

 ORIGINAL

VOLUME V 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 V OF V
PAGES 2001-2367

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
JÉANETTE 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 Sturrrup?

2 A This is a photograph of the skull from the back and
3 from above and it shows the entrance gunshot wound in the
4 back of the upper part of the skull.

5 Q Thank you. Dr. Sexton, let me show you State's
6 Exhibit 79 and ask you what the significance of that was,
7 if you could observe missing teeth and what the
8 significance of that photograph was in your investigation?

9 A There are a number of things that this photograph
10 shows. It's of the right side of the skull. It shows the
11 portions of the skull that identifies as being that of a
12 male, the prominence of the brow ridge, the size of the
13 mastoid process, which is here just behind your ear. It
14 also shows some teeth that were missing or had caries in
15 them. There's also a fracture.

16 On the skull, when you look at it, there are
17 wiggly lines that are actually part of what we call
18 "sutures" that hold the bones of the skull together and
19 allow them to grow at that location so the whole skull can
20 grow larger.

21 In addition, in this case there's a straight
22 line that is here just above the right brow ridge that is
23 a fracture line that came from where the bullet impacted
24 on the inside of the skull on the opposite side. There is
25 a fracture here and the fracture line went all the way

1 across to the other side.

2 Q Thank you, Doctor. Doctor, let me show you State's
3 Exhibit No. 80 in this case and ask you the significance
4 of that as to the bullet and bullet fragments and what
5 that actually shows.

6 A This is a photograph of the x-ray that we took, the
7 x-ray being of the side of the skull, and the photograph
8 shows the flattened lead core of the bullet and it also
9 shows the fragmented copper jacket that was around the
10 lead core. It was a bullet that mushroomed or flattened
11 out and the jacket fragmented and separated. And it's
12 located here on this side of the skull very high on the
13 left side closer to the front of the skull. It's easily
14 seen on the on the photograph of the x-ray.

15 Q Would you mind coming down from the stand and just
16 pointing out where the bullet was within the skull where
17 you took that x-ray?

18 A As you can see from this photograph of the x-ray, and
19 here's just a small one-inch ruler with the case number on
20 it, you can see the bullet here in the skull on the right
21 side -- I'm sorry, on the left side of the skull with the
22 lead core and the fragment around it.

23 Again, here is a photograph of the x-ray of the
24 skull and the bullet projectile that flattened the lead
25 core, which is very white and very opaque, it's more dense

1 than the thin plastic -- I'm sorry, thin copper jacket
2 that's fragmented around it.

3 You can see one fracture here emanating in that
4 direction of it as well as one going back in this
5 direction.

6 Q Thank you, Doctor.

7 A You're welcome.

8 Q Dr. Sexton, let me show you State's Exhibit No. 78
9 and ask you: Are those all of the bones of Sam
10 Sturup, Jr., that you were provided at the time that you
11 conducted your autopsy?

12 A Yes. This is a photograph as we've laid the bones
13 out roughly in anatomic position to identify, one, that it
14 was only one skeleton, there were no duplication of bones.
15 I had to see how much was present and how much was
16 missing. So it is a representation of all the bones that
17 we were given of Sam Sturup, Jr.'s remains.

18 Q Dr. Sexton, does it also reflect damage that had been
19 done, some of which in some way impeded your ability to
20 give you the age and some of that information that you
21 testified to earlier?

22 A Yes, that's correct. There's the ends of the bones
23 that are the growth centers, particularly in a younger
24 person, had either fallen off or been gnawed away after
25 the body became skeletonized by animals. And you can see

1 that particularly in the lower bones and you can see some
2 of it in the left pelvic bone because only a portion of it
3 remained.

4 Q Doctor, it's been so long since I've had biology,
5 obviously, there are a lot of bones that were missing from
6 an intact skeleton as opposed to what you were provided;
7 is that correct?

8 A There were a significant amount that were present.
9 Both lower legs, both of the bones in the two lower legs
10 were present. The thigh bone on the left side was
11 present, and part of the pelvic bone. We were missing
12 only the thigh bone and pelvic bone on the right side, a
13 few of the ribs and some of the vertebral bodies. So we
14 had more than half the remains present.

15 Q Dr. Sexton, if you would just publish that photograph
16 to the jury, if you would, and show them your findings.

17 A As you see in this case with this end of the jury,
18 here are the two lower pair of leg bones. Here is the
19 upper thigh bone, and the ends of them are somewhat ragged
20 instead of rounded as they normally are.

21 Here are the rib bones that were present and the
22 vertebral bones that were present.

23 A portion of the left pelvic bone was present,
24 the left shoulder bone or scapula was present, as well as
25 the jaw bone and the skull.

1 Over here on this side you can see the two pair
2 of lower leg bones that were present, the end being
3 somewhat ragged, a portion of the left pelvic bone, a
4 significant number of ribs, about a third of the vertebral
5 bodies, the left shoulder bone, the scapula, and then the
6 jaw bone and the skull were present as well right there.

7 MR. MAYE: Thank you, Doctor. Please answer any
8 questions the defense might have for you.

9 THE COURT: Mr. Tarr.

10 MR. TARR: I have no questions, Your Honor.

11 THE COURT: Thank you very much, Doctor. You
12 may step down.

13 MR. MAYE: Any objection to Dr. Sexton being
14 released?

15 THE COURT: May the witness be excused? Any
16 objections?

17 MR. TARR: No, Your Honor.

18 THE COURT: You may be excused. Thank you for
19 being with us, Doctor.

20 THE WITNESS: Thank you, Your Honor.

21 MR. MYERS: We'd call Ms. Shirley Sturup.

22 THE COURT: All right. Ms. Sturup, if you'd
23 come around, please.

24 All right. Madam Clerk.

25 THE CLERK: Raise your right hand.

1 SHIRLEY STURRUP, after being duly sworn,
2 testified as follows:

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

5 THE JUROR: Shirley SturruP, S-T-U-R-R-U-P.

6 DIRECT EXAMINATION

7 BY MR. MYERS:

8 Q Ms. SturruP, you're going to be our last witness, and
9 I want you to talk to me a little bit about your son. Did
10 I ask you to give us some photographs of him?

11 A Yes, sir.

12 Q Are those some that you gave us?

13 A Yes, sir.

14 MR. MYERS: Your Honor, we're going to offer
15 these into evidence.

16 THE COURT: Mr. Tarr?

17 MR. TARR: No objection, Your Honor.

18 THE COURT: How many are there, Solicitor?

19 MR. MYERS: Five.

20 THE COURT: State's 81, 82, 83, 84, and 85 are
21 in evidence without objection.

22 (WHEREUPON, State's Exhibits Nos. 81, 82, 83,
23 84, 85 were marked for identification and received
24 into evidence.)

25 BY MR. MYERS:

- 1 Q State's 81, Mrs. Sturrupe?
- 2 A Yes, sir.
- 3 Q About how old was he when that picture was taken?
- 4 A That was his one-year birthday.
- 5 Q Now, 82, it's him and someone else in that
- 6 photograph?
- 7 A Him and my daughter, Stephanie.
- 8 Q Is Stephanie here?
- 9 A Stephanie's here.
- 10 Q She's seated right out here?
- 11 A Yes, sir.
- 12 Q Is Stephanie older?
- 13 A Yes, sir.
- 14 Q And about how old would he be for that?
- 15 A I believe he was about seven.
- 16 Q Here's a Science Fair Award, No. 83?
- 17 A Yes, sir.
- 18 Q What was that about?
- 19 A That was the last science project that Samuel did at
- 20 school. He built a boom box.
- 21 Q And he got an award for it?
- 22 A He got an award for that in Sandersville, Georgia,
- 23 third place.
- 24 Q Eighty-four?
- 25 A Yes, sir.

1 Q And could you describe that one to the jury?

2 A That was a middle school photo. Samuel was about 13.

3 Q And then the last one, 85?

4 A The last one, this was during my daughter's
5 graduation from high school in June of 2000 -- May of
6 2000. Samuel was 15.

7 Q Do you have any more recent photographs of him other
8 than this one?

9 A No, I don't.

10 Q That's the last photograph?

11 A That's the last one.

12 Q Now, Mrs. Sturrup, how much agony did you go through
13 trying to find your son, not knowing where he was?

14 A I went through a lot, wondering, not knowing if my
15 son was dead or alive, not knowing where he was, asking
16 people, you know, going around the neighborhood. I had
17 gone to Steven a couple of times. Just not knowing. Just
18 not knowing, you know, you can't sleep, you're walking the
19 floor. You know, when you're driving and I see young men,
20 you know, and he wore white T-shirts a lot, and I'm
21 looking, you know, I'm looking. And it's just -- it's
22 hard to describe, really.

23 Q What about when you got the call from the Edgefield
24 Sheriff's Department?

25 A When I got that call I said, "No, not my son. That's

1 not my son. It can't be my son. How could that be? Who
2 would do something like that?"

3 Q Were you all able to have a service for him?

4 A Yes, sir, we did.

5 Q That was over at your church?

6 A At Beulah Grove Baptist Church on December 7th,
7 2001 -- I'm sorry, 2001 -- December 7th, 2001, at Beulah
8 Grove, yes, sir.

9 Q Ms. Sturup, now that you have lived through this,
10 what effect does this have on you and your daughter?

11 A It has changed my life, and in every way. Samuel was
12 a part of me and when Samuel is gone, you know, part of me
13 is gone. That was my flesh and blood. No one had any
14 right to take that away from me. It has affected me
15 emotionally. It has affected me physically, mentally.
16 His smile, his sense of humor, just a touch. He liked to
17 hug, big hugs, I miss all of that. I miss all of it.
18 Uh-huh.

19 MR. MYERS: Thank you, ma'am. Answer any
20 questions the defense may have.

21 THE COURT: Thank you, Solicitor.

22 Mr. Tarr.

23 MR. TARR: Ms. Sturup, I have no questions.

24 THE COURT: Thank you very much, Mr. Tarr.

25 Ms. Sturup, you may step down.

1 MR. MYERS: Your Honor, the only other thing the
2 State has is we move to incorporate all the evidence from
3 the guilt phase, all the testimony, everything into the
4 penalty phase at this time.

5 THE COURT: All right. Mr. Tarr.

6 MR. TARR: Just subject to previous objections
7 we may have had to evidence that was admitted over our
8 objection.

9 THE COURT: Certainly.

10 That motion is granted, Solicitor, subject to my
11 previous trial rulings as to any items of evidence that I
12 did not allow into evidence or any objections that they
13 made that I did allow into evidence over defense
14 objections.

15 Anything further, Solicitor?

16 MR. MYERS: The State rests its case in chief.

17 THE COURT: All right. Thank you. Thank you
18 very much, Solicitor.

19 Mr. Foreman, ladies and gentlemen of the jury,
20 you've now heard all the evidence and all the testimony
21 that you're going to hear from the State in its case in
22 chief in this sentencing phase of this trial.

23 I think now would be the appropriate time for us
24 to take our luncheon recess.

25 Again, I would remind you, during this recess

1 you're not to discuss this case with anyone. That
2 includes your fellow jurors; your lunch mates, which will
3 be your fellow jurors; family; friends; or anyone else.
4 If anyone tries to talk with you about the case, please
5 let me know immediately.

6 Do not expose yourself to any news accounts,
7 whether written or televised or radio.

8 Please remember to keep an open mind. Do not
9 begin your deliberations until you've heard all the
10 evidence, all the testimony in the case, extenuation,
11 aggravation, mitigation, closing arguments by the parties,
12 and the instructions on the law by the Court.

13 With that being said, if you would please leave
14 your notes upside down on your chair, they'll be secured
15 over the luncheon hour.

16 We'll say 2:30. But I assure you we won't start
17 without you. So I hope you all have a great lunch.

18 Thank you very much.

19 (The jury left open court at approximately 1:20
20 p.m.)

21 THE COURT: All right then. Mr. Tarr, I assume
22 you'll be ready to proceed with the defense upon our
23 return. You may have certain motions to make, and I'll be
24 glad to hear those when I return. Do you have any
25 witnesses?

1 MR. TARR: Yes, Your Honor. I just wanted some
2 guidance from the Court. We've got two that are here, one
3 that I just said probably would need to be here by 3, and
4 then we've got one more that would be coming from the
5 Greenville area, it would be our last witness, and I'm
6 just wondering how late we're going to work. It could
7 potentially be 7 or 8 o'clock. We wanted to do all four
8 of these, but not starting until 2:30.

9 THE COURT: My preference is to complete the
10 testimony today. I don't have to make a closing argument.
11 I, of course, have to do the charges, but I'm not going to
12 rush you either, Mr. Tarr. If you think you can get the
13 testimony in today, that's fine. If you want to wait on
14 that final witness in the morning, I'll do that, too. I
15 do not mind working late.

16 MR. TARR: I don't know that I -- I really don't
17 have a preference. I'll be glad to get it all in if we
18 can. But my fourth witness, Dr. David Price, he's pretty
19 adamant that he doesn't want his testimony broken up.

20 THE COURT: Well, it won't be broken up.

21 MR. TARR: If I had him come down here from
22 Greenville and the first three went long, we're talking
23 about really -- I just can't guess what's going to happen.

24 THE COURT: Well, just have him here.

25 MR. TARR: Thank you, Your Honor.

1 THE COURT: Why don't you just have him here and
2 we'll try to get through the testimony today.

3 MR. TARR: Thank you, Your Honor.

4 THE COURT: All right. Court will be in recess
5 until 2:30. Thank you very much.

6 (A lunch break was taken.)

7 (WHEREUPON, Defendant's Exhibits Nos. 2, 3, 4
8 were marked for identification only.)

9 THE COURT: All right. Mr. Tarr, anything
10 before we bring in our jury?

11 MR. TARR: Yes, Your Honor. At this time the
12 defense would move for a motion for a directed verdict of
13 life. With the evidence presented in the light most
14 favorable to the State, there's insufficient support of a
15 sentence of death and we'd move for a directed verdict of
16 life; that the State has failed to prove either
17 aggravating factors, and specifically, we'd have an
18 objection to torture. It's unsupported by the record and
19 also just in general being overbroad and void for its
20 vagueness. And we would renew all motions and objections
21 made previously.

22 THE COURT: All right. Solicitor.

23 MR. MYERS: Your Honor, we submit that evidence
24 has been presented on the aggravating circumstances and
25 it's admissible and the jury can give whatever weight they

1 deem appropriate to it.

2 THE COURT: All right. And I think there's a
3 line of cases, both State versus Franklin and perhaps
4 Shuler out of Orangeburg and other cases that give the
5 standard. I would certainly deny your motion as to a
6 murder while committed in the commission of a kidnapping.

7 And, of course, as I reviewed the charge on
8 physical torture as a statutory aggravating circumstance,
9 physical torture occurs when the victim is subjected to
10 serious physical abuse before death.

11 Physical torture is the intentional infliction
12 of serious, vile, horrible, or inhumane abuse upon the
13 body of another before death. The instantaneous death of
14 the victim does not constitute torture.

15 Physical torture may include the malicious
16 infliction of bodily harm to another by depriving him of a
17 member of his body, or by rendering a member of his body
18 useless, or by seriously disfiguring his body, or a member
19 of his body, or the intentional and unmerciful prolonging
20 of severe pain and abuse upon the body, or the intentional
21 and unmerciful infliction of serious and extensive
22 physical pain and abuse to the body of another.

23 The State must prove the existence of this
24 statutory aggravating circumstance beyond a reasonable
25 doubt.

1 I think given the testimony both in the guilt
2 phase, which is now incorporated as part of the penalty
3 phase, that Mr. Barnes directed others to fight and
4 inflict physical force upon Mr. Sturup, that Mr. Barnes
5 himself inflicted physical injuries upon Mr. Sturup, and
6 that this occurred over a period of I would say hours,
7 because the testimony as I recall and the earliest time I
8 recall is 10 p.m. at night and sometime after midnight and
9 his arrival in Edgefield County, I would deny your motion.
10 I think at this stage it's a question for the fact
11 finders.

12 Any other motions, Mr. Tarr?

13 MR. TARR: No, Your Honor. I have been informed
14 that the State wishes to have our defense expert
15 sequestered, and our position is that they're not common
16 fact witnesses, they're experts. They're not going to be
17 testifying about something they each perceived at the same
18 time and that they actually may need to hear the testimony
19 of other witnesses so that they may comment upon that
20 testimony.

21 THE COURT: All right. Solicitor?

22 MR. MYERS: Your Honor, they wanted all of ours
23 sequestered, so I want all theirs sequestered.

24 THE COURT: Well, they're experts. I'll allow
25 them to remain.

1 MR. TARR: Thank you, Your Honor.

2 THE COURT: Anything further?

3 MR. TARR: I do have one expert that's here. I
4 would like to make sure they don't want to be in here
5 before we start.

6 THE COURT: Certainly. You may do that.

7 MR. TARR: Thank you.

8 (Pause.)

9 THE COURT: All right. Are you ready, Mr. Tarr?

10 MR. TARR: Yes, Your Honor.

11 THE COURT: Anything further, Solicitor?

12 MR. MYERS: No, sir.

13 THE COURT: All right. Bring us our jury,
14 please.

15 MR. TARR: Your Honor, may I approach?

16 (A bench conference was held with the judge and
17 attorneys.)

18 THE COURT: All right. Thank you, Mr. Tarr.
19 Who is your first witness?

20 MR. TARR: Dr. Marti Loring.

21 (The jury came into open court at approximately
22 2:35 p.m.)

23 THE COURT: All right. Welcome back, ladies and
24 gentlemen. I hope you all had a pleasant lunch.

25 As you recall before lunch, the State rested its

1 case in chief in the trial of this second or sentencing
2 phase. The defendant may now present evidence in
3 extenuation or mitigation. Please give the parties your
4 complete and undivided attention.

5 Do you have your notes? Does everybody have
6 their notes?

7 All right. With that being said, Mr. Tarr, you
8 may call your first witness.

9 MR. TARR: I call Dr. Marti Loring.

10 THE COURT: All right. Doctor, if you'd come
11 around and be sworn for us, please.

12 THE CLERK: Raise your right hand, please.

13 DR. MARTI LORING, after being duly sworn,
14 testified as follows:

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

17 THE WITNESS: Dr. Marti Loring, L-O-R-I-N-G.

18 DIRECT EXAMINATION

19 BY MR. TARR:

20 Q Dr. Loring, what is your educational background?

21 A I went to undergraduate college at Vassar College up
22 in Poughkeepsie, New York. After that I got a degree in
23 social work from Bryn Mawr College just outside of
24 Philadelphia. I was out in the field working for a number
25 of years and then I got my Ph.D. in sociology with a major

1 in social psychology at Emory University in Atlanta,
2 Georgia.

3 Q And what is your profession?

4 A I'm currently a social worker and a sociologist, a
5 clinical sociologist.

6 Q And are you licensed or certified in any way?

7 A Yes, sir. I'm licensed as a social worker in the
8 state of Georgia and I'm certified as a clinical
9 sociologist across the country in the United States.

10 Q Could you describe some of your professional work for
11 the jury?

12 A Yes, sir. I started off in Memphis, Tennessee
13 working in a family service agency where I worked
14 primarily with children who had resultant medical problems
15 and kind of problems growing up.

16 When I came to Atlanta, I worked in an agency,
17 The Bridge Family Center, that dealt with men who battered
18 and woman who were abused by men as well as children who
19 were abused.

20 I began to specialize in trauma and I have
21 worked since then in agencies where trauma was the main
22 issue, people who were traumatized or when traumatic
23 events occurred in a community, to help law-enforcement
24 officials, victims, and others deal with the trauma.

25 And I'm currently director of the Center for

1 Mental Health and Community Development in Atlanta,
2 Georgia, where we do research, we educate professionals
3 across the country in various trauma and abuse and child
4 development, and do evaluations, sometimes people going to
5 court, sometimes with people who have problems in the area
6 of trauma.

7 Q Have you written or been published professionally?

8 A Yes, sir.

9 Q Can you describe those publications for the jury?

10 A Yes, sir. I have written two books about emotional
11 abuse and trauma, physical abuse as well, and either
12 authored or co-authored with others a number of articles,
13 mainly which deal with trauma.

14 Q Okay. And have you edited any journals?

15 A Yes, sir.

16 Q Could you please describe those?

17 A I'm one of the co-editors of a journal dealing with
18 trauma across the United States and elsewhere in the world
19 and I also had the opportunity to edit articles that go
20 into the journal.

21 Q And could you describe your areas of expertise for
22 the jury?

23 A Yes, sir. That would be trauma, abuse, and issues
24 relating to child and adolescent development.

25 Q Okay. And what states have you been qualified in

1 courts to testify as an expert?

2 A Georgia, South Carolina, Florida, New Hampshire.

3 Those are the primary ones that come to me, and Arkansas.

4 Q Okay. And about how many times have you been
5 qualified as an expert to testify?

6 A Over a hundred times.

7 MR. TARR: Your Honor, at this time we'd offer
8 Dr. Loring as an expert in trauma, abuse, and child
9 development.

10 MR. MYERS: No objection.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen of the jury, as you recall, normally a person
13 cannot give opinion testimony. Normally when a person
14 testifies, they must testify as to what they either saw,
15 heard, or sensed by smell or something of that nature.

16 However, there is an exception when someone is
17 qualified because of their education or experience in a
18 particular field, art, profession, or science. They're
19 permitted to give their opinions in certain areas if the
20 Court qualifies them in that way.

21 This witness, Dr. Marti Loring, will be
22 qualified in the following areas as I understand it:
23 Trauma, abuse, and childhood development; is that correct,
24 Mr. Tarr?

25 MR. TARR: Yes, Your Honor.

DR. MARTI LORING - Direct Exam by Mr. Tarr

1935

1 THE COURT: To give opinion testimony in that
2 area. That does not mean that you must accept the
3 opinion, but it is evidence for you, the jury, to use in
4 any way you see fit.

5 You may continue, Mr. Tarr.

6 MR. TARR: Thank you, Your Honor.

7 BY MR. TARR:

8 Q Dr. Loring, have you interviewed Steven Barnes?

9 A Yes, sir, I have.

10 Q And for how long and how many times have you
11 interviewed him?

12 A I interviewed him in May of '09, in July of '09, and
13 in October of 2010, for approximately two-and-a-half hours
14 each, so about 7.5 hours total.

15 Q And what else did you do to explore his background?

16 A I reviewed a large number of records, including his
17 mental health records, his school records, records when he
18 was in prison, mental health records there as well.

19 I reviewed some records of his family. When
20 there was a divorce in the family, I reviewed those
21 records, a large number of records.

22 Q Was there anything noteworthy or unique about this
23 case in trying to gather information?

24 A Yes, sir, there certainly was. In trying to
25 interview family to get information about his growing up,

1 things that happened to him growing up was almost
2 impossible. I had to be very assertive in getting to talk
3 with his mother. Even then I was not able to talk as long
4 or get as much information as I wanted. I only spoke
5 briefly with his stepfather, and I was not allowed or
6 given enough information to contact any other family
7 member, any of them. That was very unusual.

8 Q And is it your understanding that a counselor has
9 contacted the defense team recently asking that we not
10 attempt to contact Tammy anymore, Steven's mother?

11 A Yes, sir. I thought maybe it would be helpful if I
12 talked with his mother Tammy's therapist, his counselor,
13 her counselor, so I asked that, and at first I was told I
14 could do that. I thought that might shed some more light
15 for me on some things, but then a letter was received that
16 was shared with me that said that the counselor was not
17 going to talk with us and not to disturb her any further.

18 Q Okay. Did you do anything else to try to reach other
19 family members?

20 A I tried to call on the phone his brother, William,
21 and his stepfather. I wasn't able to reach either of the
22 men. Just recently I was able to speak with the
23 stepfather. And I asked Mr. Barnes and his mother if they
24 could please provide me with names, phone numbers,
25 addresses, anything, and was not afforded that

DR. MARTI LORING - Direct Exam by Mr. Tarr

1937

1 opportunity.

2 Q Now, are you aware whether or not they have a large
3 family with a lot of potential people to talk to if you
4 had their contact information?

5 A Yes, sir. I'm aware of the answer to that question,
6 and the answer is it does appear to be a rather large
7 family, especially on the mother, Tammy's side.

8 Q Okay. We'll get into that later. But in terms of
9 your other cases you've worked on, have you experienced
10 this type of problem before, getting information from
11 family members?

12 A No, I've never experienced anything like this before.
13 And I've been invited into homes and there may be family
14 secrets which take awhile to come out, but people are
15 usually quite willing to talk to me, express as much as
16 they can, and then over time even share things that are
17 private and personal. But I've never talked with so few
18 people or tried so hard to get in to see a mother. I've
19 never experienced that before.

20 Q Do family members usually try to help you save their
21 family member's life if they're on trial for their life?

22 MR. MYERS: Objection.

23 THE COURT: Yes, I would sustain that objection.
24 I think if you rephrase the question properly.

25 BY MR. TARR:

1 Q Do you usually get cooperation from family members to
2 assist you in your work in helping the defense team in a
3 capital case?

4 A Yes, sir.

5 Q Now, in terms of this case, since you didn't have a
6 lot to work with with the family, what kinds of records
7 did you review?

8 A A lot of mental health records of his treatment in
9 the past, certainly his school records describing his
10 accomplishments, his testing, his difficulties. SCDC
11 prison records, especially describing mental health
12 treatment and other kinds of things in prison. Those are
13 some of the main things that I reviewed.

14 Q Okay. And in terms of your contact with his mother,
15 could you describe to the jury how long you were able to
16 meet with her, and how many times, and what she was able
17 to tell you, or if she was able to give you information?

18 A I met with his mother two times, both times I went
19 unannounced because when I called, I was told I couldn't
20 come, so I went and begged for an interview and was
21 allowed -- I went to the back door and knocked. I was
22 allowed to come in both times, though she was very open
23 about being unhappy about my being there.

24 I wasn't allowed to take notes. She felt
25 suspicious if I took notes, so I just wrote important

DR. MARTI LORING - Direct Exam by Mr. Tarr

1939

1 things down so I wouldn't forget on my hands and all. And
2 I was able to get some information that I needed, not
3 nearly enough, just a small amount of information that was
4 helpful, but again not nearly the amount that I needed.

5 Q Based on the records you were able to review in this
6 case, would you have anticipated being able to get a lot
7 more from Ms. Harris, information from her to support the
8 records that you reviewed?

9 A I would have guessed with the large amount of mental
10 health treatment that he'd received in the school records
11 and her having taken him to get some of the mental health
12 treatment -- certainly not all of it, once in a while -- I
13 would have thought that I would have gotten more
14 information from her, and I'm really used to people being
15 willing to talk with me, so it was a bit of a surprise to
16 meet with the reception that I met with.

17 Q Okay. In preparation for your testimony and in order
18 to help the jury understand your testimony, did you
19 prepare or have prepared several charts to go over with
20 the jury?

21 A Yes, sir.

22 Q Okay. I want to show you three of these and ask you
23 if you can identify them.

24 The first one, this is Defense Exhibit 2 for ID
25 and ask if you can just identify what this is.

1 A Yes, sir. That is a genogram of family tree, a
2 partial genogram of family tree.

3 Q And did you prepare this based on your review of the
4 records in this case and your discussions with Steven and
5 your limited discussions with his mother?

6 A Yes, sir, I did.

7 Q Okay. And let me ask you this: What is the purpose
8 of the genogram?

9 A The purpose of the genogram of family tree is to show
10 the different people involved in a person's life and how
11 they interacted with that person. So you might have like
12 a circle for a woman or a square for a man on the chart
13 and then there might be a line going from that person
14 directly to -- for example, Steven Barnes -- and that line
15 may represent abuse, for example, or trauma.

16 And then it's also meant to show the whole
17 picture of the family. So a certain color like yellow,
18 for example, on one of the family members could indicate
19 that they have a drug or alcohol problem, so you can get a
20 view of the numbers of people in the family who might have
21 had drug or alcohol problems, since we find that tends to
22 run in families.

23 And then the third thing is that sometimes there
24 are stressors in a person's life that we may include, like
25 in a box or a note on the genogram to show how a stressor

DR. MARTI LORING - Direct Exam by Mr. Tarr

1941

1 could have affected that person, too, and there's a line
2 from whatever the stressor is to the individual, like
3 Steven Barnes.

4 MR. TARR: Your Honor, at this time we'd offer
5 into evidence Defense Exhibit 2.

6 THE COURT: All right. Solicitor?

7 MR. MYERS: No objection.

8 THE COURT: Defense 2 is in evidence without
9 objection.

10 (WHEREUPON, Defendant's Exhibit No. 2 was
11 admitted into evidence.)

12 MR. TARR: Your Honor, at this time I want to
13 ask if the witness would be able to step down from the
14 jury box to explain this chart to the jury.

15 THE COURT: Yes, sir, certainly. You may step
16 down.

17 THE WITNESS: Thank you, Your Honor.

18 BY MR. TARR:

19 Q Can you please explain Steve Barnes' genogram for the
20 jury?

21 THE COURT: Do you need that thing with three
22 legs to it? I can't recall the name of it right now.

23 THE WITNESS: An easel.

24 MR. TARR: I think she'd --

25 THE COURT: All right. She's all right with

1 that? Okay.

2 MR. TARR: Would you rather have an easel or
3 would you rather hold it?

4 THE WITNESS: I'd be very happy holding it if
5 it's okay with Your Honor.

6 THE COURT: Is it better to hold it?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. Yes, ma'am, you may
9 continue.

10 THE WITNESS: May I ask the jury if they can see
11 it okay?

12 THE COURT: Certainly.

13 MR. TARR: Could you speak up? The court
14 reporter's having trouble hearing you.

15 THE WITNESS: I'm so sorry. Is this better?

16 THE COURT REPORTER: Yes, ma'am.

17 THE WITNESS: What you see across the top, I put
18 "A partial genogram," because I had so few people to talk
19 with that, in all honesty, I had to say "partial," because
20 I didn't have the same amount of information I'd normally
21 have.

22 And what you have going across the top is --
23 well, first, you have the grandmother and the grandfather
24 on Tammy, the mother's side. Of course there would be
25 more if I had been able to get more information. And then

DR. MARTI LORING - Direct Exam by Mr. Tarr

1943

1 you have all of these aunts and uncles of Steven Barnes
2 going across like this.

3 The reason you see an X there is deceased, as is
4 the grandmother and grandfather. So as each of these
5 comes down this is their children, the grandmother's and
6 the grandfather's kids.

7 So you have X where it's deceased and the
8 squares are for the men and the circles are for the woman.

9 And if you notice, for example, that these two
10 are yellow. And if you're kind enough to look down here
11 in the key, the yellow indicates substance abuse and
12 addiction to various kinds of drugs. And as you go across
13 you'll see some are yellow indicating the addiction, even
14 that big yellow is addiction. And then some have a little
15 dot in the middle. And in the key it explains these are
16 people who have been noted for being violent. So his
17 family would have been violent, was violent, as was June,
18 and there's yet another down there, a name "Phillip" who's
19 violent.

20 And then you see the red dots. That red
21 indicates, as you can see here, mental illness.

22 Now, in terms of how all this came down to
23 Steven Barnes, here is Steven right here. You'll notice
24 there's substance abuse and addiction, which is the
25 yellow. There is a red with various mental health

1 problems and the dot for violence. And then as you go
2 back up, you notice that Sammy's son -- I beg your pardon,
3 Sammy's daughter, I wasn't even allowed to have her name,
4 so I put down there "Sammy's daughter." I wasn't given
5 her name. You notice that she has the dot noted for
6 violence and that squiggly blue line goes down to Steven,
7 and you'll notice that that squiggly blue line indicates
8 physical abuse, that she was physically abusive. She
9 bullied them and hit Steven.

10 June was also physically abusive, hitting on
11 Steven.

12 And then as you go over you'll see that there
13 is -- let me pull this up just a speck -- there is David's
14 son -- again, please excuse me, I wasn't allowed to have
15 his name -- but David's son repeatedly choked Steven.

16 And then you have Phillip up here, Uncle
17 Phillip, and you notice that that line is the double blue
18 squiggly line. That is sexual abuse. He pressed himself
19 against Steven and beat on Steven as well. He was
20 physically -- his genitals were against Steven's body.

21 So there was a lot of abuse toward the uncles
22 and the aunts and the cousins towards Steven. And one of
23 the reasons that ~~that's important is because Steven spent~~
24 a lot of time with them and his mother, Tammy, would
25 abandon him for up to a year at a time and that's where

DR. MARTI LORING - Direct Exam by Mr. Tarr

1945

1 Steven would be staying, with his grandparents where these
2 aunts and uncles and cousins stayed for periods of time as
3 well. So it was more than an occasional occurrence, that
4 kind of abuse.

5 Now, looking down the chart, you'll see that the
6 squares I mentioned earlier, which are meant to be the
7 stressors, the things that were stressful or traumatic for
8 him, and one was the abandonment by his mother for these
9 long periods of time where he was abused. I believe he
10 told me he felt like a football who was kind of being
11 kicked around by another of them. And there was often
12 insufficient food. They would make do with what cold
13 cereal was there.

14 In the records, we find Steven reportedly raped
15 by a cousin and an uncle that the family refused to
16 identify or allow me to interview. We'll see in a few
17 minutes on the timeline some of the events that occurred
18 to Steven, but the one is that when he was very young,
19 around six, he was sexually molested by a female
20 baby-sitter whose daughter he was very fond of. And
21 you'll notice the blue stands for trauma.

22 Now, this daughter of the female baby-sitter who
23 molested Steven, and here you see the double blue lines
24 which indicates the sexual abuse, the two children of the
25 baby-sitter were caught in a fire that was reportedly set

1 by accident by another of the children in the family and
2 Steven watched this fire, unable to help, although one of
3 the two girls who were killed was very dear to him. So
4 you have this dotted line coming down and you'll see in
5 the lines that that dotted line indicates trauma, and he
6 did not get over that.

7 And now you see that all of these lines are
8 going to Steven. You see that in terms of additional
9 physical abuse, that Steven was physically abused by his
10 biological father, Nathaniel, by his mother, Tammy, who
11 would go into rages and would hit him with anything she
12 could get her hands on, including with her fists, from a
13 very young age onward.

14 And then the stepfather, Joseph Harris, there's
15 a line going from him to Steven, too. There was a mix of
16 abuse, and that little squiggly line that is blue is
17 emotional abuse. Joseph Harris would force Steven to say
18 who his mother had been talking to, any man she would have
19 looked at, and then he would beat his mother, Tammy, in
20 front of Steven, taking what he called "evidence" that
21 Steven had seen her with other people, you know, kind of
22 talking to them, and he would beat Tammy and he would
23 shoot the gun at her. So Steven was present sometimes
24 when the gun was shot at his mother.

25 I should certainly not leave out that Steven --

DR. MARTI LORING - Direct Exam by Mr. Tarr

1947

1 that Tammy was raped by Nathaniel at 13 years old and gave
2 birth to Steven thereafter and Nathaniel beat Tammy on and
3 around her stomach while she was pregnant with Steven.

4 And I think as I quickly look this over that
5 that captures what I was able to get from records or from
6 Steven, who did not want to talk about all this much, and
7 from Tammy, who certainly did not want to talk about it.

8 BY MR. TARR:

9 Q Dr. Loring, do you have information for the jury as
10 to the age of Joseph Harris, the stepfather of Steven, or
11 how much older he was than Tammy?

12 A Yes, sir. I believe he was approximately 30 years
13 old, or in his early thirties when he met Tammy, who was
14 12 years old and out on the street, to groom and marry
15 her.

16 Q So when you said she was 13 when Steven was born, but
17 she was actually 12 when he was conceived?

18 A That's correct, sir.

19 Q Okay. And that's when Joseph, a man who was much
20 older than her, took her in?

21 A Yes, sir.

22 Q And that is who Steven knew as a father growing up?

23 A Through his life, yes, sir.

24 MR. TARR: Thank you.

25 Your Honor, at this time I believe the Solicitor

1 indicated he did not have an objection to these other two
2 exhibits?

3 MR. MYERS: That's correct, Your Honor. I don't
4 object to anything they put on.

5 THE COURT: And what numbers are they?

6 MR. TARR: These would be Defense 3 and 4.

7 THE COURT: All right. Defense 3 and 4 is in
8 evidence without objection.

9 MR. TARR: Thank you.

10 (WHEREUPON, Defendant's Exhibits Nos. 3 and 4
11 were admitted into evidence.)

12 BY MR. TARR:

13 Q Now, I'm going to ask you what a "life timeline" is
14 used for.

15 A Should I stay standing?

16 Q You'll probably just have to get right back down
17 again.

18 A Okay. A "life timeline" is starting from the very
19 beginning of a person's life and trying to follow through
20 all the significant events during that life. It doesn't
21 necessarily go into great depth, which is why there's a
22 third chart about one important area, but it tries to
23 touch upon each area that's important.

24 Am I talking loud enough?

25 Q And did you prepare a time line in this case?

DR. MARTI LORING - Direct Exam by Mr. Tarr

1949

1 A Yes, sir, I did.

2 Q Okay. And does Defense Exhibit 3 appear to be that
3 timeline?

4 A Yes, sir, it is.

5 Q Okay. Would you like to please describe this
6 timeline for the jury and explain what it means.

7 A This is a timeline. It doesn't say partial timeline
8 because the records were pretty helpful, but I must add
9 once again, I didn't have the benefit of family
10 cooperation to speak of.

11 Steven was conceived in '78, and 13-year-old
12 Tammy was raped by his father, which is Nathaniel, his
13 biological father. I would add that the rape very likely
14 occurred just before she was 13. And then she met and was
15 taken in by Joseph Harris when she was 13.

16 And then in 1979, through his childhood, he was
17 physically abandoned by his mom for up to a year, stayed
18 with the grandmother with 15 other children there,
19 inadequate food and supervision, physically bullied by one
20 cousin and repeatedly choked by a second cousin.

21 1980 to '95, he witnessed his stepfather, Joe
22 Harris, beat, rape, kick, and shoot at his mother.

23 In 1984, he was sexually abused by the female
24 baby-sitter, and there are other reports of sexual abuse
25 by a cousin and an uncle in the records.

1 In '84 to '93, Steven spent time in
2 learning-disabled classes. He failed the standardized
3 tests in reading and math, so he was not at any point able
4 to master reading and had serious problems in math and was
5 often in these classes for learning-disabled people.

6 In '89, 1989, Steven was hospitalized at Eastern
7 State Hospital in Virginia and diagnosed with depressive
8 disorder, adjustment disorder, a psychotic disorder, and
9 oppositional defiant disorder. He heard voices telling
10 him to kill himself. He was -- all of this was short
11 term. He was hospitalized, especially when he was
12 threatening to kill himself. These diagnoses were made,
13 he was given medication, brief treatment, and then he was
14 released.

15 He was, not to my knowledge with the records
16 that I saw or the interviews I had with his mom or Steven
17 Barnes, he was not given long-term educational and
18 psychiatric treatment as one would think under these
19 conditions would have been given.

20 In 1992, Steve was hospitalized at Eastern State
21 Hospital and was diagnosed with a major depression. He
22 heard voices saying to kill himself by cutting himself.

23 In 1992 through 1994, he failed the eighth grade
24 classes, attempted suicide by cutting his wrists, and then
25 overdosed on drugs.

1 In 1997, Steven was treated at University
2 Hospital in Augusta due to his threats to harm himself.
3 In the records, his mother said that he held a gun to his
4 head, demonstrated anxiety, and the records said that he
5 also appeared depressed and self-destructive tendencies
6 were present, he had attention deficits, was impulsive,
7 couldn't keep his attention centered, had aggression and
8 had post-traumatic stress symptoms relating to the
9 childhood physical abuse like, you know, flashbacks and
10 high anxiety, that kind of thing. And he was referred to
11 Georgia Regional Hospital where he was diagnosed as
12 psychotic and began to receive Social Security Disability.

13 In 1997 to 2010, I saw the records of his
14 incarceration and his exhibited aggression. And then with
15 effort he in 2010 completed the Work Smart program, which
16 is more focused on his learning skills, his work
17 abilities.

18 Q So it's fairly recently in his incarceration pretrial
19 that you've seen some type of positive characteristics in
20 Steven?

21 A Yes, sir.

22 Q Okay. Now, could you explain for the jury what a
23 mental illness chart is?

24 A A mental illness chart is an effort to show the
25 different times at which someone reaches out for help with

1 some form of mental illness, as well as to show what was
2 thought of it by the diagnosing mental health
3 professionals, doctors, psychologists, social workers,
4 nurses. So it's an effort to look at the whole
5 progression during a person's life. How often did they
6 seek help? Did they get the kind of help they needed?
7 What were the symptoms that led them to reach out for help
8 or for someone to reach out for help for them?

9 Q Was a mental illness chart prepared in this case?

10 A Yes, sir.

11 Q I want to show you Defendant's Exhibit 4. Could you
12 tell me, does that appear to be the chart that was
13 prepared for this case?

14 A Yes, sir.

15 Q Okay. Could you please explain this chart to the
16 jury?

17 A Yes, sir. Can you all see this okay?

18 THE JUROR: I can see the chart, but it's kind
19 of hard to read.

20 THE WITNESS: I wonder if I should have -- there
21 are two others of these, which the jury is welcomed to
22 hold if it would be helpful.

23 MR. TARR: I know I handed one up to the bench
24 and there should be one more.

25 THE COURT: Here's the bailiff bringing it, Mr.

DR. MARTI LORING - Direct Exam by Mr. Tarr

1953

1 Tarr.

2 MR. TARR: Any objection? These are identical.

3 MR. MYERS: No objection.

4 THE COURT: Certainly. You're going to hand
5 them to the jury?

6 MR. TARR: Yes.

7 THE COURT: Sure. If the jury can gather around
8 and see them in that manner, that's fine.

9 THE WITNESS: If I could get my notes, would
10 that be all right?

11 MR. TARR: That would be fine.

12 THE WITNESS: You can see at age six -- and
13 thank you for sharing -- you can see at age six, in 1984,
14 that Steven is starting to hear voices telling him to kill
15 himself or harm his little brother.

16 In 1985 through '86, age 7 or 8, Steven tries to
17 stab himself and is caught trying to plug earphones into
18 an outlet and put them on his brother, as well as being
19 caught putting his brother's hand in bicycle spokes. So
20 he has outpatient therapy at Campton Clinic in Virginia.

21 When he's 10, in '89, Steven is involuntarily
22 committed to Eastern State Hospital. Even that stay
23 wasn't a real long one. At 13 years old, in 1992, Steve
24 continues to hear voices and talk about wanting to commit
25 suicide, tries to cut his wrists, swallows an overdose of

1 Haldol, and is committed to Pensacola Psychiatric Hospital
2 twice. He is committed to Eastern State Hospital twice.

3 In '95, at 16, he's admitted to the psychiatric
4 unit of Georgia Regional Hospital.

5 Then in '97, at age 18, he holds a gun to his
6 head threatening suicide. He's admitted to the
7 psychiatric unit of Georgia Regional Hospital where he
8 tells them, self-suggests in the record, that he says to
9 his mental health professional, "You know, maybe God can
10 help me 'cause it doesn't appear anyone else can. I've
11 been beaten and harmed by my mother and others since I
12 was -- for 16 years. Maybe God can help me now."

13 Then in 2004, at age 25 --

14 MR. MYERS: Where is that on this chart, Your
15 Honor, that "God could help him now"?

16 THE WITNESS: That was from the records, sir.

17 MR. MYERS: It's not on the chart.

18 MR. TARR: No, it's not on the chart.

19 THE WITNESS: Yes, sir.

20 And then at age 25 in 2004, Steven is referred
21 for a mental evaluation, at Valdosta State Prison.

22 Lastly, in 2007 to 2010, Steven received mental
23 health treatment at Lieber Correctional Institute.

24 Thank you.

25 BY MR. TARR:

DR. MARTI LORING - Direct Exam by Mr. Tarr

1955

1 Q Did you have any records to review from any mental
2 health treatment at the Edgefield County Jail?

3 A No, sir.

4 Q Now, just to help the jury understand a little bit,
5 who were the parents of Steven's brother, William Harris?

6 A I believe it was Joseph Harris, the stepfather, and
7 Tammy, Steven's mother.

8 Q Okay. So William was their biological child, Tammy
9 and Joseph?

10 A That is my understanding, yes, sir.

11 Q And Tammy and Joseph end up getting married at some
12 point?

13 A That is my understanding as well, yes, sir.

14 Q Okay. And based on your review of the records, what
15 is your understanding of the dynamic that existed in that
16 household between William and his parents and Steven and
17 his parents and Steven and William? Because I saw some
18 reference in this chart to the harm that Steven had wanted
19 to do at a very early age to William. Could you please
20 explain that to the jury?

21 A Yes, sir. It appeared that William was much loved by
22 Tammy and Joseph Harris and that unfortunately, Steven
23 didn't feel that same kind of love coming toward him, that
24 his mother would go into rages and be angry. She would
25 make comments that he looked like her rapist and such, so

1 that it appeared that he felt neglected and jealous in
2 regard to his brother.

3 Q What type of impact can that type of disparity
4 between treatment of siblings have on somebody, especially
5 in light of the abuse and trauma that Steven suffered at
6 such a young age?

7 A Well, a number of things. It can leave them with
8 very low self-esteem, with very poor problem-solving
9 ability, not to stop and reason out, you know, how will my
10 behavior affect others or what are the consequences for
11 the more impulsive, some trauma driven, acting out of rage
12 and pain and depression.

13 Q Okay. And what is your opinion on -- what effect on
14 Steven Barnes does all this background history have as an
15 adult?

16 A I think, you know, when a person has been through all
17 of this as Steven Barnes has, it makes it more difficult,
18 if possible, for them to emphasize with the feelings of
19 others. How is my behavior, you know, affecting other
20 people since no one seemed to have emphasized with how all
21 this abuse affected him.

22 But then the second thing is when someone has
23 this kind of trauma that is basically untreated and has
24 come out in psychotic-like hearing voices and seeing
25 things, that that also influences the way they think or

DR. MARTI LORING - Direct Exam by Mr. Tarr

1957

1 don't think where they may behave impulsively as opposed
2 to thinking or reasoning things through carefully. It
3 certainly leaves people very angry and has left Steven
4 Barnes very angry about the different ways in which he was
5 treated and really never protected for any length of time
6 either by one of our institutions or by family members who
7 we'd hope would protect someone. Those are some of the
8 ways.

9 And also, Steven Barnes and others who have been
10 through this look for ways to have a higher self-image in
11 other ways than we would wish since he doesn't have the
12 ability to read as much or achieve as much as perhaps, you
13 know, that he would might look at other areas.

14 And lastly, in terms of use of drugs, when
15 someone has this much trauma, abuse, and neglect in their
16 development in the past, and when the institutions don't
17 give them a more long-lasting, educational, and
18 psychiatric kind of treatment, then we often find they
19 turn to drugs, and we would call this self-medicating, to
20 try to calm their depression and their agitation
21 themselves.

22 MR. TARR: Dr. Loring, could you please answer
23 any questions the Solicitor might have for you.

24 THE WITNESS: Yes, sir.

25 THE COURT: Thank you very much, Mr. Tarr.

1 Solicitor.

2 CROSS-EXAMINATION

3 BY MR. MYERS:

4 Q Doctor, on Defendant's Exhibit No. 3, you've got down
5 here: "1997 to 2010, Experienced incarceration and
6 exhibited aggression." Is that right?

7 A Yes, sir.

8 Q From 1997 to January 17th of 2002, where was he
9 incarcerated?

10 A Would you repeat that again for me, sir?

11 Q Right here, from 1997 --

12 A Yes, sir.

13 Q -- up until January the 17th of 2002, where was he
14 incarcerated?

15 A I'm not sure. I'd be glad to --

16 Q You've got it on your chart. I'd like to know where
17 he was incarcerated.

18 A To be honest with you, he was incarcerated in a
19 number of different places. So I'm trying to --

20 Q If you could look in whatever you have and show me
21 where he was incarcerated from 1997 on your chart up until
22 January the 17 of 2002, I would like for you to tell me
23 where he was incarcerated.

24 A I'd have to look that up for you.

25 Q Go right ahead.

DR. MARTI LORING - Cross-Exam by Mr. Myers

1959

1 A I have those records out in my car. I'm sorry.

2 Q Go get them.

3 THE COURT: All right. You have those records
4 you say, Doctor?

5 THE WITNESS: I have them in my car, yes, sir.

6 THE COURT: All right. Do you have those
7 records, Mr. Tarr?

8 MR. TARR: The records of incarceration aren't
9 in any one place in my file.

10 THE COURT: I'm sorry?

11 MR. TARR: Any records of incarceration are not
12 in any one place in my file.

13 THE COURT: All right.

14 MR. TARR: I do know -- it's my understanding
15 that he was not incarcerated until January 17th, 2002.

16 MR. MYERS: That's precisely my question. This
17 is her chart and I want to know where she got -- she's
18 talking about records, not people. So I want to know what
19 records she has that show him incarcerated from
20 January 17th, 2002, back to 1997. Because the record
21 should be accurate.

22 THE COURT: Doctor, you may step down and get
23 your records.

24 THE WITNESS: Thank you, sir.

25 THE COURT: All right. Are you going to need a

1 few minutes to review them also?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. Then we'll take a brief
4 recess and allow her to get the records. You may step
5 down, Doctor.

6 Just a moment, ladies and gentlemen.

7 You may step down and get your records, Doctor.

8 THE WITNESS: Thank you, sir.

9 THE COURT: All right. Ladies and gentlemen,
10 we'll take a brief recess.

11 Do not discuss the case during this recess.

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

14 I'm not sure how long it'll take, but once we
15 get to the point of restarting I'll get you all right back
16 in the courtroom.

17 You may now go with your bailiff.

18 Leave your notes upside down on your chair.

19 (The jury left open court at approximately 3:24
20 p.m.)

21 THE COURT: Mr. Tarr, will you let me know when
22 the witness has reviewed those records and when she's
23 ready?

24 MR. TARR: Yes, Your Honor.

25 THE COURT: All right. Thank you. I'm going to

DR. MARTI LORING - Cross-Exam by Mr. Myers

1961

1 step out. Thank you very much.

2 MR. TARR: Yes, sir.

3 (A break was taken.)

4 THE COURT: All right. Mr. Tarr, are we ready?

5 MR. TARR: I was informed by Mr. Harte that she
6 was walking back up.

7 MR. HARTE: She's coming in from the bottom.

8 THE COURT: All right. Thank you.

9 (Pause.)

10 THE COURT: All right. Doctor, are you ready?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right. Bring our jury back,
13 please, sir.

14 (The jury came into open court at approximately
15 3:50 p.m.)

16 THE COURT: All right. We're continuing the
17 trial of the case with the cross-examination of Dr. Loring
18 by the Solicitor.

19 Solicitor, you may proceed.

20 BY MR. MYERS:

21 Q Thank you, Dr. Loring. Where in your records now was
22 he incarcerated from 1997 to January 17th of 2002, that he
23 showed aggressive -- exhibited aggression in jail?

24 A In terms of the dates, I have the SLED summary here
25 that describes an arrest date in March 15th, 1997 by the

1 Richmond County Sheriff's Office.

2 Q All right. Where are the jail records of where he
3 was and how he exhibited aggression?

4 A My definition of exhibiting aggression had to do with
5 what brought him to be in jail in the first place as well.
6 And so what I have from SLED here is that he was arrested
7 in '97.

8 Q How long was he in jail?

9 A I don't know how long he was in jail.

10 Q You've got down here he was incarcerated.

11 A Well, he was locked up by the Richmond County
12 Sheriff's Office, sir.

13 Q How long?

14 A I don't know how long, sir.

15 Q Was it two hours, overnight?

16 A I don't know how long, sir.

17 And then in '98, he was arrested again, it has
18 arrest date, February 11th, 1998, by the Richmond County
19 Sheriff's Office.

20 Q What was that for?

21 A Criminal damage to property.

22 Q What was the one, the other one for, '97, what was
23 that for?

24 A Theft by taking.

25 Q Theft by taking?

1 A Yes, sir, I believe so.

2 Q And what was the sentence on those?

3 A That was dismissed.

4 Q So he didn't serve any time in jail?

5 A He was arrested and then it was dismissed.

6 Q When you went to the jail to see how long he served
7 there, what did their records show of how long he served
8 in jail?

9 A I did not go to see how long he served.

10 The intent of that chart, sir, was to show some
11 of his aggressive behavior and that he was arrested. And
12 that, as near as I could track it without the help of
13 family members and without significant help from Steven
14 Barnes, I relied on the SLED documents which indicated to
15 me that he was arrested for either theft or criminal
16 damage to property, both of which can be considered
17 aggressive behavior.

18 Q Who did he beat up when he stole something?

19 A I don't know the answer to that, sir.

20 Q Did he beat up anybody?

21 A He wasn't willing to talk about that with me, sir, so

22 I --

23 Q No, no, no. I'm not talking about him now.

24 If he's in jail, you can get records of that.

25 You can track that down.

1 Did you track that down?

2 A No, sir, that was not my goal, and no, sir, I did not
3 do that.

4 Q All right. How about further in '98, where was he
5 locked up?

6 A Those were the two main ones I got.

7 Q How about '99?

8 A Those were the two main ones I got, from '97 and '99.

9 Q How about 2000?

10 A I didn't stop to go through all that because I knew
11 you were waiting, so I went back to '97 and '98 to try --

12 Q How about 2001? Do you agree with me a "dash" from
13 1997 to 2010 is continuous, there's no break in there --

14 A No, sir.

15 Q -- where he was incarcerated and exhibited
16 aggressive?

17 A No, sir, I would not agree with that. I would say --

18 Q So this chart's wrong?

19 A I would not agree with your interpretation, sir.

20 If I put down 1997 to 2010, I mean that during
21 periods of that time, like '97, '98, during periods of
22 that time he behaved in a way that could be considered
23 aggressive and was at least locked up, though I don't know
24 in all cases for how long.

25 I don't mean to be an expert on his, you know,

1 exact amount of time, days in jail. I don't really know
2 that, that wasn't the purpose of this chart. I'd have a
3 jail chart, for example.

4 Q So what you're saying is anybody who is arrested
5 exhibits aggression? Is that what you're saying?

6 A No, sir. It was my opinion in talking with him that
7 if he destroyed property and stole stuff from people that,
8 you know, I would certainly consider that a form, forms of
9 aggression.

10 Q Who was the victim?

11 A I don't have a jail chart. I wasn't asked to do that
12 by the attorneys, nor did I do it, so I certainly wouldn't
13 comment on something that I don't know about.

14 Q Is it fair to say, ma'am, that these charts you said
15 were based on interviews with people, who did you
16 interview?

17 A No, sir, those charts were based on records and what
18 little interviews I was allowed to have with people.

19 Q Who were the little interviews that you had with?

20 A Well, I spent 7.5 hours with Steven Barnes.

21 Q The defendant?

22 A That is correct, sir. And I spent, oh, about --
23 let's see -- about four hours with his mother. So it
24 would be with his mother and --

25 Q That was the lady that was uncooperative, you spent

1 four hours with her and she was uncooperative?

2 A She did not give me near what I needed in terms of
3 information. In that way I would define her as
4 uncooperative, yes, sir.

5 Q Who else? Who else?

6 A Excuse me. I spent, oh, maybe 15 or 20 minutes on
7 the phone with his stepfather, Joseph Harris, which is as
8 long as he would talk with me.

9 Q Okay. Who else?

10 A That is it, sir. That's why that genogram is labeled
11 as "a partial genogram" because I didn't have the
12 opportunity to talk with more people which I certainly
13 should have and would love to have.

14 Q And the records, you said mental health records?

15 A Yes, sir.

16 Q Prison records?

17 A Yes, sir. Mostly mental health in the prison, but,
18 yes, sir.

19 Q School records?

20 A Yes, sir.

21 Q And family records, you said something about divorce
22 family records?

23 A The divorce between Joseph Harris and Tammy Barnes
24 based on his aggression toward her, yes, sir.

25 Q And then what other family records?

1 A Oh, I wasn't allowed to get any more. That's just
2 about it.

3 Q Well, ma'am, on this exhibit right here -- I'm a
4 little confused. I'm sorry.

5 On this exhibit right here, No. 2, where did you
6 get all these folks' names?

7 A I got that from Tammy Harris, the mother.

8 Q She provided you all those names?

9 A Yes, sir.

10 Q And right here when it says, "Baby-sitter molested
11 Barnes, or baby-sitter's daughter" one time, which was it
12 the baby-sitter or the baby-sitter's daughter?

13 A The baby-sitter herself molested Steven Barnes.

14 Q I'm sorry. I thought you said, "daughter." And when
15 did you talk to the baby-sitter?

16 A Oh, I didn't talk with the baby-sitter.

17 Q Well, who said the baby-sitter molested Barnes?

18 A Some of the mental health records indicated that when
19 Steven Barnes was being treated for mental health issues,
20 he recounted that the baby-sitter molested him and then he
21 acknowledged that to me himself.

22 Q So the answer to my question is it came from the
23 defendant?

24 A From the records and from the defendant when he was
25 confronted with the record, yes, sir.

1 Q And the records say what the defendant told them?

2 A That is correct, sir.

3 Q All right. And let me ask you a question while we're
4 looking at that: All these yellow things, let's see,
5 there's one over here with Sammy, Danny. What's that
6 other one, Sammalene?

7 A Yes, sir.

8 Q June, Shirley, Sylvia, Savo.

9 Yellow means drug use, right?

10 A Drug and alcohol, yes, sir.

11 Q Okay. When did Sammy take drugs with Steven Barnes?

12 A I beg your pardon?

13 Q When did Sammy and Steven Barnes get together and
14 take drugs?

15 A That isn't a suggestion that they necessarily took
16 drugs together, sir.

17 Q Then why do you got it on there?

18 A That is to show that all of these individuals in the
19 family had alcohol and drug problems, and what we do on
20 genograms is we look for that because we often find that
21 when someone has an alcohol and drug problem, it can be
22 that many other members of the family have it, too. There
23 could be a genetic predisposition for that.

24 Q So if I've got an uncle who's a bootlegger, I'm going
25 to be a bootlegger?

1 A No, sir. If you have a number of uncles and aunts
2 who are addicted to alcohol and drugs, you may well have a
3 greater chance of being addicted to it yourself.

4 Q So if all my uncles are bootleggers, I got a good
5 chance of being a bootlegger?

6 A With humility, I'm not a drug expert, but we find in
7 the genograms that there is a genetic predisposition when
8 a lot of the family members are not necessarily
9 bootleggers, but are really addicted themselves.

10 Q How did you know that Sammy was a druggie or an
11 alcoholic?

12 A I believe that Tammy told me that, the mother.

13 Q When was he arrested for taking drugs or drinking
14 alcohol?

15 A Again, sir, I didn't make arrest charts. I wasn't
16 asked and nor did I do that.

17 Q But Tammy was uncooperative?

18 A For four hours for this type of case is my definition
19 of uncooperative, but while I was there, I can assure I
20 made the most of my time.

21 Q Now, you come in here and you accuse a bunch of
22 people of being drug heads and alcoholics. What do you
23 have to back that up?

24 A The mother's observations of her -- let's see, they
25 would be her aunts and uncles.

1 Q If Ms. Tammy Harris-Barnes, or Barnes-Harris, if she
2 died today and these people sued you for defamation, how
3 would you defend yourself?

4 MR. TARR: Objection, Your Honor.

5 THE COURT: I would sustain the objection.

6 BY MR. MYERS:

7 Q Do you have anything to substantiate your allegations
8 other than Mr. Barnes' mother?

9 A No, sir. When you do genograms you get all of the
10 observations you can, and in this case, again, we got
11 what -- I got what I could. And she described some of
12 their addictive and alcoholic behavior, so it certainly
13 sounded like her perceptions were correct.

14 Q Okay. Eastern State Hospital in Virginia, 1989,
15 who'd you talk with at Eastern State Hospital?

16 A I used the records alone and what the professionals
17 wrote down. I didn't --

18 Q Who -- I don't mean to cut you off. Whom did you
19 talk with at Eastern State Hospital in Virginia?

20 A I didn't speak with anyone. I reviewed the records
21 which recorded what he had said and his conditions and
22 their interpretations of his conditions.

23 Q Good. University Hospital in Augusta 1997, to whom
24 did you speak with?

25 A I spoke with no one. I reviewed the records.

1 Q Spoke with who?

2 A I spoke with no one. I reviewed the records of their
3 observations, the psychiatric nurses, the psychiatrists,
4 social workers, what they observed, what they interpreted
5 as his problems and his mental illness and what they wrote
6 down in the records. The records were very clear, they
7 didn't leave any room for doubt.

8 Q Let's see now. A dot in the middle on State's
9 Exhibit No. 2 indicates violence and the squiggly lines
10 say that they committed violence towards Barnes; is that
11 right?

12 A I beg your pardon, sir?

13 Q The dot you've got over here, that means violence?

14 A Yes, sir.

15 Q And then the squiggly lines means some kind of abuse
16 towards Barnes; is that correct?

17 A Or toward whomever they're in between.

18 Q Okay. Well, let's just talk about with them and
19 Barnes.

20 You got down here that June did something to
21 him, physical abuse or sexual abuse?

22 A Physical abuse, yes, sir.

23 Q When did that occur?

24 A Sir?

25 Q When did that occur?

1 A From the time he started staying with his aunts and
2 uncles throughout the time that he left.

3 Q When was that?

4 A Well, let's look at the timeline.

5 My understanding it's the time that he was two
6 or three years old he was sent to live with aunts and
7 uncles for periods of time for up to a year. So if he was
8 born in '78, he would have been two or three in '80 or
9 '81.

10 Q Is June still alive?

11 A Sir, I don't know the answer to that question. Had I
12 been given her last name, I would have gone to see her and
13 called her and been able to tell you that in moment.

14 Q You don't have an "X" on there.

15 A I was not told she was deceased.

16 Q Let's go to another one. Let's go to Phillip. Is
17 Phillip still alive?

18 A I'm unwilling to comment with certainty when I wasn't
19 even given an opportunity to talk with them. Tammy did
20 not tell me he was deceased. So I was not allowed to talk
21 with them. It just shows how little I know about some of
22 the things since I was not given that opportunity. I
23 can't answer that question with confidence.

24 Q Well, all these squiggly lines and stuff showing
25 somebody did something to him sexually or physically or

DR. MARTI LORING - Cross-Exam by Mr. Myers

1973

1 some violence towards him, did he torture and murder them?

2 A I honestly don't know the answer to that, sir.

3 Q He could have?

4 A I don't know the answer to that, sir.

5 Q Ms. Loring, let me ask you a question: You said you
6 talked with his mother and you were taking notes; is that
7 right?

8 A I beg your pardon?

9 Q You said you went to talk with his mother and you
10 wanted to take notes, but she wouldn't let you?

11 A Yes, sir.

12 Q So for four hours you remember everything she said
13 other than writing on your hands; is that right?

14 A For four hours do I remember all she said? I went
15 out to the car afterwards and wrote down everything I
16 could remember and --

17 Q I'm sorry. Continue.

18 A So sorry. I went out to the car afterwards and in
19 addition to the notes all over my hands and arms, I wrote
20 down everything that I could remember. I can tell you
21 that's how I did that, sat in the car and wrote down
22 everything I could remember that I hadn't already written
23 down.

24 Q Is that lady blind that you were talking to?

25 A No, sir, she is not.

1 Q She couldn't see you writing on your hands?

2 A She could see it, but didn't seem to object to it, so
3 I went right ahead.

4 Q Now, you said you reviewed records, you reviewed all
5 kinds of records; is that right?

6 A Yes, sir, that is correct.

7 Q So records is an important thing, isn't it? If you
8 didn't have records, you couldn't testify; isn't that
9 right?

10 A Records are important. I don't know if I didn't have
11 records that I couldn't testify, but I'm glad I had them.

12 Q Well, everything on here is based on records just
13 about, isn't it?

14 A Records and the interviews that I've described to
15 you.

16 Q Where is the record of your written report for this
17 case?

18 A I make no written report, sir.

19 Q Well, you professionals don't -- you know, I go to
20 the doctor, they take my temperature, they write it down.
21 You don't make a written report in a death penalty case?

22 A No, sir, not -- I make no written report in any case
23 unless there's a special reason I'm asked to do it.

24 Q But you're not a medical doctor?

25 A No, sir.

1 Q So you don't have to take notes; is that right?

2 A I don't understand the connection.

3 Q Well, I know doctors and all, they write down when
4 you walk in the door. But in your work as a social
5 worker, you don't have to have written reports; is that
6 right?

7 A I won't comment on what doctors do, but as a social
8 worker or sociologist --

9 Q You all don't do written reports?

10 A Only the written reports when I'm asked to, when
11 there's a reason someone needs them, otherwise I tend not
12 to do them.

13 Q Now, you said that you've testified over a hundred
14 times before?

15 A Yes, sir.

16 Q South Carolina, Georgia, Florida, New Hampshire,
17 Arkansas. How many of those were death penalty cases?

18 A Oh, I don't know the exact number. I'd say between
19 10 and 20 probably, I think.

20 Q Ten and 20.

21 A And I say that without being absolutely certain.

22 Q That's okay. How many of those did you testify for
23 the defendant, ten or 20?

24 A I beg your pardon, sir?

25 Q In those cases where the death penalty was being

1 sought and you testified, how many times did you testify
2 for the defendant in those cases?

3 A In all cases when I do mitigation, I'm usually asked
4 to tell about the life of the defendant.

5 Q And are you the same lady in the death penalty case
6 in Greenville last year that you wouldn't testify, that
7 they didn't let you testify? Is that the same one, Jerry
8 Buck Inman?

9 A I chose not to testify until the -- some issues and
10 complications that came up --

11 Q You weren't licensed in South Carolina?

12 A Could I finish?

13 Q Was that -- I'm sorry. Go ahead.

14 A I chose not to testify until some complicated issues
15 were settled. And then when the South Carolina Licensing
16 Board wrote me a letter saying I was freely welcomed to
17 testify, go right ahead, I was so glad to testify at that
18 time.

19 MR. TARR: I want to object on relevancy. He
20 has stipulated that she's an expert. I don't know why --

21 THE COURT: Well, you objected --

22 MR. TARR: He had a right to voir dire.

23 THE COURT: You objected after the question was
24 asked and answered. What do you want me to do?

25 MR. TARR: I don't want him to ask any more

DR. MARTI LORING - Cross-Exam by Mr. Myers

1977

1 questions along those lines.

2 THE COURT: All right.

3 MR. MYERS: I won't ask her any more questions.

4 Thank you, ma'am.

5 THE COURT: All right. Thank you, Mr. Tarr.

6 Thank you, Solicitor. You may ask your next
7 question.

8 MR. MYERS: I don't want to ask any more
9 questions.

10 THE COURT: Redirect, Mr. Tarr?

11 MR. TARR: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. TARR:

14 Q Dr. Loring, a lot's been made about this chart, or
15 these charts. Let me ask you about this. On Defendant's
16 Exhibit 3, 1980 to 1995, and you have "Witnessed
17 stepfather, Joe Harris, beat, rape, hit and shoot at his
18 mother."

19 Now, you didn't mean that for every second of
20 every day for every year for 15 years that he witnessed
21 that, did you?

22 A I did not mean that, no, sir.

23 Q No. And just like that when you say, "Exhibited
24 aggressiveness while being incarcerated between 1997 and
25 2010," you didn't mean --

1 MR. MYERS: Objection. Objection. Now he's
2 leading this witness.

3 THE COURT: You can rephrase the question, of
4 course, Mr. Tarr.

5 BY MR. TARR:

6 Q Did you mean that he was incarcerated continuously
7 for 13 years?

8 A No, sir, I did not mean that.

9 Q Was that the intent of your timeline, to convey that
10 message?

11 A No, sir. The intent is to show from one point in
12 time, at different intervals, to another point in time,
13 some of these things happened.

14 Q Okay. How many different times was Steven Barnes
15 hospitalized for inpatient mental health treatment?

16 A I'm just going to count real quickly. One, two,
17 three, four, five, six, seven, eight, nine hospitalized.
18 I'll go back to eight, I won't count prison. Eight times,
19 sir.

20 Q How many hundreds of pages of documents related to
21 those treatments did you review?

22 A Hundreds of pages.

23 Q Okay. And you think all those doctors got together
24 way back when in hopes that Steven Barnes was going to
25 kill somebody one day so that you could come in here and

1 testify about all these records?

2 A No, sir.

3 Q Okay. So those were done when he was taken in for
4 mental health treatment that he needed, long before this
5 incident ever occurred?

6 A Yes, sir.

7 Q That's not something that you cooked up along with
8 other members of the defense team to help him try to save
9 his life, is it?

10 A No, sir.

11 Q Did Tammy Harris offer to come help in any way here
12 in South Carolina?

13 A Never to me, sir.

14 Q Did she ever let anyone know what she might do if she
15 was called to testify?

16 MR. MYERS: Objection. That's not anything to
17 reach her opinion over what she's testifying to. She's
18 already been over that.

19 THE COURT: That would also be negative hearsay,
20 I believe. And, of course, you can ask her about her
21 cooperation or lack of cooperation, Mr. Tarr, with a
22 well-phrased question.

23 BY MR. TARR:

24 Q I believe you already testified you've reviewed a
25 letter that was sent to you by her therapist asking you

1 not to contact her ever again?

2 A That is correct, sir. Not to contact either the
3 therapist or Tammy Barnes, either of them.

4 Q It would be kind of hard to get her to come testify
5 if you can't contact her, wouldn't it?

6 A I sure wouldn't know how to do it.

7 MR. TARR: Thank you.

8 That's all I have, Your Honor.

9 THE COURT: Recross?

10 RECCROSS-EXAMINATION

11 BY MR. MYERS:

12 Q There's a thing called an out-of-state subpoena, have
13 you ever heard of that?

14 A Yes, sir.

15 MR. MYERS: Thank you.

16 THE COURT: All right. Thank you very much,
17 Doctor. You may step down.

18 Any objection to the doctor being excused?

19 MR. MYERS: No objection.

20 THE COURT: All right. And you may be excused.
21 Thank you.

22 Mr. Tarr, you may call your next witness.

23 MR. TARR: Your Honor, I'd call Dr. Donna Watts.

24 THE COURT: All right. Dr. Schwartz-Watts,
25 would you come around for us, please.

1981

1 THE CLERK: Raise your right hand.

2 DR. DONNA SCHWARTZ-WATTS, after being duly
3 sworn, testified as follows:

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

6 THE WITNESS: Sure. Donna Marie Schwartz-Watts,
7 S-C-H-W-A-R-T-Z hyphen W-A-T-T-S.

8 DIRECT EXAMINATION

9 BY MR. TARR:

10 Q Dr. Watts, what is your present position?

11 A Presently, I'm a senior psychiatrist, senior
12 certified psychiatrist at Bryan Psychiatric Hospital and
13 then I also have a clinical appointment in the medical
14 school. I'm a Department of Mental Health professor of
15 psychiatry at the University of South Carolina School of
16 Medicine.

17 Q And what other past positions have you held in your
18 career?

19 A I just left USC actually. I have been a professor at
20 the medical school there and have been employed there for
21 17 years and I left in July and took a job at Bryan
22 Hospital. And then before I worked at the medical school,
23 for a number of years I worked at the Department of Mental
24 Health in my forensic program.

25 Q And are you licensed professionally?

1 A I am. I'm licensed to practice medicine in South
2 Carolina.

3 Q Okay. And what is your educational background?

4 A I went to college at Columbia University and I
5 graduated from there in 1985 with a bachelor of arts
6 degree in psychology and I finished medical school in
7 1989. I graduated from the University of South Carolina
8 School of Medicine.

9 And then from 1989 until 1993, I completed a
10 residency in psychiatry in Columbia, South Carolina, at
11 the Hall Institute, which is part of the Department of
12 Mental Health. Then I completed another year of training
13 in what's called forensic psychiatry, and I finished that
14 in 1994, and also completed that at the Department of
15 Mental Health.

16 Then I worked at mental health for about three
17 years, then I went to medical school after that.

18 Q Okay. And have you held any other academic positions
19 or appointments?

20 A Yes, yes. I'm still active, as I said before, I was
21 a professor of Criminal Psychiatry at the medical school,
22 and then I still have a clinical appointment there. I
23 still teach medical students and residents and have nurse
24 practitioner students from the university.

25 Q And have you been qualified as an expert witness in

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1983

1 this state before?

2 A I have.

3 Q About how many times would you estimate?

4 A Probably 750, 800 times.

5 Q Have you ever not been qualified?

6 A No.

7 MR. TARR: Your Honor, at this time we'd offer
8 Dr. Watts as an expert in forensic psychiatry.

9 THE COURT: Solicitor?

10 MR. MYERS: No objection.

11 THE COURT: All right. Again, ladies and
12 gentlemen, as you recall, normally a witness cannot give
13 opinion testimony. Normally when a person testifies, they
14 must testify as to what they either saw, heard, or sensed
15 by smell or something of that nature.

16 However, there is that exception when someone is
17 qualified because of education or experience in some
18 particular art, science, or profession, or trade, they are
19 permitted to give their opinion in certain areas if the
20 Court qualifies them that way.

21 This witness, Dr. Donna Schwartz-Watts, will be
22 qualified in the area of forensic psychiatry to give
23 opinion testimony in that area. That does not mean you
24 must accept the opinion, but it is evidence for you, the
25 jury, to use in any way you see fit.

1 Thank you, Mr. Tarr. You may continue.

2 BY MR. TARR:

3 Q Dr. Schwartz-Watts, were you contacted by Attorney
4 Harte and I about working with us in the Steven Barnes
5 case?

6 A Yes.

7 Q Okay. And could you outline your methodology for the
8 jury?

9 A Sure. What forensic psychiatry is, it is a
10 subspecialty medicine like cardiology is a subspecialty of
11 internal medicine, so it's an area of specialized
12 practice. And what a forensic psychiatrist does is
13 anywhere that there's a legal issue that has something to
14 do with a mental issue would be an area where were
15 consulted. So, for example, if there's any legal issue or
16 the Court has questions, or if an attorney has questions
17 about how somebody thinks, how they feel, how they act,
18 how that relates to a legal issues, that's an area where
19 were consulted. So that's what my practice has been
20 basically over the past 20 years.

21 So what we do in these cases, it's a little bit
22 different than when you go to a general psychiatrist's
23 office. If you went to a psychiatrist's office and you
24 had complaints, may have a mood disorder, or problems with
25 your thinking, they'd take your history and then we

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1985

1 perform what is called a mental status examination, which
2 is basically our assessment of how you're thinking, how
3 you're feeling, how you're acting, and then we'd come up
4 with a diagnosis, just like your regular doctors do, and
5 prescribe medication if indicated.

6 A forensic psychiatrist is a little bit
7 different because it's a legal issue, and when there's
8 legal issues involved, there's reasons for people to lie
9 or there's reasons for people to fake, or they may not
10 always be forthcoming, and so our methodology is a little
11 bit different than what you'd use if you were in the
12 general psychiatrist's office.

13 So usually when there is a legal issue we'll
14 have some documents that were able to review. And in this
15 case, Mr. Barnes did have some medical documents I was
16 available to review. He had some psychiatric documents I
17 was able to review. Even though I didn't list them all in
18 my report, I looked at the discovery, it was voluminous
19 about the charges of which you all found him guilty.

20 I also reviewed that he was at the Edgefield
21 County Detention Center for a period of time and had a
22 number of disciplinaries there. I looked at those.

23 I looked at his Department of Corrections
24 records where he received some treatment and also had some
25 write-ups.

1 And then in addition to that we did get school
2 records.

3 And then finally I consulted with some of the
4 other experts on his case. He had what's called
5 neuropsychological testing, that's some testing of his
6 brain, his IQ, how his brain works. And I also consulted
7 with the various experts.

8 And then finally in the last couple of days, I
9 was able to speak with his stepfather very briefly by
10 telephone.

11 Q Okay. And before I forget, I forgot to ask you one
12 question.

13 You've testified for both the State and the
14 defense in the past as an expert?

15 A Sure.

16 Q So that's not uncommon, for you to testify for the
17 State when you're called by them?

18 A No, not at all.

19 Q Okay. So you reviewed records and consulted with
20 professionals. Did you also evaluate Mr. Barnes?

21 A I did. I saw him when he first came -- when he came
22 to the medical school, I was still employed there at the
23 time, and so he was -- I think it was either he had just
24 transferred to the Department of Corrections or he may
25 have still been in Edgefield and he was brought to my

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1987

1 office, and that was on May 27th of 2008, so I saw him a
2 few years ago. And now I saw him this past September at
3 Lieber Correctional Institute where he's presently
4 incarcerated.

5 Q Okay. And did you prepare a report as to your
6 findings in this case?

7 A I did.

8 MR. TARR: At this time, Your Honor, I would ask
9 this be marked as Defendant's Exhibit 5.

10 THE COURT: Defendant's 5. Any objections,
11 Solicitor?

12 MR. MYERS: No, sir.

13 MR. TARR: I offered it into evidence.

14 THE COURT: All right. Defendant's 5 is in
15 evidence without objection.

16 MR. TARR: Thank you, Your Honor.

17 (WHEREUPON, Defendant's Exhibit No. 5 was marked
18 for identification and received into evidence.)

19 BY MR. TARR:

20 Q Now, I see in your report that you listed
21 "Developmental History." What is that and why is that
22 important?

23 A A developmental history is looking at when someone is
24 forming in their developmental years. And what that does,
25 you're looking for things like neurological disorders that

1 can affect childhood development, you may be looking for
2 learning disorders that could affect somebody's school
3 performance. You look at things like attachment to the
4 parents, were they separated from the parents. So
5 basically, you're looking at the formative years when
6 their brain is developing and their personality.

7 Q And did you have any significant findings as to
8 Steven Barnes' developmental history?

9 A Yes, there were.

10 Q And could you please explain those to the jury?

11 A Certainly. Some of the records I relied upon were
12 from actual hospitalization records. I did not speak with
13 his mother, but in one of his prior psychiatric
14 hospitalizations, she was able to give what's called a
15 development history, so I relied on that.

16 It was noted he weighed eight pounds when he was
17 born, so that's a pretty healthy baby. His mother was
18 young when he was born. The records indicate she was 13,
19 she was pregnant at 12 and delivered when she was 13 years
20 of age.

21 According to the records, he was toilet trained
22 about one-and-a-half to two years of age, which is normal.
23 That's normal for a toddler.

24 But I think what's important in his case, he had
25 some separations from his mom when he was younger.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1989

1 Normally children -- you don't get permanent memories
2 until you're four years of age, so if you have separation
3 from a parent before that, that can affect his
4 development, and he did have some separations from his
5 parents.

6 The important thing also, he had been
7 hospitalized, of course, while he was growing up, he was
8 ten years old, so we know that he was gone for at least a
9 month at the age of ten because he was hospitalized. And
10 then by the time he was 13, he had a number of
11 hospitalizations basically for three months. We know that
12 for a period of time, for three months when he was 13 he
13 was also away from home.

14 The hospital records from 1995 documented that
15 he was abused by a female baby-sitter and he suffered
16 physical abuse by his mother. And then a few years later
17 at the Georgia Regional Hospital it was reported that he
18 sexually abused by an uncle.

19 Mr. Barnes denied that abuse to me. I
20 specifically asked him about those things. He did have
21 some recall of something happening with a female
22 baby-sitter, but denied being sexually abused by any of
23 the males.

24 I spoke with his father to confirm had he -- his
25 stepfather, and his stepfather did not confirm that he was

1 abused as well, but the fact is that something's in the
2 hospital records from his younger years.

3 Q Is it typical for people to minimize past abuse and
4 trauma?

5 A Absolutely. Especially males. If you're a male in a
6 prison, that's not uncommon. I've worked with the
7 Department of Corrections for a number of years. And it's
8 difficult enough under the best of circumstances to talk
9 about it, but that's not uncommon.

10 Some people talk about it, some people admit it
11 very openly, and then others won't. It depends upon the
12 relationship you have with the person, how well you know
13 that, if they trust you or not, and if it's safe for them
14 to talk about it.

15 Q Did you also have information in this history about
16 his mother, about being molested by her father and being
17 out on the streets hooking?

18 A Yes. And that was obtained from her former husband,
19 Mr. Harris. So again, I had no confirmation of that from
20 Mrs. Harris, but Mr. Harris, his words to me was "Her
21 father laid down with all their children." And he stated
22 at the time that he met her when she was 12 that she was,
23 he called it, "hooking on the streets."

24 Q So "laid down with all the children," you're talking
25 about Tammy plus her 17 brothers and sisters with whom he

1 would be referring to?

2 A I have it where -- I put it in actual quotes, he
3 said, "laid down with all the children." I didn't ask him
4 how many or who or over what period of time.

5 Q Okay. And you haven't been able to review any
6 records of Tammy Harris, any hospitalizations she may have
7 had to determine whether there's anything in there about
8 any possible abuse on her?

9 A That's correct.

10 Q Okay. You next list "School History." What type
11 of -- why is that important and what did you find in his
12 school records?

13 A The school history's important for lots of different
14 reasons, but if you have a history of abuse at home,
15 sometimes those behaviors can show in the school records.
16 Sometimes teachers are the first people to recognize those
17 sorts of things, so it's important to get a sense of
18 somebody's behavior. But it's also important in looking
19 at someone's intellectual development, whether they have
20 learning disabilities or that sort of things. You can
21 learn a lot of things by school records, whether people
22 attend or not. And a lot of times, again, our teachers
23 serve as a huge source of information for childhood
24 development.

25 Q Was there anything significant in Mr. Barnes'

1 history?

2 A Yes, there was. He was in learning disabled classes
3 first through third grade, and I got that from the
4 hospital records in 1989 when he was ten years of age.
5 The record in the hospital noted that other children
6 picked on him. He refused to wear eyeglasses, and that's
7 on the documentation, so I'm not sure if he was picked on
8 because he had eyeglasses, but he wouldn't wear them. And
9 the Eastern records say that he repeated first grade.

10 The next set of records we have, he went to a
11 school, Newsome Park School, and the hospital records
12 state that he was upset after school.

13 While he was at Newport News School, he was very
14 weak in math and spelling in fourth grade. He was in
15 learning disabled classes in sixth grade. He started
16 regular classes in the seventh grade, but again, I think
17 the most important thing through his school records is
18 that he had low achievement in math and reading, so he had
19 some learning disabilities and he was in special classes
20 for those, and the records indicate that he completed
21 tenth grade.

22 Q Okay. Now, you also have listed his medical history.
23 Could you explain the significance of that?

24 A Sure. Medical history, again, there's many medical
25 illnesses that can present as psychiatric problems, so one

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1993

1 of the things as a psychiatrist that you would do is if he
2 came into our office and there's lots of medical things
3 that can present as mental illness, thyroid disorders,
4 there can be infections and that sort of thing, and so
5 it's important to get a medical history as well.

6 And what I did here is we had some of the
7 psychiatric records. He's also had treatment in Georgia
8 in a lot of the emergency rooms, and we had those records.
9 And the Edgefield County Detention Center, he certainly
10 got some medical care there. He's received some medical
11 care in prison, so we were able to look at those medical
12 records.

13 Q Okay. And now you've got "Psychiatric History."
14 Could you tell the significance of Mr. Barnes' psychiatry
15 history from your review of these records?

16 A Sure. He had eight previous hospitalizations and
17 they started at age ten, which is a little young.

18 Now, certainly in psychiatry, having worked in
19 an inpatient unit we have children's units so that's not
20 uncommon, you will get children at the age of ten that
21 will be in a psychiatric hospital, but for him it's been a
22 pretty long-standing history.

23 His history of treatment started at age ten and
24 he still, as of I believe last year, was still continuing
25 to receive some outpatient treatment. So he's had

1 psychiatric treatment for most of his life.

2 At the age of ten he was hospitalized for a
3 little over a month, from October 3rd to November 8th in
4 1989, and he received some diagnoses there. The first one
5 was called depression, not otherwise specified. And what
6 that means is he's got some depressive symptoms. It's not
7 serious enough -- there's a much more serious form of
8 depression called major depressive disorder, he wasn't
9 diagnosed with that, but that they recognized he had
10 depression, and it was significant enough that the doctor
11 prescribed medication. And back then, in 1989, we did not
12 have a lot of anti-depressants to give to children, so he
13 was placed on one of the few anti-depressants we had at
14 the time, so he was prescribed medication for this.

15 He was also diagnosed with a reading disorder
16 and an arithmetic disorder.

17 The important things that noted, mother had
18 provided some history during that hospitalization and
19 stated she had caught him trying to plug earphones into
20 the light socket and put the earphones into his little
21 brother's ears. And other behavior that he had, children
22 were picking on him.

23 And what was interesting in that record, and
24 this was a quote from the mother, his mother said his
25 oppositional behavior was from, quote, "something evil

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1995

1 inside her child." He was ten years old. And the record
2 noted that she was instilling a very negative self-concept
3 in her child, for a ten-year-old to say something like
4 that.

5 His next hospitalization was in January 21st,
6 1993, two through March 6th, so he stayed about five to
7 six weeks. He went back to the same hospital, and at that
8 point he complained of a voice that told him "to sell your
9 soul to the devil," and he was banging his head and the
10 mother found that there was a knife missing from the house
11 and they noted that he was talking to himself and crying.
12 And he was started on anti-depressants again. This was
13 the same -- actually the same anti-depressant he was on
14 before.

15 But the medication had to be stopped. Even
16 though he had been on it before, this time his white blood
17 cell count dropped. And back then we had to check blood
18 counts on some of the medications, and so his white blood
19 cell count dropped and so his medication had to be
20 stopped.

21 He was diagnosed with a behavioral disorder,
22 it's called oppositional defiant disorder. And what that
23 means, that's a child that doesn't obey rules. They're
24 not aggressive to others at that point, there's a more
25 serious diagnosis, but they're argumentative, they don't

1 follow rules, so he was diagnosed with that behavior
2 disorder during that hospitalization.

3 He got out and three weeks later was
4 re-hospitalized, and this was at a different hospital, it
5 was Peninsula Hospital. They diagnosed him with behavior
6 disorder and three days later they transferred him back to
7 the other hospital. So it was a whole new hospital and
8 they transferred him back to the state hospital where he
9 was and they kept him about a week. And again they
10 diagnosed him with a behavior disorder, oppositional
11 defiant disorder, but this time they also diagnosed a
12 parent/child problem. They noted that he and his mother
13 were definitely having problems in their relationship.

14 And when you diagnose parent/child, that means
15 it's severe enough that it's taking clinical attention.
16 You have to focus some time and work with the parent and
17 child.

18 What was noted there is his mother was refusing
19 to give him his medication. So even though he was being
20 prescribed treatment, she was not complying and giving it
21 to him. And at that time he was 13, so he wouldn't have
22 been old enough to make medical decisions.

23 Q Could you -- there's a notation on that record as
24 well of the age difference between his mom and his
25 stepfather.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1997

1 A Yes.

2 Q And what was it listed there?

3 A In that year his mom would have been 26 and his
4 step-dad was 60, so there was a significant age
5 difference. And she was quite young. She was 13 and he
6 was 46.

7 Q So he would have been -- at the time she was 12 when
8 he took her off the streets, he would have been 46?

9 A Yes, that's correct.

10 Q So he was 46 years old when -- all right. I just
11 wanted to clear that up for the record. Please continue.

12 A Sure. He went about three years without
13 hospitalization after that, so he had a number in 1992
14 when he was 13, so that was a year that he spent three
15 months in the hospital.

16 He was hospitalized again then in 1995, and
17 there were two hospitalizations then.

18 On April 13th, 1995, he was threatening to
19 kill -- homicidal threats. That means he was threatening
20 someone's life. The record noted that he was harmful to
21 young children and animals. The record indicated he was
22 followed in Virginia, but we don't have those records, who
23 was treating him. He was noted to be angry and glaring.
24 And the record also stated he got into a fight the day
25 before.

1 The interesting thing, his drug screen was
2 negative. At that age he was, what, 16 and that's
3 oftentimes angry behavior/homicidal behavior can be
4 associated with drugs, and so it's not uncommon at all to
5 do a drug screen on a patient coming in, and his was
6 negative. So his symptoms were not secondary to substance
7 abuse, which is important.

8 Two weeks later he was admitted and he was
9 treated at Georgia Regional Hospital, and these are the
10 records that indicate there was early childhood
11 molestation and that at that time he was having recurrent
12 intrusive thoughts about physical abuse from his parents.

13 And here he received some different diagnoses.
14 He received a diagnosis called conduct disorder, and that
15 is a more severe behavioral disorder. Oppositional
16 defiant disorder again is being oppositional, not
17 following rules, being argumentative. To receive a
18 diagnosis of conduct disorder, that means you had to have
19 been aggressive to other people; more than just using
20 words, that there would be some aggression involved. So
21 his behavior had worsened at that point.

22 He was also diagnosed with post-traumatic stress
23 disorder. ~~And what is that, that's an anxiety disorder.~~
24 That means that the person who evaluated him felt like
25 his -- the abuse that he had witnessed or experienced as a

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

1999

1 child was now causing an anxiety disorder.

2 This is the only anxiety disorder that has to be
3 caused -- it's caused by things that you see. It's not
4 necessarily genetic. You have to have witnessed bad
5 things happen or had bad things happen to you in order to
6 get this anxiety disorder. And he's also diagnosed with a
7 major depressive disorder. So this is a little bit more
8 serious disorder than the depression that he was diagnosed
9 with at age ten.

10 The interesting thing that he said during this
11 hospitalization is "Nobody can help me. I've had 16 years
12 of abuse and violence by my mother and other people.
13 Maybe God can help me."

14 The other thing that was interesting that he
15 noted, he said, "I'm a time bomb waiting to explode."

16 And the other records in here stated that he had
17 tried to kill himself three times by this age already, so
18 he was 16.

19 After '95 he seemed to have calmed down for a
20 little while. And then in 1997 he was taken to the
21 hospital again for threatening suicide. He was 18 years
22 old, and he had a gun to his head.

23 His mother at this time went with him and stated
24 that he was depressed and that she noticed he had been
25 quiet over the past few weeks. He was transferred to

1 Georgia Regional Hospital. This time his drug screen was
2 positive marijuana, so at this point we know that he was
3 using drugs.

4 In March, he was transferred to Georgia Regional
5 Hospital and they diagnosed him with psychosis, not
6 otherwise specified. And what that means, that's a
7 thought disorder. And that means he can be hearing
8 voices, but it's not as serious a disorder as
9 schizophrenia, which is a major mental illness where
10 people have to be on medicine for their life.

11 They diagnosed him with psychosis and a
12 personality disorder and they prescribed another
13 anti-depressant, Zoloft, but they also prescribed an
14 antipsychotic medication called Haldol, and Haldol is to
15 organize your thoughts. If people hear voices, it can
16 stop the voices, but it helps thinking get organized. And
17 that was his last hospitalization, and that was in 1997,
18 so he would have been 18 years old.

19 Q And can I ask you, Haldol, is that what he had
20 attempted to overdose on in one of his suicide attempts
21 that he was hospitalized for?

22 A I can't recall, but I certainly -- I wouldn't deny
23 that. I'd have to look at that record.

24 Q But those were in the records. And you reviewed the
25 records, but you just don't recall at this time?

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2001

1 A Yes, that's correct.

2 Q All right. Please continue.

3 A Sure. And then once he's been at the South Carolina
4 Department of Corrections, he's been seen by a number of
5 psychiatrists there and he's been given many different
6 diagnoses. He's been on different kinds of medications.

7 The main type of medication he's been on have
8 been mood stabilizers. Those are things that kind of
9 dampen his mood so it's not so intense. He's also been on
10 anti-depressants there.

11 He's received various diagnoses, one called
12 intermittent explosive disorder, which is that you get
13 very violent, not in proportion to what's upsetting you,
14 so your reaction to a stressor or to being provoked is far
15 more than a normal person's reaction, and he's had various
16 diagnoses there.

17 Q What is so significant about the young age that he
18 started his mental health treatment?

19 A Well, a number of things. I think it's significant
20 because we know that he's -- my diagnosis, I diagnosed him
21 with a form of depression, so it's significant to me that
22 we know that since the age of ten there's been some
23 documentation that he's had a form of depression. And
24 that's the way depression works. It can be a life-long
25 illness for some. And it comes and goes. There will be

1 periods of time where you'll get better and not have
2 symptoms and then it can come back. So it's significant
3 that he's very young and he's getting treatment.

4 The other thing that's significant is that some
5 of the meds didn't work for him earlier on when it could
6 have affected his prognosis and helped him do better. He
7 had a reaction to the medications that were prescribed
8 back then and so that stopped him when he could have
9 perhaps functioned better had those medications worked for
10 him.

11 And the other thing that's significant is that
12 you can see his depression worsens over time. If you look
13 at his diagnosis earlier on, they were -- it was a milder
14 behavior disorder, a milder depressive disorder, and then
15 as time passed, the diagnoses were a little more serious
16 and he required different medications.

17 Q Could he have perhaps functioned better if his mom
18 had actually given him his medications all the time she
19 was supposed to, when the doctors told her to?

20 A It certainly would have helped.

21 Q What role did his mother play in his treatment?

22 A It looked -- again, I haven't talked to the mom so I
23 just have to preface and keep my opinion to what's in the
24 records. It looks like early on some of the doctors were
25 concerned about her instilling a negative concept in him

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2003

1 when she called him evil at ten.

2 Also, there is a record noting that she was not
3 giving him the medications. But then again when he's 18,
4 she is with him at that hospitalization and mentioning
5 that he's having some depressive symptoms, so it looks
6 like it was sporadic.

7 Q You haven't talked to his mother. Do you understand
8 what role she plays in his life now?

9 A Through Mr. Barnes, my evaluation of him, he has
10 affection for her and he has an attachment to her, but I
11 can't speak for what her attachment to him is.

12 Q Okay. Is there anything significant about the length
13 of time that he's received psychiatric care? Not just the
14 early age it's starting, but the length of it.

15 A Yes. Again, it just shows that his illness has
16 relapsed.

17 There's some people who may have only one
18 depression in their whole life and it doesn't come back.
19 There's some people that have recurrent depressions. So
20 it just shows to the severity that his -- some of his
21 mental disorders are more serious and they're not just
22 situational.

23 Q Okay. And next in your report you list "Substance
24 Abuse." Can you tell us about that?

25 A Yes. I think what's significant there, Mr. Barnes

1 minimizes -- he's not always very forthcoming. And given
2 his history, you would expect a lot more substance abuse.

3 Just having been a psychiatrist for 20 years,
4 it's very common when you have chronic mental illnesses,
5 especially in children that have not really been
6 supervised, that they will tend to use more drugs.

7 And I think what's important there is that his
8 drug history isn't as longstanding as his mental history.
9 We know that the first drug screen we had on him, that
10 doesn't mean that he wasn't using, but the first drug
11 screen was in his later teen years, so we certainly know
12 he's having symptoms of mental illness before we have
13 evidence that he's using drugs.

14 And the other thing that's important is there's
15 some conflicting reports that he gives about his use of
16 cocaine. It's very clear -- I looked at some of the
17 statements of the witnesses, Charlene Thatcher and his
18 brother William, who stated that he was snorting powder
19 cocaine, and he minimizes that. He said he was not to me.
20 And then if you look in his records, the series of records
21 in the detection center records, the prison records, he
22 will admit to using cocaine, so there's a variable history
23 there.

24 Q Okay. What is significant about his statement that
25 you have in here that "cocaine helps him focus"?

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2005

1 A Yes, that's important.

2 Some people use drugs just because they like
3 drugs, some people use drugs because there's a genetic
4 predisposition; for example, alcoholism is inherited. We
5 know that. That's one of the substance abuse disorders
6 that has a familial pattern to it. And some people use
7 drugs because they help them function better.

8 And with cocaine, it can have different effects
9 on people. Cocaine normally is a depressant, although
10 when you first take it, it might stimulate you. If you
11 use it over time it causes a chemical depression, it
12 depresses the brain. And in his case, he stated that when
13 he took it, he had two main side effects that he noticed.
14 He would focus better. He was able to concentrate better.
15 And then secondly, he said he would become very sexual
16 when under the influence of cocaine.

17 But the fact that it made him focus better,
18 now -- we didn't know that at the time, but he had some
19 testing. He had some testing done on his brain where he
20 probably had those disorders, reading disorders and math
21 disorders, that inhibiting it helped him pay attention
22 better. And drugs like cocaine, there's drugs we use in
23 psychiatry like Ritalin or Adderall that are stimulants
24 that help people better focus and pay attention.

25 Q Can you explain the term "self-medicating"?

1 A Sure. There's some people if they don't have access
2 to psychiatric care, or maybe they don't have the money,
3 there's certain drugs -- the drugs that they pick and
4 their drugs of choice sometimes will help symptoms. So,
5 for example, people with anxiety disorders, if they don't
6 have access to a doctor, they may drink a lot or they may
7 use Valium or buy Xanax off the street. So sometimes
8 people with mental disorders, the drugs they pick are
9 actually medicating their symptoms. They're not what
10 psychiatrists prefer, we would rather you not do that, but
11 that's very common, that you can find that the drugs that
12 people use tend to help them function better at some
13 point.

14 Q Then next you've got "trauma history" listed in your
15 report. Can you tell the jury why that's important?

16 A Sure. A trauma history if you can get or obtain one,
17 it's important because a lot of anxiety disorders are
18 unrecognized in people. For example, 20 percent, one of
19 every five people have an anxiety disorder, and if you
20 don't ask about them, you're not going to get the
21 diagnosis. You have to get a good history. So normally
22 when I obtain a trauma history I'll say, "Tell me every
23 time you've seen a gun or a knife or you've seen someone
24 hurt or a big car wreck you've been in," those sorts of
25 things.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2007

1 The trauma history I got from Mr. Barnes was
2 limited. He minimizes a lot of things he's probably
3 experienced. But he did acknowledge to me that he was
4 molested by a female baby-sitter. But he denies any
5 memories of it. And I asked him how did he know, and he
6 knows. But he has no memories of any -- I said, "Can you
7 tell me the times this happened? Do you have any specific
8 memories of that?" He doesn't.

9 I was very concerned, I confronted him in his
10 evaluation, there's a report and one of the statements in
11 the discovery that brother said that Mr. Barnes told him
12 he was raped when he was younger, and Mr. Barnes adamantly
13 denied to me, even though the brother says in the
14 statement where he admitted that.

15 When I interviewed him in September, he did
16 admit that his mother beat him, he did admit to that, but
17 he stated to me that the last time his mother beat him he
18 was 11 and he stated that he grabbed the belt from her and
19 whipped himself and said, "Is that all you've got?"

20 However, if you look in some of the other
21 records, the ones when he's at Georgia Regional when he's
22 a little bit older, he said that he had 16 years of abuse.
23 So again -- but he acknowledged that mother was physically
24 aggressive with him.

25 He did report what's called recurrent intrusive

1 thoughts about his abuse, that there's things that might
2 remind him of being abused and he'll remember them at
3 various times.

4 He also had some recurrent intrusive thoughts --
5 when I saw him in May of 2008, he had just been tased. He
6 had gotten in a lot of trouble at the Edgefield County
7 Detention Center. I have it listed in my notes, he had so
8 many write-ups. He was throwing fluids on the guards. He
9 had a horrible adjustment there. He was assaulted, he was
10 very difficult to manage. They tased him, and for a
11 period of time he was having a lot of recurrent thoughts
12 about that, that he was bothered by that.

13 And then the interesting thing about his trauma
14 is he said he's forgiven his mother and his dad and he
15 said he believes that he's had to go through all these
16 things and experience all of these things in his life so
17 that he could see.

18 Q As far as his adaptability, what you've read in the
19 records from Edgefield and the Department of Corrections,
20 do you see a difference between his behavior in those two
21 places?

22 A Sure. Sure. That's very fair to say.

23 He's been adjudicated, he's already been
24 sentenced for his behavior in the jail, but, for example,
25 one, two, three, four, five, six, seven, eight -- there's

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2009

1 at least 15 different records where he assaulted somebody
2 in the Edgefield County Detention Center and did things
3 like destroy food trays, throwing urine and feces and
4 just -- and this was over a period of time. This looks
5 like mainly in 2007, from August to November he had a lot
6 of charges during that period of time.

7 I looked at his -- compared that to his prison
8 record, and he's had some disciplinaries there, too, but
9 not nearly as many. But in 2009, he assaulted a roommate
10 living in his cell and that he had a separation filed, so
11 he and that roommate are not allowed to be in the same
12 institution.

13 He was found with a cell phone and two shanks.

14 But he's had -- if you look at the number of
15 assaults and the number of disciplinaries, they've
16 decreased exponentially.

17 And he actually did something good. In
18 March 31st, 2010, he completed a Work Smart program, so he
19 actually even completed one of the programs offered by
20 Department of Corrections. So he's calmed down.

21 Q It's actually been a year and nine months since his
22 last disciplinary at SCDC?

23 A That's correct. I don't know if he's had any more
24 recently, but that's correct. As far as I can review, his
25 last one would have been in March 2009.

1 Q Okay. Does he understand a lot of his problems that
2 he had in Edgefield were the result of the conditions as
3 he perceived them there?

4 A As he perceived them. One of the things he does, he
5 quotes a lot of statutes and laws and federal laws, and he
6 believes that the conditions there were uncivil.

7 Q He filed lots of grievances and filed lawsuits about
8 those conditions?

9 A Yes.

10 Q Okay. And that behavior has not continued at the
11 Department of Corrections to your knowledge?

12 A Not that I know of.

13 Q Okay. Now, going back to this trauma issue and
14 whether -- do victims of trauma always fully disclose
15 their abuse?

16 A No.

17 Q You spoke about minimizing. Could you elaborate on
18 that a little bit?

19 A It just depends. Especially males with females, they
20 may not be comfortable.

21 Many people go to their graves and never tell
22 anybody what happened to them. Those are secrets that
23 people may keep with them for life depending on the
24 circumstances, but that's not uncommon. Even children,
25 even children minimize their traumas. Those are

1 unpleasant things. People don't like to think about
2 unpleasant things.

3 Q Do you need to rely upon family members when
4 obtaining that type of history?

5 A It helps again, but, you know, the other thing I need
6 to add going back, sometimes a person may not remember.
7 Sometimes trauma's so severe and so frequent that people
8 don't have memories of it, their brain is able to block
9 those things out. But sometimes they may not remember.
10 So it's helpful to have family members for lots of
11 reasons.

12 Sometimes the family may remember something and
13 it will trigger a recollection for the person so they can
14 give you more details. Or sometimes people aren't abused
15 at all and they fabricate those things and you could use a
16 family member to verify whether those things happened or
17 not. Sometimes we do see that, that people will say
18 something happened to them that didn't, and so if you can
19 get some family history it's helpful.

20 Q And what did you have to rely on in this case?

21 A Different hospital records and just Mr. Barnes'
22 reports. And then, of course, I used some of the
23 statements, his brother made a statement to the police,
24 had mentioned that he had discussed being raped with him.

25 Q And what is family history and why is that important?

1 A Family history, we're looking for mental illnesses
2 that run in families or medical illnesses that run in
3 families, things that could be genetic, genetically passed
4 on.

5 And what's significant with Mr. Barnes, he said
6 his mom has high blood pressure and he has high blood
7 pressure, so we know that's inherited. He also stated his
8 mother had breast cancer. And, of course, he's not at
9 risk for that, but that's still a family history to be
10 noted. And then finally in his report, I have not met
11 this half sister, but he reported he has a half sister
12 with autism.

13 Q And would you want to review records of family
14 members if they were treated for mental illness?

15 A Oh, absolutely. Absolutely.

16 Q Okay. Were you provided any of those in this case?

17 A No. Some mental depressions are inherited. It's
18 very common that if a child has depression, the parent --
19 if a parent has a depression, your child has a 14 percent
20 chance of having a depression, which is a little bit
21 higher than the general population.

22 Substance abuse disorders are inherited. So,
23 for example, those kinds of things, if you had that
24 medical information, that would be helpful.

25 Some forms of schizophrenia, some forms of

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2013

1 psychosis are inherited, so that would all be helpful.

2 Q Okay. You next have on here, "Legal History"?

3 A Yes.

4 Q Now, the jury's already heard a lot about this, but
5 feel free to speak about that.

6 A I just went through his rap sheet, and that's how it
7 works for me, so I just had a list of some of the things.

8 I don't know, he had a theft by taking in 1997,
9 possession with intent to distribute crack cocaine in
10 1997, criminal damage to property in '98. A charge of
11 simple assault in '98, possession with intent to
12 distribute an unknown substance in '98.

13 And then in 2000 is when we get very serious
14 charges, aggravated assault, kidnapping, and rape;
15 November of 2001, aggravated assault, kidnapping; 2002,
16 obstructing officials; 2002, aggravated assault and then
17 kidnapping, failure to appear; 2002, armed robbery,
18 possession of a firearm; 2003, burglary, kidnapping,
19 terroristic threats; and then in 2007, he was sentenced to
20 the 15 years for throwing bodily fluids on the
21 correctional officers.

22 Q Okay. Next you have "Institutional History." Could
23 you explain what type of mental health experience he's had
24 as far as when he was institutionalized?

25 A Sure. And what I did on Institutional History, the

1 psychiatric area, I put what he received in the prison, I
2 just included that under his psychiatric history. But
3 what I was looking at in his institutional history, again
4 keep in mind, these are abbreviated. His records, the
5 discovery in this case is voluminous. But the things that
6 are important to me is in some of his records he denied
7 that he ever had mental health treatment. And he was at
8 Waycross in the prison there and denied that he had
9 treatment. He denied thoughts of ever trying to harm
10 himself, and we know that there's absolutely reports
11 contrary to that.

12 One thing that I noted that was significant, in
13 March of 2008, he admitted to doing cocaine in the
14 community. So whenever there was some conflicting
15 reports, I tried to highlight those to know that he's not
16 always very reliable.

17 The records from Waycross confirmed that he had
18 mental health treatment in 1998 and had a suicide attempt,
19 which he admitted to.

20 Then I listed the disciplinaries that he's had
21 since he's been confined.

22 So again, I think what's important here is you
23 can't always rely on him to give accurate data. And it's
24 not always protective; for example, you know, he's denied
25 he'd had mental health treatment, where some people, they

1 would tell you every single time and they would make sure
2 that they had a mental health history that's very well
3 documented.

4 Q And I guess the main reason you were retained in this
5 case was to conduct a mental status examination on
6 Mr. Barnes. Could you explain to the jury what a mental
7 status examination is?

8 A Sure. It's the equivalent -- in our examination,
9 we're looking at somebody's brain function, their
10 cognitive function, and what that means is their memory,
11 their ability to register and recall things, so we're
12 looking at how their brain works, we're looking at mood
13 disorders, we're looking at judgment and that sort of
14 thing, so it's a way to assist us in diagnosing them.

15 Q Okay. And what is significant about Mr. Barnes'
16 examination?

17 A I just put the things to me that were significant.

18 He described when I saw him in May of 2008, he
19 was very difficult to interview. He did not want to
20 interview when he came in May of 2008. He had an earache
21 and he was complaining the entire time about -- he was
22 focused on his ear and wanted antibiotics for his ear. So
23 it took awhile to get information from him.

24 He was very grandiose when I met him. He
25 described himself as being self-educated in philosophy

1 when I was trying to get his full history from him and he
2 said that he was self-educated in philosophy. He also has
3 a sense of humor. He's somewhat intelligent.

4 He said his mother suffered from "Tammy
5 syndrome." When I was asking him about his mom, he said
6 she suffered from "Tammy syndrome." And I asked him what
7 that meant and he said that "she grew up and she raised me
8 when she was young, she didn't know any better, and I used
9 hate her because she strong."

10 Then when I asked him about his parent, he said
11 his father had "Joseph syndrome." And I asked him what
12 that mean and he said, "Joseph syndrome is blackmail and
13 destruction." And he did tell me that his father, his
14 stepfather would often use him to get information about
15 his mother, what she was doing, and he would use blackmail
16 and destruction of Tammy to get that information. So
17 that's how he alluded to some of the drama that he saw
18 between his parents. He stated that Joseph would give him
19 money to tell him where his mother was at.

20 The interesting thing, he had what's called
21 hyper-religiosity. He was focusing on religious matters
22 and he stated that "oracles had cleaned his spirits from
23 the beatings he took as a child." So he was -- at that
24 point when I had seen him he felt like he had taken the
25 trauma from his childhood and put it behind him.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2017

1 He was very obsessed and made it very difficult
2 to get information from him because he was very focused on
3 being tasered at Edgefield. He was very angry about his
4 treatment there and spent a lot of time talking about his
5 treatment.

6 I saw him this past September and he was a
7 different person. He was much more friendly. He was much
8 more relaxed. He wasn't complaining. But again, he
9 really -- I had to focus and give him very specific
10 questions, and he liked that. I had gone through his
11 records and came in there with some very specific
12 questions to ask him. I was confronting him about some of
13 the abuse in the records, which he denied.

14 But he still was what I call grandiose. He
15 knows a lot of the law and he was very intent in that time
16 and he was quoting a lot of the statutes and was somewhat
17 familiar with the law. He was obsessed with -- what I
18 call obsessed with the federal government. You know, I
19 was trying to get information about him for this hearing
20 and he was spending a lot of time talking about the
21 government and their role.

22 Q Now, you've got a section, the next section is called
23 "Diagnosis." Could you tell the jury what your diagnosis
24 was in this case?

25 A Sure. In psychiatry, we have what's called a

1 multi-axial system of diagnosis, and what that is, we have
2 a book we use and it codes what the symptoms are, so that
3 way if I'm calling a psychiatrist in California and I say
4 Patient Mary has major depressive disorder, we know that
5 we're talking about the same thing. It's just like your
6 doctor does. When you go -- Mr. Myers was saying your
7 doctor always writes everything down and they also code
8 your diagnosis so insurance companies can bill for it. So
9 we use diagnostic codes, too.

10 Axis I is for major mental illnesses or it can
11 be for conditions so severe that anybody would have mental
12 problems. So, for example, if your wife died and you came
13 into a psychiatrist's office, we would expect you to be
14 depressed. We would code that, that doesn't mean you're
15 necessarily mentally ill, but it's a condition so severe
16 we would expect you to have symptoms.

17 For example, I had a patient today who lost his
18 job and his house was foreclosed and he's got a
19 depression. In this economy, you'd expect that. So even
20 though it's not a mental illness, we can code conditions
21 so severe that they affect your well-being.

22 He has a number of Axis I diagnoses:
23 Post-traumatic stress disorder, chronic. And what that
24 is, that's an anxiety disorder, and to have that
25 diagnosis, you had to either experience or witness some

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2019

1 abuse in your lifetime. So, for example, if a tornado hit
2 your backyard, we would expect -- there's some people that
3 would have problems with that. They would have recurrent
4 thoughts about it, they would get very scared and get
5 panicky if they thought about a tornado. They might avoid
6 living in places where there's tornadoes. So it's an
7 anxiety disorder that results from are you seeing or
8 witnessing or experiencing trauma.

9 And what happen in that diagnosis, it's a
10 life-long illness, but the symptoms come and go. So there
11 can be periods of time if you maybe see somebody that
12 reminds you of an abuser, you might have a period where
13 your anxious, you don't sleep well, you have recurrent
14 intrusive thoughts, so they can cause you difficulty
15 adjusting.

16 He was also diagnosed with dysthymia. And what
17 dysthymia is, that's a chronic depression. And it's not
18 as severe. It's not as severe as a major depressive
19 disorder, which he had that diagnosis before, but what
20 dysthymia means is that in two years, he's had a period of
21 two years in his life where he's pretty much depressed.
22 And he's dealt with chronic depression. He's been on
23 antibiotics -- excuse me -- anti-depressants off and on
24 since the age of ten, even up until 2009, so he's had a
25 long history of mood disorders.

1 I diagnosed him with cocaine abuse. And again,
2 that is based on other people's reports. He said there's
3 been some records that allude that he's used cocaine, and
4 certainly from some people that were around him at the
5 time of this crime that report that he using cocaine.

6 He's had a reading disorder by history, a math
7 disorder by history. Those are childhood incidents, that
8 he had difficulty in school.

9 And then finally I diagnosed him with what's
10 called cognitive disorder, not otherwise specified.
11 There's a psychologist that will testify more about that.
12 These are psychological testings, but it's testing that
13 show parts of his brain -- he had a motor vehicle
14 accident, he had a closed-head injury years gone by and so
15 some of his thinking, some of his memories, some of his
16 functions don't work as well as they should, but not to
17 the point where he's got a dementia or anything serious,
18 but it's enough there that he's got some difficulties with
19 cognition, the way his brain, the neurons fire and connect
20 and work.

21 Axis II is for personality disorders or
22 disorders of intellectual function. And on Axis II, I did
23 diagnose him with what's called antisocial and borderline
24 traits. And what that means, antisocial, as you can see
25 it, just means that he's had a history of problems with

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2021

1 the law, he's had a history of assaulting others, he's had
2 a history of hurting other people. He's had a number of
3 antisocial acts over his lifetime. And then what
4 borderline personality means is that that's a personality
5 trait where you -- it's called borderline because you can
6 border on being neurotic and you can border on being
7 psychotic, but basically what it means is an instability
8 of his personality, that the mildest thing can trigger
9 him. If he perceives that he's rejected from someone, he
10 can get explosive, he can get very intense in his
11 emotions. His emotions are intent when he perceives
12 rejection. And that comes from children that have been
13 abandoned or children that have been abused. And that's a
14 personality characteristic that develops as a result of
15 abuse.

16 Now, Axis III, some medical illnesses, and he's
17 got high blood pressure, he has sickle cell anemia
18 traits -- he doesn't have the illness but he carries the
19 traits -- and then he had a history of migraine headaches.

20 Q Okay. And are these disorders treatable?

21 A Absolutely, yes. Post-traumatic stress disorder, the
22 treatment's anti-depressants, some of which he's been on
23 like Celexa or Prozac, those medicines that can kind of
24 make your brain not -- you don't get the physiologic
25 response of anxiety, can calm your heart rate, it can help

1 you think more clearly.

2 The dysthymia, again it's the same treatment,
3 the anti-depressants for that.

4 The personality disorders would need therapy.
5 Those would require meeting with a counselor and getting
6 treatment.

7 Q Okay. And can he get treatment effectively in
8 prison?

9 A Yes. There are -- and especially at Lieber where
10 he's been.

11 The Department of Corrections has area mental
12 health centers that we have -- in Columbia, we have an
13 inpatient facility, and we also have a unit in Columbia
14 where people can live. Basically it's called residential
15 treatment.

16 But then there's various prisons in South
17 Carolina that have what's called their outpatient
18 centers -- Lieber is one of them, Perry, Lee County -- so
19 throughout the state the Department of Corrections has
20 prisons where you can get mental health treatment.

21 So, for example, Lieber, I think right now they
22 have a psychiatrist working there that would see the
23 inmates there.

24 They also have case managers. They have a
25 counselor who would see them and check on them.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2023

1 There's great therapies they can go to, so
2 there's treatment.

3 Q And he's been seeing those counselors in Lieber while
4 he's been awaiting trial here?

5 A Yes, he has.

6 Q Has he also been under medication?

7 A Off and on, yes, he has. He was on the mood
8 stabilizers I talked about. He was on the
9 anti-depressants which are indicated for post-traumatic
10 stress disorder and he's received those medications as
11 well.

12 Q Okay. Your final section that you have on your
13 report is entitled "Statutory Mitigators." Were you able
14 to review this section before court today and the statute
15 as well and would you have any changes to this section?

16 A Yes. The one, there used to be a statutory mitigator
17 about if you were under the influence of drugs at the time
18 of your crime. Again, this is for him, it was my opinion
19 he was under the influence of drugs at the time of this
20 offense. But that's only based on the statement of
21 Charlene Thatcher who said "Big Man was snorting powder
22 and on a high," and it was based on the statement of
23 William Harris who said "He was all spooked up. He had
24 powder in his nose."

25 So, again, Mr. Barnes absolutely denied using

1 cocaine around the period of this time, and I base that on
2 statements of people who knew him.

3 Q Okay. And the second one you have listed is he was
4 suffering from mental illness at the time?

5 A That's correct.

6 Q And that would be the PTS -- the post-traumatic
7 stress disorder, chronic depression, and cognitive
8 disorder?

9 A That's correct.

10 What that meant is that these are life-long
11 illnesses that he has, and even five years from now he's
12 still going to be suffering from these disorders.

13 His cognitive disorder is based on probably some
14 of the drugs he may have used. His history of the reading
15 and math disorder, that's not going to change. And
16 perhaps this car wreck that we got into. So that's not
17 going to change. His brain's probably going to have a few
18 faults in the wiring of it.

19 Chronic depression, he's had depression since he
20 was ten, he's in his thirties now, so his prognosis is
21 poor. He's going to continue having depressive symptoms.

22 And then post-traumatic stress disorder is a
23 life-long illness. You have periods where you may not be
24 bothered at all by the symptoms. And the best example I
25 can give you is somebody's in a car wreck and almost died.

DR. DONNA SCHWARTZ-WATTS - Direct Exam by Mr. Tarr

2025

1 There's a period of time -- some people can never get back
2 in the car and drive again. There's other people that
3 they're able to get in the car and even though they're
4 anxious, as time goes on they're able to drive, but if
5 they see a wreck they might get very anxious, it may
6 remind them of the car wreck. So there's lots of people
7 that have PTSD that function, that aren't in prison or
8 that sort of thing, but that disorder also lasts over
9 time. So all those disorders, he has them in a chronic
10 sense.

11 Q And what was the final mitigator that you listed?

12 A I think it's just important for the jury to know that
13 he had a horrible adjustment at the detention center. I
14 think he's done -- he's clearly had less write-ups in the
15 Department of Corrections.

16 He's seemed to have stabilized. He's getting
17 psychiatric care, medical care, and he actually, I think,
18 completed a Work Smart program, which is certainly
19 different if you look at how he was adjusting. Before
20 this trial it's horrible and he seems to have done better,
21 so I think that needs to be considered.

22 MR. TARR: Could you please answer any questions
23 the Solicitor may have?

24 THE WITNESS: Sure.

25 THE COURT: Thank you.

1 Solicitor.

2 MR. MAYE: May it please the Court.

3 CROSS-EXAMINATION

4 BY MR. MAYE:

5 Q Dr. Schwartz, it sounds like you have described
6 somebody that is thoroughly violent and dangerous when
7 from your diagnosis.

8 A He's certainly had periods.

9 What we do -- that's a good question.

10 We don't predict, psychiatrists cannot predict
11 dangerousness. We're pretty good at assessing it, and
12 we're actually really good with assessing it within about
13 48 hours, but after that we're no better than anybody
14 else. So my answer to you would be, we look at his
15 patterns of violence: He has had significant violence and
16 the magnitude of that violence when he had them, he has
17 been dangerous, so he has had a period of dangerous
18 behavior, absolutely.

19 Q It continues if he was dragging somebody off of -- or
20 he was assaulting an inmate, trying to drag somebody
21 around towards a drop-off in the jail here recently,
22 wasn't he? It continues and is an ongoing thing, it's a
23 pattern with him that goes back over a long period of
24 time, isn't it?

25 A Yes. He probably -- if you look at his younger

1 years, even I think in the hospitals when he's about 15 or
2 16 he was noted to -- that's when his behavior started
3 changing. And by the time I think he was 16, they
4 diagnosed him with conduct disorder. So you definitely
5 saw by the time he became a teenager, he began getting
6 aggressive. And that's continued -- I think that's fair
7 to say it's continued throughout his adult life.

8 Q He's spent all his life, hasn't he? If you go back,
9 you talked about how his momma when he was young said
10 there's something evil inside him, had oppositional
11 defiant disorder, wouldn't listen, he was angry and
12 glaring?

13 A Well, that's different. Oppositional defiant
14 disorder, that's a behavior disorder and that's where
15 again you don't follow rules and you use words. But where
16 he changed, when that diagnosis became conduct disorder,
17 that's the point where it's coded that he certainly
18 becomes dangerous to others.

19 So childhood, I don't think that's fair to say.
20 He was a child. He had a depression. He wasn't getting
21 treated. He certainly had aggressive behaviors, but the
22 doctors treating him at the time did not diagnose that as
23 what's called a conduct disorder, which is more severe.

24 But yes, I think it's certainly fair to say from
25 his teenage years up, he's had a history of violent

1 behavior.

2 Q Noted in his records, did you see in there where it
3 said he was harmful to young children and animals and all
4 that? This a pattern that's gone from the time he's a
5 little kid until he murdered people here and continues on
6 up through him being in the South Carolina Department of
7 Corrections. This is all his life he's been violent and
8 dangerous, isn't it?

9 A Again, I would --

10 THE COURT: Wait just a minute.

11 Rephrase that question. It's not plural,
12 "murdered people."

13 MR. MAYE: No.

14 THE COURT: Rephrase that question, please,
15 Solicitor.

16 MR. MAYE: Excuse me, that was plural.

17 THE COURT: Yes, sir.

18 BY MR. MAYE:

19 Q And committed a murder.

20 A And again, I'll give you the same answer: I think
21 once he became a teenager, that's clearly been his
22 pattern. I would not agree that that was his pattern as a
23 child.

24 And children who are mentally ill when you're
25 ten years old, you're not -- if he were doing conduct

1 disorder behaviors, he would have been diagnosed with it.
2 They were looking at his behavior. And so I think it's
3 fair that by the time he became a teenager that did become
4 his pattern.

5 Q And you can't believe a whole lot of what he says
6 because it's clear he reported to the South Carolina
7 Department of Corrections upon intake he never tried to
8 hurt himself, doesn't hear voices, never physically or
9 sexually abused. He's been contradictory on a lot of the
10 things that you have relied on in your diagnosis, hasn't
11 he?

12 A Not that I relied on in my diagnosis, but he's
13 certainly been contradictory.

14 But I think the point of that is, it's not even
15 helpful to him. It's just self-defeating. Most people in
16 that situation would admit to every symptom they could so
17 they could get off, or have a defense at this point in the
18 proceedings, and he minimizes those symptoms. I mean, why
19 would he say he's never had mental health treatment? He's
20 had mental health treatment since he was ten years old.
21 So some of those things are not protective.

22 But you're correct, I -- you can't -- he is not
23 a reliable historian.

24 Q What you're talking about with your diagnosis here,
25 many, many people -- I mean, you've testified as an expert

1 in, what, 750, 800 times?

2 A Yes.

3 Q Many, many people that are violent, commit a murder,
4 do violent acts, this is what they are. This is a typical
5 diagnosis for somebody that does violence, does violent
6 acts and bad things to other people, isn't it?

7 A I wouldn't say typical, but yeah, it's certainly
8 common.

9 People with anxiety disorders, you'll see a lot
10 of people with post-traumatic stress. People that have
11 witnessed violence, they may go on to be violent when
12 you're raised in that kind of environment. That's a
13 behavior that's accessible to you. So I think it is fair.

14 There's certainly -- I don't know of a study
15 offhand that will say that, you know, there's more people
16 in prison with PTSD versus the street, but you certainly
17 can see violence associated mental illness. It does
18 happen.

19 With depressions you get irritable. You might
20 have moms that never spank a child and when they're
21 depressed they become irritable and aggressive, so you can
22 have that behavior associated with mental illnesses.

23 Q Now, you talked about a diagnosis, some of your
24 information, with antisocial personality disorder; is that
25 correct?

1 A I diagnosed him with traits. The reason I didn't put
2 "disorder," to have that diagnosis of a disorder, you
3 would have had to have that conduct disorder at an earlier
4 age for him, so technically if you go down our criteria,
5 he didn't meet that, but he certainly has traits. He's
6 had a pattern of disobeying the law. And if you look back
7 at the legal history, that's why I put that down. Since
8 1997 we know that there's been a record of him having
9 run-ins with the law.

10 Q Would you agree that people with antisocial
11 personality disorder, would you agree that they say
12 there's a failure to conform to society's norms and
13 expectations that often result in numerous arrests or
14 legal involvement as well as a history of deceitfulness
15 where the individual attempts to con people or use
16 trickery for personal profit, demonstrates impulsiveness
17 or those traits are often present, angry outbursts,
18 failure to consider consequences of behaviors,
19 irritability and/or physical assault? Would you agree as
20 an expert that that's pretty typical of somebody with
21 antisocial personality disorder?

22 A Absolutely. Those are actually the criteria that are
23 listed in the DSM.

24 Now, you don't have to have all those. You only
25 have to have like five to meet that diagnostic criteria,

1 but those are some of the symptoms present, yes.

2 Q That pretty aptly describes Steven Louis Barnes,
3 doesn't it? Given his history throughout his life and
4 all, that pretty aptly describes him, doesn't it?

5 A Some things. Some things apply to him.

6 But you have to remember, some of those symptoms
7 also, there's other illnesses that can cause -- for
8 example, if you have abdominal pain, you came to a doctor,
9 there's several different things that can cause that. You
10 might have appendicitis, you can have a diverticulitis.

11 Well, that's how -- you look at those behaviors.

12 Impulsiveness. There's lots of different reasons people
13 are impulsive. You can be impulsive when you have a
14 depression. You can be impulsive because you're
15 antisocial. You can be impulsive because you have a
16 cognitive disorder. So you're correct, that can be one of
17 the causes.

18 Q Now, did you take into consideration -- you said that
19 his conduct was better in the South Carolina Department of
20 Corrections. Did you take into consideration that
21 somebody that's caught with shanks and assaults other
22 inmates, that they restrict their movement and they lock
23 them down and they become progressively less able to do
24 other acts because they lose privileges or are placed in
25 lockdown, did you consider that when you were considering

1 or you made a statement he was doing better at SCDC?

2 A Sure. I've worked at the Department of Corrections.
3 I have had contracts there for five years.

4 When I saw him, he was an inmate. He came and
5 met me in the conference room.

6 He had -- what happened is when you get caught
7 with things like that, you have to do time. You get put
8 in a super max or a maximum security area.

9 And he's exactly correct, your movement will be
10 controlled. You may not be able to get out of your cell
11 except to take a shower and you have to -- you get
12 sentenced and you have to complete that period of time in
13 a more supervised and more controlled environment, so yes,
14 I did consider that.

15 Q Did you look at all -- I looked at the things that
16 you considered at the start here. Did you go back and
17 look at all of the disciplinaries and all at the Georgia
18 Department of Corrections records? I didn't see anything
19 about you reviewing that, all of his Georgia disciplinary,
20 all the trouble he got into in Georgia and all in prison
21 while he was down there before he ever even came to South
22 Carolina.

23 A I am aware. Each one, no, but he has had -- I mean,
24 I think it's very fair to say, he has not had very good
25 adjustment to institutions in the past, that's very fair

1 say.

2 Q And you would agree that a Georgia Department of
3 Corrections, the state prisons in Georgia would be very
4 similar to state prisons in South Carolina, wouldn't they?

5 A I think that's fair to say.

6 Q Okay.

7 A I think the one thing you have to add, though, we
8 know that people with antisocial personality traits, the
9 older they get, they wear out. Usually by the time
10 somebody's 45 they don't -- they're not quite as impulsive
11 as they used to be. So you would expect if you look at
12 him now, as he gets older he calms down. He's not going
13 to be in as much trouble. But he's certainly -- I think
14 it's very fair to say that he's had a lot of
15 disciplinaries while he's been confined.

16 Q So his history in the Georgia Department of
17 Corrections is, he got in trouble, he couldn't follow
18 instructions. His history in the Edgefield County
19 Detention Center was absolutely atrocious. And in SCDC,
20 he has continued to get in trouble there as well. Did you
21 find any -- is that correct?

22 A Sure.

23 Q Did you find any correctional institution he was held
24 in ever that he didn't continue to get in trouble and have
25 disciplinaries in?

DR. DONNA SCHWARTZ-WATTS - Cross-Exam by Mr. Maye

2035

1 A No. But I haven't seen an inmate to date that hasn't
2 had any -- actually, I take that back. I may have seen a
3 few, but it's not very -- it's much more common for an
4 inmate, somebody that's been institutionalized to have
5 write-ups. It's definitely the exception not to have any.
6 I've seen a few, but not many.

7 Q But here we're talking about a man that it takes
8 several pages on a board here to talk about all the
9 trouble that he's got in in prison; is that right?

10 A That's fair to say.

11 Q You said one of the statutory mitigators that you
12 observed in this case was about the cocaine use at the
13 time of the incident.

14 Now, there was nothing in there about anybody
15 forcing him to do drugs. Any information you had, that
16 was a totally voluntarily act on the part of Steven Louis
17 Barnes, wasn't it?

18 A That's correct.

19 Q And you said that Steven Louis Barnes, I believe you
20 said that he was disproportionately violent; is that
21 correct? That the responses he had -- I believe I heard
22 you say that earlier?

23 A No. What I was referring to, one of the doctors at
24 the prison, Dr. Moultrie, diagnosed him with what's called
25 intermittent explosive disorder. I did not diagnose him

1 with that.

2 That's a disorder where, for example, if
3 somebody puts you in a car, he might go out and beat the
4 car in with a sledge hammer; that your response to a
5 provocation is far exaggerated than what it should be.

6 Usually in that diagnosis, though, you have a
7 much more significant cognitive disorder, you have a lot
8 more brain damage than what Mr. Barnes's testing showed,
9 so I did not diagnose that.

10 But that's correct, there is a disorder where
11 the amount of aggression is out of proportion compared to
12 what the provocation is.

13 Q So some other expert looked at him, though, and
14 thought that he was disproportionately violent, that this
15 is the kind of person that would just go off on some
16 slight provocation; is that correct?

17 A Yes and no. Dr. Moultrie is a psychiatrist, but I
18 don't think he's an expert in this case, but he certainly
19 was treating him at the Department of Corrections and
20 diagnosed him with that.

21 Q And again, that's something that's indicative of a
22 thoroughly dangerous person that suffers from those sorts
23 of things, isn't it?

24 A You can be. You can be episodic, you're correct.

25 I think what's fair to say about him is he's

DR. DONNA SCHWARTZ-WATTS - Cross-Exam by Mr. Maye

2037

1 episodically violent and when he's violent, the magnitude
2 of that violence is great. It can be treated and there's
3 medication to dampen that, but that's fair to say.

4 Q And, in fact, his entire life history demonstrates a
5 person that has had problems and is extremely violent; is
6 that correct?

7 MR. TARR: Your Honor, I believe that's been
8 asked three or four times now.

9 THE COURT: I will allow -- the doctor and
10 answer the question. I'll allow her to answer.

11 THE WITNESS: Again, I would say starting from
12 1997 and on. I don't think that was indicative of his
13 behavior earlier on, certainly when he was younger. I
14 think by the time he became a teenager he began having
15 some issues with the law, but I don't think it's fair to
16 say he's been at that magnitude of violence and that
17 frequent over that period of time.

18 BY MR. MAYE:

19 Q When you look at his violence in adulthood, it's hard
20 to compare anything? I mean, anything would pale in
21 comparison to his violence as an adult, wouldn't it?

22 A It depends who you ask. I see a lot of violent
23 people. I've certainly seen many more violent than him
24 and I've seen many less violent than him.

25 MR. MAYE: No further questions.

1 THE COURT: Redirect?

2 MR. TARR: Just briefly, Your Honor. I know
3 we've been going a long time.

4 REDIRECT EXAMINATION

5 Q Dr. Watts, you said -- you were asked about Tammy
6 Harris saying that there was something evil inside her
7 child, and I believe that was around age ten?

8 A That's correct.

9 Q That's the same mother that was abusing him, Tammy
10 was abusing him?

11 A Correct.

12 Q Wouldn't give him his medications?

13 A Correct.

14 Q Wouldn't cooperate with the defense?

15 A To a degree, correct.

16 Q And would not come here to testify?

17 A That's my understanding, that's correct.

18 Q And I believe you say that post-traumatic stress is
19 caused both by either witnessing traumatic events or
20 experiencing them?

21 A Correct.

22 Q Okay. And Mr. Barnes had both of those things in his
23 life?

24 A Correct.

25 Q Okay. Now you were asked about Steven not being

1 reliable. But most of his unreliability is minimizing
2 things that could actually help him here today?

3 A That's correct. It's not protective. It is not.

4 Q It's things that he's embarrassed about?

5 A Or -- I don't know his reason for not volunteering
6 those things, but those are things that have been
7 important. I mean, it would be very important when he
8 goes into the Department of Corrections, if he's had a
9 history of mental health treatment that they know that so
10 they can give him access to mental health, so they're not
11 always protective. I'm not sure why he wouldn't mention
12 those things. It may be embarrassment, I'm not sure.

13 Q Okay. Now, these two boards here -- and this is my
14 last question -- these both are State's Exhibit 69. And
15 they indicate -- on this board here it's mostly Edgefield
16 County, the problems that he had?

17 A Yes.

18 Q And this is mostly Georgia prison and some Edgefield
19 at the bottom?

20 A Yes.

21 Q And do you see the dates on here?

22 A Yes.

23 Q Do you see anywhere in here where he went a year and
24 nine months without getting in any trouble?

25 A Certainly now. I mean, his last charge --

1 Q Except for the last year and nine months.

2 A Looks like in 2008 he doesn't -- I don't see any
3 charges in 2008.

4 Q Okay. And then you've got one in 2003; two in 2004;
5 one, two, three, four, five, six, seven, eight, nine, ten,
6 eleven in 2005; one, two, three in 2006; one, two, three,
7 four, five, six in 2007.

8 So you have basically in your review of the
9 records seen a different -- a change in his behavior based
10 on his infractions?

11 A Certainly.

12 Q And he completed the Work Smart program which may
13 have been the first positive thing he's done in all those
14 years?

15 A I was surprised.

16 Q And that was this year?

17 A That's correct, March 31st.

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

19 THE COURT: Recross?

20 MR. MYERS: No, sir.

21 THE COURT: Thank you very much for being with
22 us this afternoon, Doctor.

23 THE WITNESS: You're welcome.

24 THE COURT: May the doctor be excused?

25 MR. MYERS: No objection, Your Honor.

1 THE COURT: Thank you, Doctor. You may step
2 down and you may be excused.

3 THE WITNESS: Thank you.

4 THE COURT: All right. Ladies and gentlemen, I
5 think we'll take about a 15-minute recess. I'm going to
6 see where we're at administratively.

7 I would ask you during this recess, do not
8 discuss the case.

9 Please remember to keep an open mind.

10 If you'd please leave your notes upside down on
11 your chair.

12 You may now go with your bailiff.

13 (The jury left open court at approximately 5:26
14 p.m.)

15 THE COURT: All right. You have two more
16 witnesses, Mr. Tarr?

17 MR. TARR: Yes, Your Honor. I don't believe the
18 Court has inquired yet as to --

19 THE COURT: I'm going to inquire right now of
20 Mr. Barnes.

21 You have two more scheduled witnesses?

22 MR. TARR: We have two more experts. The next
23 one we're calling is here. And I was just about after we
24 get done to check and see what the status was of the
25 fourth. He'll be here about that time.

1 THE COURT: And how long do you think those
2 witnesses will take? I'm not holding you to it. I'm just
3 kind of asking.

4 MR. TARR: These are going a little longer than
5 I had anticipated, but I would assume somewhere in the
6 range of two to three hours total.

7 THE COURT: All right. Mr. Barnes, would you
8 please stand?

9 Madam Clerk, would you administer the
10 affirmation to Mr. Barnes?

11 THE CLERK: Raise your right hand, please.

12 STEVEN LOUIS BARNES, after affirmation,
13 testified as follows:

14 THE COURT: All right. Mr. Barnes, you
15 understand, again as I explained it to you during the
16 guilt phase, that you have an absolute right to testify or
17 not to testify during this phase?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you have any questions you would
20 like to ask me about your right to testify or not to
21 testify?

22 THE DEFENDANT: Yeah, I've got some questions
23 for the Court.

24 Of course, the defense that he's got going on, I
25 mean, you know, if I testify, that it's going to interrupt

1 that because, I mean, I'm just non-plussed right now. I'm
2 just throwed all the way off. I mean, you know, you find
3 me incompetent to represent myself according to Henry
4 versus Florida so, you know, this is something that even
5 trying to get the death penalty off me or whatever the
6 case may be, but this too much for me, Your Honor. I
7 mean, I've been sitting here, man, just like why, you
8 know? This is amazing. I'm just telling you the truth.
9 I mean, I want it on the record exactly how I'm --

10 THE COURT: That's not a question. My question
11 to you was, do you have any questions you would like to
12 ask me about your right to testify or not to testify?

13 THE DEFENDANT: Your Honor, just like I was
14 saying, you know, no disrespect to you, you know, the
15 defense that my attorney David Tarr got going is not -- I
16 mean, I'm just sitting here, Your Honor. I mean, I don't
17 even -- to be honest with you, I'd rather be back there in
18 the back, trial in my absence because I don't want no part
19 of this, what's going on in this part here. I mean, they
20 going to sentence me to death, they going to sentence me
21 to death, which, I mean, what I'm trying to tell you is
22 this, to make a long story short: If I get on that stand
23 and tell them people that I didn't commit no crime and
24 you've got all these experts as for his defense in regards
25 to psychological ability and I go up there and tell them

1 people I didn't have nothing to do with it, you know, and
2 I mean, I ain't going to be able to testify. And you
3 administering my rights to testify and I'm basically not
4 part of the proceeding.

5 THE COURT: Yes, sir, you have an absolute right
6 to testify. You have an absolute right to testify in this
7 proceeding. If you choose not to testify, I will
8 certainly tell the jury that your failure -- that your
9 decision to not testify may not be held against you
10 because it's an exercise of a very important
11 constitutional right of yours.

12 THE DEFENDANT: I understand that, Your Honor.
13 And once again for the record, due to the defense that my
14 lawyers are setting up as mitigation (sic) and if I was to
15 go up there and ask for the defense that I want to do, I
16 wanted family members -- I wanted certain people coming
17 in, you know what I'm saying, like my step-dad and a few
18 other of my loved ones, you know what I'm saying, to come
19 up here. But this is -- this is things. You know what
20 I'm saying? So I don't want to intervene in that, I don't
21 want to mess with that.

22 So, therefore -- and I would be telling you a
23 lie to say well, okay, by getting up there -- I mean, I do
24 want to get up there, but like I say, this is -- I don't
25 have no control. You say I'm incompetent to represent

1 myself, so I have no say-so.

2 THE COURT: No, sir, that's not correct. I may
3 have said that when I ruled last Monday, but this is a
4 different issue.

5 Again, Mr. Barnes, you have an absolute right to
6 testify. It is your right. It is not the right of one of
7 your attorneys. It's personal to you. It's your
8 decision, it's your call to make.

9 Are you going to testify or not testify?

10 THE DEFENDANT: Your Honor, due to what he's got
11 going on, I can't get up there and testify to what I want
12 to say.

13 THE COURT: And is that your decision?

14 THE DEFENDANT: I mean, it's compelling but --

15 THE COURT: Sir?

16 THE DEFENDANT: It's compelling. I mean, I feel
17 compelled, you know, to follow that, you know, due to what
18 he's setting up. I mean, what do I look like intervening
19 in something that you gave him the ability as for this
20 stage to represent me in this case? Therefore, whatever
21 he put up is for my best interest according to Henry
22 versus Florida.

23 THE COURT: Mr. Barnes, we're talking about your
24 right to testify or not to testify and I'm going to keep
25 circling back until you answer my questions.

1 You have an absolute right to testify or not
2 testify. It is your decision to make, it is your decision
3 to make personally. It's not your lawyer's decision.

4 THE DEFENDANT: Okay. And like I was telling
5 you, no disrespect to the Court, that due to the defense
6 of my attorney, I'm in a compelling situation that I
7 cannot get on the stand and present --

8 (Pause while the defendant and Counsel are
9 conferring.)

10 THE COURT: Do you choose to testify or not
11 testify?

12 THE DEFENDANT: I mean, due to my attorney's
13 defense, I can't testify, no.

14 THE COURT: Is that your choice?

15 THE DEFENDANT: It's compelling, but yeah, I
16 have no choice.

17 THE COURT: Yes, sir, you have a choice. And
18 we're going to stay here all night and we're going to stay
19 here tomorrow and we'll stay here Thursday and we'll stay
20 here Friday and I'll be back Saturday, Sunday, and Monday.
21 It is your choice to make. And you need to think about it
22 during this brief recess.

23 You also have the absolute right to make a final
24 statement after the closing arguments by the attorneys.
25 Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And I'll ask you upon my
3 return what your choice is.

4 If you don't make that choice tonight, then your
5 case will not be rested tonight and if your witnesses are
6 completed, then we'll just come back tomorrow and start
7 again tomorrow.

8 All right. Thank you very much.

9 Court will be in recess 15 minutes. It is now
10 5:33.

11 (A break was taken.)

12 THE COURT: All right. We're back present in
13 the courtroom.

14 Mr. Barnes, would you please stand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: It's my understanding that you've
17 made your decision about whether you choose to testify or
18 not and you have your reasons for making your decision; is
19 that correct?

20 THE DEFENDANT: Sir, I got -- I got a taser belt
21 around me right now, so I'll say whatever you want me to
22 say.

23 THE COURT: No, sir.

24 THE DEFENDANT: I'll say whatever. I don't want
25 nobody hurting me. I just -- please, sir, I come to the

1 mercy of the Court. All I'm saying, you know, I'm telling
2 you the truth and I don't -- I'm just telling you the
3 truth.

4 THE COURT: Well, do you choose to testify or
5 not testify?

6 THE DEFENDANT: No, sir, I don't want to testify
7 whatsoever.

8 THE COURT: All right. And you have your
9 reasons for not testifying; is that correct?

10 THE DEFENDANT: Yes, sir, that's my reasons.

11 THE COURT: And that's your decision of your own
12 freewill and accord?

13 THE DEFENDANT: I mean I'd be lying to you, but
14 yeah, it's my freewill. I mean, I'm under oath. I'm
15 under oath. That lady just gave me the oath.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: So anything I say -- you see
18 what I'm saying? I ain't trying to disrespect the
19 integrity of this Court. I'm telling you the truth. That
20 lady, Shirley Newby, put me under oath and you want me to
21 tell you the truth, I'm going to tell you the truth. You
22 want me to lie, I'll lie. I ain't trying to accommodate
23 nobody, I ain't trying to disrespect the integrity of the
24 Court or nothing. I'll say it a thousand times: That
25 lady put me under oath and I'll be under oath to tell the

1 truth.

2 So like I told you -- I mean, I don't want to
3 conflict with this man's defense if I get on that stand.

4 Just like when I made my last argument on the
5 guilty phase, right, I guess I was talking too loud from
6 what I hear. I didn't mean no harm. I thought they
7 couldn't hear me, you know. And basically from what I
8 hear, I was screaming at them. I didn't mean no harm. I
9 was over here. You know, you told me to speak up so I
10 spoke up loud enough where I thought they could hear me,
11 but then come to find out, I'm screaming.

12 THE COURT: I didn't think you were screaming.
13 I've told witnesses that sit less than two feet from me to
14 speak up and they're 25 feet closer to the jury than you
15 are.

16 THE DEFENDANT: And basically due to I done
17 that, I got a guilty verdict.

18 THE COURT: No.

19 THE DEFENDANT: I mean, I'm scared to death. I
20 don't know what to do.

21 THE COURT: Well, you must be clairvoyant if you
22 know the reasons why --

23 THE DEFENDANT: Oh, no, I'm just saying -- this
24 didn't come from me now. I'm just saying, this is from
25 what I'm hearing, that I'm the one that caused me for

1 getting a guilty verdict. So I feel that just because I
2 stand up for the right, you know -- South Carolina states
3 that I can give a last statement, I can give a statement.
4 And I did that. I guess I was loud to them or something
5 and then got a guilty verdict just because I was loud to
6 them, I guess.

7 THE COURT: I haven't heard anybody say you got
8 a guilty verdict because you were loud.

9 THE DEFENDANT: I mean, anybody disagrees, you
10 just need to stand up.

11 THE COURT: The fact of the matter is, I don't
12 see anyone in this courtroom that was a part of the jury
13 deliberations.

14 THE DEFENDANT: You've got somebody that wants
15 to speak right now.

16 THE COURT: He was part of the jury
17 deliberations? Your lawyer was back there with the jury?

18 THE DEFENDANT: But I got to consult with my
19 lawyer about what you say. I don't want to disrespect the
20 integrity --

21 THE COURT: That's not what I asked you. Your
22 lawyer was back there during the jury deliberations?

23 THE DEFENDANT: No, sir, that's against the law
24 in South Carolina.

25 THE COURT: Would you like to address the Court,

1 Mr. Tarr?

2 MR. TARR: Your Honor, he asked my opinion and
3 Mr. Harte's opinion on how we thought he did on his
4 statement.

5 THE COURT: Yes, sir.

6 MR. TARR: And we were honest with him. We told
7 him we thought it hurt his case.

8 THE COURT: All right.

9 MR. TARR: I don't know whether or not he got a
10 guilty verdict because of that or because of the evidence
11 or both, but I told him it was my opinion that we advised
12 him not to do, he did it, and I thought it was a bad idea
13 before and afterwards.

14 THE DEFENDANT: So now you see, Your Honor, that
15 I don't want to disrespect the integrity of his defense
16 the Counsel's got going on for the record. And obviously,
17 you know, I have no choice but to respect Counsel and this
18 Court, so, therefore, to be honest with you, I'm just
19 sitting in this chair.

20 THE COURT: And you're not going to testify?

21 THE DEFENDANT: No, sir.

22 THE COURT: All right. Now what about making a
23 final statement to the jury?

24 THE DEFENDANT: I'm just doing what the
25 attorneys say, you know, I'm not going to.

1 THE COURT: All right. Thank you very much,
2 Mr. Barnes.

3 Bring us our jury, please.

4 (The jury came into open court at approximately
5 5:55 p.m.)

6 THE COURT: All right. Welcome back, ladies and
7 gentlemen of the jury panel.

8 There are actually two more witnesses that we
9 would like to complete this evening. It's 5:54 now. I
10 believe both witnesses are already present and available.

11 Should we get to a point that you need a break
12 or you want to take a break for the evening or something
13 of that nature, just please raise your hand and I will
14 certainly accommodate you in that regard. But we are
15 going to press on and try to complete these two witnesses
16 that I've already scheduled for the evening hour.

17 All right. Mr. Tarr, you may call your next
18 witness.

19 MR. TARR: Your Honor, the defense would call
20 Dr. Alexander Morton.

21 THE COURT: All right. Doctor, if you'd come
22 around and join us, please.

23 THE CLERK: Raise your right hand, please.

24 DR. ALEXANDER MORTON, after being duly sworn,
25 testified as follows:

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2053

1 THE CLERK: Have a seat. State your full name
2 and spell your last name for us, please.

3 THE WITNESS: My name is William Alexander
4 Morton, Jr.

5 Is that too loud?

6 THE COURT: They can hear you, Doctor.

7 DIRECT EXAMINATION

8 BY MR. TARR:

9 Q Dr. Morton, could you tell the Court about your
10 educational background?

11 A Yes, sir. I received my BS in Pharmacy at the
12 University of North Carolina in 1972. I then received my
13 Doctor of Pharmacy at the University of Tennessee in
14 Memphis in 1975. And then completed a residency in
15 Clinical Pharmacy at the University of California in San
16 Francisco in 1976.

17 Q What about any teaching positions you may have held
18 in the past?

19 A Teaching positions, I started working in teaching at
20 the Medical University of South Carolina in Charleston,
21 South Carolina, and stayed there for right at 28 years
22 before I retired and progressed from starting as an
23 associate and promoted to an instructor and promoted to an
24 assistant professor, promoted to associate professor,
25 promoted to professor, and now professor emeritus, which

1 basically says they will give me an office as long as I'm
2 alive.

3 Q And you're how retired?

4 A I'm retired from full-time work.

5 I do consult at the Medical University. In
6 fact, I pulled over in Johnston when someone called me and
7 just talked about a patient that was on the unit, the
8 inpatient unit, so I consult there informally.

9 I probably give between two and three lectures
10 there a year depending, as compared to doing 60 to 80
11 lectures a year, but it's -- I do a little work for them
12 and they do a little work for me.

13 Q Have you conducted any research in your field?

14 A Yes. I've -- while I was at the Medical University I
15 worked in the clinical research section for about 16
16 years. I was involved in about a little over 60 different
17 clinical research studies. And the clinical research
18 involved primarily three different areas: One was mood
19 disorders, one anxiety disorders, and the other was
20 substance abuse disorders.

21 Q And what type of clinical work have you engaged in?

22 A My clinical work has mostly been outpatient but also
23 includes inpatient.

24 Again, I practiced there in a number of
25 different clinical settings as a clinical pharmacist where

1 I was a drug therapy adviser making recommendations on the
2 inpatient unit, inpatient psychiatric unit, inpatient
3 substance abuse unit.

4 I worked on our CDAP unit for about 13 years
5 being a team member where I would help with designing drug
6 therapy treatment regimens as far as making
7 recommendations, as far as assessments, complications with
8 drug therapy. So I've worked there.

9 I've been a supervisor in our outpatient
10 psychopharmacology department for going on about 16 years
11 there.

12 I consulted at the V.A. Hospital, I consulted at
13 the Charleston Mental Health Program, and for awhile we
14 had a psychiatric unit at Charleston Memorial Hospital and
15 I did consults there for about nine years where weekly I
16 would go over there, they'd have a patient that was having
17 problems with their particular drug therapy or they
18 anticipated problems with withdrawal or a complication and
19 I would see the patient, interview the patient in a
20 setting kind of like this almost. I'd have four to five
21 medical students, a couple of residents, a couple pharmacy
22 students and I'd interview the patient and I'd say why I
23 asked what I did, what did I find, what would I recommend,
24 so that type of teaching. The type of teaching was both
25 service as well as teaching students in the clinical

1 'setting.

2 I probably did between 60 and 80 lectures to
3 pharmacy students, medical students, psychiatric
4 residents.

5 I coordinated the psychiatric residents' drug
6 therapy talks in their third-year psychiatric residency.
7 Physicians, when they go to get a residency in psychiatry,
8 it's four years of post -- getting their -- graduating
9 from medical school and I'd coordinate teaching them about
10 drug therapy in their third year.

11 Q Okay. And what is your role in the treatment team?

12 A It's really to -- in the treatment team there are
13 probably six or seven key members: There's a
14 psychiatrist, there'd be a social worker, there'd be a
15 psychologist, there would be a nurse, there'd be a
16 clinical pharmacist, there'd be a recognition therapist,
17 and then some other people, and it was a real coordinated
18 effort to come up with the best treatment plan for
19 patients. So I would make recommendations for drug
20 therapy or not to give drug therapy.

21 I would think about when the patient came in how
22 we would treat that patient, what we would want to
23 anticipate any psychotic features, any withdrawal
24 symptoms -- we would not want someone to have a seizure --
25 so I might make a recommendations on how I'd minimize

DR. ALEXANDER MORTON -- Direct Exam by Mr. Tarr

2057

1 someone going through that withdrawal.

2 Q And are you board certified?

3 A Yes, sir, I am board certified.

4 Q And is that in psychiatric pharmacy practice?

5 A It is in psychiatric pharmacy practice, yes, sir.

6 Q You're not a physician, though, are you?

7 A No, sir, I'm not a physician.

8 Q Okay. But you do teach physicians and residents?

9 A Yes. I primarily teach residents in psychiatry,
10 medical students when they rotate through the psychiatric
11 program, and I teach them about drug therapy, how to make
12 sure it works and how to make sure that it doesn't cause
13 problems. So those are the two main areas: Is it working
14 and how can we avoid any complications. So I've taught at
15 the medical university there for right at about 28 years
16 in different settings.

17 Q And about how many people in the world are board
18 certified in -- and let me get this right -- psychiatric
19 pharmacy practices?

20 A It changes every year as more people take the exam
21 and some pass and some don't. Right now there are 587
22 that are board certified in the world.

23 Q Okay. And have you been qualified as an expert
24 before?

25 A Yes, sir.

1 Q And about how many times?

2 A About a little over 60.

3 MR. TARR: Your Honor, at this time we'd offer
4 Dr. Morton as an expert in psychopharmacology.

5 MR. MYERS: No objection.

6 THE COURT: All right. And again, ladies and
7 gentlemen, you've heard this before: A person normally
8 cannot give opinion testimony. Normally when a person
9 testifies, they must testify as to what they either saw,
10 heard, or sensed by smell, or something of that nature.

11 However, there is an exception when someone is
12 qualified because of education or experience or training
13 in some particular art, science, or profession. They're
14 permitted to give their opinion in certain areas if the
15 Court qualifies them that way.

16 This witness, Dr. Alexander Morton, will be
17 qualified in the area of psychopharmacology -- is that
18 correct?

19 MR. TARR: Yes, Your Honor.

20 THE COURT: -- to give opinion testimony in that
21 area. That does not mean that you must accept the
22 opinion, but it is evidence for you, the jury, to use in
23 any way you see fit.

24 All right. Mr. Tarr.

25 BY MR. TARR:

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2059

1 Q And psychopharmacology, that is a mouthful. Could
2 you explain to the jury what that means?

3 A Yes. Psychopharmacology. Say that again. It's --
4 I'll break it down. "Psycho," having to do with the mind;
5 "pharmacology" having to do with the study of medication.
6 So psychopharmacology is looking at how medications that
7 are both prescribed and used illicitly affect people's
8 thinking and behavior and their feelings.

9 So I know a great deal about medicines that
10 affect the brain and the spinal cord and I've forgotten a
11 good deal about what antibiotics do, having focused just
12 on this area of medicine such as Prozac, Haldol, Zoloft,
13 Celexa, Xanax and then the other substances such as
14 alcohol, nicotine, marijuana, cocaine, LSD, those
15 substances. So that's basically psychopharmacology, those
16 drugs.

17 Q And in talking about drugs and their effects on the
18 brain, would it be helpful for you to use some type of
19 demonstrative evidence such as a slide show?

20 A Yes, it would. I usually use that in every
21 presentation. Whether it's in the courtroom or whether
22 it's in the classroom, I think it's helpful.

23 MR. TARR: Your Honor, at this time I would ask
24 that the witness be allowed to walk down to use the slide
25 show.

1 THE COURT: All right. Have you seen this,
2 Solicitor? Any objections?

3 MR. MYERS: I haven't -- I've seen it before,
4 but I have no objections.

5 THE COURT: All right. Thank you.

6 You may step down, Doctor.

7 THE WITNESS: Thank you.

8 BY MR. TARR:

9 Q And I think we've got it all set up and ready to go.

10 A I think so.

11 Q Could you describe for us this slide about drugs and
12 their effects on the brain? Could you kind of describe it
13 for the jury?

14 A Right. I think it's important to realize that drugs
15 can have numerous effects in the brain and the different
16 parts of the brain that are involved in controlling
17 different things, such as that we know that it would
18 affect our coordination as a center, how we see things,
19 how we sense things, how we're able to move, parts of our
20 brain that have to do with make decisions, judgment.
21 There's also the reward system and the memory system. But
22 all these systems are important and drugs can affect them
23 partly or completely. And I'll be pointing back at some
24 of these systems which I think are real important for
25 that.

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2061

1 Q And why do most people use drugs?

2 A Well, most people start off using drugs really kind
3 of in a voluntary way. I saw that mentioned earlier.
4 Almost everyone starts off using a substance and they make
5 a decision, I'm going to do it. There are probably 16 or
6 18 reasons, and I won't bore you with all those reasons,
7 but a lot of it has to do with rebellion, peer pressure,
8 but there's numerous reasons. So initially it's all
9 voluntary.

10 Later I find, the patients I work with, often
11 self-medication of a psychiatric illness is something that
12 comes up. Also, in addition, I think withdrawal symptoms
13 can occur and that's one of the reasons that keeps people
14 going.

15 In about ten to fifteen percent of people, they
16 have the inability to stop using. They have an addiction.
17 And essentially addiction is not being able to control how
18 much someone uses when they would like to control it.

19 Q Did you get a chance to review any records or speak
20 to Mr. Barnes in this case to prepare?

21 A Yes, I did. There were probably seven to eight
22 thousand pages of records, and some I paid more attention
23 to than others, but it was voluminous the number of
24 records there were.

25 His psychiatric hospital records, which were

1 close to eight. Sometimes they were so close together it
2 was a matter of a transfer from one building to another
3 building.

4 There were his Department of Corrections
5 records, both his activities in there as well as his
6 mental health treatment there.

7 There was all the discovery records I got from
8 the State having to do with numerous charges and
9 confessions and records there.

10 I reviewed his parents' divorce records.

11 I reviewed his school records.

12 I reviewed basically all the records I could
13 get. And sometimes there were lots of records and
14 sometimes there were hardly any records.

15 Q And you spoke to him as well?

16 A Yes, I did meet with him.

17 Q And what's your opinion why Steven most likely used
18 substances?

19 A Well, there's initially -- I don't have a real sense
20 of what he was using exactly, what started him, but later
21 on, I really had a sense that he was self-medicating a
22 number of psychiatric symptoms, a number of psychiatric
23 symptoms that had to do with some of the things that were
24 going on in his life. And those symptoms, there's
25 impulsivity, depression, to hallucinations, and taking a

1 substance helped reduce some of those symptoms
2 temporarily.

3 Q And how do you think he felt the first time he used
4 cocaine?

5 A I tried to get a sense of that. He was somewhat
6 evasive, but I think someone that had such a poor negative
7 concept of himself that he was continually trying to kill
8 himself and had very little self-confidence, chances are
9 when he used cocaine, in five to ten seconds he was
10 transported to a state of feeling good, of feeling good
11 about himself, about feeling confident, about being
12 focused, and really just a total new feeling. Because I
13 hear this from people repeatedly, that sometimes when they
14 experienced cocaine, they did not know that they could
15 actually feel good, that they had the capacity to feel
16 happy, excitement, strong, confident. And with his
17 records repeatedly saying negative things about himself,
18 about reports of other people saying negative things about
19 him, I would guess that taking a substance like that, not
20 only did it probably reduce some anxiety, but maybe it
21 gave him a sense of really feeling good.

22 Q Okay. And you mentioned addiction, you talked about
23 it briefly. What happens in addiction?

24 A The best way I have conceptualized addiction, and
25 there's no one absolute way to say it, is -- the best way

1 is that almost a switch occurs in some individuals and
2 people cross the line from being able to control their use
3 to not having control of their use. And that only took me
4 about four and a half years to learn that, and believe it,
5 absolutely believe that there are people out there that do
6 not have the capacity to limit how much they take in and
7 when they take it in. And I think I have a slide maybe to
8 that effect.

9 I would view it -- and that somehow a switch
10 occurs and someone gets off on a different track and they
11 will never, ever be able to get back on that track of
12 being able to control their use. That's not everyone
13 obviously. There are social drinkers, there are
14 infrequent drinkers, but of the people that have the
15 disease of alcoholism or substance use, that's about
16 between ten to fifteen percent we know for sure with
17 alcohol and it may be a little bit higher with certain
18 other substances.

19 So biologically we know that -- we believe, we
20 being scientists that have studied this for a good 30
21 years solidly, we know that biologically they do not have
22 the ability, certain people, to stop.

23 Q Can addiction be defined as a medical disorder?

24 A Absolutely. It is a medical disorder.

25 Q And could you explain that?

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2065

1 A Well, I think about comparing it to other medical
2 disorders, chronic medical disorders. Very similarly we
3 know that addiction affects the brain, high blood pressure
4 is the blood vessels, and diabetes is the pancreas. We
5 know that there's not one single factor that tells us what
6 causes this. We know that people relapse frequently,
7 require hospitalization. That's whether it's with
8 addiction or high blood pressure or diabetes. And we know
9 that people can respond if they get the appropriate
10 treatment. And it's very similar to these other medical
11 conditions.

12 Q Now, is the behavior of an addict logical?

13 A I would say it's one of the most illogical things
14 that you see. And what I -- sometimes I'll spend times
15 with residents because they will be spending time with a
16 patient and they want to give up because the person will
17 say, "Well, Doc, if you'd just let me go get a beer." And
18 it's like, "You almost died from having a beer." And the
19 logical thinking is not present there. Because one of the
20 things that happens with substance abuse is the part of
21 the brain that helps people make decisions simply gets
22 inoperative so people don't even activate that part of
23 their brain when they make decisions. And consequently,
24 you see people's behavior as really insane. And it's not
25 unusual to hear someone say, "Why would someone ever do

1 that? That doesn't make sense." And it doesn't make
2 sense. It does not make sense. And part of it is because
3 they're not using their brain.

4 Q What does cocaine addiction do to a person's ability
5 to function in normal society?

6 A It's similar to someone falling completely madly in
7 love. They forget everything in their life that's
8 important to them. They might forget about their job,
9 they might forget about their family, they might ignore a
10 lot of responsibilities.

11 They find themselves using a lot more than they
12 ever planned. They try to cut down and have difficulties
13 doing that. They might use in spite of having medical
14 conditions, such as someone has a seizure and it's cocaine
15 related.

16 You would think that people would connect up the
17 dots and it would be, "I'll never use cocaine again," but
18 it might be "Well, I won't use as much cocaine next time."
19 It's that kind of thinking.

20 And the same way with depression. Seeing people
21 with panic disorder depression, I would have to exclude a
22 lot of people from our studies because cocaine brought
23 them into the program and that's not the type of
24 depression that we were treating with some of newer
25 medicines. So they would actually be excluded and I'd

1 refer them to an alcohol drug treatment program.

2 Q And you've already talked about reviewing all these
3 records. Based on your review of those records, did
4 Steven Barnes exhibit a history of addictive behavior?

5 A He did have a significant history of use. His
6 history that I got from him was at the most grossly
7 incomplete. I was not able to get a history and I had to
8 rely on the records.

9 There were very few things that he was able to
10 willingly or unwillingly give me as far as his history of
11 use. I do know that he started using alcohol at a fairly
12 early age, somewhere between about 14 to 15. It was not
13 his main drug. He mostly liked marijuana, starting at
14 about age 16.

15 And his cocaine use I could never really
16 quantify. The two things that he told me was that it
17 helped him focus better, it made him more irritable and it
18 made him violent, but he never gave me much of a history
19 of looking at how much he used. And we spent about an
20 hour and a half and I got really very little information.

21 It's not like he over-reported anything. He
22 really minimized that to me, his reports. And I tried to
23 rely on other people, their history, what they found.

24 I wondered if he was hallucinating at the time I
25 was talking to him, because at times there was not a

1 connection. And I don't know if he was or not, but I
2 wasn't connected up. I was not getting some logical
3 thinking back and forth as far as the usefulness of
4 information I was trying to get. So certainly he didn't
5 over-report. I had to rely basically on medical records
6 as well as judicial records.

7 And I saw where two witnesses, William Harris
8 reported him using cocaine during the crime as well as
9 another one, Charlene Thatcher reporting him using cocaine
10 and having symptoms of being, quote, "spooked," or being
11 out of it from cocaine. But he never gave me anything to
12 work with there as getting a sense of how much and how he
13 would use it.

14 He did specifically say he never used crack. He
15 never used crack. And he didn't really tell me why other
16 than he just never used crack. And I always find that
17 interesting with patients I'm working with because that's
18 something -- crack works a lot faster than powder cocaine.
19 But I think there was something that happened in his life
20 that crack came with a big "stay away from it."

21 Q Do the records indicate other factors that could have
22 contributed to his addiction?

23 A Yes, they did.

24 When I'm asked to sit in and evaluate a patient,
25 I try to make a sense out of how did this addiction occur?

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2069

1 What are some of the factors that were present? Because
2 then I'm able to make a better decision whether medicine
3 would work or medicine would not work, whether I would
4 recommend a type of therapy, whether I'd recommend not a
5 cognitive therapy at all, because they're not thinking,
6 but more of a behavioral therapy. So my area of expertise
7 in drug therapy also involves knowing when to not use
8 drugs, when to not say, "Oh, we can treat this with
9 drugs." So I look at all these factors to try to figure
10 out what is the most effective way to go about treating
11 him.

12 I think I have -- let me say that these are some
13 of the factors we know that make addiction occur or make
14 it worse. No one knows absolutely why some people get
15 addicted and why some people don't. Some people have no
16 horrible stressors in their life at all, they have
17 everything going for them, and then you've got someone
18 else that's just been pounded from every direction and
19 they don't have a problem with addiction.

20 But what you want to look at, first of all, is
21 genetics. Who in the family, what part of the family has
22 a problem with alcohol or substance abuse? You want to
23 know what was going on in people's lives, when they were
24 conceived up to about the first six years of life, you
25 want to know what was their environment like, where they

1 lived.

2 You want to know stressors. There are two big
3 stressors. One is, what did you not get, what did you
4 lose? And it could be a favorite dog. This dog meant a
5 lot to you and it died and so you lost that structure,
6 having that. Or what bad things happened to you, insults.
7 What kind of psychiatric symptoms do you have that might
8 aggravate?

9 And then there's certain other drugs that are
10 really important to know, that these could start someone
11 or keep fueling their addiction.

12 I jumped over this slide which I thought was
13 important because when he did come into the South Carolina
14 Department of Corrections, right before he went to Lieber
15 he received an evaluation and one of the questions was,
16 "What drugs caused you the most serious problems in your
17 lifetime?" And the first one was cocaine, the second one
18 was cocaine, and the third one was cocaine. And I think
19 that's the closest statement I've got from Mr. Barnes as
20 far as where cocaine fits into his life.

21 Q Okay. Referring to what I was asking about other
22 factors that contributed, were there any untreated
23 psychotic symptoms or depression symptoms that could have
24 factored into an addiction?

25 A There were numerous psychiatric symptoms. In fact, I

1 went and looked over some of the factors that were present
2 in Steven's life that looked at how people might use, but
3 untreated psychiatric symptoms -- it's not unheard of for
4 a ten-year-old to have some psychiatric symptoms of
5 hearing voices. This would definitely catch your
6 attention at age ten or eleven and the possibility of it
7 being there even before then, so essentially a feeling of
8 depression, sadness, hopelessness, feeling like you're not
9 worthy of anything, constant anxiety.

10 Dr. Schwartz-Watts mentioned PTSD. And before
11 911 you didn't hear much about PTSD. But since then, we
12 know -- and the war, we know a lot of people have been in
13 horrible situations when they come back.

14 Basically to describe what's going on in PTSD is
15 that their brain has been turned on. The thermostat of
16 brain is gone and their heater is always on; "heater"
17 meaning they're ready for something bad to happen, fight
18 or flight, get ready, something bad's going to happen. So
19 you've got a number of anxiety symptoms that come up. And
20 untreated, they get worse. Just get worse and worse and
21 worse.

22 When you throw substances in there, they
23 temporarily get better. And that "temporarily" might be
24 for minutes, hours, or days, but typically my experience
25 is that people with untreated psychiatric disorders, when

1 they self-medicate, they get worse.

2 Q That's what I wanted to ask. That's the
3 self-medication we have heard about earlier?

4 A Self medication, yeah. You've got these
5 uncomfortable symptoms, you have a drink and the anxiety
6 goes way. You smoke a joint and the anxiety goes away for
7 that day. Or you can have cocaine and for two hours you
8 really are feeling great and you're on top of everything.
9 You can focus, you feel good about yourself, you feel
10 maybe you're the best person in your group, you know,
11 you're the sharpness, the best looking, the best feeling,
12 you've got the most energy. And that will dissipate
13 pretty quickly, but it's something that some people -- it
14 just catches their attention just like that and they'll
15 always remember it.

16 I like to ask people, "When was the first time
17 you used?" Almost everyone can describe exactly when they
18 first used cocaine, and it's like a memory because it
19 doesn't go away.

20 Q What important events did you see in Mr. Barnes'
21 medical or psychiatric records?

22 A I think that these early symptoms that we're talking
23 about, psychiatric symptoms here -- I don't have a pointer
24 except my finger -- psychiatric symptoms, untreated that
25 were present, feeling negative, hearing voices.

1 Q I believe you have a slide, slide nine, that's got
2 Steven's psychiatric history on it? There it is.

3 A Yes. Psychiatric-wise, history, there were about
4 eight hospitalizations and some of the symptoms that he
5 first reported were hearing voices, basically commanding
6 hallucinations telling him what to do. And basically in a
7 hallucination it's hearing a voice and I would say not
8 owning it as yours but attributing it to someone else, and
9 that's the way someone might experience hallucinations;
10 that you're not worthy, you should kill yourself; you
11 should take your life because you're using up oxygen;
12 you're not even worthy of the little bit of water that
13 exists that you drink today. So that type of thing,
14 command hallucinations about negative things, depressive
15 symptoms, he had this occur.

16 Again in '92, there were several
17 hospitalizations in quick succession where he went to
18 Peninsula and then was transferred back to Eastern State
19 Hospital around suicidal thinking, that he was not worthy
20 of living and was trying to kill himself.

21 There's also a report of him overdosing on
22 amphetamines in one of the reported hospitalizations, and
23 that was 1994.

24 He had several hospitalizations in '95 and '97
25 of -- they were in quick succession and it might have been

1 again going from the University Hospital to Georgia
2 Regional Hospital, kind of like next door, because someone
3 might, at that facility, be better able to treat that
4 problem or better able to treat someone that's homicidal
5 or suicidal at the time. And then an overdose of his
6 anti-psychotic medicine, Haldol, in '97.

7 Q How did these psychiatric symptoms contribute to his
8 addiction?

9 A These psychiatric symptoms I think are bothersome and
10 when you find a drug that makes them go away in five
11 seconds, 15 minutes, there's a tendency to want to use
12 those to make those go away. And it does make them go
13 away, but inevitably, it makes certain symptoms worse.
14 Because like I started off with, there are numerous parts
15 of the brain that can be affected by substances and these
16 substances don't just affect one part of the brain, they
17 can affect different parts of the brain.

18 Q Dr. Morton, what are natural rewards?

19 A Natural rewards are the rewards in the body that
20 ensure that we have regular behaviors. Natural rewards
21 are food, water, sexual reproduction, and nurturing. And
22 when you do these behaviors, certain brain chemicals are
23 released and it feels good. So consequently, you don't
24 just do these things once a year. In fact, if you didn't
25 drink water but once a month, you would become dehydrated

1 and die. And the same way with water, if people only had
2 sex once every 30 years, there would not be very many kids
3 around. If didn't hold your kids and love them and like
4 them and just let them wander off, kids wouldn't survive.
5 So these are some of the natural rewards that release our
6 own brain chemicals that ensure that a behavior is going
7 to occur, that you're interested in drinking water,
8 fluids, that you're interested in eating, that you're
9 interested in sex at some point with your partner, and
10 that you're interested in taking care of your partner or
11 of your kids.

12 What happens with cocaine, or really any other
13 substance, is that it will affect this reward center of
14 the brain, the pre-cortical cortex as well as right in the
15 middle area called the ventral tegmental area there at the
16 top of the page, abbreviated TVA, as well as the nucleus
17 accumbens which ensures -- we know that this is where
18 these drugs work because this is the absolute reward
19 pathway; that if drugs are given, this is where they work.
20 And they work essentially by releasing dopamine.

21 Dopamine is a brain chemical that basically goes
22 from one brain cell to another brain cell, knocks on the
23 door and says, Hey, we're going to have a party, or
24 something's going to be good here. And that's the way the
25 brain communicates. And there's different types of brain

1 chemicals, but dopamine is the one that's working in the
2 area of reward and remembering.

3 Q How does cocaine affect the brain in its
4 communication process?

5 A It really causes dopamine to be released
6 tremendously. Like all the dopamine that's saved up for
7 the whole next week, it might be released in a whole
8 minute, so it's just like an incredible rush of this
9 particular chemical. It's released and it produces
10 pleasure and it says, I'm going to do that again.
11 Whatever I was doing, I want to do that again. But one of
12 the complications is that we also know that dopamine can
13 make certain things worse.

14 We know in schizophrenia, our best guess is that
15 there's an imbalance of dopamine in certain parts of the
16 brain that make people see things, hear things, become
17 paranoid. These are things that you routinely can expect
18 in someone using cocaine.

19 And people will say, "How do you know I was
20 peeking out?" Well, I know because I know that's what
21 people do is they look out the window after they've used
22 cocaine because they're suspicious, they're paranoid, they
23 think someone's out to get them, and they might be hearing
24 voices or something out there. Not quite voices but they
25 know they hear something. They hear something on the

1 phone. It's very, very predictable in people using
2 cocaine that you're going to see that because all this
3 dopamine, besides making you feel good, is going into
4 other parts of the brain and making it over-reactive.

5 Q Would that be why somebody might put a surveillance
6 system in their house, to be able to see outside and have
7 TV monitors in their room?

8 A Sure. It's looking out the window.

9 I met one fellow this last week that actually
10 broke the blind from lifting it up, he did it so many
11 times just repeatedly. So, yeah, having a surveillance
12 system, who's out there, who's coming in, you're
13 incredibly paranoid.

14 Predictably, if you talked to a hundred people
15 that were using cocaine, you would find that maybe 80
16 percent of them would say, "Absolutely, I'm paranoid."
17 And almost all the other folks would say, "You know, I'm a
18 little suspicious, some people might be looking at me, so
19 and so might be out to get me, someone's watching me,
20 someone's trying to get me."

21 Q So if someone was scared to touch cocaine or handle
22 it, wear latex gloves because they thought that the FBI
23 was after them and made other people handle the drugs,
24 would that be something --

25 A I saw that in the records and it was not exactly

1 clear why, but I know Mr. Barnes would not touch the
2 cocaine, would have on gloves. And I wasn't exactly
3 clear, but it's possible he could have left fingerprints
4 or he could -- I don't know, there's some other
5 possibility that I can't think of, but yes, you have that
6 level of paranoia.

7 Q And does cocaine alter the brain in regards to this
8 natural reward system?

9 A It really does. It alters it in that cocaine
10 essentially becomes the number one thing in people's lives
11 and that's where -- that's all people think about and
12 people will do whatever they need to to use cocaine.

13 Cocaine and alcohol definitely affect the reward
14 pathway. And in this slide I put cocaine up at the top
15 because that is the main thing. It's almost like a
16 survival need is being met. The brain is saying, "Without
17 cocaine you're going to die." Now, that's not true, but
18 that's the message that it's sending, that if you don't
19 get some cocaine, nothing is going to go well for you, so
20 get it regardless; whether you have to steal, whether you
21 have to deal, or if you have a lot of money, you'll pay
22 whatever, you'll go wherever to get it.

23 Q You've already mentioned paranoia. Does cocaine also
24 cause -- what other psychiatric effects on users does
25 cocaine cause?

DR. ALEXANDER MORTON - Direct Exam by Mr. Tarr

2079

1 A Almost everything when you use cocaine is turned up,
2 so perceptions, movement, agitation, restlessness,
3 irritability. People might think they're hearing things.
4 They are hearing things, they are seeing things. They are
5 delusional, meaning you can't logically say that no,
6 that's not a camera up there that's going to shoot a ray
7 at you if you move too quickly. That might be someone --
8 that contraption up there, I've been looking at it, that
9 might be what someone might be thinking about
10 continuously, that that has a ray that would paralyze them
11 or something. And you'd say, Well, that's not -- you
12 don't do that. So that's -- the list of side effects are
13 really quite large.

14 I wrote in '99 thinking this needs to be put
15 together in kind of a compact way so people understand
16 that indeed cocaine can cause these side effects. It can
17 also make them worse if you already have them, agitated,
18 paranoid, seeing and hearing things, unusual way of
19 thinking, violence, suicide-homicidal behavior, and then
20 withdrawal.

21 What -- I don't know that really anyone doesn't
22 know what cocaine is, but I think it's really hard to
23 describe the intense pleasure that people might
24 experience. It's a feeling of feeling good. And if you
25 feel something good when you use cocaine, it might feel a

1 hundred times more fun, more intense than normal. And
2 that catches the brain's attention. That catches the
3 brain's attention, especially if you haven't been feeling
4 anything particularly good lately. And it occurs if you
5 smoke it. But if you're willing to snort it, the powder,
6 a little bit less, maybe 30 to 60 seconds. Smoking it is
7 almost instantaneous.

8 Q Now, as an addiction researcher, are you familiar
9 with the research that has gone on, that continues to go
10 on?

11 A Yes, I'm always focusing on it, even now looking at
12 what's coming out, so I stay up on it.

13 Q Okay. Are you aware of any animal studies that have
14 shed important light on addiction?

15 A The animal studies that Sidney Cohen talks about I
16 think are the most impressive for me. I've included his
17 slides in my presentation any chance I get because it's
18 get my attention. Because these animals really don't lie.

19 Can I move to that?

20 Q Please.

21 A He starts off by saying animals will work more avidly
22 by pressing that bar repeatedly to get cocaine coming in
23 by intravenous fix than any other drug. That's what
24 happens with that. It exceeds heroin, it exceeds
25 methamphetamine, at least in these animals.

1 Q Now these are primates?

2 A These are primates.

3 Q And why is that important, the use of primates?

4 A Primates, it's important to know that we are
5 primates. Monkeys are primates. And all these studies
6 are in primates, either chimpanzees or other species of
7 monkeys. And they talk about that. And one of the things
8 that happened in early studies, you could give an animal
9 as much as they wanted, unlimited access, they press the
10 bar, they get some cocaine. The problem was most animals
11 were dying. Bad for research. Bad for research because
12 you didn't want those animals to die, but yet they would
13 die from having seizures repeatedly.

14 The most -- one of the most impressive things is
15 that when you turn off the cocaine for some of these
16 monkeys, they would keep bar pressing 12,800 times.
17 That's like the judge telling me to sit down and I keep
18 talking and he has to tell me 12,800 times. I don't hear
19 it. I wouldn't do that, but that's just an example.

20 THE COURT: Thank you.

21 THE WITNESS: That it's --

22 THE COURT: I would do it 12,800 times.

23 THE WITNESS: The behavior, you don't get
24 rewarded but you're expecting to get rewarded.

25 You call someone for a date, "Hey, would you

1 like to go out with me? No."

2 You know, she's having a bad day, I'll call her
3 again.

4 "Hey, this is me again. Would you like to go
5 out and have a cup of coffee? No."

6 Would you call her 12,800 times? Maybe three or
7 four more if you're really not getting the message, but
8 not 12,000 times. That's the power of cocaine. They'll
9 work for cocaine in preference to food even though they're
10 starving. Cocaine, food? I'll take cocaine.

11 They'll continue to bar press even though a
12 receptive female's in the cage. Male monkeys, cocaine,
13 female in heat. Take cocaine.

14 They'll prefer an electric shock in order to get
15 a larger dose of cocaine despite the fact that they could
16 have gotten a lesser dose without a shock. "Okay, I'll
17 put up with some electricity for more cocaine."

18 He goes on to say, "Such animal cravings take
19 place in the absence of personality disorders such as
20 antisocial personality, situational stresses, or even some
21 characterological inadequacies."

22 All monkeys respond in this compulsive manner.
23 They all respond this way given cocaine. And, to me, it's
24 very predictable what I find with people that develop an
25 addiction to cocaine.

1 I would be remiss if I didn't present this
2 information because he uses cocaine. Part of what I have
3 to do sometimes is to come and testify in cases where this
4 wasn't presented. I have to -- in my mind, I have to
5 present that he used cocaine; otherwise, we'll be back
6 here in three years and someone will be presenting it.

7 BY MR. TARR:

8 Q Now, could you explain to the jury what addicts in
9 withdrawal can experience?

10 A Almost everyone has withdrawal from a substance.
11 Sometimes it's minor, sometimes it's hardly noticeable.

12 Hangover is withdrawal. It's mild withdrawal.
13 And if you have the hair of the dog that bit you, you'll
14 feel better. Have one of those in the morning, focus
15 better. Feel good. Able to get through that little bit
16 of withdrawal, function better, go do what you need to do,
17 whether go to work or go teach or go do whatever you need
18 to do, fly an airplane.

19 When you quit using a substance you're going to
20 get the opposite effects. So if it's stimulating the
21 brain and you quit using cocaine, you're going to crash,
22 and that crash is going to be feeling lethargic, feeling
23 slow, feeling depressed, feeling sad, feeling not being
24 able to sleep but wanting to sleep. And you know if you
25 use cocaine that that will go away in minutes and so

1 people will usually go and get some more cocaine. Because
2 in my experience, no one saves any cocaine. No one says,
3 "Oh, I'll just do half of this and I'll use this other
4 half maybe next week." People inevitably use whatever's
5 there. So they would have to go buy some more basically.

6 With cocaine, that is something that can occur
7 for weeks. People go through this withdrawal phase of
8 feeling tired, not sleeping, agitated, not being able to
9 focus. Their paranoia increases, their anxiety will
10 increase. Hostility is a factor. If you're hostile
11 anyway, you're going to be more hostile going through
12 cocaine withdrawal. When you use, you may be more hostile
13 anyway, too. You may not be aware of it, but you will not
14 be as irritable.

15 Q Can cocaine addicts be treated?

16 A Absolutely, yes.

17 Q Okay. And how long does it take to effectively treat
18 an addict?

19 A To effectively treat an addict, I find that it takes
20 a lot longer than I ever expected, anywhere between three
21 and 18 months to actually get someone in a program, being
22 abstinent in a program that addresses almost every aspect
23 of their life.

24 Now look at some of the things that people have
25 after they stop using, and that is, they're not using

1 cocaine but they're still irritable, they're still
2 agitated, they're restless, they're not able to focus,
3 they're still a little paranoid.

4 People can have paranoia for up to a month if
5 they're heavy users. Up to a month you'll not be using
6 but you're still thinking that people are out to get you
7 and you would have increased anxiety.

8 Q Now, I want to skip over a couple of things in here
9 and just go to the very end.

10 Could Steven Barnes be effectively treated for
11 his addiction and psychiatric disorders in prison?

12 A There's really no question about that. That is
13 something he can be treated, and he has been being treated
14 in the last year and a half I would say.

15 Here is your highly structured environment which
16 he's never really been in. It's clear what happens if you
17 do, it's clear what happens if you don't. You know what's
18 expected and here's what happens.

19 I can't say there's absolutely no substances in
20 the correctional system, but there are a lot fewer there
21 than in the environment. I hear of people getting busted,
22 both inmates as well as people that work there. They are
23 bringing in substances. And the government works hard to
24 make sure that that does not occur. That is one of their
25 main goals is to not have substances in the prison because

1 it disrupts things.

2 So then the absence there and then addiction
3 treatment programs, and then most importantly, that he
4 would have access to adequate psychiatric medicine.

5 Why he didn't ever report his psychiatric
6 history to me is not clear -- a number of things are not
7 clear about his behavior -- but in the last year and a
8 half he has been getting adequate treatment that kind of
9 works on that thermostat that's not responding, to dial it
10 down a bit, dial it down, so possibly thinking about the
11 consequences of his behavior rather than responding
12 abruptly.

13 Having mood stabilizers. At times he takes them
14 adequately, at times he doesn't want to take them and
15 he'll ask his doctor to stop them, he doesn't think
16 they're working.

17 I think you really have to look at the effects
18 over a period of time. And I think here we can look. I
19 haven't looked at the diagram specifically, but he's
20 having lots of incidences and now receiving a medicine
21 that turns down the anxiety system and stabilizes his mood
22 and there's less incidences.

23 MR. TARR: Thank you, Dr. Morton. Please answer
24 any questions the Solicitor may have.

25 CROSS-EXAMINATION

1 BY MR. MYERS:

2 Q He didn't get those drugs in Georgia, Doctor, in the
3 Georgia prison?

4 A No, sir, he didn't. He didn't that I could see.

5 Q Did you look at the records?

6 A I looked at some Georgia records, yes.

7 Q But not all of them?

8 A Oh, no, sir, not all of them. No, sir.

9 Q You can cut that off. I'm sorry.

10 A Okay.

11 Q Now, the slide show, you said you used the same one
12 for court testimony and in the classroom, I believe?

13 A Some of them, yes. Things don't change. They stay
14 the same. The earth is still round.

15 Q So basically that's a teaching mechanism there,
16 you're the professor?

17 A Yes, it would considered a teaching mechanism. I
18 would think that unless people have a good idea of what
19 cocaine and addictions are about, they would need to be
20 taught some about it.

21 Q Except for putting in the name Steven or Barnes on a
22 few of those slides, that could apply to everyone, that's
23 in general?

24 A If they have addiction, yes.

25 Yes, I've used it with you before, some of these

1 slides, so you should certainly know them. But it doesn't
2 change. It's amazing, it doesn't change.

3 Q As a matter of fact, you've never seen any kind of
4 CAT scans or brain scans or anything else that's for the
5 defendant, have you?

6 A Of Mr. Barnes? No, sir, I haven't, no. I don't even
7 know if he's had any.

8 Q Now, you said like the monkeys pushing the bar to get
9 the cocaine --

10 A Yes, sir.

11 Q -- cocaine can also be used by an individual to
12 control other people, couldn't it?

13 A In a way. You mean in the sense of if you do this,
14 you can have cocaine? Yes, sir.

15 Q For women who are addicted to cocaine, to use it to
16 have sex with them, withhold the cocaine unless they have
17 sex with him?

18 A That's possible, yes, sir.

19 Q Make them prostitute for drugs? If they stop
20 prostituting they get no drugs, that could happen, right?

21 A That's very uncommon. Someone will prostitute
22 themselves not -- have no idea that they would ever
23 prostitute themselves, but when cocaine comes in their
24 lives, they will do it, yes.

25 Q Now, you said that the defendant wouldn't give you a

1 history of his drug use.

2 A He gave me a very thin history. It's not what I was
3 hoping for, not -- I sat with him an hour and a half and
4 sometimes it was just talking I'm not sure about what.

5 Q So you had to use, I think you said, medical records,
6 criminal records, other people. What other people did you
7 use?

8 A I asked Donna Schwartz-Watts what was your report of
9 his history, was it any different than what -- here's what
10 I have. Did he tell you anything different?

11 Q And she didn't have anything?

12 A She said yes, he uses cocaine, but he didn't -- he
13 didn't use -- she said that -- she told me that he used --
14 did not use crack cocaine, which I had also heard from
15 him, but I think it might have been related to the death
16 of one of his friends.

17 Q Okay. Didn't use crack cocaine.

18 Now, let's talk about Labor Day of 2001.

19 A Yes, sir.

20 Q You have no evidence whatsoever that he was using
21 cocaine on Labor Day of 2001, do you?

22 A No, sir, I do not.

23 Q Matter of fact, you mentioned William Harris, his
24 brother, in the records --

25 A Yes.

1 Q -- about him using cocaine?

2 A The only evidence I have is his report that
3 Mr. Barnes was using cocaine, but I don't have any
4 absolute irrefutable evidence.

5 Q The brother, William Harris, that's the report that
6 we gave you all --

7 A Yes, sir.

8 Q -- was that he was using cocaine the day after the
9 murder? After the murder had been committed, the next day
10 when he told William Harris what happened, that's what's
11 in the report, isn't it?

12 A I read that he was using it at the time.

13 Q After the murder?

14 A After the murder. Maybe that is --

15 Q William Harris doesn't have any evidence that he was
16 using cocaine before the murder. If you have it, I'd like
17 to see it because it's entirely --

18 A No, I have your record that he said he was sort of
19 spooked.

20 Q After the murder. That was the day after.

21 A They were talking about -- yes, the day after they
22 were talking about different things.

23 Q The day after?

24 A He was out of his mind, that cocaine had him gone.

25 Q The day after?

1 A The day after, yes, sir.

2 Q Thatcher, she never said anything about cocaine the
3 day of the murder, she was talking times after that.

4 A I don't have any evidence that he was using during
5 the murder.

6 Q That's right. That's right.

7 So as of Labor Day and the day before that, you
8 have no evidence that he was using cocaine?

9 A That's correct.

10 Q Now, the last thing I want to ask you is, you said
11 that government had worked hard to keep drugs out of
12 prison and the absence of drugs in prison's important.

13 Do you think there's not drugs in our prisons?

14 A I know there are drugs in the prison. I think I said
15 that. But I also --

16 Q Maybe I misunderstood you.

17 A I said there were a lot fewer drugs in prison than
18 there is in the environment.

19 Q Who told you that? Where did you get that from, that
20 there's fewer drugs in prison?

21 A From my experience of seeing people in the community
22 using versus what I see when I go into prisons.

23 Q Do you see them using drugs in prison?

24 A I don't see them using drugs in prison. That's what
25 I'm saying. I do see people using drugs a number of

1 places.

2 MR. MYERS: That's all I have.

3 THE WITNESS: Okay. Thank you, sir.

4 THE COURT: Any redirect, Mr. Tarr?

5 MR. TARR: No, Your Honor.

6 THE COURT: Thank you very much, Doctor, for
7 being here this late this evening.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: You may step down.

10 May the doctor be excused?

11 MR. MYERS: No objections.

12 THE COURT: Thank you. And you may be excused,
13 Dr. Morton. Thank you again.

14 All right. Are you going to check on your other
15 witness?

16 MR. TARR: He's here.

17 THE COURT: Oh, he is? All right. Then how
18 long will he take?

19 MR. TARR: I would imagine a total of probably
20 about an hour.

21 THE COURT: Why don't we take about a ten-minute
22 recess and just stretch a minute.

23 Please leave your notes upside down on your
24 chair.

25 Do not discuss this case.

1 Remember to keep an open mind.

2 We'll take about a ten-minute recess.

3 (The jury left open court at approximately 6:58
4 p.m.)

5 (A break was taken.)

6 THE COURT: All right. Anything before we bring
7 in our jury?

8 MR. MYERS: Not from the State.

9 THE COURT: Mr. Tarr?

10 MR. TARR: No, sir.

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

13 (The jury came into open court at approximately
14 7:09 p.m.)

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

17 If you'd please continue to give the parties
18 your complete and undivided attention. This will be the
19 last witness of the evening.

20 All right. Mr. Tarr.

21 MR. TARR: Thank you, Your Honor. The defense
22 would call Dr. David Price.

23 THE COURT: All right. Doctor, if you'd come
24 around for us, please, and be sworn.

25 THE CLERK: Raise your right hand.

1 DR. DAVID PRICE, after being duly sworn,
2 testified as follows:

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

5 THE WITNESS: My name is David Richard Price,
6 P-R-I-C-E.

7 DIRECT EXAMINATION

8 BY MR. TARR:

9 Q Dr. Price, if we could briefly go over some of your
10 qualifications.

11 Could you tell the jury about your educational
12 history?

13 A Yes, sir. I received a bachelor's degree in
14 psychology from Clemson University. I received a master's
15 and doctorate degree in clinical psychology from Auburn
16 University.

17 I interned at the University of Pittsburgh,
18 University Drive, VAMC, in psychology, and I was licensed
19 by the State of South Carolina as a clinical psychologist
20 in 1983.

21 Q Okay. And what clinical positions have you held?

22 A Well, I've held a variety of clinical positions. I
23 have a private practice, I have a forensic practice, and
24 then I have an assessment center which assesses
25 developmental disorders in pediatric cases.

DR. DAVID PRICE - Direct Exam by Mr. Tarr

2095

1 Q Okay. And what academic positions have you held?

2 A I have been an adjunct professor, associate professor
3 at the Medical University of South Carolina in the
4 psychiatry department teaching and lecturing on forensic
5 psychiatry. I've lectured for USC Upstate, USC
6 Spartanburg, adjunct faculty member there. I've also
7 taught at Auburn University and Limestone College.

8 Q Okay. And you've also done numerous presentations
9 and had numerous publications in your area of expertise?

10 A I've had in excess of 225 professional presentations
11 and over 40 publications.

12 Q Have you been qualified as an expert before?

13 A I have, numerous times.

14 Q About how many times would you say?

15 A Well, since 1983, I would say well over a hundred.

16 MR. TARR: Okay. Your Honor, at this time we'd
17 offer Dr. Price as an expert in clinical psychology.

18 MR. MYERS: No objection.

19 THE COURT: All right. And again --

20 MR. TARR: There's three different areas I want
21 to draw from.

22 THE COURT: All right. Clinical psychology?

23 MR. TARR: Yes, Your Honor.

24 THE COURT: And what else?

25 MR. TARR: Forensic psychology.

1 THE COURT: Clinical, forensic --

2 MR. TARR: And neuropsychology.

3 THE COURT: And neuro.

4 Any objection, Solicitor?

5 MR. MYERS: No objection.

6 THE COURT: All right. Again, ladies and
7 gentlemen, as you've heard before, normally a person
8 cannot give opinion testimony. Normally when a person
9 testifies, they must testify as to what they either saw,
10 heard or sensed by smell or something of that nature.

11 However, there is an exception when someone is
12 qualified because of education or experience or training
13 in a particular field, art, or science, or profession.
14 They're permitted to give their opinion in certain areas
15 if the Court qualifies them that way.

16 This witness, Dr. David Price, will be qualified
17 in the areas of clinical psychology, forensic psychology,
18 and neuropsychology, to give opinion testimony in those
19 areas. That does not mean that you must accept the
20 opinions, but it is evidence for you, the jury, to use in
21 any way you see fit.

22 BY MR. TARR:

23 Q Dr. Price, could you review what you've done to
24 prepare your testimony here today?

25 A Well, in preparation of my testimony, I reviewed the

1 voluminous file of records for Mr. Harris including
2 psychiatric hospitalization records --

3 Q For Mr. Barnes?

4 A Mr. Barnes, excuse me.

5 -- Mr. Barnes' seven hospitalizations, prison
6 records, school records, medical records.

7 I reviewed prior doctor reports. I reviewed the
8 neuropsychological data and talked to Dr. Tora Brawley who
9 administered data to him. I discussed the case with Dr.
10 Schwartz-Watts who I believe you've heard testimony from.

11 I talked -- I spent over 14 hours with
12 Mr. Barnes face to face. I also interviewed Mr. Barnes'
13 stepfather, Mr. Harris, as well.

14 Q Okay. Anything unusual about Mr. Barnes?

15 A Well, Mr. Barnes was a very unusual case and it
16 starts with actually his conception, birth. He was the
17 product of his mother being raped when she was 12 and gave
18 birth when she was 13.

19 To put that in context, Mr. Harris, Mr. Barnes'
20 stepfather, told me that when he met Miss Barnes, she was
21 running the streets and "hustling the streets" is his
22 exact words.

23 Mr. Barnes' mother did not want to have him,
24 which is understandable, being the product of a sexual
25 assault, and incurred a lot of rage that was dealt and

1 directed to him over his lifespan.

2 Mr. Barnes' mother was one of 18 children. Mr.
3 Harris told me that Tammy Barnes' father molested all the
4 females in that family.

5 Mr. Barnes was raised in a very violent family
6 atmosphere. His mother would physically beat him with a
7 number of things. His stepfather, who was a very jealous
8 man, would feel that Mr. Barnes' mother would be running
9 around on him and would elicit information about her from
10 Mr. Barnes, then would beat her for whatever she was doing
11 and then would beat Mr. Barnes for having provided that
12 information.

13 His mother was gone for long periods of time.
14 It's in the records. That was corroborated by Mr. Harris
15 when I talked with him on Sunday. When that happened, he
16 would often either be with Mr. Harris or he'd go live with
17 his grandparents.

18 The grandparents, with all those children, he
19 was abused, he was physically abused there by uncles and
20 aunts and cousins.

21 Mr. Barnes denied ever being sexually abused to
22 me, but the psychiatric records had indicated that that
23 was a problem for him as well.

24 The level of conflict and violence was so great
25 that he began hearing auditory hallucinations, according

1 to the psychiatric records, day six at his first
2 psychiatric hospitalization at the age of eight. Between
3 the ages of eight and seventeen, he was hospitalized six
4 times, oftentimes for suicidal behavior.

5 He often had conflict with authority figures.

6 He was very jealous of his half brother, who
7 since he was the product of both his mother and stepfather
8 was the favored child, and would be aggressive with him.
9 It was a very unusual environment. It was a very punitive
10 environment.

11 With all the turmoil, the psychiatric records
12 reflect during that period of time he was given over 19
13 different psychiatric diagnoses and treated with different
14 medications and interventions.

15 Q Can you name some of the diagnoses that he was given?

16 A Well, the diagnoses varied.

17 Some of the diagnoses he was given related to
18 learning disabilities that he had. He was in special ed
19 up to the sixth or seventh grade and ultimately dropped
20 out of school.

21 But he had significant psychiatric diagnoses of
22 adjustment disorder, a variety of depression disorders --
23 depression-not otherwise specified; major depressive
24 episode; major depressive episode-recurrent type, bipolar
25 disorder.

1 He was given a diagnosis of psychotic
2 disorder-not otherwise specified.

3 He was given a diagnosis of personality
4 disorder-not otherwise specified.

5 He was given a diagnosis at one time to rule out
6 schizophreniform disorder.

7 Schizophreniform disorder is the first
8 diagnosis -- whenever you have a schizophrenic episode,
9 the first time you have it you're diagnosed
10 schizophreniform. The second time you'd be diagnosed
11 schizophrenic.

12 Those are the major ones, but it indicates that
13 he had significant psychopathology. And it's pretty
14 unusual for a child that age and up until 17 to have
15 involuntary commissions, to be committed to a psychiatric
16 facility.

17 Q And were you concerned with any cognitive or organic
18 issues with Mr. Barnes?

19 A I was concerned of cognitive issues. And before I
20 lay the psychiatric diagnoses, he was also diagnosed with
21 a post-traumatic stress disorder beginning in 1995, which
22 is a very significant disorder.

23 Mr. Barnes had cognitive issues. He had
24 difficulty learning. He was in special ed up through the
25 sixth or seventh grade. He migrated out of that and they

1 put him in regular classes but gave him books at a lower
2 level.

3 To give you an indication of where he was
4 functioning cognitively, when he took the Georgia exit
5 exam to get out of school, he performed at the first
6 percentile, meaning that 99 percent of the people that
7 took that test did better than he did, and he obviously
8 didn't graduate and failed.

9 He had the learning disabilities. He was also
10 in a car wreck in the nineties in which he hit the
11 windshield. But the learning disabilities along with the
12 neuropsychological test data that Dr. Brawley shared with
13 me showed that he was performing again at the first
14 percentile in a number of verbal domains, particularly
15 around verbal domains related to verbal memory and
16 short-term memory and to sort of complex semantic issues
17 like that.

18 I felt, and I gave him the diagnosis of a
19 cognitive disorder-not otherwise specified, which reflects
20 that he has a number of cognitive symptoms that are felt
21 to have had an organic basis but we can't verify -- he
22 never had an MRI so we can't verify exactly what is
23 causing those cognitive domains, but he's shown it
24 throughout his lifespan.

25 Q Were his academic records consistent with that

1 diagnosis?

2 A Yes. He was a D/F type student.

3 Q I think you -- you already talked about this, with
4 the Georgia high school graduation test, he was in the
5 first percentile --

6 A Yes, sir.

7 Q -- that 99 percent of the people tested higher than
8 he did?

9 A Yes, sir.

10 Q And he then dropped out of high school?

11 A Yes, he did.

12 Q Okay. Are you aware of any history of substance
13 abuse by Mr. Barnes?

14 A He minimized his substance abuse with me but did
15 admit to having a history of using cocaine, crack, and
16 marijuana. He used some alcohol, but he never used that
17 to any excessive degree.

18 Q But he did admit crack cocaine to you?

19 A He did.

20 Q Now, has he received any treatment since he's been in
21 the Department of Corrections?

22 A He's received psychiatric treatment both in the
23 Georgia Department of Corrections and the South Carolina
24 Department of Corrections.

25 Q Okay. And what did he receive here?

DR. DAVID PRICE - Direct Exam by Mr. Tarr

2103

1 A It looked to me in the records here that he received
2 some intermittent counseling and was placed on
3 anti-depressant/anti-anxiety kind of medications like
4 Buspar, Paxil, Zoloft. I think he was placed on Trazodone
5 at one point, medications like that.

6 Q Okay.

7 A Tegretol, which is a mood stabilizer.

8 Q And were those given continuously or were they
9 sporadic? Was he on medication the whole time?

10 A The medication use varied. At the time I saw him, he
11 ceased usage, if my memory serves me correctly, in June of
12 this year.

13 Q Okay. And after you reviewing everything, all the
14 records and speaking with Mr. Barnes and Mr. Harris, did
15 you come up with a diagnosis for Mr. Barnes?

16 A I felt Mr. Barnes had three diagnosable conditions.
17 He was diagnosed -- I diagnosed him with a post-traumatic
18 stress disorder. He was first diagnosed with that on a
19 psychiatric admission in 1995. That diagnosis was also
20 given in the South Carolina Department of Corrections.

21 The post-traumatic stress disorder is a reaction
22 to having severe stressors and generally the stressors
23 rise to a level of life threatening, physical abuse,
24 sexual abuse is a very common cause of post-traumatic
25 stress disorder.

1 Research is very clear that the average adult in
2 the United States, average adult male, will have
3 approximately five what we call PTEs in their lifetime.
4 That's potentially traumatic events. The most common one
5 for males is a motor vehicle accident. Females, 4.87,
6 almost 5, too. The most common one for them, being a
7 crime victim.

8 If you look at his history of abuse and you look
9 over his lifespan and you regard each separate incident of
10 abuse as a discreet event, he's had PTEs in the hundreds.

11 Q And is that significant to you?

12 A It's extremely significant to me because of every
13 stressor you experience, you become less resistive to the
14 development of a post-traumatic stress disorder.

15 If you look at his symptomatology, it's very
16 consistent with having post-traumatic stress disorder.

17 Once you sort of cross that threshold into
18 having post-traumatic stress disorder, it is like you have
19 a different neuroanatomical wiring system. You become
20 hyper-aroused quicker, you become hypervigilant. You
21 become easily agitated, and agitation like in being
22 demonstrative, voice being excessively loud, possibly
23 looking angry.

24 With post-traumatic stress disorder you can have
25 distractibility, you can have anger issues, you can have

1 aggression, you can have psychotic symptoms. It is
2 actually a disorder that has a variety of symptoms that
3 can come at different times based upon the environment
4 that a person's in and the stressor they recently had and
5 what it reminded them of that they've had in the past.
6 It's very difficult, it's a very significant disorder.

7 He was on Social Security Disability records
8 until he was -- Social Security Disability income until he
9 was 18. He got that because the federal government
10 determined his mental disabilities and his psychiatric
11 disorders he had as a child would qualify him to declared
12 disabled. He went off at 18 because they take you off at
13 18 and you have to reapply as an adult. There's no record
14 that he did that. But it's very common in anybody that's
15 had multiple psychiatric hospitalizations would be seen as
16 having an impairment, a marked impairment in adaptation
17 that would qualify them for Social Security Disability.

18 If we look at post-traumatic stress disorder and
19 the significance of that disorder, in 1999 the V.A. paid
20 out approximately \$1.8 billion in disability payments to
21 vets with PTSD. In the year 2006, that was like \$4.8
22 billion. It's a very disabling and chronic disorder.

23 MR. TARR: Could you please answer any questions
24 the Solicitor may have for you.

25 THE COURT: Thank you.

CROSS-EXAMINATION

BY MR. MYERS:

Q Who applied for the Social Security Disability before he was 18?

A Psychiatric hospitals actually have benefit --

Q I'm sorry, I couldn't understand you.

A Hospital --

Q The hospital applied for it?

A They will have what they call benefit experts.

Q Which hospital?

A I assume one of the ones in --

Q No, don't assume now. You've got the records. Which hospital?

A I don't have the Social Security records, I said that.

Q So you don't know who applied?

A No, I don't know who applied. As a minor, it would either have been his mother or the hospital.

Q Could have been his mother?

A Could have been his mother.

Q But, in any event, when he was 18, he did not reapply for Social Security Disability benefits?

A That would be correct.

Q Now, you say he had a cognitive disorder; is that right?

1 A That's correct.

2 Q And he had post-traumatic stress syndrome?

3 A Disorder.

4 Q Disorder. And yet he was able to organize the
5 largest criminal enterprise in Augusta in 2001?

6 MR. TARR: Objection, Your Honor. There's no
7 evidence in the record of the largest criminal --

8 MR. MYERS: I'll rephrase it.

9 THE COURT: Yes, sir, if you'd rephrase the
10 question. I'd sustain the objection.

11 BY MR. MYERS:

12 Q And yet he had girls in a prostitution ring and was
13 dealing drugs daily on Washington Street in Georgia and
14 the investigative unit headed by Richard Roundtree, he was
15 the number one target of the investigation. Did you know
16 that?

17 A Mr. Roundtree was?

18 Q Had Barnes as the number one target of the
19 investigation in Augusta, Georgia?

20 A No.

21 MR. MYERS: Thank you. No further questions.

22 THE COURT: Redirect?

23 MR. TARR: No, Your Honor.

24 THE COURT: Thank you for being with us this
25 evening, Doctor.

1 THE WITNESS: Your Honor, may I be excused from
2 court?

3 THE COURT: Any objection to the doctor being
4 excused?

5 MR. MYERS: No, sir.

6 THE COURT: Thank you very much, Doctor. You
7 may be excused.

8 All right. Do you have another witness for the
9 evening?

10 MR. TARR: No, Your Honor.

11 THE COURT: All right. Thank you. Thank you
12 very much, Mr. Tarr.

13 Ladies and gentlemen, perhaps now would be a
14 good time to take our evening recess.

15 I would remind you, during this recess you're
16 not to discuss this case with anyone. That includes your
17 fellow jurors or anyone else.

18 Please do not watch, listen to, or read any news
19 reports about the case.

20 Remember to keep an open mind. Do not begin
21 your deliberations until you've heard all the evidence and
22 testimony, the closing arguments by the attorneys and
23 parties, and the instructions on the law by the Court.

24 I'm going to give you an extra 30 minutes in the
25 morning. I'm going to ask you to please be back promptly

1 at ten-hundred-hours, 10 o'clock in the morning, if you
2 all would please be promptly back. So you all can sleep
3 in in the morning.

4 If you would please pass your notes up to Madam
5 Bailiff, they will be secured over the evening hours.

6 I hope you all have a pleasant evening. Thank
7 you for your hard work, your patience, and your attention
8 that you have shown all the parties throughout the trial
9 of this matter.

10 You're now excused to your bailiffs and your
11 jury sequestration team.

12 (The jury left open court at approximately 7:30
13 p.m.)

14 THE COURT: Solicitor and Mr. Tarr, I would like
15 to get one thing at least on these request to charges
16 straight tonight.

17 It is my understanding that the State relies on
18 two statutory aggravating circumstances, that the murder
19 was committed during the commission of a kidnapping, and
20 that the murder was committed while in the commission of
21 physical torture. I do intend to charge both of those
22 statutory aggravating circumstances. They will be part of
23 the charge and they will be listed on the form entitled
24 "Statutory Instructions."

25 Mr. Tarr handed up to the Court earlier,

1 Solicitor, some requested charges, and on page 21 -- we
2 don't have to go over all of them tonight -- but on
3 page -- actually page 22 of his requested charges, it's
4 entitled, "Defense Request to Charge No. 15, Mitigating
5 Circumstances." He requests, "The murder was committed
6 while the defendant was under the influence of mental or
7 emotional disturbance."

8 Would you care to be heard on that, Solicitor?

9 MR. MYERS: Judge, I don't think there's any
10 evidence in the record that taking drugs would have caused
11 this.

12 THE COURT: This is --

13 MR. MYERS: Your Honor, I know -- I know
14 sometimes if you're talking about he had drugs, those
15 three come into play -- two, six, and seven --

16 THE COURT: All right.

17 MR. MYERS: But I think there is testimony about
18 mentality, so whatever applies to mentality.

19 I don't have an objection if you charge all the
20 mitigating circumstances.

21 THE COURT: Well, I do -- I am going to charge
22 those requested by the defense, which is 16-3-20(c) (b) (2
23 (6) and (7), the capacity of the defendant to appreciate
24 the criminality of his conduct or to conform his conduct
25 to the requirements of the law was substantially impaired

1 and the mentality of the defendant at the time of a crime.
2 I just wanted you all to be aware of that tonight rather
3 than waiting until the morning.

4 MR. MYERS: How many of those, Your Honor?

5 THE COURT: No. 2, No. 6, and No. 7.

6 In the morning I'm going to review the others,
7 Solicitor, but the defense has not requested any other
8 statutory mitigating circumstances; is that correct?

9 MR. TARR: Yes, Your Honor.

10 MR. MYERS: Two, six, and seven. We have no
11 objection, Your Honor.

12 THE COURT: Now, on non-statutory mitigating
13 circumstances, the defense has a paragraph that reads:
14 "Each of you must consider any evidence of mitigating
15 circumstances presented by the evidence at either phase of
16 the trial. Any list of mitigating circumstances cannot
17 and does not limit your deliberations since you're free to
18 consider any aspect of the crime or Mr. Barnes' background
19 and character as mitigation. Nevertheless, here are
20 examples of factors which you could consider as
21 mitigating."

22 And he has -- the defense has submitted a list
23 of 13. The first three: Sexual abuse as a child,
24 physical abuse as a child, mother was a 12-year-old rape
25 victim, product of rape.

1 I intend to submit as a statutory -- excuse
2 me -- as a non-statutory mitigating circumstances number
3 one --

4 MR. MYERS: What page are you on, Your Honor?

5 THE COURT: I think I was on page 21 of their
6 request to charge. Request No. 15. You see that laundry
7 list about two-thirds of the way down, Solicitor?

8 MR. MYERS: Yes, sir.

9 THE COURT: And he's got one through seven on
10 page 21.

11 MR. MYERS: Yes, sir.

12 THE COURT: Under one, two, and three, I intend
13 to charge non-statutory mitigating circumstance including
14 the following: The background, sexual and physical abuse
15 and neglect of the defendant as a child. And I'll give
16 you an opportunity to object to me not charging the
17 others, Mr. Tarr.

18 MR. TARR: You're saying you're going to just
19 charge the first two?

20 THE COURT: I'm charging background, sexual and
21 physical abuse and neglect of the defendant as a child.

22 MR. TARR: Okay.

23 THE COURT: You can argue whatever's in the
24 record. You can argue the facts concerning his conception
25 and his birth, but I'm not placing that on the statutory

1 instructions. What is on the statutory instruction form
2 is the background, sexual and physical abuse and neglect
3 of the defendant as a child.

4 MR. TARR: Okay.

5 THE COURT: All right. Now, next you have No.
6 4, under the influence of cocaine at the time of the
7 trial -- or the crime, which also goes to No. 6, the
8 defendant's use and misuse or abuse of drugs as a result
9 of his mental or physical or emotional disturbances, which
10 also goes to No. 8 on the next page, the offenses
11 committed while Mr. Barnes was under the influence of
12 alcohol or drugs.

13 Quite frankly, I hadn't heard any testimony of
14 alcohol, nor have I heard testimony that he was under the
15 influence of drugs at the time of the crime, unless I
16 misheard.

17 I would intend to charge, if you think this is a
18 non-statutory mitigating circumstance, if you request it,
19 I will charge No. 2, the defendant's use and abuse of
20 drugs. I will not put "at the time of the crime." You
21 can certainly argue that.

22 Do you request that I charge that?

23 MR. TARR: I'm not seeing where any numbers are
24 coming from. You say --

25 THE COURT: These numbers come from your Request

1 To Charge No. 15. It's the request you handed up to me.

2 MR. TARR: I'm still looking at page 21.

3 THE COURT: Sir?

4 MR. TARR: I'm still -- okay. I'm looking at a
5 different -- I was confused. I was looking at the list
6 over here on the next page.

7 THE COURT: This is what you gave me.

8 MR. TARR: Right. You said page 21, and that's
9 what I was looking at, and No. 2 is not what you said. I
10 looked back on page 20 and No. 2 is what you said. It's
11 two different number twos.

12 THE COURT: No. 2 the first page is the
13 statutory mitigating circumstance.

14 MR. TARR: I saw that No. 6 and it confused me.

15 THE COURT: I'm charging every statutory
16 mitigating circumstance you have requested.

17 MR. TARR: Yes, Your Honor.

18 THE COURT: Two, six and seven, which that's the
19 numbers of them under the statute.

20 MR. TARR: Okay. I'm sorry.

21 THE COURT: And I'm charging them. And the
22 Solicitor has no objection to them. But I'm charging
23 them. Those are going to be charged as statutory
24 mitigating circumstances.

25 MR. TARR: Yes, Your Honor.

1 THE COURT: I'm now reviewing with you tonight
2 so you all will know the non-statutory mitigating
3 circumstances.

4 MR. TARR: Yes.

5 THE COURT: I will charge as No. 1 on my form,
6 non-statutory, the background, sexual and physical abuse
7 and neglect of the defendant as a child.

8 MR. TARR: Yes, Your Honor.

9 THE COURT: My next point was, I didn't hear
10 evidence, any evidence of alcohol abuse. I did hear
11 evidence of drug abuse, not necessarily evidence that
12 there was drug abuse the night of the crime. I will
13 charge as the second non-statutory mitigating
14 circumstance, if you request this as a non-statutory
15 mitigating circumstance, the defendant's use and abuse of
16 drugs.

17 MR. TARR: Yes, Your Honor.

18 THE COURT: Do you request that?

19 MR. TARR: I follow you. It's been a long day.
20 I'm with you.

21 THE COURT: I understand. But I want you all to
22 have this tonight.

23 MR. TARR: Yes, Your Honor. And I appreciate
24 that. Now I'm right there with you.

25 THE COURT: And then finally, I will charge --

1 there's some evidence based on Dr. Schwartz-Watts'
2 testimony and it will be up to the jury and they have no
3 burden -- you have no burden proving non-statutory
4 mitigating circumstance, or burden of proving anything
5 really, there's some evidence -- I will charge as a third
6 non-statutory mitigating circumstance the defendant's
7 adaptability to prison.

8 Now, these others that you have requested, I
9 will not charge, for example, "adaptability to prison," in
10 parentheses, "last year and nine months, no write-ups."
11 You can certainly argue that.

12 I will not charge your No. 6 on page 21.

13 I will not charge your No. 7, "Mr. Barnes has
14 adjusted well to prison since becoming older and gotten
15 along with prison staff and fellow inmates." You can
16 certainly argue that.

17 I have somewhat charged No. 8 on page 22 --

18 MR. TARR: Yes, Your Honor.

19 THE COURT: -- as to drugs. Not that he
20 committed an offense while under the influence, but you
21 can argue that.

22 I will not charge No. 9. I will explain to them
23 what a sentence of life in prison means. That is a
24 separate part of my charge. I will not charge that as a
25 non-statutory aggravating circumstance.

1 I will not charge No. 10. You can -- I think
2 you can argue that.

3 No. 11, "Having made a good adjustment to being
4 incarcerated." I think that's part and parcel of
5 adaptability.

6 No. 12, "Mr. Barnes is a human being." You can
7 certainly argue that. I will not charge that as a
8 non-statutory aggravating circumstance.

9 And I will not charge that "the death penalty is
10 a penalty of last resort," as a non-statutory mitigating
11 circumstance.

12 All right. I think that's all we really need to
13 cover tonight. That at least gets you to that point of
14 the statutory aggravators, statutory mitigating,
15 non-statutory mitigating circumstances that will be part
16 of my charge and part of the statutory instructions. All
17 right?

18 MR. TARR: We'll be discussing the rest of the
19 charges prior to closing?

20 THE COURT: 09:15. And that should give us
21 time.

22 And you've got a copy of all those requests,
23 Solicitor?

24 MR. MYERS: Yes, sir, I think I have.

25 THE COURT: I think many of them I have covered

1 anyway, but we'll go over that. I don't see a need to go
2 over that tonight. We can do it at 9:15 in the morning.

3 All right. Thank you very much. Court will be
4 in recess until 9:15.

5 (The proceedings were concluded for the day and
6 reconvened on November 17, 2010.)

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

8 VOLUME 8 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 16th 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 July 3, 2011
20

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 9
STEVEN LOUIS BARNES,)
) DEFENDANT)

November 17, 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

WITNESSES:

PAGE

(There were no witnesses sworn.)

CLOSING ARGUMENTS:

Mr. Myers

2156

Mr. Tarr

2193

CHARGE OF THE COURT

2210

VERDICT

2243

SENTENCING

2252

CERTIFICATE OF REPORTER

2258

1	EXHIBITS		
2			ID EVD
3	Defense		
4	5	Dr. Schwartz-Watts report	2153
5			
6	Court's		
7	8	Board	2210
8	9	Strip	2210
9	10	Jury note	2242
10	11	Motions	2256
11	12	Requests to Charge	2256
12	13	Statutory Instructions	2256
13	14	Recommendation of Sentence	2256
14	15	Statutory Aggravating Circumstances	2256
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 THE COURT: All right. Mr. Tarr, where would
2 you like to begin with the charges, with No. 1?

3 MR. TARR: I guess however the Court would wish
4 to proceed. I don't know if there's certain charges that
5 you feel like you've already covered with your charge that
6 you could put on the record or any charges that you just
7 are not going to charge or charges that you decided that
8 you would charge.

9 THE COURT: I will do that. I think your No. 1
10 would be covered generally. I will not say that it would
11 be covered verbatim, but I think it will be covered
12 generally.

13 MR. TARR: Okay.

14 THE COURT: Your No. 2 I think is also covered
15 generally. That's the overview of aggravation and
16 mitigation.

17 No. 3, I do not intend -- I will be to glad hear
18 argument from you on No. 3. That is not included at this
19 time as part of my charge. It is obviously included, the
20 issue of reasonable doubt and that the State would have
21 the burden of proving at least one statutory aggravating
22 circumstance beyond a reasonable doubt, but you've got
23 this captioned "Presumption of Life." I don't know of
24 such a case under the jurisprudence of South Carolina.

25 MR. TARR: I don't have any cases that stand for

1 that proposition, but this instruction is based on just
2 the readings of the cases that are cited and the severity
3 of death as a possible punishment and the logical
4 deduction that that should only be reserved for the most
5 serious of cases. And that's just a requested charge that
6 we've made in that regard.

7 THE COURT: Well, I obviously charge that he is
8 to be given the benefit of any reasonable doubt and I do
9 charge fully and completely reasonable doubt. I will
10 decline to charge No. 3.

11 As to No. 4, "Right Not to Testify," although I
12 am going to interview Mr. Barnes again before the jury
13 comes out, should he choose not to testify, I will fully
14 charge again his right not to testify.

15 MR. TARR: Yes, Your Honor.

16 THE COURT: As to No. 5, I think that is
17 generally charged in my charge to the jury.

18 As to No. 6, that is generally charged. Those
19 are the two statutory aggravating circumstances I do
20 intend to charge. I do charge, of course, at least one of
21 them. At least one of those two would have to be proved
22 beyond a reasonable doubt before they could even consider
23 the imposition of the death penalty. They're never
24 required to impose the death penalty even if they find a
25 statutory aggravating circumstance.

1 Now as to No. 7, I wasn't sure what you were
2 referring to by the term "non-statutory aggravating
3 circumstance."

4 MR. TARR: Yes, Your Honor. I believe you've
5 adequately covered that in instructing the jury that any
6 character evidence they've received should only be used
7 for that purpose, and I would withdraw No. 7.

8 THE COURT: And I'm going to give them again
9 another limited instruction, the general limited
10 instruction and kind of a bumped up limiting instruction
11 from State versus George. It's two, maybe three
12 paragraphs. That may give you an indication of the number
13 of words, it could be short paragraphs, but I will -- I'm
14 going to give that limited instruction again, but that's
15 not evidence and may not be taken as any evidence of a
16 statutory aggravating circumstance.

17 MR. TARR: Yes, Your Honor.

18 THE COURT: So you're withdrawing No. 7?

19 MR. TARR: Yes, sir.

20 THE COURT: No. 8, do you have any position on
21 that, Solicitor, the fact that they have found Mr. Barnes
22 guilty beyond a reasonable doubt of the crime of murder is
23 not a statutory aggravating circumstance? It's clearly
24 not.

25 MR. MAYE: But, Your Honor, I think that's

1 stating the obvious and you're covering that in your
2 charge elsewhere. You're telling them what the
3 aggravating circumstances are and to interject that into
4 it I think is almost confusing. You're telling them what
5 they are and then you're bringing this up saying the fact
6 that they found him guilty is not an aggravating
7 circumstance. I think it somewhat diminishes the verdict.
8 I just think it's confusing rather than enlightening them.

9 THE COURT: I tend to agree. I will allow you
10 to argue that, of course.

11 MR. TARR: Yes, Your Honor.

12 THE COURT: It's not a statutory aggravating
13 circumstance, and I hope my charge will be clear enough to
14 where they will understand their duties and
15 responsibilities.

16 MR. TARR: Yes, Your Honor. And for the record,
17 we would just contend that it's one sentence, and it is a
18 true statement, and I think it would go perfectly at the
19 end of your charge on the aggravating circumstances just
20 to say that the fact that Mr. Barnes has been found guilty
21 beyond a reasonable doubt of murder is not an aggravating
22 circumstance. It would be one sentence that would be
23 true.

24 THE COURT: And as I say, I will allow you to
25 argue that to the jury.

1 MR. TARR: Yes, Your Honor.

2 THE COURT: Generally I'm covering No. 9, I
3 think.

4 I had a question. I didn't quite understand the
5 last sentence: "If the intent to commit a robbery, theft
6 or aggravated battery was formed after the deceased was
7 dead, the acts would not satisfy the requirements of the
8 aggravating circumstance."

9 Actually, robbery, theft or aggravated battery
10 is not a part of this. There is a case, I think it's
11 Plemmons, P-L-E-M-M-O-N-S, I think out of Orangeburg
12 County that actually defines in the commission of to where
13 a murder could occur in the commission of an armed robbery
14 if the armed robbery was actually committed after the
15 person was deceased. But I didn't quite understand that
16 last sentence.

17 MR. TARR: Yes, Your Honor. I do believe this
18 charge could be confusing and I believe you probably will
19 cover it with other charges. We'll withdraw No. 9 as
20 well.

21 THE COURT: All right.

22 MR. TARR: I was trying to do a comprehensive
23 list of anything we might need and I'll be happy to
24 withdraw that.

25 THE COURT: Certainly.

1 Number -- well, the next one is "Need a Charge
2 for Torture in South Carolina." It's pages number 14 and
3 15. Yes, it's No. 10.

4 I have a physical torture charge that generally
5 is the same as this. It does talk about disfiguring a
6 member of the body, rendering a member of the body
7 useless. It doesn't necessarily use the term I don't
8 think of "aggravated battery," but I think it generally
9 covers what I have looked at and found to be our
10 definition of physical torture under our jurisprudence.

11 MR. TARR: And as to any of these charges that
12 you, the Court, say that you generally cover, after we
13 hear the charge, if we have any exceptions we'll raise
14 them at that time.

15 THE COURT: Yes, sir, certainly. I mean if you
16 disagree with me in that regard, certainly I'm going to
17 give you an opportunity to object and if I think I have to
18 bring them back in, I'll certainly do so.

19 MR. TARR: Yes, Your Honor.

20 THE COURT: No. 11, this is reasonable doubt.
21 I'm charging both hesitate to act and Victor versus
22 Nebraska. I do charge the issue of statutory aggravating
23 circumstance, the State's burden of proving beyond a
24 reasonable doubt before you could even consider a sentence
25 of death in that regard.

1 MR. TARR: Yes, Your Honor.

2 THE COURT: I think No. 12, if this is a
3 unanimous verdict, I think I cover that several times,
4 both in the general charge and the form on the statutory
5 aggravating circumstance that they all have to sign and in
6 the very closing again on the form of verdict.

7 The next one, I hadn't seen that particular
8 charge in our jurisprudence given. I think it somewhat
9 states the obvious, that my written instructions are not
10 evidence, because I tell them several times the evidence
11 is that which comes from the lips of the witnesses
12 testifying under oath from the witness stand and any
13 exhibits, diagrams, charts, photographs that have been
14 offered into evidence. I would think that states the
15 obvious in that regard. It's entitled "Statutory
16 Instructions." It's got both the aggravating
17 circumstances, statutory aggravating circumstances,
18 statutory mitigating circumstances, and non-statutory
19 mitigating only.

20 MR. TARR: Yes, Your Honor.

21 MR. HARTE: Are you saying that's covered
22 generally?

23 THE COURT: I don't know that it's covered
24 generally, but my written instructions are not evidence,
25 but I think given the fact of how I charge what the

1 evidence is, I don't know why a jury would ever think my
2 written instructions and my statutory instructions would
3 be evidence, that's all I'm saying.

4 MR. TARR: Yes, Your Honor.

5 THE COURT: Do you understand my position? I
6 don't necessarily say it's covered generally. It's kind
7 of covered by omission I guess you'd say.

8 MR. HARTE: I'm just trying to write down your
9 rulings.

10 THE COURT: Sure.

11 No. 14, what about that, Solicitor? The victim
12 impact statement. It's evidence, but it is not evidence
13 of a statutory aggravating circumstance. That's basically
14 what this charge is.

15 Do you agree, Mr. Tarr? That's basically what
16 this charge is.

17 MR. TARR: Yes, Your Honor.

18 THE COURT: Although it's relevant, although
19 it's admissible, it's not evidence of a statutory
20 mitigating circumstance.

21 MR. MAYE: Your Honor, the only thing I can say
22 there, is where you're defining statutory aggravating
23 circumstance, any time you go in and start saying what is
24 not on top of that, I just think it almost confuses the
25 issue. You're telling them what it is and these requests

1 to tell them what it is not, they're almost confusing
2 rather than enlightening I would think.

3 I respect Your Honor's judgment and I know that
4 you have an adequate charge that covers all these factors,
5 but I think when they're told what the statutory
6 aggravating circumstances are, that repeatedly telling
7 them what they are not I don't think is illuminating, I
8 think it's confusing.

9 THE COURT: You know, I kind of analogize -- I
10 put a question mark on this last -- both last night and
11 put a question mark on it about 05:30 this morning also,
12 so I have two question marks.

13 I kind of analogize it to the limiting
14 instruction on character evidence and prior bad acts, that
15 it's not evidence of a statutory aggravating circumstance.

16 I'm not sure I agree with the full and complete
17 language with Request 14. I think it goes a little bit
18 far.

19 I think I will charge something in this regard
20 near and around -- you need to think about this now, Mr.
21 Tarr -- near and around and after my charge on the
22 limiting instruction as to character evidence. I will
23 charge something perhaps also as to any victim impact
24 testimony.

25 "I will advise you that is not evidence of a

1 statutory aggravating circumstance; however, you may give
2 it whatever weight and value you so choose to give it, if
3 any," some generic term like that.

4 Now, again --

5 MR. TARR: I think that is sufficient.

6 THE COURT: I will let you make that call, if
7 you want me to give some limitation on that.

8 MR. TARR: I think there needs to be some charge
9 in illuminating the nature of victim impact testimony.

10 THE COURT: All right. I may feather that in,
11 Solicitor, right after my charge on limitation on prior
12 bad acts and prior crimes, just a generic charge in that
13 regard. Not this exact language. You know, it's not
14 evidence of a -- victim impact testimony is not evidence
15 of a statutory aggravating circumstance; however, you may
16 give whatever weight and value you so choose to give it,
17 if any.

18 MR. MAYE: Your Honor, I disagree with that. I
19 think that that is a so much more concise way of saying
20 it. This is so -- I have almost a hard time following
21 this. This is -- in the form that it is in 14, it's so
22 wordy I think it's somewhat muddled. Rather than making
23 it clear, I think it makes it less clear. I think Your
24 Honor's recitation of how you intend to charge it is
25 certainly a clearer statement than this.

1 THE COURT: And you want that charge?

2 MR. TARR: Yes, sir.

3 THE COURT: All right. Now, No. 15 I think we
4 covered last night. Generally I charged the language we
5 didn't address in 15. I am charging your three statutory
6 mitigating circumstances that you requested under the
7 statute. They're also included on the statutory
8 instruction form.

9 As you recall, when I went to page 21, I am
10 charging as far as non-statutory mitigating circumstances,
11 No. 1, the background, sexual and physical abuse and
12 neglect of the defendant as a child; No. 2, the
13 defendant's use and abuse of drugs; and No. 3, the
14 defendant's adaptability to prison. I think those are the
15 ones I will charge. It combines some of your requests in
16 that regard and there's a number of your requests that we
17 reviewed on the record yesterday evening that I do decline
18 to charge.

19 MR. TARR: Yes, Your Honor. And we object to
20 them and now for the failure to charge the other requested
21 non-statutory mitigators. And we understand we'll be able
22 to argue those --

23 THE COURT: Yes, sir.

24 MR. TARR: -- but we just ask they be charged.
25 We understand your ruling and just for the record would

1 object.

2 THE COURT: All right. And then No. 16, I do
3 not think that's the law in South Carolina. I think under
4 State versus Southerland residual reasonable doubt --

5 MR. TARR: I was going to withdraw this one
6 anyway.

7 THE COURT: All right. So No. 16 is withdrawn.
8 No. 17, I do charge the meaning of the
9 sentences. My actual charge in that regard is generally
10 covered -- before I start talking about the specific
11 sentences themselves, I advise the jury that they should
12 understand these sentences mean what they say; that is, if
13 you recommend that the defendant be sentenced to death, he
14 will actually be put to death by electrocution or lethal
15 injection. And if you recommend the defendant be
16 sentenced to life in prison, he actually will be sentenced
17 to life in prison without the possibility of parole.

18 In your deliberations, you're not to speculate
19 that these sentences of death and life imprisonment
20 without the possibility of parole mean anything different
21 from their ordinary and plain meanings. Please understand
22 that your sentencing recommendation will be followed by
23 this Court. And then I go into the order in which I
24 explain the sentences as not -- should not indicate to you
25 which sentence you should choose. So I think that's

1 generally covered.

2 There is some language in here that obviously
3 would not be in my general charge, but I think it's
4 generally covered in No. 17.

5 No. 18, you know, I generally charge that the
6 jury -- I charge this language: "The defendant has also
7 presented evidence of non-statutory mitigating
8 circumstances concerning his background, sexual and
9 physical abuse and neglect as a child, his use and abuse
10 of drugs, and his adaptability to prison. In addition to
11 these three non-statutory mitigating circumstances there
12 may be others, and you may consider any other
13 non-statutory mitigating circumstances that you find to
14 exist."

15 I then go into -- I have in here that there's
16 obviously no burden except there should be some evidence.

17 MR. TARR: I think they should be instructed
18 that those are only examples because it gives the
19 impression that the Court feels like these are three that
20 are worthy of being talked about, but you can consider
21 other things. I think clearly the law is they can
22 consider --

23 THE COURT: Well, I could put: "In addition to
24 these three non-statutory mitigating circumstances as
25 examples of non-statutory mitigating circumstances." I

1 mean, I could say -- add those words.

2 "You may consider any other non-statutory
3 mitigating circumstance that you find to exist and give it
4 whatever weight, if any, you deem appropriate." I could
5 add that.

6 MR. TARR: Yes, Your Honor.

7 THE COURT: Let me see if I can restate that and
8 write it down.

9 Rather than say "and give it whatever weight and
10 value," I would say -- this would be my suggestion, Mr.

11 Tarr: "In addition to these three non-statutory
12 mitigating circumstances, as examples, you may consider
13 any other non-statutory mitigating circumstance that you
14 find to exist."

15 MR. TARR: Yes, Your Honor.

16 THE COURT: Because, you know, then I'm going
17 into later on No. 3, the recommendation of mercy. That's
18 still to come.

19 MR. TARR: Okay.

20 THE COURT: All right. I'll add those two
21 words. That takes care of 18.

22 Nineteen I think is generally covered.

23 Twenty I think is covered.

24 Twenty-one, I think that is generally covered
25 also.

1 Twenty-two, I think that is also covered.

2 Twenty-three, I think that is also covered by
3 the jury charge.

4 Twenty-four I would decline to charge. You have
5 any objections to that, for the record?

6 MR. TARR: I mean, I think any doubts that they
7 have about punishment should be in favor of life.

8 THE COURT: I will charge that they would give
9 him the benefit of any doubt, but I will not charge this
10 language.

11 Twenty-five, I do charge that they may give
12 Mr. Barnes -- "the third element you may consider if you
13 should conclude that a statutory aggravating circumstance
14 exists beyond a reasonable doubt is whether the defendant
15 should be sentenced to life in prison for any reason, or
16 for no reason at all. This is what has traditionally been
17 referred to as a recommendation of mercy. And should such
18 be your decision, you would so indicate by returning to
19 the Court the recommendation of sentence life imprisonment
20 form which would be signed by the foreperson."

21 I've emphasized several times throughout my
22 charge, of course, the unanimous requirement of the jury
23 in its verdict.

24 MR. TARR: Yes, Your Honor.

25 THE COURT: I would not charge and would decline

1 to charge No. 26. I think that occurs by operation of the
2 statute should they fail to reach a unanimous verdict. I
3 don't think I charge that and I will not charge that.

4 No. 27, what about 27, Solicitor, page 36?

5 Basically they're saying -- you know, really
6 what it's saying is just like counting witnesses, you
7 don't count aggravating or mitigating circumstances. Of
8 course, in this case with three alleged statutory
9 mitigating and three non-statutory mitigating
10 circumstances you might want to charge that you would
11 count them, with two statute aggravating, but that is
12 correct. I mean, you don't -- that's almost like -- and I
13 would not use the word "weigh," you know, that's a word
14 not to be used in these cases, but it's not a numbers
15 game. It's not the number of witnesses. The State had
16 40, the defense had four. You know, it's certainly not
17 that.

18 MR. MAYE: I would think -- may it please the
19 Court. Your Honor, I would think a more general statement
20 in that regard. Other than making it specific as to that,
21 to tell them it's, you know, not a numbers games as to the
22 number of witnesses or the number of that -- covering it
23 all would be appropriate rather than singling one
24 particular inference out because I think your charge is
25 going to cover that, that it's not the number of witnesses

1 or the --

2 THE COURT: I'll try to charge something in that
3 regard.

4 MR. TARR: I agree with the Solicitor.

5 THE COURT: Yes, I'll try to charge something.

6 I agree, it's not a count where you have two
7 aggravators and that equals -- then you'd have to have six
8 mitigators and all. I agree with that.

9 I think if you hear the charge over all to the
10 jury, that in following their oath, that they will
11 understand that.

12 Be that as it may, I'll try to feather something
13 in in that regard.

14 MR. TARR: I think 28 is covered based on what
15 you stated.

16 THE COURT: Yes, sir, I think that's covered.

17 I think 29 is also covered. I do tell them
18 passion and prejudice. And the race of Mr. Barnes and the
19 race of the victim, I'm not going to comment on that. I
20 don't think that's appropriate for the Court to comment
21 on, but I do charge about passion, prejudice, and any
22 other arbitrary factors in that regard.

23 MR. HARTE: So just so I'm clear, on 29, that
24 was denied?

25 THE COURT: It is not denied. It's generally

1 covered. But part of that language talks about the race
2 of Mr. Barnes or the race of the victim.

3 MR. HARTE: And you're going to eliminate that?

4 THE COURT: Yes, I would eliminate that. But I
5 think I do charge passion and prejudice or public opinion
6 or any other arbitrary factor, or anything outside the
7 courtroom.

8 MR. HARTE: Thank you.

9 THE COURT: That doesn't mean that either side
10 can't argue that issue. I just don't see it as an issue
11 in this type of case where the race of the defendant and
12 the race of the victim are the same.

13 MR. HARTE: Yes, sir.

14 THE COURT: No. 30 I think is covered.

15 No. 31 I have declined to charge. Part of that
16 I am going to charge. You've got in there -- now that I
17 look back, you've got: "The procedure you must follow in
18 deciding the sentence is not a mere counting process," and
19 I've already said I'm going to charge that a little bit,
20 but this language I'm not going to charge: He's taken to
21 the state penitentiary, strapped to a gurney, IV tubes
22 will be placed in his arm, drugs will be forced into his
23 body.

24 A, that's not evidence in the record, and B, I'm
25 just not going to charge that. Those procedures are --

1 our state has elected to and has passed a death penalty
2 statute and that's not for the jury's consideration.

3 As I say, now that I look at it, I think parts
4 of it, the numbers are, and I am going to charge.

5 No. 32, I obviously am going to charge the
6 unanimity of verdict, unanimous decision. I would not
7 charge the second, any part of the second paragraph, that
8 they're not able to reach a unanimous verdict. I have
9 found jurors communicate pretty well with the Court when
10 they cannot reach a verdict, you know, and he'll know --
11 I'll tell the foreperson, you know, obviously if you have
12 questions or any concerns, please write a note, knock on
13 the jury room door.

14 Let's see, defendant's proposed instruction,
15 Duty to Disregard Speculation about Alleged Deterrent, I
16 don't intend to mention that at all. I don't think a
17 deterrent's --

18 Does the Solicitor plan on arguing deterrents in
19 any manner? I would say no.

20 MR. MAYE: I would not think so, but I would
21 like for you to question the ultimate authority on that.
22 Since I'm not giving the argument, I'd like you to
23 question Solicitor Myers in that regard. I have no idea,
24 but I would not imagine so.

25 THE COURT: And I do try to focus them as your

1 third paragraph on the evidence presented and the
2 appropriate punishment for this particular set of
3 circumstances.

4 Page 43, I guess this is No. 33, I do charge
5 again the passion and prejudice. I do not charge anything
6 about costs. That's not in the record. I don't think
7 it's appropriate which one would be more expensive than
8 the other or that the state would save money.

9 Perhaps there's studies that would say the state
10 would save money with a life without parole sentence
11 versus the death penalty.

12 MR. TARR: Yes, Your Honor.

13 THE COURT: And there may be studies the other
14 way. I don't know. I'm not familiar as I'm sure you are,
15 Mr. Tarr.

16 Any other requests?

17 MR. TARR: No, Your Honor.

18 THE COURT: So it looks like I'm going to
19 feather in this issue on the numbers and the victim
20 impact.

21 All right. I still have another issue that I
22 want to get resolved factually. I addressed it I think
23 yesterday morning and haven't revisited it and that's the
24 issue of the testimony of Detective Roundtree concerning
25 the fact that Mr. Barnes had been charged with battery and

1 false imprisonment and that as I understand now, outside
2 of the record before the jury, that that is on what is
3 know as a dead docket in Georgia.

4 The witness in that regard, I think, is that
5 Lashonda Lott who testified concerning those prior bad
6 acts and there was some discussion with the solicitors and
7 the defense lawyers on the record concerning that and
8 whether or not the defense's position would be if a
9 witness testified in that regard.

10 I would like to revisit that, Mr. Harte and Mr.
11 Tarr, on that issue of him having been arrested or charged
12 with false imprisonment and battery as to Ms. Lott. I
13 mean, Ms. Lott did testify.

14 Do you want any type of focused curative
15 instruction in regards to that?

16 MR. TARR: Your Honor, in your general charge if
17 you would just include any crimes that did not result in
18 conviction can be considered only as character evidence.

19 THE COURT: Let me look in my general charge
20 very quickly before I answer that.

21 (Pause.)

22 THE COURT: I have -- it's captioned "Evidence
23 of Other Crimes," and it has: The State has presented to
24 you for your information facts concerning the defendant's
25 alleged prior and subsequent crimes and bad acts. I

1 charge you that the evidence of previous or earlier
2 convictions, or prior subsequent crimes, or alleged crimes
3 or bad acts are not and may not be used as proof of
4 statutory aggravating circumstances; but if you are
5 convinced that the defendant committed these crimes or
6 these prior bad acts, or any of them, you may consider
7 them as evidence of his character and for no other
8 purpose. The defendant is on trial for his life and it is
9 important that you have for your consideration all
10 pertinent information about him.

11 This evidence may also be considered with all
12 the other evidence and you may give them whatever weight,
13 if any, you deem proper under the circumstances of this
14 case.

15 I emphasize again these alleged offenses, these
16 alleged bad acts may not be used by you as evidence of
17 statutory aggravating circumstances which the State relies
18 on. You may, if you choose, consider this evidence that
19 the defendant -- evidence -- consider this evidence of the
20 defendant's characteristics as they bear logical reference
21 to the crimes for which he is being charged.

22 MR. TARR: That will be fine.

23 THE COURT: All right. And I would give a
24 separate instruction but -- all right.

25 Mr. Barnes, good morning.

1 THE DEFENDANT: Good morning, sir.

2 THE COURT: How are you this morning?

3 THE DEFENDANT: The same boat. It never
4 changes.

5 THE COURT: I do want to revisit with you just
6 momentarily the issue of your right to testify or not
7 testify. I did not require your attorneys to rest
8 yesterday. I excused the jury without them formally
9 resting in front of the jury panel, so that if you thought
10 over the evening hours any more about testifying or not
11 testifying, we'd be able to address that this morning.

12 Do you choose to testify or not testify?

13 THE DEFENDANT: I revisited the issue yesterday.
14 I mean, I'm not under oath, so I choose not to testify.

15 THE COURT: All right. And nobody is making you
16 make that decision, that's your decision?

17 THE DEFENDANT: Am I under oath right now?

18 THE COURT: Yes, sir, you're still under
19 affirmation I believe is what you called it.

20 THE DEFENDANT: Oh, affirmation?

21 THE COURT: Yes, sir.

22 THE DEFENDANT: Since I'm -- then I don't want
23 lie to the Court. I mean, is there any way that I can --
24 can I make sure that --

25 (Pause while the defendant is conferring with

1 counsel.)

2 THE DEFENDANT: The reason I'm not testifying is
3 because of what I previously have said. So, you know, now
4 I'd like that in the record as an objection for the future
5 for appeal.

6 THE COURT: All right.

7 THE DEFENDANT: But it is my decision right now
8 as for what I put in the record that I'm not going to
9 testify what is called the opening statement.

10 THE COURT: Final --

11 THE DEFENDANT: The final -- in the first part
12 of it what you said, the right to testify and final
13 statement.

14 THE COURT: All right. And that's your
15 decision?

16 THE DEFENDANT: Yeah, that's my decision.

17 THE COURT: All right. Do you have any
18 questions you'd like to ask me about that decision?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. Well, I find Mr. Barnes
21 has freely and voluntarily made his decision, he's been
22 apprised of his right to testify or not to testify, and he
23 chooses for the reasons that he has stated in the record,
24 both yesterday and referred back to them today, to those
25 previous reasons that he chooses not to testify.

1 When the jury comes out, I would address Mr.
2 Tarr and ask if you have any further evidence or testimony
3 and you can then formally rest.

4 I do plan on following the procedure as we did
5 in the guilt phase, that the Solicitor would close first,
6 you -- I take it you and Mr. Harte would have the final
7 closing, then I intend to -- if I don't take a break
8 between -- even if I take a break between closing, it
9 depends on how long the Solicitor goes, I am going to take
10 a break after your closing and address the defendant a
11 final time concerning his right to make a final statement
12 to the jury.

13 And I would ask him at that time -- you
14 understand that, Mr. Barnes, that you do have a right to
15 make a final statement to the jury after the Solicitor and
16 after your attorney has made their final arguments?

17 THE DEFENDANT: Yes, sir, I understand.

18 THE COURT: All right. And I'm going to revisit
19 that with you before the case is submitted to the jury --

20 THE DEFENDANT: Yes, sir.

21 THE COURT: -- similar to the manner in which we
22 did in the guilt phase of the trial. So just keep that in
23 mind and we'll talk about it. Do you have any questions?

24 THE DEFENDANT: Not at this time.

25 THE COURT: All right. Thank you very much, Mr.

1 Barnes.

2 MR. HARTE: Your Honor, as a procedural matter,
3 after the defense rests, will there be an opportunity to
4 make appropriate motions?

5 THE COURT: Do you need me to hear them outside
6 the presence of the jury?

7 MR. TARR: Your Honor, I think at that time I'll
8 tell you I'll renew the previous motions made at the end
9 of the State's case and renew all objections.

10 THE COURT: And those motions, that motion just
11 was in regards to the direction of a life without parole
12 sentence?

13 MR. TARR: Yes, Your Honor, the failure of the
14 State to satisfy their burden of proof as to the two
15 aggravating factors.

16 THE COURT: All right. And I'll leave it up to
17 you. If you'll make that motion as a renewed motion, I
18 would hear it and place my response on the record in that
19 regard, if that suits you and Mr. Harte.

20 MR. TARR: Yes, Your Honor.

21 THE COURT: All right. If you all would give
22 me -- I apologize, but if you all would give me a few
23 minutes to get my language straight on these few changes.
24 I do not have a copy of these.

25 Madam Clerk, would you make a copy of these

1 various forms and give one set to the Solicitor and one
2 set to Mr. Tarr and then give my original set back to me?

3 THE CLERK: Yes, sir.

4 THE COURT: And if you all have any changes,
5 those are the various forms that I will use that will go
6 to the jury, and we'll address those, but I'm going to go
7 back here and make a few changes based on my rulings on
8 the charge. Yes, about ten minutes.

9 I do need to address certain things concerning
10 the closing when you come back.

11 MR. MAYE: Yes, sir, Your Honor. I just ask
12 that you address that with the Solicitor. Thank you.

13 THE COURT: All right. Yes, sir. No problem.
14 Thank you.

15 (A break was taken.)

16 THE COURT: I do want to revisit one issue after
17 I thought about it, and that's the issue of counting, of
18 counting the number of statutory aggravating versus
19 mitigating.

20 The State must prove beyond a reasonable doubt
21 the existence of at least one statutory aggravating
22 circumstance. That is emphasized through my charge to the
23 jury.

24 When I did some language concerning you don't
25 compare statutory mitigators -- or aggravators with

1 mitigators, I think that lessens the impact of my charge
2 to the jury on the burden of proof that rests upon the
3 State in that regard. It didn't even quite flow right
4 when I tried to feather it in around the credibility
5 charge about counting the number of witnesses.

6 I think I'm going to decline to charge it in
7 that regard. You can certainly argue that, but it didn't
8 quite flow right to me and it made it look like it was
9 going to be a weighing or comparing and I'm not going to
10 go there, okay?

11 MR. TARR: Yes, Your Honor.

12 THE COURT: All right. And I did want to alert
13 you of that. Like I say, I think you could argue that,
14 but I did want to alert you of that.

15 And a couple of other things.

16 Solicitor, I had asked Solicitor Maye one issue
17 concerning your charge, concerning your closing. You're
18 not going to argue anything concerning the deterrent
19 effect of the death penalty?

20 MR. MYERS: No, sir, I don't think I will.

21 THE COURT: All right. Then I don't think that
22 charge would be appropriate.

23 The other issue I have, Solicitor, two other
24 issues very quickly, or for however much time they take,
25 guidelines for the safe handling of firearms, which you're

1 very familiar with. I think part of this is notification
2 and approval required before firearm used in final
3 argument.

4 "Solicitors and defense attorneys intending to
5 use firearms admitted into evidence for demonstrative
6 purposes in the final argument must inform the trial judge
7 prior to such use stating how the firearm will be used and
8 obtaining the permission of the trial judge prior to such
9 use."

10 Do either you, Solicitor, or you, Mr. Tarr,
11 intend to use any of the firearms during your closings?

12 MR. MYERS: Not as demonstrative. Merely
13 referring to it as an exhibit because we don't have the
14 murder weapon.

15 THE COURT: All right. Can you elaborate on how
16 you intend to use it?

17 MR. MYERS: I would say something like "when he
18 was arrested, this rifle was found in his home, this
19 pistol was found in his home. He had a gun in Columbia
20 County and he had a gun at West Bank."

21 THE COURT: All right. Well, you certainly have
22 the Court's permission to do that, Solicitor. I did want
23 to cover it.

24 Mr. Tarr?

25 MR. TARR: I wouldn't be doing anything more

1 than that.

2 THE COURT: All right. The other issue I have
3 concerning closings, neither the prosecutor -- this is one
4 of my many lists -- nor the defense is allowed to use
5 demonstrative evidence that has not been admitted into
6 evidence. So I guess it's not demonstrative evidence if
7 it has not been admitted into evidence. They can't use
8 demonstrative items if they have not been introduced into
9 evidence. If either side uses such evidence before anyone
10 objects, the Court should give a curative instruction to
11 the judge -- excuse me -- to the jury and, quote, hope for
12 the best, unquote.

13 Solicitor, do you intend to use any
14 demonstrative items that have not been introduced into
15 evidence?

16 MR. MYERS: I don't think I have any, no, sir.

17 THE COURT: All right. Mr. Tarr?

18 MR. TARR: No, Your Honor.

19 I did want to revisit this issue about
20 Defendant's Exhibit 5 and just make sure that is in
21 evidence before I rest. I just thought -- I know that she
22 was busy typing when I had Dr. Watts on the stand. I
23 think it is in evidence.

24 MR. MYERS: It thought it was, too.

25 THE COURT: All right. Well, we will say

1 Defense 5's in evidence without objections?

2 MR. MYERS: Yes, sir.

3 THE COURT: All right. I thought it was also.

4 MR. TARR: I thought it was.

5 (WHEREUPON, Defendant's Exhibit No. 5,
6 previously marked for identification, was admitted
7 into evidence.)

8 THE COURT: All right. Anything further before
9 we bring in our jury?

10 MR. MYERS: No, Your Honor.

11 MR. TARR: No, Your Honor.

12 THE COURT: All right. About how long,
13 Solicitor? I'm not going to tell the jury.

14 MR. MYERS: About an hour.

15 THE COURT: All right. Well, if it's about an
16 hour, we'll probably take a break between the Solicitor's
17 closing and Mr. Tarr's closing; is that correct?

18 MR. TARR: Yes, Your Honor.

19 THE COURT: And then we'll take a break after
20 Mr. Tarr's closing.

21 All right. Bring us our jury, please.

22 Did you all get to look at those forms? Any
23 objection to those forms?

24 MR. TARR: None from the defense, Your Honor.

25 THE COURT: All right. Solicitor?

1 MR. MYERS: No objection.

2 (The jury came into open court at approximately
3 10:30 a.m.)

4 THE COURT: Good morning, ladies and gentlemen
5 of the jury panel. Welcome back.

6 Thank you very much, Madam Bailiff.

7 I can't see our last juror. Good morning to you
8 also, sir.

9 THE JUROR: Good morning, Your Honor.

10 THE COURT: All right. We're still continuing
11 the trial of the case by the presentation of testimony by
12 the defense. Mr. Tarr.

13 MR. TARR: The defense rests, Your Honor.

14 THE COURT: All right. Defense rests.

15 Any motions?

16 MR. TARR: I would just renew the two motions
17 made at the close of the State's case and renew all
18 objections made previously, Your Honor.

19 THE COURT: All right. Those motions are
20 certainly renewed and I renew my previous rulings in that
21 regard. I respectively deny those motions and I would
22 reaffirm all my previous trial rulings, both the guilt and
23 the sentencing phase of the trial.

24 Ladies and gentlemen of the jury panel, what
25 that means is you've now heard all the evidence and all

1 the testimony for both the State and the defense that
2 you're going to hear in the trial of this case. The
3 procedure we will now follow is this: The Solicitor will
4 present the closing argument on behalf of the State first.
5 Depending on how long that argument takes, we may
6 thereafter take a brief recess. Then the attorney or one
7 of the attorneys for the defendant will then present the
8 closing argument on behalf of Mr. Barnes to you.

9 As you all know, the focus of this sentencing
10 proceeding is to determine what punishment is appropriate
11 to be imposed on this particular defendant under the
12 circumstances of this particular case, the death penalty
13 or life without parole.

14 After both parties -- after all the parties have
15 made closing arguments to you, I will then instruct you on
16 the law that you will apply prior to the case being
17 submitted to you for your deliberations.

18 I would advise those of you in attendance today,
19 spectators, I do not allow any movement in and out of the
20 courtroom while any attorney is addressing the jury, nor
21 while the Court is addressing the jury.

22 I would ask the jury, as you have done
23 throughout the trial of this case, to please give the
24 parties your complete and undivided attention.

25 With that being said, Solicitor, you may address

1 the jury.

2 MR. MYERS: Thank you, Your Honor.

3 Not all cases of murder bring the death penalty
4 into play. It's only those cases of murder that have an
5 aggravating circumstance, circumstances of the crime and
6 the character of the defendant. And this case screams out
7 for the ultimate punishment.

8 You know, Monday a week ago when all the jurors
9 came in this courtroom and the judge said, "Solicitor,
10 call your case," and I stood up and said, "The defendant's
11 charged with murder and kidnapping," I bet not a single
12 soul on the other side of this rail had any idea the type
13 of evidence you folks have heard. How much more horrible
14 can it get? How much more horrible can it get?

15 Now, the judge is going to tell you, and he
16 already has, is that we've got to prove to you at least
17 one statutory aggravating circumstance. And I think he
18 may have told you we're relying on two, that murder was
19 committed while in the commission of the following crimes
20 or acts: Kidnapping and physical torture.

21 Was Samuel James Sturup, Jr. not kidnapped and
22 tortured? Of course he was. Was Samuel James Sturup not
23 physically tortured? Of course he was. We submit to you
24 that's been proven. But the judge will tell you even if
25 we prove it to your satisfaction, at least one of these --

1 it could be one or both of them -- you can still impose a
2 life sentence.

3 And "statutory," this word right here, what that
4 means is in those law books back there, it's a statute
5 enacted by the General Assembly. That's why they call
6 them statutory aggravating circumstances. It's in the law
7 books, that we have to apply that.

8 Now, he's going to tell you on the other side
9 mitigation, something that may lessen it, there's some
10 mitigating circumstances that you can consider. Statutory
11 mitigating circumstances in the law books, statutes,
12 statutory, number one, that the murder was committed while
13 the defendant Steven Louis Barnes was under the influence
14 of mental or emotional disturbance.

15 If you think he was under mental disturbance on
16 Labor Day, or Community Road in Edgefield County, or back
17 before then over at the green house until the moment he
18 put that bullet in the head of Samuel James Sturup, you
19 give it whatever weight you want to, mental or emotional.

20 Number two, the capacity of the defendant Steven
21 Louis Barnes to appreciate the criminality of his conduct,
22 did he appreciate it, which means he knew what he was
23 doing. Well, yeah, he appreciated it because he bragged
24 to people about it later on. Or his conduct, to conform
25 his conduct to the requirements of the law was

1 substantially impaired. That means he couldn't obey the
2 law because of some kind of capacity he had. Haven't you
3 heard he knows what the law is, that he doesn't give a
4 damn -- excuse me for saying that -- he does what he wants
5 when he wants to and he doesn't care about it. But if you
6 think that's something that you should give consideration
7 to, please give it the consideration that you think it
8 deserves.

9 Number three, the age of the offender. You can
10 consider the age. I think somebody said he was 22 and 23
11 at the time of the murder. If that's something favorable
12 to him, you all give it the consideration you think it
13 deserves.

14 Or the mentality of the defendant at the time of
15 the crime. I tell you what his mentality was. He didn't
16 have any mental problems. He had meanness in him. He had
17 malice. But if you think that that deserves some
18 consideration, folks, please use it.

19 Now, there's some other things, non-statutory
20 mitigating circumstances. That means things not in the
21 law books but evidence brought out that if you think it's
22 worthy of consideration, please, I ask you to consider it
23 on his behalf.

24 One is his background, sexual and physical abuse
25 and neglect of the defendant as a child. If you think his

1 background and whatever they say happened to him as a
2 child, if you think that that deserves consideration at
3 the time he put that bullet in Samuel James Sturup, Jr.'s
4 head, please give it your consideration, give him the
5 benefit of the doubt.

6 The defendant's use and abuse of drugs, by him
7 being a drug dealer, by him using drugs, if you think
8 that's something favorable to him when he put that bullet
9 in the back of Samuel James Sturup, Jr.'s head, give him
10 that consideration. I didn't hear anybody say they forced
11 him to take drugs. Maybe you did. But by him using or
12 abusing drugs, if that's something in his favor in the
13 murder of a 16-year-old, please give it whatever
14 consideration you think necessary.

15 And the defendant's adaptability to prison. He
16 going to be a good prisoner now. He going to act nice.
17 He going to be a new man. You all consider the death
18 penalty. If you think that's something in his favor, I
19 beg you to give him the benefit of doubt and consider it
20 in his favor when he put that bullet in the head of Samuel
21 James Sturup, Jr. on Labor Day.

22 And then the judge is going to tell you this:
23 All of these things right here, consider it, and anything
24 else in evidence you want to, anything favorable to him,
25 any other mitigating circumstances you heard that you

1 think deserves some credit, whether it's in the law book,
2 not in the law book, anything else, if you heard it and
3 you think it's an excuse, a justification, a mitigation
4 for him putting that bullet in the head of Samuel James
5 Sturup, Jr. on September the 3rd of 2001, out in those
6 woods, please give him the benefit of the doubt, however
7 you deem it to be.

8 And the judge is going to tell you this: Even
9 if we prove aggravating circumstances -- kidnapping,
10 physical torture -- and you don't find any of these
11 things, no mitigation whatsoever, you can still give him a
12 life-without-parole sentence, a mercy sentence. And
13 that's what they're going to ask for, a mercy sentence.
14 If you think that's what this case calls for and that's
15 the appropriate punishment, give him life without parole,
16 if that's necessary. If that's an appropriate punishment,
17 if for his crimes and his character that's the punishment
18 that fits the crime, give him the benefit of the doubt.
19 He's already got one life sentence. It might be a reward
20 to give him another, but that's your decision, that's for
21 you to decide.

22 The judge will probably give you all this in
23 writing, too. So you may have that in your jury room.
24 But that's the mitigating circumstances.

25 It's Labor Day. I told you from the beginning,

1 people were celebrating. People got off work, school was
2 out. Happy times. But it wasn't happy for Sam Sturup.
3 It wasn't happy for this lady, Mrs. Shirley Sturup.
4 Wasn't happy at all. Because on that day, Samuel James
5 Sturup, Jr. was a dead man walking.

6 When the defendant went and got Charlene "China"
7 Thatcher from that motel, he said, "Come on. I'm on a
8 mission." Sam's a dead man walking.

9 When the defendant called Cave and Griffin and
10 said, "Come on to the green house," Sam was a dead man
11 walking.

12 When he got his brother, William Harris, Little
13 Man, to bring Sam over there to the green house, Sam was a
14 dead man walking. He was walking on this earth only a few
15 more hours. He wouldn't live to see the sun rise the next
16 day.

17 When Big Man accused that 16-year-old kid of
18 stealing the money -- and, you know, I don't know how much
19 money it is. I don't know if it's a hundred dollars, two
20 hundred dollars, three hundred dollars, four hundred
21 dollars, I don't know, but is money worth what he did to
22 Samuel James Sturup, Jr.? By God, he had \$5,270 in his
23 house when the police raided it.

24 Is money that important? To Steven Louis Big
25 Man Barnes it must have been because he beat that kid up.

1 When he hit him with that shock, Sam was a dead man
2 walking. When he hit him some more, when he had others to
3 jump on him, when his brother Little Man stuck the gun in
4 his mouth, when he was beating him, torturing him, Sam was
5 a dead man walking.

6 "Where's the cheese? I want my cheese."

7 "I ain't got it. Big Man, I ain't got your
8 cheese. Maybe Charlene has it."

9 Charlene comes out and she gets beat up, I think
10 that's what it was. They had Charlene beat on him, too.

11 No, Charlene ain't got it. Maybe William Harris
12 has got it, Little Man. Right then Little Man stuck the
13 gun in his mouth. "I ain't got it." Sam Sturup was a
14 dead man walking that day.

15 "Okay. It's at my house. It's behind the
16 toilet. It's over there. All right. Momma and them's
17 home. They leave before long and go to work."

18 "If I go over there and my cheese ain't behind
19 that toilet, I'm going to kill the whole family."
20 Meanness, malice. Sam's a dead man walking. "I ain't got
21 your money."

22 William Harris leaves. He's gone. He's
23 bye-bye.

24 Now it's time to walk on the railroad tracks.
25 He's a dead man walking. He's got to walk in front.

1 "Charlene, you shoot him."

2 "I don't want to shoot him."

3 "Well, here, Sam, you shoot her."

4 Somebody going to die. Somebody going to die.

5 Shoot him. Sam was going to die tonight. Dead man
6 walking.

7 And whatever else happened on that railroad
8 track, the three of them, Cave, Griffin, Sam out in front,
9 Charlene Thatcher says, "He's going to die. He's going to
10 die."

11 When he gets back and calls the Hunsberger
12 brothers, who are serving life in prison in Georgia for
13 this beating they gave Sam, Sam was a dead man walking.
14 And then they decided to put Sam in that trunk.

15 Now, if Big Man didn't want to further torture
16 this 16-year-old, why didn't he just kill him right there
17 and then? Why didn't he just kill him at the green, kill
18 him on the railroad tracks, kill him right then? Don't
19 put this kid through anything else. Oh, no, he's got to
20 go on.

21 The cars take off, Hunsbergers in the front.
22 The white bubble top Chevrolet Caprice was in the back
23 with China, with Cave, with Griffin, and the Big Man.

24 They come across the river into Edgefield
25 County. Didn't even know what it was when they left

1 Georgia and came across that river and came into Edgefield
2 County, got on 25 and went down Community Road.

3 When they got right down here and took that
4 right -- rather than keeping on Community Road they went
5 straight, went back in these woods and drove through that
6 field, this little dirt road and over here into this
7 field, you know what that was? That was a funeral
8 procession. Dead man wasn't walking but he was in the
9 trunk, still breathing. That was a funeral procession.

10 And they get there and what does Charlene
11 Thatcher say? She looked around an open field and she
12 said, "This is a beautiful place." And what does the man
13 in charge say? "You will never forget this place." And
14 the kid who just got out of the trunk is a dead man
15 walking.

16 And they walk across that field and they make
17 Sam go in front right here. And when they go in front,
18 they get up here to this gate. Big Man says to Sam,
19 "You're going to die tonight. You're going to die in them
20 woods," and orders everybody over that gate. Not only
21 that, back at the house there was testimony he said, "What
22 do you want for your last meal? What do you want, Sam,
23 for you last meal?"

24 Across that gate, crossing the barbed wire, and
25 16-year-old Samuel James Sturup, Jr. is told this by the

1 people who testified, "Pick the place where you want to
2 die." God, can you imagine that? "Pick the place where
3 you want to die."

4 What's going through that kid's mind? Doesn't
5 know where he is. He's been beat up, been thrown in a
6 trunk. That was a death march into those woods. A death
7 march.

8 "Everybody got to shoot him. Everybody got to
9 get their hands dirty so you won't tell. So you can all
10 be involved. So you won't rat me out, you won't tell the
11 police, you won't give me up."

12 And did Charlene want to shoot? Maybe she does,
13 maybe she doesn't, I don't know. But I heard several
14 witnesses said that he gave the gun to her and she was
15 crying and she was shaking. When she had that gun she
16 couldn't pull the trigger and his hand came around on hers
17 and it went off into his stomach.

18 Now, I don't know what your sense of that was,
19 you heard different stories. If everybody told me the
20 same thing, I wouldn't believe it. I know one thing,
21 Charlene said she freaked out. A 17, 18-year-old girl,
22 somebody just made her shoot a 16-year-old kid is the
23 reason that she'd freak out.

24 And I submit to you, somebody shot into the
25 ground. Remember that SLED agent that went out there

1 later on and dug into the ground and you saw the mud on
2 his fingers, he found two bullets in the ground. Somebody
3 shot in the ground. Either Cave or Griffin said they
4 aimed there and one of them said they shot the ground. I
5 don't know. It's up to you to decide. Two bullets in the
6 ground.

7 But I know one thing, everybody says the one
8 that put the bullet in the brain was Steven Louis Big Man
9 Barnes. Charlene saw it. He told Griffin and Cave about
10 it. "How do you know he ain't going to get up and leave,
11 run off in these woods with some lights way over there,
12 how do you know he ain't going to get up?" "He ain't
13 going to get up because I shot him in the head and I
14 watched him die." How horrible. Watched him die.
15 Charlene told you that.

16 And can it get any more horrible, any more
17 gruesome, any more vicious, any more coldblooded to stay
18 there and watch a 16-year-old take his last breath on this
19 earth? He's now a dead man. He'll never walk again.
20 He's gone from this earth. Except for the body, except
21 for his body.

22 And what was the Big Man to do with his body?
23 He leaves it there for the animals, the dogs, the
24 raccoons, the buzzards, whatever animals. Can it get any
25 worse? At least they could have taken him back somewhere

1 and dropped him off on a road so somebody could find him.
2 He picked a place he wanted to die, "I'm going to shoot
3 him in the head and leave him right there."

4 And you know later on, kind of proud of it. You
5 remember the first lady, the first woman that testified
6 yesterday morning, the one that stood here and had her
7 feet out, Carolyn Norman Fain? She said before Sam's body
8 was found, that she was with Big Man somewhere -- forgot
9 where it was -- and the thing about Samuel missing came up
10 before his body was found and Samuel (sic) said, "He ain't
11 going to be found because the body's in the woods and the
12 police will never find him and they can't prove anything.
13 I have no evidence. They ain't going to have no car
14 tracks, they ain't going to have no footprints, they ain't
15 going to have no gun."

16 Because the clothes, you know they burned those;
17 the gun's in some river somewhere; can't prove a thing.

18 You remember Bill Anderson, the guy that they
19 ordered the two girls over at Columbia County on New
20 Year's Eve? That after the girls were in there and after
21 a foul was committed with the condom and they called up
22 Big Man and said, "They've got a wad of money. It's a
23 lick, it's a lick." And he comes in with this gun, he
24 comes in with that black ski mask wanting his cheese,
25 pointing the gun at the head of Bill Anderson. And Bill

1 kind of bucked up to him. Now, Bill's a pretty big old
2 boy.

3 "What you doing here?"

4 "You got a problem."

5 "No, you got a problem. I'm looking for the
6 cheese."

7 And they have some words there and say, "We
8 ain't got no cheese."

9 And the Big Man says this. And I wrote it down.

10 "I should have killed you when I first walked in
11 the door. I've already killed one. If you don't believe
12 it, ask her," pointing to Charlene Thatcher.

13 "I've already killed one. If you don't believe
14 it, ask her."

15 Vic Boyd, the guy in the back bedroom there, he
16 heard it. He was peaking around the door and they didn't
17 know he was back there. He said the same thing.

18 And what did Bill Anderson say? "Thank God my
19 buddy David Victor Boyd's in that back bedroom. Because
20 I've already seen the man's face. I've already seen his
21 face. I looked in the phone book and called AA Angels. I
22 know where they are by this phone book and can tell the
23 police that. I can pick him out of a photographic lineup.
24 And they know the money's here."

25 And then Vic Boyd, what did he say? What would

1 he do? What would he do?

2 And Nadia Comaneci Braswell testified yesterday.
3 I think she was about the last one. You know, that's the
4 one that they had in the motel room and they handcuffed
5 with these handcuffs and the defendant ordered the girls
6 to beat her with brass knuckles. Beat her with brass
7 knuckles. That hurts.

8 She was able to get away she told you and that
9 big police officer said, "Yes, there's handcuffs and they
10 had brass knuckles."

11 And the defendant told her, thought she'd turn
12 him in or something, that he was going to kill her and her
13 family.

14 "I've killed a boy 16 years old. I've killed a
15 16-year-old boy in South Carolina. I'll kill you, too. I
16 killed him there on a trail."

17 You know, that's kind of interesting, that you
18 know when they left Sam's body back down in these woods,
19 that day they went to a trailer. They killed a
20 16-year-old boy in South Carolina and they're there at a
21 trailer in a trailer park. They went to a trailer down
22 there.

23 See, you don't have to believe these people
24 because what they say is verified by other people. She'd
25 never seen this place. She didn't know where it was. She

1 didn't know the trailer was there.

2 "I killed a 16-year-old boy in South Carolina in
3 a trailer park," bragging about it, proud of it, telling
4 people about it.

5 Won't tell Ms. Shirley Sturup where her son is,
6 though, does he? She goes over there to his house on
7 Cairo right here. She leaves her house on Dublin and goes
8 over here and wants to know "where my boy is."

9 "If I see him, I'll tell you. If I see him,
10 I'll tell you. Maybe he ran off with a white girl."

11 That's the crime. Is it physical torture? Five
12 people have already been sentenced to prison, two for
13 life, for what they did to Sam. Aggravated assault.
14 Aggravated.

15 The judge is going to tell you that torture
16 occurs when the victim is subjected to serious physical
17 abuse before death. Torture occurs when the victim is
18 subjected to aggravating factors. You've already got five
19 people who are guilty of aggravated battery of Samuel
20 Sturup.

21 And who's calling the shots? Who was in
22 control? Who was the Big Man? Who was giving the orders?
23 Who brought people together that didn't know each other?
24 Who was at the center of the spoke of the wheel and who
25 was on the outside? Who was connecting the dots? The Big

1 Man. The Big Man.

2 And his character? He was a one-man crime wave
3 over there in Augusta and all around that area, the number
4 one target. That's his character.

5 You know, his crimes, possession with intent to
6 distribute cocaine, these are minor offenses. And, you
7 know, that doesn't mean a hill of beans. A stop sign
8 violation. I run stop signs all the time when I'm in a
9 hurry. No proof of insurance. A lot of people don't have
10 insurance for their car. Simple battery on somebody.
11 That's not nothing.

12 But you know why I showed you this? He was on
13 probation. He had one, two, three years of probation and
14 he can't abide by the law because right then he's arrested
15 for possession with intent to distribute cocaine, and
16 that's a felony.

17 And the witnesses said when he was convicted
18 right here on May the 7th of 1999, he can no longer be
19 around a gun. He can't be near a pistol, a shotgun, a
20 rifle, a weapon of any type.

21 But does he care about the law? Is he a good
22 law-abiding citizen like they said he's going to be a good
23 inmate? You all give him life he's going to change his
24 ways. That's why we put that in there.

25 He likes the cheese. He likes to inflict pain.

1 He likes torturing people.

2 And then he goes over to Columbia County, armed
3 robbery -- well, he's got one life -- burglary, 20 years;
4 kidnapping, 20; terroristic threats on these guys, five
5 years; terroristic threats on these guys, five years;
6 pandering girls, 12 months, 12 months; possession of a
7 weapon during a crime -- a weapon, this same weapon right
8 here. He's not even supposed to be near one. He should
9 be like a rattlesnake: If he sees it, he ought to be
10 running away. But no, he runs to it. He wants it. He
11 always carried a gun.

12 And then that probation revocation he had back
13 here. See, they gave him another chance. They put him on
14 ten years' probation. It doesn't make any hill of beans
15 to him. He don't care. They revoke that and give for
16 five years, four months, 27 days.

17 The judge on these charges right here says, This
18 is to mean he's got life plus 51 years plus five more and
19 four months and 27 days. But does that bother him? No,
20 sir, no, ma'am, it doesn't bother him.

21 Because, you know, that was New Year's Eve and
22 on January the 12th, AA Angels got a call to go to the
23 West Bank Inn. Who drove over there? Who drove over
24 there? Steven Louis Barnes.

25 Remember those officers testifying that one of

1 the girls came up the stairs and the officers around here
2 went up to the car and he took off and went down and
3 missed a turn and they got him up here? And he was
4 reaching. He was reaching. He was reaching the whole
5 time the officer's saying "stop, stop," he was reaching
6 under that coat trying to reach on the passenger's side.
7 And what was he reaching for? A gun, Ruger .45. Not a
8 .40 because the .40's in the river. A .45, loaded.

9 Now they said, "He didn't shoot you, did he,
10 Officer? He didn't aim that gun at you, did he, Officer?"

11 Well, the fellow's running from the police and
12 he's got a loaded gun that he's trying to grab and he
13 ain't even supposed to have a gun. What was he doing,
14 filing his nails with it, picking his teeth? That's for
15 you folks to decide. That's for you to decide.

16 That officer's lucky to be alive. Just like
17 Anderson, just like Baughman, he's lucky to be alive.

18 Character? Even the benefit of the doubt, if he
19 was thinking then about being abused as a child or his
20 momma not liking him or whatever they said it was, if that
21 come into it and he's got all these emotional and mental
22 problems and his age and all this stuff, well, give him
23 whatever consideration you want.

24 The last one, the cheese, give me the cheese.
25 It starts on New Year's Eve. And we've talked about that.

1 We've talked about that.

2 A couple of days later, January 17th, people
3 started talking a little bit now. That girl, Keanna
4 Canaday, she didn't care for him, don't know where she is.
5 She was the one that started talking. Took the officer
6 back to Cairo Court. Officer Greg Smith said, "We were
7 trying to get our hands on him, trying to get information.
8 He's our number one target. We're trying to find out
9 where he is. He's pretty good at moving around where we
10 can't find him. Now I know where he is. We know where
11 his compound is. And I ride by there and I see these iron
12 bars on the front door, iron bars on the windows, alarm
13 system, cameras, dogs, a compound, and people are
14 imprisoned inside of it."

15 And they finally go in that morning and they
16 want to do it before daybreak because now he's had a gun
17 in Columbia County, he's had a gun at the West Bank Inn,
18 they've linked up to stuff in Edgefield County, they get a
19 wrecker to pull that iron door off the front so they can
20 get in. You heard it clang on that video that you all
21 saw, it fell down there and the truck had to even drag it
22 some more. Then they had to take a ram and knock in the
23 regular door, throw a flash-bang in there.

24 And what does the Big Man do? He boogies.
25 What's he running from? I guess he's so emotionally and

1 mentally disturbed because he couldn't keep up with his
2 body or his body couldn't keep up with his feet, then he
3 went out the window and he hadn't thought to see about the
4 money, but he thought of that mental stuff.

5 And then Roe Brunson, the big healthy physical
6 guy that ran him down, caught him down there by that house
7 and he was trying to boogie on out of there in this
8 tee-shirt. They brought him back and sat him down on that
9 sofa, saw what he looked like. Big Man.

10 And what's in there? Well, he's not supposed to
11 have guns, but he's got a rifle. He's got another gun, a
12 .38 I think they call it. It's right here. He's got a
13 .38.

14 He's got that ski mask that he used in the
15 robbery. Here's the ski mask right here.

16 And he's got a bulletproof vest. Now, a good
17 law-abiding citizen, the pillar of the community, always
18 wear a bulletproof vest around town, don't they? Not a
19 law enforcement officer I know has seen one. Why's he got
20 a bulletproof vest? I think Charlene said yeah, he had
21 one and it's a little bit too little for him, should have
22 had another one.

23 Not only that, he's got \$5,370 in cash. That's
24 his cheese. That's his cheese.

25 And where does that come from? Where does that

1 come from? Him being a pimp?

2 Gorilla pimp. I never heard of that term
3 before. A gorilla pimp. That's one that beats up
4 prostitutes to keep them in line. He sells their bodies,
5 he puts them -- I think about every motel on Washington
6 Road he's rented a room in and he puts them all over
7 there. He even has them walking the streets.

8 But what does the rules say? The rule says,
9 Receive the money off the table, count it, and bring it
10 out to the car. Bring it out to the car. So his
11 associate, Patricia Rouse, also known as Keisha Burton --
12 all of them have got different names -- can keep it to
13 give to him. Selling teenagers' bodies for his cheese.

14 And when he gets them in there, what does he
15 have? He has family meetings to talk about the violations
16 of his rules and how they're going to be beaten. Beaten
17 with some taser or shock thing? What did he say, they
18 shocked him? Beaten with brass knuckles. Beaten with
19 steel-toed boots. Beaten with frying pans. Beaten with
20 sticks. Beaten with ropes. Choking, pistol-whipped. I
21 don't know why he did it, but in that compound where
22 they're imprisoned they got some beatings. And he
23 orchestrates it and he loves it so much he likes to order
24 some girls to beat on the other girls.

25 Folks, how do you do that to other human beings?

1 How can you do that to another human being? The worst of
2 worst of many other things, it cries out for the death
3 penalty. For his pleasure he likes to inflict pain. He
4 gets off on that. And he likes to torture them. He loves
5 to torture them.

6 You know that little girl, Lashonda Lott, the
7 one that was so emotional, she came over there about three
8 or four days before she could testify and, you know, this
9 is State's Exhibit No. 5 right here and that lady, Donna
10 Schwartz-Watts, that testified yesterday, the cute little
11 lady up there that talked and she put in this: Aggravated
12 sodomy with Lashonda Lott. Aggravated sodomy with
13 Lashonda Lott. This is in her notes, the defense's
14 expert.

15 Jana McCarty, the pregnant one, beaten with a
16 metal baseball bat. State's Exhibit No. 5, their
17 witness -- I'm sorry, Defense Exhibit No. 5 -- got to look
18 at it -- Defense Exhibit No. 5, their witness, their
19 expert. Jana McCarty, he raped her and struck her with a
20 baseball bat. Aggravated assault, kidnapping, and rape.

21 What about Marsha Rogers, the one that he tied
22 up with duct tape and anally raped her twice. She was
23 bleeding, she needed to go to the hospital. Give him life
24 for that. Give him life without parole. Just add another
25 thing onto his life sentence. That's what he deserves.

1 If you all want to do that, that's your decision, not
2 mine.

3 You remember McCarty, the pregnant one he beat
4 up with a baseball bat and she went to the hospital and
5 she signed in under her sister's name, Mary, rather than
6 her name because she had a warrant out on her and they
7 came and got her anyway, that officer from Wilkes County
8 that testified that he came and picked her up and took her
9 back and said she couldn't hardly bend over from the
10 beating, the beating so bad that she could hardly bend
11 over and he still raped her after kidnapping her.

12 See, he loves that kidnapping. He loves that
13 torture. He loves inflicting that pain. She could hardly
14 bend over, she could hardly bend over.

15 That might have been the one that said she had
16 to go pee -- that's what she said -- and she had to go
17 around behind the green and he had to hold her hands
18 because she couldn't even bend down and go to the
19 restroom. And I think it was at that point that he said,
20 "You're going to die tonight. We're going to take a ride
21 out in the country," going to kill her. But some girl had
22 escaped the night before and that's why he took Jana
23 McCarty back to the motel where Nadia was and told Nadia,
24 "Don't you let her escape like you let that one escape
25 last night. If you do, you're going to get what she had."

1 What a prince of a fellow. What a prince of a human being
2 treating other human beings, teenage girls like this.

3 He loves kidnapping. Oh, yeah he does.
4 Columbia County, convicted of kidnapping. He kidnapped
5 Jana McCarty. There are reports that say he did. He
6 kidnapped Lashonda Lott. Wouldn't even let her call her
7 momma. And raped her there at the house, too. He
8 kidnapped the girls in the house and wouldn't let them
9 leave. They couldn't. They had those iron bars, they had
10 the doors locked, they had the alarms around, they had the
11 cameras, they had the dogs, they couldn't leave unless
12 somebody was with them. And he kidnapped Samuel Sturup.
13 Kidnapping, rape, pain, torture, he loves it all.

14 It reminds me of General Patton, that movie that
15 was talking about war and he said, "Forgive me, I just
16 love it so much." That's Steven Barnes.

17 But don't forgive him, don't forgive him because
18 he loves it so, inflicting humiliation, pain, torture,
19 kidnapping and anything else he can on other human beings,
20 particularly teenage girls, and that's what we're dealing
21 with.

22 Well, he goes now from a gorilla pimp to what do
23 they call him now? A monster. You remember that? A
24 monster. And that's what he is. He's the epitome of
25 Marquis de Sade. He's a monster. He's a torturer.

1 And drugs, do you remember that? He used or
2 abused drugs and they want you to take that into
3 consideration, to give him the benefit of doubt and give
4 him a life sentence. Because he's going to be good in
5 prison. Believe me, he'll tell you that, they'll tell you
6 that.

7 Well, you know what? Cocaine and drugs are not
8 his masterpiece. He uses cocaine and drugs to master
9 others. Sex for drugs.

10 That young girl, Nadia, the first time she took
11 cocaine was with him -- and I forgot how old she was, 16,
12 17, somewhere in there -- the first time, and she got
13 hooked on it so badly I think she said she dropped down to
14 a size three dress. Hooked on crack cocaine and cocaine
15 from the drug dealer. But oh, he should get consideration
16 in his favor for that.

17 Drug dealer. He was the CEO of a drug business.
18 He had a good enterprise, though. He had a good
19 enterprise. He had suppliers -- just like a hardware
20 store -- he had suppliers bringing it in. He took it and
21 he had the girls helping him repackage it, you know,
22 breaking it up, putting it in other bags.

23 He had family meetings on how to carry out
24 business meetings. He knew how much he was going to
25 charge for it, he knew the income coming in. He had his

1 distribution line going on. He had his girls with him.
2 He was putting on plastic gloves. He was giving them --
3 he had the gloves on and he said, "Now, you all hand it
4 out, but if the police is coming up, put it in your
5 panties or stick it up you or swallow it so it can't come
6 back to me."

7 He had a supply line going on, he had customers,
8 he had a production line, he had money coming in.

9 The only thing was, he didn't have anybody
10 counting it, he didn't file tax records, and it was
11 illegal. And he was hooking people on it, ruining their
12 lives. That's the CEO of a drug business. But, oh, take
13 that into consideration because it might make his brain
14 mess up.

15 You know that doctor testified the other day he
16 hadn't had a CAT scan, but his brain's all fried. Take
17 that into consideration. The torture. The torture. I've
18 already talked about it.

19 Now let's talk about his prison stuff. Here's
20 what they say. That first lady that testified, Dr.
21 Loring, the one that didn't bring her records up here and
22 said he had been in jail since 1997 to 2010, she told us
23 about some more crimes he committed. She told us more.

24 And, by the way, these consultants, they all get
25 together. See on this report right here, Dr.

1 Schwartz-Watts, No. 5, said she consulted with Dr. Marti
2 Loring. She testified. Consulted with Dr. David Price.
3 He's the white-headed bearded guy, the last one that
4 testified yesterday. Dr. Alex Morton, he's the professor
5 that gave you the slide show. I don't know who Dr. Tora
6 Brawley is, I never heard of her, but they all get
7 together and act like they've got the same stuff, but they
8 get together and consult right here, and they're talking
9 about some more crimes that he had committed that I didn't
10 even know existed. And she said that he -- his mother was
11 not helpful.

12 Now, this is unusual here. She said his mother
13 was no help, but she spent four hours with the mother.
14 And the mother won't let her take notes, but she wrote on
15 her arm and she got all this information on her arm. But
16 the mother wasn't helpful, the mother wouldn't talk with
17 her, but she got all this information that she wrote on
18 her arm. It's upside down. I can't tell if it's right
19 side up or upside down. It makes about that much sense to
20 me.

21 And all these yellow lines and drug people and
22 all this is abuse and stuff, well, why didn't he kill
23 those people? Why didn't he get them hooked on drugs?
24 They're already druggies. Why didn't he go out and give
25 them drugs to get his cheese? Why didn't he beat on them?

1 Why didn't he kidnap, torture, and murder them? Does that
2 make any sense to you? But that's what the woman said.
3 That's what she said.

4 I shouldn't have been funny with her when I told
5 her all my uncles and aunts and everything are bootleggers
6 that means I'm going to be a bootlegger. Well, you give
7 it what consideration you want to give it. That's up to
8 you.

9 But she said that he was acting out aggression.
10 One of those charts say exhibiting aggression. Sure, he's
11 mean. He's dangerous. Mean and dangerous people get
12 aggressive. And they said he was depressed. Oh, give him
13 an aspirin, he was depressed. But they can treat all
14 that.

15 And they had Dr. Schwartz-Watts who testified
16 next, she told you about Jana, aggravated assault,
17 kidnapping, rape; she told you about Lashonda, aggravated
18 sodomy; and she said down here in some records -- see, now
19 you'll get all these records, but they don't get anybody
20 here who made the records.

21 The people with firsthand knowledge, they don't
22 bring them in because they don't want to get the records.
23 They want to get together and consult and let them
24 interpret the records. They don't call the real person
25 in.

1 But in here, he was harmful to young children
2 and animals. Harmful to young children and animals. He
3 says, "I'm a time bomb waiting to explode." Well, they
4 know what that's all about. It seems like he had an
5 explosion about every two or three hours the way he was
6 beating up woman, robbing people, kidnapping people,
7 torturing people, imprisoning people, selling drugs,
8 selling women, taking drugs, pulling guns, beating up
9 people.

10 I didn't even mention that one of those girls
11 came out and told him the fellow won't pay and three of
12 them went in there and beat him up and came out bloody and
13 even stole the television out of the motel room. I didn't
14 even mention that.

15 It says here, his brother, William Little Man
16 Harris -- that's what he used to call him -- reported
17 Steven being raped when he was younger. Mr. Barnes denied
18 this. Mr. Barnes denied it. Maybe he was raped. I don't
19 know. But for a relative, cousin, baby-sitter, aunt,
20 uncle or anybody that abused him when he was young, is
21 that justification for what he did to Samuel Sturup and
22 all these others? Is that justification for a life
23 sentence? They're going to say it is.

24 He was obsessed with having been tasered at the
25 Lexington (sic) County Detention Center. That's when he

1 threw that body fluid on Marcus Smith, the correctional
2 officer, and he got 15 years for it. And he was obsessed
3 by being tasered at the Edgefield County Detention Center.
4 Did he have a taser or shocker himself? He was obsessed
5 with shocking other people, women and all parts of their
6 bodies. He used shocking with master violence.

7 Mitigation. Here's what the lady said about
8 mitigation. He was under the influence of drugs at the
9 time of the offense according to witnesses. Charlene
10 Thatcher said, "Big Man was snorting powder and on a
11 high." Statement of William Little Man Harris says, "He
12 was all spooked up. He had powder in his nose."

13 Now I let that go on for awhile until we got the
14 professor up there with the slide show. Do you remember
15 that? I said, "Where did you get that from, Professor?"
16 He said, "In discovery." I said, "In the stuff we gave
17 y'all?" He said yeah. I said, "Now look at those.
18 Charlene and Little Man said he was doing that after the
19 murder." After the murder. After the murder.

20 And the mentality of the defendant -- the judge
21 is going to tell you -- on that chart I have is at the
22 time of the murder, Labor Day night, not the next day or
23 the next day or the next day, it's at the time of the
24 murder. "Isn't that right, Professor?"

25 Well, yes, it is at the time of the murder. He

1 was not under the influence of drugs at the time of the
2 offense because there's no evidence of that.

3 And I asked him, "Where's your evidence that
4 when he put that bullet in the head of Samuel James
5 Sturrrup, Jr. he was under the influence of anything other
6 than meanness?" And he denied it. "Thank you, sir."

7 But see, they consult, and that's what the
8 aggravating circumstances was on that board. He was
9 suffering from mental illness at the time of the offense.
10 He ain't mental, he's mean.

11 PTSD, that's post-traumatic stress syndrome.
12 People during the war, they get that when come back after
13 they've been in war. And they said it was because when he
14 was a child he was either physically or sexually abused.
15 Now who's come into this courtroom and said, "I abused
16 him. I was there when he was abused, I saw it, I was
17 there when he was assaulted." Well, they got the records,
18 but we don't know who said it. We don't know whether
19 Little Man knows that --

20 MR. TARR: Your Honor, I object. We don't have
21 to produce any evidence.

22 THE COURT: All right. Mr. Foreman, ladies and
23 gentlemen of the jury, as I charged you before, the burden
24 of proof is on the state of South Carolina to prove those
25 statutory aggravating circumstances beyond a reasonable

1 doubt. There is no burden on the defendant to prove
2 anything.

3 Thank you.

4 MR. MYERS: Other than single, double, triple or
5 quadruple hearsay, how do we know that happened?

6 And, in any event, even if it did, is that
7 justification for his acts, for his kidnapping, for his
8 torture, his murder, his robbery, his terroristic threats
9 made?

10 It says here he has chronic depression. Well,
11 what made him depressed, selling drugs, beating up women,
12 imprisoning women, raping women, sodomizing women, robbing
13 people, kidnapping people, torturing people, selling
14 drugs, selling women, beating up people, beating up
15 tricks, stealing TVs in motels? Why is he depressed? I
16 don't know.

17 He's got a cognitive disorder. Now, folks, I
18 ain't too smart, I didn't know what cognitive meant. I
19 had to look it up in the dictionary. It says a mental
20 process or faculty by which knowledge is acquired;
21 something that comes to be known as through perception,
22 reasoning, intuition, or knowledge. Cognitive is a
23 condition of conflict resulting from an inconsistency in
24 one's belief in one's action, such as the opposing of
25 slaughtering animals but yet eating animal meat. I still

1 don't know what it is, I ain't got no idea, but if he's
2 got a cognitive disorder, you all give him the weight of
3 whatever that is means. I don't know.

4 Then she's got down that he has been able to
5 obtain treatment while confined at the South Carolina
6 Department of Corrections. That's on the last page. He
7 adjusted better to South Carolina Department of
8 Corrections than the Edgefield Detention Center.

9 Well, you remember Dr. Price, the last guy that
10 testified with the white beard? Now, I asked him, "Well,
11 he received treatment in the Georgia prisons, too, didn't
12 he?" He said, "Yes, sir."

13 So while he's saying that I guess South
14 Carolina's got better treatment than the Georgia prisons
15 and somehow he's going to be a better inmate, I don't
16 know.

17 But if he's all that mentally messed up, how is
18 he able to file lawsuits and grievances against the
19 Edgefield County Sheriff's Department? You know what they
20 said? He filed lawsuits and grievances against the
21 Edgefield County Sheriff's Office, but oh, he's messed up,
22 he don't know what's going on, he's all depressed.

23 And, you know, all this stuff here, that's back
24 when he was younger, beating up inmates, not following
25 instructions, flooding cells, throwing urine on food

1 trays, destroying food, keeping other inmates from eating,
2 throwing stuff at correctional officers, refusing to be
3 handcuffed, spraying liquid in the refrigerator, all
4 that's Edgefield.

5 Then you come down here to Lieber, come on down
6 to that, and then there's one at the South Carolina
7 Department of Corrections, shanks. He didn't stab anybody
8 with it but he still had shanks in the cell, two of them.
9 He tried to drag an inmate out of the cell over to the
10 ledge of the second tier floor and throw him over it. Oh,
11 people, he's so good you've got to give him that life
12 sentence. He's going to be as gentle as a lamb and soft
13 as a kitten. He's just using that to protect himself.
14 Shanks.

15 Tell them he's been good the last year or so.
16 He's been in lockup. He's been in lockup. In lockup
17 you're by yourself. But you can't keep him that way. And
18 you know that lady, the one that made the reports for us,
19 she said, "We can't predict the future acts of
20 individuals. That's kind of like fortune telling." But,
21 oh, he's going to be so good. He's going to adapt to
22 prison. When you all give him that life sentence, he
23 ain't going to yell at anybody, he ain't going to throw
24 any urine, he ain't going to have any more shanks, he
25 ain't going to try to throw anybody over a ledge. He

1 won't be assaulting inmates, he won't be causing
2 disruption because he's old, he's 32 now. I must feel
3 like Methuselah. It's a powerful thing.

4 But she said this: He is a very dangerous and
5 violent man. That's his witness. He is a very dangerous
6 and a very violent man. And doesn't the evidence support
7 that, folks? Doesn't the evidence show you that?

8 There's no use for me to take up anymore time.
9 He was the boss of all bosses around there in Augusta. He
10 was the wizard of Washington Road. He was a gorilla pimp
11 and a monster. And when you go back there and if you want
12 to give him some leniency, if you want to give him life
13 for no reason or any reason, just give him mercy, send him
14 back over there to the Department of Corrections for life.
15 But he will be a quiet inmate, a gentle inmate. And, oh,
16 he's going to be so nice. You can give him a life
17 sentence if that's what you're thinking.

18 If you have any doubt about a death sentence,
19 hold this in your hand. These are the fragments of the
20 bullets removed from the skull of Samuel James Sturup,
21 Jr. by Dr. Sexton. Hold this in your hand. This is how
22 the officers found out who he was, by this Bi-Lo Bonus
23 card. Hold this in your hand, it's the last dollar. And
24 then when you go back there, look at this picture, the
25 last picture of Samuel James Sturup, Jr., that lady's

1 son, who said, "That can't be my son. Who would do that?
2 That can't be my boy." That's what was left of him.
3 That's what she had to have a service for. Louis Barnes
4 took this 16-year-old boy and turned him into this. From
5 this to this.

6 There's one more thing that should go on with
7 this chart right here, after the throwing body fluids he
8 committed murder and kidnapping on Labor Day of 2001 and I
9 ask that you all find him guilty.

10 There's one line that you're going to have to
11 fill out, what was the sentence. You can give him mercy
12 or you can give him what he deserves for these crimes, his
13 character or the lack thereof, this case screams out one
14 verdict, one sentence, one thing, one that's necessary and
15 justified, the one that fits the crime, that's the death
16 penalty..

17 Thank you.

18 THE COURT: Thank you very much, Solicitor.

19 Mr. Foreman, ladies and gentlemen of the jury,
20 we're going to take about a 15-minute recess.

21 I would remind you during this recess you're not
22 to discuss this case with anyone. That includes your
23 fellow jurors or anyone else.

24 Remember to keep an open mind and do not begin
25 your deliberations until you've heard the closing

1 arguments by the parties, the instruction on the law by
2 the Court, and then directed by the Court to begin your
3 deliberations.

4 If you'd leave your notes upside down on your
5 chairs, you may now go with your bailiff. Again, we'll
6 take about a 15-minute recess.

7 Thank you very much.

8 (The jury left open court at approximately 11:40
9 a.m.)

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

12 (A break was taken.)

13 THE COURT: Anything from the State before we
14 bring in our jury?

15 MR. MYERS: No, sir.

16 THE COURT: Defense?

17 MR. TARR: No, Your Honor.

18 THE COURT: All right. Again, I do not allow
19 any moving around while the attorney is addressing the
20 jury.

21 Bring us our jury, please.

22 (The jury came into open court at approximately
23 11:56 a.m.)

24 THE COURT: All right. Welcome back, ladies and
25 gentlemen of the jury.

1 We're continuing with the process of the
2 sentencing phase. We'll now hear from the attorney for
3 the defendant on behalf of Mr. Barnes.

4 Mr. Tarr.

5 MR. TARR: Thank you, Your Honor.

6 Ladies and gentlemen, I agree with a couple of
7 things that the Solicitor said to you. Number one, over
8 and over and over again he stated to you that this is your
9 decision, not mine, and that is absolutely the truth.
10 This is your decision, not the Solicitor's decision. Each
11 one of you has a very important decision to make, and that
12 is your decision.

13 And I also completely agree that this was a
14 horrible crime, horrible. I counted on my watch that it
15 took the Solicitor 30 minutes to tell you how horrible it
16 was.

17 I suggest to you, ladies and gentlemen, that all
18 you have to do is tell somebody that a 16-year-old was
19 shot in the head and left to die in the woods, and that is
20 as bad as it gets. I agree. But that's all it takes.
21 What he's trying to do is inflame your passions and get
22 you riled up and have you believe that Mr. Barnes is evil,
23 that he's not a human being, he's a gorilla pimp. He
24 called every name he could think of.

25 Steven Barnes, when he sits there today, is a

1 human being. If you sentence him to death, that is a
2 human being that will die. That is not a monster.

3 We heard a lot of talk about how evil Mr. Barnes
4 is. The question is: How did he get that way?

5 Have you ever gone to a maternity ward in the
6 hospital and looked at all the cute little babies in their
7 incubators and said, oh, that one is so cute; oh, look at
8 that one other there, he's so cute; look at her, isn't she
9 adorable; but that one over there is absolutely evil. No.
10 That is ridiculous. You never would do that.

11 Have you ever gone to a school, to an elementary
12 school in a first grade classroom and looked around and
13 said, oh, look at all these cute school children coming to
14 school for the first day, starting their 12 years of
15 school; don't they look happy; don't they look cute and
16 wonderful; but that one over there, he is horrible, he is
17 evil, he is a monster. No, that doesn't happen.

18 And do you ever go and look at people when
19 they're going off to college and you look at the
20 18-year-olds and they're all going off and they're doing
21 their thing and they're going to work and say, that person
22 looks evil. Sometimes you do, but it's because of what's
23 happened to them in their lives, not because they were
24 born that way.

25 Ladies and gentlemen, I submit to you what you

1 would find in this case is you could have gone to Steven
2 Barnes' classroom in first grade and looked around at the
3 different children and thought that they were really cute
4 and then looked over at Steven Barnes and wonder why he
5 looks like he wants to kill himself. Why does this little
6 boy look so sad? What could have happened to him in his
7 life that would make him feel like this at six years old?

8 Or you could have gone into his eighth grade
9 classroom and seen an empty desk and ask the teacher where
10 that little boy is, and she'd tell you, oh, he's at the
11 state hospital, this is the second time this month he's
12 been there because he just tried to kill himself for the
13 second time.

14 Or you could do by his house at age 18 where
15 he's getting kicked out by his mother because his SSI
16 payments stopped. That's what you'd find in this case.

17 Ladies and gentlemen, this is a horrible crime.
18 We are not standing up here saying it wasn't. But you
19 have a question. The question is not whether this was a
20 horrible crime. The question is what do we do? What do
21 we do? Is this a life sentence? Are we going to give him
22 a life sentence or are we going to give him the death
23 penalty?

24 Ladies and gentlemen, please do not make lightly
25 of a life sentence. Let me tell you what won't happen if

1 Steven Barnes is given a life sentence. He will never
2 again have one of these (indicating). He will never again
3 have one of these (indicating). He will never again have
4 one of these (indicating). He won't control anybody. He
5 won't manipulate anybody. He won't tell anybody what to
6 do. He won't sell any drugs to anybody in the public. He
7 won't hurt any other women, and he won't rape any other
8 women, and he won't beat any other women. He won't be
9 around any other women.

10 But what will happen, he'll be in a little tiny
11 cell half the size of your jury box he'll rarely get to
12 get out of. He will have people telling him what to do.
13 The guards are going to be the Big Man. Steven Barnes
14 never again will be the Big Man. He will be told when to
15 wake up, he'll be told when to go to the bathroom, he'll
16 be told when to go eat, what he's going to eat. He'll be
17 told when to go to bed. He will be only allowed to do
18 what they say he can do. And he will not determine
19 anything else for the rest of his life.

20 And this is -- we hear a lot about life
21 sentences and whether that really means life. The judge
22 will tell you, this is life without the possibility of
23 parole. He will never get out. He's got life plus 51 in
24 Georgia and life in South Carolina without parole if you
25 give that to him. When he leaves the prison, he leaves in

1 a box. And why don't we let God decide when that day
2 comes?

3 Now, ladies and gentlemen, I thought yesterday's
4 testimony, I know it was long and I know by the end I was
5 exhausted -- I'm sure you were, too -- but I thought it
6 was very, very important to see the testimony in one day.
7 Because in the morning what you heard was an array of
8 witnesses who came in and told you a whole lot of horrible
9 things that they say Steven Barnes did to them. And there
10 were some horrible allegations and some things he was
11 convicted of. But in the afternoon you were able to hear
12 other evidence of all the horrible things that were done
13 to Steven as a child growing up, and it was almost like
14 having a mirror image. I want to talk about that a little
15 bit.

16 We've heard testimony about Steven Barnes
17 having -- mentally abusing people, emotionally abusing
18 people. When we look at this chart, this genogram, which
19 was produced by talking with people and from records that
20 were not generated for the purpose of this trial but go
21 back years. And it shows you the people in this family
22 and how they treated Steven.

23 How do he learn to treat people the way he did?
24 We've heard testimony of women who were beaten. How did
25 he learn that? His stepfather, Joe Harris, beat, raped

1 hit and shot at his mother, and he witnessed that. We
2 heard about his diagnosis of post-traumatic stress
3 disorder is from being beaten and experiencing trauma, but
4 it's also from watching others experience trauma and
5 abuse.

6 We've got sexual abuse, physical abuse,
7 emotional abuse, all these types of trauma. This is how
8 he learned to be who he was as an adult. This is how he
9 learned how to treat people.

10 He didn't have people around him telling him no,
11 you shouldn't do that, that is not what human beings do,
12 that is not how we treat each other, that is not how you
13 treat women. All he saw was the way his stepfather
14 treated his mom.

15 His stepfather, who was 46 years old when he
16 took his mom at 12 years old off the street, she was a
17 prostitute. She was raped and Steven was the product of
18 rape. So his mom's a prostitute and his mom was raped.

19 Steven grows up and Steven keeps prostitutes
20 around him and he's sexually abusing women. It is like
21 holding a mirror of his childhood, flipping it over, and
22 then this is what happens.

23 Ladies and gentlemen, all of these things that
24 I'm talking about now and I'm going to talk to you about
25 are not being offered to say, well, this happened to him

1 so he can do whatever he wants. That is an absolute
2 excuse. Absolutely not. This is offered as an
3 explanation, because I know yesterday morning and earlier
4 during this trial you had to be sitting here thinking, how
5 in the world could somebody do this. And when you said
6 that you would be fair jurors and listen to all the
7 evidence, this is the type of evidence that you were
8 talking about that you would like to hear before making
9 your decision. This helps you understand how somebody
10 could do these horrible things. It helps explain it. It
11 does not excuse it.

12 And if you think a life sentence without parole
13 is a slap on a wrist and is something that just is no big
14 deal and anybody can do it, think about -- I know your
15 lives have been disrupted just for these six nights that
16 you've spent in a motel, six nights where people told you
17 when to get up, they told you when you're going to eat,
18 what you're going to eat, they told you when to go back to
19 your rooms and over and over and over for six days.

20 Now, granted, you were able to eat at decent
21 restaurants, you were able to leave your room and you were
22 treated with respect and dignity. That's not what
23 prison's like. But you at least got a glimmer of the loss
24 of freedom. And Steven Barnes, under a life sentence
25 without parole, will not have the freedom to do any of

1 these things that the State has talked about that he's
2 done.

3 Now, I want to talk a little bit about another
4 thing that I think the testimony showed yesterday.

5 Ms. Sturup got on the stand -- and she is a
6 lovely lady, I have a great deal of respect for her -- and
7 she talked about her son and how much she missed him, how
8 much she wished she could see him again, and how he just
9 lit up the room with his big hugs and his smiles, and she
10 longed for that, to have that again, and that was snatched
11 away from her, that she did not deserve that, and I agree
12 one hundred percent. That when it got time for us to go
13 present our witnesses, we had an empty witness box where
14 Steven's mom should have been. Because instead of wanting
15 to see Steven's face again, she wishes she had never seen
16 his face because it reminded her of the person that raped
17 her.

18 Ladies and gentlemen, I'm going to talk briefly
19 about these two exhibits.

20 This is the timeline of Steven's life. And the
21 Solicitor's done everything he could to minimize this,
22 this just does not matter, none of this matters. And if
23 you find this doesn't matter, then you're going to do what
24 you feel like you have to do. Give him the death penalty.
25 But I submit to you that everything on these boards had a

1 profound effect on Steven Barnes and taught him about the
2 way you're supposed to be when you grow up.

3 His mother conceived him when she was 12, had
4 him at 13, was raped by his father, and she beat him
5 throughout his life. He was abandoned for up to a year at
6 a time.

7 And you would think -- and we talked about this
8 in the opening statement -- that the abuse that he was
9 suffering from his stepfather and his mother when he was
10 at home, that this would have been kind of like a respite
11 for him. But no, these are the people, all the 17
12 brothers and sisters of his mother that he was surrounded
13 by and abused by physically and sexually when he went away
14 from home to stay with them.

15 So what must it have felt like the first time he
16 went there? He probably was really happy to be getting
17 out of that house. And then he gets to where he's going,
18 and imagine what that little boy felt like.

19 From 1980 to 1995, witnessed his stepfather,
20 Joseph Harris, beat, rape, hit and shoot at his mother.
21 Doesn't that sound a lot like the testimony we heard
22 yesterday about things that Steven did to people? That's
23 what he witnessed. 1980, he was two years old, up until
24 he was 17, that's what he saw every day. When he was
25 there. When he wasn't there he was being beaten and

1 sexually abused by his relatives.

2 Now, we've heard a lot of talk about William
3 Harris, his brother. It's really important to talk about
4 him. Because it's not just the fact that Steven was
5 treated like this, it was the fact that he had a little
6 brother who was the biological son of his mom and his
7 stepfather, and they loved him and they showered him with
8 praise and they treated him like a child should be
9 treated. And this boy had to see the way his brother was
10 treated and the way he was treated.

11 Can you imagine what it would be like at
12 Christmas under the Christmas tree with all the presents
13 and William sitting there with his father and his mother
14 and Steven's over here watching how he's treated? Maybe
15 that's why a six-year-old wanted to kill himself. Maybe
16 that's why a 13-year-old tried twice to kill himself.
17 Maybe that's why an 18-year-old held a gun to his head and
18 his mom had to take him down to the hospital.

19 Also during this time, 1984, sexually abused by
20 a female baby-sitter. Got other reports of sexual abuse
21 by cousin and uncle.

22 And we move on to school and he is -- this is
23 the cognitive disorder, the cognitive disability that he
24 has. Special education classes and the fact that he
25 scored in the first percentile of the neurological test

1 that Dr. Brawley did and the first percentile in other
2 testing that was given to him when he tried to get the
3 Georgia High-School Equivalency Diploma.

4 And then all the hospitalizations. Eight
5 different times he was involuntarily committed starting at
6 the age of 13 -- or the age of ten, I'm sorry -- eight
7 different times where he was forced to go into inpatient
8 treatment sometimes for up to a month. But there was
9 nothing wrong with him. He doesn't have anything wrong
10 with him, he's just mean.

11 And what happened when they left there and the
12 doctors told his mother, "These are the medications that
13 your son needs, these are the medications that can help
14 your son, these are the medications that may make him
15 normal." She didn't give them to him. She didn't want
16 him to get better. She wanted those SSI checks. And as
17 soon as they stopped, he's gone, kicked out of the house.

18 And when he behaves in the way that he has based
19 on the way he was treated, she's not even going to come
20 over here and try to help him and let you know that this
21 is what happened, this is what I did, please have mercy on
22 my son. No. She even gets her therapist to send us a
23 letter to tell us not to even contact her. Let us talk to
24 her one time for four hours and not even take notes and
25 even then wouldn't give us the last names of any of these

1 people. That's why we don't have anybody here. But
2 certainly not because we didn't try to.

3 Because we didn't want to just bring in four
4 doctors, experts to talk to you. We wanted the people who
5 are actually involved, but nobody would help.

6 I will talk a little bit about Steve Barnes
7 since he's been incarcerated, and I think this is really
8 important. Because part of your determination and part of
9 what they're trying to get you to do is to say that prison
10 is not good enough because look what he's done. Well, I
11 want you to look at what he's done.

12 In 2003, and this is in the Richmond County
13 Detention Center, assaulting an inmate. Starting in
14 April of '04, it's failing to follow instructions. You
15 heard the testimony. He was failing to wake up for head
16 count. He was failing to get his room ready for
17 inspection. He would not listen to anybody, he was
18 insubordinate, unkempt cell, wouldn't shave. And this is
19 repeated one after the other.

20 Edgefield County, this is the disgusting
21 testimony about all of the bodily fluids that were being
22 thrown around over and over and over. It continues,
23 October of '05, January '06, June '06, November '06, over
24 and over and over and over.

25 And now we get to Lieber Correctional Facility.

1 Since he's been incarcerated for the last two years,
2 possession of contraband and a weapon, January '09;
3 striking another inmate, February '09. It has been one
4 year and nine months since he's had any disciplinaries.

5 Ladies and gentlemen, even when you're in
6 lockup, you can throw urine or anything you want to at a
7 correctional officer when they come to your cell.
8 Nothing.

9 We've heard testimony that for the last year and
10 a half he's been getting the medication that he's been
11 needing to take the whole time. He's adjusted well. He's
12 not having any problems in prison.

13 And this is the most important thing to me. And
14 you make up your own mind about what's important to you
15 about this prison situation.

16 In 2010, completes Work Smart program. That is
17 the first positive thing that he's done. Not just staying
18 out of trouble, that's what we expect people to do. This
19 is something that he took upon himself and did something,
20 something positive, not throwing urine on people, not
21 disregarding orders, not failing to wake up for head
22 count. He's actually had to go to a class and go through
23 a program and successfully complete it, and he did that.

24 Ladies and gentlemen, I believe what this is is
25 the start of something good for Steven Barnes. It's the

1 start of a change for Steven Barnes. It is the first time
2 in his life where he has real structure, and it's real
3 structure that's going to stay with him for the rest of
4 his life. Because he's not going to go anywhere. If you
5 give him life without parole, he's going to stay right
6 there and he's going to get the structure, he's going to
7 get the psychiatric treatment that he needs, and he's
8 going to get the medication that he needs.

9 You can't just assume that because he had
10 problems in the past that they're going to continue.
11 Because as you can see, if there was anything else bad to
12 say about him since February 5th of '09, don't you think
13 they would have done it? They've said everything else bad
14 that they can come up with. Anything negative about him
15 has been brought to your attention. And if there'd been
16 anything in the last year and nine months, almost year and
17 ten months, you would have heard about it. There is not.

18 Ladies and gentlemen, a life sentence without
19 the possibility of parole is a serious, serious sentence.
20 The only one worse is death. I submit to you, you do not
21 need to impose a sentence of death against Steven Barnes
22 in this case. Everything that we want to accomplish with
23 Steven Barnes is accomplished with a life sentence without
24 parole.

25 Neither sentence is going to bring Samuel

1 Sturrrup back and neither sentence is going to make
2 Mrs. Sturrrup or his sister miss him any less.

3 Let him enjoy the structure that has now finally
4 been given to his life. Let him receive the treatment
5 that he has never gotten. Let him receive the medications
6 that he needs to act the way we, as human beings, want
7 other human beings to act.

8 We know that when he's there he's not going to
9 be any more of these (indicating). He's not going to have
10 any more of these (indicating). He's not going to have
11 any more of this (indicating). He's not going to be
12 selling drugs to people in the public. He's not going to
13 be having any prostitutes. He's not going to be around
14 women period. He's going to be in a six-by-six cell 23
15 hours a day for the rest of his life. And when he leaves,
16 it will be in a pine box. Please, let's let God decide
17 when that day is.

18 Thank you.

19 THE COURT: Thank you very much.

20 Mr. Foreman, ladies and gentlemen, I'm going to
21 ask you to leave your notes and step out momentarily.

22 Do not discuss the case during this very brief
23 recess.

24 (The jury left open court at approximately 12:22
25 p.m.)

1 THE COURT: All right. Mr. Barnes, would you
2 please stand.

3 Mr. Barnes, we've talked about this several
4 times that during this phase of the proceeding -- during
5 this phrase and we also discussed it during the guilt
6 phase, you understand you have the absolute right to make
7 a final statement to the jury. The Solicitor has closed,
8 your attorney has closed, and you now have the opportunity
9 to address the jury if you choose to do so.

10 Would you like to exercise that right to make a
11 final statement to the jury?

12 THE DEFENDANT: Your Honor, like I said earlier,
13 I revisit my earlier issue about interfering with my
14 counsel's defense, otherwise jeopardizing his defense,
15 because, once again, I claim I'm innocent of all charges,
16 even the charges that, you know, the female that got up
17 there that I ain't never went to court with, you know.

18 THE COURT: And with that -- I didn't mean to
19 interrupt you.

20 THE DEFENDANT: No, no, you can go on.

21 THE COURT: With that being said, do you choose
22 not to make a final statement based on those reasons?

23 THE DEFENDANT: No, I'm not going to make a
24 final statement on those reasons.

25 THE COURT: All right. Do you have any

1 questions would like to ask me about your right to make a
2 final statement?

3 THE DEFENDANT: No, sir.

4 THE COURT: Thank you. Thank you very much,
5 Mr. Barnes. You may be seated.

6 All right. If you'd bring our jury back out.

7 MR. HARTE: Excuse me, Your Honor. One matter
8 beforehand.

9 THE COURT: Yes, sir. I'm sorry.

10 MR. HARTE: I would request, Your Honor, that
11 the two demonstrative evidence items that the Solicitor
12 used in his closing argument which were not in evidence be
13 marked as Court's exhibits for the record.

14 THE COURT: All right. I would have no
15 objection to them being offered for the record.

16 MR. HARTE: Obviously they would not go back to
17 the jury because they're not in evidence, but I would like
18 them marked.

19 THE COURT: You want them marked as a Court's
20 exhibit?

21 MR. HARTE: Correct, Your Honor.

22 THE COURT: All right. Our court reporter can
23 mark them as Court's exhibits.

24 Do you have any objection, Solicitor?

25 MR. MYERS: No, sir.

1 (WHEREUPON, The Court's Exhibits Nos. 8-9 were
2 marked for purposes of the record.)

3 MR. HARTE: All right. Your Honor, the chart
4 describing statutory mitigating circumstances and
5 non-statutory mitigating circumstances is Court's No. 8,
6 and the strip that says "9301 kidnapping/murder 11-13-10,"
7 that's marked as Court's No. 9.

8 THE COURT: Thank you very much.

9 Anything further before we bring in our jury,
10 Solicitor?

11 MR. MYERS: No, sir.

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

13 MR. HARTE: No, Your Honor.

14 (The jury came into open court at approximately
15 12:32 p.m.)

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

18 Again I'd remind those in the courtroom that I
19 do not allow any movement about throughout addressing the
20 jury.

21 Ladies and gentlemen, please give me your
22 complete and undivided attention.

23 You've now have heard all the evidence and all
24 the testimony and the arguments of both the State and the
25 defense in this case. I will now explain to you the law

1 that applies to the sentencing phase in this matter.

2 Just as I explained to you earlier, only the
3 jury can make the findings of fact in this case. I am not
4 permitted to indicate to you how I might feel about the
5 facts. So if I have said anything or done anything during
6 the course of this phase of the proceedings that might
7 indicate to you that I have an opinion about the facts, or
8 that I have an opinion as to what the sentence should be,
9 then you must disregard that. I have no such opinion.

10 As the judges of the facts, you must evaluate
11 the credibility of the witnesses just as you did before.
12 In passing upon their credibility you may take various
13 factors into consideration, many things, such as the
14 demeanor or the manner of the witness while testifying;
15 whether the witness had a reason to be biased or
16 prejudiced; whether a witness' testimony was contradicted,
17 on the one hand, or supported and corroborated on the
18 other.

19 A person who has a past criminal record is
20 competent to testify in a trial. A past record does not
21 affect the ability of that witness to testify. The past
22 record may only be considered by you, if at all, in
23 determining a witness' believability.

24 Remember, you are the sole judges of the facts
25 in this case and of the believability and credibility of

1 any and all witnesses.

2 You may use evidence, if any, that a witness has
3 made a prior statement that is not consistent with the
4 witness' testimony given at trial, to decide whether to
5 believe a witness. You may also use evidence of the
6 earlier contradictory statements to determine the truth of
7 those statements. It is up to you to decide whether to
8 believe the earlier statements or the testimony given at
9 trial.

10 If a witness is shown to have knowingly
11 testified untruthfully concerning any material matter, you
12 may consider this in determining whether to trust the
13 witness' testimony as to other matters. You may reject
14 all or part of that witness' testimony or give all or part
15 of the testimony the weight you think it deserves.

16 Further, you may consider both the direct and
17 the circumstantial evidence. The definitions for those
18 terms that I gave you in the first phase apply equally in
19 this phase.

20 You certainly do not determine the credibility
21 or the believability of witnesses by counting the number
22 of witnesses for either side. You may believe a small
23 portion of the witness' testimony and disregard the
24 larger, or vice versa. You may believe one witness
25 against many, or many against one. All of these things

1 you will consider, bearing in mind that you would give the
2 defendant the benefit of any reasonable doubts.

3 Expert witnesses. You have heard the testimony
4 of several expert witnesses in this phase, just as you did
5 in the first phase of the trial. Expert witnesses are
6 those witnesses who have special knowledge, skill,
7 experience, training, education in a particular profession
8 or occupation. Because of those special qualifications,
9 experts are allowed to give opinions as to matters within
10 their area of expertise.

11 In determining the weight to be given opinions
12 given by experts, you should consider the qualifications
13 and the credibility of the expert and the reasons given
14 for his or her opinions. You are not bound to such
15 opinions. Give it the weight, if any, to which you
16 believe it is entitled. If you should decide that the
17 opinion of an expert witness is not based upon sufficient
18 education or experience, or if you should conclude that
19 the reasons given in support of the opinion are not sound
20 or if you feel that it is outweighed by other evidence,
21 you may disregard the opinion in its entirety. An expert
22 witness' opinion does not have to be accepted, even though
23 it is uncontradicted.

24 I instruct you and emphasize that the fact that
25 the defendant did not testify is not a factor to be

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

15 I remind you again that during this phase, you
16 and I have certain duties to perform. As the trial judge,
17 it is my responsibility to preside over the trial, and I
18 also have the duty to rule on the admissibility of the
19 evidence offered during the trial. You are to consider
20 only the competent evidence before you. If there was any
21 evidence ordered stricken from the record in this case
22 during this trial, you must disregard that testimony. You
23 are to consider only the testimony which has been
24 presented from the lips of the witnesses from this witness
25 stand and any exhibits which have been made a part of the

1 record in this case, and any stipulations of counsel.

2 I have the duty to charge you the law that
3 applies to this case. And as the presiding judge, I am
4 the sole judge of the law in this case. It is your duty
5 as jurors under your oath to accept and apply the law as I
6 now state it to you. If you already have any idea as to
7 what the law is or what the law ought to be and it does
8 not agree with what I now tell you the law is, you must
9 abandon your idea because you are sworn to accept and
10 apply the law exactly as I state it to you.

11 In every case tried in this court before a jury,
12 the jury becomes the sole and exclusive judge of the facts
13 in a case. A trial judge cannot intimate, state, comment
14 on, or make any statement to a trial jury about the facts
15 in a case. Since you, the jury, are the sole judge of the
16 facts in this case, you are not to infer from what I have
17 said during the progress of the trial in ruling upon the
18 admissibility of evidence, or otherwise, or anything that
19 I now say to you during the course of this instruction,
20 that I have any opinion about the facts in this case. The
21 law does not allow me to have an opinion about the facts
22 in this case. This is a matter solely for you, the jury,
23 to determine. As jurors, it is your duty to determine the
24 effect, the value, the weight, and the truth of the
25 evidence that has been presented during this trial.

1 Mr. Foreman and ladies and gentlemen of the
2 jury, it now becomes your duty to decide what sentence you
3 will recommend that this Court impose upon the defendant,
4 Steven Louis Barnes.

5 There are two verdicts you are to consider in
6 this case if you find beyond a reasonable doubt the
7 existence of at least one statutory aggravating
8 circumstance.

9 One is the death penalty, which in this state is
10 by electrocution or by lethal injection, and the other is
11 life imprisonment.

12 The meaning of those sentences, you must
13 understand that these sentences mean what they say, that
14 is, if you recommend that the defendant be sentenced to
15 death, he will actually be put to death by electrocution
16 or lethal injection. And if you recommend that the
17 defendant be sentenced to life imprisonment, he actually
18 will be sentenced to life imprisonment without the
19 possibility of parole.

20 In your deliberations, you are not to speculate
21 that these sentences of death and life imprisonment
22 without the possibility of parole mean anything different
23 from their ordinary and plain meaning. Please understand
24 that your sentence recommendation will be followed by this
25 Court.

1 The order in which I explain these two sentences
2 is in no way a recommendation by this Court as to which
3 sentence you should choose to recommend; it is simply that
4 one must be stated first.

5 Statutory aggravating circumstances. Now,
6 ladies and gentlemen, in order to recommend either a
7 sentence of death or life imprisonment, you must first
8 find that at least one statutory aggravating circumstance
9 existed at the time of the murder beyond a reasonable
10 doubt.

11 What is a statutory aggravating circumstance?
12 It is a fact, an incident, a detail, or an occurrence
13 which the South Carolina General Assembly has declared by
14 statute would make worse, that is, "aggravate," the
15 offense of murder when the two occur together. In other
16 words, it is something that increases the enormity, or
17 adds to the injurious consequences of the offense.

18 I now hold up a form entitled "Statutory
19 Instructions." Upon this sheet of paper which I hold in
20 my hand are written the words "Statutory Instructions."
21 You will have this paper in the courtroom with you during
22 your deliberations.

23 The body of this form states, quote: "In
24 determining whether to recommend that the defendant,
25 Steven Louis Barnes, be sentenced by this Court to life

1 imprisonment or to death, you may consider the following
2 statutory aggravating circumstances:

3 Number One: The murder was committed while in
4 the commission of a kidnapping.

5 Number two: The murder was committed while in
6 the commission of physical torture," end quotes.

7 What is kidnapping?

8 As a statutory aggravating circumstance, the
9 State submits that the murder occurred while in the
10 commission of a kidnapping.

11 The State must prove beyond a reasonable doubt
12 that the defendant knowingly and unlawfully seized,
13 confined, inveigled, decoyed, kidnapped, abducted, or
14 carried away another person without authority of law.
15 Kidnapping is a continuing offense. The offense commences
16 when one is wrongfully deprived of freedom and continues
17 until freedom is restored.

18 To do a thing unlawfully is to do it willfully
19 against the law.

20 Knowingly means with knowledge, consciously not
21 accidentally.

22 Seize means to take hold of suddenly or
23 forcibly.

24 Confine means to limit, restrict, or enclose
25 within bounds, imprison, or shut or keep in.

1 Inveigle means to lure, entice, or lead astray
2 by false representations, promises, or other deceitful
3 means.

4 Decoy means to lure by, or as if by, decoy. A
5 decoy is something to entice a person into a trap.

6 Kidnap is to remove a person against his will by
7 unlawful force or by fraud.

8 Abduct means to carry off secretly or by force
9 for an illegal purpose.

10 Carry away means to remove.

11 The State does not have to prove that the murder
12 was committed during the commission of the kidnapping and
13 that all of these things occurred as I have just explained
14 to you. Instead, if you find beyond a reasonable doubt
15 that the defendant did any of these things, you may find
16 the defendant committed the murder during the commission
17 of a kidnapping.

18 Something done without authority of law is
19 something which the law does not sanction, permit, allow,
20 or condone, or provide justification for.

21 The kidnapping does not have to be for any
22 personal or monetary gain or for any illegal purpose, but
23 may be for any reason whatsoever.

24 The second statutory aggravating circumstance
25 the State relies on is that the murder was committed while

1 in the commission of physical torture. As a statutory
2 aggravating circumstance, the State submits that the
3 murder occurred while in the commission of physical
4 torture.

5 Ladies and gentlemen, I instruct you that
6 physical torture occurs when the victim of the murder is
7 subjected to serious physical abuse before death.
8 Physical torture is the intentional infliction of serious,
9 vile, horrible, or inhumane abuse upon the body of another
10 before death. The instantaneous death of the victim does
11 not constitute torture. Physical torture may include the
12 malicious infliction of bodily harm to another by
13 depriving him of a member of his body, or by rendering a
14 member of his body useless, or by seriously disfiguring
15 his body, or a member of his body, or the intentional and
16 unmerciful prolonging of severe pain and abuse upon the
17 body, or the intentional and unmerciful infliction of
18 serious and extensive physical pain and abuse to the body
19 of another. The State must prove the existence of this
20 statutory aggravating circumstance beyond a reasonable
21 doubt.

22 Let me emphasize to you that kidnapping and
23 physical torture are the only circumstances you may
24 consider as statutory aggravating circumstances. Should
25 you find -- and it must be a unanimous finding, that is, a

1 finding by each and every one of you -- should you find
2 that the State has proven beyond a reasonable doubt the
3 existence of one or both of the statutory aggravating
4 circumstances listed on the sheet of paper, entitled
5 "Statutory Instructions," then you would be authorized,
6 which is to say permitted, to consider recommending to
7 this Court that the defendant be sentenced to death.

8 What do I mean by the term "proven beyond a
9 reasonable doubt"? A reasonable doubt is the kind of
10 doubt that would cause a reasonable person to hesitate to
11 act.

12 The State has the burden of proving at least one
13 statutory aggravating circumstance beyond a reasonable
14 doubt. Again, some of you may have served as jurors in
15 civil cases where you were told that it is only necessary
16 to prove that a fact is more likely true than not true,
17 such as by the greater weight or the preponderance of the
18 evidence. In criminal cases, the State's proof must be
19 more powerful than that. It must be proof beyond a
20 reasonable doubt.

21 Proof beyond a reasonable doubt is proof that
22 leaves you firmly convinced of the fact sought to be
23 proved. There are very few things in this world that we
24 know with absolute certainty, and in criminal cases the
25 law does not require proof that overcomes every possible

1 doubt. If, based on your consideration of the evidence,
2 you are firmly convinced that the State has met its burden
3 of proof beyond a reasonable doubt as to at least one
4 statutory aggravating circumstance, you may consider the
5 imposition of the death penalty. If, on the other hand,
6 you think there is a real possibility or that the State
7 has failed to meet its burden of proof beyond a reasonable
8 doubt as to any statutory aggravating circumstances, you
9 would not be permitted to consider the imposition of the
10 death penalty.

11 Evidence of other crimes. The State has
12 presented to you for your information facts concerning the
13 defendant's alleged prior and subsequent crimes and bad
14 acts. I charge you that the evidence of previous or
15 earlier convictions, or subsequent crimes, or alleged
16 crimes or bad acts are not and may not be used as proof of
17 statutory aggravating circumstances; but if you are
18 convinced by proof beyond a reasonable doubt that the
19 defendant committed these crimes or bad acts, or any of
20 them, you may consider them as evidence of his character
21 and for no other purpose. The defendant is on trial for
22 his life and it is important that you have for your
23 consideration all pertinent information about him.

24 This evidence may be considered along with all
25 the other evidence and you may give it -- them -- whatever

1 weight you deem proper under the circumstances of this
2 case.

3 I emphasize again these alleged offenses and
4 prior bad acts are subsequent and may not be used by you
5 as evidence of a statutory aggravating circumstance which
6 the State relies on. You may, if you choose, consider
7 this evidence of the defendant's characteristics as they
8 bear logical reference to the crimes for which he has been
9 charged if they had been proven to you beyond a reasonable
10 doubt.

11 The State has introduced victim impact testimony
12 in this case. Victim impact testimony is not evidence of
13 a statutory aggravating circumstance but may be considered
14 by you and given the weight and value, if any, that you
15 think it deserves.

16 I'm now going to cover the procedure after
17 deliberation on existence of a statutory aggravating
18 circumstance.

19 Once you have considered the evidence and
20 determined whether a statutory aggravating circumstance or
21 circumstances existed beyond a reasonable doubt, please
22 remember: You are never required to recommend the death
23 penalty, even if you find that a statutory aggravating
24 circumstance existed at the time the offense occurred.

25 I instruct you further that should you find that

1 the State has not proven that any statutory aggravating
2 circumstance existed -- that is to say, you find that you
3 still have a reasonable doubt as to the existence of any
4 statutory aggravating circumstance -- there's only two
5 that you could consider -- then you would not be
6 authorized to recommend a sentence of death or life
7 imprisonment, and you must fill out the "No Finding of
8 Statutory Aggravating Circumstance" form which you will
9 have with you and cease your deliberations. If you do not
10 find the existence of a statutory aggravating circumstance
11 beyond a reasonable doubt, the foreman is the only juror
12 required to sign this form, quote: "We, the jury, in the
13 above-entitled case are unable to unanimously agree on the
14 existence of any statutory aggravating circumstance," and
15 there's a signature line for the foreperson and the date.

16 Now, should you unanimously find beyond a
17 reasonable doubt that one or both of the statutory
18 aggravating circumstances listed on the sheet indicated
19 "Statutory Instructions" existed at the time of the
20 murder, the foreman should fill out the statutory
21 aggravating circumstance or circumstances form that you
22 will have with you in the jury room. This form reads:
23 Quote: "We, the jury, in the above-entitled case find
24 beyond a reasonable doubt the following statutory
25 aggravating circumstance or circumstances." If you find

1 one or both beyond a reasonable doubt, that's the
2 unanimous verdict or unanimous decision of the jury,
3 Mr. Foreman, you will fill out that form and you would
4 place in there what one or both that you found and then
5 the foreman and each and every juror would have to sign
6 this form entitled "Statutory Aggravating Circumstance"
7 form.

8 Next, ladies and gentlemen, the form entitled
9 "Recommendation of Sentence Death Penalty."

10 If you do find the existence of at least one or
11 both of the statutory aggravating circumstances beyond a
12 reasonable doubt and further determine, after taking into
13 consideration any evidence for a sentence of life
14 imprisonment which I will explain to you in a moment, that
15 the sentence you will recommend to this Court is death,
16 you will indicate that decision by filling out the
17 Recommendation of Sentence Death Penalty form.

18 By this Recommendation of Sentence Death Penalty
19 form which I hold in my hand, you, the jury, may recommend
20 that this Court sentence the defendant to death. If this
21 is the jury's instruction, Mr. Foreman, you would be
22 responsible for writing in the form any statutory
23 aggravating circumstance or circumstances that the jury
24 found to exist beyond a reasonable doubt. Please observe
25 that immediately below the body of the recommendation

1 there are 12 lines. This is where, should you decide to
2 recommend the death penalty, the foreperson and each and
3 every one of the jurors would sign his or her name
4 thereafter dated by the foreperson.

5 I will now read to you the text of this form.
6 Quote: "We, the jury, in the above-entitled case, having
7 found beyond a reasonable doubt the existence of the
8 following statutory aggravating circumstance or
9 circumstances, to wit "-- at this point there is a place
10 provided for the foreman to write such circumstances,
11 circumstance or circumstances, about which I have already
12 instructed you and then, quote, "now recommend to the
13 Court that the defendant, Steven Louis Barnes, be
14 sentenced to death," end quote.

15 Again, each and every juror must sign his or her
16 name to this form if this is your recommendation; that is,
17 to impose a sentence of death.

18 Life imprisonment. You will have a form
19 entitled "Recommendation of Sentence Life Imprisonment"
20 form. By this form which I now hold in my hand,
21 "Recommendation of Sentence Life Imprisonment," you, the
22 jury, can recommend to this Court that the defendant be
23 sentenced to life imprisonment.

24 I will now read the text of this recommendation
25 form. Quote: "We, the jury, in the above-entitled case

1 recommend to the Court that the defendant, Steven Louis
2 Barnes, be sentenced to life imprisonment," end quote.

3 Please note that although you must unanimously
4 agree to recommend life imprisonment, only the foreman is
5 required to sign this form. There is a signature line for
6 the foreman and a date line.

7 I will now instruct you on what you may consider
8 in making your decision as to which sentence to recommend.

9 As I have previously instructed, if you find the
10 existence beyond a reasonable doubt of at least one or
11 both of the statutory aggravating circumstances, then you
12 are permitted but not required to recommend the death
13 penalty.

14 There are three conditions which you should
15 consider in reaching your decision as to whether to
16 recommend the death penalty or life imprisonment. First,
17 whether the existence of a statutory mitigating
18 circumstance or circumstances was supported by the
19 evidence. Second, whether the existence of any other
20 non-statutory mitigating circumstance was supported by the
21 evidence. And third, whether for any reason you can think
22 of, or for no reason at all, the defendant should be
23 sentenced to life imprisonment.

24 Statutory mitigating circumstances. What is a
25 statutory mitigating circumstance? It is a fact, an

1 incident, a detail or an occurrence which the South
2 Carolina General Assembly has declared by statute would
3 reduce the severity of the offense of murder.

4 In other words, it is a circumstance recognized
5 by statute as one which, in fairness and mercy, may be
6 continued as extenuating or as reducing the degree of
7 moral culpability for the commission of the act of murder.
8 A statutory mitigating circumstance is neither
9 justification nor excuse for the murder; it simply lessens
10 the degree of one's guilt. That is, makes him less
11 blameworthy or less culpable.

12 What statutory mitigating circumstances should
13 you consider in this case?

14 Again I will hold up the "Statutory
15 Instructions" form.

16 Immediately below the listing of the statutory
17 aggravating circumstances is the listing which I will --
18 which I read to you earlier is the listing of, quote:
19 "You may consider the following statutory mitigating
20 circumstances.

21 Number one: The murder was committed while the
22 defendant was under the influence of mental or emotional
23 disturbance.

24 Number two: The capacity of the defendant to
25 appreciate the criminality of his conduct or to conform

1 his conduct to the requirements of the law was
2 substantially impaired.

3 And number three: The mentality of the
4 defendant at the time of the crime."

5 You may also consider any non-statutory
6 mitigating circumstances that you find to exist, including
7 but not limited to the following. On the form it states,
8 quote, "You may also consider any non-statutory mitigating
9 circumstances including the following:

10 Number one: The background, sexual and physical
11 abuse and neglect of the defendant as a child.

12 On page two of the Statutory Instruction form,
13 number two is a non-statutory mitigating circumstance:
14 The defendant's use and abuse of drugs.

15 And number three: The defendant's adaptability
16 to prison," end quote.

17 This second element that you may consider is the
18 existence of any non-statutory mitigating circumstances.
19 A non-statutory mitigating circumstance is one which is
20 not provided for by statute, but is one which the
21 defendant claims serves the same purpose, that is, to
22 reduce the degree of his guilt in the offense.

23 The defendant has presented evidence of
24 non-statutory mitigating circumstances concerning his
25 background, sexual and physical abuse, neglect as a child,

1 his use and abuse of drugs, and his adaptability to
2 prison. In addition to these three non-statutory
3 mitigating circumstances that I stated previously, you may
4 also consider any other non-statutory mitigating
5 circumstances that you find to exist.

6 While there must be some evidence which supports
7 a finding by you that a statutory or non-statutory
8 mitigating circumstance exists, it is not necessary for
9 you to find the existence of such a circumstance
10 unanimously nor beyond a reasonable doubt. In reaching
11 your decision as to which sentence to recommend, you will
12 consider the statutory aggravating circumstances,
13 statutory mitigating, and non-statutory mitigating
14 circumstances. While the statutory aggravating
15 circumstance or circumstances must be found beyond a
16 reasonable doubt before you can even consider recommending
17 the death penalty, once such a finding is made beyond a
18 reasonable doubt, you may recommend the death penalty even
19 though you find the existence of a statute mitigating
20 circumstance, a non-statutory mitigating circumstance, or
21 both. In other words, the existence of a statutory
22 mitigating circumstance or a non-statutory mitigating
23 circumstances, or both, is not a bar to the imposition of
24 the death penalty, if you have unanimously found the
25 existence of at least one statutory aggravating

1 circumstance beyond a reasonable doubt.

2 The third element that you should consider, if
3 you should conclude that a statutory aggravating
4 circumstance exists beyond a reasonable doubt, is whether
5 the defendant should be sentenced to life imprisonment,
6 life imprisonment for any reason or for no reason at all.
7 This is what has traditionally been referred to as a,
8 quote, "recommendation for mercy," end quote, and should
9 such be your decision, you would so indicate by returning
10 to the Court the "Recommendation of Sentence Life
11 Imprisonment" form, which would be signed by the foreman
12 alone.

13 In other words, you may choose to recommend life
14 imprisonment if you find a statutory or non-statutory
15 mitigating circumstance, or you may choose to recommend
16 life imprisonment as an act of mercy. In any instance,
17 should you choose to recommend life imprisonment your
18 decision must be a unanimous one, and the foreman alone
19 would be required to sign the Recommendation of Sentence
20 Life Imprisonment form.

21 In summary, you will have with you in the jury
22 room during your deliberations five forms: Recommendation
23 of Sentence Life Imprisonment form; two, the
24 Recommendation of Sentence Death Penalty form; three, No
25 Finding of Statutory Aggravating Circumstance form; four,

1 Statutory Aggravating Circumstances form; and five,
2 Statutory Instructions.

3 The statutory instruction is not evidence, but
4 that form states the only, and I emphasize, the only
5 statutory aggravating circumstances you shall consider in
6 this case. Should you fail to find beyond a reasonable
7 doubt that at least one of the statutory aggravating
8 circumstances existed at the time the murder was
9 committed, then you would fill out the No Finding of
10 Statutory Aggravating Circumstance form. You,
11 Mr. Foreman, would then sign that and you would cease your
12 deliberations and go no further.

13 Should you find beyond a reasonable doubt the
14 existence of a statutory aggravating circumstance or
15 circumstances, you would then be authorized to consider
16 recommending the death penalty or life imprisonment.
17 Before continuing your deliberations, however, you would
18 first list the statutory aggravating circumstances that
19 you, the jury, found beyond a reasonable doubt on the form
20 entitled Statutory Aggravating Circumstances. Then the
21 foreman and each juror would sign his or her name on the
22 form in the spaces provided. When you continue your
23 deliberations on whether to recommend the penalty of death
24 or life imprisonment, you will consider any statutory or
25 non-statutory mitigating circumstances which are supported

1 by the evidence. You will also consider the statutory
2 aggravating circumstance or circumstances you found beyond
3 a reasonable doubt. After these considerations, you will
4 then decide whether you will recommend the death penalty
5 or life imprisonment.

6 In your deliberations, remember that you may
7 also consider any other factor in mitigation of the
8 offense, and you may recommend a sentence of life
9 imprisonment for no reason at all. If you decide to
10 recommend the death penalty, you will complete the proper
11 form. Mr. Foreman, you must write out the statutory
12 aggravating circumstance or circumstances that the jury
13 found beyond a reasonable doubt, and all 12 jurors must
14 sign this Recommendation of Sentence Death Penalty form.

15 Should you decide to recommend life
16 imprisonment -- you will have the form in there,
17 Recommendation of Sentence Life Imprisonment -- only the
18 foreman must sign the recommendation, and no reason is to
19 be given for your decision. Whatever your recommendation
20 is, it must be a unanimous one, that is to say, it must be
21 the verdict of each and every juror.

22 Mr. Foreman, ladies and gentlemen of the jury,
23 please remember, your sentencing recommendation will be
24 followed by this Court.

25 Finally, in considering whether to recommend

1 whether the defendant is to be sentenced to death or life
2 imprisonment, I charge you that as jurors you must decide
3 issues involved in this proceeding without bias, prejudice
4 to any party, without sympathy, passion or any outside
5 influence. You have been selected as fair and impartial
6 jurors, sworn to impartially try and determine the facts
7 of this case, and when you comply with your oath to do so,
8 then no one will have a right to criticize your verdict,
9 and you will have fully discharged your duty as jurors.
10 You are to decide this case according to the testimony
11 that you have heard from the lips of the sworn witnesses,
12 along with other evidence introduced. I charge you that
13 as jurors you must decide the issues in this proceeding
14 without bias and without prejudice to any party.

15 You cannot allow yourself to be governed by
16 sympathy, by prejudice, by passion, by public opinion, or
17 any other arbitrary factors. Both the State and the
18 defendant have the right to expect that each of you will
19 carefully and impartially consider all of the evidence in
20 this case and that you will follow the law precisely as I
21 have explained it to you.

22 At this time, ladies and gentlemen, I'm going to
23 ask you to leave your notes, to step momentarily to your
24 jury room. I must speak with the attorneys one final time
25 outside of your presence.

1 Please do not begin your deliberations at this
2 time. I will bring you back out momentarily. You may now
3 go with your bailiff.

4 (The jury left open court at approximately 1:19
5 p.m.)

6 THE COURT: Any exceptions, Solicitor?

7 MR. MYERS: No, sir.

8 THE COURT: Mr. Tarr?

9 MR. TARR: I would just object to the charges
10 that we had requested that were denied.

11 THE COURT: All right. Any others?

12 MR. TARR: No, Your Honor.

13 THE COURT: All right. What I intend to do, I
14 think, is similar to phase one. It's 1:20. Let the jury
15 go to lunch. Give them time to be back. Upon their
16 return -- I'll tell them not to deliberate yet, but I'll
17 bring them back into the courtroom and I will then remove
18 the alternates and submit it to them.

19 Now, any objection to that, Solicitor?

20 MR. MYERS: No, sir.

21 THE COURT: Any objections?

22 MR. HARTE: No, Your Honor.

23 THE COURT: I will give them about an hour.

24 If you'd bring them in.

25

1 (The jury came into open court at approximately
2 1:22 p.m.)

3 THE COURT: All right. Our jury is back present
4 in the courtroom.

5 I have completed my charge, Mr. Foreman, ladies
6 and gentlemen. However, I note the hour is your lunch
7 hour. The Clerk has made more than adequate arrangements.
8 You're going to receive your lunch.

9 Remember, do not discuss this case with anyone,
10 your fellow jurors, your lunch mates, or anyone else. If
11 anyone tries to talk with you about the case, please let
12 me know.

13 Do not expose yourself to any news accounts,
14 whether television, radio, or print.

15 Keep an open mind. Do not begin your
16 deliberations until you're instructed to do so by the
17 Court.

18 Upon your return from lunch, I will bring you
19 back into the courtroom to just give you some
20 administrative guidelines and then submit the case to you
21 for your deliberations. Do not begin your deliberations
22 until that time.

23 With that being said, you may now go with the
24 bailiff and the jury sequestration team for lunch. I'm
25 going to ask you to please be back by 2:30, but we

1 certainly won't start without you.

2 All right. Madam Bailiff.

3 And leave your notes also. They'll be secured
4 over the luncheon recess.

5 (The jury left open court at approximately 1:24
6 p.m.)

7 THE COURT: All right. Court will be in recess
8 until 2:30.

9 (A lunch break was taken.)

10 THE COURT: Anything before we bring out the
11 jury, Solicitor?

12 MR. MYERS: Yes, sir. No, sir.

13 THE COURT: All right. Bring us our jury,
14 please.

15 (The jury came into open court at approximately
16 2:29 p.m.)

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

19 Mr. Foreman, I am going to momentarily have our
20 three alternates secured in another location.

21 Upon your return to the jury room, do not begin
22 your deliberations until you are directed to do so by the
23 Clerk. These forms will be delivered that I reviewed with
24 you previously along with all the evidence. That would
25 include all the items as evidence that were presented both

1 during the guilt phase and during the sentencing phase.

2 If you have any questions during the course of
3 your deliberations, if you'd please write out a note,
4 knock on the jury room door, if you'll give it to the
5 bailiff they will bring it to my attention. If I have to
6 bring you back out for any reason, I will certainly do so.
7 If you have any concerns or anything, just let me know.

8 With that being said, if the primary jury would
9 now retire. If the three alternates would remain in the
10 courtroom momentarily.

11 If you'll retire. You may take your notes with
12 you at this time. Do not begin your deliberations until
13 you're instructed to do so by the Clerk.

14 Thank you very much.

15 (The jury left open court at approximately 2:32
16 p.m.)

17 THE COURT: All right. Ladies and gentleman
18 alternate, I will have you in another location separate a
19 and apart from the primary jury. Again, please remember,
20 you're not to discuss this case amongst yourselves. You
21 will not be authorized to deliberate in this matter. Upon
22 the return of the verdict, of course you will be brought
23 back into the courtroom.

24 So, Mr. Bailiff, do you know the location that
25 the alternates are going?

1 THE BAILIFF: Yes, sir.

2 THE COURT: All right. You all may now go with
3 your bailiff.

4 And, Madam Alternate, I have your notes secured
5 during this time.

6 It's my understanding the State and the defense
7 has checked the exhibits and they're ready to go.

8 Is that correct, Solicitor?

9 MR. MYERS: Yes, sir.

10 THE COURT: Mr. Tarr?

11 MR. TARR: Yes, Your Honor.

12 THE COURT: All right. And here are my written
13 instructions for the jury. Madam Clerk, if you have would
14 have the items of evidence from the guilt phase and this
15 phase delivered to the jury.

16 There's no ammunition, correct, Solicitor?

17 MR. MYERS: That's correct.

18 THE COURT: And all the weapons have safety
19 locks, trigger locks?

20 MR. MYERS: Yes, sir.

21 THE COURT: If you'd have it all delivered. And
22 Madam Clerk, once it's all delivered, if you would then
23 advise the jury they may begin their deliberations.

24 All right. We'll be awaiting the jury's
25 verdict.

1 (WHEREUPON, the jury began deliberations at
2 approximately 2:37 p.m.)

3 (A break was taken.)

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

6 (Deliberations were suspended while the jury
7 came into open court at approximately 3:09 p.m.)

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

10 I received a note through the bailiff from our
11 jury which states: "While the sheet," the sheet being the
12 Recommendation of Sentence Life Imprisonment, "does not
13 say life imprisonment without parole, what does it mean
14 without parole?"

15 Again, ladies and gentlemen, in my instructions
16 to you under Meaning of Sentences, you should understand
17 that these sentences mean what they say, that is, if you
18 recommend that the defendant be sentenced to death, he
19 will actually be put to death by electrocution or lethal
20 injection. And if you recommend that the defendant be
21 sentenced to life imprisonment, he actually will be
22 sentenced to life imprisonment without the possibility of
23 parole.

24 For purposes of this section, being the
25 punishment for murder section, life imprisonment means

1 until death of the offender without the possibility of
2 parole.

3 That is the definition of life imprisonment or
4 life imprisonment without parole.

5 Does that respond to your inquiry, Mr. Foreman?

6 THE FOREMAN: Yes, sir.

7 THE COURT: All right. I'm going to hand you
8 back the form.

9 Madam Bailiff, if you would hand this form back
10 to our foreperson.

11 And if you have any other questions -- I see now
12 you know how to write me notes. If you have any other
13 questions, just please write me a note --

14 THE FOREMAN: Yes, sir.

15 THE COURT: -- and I will respond a little bit
16 more timely. I had another matter I was attending to, but
17 I'll try to respond a little bit more timely.

18 THE FOREMAN: Yes, sir.

19 THE COURT: All right. Thank you very much.
20 You may return to your jury room and you may continue your
21 deliberations.

22 (The jury left open court at approximately 3:12
23 p.m. and deliberations resumed.)

24 THE COURT: All right. Any objections,
25 Solicitor?

1 MR. MYERS: No, sir.

2 THE COURT: Mr. Tarr?

3 MR. TARR: No, Your Honor.

4 THE COURT: All right. We'll be standing by for
5 our jury.

6 Madam Court Reporter, will you mark this as the
7 next numbered Court's exhibit.

8 (WHEREUPON, The Court's Exhibit No. 10 was
9 marked for purposes of the record.)

10 (A break was taken.)

11 THE COURT: All right. I received a note from
12 the bailiff, from the jury. The defendant's, of course,
13 now present in the courtroom. The note indicates that the
14 jury has reached a verdict.

15 I would remind all the spectators in the
16 courtroom, there should be no outbursts of agreement or
17 disagreement as to whatever verdict the jury has rendered.
18 They have a difficult task as it is in that regard.

19 Anything from the State prior to the verdict?

20 MR. MYERS: No, sir.

21 THE COURT: From the defense?

22 MR. TARR: No, Your Honor.

23 THE COURT: All right. And I note that the
24 defendant has now been placed in SCDC clothes. He is in
25 full restraint. I would find that would not prejudice him

1 in any manner at this stage of the proceedings given the
2 fact that we have been notified that they have reached a
3 verdict in this matter.

4 Would you please bring the primary jury and have
5 a bailiff bring the three alternates?

6 Thank you very much.

7 (Alternate jurors entered the courtroom.)

8 (The jury came into open court at approximately
9 4:23 p.m.)

10 THE COURT: All right. It appears our jury is
11 back present in the courtroom, along with the three
12 alternates.

13 Mr. Foreman, has the jury reached its verdict?

14 THE FOREMAN: Yes, sir, they have.

15 THE COURT: And is that verdict a unanimous
16 verdict?

17 THE FOREMAN: Yes, sir, it is.

18 THE COURT: Would you pass it to our bailiff,
19 please?

20 Thank you.

21 (Whereupon the verdict of the jury is published
22 as follows:)

23 VERDICT

24 THE COURT: All right. It appears the jury has
25 reached a verdict. The Court will now publish the

1 verdicts.

2 The first form is the form, "The State of South
3 Carolina versus Steven Louis Barnes, Indictments No.
4 2005-GS-19-273, 457. Statutory Aggravating Circumstances.

5 We, the jury, in the above-entitled case find
6 beyond a reasonable doubt the following statutory
7 aggravating circumstances: Kidnapping and physical
8 torture."

9 There are 12 signature lines. It appears the
10 top left signature line is signed by the foreperson and
11 there are 11 other signatures, so there are 12 signatures
12 on the statutory aggravating circumstances.

13 As to the Recommendation of Sentence, "The State
14 of South Carolina versus Steven Louis Barnes: We, the
15 jury, in the above-entitled case having found beyond a
16 reasonable doubt the existence of the following statutory
17 aggravating circumstances, to wit, kidnapping and physical
18 torture, now recommend to the Court that the defendant,
19 Steven Louis Barnes, be sentenced to death."

20 There are 12 signatures on this paper, the top
21 left signed by our foreperson. There are 11 other
22 signatures. Both the Statutory Aggravating form and the
23 Recommendation of Sentence Death Penalty form are dated
24 November 17th, 2010.

25 Mr. Foreman, ladies and gentlemen of the jury, I

1 do have certain questions to ask you concerning your
2 findings in this case. I will call you first by name. I
3 would ask you to please raise your hand so I can identify
4 you. I will ask you whether or not the finding of the
5 statutory aggravating circumstance or circumstances was a
6 finding beyond a reasonable doubt. Your answer would be
7 either yes or no. I will then ask you whether or not your
8 verdict as to the death penalty was your verdict and is
9 still your verdict. Your answer will be yes or no.

10 Mr. Otis M. Key. Mr. Key, as to the statutory
11 aggravating circumstance, was this finding of statutory
12 aggravating circumstances of kidnapping and physical
13 torture beyond a reasonable doubt?

14 THE FOREMAN: Yes.

15 THE COURT: Was your verdict for the imposition
16 of the death penalty and is that still your verdict?

17 THE JUROR: Yes, it is.

18 THE COURT: Alexis C. Brunson. Ms. Brunson, was
19 the finding as to the statutory aggravating circumstances
20 of kidnapping and physical torture a finding beyond a
21 reasonable doubt?

22 THE JUROR: Yes, sir.

23 THE COURT: Is the verdict of the imposition of
24 the death penalty, was that your verdict and it is still
25 your verdict?

1 THE JUROR: Yes.

2 THE COURT: Crystal B. Busbee. Ms. Busbee, as
3 to the statutory aggravating circumstances of kidnapping
4 and physical torture, was that finding of those
5 circumstances beyond a reasonable doubt?

6 THE JUROR: Yes, sir.

7 THE COURT: Was the verdict of the death penalty
8 your verdict and is it still your verdict?

9 THE JUROR: Yes, sir.

10 THE COURT: Thomas J. Devilbiss. Mr. Devilbiss,
11 was the finding of the statutory aggravating circumstances
12 of kidnapping and physical torture a finding beyond a
13 reasonable doubt?

14 THE JUROR: Yes, sir.

15 THE COURT: Was the verdict of the imposition of
16 the death penalty your verdict and is it still your
17 verdict?

18 THE JUROR: Yes, sir.

19 THE COURT: Sean M. Gamble. Mr. Gamble, was the
20 finding of the statutory aggravating circumstances of
21 kidnapping and physical torture a finding beyond a
22 reasonable doubt?

23 THE JUROR: Yes, sir.

24 THE COURT: Was the verdict of the imposition of
25 the death penalty your verdict and is it still your

1 verdict?

2 THE JUROR: Yes, sir.

3 THE COURT: Ms. Gayle G. Garry. Ms. Garry, was
4 the finding of the statutory aggravating circumstances of
5 kidnapping and physical torture a finding beyond a
6 reasonable doubt?

7 THE JUROR: Yes, sir.

8 THE COURT: Was the imposition of the death
9 penalty your verdict and is it still your verdict?

10 THE JUROR: Yes, sir.

11 THE COURT: Mr. Ronnie Posey. Mr. Posey, was
12 the finding of the statutory aggravating circumstances of
13 kidnapping and physical torture a finding beyond a
14 reasonable doubt?

15 THE JUROR: Yes.

16 THE COURT: Was the imposition of the death
17 penalty your verdict and is it still your verdict?

18 THE JUROR: Yes, sir.

19 THE COURT: Mr. Phillip B. Griffin. Mr.
20 Griffin, was the finding of the statutory aggravating
21 circumstances of kidnapping and physical torture a finding
22 beyond a reasonable doubt?

23 THE JUROR: Yes.

24 THE COURT: Was the verdict of the imposition of
25 the death penalty your verdict and is it still your

1 verdict?

2 THE JUROR: Yes, sir.

3 THE COURT: Joseph Robbins, Jr. Mr. Robbins,
4 was the finding of the statutory aggravating circumstances
5 of kidnapping and physical torture a finding beyond a
6 reasonable doubt?

7 THE JUROR: Yes.

8 THE COURT: Was the verdict for the imposition
9 of the death penalty your verdict and is it still your
10 verdict?

11 THE JUROR: Yes, sir.

12 THE COURT: Mr. Randall C. Thrower. Mr.
13 Thrower, was the finding of the statutory aggravating
14 circumstances of kidnapping and physical torture a finding
15 beyond a reasonable doubt?

16 THE JUROR: Yes, sir.

17 THE COURT: Was the verdict for the imposition
18 of the death penalty your verdict and is it still your
19 verdict?

20 THE JUROR: Yes, sir, it is.

21 THE COURT: Mr. David W. Tuttel. Mr. Tuttel,
22 was the finding of the statutory aggravating circumstances
23 of kidnapping and physical torture a finding beyond a
24 reasonable doubt?

25 THE JUROR: Yes, sir.

1 THE COURT: Was the verdict of the imposition of
2 the death penalty your verdict and is it still your
3 verdict?

4 THE JUROR: Yes, sir.

5 THE COURT: Ms. Shirley J. West, was the finding
6 of the statutory aggravating circumstance of kidnapping
7 and physical torture beyond a reasonable doubt?

8 THE JUROR: Yes, sir.

9 THE COURT: Was the verdict of the imposition of
10 the death penalty your verdict and is it still your
11 verdict?

12 THE JUROR: Yes, sir.

13 THE COURT: All jurors have been questioned as
14 to the findings of the statutory aggravating circumstances
15 of kidnapping and physical torture being beyond a
16 reasonable doubt. The forms have been signed, the
17 Statutory Aggravating Circumstance form has been signed by
18 the 12 members of the jury panel. All jurors have been
19 polled as to whether or not the imposition or
20 recommendation of the death penalty is their verdict and
21 is it still their verdict. They have all announced in the
22 affirmative. The form Recommendation of Sentence of the
23 Death Penalty has been signed by all 12 jurors.

24 Anything further for the jury from the State?

25 MR. MYERS: No, sir.

1 THE COURT: From the defendant?

2 MR. HARTE: No, Your Honor.

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

4 Mr. Harte, Mr. Tarr, anything further from you
5 gentlemen prior to the imposition of the sentence by this
6 Court?

7 MR. HARTE: Yes, Your Honor. The defense would
8 move for a new trial based on the grounds as previously
9 stated in the guilt phase and in the penalty phase with
10 regards to directed verdict and with regards to objections
11 that we made throughout the course of the trial.

12 THE COURT: All right. I would respectfully
13 deny those motions as to a new trial. I would reaffirm
14 all my guilt -- all my pre-trial, guilt phase rulings, and
15 penalty phase rulings in that regard.

16 MR. HARTE: In addition, Your Honor, my client
17 informs me that he has some written motions which he would
18 like to file for a new trial. I believe that those
19 motions can be filed after the imposition of sentence.

20 THE COURT: All right. He can certainly file
21 motions.

22 Are there any grounds separate and distinct from
23 the motions you have previously made?

24 MR. HARTE: Yes, sir, they're based on what
25 normally would be found in post-conviction relief matters.

1 THE COURT: All right. Well, as we have talked
2 throughout the course of these proceedings, there is no
3 such thing as hybrid representation. I will allow him to
4 file those with the Court in that regard unless you want
5 to make the motions.

6 MR. HARTE: No, sir, I don't believe the law
7 allows us at this point in time to make post-conviction
8 relief matters a part of this action. That's another
9 court action in another court, in a civil setting and not
10 in the present setting, so I don't feel that under our law
11 it's appropriate to make those motions.

12 THE COURT: All right. I would concur in that,
13 Mr. Harte.

14 Anything further?

15 MR. HARTE: No, sir.

16 THE COURT: Any reason sentence should not be
17 imposed at this time?

18 MR. HARTE: No, Your Honor.

19 THE COURT: All right. Mr. Barnes, would you
20 please stand?

21 Mr. Barnes, anything you would like to say prior
22 to the imposition of sentence in this matter?

23 THE DEFENDANT: Just do what you got to do.

24 THE COURT: Sir?

25 THE DEFENDANT: Do what you do.

1 THE COURT: I can't hear you.

2 THE DEFENDANT: I say do what you do.

3 THE COURT: All right. Thank you very much, Mr.
4 Barnes.

5 Solicitor, it's my understanding of the law that
6 when there is a kidnapping and associated separate charge
7 with the murder, you do not impose a sentence on the
8 kidnapping?

9 MR. MYERS: That's correct.

10 THE COURT: And that's still the current status
11 of the law in South Carolina is my understanding?

12 MR. MYERS: Yes, sir, it is.

13 THE COURT: All right.

14 MR. HARTE: I concur, Your Honor.

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

16 State of South Carolina versus Steven Louis
17 Barnes, first as to the affirmation of the death sentence,
18 as the trial judge in the above-entitled action and prior
19 to the imposition of the death sentence upon the
20 defendant, Steven Louis Barnes, I find as an affirmative
21 fact that the evidence of this case warrants the
22 imposition of the death penalty and its imposition is not
23 a result of prejudice, passion, or any other arbitrary
24 factor.

25 As to the sentence, The State of South Carolina

1 versus Steven Louis Barnes, the defendant, Steven Louis
2 Barnes, having been found by the jury to be guilty of the
3 offense of murder, the jury has recommended that the
4 defendant should be sentenced to death. It is therefore
5 the judgment of the law and the sentence of this Court
6 that the defendant, Steven Louis Barnes, be taken to the
7 State Department of Corrections, henceforth to be kept in
8 close and safe confinement until the day of 16 January
9 2011, upon which day between the hours of 6 o'clock p.m.
10 and 6 o'clock a.m., or upon an Order of Execution issued
11 by the South Carolina Supreme Court, the defendant, Steven
12 Louis Barnes, shall suffer death by electrocution or by
13 lethal injection in the manner provided by law, signed R.
14 Knox McMahon, Presiding Judge, 17 November 2010,
15 Edgefield, South Carolina.

16 Officers, you may take Mr. Barnes into custody
17 at this time.

18 Mr. Foreman, ladies and gentlemen of the jury
19 panel, I will provide you with a copy of the letter that I
20 am fixing to publish with you. It is from me. It
21 indicates that it is to all jurors in The State of South
22 Carolina versus Steven Louis Barnes. I would hereby
23 charge you that after your service in this trial has
24 concluded, you have the right to either refuse to discuss
25 your verdicts that you have rendered or to discuss the

1 verdicts to the extent you so desire. If you choose to
2 discuss the verdict, you are free to terminate any
3 discussion at any point. If the person with whom you are
4 speaking continues to pursue a discussion of the verdict
5 after you have communicated a desire to terminate the
6 discussion, or if a person continues to harass you after
7 you have refused to discuss the verdict, you should report
8 that person to -- and I didn't put "The Honorable," I
9 should have -- but you should report that to The Honorable
10 Shirley Newby, Clerk of Court, Edgefield County. It has
11 the address, Post Office Box 34, 129 Courthouse Square,
12 Edgefield, South Carolina 29824, area code (803) 637-4080.
13 It is signed by me as a Circuit Judge of the 11th Judicial
14 Circuit.

15 I have informed Ms. Newby if there is any
16 problems or reports in that regard she would notify the
17 Court, and if I would have to have an investigation into
18 the matter or deal with the matter by way of contempt, if
19 that occurs, I will certainly do so.

20 I would like to thank you for your participation
21 throughout this process. I know it is a very long and
22 difficult process for you to pluck you from your homes and
23 your surroundings and your work and personal and
24 professional lives in this manner and in the sense of
25 you're at our beck and call in regards to the

1 sequestration. Without your participation, these cases
2 would not be resolved in a manner according to the law.

3 It has been my pleasure -- I would rephrase
4 that. It has been my privilege to serve with you this
5 last week and a half in this regard. Again, thank you,
6 thank you very much for your service.

7 I'm going to ask you to please return with your
8 bailiff to your jury room. Our alternates, of course, can
9 rejoin the primary jury at this time. And I will have
10 these letters brought back to you and I would release you
11 momentarily after a few moments to the jury sequestration
12 team for transport back to your motel and released
13 thereafter, but I will be back there with these letters
14 shortly.

15 With that being said, you may now go with your
16 bailiff.

17 (The jury was excused from open court at
18 approximately 4:43 p.m.)

19 THE COURT: All right. I have these documents,
20 Mr. Harte, that you handed up. I'm going to have them
21 marked as a Court's exhibit and filed with the clerk.
22 I'll have Ms. Newby to make me a copy. Also, I will
23 review them. If there's any matters that I think this
24 Court should review at this time, I'll notify the
25 Solicitor and you in that regard.

1 MR. HARTE: Thank you, Your Honor.

2 THE COURT: All right. Madam Clerk, would you
3 have these marked as a Court's exhibit and would you
4 please make a copy of those.

5 (WHEREUPON, The Court's Exhibit No. 11 was
6 marked for purposes of the record.)

7 THE COURT: Anything further, Solicitor?

8 MR. MYERS: No, sir.

9 THE COURT: Anything further from the defense?

10 MR. HARTE: No, Your Honor.

11 THE COURT: I would like to thank you gentlemen
12 very much for the professional manner in which you have
13 represented Mr. Barnes. I know you all have worked very
14 long and hard over the years in investigating the case and
15 getting the case ready for trial. It's a thankless task
16 and it really says a lot about our profession that you all
17 not necessarily willingly but that you all do fulfill
18 these very important tasks.

19 Thank you very much.

20 Thank you, Solicitor.

21 MR. MYERS: Thank you, Your Honor.

22 THE COURT: Court will be in recess.

23 (WHEREUPON, The Court's Exhibits Nos. 12-15 were
24 marked for purposes of the record.)

25

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

(The proceedings were concluded.)

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

VOLUME 9 OF 9

1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5 COUNTY OF EDGEFIELD)
6
78 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 17th 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 July 10, 2011

21 
2223 CAROL M. THUEME, RPR
24 Circuit Court Reporter
25

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD) IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA,)
-vs-) ORDER
STEVEN LEWIS BARNES,) Case Number G-979755
Defendant.)

2012 JAN 31 AM 10:44

The defendant was brought before the court based on his application under the Interstate Agreement on Detainers. He is charged with Murder and apparently was being held in Georgia following convictions in that State for Kidnapping and other offenses resulting in a sentence of life imprisonment. At the hearing, the Solicitor indicated that this case would be pursued as a death penalty case, though no formal notice was given.

The following directives are established, in response to the hearing:

- WPK
#1
- 1) The defendant is to be held without bail. He did not seek bail, because he is under the life sentence in Georgia.
 - 2) The court has notified the Clerk of the Supreme Court of South Carolina that this case will require appointment of two attorneys who qualify under the provisions related to appointment of counsel in death penalty cases.
 - 3) After considering the requirements of the interstate compact regarding trial within 180 days, the court finds that good cause has been shown as to why this case cannot be handled within 180 days. In death penalty cases, the undersigned judge, as Chief Judge for

Administrative Purposes, is required to notify South Carolina Court Administration and the Chief Justice of the Supreme Court of South Carolina to request that a judge be designated to this case. An oral request has been made to the Chief Justice, and she has requested a list of all pending death penalty cases in the circuit so that judges can be designated. A Deputy Solicitor of the Eleventh Judicial Circuit has been notified, and the list will be sent to the Chief Justice upon receipt. Terms of court will have to be modified by the Chief Justice to accommodate a death penalty case, and discovery will have to be pursued. There is no reasonable way that this case can be called for trial within 180 days.

- WPK
#2
- 4) The defendant complained that there is no law library in the Edgefield County jail. The normal way to assist a person accused of a crime is to appoint counsel. In this State, counsel must be qualified to handle death penalty cases, and attorneys typically provide their clients with information about the applicable law. No specific problems were noted at the hearing, and the court finds that sufficient time should be allocated for counsel to be appointed and be given an opportunity to discuss these issues with Mr. Barnes.

- 5) The defendant also asked if the court could deal with the allegedly low quality of food served at the Edgefield County jail. There was

803 637 4117

Edgefield Co Clerk of Co

10:10:43 a.m. 01-12-2012

5/5

no showing that the quality of food being served is so insufficient that it violates the rights of the accused, and the court does not know if the defendant will continue to be housed at that facility or transported to another facility. Under the present circumstances, the court has no authority to issue any orders regarding the food provided to the defendant.

AND IT IS SO ORDERED.

May 27, 2005


William P. Keesley
Judge

#3

ELEVENTH CIRCUIT SOLICITOR'S OFFICE**SOLICITOR DONALD V. MYERS**EDGEFIELD / SALUDA / McCORMICK OFFICE
187 SALUDA AIRPORT ROAD
SALUDA, SOUTH CAROLINA 29138

803-275-5609

FAX 803-275-6494

December 13, 2005

Robert J. Harte
Attorney at Law
P.O. Box 1959
Aiken, SC 29802Re: State vs Steven Louis Barnes
2005-GS-19-4572005 DEC 13 PM 2:03
EDGEFIELD COUNTY
CLERK OF COURT
SHIRLEY L. HENRY

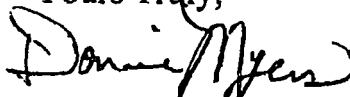
Dear Mr. Harte:

Pursuant to §16-3-20, et. seq. of the South Carolina Code of Laws, as amended, this is to notify and inform you and Mr. Barnes that the State will seek the death penalty in the above-entitled case if the defendant is found guilty on the charge of Murder presently pending against him. A copy of the Edgefield County Indictment charging Mr. Barnes with the murder of Samuel J. Stirrup is enclosed.

You will be notified at a later date of the aggravating circumstances upon which the State will rely in seeking the death penalty. Moreover, this case will be called for trial when Judge Maddox sets a date for the calendar year of 2006.

If you have any questions concerning this matter, please contact me at your earliest convenience.

Yours Truly,

Donald V. Myers
Solicitor

The Supreme Court of South Carolina

The State of South Carolina

Prosecutor,

v.

Steven Louis Barnes

Defendant,

Edgefield County
2005-GS-19-0182, 0263, 0723, & 0744

O R D E R

The Honorable R. Knox McMahon is vested with exclusive jurisdiction to hear and dispose of the above case. Judge McMahon shall decide all matters pertaining to this case, including motions to appoint or relieve counsel. The order dated October 31, 2005 assigning this case to the Honorable J. Cordell Maddox, Jr. is hereby rescinded.

IT IS SO ORDERED.

FILED 3:00 PM
Jan. 25 20 10
Shirley J. Newby C.C.C.P.
EDGEFIELD COUNTY

s/ Jean Hoefer Toal

Jean Hoefer Toal
Chief Justice

January 25, 2010
Columbia, South Carolina



State of South Carolina
The Circuit Court of the Eleventh Judicial Circuit

R. Knox McMahon
Judge

Marc H. Westbrook Judicial Center
205 E. Main Street, Ste. 423
Lexington, SC 29072
Phone: (803) 785-8239
Fax: (803) 785-8444
kmcMahonj@sccourts.org

September 3, 2010

JUROR QUESTIONNAIRE

For the Citizens of Edgefield County selected to serve on the Jury Panel reporting to the Court of General Sessions on November 1, 2010.

INSTRUCTIONS FOR JUROR QUESTIONNAIRE

The information which you give in response to this questionnaire will be used only by the Court and lawyers to select a qualified jury. Your complete, written answers will save a great deal of time for the judge, the lawyers and you. Because this questionnaire is part of the jury selection process, the questions must be answered by you truthfully and completely. The intent of this questionnaire is to encourage your full expression and candor so that both the prosecution and defense will have the opportunity to select a fair and impartial jury to try the issue of this case. You must fill out the questionnaire by yourself and not discuss it with anyone else. If there is insufficient space provided for a full and complete answer, use the back of the page to continue your answers.

Please write legibly. Do not consult with anyone about your answers. The information you provide is confidential and for the use of the Court.

Please return the completed questionnaire by placing it in the mail in the enclosed envelope **within three (3) days of your receipt**. Thank you for your cooperation. I look forward to seeing you on November 1, 2010.

A handwritten signature in black ink, appearing to read "R. Knox McMahon".

THE HONORABLE R. KNOX McMAHON
Presiding Judge

**THE PRESIDING JUDGE REQUESTS THAT YOU ANSWER
TO THE BEST OF YOUR KNOWLEDGE THE FOLLOWING QUESTIONS
AND RETURN ALONG WITH THE JUROR QUESTIONNAIRE FORM**

(NOTE: IF AT ANY TIME, YOU NEED ADDITIONAL SPACE IN ORDER TO PROPERLY ANSWER ANY
GIVEN QUESTION, PLEASE ATTACH A SEPARATE SHEET.)

1. NAME: _____
2. DATE OF BIRTH: _____
3. ADDRESS: _____
4. PLACE OF BIRTH: _____
5. PLEASE NAME THE SCHOOLS YOU HAVE ATTENDED AND THE GRADE OR LEVEL COMPLETED:
 - (A) GRADE SCHOOL: _____
 - (B) JUNIOR HIGH: _____
 - (C) HIGH SCHOOL: _____
 - (D) COLLEGE: _____
 - (E) VOCATIONAL OR TRADE SCHOOL: _____
 - (F) PROFESSIONAL SCHOOL: _____
 - (G) GRADUATE SCHOOLS: _____
 - (H) DEGREES OR DIPLOMAS YOU HOLD: _____
6. HOW LONG HAVE YOU LIVED IN EDGEFIELD COUNTY, SOUTH CAROLINA? _____
 - (A) HAVE YOU EVER LIVED OUTSIDE EDGEFIELD COUNTY, SOUTH CAROLINA?

 - (B) IF SO, WHERE HAVE YOU LIVED? _____
7. MARITAL STATUS:

()	MARRIED-NUMBER OF YEARS _____
()	NEVER MARRIED
()	SEPARATED
()	DIVORCED
()	WIDOWED
8. IF MARRIED, SPOUSE'S NAME: _____
9. SPOUSE'S OCCUPATION: _____
10. WHERE DOES YOUR SPOUSE WORK? _____
11. SPOUSE'S EDUCATION LEVEL: _____
12. NUMBER OF CHILDREN AND THEIR AGES: _____

(A) GIRLS: _____

(B) BOYS: _____

13. PLEASE ANSWER THE FOLLOWING ABOUT YOUR EMPLOYMENT. IF NOT CURRENTLY EMPLOYED, PLEASE ANSWER THE FOLLOWING ABOUT YOUR LAST EMPLOYMENT:

(A) WHERE DO YOU WORK? _____

(B) HOW LONG HAVE YOU WORKED THERE?

(C) WHAT IS YOUR CURRENT JOB TITLE?

(D) HOW LONG HAVE YOU HAD THAT TITLE?

(E) PLEASE DESCRIBE YOUR JOB RESPONSIBILITIES.

14. WHAT WAS YOUR OCCUPATION BEFORE PRESENT EMPLOYMENT?

15. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE? _____

16. HAVE YOU PREVIOUSLY SERVED ON A JURY IN A CRIMINAL CASE? _____

17. HAVE YOU EVER SERVED ON A GRAND JURY?

18. HAVE YOU EVER BEEN IN ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES (INCLUDING THE MILITARY RESERVES, NATIONAL GUARD OR ROTC)?
() YES () NO

IF YES, PLEASE ANSWER THE FOLLOWING:

(A) IN WHAT BRANCH?

(B) WHAT WAS YOUR RANK AT DISCHARGE?

19. HAVE YOU, ANY IMMEDIATE FAMILY MEMBERS OR CLOSE PERSONAL FRIENDS EVER BEEN THE VICTIM OF ANY CRIME?
() YES () NO

IF YES,

(A) PLEASE DESCRIBE THE TYPE OF CRIME(S):

(B) WAS ANYONE ARRESTED? () YES () NO

(C) IF THERE WAS AN ARREST, WHAT WAS THE OUTCOME?

20. PLEASE LIST ALL CLUBS, ASSOCIATIONS OR CIVIC GROUPS TO WHICH YOU BELONG.

21. WHAT IS/ARE YOUR PRIMARY SOURCE(S) OF NEWS?

- () TV () MAGAZINE
 () NEWSPAPER () OTHER
 () RADIO

(A) WHAT TV OR RADIO SHOWS DO YOU REGULARLY WATCH OR LISTEN TO?

(B) WHAT MAGAZINES AND NEWSPAPERS DO YOU REGULARLY READ?

22. HAVE YOU DISPLAYED ONE OR MORE BUMPER STICKERS ON YOUR AUTOMOBILE IN THE LAST TWELVE (12) MONTHS?

() YES () NO

IF YES, PLEASE LIST EACH BUMPER STICKER:

23. WHAT ARE YOUR FAVORITE HOBBIES AND/OR PASTIME?

24. DO YOU BELONG TO ANY GROUP OR ORGANIZATION ACTIVE IN LAW ENFORCEMENT, CRIME PREVENTION OR REHABILITATIVE MATTERS? (i.e., MOTHERS AGAINST DRUNK DRIVING, PEOPLE AGAINST RAPE, CITIZENS AGAINST VIOLENT CRIME, OR ANY RELATED OR SIMILAR GROUPS)?

() YES () NO

IF YES, PLEASE DESCRIBE:

25. DO YOU OR ANY FRIENDS OR RELATIVES HAVE LAW ENFORCEMENT EXPERIENCE OF ANY KIND OR APPLIED FOR A JOB IN LAW ENFORCEMENT? EXAMPLES: POLICE, SHERIFF, SECURITY GUARD, AUXILIARY DEPUTY SHERIFF OR CONSTABLE, MILITARY POLICE OFFICER, FBI, INVESTIGATOR, SOLICITOR OR CITY PROSECUTOR, PROBATION OFFICER, PRISON OR JAIL EMPLOYEES, ETC.

YOU: () YES () NO

RELATIVE: () YES () NO

CLOSE FRIEND: () YES () NO

IF YES, PLEASE IDENTIFY THE RELATIONSHIP OF THE PERSON AND THE TYPE OR ORGANIZATION:

<u>RELATIONSHIP</u>	<u>ORGANIZATION</u>	<u>DUTIES</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

JUROR SIGNATURE: _____

DATED: _____

CIRCLE THE LETTER NEXT TO THE TYPE OF JUROR THAT DESCRIBES YOU BEST

- A. THERE IS A TYPE OF JUROR WHO, ONCE THE CRIME OF MURDER HAS BEEN PROVED BY THE STATE AND THE JUROR IS CONSIDERING PUNISHMENT, FEELS THAT HE OR SHE IS REQUIRED TO GIVE THE DEATH PENALTY IN EACH AND EVERY CASE. THIS JUROR SIMPLY FEELS THAT ONCE A MURDER HAS BEEN COMMITTED, THE DEATH PENALTY IS THE MOST APPROPRIATE PUNISHMENT NO MATTER WHAT THE CIRCUMSTANCES OF THE CASE.
- B. THERE IS A TYPE OF JUROR WHO, ALTHOUGH THE GUILT OF THE DEFENDANT HAS BEEN DETERMINED, UNDER NO CIRCUMSTANCES COULD EVER GIVE THE DEATH PENALTY. THIS JUROR WOULD NOT NEED TO HEAR WHAT THE FACTS AND CIRCUMSTANCES IN AGGRAVATION OR MITIGATION IN THIS PARTICULAR CASE WERE BECAUSE THE JUROR WOULD HAVE HIS OR HER MIND MADE UP CONCERNING PUNISHMENT NO MATTER WHAT HE OR SHE HEARD.
- ☒ C. THERE IS A TYPE OF JUROR WHO, ALTHOUGH THE GUILT OF THE DEFENDANT HAS BEEN DETERMINED, WOULD NOT HAVE HIS OR HER MIND MADE UP IN ADVANCE CONCERNING PUNISHMENT. THIS JUROR WOULD NEED TO HEAR THE FACTS AND CIRCUMSTANCES IN AGGRAVATION AND IN MITIGATION, AND WOULD WANT TO LISTEN TO AND FOLLOW THE LAW AS THE JUDGE CHARGES THE JURY, BEFORE HE OR SHE COULD MAKE THE DECISION REGARDING PUNISHMENT, AND IF THE FACTS PRESENTED SO WARRANTED, THIS JUROR COULD BRING IN A VERDICT OF LIFE WITHOUT PAROLE. ALSO, IF THE FACTS PRESENTED SO WARRANTED, THE JUROR COULD BRING IN A VERDICT FOR THE DEATH PENALTY.

JUROR NAME:

JUROR NUMBER:

Karen Padgett
203

2356

STATE OF SOUTH CAROLINA

JUROR SUMMONS FOR CIRCUIT COURT

COUNTY OF: Edgefield

FOR TERM
BEGINNING
WEEK OF:

11/01/2010

JUROR
NUMBER:

203

You are hereby summoned to appear at Edgefield County Courthouse, 129 Courthouse Square Edgefield, SC, 29824 on November 01, 2010 at 10:00 am to answer this summons to serve as a petit juror for the Court of Common Pleas and General Sessions. Failure to appear at the address above at the specified time may subject you to penalties as prescribed by law.

Clerk of Court, Shirley F. Newby

Phone: (803)637-4080

NAME AND ADDRESS OF JUROR

PADGETT, KAREN D

JOHNSTON, SC

IMPORTANT INFORMATION AND INSTRUCTIONS

Fill in the requested information in the "Juror Information Section" and the appropriate contact information below. After reading all the conditions listed in the "Juror Response Section," mark any condition that applies to you. Separate the top and bottom portions of this page at the line indicated below and WITHIN THREE DAYS OF RECEIPT return the bottom portion of the form using the self-addressed envelope provided.

X Separate this top portion from bottom portion at the dotted line. Retain this top portion for your reference.

Return this bottom portion as instructed using the self-addressed envelope provided.

JUROR INFORMATION SECTION

(PLEASE PRINT OR TYPE CLEARLY)

FOR TERM
BEGINNING
WEEK OF:

11/01/2010

JUROR
NUMBER:

203

CITY, COUNTY, STATE OF BIRTH

Saluda Co. S.C.

AGE

DATE OF BIRTH

OF CHILDREN

MARRIED

SINGLE

WIDOWED

DIVORCED

YOUR OCCUPATION

Teacher Assistant

PRESENT OR FORMER EMPLOYER

Edgefield Co. School (JES) 215-1155

OF YEARS

31

LEVEL OF FORMAL EDUCATION COMPLETED

2 year College

NAME OF SPOUSE

SPOUSE'S OCCUPATION

SPOUSE'S PRESENT OR FORMER EMPLOYER

OF YEARS

HAVE YOU EVER SERVED ON A

☐ CIVIL JURY, OR ☐ CRIMINAL JURY?

IF SO, WHEN?

HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NOHAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO

NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.

I live in an apartment on Lec St.
in front of Monks Corner I just moved
I don't know the address yet

PADGETT, KAREN D

NBR-203

JOHNSTON, SC

INFORMATION BELOW WILL BE MADE AVAILABLE ONLY TO OFFICERS OF THE COURT

HOME TELEPHONE #

BUSINESS TELEPHONE #

SPOUSE'S BUSINESS TELEPHONE #

EMERGENCY TELEPHONE #

E-MAIL ADDRESS

215-1155 Work

JUROR RESPONSE
SECTION
INSTRUCTIONS

Retain the top portion of this for your reference and return the bottom portion of the form along with any required affidavits or written statements in the self-addressed envelope provided.

NOTE: Unless the clerk of court otherwise notifies you, you must report for jury duty as requested.

DISQUALIFICATIONS

- ☐ I am not a U.S. citizen.
☐ I am not a resident of this county. (Note correct address above.)
☐ I cannot read, write, speak, or understand the English language.
 Translator's name and telephone #:
☐ I have less than a sixth grade education or its equivalent.
☐ I have a mental or physical condition that prevents me from serving as a juror. (Doctor's excuse required)
☐ I have been convicted in a state or federal court of a crime that carries a sentence of more than one year of imprisonment and I have not been pardoned or given amnesty for that conviction. List offenses, when and where convicted:
☐ I am a clerk of court, deputy clerk of court, constable, sheriff, commissioned law enforcement officer, probate judge, county commissioner, magistrate, or county officer, or I am employed within the walls of a courthouse. Occupation:
☐ I have served on a circuit court jury within this calendar year.

Date of Service: _____ County: _____

EXEMPTIONS

- ☐ I am 65 years of age or older and wish to be excused. (If you do not wish to serve on a jury, you may telephone the clerk of court to be excused. Unless you are excused by the clerk of court prior to the term for which you are summoned, you must report for jury duty.)
☐ I am the primary caretaker of a disabled person or a person age 65 or older who cannot care for himself.
☐ I have legal custody and duty of care of a child under the age of seven and I cannot provide adequate childcare while serving as a juror.
☐ I am a guard, keeper, employee, or other officer at a state penitentiary.
☐ I have served on a circuit court jury during the previous two calendar years, or I have served on a grand jury during the previous four calendar years.
 Date of Service: _____ County: _____
 Jury Type: ☐ Circuit Court ☐ Grand Jury
☐ I am a student or a school employee and wish to be transferred to a later date that will not conflict with my school term.
 Date Available for Service: _____

(When you return this form, you must also send evidence of school enrollment or employment.)

**An affidavit (notarized statement) must be returned with this form attesting to the above statements.

☐ I HAVE READ THE CONDITIONS FOR DISQUALIFICATION AND EXEMPTION ABOVE AND NONE OF THE CONDITIONS LISTED APPLY TO ME.
 NOTE: THE FURNISHING OF FALSE OR MISLEADING INFORMATION OR THE FAILURE TO FURNISH INFORMATION TO THE COURT MAY SUBJECT YOU TO PENALTIES AS PRESCRIBED BY LAW.

YOUR SIGNATURE

THE PRESIDING JUDGE REQUESTS THAT YOU ANSWER
TO THE BEST OF YOUR KNOWLEDGE THE FOLLOWING QUESTIONS
AND RETURN ALONG WITH THE JUROR QUESTIONNAIRE FORM

(NOTE: IF AT ANY TIME, YOU NEED ADDITIONAL SPACE IN ORDER TO PROPERLY ANSWER ANY GIVEN QUESTION, PLEASE ATTACH A SEPARATE SHEET.)

1. NAME: Karen Diane Padgett
2. DATE OF BIRTH: _____
3. ADDRESS: _____ Johnston, SC
4. PLACE OF BIRTH: Saluda County SC
5. PLEASE NAME THE SCHOOLS YOU HAVE ATTENDED AND THE GRADE OR LEVEL COMPLETED:
 - (A) GRADE SCHOOL: Johnston Primary
 - (B) JUNIOR HIGH: Johnston Elem.
 - (C) HIGH SCHOOL: Strom Thurmond
 - (D) COLLEGE: Columbia Jr. College
 - (E) VOCATIONAL OR TRADE SCHOOL: _____
 - (F) PROFESSIONAL SCHOOL: _____
 - (G) GRADUATE SCHOOLS: _____
 - (H) DEGREES OR DIPLOMAS YOU HOLD: _____
6. HOW LONG HAVE YOU LIVED IN EDGEFIELD COUNTY, SOUTH CAROLINA? Life
 - (A) HAVE YOU EVER LIVED OUTSIDE EDGEFIELD COUNTY, SOUTH CAROLINA?
No
 - (B) IF SO, WHERE HAVE YOU LIVED? _____
7. MARITAL STATUS:

()	MARRIED-NUMBER OF YEARS _____
☒	NEVER MARRIED
()	SEPARATED
()	DIVORCED
()	WIDOWED
8. IF MARRIED, SPOUSE'S NAME: _____
9. SPOUSE'S OCCUPATION: _____
10. WHERE DOES YOUR SPOUSE WORK? _____
11. SPOUSE'S EDUCATION LEVEL: _____
12. NUMBER OF CHILDREN AND THEIR AGES: _____

(A) GIRLS: _____

(B) BOYS: _____

13. PLEASE ANSWER THE FOLLOWING ABOUT YOUR EMPLOYMENT. IF NOT CURRENTLY EMPLOYED, PLEASE ANSWER THE FOLLOWING ABOUT YOUR LAST EMPLOYMENT:

(A) WHERE DO YOU WORK? Edgefield Co. ~~SH~~ Schools (JES)

(B) HOW LONG HAVE YOU WORKED THERE?

31 yrs.

(C) WHAT IS YOUR CURRENT JOB TITLE?

Teacher Assistant

(D) HOW LONG HAVE YOU HAD THAT TITLE?

31 yrs.

(E) PLEASE DESCRIBE YOUR JOB RESPONSIBILITIES.

I assist the teacher with the children, unmarked
I do Paperwork, file

14. WHAT WAS YOUR OCCUPATION BEFORE PRESENT EMPLOYMENT?

15. HAVE YOU EVER BEEN A WITNESS IN A CRIMINAL CASE? NO

16. HAVE YOU PREVIOUSLY SERVED ON A JURY IN A CRIMINAL CASE? NO

17. HAVE YOU EVER SERVED ON A GRAND JURY?

NO

18. HAVE YOU EVER BEEN IN ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES (INCLUDING THE MILITARY RESERVES, NATIONAL GUARD OR ROTC)?

() YES (☒) NO

IF YES, PLEASE ANSWER THE FOLLOWING:

(A) IN WHAT BRANCH?

(B) WHAT WAS YOUR RANK AT DISCHARGE?

19. HAVE YOU, ANY IMMEDIATE FAMILY MEMBERS OR CLOSE PERSONAL FRIENDS EVER BEEN THE VICTIM OF ANY CRIME?

() YES () NO

IF YES,

(A) PLEASE DESCRIBE THE TYPE OF CRIME(S):

(B) WAS ANYONE ARRESTED? () YES () NO

(C) IF THERE WAS AN ARREST, WHAT WAS THE OUTCOME?

20. PLEASE LIST ALL CLUBS, ASSOCIATIONS OR CIVIC GROUPS TO WHICH YOU BELONG.

Ridge Hill Educational Assn
Women's Club

21. WHAT IS/ARE YOUR PRIMARY SOURCE(S) OF NEWS?

☒ TV () MAGAZINE

☒ NEWSPAPER () OTHER

☒ RADIO

(A) WHAT TV OR RADIO SHOWS DO YOU REGULARLY WATCH OR LISTEN TO?

WRDW 94.7 FM
WJBF

(B) WHAT MAGAZINES AND NEWSPAPERS DO YOU REGULARLY READ?

Augusta Chronicle State Newspaper
Edgfield Daily
Aiken Standard

22. HAVE YOU DISPLAYED ONE OR MORE BUMPER STICKERS ON YOUR AUTOMOBILE IN THE LAST TWELVE (12) MONTHS?

☒ YES () NO

IF YES, PLEASE LIST EACH BUMPER STICKER:

Holy Land Experience

23. WHAT ARE YOUR FAVORITE HOBBIES AND/OR PASTIME?

Walking, reading

24. DO YOU BELONG TO ANY GROUP OR ORGANIZATION ACTIVE IN LAW ENFORCEMENT, CRIME PREVENTION OR REHABILITATIVE MATTERS? (i.e., MOTHERS AGAINST DRUNK DRIVING, PEOPLE AGAINST RAPE, CITIZENS AGAINST VIOLENT CRIME, OR ANY RELATED OR SIMILAR GROUPS)?

() YES (✓) NO

IF YES, PLEASE DESCRIBE:

25. DO YOU OR ANY FRIENDS OR RELATIVES HAVE LAW ENFORCEMENT EXPERIENCE OF ANY KIND OR APPLIED FOR A JOB IN LAW ENFORCEMENT? EXAMPLES: POLICE, SHERIFF, SECURITY GUARD, AUXILIARY DEPUTY SHERIFF OR CONSTABLE, MILITARY POLICE OFFICER, FBI, INVESTIGATOR, SOLICITOR OR CITY PROSECUTOR, PROBATION OFFICER, PRISON OR JAIL EMPLOYEES, ETC.

YOU: () YES (✓) NO

RELATIVE: () YES (✓) NO

CLOSE FRIEND: () YES (✓) NO

IF YES, PLEASE IDENTIFY THE RELATIONSHIP OF THE PERSON AND THE TYPE OR ORGANIZATION:

<u>RELATIONSHIP</u>	<u>ORGANIZATION</u>	<u>DUTIES</u>

JUROR SIGNATURE: _____

DATED: _____

FILED

4:30 P.M.

11-17 2010

Shirley J. Newby C.C.C.P.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)
)
 The State of South Carolina,)
)
 Plaintiff,) Indictment Nos.: 2005-GS-19-273, 457
)
 v.)
)
 Steven Louis Barnes,)
)
 Defendant.)

**STATUTORY AGGRAVATING
CIRCUMSTANCE(S)**

We, the jury in the above-entitled case, find beyond a reasonable doubt the following statutory
 aggravating circumstance(s): Kidnapping & Physical torture

FOREPERSON

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

JUROR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
 WHICH IS ON FILE IN THE OFFICE OF THE
 CLERK OF COURT OF EDGEFIELD COUNTY, SC

Shirley J. Newby
 SHIRLEY F. NEWBY, CLERK OF COURT
 11-18-10 OF GENERAL SESSIONS AND

2362

FILED 4:30 p.m.
11-17 20 10
 Shirley J. Newby C.C.C.P.

STATE OF SOUTH CAROLINA

EDGEFIELD COUNTY

IN THE COURT OF GENERAL SESSIONS

COUNTY OF EDGEFIELD

FOR THE ELEVENTH JUDICIAL CIRCUIT

The State of South Carolina,

Plaintiff,

Indictment Nos.: 2005-GS-19-273, 457

v.

RECOMMENDATION OF SENTENCE
 DEATH PENALTY

Steven Louis Barnes,

Defendant.

We, the jury in the above-entitled case, having found beyond a reasonable doubt the existence of the following statutory aggravating circumstance(s), to wit: Kidnapping & Physical
torture

now recommend to the Court that the Defendant, Steven Louis Barnes, be sentenced to death.

Otha M. V.
 FOREPERSON

Honni Pany
 JUROR

Joseph Robles Jr.
 JUROR

Thomas J. DeLellis
 JUROR

George J. Jones
 JUROR

W. H. H.
 JUROR

Carol Power
 JUROR

Alicia C. Brunson
 JUROR

Crystal Buskell
 JUROR

Shirley G. West
 JUROR

W. H. H.
 JUROR

Phillip B. Giffen
 JUROR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
 WHICH IS ON FILE IN THE OFFICE OF THE
 CLERK OF COURT OF EDGEFIELD COUNTY, SC

Edgefield, South Carolina
 November 17, 2010.

Shirley J. Newby
 SHIRLEY F. NEWBY, CLERK OF COURT
 OF GENERAL SESSIONS AND
 COMMON PLEAS, E.C.S.C.
 11-18-10
 DATED

Page 1 of 1

2303

WITNESSES

Doran

ECSS

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Robert L. Myers
person of Grand Jury
Date: 8/10/05

VERDICT

Guilty

Donal M. Myers
Foreperson of Petit Jury
Date: 11-13-10

DOCKET NO. 2005-GS-19- 273

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

AUGUST TERM 2005

THE STATE

vs.

STEVEN LOUIS BARNES

CDR# 0095

Indictment for

KIDNAPPING

Donal M. Myers
11-13-10

DONALD V. MYERS, SOLICITOR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
WHICH IS ON FILE IN THE OFFICE OF THE
CLERK OF COURT OF EDGEFIELD COUNTY, SC

Shirley F. Newby
11-18-10
DATED
SHIRLEY F. NEWBY, CLERK OF COURT
OF GENERAL SESSIONS AND
COMMON PLEAS, E.C.S.C.

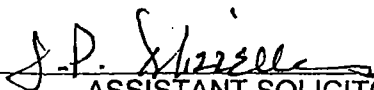
STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

INDICTMENT FOR
KIDNAPPING

At a Court of General Sessions, convened on August 10, 2005 the Grand Jurors of Edgefield County present upon their oath:

That STEVEN LOUIS BARNES did in Edgefield County on or between September 3, 2001 and September 4, 2001, unlawfully seize, and confine, inveigle, decoy, kidnap, abduct, or carry away one Samuel J. Sturup without authority of law and without consent, by the following means, to wit: Steven Louis Barnes, with the use of physical force, did hold Samuel J. Sturup against his will, in violation of Section 16-3-910 Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

-2365

WITNESSES

Doran

EC SO

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Robert F. Hyatt
Foreperson of Grand Jury

DEC 06 2005

VERDICT

Guilty

Otha M. K...
Foreperson of Petit Jury

Date: 11-12-10

DOCKET NO. 2005-GS-19- 457

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

DECEMBER TERM 2005

THE STATE

vs.

STEVEN LOUIS BARNES

CDR# 0116

Indictment for

MURDER

Otha M. K...
11-13-10

DONALD V. MYERS, SOLICITOR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
WHICH IS ON FILE IN THE OFFICE OF THE
CLERK OF COURT OF EDGEFIELD COUNTY, SC

Shirley F. Newby
11-18-10
DATED
SHIRLEY F. NEWBY, CLERK OF COURT
OF GENERAL SESSIONS AND
COMMON PLEAS, E.C.S.C.

STATE OF SOUTH CAROLINA)
COUNTY OF EDGEFIELD)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on December 6, 2005 the Grand Jurors of Edgefield County present upon their oath:

That STEVEN LOUIS BARNES did in Edgefield County on or between September 3, 2001 and September 4, 2001, feloniously, wilfully and with malice aforethought, kill one Samuel J. Sturup by means of shooting him and that the said victim, Samuel J. Sturup, died in Edgefield County as a proximate result thereof, in violation of the Common Law and as defined in Section 16-3-10 of the Code of Laws of South Carolina, as amended, with punishment provided for in Section 16-3-20 of the Code of Laws of South Carolina, as amended.

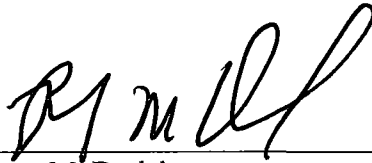
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 9th, 2012



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT