.

5 Q How old were you when you came back to the Augusta,
6 Georgia area when you returned from New Orleans?

7 A About 22. Twenty-one, 22.

8 Q Twenty-two years old? Did you still have family
9 living down in the area that you were from?

10 A Yes, sir.

11 Q And did you come back to stay with them at that time?

12 A Yes, sir.

13 Q Did there come a time that you went to work for an
14 Augusta escort service, and about how old were you when
15 you did that?

16 A I worked for two of them. I worked for Augusta
17 Escorts and then I worked for AA Angels.

18 Q Okay. Tell the ladies and gentlemen of the jury
19 about the first time that you met Steven Barnes. What
20 were the circumstances and tell them what happened?

21 A I was going on a call for Augusta Escorts and he was
22 downstairs and he asked me -- he told me "hello" and asked
23 me my name and asked me how I was doing and told me he was
24 thinking about opening up a business.

25 Q What kind of business?

1 A An escort business.

2 Q Okay.

3 A And I told him that sounds like a good idea, why not.

4 Q Okay. What information did you all exchange? Did
5 you all exchange information so you all could get back in
6 touch?

7 A Yeah, I gave him my phone number and I got his cell
8 phone number so we could contact each other. This was
9 before he opened up his escort business.

10 Q Now, you had a pretty substantial drug problem at
11 that time and you were buying; is that correct?

12 A Yes, sir.

13 Q What were you using? What was your drug of choice?

14 A Crack.

15 Q You were using crack at the time?

16 A Yes, sir.

17 Q Did you make contact with him again to purchase some
18 crack from Mr. Barnes?

19 A Yes, sir. I met him a few times and bought crack
20 from him.

21 Q Okay. Where did you go? Do you remember any
22 residence that you went to that you purchased crack from
23 him?

24 A On Washington Road.

25 Q On Washington Road? Did you ever go to the green

1 house and purchase crack from him?

2 A Yes, sir. I met him there a few times.

3 Q But you purchased crack from him on multiple
4 occasions?

5 A Yes, sir.

6 THE COURT: Move along, Solicitor.

7 BY MR. MAYE:

8 Q Okay. Let me ask you this: Prior to the police
9 finding Sam Sturup's body, did you have a conversation
10 with Mr. Barnes about Sam Sturup's murder and what did he
11 tell you?

12 A Yeah, we was talking about it and he said that they
13 couldn't -- there was no way -- he did it, but there was
14 no way they could prove it, no way they could pinpoint him
15 doing it or nothing because there ain't nothing, no way of
16 tracing him back, you know, to it, to the boy's body.

17 Q What did he tell you had happened and what did he
18 tell you he had done to the boy's body?

19 A He said he -- it was in -- he didn't -- he said it
20 was out there in the woods, that they could never find it.

21 Q What did he tell you in relation to footprints or
22 fingerprints as to whether or not they would be able to
23 find him?

24 A He said they could never trace, they could never find
25 no fingerprints or trace his footprints or tire tracks or

1 nothing.

2 Q Okay. How many times did you work for him, or did
3 there come an occasion that you worked for him as a
4 prostitute?

5 A About twice.

6 Q Okay. What was the first time? Tell the ladies and
7 gentlemen of the jury about that.

8 A I went on the first call and everything was okay. I
9 gave him a hundred dollars and I kept a hundred. And the
10 next call wasn't too good. I went in on the call and the
11 guy didn't want to pay me.

12 Q Who were you working for when you went on that call?

13 A Steven.

14 Q Okay. What happened on that call?

15 A He took me on the call to go see this man and I went
16 in and the man didn't want pay me, so I went out and told
17 Steven. It was him and two other guys. I told him that
18 he didn't want to give me no money.

19 He said, "All right." He said, "Hold on." So I
20 stood out there by the door and I heard something in
21 there.

22 I heard a man scream and I heard -- I seen
23 Steven walk out with the TV. They had blood on them, him
24 and the other guy.

25 The other two guys, I don't know the other two

1 guys' names, and they went to the Huddle House and ate and
2 they went back and they paid me.

3 Q What all did they do -- what all happened at the
4 Huddle House while you all were there? How long was that
5 after they had gone in the room?

6 A About 15 -- instantly, so that we left the room and
7 we went straight to the Huddle House.

8 Q What happened and what did you observe them do?

9 A They ate and split up some money, the money that they
10 took from that man.

11 Q How much money did they take from the man?

12 A I think it was about \$500, close to it.

13 Q Okay.

14 A And they went back and he gave me some dope.

15 Q What kind of drugs did he give you?

16 A I don't know what it was. I don't know. I don't
17 know. It was some red stuff.

18 Q What was the effect on you?

19 A I couldn't lay down, I couldn't keep still, I
20 couldn't move. I mean, I could move, I wanted to move, I
21 wanted to run ten thousand miles if I could.

22 Q Okay. What did he tell you to do with one of the
23 guys that had gone in the room with him?

24 A I was supposed to have sex with him, but I couldn't,
25 because my body wouldn't let me lay down. So the guy went

1 to go get on top of me and I jumped up and took off
2 running out the door naked because I was ready to go. And
3 that was the last time I had any interactions with him.

4 Q What did you hear the guy say? Did you hear the man
5 when they went in the room after the guy wouldn't pay?

6 A I heard him say, "I don't want no trouble," and
7 that's all I heard.

8 Q What could you hear going on in the room from the
9 outside when Mr. Barnes and these two men went in there
10 into that room?

11 A I heard somebody hollering.

12 Q Okay.

13 A So I walked away from the room and went back to his
14 car and I waited on him to come out.

15 MR. MAYE: Answer any questions the defense has
16 for you.

17 THE COURT: Thank you very much, Solicitor.
18 Mr. Tarr.

19 MR. TARR: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. TARR:

22 Q Now, you said your name was Carolyn Norman, Carolyn
23 Marie Norman?

24 A Yes, sir.

25 Q I think the Solicitor introduced you as Carolyn Fain.

1 A I'm married. I've been married for seven years.

2 Q Okay. Now, you were born in Georgia and then moved
3 to New Orleans?

4 A Yes, sir.

5 Q And you started work as a prostitute at 13?

6 A Yes, sir.

7 Q What age were you when you met Steven?

8 A Twenty-three, 22 or 23.

9 Q Okay. So you had already been a prostitute for ten
10 years prior to meeting him?

11 A Yes, I was working as a prostitute for another
12 company before I met him.

13 Q Okay. And I believe you testified that you were
14 already addicted to crack cocaine when you met him?

15 A Yes, sir.

16 Q How long had you been addicted to crack cocaine?

17 A Since I was 19.

18 Q So about four years prior to meeting Steven you were
19 addicted to crack cocaine?

20 A Yes, sir.

21 Q And you have got a number dating back to 2001, a
22 number of different prior convictions and probation
23 violations?

24 A Yes, sir.

25 Q Did any of those have anything to do with Steven

1 Barnes?

2 A No, sir.

3 Q And as far as anything that happened inside the motel
4 room, you didn't see any of that?

5 A No, sir, I didn't.

6 MR. TARR: That's all I have, Your Honor.

7 THE COURT: Redirect, solicitor?

8 MR. MAYE: Nothing. Thank you. Ask that she be
9 released.

10 THE COURT: Any objection?

11 MR. TARR: No, sir.

12 THE COURT: Thank you. You may step down. You
13 may be excused.

14 THE WITNESS: All right.

15 THE CLERK: Raise your right hand, please.

16 CHARLENE THATCHER, after being duly sworn,
17 testified as follows:

18 THE CLERK: Have a seat and state your full name
19 and spell your last name, please.

20 THE WITNESS: Charlene Ann Thatcher,
21 T-H-A-T-C-H-E-R.

22 DIRECT EXAMINATION

23 BY MR. MYERS:

24 Q Now you've testified previously last week?

25 A Yes, sir.

1 Q And you went by the name of China; is that right?

2 A Yes, sir.

3 Q Now, Ms. Thatcher, you testified that you met
4 Mr. Barnes the latter part of August of 2001; is that
5 correct?

6 A Yes, sir.

7 Q Were you on Cairo Court, at that residence, on
8 January 17th of 2002, when the police came in and
9 arrested everybody?

10 A Yes, sir.

11 Q Had you been staying at Cairo Court for a good while?

12 A Yes, sir.

13 Q Now, let me ask you, while you were with Mr. Barnes,
14 did he ever supply you with any type of drugs?

15 A Yes, sir.

16 Q What kind?

17 A Marijuana, sir.

18 Q Did he have any other drugs?

19 A Yes, sir.

20 Q What kind?

21 A Cocaine, soft and hard, sir.

22 Q I'm sorry?

23 A Cocaine, soft and hard.

24 Q What do you mean "cocaine, soft and hard"?

25 A Crack cocaine and regular cocaine.

1 Q Crack cocaine and regular cocaine?

2 THE COURT: What's regular?

3 THE WITNESS: Powder, sir.

4 THE COURT: Powder. All right. Thank you.

5 BY MR. MYERS:

6 Q Now, you testified previously about the green house
7 on Cherry Street?

8 A Yes, sir.

9 Q Any drugs around the green house on Cherry Street?

10 A Yes, sir.

11 Q Where around the green house would drugs be?

12 A It depended if he was using it, but it was in the
13 shed area where he kept it.

14 Q What do you mean "depends on if he was using it"?

15 A If he was using it, he'd use it in the kitchen area.

16 Q Who would be using drugs?

17 A Mr. Barnes, sir.

18 Q And what type of drugs would he be using?

19 A Powder, sir.

20 Q I'm referring you to State's Exhibit No. 20.

21 THE COURT: Has that been introduced in this
22 phase, Solicitor?

23 MR. MYERS: No, sir, it has not, it's in the
24 other phase, but I have a motion later on at the end of
25 all my evidence.

1 THE COURT: All right. Thank you. You may
2 proceed.

3 BY MR. MYERS:

4 Q Is that the green house?

5 A Yes, sir.

6 Q Now, you were saying something about the back of the
7 house?

8 A Right there, sir.

9 Q Where is that?

10 A The shed area, sir. I don't know what that thing is.
11 It looks like a shed.

12 Q Is that the little opening back there?

13 A Yes, sir.

14 Q Now, what about that opening back there at the green
15 house?

16 A That's where the drugs were.

17 Q And where were the drugs back there?

18 A Somewhere up underneath the board.

19 Q Under a board?

20 A Yes, sir, a wood board.

21 Q And what kind of drugs were kept there?

22 A The cocaine, sir, and probably -- I don't know
23 anything else being up under there.

24 Q And who kept the cocaine back there?

25 A Barnes, sir.

1 Q Now, there was some other girls at the house when you
2 all were arrested. It's been said one was Keisha?

3 A Keisha Burton, sir. Lashonda Lott and Marsha Rogers
4 and me.

5 Q All right. Now Keisha, what was the relationship
6 with Keisha and Steven Barnes?

7 A His girlfriend.

8 Q His girlfriend. That house, can you describe that
9 house at Cairo? What were the conditions of the house?

10 A I don't know how to answer that, sir.

11 Q Well, what kind of safety measures were at that
12 house?

13 A There were bars on the windows, bars on the doors,
14 and a security system and security cameras.

15 Q What do you mean by "security system"?

16 A Alarm for the house, like if anybody enters the house
17 an alarm would go off.

18 Q Now, were you able to go in and out of that house any
19 time you wanted to?

20 A No, not without his permission, sir.

21 Q I'm sorry?

22 A Not without Barnes' permission, sir.

23 Q And if you left that house, would anyone be with you?

24 A Yes, sir.

25 Q Who?

1 A It depended. If it was a call, it would be Marsha
2 Rogers and Keisha Burton.

3 Q All right. Now, you said Keisha Burton was his
4 girlfriend?

5 A Yes, sir.

6 Q Other than Steven Barnes, who was kind of in control
7 of that house?

8 A Keisha Burton, sir.

9 Q You said when you left the house that Keisha Burton
10 would be with you?

11 A Yes, sir.

12 Q What if you had to go out -- you're a prostitute,
13 right?

14 A Was, sir.

15 Q You were, I'm sorry, yes, ma'am. And you were
16 working for Barnes?

17 A Yes, sir.

18 Q What was the name of that escort service?

19 A Angels, sir.

20 Q And if a call came in, who would receive the call?

21 A It depended. It would be me, Keisha, or Marsha. It
22 all depended on who answered the phone.

23 Q And then going out on calls, who would go out on
24 calls with you?

25 A All three of us, sir.

- 1 Q Who were those three people?
- 2 A Keisha, Marsha, and I.
- 3 Q Now, why would Keisha be going on calls?
- 4 A Because she had the gun, sir.
- 5 Q What do you mean "she had the gun"?
- 6 A She had the gun.
- 7 Q For what purpose?
- 8 A Just in case anything got too risky.
- 9 Q And if you went out on a call, were there certain
- 10 guidelines you had to follow?
- 11 A Yes, sir.
- 12 Q What were some of the guidelines you had to follow?
- 13 A The guidelines were mainly to protect us from getting
- 14 hurt from the people that we were serving.
- 15 Q And what was some of those? What were the things you
- 16 were supposed to do?
- 17 A Not to let the men touch us in any type of way that
- 18 they weren't paying for, kiss us in any type of way they
- 19 weren't paying for it, and not to dominate us in any type
- 20 of way. And make sure we used our own condoms and not the
- 21 man's, and to take the money from the table, not get it
- 22 handed to us, just things like that.
- 23 Q When you first got there and money was exchanged,
- 24 what was the rules about how the money would be exchanged?
- 25 A To put -- the person that was giving us the money had

- 1 to put it on the table, to pick it up from the table and
2 go to the car and give it to one of the -- to Keisha.
- 3 Q Okay.
- 4 A And then come back in and do it.
- 5 Q So you get the money and you leave the room --
- 6 A Yes, sir.
- 7 Q -- to give it to Keisha out in the car --
- 8 A Yes, sir.
- 9 Q -- and then you would come back in?
- 10 A Yes, sir.
- 11 Q What if there was a cop in there?
- 12 A Leave.
- 13 Q Pardon?
- 14 A Leave.
- 15 Q How would you know it was a cop?
- 16 A You have to ask the person if they're a cop or not.
17 And if they answer weirdly or say "yes," then leave.
- 18 Q And then how long do you stay inside performing the
19 trick?
- 20 A They had one hour to do their thing, and if they did
21 it before that hour, then I would leave.
- 22 Q Now, what did you say about the condoms, always carry
23 condoms?
- 24 A Yes, sir.
- 25 Q What if the condom broke?

1 A Then we would have to call Barnes and tell him and
2 try to get the money out of the man. And if they didn't
3 give us the money, which would be \$400, then Barnes would
4 come and make them give us the money.

5 Q Okay. If the condom broke you had to call who?

6 A Barnes.

7 Q And then you're supposed to get additional money from
8 the customer?

9 A Yes, sir.

10 Q And if he didn't pay it, what were you supposed to
11 do?

12 A Barnes would be on his way.

13 Q How would he be on his way?

14 A Because we'd tell him that the person wasn't going to
15 give us the money.

16 Q Now, New Year's Eve 2001/2002, did you go over to
17 Columbia County for some customers?

18 A Yes, sir.

19 Q And who was the other girl that went with you?

20 A Marsha.

21 Q Marsha Rogers?

22 A Yes, sir.

23 Q And who else was in the car?

24 A Keisha Burton, sir.

25 Q What happened -- who went inside the house?

1 A Marsha and I, sir.

2 Q When you and Marsha went inside of the house, what
3 happened?

4 A We got acquainted with the men and I told him how
5 much it would cost and the man put the money on the table,
6 I got the money and then I went outside to give Keisha the
7 money and I called -- I told Keisha --

8 Q Let me stop you right there.

9 A Yes, sir.

10 Q You said that they paid you?

11 A Yes, sir.

12 Q Could you tell how much money they had when they
13 pulled it out to pay you?

14 A They had a big wad of money.

15 Q A big wad of money?

16 A Yes, sir.

17 Q And the rules were to get the payment and then go
18 outside and give it to the person in the car, and that was
19 Keisha?

20 A Yes, sir.

21 Q And when you went outside to give her the money, what
22 would you do?

23 A I told her to call Big Man because there was a lick.

24 Q What do you mean "there was a lick"?

25 A That I was ready to rob the people because they had a

1 lot of money.

2 Q What did he say?

3 A He said, "Am I sure?" And I said, "Yes." And he
4 said, "Does he need to call the boys?" meaning Tony, Red,
5 and I said "No, that we can do this on our own." And he
6 said, "Okay," and he said he'll be on his way.

7 Q Did you go back inside the house?

8 A Yes, sir.

9 Q Did you and Marsha perform your services?

10 A Yes, sir.

11 Q What happened when Marsha was performing hers?

12 A Supposedly the condom broke and I had to call Barnes
13 in the middle of performing, so I just called him inside
14 the house.

15 Q Why did you have to call him?

16 A Because the condom broke and the man was not going to
17 pay.

18 Q He wasn't going to pay the extra money?

19 A No.

20 Q What happened after that?

21 A Barnes said it was okay because he was going to rob
22 them anyway, so just keep doing what we was doing, so we
23 did.

24 Q Now, did anyone ever arrive at that house?

25 A Yes, sir.

1 Q Who?

2 A Barnes and Keanna Canady.

3 Q Keanna Canaday?

4 A Yes, sir.

5 Q She rode up with Barnes. Do you know what kind of
6 vehicle they came up in?

7 A Yes, sir.

8 Q What was it?

9 A A black Bronco.

10 Q Was it a quiet car?

11 A It was very loud.

12 Q Now, what happened when he came in?

13 A He came with a ski mask thing on his head and the .45
14 Ruger and rang the door bell, and I answered the door and
15 stepped aside, and the man that owned the house came up to
16 him and was like "Who are you? I think you have a
17 problem."

18 Then Barnes pulled down the mask. It was like,
19 "No, I think you have a problem," and he started
20 threatening the man with the gun.

21 And the other man that was performing with
22 Marsha, he told him to get on the couch and he was going
23 to blow their brains out.

24 Then he told Marsha and I to search the house.
25 And we searched the house. And I tried to open a door and

1 it wouldn't open and I heard a man say, "Who's out there?"
2 And I ran and Marsha ran, and then Barnes ran, and we all
3 left.

4 Q Now, what was some of the rules about when you went
5 to a house like that, for making sure who was there?

6 A The rules were, which I did not do, was to go in the
7 house and search the house. I didn't do that that night.

8 Q Did Barnes get some more money from one of the men
9 out there? Were you in there when he got some more money
10 from them when he came in?

11 A Yes, sir, but he only got like a hundred and
12 something dollars for the four-hundred-dollar fee for if
13 the condom breaks, just in case somebody gets pregnant and
14 can get an abortion for that money.

15 Q You weren't involved in that money, that was Barnes
16 and one of the men; is that correct?

17 A Do what?

18 Q On exchanging that extra money, you weren't involved
19 in that, it was Barnes and one of the men?

20 A Yes, sir.

21 Q Okay. Now, why did you all run out of the house?

22 A Well, I ran because there was another person and I
23 was scared. And Marsha ran because I ran. And he ran --
24 Barnes ran because we ran.

25 Q Okay. Where did you go when you left there?

1 A I went straight back to Cairo Court.

2 Q Okay. And you were in the car with whom?

3 A Marsha and Keisha Burton.

4 Q So you all went back Cairo Court?

5 A Yes, sir.

6 Q Did Barnes and Keanna Canaday come back to Cairo
7 Court?

8 A No, sir. They stayed around the area to see if the
9 police were coming. Well, yes, they did go back, but then
10 they went back to the area, excuse me.

11 Q Later on that night did Barnes come back to Cairo
12 Court?

13 A Yes, sir.

14 Q And was there any discussion about you not -- or you
15 or Marsha not checking out the house to make sure somebody
16 else wasn't there?

17 A Yes, sir, we had a family meeting and we all sat --

18 Q What do you mean "family meeting"?

19 A That's what he calls it when we all have to sit --
20 everyone that works for him, that lives with him, sit down
21 at the table and talk about what happened, and he decided
22 that Keanna was going to fight me.

23 Q That Keanna was going to fight you?

24 A Yes, sir.

25 Q Why?

- 1 A Because I violated, by risking us getting into
2 trouble with the police, by leaving the scene and not
3 checking the house and doing the proper things that was
4 supposed to be done.
- 5 Q And did Keanna fight you?
- 6 A Yes, sir.
- 7 Q Who told her to fight you?
- 8 A Barnes, sir.
- 9 Q Was it a minor fight or what?
- 10 A Was it a what?
- 11 Q Was it a minor fight or did you get pretty beaten?
- 12 A It was really bad, sir.
- 13 Q What do you mean "it was bad"?
- 14 A She broke my nose, sir.
- 15 Q Who ordered her to fight you?
- 16 A Barnes, sir.
- 17 Q Was he there when she broke your nose?
- 18 A He was there during the whole thing, sir.
- 19 Q Who was in charge of ordering that fight?
- 20 A Barnes, sir.
- 21 Q Now, was Marsha on drugs?
- 22 A Yes, sir, just marijuana.
- 23 Q All right. Now, she had gone to jail one time for
24 some drug charges. Were you there when she went to jail?
- 25 A No, sir.

- 1 Q You were there when she got out?
- 2 A I was there the day she got out, yes, sir.
- 3 Q What kind of drugs was she taking?
- 4 A Who, Marsha?
- 5 Q Yes, ma'am.
- 6 A She was on crack before she got locked up, but when
- 7 she got out she was smoking weed.
- 8 Q Marijuana?
- 9 A Yes, sir.
- 10 Q Who supplied her with the marijuana?
- 11 A Barnes, sir.
- 12 Q Was there another time after she got out of jail that
- 13 she went back to crack?
- 14 A Yes, sir.
- 15 Q And who supplied her that crack?
- 16 A Barnes, sir.
- 17 Q And what was that about? What happened with that?
- 18 A He gave it to her, I can't remember why, but he told
- 19 her not to ask for it ever again, and she did that night,
- 20 but I think the only reason he gave it to her was he'd
- 21 beat her up so bad.
- 22 Q What do you mean "he"? Who beat her up?
- 23 A Barnes, sir.
- 24 Q Beat Marsha up?
- 25 A Yes, sir.

1 Q What was some of the things he did to her?

2 A Taped her up with duct tape, hog tied her, just
3 really beat her up bad and then pulled the tape off of her
4 and her skin broke.

5 Q Did he perform any type of sexual act on her while
6 she was taped up?

7 A Anal, sir.

8 Q Anal sex?

9 A Yes, sir, until she bled.

10 Q Were you ever involved with him with his drug
11 dealing?

12 A Yes, sir.

13 Q And the marijuana, how was that prepared to sell?

14 A Burton and I used to weigh the marijuana, cut it down
15 and bag it up.

16 Q What do you mean "cut it down"?

17 A With scissors, sir. Cut the marijuana down, take the
18 stems off and the seeds.

19 Q All right. What about cocaine?

20 A That I pretty much only saw it when --

21 Q I'm sorry, I can't hear you.

22 A That, the cocaine you said?

23 Q Yes, ma'am.

24 A I only saw it when he had it on him and wanted me to
25 serve his customers because he couldn't touch it because

1 supposedly the FBI was chasing him, whatever, and he
2 didn't want to touch it. He used to wear latex gloves,
3 and he was like "You touch it, I can't touch it because
4 the FBI", whatever, I don't know.

5 Q Same thing with the crack?

6 A Yes, sir.

7 Q And where would you all -- you would go with him to
8 sell the marijuana, the cocaine, and the crack?

9 A Just frequently. Not all the time, but most of the
10 time.

11 Q And where would you all go to sell it? Where would
12 your sales be?

13 A The majority of the sales were off Washington Road.
14 And it all depended, sometimes he used to go to people's
15 houses. It just depended where the call came from.

16 Q Did he give you any instructions when you all would
17 go make sales on what to do with the drugs if the police
18 came up?

19 A Yes, sir. He told me to put it in my underwear.

20 Q Why?

21 A Because male officers can't search me, only females
22 can.

23 Q Were you to do anything else with it other than put
24 it in your underwear?

25 A Put it up me or swallow it.

- 1 Q Get rid of the evidence?
- 2 A Yes, sir.
- 3 Q There was a lady that testified just before you named
- 4 Carolyn Norman.
- 5 A Yes, sir.
- 6 Q Did you know her?
- 7 A I knew her for a few hours. I met her through
- 8 Barnes. She was to take me to Wilkes County to get my
- 9 identification card and bring me back.
- 10 Q So you didn't know her but just a little bit?
- 11 A Yes, sir.
- 12 Q You met her through Barnes?
- 13 A Yes, sir.
- 14 Q Did you know a girl named Melanie Cowling?
- 15 A I knew of her, sir.
- 16 Q Did you ever see her?
- 17 A Yes, sir. I spent I think like a night or two with
- 18 her in the motel room.
- 19 Q Was she on drugs?
- 20 A Yes, sir, real bad on crack cocaine.
- 21 Q Who supplied her with crack?
- 22 A Barnes, sir.
- 23 Q What happened to her, do you know?
- 24 A She ran away from him.
- 25 Q Do you know where she is or where she went?

- 1 A No, sir.
- 2 Q Now, you said that you came to Augusta from
3 Massachusetts; is that right?
- 4 A Yes, sir.
- 5 Q And who came with you from Massachusetts to Augusta?
- 6 A Jana McCarty, sir.
- 7 Q Did you meet her in Massachusetts?
- 8 A Yes, sir. We were staying with the same pimp, sir.
- 9 Q Was Jana using any drugs?
- 10 A Marijuana, sir.
- 11 Q She didn't use crack or cocaine?
- 12 A No, sir.
- 13 Q And who supplied Jana with marijuana?
- 14 A That, I have no clue.
- 15 Q Okay. Now, January 12th, the motel on Washington
16 Road called the West Bank Inn, were you there?
- 17 A Yes, sir.
- 18 Q Who drove you there?
- 19 A But I think it was January 13th.
- 20 Q Okay. If that's what you remember, that's fine. Who
21 drove you there?
- 22 A Barnes, sir.
- 23 Q And was there any other girls with you?
- 24 A Yes, sir, Keanna Canaday.
- 25 Q And who went into the room?

1 A I did, sir.

2 Q Did you take the money back out or did you have to
3 give it to somebody else?

4 A I called downstairs to Barnes' phone and he sent
5 Keanna Canaday up to get the money because the man didn't
6 want me to leave the room.

7 Q And you were arrested in that room; is that correct?

8 A Yes, sir, as soon as I handed that girl the money.

9 Q Now, I want to get back to Cairo Court some if we
10 could.

11 If you wanted to go downtown to buy something or
12 get something to eat, could you just walk out of Cairo
13 Court?

14 A No, sir, we had to call Barnes and tell us (sic)
15 where we're going.

16 Q Why couldn't you just walk out the door?

17 A Because we just couldn't, that was the rule. He
18 didn't want us doing anything without him knowing it.

19 Q If there was an emergency, you couldn't just go
20 around and open the front door?

21 A No, sir.

22 Q Why?

23 A Because Keisha was in charge and she had the gun and
24 if we tried to do anything we were -- she was ordered to
25 shoot us if we left. And if anybody came in, she was

1 ordered to shoot them.

2 Q Pardon me?

3 A If anybody left or came in, Keisha was order to shoot
4 them.

5 Q And who ordered her to do that?

6 A Barnes, sir.

7 Q Now, you said that when you came back from that New
8 Year's Eve robbery --

9 A Yes, sir.

10 Q -- that Barnes ordered Keanna Canaday to beat you up?

11 A Yes, sir.

12 Q Was that unusual for him to order the girls to beat
13 each other?

14 A No, sir.

15 Q How often would that happen?

16 A God. I mean, there wasn't a day we weren't fighting
17 or getting beat up.

18 Q Did he say he was training you for anything?

19 A He said he was trying --

20 MR. TARR: Objection to leading, Your Honor.

21 THE COURT: Rephrase the question.

22 BY MR. MYERS:

23 Q What, if anything, did he tell you about training?

24 A He told us that we were training to be soldiers and
25 it was going to take six months of training. He was

1 trying to make us hard.

2 Q And this six months of training to be soldiers, what
3 did the training involve?

4 A Beating up on each other and making it just really, I
5 don't know, like fighting each other, just making us
6 harder than what we were.

7 Q The night before the police came and arrested
8 everybody --

9 A Yes, sir.

10 Q -- what happened to Keisha Burton? Did anything
11 happen to her?

12 A Yes, sir. Barnes beat her up badly because of some
13 man. Keanna, Marsha, Keisha, and I all went to the mall
14 to get our hair done and go shopping and some man that
15 Keisha knew earlier in her life, whatever, was calling her
16 name. We almost got into it with the man, so when we came
17 back to Cairo Court from the mall we mentioned it to
18 Barnes and he flipped and started beating on her.

19 Q Did he ever beat up Keanna Canaday?

20 A No, sir, just me and the girls beat her up.

21 Q You and the girls beat her up?

22 A Yes, sir.

23 Q How long did she stay there?

24 A I don't know, because every day was like a week to
25 me.

1 Q Would Barnes ever have a gun on him if he was in the
2 house or outside?

3 A Barnes always had a gun with him. He slept with
4 guns, guns were everywhere with him.

5 Q Did he ever use that gun in any way with Keanna
6 Canaday?

7 A Yes, sir. One day we beat her up really bad and he
8 had this gun that had like a chamber in it, like rounds, I
9 don't know what it's called, but it was black and small,
10 and he put it in her mouth and kept pulling the trigger.
11 We didn't know if there was any bullets in it and it
12 scared the daylights out of that girl and really
13 traumatized her. He just kept pulling the trigger and
14 telling her to suck it like it's daddy's penis, but he
15 used a different word, that I won't say it.

16 Q Who ordered you all to beat her up?

17 A Do what?

18 Q Who ordered you all, the girls, to beat up Keanna
19 Canaday?

20 A Barnes, sir.

21 Q Do you remember why?

22 A Because she kept writing in her diary about stuff
23 that happened in the house and he just felt like she was a
24 snitch and he was asking her if she worked for the police
25 and just a bunch of crazy things.

1 Q Did he ever use the pistol on you?

2 A Yes, sir. He pistol whipped me about 20 times in my
3 head because I did something stupid. I think I talked
4 back or something. He made me sit between his legs on my
5 knees and he told me every time I put my hands up, that's
6 one more time I'd get pistol whipped in the head, and he
7 pistol whipped me 20 times.

8 Q Did he ever choke you?

9 A Do what sir?

10 Q Did he ever choke you?

11 A Yes, sir.

12 Q And what was that about?

13 A He choked me in the middle of beating me up and the
14 girls beating me up because he accused me of liking one of
15 the men I was turning out when I was prostituting, and he
16 held me up in the air and choked me until I went limp and
17 passed out and then he had the girls hit me in the head
18 with a pillow, and I woke up eventually and then they beat
19 me up again.

20 Q What other objects would he use to hit you with,
21 anything else?

22 A Sir, the only thing he hit me with is his body parts
23 and steel-toed boots that he kicked me with.

24 Q His what now?

25 A His steel-toed boots.

1 Q Steel-toed boots?

2 A Yes, sir. The only people that used objects were the
3 females.

4 Q What about a stun gun or shock gun, was that ever
5 around?

6 A Yes, sir, he tasered me a couple of times.

7 Q Just you or other girls?

8 A Everybody. Well, not every one, but me and Keisha
9 and Marsha. Anybody else I wouldn't know.

10 Q You said he had guns all the time. Did he have any
11 kind of protective armor he ever wore?

12 A Yes, sir, he had a bullet-proof vest that was a
13 little too small for him.

14 Q What does the term "gorilla pimp" mean to you?

15 A It just means a pimp that beats his prostitutes a lot
16 for any different reason or no reason at all.

17 Q Is that what you termed him?

18 A Well, I termed him that for a little while and then I
19 started calling him a monster because it was worse than
20 that.

21 Q You started calling him a monster?

22 A Yes, sir.

23 Q Another girl that was at the house when you all were
24 arrested was Lashonda Lott. How long had she been there?

25 A Not very long, sir, just up until the time he picked

1 her up from wherever she came from until we got arrested,
2 about two to three days maybe, I don't know.

3 Q Did he send her out -- she was there a few days; is
4 that correct?

5 A Yes, sir.

6 Q While she was there, did he send her out on a call?

7 A Yes, sir.

8 Q Did she go in and prostitute?

9 A Not the first time, sir, but after she didn't perform
10 she got beat up.

11 Q Now, let me stop you right there.

12 Were you with her when she was to go on a call
13 and she wouldn't do it?

14 A Yes, sir.

15 Q Who took her place?

16 A Marsha, sir.

17 Q Marsha Rogers?

18 A Yes, sir.

19 Q And when you all got back to Cairo, what happened?

20 A We were pretty pissed off that she didn't do it so we
21 told Barnes because if she didn't do it, we'd get in
22 trouble and that would be another beating for us, so we
23 told him and he had us hit her a few times in the head and
24 then we left her in the room with him and Keisha and I
25 don't know what happened after that, but after that she

1 pretty much complied.

2 Q She took a beating for not performing a trick?

3 A Yes, sir.

4 Q Now, let me ask you about the services.

5 How many times a day would he send you all out
6 to satisfy customers?

7 A Until they stopped calling, sir. It was an all-day
8 and all-night thing, it didn't matter.

9 Q Was it just a few days a week?

10 A No, sir. Every day was a workday. You had to really
11 have a reason like really being bruised up or something to
12 not do a call.

13 Q And that was straight through every day?

14 A Every day.

15 Q Now, you were with him for the latter part of August
16 up until January the 17th?

17 A No, sir.

18 Q Pardon?

19 A I left in between time, sir.

20 Q You left for awhile?

21 A Yes, sir. I went to Massachusetts.

22 Q You came back?

23 A Yes, sir.

24 Q Now, the times that you were with him, how many
25 customers do you think he sent you out on?

1 A There ain't no telling, sir. A lot, because I also
2 did -- I worked on Washington Road and I did service
3 calls.

4 Q What do you mean "service calls"?

5 A Service calls at the escort service, Angels.

6 Q What do you mean -- what's the difference between
7 service calls with the Angels Escort thing and Washington
8 Road?

9 A Because service calls is when the clientele calls
10 you.

11 Q Uh-huh.

12 A And basically, Washington Road is like street
13 walking, but I was not on the street, I was in motel rooms
14 luring customers.

15 Q The sentence you said that you got, 18 years for
16 armed robbery, is that the one over in Columbia County?

17 A No, sir. That is -- I have a sentence for 18 years
18 in Columbia County and Richmond County ran concurrent.

19 Q Right. And the one in Columbia County, that was for
20 the armed robbery?

21 A Yes, sir. And the one in Richmond was aggravated
22 assault.

23 MR. MYERS: If you would answer any questions
24 the defense may have.

25 THE COURT: Thank you, Solicitor.

1 Mr. Tarr.

2 MR. TARR: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. TARR:

5 Q Ms. Thatcher, you're not trying to imply to this jury
6 that you're a victim in this case, are you?

7 A What do you mean, sir?

8 Q You're not trying to imply to them that you're a
9 victim of Steven Barnes?

10 A I'm not implying anything, sir.

11 Q Well, you sure made it seem that way.

12 Let me ask you this: How old were you when you
13 met Steven Barnes?

14 A I just had turned 18 three days before.

15 Q And you had come from Massachusetts?

16 A Yes, sir.

17 Q Where you had already been a prostitute?

18 A Yes, sir.

19 Q For how long?

20 A I did it for a month before I came to Georgia.

21 Q Okay. You'd already been using drugs?

22 A Marijuana, yes, sir.

23 Q Okay. And you testified about how many times that
24 Steven would make you go out and turn tricks?

25 A Yes, sir.

1 Q Can you tell the jury how you got your nickname China
2 up in Massachusetts?

3 A The pimp that I had, Poppa O, named me China because
4 of how much clientele I could get. The nickname off of
5 heroin is called China White.

6 Q But it was specifically because of how many people
7 you serviced and how much money you made in one night up
8 there?

9 A Yes, sir.

10 Q So this isn't new to you?

11 A No, sir.

12 Q And you didn't do it because of Steven Barnes?

13 A The prostitution?

14 Q You had never met him when you got that nickname?

15 A No, sir.

16 Q And whose idea was it to rob those people in Columbia
17 County?

18 A Mine, sir.

19 Q Yours?

20 A Yes, sir.

21 Q But you were a prisoner in that home on Cairo Court,
22 you couldn't leave?

23 A No, sir.

24 Q Well, I thought there were bars on the windows and
25 locks on the doors, and you couldn't go anywhere?

- 1 A You couldn't without his permission, sir.
- 2 Q But you, in fact, went to Massachusetts during that
3 time?
- 4 A He allowed me to, sir.
- 5 Q Okay. And you came back?
- 6 A Yes, sir.
- 7 Q And you beat up the girls?
- 8 A And they beat me up, yes, sir.
- 9 Q But you came back voluntarily?
- 10 A Yes, sir.
- 11 Q You testified about a woman who ran away from Barnes.
12 What was her name?
- 13 A Marsha Rogers and Melanie.
- 14 Q Okay. They left?
- 15 A Yes, sir. And they came back.
- 16 Q You didn't leave?
- 17 A No.
- 18 Q And when you did, you came back?
- 19 A Yes, sir.
- 20 Q Now, you testified at the guilt phase that you were
21 so terrified of Steven Barnes and so upset about what
22 happened with Samuel Sturup, but you kept coming back?
- 23 A Yes, sir.
- 24 Q And it was your idea to rob people?
- 25 A Yes, sir.

1 Q And it was your idea -- and you were beating up
2 girls. You had a chance to get away and stop beating up
3 the girls and you kept coming back?

4 A The beating up started after I came back, sir.

5 Q So you've never beaten up anybody before you left?

6 A No, sir.

7 Q Now, you testified Steven used cocaine a lot?

8 A Yes, sir.

9 Q And you testified that he was scared, that he didn't
10 want to touch it?

11 A Yes, sir.

12 Q Or the crack cocaine?

13 A No, sir.

14 Q And he would have to have latex gloves?

15 A Yes, sir.

16 Q And the FBI was after him?

17 A That's what he assumed, yes, sir.

18 Q Okay. Did you think that that was just paranoia on
19 his part?

20 A I didn't know. He had me pretty paranoid myself.

21 Q Did you ever see the FBI coming around?

22 A No, sir.

23 Q Now, you got 18 years in prison --

24 A Yes, sir.

25 Q -- for beating up Samuel Sturup and for your part in

1 the robbery in Columbia County?

2 A Yes, sir.

3 Q Okay. You didn't get a life sentence?

4 A No, sir.

5 Q And you're not getting the death penalty?

6 A I don't know, sir.

7 Q You don't know?

8 A No, sir. My charges are still on me, sir.

9 Q What do you think is going to happen?

10 A I think that I'm going to get what I deserve, sir.

11 Q What do you deserve?

12 A I don't know, whatever they choose.

13 Q And you shot Samuel Sturup?

14 A Yes, sir.

15 Q And then you came back to Barnes over and over?

16 A Yes, sir.

17 MR. TARR: That's all I have.

18 THE COURT: Redirect, Solicitor?

19 MR. MYERS: Nothing further.

20 May she be excused, Your Honor?

21 THE COURT: Yes. I had asked you redirect. No
22 redirect?

23 MR. MYERS: No further questions.

24 THE COURT: Thank you.

25 Thank you very much, Ms. Thatcher.

1 Are there any objections to this witness being
2 excused?

3 MR. TARR: No, Your Honor.

4 THE COURT: All right. Sheriff, if you'd take
5 Ms. Thatcher back into custody, please.

6 All right. You may call your next witness.

7 MR. MYERS: Thank you.

8 THE CLERK: Raise your right hand.

9 ALICIA PARKER BUTLER, after being duly sworn,
10 testified as follows:

11 THE CLERK: Have a seat, state your full name
12 and spell your last name, please.

13 THE WITNESS: Alicia Parker Butler.

14 THE COURT: You need to speak a little louder
15 for us, please.

16 THE WITNESS: Okay. Alicia Parker Butler,
17 B-U-T-L-E-R.

18 THE COURT: All right, Solicitor.

19 DIRECT EXAMINATION

20 BY MR. MYERS:

21 Q Ma'am, did you go by the name of Marsha Rogers?

22 A Yes, sir.

23 Q What is your real name?

24 A Alicia Parker Butler.

25 Q Are you from Augusta?

- 1 A No, sir.
- 2 Q 2001, did you ever arrive in Augusta?
- 3 A I arrived in Augusta December 28th of 2000.
- 4 Q Okay. And when you got there, were you on your own
- 5 or were you with somebody when you got there?
- 6 A I got there and got dropped off.
- 7 Q Okay. And during that time that you were in Augusta,
- 8 the latter part of December of 2000, did you have an
- 9 occasion to meet either a fellow named William Harris or
- 10 Steven Barnes?
- 11 A I met William Harris on December 28th and he
- 12 introduced me to Steven Barnes on December 29th.
- 13 Q Okay. You met Harris the 28th and Barnes the 29th?
- 14 A Yes, sir.
- 15 Q Did they have nicknames?
- 16 A William Harris was Little Man and Steven Barnes was
- 17 Big Man.
- 18 Q Did you have a nickname?
- 19 A Little Bit.
- 20 Q Little Bit?
- 21 A Yes, sir.
- 22 Q Now, when you met Steven Barnes, what did he ask you?
- 23 A Well, he asked me what did I think I was worth.
- 24 Q Do you know what you told him?
- 25 A I named some price off the top of my head, I don't

1 remember what it was.

2 Q And what did he say?

3 A I was worth, I think, about a million bucks, but
4 knowing we couldn't get a million dollars for me, we had
5 to basically settle for like a hundred or so.

6 Q And what did he ask you to do?

7 A Have sex with men for money.

8 Q Did you agree to do that?

9 A Yes, sir.

10 Q And at the time were you on any type of drugs?

11 A Marijuana, cocaine, and crack.

12 Q Did you become a prostitute for Mr. Barnes?

13 A Yes, sir.

14 Q And what was the name of his service?

15 A AA Angels.

16 Q Where did you meet him?

17 A I met him at the green house on Cherry Street, right
18 off Washington Road.

19 Q Now, when you started working for him, was there any
20 other girls involved?

21 A A girl named Melanie.

22 Q A girl named Melanie?

23 A Uh-huh.

24 Q And did you associate with Melanie? Did you stay
25 with her any or what?

1 A Yeah. We were staying in a hotel together, he put us
2 in a hotel together, and it was like we was always
3 together.

4 Q Okay. Now, during this time, how often would you go
5 out on calls for his service?

6 A As many times he had them. As many times as he could
7 line them up.

8 Q Would it be once a week, twice a week, three times a
9 week, or what?

10 A More like three or more times a day.

11 Q Three or more times a day?

12 A Uh-huh.

13 Q And when you got the money, who would you give the
14 money to?

15 A When we first met him we'd give him half of it and
16 then we'd buy crack with the other half.

17 Q Who would you buy the crack from?

18 A Steven Barnes.

19 Q So you'd end up giving him your half to get crack?

20 A Uh-huh, and we'd give him half of it for setting up
21 the date and I guess he paid the hotel bill.

22 Q Was Melanie on any type of drugs?

23 A Crack.

24 Q So both of you were on crack?

25 A Uh-huh.

1 Q And who was supplying crack to you and Melanie?

2 A Steven Barnes.

3 Q Now, later on in, I think, 2001, did you have an
4 occasion to be on arrest at a motel?

5 A Yeah, I was arrested at the Guest House Inn on Center
6 West Parkway. He set me up with a guy and --

7 Q Who set you up with a guy?

8 A Steven Barnes.

9 Q Okay.

10 A And it was me, Melanie, and maybe Nadia.

11 Q Nadia?

12 A Or it was -- I'm pretty sure it was her. And we
13 called him for drugs, he came over, and maybe not even
14 five minutes later the police were surrounding us, busted
15 down the door. Everybody started throwing drugs on the
16 floor and I picked them up and stuck them on me.
17 Everybody was going to jail and then I was the only one
18 they got for drugs.

19 Q And you got convicted of that?

20 A Yes, sir. Steven told me he'd kill me if I told.

21 Q Said what now?

22 A Steven Barnes told me that he'd kill me if I said
23 anything because I kept telling him I was going to tell
24 the truth, and he told me that if I told the truth that he
25 would kill me.

1 Q Now, how long did you stay in jail, do you remember?

2 A Five months.

3 Q How long?

4 A Five months.

5 Q And when you got out of jail, did you end up going
6 back to the green house or back on Washington Road or back
7 to the motel? What happened to you?

8 A When I got out, I got out like 12 o'clock at night.
9 I went to my friend Valerie's house, and I didn't like the
10 situation, so I called his girlfriend, Patricia Rouse.

11 Q Now, Patricia Rouse also had another name?

12 A Keisha Burton.

13 Q So Keisha Burton and Patricia Rouse, they're the same
14 person; is that correct?

15 A Yes, sir.

16 Q So you called her?

17 A I called her and I was talking to her and I told her
18 I was kind of scared because he threatened to kill me. So
19 she said she was going to call him and talk to him. And
20 then he called me and he talked to me for a minute and he
21 was trying to convince me to come back, so he put Charlene
22 Thatcher on the phone, and I had never met her.

23 I didn't know the circumstances. I didn't know
24 he had started beating women, because when I first met him
25 he didn't beat women. So then when I got out of jail he

1 was beating on women.

2 So he brought me some crack and I went back to
3 him and he put me in a hotel on Bobby Jones Expressway, at
4 the Howard Johnson's, and I was smoking crack and then it
5 just -- I just wanted to quit.

6 So I quit smoking crack and I told him that I
7 did not want to smoke crack no more, I wanted to go back
8 to school and I wanted to get out of prostitution and it
9 was just basically like that was not going to happen.

10 Q Did you get off crack?

11 A Yes, sir.

12 Q What were you using after that? Rather than crack,
13 what were your using?

14 A Smoked marijuana.

15 Q Marijuana?

16 A Uh-huh.

17 Q Did you go back to work for him?

18 A Yeah.

19 Q Now, by this time you mentioned Charlene Thatcher.

20 A Uh-huh.

21 Q How did you meet her?

22 A Through him.

23 Q Okay. Did you all begin working together?

24 A Yes.

25 Q And where would you all have stayed at this time?

1 A At the Howard Johnson's.

2 Q Now, this is getting on into 2001. Do you know about
3 when you got out of jail?

4 A It was September, probably about the second week
5 maybe, about the second week of September, 2001.

6 Q Now, while you were working for him, did you still
7 stay in touch with his brother, William Harris, Little
8 Man?

9 A Yes, sir.

10 Q Did he give you any instructions about his brother,
11 Little Man?

12 A After I got out of jail --

13 MR. TARR: Objection to hearsay, Your Honor.

14 THE COURT: Now, who are you talking about?

15 MR. MYERS: I'm talking about did the defendant,
16 Steven Louis Barnes, give you any instructions concerning
17 his brother, Little Man, William Harris.

18 THE COURT: Do you withdraw the objection?

19 MR. TARR: Yes, Your Honor, I thought he said
20 William Harris.

21 THE COURT: I misunderstood also, Solicitor.
22 You're talking about a statements by the defendant?

23 MR. MYERS: I am. And I apologize. Statements
24 by the defendant.

25 THE COURT: All right.

1 BY MR. MYERS:

2 Q Go ahead.

3 A After I got out of jail we were sitting in the car --

4 Q Who?

5 A -- me and Steven Barnes.

6 Q Okay.

7 A We were sitting in the car at the Howard Johnson and
8 he asked me if I loved him and I said, "Yes." And he
9 said, "Well, promise me that you'll leave my brother
10 alone." And I didn't want to make the promise, but I
11 wanted to feel like I was loyal to him, that I did care
12 about him. I wanted him to feel that way. So I promised
13 him that I would leave his brother alone.

14 Well, I don't know how it turned out that his
15 brother just happened to be where we was at, it was like a
16 coincidence, but it was probably being set up for me, a
17 test for me. Well, his brother was at a hotel. We went
18 down -- or met William Harris at a hotel. They were
19 outside talking.

20 William Harris asked me to go with him, so we
21 left and went to That was before we
22 moved into it. Their father was staying there. We went
23 into the backyard and we was doing our sexual activity.
24 We came back and Steven pulled a gun on his brother and
25 was about to fight his brother, told me to get in the car

1 and we left from there and he was on his pager. Him and
2 Keisha Burton were texting back and forth.

3 We went and picked her up from the motel across
4 the street from the Howard Johnson on Bobby Jones
5 Expressway and he took us back to the Howard Johnson where
6 two other girls were, Charlene Thatcher and Star. And he
7 put a chair up against the door and he had them jump me
8 and he was jumping on me and they were jumping on me and
9 they were just like beating me really bad.

10 Q How bad did they beat you?

11 A They beat me bad. I couldn't -- when I went -- he
12 sent me outside one day because he was having sex with
13 Charlene and he made me put a towel over my face because
14 it was really bad. I had blood in my hair. They were
15 beating me so bad that I had an earring inside of my ear,
16 the back never came off, but it went straight in my ear.

17 Q Now, while you were with him, did he ever beat you?

18 A Yes, sir.

19 Q How many times?

20 A Numerous occasions. I really can't keep count.

21 Q With what?

22 A A spray can.

23 Q What do you mean "a spray can"?

24 A Kind of like a paint can.

25 Q A what?

- 1 A Kind of like a paint can.
- 2 Q Where would he hit you with that?
- 3 A In the side of my head, like in my temple.
- 4 Q What else?
- 5 A He held me down with a baseball bat, held me like
- 6 right here at my throat, and he would hold me there until
- 7 either I couldn't breath or I was going to tell him
- 8 something that he wanted to hear.
- 9 Q A baseball bat to your throat?
- 10 A Yes, sir.
- 11 Q Was it a wooden bat or a metal bat?
- 12 A I'm not sure. I want to say it was a metal bat.
- 13 Q What else did he use on you?
- 14 A I mean, he just used all kinds of objects. He used
- 15 frying pans, he used shoes --
- 16 Q Shoes?
- 17 A -- just whatever he could get his hands on at the
- 18 time. He would hit us with his hands.
- 19 Q Did he ever have a gun on you?
- 20 A Always.
- 21 Q Did ever use a gun against you or threaten you with a
- 22 gun?
- 23 A He threatened me, but he's never actually put one
- 24 directly in my face. He threatened me as far as if it
- 25 rains, you knew what time it was.

1 Q Do what now?

2 A If it rained, I knew what time it was.

3 Q What does that mean?

4 A Meaning he was going to kill me.

5 Q Now, did he ever use any type of electrical device on
6 you?

7 A Yes, sir. It was a shocker. It was kind of like --
8 it looked like a night stick, but it had two prongs on the
9 end.

10 Q And where would he use that on you?

11 A On my legs. I mean, when we're jumping around, it's
12 where ever it could hit.

13 Q Let me ask you a question: Did there come an
14 occasion at one time that you tried to get away --

15 A Yes.

16 Q -- to call your mother?

17 A Uh-huh.

18 Q What did he do?

19 A He tried to say that I had gave him an STD, so he
20 tied me up and raped me anally.

21 Q How did he tie you up?

22 A With duct tape.

23 Q With duct tape. And where did he tie you?

24 A He tied my arms up behind my back.

25 Q And what did he do after he tied you up?

1 A He raped me anally twice, used a dildo, and I kept
2 begging him to stop. I told him that I felt like I had to
3 use the bathroom. He said, "No, it's just a feeling,
4 everybody feels that." So he tied me up and raped me
5 twice and he took a short break between.

6 Q Did you suffer any injuries from that?

7 A Yes, it ripped me -- it ripped me and I was bleeding.

8 Q Is that when you called your mother?

9 A Yeah, the next morning.

10 Q How did you get to your mother's?

11 A The next morning I seen that it was raining, he came
12 in and checked on me and I pretended to be asleep. So as
13 soon as he went back into his room, he locked his door and
14 I grabbed my shoes and I ran out the front door and I ran
15 like two streets over and dove in somebody's bushes
16 because he was riding the roads looking for me.

17 The person gave me a new shirt and I got to call
18 my momma and I told her to come get me. And the guy took
19 me to a McDonald's right on the edge of Barton Chapel and
20 Deans Bridge where my momma came and got me.

21 And then he was at the red light or something
22 and he saw us getting in the car and him and Charlene
23 Thatcher, and I don't know if anybody else was in the car,
24 but he chased us down the road, and he said if he would
25 have known for sure that I was in that car, he would have

1 shot the car and pulled me out dead or alive.

2 Q Who were you in the car with?

3 A I was in the car with my mom, my step-dad, and my
4 momma's friend, Ralph. And I was just screaming to the
5 top of my lungs. I was scared to death. I didn't want
6 him to know I was there. I wanted -- I was in the
7 floorboard.

8 Q Did you stay with your mother?

9 A For maybe two, three days.

10 Q Then what happened after that?

11 A I talked to him and he threatened to kill my family.

12 Q Who did?

13 A Steven Barnes. He told me if I didn't come back,
14 that he would kill my family.

15 Q And what did you do?

16 A I went back.

17 Q Do you know a girl named Keanna Canaday?

18 A I had. She had been there for -- she came there with
19 him and she was staying with us there.

20 Q Was she working for Barnes, too?

21 A Somewhat. It was like she didn't really want to.

22 Q Did she ever take a beating at any time?

23 A Yes.

24 Q And who beat her?

25 A He had me, Charlene Thatcher, and Keisha jump her.

- 1 Q And he ordered you all to beat her?
- 2 A Sir?
- 3 Q He ordered all three of you to beat Keanna Canaday?
- 4 A Yes, sir.
- 5 Q What did you all do to her?
- 6 A We all jumped on her and I think we had to strip her
- 7 and we were all just really like fighting her and she was
- 8 covered in blood. It was like her fingernails got ripped
- 9 off or something during the fight or something. She got
- 10 up and ran and we had to corner her into the laundry room
- 11 and just keep beating on her until he said, "Stop."
- 12 Q Did you know a girl named Jana McCarty?
- 13 A Yes. I didn't know her. I had seen her one time.
- 14 Q Did you see her get beaten by anything?
- 15 A Yes.
- 16 Q And what did she get beaten with?
- 17 A A metal baseball bat.
- 18 Q A metal baseball bat?
- 19 A Uh-huh.
- 20 Q And who beat her?
- 21 A Steven.
- 22 Q Was she on drugs, too?
- 23 A I'm not sure.
- 24 Q How about Keanna, was she on drugs, Keanna Canaday?
- 25 A I think she only smoked weed.

1 Q How often would he make you all go out on calls
2 during this time?

3 A They were coming in, I mean so much that it was like
4 if one paid for an hour, by the time you got back there
5 was another one. You had time to take a shower and go
6 back.

7 Q Now, would he make you walk the streets, too?

8 A Yeah, he had me and Melanie walk Washington Road and
9 he told us not to come back without a date.

10 Q Not to come back without a what?

11 A Without a date.

12 Q You on New Year's Eve, were you in Columbia County on
13 a call?

14 A Yes, sir.

15 Q Who was with you?

16 A Charlene Thatcher.

17 Q And who else was in the car with you all?

18 A Patricia Rouse.

19 Q Keisha Burton, Patricia Rouse, the same person?

20 A Yes, sir.

21 Q Who went into the house?

22 A Me and Charlene.

23 Q Who took the money from the pimp, you or Charlene?

24 A Charlene.

25 Q Did you see one of the men with some money?

1 A Yeah. He had a big wad and Charlene kept -- she was
2 just so persistent about "let me count the money, I got
3 it, let me count your money, I'll get it." And I was just
4 like "you're not even supposed to touch their money." I
5 was like, "let him do it."

6 Q Why are you not supposed to touch the money?

7 A Because one of the rules is that they put the money
8 down on a surface and then you pick it up. You're not
9 allowed to take it from their hands.

10 Q You all had rules to go by?

11 A Uh-huh.

12 Q And who enforced those rules?

13 A Steven.

14 Q Now, in having sex with those men, it's been
15 testified that a condom broke on somebody. Who did the
16 condom break on?

17 A It broke on me.

18 Q On you?

19 A Uh-huh.

20 Q What did you tell the fellow you had to do when the
21 condom breaks?

22 A That he had to pay \$500.

23 Q Did he pay you?

24 A No.

25 Q Did somebody call Mr. Barnes?

1 A Charlene called Steven and told him that the condom
2 broke. I was crying. He told her to put me on the phone.
3 So I got on the phone with him and we had a conversation
4 about it and then he was like, "Well, put China back on
5 the phone," so I put China back on the phone.

6 Next thing I know she hung up and I was in the
7 bathroom washing up and came back in there and there was a
8 knock on the door and he was at the door with a gun.

9 Q Who was?

10 A Steven.

11 Q When he came in, could you see his face?

12 A I think so. I think he had a mask like up here and
13 then after he got in, he pulled it down.

14 Q He pulled the mask down on his face?

15 A Uh-huh.

16 Q What did he tell the men? Did he threaten them in
17 any way?

18 A Yeah, he told them, "Give me the cheese or I'm going
19 to blow your head off."

20 Q He said what now?

21 A He said, "Give me the cheese or I'll blow your head
22 off."

23 Q Did the men give him some more money?

24 A They told him that all they had was \$350. They threw
25 it on the chair, he told me to pick it up, so I picked it

1 up and gave it to him.

2 Q All right. Now, what about the other parts of the
3 house? Did anybody look for any more money?

4 A Yeah. He -- Charlene ran to the back and was digging
5 through all kinds of stuff. I'm standing beside him. He
6 sends me back there with her. She sends me back up there
7 with him and I'm just like running back and forth. She's
8 trying to kick down another door. And come to find out,
9 there's another man in there. And so he heard all the
10 ruckus and he called the police. And by that time I had
11 done ran out the house and here they come right behind me.

12 Q Now, you pled guilty to that charge over there,
13 didn't you?

14 A Yes.

15 Q A robbery charge?

16 A Yes.

17 Q What kind of sentence did you get?

18 A I got a 10-do-7.

19 Q Pardon?

20 A A 10-do-7.

21 Q What does that mean?

22 A Ten years, three on probation, seven in prison.

23 Q Seven in prison and three years on probation?

24 A Yes, sir.

25 Q And did you serve your sentence?

1 A I served five of it and I just finished my parole for
2 three years and I just started my probation for three
3 more.

4 Q Who supplied you all with drugs?

5 A Steven.

6 Q And the girls that worked there, he supplied them
7 with drugs, too?

8 A Yeah.

9 Q Now, was he just giving them to you all or was he
10 selling them to somebody else?

11 A He supplied just about all of Washington Road and
12 probably more.

13 Q He did what now?

14 A He supplied probably all of Washington Road and
15 probably more than that. Probably other areas, too.

16 Q Was there a girl there when you were there called
17 Nadia?

18 A Was she where?

19 Q When you were with Steven Barnes, was there a girl
20 there during that time called Nadia?

21 A Yes.

22 Q Anything unusual happen concerning Nadia?

23 A Yeah. I guess he went to jail or something happened.

24 Q Who did?

25 A Steven.

1 Q Yes.

2 A He went to jail. I don't know if it was because of
3 her or whatever, but when me and Patricia went and got him
4 out, we went back to the Suburban Motel and he told me to
5 wait in the car. So I waited in the car and then he -- I
6 want to say he texted me on my pager and told me to come
7 up to the room. So I went up there and Nadia was in
8 handcuffs.

9 Q Nadia was in handcuffs?

10 A Yes, behind her back. And she -- he told us to beat
11 her.

12 Q Told who to beat her?

13 A Me and Patricia Rouse.

14 Q Okay. Did you all beat her?

15 A Yes.

16 Q Did you use any kind objects to beat her with?

17 A I'm not sure.

18 Q What happened after you beat her?

19 A We fell asleep and she got -- she somehow got the
20 handcuffs in front of her and she left, went down to the
21 office and they called the police. When we woke up, we
22 was freaked out and went down and before we could even get
23 out the parking lot the police were there.

24 Q You talked with the police?

25 A Yes.

1 Q Did you lie about what happened?

2 A Yes.

3 Q Why?

4 A Because Steven told us to.

5 Q Steven told you to do what?

6 A Told us to lie. He told us what to say.

7 Q What did he tell you to say to the police?

8 A That Nadia and Patricia were lovers and they have
9 rough sex like that all the time and it just got out of
10 hand.

11 Q So that's what you told the police?

12 A Yes.

13 Q With the drugs, did you participate in any way with
14 preparing drugs for sale or selling them?

15 A Yeah. When we lived on Cairo Court, he would have us
16 sit at the dresser and break up weed and put it in little
17 dime bags.

18 Q What do you mean "break up weed"?

19 A Like separate it and put it in dime bags. Usually,
20 it comes in a big bulk so you break it up and put it in
21 dime bags and then throw it in a brown bag.

22 Q Would you ever be with him when he was selling this
23 stuff or not?

24 A Yeah. He would make me sit out in the car. Like he
25 would go to the -- like somebody would call him and they

1 were at a hotel, I'd sit out in the car, he'd walk in and
2 come right back out. Or sometimes they would just walk
3 right up to the car and he'd just deal with them from
4 there.

5 Q Did you suffer any injuries from the beatings he gave
6 you?

7 A I got a broke nose, my spine is messed up, my butt
8 bone is kind of messed up. I have kick marks on my face,
9 stuff like that.

10 Q Let me ask you a question: After that robbery over
11 there in Columbia County, after you all got back to Cairo,
12 did anything happen to you all?

13 A Yeah. Me and Charlene, we both knew that, you know,
14 somebody was going to get beat that night.

15 Q Why?

16 A Because it didn't go the way he wanted it. He wanted
17 the 15, I guess \$15,000, he didn't want to settle for the
18 350. He didn't -- he was going to get what he could.

19 Q Was there something that you all were supposed to do
20 at that house over there that you didn't do?

21 A We were supposed to check all the rooms.

22 Q And you didn't?

23 A No.

24 Q That's where that third guy was back there that
25 called the police?

- 1 A Yeah, because it was supposed to be kids in that room
2 and we didn't want to disturb the kids.
- 3 Q Because you didn't follow the rules, what happened?
- 4 A We got beat.
- 5 Q By who?
- 6 A Steven.
- 7 Q Was it hands or weapons or what?
- 8 A No, he used a rope.
- 9 Q A rope?
- 10 A Uh-huh.
- 11 Q And what did he do with the rope?
- 12 A He wrapped it around my neck and snatched me to the
13 floor backwards.
- 14 Q Pardon me?
- 15 A He wrapped it around my neck and snatched me to the
16 floor backwards.
- 17 Q Did you pass out?
- 18 A No, but I really wished I would have. I wouldn't
19 have felt none of the pain. But when I got up my face was
20 so blotched up and it was like red spots all the way up
21 here.
- 22 Q Was there ever a time when you faked being pregnant?
- 23 A No, but it was -- they kept saying that I guess
24 because I was eating and sleeping a lot and I was just
25 really moody.

1 MR. TARR: Objection, hearsay.

2 THE COURT: Sustained.

3 BY MR. MYERS:

4 Q You can't say what other people say, but was there a
5 time when you possibly being pregnant was at the house and
6 something happened?

7 A Yeah. I was -- either I was moody or I was eating a
8 lot and sleeping a lot, or something gave them the
9 conclusion that I might have been pregnant. So I think
10 Charlene or somebody said something about me being
11 pregnant and he said, well, it wasn't his.

12 Q Who said that?

13 A Steven. He said, "Well, it's not mine." And it kind
14 of upset me. So I was like, "Well, if it's not yours then
15 I will just have an abortion." He said, "I can take care
16 of that for you right now." And he made me go lay on the
17 bed and told Charlene to hit me in the stomach with a
18 baseball bat and he said, "There's your abortion."

19 Q Did she hit you in the stomach with the bat?

20 A Yes.

21 Q Do you know whether you were pregnant or not?

22 A I don't know, but I wound up going to the hospital
23 like maybe a week or two later.

24 Q Let me ask you: There was a girl also at the house
25 that night when you all were arrested, Lashonda Lott. She

1 hadn't been there long?

2 A She was probably there three days.

3 Q Did Barnes make her or try to make her go on a call
4 to prostitute?

5 A Yes.

6 Q Did she go out?

7 A No.

8 Q Did she go get in the car to go to a motel?

9 A Yeah, she went, but she kind of backed down and did
10 not want to do it and I didn't want her to get into
11 trouble so I went on it myself.

12 Q You took her place?

13 A Right.

14 Q What happened when you got back to the house?

15 A I think he made us jump on her.

16 Q Now, this is a photograph that was taken of you when
17 you were arrested and you've got a mark on your eye there.
18 Who did that?

19 A Steven.

20 MR. MYERS: We offer this into evidence, Your
21 Honor.

22 THE COURT: Mr. Tarr.

23 MR. TARR: No objection.

24 THE COURT: That's the arrest 17 January '02?

25 MR. MYERS: Yes, sir.

1 THE COURT: All right. This will be State's 74?

2 THE COURT REPORTER: State's 72.

3 THE COURT: All right. Thank you.

4 State's 72 is in evidence without objection.

5 (WHEREUPON, State's Exhibit No. 72 was marked
6 for identification and received into evidence.)

7 BY MR. MYERS:

8 Q The night before you got arrested, did he do anything
9 to Patricia Rouse also known as Keisha Burton?

10 A He pistol-whipped her.

11 Q Pardon?

12 A He pistol-whipped her --

13 Q Pistol-whipped her?

14 A -- and ran her face into the mirror.

15 Q Why?

16 A He felt like she was going to set him -- he felt like
17 she was trying to set him up or something to that effect
18 where she was going to have him in trouble with the law.

19 Q When you went out on calls to prostitute for him, how
20 much of the money did you get?

21 A None.

22 Q Who kept the money?

23 A Steven and Patricia.

24 Q Cairo Court, what was on the front door?

25 A Like a gate or bars.

1 Q Bars?

2 A Yeah. It had like -- it was like a screen door with
3 bars on it.

4 Q And could you get in and out of the front door if you
5 wanted to?

6 A No.

7 Q Why?

8 A Because him and Patricia was the only ones with keys
9 to it and it has a deadbolt from the inside and the
10 outside and they were the only two with keys.

11 Q Could you jump out a window?

12 A No.

13 Q Why?

14 A Because he had them screwed down and he had them -- I
15 mean, there was no way to lift them, especially my room.

16 Q Did you know anything about cameras that he had
17 around the house?

18 A He had eight surveillance cameras.

19 Q Why?

20 A He had like eight surveillance cameras.

21 Q Surveillance cameras?

22 A He said it was for our protection.

23 Q The time that you worked with him, did you have any
24 idea of how many men you serviced for him?

25 A No. It was so many.

1 MR. MYERS: Thank you. Please answer any
2 questions the defense may have.

3 THE COURT: Mr. Tarr.

4 CROSS-EXAMINATION

5 BY MR. TARR:

6 Q You go by Marsha Rogers as well as Alicia?

7 A Marsha Rogers was the name that I used when I got
8 locked up. I don't go by that anymore, but because I'm on
9 probation, that's what my probation officer uses. But
10 Alicia is my birth name.

11 Q What do you mean you used that when you got locked
12 up, you made it up?

13 A Yes.

14 Q Why did you do that?

15 A I was -- I had left home when I was 15 and I didn't
16 want to get put in R&E for like school or whatever and I
17 was under age and I did not -- I'd rather went to a
18 regular jail than go to R&E.

19 Q All right. And so you left home at 15. How old were
20 you when you met Steven Barnes?

21 A Five days before 17.

22 Q And you had already engaged in some prostitution
23 prior to that, hadn't you?

24 A I wouldn't say it was prostitution. All of my
25 boyfriends were drug dealers. I was going to sleep with

1 them anyway and they just gave me crack.

2 Q So you slept with people in exchange for drugs?

3 A No, I slept with them because I wanted to sleep with
4 them and they gave me crack because they were crack
5 dealers and they knew I smoked crack.

6 Q So you were already addicted to crack before you met
7 Steven Barnes?

8 A Yes.

9 Q So it's not your testimony that Mr. Barnes ever made
10 you turn tricks, that was your decision?

11 A No. Well, in the beginning, yes, but when I asked
12 and I told him that I did not want to do it anymore, it
13 was no longer my decision. I was never allowed to go
14 home. I was never allowed to call my family unless he was
15 sitting right there and unlocked my phone.

16 Q But every time you left him, for awhile at least, you
17 came back on your own?

18 A That was before he started beating me. That was
19 before --

20 Q But you were already turning tricks at that point?

21 A For him, yes.

22 Q So you would leave and you would come back?

23 A It wasn't for him, though. I came back for his
24 brother.

25 Q But you were turning tricks, that was your decision?

1 A Right.

2 Q He wasn't making you do that?

3 A Right.

4 Q You testified about going to jail for something.

5 earlier on?

6 A Uh-huh.

7 Q And then you got out and went to stay somewhere, you

8 weren't happy there and so you called up and went back to

9 Steven's?

10 A Right.

11 Q What was that time that you went to jail?

12 A I went to jail for crack, marijuana, cocaine -- well,

13 it was marijuana and cocaine.

14 Q And you were mad at Steven that he didn't bond you

15 out that time?

16 A You're right. I just took a charge for you, that was

17 yours.

18 Q You were mad at Steve?

19 A Yes. Why should I have to sit in there when you're

20 the one -- I'm taking this charge for you.

21 Q Okay.

22 A The least you could have done was --

23 Q And you went back there --

24 A He didn't send me no money, he didn't do nothing for

25 me.

1 Q So you're angry about that?

2 A No, I'm not angry about it now. I was angry then.

3 Q Sounds like it.

4 A I loved him, and I didn't want him in trouble. And I
5 wanted to be with his brother.

6 Q You loved him or his brother?

7 A I loved him as a person. Love means more than one
8 thing. It doesn't mean I was in love with him and I
9 wanted to be with him. I loved him as a person, just like
10 I love anybody else.

11 But he knew I was in love with his brother. He
12 knew I wanted his brother from the day before I went to
13 jail. He's the one that made the three-ways for me to
14 talk to his brother.

15 Q So you dated his brother?

16 A If that's what you want to call it. I wanted to be
17 with him. I would assume that he wanted to be with me
18 because he wanted me there with him, we lived together.

19 Q And Steven and his brother fought a lot, didn't they?

20 A I wouldn't say they fought a lot. It was that one
21 time that he made me promise him that I wouldn't sleep
22 with him that I saw them fight.

23 Q You'd never seen them fight about anything?

24 A No, that was the only time.

25 Q Whose idea was it to rob those men in Columbia

1 County?

2 A I would assume that it was Charlene and Steven.

3 Q You didn't hear Charlene call Steven and tell him
4 that "you need to come over"?

5 A She called him and we talked about the condom popping
6 and he told me to get the phone back to Charlene.

7 Q You didn't hear her say "We got a lick over here, you
8 need to come over"?

9 A She told me later on that she told him that, after
10 like we were laying back at home, after the beatings were
11 done and everything else.

12 Q And she got hit with the rope that night, too?

13 A No.

14 Q No?

15 A No.

16 Q What did she get hit with?

17 A I don't think she got hit with anything.

18 Q Well, she didn't get hit at all?

19 A I think he had her jump me, too.

20 Q So she didn't get jumped that night?

21 A No. I was the only one laying in the kitchen floor
22 being beaten, being kicked in the face.

23 Q Now, you don't want this jury to believe that you
24 were kept prisoner at Cairo Court, do you?

25 A What do you mean?

1 Q I mean the bars on the windows and the security
2 systems?

3 A I didn't have a key to get in and out, I wasn't
4 allowed to call my family.

5 Q But you left at times and came back?

6 A Before the bars were put up, before he beat me, yes.

7 Q You ended up leaving?

8 A What do you mean I ended up leaving?

9 Q You've left and come back to that house?

10 A That one time when he threatened to kill my family,
11 yes.

12 Q Now, you say you did five years on the Columbia
13 County charge?

14 A Uh-huh.

15 Q When did you get out?

16 A March 21st, 2007.

17 Q Okay. And did you get in any trouble after that?

18 A I went to jail for a CDV, me and my husband. Well,
19 my husband threw a lit cigarette at me and hit me in the
20 eye and I threw a candle and the wax hit him in the mouth.

21 Q And you got charged with criminal domestic violence
22 and convicted?

23 A Yeah.

24 Q And you're on probation now?

25 A Yes.

1 Q Are you on parole, too?

2 A No.

3 MR. TARR: That's all I have, Your Honor.

4 THE COURT: Redirect?

5 MR. MYERS: No, sir.

6 THE COURT: Thank you. Thank you very much.

7 You may step down.

8 Any objections to this witness being excused?

9 MR. TARR: No, Your Honor.

10 THE COURT: You may be excused.

11 Ladies and gentlemen of the jury panel, I
12 believe now we'll take us a morning recess of about 15
13 minutes.

14 Do not discuss the case during this recess.

15 Remember to keep an open mind.

16 You may leave your notes upside down on your
17 chairs.

18 (The jury left open court at approximately 11:21
19 a.m.)

20 THE COURT: Court's in recess for 15 minutes.

21 (A break was taken.)

22 THE COURT: Mr. Tarr.

23 MR. TARR: First, Your Honor, I'd like to move
24 for a mistrial, or in the alternative, move to bar the
25 testimony of a potential witness in the back, whose name I

1 do not have, due to a violation of the sequestration
2 order.

3 The last witness that was on the stand, Alicia
4 Parker Butler, I observed for at least five minutes in
5 that room speaking with a witness who has not testified.
6 And Charlene Thatcher was in the room as well.

7 So we've got two witnesses who've testified
8 speaking with somebody who hasn't testified.

9 MR. HARTE: In fact, Your Honor, they're in the
10 room together right now.

11 THE COURT: We have Ms. Thatcher and Ms. Butler
12 Rogers. Is that the same person?

13 MR. TARR: She had several different names. I
14 think --

15 THE COURT: And they were talking to this
16 witness whose name you don't know?

17 MR. MYERS: Her name is Jana McCarty, the one
18 that they were sitting at the table at. They brought it
19 to my attention. I got Ms. McCarty out of there.

20 If you all want to bring her in and ask her if
21 they were talking about the testimony, I have no
22 objections.

23 THE COURT: Let's do that and see if she talked
24 about it.

25 MR. MYERS: Yes, sir.

1 THE COURT: Because if she did, that would --
2 well, let's see what she says.

3 Is she the next witness, Solicitor?

4 MR. MYERS: Sir?

5 THE COURT: Is she the next witness?

6 MR. MYERS: No, she's the witness after that.

7 THE COURT: We might as well take that matter up
8 before the jury comes in.

9 MR. MYERS: Yes, sir.

10 (Pause.)

11 THE COURT: Madame Clerk, will you swear our
12 witness, please.

13 THE CLERK: Yes, sir.

14 Raise your right hand, please, and place your
15 left hand on the Bible.

16 JANA MCCARTY, after being duly sworn, testified
17 as follows:

18 THE CLERK: Have a seat.

19 THE COURT: All right. Mr. Tarr and Mr. Harte.

20 THE CLERK: And state your full name, please.

21 THE WITNESS: Jana Lynn McCarty.

22 THE CLERK: And spell your last name.

23 THE JUROR: M-C-C-A-R-T-Y.

24 THE COURT: All right. Young lady, answer any
25 questions Mr. Tarr may have.

1 IN CAMERA DIRECT EXAMINATION

2 BY MR. TARR:

3 Q Jana, you've been -- how long have you been here
4 today waiting to testify?

5 A Since about 9 this morning, 9:30.

6 Q And you were in a little room back here behind the
7 courtroom?

8 A Yes, sir.

9 Q Could you tell the Court of the people whose names
10 you know who were witnesses in this case, who was back
11 there with you during that time, at any time?

12 A Me and Charlene. Well, they didn't bring Charlene
13 back there until she came from up here.

14 And then Marsha, but I didn't want to sit by
15 her. I sat in another room. She was --

16 THE COURT: And then Marsha what?

17 THE WITNESS: Marsha sat in the chairs right
18 here behind this door, but I didn't want to sit by her so
19 I sat in the other room with the table.

20 BY MR. TARR:

21 Q Is she also known as Alicia Parker Butler?

22 A Not that I know of.

23 Q All right. Anybody else?

24 A No. Oh, Carolyn, Carol. I don't know her main name.
25 The brown-haired one, the one that came first.

1 Q Carolyn Fain?

2 A Uh-huh.

3 Q Okay. And you were actually there after some of
4 these witnesses had already testified and they came back
5 in the room where you were?

6 A Yes.

7 Q Okay. And you had actual conversations with them?

8 A Yeah, but not about this. Like, Me and Charlene were
9 talking about stuff from Boston, way back in the day, not
10 this.

11 THE COURT: Talking about stuff from where?

12 THE WITNESS: Boston.

13 THE COURT: From Boston?

14 THE WITNESS: Yes, sir.

15 BY MR. TARR:

16 Q About Massachusetts?

17 A Yes.

18 Q Are you aware Charlene -- are you aware she was
19 testifying about some things in Massachusetts?

20 A She was? I didn't know. We were talking about stuff
21 to do when we met, not this, anything after that.

22 Q Who else were you talking to?

23 A Before she came on the stand, me and the girl Carolyn
24 from Washington were talking, but we were just talking
25 because she knows my aunt and uncle and them.

1 Q What about the woman you know as Marsha Rogers? What
2 did you talk about with her?

3 A We didn't talk about anything. She came back there
4 talking about her husband, about how she don't let no man
5 beat on her no more and that's why she's got a black eye
6 and her stepdaughter.

7 Q So nothing was mentioned about Steven Barnes or
8 testimony in this case?

9 A No.

10 Q Did the Solicitor or anybody from the Solicitor's
11 office talk to any of the witnesses in your presence?

12 A No.

13 MR. TARR: That's all I have, Your Honor.

14 THE COURT: All right. Anything, Solicitor?

15 MR. MYERS: No, sir.

16 THE COURT: Thank you.

17 She may step back. I see she's in custody, so
18 wherever you have her maintained, Solicitor.

19 MR. MYERS: Yes, sir. It's easiest to go this
20 way.

21 THE COURT: All right. Mr. Tarr.

22 MR. TARR: Your Honor, our position is the
23 order's violated whether they talked about this case or
24 not.

25 THE COURT: Well, it's clearly not violated in

1 that regard, but put on the record what you need to.

2 MR. TARR: We believe that it's violated. They
3 were not supposed to be in the same room, and that was the
4 Court's order. Not to just not talk about the case, but
5 they were supposed to be kept separate and distinct from
6 each other, and they weren't.

7 THE COURT: Well, I find that's not a violation
8 of my order. It's obviously not. In fact, that would go
9 against the spirit, if not the technical rule. I'd have
10 to go back to what I actually ordered, but that's not my
11 purpose and intent. They talked about things that aren't
12 relevant to this case and didn't even talk about
13 Mr. Barnes and it just doesn't violate the sequestration
14 order. So I would deny your motion in that regard. You
15 can certainly cross-examine her in that regard.

16 MR. TARR: Yes, Your Honor. We would object
17 under due process grounds under the Fifth, Sixth, Eighth
18 and Fourteenth Amendments.

19 THE COURT: All right. Yes, sir, Mr. Harte.

20 MR. HARTE: Your Honor, my client informs me
21 that he wishes to have another hearing at this time not ex
22 parte.

23 Your Honor, in my opinion, these ex parte and
24 non-ex parte hearings are causing a hybrid representation,
25 but I've made his request.

1 THE COURT: Well, if he wants to make a motion,
2 he can make it through you or Mr. Tarr.

3 MR. HARTE: He says the Solicitor is using
4 perjury testimony.

5 THE COURT: Well, you can certainly argue that
6 to the jury. I'm not the fact finder on the credibility
7 of witnesses. The jury is the credibility fact finders.

8 I'm going to re-charge the jury fully and
9 completely on their duties and responsibilities, including
10 prior record, prior inconsistent statements and the same
11 charge as before.

12 He, of course -- and I'm going to cover it with
13 him again later -- would have a right to testify and the
14 right to make a final argument. I'll cover it in that
15 regard.

16 MR. HARTE: Thank you.

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

18 Anything further before we bring in our jury,
19 Mr. Tarr?

20 MR. TARR: No, Your Honor.

21 THE COURT: Mr. Harte?

22 MR. HARTE: No, Your Honor.

23 THE COURT: Solicitor?

24 MR. MYERS: No, sir.

25 THE COURT: Bring us our jury, please.

1 (The jury came into open court at approximately
2 11:47 a.m.)

3 THE COURT: How many more witnesses do we have,
4 Solicitor?

5 MR. MYERS: Six.

6 THE COURT: Six. All right.

7 (Pause.)

8 THE COURT: All right. Our jury is back present
9 in the courtroom.

10 We're continuing the trial of the case by the
11 presentation of witnesses by the State in its case in
12 chief in this phase.

13 Solicitor, you may call your next witness.

14 THE CLERK: Raise your right hand and place your
15 left hand on the Bible.

16 LASHONDA LOTT, after being duly sworn, testified
17 as follows:

18 THE CLERK: Have a seat.

19 THE COURT: Did you answer? I didn't hear you.

20 THE CLERK: She answered, but it was very soft.

21 THE COURT: All right. Thank you. I just
22 couldn't quite hear you.

23 And you answered affirmative "I do"?

24 THE CLERK: Yes, sir.

25 THE COURT: All right. Thank you.

1 THE CLERK: State your full name and spell your
2 last name.

3 THE JUROR: Lashonda Lott.

4 THE CLERK: Pull the chair up some.

5 THE WITNESS: My name is Lashonda Lott, L-O-T-T.

6 DIRECT EXAMINATION

7 BY MR. MYERS:

8 Q Ms. Lott, I'm going to ask you to speak up now so I
9 can hear you back here, please, ma'am?

10 A Lashonda Lott, L-O-T-T.

11 Q That's good.

12 In 2002, did you have an occasion to be taken to
13 Augusta, Georgia, to a certain house?

14 A Yes, sir.

15 Q And had you been to that house before?

16 THE COURT: You have to answer out loud for us,
17 Ms. Lott.

18 THE WITNESS: No, sir, I had never been to that
19 house before.

20 BY MR. MYERS:

21 Q And who took you to that house?

22 A My friend, Alicia Curtis.

23 Q Now, when you got there, were you introduced to a
24 person named Big Man or Steven Barnes?

25 A Yes, sir.

1 Q And when you got to that house, from then on, could
2 you leave on your own?

3 A No, sir.

4 Q After you got there, what happened?

5 A After I got there I met the girls and then I met --

6 Q You did what now?

7 A I met the girls.

8 Q Do you know what girls that you met?

9 A China, Marsha, and Keisha.

10 Q China, Marsha, and Keisha?

11 A Yes, sir.

12 Q And what happened?

13 A And then we sit there and Steven talked to me.

14 Q Who talked with you?

15 A Steven.

16 Q What did he say to you?

17 A Emphasized to me if I wanted to work for him as an
18 escort and that it was good money and that if I got in
19 trouble, if I went to jail, that he would get me out, and
20 that if I got in trouble or did anything wrong, then we
21 would have to suffer and --

22 Q Hold on. If you got in trouble and went to jail,
23 what did he say?

24 A That he could get us out.

25 Q And then he said something else, if you did

1 something?

2 A If we didn't do what he said, then he would beat us
3 and that we would pay for it.

4 Q If you didn't do what he said he'd beat you and you'd
5 have to pay for it?

6 A Yes, sir.

7 Q Did you agree to be an escort for him, to work for
8 his escort service?

9 A No, sir.

10 Q What did you tell him?

11 A I told him that I didn't want to. And my friend, she
12 told me that it was a good business and she'd made a lot
13 of money, and that it's real good money, but I didn't know
14 anything about it until I went there, and then when they
15 told me about it, it was like I was scared, but I didn't
16 know what to do.

17 Q How old were you, Ms. Lott?

18 A I was seventeen.

19 Q How old?

20 A Seventeen.

21 Q Did your friend stay there or did she leave?

22 A No, she left.

23 Q Now, when you talked with him and found out what was
24 going on, did you want to be a part of the escort service?

25 A For awhile, yes, sir.

- 1 Q Did you go out on any dates?
- 2 A No, sir.
- 3 Q Was there a time that Mr. Barnes sent you out on a
- 4 call?
- 5 A Yes, sir.
- 6 Q Who did you go with?
- 7 A China.
- 8 Q Who else?
- 9 A Keisha and Marsha.
- 10 Q Okay. And who was supposed to go in and perform a
- 11 sex act?
- 12 A Marsha.
- 13 Q Who was supposed to go in?
- 14 A Me.
- 15 Q And when you got to the motel, did you get out the
- 16 car and go in?
- 17 A No, sir.
- 18 Q Why?
- 19 A Because I told them I didn't want to do it, so they
- 20 called Steven and they asked him who they wanted to go in
- 21 and that's when they sent Marsha in my place.
- 22 Q So Marsha took your place and went in?
- 23 A Yes, sir.
- 24 Q When she got through, where did you all go when you
- 25 left the motel?

1 A We went back to the house.

2 Q What happened when you got back to the house?

3 A That's when he told -- the girls told him that I
4 didn't want to do it and he told them to hit me, and they
5 hit --

6 Q Who told the --

7 MR. TARR: Objection to any hearsay, Your Honor.

8 BY MR. MYERS:

9 Q Who told the girls --

10 THE COURT: I would sustain the hearsay
11 objection, but you may continue, Solicitor.

12 BY MR. MYERS:

13 Q Who told the girls to hit you?

14 A Steven did.

15 Q And when he told -- Steven Barnes told the girls to
16 hit you, what happened?

17 A They hit me.

18 Q Where all did they hit you?

19 A In my face and the back of my head.

20 Q Did they use just their hands or did they use
21 something else?

22 A Their hands, their fists.

23 Q When you got there, did you take some clothes with
24 you?

25 A No, sir, just the clothes I had on.

1 Q Just the clothes on your back?

2 A Yes, sir.

3 Q And about how long were you over there before the
4 police found you?

5 A Three days.

6 Q Now, that night you wouldn't go out to be an escort
7 or prostitute, was there a time that you ended up in that
8 house alone with Steven Barnes?

9 A Yes, sir.

10 Q What had the other girls -- where did they go?

11 A A call. Keisha had took Marsha on a call because
12 someone had called and they wanted her to go on a call,
13 but China wasn't there and that's when Marsha and Keisha
14 went to the motel room and went on a call.

15 Q Who's at the house now that everybody left?

16 A Me and Steven.

17 Q And what happened with you at the house with Steven
18 Barnes?

19 A He asked me if I'd have sex with him and then I told
20 him "no," and it's like if I didn't he would kill me.

21 Q Slow down. He asked if you would have sex with him
22 and you told him what?

23 A I told him "no."

24 Q And then he said what?

25 A And then he said if I didn't that he would kill me

1 and that he would beat me.

2 Q If you didn't have sex he'd kill you and beat you.

3 What else happened?

4 A And then he asked me if I wanted to work for his
5 escort service, that it was good money, he'd take care of
6 me. If I went to jail, that he would get us out and
7 nothing bad would happen.

8 Q Now, did he ask for sex anymore?

9 A Yes, sir.

10 Q What did he say?

11 A He asked me, he said that he really wanted to be with
12 me and he loved me. And then I kept asking, "Well, why
13 are the other girls here?" And that's when Marsha kept
14 telling me that he loved her, too, but --

15 MR. TARR: Object to hearsay, Your Honor.

16 THE WITNESS: -- he just wanted to be --

17 THE COURT: Let me stop you just a minute.

18 BY MR. MYERS:

19 Q Stop a minute.

20 THE COURT: I would sustain the hearsay
21 objection, but I didn't -- I thought that was statements
22 of the defendant.

23 MR. TARR: She said Marsha kept telling her.

24 BY MR. MYERS:

25 Q I just want to know what you and Steven Barnes talked

1 about..

2 THE COURT: That is sustained as far as Marsha.

3 BY MR. MYERS:

4 Q Okay. What else did Steven Barnes say to you?

5 A He was telling me that I could have all the money,
6 and it's good money, and that if I got in trouble, that he
7 would be sure I got out of trouble.

8 Q Did the matter of sex come up again between the
9 conversation between you and Steven Barnes?

10 A No, sir.

11 Q Okay. Now, was there a day that the girls left again
12 and went to a mall?

13 A Yes, sir.

14 Q Who was in the house then?

15 A Me and Steven.

16 Q And what happened that day?

17 A We was in the living room and we was talking about
18 the escort service and I was asking him if he could take
19 me home and he kept telling me that I couldn't go home
20 because I would tell on him.

21 Q You wanted to go home and he said he couldn't take
22 you home why?

23 A Because I would tell on him and then he would get in
24 trouble.

25 And then I asked and he was like "In a couple of

1 days I could take you home," but then when I asked him
2 again he was like I needed to stay there, that it was good
3 money, I needed to work for him.

4 Q Did the matter of sex come up again?

5 A Yes, sir.

6 Q What did he say?

7 A He asked me if I would have sex with him and he took
8 me into China's room.

9 Q He said what now?

10 A He took me into China's room, he asked me if I would
11 have sex with him again.

12 Q What did you say?

13 A And I said, "No," and that's when he tore my clothes
14 off and he held my arms above my head and he made me have
15 sex with him.

16 Q He made you have sex with him?

17 A Yes, sir.

18 Q Did he have any type of weapon with him?

19 A He had a pistol.

20 Q Did he say what he would do if you didn't have sex?

21 A He said if I didn't have sex with him that he would
22 make me have sex with him and that he would shoot me with
23 the gun.

24 Q He would do what?

25 A He would shoot me with the gun.

1 Q Who had ordered the girls to go to the mall that day?

2 A Keisha had wanted to go to the mall. Her and Marsha
3 was going to get their hair done.

4 Q And after he had sex with you, then what happened?

5 A That's when the girls came back, that was the second
6 night, and that's the night they were supposed to go on a
7 call and I went with them, but I wouldn't get out of the
8 car, and that's when they told him that I wouldn't do
9 nothing and they took me back home.

10 Q So this is the second time that you went out and they
11 took you back home?

12 A Yes, sir.

13 Q Now, what happened when you got back home the second
14 time they sent you out and you wouldn't do anything?

15 A He told them to hit me.

16 Q Do what now?

17 A He told them to hit me and that's when they started
18 hitting me.

19 Q Again?

20 A Yes, sir.

21 Q Did he make any threats towards you, Lashonda?

22 A He told me that if I tried to leave that there would
23 be consequences and I would never get away, and that if I
24 left, that I would try to tell on him and get him in
25 trouble. And if I left and told on him, that he would try

1 to kill my family.

2 Q Could you get out of that house, Lashonda?

3 A No, sir.

4 Q Why?

5 A They had bars on the windows and the doors. There
6 was a lock that you had to have a key to get out.

7 Q Did he ever threaten you anymore other than that or
8 say anything about it?

9 A No, sir.

10 Q Now, you were at the house the morning that the
11 police arrived; is that right?

12 A Yes, sir.

13 Q All right. The night before the police arrived, did
14 Steven Barnes do anything to Keisha Burton?

15 A Yes, sir.

16 Q What did he do?

17 A She came home and he hit her in the face with a
18 pistol and he slammed her face into the mirror and then he
19 slammed her face into the sink and then threw her in the
20 bathtub.

21 Q Do what now?

22 A He slammed her face in the mirror and then slammed
23 her face into the sink and then he threw her in the
24 bathtub.

25 Q Were you asleep when the police arrived the next

1 morning?

2 A Yes, sir.

3 Q Now, after the police got everybody out of the house,
4 did they take you down to the police station?

5 A Yes, sir.

6 Q You told them what had happened to you?

7 A Yes, sir.

8 Q Did they take you to receive some kind of medical
9 treatment?

10 A My mom took me to the hospital.

11 Q And you were not arrested, were you?

12 A No, sir.

13 Q You were finally turned back over to your momma?

14 A Yes, sir.

15 Q This is a picture of you when you were arrested?

16 A Yes, sir.

17 Q One of your eyes looks a little swollen?

18 A Yes, sir.

19 Q What is that from?

20 A From where Steven and the girls hit me.

21 MR. MYERS: We offer this into evidence, Your
22 Honor.

23 MR. TARR: No objection.

24 THE COURT: All right. State's 73's in evidence
25 without objection.

1 (WHEREUPON, State's Exhibit No. 73 was marked
2 for identification and received into evidence.)

3 BY MR. MYERS:

4 Q Lashonda, did you voluntarily stay at that house for
5 those three or four days, or were you held there against
6 you will?

7 A The first day that I when there I asked if I could
8 leave and that's when he told me "no," and so I just
9 stayed there because I had no way to leave.

10 Q Did you ask him more than one time to let you go
11 home?

12 A Yes, sir.

13 Q What did he say?

14 A Every time I asked him he'd tell me I couldn't leave,
15 that I was -- if I left I would tell on him and I would
16 get him in trouble.

17 Q Did you voluntarily have sex with him?

18 A No, sir.

19 MR. MYERS: Answer any questions the defense
20 has.

21 THE COURT: Thank you, Solicitor.

22 Mr. Tarr.

23 MR. TARR: No questions, Your Honor.

24 THE COURT: Thank you very much, Ms. Lott. You
25 may step down.

1 Any objection to this witness being excused?

2 MR. TARR: No, Your Honor.

3 THE COURT: You may be excused.

4 All right. Solicitor, you can call your next
5 witness.

6 THE CLERK: Raise your right hand.

7 JANA MCCARTY, after being duly sworn, testified
8 as follows:

9 THE CLERK: State your full name and spell your
10 last name for the record.

11 THE WITNESS: Jana Lynn McCarty, M-c-C-A-R-T-Y.

12 DIRECT EXAMINATION

13 BY MR. MYERS:

14 Q Jana, could you pull that microphone up a little
15 closer, please?

16 A Yes, sir.

17 Q You're wearing a prison outfit. Are you incarcerated
18 somewhere?

19 A Yes, I am.

20 Q Where?

21 A In Florida.

22 Q You've got some charges down there?

23 A Yes.

24 Q And you had some other charges, too, haven't you?

25 A In Georgia.

1 Q I think you had a burglary conviction, too; is that
2 right?

3 A That was ten years ago.

4 Q Now, I'm going hand you this University Hospital,
5 Augusta, Georgia document here.

6 A Uh-huh.

7 Q What's that date right here?

8 A 9-25-01. September 25th, 2001.

9 Q And your name is Jana McCarty?

10 A Yes.

11 Q Now it says on here Mary McCarty?

12 A Yes, sir.

13 Q Why does it say Mary McCarty?

14 A Because my momma insisted I go to the hospital and I
15 had warrants and I was scared that they would run me for
16 warrants or something at the hospital.

17 Q You had that outstanding burglary warrant?

18 A Yes, sir.

19 Q And so when you had to go to the hospital -- who is
20 Mary?

21 A My little sister.

22 Q So you used her name rather than yours?

23 A Yes, sir.

24 Q And why did you have to go to the hospital on
25 September 25th of 2001?

1 A Because Steven Barnes had beat me and did stuff to me
2 that required me to go to the emergency room.

3 Q Now, you had known Steve Barnes prior to this?

4 A Yes.

5 Q How long had you known him?

6 A A little over a month.

7 Q Okay. And how did you meet him?

8 A I called the escort service in the Yellow Pages and
9 asked them were they hiring. And it wasn't him I went and
10 met, it was a lady at a hotel, and I went to do a call for
11 her and when I came back to give her her part of the money
12 for the call, he was there.

13 Q At a motel?

14 A Yes, sir, to see her.

15 Q Did you know his brother?

16 A Yes.

17 Q What was his name?

18 A Little Man.

19 Q Okay. And what did Steven Barnes go by?

20 A Big Man.

21 Q Did you have a relationship with Little Man?

22 A Just purely sexual, yes.

23 Q Okay. And then did you meet Big Man?

24 A I met Big Man first.

25 Q Okay. Had you ever been over to a place called the

1 green house on Cherry Street?

2 A Yes.

3 Q And why did you go over there?

4 A Which time?

5 Q The first time.

6 A The first time I ever went was when he had told me
7 that my -- he came and told me that my friend was messing
8 with my boyfriend in Washington and took me over there to
9 beat her up.

10 Q Now who was the girl that you're supposed to beat up?

11 A Charlene Thatcher.

12 Q China?

13 A Uh-huh.

14 Q Were any drugs over there at the green house?

15 A If he had his on him. I just smoked weed.

16 Q Smoked weed?

17 A Yes, sir.

18 Q Who did you get the weed from?

19 A Him.

20 Q Big Man?

21 A Yes.

22 Q That's what you used, weed, you didn't use crack or
23 cocaine?

24 A No.

25 Q How many times did you get weed from Big Man?

- 1 A Numerous. I can't even guess.
- 2 Q Did you know he had an escort service?
- 3 A Yes.
- 4 Q You know what the name of it was?
- 5 A I guess A -- it was A something, AAA, because the one
- 6 I called was the lady Amy's --
- 7 Q That was a different one?
- 8 A That was a different one, but it was AAA something.
- 9 Q Okay. Did you ever work for him?
- 10 A For him?
- 11 Q Yes?
- 12 A I went on a couple of calls for him, but I wasn't
- 13 with him like -- yes.
- 14 Q All right. Now, did there come a time when you were
- 15 at The Knights Inn on September 24th of 2001, that
- 16 somebody came to your room in the early morning hours?
- 17 A Yes.
- 18 Q Who came to your room?
- 19 A Little Man came to my room first.
- 20 Q And that would be the night of the 24th, the early
- 21 morning hours of September 25th?
- 22 A Yes.
- 23 Q And did anybody else come with Little Man or come
- 24 after Little Man?
- 25 A After the first time he came he was there by himself

1 and he left, then he came back.

2 Q Who came back?

3 A Little Man came back 20, 30 minutes later and he was
4 there for five minutes by himself and then Big Man was
5 knocking on the door.

6 Q Okay. Did you let Big Man in?

7 A No, Little Man did.

8 Q Okay. What happened when they came in?

9 A Big Man started flipping furniture and opening
10 drawers saying that "I had it," and I asked him what and
11 he showed me his two-way pager and said that I had
12 somebody go in Little Man's car and steal his two-way
13 pager and I was trying to set them up.

14 Well, first he showed me what his two-way pager
15 said.

16 Q Who showed you that?

17 A Big Man did. And I guess it was a message from
18 Little Man's two-way pager that said, "I know -- you think
19 I don't know what you did, I'm going to get you all next,"
20 something to that effect it said, and obviously it was
21 being sent to him from Little Man's two-way pager.

22 Q And Little Man's pager was missing and they thought
23 you stole it?

24 A Yes.

25 Q Had you stole it?

1 A No, I had not.

2 Q You said Big Man was going through the room and
3 knocking over stuff?

4 A Yes.

5 Q What else did he do?

6 A He proceeded to hit me and he had this -- when he
7 came in he had a little metal bat.

8 Q A little what?

9 A Metal baseball bat. He was hitting me with it,
10 choking me with it, telling me -- putting it in my face,
11 "I'm going to kill you." Like one minute you would think
12 he would calm down and the next minute he just spazzed-out
13 and started choking me, telling me he was going to kill
14 me.

15 Q What was he choking you with?

16 A The baseball bat.

17 Q And where all did he hit you with the metal baseball
18 bat?

19 A Everywhere. Well, first was in my face, in my face.

20 Q And then where did he hit you?

21 A Everywhere. I don't really remember. I mean, it was
22 mostly -- the one that hurt the most was my knee. I
23 thought he had broken my knee.

24 Q What happened after he beat you with the metal
25 baseball bat?

1 A He told me to get my stuff, that we was fixing to go
2 somewhere. Then Little Man went to the car and put my
3 bags in the car, then he walked me out the door and put me
4 in the back seat of his car.

5 Q Anybody else in the car?

6 A I don't think there was, but if there was, I don't
7 remember. It was me, him, and Little Man from my
8 recollection.

9 Q Where did you all go?

10 A We went to another hotel after that. It was on
11 Washington Road, up the road.

12 Q What happened after you went to that motel?

13 A We were sitting in the parking lot and there was
14 other girls out there telling him about the one girl had
15 just got away. She had ran to a gas station. They said
16 she was going to buy a blunt at this store and she took
17 off running.

18 MR. TARR: Objection to hearsay.

19 THE COURT: Yes, that would be hearsay.

20 Rephrase that.

21 BY MR. MYERS:

22 Q As a result of that conversation, what happened?

23 A We were sitting there and a Richmond County Sheriff's
24 officer pulled up behind his car and got out.

25 Q And what happened?

1 A He was asking -- he said that they had --

2 MR. TARR: Objection, Your Honor. Hearsay.

3 BY MR. MYERS:

4 Q After the deputy came there, did the deputy do
5 anything or did he leave?

6 A No, he left.

7 Q Then what happened?

8 A We went to the green house.

9 Q Who all went to the green house?

10 A Me and Big Man and Little Man.

11 Q Okay. What happened in the green house?

12 A We were sitting in -- I was sitting in the back of
13 the car, Big Man was sitting in the front seat in the
14 passenger's seat and Little Man was in the driver's seat.
15 I don't remember which car it was, but I remember he kept
16 on -- they were talking about -- he kept making
17 comments --

18 Q Who made the comments?

19 A Big Man kept making the comments to Little Man
20 "should I use the big boy or something on her?" and Little
21 Man kept --

22 MR. TARR: Objection.

23 BY MR. MYERS:

24 Q Big Man said what?

25 A "Should I use the big boy," or something like -- he

1 kept saying "the big boy on her," and Little Man kept --

2 MR. TARR: Objection.

3 BY MR. MYERS:

4 Q Don't say what Little Man said. Just tell me what
5 Big Man said.

6 THE COURT: Sustained.

7 THE WITNESS: Okay.

8 BY MR. MYERS:

9 Q What happened after that?

10 A Little Man left and Big Man took me inside the house.

11 Q What did he do inside the house?

12 A He had this little hatchet and some little handcuffs
13 that I had at my room.

14 Q What kind of hatchet are you talking about?

15 A It's like on one side it's a hammer and the other
16 side it's an ax.

17 Q All right. One side's a hammer and the other side's
18 an ax?

19 A Yes, sir.

20 Q All right. Go ahead.

21 A And he took me and he kept walking through the house,
22 he kept saying, "I'm the only one who's ever got the balls
23 to do what they say they going to do," he kept saying
24 that, and I kept crying saying to him, "Please don't kill
25 me," because I thought that's what he was going to do.

1 Q Why did you think he was going to kill you?

2 A Because he had kept saying -- well, before we got to
3 the green house, he kept saying to the one girl, "I'm
4 ready to do this 187," and he told the other girl, "I had
5 it planned out perfect, but Melanie had got away," because
6 they had let the girl run away.

7 Q Melanie had gotten away?

8 A Yeah, it was some --

9 Q Now, 187, what does 187 mean?

10 A Now I know it means murder, but back then I didn't
11 know what it meant.

12 Q All right. Now, he's got the hatchet and walking you
13 in the house. Does the house got lights on?

14 A No, it had no lights. He had a flashlight.

15 Q He had a flashlight?

16 A Uh-huh.

17 Q Okay. You're going through the house, he's got the
18 hatchet/hammer thing and a flashlight, what happened?

19 A He took me to one of the rooms in the back. It was
20 real junky. It had an old sofa that was sitting there, a
21 dirty, old sofa, and he sat me down and he made me perform
22 oral sex on him and then he proceeded to have sex with me.

23 Q Pardon me?

24 A He had sex with me.

25 Q All right. He made you perform oral sex and then he

1 had sex with you?

2 A Yes.

3 Q Did you feel like you could get up and leave?

4 A No.

5 Q Why?

6 A Because he had a miniature ax and I couldn't really
7 walk or run anywhere anyways.

8 Q Why?

9 A Because he had -- my knee was messed up really bad
10 and like I couldn't.

11 Q What happened after he had sex with you and made you
12 perform oral sex?

13 A We got back in the car, then we went back to the
14 hotel where Nadia was, the one on Washington Road, I don't
15 remember the name of it.

16 Q Okay.

17 A We got her, because she wanted to come with us --

18 Q Uh-huh.

19 A -- and we went to the Waffle House. It was getting
20 daylight outside. It had just gotten daylight outside.

21 Q Did you go inside?

22 A No, I didn't.

23 Q Who went inside?

24 A He, Big Man went inside. He left -- he gave Nadia
25 the little hatchet thing and told her to sit there with

1 me, and she was in the front seat and I was in the back.

2 Q And after he came out, where did you all go?

3 A We went back to the green house.

4 Q Okay. How long did you stay at the green house?

5 A All the morning, half the afternoon, all day pretty
6 much.

7 Q In the car?

8 A Yes.

9 Q What was he saying to you in the car?

10 A He wasn't talking to me a lot. He kept saying -- any
11 time he spoke to me he would be handing me cigarettes
12 saying, "Here, smoke this, it's going to be your last one
13 anyway."

14 Q Do what now? He gave you a cigarette and said what?

15 A He kept giving me cigarettes saying, "Here, smoke
16 these, it's going to be your last ones anyway."

17 Q Did he do that one time or more than one time?

18 A More than once because I was smoking a lot.

19 Q What kind of car were you in then, do you know?

20 A It was a white Chevrolet.

21 Q What kind of Chevrolet?

22 A Like an Impala or Caprice or something, like a
23 police -- old time police car.

24 Q Bubble-type?

25 A Yes.

1 Q You stayed there all day?

2 A Not all day. Towards the evening. Some other girl
3 Keisha had came, no -- yeah, some other girl Keisha came
4 while we were sitting there and at first she was like,
5 "Girl, what happened to you?" And then he took her to the
6 back of the car and was talking to her and then he came
7 back and she was leaning in the window talking to Nadia
8 and he was asking her what did she have to do that
9 evening.

10 Q Wait a minute, wait a minute. Who was saying this,
11 Big Man?

12 A Big Man asked the girl, Keisha, what was she doing
13 that evening because he needed her to drive somewhere. It
14 was basically we was going on a long ride and he needed
15 her to drive once it got dark out.

16 Q And what were you thinking all during this day?

17 A What was I thinking?

18 Q Yes.

19 A I was thinking that he was fixing to kill me because
20 when I had to go -- I had to use the bathroom --

21 Q You had to use the restroom?

22 A Yes. While we were sitting at the green house I had
23 to pee really bad all day and he got me out of the car and
24 walked me to the back of house and he had to hold me up so
25 I could pee.

1 Q Why did he have to hold you up?

2 A Because I couldn't squat down on my own.

3 Q Why?

4 A Because my knee and everything was hurt. So while he
5 was doing that I was crying and I was like, "Please don't
6 kill me." I was like, "At least just let me call my momma
7 and tell them bye and I love them or something." And he
8 was like "No." And I was like, "You can let me go." And
9 he said, "No, because now you got to go to the hospital."
10 He made that comment and then he told me to hurry up
11 peeing and I hurried up and he took me back to the car.

12 Q When you all left the green house, where did you go?

13 A We went to the Deluxe Inn -- it's the Deluxe Inn now,
14 I don't know the name of it then -- and we met another
15 girl, I think her name was Keisha, I don't remember, and
16 Nadia was still with us and he gave her the money to get a
17 room there and she went in and got a room in her name.

18 Q Okay. Did you go up into that room?

19 A Yeah. He helped me up the stairs into there, me,
20 him, and Nadia, and the girl that got the room in her
21 name.

22 Q Did he have a gun with him?

23 A When we got in the room -- I'm not sure if it was his
24 gun or hers, but it was a gun on the table and he was
25 telling Nadia to watch me until it got dark, he had stuff

1 to go do, and if she let me get away like the one last
2 night, he wasn't going to be as nice as he was last night.

3 Q Okay. Now, you all taking any drugs or smoking
4 anything?

5 A Me and Nadia after they left -- Keisha left because
6 she said she had to go to work and Nadia was rolling some
7 weed and smoked it and I smoked some with her.

8 Q You all go to sleep?

9 A I dosed off and then I opened my eyes and she was
10 knocked out asleep, too.

11 Q What did you do?

12 A I got up and acted like I had to pee just to see if
13 it made her get up, she didn't move, so I went to the door
14 and went out the door and ran and wobbled all the way to
15 the front desk and called my momma.

16 Q And who took you to the hospital?

17 A My momma.

18 Q Now, while you're at the hospital, did some officers
19 from Wilkes County, Washington, Georgia come to the
20 hospital?

21 A Yes, they showed up like 45 -- maybe an hour later.

22 Q Did they take you into custody?

23 A Yes.

24 Q They take you back to Wilkes County?

25 A Yeah. When we left the hospital we stopped on

1 Washington Road to get gas before we got on the interstate
2 to go back and he was standing there with Nadia and the
3 girl from earlier that day, not the girl that got the room
4 but the one earlier that had to drive, that he was saying
5 to drive, and they were standing by the pay phone in the
6 little gray Lumina car that I used to see Sam drive all
7 the time.

8 Q Did you tell the officer that that was the man that
9 did that to you?

10 A I told him, I was like, "There he is right there at
11 the pay phone." And he said, "Did you want to press
12 charges on him for this stuff?" And I was like "Yeah."
13 And so he went and got gas and came back out and then he
14 pulled up behind the gray Chevy Lumina and Big Man had
15 disappeared somewhere and the two girls were still
16 standing there and they wrote down the tag number and took
17 me to jail.

18 MR. MYERS: Answer any questions they have.

19 THE COURT: Thank you, Solicitor.

20 Mr. Tarr.

21 MR. TARR: Thank you.

22 CROSS-EXAMINATION

23 BY MR. TARR:

24 Q Jana, you're currently incarcerated in Florida?

25 A Yes.

1 Q What were you down there being charged with?

2 A Possession of firearm by convicted felon.

3 Q Possession of a firearm?

4 A Yes.

5 Q I guess the felony conviction was your burglary?

6 A Yes.

7 Q And is that what you had a warrant out for when you
8 went to the hospital and Wilkes County came down to get
9 you was the burglary charge?

10 A Yes.

11 Q And that's when you gave your sister's name when you
12 went in?

13 A Yes.

14 Q Now, you were a prostitute before you met Steven?

15 A Yes.

16 Q And you actually volunteered when you got to Augusta
17 to go work as a prostitute?

18 A Yes, that's what I did.

19 Q And you're still doing that?

20 A Up until -- not now. I mean --

21 Q Not right this minute?

22 A Yes.

23 Q And you -- I think you called another escort service
24 first, Amy's or something like that?

25 A Yes. When I first got into Augusta I looked in the

1 Yellow Pages and I called the first one and asked them
2 were they hiring and it was the lady, Amy, and I went and
3 met her and did a call for her.

4 Q And then you did a couple you said for Steven?

5 A Yes. Not a lot, but just a few.

6 Q And you smoked marijuana before you met Steven
7 Barnes?

8 A Yes.

9 Q You testified a little bit about the time that you
10 said he was beating you in the hotel room with a baseball
11 bat?

12 A Yes.

13 Q You said he would seem like he'd calm down and then
14 he'd get all spazzed-out and just kind of being real
15 erratic?

16 A Just one moment, one time he did. Like I thought
17 maybe he was calm and then all of sudden he just grabbed
18 the bat and ran back over to me and was like "Bitch, I'll
19 kill you," and he slapped me and put the bat in my throat
20 and was choking me and was like "Bitch, I'll kill you,"
21 and then he hit me a few more times.

22 Q Did he seem to you like somebody that probably had
23 some mental problems?

24 A No.

25 Q No? That's normal to you?

1 A Yeah.

2 Q It is?

3 A Not normal, but not mental. I know people with
4 mental problems.

5 Q Now, I mean you -- the truth is prior to coming in
6 contact with Steven Barnes you had gotten in a lot of
7 trouble in connection with the law?

8 A I wouldn't say a lot. I had a burglary charge I had
9 a warrant for.

10 Q Okay. Was that the only time you got arrested before
11 you met him?

12 A No.

13 Q How many times had you been arrested before you met
14 Steven?

15 A A lot, but I was as a juvenile.

16 Q Okay. And how many times have you been arrested
17 since you had any contact with Steven Barnes?

18 A Since then? A lot, but just for prostitution.

19 MR. TARR: That's all I have, Your Honor.

20 THE COURT: Redirect?

21 MR. MYERS: No further questions.

22 THE COURT: Thank you very much. You may step
23 down.

24 And she may be taken back into custody.

25 You may call your next witness.

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

3 JAMES L. HARRISON, after being duly sworn,
4 testified as follows:

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

7 THE WITNESS: My name is James L. Harrison.
8 H-A-R-R-I-S-O-N.

9 DIRECT EXAMINATION

10 BY MR. MYERS:

11 Q By whom are you employed?

12 A Wilkes County Sheriff's Department.

13 Q And how long have you been in law enforcement,
14 Officer Harrison?

15 A I'm in my 26th year.

16 Q On September the 25th of 2001, did you have an
17 occasion to go to the University Hospital in Augusta to
18 pick up a female?

19 A Yes, I did.

20 Q And you all had outstanding charges on her?

21 A That's correct.

22 Q And who transported her from the University Hospital
23 in Augusta back to Wilkes County?

24 A Myself and a female jailer from Wilkes County.

25 Q Did you stop anywhere on the way back to get gas?

1 A Yes, sir, I did.

2 Q And did the lady point somebody out to you at the gas
3 station?

4 A She did.

5 Q And this person, could you see who this person was at
6 that time?

7 A I saw the person at the time, but that's been like
8 ten years ago.

9 Q Did the person stay there or leave?

10 A Left.

11 Q Okay. Now, you got her back to the Wilkes County
12 Detention Center?

13 A That's correct.

14 Q And she gave you a statement about some injuries that
15 she received?

16 A She did.

17 Q And did you notice any injuries on her? Could you
18 describe to the jury her condition?

19 A Yes. She was bruised. I don't remember, exactly
20 remember where all the bruises were, but she was bruised.
21 The thing that was outstanding in my mind was that she
22 could barely walk. She was crouched over holding her
23 stomach and rib area, was barely able to get around.

24 Q All right. Could she stand up straight at all?

25 A No, sir.

1 Q Very obviously some injuries?

2 A Yes, sir.

3 MR. MYERS: Thank you, Officer Harrison. That's
4 all I have.

5 THE COURT: Mr. Tarr?

6 MR. TARR: No questions, Your Honor.

7 THE COURT: Thank you for being with us today,
8 Officer Harrison.

9 THE WITNESS: Yes, sir.

10 THE COURT: You may step down.

11 May the officer be excused?

12 MR. MYERS: Yes, sir.

13 MR. TARR: No objection, Your Honor.

14 THE COURT: Thank you. You may be excused.

15 And you may call your next witness.

16 MR. MAYE: The State would call Nadia Braswell.

17 THE CLERK: Raise your right hand and place your
18 left hand on the Bible.

19 NADIA BRASWELL, 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: Nadia Braswell, B-R-A-S-W-E-L-L.

24 DIRECT EXAMINATION

25 BY MR. MAYE:

- 1 Q Nadia, let me ask you this: What's your old name?
- 2 A Nadia Braswell.
- 3 Q What's your middle name?
- 4 A Comaneci, Nadia Comaneci.
- 5 Q Braswell?
- 6 A Yes.
- 7 Q What year were you born?
- 8 A 1984.
- 9 Q Your parents must have been watching the Olympics
- 10 then, were they?
- 11 A Yes, my dad.
- 12 Q Okay. Tell the ladies and gentlemen of the jury
- 13 where you're from.
- 14 A I was born here, but I was raised in Panama.
- 15 Q Okay. When did you come back to this area, Augusta?
- 16 specifically, when did you come back?
- 17 A When I was 12 years old.
- 18 Q Okay. Where did you go to school over there?
- 19 A In Panama?
- 20 Q No, back here. Did you go to school here?
- 21 A Oh, Morgan Road and Richmond Academy here in Augusta,
- 22 yes.
- 23 Q When did you first meet Steven Barnes and how old
- 24 were you?
- 25 A I met him when I ran away from home. I was 17, like

1 16, 17. I met him through Melanie, a girl named Melanie.

2 Q Okay. Where was it the first place that you met him,
3 do you remember that?

4 A Harrisburg.

5 Q And where is Harrisburg, what is that?

6 A It's off Broad Street going towards Washington Road.

7 Q Is that kind of an area inside Augusta?

8 A Yes.

9 Q Okay. Tell the ladies and gentlemen about the kind
10 of nature of your relationship. What happened when you
11 first started meeting him?

12 A I was just like -- ran around for like the drugs and
13 to get in free at the club and stuff.

14 Q Let me ask you this: What kind of drugs were you
15 using before, or what drugs were you using before you met
16 Steven Barnes, the defendant in this case?

17 A Marijuana.

18 Q Just marijuana?

19 A Yes.

20 Q Okay. What drug did you start using after you met
21 Steven Barnes?

22 A Cocaine.

23 Q Who was the first person that ever gave you any
24 cocaine?

25 A He did.

1 Q Tell the ladies and gentlemen of the jury about the
2 circumstances of that. What was going on and where were
3 you when Steven Barnes first gave you cocaine?

4 A We went to the hotel and it was on -- the other place
5 was on Washington Road by -- like behind the dealership
6 was the house back there.

7 Q Okay. Let me ask you this: Did he charge you
8 anything for it?

9 A No. We had sex.

10 Q Okay. Once you started using cocaine there with him
11 were you addicted to it?

12 A After I got it, yeah.

13 Q Did you consistently start using cocaine after you
14 were provided cocaine by Steven Louis Barnes?

15 A Yes, to the point I lost so much weight I was in a
16 size three.

17 Q Okay. Were you sleeping with him in exchange for
18 drugs, is that basically the nature of your relationship?

19 A Yes.

20 Q Okay. How often would you all get together typically
21 with this arrangement where he would give you drugs and
22 you all would have sex? How often did that happen?

23 A Probably about three times out the week.

24 Q Okay. How much would he usually give you weight-wise
25 when you all got together?

- 1 A Like an eight ball, like three grams.
- 2 Q How long would that usually last you when you had it?
- 3 A Two or three days to four, yeah.
- 4 Q Okay. And when you ran out, were you looking for him
- 5 again at that point in time?
- 6 A Yes.
- 7 Q Okay. Tell me about some of the girls that he was
- 8 around. Which girls did you know that he was hanging
- 9 around with?
- 10 A China. It was Patricia and Marsha and Melanie.
- 11 Q Those were the main ones that you remember?
- 12 A Yes.
- 13 Q Were you aware that he was running an escort service
- 14 so that they were working for him at the time?
- 15 A Not right then and there. Like I found out when I
- 16 started meeting them.
- 17 Q Okay. Did you become aware of that as you hung out
- 18 with them?
- 19 A Yes.
- 20 Q Okay. Did your relationship with him extend over
- 21 some period of months, was it over a good while?
- 22 A No. After -- I didn't know him more than a year
- 23 because after I had an incident with him at a hotel.
- 24 Q Okay. We're going to talk about that later.
- 25 Let me ask you: You say your relationship with

1 him went on for less than a year?

2 A Yes.

3 Q Okay. As to your observations of the escort service,
4 who was in charge of that?

5 A He was.

6 Q Who was handling the money?

7 A He was.

8 Q Okay. Let me ask you this: What did the girls get
9 back from him in return? What did he provide to them?

10 A He used to give them drugs or buy them clothes,
11 whatever they wanted.

12 Q Okay. You personally saw that?

13 A Yes.

14 Q Okay. Did Barnes ever ask you to work as a
15 prostitute for him?

16 A Yes.

17 Q Did you ever do that? Did you work as a prostitute
18 for him?

19 A I tried, but I just can't do it.

20 Q What do you mean you tried? What did he ask you to
21 do?

22 A Walk the streets. I put my clothes on and I tried
23 walking, but I didn't -- I couldn't do it. I was scared
24 something might -- my dad or somebody that know them might
25 see me.

1 Q Okay. How many times did he ask you to work for him
2 as a prostitute, do you remember? Was it just one time or
3 multiple times?

4 A It was a couple of times.

5 Q Okay. Let me ask you this: Could you tell me about
6 an incident at the Suburban Lodge with Barnes and Patricia
7 Rouse and Marsha Rogers?

8 A Yes.

9 Q Sometime in -- September 28th of 2001. Tell the
10 ladies and gentlemen of the jury about that incident at
11 the motel.

12 A The night before all that happened it was -- they
13 already had a room on the other side of the hotel. Then
14 when he got my room, he left. I walked down to their room
15 to get some weed.

16 Q Let me ask you this: Was he mad at you at this time?

17 A No, he wasn't.

18 Q Okay. What had happened the day before involving
19 Jana McCarty?

20 A He gave me a pistol, I think it was a .25, but he
21 didn't tell me for what, but he gave it to me and told me
22 to make sure she don't leave the room. We was at another
23 hotel on Washington Road called The Sunset Inn. He told
24 me to make sure she don't leave the room.

25 So I guess I fell asleep, I'd been smoking.

1 When I woke up, there was blood on the bed, it was from
2 me, and the girl was gone. So when I ran out the room --
3 later on that night we met up, that's when I ended up at
4 that Suburban Lodge. I didn't know that I was going to
5 get beat up and handcuffed and all that.

6 Q Let me ask you this: Was he less than happy with you
7 because you had let Jana get away?

8 A Yes.

9 Q Okay. When you first got to the hotel there at the
10 Suburban Lodge, what did he do?

11 A Before everything happened?

12 Q Yes. How -- set the stage for the ladies and
13 gentlemen of the jury. What happened when you first
14 arrived at the hotel?

15 A It was like they already had a room at that same
16 hotel. He got me a room at the top part of the hotel.
17 When he left I went down to their room, got some weed,
18 came back to mine. I called one of my friends, his name
19 Ty. While I was waiting for him, when he came, he was out
20 of breath.

21 Q Don't say anything that he said, but what did he do
22 after he came to the room out of breath?

23 A He left me.

24 Q Okay. Who had he encountered?

25 A Big Man.

- 1 Q Okay. So he left after he encountered Big Man?
- 2 A Yes. He told me that he ran --
- 3 Q Don't tell me anything that he said.
- 4 A Okay.
- 5 Q After he left, what was the next thing that happened?
- 6 A After I went to sleep? I woke up that morning and he
- 7 was coming through the room door.
- 8 Q Who was coming through the room?
- 9 A Big Man.
- 10 Q Who had the key to the room?
- 11 A He did.
- 12 Q He came into the room. What happened when he came
- 13 into the room?
- 14 A When he walked in, Patricia walked behind him and
- 15 Marsha.
- 16 Q Okay.
- 17 A He started questioning me and stuff.
- 18 Q What was he asking you about?
- 19 A I think -- I believe he thought I said that -- he
- 20 thought I snitched on him about something. And I said --
- 21 after I kept telling him I didn't say anything, I hadn't
- 22 said anything --
- 23 Q What did he do?
- 24 A He told Marsha and Pat to hit me. He said, "Hit that
- 25 bitch."

1 Q What did they do once he told them to start hitting
2 you?

3 A Pat put her brass knuckles on and started hitting me,
4 then she passed it on to Marsha, and she did, they both
5 started hitting and stumping me and stuff.

6 So after they -- one of them picked the night
7 stand, threw it at me.

8 Then after they got through beating on me he
9 grabbed me by my -- and he told me that I was going to
10 die.

11 Well, they handcuffed me and I --

12 Q Who handcuffed you?

13 A I believe it was him.

14 Q Who had the handcuffs?

15 A He did.

16 Q Okay.

17 A And after I was handcuffed, he told me I was going to
18 die the same way the 16-year-old died here in South
19 Carolina, and he knew about my mom and my daughter and
20 where they stayed.

21 Q Did he tell you where that 16-year-old boy had died?

22 A In South Carolina.

23 Q This is on the 28th of September of 2001?

24 A Yes.

25 Q Okay.

1 A Oh, I started writing notes, telling if anybody find
2 this. I wrote that if anybody find me dead, Steven Barnes
3 killed me and Marsha and Pat. I wrote a lot of other
4 stuff on it, I can't remember, but when I -- when they
5 fell asleep after I wrote them notes, when I fell asleep
6 and I woke up they were asleep on the bed, so I -- the
7 handcuffs was behind my hands. I leaned to the side and
8 took them off, put my feet through them and took them off.
9 I grabbed the latch on the door and I opened it and I ran
10 out. It was a white couple walking and I started
11 screaming for help so they --

12 Q What did you have on? How were you dressed at that
13 time?

14 A I was naked. They took my clothes off. I had on
15 some drawers and a thong, that was all.

16 And when I ran out the door the couple threw a
17 sweater on me and I ran all the way down into the office
18 and I started hollering for help.

19 Q Did you talk to the police then at that time?

20 A Yes.

21 Q Okay. Let me ask you this: What did he tell you in
22 regard -- after he told you he had killed the boy in South
23 Carolina, what did he tell you in regard to your family
24 members?

25 A He was going to kill me and he knew where my daughter

1 and my momma was.

2 Q What did you do with the notes that you wrote
3 identifying Barnes and the girls and asking if anybody
4 found you, what did you do with those notes?

5 A I stuffed it inside of me.

6 Q You stuffed it inside of you where?

7 A In my private parts.

8 Q Okay. Where else did you put notes?

9 A Under the bed.

10 Q Okay. Where did you get the paper and pen and all to
11 write the notes?

12 A I got it -- at the hotel room they got the pad and
13 pencil right on the night stand, and I got it.

14 Q After this happened where did you go?

15 A I went -- after everything happened, I went to
16 Florida because I was scared that he might be out looking
17 for me to kill me.

18 Q Where in South Carolina did he tell you that he had
19 killed that little boy? What was it near? What did he
20 say he had killed somebody near?

21 A It was a trailer park.

22 Q So you went to Florida and you did not return until
23 fairly recently, did you?

24 A Like three years ago.

25 Q Okay. But you stayed gone down there all that time?

1 A Yes.

2 MR. MAYE: Answer any questions the defense has
3 for you.

4 THE COURT: Mr. Tarr.

5 MR. TARR: No questions, Your Honor.

6 THE COURT: Thank you very much, Ms. Braswell.
7 You may step down.

8 Any objection to this witness being excused?

9 MR. TARR: No, Your Honor.

10 THE COURT: You may step down and you may be
11 excused.

12 THE WITNESS: Okay.

13 THE COURT: All right. Solicitor, you may call
14 your next witness.

15 MR. MAYE: The State would call Investigator
16 Tanksley.

17 THE CLERK: Raise your right hand and place your
18 left hand on the Bible.

19 GERALD TANKSLEY, 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: Gerald Tanksley. The last name,
24 T-A-N-K-S-L-E-Y.

25 DIRECT EXAMINATION

1 BY MR. MAYE:

2 Q Mr. Tanksley, were you previously employed in law
3 enforcement over in Augusta?

4 A Yes, sir.

5 Q Okay. In what capacity? How long had you worked in
6 law enforcement over there?

7 A Right at nine years for road patrol, all the way
8 through investigation with the Criminal Investigation
9 Division.

10 Q Okay. About the 28th of September in 2001, did you
11 have an occasion to go to the Suburban Lodge for an
12 incident involving Nadia Comaneci Braswell, Steven Louis
13 Barnes, Patricia Rouse and Marsha Rogers? Did you go out
14 to investigate that?

15 A Yes, sir, I did.

16 Q What did you do in regards to that investigation?

17 A Initially, I arrived at the hotel, Suburban Lodge,
18 and was met in the parking lot by a deputy, I believe his
19 name was Deputy Newton, and he asked me to come to the
20 office rather than go into the hotel.

21 I met him in the parking lot and walked to the
22 office, and Nadia Braswell was in the office, and she had
23 on like a light jacket and a sheet wrapped around her
24 waist.

25 I conducted a minor field interview with her and

1 asked her about what had taken place. A pair of handcuffs
2 were turned over to me and she told me that she had been
3 bound by handcuffs in Room 326.

4 Shortly after that, I kind of gathered everybody
5 up, took them back down to CID, entered the handcuffs into
6 evidence and commenced to taking our taped interviews with
7 everybody.

8 Q Okay. Do you have those handcuffs that were taken
9 from her there?

10 A Yes, sir.

11 Q Did you seize those in evidence? Do you have them
12 here today?

13 A Yes, sir.

14 Q Let me just ask you this for the record: Are those
15 the handcuffs you seized from that incident there
16 involving Nadia Comaneci Braswell and Mr. Barnes, the
17 defendant in this case?

18 A Yes, sir.

19 MR. MAYE: Your Honor, I'm going to move to
20 admit these into evidence at this time as a State's
21 exhibit.

22 THE COURT: Mr. Tarr?

23 MR. TARR: No objection, Your Honor.

24 THE COURT: State's 74 is in evidence without
25 objection.

1 (WHEREUPON, State's Exhibit No. 74 was marked
2 for identification and received into evidence.)

3 BY MR. MAYE:

4 Q Investigator Tanksley, take a look at those. Those
5 are regular Smith & Weston handcuffs, aren't they?

6 A Yes, sir.

7 Q Other than maybe one other company, those are the
8 handcuffs that police use, aren't they?

9 A Yes, sir.

10 Q Investigator Tanksley, there was also seized at that
11 time, although not retained, a pair of brass knuckles; is
12 that correct?

13 A Yes, sir.

14 MR. MAYE: Okay. Thank you. Answer any
15 questions the defense has for you.

16 THE COURT: Thank you, Solicitor.

17 Mr. Tarr.

18 MR. TARR: I have no questions, Your Honor.

19 THE COURT: Thank you for being with us today,
20 Mr. Tanksley. You may step down.

21 Any objection to the officer being excused?

22 MR. TARR: No, Your Honor.

23 THE COURT: You may be excused.

24 MR. MAYE: Your Honor, the State would call
25 Dr. Joel Sexton.

1 THE CLERK: Raise your right hand.

2 DR. JOEL SEXTON, after being duly sworn,
3 testified as follows:

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

6 THE WITNESS: I'm Dr. Joel Steven Sexton. That
7 is S-E-X-T-O-N.

8 THE COURT: And, Mr. Tarr, you have no objection
9 to the doctor being qualified?

10 MR. TARR: No, Your Honor.

11 THE COURT: All right. Ladies and gentlemen,
12 you may recall, a person cannot give opinion testimony.
13 Normally when a person testifies, they must testify as to
14 what they either saw, heard, or sensed by smell or
15 something of that nature. However, there is an exception
16 when someone is qualified because of education or
17 experience in some particular art, science, or profession,
18 they are permitted to give their opinion in certain areas
19 if the Court qualifies them that way.

20 This witness, Dr. Joel Sexton, will be qualified
21 in the area of forensic pathology to give opinion
22 testimony in that regard. That does not mean that you
23 must accept the opinions, but it is evidence for you, the
24 jury, to use in any way you see fit.

25 Thank you.

1 Solicitor, you may continue.

2 DIRECT EXAMINATION

3 BY MR. MAYE:

4 Q Dr. Sexton, I'm going to hand you six photographs
5 there and ask you if you can look at each of the six of
6 them there and tell me if you recognize them.

7 A Yes. These are copies of the photographs that I
8 personally took at the time of autopsy.

9 Q Dr. Sexton, did you rely upon those six photographs
10 as part of your analysis in reaching an expert opinion in
11 this case?

12 A I used them for my testimony. I actually used the
13 body or the skeleton at the time of autopsy to arrive at
14 my opinion, but I needed these to refresh my memory from a
15 case that was done in 2001.

16 MR. MAYE: Your Honor, at this time I'm going to
17 offer these six photographs into evidence as State's
18 exhibits.

19 THE COURT: Mr. Tarr?

20 MR. TARR: I might have an objection to one of
21 them. We could probably approach the bench.

22 THE COURT: All right. Well, let's get them
23 marked. I believe they'd be 75, 80, 81, 82, 83 and 84,
24 and then see which one you have an objection to by number
25 and I'll take it up.

1 MR. HARTE: My numbers are different than yours,
2 so you might want to check with the court reporter.

3 THE COURT: I'm sorry?

4 MR. HARTE: My numbers are different than yours,
5 so you might want to check with the court reporter. The
6 numbers you just called out are different than mine.

7 THE COURT: I thought the last number was the
8 handcuffs at 74.

9 MR. HARTE: That's right. That's right. I
10 thought I heard you say something about eighties.

11 THE COURT: There's six pictures, isn't there?

12 MR. HARTE: Yes, sir.

13 THE COURT: Wouldn't that be 80?

14 MR. HARTE: I thought you said 84.

15 THE COURT: Oh, I'm sorry. Maybe I did,
16 Mr. Harte.

17 MR. HARTE: I'm sorry.

18 MR. MAYE: Beg the Court's indulgence, Your
19 Honor.

20 (Pause.)

21 THE COURT: And which number is that, Solicitor?

22 MR. MAYE: Your Honor, I have -- by agreement,
23 I'm going to withdraw State's 77. It's for ID at this
24 point in time. I'm going to withdraw it. It may be
25 duplicative of another, and I'm going to withdraw seeking

1 to introduce that.

2 THE COURT: Is that the one that you had an
3 objection to?

4 MR. TARR: Yes, Your Honor. There are two of
5 them that are almost identical.

6 THE COURT: State's 77's withdrawn.

7 As to 75, 76, 78, 79, and 80, any objections?

8 MR. TARR: No, Your Honor.

9 THE COURT: All right. Those are in evidence
10 without objection. State's 77's withdrawn by agreement.

11 (WHEREUPON, State's Exhibits Nos. 75, 76, 78,
12 79, 80 were marked for identification and received
13 into evidence.)

14 BY MR. MAYE:

15 Q Dr. Sexton, let me show you State's 75 and ask you if
16 those are photographs that assisted you in the dental
17 record evaluation in the process of your autopsy.

18 A Yes. These are photographs of the teeth, the upper
19 teeth, which we called the maxillary teeth, that were
20 taken at the time of the photograph and they were helpful
21 in making the identification.

22 Q Okay. Dr. Sexton, I'm going to show you State's
23 Exhibit 76. Can you tell the ladies and gentlemen of the
24 jury what that is and what was of significance in that
25 photograph in your autopsy that you performed on Sam