

VOLUME FOUR OF NINE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Dorchester County

Perry M. Buckner, Circuit Court Judge

ORIGINAL
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S.C. SUPREME COURT

JOHN EDWARD WEIK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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1 this time for SLED?

2 A. I'm presently a firearms examiner.

3 Q. And what training have you had to be a
4 firearms examiner?

5 A. There's no college that you go to to
6 become a firearms examiner, you have to learn it on
7 the job from other qualified examiners.

8 Prior to coming to SLED in 1997 I
9 was with the Federal Bureau of Investigation in the
10 firearms tool mark unit in their laboratory in
11 Washington, D. C. And I received my training there,
12 where for approximately a year and a half I trained
13 with qualified examiners learning how to become a
14 firearms tool mark examiner. I was qualified by the
15 FBI and -- in 1991 and I retired in 1997 as a
16 firearms tool mark examiner with them. Then I came
17 to work for SLED in the same capacity.

18 Q. All right, sir. Have you testified in
19 the past in courts of this state and other states as
20 an expert in firearms and tool marking?

21 A. Yes, sir. I've testified in
22 approximately 80 state and federal courts.

23 Q. All right, sir.

24 MR. BAILEY: Your Honor, I would tender
25 Mr. Whitler as an expert in the field of

1 firearms.

2 THE COURT: Any questions as to his
3 qualifications?

4 MS. HARDEE-THOMAS: None from the
5 defense, Your Honor.

6 MR. BEAUFORD: Not at this time.

7 THE COURT: I find he's qualified as an
8 expert in that field to give his opinion.

9 BY MR. BAILEY:

10 Q. At SLED what is fire lock?

11 A. Fire lock is a room where evidence is put
12 in for us to take and -- back to our offices and work
13 on it.

14 Q. All right, sir. And would you state
15 whether or not you received certain items of evidence
16 in this case from fire lock? And I'm going to direct
17 your attention to lab number L985320. Is that the
18 lab number for this case?

19 A. That's correct.

20 Q. All right, sir.

21 A. Yes, sir. I received it from fire lock
22 on September 2nd, 1998. I completed my examinations
23 and replaced it in fire lock on October 7th, 1998.

24 Q. All right, sir. Now, the shotgun in
25 front of you which I think is State's 40, I want to

1 direct your attention to that first of all.

2 A. Yes, sir.

3 Q. Is that one of the items you received
4 from fire lock?

5 A. Yes, it is.

6 Q. All right, sir. And would you please
7 tell the jury what kind of a shotgun that is, what
8 brand and what type of shotgun it is?

9 A. It's a Remington model 1100 semiautomatic
10 shotgun.

11 Q. All right, sir.

12 A. Twelve gauge.

13 Q. Could you demonstrate for the jury
14 briefly just how that shotgun works, basically how
15 you would load it and how it would operate?

16 A. Well, basically this tube is called the
17 magazine, or this is where you put your shot shells.
18 There's a loading ramp in the bottom of the shotgun
19 that you insert the shot shells into it until you put
20 the desired number or you fill it up. Then you pull
21 the bolt to the rear, which it already is to the rear
22 in this case -- in this instance, excuse me.

23 When you want to load the chamber
24 which is in the barrel, you push this, pull the
25 button, it lets the bolt go forward. And when that

1 happens it pulls a round out of the magazine and puts
2 it into the chamber.

3 At this point then you -- if you
4 fire the shotgun what will happen is the shot will go
5 down the barrel, the recoil will force the bolt to
6 the rear, it will throw out the fired shot shell
7 case, eject it from the firearm, and then as it goes
8 forward it will pull a fresh or unfired shot shell
9 from the magazine. And as the bolt goes forward
10 again it then puts a new round or shot shell in the
11 chamber so you're ready to fire again.

12 Q. Do you know how many three-inch shells
13 that shotgun would hold in the magazine?

14 A. This has an extended magazine and it -- I
15 found it would hold six in the magazine. So you had
16 a maximum capacity of seven if you put one in the
17 chamber and six in the magazine.

18 Q. All right, sir. Tell the jury what a
19 choke is.

20 A. Choke is the constriction in the muzzle
21 end of the shotgun. And this is designed to compress
22 the shot to keep the pattern together over a longer
23 distance. And there are various chokes.

24 Q. All right, sir. Does that particular
25 shotgun have a choke in it?

1 A. Yes, it did. It was a modified choke.

2 Q. Okay. And the chokes are
3 interchangeable, is that right, they screw in and out
4 of the barrel?

5 A. Not on this one. On this one you can
6 change the barrels.

7 Q. All right. You change the barrel to
8 modify the choke?

9 A. Now, in the newer shotguns there's a new
10 feature that are interchangeable chokes you can screw
11 out of the barrels. This one is an older model.

12 Q. Again, the choke would restrict the
13 pattern when the pellets came out?

14 A. Yes, sir.

15 Q. All right. That's a modified choke you
16 say on that there one?

17 A. Yes, sir. It's what's marked on the
18 barrel.

19 Q. All right. Is a semiautomatic shotgun
20 like that, could you state whether or not in your
21 experience they're prone to jam?

22 A. It depends on the brand of the shotgun,
23 how well it's maintained. If they tend to get dirty
24 sometimes they tend to jam more often.

25 Q. What does it mean for a shotgun to jam?

1 A. Well, it means that instead of ejecting
2 the fired shot shell out of the gun and picking up a
3 fresh shot shell, that sometimes one won't get
4 ejected or it won't put a new one into the chamber.
5 There are a couple of variations of it. In other
6 words, when you pull the trigger nothing -- you can't
7 fire another shot.

8 Q. Okay. Is there a way to clear that jam
9 so you can fire the next round?

10 A. Yes. You generally have to pull the bolt
11 to the rear, manually remove the fired shot shell if
12 there's one in there, if the fresh one or the new
13 shell or unfired one is in the -- is not properly
14 seated, you'll have to pull it out and let the bolt
15 go forward and clear it again.

16 Q. All right, sir. And is there a way that
17 you, as an expert in firearms, that you can tell from
18 a particular shotgun, fired shotgun shell has been
19 fired by a particular shotgun?

20 A. Yes, sir. We can determine if a shot
21 shell, a fired shot shell has been fired by a
22 particular shotgun.

23 Q. All right, sir. How do you go about
24 doing that?

25 A. The -- what -- we are looking for the

1 breech face marks which are on the bolt, in the bolt
2 area of the shotgun. When the bolt is made machining
3 marks are put on the face of the bolt, and when the
4 shot shell is fired because the shot shell has a
5 brass head in most cases, a very soft primer, these
6 marks are imparted to that primer area. And those
7 are the marks that we look for.

8 So what I would do is test fire the
9 shotgun, and on my test-shot shells compare those
10 marks to the marks on the submitted shot shells to
11 determine if the shotgun fired those particular shot
12 shells.

13 Q. All right, sir. I'm going to call your
14 attention next to State's 54, 55, 56, and 57, which
15 have been testified as being the four spent shell
16 casings found by Sergeant Asbell that was in the
17 Krasae's home, and ask if you received those from
18 fire lock?

19 A. Yes, I did.

20 Q. All right. Would you state whether or
21 not you compared those fired shotgun shells with
22 shells that you have from a particular shotgun?

23 A. Yes, sir. I compared these four fired
24 shot shells with the shotgun, determined that these
25 shot shells were fired by this shotgun.

1 Q. Okay. Would that be to the exclusion of
2 any other shotgun in the world?

3 A. That's correct.

4 Q. All right, sir. I want to direct your
5 attention next to State's 60, which were two live
6 rounds that have been testified as being removed from
7 that shotgun by Sergeant Asbell, and ask you to take
8 a look at that and see if you recognize those.

9 A. Yes, I have.

10 Q. All right, sir. Would you state whether
11 or not those unfired shotgun shells are identical in
12 brand and gauge as the four fired shotgun shells
13 found by Sergeant Asbell on the floor of the trailer?

14 A. These unfired shotgun shells have the
15 same physical characteristics, meaning they're the
16 same gauge, they're the same material, and they have
17 the same printing on the sides of the shot shell
18 case, indicating that they're 12 gauge, three-inch
19 double aught buck.

20 Q. All right, sir. And I'm going to show
21 you State's 12, which has been testified as being --
22 you may not have seen these before, but it's been
23 testified as being four live 12-gauge shotgun shells
24 removed from Mr. Weik's pocket by Deputy Gamache, and
25 ask if you'll take a look at that and tell the jury

1 what gauge shells those are, what type shells,
2 compared to the ones we talked about previously.

3 A. These are 12-gauge Winchester three-inch
4 double aught buckshot shells unfired.

5 Q. All right, sir. And are those consistent
6 in size of pellet, brand, and gauge as the other
7 shells we talked about?

8 A. That's correct.

9 Q. All right, sir. What is double aught
10 buckshot?

11 A. Double aught buckshot just means the size
12 of the shot. There's a single aught, double aught,
13 triple aught and they go up in weight and diameter.

14 Q. Okay. And as far as the range goes,
15 double aught, triple aught, single aught, roughly how
16 big a pellet are we talking about?

17 A. Double aught is approximately 33/100ths
18 in diameter, which is about a 33 gauge -- excuse me,
19 not gauge, caliber. Or roughly third of an inch.

20 Q. Approximately how many double aught
21 pellets would be contained in a three-inch magnum
22 12-gauge shell?

23 A. In these, this three inch, they load 15.

24 Q. All right, sir. Can you tell the jury
25 what wadding is?

1 A. Wadding is a circular material either
2 made of plastic or in some cases fiber that is placed
3 in the case body to separate the powder from the
4 shot. Inside the shot shell there's powder and then
5 they have the wadding and then the shot is placed on
6 top of it.

7 In some shot shells they have
8 one-piece wads which serve this purpose in buckshot.
9 In many cases they have multiple wads, two or three
10 wads made of fiber or a combination of fiber and
11 plastic to separate. And this does two things, it
12 separates the powder from the shot and also serves to
13 cushion the shot from the initial force of the --
14 when the shell goes off to help try to keep the
15 pellets from being deformed.

16 Q. What happens to the wadding when you fire
17 a shotgun?

18 A. As the wadding -- the wadding and the
19 shot come out together out of the barrel and then
20 because the shot is more aerodynamic it tends to pull
21 away from the wadding which is very light, it's wider
22 so it has more air resistance, the wads tend to fall
23 away very quickly and the shot continues down to
24 wherever the target is.

25 Q. With respect to the individual pellets,

1 the 12 to 15 pellets that you find within the shotgun
2 shell, is there any way that you can determine
3 whether or not those pellets came from a particular
4 shell or a particular gun?

5 A. There's no way to tell whether they came
6 from a particular shell. If there was significant --
7 if you recovered them in I guess pristine condition
8 and there was significant damage to them and there
9 was damage to the muzzle of the firearm, in some
10 cases when they're sawed off they'll leave a burr or
11 something like that which might put a particular
12 marking on the pellets, but that would be very, very
13 rare given the size of the pellet.

14 The bore of the 12 gauge is
15 approximately 73/100ths of an inch and you're talking
16 about a pellet whose maximum diameter is about 3,300,
17 so the chances that the column of pellets is going to
18 hit a particular spot and leave a significant enough
19 mark that's not going to be covered up by damage down
20 when it hits a target it would be very rare. I
21 wouldn't say it would be totally impossible, but it
22 would be extremely rare to be able to do something
23 like that.

24 Q. All right, sir. Did you also receive
25 from fire lock at the same time you got these other

1 items, some material that was according to the
2 information you had removed at the autopsy from
3 Ms. Krasae's body?

4 A. I received a number of items.

5 Q. All right, sir. Let me hand you a box.
6 And this contains State's 18 through 37, and I'll ask
7 if you'll take a look at that and see if you can
8 identify these items.

9 A. Okay.

10 Q. If the exhibit stickers are covering up
11 any of your SLED item numbers and you need to remove
12 those, please do that.

13 A. Yes, sir. I have seen these items.

14 Q. Okay. If you would put those in whatever
15 order you want to to make it easier for you because
16 I'm going to ask you about each one of them
17 individually, if you want to get them to correspond
18 to your report or whatever.

19 A. All right, sir.

20 Q. All right. If you could just refer to
21 them for the record by the State exhibit number, tell
22 the jury if you've examined each one of those and
23 what those containers consist of. If you need to use
24 your report to refresh your memory, please do that.

25 A. Okay. Item 12 which is -- excuse me,

1 State's Exhibit 31 consists of three lead fragments
2 whose physical characteristics are consistent with
3 those of fired double aught buckshot.

4 State's Exhibit 35 consists of one
5 fiber wad and nine lead fragments, physical
6 characteristics of the wad are consistent with those
7 of 12-gauge powder over powder wads and the physical
8 characteristics of four of these lead fragments are
9 consistent with double aught buckshot.

10 Q. If you -- I don't know whether you can
11 answer this one or not, but approximately how far --
12 when the wadding leaves a 12-gauge shotgun,
13 approximately how far does that wadding travel?

14 A. It would determine -- depend on the
15 firearm and the conditions that it's fired under.

16 Q. All right.

17 A. State's Exhibit 29 is a lead fragment
18 whose physical characteristics are consistent with
19 those of double aught buckshot.

20 State's Exhibit 30 are two lead
21 fragments. Item 16 is a fiber wad that is consistent
22 in physical characteristics with a 12 gauge over
23 powder wad.

24 Q. What's an over powder wad?

25 A. That's the first wad that's placed over

1 the powder.

2 Q. Okay.

3 A. State's Exhibit 36 is a lead fragment
4 that is consistent with being double aught buckshot.
5 State's Exhibit 32 consists of six lead fragments,
6 four of which are consistent with being double aught
7 buckshot.

8 Q. What about the other two?

9 A. The other two are lead fragments.
10 They're so badly damaged that they don't retain
11 enough characteristics to be able to say with
12 certainty that they are buckshot or could be just
13 some other piece of lead.

14 State's Exhibit 33 is a lead
15 fragment and a black vinyl-like fragment. The
16 vinyl-like fragment is not consistent with being an
17 ammunition component and I don't know what it is.

18 And State's Exhibit 37 consists of
19 two wads and eight lead fragments. The two wads are
20 consistent with being 12-gauge wads and the physical
21 characteristics of the lead fragment are consistent.
22 Two of the fragments are consistent with being double
23 aught buckshot. The other ones are too damaged to be
24 able to determine.

25 Q. All right. Other than the vinyl fragment

1 from the secondary projectile or whatever that you
2 mentioned just now, is there anything that you
3 examined that would be inconsistent with either
4 wadding or lead fragments from a double aught shotgun
5 shell?

6 A. As I stated before, the -- all the wads
7 were consistent with being wads that are used in
8 12-gauge shotguns, shot shells. The lead fragments
9 are either -- retain enough of their characteristics
10 to enable me to say that they were consistent with
11 being double aught buck pellets at one time. And the
12 lead fragments that I wasn't able to determine were
13 double aught buck pellets are just so badly damaged
14 that they could have been a pellet, but because when
15 they -- whatever they struck they became so damaged
16 that there's no way to tell at this point what they
17 were.

18 Q. All right.

19 A. They would not be inconsistent with
20 pellets.

21 Q. Thank you.

22 Two other things I want to show you,
23 and this is SLED items 23 and 24 and State's 58 and
24 59, ask if you would examine those.

25 A. These are sealed and have my initials on

1 them. You want me to open them?

2 Q. Yes. Just for the record, those have
3 been testified as being items removed from the floor
4 by Earl Asbell.

5 A. Yes, sir. I've seen these items before.

6 Q. All right, sir. Can you tell what they
7 are?

8 A. These two are lead fragments that could
9 have at one time been from a pellet. They're so
10 damaged at this point I can't say that they look --
11 that they are pellets.

12 Q. That refers to both of them?

13 A. Yes, sir.

14 Q. Okay. Are they inconsistent with being
15 that?

16 A. No, sir. Their weight is within the
17 limit, but -- I mean, they're not heavier than what a
18 pellet would be, but because they didn't retain
19 enough characteristics I called them lead fragments
20 at this point.

21 Q. Thank you, sir. Please answer any
22 questions the defense may have for you.

23 CROSS-EXAMINATION

24 BY MR. BEAUFORD:

25 Q. How are you doing today? Just a couple

1 of questions. You testified earlier that that gun
2 has the capacity of firing seven shots?

3 A. That's correct.

4 Q. How long would it take you to fire seven
5 of those shots?

6 A. Basically as fast as you could pull the
7 trigger.

8 Q. Roughly how long would it take you to
9 fire those shots?

10 A. A couple of seconds at the most.

11 Q. You say a couple. More than five, less
12 than five?

13 A. Less than five seconds.

14 Q. No further questions.

15 REDIRECT EXAMINATION

16 BY MR. BAILEY:

17 Q. That's assuming that the gun didn't jam;
18 is that correct?

19 A. Yes, sir.

20 Q. Thank you. That's all I have.

21 THE COURT: All right, sir. Thank you,
22 sir.

23 MR. BAILEY: State recalls Deputy
24 Gamache.

25 (Donald P. K. Gamache, called as a

1 witness by the State, having previously
2 been sworn, was examined and testified
3 as follows:)

4 THE COURT: Deputy, you're still under
5 oath.

6 DIRECT EXAMINATION

7 BY MR. BAILEY:

8 Q. Mr. Gamache, I want to direct your
9 attention to later on in the evening of April 30th.
10 Would you tell the jury, please, how Mr. Weik got
11 from the place where you stopped his truck to the law
12 enforcement complex in Dorchester County?

13 A. Yes, sir. He was transported by myself
14 in my patrol car to the law enforcement complex in
15 Summerville.

16 Q. All right. Were you present at the law
17 enforcement complex when Detective Marshall advised
18 Mr. Weik of Miranda rights again?

19 A. Yes, sir. I was.

20 Q. All right, sir. And would you state
21 whether or not Mr. Weik appeared to understand those
22 rights when Mr. Marshall gave them to him?

23 A. Yes, sir. He signed and initialed them
24 also.

25 Q. What do you recall of Mr. Weik's

1 demeanor, the way he was acting at that time?

2 A. Relatively calm and complacent as far as
3 he wasn't nervous or jittery to that effect.

4 Q. Did anybody in your presence there offer
5 any inducement or incentive to get him to talk to you
6 all?

7 A. No, sir.

8 Q. Any promises made to get him to give you
9 a statement?

10 A. No, sir.

11 Q. All right, sir. Did anybody threaten him
12 in any way?

13 A. In no way, sir.

14 Q. And were you present when there was a
15 taped statement that he give to Detective Marshall?

16 A. Yes, sir.

17 Q. All right, sir. Did you participate in
18 the interview yourself, or just sit there and --

19 A. Just as a witness, sir.

20 Q. To the best of your knowledge based on
21 your observation of Mr. Weik during that taped
22 statement, was that statement made freely and
23 voluntarily of his own freewill and accord?

24 A. Yes, sir. It was.

25 Q. Please answer any questions the defense

1 may have for you.

2 MR. BEAUFORD: No questions of this
3 witness, Your Honor.

4 THE COURT: Thank you, sir.

5 MR. BAILEY: May he be excused, Your
6 Honor?

7 THE COURT: Yes, sir. He may.

8 MR. BAILEY: Terry Van Doran.

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

11 (Terrence A. Van Doran, called as a
12 witness by the State, having first been
13 duly sworn, was examined and testified as
14 follows:)

15 THE CLERK: Have a seat. Could you state
16 your name for the record, please, and spell
17 your last?

18 THE WITNESS: Terrence Arnold Van Doran,
19 V-a-n D-o-r-a-n.

20 DIRECT EXAMINATION

21 BY MR. BAILEY:

22 Q. Please tell the jury where you're
23 employed.

24 A. Dorchester County Sheriff's Office.

25 Q. How long have you been a deputy sheriff?

1 A. Five years.

2 Q. All right, sir. What's your job with the
3 sheriff's office now?

4 A. I'm a detective, I work the Oakbrook area
5 in Dorchester County.

6 Q. All right, sir. Back in April of 1998
7 were you a detective in the sheriff's office?

8 A. Yes, sir.

9 Q. Call your attention to about 7:20 p.m. on
10 April 30th last year and ask whether or not you were
11 at the sheriff's office that evening?

12 A. I was, sir. I reported to the sheriff's
13 office after I was called by dispatch.

14 Q. All right, sir. Were you on duty that
15 day, or called in off duty?

16 A. I was called in off duty, sir.

17 Q. Would you state whether or not you
18 encountered Tom Marshall and Deputy Gamache at the
19 sheriff's office?

20 A. Yes, sir. In route to the sheriff's
21 office Detective Marshall called me on the radio and
22 asked me to report to the sheriff's office, which I
23 did. And I met Deputy Gamache at the sheriff's
24 office.

25 Q. Would you state whether or not you were

1 present when Detective Tom Marshall gave Mr. Weik
2 Miranda rights?

3 A. Yes, sir. I was.

4 Q. And did Mr. Weik appear to understand
5 those rights when Tom Marshall gave them to him?

6 A. Yes, sir. He did.

7 Q. What do you recall of his demeanor?

8 A. When I first encountered Mr. Weik he was
9 ready to talk to me right then. And I asked him to
10 sit in the interview room until Detective Marshall
11 got there, which he did. And after Detective
12 Marshall got there and read him his rights, he seemed
13 like he wanted to talk to us.

14 Q. Okay. And did he go over a waiver of
15 rights as part of the Miranda process?

16 A. Yes, sir. He did, one by one.

17 Q. All right, sir. And did Mr. Weik appear
18 to understand the waiver portion of that?

19 A. Yes, sir. He did.

20 Q. All right, sir. Did you observe Mr. Weik
21 sign the Miranda rights form?

22 A. Yes, sir. I did.

23 Q. And did you witness his signature on that
24 form?

25 A. Yes, sir. I did.

1 Q. Let me ask you to look at this, see if
2 your signature appears on that.

3 A. Yes, sir. It's my signature. And I also
4 filled in the date and time section.

5 Q. All right, sir. For the record, just
6 tell the jury the date and time that you observed
7 Mr. Weik sign that waiver of rights.

8 A. April 30th of '98 at 7:20 p.m.

9 MR. BAILEY: We would offer it.

10 MR. BEAUFORD: No objections, Your Honor.

11 THE COURT: All right. Let me make sure
12 now, I don't recall whether or not there was
13 any objection earlier, at a hearing conducted
14 earlier as to the introduction of that
15 statement or the evidence being elicited at
16 this point in time.

17 You are not objecting to the waiver
18 of rights statement coming in now?

19 MR. BEAUFORD: Your Honor, basically my
20 understanding from the Court is that the prior
21 objections are continuing and so --

22 THE COURT: Well, they are. They are.
23 But when you say no objection now, then if you
24 had -- if it was put in earlier --

25 MR. BEAUFORD: Yes, I understand that.

1 THE COURT: -- and then you say no
2 objection now, the way I see it is you're
3 waiving any objection that you had earlier.
4 And so the point -- that's why I stopped. I
5 want to be sure. I don't recall. I've got
6 all the notes, it's been a week, I don't
7 remember whether any objection -- I don't even
8 know whether that statement was put into
9 evidence at the time. But if it was and there
10 was an objection at that time, then I'm going
11 to allow it today over the objection.

12 If there wasn't any objection,
13 certainly you have the right to do what you
14 want. I'm not suggesting that you do one way
15 or the other, all I'm saying is you can't have
16 it both ways. If you objected the first time
17 and you let it in this time, it's in without
18 objection.

19 MR. BEAUFORD: Your Honor --

20 THE COURT: Do you follow where I'm
21 coming from?

22 MR. BEAUFORD: I object to that going in
23 at this point.

24 THE COURT: All right, sir. Over the
25 objection of the defendant then I'll allow it.

1 (Entered into evidence was State's
2 Exhibit 63, Statement of Miranda Rights.)

3 BY MR. BAILEY:

4 Q. Mr. Van Doran, did anybody offer any
5 inducement to get Mr. Weik to give you all a
6 statement that evening?

7 A. No, sir.

8 Q. Did anybody make any promises to him to
9 get a statement out of him?

10 A. No, sir.

11 Q. Any threats to induce a statement?

12 A. No, sir.

13 Q. Okay. Were you present when a taped
14 statement was made?

15 A. Yes, sir. I was.

16 Q. All right, sir. And did you participate
17 in the interview at all?

18 A. Yes, sir. I was there for the entire
19 interview.

20 Q. All right, sir. To the best of your
21 knowledge being there for the entire interview and
22 the entire Miranda rights, to the best of your
23 knowledge was the statement that was taped that
24 evening given by Mr. Weik freely and voluntarily of
25 his own freewill and accord?

1 A. Yes, sir. That's my opinion.

2 Q. Please answer any questions the defense
3 may have for you.

4 MR. BEAUFORD: No questions of this
5 witness, Your Honor.

6 THE COURT: All right. Thank you, sir.

7 MR. BAILEY: May he be excused?

8 THE COURT: Yes, sir.

9 MR. BAILEY: Recall Tom Marshall.

10 (Thomas M. Marshall, called as a witness
11 by the State, having previously been
12 sworn, was examined and testified as
13 follows:)

14 DIRECT EXAMINATION

15 BY MR. BAILEY:

16 Q. Okay. Mr. Marshall, call your attention
17 to April 30th again of last year about 7:20 p.m. or
18 so. Did you see John Weik out at the scene where his
19 truck was stopped?

20 A. Yes, sir. I did.

21 Q. And that tape that the jury saw earlier
22 this morning from Mr. Burnette's automobile, towards
23 the end of that tape do you appear in there as
24 arriving on the scene?

25 A. Yes, sir. That was me coming with the

1 camouflage pants on.

2 Q. Did you see Mr. Weik later on at the
3 sheriff's office where he was escorted, or taken, to
4 the sheriff's office by Deputy Gamache?

5 A. Yes, sir. I did. I saw him at our main
6 headquarters.

7 Q. Okay. And what room, or what part of the
8 sheriff's office did you all go to?

9 A. We took him -- he was already up there in
10 the -- what we call the detective bay, and inside the
11 detective bay is a room that we call the interview
12 room. And basically it is a ten by ten, little bit
13 bigger, little bit longer, has one table in there and
14 several comfortable chairs.

15 Q. Okay. What do you recall of Mr. Weik's
16 appearance and demeanor when you saw him at the
17 sheriff's office in the interview room?

18 A. He seemed to be understand everything
19 that we were doing that day and was readily able to
20 talk. He was wanting to talk. And I had to actually
21 stop him at one point so that I could read him his
22 Miranda warnings.

23 Q. All right, sir. Was Mr. Gamache,
24 Detective Gamache and Detective Van Doran, present
25 also?

1 A. Yes, they were.

2 Q. Okay. And did you advise Mr. Weik of his
3 Miranda rights?

4 A. Yes, I did.

5 Q. And do you do it verbally and in writing?

6 A. Yes, sir. I do.

7 Q. I'm going to hand you State's 63, which
8 has been identified by Mr. Van Doran already, ask
9 whether or not that's the Miranda rights form that
10 you used when you gave Mr. Weik the Miranda rights?

11 A. Yes, sir. It is. It has my signature on
12 there.

13 Q. All right, sir. And would you go over
14 that form with the jury the same way you did with
15 Mr. Weik that evening of April 30th of last year?

16 A. Basically how I do it, I said this was a
17 statement of his Miranda rights and I state off, I
18 said you have the right to remain silent, anything
19 you say can and will be used against you in a court
20 of law. You have the right to talk to a lawyer and
21 have him present with you while you're being
22 questioned. If you cannot afford to hire a lawyer,
23 one will be appointed to represent you before any
24 questioning if you wish. You can decide at any time
25 to exercise these rights and not answer any questions

1 or make any statements.

2 After I read that then I go in there
3 and I said the next one's called the waiver of your
4 rights. It says I have read the above statement of
5 my rights, I understand each of those rights, and
6 having these rights in mind I waive them and
7 willingly make a statement.

8 After I do that, then I draw some
9 lines out beside number 1, 2, 3, 4, 5, and then I put
10 an X mark in the sections assigned and then I say if
11 you're going to waive your rights I need you to sign
12 it, but before signing I ask them to initial the
13 lines saying that I read the first five to them.

14 Q. Those initials after each separate right,
15 are they his initials?

16 A. Yes, they are.

17 Q. Did you see him make those initials
18 there?

19 A. Yes, sir. I did.

20 Q. Would you state whether Mr. Weik verbally
21 stated to you he understood his rights?

22 A. Yes, sir. He did. And he also signed
23 the waiver.

24 Q. Okay. And did you witness him signing
25 the waiver?

1 A. Yes, sir. I did.

2 Q. And was Mr. Van Doran also present and
3 witnessed it?

4 A. Yes, sir. He was.

5 Q. Okay. And I'll ask you the same thing I
6 asked him, any promises or inducement made to get
7 Mr. Weik to give you a statement?

8 A. No, sir.

9 Q. Anybody threaten him in any way to try to
10 get him to give you a statement?

11 A. No, sir.

12 Q. Did he ask you for anything, like food,
13 or water, or something to drink, anything of that
14 nature that he didn't receive?

15 A. No, he didn't. He didn't ask for
16 anything.

17 Q. Did he give you a statement?

18 A. Yes, he did.

19 Q. And state whether or not that statement
20 was taped.

21 A. Yes, sir. It was. It was taped on a
22 microcassette.

23 Q. All right, sir. And I want to hand you a
24 microcassette tape and ask if that appears to be the
25 original taped statement you took from him?

1 A. Yes. This is my handwriting on here in
2 red ink, it says Weik with the initial J and then I
3 circled the letter A, meaning that the taped
4 conversation was on side A of the microcassette.

5 MR. BAILEY: I would offer this.

6 MR. BEAUFORD: Your Honor, I'd like to
7 renew my prior objections.

8 THE COURT: All right, sir. Any
9 objections made. Then over the objection of
10 the defendant I'll allow it.

11 (Entered into evidence was State's
12 Exhibit 64, microcassette tape.)

13 BY MR. BAILEY:

14 Q. Mr. Marshall, was that microcassette
15 transferred over to a regular size cassette tape?

16 A. Yes, sir. It was.

17 Q. Why was that done?

18 A. To -- so that we could use it on a
19 regular cassette player so it's more usable, and also
20 to get out some of the background noises I took it
21 down to a company to try to have it cleared up.

22 Q. All right, sir. I'm going to hand you a
23 tape and ask you to identify that.

24 A. Yes. This is the actual cassette,
25 regular cassette. And on here is my initials and it

1 has the case number and the date and time that it was
2 recorded.

3 Q. All right, sir. And your initials
4 indicate that you listened to that tape?

5 A. Yes.

6 Q. And does that accurately depict the
7 conversation you had with Mr. Weik on April 30th,
8 1998?

9 A. Yes, it does.

10 MR. BAILEY: Your Honor, I would offer
11 this.

12 THE COURT: Same objection?

13 MR. BEAUFORD: Correct, Your Honor.

14 THE COURT: Let me ask you this just to
15 be sure: Again, if you made an objection
16 earlier I understand. Suppose you did not,
17 are you objecting now?

18 MR. BEAUFORD: Yes, Your Honor.

19 THE COURT: You still object?

20 MR. BEAUFORD: Yes, Your Honor.

21 THE COURT: All right. Fair enough.

22 Over the objection of the defendant then I
23 will allow the tape.

24 (Entered into evidence was State's
25 Exhibit 65, audiocassette tape.)

1
2 BY MR. BAILEY:

3 Q. Was there a copy, a transcription of that
4 tape made?

5 A. Yes, there was.

6 Q. All right, sir. I'll ask if you can
7 identify this.

8 A. This seems to be a transcript of the
9 taped conversation between myself and the defendant.

10 Q. All right, sir. And would you state
11 whether or not you read the transcript the same time
12 you listened to the tape?

13 A. Yes, I did.

14 Q. And would you state whether or not this
15 transcript is a reasonably accurate representation of
16 what's on the tape?

17 A. Yes, it is.

18 Q. Okay. And as far as the sound quality of
19 the tape, does that leave something to be desired?

20 A. Yes. There's some problems in there,
21 yeah.

22 Q. Do you think that the transcript would be
23 necessary in order for the jury to understand the
24 tape?

25 A. Yes.

1 Q. All right, sir.

2 MR. BAILEY: Your Honor, I would offer
3 the transcript.

4 THE COURT: All right. Any objection to
5 that?

6 MR. BEAUFORD: Correct, Your Honor.

7 THE COURT: There is you say?

8 MR. BEAUFORD: Your Honor, there's no
9 objection that's a transcription of what's
10 contained on the tape.

11 THE COURT: All right. Let me ask you
12 this then: I'm not trying to put words in
13 your mouth, is it my understanding you don't
14 really have any objection to the transcript,
15 your objection really goes to the tape itself?
16 And obviously the transcript follows the tape,
17 but I mean the -- the transcript in and of
18 itself is not -- are you objecting to that, or
19 are you objecting to the fact that it is the
20 tape? In other words, what your objection is,
21 is the tape? If you follow where I'm coming
22 from.

23 MR. BEAUFORD: The content of the tape.

24 THE COURT: All right. And so then --

25 MR. BEAUFORD: But I'm not objecting that

1 that is a fairly accurate reflection of what's
2 on the tape.

3 THE COURT: All right. All right, sir.
4 I'll allow it then over the objection of the
5 defendant.

6 MR. BAILEY: Thank you, Your Honor. I've
7 got copies of the transcript for the jury so I
8 can play it again as I did before.

9 THE COURT: Yes, sir.

10 (Entered into evidence was State's
11 Exhibit 66, transcription.)

12 (Audiocassette tape, State's Exhibit 66,
13 played for the jury.)

14 BY MR. BAILEY:

15 Q. Mr. Marshall, at one portion during that
16 tape Mr. Weik demonstrated to you how he held the
17 shotgun when he came inside the house; is that
18 correct?

19 A. That's correct.

20 Q. Would you get the shotgun -- I believe
21 it's right in front of you there -- and demonstrate
22 to the jury how he said he held the gun?

23 A. He said he came in like this.

24 Q. Have a seat.

25 A. (The witness complied.)

1 Q. Now, after that taped interview was
2 completed, did you ask Mr. Weik if he would give you
3 a written statement?

4 A. Yes, I did.

5 Q. All right, sir. And were any promises or
6 inducements made to Mr. Weik to give you a written
7 statement?

8 A. No, there was not.

9 Q. Any threats, or did he ask for anything
10 to drink or to eat, or anything that he didn't
11 receive?

12 A. No, sir. He didn't ask for anything.

13 Q. All right, sir. And why did you want a
14 written statement after he had given you the taped
15 interview?

16 A. It's part of our procedure. And also to
17 go see if it's still consistent and check against the
18 tape.

19 Q. And did Mr. Weik write out a written
20 statement for you?

21 A. Yes, that's correct.

22 Q. Let me hand you this and see if you can
23 identify it.

24 A. Yes. This is the original written
25 statement that Mr. Weik gave.

1 Q. That's in his handwriting?

2 A. Yes, this is in his handwriting.

3 Q. And did he sign it after he wrote it?

4 A. Yes, sir. Down on the bottom right-hand
5 corner.

6 Q. Did you witness him signing that?

7 A. Yes, I did.

8 MR. BEAUFORD: Same objections.

9 THE COURT: Same objection then. Whether
10 there was an objection earlier or not, there's
11 an objection now, and I'll allow it over the
12 defendant's objection.

13 (Entered into evidence was State's
14 Exhibit 67, handwritten statement.)

15 MR. BAILEY: May I publish it to the
16 jury, Your Honor?

17 THE COURT: Yes, sir.

18 MR. BAILEY: Statement of John Weik.
19 Address, 350 St. Johns Bethel Road; home
20 phone, 761-3214; employer, American Skiff;
21 occupation, marine rigger; date of birth,
22 4-26-67; Social Security number, 249-33-2374.
23 The statement was given 4-30-98, 19:50,
24 Dorchester LEC. (As read.)

25 "Went to Susan's house to talk to

1 her on behalf of our son. I tried my son and
2 he didn't -- he didn't want to. And Susan
3 came over from her father's. She was very
4 angry, shouting, telling me I wasn't going to
5 see our son anymore and that she wanted me off
6 property and she was going to call the cops.

7 "I got into the truck, started it
8 up, I was trying to leave, I shut it off,
9 pulled the keys out, pulled the seat up. I
10 was saying to myself I think so, 25 years or
11 life or death isn't so long. I pulled the gun
12 out, walked to the trailer, opened the screen
13 door, opened the door, kicked the door open.
14 I looked for her, saw her. It was like
15 looking in a monitor or something. I popped
16 the shell in the chamber, I tried to fire it.
17 I think it seemed like me, it didn't look like
18 me, I don't know. I fired one and three more.
19 I fired one arm and three more in the torso, I
20 think.

21 "I think I turned to walk out the
22 door and got in the truck. It felt like I was
23 watching myself from above and beside and I
24 drove off.

25 "I seen the police officer and

1 stopped, laid on the ground, put my hands on
2 my head and were cuffed and taken into
3 custody." Signed John E. Weik.

4 BY MR. BAILEY:

5 Q. Mr. Marshall, after the taped statement
6 and after the handwritten statement, would you state
7 whether or not you had occasion to go to Mr. Weik's
8 home in Moncks Corner?

9 A. I did.

10 Q. Okay. And when did you go to his house?

11 A. The same night of the shooting.

12 Q. All right, sir. And the address that he
13 gave is his home address. And I'm going to hand you
14 State's 67 and ask if that's the address you went to.
15 And read that to the jury.

16 A. Yes. I went to 350 St. Johns Bethel Road
17 which is in Moncks Corner, South Carolina.

18 Q. All right, sir. And was anybody home at
19 his house when you arrived at that address?

20 A. Yes. Myself and Detective Van Doran and
21 another detective with Berkeley County went there.
22 And present at his house was his parents, his mother
23 and father.

24 Q. All right. And what happened when you
25 got in the house? Did you speak with Mr. Weik's

1 parents?

2 A. Yes, we did.

3 Q. And did they allow you to come inside and
4 talk to them?

5 A. They did so.

6 Q. And would you state whether or not you
7 went into Mr. Weik's bedroom.

8 A. Yes. I was allowed to go into the
9 bedroom; the father took me in there.

10 Q. That's his father went with you?

11 A. That's correct.

12 Q. Okay. And what did you observe in the
13 bedroom?

14 A. I observed as I walked in the bedroom,
15 which is a very cluttered-up bedroom over on the
16 right-hand side, as you come in on the wall there was
17 what I call a three gun rack for three rifles to be
18 on there with sort of like a bar that goes over it
19 and there was a gun missing.

20 Q. Okay. When you say there was a gun
21 missing, describe specifically what you saw that lead
22 you -- to lead you to believe that there was a gun
23 missing, there had been a gun there and no longer was
24 a gun.

25 A. When I went in there you could see that

1 the dust was on the other guns, and where this
2 particular gun had been sitting no dust had
3 accumulated underneath it, it had been just -- to me
4 been recently pulled out and had not been there for a
5 while. The rest of it the dust had been knocked
6 off --

7 MR. BEAUFORD: Objection. He hadn't laid
8 any foundation as to his expertise in
9 determining how long something --

10 THE COURT: I think he can testify to it.
11 It's just a matter of common knowledge. I
12 think he can say what he saw, what he saw and
13 what appeared to him. He certainly is not an
14 expert, I agree with that. I think common
15 knowledge he can certainly tell what he saw
16 and how it appeared to him.

17 BY MR. BAILEY:

18 Q. Let me ask you this, maybe I can use that
19 shotgun to kind of demonstrate. There are all kind
20 of different gun racks and gun safes and all that
21 kind of stuff. Was this a gun rack on the wall?

22 A. That's correct.

23 Q. How did the guns -- how were they -- did
24 they go up and down like this, or did they go
25 horizontal?

1 A. They went horizontal.

2 Q. Okay. And the rack was for how many
3 guns?

4 A. Three guns.

5 Q. Okay. How many guns were in the rack?

6 A. Two guns.

7 Q. Okay. And again, with respect to the gun
8 that was in there, would you state whether or not you
9 observed any dust on the gun?

10 A. Where the gun should have been, there was
11 no dust where it would have been sitting on the -- it
12 had like a curved part where the rack sits in there
13 and there was no dust there, but on where you had
14 actually moved to get into it there had been -- that
15 had just been recently moved and like the dust had
16 been knocked off.

17 Q. All right, sir. Was the gun rack opened
18 or closed?

19 A. It was open. It has like a little bar
20 and it was like unlocked, for lack of a better word.

21 Q. Mr. Marshall, please answer any questions
22 the defense might have for you.

23 CROSS-EXAMINATION

24 BY MR. BEAUFORD:

25 Q. Detective Marshall, you couldn't

1 accurately tell how long that gun had been missing
2 from that rack, could you?

3 A. Say that again, please.

4 Q. You could not accurately tell how long
5 that gun was missing from that rack, could you?

6 A. I couldn't accurately tell, no.

7 Q. Could you tell how much dust builds up in
8 that house during the course of a day?

9 A. No, but it appeared to be recent to me.

10 Q. The house was cluttered, there was dust
11 all over the place?

12 A. On that rack, but it appeared to be very
13 clean in one particular spot which would lead me to
14 believe it had been recently removed.

15 Q. Isn't it true that when you entered his
16 room you all went by flashlight?

17 A. No. There was a light on in there, he
18 cut the light on in there.

19 Q. You all didn't go to the room by
20 flashlight?

21 A. No. I don't recall going to the room by
22 flashlight. I remember he cut the light on for me.

23 Q. You could clearly see what was in the
24 room?

25 A. I could clearly see the gun rack and I

1 could clearly see over there where the dust had been
2 on the other guns, and there was no dust on that
3 particular place where that gun was.

4 Q. Detective Marshall, during those
5 interviews you had with Eddie and he started telling
6 you about seeing himself in the monitor and couldn't
7 resist himself, you thought he was crazy, didn't you?

8 A. No, I did not.

9 Q. You thought he was in his right mind with
10 that statement?

11 A. Yes, I did.

12 Q. You think it was normal for people to see
13 themselves from up above, moving to the side and
14 moving in slow motion or things of that nature?

15 A. I attribute it to like people being in an
16 automobile accident, they say things move in slow
17 motion and it seems like it stops, so it's nothing
18 unusual for somebody to say that.

19 Q. Do they see themselves from different
20 levels, up above and on the side?

21 A. Each person describes an incident in a
22 different way. You know, like I said, when you think
23 about it, put it in perspective, you get involved in
24 an automobile accident and you ask somebody what
25 happened and they said it was all moving in slow

1 motion, I can't believe it was happening, it's like I
2 was seeing it happen before my eyes.

3 Q. You didn't think it was strange the way
4 he described in graphic how this event went?

5 A. No. He was just going in detail and
6 telling me exactly what happened.

7 Q. And he told you at that time that he
8 wanted to die?

9 A. At the end he told me that he wanted to
10 die, at the very end of the tape. Not during the
11 taped conversation, no.

12 Q. And isn't it true that you knew that he
13 was supplying you with anything you wanted to hear so
14 that you could pretty much put this case that he can
15 die?

16 A. Run that by me again now.

17 Q. Isn't it true that you knew that he was
18 telling you everything that you need to convict him
19 and to give him the death sentence?

20 A. I would just say that he was telling me
21 the truth on what was happening. I don't know what
22 he was thinking at that particular time.

23 Q. So you believe he was telling you the
24 truth, you believe it was true that someone was
25 talking to him when he went back to the truck?

1 A. I believe that he was telling the truth
2 on the situation on how it went down, and that this
3 is how he described it and this is how he felt at
4 that particular time.

5 Q. So you're saying you believe some of it,
6 but not all of it?

7 A. I'm just saying that I believe that he
8 was going through the details and the scenario the
9 best way that he could describe it to me.

10 Q. So you don't believe the gun was already
11 in the truck when he left the house?

12 A. Based on what I possibly saw there, I
13 think he possibly took it out of the house.

14 Q. Just basically because there was not as
15 much dust on this particular area as the other guns?

16 A. No. There was another incident at the
17 house where the mother relayed something to us.

18 Q. And did you take any picture of this
19 particular area, if it was so important, to determine
20 the recency of when this gun was moved, removed?

21 A. No, I did not take a picture.

22 Q. You did not think that was important?

23 A. I had been asked to come in there. And
24 to go any farther than that would require a search
25 warrant to go into the rest of it.

1 Q. If someone allowed you to do something
2 you wouldn't need a search warrant, would you?

3 A. I don't know that they would allow me to
4 take a picture.

5 Q. Did you ask?

6 A. No, I didn't.

7 Q. You didn't think it was important for the
8 investigation?

9 A. I went ahead and took the courtesy they
10 allowed us, looked in there and saw it.

11 Q. Have you ever had any further studies on
12 the recency of objects being removed or anything from
13 any kind of schooling or anything?

14 A. No. I take it based on my years of
15 experience that if dust is there it takes a while to
16 accumulate, if there's not some there it tells me
17 it's recently possibly been removed.

18 Q. But you're not able to tell us in this
19 court that that gun was removed that day?

20 A. No, sir. I'm not going to say that.

21 Q. You're not saying that, are you?

22 A. I said recently.

23 Q. Okay. At no time when Eddie was around
24 you did he give you any problems of non cooperating,
25 did he?

1 A. No. He was very cooperative. I mean, he
2 was anxious to speak to us.

3 Q. You would view him as a very cooperative
4 person based on that interview?

5 A. Yes. Based on that interview I would say
6 he was cooperating with us.

7 Q. And you have had the opportunity to see
8 Eddie on various occasions, have you?

9 A. Since we've had a couple of hearings,
10 yeah. I wouldn't say that's on -- you know, just
11 one, two, three in the last two days up here so about
12 four times.

13 Q. And while he was in your presence did you
14 ever see him create any problems?

15 A. Not in this courtroom, no.

16 Q. Have you ever seen him create problems
17 anywhere?

18 A. Say again?

19 Q. Have you seen him create problems at any
20 point anywhere?

21 A. He hasn't created any with me, and I have
22 not seen him create any problems in this courtroom.
23 That's where I've seen him the most.

24 Q. He's been very polite?

25 A. He hasn't said anything to me.

1 Q. Detective Marshall, did you inspect the
2 scene in which this thing happened?

3 A. The --

4 Q. The trailer, yes.

5 A. No. I did not go into the trailer.

6 Q. Did you ever go to the trailer?

7 A. I stopped on the outside of the trailer
8 and coordinated some of the efforts of getting the
9 other detectives to assist me in the interviewing of
10 witnesses and then got the witnesses out of the area.

11 MR. BEAUFORD: No further questions, Your
12 Honor.

13 MR. BAILEY: A couple more, Your Honor,
14 just on redirect.

15 REDIRECT EXAMINATION

16 BY MR. BAILEY:

17 Q. Mr. Marshall, as a law enforcement
18 officer you're familiar with firearms?

19 A. Yes, sir.

20 Q. Familiar with shotguns?

21 A. Yes, sir.

22 Q. Do you know why they call buckshot,
23 buckshot?

24 A. That is the actual shot we use to go --
25 actually for deer hunting, buckshot for deer hunting.

1 Q. Do you know when deer season ends in
2 South Carolina?

3 A. It ends January the 1st.

4 Q. Okay. So how long had deer season been
5 over on April 30th of 1998?

6 A. About four months.

7 Q. All right, sir. Thank you, sir. That's
8 all I have.

9 RECROSS-EXAMINATION

10 BY MR. BEAUFORD:

11 Q. He also told you that he likes to fish
12 and hunt, didn't he?

13 A. Yeah. I think that's what was said in
14 there, if I remember correctly, without going and
15 looking right over it.

16 Q. He told you he kept the buckshot for
17 snakes?

18 A. That's -- yes. I remember that in there,
19 yes.

20 Q. Okay. No further questions.

21 THE COURT: All right. Thank you, sir.

22 You may step down.

23 MR. BAILEY: Your Honor, can we approach
24 briefly?

25 THE COURT: Yes, sir.

1 (Whereupon, a bench conference was held
2 off the record in the presence of the
3 jury but out of the hearing of the
4 jury.)

5 THE COURT: Ladies and gentlemen, I
6 understand -- I'm not going to hold him to
7 it -- one more witness for the State. Let's
8 take ten minutes, come back and finish that.
9 I know it's a long day, but listen, you don't
10 know what we've done in one day. You can't
11 imagine what we've done in one day. Let's do
12 it. Let's get it done. Give us ten minutes.

13 (Jury excused.)

14 THE COURT: Before anyone leaves the
15 courtroom let me say this: My understanding
16 from the solicitor is he may call a witness,
17 the son of the defendant. I don't want
18 anybody in the courtroom to distract this
19 witness in any way. If I see any movement
20 from anybody, head shaking or anything like
21 that, you're out of here, you're not coming
22 back.

23 (Recess taken.)

24 THE COURT: All right. If you all are
25 ready, bring the jury, please.

1 (Jury present.)

2 THE COURT: Solicitor.

3 MR. BAILEY: State calls Daniel Krasae.

4 THE CLERK: Hi. Put your left hand on
5 the Bible, raise your right hand.

6 (Daniel Krasae, called as a witness by
7 the State, having first been duly sworn,
8 was examined and testified as follows:)

9 THE CLERK: Have a seat right up here.

10 Can you tell us your full name?

11 THE WITNESS: Daniel Wade Krasae.

12 DIRECT EXAMINATION

13 BY MR. BAILEY:

14 Q. Okay. Daniel, how are you doing?

15 A. Fine.

16 Q. Are you tired after being here all day?

17 A. Yeah.

18 Q. Daniel, tell the jury, please, how old
19 you are.

20 A. I'm ten years old.

21 Q. Where do you live now?

22 A. I live in Kansas.

23 Q. Okay. What town or city in Kansas do you
24 live in?

25 A. Kansas City.

- 1 Q. Okay. Who do you live with?
- 2 A. I live with my Aunt Debbie Uncle Russ.
- 3 Q. Okay. Are they here in court sitting
- 4 behind us?
- 5 A. Yes, they are.
- 6 Q. How long have you lived with your Aunt
- 7 Debbie?
- 8 A. I've lived with them about a year.
- 9 Q. Okay. And you go to school in Kansas?
- 10 A. Yes, sir.
- 11 Q. What grade are you in?
- 12 A. I'm in fourth.
- 13 Q. Okay. And you're finishing up fourth
- 14 grade so you'll be in the fifth grade next year?
- 15 A. Yes, sir.
- 16 Q. What kind of grades do you make in
- 17 school?
- 18 A. I make about A through C's.
- 19 Q. A's and C's. What do you like best in
- 20 school?
- 21 A. Spelling.
- 22 Q. Are you a good speller?
- 23 A. Uh-huh (affirmative response).
- 24 Q. Daniel, you know what it means to tell
- 25 truth, don't you?

1 A. Yes, sir.

2 Q. You know what it means to tell a lie?

3 A. Yes, sir.

4 Q. You know it's wrong to tell a lie, don't
5 you?

6 A. Yes, sir.

7 Q. And this lady here gave you an oath to
8 tell the truth and you know what that means that you
9 swear to tell the truth the best you remember it; is
10 that right?

11 A. Yes, sir.

12 Q. And if I ask you some questions here are
13 you ready to go ahead and give me truthful answers
14 the best you can remember?

15 A. Yes, sir.

16 Q. Or if somebody else asks you questions
17 are you ready to testify truthfully?

18 A. Yes, sir.

19 Q. Okay. Daniel, your father is Eddie Weik;
20 is that right?

21 A. Yes, sir.

22 Q. And your mother was Susan?

23 A. Yes, sir.

24 Q. Is that right?

25 A. (Nonverbal affirmative response.)

1 Q. And back before all this happened a
2 little over a year ago you lived with your mother in
3 Summerville, didn't you?

4 A. Uh-huh (affirmative response).

5 Q. You got a sister?

6 A. Yes, sir.

7 Q. What's her name?

8 A. Amber, I don't know her middle name, but
9 Krasae.

10 Q. Okay. And you are a little bit older
11 than her?

12 A. Yes, sir.

13 Q. About how much older are you than Amber?

14 A. By two years.

15 Q. And back before April last year, who else
16 lived at the trailer with you and Amber and your
17 mother?

18 A. John.

19 Q. Okay. What was John's last name?

20 A. Thompson.

21 Q. Was John Thompson your mother's
22 boyfriend?

23 A. Yes, sir.

24 Q. Is he here in the court?

25 A. Also, yes, sir.

1 Q. Okay. Where is he sitting?

2 A. He's sitting right beside my Uncle Russ.

3 Q. Okay. And he's sitting beside the deputy
4 here on the corner there?

5 A. Yes.

6 Q. And John Thompson was your mother's
7 boyfriend; is that right?

8 A. Yes, sir.

9 Q. And about how long were they seeing each
10 other, do you know?

11 A. For about two years, sir.

12 Q. Okay. And could you tell us how you got
13 along with John?

14 A. Yes. We got along pretty well.

15 Q. Okay. And did you ever get mad with him?

16 A. Sometimes, sir.

17 Q. Okay.

18 A. But not severely.

19 Q. Okay. And how did he treat you when he
20 was at the house?

21 A. He treated me well.

22 Q. He treated you well. Did you like him?

23 A. Yes, sir.

24 Q. Still like him?

25 A. Yes, sir.

1 Q. Okay. And where did you go to school
2 when you lived here?

3 A. Knightsville Elementary School.

4 Q. Okay. Last year you would have been in
5 the third grade here?

6 A. Yes, sir.

7 Q. How were you doing in school?

8 A. I was doing pretty well. I got straight
9 A's.

10 Q. Straight A's is real well. Did you have
11 any problems at school with, you know, other kids
12 picking at you, anything like that, anything serious?

13 A. No, sir.

14 Q. Okay. Now, how often back then did you
15 see your father?

16 A. Usually once or twice -- once every
17 weekend.

18 Q. Okay. You saw him every weekend. And
19 what kind of things did you all do together?

20 A. We usually just hang out at his place.

21 Q. Okay. And did you ever tell your father
22 that John Thompson was mean to you or you were having
23 problems in school or anything like that?

24 A. No, sir.

25 Q. Okay. Did you always see your father on

1 weekends?

2 A. No, sir. After a while my mom started --
3 we saw him every two weeks -- every -- one weekend
4 first I would see him then I would see my mom.

5 Q. How old were you when you first started
6 seeing your father?

7 A. I was about eight, sir.

8 Q. About eight. Before that did you even
9 know him?

10 A. I knew he was there but I didn't know his
11 real name, sir.

12 Q. Okay. And during March and April before
13 this happened, did you go to visit with your father
14 at his house in Moncks Corner?

15 A. Yes, sir.

16 Q. Okay. And what would you all do when you
17 would visit with him?

18 A. We usually hanged out like I did with
19 John.

20 Q. Okay. Did you ever go into his room?

21 A. Yes, sir.

22 Q. Okay. And did you ever see any guns in
23 his room?

24 A. Oh, yes, sir.

25 Q. Where did he keep his guns?

1 A. Usually on the pegs and sometimes by his
2 closet.

3 Q. Usually on the what?

4 A. On his dresser closet.

5 Q. Okay. Do you know what kind of guns they
6 were?

7 A. I think two were shotguns, sir. And what
8 type of rifle I do not know what it was, sir.

9 Q. Okay. Daniel, have you ever seen this
10 gun?

11 A. Yes, sir.

12 Q. All right. Where did you see it?

13 A. I usually saw it on the pegs, sir.

14 Q. On the pegs. That's in like the gun
15 rack?

16 A. Uh-huh, sir.

17 Q. Was that in your father's bedroom?

18 A. Yes, sir.

19 Q. That was when? I don't recall -- I don't
20 want you to give me an exact date, but about when was
21 it you saw that gun in your father's bedroom?

22 A. About March and April, sir.

23 Q. Okay. You're sure it was that gun?

24 A. Yes, sir.

25 Q. You're positive?

1 A. I'm absolutely sure, sir.

2 Q. I understand. Daniel, I want to ask you
3 what happened back on April 30th last year, okay?
4 Were you at home?

5 A. Yes, sir.

6 Q. Let's just take it from the time you got
7 home from school, you and Amber got home from school.
8 Was anybody else at the house?

9 A. No, sir.

10 Q. Okay. What did you and Amber do when you
11 got home from school?

12 A. We were doing our homework and watching
13 TV, sir.

14 Q. Okay. And did the phone ring?

15 A. Yes, sir.

16 Q. Okay. And who was on the phone when you
17 answered it?

18 A. My father, sir.

19 Q. And how do you know it was your father?

20 A. I could tell from his voice.

21 Q. Okay. And do you remember everything
22 that was said on the telephone between you and your
23 father?

24 A. No, sir.

25 Q. Do you remember any of it?

1 A. Yes, sir.

2 Q. Okay. Would you tell the jury, please,
3 the best you can remember, I know it's been over a
4 year, you know, what your father said to you on the
5 phone and what you said to him.

6 A. I was telling him about whenever I took
7 the field trip that day at GATE, so after that he --
8 after a few -- we were talking, after a while he got
9 up, pried up something that about I liked John, and I
10 said a little bit.

11 Q. Why did you tell him you liked John a
12 little bit?

13 A. Because I had just started -- me and him
14 were getting along and everything and --

15 Q. When you say "me and him," you mean you
16 and your dad?

17 A. Yeah. And me and John, and we hung out
18 by ourselves sometimes. And I said a little bit,
19 because John was in our house and I liked him, I
20 didn't absolutely hate him.

21 Q. Okay. Now, was John in the house when
22 your father called, or was just you and Amber there?

23 A. It was just me and Amber, sir.

24 Q. So after your father asked you about
25 John, you said you liked him a little bit. What was

1 said next?

2 A. He said, "Well, I'm not going to be your
3 father anymore," sir.

4 Q. Your father said, "I'm not going to be
5 your father anymore"?

6 A. Yes, sir.

7 Q. And was anything else said that you can
8 remember?

9 A. No, sir. He hung up.

10 Q. He hung the phone up?

11 A. Uh-huh (affirmative response).

12 Q. Okay. And how did you feel after your
13 father told you he wasn't going to be your father
14 anymore and hung the phone up?

15 A. I just hung up, too. I started crying a
16 little bit, but I picked myself up. Then I just
17 waited until my mom came home, sir.

18 Q. Okay. And when your mom came home from
19 work, did you tell her that you had talked to your
20 father on the phone?

21 A. Yes, sir.

22 Q. And what did you tell her about the phone
23 conversation?

24 A. I told her that he wasn't going to be my
25 dad anymore.

1 Q. Okay. And don't tell me what your mother
2 said, but how did she react to that when you told her
3 that?

4 A. She was just mad at him, I think
5 disappointed.

6 Q. Okay. All right. After you told your
7 mother that, what happened next?

8 A. She went over to my grandpa's for some
9 reason, sir.

10 Q. Okay. When she went over to your
11 grandfather's, what did you and Amber do?

12 A. We just stayed home.

13 Q. What happened next, Daniel?

14 A. My mom came home, sir, and I saw my dad
15 pull up in the driveway, sir.

16 Q. Okay. And what kind of a car or truck
17 was he driving?

18 A. He was driving a Ford pickup truck, sir.

19 Q. When he pulled up in the pickup truck,
20 where were you and Amber?

21 A. We were still in the house, sir.

22 Q. Was your mom still next door at your
23 grandfather's house?

24 A. No, sir.

25 Q. Where was she?

1 A. She was about coming up the steps I
2 think, sir.

3 Q. Okay. And what's the next thing that you
4 remember, Daniel?

5 A. I remember I just went into the bathroom
6 because I didn't want to see my dad, sir.

7 Q. Why didn't you want to see your dad?

8 A. Because I was ashamed of him for just
9 telling me like that he wasn't going to be my father,
10 sir.

11 Q. Okay. Which bathroom did you go into,
12 Daniel?

13 A. I went in the one by my sister's room,
14 sir.

15 Q. Okay. And when you went in the bathroom,
16 did you shut the door?

17 A. Yes, sir.

18 Q. Okay. And what's the next thing that you
19 remember, Daniel?

20 A. I remember after a while I heard some
21 muffling argument.

22 Q. Okay. And could you tell who it was that
23 was arguing?

24 A. I know it was my mom and dad, sir.

25 Q. Do you know about how long the arguing

1 went on?

2 A. No, sir.

3 Q. What did you hear next?

4 A. Nothing else, sir.

5 Q. What is it that caused you to come out of
6 the bathroom?

7 A. Because I thought they were over, sir.

8 Q. Okay. You didn't hear anything when you
9 were in the bathroom?

10 A. No, sir.

11 Q. Did you hear gunshots at any point?

12 A. Yes, sir.

13 Q. Okay. When was that, Danny?

14 A. After I looked out to see if my dad was
15 gone.

16 Q. Okay. So you heard arguing, the arguing
17 stopped and you looked out?

18 A. Yes, sir.

19 Q. What did you see when you looked out?

20 A. I saw my dad coming with his shotgun.

21 Q. Okay. And that shotgun I showed you a
22 few minutes ago, was it the same shotgun?

23 A. Yes, sir.

24 Q. Okay. And you know where Amber was then?

25 A. I think, sir. I think she was in my

1 mom's bathroom, sir.

2 Q. Your mom's bathroom. That's on the other
3 end of the trailer?

4 A. Yes, sir.

5 Q. Where was your mom?

6 A. She was in the living room, I think.

7 Q. When you saw your father come back in
8 with the gun, Daniel, what did you do?

9 A. I just shut the bathroom door, I locked
10 it, and I went over to the seat, sir.

11 Q. And did you hear anything after that?

12 A. Yes. I don't know how many gunshots,
13 sir, but I heard gunshots.

14 Q. Okay. Daniel, that's all I have. These
15 other lawyers, they may have some questions to ask
16 you. Okay?

17 A. Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. BEAUFORD:

20 Q. How are you doing today, Daniel?

21 A. Fine, sir.

22 Q. You came a long way.

23 A. Yes, sir.

24 Q. What is it like in Kansas City?

25 A. It's fine, sir.

1 Q. Fine. What's the weather like?

2 A. It's pretty good, sir.

3 Q. You remember when you were here and going
4 to different spelling bees when you were here?

5 A. Yes, sir.

6 Q. You did well in the spelling bee, didn't
7 you?

8 A. Yes, sir.

9 Q. Do you remember the spelling bee in which
10 your father came and videoed your spelling bee for
11 you?

12 A. Yes, sir.

13 Q. Do you remember your father being your
14 cub master in Cub Scouts?

15 A. No, sir.

16 Q. Were you in the Boy Scout at one point in
17 time?

18 A. No, sir. I was in Cub Scouts for a
19 while, sir, but I didn't know my dad then.

20 Q. You don't remember him being one of your
21 cub master at the time, Daniel?

22 A. No, sir.

23 Q. Do you remember the boating accident you
24 all had?

25 A. Yes, sir.

1 Q. And you remember you also all wanted to
2 keep your secret?

3 A. Yes, sir.

4 Q. It was like Gilligan's Island, I guess,
5 that's how you all described it?

6 A. Yes, sir.

7 Q. Do you remember you all going down to
8 Florida together?

9 MR. BAILEY: Your Honor, I want to object
10 at this point. I don't see the relevance of
11 it at this portion, at this stage, Judge.

12 THE COURT: Where are you going with it?

13 MR. BEAUFORD: If we can approach.

14 (Whereupon, a bench conference was held
15 off the record in the presence of the
16 jury but out of the hearing of the
17 jury.)

18 BY MR. BEAUFORD:

19 Q. Daniel, do you remember the trip you all
20 had down in Florida?

21 A. Yes, sir.

22 Q. You had fun there, too?

23 A. Yes, sir.

24 Q. Daniel, did you have some problem at
25 school with a little boy tearing your clothes up at

1 school, a jacket?

2 A. No, sir.

3 Q. You never had the occasion to go to the
4 office and talk to Ms. Spolane to try to straighten
5 that matter out?

6 A. Oh, yes, sir. Now I remember, sir. Yes,
7 sir. Two kids were bothering me but they didn't
8 bother me a lot, sir.

9 Q. Your dad called you constantly to find
10 out whether that matter was worked out? Talked
11 several times, not constantly. I apologize.

12 A. I don't remember that much.

13 Q. Okay.

14 A. I don't think so though.

15 Q. Daniel, when you testified earlier, is
16 that all that you heard and you saw on April 30th?

17 A. Yes, sir.

18 Q. How long were you in the bathroom when
19 you first went in the bathroom?

20 A. I have no idea, sir.

21 Q. Okay. Did you hear any particular things
22 that they were saying during the argument?

23 A. No, sir. Except for the gunshots, sir.

24 Q. Okay.

25 MR. BEAUFORD: No further questions, Your

1 Honor.

2 THE COURT: Anything else?

3 MR. BAILEY: No, sir.

4 THE COURT: Thank you, sir. You may step
5 down and be excused, Daniel. Thank you, sir.

6 MR. BAILEY: Your Honor, indulge me one
7 second, please.

8 THE COURT: Yes, sir.

9 (Pause in proceedings.)

10 MR. BAILEY: Your Honor, I'm ready to
11 rest. I just want to make sure -- to check
12 with the court reporter to make sure I have
13 nothing marked for identification not in
14 evidence.

15 THE COURT: I have on my list everything
16 in evidence. I don't know of anything that
17 you have marked for identification not in
18 evidence. The court reporter nods and I'm
19 satisfied that's correct.

20 MR. BAILEY: Thank you, sir. The State
21 rests.

22 THE COURT: Ladies and gentlemen, you've
23 heard all the evidence you're going to hear
24 from the State at this point. The State rests
25 its case.

1 It's 6:30, been a long, long day for
2 you all I know, and I'm going to let you go
3 get something to eat, do whatever you need to
4 do for the night.

5 We've got some other work we need to
6 do, a little bit more, then we'll come back
7 tomorrow morning at nine o'clock. Nine
8 o'clock tomorrow morning if that's
9 satisfactory with everyone.

10 MR. BAILEY: Yes, Your Honor.

11 MR. BEAUFORD: Yes, Your Honor.

12 THE COURT: Let's do that and be here at
13 nine o'clock. They'll see to it that you're
14 here, we'll begin again, move along.

15 Please, ladies and gentlemen, I know
16 I'm not talking to children, don't discuss
17 this matter. I know that these agents are not
18 going to let anyone talk to you and so forth.
19 I intend to ask you every morning, I don't
20 know how long this trial will last, but I'm
21 going to ask every morning whether or not
22 anyone has contacted you or attempted to
23 contact you, whether or not there's been any
24 violation of any order. And I'll ask each one
25 of you, so please bear in mind that that will

1 occur first thing in the morning.

2 All right. You all have a good
3 afternoon, and thank you very much for your
4 hard work today.

5 (Jury excused.)

6 THE COURT: Just the jury. Everyone else
7 stay where you are.

8 Anything else before I release the
9 jury from the State or defendant?

10 MR. BAILEY: Nothing, Your Honor.

11 MR. BEAUFORD: Not for the jury, Your
12 Honor.

13 THE COURT: All right. Motions for
14 directed verdict at this time.

15 MR. BEAUFORD: Your Honor, I would ask
16 the Court to make the motions tomorrow at
17 8:45, 15 minutes.

18 THE COURT: I got a hearing tomorrow
19 morning already scheduled at 8:30. How long
20 will it take you to move for directed
21 verdict --

22 MR. BEAUFORD: On --

23 THE COURT: -- three minutes? You want
24 ten minutes? I'll give you ten minutes to do
25 it if you think there's something you need to

1 go over.

2 MR. BEAUFORD: Yes, Your Honor.

3 THE COURT: I don't mind giving you time
4 to think through the evidence to do it, but I
5 don't think there's any reason for us to beat
6 around the bush on this business at this
7 point, it doesn't seem like.

8 Now, when one comes along that I
9 feel like you need some time, I'm certainly
10 willing to give you all the time you request.
11 But it looks to me like at this point in time
12 it's just a motion for directed verdict that
13 you would make at any trial.

14 I don't know what you could -- I
15 don't know what you need to do other than make
16 the motion, but if you want some time to
17 consider it before you do, I don't mind, let's
18 take a break. We'll wait here for however
19 long you think you need.

20 MR. BEAUFORD: Your Honor, could you just
21 give me 15 minutes?

22 THE COURT: I'll do that. I'll be glad
23 to do that, give you 15 minutes before you
24 leave here. I want to rule today because I
25 want to know where we're doing tomorrow,

1 that's the main thing. I want to know what
2 we're going to do tomorrow.

3 MR. BEAUFORD: Thank you.

4 THE COURT: Fifteen minutes.

5 (Recess taken.)

6 THE COURT: All right, sir. State has
7 now rested and I'll entertain motions from the
8 defendant.

9 MR. BEAUFORD: Yes, Your Honor. At this
10 time we move for a directed verdict on the
11 charge of murder. Looking at the evidence
12 most favorable in the light for the State, the
13 evidence suggests in the State's evidence that
14 he had no ill feeling toward the victim, that
15 he actually loved the victim.

16 We feel that this was a matter of a
17 heat of a passion situation, there's no
18 malice, the State had not proven the elements
19 of murder which include malice. We feel that
20 the directed verdict's proper in the crime of
21 murder.

22 THE COURT: Thank you, sir. Taking the
23 evidence in the light most favorable to the
24 non moving party, the State is the one that's
25 not making the motion, I have to take it in

1 favor of the State at this point.

2 The evidence, of course, is --
3 without any argument is that this defendant
4 took a shotgun and shot his wife, girlfriend,
5 four times with it, that he shot her in the
6 arm first, so according to his statement --
7 and the law is very clear that the use of a
8 deadly weapon is evidence of malice. Malice
9 may be inferred from the use of a deadly
10 weapon.

11 And so I would respectfully deny the
12 motion for directed verdict of murder. I
13 think the only evidence in the case suggests
14 that it's murder and nothing else.

15 What I've considered, what I've
16 thought about in listening to the evidence is
17 that there may be some lesser included
18 offense, but there is none. Manslaughter
19 obviously would be the lesser included offense
20 if there was some heat of passion situation,
21 and I realize that your argument is that there
22 was, there was an argument in which she said
23 you're not going to see the child again and so
24 forth, not ever again, in the sudden heat of
25 passion this defendant without any cooling off

1 period pulls a weapon out of his truck and
2 shoots his girlfriend.

3 The problem with that argument is,
4 you hadn't even made it yet, but the problem
5 with that argument is that there's no -- that
6 the killing cannot be reduced from murder to
7 manslaughter just because it's done in a
8 sudden heat of passion, it has to be upon
9 sufficient legal provocation. And I haven't
10 heard one word of sufficient legal
11 provocation.

12 The law is very clear that words
13 alone, even profanity, even the most obscene
14 kind of language does not reduce murder to
15 manslaughter. That's not sufficient legal
16 provocation, and so at least at this point --
17 we may hear something and I may rule
18 otherwise, but at this point I haven't heard
19 anything in regards to manslaughter. But I
20 would respectfully deny it as to murder.

21 What about your other charge?

22 MR. BEAUFORD: Burglary.

23 THE COURT: Burglary, charge of burglary?

24 MR. BEAUFORD: Yes, Your Honor. Looking
25 at the evidence most favorable of a non moving

1 party we have a situation where this is a
2 place that the defendant had always went to
3 visit his son or to take visitation. It's
4 also a situation where he never left. I mean,
5 there's evidence that he never left the
6 premises. I mean, at most this is trespass
7 after notice, but he never left the premises
8 so, therefore, we feel it's not a burglary.

9 THE COURT: All right, sir. I'm going to
10 respectfully deny that motion as well because
11 if it's his house that's one thing, but if the
12 house belongs to someone else, and it clearly
13 did, he was not living there, the mother of
14 his son was living there along with another
15 man and two children. And there's no
16 suggestion that he was living in the house at
17 the time. It would be different if it was his
18 house, but it wasn't his house, it was someone
19 else's.

20 Obviously burglary, the definition
21 is simply the entry, the entry doesn't even
22 have to be a break-in, just the entry into a
23 dwelling even through an open door. The door
24 was shut, all the evidence was the door was
25 shut. He said he opened the door and he said

1 kicked it in, so there's entry into a
2 dwelling -- isn't any question it's a
3 dwelling, it's the place they live -- with the
4 intent to commit a crime therein.

5 And obviously I have to infer from
6 the circumstances that one who goes into a
7 home with a gun intends to commit some crime
8 therein. In fact, that's what he says he did.
9 And so based on that I would have to deny the
10 motion as to burglary, and burglary in the
11 first degree, because of the fact that while
12 he was entering or while therein he either
13 harmed someone or had possession of a gun, he
14 did both, and so I think I would have to deny
15 the motion for directed verdict on the
16 burglary first degree.

17 MR. BEAUFORD: Thank you, Your Honor.

18 THE COURT: All right, sir. Thank you.
19 Let me ask you all this, and I'm not going to
20 hold you, Mr. Beauford, to this. I mean, I
21 know that you all have to consider what you're
22 going to do. But can you, or would you mind,
23 give me some indication of where you all are
24 going tomorrow? Are you intending to put a
25 defense up, is he intending to testify at this

1 point in your case, your client? And if he
2 is, that's fine, I need to talk to him about
3 that. If he is not, I still need to talk to
4 him about it. And I would like to do that if
5 I could today, but I can -- if you all don't
6 know yet, if you hadn't decided yet, I don't
7 mind waiting until in the morning. If you
8 know he is, I might as well do it now.

9 MR. BEAUFORD: Your Honor, we know he is.

10 THE COURT: He is going to testify?

11 MR. BEAUFORD: Yes, Your Honor.

12 THE COURT: Mr. Weik, you understand,
13 sir, that when you testify, you certainly have
14 the right to do that, when you do you're
15 subject to cross-examination like every other
16 witness?

17 MR. WEIK: Yes, sir.

18 THE COURT: The solicitor, of course,
19 would ask you questions and so forth.

20 MR. WEIK: Yes, sir.

21 THE COURT: And you basically put
22 yourself in -- your character into issue when
23 you testify.

24 MR. WEIK: All right, sir.

25 THE COURT: Certainly that's your right

1 to do. And if you choose not to testify then,
2 of course, I would tell the jury they could
3 not hold that against you, they couldn't even
4 discuss it. But it's certainly your decision
5 to testify and if you're going to, that's not
6 a problem at all.

7 Let me ask you this: Will there be
8 a good many other witnesses, or do you know?

9 MR. BEAUFORD: No, Your Honor.

10 THE COURT: All right. We can take this
11 up again tomorrow, but I want to at this
12 time -- and I know you all have probably
13 already talked to him, but he has the right,
14 as you all know, to make argument along with
15 you all, last argument, in the guilt phase of
16 this trial. If he wants to make one, he
17 certainly is entitled to do so, make the last
18 argument.

19 And I want him to tell me, and I'll
20 talk to him about it again tomorrow, you may
21 not want to suggest that now. Am I wrong on
22 that, Solicitor?

23 MR. BAILEY: No, sir, Your Honor. The
24 reason I stood up was I was a little bit
25 confused. I thought you'd ask Mr. Beauford if

1 there would be any other witnesses besides
2 Mr. Weik and he indicated there would not.

3 MR. BEAUFORD: No, I didn't. There will
4 be other witnesses.

5 MR. BAILEY: Okay. I'm sorry.

6 THE COURT: He just said not many, as I
7 understand.

8 MR. BAILEY: Okay. I'm sorry. I
9 misunderstood.

10 THE COURT: Not much is I think what you
11 said.

12 MR. BEAUFORD: Not many.

13 THE COURT: Not many. And I'm not going
14 to ask you to tell me who they are or anything
15 else. I just wanted some idea of where we
16 were going with the thing, that's all. Do you
17 all think that we're going to finish your case
18 tomorrow?

19 MR. BEAUFORD: Oh, yes, Your Honor.

20 THE COURT: In the morning probably?

21 MR. BEAUFORD: By lunch.

22 THE COURT: By lunch. All right, sir.
23 Well, at least we kind of know where we're
24 headed. All right. Then we'll adjourn until
25 in the morning at nine o'clock. Nine o'clock.

STATE OF SOUTH CAROLINA)

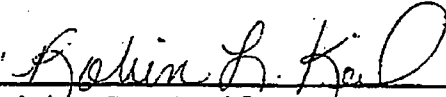
CERTIFICATE
COUNTY OF DORCHESTER)

I, Robin L. Keil, Registered Merit Reporter and First Judicial Circuit Court Reporter, certify that the preceding pages are a true and correct transcript of the proceedings had at the aforesaid time and place.

I certify that the same was reduced to typewritten form from my original stenograph notes by computer-aided transcription.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand this the 8th day of December 2000.


Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) CASE NOS. 98-GS-18-749, 750

STATE OF SOUTH CAROLINA,) VOLUME VII
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) May 27, 1999
JOHN EDWARD WEIK,) St. George, South Carolina
Defendant.)

B E F O R E:

The Honorable M. Duane Shuler, Judge; and a Jury

A P P E A R A N C E S:

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Robert D. Robbins, Esquire
B. Harrison Bell, Jr., Esquire
Maité Murphy, Esquire
Darlene Simmons

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECRO</u>
ABRAHAM N. RODRIGUEZ, JR.				
Mr. Beauford.....	1587			
LILLY WEIK				
Mr. Beauford.....	1589			
Mr. Bailey.....	1629			
JOHN E. WEIK				
Mr. Beauford.....	1634			
Mr. Bailey.....	1659			
SHERIFF RAY NASH				
The Court.....	1795			

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C-01	Affidavits of Attempted Service.....	1796	
	Closing Argument by Mr. Bailey.....	1737	
	Closing Argument by Mr. Beauford.....	1754	
	Jury Charge.....	176	
	Verdict of the Jury.....	1785	

1 (May 27, 1999.)

2 THE COURT: All right. If you all are
3 ready for the jury then, bring them on.

4 (Jury present.)

5 THE COURT: Ladies and gentlemen, I trust
6 you all had a pretty good night's sleep. I
7 was just about to sleep last night and the
8 phone rang in my room and Ms. Barclay, your
9 husband was looking for you.

10 MS. BARCLAY: He was?

11 THE COURT: And I told him that you
12 weren't in my room.

13 MS. BARCLAY: Thank you.

14 THE COURT: I don't know how he got my
15 number. But he did not -- I think he called
16 the front desk and they obviously didn't know,
17 I don't know why, but anyway, I talked to him
18 and he said that he had just wanted me to let
19 you know that he had called. And I explained
20 to him what you were doing and so forth and
21 that you could call him and so forth. And he,
22 of course, was traveling as you indicated
23 yesterday, he had gotten a message from your
24 daughter and so forth. But we had a good
25 conversation, we had a lot of fun for those

1 few minutes. But he just wanted me to let you
2 know he had called, wanted to check and se(
3 I told him that you all were in your own
4 rooms, I could assure him of that, the SLED
5 agents were there and so forth.

6 MS. BARCLAY: Thank you.

7 THE COURT: His mind was -- he wasn't
8 worried to begin with, but I told him I would
9 let you know this morning first thing.

10 MS. BARCLAY: Thank you.

11 THE COURT: All right.

12 All right, sir.

13 MR. BEAUFORD: Yes.

14 THE COURT: Call your witness.

15 MR. BEAUFORD: Abraham Rodriguez.

16 THE CLERK: Come stand right here,
17 please, raise your right hand, place your left
18 hand on the Bible.

19 (Abraham N. Rodriguez, Jr., called as a
20 witness by the Defendant, having first
21 been duly sworn, was examined and
22 testified as follows:)

23 THE CLERK: Come around and have a seat.
24 Give us your full name and spell your last
25 name.

1 THE WITNESS: My name is Abraham Nelson
2 Rodriguez, Jr., R-o-d-r-i-g-u-e-z.

3 DIRECT EXAMINATION

4 BY MR. BEAUFORD:

5 Q. Mr. Rodriguez, where do you live?

6 A. I live in Ladson.

7 Q. How long have you lived in Ladson?

8 A. Going on eight years.

9 Q. Where do you work?

10 A. I work with Broyhill Industries.

11 Q. How long you have you worked at Broyhill?

12 A. Seven and a half, going on eight years.

13 Q. Do you know John Edward Weik?

14 A. Yes, I do.

15 Q. How do you know John?

16 A. Through the job.

17 Q. And how long have you known him now?

18 A. Going on seven and a half, eight years.

19 Q. And while working with Eddie, did you
20 have the occasion to talk?

21 A. Yes, we have.

22 Q. Did you have the occasion to talk about
23 his relationship with his son, Daniel?

24 A. Yes. Yes, we have.

25 Q. And what kind of conversation would that

1 be?

2 A. Good conversations. He -- at one time we
3 were sitting in the guard shack and he was studying a
4 book on Cub Scouting, he joined the Cub Scouts with
5 his son, talked very highly about his son.

6 Q. Did he talk about any of his feelings
7 about his son?

8 A. Excuse me?

9 Q. Did he talk about any of his feelings
10 with his son?

11 A. Oh, he loves him very much. He'd gloat
12 every time he talked about him. He shared it with
13 everybody in the plant how much he loved his son. (

14 Q. No further questions.

15 MR. BAILEY: No questions, Your Honor.

16 THE COURT: Thank you, sir. You may
17 stand down and be excused. Thank you.

18 MR. BEAUFORD: Call Mrs. Lilly Weik.

19 THE CLERK: Place your left hand on the
20 Bible, raise your right.

21 (Lilly Weik, called as a witness by the
22 Defendant, having first been duly sworn,
23 was examined and testified as follows:)

24 THE CLERK: Would you give us your full
25 name, please?

1 THE WITNESS: My name is Lilly Weik,
2 W-e-i-k.

3 DIRECT EXAMINATION

4 BY MR. BEAUFORD:

5 Q. Ms. Weik, where do you live?

6 A. 350 St. Johns Bethel Road in Moncks
7 Corner.

8 Q. Who lives with you at that address?

9 A. My husband; up until Susan's death,
10 Eddie.

11 Q. How many children do you have?

12 A. I have seven children.

13 Q. You said, "Susan." Did you know Susan?

14 A. Yes, I did.

15 Q. How did you come to know Susan?

16 A. Well, Eddie started dating Susan, and
17 shortly after he started dating Susan, Daniel was
18 conceived. And I was the one that went with her to
19 the hospital to see if she was going to have a boy or
20 girl because she come and got me.

21 Q. Okay. And how long did that relationship
22 last?

23 A. With, you mean, Eddie and Susan?

24 Q. Eddie and Susan.

25 A. Well, after the baby was born Susan got

1 rid of him, didn't want him.

2 MR. BAILEY: I object to that
3 characterization.

4 THE WITNESS: She didn't want to have
5 nothing to do with him.

6 MR. BAILEY: I object.

7 THE COURT: I sustain.

8 MR. BAILEY: Can we approach the bench?

9 THE COURT: Yes, sir.

10 (Whereupon, a bench conference was held
11 off the record in the presence of the
12 jury but out of the hearing of the
13 jury.)

14 THE COURT: Ladies and gentlemen, let me
15 ask you to step to the jury room just a
16 moment. Sorry to have to ask you to do that
17 right off, but I didn't have to yesterday, so
18 just give me a minute or two.

19 (Jury excused.)

20 THE COURT: I want you to -- I allowed
21 the jury to go out so that you can proffer
22 whatever evidence you have. And I certainly
23 don't want to cut the defendant off from any
24 kind of a defense that you might have. I
25 wouldn't think of it. But I'm not sure that

1. you're heading in the right direction in this
2 sense:

3 What I've been concerned about from
4 the first is that you -- when you stood the
5 first day and said guilty but mentally ill,
6 and then later on you said we changed it to
7 guilty, or you changed it to not guilty and
8 that you were going to put into the record
9 evidence of his mental illness, as I
10 understood it at the time.

11 But the problem that I've got is
12 there is a defense to murder which is
13 insanity. But guilty but mentally ill or not
14 guilty but mentally ill is not a defense to
15 murder. It certainly is evidence which the
16 jury would consider in any sentencing phase,
17 but I don't believe that there is -- that the
18 fact that someone is mentally ill, snaps, has
19 a problem ahead of time with a person, is a
20 defense in and of itself.

21 It's certainly mitigating, it's
22 evidence that makes less culpable his act,
23 which I think more properly comes at the
24 sentencing phase, but I don't really believe
25 that the fact that -- and again, I'm not

1 trying to cut you off, because I don't know
2 exactly where you're going, maybe you shou(
3 just go ahead and proffer and let me hear it.

4 But that's been my concern from the
5 first, you know, minute when we came in here.
6 Because you abandoned, you all abandoned the
7 insanity defense last week, or maybe the first
8 of this week. Last week, I guess it was. And
9 I don't know of any de -- other than, you
10 know, self-defense or something that makes
11 less murder -- lessens the murder to, say,
12 manslaughter or involuntary manslaughter or
13 something like that. Unless there's evidence
14 of that, I don't know that testimony in
15 regards to his mental state in itself is a
16 defense. But maybe I've misread where you're
17 going. I may have.

18 MR. BEAUFORD: Your Honor, what we intend
19 to try to bring through this witness is not
20 that the mental illness is a defense itself,
21 but the mental illness coupled with the other
22 situation helped weaken him and causes a
23 situation of a heat of passion, so that helped
24 in weakening the individual himself, and that
25 heat of passion was brought on by the

1 circumstances of the relationship and by his
2 mental illness.

3 THE COURT: All right, sir. But, you
4 know, not all, not all killings in sudden heat
5 of passion -- murder is not always reduced
6 from murder to manslaughter just because the
7 killing was done on heat of passion, it has to
8 be done with sufficient legal provocation.
9 And so are you going to have evidence to
10 support sufficient legal provocation, too?

11 See, it's not fair, I don't think,
12 for you all to get into a portion of it, get
13 almost there and then say, "Well, wait a
14 minute, there isn't any real sufficient legal
15 provocation," but then the jury's heard
16 evidence.

17 If you're going that way I certainly
18 am not going to limit you, you've got the
19 right to go that way. But what I'm afraid is
20 going to happen is that you're going to get
21 out in this phase of the trial, I think this
22 is what the solicitor's concerned about, is
23 that you're going to get out in this phase of
24 the trial evidence that should properly come
25 out in the sentencing phase, if there is a

1 sentencing phase, but it's the kind of
2 evidence that would come out in a sentenci(
3 phase, and you're going to fall short because
4 you're not going to be able to establish any
5 sufficient legal provocation which would
6 reduce murder to manslaughter, let's say, in a
7 scenario where the killing was done in the
8 sudden heat of passion. Now, maybe I'm
9 misreading something.

10 MR. BEAUFORD: Well, Your Honor, again
11 what we intend to later argue in the case is
12 that an individual has a legal right to see
13 his child, so.... And the justification, or
14 whether it's justifiable, is a decision by the
15 jury. But we establish you have a legal right
16 to see the child. The jury have to decide
17 whether there's sufficient legal right for the
18 provocation. And so if we can get the heat of
19 passion and that element of it, we may meet
20 the entire definition of manslaughter.

21 MR. BAILEY: Your Honor, there's no
22 possible way that manslaughter can be
23 submitted to the jury when you've got words
24 alone as being provocation.

25 THE COURT: That's right.

1 MR. BAILEY: A deadly weapon is used.

2 THE COURT: That's right.

3 MR. BAILEY: So unless he's going to
4 introduce some evidence that Ms. Krasae was
5 armed and was threatening Mr. Weik with a
6 weapon, that's just not going to be available.
7 If, if he is heading towards a GBMI defense,
8 as he's indicated earlier, and I'm certainly
9 not going to stand in the way of any testimony
10 that will indicate he had the inability to
11 conform his conduct to the requirements of the
12 law, if that's where he's heading.

13 THE COURT: Correct.

14 MR. BAILEY: But it appears to me he's
15 trying to set up a legal defense here that's
16 not under any -- there's no possible way that
17 Your Honor would submit that to the jury as I
18 understand the law.

19 THE COURT: Well, see, you know, the
20 dilemma I have, of course, is that I think I
21 know where he's heading and -- but I can't --
22 obviously I don't want to cut him off before
23 he gets started because I don't know what's
24 going to come out. I don't see how this, I
25 can't envision how under the facts that I've

1 heard in this case, how it could possibly ever
2 be reduced from murder to manslaughter. I
3 said that yesterday. And I just -- you know,
4 unless I hear something that I haven't already
5 heard, I don't think we're going to be there.

6 But at the same time it's unfair to
7 the defendant for me to rule in limine now and
8 to prevent him from putting forward some
9 evidence that ultimately might end up in a
10 defense. And that's the problem that I've
11 got.

12 So on the one hand, you know, I
13 don't think they're going to make it, but then
14 I can't -- you know, I can't cut him off until
15 I hear everything. And, of course, at that
16 time all the evidence is in, it's all going to
17 be -- if I rule that way would be not relevant
18 and I don't know what the jury's heard, and I
19 don't know what to do with it once they hear
20 it.

21 MR. BEAUFORD: Your Honor, since we're
22 already bringing this out at this point, we
23 talked about words alone is not enough, and I
24 understand that. But words with the present
25 ability to carry out is enough.

1 THE COURT: That's correct.

2 MR. BEAUFORD: And if she -- and if
3 she -- words -- if she said, "You're not going
4 to see your son again" and she had that
5 present ability to carry it out from past
6 situations, and he has a legal right to see
7 the child, then we meet the element.

8 THE COURT: No, sir.

9 MR. BAILEY: Your Honor, if I could cite
10 State versus Fred Kornahrens.

11 THE COURT: That's right.

12 MR. BAILEY: In that case -- and I'm
13 paraphrasing that -- history of domestic
14 strain is not sufficient legal provocation to
15 warrant a manslaughter charge where a
16 defendant armed himself and lay in wait for
17 the victim.

18 THE COURT: All right.

19 MR. BAILEY: Also, Your Honor, State
20 versus Thomas Ivey, it's a case that I tried,
21 I'm familiar with that.

22 THE COURT: Yes, sir.

23 MR. BAILEY: Says the trial judge should
24 not err and refuse the voluntary manslaughter
25 charge for a defendant who shot a police

1 officer six times, claimed the first shot was
2 accidental and the remaining five shots (
3 because he was scared that the police officer
4 went for his gun. No lawful provocation to
5 support a voluntary manslaughter charge.

6 Your Honor, also -- just one second,
7 please.

8 (Pause in proceedings.)

9 State versus Shelly Damon, 328

10 S.E.2d 628, murder trial going under the use
11 of a deadly weapon, it's not necessary to
12 charge manslaughter when the testimony fails
13 to suggest any theory upon which a verdict of
14 manslaughter could rest.

15 THE COURT: The problem that I have,
16 though, is that how can I rule that I'm not
17 going to charge manslaughter until I hear the
18 evidence?

19 MR. BAILEY: Your Honor, if Mr. Beauford
20 as an officer of the Court can stand up here
21 and say that Ms. Krasae was armed, I think
22 that's the only scenario under which there
23 could be a -- if I could cite one other case,
24 Your Honor, this is off Timothy Rogers.

25 THE COURT: Yes.

1 MR. BAILEY: That's also a case that I
2 tried here. Mere words, no matter how
3 proprius.

4 THE COURT: That's right.

5 MR. BAILEY: Are insufficient to
6 constitute adequate legal provocation to
7 reduce murder to voluntary manslaughter when
8 the act is caused by use of a deadly weapon.

9 THE COURT: But, see, what he's trying to
10 do is get -- he's trying -- he's leaving
11 the -- this business of the shooting itself
12 and he's saying the legal provocations is not
13 some act on her part which causes him to lose
14 his temper, for instance, and shoot her in the
15 sense that she slaps him or she takes a weapon
16 and so he shoots her, she's armed and he's
17 armed. What he's basically saying is that
18 even though she's unarmed, as I understand it,
19 that the legal provocation is that he's got
20 the right to see his child. And she says
21 you're not going to.

22 Am I going where I understand you
23 are?

24 MR. BEAUFORD: Yes, that's correct.

25 THE COURT: And, therefore, that's the

1 provocation which allows him to kill her.

2 MR. BAILEY: Judge, in State versus (
3 Tucker, I'll quote from that, the provocation
4 must come from some act of or related to the
5 victim in order to constitute sufficient legal
6 provocation. All the victim did, according to
7 the way I understand the scenario, is she
8 argued over the son --

9 THE COURT: That's right.

10 MR. BAILEY: -- with him, mere words.

11 THE COURT: That's right.

12 MR. BAILEY: And she was killed with a
13 deadly weapon.

14 THE COURT: That's right.

15 MR. BAILEY: So I don't get it.

16 THE COURT: Well, I don't either. But, I
17 mean, again I don't get it, but, you know,
18 if -- again, I just hate to cut him off before
19 I hear what he's got to say. Once they
20 testify, I realize that the evidence is in and
21 the jury's going to hear it. The only way I
22 know to do it, maybe, is just to proffer the
23 whole business and then let me make a ruling
24 on it. I reckon that's the best way to do it.

25 MR. BAILEY: Yes, sir.

1 **THE COURT:** Go ahead and question her,
2 let's see what she's going to say. And then
3 we'll see where we go.

4 Go right ahead, sir, if you don't
5 mind, Mr. Beauford.

6 **BY MR. BEAUFORD:**

7 Q. Ms. Weik, you were testifying about Eddie
8 and Susan's relationship, I asked you do you know
9 anything about Susan and Eddie's relationship and you
10 were testifying she broke the relationship off.

11 A. She broke the relationship off after
12 Daniel was born.

13 Q. Okay. And what happened next in Eddie's
14 life?

15 A. Well, he never heard no more from them
16 until later on in the years, you know, went by. And
17 only through her father.

18 Q. Okay. When you're testifying, now, tell
19 me the things you know of your own knowledge, not
20 anything Eddie may have said, so....

21 A. No, I'm not testifying from what I heard.

22 Q. Okay. What was Eddie like during that
23 time? What was he like?

24 A. He was overly anxious, you know, so proud
25 that he was going to have a son. That's how he was.

1 Q. Okay. And what was he like after the
2 relationship ended?

3 A. Kind of let down.

4 Q. Did you know whether Eddie ever saw
5 Daniel again?

6 A. Well, the only way that he saw Daniel, he
7 had to see Daniel at Carl Hutto's house.

8 Q. Who's Carl Hutto?

9 A. That's Susan's daddy. Carl would get in
10 touch with Eddie and tell Eddie that he was going to
11 have Daniel, and Eddie would go over to see Daniel at
12 Carl's house.

13 Q. How long would that go on?

14 A. For a little while, not too long. And
15 after Susan's husband divorced her, or she got
16 divorced from him, I don't know which is it, her
17 daddy talked to Eddie about romancing Susan again so
18 Daniel could have a real father.

19 Q. So Eddie and Susan started to date again?

20 A. Eddie started going out buying flowers
21 and candy and things like that. And I thought it was
22 a different girl, I didn't know it was Susan at that
23 time, and he was so anxious. He says, "Mom," he
24 said, "my love for Susan still grows."

25 MR. BAILEY: Objection. I realize it's

1 proffered, Your Honor.

2 THE COURT: I understand. It's hearsay.

3 Go ahead. Go ahead, ma'am.

4 THE WITNESS: But then after that every
5 time Eddie would think about his son and he
6 know the boy needed things, he would go buy
7 stuff for him.

8 BY MR. BEAUFORD:

9 Q. How did you know he would buy things for
10 him?

11 A. Because I would receive the tickets.
12 Like he would go to Wal-Mart, he would go to
13 different places, he would buy him shoes, clothes,
14 and things like that.

15 Q. Okay. And how would -- would Daniel ever
16 receive those items?

17 A. Well, when Eddie -- when Daniel came over
18 to the house Eddie bought a lot of stuff for him.

19 Q. So now Daniel was coming over to the
20 house at this time?

21 A. No. Daniel didn't start coming over to
22 the house until one day the phone rang and I answered
23 the phone. I had never heard Daniel's voice since he
24 was nine months old. And he says, "Hello." He says,
25 "Is Eddie there?"

1 I said, "No, honey." I said,
2 "Eddie's gone to church."

3 "When will he be back?"

4 I said, "He'll be back in about 45
5 minutes." I said, "What do you want with him?" I
6 didn't know it was -- he didn't say his name was
7 Daniel at the time. I said, "He should be back in
8 about 45 minutes." I said, "Who is this?"

9 He said, "Daniel."

10 I said, "Oh, my God, Daniel." And I
11 told Eddie when he come home. I said, "Eddie, a
12 phone call in came in today."

13 He said, "Who was it, Mama?"

14 I said, "Daniel."

15 Eddie had got baptized on April the
16 26th, 1997 and he told me that day "When I go in the
17 water and come back out," he says, "I don't want my
18 past to come up to me."

19 I told him, I said, "This is your
20 son, he's reaching out to you."

21 He said, "Mama, what's ever in my
22 past, let it stay in my past." And my daughter,
23 Maggi, was there at the time and she talked to him.

24 Q. Don't tell me anything Maggi would have
25 said.

1 A. I'm not going to tell you what she said,
2 but she was there and she talked to him. Later on
3 when I went out in the yard to help my husband, he
4 come knocking on the shop door.

5 Q. "He" meaning who?

6 A. That's Eddie. Eddie came knocking on the
7 shop door and he said, "Mama, I'm going over."

8 I said, "Where?"

9 "See my son." And he come back and
10 he was so glad, he was so overjoyed 'til he had tears
11 in his eyes. He said, "Mama, you should see how big
12 Daniel is, he's way up here." But before that, Eddie
13 had went over to Mr. Hutto's house and he come back
14 and he said, "Mama, I guess the only way that you
15 could ever get to see your grandson is to go to
16 Mr. Hutto."

17 I looked at him and said, "It'll be
18 a cold day in hell before I go to Carl Hutto's house
19 and see my grandchild." And that was my feelings
20 because they knew --

21 Q. Okay. Don't tell me anything they knew.
22 Did you ever see Daniel?

23 A. I got to see Daniel. The last time I saw
24 Daniel he was nine months old. Next time I saw
25 Daniel he was nine years old.

1 Q. When did you see Daniel last?

2 A. Eddie brought him to the house.

3 Q. And how old was Daniel at this time?

4 A. Daniel was nine years old, he would have
5 been ten in December.

6 Q. Okay. And what happened on that visit
7 when you saw Daniel?

8 A. What happened on that visit?

9 Q. Yes, ma'am.

10 A. I was so overjoyed I couldn't even
11 express myself. I said, "Thank God." I said, "I got
12 to see my oldest grandson by my husband." I love
13 Daniel.

14 Q. How often would you see Daniel?

15 A. Every other week.

16 Q. And do you know of any activities or
17 anything that Eddie and Daniel may have done?

18 A. Yes. Eddie would take him out -- well,
19 first of all, he would go visit some of the people in
20 the neighborhood, you know, play around with the
21 kids. He bought rockets for Daniel. He would take
22 Daniel to church, that was his main thing, every time
23 Daniel would visit Eddie went out and got his clothes
24 and everything, dress clothes for him to go to
25 church. And he'd buy so many things. He had the

1 rockets. And he promised Eddie that, you know, he
2 was going to do good in school. And Eddie told him,
3 he said, "Son, if you get straight A's in school
4 Daddy will reward you."

5 So he goes out and gets these
6 Nintendo games, bring that to the house. And I told
7 him, "You're setting him up too high." If you give a
8 child too much they'll look for it all the time.

9 But he said, "He earned it. He did
10 this for Daddy, he made straight A's in school." And
11 I told him, and he told Daniel like this. He says,
12 "Listen, if you don't make straight A's in school" --

13 THE COURT: How does any of this have any
14 bearing on a defense now? I'm not sure I'm
15 following any of this business. I'm
16 listening, but I don't know how any of it
17 points to any defense.

18 MR. BEAUFORD: Your Honor, we'll be
19 getting -- I'll speed her up.

20 THE COURT: Let's get there. Let's get
21 there now. Ask her the questions to get to
22 the defense. She can talk about all that
23 business later.

24 BY MR. BEAUFORD:

25 Q. Do you remember on April 30th, 1998?

1 A. Yes, sir.

2 Q. Did you see Eddie on that day? (

3 A. Yes, sir.

4 Q. And tell me about that day.

5 A. Eddie came home from work, he said he had
6 a real bad headache, his face was so red. I said,
7 "Son, what's the matter? Did you have a hard day at
8 work?"

9 He said, "I got a bad headache,
10 Mama, real bad headache, it won't go away."

11 I said, "Maybe if you go take a bath
12 you'll feel better."

13 He took his bath, then he told me
14 he said, "Here's my check. Would you go cash it for
15 me?" He said, "Take your money out that I owe you
16 for the rent, leave the rest of the money on the
17 table."

18 I said, "Okay."

19 He said, "Because I'm going to the
20 bank and I'm going to get the rest of the money so I
21 can put with the money that you got there to pay my
22 car insurance."

23 He came over to me --

24 Q. Did you ever see him leave the house? (

25 A. Yes, sir.

1 Q. And when he left the house, you saw him
2 when he left the house?

3 A. Yes, sir.

4 Q. Did he have anything in his hands?

5 A. No, sir.

6 MR. BAILEY: Your Honor, she was getting
7 ready to answer a question, and was saying
8 something to the effect he came over to me,
9 and she was getting ready to say something.

10 THE WITNESS: He came over to me and he
11 said "Mama," he always was a loving kid,
12 "Mama, I love you so much, you're the best
13 mama any boy ever had."

14 And I said, "Eddie, I love you too,
15 son." Eddie had different ways of showing his
16 love. Eddie couldn't approach things like you
17 and I could.

18 BY MR. BEAUFORD:

19 Q. Why do you say he couldn't approach
20 things like you and I could?

21 A. Do different things. I mean, I would
22 come right -- like we can think clearly, you know,
23 what's happening around us. It took Eddie for a
24 while to think. I don't know if it was from the
25 automobile accidents he was in or the licks he got on

1 his head, I don't know.

2 Q. Okay. You said he left the house. T a
3 I asked you "Did he have anything in his hands?"

4 A. No, sir. He never had anything in his
5 hand.

6 Q. And did you see when he actually
7 physically leave the house?

8 A. Yes, sir. I went to the screen door and
9 saw him get in his truck and went out.

10 Q. Okay. You said he went out. Did he ever
11 return?

12 A. No, sir.

13 Q. And what was the next thing that
14 happened, that you remember happening that day?

15 A. Well, my husband and I had a call to go
16 to Huger, we came back, it was getting on towards I
17 guess about seven o'clock. And I says, "Eddie's not
18 back yet. I know he's got to go to work tomorrow."

19 My husband said, "He's able to take
20 care of himself, don't worry about him." I never
21 knew anything more until I had heard a noise outside.
22 And I went outside, I thought it was a dog attacking
23 my cat.

24 Q. What did the noise sound like?

25 A. Just like a dog, you know how a dog will

1 make a noise, you know. And then I heard a car.
2 Three police cars came up. The man got out, these
3 men got out, they asked me was I Ms. Weik. I said,
4 "Yes, sir."

5 He said, "You got a son named John,
6 Eddie?"

7 "I got a son named John Edward Weik,
8 I call him Eddie."

9 "There's been an accident." He
10 said, "Can I go inside of your house?"

11 Q. When he said, "There's been an accident,"
12 what did you say, if you said anything?

13 A. I said, "What accident? Is my son all
14 right?"

15 He said, "Don't worry about your
16 son, your son is all right. Let's go inside the
17 house and talk." Went inside the house, my husband
18 was sitting in a chair.

19 Q. How many officers were there?

20 A. Three. As far as I remember it's three.
21 Tom Marshall was one of them. And there was another
22 guy there, I don't know who he was, I can't remember
23 because I almost went into shock.

24 Q. You all went inside the house and what
25 happened?

1 A. He finally told me. He says, "Your son
2 wasn't in the accident."

3 I said, "Well, who was in the
4 accident?"

5 He said, "Do you know a girl by the
6 name of Susan Krasae?"

7 I said, "Yes, sir." I said, "He's
8 my grandson's mother -- she's my grandson's mother."
9 I said, "What happened?"

10 He says, "Your son killed her."

11 I said, "Oh, my God. I can't
12 believe that. I can't believe that." Even today I
13 can't believe it.

14 Q. Ms. Weik, after the conversation, did he
15 ask to go any particular place in your house?

16 A. Yes.

17 Q. And --

18 A. He wondered where Eddie's room was. I
19 don't have a big light in the room because the
20 electrical fixture went out. My husband took him
21 back there with the flashlight. My husband told, he
22 says, "We have nothing to hide." Even I'm a gun
23 collector.

24 I said, "I have nothing to hide."
25 And I also got my permit to carry mine. But he went

1 in the ho -- he went in the room, he didn't stay but
2 a few minutes, and he come back out. And I was
3 talking with the other guy, I don't even know what
4 his name was. I said, "How did this happen?"

5 Q. Ms. Weik, let's make it clear. Okay.
6 You went in the room by the use of a flashlight?

7 A. Yes, sir.

8 Q. Was it dark outside?

9 A. Yes, sir. It was almost ten o'clock.

10 Q. And you're positive when Eddie left the
11 house he didn't have anything in his hands?

12 A. I am positive Eddie did not have a gun
13 when he left that house. I do know one thing. Eddie
14 used to go deer hunting. Deer season's over with
15 ever since the 1st of January. The gun wasn't taken
16 out of the car, he left it in there. He told me one
17 day, he says, "Mama, I want to leave my gun where
18 it's at, I don't want to bring it in this house. I
19 got the other two on a rack, if Daniel happened to
20 come over he can't reach it," he said. "But that big
21 gun's going to stay in my car, my truck, because I
22 don't never know what time Daniel might pick up the
23 gun and shoot you and Daddy."

24 I said, "Well, that's fine with me.
25 Leave it where it's at."

1 Q. Okay.

2 A. And I've never seen him take it out of
3 that truck.

4 MR. BEAUFORD: No further questions of
5 Ms. Weik.

6 THE COURT: All right. Now, I can tell
7 you I -- if you want to ask her you may,
8 Solicitor.

9 MR. BAILEY: No, sir. I don't, Your
10 Honor.

11 THE COURT: I can tell you now that the
12 only evidence that she's testified to that
13 could come out, none of this business about
14 what Eddie said to her can come out, that's
15 hearsay, none of it can come out. The only
16 thing that she can testify to is when he left
17 the house that day he did not take a gun.

18 She can testify she took -- that the
19 officer was taken down to the room with a
20 flashlight, that they did not have lights in
21 the room contrary to what the officer said
22 yesterday, and that she's -- that as far as
23 she's concerned she never saw him take the gun
24 out of the truck.

25 Other than that, there isn't

1 anything that she said, to my knowledge, that
2 goes to any defense. Those three things she
3 can certainly say. I'll be glad to listen to
4 anybody else who's going to testify to
5 establish the defense. But I know those three
6 things are relevant and certainly she can
7 testify to those.

8 But she can't get into what this
9 person said and that person said, even her own
10 son who's on trial, because it's hearsay.
11 Under the new rules all of it is hearsay if
12 anyone else said it. If she knows it, she can
13 certainly say it. But this business of him
14 having a headache and all that business,
15 that's all -- as far as I know doesn't have a
16 thing to do with a defense.

17 The only thing that she's testified
18 that negates what the State has tried to show
19 is that he had the intention to kill when he
20 left the house because he could have taken the
21 gun with him when he left the house. She can
22 say otherwise because she knows otherwise, and
23 that's fine and good. That's her right to say
24 that. If she knows that she can testify to
25 that.

1 But other than that, I don't see
2 anything that she can testify to, unless y(
3 got other witnesses who are going to come
4 along and offer a -- I don't know who else you
5 are going to call. Why don't you call the
6 other -- are you going to call any more in
7 order to establish a defense of manslaughter
8 other than her?

9 MR. BEAUFORD: The defendant himself.

10 THE COURT: Well, can you tell me, can
11 you tell me that your client is going to say
12 that Ms. Krasae was armed at the time?

13 MR. BEAUFORD: No, Your Honor.

14 THE COURT: Well, I don't think you've
15 got a defense of manslaughter. I just don't
16 think it's there. I don't think -- she can
17 curse him out, she can use the foulest
18 language in the world. And we hadn't heard
19 any of that, nobody said she did, but she can
20 do that, and if he arms himself even if she
21 curses him out and he is -- snaps, as he said,
22 or as he has put it that he was enraged by
23 what she's done, her profanity or the fact
24 that she said, "You cannot see the child
25 anymore" and I got a legal right to see the

1 child, that's not sufficient legal provocation
2 under the law. It's just simply not. When he
3 arms himself and goes, he can't kill somebody
4 and then claim that that was manslaughter
5 rather than murder. It just doesn't fit.

6 If -- if -- and again, you know, I
7 don't want to cut you off from having your
8 people to testify, but if that's where you're
9 going, there isn't any use in us spending the
10 time.

11 MR. BEAUFORD: Your Honor, I think you're
12 aware of old case law, I guess law school case
13 law of a manslaughter situation where a man
14 slapped the other man's horse and the court
15 ruled that that was legal provocation and
16 ruled that that was manslaughter.

17 THE COURT: Well, I don't know about
18 that, it may well be. It may well be that
19 when one slaps another. But when someone arms
20 himself with a shotgun with double aught
21 buckshot in it and goes into a house after
22 he's been cursed out or told "You're not going
23 to see your own son, which you have the legal
24 right to do, I'm not going to let you do
25 that," that is not sufficient legal

1 provocation under the law.

2 MR. BEAUFORD: Your Honor, I think th
3 sufficiency again, I think the -- that is a
4 weighted question in the sense that the jury
5 have to decide whether that's --

6 THE COURT: No, sir. That's a question
7 that this judge is going to decide. I can
8 tell you I know what the law is on
9 manslaughter. It absolutely does not fit. If
10 those are the facts that you're going to try
11 to prove, it is not manslaughter.

12 And if I'm wrong, you know, the
13 Supreme Court is going to reverse me in about
14 two seconds, they'll tell me in two seconds if
15 I'm wrong. But if that's manslaughter, I'm in
16 the wrong business. I'm telling you, I'm in
17 the wrong business. That's not manslaughter.

18 MR. BEAUFORD: Your Honor, just to add to
19 it for a record, we talk about the -- just the
20 utterance of the word itself. However, the
21 law also says that the present ability to
22 carry it out. And if we establish that you
23 have a legal right to see your child and then
24 there's a present ability to carry it out,
25 which she has the present ability to carry it

1 out.

2 THE COURT: What they're talking about
3 when they say present ability to carry it out,
4 we're not talking about a right to see a child
5 at some future time. What we're talking about
6 is the present ability to kill somebody or to
7 make somebody mad at the -- what we're talking
8 about in that situation, as I understand the
9 law is, is that if -- if -- if you and I are
10 in an argument and you are armed and I have
11 the ability to carry out the very thing that I
12 threaten you that I'm going to do to you,
13 which would provoke you to shoot me, grabbing
14 the gun that's next to me, then maybe in that
15 situation you could have sufficient legal
16 provocation.

17 The fact that he has the right to
18 see a child, and she says you're not seeing
19 the child, doesn't give him the right to kill
20 her. Nobody in their right mind in this
21 country is going to buy that kind of an
22 argument. Surely the Supreme Court wouldn't
23 buy that kind of an argument. Nobody's got
24 the right to kill someone because your
25 girlfriend or your ex-wife says you're not to

1 ever see your child again.

2 MR. BEAUFORD: Your Honor --

3 THE COURT: It just can't be.

4 MR. BEAUFORD: -- I think even in a
5 manslaughter situation that's not a
6 completely -- it's not saying you have the
7 right to do it, it's just a lesser charge. So
8 it's not saying it's right to kill them
9 because it's done that way, it just allows for
10 a lesser charge.

11 THE COURT: I'm looking at State v.
12 Lowery. Where death is caused by the use of
13 deadly weapon, words alone -- same thing you
14 read a few minutes ago, Solicitor -- however
15 proprius, are not sufficient legal provocation
16 reducing the killing to voluntary
17 manslaughter. Rather, when death is caused by
18 the use of a deadly weapon proprius words must
19 be accompanied by the appearance of an
20 assault, by some overt threatening act which
21 could have produced the heat of passion.

22 See, the problem that you've got
23 with your -- with your defense is that your
24 fellow had a shotgun in his hand. If he
25 hadn't been armed himself, you might have a

1 little bit better argument that he fought her,
2 they got into a tussle, into a fight,
3 possibly. Possibly you would have a little
4 bit of an argument. But when he arms himself,
5 the fact that she says, "You're not going to
6 see the child" can't possibly reduce that
7 thing from murder to manslaughter. I just
8 don't -- I don't know a case in the world that
9 does that.

10 MR. BEAUFORD: Your Honor, again, this
11 overt act, and I say that's synonymous with
12 the present ability to carry it out.

13 THE COURT: I understand that. You're
14 talking about carry out the fact that he can't
15 see the child anymore.

16 MR. BEAUFORD: Exactly.

17 THE COURT: Yeah, because she says, "You
18 can't ever come back anymore." Right?

19 MR. BEAUFORD: Yes.

20 THE COURT: She says, "You're not going
21 to ever see your child the rest of his life."

22 MR. BEAUFORD: Yes. And that's the overt
23 act, that's the present ability to carry out
24 to prevent the legal right that he had.

25 THE COURT: All right. Anything else

1 then? We can argue this thing until dark.

2 MR. BAILEY: Your Honor, just to make(
3 sure the record is clear, I think the Court is
4 a hundred percent correct in analysis of the
5 manslaughter. As I understand it, they still
6 intend to assert a GBMI defense. It's not a
7 defense, but it asks the Court to submit that
8 verdict form to the jury.

9 THE COURT: And I'll do that.

10 MR. BAILEY: And as I understand that,
11 that relates to his ability to conform his
12 conduct to the requirements of the law.

13 THE COURT: And I can certainly hear that
14 testimony and do that.

15 MR. BAILEY: Yes, sir. And if he is
16 going to elicit some testimony that he was --
17 I think there was some conversation about what
18 Mr. Weik would testify to, and if his
19 testimony is going to be that he got so
20 enraged that he couldn't control himself, I
21 think that would be appropriate testimony. I
22 just mention that because I think that came up
23 in your dialogue with Mr. Beauford.

24 THE COURT: Right. But again, again it's
25 not a defense.

1 MR. BAILEY: No, sir. It's a verdict
2 form.

3 THE COURT: The problem is, the problem
4 is that I think the defendant is confusing
5 insanity with guilty but mentally ill. And
6 there is no insanity defense. You can't drop
7 back a half a step and say, well, we don't
8 quite have insanity, but we've got guilty but
9 men -- we've got a mental illness, guilty but
10 mentally ill and that's still a defense for
11 us, and the jury still might not convict me of
12 murder if they see that I can't conform my
13 conduct to the requirements of the law. And
14 that's not a defense. It is not a defense.

15 It can be submitted to the jury as a
16 verdict form, they can find that he's guilty
17 but mentally ill, but it's not a defense.

18 And so any evidence that you want to
19 bring out in regards to his inability to
20 conform his conduct to the requirements of the
21 law, I certainly am not going to prevent you
22 from doing that. But we don't really need to
23 argue too much about what I'm going to charge
24 the jury until the time comes, I mean, but the
25 point of it is if what you intend to show is

1 that this is a manslaughter because she said,
2 "You're not going to see the child anymore(
3 and had the present ability to carry out what
4 she said, that you weren't going to see the
5 child anymore, I can tell you if that's the
6 defense and that's the evidence that you're
7 going to use, then I'm not going to allow it
8 because that simply is not manslaughter. I
9 mean, I know it isn't. We're just wasting
10 time.

11 MR. BEAUFORD: Your Honor, I would ask
12 the Court to note where we were heading with
13 this.

14 THE COURT: Absolutely.

15 MR. BEAUFORD: We'll continue with, as
16 the Court directed, with the other testimony.

17 THE COURT: Absolutely. Well, again, you
18 know, I -- if you could stand there as an
19 officer of the Court and say, Judge, we can
20 prove a manslaughter defense, then I wouldn't
21 even be -- we wouldn't even be talking. I
22 would just say go ahead, you've got the right
23 to do so. I mean, I'm not going to limit you,
24 I'm not going to even tell you what you can do
25 and can't do.

1 But now that you've told me that
2 that is your theory, there's no use for me to
3 allow this lady to testify about all the
4 things that she's testified to which really
5 waste of a great deal of time and are more
6 appropriate at a sentencing phase, if we get
7 there.

8 But there are a few things that she
9 said that she can testify to, and I named a
10 few of them. And again, the solicitor's
11 pointed out also that if there's going to be
12 some testimony about his inability to conform
13 his conduct, certainly he can testify to that.

14 But I just don't want you all to be
15 led into the false security of thinking that
16 I'm going to charge the jury that if he can't
17 conform his conduct, that if he's mentally
18 ill, that he has a defense to manslaughter.
19 That's the only thing I wanted to be sure of.

20 All right. Let's try it again. I
21 assume you want her to continue to testify
22 then, if she's here, because there's several
23 things she can testify to.

24 MR. BEAUFORD: Yes. Yes.

25 THE COURT: Let's bring the jury in.

1 (Pause in proceedings.)

2 (Jury present.)

3 BY MR. BEAUFORD:

4 Q. Ms. Weik, do you remember April 30th,
5 1998?

6 A. Yes, I do.

7 Q. And do you remember seeing Eddie that
8 day?

9 A. Yes.

10 Q. And tell me about that day.

11 A. He came home from work, said he didn't
12 feel good.

13 Q. Um --

14 A. Then he said, "Let me" -- he said,
15 "Mama" --

16 MR. BAILEY: Judge.

17 THE COURT: I sustain. That's hearsay.

18 THE WITNESS: He used the telephone.

19 THE COURT: That's right. He used the
20 telephone.

21 THE WITNESS: He used the telephone to
22 call Daniel, then he told me to listen 'cause
23 he never wants to call over there without
24 somebody could verify what he said. "Hello,
25 Tud," that's what he called his son.

1 MR. BAILEY: Judge, can we approach the
2 bench?

3 THE COURT: Yes, sir.

4 MR. BAILEY: Your Honor, I think we
5 resolved my potential objection.

6 THE COURT: All right.

7 BY MR. BEAUFORD:

8 Q. Ms. Weik, after the telephone
9 conversation, did Eddie leave the house?

10 A. Not right then.

11 Q. But subsequently did he leave the house?

12 A. Yes, sir.

13 Q. And did you see when he left the house?

14 A. Yes, sir.

15 Q. Could you tell us if -- what, if
16 anything, did he have with him when he left the
17 house?

18 A. He didn't have nothing with him, just his
19 clothes he had on.

20 Q. And when I say, "Did you see him leave
21 the house," did you actually watch him leave the
22 door?

23 A. Yes, sir. I sure did. And he got in his
24 truck.

25 Q. And that is the blue truck in which we

1 talked about?

2 A. Yes, sir. Yes, sir. (

3 Q. When was the next time that you saw
4 Eddie?

5 A. Next time I saw Eddie I visited him in
6 St. George in jail.

7 Q. And later on that day did you have a
8 conversation with some officers, on April 30th, 1998?

9 A. Yes, there was three officers.

10 Q. Do you remember the name of any of those
11 officers?

12 A. One was Tom Marshall. I don't know the
13 other two. All I know one of them was a very kind.
14 sympathetic man. (

15 Q. As a result of the conversation which you
16 had with the officer, did you have the opportunity
17 for someone to take him to Eddie's room?

18 A. Yes. He said, "Did Eddie stay here?"

19 I told him "Yes. Eddie's been with
20 me ever since he's been a baby."

21 Q. Ms. Weik, what is the lighting condition
22 in Eddie's room like?

23 A. Very dim, that's why they had to use a
24 flashlight because the overhead fixture was gone in
25 the room. (

1 Q. And what time of the day was it at this
2 time?

3 A. It was at nighttime.

4 Q. When you say "nighttime," approximately
5 what time?

6 A. It was about, I guess -- I'm just giving
7 you a guess now, but it was either between 9:30, ten
8 o'clock.

9 Q. Would you say it was daylight, dark,
10 or...?

11 A. It was dark.

12 Q. You said you had to use a flashlight when
13 you went to Eddie's room?

14 A. Yes, sir. You had to use the flashlight
15 to go outside to see what was making noise out there,
16 you had to use a flashlight to go in his room because
17 it's just as dark.

18 Q. Yes, ma'am. No further questions.

19 CROSS-EXAMINATION

20 BY MR. BAILEY:

21 Q. Ms. Weik, I'm Walter Bailey. I need to
22 ask you a few more questions. Is that okay, ma'am?

23 A. Yes.

24 Q. Okay. What time did your son's shift
25 end, do you know?

1 A. I think he had seven o'clock. He had to
2 be there at either 7:00 or 7:30, I'm not sure, bu(
3 Eddie came home about 4:00 or 4:30. By 4:30.

4 Q. Okay. Were you at home at 4:30?

5 A. Yes, sir.

6 Q. Did you see him drive up?

7 A. Yes, sir.

8 Q. Okay. When he drove up, what did he do
9 then?

10 A. He just came in the house and said,
11 "Shew," like that.

12 I said, "What's the matter, son?
13 You had a bad day?"

14 Q. I'm not asking you what he said, I'm just
15 asking you when -- he went in the house; is that
16 correct?

17 A. Yes, sir. He went in the house.

18 Q. All right. And this was somewhere in the
19 neighborhood of 4:30?

20 A. Yeah.

21 Q. Do you know about what time it was when
22 he got in his truck and left later on that evening?

23 A. It was about five o'clock. It was after
24 5:00.

25 Q. After 5:00, okay. So between 4:30 and

1 sometime after five o'clock were you with him the
2 entire time?

3 A. Yes, sir.

4 Q. Where were you all? What room were you
5 all in, in the house?

6 A. I was in the kitchen. I stay the
7 majority of my time in the kitchen. The kitchen is
8 here and his bedroom is here.

9 Q. Okay. Did he make a phone call? I'm not
10 asking you what was said in the phone call, did he
11 make a phone call?

12 A. Yes, sir. He did.

13 Q. Okay. And as far as the lighting in
14 Eddie's room, you say the overhead fixture doesn't
15 work?

16 A. It does not work. The overhead fixture
17 he's got -- you know how you have a little makeup
18 light, a little mirror like that with a little light
19 on it, that's the only light.

20 Q. Okay. Any lamps, anything in the room?

21 A. No, sir.

22 Q. So your testimony is that the only light
23 in his room didn't work?

24 A. Pardon?

25 Q. Your testimony is that the only light in

1 his room didn't work?

2 A. The overhead light didn't work, you know, v,
3 it's a little thing up there.

4 Q. Were there other lights in there, like a
5 lamp?

6 A. No, sir.

7 Q. Desk lamp or anything?

8 A. No, sir.

9 Q. Night-light?

10 A. No, sir. Only thing was in there like I
11 told you, a little makeup -- it's a mirror and it's
12 got a little light and a very little, very little
13 bulb, about 15 watts.

14 Q. Okay. Is there a closet in Eddie's room?

15 A. Yes, sir.

16 Q. Is there a light in the closet?

17 A. No, sir.

18 Q. When the officers went into his room,
19 they went with your husband, didn't they?

20 A. Yes, sir.

21 Q. You didn't go in the room with them?

22 A. No, sir.

23 Q. Okay. So you don't know what Tom
24 Marshall looked at when he went in there, do you?

25 A. I don't know.

1 Q. Okay. Now, Ms. Weik, when Eddie got into
2 his truck and left sometime after five o'clock, he
3 kissed you good-bye and said good-bye to you, didn't
4 he?

5 A. Yeah, he always did.

6 Q. All right. And he told you he loved you
7 very much, got in the truck and drove off; is that
8 right?

9 MR. BEAUFORD: Objection, Your Honor.

10 THE WITNESS: I --

11 THE COURT: Hold it. Wait a minute now.

12 THE WITNESS: Okay.

13 MR. BEAUFORD: He's --

14 THE COURT: What's your objection?

15 MR. BEAUFORD: He's asking for hearsay
16 things that I wouldn't --

17 MR. BAILEY: I'll withdraw it, Your
18 Honor.

19 THE COURT: All right.

20 BY MR. BAILEY:

21 Q. At any rate, when your son drove off in
22 the pickup truck, did you know where he was heading?

23 A. He said he was going to the bank --

24 Q. Okay.

25 A. -- to get the rest of the money to put

1 with the money from the paycheck. He said -- well,
2 can't say hearsay, I can't say what he said becau(I
3 know what it was, but I can't have it in court. I
4 cashed his check.

5 Q. Okay. Let me ask you is this, Ms. Weik:
6 Did you know that he was heading over to Daniel's
7 house?

8 A. No, sir.

9 Q. Okay. Thank you. That's all I have,
10 Ms. Weik.

11 THE COURT: Anything else?

12 MR. BEAUFORD: Nothing further, Your
13 Honor.

14 THE COURT: Thank you, ma'am. You may
15 step down. Watch your step.

16 MR. BEAUFORD: Call John Edward Weik.

17 THE COURT: All right. He hasn't been
18 sworn, has he?

19 (John E. Weik, called as a witness by the
20 Defendant, having first been duly sworn,
21 was examined and testified as follows:)

22 DIRECT EXAMINATION

23 BY MR. BEAUFORD:

24 Q. Eddie, do you remember April 30th, 1998?

25 A. Vaguely, yes, sir. Yes, sir.

1 Q. And could you start by -- just start
2 about the time you got home. What time did you get
3 home from work?

4 A. About 4:15, 4:30. It's according how
5 traffic was in Goose Creek, in Moncks Corner.

6 Q. And when you got off from work, where did
7 you go?

8 A. Beg your pardon?

9 Q. When you got off from work, where did you
10 go?

11 A. Home, straight home.

12 Q. Approximately what time did you get home?

13 A. Like I said, 4:30 to -- 4:15 to 4:30,
14 it's according to how traffic went from work to home.
15 Basically, you know, traffic from Goose Creek to
16 Moncks Corner.

17 Q. And what did you do when you got home?

18 A. First thing I want to do after I get
19 up -- get home is take a shower or take a bath real
20 quick because I'm working around a lot of fiberglass
21 and stuff like that and I build boats for a living.
22 That's the main thing, I get in the shower or tub
23 because I'm itching all the time from the fumes and
24 stuff at work.

25 Q. Do you know what you did on this

1 particular day?

2 A. Well, this particular day, like I sai(
3 vaguely. When I got home, I got -- come in the
4 house, Mom had food, you know, cooking and I usually
5 eat. But this day I was like -- like I said, at
6 work, if you ever built boats before, resin and
7 hardener and stuff like that, well, sometime your
8 stomach gets upset, you know, your head's beating
9 like a drum.

10 And when I come home I want to take
11 a shower because the first thing I want to do is get
12 the fiberglass off me, get my hands clean so I can
13 present myself and change clothes. Majority of time.
14 Majority of the time. This particular time.

15 Q. Did you do that on this particular day?

16 A. Yes, sir. I always try to keep clean.
17 Try to keep clean because that fiberglass gets in the
18 house and it gets all tracked all over the place. As
19 far as I can remember. I'm not perfectly sure. I'm
20 not perfect, sir. Ladies and gentlemen of the jury,
21 it's been a whole year --

22 Q. Okay.

23 A. -- things are a little foggy still.

24 Q. Eddie, so you cleaned up on this day, and
25 what else did you do this day?

1 A. Well, I had a conversation with Mama. My
2 insurance for my truck and Corvette was due again, so
3 I had a check in my pocket, it wasn't quite enough
4 for insurance, so I was going to go to the bank, get
5 some money out for the insurance, put with it, the
6 money for the insurance.

7 Q. Did you talk to anyone on the telephone
8 that day?

9 A. Yes, sir. I sure did.

10 Q. Who did you talk to?

11 A. My little son, Daniel. Our son, Daniel.
12 Now she's gone, so....

13 Q. And what was that conversation about?

14 A. Roughly we talked -- you know, I had
15 talked to him earlier that week. I had called the
16 school to find out, you know, because he had told me
17 that Monday about a boy at school messing with him,
18 his jacket was messed up. And some items of his
19 clothes, like his hat was missing that I paid good
20 money for, and his pants that he's proud of, they had
21 a rip in them. And I called the school, you know, to
22 find out why is this going on, why isn't anybody
23 doing anything about it because it's happened before.
24 And I called the school and I wasn't
25 able to get in touch with the principal itself, okay?

1 First time I called there was a cleaning lady, okay,
2 and she told me call back and I got in touch with(

3 Q. Okay. You and Daniel talked a little bit
4 about that?

5 A. Correct.

6 Q. Okay. And what else happened?

7 A. Okay. That day we talked, I asked him
8 had it been resolved that particular day, that was
9 April 30th. And he's -- he's a good kid, he's a real
10 good kid, straight A kid. He's not like me, he's got
11 everything going for him. He's got straight A's, you
12 know, we got -- he's a kid. I don't want him to end
13 up like me. I wanted him to be better than me.

14 Things that I bought him and things
15 like that, it wasn't because I was trying to buy his
16 love or it was trying to spoil him, I bought things
17 for Daniel because Daniel earned his stuff.

18 Q. So you bought him some things --

19 A. And we talked about things.

20 Q. -- he was a smart kid and --

21 A. The clothes, everything.

22 Q. -- you called him that day about the
23 situation at school. And what else happened?

24 A. Yes, sir.

25 Q. Tell me more about that conversation.

1 A. So we talked -- we talked for a little
2 while and I asked him if it had been resolved. And
3 he said the lady had got, the vice principal had
4 brought him in the office and they talked about
5 things and it was about resolved. Then --

6 Q. So that matter was resolved?

7 A. Yeah.

8 Q. And what else did you talk about?

9 A. And then we was talking. I said,
10 "Daniel, how's everything going?" And I called him a
11 little pet name, Tud, I called him his pet name
12 because my little boy means a lot to me, he's like my
13 life. Any one of you all, and I know mothers and
14 fathers, when you have a child, a special child,
15 somebody who's smart, does everything he's supposed
16 to do --

17 Q. Eddie, so you talked to him about that.
18 And I know you said your love your son.

19 A. Yes, sir. Yes, sir. Yes, sir.

20 Q. What else happened as a result of that?

21 A. Well, we talked, and the conversation
22 arose, you know, we were talking and he said, "Daddy,
23 I have to go."

24 I said, "What do you mean you got to
25 go?" We ain't talking that long, usually, you know,

1 chit-chatting on the phone for a while.

2 He said, "Daddy, they don't want s
3 talking on the phone no more."

4 I said, "Who is 'they?'" And he --
5 like you could hear a pin drop. And I said, "Daniel,
6 Daniel, who is 'they?'"

7 Then he hesitated and said, "John
8 and Mama. John don't want me talking to you on the
9 phone anymore because he's jealous." That's how
10 he -- that word, like he said jealous. He didn't say
11 jealous, he said jeal-e-ous, you know, like he was
12 abdicating.

13 And I said, "Daniel, I love you a
14 lot, you're my son, and John doesn't have anything to
15 do with you. I'm your biological father. I love you
16 more than anything in this world."

17 And Daniel said, "Daddy, I know
18 that. But, Daddy, I don't know. I don't know."

19 I said, "Son, you can't play both
20 sides of the fence, you know, John says one thing. I
21 love you, I'm your true father. When you were
22 conceived, John wasn't in the room. John was nowhere
23 around." And we talked, you know, talked more about
24 it.

25 He said, "Daddy, I got to go, I

1 can't."

2 "Son, you got to choose. You can't
3 play both sides of the fence, you know, it's me or
4 John. I don't mind paying for you, I don't mind
5 paying money for child support, I don't mind paying
6 the things helping you out, you're a great kid. And
7 if we got to discuss this thing, you know, so be it.
8 But, you know, you have to choose between me or
9 John."

10 And he said, "Daddy, Daddy," and I
11 heard, you know, heard a little voice, you know,
12 break. I said -- he said, "Daddy, I got to go."

13 I said, "Son?"

14 He said, "Daddy, I got to go." So
15 he hung the phone up.

16 I said, "Oh, you idiot," you know.
17 And then, you know, I was going to call him back. I
18 said, no, if I call him back he probably won't answer
19 the phone because now, you know, my son, you know, is
20 really hurting now, he probably, you know, don't want
21 anything to do with me at all now. I said, "Oh,
22 Christ." I said, "Jesus help me."

23 So I hung the phone up. I'm sitting
24 there, I want to eat but I can't eat because I'm
25 all -- like I said, the fumes are -- being all -- I'm

1 all nervous, I'm all itchy, you know, still, my
2 lungs, every -- I was feeling kind of lightheaded(
3 But, like I said, that's hearsay. Headaches are
4 hearsay.

5 But I left out of there, okay, I
6 didn't eat anything. And I was supposed to get money
7 for the insurance, me and Mama discussed I'm supposed
8 to get the money for the insurance. And so I hugged
9 Mom and told her I loved her, I left out of the house
10 in the truck. That's the truck.

11 Q. When you left out of the house, did you
12 take anything with you?

13 A. No, sir. I sure did not.

14 Q.. When you left out of the house, did you
15 have anything in your pockets?

16 A. No, sir. I sure did not. Took my car
17 keys or truck keys, car or truck keys ever one.

18 Q. And you say you left out of the house.
19 Continue. Where were you going?

20 A. Okay. So I'm riding down the road and
21 going towards Summerville, that's where my bank's at,
22 to get the money out. When I get to the bank I was
23 supposed to get the money out for -- I was supposed
24 to get the money out for insurance and gas money for
25 that week.

1 I got a full sized Chevrolet truck
2 and it's not an S-10, it's a full sized truck. And I
3 was -- got the money for gas and I'm thinking about
4 my boy, thinking about my little boy, you know, how
5 much, you know, I hurt him, I already hurt him in
6 just a few little words, you know, making a choice.
7 You don't make a child that young choose between one
8 thing and another. I love him very much. I would
9 rather let him go than to hurt him, okay, and make
10 him choose.

11 Q. Okay. So you're at the bank and you were
12 getting money out. Then what else happened?

13 A. So I'm thinking, you know, I always had
14 that policy if you love something let it go and if it
15 comes back then it's meant to be.

16 So I'm going to the gas station,
17 Scotchman to get gas, around, so I put in Scotchman's
18 gas. And I don't know why I didn't get money out for
19 insurance, I don't know why. So I got the gas, then
20 I said, "I got to see my boy. I got to see my boy.
21 I got to talk to him. I got to tell him it's all
22 right, that he doesn't have to choose. If he doesn't
23 want to see me anymore, or he wants to be over there,
24 that's fine, but I still love him regardless of the
25 circumstances. I had to voice my opinion. I love

1 him regardless of the circumstances. Daddy still
2 loves you."

3 And so I'm driving over there, you
4 know, through corners and stuff like that, and I'm
5 not there. I'm just thinking, you know, my little
6 boy, my little boy.

7 So I get over there and --

8 Q. You get over where?

9 A. This -- this -- the residence. The
10 residence. Krasae residence, Susan's house, the
11 trailer. And I get there and they're out in the yard
12 playing around in the yard, Amber and Daniel, they're
13 playing in the yard, little bicycles, okay, riding
14 back and forth.

15 And Danny gets off his bike, okay?
16 As soon as I pull up then he gets off his bike and
17 goes back into the house, you know. The doors are
18 open in the house, Amber's still out there in the
19 yard and she's got her little bike. And she's always
20 got a little way she smiles at me, you know,
21 "Mr. Eddie, Mr. Eddie."

22 I said, "Knock" on the side of the
23 trailer where the screen door was at or the little
24 storm door. I knock on that. Amber says, "It's all
25 right, go inside." So I walk inside. So Daniel's

1 looking at me, okay, and he's coming out of the hall
2 there, little hallway, because he lives in a trailer.
3 It's like his bedroom's first, then the bathroom or
4 restroom, and then Amber's room at the very far end
5 down there, okay?

6 So Daniel was there and he said -- I
7 said, "Son," I said, I said, "Look, I'm sorry. I'm
8 sorry I said that. I didn't mean it. I didn't mean
9 it. I love you regardless of the circumstances,
10 regardless."

11 "Dad, I can't talk."

12 I said, "Why can't you talk?"

13 "Mama's next door." So I walk back
14 out of the trailer, okay, the doors are still open.
15 The doors are still open. So I'm on the porch and
16 he's -- you know, we already walked out, okay, there
17 comes Mama, there comes Susan. So she's coming down
18 and calling. And she's shaking her finger and
19 cursing like a drunken sailor, you know.

20 And she says, "How dare you, how
21 dare you, how dare you do this to my son." She
22 didn't say our son, like in we conceived it. It
23 takes two to conceive a child, doesn't take one. The
24 Immaculate Conception was Jesus Christ, that wasn't
25 her case. And she's cursing but -- cursing saying,

1 "You son of a _____ how," you know, "_____ do
2 this to our child." And he's using the F word an(
3 the MF word. And they were still outside, they
4 hadn't gone inside yet, the children were still
5 outside.

6 And I was on the porch and she was
7 down, so I stepped down on her level, okay? So she's
8 doing, you know, like this here, okay? Now, she
9 didn't touch me. She didn't touch me, but she's
10 shaking the finger in my face, you know, calling me
11 these words and stuff like that. "You'll never see
12 your _____ child again, you _____," you know,
13 I'll say MF, ma'am. And then she was saying other
14 curse words, okay? And she's telling me "Get off the
15 property, it's over, it's over. You'll never see
16 your child again."

17 So I didn't argue with her and there
18 wasn't no argument. It takes two to argue, it takes
19 one person to walk away.

20 Q. Okay. What happened?

21 A. So she's got her voice really loud, okay?
22 And so she goes back -- this is the patio here, she
23 goes back into the house, okay? She goes back into
24 the house. I get back in my truck, okay? And then I
25 thought I was cranking the truck up and leaving. I

1 thought I was leaving the yard, the presence.

2 Next thing I know I thought I was
3 going to -- I thought I could do it, like I could
4 kill myself. I thought I could. I was crying, a
5 headache came on.

6 I told people about the voices and
7 the dreams and everything else that I had, nobody
8 believed me, not a thing up to this point. This was
9 before this incident even happened. When I got out
10 in that truck the voices started coming on. I told
11 one part of the story about the voice, one voice, one
12 of the voices, not all the voices. Because people,
13 if they hear you, even in this court of law, they put
14 in a crazy house or do something to you. I don't
15 feel like it, I don't need it. Every time I told
16 somebody about this stuff I had to be very -- I had
17 to not tell everybody everything or tell a lot of
18 people at one time, 'cause sometimes people spread
19 rumors that aren't true about you.

20 So I'm leaving, I'm trying to leave,
21 I'm trying to leave, I'm trying to leave. I thought
22 I was leaving and the voices came on, you know, you
23 know, "Kill yourself, you lost everything, you idiot,
24 good for nothing." And then another one says, "Ten
25 to 20 years, ten to 20 years, life or death." The

1 voices were coming on, the voices were coming. It
2 just wasn't one voice.

3 I told people about what I was
4 hearing and things, nobody believed me. Not a soul
5 believed me. I lost my job in January, I had a lot
6 of pressure. I had a lot of pressure. I started a
7 new job, I had to learn things. It's like starting
8 from scratch again. I lost friends, I lost a lot of
9 things. I lost a family, a whole family just like
10 obliterated, just gone because I screwed up.

11 Q. Okay. You were in the truck?

12 A. I'm in the truck, okay? I'm trying to
13 leave. I had it cranked up, I thought I pulled it
14 down and put it in reverse. I thought I had it in
15 reverse. Didn't have it in reverse. So -- and I
16 thought I was going out in the yard. Wasn't out in
17 the yard. The next thing I know it's in park. Like
18 I said, the voices, the voices. You know, sometimes
19 you hear a little voice that tells you to good in
20 things, this -- or, you know, something's happened
21 or, you know, say kind words. These are like a
22 little different, these are like not positive or --
23 these are negative voices, they weren't positive.

24 So -- and they say, you know, "Go
25 ahead, it's easy, just kill yourself." And the words

1 didn't slur. Like I said, I told people about the
2 eight voices before, the hag and stuff later on in
3 this thing.

4 When I was trying -- I put it in
5 neutral, park, and then I don't know if I pulled the
6 keys out of the ignition or not, if I put them in my
7 pocket or not. I don't remember. Like I said, it's
8 been a whole year, a whole year since I've been
9 incarcerated. I stopped, pulled the seat back,
10 pulled it up, got the shotgun out of the back. I
11 thought I was putting the thing in my mouth. I
12 thought -- because I always keep it loaded. Not one
13 in the chamber, might I add, but always loaded in the
14 magazine. And, you know, I thought I had -- this
15 time, you know, I could do it, I thought I could get
16 it over with. I lost everything, everything was
17 gone.

18 Q. What happened?

19 A. Next thing I know I'm in the house. I'm
20 in the house. I'm in the house, I'm doing -- it
21 wasn't the work of the Lord, let's put it that way.
22 It wasn't the work of the Lord. I was seeing myself
23 from above and the side, from the top, looking from
24 the front. I was in there. When I first got in the
25 house, seen her, I don't know, it was like I

1 couldn't -- couldn't get back out, there was no way
2 to get out.

3 Next thing I know, I don't remember
4 if I put the shell in the chamber or I knocked the
5 safety off, I don't remember. I heard, you know,
6 zzztzzt, zzztzzt, zzztzzt, zzztzzt, zzztzzt, a noise, you
7 know, the noise, I could hear noises, zzztzzt, zzztzzt,
8 zzztzzt, zzztzzt like fluid, fluid, fluid, like brake
9 line, or something moving really quick. And next
10 thing I see her right in front of us, you know, right
11 in front of us. She was there right in front of us.
12 Next thing I know, pow, pow, pow-pow.

13 Then I thought it was a dream. A
14 dream. But you know what? It wasn't a dream I could
15 wake up from because I am here. I did it. I killed
16 her.

17 Q. What happened next, Eddie?

18 MR. BAILEY: I'm sorry, what was the
19 question?

20 MR. BEAUFORD: "What happened next?"

21 MR. BAILEY: Oh, okay.

22 BY THE WITNESS:

23 Q. I'm going out the door of the trailer, I
24 don't remember if I closed the door, opened the door
25 back up, I don't remember. I get to the patio, the

1 little deck, smell powder, gunpowder, fresh
2 gunpowder. None of my dreams even had gunpowder or
3 smell anything, you can't smell in my dreams. You
4 can't feel the sun shine on your face in a dream, you
5 can't feel the sunshine. I could feel the sunshine.
6 I know right then I wasn't in a dream. I knew right
7 there it wasn't a dream.

8 I say to myself, "It's going to be
9 easy this time to blow your head off, it's going to
10 be easy to kill myself." But, like the coward I am,
11 I can't never finish the job, I can't finish the job.

12 So I'm going back to the truck. I
13 think to myself, "Kill yourself on the patio, your
14 son will see you this way. He'll see Daddy all over
15 the place on the patio. You killed her, you killed
16 the woman you loved, the only woman you loved, your
17 baby's mama. What is he going to think of you? What
18 is he going to think of you?" A child sees his
19 mother dead. I knew right then I had to kill myself.

20 I heard something, I heard like a
21 rumble, like somebody next door. It's Carl.

22 BY MR. BEAUFORD:

23 Q. Who's Carl?

24 A. Susan, the deceased's father. So we
25 left.

1 Q. You said, "we left."

2 A. Me. Me. I mean me. I meant I left,
3 left. I left. I'm leaving, I wanted to kill myself
4 at the truck. I took the gun out of the truck. I
5 wanted to run. "Man, you got to do it, you got to
6 get it over with." I'm thinking "Where can I do it
7 at, where can I do it at?"

8 Then I was wanting to pull off the
9 side of the road, you know, pull off the side of the
10 road right there. And voice, "You got to turn
11 yourself in, justice got to be done, justice have to
12 be done, and it's got to be done today." I said, "I
13 got to turn myself in. No, I'll kill myself. I got
14 to kill myself." An eye for an eye, a tooth for a
15 tooth, that's the only thing that resolves. I
16 couldn't believe I did it. I couldn't believe I did
17 it. I'm driving down the road still.

18 Q. So you're driving down the road.

19 A. I'm in the road. I was going to turn
20 like at an intersection there. I could have did it
21 there, I know I could have did it. I don't know why
22 I didn't do it there. Why didn't I do it there or
23 take a right, go to the pits. I take a left instead
24 to the police station. It's like you come at a
25 crossroads, a Y in the road, you take the high road

1 or you take the low road. I take the left road.

2 I know I'm a Christian, I know
3 suicide's not right, I know murder's not right.

4 Q. Okay. And what else did you do?

5 A. I'm driving down the road, sir, I'm
6 driving down the road. My truck won't do 70 miles an
7 hour. You couldn't do 70 miles an hour in my truck
8 if you got horses in it. The tires in front's
9 unbalanced, it won't --

10 Q. You're driving down the road?

11 A. I'm driving down the road trying to get
12 to the police station, sir.

13 Q. And what happened next?

14 A. Well, I'm driving down the road, I'm
15 still thinking, thinking, thinking, thinking, "You
16 got to do it. No, you got to turn yourself in." I
17 seen two white cars in front of me I knew. I got
18 good eye vision for distance, I knew they were police
19 cruisers. They come -- I'm trying to flag them down,
20 okay? I slam my brakes. One of them makes a --
21 what's the name called?

22 Q. One turn around?

23 A. A proper word for it.

24 Q. One of the police officers turned around?

25 A. Well, they turned around yes, sir. Yes,

1 ma'am and yes, sirs. One turns around, the other one
2 finally turns around. I'm already out of the truck.
3 I don't remember if I pulled the keys out or the
4 truck was still running or I slammed it off. I got
5 out of the truck, I'm on the ground already, my hands
6 like this here up against the truck. And the other
7 car, that heavy-set fellow, he's got the gun on me,
8 Gamache has got the gun on me, the other Anglo-Saxon
9 officer.

10 Q. Officer.

11 A. He's got a gun on me, says, "Put your
12 hands on the ground. Put your hands on the ground."
13 So I put my hands on the ground. And he comes up to
14 me.

15 I said, "Just kill me, sir. Just
16 kill me, sir. Kill me, kill me, kill me, kill me.
17 Just kill me. I did it. I did it. I killed her."
18 So he's getting my hands, he had -- gets my hand,
19 pulls it behind my head, puts the handcuff on, turns
20 it around. He's got his knee in my back on the
21 ground. I said, "It's not necessary, sir, not
22 necessary."

23 Q. So you were arrested?

24 A. Yes, sir. Yes, sir. I was arrested.

25 Q. And as part of your arrest, there were

1 some items taken from your clothing?

2 A. Yes, sir. Yes, sir.

3 Q. What were they?

4 A. My wallet, wallet with a key, key to the
5 handcuff -- I'm a locksmith also -- and four shotgun
6 shells.

7 Q. Now, when -- and how did those shells get
8 in your pocket? Did you leave home with those
9 shells?

10 A. No, sir. I sure did not. Sure did not.

11 Q. So could you tell me when those shells
12 got in your pocket?

13 A. I put them in my pocket, front pocket.

14 Q. At what point?

15 A. I put them in the front pocket in the
16 truck.

17 Q. At what point did you put them in the
18 pocket when you were in the truck?

19 A. I thought -- I thought after I came out
20 of the house, it could have been before I went in the
21 house, I'm not sure. I remember grabbing the gun. I
22 remember grabbing the gun. I don't remember the
23 shells being in my pocket. They were in my pocket, I
24 know they were in my pocket, because, you know what?
25 I watched him take them out of my pocket. Wallet, I

1 told him I had a handcuff key in my wallet. I said,
2 "Take the handcuff key out of my wallet."

3 So he grabs my whole wallet. He
4 didn't -- he didn't bother to check in the wallet. I
5 could have opened the cuffs up, pushed the back glass
6 out. The back glass pops from the inside out, not
7 the outside in. I could have got away. There's a
8 lot of ways I could have got away. I didn't want to
9 resist. I wanted justice to be done. I asked him
10 why didn't he kill me. "Nobody's going to kill you,
11 sir. Nobody's going to kill you." And then all the
12 detectives and crew just come on the scene.

13 Q. What were your feelings towards Susan?

14 A. I loved her. I -- how can you not love
15 the mother of your child? How can you not? Say a
16 bold-face lie I didn't love her, or I just liked her?
17 I loved Susan because Susan was the mother of my
18 child, my only child, my flesh and blood, my baby.

19 Q. Eddie, when you left your house that
20 evening, what was your intent when you were driving
21 towards Susan's residence?

22 A. First of all was to talk to my son, okay?
23 And I said -- I had to talk to Susan, too, but she
24 wasn't there. She wasn't supposed to be home until
25 seven o'clock because she's working with Becky

1 cleaning houses or something, something. They were
2 working together. She wasn't supposed to be home
3 yet. I went to apologize to Daniel. I wanted to
4 tell Daniel I was sorry because I know I hurt his
5 feelings. And when he hurts, I hurt.

6 My little boy, he feels a lot, tells
7 me a lot. Our son, he's special. He's got her
8 pretty blue eyes, he's got my chin, he's got her
9 mathematical equation, but he's got my curiosity to
10 learn things, to build things, to draw, to paint.
11 He's got like both of us put together. It's like a
12 blend, a perfect blend. The child had everything
13 going for him. Everything going for him. He was
14 going to be an airplane pilot.

15 Q. Eddie, did you have any ill feelings or
16 any kind of feelings like that toward Susan at any
17 point?

18 A. No, sir. No, sir. Regardless of the
19 circumstances, whatever she did to me, I didn't care
20 whatever she did to me. I never, never -- always let
21 her have her way, regardless of the circumstances.
22 When she was happy, I was happy. When you love
23 somebody -- like I said, when you love something you
24 have to let it go. I loved her regardless of -- even
25 when she went off with Tom to North Carolina, all

1 kinds of things, I didn't care. I really didn't care
2 because I still loved her regardless of the
3 circumstances. It was like an all-gothia (phonetic)
4 love that Jesus Christ endured forever. I still love
5 her.

6 Q. No further questions.

7 MR. BAILEY: Your Honor, can we take a
8 brief break before I cross-examine? I need to
9 pull some exhibits out that I may need.

10 THE COURT: Yes, sir. That will be fine.

11 Let's take about ten minutes, ladies
12 and gentlemen.

13 Mr. Weik, you may step down if you
14 would do that.

15 THE WITNESS: Yes, sir.

16 (Jury excused.)

17 (Recess taken.)

18 MS. HARDEE-THOMAS: Your Honor, I just
19 have a brief -- beforehand, when Mr. Weik
20 finished talking, when he came back to the
21 seat Mr. Beauford and I went over and spoke to
22 Dr. Crawford. When I came back he wanted to
23 ask me about who that was and the conversation
24 and that's all. We never talked about
25 anything else and I want that on the record.

1 THE COURT: Sure.

2 MR. BAILEY: Judge, could he take the
3 stand before the jury comes in?

4 THE COURT: That's fine. He doesn't need
5 to walk up there with those things on his
6 legs.

7 All right. Bring them, please, sir.

8 (Jury present.)

9 THE COURT: All right, Solicitor.

10 MR. BAILEY: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. BAILEY:

13 Q. Mr. Weik, I'm Walter Bailey. I want to
14 ask you a few questions, all right?

15 A. Yes, sir.

16 Q. All right, sir. Are you a deer hunter?

17 A. Yes, sir. I am.

18 Q. Okay. Do you still hunt or hunt with
19 dogs?

20 A. Hunt with dogs, still hunt, rifles,
21 rabbit hunt, squirrel hunt, dove hunt. You can tell
22 by the arm I dove hunt.

23 Q. Okay. Pretty good shot?

24 A. Fairly good. Fairly good, sir.

25 Q. Okay. You told Mr. -- Deputy Burnette

1 you're an excellent shot back when you talked to him
2 out on the road, didn't you?

3 A. Yes, sir.

4 Q. Told Mr. Marshall you were a
5 sharpshooter?

6 A. I would say so in 4-H a long time ago,
7 that's when I was a little kid Danny's age.

8 Q. Okay. So you know how to handle a gun,
9 rifle, shotgun, whatever?

10 A. Yes, sir. I'm not going to lie to you,
11 I'm a hunter.

12 Q. You're good at it?

13 A. I'm decent. I'm not the best at it, sir.

14 Q. Okay. Let me ask you something. Deer
15 hunting, let's talk about deer hunting for a while,
16 okay?

17 A. Yes, sir.

18 Q. When you -- when you're shooting a deer,
19 do you shoot him in the neck or above the shoulder or
20 where do you try to take a shot at a deer?

21 A. What am I shooting with?

22 Q. Shotgun.

23 A. Shotgun. Doesn't matter.

24 Q. Doesn't matter where you shoot it?

25 A. Because powder -- the bullets go

1 everywhere. I mean, you can say on a certain gun
2 that it's going to go in a certain area to kill? No.
3 That shot goes everywhere. Now, if it was a rifle or
4 if you were using a bow and arrow, which, you know, I
5 can use the bow and arrow, you can shoot the deer
6 when it moves its legs, you know. But on a shotgun
7 you don't know where the pellets are going because
8 the pellets, there's no way -- the only person that
9 knows where the pellets are going is God himself.

10 And when you shoot a shotgun there's
11 no way, unless you wax the wads or something like
12 that, or if you got something like a slug, use a
13 slug, then you know exactly where that shot's going
14 to, exactly. You don't know.

15 Q. Okay. With a shotgun, the further away
16 you are from the target the further those pellets can
17 spread, right?

18 A. Yes, sir.

19 Q. Okay. And if you're close up on
20 something they can spread a little bit, but not a
21 whole lot, you can have -- let me finish first.

22 A. Okay. I'm sorry. I'm sorry.

23 Q. All right, sir. You can have a tighter
24 patten if you're up close to your target; is that
25 right?

1 A. It's according to what choke you use on
2 your gun.

3 Q. Okay. Choke like you got on this gun is
4 a modified choke?

5 A. Um....

6 Q. It's your gun, isn't it?

7 A. Yes, sir. It is.

8 No, sir. Not choked. It's
9 modified, modified open.

10 Q. Okay. But at any rate, you get up close
11 on something you're not going to get as wide a
12 pattern?

13 A. Sir, like I said, that's modified or
14 open. The shot goes -- if that was a choke, full
15 choke.

16 Q. Okay.

17 A. Then it would probably have a tight
18 pattern, tight pattern. But it's not a full choke.

19 Q. Okay. Just generally speaking, the
20 closer you're in to the target the less -- the less
21 spread you can get on that pattern, right?

22 A. Majority of the time, not all the time.
23 Like I said, on a shotgun you don't know exactly. I
24 mean, you could be -- I would be close -- me to her,
25 okay, and the shot would go everywhere. It's just

1 according to how it's shot. And sometimes, you know,
2 like if you shake or something like that, the shots
3 can go wherever, it doesn't matter. You can't
4 exactly say where that shot's going to go to.
5 Ninety-nine percent of the time you can't say.

6 And I don't think there's any expert
7 in the United States or on God's green earth that can
8 say 100 percent for sure that they know exactly where
9 that shot's going to go or how it's going to react,
10 because every shell is different.

11 Q. I got you. Okay. Let me ask you this:
12 When you're deer hunting say with a rifle, still
13 hunting.

14 A. Yes, sir.

15 Q. Where do you shoot a deer then?

16 A. On a deer you got to shoot it from the
17 side, shoot from side.

18 Q. Okay.

19 A. Because if you shoot straight --

20 Q. You want to hit him in the neck? That
21 would take him out, wouldn't it?

22 A. Not with a rifle. With a rife, no, you
23 wouldn't shoot that. You don't shoot it in the neck.

24 Q. Okay. Let me ask you this thing --

25 A. Why you say that for is you shoot in the

1 neck, the bullet goes through, you're not hitting
2 anything.

3 Q. Okay.

4 A. You hit it in the side, you hit it in the
5 side because -- and it has to be at an angle. You
6 can't shoot it from the front, you can't shoot it
7 from the hind quarter.

8 Q. All right. Let me ask you another one.
9 You ever intentionally gut shot a deer?

10 A. Beg your pardon?

11 Q. You ever intentionally got shot a deer?

12 A. Not with a rifle.

13 Q. Why is that?

14 A. Because you know exactly where a bullet's
15 going. On a rifle, it's going in a particular
16 pattern, not going off this way or that way right
17 there.

18 Q. Okay.

19 A. When it's going for a deer, bring a deer
20 down, you'd have to get, you know, heart and lung,
21 heart and lung. Because a deer will run without
22 blood, it will run three miles without blood, without
23 blood. That means it's running, the adrenaline kicks
24 in, it's going.

25 Q. And what you want to do is you want to

1 kill that deer as quick as you can, as painlessly as
2 you can?

3 A. Humane wise, the humane thing to do.

4 Q. Right?

5 A. With a shotgun you don't know exactly,
6 sir. You could say it's going -- you're going for
7 that chest cavity, with a shotgun it may go off to
8 the side, it's according to how the shell reacts, or
9 how -- like you handle that shell. If the shell is
10 out to one side where it's laid at, the shot will go
11 off to one side when it comes out the barrel.

12 Q. Why wouldn't you intentionally gut shoot
13 a deer? Tell me that.

14 A. A deer would get away.

15 Q. Okay.

16 A. Get away if it was gut shot.

17 Q. Because it wouldn't immediately kill that
18 deer if you gut shot it, there's no vital organs
19 there when you gut shoot a deer, so it will take off
20 running and you may not even find it?

21 A. Yes, sir. Now, a person's different
22 because you don't know. I don't know where the heart
23 and lung on a person is, to tell you the truth,
24 because I don't cut people up for a living.

25 Q. Okay.

1 A. You know, my anatomy is all broke up. My
2 chest here, you can't tell where my heart is, you(
3 can't tell where my lungs are at because all this
4 clavicle, everything is broken in mine from childhood
5 experiences, you know, motorcycle --

6 Q. Let me ask you --

7 A. -- accidents, car accidents.

8 Q. -- if we can do this.

9 A. Yes, sir.

10 Q. And this will go a --

11 A. Yes, sir.

12 Q. -- lot faster.

13 A. Yes, sir.

14 Q. If you could listen to my questions.

15 A. Yes, sir.

16 Q. And you give me the best answer you can^m
17 give me but --

18 A. I'm trying, sir.

19 Q. -- answer my questions.

20 A. I'm trying to help you out as quick as
21 possible.

22 THE COURT REPORTER: Judge. Judge,
23 they're both talking at the same time.

24 THE COURT: Both can't talk at the same
25 time.

1 THE WITNESS: I'm sorry, ma'am. I'm
2 sorry.

3 BY MR. BAILEY:

4 Q. Mr. Weik, if you could, let me finish
5 talking --

6 A. Okay, sir.

7 Q. -- then you answer the question, and I'll
8 wait for you to answer, okay? Are you okay on that?

9 A. Yes, sir. Yes, sir.

10 Q. All right. You told this jury a few
11 minutes ago that you didn't form the intent to go
12 over to Susan Krasae's house until sometime after you
13 left your home and went to the bank; is that correct?

14 A. Yes, sir. ATM machine.

15 Q. All right, sir. Okay. You went to work
16 that day, didn't you?

17 A. Yes, sir. I did. Yes, sir.

18 Q. You saw Ron Hall at work, didn't you?

19 A. Yes, sir. I sure did.

20 Q. And you had a conversation with Ron
21 Hall --

22 A. Yeah.

23 Q. -- didn't you?

24 A. Yes, sir. I did.

25 Q. And did you not tell Mr. Hall before you

1 knocked off at about four o'clock that you were going
2 to your son's house to resolve a situation, you (
3 didn't know what was going to happen, but if you
4 didn't show up for work the next morning he would
5 know something had happened? Isn't that what you
6 told him?

7 A. When I talked with Mr. Ron Hall, okay,
8 that was with Mr. Stanton, okay? Ron and I talked in
9 that factory itself. Mr. Stanton's office is a
10 little different. Now, when we talked we spoke
11 about -- vaguely, okay, vaguely about John, okay?
12 Now, he was also having a problem with a bully at
13 school that hadn't been resolved. Now, also --

14 Q. Mr. Weik, I asked you a question.

15 A. I'm leading to it, sir, right now.

16 Q. Okay. Give me an answer.

17 A. I want to explain myself, because every
18 time you cut me off of one thing, that's not
19 explaining everything. I want to explain everything
20 in the fullest, fullest detail, not leaving anything
21 out.

22 Now, I talked to Mr. Ron, okay, Ron
23 was a good friend of mine, and we talked. And I did
24 say something along those lines, but I didn't say I
25 was going over there.

1 Now, I had already called the school
2 prior, okay, that Monday, and talked to the vice
3 principal.

4 Q. Mr. Weik, I'm not asking you about the
5 school.

6 A. Okay.

7 Q. I'm asking you about your conversation --

8 A. Okay. Yes, sir.

9 Q. And you're going to have to --

10 A. Yes, sir.

11 Q. -- let me finish.

12 A. Can I talk?

13 Q. I'm asking you in front of this jury
14 whether or not, and you can answer this yes or no and
15 then explain it, whether or not you told Ron Hall
16 before you left work that you were going to Daniel's
17 house to straighten out a problem, and if you didn't
18 come back the next day at work that he'd know
19 something happened. Is that what you told him or
20 not? Yes or no?

21 A. Similar. Similar. Not exactly. Not
22 exactly, sir.

23 Q. Tell the jury, then, what you told
24 Mr. Hall.

25 A. Okay. Ladies and gentlemen of the jury,

1 we spoke, okay? On Ron -- me and Ron were good
2 friends, worked together, he was the plant manager
3 we worked at American Skiff. Ron and I had
4 conversations, okay, that day about what was going on
5 about the principal and the bully at school and
6 talking to -- on lines about John, because John was
7 interfering with Daniel, okay?

8 Now, what we spoke about was about
9 John himself. I didn't say I was going over there,
10 okay? Now, along those lines is -- it's not exactly
11 true. It's not exactly true. Now, some of it was
12 true, but not all of it was true. Now, he was having
13 problems with a boy at school, I'll give you that
14 and I did talk to --

15 Q. Mr. Weik --

16 A. -- Ron about John.

17 Q. -- I'm asking you what you told --

18 A. I did not --

19 Q. -- Mr. Hall.

20 A. That's what I'm saying, sir.

21 Q. That's all I'm asking you. Do you
22 understand that?

23 A. Yes, sir. I do.

24 Q. Tell the jury what you told Mr. Hall.

25 MR. BEAUFORD: Your Honor, asked and

1 answered. He said --

2 THE COURT: Well, he said it was similar.
3 And he said, "Well, what exactly did you tell
4 Mr. Hall?" All I want to know -- all he wants
5 to know is what did you tell Mr. Hall.

6 You didn't tell him you were going
7 to go over there, what did you tell him?

8 THE WITNESS: I told him when I go home I
9 need to resolve a problem, okay? And I talked
10 to him -- he already knew about the principal
11 and everything like that at the elementary
12 school, and John, the boyfriend, was giving me
13 problems. And John -- Ron was the kind of
14 person he didn't mind listening to you, you
15 know, he emphasized talking to you all the
16 time. And me and Ron got along good.

17 And what I told him exactly is if I
18 didn't come back, you know what happened,
19 okay? And that was on the regards of the
20 school and John. That had nothing to do with
21 going over there, okay? And --

22 BY MR. BAILEY:

23 Q. So you deny telling Mr. Hall you were
24 going over to Susan Krasae's house?

25 A. Yes, sir. Yes, sir. Yes, sir.

1 Q. Just wanted to get that straight.

2 Let me ask you a couple other things
3 here. When you went out to Susan Krasae's trailer,
4 who was the first person you saw when you drove up
5 into the yard?

6 A. There was two. There was two.

7 Q. Amber?

8 A. Amber and Daniel.

9 Q. And Daniel.

10 A. And Daniel, sir.

11 Q. Okay. And then you said that Susan was
12 over at her father's house, she saw you as she came
13 out, she started to cuss you; is that right?

14 A. Yes, sir. She shook her finger and, you
15 know, words.

16 Q. And I believe you told that jury that the
17 children were out there and she was cussing you,
18 didn't you?

19 A. Yes, sir.

20 Q. That they heard it?

21 A. Yes, sir.

22 Q. Okay.

23 A. Even before she was cursing me I told
24 her.

25 Q. You remember talking to Mr. Marshall back

1 here, don't you?

2 A. Vaguely, sir. Vaguely. Yes, sir. I was
3 very upset at that time.

4 Q. I'm going to hand you State's 66 and ask
5 if that appears to be the taped statement that you
6 had with Mr. Marshall.

7 A. Okay. Yes, sir. Exactly where at, how
8 far down?

9 Q. Page 9.

10 A. Oh. Where at on page 9, sir?

11 Q. Fifth line from the bottom Detective
12 Marshall says, "Where was your son?" Do you see that
13 one?

14 A. Yes, sir.

15 Q. Okay.

16 A. Yes, sir.

17 Q. And your answer was "Ah, ran in the
18 bedroom, he ran in the bedroom."

19 And Detective Marshall says --

20 A. "He ran in the bedroom." It says, "Ah,
21 ran in the bedroom, he ran in the bedroom."

22 Q. "He ran in the bedroom."

23 A. Yes, sir.

24 Q. And then Detective Marshall says, "When
25 you drove up?"

1 And you said "Yeah." Right?

2 A. There were two outside --

3 Q. Let me handle this now.

4 A. Okay. Okay.

5 Q. "When you drove up?"

6 "Yeah."

7 Detective Marshall says, "Why did he
8 run to the bedroom?"

9 And you said, "He didn't want to
10 talk to me, didn't want to talk with me."

11 And then he says, "Was it because
12 you weren't -- you weren't mad at him, were you?"

13 And you said, "No."

14 So now which is correct? Did Daniel
15 run into the bedroom when you drove up, or was he
16 outside when you and Susan had the argument?

17 A. He was outside when he seen me because he
18 was on his little bicycle, okay, little red painted
19 bicycle looked like. Put the bicycle down as soon as
20 I got up, pulled up, and went into the room in the
21 house. And Amber is outside on her little bicycle,
22 okay, and I knocked on the side of the door and Amber
23 said, "It's all right, go inside."

24 So I go inside, like I said, to
25 the -- what's the thing called? -- the corridor or

1 hall and Danny come out of his little room, okay?
2 Now, from that point on, you know, that's when I
3 started talking to him, you know, and back out to the
4 patio like I said prior.

5 Q. So when you encountered Susan and you say
6 she cursed you --

7 A. Yes, sir.

8 Q. -- was Daniel out there, or was he in the
9 room?

10 A. We were outside -- yes, it was outside,
11 sir. We had to go out that -- I had my arm around
12 him, okay, you know like it's all right, okay? I
13 didn't mean it, I'm sorry.

14 Q. When did he go into his bedroom?

15 A. Beg your pardon?

16 Q. When did he go into his bedroom?

17 A. When I came up or when we were outside,
18 sir? When me and Susan was outside having an
19 argument? When do you mean?

20 Q. At some point in time you realized that
21 Daniel ran to his bedroom; is that correct?

22 A. Yes, sir.

23 Q. When was that?

24 A. It's easy to see the bedroom, okay? When
25 I pulled up, okay, he seen my truck, he seen me get

1 out, okay, he got off his bicycle by the porch, okay,
2 where the little bike was -- like blocks, like blocks
3 or something like that you had for the front little
4 walk thing -- what's that thing called? -- walkway.
5 He laid it down, okay, and went into the house, okay,
6 the doors were open on the house.

7 Q. Okay. And you knew what room he went
8 into in the house, didn't you?

9 A. Yes, sir. If you could see, because when
10 the door's open like that, okay, sir, his bedroom's
11 the first on the left, okay? You walk down that
12 little corridor and it's like this right here, sir.

13 Q. Let me hand you State's Number 46 here.
14 Where did Daniel go? I'm going to hold it up to the
15 side here, Mr. Weik. You don't need to get up, just
16 point out where Daniel went.

17 A. Okay. Right here, sir. Bedroom, first
18 bedroom.

19 Q. Okay. You saw him go down there, right?

20 A. Yes, sir. Because like you could see.

21 Q. Where'd Amber go?

22 A. Amber was right -- Amber was right --
23 Amber's right here on her little bicycle.

24 Q. Okay. All right.

25 A. Because the patio -- actually the patio,

1 the patio comes up like this right here.

2 Q. That's where you all were arguing, right?

3 A. Yes, sir. Yes, sir. And Amber was on
4 her little bicycle out here and not on the side like
5 that there. Little glass door there. Now, this was
6 open and I could see Daniel, okay, going this way
7 here and went in his bedroom. And when I got -- she
8 said, "Go in," I went in like this here and come out.
9 Came back out this right here, came and stood like
10 this right here. I had my arm just --

11 Q. You can sit down.

12 A. My arms were like this. I said, "It's
13 all right, Daniel, it doesn't matter. You don't have
14 to choose" --

15 Q. Okay. Go ahead and have a seat here.

16 A. (The witness complied.) -- "I still love
17 you."

18 Q. Okay. Hunting season had been over for
19 four months, hadn't it, deer season?

20 A. Yes, sir. Yes, sir. It was.

21 Q. And you're telling this jury that gun was
22 in your truck. Was it loaded for four months after
23 hunting season?

24 A. Yes, sir. I keep it loaded all the time,
25 sir.

1 Q. Okay. Now, during March and April Daniel
2 had come to visit you at your house, hadn't he? (

3 A. Yes, sir.

4 Q. Been in your bedroom?

5 A. Yes, sir. He has.

6 Q. Seen your guns?

7 A. He plays with the guns a lot, that's the
8 reason why it stays in the truck. The .22, he knows
9 how to shoot the .22 because we practice outside on
10 the trash pile. And he knows -- I already had him
11 with a shotgun already for hunting season and he
12 knows how to fire a shotgun. And one day I caught
13 Daniel messing with my big gun on the rack up there.

14 Q. He knows this gun, he's handled this gun
15 before, hasn't he?

16 A. He's had that gun there in his hand, sir,
17 and had the shell ejected.

18 Q. Okay.

19 A. That's why I was very paranoid, because
20 it doesn't take much for a little child to have a gun
21 and do something if the safety's not on or the
22 safety's off. And I don't have trigger locks, which
23 I should have on my Hayes there in the first place, I
24 should have had trigger locks on it.

25 Q. I'm not asking about trigger locks, (

1 Mr. Weik.

2 A. Yes, sir.

3 Q. Please answer my questions.

4 A. Okay.

5 Q. All I was asking you is whether or not
6 Daniel is familiar with that gun, if he had been in
7 your room.

8 A. Yes, sir. He was.

9 Q. He had?

10 A. Yes.

11 Q. All right. When did you load the gun,
12 deer season?

13 A. That thing stays loaded, sir, because
14 that's the first defense if somebody broke in the
15 house.

16 Q. Okay. All right.

17 A. And that's the reason I had it in the
18 truck.

19 Q. You remember when Officer Gamache, the
20 deputy that handcuffed you, stopped you?

21 A. Yes, I do. Yes, sir.

22 MR. BEAUFORD: Your Honor, objection.

23 BY MR. BAILEY:

24 Q. You had four live rounds in your pocket,
25 right?

1 A. Yes, sir. I sure did.

2 Q. Does that look like them? (

3 A. Yes, sir. They are.

4 Q. Okay. For the record, this is State's

5 12. How long had they been in your pocket?

6 A. Well, when I came out of the truck. They
7 were in my pocket when I went into the house.

8 Q. Okay. I understand that, that you had
9 them in your pocket when you went in the house. When
10 did you put them in your pocket, Mr. Weik?

11 A. When I got out of the truck, sir.

12 Q. When you got out of the truck?

13 A. Out of the truck, sir. (

14 Q. Okay. When you got out of the truck the
15 first time or the second time? When you drove up --

16 A. The second time. The second time, sir.

17 Q. Okay.

18 A. The second time.

19 Q. The second time, all right.

20 Now, what possessed you, Mr. Weik,
21 to put four live shotgun shells in your pocket?

22 A. What possessed me, sir, to shoot a woman
23 four times, sir?

24 Q. My question is, Mr. Weik --

25 A. I'm answering, sir. (

1 Q. And please follow me. I'll ask the
2 questions and you answer them, okay?

3 A. Fair enough, sir. Fair enough.

4 Q. Why did you put four live shotguns shells
5 in your front pants pocket when you went in that
6 trailer?

7 A. I don't know, sir. I don't know why I
8 shot her four times. Blood everywhere. I don't know
9 why I shot her. Why didn't I shoot her one time?
10 Why did I shoot her at all?

11 Q. Mr. Weik, I'm not asking you why you shot
12 her.

13 A. I don't know, sir.

14 Q. I'm asking you why you put four live
15 shotgun shells in your pocket.

16 MR. BEAUFORD: Your Honor, he's answered.

17 He said he don't know.

18 THE COURT: All right. If he doesn't
19 know, he doesn't know.

20 BY MR. BAILEY:

21 Q. Do you know?

22 A. Why did I kill her for, sir? Doesn't
23 make no sense. I've been asking the same question.
24 Why did I kill her for?

25 Q. Do you remember after you gave

1 Mr. Marshall a taped statement that you did a
2 handwritten statement for him?

3 A. Yes, sir.

4 Q. Do you remember that?

5 A. Uh-huh (affirmative response).

6 Q. I'm going to show you State's 67, and ask
7 whether or not that's the statement you gave
8 Mr. Marshall in your own handwriting?

9 A. Uh-huh. Yes, sir.

10 Q. Go ahead, read over it. I want to ask
11 you a question about it.

12 A. That's my handwriting, yes, sir.

13 Q. You wrote that out?

14 A. Yes, sir.

15 Q. You don't tell lies, do you, Mr. Weik?

16 A. Sir, everybody tells lies. Whether how
17 bad they are or how small they are, a lie is a lie
18 regardless from the circumstances. Sometimes we slur
19 from the truth itself sometimes. If I said I
20 wasn't -- I didn't lie, sir, I would be a liar on the
21 stand. Because the only person that's perfect is
22 Jesus Christ our Savior.

23 Q. Let me ask you this: When you wrote that
24 statement out, was that a truthful statement,
25 Mr. Weik?

1 A. As much as I know, sir, because like I
2 said, if I really studied it, sir -- if you ever shot
3 anybody or if you had shot somebody you loved --

4 Q. Mr. Weik, I'm asking you, sir --
5 Mr. Weik, I'm asking you if that statement is a
6 truthful statement, okay?

7 A. As far as I can, sir.

8 Q. I want you to read it right now.

9 A. Okay. I understand. I am.

10 Q. Tell me when you finish reading it
11 whether that's a truthful statement.

12 A. Okay. Now, went Susan house to talk to
13 her on behalf of our son. I tried my son and didn't
14 want to and Susan came over from her father's
15 house -- or, no, father, and she was very angry,
16 shouting, tell me I wasn't going to see our son
17 anymore, that she wanted me off property and she was
18 going to call cops.

19 I got into the truck, started up, I
20 was trying to leave. I shut it off, pulled the keys
21 out -- no, pulled the keys out, put the seat up, I
22 was saying to myself, I think so. I was saying to
23 myself I think so, 25 years or life or death isn't so
24 long. I pulled the gun out, walked to the trailer,
25 opened the screen door, opened -- no, opened -- yeah,

1 opened the screen door, opened the door, kicked the
2 door open.

3 I looked for Susan, saw her -- saw
4 her. It was like looking in a monitor or something.
5 I popped a shell chamber, I tried to fire it, I think
6 it seemed like me, didn't look like me, I don't know.
7 I fired one arm and three more in the torso. I
8 think -- I think I turned and walked out the door and
9 got into the truck.

10 It felt like I was watching myself
11 from above and from the side. I drove off, I seen
12 the police officers, I stopped.

13 I apologize, I can't read my own
14 writing.

15 Q. Okay. Stopped and laid on the ground?

16 A. Wait a second. This might be where I
17 changed my L. Laid on the ground, put my hand on my
18 head and was -- were cuffed and taken into custody.

19 Q. And you signed that, right?

20 A. Yes, sir. Yes, sir.

21 Q. Mr. Weik, is that statement true?

22 A. The majority of it's true, sir. Majority
23 of it's true.

24 Q. Which part isn't true?

25 A. Well, I didn't say anything about the

1 voices, okay?

2 Q. Let's wait for that train to come by.

3 A. Okay.

4 (Pause in proceedings.)

5 Q. Okay.

6 A. I didn't say anything about all the
7 voices I heard, first of all.

8 Q. Okay.

9 A. I didn't mention shells in here, sir.

10 Q. Okay.

11 A. I didn't mention about the door.

12 Q. I'm not asking you about what you left
13 out.

14 A. I left a lot of things out.

15 Q. I'm not asking you what you left out --

16 A. Okay.

17 Q. -- Mr. Weik, I'm asking you if everything
18 in here is correct.

19 A. Not all of it's correct, sir. The
20 majority of it.

21 Q. Tell me what's not correct. Not what you
22 left out, what's not correct.

23 A. The door, the door itself, that was
24 incorrect, okay? Oh, the majority of it's true, sir,
25 majority. Like I said, I left a lot of things out

1 here.

2 Q. All right, sir. Mr. Weik, you said, (
3 was saying to myself 'I think so, 25 years life or
4 death isn't so long.'" So those voices were your
5 voice, that's you thinking to yourself, right?

6 A. I, as in me a whole, right?

7 Q. You didn't want to shoot yourself outside
8 of that house, Mr. Weik, because you didn't want
9 Daniel to see your dead body out there. Right?

10 A. On the patio, sir. Yes, sir.

11 Q. You knew when you shot Susan Krasae four
12 times that Daniel and Amber were inside that trailer,
13 didn't you?

14 A. Sir, I might --

15 Q. Give me a yes or no, then explain it.

16 A. I thought they were; I thought they
17 weren't, sir. I didn't know. Like I said, I was
18 seeing myself on a monitor. I didn't see anything
19 else.

20 Q. You weren't seeing yourself on a monitor
21 to the extent that you were not feeling emotion when
22 you shot her, were you?

23 A. Sir, like I said, I was on that monitor,
24 sir. When I see things, I didn't feel anything.

25 Q. You didn't feel anything, Mr. Weik? Is

1 that what you're telling this jury, you didn't feel
2 anything?

3 A. I felt a lot of things, sir. I felt a
4 lot of things going in my mind. I did feel a lot,
5 but as intent, okay, the intent, no. No. Now, as
6 far as adding to the other one, okay, now, other
7 thing you got on the list here where I said that I
8 killed her -- get down to it, first line, sir --

9 Q. I want to make sure we're straight here,
10 Mr. Weik. You said you didn't -- you didn't feel
11 anything when you shot that woman to death four
12 times; is that what you're telling this jury?

13 A. On this -- what do you call it, sir? --
14 affidavit here. Now, on the other thing now where it
15 says -- what is it?

16 Q. I'm not asking you about what's on the
17 paper, I'm asking you what you're saying right now
18 under oath to this jury, that you didn't feel any
19 emotion when you shot that woman to death. Are you
20 telling them that?

21 A. I didn't feel anything, sir.

22 Q. Didn't feel anything?

23 A. I didn't feel anything, no.

24 Q. All right. Look at page 4 of that
25 transcript of that taped interview, okay?

1 A. Yes, sir. Page 4, where, sir?

2 Q. Page 4, okay?

3 MR. BAILEY: Your Honor, can I approach
4 him, show where I want him to look?

5 THE COURT: Yes, sir.

6 BY MR. BAILEY:

7 Q. You see where it says "popped another
8 shell into her"?

9 A. Yes, sir.

10 Q. This is you talking, isn't it, Mr. Weik?
11 "Popped another shell into her. 'That's okay,' I
12 said to myself." Now, when you say "that's okay,"
13 you're feeling okay, right?

14 A. Describe okay.

15 Q. No. I'm not answering questions,
16 Mr. Weik, you got to answer these questions. You're
17 under oath on cross-examination.

18 A. I know, sir. I'm trying to explain okay.
19 Okay as in what? I could explain okay, okay as in
20 the now. Okay if something happens, okay.

21 Q. Drop down a couple more lines where it
22 says "I popped another shell into her." Now, when
23 you say, "I popped another shell into her," you mean
24 you fired another shotgun blast into her body; is
25 that right?

1 A. Yes, sir.

2 Q. And what did you say right after that,
3 Mr. Weik?

4 A. It says I felt better. Felt better.

5 Q. No, no, no. "I popped another shell into
6 her, it felt good." Do you see that?

7 A. "I popped another shell into her, it felt
8 good."

9 Q. Stop right there now. I want to ask you
10 about that sentence there. When you said, "I popped
11 another shell into her, it felt good," you're saying
12 I shot her again and it felt good. Now, good is an
13 emotion, isn't it?

14 A. Yes, sir.

15 Q. You felt good when you fired that shot
16 into her, didn't you?

17 A. This is from the talk, right, when I
18 wrote down certain things, right?

19 Q. I'm asking --

20 A. Actually what it is, two things, right,
21 sir?

22 Q. No. The truth is one thing. I'm asking
23 you the truth, Mr. Weik.

24 A. Yes, sir.

25 Q. When you shot that woman, despite all

1 this monitor business and seeing myself from afar,
2 you were feeling good, weren't you, you enjoyed i(

3 A. No, sir.

4 Q. You didn't? Let's read the next line.

5 "Popped another shell into her, it felt better."

6 A. Uh-huh (affirmative response).

7 Q. Is that what you said?

8 A. That's what I said, sir.

9 Q. "Popped another shell into her, it felt
10 even better."

11 A. Uh-huh (affirmative response).

12 Q. So we got okay, good, better, even better
13 for the four shots.

14 A. Uh-huh (affirmative response).

15 Q. So each time you shot her you felt better
16 about it, didn't you, according to what you said
17 here?

18 A. I said what I said. What I meant is two
19 different things, sir.

20 Q. Were you lying to Mr. Marshall when you
21 said that?

22 A. Probably so, sir. Probably so. I wanted
23 to die in the first place, sir. I told him I wanted
24 to die.

25 Q. I'm not asking about you dying.

1 A. They wouldn't killed me, sir. I tried.
2 I tried to blow my head off, I wanted the death
3 sentence.

4 Q. Okay. Let me ask you about this next
5 sentence here, Mr. Weik, okay?

6 A. Yes, sir.

7 Q. Last sentence there, and that response
8 you gave to Mr. Marshall, "Popped one in her abdomen,
9 popped one in her chest, her heart, one in the guts."
10 You said you're a good shot, right? You're seven
11 feet away. You could have shot her on any part of
12 her body you wanted to, couldn't you?

13 A. If I was nervous. Was I nervous?

14 Q. I don't know if you were nervous. Tell
15 me, were you nervous?

16 A. If I was nervous, was the gun shaking?
17 If you're shooting somebody, are you just keen as
18 possible, you're shooting another person, somebody
19 you love. You're the not even supposed to be
20 shooting a person. Thou shall not kill. Don't you
21 think I wasn't --

22 Q. Now, don't ask me what I think, sir,
23 because, see, since I'm the lawyer I get to ask the
24 questions and you got to answer them because you're
25 under oath, okay?

1 A. I'm sorry.

2 Q. Do you remember talking to Mr. Burnet(,
3 the deputy?

4 A. Beg your pardon?

5 Q. Do you remember talking to the deputy out
6 there on the side of the road?

7 A. I talked to a lot of people that day,
8 sir.

9 Q. Well, do you remember the kind of heavy,
10 the big fellow that was talking to you while you were
11 cuffed in the back seat of that car?

12 A. I might have, sir. I may have.

13 Q. Well, I want to know whether you did or
14 not.

15 A. If you got it down I must have, right?

16 Q. Let me hand you State's 15.

17 A. Which page?

18 Q. This is on page 4, State's 15, we got a
19 different one here.

20 A. Okay. Yes, sir.

21 Q. Look on page 4 there, Mr. Weik.

22 A. Yes, sir. Yes, sir.

23 Q. Okay. What I want you to do, I want to
24 call your attention -- just start here: "I went to
25 the back of the truck." Have you got that? "I went

1 to the back of the truck." You got that?

2 A. Yes, sir.

3 Q. All right. I'm going to start asking you
4 about that, okay? And you were present when that
5 videotape was played, weren't you, you were in the
6 courtroom?

7 A. Yes, sir. Yes, sir. I was.

8 Q. So you know what I'm talking about the
9 conversation you had with Mr. Burnette?

10 A. Yes, sir. Yes, sir.

11 Q. Let me go over that with you here. "I
12 went to the back of the truck, got the shotgun,
13 12-gauge shotgun, Remington, kicked the door in,
14 forced entry. I didn't fool around either. One into
15 the arm."

16 Was the shot to the arm the first
17 shot?

18 A. Like I said before in my earlier
19 conversation, sir, it could have been in that
20 vicinity but not exactly.

21 Q. Okay.

22 A. Like I said, every shell's different.
23 When you're shaking or something like that, sir, a
24 shell goes everywhere.

25 Q. Okay. You don't know where you shot her

1 the first time?

2 A. It could have been in the chest cavit(
3 it could have been in the arm, it could have been in
4 the top here, sir, it could have been in this part
5 here, sir, it could have been lower torso. But when
6 you're shaking like that, you know, you're not able
7 to see because she's wearing clothes. Not an animal
8 or anything like that, she's wearing clothes.

9 Q. She was standing up when you shot her the
10 first time?

11 A. Yes, sir. She was. She was.

12 Q. And did that first shot knock her to the
13 floor?

14 A. Like staggered her. Staggered her,
15 staggered and she went to fall.

16 Q. Okay.

17 A. I think. I think.

18 Q. She didn't fall?

19 A. I think. Because I had got four shots in
20 her before she fall, fell.

21 Q. Okay. At some point after the first
22 shot, that automatic shotgun jammed, didn't it?

23 A. No, sir. When I first got the gun, okay,
24 and I thought -- I didn't know if it was on safety or
25 a shell in the chamber, or -- I don't remember a

1 click or what. And I don't know if I pushed the
2 thing in there or what.

3 Q. Mr. Weik, didn't you --

4 A. I had --

5 Q. -- say on April 30th, 1998 that after you
6 shot her in the arm the first time the gun jammed,
7 you had to clear the jam before the last three shots?

8 A. Something along that line, but that's not
9 the truth, sir.

10 Q. Not the truth. Why would you say that
11 back then?

12 A. Because I don't know for sure, I didn't
13 know exactly where I shot her at, sir. Where I shot,
14 I thought I shot her was in that area. It could have
15 been in that arm, it could have been this right here,
16 okay? Now --

17 Q. Let's forget where you shot her at,
18 Mr. Weik.

19 A. Okay.

20 Q. Let me ask you this: Did the gun jam
21 after you first shot?

22 A. No, sir. It jammed before. Jammed
23 before. Before.

24 Q. Okay.

25 A. I was hysterical, sir.

1 Q. Mr. Weik, when you went in the house with
2 that gun, the first thing you did was you looked (
3 behind the door, didn't you?

4 A. Doors are to the side, sir.

5 Q. You looked -- when you went in the house,
6 when you kicked that door in and went in with that
7 woman and those two kids in there, the first thing
8 you did, you looked behind the door, didn't you? You
9 had the presence of mind to do that.

10 A. No, sir. I didn't look behind the door.

11 Q. Let's go back to your statement to
12 Mr. Burnette. "Kicked the door in, forced entry, I
13 didn't fool around either. One into the arm, one
14 into her -- the waist, one into the chest cavity, one
15 into the groin, I think that's it, intestines, heard
16 her gurgling."

17 So back then you were a little more
18 certain where you hit her than you are now?

19 A. Yes, sir.

20 Q. This is what you -- isn't this what you
21 are saying?

22 A. Sir, what I said -- like I said, I was
23 all shook up, okay, when this thing happened.

24 Q. Okay.

25 A. I said a lot of things. I said a lot of

1 things. "Kill me, kill me, kill me," okay, when I
2 shot --

3 Q. I'm asking you about this statement here.

4 A. I know, sir. I know, sir.

5 Q. Okay. Let's go on a little bit further.

6 "I'm an excellent shot. How can a person be so
7 gruesome, you know, I don't know, I really don't
8 know. Just like watching on a monitor like you see
9 in a television show. All of a sudden she screams,
10 says, 'Oh, Daddy, he's got a gun.' Man, no. Hand on
11 the trigger. I fired one shot, started feeling
12 good."

13 So again, you're telling a separate
14 officer from Mr. Marshall that when you fired it
15 started feeling good. Good is an emotion, isn't it?

16 A. Yes, sir. It also says here, "Oh,
17 Daddy." Why would she say, "Oh, Daddy"?

18 Q. I didn't ask you why she said, "Oh,
19 Daddy" before she was about to die. I'm asking you
20 how you felt when you shot her.

21 A. Yeah, but who was she calling Daddy? Was
22 she calling me Daddy or was she calling her daddy,
23 Daddy? Who was she calling Daddy on here? Why did I
24 say "Oh, Daddy, he's got a gun"?

25 Q. "Fired another shot, felt even better."

1 Is that what you said?

2 A. Yes, sir. I did.

3 Q. "I fired another shot, I felt even
4 better. I shot the final shot, heard blood going to
5 lungs like when you kill a deer and an animal, it's
6 all over and blood was in the lungs." That's you
7 talking.

8 When you kicked that door in and
9 went inside, she was terrified, wasn't she? She was
10 scared to death when you walked in there with that
11 gun?

12 A. I don't know exactly. When you see
13 somebody with a gun in your hand, wouldn't you be
14 terrified too?

15 Q. I don't answer the questions, Mr. Weik.

16 A. I guess she was, wasn't she, sir? She
17 had to be.

18 Q. She screamed, didn't she? And she said,
19 "Don't hurt my kids."

20 A. Had the telephone, I believe, telephone
21 in her hand. I believe she had the telephone in her
22 hand.

23 Q. To call the cops, right?

24 A. I believe. I believe, sir, yeah.

25 Q. Did she yell out "Don't hurt my kids"?

1 A. No, sir. No, sir. I don't think so,
2 sir.

3 Q. You're not sure though, are you?

4 A. Not sure. Not sure. Not sure, sir.

5 Q. Excuse me a second, Mr. Weik, I need to
6 find something. I'll be right back with you.

7 (Pause in proceedings.)

8 Q. Let's go back to the statement you gave
9 Mr. Marshall, okay, can we do that? The other one,
10 this one over here, page 5.

11 A. Uh-huh (affirmative response).

12 Q. You see there where Detective Marshall is
13 asking you about the shots and he says "Where was
14 that one, the third shot?"

15 A. Let's see here. How far now?

16 Q. Seventh line down on page 5.

17 A. The guts, yeah.

18 Q. "Where was that one, the third shot?"

19 Your answer: "Right here, right here
20 in the guts."

21 Mr. Marshall says, "In the guts?"

22 And you say, "In the guts, yeah."

23 Then Detective Marshall says, "In
24 the pelvic area?"

25 You say, "Yeah, yeah."

1 So back then you remembered that
2 your target areas were the guts and the pelvic ar(,
3 right?

4 A. Point like this here, sir, a person full
5 face. I mean, anywhere it's going it's in that area.
6 I also said I also have a full choke. I don't have a
7 full choke, it's modified or open.

8 Q. Turn to page 13, Mr. Weik.

9 A. Okay.

10 Q. The last line on page 13 you say, "Kicked
11 the door, made sure there's nobody behind the door."

12 A. Yes, sir.

13 Q. Does that refresh your memory a little
14 bit about what you did when you first went inside?

15 A. That's what I said, sir. That's what I
16 said.

17 Q. Page 14.

18 A. Yes, sir.

19 Q. Middle of the page. See where Detective
20 Marshall asked you about the middle of the page, "So
21 what did you do, the first round jammed?" You got
22 that?

23 A. Well, it jammed 'cause it's a three-inch
24 magnum?

25 Q. No. Down below that, middle of the page,

1 "So what did you do, the first round jammed?"

2 And you say, "It popped. It
3 popped." Then you say, "The second round it jammed,
4 put another shell in there, I pushed the safety. I
5 was going to go ahead, I don't know, really don't
6 know."

7 Then Detective Marshall says, "So
8 the first, we know it jammed, and you get another
9 round in there again, right?"

10 A. I said I pushed the safety.

11 Q. Okay.

12 A. Why would I push the safety for?

13 Q. And then first line, the next page, page
14 15, "I popped it in, I forgot to put the safety on, I
15 kicked the safety back off and fired another shot.
16 Pow, then pow-pow."

17 Doesn't that indicate you fired one
18 shot, then it jammed, you cleared the jam and fired
19 again?

20 A. Doesn't say that to me, sir. It said I
21 put the safety on. Why would I put the safety on
22 for? Now, when I first got -- you know, fired, the
23 safety might have been on or it might not had a shell
24 in it, okay? And then pow, pow, pow, pow. I mean,
25 pow-pow. It's not feasible. Why would you put a

1 safety on for and take it back off?

2 Q. I'm almost finished here, Mr. Weik, j(:
3 give me a minute or two, okay?.

4 A. Okay.

5 Q. Turn to page 15.

6 A. Okay, sir.

7 Q. And you remember I was asking you earlier
8 trying to establish if you knew where the children
9 were when you killed their mother, you remember I was
10 talking about that?

11 A. Yes, sir.

12 Q. Okay. Starting at the top of page 15,
13 Detective Marshall says on the third line there, (
14 "Where was your son during all this?"

15 And you answered: "In his bedroom,
16 his bedroom." Do you see that?

17 And Detective Marshall says, "He was
18 in the bedroom?"

19 And you say, "His bedroom."

20 Detective Marshall says, "His
21 bedroom. Did you hear him holler at you or
22 anything?"

23 "I can't remember."

24 He says, "Did he ever come out of
25 the room?"

1 "No," okay? So you knew your son
2 was in his bedroom. And tell the jury again --

3 A. The same place, sir, where I pointed to.

4 Q. Hold on a second, wait a minute. Take
5 this marker, and I want you to put a D for Daniel
6 where Daniel was when you killed his mother.

7 A. Right there, sir.

8 Q. Put a D there.

9 A. (The witness complied.)

10 Q. All right. Where was Amber when you
11 killed his mother, her mother?

12 A. Okay.

13 Q. But an A where Amber was.

14 A. Okay.

15 Q. Put A where you think she was at.

16 A. I assume that's where she's at, I assume.

17 Q. Well, I'm going to ask you about that in
18 a minute.

19 A. (The witness complied.)

20 Q. Okay. You can have a seat. Thank you.

21 A. (The witness complied.) More questions?

22 Q. Yeah, I got some more questions.

23 A. All right, sir.

24 Q. Down at the middle of the page

25 Mr. Marshall says, "Where was the little girl?"

1 And you say, "Was in her bedroom,
2 Susan's bedroom." (

3 And then Detective Marshall:
4 "Susan's. Did you see her run into the bedroom or
5 was she already" --

6 Your answer: "I think she ran. I
7 think she ran."

8 Detective Marshall: "When you
9 kicked in the door or before you kicked in the door?"

10 And you say, "I can't -- I didn't
11 see her."

12 Detective Marshall: "You didn't see
13 her at all?"

14 John Weik: "I assume I heard, I
15 heard her little feet. That's all I heard, that was
16 it."

17 So you knew when you shot Susan
18 Krasae that this was a single-wide little trailer and
19 your son and Amber were inside that trailer, didn't
20 you?

21 A. They had two trailers together, by the
22 way, sir, it wasn't just a single wide, two single
23 wide trailers put together. She po -- we assumed
24 that.

25 Q. You knew those kids were in the trailer, (

1 Mr. Weik?

2 A. I assumed, sir. They had to be in the
3 trailer, they wasn't outside, were they?

4 Q. Who did your son love more than anybody
5 in the world?

6 A. Anybody in this world. He loved Jesus
7 for one thing. He loved me a lot. Loved me a lot.

8 Q. How about his mother?

9 A. Loved his mama, too. Loved his mama,
10 too.

11 Q. All right. All right.

12 A. But he had a lot of problems with his
13 mama, I mean, she....

14 Q. Okay. And you thought it would be a good
15 solution, in your son's best interest, to kill his
16 mother, to shoot her four times with double aught
17 buckshot while he was in the room, and to get out of
18 that trailer would have to come out of that room and
19 see her dead body in a pool of blood. And you
20 thought that was in your son's best interest?

21 A. No, sir. No, sir. Not at all. Not
22 hardly, sir. Not hardly.

23 Q. And this whole thing, these events
24 started not because of anything John Thompson did to
25 you or to Daniel on April 30th, not anything that

1 Susan did, it started when you called that little boy
2 up who had no control over who his father was or (o
3 his mother lived with and tried to get him to pick
4 between you and his mother's boyfriend, and he tried
5 to take the middle ground and said, "Daddy, I don't
6 want to get involved." And then you told him I'm not
7 your son (sic) anymore. That's what precipitated the
8 whole thing, isn't it, Mr. Weik?

9 A. "I'm the not your son anymore." Why
10 would I say, "I'm not your son anymore"?

11 Q. Is that what you told him, that he wasn't
12 your son anymore?

13 A. I didn't say he wasn't my son anymore. I
14 said I wouldn't be able to see him anymore. You got
15 to pick one of the two.

16 Q. You got to pick one of the two. Thank
17 you, sir.

18 A. You can't pick -- you can't have both.
19 You can't have both, sir.

20 Q. That's all I've got.

21 MR. BEAUFORD: No further questions, sir.

22 THE COURT: Thank you, sir. You can step
23 down.

24 Ladies and gentlemen, let's stop. I
25 understand that -- you want to call another

1 witness before lunch?

2 MR. BEAUFORD: Your Honor, we have no
3 other witness we will present in this phase.
4 The defense rests.

5 THE COURT: Defense rests. All right.
6 Anything in reply, Solicitor?

7 MR. BAILEY: Your Honor, can I have a
8 second?

9 THE COURT: Yeah.

10 MR. BAILEY: I was talking to Mr. Bell.
11 He rests?

12 THE COURT: Yes, sir. He did.

13 MR. BAILEY: No, sir.

14 THE COURT: All right. Ladies and
15 gentlemen, you've heard all the evidence you
16 are going to hear in this case in terms of
17 these two charges. It's just a little after
18 twelve o'clock. I understand you all have put
19 in a request, and they've made a phone call
20 and so forth and they are going to be ready
21 for you about 12:30. And so I'm going to let
22 you go and get your lunch. And then as soon
23 as you all get through, I'm not going to -- as
24 soon as you get through, you all can come on
25 back. I mean, it's 12:30 when you get there,

1 be 1:30 or quarter -- why don't we start at a
2 quarter to 2:00, how about that? That will
3 give you plenty of time. And if you're back
4 before then and everybody's here we'll start
5 before then. But I'm not going to push you
6 too quickly on that.

7 Ladies and gentlemen, you've heard
8 the evidence in the case. What remains at
9 this time is the argument and the charge. The
10 arguments of the lawyers and then the charge
11 of the law and so forth. And you all will be
12 given that case. And I intend that we would
13 start those arguments and charge this
14 afternoon when you get back.

15 So don't discuss the case, again, if
16 you will. I did not ask you, I said yesterday
17 I would, is there anyone on the panel now who
18 has had any conversation in regards to this
19 case after you left yesterday and before you
20 came this morning, or has anyone at all tried
21 to contact you in any way to discuss any
22 matter involved in this case? Would there be
23 anybody on the jury who's had any problem at
24 all in that regard? Each person shakes their
25 head no, and I trust what they're telling me

1 is so, I know it is. Thank you very much,
2 ladies and gentlemen. Just the jury, please.

3 (Jury excused.)

4 THE COURT: Now, before we leave I want
5 to be sure to cover this business again.
6 Mr. Weik, of course, has the right to make a
7 personal argument himself, along with his
8 lawyer, and I believe they have the last
9 argument is my understanding at this stage in
10 the trial.

11 MR. BAILEY: Yes, sir.

12 THE COURT: First of all, I know you all
13 intend to make an argument, Mr. Beauford, you
14 or Ms. Hardee-Thomas. Does Mr. Weik intend to
15 argue as well?

16 MR. BEAUFORD: No, Your Honor.

17 THE COURT: Mr. Weik, you understand,
18 sir, that your lawyer, what happens is that
19 when we come back, the jury's heard all the
20 evidence and Mr. Bailey or one of the
21 solicitors has the right to talk to the jury
22 just like he did when he started the trial,
23 and then when he finishes Mr. Beauford has the
24 right to talk to the jury just like he did
25 when we started, and then you have the right

1 to stand before this jury and tell them
2 anything that you want to tell them in reg(is
3 to the facts of the case. That's the point of
4 it.

5 You just can't talk about anything,
6 but you can certainly talk about the charges
7 and the facts as they apply to the charges in
8 the case. And you have that right yourself to
9 stand before the jury.

10 Do you want to do -- to do that, or
11 do you want to allow Mr. Beauford or
12 Ms. Hardee-Thomas alone to make that argument?

13 MR. WEIK: Sir, I don't really have
14 anything to lose, sir. I already know where
15 I'm going, so I'm not worried about it, sir.
16 I mean, I got the last stand, right? I know
17 I'm going to death row so....

18 MS. HARDEE-THOMAS: Your Honor, would you
19 give us an opportunity to speak with our
20 client?

21 THE COURT: Yeah, sure.

22 MS. HARDEE-THOMAS: Thank you.

23 (Pause in proceedings.)

24 MS. HARDEE-THOMAS: Your Honor, at this
25 point I believe my client is not going to take

1 that offer in regard to speaking.

2 THE COURT: Mr. Weik, is that your
3 decision? Because, you know, your lawyers can
4 advise you, of course, and that's what they're
5 there to do, but it's your decision.

6 MR. WEIK: Yes, sir. I understand. I
7 understand.

8 THE COURT: You want to or do not want to
9 make an argument?

10 MR. WEIK: I do not want to at this time,
11 sir.

12 THE COURT: Sir?

13 MR. WEIK: I do not want to at this time,
14 sir.

15 THE COURT: You do you not want to, all
16 right.

17 MR. WEIK: Thank you very much, sir.

18 THE COURT: Yes, sir.

19 MR. WEIK: Anytime.

20 THE COURT: All right. Quarter of 2:00.

21 (Lunch recess taken.)

22 THE COURT: Before we bring the jury in
23 for these arguments and charge, I want to
24 state for the record what just occurred.
25 Mr. Weik's attorneys came to my office and

1 before anything was said we waited on the
2 solicitor, he came, I wasn't sure exactly (at
3 they wanted.

4 Mr. Weik apparently was in the hall
5 and they asked if he could be brought in, so
6 he stood at the door, just inside of the door.
7 And the attorney for the defendant, as I
8 recall said, "Mr. Weik wants to talk to you
9 alone, he wants to not talk to anyone except
10 for the judge."

11 And, of course, that can't be done.
12 And I told him that, that I couldn't speak to
13 him without the presence of the solicitor
14 or -- even if he fired -- even if he was to
15 fire his own lawyers I couldn't speak to him
16 unless the solicitor was present.

17 And I'm not sure exactly how,
18 whether the defense attorney, Ms. Hardee-
19 Thomas stated it, but in effect I think he
20 wanted to ask me some questions about various
21 ways of pleading guilty. And what I said to
22 them there is what I'm saying here on the
23 record now.

24 And that I told them, with Mr. Weik
25 present, of course, that he had the right to

1 plead guilty at any time in the proceedings.
2 Even when the jury was out deliberating he
3 would have the right to plead guilty. But
4 when he pleads guilty under our law, the jury
5 does not sentence any longer, the judge is the
6 one who has to do the sentencing.

7 And so what he's basically doing, if
8 he were to decide that he wanted to plead
9 guilty to the charges, to the murder and the
10 burglary charges, that he would be basically
11 substituting the sentencing of 12 people and
12 giving it to one person.

13 Am stating exactly what was said?

14 MR. BEAUFORD: That's correct, Your
15 Honor.

16 MS. HARDEE-THOMAS: That's correct, Your
17 Honor.

18 MR. BAILEY: Yes, sir, Your Honor.

19 THE COURT: . And that's all that I -- that
20 was all the conversation basically that we
21 had. He wanted to go into an explanation
22 of -- began to talk about the solicitor's
23 questions of him and that he wanted a certain
24 sentence. And at that point, of course, I
25 turned and walked away and the lawyers and so

1 forth left. And I said, "We need to put this
2 on the record," and that's what we've done(
3 And so that's where we are at this point.

4 So am I to assume then, Solicitor,
5 you all are ready to go forward with this
6 jury?

7 MR. BAILEY: Yes, sir.

8 THE COURT: And Mr. Beauford?

9 MR. BEAUFORD: Your Honor, I just ask for
10 the record that the Court inquire again before
11 the jury comes as to what his position is
12 about pleas.

13 THE COURT: I'll do that.

14 Mr. Weik, you understand, sir, that
15 you really have two options, you had two
16 options Monday and you've got, always got two
17 options until the jury comes back with a
18 verdict. You have the option of saying I'm
19 not guilty, which is what you've done so far.
20 So that in saying that you're not guilty, that
21 means that the State has to prove to all 12 of
22 those jurors that you are, in fact, guilty.
23 It just places the burden on the State to
24 prove your guilt beyond a reasonable doubt to
25 the two charges that you've -- that you're

1 standing on trial for today.

2 But you also have another option,
3 and that is to plead guilty. But if you pled
4 guilty, you would have to stand in front of
5 me, you would have to give up your right to a
6 jury trial and give up your right, although
7 we're already through with the jury trial, but
8 you would have to give up your right at this
9 time of having the jury decide what the --
10 what the -- whether the State has proven guilt
11 or not. Do you follow me?

12 MR. WEIK: Yes, sir.

13 THE COURT: Now, what do you want to do?

14 MR. WEIK: Plead guilty, sir.

15 THE COURT: And put all the sentencing on
16 me?

17 MR. WEIK: Yes, sir.

18 THE COURT: Put all the sentencing on me?

19 MR. WEIK: Yes, sir.

20 THE COURT: Well, even if you pled guilty
21 and put all the sentencing on me, take it out
22 of the hands of 12 people and put it in the
23 hands of one person, you and your attorneys
24 would still have the right to offer any
25 evidence in mitigation, because the State

1 would still have to prove to me that there
2 was -- that an aggravating circumstance (
3 existed. I would have to find that beyond a
4 reasonable doubt that that aggravating
5 circumstance existed before I could even
6 consider what the punishment should be.

7 And then your attorneys have the
8 right, or you have the right, to put up all
9 the evidence that you want to put up to
10 mitigate, or make less serious, the two crimes
11 to which you would be pleading guilty.

12 So as a practical matter, I'm not
13 sure exactly where you're going with your (
14 decision, but it's not something that can be
15 done in the next five minutes anyway. What
16 I'm saying, you may be able to plead guilty
17 presently, but even after you plead guilty
18 there would still have to be a proceeding in
19 which the State would have to present some
20 evidence and then you would have the right, if
21 you wanted to, to present some evidence as
22 well to influence me, or to try to persuade me
23 that I should either -- on the State's part
24 either give you the death sentence, or on your
25 part to give you a life sentence or less, as I

1 understand it.

2 So here again, it's totally up to
3 you. Do you want to talk -- would you all
4 like to talk to him for a few minutes
5 before --

6 MS. HARDEE-THOMAS: Yes, sir.

7 THE COURT: I mean, I hear what he says,
8 but I would like for you all to --

9 MR. BEAUFORD: Yes, sir.

10 THE COURT: -- be sure that he
11 understands what he's doing, is he's got a
12 chance with 12 people of convincing at least
13 one of those 12 people that he should not
14 receive a death sentence. And if one doesn't
15 go along with that death sentence, then of
16 course there won't be a death sentence. All
17 12 have to agree.

18 But if you put it in my hands, you
19 have to convince one person that a death
20 sentence shouldn't be, and the State only has
21 to convince one person that I should give you
22 a death sentence.

23 And so you're basically taking that
24 sentencing away from 12 people and putting it
25 in the hands of one. I want to be sure that's

1 what you want to do.

2 Let me ask this for the record. (

3 Have I said anything, ladies and gentlemen, on
4 the defense side to in any way encourage him
5 to do one way or the other, nor dissuade him,
6 for that matter, from pleading? I mean, I
7 feel like he's got the right to plead guilty.
8 On the other hand, I want him to understand
9 what it is he's doing and the jeopardy that
10 he's putting himself in, possibly putting
11 himself into.

12 MR. BEAUFORD: Your Honor, the Court
13 hasn't in either scenario done anything to
14 influence or prevent him from doing what he
15 has said here, but we would like to talk with
16 him.

17 THE COURT: I'll give you ten minutes.

18 MR. BAILEY: Your Honor, can we approach
19 briefly just on a legal point here?

20 THE COURT: Yes, sir.

21 (Whereupon, a bench conference was held
22 off the record.)

23 THE COURT: Let me be sure that I have
24 not misspoken. You know, it's very easy to
25 misspeak when you're caught sort of off guard

1 in a situation like this.

2 There isn't any burden on you,
3 Mr. Weik, to prove or to convince me that I
4 should give you a life sentence. In other
5 words, you don't have to say anything, you
6 don't have to do anything, you don't have to
7 put up any evidence to convince me of that.
8 And I misspoke when I said that you could
9 convince me to give you a life sentence. What
10 I meant to say was you have the right to put
11 up any evidence you want to in mitigation.

12 Even if the State were to prove that
13 you were guilty of murder and the aggravating
14 circumstance, and even if I had -- even if I
15 find an aggravating circumstance, I don't
16 think there's any requirement that I have to
17 impose any sentence. I can impose any
18 sentence I want.

19 But the point of it is, that you're
20 taking that sentencing away from 12 people and
21 you're putting it in the hands of one. And
22 that's somethings that pretty serious
23 business, and you need to think about that and
24 you need to talk to your lawyers about that.

25 But there is absolutely no

1 requirement that you convince me or you prove
2 to me that I should give you a life sentence.
3 You don't have any burden of proof. And if I
4 said otherwise, I misspoke. I didn't mean
5 that at all. I simply meant that you had the
6 right to present evidence in mitigation, to
7 make less serious the offense.

8 The State has the burden of proving
9 that you committed an aggravating
10 circumstance, they have the burden of proving
11 that I ought to give you a death sentence, if
12 that's what they seek. And, of course, that
13 is what they seek in this case.

14 All right. Let's take about 15
15 minutes, I'll let you talk.

16 (Pause in proceedings.)

17 THE COURT: Mr. Beauford?

18 MR. BEAUFORD: Yes, Your Honor. I had
19 the opportunity to speak to Mr. Weik in the
20 back, and as part of the defense we ask of the
21 Court that we request a Blair hearing
22 immediately. Basically some of the things
23 that he conveyed to us we feel uncomfortable
24 about talking to him and him assisting us in
25 handling this matter. He's talking about

1 voices telling him what to do, things of those
2 nature. We ask for the Court to have a Blair
3 hearing.

4 THE COURT: Well, you know, you're an
5 officer of the Court and I understand that
6 you've got a job to do, and I understand that
7 when that kind of thing occurs there's nothing
8 else for you to do to protect yourself,
9 protect the record, and protect him more than
10 anything else.

11 I've been interested since this case
12 started, we came here a week ago and had a
13 full day's -- day of hearings with
14 psychiatrists on both sides and neurologists
15 and others. And a couple of those
16 psychiatrists said that he was a paranoid
17 schizophrenic, that he had to read the Bible,
18 that he had to chant, that he couldn't help
19 you all, that he was competent to stand trial
20 in every other way except that he could not,
21 could not aid in his own defense because he
22 had to read the Bible and chant, kept hearing
23 voices and so forth.

24 I ruled the other way. I didn't
25 believe that. The psychiatrists on the other

1 side said they thought he was a schizotypal, I
2 believe is the word they used, probably me
3 the same thing, just has a different label. I
4 ruled the other way and found that he was
5 competent.

6 And I was interested that when we
7 started this trial, as we went through the
8 selection of all of these jurors he sat there
9 very quietly and read his Bible. But the
10 minute the first person got on the witness
11 stand and started testifying, the Bible was
12 closed and there was absolute attention paid
13 to everything that was said.

14 And I started making notes as we
15 went along through this trial. And as each
16 witness was called up to testify, not only did
17 I make notes of what those witnesses said, but
18 I made notes of what I observed in the
19 courtroom. And I intended to put on the
20 record at some point in time, although I
21 didn't think this would be the appropriate
22 time to do that, what my observations were.

23 First of all, after his testimony
24 today there was absolutely no doubt in my mind
25 that he's competent to stand trial. There

1 wasn't any, any doubt. I can't believe that
2 there would be a physiatrist in the whole of
3 the United States who could have sat here this
4 morning and listened to this testimony and who
5 could get on this stand, swear to tell the
6 truth, and honestly say that he was incapable
7 of assisting his counsel at trial or that his
8 thoughts were so fragmented or thought process
9 so fragmented that he simply could not aid in
10 his own defense and so forth, that he had to
11 read.

12 I can tell you now he doesn't have
13 to read to keep up with what's going on.
14 There wasn't anything in his testimony, in my
15 mind, which was fragmented. He knew exactly
16 what he did and he went through that process
17 step by step by step all the way from the time
18 that he got off of work until the policemen
19 questioned him and so forth.

20 When Ray Hall testified, he
21 testified about that he was troubled with the
22 events in his son's life. This is a man at
23 work, he doesn't know what will happen, but
24 he's going to his son's house and so forth, if
25 he's not there the next day something has

1 happened and so forth. Your client leaned
2 forward, I've written down, and listened as he
3 testified.

4 When Julie Forte testified I've got
5 on my notes that Eddie listens, and at that
6 time he spoke to both lawyers. When Rebecca
7 Vincent testified, I have written Eddie
8 listens intently. When Jennye Adams, the
9 neighbor, testified, Eddie listens.

10 When I get to -- when we got down to
11 putting in the photographs of the truck,
12 State's 2, 3, 4, and 5 my note says Eddie
13 listens, talks to Ms. Hardee-Thomas.

14 When the witness number six, Thomas
15 Adams testifies, I've written and I've gotten
16 every -- wrote down the pertinent parts of his
17 testimony. I made a note that Eddie was
18 listening. When Alice Hilton testified,
19 dispatch, there was a transcript and a tape,
20 State's 6 and 7, Eddie reads the transcript.
21 That was handed -- someone held that, I think
22 Ms. Hardee-Thomas, and he leaned over and read
23 as he went along, or maybe Mr. -- I don't know
24 which one of you did that, but one of you held
25 it, he read it as I recall.

1 When Andrew -- I'm not sure I can
2 pronounce his name -- McGauvran, I believe it
3 is, testified I have written Eddie listens at
4 the point in which the map, State's 8, was
5 introduced and so forth, Eddie nods with his
6 attorney at a paper that she shows him. I'm
7 not sure what that paper was. And then I have
8 no note on the ninth juror -- I mean, excuse
9 me, on the ninth witness.

10 On the tenth witness, Mike Giglio,
11 the EMS, Eddie reads the report, he leans
12 toward the report as he reads, then listens to
13 Ms. Hardee-Thomas and he looks again at the
14 report.

15 There were several witnesses who
16 came along, the coroner and Mr. Gamache.
17 Well, on the coroner I have nothing. On
18 Mr. Gamache as he testifies, Eddie listens
19 when he talked about shooting -- hearing the
20 shooting over the radio, the 40 to 45 limit,
21 speed limit and so forth at that time I
22 noticed that he was. And then he ID'd -- you
23 know, in his testimony the solicitor asked him
24 if he could identify the person who he stopped
25 and he looked and Mr. Weik nodded at him or

1 made sign as though I'm the one that you need
2 to identify.

3 Then when they put in the statements
4 that when he testified Mr. Weik said, "I did
5 it, I did it, I'm guilty, I killed the only
6 woman I ever loved," Ms. Thomas shows him
7 something, I'm not sure what, but he looks at
8 that report and nods. I don't know whether it
9 was a report or whether it was a statement or
10 I don't know exactly what it was that you were
11 doing at that point, but he looked at that
12 statement and nodded as though he understood.
13 He then -- I don't have any note, I apologize,
14 that's the same witness.

15 The next witness I believe is
16 Mr. Burnette, if I'm not mistaken, or Barnett.
17 And as he read that report, Ms. Thomas,
18 Hardee-Thomas, holds what I thought was the
19 report itself up to him. Anyway, I've got
20 written, my note says defendant reads report
21 as the testimony starts. Ms. Hardee-Thomas
22 holds something for him to read. And then as
23 Mr. Burnette -- or is it Barnett?

24 MR. BAILEY: Burnette.

25 THE COURT: As Mr. Burnette continues his

1 testimony, he listens, he looks at the report,
2 he nods, he frowns, is intent on reading the
3 second page of that report.

4 State's 14 and 15, taking
5 transcript, defendant watches TV, gets upset
6 as he listens to himself testify or listens to
7 himself on that report. Then at that point in
8 time he begins to read, he flips his Bible
9 open, begins to read. That was a point at
10 which he became obviously upset to me at
11 hearing what he had stated there on the
12 television.

13 And then when Dr. Collins testified
14 he reads the Bible. When Dr. Campbell
15 testifies, I have no note, nor when Brian
16 Bills testifies. And then as Mr. Marshall
17 testifies, he continues to read his Bible
18 through Mr. Asbell.

19 And those witnesses were the
20 witnesses in which all of those photographs
21 were put in, and probably was the point in the
22 trial in which most people were least
23 interested in the testimony, to put it mildly.
24 There was some jurors who were nodding off
25 themselves. It was just a part of the trial

1 where the State has to put in certain
2 evidence, but it was not evidence that would
3 interest people for the most part, just
4 putting exhibits in and so forth. And as I
5 watched one of the jurors, Ms. Bele, for
6 instance, she was one who was sleepy, I could
7 see that she was. And he read at that point
8 in time.

9 And then when you get down there
10 were a couple of others, couple of SLED
11 agents, and I don't have anything written by
12 them. But when Mr. Gamache was called again
13 he puts his Bible down and begins to listen
14 again. And when Mr. Van Doran testified, he
15 was extremely calm. I noticed there was a
16 vast difference in his demeanor from the time
17 that he heard himself testify on that time
18 when he became very upset, as did a lot of
19 people here in the courtroom. He changed
20 almost completely from that point. When
21 Mr. Van Doran testified, he was extremely calm
22 and he listened as Mr. Van Doran testified.

23 And again, as Mr. Marshall testified
24 for the second time, I have very calm, he
25 drinks, he listens, as the confession is

1 played he reads the confession. And I have
2 the words "very calm." And then I've written
3 he reads the written statement as it's
4 published to the jury.

5 Again, when Daniel, his son,
6 testified, and I figured that this time would
7 be the time, sure enough, when I would see
8 something from him which might indicate that
9 he had lost control of himself. It says he
10 listened, I put he listened intently as the
11 son testified. And, of course, I've written
12 notes to what the son said.

13 Now, that's pretty much what I've --
14 I have seen as I have taken notes throughout
15 this entire trial, all of which has led me not
16 only to believe that he's competent to stand
17 trial, but leads me to believe now that at a
18 point in which he is facing a decision from a
19 jury which he doesn't want to hear, if he says
20 that he wants to talk to the judge, of course,
21 he wants to find a way out. That's the way I
22 read it.

23 And if you say to me that he's
24 having problems, or you're having problems
25 talking to him and convincing him of what he

1 wants to do, is that just because he wants to
2 plead guilty or is that because, you know, (ou
3 say he says he hears voices, that he's hearing
4 voices?

5 I'm not so sure if I was facing the
6 same situation that I wouldn't be hearing
7 voices. I don't know that that in and of
8 itself is sufficient to have me stop this
9 entire trial and have a Blair hearing. That's
10 the problem I've got.

11 And I understand you've got to do
12 what you've got to do, Mr. Beauford, but it
13 puts me in a dilemma, as I have gone from last
14 week with the psychiatrists saying that he
15 couldn't possibly, couldn't possibly follow
16 all this testimony, couldn't aid in his own
17 defense and so forth. I know that's not true.
18 They absolutely were wrong. It was obvious to
19 me that he could testify, obvious to me that
20 he knew exactly what he wanted to say to this
21 jury. It's obvious that he's -- that he has
22 gone through this entire trial process and has
23 aided in his own defense from A to Z.

24 And to come to the last leg of this
25 trial and to try to convince me that he's

1 having some -- hearing some voice so that I
2 can stop these proceedings, I just -- I'm just
3 not convinced of that at this point. And I
4 realize that as an officer of the Court you've
5 got to do what, you know, what you feel you
6 have to do. I'm not fussing at you at all,
7 you've got to tell me what you -- but, you
8 know, it puts me in a real dilemma, because I
9 don't believe he's hearing any voices at all.

10 If he is hearing voices, I would be
11 hearing them as well. I mean, I can see why
12 he would be hearing voices. If I were facing
13 that situation, same situation he's facing,
14 I'm not so sure I wouldn't be hearing a lot of
15 voices at this point.

16 And I'm really not trying to be --
17 you know, this is serious, serious business
18 and I'm not at all trying to be lighthearted
19 in any way by saying that I would be hearing
20 voices. I truly would be hearing voices, I
21 think, if I were faced with that situation
22 that he's facing.

23 And, you know, I'm going to deny any
24 Blair hearing at this point in the trial.
25 We're through with the trial, there's nothing

1 for him to do now. There's nothing for him to
2 do. And if you feel that he simply at this
3 point hears voices to the extent that he can't
4 decide what he wants to do, if that's where we
5 are, then maybe we should go on ahead and let
6 the jury decide this case rather than let him
7 decide it, decide what he wants to do.

8 He has the right to choose, though,
9 as to whether he wants to plead guilty or not.
10 And I am not going to deny him to plead guilty
11 if that's what he wants to do. But I have
12 tried as best as I could to warn him of the
13 danger of pleading guilty before me when a
14 jury of 12 people, one of which could decide
15 that he should not be given a death sentence,
16 and he would not be given one. But he said
17 from the first day that he wants the death
18 sentence, so maybe that is the thing that he
19 wants.

20 I don't know. But it's his choice
21 to plead guilty or no. If he wants to plead
22 guilty, I'll take his guilty plea. If he
23 doesn't want to plead guilty, then I think the
24 jury needs to go ahead and make a decision in
25 this case one way or the other and conclude

1 these proceedings. I just don't know any
2 other way to size it up any better than I have
3 as I've sat here for three days.

4 You tell me what you want to do now.
5 What do you want to do?

6 MR. BEAUFORD: Basically, Your Honor, the
7 Court has already ruled, but prior to
8 continuing I understand he wanted to plead,
9 but I ask that the Court go through the
10 elements of the crime and ask him --

11 THE COURT: I'll absolutely do that. I
12 would absolutely do that if he wanted to plead
13 guilty. He can stand here and offer a guilty
14 plea but, you know, he's going to have to
15 answer and I'm going to have to be convinced
16 that he understands all of those elements and
17 that he is saying that he is guilty without
18 any doubt. And if he does that, that's one
19 thing. If he can't, then certainly I'm not
20 going to, no more than I would the other day.
21 I'm not going to accept that guilty plea.

22 What does he want -- what is his
23 desire, though, does he want to just go
24 forward with the trial or does he want to
25 plead guilty?

1 MR. BEAUFORD: You see, Your Honor, that
2 seems to be one of the problems we are facing.
3 If he's talking about some voices telling him
4 to do one thing or another, I don't know what
5 he wants.

6 THE COURT: What do you want to do,
7 Mr. Weik?

8 MR. WEIK: You got me, sir.

9 THE COURT: Well, if you don't know we'll
10 go forward with the trial.

11 THE COURT REPORTER: Judge, I didn't
12 understand what he said.

13 THE COURT: He said, "You got me, sir."

14 And so, I mean, the point of it is
15 if he doesn't know what he wants to do, he
16 doesn't really have a choice, he's not making
17 the choice, we just go forward with the trial.
18 The only way I'm going to entertain a guilty
19 plea is if he convinces me on his own, his own
20 decision is that he wants to plead guilty.
21 He's going to have to convince me of that and
22 also go through all the elements. And if he
23 doesn't know, then it's obvious to me that
24 he's not making that decision. So we'll just
25 go forward with the trial. That's the only

1 way I know to handle that.

2 MR. BEAUFORD: Your Honor?

3 THE COURT: Yes, sir.

4 MR. BEAUFORD: Are we going to make the
5 motion directed verdict, or are you just going
6 to have them continued?

7 THE COURT: Make it.

8 MR. BEAUFORD: Yes, Your Honor. I would
9 like to, again, make the motion for directed
10 verdict on murder. We feel that the State
11 hasn't met its burden and we move for a
12 directed verdict on the charge of murder.

13 THE COURT: All right, sir. And I
14 respectfully deny that.

15 MR. BEAUFORD: And we also move a
16 directed verdict on the offense of burglary,
17 and we felt the State has not met its burden,
18 we move for directed verdict on that charge.

19 THE COURT: All right, sir. And I
20 respectfully deny that motion. Thank you,
21 sir.

22 MR. BEAUFORD: Also, Your Honor, I guess
23 this is continuing, we want to renew our
24 motions on those admissions of the traffic
25 stop, I think the traffic stop, the recording

1 and the transcription, the taped statement of
2 John Weik at the police department and the
3 written statement of John Weik.

4 THE COURT: Very good. Thank you, sir.

5 MR. BAILEY: Your Honor, I hate to beat
6 this thing to death, but just for the record I
7 would request that Your Honor ask Mr. Weik if
8 he can give you a yes or no answer on the plea
9 just to clear it up. There's been so much
10 back and forth on it, he's never given a
11 definite response.

12 THE COURT: What is it that you want to
13 do, Mr. Weik? Do you want to plead guilty or
14 not guilty? Sir?

15 MR. WEIK: I don't know, sir.

16 THE COURT: You don't know?

17 I think that's sufficient for us to
18 go forward. If he doesn't know, I think
19 that's sufficient to go forward.

20 Let's bring the jury.

21 Mr. Beauford also moves that I
22 charge the jury as to manslaughter, isn't that
23 what you want?

24 MR. BEAUFORD: That's correct, Your
25 Honor.

1 THE COURT: I deny.

2 (Jury present.)

3 Ladies and gentlemen, you've heard
4 the evidence in the case. At this time I want
5 you to please give your attention, I know
6 we've held up a little bit, we've been
7 working, I didn't leave the courthouse myself.
8 Listen to the lawyers as they speak to you
9 about this case.

10 The State in this situation will
11 make its arguments first and then the
12 defendant, Mr. Beauford, will close and then
13 I'll charge the law which you should apply in
14 the case.

15 Solicitor?

16 MR. BAILEY: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 MR. BAILEY: I want to thank you all for
19 your attention, I realize we've worked late
20 hours, but at the same time we're all aware of
21 the fact that y'all are in the motel, and
22 we're not trying to cut any corners, we're
23 trying to get all the testimony in that we
24 think you need, but to get you back home as
25 soon as we can. So I appreciate your

1 patience, ask you to bear with me just a
2 little bit longer while I kind of give the(
3 summary of what I would ask you all to
4 consider when you go back to deliberate.

5 As you all know, once the lawyers
6 finish talking Judge Shuler will instruct you
7 on the law and your sworn duty will be to take
8 the law as he gives it to you and to follow
9 that law when you deliberate.

10 As far as the facts, you use your
11 memory on the facts that you've heard from
12 that witness stand. And I'm going to be going
13 over some of the facts that came out during
14 the course of this case. If I say something
15 different than what you remember, then by all
16 means go by what your memory is.

17 All the evidence, the photographs,
18 the documents, the copies of the confessions
19 will be with you in the jury room, so you can
20 refer to it during your deliberations if you
21 think you need to do that.

22 What I'm going to do is just review
23 the evidence and what it means. And as the
24 judge will instruct you -- and we've mentioned
25 this before -- I have the burden of proof.

1 It's my job to prove to your satisfaction
2 beyond a reasonable doubt that John Edward
3 Weik is guilty of first degree burglary and is
4 guilty of murder. That's my burden in any
5 case. And I mentioned this earlier, that you
6 use your good, everyday common sense. You
7 don't try to read things into the record that
8 aren't there. You go by the evidence that you
9 heard, you don't speculate, you don't leave
10 your common sense at home.

11 And this is about as clear-cut a
12 case as you can imagine, where there's no
13 doubt a murder was committed. This man got up
14 here, Mr. Weik, his lawyers called him, he
15 admitted it, told you he did it. He admitted
16 the elements of burglary, admitted the
17 elements of murder. So as I said, don't
18 speculate, take your facts from the evidence
19 from that witness stand.

20 If I'm able to prove to your
21 satisfaction the elements of the crimes of
22 burglary in the first degree and murder, then
23 it's your duty, your sworn duty, to bring back
24 a verdict of guilty in both of these charges.
25 And a reasonable doubt's not a fanciful or

1 imaginary doubt.

2 And to kind of give you an example
3 from this case, when I said you can't take
4 what the lawyers tell you in the opening
5 statements or the indictments or anything as
6 evidence, you got to take the evidence from
7 that witness stand, there were some comments
8 made about the defense of mental illness and a
9 possible verdict being given to you all of
10 guilty but mentally ill.

11 There hasn't been one single word or
12 testimony about any mental illness or insanity
13 or anything of that nature. Been no
14 psychologist, no psychiatrists that have
15 testified. That simply is not part of the
16 facts of this case. And you all have a sworn
17 duty to base your decision on the facts.

18 In any case the State's not required
19 to prove guilt beyond all possible doubt,
20 because you could have some imaginary doubt
21 about almost anything. It's not beyond a
22 shadow of a doubt like you hear about on
23 television. It's the common sense reasonable
24 doubt.

25 And if y'all have a reasonable doubt

1 after hearing all of this evidence you've
2 heard about guilt, send him home, acquit him.
3 But if, on the other hand, there is no doubt,
4 and I submit there is no doubt in this case,
5 it's equally your duty to bring back a verdict
6 of guilty to these charges.

7 And before I leave reasonable doubt,
8 when we talk about reasonable doubt, we talk
9 about reasonable doubt as to guilt, overall
10 guilt of the charges that the defendant's
11 charged with. You all could have reasonable
12 doubts about different aspects of the
13 testimony.

14 For example, Mrs. Adams said that
15 the gap between the first shot and the second
16 shot was about a minute and a half and her
17 son, Tommy, estimated about 15 seconds. You
18 all might have a reasonable doubt whether it's
19 15 seconds or a minute and a half. But if it
20 doesn't make any real difference, if you still
21 believe from the evidence he did it, then that
22 doubt as to the time factor wouldn't be the
23 kind of reasonable doubt that would cause you
24 to acquit.

25 And another example would be the

1 number of shots. It's no dispute Ms. Krasae
2 was murdered with a shotgun. She was shot(
3 numerous times all over her body with double
4 other buckshot, and the pathologist estimated
5 six shots, the Adamases thought they heard
6 three shots, we found four spent shotgun
7 shells there. You may not be 100 percent sure
8 how many times she was shot. But the fact is
9 she was shot, and it doesn't matter whether
10 it's three, four, five or six. So again,
11 we're talking about reasonable doubt as to
12 guilt.

13 Judge Shuler is going to give you
14 the detailed instructions in just a few
15 minutes. I'm going to go over the law with
16 you in the simplest terms as I can, bearing in
17 mind that Judge Shuler is going to give it to
18 you in more detail.

19 As you all know by now, murder in
20 South Carolina is the killing of a human being
21 with malice aforethought. And there can be no
22 question in this case as to malice. Malice is
23 all over this case, this case reeks with
24 malice. Susan Krasae did nothing whatsoever
25 to deserve having her life ending at this

1 man's hands in the manner that you all have
2 heard her life ended.

3 As part of his instructions, Judge
4 Shuler's going to tell you that you can infer
5 malice from the intentional use of a deadly
6 weapon. And that's exactly what the facts in
7 this case shows, the intentional use of a
8 deadly weapon four times against a helpless
9 woman in her own home who was unarmed, offered
10 no threat to him.

11 And this was no spur-of-the-moment
12 thing. John Weik was ready, he had a plan.
13 He tells Detective Marshall, tells you all up
14 here that he always had this gun in his truck
15 since deer season four months earlier, loaded
16 in his truck, even though deer season's over.

17 But you recall Detective Marshall
18 went into the room, he saw where the gun had
19 been, that there was dust around where the gun
20 would have been but it was clean where the gun
21 would actually have been. So the gun had
22 recently been in the rack. And, of course,
23 Mrs. Weik tells you all that it's too dark in
24 there to see and he came home and all that.
25 You all size that evidence up, you look at it.

1 But I call your attention to
2 Daniel's testimony. Daniel had been in hi
3 father's home during the months of March and
4 April 1998 back when this thing happened. And
5 he said he's positive that shotgun, the murder
6 weapon, was in the house, not in the truck.
7 So he didn't have the gun in the truck all
8 that time.

9 This gun was loaded with six double
10 aught buckshots. We've got four spent shell
11 casings on the floor, we got two of them still
12 in the gun, one in the chamber ready to fire.
13 And in addition to that, we've got four more
14 live rounds in his pocket when they arrested
15 him. He's got ten rounds altogether.

16 Mr. Hall, Ron Hall, the boss, I
17 think he was our first witness. What did he
18 tell you all under oath? He's got no reason
19 to come here and say something that isn't
20 true. He said that afternoon around four
21 o'clock before Mr. Weik leaves work, he tells
22 him, and I can't quote his exact words, but
23 I'm having some problems involving my son, I'm
24 going over to his house. If I don't come back
25 tomorrow you'll know something happened. This

1 isn't something -- a snap thing, that all of a
2 sudden he went off. The evidence shows he
3 planned this thing out.

4 And we know what led up to him going
5 over there, the telephone call. Weik calls
6 his son, Daniel, nine-year-old boy who is
7 living at home with his mother, his sister,
8 her boyfriend, John Thompson. And this kid's
9 got no control over who his mother was with or
10 who his father was. And this guy tries to
11 make the boy -- you know, who do you love the
12 most? Who do you want? You're not my son
13 anymore if you don't pick me. And he upsets
14 the child he cries.

15 And after provoking his son, and we
16 know the phone call was made because you've
17 got the phone call in evidence, he admits the
18 phone call was made, Daniel told you about the
19 phone call, he gets in the truck, drives over
20 there with that shotgun.

21 When we talk about malice
22 aforethought, as the judge said earlier, as
23 he'll say again, that aforethought means that
24 the state of mind, that state of mind where
25 you -- malicious state of mind has to occur

1 before the act of killing. No premeditation
2 for any period of time is necessary under (r
3 law. It could be a second. So it doesn't
4 really matter legally whether he formed the
5 intent to do something that afternoon at work
6 or whether he got in the truck and he decided.

7 The point is, is that when he went
8 inside of that trailer with a loaded shotgun
9 planning to kill that woman, which he did, he
10 had malice aforethought.

11 What I want to do, and you all have
12 heard the tape, you've heard me question
13 Mr. Weik about it. I want to just play a
14 brief portion of that tape. And this is part
15 of the conversation with Deputy Burnette after
16 they're on the road. And when you think about
17 the elements of murder that the judge is going
18 to charge you on, I want you to think about
19 what's on this tape. And I'm going to slide
20 this podium over so all can see the screen.

21 (Partial videotape played for the jury.)

22 MR. BAILEY: I submit if that's all the
23 evidence you had in this case, that would be
24 sufficient to find murder beyond a reasonable
25 doubt.

1 When Judge Shuler talks to you about
2 malice again, he will instruct you that you
3 can infer malice with the intentional use of a
4 deadly weapon. The enormous amount of
5 evidence in this case on the crime of murder,
6 is -- I would submit to you far exceeds the
7 reasonable doubt standard.

8 Now, somebody's got to have the
9 first argument, somebody's got to have the
10 last argument. Under our rules the defense
11 gets the final argument, so I've got to
12 anticipate what they're going to say. I might
13 want to jump up and say, "Well, let me tell
14 you my version of that," but I can't.
15 Whatever I'm going to say to you all, I've got
16 to get it out now.

17 But I anticipate based on some
18 earlier comments Mr. Beauford made, that he
19 may get up here and tell you all, ladies and
20 gentlemen, this is a killing but it's not
21 murder because there's no malice, that Eddie
22 Weik loved this woman. Ladies and gentlemen,
23 that is total bull.

24 Let me tell you why it is. Because
25 I want you to listen to Judge Shuler when he

1 instructs you on malice. Malice does not mean.
2 hatred, okay? You got legal definitions, y
3 got everyday definitions of all kind of terms.
4 And I don't know exactly what Judge Shuler
5 will tell you about malice, but he's going to
6 tell you something to this effect, maybe not
7 in the exact same words I give it to you, but
8 he's going to tell you that in the poplar, you
9 know, common everyday sense, the term malice
10 conveys the meaning of ill will, hatred or
11 hostility toward another person.

12 But in a legal sense, as its
13 employed in the description of murder, it
14 doesn't necessarily import ill will toward the
15 individual injured or killed, but signifies
16 rather a general malignant recklessness of the
17 lives and safety of the others or condition of
18 mind that shows a heart regardless of social
19 duty and fatally bent on mischief.

20 In other words, a malicious killing
21 is where the act is done without legal
22 justification, excuse, or extenuation. And
23 malice is frequently so defined as
24 constituting the intentional doing of a
25 wrongful act toward another without legal

1 justification.

2 And to give you all an example of
3 that, if I go to a football game and I take a
4 potshot into the crowd across that field not
5 knowing or caring whether I kill somebody over
6 there, and I hit somebody, some stranger, and
7 I kill them, that's murder because of that
8 reckless disregard for human life. I don't
9 hate that person I just killed, I don't even
10 know who they are, never knew, didn't care.
11 If you got reckless indifference to human
12 life, it's sufficient to constitute malice.
13 So he didn't have to hate that woman.

14 I'll talk to you all about burglary
15 in the first degree, which is the other
16 charge. Burglary is defined as entering the
17 home of another, the dwelling house. And
18 there's no question, no dispute that that
19 trailer out on Sedgewick Road was Susan
20 Krasae's home where she lived with John
21 Thompson and her two children. Weik didn't
22 live there. He was the father of that child,
23 but he does not have custody, he lived over in
24 Moncks Corner with his parents as you all
25 know. No issue there, this was Susan Krasae's

1 home, this mobile home. But it's entering the
2 home of another without their consent with(he
3 intent to commit a crime in that home. That's
4 burglary.

5 As I said before, you think a
6 burglary is somebody putting on a mask and
7 sneaking into the house at night when people
8 are sleeping and stealing stuff. And that is
9 burglary. But it's with the intent to commit
10 any crime in that home. And certainly murder
11 is a crime.

12 It becomes first degree burglary
13 when you have certain elements added to the
14 entering of a home of another with the intent
15 to commit a crime. Some of those elements are
16 if you enter with a deadly weapon. Obviously,
17 a shotgun's a deadly weapon. If there's
18 physical injury to the victim. Obviously,
19 there's physical injury to Susan Krasae. Or
20 if you use or threaten the use a deadly
21 instrument, which is also what happened here.

22 So in this case all of these
23 different elements of first degree burglary
24 are conclusively met by the evidence you all
25 have heard here in this trial. He's armed

1 with a 12-gauge semiautomatic shotgun loaded
2 with six live rounds, murdered Ms. Krasae.

3 Now, again what I'm going to do one
4 more time, is go ahead and put a portion of
5 Mr. Weik's statements that you all have
6 already heard, and this relates to the
7 confession he gave to Tom Marshall later on at
8 the sheriff's office. And when you think
9 about it when the judge charges you on
10 burglary, I want you to bear this in mind.
11 This is Mr. Weik's own words here.

12 (Partial audiocassette tape played for
13 the jury.)

14 MR. BAILEY: All right. He stated at
15 another point during his statement that he
16 kicked the door open. But even if the door
17 had been wide open and he just walked in
18 there, that's still burglary. You don't have
19 to have a breaking, all you have to have is an
20 entering of the dwelling of another person
21 without their consent. And again, Judge
22 Shuler's going to charge you on the law, but I
23 just wanted to emphasize these portions of
24 what's in evidence that relate to burglary.

25 Let me make this one thing real

1 clear before I sit down in a minute. There
2 are no mental health issues in this case f(
3 you to consider. There's been no testimony by
4 a psychologist or psychiatrist as to
5 Mr. Weik's mental condition. Despite this
6 talk earlier of guilty but mentally ill,
7 there's been no evidence of that and the judge
8 will not submit that to you all as an option
9 in this case. So there's no issue of
10 insanity, there's nobody's -- nothing in the
11 record that would indicate Mr. Weik didn't
12 know right from wrong, which is basically the
13 definition of insanity.

14 And remember, your duty is to make
15 your decision based on the sworn testimony
16 that you hear, not from speculation. Your
17 choices the judge will give you as to each one
18 of these charges, is simple. As to burglary
19 in the first degree, guilty or not guilty. As
20 to murder, guilty or not guilty.

21 I'm going to sit down here in a
22 minute. I appreciate your patience. Again, I
23 might have spoken a little bit longer than I
24 had planned to, but this is such an important
25 trial for everybody here. The facts are

1 pretty simple and straightforward, the
2 confessions are in evidence. And I kind of
3 want to say it's an open and shut case, but
4 since it's so important I want to make sure
5 that the bases are covered, that you all have
6 all the information you need in order for you
7 to make the decision you will make this
8 afternoon.

9 As I said before, the defense, they
10 will get the final argument, I can't get back
11 up here, so I've got to pretty much cover not
12 only what I think you ought to know, but I've
13 got to more or less anticipate what they may
14 say to you all and try to handle that ahead of
15 time.

16 We picked the 12 of you all and the
17 two alternates out of 350 jurors that were
18 summoned in this case. Both sides picked you
19 as being 12 intelligent, concisive, impartial
20 citizens of Dorchester County that could
21 render a just and true verdict in this case,
22 and that's what I'm asking you all to do at
23 this time. Nobody deserves what happened to
24 Susan Krasae on April 30th of last year.

25 So on behalf of the State of South

1 Carolina, I'm asking you all unanimously to
2 bring back verdicts of guilty to murder and
3 guilty of burglary in the first degree.
4 Member, your decision must be unanimous in
5 this case. And I'm asking you all to bring
6 back those guilty verdicts not because I say
7 he's guilty, but because the evidence
8 overwhelmingly proves that he's guilty of both
9 charges. Thank you.

10 THE COURT: Mr. Beauford?

11 MR. BEAUFORD: May it please the Court.

12 THE COURT: Yes, sir.

13 MR. BEAUFORD: Ladies and gentlemen of
14 the jury, again I want to thank you for your
15 service here during the last two days. I know
16 it's been tiresome, I know there have been
17 some things that pretty much got you stirred
18 up just listening to it. But it's very
19 important.

20 As I told you in the beginning,
21 we're not here to deny that Mr. Weik was the
22 one who fired the gun which killed Susan
23 Krasae. But what we said earlier is it was
24 not murder. You had the opportunity to listen
25 to all of the facts presented there, and you

1 say -- one might say he killed her. But just
2 killing an individual itself is not murder.

3 And the solicitor was correct, I'm
4 going to talk about malice. And I feel that I
5 think that was an important issue, because I
6 think that's where his case is weak at, the
7 malice. Yes, you may infer malice from the
8 use of a gun, but that does not make it
9 malice. You may use that in making your
10 determination.

11 You heard what happened this day.
12 Was there that evil mind, evil intent, that
13 hatred, that depraved heart? Was that there?
14 And those are some of the things you're going
15 to be looking at to determine what malice is.
16 You would say, one might say he shot her four
17 times. But what was the state of mind?
18 That's very important, the state of mind. The
19 state of mind when you're committing a crime.
20 And that's very important in both of these
21 crimes, what is the state of mind.

22 And I say that when you go to
23 deliberate you say, well, I know he killed
24 her, but, I mean, it may not be murder but
25 these are the only choices I have. If murder

1 is not the choice, do not vote for it.

2 When we were doing the examinatio
3 and we had you on the stand here or examining
4 you and asked several of you the question if
5 you believe a certain way will you hold onto
6 your conviction; yes, talk about it, listen to
7 what the other individuals have to say, but
8 talk about it and hold onto your conviction if
9 you're not satisfied yourself beyond a
10 reasonable doubt of every element of the
11 crime, when I asked you that, each one of you
12 said you would.

13 Now, you've got a duty and you're
14 sworn to do it. When you leave here today, I
15 ask you when you return a verdict, whenever
16 that may be, that you feel good with yourself,
17 that you can go home, you can sleep, your
18 conscience is clear, whatever it might be.
19 But I ask that you vote your conscience. And
20 that's very important, voting your conscience.

21 It's not never good that someone
22 dies. It's never. And the laws have ways of
23 dealing with it. But I feel that, and the
24 defense feel that, the State is overreaching.
25 You're in a death penalty case here. This is

1 not a death penalty case. This case is not a
2 death penalty.

3 MR. BAILEY: Your Honor, I object to him
4 getting into penalty phase arguments at this
5 juncture.

6 THE COURT: Yes, sir. Just stick to
7 this.

8 MR. BEAUFORD: Yes, sir.

9 This is not a murder.

10 And we move on. Let's talk about
11 the burglary. And, yes, you look at the black
12 and white, the breaking into the dwelling of
13 others with the intent to commit a crime.
14 Again, there's the intent that you have to
15 look at. This wasn't a situation where it was
16 a stranger. And it doesn't have to be a
17 stranger. But one thing that's very important
18 in this case, is this is not a situation where
19 you got someone who just drives up. This is
20 someone who was just in the house, went back
21 into the house. It doesn't fit burglary. It
22 doesn't fit burglary.

23 And the solicitor said, and it's
24 very important, use your common sense. Common
25 sense. And that's what make this jury very

1 special. That's what make the system very
2 special, because you bring your collective
3 common sense here that each one of you have.
4 And you use that in making your decision,
5 common sense.

6 You heard the testimonies. There
7 weren't much contradiction in the testimony.
8 Mr. Weik got up and told you what happened.
9 The situation with Ron Hall, he testified,
10 Mr. Weik got up and there's not much
11 contradiction there. Daniel testified. And
12 you know, the opportunity, and it's up to you
13 to judge the credibility and the believability
14 of witnesses when they're on that stand. And
15 that's your choice whether you believe some of
16 what the witness said, all of what the witness
17 said, or none. That is your choice.

18 I ask you that -- during this trial
19 the State has placed numerous exhibit into
20 evidence. And you're not to determine from
21 the amount of exhibit placed by one side or
22 the other side, or that side placed more than
23 the others. That's not the determination.
24 Look at the evidence individually, each piece
25 of it, and then decide.

1 The doctors testified. There's no
2 dispute that Susan was killed with multiple
3 gunshot wounds. The dispute goes to the
4 intent. The intent to commit the murder, the
5 intent to commit burglary. And that's where
6 the dispute is. And one of the elements of
7 murder is that we have a dead individual here,
8 Susan Krasae. And we never disputed that from
9 the beginning, we told you that.

10 In the beginning we told you that
11 John Weik will testify. And the Court told
12 you he didn't have to testify, but he wanted
13 you to know what happened that day and it's
14 very important.

15 The burden of proof on this case is
16 on the State to prove beyond a reasonable
17 doubt each and every element of the crime.
18 There is no burden on Mr. Weik. The burden is
19 totally on the State. And it's not a burden
20 of more than less. You must be convinced
21 beyond a reasonable doubt. And the judge is
22 going to explain what is a reasonable doubt.

23 I'm not going to sit up here tell
24 you what the evidence is because what I say is
25 not evidence. The only evidence is what came

1 from this chair or what came through that
2 chair and what you remembered. And that's
3 what you're going to be taking back in the
4 jury room, what you remembered and the
5 evidence that's been placed into evidence,
6 exhibits, what you remembered from the stand.

7 But I say to you, look at the total
8 circumstances involved in the crime. Is there
9 intent? The State has now backed away from
10 the planned situation, it was a planned
11 situation. Because it couldn't have been
12 planned. How would he have known what Daniel
13 would have said on the telephone? How would
14 he have known what the conversation would have
15 been?

16 So now they want to go, well, we're
17 going to go to the malice and infer the use of
18 a weapon. But again, look at the other
19 elements that makes up. Yes, you may infer
20 from the use of a deadly weapon, but you don't
21 have to. Look at the total circumstances
22 surrounding this entire act.

23 We ask that when do you that you be
24 true and just, not only to the State of South
25 Carolina, but to John Weik. And we ask that

1 you vote your conscience, conscience to do
2 justice. And when you do that, you have done
3 your duty which you were sworn at the
4 beginning of this trial. And we can all go
5 home and say that we've done our job. And I
6 feel that when you go back and do that, the
7 State hasn't met their burden of the intent --

8 MR. BAILEY: Judge, I object to him
9 expressing personal belief on any matter.

10 THE COURT: He said the evidence is
11 not -- the State has not met the burden
12 through the evidence.

13 MR. BEAUFORD: Yes.

14 THE COURT: You submit to the jury that
15 the State has not, through the evidence, I
16 think is what you're saying. And I'll allow
17 it. Go ahead.

18 MR. BEAUFORD: The State has not met its
19 burden of proving beyond a reasonable doubt
20 that John Weik intentionally killed with
21 malice aforethought Susan Krasae, that John
22 Weik did not break and enter into the home
23 with the intent to commit a felony. Use your
24 common sense of what you see the crime and the
25 elements are. Use your common sense.

1 It was a sad day on April 30th,
2 1998. Anytime someone is killed, anytime (
3 someone dies, it's a very tragic situation.
4 And you're not here to avenge anyone's death,
5 you're here to do justice, and that's all we
6 ask. Thank you.

7 THE COURT: Thank you very much.

8 Ladies and gentlemen, you all have
9 heard the arguments of the lawyers and the
10 evidence in the case. And at this time I'm
11 required to charge the law which you should
12 apply.

13 Let me tell you, first of all, that
14 the defendant, Mr. John Edward Weik, has been
15 indicted on two separate and distinct
16 indictments, and I hold these in my hand. And
17 I want to read them again to you. The first
18 says that John Edward Weik did in Dorchester
19 County, on or about April 30, 1998
20 feloniously, willfully, and with malice
21 aforethought kill one Susan Krasae by means of
22 shooting her four times with a shotgun, and
23 that the said Susan Krasae did die as a
24 proximate result thereof on or about April 30,
25 1998. That is the charge for murder.

1 The second is, says this: That John
2 Edward Weik did in Dorchester County on or
3 about April 30, 1998 willfully and unlawfully
4 enter the dwelling of Susan Krasae without
5 consent and with the intent to commit a crime
6 therein, to-wit: murder. And when effecting
7 entry or while in the dwelling or while in
8 immediate flight therefrom, he was first,
9 armed with a deadly weapon, a shotgun;
10 secondly, caused physical injury, the death of
11 Susan Krasae who was not a participant in the
12 crime; and third, used a dangerous instrument,
13 a shotgun; and fourth, displayed a shotgun.
14 All of which is against the peace and dignity
15 of the State and contrary to statute in such
16 case made and provided. And that is the
17 charge of burglary in the first degree.

18 And to those two charges Mr. Weik
19 has pled not guilty and has sought a trial,
20 obviously, at your hands.

21 These indictments will not be sent
22 to your jury room because they're not
23 evidence, are not to be considered by you as
24 evidence in any way. The indictment really is
25 a formal paper charging the defendant with a

1 crime, puts the defendant on notice of what it
2 is that the State claims that that person (s
3 done. And so I'm not going to send these to
4 your jury room, but I simply tell you that
5 they are the charges, formal charges which put
6 the defendant on notice.

7 And to those two charges Mr. Weik
8 has pled not guilty, and by doing so he places
9 the burden on the State of South Carolina to
10 prove his guilt.

11 A person who's charged with a crime
12 in this state, and for that matter in every
13 state in this country, is presumed to be
14 innocent. It's a vitally important rule of
15 law, that no matter how serious a crime, a
16 person is never required to come to court and
17 prove himself innocent, but rather he is
18 presumed to be innocent and it's -- the
19 burden's upon the State of South Carolina to
20 prove guilt.

21 So if you're not -- you're not
22 satisfied the guilt has been proven beyond
23 every reasonable doubt to each of the charges,
24 to each of the charges, then, of course, your
25 verdict must be not guilty.

1 Let me -- of course, the burden is
2 on the State of South Carolina, as I've said
3 several times. And that presumption of
4 innocence really remains with the defendant
5 from the time of his arrest and follows him
6 even throughout the trial, remains with him
7 and does not leave unless and until the State
8 of South Carolina convinces all 12 of you of
9 his guilt beyond a reasonable doubt.

10 I'm not going to do much to explain
11 reasonable doubt, it's a doubt for which you
12 can give a reason, obviously. A reasonable
13 doubt may arise from the evidence or from the
14 lack of evidence. And if the State removes
15 all reasonable doubt, your verdict must be
16 guilty. On the other hand, if you're left
17 with a reasonable doubt, your verdict must be
18 not guilty. And I say again that the State
19 has the burden of proving the defendant guilty
20 beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is
22 proof which leaves you firmly convinced of the
23 defendant's guilt. There are very few things
24 in this world that we know with absolute
25 certainty. And in a criminal case, the law

1 does not require proof that overcomes every
2 possible doubt. If, based on your
3 consideration of the evidence, you are firmly
4 convinced that the defendant's guilty of the
5 crime charged, then you must find him guilty.
6 On the other hand, if you find there's a real
7 possibility that he's not guilty, then you
8 give the benefit to him, or find in his favor,
9 and find that he is not guilty.

10 The burden, as I say, is upon the
11 State of South Carolina to prove beyond a
12 reasonable doubt.

13 You all are the judges of the facts
14 of the case, ladies and gentlemen, and
15 obviously you have to judge the credibility of
16 the witnesses, the believability of witnesses.
17 And you have to use your common sense and your
18 good judgment to do that. You make those
19 determinations every day in life. And
20 basically what you need to do is to consider
21 what evidence convinces you of its
22 truthfulness.

23 You may consider anything which
24 would help you to understand someone's
25 testimony and to be able to determine whether

1 or not that person is telling the truth. You
2 might consider, if you want to, the demeanor
3 of a witness, what a person looks like when
4 they answer a question, how they answer
5 questions. Are they forthright? Do they
6 hesitate? Do they have something to gain or
7 something to lose by what they say? Are they
8 biased or prejudiced, in other words? Is
9 their testimony made stronger by other
10 evidence; in other words, is it corroborated,
11 or is it made weaker by other evidence? Is it
12 contradicted by other evidence? What is the
13 witness's opportunity to know about what he or
14 she testifies to? Those things you take into
15 account to determine whether or not the State
16 has proven a fact and whether or not you
17 believe one witness has opposed to another.

18 Obviously you don't count witnesses.
19 You may believe several witnesses against one,
20 you can believe one witness against several.
21 You can believe all of what a person tells
22 you, or a part of it, or none of it. But your
23 job is to seek the truth, regardless of the
24 source, and you give the benefit of every
25 reasonable doubt in that process to the

1 defendant here on trial.

2 Ladies and gentlemen, you all are
3 the judges of the facts of the case. I'm the
4 judge of the law. And that means that you are
5 required to take the law that I give to you as
6 correct even if you disagree with the law,
7 even if you think the law is something else,
8 even if you hope the law, or wish that the law
9 was something else, you are required under
10 your oath to take the law that I give to you
11 and apply it to the facts as you find the
12 facts to be.

13 I can't help you with the facts, I
14 can't tell you what I think about the facts.
15 And by the same token, you can't substitute
16 your opinion for what you think the law is.
17 You have to take the law that I give and apply
18 it to your finding of the facts.

19 In every case, general, general
20 criminal intent must be proven by the State.
21 Criminal intent is an element which the State
22 proves, or must prove, in every case. And
23 there's no way, of course, to prove general
24 criminal intent to a mathematical certainty.
25 No way medical science can dissect a person's

1 brain, look inside and tell what that person
2 intends to do. But the law says that the
3 State has to prove general criminal intent in
4 cases such as this. And it's to be proven
5 through the circumstances which exist.

6 Criminal intent is a state of mind,
7 basically, which operates jointly with an act
8 in the commission of a crime, it's a mental
9 state, a conscious wrongdoing. And so it's up
10 to you, ladies and gentlemen, to determine
11 what the defendant intended to do based on the
12 circumstances.

13 Now, don't be confused. First of
14 all, in the case of murder, and I will explain
15 this to you, there does not need to be proof
16 that the defendant intended to murder a
17 particular person, but the State does have to
18 prove, is required to prove, a general
19 criminal intent. That is to say, a conscious
20 wrongdoing, a person who has this mental state
21 or conscious wrongdoing. And that general
22 intent may be established either by positive
23 evidence, by direct evidence, or established
24 in any other way as any other fact could be
25 established, by taking into consideration the

1 acts of the parties and all of the facts and
2 circumstances of the case.

3 In addition to that general intent
4 that I talked about, there are a couple of
5 other things that I need to tell you. One is
6 that the State of South Carolina is required
7 to prove every element of a crime beyond a
8 reasonable doubt. There are three or four
9 elements to the crime of murder, or three or
10 four or five elements to the crime of
11 burglary, then of course the State has to
12 prove each and every element beyond a
13 reasonable doubt.

14 And so I'm going to give you the
15 elements in regards to murder, the definition
16 of murder, and then talk to you a few minutes
17 about it.

18 Murder is the unlawful killing of
19 any person with malice aforethought, expressed
20 or implied. That's the definition of murder
21 in South Carolina. It's the unlawful killing
22 of another human being with malice
23 aforethought, either expressed or implied.

24 The State must prove, of course,
25 that on or about the 30th day of April, I

1 believe the indictment says, 1998, that's the
2 first thing; in Dorchester County, that's the
3 second thing; that a human being, that's the
4 third thing; was killed, the fourth thing;
5 with malice aforethought. Malice
6 aforethought. And that malice aforethought
7 must either be expressed or implied.

8 What is malice? What is malice?

9 Let me tell you that malice is defined in the
10 law of homicide as a term of art, that is a
11 technical term importing wickedness and
12 excluding just cause or excuse. It's
13 something that springs from wickedness, from
14 depravity, from a depraved spirit, from a
15 heart devoid of social duty and fatally bent
16 on mischief.

17 In the popular sense the term malice
18 conveys the meaning of hatred or ill will or
19 hostility toward another person. But in its
20 legal sense it is employed in the
21 description -- as it is employed in the
22 description of murder it does not necessarily
23 import ill will toward an individual, but
24 signifies rather a general malignant
25 recklessness of the lives and safety of

1 others, or a condition of mind which shows a
2 heart regardless of social duty and fatally
3 bent on mischief.

4 In other words, a malicious killing
5 is one where the act is done without legal
6 justification, excuse, or extenuation. And
7 malice has been frequently substantially so
8 defined as consisting of the intentional doing
9 of a wrongful act toward another without legal
10 justification or excuse.

11 Now, that is the term of, and
12 definition of, malice. That malice must be
13 aforethought. What does aforethought mean?
14 Aforethought simply means the malice must be
15 in the mind of that person, the maliciousness
16 must be in the mind of that person or heart of
17 that person at some time, at least some time
18 before the act of murder occurs. It may be
19 weeks, it may be months, it could be seconds,
20 it could be a second. It has to be in the
21 mind, present in the mind on the part of that
22 person at least some time before the fatal act
23 is achieved.

24 And I said that murder is the
25 unlawful killing of a human being with malice

1 aforethought expressed or implied. What is
2 expressed malice? By the way, malice can be
3 expressed or implied. It doesn't mean that
4 there are two different kinds of malice, but
5 simply the manner in which that malice is
6 shown.

7 Expressed malice may be -- malice
8 may be expressed as where previous threats of
9 vengeance or lying in wait or other
10 circumstances show directly an intent to kill
11 was in the mind of the defendant. Where
12 someone, for example, speaks, expresses openly
13 or does some act, expresses an act openly,
14 like in vengeance, that kind of thing is an
15 example of expressed malice.

16 But malice may also be implied or
17 inferred. Malice may be implied through the
18 use of a deadly weapon. A deadly weapon is
19 defined as any article or instrument used to
20 inflict serious bodily injury or death.
21 Malice may be inferred from the use of a
22 deadly weapon. Malice may be inferred from
23 the intent to kill. Malice may be inferred
24 from an intent to do serious bodily harm.
25 Malice may be inferred or implied from the

1 willful, deliberate, and intentional doing of
2 an unlawful act without just case or excuse
3 or from the use of a deadly weapon.

4 The resulting implication only
5 permits, rather than requires a jury, to infer
6 malice. This permissive inference is an
7 evidentiary fact to be taken into
8 consideration by you, ladies and gentlemen,
9 along with all of the evidence in the case,
10 and you should give it such weight as you feel
11 it deserves.

12 The law says that malice may be
13 inferred from evidence of such recklessness
14 and wantonness that it indicates a depravity
15 of a defendant's mind and his or her conscious
16 disregard of human life. If the State proves
17 facts beyond a reasonable doubt that raise any
18 inference of malice to your satisfaction, this
19 inference would simply be an evidentiary fact
20 to be taken into consideration by you, ladies
21 and gentlemen, along with all the evidence in
22 the case, and you may give such inference of
23 malice the degree which you determine it
24 should receive. You are free to accept or
25 reject this permissive inference depending

1 upon your view of the evidence in the case.

2 Now, as to burglary in the first
3 degree, the State has to prove each and every
4 element beyond a reasonable doubt. Burglary
5 is the entry, the entry of a dwelling without
6 consent with the intent to commit a crime
7 therein. And what makes burglary: Entry into
8 a dwelling without consent and with the intent
9 to commit a crime therein. What makes it
10 burglary in the first degree is if, when
11 entering or while in the dwelling, or while in
12 immediate flight therefrom, the person
13 entering is armed with a deadly weapon or an
14 explosive.

15 And, again, a deadly weapon is a
16 knife, pistol, dirk, slingshot, shotgun,
17 rifle, any other, any other instrument likely
18 to produce death or great bodily harm, or
19 causes physical injury to a person, or uses or
20 threatens to use a dangerous instrument, or
21 displays what appears to be a knife, pistol,
22 revolver, rifle, shotgun, machine gun or other
23 firearm.

24 And so there are five elements to
25 the crime of burglary in the first degree.

1 There must be an entry, notice I did not say
2 break-in, an entry into a dwelling. A
3 dwelling is a residence, obviously, a place
4 where people generally sleep or live. Without
5 consent. That means that the person that has
6 lawful occupation of those premises has not
7 given permission to enter his or her home.
8 And that entry without consent occurs when
9 that person has the intent to commit a crime
10 therein. And, number five is, either while
11 entering or while inside or while leaving
12 someone is armed with a deadly weapon, or
13 someone was hurt or injured, or when someone
14 uses that deadly weapon, or when someone
15 displays, displays a pistol, knife, revolver,
16 rifle, shotgun, machine gun or other firearm.

17 Now, those are the elements of
18 burglary in the first degree. And the State
19 has the burden of proving each and every
20 element beyond a reasonable doubt.

21 Ladies and gentlemen, I'm going to
22 give you a verdict form in which there are two
23 verdicts. One for murder, one for burglary in
24 the first degree. Your verdicts do not have
25 to be consistent, they may be inconsistent.

1 In other words, you must consider each of
2 those offenses separately and distinctly to
3 determine whether or not the State has proven
4 each of those elements beyond a reasonable
5 doubt.

6 During this trial you heard some
7 evidence in regards to statements made by the
8 defendant here on trial, either recorded or
9 written or otherwise. Let me tell you this:
10 That the law in this state says that no
11 statement, regardless of whether it's written
12 or recorded, whether it's oral or otherwise,
13 no statement may be used or considered against
14 that person unless that statement was given
15 freely and voluntarily by the person making
16 the statement.

17 In other words, the statement
18 constitutes no evidence against the defendant
19 unless he gives that statement freely and
20 voluntarily. In order to determine whether or
21 not the statement was not free and not
22 voluntary, you should consider these factors,
23 among others. First of all, you might
24 consider the age or youth of the accused or
25 his education or lack thereof or his

1 background, his environment. You might
2 consider this: You might consider the adv(e
3 or lack thereof to the accused of his
4 constitutional rights including, but not
5 limited to, those procedural safeguards which
6 we commonly refer to as Miranda warnings.
7 Whether or not he was told that he had the
8 right to have an attorney, he had the right to
9 remain silent and he had -- that the statement
10 that he made would be used or could be used
11 against him in a court of law. That he had
12 the right to a lawyer, and that if he could
13 not afford one that one would be appointed to
14 represent him. That he could stop at any
15 time, would not be required to continue this
16 statement if he chose not to do so. And you
17 may consider any other factors, for instance
18 the length of the detention and the place of
19 the detention and the nature of the questions.

20 Basically what you are required to
21 do is look to the totality of the
22 circumstances to determine whether or not that
23 person's will was overborne, whether or not
24 there was some threat made or some force
25 applied or some reward or hope of reward

1 offered that defendant in exchange for a
2 statement. And if so, then of course the
3 statement would not have been freely made and
4 then it wouldn't constitute any evidence
5 against him.

6 But, on the other hand, if the
7 statement was given freely and voluntarily,
8 intelligently and knowingly, then of course
9 the statement, you may consider any part or
10 all of that statement as it might have some
11 bearing on the facts of the case.

12 You simply carefully scrutinize all
13 of the surrounding circumstances before you
14 give any weight to an alleged statement or
15 confession, and you must be satisfied beyond a
16 reasonable doubt that the State has proven
17 that the accused was uninfluenced by promises
18 of reward, threats, injury or any diminution
19 of his rights.

20 I'm going to give you all a verdict
21 form which basically has the State, the County
22 of Dorchester and the case number, the State
23 versus John Edward Weik, defendant. Verdict:
24 We, the jury, in the above-entitled case
25 unanimously agree as to the charge of murder.

1 And, of course, I wrote guilty or not guilty.
2 There's no, there's no significance to the(
3 fact that I put one before the other. I
4 simply have to write one word before I write
5 the other word. And I wrote guilty with a
6 line before it, not guilty a line before it.
7 And then under that we, the jury, in the
8 above-entitled case unanimously agree as to
9 the charge of burglary in the first degree.
10 And I've got guilty and not guilty and a line.
11 And obviously you would check the appropriate
12 space there.

13 I have not appointed a foreperson in
14 this case and would ask you all, if you will,
15 to decide who you would like to have serve as
16 your foreman or your forelady. And once your
17 verdict is agreed upon -- it must be a
18 unanimous verdict, all 12 of you must agree --
19 you simply check the appropriate space, sign
20 your name. And it's dated today's date, I
21 have a space for that. You knock on the door,
22 you come out, the verdict form is handed to
23 the clerk, she publishes it and this portion
24 of the trial, or the trial itself, of course,
25 is concluded.

1 Any additions or exceptions by the
2 State?

3 MR. BAILEY: Could we approach, Your
4 Honor?

5 THE COURT: Yes, sir.

6 (Whereupon, a bench conference was held
7 off the record in the presence of the
8 jury but out of the hearing of the
9 jury.)

10 THE COURT: I did leave this out. When I
11 was talking to you earlier about the -- about
12 your -- as finders of the facts, judges of the
13 facts of the case, I told you that you used
14 your common sense and good judgment. And, of
15 course, you have to consider the credibility
16 or the believability of the witnesses.

17 I actually gave this charge to you
18 during the course of the trial, I think.
19 Where experts testify, I talked to you about
20 that when the first expert did testify, let me
21 just say again that persons who generally
22 testify as laywitnesses can only tell you what
23 they perceive through their senses, generally
24 the sense of sight. Most people come to court
25 and say I saw a certain thing occur. Others

1 say I felt something, touched something, that
2 kind of thing.

3 An expert is allowed to give his or
4 her opinion. Just because they're experts
5 does not mean that you have to accept their
6 opinion as truth. You simply must consider
7 the evidence presented by an expert, consider
8 that person's background, education,
9 experience, skill, whether or not that person
10 has the ability to give the opinion that he or
11 she gives, and for that matter consider the
12 facts upon which that expert has given his or
13 her opinion, whether or not those facts are
14 really something that she had or he had the
15 right to depend upon.

16 And so you simply consider the
17 expert's testimony like you would all the
18 other evidence in the case, you give it the
19 weight you feel it deserves. You have to
20 simply size up, is the best way I know to put
21 it, all of the evidence from witnesses as they
22 testify, including those of experts, and you
23 consider whether or not you may believe part
24 of it or all of it, or for that matter none of
25 it. It's all -- all the evidence, of course,

1 is for you all to determine as judges of the
2 facts of the case.

3 All right. It's my understanding
4 there are no other from the State?

5 MR. BAILEY: Not from the State, Your
6 Honor.

7 THE COURT: And from the defendant?

8 MR. BEAUFORD: Not from the defendant.

9 THE COURT: Ladies and gentlemen, you may
10 begin your deliberation. I want the two
11 alternates, please, just stay with me. But
12 you all may begin your deliberation. And when
13 you conclude, if you will knock, I'll bring
14 you out and receive the verdict from you.

15 MR. BAILEY: Your Honor, as far as
16 exhibits...?

17 THE COURT: It will take us a few minutes
18 to get the evidence to you. Obviously we've
19 got a number of exhibits, and we will go
20 through those and make sure we have them all,
21 and those will come back to you in just a
22 minute or so.

23 All right, sir.

24 (Jury excused.)

25 THE COURT: As to my two alternates, if

1 you all will stay with us, Mr. Moultrie will
2 carry you to another room. You're obvious(
3 not involved in the discussions of the 12. If
4 something were to happen to one of those, of
5 course you would, but just -- yes, sir. If
6 you will take them I would appreciate it. All
7 right. Let's stand at ease.

8 **MS. HARDEE-THOMAS:** Yes, we agree that is
9 everything except the shotgun, we don't have
10 that in their presence, but it's going to be
11 delivered.

12 **MR. BELL:** Right.

13 (Whereupon, the jury commences
14 deliberation at 3:35 p.m.)

15 **THE COURT:** I understand I'm going to
16 bring all the jurors at one time, alternates
17 as well.

18 **MR. BAILEY:** Yes, sir.

19 **MR. BEAUFORD:** Yes, Your Honor.

20 **THE COURT:** If it's a guilty verdict, do
21 you all want the 24-hour waiting period?

22 **MR. BEAUFORD:** Yes, Your Honor.

23 **THE COURT:** If that's what it is. I'm
24 not presuming, I'm just -- I don't want to run
25 them in and out. I'm just thinking if it is,

1 I'm just going to go ahead tell them what the
2 deal is. If it's not, obviously we won't have
3 to worry about it.

4 MR. BEAUFORD: Yes.

5 THE COURT: Ladies and gentlemen, I
6 understand that the jury has a verdict. I
7 want to say this now. I don't want to hear
8 anything. I don't care what it is, I don't
9 want to hear it. Not a word, not a peep.

10 All right, sir.

11 (Whereupon, the jury returned to open
12 court to report its verdict at 3:46 p.m.)

13 THE COURT: All right. It's my
14 understanding, ladies and gentlemen, you all
15 have a verdict?

16 MR. MCGUIRE: Yes, we do.

17 THE COURT: All right, sir. Is it a
18 unanimous verdict, sir?

19 MR. MCGUIRE: Yes, it is.

20 THE COURT: All right. If you would pass
21 it up, please.

22 Okay. Publish it.

23 THE CLERK: In the matter of State versus
24 John Edward Weik. We, the jury, in the
25 above-entitled case unanimously agree as to

1 the charge of murder: Guilty.

2 We, the jury, in the above-entitled
3 case unanimously agree as to the charge of
4 burglary in the first degree: Guilty. This
5 was signed by -- what's your name?

6 MR. MCGUIRE: Ronald McGuire.

7 THE CLERK: Ronald McGuire, foreperson.

8 THE COURT: All right, ladies and
9 gentlemen.

10 Let's poll the jury, please, ma'am,
11 if you will.

12 Each of you will be asked, ladies
13 and gentlemen, whether or not that was your
14 verdict, and whether it still is your verdict.
15 You need to answer truthfully.

16 POLLING OF THE JURY

17 BY THE CLERK:

18 Q. Douglas W. Judy, was that your verdict
19 and is it still your verdict?

20 A. Yes, ma'am.

21 Q. Daisy G. Smalls, was this your verdict
22 and is it still your verdict?

23 A. Yes, ma'am.

24 Q. Carolyn S. Kirkland, was this your
25 verdict and is it still your verdict?

1 A. Yes, ma'am.

2 Q. Ronald Tyrell.

3 A. Yes, ma'am.

4 Q. Was this your verdict and is it still
5 your verdict?

6 A. Yes, ma'am.

7 Q. Jerry Bryan, was this your verdict and is
8 it still your verdict?

9 A. Yes, ma'am.

10 Q. Marvin E. Ladson, was this your verdict
11 and is it still your verdict?

12 A. Yes, ma'am.

13 Q. Jaime M. Bele, was this your verdict and
14 is it still your verdict?

15 A. Yes, ma'am.

16 Q. Dane F. Wiggins, was this your verdict
17 and is it still your verdict?

18 A. Yes, ma'am.

19 Q. Johnny B. Britt, was this your verdict
20 and is it still your verdict?

21 A. Yes, ma'am.

22 Q. Ronald G. McGuire, was this your verdict,
23 is it still your verdict?

24 A. Yes, ma'am.

25 Q. Scott S. Atcherson, was this your verdict

1 and is it still your verdict?

2 A. Yes, ma'am.

3 Q. Sarah M. Horne, was this your verdict and
4 is it still your verdict?

5 A. Yes, ma'am.

6 THE COURT: All right. The jurors have
7 been polled now, they've all indicated it was
8 their verdict, still is there verdict.

9 Ladies and gentlemen, I want the
10 SLED agents to come on down, if you don't
11 mind, sir, if you will. I'm going to let this
12 SLED agent introduce himself to you, please.

13 MR. WHETSTONE: I'm Greg Whetstone.

14 THE COURT: Mr. Whetstone, would you
15 please hold your right hand up to be sworn?

16 (Agent Whetstone sworn.)

17 THE COURT: All right, sir. Thank you.

18 Ladies and gentlemen, Mr. Polk, my
19 understanding is going to be going to a doctor
20 tomorrow for, I believe, eye surgery,
21 Mr. Whetstone's going to take his place for a
22 period of time.

23 What the law requires is this:

24 There is a mandatory 24-hour waiting period
25 before we begin the second phase of this

1 trial. This trial, of course, commenced
2 Wednesday, today is Thursday, so in two days
3 basically we have tried this entire case, less
4 than two days, four o'clock.

5 The sentencing or penalty phase of
6 this trial must commence no earlier than 24
7 hours from this time, and it's now ten minutes
8 to 4:00 Thursday afternoon. What I intend to
9 do is to change a little bit of my direction
10 for you all because of the fact of the time
11 involved. I do not want you all to have to
12 sit there in a hotel/motel until Saturday
13 morning by yourselves or just in a room
14 watching television. I'm not going to make
15 you do that, I'm not going to require that.

16 I do need for you to stay together,
17 I do need for you to continue to be
18 sequestered, but what I'm going to do is
19 change my order to this extent. These agents
20 have the right, and they know this, to carry
21 you all wherever you all would like to go
22 together. You can go to the beach, you can go
23 to wherever you want to go, if that's what you
24 all want to do together. Or, I will allow
25 your family, if you have family members or

1 friends who you would like to visit with you,
2 I won't have any problem with any family (
3 member or friend coming to visit you.

4 Obviously that visit has got to
5 occur, and they tell me that they have done
6 this before, that they have allowed you all to
7 visit in your rooms, they leave the doors open
8 and people talk and so forth. I have never
9 done that before, I know it's been done a
10 number of times in this state. I have never
11 done that. In a way it defeats the purpose.
12 But the real purpose of sequestration is media
13 coverage, it's not family problems.

14 You all have taken an oath that you
15 will not discuss the case among yourselves,
16 and I know you haven't. The same is true of
17 your family members, you tell me that you have
18 not and I know you haven't. And I would
19 simply say again that if you all intend to
20 have some visitation and whatever you'd like
21 to do with friends or family members, I have
22 no problem with that, the SLED agents are
23 going to make that available for you provided
24 you continue not to discuss this matter in any
25 way whatsoever with SLED agents or among

1 yourselves or with any of your family or
2 friends.

3 They will provide again for you,
4 just as they have done, your meals, they are
5 going to -- as I say, if you all want they
6 will take you and do what you all want to do.
7 You can get together and decide what you'd
8 like to do, if anything.

9 There's hardly any sense in coming
10 back tomorrow afternoon at 4:30, that's the
11 problem. It's just the time of day. It would
12 be sort of silly for us to come back at four
13 o'clock, 4:30 tomorrow afternoon and to work
14 for two hours when we can't finish tomorrow
15 night. If we could finish tomorrow afternoon
16 it would be fine.

17 What I would like to do is start
18 very early Saturday morning and hopefully
19 finish Saturday. And that's my -- that's my
20 hope. But I don't know what the State is
21 going to present, I don't have the slightest
22 idea what the defendant is going to present in
23 that other phase of the trial and so I -- you
24 know, what I'm telling you is just what my
25 hope is, but I can't guarantee you that. But

1 I feel like as quickly as they have tried this
2 case, I don't think anybody could be upset(n
3 the least in the way these attorneys, all of
4 them, have handled this case. They've asked
5 the questions I believe that they should have
6 asked and so forth and have done, I believe,
7 an awfully good job at getting this case
8 concluded as they have.

9 And so I simply would like to start,
10 if we could, at 8:30 Saturday morning and see
11 if we can't finish, if we possibly can,
12 sometime Saturday. With those instructions in
13 mind -- well, let me ask, and I didn't do
14 this, Mr. Beauford, Ms. Hardee-Thomas, I
15 probably should have asked you and the
16 solicitor. Do you all have a problem with
17 these jurors having someone come to see them
18 and speak to them, provided, of course, that
19 they --

20 MR. BEAUFORD: No problem from the
21 defense, Your Honor.

22 MR. BAILEY: No problem from the State,
23 Your Honor.

24 THE COURT: All right. I should have
25 asked maybe that before I made that comment.

1 They have been -- the jury, I'm told by the
2 SLED agents, they have been a jury who has --
3 absolutely have been the best jury that the
4 SLED agents have had any kind of dealings with
5 in these kinds of cases. And they just don't
6 say that all the time. They said that and I
7 think they mean it. And I appreciate your
8 service and what you've done.

9 The alternates would continue to
10 stay because you all will need to hear that
11 other portion of the trial just as the jurors,
12 the regular jurors have. And it may be that
13 there's deliberation in that phase of the
14 trial that you all may be required, one or
15 both may be required to serve in that
16 capacity. So that's the reason we have you.

17 I'm going to allow the jury then to
18 leave at this time with the agents, not going
19 to let anybody else leave the courtroom until
20 they are out, gone, and then we'll adjourn for
21 the day and I'll see you all -- that's going
22 to mean you're going to have to get up pretty
23 early Saturday morning to get breakfast and so
24 forth, but I hope that's suitable for you all,
25 get up and get it done. All right. We'll do

1 that.

2 (Jury excused.)

3 THE COURT: Now I would like for
4 everybody else to remain seated until the
5 defendant is carried. You may carry him. And
6 his attorneys, of course.

7 (Defendant escorted from the courtroom.)

8 THE COURT: Any other business before we
9 leave today from the State?

10 MR. BAILEY: Not from the State, Your
11 Honor.

12 THE COURT: Defendant?

13 MR. BEAUFORD: Not from the defendant,
14 Your Honor.

15 THE COURT: 8:30 Saturday morning.

16 For the record, there has not been
17 any problem with the jury panel, we have gone
18 over this thing about a dozen times. The
19 sheriff, I've asked him, and he's gotten all
20 of the jurors who did not show and he has
21 something that he needs to put on the record
22 in regards to those jurors and I would ask if
23 you would do that now.

24 (Sheriff Ray Nash, having first been duly
25 sworn, was examined and testified as

1 follows:)

2 EXAMINATION

3 BY THE COURT:

4 Q. All right, sir. Tell me about those
5 jurors you have there.

6 A. Your Honor, here we have a number of
7 jurors that our deputies made diligent search for and
8 were unable to locate for one reason or another.
9 Many of them had moved from the area, some of them
10 had incorrect addresses we were not able to locate,
11 some of them are deceased, a variety of reasons. But
12 we have made an effort to serve these and were unable
13 to do so.

14 Q. All right, sir. Thank you. What I would
15 like to do, if you don't mind, is to let the court
16 reporter have -- those are affidavits or what are
17 they?

18 A. Yes, sir. These are affidavits of
19 service.

20 Q. Affidavits of service or non service from
21 each of those?

22 A. Correct.

23 Q. And do you have also a list of all those
24 witnesses (sic) on the yellow paper there?

25 A. Yes, sir.

1 Q. What I would like to do is have her mark
2 or clip those all together and make them Exhibit 1, a
3 Court's Exhibit, all those jurors you made an attempt
4 to locate.

5 A. Yes, sir.

6 Q. Thank you, sir.

7 THE COURT: All right. 8:30.

8 (Marked for purposes of the record was
9 Court's Exhibit 1, affidavits of
10 attempted service.)

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STATE OF SOUTH CAROLINA)
 : C E R T I F I C A T E
COUNTY OF DORCHESTER)

I, Robin L. Keil, Registered Merit Reporter
and First Judicial Circuit Court Reporter, certify
that the preceding pages are a true and correct
transcript of the proceedings had at the aforesaid
time and place.

I certify that the same was reduced to
typewritten form from my original stenograph notes
by computer-aided transcription.

I further certify that I am not of counsel or
kin to any of the parties to this cause of action,
nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand
this the 13th day of December 2000.


Robin L. Keil, RMR
Resident Court Reporter
First Judicial Circuit

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) CASE NOS. 98-GS-18-749, 75

STATE OF SOUTH CAROLINA,) VOLUME VIII
Plaintiff,) TRANSCRIPT OF RECORD
-versus-) PENALTY PHASE
JOHN EDWARD WEIK,) May 29, 1999
Defendant.) St. George, South Carolina

B E F O R E:

The Honorable M. Duane Shuler, Judge; and a Jury

A P P E A R A N C E S:

Walter M. Bailey, Jr., Esquire
Robert D. Robbins, Esquire
B. Harrison Bell, Jr., Esquire
Maité Murphy, Esquire
Darlene Simmons
For the State of South Carolina

Percy Beauford, Esquire
Marva A. Hardee-Thomas, Esquire
For John Edward Weik

A L S O P R E S E N T:

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I N D E X

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 Opening Statement by Mr. Beauford.....1818

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
DAVID L. LINDSAY, II				
Mr. Bailey.....	1822			
Mr. Beauford.....	1826			
LAURA R. TYSON				
Mr. Bailey.....	1831			
Mr. Beauford.....	1833			
AMBER KRASAE				
Mr. Bailey.....	1835			
EARL V. ASBELL, JR.				
Mr. Bailey.....	1846			
Mr. Beauford.....	1858			
KIM A. COLLINS				
Mr. Bailey.....	1860		1874	
Mr. Beauford.....	1871			
DEBORAH M. CROWLEY				
Mr. Bailey.....	1875			
Mr. Beauford.....	1885			
REBECCA J. VINCENT				
Mr. Bailey.....	1886			
Mr. Beauford.....	1906			
AMY J. WEIK-GOING				
Mr. Beauford.....	1918			
AUGUSTUS ROGERS				
Mr. Beauford.....	1925			
Mr. Bailey.....	1941			
JEFFREY R. MCKEE				
Mr. Beauford.....	1955			
Mr. Bailey.....	1966			
DONNA SCHWARTZ-WATTS				
Mr. Beauford.....	1987		2020	
Mr. Bailey.....	2007			
DONALD W. MORGAN				
Mr. Beauford.....	2021			
Mr. Bailey.....	2034			
STEPHEN J. SHEA				
Mr. Bailey.....	2043			
Mr. Beauford.....	2066			
PAMELA M. CRAWFORD				
Mr. Bailey.....	2072			
Mr. Beauford.....	2082			

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-01	Photograph of Victim.....		1848
S-02	Photograph of Victim.....		1848
S-03	Photograph of Victim's Feet.....		1856
S-04	Photograph of Victim's Feet.....		1856
S-05	through 11 Autopsy Photographs.....		1861
S-12	Autopsy Photograph.....		1869
S-13	Poem by Victim.....		1880
S-14	through 22 Photographs.....		1894
S-23	Advertisement.....		1896
D-01	Photograph.....		1908

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1 (May 29, 1999.)

2 THE COURT: All right, thank you. Be
3 seated, please. If you all are ready I'll
4 bring in the jury.

5 MR. BAILEY: Your Honor, before the jury
6 comes in I would like to do two things, one is
7 to file copies of my discovery documents,
8 transmittal documents back and forth to the
9 defense in case there's any appellant issue on
10 discovery.

11 THE COURT: Yes, sir.

12 MR. BAILEY: The other thing, Your Honor,
13 to avoid, you know, having to argue this in
14 front of the jury if there's an objection by
15 the defense, my first witness is David Lindsay
16 who was a supervisor of Mr. Weik's at Broyhill
17 where he had worked some eight years.

18 And the testimony that I would hope
19 to elicit from Mr. Lindsay would be that
20 during the course of work at Broyhill
21 Mr. Lindsay gave Mr. Weik an instruction to
22 sweep his work area, and Mr. Weik in turn
23 threatened his life on about four occasions
24 and as a result of that was terminated from
25 Broyhill.

1 And I do have some case law to
2 support that type of testimony in the penalty
3 phase, but I just wanted to mention that now
4 so the defense would know what we're doing and
5 if they had an objection we could possibly
6 deal with that before the jury comes out
7 because it will be the very first witness.

8 **THE COURT:** Of course you're not going to
9 know until you hear it, but you've heard
10 enough, I guess, at that point.

11 **MR. BEAUFORD:** Yes, Your Honor. I don't
12 know the circumstances surrounding the actual
13 incident. And I do think that the time
14 sequence of when it happened in relevance to
15 this I would object to.

16 **THE COURT:** All right. Very good. Tell
17 me about your case law. What do you have?

18 **MR. BAILEY:** Your Honor, I would have two
19 cases, one State versus Larry Gene Bell. The
20 first, Larry Gene Bell, where the judge let in
21 threats that Bell had made to the daughter of
22 one of the witnesses.

23 **THE COURT:** Right.

24 **MR. BAILEY:** And then also State versus
25 Earl Matthews where the trial judge allowed

1 letters seized from the defendant himself
2 concerning threats to kill a relative that
3 turned him in in that case. Of course, future
4 dangerousness is always an issue and the only
5 way that -- I think the only proof, real
6 indicator of future dangerousness is how
7 you've acted in the past. And I think certain
8 threats to take somebody's life that they take
9 seriously to the extent that you're fired from
10 an eight-year job is probative of the
11 characteristics of the defendant and the jury
12 should know about that.

13 THE COURT: Do you all have any -- of
14 course you didn't know, they just gave you
15 that. Well, I don't know, maybe you did know
16 it.

17 MR. BEAUFORD: Your Honor, I had some
18 indication that there had been something out
19 there along those lines, not knowing all the
20 facts that he's going to bring out through
21 this.

22 THE COURT: You don't have any -- do you
23 know of any case law that says I can't do it?
24 I read that Bell case this weekend, that's one
25 I know I read.

1 MR. BEAUFORD: Your Honor, there's no
2 case law that says you can't do that in that
3 sense, but I think the case law which he's
4 referring to relate to a specific situation
5 that involved that particular case, those
6 particular witness that was involved in those
7 cases. And this has no relevance to this
8 matter at all. And again, there are mere
9 threats. I don't think there's going to be
10 any kind of overt act or anything to carry out
11 the threats. And I think that's why the cases
12 are different from this matter that we are at
13 hand with.

14 THE COURT: All right, sir. You know,
15 the problem with these kinds of cases is the
16 trial judge is always caught in a dilemma,
17 being you've got case law which supports what
18 the solicitor wants to do, precedent for what
19 the solicitor says he wants to do and you
20 allow it, and then the next thing you know the
21 Supreme Court decides they don't want you to
22 do it any longer, but there's nothing I can do
23 except follow precedent.

24 I know I read this Bell case and
25 read it just yesterday, and I don't think it

1 makes any difference who the threat is
2 towards. The question is whether or not a
3 real threat was made and what relevance that
4 might have on someone's dangerousness in the
5 future and otherwise.

6 And I'm going to allow it over the
7 objection of the defendant based on the
8 precedent that I've read.

9 MR. BAILEY: Your Honor, also while the
10 jury is out, after they testify I have Amber
11 Krasae who would be the -- after she
12 testifies, Your Honor, I would like the Court
13 to -- if we could, to have a short break and
14 let the jury out so that I can have members of
15 the family leave the courtroom, if they want,
16 prior to the crime scene photographs being
17 tendered.

18 THE COURT: That's fine. That's fine.

19 MR. BEAUFORD: No objections to that.

20 THE COURT: All right, sir.

21 (Jury present.)

22 THE COURT: Ladies and gentlemen, thank
23 you very much for your patience and for being
24 here this morning. I want to ask you all, I
25 know you were out all day yesterday, have any

1 of you discussed this matter among yourselves
2 as you were sequestered, or has anyone else
3 attempted to discuss this matter with you all
4 since you -- we adjourned on -- I guess it
5 would have been Thursday afternoon? Anyone?
6 All indicate not.

7 The time is 20 minutes before 9:00,
8 24 hours, of course, has long since passed.

9 Ladies and gentlemen, the defendant,
10 John Edward Weik, of course, was convicted on
11 Thursday afternoon; today's Saturday.
12 Thursday afternoon, I believe that would have
13 been the 27th of May, 1998, for the offense of
14 murder and the offense of burglary in the
15 first degree.

16 And it becomes necessary at this
17 time that we hold a hearing, or a proceeding
18 which will determine the punishment. Section
19 16-3-20, and I have that code section here in
20 my hand of the South Carolina Code of Laws as
21 Amended, provides in part as follows: "A
22 person who is convicted of, or pleads guilty
23 to, murder must be punished by death or by
24 imprisonment for life." And that section
25 further amended says this: "That upon

1 conviction of a defendant of murder the Court
2 shall conduct a separate sentencing proceeding
3 to determine whether the defendant should be
4 sentenced to death or life imprisonment."

5 So obviously our purpose today is to
6 determine what punishment that this defendant,
7 Mr. Weik, should receive. And in that regard,
8 of course, you all are going to be required to
9 sentence him. I tell you, obviously, that the
10 judge is the one who pronounces the sentence.

11 But in our voir dire before we began
12 the jury -- in selecting each of you, I'm
13 satisfied that each of you were told this, but
14 I tell you again, that whatever the jury
15 decides is what is going to happen. The judge
16 is not the one who sentences. Although the
17 judge pronounces whatever sentence may be
18 made, the jury determines what that sentence
19 is.

20 If it is a life sentence, then that
21 is the sentence that this court is going to
22 follow. If it's a death sentence, that is the
23 sentence this court is going to follow. So I
24 don't want there to be any misunderstanding
25 about that. You all are here in this

1 proceeding this morning to determine basically
2 what sentence is appropriate under these
3 circumstances.

4 During this -- during this
5 proceeding the State, and for that matter the
6 defendant, if you'd like to, has the
7 opportunity to introduce additional testimony,
8 different and additional testimony in
9 aggravation, extenuation, or mitigation. And
10 both sides will have the opportunity to
11 present arguments for or against the death
12 penalty if they choose.

13 After the last argument, the trial,
14 the proceeding sort of takes the same format
15 as the one before, in that the State goes
16 first. And the State presents its evidence in
17 which it attempts to prove the existence of
18 some, one, or more aggravating circumstances
19 which would allow, simply allow the jury to
20 consider a sentence of death.

21 Even if the State proves the
22 aggravating circumstance, or circumstances,
23 that does not require -- that does not require
24 a jury to sentence someone to death. The jury
25 is never required to sentence anyone to death

1 for any reason. It's simply that the State
2 must prove at least one aggravating
3 circumstance before the jury even has the
4 opportunity or the ability to discuss the
5 sentence of death. And so the State has that
6 burden and has to prove that aggravating
7 circumstance beyond a reasonable doubt as it
8 did in the crime of murder itself.

9 I'm not going to tell you what those
10 aggravating circumstances are. I'm going to
11 do the same as you, I'm going to listen to the
12 evidence and I'm going to determine what
13 circumstances, if any, the State offers any
14 proof on. That's not to say that I believe
15 the State has proven, because that's up to you
16 to do so. But if there's any evidence then
17 I'm going to submit those aggravating
18 circumstances to you and you'll have to
19 determine whether the State's proven beyond a
20 reasonable doubt any statutory aggravating
21 circumstance.

22 And then, of course, the defendant,
23 if he would like to, has the opportunity and
24 the right to present any evidence that he
25 wants to. And, again, he has no burden, he

1 doesn't have to prove anything even at this
2 stage in the trial. It's not up to him to
3 prove anything, but he certainly has the right
4 to do so and may choose to put up some
5 evidence.

6 And then the lawyers argue. They
7 will basically stand before you as they did at
8 the end of the other proceeding and talk to
9 you a few minutes. And then I will -- and
10 Mr. Weik has the right, if he would like to.
11 And then I will instruct you as to a charge of
12 the law again, and you would deliberate this
13 just as you did the other.

14 Please listen as the lawyers begin
15 and the evidence is presented.

16 MR. BAILEY: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 MR. BAILEY: Ladies and gentlemen, at
19 this point John Edward Weik sits before you
20 all convicted of murder, you all have found
21 him guilty of murder beyond a reasonable
22 doubt, and also found him guilty of the crime
23 of first degree burglary. But as you know,
24 your job is not over yet.

25 You're going to hear testimony now

1 regarding the appropriate punishment, either
2 life in prison or the death penalty. And as
3 Judge Shuler just told you, we're going to
4 follow exactly the same trial procedure as we
5 did previously. The procedure's the same, the
6 issues are different.

7 You all will consider aggravating
8 circumstances and any mitigating circumstances
9 that might arise from the evidence. And as
10 Judge Shuler told you, the significance of an
11 aggravating circumstance is that that is a
12 prerequisite to the death penalty.

13 A jury cannot impose the death
14 penalty unless they find that at least one
15 aggravating circumstance has been proven to
16 their satisfaction beyond a reasonable doubt.
17 And it only takes one aggravating
18 circumstance, and we've alleged two here.

19 Now, the State has alleged two
20 aggravating circumstances in this case, the
21 first being that the murder of Susan Krasae
22 was committed while in the commission of
23 burglary. The second aggravating
24 circumstances we've alleged is that the murder
25 of Susan Krasae was committed while in the

1 commission of physical torture.

2 Now, one of these aggravating
3 circumstances -- the burglary aggravated
4 circumstance has already been proven to your
5 satisfaction beyond a reasonable doubt in the
6 first part of this trial when you all brought
7 back your finding of guilty to the first
8 degree burglary. So to start the second phase
9 I'm going to introduce additional testimony
10 about the aggravating circumstance of physical
11 torture.

12 Physical torture is not a separate
13 crime that I can seek an indictment for and
14 get a conviction on, but it is an aggravating
15 circumstance the judge will instruct you on.
16 And it will be up to you to decide based on
17 the evidence whether or not that evidence
18 proves the existence of physical torture.

19 And like everything else in law, you
20 have an everyday meaning of a word, or a term,
21 and you have the legal definition. At the end
22 of this case Judge Shuler will instruct you on
23 the meaning of physical torture.

24 Physical torture is -- you can
25 equate it to an aggravated battery. When you

1 think of physical torture you think of
2 prolonging the suffering of a murder victim
3 unnecessarily. The instantaneous death of a
4 murder victim, of course, does not constitute
5 physical torture. If I was to walk up and
6 shoot Mr. Bell over here in the head and he
7 dropped dead, that's not physical torture.

8 But if his death is prolonged, he is
9 caused to suffer needlessly by the defendant,
10 then that is physical torture. But again,
11 Judge Shuler will instruct you, he'll give you
12 a detailed definition on the meaning of
13 physical torture.

14 In addition to the statutory
15 aggravating circumstances, statutory
16 mitigating circumstances, we're going to be
17 talking about other types of evidence that
18 don't directly relate to physical torture or
19 burglary, because you all need to know as much
20 as you can possibly know about the
21 circumstances of the crime that hadn't already
22 come out possibly in the characteristics of
23 the defendant.

24 So we're going to be talking about
25 the circumstance of the crime, the

1 characteristics of John Weik who you all are
2 going to be sentencing, and we're also going
3 to have victim impact evidence.

4 You've seen Mr. Weik here for the
5 past several days; you hadn't seen Susan
6 Krasae. She's dead, you can't see her. So
7 what I'm going to try to do is to get you all
8 to know her to the extent that you can know
9 somebody who's dead. The only way I know to
10 do that is to have people that know her, that
11 knew her, her family members, talk about her a
12 little bit, tell you the kind of person she
13 was, what her loss meant to them.

14 There will be photographs that her
15 different family members will introduce. And
16 it's just an effort to try to humanize her to
17 you because all she is -- right now is just a
18 name, you all never knew her.

19 I want to tell you right now that
20 this is going to be a difficult part of the
21 case. Some of the testimony that you all are
22 going to hear is going to be difficult to
23 listen to, the photographs are going to be
24 unpleasant to look at. But it's part of this
25 case, I feel it's my duty to bring the entire

1 case to you.

2 Now, as I said a minute ago, some of
3 the evidence that you all are going to need,
4 like the aggravating circumstance of burglary,
5 has been introduced already, you all have
6 found that beyond a reasonable doubt. The
7 first thing I do when I start my case is I'm
8 going to formally move to incorporate the
9 guilt phase testimony, that way you all can
10 consider both what's coming up in this part of
11 the trial and what you heard in the guilt
12 phase. Obviously it would be ridiculous for
13 me to have to go through the same stuff and
14 reprove burglary to you, so I'm going to move
15 to incorporate that.

16 For that reason this stage of the
17 trial is going to be much shorter. I
18 anticipate that I can get my witnesses to you
19 this morning, possibly by midday today. But
20 just because this case is going to be shorter,
21 this portion of it, doesn't mean it's not
22 crucially, vitally important. Because it is
23 important, it's going to lead you to probably
24 the most important decision that you all will
25 ever have to make in your lifetime, so please

1 continue to pay close attention.

2 I expect that during the course of
3 this trial you're going to hear from some
4 psychiatrists and psychologists that are going
5 to tell you all that Mr. Weik has some mental
6 problems. And they're probably not going to
7 agree on what label to put on those mental
8 problems. You can have several psychiatrists
9 and psychologists and they can all give their
10 view on it. And they're not all going to tell
11 you the same thing, but they are all going to
12 tell you he's got some mental problems.

13 They're going to tell you that he's
14 told them that he hears voices, that he sees
15 things. And you'll recall listening from the
16 tapes of those confessions that he said it was
17 like watching himself on a monitor and that he
18 was kind of detaching himself. It will be
19 that kind of stuff that they'll be talking
20 about.

21 Now, I'm not going to stand up here
22 and tell you all that Mr. Weik is normal.
23 He's not normal. He's a murderer. Murder is
24 not a normal human activity. So if he's a
25 murderer and performs the abnormal act of

1 murder, then he can't be normal. No murderer
2 is normal. But that doesn't mean that he's
3 entitled to any credits or any points because
4 of the fact that he's abnormal to the extent
5 that he would go out and commit this murder.
6 Nobody that commits murder is normal.

7 However, when you look at the
8 evidence closely, the evidence on his mental
9 health issues, you will find from that
10 evidence that despite his problems, his mental
11 problems, whatever label you want to put on
12 it, he knew what he was doing, he knew it was
13 wrong, he planned it, he had the ability to
14 follow the law if he chose to do it and he
15 chose not to and he enjoyed what he did.
16 That's the bottom line. And he's completely
17 responsible for his conduct on April 30th of
18 last year.

19 After you all have heard all of this
20 testimony, this part of the trial, and the
21 judge charges you, I'm going to stand up here
22 in my closing statement to you and I'm going
23 to ask you all to bring back the death penalty
24 in this case. The judge will instruct you and
25 you'll go back to deliberate and you'll come

1 back and render a verdict, life in prison or
2 the death penalty.

3 And in listening to this evidence I
4 ask you to please use your common sense as you
5 did in the first part of the trial, follow the
6 law as the judge gives it to you, and render a
7 verdict that speaks justice.

8 Now, when I say use your common
9 sense, I want to go back to these experts
10 again. The fact that somebody has got an M.D.
11 or Ph.D. behind their name doesn't make them
12 any smarter than any of you all, doesn't mean
13 they have all the answers. You judge their
14 credibility, their believability, the same as
15 you judge any other witness and ask yourselves
16 whether that person is in a position to know
17 what they're talking about.

18 Do they even know as much about this
19 case as you do? Have they sat up in this
20 chair and heard Mr. Weik testify as you all
21 have? It's fair to ask yourselves all those
22 kind of questions, and you should ask them
23 when these people testify.

24 Again, I ask you to please pay close
25 attention to all the testimony, and at the end

1 of this case when it's given to you, to bring
2 back a verdict that renders justice in this
3 case. Thank you.

4 MR. BEAUFORD: May it please the Court,
5 counsel. Good morning again. As you know
6 we're in the second phase of this trial, we're
7 in the sentencing phase. At the first time I
8 met you, I asked a question of you. I asked
9 the question that if you had a convicted
10 murderer, an individual that was convicted of
11 murder, could you consider other evidence that
12 had nothing to do with the crime. I asked
13 each and every one of you that particular
14 question in determining whether to give a life
15 without parole or a death sentence. And each
16 one of you said that you could. And we're at
17 that point. We're at that point that you will
18 have to make that decision, life without
19 parole or death.

20 Also at the beginning of the trial I
21 told you about my hand. And I said you see my
22 hand, but you don't because there's another
23 side to it. And I told you that we're going
24 to show certain things. And in this phase you
25 will hear things that you can't show in the

1 first phase, things about life experience,
2 life background, mental illness. You're going
3 to hear about those things. And it's very
4 important. We know he sits there convicted of
5 murder, but these things are very important
6 that you have to consider. And that's the
7 phase that we're here and that's the phase
8 that you have to decide life without parole or
9 death.

10 You're going to hear family members
11 and doctors. And you give whatever weight you
12 want to it. But one thing that you're going
13 to hear that's consistent throughout all the
14 testimony is there's something wrong with
15 Eddie. There's no dispute, and the solicitor
16 has prefaced that, but you have to give what
17 weight. Then you're going to hear testimony
18 of whether Eddie is a future threat, future
19 threat to anyone, whether he could conform to
20 prison life.

21 Ladies and gentlemen, after hearing
22 all of the evidence you're going to be
23 convinced and you're going to find that this
24 is a crime of passion, this crime happened out
25 of passion. This is not that murder as you

1 all -- all your common sense has formed in
2 your mind. But what is a murder? What is a
3 murder? He is a murderer. He is a murderer.
4 And in the beginning of the trial I told you
5 that he was guilty of killing Susan Krasae.
6 There was never a dispute there. There was
7 never a dispute there.

8 But we ask that you listen to the
9 other evidence, that you consider all the
10 other evidence, and after considering all the
11 evidence at the end of this trial that the
12 appropriate sentence is life without parole.
13 Thank you.

14 THE COURT: Thank you.

15 Solicitor?

16 MR. BAILEY: State moves to incorporate
17 the guilt phase testimony and exhibits in the
18 penalty phase.

19 THE COURT: All right, sir. I grant that
20 motion.

21 MR. BEAUFORD: That's subject to all the
22 other objections we made?

23 THE COURT: Yes, sir. Absolutely.

24 MR. BAILEY: State calls David Lindsay.

25 THE CLERK: Raise your right hand, place

1 your left hand on the Bible.

2 (David L. Lindsay, II, called as a
3 witness by the State, having first been
4 duly sworn, was examined and testified as
5 follows:)

6 THE CLERK: Come around and have a seat,
7 please. Give us your full name, spell your
8 last name.

9 THE WITNESS: David Lou Lindsay, II.

10 DIRECT EXAMINATION

11 BY MR. BAILEY:

12 Q. Mr. Lindsay, tell the jury, please, where
13 you live.

14 A. I live in Summerville.

15 Q. Okay. Where do you work?

16 A. Broyhill.

17 Q. Okay. And what type of business is
18 Broyhill?

19 A. Furniture manufacturer. We make
20 furniture frame parts.

21 Q. All right, sir. What do you do at
22 Broyhill?

23 A. I'm a foreman.

24 Q. How long have you been a foreman at
25 Broyhill?

1 A. About a year, year and a half.

2 Q. All right, sir. And back in January 1998
3 were you a foreman at Broyhill?

4 A. Yes.

5 Q. All right. And what shift did you
6 supervise?

7 A. Second shift.

8 Q. Okay. And what hours does second shift
9 run?

10 A. The shift works 4:00 to 12:30.

11 Q. Okay. And would you state whether or not
12 back in January was the defendant in this case, John
13 Weik, at work on your shift?

14 A. Yes.

15 Q. Did you supervise him?

16 A. Yes.

17 Q. Can you point Mr. Weik out in the court
18 here?

19 A. He's right there.

20 Q. Okay. Is he sitting in the middle of the
21 table on your left there?

22 A. In the middle, yes.

23 Q. All right. Mr. Lindsay, Mr. Weik worked
24 under your supervision; is that correct?

25 A. Yes.

1 Q. All right, sir. Who was working at
2 Broyhill first, him or you?

3 A. He was.

4 Q. He was, okay.

5 So when you went to work there as a
6 foreman he was already there?

7 A. Yeah.

8 Q. Okay. I want to call your attention to
9 the night of January the 29th, 1998 and ask whether
10 or not you were at work and Mr. Weik was at work at
11 Broyhill?

12 A. Yes.

13 Q. All right, sir. And what, if anything --
14 did you have any conversation with Mr. Weik that
15 evening?

16 A. Yeah.

17 Q. What did you tell him to do?

18 A. He was -- had some down time on his
19 machine and I asked him to sweep. And he didn't like
20 that.

21 Q. Okay. And after you asked him to sweep
22 around his machine, what, if anything, was any
23 response he gave to you?

24 A. Yeah. He got loud and we don't allow
25 that on the floor, so I asked him to go to the

1 office. And usually when you take someone to the
2 office they cool down a little bit once you talk to
3 them. That didn't happen.

4 Q. Okay. And did you, in fact, ask Mr. Weik
5 to go to the office with you?

6 A. Yeah.

7 Q. Did he go with you?

8 A. Yeah, he went with me.

9 Q. What happened once you and Mr. Weik got
10 in the office?

11 A. Well, I sat down behind the desk and
12 asked him to have a seat. He didn't want to sit
13 down. I asked him what the problem was and he
14 started getting loud and threatening me and stuff
15 like that about how he -- what he would do, you know,
16 I didn't know who he was.

17 Q. All right. Tell the jury to the best of
18 your recollection as closely as you can remember,
19 Mr. Lindsay, what Mr. Weik said to you when you asked
20 him to come in the office and talk.

21 A. Once we got in the office he was irate,
22 he just started yelling, got over -- leaned up on the
23 desk, told me he would kill me, I didn't know who he
24 was messing with, he would take a shotgun and shoot
25 me, hurt me with his own hands, you know.

1 Q. Okay. How many times, Mr. Lindsay, did
2 Mr. Weik tell you that he was going to kill you that
3 evening?

4 A. A few.

5 Q. Okay.

6 A. It was more than -- it was probably four
7 times total, four or five times.

8 Q. What was his demeanor when he was saying
9 this to you, how was he acting?

10 A. He was real excited.

11 Q. Okay. And based on the way he was acting
12 and the threats to shoot you with a shotgun and so
13 forth, did you take these threats seriously?

14 A. I did, yes.

15 Q. All right, sir. And did you report that
16 to anybody else at Broyhill what had occurred?

17 A. Yes. Yeah.

18 Q. Mr. Lindsay, please answer any questions
19 that the defense may have.

20 CROSS-EXAMINATION

21 BY MR. BEAUFORD:

22 Q. How are you doing today, Mr. Lindsay?

23 A. Okay.

24 Q. Let's recap that day. Basically that day
25 you asked Mr. -- I call him Eddie -- Mr. Weik to

1 sweep his machine, underneath his machine?

2 A. Sweep around his machine, yeah.

3 Q. And he told you that another supervisor
4 had told him to do something differently, didn't he?

5 A. No, I don't recall that. There was no
6 other supervisor except my boss, which was the
7 manager, and the other department's manager.

8 Q. The other supervisor had gone to lunch,
9 or to lunch --

10 A. He was gone, right.

11 Q. Yes. And he had told you that the other
12 supervisor told him to do something different?

13 A. I don't remember that, no, sir.

14 Q. And do you remember when you went in the
15 office and you started putting your finger in his
16 chest like that telling him what to do?

17 A. No, sir. That didn't happen.

18 Q. Do you remember that Eddie started to
19 leave the office and you grabbed his shoulder and
20 said, "Where are you going?"

21 A. No, sir. That didn't happen either.

22 Q. You're an ex-Marine, right?

23 A. Yes, sir.

24 Q. And you weren't afraid of Eddie, were
25 you?

1 A. Afraid physically?

2 Q. Yes.

3 A. No.

4 Q. And isn't it true that when Eddie made
5 these threats to you he said if you don't do
6 something then I'll probably I'll kill you? He
7 didn't say "I'll kill you," he said, "If you don't
8 get your hand off of me I'll kill you"?

9 A. No. He said, "I will kill you." My hand
10 was not on him.

11 Q. Again, you said you didn't grab him when
12 he was getting ready to go?

13 A. I did not touch him, no, sir.

14 Q. And Eddie was actually terminated not by
15 the nature of how you felt, but just basically by the
16 words spoken?

17 A. Yes, sir.

18 Q. You got a policy set for words that you
19 say --

20 A. I believe that's why. I don't know the
21 specifics on why he was terminated.

22 Q. You didn't take part in the termination
23 hearing or anything?

24 A. No, sir. They take what happened that
25 night in writing and the plant manager and personnel

1 manager decide after that. There are policies that
2 determine whether or not he was terminated.

3 Q. So is it fair to say that it was not
4 viewed that the threat itself was taken real, but
5 just the word itself of the threats?

6 A. No. The threat was taken real. I
7 believe that played a big part in his termination.

8 Q. But it was done writtenly, you didn't
9 have a hearing and actually say this is what, and I
10 felt afraid, or anything of that nature?

11 A. With my boss, with the plant manager,
12 yes, I did. He asked how I felt.

13 Q. And wasn't it the plant manager that
14 wanted to keep Eddie?

15 A. Excuse me?

16 Q. They wanted to keep Eddie even after this
17 happened, they were trying all the avenues to try to
18 keep Eddie at Broyhill?

19 A. I don't know. I did not want Eddie
20 working for me in my department anymore, no. If he
21 was to transfer into another department, that wasn't
22 up to me.

23 Q. So you never talked about anyone else
24 later that week about options of keeping Eddie,
25 changing him to a different shift, or something, you

1 didn't talk to any of your supervisors about that?

2 A. I didn't, no.

3 Q. You didn't know about any conversations
4 about those things?

5 A. No. I was not the manager, I was just
6 the foreman.

7 Q. You had been a foreman for about maybe
8 two or three months?

9 A. Prior to that?

10 Q. Yes.

11 A. Yes.

12 Q. And how long had Eddie worked at
13 Broyhill?

14 A. Longer than I had. I don't know the
15 specific years.

16 Q. And prior to this incident Eddie had
17 never been in any other problem with any of the other
18 foremans or any other supervisor prior to you coming
19 there?

20 A. I don't know.

21 Q. No further questions.

22 MR. BAILEY: No redirect, Your Honor.

23 May he be excused?

24 THE COURT: You're excused.

25 MR. BAILEY: Call Laura Tyson.

1 THE CLERK: Stand here, please, raise
2 your right hand, place your left hand on the
3 Bible.

4 (Laura R. Tyson, called as a witness by
5 the State, having first been duly sworn,
6 was examined and testified as follows:)

7 THE CLERK: Come around and have a seat.
8 Would you give us your full name spell your
9 last name?

10 THE WITNESS: My name is Laura R. Tyson,
11 last name is T-y-s-o-n.

12 DIRECT EXAMINATION

13 BY MR. BAILEY:

14 Q. You live in Summerville?

15 A. Yes, I do.

16 Q. Tell the jury where you work.

17 A. I work for Broyhill Industries.

18 Q. How long have you worked at Broyhill?

19 A. A little over a year now.

20 Q. What is your job at Broyhill?

21 A. I'm the personnel manager.

22 Q. And as personnel manager are you the
23 custodian of all the personnel records pertaining to
24 Broyhill employees?

25 A. Yes, that is correct.

1 Q. Okay. Do you know the defendant in this
2 case, Eddie Weik, do you know who he is?

3 A. Yes, I do.

4 Q. All right. How do you know him?

5 A. I met Eddie when I first started at
6 Broyhill, he was there for a few weeks after I
7 started.

8 Q. Did he leave Broyhill on January 30th,
9 1998?

10 A. That's correct.

11 Q. And as personnel manager are you aware of
12 why he was terminated?

13 A. Yes, I am.

14 Q. Why was he terminated?

15 A. Eddie had an altercation with his
16 foreman.

17 Q. All right. And who was the foreman?

18 A. David Lindsay.

19 Q. Okay. And for that reason he was
20 terminated?

21 A. Yes.

22 Q. Thank you. Please answer any questions
23 Mr. Beauford might have.
24
25

CROSS-EXAMINATION

BY MR. BEAUFORD:

Q. Good morning, Ms. Tyson.

A. Good morning.

Q. What kind of worker was Eddie?

A. Good worker, steady, dependable. He was there, perfect attendance many years in a row.

Q. And prior to this incident with Mr. Lindsay has he ever been in any kind of altercation like that before?

A. Not that I'm aware of.

Q. And after this incident, immediately after this incident with Mr. Lindsay, were there attempts to try to keep Eddie on at Broyhill?

A. We brought Eddie in and got his side of the story. And collectively between the plant manager, and myself, the department manager, and our corporate human resources department decided not to keep Eddie.

Q. And that was basically on policy based on spoken words, what he had said?

A. Yes.

Q. And did you ever have the opportunity to actually work alongside with Eddie or see --

A. No. Eddie -- I knew Eddie by face and by

1 name, but I did not work alongside Eddie.

2 Q. Was Eddie that individual who always
3 tried to work overtime and help other individuals?

4 A. Based on his records I would say yes.

5 Q. Was Eddie that individual who had this
6 steady improvement in his work where it allowed for
7 raises?

8 A. Eddie was a consistent worker and a hard
9 worker, I believe that would have justified his
10 increases.

11 Q. No further questions.

12 MR. BAILEY: No redirect. Ask she be
13 excused.

14 THE COURT: You're excused. Thank you.

15 MR. BAILEY: Amber Krasae.

16 THE CLERK: Come stand right here. Place
17 your left hand, the other way.

18 (Amber Krasae, called as a witness by the
19 State, having first been duly sworn, was
20 examined and testified as follows:)

21 THE CLERK: Okay. Come around, have a
22 seat. Okay. Speak right into this microphone
23 and tell us your name. What's your name?

24 THE WITNESS: My name is Amber Krasae.
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DIRECT EXAMINATION

BY MR. BAILEY:

Q. Amber, you know me, don't you?

A. Yes.

Q. We've talked before, haven't we?

Amber, tell the jury how old you
are.

A. I am eight years old.

Q. And when is your birth date?

A. October 22nd.

Q. All right. And where do you go to
school?

A. Knightsville Elementary.

Q. Okay. What grade are you in at
Knightsville Elementary?

A. Second grade.

Q. Okay. And is school out yet, or are you
still going to school this year?

A. Still going to school.

Q. Okay. Who is your teacher?

A. Ms. Patrick.

Q. Do you like her?

A. Uh-huh (affirmative response).

Q. Is she a good teacher?

A. Yes.

1 Q. What kind of grades do you make at
2 Knightsville school?

3 A. Good grades.

4 Q. Okay. Do you make A's?

5 A. Uh-huh (affirmative response).

6 Q. What's your favorite subject?

7 A. Math.

8 Q. Okay. And Amber, I want to ask you some
9 questions, but first of all I want to ask you if you
10 know what it means to tell the truth?

11 A. Yes, I do.

12 Q. Okay. Do you know what it means to tell
13 a lie?

14 A. (Nodding.)

15 Q. Okay. What's a lie?

16 A. A sin.

17 Q. A sin.

18 And if I ask you some questions,
19 would you tell me the truth?

20 A. Yes.

21 Q. Okay. And who do you live with now?

22 A. I live with my dad.

23 Q. Okay. And what's your dad's name?

24 A. Tom Krasae.

25 Q. All right. And is he in the courtroom?

1 A. Yes, he is.

2 Q. Do you see him?

3 A. Uh-huh (affirmative response).

4 Q. Okay. Where is he sitting?

5 A. Right by his girlfriend.

6 Q. Okay. All right. And you have a

7 brother, too, don't you?

8 A. Yes, I do.

9 Q. What's your brother's name?

10 A. His name is Daniel.

11 Q. Daniel.

12 And Daniel is older than you?

13 A. Uh-huh (affirmative response).

14 Q. Okay. And Amber, who was your mother?

15 A. My mother was Susan Krasae.

16 Q. Okay. And do you know Eddie Weik?

17 A. Yes, I do.

18 Q. Okay. Amber, what I want to do, and I
19 want you -- I'm going to ask you about what happened
20 to your mother, okay?

21 A. (Nodding.)

22 Q. If I ask you some questions about that,
23 can you answer those?

24 A. Yes, I can.

25 Q. All right. And were you home that day?

1 A. Yes, I was.

2 Q. Was that a school day, had you been to
3 school?

4 A. Uh-huh (affirmative response).

5 Q. Okay. Now, how about Daniel, did he go
6 to school too?

7 A. Yes, he did.

8 Q. Okay. When you and Daniel got home from
9 school that day, was anybody else at your house?

10 A. No. But Grandpa was home at the next
11 house and so was Uncle James.

12 Q. All right. And what did you and Daniel
13 do when you got home from school?

14 A. We put our book bags down and started
15 watching TV.

16 Q. Okay. And later on did your mom come
17 home from work?

18 A. Yes, she did.

19 Q. Okay. When your mom came home, what did
20 she do?

21 A. Daniel told her that --

22 MR. BEAUFORD: Objection, Your Honor.

23 THE COURT: I sustain. Don't say what
24 Daniel told you. That's all right, go ahead.
25

1 BY MR. BAILEY:

2 Q. Just tell me what your mom, if you saw
3 where she went or what she did.

4 A. She went over to Grandpa's house.

5 Q. And you say Grandpa lived right next door
6 to you?

7 A. Yeah.

8 Q. Did anybody else come over to your house
9 that day?

10 A. Uh-huh (affirmative response).

11 Q. Who came over?

12 A. Eddie.

13 Q. Okay. And where were you when Eddie came
14 over?

15 A. I was outside.

16 Q. Okay. And where was Daniel?

17 A. He was outside, too.

18 Q. Okay. And what happened? Did you see
19 how Eddie got in your house, what he was driving?

20 A. He was driving a truck.

21 Q. Okay. And what happened after Eddie
22 drove the truck over to your house?

23 A. Mom came back from Grandpa's house and
24 they started pushing each other.

25 Q. Okay. And where were they when this was

1 going on?

2 A. They started pushing each other on the
3 porch.

4 Q. Okay. And that was the porch of the
5 trailer?

6 A. (Nodding.)

7 Q. And were they saying things?

8 A. I don't remember.

9 Q. Okay. All right. And where were you and
10 Daniel standing when you saw them on the porch, were
11 you all outside or were you all in the house?

12 A. Outside.

13 Q. Okay. Now, what happened next?

14 A. Me and Daniel went inside and then --

15 Q. When you all went inside, what room did
16 you go into?

17 A. His room.

18 Q. Daniel's room?

19 A. (Nodding.)

20 Q. Okay. And could you hear what was
21 happening outside?

22 A. No.

23 Q. Okay. Well, why did you and Daniel go in
24 the house?

25 A. (Shaking head.)

1 Q. You just did?

2 A. (Nodding.)

3 Q. Okay. Amber what, happened next?

4 A. Well, Mom came in the house and she said,

5 "If you don't leave I'm going to call the police."

6 Q. Okay. Let me ask you this: When your
7 mom came in the house, did she shut the door?

8 A. Yes.

9 Q. Okay.

10 A. The screen door.

11 Q. Okay. And what's the next -- when your
12 mom came in the house, did she just come in by
13 herself?

14 A. (Nodding.)

15 Q. Okay. What happened next, Amber?

16 A. Then Eddie went into his truck and he got
17 a gun.

18 MR. BEAUFORD: Objection. Leading.

19 Foundation as to her ability to observe or
20 anything of that nature.

21 THE COURT: Well, I mean, I don't know
22 what she's doing at this point, but, I mean, I
23 suppose it's all right, you can ask her that
24 on cross-examination. How would she know
25 that, I think that would be all right.

1 BY MR. BAILEY:

2 Q. Let me ask you that, Amber. How do you
3 know that Eddie went to the truck?

4 A. Because he was standing up and he went to
5 the back of the truck.

6 Q. Okay. And where were you when he went to
7 the truck?

8 A. In the house.

9 Q. Okay. And how do you know he went to the
10 truck?

11 A. Because he was walking over to it.

12 Q. Could you see him?

13 A. (Nodding.)

14 Q. At the window?

15 A. (Nodding.)

16 Q. Okay. And tell the jury what you saw,
17 okay?

18 A. I saw Eddie get a gun, he came to the
19 house and he threw open the screen door. And then I
20 was about to go to Daniel's room and Daniel was right
21 in front of me, so I ran to the bathroom and I --

22 Q. Okay. Slow down just one second, Amber.
23 What bathroom did you run to?

24 A. My mom's.

25 Q. Okay. What did Daniel do, where did he

1 go?

2 A. He went to the kids' bathroom.

3 Q. Okay. That's on different parts of the
4 trailer, you went one way and he went the other way?

5 A. (Nodding.)

6 Q. Okay. Now, why did you run to the
7 bathroom?

8 A. Because there was nowhere else to go.

9 Q. Okay. Were you scared?

10 A. (Nodding.)

11 Q. All right. Now, when you went to the
12 bathroom, what did you do there?

13 A. I tried to shut the door, but I couldn't
14 because there's the shoe hanger.

15 Q. There's a shoe manager on the door so you
16 couldn't shut it, okay.

17 And could you see outside of -- you
18 know, into the living room where your mom was?

19 A. Uh-huh (affirmative response).

20 Q. Okay. Tell the jury what you saw.

21 A. I saw him shoot her.

22 Q. You saw who?

23 A. Eddie.

24 Q. Okay. Do you remember how many times you
25 saw him shoot your mom?

1 A. (Shaking head.)

2 Q. Was it more than once?

3 A. (Nodding.)

4 Q. Okay. You have to answer out loud.

5 A. Yes, it was more than once.

6 Q. Okay. And after he stopped shooting her,
7 did you hear anything then?

8 A. He called her a cuss word.

9 Q. When you say "he," you mean Eddie, right?

10 A. (Nodding.)

11 Q. Okay. Amber, tell the jury what you
12 heard Eddie say to your mom after he shot her.

13 A. He called her a motherfucker.

14 Q. What happened then, did he leave?

15 A. Yes, he did.

16 Q. Okay. What did you and Daniel do?

17 A. We ran outside. And then this lady from
18 over the street, she came over, and she said that she
19 had called the police.

20 MR. BEAUFORD: Objection.

21 THE COURT: Well, it doesn't go to the
22 truth of the matter, just what she did. But
23 you can move on.

24 BY MR. BAILEY:

25 Q. But she ran outside -- I mean, you ran

1 outside and there was the lady next door?

2 A. (Nodding.)

3 Q. All right. Amber, that's all I have.

4 Thank you very much. Mr. Beauford may have some
5 questions for you, I don't know.

6 MR. BEAUFORD: No questions of this
7 witness, Your Honor.

8 THE COURT: Okay. You may step down.
9 Thank you.

10 All right, ladies and gentlemen,
11 let's take -- at this point do you want to
12 take a break?

13 MR. BAILEY: Yes, sir.

14 THE COURT: Let's take about five
15 minutes, I'll bring you right back. About
16 five minutes.

17 (Jury excused.)

18 (Recess taken.)

19 THE COURT: All right. If you all are
20 ready for the jury, we'll bring them then,
21 please.

22 MR. BAILEY: The State's ready, Your
23 Honor.

24 (Jury present.)

25 THE COURT: Thank you.

1 Solicitor?

2 MR. BAILEY: State calls Earl Asbell.

3 (Earl V. Asbell, Jr., called as a witness
4 by the State, having first been duly
5 sworn, was examined and testified as
6 follows:)

7 THE CLERK: Come around and have a seat,
8 please. Would you give us your full name and
9 spell your last name?

10 THE WITNESS: Earl Vincent Asbell, Jr.,
11 A-s-b-e-l-l.

12 DIRECT EXAMINATION

13 BY MR. BAILEY:

14 Q. Mr. Asbell, you testified in the first
15 phase that you were the Dorchester County crime scene
16 technician, that you had gone out to the scene of
17 Ms. Krasae's murder; is that correct, sir?

18 A. Yes, sir.

19 Q. All right. I believe you also testified
20 that it is part of your normal duties to -- at the
21 crime scene to preserve evidence you would take
22 certain photographs. And you introduced some
23 photographs during your guilt phase testimony; is
24 that correct?

25 A. That's correct, sir.

1 Q. And as part of that process do you also
2 take pictures of the body of the murder victim as you
3 find them?

4 A. That is correct.

5 Q. Did you do that in this case?

6 A. Yes, sir. I did.

7 Q. I'm going to, first of all, hand you two
8 photographs and ask you if those are photographs that
9 you took on April 30th, 1998 of Ms. Krasae's body at
10 the scene of the murder?

11 A. Yes, sir.

12 Q. Those accurately depict what you observed
13 on April 30th, 1998?

14 A. Yes, sir.

15 MR. BAILEY: Your Honor, I would offer
16 these.

17 THE COURT: Do you object?

18 MR. BEAUFORD: I would like to see them
19 first, Your Honor.

20 THE COURT: Do you object?

21 MR. BEAUFORD: No objection, Your Honor.

22 THE COURT: You do not object?

23 MR. BEAUFORD: I do not object to -- take
24 a matter up, Your Honor.

25 (Whereupon, a bench conference was held

1 off the record in the presence of the
2 jury but out of the hearing of the
3 jury.)

4 THE COURT: Defendant objects. Over the
5 objection of the defendant based upon State
6 versus Franklin and a number of others, I'll
7 allow it.

8 (Entered into evidence was State's
9 Exhibit 1, photograph of victim.)

10 (Entered into evidence was State's
11 Exhibit 2, photograph of victim.)

12 BY MR. BAILEY:

13 Q. Hand you State's Penalty Phase 1,
14 Mr. Asbell. And would you, for the record, state
15 what that depicts, sir?

16 A. State's Penalty Number 1 is a photograph
17 of the entrance wound to the right elbow of
18 Ms. Krasae, and also showing the exit wound through
19 the forearm and part of the face of the victim.

20 Q. All right, sir.

21 MR. BAILEY: Your Honor, if I may publish
22 this to the jury by handing it to the foreman,
23 ask that he pass that to each juror in turn.

24 THE COURT: Yes, sir.
25

1 BY MR. BAILEY:

2 Q. State's Penalty Phase in 2, Mr. Asbell,
3 if you'll describe that for the record, please.

4 A. State's Penalty Phase Number 2 is a
5 photograph of the wound on the right cheek and also
6 shows some of the dervish from the videos and
7 videotapes that were on the table next to the body.

8 Q. Mr. Asbell, when you testified in regard
9 to your qualifications during the guilt phase, I'm
10 not sure if I asked you this or not, but would you
11 tell the jury what blood spatter evidence is?

12 A. Well, for example, with a gunshot wound,
13 when you have a gunshot wound to the body as the
14 projectile passes through the body the force of the
15 energy expels blood out the exit wound and creates
16 what we call a spatter on the wall.

17 Also if there's a pool of blood, an
18 object strikes that blood, the surface tension of the
19 blood is disrupted and it causes a splatter. I
20 believe I gave you an example of that. If you step
21 into a puddle of water you notice how the water
22 splashes to the side, this is what we call splash
23 when something lands into a pool of blood and causes
24 a low velocity spatter.

25 Q. All right, sir. Now, have you had some

1 training in blood spatter testimony?

2 A. Yes, sir.

3 Q. Excuse me, blood spatter evidence, not
4 testimony.

5 A. In testimony?

6 Q. No, sir. In evidence, blood spatter
7 evidence.

8 A. Yes. I went to school at IPTM in 1992.

9 Q. What is IPTM?

10 A. It stands for International Police
11 Institute of Technology and Management, in
12 Jacksonville, Florida.

13 Q. All right, sir.

14 A. Judy Bunker and Associates were there
15 Wednesday and Thursday and they introduced me to
16 blood spatter at that time. In 1994 I went to Metro
17 Dade in Miami, Florida, and took a blood spatter
18 workshop. In 1997 I went to the Advanced Blood Stain
19 Pattern Analysis School also in Metro Dade. And that
20 was the three schoolings I had in blood spatter.

21 MR. BAILEY: Your Honor, I would tender
22 Mr. Asbell as an expert in blood spatter.

23 THE COURT: Any questions of him with
24 regard to his qualifications?

25 MR. BEAUFORD: Yes, Your Honor, I do.

1 THE COURT: All right.

2 VOIR DIRE EXAMINATION

3 BY MR. BEAUFORD:

4 Q. Mr. Asbell, would you say it's fair to
5 say that you had approximately a week of training in
6 blood spatter at the most?

7 A. That's correct, sir. That would be about
8 two and a half weeks of blood spatter.

9 Q. And that two and a half weeks, that
10 wasn't concentrated solely on blood spatter, was it?

11 A. Yes, sir. It was. The first class we
12 went to in 1992, Mrs. Bunker introduced us to
13 different blood stain patterns. In 1994 in Metro
14 Dade, they created the blood spatter to begin with
15 and asked us to reconstruct it, at which time we
16 helped in creating the blood spatter.

17 They would take sponges and like put
18 them on a helmet, hit them with different objects and
19 have paper lined up around the object we were hitting
20 which would create the blood spatter so we could see
21 what we were looking at.

22 We would also walk through blood,
23 run through blood, we would take blood in eyedroppers
24 and walk, we would run, just so we could see the
25 different patterns that were created, including

1 shooting sponges that were loaded with blood.

2 Q. In those workshop your conclusion was
3 based upon the entire group's conclusion, wasn't just
4 based on your conclusion alone, was it?

5 A. No, sir. We all contributed to the
6 conclusion. And in 1997 we went for the advanced
7 class. They staged three different scenes, one was
8 an armed robbery, one was a shooting in a house, and
9 we went in and reconstructed the shooting at that
10 time.

11 Q. Again, those conclusions were made by the
12 entire group and just not made by you alone?

13 A. That's correct, sir. I just participated
14 as a student.

15 Q. So you participated and this is the first
16 time that you ever testified potentially as trying to
17 qualify as an expert where you solely work the crime
18 scene by yourself, isn't it?

19 A. That's correct, sir.

20 Q. And it's fair to say you said you had
21 approximately two weeks of collective training?

22 A. That's correct, sir. But I go on all
23 suicides or any accidental shootings. They call me
24 to the scene to see if it was a suicide or indeed a
25 homicide. I've been to a lot of shootings.

1 Q. But again, in that determination whether
2 something is a suicide, there's usually another
3 expert to come in to make the determination, maybe a
4 coroner or someone of that nature?

5 A. The coroner's the one that usually calls
6 me, sir.

7 Q. So you just gather some evidence and
8 someone else makes the determination?

9 A. No, sir. The coroner at the scene, he
10 calls me to the scene to determine if it was a
11 suicide, or an accident, or a homicide.

12 MR. BEAUFORD: No further questions of
13 this witness.

14 THE COURT: All right. Do you object?
15 Do you feel that he's not qualified?

16 MR. BEAUFORD: I feel that he's not
17 qualified in this area.

18 THE COURT: All right.

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. Let me ask you a couple questions, sir.
22 How many shootings have you actually been to, or how
23 much experience, hands-on experience have you
24 actually had? I'm not talking about schooling, I'm
25 talking about everyday practical experience in

1 regards to blood spatter.

2 A. Well, I see it quite often. We had seven
3 shootings the first two months of this year, one was
4 a homicide and the other just shootings between
5 disputes, nobody was killed.

6 Q. Do you -- in all those cases did you look
7 and make determinations in regards to blood spatter,
8 or do you just see it?

9 A. I just see it, but I recognize what I'm
10 looking at through working with it. We had one
11 shooting where the guy said his wife -- his
12 girlfriend shot him in the bathroom and he was
13 standing up. After doing the blood spatter
14 interpretation it was found that he was over the tub
15 trying to commit suicide and she grabbed the gun.
16 There was two distinct patterns on the wall. She was
17 shot through the hand and he was shot through the
18 hand. Each one of those wounds created two different
19 wounds, plus the wound was going up at a 45-degree
20 angle and proved that he was down on the floor, he
21 was not standing.

22 Q. In other words, you made those
23 determinations yourself from looking at the blood
24 spatter pattern and so forth?

25 A. Yes, sir.

1 THE COURT: Over the defendant's
2 objection I'm going to allow him to testify as
3 an expert in this field. But ladies and
4 gentlemen, I'll tell you again that when a
5 person is qualified as an expert you have to
6 determine whether or not his experience, his
7 skill, his knowledge, his training is
8 sufficient to allow you to believe that which
9 he said, just like every other witness in the
10 case. Every other witness, whether that
11 person is qualified as an expert or not, you
12 all have to determine whether or not the
13 evidence elicited from this witness is
14 something that you feel that you could rely
15 upon.

16 And again, you may disregard
17 everything he says, you may believe part of
18 what he says, you may believe all of it. Just
19 like you would every other witness in the
20 case, you simply consider his testimony along
21 with all the evidence and you give it the
22 weight you feel it deserves.

23 MR. BAILEY: Thank you, Your Honor.

24 BY MR. BAILEY:

25 Q. Mr. Asbell, among the pictures that you

1 took at the crime scene, did you photograph
2 Ms. Krasae's feet?

3 A. Yes, I did.

4 Q. Okay. And was she wearing shoes?

5 A. No, sir. She was in her sock feet.

6 Q. All right, sir. I'm going to hand you
7 two photographs and ask if you can identify them?

8 A. Yes, sir. I can.

9 Q. Did you take those on April 30th, 1998?

10 A. Yes, sir.

11 Q. Each one of Ms. Krasae's feet as you
12 observed them?

13 A. Yes, sir. They were taken at the crime
14 scene.

15 MR. BEAUFORD: Same objection made
16 previously.

17 THE COURT: All right, sir. Same
18 objection. And I, over defendant's objection,
19 allow the two photographs.

20 (Entered into evidence was State's
21 Exhibit 3, photograph of victim's feet.)

22 (Entered into evidence was State's
23 Exhibit 4, photograph of victim's feet.)

24 BY MR. BAILEY:

25 Q. Mr. Asbell, since these are small I'm

1 going to put them on the monitor here, ask you to
2 step up here and show the jury what they depict.
3 First of all, State's Penalty Phase 3.

4 A. This is a photograph of Ms. Krasae's
5 right foot. You will notice you have some blood
6 stain on the heel, a little bit in the arch of the
7 foot and on the ball of the foot. My interpretation
8 of that is that at some time she was standing in her
9 own blood.

10 Q. All right, sir. More specifically what
11 leads you to that opinion that she was standing in
12 her own blood?

13 A. The blood's on the bottom of the sock.
14 With her being laid out on the floor it would be
15 impossible for that much blood spatter, you know, to
16 be put on the shoe -- or on the bottom of the sock
17 when all this blood is behind her. You've got
18 this -- little blood spots that she has stepped in
19 would be consistent with her stepping into a pool of
20 blood.

21 Q. All right, sir. And State's P-4, I'll
22 ask if you can do the same thing with that as well.

23 A. This is Mrs. Krasae's left foot. And
24 again, if you'll notice the blood stain covers the
25 whole bottom of the foot. She had some blood stain

1 on the top of her sock. Some of this could have been
2 seepage around. There was no seepage on this side of
3 the foot or around the bottom edge here, so this
4 would be more consistent with her standing in a pool
5 of blood.

6 Q. So it's your opinion that she was shot,
7 that she bled, and remained standing and stepped into
8 her blood?

9 A. She was either standing or attempting to
10 stand up.

11 Q. All right, sir. Thank you, sir. That's
12 all I have. Please answer any questions the defense
13 might have for you.

14 CROSS-EXAMINATION

15 BY MR. BEAUFORD:

16 Q. Officer Asbell, is it fair to say
17 sometimes when someone is shot they're knocked back
18 and then they may stumble back forward?

19 A. Would you repeat that again?

20 Q. Is it fair to say sometimes when someone
21 is shot they may stumble back on an object, say a
22 wall, then stumble back forward?

23 A. That's correct, yes, sir.

24 Q. If someone is shot back on a wall and
25 stumble back forward, isn't it fair to say that they

1 could actually step in that blood at that point in
2 time?

3 A. That would be correct.

4 Q. Is it fair to say that through your
5 investigation it was determined that she was somehow
6 knocked back toward the wall at some point in time?

7 A. Yes, sir. Probably the shot to the elbow
8 would have pushed her in that direction.

9 Q. And then possibly at that point there
10 were blood -- there was blood on the floor?

11 A. From the arm wound there would definitely
12 be blood on the floor.

13 Q. You can't determine how many seconds
14 elapsed between the shots, can you?

15 A. No, sir. I can't.

16 Q. Okay. No further questions.

17 THE COURT: Thank you, sir.

18 MR. BAILEY: No redirect.

19 THE COURT: Thank you, sir.

20 MR. BAILEY: Call Kim Collins.

21 THE CLERK: Raise your right hand.

22 (Kim A. Collins, M.D., called as a
23 witness by the State, having first been
24 duly sworn, was examined and testified as
25 follows:)

1 THE CLERK: Come around, have a seat.

2 Would you give us your full name spell your
3 last name, please?

4 THE WITNESS: Kim A. Collins,
5 C-o-l-l-i-n-s.

6 DIRECT EXAMINATION

7 BY MR. BAILEY:

8 Q. Dr. Collins, just for the record, you
9 testified in the guilt phase, you performed the
10 autopsy on Ms. Krasae the day following her death; is
11 that correct?

12 A. That's correct, I did.

13 Q. Would you state whether or not it's
14 customary during the autopsy procedure to take
15 photographs of the body before and during the
16 autopsy?

17 A. Most definitely on every case.

18 Q. All right. And was that done in this
19 case as well as every other case?

20 A. Yes. It was, yes.

21 Q. Would these photographs be useful to you
22 in explaining some of the wounds to Ms. Krasae's
23 body?

24 A. Yes, they would be.

25 Q. All right. I'm going to show you a group

1 of photographs, ask if you'll look at these. And
2 first of all, tell me whether or not they are
3 photographs of Ms. Krasae's body taken at the autopsy
4 and whether or not they accurately depict what you
5 observed at the autopsy?

6 A. Yes, these were taken.

7 Q. Do they accurately depict what you
8 observed at the autopsy?

9 A. Yes, they do.

10 MR. BEAUFORD: Same objection.

11 THE COURT: All right. Let me --
12 Solicitor, just very briefly, let me just take
13 a look.

14 (Whereupon, a bench conference was held
15 off the record in the presence of the
16 jury but out of the hearing of the
17 jury.)

18 THE COURT: All right. Over the
19 objection of the defendant now, I'm going to
20 allow under State versus Franklin those.

21 (Entered into evidence were State's
22 Exhibits 5 through 11, autopsy
23 photographs.)

24 BY MR. BAILEY:

25 Q. Dr. Collins, what I'm going to do is use

1 the monitor. I'd ask, if you would, please, just
2 step up, stand to the side of it where you can see
3 it, point out what's in the picture, but not block
4 the jury's view. First of all, this is State's
5 Penalty 11. What does that show?

6 A. This is -- the background is our autopsy
7 table. And you've got the decedent, here's her head,
8 you can see her ear. And the main focus of the
9 picture is what remains of the right arm.

10 Q. All right. For the record, can you
11 describe what that picture shows?

12 A. Yes. The entrance, if you recall from
13 when I testified earlier, was to the elbow, had a
14 circular entrance wound. And the exit wound is what
15 you're looking at here. We've got maceration of all
16 the tissue, nerves, arteries, muscles, skin. And in
17 addition we've got fractures of all the bones in the
18 arm, the humerus which is your upper arm, your radius
19 and your ulna, which are in your lower arm, your
20 forearm.

21 So we've got this large area here
22 where the arm is virtually macerated and held
23 together by what remains of some muscle, skin, and
24 maybe some nerve fragments.

25 Q. Assuming that that was the first shot,

1 assuming for the purposes of this question that's the
2 first place Ms. Krasae was shot, is that a location
3 that would be expected to cause immediate fatality?

4 A. Fatality?

5 Q. Yes, ma'am.

6 A. No. No.

7 Q. Is that considered a vital area --

8 A. No, it is not.

9 Q. -- as far as major organs?

10 A. As you know, many people go without their
11 arm. This is not a vital area.

12 Q. If that was the only place she would have
13 been shot, do you have an opinion, to a reasonable
14 degree of medical certainty, if she could have
15 survived that shot?

16 A. She would have definitely lost her arm.
17 She would have needed medical attention, but she
18 could have survived this shot.

19 Q. What color was Ms. Krasae's shirt?

20 A. What color?

21 Q. What color.

22 A. It's blood soaked now, it's red.

23 Q. What color was it, if you can refresh
24 your memory?

25 A. White. We have documented it was a white

1 shirt.

2 Q. All right. State's Penalty 10.

3 A. Okay. This is how the body was received
4 in the autopsy room. You can see the table, autopsy
5 table here, she's got her blood-soaked shirt here and
6 this is a profile of her head and it's partially
7 covered with blood. And she's got the defect which I
8 described in the diagram a couple days ago to her
9 right cheek area, the entrance and the exit wound of
10 the pellets.

11 Q. Okay. And the facial wounds, were they
12 fatal to a reasonable degree of medical certainty?

13 A. No. The only thing in the face was the
14 fracture of the upper jaw, the maxilla on the right
15 side, as well as the tearing of the tissue and the
16 muscle in this area, but it did not go into the brain
17 and it was not fatal. No laceration of major
18 vessels, either.

19 Q. State's 9, Penalty 9.

20 A. Okay. Now she's on the table and we're
21 looking at the right arm again. And here you can get
22 a better depiction of this round, circular entrance
23 wound. This is it, this small area. I say small in
24 comparison to the exit. Here's the entrance wound
25 and then it has blown out the exit wound here of the

1 arm.

2 And here you can see part of her
3 face with the defect which I had labeled A the other
4 day on her face. And here's her shirt. And that's
5 really about all you can see in this photo here.

6 Q. State's Penalty 8.

7 A. This is the wound to the right breast.
8 What you're looking at, you see her nipple here with
9 the red areola here, here's the outline of what was
10 the breast tissue. You've got her -- her neck would
11 be up in here and here's kind of her midline of her
12 body and her left breast would be over here.

13 So we have got this wound here which
14 we've labeled C. What you see protruding is
15 underlying breast tissue and some blood. And then
16 we've got another separate wound here which I
17 described at a different time, and a wound here.
18 This is wound D which I described before, and I
19 believe this one is E which I described before. This
20 is the large C.

21 Q. Okay. And again, if you need to refresh
22 your memory, how many pellets were removed from that
23 area of the right breast?

24 A. We found within this area that's on your
25 screen, we did find two wads which are part of the

1 cartridge. We found two pellets which would have
2 been located toward the right of the screen here,
3 there are two pellets there. And most of the pellets
4 went toward -- into the left side or toward her back.

5 Q. Okay. The wading was found beneath the
6 major area of the trunk; is that correct?

7 A. Right. Within the soft tissue of the
8 right breast when we dissected that out.

9 Q. And is that a fatal wound?

10 A. If you take the whole thorax as a whole,
11 because there was such massive injuries it's hard to
12 tell which one came from exactly which shot, but,
13 yes, this area that was damaged was definitely fatal.
14 It macerated almost her entire left side of her
15 heart, obliterated the top of her aorta, we couldn't
16 even find it, it was gone, went through her lungs,
17 went through esophagus. There was so much
18 destruction. This was a fatal area here in her
19 thorax.

20 Q. State's P-7.

21 A. Okay. What we have done is we have
22 covered up her genital area here, we've got a ruler
23 here, and we're looking at her genital area with the
24 right leg here and the left leg here. So this is
25 what we called H. And she had entrance wounds of

1 pellets to her right thigh if you'll recall. Some of
2 them came out of her thigh and entered into her left
3 thigh kind of in this direction. She also had pellet
4 injuries or entrance wounds on her pubic bone and
5 also into the outside of her genitalia, her female
6 organs. What we call the labia is right under this
7 tag here. So she also had just entrance wounds to
8 this part of the body, the pelvic region, the
9 genitalia region and so this is what this picture
10 depicts.

11 Q. Is that an area of the body where the
12 wounds would have been fatal, in your opinion, to a
13 reasonable degree of certainty?

14 A. No. Not in this case, no.

15 Q. Okay. Based upon the location and the
16 number of pellet wounds that we are observing there,
17 is that -- in your opinion, is that target area, that
18 was the primary impact area?

19 A. The primary impact area would have been
20 to your left of the screen around on the right thigh
21 and the pubic area. Right in here is where we saw
22 the entrances, then some came out and reentered the
23 left. But the target would have been the pubic bone
24 and then on the right thigh, this area here.

25 Q. State's P-6.

1 A. Okay. Now we're up a little bit. We're
2 looking at the same area, just from a different view.
3 Her waist is where my hand is, her left leg is going
4 toward your right here, and here's her right leg
5 coming out this way. Again, we've covered up her
6 genital area, but you can still see the pubic bone
7 entrance. The pellets went in here. Here's that
8 large area to the right thigh which is better seen on
9 this one than the previous photograph, the entrance
10 or the target area here, and then the subsequent
11 damage to the left side here.

12 Q. Again, those are not fatal wounds; is
13 that correct?

14 A. No. In this case these were not fatal.

15 Q. All right. And Penalty 3 (sic).

16 A. Again, this is H, here's the pubic area
17 here. This is the large H, this is where the first
18 and greatest impact of the pellets from that shot hit
19 right here. And then also some satellite areas here
20 and here, on the right thigh, exited out the inner
21 aspect of the thigh here and entered into the left
22 thigh.

23 Q. Doctor, you can have a seat just briefly,
24 I may have one or two other photographs if you'll
25 bear with me one second, please.

1 A. (The witness complied.)

2 Q. Hand you one further picture, Doctor, and
3 I'll just ask you the same thing I asked you before,
4 if this was a picture taken at the autopsy, if that
5 reasonably depicts what you observed at the autopsy?

6 A. Yes, that's one of my photographs.

7 THE COURT: Defendant objects to that as
8 well.

9 MR. BEAUFORD: Same objection.

10 THE COURT: Same objection. I'm going to
11 allow that.

12 MR. BAILEY: Yes, sir.

13 (Entered into evidence was State's
14 Exhibit 12, autopsy photograph.)

15 BY MR. BAILEY:

16 Q. For the record this is State's P-12.

17 A. Okay. I believe the first photograph
18 that you saw was her on the table as she was received
19 with the blood on her face. We also wash down the
20 bodies and we take what we consider is an
21 identification shot from the head and shoulders. And
22 in this case it also shows one of the wounds here.
23 This is that large area I went ahead and labeled --
24 arbitrarily labeled A. And you can see the
25 destruction to the right side of the face over the

1 eye, there's some more over on the right temple area.

2 You can also see in this photograph.
3 another wound, a separate wound which is right here
4 on the right shoulder or upper breast region, this
5 was labeled B. And this was a large defect here with
6 some satellite regions, or satellite entrance wounds
7 from pellets around it.

8 Q. Calling your attention again to State's
9 P-11, which we discussed previously, which was the
10 injury to the arm. If we assume that Ms. Krasae
11 remained conscious after that wound was inflicted,
12 and that was the first wound, do you have an opinion,
13 to a reasonable degree of medical certainty, as to
14 whether or not that wound would have been painful?

15 A. Shotgun wounds are extremely painful,
16 definitely more painful than knife wounds or
17 stabbings, more painful than a single bullet.
18 Because what you have is a cartridge with several
19 bullets inside, several pellets that individually
20 have their own ammunition, their own direction and
21 can cause their own damage.

22 And as you can see here with one
23 shot we've destroyed the arm, it's irreparable, if
24 she had lived through this. And not only are you
25 tearing skin which is one of the most sensitive

1 organs of the entire body, but you go into muscle.
2 And if you've ever broken a bone you know how painful
3 that is, and she was broken three bones
4 simultaneously in her arm, so it would have just been
5 extremely devastatingly painful.

6 Q. On a scale from 1 to 10, 10 being the
7 post painful.

8 A. Ten.

9 Q. Thank you, Doctor. That's all I have.
10 Please answer any questions Mr. Beauford may have for
11 you.

12 CROSS-EXAMINATION

13 BY MR. BEAUFORD:

14 Q. Dr. Collins.

15 A. Yes.

16 Q. You answered that question and you said
17 yet to assume that she was conscious.

18 A. That's correct.

19 Q. And basically shots such as this will
20 render someone unconscious quite quickly; isn't that
21 correct?

22 A. It would all depend on where she was
23 shot.

24 Q. Would you say it's fair to say with a
25 shot like that at some point she would have gone

1 unconscious?

2 A. No, not necessarily. She could have, but
3 not necessarily.

4 Q. So again, you are assuming that she
5 didn't, but it's possible that she could have?

6 A. Yeah. I do not have -- know how she was
7 after she received that shot.

8 Q. Okay. And also you don't know -- do you
9 know the distance between the different shots?

10 A. In time?

11 Q. Yes.

12 A. The time frame?

13 Q. Yes.

14 A. No, I do not. You cannot tell on the
15 autopsy.

16 Q. And basically you don't know whether,
17 again, as a matter of seconds, one second, two
18 seconds between the first and the second shot?

19 A. That's correct. I do not know.

20 THE COURT: Or which part of the body was
21 shot first?

22 THE WITNESS: That's correct. That's why
23 I instructed the jury that they're arbitrarily
24 labeled or numbered.

25 BY MR. BEAUFORD:

1 Q. And assuming that she was shot in her
2 chest area first and then her arm, and you said the
3 chest area was a vital area and lacerated the heart?

4 A. That's correct.

5 Q. Would she have received any pain due to
6 that?

7 A. Yes, but it would have been a quicker --
8 it would have been a quicker death because that is
9 the vital area.

10 Q. Someone with those shot to the chest, how
11 long would they have lived?

12 A. Some live. They live, they do not die.
13 With this type of destruction you could not live
14 through it and it would be a matter of seconds to
15 minutes.

16 Q. All of your opinions are assuming certain
17 facts that you don't know for her as to the pain in
18 which she endured, which shot came first, those
19 things, you don't know those things?

20 A. My opinion as to the pain would have been
21 if she was conscious when she was shot in the right
22 arm.

23 Q. If she was shot when she -- she was
24 conscious when she was shot in the right arm first?

25 A. Right. To be able to feel the pain.

1 Q. And it has to be first if that was the
2 first shot?

3 A. Not necessarily. It would just had to
4 have been before she was dead.

5 Q. You described the shot to the heart and
6 aorta as totally obliterated.

7 A. That's correct.

8 Q. Could someone survive that?

9 A. No.

10 Q. No further questions.

11 REDIRECT EXAMINATION

12 BY MR. BAILEY:

13 Q. Dr. Collins, very briefly, this is a
14 stupid question and I think I asked you this in the
15 guilt phase, but if you assumed that after the first
16 shot Ms. Krasae had screamed, would she be conscious
17 at that point?

18 A. If she was witnessed to have screamed,
19 she was conscious when she was shot.

20 MR. BAILEY: Thank you. That's all I
21 have of this witness.

22 THE COURT: Anything else?

23 MR. BEAUFORD: Nothing, Your Honor.

24 THE COURT: Thank you, sir. Thank you,
25 ma'am.

1 MR. BAILEY: May she be excused, Your
2 Honor?

3 THE COURT: Yes, sir.

4 MR. BAILEY: State calls Debbie Crowley.
5 (Deborah M. Crowley, called as a witness
6 by the State, having first been duly
7 sworn, was examined and testified as
8 follows:)

9 THE CLERK: Okay. Come around and have a
10 seat. Would you give us your full name and
11 spell your last name?

12 THE WITNESS: Deborah M. Crowley,
13 C-r-o-w-l-e-y.

14 DIRECT EXAMINATION

15 BY MR. BAILEY:

16 Q. Ms. Crowley, please tell the jury where
17 you live.

18 A. I live in Kansas.

19 Q. All right. Where in Kansas do you live?

20 A. In the Kansas City area.

21 Q. Are you one of Susan Krasae's sisters?

22 A. Yes.

23 Q. And was she older or younger than you?

24 A. She was younger.

25 Q. Okay. Where do you fall in the ages of

1 the different siblings?

2 A. I was the baby until Susan was born.

3 Q. Okay. How much older than Susan were
4 you?

5 A. Five years.

6 Q. Five years, okay.

7 And how many brothers and sisters
8 did you all have growing up?

9 A. For our parents, it was both of their
10 second marriages, in the immediate family there was
11 Susan and myself and my older sister, Becky, and then
12 our brother, James. And on my father's side we had
13 two older half sisters, and on my mother's side we
14 had two older half sisters and two older half
15 brothers.

16 Q. Okay. When did you leave home?

17 A. I was about 14 when I moved to
18 Pennsylvania to stay with my older half sister on my
19 mother's side.

20 Q. All right. And are you married now?

21 A. Yes, I am.

22 Q. And how old were you when you got
23 married?

24 A. I was 18.

25 Q. Okay. And who is your husband?

1 A. Russell Crowley.

2 Q. Do you have children?

3 A. Yes, we do.

4 Q. Okay. What are their names and ages?

5 A. Michael's 14, and William's 13, and we
6 have a daughter, Kimberly, who's ten.

7 Q. All right. And would you state whether
8 or not your sister, Susan Krasae, lived with you and
9 your husband for a period of time?

10 A. Yes, she did. Shortly after our oldest
11 son was born Susan moved up to live with us, she was
12 about 13 years old at the time.

13 Q. Where were you all living then?

14 A. We were living in Pennsylvania.

15 Q. And how long did Susan live with you and
16 your husband?

17 A. She lived with us for about six months
18 and went to school and then moved in with the same
19 half sister that I had lived with.

20 Q. All right. And during those months that
21 she lived with you, could you describe to the jury
22 what your relationship with your sister was?

23 A. Yeah. At that point I was kind of like a
24 motherly figure to her, you know, it was almost like,
25 you know, she was my child. We gave her expectations

1 on what we wanted her to do in school. And she was
2 real excited about the opportunity to stay with us
3 and she did real good. She made the honor roll and
4 she was really excited, and she would bring us home
5 her report card, show us how good she was doing.

6 Q. Okay. How long have you lived in Kansas?

7 A. We've been back in Kansas now since
8 September of '96.

9 Q. All right. And would you state whether
10 or not Susan's son, Daniel, lives with you and your
11 family?

12 A. Yes, he does.

13 Q. Okay. How long has Daniel been with you
14 all?

15 A. Daniel's been with us since approximately
16 the first week of August of '98.

17 Q. Okay. And why was it that it was decided
18 that Daniel would come to Kansas and live with you
19 and your family?

20 A. Immediately after Susan's death Daniel
21 and Amber both went to stay with my sister, Becky.
22 Becky's a single mother with a daughter who's 12 and
23 Daniel was having a difficult time adjusting, you
24 know, his new situation, and we felt that he needed a
25 positive role model in his life and that my husband

1 could serve that purpose.

2 Q. All right. And is this going to be
3 hopefully a permanent arrangement where you all will
4 raise Daniel to adulthood?

5 A. Absolutely.

6 Q. Ms. Crowley, if you were to describe
7 Susan to someone who never met her, how would you do
8 that just in your own words?

9 A. I would say that she had a real bubbly
10 personality and she was always smiling and just
11 always laughing. She was just -- you know, she would
12 light up a room when she came in.

13 Q. Did she write poetry?

14 A. Yes, she did.

15 Q. Was any of her work ever published?

16 A. Yes.

17 Q. Okay. Do you know where it was
18 published?

19 A. I don't completely recall the title of
20 the book. I believe when she was about 16 she had
21 one of her poems published and I think it's called
22 *The American Anthology of the Poets*. They publish it
23 every year of upcoming poets.

24 Q. Let me hand this to you and ask if this
25 is an example of your sister Susan's poetry?

1 A. Yes, it is.

2 Q. Do you know how old she was when she
3 wrote that?

4 A. Susan was approximately 12 years old when
5 she wrote this poem.

6 Q. Would you read that to the jury, please?

7 MR. BEAUFORD: Objection, Your Honor.

8 It's not in the evidence.

9 MR. BAILEY: I'll move it into evidence.

10 MR. BEAUFORD: I would like to look at
11 it. I'm going to object to the relevance of
12 this.

13 THE COURT: All right. I'm going to
14 allow it under this list. I have a number of
15 cases that I've read here. Solicitor, this is
16 the only one, isn't it?

17 MR. BAILEY: Yes, sir.

18 THE COURT: I'm going to allow it. A
19 line of cases that allow that to be done. I'm
20 going to allow it based on the precedence set.

21 (Entered into evidence was State's

22 Exhibit 13, poem by victim.)

23 BY MR. BAILEY:

24 Q. Ms. Crowley, if you would just read that,
25 please.

1 A. Susan wrote this shortly after the death
2 of one of her brother's best friends who she was
3 extremely close to and felt like it was -- you know,
4 he was kind of like a brother to her and he was
5 killed in an automobile accident. And this is titled
6 *Death of a Friend*. "Sadness sweeps upon us all, cold
7 hearts come like the fall. Time has come to say
8 goodbye, so many faces start to cry. He was a
9 friend, a special one, to replace him cannot be done.
10 His parents over him will weep, he will visit us in
11 our sleep. We loved him and he loved us, and now
12 he's gone away like dust. Never to be seen again,
13 only in our minds he can. We'll remember him all the
14 time, his memory will blow beautiful like crystal
15 chimes. He is a part of you and me, we will miss him
16 and in us he will always be."

17 Q. Ms. Crowley, when is the last time that
18 you talked to Susan before her death?

19 A. I spoke to Susan on April 17th of 1998.
20 She called me to wish me happy birthday and asked me
21 if I had gotten her birthday card.

22 Q. How did you hear that your sister had
23 been murdered?

24 A. My husband and I were home with our
25 children the evening of April 30th, and approximately

1 around 8:00 p.m. that evening the phone rang and I
2 answered it and it was my father on the other end.
3 And he was moaning and he sounded like he was in
4 pain. And I said, "Hey, Dad." And he asked to speak
5 to my husband, Russ. And I thought that was a little
6 bit odd.

7 MR. BEAUFORD: Your Honor, I'm going to
8 object.

9 THE COURT: I sustain any hearsay. Just
10 I think the question was how did you hear --
11 your father, basically your father told your
12 husband?

13 THE WITNESS: Yes, sir. Well, he had my
14 husband get on one line and --

15 THE COURT: You on the other?

16 THE WITNESS: Told my husband for me to
17 pick up the other line.

18 BY MR. BAILEY:

19 Q. Okay. So that's how you found out?

20 A. That's how I found out.

21 Q. All right. Could you tell the jury how
22 that news affected you when you found out that your
23 sister not only was dead, but she had been shot?

24 A. Obviously I was devastated. I had a hard
25 time believing it. When he said that Eddie had shot

1 her I couldn't understand because he had just -- it
2 was only the past Father's Day that he had even come
3 into Daniel's life.

4 Q. All right. Ms. Crowley, when did you --
5 did you come to South Carolina for your sister's
6 service?

7 A. Yes. The very next day my husband and I
8 flew out here.

9 Q. Okay. And what did you do as far as
10 assisting with the funeral service?

11 A. Becky had started a lot of the tasks that
12 had to be done and she said that we needed to get --

13 Q. Don't tell us what Becky said.

14 A. I'm sorry. Her and I went together to
15 the funeral home to take the dress that Susan would
16 be buried in, and we picked one of her favorite
17 dresses that she always looked so pretty in. And
18 when we took it in we weren't allowed to leave that
19 particular dress because it was short sleeved and had
20 an open collar. And we had to go buy her another
21 dress that had long sleeves and a high neck.

22 Q. And when she was dressed for the service
23 when you all put that other dress in, was anything
24 else given to the funeral director?

25 A. Yes. We took a locket that Susan had

1 that had both the children's pictures in it. And we
2 opened up the locket and we put the locket in her
3 right hand so that it was open and had the children's
4 pictures, because we knew that they were the most
5 important thing to her. And in her other hand we put
6 a silk ribbon that had two satin hearts tied on each
7 end that represent the children.

8 Q. How has your sister's death affected your
9 life?

10 A. It's been extremely hard. I think the
11 first month after her death I lost about ten pounds
12 and just little things would just trigger -- you
13 know, I could be in the car driving on the way to
14 work and there was one song in particular that would
15 come in and I would just start crying. And it was
16 that song where the man's talking about his little
17 girl growing up and getting married. And all I could
18 think is how my sister would never see her daughter
19 get married.

20 Q. Has it gotten any easier to deal with as
21 time goes on?

22 A. Not really. Just when my own son went to
23 get his learner's permit, you know, I was thinking,
24 you know, Susan, she'll never get to experience
25 taking Daniel to get his learner's permit and

1 watching him drive for the first time. And when he
2 had his trumpet recital at school and he was so proud
3 of himself, and then she'll never get to experience
4 any of those joys anymore. The children, you know,
5 they can't experience that their mother's out in the
6 audience, one of those proud parents just sitting
7 there beaming because that's her child.

8 Q. How has Daniel adjusted to not only
9 losing his mother, but being separated from Amber,
10 going to a new state where he barely knew anybody?

11 A. Daniel's taken it pretty hard losing his
12 sister. He talks about Amber all the time. And he
13 went from being the in-charge, big brother, to now
14 he's the youngest in a family with three other
15 children. And he's still struggling to find his
16 place and where he belongs in the family.

17 Q. Ms. Crowley, if the defense has any
18 questions, please answer those.

19 MR. BEAUFORD: Yes, a few questions.

20 CROSS-EXAMINATION

21 BY MR. BEAUFORD:

22 Q. Ms. Crowley, Daniel still refers to Eddie
23 as Dad, doesn't he?

24 A. No, sir.

25 Q. He doesn't refer to Eddie as Dad?

1 A. No, sir. He calls my husband Dad.

2 Q. And Daniel still will have questions, he
3 asks you questions about Eddie, doesn't he?

4 A. No, sir. Daniel hasn't talked about
5 Eddie.

6 Q. No further questions.

7 THE COURT: Anything else, Solicitor?

8 MR. BAILEY: No, sir. Not of this
9 witness, Your Honor.

10 Your Honor, State's final witness
11 will be Rebecca Vincent.

12 THE CLERK: Raise your right hand.

13 (Rebecca J. Vincent, called as a witness
14 by the State, having first been duly
15 sworn, was examined and testified as
16 follows:)

17 THE CLERK: Come around and have a seat,
18 please. You need to give us your full name
19 and spell your last name.

20 THE WITNESS: My name is Rebecca J.
21 Vincent, V-i-n-c-e-n-t.

22 DIRECT EXAMINATION

23 BY MR. BAILEY:

24 Q. Ms. Vincent, you testified in the first
25 part of the trial; is that correct?

1 A. Yes, sir.

2 Q. About what happened on April 30th when
3 you dropped your sister off at the house?

4 A. Yes, sir. I did.

5 Q. And just to refresh the jury's memory,
6 you are the oldest sister; is that correct?

7 A. Yes, sir.

8 Q. Next in line is your sister, Debbie, that
9 just testified, then Susan was the baby, right?

10 A. Yes, sir. Susan and I were six years
11 apart.

12 Q. All right. And you also testified in the
13 first phase that when Susan became pregnant with
14 Daniel she was about 17, almost 18?

15 A. Yes, sir.

16 Q. Now, when Susan became -- when she was
17 seeing Mr. Weik, where was she living at that time?

18 A. She was living with our mother.

19 Q. When she became pregnant, what happened
20 with her then?

21 A. Her and my mother butted heads and my
22 mother tried to encourage her to abort. And she
23 didn't want to do that. At the time I was separated
24 from my husband, and my daughter -- it was just
25 myself and my daughter and so I told Susan that she

1 could come live with me. She had lived with me on a
2 couple other occasions throughout her childhood, so
3 she moved in with me at that time.

4 Q. All right. And so she moved in with you
5 and she was pregnant at that time with Daniel; is
6 that correct?

7 A. Yes, sir.

8 Q. Okay. Was there any relationship between
9 Eddie Weik and Susan after it was known that she
10 became pregnant?

11 A. No, sir. There was not.

12 Q. What was your relationship with Susan
13 during her pregnancy while she lived with you, could
14 you describe that for the jury?

15 A. I became my sister's Lamaze coach. It
16 was very important to me to be there for her. Susan
17 was -- she was like a daughter, she was a sister, and
18 she was a best friend to me. I was so overjoyed to
19 be able to be a part of her bringing her son into
20 this world. My employees, the place I was working at
21 the time, they laughed at me because they -- the day
22 after he was born I went back in work and I was
23 beaming. And they were like "You act like the proud
24 pop."

25 And I said, "Well, I feel like I

1 am." From that point on I played a big part in
2 helping her raise Daniel.

3 Q. Were you at the hospital when Daniel was
4 born?

5 A. Yes, I was. I was with her the whole
6 time. She had a rough delivery, he was a huge baby.
7 He was about 9 pounds and 12 ounces and my sister was
8 real little. And after he was born, of course
9 everybody, the parents, look into the viewing window
10 to see the babies. And Daniel was the talk of the
11 nursery because he was huge, everybody commented on
12 how he should be a football player when he got older.

13 Q. Okay.

14 A. And gave me a lot of joy and pleasure.

15 Q. Was Mr. Weik at the hospital?

16 A. No, sir. He was not. I was the only one
17 that was there with her.

18 Q. And after Daniel's birth, did Susan
19 continue to live with you?

20 A. Yes. She lived with me until Daniel was
21 about a year and a half.

22 Q. What was your relationship after Daniel
23 was born with Susan?

24 A. Oh, we had a great time. At the time my
25 daughter was almost four and she and Daniel got along

1 like -- you know, as he grew older they were like
2 brothers and sisters. She would always want to feed
3 the baby, so we'd -- I would sit by her and I'd
4 actually let her hold the baby and she would hold the
5 bottle and feed him. And as he got older she got a
6 little bit older she could assist in those things.
7 And they played together. We used to take the kids
8 out on outings all the time and there was just a
9 wonderful relationship there. Susan and I were
10 pretty much inseparable.

11 Q. Did Susan begin to date Tom Krasae while
12 she was living with you?

13 A. Yes, sir. She did.

14 Q. All right. And did she and Mr. Krasae
15 get married?

16 A. Yes, she did.

17 Q. And did they have a child?

18 A. Yes, they had Amber.

19 Q. Okay.

20 A. She was born in 1990, October of '90.

21 Q. All right. And after she left your house
22 with Tom Krasae?

23 A. Yes, sir.

24 Q. So where did they live after that?

25 A. They moved over to the North Charleston

1 area off of Midland Park Road.

2 Q. Okay. Where were you and your family
3 living after she married?

4 A. At that time my daughter and I were still
5 living over in Summerville where she had lived with
6 us.

7 Q. Did you keep up with Susan?

8 A. Absolutely.

9 Q. And Daniel and Amber?

10 A. Yes.

11 Q. How often would you see her during those
12 years?

13 A. Oh, quite regularly. At least once every
14 two weeks, sometimes more, depending.

15 Q. Okay. Now, did Susan's marriage to Tom
16 Krasae eventually end in divorce?

17 A. Yes, it did.

18 Q. Okay. And after that divorce, what did
19 Susan and the children do?

20 A. Susan moved in with our father and stayed
21 there until she could get her own place.

22 Q. After she and Tom Krasae divorced, what
23 was your relationship with her?

24 A. Oh, we still stayed inseparable. She --
25 of course, you know, when you have a family you don't

1 have as much time as you used to when you were
2 single, but we made every effort that we could to get
3 together. Always during holidays and birthdays my
4 sister was real -- she always got into the holidays
5 more than any of the rest of us, so she was always
6 the big motivator in making sure that the family was
7 all together for different holidays and occasions
8 that were special.

9 Q. Okay. What did she like to do as far as
10 hobbies or weekends?

11 A. Her nickname by her family members was
12 Susie Homemaker. She loved to do anything in the
13 house. When she got her own place she started
14 totally remodeling it. She painted, she was fixing
15 it up, and really making it such a beautiful place.
16 She loved to bake, she was an excellent cook. And
17 anything to do with family, Susan was extremely
18 family oriented. She loved being surrounded by
19 family and she loved doing things for her family and
20 her friends. She was a very loving, caring person.

21 Q. Okay. If you had to describe Susan to
22 someone who never met her, how would you describe
23 her?

24 A. A true joy to be around. She was such a
25 unique person. She -- you could be feeling down in

1 the dumps and the moment she came around you totally
2 forgot about all the life's troubles because she just
3 had that special way. She had a beautiful smile and
4 bright blue eyes and just so much love. She was a
5 real nurturer, she felt like she had to nurture
6 everybody.

7 And I remember one time I told her,
8 I said, you know, "I'm the older sister, I'm the one
9 that's supposed to be the one full of wisdom." And
10 it seemed to me like she was always giving such good
11 advice and just so full of wisdom and direction.

12 Q. What kind of mother was she?

13 A. She was a wonderful mother. She -- her
14 children were her world. Not only her children, but
15 our children as well. My daughter loved her Aunt
16 Susan so much, and when we lost her she came to me
17 one day and she says, "Mommy, who am I going to talk
18 to now that Aunt Susan's gone?"

19 MR. BEAUFORD: Objection.

20 THE COURT: Don't go into what your
21 daughter said.

22 THE WITNESS: Sorry.

23 MR. BAILEY: I don't believe this is
24 hearsay, it's not intended for the truth.

25 THE COURT: It may not be, but I'm not

1 going to allow it.

2 THE WITNESS: I'm sorry, Your Honor.

3 THE COURT: That's all right.

4 BY MR. BAILEY:

5 Q. I'm going to show you some photographs,
6 Ms. Vincent, and ask you to take a look at all of
7 them, let me know whether or not these are all
8 photographs of your sister along with other people,
9 some of them.

10 A. (Nodding.)

11 Q. Are these all photographs of your sister?

12 A. Yes, sir.

13 MR. BEAUFORD: Your Honor, I have no
14 objection to those pictures there.

15 THE COURT: All right, sir. They're in.

16 (Entered into evidence were State's
17 Exhibits 14 through 22, photographs.)

18 BY MR. BAILEY:

19 Q. Ms. Vincent, I'm going to put these on
20 the monitor, I'm going to ask you to step around the
21 side, if you would be careful not to block any jurors
22 off, and show the jury what these pictures show. And
23 this is State's Penalty 14.

24 A. That's my sister.

25 Q. You don't have the mic now, so you need

1 to speak up loud enough.

2 A. That's my sister when Daniel was about
3 five months old. He looked just like her. We used
4 to say he was the spiting image of his mama. I was
5 so proud of her to be just turning 18 years old and
6 being such a good mom. She really amazed me at her
7 ability to become such a wonderful mother without any
8 real direction beforehand.

9 Q. State's 15.

10 A. That was January of 1989, I believe. I'm
11 sorry, my years are not too good. He was so playful
12 at that age and she used to -- they used to play this
13 game, he and Jessica, gootchie-gootchie goo and they
14 would get each other on the floor, roll around and
15 tickle each other.

16 Q. State's 16.

17 A. That's Susan with my daughter and Daniel.
18 That was in their bedroom that they both shared when
19 she lived with me. He's on the little rocking horse.
20 He used to get on that thing and he would just go.
21 That little horse's nose would almost touch the floor
22 he would get to going so fast on it. Jessica loved
23 him dearly and her Aunt Susan was the light of her
24 life outside of her mommy.

25 Q. This is State's 19 -- excuse me, 17.

1 A. When the children were little my sister
2 chose to go to Waterson Business College. She wanted
3 to earn a degree so she would be able to provide for
4 the children. And the whole family was so amazed at
5 how she could graduate in top honors in her class and
6 have two little ones at those ages. And we all know
7 how rambunctious Daniel at that age was, you know
8 little ones at that age are so rambunctious. And of
9 course Amber was about six months old at that time so
10 she really had her hands full. But she worked hard
11 and studied hard and did extremely well.

12 Q. And did that particular college have some
13 advertising in the paper, they used Susan to assist
14 in advertising?

15 A. Yes, sir. They asked her to write like a
16 testimonial as to her experience at Waterson College.

17 Q. Let me hand you this and ask if that's
18 the advertisement that was put in the paper of her
19 testimonial there?

20 A. Yes, sir. It is.

21 MR. BEAUFORD: No objections, Your Honor.

22 THE COURT: All right, sir.

23 (Entered into evidence was State's
24 Exhibit 23, advertisement.)

25 Q. I'm going to hand you what's been marked

1 State's 13 -- excuse me, 23, ask if you would read
2 that to the jury, please.

3 A. Yes, sir. This was -- Susan had written
4 this. It says, "Susan Krasae, word processing
5 specialist, class of '91. As a young mother and high
6 school dropout I was very discouraged with my future,
7 I was stuck in a dead end job without much pay, but I
8 desired a good career and that's when I decided to
9 attend Waterson College. With the support of my
10 husband and the faculty and staff at Waterson, I
11 received my GED and a diploma in word processing.
12 The experience not only taught me a new career, but
13 it also renewed my self-esteem. Now I am
14 self-assured and have begun a new career which will
15 allow me to supply my two children with a good
16 education. My family and I have a bright future and
17 I have a wonderful job --" I'm sorry -- "with
18 potential growth and I have Waterson College to thank
19 for it."

20 Her whole focus, her whole life, was
21 to do what she could to provide for her family and be
22 able to give them love.

23 Q. This is State's 18.

24 A. Susan, and Daniel, and Amber. I think
25 that was approximately '91, 1991. And she used to --

1 that was Christmastime. It's kind of hard to see
2 with the way that it looks on this screen. There is
3 a Christmas tree right behind, they hadn't begun to
4 decorate it yet. Susan really enjoyed Christmas,
5 that was one of her most favorite times. She loved
6 to watch the children decorate the tree and they
7 always -- it was a tradition that they would always
8 get together and make cookies. And when they did
9 that of course she always had me bring Jessica over
10 and they would all make Christmas cookies and
11 decorate them.

12 Q. Okay. This is State's 19.

13 A. I was with Susan that particular day, I
14 took that picture. We would always take the children
15 to Hampton Park, which is over in Charleston off of
16 Park Circle. And the kids used to love to go there.
17 We would go to the bread store and get a day old loaf
18 of bread and go out there because they had these huge
19 goldfish in the pond and we used to love to watch the
20 kids, they would get tickled watching the goldfish
21 bite each other for these chunks of bread that we
22 threw down there.

23 You can see the look on her face,
24 she just was always like that, always smiling, always
25 laughing. She just got so much joy out of watching

1 her children and just the simple things in life was
2 what brought her the most pleasure.

3 Q. Twenty.

4 A. That was Susan at Christmastime when she
5 and Tom were still married and he had given her a
6 watch. And she was so happy, just loved that watch.
7 And just -- you see, she put the little Christmas --
8 she made the little bow, it was just a regular
9 Christmas bow and she got a hot glue gun and glued a
10 little clip on it so she could clip it on. She was
11 real talented with doing things like that. The
12 average person wouldn't even think to take just an
13 average bow and make a piece of jewelry out of it.
14 She did and she was just funny that way, she could do
15 those things. And somebody else might try to do it
16 and it just wouldn't work, but she just had a talent.

17 Q. State's 21.

18 A. That was Easter of '97. Every Easter she
19 would plan this big Easter egg hunt and she would
20 have me bring my daughter and she would invite some
21 of the neighbor kids and make a whole bunch of Easter
22 eggs. And she would get so excited, she would go out
23 there in the yard and hide them everywhere. Kids had
24 their baskets, they were getting ready to go hunt for
25 eggs.

1 Q. Twenty-two.

2 A. That was the last Halloween that she was
3 with us. She had gotten off of work and brought
4 Daniel and Amber and then my daughter and they were
5 going to go out trick-or-treating. And she just used
6 to really get into the holidays. Holidays just
7 aren't the same now without her.

8 Q. Have a seat.

9 A. (The witness complied.)

10 Q. Do you know approximately how old Daniel
11 was when he found out that John Weik was his father?

12 A. He found out on Father's Day of '97.

13 Q. And would you -- to your knowledge, did
14 Susan encourage the relationship between Mr. Weik and
15 Daniel?

16 A. She didn't discourage it.

17 Q. How did you find out that something
18 happened to your sister?

19 A. She had worked with me that day. She had
20 started working with me it would have been about a
21 year at that time. I had a cleaning business and she
22 decided that she didn't want to work 40 and 50 hours
23 a week and be away from the kids so she --

24 MR. BEAUFORD: Objection, Your Honor, I
25 don't think she's responsive to the question.

1 MR. BAILEY: Leading up to it, I believe,
2 Your Honor.

3 THE COURT: The question again was...?

4 THE WITNESS: Yes.

5 MR. BAILEY: Your Honor, the question I
6 asked, Your Honor, was how did she find out
7 about her sister, what happened to her sister.

8 THE WITNESS: So she had worked with me
9 that day and I dropped her off, I would pick
10 her up and then take her back home and drop
11 her off because we only lived a few miles
12 apart.

13 And that particular day we had
14 gotten home at her house between 5:30, quarter
15 to 6:00 and the children met her out in the
16 yard and she gave them hugs and kisses.

17 THE COURT: Wasn't the question was how
18 you found out? All he wants to know is how
19 you found out, who called you, who told you.

20 THE WITNESS: Yes, sir. I dropped her,
21 went home, was home just a matter of probably
22 15 minutes or so and I was outside in the yard
23 and my daughter came running out and said that
24 Grandpa had called and said that Aunt Susan
25 was shot.

1 MR. BEAUFORD: Objection, Your Honor.

2 MR. BAILEY: Your Honor, this is res
3 gestae.

4 THE COURT: I'm going to allow it. The
5 question is simply how did she find out.
6 Grandfather called, daughter told her.

7 THE WITNESS: My daughter came out and
8 told me that her grandfather told her that
9 Susan was shot.

10 BY MR. BAILEY:

11 Q. At that time did you know what condition
12 Susan was in?

13 A. No, sir. I did not.

14 Q. What did you do?

15 A. Well, of course I rushed over there as
16 quickly as I could.

17 Q. Okay.

18 A. I pulled up and there were emergency
19 vehicles out on the street. And I jumped out and
20 started running towards the house and they stopped
21 me, told me I could not go in. I was hysterical,
22 telling them I had to get in there and see my baby
23 sister. They would not let me go in, they said that
24 the EMS was in there working on her.

25 I was waiting out there it seemed

1 like eternity in the yard with both of the children
2 in my arms and I kept saying they need to get her to
3 the hospital, why are they taking so long in there,
4 they can't do too much for her in the trailer, they
5 need to get her to the hospital. At that time I
6 thought that she was still alive. Eventually an
7 officer came out and told me that she was dead.

8 Q. Ms. Vincent, how old are your parents,
9 Susan's parents?

10 A. My mother is 73 and my father's 75.

11 Q. Okay. Where does your mother live?

12 A. My mother lives in Texas.

13 Q. Okay. And what is your father's state of
14 health?

15 A. My father's health has declined
16 drastically since this has happened. My father has
17 no will to live anymore.

18 Q. Now, after your sister's murder both
19 Daniel and Amber lived with you for a period of time;
20 is that correct?

21 A. Yes, sir. That same night I took them
22 home with me after we left the judicial center.

23 Q. How long did Daniel stay with you?

24 A. Daniel stayed with me up until the first
25 week of August. At that time my sister, Debbie, and

1 I had talked numerous times on the phone and Daniel
2 needed a good male role model in his life. And
3 unfortunately with me being a single parent I was not
4 able to provide for him what I felt like he needed,
5 which was a good, stable, strong man that could be
6 there for him and guide him.

7 So it was the hardest decision I've
8 ever had to make outside of having to pick out my
9 sister's casket to let him go, but I felt like I had
10 to do what was best for him.

11 Q. And what about Amber going to live with
12 her father, did that happen at the same time?

13 A. No, sir. Amber stayed with me until the
14 end of February. I could not -- I couldn't stay in
15 the area anymore, it was totally destroying my life.
16 We had so many happy memories in my house. I had
17 just bought my house two years prior and expected to
18 retire in there, never expected I was going to leave,
19 but after my sister's death I was constantly reminded
20 of her everywhere I went, of course jobs that we had
21 worked on together, just her memory. Not that I
22 don't appreciate the memories, but that it was just
23 so difficult for me to function knowing that she was
24 never going to be there anymore.

25 We saw each other every single day.

1 We had a relationship that I could not figure out how
2 to function without her, and the only way that I
3 could manage was just to totally relocate. And so I
4 moved to Georgia, at which time Amber ended up moving
5 in with her father.

6 Q. Okay. I've just got a few more questions
7 now.

8 A. Yes, sir.

9 Q. I know this is difficult for you, but
10 during the period of time that Daniel and Amber were
11 with you, how did they handle the fact that their
12 mother had been murdered in their presence?

13 A. Immediately I started taking them to
14 counseling sessions, which I was encouraged to do so
15 by the Victims' Assistance Program. And they were
16 going on a -- every week they were going. They had
17 constant nightmares, they would wake up screaming in
18 terror. Amber was always terrified that Eddie was
19 going to get out and come and shoot us. The
20 counseling sessions did help somewhat, but there's
21 only so much that can do.

22 Q. Do you know whether or not the children
23 have been to counselors recently?

24 A. Yes, sir. They have.

25 Q. Okay. Please answer any questions the

1 defense might ask you.

2 CROSS-EXAMINATION

3 BY MR. BEAUFORD:

4 Q. Ms. Vincent, you said that Susan was 17
5 when she was pregnant?

6 A. Yes, sir.

7 Q. And you said that her mother wanted her
8 to have her abortion and that was one of the reasons
9 why she left the house?

10 A. Yes, sir.

11 Q. Susan didn't believe in killing, did she?

12 MR. BAILEY: Objection, Your Honor. This
13 is totally inappropriate here, and he knows
14 it.

15 THE COURT: I sustain.

16 MR. BEAUFORD: Your Honor, could I
17 rephrase the question?

18 THE COURT: I'm not sure where you're
19 going to go with it. Let me hear what you
20 want.

21 MR. BAILEY: Your Honor, can we approach
22 the bench?

23 THE COURT: Yes, sir.

24 (Whereupon, a bench conference was held
25 off the record in the presence of the

1 jury but out of the hearing of the
2 jury.)

3 BY MR. BEAUFORD:

4 Q. Ms. Vincent, you said after the birth of
5 Daniel, you said that Eddie had no contacts with
6 Daniel?

7 A. That's right.

8 Q. Would Susan discuss any contact she would
9 have had with Eddie at any point with you, did you
10 have that kind of relationship with her?

11 A. For the most part. I was -- like I said
12 earlier, I was like a mother to her as well and so
13 there were certain times when she wasn't completely
14 open with me about some issues, because we did have
15 that kind of relationship and I was very overly
16 protective of my sister.

17 Q. Okay. Could you identify this picture
18 for me, please?

19 A. Yes, sir. That is my sister and Eddie,
20 and Eddie is holding Daniel and Daniel appears to be
21 just a couple months old.

22 MR. BEAUFORD: I would like to have this
23 marked as an exhibit.

24 MR. BAILEY: No objection, Your Honor.

25 THE COURT: All right.

1 (Entered into evidence was Defendant's
2 Exhibit 1, photograph.)

3 BY MR. BEAUFORD:

4 Q. So it's fair to say after the birth of
5 Daniel, shortly thereafter Eddie did have contact
6 with her?

7 A. It seems that way, yes, sir.

8 Q. So is it fair to say that there's a lot
9 of things about Susan's life that you didn't know
10 about?

11 A. I didn't know about her letting Eddie see
12 Daniel, but I knew the majority of what was going on
13 in her life, yes, sir. She lived under my roof.

14 Q. Okay. Were there any times that Eddie
15 would come over and Eddie was introduced as Mr. Eddie
16 and not Daniel's dad?

17 A. I'm sorry, can you rephrase that?

18 Q. Were there any times that Eddie came over
19 to visit Susan that he was introduced as Mr. Eddie
20 and not Daniel's dad?

21 A. There was never a time that he came into
22 my home that I was present that I know of.

23 Q. And you're saying that -- you're not
24 saying that anymore, that Eddie had no contact after
25 the birth, you're not saying that anymore?

1 A. Well, obviously he must have because you
2 have a photograph there, that I wasn't aware of it,
3 sir.

4 Q. How old did Daniel appear to be on that
5 picture?

6 A. He appeared to be just two or three
7 months old.

8 Q. You also said that -- basically that
9 Daniel and Amber had been going to some counseling?

10 A. After my sister's murder, yes, sir, they
11 were.

12 Q. You also stated that they seemed to be
13 getting better?

14 A. I said it was helping them somewhat.

15 MR. BEAUFORD: Your Honor, I would like
16 to publish this photo to the jury.

17 THE COURT: All right.

18 BY MR. BEAUFORD:

19 Q. Ms. Vincent, were you aware that on
20 Daniel's birthday that Eddie would give Daniel gifts?

21 A. On Daniel's first birthday my sister had
22 encouraged him to show up for his son's first
23 birthday party, which he did not. He did send his
24 brother, Chris, to bring gifts, yes, sir.

25 Q. And on all of Daniel's birthdays, that

1 Eddie gave Daniel gifts?

2 A. I don't know about all of them, sir. I
3 do know there were some occasions when he did send
4 gifts for Daniel.

5 Q. So now you're saying in an indirect way
6 Eddie had some form of contact, whether it's giving
7 gifts, whether it's by seeing him?

8 A. Most of the contact that occurred was
9 when Daniel was visiting with my father, which was
10 his granddad, and my father would contact Eddie and
11 let him know that he had Daniel and Eddie would come
12 visit. But at that point in time Daniel did not know
13 that Eddie was his father.

14 Q. So you're saying now at your father's
15 house, Eddie would go to your father's house to see
16 Daniel?

17 A. Yes, sir. But I just recently found that
18 out during this trial period that my father was doing
19 that.

20 Q. So when the solicitor asked you those
21 questions about the contact and you knew that at that
22 time, that wasn't the truth?

23 A. No, sir. She had no -- you were asking
24 me about the contact between my sister and Eddie.

25 Q. Okay.

1 A. Okay. You didn't ask me about contact
2 between Eddie and Daniel.

3 Q. Okay. I apologize.

4 So Eddie and Daniel had contact over
5 the years?

6 A. Yes, sir. Through my father most of the
7 time.

8 Q. And it was a reason why it wasn't through
9 Susan, and your father set it up to be at his house?

10 A. The main reason was manipulation.

11 MR. BEAUFORD: No further questions.

12 MR. BAILEY: No redirect, Your Honor.

13 THE COURT: Thank you, ma'am.

14 MR. BAILEY: State rests, Your Honor.

15 THE COURT: All right. Ladies and
16 gentlemen, let me ask you to step to the jury
17 room at this time, take a break. They'll take
18 your lunch orders as well at this time.

19 (Jury excused.)

20 THE COURT: All right. Motions at this
21 time then? Any motions from the defendant?

22 MR. BEAUFORD: Yes, Your Honor. Move for
23 a directed verdict on the aggravating
24 circumstances of physical torture. We feel
25 that in the light most favorable to the State

1 they hadn't meet the element of burglary
2 itself of that, that's overly broad, and we
3 move for a directed verdict.

4 **THE COURT:** All right, sir. I'm going to
5 deny the motions for directed verdict as to
6 the burglary. Of course it goes without
7 saying that they found beyond a reasonable
8 doubt already. And obviously the evidence
9 again incorporated from the other day that he
10 entered without consent with the intent to
11 commit a crime therein, and was armed or
12 caused physical injury so forth, every element
13 was met the other day and obviously the jury
14 found so, and that's all been incorporated
15 here today.

16 In addition to that you've got
17 additional testimony by this child, this
18 morning of the child that says that he took
19 the gun and came into the house, opened the
20 door, came into the house and so forth. So I
21 think there's plenty of evidence there.

22 The physical torture is maybe not
23 quite so clear, but it's still one which I
24 think I'm not -- obviously not going to be
25 concerned to the weight of the evidence, but

1 whether -- the existence of it. And the
2 evidence is such that you've got two or three
3 things. First of all, you've got his
4 statement in his testimony, or in his written
5 or oral statement, and I don't remember which
6 ones, but one of them where he said that he
7 hunted all the time, that he shot, he could
8 shoot behind his head even, he could shoot
9 behind his neck and so forth. And also his
10 testimony the other day in regards to the fact
11 that he hunts and shoots and so forth.

12 Although I agree with you, and it's
13 arguable on your part, and he said that if you
14 shoot buckshot you don't know where it's
15 going, I understand that, that's an argument
16 from the defendant's standpoint. If you look
17 at it, the evidence, in the light most
18 favorable to the State in this regard, what he
19 does say is "I shot her in the arm." He
20 said -- he said, "I shot her arm off" as I
21 recall. And then he said, "Well, almost off,"
22 something like that. And then he went on to
23 say "blood everywhere." And then he said, "I
24 shot her again, she screamed and I shot her
25 again." And he went on to say where exactly

1 he placed shots.

2 I mean, in his own statement he
3 said, "I shot her in the groin, I shot her in
4 the chest, I shot her in the gut," I believe
5 he said "guts" is the words he used. So he
6 knows where he's aiming, or at least he tells
7 them he knows where he's aiming.

8 And to me all of those things go to
9 prove, I believe, that he -- that he
10 dismembered a part of her body before he
11 actually fired the fatal shot.

12 Now, it's arguable of course, I know
13 that, it's arguable that he was just shooting
14 and he was nervous and so forth. And that's
15 what he said, on the other hand. But when he
16 first made that statement, if you take that
17 statement along with the physical evidence,
18 that she had blood on the bottom of her socks
19 and so forth, and she was walking through
20 blood, standing in blood, then you have to at
21 least assume that if she is shot in the arm
22 and -- or wherever she's shot, it wasn't a
23 fatal one if she could still be standing in a
24 pool of blood and have blood on the balls of
25 her feet, her heel, and then her arch, as the

1 gentleman explained this morning by those
2 photographs, and that's the reason those
3 things were let in.

4 And as I say, taking all that
5 business in a light most favorable to the
6 state I think there's at least an argument the
7 State can make. Maybe more than just an
8 argument. But I think the evidence is
9 sufficient from which this jury could find
10 that he, in fact, shot her in the arm first,
11 she screamed, he basically dismembered a part
12 of her body, maimed her, caused her physical
13 injury, physical torture, pain and so forth,
14 and then proceeded to shoot her other places.

15 Now, the sequence in which he does
16 this, who knows. All we can go by is what he
17 said. Nobody can say, nobody knows really
18 except what he says. And that's what I have
19 to go on is what I've heard, what's in
20 evidence. And what he said was, and my
21 understanding was, "I shot her in the arm
22 first."

23 And so that's the -- that's the
24 reason that I feel like I'm going to have to
25 at least submit physical torture to the jury.

1 They may not buy it, but I think it's
2 something that I have to submit to the jury
3 based on the evidence that I've heard in the
4 course of this.

5 Anything else?

6 MR. BEAUFORD: Nothing at this time, Your
7 Honor.

8 THE COURT: All right. Anything from the
9 State?

10 MR. BAILEY: Not from the State, Your
11 Honor.

12 THE COURT: Mr. Weik, you've got the
13 right now to testify again; do you understand
14 that, sir? You understand, sir, you have the
15 right to testify again if you want to?

16 MR. WEIK: Yes, sir.

17 THE COURT: And you also have the right,
18 if you want to, to make a final argument with
19 your lawyers. In other words, you've got the
20 last, very last argument, your lawyer can
21 speak and then you can stand and make an
22 argument as well. And I'm going to ask you
23 again about that because that comes sometime
24 later, but are you intending to testify at
25 this stage in the trial?

1 MR. WEIK: I decline, sir.

2 THE COURT: Sir?

3 MR. WEIK: I decline at this point.

4 THE COURT: Well, you understand that
5 I'll tell the jury they can't hold it against
6 you if you don't testify? I mean, it's not up
7 to you to prove anything, it's up to the State
8 to prove what they intend to prove. You don't
9 have to prove anything, you don't have to
10 testify and I'll tell the jury that. But, of
11 course, you've got the right to testify or
12 not.

13 You all have spoken to him about
14 that, as I understand it?

15 MR. BEAUFORD: Yes, we have, Your Honor.

16 THE COURT: You feel satisfied that he
17 does not want to testify at this time?

18 MS. HARDEE-THOMAS: He indicated he did
19 not want to testify, Your Honor.

20 THE COURT: All right. Of course, he
21 indicated that he did before and did, did so.
22 And did so very well, I might add.

23 All right. Let's take about ten
24 minutes and then we're going to come back and
25 get started. Let's take 15 minutes. At 1:30

1 if you're going to be in the courtroom, be in
2 here. If you're not, don't come in. 1:30.

3 (Recess taken.)

4 THE COURT: Are you all ready?

5 MR. BEAUFORD: Yes, Your Honor.

6 THE COURT: Did you all allow them to
7 order lunch for you?

8 MS. HARDEE-THOMAS: Yes, Your Honor, plus
9 the defendant.

10 (Jury present.)

11 THE COURT: All right, Mr. Beauford.

12 MR. BEAUFORD: We would call Amy Weik.

13 THE COURT: All right, sir.

14 Ms. Weik, if you would put your left
15 hand on the Bible, please, ma'am, and raise
16 your right.

17 (Amy J. Weik-Going, called as a witness
18 by the Defendant, having first been duly
19 sworn, was examined and testified as
20 follows:)

21 THE COURT: All right.

22 DIRECT EXAMINATION

23 BY MR. BEAUFORD:

24 Q. Ms. Weik, state your full name for the
25 record.

1 A. Amy, Janeen, J-a-n-e-e-n, Weik, W-e-i-k,
2 Going, as it sounds.

3 Q. Ms. Weik, I'm going to ask you that you
4 move the microphone slightly in front of your mouth
5 and speak into it a little louder.

6 Where do you live, Ms. Weik?

7 A. 119 White Oak Drive.

8 Q. Excuse me, Ms. Going.

9 THE COURT REPORTER: What drive?

10 THE WITNESS: 119 White Oak Drive.

11 BY MR. BEAUFORD:

12 Q. And who lives with you at that address?

13 A. The father of my oldest child --

14 Q. Okay.

15 A. -- Brandon, and my youngest child, Brice.

16 Q. Who are your parents?

17 A. Lilly and Russell Weik.

18 Q. Where do they live?

19 A. About approximately half of a mile down
20 the road from me.

21 Q. And do you have any brothers and sisters?

22 A. Yes, I do.

23 Q. Who are your brothers and sisters?

24 A. I have two brothers by my mom's first
25 marriage, José Ferrer, F-e-r-r-e-r, and Larry Ferrer.

1 I have two sisters, Magdalena Ferrer, and Rhonda
2 Ferrer. And I have two brothers by my father,
3 Russell Christopher Weik, and Eddie Weik.

4 Q. And Eddie is the gentleman sitting at
5 that table over here?

6 A. Yes, sir.

7 Q. Do you remember the early childhood life
8 of Eddie?

9 A. Yes, sir. I do.

10 Q. Would you tell this court about Eddie's
11 childhood, your early years?

12 A. It was rough, sir.

13 Q. Be more specific. You said it was rough.
14 What was the home life of Eddie?

15 A. My father lived in the home.

16 Q. And your father meaning Russell?

17 A. Correct.

18 Q. Go ahead.

19 A. He was in the service at one time and our
20 lives was a battlefield. There was times that my dad
21 would have military flashbacks.

22 Q. So he would have a flashback. What do
23 you mean, what would happen? You said he would have
24 flashbacks.

25 A. He would act out his flashbacks in the

1 war. We were victims, like prey, using some
2 military-style tactics on us.

3 Q. How old would you have been at this
4 time -- or Eddie would have been at this time?

5 A. I'm sorry?

6 Q. How old would Eddie have been at this
7 time?

8 A. I can't really go back that far. As far
9 as I remember, I mean I can't tell you specifics. I
10 remember a time that my father was in a rage, or a
11 rampage with my mother and them. It just wasn't even
12 concerning Eddie, he just -- he strongly held his
13 hand on Eddie's shoulder and told him that he would
14 use his hand to rip out his heart if he didn't get a
15 haircut. It was just the simplest thing. I can't
16 explain it.

17 Q. What was Eddie like more specifically
18 during this time in his life, what was his behavior
19 like, what was he like?

20 A. Eddie dealt with things as we all did,
21 all differently. We all were differently dealing
22 with our own --

23 Q. Things. What things are you talking
24 about? Can you be more specific?

25 A. The abuse that we suffered, all of us.

1 Q. Okay. So what was Eddie like?

2 A. Very adventurous, he liked mechanics. As
3 far as his abilities he did have problems in school.
4 I don't know exactly what you're asking.

5 Q. What was his behavior like?

6 A. His behavior. Sometimes he acted out,
7 sometimes I acted out, sometimes my father acted out.
8 It was just all of us. Sometimes it was chaotic at
9 times, arguing. I guess it was a way that we had to
10 express ourselves.

11 Sometimes there was calmness where
12 we just -- I mean, it was just different phases that
13 we were in. Like I don't know exactly what point
14 you're really wanting.

15 Q. Okay. Had things changed later on in
16 Eddie's life?

17 A. Yes.

18 Q. How did they change?

19 A. Later here recently, probably
20 approximately two years ago, Eddie joined the church.
21 But before that he was helping in the community with
22 others. If anybody ever had a problem, he'd go help
23 them with a home, a car, didn't matter. If someone
24 had been out of work he would go out and try to help
25 them, at least even raise a fund if they were out of

1 work for a period of time. He was regular in the
2 church, he got saved and baptized and he just became
3 a better person. I mean, he tried to do everything
4 for his son, Daniel. He even helped me with my
5 children as well.

6 Q. And you said it changed up to two years
7 ago. What happened two years ago, why is it two
8 years ago? What happened within that two-year span?

9 A. I'm not really sure. I've been in and
10 out of the household. You know, I have a separate
11 household from my mom and dad. I do visit
12 occasionally and regularly, but it's really hard to
13 tell you exactly what was going on in the home when I
14 wasn't there.

15 Q. Did you have the occasion to talk to
16 Eddie and what was going on in his life?

17 A. Eddie complained of dreams he was having.

18 MR. BAILEY: Objection. Hearsay, Your
19 Honor.

20 THE COURT: I sustain.

21 BY MR. BEAUFORD:

22 Q. Did you notice any personality change in
23 Eddie within the last few years?

24 A. Yes, sir. Here recently. I can't give
25 dates, I'm sorry. There was times that I would come

1 and visit with my two children and Eddie would
2 usually be in his room, just isolated. He would come
3 out and he would greet my two children and he'd go
4 back to his room. I don't really know what was going
5 on with him at the time, I just know he seemed
6 depressed, like something was bothering him.

7 Q. Have you ever seen Eddie and Daniel
8 together?

9 A. Yes, sir.

10 Q. And how would that relationship be, what
11 would you see?

12 A. He was always trying to be a father role
13 in every way possible for his son.

14 Q. To be more specific, what would they do,
15 or what would they be doing?

16 A. They would go fishing, they would go
17 hunting. They went to -- in fact, the last time I
18 did see Daniel and Eddie together it was with my
19 brother, Chris, as well. They had just visited the
20 Yorktown and they had some artifacts of the decking
21 and they had them labeled and laminated. And they
22 had some confederate money. They were also in the
23 Cub Scouts, I believe, Boy Scouts, 4-H Club,
24 something of that sort. They would shoot rockets off
25 together just like a father and son would be.

1 Not to mention Eddie also dedicated
2 a lot of time and efforts with Daniel with school
3 work when he came over. Sometimes it would be in
4 their room -- or excuse me, his room. And they would
5 play Nintendo 64. Sometimes it was other events
6 outside the home.

7 Q. What is the -- do you know -- does your
8 father suffer from any kind of medical condition?

9 A. I've never seen any proof as far as
10 statistics, but my father was always paranoid,
11 abusive, I don't know. Something was wrong with him
12 and I don't know exactly what it was.

13 Q. No further questions.

14 MR. BAILEY: No questions. Thank you,
15 Ms. Weik.

16 THE COURT: Thank you, ma'am. You may
17 step down. Thank you.

18 MR. BEAUFORD: Call Dr. Augustus Rogers.

19 (Augustus Rogers, Ph.d., called as a
20 witness by the Defendant, having first
21 been duly sworn, was examined and
22 testified as follows:)

23 DIRECT EXAMINATION

24 BY MR. BEAUFORD:

25 Q. Dr. Rogers, state your full name for the

1 record.

2 A. My name is Augustus Rogers.

3 Q. Where do you live?

4 A. I live in Columbia, South Carolina.

5 Q. How long have you lived in Columbia,
6 South Carolina?

7 A. I lived there practically all my life.

8 Q. All your life. Where did you go to high
9 school?

10 A. Graduated from the public school system
11 of District One of Columbia, graduated specifically
12 from the Hopkins High School.

13 Q. Hopkins. And did you go on to college?

14 A. I did, sir.

15 Q. Where did you go to college?

16 A. Got my undergraduate at Benedict College.

17 Q. And were there any other studies after
18 Benedict College?

19 A. There were.

20 Q. Could you tell the Court?

21 A. Received a master's in social work from
22 New York University. And subsequent to those studies
23 I completed a Ph.D. in counseling services at the
24 University of South Carolina and also have a master's
25 of Divinity from the Lutheran Theological Seminary.

1 Q. And have you ever testified in court
2 before?

3 A. I have, sir.

4 Q. And you've testified in the expertise of
5 what area?

6 A. I've testified with expertise of social
7 worker, licensed independent social worker.

8 Q. And are there different areas of social
9 work that you are -- you've testified under?

10 A. Well, I have been certified, or at least
11 been approved basically as an expert witness in the
12 area of capital offenses. And I've also testified in
13 the area of domestic cases, and I deal extensively
14 with foster children and the like.

15 Q. And where do you work?

16 A. I'm a professor at the University of
17 South Carolina, and I'm at the College of Social Work
18 there.

19 Q. And are you a professor at the undergrad
20 level, graduate level, what level?

21 A. At the graduate school level.

22 Q. And how long have you been a professor at
23 the University of South Carolina?

24 A. I've been at the University of South
25 Carolina since 1971, and that's basically 28 years.

1 Q. You primarily taught social work?

2 A. Yes, sir.

3 Q. And you said you've testified in court
4 before?

5 A. I have, sir.

6 Q. And you've been declared an expert in
7 social work?

8 A. Yes, sir.

9 Q. And you said you have testified in
10 capital cases before?

11 A. I have, sir.

12 Q. And been qualified as an expert in
13 capital cases?

14 A. Yes, sir.

15 MR. BEAUFORD: Your Honor, I move that he
16 be qualified as an expert in the area of
17 social work.

18 MR. BAILEY: Your Honor, as far as expert
19 in social work, I'm not sure that's an area
20 where expertise would be of any assistance to
21 the jury, it's not like psychology or
22 psychiatry. If he's going to qualify him, let
23 me just address that. I just don't think
24 under Rule 702, 703 that's really an area
25 where expert testimony would be any better

1 than the jury's common knowledge.

2 **THE COURT:** That may be. And I don't
3 know exactly what questions are going to be
4 asked of Professor Rogers. What I'm going to
5 do is to allow him to testify as an expert in
6 the field of social work bearing in mind, of
7 course, that there may be some things in that
8 field that you and I may know and there may
9 not be a need to have him testify as an expert
10 in that field. But there may be other
11 questions that we would not commonly know or
12 understand and so I'm just going to qualify
13 him.

14 I think he -- obviously he's well
15 qualified in his field. The concern of the
16 solicitor, and mine as well, is whether or not
17 any question will come in which he would give
18 his opinion to something that we might
19 ordinarily know anyway.

20 But I'm going to allow it, I don't
21 have any problem with his qualifications,
22 certainly don't have any problem with that,
23 and I'm going to qualify him as an expert
24 witness.

25 **BY MR. BEAUFORD:**

1 Q. Dr. Rogers, what is social work?

2 A. Social work is a professional discipline
3 and it has basically to do with the study of
4 experiences that one has had in helping to shape and
5 form personality. We're extremely concerned about
6 hereditary influences as well as environmental
7 influences when it comes to the shaping of
8 personalities.

9 In other words, we're concerned
10 about that with which one is born, that which one
11 comes into the world with at the time of birth, as
12 well as experiences that one might have had within
13 the context of a family, within the community, or any
14 institution or people with whom one might have had
15 some connection or involvement during the course of
16 one's lifetime.

17 We believe that all of these
18 experiences do, indeed, have a bearing upon people's
19 behavior and certainly the forming of one's
20 personality.

21 Q. Dr. Rogers, in this particular case did
22 you conduct a -- I don't want to say an
23 investigation, but did you conduct a background, or
24 investigation of Eddie Weik's social life,
25 background, upbringing?

1 A. I did, sir.

2 Q. And as part of that -- I don't want to
3 say investigation. What word do you use?

4 A. We make inquiry. Investigation is a good
5 word. We interview what is referred to as primary
6 sources, that's often the client themselves, or also
7 collateral or secondary sources, that is other
8 sources of information that we use to corroborate.
9 We believe that information has to be verified or
10 corroborated by at least two or more sources. And
11 if, indeed, the various sources, the two or more
12 sources are consistent, the serves to support the
13 validity of the information that is being provided.

14 Q. Dr. Rogers, did you do an inquiry or
15 investigation of Eddie Weik?

16 A. I made an inquiry with regard to this
17 young man's background and experiences that he's had
18 during the course of his life.

19 Q. And as part of that were you able to come
20 up with some facts, or information, that was given to
21 you in forming certain opinions about his background?

22 A. I was, sir.

23 Q. Could you tell us some of those -- that
24 information that you gathered as part of your
25 investigation or inquiry?

1 A. Well, one of the things that I made
2 inquiry about had basically to do with Eddie's home
3 life and home experiences. I made an extensive
4 effort to get some feel for, some impressions with
5 regard to the quality of life that he might have had
6 beginning at home.

7 And the reason I did that is because
8 I know that the family is extremely important, it is
9 the most profound institution that has an impact upon
10 our shaping and development, anybody's impact of
11 shaping and development. It's the first institution
12 of which we gain membership before coming into the
13 world. It has everything to do with helping to shape
14 values, the way we view the world and the like. So I
15 wanted to get some feel for the kind of home in which
16 Eddie grew up and I made an extensive effort to
17 gather information along those lines. I gathered
18 some rather definitive impressions from those
19 inquiries.

20 Q. And what were some of those impressions
21 that you gathered?

22 MR. BAILEY: Your Honor, I want to object
23 to definitive impressions. I think that's
24 just entirely too vague, I'm not sure where
25 we're going.

1 THE COURT: Well, when he says
2 "impressions," I assume that he means facts
3 that he gathered from which he could give an
4 opinion. And I'm going to allow him to go
5 ahead and do that, provided, of course, he
6 bases his opinion on certain facts.

7 MR. BEAUFORD: Yes, Your Honor.

8 THE COURT: As long as you do that I'm
9 going to allow it.

10 BY MR. BEAUFORD:

11 Q. Yes.

12 A. One of the things I've gathered was that
13 Eddie grew up in what we can describe as a very
14 impoverished family, in other words, a very poor
15 family. And I gathered that in his home there was a
16 great deal of chaos, a lot of disorganization, a
17 great deal of confusion for a young child.

18 Let me give you some examples.
19 Inquiry after inquiry, at least three, four, five
20 sources of information or persons, have said that
21 there was quite a bit of commotion from time to time.
22 I remember one episode that was shared where Eddie's
23 father totally disrupted the entire house, tore it up
24 as a result of some impulsive force, some impulsive
25 notion that had to do with the fact that someone did

1 not do what he felt should have been done at the
2 time.

3 And as a result of that particular
4 episode the entire family was terrorized, so to
5 speak, especially the children. And the ones with
6 whom I spoke said that it was a rather horrifying
7 kind of an experience. And this was not a one-time
8 sort of episode, but there were repeated examples
9 given to me with regard to experiences that they had
10 that were extremely, extremely traumatizing.

11 Q. And also that experience, were there
12 other things that you gained through your inquiry,
13 investigation about Eddie's life and how it affected
14 him?

15 A. Yes. I gathered that Eddie has always
16 manifested what I describe as hyperactivity. That's
17 a repetitive speech, a rapid way of speaking, often
18 speaking faster than one might think, so to speak.
19 And if you were to talk to him now you would gather
20 the impression with regard to what I'm describing
21 here. And that has been a pattern of his and is
22 suggestive to me of some kind of a disorder. Because
23 this disorder that I'm sort of referring to has been
24 reflected in what I've gathered to be a learning
25 disability that he's had throughout his school years.

1 Q. Did your inquiry or investigation reveal
2 anything about Eddie's physical makeup, a different
3 part of his life, physical things about him?

4 A. Well, one of the things that I made
5 inquiry about, and I was really struck by this, in
6 reading records and also hearing this information
7 reported by various persons whom I interviewed, Eddie
8 was a real large baby. In fact, I believe the exact
9 weight at the time of birth was 10 pounds and 11
10 ounces.

11 I'm not a doctor, I'm not an M.D.,
12 that is, but immediately that sort of, you know,
13 raised some red flags in my mind. I wondered if
14 indeed there might have been some complications at
15 the time of birth that might have had to do with
16 delivery.

17 The source of information that I
18 gathered with regard to that delivery indicated that
19 forceps might have been used in delivering Eddie.

20 MR. BAILEY: I want to object to this
21 pure speculation, forceps might have been
22 used, unless he knows it.

23 THE COURT: I understand.

24 Are you basing your opinion on what
25 somebody else told you?

1 THE WITNESS: Yes, sir.

2 BY MR. BEAUFORD:

3 Q. Who would that person have been?

4 A. Eddie's mother.

5 MR. BAILEY: Your Honor, if he's an
6 expert and that's the type of information that
7 an expert in his field normally gets, I have
8 no objection, but I just didn't understand
9 that as being what his testimony was
10 previously, I'll withdraw it.

11 THE COURT: I understand. I'm going to
12 allow it. Go ahead.

13 THE WITNESS: So I wondered if indeed
14 there was -- sometimes, you know, I've
15 gathered from my research and experiences over
16 the years that sometimes large weight babies,
17 babies that are exceptionally large sometimes
18 relate to the condition of diabetes. I made
19 the inquiry to see if there was diabetes with
20 regard to his mother's condition and I found
21 no information to substantiate that.

22 But I heard the term and read the
23 term where there was a condition called
24 toxicity that she might have experienced. And
25 I don't know what that is all about, but it

1 didn't sound --

2 MR. BAILEY: If he doesn't know what it's
3 all about I object to him testifying to it.

4 THE COURT: I sustain.

5 THE WITNESS: But it's sounds as though
6 it was something that I should certainly be
7 concerned about.

8 MR. BAILEY: Judge, I understand that a
9 lot of leeway is allowed in this phase of the
10 trial.

11 THE COURT: Yes, sir.

12 MR. BAILEY: But this man's just getting
13 up here and speculating.

14 THE WITNESS: Forgive me, I'll stop it.

15 MR. BAILEY: He's just speculating and
16 surmising. And if he's got hard facts and
17 opinions he drew from those hard facts I'll
18 withdraw it.

19 THE COURT: I agree with you 100 percent.
20 Those facts can come from hearsay provided
21 experts in that field rely upon that kind of
22 information. And the question is -- if you'll
23 ask him a specific question and let him give
24 you the facts then his opinion from it, no
25 problem.

1 BY MR. BEAUFORD:

2 Q. Dr. Rogers, moving on to another area,
3 did you -- part of your investigation or inquiry,
4 were you able to determine anything about Eddie's
5 adult life?

6 A. Adult life?

7 Q. Yes.

8 A. Yes. I came away from my inquiries, my
9 investigations, with the notion that he is often very
10 impulsive --

11 MR. BAILEY: Judge, I hate to belabor
12 this, but I think the proper standard is to
13 the reasonable degree of scientific certainty
14 and not what his notion may have been.

15 THE COURT: Can you phrase it in that?

16 MR. BEAUFORD: Yes.

17 BY MR. BEAUFORD:

18 Q. Dr. Rogers, when I ask you a question
19 basically tell me the source, who you gained the
20 information from and then tell me what they may have
21 told you in that area.

22 A. All right, sir.

23 Q. And then we'll move on from there.

24 A. Okay, sir.

25 Q. Did you gain any information about

1 Eddie's adult life?

2 A. Yes, sir.

3 Q. From whom would you have gained that
4 information?

5 A. Well, I read the records that I received
6 from the investigator, Mr. Scott Parker, and in
7 addition I interviewed several members of the family,
8 in addition to Eddie himself.

9 Q. And based upon that information, what
10 information did you gain about Eddie's adult life?

11 A. Well, there's information that supported
12 the fact that Eddie suffered depression from time to
13 time, Eddie heard voices from time to time, he
14 hallucinated, he had auditory, that is he heard
15 things at times that nobody else could hear, and he
16 also saw things from time to time that nobody else
17 could see. And those are basically referred to as
18 auditory and visual hallucinations. There was in
19 fact several sources or persons who substantiated
20 that information, and Eddie himself told me that.

21 Q. Dr. Rogers, as part of your experience
22 have you worked within the prison system?

23 A. I have, sir. I've worked extensively as
24 a consultant with prisons.

25 Q. And what did you do as a consultant with

1 the prison?

2 A. I did in-staff training and development.
3 And I've also worked with personnel, prison personnel
4 in leadership positions.

5 Q. Have you ever worked with the inmates in
6 the prison?

7 A. Yes, sir. I have.

8 Q. What was the nature of that job?

9 A. I've done direct training and teaching of
10 inmates, basically geared toward helping them develop
11 life skills that would better enable them to adjust
12 to prison life, and also better equip them in
13 preparation for release from prison back out into the
14 general community.

15 Q. You've had some time to spend with Eddie,
16 haven't you?

17 A. I have, sir.

18 Q. Based on your education and your
19 experience, could you say with a reasonable degree of
20 certainty that Eddie could be one of those
21 individuals as you just mentioned that could
22 successfully complete one of those programs?

23 A. If you are asking me do I believe that
24 Eddie would make a satisfactory adjustment to prison
25 life, I would say based on my observations he would.

1 Q. And that observation is based on what?

2 A. Well, what I've seen here in my
3 interviews with him in the prison setting locally
4 here at Dorchester County, and just observations from
5 the prison personnel who work with him. He's been no
6 source of difficulty whatsoever. And he's not had a
7 prison record in the past, and has not been
8 incarcerated in the past, but these observations that
9 I've made over the past several days have suggested
10 he shouldn't have any difficulty in that regard.

11 MR. BEAUFORD: No further questions of
12 this witness.

13 CROSS-EXAMINATION

14 BY MR. BAILEY:

15 Q. Dr. Rogers, let me ask you a couple more
16 questions to kind of follow up on what Mr. Beauford
17 was asking.

18 A. Yes, sir.

19 Q. You talked to various members of the Weik
20 family, that would include siblings?

21 A. I did, sir.

22 Q. All right. Amy Weik, who just testified,
23 did you speak to her?

24 A. Yes, sir. I did.

25 Q. And she's Eddie Weik's full sister,

1 full-blooded sister?

2 A. Yes, sir.

3 Q. There's some half siblings also?

4 A. Yes, sir.

5 Q. Which members of the Weik family, which
6 siblings have you spoken to during your
7 investigation?

8 A. I've spoken with Ms. Ferrer, her half
9 sister, her older half sister.

10 Q. Okay.

11 A. I spoke with her brother, Mr. Ferrer, his
12 older half brother. I spoke with Amy --

13 Q. Okay.

14 A. -- his full sister.

15 Q. All right.

16 A. And also spoke with Mr. -- Ms. Ferrer's
17 husband.

18 Q. All right, sir.

19 A. Yes.

20 Q. So you spoke with three people that grew
21 up in the household?

22 A. I spoke with three of the siblings and
23 one of the -- his brother-in-law.

24 Q. All right, sir. And he has a -- what
25 other siblings, full brothers and sisters does he

1 have, if any, do you know?

2 A. With whom does he have?

3 Q. Yes. Besides Amy who's a full sister,
4 what other siblings does he have that grew up in the
5 same home?

6 A. There's Christopher.

7 Q. Have you spoken with him?

8 A. I've not had the occasion to meet him.

9 Q. All right, sir. Anybody else, any other
10 siblings?

11 A. I've spoken, yes, with his father.

12 Q. Siblings.

13 A. Oh, the siblings. Those were the three.

14 Q. All right, sir. And Mr. and
15 Ms. Ferrer -- Miss Ferrer, Mr. Ferrer, Amy, and
16 Christopher all grew up in this dysfunctional Weik
17 household; is that correct?

18 A. Well, Amy is the one that had the longest
19 period of time there because she's the youngest of
20 all the siblings.

21 Q. Yes.

22 A. But the others, I gather that there are
23 two families, you know, practically speaking.
24 There's the family that Ms. Weik has from her first
25 marriage or her first husband, and there's the one

1 from the subsequent marriage or current husband. And
2 those are the ones that -- those are the younger
3 children. One of which, of course, is Mr. John
4 Edward Weik.

5 Q. And how many full brothers and sisters
6 does John Edward Weik have?

7 A. There are two.

8 Q. Amy and Christopher?

9 A. And there's John, to the best of my
10 knowledge.

11 Q. And they grew up, all grew up in this
12 same dysfunctional home?

13 A. Yes, sir. They did.

14 Q. And Amy has not murdered anybody to your
15 knowledge, has she?

16 A. No, sir. She has not.

17 Q. And Christopher has not murder anyone to
18 your knowledge?

19 A. Christopher has not to my knowledge,
20 either.

21 Q. Let me ask you about your assessment to
22 Mr. Weik's adaptability to prison.

23 A. Yes, sir.

24 Q. What prisons have you worked in in your
25 professional capacity?

1 A. I've not worked in any prisons as an
2 employee, but I've done extensive consultation for
3 the South Carolina Department of Corrections.

4 Q. Well, did your duties cause you to go
5 into those prisons in the course of your work?

6 A. They did, sir.

7 Q. All right. Which prisons have you been
8 into on a professional basis?

9 A. I've worked largely in the central
10 correctional system up in South Carolina and I've had
11 the occasion to visit various prisons about the
12 state.

13 Q. All right. If you could, CCI is closed
14 down now; isn't it?

15 A. CCI is closed down now, sir.

16 Q. All right. When is the last time that
17 your professional duties have led you to actually be
18 in a prison within this state?

19 A. I would say within the past year.

20 Q. All right, sir. What facilities?

21 A. I've been at the Kirkland Correctional
22 Institution, I've been at Broad River Institution,
23 I've been at Goodwin, Manning, several about the
24 state. Primarily in Columbia, is where I'm located.

25 Q. And those are all facilities where

1 inmates serving life sentences would be housed; is
2 that correct?

3 A. Yes, sir. But there is probably one in
4 Lee County now, the one that was basically built to
5 replace Central Correctional out of Columbia.

6 Q. All right, sir. And you've been there
7 also?

8 A. I've not been there yet.

9 Q. All right, sir. And you've been in the
10 Dorchester County Jail and visited with Mr. Weik; is
11 that correct?

12 A. I've been to visit Mr. Weik here, yes,
13 sir.

14 Q. If a jury was to consider whether or not
15 a particular person could successfully adapt to a
16 present environment they would need know what the
17 environment is; would they not?

18 A. We're talking about a prison?

19 Q. Yes.

20 A. They would have to have some general
21 notion, I would imagine.

22 Q. All right. Now, the environment in a
23 prison like Kirkland or Broad River where somebody
24 would go serving a life sentence --

25 A. Yes, sir.

1 Q. -- is different than a county jail where
2 somebody's held pending trial; is it not?

3 A. It's a prison -- it is a facility that's
4 highly specialized for that kind of a clientele.

5 Q. All right, sir. I understand that. But
6 tell the jury the difference in some somebody's life,
7 just generally, if they're in the Dorchester County
8 Jail over here waiting trial, what they'd go through
9 and all, and what they would go there if they're
10 serving a life sentence in one of these large
11 correctional facilities like Kirkland.

12 A. Well, in a facility like Kirkland or a
13 similar kind of facility, there would be a great deal
14 of regimentation, certainly you would have a much
15 larger population, you would have a much larger
16 staff, there would be a great deal more in the way of
17 activities and projects and various kinds of
18 developmental training that would be employed or
19 available in those institutions, of course, than you
20 would find in a local setting such as this.

21 Q. All right. So let me ask you about
22 projects. What projects, to your knowledge, are
23 available for inmates serving life sentences in a
24 major correctional facility in this state, such as
25 Kirkland, Broad River, where Mr. Weik would be sent

1 serving a life sentence?

2 A. There are various work projects on which
3 inmates are involved in such an institutional
4 setting, there are educational opportunities in such
5 an --

6 Q. If you could, let's take the work
7 projects first.

8 A. Yes, sir.

9 Q. What type jobs are available in the
10 prison system?

11 A. There are various crafts there, there are
12 jobs having to do with the running of the institution
13 on a day-to-day basis, such as work having to do with
14 dietary activities, the feeding of the population,
15 the clothing of the population, the general running
16 of the institution. Inmates are assigned to these
17 various areas, if you will, of employment at such an
18 institution.

19 Q. All right, sir. And they're paid, aren't
20 they, when they work?

21 A. Well, it all depends. Now, see, that
22 policy varies from time to time, but the last
23 commissioner that we had prior to him leaving, Mr.
24 Michael Moore, said that he was going to discontinue
25 that policy. Now, whether that policy has been

1 discontinued or not, I do not know.

2 Q. When you went to these facilities, which
3 is really all you can talk about is what you know
4 when you were there.

5 A. Yes, sir.

6 Q. These inmates that worked got paid,
7 didn't they?

8 A. Not always. Some instances they may have
9 and other instances they did not.

10 Q. And they have canteens there where they
11 can buy Coca-Colas, candy bars, popcorn, things like
12 that with the money they make; do they not?

13 A. Those inmates who have privileges do have
14 access to those kinds of facilities.

15 Q. All right. And as far as training, what
16 type of training would be available for an inmate
17 serving a life sentence?

18 A. It would be job skill training related to
19 the various activities that they would have to
20 perform on a day-to-day basis.

21 Q. They can get their GED, can't they?

22 A. There again, now, I'm not really sure
23 about that. That is a policy that has fluctuated
24 somewhat in South Carolina from time to time.

25 Q. All right.

1 A. Generally that privilege may be afforded.

2 Q. All right. And from time to time they
3 can work on college courses, too, can't they?

4 A. Generally that privilege has been
5 afforded in the past.

6 Q. All right, sir. And you said their
7 activities. What type activities would somebody have
8 to adjust to in the prison system in this state?

9 A. Well, you know, there's a great deal of
10 regimentation. It's kind of like the Army, you know,
11 one has to do what one is told and one has to be
12 able, if you will, to function within the time
13 limitations, requirements, the scheduling of the
14 institution.

15 Q. Well, they've got -- an example, as far
16 as activities -- got basketball courts out there,
17 don't they?

18 A. Well, I don't know. Again, you know,
19 those kinds of activities if you remember in terms of
20 the policy that was handed down by our commissioner
21 who just left a few months ago, he cut out a lot of
22 those recreational activities. In some instances
23 they may be available, in others they may not.

24 Q. Okay. And what other kind of activities
25 are available for inmates? They have like rec rooms

1 or day rooms there, don't they?

2 A. Well, I do not work in the institution.
3 I'm a consultant, I don't have access to every facet
4 of the institution's operation.

5 Q. I understand.

6 A. But there are recreational activities
7 available generally in most of these institutions.

8 Q. All right. Just specifically, and again
9 I'm not -- I know you hadn't really worked day in and
10 day out, but you're rendering an opinion as an
11 expert --

12 A. Yes, sir.

13 Q. -- on adjustment to prison, and all I'm
14 trying to do is just kind of get an idea from you
15 what he would be adjusting to, you know, what his
16 life would be like. He can work. Can he play, too?

17 A. Well, institutions are not known for
18 play, generally. He would certainly have to do work
19 and whatever else is required of him by institutional
20 authorities.

21 Q. Okay. And they're fed; is that correct?
22 You said something about there are dieticians there
23 and he may be working --

24 A. Well, when I referred to a dietary
25 program, I'm simply talking about the feeding

1 program.

2 Q. All right, sir.

3 A. Are they fed?

4 Q. Yes, sir.

5 A. Yes, sir. They are fed.

6 THE COURT: I believe what he was talking
7 about earlier was prisoners cook.

8 MR. BAILEY: Yes, sir.

9 THE COURT: That's what I understood.

10 THE WITNESS: Yes. They work in the
11 kitchen and the food program, the dietary
12 program.

13 BY MR. BAILEY:

14 Q. They do have dieticians on staff there to
15 make sure they get three square meals a day?

16 A. They have cooks there, you know, to make
17 sure they eat, yes, sir.

18 Q. Okay. And they're provided jackets and
19 uniforms and so forth?

20 A. They're provided clothing.

21 Q. Shoes?

22 A. Yes, sir.

23 Q. Dentist, doctor?

24 A. They're provided necessary medical care.

25 Q. All right, sir. And as far as -- how

1 about radios, if they want to listen to a radio at
2 night?

3 A. See, I can't really say. Generally there
4 are inmates who have had privileges of that type in
5 the past. Again, you know, it depends perhaps upon
6 the institutional leadership from time to time.

7 Q. Okay. They've got big rooms there where
8 visitors can come see them, too, sometimes?

9 A. They have what is sometimes referred to
10 as visitation areas or visitation rooms, yes, sir.

11 Q. And sometimes those big rooms they show
12 movies to them, don't they?

13 A. I've never seen that.

14 Q. Hadn't seen that?

15 A. No, sir.

16 Q. The day room would have a television in
17 it, wouldn't it?

18 A. Well, I've not seen television
19 specifically, but I'll tell you what I have seen.
20 I've seen my church, for example, go out and provide
21 devotional services, and church services for inmates
22 in day rooms.

23 Q. All right, sir. Have you ever noticed
24 the televisions in there when you went in there to
25 provide the devotional services?

1 A. Not in day rooms, no, sir.

2 Q. Have you noticed televisions in the
3 prison system?

4 A. In the cells from time to time, yes, sir.

5 Q. In the cells?

6 A. Yes, sir.

7 Q. So if an inmate sitting in a cell has the
8 television, he can switch that thing on and watch --
9 is it cable TV, do they have cable TV?

10 A. I've never seen cable TV and I doubt they
11 have.

12 Q. All right. They could watch a movie or
13 something on -- if it's something on a regular
14 network channel?

15 A. In some instances they can.

16 Q. I think that's all I have.

17 THE COURT: Anything else, Mr. Beauford?

18 MR. BEAUFORD: Nothing, Your Honor.

19 THE COURT: Thank you, sir. Dr. Rogers,
20 thank you very much.

21 THE WITNESS: Thank you.

22 MR. BEAUFORD: Call Dr. Jeffrey McKee.

23 THE CLERK: Raise your right hand, put
24 your left hand on the Bible.

25 (Jeffrey R. McKee, called as a witness by

1 the Defendant, having first been duly
2 sworn, was examined and testified as
3 follows:)

4 THE CLERK: Come around and have a seat,
5 please. Would you give us your full name and
6 spell your last name, please?

7 THE WITNESS: My name is Jeffrey R.
8 McKee. My last name is spelled M-c-K-e-e.

9 DIRECT EXAMINATION

10 BY MR. BEAUFORD:

11 Q. Dr. McKee, where do you live?

12 A. I live in Irmo, South Carolina.

13 Q. How long have you lived in Irmo?

14 A. Since 1985.

15 Q. And where do you work?

16 A. I am chief psychologist of the division
17 of clinical services at the South Carolina Department
18 of Mental Health, and I have a private practice in
19 forensic psychology.

20 Q. Okay. Have you ever worked for the State
21 of South Carolina?

22 A. I have.

23 Q. In what capacity?

24 A. From 1985 to 1998 I was chief of forensic
25 pathology at the William S. Hall Psychiatric

1 Institute.

2 Q. And while working in that position, have
3 you ever testified in court before?

4 A. I have.

5 Q. Have you ever been declared an expert
6 while working in that position?

7 A. Every time.

8 Q. And during that time you would be called
9 by the State to testify?

10 A. Yes.

11 Q. And what is your -- what were your duties
12 then while working at the state hospital?

13 A. As the chief psychologist in the forensic
14 psychiatry division my job was to conduct competency
15 and criminal responsibility evaluations of patients
16 that were sent to us by all the counties in the
17 state. And to conduct those examinations and then
18 consult with the psychiatry staff regarding our
19 opinions on diagnosis and either competency and/or
20 criminal responsibility.

21 Q. And when you say "chief," what's the
22 hierarchy of that? You said "chief."

23 A. Well, I was the senior person with
24 respect to forensic psychology matters at the Hall
25 Institute. I was the senior person, I was the chief

1 administrator.

2 Q. And as far as being the chief
3 psychologist, did you teach people, or understudies
4 underneath you?

5 A. Since 1992 I've held an appointment with
6 the University of South Carolina School of Medicine
7 in the Department of Neuropsychiatry and Behavior
8 Sciences, and I currently hold the rank of clinical
9 professor. And in that position I have assisted the
10 forensic psychiatry training program in training
11 fifth-year residents in psychiatry who are taking a
12 special year just to learn about, and to become
13 proficient in the practices of forensic psychiatry.

14 Additionally, in my duties at the
15 Hall Institute I was responsible for the lectures and
16 training of clinical psychology interns. These are
17 persons who have finished their undergraduate degrees
18 in psychology and are now getting their training to
19 be Ph.D.'s in clinical psychology.

20 I conducted weekly seminars with
21 those clinical psychology interns and then also
22 provided supervision of those interns when they came
23 through the forensic psychiatry service for their
24 training rotations.

25 Q. Dr. McKee, we've got a lot of doctors

1 here in the courtroom. Have you taught any of the
2 doctors here in the courtroom today?

3 A. I have.

4 Q. What doctors would those be?

5 A. Well, Dr. Schwartz-Watts was in one of
6 our training programs -- excuse me, was in one of our
7 classes as a forensic psychiatry resident. Dr. Shea
8 has been a colleague of mine and someone that I
9 trained in forensic psychology when he joined my
10 staff in 1990.

11 MR. BEAUFORD: Your Honor, offer him as
12 an expert in the area of forensic psychology.

13 MR. BAILEY: Without objection.

14 THE COURT: All right. I find that he's
15 an expert in the area of forensic psychology.

16 MR. BEAUFORD: Psychology.

17 BY MR. BEAUFORD:

18 Q. Dr. McKee, did you have the occasion to
19 examine Mr. Weik?

20 A. I did.

21 Q. And when was that examination?

22 A. I saw Mr. Weik on March 6th, 1999, and
23 then again on May 15th, 1999.

24 Q. Would you tell the Court what, if
25 anything, you found during the examination of

1 Mr. Weik?

2 A. Well, my examination consisted of
3 clinical interviews on both of those days asking him
4 questions about his mental functioning, how he
5 perceives things, how he interacts. And then also to
6 administer a variety of psychological tests,
7 including the Trailmaking Test, the Wechsler Memory
8 Scale Information and Orientation Scale, the
9 Structured Interview of Reported Symptoms, and the
10 Minnesota Multiphasic Personality Inventory, the
11 second or revised edition.

12 Q. Dr. McKee, I'll take you back to the
13 tests. Would you tell me what purpose, or what you
14 obtained from each test? Okay. What was the first
15 test you performed?

16 A. The first test that I administered was
17 the Trailmaking Test -- or the first one that I
18 mentioned was the Trailmaking Test. And that is a
19 test to measure the capacity of the person to keep
20 his thoughts organized, be able to tend to a task, to
21 concentrate. And the -- what the patient does is to
22 connect lines from circles that have letters in them,
23 from A to B to C to D and so on. These circles are
24 randomly distributed around the page. And on part A
25 the task is to complete these connections as quickly

1 as possible.

2 And the psychologist then would
3 measure the amount of time it would take a patient to
4 complete the task, and then also the number of errors
5 that he made. And in part B of the test numbers are
6 inserted between the letters so that the task is to
7 connect A to 1, 1 to B, B to 2, 2 to C and so forth,
8 again, circles randomly around the page. And the
9 amount of time that it takes a patient to complete
10 that task and the number of errors that are made are
11 measured by the clinician.

12 On this task Mr. Weik did really
13 quite poorly given his average IQ. He scored at less
14 than the tenth percentile. Which is to say if you
15 were to line everybody up from those who did best on
16 the test or quickest on the test to those who did
17 poorest on the test, he would be near the end of the
18 line with only nine people behind him and 90 ahead of
19 him. So he did very poorly on that compared to his
20 average IQ.

21 On the Information and Orientation
22 Test, Wechsler subtest of information and
23 orientation, this is both a measure of long-term
24 memory and a measure of malingering to see whether
25 his poor performance on the Trailmaking Test was

1 something that he was just faking bad at, was trying
2 to do poorly at.

3 Q. Dr. McKee, again, define malingering.

4 A. Malingering. When somebody is
5 malingering they're trying to portray themselves as
6 being ill or sick or impaired in some way. And when
7 it comes to tests like the Trailmaking Test it would
8 be somebody who would do a very poor, slow job with
9 multiple errors when in fact you would expect him to
10 do much better.

11 So with the Trailmaking Test being
12 so poor I wanted to assess to see whether that might
13 have been a malingered performance. And on the
14 Information and Orientation Scale he had a perfect
15 score.

16 Now, if he were malingering he would
17 have had a very poor score on that test, on the
18 Information and Orientation Test. He did not, and so
19 I concluded that he does, in fact, have very
20 disturbed thinking on the basis of his very poor
21 performance on the Trailmaking Test.

22 Q. The third test?

23 A. On the Structured Interview of Reported
24 Symptoms, that is a test to measure malingering of
25 psychiatric disturbance, such as delusions,

1 hallucinations, and atypical or unusual mental
2 problems. On this test the patient is asked to
3 respond yes or no to a variety of different
4 statements. And on this test his results indicated
5 that he did not appear to be malingering.

6 A variety of psychiatric symptoms
7 that he endorsed on another test, which was the
8 Minnesota Multiphasic Personality which was the last
9 test that I administered during my time seeing
10 Mr. Weik, on that test if I could I'll just go on.

11 Q. Yes.

12 A. Minnesota Multiphasic Personal Inventory
13 the Second Edition, this is the most widely used
14 personality inventory, and it's comprised of 556
15 items to which the patient responds either true or
16 false. Those 566 (sic) items then are condensed down
17 into a variety of subtests or scales that measure
18 things like schizophrenic processes, very
19 significantly disturbed mental processes, they
20 measure things like paranoia, they measure things
21 like depression, very serious psychiatric
22 disturbances.

23 On this test Mr. Weik's scores were
24 very elevated, which is to say high on the scales
25 measuring schizophrenia and schizophrenic-like

1 processes.

2 Q. What is schizophrenia?

3 A. Schizophrenia is a very severe mental
4 disorder which is typically characterized by
5 delusions, delusions which are false beliefs,
6 unrealistic beliefs that the person holds as being
7 true even when all objective evidence indicates that
8 they're not true. This is something that I had
9 observed in Mr. Weik when I did my clinical
10 interviews with him. He has some significant
11 delusions about the CIA, about aliens, about the CIA
12 and the government watching him and trying to make
13 him crazy.

14 And those are things that I had
15 observed during the interview and I wanted to
16 validate them through the psychological testing. The
17 psychological testing that I gave validated, was
18 consistent with what he had told me during the
19 clinical interviews, and also indicated that these
20 symptoms that he was reporting, the delusions, the
21 auditory hallucinations, hearing voices when nobody
22 was really there, that these psychiatric symptoms
23 were not being faked, they were not being malingered,
24 but were consistent with a significant psychotic
25 mental illness.

1 Q. Tell me more about the interview. What
2 took place in that interview?

3 A. Well, the interview consisted of four to
4 five hours of talking about his background and his
5 history and growing up and his work history and
6 things of that sort, and trying to get an idea of how
7 he thought and how he perceives events and how he
8 thinks about himself and thinks about other people.

9 Q. Dr. McKee, you talk about schizophrenia.
10 Have you heard of the term schizotypal?

11 A. Schizotypal personality disorder, yes,
12 I've heard of that.

13 Q. What is that?

14 A. Schizotypal personality disorder is a
15 long-term chronic disorder in which the person
16 typically has unusual beliefs, can have disturbances
17 in his speech patterns, can have ideas of what are
18 called magical thinking, which is he -- he believes
19 that if he thinks certain things, that because he
20 thinks those things that these events will occur,
21 that he causes them to occur by his thinking. It is
22 a disorder that has those symptoms, but also does not
23 have certain other symptoms, such as delusions.

24 Q. Okay. What is the difference between the
25 two, schizophrenia and schizotypal?

1 A. Well, when you have delusions -- when you
2 have delusions it is highly unlikely that you'll have
3 the schizotypal personality disorder. The delusions
4 define the schizophrenia, which I believe that he
5 has.

6 Q. What is the difference between a disorder
7 and an illness?

8 A. The principal difference is that an
9 illness typically has a biological basis to it, that
10 it is the result of certain neurological,
11 neuropsychological processes. The disorder is more
12 likely the result of learning, social experience.
13 There may be some biological component to it, but it
14 is relatively minimal compared to a mental illness.

15 Q. And were you able to determine with a
16 medical degree of reasonable certainty in the area of
17 forensic psychology whether or not Mr. Weik is ill,
18 or...?

19 A. It's my belief that he is mentally ill,
20 that he is actively mentally ill during the time that
21 I saw him, and that the clinical interview data and
22 the psychological test data are consistent with a
23 diagnosis schizophrenia, paranoid type, and are also
24 consistent with a history of major depressive
25 disorder with psychotic features.

1 Q. Were you able to determine whether he was
2 ill on April 30th or any time prior, 1998?

3 A. I believe that his illness predated the
4 offenses in question.

5 Q. And that's with a reasonable degree of
6 medical certainty?

7 A. Yes.

8 MR. BAILEY: Medical certainty?

9 THE WITNESS: Psychological scientific
10 certainty.

11 BY MR. BEAUFORD:

12 Q. You still say yes to that?

13 A. Yes.

14 MR. BEAUFORD: No further questions.

15 MR. BAILEY: If it please the Court.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. BAILEY:

19 Q. Dr. McKee, among the information you had
20 available to you was a complete social history and a
21 complete file that the Hall Institute had amassed; is
22 that not true?

23 A. I did not have all of the Hall Institute
24 material. I did have a report by Dr. Crawford, and I
25 had a verbal consultation with Dr. Shea.

1 Q. Okay. But you didn't have the social
2 history and that type information?

3 A. Yes. I did have that for review, but I
4 did not have the -- as I say, the medical record from
5 Hall.

6 Q. All right, sir. Based on your review of
7 the file, when somebody goes to the Hall Institute
8 for evaluation they have an EEG performed; do they
9 not?

10 A. They may. I don't know that it is
11 universal.

12 Q. Was it done in his case based on your
13 review of the file?

14 A. Again, I did not have the complete
15 medical record.

16 Q. Okay. You had Dr. Crawford's report; did
17 you not?

18 A. I did.

19 Q. Did not that report indicate that an EEG
20 was done, it was normal?

21 A. It may. I haven't looked at that for
22 some time, but if it says that.

23 Q. Okay. Can you pull that out, sir?

24 A. (The witness complied.) Yes, I see where
25 it does.

1 Q. Normal EEG?

2 A. I see where it says that the clinical
3 tests included an EEG and MRI. I'm not seeing it
4 right immediately where it says that it was within
5 normal limits.

6 Q. You wouldn't disagree with me if I told
7 you the file indicated he had normal MRI, normal EEG?

8 A. I would not disagree with that.

9 Q. And normal neurological consultation?

10 A. I would not disagree with that.

11 Q. And no psychiatric history?

12 A. Sir?

13 Q. Would you agree with me if the Hall
14 Institute file indicated that Mr. Weik had no
15 psychiatric history, either inpatient or outpatient,
16 prior to April 30th?

17 A. I would agree with that, yes.

18 Q. All right. And no history of alcohol or
19 drug abuse, would you agree with me on that?

20 A. I would agree with you on that, yes, sir.

21 Q. All right. And no history of any serious
22 suicide attempt prior to April 30th, 1998?

23 A. Well, that record may reflect that. That
24 is not what he told me.

25 Q. Okay. So he told you one thing and told

1 the social worker something else?

2 A. Well, that's possible.

3 Q. All right, sir. And does the file also
4 indicate that he comes from an intact family, no
5 divorce, separated parents, anything of that nature?

6 A. That's correct.

7 Q. And did he also attain the regular,
8 normal developmental milestones as a child?

9 A. That's my understanding.

10 Q. All right, sir. And that he exhibited no
11 behavioral problems of any significance during
12 childhood?

13 A. That is what that report says, yes.

14 Q. All right. And no history of head
15 trauma, is that what the Hall --

16 A. That's what the report says.

17 Q. All right, sir. And one of the people
18 they talked to was Mrs. Weik, was it not, wasn't she
19 one of the historians?

20 A. I believe so.

21 Q. Okay. And there's no indication that
22 Ms. Weik told the people at the Hall Institute that
23 he had been damaged with forceps through delivery
24 based on your review of the records?

25 A. That's my understanding, yes.

1 Q. Okay. There's no history of physical
2 abuse, is that correct, sir, in the Hall Institute
3 file?

4 A. In the Hall Institute report, that's
5 correct.

6 Q. All right. No history of any sexual
7 abuse?

8 A. That's correct.

9 Q. He dropped out of school in the 11th
10 grade?

11 A. That is correct.

12 Q. And you gave him an IQ test?

13 A. I did not.

14 Q. You did not. You had access to
15 Dr. Shea's IQ test?

16 A. I did.

17 Q. Is that a valid, normal IQ test that you,
18 yourself, have administered numerous times?

19 A. Yes.

20 Q. And did Dr. Shea's IQ test indicate
21 Mr. Weik has normal intelligence?

22 A. Yes.

23 Q. You concur with that based on your
24 interview with him?

25 A. I would concur with it, yes.

1 Q. All right. And he worked eight years at
2 the same job; is that correct?

3 A. That's my understanding of it.

4 Q. Wouldn't it be highly unusual, Doctor,
5 for a paranoid schizophrenic to be able to maintain
6 steady employment for eight years?

7 A. It would be unusual.

8 Q. He did it, didn't he?

9 A. That's my understanding.

10 Q. All right, sir. He also had hobbies,
11 hunting, fishing, things like that that he engaged
12 in?

13 A. Yes.

14 Q. All right, sir. Has no criminal history,
15 right?

16 A. That's correct.

17 Q. When you examined him was he oriented to
18 time, place, and person?

19 A. Yes.

20 Q. All right, sir. No doctor, no
21 psychiatrist, no psychologist had ever before he
22 murdered Susan Krasae diagnosed Mr. Weik as having
23 any mental illness, have they?

24 A. That's my understanding.

25 Q. All right. When Mr. Weik related these

1 voices and these things that he said he saw to you,
2 what did he tell you?

3 A. He told me that he heard voices telling
4 him that they are watching him, that they pertain to
5 the CIA.

6 Q. Okay. And did you ask him upon
7 April 30th, 1998 he thought Susan Krasae was a CIA
8 agent?

9 A. I did not.

10 Q. What about visual hallucinations, what
11 did he tell you about that?

12 A. He said that he has seen a hag that has
13 at times held him down.

14 Q. Okay. While he was in bed asleep?

15 A. Yes. And I believe also when he's been
16 awake.

17 Q. Okay. And did he relate seeing this hag
18 when he was going to sleep or waking up?

19 A. Yes.

20 Q. Okay. And that's called a hypnogogic
21 experience?

22 A. Yes.

23 Q. That's normal, isn't it? That's not
24 evidence of psychosis, is it?

25 A. It's not necessarily indicative of

1 psychosis.

2 Q. All right, sir. And there's a particular
3 name for it, right? Did I get the right name? You
4 have to help me out.

5 A. Yes, you did fine.

6 Q. Hypnagogic hallucination occurs while
7 you're falling asleep, right?

8 A. Yes.

9 Q. That's within the normal range of
10 experience, isn't it?

11 A. It can be, yes.

12 Q. It is, isn't it?

13 A. Yes.

14 Q. Not can be, it is normal?

15 A. It is. It happens.

16 Q. Doctor, what's the DSM-IV?

17 A. DSM-IV is the diagnostic manual of the
18 American Psychiatric Association.

19 Q. Is this it here?

20 A. Yes.

21 Q. You have one of these yourself, don't
22 you?

23 A. I do.

24 Q. Every psychologist, psychiatrist you know
25 about has got one of those, don't you?

1 A. Every psychiatrist. I can't speak for
2 every psychologist; I can't speak for every
3 psychiatrist.

4 Q. It's pretty much a standard reference
5 book --

6 A. It is.

7 Q. -- for any kind of personality disorder
8 or whatever. Look at page 275.

9 A. Yes, sir.

10 Q. That talks about seeing a vision as
11 you're going to sleep; does it not? I think I got it
12 highlighted there.

13 A. You've got a number of things
14 highlighted. On 275?

15 Q. I think so.

16 A. I'm not seeing that.

17 Q. Maybe I've got the wrong -- I told you I
18 don't know too much about this thing. I'm sorry, I
19 didn't have it highlighted. Start right here, "The
20 hallucinations..." Would you read that out loud?

21 A. (As read.) "The hallucinations must
22 occur in the context of a clear sensorium, that
23 those -- excuse me, clear sensorium. Those that
24 occur while falling asleep, hypnogogic, or waking up,
25 hypnopompic, are considered to be within the range of

1 normal experience."

2 Q. All right, sir. That's what Mr. Weik
3 related to you falling asleep?

4 A. Yes.

5 Q. So according to that book that's normal?

6 A. Yes.

7 Q. A person who is psychotic basically
8 means, as I understand that, they don't -- they've
9 lost touch with reality. Would that be a way to put
10 it?

11 A. That they have periods of time in which
12 they do, yes.

13 Q. But not all of the time?

14 A. Not all the time.

15 Q. All right. And aren't they generally
16 disheveled, I mean their personal appearance would
17 leave something to be desired usually?

18 A. They would not necessarily be disheveled.

19 Q. That's one characteristic of them, isn't
20 it?

21 A. It could be a characteristic.

22 Q. That's not a characteristic of Mr. Weik,
23 is it?

24 A. No.

25 Q. He's neat as a pin as he sits there?

1 A. Yes.

2 Q. Okay. You gave an opinion to
3 Mr. Beauford that not only is he a paranoid
4 schizophrenic now, he was a paranoid schizophrenic
5 for some time dating back to April 30th, 1998; is
6 that correct?

7 A. That's correct.

8 Q. When's the first time you saw him?

9 A. I saw him the first time on March 6th,
10 1999.

11 Q. Okay. Isn't it extremely difficult to
12 make a retroactive psychiatric diagnosis on somebody,
13 aren't you dealing with speculation?

14 A. It's not quite speculation, but it is
15 difficult to do, sir.

16 Q. All right, sir. But you're saying you
17 can do that, you can look back in time, on somebody
18 you've never laid eyes on before, and based on what
19 he and his family members tell you, you can make this
20 retroactive diagnosis, saying not only has he got
21 this condition now he had it a year ago?

22 A. That is the procedure that forensic
23 psychologists and forensic psychiatrists employ to
24 establish diagnosis and establish opinions regarding
25 criminal responsibility.

1 Q. All right, sir. So give me an example
2 for your evaluation of Mr. Weik that for at least one
3 month prior to April 30th, 1998, Mr. Weik had either
4 delusion or hallucinations other than the hypnogogic
5 hallucinations that are not characteristic of a
6 psychosis.

7 A. In principal the delusions of the CIA.

8 Q. Okay.

9 A. He has believed that for years. And not
10 only does he believe it, he's unable to be dissuaded
11 from the fact that his father likely was not --

12 Q. And his father --

13 A. -- a Vietnam --

14 Q. His father believes it, too, doesn't he?

15 A. His father believes it as well.

16 Q. And his mother?

17 A. It's my understanding, yes.

18 Q. How about his sister, does she believe
19 the CIA is after her?

20 A. I do not know of that.

21 Q. I want to try to get specific. You said
22 at some times they hear voices, they think things,
23 other times they don't. In order to diagnose
24 somebody as being paranoid schizophrenic, don't you
25 have to have two or more of delusions,

1 hallucinations, disorganized speech, or some type of
2 catatonic behavior, two or more episodes of that in
3 the month prior to the time you make your diagnosis?

4 A. That's my understanding, yes.

5 Q. I'm asking you to cite me two examples of
6 specific dates from your records where prior to April
7 the 30th, 1998, which is the date we're talking
8 about, he had either delusions, hallucinations,
9 disorganized speech, disorganized behavior, or any
10 negative symptoms if you could, sir.

11 A. Well, I cannot say specifically as to the
12 dates. What I can say is that when I did see him I
13 believed that he was delusional and that the strength
14 of those beliefs and the persistence of those beliefs
15 predated April 30th, 1998.

16 Q. Doctor, again, I apologize because I'm
17 just a lawyer and I don't know all this stuff, but
18 doesn't that DSM, isn't that the diagnostic criteria
19 that you have to use to diagnose somebody as having
20 any specific mental condition?

21 A. Yes.

22 Q. You've used that book in the past
23 yourself; is that right?

24 A. I have.

25 Q. Bear with me a second, please. Can you

1 look at page 285?

2 A. (The witness complied.)

3 Q. That's diagnostic criteria for
4 schizophrenia; is that correct?

5 A. That is correct.

6 Q. All right, sir. Looking at that, follow
7 along with me, doesn't it say in order to diagnose
8 somebody with schizophrenia you have to have two or
9 more of the following, each present for a significant
10 portion of time during a one-month period?

11 A. Yes.

12 Q. Or less. That's as of the date of
13 diagnosis, right?

14 A. Yes.

15 Q. All right, sir. And then it says
16 delusions, hallucinations, disorganized speech,
17 grossly disorganized catatonic behavior, or negative
18 symptoms. And, Doctor, you cannot cite two of five
19 things occurring within the one month prior to the
20 date that you're saying he's a paranoid
21 schizophrenic, can you?

22 A. I cannot to a specific date. I can talk
23 in terms of the delusions that I observed that he
24 had, and I can talk to the losing of the
25 associations, the disorganized speech that he had

1 that I -- when I examined him.

2 Q. You wouldn't disagree with me that you
3 can't, according to DSM, diagnose him as being a
4 paranoid schizophrenic on that date, April 30th,
5 1998, because you can't cite at least two of those
6 factors as occurring during the 30-day period prior
7 to that time?

8 A. That's right, I cannot.

9 Q. All right.

10 THE COURT: Solicitor, do you mind
11 holding just a minute?

12 MR. BAILEY: Yes, sir.

13 THE COURT: Let me speak to you just a
14 minute.

15 (Whereupon, a bench conference was held
16 off the record in the presence of the
17 jury but out of the hearing of the
18 jury.)

19 THE COURT: Go right ahead.

20 BY MR. BAILEY:

21 Q. Doctor, psychology is as much an art as
22 science, isn't it?

23 A. Depends on what subspecialties you're
24 talking about.

25 Q. Your subspecialty.

1 A. Sir?

2 Q. Your subspecialty.

3 A. I would say that it is a blend of science
4 and art.

5 Q. And you would agree with me that two
6 equally qualified psychologists could, with the same
7 set of facts, come up with two different good faith
8 opinions on somebody, couldn't they?

9 A. That is true.

10 Q. All right, sir. And you didn't have the
11 opportunity to observe Mr. Weik in court Thursday,
12 did you?

13 A. I did not.

14 Q. Testified in front of the jury on what
15 occurred, his version of what occurred on April 30th,
16 1998.

17 A. I did not have that opportunity.

18 Q. Have you had the opportunity to listen to
19 the tapes where he confessed to the murder of Susan
20 Krasae?

21 A. I have not. I didn't have that
22 opportunity, no.

23 Q. The defense didn't give you those tapes?

24 A. I did not have them, no.

25 Q. Did they give you a transcript of those

1 tapes to review?

2 A. Yes.

3 Q. All right, sir. But you didn't think --
4 when disorganized speech is one of the
5 characteristics of the paranoia, you didn't think
6 that it would be important to actually get a tape
7 showing what his speech was? Would that have helped
8 you?

9 A. That would have helped me, yes.

10 Q. All right, sir. And when you got the
11 transcript, did you ask them for the tape, did you
12 say this would help me make a decision in a real big
13 case here?

14 A. I did not.

15 Q. All right, sir. Why not?

16 A. Because my role in this case was to
17 conduct the interviews and administer the
18 psychological tests, which I did.

19 Q. Do you know anything about shotguns?

20 A. Sir?

21 Q. Do you skeet shoot or bird shoot, or do
22 anything with shotguns?

23 A. I don't do anything with shotguns, no.

24 Q. All right, sir. Now, this Trailmaking
25 Test that shows whether or not you have organized

1. thoughts, that you can concentrate and do certain
2. things in sequence; is that what it's designed to do?

3. A. That's correct.

4. Q. Let's suppose somebody gets an automatic
5. shotgun, loads several rounds into that shotgun, puts
6. several more rounds in their pocket, jack one in from
7. the magazine into the chamber, pull the trigger,
8. shoot somebody, the gun jams, they then clear -- put
9. the gun on safety, clear the jam, take the safety off
10. and fire three more times. Would that be an example
11. of concentrating and doing some organized thought to
12. accomplish a task?

13. A. That would be an example of that, yes.

14. Q. That would be a much more concrete
15. example of this thing with A, B, C's, 1, 2, 3's,
16. wouldn't it, that would be real life?

17. A. That's true.

18. Q. All right, sir. Mr. Weik is an odd
19. fellow, isn't he?

20. A. He is.

21. Q. No doubt about that. He's weird, isn't
22. he?

23. A. His behavior and his thinking patterns
24. and his beliefs are atypical and not within normal
25. experience.

1 Q. Okay. And is he the type of person that
2 would kind of take things the wrong way, take offense
3 when no offense was intended, is that part of his
4 makeup?

5 A. Yes, I would say so.

6 Q. Is he the type of person that wouldn't
7 have any real close friends other than maybe
8 immediate family members?

9 A. Yes.

10 Q. And the kind of person that would suffer
11 from a little bit of paranoia?

12 A. I think he's got a lot of paranoia.

13 Q. A lot of paranoia. Aren't all these
14 characteristics I described typical of somebody with
15 a schizotypal personality disorder?

16 A. They are found in people with schizotypal
17 personality disorder.

18 Q. Thank you, sir. That's all I have.

19 THE COURT: Anything else?

20 MR. BEAUFORD: No further questions of
21 this witness.

22 THE COURT: All right. Thank you, sir,
23 you may step down.

24 Ladies and gentlemen, it's just
25 about one o'clock, we've ordered your lunch, I

1 think it's here or will be here momentarily.
2 Let's take a break at this time. Again, don't
3 discuss the matter.

4 What I intended to do was to bring
5 this lunch in here so that you all could eat
6 together and not have to worry about going
7 out, for your convenience, and maybe to save a
8 little time. But I'm not -- we're not on any
9 time clock by any means, and so I want you all
10 to do what you want to do. If you will just
11 indicate to the bailiff or whomever is seated
12 outside of your door when you all get ready,
13 then we can resume.

14 Obviously others have got to go find
15 a sandwich and so forth, too. We have some
16 food brought in for -- I think for all of us
17 here involved in this case, at least from back
18 to the bar forward. And so all I'm telling
19 you is ten minutes might not be long enough,
20 but you don't have to stay out an hour or hour
21 half or anything like that, you can do what is
22 comfortable for you and let us know and we
23 will certainly try to arrange our schedule to
24 fit yours so we can bring you back and
25 continue on.

1 All right. Thank you very much.
2 They say about five minutes they'll have it
3 here.

4 (Jury excused.)

5 THE COURT: Let's just adjourn for a few
6 minutes now, 30 minutes, or something like
7 that, 45 minutes, maybe. We'll just wait and
8 see what the jury wants to do. Just stand at
9 ease for just a few minutes.

10 (Lunch recess taken.)

11 THE COURT: Thank you. Be seated,
12 please. All right. Are you all ready?

13 MR. BAILEY: State's ready, Your Honor.

14 MR. BEAUFORD: Yes, Your Honor.

15 THE COURT: All right. Very good. Bring
16 them.

17 (Jury present.)

18 THE COURT: All right, sir, Mr. Beauford.

19 MR. BEAUFORD: Yes. Defendants call
20 Donna Schwartz-Watts.

21 (Donna M. Schwartz-Watts, M.D., called as
22 a witness by the Defendant, having first
23 been duly sworn, was examined and
24 testified as follows:)

25 THE CLERK: Would you give us your full

1 name and spell your last name?

2 THE WITNESS: Donna Marie Schwartz-Watts,
3 S-c-h-w-a-r-t-z-W-a-t-t-s.

4 DIRECT EXAMINATION

5 BY MR. BEAUFORD:

6 Q. Dr. Schwartz-Watts, where do you live?

7 A. Columbia, South Carolina.

8 Q. How long have you lived in Columbia?

9 A. Since 1963.

10 Q. Where did you go to high school?

11 A. Lower Richland High School.

12 Q. And did you go to college after high
13 school?

14 A. Yes.

15 Q. Where did you go?

16 A. Furman University in Greenville, South
17 Carolina.

18 Q. What was your area of study there?

19 A. I had a bachelor of arts in psychology.

20 Q. Did you go to any further schooling?

21 A. Yes. I went to medical school at the
22 University of South Carolina in Columbia and
23 graduated there in 1989.

24 Q. And where did you go after there, after
25 that?

1 A. After that I completed an internship at
2 the VA Hospital and the William S. Hall Institute,
3 and I completed a residency in psychiatry at the Hall
4 Institute in Columbia, and then I spent another year
5 training in forensic psychiatry at the Hall Institute
6 in Columbia.

7 Q. And currently now where are you employed?

8 A. Presently I am an associate professor at
9 the Medical School in Columbia in the Department of
10 Neuropsychiatry.

11 Q. And how long have you been in that
12 capacity?

13 A. For the past two years.

14 Q. Are you board certified in the area of
15 psychiatry?

16 A. Yes.

17 Q. How long have you been board certified?

18 A. Since 1995.

19 Q. And what does board certified mean?

20 A. Board certification, all medical doctors
21 when you pursue a residency in training in a field, a
22 board certification is an extra credential you get
23 that means you've been certified by peers that you're
24 competent in your field.

25 Q. And have you testified in court before?

1 A. Yes, I have.

2 Q. And have you testified in a capital case
3 before?

4 A. Yes, I have.

5 Q. Have you testified on behalf of the State
6 before?

7 A. Yes.

8 Q. And have you testified for the defendant?

9 A. Yes.

10 Q. And have you been declared an expert in
11 the area of psychiatrists, forensic psychiatry in any
12 court?

13 A. Yes.

14 Q. Approximately how many times?

15 A. Approximately 160 times.

16 MR. BEAUFORD: Your Honor, I offer to
17 move her as an expert in the area of forensic
18 psychiatry.

19 MR. BAILEY: Without objection.

20 THE COURT: All right. I find that she's
21 qualified as an expert in that field, forensic
22 psychiatry.

23

24 BY MR. BEAUFORD:

25 Q. Dr. Schwartz-Watts, did you have the

1 occasion to see Mr. Eddie Weik?

2 A. Yes, I did.

3 Q. Did you do an examination on Mr. Weik?

4 A. Yes. I saw Mr. Weik over a period of
5 months beginning in March of 1999 in the Dorchester
6 jail. On the first occasion I had a resident in
7 forensic psychiatry with me, Dr. Finkenbine, we went
8 into the detention center and spent about two hours
9 interviewing Mr. Weik.

10 I came back again in April of 1999
11 and spent three hours with him at that time. And
12 I've also through various court proceedings during
13 this -- for this charge have had the opportunity to
14 evaluate him.

15 Q. When you saw -- what does an interview
16 consist of?

17 A. Well, basically each interview is for
18 different purposes. The first time I saw Mr. Weik in
19 the jail it took approximately two hours just to get
20 a general understanding of who he is as a person, how
21 he thinks, how he feels, how he acts. I tried to
22 gain as much history as I could about him growing up,
23 things like had he ever been in the hospital, his
24 school, his family life.

25 And specifically in the first

1 evaluation I was looking for the presence of mental
2 disorders, that is problems with the way he thinks,
3 feels, or acts that reached the level that a
4 psychiatrist could diagnose him.

5 Q. You said during the first visit you were
6 looking for the possibility of any evidence of mental
7 disorder. Did you find any?

8 A. Yes.

9 Q. And tell us about your findings and how
10 you came about your findings.

11 A. During the first interview with Mr. Weik
12 it was very difficult to get information from him.
13 He was cooperative and he would attempt to answer
14 questions, but he had difficulty kind of sticking
15 with his answer. He would begin rambling, talking
16 about other things that were pertinent to his case,
17 but really had nothing to do with the question that I
18 asked.

19 Also at that time he was able to
20 describe that he heard voices outside of his head,
21 which is commonly seen in people with mental
22 illnesses that have disorders with their thinking.
23 But after the first interview I did not have enough
24 information, I needed more information before I could
25 give him a diagnosis. But at that time I knew he had

1 a disorder of thought, but I just wasn't sure which
2 form.

3 Q. Dr. Schwartz-Watts, were you able to tell
4 whether he was malingering?

5 A. Yes.

6 Q. How were you able to tell that?

7 A. Malingering is the intentional faking of
8 symptoms. And that's very commonly seen in our
9 profession as forensic psychiatrists. Many times
10 people attempt to fake symptoms to get out of legal
11 situations in other areas.

12 Part of the way we do that is by
13 knowing, a look through a lot of research, what the
14 actual symptoms of these illness are. So, for
15 example, people that would fake mental illness and
16 thought disorder, they don't know all the
17 characteristics when they hear voices, what make them
18 genuine or not, for example.

19 In Mr. Weik's case, his voices
20 commenting on his behavior, they're outside of his
21 head. That is very consistently seen in people with
22 schizophrenia and thought disorders.

23 People that malingers may say the
24 voices are inside their heads, they don't know
25 exactly what they're saying, they're not very sure,

1 they haven't developed ways to explain what those
2 voices mean. So there's a lot of the literature and
3 research that we know about these mental illnesses,
4 we know whether they're genuine or not.

5 Also I had a psychological
6 consultation with Dr. McKee. And the psychologists
7 have developed some pretty good testing that also
8 will detect the presence of malingering or not. So
9 based on my own examination of him, the way that he
10 reported his symptoms and also the talking with
11 Dr. McKee, I felt that his symptoms were consistent
12 with that of a mental disorder and not somebody
13 faking.

14 Q. What was the behavior like during your
15 visits?

16 A. On the first visit Mr. Weik had very
17 short hair, basically didn't have any of the
18 sideburns or the longer hair that we see today, his
19 hair was pretty much shaved. He was dressed in the
20 detention center clothing that's normally worn. He
21 was cooperative. He spoke with me, he tried to
22 answer all questions. He, again, would ramble at
23 times, but I believe that he was cooperative.

24 Q. The information that you gained from
25 Mr. Weik during that time, were you able to determine

1 the validity of it, or the non validity of some of
2 the information he gave you, and how were you able to
3 do that?

4 A. Well, the way that he manifests himself
5 was not things that he could report that led me to
6 believe he had a thought disorder. His thinking was
7 not organized. He would switch from topic to topic
8 and there wasn't really a way that you could
9 understand how he got from one point to another.
10 That's called a loosened association, meaning that
11 things kind of make sense, but you can't follow the
12 logic that's involved. For example, you might be
13 talking about blue shoes and then begin to talk about
14 the carpeting and not really understanding how people
15 are associating their thinking. He had that symptom.

16 The other that he had was, again,
17 when he was allowed to talk. If you asked Mr. Weik
18 questions directly, "How old are you? What is the
19 weather like?" He can answer those very
20 specifically. But in the interview when you would
21 ask him general questions and you would allow him to
22 talk, he would begin rambling. And then at that time
23 he began talking about the voices that he's heard.

24 Q. Were you able to determine at any point
25 when his illness -- when his illness started?

1 A. Yes.

2 Q. And how are you able to determine that,
3 and what did you determine?

4 A. Basically through Mr. Weik's history and
5 also just some of the records and things that I have,
6 it's my opinion his illness, this illness
7 specifically started in September of 1997.

8 Q. And what's so significant about
9 September 1997 that suggests that illness started
10 there?

11 A. Well, this was shortly after Mr. Weik had
12 joined the church. He had been involved with the
13 church, I believe he had been baptized on his
14 birthday earlier that year in April, he was seeing a
15 woman at the time by the name of Crystal. He reports
16 that he began to have ideas that this woman was
17 attempting to disrupt the church through spreading
18 gossip, personal things about him, and her mission
19 was to destroy this church. That was the beginning
20 of his thinking that didn't quite make sense.

21 He then, just based on further
22 evaluation, further history, at work he had a very
23 stable work history and he began to have some
24 problems at work. As you heard earlier he got a
25 discipline and he's never had that kind of history

1 before. It was obvious he had become irritable on
2 the job situation. And then he began discussing
3 vividly in September of 1997 the onset of what he
4 called the hag. And that was a visual hallucination
5 of a person that would hold him down and paralyze
6 him. But then he also described clearly beginning to
7 hear voices at that time. And these were voices that
8 would say very negative things about him, you're not
9 good, people are after you. They encouraged him to
10 have paranoid thinking.

11 Q. Dr. Schwartz-Watts, what is
12 schizophrenia?

13 A. Schizophrenia is a severe major mental
14 illness. And mental illnesses basically have
15 different forms, you can have disorders of mood, you
16 can have anxiety disorders like panic attack.
17 Schizophrenia is a disorder of thought, meaning that
18 your thinking is disorganized, you believe things
19 other people don't believe. For example, someone
20 with schizophrenia could see the same thing that you
21 could see, but they would interpret it in a very
22 different way.

23 For example, if someone came and
24 took a tie and you could ask this person with
25 schizophrenia did you steal that tie? He might say

1 no, this person stole it from me, it was always my
2 tie, I had it in my closet, they came in and raided
3 my house. So in that example they would see the same
4 thing, that someone had a tie, you would observe them
5 taking that tie from someone, but they would have a
6 totally different explanation for why that happened.

7 Q. What is schizotypal?

8 A. Schizotypal personality disorder, that's
9 very different. Schizophrenia is a biological and a
10 chemical imbalance, we know that in the brain your
11 brain makes a certain chemical. In schizophrenia we
12 know there's too much of this chemical and that's why
13 we give medications, to decrease that level.

14 Schizotypal personality disorder is
15 like a mental illness in the sense that it's a brain
16 imbalance, but it's a severe personality disorder
17 where one goes through virtually all of your life
18 basically having magical thinking, interpreting
19 things in different ways. But it's very different
20 because you don't have delusional beliefs, the false
21 beliefs that are not true, and you also don't usually
22 have the hallucinations that consistently.

23 Q. Were you able to determine how often, or
24 if any, when Eddie would have these hallucinations,
25 dreams, voices, were you able to determine any of

1 that?

2 A. To some degree. Mr. Weik does not
3 believe he's mentally ill. And that is very commonly
4 seen in people with schizophrenia. Part of the
5 difficulty is they do not want to admit they're ill,
6 they do not want to be seen as mentally ill. And
7 because of that at times he's not very forthcoming,
8 he's what's called paranoid and guarded.

9 He may give you some details about
10 some things and then not about others. I'm not
11 really sure all the time how he thinks and why he
12 picks to talk about the things that he does, but that
13 is very commonly seen in schizophrenia. So he does
14 not think he's ill at all.

15 Q. And did you provide any other interviews,
16 or inquiries, or examination on Mr. Weik?

17 A. Yes. Again, I saw him the next month in
18 April. And at that time to me it was a little more
19 clearer about his diagnosis. He was different in the
20 way that he looked on the outside, meaning an affect
21 is how you express your emotion, you would say if
22 someone's smiling that they had an appropriate
23 affect, they were normal.

24 Mr. Weik's affect was very
25 inappropriate when I saw him the second time. He

1 would laugh when discussing the death penalty, he
2 would refer to -- he didn't know what form of death
3 penalty he could receive. He stated he would
4 probably get the electric chair, but he calls it old
5 sparky. And whenever he refers to old sparky he
6 would laugh very bizarrely, very loudly,
7 inappropriately.

8 He also at that time began
9 discussing some more delusions that I was not aware
10 of on the first occasion. Some of the false beliefs
11 he has, to give examples, he believes about the CIA.
12 And his family also shares this belief. But, again,
13 he is a little more bizarre in his interpretations of
14 this. He believe the CIA, because of some of the
15 things his father did in the military, is after he
16 and his family, that they monitor him, they monitor
17 him through vehicles, Blazers that pass by his house.
18 He believes that they could be disguised, you may not
19 always know who is on the CIA or not because the name
20 Smith and Jones are very common to all throughout the
21 United States, so the CIA could basically be anybody.

22 Another delusion that he has is that
23 he has very special powers. And some of those powers
24 include an extraordinary sense of smell. He stated
25 that in a hearing that had nothing to do with this

1 legal proceeding when he was at the courthouse he
2 could smell the perfume a woman was wearing from
3 across the street when she walked by.

4 Some of the other delusions that
5 he's had are in regards to his body. When he was in
6 high school he had a hunting accident where a gun
7 misfired and his arm became disfigured. At that time
8 he painted a swastika on his arm because he felt his
9 arm was dead, it was useless to him, it had no
10 further service for his body. So he's had different
11 kinds of bizarre beliefs that are based on things
12 that happened but he interprets them very
13 differently.

14 Q. And were there any other conclusions that
15 you came to as a result of your examination?

16 A. Yes. It's my opinion that he does suffer
17 this severe mental disorder known as paranoid
18 schizophrenia. In addition to that he even, in my
19 opinion, had a mood disorder. Before these events
20 happened in April, beginning in September when he
21 began hearing the voices and feel that he was being
22 persecuted, he also developed a depression. He was
23 very irritable, he was not sleeping at night, he on
24 two different occasions attempted suicide, with the
25 last being on his birthday.