

RECEIVED

OCT 14 2008

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County

Perry M. Buckner, Circuit Court Judge

JOHN EDWARD WEIK,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

SUPPLEMENTAL
APPENDIX

ROBERT M. DUDEK
Deputy Chief Appellate Defender
for Capital Appeals

ELIZABETH A. FRANKLIN-BEST
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589

ATTORNEYS FOR PETITIONER

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

P. O. Box 11549
Columbia, S. C. 29211

ATTORNEYS FOR RESPONDENT

INDEX

INDEXi
DR. MORGAN’S TESTIMONY1
TESTIMONY OF JOHN WILLIAM GUNTER.....42

MR. R. WEIK ON CROSS

1 MR. ZELENKA: No objection.

2 THE COURT: You may step down, and you are excused.

3 (Witness excused)

4 THE COURT: Call your next witness.

5 MR. O'CONNELL: Dr. Morgan.

6 (Discussion between counsel and the Court concerning schedul-
7 ing)

8 THE COURT: I'm going to stop at this time for your lunch. The
9 Court stands adjourned for your lunch hour. Thank you very much.

10 (Whereupon, the Court stood adjourned for the lunch period and
11 then resumed)

12 THE COURT: Is the Applicant ready to proceed?

13 MR. O'CONNELL: Yes, sir.

14 THE COURT: Respondent ready?

15 MR. ZELENKA: Yes, sir.

16 THE COURT: Let the record reflect that all parties are pre-
17 sent. Call your next witness, please.

18 MR. O'CONNELL: Dr. Morgan.

19 DONALD WILLIAM MORGAN, being duly sworn,
20 testified as follows:

21 THE COURT: If you would speak into the microphone, please,
22 and state your full name for the record, spelling your last
23 name

24 WITNESS: Donald William Morgan, M O R G A N.

25 THE COURT: Your witness, counsel.

1 DIRECT EXAMINATION

2 BY MR. O'CONNELL:

3 Q. Dr. Morgan, you are a psychiatrist?

4 A. That's right.

5 Q. Would you give us a little of your educational and pro-
6 fessional background, please?

7 A. I graduated from the University of Pennsylvania in 1956
8 with a degree in mathematics. I graduated from the University
9 of Buffalo School of Medicine in 1960, with a degree in -- as an
10 M.D.

11 I did a rotating internship at Triple Army Hospital and I
12 did a three year residency in psychiatry at Walter Reed Army Hos-
13 pital.

14 I then went to Downstate Medical Center in Brooklyn, New
15 York, and got a degree in research psychiatry.

16 Q. And would you tell the Judge about since you got the degree
17 you just spoke about -- what you did after that professionally?

18 A. I went back to Walter Reed where I was at first Chief of
19 Psychiatry and then Chief of the Department of Psychiatry until I
20 retired in 1980.

21 Q. Was that from the United States Army?

22 A. Right.

23 Q. All right.

24 A. And then I came here to teach at the University of South
25 Carolina, where I'm a Distinguished Professor.

DR. MORGAN ON DIRECT

1 Q. Are you still actively teaching, or are you Emeritus?

2 A. I'm there at this point to teach.

3 Q. During your time at the University of South Carolina, what
4 areas of psychiatry were you involved in?

5 A. I initially was in general psychiatry. I then was asked to
6 begin a program in forensic psychiatry because I had some ex-
7 perience at Walter Reed in similar kinds of cases.

8 Q. Have you testified previously and been qualified as an ex-
9 pert in the State Courts of South Carolina?

10 A. Yes.

11 Q. And you have testified in Federal Court as well?

12 A. Yes.

13 Q. And you have been qualified as an expert?

14 A. Yes.

15 Q. Have you specifically testified in death penalty cases?

16 A. Yes.

17 Q. In the Courts of South Carolina?

18 A. Yes.

19 Q. How many death penalty cases do you think you have testi-
20 fied in in South Carolina as a forensic psychiatrist?

21 A. Well, I had to add them up. At that time it was sixteen,
22 and then I've had probably two cases after that.

23 Q. Have you also testified in non-death penalty criminal
24 cases in South Carolina?

25 A. Oh, yes.

DR. MORGAN ON DIRECT

1 Q. And have been qualified as well?

2 A. Yes.

3 MR. O'CONNELL: Your Honor, I would proffer Dr. Morgan as an
4 expert.

5 THE COURT: Any objection as to qualifications?

6 MR. ZELENKA: No objection.

7 THE COURT: So qualified and without objection.

8 You may proceed.

9 BY MR. O'CONNELL:

10 Q. Dr. Morgan, you were involved -- became involved in this
11 case in 1999?

12 A. That's right.

13 Q. How did you become involved in it?

14 A. I was called in by Dr. Watts, and she asked me would I
15 examine the Defendant and whether or not his problems rose to
16 the degree that he could plead not guilty by reason of insanity.

17 Q. Now, why would Schwartz-Watts -- is she someone you have
18 had you formerly had an association with her?

19 A. Yes. I had known Dr. Schwartz-Watts since she was a first
20 year medical student.

21 Q. Was she one of your students?

22 A. Yes.

23 Q. Prior to examining Mr. Weik -- this was done in 1999, you
24 say?

25 A. This was done in 1999.

DR. MORGAN ON DIRECT

- 1 Q. All right.
- 2 A. Maybe two weeks before the trial was scheduled.
- 3 Q. Now, prior to examining Mr. Weik, what materials were made
4 available to you by the defense lawyers or by anyone else?
- 5 A. None.
- 6 Q. So did you see any of the discovery materials that the de-
7 fense lawyers got from the State, from the Solicitor's Office?
- 8 A. No.
- 9 Q. Any investigative reports, defense investigator's reports?
- 10 A. No.
- 11 Q. Did you see any medical reports from the South Carolina State
12 Hospital?
- 13 A. I examined him there, and I'm sure I could have looked at
14 the records, but I did not.
- 15 Q. You examined him there?
- 16 A. Yes.
- 17 Q. Approximately how many times did you examine him prior to
18 the trial?
- 19 A. Twice.
- 20 Q. And the purpose of your examinations was what?
- 21 A. To assist in making a diagnosis and to assist in answering
22 the question of whether or not any mental illness that he had
23 would make him eligible for entering a plea of not guilty by rea-
24 son of insanity.
- 25 Q. Were you also there to examine him on the issue of whether
109

DR. MORGAN ON DIRECT

1 or not he was competent to stand trial?

2 A. That happened here in this Court.

3 Q. Okay. Excuse me one second, please. I apologize.

4 (Brief pause in the proceeding)

5 BY MR. O'CONNELL:

6 Q. Dr. Morgan, I want to show you what has been marked for iden-
7 tification as Plaintiff's Exhibit 1 and 2. Have you seen that
8 type of document before?

9 A. Yes.

10 Q. And what is that?

11 A. It is a staffing document.

12 Q. Is that typically -- first of all, from what institution
13 is that?

14 A. This I'm sure came from the Hall Institute.

15 Q. And at what stage of a person's admission is a document like
16 that produced?

17 A. Usually at the end.

18 Q. If I could show you on the second . .

19 MR. O'CONNELL: Judge, I would move to admit Plaintiff's
20 Exhibit 2, which is a portion of the . .

21 THE COURT: Wait a second. It hasn't been identified for
22 the record, and I want to know if there is an objection.

23 Ask him to identify it as to date and what the title of
24 the document would be.

25 BY MR. O'CONNELL:

DR. MORGAN ON DIRECT

1 or not he was competent to stand trial?

2 A. That happened here in this Court.

3 Q. And I don't know if Judge Buckner is familiar with
4 you, but I am. You have testified both for the State
5 and for the Defense on the issue of competency?

6 A. Yes.

7 Q. Now, I want to direct your attention back to the
8 -- to 1999. Did you have an opportunity to meet with
9 the defense lawyers prior to your testimony?

10 A. No.

11 Q. Now, when do you think you began testifying in
12 death penalty cases in South Carolina? Just approxi-
13 mately?

14 A. The first one I can remember is Larry Gene Bell,
15 and I don't know when that was.

16 Q. All right. Was there a time -- did there come a
17 time in your experience in testifying in death penalty
18 cases that lawyers began to meet with you and other
19 mental health physicians and personnel prior to the
20 trial?

21 A. Well, even in that case I met with Mr. Swerling for
22 about an hour, but things have evolved so that generally
23 all of the people involved in the case have at least
24 one meeting so that we know what the others have found
25 out or what they are doing and what kind of strategy

110-1

DR. MORGAN ON DIRECT

1 might be helpful.

2 Q. And typically who would have been at those meet-
3 ings that you had?

4 A. Typically it would be a lawyer, a psychologist, the
5 investigators, or probably two lawyers, the lead lawyer
6 and the assistant, and any mental health experts.

7 I review medical examinations, including MRIs and
8 generally an EEG.

9 Q. In this case, you got involved in 1999. I'm
10 sorry.

11 Before I go there, you said over time the practice
12 as you have experienced in preparing your testimony for
13 trial has evolved.

14 Do you think it has become standard for you to
15 have the meetings you have described in death penalty
16 cases prior to trial?

17 A. Well, usually prior to any testimony I give.

18 Q. I'm sorry, but at what point in time from the time
19 you first testified to date, when do you think it became
20 standard to have meetings between experts and lawyers
21 and the investigators?

22 A. From my own experience, I would say in the mid-
23 eighties.

24 Q. In this case, did such a meeting occur?

25 A. No.

110-2

DR. MORGAN ON DIRECT

1 Q. In this case, did you repeat your direct examina-
2 tion?

3 A. Right.

4 Q. Was it a man or woman?

5 A. It was a man.

6 Q. Do you happen to remember his name?

7 A. No, I don't remember his name.

8 A. Did you ever talk to him before you got up on
9 this witness stand and testify?

10 A. No.

11 Q. Did you talk with his co-counsel?

12 A. We talked briefly with his co-counsel. I didn't
13 talk much but Dr. Watts really felt that Dr. Brannon
14 should be called, and she took care of that.

15 Q. What was the substance of the conversation with
16 the woman lawyer who represented Mr. Weik in 1999?

17 A. . .

18 Q. Was it substantive about this case, or was it
19 about administrative matters and getting another expert

20 . .

21 A. It was only about getting another expert. I was
22 only sitting there. I didn't really participate in
23 that.

24 Q. Did she ask you at all about your proposed or ex-
25 pected testimony?

110-3

DR. MORGAN ON DIRECT

1 A. No.

2 Q. Did you have an opportunity to review any investi-
3 gative reports the mitigation investigators had prepared?

4 A. No.

5 Q. Then in 1999?

6 A. No.

7 Q. When you went on the stand, did you know what you
8 were going to be asked?

9 A. No.

10 Q. Now, in preparation for today, what materials did
11 you review?

12 A. I reviewed his father's naval discharge. I reviewed
13 Dr. Rodgers' testimony, Drs. Crawford, Watts, McKee,
14 Shea, Brannon, Berman, and my own.

15 In terms of investigative reports, there were many,
16 many reports, and I had those.

17 Q. All right. Were there reports from 1999?

18 A. Yes.

19 Q. And they were reports that were generated as a
20 result of this case?

21 A. Yes.

22 Q. Now, the reports that you reviewed in preparation
23 for today, that existed in 1999, if you had seen them
24 -- and I'm talking about investigative reports plus
25 Mr. Weik's father's reports from the Naval Hospital, tell

110-4

DR. MORGAN ON DIRECT

1 me what difference that would have made in your testi-
2 mony, if you had had those records available to review
3 in 1999?

4 A. Well, it certainly would have bolstered my opinion.
5 His father left the service with a diagnosis of schizo-
6 phrenia, and Dr. Watts and I both felt that he had
7 schizophrenia.

8 Q. You didn't know that in 1999, did you, that his
9 father was discharged . .

10 A. No. .

11 Q. So what difference would it have made in that par-
12 ticular aspect, had you known his father had a diagnosis
13 of schizophrenia when you testified in 1999?

14 A. I could have explained the genetic component of
15 schizophrenia.

16 Q. Explain that to the Court, the genetic component
17 of schizophrenia.

18 A. We're not sure how much it is, but there is clearly
19 a genetic component to schizophrenia.

20 Only about two percent of the population has schizo-
21 phrenia but if you have a sibling or a parent, the
22 chances are greatly increased that you would have
23 schizophrenia.

24 Q. All right, sir. Now, aside from that, is there any
25 other difference that you can think of that it would

110-5

DR. MORGAN ON DIRECT

1 have made in your testimony in 1999 if you had what
2 existed in 1999 that had been prepared by the investi-
3 gators in this case?

4 A. . . .

5 Q. I'm talking about anything that would have changed
6 or assisted with your testimony?

7 A. Well, I certainly think that we could have impeached
8 the State's psychiatrist.

9 Q. Talk to me about that.

10 A. I . . .

11 Q. Well, first of all, I want you to include in that
12 question what difference it would have made had you been
13 able to speak with the lawyers that represented Mr.
14 Weik at any time substantively other when when you were
15 in this Courtroom.

16 A. Well, I hopefully could have educated them about
17 a way to ask me questions that would help me explain to
18 the jury my findings.

19 Q. All right. Now, I want you to address yourself to
20 both the issue of competency and the issue of your tes-
21 timony in the penalty portion of the trial?

22 A. I don't think I can testify to that. I testified
23 to the case in chief.

24 Q. All right, sir. There was -- was there testimony
25 of one of the psychiatrists or psychologists, or more

110-6

DR. MORGAN ON DIRECT

1 than one, that testified for the State that you ques-
2 tioned or believed was wrong?

3 A. I believed the diagnosis was wrong.

4 Q. All right.

5 A. I thought that the Defendant suffered from paranoid
6 schizophrenia. They insisted that he had a schizoid
7 personality.

8 One of the main reasons that they gave for coming
9 to that conclusion was that his social life did not
10 deteriorate.

11 That is not a requirement when you're talking about
12 paranoid schizophrenia. Many people with paranoid
13 schizophrenia work every day.

14 Q. Do you recall who was testifying that there was no
15 determination of his functioning prior to the time the
16 shooting occurred?

17 Do you recall which one of the mental health ex-
18 perts testified to that?

19 A. I think it was Dr. Shea but I am not sure.

20 Q. The fact that the deterioration function is not one
21 of the criteria for schizophrenia, is that in the DSM, the
22 Diagnostic and Statistical Manual?

23 A. Yes, and there is a section in there that says gen-
24 erally people with schizophrenia have a downward
25 course; that is, they do deteriorate, but with paranoid

DR. MORGAN ON DIRECT

1 schizophrenia that is not true.

2 Q. That is not true?

3 A. That is not true.

4 Q. Now, the testimony from the State's psychiatrist
5 in 1999 was that Mr. Weik -- his diagnosis was that he
6 had a schizotypal personality disorder?

7 A. Right.

8 Q. Can you explain to the Judge what that is and whe-
9 ther it is considered to be a major mental illness?

10 A. It is an Axis Two diagnosis.

11 Q. What is an Axis Two diagnosis?

12 A. A personality disorder as well as mental retardation
13 is not an Axis Two. I can't remember right now -- I
14 brought the book but I cannot remember -- there are five
15 or at least five on the whole list of things . .

16 Q. Would you like to refer to the DSM?

17 A. I'd rather use the TR, if I could get it.

18 THE COURT: Have a seat. They'll bring it to you,
19 Doctor.

20 (Brief pause in the proceeding)

21 BY MR. O'CONNELL:

22 Q. Doctor, I'm handing you a publication. What is
23 that?

24 A. This is a Diagnostic and Statistical Manual, the
25 Fourth Edition, text revised.

110-8

DR. MORGAN ON DIRECT

1 Q. All right. Is that a text that is recognized by
2 psychiatrists and psychologists?

3 A. Yes. It is the manual of mental disorders. It
4 is the manual.

5 Okay, for schizotypal personality, you have to have
6 a pervasive pattern of social and inter-personal defi-
7 cits marked by acute discomfort which can reduce capacity
8 for close relationships, as well as cognitive inter-
9 stitupal distortions or eccentric behavior beginning in
10 early adulthood and present in a variety of contexts,
11 as indicated by five or more, and then there is nine
12 things to choose from.

13 And it does not occur in the course of schizophrenia
14 or a mood disorder with psychotic features.

15 (Witness reading rapidly from DSM Manual)

16 I can read these to you if you want me to do it,
17 but no where in there is there delusions and hallucina-
18 tions.

19 Q. You're talking about for . . .

20 A. Schizotypal personality.

21 Q. Which was whose diagnosis?

22 A. The diagnosis the State offered, and there are ex-
23 perts who specifically mentioned that he heard voices
24 and had a delusion.

25 So that -- you can't have it both ways.. Either

110-9

DR. MORGAN ON DIRECT

1 they can't have that or you've got to call it schizo-
2 phrenia.

3 Q. I think you just mentioned this and I want to make
4 sure. On the issue of delusions, a schizotypal does not
5 have these?

6 A. They do not have delusions.

7 Q. And the testimony you reviewed about whether he was
8 having delusions in 1999 was what?

9 A. . .

10 Q. Not the testimony but your own examination.

11 A. My own examination -- the State mentioned it.

12 Q. If you had had the opportunity-- were you present
13 when the State psychologist, psychiatrist testified?

14 A. I was present when Dr. Behrman and Dr. Shea and
15 Dr. Crawford testified.

16 Q. I think those were the three who testified for the
17 State.

18 Would the fact that you pointed out to defense law-
19 yers that the State's testimony did not meet the cri-
20 teria for schizotypal personality disorder -- is it your
21 testimony that you could have pointed it out?

22 A. Yeah, if I had had an opportunity, I certainly
23 would have.

24 We could have then prepared some impeachment of the
25 State's witnesses.

110-10

DR. MORGAN ON DIRECT

1 Q. Would one of your efforts to impeach have been to
2 show the State psychiatrists and psychologists the DSM
3 Fourth?

4 A. Right. The criteria did not change. Just the text
5 has changed.

6 Q. I think I've asked this question but I am not sure
7 I understood the answer.

8 Is schizotypal personality disorder a major mental
9 illness?

10 A. In terms of -- they say, no, it is not a major men-
11 tal illness, but some schizotypal people are very im-
12 paired in terms of their interactions with other people
13 and in terms of their ability to work.

14 Q. Are these people who are or have schizotypal per-
15 sonality disorder, is that exclusive from paranoid
16 schizophrenia? Do you have to have that one and not
17 the other?

18 A. No, you can have both, but once you start having
19 delusions and hallucinations then the schizotypal person-
20 ality is secondary.

21 MR. O'CONNELL: Excuse me one second, Your Honor.

22 (Brief pause in the proceeding)

23 BY MR. O'CONNELL:

24 Q. Have you ever talked with the defense lawyers since
25 1999?

110-11

DR. MORGAN ON DIRECT

1 A. About this case?

2 Q. Yes.

3 A. I did in another case, but not in this case.

4 Q. You did another case for the Public Defender?

5 A. Correct.

6 Q. Marva Hardee-Thomas?

7 A. Correct. In that case, the lead lawyer had a three
8 hour meeting with all of us involved.

9 Q. All right. Do you remember who that was?

10 A. No.

11 THE COURT: Anything further?

12 MR. O'CONNELL: Yes, sir.

13 BY MR. O'CONNELL:

14 Q. Do you remember anything specific about interviews
15 with family members in 1999 that would have assisted you
16 in your testimony, had you seen them?

17 A. Had I seen them?

18 Q. Yes, sir.

19 A. Well, certain behavior on the part of the father
20 and the amount of abuse which the mother -- the mother
21 gave a social history to the State in which she blatantly
22 denied any physical or emotional abuse.

23 Yet when you -- it was clear that that happened.

24 Q. What difference would that have made or what im-
25 pact does the abuse that you now know about have had

110-12

DR. MORGAN ON DIRECT

1 on your testimony?

2 A. Again, it would bolster my testimony, and I think
3 it should have been brought out in front of the jury,
4 and it would have impeached the State's psychiatrist.

5 Q. What difference would it have made -- what differ-
6 ence would physical or emotional abuse have made to a
7 diagnosis of paranoid schizophrenia?

8 A. It is not necessary.

9 Q. But does it reenforce the diagnosis?

10 A. Yes. Yes, it certainly can reenforce it.

11 Q. Thank you, Dr. Morgan. Please answer any ques-
12 tions Mr. Zelenka may have for you.

13 THE COURT: Cross examination.

14 MR. ZELENKA: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. ZELENKA:

17 Q. Dr. Morgan, you became involved in this case about
18 the end of April of 1999. Is that correct?

19 A. I don't remember. It was shortly before the case
20 went to trial.

21 Q. Dr. Morgan, let me ask you to see if you can iden-
22 tify that document.

23 A. Yes.

24 Q. What is it?

25 A. This is a bill that we sent to the Public Defender.

110-13

DR. MORGAN ON CROSS

- 1 Q. Is that your bill?
- 2 A. This is my bill.
- 3 Q. And does that bill indicate when you first became
4 involved with the case?
- 5 A. . .
- 6 Q. April 30, 1999?
- 7 A. It was probably several days before that.
- 8 Q. And that is when you had your contact with Ms.
9 Schwartz-Watts?
- 10 A. Right.
- 11 Q. Did you ever review at that time the records that
12 Dr. Schwartz-Watts had?
- 13 A. No.
- 14 Q. You never saw her records?
- 15 A. No.
- 16 Q. She brought you into the case essentially?
- 17 A. Correct.
- 18 Q. Now, the second item on that bill, I believe, is a
19 trip to St. George?
- 20 A. No, that's the first item on the bill.
- 21 Q. Okay, what's the second item?
- 22 A. Interview with Mr. Weik.
- 23 Q. And what date was that interview?
- 24 A. May first.
- 25 Q. May first -- okay. The next item on that bill?

110-14

DR. MORGAN ON CROSS

1 A. The next item is review of records, one hour.

2 MR. ZELENKA: Court's indulgence. I got ahead of
3 myself. I apologize.

4 Your Honor, we would move to enter this.

5 THE COURT: Any objection?

6 MR. O'CONNELL: No objection.

7 THE COURT: Number 2, Don?

8 MR. ZELENKA: I believe it will be Number 3.

9 (Dr. Morgan's bill admitted in evidence without
10 objection as Respondent's Exhibit 3)

11 BY MR. ZELENKA:

12 Q. And is . . .

13 THE COURT: Respondent's Exhibit 3 will be admitted
14 into evidence without objection as Respondent's Number
15 3. You may proceed.

16 Q. All right.

17 A. The last item you were discussing was for your in-
18 terview of Mr. Weik?

19 A. That's the second item.

20 Q. When did that occur?

21 A. May first.

22 Q. Okay, and the next item is a review of the record,
23 is that correct?

24 A. Correct.

25 Q. What date did that happen, your review of the records?

110-15

DR. MORGAN ON CROSS

1 A. May third and fourth.

2 Q. That would be one hour review of records?

3 A. Correct.

4 Q. And what records would you have been reviewing at
5 that time?

6 A. I can't remember. I don't know.

7 Q. You spent an hour reviewing some records?

8 A. Right.

9 Q. But you can't recall what they were?

10 A. No.

11 Q. Do you recall who you got those records from?

12 A. I don't know. I can't recall that.

13 Q. Okay. What is the next item on the bill?

14 A. It says the 5th -- May 5, 1999. A hearing, and I
15 think that was a competency hearing.

16 Q. And after the competency hearing, what is next?

17 A. I came here to interview Mr. Weik again.

18 Q. Did that interview-- are you sure that was with
19 Mr. Weik and not with the lawyers?

20 A. I am positive that was not with the lawyers.

21 Q. And your next billing item?

22 A. It was a hearing on the 18th, May 18th. A hearing
23 and a trip and that's when I think I listened to part
24 of the . .

25 Q. Trial testimony?

110-16

DR. MORGAN ON CROSS

1 A. . . hearing.

2 Q. What is your next item?

3 A. The next item says penalty phase and travel, and
4 I think that is incorrect. I don't think I testified
5 in the penalty phase.

6 Q. All right. Now, in preparation for today, you tes-
7 tified in addition to the testimony of yourself, you
8 also reviewed the testimony of Dr. Watts?

9 A. Yes.

10 Q. Dr. Shea?

11 A. Yes.

12 Q. Dr. Brannon?

13 A. Yes.

14 Q. Dr. Watts, Dr. Shea, Dr. Palmer--Dr. Palmer, Dr.
15 Brannon?

16 A. Yes.

17 Q. Did you review the testimony of Dr. Rodgers?

18 A. Yes.

19 Q. And you reviewed the testimony given in the guilt
20 phase by your client, John Weik?

21 A. No.

22 Q. Why didn't you do that? Was it just not provided?

23 A. I wasn't asked to.

24 Q. But you specifically reviewed your testimony?

25 A. Yes.

DR. MORGAN ON CROSS

1 Q. And in your direct examination, one of the factors
2 or the main factor that you think your testimony was in-
3 accurate was because you didn't have any knowledge about
4 the mental health status of Mr. Weik's father? Correct?

5 A. That would have been helpful, yes.

6 Q. And you also testified that you weren't given any
7 social history information by defense lawyers. Is that
8 also correct?

9 A. That's correct.

10 Q. And I ask you to review Volume One of the transcript
11 on page 411 . . .

12 THE COURT: Identify for the record what transcript
13 you are referring to.

14 BY MR. ZELENKA:

15 Q. The transcript of record on appeal, Volume One,
16 State versus John Edward Weik, and that is attached to
17 our return.

18 I ask you to review page 411, beginning at lines
19 18 and go over to page 412, line five.

20 A. It says -- the question is, did you in your inves-
21 tigation determine whether there was anyone in this fam-
22 ily that had schizophrenia?

23 A. Yes. I didn't, but the gentleman that was doing
24 the mitigation.

25 You were given information -- I was given that

110-18

DR. MORGAN ON CROSS.

1 information.

2 Who in his family -- that his father suffered from
3 paranoid schizophrenia also.

4 Q. So you did testify you had information that his
5 father suffered from paranoid schizophrenia?

6 A. Yes.

7 Q. You got that information from the defense teams?

8 A. Yes.

9 Q. So you were incorrect in your testimony on direct,
10 is that correct?

11 A. Yes.

12 Q. Now, Dr. Morgan, do you deny that you met with
13 Percy Beauford on May 3, 1999, for an hour and a half,
14 and had a discussion with him?

15 A. That's not true.

16 Q. May 6, 1999, for two hours?

17 A. That's not true.

18 Q. Okay. May 10, 1999, for an hour and a half?

19 A. No.

20 Q. May 14th, 1999, for one and a half hours?

21 A. No.

22 Q. May 17, 1999, for one hour?

23 A. No.

24 Q. And you also clarified that on Respondent's Exhibit
25 3, on 5 14 99, an interview that took four hours, and

110-19

DR. MORGAN ON CROSS

1 that was not done in the presence of counsel. Is that
2 correct?

3 A. When is this?

4 Q. On May 14, 1999?

5 A. No.

6 Q. Counsel wasn't with you at any of your meetings
7 with John Weik?

8 A. That's correct.

9 Q. And you did not meet with counsel for an hour and
10 a half on May 14, 1999?

11 A. That's correct.

12 Q. All right. The records that were reviewed on May
13 3rd and May 4th, were those State Hospital records?

14 A. I don't remember.

15 Q. The testimony you sat through at the time of the
16 competency hearing revealed that it was the State's
17 opinion that he suffered from schizotypal personality
18 disorder?

19 A. That is correct.

20 Q. So you were aware it was the State's opinion it
21 was schizotypal personality, and your opinion was firm
22 that it was schizophrenic. Correct?

23 A. Correct.

24 Q. Would that opinion be that he was paranoid schizo-
25 phrenic and he was suffering from a psychosis and at the
110-20

DR. MORGAN ON CROSS

1 time of trial he was not competent?

2 A. Correct.

3 Q. So even at the competency stage there was a huge
4 difference on the impact of the mental illness at that
5 time. Correct?

6 A. Yes.

7 Q. And at the competency hearing now that your opin-
8 ion has been refreshed, you were aware that his father
9 suffered from schizophrenia?

10 A. Yes.

11 Q. And you were not only aware of it but you also
12 asserted that one of the factors of John Weik was an
13 individual whose mental illness was a delusion of his
14 father that he suffered from while in the service, is
15 that correct?

16 A. Correct.

17 Q. And what was that, if you recall?

18 A. The delusion?

19 Q. Yes.

20 A. He felt that the CIA had a special interest in him
21 and his family. He talked about his father talking about
22 being in Vietnam and none of that, of course, is true.

23 Q. None of it is true?

24 A. . .

25 Q. So the father had a delusion and therefore that was

110-21

DR. MORGAN ON CROSS

1 reflected in his mental illness?

2 A. His father's mental illness? I believe so and he
3 expanded it over time.

4 MR. ZELENKA: Beg the Court's indulgence.

5 (Brief pause in the proceeding)

6 BY MR. ZELENKA:

7 Q. Dr. Morgan, again this is Volume One at page 417,
8 and let me ask you to refer to line 13, to reflect whe-
9 ther you have some information about law enforcement
10 incident reports concerning Mr. Weik's demeanor shortly
11 before the incident.

12 A. On line 13?

13 Q. Yes, beginning at line 13.

14 A. So that people who are having a schizophrenic epi-
15 sode clearly appear to have a schizotypal personality.

16 All right. And you could have both. (reading from tran-
17 script of record at place cited)

18 Q. So, again, that information prevails and you did
19 have some information about his employment situation
20 and you did have reports that had been given to you pre-
21 sumably by the defense team. Is that right?

22 A. I can't remember, but I don't remember getting any-
23 thing except from the investigator.

24 Q. From the investigator?

25 A. Right.

110-22

DR. MORGAN ON CROSS

1 Q. Which investigator?

2 A. The second investigator.

3 Q. Help me out here. I don't know who was the first or
4 second.

5 A. The first investigator was a lady from Columbia
6 who resigned.

7 Q. Ms. Rickborn?

8 A. Correct.

9 Q. Did you have contact with Betty Rickborn?

10 A. No.

11 Q. Did you have contact with Scott Parker?

12 A. I'm not sure.

13 Q. But someone had given you some information?

14 A. That's right.

15 Q. And it was part of the defense team?

16 A. That's right.

17 Q. Anything from Donna Schwartz Watts?

18 A. I think Donna and I discussed this case. Whether
19 she had more information than I had, I don't know.

20 Q. In the penalty phase of the trial -- Let me ask you
21 to refer to Volume Five, page 2040. I refer you to
22 lines 12 through 25.

23 Would you read that and see if it refreshes your
24 recollection?

25 A. When you were at Hall Institute didn't you always

110-23

DR. MORGAN ON CROSS

1 read the social worker's report? Yes. The social
2 worker did a report in this case. (Reading from tran-
3 script of record the requested page and lines)

4 Q. Did you read that social history?

5 A. Not in detail. It's only seven pages long, isn't
6 it? I had access to that record briefly during the Blair
7 Hearing.

8 Q. Would you continue reading to the top of the next
9 page?

10 A. And then briefly today, so, no, I have not read the
11 record as I should have.

12 Would you agree that the record might provide im-
13 portant information and might help you give a better
14 opinion? Yes, absolutely. That's why you wanted to
15 read it? Yes, that's right.

16 Q. Let me ask you to refer to page 2036 of that same
17 volume.

18 A. I have it.

19 Q. Lines one through four.

20 A. Have you listened to and seen the videotape of the
21 stop alongside of the road and read the transcript there?
22 Answer, yes.

23 Q. Okay, that's all. So you have seen the videotape
24 and have reviewed the transcript of those statements.
25 Is that correct?

110-24

DR. MORGAN ON CROSS

1 A. That's what it says, yes.

2 MR. ZELENKA: No further questions.

3 THE COURT: Any Redirect?

4 MR. O'CONNELL: Thank you, Judge.

5 REDIRECT EXAMINATION

6 BY MR. O'CONNELL:

7 Q. Doctor, with respect to Respondent's Exhibit Num-
8 ber 3, is that the bill you sent for your services in
9 the case?

10 A. Yes.

11 Q. In doing work on these cases, do you work for free?

12 A. Do I work for free?

13 Q. Yes. Not bill people for time if you went to St.
14 George and met with the team? Would you have billed for
15 that?

16 A. Certainly.

17 Q. Now, the Attorney General read out some dates, May
18 third, May sixth, May tenth, May 14th and May 17th, and
19 suggested that those were meetings that someone says
20 you had with the defense lawyers in this case.

21 Are any of those reflected on your bill?

22 A. No.

23 Q. Now, the information you received in the transcript
24 from 1999 that Mr. Weik was schizophrenic, do you be-
25 lieve you received that information from an investigator?

110-25

DR. MORGAN ON CROSS

1 A. That the father had schizophrpenia..

2 Q. Did you receive that information that the father
3 had schizophrenia -- excuse me -- did you receive that
4 information from an investigator?

5 A. Correct.

6 Q. Do you know this gentleman?

7 A. No.

8 THE COURT: Identify for the record who you asked
9 him about.

10 MR. O'CONNELL: Your Honor, this is Scott Parker,
11 who I asked to stand. He was the second investigator
12 working on the matter.

13 THE COURT: Very well. Proceed.

14 BY MR. O'CONNELL:

15 Q. As far as you recall, was the person you received
16 the information from that the father was schizophrenic,
17 was he a psychologist or psychiatrist?

18 A. No.

19 Q. Did whoever it was that gave you the opinion, did
20 they show you any records that reflected a diagnosis of
21 schizophrenia?

22 A. Not that I remember.

23 Q. Dr. Morgan, I want to show you what has been marked
24 for identification as Plaintiff's Exhibit 1 and 2. Have
25 you seen that type of document before?

110-26

DR. MORGAN ON REDIRECT

1 A. Yes.

2 Q. And what is that?

3 A. It is a staffing document.

4 Q. Is that typically -- first of all, from what insti-
5 tution is that?

6 A. This I'm sure came from the Hall Institute.

7 Q. And at what stage of a person's admission is a docu-
8 ment like that produced?

9 A. Usually at the end.

10 Q. If I could show you on the second . .

11 MR. O'CONNELL: Judge, I would move to admit Plain-
12 tiff's Exhibit 2 which is a portion of the . .

13 THE COURT: Wait a second. It hasn't been identi-
14 fied for the record and I want to know if there is an
15 objection.

16 Ask him to identify it as to date and what the title
17 of the document would be.

18 BY MR. O'CONNELL

19

20

21

22

23

24

25

110-27

DR. MORGAN ON DIRECT

1 Q. Would you identify the date and the type of document that
2 this is?

3 A. The date of examination is April 27th, May first, May third
4 and May 6th, 1999.

5 Q. And it is from what institution?

6 A. The William S. Hall Psychiatric Institution.

7 Q. And that is where then and now, I guess, people were sent
8 for psychiatric evaluations or Court-ordered evaluations?

9 A. I don't know about that.

10 Q. Okay.

11 MR. O'CONNELL: Move to admit this.

12 THE COURT: How many pages?

13 MR. O'CONNELL: It is four pages, sir.

14 THE COURT: Mr. Zelenka?

15 MR. ZELENKA: No objection.

16 THE COURT: Number what, Mike? Two?

17 MR. O'CONNELL: Yes, sir.

18 THE COURT: Applicant or Plaintiff's Exhibit Number 2 will
19 be admitted in evidence without objection. Number 2 in evidence.
20 You may publish.

21 (Psychiatric staffing document admitted in evidence without
22 objection as Applicant's Exhibit 2)

23 BY MR. O'CONNELL:

24 Q. On the second page there is a reference, the second full
25 paragraph to the social history, . .

111

DR. MORGAN ON DIRECT

1 A. Yes.

2 Q. Now, if you could take a moment to review that, I'd like
3 to ask you some questions about it.

4 A. All right.

5 (Brief pause in the proceeding)

6 BY MR. O'CONNELL:

7 Q. Dr. Morgan, if I could impose on you, could you please
8 read it out loud?

9 A. Sure. Mr. Weik's social history reveals that he's the
10 third child in a family of six. He was raised in an intact fam-
11 ily by a mother and father.

12 He was the product of an uncomplicated pregnancy.

13 He achieved developmental milestones in an unremarkable fash-
14 ion.

15 His mother related that he grew up in a loving, stable home.
16 She reported that he seemed to be, quote, a happy child and pre-
17 sented no behavioral challenges for him.

18 He has no history of head trauma. He has no history of
19 physical or sexual abuse. His mother reported he had been in the
20 lower learning classes as a child.

21 He dropped out of high school in the eleven grade, after hav-
22 ing been suspended for fighting.

23 Upon his termination of his education, he worked steadily
24 and gainfully. He worked for eight years as a machine operator
25 in a factory.

DR. MORGAN ON DIRECT

1 He was fired from the job after having been accused of
2 threatening a co-worker.

3 Prior to his incarceration, he had been employed full time
4 at a factory making fiberglass boats.

5 Prior to his incarceration, Mr. Weik has one significant ro-
6 mantic relationship. This relationship was with the alleged victim.
7 He became involved in her when he was in his twenties.

8 They were involved for about two years until the birth of
9 their son. The relationship terminated reportedly because the al-
10 leged victim did not wish to marry Mr. Weik.

11 Mr. Weik has no history of legal charges.

12 Mr. Weik's family psyche is significant; that his father
13 and paternal grandfather have been hospitalized for psychiatric
14 illness.

15 Q. Okay. Just one minute. Does it say which one?

16 A. No.

17 Q. Now, the mother was the sole source of the report, as far as
18 that reflects?

19 A. So far as I can read here, yes.

20 Q. Based on the information that you had in 1999 and based on
21 the information you have gathered since then, does that contradict
22 what Mrs. Weik said about a happy childhood and no abuse in the
23 home, a stable home?

24 A. Correct. Well, also the head injuries. He had several severe
25 head injuries.

DR. MORGAN ON DIRECT

1 Q. All right, sir.

2 A. And he did not meet his milestones, developmental mile-
3 stones, on time.

4 He was both slow to walk and at that time had an enlarged
5 head that was a -- I have no idea why that was.

6 Q. All right. Now, is there anything in that report, assuming
7 that it was true, that would have assisted you in your diagno-
8 sis of Mr. Weik?

9 A. . .

10 Q. Or rather that would have supported your diagnosis?

11 A. He believed that he and his family were monitored by the CIA
12 and the government. This is a belief he shares with his family.

13 His speech is significant for being vague, circumstantial
14 at times, particularly when under stress.

15 He also reports interacts with others in a guarded and con-
16 stricted fashion.

17 Q. What I'd like you to do is refer yourself to the social
18 worker's report for which the sole source of information was his
19 mother?

20 A. Right.

21 Q. Is there anything that the social worker stated in that
22 social history that would have supported your diagnosis of paranoid
23 schizophrenia?

24 A. No.

25 Q. Now, the -- is it usual that State Hospital social workers

DR. MORGAN ON DIRECT

1 have one or more than one source of information in assessing
2 social matters?

3 A. It is usual that they have one.

4 Q. So that the social history then depends on the forthcoming
5 -- the truthfulness and how forthcoming the reporter was; that is,
6 the mother?

7 A. Correct.

8 Q. Thank you.

9 THE COURT: Anything further?

10 MR. O'CONNELL: No, sir.

11 THE COURT: Cross examination.

12 CROSS EXAMINATION

13 BY MR. ZELENKA:

14 Q. Dr. Morgan, you said that Mr. Weik as a child had a large
15 or enlarged head. Would that normally be a neurological issue
16 as opposed to . . .

17 A. To a psychiatric issue? Yes.

18 Q. Okay.

19 A. And it may have kept him from reaching the milestones on
20 time.

21 Q. Were you present for the testimony at the trial of Dr.
22 William Brannon, the neurologist?

23 A. Yes.

24 Q. And he said there were no neurological defects, is that
25 correct?

115

DR. MORGAN ON DIRECT

1 A. Correct.

2 Q. And so at the time you were giving your opinion, you were
3 relying on the opinion still by an expert in the field, that
4 there were no neurological defects?

5 Is that correct?

6 A. That's correct.

7 Q. Yet at that time, you were also aware of this -- of some
8 of this information about an enlarged head. Correct?

9 A. I was aware at that -- I don't know whether I was or not,
10 sir.

11 Q. Then I misunderstood what was said.

12 Let me ask you to refer to Plaintiff's Exhibit 2, the bot-
13 tom paragraph on that page, which is . .

14 A. The evaluation.

15 Q. Yes.

16 A. Consisted of a review of a copy of an affidavit, arrest
17 warrant, autopsy report of victim, incident report, supplemental
18 incident reports, case notes from Detective Marshall, witness
19 statements, statements of the Defendant, case notes from police,
20 interviews with the Defendant, medical records from Hall Insti-
21 tute, discussion with Mr. Weik's attorney, Percy Buford, social
22 history obtained by Carlos Torez from an interview with the
23 Defendant's mother, Lillie Weik, clinical tests performed at Hall
24 Institute, including an EEG, an MRI, psychological testing done
25 by Steven Shay, neurological consultation, clinical forensic

DR. MORGAN ON CROSS

1 interview of the Defendant for ninety minutes on April 27th,
2 1999, fifteen minutes on May 2nd, 1999, clinical interview with
3 the Defendant for ten minutes on May third, 1999, and finally a
4 clinical interview of two and a half hours with the Defendant on
5 May 6, 1999.

6 Q. Look on page four of the Exhibit, Plaintiff's Exhibit 2.
7 The report is signed by . .

8 A. By Dr. Crawford.

9 Q. . . Dr. Crawford?

10 A. Right.

11 Q. That report was not usually what's a social history, is
12 that correct?

13 A. I beg your pardon?

14 Q. That report that you're reviewing, the social history,
15 was a social history -- isn't a social history usually something
16 that is . .

17 A. Separate.

18 Q. It is also indicated there had been some discussion with
19 Mr. Weik's attorney, Percy Buford?

20 A. Yes.

21 Q. That they were relying upon that information, is that cor-
22 rect?

23 A. . .

24 Q. As well as the social history?

25 A. I don't know what they talked about.

DR. MORGAN ON CROSS

1 Q. No further questions.

2 THE COURT: As to this witness, counselor?

3 MR. O'CONNELL: He can be excused.

4 THE COURT: Any objection?

5 MR. ZELENKA: No objection.

6 THE COURT: Doctor, thank you very much. You are now
7 excused.

8 (Witness excused)

9 THE COURT: Call your next witness.

10 MR. O'CONNELL: Scott Parker.

11 SCOTT PARKER, being duly sworn,
12 testified as follows:

13 THE COURT: If you will speak into that microphone in
14 front of you, sir, and state your full name, spelling your last
15 name?

16 WITNESS: Scott Parker, P A R K E R.

17 THE COURT: Your witness.

18 MR. O'CONNELL: Thank you.

19 DIRECT EXAMINATION

20 BY MR. O'CONNELL:

21 Q. Mr. Parker, now by whom are you employed?

22 A. Now I'm an investigator with the bank, with Wachovia Bank.
23 I'm a fraud investigator with the bank.

24 Q. What is your educational background?

25 A. Educational background is high school completion and I went

Testimony of Gunter

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 COUNTY OF DORCHESTER) CASE NO. 2003-CP-18-1070

JOHN E. WEIK,) EXCERPT OF TRANSCRIPT
 Applicant,)
 -versus-) Testimony of
) John William Gunter
 STATE OF SOUTH CAROLINA,) September 18, 2006
 Respondent.) St. George, South Carolina

B E F O R E:
 The Honorable Perry M. Buckner

A P P E A R A N C E S:
 Michael P. O'Connell, Esquire
 Lisa Kimbrough, Esquire
 For the Applicant

Donald Zelenka, Esquire
 For the Respondent

Robin L. Herrera, RMR, Texas CSR 8741
 3805 Sycamore Creek Drive
 Bakersfield, CA 93313

□

2

John William Gunter - Direct Exam by Mr. O'Connell

1 (September 18, 2006.)

2 (Excerpt of transcript, testimony of John

Testimony of Gunter

8 Q. And how is she related to Eddy Weik?

9 A. She's his half-sister by Lily's first
10 marriage.

11 Q. Lily is her mother. Is your wife her oldest
12 child?

13 A. No, the second oldest.

14 Q. Who is the oldest?

15 A. The oldest is Larry, he resides in Rock Hill,
16 South Carolina. Excuse me, Fort Mill, South
17 Carolina.

18 Q. All right. When did you first meet Eddy
19 Weik's father Russel?

20 A. At the, I think it was Berkeley County was
21 the name of it, Raceway, the last weekend, the last
22 Saturday in February of 1966.

23 Q. And what was he doing at the time?

24 A. At the time I met him we were at a racetrack.

25 Q. I'm sorry, in the rest of his life what was

4

John William Gunter - Direct Exam by Mr. O'Connell

1 he doing?

2 A. Oh, he was in the U. S. Navy.

3 Q. And was he stationed in Charleston?

4 A. He had been on a minesweeper in Charleston
5 and had a, I believe he characterized it as a nervous
6 breakdown, and they had to take him out in a
7 straightjacket, he was in the mental ward in the
8 Naval Hospital in Charleston, South Carolina, and was
9 assigned to E ward which is known in Navy language
10 as, you know, in the military as echo.

11 Q. All right. And your understanding from him

Testimony of Gunter

12 was what was that, a psychiatric ward?

13 A. It was the more -- I would call it the
14 convalescent ward after treatment, as such. He was
15 reassigned to that ward and they were allowed certain
16 liberties, some of them were allowed passes to go out
17 on the town, it was a lot more relaxed atmosphere. I
18 visited him once or twice that they had ping pong
19 tables there, pool tables and stuff.

20 Q. You meet him at the racetrack in 1966. Is
21 that also when you met his sister who is now your
22 wife?

23 A. Right, that was his -- that was Lily's
24 daughter, yes. He had met Lily and we walked in,
25 myself and a friend of mine by the name of Jim

5

John William Gunter - Direct Exam by Mr. O'Connell

1 Daniels had walked in and had just went up to the
2 refreshment stand when he walked up and Jim knew
3 Russel from an assignment at a barracks that Russel
4 was in or either at the hospital, I don't know which
5 it was, they had known each other, casual
6 acquaintance, hollered at each other. He said, Look,
7 I met a lady that has two daughters, would you like
8 to meet them? You're asking a single sailor on leave
9 if he wants to meet a young lady, it's like asking a
10 man in the desert if he's thirsty, if he wants a
11 drink of water. So I imagine I did.

12 Q. So that began your romantic relationship with
13 the lady who is now your wife?

14 A. Right.

15 Q. How old was she at that time?

16 A. She was 15 at that time. I took her to be

Testimony of Gunter

17 about 17 or 18, she had led on to me like she was
18 older and I found out several weeks later how old she
19 was, at that time it was a little bit too late.

20 Q. All right. And you recall the occasion that
21 you next saw -- after Mr. Weik, Russel Weik was
22 released from the hospital, what was your
23 understanding about his status with the Navy when he
24 was released from the hospital?

25 A. My understanding was that he was released

6

John William Gunter - Direct Exam by Mr. O'Connell

1 because of his mental breakdown. That was my
2 understanding.

3 Q. What I mean is when he got out of the
4 hospital, had he been released from the Navy,
5 discharged?

6 A. Oh, no, he was separated later after he --
7 well, he stayed in that, in that regard until
8 assigned to that ward until he was separated is my
9 understanding.

10 Q. All right. Was he then married to Lily?

11 A. He got married after, right after he got out.
12 He was separated shortly after I met him and then
13 they got married within a short, short period of
14 time.

15 Q. Okay. Then you began to -- you continued
16 your romantic relationship, I guess you courted
17 Maggy?

18 A. Right.

19 Q. And she was living with Lily and Russel after
20 they married?

Testimony of Gunter

21 A. Yes.

22 Q. Did Russel tell you about his service in the
23 Navy and the places he had been?

24 A. He told me he had been stationed during his
25 first tour, now, he had re-enlisted by the time he

7

John William Gunter - Direct Exam by Mr. O'Connell
1 was in Charleston, that was his second enlistment, I
2 don't know the period of time, maybe a year or less,
3 he was in Holy Loch, Scotland. He was assigned to a
4 minesweeper out of Holy Loch, Scotland.

5 Q. Did he tell you anything about -- while he
6 was in Holy Loch, Scotland, anything about his
7 activities, some extraordinary activities that he got
8 involved in?

9 A. He started back in the late '70s, I think is
10 what you're referring to, as saying that he was doing
11 clandestine operations, I think you would call them,
12 in Vietnam, he would be flying out someplace -- flown
13 out someplace in France, join a team of commandos,
14 they would be inserted behind the lines in Vietnam.

15 Q. Did he explain to you what he did in Vietnam?

16 A. First supposedly he would go in and gather
17 intelligence and later on it become they would go on
18 search and seizure and they would kill people and all
19 sorts of stuff and such.

20 Q. Did he ever describe to you any negotiation
21 with the CIA?

22 A. He talked a lot about that, being a CIA
23 operative.

24 Q. Did he ever describe to you that he was
25 employed by the CIA?

Testimony of Gunter

8

John William Gunter - Direct Exam by Mr. O'Connell

1 A. He put it in later years, yes, he was
2 employed by the CIA, he was actually an undercover
3 operative for the CIA later on in later life.

4 Q. Did he describe to you how many times he had
5 been to Vietnam?

6 A. Not exactly, but over the years it become a
7 large amount of time. Not in numbers, no.

8 Q. All right. When you started hearing these
9 tales from Russel, did he appear that he believed
10 what he was saying?

11 A. To begin it I don't know if he was just
12 embellishing a little bit, but he began to actually
13 believe these over the years. As time grew the more
14 he told and the more he actually believed them
15 himself.

16 Q. You continued to date your -- the lady who is
17 now your wife for some period of time after you met
18 her and then you got married. How long did you date
19 her before you all got married?

20 A. About three and a half years. And I do want
21 to explain our relationship was a lot long distance
22 through correspondence because shortly -- a few
23 months after I met her I was transferred back to
24 sonar school in Key west and we would see each other
25 once or twice a year.

9

John William Gunter - Direct Exam by Mr. O'Connell

1 Q. All right. When you got married how old was
2 your wife?

Testimony of Gunter

- 3 A. She was 18 years old.
- 4 Q. And she was still living at home?
- 5 A. Still living at home.
- 6 Q. And when you got married did you all move out
7 of Charleston, or this area rather?
- 8 A. We left on September the 3rd, 1969, left her
9 home and was married in Orangeburg, South Carolina.
- 10 Q. And --
- 11 A. And we went from there to Florida and made
12 our home in Florida and we've been there for 37 years
13 this past September 3rd.
- 14 Q. During the time that you -- after you got
15 married and up until 1999, did you have contact from
16 time to time with the Weik family?
- 17 A. Yes, I did.
- 18 Q. And what kind of contact was that?
- 19 A. I would be granted -- I normally would save
20 my leave up to around Christmastime because I like to
21 be with my family at Christmas, and I would get
22 sometimes up to three and four weeks leave at one
23 time. And I'd spend part of it at home and the other
24 half I would spend with Maggy up at Moncks Corner.
- 25 Q. All right. After you got married did you and

10

John William Gunter - Direct Exam by Mr. O'Connell

- 1 your wife visit the Weik household?
- 2 A. Yes, we did.
- 3 Q. What year were you married?
- 4 A. We were married in 1969.
- 5 Q. All right, sir. What -- did you have an
6 opportunity to see the interaction between Russel,
7 the father, and his children?

Testimony of Gunter

8 A. Yes, I did.

9 Q. I want you to describe to the judge the sorts
10 of things that you observed about Russel and his
11 relationship to his children and what he was --
12 things that he was having them do.

13 A. Russel, if you're talking about what kind of
14 a father, Russel wasn't really in my terms that much
15 of a father figure per se. He -- the children were
16 there, he paid little attention to them other than
17 when they would come by he would reach out and thump
18 thumb, or what he called a ski jump. When he would
19 catch them he would take his fingers, run them down
20 his nose real hard. It really irritated the
21 children. He would do things, as he called it,
22 toughen them up.

23 Q. Like what?

24 A. The boys in particular. Amy was a very small
25 child at the time, just a baby, and I don't know so

11

John William Gunter - Direct Exam by Mr. O'Connell
1 much that he had Amy do it, but the two boys he used
2 to take outside in the yard at night at all hours of
3 the night and sometime be real cold and they'd have
4 what we refer to in the Navy as skivies, either
5 undershorts and a tee shirt and maybe barefoot or
6 maybe socks or something on their feet would be all.
7 He would make them stand at attention. Even in the
8 house when they would take a bath he would come in.
9 I want to do a personnel inspection. They would
10 stand at attention, let them give him a PI
11 inspection. Stand them in the yard at attention,

Testimony of Gunter

12 make them march around in formation and yell commands
13 at them and he called it toughening up.

14 Q. Were these things done in jest?

15 A. I think in his own mind --

16 Q. Well, what did it appear to you?

17 A. It appeared to me to be that he was serious
18 with what he was doing.

19 Q. Did you ever see him engage in any discipline
20 of his children, specifically his two sons?

21 A. He would -- if he chastised them, I think the
22 proper term is beat them or whip them with whatever
23 he could get in hand at the time.

24 Q. I'm interested in that, the beating or
25 whipping, whatever he could get his hands on. would

12

John William Gunter - Direct Exam by Mr. O'Connell

1 you talk to the judge and tell the judge what you
2 observed.

3 THE WITNESS: Pardon me for not turning
4 too much, I've got a --

5 THE COURT: I can hear you just fine.

6 THE WITNESS: That's fine. Okay, thank
7 you.

8 If a flyswatter was handy he'd
9 whack them with that. And he kept one laying
10 around, he would whack them with that. He
11 had got hold of an antenna one time, tore an
12 antenna off a vehicle, his belt, he would
13 throw things in the house, he grabbed them
14 and beat on them. He's literally hit them in
15 the chest with his fist before, hit them in
16 the face.

Testimony of Gunter

17 Q. What sorts of things did he hit them for,
18 what were the reasons?

19 A. He had a very violent temper, the least thing
20 that would set him off or upset him, it just -- they
21 could walk in and be playing as children would do and
22 run through the living room when he was watching,
23 say, a favorite TV show of some type and run by his
24 chair, bump his chair, or he had a bad foot where he
25 had gotten it hurt in an industrial accident at a

13

John William Gunter - Direct Exam by Mr. O'Connell
1 sawmill, I believe, got a toe crushed, if they bumped
2 his foot or whatever, just anything that set him off,
3 he could be set off at ease.

4 Q. Was -- in your view, based on what you saw,
5 was there any pattern to what would set him off or
6 any predictability?

7 A. No predictability really. He could be fine
8 one instant, the slightest thing if he was talking to
9 someone, the kids come through interrupted or
10 anything else, he would yell and scream shut the so
11 and so up I'm -- can't you see I'm busy or I'm
12 talking or something of that nature.

13 Q. Do you recall seeing firearms at the weik
14 household?

15 A. There were muzzle loaders hanging on the wall
16 and not just imitations, they were real guns hanging
17 on walls. He kept a .45 with him that he claimed at
18 one time was given to his father by General McArthur
19 in the Philippines. He carried guns with him
20 constantly, he collected guns, and he just bragged

Testimony of Gunter

21 about owning a mini 14 full automatic, he had
22 shotguns, rifles, military guns especially he really
23 liked.

24 Q. Did you understand why he had all these
25 firearms?

14

John William Gunter - Direct Exam by Mr. O'Connell

1 A. He would tell me it was for his protection.
2 He feared the government quite a bit, he was afraid
3 we're going to be invaded and we're going to need the
4 guns to defend ourselves and defend yourself against
5 your enemies.

6 Q. Did he ever describe to you who he thought
7 the enemies were?

8 A. He had a total dislike at that time
9 especially for blacks and Jews, especially blacks and
10 Jews. He just constantly talked about how that they
11 controlled everything and everything was being given
12 to the blacks and that the Jews controlled all the
13 money.

14 Q. Did you ever observe him giving any
15 instructions to his children about defending
16 themselves against other people?

17 A. At times I did, yes.

18 Q. What did you observe?

19 A. He taught them various methods and then again
20 about how to kill someone, how to grab them in their
21 hand and immobilize them with grips that they had
22 where you could take a man to his knees or a woman or
23 whatever to their knees and a quick way of killing
24 them where they wouldn't make any sounds.

25 Q. He would actually say to his children this is
Page 12

Testimony of Gunter

15

John William Gunter - Direct Exam by Mr. O'Connell

1 how you kill someone silently or words to that
2 effect?

3 A. Words to that effect, yes.

4 Q. All right.

5 A. How to take an enemy out quickly so they
6 can't do you any harm and this is the way do you it.

7 Q. What was the condition -- did you ever see
8 him with any explosives?

9 A. Yes, several cases of dynamite he had at one
10 time stored in his garage. My wife and I were up on
11 a visit and he said, Look! And he had a real excited
12 just gleam look in his face. He said, I got
13 something to show you. And I walked out in the old
14 garage that he had and he had several cases stacked
15 up I'd say about that high (indicating). He opened
16 one of them up, and I know what dynamite is, I've
17 been in the construction business since 1974. He
18 pulled out, opened up, unwrapped from the waxy-like
19 paper that dynamite is wrapped in and pulled out a
20 stick of dynamite that was sweating.

21 Q. All right. What's the significance of
22 dynamite sweating?

23 A. It's in a very unstable state when it starts
24 to sweat, the sweat that's on there is not moisture,
25 it's nitroglycerin coming out in its natural form.

16

John William Gunter - Direct Exam by Mr. O'Connell

1 He wiped his finger -- picked it up, wiped his finger
2 down like this, shook it on the floor. When he did,

Testimony of Gunter

3 it popped, it scared the be-Jesus out of me. Before
 4 he done it again I said, Are you crazy? You're going
 5 to blow us all up. Put the darn thing back. I said,
 6 You're going to blow a hole in the ground. What have
 7 you got this for? He said, I can boobie-trap mines
 8 around the house. If they come to get me I've got
 9 something I can defend myself with.

10 Q. As far as his attitude towards African
 11 Americans and Jewish people, was this something he
 12 expressed in the presence of his children about how
 13 much he hated them?

14 A. Yes, several times.

15 Q. Did he ever admit to you at any time that his
 16 stories about his exploits in Vietnam and being part
 17 of an elite unit and being flown from England to
 18 France to Vietnam were untrue?

19 A. No, he just -- he actually believed them. He
 20 never -- he told them for the truth and swears that
 21 they're the truth to this day.

22 Q. Now I want to talk to you about Eddy.

23 THE COURT: Just a moment. Come on in.

24 (Mr. Weik enters the courtroom.)

25 Q. I want to talk to you about your

17

John William Gunter - Direct Exam by Mr. O'Connell

1 observations.

2 MR. ZELENKA: Your Honor, can we just

3 let the record reflect --

4 THE COURT: Let the record reflect the
 5 applicant is back in the courtroom, after the
 6 request of counsel being examined by an
 7 expert witness for the applicant.

Testimony of Gunter

8 You may proceed with the
9 examination of Dr. Gunter or Mr. Gunter.

10 MR. O'CONNELL: Thank you, Judge.

11 Q. I want to talk -- I want you to talk about
12 your observations of Eddy. You actually knew your
13 wife and met the family prior to Eddy's birth; is
14 that correct?

15 A. That's correct.

16 Q. And he was the oldest child of your
17 mother-in-law's second set of children?

18 A. Yes.

19 Q. I want you to talk about what your
20 observations were of Eddy when he is a young child.

21 A. Excuse me. Can I get a cup of water, please?

22 Q. Sure.

23 THE COURT: Got it right here.

24 Q. Let's start with the day he was born. Were
25 you here?

18

John William Gunter - Direct Exam by Mr. O'Connell

1 A. Yes, I was home on leave from Key West,
2 Florida, going to Seattle, Washington, and I come up
3 and spent a couple of weeks with my future wife or
4 girlfriend at the time.

5 Q. Did -- do you remember Eddy's father going to
6 the hospital when he was born?

7 A. No. As to my -- no, he was not there. I was
8 there with my wife and Lily when Eddy was born that
9 night.

10 Q. Do you know why he wasn't, Rus was not there?
11 I mean, did he know about it?

Testimony of Gunter

12 A. Yes, he knew about it.

13 Q. In advance?

14 A. In advance, yeah.

15 Q. All right. When you observed Eddy as a young
16 child, tell me what you observed that was -- if there
17 was anything different, what was different about Eddy
18 if there was?

19 A. Eddy had a little different look than most
20 children. His head was a little bit larger than a
21 normal child, he looked at birth I thought -- he was
22 as my first cousin was at home, had a cleft palate or
23 that we refer to as hair lip. And I asked Lily if he
24 had a cleft palate and she said, No, he's fine. But
25 he didn't look as a normal child looked because his

19

John William Gunter - Direct Exam by Mr. O'Connell

1 head seemed to be enlarged out.

2 Q. All right. What about as he grew older, did
3 you notice -- could you say whether or not he reached
4 the developmental milestones at appropriate ages? In
5 other words, did he walk, talk at appropriate ages?

6 A. Eddy seemed to develop slower than other
7 children did at his age. He walked at a much later
8 date, he began to talk very slowly, he didn't seem to
9 grasp things as quick as other children did.

10 Q. And you were present from time to time when
11 his younger brother was born and he was growing up
12 and his younger sister?

13 A. Yes, I was.

14 Q. And how would you compare their development
15 to Eddy's in terms of talking and walking and those
16 sorts of developmental milestones?

Testimony of Gunter

17 A. They developed more along the lines of a
18 normal child. They walked at, you know, between nine
19 and ten months, begin to walk around ten months to a
20 year and where it took Eddy much longer than that.

21 Q. You have your own children? You have
22 children?

23 A. I have two sons.

24 Q. And they are how old?

25 A. The oldest one is in Columbus, Georgia, he's

20

John William Gunter - Direct Exam by Mr. O'Connell

1 34 1/2 years old, the youngest one lives in Moncks
2 Corner, South Carolina, and he will be 30 years old
3 December the 8th.

4 Q. So you had an opportunity to watch your own
5 children develop?

6 A. Yes.

7 Q. How would you compare their development to
8 Eddy's in terms of talking and walking?

9 A. My oldest son walked at nine months, my
10 youngest son started walking at about ten and a half
11 months. They both started talking about the same
12 time, expressing themselves in words and full
13 sentences very early, at a very early age and much
14 earlier than Eddy was.

15 Q. Do you know about how old Eddy was when he
16 started walking?

17 A. I don't remember exactly, but I remember
18 growing up it took longer. And I feel a little
19 uncomfortable talking about this in front of Eddy and
20 all because it's a little embarrassing.

Testimony of Gunter

21 Q. That's inherent in the situation and I
22 understand that.

23 A. But that's the reason I seem to stutter a
24 little bit with it, it's embarrassing, but Eddy was
25 slower being potty trained, much slower than other

21

John William Gunter - Direct Exam by Mr. O'Connell
1 children as far as, I mean, they were more along the
2 normal expected time, plus or minus a month just
3 given as an average that you need to look at if your
4 child's not talking or walking at a certain age you
5 need to be concerned, maybe consult a doctor about
6 it.

7 Q. What about his behavior as a young child,
8 what was that like?

9 A. Eddy appeared to do things to try to get
10 attention. He craved attention, he craves praise and
11 he got very little of either, especially with the
12 praise. When he would do something good his father
13 seemed to just take an indifferent approach to it.

14 Q. Did his father ever tease him for any purpose
15 when he was a young child?

16 A. Constantly.

17 Q. About what?

18 A. Called him Eggy, and it wasn't Eggy because
19 just for any reason other than that he was an
20 egghead.

21 Q. You mean you're talking about the size of his
22 head?

23 A. Yeah, refer -- that's what I took it as.
24 Now, that was my impression.

25 Q. As Eddy developed into his late, you know,
Page 18

Testimony of Gunter

22

John William Gunter - Direct Exam by Mr. O'Connell

1 seven, eight, nine, ten and into his adolescence,
2 what did you observe about his behavior, what kind of
3 guy was he, how did he relate to other people?

4 A. Didn't relate very well. Eddy and I got
5 along very well together, always have, but I took a
6 little extra time with him, but he didn't seem to
7 relate to other kids, other kids seemed to tease him
8 a lot because they could fluster him. And as
9 children, the cruelty of children in their teasing,
10 they're serious with it. And if they found
11 someone -- in growing up myself I know my cousin was
12 teased very, very hard because of his speech pattern
13 and his speech and he would do things to get
14 attention. I noticed a lot of that in Eddy.

15 Q. As he grew into his teenage years did you
16 observe whether he had regular friends that he
17 associated with?

18 A. Very, very few.

19 Q. Why did you think that was, what were your
20 observations?

21 A. Part of it was Eddy's actions his-self,
22 his -- trying to find a way to put this in words --
23 but it was just hard for Eddy to make friends. It
24 was very hard for him to make friends it seemed like
25 and he become somewhat of a loner, possibly because

23

John William Gunter - Direct Exam by Mr. O'Connell

1 of the teasing that he got when he was -- when he was
2 younger and going to school. He had a few friends

Testimony of Gunter

3 there in the neighborhood that they played with,
4 but....

5 Q. Do you remember ever seeing any problems that
6 Eddy had concentrating on tasks or on one particular
7 subject that he had to deal with?

8 A. It was very hard for him to keep attention in
9 one area very long. He would get a project started
10 and lose interest in it and start on something else.

11 Q. When he became into his -- when he got into
12 his 20s and early 30s, how would you describe his
13 personality?

14 A. I'm not trying to be humorous here, but which
15 one? Because Eddy seemed to have more than one to
16 me. I'm not an expert as such, but....

17 Q. Explain that.

18 A. He would go from a very caring, carefree
19 individual to an almost spooky individual like he was
20 being hunted and someone was after him. And he was
21 real self-conscious. When we would take him out
22 fishing or hunting he was totally relaxed in an
23 element he enjoyed; in others, he felt like people
24 were getting him. That's my impression.

25 Q. That's what I'm asking.

24

John William Gunter - Direct Exam by Mr. O'Connell

1 A. Yeah.

2 Q. That's what I'm interested in.

3 A. The least thing would upset him. Like at
4 Broyhill there was a man that constantly stayed after
5 him all the time and eventually made him lose his
6 temper to the point that he got fired for it. And
7 just the least thing could upset him and he just

Testimony of Gunter

8 couldn't turn it loose.

9 Q. I want to bring you up to -- were you in town
10 when Eddy was arrested for this?

11 A. No, I was in Florida.

12 Q. All right. When did you -- you came up here
13 for the trial?

14 A. Yes, we did.

15 Q. And do you recall when you first met Eddy's
16 lawyers?

17 A. Yeah, it was just a few days before the
18 trial. I would say no more than two weeks, it's been
19 eight years ago and I didn't write the dates down,
20 but I know we come up to do the interviews and just a
21 few days later they had the trial, trial started.

22 Q. Do you recall who interviewed you?

23 A. Scott Parker interviewed me and my wife
24 and --

25 Q. You met Scott Parker today?

25

John William Gunter - Direct Exam by Mr. O'Connell

1 A. Yes. I saw him when he come in today, we
2 spoke briefly.

3 Q. All right. And he interviewed you and your
4 wife. Was that interview together?

5 A. It was together, yes.

6 Q. All right. Do you recall about how long
7 before the trial that interview took place?

8 A. No more than two weeks before and I think it
9 was more like five or six days before.

10 Q. All right. Did -- when was the first time
11 that you met with either Mr. Beauford or

Testimony of Gunter

12 Ms. Hardee-Thomas?

13 A. At that same time.

14 Q. About two weeks before the trial?

15 A. Within two weeks. I would say five or six
16 days possibly before the trial.

17 Q. What -- would you set that meeting for me?
18 who was there and where was it?

19 A. Trying to remember exactly all of them that
20 was there. It was in Mr. Beauford's office, which I
21 believe if memory serves is close to the jail in
22 Moncks Corner. We went into the office, I know
23 Russel Weik was there, I think Amy was there, I'm
24 speaking of Amy as the younger of the siblings of
25 Russel's family, I don't recall whether Chris was

26

John William Gunter - Direct Exam by Mr. O'Connell

1 there or not, I want to say that he was but I can't
2 be absolutely sure, but I think he was.

3 Q. It's safe to say there are several family
4 members?

5 A. There were several family members there
6 because Lily had called us, gathered us all together,
7 said we need to do the interview, we're getting ready
8 for Eddy's trial. That was the first time I met the
9 attorney.

10 Q. And who -- were you interviewed at that
11 meeting?

12 A. Yes, my wife and I both were.

13 Q. By Scott Parker?

14 A. By Scott Parker. Percy Beauford was in the
15 room for a short time, left, Scott Parker done the
16 interview.

Testimony of Gunter

17 Q. All right. Did -- do you recall what, if
 18 anything, Mr. Beauford said to the group of you that
 19 were at that meeting either before or after,
 20 during -- in terms of what the meeting was about,
 21 what he wanted to accomplish?

22 A. He was trying to see at that time and I
 23 thought it rather a late date to find out who he
 24 could use as witnesses for the trial. And he had
 25 told us that he wanted to pursue not guilty by

27

John William Gunter - Direct Exam by Mr. O'Connell
 1 reasons of insanity, I believe was the way he put it.
 2 And at best maybe manslaughter or something like
 3 that. But that was the purpose of the interview to
 4 see if we could be a credible witness for the
 5 defense.

6 Q. Did you then understand at the time of that
 7 meeting that the State was seeking the death penalty
 8 against him?

9 A. I do remember it seems like Mr. Beauford
 10 saying that they were trying for death, the death
 11 penalty in the murder case.

12 Q. Did either Mr. Beauford or Ms. Hardee-Thomas
 13 describe to the group what the process, what the
 14 structure of death penalty cases is?

15 A. Not to my knowledge, no.

16 Q. All right. Did you --

17 A. Let me rephrase that. Not that I recall he
 18 did not.

19 Q. That's fine, that's all you can testify to.

20 A. Yeah.

Testimony of Gunter

21 Q. Did they -- aside from the things that you've
22 talked about, not guilty by reason of insanity and I
23 think you said voluntary manslaughter?

24 A. I think involuntary manslaughter. Was either
25 not guilty by reason of insanity or non-voluntary

28

John William Gunter - Direct Exam by Mr. O'Connell

1 manslaughter.

2 Q. Okay. Did Mr. Beauford talk to you at all
3 about the death penalty and what he might present or
4 what -- ask you what was available to try to convince
5 the jury not to sentence to death? Did he suggest or
6 ask you information about that that was relevant to
7 that?

8 A. No. The only thing that I can recall
9 Mr. Beauford saying when we questioned him at
10 recesses in the court at various times, that when we,
11 especially I would question him about challenging
12 some of the testimony, that he wasn't worried too
13 much because all of this would come up in the appeal
14 because all death penalty cases were appealed
15 automatically and he would get a, I believe the way
16 he phrased it, he would get another trial at that
17 point and all of this could be brought out then.

18 Q. What was the context of those remarks by
19 Mr. Beauford, what was being talked about with him
20 when he would say those sorts of things?

21 A. It was after we'd have a round in court and
22 at each round he went in, he started out on an upbeat
23 note that I'm going to, I think we've got a good
24 chance to get not guilty by reasons of insanity and
25 he'll get three or four years in a mental institution

Testimony of Gunter

29

John William Gunter - Direct Exam by Mr. O'Connell

1 and once he's cured he'll be, he'll be out. And Lily
2 grabbed ahold of that, his mother.

3 And then he come back in after he
4 would -- and say he was in over his head he began to
5 realize, that he came in started saying, changing we
6 probably will go for manslaughter, probably get a
7 manslaughter, and he kept going more and more into,
8 well, he's going to be found guilty of murder, but
9 don't worry, it will be appealed and everything will
10 be done over again, he'll have another attorney at
11 that point.

12 Q. He'll have another attorney?

13 A. Yeah, that was the basis -- that was what I
14 assumed from what he said that I recall.

15 Q. Okay.

16 A. That's what I recall, that they had attorneys
17 that handled these appeals, when they went before the
18 Supreme Court it would be handed back down and they
19 have, you know, good attorneys up there that handles
20 appeals, not to worry.

21 Q. All right. And did he -- in terms of a new
22 trial, what did he say about that?

23 A. The impression that I got, the best I recall
24 is -- just a moment -- that he would -- that once it
25 went before the Supreme Court that it would

30

John William Gunter - Direct Exam by Mr. O'Connell

1 automatically be appealed. And the impression he
2 left upon the family was that and at the new trial

Testimony of Gunter

3 that, you know, some things could be brought out,
4 or....

5 Q. What did you understand that he meant by
6 bringing something out?

7 A. He was confusing quite a bit, but it was
8 almost as if don't worry, it will be appealed, and
9 the sentencing will be changed and everything will be
10 okay.

11 Q. Do you recall that part of the discussion
12 where he began to tell you that it will be appealed
13 and he'll -- everything will be okay? What stage of
14 the trial was that discussed during?

15 A. We were probably halfway through the case.
16 That was in the second or third day when he began
17 talking each day, it got -- he got more and more
18 downbeat, not upset, he wasn't upbeat about the
19 trial, he just got more and more down and more and
20 more defeated.

21 Q. Were you ever asked to testify?

22 A. I was told when I was interviewed I was being
23 interviewed as a potential witness and that I would
24 be a witness. And when we got to the court he said
25 you can just come on in, we're not going to use your

31

John William Gunter - Direct Exam by Mr. O'Connell
1 testimony.

2 Q. Did you ask him any questions about why that
3 was?

4 A. I asked him why, because I had known the
5 family so many years, I knew them as long as -- you
6 know, within a few moments as long as he knew them
7 and was exposed quite a bit to the family and noticed

Testimony of Gunter

8 the changes from being away for four or five, three,
9 four, five months at a time and coming back and see
10 the deterioration of the family and the family group
11 per se and was never -- he never did explain to me
12 other than we don't need your testimony, that was all
13 he would tell us, my wife and I both.

14 Q. Tell me about the condition of the Weik house
15 when these children were growing up. How would you
16 describe that?

17 A. Filth piled up with junk, magazines that were
18 from back in the early '70s piled up, roaches
19 everywhere, absolutely filthy. That's the only way I
20 know to put it. The house was in a state of repair
21 [sic]. I asked Russel several times, asked him to
22 make repairs on the house. He said, I won't do it
23 because my name's not on the deed and Lily won't put
24 it on so I'm not going to make any changes to the
25 house. I don't give a so and so if the whole so and

32

John William Gunter - Direct Exam by Mr. O'Connell

1 so place falls down. I don't want to use that
2 language in court, I don't want to use it anyway.

3 Q. I think you made your point.

4 A. Thank you.

5 Q. You mentioned something about the children
6 walking by Rus and getting poked and jabbed and hit.
7 would you just explain that a little bit more than
8 you previously did and what reaction the children had
9 to it.

10 A. He did it -- the children didn't like it. It
11 was -- he would say that, well, I'm trying to make

Testimony of Gunter

12 them aware of their surroundings, but he would laugh
 13 quite a bit and just he used to call himself -- he
 14 was known as Gomer Pyle because he resembled Gomer
 15 Pyle off the TV show. He would say, Old Gomer's got
 16 you again, you got to be on your toes, you can't --
 17 you never know when somebody's going to be there to
 18 get you, you got to be watching yourself every
 19 moment.

20 Q. I want to get back a moment, just for a
 21 moment to the lawyers. Did you ever have any
 22 conversations with Marva Hardee-Thomas?

23 A. Other than very brief conversation in the
 24 room to the left just outside those doors, very
 25 brief.

33

John William Gunter - Direct Exam by Mr. O'Connell

1 Q. Outside this courtroom?

2 A. Outside the courtroom.

3 Q. Was that during the trial?

4 A. During the trial, yes.

5 Q. Aside from the one meeting that you had with
 6 Mr. Beauford with other family members in his office,
 7 were there any other meetings that you attended?

8 A. No.

9 Q. At that meeting was Marva Hardee-Thomas
 10 present?

11 A. Not that I recall, no.

12 Q. Okay.

13 MR. O'CONNELL: Excuse me one second,
 14 Judge, let me just check my notes.

15 THE COURT: Yes, sir.

16 Q. Do you recall there being another

Testimony of Gunter

17 investigator involved in the case before Mr. Parker
18 got involved?

19 A. I had heard about a lady that was doing some
20 interviews and was supposed to be calling us to talk
21 to us, but she never called. Mrs. O'Shea talked with
22 us at a later date.

23 Q. Mrs. O'Shea talked to you at a very later
24 date?

25 A. Yeah, a much later date. It was after the

34

John William Gunter - Direct Exam by Mr. O'Connell
1 trial. I'm sorry.

2 Q. It was after I got involved?

3 A. Right, it was when you got involved is when
4 we talked to Mrs. O'Shea, but we never talked to the
5 lady that was doing the interviews and she just
6 suddenly stopped. She was supposed to call us and
7 she suddenly stopped and the next thing we know we
8 were called up, we kept wondering when we were going
9 to give what little bit -- you know, what information
10 we had and the next thing we heard from is Lily
11 calling and saying that you're supposed to be on here
12 on this date to talk to the attorney, we're getting
13 ready to go to trial. And went in and talked with
14 Mr. Parker.

15 Q. Okay.

16 MR. O'CONNELL: Excuse me one second,
17 Judge.

18 THE WITNESS: Sure.

19 MR. O'CONNELL: Would you answer any
20 questions Mr. Zelenka has to ask this

21 Testimony of Gunter
gentleman?

22 THE WITNESS: Sure.

23 THE COURT: Cross-examination.

24 MR. ZELENKA: Thank you, Your Honor.

25 THE WITNESS: Could you give me just a

35

John William Gunter - Direct Exam by Mr. O'Connell

1 moment to stand up a little bit? I've got a
2 pinched nerve in my back, need to move a
3 little bit if you don't mind.

4 MR. ZELENKA: Sure.

5 THE COURT: You may stand.

6 CROSS-EXAMINATION

7 BY MR. ZELENKA:

8 Q. Mr. Gunter, from 1966 until 1998 when this
9 incident happened, approximately how many days a year
10 did you spend in Moncks Corner each year?

11 A. Oh, gosh, we would come up for a week at a
12 time a lot and sometimes on weekends. Probably we'd
13 come up for a week at a time three or four times a
14 year and then we'd come up on weekends four, five,
15 six times a year. It just depended. We would have a
16 little bit of time, maybe a long weekend, we'd leave,
17 come up this way.

18 Q. So every year you were spending about a month
19 in Moncks Corner?

20 A. At least a month if not a little bit more,
21 depended upon the time of the year.

22 Q. And where did you stay?

23 A. I stayed sometime at the house and then we
24 got to where we would when the house just fell in
25 more and more of a disrepair we would get a room and

Testimony of Gunter

36

John William Gunter - Cross-Exam by Mr. Zelenka

1 we'd sleep in a room at night, but we'd spend the day
2 at the house.

3 Q. Okay. The house being Lily and Russel's
4 house?

5 A. Lily and Russel's house, yes.

6 Q. Okay. Now, as I understood the descriptions
7 of the house, there was just one big bedroom in the
8 house where everybody stayed. Is that incorrect?

9 A. The house had a living room, dining room,
10 kitchen and two bedrooms and a bath.

11 Q. Okay.

12 A. There was -- the upstairs portion was turned
13 into a bedroom early on when Russel and Lily first
14 got married and the children started coming along and
15 they needed more room in the house, because the three
16 of Lily's kids were still there and Lily started
17 having children. And I went upstairs and we redone
18 the attic in the house and turned the attic into a
19 large bedroom with a separate smaller bedroom in the
20 front. And the kids would take turns, the oldest
21 ones got their choice and they usually took the front
22 room in the attic part of the house. So it was more
23 than actually two bedrooms.

24 Q. And when Eddy was staying there with his --
25 with his wife in that room, where were you staying

37

John William Gunter - Cross-Exam by Mr. Zelenka

1 that month?

2 A. We had gotten to the point that we stayed

Testimony of Gunter

3 there once, slept on the couch and then from then on
4 we would go get a motel room, stay in a motel room in
5 Moncks Corner. The choices weren't that great in
6 Moncks Corner, so a lot of times we would stay at
7 I-26 here, I believe it is in Summerville, at a motel
8 there. We spent the night, but then we'd go back to
9 the house during the day.

10 Q. Now, in 1997 or 1998 how often did you come
11 up during that time period?

12 A. During that time we had moved an RV up that
13 Lily let us park on the place, I had a 30-foot RV
14 that I moved up there in '97 I believe it was and
15 parked it and we would stay in the RV and we would
16 come up several times on weekends. Probably average
17 about once a month on weekends because we had a place
18 then we could stay and keep up ourselves.

19 Q. Where does your son live now in Moncks
20 Corner?

21 A. He lives across the road on a piece of
22 property that my wife inherited from her father, her
23 mother divided the estate up among the three children
24 or four children of the first marriage that Dick
25 Ferrare, her first husband, had left to her, divided

38

John William Gunter - Cross-Exam by Mr. Zelenka

1 the property up and there was about seventy-five
2 hundredths of an acre for each of the four children
3 of the first marriage. We kept our piece, the other
4 three sold part to us and one of them to Chris.

5 Q. Okay. Who is living in the house now?

6 A. In the original home?

7 Q. Yeah.

Testimony of Gunter

8 A. No one.

9 Q. Okay. Why is that?

10 A. I can make an assumption, because Russel had
11 remarried and his current wife refused to stay in the
12 house and I was told that she refused to stay in the
13 house in the state it was in, that she wouldn't live
14 there. As a matter of fact, she said that herself
15 come to think of it to me. I told Russel if he
16 wanted to he could come live with me. But I wouldn't
17 live in that house, it needs too much work on it,
18 it's went downhill to the point you've got to stop
19 and look through the bushes to see the front door to
20 the house now.

21 Q. Okay. And when you were living in the house
22 roaches were on the floor, mosquitoes?

23 A. Roaches, mosquitoes, that's the reason we
24 started going to a motel room. I just -- I wasn't
25 reared in that kind of a house and I love Lily to

39

John William Gunter - Cross-Exam by Mr. Zelenka

1 death as a second mother, but I couldn't live in that
2 kind of stuff.

3 Q. Okay. Did it have running water?

4 A. It had running water.

5 Q. Did it have running water every three times a
6 year that you were up there from 1966 to 1998?

7 A. It had running water in a sense. For a while
8 the well that Lily had when she and Rus got married,
9 Rus was trying to add some drop pipe to it and
10 dropped some of the pipe down in the well and they
11 never could get enough drop pipe and the pump would

Testimony of Gunter

12 pump some water and quit and finally got to where it
 13 didn't work. And Lily would have to go down the
 14 street and haul water to the house, she would take
 15 buckets to the neighbor's house, roll them back in
 16 wheelbarrows. He would catch rainwater outside in a
 17 55-gallon drum for the commode, the fill drains were
 18 just knotted up with roots.

19 Q. Okay. About how long did it not have running
 20 water?

21 A. Several years before Lily finally got enough
 22 money together somehow to get a well put down. In
 23 the last few years that she lived they had a well put
 24 in.

25 Q. Okay.

40

John William Gunter - Cross-Exam by Mr. Zelenka

1 A. That well had been messed up probably where
 2 it would pump just a little bit of water at a time.
 3 You'd flush the commode and the pump would start
 4 sucking air and it would take forever to fill the
 5 tank back up and it was that way for several years
 6 and there were, I'd say, probably eight to ten years
 7 didn't have water.

8 Q. Eight to ten years?

9 A. Eight to ten years they did not have running
 10 water of any appreciable amount in that house.

11 Q. What years was that?

12 A. Through the '80s and very early '90s.

13 Q. Now, if I recall correctly you're a Mason?

14 A. I'm a Master Mason, past minister of my lodge
 15 in Tallahassee, Florida.

16 Q. How did Russel or Eddy react to you being a

Testimony of Gunter

17 Mason? Did it ever come up in conversations, was it
18 favorable, unfavorable, questioning, curious?

19 A. Questioning, curious. Russel tried to join
20 the local lodge but was not -- he was blackballed.

21 Q. You know he was blackballed?

22 A. He told me.

23 Q. Okay. Did that cause him to have a grudge
24 against the Masons?

25 A. Russel said he was a member of the DeMolay,

41

John William Gunter - Cross-Exam by Mr. Zelenka

1 which is the branch of the Masons for young boys,
2 early age before they're 21 years old is the DeMolay,
3 but he claimed to be a member of the DeMolay back
4 where he was from originally. And that to start with
5 he didn't speak I'd say all that favorable, but
6 Russel, Russel and I usually got along, but he never
7 spoke in that much of a derogatory manner in my -- in
8 my presence.

9 Q. Okay.

10 MR. ZELENKA: I don't think I have any
11 further questions at this time. Thank you,
12 Judge.

13 MR. O'CONNELL: Nothing further, Judge.

14 THE COURT: AS to this witness?

15 MR. O'CONNELL: That's correct.

16 THE COURT: Mr. Zelenka?

17 MR. ZELENKA: No objection.

18 THE COURT: You may step down and you
19 are excused.

20 THE WITNESS: Thank you, sir.

