

VOLUME V OF VIII

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Appeal from Horry County

Honorable Robert E. Hood, Circuit Court Judge

S.C. SUPREME COURT

THE STATE,

RESPONDENT,

V.

JEROME JENKINS, JR.

APPELLANT.

APPELLATE CASE NO. 2019-001280

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THE FOLLOWING DOCUMENTS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT #51 (PHOTO), STATE'S EXHIBIT #52, (DVD 905 SUNHOUSE), STATE'S EXHIBIT #75 (DVD STATEMENT NO. 2), STATE'S EXHIBIT #76 (DVD STATEMENT NO. 3), STATE'S EXHIBIT #106 (DVD – ARROWHEAD ROBBERY), STATE'S EXHIBIT #114 (DVD OAK ST.), STATE'S EXHIBIT #144 (DVD-JENKINS STATEMENT 2), STATE'S EXHIBIT #145 (DVD-JENKINS STATEMENT 3), AND STATE'S EXHIBIT #146 (DVD-JENKINS STATEMENT 4).

RASHOEM GRANT - DIRECT EXAMINATION

1 A I mean, you know, what I'm saying, stand-up guy,
2 like, you know what I'm saying, whatever he say he
3 going to do, you know what I'm saying, he stands up to
4 his words. Good guy, you know what I'm saying.

5 Q Did -- with J.J.'s son, tell me about that. Were
6 you around when his son was born?

7 A Yes, sir.

8 Q Tell me about that. Tell me what kind of
9 relationship J.J. had with his son during the time that
10 both of you all were out?

11 A He loved his son; that is his everything right
12 there.

13 Q And when you say he loved him, how did he show
14 that affection?

15 A Spending time with him. He had a few jobs, you
16 know what I'm saying, just part -- just being a father.

17 Q During the time you knew J.J., was he working
18 most of the time?

19 A Yes, sir.

20 Q Did y'all ever work on a job together?

21 A No, sir.

22 Q Now, tell me about J.J. and Lonice, what their
23 relationship was like before their son was born, and
24 then during that time and after?

25 A Before the son was born? Like after the son was

RASHOEM GRANT - DIRECT EXAMINATION

1 born?

2 Q During the time J.J. was dating your sister, I
3 want to know what their relationship was and how that
4 was going?

5 A I would say fairly good. It went fairly good. I
6 mean, I don't -- fairly good, as far as what I seen.

7 Q Now, were you living in the same home with Lonice
8 when J.J. and her were dating before her son was born?

9 A Yes, sir.

10 Q So you and your sister were living at the same
11 house before that?

12 A Yes, sir, with our mom.

13 Q Now, did J.J. ever live with you all for any
14 period of time?

15 A Yes, he did.

16 Q And when he was living with you all, that is when
17 he and your sister were a couple?

18 A Yes, sir.

19 Q How long did he stay with you all?

20 A I can't recall.

21 Q Do you recall if it was some months or few years?

22 A Months.

23 Q Few months?

24 A Yes, sir.

25 Q During that time, was J.J. working?

RASHOEM GRANT - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Do you know where he was working during that
3 time?

4 A I want to say at KFC. I think they had the same
5 job at the time working, KFC.

6 Q You think he might have been working at KFC?

7 A Yes, sir.

8 Q Now, let me ask you, once you went off to prison,
9 did you have any further contact with J.J. while you
10 were locked up?

11 A When I was in the county, and when I first hit my
12 first yard, that is when I talked to him.

13 Q When you hit your first yard?

14 A When I got my first institution, prison.

15 Q So you got up with him again inside; is what you
16 are saying?

17 A Yeah. He was still on street, and I was calling
18 talking to my mom, and he be around, and I would talk
19 to him like that.

20 Q So even while you were incarcerated, if you
21 called home and talked with your mom, you also would
22 have contact with him?

23 A Yes, sir.

24 Q Now, let me ask you a little bit about Playcard
25 and your experiences growing up in -- visiting that

RASHOEM GRANT - DIRECT EXAMINATION

1 community, as you said, on a regular basis.

2 MR. HIXSON: May we approach very briefly?

3 (Whereupon, a bench conference was had.)

4 Q (MR. WILSON) Let me go back. I asked you
5 earlier about Playcard. You said that you never lived
6 there; is that correct?

7 A No, sir.

8 Q You visited there. Who of your relatives lived
9 at Playcard?

10 A My cousin, Ester; my cousin, John, Junior and my
11 uncle.

12 Q And so you would go visit them on weekends?

13 A Yes, sir.

14 Q And over what period of time are we talking that
15 you would go out there and visit?

16 A Probably spend a day or something like --
17 sometimes a night.

18 Q And over how many years?

19 A I mean, say, about eight years, like six --
20 probably five or something like that, four.

21 Q So up until you were maybe 15, 16 years old, you
22 would go out there and visit regularly?

23 A Yes, sir.

24 Q Tell me about the Playcard community. Tell me in
25 your open words. Describe it to me what it was like.

RASHOEM GRANT - DIRECT EXAMINATION

1 A Rough.

2 Q When you say it's "rough," tell me what does that
3 means, because "rough" means different things to
4 different people. So tell me -- when you say it is
5 "rough," what that means?

6 A It means poverty stricken.

7 Q Poverty stricken?

8 A Yes, sir.

9 Q What else?

10 A Pretty much it. You know, I don't know how to go
11 into detail, but poverty stricken community.

12 Q Let me ask you if you knew James and McKinley
13 Daniels?

14 A Yes, sir, I knew them.

15 Q How did you know them?

16 A I knew James' mama stayed out there.

17 Q His mom lived in Goose Bay when you lived?

18 A Yes, sir.

19 Q Were they living with her back when you were
20 living out there?

21 A Yes, sir.

22 Q And did you know both of them; that is, both
23 James and McKinley?

24 A I know James better than I know the other
25 brother.

RASHOEM GRANT - DIRECT EXAMINATION

1 Q Now, have you had any contact with either James
2 or McKinley since they have been charged in this case?

3 A No, sir.

4 Q When was it that you learned that J.J. had been
5 charged in this these cases?

6 A Back in 2015. When I first hit the yard, I
7 called home, 2015.

8 Q So you were at MacDougall at 2015?

9 A Yes, sir.

10 Q And that is how you learned of it, on TV, or
11 what?

12 A No. No, sir, I didn't hear it from TV.

13 Q How did you learn about it?

14 A From my mom and sister when I called home.

15 Q They told about it?

16 A Yes, sir.

17 Q What was your reaction to it?

18 A I didn't believe it.

19 Q Shocking for you?

20 A Yes, sir. I ain't see that.

21 Q And when you say you didn't see that, what does
22 that mean?

23 A Just his personality, character, I didn't see
24 that, you know, like charges and stuff.

25 Q You didn't see that in him is what --

RASHOEM GRANT - DIRECT EXAMINATION

1 A No, sir.

2 Q I just have a couple more questions. Tell me, at
3 some point you stopped going to Playcard?

4 A Yes, sir.

5 Q Tell us why you stopped going.

6 A I mean, I didn't actually stop. Just as I got
7 older, you know -- you know, just different
8 communities. My family kind of moved from there, so I
9 really had no reason to go out there, you understand,
10 you know, like that.

11 Q Okay. Now, you said that Playcard was rough, did
12 the people out there act differently than people
13 anywhere else?

14 A I mean, not from what I'm used to, you know what
15 I'm saying. I mean, they ain't all the same. Like I
16 was used to it, was the same where I was from or where
17 he was from, you know what I'm saying.

18 Q Did you have to act differently when you went to
19 Playcard than when you were at home in your community?

20 A No, sir.

21 MR. WILSON: Thank you, sir.

22 MR. HIXSON: I have no additional questions.

23 THE COURT: Thank you, Mr. Grant, have a nice
24 day.

25 MR. WILSON: We ask him to be released.

THE COURT AND ATTORNEYS - JURY OUT

1 THE COURT: He can go back. Thank you very much
2 for being here on time, I really appreciate that. And
3 he's free to go.

4 DEPUTY: Thank you, sir.

5 THE COURT: You may call your next witness.

6 MR. WILSON: We call Raheem Ray to the stand.

7 MR. HIXSON: While he's doing that, can we
8 approach?

9 (Whereupon, a bench conference was had.)

10 THE COURT: We're going to take a break. It is a
11 good stopping point. Do not discuss the case. Mr.
12 Ray just take a seat, and we'll take our morning
13 break. Everyone else in the audience, remain seated.
14 Thank you.

15 (The jury exits at 11:17 a.m., and the
16 following is heard out of the presence of the jury.)

17 THE COURT: Jury is out of the room, so the
18 intention is to offer the video through this
19 gentleman?

20 MS. WILLIAMS: Yes, sir.

21 THE COURT: How long is the video.

22 MS. VANN: Probably five minutes, total. But it
23 is broken into short 30 seconds or one-minute clips.

24 THE COURT: For the record, that was Lindsey
25 Vann. Is it V-O-N-N or --

THE COURT AND ATTORNEYS - JURY OUT

1 MS. VANN: V-A-N-N.

2 THE COURT: And you want to be heard?

3 MR. HIXSON: We didn't want to object to break up
4 the flow, but State versus Lucas holds the proposition
5 of at some point the family mitigation becomes
6 accumulative over a period of time, so I think we're
7 roughly to the sixth that are specifically referring
8 to Mr. Jenkins' character, and I think it is
9 appropriate, and that is why I didn't want to object
10 in open court. But we don't have any preview of what
11 is going to be played, and once we press play, this
12 thing comes out, and I don't know what it.

13 THE COURT: Have you seen this video?

14 MR. HIXSON: I have not. I have gotten still
15 shots. We got that I think last night after court
16 broke. I just opened my phone and saw it, so I don't
17 know what it is. I'm not trying to be in the way, but
18 at the same time....

19 THE COURT: How many more family members?

20 MS. WILLIAMS: This is the last one.

21 THE COURT: Is he a brother?

22 MS. WILLIAMS: Younger brother.

23 THE COURT: All right. So I'll have Mr. Ray to
24 testify, and during the break, I want you to play the
25 video for the State to see if you have any objections

RAHEEM RAY - DIRECT EXAMINATION

1 before the jury comes back in.

2 Any other issues?

3 MS. WILLIAMS: None from the defense.

4 THE COURT: All right. Let's take a break.

5 (A recess was taken.)

6 (Defendant's Exhibit 9 marked.)

7 THE COURT: Anything before we start?

8 MS. WILLIAMS: Nothing from the defense.

9 MR. HIXSON: No, sir, we're good.

10 (A brief pause in the proceedings.)

11 (The jury enters at 11:39 a.m., and the
12 following is heard in the presence of the jury.)

13 THE COURT: Welcome back, ladies and gentlemen.

14 You may call your next witness.

15 MS. WILLIAMS: Defense would call Raheem Ray.

16 THE COURT: Mr. Ray, come on up.

17 (RAHEEM RAY, having been duly sworn, testified
18 as follows:)

19 THE WITNESS: Raheem Ray, R-A-H-E-E-M, R-A-Y.

20 DIRECT EXAMINATION

21 BY MS. WILLIAMS:

22 Q Mr. Ray, will you please tell the Court your
23 relationship to J.J.?

24 A That is my brother.

25 Q And in pecking order, where do you fall in?

RAHEEM RAY - DIRECT EXAMINATION

1 A Right below, right behind him. It is my sister,
2 Sharine, Shawn, then Laquan then J.J. and then me and
3 then two little brothers.

4 Q I'll show you what was marked for identification
5 as Defense No. 9; you recognize that, right, the video
6 of the --

7 A Yeah.

8 Q And there is a video on there that you watched,
9 right?

10 A Yes.

11 Q And you are familiar with that video?

12 A Yes.

13 Q And is it an accurate reflection of what it is
14 purported to be?

15 A Yes.

16 MS. WILLIAMS: At this time, we move to admit
17 Defense 9.

18 THE COURT: Any objection?

19 MR. HIXSON: No, sir.

20 THE COURT: Defense No. 9 admitted without
21 objection.

22 (Defendant's Exhibit 9 admitted.)

23 Q (MS. WILLIAMS) Raheem, start for a minute and
24 talk about -- tell me about J.J. as little boys.

25 A I don't know -- what do you want to know?

RAHEEM RAY - DIRECT EXAMINATION

1 Q Did y'all play together. Was he -- tell me about
2 growing up.

3 A Oh, yeah, we played basketball together. He
4 wasn't that good at it, though, but he was good at
5 football, I mean.

6 Q All right. Did he -- so like in pecking order,
7 what is the difference in your ages?

8 A He is older than me by two years.

9 Q He's two years older. Did he pretend to be boss?

10 A Yeah, with everybody.

11 Q Tell me about him and school.

12 A He was good in school. He would make good grades
13 there were little things he would get in trouble for,
14 but he always make good grades. There were little
15 things he would get in trouble for and he would be
16 kicked out.

17 Q So he would get kicked out?

18 A Yeah.

19 Q Did that happen a lot?

20 A No, ma'am.

21 Q Tell me about a playhouse.

22 A Out in back?

23 Q You tell me about it.

24 A Out in the woods you mean?

25 Q Uh-huh.

RAHEEM RAY - DIRECT EXAMINATION

1 A Yeah, he went out and made a playhouse deep in
2 the woods behind our house. That is where everybody
3 used -- all the kids in the neighborhood went out and
4 played.

5 Q What about the go-cart, was there anything about
6 a go-cart?

7 A Yeah, he had one.

8 Q Tell me about it.

9 A Well, that is the only thing, is the incident
10 where I was riding on the back and he was cutting
11 through the field and having fun, and I fell off of the
12 back of it.

13 Q You fell off of the back of the go-cart?

14 A Yeah.

15 Q How old were you?

16 A I would say about 13.

17 Q Let me make sure, when you are talking, you have
18 to talk loud and clear into the microphone because she
19 has to take down what we say, and they have to hear, so
20 I'm not picking on you, I just have to make sure you
21 talk plain and loud to me. So tell me about the
22 go-cart.

23 A I mean, after I flipped off of it, he tried to
24 bribe me into not telling. He told me I could ride it
25 for the rest of the day whenever I want to, just so my

RAHEEM RAY - DIRECT EXAMINATION

1 mom wouldn't find out, that I flipped off and hit my
2 head.

3 Q That is what he did?

4 A Yeah.

5 Q Did you tell on him?

6 A No, but she found out anyway.

7 Q What happened when she found out?

8 A She put water in the gas tank so no one could
9 ride it.

10 Q All right. Tell me about jobs and working.
11 What, if anything, do you know about J.J. working?

12 A He was a hard working man.

13 Q Tell me why you would say that.

14 A I mean, when he do get a job, he hold onto it and
15 he always on time. I mean, I....

16 Q Did he have it while in school or younger?

17 A Yeah. He worked at KFC when he was in school.

18 Q Okay. So tell me what, if anything, he did at
19 home and around the house?

20 A I mean....

21 Q Did he cook?

22 A Yeah, he was a great cook, made the best pork
23 chops I ever tasted.

24 Q Did he cook a lot?

25 A Yes.

RAHEEM RAY - DIRECT EXAMINATION

1 Q Did you have to ask him to cook for you?

2 A No, he just go ahead and do it.

3 Q Now, tell me about your cousin, Marcus.

4 A Well, that's who J.J. really looked up to in our
5 family, basically, who all of us looked up to. When he
6 died back then, I think in '09, I mean it hurt the
7 whole family.

8 Q Did you notice any impact on J.J. or anything
9 about that?

10 A I mean, you could tell he was hurt, but he
11 eventually got over it.

12 Q Did it change him in any way?

13 A I mean, at that point, yeah. Changed all of us.

14 Q Your grandmother has testified, right, your mom's
15 mom. Tell us about her relationship and J.J.'s
16 relationship.

17 A That is her baby. I mean, she believed him more
18 than she believed anyone else.

19 Q Really?

20 A I mean, all the rest of us.

21 Q And tell me what, if anything, about G. and
22 J.J.'s relationship with his son, G.

23 A He loves G. and makes sure he could get anything
24 while he is out, and still to this day is still doing
25 that.

RAHEEM RAY - DIRECT EXAMINATION

1 Q Let's take a second and talk about that No. 9 we
2 entered. Where did you grow up? One of the areas you
3 grew up, did you grow up in Playcard?

4 A Yes.

5 Q Now, let me move over here out of the way. I'm
6 going to show you as we entered into evidence the video
7 clip that you've watched, in fact, you were there when
8 we were filming it, right?

9 A Yes.

10 Q Let's talk about it. Tell me what we're seeing.

11 A That is the whole neighborhood. That is the
12 front part of it. That highway is 19, and that is
13 Playcard Road. It used to be a dirt road, but they
14 paved it now.

15 Q It is paved now?

16 A Yes.

17 Q But it was a dirt road when you were little?

18 A Yes, ma'am.

19 Q And did y'all live -- where did y'all live?

20 A We stayed at the back side like where the camera
21 is going at now.

22 Q Hold on a second. He'll point.

23 A Back at the trailer park.

24 Q This way, or this way (indicates).

25 A The first one you pointed at.

RAHEEM RAY - DIRECT EXAMINATION

- 1 Q Up this ways (indicates)?
- 2 A Yes, sir.
- 3 Q So we're going from front to the back?
- 4 A Yes, ma'am.
- 5 Q And you all stayed at the back?
- 6 A Yes, ma'am.
- 7 Q Did you have other family in Playcard?
- 8 A Yes, ma'am.
- 9 Q Who all lived there?
- 10 A Pretty much my whole family, most everybody out
- 11 there is family.
- 12 Q Now, let's go to the next clip; what is this
- 13 showing?
- 14 A That is a one-way in and one-way out.
- 15 Q And this is what part?
- 16 A The back.
- 17 Q So this is going up?
- 18 A Yes, ma'am, to front.
- 19 Q And this is the highway?
- 20 A Yes, ma'am, where you turn to get into Playcard.
- 21 Q Right here (indicates)?
- 22 A Yes, ma'am.
- 23 Q And there is only one way in and one way out?
- 24 A Yes, ma'am.
- 25 Q Was there always one way in and one way out that

RAHEEM RAY - DIRECT EXAMINATION

1 you know?

2 A At one point, there was a road that goes all the
3 way through, but they end up blocking it off.

4 Q How old were you when that happened?

5 A I can't remember.

6 Q Were you little, older?

7 A Little.

8 Q How did you go to school from Playcard?

9 A Bus came and picked us up at the top of Playcard
10 Road.

11 Q So where at in here? Up here (indicates)?

12 A Yes, ma'am.

13 Q Were there any problems walking back and forth
14 from the back -- because you all lived at the back?

15 A Yes, ma'am. We had to walk to the bus stop.

16 Q Tell me, walking up to the bus stop, what you did
17 or didn't do.

18 A We had no problems walking there.

19 Q Let's go to the next picture. What does this
20 footage show?

21 A That is the front of the trailer park, you
22 leaving out.

23 Q So that is going down the highway?

24 A Leaving out of.

25 Q We started at the back and coming out through the

RAHEEM RAY - DIRECT EXAMINATION

1 back and park?

2 A Well, that is the end of that road. There is
3 another road you turn to go to the back.

4 Q Let's go to the next clip. What are we looking
5 at here? Can you see the number here (indicates)?

6 A That is like the back of the trailer park.

7 Q Back of Playcard, correct?

8 A Yes, ma'am.

9 Q And how far is Playcard from, like, downtown
10 Loris?

11 A About 10 minutes.

12 Q And how far would it take you to get to school on
13 the bus?

14 A About five or seven -- seven minutes at the most.

15 Q You have gotten older and you've gotten a job,
16 right?

17 A Yes, ma'am.

18 Q Where would you go to get jobs if you were in
19 Playcard?

20 A Loris, Conway or somewhere else.

21 Q How long does it take to get to Conway from
22 there?

23 A About 20 minutes.

24 Q And Myrtle Beach?

25 A 35, 40.

RAHEEM RAY - DIRECT EXAMINATION

1 Q So would you need a car if you were getting a job
2 from there?

3 A Yes, ma'am.

4 Q Would you describe Playcard as an isolated area?

5 A Yes, ma'am. It is hard to get a ride out of
6 there.

7 Q Repeat that.

8 A It's hard to get a ride out of there.

9 Q A ride out of there?

10 A Yes, ma'am.

11 Q Let's show the next clip. What are we looking at
12 here?

13 A That is the trailer up front. That is where we
14 always hang out at my aunt's house that passed, that's
15 is the house she was staying at.

16 Q That is you in the door, right?

17 A Yes, ma'am.

18 Q This is not the same trailer you all lived in,
19 but compare this to the one that you grew up in.

20 A I mean....

21 Q Is it similar?

22 A Yes, ma'am, something like it.

23 Q Let's go to the next one; what is this showing?

24 A That is the tank. That is where everybody used
25 to chill at. That used to be the hangout spot.

RAHEEM RAY - DIRECT EXAMINATION

1 Q What, if anything, used to happen around that
2 tank?

3 A I mean, a lot of things happened right there,
4 drugs and all.

5 Q Did anything violent ever happen near there?

6 A There was a couple shootings that happened.

7 Q Let's go to the next clip. What's this showing?

8 A Well, my other brother, he said that is the spot
9 that we used to live in, but as far as I can remember
10 -- I don't remember that spot.

11 Q But your family thinks that is where you all
12 stayed?

13 A Yes, ma'am.

14 Q All right. But by the time you remember, you
15 don't remember that?

16 A Yes, ma'am, I don't remember that one.

17 Q Next. And what does this show?

18 A That's a trailer out there no one lived in.

19 Q Is that typical?

20 A Yes, ma'am. There was a couple along out there
21 that nobody was staying in.

22 Q What are we looking at? I got that there is a
23 cat, but I mean in the area.

24 A That's the front yard of the pink trailer.

25 Q And this is just showing what?

RAHEEM RAY - DIRECT EXAMINATION

1 A That's how the ditches look there, but it used to
2 be full up with trash when I was growing up.

3 Q This looks a little bit better you think?

4 A Yes, ma'am.

5 Q You don't live there now, do you?

6 A Yes, ma'am.

7 Q You do live in Playcard?

8 A Yes, ma'am.

9 Q That's right, because that was you in the home,
10 correct?

11 A Yes, ma'am.

12 Q Is this a fair and accurate description of what
13 it looks like?

14 A Yes, ma'am.

15 Q Raheem, is there anything that you feel, anything
16 else, because we're about through, that you feel or
17 would like to say to this Court?

18 A Yeah. I mean, what he did, it was wrong, but at
19 the end of the day, everybody --

20 MR. HIXSON: Your Honor, I object.

21 THE COURT: Ask a direct question instead of an
22 open-ended question, please.

23 Q (MS. WILLIAMS) Raheem, can you tell us what you
24 would like to say to the Court, if anything?

25 MR. HIXSON: Once again, we're --

MARSHA TENNANT - DIRECT EXAMINATION
1 THE COURT: Mr. Ray, you cannot say your opinion

2 on what is the appropriate outcome of this case; do
3 you understand that.

4 THE WITNESS: Yeah.

5 A No, I don't have anything to say.

6 Q (MS. WILLIAMS) You cannot -- let me be real
7 explicit. You cannot tell me what you think the jury
8 should or should not do, but you could tell me what
9 you would like?

10 A I would like for them to be lenient.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. HIXSON:

14 Q I think you just said earlier -- and sorry for
15 you having to be here, I know it tough for you. I
16 think you mentioned earlier when you were going up that
17 J.J. was boss of everybody?

18 A Yes.

19 MR. HIXSON: Nothing further.

20 THE COURT: You can step down.

21 (MARSHA TENNANT, having been duly sworn,
22 testified as follows:)

23 THE WITNESS: Marsha Tennant, M-A-R-S-H-A,
24 T-E-N-N-A-N-T

25 DIRECT-EXAMINATION

1 MARSHA TENNANT - DIRECT EXAMINATION
2 BY MR. WILSON:

3 Q Ms. Tennant, if you would, please, ma'am, tell us
4 about your profession and what profession you were in
5 and how long you were in it and what you did while you
6 were in it.

7 A Okay. I was a special education teacher for 40
8 plus years primarily with older students that had
9 emotion issues and were in alternative settings for the
10 most part. It was where I was comfortable.

11 Q I know you're a little nervous.

12 A It's been awhile.

13 Q Relax and take a deep breath, we're not in any
14 hurry.

15 A I'll get okay.

16 Q And I'll help you get through it. If you would
17 like a drink of water, that is fine as well.

18 A I'm fine.

19 Q You said that you did that for 42 years?

20 A Uh-huh.

21 Q And I know -- I know you are --

22 A Oh, yes. Yes, I'm sorry. Yes.

23 Q We have to take it down. What I want to ask you
24 about is during those 42 years, you said you taught
25 special education. Now, in your section of special
education, it was emotionally handicapped?

1 A Yes. MARSHA TENNANT - DIRECT EXAMINATION

2 Q Explain to us what that means as you understood
3 it as a teacher who was teaching emotionally
4 handicapped kids.

5 A From my students, when they had ED, or
6 emotionally disturbed or behavior issues, that meant
7 that their behavior and emotional issues were directly
8 impacting the behavior and performance in the
9 classroom, their inability to maintain what the
10 expectation was within the school or classroom
11 setting.

12 Q Okay. In order to get into the special education
13 classes, did something have to happen to the student in
14 terms of evaluations or -- how did they come to get in
15 your class, is my question?

16 A They had to go through a child study team, which
17 would determine whether -- through a team of experts,
18 psychologists, psychiatrists, educators as to whether
19 they could no longer be successful in that regular
20 classroom, and then they were put under special
21 services or special ed, depending on what district it
22 was in. And then they were -- they had an Individual
23 Education Plan, IEP, and that mandated the
24 accommodations, the education and the approach we would
25 take. Many of these students had behavior management

MARSHA TENNANT - DIRECT EXAMINATION

1 plans to help them and assist them to be successful
2 with the goal of moving them back. It wasn't supposed
3 to be a dead end, it was supposed to be hopefully an
4 interim.

5 Q So the hope was that at some point, with the help
6 of you and whoever was assisting you, that you would be
7 able to get them back in the main stream?

8 A Hopefully.

9 Q Hopefully?

10 A Uh-huh.

11 Q And what was -- if you know, and you may not
12 know, what was the success rate in doing that, in
13 getting them out of that emotionally handicapped
14 situation, getting them back into the main stream?

15 A I would like to tell you that we had a high
16 percentage, but by the time we saw them at the high
17 school level, they had a history of their behaviors,
18 lack of academic success. In the system -- and I'm
19 talking about any system -- we just didn't have the
20 necessary trade or academics to help them, so the
21 success rate, unfortunately, was not very -- I don't
22 know the numbers, but I saw them repeat.

23 Q It was low. So by the time these students got to
24 high school where you were, the dye was pretty much
25 cast?

1 A MARSHA TENNANT - DIRECT EXAMINATION
 Absolutely.

2 Q Let's talk specifically about Jerome. Tell us
3 when and how you came into contact with Jerome
4 initially.

5 A I was at the alternative school from 2009 to
6 2011. I had been at the district offices as a learning
7 specialist for special ed. I had seen J.J. at the
8 middle school when he was in a program there, and I was
9 out helping with curriculum. Then, when I got ready to
10 retire, I wanted to teach one more time, and I asked to
11 go out there specifically. I met J.J. He was one of
12 the students that was polite, smart, funny. After
13 40-some years, you just sort of know when a child has a
14 good heart or is a good person and is trying to beat
15 the odds. He was one of them that caught my eye.

16 Q Now, when you had J.J. in your class, what grades
17 would you have had him?

18 A I had him in ninth and tenth. He was on an IEP,
19 so he was not on a regular diploma. He was on an IEP,
20 which meant he wasn't earning Carnegie units, but
21 earning IEP career credits to get him -- so he would
22 graduate with an alternative diploma.

23 Q So if he graduated, he wouldn't have -- had he
24 stayed in that program and actually went through the
25 12th grade and completed that, he would not have

1 MARSHA TENNANT - DIRECT EXAMINATION
2 gotten a normal, regular diploma?

3 A Not on that track.

4 Q He would have gotten a separate kind of
5 certificate, or whatever you want to call it?

6 A I think now they call it an "occupational
7 diploma," but I've been out a few years.

8 Q Let me ask you, then, ma'am, the class you had
9 that J.J. was in, did you have him for one or two
10 years?

11 A Over a course of two years.

12 Q You had him over the course of two years?

13 A Uh-huh.

14 Q And when -- when -- let me back up. First of
15 all, I guess, how do kids get sent to the alternative
16 school, because that is where you were, so that is a
17 good starting place. Tell us how that happens and how
18 they get there.

19 A There is several ways. One is an infraction at
20 the school that -- weapons, drugs, behavior, assault,
21 all the typical legal issues. We also got some of our
22 students coming back out of juvie, and those were
23 pretty much the typical ways.

24 Q Okay. Now, in your class, how many students
25 would you have at a given time? I mean, were these
26 reduced sized classes, or large classes? Tell me about

1 MARSHA TENNANT - DIRECT EXAMINATION

2 A It depended on how many were referred for the
3 alternative school. By law, I could have 22 in a
4 classroom with an assistant. It varied from anywhere
5 from 12 to 18.

6 Q And so the class size normally varied at 12 to
7 18?

8 A Uh-huh.

9 Q Was that a difficult task for you and your
10 assistant having 18 emotionally challenged children?

11 A Yes. Yeah. That is a room full of big boys.

12 Q Right. So most of the people in your class were
13 boys?

14 A Most of them. I had a few girls.

15 Q Were they mostly black males?

16 A Yes, they were.

17 Q Let's just talk about one of the classes you had
18 that J.J. was in. Let's just talk about those two
19 classes you had him in those two years. How many white
20 males were in the class with you?

21 A Gosh, if I had 15 or 16, maybe three or four,
22 maybe.

23 Q And the others would have been black males?

24 A Uh-huh. Once in -- about once a semester I would
25 have a girl, and they can cycle in and out in nine

1 MARSHA TENNANT - DIRECT EXAMINATION
2 weeks, but most of them stayed a semester.

3 Q Let's talk about J.J. specifically and talk about
4 your relationship with him. Did you develop any kind
5 of relationship with him as a teacher/student that was
6 kind of different than normal?

7 A Yeah.

8 Q Tell us about that.

9 A J.J. was -- he was likeable. There was this
10 little boyness about him that -- there were -- he was
11 fun. He was smart. He was articulate. He would talk
12 to me about his goals and wanting out of the area that,
13 you know, I know I can do good, I would like to be able
14 to leave here. I would like to have a good job.

15 My husband also substituted out there, and he and
16 a few of the others would come back. I was in a
17 portable way out back, and some of them would just
18 come hang out with us. I think we were just a
19 connection of somebody listening to them and maybe
20 respecting where they were at that point.

21 Q Tell me about one of your favorite memories with
22 J.J., about singing the hymns?

23 A He has a beautiful voice, and I would talk about
24 my grandmother and biscuits and stuff, and we would
25 have this little contest of who could make the best
biscuits, his grandmother or my mom. We talked about

MARSHA TENNANT - DIRECT EXAMINATION

1 church socials. We started talking about hymns, and he
2 started singing some of the old Baptist hymns that I
3 remembered, and we sat there and sometimes just, you
4 know, sing the songs and talk about church socials.

5 Q Let me ask you. You had a situation in your
6 classroom once where you had one of the other kids who,
7 for lack of a better word, bowed up at you; tell us
8 about that.

9 A That was Deshawn, and Deshawn had come in -- when
10 the boys come in, a lot of times -- my mother used to
11 call them banning roosters, you know, they would strut
12 their stuff because they have to be in that moment and
13 show who they are. He was not happy about being out
14 there, and he started making threatening remarks. He
15 said that he was going to snap my neck like a twig and
16 called me the usual words they like to call us. J.J.
17 was one of them that stood up and said, That's enough,
18 you are not going to mess with her. I was in the door,
19 and I think Deshawn knew that J.J. and a few other boys
20 meant it, and he sat down.

21 Q Let me ask you this. Did J.J. ever talk to you
22 about Job Corps?

23 A Yes.

24 Q Tell me about that.

25 A J.J. had gotten into Job Corps -- first of all,

MARSHA TENNANT - DIRECT EXAMINATION

1 he had to make a presentation, so I went with him and
2 some of his family members to Tech, Horry County Tech
3 and he had an awesome presentation to give as to why
4 they should pick him and what he could do and his goals
5 and dreams were, and he was accepted. And then the
6 counselor that was assigned to him, we heard he got
7 fired, and then we heard he just got transferred. We
8 don't know what happened. But Mr. McLaurin, the
9 principal, and I stayed on it for like a month or two
10 trying to make sure -- because J.J. kept saying, If I
11 get out of here, I'll be okay. If I get out of here,
12 I'll be okay. And it fell through, and that is when
13 several of us that were teachers that were really close
14 to J.J., we saw the light go out of his eyes.

15 Q You think that was a changing point?

16 A I think it was, in my professional experience,
17 and also just somebody that knew him and built a
18 relationship with him.

19 MR. WILSON: Thank you, ma'am. Hold on a second
20 for me, please.

21 (A brief pause in the proceedings.)

22 MR. WILSON: Thank you so much. Answer any
23 questions the solicitor may have for you.

24 MR. RICHARDSON: Thank you for coming. We have
25 no questions for you.

ETTA CARTER - DIRECT EXAMINATION

1 THE COURT: Thank you, Ms. Tennant. Thank you
2 very much. Have a nice day.

3 (ETTA CARTER, having been duly sworn,
4 testified as follows:)

5 THE WITNESS: My name is Etta Carter, E-T-T-A,
6 C-A-R-T-E-R.

7 DIRECT-EXAMINATION

8 BY MR. WILSON:

9 Q Ms. Carter, let me ask you a few questions, if I
10 can. I'll start by asking you to tell us what you do
11 and how long you have been in that particular
12 profession.

13 A Okay. So I am currently the adult education
14 director for Horry County schools. I've been in this
15 position for the last five years, been with the
16 district for 20.

17 Q And let me ask you if you had the occasion or
18 opportunity to come into contact with Jerome Jenkins?

19 A Yes. I've known Jerome Jenkins most of his life.
20 It started when I was a teacher at Green Sea Floyd High
21 School. Jerome's older brothers and sisters, I taught
22 all of them. Jerome was a student as well. He was not
23 in my class, but Jerome would come see me after
24 school -- we call him J.J. -- and he would ask me to
25 show him stuff, show me how to multiply fractions or

ETTA CARTER - DIRECT EXAMINATION

1 show me whatever, or how does this work, Ms. Green. I
2 would work with him one-on-one. I always knew that he
3 had the potential to do great things, we just had to
4 work to try to get the behaviors in order so that he
5 could be successful.

6 Q Now, when you met J.J., had he already been
7 determined to be ED at that point?

8 A Yes. When I met J.J., J.J. was already ED. When
9 he came to middle high school, we worked to try to get
10 him changed to my English class. I said let me try,
11 because usually how it works is once you are in ED
12 setting, you have to earn your way in order to go into
13 the regular classes. And the thing is that when you
14 get to the high school setting, that is when they start
15 counting Carnegie units. So you have to have 24
16 Carnegie units to earn a regular high school diploma,
17 otherwise, you are on the certificate or occupational
18 track.

19 I knew if J.J. would have any chance at all of
20 getting a regular high school diploma, we had to get
21 him transferred from where he was into a Carnegie unit
22 earning kind of classroom setting; that didn't
23 necessarily happen.

24 Q He was never transferred out of that?

25 A Right. You had to earn your way, which means

ETTA CARTER - DIRECT EXAMINATION

1 your behaviors and stuff and to be intact all the way
2 across the board, not with just me, but with the
3 masses.

4 I had a second opportunity -- I know J.J. well.
5 I love J.J. As the adult education director, when new
6 students come in, I usually try to go into
7 orientation. I was happy because I went into the
8 orientation, and there is J.J. in the back of the room
9 smiling at me like he does. I always give my phone
10 number to all the students who come in. I say my
11 phone number, my little spiel and do this number to
12 him in the back (indicates), and kind of left out of
13 the room.

14 The next day, he called me. He was like
15 Ms. Green, I didn't know you were over there. He was
16 like I just want to do something different. I just
17 got out -- evidently he had been incarcerated. He
18 said I just got out, I want to do something different.
19 I want to show my son something different. I said
20 come on back, I'll help you. We'll get you into some
21 stuff and make this happen. That didn't necessarily
22 happen, but that was his mindset at that point.

23 Q Now, let me ask you if you -- have you ever had
24 the occasion to go out to his home where he lived?

25 A Yes. Yes.

ETTA CARTER - DIRECT EXAMINATION

1 Q What would be your purpose in going out there?

2 A I might give him a ride home, I do Homebound and
3 things in the area. They live in a place called
4 Playcard that everybody has been talking about. Do you
5 mind if I give you my --

6 Q Go ahead.

7 A So Playcard, dilapidated trailers. Think about
8 holes in the floor, holes in the wall, broken windows.
9 The area where they live, and he talks about -- the
10 Mr. Ray talked about the front. Where you come in,
11 there is trailers on the left, and trailers on the
12 right. Where they lived, you had to go down a dirt
13 road and make a left to get down in there where they
14 lived. If you weren't from there, you had no business
15 down there; let me tell you. When I would come through
16 there, after awhile, people got to know who I was, but
17 on that corner where the tank is, drugs, alcohol, loud
18 talking. The norms of life in Playcard, and the norms
19 of life in some other places are not the same.

20 So I just really want to make sure everybody
21 understands that you grew up, and you grew up fast,
22 and you had to. You almost had to show that you a
23 man, you know what I mean. You are a man, and you are
24 going to be able to tell jokes just as good as the
25 next one, and all of those kinds of things, because

SHERIL JOHNSON - DIRECT EXAMINATION

1 that is what gave you, you know, like I hate to say
2 it, but like "street credits," I guess.

3 Q And you taught other kids from that area as well?

4 A I have.

5 Q And been involved with them over the years?

6 A I have, yes.

7 MR. WILSON: If the Court will give me one
8 second, Your Honor?

9 (A brief pause in the proceedings.)

10 MR. WILSON: I don't have any other questions.
11 Thank you.

12 MR. RICHARDSON: No other questions from the
13 State. Thank you.

14 THE COURT: Call your next witness.

15 MS. WILLIAMS: Ms. Sheril Johnson.

16 (SHERIL JOHNSON, having been duly sworn,
17 testified as follows:)

18 THE WITNESS: Sheril Jordan Johnson, S-H-E-R-I-L,
19 J-O-R-D-A-N, J-O-H-N-S-O-N.

20 DIRECT-EXAMINATION

21 BY MS. WILLIAMS:

22 Q Will you tell the Court what you do for a living
23 and how you know our client, J.J.?

24 A I am employed with Horry County schools in what
25 is known as the "alternative school," and we're the

SHERIL JOHNSON - DIRECT EXAMINATION

1 only one in the district. I used to be an
2 instructional aide there, but now I'm ISS.

3 Q And so how do you -- do you know J.J.?

4 A Yes, I know J.J.

5 Q Do you know him professionally?

6 A Yes, I do, and also from going into Green Sea
7 schools and being a parent of a child that was
8 attending there.

9 Q Call you tell us what, if anything, you know
10 about J.J. and your interactions with him.

11 A J.J. is a respectful guy. We built a bond
12 because I was able to address J.J. as if he was my own
13 son, and he knew if Ms. Jordan was called -- at the
14 time I was Ms. Jordan -- to him or he came to see me, I
15 was strictly about business. So I was able to speak to
16 him as a mother away from home, because I knew his mom
17 was as strict as I was.

18 Q When you had to come talk to him, what, if any,
19 reaction did you get?

20 A A good reaction. He would always say, I got you.
21 I got you. I got you. I hear you. We couldn't do
22 hands-on hugging or whatever because of the way that
23 the system has it as sexual harassment, so we would tap
24 up and I would let him know, all right, I'm watching
25 you. But it was not because J.J. was a cruel

SHERIL JOHNSON - DIRECT EXAMINATION

1 individual. He was just like most kids we dealt with,
2 at risk kids at the alternative school. So we knew
3 they were coming from the base school for other
4 infractions that were not tolerated at that setting.
5 It was our job to try to redirect them to get them back
6 to their base school so they could be become
7 successful.

8 Q When they were at the alternative school, was
9 there a certain dress code?

10 A Yes.

11 Q What was it?

12 A It was a blue shirt and khaki pants, and they had
13 to wear lace-up shoes. No sandals, no book bags.

14 Q Is there a dress code at non-alternative schools?

15 A No, ma'am, anything is worn. I would say even
16 though we are dress code there, one thing about J.J.
17 was he was always neat and clean. Leadership made a
18 difference back then.

19 Q What do you mean?

20 A The principal we had, he always respected his
21 staff and boys and girls, no matter what area they came
22 from. He had standards set within the school.
23 However, he made the boys and girls know that if they
24 had an error they made, you were still considered to be
25 somebody and you can be better than what the world

SHERIL JOHNSON - DIRECT EXAMINATION

1 viewed you as.

2 Q What, if anything, do you know about J.J.'s ED
3 diagnosis?

4 A It was pertaining to, like, he could not function
5 like a normal kid could function in a classroom
6 setting, so even though you gave your instructions to
7 the entire class, sometimes you would have to go back
8 over to J.J. so that it wouldn't look like you were
9 singling him out, because not all students knew he had
10 a learning disability.

11 Q Did that learning disability -- tell me what, if
12 any, kind of impact you saw about that learning
13 disability.

14 MR. HIXSON: Your Honor, I object. There is no
15 evidence in this record that he has a learning
16 disability. The repeated testimony is it was an anger
17 emotional disability. That is a mischaracterization.

18 Q (MS. WILLIAMS) His emotional disability.

19 THE COURT: The jury will disregard any testimony
20 about a learning disability.

21 You can rephrase your question.

22 Q (MS. WILLIAMS) What, if anything, did you know
23 about J.J.'s emotional disability?

24 A It was a process of slow to act. You could give
25 him something to do, okay, and he can hear it, but it

SHERIL JOHNSON - DIRECT EXAMINATION

1 took awhile to process it, and then....

2 Q All right. I beg the Court's indulgence.

3 (A brief pause in the proceedings.)

4 Q (MS. WILLIAMS) Let me ask you about -- so you
5 actually -- did you actually teach J.J. at the
6 alternative school and have interaction him?

7 A Normally, when I was an instructional aide, if
8 the teacher was called out at a meeting or not to work
9 or whatever, my role was to go into that class and act
10 as if I was the teacher. So the teachers always had to
11 make me prepared for the lesson plan, that if they
12 could not be there, whatever, I had to carry that until
13 they arrived.

14 Q And did you ever do that in the class that J.J.
15 was in?

16 A Yes, ma'am.

17 Q Did his emotional disability affect his ability
18 to learn, in your opinion?

19 A Yes, I would say it did.

20 Q And one last question. The alternative school
21 schedule, what is that compared to like, say, the
22 regular school non-alternative? I mean, it wasn't a
23 full day, right?

24 A No. We started at 6:00 a.m. and they got out at
25 1 o'clock, no later than 1:30. They did that so our

THE COURT AND ATTORNEYS - JURY OUT

1 school students was not able to ride the bus with the
2 regular ed students, simply because those drivers had
3 to get other students to school and then do normal
4 student routes to their base schools.

5 Q So kids that went to the alternative school got
6 out earlier than kids that went to the regular school?

7 A Yes. Yes.

8 MS. WILLIAMS: Thank you so much. Please answer
9 any questions the State may have.

10 MR. HIXSON: No additional questions, ma'am.
11 Have a great day.

12 THE COURT: Thank you, ma'am.

13 We are at a good spot for a lunch break. I think
14 your food should be here in just a few minutes. They
15 are on the way right now, so we are at a good point to
16 stop.

17 As we break for lunch, you are not allowed
18 discuss the case in any way, shape for form. You are
19 to keep an open mind about the case. It is 12:30.
20 Let's start back at 1:30. Thank you very much, enjoy
21 your lunch.

22 (The jury exits at 12:28 p.m., and the
23 following is heard out of the presence of the jury.)

24 THE COURT: What is the plan for after lunch?

25 MR. WILSON: Your Honor, I have -- may we

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 approach?

2 THE COURT: Sure.

3 (Whereupon, a bench conference was had.)

4 THE COURT: On break until 1:30. Thank you very
5 much.

6 (A lunch recess was taken.)

7 (Defendant's Exhibit 10 marked.)

8 THE COURT: Are you ready?

9 MR. HIXSON: Yes, sir.

10 (The jury enters at 1:42 p.m., and the
11 following is heard in the presence of the jury.)

12 THE COURT: Welcome back.

13 (KIM ANDRAYSHAK, having been duly sworn,
14 testified as follows:)

15 THE WITNESS: Kim Andrayshak, K-I-M,
16 A-N-D-R-A-Y-S-H-A-K.

17 DIRECT-EXAMINATION

18 BY MR. WILSON:

19 Q If you would, tell me how you came to meet Jerome
20 Jenkins.

21 A I am a community service specialist and we have a
22 YETS program where we involve and prepare 16, 17 and
23 18-year-old rising juniors and seniors to work on the
24 outside.

25 Q Now, you are a part of a greater program, is that

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 a Waccamaw EOC?

2 A It is.

3 Q Explain to us what Waccamaw EOC is.

4 A We help low income people with rent, housing, gas
5 for their home, employment, try to find employment and
6 try to send them back to school.

7 Q And did your program -- that is the Waccamaw EOC
8 program -- have interaction with J.J.'s family?

9 A Yes.

10 Q Tell us about that.

11 A We helped out for the electric bill for his mom
12 and family.

13 Q So you have been helping them with the electric
14 bills and things like that, the program at Waccamaw
15 EOC?

16 A Yes. Yes.

17 Q As a result of that, is that how you got to meet
18 or know J.J.?

19 A Yes, sir.

20 Q Do you know about how old J.J. was when you came
21 into contact with him?

22 A It was in 2010.

23 Q 2010. Now, you mentioned something earlier about
24 having some kind of a program that you referred to as
25 the YETS program?

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 A Yes, sir.

2 Q Explain what that is, what the YETS program is.

3 A Youth Employment Training Skills, and our program
4 would just try to involve and get the children ready to
5 go to work on the outside. They go through orientation
6 for two weeks, and then to prepare them on their job
7 sites.

8 Q In order to participate in this program, are
9 there any requirements? I mean, are there requirements
10 like indigency, being in poverty? Is there some
11 requirement that you have to meet in order to
12 participate?

13 A Yes.

14 Q Explain how that works.

15 A It's a 125 percent poverty level, and I guess it
16 goes by how many people is in your house, and they were
17 in that poverty level.

18 Q So his family was in that poverty level at the
19 time, and you were helping them with their heating and
20 air bills and that kind of thing?

21 A Yes.

22 Q Now, tell me -- let's go to the YETS program and
23 let's talk a little bit about that. How long had you
24 had that program in existence prior to J.J. coming into
25 it?

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 A I can't be positive, because I just started
2 working there in 2008. So J.J. was actually -- I just
3 started at the Loris office in 2009, and Jerome was my
4 -- one of my first YETS students that I had.

5 Q And how many kids would be in that particular
6 program each year?

7 A For the Loris office, we would have two or three,
8 but then we had Conway, Georgetown up to Myrtle Beach
9 and Kingstree offices that had their certain amount.

10 Q So once they were in the program, tell us -- and
11 let's do this specifically about J.J. -- once he got
12 into the program, what did you do with him in the
13 program?

14 A Okay. After the orientation, we put him to work
15 at the library and he stayed on the job site for six
16 weeks, and he did really well. I had to keep updated
17 notes on him, and the library would send notes of how
18 he did and everything, and she gave him high remarks.

19 Q So he got really good remarks from the supervisor
20 that had him at the library?

21 A Yes. Yes.

22 Q And when he was working there at the library, how
23 often -- how many hours a week or how did that work?

24 A They work 20 hours a week.

25 Q And how do they get back and forth from the job

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 site to their homes; how did that work?

2 A A parent or someone would have to take them, and
3 when they were going to Horry County -- I mean Conway
4 for two weeks, sometimes we -- if they didn't have a
5 way, we would pick the students up and take them to
6 Conway and bring them back.

7 Q Now, did J.J. complete his six or eight weeks, or
8 whatever it was?

9 A He did. He did.

10 Q Did you have any incidents that were a problem
11 during that time with J.J.?

12 A None.

13 Q How would you describe his work ethic during the
14 time that he was in the program with you?

15 A I only visited him a couple of times at the Green
16 Sea library, but he was, you know, doing really good,
17 really smart. He worked hard. He was excited about
18 his paychecks and going to buy him some school clothes.

19 Q Let me ask you. When J.J. was in the program,
20 you said you would have to check on him from time to
21 time?

22 A Yes.

23 Q And so how often would you see him during the six
24 or will eight weeks that he was in the program; how
25 often would you have personal contact with him?

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 A At the Green Sea library, probably two times. We
2 got weekly updates on them.

3 Q All right. Did you ever have any occasion where
4 there was a complaint about him from his supervisors?

5 A None.

6 Q Did he do anything that caused you to be fearful
7 or threaten you in any way, whatsoever?

8 A No. Even after the program, Jerome -- after the
9 newborn baby, he came by to show off the baby, and he
10 would even ask me, Kim, are you doing any hiring yet,
11 and I would be like, no, we're not hiring yet.

12 Q So he was trying to get a permanent job with EOC?

13 A He was.

14 Q But you didn't have anything available?

15 A Not at the time, no, sir.

16 Q Tell me about J.J. and the application. As I
17 understand, you helped him fill out the application?

18 A It is a household application.

19 Q Yes, ma'am.

20 A So the mother has to come in, and Jerome has to
21 be there, too. Because we do the household
22 application, and I turn around and do application with
23 him as head of household. While we were doing the
24 application, and this is one reason I really chose
25 Jerome is because I guess his mom was having a bad day

KIM ANDRAYSHAK - DIRECT EXAMINATION

1 or something, and I had my window open. After she got
2 the application, she was in a real hurry or something,
3 and so she walked outside and was on the phone, and I
4 don't know if she was fussing with someone or
5 something, I think Jerome got so embarrassed, he laid
6 his head down, so I finished his application and then
7 she came in and said, Are you finished yet, so I said,
8 It will be just a few minutes.

9 Q In that conversation that he was embarrassed
10 about, there was a lot of cursing?

11 A I heard a few cuss words. It was mostly on the
12 outside when she was on the phone.

13 Q And you are saying that that was one of the
14 reasons that you ended up choosing him to go into the
15 program?

16 A Yeah. Because I think it was -- just give him
17 confidence, you know, and it did. He did really well.

18 Q You said earlier that you had an opportunity to
19 meet his son?

20 A Yes, but he was just a baby.

21 Q Tell me, is that at Kentucky Fried Chicken?

22 A No. He came by after the baby was born asking
23 about a job. He said, Come here, I want to show you
24 the baby. I didn't even know he had a baby. So I was
25 like, Oh, wow. And then one time we went to the

DOMINIQUE HASTIE - DIRECT EXAMINATION

1 Chinese restaurant for lunch and he was there with his
2 girlfriend and the baby. And then one more other time
3 when he came by to see if we were hiring again.

4 Q And out of all of those situations, have you ever
5 had any reason to believe or fear for your safety with
6 J.J.?

7 A No. I mean, he would -- if he was standing there
8 talking to me and someone would come in, he would grab
9 the door so they could go in.

10 MR. WILSON: Thank you so much.

11 THE COURT: Cross?

12 CROSS-EXAMINATION

13 BY MR. HIXSON:

14 Q What time frame of Mr. Jenkins' life are you
15 referring to? Middle school? High school?

16 A It would be rising junior, 16, 17, 18 years old.

17 MR. HIXSON: No further questions.

18 MR. WILSON: Dominique Hastie.

19 (DOMINIQUE JANE DOE, having been duly sworn,
20 testified as follows:)

21 THE WITNESS: Dominique Hastie,
22 D-O-M-I-N-I-Q-U-E, H-A-S-T-I-E.

23 DIRECT-EXAMINATION

24 BY MR. WILSON:

25 Q I can see that you work for the Department of

DOMINIQUE HASTIE - DIRECT EXAMINATION

1 Corrections, South Carolina Department of Corrections;
2 is that correct?

3 A Yes, sir.

4 Q You are a lieutenant with the South Carolina
5 Department of Corrections?

6 A Yes, sir.

7 Q How long have you been a corrections officer with
8 South Carolina?

9 A Eight years.

10 Q And have you worked at Lee as well as Kirkland?

11 A Yes, sir.

12 Q How long did you work at Lee?

13 A Four-and-a-half years.

14 Q And how long have you been at Kirkland?

15 A 14, 15 months.

16 Q Let me ask you if you were at Lee when Jerome was
17 at Lee?

18 A Yes, sir.

19 Q And let me ask you if you were at Kirkland while
20 he was at Kirkland?

21 A Yes, sir.

22 Q Let me ask you this: During the time that you
23 were there -- and you said you were at Lee for some
24 four years or better -- have you had any -- did you
25 have any personal contact with Jerome while you were

DOMINIQUE HASTIE - DIRECT EXAMINATION

1 there at Lee?

2 A Just as far as shaking his room out for
3 contraband.

4 Q So that was part of your duties, to go in and
5 look in inmates' rooms and see if there was anything
6 there, contraband is what you called it, right?

7 A Yes, sir.

8 Q And my next question is: Have you had any
9 problems with J.J. while you were there? Did you and
10 he have any problems?

11 A No, sir.

12 Q Did he ever assault you in any way, whatsoever,
13 while you were there?

14 A No, sir.

15 Q Did he ever curse you or throw urine on you or
16 feces on you or anything else?

17 A No, sir.

18 Q And after he left Kirkland -- sorry, Lee and went
19 to Kirkland, you were at Kirkland. You said you had
20 been to Kirkland for how long?

21 A Maybe 15 months.

22 Q So who went there first, you or him?

23 A I went first.

24 Q And then he later came to Kirkland. Now, when he
25 came to Kirkland, have you had any contact with him

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 since he was at Kirkland, seen him or been in contact
2 with him where you were in the same room or place where
3 he was at during the time he's at Kirkland?

4 A Yes, sir.

5 Q During the time he was there, have you had any
6 problems with him at Kirkland?

7 A No, sir.

8 Q Has he assaulted you while he was at Kirkland?

9 A No, sir.

10 Q Cursed you or thrown urine or feces or anything
11 else while he's been at Kirkland?

12 A No, sir.

13 Q Now, let me ask you in regards to -- let me ask
14 the question this way. Can you explain to us what the
15 differences are between -- since you worked at both
16 facilities, you worked at Kirkland and you worked at
17 Lee, are there any differences between the two places?

18 MR. HIXSON: Your Honor, may we approach?

19 THE COURT: Sure.

20 (Whereupon, a bench conference was had.)

21 THE COURT: Step back to your jury room. Do not
22 discuss the case. Keep an open mind. Thank you.

23 (The jury exits at 2:00, and the following is
24 heard out of the presence of the jury.)

25 THE COURT: Go ahead and proffer the testimony.

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 Let's see what it is you want to say.

2 PROFFER EXAMINATION

3 BY MR. WILSON:

4 Q Explain to us the differences between Lee and
5 Kirkland, if, in your mind, there are any.

6 A Just simply mentality of the institution. You
7 have more aggressive inmates at Lee, versus Kirkland
8 has more just first offense prison or more laid back
9 inmates.

10 MR. WILSON: The other question I was going to
11 ask him, Your Honor, while we have him out -- and that
12 was as much as I needed from that. But what I was
13 going to ask him in addition to that was. Having been
14 a detention -- sorry. Having been a security officer
15 with the Department of Corrections and being a
16 lieutenant, both at Lee and at Kirkland, I was going
17 to ask him what was his opinion as to whether or not
18 J.J. can adjust to prison in Kirkland?

19 THE WITNESS: I think he can.

20 MR. WILSON: That was going to be my final
21 question.

22 THE COURT: All right. Mr. Hixson, your thoughts
23 on that?

24 MR. HIXSON: The second question is improper. He
25 is not expert. You can put a psychiatrist or

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 sociologist to say if he can adapt to prison life, but
2 he can't give an opinion because he is not an expert.
3 So adaptability of prison life is appropriate, but it
4 has to be by an appropriate witness, not by anyone
5 with an opinion.

6 The other problem is he's appropriate for future
7 dangerousness; there is no problem with that. He is
8 not a danger to me, but whether Mr. Jenkins is in Lee
9 with other dangerous people has no bearing on the
10 particular circumstances of Mr. Jenkins. We all know
11 outside of the record the reason Mr. Jenkins is there
12 is because of his future dangerousness, but we're not
13 allowed to talk about that. So the fact that Lee is a
14 rougher place than another place makes is about
15 everyone else, not about Mr. Jenkins, and that is our
16 objection.

17 THE COURT: How does he have the skill set to say
18 whether or not Mr. Jenkins could adjust to prison life
19 in one facility or another?

20 MR. WILSON: One, he has seen him in both
21 facilities.

22 THE COURT: Did you know he attempted to stab an
23 officer at Lee?

24 THE WITNESS: Yes, sir.

25 THE COURT: Did you know that he threw feces on

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 an officer at Lee?

2 THE WITNESS: Yes, sir.

3 THE COURT: Do you know that he threw urine on an
4 officer or unknown substance at Lee?

5 THE WITNESS: Yes, sir.

6 THE COURT: And do you think he has the ability
7 to adjust to prison life at Lee?

8 THE WITNESS: I think he can.

9 THE COURT: I mean he has no expertise in any
10 way, shape or form to make that opinion, and that is a
11 psychological -- that is an independent medical
12 opinion that has to be based upon training, education,
13 experience, knowledge, skill to which this gentleman
14 at this point in time does not have.

15 MR. WILSON: Your Honor -- and I'm not going to
16 belabor it.

17 THE COURT: I mean, if he does, explain it to me.
18 I don't agree.

19 MR. WILSON: That is what I'm trying to do. This
20 is my position with this. This is an officer who is
21 not just a detention officer or corrections officer,
22 but he is a lieutenant having at least eight years of
23 service at two different prisons, including both
24 prisons that the defendant has been at during a
25 substantial period of time. On top of that, he has

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 said that he has had interaction with this defendant,
2 both facilities, both at Lee and now that he's at
3 Kirkland. I don't know who would be better to say
4 whether or not a prisoner can adapt -- I can have a
5 psychiatrist --

6 THE COURT: You haven't told me how he is
7 qualified to say it at all. It is an opinion, an
8 opinion outside of the normal -- I'm going to get the
9 specific rule. It is an opinion outside of a person's
10 normal knowledge and skill and, therefore, he has to
11 be qualified as an expert to give that opinion, and
12 there is nothing in the record that suggests that he
13 is an expert -- sorry, this doesn't have anything to
14 do with you, personally, you understand that -- there
15 is nothing to say that he is an expert in anything but
16 being a correctional officer. There nothing in the
17 record to substantiate he has the ability, that he has
18 any education, that he has any experience, that he has
19 any training, that he ever has taken any classes, that
20 he's ever been to any classes, that he has any kind of
21 college degree, master's degree, doctorate degree,
22 medical doctor degree to form an opinion to a
23 reasonable degree of certainty that this person can
24 adapt to a prison setting or this person cannot adapt
25 to a prison setting. The only thing this gentleman is

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 an expert at, based upon right now, is being a
2 correctional officer.

3 You are asking him to go outside of his
4 correctional officer expertise and give an opinion on
5 whether or not a certain inmate, who he had some
6 interaction with obviously, but he hasn't done any
7 testing on them, hasn't reviewed any medical records,
8 psychiatric records, he hasn't reviewed any school
9 records, hasn't reviewed any documents that a normal
10 expert would go into to formulate an opinion whether
11 or not someone is qualified or can adapt to prison
12 life or not.

13 The only thing he can say is I've come in contact
14 with him and he's been fine with me and hasn't had any
15 issue with me at all, which he said all of that. But
16 why is he an expert to be able to say -- I mean, there
17 is two rules. One is lay witness opinion testimony,
18 and one is expert witness. This is clearly outside
19 the expertise of a lay witness. A lay witness can
20 give the opinion that it is warm today or cold today
21 in their opinion. But this is clearly outside of the
22 expertise of a lay witness.

23 He hasn't been offered as an expert. He hasn't
24 been qualified as an expert, but we're asking him to
25 give an expert opinion on whether or not Mr. Jenkins

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 can adjust to prison life.

2 MR. HIXSON: If I may. Generally, the inverse of
3 the question may be more illustrative. Two days
4 ago -- I'm losing lost of time -- I could have had
5 five SCDC witnesses up there that would say -- if they
6 were allowed to -- Mr. Jenkins cannot adapt to prison
7 life and would be a danger to everybody, but the State
8 understands that is inappropriate and did not ask that
9 question. If we asked that question, we would get a
10 robust objection to they are not qualified to give
11 their opinion on his adaptability, and that is a
12 27-year veteran, a captain who had daily interactions
13 with Mr. Jenkins, and it would be inappropriate to
14 elicit that testimony. We believe it is the same
15 situation with this particular witness.

16 MR. WILSON: Your Honor, the thing is the
17 solicitor is the one who introduced this issue in the
18 first instance when he brought in those officers from
19 the Department of Corrections to testify. He created
20 the issue, and I'm simply attempting to respond to
21 what he brought in.

22 THE COURT: He has responded to that.

23 MR. WILSON: He has. He has. And, Your Honor, I
24 understand the Court's ruling, and I obviously will
25 abide by it; you know I will.

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 THE COURT: My question about the one facility
2 over the other, short of there being a death sentence,
3 we don't know what facility Mr. Jenkins is going to
4 end up in. I can probably narrow it down under ten
5 based on my own knowledge, but we have no guarantee
6 that he is going back to Lee if he gets a life
7 sentence. We have no guarantee that -- he will go to
8 Kirkland R&E for processing for the first 90 days or
9 so, but if he has a life sentence, there is no
10 guarantee what facility he goes to.

11 MR. WILSON: That is correct, but that wasn't the
12 reason why I raised that issue. The reason I raised
13 that issue with him is I wanted to show that his
14 conduct at Lee was different than his conduct at
15 Kirkland, because that is important as I go forward
16 with mitigation and trying to explain why his conduct
17 was the way it was at Lee, and that same conduct did
18 not exist either when he came back to Kirkland or when
19 he went to -- came back --

20 THE COURT: Do you anticipate that coming out
21 from this witness?

22 MR. WILSON: No, sir. No, sir.

23 THE COURT: Okay. So you are not talking about
24 through him?

25 MR. WILSON: No, sir.

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 THE COURT: I'll allow you to ask the question on
2 explain the difference of the inmates at Kirkland and
3 Lee, that is fine. Because I think you can have
4 witnesses -- I'm assuming, based on what you are
5 telling me now, you'll have a witness that develops
6 that further?

7 MR. WILSON: I have another corrections officer
8 that I'm going to call in just a minute, but what I'm
9 saying is that, yes, as part of my mitigation, I do
10 have a strategy of trying to explain his conduct at
11 Lee versus his conduct at Kirkland and at J. Reuben
12 Long, and I will try to connect all of those dots as
13 we go through this process.

14 THE COURT: All right. But I'm not going to
15 allow him as to Mr. Jenkins' ability to adjust to
16 prison life. I don't think that -- no disrespect,
17 Mr. Hastie -- I don't think he has the requisite
18 education, experience, training, knowledge, skill, all
19 of those things that go into finding someone qualified
20 to render an opinion as to Mr. Jenkins, individually.

21 MR. WILSON: May I ask him a few more questions
22 while we are still here?

23 THE COURT: Sure.

24 PROFFER TESTIMONY (CONT.)

25 Q (MR. WILSON) As I understand it, Mr. Hastie, I

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 understand that you said that you have been in the
2 department -- working for the Department of
3 Corrections for a period of eight years -- how long
4 did you say?

5 A Eight years.

6 Q And you spent four years of that time a little
7 better at Lee as a corrections officer?

8 A Yes, sir.

9 Q What was your rank when you came to Lee?

10 A I was an officer when I came to Lee.

11 Q And when you left Lee, what were you?

12 A Sergeant in contraband.

13 Q When did you become a lieutenant (sic)?

14 A February of 2018.

15 Q And let me ask you, what was your education
16 before you came to the Department of Corrections?

17 A High school grad and two years of college.

18 Q And when you went to college, where did you go?

19 A Shaw University in Raleigh, North Carolina.

20 Q What did you study?

21 A Business management and accounting.

22 Q Now, is your first job away from college at the
23 Department of Corrections?

24 A No, sir.

25 Q Where did you go initially?

DOMINIQUE HASTIE - PROFFER TESTIMONY - JURY OUT

1 A At a high school, part time, as a coach, and
2 Walmart on Gardens Ferry.

3 Q And then you left there and went to the
4 Department of Corrections?

5 A Yes.

6 Q Let me ask you if you -- in order to qualify as a
7 corrections officer if you had to take certain courses
8 or training before you became a corrections officer,
9 did they have classes or a school that you had to
10 attend in order to be a corrections officer?

11 A Just the correction officer training, like six
12 weeks.

13 Q Like six weeks. And where did y'all do that at?
14 Where do you do the six weeks of training in order to
15 be a correctional officer?

16 A It had to be off of Bravo Road.

17 Q Is that the same place where the Police Academy
18 is?

19 A No, sir.

20 Q It is a different location?

21 A Yes, sir.

22 Q You go there for six to eight weeks?

23 A Yes, sir.

24 Q After that, during the eight years you had, have
25 you had any other training in corrections?

DOMINIQUE HASTIE - CROSS-EXAMINATION

1 A Just firearms training and emergency response
2 training.

3 MR. WILSON: Thank you.

4 THE COURT: Anything else, Mr. Hixson?

5 MR. HIXSON: No, sir.

6 THE COURT: Bring them back in.

7 MR. WILSON: I have one question I'm going to
8 ask, and that is to explain the inmates at Lee versus
9 Kirkland, that is the only thing I'll ask him.

10 THE COURT: Right.

11 (The jury enters at 2:15 p.m., and the
12 following is heard in the presence of the jury.)

13 THE COURT: Welcome back, Mr. Wilson. You may
14 continue.

15 MR. WILSON: Thank you very much, Your Honor.

16 Q (MR. WILSON) I have one last question. Can you
17 explain the inmates at Lee and those at Kirkland?

18 A Lee tends to be --

19 Q You have a soft voice, you need to speak up.

20 A The inmates at Lee tend to be more aggressive,
21 versus Kirkland, they are more laid back and more
22 calm.

23 MR. WILSON: Thank you. I don't have any other
24 questions. Thank you.

25 THE COURT: Mr. Hixson.

DOMINIQUE HASTIE - CROSS-EXAMINATION

CROSS-EXAMINATION

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BY MR. HIXSON:

Q Good afternoon, sir. Thank you for what you do. I have a questions for you. I think you said one of your primary responsibilities for the Department of Corrections, specifically at Lee, was to enter cells to shake cells down for contraband; is that correct?

A Correct.

Q When you do that, is the inmate -- whoever they are -- are they in the cell with you?

A Most of the time.

Q When you shake down a cell specifically -- what is an extraction team? What is the role of that specific guard do in correlation to your responsibilities? In other words, do folks get -- get the inmate out of the cell before they search the cell for contraband regularly?

A No, we do that ourselves.

Q Sorry?

A Me and the contraband officer do it ourselves.

Q Let me ask you this. Was it your responsibility then to take Mr. Jenkins to shower or to medical or feed him, is that your responsibility as a contraband officer?

A Only if I help for that day, but not on an every

OBJECTION - JURY OUT

1 day basis, no.

2 Q I think you mentioned familiarity of Mr. Jenkins,
3 are you aware of his disciplinary record while he was
4 under your watch the first facility you mentioned?

5 A Not all of it.

6 Q Are you aware he was convicted of 26 disciplinary
7 assaultive behavior during that period of time?

8 A No, sir.

9 MR. HIXSON: No further questions.

10 MR. WILSON: Object, Your Honor. I object. And
11 I have a matter to take up with the Court.

12 THE COURT: Ladies and gentlemen, step back in
13 the jury room. Do not discuss the case. Keep an open
14 mind. Thank you very much.

15 (The jury exits at 2:18 p.m., and the
16 following is heard out of the presence of the jury.)

17 THE COURT: All right.

18 MR. WILSON: Your Honor, my objection is I don't
19 have this -- the only thing I have about this in this
20 record, is this document here, which is State's
21 Exhibit 153, about any convictions. There are not 26
22 convictions on this document, and I think that is
23 misleading. I think -- and it was intentional to
24 mislead this jury as to the conduct of this defendant
25 while he is -- was incarcerated, and I think that is

OBJECTION - JURY OUT

1 unfair. I think it is prejudicial, and I think we
2 should have a mistrial.

3 MR. HIXSON: Your Honor, I'm referring
4 specifically to State's 153, and I will count them
5 into the record, but I counted them specifically
6 before I asked the question. In fact, if I didn't
7 count correctly, Mr. Wilson can cross-examine on my
8 correction, but I will count them: One, two, three,
9 four, five, six, seven, eight, nine, 10, 11, 12, 13,
10 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26.
11 That is a certified copy admitted into evidence under
12 State's 153.

13 MR. WILSON: 153 is what is in evidence. I don't
14 know what this is, but this is what is in evidence,
15 which is 153 (indicates).

16 MR. HIXSON: That is my notes. It is exactly the
17 same. That is in evidence. It is a copy from my
18 notebook rather than the exhibit.

19 (Judge is handed Exhibit 153 by Mr. Wilson.)

20 (A brief pause in the proceedings.)

21 THE COURT: There is 26 on here. I'm looking at
22 State's 153, certified true copy of Mr. Jenkins'
23 record summary from the Department of Corrections,
24 which was admitted into evidence without objection
25 through Mr. Stobbe, State's Exhibit No. 153 is already

OBJECTION - JURY OUT

1 in evidence.

2 MR. WILSON: May I see it, I apologize?

3 THE COURT: Sure.

4 MR. WILSON: Your Honor, I count 22.

5 THE COURT: Give it back. Give it back.

6 9/13/18, convicted. 7/25/18, convicted. 7/25/18,
7 convicted. 6/13/18, convicted. 6/13/18, convicted.
8 6/13/18, convicted. April 24, 2018, convicted.
9 December 30, 2017, convicted. August 28, 2017,
10 convicted. July 21, 2017, convicted. January 17,
11 2017, convicted. January 19, 2016, convicted.
12 January 19, 2016, convicted. January 11, 2016,
13 convicted. December 31, 2015, convicted. August 7,
14 2018, convicted. June 13, 2018, convicted.
15 December 30, 2017, convicted. September 8, 2017,
16 convicted. August 28, 2017, convicted. July 21,
17 2017, convicted. January 17, 2017, convicted.
18 March 2, 2016, convicted. January 11, 2016,
19 convicted. January 11, 2016, convicted. January 9,
20 2016, convicted.

21 The defense's motion for a mistrial is denied,
22 and at this point in time, you can cross-examine him
23 on the docket, but I do not believe there is any
24 terrible misrepresentation of the document.

25 Bring them back in.

DAVID LAZARUS - DIRECT EXAMINATION

1 (The jury enters at 2:24 p.m., and the
2 following is heard in the presence of the jury.)

3 THE COURT: Redirect?

4 MR. WILSON: No other questions. Thank you, Your
5 Honor.

6 THE COURT: Thank you, Mr. Hastie -- Lieutenant
7 Hastie, you are excused from your subpoena.

8 MR. WILSON: I ask this witness to be excused.

9 THE COURT: That's perfectly fine.
10 Come on up, Mr. Lazarus.

11 (DAVID LAZARUS, having been duly sworn,
12 testified as follows:)

13 THE WITNESS: David Lazarus, D-A-V-I-D,
14 L-A-Z-R-U-S.

15 DIRECT-EXAMINATION

16 BY MR. WILSON:

17 Q Where are you employed, sir?

18 A SCDC, South Carolina Department of Corrections.

19 Q South Carolina Department of Corrections. And
20 how long have you worked there?

21 A Roughly, three years.

22 Q I'm sorry?

23 A Three years.

24 Q Is that the length of time that you have been
25 involved in corrections?

DAVID LAZARUS - DIRECT EXAMINATION

1 A Yes, sir.

2 Q And what did you do before you got involved in
3 corrections?

4 A I was in the automotive industry, technician.

5 Q How long did you do that?

6 A About 15 years.

7 Q Now, where is the first corrections job you had,
8 where was that?

9 A That was Kirkland, South Carolina.

10 Q And have you worked at any other facilities other
11 than Kirkland?

12 A No, sir.

13 Q Did you have an opportunity to visit other
14 facilities or had you had the opportunity to visit
15 other facilities in your capacity as a correctional
16 officer, other than Kirkland?

17 A Yes, sir.

18 Q Would that include Lee?

19 A Yes, sir.

20 Q Let me ask you if you had the opportunity or
21 occasion to meet Jerome Jenkins during your job as a
22 corrections officer?

23 A Yes, sir.

24 Q And tell us, if you would, how it was that you
25 came to meet Jerome?

ARLENE ANDREWS - DIRECT EXAMINATION

1 A I met him when he came to Kirkland. I'm a
2 recreational officer for death row, and he was a
3 safekeeper back in death row.

4 Q So you met him there. During the time you met
5 Jerome Jenkins, have you had any difficulty with him?

6 A No, sir.

7 Q Has he thrown any feces on you?

8 A No, sir.

9 Q Has he fought you or cursed you or in any way try
10 to attack you?

11 A No, sir.

12 Q Has he been anything other than a good prisoner?

13 A No, sir.

14 MR. WILSON: No other questions.

15 MR. HIXSON: No questions, Your Honor.

16 THE COURT: You may step down.

17 MS. WILLIAMS: We call Dr. Arlene Andrews.

18 (ARLENE ANDREWS, having been duly sworn,
19 testified as follows:)

20 THE WITNESS: Arlene Bowers Andrews, A-R-L-E-N-E,
21 B-O-W-E-R-S, A-N-D-R-E-W-S.

22 DIRECT-EXAMINATION

23 BY MS. WILLIAMS:

24 Q You already spelled your name, I wasn't
25 listening, sorry?

ARLENE ANDREWS - DIRECT EXAMINATION

1 A I did.

2 Q Could you tell us your current employment?

3 A I'm retired from the University of South Carolina
4 as of 2013, but I'm part-time consulting with matters
5 relating to child and family development.

6 Q Can you please give the Court and the jury the
7 benefit of your educational background and work
8 experience?

9 A I have -- I graduated from Duke University, and
10 then came to the University of South Carolina where I
11 got a master of social work degree and a doctorate in
12 clinical community psychology.

13 Along the way, I had some jobs, working
14 particularly in family violence prevention. I was the
15 director of child abuse and neglect, and I was the
16 founding director of Sister Care, which is a network
17 of services for victims of domestic violence and their
18 families, and I was one of the founders of South
19 Carolina Coalition Against Domestic Violence and
20 Sexual Assault.

21 MR. HIXSON: Your Honor, we're confident she's
22 learned and will be an expert, ma'am, but I would like
23 to know what area she is going to be offered as an
24 expert in.

25 Q (MS. WILLIAMS) You are going to offer expert

ARLENE ANDREWS - DIRECT EXAMINATION

1 testimony in the area of?

2 A Family science, and in this case, particularly
3 family life history.

4 MR. HIXSON: Is that a subset of family life
5 history? I don't have an objection, I just --

6 MS. WILLIAMS: Like in a clinical community
7 psychologist and sociologist.

8 A My degree is in clinical community psychology.
9 We look at human behavior in social environments in
10 particular, so it is a matter of looking both at
11 individual development, but also how social systems,
12 social networks affect human development.

13 THE COURT: Let her question her, and then you
14 can question her.

15 MR. HIXSON: Thank you, Your Honor.

16 Q (MS. WILLIAMS) As a professor, have you
17 published any books or articles?

18 A I have. I published a large number of articles,
19 particularly on development of community systems for
20 supporting healthy family development and child
21 development. I've written a book on social history
22 assessment on the methods of doing social history
23 assessment. I've written -- co-written books about
24 child adequate standard of living, and basically was
25 director of the Institute for Families and Society at

ARLENE ANDREWS - DIRECT EXAMINATION

1 the University of South Carolina where I oversaw a
2 number of doctoral dissertations and published reports
3 relating to things like mental health with children,
4 meeting the needs of special needs children through
5 family supports, significance of roles of fathers in
6 child development, and a range of other things over a
7 course of almost three years.

8 Q Okay. So you are here today as what we are going
9 to offer as an expert in social history assessment,
10 correct?

11 A That's correct.

12 Q Can you tell us what that is?

13 THE COURT: Would you like to voir dire her on
14 qualifications in the area of social history?

15 MR. HIXSON: Not at all, Your Honor, I just
16 wanted to be sure what the area of expertise was.

17 THE COURT: Any objection to her being qualified
18 as an expert in that area?

19 MR. HIXSON: No, sir.

20 THE COURT: Ladies and gentlemen, as I have told
21 you before, normally a person is not allowed to give
22 their opinion; they have to testify as to what they
23 said, heard, did, something of that nature. There is
24 an exception when someone is qualified because of
25 education or experience, they are allowed to give

ARLENE ANDREWS - DIRECT EXAMINATION

1 their opinion in certain areas. If I qualify them in
2 this way, this witness will be qualified in the area
3 of social history assessment. She will be allowed to
4 give her opinion in that area. That doesn't mean you
5 have to accept her opinion, but it is evidence for you
6 to use in any way that you see fit and give it the
7 weight and creditability you believe is appropriate,
8 as you are required to do with each and every witness
9 that appears before you, all right.

10 Ms. Williams.

11 MS. WILLIAMS: Thank you.

12 Q (MS. WILLIAMS) I'll hand you what was marked for
13 identification Defense Exhibit No. 4; can you identify
14 that?

15 A It is my curriculum vitae, resume.

16 MS. WILLIAMS: At this time, Your Honor, we move
17 into evidence Defendant's Exhibit No. 4.

18 THE COURT: Any I objections?

19 MR. HIXSON: No, sir.

20 THE COURT: Defendant's 4 admitted without
21 objection.

22 (Defendant's Exhibit 4 admitted.)

23 Q (MS. WILLIAMS) Can you describe what a social
24 history assessment is?

25 A Generally, it is a procedure that is particularly

ARLENE ANDREWS - DIRECT EXAMINATION

1 used by social workers to look at a person's life
2 history, which would include their family life, school,
3 aspects of the social network, friends, peers, work
4 environment as they become an adult, the community of
5 origin that may have affected their development. We
6 look at that, and then we also do an interpretation
7 using our knowledge based on research about how these
8 factors might affect someone's development, and then
9 very often, there is a recommendation or opinion
10 rendered based on that assessment of that social
11 history assessment.

12 Q How many social history assessments do you
13 believe that you have concluded?

14 A I personally completed several hundred, but much
15 of my work has been supervisory, so I've supervised
16 many hundreds in a variety of settings.

17 Q And the Court qualified you, but have you
18 previously been qualified as an expert in a court of
19 South Carolina?

20 A I have.

21 Q And, specifically, an expert in the area of
22 social history assessment; about how many times have
23 you been qualified?

24 A Probably 15 or more.

25 Q Now, how does a social history assessment in a

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1 capital case compare to one in some of the other
2 context that you mentioned?

3 A Well, social history assessments are done in
4 schools, for example, if you are trying to discern a
5 child has special learning needs, or it might be done
6 in a nursing home if you are trying to decide -- or as
7 a person is getting old, you are trying to decide what
8 the best placement for a family member might be. But
9 in a capital trial, they are much more thorough. We
10 look comprehensively, talk to a lot of people, try to
11 get as many witnesses as we can regarding the life
12 history. We get pretty extensive records as well.

13 Q Is that what goes into completing a social
14 history?

15 A Yes, it is. And then there is also, again,
16 looking interpretively at it and rendering an opinion
17 with regard to what some of the factors were that
18 affected how the life was developed.

19 Q How would you describe the end product of a
20 social history evaluation that will be presented in a
21 capital case?

22 A Well, generally, it's not always a written
23 report, but we'll put together a life chronology, which
24 starts off from before birth, looking at the history of
25 the family before the birth and the context which the

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1 child is born, and then go year by year and develop a
2 timeline. And then very often we develop other tools
3 to help understand family life, like a family tree or
4 sometimes other kinds of diagrams, sometimes a
5 sociogram to look at how relationships have formed.

6 Q In this case, what were you asked to do in this
7 case?

8 A I was asked to do a social history assessment up
9 until the time just before this crime and to look
10 specifically at whether there were factors in
11 Mr. Jenkins' life history that might have affected his
12 vulnerability to be influenced by other people.

13 Q How did you go about doing that?

14 A Well, I talked to a lot of people. I have a list
15 of the sources and I'll go over what some of those are.

16 MS. WILLIAMS: Your Honor, may I approach?

17 THE COURT: Yes, ma'am.

18 Q (MS. WILLIAMS) This is Defendant's 10; can you
19 tell us what it is?

20 A It is a list of sources, which is what I'm
21 relying on for an opinion I'm about to give.

22 MS. WILLIAMS: At this time, I move into evidence
23 No. 10.

24 MR. HIXSON: No objection.

25 THE COURT: Defendant's 10 admitted without

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1 objection.

2 (Defense Exhibit 10 admitted.)

3 A What is on here is a substantial number of
4 interviews. I interviewed the client. I mean, no
5 disrespect, but I use a lot of first names because a
6 lot of the family have the same last names, so it is
7 helpful to refer to them by first names. So I
8 interviewed client J.J. on three occasions; his mother,
9 Itina; his father; his grandmother, Francina
10 Washington; sister, Sharie Ray; his foster brother,
11 Shavon Cheatum; his older brother Shawn Ray; his older
12 brother, Dequan Ray; his younger brother, Raheem Ray;
13 and his step-father, Kentrell Andre Simmons; paternal
14 grandmother, that is his father's mother, Ima May
15 Jenkins; his paternal aunt, Patricia Stinson; former
16 fiancée, Lonice Graham; former teacher, Etta Green
17 Carter; a former mentor, Issac Bailey; teacher, Marsha
18 Tennant; school counselor, Dr. John Shanka (phonetic);
19 mentor from the church he attended, Emmett Wilson; and
20 Racine Grant, who is his son's uncle.

21 I looked at vital records to confirm the birth
22 dates, marriage certificates and death certificates in
23 the family, which I'll refer to. I looked at rather
24 extensive educational records, school records relating
25 to J.J. from the Horry County School District, mental

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1 health records. He had treatment from -- he received
2 when he was young, and some medical records related to
3 his physical health and his mother's physical health.
4 I looked at family court records relating to some
5 family members, some employment records for his mother
6 and J.J. And then I looked at criminal justice system
7 records, particularly with regard to his incarceration
8 in the Department of Corrections in the years 2013 and
9 '14, and his statements relating to this crime and
10 some prior incident reports. I also looked at a
11 number of arrest records for a number of family
12 members that I'll talk about.

13 Q Defendant's 10 is basically a list of everything
14 you did?

15 A That's correct.

16 Q Now, you said that part of what you were doing
17 was you assessed what life -- what effects life events
18 had on J.J.'s development; when you say "development,"
19 what are you talking about?

20 A When we talk about child development, we're
21 talking about their physical development. Cognitive is
22 the way a person thinks or sees the world, understands
23 the world. Social development is how they relate to
24 other people. Emotional development is how they
25 express feelings, manage feelings. They are all very

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1 interrelated, but often we talk about these different
2 aspects of development in particular ways.

3 Q All right. And as part of this case, did you
4 basically form an opinion and make a summary?

5 A I did.

6 Q Can you provide us with a brief -- and it is a
7 summary based to a reasonable degree of scientific
8 certainty, correct?

9 A Yes.

10 Q Can you provide us with a brief summary of your
11 findings from your social history assessment of Jerome
12 Jenkins?

13 A Well, his development and his social functioning,
14 I tend to focus on social functioning because that is
15 the focus of a social history has been affected in both
16 positive and negative ways by aspects of his family,
17 his school and community. You will hear me talk about
18 his family, school and community because I tend to
19 focus on each of those and had sources of information
20 about each of those. There have been positive and
21 negative influences on his development.

22 I did find a very unusual number of what we call
23 adverse childhood experiences or negative childhood
24 events that happened in his life. Some of these were
25 chronic, repeated and excessive. Some of them were

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1 occasional sudden, but there were multiple traumas
2 that started while his mother was pregnant and
3 continued throughout his life.

4 Q What is your conclusion regarding the specific
5 referral question: Did J.J.'s life history make him
6 vulnerable to the influence of others; and if it did,
7 in what ways?

8 A I found that it did, and part of it is because he
9 was very immature. He was 20 when this crime happened,
10 but he had significant developmental delays. Some of
11 those were related to his family, the extraordinary
12 stress he had to live with, that his family had to
13 face, but also in the community, his exposure to
14 violence and drug abuse and imminent threat of harm,
15 that started at a very young age and pretty persistent.
16 That affected his ability to cope with the kinds of
17 stressors he was faced with as trying to become a young
18 man and dependent on others. He never really achieved
19 independence and skilled with independent living.

20 Q Thank you for your summary. I want to take a
21 step back and go through some background information
22 and get to the basis of your opinion. You have
23 prepared a chart and prepared a PowerPoint as part of
24 your summary and your opinion to be able to help
25 explain things, correct?

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1 A I have.

2 Q I'll show you Defendant's 6; do you recognize
3 that?

4 A I do.

5 Q And this is a chart you prepared?

6 A It is. It is a genogram or family tree.

7 Q And this is what is in the slide show as well,
8 right?

9 A That's correct.

10 Q That's No. 6. Defendant's No. 7?

11 A That is an extended family tree?

12 Q Did you prepare that?

13 A I asked for assistance, but, yes.

14 Q But you assisted with preparing that?

15 A I did. I directed what to be put on it.

16 Q And Defendant's No. 8?

17 A Yes.

18 Q And you recognize this?

19 A Yes, I prepared that.

20 Q And this is a summary, correct?

21 A That's correct.

22 Q Finally, Defendant's No. 5. Will you look at
23 that and make sure that is an accurate representation?

24 A Yes. This is the contents of the PowerPoint.

25 MS. WILLIAMS: At this time, Your Honor, the

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1 defense would move in Exhibit No. 5, 6, 7 and 8.

2 MR. HIXSON: No objection.

3 THE COURT: Defendant's 5, 6, 7 and 8 admitted
4 without objection.

5 (Defense Exhibits 5 through 8 admitted.)

6 Q (MS. WILLIAMS) Defendant's No. 6 is up on the
7 screen, and a bigger version now of it. If it would
8 assist you to come down to discuss it, I don't want to
9 be in the way --

10 A I don't think this is going to work.

11 THE WITNESS: May I go down?

12 THE COURT: Yes. Keep your voice up.

13 A I realize the print is so small that it is hard
14 to see the names, but you'll have an opportunity to see
15 that later.

16 So this is basically J.J.'s family tree. Jerome
17 Jenkins, Junior, is right here. And to give you an
18 orientation of what is in a family tree and how you
19 read it, all the men or males are squares. The women
20 are circles. We start with the grandparents'
21 generation. They are across this line, and this is
22 the parents' generation, and this is J.J. and his
23 brothers and sister. This is his children coming down
24 the line.

25 So there is several things I wanted to point out

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1 about this genogram. For one, a dotted line means a
2 relationship that is established, but it is not a
3 relationship by marriage. It's -- in many cases it is
4 a temporary relationship. A slash like this means
5 that it is a broken relationship. So what we have
6 here is Jerome, and you'll see that he is the center
7 of a family where he is the son of Jerome Jenkins,
8 Senior, and his mother, Itina Ray. His mother is the
9 daughter of Francina Washington. She has one other
10 daughter, Sharonda Sherrod, who has six children, some
11 of them close to J.J.'s age. They were close to some
12 of those cousins.

13 His father, Jerome Jenkins, is the son of Annie
14 May Grate, and his father is deceased. If there is an
15 "X" through a family member, it means they are
16 deceased. Family trees change over time, of course,
17 and I did this one as -- just after 2014. I included
18 his two daughters, who would have been newborns, in
19 2015.

20 So J.J.'s mother was first in a relationship with
21 Mr. Wilson and had two children: J.J.'s older sister,
22 Sheree, and his older brother, Shawn. Sheree and
23 Shawn knew their father. He lived in North Carolina,
24 but they had a relationship with him. Shawn sometimes
25 actually lived with his father when he was growing up

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1 or spent summers with him. There was also a foster
2 brother who lived with their family. He needed a
3 protective place to stay, so Itina's family took him
4 in, and he stayed in the home as well. Dequan is the
5 son of William Billings. Dequan knew his father. His
6 father moved to Florida, but he had a brother who
7 became like a father to Dequan, and Dequan spent a lot
8 of time with his uncle, and also knew his father.

9 So, basically, when Jerome was born, he already
10 had an older sister, Sheree, and older brother, Shawn,
11 and older brother Dequan. Jerome's father was Jerome
12 Senior, but he never really knew his father and only
13 saw him once when he was two, which he doesn't recall
14 at all. His mother sometimes would talk to his father
15 by phone, but Jerome generally didn't communicate with
16 him when he was growing up, so he didn't have a
17 father.

18 His younger brother, Raheem, had a father and saw
19 him every day because they live in the same
20 neighborhood. And then his two younger brothers were
21 the sons of Andre Simmons, who was actually like a
22 step-father and had the longest term relationship with
23 Itina while J.J. was growing up. He lived in their
24 household for a lot of J.J.'s school years.

25 So then we have Jerome and he has a son named G.

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1 and daughter **Jm.J.** with Lonice and a daughter, **R.W.**,
2 with Chelse Wilson.

3 So this give you an idea, because as we talk
4 about the family history, I will be talking about a
5 lot of these different people and sometimes it helps
6 them with a frame of reference of who we're talking
7 about.

8 Q Did you reach any conclusions regarding -- after
9 your review of this family tree?

10 A Well, there were a couple of things. One is
11 there were a lot of males. J.J. was one of many
12 brothers, and his sister, Sheree, lived most of J.J.'s
13 life with her grandmother, with Francina. So we had a
14 household of boys growing up, each who was about two
15 years apart except for the very youngest one. J.J. was
16 right in the middle. J.J. was the only one whose name
17 was Jenkins, the others names were different from the
18 other kids. Two youngest have the name Simmons, and
19 the youngest had their mother's name. So he felt
20 different because of that. He was the only one that
21 didn't have a father. The others had father to whom
22 they could relate. And when I say "father," it's not
23 just father, they had grandmothers and extended family
24 members. He did see his father's mother sometimes, but
25 most of the time he did not have a male role model in

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1 the form of a father.

2 Fathers are important because -- we call it the
3 three Ps: Protector, provider and promoter, you know,
4 someone who is your cheerleader and who will encourage
5 you. The other thing interesting is what I observed
6 as the non-permanence of a lot of the relationships,
7 but there was a lot of permanence in the lines of the
8 women. The women really stuck together and kept the
9 family together.

10 Q Okay. Did you go to the place where J.J. grew
11 up?

12 A I did. I went to it.

13 Q And did you -- what did you observe about that?

14 A There is a photograph -- well, first of all, when
15 he was young, he lived in five different places, but
16 most of his childhood was in an area known as Playcard;
17 it is very rural and isolated. This is an aerial view,
18 and I know that is hard to see from a distance, but
19 that is the view of the trailer.

20 JUROR: Can I have the stand moved? Thank you.

21 THE COURT: Thank you. I want them to see.

22 Thank you for letting me know. That is fine. You may
23 continue, Doctor.

24 A But you'll notice how rural and isolated it is.
25 There is really very little around there. The people

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1 who live in Playcard, the adults, do seasonal work,
2 work in tourism or agriculture, but often they are
3 unemployed, particularly in the winter months when
4 there is a slump in employment. They are very
5 dependent on cars. There is no public transportation.
6 For a time, J.J.'s mother told me there was a bus
7 service available to take people to work to where they
8 called it "on the beach" or "over the water," the water
9 being the Intracoastal waterway. If you are from
10 Horry, you probably know that language. But there was
11 a work bus that could take you to jobs on the beach,
12 but that was only temporary and wasn't always
13 available.

14 The other thing about the community is that we
15 drove around in this general area and there were no
16 law enforcement or medical facilities that were
17 nearby. The nearest town is Loris, but it is rather a
18 small world. Just looking at it, it is isolated.

19 Q Is there a map?

20 A There is. I also included a map to give you an
21 idea. I realize some of this is hard to see, but most
22 people in Horry County live over near the Blueberry,
23 which is the ocean.

24 THE WITNESS: May I approach the map?

25 THE COURT: Yes, ma'am. You can get up as you

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1 need to, just keep your voice up.

2 THE WITNESS: Yes, sir.

3 JUROR: Can we get the TV moved up?

4 THE COURT: Yes.

5 (A brief pause in the proceedings.)

6 A So this is a map of Horry County, or at least
7 this part of Horry County, North Myrtle Beach here.
8 Most of the people in Horry County live right along
9 here. This is a population density map, and you'll see
10 the darker the color, the more people there are.
11 Conway, where we are now, is here. The area where J.J.
12 grew up is up here. It's all very rural and not very
13 populated. We don't need to go through each and every
14 address, but Playcard is sort of in the center here,
15 and his schools were -- this is Loris Middle School
16 where he went to middle school, Green Sea Elementary is
17 in this area here near Playcard, and his adult
18 education program is down here near Conway. But for
19 the most part, all of the homes he lived in were in the
20 same general area. So he never really lived anywhere
21 other than right here in this rural community.

22 If you look -- if you will put up the next map.

23 Later in his life -- and I'm jumping ahead -- he had
24 some jobs. But to give you an idea how he as an adult
25 and his mother worked, they lived up here, but had to

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1 commute down here, or somewhere along the beach,
2 because that is where most of the employment is. So
3 his mother would often leave at 5:00 a.m. in the
4 morning and not return until after 5:00 p.m. at night,
5 partly because she worked long hours, but also had
6 this long commute to do.

7 Q Dr. Andrews, what was Playcard like as a place to
8 raise children?

9 A Well, it had its positive and negative
10 attributes. It was affordable. They could afford the
11 rent working -- his mother worked as -- in housekeeping
12 at various hotels, and so -- but the advantage for J.J.
13 for a period of time, different people lived in the
14 trailers at different times, but for different periods,
15 there were other members of his family that lived in
16 trailers. So sometimes his grandmother lived there
17 when he was there young; his aunt, Shonda; his
18 grandmother, Annie Mae, lived there for awhile. They
19 have a cousin, Aunt Sandy, who they were very close to.
20 These were all families with children, so the families
21 helped each other out a lot with watching one another's
22 children and keeping an eye on things. But there were
23 a lot of absent parents, a lot of children raising
24 children, where the older children starting at a fairly
25 young age were watching out for the younger children.

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1 This was not any real playground equipment or
2 parks, but there were some fields, and the young
3 people got out and found ways to play games. If they
4 found transportation in Loris, there was county
5 facilities for kids. But there were also dangerous
6 risks that existed in the community. There were often
7 unemployed adults in the area, a lot of mother headed
8 families without any permanent men, but there would be
9 men that would come and go into the community, so
10 there were people that they just didn't know. There
11 was a lot of drug use, a lot of violence, domestic
12 violence. You could hear fights. A lot of gunshots.
13 It was not unusual to hear gunshots.

14 On the one hand, there was some degree of mutual
15 support among the families who were trying very hard,
16 but there was also a lot of danger.

17 Q So you said when you did his assessment, you
18 started at early life and birth, correct?

19 A That's correct.

20 Q Let's do early life, let's start there. When you
21 did his assessment, was there anything significant
22 about birth and/or infancy?

23 A There was. I noticed that -- and I mentioned
24 before -- that we often start before birth, and his
25 mother was under an extreme amount of stress at the

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1 time she was pregnant with J.J. She already had three
2 children. Her daughter Sheree was six-and-a-half,
3 Shawn was five and Dequan was two when she was pregnant
4 with J.J. While she was pregnant, her partner
5 Mr. Jerome Jenkins, was arrested. She also came into
6 her pregnancy with a history of having had a very
7 stressful childhood herself. She was raised in a very
8 unstable situation, mostly by her grandmother and great
9 grandmother, and had a particularly traumatic
10 experience when she was a young teenager. Her mother's
11 boyfriend tried to sexually assault her and was caught
12 by her grandmother, who shot him in her presence. So
13 she witnessed the shooting. Her grandmother was taken
14 to jail for a while, during which time her and her
15 sister was placed in foster care, which was extremely
16 traumatic for her.

17 One of the things that she's passionate and
18 fierce about is keeping her family together, partly
19 because she had that experience herself. She was very
20 fierce about trying to take care of family and be
21 together. She also came distrustful of men, which may
22 have contributed to why she had multiple relationships
23 in life, but there was that major trauma.

24 She had her first trial when she was just 16, so
25 she was struggling to be very young as a mother and

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1 dealing with limited resources, because she had low
2 income jobs and taking care of her family. She and
3 Mr. Jenkins both were working, and when he got
4 arrested, of course, her life became much more
5 stressful.

6 During the pregnancy, she gained an exceptional
7 amount of weight and had high blood pressure, but by
8 reports, J.J. did have a healthy birth. We did not
9 have the actual medical records of his birth, but
10 everyone who knew him at the time said he was a
11 healthy baby.

12 Q What did you learn about his first year of life?

13 A Well, there was the trauma -- he was born, and
14 two months later, his father was sentenced to a very
15 long sentence, 25 years. His mother, because she was
16 stressed, asked for help from his mother, who took him
17 for the first summer of his birth. He was born in
18 April, and Ms. Annie Mae had him for that summer and
19 took him to New York for several months. He was back
20 by September when he was about five months old, and at
21 that point, both his grandmother, Annie Mae, and
22 grandmother, Francina, started to do a lot of his care.

23 What I found is that his mother, Itina, spent
24 very little time with him during the first year, which
25 can affect the bonding that her mother has to her

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1 child. Bonding and attachment is a two-way thing that
2 happens between parent and child. The child gets
3 attached to the parent; the parent gets attached to
4 the child. But because there is this disruptive
5 relationship in the first year, we see some of the
6 effects of that later.

7 Q Can you describe J.J.'s life during preschool
8 ages, one through five?

9 A Well, I talked to his grandmothers, both of them,
10 and his mother and his older sister and older brother,
11 who were old enough to remember him at that age, and
12 they all talked about how he was just -- had a really
13 happy temperament, that he was a happy baby, but that
14 he also could get -- became very anxious at times,
15 which is normal. I mean, you know, two year olds are
16 known to have temper tantrums, for example, but it
17 became very persistent for him, and the -- and that
18 became frustrating for his mom.

19 When J.J. was two, another baby was born, Raheem.
20 So it was getting pretty crowded in her home. At that
21 time, too, when he was two and three, his Aunt Shonda,
22 who is on the chart there with the six children, was
23 having trouble herself and had a DSS case, which is
24 child protective services case, in her family. And so
25 Itina was helping take care of Shonda's children, as

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1 well as her five children. Francina, the grandmother,
2 was helping to keep this family together, too. So it
3 was a very crowded situation that J.J. was living in
4 as a very young child, which means that each child was
5 probably not getting a lot of personal attention, but
6 also a lot of over-stimulation that could be hard to
7 manage.

8 She did try to get him to Head Start. Some of
9 the other children did go to Head Start, a
10 developmental program that is helpful for
11 preschool-aged children, to help them get stabilized.
12 But he had some emotional problems that he was showing
13 at that time, and Head Start said they couldn't
14 respond to his needs, so he stayed mostly with his
15 grandmother while his mother worked until he started
16 kindergarten.

17 Q Did J.J. see his father at all while he was
18 young?

19 A He apparently saw him when he was about two years
20 old, but does not recall that visit.

21 Q Will you summarize J.J.'s social and development
22 in his preschool years, ages birth to five.

23 A He seems to have development delays even in the
24 preschool years, and we couldn't -- we were unable to
25 get Head Start records, so I couldn't see the actual

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1 records of what happened. I only have family reports,
2 but attachment bonding are very important. Some of the
3 anxiety that he was experiencing could well be related
4 to what we would call insecure attachment. He was
5 yearning to feel connected, and even though he was
6 surrounded by lots of people, he didn't have any one
7 person for his home base, his person to go to. So he
8 didn't have a very secure sense of belonging, and we
9 see that as we see some of the observations that people
10 outside make of him as he grows up.

11 He was a cheerful and agreeable child most of the
12 time, but he could have fluctuating moods. He also
13 often didn't respond to punishment, which most kids
14 do, but it didn't seem to have any effect.

15 Q So he did not respond?

16 A He did. He learned to behave in many ways, but
17 sometimes it is as if he would do things knowing he
18 would get punished, but when you have emotional needs
19 that are unmet, sometimes emotional pain is greater
20 than physical pain you would endure if it were
21 punishment.

22 Q Based on the chronology you developed, please
23 described what happened in the next phase of J.J.'s
24 life, like his elementary years.

25 A Starting with physical health, he generally

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1 continued to be -- again, by reports -- physically
2 healthy. I don't have many health records on him. He
3 did once injure his leg while skating, and then there
4 is a report of one fairly serious injury, which he did
5 not receive medical treatment, but his older brother,
6 Shawn, told me about an incident when they were playing
7 outside of the trailer in the Playcard neighborhood and
8 someone and a much older cousin had a gun and shooting
9 the gun and started acting like he was going to shoot
10 at J.J., who was a -- Shawn said at the time he thinks
11 J.J. was about seven. And so J.J. started running
12 really fast and didn't watch where he was going and hit
13 right into a telephone pole and hit hard, fell back and
14 was knocked out and unconscious. Shawn picked him up
15 and carried him into the house. Shawn had seen a
16 television show about what to do if someone might have
17 a concussion, so he wouldn't let him go to sleep and
18 things he learned from a TV show. They didn't tell the
19 mom about it because they were afraid they would get in
20 trouble because they weren't supposed to be outside.

21 Q Let's focus on his family. What were the main
22 events in his life during the elementary years, ages
23 six through 12?

24 A About the time J.J. started going to school, he
25 went to Green Sea Elementary School, which had a lot of

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1 other children who were from low income families, not
2 all lived at Playcard. Some things did settle down for
3 J.J.'s family. For one thing, his mother had five
4 children, but she became involved in a long-term
5 relationship with Andre Simmons. Andre was 18 years
6 old; she was 27. Andre just finished high school, and
7 he moved in as her partner into their home, but they
8 both were working. So for the first time in J.J.'s
9 life, there were two wage earners in the family. Itina
10 was clearly in charge of the household. Andre didn't
11 discipline the children, but there was a stable person
12 in the home. He and Itina did have two children, both
13 boys. J.J. also, for the first time, had a stable
14 place to stay. His family wasn't moving from one place
15 to another. They stayed in the Playcard area until he
16 was in high school.

17 Basically, things were much more stable. He also
18 -- he had a father figure in his life, they all did at
19 that time, who was Francina's partner, a man named
20 Hen, Henry Floyd. He was a grandfather type for them.
21 He lived over in Fair Bluff, which is a little further
22 out in the rural area. He had farm animals, taught
23 J.J. to fish. They would go and enjoyed visiting him
24 on the farm. He would go to school with J.J. on
25 Grandparents Day. In fact, after he died, when J.J.

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1 was nine, J.J. didn't want to go to Grandparents Day.
2 He asked to stay home from school because he didn't
3 want to be there without his granddad. They called
4 him Papa.

5 Q What, if any, effect did you learn about the
6 punishment that J.J. received growing up?

7 A His mother used a lot of physical punishment,
8 which is not unusual in some families. Punishment is
9 one of many forms of discipline that parents use.
10 Discipline, you're trying to get someone to follow your
11 guidance, but she couldn't be home a lot because
12 sometimes she worked two jobs, working all the time.
13 She had a lot of children to manage, so she almost
14 exclusively used physical punishment. The punishment
15 could be pretty harsh. She used cords and belts,
16 pieces of rubber hose, different objects she would use
17 to administer punishment.

18 All the boys experienced their mother's beatings,
19 but the people -- the family members I talked to said
20 that J.J. definitely got hit more than the others. He
21 got punished a lot. Sometimes the other brothers
22 would blame him for things that they were all involved
23 in doing, but they would point to J.J. and he would
24 particularly get punished. Sometimes, too, there was
25 a delay punishment where he might get in trouble for

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1 something in the day, or someone would say I'm going
2 to tell Mom when she comes home, or he might get in
3 trouble at school and there is a report given to the
4 mom. So he's at home being good or he might have
5 cooked supper, cleaned his room -- he didn't have his
6 own room, but cleaned part of the house, and she would
7 come home and beat him anyway. The delay punishment
8 is inconsistent with punishing immediately after the
9 behavior and it creates a very ineffective kind of
10 behavior training. A child -- this is a child. They
11 don't learn what you want to teach them when you use
12 delay punishment necessarily. So he spent a lot of
13 time with what we call anticipatory anxiety, wondering
14 what would happen. He spent a lot of time dealing
15 with physical pain. He rarely had comforting after
16 beatings, so there was a lot of emotional pain and
17 feeling rejecting as a result of some of that
18 punishment.

19 Q All right. You mentioned that the family lived
20 in poverty; would that have affected his development?

21 A In this case, it did. There was a lot of
22 crowding. It was a three bedroom trailer with all of
23 these boys in it, and often there were other family
24 members other than just Itina's sons and Andre's sons.
25 Sometimes they slept six or eight to a bed. They would

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1 have two twin beds that they would put together so it
2 was kind of like a king size bed, or they would sleep
3 in chairs to do what they can. But there were a number
4 of people who might stay for months at a time. I
5 mentioned earlier, Itina was committed to keeping
6 family together. Her sister's children, particularly
7 Michael who was about two years older than J.J. or
8 Tameka who was just about J.J.'s age, her daughter,
9 would stay there. Marcus McAlister was an older young
10 man. He often stayed there. That was his Aunt Betty's
11 son who was later killed, and I'll mention that in
12 little bit. Demetrius Washington was a relative who
13 would stay there. A friend, Gilcrest, was often there.
14 Kendall Ray was often there, and Kendall had a brother
15 who was sometimes there as well.

16 So, again, all males. Lot of people in the
17 house. It was very hard to concentrate or do
18 homework. They also talked -- the family used the
19 word "survival" a lot. We were surviving. We always
20 had food to eat, and sometimes it was cereal, ate a
21 lot of hot dogs, and sometimes the electricity would
22 be cut off because they couldn't pay the bill, but
23 they were -- the family was always working in some way
24 to make things work out, and the children were
25 watching out for each other.

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1 In that, too, there was not a lot of special time
2 for each child. They didn't have a lot of birthday
3 celebrations. At Christmas there were church groups
4 that would donate things that would help the family at
5 Christmas. So there was always togetherness, but a
6 lot of fighting and trying to work things out in a
7 household.

8 Q I want to clarify for a moment. You keep saying
9 the boys was there, but there was a sister there as
10 well?

11 A That's correct.

12 Q Was she at that house most of the time?

13 A She lived with her grandmother, Francina, most of
14 the time, but later, she did come back to live to help
15 supervise the children after school.

16 Q All right. You mentioned that you reviewed
17 numerous records. Did any of the family members -- did
18 you find any family members involved with the criminal
19 justice system when he was at a young age?

20 A I did. And I have another chart that helps
21 illustrate that, some of the things he was exposed to.
22 This is part of the chart, and I'm not going to go
23 through all the names on the chart, because the names
24 aren't as individual, but I'll read to you a list.
25 This is a more extends family tree.

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1 Can you go to the next page? And then the final
2 one, and then the next one -- that one. So that is
3 the whole family tree. I broke it into smaller parts
4 so you can read it better. But you'll see J.J. is
5 there sort of in the center, and his father's family
6 is on the right, and his mother's family is on the
7 left. Anything marked in yellow is someone who had an
8 arrest. So I'm going to go through with you some of
9 the kinds of things that happened in his family. The
10 point being that a lot of the family members fell
11 vulnerable to engaging in certain criminal behaviors,
12 but also many of these people were males, almost all
13 but one. So in terms of available male role models
14 for him, he had some people with conflicts, in terms
15 of giving him guidance he needed. Of course his
16 father is on the list with the record he had. His
17 father's uncle had been arrested for sexual assault
18 and kidnapping; that was before J.J. was born. When
19 J.J. was six, he had a cousin who was arrested for
20 receiving stolen goods, and later for criminal
21 domestic violence.

22 When J.J. was eight, Andre, his stepfather, was
23 arrested, although the charges were dismissed, but
24 there was an arrest that did occur. When J.J. was
25 eight, his cousin, William McAlister, was arrested for

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1 possession of stolen goods. When he was nine, his
2 grandmother, Annie Mae, was arrested for distributing
3 crack cocaine. When he was ten, his cousin, Demarcus
4 McAlister, was arrested for burglary and kidnapping.
5 When he was ten, the father of one of his cousins was
6 arrested for domestic violence. When he was 11, the
7 father of his sister's child was arrested for assault.
8 When J.J. was 11, his cousin's father was arrested
9 for distributing meth and cocaine, methamphetamines
10 and cocaine.

11 So J.J. was exposed to a lot of people who had
12 engaged in some degree of criminal activity. There
13 are a lot of people on the chart who never engaged in
14 criminal activity. He was constantly giving guidance
15 to get away from it, mind your own business, don't get
16 involved with it. As you can see, there was a lot of
17 exposure.

18 Q How about J.J. neighborhood and community; what
19 was the main events of his life during elementary
20 school, 6 to 12.

21 A The neighborhood played a pretty powerful effect
22 on his life. As I mentioned before, there were a lot
23 of family members around, which means there was a lot
24 of support. There was family cook-outs, there was a
25 big field to play in. Some kids had bikes and they

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1 would go bike riding. His mom had a deep freezer and
2 they would sell treats to the neighborhood from the
3 freezer. So there was some good things that were
4 happening. Again, there was the danger, fights,
5 exposure to what they call "crack heads," domestic
6 violence and just a lot of lack of predictability.
7 Things were unpredictable. It is that lack of
8 predictability that makes it hard to be trusting with
9 anything. It has profound impact on child development.
10 You develop this fear of the unknown.

11 People have said if you are not in that
12 neighborhood, you can't understand. It is emotionally
13 overwhelming. They have rules you have to live by,
14 and kids have to kind of learn what those rules are.
15 You never snitch, never talk, never tell because you
16 don't know what might happen to you. I found a lot of
17 that tendency, not to run and talk about it. People
18 said you had to be aware that anything could happen at
19 any time, even while driving your car, you never knew
20 if someone would shoot at it.

21 There was a lot of economic insecurity and people
22 depending on one another because of the seasonal jobs.
23 Children seem to be wary at all times and to be what
24 we call "hypervigilant."

25 Q Is that unpredictability significant to you in

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1 this assessment?

2 A Very much so. I think it had a powerful effect
3 on J.J.'s development of anxiety, chronic anxiety, and
4 his tendency not to talk about things, the whole family
5 has that tendency of being afraid to discuss things.
6 Some of that is what we call repression, which is
7 actually -- if you have been exposed to a lot of trauma
8 or anxiety, it is not something you do voluntarily.
9 You don't choose to do it, but your mind sort of takes
10 you to a place of trying to be calmer, so you get to
11 where you don't remember things, or if you talk about
12 something that other people might find alarming, you
13 can talk about it in a calm way like it doesn't matter.
14 It is not that the feelings go away, it is just that
15 you have developed a way of coping so you are not
16 constantly dealing with that fear.

17 THE COURT: Let's take a break. We're at a good
18 stopping point. We'll take our afternoon break. Do
19 not discuss the testimony or the case or anything
20 about it. Be back in 10, 15 minutes. Everyone else
21 remain seated while the jury is excused. Thank you.

22 (The jury exits at 3:28 p.m., and the
23 following is heard out of the presence of the jury.)

24 THE COURT: During the break, you are allowed to
25 go to the bathroom, get a drink of water, but don't

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1 discuss your testimony with anyone.

2 THE WITNESS: Thank you, and thank you for the
3 break.

4 THE COURT: Yes, ma'am. I'm sure Natalie was
5 ready.

6 COURT REPORTER: Yes, very much so.

7 (A recess was taken.)

8 MR. WILSON: Your Honor, I have a matter I want
9 to put on the record. I offer an apology to the
10 Court. I said to you that there were 23. I went back
11 and recounted. I don't know how my math was off by
12 three, but there are actually 26 on here, and so I
13 just wanted to correct it and let you know.

14 THE COURT: You don't need to apologize to me.

15 MR. WILSON: I thought I was right. I thought I
16 was right, and I just mis-saw it.

17 THE COURT: We all went to law school for a
18 reason (laughing).

19 MR. WILSON: (Laughing).

20 THE COURT: Can you stipulate to that?

21 MR. HIXSON: I almost said that (laughing).

22 THE COURT: We all went to law school not med
23 school for a reason, and I think math was probably
24 number one (laughing).

25 Anything before we get back on the record with

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1 Dr. Andrews?

2 MR. WILSON: Nothing from the defense.

3 MR. HIXSON: No, sir.

4 THE COURT: All right.

5 (The jury enters at 3:48 p.m., and the
6 following is heard in the presence of the jury.)

7 (Whereupon, a bench conference was had.)

8 THE COURT: Sorry about the tease on coming in.
9 We were talking about scheduling for the rest of the
10 day and tomorrow, so we were trying to work through
11 that. I wanted to check the witnesses' availability
12 and all of that good stuff, so I apologize.

13 We will continue now. Ms. Williams, we're still
14 on the direct examination of Dr. Andrews, and you may
15 continue.

16 DIRECT-EXAMINATION (CONT.)

17 BY MS. WILLIAMS:

18 Q Now, Dr. Andrews, you talked about that you found
19 a numerous amount of adverse stressful events in J.J.'s
20 early childhood; was his development, in your opinion,
21 affected by these events?

22 A Yes, definitely. Keeping in mind that J.J. faced
23 these chronic stressors, and there were traumatic
24 stressors too, but he was facing these through the
25 immature eyes of a child. A lot of the things I have

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1 been talking about, so far, are in his early childhood,
2 before age 12. There are these chronic stressors,
3 stressors of living with insecurity of economic
4 insecurity of the home, the crowding, the difficulty
5 feeling that you had any sense of personal self or
6 place even, and the neighborhood -- someone used the
7 phrase: You see, but you don't see. You hear, but you
8 don't hear. You have to act as if it is not going on.
9 He also experienced some traumatic stressors that were
10 very profound and sort of illustrated the point I got
11 to make about how it affected his development. When he
12 was six, it was in the first grade and Dequan was in
13 the third grade, they witnessed a murder in their
14 neighborhood. They were walking down the road -- they
15 call it a street, but it is a dirt road -- and there
16 was a domestic violence dispute going on, and in that
17 home, the teenage son grabbed a gun and shot the man
18 who was beating his mother. Dequan said that they
19 actually saw the splatter against the wall and the
20 blood, and they didn't know a body could have so much
21 blood.

22 So there was a direct witness to this kind of
23 violence at an extremely young age, something they
24 couldn't tell their mother about because they were
25 afraid they would be in trouble. They had learned to

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1 withhold things from her in order to try to keep the
2 beatings from happening. There was another time that
3 he witnessed a shooting, and I mentioned, too, his
4 traumatic injury. All of these are chronic stressors
5 and the traumatic stressors are life events; we call
6 them stressors, the things that cause stress. Stress
7 is a physical and psychological thing that happens to
8 all of us. You know, being in a courtroom is
9 stressful, but that is a moderate stress. Stress is
10 the effect on the body. "Coping" is the word we use
11 to learn how to manage stress. Everyone has to learn
12 how to manage stress. Some people unfairly are given
13 more stress than others in life.

14 So from a very young age, you learn to manage
15 stress and to cope. The way the life events in just
16 the family and community -- and we haven't talked
17 about school yet -- affected J.J. and a profound
18 effect on his development. He was not very well
19 prepared to deal with stress at all. We call the kind
20 of stress that J.J. experienced "toxic stress."

21 So some of the effects it had on him was this
22 development of anxiety that people noticed on him, the
23 hypervigilance, kind of jumpy about things, not
24 trusting anyone except family, and then trusting
25 deeply in family to develop what some people call a

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1 showing out or a genuine need to be brave. You have
2 to be very brave as a child to face some of the things
3 that he had to face.

4 The whole family developed a way of just carrying
5 on, dealing with day-by-day life in the best way they
6 could using humor. They'll crack jokes, but there is
7 a deep sadness and a numbing, almost an understatement
8 when they talk about things, even things like
9 witnessing a murder at age six, to be able to talk
10 about it in a way that they can't express the
11 emotions. It is not that the emotions are not there,
12 it is that the emotions sometimes come out in other
13 ways, but to show those emotions at times would just
14 create more stress, so people don't do it and become
15 very stoic.

16 We see that his mother comes out that way, too,
17 with a lot of stoic, a braveness, and that is probably
18 directly related to that trauma she experienced in her
19 own childhood when she witnessed a shooting.

20 Q Dr. Andrews, you said the whole family was
21 dealing with stressors; did you find anything different
22 about J.J.?

23 A Yes. Very much so. He felt fairly isolated.
24 We'll see over time he got more and more cut off from
25 some of the supports he did have. The most noticeable

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1 thing different about him is he really didn't have
2 access to a father figure, particularly after Hen died.
3 When I was doing the genogram I started marking people
4 off who stopped being available to him. So, yeah, his
5 grandfather, "Papa," at one point was available. At
6 this age -- I'll be doing that with other folks later,
7 but he was no longer available. Not only was his
8 father absent, he felt like his brothers had access to
9 their dads. He was also given direct negative messages
10 about his father. People made fun of him because his
11 father was in prison. People said, You're bad just
12 like your dad. He never believed that there was
13 goodness in his father. Whenever his father was
14 brought up, there were people at school that heard his
15 mother talk about how he was bad like his dad, and they
16 observed that when his mother said that, he seemed to
17 be very sad.

18 So what was different about him is that he didn't
19 have this anger that other people had, even if they
20 are -- I mean, there are studies of, for instance,
21 children of military families, they are very connected
22 to their parents even when they are far, far away. It
23 is not just a physical presence. There are many
24 children that have relationships with absent parents,
25 but he didn't. He didn't have that available to him.

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1 He also had -- everyone is born with a different
2 temperament; his was very active. He needed to be
3 out, outside. He needed to be able to move around.
4 He had to be restrained a lot from doing things
5 because even though that was something he needed to
6 get out and do, but they needed to stay close to their
7 trailer so they didn't get over to the "danger areas,"
8 it was hard on him.

9 He was very helpful. He wanted to please his --
10 there were teachers I talked to that called him a
11 "pleaser." He was known as someone that needed
12 affection and cried a lot as a child. We even have a
13 record of him crying at school in the ninth grade.
14 That is very unusual for a ninth grader, but we see
15 his painful emotions are coming out in different ways.

16 So his sense of self is that he was different.
17 He felt that he was made fun of because he was fat.
18 I've seen pictures of him. He didn't seem
19 particularly overweight. I mean he was chubby, but
20 the important thing was it was his image that people
21 regarded him as different.

22 So there were stressors that -- they were all
23 facing stressors and each trying in their own way to
24 manage those stressors, but he clearly was having some
25 exceptional problems.

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1 Q You talked about the family and the neighborhood.
2 Was he affected by his elementary school services from
3 kindergarten to sixth grade?

4 A Yes, he was. And I know you heard from some
5 teachers, and I wasn't here for all of the testimony,
6 but he did -- he attended school, he liked school. He
7 started out academically delayed. He hadn't had the
8 advantage of being in a child development center, but
9 he did go to kindergarten. He gained in the year he
10 was in kindergarten, and he didn't have any particular
11 behavioral problems in kindergarten or first grade.
12 But by second grade -- really more third grade -- he
13 did start showing problems in being able to conform to
14 expectations of school and having anger problems.

15 In the third grade, the problems were repetitive
16 enough that they asked the mental health counselor to
17 talk with him. The school he attended had
18 school-based mental health services where a mental
19 health center has a therapist available at the school
20 so the family doesn't have to take the child to a
21 clinic or something. And so they did start talking
22 with him, and talking with his mother. They diagnosed
23 him with Oppositional Defiant Disorder, which is a
24 common diagnosis of children basically misbehaving in
25 school and not doing what the teacher says. At that

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1 time, they talked to his mom, and she was having
2 similar problems. The punishment she was using at
3 home wasn't working, but she continued to keep
4 punishing him. So he began being identified as
5 someone who had problems.

6 Q What was the effect, if any, of his mother's
7 discipline and the school counseling on J.J.'s
8 situation?

9 A It wasn't -- well, he did learn to conform in
10 school. They were counseling with him. They said he
11 would disturb class, push other kids, he used bad
12 language, which he was learning at home. So his mother
13 came to school and beat him at the school, took him
14 into a side room and beat him, which made him ashamed.

15 So he would comply. He was trying very hard to
16 behave, but it wasn't working because he was still
17 having these episodes where it would come out.

18 I'll read from some notes in the fourth grade, in
19 the fall of fourth grade in November, the mental
20 health counselor at the school said, He presents as a
21 very angry, sad, young boy. He reacts to teasing,
22 believes the teacher refuses to do anything about the
23 teasing, feels like he has no one to talk to and does
24 not want to talk in front of his mother. He's
25 friendly -- and throughout his school they talk about

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1 how friendly he is -- enjoys sports and likes school.

2 So they are beginning to see some of the
3 emotional problems that he is having.

4 Q You described J.J. as an elementary student that
5 started stable, but became inconsistent. Learning
6 progressed, but had emotional outbursts?

7 A Correct.

8 Q And you noted that the school and his mother
9 attempted to shape his behavior, but didn't seem to be
10 working based on that note. What, if anything, did the
11 school try to do?

12 A Well, the school at that point did a
13 comprehensive psychological evaluation. He was
14 determined to have a disability -- an emotional
15 disability that was causing learning delay because he
16 had emotional disability. When you are determined to
17 be disabled, it is recognized -- a lot of times kids
18 are just regarded as being bad because they will not --
19 it is a matter of will. When you are found to have a
20 disability, they realize you cannot do it. Something
21 is blocking you. It is not just your will, it is
22 something is blocking you so you can't always. He,
23 himself, would talk about he didn't know what to do
24 with his emotions. He hadn't been guided in his
25 emotional expression.

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1 So emotional and social development is a very
2 powerful course that affects how we think and learn.
3 So the finding -- it was a very comprehensive
4 psychological evaluation. It found emotional
5 disability and a deficit in visual motor perception
6 and integration. This has to do with how a child or
7 human perceives things and is a sign that they are
8 having trouble paying attention and there is something
9 intrinsic that is causing them not being able to pay
10 attention that they need, and for that reason, he was
11 placed in special education, which is just what he
12 needed at that time because he needed special
13 techniques to help him learn and help him manage these
14 challenges he had in the emotional area.

15 The report talks about him being defiant and
16 disruptive and disobedient. He also reported to the
17 psychologist who was doing the testing that there were
18 times when he thought about killing himself. And then
19 he later -- when confronted with that, with his mother
20 present, he denied that. He said that he
21 misunderstood. But the diagnosis, based on tests that
22 were given, is that he was depressed. On the
23 depression skills, he tested very high and it would
24 include notes that he had childhood depression.

25 Once he was placed in special ed, he was getting

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1 the kind of educational help he needed, but it added
2 to some of his problems because there was a stigma
3 about being in special education, and the other kids
4 who were not in special ed called him, quote, retard,
5 end quote. Dequan once heard them calling him that
6 and stood up and fought for him, but it created
7 another problem.

8 Q So I was going to say, you mentioned that he did
9 receive some mental health treatment during his
10 elementary school years, did it appear to be effective
11 and --

12 A It was effective in helping him manage his
13 behavior. A lot of what he got is what is called
14 behavioral intervention, which is training on how to
15 behave and how to manage your anger in a school
16 setting. So most days, his behavior was really good.
17 He still would sometimes have these outbursts, but most
18 of the time he was able to manage his behavior. What
19 he did not get treatment for was the depressed mood,
20 even though the diagnosis by the time he was in the
21 fifth grade by the mental health counselor is that he
22 had adjustment disorder with depressed mood, as well as
23 the oppositional problems.

24 He never really got treatment for the emotional
25 part. He was always -- it was always about his

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1 behavioral -- at least from what I can see in the
2 records. I tried to reach the psychologist who was
3 treating him, but I was unable to speak with them, so
4 we weren't able to reach them.

5 Q Did he -- did the mental health treatment he
6 received help with any of the effects of the trauma
7 that you previously spoke about?

8 A No. They didn't seem to even detect trauma.
9 They didn't know about him witnessing a killing. They
10 didn't know about him being exposed to gunshots
11 constantly, or at least the records don't indicate that
12 in any way that we're dealing with these kinds of
13 traumatic issues he had to face as a very young child.

14 Q You described J.J.'s life as a young child to
15 when he became a teenager. Can you describe the main
16 events of his middle school and high school years?

17 A So he enters middle school, already exposed to
18 things that most young children don't have to face in
19 terms of balancing, what I call, "rules of engagement."
20 The rules of engagement were different in his
21 neighborhood and home than they were at school. He had
22 to learn to act in certain ways in the neighborhood and
23 at home, you had to watch out for yourself, watch out
24 for your family, you never know what might come at you.
25 So he was always kind of bridging different worlds, you

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1 could say. There was the rural life, and then
2 sometimes his mom would work on the beach and he would
3 be there. People seemed to have plenty in other
4 neighborhoods, but not in his own. It is more
5 challenging. He had this you don't tell adults things
6 that are happening because you might get beat and you
7 might get in trouble. At school, he felt he was being
8 choked once because he was behaving and a teacher
9 restrained him. There is research about choking and
10 the way it makes you feel, like you might die. So
11 there is a real fear that comes after that of trying to
12 do your best to please.

13 I once noticed in a note that he once told -- it
14 makes you want to please the people that might hurt
15 you, so he once told his counselor that -- she asked
16 why he was so happy and he said, Well, my father came
17 for Thanksgiving and we played video games, and it was
18 just a wonderful time. Well, his father never came to
19 visit. He doesn't recall doing that, but it's
20 something you might expect a child would do if they
21 are really trying to make someone think that he's okay
22 or to talk about something other than what you might
23 think that person would want to disclose. When you
24 are trying not to disclose, you are trying to keep
25 things in.

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1 So he went into middle school pretty unprepared
2 for the things that middle schoolers, teenagers,
3 people getting into more mature situations get into.

4 Q Tell me about what you learned about his
5 experiences attending middle school?

6 A Well, he attended Loris Middle School, which took
7 him away from his family. Loris had a special
8 education, and the Green Sea Middle School, the one
9 that the kids he knew went to or were in his family,
10 cousins and friends, they went to a different school.
11 So he felt different because he had to go to that
12 school. He also -- as he went into school, he didn't
13 have his siblings anymore. Dequan was in a different
14 school, and at that point you have two more people who
15 leave the family. Shawn was a very strong influence in
16 J.J.'s life. Shawn was his older brother who was a
17 very strong influence, but he left and joined the
18 military because he graduated high school. He had been
19 the person to help keep the family together. And then
20 Travon, who was two years older, left as well and
21 eventually joined the military as well. He was -- so
22 he lost two of the stabilizing influences on him,
23 particularly in the neighborhood. So he was more on
24 his own when he got to middle school.

25 Academically, in middle school, he showed a lot

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1 of delays, although each year the teachers would note
2 that he made gains. He played on the football B team.
3 His teachers notes showed he was still struggling a
4 lot with social situations; it was hard for him. I
5 read one note that said he has inappropriate reactions
6 when he believes he is being made fun of, and he
7 perceived he was made fun of a lot. He gets angry.
8 He wants attention. He wants to save face, and he
9 wants to avoid looking weak. By then, he developed a
10 sense he had to be strong at all times in order to
11 defend himself, get ready to defend himself.

12 Q Did he go to high school?

13 A He did. He went to -- he started high school at
14 Green Sea Floyd High School, and that was soon after he
15 had another major traumatic event in his life, which,
16 for him, was very traumatic, it was the death of his
17 cousin, Marcus McAlister. His son, G., is named after
18 Marcus. He used to who stay at his house a good bit,
19 because he was a distant cousin. He was a good bit
20 older. He was murdered and had a profound effect
21 because J.J. was just 13 when that happened. He felt
22 that that could happen to anyone, at any time and that
23 he needed to be ready to defend himself. At that
24 point, he wanted to get a gun and find ways to get
25 ready in case that might happen.

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1 Q Talk about him in high school and what was
2 significant in tenth grade.

3 A He was still involved in sports then, ROTC, he
4 attended the sweetheart ball in the ninth and
5 tenth grade. He still had emotional problems. He was
6 still in special ed. Now, in tenth grade, he got into
7 trouble. He cursed at a teacher and grabbed at her arm
8 at one point, and because of that, he was sent to the
9 alternative school, which is a school where most kids
10 have anger problems and are not able to conform. He
11 was no longer participating in sports or ROTC at that
12 point, so he didn't have the organized opportunities
13 that he had before, but he was able to participate in
14 the Waccamaw Economic Opportunity Council, the youth
15 program where he worked at the library in the summer,
16 and he did very well. He was really proud of himself
17 and felt good about able to earn money and have that
18 opportunity.

19 Q Let me ask you, did J.J. have any type of
20 leadership roles in high school, middle school?

21 A No. None in the record, no.

22 Q Did he get into trouble when he was 16?

23 A He did. He was arrested, and this is after he
24 had formed a relationship with Lonice Grant, whom he
25 developed a long-term relationship with. He was 16 up

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1 until he was 20 that he was involved with her.

2 He was arrested and -- he and some other
3 teenagers stole some guns, and he was involved in
4 helping to hide those guns. His mother was involved
5 in helping the police to apprehend J.J. for hiding the
6 guns.

7 Q Did he have any changes in his family life when
8 he was around 17?

9 A He did. For one, he had another loss. Andre was
10 no longer available to him because his mother and Andre
11 broke up. He was always at the house when he wasn't
12 working and helping to keep things stable, but he was
13 no longer available to him at that point. They also
14 had moved out of Playcard, in part because they wanted
15 to get the kids out of Playcard, and his mother was
16 able to buy a trailer which they put in a community on
17 a piece of land also out in a rural area.

18 Another major thing that happened is he became a
19 father. G. was born when he was 17. Becoming a
20 father made G. (sic) more sensitive to failures he
21 was experiencing. He still had this high level of
22 anxiety. There were times -- by the time he was 18,
23 he wasn't prone to drinking alcohol, but he did start
24 using Xanax and smoking marijuana, which he said
25 helped him to focus and feel calmer.

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1 Q Did you notice any particular unusual family
2 dynamics about the time that J.J. turned 18?

3 A About this time, his mother started communicating
4 with his father again more intensely, but J.J. didn't
5 know this. He had only been told that his dad was bad,
6 his dad had done bad things and he was bad like his
7 dad. He had no idea that his mother was still talking
8 to his dad and communicating with him. But it
9 illustrates how, sort of, how estranged or apart he and
10 his mom were that she didn't involve him in any
11 awareness that she was rebuilding that relationship.

12 Q What were J.J.'s plans after high school?

13 A He had been talking about going to technical
14 college and possibly studying lighting and sound
15 production, or he really liked to cook. Sometimes he
16 would talk about having his own restaurant based on the
17 interviews of people that knew him.

18 Q Did he finish high school?

19 A No, he didn't. He was arrested for distributing
20 crack cocaine, which was something that lots of people
21 in his community around him had done. He was still
22 visiting Playcard, and he was picked up for
23 distributing cocaine.

24 Q Tell us how his family related to him while he
25 was incarcerated with this cocaine charge?

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1 A Yeah. He was arrested in the fall and got out
2 for awhile, and then because he committed an act of
3 domestic violence, he and Lonice had a fight, his bond
4 was revoked and placed back in jail, and then
5 sentenced. He ended up serving altogether with jail
6 and the South Carolina Department of Corrections time,
7 serving a year. His family didn't really relate to him
8 when he was incarcerated. The only person that visited
9 him was Lonice, and she brought the baby to see him.
10 He would sometimes talk to his mother by phone, but for
11 the most part they did not visit him.

12 Q How did J.J. adjust to prison life during that
13 year?

14 A He was moved several times. He was at Kirkland
15 and also at Wateree Correctional Institution and
16 Manning Correctional. He once had an altercation with
17 another inmate that was recorded as a two-way
18 altercation, and he once made rude comments to a guard,
19 but otherwise adjusted very well.

20 Q You reviewed life factors up to 2014 when J.J.
21 was released from prison, correct?

22 A Correct.

23 Q What was J.J.'s life like when he was back in the
24 community?

25 A Well, he got out in January of 2014, about a year

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1 before this crime happened. In April of that year, he
2 turned 20. I think he was 19 when he got out. He was
3 focused on making a home with Lonice and G., who was
4 18 months old when he got out. Lonice purchased a used
5 mobile home that had a lot of repair needs, so J.J. and
6 Lonice's father set about rewiring it, repaneling it,
7 trying to rehab it. It didn't have electricity or
8 running water yet, but it was on a piece of property
9 that was owned by her mother. She proceeded with her
10 plans to go to college, and he was wanting to finish
11 his GED so he could go on to technical school. The
12 first thing he did was get a job. He went right to
13 work within a week after his release at a restaurant on
14 the beach, but he was very dependent on others. He
15 really didn't have a regular place to stay. He was
16 mostly with Lonice, but they would sleep wherever they
17 could. In the trailer, it wasn't quite ready for
18 sleeping, but they would stay there. Sometimes it was
19 really cold and they had kerosene heaters. They would
20 stay with her mother, stayed with relatives that lived
21 near the beach, sometimes they stayed with Dequan and
22 his girlfriend, and basically wherever they could get a
23 place, they would stay.

24 He had a second job, too. And, eventually,
25 because he was working two jobs, he was able to buy a

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1 used car. He went to Raheem's graduation in June of
2 2014, but things changed in the summer.

3 Q Tell us about the changes you found.

4 A In the summer the -- Lonice was pregnant again,
5 and he and Lonice were arguing a lot. They were young
6 and had a lot of stress. He has -- as I mentioned, he
7 had very undeveloped stress management skills, and he
8 still has this emotional disability. There were a
9 couple big changes. One is Aunt Sandy, who was one of
10 the resource people he could go to, was killed in a car
11 accident. It was a head-on collision that another
12 driver drove into her lane, and both drivers were
13 killed, which was a big loss to the family. The family
14 did the same thing they did when Marcus died, the whole
15 family went to the hospital. There were probably 40,
16 50 people at the hospital because they were so
17 concerned with this loss and wanting to know what had
18 had happened, which illustrates how together this
19 extended family is in terms of the importance they have
20 for one another.

21 The other big event, and another loss, was his
22 mother moved away. She had an opportunity for a job
23 and took it and moved to Savannah and worked on Hilton
24 Head. So he -- and she took the three youngest sons
25 with her. So he was pretty much, even though he had

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1 -- he is very dependent on family and has a strained
2 relationship with his mom, she was always there for
3 him. So that relationship was no longer available to
4 him.

5 He also during the summer, he and Lonice had a
6 big fight and it cost him to lose his job. At that
7 point, he started hanging out with people who lived
8 near where the trailer was that he and Lonice had,
9 which included being near James and McKinley Daniels
10 was.

11 Q Can you describe J.J.'s life in the fall and
12 winter of the fall of 2014?

13 A At that point, he had situational stressors
14 building. Lonice described as living hour by hour, day
15 by day. He was unemployed, although he tried to do
16 some pickup work, doing some construction. He got a
17 job for awhile at Cheeseburger in Paradise, and then
18 lost it. He enrolled for his GED in November at the
19 adult education program, but didn't stay with it.

20 As mentioned before, they were virtually
21 homeless. They were basically, what you might call,
22 couch surfing, going from one house to another finding
23 places to stay. They stayed in their own trailer as
24 much as they could because they really wanted it to be
25 a home. As I mentioned, Lonice was pregnant and

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1 getting closer to her due date in February. Then one
2 of their cars broke down, so they were dependent on
3 one car for Lonice to get to work and for him trying
4 to find work.

5 His mother talked to me about around Thanksgiving
6 when she noticed how distressed he was. Lonice talked
7 about how humiliated he was that he didn't have any
8 money, that he really wanted some money because he
9 felt so unable to fulfill his responsibilities as a
10 father. Everyone talked about how G. is J.J.'s heart
11 and joy and how committed he is to try to make a good
12 life for G. At this point, his daughter wasn't
13 born, but he was really, really committed to that.
14 What he wanted more than anything else was to get some
15 money.

16 Q At this point, I asked you to summarize your
17 major findings about the things in Mr. Jenkins' life
18 based on your social history assessment; did you
19 prepare a chart that would be helpful in that summary?

20 A I did.

21 Q And it is reflected on Defendant's No. 8?

22 A Yes. I know you can't read this, but you'll be
23 able to see it.

24 Q Do you want to use your light and point to
25 things?

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1 A I can. I'll read it to you going top to bottom,
2 what is here, and talk about what it is.

3 What this is is a summary of what I talked about
4 with developmental levels across here. We have the
5 ages of 0 to 5 is preschool, 6 to 12 is elementary, 13
6 to 18 is middle to high school, and 18 to 20 is his
7 last few years. There is a list of the risk factors,
8 and then down here are the protective factors. When
9 we talk about risk and protection, we talk about
10 creating a climate for healthy social relationships
11 and mental health living.

12 The first thing you see is there is more risk
13 factors than protective factors. Over time, if this
14 factor is present, I colored it yellow for the risk,
15 green for the protective. So I'll go through them
16 with you.

17 One of the risk factors is this inadequate
18 bonding and attachment he had at a very young age.
19 This affected his relationships throughout his life.
20 He was desperate to try to have a family life. He
21 wanted very much to make a go with Lonice. They were
22 deeply in love, but he was having a really hard time
23 with it. They argued a lot. He didn't have a basis
24 for forming firm attachments, but he had a strong
25 desire. He had an absent father that was there the

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1 entire time. There were the disabilities of --
2 emotional disability and learning delays, which were
3 there and which were diagnosed when he was six. They
4 were probably present when he was younger. There was
5 stigma at school because he was different. There was
6 frustration and disappointment with his school
7 performance. That is sort of a cycle. You want very
8 much to succeed, and when you fail, you are so
9 disappointed in yourself. It is that much more
10 stressful and makes your emotional management that
11 much more difficult, which makes it harder to learn.

12 There was the mother's excessive stress that
13 started before he was born. The other caregivers'
14 excessive stress. The grandmother who was taking care
15 of him was also trying to take care of her other
16 daughter's children. So there was a lot going on
17 there.

18 The harsh punishment and the feeling of rejection
19 by the mother. The stress of poverty, income and
20 security, barriers to opportunities. The family
21 living in crowded housing and in secured housing
22 later. The absent parents, supervision by older
23 children. There was traumatic loss, and then the
24 criminal exposure that I mentioned. The father was in
25 prison the entire time. Witness to community

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1 violence. Witness to this community drug trade.

2 One person said, you know, you work all day and
3 make \$80, and then you go home and witness someone
4 make a deal and make \$80 just like that, and so it is
5 a very hard temptation for people who are vulnerable.
6 His only incarceration, of course, was a stressor.
7 Then we have inadequate coping skills that we see
8 evidence of throughout the development, the untreated
9 anxiety and hypervigilance from the trauma, the
10 dependency and loss of his older siblings.

11 Premature independence, he seemed to be -- tried
12 to be mature and he was forced to have mature
13 responsibilities, but he was not ready for it in any
14 way. Then these intense situational stress before all
15 of this happened when he and Lonice tried to make it.
16 Throughout it all, he had a good temperament, hope and
17 optimism, family network and older siblings.

18 You will see here they begin to drop off because
19 they are not available to him. Things worked because
20 he had family to back him up, helping him make it. He
21 got really good moral guidance in terms of strong work
22 ethic, do the right thing, but he had these other
23 things happening to him.

24 He had church involvement when he was a teenager.
25 There were some group mentoring that went on at his

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1 schools to try to guide kids, but no personal
2 long-term, one-on-one mentoring. And then he has the
3 work ethic and the commitment to fatherhood.

4 Q Dr. Andrews, this chart describes factors
5 throughout J.J.'s life; can you discuss the effects
6 that the factors had on J.J., in your opinion?

7 A Right. These are things that happened. So the
8 question is -- we all -- if we all experience the same
9 thing now, like say a light bulb fell from the ceiling,
10 each one of us would react in a different way. Some of
11 us might be scared, some might to fix it, but we all
12 react in different ways. When we look at stressful
13 life events, we have to look at how each individual
14 responds and what happened. What we see -- I think by
15 the time J.J. was 20 years old, he was very delayed.
16 He had what we call pseudo maturity. He was trying
17 very hard to be mature, but really didn't know how in
18 so many ways. He was very dependent on Lonice. He had
19 been dependent on his family. He was looking for
20 guidance. He had this untreated emotional disability.
21 He was using drugs at times to try to calm anxiety. He
22 was getting into drug dealing and exposure to danger,
23 even though he knew that he had been guided. He had a
24 broken capacity to manage all the stressors he was
25 facing. He did not have what we call adequate social

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1 skills. He was living in the same way he had done in
2 childhood with -- you know, you don't talk to adults,
3 school is different than home, and so he learned to
4 compartmentalize. His life on the streets or in the
5 neighborhood was different than the life at home and
6 what he was trying to do with Lonice. A lot of people
7 had no idea what he was doing. A lot of people loved
8 him and cared about him. So he was really cut off from
9 his family trying to live up to his own expectations
10 and expectations of his life, but he was failing at
11 that. And so he was definitely in a difficult
12 situation.

13 Q Let's go back to the specific referral question
14 that you were asked to evaluate. Did Mr. Jenkins' life
15 history make him vulnerable to the influence of others?

16 A Yes. I think there is a lot of evidence that he
17 was vulnerable to both positive and negative
18 influences. If he would have had a strong, positive
19 mentor available to him, he probably would have
20 responded well. There were some opportunities that he
21 had in his life that just fell through, like Job Corps.
22 There wasn't a lot of individual attention given to
23 him.

24 Throughout his whole life though, he was exposed
25 to people who were making money in legitimate and

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1 illegitimate ways. He was really desperate for money
2 about the time that this all happened and was finding
3 it very hard to be self-reliant even though he wanted
4 to think of himself as a good man and a good provider.
5 He was very vulnerable to people introducing him to
6 making money in illegal ways.

7 His attachment needs make him really need to
8 belong and to be respected by others and to be seen as
9 brave and tough, and so he would be vulnerable to
10 being around other men who might be seen as strong.
11 He was having difficulty in coping, but that makes you
12 vulnerable to others because you want to try to find a
13 way to feel safe and protected.

14 Q Namely, if we go back to the expanded chart, you
15 told us what the yellows mean, I believe. Can you
16 explain on the big chart again what all the different
17 colors mean and why?

18 A I do. My assessment actually just went up until
19 early 2015, but I -- he was always aware that he could
20 get -- that he could get hurt in a fight or shot at any
21 time. And I was given information about some actual
22 killings that did happen in his family. The blue
23 indicates people who have died a violent death, and
24 some of those happened since 2015, but it illustrates
25 the imminent risk that is there that is real. These

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1 are family members who each of them was shot and
2 killed.

3 MS. WILLIAMS: Thank you. I don't have any other
4 questions, please answer any questions that the State
5 may have.

6 MR. HIXSON: May I begin, Your Honor?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. HIXSON:

10 Q Hey, Doctor, just a couple of questions just
11 generally speaking. Do you have any documentation to
12 support -- how much of the Dequan shooting and some of
13 these traumatic events that you are discussing and
14 disclosed, are those self-reported through other
15 interviews, not necessarily Mr. Jenkins, but other
16 interviews?

17 A Well, Dequan and J.J. confirmed that he did
18 witness that murder. I don't have a document on the
19 incident, because we don't have the name of the victim
20 or the offender in that case, so it was hard to trace
21 the record on it.

22 Q I thought it was a family member?

23 A No. No. It was a neighbor.

24 Q A neighbor. A neighbor. You said there was a
25 non-disclosure of that event in some of your materials

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1 to the school district and others?

2 A Right. J.J. was afraid to talk about these
3 traumatic events for a couple of reasons. One, he was
4 afraid his mom might find out that he witnessed that he
5 shouldn't have. Two, in the neighborhood, if you told
6 about things, you were at risk of being called a
7 snitch, and if you were a snitch, it was dangerous to
8 be known as a snitch, so people didn't talk. The third
9 thing is people just tend to -- it's an involuntary
10 thing, but repression occurs, so sometimes they don't
11 remember well or don't think to disclose this or don't
12 want to upset someone by talking about an upsetting
13 thing.

14 Q I think you indicated in your testimony that you
15 relied on records from Horry County School District
16 relating to proficiency exams as well as disciplinary
17 records, mental health records, if they existed; is
18 that right?

19 A Yes.

20 Q Isn't it true that -- I guess back in April of
21 2002, are you aware of what the PAC test is here in
22 South Carolina?

23 A Yes.

24 Q Palmetto Achievement Test, standardized testing?

25 A That's correct.

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1 Q And Mr. Jenkins did take that in April of 2002;
2 is that right?

3 A I believe so. I don't have that record in front
4 of me, but, yeah, I'll take your word for it.

5 Q I'll show this to you. I'm not sneaking up on
6 you. I'll show it to you. We provided all these
7 documents to you.

8 A I know I saw lots of records, but I can't speak
9 to one without seeing the record.

10 Q Isn't it true that Mr. Jenkins actually is above
11 standard on both English and math?

12 A What grade?

13 Q It was April 2002. So we had a discussion off
14 the record how poor we are with mathematics.

15 A That would be third grade.

16 Q So he has total score of 203 over 194, that is
17 the state standard in English. He's above average in
18 English in third grade, as well as he received a
19 maximum or proficient -- and that is the highest
20 standard -- for mathematics back in 2003; isn't that
21 right?

22 A He did. Although, it is around third grade where
23 we start seeing the decline. Yeah, it is. He also
24 showed, from the beginning of the year to the end of
25 the year, that he can make progress. His problem was

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1 not in the cognitive part, it was the emotional
2 problems created a learning problem.

3 Q Sure. So it is safe to say that Mr. Jenkins, in
4 2003, is average or above, which certainly wouldn't
5 lead to teasing about -- derogatory terms by
6 schoolmates?

7 A He was not an above-average student. Those are
8 atypical scores. You have to look at the whole
9 constellation of scores.

10 Q I have them.

11 A But those two is where he did score better. Most
12 of them were below par, almost always. If you looked
13 at all of the records you would know that. Throughout
14 his entire career, his academic performance was at a
15 low level.

16 Q Okay. What I'm trying to make clear for the jury
17 is that Mr. Jenkins is not suffering from an
18 intellectual disability, that he is performing in
19 school, he is passing a standardized test above the
20 state mean?

21 A At one time he did. But his teacher said he had
22 the potential, and people would say he is smart,
23 meaning he has the ability to learn. He was unable to
24 learn and not demonstrate learning because there were
25 serious problems with his emotional mental health.

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1 Q That's great. That is a perfect segue into the
2 next one. Are you aware -- specifically if you have
3 our Bates stamped documents we provided to you from the
4 school district, I'm referring to Bates Stamp 165
5 provided in discovery. Did you rely on a report from
6 Horry County schools, dated June 6th of 2003, and
7 specifically in that it is a letter from the school
8 district to Ms. Ray citing behavioral violations that
9 resulted as expulsion from school when he was eight; do
10 you recall that?

11 A He did. There were -- twice that happened when
12 he had to get what is called "home base education." He
13 wasn't totally ejected from getting an education, but
14 for a six-week period, he was not allowed to be at
15 school. A teacher met him at the library in order to
16 give him his lessons each day. She was afraid to come
17 to his home. If a child is sick, you can get a teacher
18 to come to your home, but in his case, the teacher
19 wouldn't.

20 Q So, specifically, on June 6, 2003, Horry County
21 schools, there are bus violations, physical
22 altercations, disturbing class, disturbances outside of
23 class, refusal to obey, disrespect, threat to student,
24 stealing, abusive language to students, threatening
25 staff, inappropriate touching; are all of those things

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1 that you put into -- that you are aware of when you
2 developed your opinion in this case?

3 A Yes.

4 Q And then go to January 8th of 2004, which is, I
5 think, the next semester following. I'm referring to a
6 letter that is another follow-up from a hearing
7 officer; are you aware of that information, generally
8 speaking?

9 A I know that January of 2004 -- it was those
10 incidents you just described that precipitated the
11 psychological evaluation that diagnosed the disability.

12 Q Very good. And in those situations, back -- the
13 school district explained to the family members that
14 Mr. Jenkins also had bus a violation, class
15 disruptions, physical altercation, disrespect, simple
16 assault, leaving class, abusive language to students,
17 lying, abusive language to adults; is that correct?

18 A That's correct. And that is the kind of behavior
19 that I heard happened at home with the house of boys.
20 They were fighting with each other. They were all
21 doing that kind of thing. And so when I was talking
22 about bridging, where he had to bridge home and school,
23 rules of engagement were different at home than at
24 school. That kind of behavior happened at home. The
25 older brothers usually kept things in line. But at

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1 school, he had to learn to adjust to that, and
2 sometimes that kind of adjustment is hard for a young
3 child, especially if they encounter emotional problems.

4 Q Ultimately, we were talking about 2004. Let's
5 fast forward to -- there was testimony earlier on, I
6 think you are certainly aware of it, what an
7 individualized education program is here in South
8 Carolina?

9 A That's correct.

10 Q And that Mr. Jenkins, based on these behaviors,
11 was placed in study groups to try to determine
12 educational planning moving forward for Mr. Jenkins; is
13 that right?

14 A That's correct.

15 Q So we'll go back -- this is May, notes from an
16 IEP meeting of May 22nd of 2012. I got my Bates stamp
17 document that we provided you, which is 177 and 178, if
18 you have those, if not --

19 A I don't have them at hand. I have my notes made
20 from them, but if you can -- do you have a document
21 with you?

22 Q I do. But it is the only one I got.

23 A I have it, but not with me.

24 Q Let me see. I think you indicated you relied on
25 this in forming your opinion, specifically on a

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1 behavioral assessment on this day -- it looked like the
2 IEP said that Jerome sometimes likes to horseplay and
3 becomes angry when the other person returns the
4 behavior.

5 A Yeah. That would be in the 11th grade. You
6 said it was 2012?

7 Q That is just to refresh your recollection. We
8 don't have to put it in.

9 A Okay. (Witness examines document.) Yeah. Yeah.

10 Q I jumped ahead, because the one I wanted to talk
11 about is March of 2009. That is another IEP meeting;
12 do you recall that time period I guess in your direct
13 testimony?

14 A March of 2009 would be ninth grade; yeah, I got
15 it.

16 Q I'm specifically referring to some of the
17 information you took into account concerning what this
18 caused problem behavior, and specifically is it true
19 that you are aware that Jerome reacts inappropriately
20 to adults and peers on a regular basis?

21 A Right. This is also where it notes at times he
22 cries.

23 Q Jerome wants to be in control?

24 A Uh-huh.

25 Q Jerome's behavior is often defiant and the

ARLENE ANDREWS - CROSS-EXAMINATION

1 intensity of the behavior depends on the response he
2 gets. Jerome appears to have a problem with authority
3 figures. Are you aware of all of that?

4 A Yes.

5 Q Jerome tries to manipulate situations to get what
6 he wants. This is all from the individual educational
7 assessment that placed him or monitored him through the
8 school system; is that correct?

9 A Uh-huh. He was 14, in the ninth grade.

10 Q Specifically the antecedent section, I'll see if
11 you are aware of this also: Although Jerome's problems
12 with behavior can occur at any time, most often they
13 are faint and perceive as outbursts such as when he
14 feels he is being judged?

15 A Uh-huh.

16 Q When he doesn't get his way, when he disagrees
17 with something, when Jerome's problems become evident
18 when he is given verbal directions to complete tasks.
19 Aren't those all basic human interaction concepts?

20 A They are. And that is sort of the ways he is
21 dealing with his emotions and his defensiveness. These
22 are all defensive maneuvers when he feels threatened
23 because he has this untreated hypervigilance anxiety
24 that other people notice.

25 Q I think on the consequences section, consequence

ARLENE ANDREWS - CROSS-EXAMINATION

1 of behavior is that if Mr. Jenkins does that, then
2 Mr. Jenkins regains -- the quote is that if he is
3 removed from the situation, then he doesn't have to do
4 what is assigned or required of him to do, and another
5 consequence is that he regains control of the
6 situation, that he is in control; is that your
7 assessment as well?

8 A I would have to see that, the whole context of
9 that.

10 Q Do you want me to close the loop?

11 A When you have people talking about control, there
12 is people controlling others, and then a goal of
13 psychological intervention is to help people achieve
14 sense of self-control over what they can -- if you do
15 A, then B happens. He has lived with a lot of lack of
16 predictability and that is dangerous in development,
17 because if you do A, it may not lead to B or C or D, or
18 something might come at you that you have no idea. And
19 so you're doing A, and there is no logical consequence.
20 If that happens repeatedly, it is hard for you to
21 understand how to just live a healthy life, really,
22 because it is that predictability that helps us be
23 normal.

24 Q As it relates to the school district of when
25 outbursts or disruptive behavior or behavior occurs,

ARLENE ANDREWS - REDIRECT EXAMINATION

1 were you aware of the fact that -- according to the
2 school district at that time -- they said that Jerome's
3 behaviors have occurred across a variety of settings
4 within the school building or on the bus with no
5 specific time, day or persons present.

6 So there is no specific indicators when outbursts
7 might occur?

8 A Well, they listed a number of things that do
9 facilitate the outbursts. They are saying there that
10 it could happen in a number of settings.

11 Q Yeah. It says that problem behaviors can occur
12 at any time, most often when there is outbursts when
13 he's not getting his way or when he disagrees?

14 A Right.

15 MR. HIXSON: Thank you for what you do. Have a
16 great day.

17 Nothing further.

18 THE COURT: Redirect?

19 MS. WILLIAMS: Briefly, Your Honor.

20 REDIRECT-EXAMINATION

21 BY MS. WILLIAMS:

22 Q Dr. Andrews, you said that he received homebound
23 at the library because the teacher would not go to his
24 teacher, wouldn't go to his home?

25 A I was told that it was because they felt that the

ARLENE ANDREWS - REDIRECT EXAMINATION

1 neighborhood was too dangerous.

2 Q So it was not your understanding they had any
3 fear of J.J.?

4 A No.

5 Q That's one. And the other, the Solicitor has
6 asked you a lot of questions referring to controlling,
7 J.J. trying to be in control in school and control in
8 the classroom, and you were explaining that control
9 thing; in your assessment, what did you find about him
10 and control?

11 A I think he was trying to get a sense of personal
12 control, which is essential to mental health. It is
13 just a sense that, you know -- I'm trying to think of a
14 way without being too scientific. Basically, as I said
15 before, it's really important to be able to have some
16 predictability, and I don't get any sense that J.J.
17 lived a life where he is trying to get other people to
18 do what he wants them to do in order to please himself.
19 He usually wants to get them out of his way or stop
20 hurting him or stop shaming him. He carried a huge
21 amount of shame, and he felt very sensitive to what
22 people said to him. He was defensive in trying to
23 avoid getting hurt anymore than he already had.

24 Q So, specifically, in regard to that control
25 conversation, I just want to ask you: Did you see him

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1 as a leader, or a follower?

2 A Almost independent, but definitely not a leader.
3 Certainly, possibly, a follower in certain
4 circumstances. One of the first things he said to me
5 is I was really looking for someone to guide me, and I
6 guided myself in the wrong way. He relied on Shawn in
7 particular. He relied on other people in his life to
8 really help show him the way, and he was looking all
9 his life for a male role model.

10 MS. WILLIAMS: Thank you, Dr. Andrews.

11 MR. HIXSON: That's it.

12 MR. WILSON: We ask that she be excused.

13 MR. HIXSON: Yeah.

14 MR. WILSON: May we approach?

15 THE COURT: Sure. We're going to take a break,
16 ladies and gentlemen. It is just about a few minutes
17 before 5:00. Let's take about a 10-minute break.
18 Let's just go to the restroom and get a drink of
19 water, and then we'll pop back in and move on to the
20 next witness.

21 (The jury exits at 4:56 p.m., and the
22 following is heard out of the presence of the jury.)

23 THE COURT: What do you want to take up about
24 Dr. Maddox?

25 MR. HIXSON: In the report we just received, the

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1 back part is the defendant's account of the crimes. I
2 don't know if they are going to elicit testimony of a
3 -- it is not a party opponent, but they are going to
4 try to elicit hearsay testimony of the defendant's
5 version of the events and individual statements he
6 made, not conclusions, but the actual statements
7 themselves. We would object to the admissibility of
8 the statements. It is not party opponent statements.
9 She can rely on the statements, but to introduce the
10 hearsay statement in that expert testimony, we would
11 object to.

12 MR. WILSON: I'm not exactly sure what he's
13 talking about, but.

14 THE COURT: I heard him say is that at the end of
15 her report, there is a report about her interview with
16 him about the incident, and your concern is that she
17 is up here testifying as to this is what Jerome told
18 me happened in the incident?

19 MR. HIXSON: Defendant's account of the crime is
20 under that section, and there is also a section which
21 specifically has a quote from him relating to -- it is
22 the same objection. Is there -- Mr. Jenkins stated he
23 had, quote, I followed a tyrant, a leader with no
24 soul, end quote. That is a specific statement. It is
25 not -- it is not a party opponent. It is a

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1 self-serving statement offered by the defense, and it
2 is through the expert. Once again, she can rely on
3 the content of that statement in formulating her
4 opinion; that is fine. But to introduce that specific
5 evidence in the trial is inappropriate. There is no
6 exception to the hearsay rule on that.

7 MR. WILSON: Your Honor, she is an expert. She
8 is a psychiatrist. She certainly absolutely is
9 entitled to say what contact she had with the
10 defendant, what he told her. How could she possibly
11 even testify if she can't say what the defendant told
12 her?

13 THE COURT: What the defendant told her is
14 hearsay. She can formulate an opinion about whatever
15 her opinions are about him, but she can't get up here
16 and testify this is what he told me. That is a
17 self-serving statement; it is inadmissible for that
18 and it's hearsay.

19 MR. WILSON: Your Honor, my concern is this, and
20 this is my position on it. When a psychiatrist meets
21 with a client or a patient and discusses with the
22 patient why the patient is the way he or she is, she
23 has to rely on what he tells her, and in order to tell
24 the jury why she came up with that opinion -- I mean,
25 how can you not say what it was that caused her to be

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1 able to make the determination that she made, because
2 she's making it based on what he told her, and this is
3 what he told her? So to say you can't -- we can tell
4 them what the opinion is, but we can't give them the
5 underlying information, which the opinion is based on.
6 That is what we would be doing if we say we can't put
7 that in, and that's not a correct statement at all, as
8 I understand it.

9 THE COURT: Tell me what the law says. Don't
10 tell me your opinion, tell me what the law says. Tell
11 me where the law says that a testifying expert can get
12 up here and say what the defendant said to her. That
13 is a completely and totally self-serving statement.
14 Tell me in what world that is admissible.

15 MR. WILSON: I'll give you a good example. In
16 every case that I've ever had where we had a defendant
17 that had a psychiatrist from the state hospital come
18 in and say the defendant is insane, or that the
19 defendant is sane, in every case that psychiatrist
20 will testify that I asked him specifically this
21 question, this question, this question and this is
22 what he told me, and based on those responses, I know
23 that he is sane, or I know that he is not sane, or
24 whatever it is that they are doing. They always do
25 that in every case I have ever tried in this

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1 courtroom.

2 MR. HIXSON: That is being offered by the
3 prosecution against the party opponent. It's not
4 being offered by the defendant as a self-serving
5 statement to get the defense out without being
6 cross-examined.

7 MR. WILSON: No, sir. No, sir. It goes to the
8 fact, Your Honor, that a profession -- this is not a
9 lay witness. We're talking about a psychiatrist who
10 is a professional testifying as an expert and giving
11 her opinion, and she has to be able to give the basis
12 on which that opinion is based.

13 THE COURT: Her opinion is based upon the
14 interview of Mr. Jenkins.

15 MR. WILSON: Correct.

16 THE COURT: Period. But that doesn't mean that
17 what he said in the interview is admissible,
18 especially because he is not a party opponent. It is
19 hearsay. Just like if she wanted to say I'm basing my
20 opinion off of this article, she can say I'm basing my
21 opinion off of this article, that doesn't make this
22 article admissible.

23 MR. WILSON: Correct. But we would be able to
24 produce that article. For instance, if a -- if an
25 expert came in and an expert testified regarding some

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1 article they had read, we could produce that article
2 and ask them specific questions from that very article
3 and, you know, have them explain it. I just -- I
4 understand your ruling.

5 THE COURT: I mean, again, at this point no one
6 has told me one issue of law in any way, shape or
7 form. They haven't quoted me a case. They haven't
8 quoted me a rule, a rule of criminal procedure, a
9 case. I haven't seen anything. She wants to get up
10 here and say what Mr. Jenkins said to her, then
11 someone needs to show me a case saying that is
12 admissible, because every time I heard an expert get
13 on the witness stand and say this is what the
14 defendant told me is when it was the State's expert
15 and, therefore, it is a statement of a party opponent.
16 This is your own expert. It is not the State's
17 witness.

18 MR. WILSON: Your Honor, you are right, but --
19 but the State is our opponent, and the State is our
20 opponent in this matter and we are -- and I think the
21 other thing I think is -- again, I know you are saying
22 show you some law, and I will try to find you some,
23 but I don't have any at my fingertips at this second
24 to give you. But I will look for it and try to give
25 it to you. Until then, I will not offer that

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1 particular statement.

2 THE COURT: I'm trying to imagine a scenario.

3 MR. WILSON: Page 12 at the bottom, is that what
4 you are talking about?

5 MR. HIXSON: There is two different sections.
6 One is clearly captioned as the defendant's account of
7 the event -- let me back up. There are several quotes
8 through it, but the extraordinary probative one is on
9 the middle section of 11. This is, you know, pretty
10 easy to see because it is in quotation. For instance,
11 the mental health examination was based on
12 observations, you know. The quotation about I
13 followed a tyrant with no soul. The defendant's
14 account of the crime, and then a synopsis of the,
15 defendant's statement. For instance, later on
16 Page 17 --

17 MR. WILSON: Before you go to Page 17, let's go
18 back to what you just read, Page 11. Where are you on
19 Page 11?

20 MR. HIXSON: Fourth paragraph.

21 MR. WILSON: Mental status?

22 MR. HIXSON: The last paragraph under that, last
23 sentence.

24 MR. WILSON: I followed a tyrant, a leader with
25 no soul.

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1 MR. HIXSON: In quotation marks.

2 MR. WILSON: So you want me to strike that; is
3 that what you are asking?

4 THE COURT: If he had made that statement to the
5 police, right, and let's say he made that statement to
6 Greg Lent, and the State did not offer it in its case
7 in chief, and they called Greg Lent as a witness in
8 the defense, the statement would be inadmissible
9 because it is self-serving and it is hearsay.

10 MR. HIXSON: The only potential argument would be
11 some level of rule of completeness, but even then
12 there is a question about that. Your Honor, as a
13 passing comment, I was going to ask this expert for
14 705 notes to prepare for cross-examination, but I did
15 not. I don't have any notes, don't know what
16 statement was made, I don't have any notice of
17 preservation of notes from any of these experts'
18 testimony pursuant to the rule. I don't have -- I'm
19 flying rather blind.

20 THE COURT: Take a few minutes and look it up.
21 Court is in recess.

22 (Whereupon, a recess was taken.)

23 THE COURT: All right. Take your seats.

24 MS. WILLIAMS: May we approach?

25 THE COURT: Sure.

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1 (Whereupon, a bench conference was had.)

2 THE COURT: Change of plans. Go ahead and bring
3 them back in.

4 (The jury enters at 5:30 p.m., and the
5 following is heard in the presence of the jury.)

6 THE COURT: Ladies and gentlemen, I apologize for
7 the extended break even though I told you we would
8 take a short one. We have gone for a long time today,
9 and you we've been through a lot of witnesses, so
10 we're going to stop for the day. The next witness is
11 probably at least an hour, if not even longer. I
12 don't hold attorneys to it, they just give me a guess,
13 but we'll stop. You have been going all day. I'm
14 tired, you're tired, we are all tired. So I think the
15 cleanest way is to let you go and get a good dinner
16 and night's sleep and start fresh in the morning.

17 As I release you for the evening, I remind you
18 that you have taken an oath, and that is to me and
19 yourselves and to each other, that you will not read,
20 listen, watch any news accounts about the case. You
21 will not discuss the case in any way, shape or form
22 and not let anyone discuss the case. You will keep an
23 open mind, and we'll start back tomorrow morning at
24 9:15. Thank you very much. You are released for the
25 evening. Everyone else stay seated, please.

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1 (The jury exits at 5:31 p.m., and the
2 following is heard out of the presence of the jury.)

3 THE COURT: Let's get that door closed. All
4 right. So tell me -- preview Dr. Maddox' testimony.

5 MR. WILSON: All right, sir.

6 THE COURT: I understand she is an expert, and
7 I'm not concerned about any of that. What I'm
8 concerned about is the specific -- I understand -- I
9 assume -- I mean, this is none of our -- I assume that
10 Dr. Maddox has met with Mr. Jenkins?

11 MR. WILSON: Yes, sir.

12 THE COURT: She spent time with him, and with him
13 probably hours upon hours?

14 MR. WILSON: She has.

15 THE COURT: And formulated some form of an
16 opinion that he has some conditions or some issues
17 that has been diagnosed or undiagnosed, either treated
18 or untreated, and that kind of thing?

19 MR. WILSON: That's correct, Your Honor.

20 THE COURT: And, of course, I will let her
21 testify to all of that good stuff. So tell me what it
22 is that you would intend to elicit from her that you
23 think the State objects to?

24 MR. WILSON: Your Honor, what my understanding
25 from the State is that what they are objecting to is

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1 any statements that were -- they don't want her to
2 repeat any statements made to her by the defendant.

3 THE COURT: I don't think it is any statements.
4 Your position is not any statements, if is
5 self-serving statements?

6 MR. HIXSON: That's correct. Statements of
7 family history, that's my mother, that's my father, we
8 didn't object to any of that.

9 THE COURT: Right. And Dr. Andrews interviewed
10 Mr. Jenkins. He came in and said I saw someone get
11 killed, I lived in a neighborhood where people were
12 doing drugs people, were drunk. I saw domestic
13 violence. I saw the police all the time, I mean, all
14 of that kind of stuff, and none of that had anything
15 to do with the incidents alleged in the case, and that
16 is why it elicited no objections.

17 MR. WILSON: Your Honor, I'm going to refer you
18 to Rule 801(c), which essentially we're not offering
19 this as substantive evidence in this case, and we're
20 not offering it for truth of the matter at all. We're
21 offering it to show that that's the basis of her
22 opinion as to this defendant.

23 THE COURT: What is her opinion?

24 MR. WILSON: Her opinion is that he suffers from
25 post-traumatic stress disorder and from, I think,

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1 anxiety and, essentially, that he has -- so on Page 13
2 -- do you have a copy?

3 THE COURT: They offered me one. When does she
4 think he got all of that: Prior to the incident,
5 after the incident, because of the incident, or
6 because of a life factor?

7 MR. WILSON: She says his post-traumatic stress
8 disorder would have occurred during his childhood
9 leading up to and prior to his incarceration. And she
10 also says that he has a prior history of depression,
11 which continued and has depressive episodes since
12 fourth grade.

13 THE COURT: Which is along the lines of what
14 Dr. Andrews said?

15 MR. WILSON: And she'll also say on the third
16 category, which is domination of others, that the
17 codefendants were substantially older, had prior
18 convictions for violent crimes, and Mr. Daniels admits
19 that he told J.J. to kill Ms. Stull.

20 THE COURT: Now, you want her to be able to
21 testify as to what James Daniels said in this
22 statement to the police that was self-serving to James
23 Daniels?

24 MR. WILSON: Yes, sir. And, Your Honor, the
25 reason I offer this -- and I will cite for the Court

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1 Green versus Georgia, which is 442 U.S. 95, 1979. And
2 -- and one of the things that they say in that
3 particular case is that when -- when -- even though it
4 is hearsay, if it is related to an issue, and
5 especially in the penalty phase of the case, that it's
6 -- the rules are more relaxed about allowing that
7 testimony coming in than would ordinarily be. You
8 know, so I think that it would be admissible even -- I
9 think it is admissible, one, under that, but also on
10 Rule 803-4 where you talk about statements of
11 co-conspirators, which they are offering the
12 statement, which is in furtherance of the conspiracy
13 that they had, and obviously this was a conspiracy
14 because you have all of these three defendants doing
15 all of these things collectively over an extended
16 period of time, that that statement would be
17 admissible under that.

18 THE COURT: Hold on. Hold on. I'm trying to
19 find my co-conspirator -- what rule?

20 MR. WILSON: 803.

21 THE COURT: I'm in 803. I thought you said four.

22 MR. WILSON: 803-4 is something else. 803 is
23 just the general exceptions.

24 THE COURT: Right. I'm trying to find the
25 co-conspirators to the hearsay rule.

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(A brief pause in the proceedings.)

THE COURT: Co-conspirators rule is in 801(d)(2)(e), as in echo, which says: If the statement is offered against the party and is a statement -- a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

So what does James Daniels allegedly say -- I don't remember what James Daniels said or didn't say.

MR. WILSON: I said James, but it was actually McKinley, I apologize. He told J.J. to kill Ms. Stull.

THE COURT: And he says that to Greg Lent?

MR. WILSON: No, sir.

THE COURT: Who does he say that to?

MR. WILSON: He told it to Dr. Maddox.

THE COURT: So McKinley has been interviewed by Dr. Maddox and told her that he told J.J. to kill Trisha Stull?

MR. WILSON: That is correct?

THE COURT: But the basis of that -- the basis of that rule is that it is a statement that is being offered against a party. It is not being -- the party offering it, it's not being offered against it. The co-conspirator exception to the hearsay rule is when

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1 you have X number of defendants on trial, and one of
2 the codefendants is on the witness stand and he says
3 -- he's testifying for the state and he says during
4 the conspiracy, the defendant on trial told me X, and
5 that was in furtherance of the conspiracy. It's being
6 offered against the defendant. But this is the
7 defendant offering this.

8 So the rule is inapplicable, period, because it
9 is not an admission by a party opponent, period. You
10 are offering this testimony.

11 MR. WILSON: We're not -- again, we're offering
12 it under 801. We are not saying that it's true or
13 that -- or that that's what he did.

14 THE COURT: Well, what is it being offered for?
15 How does that statement go to him having PTSD?

16 MR. WILSON: It doesn't go to him --

17 THE COURT: But that is her opinion, that he
18 suffered from PTSD, anxiety, depression and all of
19 this stuff. It's undiagnosed. What does that have to
20 do with that diagnosis?

21 MR. WILSON: It has to do with him being under
22 the dominion and control of another individual, which
23 is one of our mitigators, and that is what we are
24 saying, that it comes in under that. And, again,
25 we're not offering it for the truth of it. We're

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1 simply saying that --

2 THE COURT: I mean, if you are not offering it
3 for the truth, what are you offering it for?

4 MR. WILSON: Because she's saying that her
5 opinion -- her opinion about him being under the
6 domination of someone else is in part based upon that,
7 upon the statement that Mr. -- that Mr. Daniels made
8 to her, which helps --

9 THE COURT: That is why it is offered for the
10 truth.

11 MR. HIXSON: That's right.

12 MR. WILSON: No, sir. It is just offered, Your
13 Honor, as the basis for her opinion. It is not
14 offered to show that that actually happened.

15 THE COURT: The rules are clear that experts are
16 allowed to rely on hearsay; that is not an issue. The
17 issue is is that hearsay admissible in court? They
18 are allowed to rely on hearsay, but that doesn't make
19 the hearsay admissible in court just because they are
20 allowed to rely on it. That's why Ms. Andrews was
21 allowed -- I mean, just because they relied on it
22 doesn't make it admissible.

23 Example: Let's say Dr. Maddox relied on James
24 Daniels' statement to Greg Lent to form her opinion,
25 that doesn't make James Daniels' statement to Greg

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1 Lent admissible in Jerome Jenkins' trial. It's fine,
2 and she can say, you know, I relied upon my interview
3 with McKinley Daniels, you know, which I did --
4 whenever she did it -- to formulate this opinion that
5 he was under the dominion and control of someone else,
6 but that doesn't make what he told her admissible.

7 MR. WILSON: Okay. Then -- and that's fine. You
8 know, if the State doesn't intend to ask her what the
9 basis of her opinion is, because if they ask her what
10 the basis of her opinion is and how she got there,
11 that is what she's going to have to say; that's the
12 problem.

13 MR. HIXSON: If I may, Your Honor?

14 THE COURT: Sure.

15 MR. HIXSON: The basis of her opinion is an
16 interview with the defendant.

17 THE COURT: Right.

18 MR. WILSON: That's true.

19 MR. HIXSON: And the substance of it can go into
20 it. For instance, if the doctor says you have
21 hypertension, you don't put in the fact that the
22 defendant told me he ate 14 pizzas a day. The
23 diagnosis is hypertension, not the discussion over
24 pizza. The fact that she received something relating
25 to the diagnosis --

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1 THE COURT: But in your example, the follow-up to
2 the witness, how do you come to the conclusion that
3 the person had hypertension is based upon diet, based
4 upon eating habits, it's based upon tests that I ran,
5 it is based upon my interview with the person, but
6 that doesn't make what -- and the problem with where
7 we are now is the majority of the time that we see
8 experts in criminal cases, they are testifying for the
9 State, and that's why it is different. In this
10 scenario, he is not a party opponent. This isn't
11 being offered against the party opponent, and that is
12 where the rug comes in with the rules. Because,
13 normally, it is an expert and they are sitting up
14 there saying I interviewed the defendant, and this is
15 what he told me, and that would be a statement of a
16 party opponent at that point in time.

17 MR. HIXSON: I have two little clarification
18 points. It is specifically being offered for the
19 truth of the matter asserted specifically because --

20 THE COURT: Which statement are we referring to?
21 McKinley?

22 MR. HIXSON: No. No. Mr. Jenkins' statement.

23 THE COURT: The one about I was under the
24 control?

25 MR. HIXSON: And his recitation -- his specific

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1 statements about the circumstances of the crime that
2 is in the last section of the opinion. It is designed
3 to trigger a statutory mitigating circumstance in this
4 situation. If there is direct evidence that he is
5 relying on that statement, that is going to be used as
6 direct evidence of him acting under the duress of
7 others under a statutory mitigator. It is going to
8 the truth of the matter asserted, because there is
9 nothing in the record at this point in time that he
10 was acting under the direction of anyone. That is the
11 only thing that is going to come in that says I'm
12 acting under the direction of McKinley Daniels. That
13 is why it is important for him to say McKinley Daniels
14 says he told me he did.

15 Now, the other aspect of it is is statements of
16 co-conspirators, that has to be in furtherance of the
17 conspiracy. It is absolutely clear this conspiracy,
18 if it existed, was over and had been over the day they
19 were arrested. Statements to a psychiatrist later on
20 is not in furtherance of the conspiracy. It is
21 admissible, I guess, for all three purposes. It
22 doesn't further it. It is a puffing or recounting the
23 story itself about it to law enforcement or something.
24 It is not in furtherance of conspiracy, and it's not
25 being offered by a party opponent. So I think on all

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1 prongs, that exception fails.

2 MR. WILSON: And he's citing two different
3 things, so I'm starting with the second one. In
4 regards to the statement of co-conspirator, what he
5 has said to her is that --

6 THE COURT: Who has said?

7 MR. WILSON: What Mr. Daniels said to Ms. Maddox
8 in regards to his statement about Ms. Stull. He is
9 saying that this -- this is -- this is during the
10 conspiracy. This is part of the --

11 THE COURT: He is saying I told Jerome to kill
12 that woman? I don't -- I think Mr. Hixson got a
13 little off track. I understand. I mean, I put up
14 more witnesses in co-conspirators in large scale drug
15 trafficking cases than I ever care to remember, but I
16 think the statement, in and of itself, is in
17 furtherance of the conspiracy, because he is saying I
18 made the statement at the time while the conspiracy
19 was ongoing. That is not my issue with that rule.

20 My issue with that rule is it is not an admission
21 by a party opponent. The first part of that rule says
22 the statement is offered against a party, and it is
23 not offered against a party. Mr. Jenkins is offering
24 this statement, and it is not against another party.
25 It is not against a party to this case, period. The

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1 other thing is in -- tell me -- tell me -- tell me,
2 where is the evidence -- where is the evidence in the
3 record at this point in time that the defendant acted
4 under duress or under the domination of another person
5 pursuant to 16-3-20, that is in the record right now?

6 MR. WILSON: The testimony came in from the
7 statements of Detective Lent. The statements that the
8 State put into this record both indicate that J.J.
9 told Detective Lent that he was under gunpoint at --
10 by these individuals, that if he didn't participate,
11 they would shoot him.

12 THE COURT: So you are getting to that mitigating
13 factor?

14 MR. WILSON: Yes. Yes.

15 I forgot my point, I apologize.

16 Back to the first statement, which is the
17 statement that Jerome made, and, again, I think --

18 THE COURT: Which statement is this? I want to
19 make sure I stay straight.

20 MR. WILSON: The statement that Jerome made to
21 Dr. Maddox saying something about the heart -- sorry.
22 It says: I followed a tyrant, a leader with no soul.

23 THE COURT: My question is: Why can't
24 Mr. Jenkins get up here at the very end and say that,
25 if that is his position? I mean, if that is his

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1 position, he's given an opportunity under South
2 Carolina Code 16-3-28 to get up here and give his own
3 statement. He can get up there and say I followed the
4 devil himself, if he wants to.

5 MR. WILSON: I very well may.

6 THE COURT: Without cross-examination.

7 MR. WILSON: I may very well do that. I'm not
8 saying that I'm not. But on 803-4 --

9 THE COURT: Hold on. Let me get there. Then
10 existing mental, emotional or physical condition.

11 MR. WILSON: Yes, sir. Under that provision,
12 this statement that Jerome made to Dr. Maddox, we're
13 suggesting, should come in as an exception, because it
14 is made for medical diagnosis or treatment purposes.
15 So it should come in because that was the -- I think
16 that is an exception to the normal hearsay rule.

17 THE COURT: Hold on. Let me read it.

18 (A brief pause in the proceedings.)

19 THE COURT: Under your theory of why his
20 statements are admissible, it would be malpractice for
21 every criminal defense attorney in this state to not
22 hire a doctor, let the defendant tell the doctor their
23 version of the facts in the light most favorable to
24 them, and then call the doctor and let them come up
25 and tell the defendant's story without the defendant

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1 ever being cross-examined. I mean, under the theory
2 that the defense is proposing, I mean, that is the dog
3 walk to the end of the street. Go hire a shrink, go
4 in there and tell her your version of the events in
5 the light most favorable to you, and the shrink can
6 come in here and tell the jury your whole story and
7 you never have to be cross-examined about it at all
8 because it was made for a medical diagnosis.

9 MR. WILSON: Your Honor, we just did that with
10 Dr. Andrews.

11 THE COURT: But that wasn't related to the crime.
12 She didn't say one thing about whether the crime
13 occurred or didn't occur, or this is what J.J. said
14 about the crime, or this is what J.J. told me happened
15 on this day, or this is how, you know -- she didn't
16 say any of that stuff.

17 MR. WILSON: She didn't say anything about the
18 crime. Her job was to talk about his life up to that
19 point.

20 THE COURT: I understand that.

21 MR. WILSON: But we are at a different point now,
22 and now we are talking about how he got to where he is
23 and all of the circumstances that got him to this
24 point.

25 MR. HIXSON: It is appropriate relating to 803-4;

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1 however, the admissibility of statements made after
2 commencement of the litigation is left in the Court's
3 discretion. In addition to that, past or present
4 statements of -- those statements don't have anything
5 to do with symptoms like I had chest pains, I had
6 this, I had that. The last section says that there is
7 heightened scrutiny on statements made after the
8 commencement of the litigation, and these statements
9 were made to the good doctor in preparation for
10 litigation, under the rule itself.

11 THE COURT: I mean, the case law is replete from
12 Terry (phonetic), from Staring (phonetic) to Sweet, to
13 Terry, to Goldson, death penalty after death penalty
14 trial, that self-serving statements made by the
15 defendant are not admissible. I mean, I think I found
16 seven when I put in the Westlaw search of self-serving
17 and hearsay. The majority of them were all death
18 penalty cases, and the majority of them were out of
19 Lexington County, and in the majority of them the
20 trial judge was Gary Clary, and in all of them the
21 defense was trying to get in self-serving statements
22 made by the defendant through someone other than the
23 defendant, and in every single one of them, the trial
24 court and appellate court ruled that they were
25 completely and totally inadmissible.

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1 MR. WILSON: Your Honor, I would agree that if we
2 were trying to put up a lay witness to get in what
3 we're trying to get in with Dr. Maddox, I would agree
4 100 percent that that would not be permissible and not
5 able to come in. I think that the difference here is
6 that she is an expert. She is trying to assist
7 with -- us with mitigation, and one of the very
8 mitigation issues that we're talking about is his
9 vulnerability to other people and his -- and their
10 domination over him, and that's why this is critical,
11 which is why I think when we look at -- which is why I
12 think when we look at Green versus Georgia, that that
13 puts us back to where I'm talking about.

14 THE COURT: You talk -- Mr. Jenkins is raising
15 his hand. Do you need to go to the restroom?

16 MR. JENKINS: (Shakes head.)

17 THE COURT: Okay.

18 (A brief pause in the proceedings.)

19 MR. WILSON: Can we do this. I don't -- can we
20 do some research and come back in the morning and do
21 this? I know you want this done, but.

22 THE COURT: Well, tell me what else besides that
23 statement do you have an issue with, Mr. Hixson?

24 MR. HIXSON: That is all the information I've
25 been provided, so I do not know what they'll say. I

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1 don't have any cross-examination material. I don't
2 have any -- I just got a report. I don't have notes.
3 I don't know.

4 THE COURT: What do you expect her to say along
5 those lines, besides that?

6 MR. WILSON: I don't expect anything out of the
7 ordinary that is not in here (indicates).

8 THE COURT: Okay.

9 MR. WILSON: That is why we gave him this,
10 because this is what we think she'll testify to.

11 THE COURT: I understand. Dr. Maddox, you are in
12 the room and have been here all afternoon. Do you
13 anticipate any other information like that that
14 Mr. Jenkins gave you that you would need to formulate
15 your opinion on direct examination?

16 DR. MADDUX: No, sir, not that -- I probably
17 would like to speak with the Solicitor and Mr. Wilson
18 after the proceedings to let them know what
19 information that I would talk about to make sure it is
20 okay.

21 THE COURT: All right. So we'll set that up.
22 You all can communicate. Dr. Maddox, you can meet
23 with the State and Mr. Wilson once we finish this
24 hearing.

25 MR. WILSON: Your Honor, the reason I was asking

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1 to do it in the morning, I know Your Honor tried
2 several cases --

3 THE COURT: None of them are penalty phase
4 decisions, and I understand that. I'm taking that
5 into consideration. I've read this Green versus
6 Georgia case, and while it doesn't stand for the exact
7 proposition that this statement is admissible, it
8 stands for the proposition that the rules should not
9 be so -- in their words -- mechanistically applied as
10 to prevent the ends of justice and prevent someone
11 from being able to present mitigation in the penalty
12 phase of a death penalty case.

13 So here is -- go ahead.

14 MR. HIXSON: That is precisely why I didn't
15 object over two hours of testimony over and over again
16 with hearsay conclusions across the board, but when
17 you get right to the specific circumstances of the
18 crime, that is almost enough to almost set up a
19 self-defense claim. They are so specific and
20 particular to it, that certainly that case does not
21 apply to the proposition that the Rules of Evidence
22 don't apply in a penalty phase of a case.

23 THE COURT: It doesn't say that.

24 MR. HIXSON: I know it doesn't.

25 MR. WILSON: It does not go to self-defense,

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1 because we've said guilty from the very moment we
2 started this trial. We're not trying to set up
3 self-defense, and that's never been an argument on our
4 part.

5 THE COURT: Here is what I don't understand: Why
6 can't Dr. Maddox say based upon my interview of Jerome
7 Jenkins, based upon the hours I spent with him, based
8 upon my interview with McKinley Daniels, based upon
9 the discovery, based upon the school records, all of
10 these different things, none of which are admissible
11 in court, right? The school records are not
12 admissible in court. All of these things, which are
13 inadmissible in court, experts are allowed to form
14 their opinion based upon documents and/or statements
15 and/or other things that are inadmissible. Why can't
16 you say based upon all of that information, I believe
17 that Mr. Jenkins was under the dominion and control or
18 the domination of another person and, you know, I've
19 interviewed these people and read their statements,
20 read this and read that. If the State wants to get up
21 and open that door, then they can get up and open that
22 door. They know what the answers will be before they
23 do it. But, I mean, I think that is why, you know,
24 when we handle these experts, just because they are
25 allowed to rely on it does not make it, per se,

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1 admissible in court; otherwise, all of those school
2 records would be in front of the jury right now, but
3 they're not. Why? Because they are hearsay. You
4 know, just like Mr. Jenkins' statement to Dr. Maddox,
5 it is hearsay.

6 Again, I say this. Under the South Carolina
7 code, if Mr. Jenkins wants to get up and tell the jury
8 that at the end of the day, I'm going to let him get
9 up and tell the jury that. I mean, you know, he's
10 going to be given the opportunity to address the jury
11 free of cross-examination. You know, I'm going to, of
12 course, give him the opportunity, if he wants to do
13 that.

14 But, I mean -- but, I mean, that is where the
15 Court is leaning at this time. The self-serving case
16 law -- self-serving case law in this state is replete
17 and very solid, and it has been challenged on many
18 different fronts if you read those cases, which I did
19 during the break. Throughout all of them, our supreme
20 court and court of appeals have held, based upon the
21 ones I read, that self-serving hearsay by a defendant
22 in a case is inadmissible. But you all look at it
23 tonight, process through it.

24 Dr. Maddox, I would like you to meet with
25 Mr. Hixson and Mr. Wilson to go over anything else.

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1 Let's plan on getting on the record at 9:00 in the
2 morning and finish these issues.

3 MR. HIXSON: I have one small point. The defense
4 subpoenaed McKinley Daniels here. He was here and
5 prepared and could have testified as to some of those
6 issues, and for whatever reason, declined to not. So
7 it is not an unavailability issue.

8 THE COURT: Right. They could have put him on
9 the witness stand and treat him as hostile and say
10 isn't it true you told Donna Maddox that you told
11 Jerome to kill Trisha Stull, and they would have been
12 stuck with his answer, you know. At that point in
13 time we may have been in a different situation from an
14 evidentiary standpoint. But McKinley is not deemed as
15 an unavailable witness.

16 MR. HIXSON: Thank you, Your Honor.

17 THE COURT: All right. Let's start at 9 o'clock.
18 I have one jury charge from the defense early on. Is
19 there other things you want me to see?

20 MR. WILSON: Yes, sir. I apologize, I'll get
21 them to you tomorrow morning. I'll have them.

22 THE COURT: Because I'm probably about 95 percent
23 done on the charge, and so I think -- the majority of
24 the things that you all said in voir dire of the
25 jurors, those are all in there. I mean, they can find

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1 life for any reason or no reason at all, they can
2 decide to give mercy, only one person out of the 12
3 has to decide that life is appropriate and that is the
4 sense. It goes -- I go back through the creditability
5 of witnesses, the expert witnesses. There is a charge
6 in there that says I'll follow whatever -- even though
7 it is a recommendation, I'll follow whatever sentence
8 you decide. There is no such thing as a hung jury in
9 this case. They can't be based upon passion,
10 prejudice, sympathy, you know -- I mean public
11 opinion, things of that nature.

12 If there is other things that you all want me to
13 consider, let me know or give those to me as soon as
14 possible.

15 MR. HIXSON: I have one relating to a charge on
16 intoxication. It is under State versus Plemmons, the
17 intoxication charge. You don't have to charge on the
18 267, the mental capacity of it. That is some of the
19 case law. So I will -- the charge under State v.
20 Plemmons, I have a cite for you if you want me to
21 e-mail it.

22 THE COURT: Yeah, e-mail it to the clerk, and
23 we'll let her get that done tonight.

24 The Skipper charge that we need to talk -- tell
25 the jury about Trisha Stull's murder.

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1 MR. HIXSON: I think we're okay simply because
2 the jury returned a verdict for armed robbery in the
3 guilty phase, and because of the establishment of that
4 in the guilt phase, they can be charged on the
5 aggravating circumstance, but they already got there.
6 We can charge Skipper since they already got an armed
7 robbery conviction there.

8 THE COURT: I think we need to fashion something
9 that says they cannot use -- that the murder of Trish
10 Stull cannot be an aggravating factor for them.

11 MR. HIXSON: That's correct.

12 THE COURT: I read that Skipper case and it is
13 clear. We just need to drop something in there. If
14 you will draft something tonight that says in
15 considering the aggravating circumstances, the murder
16 of Trish Stull is not a statutory aggravating
17 circumstance.

18 MR. HIXSON: I missed it. I was talking to these
19 guys. What is your anonymity charge? You were going
20 to charge something to deadlock or one vote?

21 THE COURT: There is language in the charge that
22 says to renderer the death penalty, they all 12 have
23 to sign it. For life, they can unanimously agree on
24 life, but that they do not have to unanimously agree
25 on life, and that there is no such thing as a hung

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1 jury in this case, and that one person can be for
2 life, and the Court will follow whatever
3 recommendation they give.

4 Bring me -- anything you can get me tonight, that
5 would be good to process through it, and then we'll go
6 from there.

7 MR. WILSON: All right, sir.

8 THE COURT: Dr. Maddox, I am sorry you have to
9 spend the night.

10 DR. MADDUX: No problem.

11 THE COURT: Thank you for being willing to stay
12 through the night and stay tomorrow. We did go
13 through a lot of testimony, through a lot of people.
14 I think that that is why I didn't want to push
15 anything late into this evening with the jury. I
16 think they were ready to go.

17 Mr. Jenkins, tomorrow morning you need to be
18 prepared if you are going to make a statement to the
19 jury. You will be allowed to do it during the closing
20 argument phase; does that make sense?

21 MR. JENKINS: What time?

22 THE COURT: I'm just giving you a general time
23 frame. So we'll come in in the morning, take
24 Dr. Maddox' testimony, and when she finishes, remember
25 how last time we talked about this is what I'm going

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1 to tell the jury or not and then we took a break to
2 let the attorneys put their thoughts together? If you
3 want to address the jury, it is part of the defense's
4 closing arguments. There is no set -- you don't have
5 to go the beginning or the middle or end. You just
6 figure that out however you want to figure it out.
7 But more than likely, we will get to that position
8 tomorrow. So it's time -- it's time to think about
9 that and what you want to say, if anything; does that
10 make sense? I know you have been thinking about it
11 already, but tomorrow that will happen one way or the
12 other.

13 MR. JENKINS: So fast.

14 THE COURT: I know. I know. Okay. Anything
15 else from the State?

16 MR. HIXSON: No, sir.

17 THE COURT: From the defense?

18 MR. WILSON: No, sir.

19 THE COURT: Thank you all. Thank you for your
20 hard work and having all the witnesses here and ready
21 to go, I appreciate that. Thank you.

22 **(The proceedings for MAY 15, 2019 concluded. The**
23 **following proceedings took place on MAY 16, 2019.)**

24 THE COURT: Thank you. Take your seats. What
25 have we figured out about Dr. Maddox' testimony?

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1 MR. HIXSON: Just what we discussed. I think we
2 flushed the record out pretty well yesterday. I don't
3 think there is any substantive changes or case law
4 that I saw that would change the arguments previously,
5 Your Honor. If you need for me to go into it, I think
6 Your Honor is very conversant.

7 THE COURT: Defense.

8 MR. WILSON: Your Honor, I know -- and I don't
9 know if you got it yet or not, we sent over a
10 memorandum this morning.

11 THE COURT: I got it and read it.

12 MR. WILSON: Other than that, I would ask that be
13 made a part of the record.

14 THE COURT: I'm not making that a part of the
15 record. You need to put all of that on the record.

16 MR. WILSON: All right, sir. Then what I would
17 like to do, if it is permissible, is read my
18 memorandum to the Court.

19 THE COURT: That's fine.

20 MR. WILSON: This memorandum is that the issue of
21 admissibility of a statement --

22 THE COURT: Hold on. Do you have a copy of this?

23 MR. HIXSON: I do.

24 THE COURT: All right.

25 MR. WILSON: The issue is the admissibility of a

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1 statement made to Dr. Maddox in the course of her
2 evaluation, specifically: One, Jerome Jenkins says I
3 followed a tyrant, a leader with no soul. Two,
4 McKinley Daniels says -- admitting he told J.J. to
5 shoot Ms. Stull arguments. Generally, neither of the
6 statements are hearsay because they are not being
7 offered to prove the truth of the matter asserted
8 under Rule 801(c).

9 The statements are being offered in support of
10 Dr. Maddox' opinion as evidence she relied on. An
11 expert opinion -- an expert may rely on evidence that
12 is not otherwise admissible, including hearsay, in
13 arriving at their opinion if the evidence is a type
14 reasonably relied upon by experts in the particular
15 field, in forming opinions or inferences upon the
16 subject. And that it is for Rule 703.

17 The rule does not allow for the unqualified
18 admission of hearsay evidence merely because an expert
19 has used it in forming an opinion -- and then we cite
20 Jones versus Dough, 372 S.C. 53 and 63, 2006.
21 However, the expert may testify to evidence even
22 though it is inadmissible under the hearsay rule, but
23 allowing the evidence to be received for this purpose
24 does not mean it is admitted for its truth. It is
25 received only for the limited purpose of informing the

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1 jury of the basis of the expert's opinion and,
2 therefore, does not constitute a true hearsay
3 exception. Then we cite Kenneth Brown, et. al.,
4 versus McCormick on evidence which is at 324 at 418,
5 2006. Here, the evidence is being offered as a basis
6 for Dr. Maddox' opinion, not for the truth of the
7 matter asserted.

8 If necessary, the judge could issue a limited
9 instruction when the evidence is admitted instructing
10 the jury to only consider it as the basis of
11 Dr. Maddox' opinion, and not for the truth of the
12 matter. A limited instruction is not, however,
13 necessary because the Rules of Evidence, especially
14 hearsay, are relaxed in a capital sentencing
15 hearing -- we cite Green versus Georgia, which is 442
16 U.S. 95, 1979 -- holding application of the hearsay
17 rule to exclude evidence critical to the defense was a
18 violation of due process in a capital sentencing
19 proceeding. We also cite Chambers versus Mississippi,
20 410 U.S. 284, 302, 03, 1973.

21 One, Jenkins' statement, contrary to the Court's
22 discussion on Wednesday, South Carolina law does not
23 bar -- clearly bar an expert from the discussing
24 statements made by a criminal defendant as the basis
25 of his or her opinion. The case discussed by the

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1 Court on Wednesday evening all address self-serving
2 statements made by a defendant to a lay witness, not
3 an expert relying on the statements in the course of
4 their evaluation. Then we cite State versus Golson,
5 349 S.C. 421, 2002; State versus Terry, 339 S.C. 352,
6 2000; State versus Sweet, 270 S.C. 97, 1978, and State
7 versus South, 285 S.C. 529, 1985 holding self-serving
8 statements to the police made shortly after arrest
9 were properly excluded as being not sufficiently
10 contemporaneous to the crime to constitute res gestae
11 evidence.

12 Second, Daniels' statement. McKinley's statement
13 should additionally be admitted because exclusion of
14 the statement violates J.J.'s due process and fair
15 trial rights. In Green versus Georgia, 442 U.S. 95,
16 97, 1979, the supreme court reversed the death
17 sentence where the defendant was prohibited from
18 entering testimony that a codefendant told a witness
19 he killed the victim after ordering the defendant to
20 run an errand. The court held the testimony was
21 critical to the issue of punishment, and its exclusion
22 violated due process and the right to a fair trial.
23 In these unique circumstances, the hearsay rule may
24 not be applied mechanistically to defeat the ends of
25 justice. Similarly, the court held in Chambers versus

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1 Mississippi, cited at 410 U.S. 284, 302, 1973, that
2 exclusion of hearsay testimony that a codefendant
3 committed the murder was a violation of Chambers'
4 right to a fair trial and to present a defense where
5 there were persuasive assurances of trustworthiness
6 and the testimony was critical to Chambers' defense.
7 Here, McKinley's statement has assurances of
8 trustworthiness because it is a statement against his
9 interest, and he provided the same information on
10 multiple occasions. Then I cite Dr. Maddox and
11 relevant law.

12 Under 801(c), hearsay is a statement other than
13 one made by the declarant while testifying at trial or
14 hearing, offered in evidence to prove the truth of the
15 matter asserted. Green versus Georgia, 442 U.S. 95,
16 1979, holding testimony that a codefendant told a
17 witness that he killed the victim after ordering the
18 death -- sorry, after ordering the defendant to run an
19 errand was critical to the issue of punishment in a
20 capital trial, and it was a violation of due process
21 and the right to a fair trial to exclude the testimony
22 as hearsay under the Georgia Rules of Evidence. In
23 these unique circumstances, the hearsay rule may not
24 be applied mechanistically to defeat the ends of
25 justice, Chambers versus Mississippi, 410 U.S. 284,

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1 302, 303, holding that exclusion of hearsay testimony
2 that a codefendant committed the murder was a
3 violation of Chambers' right to a fair trial and to
4 present a defense where there were persuasive
5 assurances of trustworthiness and the testimony was
6 critical to the defense.

7 And, Your Honor, that would be all that we have
8 on this issue.

9 THE COURT: Do you want to respond?

10 MR. HIXSON: Yes, sir, Your Honor. We'll start
11 by distinguishing the cases he relied on here,
12 specifically the first one, Green versus Georgia.
13 That was evaluated as a statement against interest,
14 and specifically under Georgia's hearsay rule, they
15 had a long discussion relating to that. It is
16 important to recall that none of these are statements
17 against anyone's penal interest. McKinley Daniels'
18 statement was made after to defense investigators, not
19 to the investigators prior being charged with a crime.
20 They were made in preparation for this litigation
21 after jeopardy attached to his convictions.

22 So McKinley Daniels' statements, he can say
23 whatever he wants with no -- his interest not being
24 interfered with in any way as it relates to those.
25 Also, it is important to say that statement was

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1 admitted not for Mr. Jenkins' statement, which was an
2 explanation for why he committed the act, and that was
3 also made to defense investigators and not to criminal
4 investigators. It was made in preparation for
5 testimony by the expert. But these statements were
6 exculpatory statements that said the guy on trial was
7 not even there and I told him to go.

8 THE COURT: You're talking about in Green?

9 MR. HIXSON: In Green. Just to distinguish the
10 import, talk about the language in that opinion about
11 due process violations, because they were so important
12 to what happened prior to that. Once the
13 admissibility of that statement, the State actually
14 used that witness in their case in chief, it sounds
15 like, according to reading the opinion very quickly
16 this morning, and that is substantially different than
17 the ends of justice type of argument that Green talks
18 about.

19 Once again, Chambers versus Mississippi has the
20 same discussion over substantial assurance of
21 trustworthiness surrounding that statement
22 spontaneously to a close acquaintance, all were not
23 made in preparation for litigation. They harken back
24 to some of the -- a basis for the hearsay exceptions
25 to begin with, and we believe, for those reasons, both

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1 of those cases could be distinguished from this case.

2 THE COURT: And what about the Jones versus Doe,
3 the case where they said that you can allow the
4 hearsay to come in for the limited purpose of that is
5 how the expert came to their opinion?

6 MR. HIXSON: I think, once again, hearsay
7 information, as contemplated by the rule, is very
8 similar to the school records that I tried to impeach
9 the witness with yesterday. They don't have to have a
10 proffering witness to introduce voluminous school
11 records to derive an opinion from them, but the
12 specific statements that come off the records are not
13 admissible, and they should not be used because it is
14 a statement of a party opponent, the standard rule.

15 When we talk about hearsay, we are not talking
16 about, you know, 20,000-some documents in these cases,
17 multiple filing cabinets full of stuff, and we're not
18 saying that the expert -- that they have to bring the
19 proffering witness for every one of those documents in
20 order to talk about and do it. When we get to the tip
21 of the spear of the admissibility of the defendant's
22 self-serving statement and the contents of that, that
23 is a bridge too far. That is why the rule
24 contemplates -- you can't offer that up, the defendant
25 himself.

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1 Notice the documents relied on by Counsel aren't
2 the defendant's statements, they are volumes of family
3 history and all of that stuff, and the State didn't
4 object to any of that. It is when it gets to the
5 point to the self-serving statement that appears to be
6 created during the process of litigation. There is no
7 guarantees of trustworthiness in any of that, and for
8 that purpose to testify, what would otherwise be
9 inadmissible, absent the defendant being
10 cross-examined under the Sixth Amendment, that is why
11 we believe the rule is absolutely applicable and that
12 is why it is here.

13 THE COURT: Anything further from the defense?

14 MR. WILSON: No, sir.

15 THE COURT: At this point in time, based upon the
16 case law presented to me, the rules of evidence as
17 have been applied and the case law that the Court has
18 reviewed, I'll allow Dr. Maddox to say that she's
19 interviewed these people and that is the basis of her
20 forming her opinion, but she's not allowed to get into
21 the specific statements, unless the State opens the
22 door.

23 MR. WILSON: All right, sir. Thank you.

24 THE COURT: Anything else?

25 MR. WILSON: We're ready.

THE COURT AND ATTORNEYS - JURY OUT

1 THE COURT: Dr. Maddox, you've been around longer
2 than I have, so you know that none of this is about
3 you personally, but when I left here last night, I
4 felt like I was jumping all over the witness, and this
5 doesn't have anything to do with you personally or
6 individually, and I think you have been around long
7 enough to know that.

8 DR. MADDIX: Yes, sir, I totally understand.

9 THE COURT: Okay. Thank you. Let's bring them
10 in.

11 Close the door real quick.

12 One last cite for the record. People versus
13 Powell, 6 California 5th, 136, 2018. It is a
14 California death penalty trial that came out last year
15 where this exact issue was litigated, and that Court,
16 even though it is not present for value for this
17 Court, but that court ruled that the self-serving
18 statements to the expert psychologist by the defendant
19 in a death penalty case, in the penalty phase, were
20 inadmissible. Okay.

21 (The jury enters at 9:23 a.m., and the
22 following is heard in the presence of the jury.)

23 THE COURT: Welcome back, ladies and gentlemen.
24 We'll start each morning as we always do. Has anybody
25 read, watched or seen any news accounts about this

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1 case; if so, please raise your hand?

2 Anyone have any conversation with anyone or
3 discuss anything about this case with anyone else in
4 any way, shape or form?

5 All right. Good morning, and welcome back.

6 We'll continue now with the defense's case.

7 MR. WILSON: We call Dr. Donna Maddox.

8 (Whereupon, DONNA SCHWARTZ-MADDUX, having been
9 duly sworn, testified as follows:)

10 THE WITNESS: Donna, Schwartz, S-C-H-W-A-R-T-Z,
11 Maddox, M-A-D-D-O-X.

12 DIRECT-EXAMINATION

13 BY MR. WILSON:

14 Q Before I get started, let me show you two
15 documents and just ask you if you --

16 MR. WILSON: May I approach?

17 THE COURT: Of course.

18 Q (MR. WILSON) And ask you if you recognize those
19 two documents that I just handed you?

20 A (Witness examines document.) yes, I do.

21 Q Would you tell me what it is?

22 A First is a copy of my curriculum vitae, and this
23 is my most recent update and a list of training,
24 education, research, et cetera. The second is a copy
25 of the report I prepared dated 5/13/19.

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1 MR. WILSON: Thank you. Your Honor, I ask that
2 these be marked for identification only at this point.

3 (Defendant's Exhibits 11 and 12 marked.)

4 MR. WILSON: The curriculum vitae is marked as
5 Defendant's 11 for identification purposes, and the
6 report that she's done is marked as Defendant's 12 for
7 identification purposes.

8 Q (MR. WILSON) Let me ask you to give me the
9 benefit of your education, and then we'll start from
10 there.

11 A Okay. I graduated in 1985 with a bachelor's of
12 arts degree in psychology. Then I graduated from
13 medical school in 1989 from the University of South
14 Carolina School of Medicine. After that, I completed a
15 residency in general psychiatry, and what that is is
16 four years of training after medical school where I
17 learned to be a general psychiatrist. After that
18 training, I completed a year of training called
19 forensic psychiatry. Forensic psychiatry is a
20 subspecialty of psychiatry, and it deals with any kind
21 of mental state, emotions, behaviors that have to deal
22 with legal issues. I'm licensed to practice medicine
23 in South Carolina and Georgia.

24 Q Tell us what experience you have in the field of
25 psychiatry.

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1 A When I finished residency, I went to work for the
2 Department of Mental Health for about three years, and
3 while I was there, I worked in the insanity unit. We
4 worked with patients who were found insane. I also
5 conducted evaluations for the court. That is part of
6 what a forensic psychiatrist does.

7 After that, I went to the University of South
8 Carolina School of Medicine and worked there for 17
9 years, lived in Columbia. I did a number of things
10 there.

11 MR. HIXSON: Your Honor, she's a learned expert
12 in this field, and we have no problem having her be
13 qualified as an expert and would like to know what
14 area of qualifications the doctor intends to testify
15 in, but other than that, we're fine with the
16 qualifications.

17 MR. WILSON: We'll offer her as an expert in
18 forensic psychiatry.

19 THE COURT: Okay. No objection?

20 MR. HIXSON: No, sir.

21 THE COURT: As I've told you multiple times
22 throughout the trial, a witness is not normally
23 allowed to give their opinion. Normally, they have to
24 testify to what they saw, heard, they touched, things
25 of that nature; however, this is an exception under

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1 our rules. When one is qualified because of education
2 or experience, that person is permitted to give their
3 opinion. So Dr. Maddox is qualified in the area of
4 forensic psychiatry. She will now be allowed to give
5 her opinion in that area. That does not mean you have
6 to accept her opinion, but it is evidence for you to
7 use in any way you see fit and give it the weight and
8 creditability you believe is appropriate as you are
9 required to do with each and every witness that
10 appears before you.

11 MR. WILSON: Thank you, Your Honor.

12 Q (MR. WILSON) Are you licensed to practice in
13 medicine in South Carolina?

14 A I am.

15 Q Any other state other than South Carolina?

16 A Yes, in Georgia.

17 Q What do you do now?

18 A I ended up retiring from the State after my 17
19 years at the University of South Carolina. I finished
20 up my career at the Department of Mental Health. I
21 work in Anderson, South Carolina and work in a hospital
22 there, Patrick Care Hospital, and treating patients. I
23 had my 28 years of service and sort of collecting my
24 retirement a few years ago. So now I'm in the
25 full-time practice of forensic psychiatry.

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1 Q Is that a private practice you are engaged in
2 now?

3 A It is.

4 Q And have you testified in death penalty cases
5 before?

6 A I have.

7 Q Approximately how many, if you know?

8 A 39 at the pretrial level.

9 Q 39?

10 A Yes.

11 Q The difference between a psychiatrist and
12 psychologist?

13 A Sure. Psychologists are Ph.Ds. They have
14 doctorates in philosophy. They are allowed to
15 administer and interpret psychological testing. So a
16 psychologist would give an IQ test or make certain
17 kinds of testing indicated. They are able to interpret
18 and administer and report on those results.

19 A psychiatrist is a physician or medical doctor.
20 So we prescribe medications and those sorts of things.
21 So that is the major difference. We focus on a lot of
22 the same areas: Mental illness, the way they feel,
23 the way they act. So we have similar patients that
24 do different things.

25 Q Okay. Now that we know what a psychologist is

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1 and a psychiatrist, explain to us what a forensic
2 psychiatrist is or does.

3 A Forensic psychiatry, it is a subspecialty of
4 psychiatry. Just like cardiology is a subspecialty of
5 internal medicine. It means that in addition to the
6 general requirements, there is additional training.
7 All "forensic" means is any psychiatric issue that has
8 to do with a legal issue is an area where I consult.
9 So it could be lots of different kinds of cases.

10 Q Now, have you worked in the juvenile justice
11 system before at any point in time?

12 A I did. For 15 years during my employment at the
13 University of South Carolina, we had a contract with
14 the Department of Judicial Justice. Over 15 years I
15 performed evaluations for family court. They were
16 called -- to help determine what kind of treatment the
17 child needed. I also worked -- treated children there
18 for 15 years. I had a clinic. At one point, I was
19 going four days a week to the Department of Juvenile
20 Justice working there.

21 Q And when you were working at DJJ, the kids --
22 people that you were working with would have been what
23 age group?

24 A From ages 12 -- I think one time we had one 11
25 year old, but usually that was a little young for that

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1 population, 12 to the age of 17. Every once in awhile
2 we had an 18 year old that was allowed to stay to
3 finish up treatment.

4 Q Now, let me ask you. Have you testified -- let
5 me rephrase that and ask you how many times, if you
6 know, how many times have you been qualified as an
7 expert in forensic psychiatry?

8 A Over 750.

9 Q Over 750 times?

10 A Yes.

11 Q Were all of those in South Carolina and Georgia?

12 A No.

13 Q In other states as well?

14 A Yes.

15 Q Now, we talked just a minute ago about your
16 working for the Department of Juvenile Justice, so you
17 have treated patients; tell us about that.

18 A Yes. I spent a lot of my career treating
19 patients. Forensic psychiatrists don't always just
20 testify in court or do legal work. Then, while I
21 worked at the University of South Carolina, I had an
22 outpatient practice for 15 years. I mainly treated
23 police officers and also people that were through
24 worker's comp, a lot of worker's comp patients that had
25 injuries. Then, I worked at the Department of Mental

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1 Health the last nine years of my career in the state,
2 and I treated patients that were -- they were so sick
3 they were in the hospital. So I worked in a
4 hospital-based practice in an acute unit and treated
5 acute mentally ill patients.

6 Q And let me ask you if you ever worked for the
7 South Carolina Department of Corrections?

8 A I did. Again, at the University of South
9 Carolina we had a contract with the Department of
10 Corrections for four years. I did a number of things.
11 The Department of Corrections has an inpatient
12 psychiatric unit called Gilliam Psychiatric Hospital,
13 and I worked there for four years. I did a clinic
14 every Thursday and saw patients. Then, I also would
15 see other inmates that had mental illness that didn't
16 have access to a psychiatrist. They would bring them
17 in on the days I was there from other institutions.

18 Q Let me ask you as well, have you ever testified
19 for the State of South Carolina?

20 A Oh, yes.

21 Q For the prosecution?

22 A Oh, yes.

23 Q On how many times, occasions, have you done that?

24 A It depends on the circumstance. At the beginning
25 of my career, when I did court evaluations, more often

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1 than not, it was for the State. In my private work,
2 most of the work has been through the defense. But
3 there is a whole other area of expertise I have where I
4 testify for the Attorney General quite often for --
5 South Carolina has what is called the Sexually Violent
6 Predator Statute, so it depends on the nature of work.
7 I would say certainly not as much as for the defense,
8 but probably 30 percent, 25 to 30 percent of the
9 criminal cases.

10 Q Very well. Let's talk for a minute about what
11 you did in this case. You've already explained to the
12 jury what forensic psychiatry is, so what I want you to
13 talk about now is what your methodology is.

14 A Yes. Forensic psychiatry is a little different
15 from general psychiatry. So if you came to a general
16 psychiatrist office and came with a complaint, say, for
17 example, depression; we would do a history, what is
18 called a mental status examination, and that is
19 basically an exam that we use to look at specific
20 things. Then, I would -- if you had old medical
21 records, I would ask you to get those, and then I would
22 maybe run some tests, sometimes blood work and then
23 render a diagnosis.

24 Forensic psychiatry requires a little more work
25 because there is a legal issue. Whenever this is a

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1 legal issue, people may have a reason not to always be
2 truthful or withhold information. So if it is a
3 criminal case, for example, we may not get all the
4 information on the interview alone, or perhaps if it
5 is a workers' compensation case, people are not always
6 forthcoming.

7 So in forensic psychiatry, because of the legal
8 issues involved, it is important to have as many
9 records as we can. In this case, specifically looking
10 at all of the legal records. Also, you want anyone's
11 medical records, medical history. If they had
12 treatment before by a psychiatrist or mental health,
13 you want those records as well.

14 So I reviewed many records in this case. I also
15 consulted a doctor, Dr. Andrews, and I consulted with
16 the Department of Corrections, with a person named
17 Stoney Drake. He is one of the mental health
18 clinicians there. I also interviewed Mr. Jenkins
19 three times. You have to evaluate the patient to
20 render opinions about diagnosis and those things. And
21 then I also spoke with his mother, Itina Ray. I spoke
22 with the codefendant in this case, McKinley Daniels.

23 Q Now, let me ask you, ma'am, in this particular
24 case, you said that you reviewed records; specifically
25 what did you review?

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1 A I'll put them in general categories. There was
2 like 50 sets of documents I looked at, but just in
3 general, I certainly looked at the incident reports
4 relating to the case and the statements and discovery
5 that was provided regarding the present charges. I
6 looked at the autopsy of Mr. Paruchuri. I looked at
7 Mr. Jenkins' school records. I looked at his medical
8 records. I looked at his prior legal history. I
9 looked at the incident reports related to prior charges
10 he has had, and I reviewed all of the Department of
11 Corrections records. I reviewed various family
12 history, death certificates, those sorts of things.

13 Q And as I understood it, after reviewing all of
14 those things, you actually did consult with Dr. Andrews
15 who testified earlier?

16 A I did.

17 Q Now, tell me about Mr. Jenkins. How much time
18 did you spend with him in order to prepare your report?

19 A I have seen him three different times for a total
20 of 10.5 hours. Each time I saw him, I did a
21 three-and-a-half interview.

22 Q And as a result of those things, did you prepare
23 a report?

24 A I did.

25 Q Do you have a copy of that report there with you?

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1 A I do.

2 Q Let's go through your report.

3 A Okay.

4 Q Yes, ma'am. Go right ahead.

5 A Okay. What I did is the methodology used by most
6 physicians. You spend a lot of time getting history
7 from a patient. I also, in obtaining the history from
8 Mr. Jenkins, I would have relied upon a lot of the
9 documents that have been provided as well.

10 The first thing we do is called a developmental
11 history. I won't go into a lot of detail about that
12 because Dr. Andrews, she is a specialist in
13 development, so she spent a good deal of time
14 yesterday talking about Mr. Jenkins' developmental
15 history, but I do want to hit some high points.

16 Yesterday, I think it was testified to, and I'm
17 in agreement, that when Itina Ray was pregnant with
18 Mr. Jenkins, she had a stressful pregnancy. Her
19 baby's father, Mr. Jenkins, Senior, during the course
20 of the pregnancy, before J.J. was born, he was
21 sentenced to 30 years in prison, so he wasn't there
22 for the birth of Mr. Jenkins. I think the other thing
23 that is important is by the time he was eight, he was
24 referred to mental health treatment. That is really
25 young to see a psychiatrist. He was treated by

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1 Dr. Agnes Devenyi, and I actually know Dr. Devenyi.
2 She trained with me at Hall Institute in Columbia,
3 South Carolina. She's a child psychiatrist. He was
4 seeing a child psychiatrist by the time he was eight.
5 Dr. Devenyi opined he had depression. She noted
6 that -- I reviewed those records, and there was some
7 issues that she noted that Mr. Jenkins was having with
8 his mother. His mother would view his behavior as bad
9 instead of mentally ill or something that needed
10 treatment. She noted that his mother was very
11 punitive. She was not supportive to him. So her
12 treatment focused on referring him to a group setting
13 that he had in school. I think Dr. Andrews testified
14 about that yesterday, but that is a really young age
15 to get treatment.

16 The other thing that was important is she had
17 difficulty with her pregnancy. When talking to her on
18 the phone, she did not recall this, but it is in the
19 records. After Mr. Jenkins had psychiatric treatment,
20 he was referred for testing, and I think Dr. Andrews
21 talked about that yesterday. He had psychological
22 testing. They looked at his IQ and ability to
23 function. But in that examination, the psychologist
24 noted that she had hypertension in her pregnancy, and
25 a lot of weight gain. Those things are important

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1 because we look at brain development, that is part of
2 what psychiatrists do. So those pre-pregnancy
3 histories are important. So there was a little
4 implication with her pregnancy that was important to
5 me.

6 The other thing I think that is important to note
7 is that Ms. Ray said that compared to all of her other
8 children, Mr. Jenkins was very hyperactive. She
9 stated from ages two to four, he was a handful, that
10 he was one of the children that always wanted to be
11 outside. He was much more energetic than the other
12 children. She stated that she was able to control his
13 behavior at home, but in school, it was a different
14 story. She stated that the doctors wanted to put him
15 on Ritalin and Concerta, but she would not allow it.
16 She stated in the neighborhood where they lived, she
17 saw other children on it and thought they were too
18 medicated and sedated, so they did not allow that.

19 Q In regards to Ritalin, what is that and what is
20 the purpose of Ritalin, and why is it used?

21 A Ritalin is actually called a stimulant
22 medication. It is indicated for the treatment for
23 attention deficit disorder. So it is similar to speed,
24 but with children with attention deficit disorder, it
25 has the exact opposite effect. If you and I took

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1 Ritalin and we didn't have attention deficit disorder,
2 we would have a lot of energy and probably have the
3 house cleaned and up for a couple of days. But when
4 children take it, it does just the opposite. It slows
5 them down. It allows them to concentrate and allows
6 them to focus, slows them down and decreases
7 impulsivity.

8 Q Okay. Continue, I'm sorry.

9 A The only other thing to add is during his
10 development, Ms. Ray used a lot of corporal punishment.
11 There were indications she would use a hose pipe, ax
12 handle, rake with tape attached to the end of it,
13 belts, a fan belt, those sorts of things. I think what
14 is important, and Dr. Andrews testified yesterday, that
15 she would beat Mr. Jenkins, but the other thing that
16 was very significant in terms of looking at his
17 development is that after he was beaten, when he would
18 go into his room with his brothers, they would laugh
19 and tease him and humiliate him. So he already had
20 been beaten, so I think that was an extra level of
21 humiliation that I looked at that is part of his
22 development and how he ended up where he is today.

23 So development, just looking for significant
24 things that happened to the child that maybe accounts
25 for how they are today. Sometimes it is history when

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1 we need to make a diagnosis or explains how their
2 personality goes.

3 Q And, now, if you would, talk with us some about
4 his school history and any significant developments in
5 his school history.

6 A I will. He was learning disabled. He was tested
7 when he was nine years of age, and so --

8 Q Let me stop you for a second. You said that he
9 was learning disabled, explain what that means so that
10 we have an idea what a learning disability is.

11 A Yes. He was tested by a psychologist when he was
12 nine years of age. She gave him an IQ test and other
13 testing. He had areas -- his verbal skills -- when
14 they do IQ testing, they look at the verbal skills and
15 then performance skills. Performance is how your brain
16 codes things, how it perceives information and how it
17 tells your body to work based on those perceptions. So
18 he had average learning skills. He was not disabled in
19 the sense of his verbal intelligence, but his
20 performance was low. He had difficulties, and you can
21 see that typically in children with attention deficit
22 disorder. They are not very good at motor tasks and
23 those sorts of things.

24 He was -- there was evidence that he had problems
25 with his performance IQ. Also, she noted that there

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1 was an area called "visual motor integration," that
2 when his brain saw things, there were problems with
3 how the brain interpreted visual things. So there was
4 difficulties there. So it doesn't mean that he can't
5 learn. He had difficulties in reading and there was
6 difficulties in writing and different subjects, but it
7 doesn't mean he can't perform. It means you have
8 special needs. Maybe you need more time for tests.
9 Maybe you need to have -- there is a specific area
10 that you are weak in that the school needs to
11 concentrate on. He was also placed in classes because
12 of some of his emotional issues as well. So he was in
13 a different classroom, not in a regular school
14 setting. He had smaller class sizes, more teacher
15 attention and specific school plans used to address --
16 so he could get a good education.

17 Q Very good. Then let's talk now about his
18 vocational history.

19 A Yes. If I may, I would like to go back just for
20 completeness sake. I looked through all of his school
21 records over the years, and in kindergarten,
22 especially, because he was little, there were not a lot
23 of bad points. I didn't see a lot of medical records
24 to go back to this time to look to see how he was
25 functioning when he was younger, but the school records

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1 were somewhat helpful, because they were points of what
2 people thought about how he was doing. It was
3 interesting to me that in his kindergarten records, on
4 the first three quarters, he did not do well. He was
5 noted that there were problems in social development.
6 He had three or four areas that the teachers were
7 concerned about. He didn't follow school and classroom
8 procedures. So he is four or five years old. He
9 didn't follow classroom procedures, didn't use time
10 wisely and he did not have appropriate playground
11 behavior.

12 So all the way up until the third quarter of
13 kindergarten, there were concerns. They even
14 recommended that he be retained. However, by the
15 fourth quarter of kindergarten, he improved and they
16 promoted him to first grade. So even in kindergarten
17 there was red flags. I am not sure what happened that
18 he was not thought to be able to go into the first
19 grade, and then after the fourth, he was promoted.

20 So that just sets the stage for some of the
21 learning disabilities that he had. Some of it was him
22 not following directions, and some was social
23 problems.

24 Q Is there anything else significant about the
25 school history? Is there anything else about the

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1 school history you want to share?

2 A Yes. Yes. There are some things. I look,
3 again, at his elementary school years. He had
4 difficulty meeting the literacy standards. So there
5 was difficulty in reading, hence the learning
6 disability. Then they had special training for him to
7 help him with those things.

8 I think the other thing that was important is
9 that there was a period of time where he did well. It
10 looked like through grades nine, as he got into some
11 of the middle school years, even though that was a
12 time that he was having difficulties in his
13 environment and in his community, that seemed to be
14 working. He does -- he has quite good verbal skills.
15 So even though he was learning disabled and there were
16 some problems with literacy, et cetera, there is some
17 areas that he flourished in.

18 Q So let's talk now about his -- first, explain to
19 us what is "vocational history"?

20 A Vocational history, that is another area like
21 your jobs. What have you been trained to do? What
22 skills do you have? What do you have that is going to
23 help you into adulthood and negotiate a good job?

24 Q Is there anything significant in his vocational
25 history; that is, in J.J.'s vocational history?

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1 A Yes, a few things I thought was significant. I
2 think Dr. Andrews testified yesterday that he was
3 working two jobs in 2014. When he got out of prison,
4 after his grand larceny conviction, he was working.
5 What happened is the two jobs he had, one job was
6 connected to the other. So he did a good job at the
7 first restaurant and was hired to work at the second
8 restaurant, so he was working two jobs.

9 He had an altercation with Lonice Grant, which
10 was his girlfriend. She showed up at his job place,
11 and there was a verbal altercation and he was fired.
12 He enjoyed jobs. Those were good jobs to him. He
13 took a lot of pride.

14 Also, after he was fired from the jobs, he
15 continued to look for work. He was working as a
16 landscaper. He went into a temporary agency. He
17 worked at a couple of places, Loco Gecko and
18 Cheeseburger in Paradise. So this was a young man
19 that was willing to work and look for jobs and
20 employed. He did not have specific skills. He wanted
21 to work in the food and beverage industry, but he
22 didn't have any specialized training in anything.

23 Q Talk to us now about his medical history and
24 anything that is significant in that.

25 A His medical history is also significant. Many

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1 psychiatric disorders could have medical backgrounds,
2 that is why psychiatrists are doctors. There is a lot
3 of things that could present as mental illness that are
4 actually physical things. So, for example, if you have
5 a thyroid problem and it is really slow, you might look
6 like you're depressed. If we don't check the thyroid
7 gland, we might be treating you for the wrong things.
8 So in psychiatry, we look at medical illnesses to see
9 how they relate to psychiatric functioning to see how
10 they are related.

11 In looking at his records, the significant things
12 that he was diagnosed with was obesity. He was picked
13 on at school about that. Those are in his mental
14 health records and some of the school records. What I
15 did is I looked at some of the medical records he had
16 over time and, for example, when he was nine, he was
17 4 feet, 6 inches tall and already 115 pounds. When he
18 was 11, he was 140 pounds. When he was 14, he was 182
19 pounds. When he was 17, he was 225 pounds. So there
20 was a period of time when the doctors diagnosed him
21 with obesity.

22 When he went into the Department of Corrections,
23 he had a significant amount of weight loss. Medical
24 records at the Department of Corrections show it was
25 down to 180 pounds. So there was a significant

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1 history of weight fluctuation, which pertains to the
2 diagnosis that I'll discuss later.

3 The other things that were significant, we also
4 looked for a history of head injuries. People that
5 have concussions or head injuries, it can affect how
6 your brain thinks, it can affect your memory and
7 ability to concentrate. He had a few head injuries.
8 There were no medical records. He was not taken to
9 the doctor, but at the age of seven, Dr. Andrews
10 testified about him running into the telephone pole.
11 I think the cousin was chasing him with a gun, and he
12 was running and ran into a telephone pole. There was
13 also a report that he flipped a four-wheeler one time
14 and had a head injury, but there were no other
15 significant head injuries.

16 The other thing that is important, and I look at
17 his Department of Corrections records, and he's been
18 involved in a number of assaults over time. Each of
19 those, I documented. There were times that he
20 reported that he was assaulted. He went and had
21 medical care, and those were documented. He had to
22 have his lip -- at Conway Medical Center, he had his
23 lip bandaged. He had various other cuts and bruises
24 and scrapes, nothing significant, but it required
25 medical attention.

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1 The one thing that is significant is that he's
2 consistently complained of chest pain. I found about
3 eight records or so where he would consistently
4 complain of chest pain. He's had an EKG. That can be
5 seen in anxiety. People with anxiety disorders feel
6 like a heart attack. When you're anxious, your heart
7 rate raises and your blood pressure raises sometimes.
8 So he had complaints about that and he was seen by
9 medical at the Department of Corrections. They
10 diagnosed him with reflux and put him on Prilosec,
11 which seemed to help.

12 Those was the most significant medical things.

13 Q Thank you. Now, let's talk about the family
14 history and any significant events in that.

15 A Yes. Family history, we're -- usually looking
16 for medical illnesses. You are looking for things that
17 run in families. So if someone has a history of
18 Alzheimer's, you want to know that because it increases
19 your risk for Alzheimer's.

20 In Mr. Jenkins' family, his grandmother has
21 hypertension and diabetes, so that is important. He
22 would be at risk for those illnesses, especially with
23 some of the medications we use in psychiatry and some
24 of the medications he's been prescribed in the past,
25 they could increase the weight gain and diabetes.

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1 What is more important in looking at the family
2 history is the amount of people in his family that
3 have a legal history. We saw the chart yesterday and
4 the amount of his people that had charges. He is not
5 the only one in the family. He's not the only child
6 if you look at all the siblings. If you look at the
7 aunts and uncles and cousins, he is not the only one
8 with a legal history, and that is significant.

9 Q If you would, talk about his substance use, if
10 any.

11 A In psychiatry, substances can affect the way he
12 thinks. They can affect your mood. For example,
13 alcohol is a depressant. People that take alcohol, it
14 causes anxiety, but the problem is if you keep using
15 it, you end up getting depression. Alcohol can cause
16 dementia. So we look at drugs and substances that
17 people use to see what effects it has on their brain
18 function. We also use it to see what are they trying
19 to treat. If you don't have access to a mental health
20 doctor and you are using drugs on the street, sometimes
21 people are trying to use drugs to feel better.

22 There is no history that is documented. There is
23 some in the Department of Corrections records of drug
24 use. He admitted to me that he was using Xanax. That
25 is a sedative. It is similar to Valium. It is an

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1 anxiety medication. People that take that, it will
2 calm your anxiety. He was using that. He stated he
3 was taking -- which is a very high dose -- 8
4 milligrams a day. In psychiatry, I don't think --
5 6 milligrams is a huge dose. Normally, a typical dose
6 in psychiatry is maybe a half a milligram three times
7 a day, or maybe 1 milligram three times a day. In the
8 most severe cases, it is 2 milligrams three times a
9 day. So 8 milligrams is a very high dose.

10 Q This Xanax he was taking, was that prescribed?

11 A No. He got that from the street.

12 He also used marijuana. I always ask -- this is
13 a question I learned at DJJ from treating children. I
14 ask how long does an ounce last, and sometimes you
15 will be surprised. I had children tell me that an
16 ounce would last one day. Usually the children that
17 are smoking an ounce of marijuana a day had severe
18 hyperactivity disorders and it was one of the few
19 things that calmed them. Mr. Jenkins said that an
20 ounce would last him two-and-a-half weeks. So he was
21 not someone using huge amounts, but an ounce every
22 two-and-a-half weeks is rather a large dose.

23 He stated that as time went on, that he used less
24 because it would make him paranoid. It was his view
25 you had to be alert and aware at all times, that you

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1 couldn't afford to be sedated or too calm because you
2 needed those skills to survive.

3 The other things in the Department of
4 Corrections' records, I looked and I think it was
5 either Mr. Privet or Dr. Woods, they had a history
6 that he began marijuana use at age seven, which is
7 very young. A typical adolescent, maybe 12, 13, 14,
8 and even that is young, but the report indicated he
9 was seven when he began abusing marijuana.

10 Q Doctor, tell us what psychiatric history is, and
11 then I want you to tell us if there are any significant
12 psychiatric events in his history.

13 A Okay. We're looking at a history of mental
14 health, if there are any records. I'm also looking for
15 any history -- I'm trying to determine if there is
16 symptoms of mental illness or not. I would obviously
17 have to interview the patient, get history from them,
18 but because this is a forensic setting, you also look
19 for corroborating information or information that
20 doesn't support what the person says.

21 Again, as I mentioned, he was getting treatment
22 by the ages of eight and nine and he was diagnosed.
23 Dr. Devenyi diagnosed him with adjustment disorder
24 with depressant mood, and what that means -- an
25 adjustment disorder in psychiatry, that means that you

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1 are going through something in your environment that
2 it would cause anyone problems, that it is so severe
3 or it's important enough that it would -- anyone in
4 those issues would be expected to have a problem. So
5 the best example I can give you is if your spouse died
6 and you came to a psychiatrist and you were really sad
7 and you had difficulty going to work or sleeping or
8 paying bills, we would diagnose that as an adjustment
9 disorder. There is a certain amount of time where you
10 are allowed to have two weeks where you feel bad or
11 something, but if it persists and the person keeps
12 having symptoms, we diagnose them with an adjustment
13 disorder.

14 So Dr. Devenyi felt that at that time he was
15 going through enough issues, and the records indicate
16 it was because of the treatment from his mom, that she
17 saw his behavior and instead of being hyperactive or
18 depressed and having difficulty coping, she saw it as
19 bad and she was very punitive to him, enough that the
20 doctor wrote that in notes. She actually put that.
21 She described Mr. Jenkins as quite hurt.

22 Q When was that?

23 A This is 2002.

24 Also, it indicated that he was picked on in
25 school. So not only was he having difficulty at home

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1 with his mom, but also picked on at school for his
2 weight.

3 There was a note that per J.J.'s mother telling
4 him, You're bad, I wish I had somewhere to send you.
5 So when those things were heard by the mental health
6 professionals, they were trying to address that,
7 because when you are that little, that is when your
8 self-esteem is developing and how you feel about
9 yourself, so they noticed he was very hurt. They
10 tried to cure the treatment.

11 This was the problem with the treatment. He had
12 very good treatment from 2002 until 2004. It was
13 school-based. They would come into the school, see
14 him. He had a therapist, and he had very good care
15 during that period of time. The problem was his
16 therapist left on March 30, 2004, so he had the same
17 therapist for two years, but she left.

18 Then, the next week they tried to discharge him
19 from treatment. Instead of continuing, the
20 therapist's notes indicates he was doing well and
21 responding to treatment, the very next week after she
22 left on April 6th, there is a note that they were
23 discharging him from therapy. His mother actually
24 called back in June and said he needs more treatment,
25 you guys have to keep helping him, he's not ready to

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1 stop. So there was issues.

2 There was -- treatment was abruptly stopped, and
3 as far as I know, there is no other records that
4 indicate that he -- he did not get treatment again
5 until he was confined in the Department of
6 Corrections; so that was significant.

7 The other thing that is significant is mental
8 health, if you pinch --

9 Q I apologize, how old would he have been during
10 the time that he was getting the treatment?

11 A Ages eight through ten.

12 Q Eight through ten?

13 A Yes.

14 Q Very well. Go ahead.

15 A The diagnosis also that mental health had by the
16 end of his treatment was called "oppositional
17 defiance." What that is -- there is a few disorders in
18 psychiatry that relate just to children and their
19 behavior disorders. One of them is attention deficit
20 disorders, and the other is oppositional defiance
21 disorder, and then another one competent disorder.
22 What oppositional defiance disorder means is that his
23 mouth was getting him in trouble. He was oppositional.
24 He would fuss back. He had difficulties with
25 authority, but it wasn't his behavior, it was more

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1 verbal and him being defiant with rules. He did get --
2 again, he didn't get treatment.

3 There is no records, no history that I obtained
4 until 2015. So he went 11 years without treatment.
5 When he went into the Department of Corrections, he
6 was on what is called safekeeper status, and he was
7 transferred from the jail here to Lee County, which is
8 in Bishopville, South Carolina. And there is -- these
9 guys that are in safekeeper status, they are not
10 technically Department of Corrections inmates, but
11 they are treated by the Department of Corrections
12 staff. It wouldn't be fair to Conway jail to send a
13 psychiatrist all the way to Bishopville to treat
14 Mr. Jenkins. So when he was held in that status, he
15 was treated by the mental health professionals and
16 psychiatrist staff at the Department of Corrections.

17 What the treatment consisted of -- they realize
18 when people are on safekeeper status, they don't have
19 as much -- they don't get out of their cell as much as
20 other inmates do. It is a special environment. It is
21 a different environment. So the Department of
22 Corrections, typically they try to round them, every
23 person that is in safekeeper status, once a week. It
24 is not therapy. You are not in a private room.
25 Basically, you go up to the cell and ask the person

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1 are you doing okay, you check in on them. Very early
2 on he was supposed to be seen every week and,
3 unfortunately, that didn't happen.

4 I looked at some of the notes. He was seen, for
5 example, on October -- October 27, 2015. The next
6 note is August 8, 2016. Then August 22, 2016.
7 September 11, 2016. December of 2016. Then two times
8 in 2017. He may have been seen more, but those were
9 the times that the notes were written, and I was able
10 to look at them. The notes are called "weekly walk-up
11 evaluation notes," but they were not put in his record
12 weekly. Back in 2018, when he first was there, he
13 reported he was sleeping three hours per night. One
14 note indicated that is not normal sleep. People need
15 about six hours. Some of us can get by on less, and
16 some have insomnia, but three hours of sleep a night,
17 that is usually indicative of mental illness.
18 Something is wrong if the person is not sleeping, and
19 that was documented.

20 He started complaining of anxiety attacks, so at
21 that point he was seen by the physicians there.
22 Eventually, he got into a lot of trouble at Lee
23 County. His behavior was very reckless. Lots of --
24 he would throw urine on officers, throw orange juice
25 on some of staff, he was getting into a lot of trouble

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1 there. There was one emergency that I saw, he was
2 seen one night at 1 o'clock in the morning by mental
3 health. Finally, he had been requesting to see a
4 psychiatrist. He started in January of 2018. He
5 wasn't seen until July. He started putting in slips
6 in January of 2018 saying, look, I'm having a hard
7 time, I need help. He wasn't seen until July by
8 Dr. Woods, even though the requests had been made
9 repeatedly. She diagnosed him with an unspecified
10 anxiety disorder, meaning she knew he had anxiety, but
11 didn't have enough history to make a more specific
12 diagnosis. She prescribed an antidepressant, Zoloft
13 on the street. That is indicated for depression and
14 anxiety. He had difficulties from that. He had
15 diarrhea specifically. So he wrote a number of slips
16 and asked to be seen again because he couldn't take
17 the medication.

18 He was eventually switched to an antipsychotic
19 medication. It is not always given for psychosis.
20 You could have paranoia, that doesn't mean you are
21 psychotic, but it has indications for mood and
22 psychosis and indication for paranoia, and he was
23 prescribed that. What is significant about that is
24 when he left the prison and was transferred back to
25 the jail, the prison didn't give his medicines. He

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1 started on this medication. He was not given
2 medications. I had called the prison a number of
3 times to see why he wasn't given the prescription, and
4 it took months before those medications were given to
5 him.

6 So the first two evaluations I did of him, he was
7 not on medications. After I saw him the third time,
8 his medication had been sorted out and there were
9 differences there.

10 Q Let's talk about his legal history and any
11 significant events there.

12 A Again, you have to look at one of the diagnosis,
13 we look for some people have a lifelong pattern of
14 behaviors; we have a diagnosis of that. When I look at
15 the legal history, I'm trying to determine does this
16 person have a personality disturbance that predisposes
17 him to not follow the law. One of the things you have
18 to have, you have to have that behavior diagnosis of
19 conversion disorder. He doesn't have that history. He
20 wasn't adjudicated delinquent. He didn't go to DJJ
21 that required treatment there. He wasn't housed there
22 during his childhood. So he doesn't meet the criteria
23 that you would look for in someone that has lifelong
24 pattern, but he has some legal history.

25 He was sentenced in 2011 to six years under the

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1 Youthful Offender Act and suspended to 40 months
2 probation. So he went to the Department of
3 Corrections for possession with intent to distribute
4 manufacturing cocaine, and he was sentenced to two
5 years. So he had been to prison and was released and
6 had been out about a year before this event occurred.

7 The other thing is after he was released from the
8 Department of Corrections, there were a number of
9 criminal domestic violence charges that I looked at
10 the incident reports that were related to his fiancée,
11 Lonice Grant. There were different instances of
12 those. There was one that was listed as a conviction
13 it looks like in 2012.

14 Q Anything else in the legal history that you think
15 of that is of any significance?

16 A Yes. Some of the circumstances of the legal
17 history I think need to be explained. I'll give you an
18 example of some of the criminal domestic violence
19 charges of the incident reports. In one, he and Lonice
20 were arguing over the baby. He wanted to see the baby,
21 and they were arguing him seeing G. . The mother was
22 there. She evidently heard some scuffle, according to
23 the incident report, came out and yelled at J.J. and
24 told him to leave. He went outside, and Lonice came
25 outside and he started throwing a basketball at her

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1 feet and hit her in the legs. So when the police were
2 called, the mother told on him and told them what he
3 did. There was another incident in the car arguing,
4 and he got out of car and picked up a dead animal from
5 the road and I guess was waving it at her, and she
6 called the police.

7 So there were various instances where there
8 was -- one incident that reports that she called the
9 police and was asked if he hit her and she said no,
10 but they called the police. So they had -- the reason
11 I say those things is they had a toxic relationship.
12 They were young, had children and they were not very
13 mature sometimes in some of the actions they had.

14 Q Let's talk about his correctional history.

15 A What I'm looking at his correctional history is
16 treatments, and we talked about those. We're also
17 looking at the write-ups he had, some of the troubles
18 he had. I'm also looking if he was exposed to
19 violence. Prison is a dangerous place, and there is
20 assaults and you witness things. Sometimes you may be
21 the victim; sometimes you may be the perpetrator. It
22 is a dangerous environment. So I'm looking for
23 different things in those records.

24 As I talked about earlier, there was one at
25 J. Reuben Long here at the jail, he had -- there was

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1 an assault on an inmate charge in 2015, and he was
2 taken to the hospital for that. Again, I mentioned
3 his behavior, especially in Lee County. This is
4 before he got treatment. It was incorrigible at
5 times.

6 I tried to highlight some of the times.
7 December 21 he threw orange juice, a drink, on a
8 nurse. January 16 he threw bodily fluids on an
9 officer. A number of times he was gassed. Each time
10 you are gassed at the Department of Corrections, you
11 have to see medical to make sure you don't have
12 complications, and there were numerous times he was
13 gassed. He was charged with threatening to inflict
14 harm. He was gassed at that point. He was convicted
15 of striking an employee. Convicted of possessing a
16 weapon. So each time that he would have an assault,
17 the officers would sometimes have to use gas, so he
18 would be seen by medical. So his adjustment there
19 was, I would say, very poor given the circumstances.

20 Once he got mental health treatment, he was
21 transferred to Kirkland. As he aged -- you have to
22 remember, he was there for a long period of time, and
23 so his behavior improved, but it certainly was not
24 anything to write about.

25 Q Let me ask, when he was at Lee, was he originally

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1 on medication for his illness at that time?

2 A No.

3 Q Tell us about that. When did he actually get on
4 medication after getting to Lee?

5 (A brief pause in the proceedings.)

6 A Okay. On January 16, 2018, there was a note
7 indicating he was diagnosed with mild chronic anxiety
8 disorder. He was asking to see the psychiatrist, and
9 he was on medications at that time, at that point. He
10 again requested to see a psychiatrist on July 3, 2018.
11 He started getting treatment regularly in July of 2018.
12 He was attending an anger management group, but it
13 really wasn't until July.

14 Q So he would have been there for how long before
15 he started getting any kind of medication?

16 A Oh, over three years.

17 Q Over three years?

18 A Yes, sir.

19 Q Before he got any medications?

20 A Yes.

21 Q Very well. Go ahead.

22 A That was it.

23 Q Were you finished with noticing his corrections
24 history?

25 A Yes.

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1 Q Let's talk about social history.

2 A Social history, Dr. Andrews covered so I won't
3 repeat those things, just that he has -- I will tell
4 you an interesting observation, Mr. Jenkins is a
5 junior, his father is a senior, and he has a
6 grandfather with the same name. He did not name his
7 son "Jerome Jenkins." He said that was very
8 intentional, that there were three generations of men
9 that were -- had a correction history and led less than
10 an exemplary life and he wasn't going to destine his
11 child with that name for that fate, so he changed his
12 child's name, and that was very intentional.

13 Q Anything else regarding social history?

14 A Yes. I think very significant, his mom and dad,
15 you all know the history, so he was often -- the mental
16 health records from Dr. Devenyi, he was compared to his
17 dad and told he was bad just like his father, so his
18 whole life he grew up that his father was a bad person.
19 He did not know that his mom and dad married, and he
20 saw them together for the first time since he's been
21 incarcerated. So it was very confusing for him to
22 think that all along his mother said his father is a
23 bad person, and then she marries him. So he still,
24 even to this day, is trying to deal with some of those
25 childhood mysteries of if he is bad, why did Mom marry

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1 him? Am I bad? Am I like my dad? So I think that is
2 important.

3 Q Explain to us what trauma history is.

4 A Yes. That is a very important history in
5 psychiatry. Trauma history, you are looking for things
6 in your life that can be traumatic, but you would think
7 it speaks for itself, but it doesn't. When you do a
8 trauma history, you have to be very specific because a
9 lot of people that have been exposed to trauma, they
10 may not know something is traumatic. For example, when
11 I worked at DJJ, I never asked a child have you ever
12 been abused. A child may not know what that means. I
13 would specifically say have you ever seen your mother
14 hit. Has anyone ever hit your mom? Has anyone -- and
15 I'll be very specific in these histories. Tell me
16 every time you have seen a gun. Tell me every time you
17 have seen a gun fired. Tell me every time you have
18 seen a knife. So you have to be very specific, because
19 if you are not, you are assuming that people know what
20 trauma is.

21 So a trauma history, especially with someone that
22 would be in a very violent and dangerous neighborhood
23 as was described, that is pretty important in this
24 case, and it's one of the basis for my diagnosis. He
25 has a lot of trauma. A lot of trauma he's been

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1 exposed to. One of the things that is significant is
2 he was sex -- never been molested, I'm not saying
3 that, but sexualized at a very young age. His house
4 was very small and it was not uncommon for him to hear
5 his mother having sex. The house was small, and that
6 was a common occurrence.

7 I thought one thing significant -- I'm trying to
8 go into chronological order. The one thing that was
9 significant, the murder that Dr. Andrews talked about
10 that he and his brother saw, he never even mentioned
11 that to me. When I went through the history, every
12 time you have seen someone hurt, that was not even
13 mentioned. That is not uncommon. They may not
14 remember all of it. They may not just be thinking
15 about it. So I thought that was very significant and
16 surprised by that testimony.

17 To me, one of the most significant traumas in his
18 life occurred with the death of Marcus, and
19 Dr. Andrews talked about that in 2007. He was in
20 seventh grade at the time, but what is important is
21 what happened. The family was at a barbecue, eating
22 together and Marcus left to go get gas, and he got
23 killed. So he didn't come back that day. They were
24 in the middle of a barbecue, he simply left to get gas
25 and never came back. Again, Marcus was a very

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1 significant figure to Mr. Jenkins. He idolized him.
2 He was his father figure. He looked up to him. This
3 was a guy that spent a lot of time with him. So just
4 to think that you can be at a barbecue one minute
5 seeing someone, and then them not coming, the
6 circumstances of that were especially traumatic for
7 him.

8 The other interesting thing is Mr. Jenkins blames
9 himself, and that is a sequelae of trauma. A lot of
10 times -- he thinks if he had been with him, maybe the
11 circumstances would have been different. Had he gone
12 with him to get gas, maybe that wouldn't have
13 happened. That is not uncommon for people who are
14 exposed to trauma. Trauma affects how you think about
15 yourself, and if you are exposed to a trauma serious
16 enough, it affects how you may think about yourself.
17 You may think you are a bad person because you didn't
18 do something. So you get a lot of negative self talk,
19 negative things about yourself. So he blamed himself,
20 to a degree, for not being there with Marcus when this
21 happened.

22 Also, he didn't think he would live past the age
23 of 17. That's very consistent with traumatic
24 disorders, they have a shortened sense of the future.
25 If you are around enough death and violence or trauma,

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1 it is not uncommon for people to think -- one of the
2 questions I ask for trauma is tell me what you will be
3 doing in ten years, and people that have traumatic
4 disorders, they can't think that far ahead. So I
5 think it is very significant that he thought he
6 wouldn't live past the age of 17.

7 He got shot at when he was 13. He described
8 being on the road by himself walking home, someone he
9 didn't even know driving just shot at him. That is
10 awfully young. This was before Marcus died, and then
11 Marcus died soon after that. So he very early on had
12 an experience with shooting and guns.

13 The numerous deaths he had were significant, too.
14 He had his aunt die from cirrhosis. He had two
15 cousins die -- three cousins die. One was shot in the
16 head, in addition to Marcus. The other thing I looked
17 at was he reported being the victim of some trauma,
18 and I tried to corroborate those whenever possible. I
19 found a medical summary from the Department of
20 Corrections that noted he had a stab wound on his left
21 side. Typically, what I'll do is I'll look at a
22 person and describe every scar so I can -- sometimes
23 there is a story behind it. It can be a reminder for
24 someone to get the story. He did describe that Lonice
25 stabbed him with a nail file on one occasion.

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1 The other things that were important was he had
2 corporal punishment as a child. I'm not saying it is
3 always traumatic, but in a circumstance where we know
4 he was certainly beaten, as is documented by his
5 mental health records. So his reports say after he
6 was beaten, his brothers would tease him and laugh at
7 him and get him angry and upset, and that was
8 significant. He described another time when he was
9 shot, a bullet grazed his legs. He didn't go to the
10 doctor. His grandmother treated it with cobwebs and
11 fatback and didn't tell his mom.

12 He had reported a number of fights when he first
13 went to the Department of Corrections, and one of
14 those was documented when he was 18, when he was at
15 the Reception and Evaluation Center. That is the
16 place in the Department of Corrections where you go
17 for the first 30 to 45 days, they classify you there
18 and figure out what services you need.

19 He was -- he said he was cut by a razor. The
20 SCDC mentioned a fight, but there was no mention he
21 was stabbed. He reported that he was cut on the right
22 side of his neck, and there is a scar there. He
23 reported he has seen bloody bodies on floors.

24 One of the significant ones that I found in the
25 record is in January of 2015, he was noted to be

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1 limping. This was on the street -- excuse me, this
2 was not in the street. This is a wrong date here.
3 There is a date before this offense. I can get it
4 specifically if the Court needs it, but there was a
5 date before this offense where he had done yardwork
6 and there was a truck with a passenger in it coming
7 down the road. The passenger was a person who owed
8 him money. He went up to the truck and asked for his
9 money, and they basically said you are not getting
10 your money, and the truck drove off and ran over his
11 foot. So he was limping after that, and he had a limp
12 noted by the Department of Corrections in the 2015
13 records.

14 So he has had traumas. He's witnessed some
15 things and experienced some things, so trauma history
16 is extensive.

17 Q Let's talk for a minute about any sexual history
18 he might have had.

19 A That is, again -- he was, in my opinion,
20 sexualized at a young age, certainly hearing his mother
21 having sex. The other things important is he described
22 that in Playcard one of the games they played was
23 called "hide-and-go-get-it." That was hide-and-seek,
24 and if you caught the girl, you would simulate the act
25 of humping her. He also reported viewing pornography

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1 at age eight or nine. His mother, she affirmed this.
2 She talked about sex at a very young age. She was
3 trying to make them responsible. One of the stories
4 that he tells is that his mother said if a woman drank
5 cranberry juice, don't have sex with her because it
6 meant she had an infection. She told him that what you
7 did is you put your finger in your ear and got the wax
8 and insert it in the woman's vagina, and if she jumped,
9 that that would be an indication that maybe she had a
10 sexually transmitted disease and you shouldn't have sex
11 with her.

12 So he had an interesting -- sexualized at a young
13 age and a very interesting upbringing in terms of
14 sexuality. No abuse. No sexual abuse. Never
15 witnessed sexual abuse that I could gather in my
16 history.

17 Q Let's talk about his mental health, and if you
18 would, tell us what that is, what a mental status
19 examination is and what the relevance is.

20 A In psychiatry, it is similar to your doctor's
21 physical exam. When we do a mental status exam, we're
22 looking for different symptoms or different things that
23 can be consistent with psychiatric illness, so there is
24 certain symptoms. If someone is manic depressive, we
25 know what symptoms to look for. There is certain

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1 patterns in speech, certain patterns in motor behavior.
2 So a lot of times our observations in some of the tests
3 we give, those are designed to help us diagnose
4 someone.

5 So a mental status exam, I make observations and
6 perform certain tests where I'm looking at the
7 person's ability, what is called their cognition.
8 That is things like attention, memory, language,
9 concentration. There is different skill sets that we
10 would look at. Also, we're looking and making
11 observations about their emotional state. And then I
12 also perform a neurological exam, especially with
13 someone that has a history of head injuries, looking
14 for specific brain functions.

15 So the significant things about his mental status
16 exam -- I saw him three times, so each time he would
17 have a different mental status exam. You wouldn't be
18 expected to have the same physical exam every time you
19 go to the doctor. I think the important thing to
20 note, some of the general things that were consistent
21 through all three of those exams, one of the things I
22 noted about him is he makes good eye contact. That is
23 indicative of different disorders, but that is
24 important. So he is able to look at you in the eye.
25 The reason that is significant is that there is some

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1 diseases where people don't make eye contact. He had
2 good eye contact.

3 His speech varied. There were times where it was
4 faster than mine, and that is called pressured speech.
5 It would depend what he was talking about. One of the
6 significant findings is that he had what is called
7 inappropriate affect. There were times where he could
8 be talking about something serious and he might smile
9 or laugh it off. So there were times that the outward
10 expression of the emotion didn't necessarily match
11 what we were talking about.

12 The most significant mental status exam, in my
13 opinion, was the second time I saw him. During that
14 evaluation, we spent most of the time talking about
15 the trauma history. At the end of that, in my
16 opinion, he got quite paranoid. He was agitated
17 during that evaluation. The corrections officer,
18 detention officer, that was outside of the door was
19 actually someone he went to high school with. So
20 while I was trying to talk with him and get a history
21 and perform some of my tests, he was often distracted.
22 He would look and was watching what the officer did
23 during that period of time. The officer was out of
24 the door and could not hear what we were talking
25 about, but he was very distracted.

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1 The other thing during that evaluation is every
2 time an inmate would pass the hall, he would stop and
3 totally lose concentration on the task we were on. He
4 would stop and look and observe who was there or what
5 they were doing. That is called hypervigilant. At
6 the end of the second evaluation, there was a bulletin
7 board. I think it was a board for soundproofing so
8 someone couldn't hear what you are saying in the next
9 room over. At the end of that evaluation, he was
10 looking under the board to make sure there wasn't a
11 wire in there or something, and of course there
12 wasn't.

13 The significant thing is by the third evaluation,
14 he was much calmer. He was placed on his medications.
15 The jail finally got his medications from the
16 Department of Corrections. He was calmer during that
17 evaluation, and that was probably the most fruitful
18 evaluation I had of him at that time. I originally do
19 a neurological exam on the first evaluation. I didn't
20 to it until the third. I didn't feel comfortable even
21 having him to do tests until the third exam, and I was
22 able to give him one at that time. So those were the
23 most significant findings.

24 Q Let me ask you, Doctor, if as a result of your
25 examination, if you were able to render any kind of

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1 diagnosis as far as Mr. Jenkins is concerned?

2 A I did.

3 Q Would you share that with us?

4 A Sure. I had four different diagnoses. In
5 psychiatry, we use a book called the DSM-5. It is
6 purple this year. There is six different editions now,
7 I think. The reason we use this book is so if I talk
8 to a psychiatrist or psychologist in California, and I
9 say someone has this illness, we all know what we are
10 talking about, the same criteria. So it is similar to
11 -- I don't know if you have seen your doctor when you
12 go to your family practice doctor and he opens a book
13 and writes a code and puts it on your billing sheet, it
14 is similar to that. It is our list of diagnoses, what
15 the symptoms are and how to code it. So I did make
16 four diagnoses.

17 The first diagnosis, I gave him was
18 Post-traumatic Stress Disorder, and I'll be glad to
19 talk about that. That means he's been exposed to
20 trauma. He's had a history of trauma, and his brain
21 changed because of it. There is consequences with
22 that. Not everybody that is exposed to a trauma gets
23 Post-traumatic Stress Disorder. There are some people
24 that are incredibly resilient. We learned a lot about
25 PTSD after the Vietnam War; in fact, the DSM in the

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1 early days, they didn't even have that diagnosis. It
2 wasn't until we learned about this illness from war
3 veterans that there were people that seemingly
4 functioned, but there were times they did not do well,
5 that they seemed to be okay in Vietnam, and when they
6 came home and they weren't around the danger anymore,
7 they fell apart.

8 So research of PTSD really progressed, and the
9 DSM changed over time. So the last DSM we have, it
10 totally has changed the criteria for Post-traumatic
11 Stress Disorder. In the old days, it was called an
12 anxiety disorder, similar to a panic disorder where
13 people have panic attacks, because anxiety is the main
14 component of PTSD. But the latest edition realizes it
15 is a whole lot more than an anxiety disorder, it
16 affects how we think. It is -- it has features of a
17 disorder that affect how you live, how you view
18 yourself. It has components of a behavior disorder
19 that people can become aggressive at times. They can
20 have periods where they are very reactive if they are
21 exposed in the environment to something that reminds
22 their brain of one of the traumas, one of the traumas
23 they've been through. So it is a lifelong illness.
24 The symptoms come and go. It is treatable. One of
25 the medications that was prescribed, that is one of

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1 the indicated drugs for that illness. There is a lot
2 of different medicines that can help with that, but
3 that was one diagnosis.

4 I also diagnosed him with an unspecified
5 depressive disorder. What that means is I recognize
6 that back when he was eight and nine, Dr. Devenyi
7 recognized a depression, and in interviewing him and
8 looking at the Department of Corrections records,
9 there are features of depression that I've seen in
10 him; the insomnia, mainly. There is numerous
11 documents where he is not sleeping, and usually people
12 with depression or mood disorders, that's a common
13 symptom. Your brain is thinking and you don't get a
14 good night's sleep.

15 The other thing you can see in depression is
16 irritable mood. I looked at some of the Lee County
17 behaviors. He is very irritable. Sometimes he was
18 testing limits. He would do things like not let them
19 close the flap. If you closed the flap, you were cut
20 off from a lot of communication. There were things
21 that he would do, but he was quite irritable at times.
22 So because of looking at some of the symptoms he had,
23 the sleep disorder and then the weight loss, he had a
24 significant amount of weight loss from -- at least
25 over 230 pounds down to 180. So there is a

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1 significant weight loss in time. He's gained plenty
2 of the weight back. At the detention center, he is
3 doing much better and he has gained a good bit of
4 weight. So you take the weight loss and insomnia and
5 the irritability that he had, and in my opinion he
6 qualified for that disorder.

7 I also diagnosed him with substance abuse
8 disorders, and that is based on his behaviors of the
9 street, the Xanax and marijuana abuse. In my opinion,
10 those meet the criteria for the disorder because he
11 was -- they are illegal. Xanax is not illegal, but to
12 get it without a prescription, so you are doing things
13 you shouldn't be to get access to the drugs. So he's
14 engaging in activities to get these drugs that cause
15 him dysfunction. So in my opinion, he met the
16 criteria for substance abuse disorders.

17 Q Is that the fourth, the sedative hypnotic use?

18 A Yes.

19 Q Now, let me ask you. Did you talk with J.J.
20 about this crime?

21 A I did.

22 Q And can you tell us what opinions you rendered
23 about him in that regard?

24 A Yes. One of the things that I thought was
25 pertinent is looking at what his mentality was at the

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1 time of the crime. He was 20 years old when this crime
2 happened. The great thing about psychiatry and
3 medicine is we're making leaps and bounds in
4 understanding people's brain function. We have all
5 kinds of new tests now. He have MRIs that show how
6 your brain functions. It is not like the old days
7 where we have a CAT scan or an MRI that takes a
8 picture, we have tests now that show what it looks like
9 when your brain functions. So we're learning a lot
10 about brain development.

11 The best example I can give you, and I'll go
12 through development of a brain and what happens. So
13 we used to think -- we know how smart children are.
14 That show, "Are You Smarter Than a Fourth Grader," I'm
15 not. Fourth graders have incredible knowledge. We
16 used to think in your childhood is when you gain the
17 most knowledge. That is when your brain is learning.
18 It is a great time to learn languages. We now know
19 based on all of these studies, there is a lot more
20 going on with all three developments. So our brain --
21 the development doesn't finish until you are 25 to 30
22 years of age. So I'm kind going to go through the
23 development and what we learned and what is important
24 to know.

25 When children are 11 and 12, their brain goes

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1 through significant development, and it is a concept
2 called pruning, like you prune your hedges. So what
3 happens when you are at that age is you have all this
4 knowledge, kids are learning everything and their
5 memory is incredible. They learn all kinds of things.
6 What happens when you are 11 and 12, the things you
7 don't use, your brain starts to pare them down, you
8 don't need to know all of those things. We don't need
9 to know these dates and facts. Your brain tries to be
10 efficient. So when you are like 11 or 12, it cuts out
11 things you don't need, and that is pruning.

12 So the best example I can give you is that is one
13 of the reasons we have terrific athletes now. Sports,
14 when you are 11 and 12, if you keep training these
15 kids, these ice skaters for example, their brain gets
16 better because it gets rid of the things it doesn't
17 need and the skills they are using, they are getting
18 reinforced. So that is a significant time for brain
19 development.

20 What goes on in your teen years is a part of your
21 brain that develops emotion, that is the limbic
22 system, and that is involved in Post-traumatic Stress
23 Disorder, too. A lot of the illnesses we know with
24 correlating brain structures and brain systems, what
25 goes on, your limbic system is your emotional system.

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1 We know adolescents; they are hot heads. That is part
2 of the brain developing. So it is not that they are
3 being incorrigible or know more than we do or sassy,
4 that is part of the brain that is developing. So it
5 is real common in that period of time to have what is
6 called "thrill seeking." They don't care about the
7 consequences. That part of brain hasn't developed et.
8 They are full of emotion and don't like anything their
9 parents are saying. So who do they associate with?
10 Their friends. So you have a group of kids that are
11 all emotionally developing, and so that is a pretty
12 hard time for young children.

13 What happens last is what is called your
14 prefrontal -- your brain has different lobes. Even
15 part does a different thing. The frontal lobe
16 separates us from animals. Humans have superior
17 frontal lobes. That is the part that lets us plan,
18 uses judgment, controls social interaction. For
19 example, if I didn't like someone's dress, my brain
20 with the frontal lobe development, I wouldn't say,
21 That is an ugly dress. I would say it in my mind and
22 not say it to someone; that is a good social judgment.

23 The very last part is called the prefrontal
24 cortex. That is the part of your brain that makes you
25 make decisions. That is the part of your brain that

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1 lets you not be impulsive. That is a part of your
2 brain that plans and orchestrates things. So a
3 20-year-old, they are not finished. Their brain is
4 not finished. That part of the brain that does
5 judgment is not finished.

6 In my opinion, if you look at some of the Lee
7 County records and behaviors, you can see he's
8 improving. He has a way to go. His behavior leaves
9 some things to be desired, but the brain is not
10 finished developing yet. So I think it is important
11 to consider where he was.

12 The other thing you have to consider about him
13 being the age 20 and not having complete brain
14 development, you have to look at things that make you
15 different than the typical 20-year-old. A typical
16 20-year-old does not have brain development yet. They
17 are not finished. They are getting there, but not
18 finished. You also have to take into effect that he
19 has learning disabilities. So his brain is not quite
20 caught up with all the other 20-year-olds. You have
21 to look that he has Post-traumatic Stress Disorder.
22 He had a bad environment. He's been exposed to some
23 things that has affected his brain.

24 So even at the age of 20, your brain development
25 was not complete, and he certainly was not the typical

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1 20-year-old.

2 Q So would you say that his brain at age 20 would
3 be fully developed, or is it not fully developed?

4 A It is not. It is still not at the age of 25, it
5 is not. It is improving. I see him making better
6 decisions. He is not as impulsive, especially with
7 medications. I saw a much improved version of his
8 ability for impulse control and use good judgment with
9 medications.

10 Q Now, let me ask you. Did you review any
11 information about his co-defendants?

12 A I did.

13 Q And what information did you review?

14 A With the incident reports and discovery, I had
15 information because they were co-defendants. I also
16 read -- there were some investigative notes, and I
17 interviewed McKinley Daniels at McCormick this past
18 Monday.

19 Q So you spoke to McKinley Daniels in this case?

20 A Yes, I did.

21 Q Did those conversations help you develop your
22 opinion in this?

23 A They did.

24 Q Is there anything significant from that?

25 A Yes.

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1 Q Talk to us about that, remembering our earlier
2 discussion.

3 A Yes. Part of what a forensic psychiatrist does
4 is we look to see if your mental illnesses have
5 anything to do with your crime. In my opinion, he has
6 mental illness, and that is important. He was
7 suffering from emotional disturbance, but in my
8 opinion, they were not part of this crime. I did not
9 find it between these mental illnesses and the actual
10 killing. I didn't see those as related. Although it
11 was important, it told you who he was going into this
12 situation, like some of the things he had been through,
13 access to the guns, those sorts of things.

14 What was important, one of the things I was able
15 to ascertain, is how did he meet these people? How
16 did this happen? How -- in my opinion, the Daniels
17 brothers were much older than him, in reviewing
18 records. I don't have them in my report, but
19 Mr. McKinley Daniels is in his 30s, and I think James
20 is in his late 20s. So they were substantially older
21 than Mr. Jenkins.

22 The other thing that was significant in looking
23 at their prior criminal history is Mr. Daniels -- both
24 brothers -- had a more extensive legal history. They
25 were older, but they had a more extensive legal

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1 history, so I thought that was important.

2 Interviewing McKinley Daniels put a scenario for
3 how he was there. What Mr. Daniels and I discussed,
4 he had gotten out of prison four months earlier. What
5 happened is his mother lived in a trailer across the
6 street from where Lonice and Mr. Jenkins were living,
7 so that is the proximity of each other. Mr. Daniels
8 said when his mother died, his sister lived in that
9 trailer. She didn't want to live there anymore. The
10 mother died in the house and she was not comfortable
11 staying there. McKinley had no place to live, so he
12 lived there. He stated that at that time that his
13 trailer was kind of the center. People would come by
14 because he was home. People would come in and out,
15 and that is how he met Mr. Jenkins, just through the
16 neighborhood.

17 In interviewing him, he was concerned about
18 Mr. Jenkins. He described instances where Lonice and
19 Mr. Jenkins were having difficulty getting along, and
20 he felt the baby was used as a leverage, whenever they
21 were fighting, she would withhold the baby from him,
22 You can't be with G. . That was an aggravation for
23 him.

24 The other thing that is important is you have to
25 look at what was going on with him. I wanted to -- I

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1 went through the records that I thought would kind of
2 explain how he ended up with McKinley and socializing
3 with them when that had been anything that happened in
4 the past. I'll tell you about an incident report from
5 December 12, 2014. So it is kind of close to the time
6 when the crime happens. What happened -- I think
7 there is testimony that they didn't have heat, running
8 water, didn't have electricity in this trailer. There
9 were many periods of time where they would have to go
10 stay somewhere else because they didn't have heat for
11 **G.** and Lonice was pregnant with **Jm.J.** at the time.

12 So there was an incident report where they bought
13 a kerosene heater. The kerosene heater didn't work.
14 They paid money for it, and it didn't work. This was
15 an altercation because money was scarce. So with it
16 not working, I think that was important. He was
17 beginning to face financial stressors.

18 The other incident is in January of 2015. We
19 knew he was doing yardwork, trying to work. That is
20 the incident where he didn't get paid and the truck
21 ran over his foot. He was trying to get money for
22 work he did. So he was in some financial stressors.
23 He is across the street from McKinley Daniels, and it
24 was -- there were times when McKinley would comfort
25 him when he was upset about the relationship with

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1 Lonice. So he was older and in a position of giving
2 advice and in a position of socializing with him.

3 Q Do you have an opinion as to whether or not J.J.
4 was under the influence of James or McKinley Daniels?

5 A Yes. It is my opinion he was, absolutely.

6 MR. WILSON: Bear with me one second, Your Honor.
7 Thank you very much. Answer any questions the
8 Solicitor may have for you.

9 MR. HIXSON: I guess it won't take that long. I
10 don't know if we need a break, but I'll be gentle.

11 MS. WILLIAMS: May we approach, briefly?

12 THE COURT: Okay.

13 (A bench conference was had.)

14 THE COURT: All right. Ladies and gentlemen,
15 we'll take our morning break at this time. Do not
16 discuss the case. Keep an open mind. We'll start
17 back in about ten minutes.

18 Dr. Maddox, you are not allowed to discuss your
19 testimony with anyone; you understand that?

20 DR. MADDOX: Yes, sir.

21 (The jury exits at 10:50 a.m., and the
22 following is heard out of the presence of the jury.)

23 THE COURT: We'll take a short break.

24 (A recess was taken.)

25 THE COURT: Once they are ready, you can bring them

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1 in.

2 (Whereupon, the jury enters at 11:08 a.m., and
3 the following is had in the presence of the jury.)

4 THE COURT: We're back. Are you ready to
5 proceed?

6 MR. HIXSON: I am, thank you.

7 THE COURT: Cross-examination of Dr. Maddox.

8 CROSS-EXAMINATION

9 BY MR. HIXSON:

10 Q Good morning. How are you?

11 A Fine.

12 Q I want to start off to be clear on a couple of
13 things. In no part of your opinion have you indicated
14 that Mr. Jenkins is suffering from any type of organic
15 insanity, mental disease or defect that leads him to
16 not appreciate his actions; is that correct?

17 A That's correct. He clearly knew right from
18 wrong. He knew what he was doing, and even though he
19 has PTSD and depression, in my opinion, those are not
20 related to these crimes.

21 Q In your opinion, he is competent, able to
22 facilitate aid in his defense, help Counsel prepare for
23 his defense and he's entirely competent in that regard?

24 A Oh, yes. I watched him interact with his
25 attorney and, yes. He was more than competent with me

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1 in providing history, yes.

2 Q When you say -- I think you indicated just last
3 week you conducted some of the interviews that you
4 relied on in forming your opinion for the trial that
5 you are testifying in for today; is that correct?

6 A That's correct. This past Monday I interviewed
7 McKinley Daniels at McCormick.

8 Q And isn't it true that you gave the prosecution,
9 the State of South Carolina, a report of your findings
10 yesterday?

11 A Well, what I do is as soon as a person is found
12 guilty, I make a report. So Monday, as soon as I
13 finished seeing Mr. Daniels, I made the report that
14 night and turned it over. I don't know when you got
15 it.

16 Q But you wouldn't disagree with the fact that
17 South Carolina -- State of South Carolina got your
18 findings yesterday?

19 A I wouldn't contest that.

20 Q So we're trying to keep up from that?

21 A Yes, sir.

22 Q How long did you take to formulate your opinion
23 and interview folks, review all of the records,
24 discovery records, we provided, the defense, who
25 ultimately provides it to you for your review?

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1 A It's been over 40 hours.

2 Q A significant period of time?

3 A Yes, sir.

4 Q And I know you are thorough.

5 A Yes, sir. Yes, sir.

6 Q I appreciate that.

7 Have you maintained or preserved notes of things
8 you have used during the course of this?

9 A I have, and I have them with me.

10 Q Perfect. Thank you very much. Let's go to a
11 couple points you discussed. Going back to school, you
12 repeatedly referred to a learning disability?

13 A Yes.

14 Q And I want to clarify that. Based on the school
15 records that they provided counsel, and included it to
16 you, just basic proficiency. As you know, school
17 records are voluminous.

18 A Yes.

19 Q I'm going to refer you to some basic data. On
20 April 2002, just a simple standard PAC test, Palmetto
21 Achievement Test, when kids all take when they are in
22 the second grade; that is eight years old, right?

23 A Yes.

24 Q At that point in time, this defendant was
25 considered proficient in English and math; is that

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1 right? There is a category. I'll let you look at it.
2 I'm sure you reviewed it, but you probably reviewed
3 15,000 documents.

4 A Yes. Thank you.

5 Q See if that refreshes your recollection on -- the
6 point I'm trying to bring out is, isn't it true that
7 Mr. Jenkins was learning fine, that he is actually
8 proficient in mathematics, and he was average in his
9 English skills?

10 A Yes, he was.

11 Q And the only reason -- the only reason that
12 Mr. Jenkins was referred to any kind of independent
13 educational program, the basis for that is in a letter
14 of June 6, 2003. See if you recognize that or if that
15 refreshes your recollection. If you can, read the
16 violation, Point 1. What is that?

17 A This was a letter where he was -- it says he was
18 expelled from school over an assignment. This was a
19 2003/2004 school year. It said he had violations:
20 Physical altercation, disturbing class, disturbance
21 outside of class, refusal to obey, disrespect, threat
22 to student, stealing, abusive language to student,
23 threat to staff and inappropriate touching.

24 Q So it is not a learning disability. That is in
25 reference to an IED (sic) -- based on behavioral

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1 problems, not learning problems?

2 A IEP, yes, sir.

3 Q IEP, excuse me. Not IED.

4 How about January 8? There was an effort to put
5 him in a program specifically to deal with behavioral
6 problems. I believe that is January 8th of 2014?

7 A 2004, yes.

8 Q 2004, I apologize.

9 A This is, again, a letter that he's been removed
10 from the regular school setting. He was placed on
11 Homebound for 15 days. The action was as a result of a
12 bus violation, class disruption, physical altercation,
13 disrespect, simple assault, leaving class, abusive
14 language to student, lying and abusive language to
15 adults.

16 Q And I think you mentioned your colleague -- I'll
17 mispronounce her name.

18 A Dr. Devenyi.

19 Q You indicated she went to school, and at that
20 point in time, your testimony was she didn't find any
21 organic disease or defect, didn't find any kind of
22 trauma from living in Playcard or anything like that,
23 but just actually found depression. There is reasons
24 for it, but that diagnosis, at that time, isn't it true
25 it is depression?

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1 A Yes.

2 Q And it specifically -- we're going to get into
3 trauma for a second here. You mentioned pre-PTSD, that
4 there was a discussion of Attention Deficit Disorder
5 Oppositional Defiance Disorder?

6 A Yes.

7 Q So that is prior to the exposure of any specific
8 trauma -- not trauma, but in addition to trauma at that
9 point in time in this young man's life; is that
10 correct?

11 A Yes and no.

12 Q Other than the environmental trauma being in
13 Playcard, and you explained that?

14 A Right, it is under corporal punishment.

15 Q Things like that?

16 A Yes, sir.

17 Q Were you aware of any -- I'm sorry. Any other
18 siblings in that household that had faced corporal
19 punishment, with the same learning environment, that
20 has been diagnosed with such trauma that this
21 individual finds himself with?

22 A I don't know. That is a good question. I have
23 not reviewed it. If so, I was not provided any mental
24 health records for them. There certainly have been
25 some that had illegal behaviors, but as far as I know,

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1 not -- unless I stand corrected, there is no evidence
2 that others were treated for mental health.

3 Q That manifested with those situations?

4 A Correct.

5 Q All right. Let's talk about some of the specific
6 diagnostic criteria that you used. You do a great job.
7 I want to point out some of the things. Isn't it true
8 that when you are trying to assess appropriate
9 diagnosis, and the list of the items that you relied on
10 to form your opinion was extensive, you went through a
11 lot of stuff, didn't you?

12 A Yes.

13 Q Sure did. Including the South Carolina
14 Department of Corrections' records. I think you did --
15 you reviewed those in determining and you relied on the
16 assessments of clinical mental health professionals in
17 the Department of Corrections, their documents, to
18 determine your diagnosis?

19 A That's right. It certainly helps. I have my
20 impressions that I'll get from interviewing the
21 patient, and if you can have corroborating sources,
22 that is the best of situations.

23 Q And, specifically, I think you mentioned a
24 possible indicia of some type of PTSD with symptoms of
25 anxiety?

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1 A Yes.

2 Q And wasn't it true that the record is replete
3 with multiple references for constant things like stop
4 eating onions, stop eating tomatoes, you have acid
5 reflux, and they gave him Zantac for that; isn't that
6 right?

7 A Yes. If I may? He kept presenting with chest
8 pain, so initially they worked it up and did an EKG.
9 It was after a number of times. Then, when they ruled
10 out it was a cardiac symptom, they felt it was related
11 to perhaps reflux. Originally, they put him on Zantac,
12 but then I think they put him on Prilosec.

13 Q So as a lesson to all of us, isn't it true they
14 told this individual don't eat chocolate, peppermint,
15 coffee, onions, garlic, tomato-based sauces, citrus,
16 fried or fatty foods, which eliminates a bunch of food
17 groups, but that is not anxiety or post-traumatic
18 stress, it may be an indicator of it, but this is
19 not?

20 A Well, that was not a psychiatrist that saw that
21 and made the diagnosis, but the medical professionals,
22 that is where they thought it was reflex.

23 Q Sure. All I mean is if you are relying on this
24 information, and you are aware of this information, a
25 possible contributor, a contra indicator of anxiety or

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 post-traumatic stress, but eating a bunch of stuff that
2 is giving you acid?

3 A Sure. Prison diet is not the best.

4 Q There you go. There you go.

5 As it relates to sleeping, I think you mentioned
6 you had heightened concerns over sleeping only three
7 hours, and that you reviewed the records in
8 determining that.

9 I just want to take a look at, I think,
10 multiple -- I'll start with what has been provided in
11 discovery, Document 1842. Let's make sure I do it
12 first in time, so we'll go oldest to newest.

13 Do you recall that on August 22nd of 2016, I
14 think quality -- qualified mental health professional
15 Ms. Privett (phonetic), spoke with Mr. Jenkins, and he
16 indicated that he was sleeping about six hours,
17 sometimes more. He was eating food daily. No
18 hallucinations. No suicidal ideations. Oriented. No
19 further services required?

20 A Yes.

21 Q And he's not taking medications?

22 A Correct.

23 Q So at some point in time, he was prescribed
24 medications. Was he prescribed Zoloft at that time, or
25 we're still talking about Zantac?

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 A No. I believe he didn't get the Zoloft until
2 2018, and I believe you said that is 2016.

3 Q So that was August 22. So let's go forward in
4 time. I think I got the last one first.

5 So starting back on September 11th of 2016, at
6 this particular time it says that -- isn't it true
7 that it says that Inmate Jenkins was sleeping about
8 six to seven hours a day, eating food daily, denied
9 ideations; do you recall all of that?

10 A Yes. There were periods of time when his sleep
11 was normal, but there is also documented periods of
12 time where it was three and four hours.

13 Q I'm going to keep going through, because I have
14 not found that yet.

15 December 5th of 2016: Eating food, not taking
16 medications and sleeping about seven or eight hours.
17 He reports I'm not having -- he reports just generally
18 doing okay?

19 A Correct.

20 Q And then I think the last one in time -- so are
21 you aware -- does that provide less of a concern for
22 you if he's sleeping six to eight hours a day, than if
23 you consistently believe he's three hours a day; in
24 other words, he's manifesting PTSD if he's sleeping
25 eight hours, versus three?

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 A Yeah. And you can have that. That just means
2 he's not having symptoms at the time. The insomnia
3 comes from two sources. It could be a symptom of
4 Post-traumatic Stress Disorder, and it also could
5 happen in loud environments. When you are in an
6 environment, prison doors are clanging, there's always
7 inmates yelling, there is a lot of people that don't
8 sleep at night. I wanted to give you the specific
9 date. I have that.

10 Q I'm not trying to sneak up on you.

11 A Yeah. It was October 27, 2015.

12 Q Okay.

13 A Where I found that the documentation that he was
14 sleeping three hours a day.

15 Q Okay. Than you very much.

16 Had you seen through the course of your review of
17 the mental health documents occasions concerning
18 Mr. Jenkins not taking the prescribed medication that
19 was given to him?

20 A Yes.

21 Q There were several qualified mental health
22 assessments by a variety of practitioners, and more
23 specifically into the Zoloft, where he wouldn't take
24 Zoloft that was prescribed for anxiety?

25 A Yes. He was having diarrhea.

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 Q Let me ask you. One of the indicators -- what
2 I'm trying to build up to is contra-indicators to your
3 diagnosis of PTSD, is what I'm working on.

4 I think you indicated that one of the concepts of
5 PTSD is a fatalistic idea in your mind, you aren't
6 going to make it past 17, you don't have anything to
7 live for?

8 A Yes. The actual technical symptom is called
9 negative altercation. That is a big fancy word for you
10 think negative things and bad things because of some of
11 the exposure.

12 Q And if your testimony is that the PTSD was
13 established based on his lifestyle, his exposure to
14 violence at Playcard in his elementary school going to
15 high school days, are you aware of being excited to go
16 to Job Corps to develop a future career outside of high
17 school?

18 A Absolutely. He was really looking forward to
19 that.

20 Q Wouldn't that be an ideation of living past 17
21 looking for a future in Job Corps?

22 A Sure. Sure. But I think the best answer I can
23 you is that his cousin thought he would live for
24 awhile, too, and he went to the gas station in the
25 middle of a barbecue -- you can plan ahead, but he

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 didn't think he would live past that age because of
2 some of the things that happened to family members. So
3 they are not mutually exclusive of one another.

4 Q Sure. But if your diagnosis is based on the fact
5 we believe he has PTSD because he thinks he is going to
6 die before 17, and that is your diagnosis, the fact he
7 says I'm going to make it to Job Corps and I have a
8 future, that contra-indicates that point?

9 A No. In my opinion, not at all. I didn't base
10 that just on that statement. There were things like he
11 blames himself --

12 Q Sure. Sure.

13 A There is many other symptoms, but you are right.

14 Q We'll get to the symptoms in a second. I'm just
15 talking about this one now. We'll build on the others
16 in a second.

17 Also, in addition, are you aware of a
18 diagnosis -- an assessment that was included in your
19 packet of information provided for you to form your
20 opinion, July 19, 2018, by Rosa Wood -- excuse me,
21 that is Ms. Privett, Rosa Privett. She performed that
22 qualified mental health assessment. She basically did
23 a collection I think for Beverly Wood, as well as
24 yourself?

25 A Correct. That would have been, I believe, at

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 1 o'clock in the morning. Dr. Wood was coming
2 January 19th to see him, and no one had done the
3 assessment for her.

4 Normally, when the psychiatrist -- when I would
5 go to a prison, if we were going to see someone,
6 normally they would have had a history obtained so we
7 can use the time more accurately diagnosing instead of
8 obtaining a history. So I believe that was done at
9 1 o'clock in the morning before Dr. Wood came the next
10 day.

11 Q It says 12:15 a.m. and 1:20 a.m.?

12 A Yes.

13 Q On that, is there a section concerning
14 developmental history that you would have relied on in
15 reviewing the documents?

16 A Yes.

17 Q And, specifically, an indication that this
18 individual would like to go back to school and get his
19 GED, and this would have occurred after the offenses in
20 question?

21 A Absolutely. Yes.

22 Q So at the point he's in Lee or at the Department
23 of Corrections, he is not developing ideations that he
24 wouldn't make it anymore. He's projecting in the
25 future when things are okay and better?

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 A Sure.

2 Q Is that a contra-indication of living under
3 post-traumatic stress?

4 A No. People with PTSD are very successful. You
5 can have periods of times when you don't have any
6 symptoms; you are able to function. But then something
7 may happen, there is a reminder, maybe you see a TV
8 commercial, there is a lot of people that avoid doing
9 things, and if you have a reminder, you might have a
10 week or two where you have very acute symptoms. So it
11 waxes and wanes. So there is periods of time where the
12 person can function very well.

13 Q Would the symptoms regenerate or be concerned
14 when you're getting closer and closer to being a
15 defendant in a death penalty trial?

16 A Sure. Sure. Stressful things in the
17 environment. We know that the -- there is things if
18 you have family dysfunction, if you have financial
19 problems, if you have upcoming stressors, they
20 absolutely can trigger some of the symptoms.

21 Q Thank you.

22 Let's talk about -- I think you mentioned a
23 scientific method of corroborating. Is it safe to say
24 that most of the information you receive is from
25 interviews from those involved and those around it,

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 and then you try to corroborate -- based on the
2 interviews, you try to corroborate the information you
3 received from your personal interviews?

4 A Yeah. Little bit backwards. I'll make an
5 observation, and then I ask -- there have been specific
6 instances where I ask can we make sure -- if there is a
7 way I can verify a trauma happening, I try to do that
8 so there is evidence there instead of based on just
9 what only the person says.

10 Q Sure. Sure. So as it relates to your testimony
11 early on about being exposed to substantial trauma, I
12 think is your testimony, that this particular
13 individual had a very traumatic childhood and
14 traumatic -- up to the point before we're before the
15 Court today?

16 A Yes. And I use the words "substantial" because
17 it is the premise of it. It wasn't that he was a
18 victim of a tornado or shot in the head, that he saw
19 Marcus get killed. It was the number of them and how
20 they span this period of development.

21 Q So accumulative effect of living life?

22 A Yes.

23 Q Were you aware on his mental health evaluation on
24 July 19, 2018 a trauma history that this individual
25 reported history of domestic violence, and specifically

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 denies a history of physical abuse or negligent. No
2 trauma to elder abuse. No trauma to community
3 violence. No trauma to verbal or emotional abuse.
4 Reported no trauma to sexual abuse or molestation, and
5 no trauma to the integration process; do you recall
6 relying on this individual saying that he did not
7 suffer from that level of trauma on July 19, 2018?

8 A I saw it, but did not consider that reliable at
9 all. It was midnight. He had just been through and
10 had problems at Lee County, and I believe that there
11 had been some legal issues. I think he had a
12 disciplinary pending. So in the middle of the night --
13 and those questions were asked in the way you don't ask
14 them. That is what I was explaining to the jury, you
15 don't ask someone -- especially someone that has been
16 through that kind of life -- did you have problems with
17 the integration process. You have to be very specific.

18 An inmate -- it is not safe for an inmate to
19 talk. They have to trust you. Mr. Jenkins talked
20 with me because his team -- we knew a lot about him
21 before I got in there. You will not meet someone that
22 has been through trauma and talk to them in 45 minutes
23 at midnight and get any trauma history that I consider
24 reliable. You have to look at the credentials of the
25 person that is giving that. I believe Ms. Privett --

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 I don't think she is even at a master's level. She is
2 a counselor there. To be a counselor at the
3 Department of Corrections, that requires a bachelor's
4 degree. So it depends on a number of things. That
5 one, I certainly looked at it, but I consider mine
6 more reliable.

7 Q Would you acknowledge that that is not the only
8 document that reports his recollection -- his reporting
9 to a qualified mental health counselor?

10 A I agree. I haven't worked at a prison, and I
11 know most of the counselors he worked with; I'm aware
12 of them.

13 Q So the question I'm going to ask is: If you
14 determine an effort to corroborate factual
15 circumstances that support your diagnosis, I understand
16 that, but if you discard ones that do not support your
17 diagnosis, that is the concern that I want to ask you
18 about, why that was not included? Because that
19 contra-indicates your ultimate diagnosis, and that is
20 what we're trying to understand.

21 A Sure. I don't consider that.

22 Q Shouldn't we corroborate all of them, good or
23 bad, equally, rather than assuming one doesn't apply?

24 A Sure. I didn't do that.

25 Q I misunderstood.

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 A I certainly considered it. I looked at it.
2 There was some criminal domestic violence. There was a
3 lot of things from that account that were helpful, but
4 I think your question was did I consider it reliable,
5 and I didn't.

6 Q No. No. I didn't -- I apologize. Were there
7 any indications that you had -- we talk about -- any
8 indications that you had developed during the course of
9 reviewing of these documents to indicate that
10 Mr. Jenkins was attempting to manipulate the mental
11 health environment, the mental health evaluation
12 process?

13 A Yes. And I would like to explain that. There
14 was a note from Bruce Oberman (phonetic), and I know
15 Mr. Oberman. What happened was when he was prescribed
16 Geodon, the anti-psychotic medication that Dr. Woods
17 put him on. For Geodon to work, you have to have
18 350 calories of food. We know that through medicine.
19 If you check the order, she wrote an order, I believe,
20 stating make sure you give him, I think it is,
21 325 calories. So what happened is there was an
22 interaction when he was getting medication he was
23 telling them I need peanut butter, I usually get this
24 medication with peanut butter. He was asking for other
25 things. Mr. Oberman's impression is that he was kind

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 of using his knowledge of the system to get extra foods
2 and things, but he had ample doses for it.

3 Q If you talk a medical basis for that, I
4 understand that, referring to taking Zoloft. But,
5 specifically, were you aware of the fact that the folks
6 that were dealing with Mr. Jenkins during that period
7 of time indicated that he seemed to be quite
8 manipulative and might be fabricating some of his
9 alleged symptoms; were you aware of that?

10 A Yes. I think there were concerns that he was
11 reporting hearing voices, and the voices he said it
12 first happened when he went to the bay. I did not
13 diagnose him with psychosis. You can get paranoid from
14 post-traumatic stress, but I agree, I didn't diagnose
15 him with psychosis. He didn't report those symptoms to
16 me. I didn't feel like he was manipulating me, but I
17 was very aware of that in the record.

18 Q I'm behind on the times because I spent my time
19 on DSM-4, not 5. But in DSM-4, and correct me, because
20 I'm sure some of the technology is different and I'm
21 not exactly on point, but when you are trying to return
22 a diagnosis under the diagnostic criteria of some of
23 that PTSD, understanding the overall scheme, but if you
24 could help illustrate for us the onset of symptoms
25 after a traumatic event. You have -- isn't it true

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1 that one of the concerns you have is that folks that
2 suffer from PTSD tend to try to avoid exposure to a
3 simulation or event that triggers what caused the PTSD
4 the first time?

5 A Sure. That is still one of the symptoms.

6 Q And this is a very infantile way of explaining
7 it, but see if this is true: For instance, you can
8 understand a Vietnam war vet not wanting to watch a war
9 movie?

10 A That is a good example.

11 Q To stay away from that traumatic event?

12 A Sure.

13 Q So if your diagnosis is he suffers from PTSD from
14 watching the shooting death of an individual, isn't it
15 contra-indicated that Mr. Jenkins would place himself
16 in a situation where he kills a clerk at a convenient
17 store, getting closer to the event that causes the
18 PTSD, not further away from it?

19 A If you put it in that term, that makes sense.

20 Q How about if he does it again?

21 A That certainly makes sense. But keep in mind,
22 there is some records in there that would indicate he
23 was having PTSD symptoms in the Department of
24 Corrections from one of those offenses.

25 Q Could you create PTSD for yourself when you are

DONNA SCHWARTZ-MADDOX - CROSS-EXAMINATION

1 responsible for the killing of two people?

2 A Yes. Sure. I have seen a lot of people that the
3 trauma itself was traumatic for that person, for
4 whatever reason, and that happens too. That certainly
5 sometimes depends on the person. In my opinion, I
6 didn't make that opinion about Mr. Jenkins, but, sure,
7 it can happen.

8 MR. HIXSON: Thank you for your work and time.

9 Nothing further.

10 THE COURT: Redirect?

11 MR. WILSON: No other questions, but I would like
12 to offer into evidence what was previously marked as
13 Defendant's Exhibit 12 and 11 as exhibits.

14 MR. HIXSON: We object to that, specifically
15 because of the contents of that as it was addressed in
16 your pretrial ruling. Not the curriculum vitae, but.

17 THE COURT: What number is the CV?

18 MR. WILSON: It is 11.

19 THE COURT: No objection to the CV?

20 MR. HIXSON: Let me take a look, but, no, I think
21 it was a nice resume.

22 (A brief pause in the proceedings.)

23 MR. HIXSON: No. No.

24 MR. WILSON: Then I would ask that this is a
25 Court's exhibit because of the earlier --

DONNA SCHWARTZ-MADDOX - REDIRECT EXAMINATION

1 THE COURT: It is for identification, so you
2 don't need to make it a court's exhibit.

3 Defendant's 11 is admitted without objection.
4 Exhibit 12 is not admitted based upon the Court's
5 previous ruling.

6 (Defense Exhibit 11 admitted.)

7 REDIRECT-EXAMINATION

8 BY MR. WILSON:

9 Q Ma'am, did you do any IQ tests on Jerome?

10 A No. That is not my area of expertise. That is a
11 psychologist. I did a neurological exam.

12 Q In your going through the school records, did you
13 see what they did with his IQ?

14 A I did.

15 Q Would you tell us about that?

16 A Sure. I apologize. My notes are more cryptic in
17 the report because I was relying -- I didn't put all
18 the subscales in there, and I'm glad to go through
19 those if you want me to. I would need the actual
20 report from the psychologist, but he was given a Risk
21 3. He was found to have a full-scale IQ of 81, which
22 is below average. 80 to 100 is considered average.
23 His verbal -- back then, the test they used said your
24 IQ was divided into two components: Verbal skills and
25 performance skills. Now the new tests has more,

DONNA SCHWARTZ-MADDOX - REDIRECT EXAMINATION

1 working memory indexes and they are a lot more
2 developed than in 2004. He was found to have a verbal
3 IQ of 92, which is average. A performance IQ of 73,
4 which is borderline. That means it was lower than
5 average. It is called borderline. You can see that is
6 part of the brain -- some of the test that they give,
7 for example, you might look at a picture and something
8 is missing, and your brain has to find what is missing.

9 Another one of the tests you have to base on is
10 you have to put a "T." Sometimes the "T" is upside
11 down, sometimes sideways. So when you see the number,
12 you have to put the corresponding "T". So it is
13 basically a test that when your brain is telling your
14 body to do something, there is a disconnect there.

15 Q In regards to the IQ that we're talking about,
16 who performed those tests in order to make the
17 determination as to what his IQ was?

18 A It was a psychologist. Her first name was Jada
19 and I think -- I'm sorry.

20 Q Was that with the Horry County School District?

21 A Yes. He had seen Dr. Devenyi, and then he had a
22 school test and followed up with school counseling.
23 This psychologist, she diagnosed him as educationally
24 disabled.

25 Q What year would that have been, and what grade

DONNA SCHWARTZ-MADDOX - REDIRECT EXAMINATION

1 would he have been in when that diagnosis was made?

2 A It should have been on -- I think it is 2003 or
3 2004, but let me get the exact....

4 He was nine years and nine months old. He was
5 born in, I believe, '94, so it would have been in
6 2003.

7 Q So this test was done when he was nine?

8 A Yes.

9 MR. WILSON: Court bear with me one second, Your
10 Honor, please.

11 (A brief pause in the proceedings.)

12 MR. WILSON: I don't think I have any other
13 questions.

14 THE COURT: Follow-up?

15 MR. HIXSON: No, sir. Thank you.

16 THE COURT: Thank you, Dr. Maddox.

17 DR. MADDOX: May I be excused?

18 THE COURT: Yes, ma'am. Have a safe trip home.

19 MR. WILSON: Defense would rest.

20 THE COURT: The defense has rested its case, so I
21 have matters I have to take outside of your presence,
22 and these will take a little longer than normal. So
23 we'll be on a break. Mr. Bobby, I'll let you come
24 back and let you know, but we'll be on a break while I
25 take matters outside of your presence and we'll be

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1 back with you in a little bit. Do not discuss the
2 case or anything about it in any way, shape or form.
3 You are to keep an open mind about the case, and we'll
4 be back with you in a little bit. Everyone else stay
5 seated while the jury is excused.

6 (The jury exits at 11:40 a.m., and the
7 following is heard out of the presence of the jury.)

8 THE COURT: Is there anything you need to take up
9 before we start talking about jury charges?

10 MR. HIXSON: Nothing I'm aware of.

11 MR. WILSON: Your Honor, and I'm not sure that I
12 need to do this, but I guess it is probably
13 appropriate, out of an abundance of precaution, I
14 renew all the motions I made during the course of the
15 sentencing phase of the trial, and just renewing all
16 motions I made.

17 THE COURT: Your motions are renewed at the
18 appropriate time, they are noted for the record. I
19 understand what those motions are and my ruling upon
20 them would be the same.

21 Let's talk about jury charges. The order will be
22 the State goes first, and then the defense goes last;
23 you agree on that?

24 MR. HIXSON: Yes, sir.

25 MR. WILSON: Yes, sir.

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1 THE COURT: Is Mr. Jenkins making a statement?

2 MR. WILSON: Yes, sir.

3 THE COURT: When we take a break, you can talk
4 about it again. I just want to know -- I just want to
5 know is it going to happen at the beginning, middle or
6 end so I'm prepared for it.

7 MR. WILSON: If it happens, it will be before I
8 do our closing.

9 THE COURT: So when we -- we'll take a break here
10 in a few moments and let everyone put their thoughts
11 together. So you can talk to your attorneys or anyone
12 else that you need to about it at that point in time;
13 make sense?

14 MR. WILSON: Yes, sir.

15 THE COURT: All right. So let's kind of work
16 through these charges, kind of the opening paragraph
17 says there is two possible verdicts, either death or
18 life imprisonment without the possibility of parole.

19 Next paragraph goes into whatever sentence they
20 recommend is the sentence that I'll impose. So just
21 because we use the word "recommendation" doesn't mean
22 that I won't follow it. I'll follow the sentence they
23 impose.

24 We've been working on these forms now for a few
25 days, so I think we have -- do you have all of this

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1 stuff? Are you printing it?

2 THE CLERK: Uh-huh.

3 THE COURT: I think I have all the forms, because
4 we have to send multiple forms back with different
5 things on each form, so I think I have all of those,
6 but we'll go through them.

7 So the first decision that they have to make is
8 they have to determine whether or not he's even
9 eligible to be sentenced to death, so that means that
10 they must unanimously decide that the State presented
11 evidence, beyond a reasonable doubt, to the existence
12 of a statutory mitigating circumstance; that means
13 before they can even consider the punishment, they all
14 have to agree that a statutory aggravating
15 circumstance exists.

16 So the first form -- the first form that goes
17 back is the aggravating circumstances and mitigating
18 circumstances form that says you can -- you may
19 consider the following statutory aggravating
20 circumstances, and I have on here that the murder was
21 committed while in the commission of a robbery, while
22 armed with a deadly weapon, and then that the murder
23 was committed while in the commission of a larceny
24 with use of a deadly weapon.

25 Is the State requesting any other aggravating

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1 circumstances to go back besides those?

2 MR. HIXSON: No, sir. We believe those are the
3 two applicable aggravators.

4 THE COURT: We'll come back to mitigating
5 circumstances in just a second.

6 Then I sign that form to give them that these are
7 the ones you may specifically consider.

8 Then the second form that will go back is a form
9 entitled "Aggravating Circumstances." That says: We,
10 the jury, unanimously find, beyond a reasonable doubt,
11 the following statutory aggravating circumstances, and
12 there is a place for them to list whichever ones they
13 find, and then each individual juror has to sign that
14 form if they find that. There is also a box I added
15 that says "none found" for them to sign. So that is
16 second form that would go back.

17 Then the third form that would go back would be
18 the recommendation of life imprisonment, and I just
19 have a spot for the foreperson to sign. So we, the
20 jury, unanimously recommend to the Court that the
21 defendant be sentenced to life in prison, and a spot
22 for the foreperson to sign.

23 And then the last form that goes back is: We
24 find beyond a reasonable doubt, unanimously, the
25 following statutory aggravating circumstances and

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1 recommend to the Court a sentence of death, and then a
2 spot for each of the jurors to sign.

3 This first form is called "Statutory
4 Instructions," and the second form will be
5 "Aggravating Circumstances." The third form will be
6 "Recommendation of Life Imprisonment," and the last
7 form will be "Recommendation of Death." So we will
8 come back to those in just a second.

9 Back to the charges, I explain what an
10 aggravating circumstance is; it is a fact, an
11 incident, detail or occurrence that our state
12 legislature has decided to make murder cases worse,
13 and then -- so they have to find that the murder was
14 committed while in the commission of the following,
15 and I define "while in the commission of" directly
16 from the cases. Then I say, Armed robbery or larceny,
17 and then I define "armed robbery" just from the normal
18 charge that we use -- that we used in the guilt phase.

19 MR. HIXSON: May I ask a question? Are you using
20 the statutory definition of "while in the commission
21 of," because I saw there is some distinctions -- it
22 wasn't an error, but I saw that it is preferred that
23 the statutory language is used rather than case law,
24 but I just wanted to bring that to the Court's
25 attention. That is a very subtle point, but

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1 nonetheless. If I recall the "commission of"
2 language, I think it is State v. Riddle, but my stuff
3 is downstairs on that.

4 THE COURT: The cite that the State provided us
5 was State versus Jones.

6 MR. HIXSON: That's right. Hold on.

7 THE COURT: I got to get back to that e-mail. So
8 while in the commission of -- according to State
9 versus Jones -- a murder is committed while in the
10 commission of another crime, when the crimes were
11 consummated in a continuance series of acts with the
12 murder. They had to have been committed in the same
13 place and not separated by any substantial lapse of
14 time.

15 MR. HIXSON: Yes, I agree with that a hundred
16 percent. I don't have a cite on it where it mentioned
17 the preferred choice -- it wasn't an error to use a
18 statutory language. Is there a definition section of
19 "in the commission of" in the armed robbery statute?
20 I'm not sure off the top of my head. That would be --

21 THE COURT: In the armed robbery statute?

22 MR. HIXSON: Yeah. There was language about
23 using the statutory definition, and perhaps that is
24 under 16-3-20 where the aggravating circumstances are.
25 I'll confirm that, Your Honor. I'm not trying to slow

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1 the process down, I was just aware of the statutory
2 language.

3 THE COURT: I don't see a statutory definition of
4 "while in the commission of" in 16-3-20.

5 MR. HIXSON: Very good, Your Honor.

6 THE COURT: Hold on. Let me read through it one
7 more time.

8 (A brief pause in the proceedings.)

9 THE COURT: I can't find one. If it is in the
10 code, I can't see where it is.

11 MR. HIXSON: Thank you, Your Honor. I apologize.

12 THE COURT: Then I would give the definition of
13 "armed robbery." In one of the conversations we just
14 had, do we give it in the past tense or present tense?
15 I give it in the present tense, even though they found
16 him guilty of armed robbery, they have to unanimously
17 decide that that existed while in the commission of a
18 murder. We just can't rely on the guilt phase
19 conviction for that.

20 I then remind them of what "proof beyond a
21 reasonable doubt" means. At this point, we added
22 this -- what I call the Skipper charge. The language
23 we put in says: In presenting evidence of a statutory
24 aggravating circumstance, the State has introduced
25 evidence of the details of the murder of Trish Stull,

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1 which the defendant was not convicted of in the guilt
2 phase -- it says "guilty," it should be guilt. This
3 evidence can only be considered as to the defendant's
4 characteristics and not as proof of the alleged
5 statutory aggravating circumstance. So I think I need
6 to change that to: The State introduced evidence of
7 the details of the armed robbery of Barbara McDowell
8 and the armed robbery and murder of Trish Stull, which
9 the defendant has not been convicted of either. This
10 evidence can only be considered as to the defendant's
11 characteristics and not as proof of the alleged
12 statutory aggravating circumstances.

13 Does the defense agree with that charge?

14 MR. WILSON: Yes.

15 THE COURT: Then I move on to mitigating
16 circumstances. I tell them that even if they find
17 aggravating circumstances, they must remain open
18 minded as to the appropriate punishment to impose, and
19 that the finding of an aggravating circumstance
20 doesn't create a presumption that they should impose
21 the death penalty. The death penalty is an option.
22 It is never mandatory that you impose it. The law
23 requires that you give meaningful consideration, not
24 only to the aggravating circumstances, but also to any
25 mitigating circumstances that the evidence shows.

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1 There are two types of mitigating circumstances:
2 Statutory and non-statutory. And then I define the
3 normal definition that we use, an incident, a detail
4 or an occurrence which our legislature has declared
5 would reduce the severity of the offense.

6 And then it goes into fairness and mercy, and
7 then it explains that this is not a justification nor
8 an excuse, it simply lessens the degree of one's guilt
9 that is making the defendant less blameworthy or less
10 culpable. And then I list out -- that's the point
11 where I would list out the specific statutory
12 mitigating factors.

13 So what is the defense's position on what
14 mitigating -- statutory mitigating circumstances exist
15 at this point?

16 MR. WILSON: Your Honor, we would ask you to
17 charge Number 1, which is the defendant had no
18 significant history of prior criminal convictions
19 using the use of violence against another person.

20 We also would ask that you charge "2" because of
21 the testimony of Dr. Maddox, that the murder was
22 committed while the defendant was under the influence
23 of mental or emotional disturbance. We would not ask
24 -- we would not ask for "3." "4", the defendant was
25 an accomplice in the murder committed by another

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1 person, and his participation was relatively minor.

2 The defendant acted under duress of -- under the
3 domination of another person. The age or -- the age
4 or mentality of the defendant at the time of the
5 crime -- I'm sorry, that was No. 7. And, 8, the
6 defendant was -- sorry. That is not correct, Your
7 Honor, I apologize.

8 THE COURT: So you are requesting 1, 2, 5, 6, 7?

9 MR. WILSON: 4 as well.

10 THE COURT: Where is the evidence that his
11 participation was relatively minor?

12 MR. WILSON: Well, my position would be if they
13 were to believe -- and I don't know -- obviously, they
14 found him guilty of the murder already, but under his
15 story, he was forced to participate in the murder and
16 at gunpoint. So, you know, my position would be that
17 the fact that -- if that were true, that that would,
18 in my mind, lessen his role in the entire thing.

19 THE COURT: I don't dispute that, but I don't
20 think that is what that says. No. 4 is the
21 appropriate one for James Daniels. The evidence
22 before the jury, at this point in time, is that Mr.
23 Jenkins went into both convenient stores, armed with a
24 weapon on both occasions, armed with a weapon in the
25 armed robbery of Barbara McDowell, and on both

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1 occasions fired his weapon at both clerks.

2 MR. WILSON: Yes, sir.

3 THE COURT: What is the State's --

4 MR. WILSON: I apologize. I didn't mean to
5 interrupt you. I wanted to be sure that you
6 understood I wanted 7 and 8.

7 THE COURT: 8? The defendant was provoked?

8 MR. WILSON: I apologize. 7. 7.

9 THE COURT: Yeah, I know. I got that one. I'm
10 just going back through them.

11 What is the position of No. 1 from the State?

12 MR. HIXSON: It is burg second non-violent, and
13 he has a grand larceny.

14 THE COURT: He has a burg second non-violent,
15 grand larceny and a drug charge.

16 MR. HIXSON: And under our laws it is not
17 violent.

18 THE COURT: So No. 1 would be in. No. 2 will be
19 in. No. 3 has nothing to do with this case.

20 MR. WILSON: No, sir.

21 THE COURT: 4 the defense is requesting, but I'm
22 not charging No. 4. There is no evidence that his
23 role was minor. No. 5, he acted under duress, that is
24 -- there is definitely evidence of that in the record.
25 No. 6, there is definitely evidence of that in the

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1 record. No. 7, there is definitely evidence of that
2 in the record. I think there is a -- one of the
3 things about 2, 6 and 7 is there is a case that says
4 if there is evidence of voluntary intoxication, then
5 2, 6 and 7 -- so you didn't request 6, but do you have
6 an objection to me charging 6?

7 MR. WILSON: No, sir.

8 THE COURT: And so that case says that if there
9 is evidence of voluntary intoxication, that 2, 1 and 7
10 have to be charged, okay. So then I would go through
11 each of those. Back into the charge, I would go
12 through each one of those, and each one of those would
13 also be listed on the first sheet of paper that goes
14 back to the jury. Then I go through non-statutory
15 mitigating circumstances, and I define what those are.

16 I go through this explanation that they are not
17 supposed to be counting. It's not an issue of how
18 many aggravating, how many mitigating. They each have
19 to decide, based upon their own life experiences,
20 whether the sentence is appropriate or not, not just
21 adding up the different things that appear. They are
22 to weigh it and consider it.

23 And then I come back through the definition of
24 direct and circumstantial evidence, which is the same
25 charge I gave before I came back through.

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1 I come back through creditability of witnesses.
2 I come back through the normal expert witness charge.
3 And then do you want me to charge the defendant's
4 right to remain silent again?

5 MR. WILSON: Yes.

6 THE COURT: I give that normal charge that I
7 give. And then I go back through the verdict forms.
8 They have to unanimously conclude one or more
9 aggravating circumstances exist, and then each of them
10 have to sign that form, the aggravating circumstances
11 form. If you find no aggravating circumstances were
12 unanimously agreed upon, there is a box for them to
13 check "none found," and stop your deliberations and
14 inform the bailiff. If you do find one or more and
15 the unanimously decide life, then the foreperson signs
16 that form, and no one else has to sign that form and
17 they send that in.

18 The last one is they unanimously agree on
19 aggravating factors, and they unanimously agree on
20 death, and they all sign the last form.

21 I remind them that they have a duty to be fair
22 and impartial and to proceed without any bias or
23 prejudice towards either side. Both the State and the
24 defendant have a right to expect that they will
25 carefully and impartially consider the evidence and

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1 follow the law that I have given them.

2 MR. WILSON: Your Honor, is mercy included in
3 that, in your --

4 THE COURT: Yes. So in there -- let me get back
5 to it. I think what I'm going to do is I'm going to
6 print out all of this, two copies, and give it to you.

7 MS. WILLIAMS: Thank you.

8 THE COURT: So you can look through it, but I'll
9 get back to where it is. The paragraph says: It is
10 also permissible for a juror to decide that life
11 without parole is the appropriate sentence for any
12 reason or for no reason at all. You are not required
13 to make a finding that the mitigating factors
14 outnumber the aggravating factors in your own mind.
15 You are free to impose the sentence of life
16 imprisonment for absolutely no reason, even if you
17 find the existence of an aggravating circumstance and
18 no mitigating circumstances. This is what has
19 traditionally been referred to as a sentence based
20 upon mercy. In other words, you may choose to
21 recommend life without the possibility of parole, if
22 you find a statutory or non-statutory mitigating
23 circumstance, or you may choose to recommend life as
24 an act of mercy.

25 I just needed to find it.

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1 MR. WILSON: Yes, sir.

2 MR. HIXSON: I remember we introduced evidence of
3 future dangerousness, and I think there is a
4 definition that is required for the definition of life
5 without parole, if requested by the defendant or not,
6 and so --

7 THE COURT: So the definition of life without
8 parole in here says that life without parole is until
9 the death of the defendant without the possibility of
10 parole.

11 MR. WILSON: Yes, sir. And I would request that
12 you charge that.

13 THE COURT: Yeah, that is in the section. The
14 first thing -- I say: In this state, death is by
15 either electrocution or by lethal injection. And then
16 I say: I mean exactly that, life without parole is
17 until the death of the defendant without the
18 possibility of parole.

19 Anything else you want me to consider before I
20 print it all out?

21 MR. HIXSON: No, sir.

22 THE COURT: All right. We'll be in recess so
23 Katherine will make sure that everything I said is in
24 there, and then she'll give you copies of it.

25 Let's plan on starting back at 12:30. It is

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1 about 12:00 now.

2 (A recess was taken.)

3 THE COURT: Thank you. Anything from the State?

4 MR. HIXSON: Yes, sir, Your Honor. On Page 3,
5 just wanted to add an "or" where it says the statutory
6 aggravating circumstances, it says "and," but I think
7 either/or type of language --

8 THE COURT: You are correct.

9 What else?

10 MR. HIXSON: That is all I see.

11 MR. WILSON: Your Honor, the only other thing is
12 -- it's not here, the unanimity of the jury verdict,
13 that it does not have to unanimous as to life.

14 THE COURT: There is a specific case on point
15 that says you do not inform them that if they are a
16 hung jury then I sentence the person to life.

17 MR. HIXSON: That was what was provided to
18 Counsel this morning.

19 THE COURT: You are correct, that is a correct
20 statement of law, but that is an inappropriate charge
21 for the jury. The statute lays out what to do if the
22 jury is hung, if they have found for aggravating
23 circumstance, then the sentence is life without
24 parole, but there is a case directly on point that
25 says that is not for the jury to know as they go into

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1 deliberations. I think it is State versus Adams.

2 MR. HIXSON: Yes, sir.

3 MR. WILSON: So in our closings, we can't argue
4 that?

5 THE COURT: Argue what?

6 MR. WILSON: During the voir dire, that was one
7 of the things that we were saying. During voir dire,
8 the jury verdict doesn't have to be unanimous as to
9 life, that one vote for life would result in life.

10 THE COURT: That's an accurate statement.

11 MR. WILSON: Yes, sir. I'm saying we said that,
12 and my question is -- we said that during voir dire,
13 and I'm asking, I guess, can we say that during
14 closing or?

15 MR. HIXSON: That was my argument why I
16 repeatedly objected to them asking to avoid their duty
17 to deliberate by saying you can be the holdout, you
18 have to know that if all you do is hold out, it will
19 answer the question for you, and that is a violation
20 of the duty to deliberate. That is why I objected
21 every time it was said, you know, you just have to
22 hold out.

23 THE COURT: The question is is there -- I don't
24 know how you are going to phrase it.

25 MR. WILSON: Well, I mean, what I would say to

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1 them is that the verdict for life is not -- does not
2 have to be unanimous.

3 THE COURT: Well, that is in direct contradiction
4 to what I'm going to tell them, so.

5 MR. WILSON: Well, if I say that one vote for
6 life would result in a life sentence.

7 THE COURT: That's not necessarily true either,
8 because if there is no unanimity as to aggravating
9 circumstances, then the options for the Court are 30
10 to life.

11 MR. WILSON: But even if they find unanimity on
12 aggravating factors, they can still have one juror who
13 finds -- votes for life. My understanding is then the
14 law would be that it would still be a recommendation
15 of life; it would have to be.

16 THE COURT: Here is what the law says: If
17 members of the jury, after a reasonable deliberation,
18 cannot agree on a recommendation as to whether or not
19 the death sentence should be imposed on a defendant
20 found guilty of murder, the trial judge shall dismiss
21 the jury and shall sentence the defendant to life
22 imprisonment as provided in Subsection A.

23 There is a case specifically on point where the
24 jury -- the defense wanted that charge given to the
25 jury, and the supreme court said that that was not for

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1 the jury to consider.

2 MR. HIXSON: To add to the record on that, it is
3 because 16-3-20 sets out the statute for that. That
4 instruction is Rule of Criminal Procedure. It is not
5 a statutory instruction. In other words, the results
6 of unanimous is not in the statute, so it is in the
7 Rule of Criminal Proceeding on what shall happen if
8 this doesn't happen. That is why it is an
9 inappropriate argument not on the law, it is on the
10 Rule of Criminal Proceeding.

11 MR. WILSON: I understand. We just take
12 exception to that, but.

13 THE COURT: Anything else?

14 MR. WILSON: No, sir.

15 THE COURT: Hold on. Listen, what is about to
16 happen, if you are in the audience, is what we call
17 "closing arguments," and then I'm going to charge on
18 the law. So if you are in here right now, you need to
19 stay in here, all right.

20 Now, the State will be allowed to go first,
21 defense will be allowed to go second. After the
22 defense goes, I will then tell the jury what the law
23 is. That is probably the most unexciting thing to
24 happen in the history of the world. So if you want to
25 leave before I take 20, 30 minutes and explain the

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1 law, that's your time to do so. So if they want to
2 leave after -- Corporal Thompson, if they want to
3 leave after defense's closing argument, usually, in
4 most places where I try cases, there is a mass exodus;
5 that it is fine. But once I start charging on the
6 law, you are in here until it is over. The door is
7 locked. You want to see deputies act funny, just
8 stand up.

9 MR. HIXSON: May we approach very, very briefly?

10 THE COURT: Sure.

11 (Whereupon, a bench conference was had.)

12 THE COURT: The second thing I want to say before
13 we start this is the attorneys, on both sides, final
14 opportunity to address the jury, okay. We have all
15 been very fortunate that we have had 16 jurors who pay
16 attention, who stay awake, pay attention to the
17 witnesses, who pay attention to the attorneys, who pay
18 attention to me. We haven't had any issues. We
19 haven't had any behavioral issues with the jury in any
20 way, shape or form. We haven't had anyone sleeping.
21 We haven't had anyone dozing off. And so this is the
22 attorneys' final opportunity to speak to the jury. I
23 understand, and I believe everybody that is connected
24 to this case, that this case is very emotionally
25 charged. I get that. Believe me, I get it

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1 100 percent. If you are going to stay in here, then
2 we're not going to have any undue reactions. We're
3 not going to have any outbursts. We're not going to
4 have any head shaking or head nodding or "huh-huhs" or
5 whatever it is you think you may want to do. If you
6 cannot control yourselves, then you need to excuse
7 yourself from the courtroom right now; otherwise, I
8 will have you forcibly taken out of the courtroom
9 against your will, and I will consider taking you into
10 custody, okay. So this is a courtroom. If you are
11 going to be in here, you are going to show this
12 courtroom the respect that this courtroom deserves.
13 This is a court procedure. We're not in a movie
14 theater. We're not in a church. We are not at a
15 ball game. We're not at a high school graduation.
16 This is court. If you want to stay in here, you are
17 going to behave. If you don't, I'll have you taken
18 out, period. Okay. I understand this case is very
19 emotionally charged; I'm with you. I got it. The
20 time to show emotion is when the thing is over, not in
21 my presence, okay.

22 Is Mr. Jenkins going to be addressing the Court?

23 MS. WILLIAMS: At this time, it is his intention.

24 THE COURT: You understand you have a right to do
25 that, Mr. Jenkins?

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1 MR. JENKINS: Yes, sir.

2 THE COURT: Do you have any questions for me
3 about that in any way, shape or form?

4 MR. JENKINS: No, sir.

5 THE COURT: Have you discussed that with your
6 attorneys prior to today?

7 MR. JENKINS: I did.

8 THE COURT: Do you need any more time to talk to
9 them or anyone else?

10 MR. JENKINS: I need some more time on the
11 decision. Right now -- I want to make it, but
12 afterwards, I don't know.

13 THE COURT: Do you need time to talk to anyone
14 about it?

15 MR. JENKINS: During break, after closing?

16 THE COURT: You want to make a game-time
17 decision, and then decide?

18 MR. JENKINS: Yeah.

19 THE COURT: So if you want to talk, Ms. Williams
20 and Mr. Wilson know that they are allowed to talk to
21 you, and if you don't, you don't have to; you
22 understand?

23 MR. JENKINS: Yes, sir.

24 THE COURT: I'm not trying to be difficult with
25 everyone, but understanding these cases are emotional

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1 and a lot of differential feelings that everyone in
2 the room that is personally connected to this case
3 is going through, but we need to hold it together
4 through these closing arguments and the charge and the
5 law.

6 All right. Thank you all very much.

7 Now you can bring them in.

8 (A discussion was had off the record.)

9 (The jury enters at 12:44 p.m., and the
10 following is heard in the presence of the jury.)

11 THE COURT: Welcome back, ladies and gentlemen.
12 We have reached the point in the trial that is called
13 closing arguments. This is the point where the
14 attorneys have an opportunity to come before you and
15 summarize the case from their respective points of
16 view. As with everything that happens in court, there
17 is a rule and order in which the attorneys are allowed
18 to argue. So the State will be allowed to argue
19 first, and then the defense will be allowed to argue
20 second. At that point in time, I will explain the law
21 that is applicable to you as to the issues that have
22 arisen in this case.

23 I want to say this, and I just said this to the
24 attorneys, and I sincerely mean this. All 16 of you
25 have done a great job over the past however many days

CLOSING ARGUMENT BY MR. RICHARDSON

1 we've been together now, paying attention, staying
2 awake, following the witnesses, following the
3 attorneys, listening to my instructions. You are
4 engaged. You all are doing exactly what I would want
5 you to do as far as the level of attention to the
6 attorneys, witnesses and to me.

7 So this is the attorneys' final opportunity to
8 come before you. So I ask that you give them your
9 undivided attention, and I thank you for your service.
10 We will start with the State.

11 Mr. Solicit Richardson, the floor is yours.

12 MR. RICHARDSON: Thank you, Your Honor. May it
13 please the Court?

14 THE COURT: Yes, sir.

15 MR. RICHARDSON: Ladies and gentlemen, I did kill
16 that man, and I did kill that woman, and I'm not sorry
17 for it.

18 Let's talk just a second about that man. That
19 man's name was Bala Paruchuri, and you got to meet
20 Bala -- or the memory of Bala this week. That man
21 liked to play golf. He had impeccable work ethic. He
22 had two kids and a wife. That man was more than a
23 store clerk that was gunned down on January 2, 2015.
24 He left behind a wife that had to move out of the
25 house and go back to work. He left behind two kids

CLOSING ARGUMENT BY MR. RICHARDSON

1 that still love their dad to this day. One of them
2 still writes letters when the windows are foggy. That
3 is that man.

4 Now, you have heard about this case probably more
5 than you'll ever want to remember, but there is a
6 process, and the judge is going to explain that
7 process to you. You know that this is a death penalty
8 case, and when you go back to deliberate, the
9 deliberation is not going to be over guilt or
10 innocence. You already decided that. It is going to
11 be on what is the appropriate penalty.

12 So to get to Part 2, His Honor will give you a
13 sheet of paper that looks almost like the verdict form
14 that you had before, but it's going to include
15 statutory aggravating circumstances. You guys have
16 got to decide, again, that -- you've got to determine
17 for yourself was Bala Paruchuri during an armed
18 robbery or the larceny -- was the larceny committed
19 during the armed robbery? So on that sheet of paper,
20 what will happen -- see, because this is more than
21 murder. Death penalty is more than murder. It is
22 murder plus something else, and that is statutory
23 aggravators. So the only thing that the State is
24 alleging in this case is the murder plus armed
25 robbery. Murder plus theft of monies.

CLOSING ARGUMENT BY MR. RICHARDSON

1 So when you get that paperwork, and I know you've
2 already found him guilty in Part 1, but when you get
3 that paperwork, each of you will have to sign off
4 saying I believe that this robbery was committed in
5 the act of the murder, if you are truly moving on to
6 Part 2. If you find that that didn't happen, then
7 your part of this will be over. But if you find an
8 armed robbery, along with the murder, then we go on to
9 discuss what is the appropriate penalty, make sense?

10 That is why you heard so much about Jerome
11 Jenkins. I killed that man and that woman, and I'm
12 not sorry for what I did. That woman also had a name.
13 That woman's name was Trisha Stull. Trish Stull had
14 -- was worried. She knew about the death of Bala
15 Paruchuri. She was working her job like she had done
16 before and after Bala's death. You remember the
17 testimony of Shane Owens? I walked around this
18 building, you are going to be okay. I'm going -- I
19 checked, I have somewhere else I have to go, but you
20 are going to be okay. That was on January 23rd,
21 2015. Two days later, January 25th, Mr. Hixson
22 referred to as "doubling down." Doubling down.

23 Well, she is out here worried, talking to police
24 officers helping get this store closed down. On the
25 25th, she's outside smoking a cigarette. You saw

CLOSING ARGUMENT BY MR. RICHARDSON

1 the video. Jerome Jenkins and McKinley Daniels take
2 her from the front of that store back inside, rob her
3 at gunpoint, take her purse. If you want to watch it
4 again, you are welcome to watch it. They take her
5 purse, and before leaving, they gun her down. I say
6 "they," that is not a true statement. Jerome Jenkins
7 gunned her down. That is a very important point when
8 we're talking about all of this stuff about who led
9 who, and who made who do what.

10 I skipped over Barbara McDowell for a minute and
11 Jimmy McZeke. Let me remind you of those two. Jimmy
12 McZeke was with Bala. Remember him? He was at the
13 back of the store, and but for him being at the back
14 of the store, we would have had a double homicide or
15 could have that night, because they tried to kill him.
16 There were two guns involved in that case. They shot
17 in the back of the store, and Jimmy McZeke ran into
18 the bathroom and hid. But for the Grace of God, he's
19 fine. J.J. did shoot into that bathroom, but Jimmy
20 McZeke was down. He waited there, and then he came
21 out and went and told the police.

22 Then they doubled down and robbed Barbara
23 McDowell at the Lake Arrowhead store where 22 ends up
24 there in the northern part of Myrtle Beach. I want
25 you to think for just a second, after Bala Paruchuri's

CLOSING ARGUMENT BY MR. RICHARDSON

1 death, how many guns did you see? If you need to look
2 at it again, look at it again. There was one gun
3 robbing Barbara McDowell. Two people; one gun. There
4 was two people, one gun robbing Trisha Stull and
5 killing Trisha Stull. Do you know who had that gun?
6 For all of this stuff that he was following older
7 boys, he was doing this -- who did they give the gun
8 to? Who was the killer? In Bala Paruchuri's death,
9 both J.J. and McKinley Alexanders (sic) were the
10 killers. But the robbery of Barbara McDowell, one
11 gun. Two people; one gun. The robbery and death,
12 murder, of Trisha Stull: Two people; one gun. The
13 killer. Talk about doubling down.

14 Now, we've heard a bunch lately about PTSD, all
15 kinds of -- to the good doctor's credit, she did say
16 that that didn't have nothing to do with this murder
17 or series of murder, but he did -- he was -- he had
18 PTSD. He had chronic marijuana use, even though he
19 only used that, I think she said, 1 ounce every
20 two-and-a-half weeks, but we'll throw that in. He had
21 some undiagnosed depression, a whole series of stuff,
22 and that what is known as mitigators.

23 While we're on that subject, you promised not
24 only when we were talking to you individually that you
25 could listen to aggravators, but you promised to

CLOSING ARGUMENT BY MR. RICHARDSON

1 listen to mitigatory. Just because you find a
2 mitigator, it ain't like an aggravator. You must find
3 that if you want to move to Part 2. You must find
4 that the murder was committed in the commission of a
5 murder or robbery of monies, larceny.

6 The mitigators, you promised you would consider
7 those, too. I want you to think about she said none
8 of that other stuff had nothing to do with the murder.
9 She said he was following people older than him. Ask
10 yourself, Who had the gun? Who had the gun? The only
11 gun with Barbara, the only gun with Trisha Stull, the
12 only shooter with Trisha Stull, the only one. Who
13 knows Jerome Jenkins better than his brother, Raheem?
14 What did he say about him? Jerome was the boss of
15 everybody. Jerome is a leader. By his actions, you
16 see Jerome was the leader.

17 You can rewatch these tapes as many times as you
18 want to. Jerome was the leader in all of these
19 things. You see that he was the only one with the gun
20 in those last two robberies. The only one. This
21 nonsense about every time I got in a car with him,
22 craziest thing, I get in the car, I would sit in the
23 back, automatically McKinley would put a gun to my
24 head. McKinley -- how many times are you going to get
25 in that car? When does that become old, you know?

CLOSING ARGUMENT BY MR. RICHARDSON

1 Every time I sit down with you, you have a gun to my
2 ribs, to my head. I ain't getting back in that car.
3 That ain't happening. That is what we were talking
4 about, Mr. Hixson talking to you about the progressive
5 truth telling. The Aynor word for that is "BS." That
6 progressive truth telling is all right, all right, all
7 right, you got me, you got me, you got me. When he
8 was talking to Greg Lent, Hey, look, man, I
9 committed -- I saw the smirk on McKinley's face, so
10 I'm going to tell you some stuff. I shot Bala. I
11 shot Mr. Bala, and I did that robbery. Candy Cane did
12 that stuff with Trisha Stull. Why lie there? We call
13 it progressive truth telling, story telling, whatever
14 you want to call it. Why lie there? He told you, I
15 ain't looking for no death. I ain't looking for no
16 life. I know that if I admit to the robbery of Bala
17 Paruchuri, and then -- even then he said I shot him
18 one time, you know, McKinley killed him, too.

19 But Candy Cane did the other stuff. Candy Cane?
20 Who is Candy Cane? There ain't no Candy Cane. If
21 there is a Candy Cane, Candy Cane didn't have nothing
22 to do with it. That was J.J. J.J. finally ended up
23 telling about that.

24 Then it went from all right, all right, all
25 right, all right, it wasn't Candy Cane. Oh, well,

CLOSING ARGUMENT BY MR. RICHARDSON

1 look here, we got the video. Oh, okay. Okay. Well,
2 it wasn't. All right, I was smoking marijuana --
3 always some sort of excuse to where we were listening
4 the other day to the trailer park excuse. And I ain't
5 never heard that one before. Trailer park made me do
6 it. Playcard made me do it. That is what is known as
7 progressive truth telling. He's just trying to get
8 you to bite onto anything whether it is PTSD, whether
9 it is depression, whether it is marijuana, chronic
10 marijuana use, or not enough marijuana use, or once
11 every two weeks. There ain't nothing to that.

12 The real truth is the same truth that was told in
13 the story of Bala Paruchuri. Bala died when he didn't
14 need to die. Here is the real truth. Bala
15 Paruchuri's murder, and in Trisha Stull's murder, they
16 done had the money. They done had the money, and they
17 killed them anyway. I say they -- he killed them. He
18 was the only one with a gun. Bala Paruchuri had two
19 guns. He was the only one with the gun. They done
20 had the money. They were as close from leaving that
21 door from me to that chair, and they gunned him down,
22 and they gunned her down.

23 That is what you have to consider when you are
24 sitting back there figuring out what is the
25 appropriate sentence. What more does he have to do in

CLOSING ARGUMENT BY MR. RICHARDSON

1 your mind to make death the appropriate sentence?

2 You've got -- you'll have to find the aggravating
3 statutory circumstance, but beyond that, the killing
4 of another person, showing his character, the robbery
5 of this other woman, showing his character, the
6 doggone guards that come up here, one after another,
7 trying to feed him, trying to give him medicine,
8 cutting them, throwing urine on them.

9 You remember Ms. Fox? Throwing feces on her.
10 Why? Over a flap? Does that sound like a follower?
11 It sounds mean to me. It sounds to me like he has
12 earned justice.

13 Now, this is a paraphrase, but Ms. Brana told you
14 in opening, you know, maybe my client doesn't deserve
15 mercy, but he deserves fairness, and he deserves
16 justice, and I agree with that a hundred percent. You
17 all sat here and watched a fair trial. Now it's time
18 for justice. I want you to consider it, but don't get
19 caught up on this nonsense, this progressive truth
20 telling over and over and over.

21 The person that he wants you to see is not the
22 first grader or third grader or fifth grader. It's
23 not the little boy running into a light pole. We have
24 all done that. That is red herrings. That is
25 trickery. That is nothing. The person that he is --

CLOSING ARGUMENT BY MR. RICHARDSON

1 oh, and I was 20 years old, my brain ain't developed.
2 That was another one. Playcard, brain ain't
3 developed, all this mess.

4 The person who he really is is the person that
5 gunned down Trisha Stull. The person who he is is the
6 person that gunned down Bala Paruchuri, and shot at
7 and tried to kill Jimmy McZeke, that robbed Barbara
8 McDowell, all in two weeks. That manner of
9 destruction should give you enough to consider what
10 kind of true character this is.

11 What does he deserve? There is only two choices
12 at this point: Life imprisonment without possibility
13 of parole, or death. What does he earn in your mind?
14 I killed that man and that woman, and I'm not sorry
15 for it. But the letter doesn't end there. And may I
16 tell you, you talk about manipulating someone, Mama,
17 hey, get your Sunday meeting stuff out, I've done cut
18 my throat, you better put some money on my canteen,
19 get some Honey Buns here.

20 This letter ends Lonice -- Lonice lucky, because
21 if I get out soon on Sandy, Marcus, Sally -- can't
22 read the next word -- and G. [REDACTED], I'm going to blow
23 her F'g head off. That's my word. But love you, and
24 get your church clothes ready. Love always, the
25 problem child, Jerome Junior.

CLOSING ARGUMENT BY MR. RICHARDSON

1 When you are talking about character, remember
2 this was written while he was in pretrial detention.
3 Those guards, those were in pretrial detention. The
4 guards that got pushed up against the fence, by his
5 own testimony, the young man had leg shackles and arm
6 restraints on. That all happened when he was being
7 guarded about as good as you can be guarded, and he
8 found time to throw feces on somebody, throw pee on
9 somebody, or to cut people, or throw shanks at people,
10 or hit the young man on the arm and break the shield
11 of his mask. That is the J.J. that we're talking
12 about. That is the Jerome Jenkins that we're talking
13 about.

14 What has Jerome Jenkins' earned in your mind? Is
15 it life? Or is it death? What I was telling you
16 about those are a sampling. Those people that come up
17 here -- I think five of them, Captain Commander was
18 one. He told Captain Commander, If you don't do what
19 I'm asking you to do, I'm going to kill one of your
20 guards. That was a sampling.

21 This is his conviction letter. Now, they are
22 included on that. I said five of them, six of them,
23 seven of them, however many of them, but this is his
24 conviction record in pretrial. He was a pretrial
25 detainee. Those are all convictions, and that is in

CLOSING ARGUMENT BY MR. RICHARDSON

1 there for you to read and look over if you want to.
2 Talk about character of a person. This is what you
3 are dealing with. He don't deserve mercy. He
4 deserves fairness, and he's got that. Now he deserves
5 justice. I submit to you that the only resolution
6 that you can come up with that speaks justice to Bala,
7 to his family, to Trish, to her family, to Barbara
8 McDowell, to Jimmy McZeke and everyone that was
9 affected by this destruction is death. That is the
10 only resolution that speaks the truth. That is the
11 only one.

12 I ask you to go back, and I'll ask you to take
13 the forms that the judge gives you, and I'll
14 suggest -- this is your role -- that you look over
15 that sheet and determine for yourself that there is a
16 statutory aggravator. And if it is, it has to be
17 dealing with the death of Bala Paruchuri; was he
18 robbed during his murder? Was money taken from him
19 during that murder? If you find that, you must weigh
20 all of the other stuff and determine for yourself what
21 is the proper -- what sentence speaks justice. And
22 I'm going to say it: It is not just for those
23 victims, it is for Jerome, too.

24 What sentence speaks justice? I submit to you
25 the only sentence between death and life that speaks

CLOSING ARGUMENT BY MR. WILSON

1 justice, that speaks the truth, is death.

2 Thank you for listening to me. Please give
3 Mr. Wilson just as much attention as you have given
4 me. Thank you.

5 THE COURT: Thank you, Mr. Richardson.

6 Is the defense prepared to go forward?

7 MR. WILSON: Ready, Your Honor.

8 THE COURT: Okay.

9 MR. WILSON: Where do you start? Where we start
10 is the first thing that I said to you when I stood up
11 here, is that Jerome Jenkins was guilty. I talked to
12 you earlier, and that is just the beginning of the
13 process. That is how we get to this point. You have
14 two people who lost their lives, no question about
15 that. They are hurting. Their families are hurting.
16 Jerome caused that pain. He did that. We're not
17 disputing that. No one is disputing that.
18 Mr. Paruchuri did not deserve to die. He didn't.
19 Ms. Stull did not deserve to die. So then how do we
20 get here? How do we get here? You have a 20-year-old
21 boy -- 20 years old. But the problem didn't start
22 when he was 20; that was the culmination of the
23 problem.

24 Three years old, kindergarten. His behavior is
25 so bad in kindergarten they kick him out of

CLOSING ARGUMENT BY MR. WILSON

1 kindergarten. But nobody does anything. They kick
2 him out of kindergarten, but they wouldn't let him
3 come back. No one does anything. He finally goes to
4 school. Third grade, they determine he has an
5 emotional disability. Nobody does anything. They
6 kick him out of school. He goes back to school. Year
7 after year after year. Gets in trouble over and over
8 and over again. Nothing happens. Kick him out of
9 school. But, you know, one of the most telling things
10 is this: In fourth grade, fifth grade, they finally
11 decided that maybe we need to do something, so they
12 say let's put him on Ritalin to try to get control of
13 it. What does his mama say? He's eight years old.
14 He is eight years old. She said, no, he ain't getting
15 on no medication, not putting him on no medicine. So
16 what happens? Nothing.

17 So he's still trying to function in a world that
18 he's not equipped to deal with, and we knew that when
19 he was three years old. We knew that when he was
20 three years old. And, folks, let me say this: I'm
21 not saying that is a defense. That is not what I'm
22 saying. This is something called a self-fulfilling
23 prophesy that says if you tell someone long enough,
24 after awhile they start to believe it and they will
25 act accordingly to what you tell them. J.J. was told

CLOSING ARGUMENT BY MR. WILSON

1 over and over and over and over again, You are bad.
2 Three years old. You are bad. You are bad. You're
3 no good. You're just like your no-good daddy who is
4 in jail right now. That is how he grew up. That is
5 the life he lived.

6 I wish I could stand here and tell you that we
7 have a normal child like most of us, that his parents
8 were loving, that they cared about him, that they took
9 care of him. But it ain't true, and you heard it.
10 Now, am I blaming them? No, because they had their
11 own issues. Everybody is in jail. Multiple men in
12 and out. Hearing mama having sex in the room next to
13 you when you are eight, nine years old. That is the
14 life he lived. It is hard for most of us to imagine
15 that. It is difficult for us, and then you add to
16 that the fact that this child was troubled even before
17 that.

18 At three years old, you just don't be bad at
19 three years old. You don't. But instead of getting
20 love and getting medicine and getting treatment, what
21 do you get? Beatings. Beatings. Not spankings;
22 beatings. With what? Hose pipes and ax handles. But
23 that is the life. That's what he knew. That is all
24 he knew.

25 But it didn't stop there. It didn't stop there.

CLOSING ARGUMENT BY MR. WILSON

1 J.J. tried. He tried to get a job. He got a job,
2 several. What happens? Got fired. Why did he get
3 fired? Girlfriend comes down there and starts a
4 ruckus at the job, and they fire him. But you know
5 what I think was most amazing? Remember Ms. Tennant
6 when she came here, Marsha Tennant, who was his
7 teacher. She told you about the real J.J., the kind
8 of person that he really, really was. How when she
9 was being attacked by one of other students, how he
10 stood up for her, and not only did she tell you that,
11 but she told you -- not just how he did that, but how
12 J.J. would come into her classroom and sing hymns with
13 her and talk with her about cooking, because this is a
14 troubled young man who has issues, but deep inside,
15 there is a goodness. There is a decency. There is a
16 person who is worth saving.

17 I'm not saying he didn't do a bad thing, not
18 saying that at all, folks. J.J. grew up -- and,
19 again, there are a lot of people who grew up in mobile
20 homes, okay. They are fairly common here in Horry
21 County. You have seen pictures of Playcard, and you
22 have heard a description of that community. Again, it
23 is probably a place hard to imagine. Ms. Etta Green,
24 another one of his teachers gave you a really good
25 description. It is a violent place, so violent that

CLOSING ARGUMENT BY MR. WILSON

1 people are afraid to drive in there. Can you imagine
2 if you are afraid to drive in there how living there
3 every day of your life, hearing gunshots, hearing
4 people get shot, friends getting shots?

5 Did you see that chart they had where all of the
6 men in the family are either dead or in jail or been
7 in prison? That's the life he lived. He was born
8 into that. He didn't create it. You know, the
9 Solicitor in his comments said that J.J. had a gun.
10 That's true; no one ever denied that. We've never
11 denied that. Never denied that he had a gun. Never
12 denied that he was involved. Never denied that he
13 fired those shots. That is not something that has
14 ever been denied. He participated in those killings
15 of those people who did not deserve to die. No
16 question about that.

17 What we're trying to decide, and what we're
18 talking about is who is the real J.J.? Who is the
19 real person? All of these guards came from Lee, five
20 of them, and said he did this, he did that. Two
21 things: One, he had been at Lee for three years
22 without medication. Three years with no medication
23 for his illness. They put him on medication, and then
24 what happens? All of the problems stop. No more
25 problems when he is at Kirkland.

CLOSING ARGUMENT BY MR. WILSON

1 You heard the two officers who worked at Lee at
2 some point, says once he got there, there was no more
3 problems. Because they didn't put him on medication
4 until July of 2018, after he had been there since
5 2015. Just like they didn't put him on medication
6 when he was three years old, and he couldn't go get
7 the medication himself.

8 When you are locked up in a penitentiary, you
9 can't just go out and say, well, I need some medicine,
10 let me go get it. It doesn't work that way. Those
11 two guards from Kirkland, who worked at Lee, told you,
12 look, we worked with him -- one of them said -- almost
13 every day. Never had a problem with him. Never had a
14 problem with it. Not a single teacher who testified
15 up here said we ever had a problem where J.J. was
16 threatening towards us; in fact, if anything, it was
17 just the opposite. He was defensive of them.

18 Now, I want to talk about how we got to this
19 point. Let's talk about something that the solicitor
20 didn't want to talk about. Let's talk about the
21 influence of the codefendants on J.J. Let's talk
22 about the Daniels brothers. Let's talk about that,
23 because if you notice, that is one of the things that
24 he hadn't brought up. In all of his reign, he never
25 mentions them or what they did or what their

CLOSING ARGUMENT BY MR. WILSON

1 contribution was to these bad things that happened.

2 First of all, both of these boys are much older
3 than J.J. Not only are they older -- not only are
4 they older, but you heard the testimony from Detective
5 Lent, they are IGD. I know most of you probably don't
6 know much about gangs but it is called Insane Gang
7 Disciples. They are some bad dudes, okay.

8 Unfortunately, for J.J., he got involved with
9 them because they gave him money. You heard the
10 testimony, I'm not telling you anything that you
11 haven't already heard. He got \$500 from McKinley, and
12 he got 500 from James. They gave it to him, because
13 that is how it works. They gave him the \$500, and
14 then all of the sudden, you have to put in some work,
15 you have to do a lit with us. You don't do it, there
16 is a price to pay, and that's your life. That's the
17 world he lived in.

18 What happens then is this -- and that is how we
19 get to where we are here. Because these two
20 individuals, what we know about them is this: They
21 are much older than him. They have much more criminal
22 history than he does. The solicitor said, well, he's
23 the only one that had a gun. Where did that come
24 from? James Daniels. No question about that. There
25 is absolutely nothing inconsistent with that in this

CLOSING ARGUMENT BY MR. WILSON

1 record. Those guns came from James Daniels. There is
2 nothing in this record inconsistent with the fact that
3 Jerome Jenkins was threatened by McKinley Daniels.
4 Not one witness said that wasn't true. And believe
5 me, folks, I'll tell you right now, if there was some
6 proof that that wasn't true, they would be jumping on
7 up here with, oh, it ain't true, it ain't true, it
8 ain't true. It happened that way. It happened that
9 way.

10 So he had a choice: You participate, or you die.
11 It's that simple. Am I saying that justifies shooting
12 someone? No, I'm not saying that. I'm just trying to
13 help you understand the circumstances under which
14 these things occurred. When His Honor was instructing
15 you on what the law is, one of the things that he said
16 was the hand of one, is the hand of all. If two
17 people engage in criminal conduct, they are all
18 equally guilty, right? They are all equally guilty.

19 Now, I want to talk to you a minute about
20 Jerome's psychological history based on the testimony
21 of Dr. Maddox. I know you've heard a lot about how he
22 grew up, about his relationship with his girlfriend,
23 baby's mama, whatever you want to call it. Here is a
24 kid who was scorned and stained (sic) almost from the
25 very beginning. Daddy is in jail for armed robbery or

CLOSING ARGUMENT BY MR. WILSON

1 some other crime for 20 plus years. Granddaddy had
2 been in prison. Just over and over and over again.
3 It's like a vicious cycle, a vicious cycle.

4 But, you know, his dad came in here and he got on
5 that witness stand. It had to take a lot of courage
6 for him. It had to be really embarrassing to have to
7 have your son facing death and be able get on that
8 witness stand and sit there, because that is not an
9 easy thing to do, and say, look, I wasn't there for my
10 son. I was in prison. He didn't try to say, oh, I
11 didn't put myself in prison. He didn't try to get
12 away from that. He admitted that he did wrong, and he
13 ended up going to prison for a long time. He was
14 willing to come here and get on the witness stand and
15 ask you -- or at least tell you that he loves his son.
16 He loves him. You know, I wish we could go back. I
17 wish we could go back to January 1st, 2015. I wish
18 we could go back and start all over again, but we
19 can't, and J.J. can't.

20 Before I finish up, I want to talk with you about
21 your sentence in this case. The Solicitor said that
22 he doesn't deserve mercy. None of us do. None of us
23 deserve mercy, because mercy is not earned. You can't
24 earn mercy. It's something that is given from the
25 giver; it is not from the receiver. It is not

CLOSING ARGUMENT BY MR. WILSON

1 something that the receiver does to earn it, it comes
2 from in here (indicates) from the giver. Because if
3 we all had to deserve or earn mercy, we would be in a
4 lot of trouble.

5 You know, when I was a little boy my mama used to
6 clean up -- there was a shop right downtown where
7 Vanity Fair is now, and there was an insurance agency
8 upstairs. She cleaned that place up twice a week. In
9 the summer times, I would walk with her because we
10 didn't have a car. So I would walk with her to do the
11 cleaning, and I would take the trash down and that
12 kind of thing. And we would always have to pass by
13 this courthouse. I had never been in this courthouse
14 when I was a little boy. I always thought during
15 those years that this is where justice was, that this
16 is the place you would come to get justice, to get
17 fairness, to get what's right.

18 But I grew up and I went to law school, and then
19 I realized that justice doesn't exist in this building
20 at all. It doesn't exist in the garment that His
21 Honor is wearing. It only exists if it is in your
22 hearts and your minds. You are it. You are justice.
23 You are fairness. You are mercy. You are it. That
24 is the wonderful thing about our system. We, as
25 American citizens, get to decide the fate of our

CLOSING ARGUMENT BY MR. WILSON

1 fellow men and women. We get to decide, and so mercy
2 and justice are as good as we are.

3 I'm not going to belabor this because you heard
4 all of the testimony. You heard the testimony of
5 Dr. Maddox. You heard the testimony of Dr. Andrews.
6 You heard the testimony of Ms. Etta Green. You heard
7 the testimony of the officers from Kirkland. You
8 heard all of that, and isn't that a totally different
9 picture than the one you were given here? That is why
10 we ask you -- if you will recall during the voir dire,
11 we asked you to -- if you could keep an open mind.
12 Because guilt was always a given. So what we were
13 asking you to do was to keep an open mind until we got
14 to this point, so you could hear everything and not
15 have your minds made up.

16 Even at this point, you shouldn't have your minds
17 made up. Your minds should not be made up until after
18 His Honor instructs you as to the law and tells you
19 that you can go in and deliberate. His Honor will
20 tell you that you can -- as an act of mercy -- give a
21 life sentence, and that the law does not demand or
22 require that you give that.

23 Most of you heard that when we were doing voir
24 dire. J.J. deserves a chance to be the kind of person
25 that he can be. No, he will never ever walk the

CLOSING ARGUMENT BY MR. WILSON

1 streets again no matter what. He never ever will go
2 to McDonald's or Burger King or just go to the movies,
3 that is never ever going to happen if he lives to be
4 98 years old. That will never happen again. He's
5 never going to be able to put his arms around his
6 child and hug him; that will never ever happen again.
7 If you spare his life, maybe his son won't end up in
8 front of 12 people; maybe. Maybe we can stop the
9 cycle. Maybe we can put an end to it. Maybe we can
10 stop the violence.

11 J.J. never had a chance growing up under the
12 conditions under which he grew up. Never had a
13 chance. From kindergarten right on, he never had a
14 chance. Is that an excuse to kill someone? No. And
15 that is not what I'm saying. You ask most of us, you
16 give me a mental illness, whether you want to call it
17 an emotional disability or whatever you want to call
18 it, and you put me in that same environment, and what
19 do you think is going to happen? You are going to get
20 the same result.

21 And, yeah, is he responsible for what he did when
22 he was 20? Absolutely. But he's not responsible for
23 what he did when he was three. He's not responsible
24 for what happened to him when he was five, seven and
25 eight, which got him to where we are.

JURY CHARGE

1 I ask you, and I plead with you, to give J.J. the
2 chance that he has never had. I know he's done wrong.
3 He knows he's done wrong. So we ask you and we plead
4 with you for mercy in this case. Thank you.

5 THE COURT: All right. Ladies and gentlemen, it
6 is now my responsibility to charge you on the law
7 applicable to this case, and we'll let people slide
8 out of the courtroom. Whenever you give a jury
9 charge, the doors are locked.

10 (A brief pause in the proceedings.)

11 THE COURT: All right. Here we go. Mr. Foreman,
12 ladies and gentlemen of the jury, it now becomes your
13 duty to decide what sentence this Court should impose
14 upon the defendant, Jerome Jenkins. There are two
15 verdicts for you to consider: One is the death
16 penalty, which in this state is by electrocution or by
17 lethal injection, and the other is life imprisonment
18 without the possibility of parole.

19 Now, I want to explain to you exactly what the
20 effect of your sentence recommendation will be to the
21 defendant, Jerome Jenkins. First, when I tell you
22 that one possible sentence is life without parole, I
23 mean exactly that: Life without parole. This means
24 the death of the defendant without the possibility of
25 parole.

JURY CHARGE

1 Second, whatever sentence you recommend to the
2 Court is the sentence that I will impose. Because our
3 statute refers to your decision as a recommendation, I
4 need to make it perfectly clear that it is not a
5 recommendation as you would normally use that word.
6 Whatever sentence you impose, life imprisonment
7 without the possibility of parole or the death penalty
8 will be followed by this Court.

9 Now, as members of this jury, your first decision
10 as you begin your deliberations must be to determine
11 whether the defendant, Mr. Jenkins, is even eligible
12 to be sentenced to death. According to our law, a
13 defendant is eligible to be sentenced to death only if
14 you, as a jury, unanimously decide that the State has
15 presented evidence sufficient to prove beyond a
16 reasonable doubt the existence of a statutory
17 aggravating circumstance. This means that before you
18 can even begin to consider the appropriate punishment
19 for the defendant, either life imprisonment without
20 the possibility of parole or the death penalty, the
21 law requires that you first decide whether the State
22 has proven a statutory aggravating circumstance beyond
23 a reasonable doubt.

24 So what is a statutory aggravating circumstance?
25 A statutory aggravating circumstance is a fact, an

JURY CHARGE

1 incident, a detail or an occurrence that our state
2 legislature has declared to be a circumstance that
3 makes worse or aggravates the offense of murder. It
4 is something that is deemed by law to increase the
5 enormity of the crime to make it worse or adds to the
6 injurious consequences of the offense of murder.

7 The statutory aggravating circumstances
8 propounded by the State for you to consider in this
9 case are: Number one, the murder was committed while
10 in the commission of the following crimes or acts:
11 Robbery while armed with a deadly weapon, or larceny
12 with the use of a deadly weapon.

13 Now, a murder is committed while in the
14 commission of another crime or crimes, when the crimes
15 were consummated in a continuance series of acts with
16 the murder. They had to have been committed in the
17 same place and were not separated by any substantial
18 lapse of time.

19 So what is an armed robbery? In order to prove
20 the offense of armed robbery, the State must prove
21 beyond a reasonable doubt that the defendant took
22 personal property from the person or the presence of
23 another person. Property is in the presence of a
24 person if it is within the person's reach, inspection,
25 observation or control so that the person could, if

JURY CHARGE

1 not overcome with violence or prevented by fear, keep
2 possession of that property.

3 The State must also prove beyond a reasonable
4 doubt that the defendant carried the property away
5 intending to permanently deprive the owner of the
6 property and to keep the property for the defendant's
7 own use. The slightest removal of the property or the
8 complete possession of the property, even more instant
9 by the defendant, is sufficient to show a taking and
10 carrying away of the property. The taking and
11 carrying away of the property must have been done by
12 violence or by putting the owner of the property in
13 fear of violence.

14 Finally, the State must prove beyond a reasonable
15 doubt that the defendant was armed with a deadly
16 weapon during the robbery. The deadly weapon is any
17 article, instrument or substance which is likely to
18 cause death or great bodily harm. Whether an
19 instrument has been used as a deadly weapon depends on
20 the facts and circumstances of each case.

21 The following are examples of instruments which
22 may be deadly weapons: A pistol, a shotgun or a
23 rifle. A gun may be a deadly weapon even if it is not
24 operating.

25 Now, allow me to emphasize that these are the

JURY CHARGE

1 only circumstances you may consider as aggravating
2 circumstances in this case. If you, as a jury, cannot
3 unanimously agree that the State has proven at least
4 one of these statutory aggravating circumstances
5 beyond a reasonable doubt, then you would proceed no
6 further in your deliberations. This is because a
7 defendant may not be sentenced to death unless the
8 jury unanimously decides that the State has proven
9 beyond a reasonable doubt that an aggravating
10 circumstance exists. I remind you that the term
11 "proof beyond a reasonable doubt" is proof that leaves
12 you firmly convinced of the defendant's guilt.

13 If you unanimously decide that the State has
14 proven at least one of the statutory aggravating
15 circumstances beyond a reasonable doubt, then, and
16 only then, may you proceed with your deliberations and
17 you may begin to consider whether a life without
18 parole or a death sentence is the most appropriate
19 punishment for the defendant.

20 In presenting evidence of the statutory
21 aggravating circumstance, the State in this case
22 introduced evidence of the details of the armed
23 robbery of Barbara McDowell, and the murder and armed
24 robbery of Trish Stull, which the defendant was not
25 convicted of during the guilt phase. This evidence

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1 can only be considered as to the defendant's
2 characteristics, and not as proof of the alleged
3 statutory aggravating circumstance.

4 Now, let's talk about mitigating circumstances.
5 So I instruct you that even if you find the presence
6 of at least one statutory aggravating circumstance,
7 you must remain open minded as to the appropriate
8 punishment to impose, and that the finding of an
9 aggravating circumstance does not create the
10 presumption that you should impose the death penalty.
11 I remind you that the death penalty is only an option.
12 It is never mandatory that you impose it. This is
13 because the law requires that you give meaningful
14 consideration, not only to aggravating circumstances,
15 but also to any mitigating circumstances that the
16 evidence shows.

17 I instruct you that in a capital murder case, you
18 must consider the mitigating circumstances, and there
19 are two types of mitigating circumstances: Statutory
20 mitigating circumstances and non-statutory mitigating
21 circumstances. A statutory mitigating circumstance is
22 a fact, an incident, a detail or an occurrence which
23 the South Carolina legislature has declared by statute
24 would reduce the severity of the offense of murder.
25 It is a circumstance recognized under the laws of this

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1 state as one which, in fairness and mercy, may be
2 considered as extenuating or as reducing the degree of
3 moral culpability for the commission of the act of
4 murder. A mitigating circumstance is neither
5 justification, nor excuse for the murder. It simply
6 lessens the degree of one's guilt; that is, it makes
7 the defendant less blameworthy or less culpable. The
8 list of statutory mitigating factors as enacted by the
9 general assembly, into our code of laws, propounded by
10 the defense is as follows: Number one, the defendant
11 has no significant history of prior criminal
12 convictions involving the use of violence against
13 another person.

14 Number two, the murder was committed while the
15 defendant was under the influence of mental or
16 emotional disturbance.

17 Number three, the defendant acted under duress or
18 under the domination of another person.

19 Number four, the capacity of the defendant to
20 appreciate the criminality of his conduct or to
21 conform his conduct to the requirements of law was
22 substantially impaired.

23 Number five, the age or the mentality of the
24 defendant at the time of the crime.

25 You must also consider any non-statutory

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1 mitigating circumstance. A non-statutory mitigating
2 circumstance is one which is not provided for by
3 statute, but is one which the defendant claims serves
4 the same purpose; that is, to reduce the degree of his
5 guilt in this offense. This would include, but is not
6 limited to any fact or circumstance of the crime, or
7 any aspect of the character or history of the
8 defendant that tends to show that he should be
9 sentenced to life imprisonment without the possibility
10 of parole or death -- instead of death, excuse me.

11 A mitigating circumstance can be anything or any
12 single factor that you determine to be a mitigating
13 circumstance. I remind you that it is not necessary
14 for you to find the existence of such a circumstance
15 unanimously, nor beyond a reasonable doubt. Each of
16 you are free to find the existence of a mitigating
17 circumstances based upon any evidence that has been
18 presented, even if no one mentioned that a certain
19 fact amounted to a mitigating circumstance.

20 I instruct you that the defendant does not bear
21 the burden of proving any mitigating evidence. I,
22 again, remind you that the jury does not have to
23 unanimously agree on mitigating circumstances. Each
24 juror is free to give whatever weight he or she feels
25 is appropriate to any aggravating or mitigating

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1 circumstances in considering these factors. You don't
2 simply count the number of aggravating and mitigating
3 factors -- circumstances. The law requires that each
4 individual juror decides based upon his or her own
5 life experiences whether life imprisonment or the
6 death penalty is the appropriate punishment in that
7 juror's mind; therefore, each juror is free to give as
8 much weight as they deem appropriate to all of the
9 circumstances of the case.

10 I also instruct you that the existence of an
11 alleged statutory or non-statutory mitigating
12 circumstance, or both, is not an automatic ban to the
13 imposition of the death penalty. It is for you to
14 weigh and to consider in your determination of the
15 appropriate sentence for Mr. Jenkins.

16 It is also permissible for a juror to decide that
17 life without parole is the appropriate punishment for
18 any reason, or for no reason at all. You are not
19 required to make a finding that the mitigating factors
20 outnumber the aggravating factors your own mind. You
21 are free to impose a sentence of life imprisonment for
22 absolutely no reason, even if you find the existence
23 of an aggravating circumstance and no mitigating
24 circumstance. This is what has been traditionally
25 referred to as "a sentence based on mercy." In other

JURY CHARGE

1 words, you may choose to recommend life imprisonment
2 without the possibility of parole if you find a
3 statutory or non-statutory mitigating circumstance, or
4 you may choose to recommend life imprisonment as an
5 act of mercy.

6 I'll explain a couple of things that I explained
7 to you during the last jury charge, so we'll start
8 with direct and circumstantial evidence. There are
9 two types of evidence which may be presented: Direct
10 and circumstantial evidence. Direct evidence proves
11 the existence of a fact and does not require any
12 deduction. Circumstantial evidence is proof of a
13 chain of facts and circumstances that indicate the
14 existence of a fact. Crimes may be proven by either
15 direct or circumstantial evidence. The law makes no
16 distinction between the weight or the value to be
17 given to either direct or circumstantial evidence.
18 However, to the extent that the State relies on
19 circumstantial evidence, all of the circumstances must
20 be consistent with each other, and when taken
21 together, point conclusively to the guilt of the
22 accused beyond a reasonable doubt. If these
23 circumstances merely portray the Defendant's behavior
24 as suspicious, the proof has failed.

25 Again, we talked about this in the very beginning

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1 and talking about it again. It is for you to
2 determine the creditability of the witnesses who have
3 testified in this case. Creditability simply means
4 believability. It is your duty to analyze and to
5 evaluate the evidence and to determine what evidence
6 convinces you of its truth. You may believe one
7 witness over several, or several over one. You may
8 believe a part of the testimony of a witness and
9 reject the remaining part. You may believe the
10 testimony of a witness entirely, or reject it
11 entirely. You may consider whether the witness
12 exhibited to you any interest, bias, prejudice or
13 other motive in the case. You may also consider the
14 appearance and demeanor while on the witness stand.
15 As I told you on day one use your commonsense.

16 Ordinarily, the rules don't allow witnesses to
17 give their opinions or conclusions. There is an
18 exception under the law that exists for witnesses that
19 we call "experts." This is a witness who by education
20 and experience has become an expert in some art,
21 science, profession or column and they are allowed to
22 give their opinion as to relevant and material matters
23 which they claim to be an expert. You should consider
24 any expert opinion received in evidence in this case,
25 and like any other evidence, give it the weight that

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1 you believe it deserves. If you decide that the
2 opinion of an expert is not based upon sufficient
3 education and experience, or if you conclude that the
4 reasons given in support of the opinion are not sound,
5 or the opinion is outweighed by other evidence, you
6 may disregard it entirely. An expert witness'
7 testimony is to be given no greater weight than any
8 other witness simply because they are experts.
9 Further, you are not required to accept an expert's
10 opinion even though it is not contradicted.

11 I instruct you and emphasize and remind the fact
12 that the defendant did not testify in this case is not
13 a factor to be considered by you in any way during
14 your deliberations and in your consideration on the
15 question of sentencing. It must not be considered by
16 you in any manner, whatsoever. A defendant has a
17 constitutional right to remain silent, and the
18 insertion of the right must not be considered during
19 your deliberations. I repeat: Under your oath, you
20 are to draw absolutely no conclusion, whatsoever, from
21 the fact that the defendant in this case did not
22 testify. The fact that the defendant did not testify
23 is not even allowed to be discussed in the jury room.
24 The burden of proof, as I told you, is upon the State.

25 Now, so you are going to have a bunch of

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1 different forms. Last time you had one form in your
2 jury room. This time, you'll have multiple forms. So
3 I'll go through the forms in general and then show
4 them to you exactly. So you will have multiple forms
5 in your room. The first section or first form you
6 will deal with are the statutory aggravating
7 circumstances. It sets forth the statutory
8 aggravating circumstances that the State alleges are
9 present. So if you unanimously conclude that one or
10 more of the aggravating circumstances have been proven
11 beyond a reasonable doubt, then you should designate
12 which circumstance or circumstances have been proven
13 by checking the appropriate line or lines or writing
14 in it. There is a place below that that each of you
15 should sign signifying that the aggravating
16 circumstances were unanimously agreed to by you the
17 jury.

18 If you find no aggravating circumstances were
19 unanimously agreed upon beyond a reasonable doubt, you
20 would check "none found," and there is a box for that,
21 and you would stop deliberating and inform the
22 bailiff.

23 Now, if you do find one or more statutory
24 aggravating circumstance, you would then move on to
25 the next form, which asks which punishment you

JURY CHARGE

1 conclude to be the most appropriate: Life in prison
2 without the possibility of parole, or the death
3 penalty. If you unanimously decide that life of
4 imprisonment without parole is the proper sentence,
5 then, Mr. Foreman, you should sign that form. If this
6 selection is made by you, this section of the verdict
7 form only has to be signed by the foreman, and your
8 deliberations comes to an end.

9 The last form you will have should be signed by
10 each juror if you, the jury, unanimously decided that
11 the statutory aggravating circumstances have been
12 proven beyond a reasonable doubt, and that a
13 punishment of death should be handed down. I remind
14 you that there is no significance to the order in
15 which the sentences appear on the verdict form, one
16 simply must come before the other.

17 In conclusion, in considering whether to
18 recommend whether the defendant is to be sentenced to
19 death or life imprisonment, I charge you that you must
20 decide the issue of law in this proceeding without
21 bias and without prejudice to any party. You have
22 been elected as fair and impartial jurors sworn to
23 impartiality -- to impartially try and determine the
24 facts of this case, and when you comply with your oath
25 to do so, no one will have a right to criticize your

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1 verdict, and you will have fully discharged your duty
2 as jurors.

3 You are to decide this case according to the
4 testimony that you have heard from the lips of the
5 sworn witnesses, along with the other evidence
6 introduced. I charge you that as jurors you must
7 decide the issues in this proceeding without bias and
8 without prejudice to either side. You cannot allow
9 yourself to be governed by sympathy, passion, public
10 opinion or any other arbitrary factor. Both the State
11 and the defendant have a right to expect that each of
12 you will carefully and impartially consider all of the
13 evidence, and that you will follow the law that I have
14 given you.

15 All right. Let me get these different forms to
16 you. So the first form is what we call "statutory
17 instructions." So these list out what the State
18 alleges are the aggravating factors, and what the
19 defense alleges are the mitigating circumstances, and
20 you may also consider non-statutory mitigating
21 circumstances. So this is just an information sheet.
22 You just have to have that sheet with you.

23 The second form I'll give you is the aggravating
24 circumstances. Remember I said before you can ever
25 consider whether or not death is the appropriate

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1 sentence, or life, you have to determine whether or
2 not any aggravating circumstances exist, and you have
3 to do that unanimously. So you if do determine that
4 the State has proven beyond a reasonable doubt that
5 aggravating circumstances exist, and you all agree on
6 that, then you would list whichever ones those are
7 there, and each of you sign them. If you do not
8 unanimously agree that the statutory aggravating
9 circumstance exist, you check "none found" and tell
10 the bailiff.

11 So the next two forms are -- after you do the
12 aggravating circumstances form, if you find
13 aggravating circumstances, then you fill out one of
14 these two forms, and that is: We, the jury,
15 unanimously recommend to the Court a sentence of
16 life -- fill out that form, only the foreperson signs
17 it. The last form is: We, the jury, recommend the
18 sentence of death. Again, you have to list out the
19 aggravating circumstances that exist, if any, and you
20 agree are proven beyond a reasonable doubt, then each
21 one of you would need to sign it, okay.

22 Just some basic rules for your deliberations, and
23 I think you already know this. One, the alternates
24 need to come out. Number two, you all have to be in
25 the room to deliberate. So if someone needs a

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1 restroom or take a break, stop deliberating until you
2 all 12 are in the room.

3 We have a clean computer to send back with you
4 for anything you want to watch, review, go over again.
5 If you have any issues, send a note and we'll send
6 someone in to help you.

7 Next thing, there is no point in time where you
8 need to tell me "the count." The count is your count.
9 It is not my count. You don't need to give me that
10 information.

11 And the last thing -- your lunch should be here,
12 or on the way, real close. So if you want to
13 deliberate through lunch, you can. If you want to eat
14 and then start deliberating after that, you can do
15 that too. That is perfectly fine. Keep in mind, all
16 12 of you have to be in the room to deliberate.

17 Last thing is before you start deliberating, I
18 need to check with the attorneys and make sure I told
19 you what we all -- what they thought I would tell you.
20 So you can begin to deliberate when the evidence comes
21 in the room, just like last time.

22 So let's take them out, Mr. Bobby.

23 (The jury exits at 2:04 p.m., and the
24 following is heard out of the presence of the jury.)

25 THE COURT: Anything on the charge other than

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1 those previously stated?

2 MR. HIXSON: No, sir.

3 MR. WILSON: Nothing further, Your Honor.

4 THE COURT: Let's get with Natalie and make sure
5 we know what is in evidence and what is not in
6 evidence, and make sure we all agree on that. Make
7 sure that Natalie No. 1 has your phone numbers and
8 contact information. Good job. Thank you very much.

9 MR. HIXSON: I believe we incorporated the guilt
10 phase evidence as well.

11 THE COURT: Let's double check and make sure it
12 is all there and all the right things.

13 (The attorneys and court reporter confer on the
14 evidence. The evidence is sent back to the jury and
15 the jury starts deliberations at is 2:25 p.m.)

16 THE COURT: Thank you very much. Take your
17 seats.

18 Good afternoon. For the record, it is about 5:20
19 in the afternoon and I've been informed that we have a
20 verdict.

21 Is the State ready to proceed?

22 MR. HIXSON: We are, Your Honor.

23 THE COURT: Is the defense ready to proceed?

24 MR. WILSON: Yes.

25 THE COURT: Now, some of you were in here earlier

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1 when I had this conversation with you. Let me say
2 this to you again so that we are very clear about
3 this. I understand that this case is an emotional
4 case, and I understand there are a lot of strong
5 feelings in the courtroom. If you cannot control your
6 behavior and/or reaction, now is the time to leave.
7 You can wait in the hall and someone can come out in a
8 few minutes and tell you exactly what happened. If
9 you stay in here, I'm assuming you are going to behave
10 and control your emotions. It is perfectly normal to
11 cry. I don't have -- I'm not opposed to anyone
12 crying, but no outbursts or screaming or yelling or
13 anything of that nature, okay. So if you stay in
14 here, that is the behavior that I expect from you. If
15 you want to wait outside, someone can tell you what is
16 going on; that is perfectly fine, too.

17 Bring them in.

18 (The jury enters at 5:23 p.m., and the
19 following is heard in the presence of the jury.)

20 THE COURT: Mr. Foreman, it is my understanding
21 that the jury reached a verdict; is that correct?

22 FOREPERSON: Yes, sir, Your Honor.

23 THE COURT: If you would, hand that to the
24 bailiff. Thank you.

25 So the way we're going to do this is we'll start

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1 with the aggravating circumstances verdict form first.
2 The clerk may publish the aggravating circumstances
3 form first.

4 THE CLERK: Indictment 2015-GS-26-1757,
5 2015-GS-26-1758, 2015-GS-26-1759, State of South
6 Carolina, County of Horry County versus Jerome
7 Jenkins, Junior. We the jury unanimously find beyond
8 a reasonable doubt the following statutory aggravating
9 circumstances: One, the murder was committed while in
10 the commission of the robbery while armed with a
11 deadly weapon. And, two, the murder was committed
12 while in the commission of a larceny with the use of a
13 deadly weapon.

14 Signed by the foreperson, Jerry Harper, No. 135.
15 Juror John Archibald, No. 13. Juror 119, Jerry
16 Gartner. Juror 161, Harry Johnson, Junior.
17 Juror No. 270, James Payne. Juror No. 345, Stephen
18 Stancil. Juror 10, Melanie Anderson. Juror No. 86,
19 Kimberly Decker. Juror 120, Jennifer Gee. Juror 257,
20 Hannah Oliveras. Juror 334, Roberta Sloan. Juror No.
21 350, Lauren Stevens. Dated May 16, 2019.

22 THE COURT: At this time, ladies and gentlemen,
23 the first question that the clerk will ask each of you
24 is as to the aggravating circumstances, is this your
25 verdict and is this still your verdict. If you would,

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1 answer out loud when your name is called.

2 THE CLERK: No. 135, Jerry Harper, is this your
3 verdict and is it still your verdict?

4 JUROR: Yes.

5 THE CLERK: Juror No. 13, John Archibald, is this
6 your verdict and is it still your verdict?

7 JUROR: Yes.

8 THE CLERK: Juror 119, Terry Gartner, is this
9 your verdict; is this still your verdict?

10 JUROR: Yes.

11 THE CLERK: Juror 161, Harry Johnson, Junior, is
12 this your verdict and is this still your verdict?

13 JUROR: Yes.

14 THE CLERK: Juror 207, James Payne, is this your
15 verdict, and is this still your verdict?

16 JUROR: Yes.

17 THE CLERK: Juror 145, Stephen Stancil, is this
18 your verdict, and is this still your verdict?

19 JUROR: Yes.

20 THE CLERK: Juror 10, Melanie Anderson, is this
21 your verdict, and is this still your verdict?

22 JUROR: Yes.

23 THE CLERK: Juror 86, Kimberly Decker, is this
24 your verdict, and is this still your verdict?

25 JUROR: Yes.

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1 THE CLERK: Juror 120, Jennifer Gee, is this your
2 verdict, and is this still your verdict?

3 JUROR: Yes.

4 THE CLERK: Juror No. 257, Hannah Oliveras, is
5 this your verdict, and is this still your verdict?

6 JUROR: Yes.

7 THE CLERK: Juror No. 334, Roberta Sloan, is this
8 your verdict, and is this still your verdict?

9 JUROR: Yes.

10 THE CLERK: Juror No. 350, Lauren Stevens, is
11 this your verdict, and is this still your verdict?

12 JUROR: Yes.

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

14 At this point in time, we'll move on to the
15 recommendation of the sentence, and this will be
16 published by the clerk.

17 THE CLERK: Indictment Nos. 2015-GS-26-1757,
18 2015-GS-26-1758, 2015-GS-26-1759, State of South
19 Carolina, County of Horry County versus Jerome
20 Jenkins, Junior. We the jury have found beyond a
21 reasonable doubt the existence of the following
22 statutory aggravating circumstances, to wit: Number
23 one, the murder was committed while in the commission
24 of a robbery while armed with a deadly weapon. Number
25 two, the murder was committed while in the commission

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1 of a larceny with use of a deadly weapon. We
2 recommend to Court that the defendant, Jerome Jenkins,
3 Junior, be sentenced to death. Signed by foreperson,
4 Jerry Harper, No. 135. Juror 13, John Archibald.
5 Juror 119, Terry Gartner. Juror 161, Harry Johnson.
6 Juror No. 270, James Payne. Juror 345, Stephen
7 Stancil. Juror 10, Melanie Anderson. Juror 86,
8 Kimberly Decker. Juror 120, Jennifer Gee. Juror 275,
9 Hannah Oliveras. Juror 334, Roberta Sloan. Juror
10 350, Lauren Stevens. Dated May 16th of 2019.

11 THE COURT: At this time, ladies and gentlemen,
12 we will go through the same questioning as to the
13 sentence of a recommendation of death. You will be --
14 same questions of is this your verdict, and is this
15 still your verdict. If you would please answer out
16 loud when your name is called.

17 THE CLERK: No. 135, Jerry Harper, is this your
18 verdict, and is this still your verdict?

19 JUROR: Yes.

20 THE CLERK: Juror 13, John Archibald, is this
21 your verdict, and is this still your verdict?

22 JUROR: Yes.

23 THE CLERK: Juror No. 119, Terry Gartner, is this
24 your verdict, and is this still your verdict?

25 JUROR: Yes.

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1 THE CLERK: Juror 161, Harry Johnson, Junior, is
2 this your verdict, and is this still your verdict?

3 JUROR: Yes.

4 THE CLERK: Juror 207, James Payne, is this your
5 verdict, and is this still your verdict?

6 JUROR: Yes.

7 THE CLERK: Juror 345, Stephen Stancil, is this
8 your verdict, and is this still your verdict?

9 JUROR: Yes.

10 THE CLERK: Juror 10, Melanie Anderson, is this
11 your verdict, and is this still your verdict?

12 JUROR: Yes.

13 THE CLERK: Juror 86, Kimberly Decker, is this
14 your verdict, and is this still your verdict?

15 JUROR: Yes.

16 THE CLERK: Juror 120, Jennifer Gee, is this your
17 verdict, and is this still your verdict?

18 JUROR: Yes.

19 THE COURT: Juror 275 -- excuse me, 257, Hannah
20 Oliveras, is this your verdict, and is this still your
21 verdict?

22 JUROR: Yes.

23 THE CLERK: Juror 334, Roberta Sloan, is this
24 your verdict, and is this still your verdict?

25 JUROR: Yes.

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1 THE COURT: Juror 350, Lauren Stevens, is this
2 your verdict, and is this still your verdict?

3 JUROR: Yes.

4 THE COURT: Anything further from the State
5 before we excuse the jury panel?

6 MR. HIXSON: No, sir.

7 THE COURT: From the defense before we excuse the
8 jury panel?

9 MR. WILSON: No, sir.

10 THE COURT: All right. Ladies and gentlemen, let
11 me begin by saying this to you. I want to say thank
12 you very much for your service in this case. You have
13 all obviously been here with us, but you have all paid
14 attention, followed the witnesses, listened to the
15 attorneys, you listened to me, gave us all your
16 undivided attention. Jury service is such an
17 important responsibility in our community, and I hope
18 through this experience you have understood the
19 important responsibility that jury service plays in
20 our community. I know that you have all each made a
21 personal real and valid sacrifice to be here during
22 this time. You have been away from your families.
23 You have been away from your work. You have been away
24 from your friends. You have been away from your
25 phones, and I say that almost jokingly in 2019, but

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1 some of you probably have never been away from your
2 phones that long. So I want to say thank you very
3 much for your service, and your continued service to
4 your county.

5 I now have some things I have to tell you that
6 I'm required to tell you by law. Actually I say most
7 of these things in normal -- in non-death penalty
8 cases all the time, but in these types of cases, I'm
9 required to provide you this information according to
10 the South Carolina Code of Law. So let me go over
11 those instructions to all of you.

12 The first one is that you have the right to
13 refuse to discuss this verdict with anyone, okay. So
14 the prohibition on you about discussing this case or
15 anything about it is hereby lifted. You are allowed
16 to discuss the case with anyone that you want to, but
17 you have the right to refuse to discuss this verdict
18 with anyone in any way, shape or form.

19 You also have the right to choose to discuss the
20 verdict as much as you want to. So if you want to
21 talk about it, then you are perfectly free and able to
22 do that. You also have the right to terminate any
23 discussion pertaining to this verdict at any time that
24 you choose.

25 Now, if you are harassed or bothered or contacted

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1 by anyone and they do not respond to that in a
2 positive manner, you telling them I don't want to talk
3 about it, essentially, then at that point in time, you
4 should report that to the Horry County Clerk of Court,
5 who is Ms. Renee Elvis, whose office is in this
6 building, who all of their phone numbers are on-line.
7 All you have to do is report it to Horry County Clerk
8 of Court and she can then get the name of the person
9 that you are speaking with, get the name of the person
10 who is asking you questions and hasn't ceased to do
11 so, turn that information over to Ms. Elvis, and at
12 that point in time Ms. Elvis can turn that information
13 to one of your -- you have three local judges here in
14 Horry County: Judge Hyman and Judge John and Judge
15 Culbertson. They can turn it over to one of them so
16 the Court can bring those people in and deal with the
17 people that are refusing to leave you alone.

18 So you are free to discuss the case with anyone
19 that you want to, but you do not have to if you do not
20 want to. If you run into any problems, we want you to
21 let us know that information as soon as possible,
22 okay.

23 Thank you very much for your service. You may
24 retire to your jury room, and thank you very much.

25 (The jury exits at 5:34 p.m., and the

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1 following is heard out of the presence of the jury.)

2 THE COURT: All right. Pursuant to 16-3-20 --
3 what section am I in? Near the end of that statute,
4 the Court is required -- so were in the statute where
5 aggravating circumstances have been found and a
6 recommendation of death has been made by the jury, the
7 trial judge sentences the defendant to death. The
8 trial judge, before imposing the death penalty, shall
9 find as an affirmative fact that the death penalty was
10 warranted under the evidence of the case and was not
11 as a result of prejudice, passion or any other
12 arbitrary factor.

13 So I'm making an affirmative finding on the
14 record that based upon the facts and evidence in this
15 case, the facts and circumstances that were presented
16 to this jury, that the death penalty was warranted
17 under the evidence of the case, and I see no evidence
18 that the verdict was as a result of prejudice, passion
19 or any other arbitrary factor not found in the law.

20 Anything from the State before sentencing?

21 MR. HIXSON: No, Your Honor.

22 THE COURT: What does the attempted murder charge
23 carry? Up to 30?

24 MR. HIXSON: Zero to 30, Your Honor.

25 THE COURT: All right. And anything -- does

1 anyone from Mr. Paruchuri's family or Ms. Stull's or
2 Ms. McDowell's family need to be heard from?

3 MR. HIXSON: Beg the Court's indulgence for a
4 moment.

5 THE COURT: Tell me your name.

6 MS. SAMANTHA STULL: Samantha Stull.

7 THE COURT: How are you related to Trisha Stull?

8 MS. SAMANTHA STULL: She is my older sister.

9 THE COURT: Thank you very much for being here,
10 and I'm happy to hear from you.

11 MS. SAMANTHA STULL: Can I read my whole paper?
12 It is only five minutes; I timed myself.

13 THE COURT: Just don't read too fast, okay.

14 MS. SAMANTHA STULL: No profanity or threatening.

15 I tried to properly word this without being asked
16 to leave the courtroom. Emotions run high with the
17 slightest thought of my sister, Trisha. My blood
18 boiled as I wrote this, and being in the same room
19 with the guy that took my sister causes me to do the
20 same now. Not out of fear, but out of anger. I made
21 a copy just in case I can't proceed verbally, and I
22 would like for J.J. to have a copy, keep it and take
23 it back to prison if at all possible. No profanity or
24 threats are included.

25 I want J.J. to know who my sister, Trisha, was.

1 Therefore, when J.J. happens to be smoking, drinking
2 or bragging on Facebook, as I have found before since
3 his incarceration, that he just might read this. I
4 guarantee if Trisha was here and J.J. didn't have a
5 pistol like he did that night, Trisha would tear him
6 upside down. However, she's not here physically, so
7 I'll let you feel my wrath.

8 I have no remorse or sympathy for J.J. I could
9 care less if he ever sees or talks to his kids,
10 family, friends or whatever relationship he has with
11 anyone here on earth. J.J. denied us that privilege
12 when he killed Trisha. In J.J.'s defense, when his
13 witnesses testified, apparently J.J. comes from a
14 large family and a violent area as an excuse for his
15 behavior issues. If I heard correctly, he has a total
16 of six siblings. It was also mentioned that J.J. was
17 raised by his grandmother while his mother worked to
18 provide for the family. What seems funniest to me is
19 that J.J. and Trisha has had a lot of childhood
20 similarities. Trisha had a total of eight siblings.
21 Trisha was the fourth child down. My grandmother
22 helped raise my siblings and I as my mother worked to
23 provide for the family. Trisha didn't come from the
24 nicest neighborhood either. Trisha had issues with
25 the law, and sometimes school.

1 Trish even became pregnant at age of 15 and went
2 back to earn her high school diploma. However, the
3 difference between Trisha and J.J. is that none of
4 those issues made an excuse for Trisha to take
5 someone's life. Unlike J.J. who was throwing his life
6 away with heinous crimes, Trisha was turning her whole
7 life around. That 30-year-old woman J.J. killed was a
8 mother of four; two living and two deceased. For
9 anyone who has never lost a child, you will never know
10 that pain.

11 I recall I told my sister at the loss of her
12 children, she still had to trust God. Realize God
13 does everything for a reason we may not understand it
14 at the moment, but later. We may not understand it at
15 the moment, but later we will understand why. Later
16 is now, and now I understand why. God knew what
17 Trisha's future had in store for her. God wanted to
18 help protect her two children Trisha already had,
19 especially after J.J. has taken my mother's child from
20 her leaving her to raise Trisha's two children.

21 To know Trisha was to love her. She got along
22 with just about anyone. She was someone's
23 granddaughter, daughter, mother, sister, aunty and
24 great friend. No, my sister wasn't a saint. She had
25 trials and tribulations just like the rest of us,

1 probably more so than others. And I say that to say
2 this: If J.J. knew the journey Trisha had been
3 through to get where she was, I promise he would not
4 have taken her life.

5 Trisha was in the process of putting the pieces
6 back together after she slowly recovered the loss of
7 two babies, two years in a row. One passed on
8 Christmas Eve at a month and day old from SIDS. A
9 year later, Trisha had a miscarriage and was informed
10 after the hysterectomy was performed that she could no
11 longer conceive. After the loss of Trisha's two
12 children, Trisha involved herself with the wrong
13 people and began a journey down the wrong road that
14 led her to rehab.

15 After returning home from rehab, located in North
16 Carolina, Trisha began to work. She had three jobs,
17 dropped one and kept two. She still maintained
18 college where she studied to become a cosmetologist.
19 I remember when I used to pick her up from home, work
20 or school and her hair was always slumped down because
21 she was so tired. She had the hustle in her to keep
22 going, even when life's obstacles gave her every
23 reason to give up; however, far she didn't give up.

24 J.J. stole her dreams from her, and he stole her
25 from us, her family and her kids. She had a son and a

1 daughter to raise just like you.

2 THE COURT: Ms. Stull, you need to direct your
3 comments to me; you understand? You need to calm down
4 and direct your comments to me. This is not your
5 opportunity to say this to Mr. Jenkins. This is your
6 opportunity to tell me about your older sister, okay.

7 MS. SAMATHA STULL: Okay. Responsibility is now
8 left on the family members of both sides. I was going
9 to state little did he know my sister wasn't even
10 supposed to work that night, and basically that he
11 didn't have to kill her. You went to rob the store,
12 not her, so you should have taken from the store and
13 you didn't have to kill her.

14 I was also informed that they bragged about the
15 situation upon some people that I know from that same
16 area, so-called Playcard, and it is not all that
17 so-called violent.

18 I use my sister's story to give back to the
19 community. My church and I do ministry work with the
20 prison the second and third Sunday of every month. We
21 pray, worship and minister to inmates to be released
22 soon. If I can't tell them anything else, I strongly
23 encourage them to do the right thing when they are
24 released. Here it is the two guys, James and
25 McKinley, involved in my sister's case that was given

1 a second chance when they shouldn't have gotten out
2 after their previous charges.

3 I had nothing against inmates until I experienced
4 this. I have to include this as well, because until
5 one goes through a devastation as such, no one can
6 have any idea how my family and I could possibly feel.
7 Have someone kill your family member over some chump
8 change and Newports. Everyone loves to scream free
9 this person or free that person. Free someone who has
10 taken an innocent life? Instead, why not scream free
11 someone who has been wrongly convicted, not someone
12 who plays God and leaves people with scars to recover
13 from.

14 In closing, all we want is to see Trisha again.
15 I don't wish death on anyone but the three guys
16 involved in my sister's case. Therefore, since we
17 can't have her, I think it's only fair that J.J. and
18 his entourage dies too. That is justice for us. I
19 pray God has mercy on their souls, especially J.J.'s,
20 and when the death penalty approaches, I guarantee I
21 will be there to witness it with joy if the good Lord
22 is willing. It's only fair that justice is served in
23 the form of the death penalty, and anything less than
24 that, including a life sentence without parole, would
25 be a disgrace to Trisha and her entire family.

1 THE COURT: Thank you for being here.

2 MR. HIXSON: Beg the Court's indulgence?

3 THE COURT: Yes, sir.

4 MR. HIXSON: Mr. Paruchuri's family, they are not
5 here to address the Court, so I believe that ends our
6 presentation.

7 THE COURT: Post-trial motions and/or anything
8 else you would like to present at this time would be
9 fine.

10 MR. WILSON: Yes, Your Honor. I know the Court
11 has already ruled on the verdict, but for the record,
12 I need to make a motion at this point that the Court
13 set aside the verdict that the jury has rendered in
14 this particular case. The basis for that is that the
15 verdict is a verdict which is based on sympathy or
16 passion or is arbitrary in nature based on the facts
17 in evidence, and I would ask the Court to impose a
18 sentence of life without parole.

19 THE COURT: All right. Any other post-trial
20 motions?

21 MR. WILSON: I'm just asking the Court to renew
22 all of the motions I made at the end of State's case,
23 both in the trial phase and in the sentencing phase.

24 THE COURT: All right. I find that the verdict
25 based upon the jury's culmination and deliberation

1 through the evidence is appropriate, based upon the
2 circumstances, based upon the facts and circumstances
3 of the case. I found no evidence that the jury is
4 arbitrary or controlled by prejudice or passion or any
5 other arbitrary factor not found in the law, and that
6 based upon the facts and circumstances, the sentence
7 is warranted under the evidence.

8 I note for the record that all motions previously
9 made are hereby renewed and my ruling upon them would
10 be the same. Okay.

11 Mr. Jenkins, if you would like to say something,
12 you have a right to say something. You do not have to
13 say anything at all, it is completely your decision.

14 MR. JENKINS: Say that again?

15 THE COURT: You have an absolute right under the
16 law to tell me anything you would like to --

17 MR. JENKINS: Tell you?

18 THE COURT: Yes, sir. But you do not have to in
19 any way, shape or form. But if you would like to, you
20 are afforded an opportunity of anything you want to
21 tell me.

22 MR. JENKINS: Can I say something to my family?

23 THE COURT: Yes, you may say something to your
24 family.

25 MR. JENKINS: I love you all. That's it.

1 THE COURT: For the record, Mr. Jenkins wanted to
2 let his family know that he loved them. They are
3 present in the courtroom today, and I gave him the
4 opportunity to do that.

5 MR. JENKINS: I appreciate that.

6 THE COURT: Sentence of the Court on the
7 attempted murder charge is that he be committed to the
8 State Department of Corrections for 30 years.

9 The sentence on the armed robbery charge is that
10 he be committed to the State Department of Corrections
11 for 30 years.

12 And the sentence on the murder charge is that he
13 be sentenced to death pursuant to the recommendation
14 of the jury, and the execution date be set by the
15 South Carolina Department of Corrections.

16 Mr. Jenkins, you have ten days from today's date
17 to appeal this sentence and the verdict of this Court.
18 Your attorneys know exactly how to do that, and they
19 will make that all happen. Then there is a report
20 that the Court fills out that gets sent directly to
21 the Supreme Court so they'll be made aware of the
22 situation at the time. But Mr. Wilson and
23 Ms. Williams are very aware on how to make sure the
24 appeal is filed from the verdict today. Do you have
25 any questions about that?

1 MR. JENKINS: No, sir.

2 THE COURT: Thank you, Mr. Jenkins.

3 Before we break off -- you can sit down. I want
4 to say to the court staff and to the deputies that
5 have been in the courtroom, and I think most of the
6 SLED agents are gone now, but the sheriff -- I see you
7 in the back of the room -- but the gentlemen and the
8 ladies that you have here this week have worked a lot
9 of extra hours and have done a lot of extra work.
10 They have created an environment that we have all been
11 able to function in and communicate in and created a
12 safe environment. They've been very respectful to
13 Mr. Jenkins, and he's been very respectful to them
14 based upon what I know. I appreciate all of the extra
15 work. I know that these guys, when I leave this
16 building, they are still doing work and still closing
17 things down and still getting people moved where they
18 need to get moved.

19 To the clerk's office and my great court reporter
20 and clerk staff and, Mr. Bobby, you have all done an
21 extra round of work over these past 10, 11 days that
22 we have been together, and I appreciate everyone being
23 prepared and being professional and being courteous
24 and putting in all the extra hard work. You made
25 things a lot easier to progress through, so thank you

1 very much.

2 Without anything further, all right, have a good
3 evening. Thank you.

4 (Whereupon, the proceedings for the State of
5 South Carolina, County of Horry versus Jerome Jenkins,
6 Junior, concluded.)

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CERTIFICATE OF REPORTER

State of South Carolina)

County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 6th through 16th days of May, 2019.

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

September 10, 2019



Natalie Dahl, RPR

Court Reporter

STATE OF SOUTH CAROLINA	)	
COUNTY OF HORRY	)	COURT OF GENERAL SESSIONS
	)	2015-GS-26-01757
	)	2015-GS-26-01758
	)	2015-GS-26-01759
	)	
	)	
State of South Carolina	)	TRANSCRIPT OF RECORD
vs.	)	
Jerome Jenkins, Jr.	)	
	)	
DEFENDANT	)	May 14, 2019
		Conway, South Carolina

B E F O R E:

THE HONORABLE ROBERT E. HOOD, judge and a jury.

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

JIMMY RICHARDSON, SOLICITOR
 SCOTT HIXSON, CHIEF DEPUTY SOLICITOR
 Attorneys for the State

RALPH J. WILSON, SR., ESQ.
 BRANA WILLIAMS, ESQ.
 Attorneys for the Defendant

KESHIA REED
 Official Court Reporter

1			<u>I N D E X</u>		
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Itina Jenkins				
4	Ms. Williams	5			
5					
6	Francena Washington				
7	Ms. Williams	40			
8					
9	Isaac Bailey				
10	Mr. Wilson	50			
11					
12	Dr. John Chanaca				
13	Mr. Wilson	63		75	
14	Mr. Hixson		74		
15					
16	Susan Safford				
17	Mr. Wilson	78		81	
18	Mr. Hixson		80		
19					
20	Certificate of Reporter	93			
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1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
3	D-1	Photograph		10
4	D-2	Photograph		10
5	D-3	Photograph		10
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1 THE COURT: Anything from the State before we
2 start?

3 MR. HIXSON: No, sir.

4 THE COURT: From the defense?

5 MR. WILSON: No, sir.

6 THE COURT: All right, let's bring them in.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: All right. Welcome back, ladies and
9 gentlemen. And when we left you last, a couple things
10 were different. Number one, we had a different court
11 reporter. So this is Keshia and she'll be with us through
12 this afternoon. Natalie was here with us. Natalie has
13 has a child graduating from college this afternoon. So
14 she had to ask off from work about two or three months ago
15 this day and so we have been -- we had kind of plan that
16 and so we knew that. So Keshia will be with us this
17 afternoon and taking good care of us. So when we finish
18 last, the State had rested its case in the penalty phase.
19 The defense now has an opportunity to put on a case if
20 they would like to. They do not have to for reasons that
21 I've explained to you since the very beginning of the case
22 and -- but they have an opportunity to if they would like
23 to.

24 Mr. Wilson, would you like to call any
25 witnesses?

1 MR. WILSON: We ready, Your Honor.

2 THE COURT: Okay. Ms. Williams.

3 MS. WILLIAMS: I call Itina Ray Jenkins to the
4 stand.

5 THE COURT: All right. Ms. Jenkins, come on up
6 please.

7 THE CLERK: Please raise your right hand and
8 place your left hand on the Bible. Do you solemnly swear
9 or affirm the evidence you're to give the court in this
10 case will be the truth, the whole truth, and nothing but
11 the truth so help you God?

12 THE WITNESS: Yes, I do.

13 THE CLERK: Please be seated.

14 THE COURT: Would you spell your first name for
15 us also please?

16 THE WITNESS: Spell my first name?

17 THE COURT: First name and your last name for us
18 please?

19 THE WITNESS: My name is Itina Ray Jenkins,
20 Itina I-T-I-N-A last name Jenkins J-E-N-K-I-N-S.

21 THE COURT: Thank you very much, Ms. Jenkins.

22 WHEREUPON,

23 Itina Ray Jenkins,
24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. WILLIAMS:

2 Q All right, Ms. Jenkins, will you please tell the jury
3 who you are in relation to our client J.J. Jenkins?

4 A J.J. Jenkins is my son, I'm his mother.

5 Q Okay. And now let's take a second and let's start
6 with -- well, let's start about the family. How many
7 children do you have?

8 A Seven and one adopt son, total of eight.

9 Q All right. So can you give me their names and the
10 like the order? So what number does J.J. fall in kind of
11 where they are?

12 A Okay. Sheree Ray she the oldest. She my only
13 daughter. Shaun Ray my oldest son, Dequan Ray my second
14 son, J.J. is my third son, Raheem my fourth son, Devonte
15 my fifth son, **D.S.** my sixth son, Trevon my adopted son.

16 Q All right. So you said the full names. I want to
17 start with this to begin with. Your oldest son what's his
18 full name?

19 A Shaun Steven Ray, Jr.

20 Q Number two?

21 A Dequan Donte Ray.

22 Q And your daughter's last name was?

23 A Sheree Dantay Ray.

24 Q And then number four is?

25 A Jerome Jenkins, Jr.

1 Q Number five is?

2 A Raheem Jaquan Ray.

3 Q What's number six?

4 A Devonte Malik Simmons.

5 Q And number seven?

6 A D.S. [REDACTED] and then the adopted son Travon
7 Lemont Cheatum.

8 Q Okay. So we have four that are Rays?

9 A Uh-huh. One Jenkins, two Simmons and one Cheatum.

10 Q Okay. So the four Rays J.J. is in the middle, right?

11 A It's Sheree, Shaun, DaQuan, J.J., then Raheem.

12 Q All right. Then comes the two Simmons?

13 A Uh-huh and then Cheatam.

14 Q All right. And the two Simmons boys belong to?

15 A Katrell Andre Simmons.

16 Q Okay. So just to make it kind of plain and I don't
17 want to be confusing, but we'll go backwards, okay. Tell
18 us about Andre and the two youngest, like your
19 relationship?

20 A Me and Andre we was going together for about 13 years
21 and he help me raise my kids. I had two kids with him.
22 Devonte he's 19. D.S. [REDACTED] he's 14. D.S. [REDACTED] finish school
23 -- Devonte finish school. D.S. [REDACTED] he'll be in the ninth
24 grade, that's my baby.

25 Q All right. So before Andre came you had five other

1 children?

2 A Uh-huh, yes, ma'am.

3 Q It's okay because tell you this about saying uh-huh
4 and uh-uh. She has to take down what you say. So you got
5 to be very careful and let's not talk over one another
6 because she has to write down what each person says one at
7 a time, okay?

8 A Yes, ma'am.

9 Q All right. So the first five do they have the same
10 father?

11 A No, ma'am.

12 Q But four of the five are name Ray?

13 A Yes, ma'am.

14 Q And can you tell us why you name J.J. Jenkins?

15 A Well, I was going to name him Ray, but my mom she
16 insist that I name him Jenkins, so I just went on head and
17 name him Jerome Jenkins, Jr., after his dad, but his name
18 was gone be Jerome Ray.

19 Q Okay. So tell us what, if anything, did that mean
20 anything or not?

21 A No, ma'am, not to me it didn't, but to J.J. it did.
22 J.J. say he was like the outsider. You got three kids
23 before me Ray, but when you get to me, I feel like I'm the
24 black sheep of the family I'm Jenkins. And then after me
25 you name another one Ray.

1 Q Was that like the one time thing he said?

2 A No, that was a every day thing.

3 Q All right.

4 MS. WILLIAMS: May I approach, Your Honor?

5 THE COURT: Yes, ma'am.

6 MS. WILLIAMS: And I have showed these to the
7 State.

8 THE COURT: Okay.

9 BY MS. WILLIAMS:

10 Q Defendant's Exhibit Number 1 do you recognize that?

11 A Yes, that's J.J.

12 Q All right. Defendant's Exhibit Number 2 do you
13 recognize that?

14 A J.J. again.

15 Q And Defendant's Exhibit Number 3?

16 A J.J. again.

17 Q All right. And these are accurate representations of
18 your son J.J.?

19 A Yes, ma'am.

20 MS. WILLIAMS: At this time the defense would
21 move to enter into evidence Defendant's 1, 2, and 3?

22 MR. RICHARDSON: No objection.

23 THE COURT: All right. Defendant's 1, 2 and 3
24 are admitted without objection.

25

1 (WHEREUPON, Defendant's Exhibit Nos. 1, 2 and 3
2 were admitted into evidence.)

3 BY MS. WILLIAMS:

4 Q All right. Let's talk about Defendant's Number 1.

5 THE COURT: Hold on one second. You good?

6 COURT REPORTER: Yes.

7 THE COURT: Okay, go ahead.

8 BY MS. WILLIAMS:

9 Q All right. Defendant's Number 1 tell me about this
10 please?

11 A J.J. he was going to Green Sea Floyds Elementary he
12 was in the third grade.

13 Q And where is that picture at?

14 A At my mom house on her wall.

15 Q Why is it at your mom's house?

16 A Because she love the picture and I always give her
17 all the pictures because she take care all the pictures.
18 You need a picture, you go to her house and she have them
19 for you if you need a picture graduation, funeral.
20 Francena have the pictures.

21 Q All right. So the first picture is him when he was
22 how old?

23 A He was seven in the third grade.

24 Q Third grade. All right. Number two?

25 A On Francena wall at her house. He's in the fifth

1 grade, he's ten years old.

2 Q Is that a school picture?

3 A School picture.

4 Q Okay. And number three?

5 A Clown around at my mom house. She was staying in
6 Fair Bluff, North Carolina. He was four years old.

7 Q So this is him when he was four?

8 A Yes, ma'am.

9 Q All right. Now, take a minute if you would and let's
10 try to take it in chunks talk about your relationship with
11 his father when we actually -- like while you were
12 pregnant and when J.J. was born?

13 A Okay. Me and his dad start talking when I was 21
14 years old and I got pregnant when I was 22 going on 23
15 years old. I was three months pregnant, he got in some
16 trouble, so he was shipped off to prison. I had J.J. I
17 took J.J. to see him while he was at J. Reuben Long. And
18 then when he got shipped, I never took J.J. to no jail, no
19 prison or nothing.

20 Q So was he in prison or out when J.J. was born?

21 A No, ma'am, he was incarcerated. He was in J. Reuben
22 Long while I was pregnant. After I had J.J., he got his
23 time. And the week before they shipped him, I took J.J.
24 for the last time to see him and then they ship him off to
25 a prison.

1 Q And is he still in prison?

2 A No, ma'am.

3 Q When did he get out?

4 A October the 31st of 2015.

5 Q All right. Now, will you explain to the jury
6 because you said -- explain Andre -- and what do you call
7 J.J.'s daddy?

8 A Jerome.

9 Q Andre and Jerome ---

10 A Uh-huh.

11 Q --- the timing of that?

12 A Me and Andre started talking in 1999. We stopped
13 talking in 2014.

14 Q Okay. Hold on. I want to make sure we're clear. So
15 Jerome was already in prison?

16 A Yes, ma'am.

17 Q And you started with Andre?

18 A Yes, ma'am.

19 Q All right. And then you and Andre continued?

20 A Yes, ma'am.

21 Q Until when?

22 A 2014.

23 Q And then what happened?

24 A Me and Jerome just talk every day on the phone. And
25 I told Andre I don't love you. I never love you. I

1 always loved Jerome. And he say, well, if you love
2 Jerome, he pack his stuff and he moved out and moved on
3 with his mom. And he left me and the kids, you know, at
4 the trailer. Me and his two kids they was my babies.

5 Q All right. And what's your relationship today with
6 Jerome?

7 A We married.

8 Q All right. Now, did J.J. know about that?

9 A No, ma'am. Nobody knew about it.

10 Q When did he find out?

11 A I guess his sister told him Sheree.

12 Q All right. Now, let's go back to -- let's start off
13 when J.J. was small. Tell the jury about him?

14 A Well, I was pregnant J.J. was a healthy seven pound
15 baby boy. I ain't had no health complication. J.J. was
16 three months old I let him go to New York with his father
17 people. He stay down there for three months. He came
18 back he was six months old. And when he came back, I said
19 that's my big black polar bear. And he went to the
20 three-year-old program and he went for like two months. I
21 don't know what he did and my mom was sending him to
22 school, but they say he couldn't go back to the school
23 until he turn five year old and he have no other choice to
24 go to school because he'll be in kindergarten.

25 Q So when he was three years old you had him in what

1 kind of program?

2 A That's the three-year-old Head Start Program.

3 Q And what happened?

4 A I don't know.

5 Q I mean could he go back?

6 A No, ma'am. I ask my mom I said what happened. She
7 didn't never tell me what happened because she went to the
8 schoolhouse not me. I was working and she always kept the
9 kids. And they told her J.J. couldn't go back to school
10 until he five years old for kindergarten.

11 Q So when he was three he got basically kicked out of
12 Head Start?

13 A Yes, ma'am.

14 Q All right. Tell me about once school started?

15 A When he went to school in kindergarten, the first
16 four or five months everything was going smooth. And then
17 like close to Christmas he was getting in trouble because
18 his teacher his height and he thought she was a child.
19 Her name was Ms. Graham. She was a little short lady.
20 And he thought she was a child and I tell him she's not a
21 child. She is got her education, so you got to listen to
22 her. And two days she'll call me J.J. got to go to ISS or
23 he got to go in the corner because he misbehaving. And
24 she'll call me again J.J. misbehaving. It's -- my niece
25 was in his class too can you please come pick up your

1 niece and J. J. Yes, ma'am.

2 Q So it's fair to say problems at school started early?

3 A At kindergarten.

4 Q All right. Now, you just said you were at work, tell
5 me about that in relationship to dealing with your
6 children and that kind of stuff?

7 A Well, I always work because I didn't want to, you
8 know, be in the system. I was a single mom and I had my
9 mom, she was my backbone. If I go to work, she know I'm a
10 worker, she babysit for me and put the kids on the bus.
11 They need anything she know I provide it. I always tell
12 them I work for y'all. I don't want y'all out here in the
13 streets stealing or breaking in nobody house. I always
14 gave my rule. It take 20 minutes to get in trouble and 20
15 minutes -- I mean 20 years of your life to get out. I
16 preach to them every day because I had boys. I didn't
17 have to worry about Sheree because she didn't get in
18 trouble. I had boys, so I preached and I like, J.J., I
19 don't want you to be like your daddy.

20 Q Tell me about that J.J. I don't want to be like your
21 daddy?

22 A I say J.J. your daddy use to get in trouble. We use
23 to go to school together. I say your daddy use to get in
24 trouble. I say he use to leave the school, I'm thinking
25 he on punishment, but they done sent him to a boys home.

1 And I use to tell him, Jay, I work too hard. I get two
2 jobs, I don't want y'all out here stealing. I don't want
3 y'all to break in nobody house. I'll take care of y'all
4 myself. I say, Jay, I don't want you to follow in your
5 daddy footsteps and I preach to him every day. I preach
6 to all of them. I don't want none of them to go to jail.

7 Q So about his father's footsteps, would you have said
8 that to him maybe once, twice?

9 A No, ma'am, I say it numerous times.

10 Q All right. So tell me about when he was in the
11 fourth or fifth grade something happen -- a Mr. Holding
12 does his name ring a bell to you?

13 A No, ma'am, he wasn't in the fourth grade, he was in
14 the third grade.

15 Q I'm sorry third grade tell me about that?

16 A Okay, J.J. they say he was having behavior problem
17 and the psychiatrist she'll come to the schoolhouse and
18 she say she was gone prescribe him some kind of medicine
19 like Ritalin or something like that. And I told her, no,
20 I'm not about to give my son no medicine, that's drugs
21 because I don't do drugs. And then they say, well, then
22 we gone take him out the regular class and we gone put him
23 like in behavior class, that was outside like in a
24 portable. And that was -- well, you call it special
25 education class, that's what that was. So Mr. Holden was

1 the teacher. So J.J. came home and he say Mr. Holden had
2 me in the chokehold. So I ask him why did he put you in
3 the chokehold, what did you do. I ain't do nothing. So I
4 went to the schoolhouse, I talk to the principal and I
5 talk to Mr. Holden. I say why did you put my boy in a
6 chokehold. I'm a phone call away, only thing you got to
7 do is call me and I'll get here to the schoolhouse. He
8 say he didn't have J.J. in the chokehold. He say he had
9 his arm twist up like that. Well, I say he only in the
10 third grade why you twist him up like that.

11 Q Okay. We got to be careful about what other people
12 say, okay. But the third grade?

13 A Yes, ma'am.

14 Q All right. What, if anything -- I'll come back to
15 that. All right. You said that they put him in what did
16 you special ed?

17 A Yes, ma'am.

18 Q Tell me what, if anything, about may or may not have
19 been significant?

20 A Well, they say J.J. -- they say that was behavior in
21 class. They said they was tired of J.J. acting up in
22 normal classes, so they put him in the slow class, special
23 education class, you know, because they call that -- maybe
24 he'll behave better outside instead of inside.

25 Q Okay. Did J.J. ever talk to you about being in

1 special ed class?

2 A No, ma'am, not until he got up of age like in the
3 seventh grade.

4 Q And then what?

5 A He say I'm tired of being in these classes. I want
6 be in regular classes. And I said, J.J., you got to
7 behave to get in regular classes. And the psychiatrist,
8 the principal and a couple teachers will have IEP meeting
9 to see can Jay go to regular classes. Jay went to like --
10 they didn't take him fully all the way out, but they took
11 him out for five classes. In like two classes, he had to
12 go back.

13 Q Okay. But you said the doctor or somebody talked
14 about putting him on medicine?

15 A That's when he was in the third grade.

16 Q But you didn't?

17 A No, ma'am.

18 Q Okay. Now, let's skip ahead talk about, let's get --
19 let's talk about high school. Let's talk about him when
20 he was in high school, okay.

21 A Yes, ma'am, okay.

22 Q Did he go to regular high school?

23 A Yes, ma'am.

24 Q Which high school did he go to?

25 A He went to Green Sea Floyds High.

1 Q Did he stay in Green Sea Floyds High the whole time?

2 A No, ma'am.

3 Q Tell me about that?

4 A Okay, he started in ninth grade at Green Sea Floyds
5 High. He didn't get in trouble the first of the year
6 because I told him if you don't be bad, you don't get in
7 trouble, I'll let you play football. He didn't get in
8 trouble. He didn't get in trouble for about four or five
9 months because it was football season. And then he play
10 like two or three games or something like that. And then
11 after that, he got in trouble. He got kicked out of
12 school no more high school.

13 Q So he never got to go back to Green Sea?

14 A No, ma'am. The homebound teachers they use to say
15 school him at home or we can school him at the library. I
16 was at work, somebody had to be home for them to school
17 him home, but they'll school him at the library because
18 they have other people there like teachers. So I'll go
19 pick J.J. up from the library or some days if I'm off from
20 work, I'll call the school, I'm home, they'll come to the
21 house or my daughter be there, she be to the house. Adult
22 had to be there because J.J. was under age. Somebody 18
23 or older had to be to the house.

24 Q All right. Did you tell me he had an IEP?

25 A No, ma'am.

1 Q Does he have a 504? Did he have an IEP or anything
2 like that?

3 A Every year he had an IEP.

4 Q Tell me about the IEP, what did you understand about
5 that?

6 A They evaluate and see if Jay is mental and every year
7 we get IEP they'll ask me, oh, do you want to put Jerome
8 on Ritalin. It's like every year. I say, no, ma'am, we
9 can stop talking about that, I'm not gone put him on no
10 drugs. And then they say, well, he having behavior
11 problems, he can't come to regular school, so he gone have
12 to start going -- he got in so much trouble he got to
13 start going to alternative school. So we have to sit out,
14 have to wait two weeks, get a letter in the mail. When I
15 get the letter, I'll go register him in at the alternative
16 school. And they'll let you know you gone accept him or
17 not, but they always accepted him. Okay, he have to go
18 there and be good for 45 days and eligible to get back to
19 Green Sea.

20 Q Okay. All right. So -- but he never made it back to
21 Green Sea?

22 A No, ma'am.

23 Q Okay. Let's talk a minute and talk about J.J.
24 compared to his brothers and sisters?

25 A Yes, ma'am, he always say he was the black sheep of

1 the family because of his last name. He always say how
2 you gone have three Rays and skip me and then go to Raheem
3 and get him a Ray and you put me as Jenkins. I think you
4 curse me with that last name Jenkins.

5 Q Tell me this Ms. Ray -- Ms. Jenkins, when you said
6 that you had preached to your children and they got in
7 trouble, what if any way did you punish them?

8 A They get a beating.

9 Q What that mean?

10 A I spank them.

11 Q How literally tell us?

12 A Belt, switch whatever.

13 Q If you thought they needed it, they got it?

14 A Yes, ma'am.

15 Q Would you wait 'til they would get home?

16 A Yes, ma'am -- not J.J. I didn't, no, ma'am. No,
17 ma'am, I didn't wait for J.J. He got his at school.

18 Q Okay. Do you think that was maybe only one time?

19 A No, ma'am, about two or three times when he was at
20 the elementary school he got it, but when he get to the
21 high school, I wait 'til he get home.

22 Q But when he was little?

23 A Yeah, he got it at the schoolhouse like the rest of
24 them.

25 Q Okay. Talk about him in comparison to his other

1 brothers and them interacting together and being good
2 little boys?

3 A We can be sitting down looking at TV, J.J.
4 nitpicking. He either mashing their toes, pulling their
5 ears, pinching them. They say ouch, stop Jay. I say,
6 Jay, sit down we looking at TV. He always was nitpicking
7 with his brothers.

8 Q Do you think that -- so do you think his brothers
9 were better behaved than him?

10 A No, ma'am.

11 Q But?

12 A They was just don't get in trouble at school. They
13 get in trouble at home. Jay get in trouble at school and
14 at home. The other guys, you know, they get in trouble at
15 school a little bit, but not like Jay did.

16 Q Okay. Did he ever talk about like how you treated
17 one versus the other?

18 A Yeap, he always Dequan Ray, that's my second oldest
19 son. He was special than everybody. All my kids say I
20 treated Quan Ray special than them. He was my favorite
21 child.

22 Q Let's talk about crying. Was J.J. a crier?

23 A No, ma'am.

24 Q Tell me about that?

25 A It take a lot for him to cry.

1 Q Did he cry?

2 A Yes, ma'am, when he know he about to get a beating.
3 Yes, ma'am.

4 Q All right. Did J.J. ever talk about his father?

5 A Sometimes. He like my daddy wasn't here for me. I
6 wish he been out. I say I wish he been out too maybe you
7 probably would have, you know, been a better person than
8 what you is. He could have been going to the schoolhouse
9 instead of me.

10 Q All right. Let's talk for a second about the first
11 time J.J. got in real trouble, like when he got trouble
12 with the law?

13 A I don't know what year it was, but I know he was 17
14 years old.

15 Q Okay.

16 A I was off that day. I was in the bed sleep. J.J.
17 was in the other room sleep and I was keeping my little
18 niece. And we went outside me and my little niece. J.J.
19 was still in the room. Me and my little niece was sitting
20 outside on the porch she was eating cereal. And then I
21 look at the road, I see about three or four polices coming
22 up in my yard and I'm like y'all in the wrong area. Y'all
23 in the wrong yard I say who you looking for. They say do
24 you have a son name Jerome. I say, yes, I have a son name
25 J.J. or Jerome. They say a house been break in about some

1 guns. I say excuse me I said house been break in about
2 some guns.

3 Q You got to be careful you can't tell us what the
4 police told you. What happened?

5 A Well, the police came up there and I say J.J. come
6 outside right now. I said what did you do. I ain't do
7 nothing Ma. I say these people ain't up here, you know,
8 for nothing. I say come right now, so they left. They
9 came back, somebody gave a description. They came in my
10 house want to look at all the shoes. I say, of course,
11 come on. Oh, sorry.

12 Q That's okay. Let me ask you this ultimately it's
13 safe to say he was arrested, correct?

14 A Yes, ma'am.

15 Q What, if anything, did he do once he was arrested,
16 cooperate tell us about that part?

17 A Okay. They say, ma'am, we have to arrest your son.
18 I say okay. They read him his rights. They put him in
19 the handcuffs and they took him on. I told him I'm
20 coming behind because I want to know what was going on.

21 Q All right. Ultimately, did he ever -- did he tell
22 you what he had done, what he hadn't done, what the other
23 boys had done, not had done?

24 A Only thing he say was he didn't go in the house,
25 stayed in the car that was it.

- 1 Q Did he tell the police that?
- 2 A Yes, ma'am.
- 3 Q All right. Then he got -- so that's when he got the
- 4 conviction for the burg second nonviolent, correct?
- 5 A Yes, ma'am.
- 6 Q And he got the grand larceny value one to two?
- 7 A Yes, ma'am.
- 8 Q That's what that was for?
- 9 A Yes, ma'am.
- 10 Q All right. And then he got arrested again?
- 11 A Yes, ma'am.
- 12 Q What was that for?
- 13 A Him and his brother got arrested together. I was
- 14 home sleep. I get a phone call from J. Reuben Long, my
- 15 son Dequan. I like hello, talking about, Ma, we in jail.
- 16 I said we who? Me and J.J. I said for what? We was in
- 17 the bottom ---
- 18 Q It's okay just tell us what was the charge?
- 19 A Dequan was charge with disorderly conduct. J.J. was
- 20 charge with cocaine or something like that.
- 21 Q All right.
- 22 A I got Dequan out and left J.J.
- 23 Q Why?
- 24 A Because I told him we don't do drugs. If I find out
- 25 you doing drugs, you stay.

1 Q So you left him?

2 A Left him right in there until his court date.

3 Q Okay. And he was convicted?

4 A Yes, ma'am.

5 Q And obviously he served a little bit of time?

6 A He served ten to 11 months.

7 Q Okay. Now, let's switch gears for a minute and let's
8 talk about Playcard?

9 THE COURT: I'm sorry what?

10 MS. WILLIAMS: Playcard.

11 A They call it Playcard.

12 THE COURT: Okay.

13 BY MS. WILLIAMS:

14 Q And tell the jury or the judge what that is?

15 A Playcard is a trailer park. When you first come in,
16 you got Mr. Sims. On the side I lived on, it's called
17 Grainger Mobile Home Park, but the little town -- the
18 little area call Playcard and that's where I stayed at. I
19 stayed in the back of the trailer park.

20 Q Tell me about it?

21 A Well, it was a violent place, sold drugs all that,
22 sold drugs. They had a shooting out there stuff like
23 that. And I stayed in the back. I always told my kids --
24 we lived in the back. All the trouble was in the front,
25 so I kept them to the back. The only time they could go

1 to the front you got to go to the road and get on the
2 school bus and I was with them. Okay, now getting off the
3 bus, I wasn't home I was at work. The rule was get off
4 the bus and go straight home. I had no problem with that
5 none whatsoever.

6 Q Okay. Do you still live in Playcard?

7 A No, ma'am.

8 Q Why?

9 A I got out the trailer park five years ago, going on
10 six.

11 Q Would you move back?

12 A No, ma'am, I stay in Hardeeville, South Carolina 15
13 minutes from Savannah, Georgia.

14 Q No, would you move back?

15 A No, no, ma'am.

16 Q Why?

17 A Because it's bad out there, look like it get worser
18 and they got condemn houses and all that, no, ma'am.

19 Q In your opinion, J.J -- want to make sure. You told
20 me J.J.'s father was in prison most of his growing up?

21 A Yes, ma'am, 22 years, yes, ma'am.

22 Q So he got out what did you say 2015?

23 A Yes, ma'am.

24 Q All right. Did J.J. talk about that or impact him or
25 anything like that?

1 A No, him and J.J. use to talk, I don't know.

2 Q Did you see any reaction or did you like notice that
3 J.J. talked about it or it impacted him?

4 A No, ma'am.

5 Q Okay. Now, let's take a second and talk about he
6 goes for ten months and then he comes out. Tell me about
7 that window when he comes out because it's basically
8 about what six or eight months between the time he comes
9 out and the time all this bad stuff happens, right?

10 A Yes, ma'am. Okay, when he got out, him and Lonnice
11 they got a job at KFC in Loris, South Carolina, that was
12 his first job and he work. He work. Him and Lonnice
13 work. She'll take him to her house one night or she'll
14 bring him home to me. I have G., his baby, babysit, you
15 know, why they work. And he worked KFC, I think, about
16 three months before he got a better job, a better paying
17 job. Captain George was one job and the second job was
18 next door Caribbean.

19 Q Tell me about that?

20 A I think he was a cook or a dishwasher at Captain
21 George. At the Caribbean he was a houseman.

22 THE COURT: He was a what?

23 A A houseman like picking up dirty linens.

24 THE COURT: Okay.

25

1 BY MS. WILLIAMS:

2 Q Houseman or housemen?

3 A Well, houseman. It's got M-A-N on the end of it
4 houseman.

5 Q Okay, just making sure we got it right. All right.
6 How long did he work there?

7 A I don't know. I think he worked at Captain George
8 about four months and about a month and a half at the
9 Caribbean. And then he left Captain George and he went to
10 this place call Cheeseburger Paradise. And he say that he
11 was getting more money working there and he was still
12 working at the Caribbean.

13 Q All right. So he was here in Horry County?

14 A Yes, ma'am.

15 Q Where were you?

16 A I was still in Horry County for a while.

17 Q Did you eventually leave?

18 A Yes, ma'am.

19 Q Tell us about that?

20 A Okay. I left July the 7th of 2014. I move to
21 Savannah, Georgia.

22 Q All right.

23 A Me and -- it was me, my son, Raheem, my son, Dequan,
24 and my baby boy D.S. was the four of us.

25 Q All right.

1 A I ask J.J. did he want to go. He said no. I ask
2 Dequan did he want to go. He said no. My oldest son was
3 in the service and my adopted son Trevon he was in the
4 service. Sheree, my daughter, she was staying with my
5 mom, so.

6 Q Did J.J. give you a reason why he didn't want to go?

7 A Yes, ma'am, he say he want to be here in Horry County
8 with his son, so he can, you know, bring his son up. I
9 said, okay, don't get in trouble.

10 Q So speaking of his son, what is his son's name?

11 A Javoney Jemarcus Jenkins.

12 Q And y'all call him?

13 A Gio.

14 Q Do you know where his name came from?

15 A Who Javoney?

16 Q Gio.

17 A No, ma'am, because I use to call him fat boy.

18 Q Okay. All right. Let's talk for a second and talk
19 about J.J.'s getting in trouble at school. Did he do any
20 type of counseling?

21 A He use to go to counseling. I don't know the lady
22 name, but he use to go to counseling every day. Every day
23 he had counseling before school get out or he have
24 counseling before he go to a class.

25 Q Counseling at school?

- 1 A Yes, ma'am, he had like a little counsel lady. I
2 forgot what her name is. She use to call me, well, J.J.
3 did good all week, you know, at school or J.J. was getting
4 in a little trouble. So I went to the class and I talk to
5 him and he calm down. She use to give me updates.
- 6 Q Okay. Did he ever see a outside private counselor?
- 7 A No, ma'am.
- 8 Q All right. So only was at school?
- 9 A Yes, ma'am.
- 10 Q All right. Let's talk for a second about school, did
11 the police ever bring him home?
- 12 A Yes, ma'am.
- 13 Q Tell me about that?
- 14 A I couldn't get him from school. I don't know what he
15 did.
- 16 Q I'm sorry to interrupt you. How old was he when
17 that happen?
- 18 A He was in the third grade, he was seven.
- 19 Q Tell me about it?
- 20 A I got a call from Ms. Harrison and Ms. Huggins. They
21 was the principal at the schoolhouse, assist principal and
22 the principal. They call me say J.J. acting up so bad, he
23 running around. He acting up.
- 24 Q You can't tell us -- stop you can't say what other
25 people are saying. So something happen at school?

1 A Yes, ma'am.

2 Q And what happened?

3 A And she say -- she said I need you to come get J.J.
4 I say, ma'am, I'm at work. It gone take me at least 45
5 minutes to get there. Ms. Harris said I need you to get
6 him. I said, well, I can't get him. I say, well, if you
7 can get him home, somebody be there. They put him in the
8 police car and they took him home.

9 Q All right. Let's pause for a moment and let's talk
10 about what I'm going to call -- we'll switch gears and
11 talk about what I'm going to call your core family, okay.
12 What's your mother's name?

13 A Francena Washington.

14 Q And she -- how many aunts -- so it would be your
15 aunts and uncles?

16 A I have my aunt Adlene, my aunt Betty, my aunt
17 Idabell. And I have a aunt deceased. Her name is Pearl.
18 And I have a uncle name Earnest. I have uncle name
19 Randolph. And I have a uncle name Walter he decease.

20 Q All right. Tell me who is Hen?

21 A Willie Hen Floyd was my mom boyfriend. Well, my step
22 dad that's what I call him.

23 Q Tell me about him?

24 A He didn't have any kids, so he treated me and my
25 sister like his kids. And he treated my daughter like his

1 daughter and granddaughter.

2 Q What, if any, relationship did J.J. have with him?

3 A He just call him papa.

4 Q And is Mr. Floyd still alive?

5 A No, ma'am.

6 Q Tell us what, if anything, about that and maybe if
7 J.J. what, if anything, it mattered?

8 A I don't know what year he passed away, but, I guess,
9 it took a tool on J.J. He use to talk about I don't have
10 no more papa and stuff like that. I say, well, maybe
11 you'll meet him in heaven one day. I said he gone on to a
12 better place.

13 Q All right. Who's Marcus?

14 A That's my first cousin.

15 Q Tell me about Marcus what, if any, relationship did
16 J.J. have with him?

17 A He use to come to my house all the time. Okay, and
18 my aunt use to keep J.J. and the other kids too. And they
19 use to go to her house through the week after school. And
20 she use to babysit him too. And, you know, he kind of
21 grow up with Marcus and the rest of the kids, my aunt
22 kids.

23 Q Tell us about Marcus and -- what, if anything, about
24 Marcus' life may or may not have had an impact on J.J.?

25 A Well, J.J. loved Marcus and Marcus loved J.J. Okay,

1 when we got the news that Marcus had got shot and kill, I
2 guess, it took a tool on J.J. and that's the time he went
3 to crying because he never cried, but he cried during that
4 time. He say my cousin gone. My cousin gone and he cried
5 for like two weeks. And then I like it'll be all right
6 J.J., it'll be all right. And then he go to school. He
7 go school he tell the people they kill my cousin. And he
8 was cry cry. I was like, Jay, you need to pipe it down,
9 it'll be all right.

10 Q How did Marcus die -- and let me just say about this
11 was it naturally?

12 A No, ma'am.

13 Q Okay. All right. Now, almost -- you said J.J. got
14 in a lot of trouble that's fair, right?

15 A Yes, ma'am.

16 Q Okay. Did he ever do good school stuff?

17 A Yes, ma'am.

18 Q Tell me about that?

19 A He can cook. He was cooking better than all the
20 kids. I use to do a hard day at work. He use to rub my
21 feet, rub my back, comb my hair, give me a good old
22 massage nothing the other kids can do. I mean, he did
23 good stuff. He rake the yard I ain't had to ask him. I
24 don't have to tell him to clean up his room he did that.
25 He wash the dishes when his day come before I say read the

1 list with your name on it. Everybody got a day. You
2 know, he was on time.

3 Q Okay.

4 MS. WILLIAMS: I beg the Court's indulgence for
5 just one moment.

6 THE COURT: Yes, ma'am.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MS. WILLIAMS:

9 Q Mrs. Jenkins, we talked about G. . G. s mom's name
10 is?

11 A Lonnice Grant.

12 Q Tell me what, if anything, you know about Lonnice and
13 J.J.? Let me rephrase that. Will you tell the jury about
14 their relationship and it started and you know?

15 A I don't really know how it started, but it was a
16 rocky relationship. I don't know how it started.

17 Q How old were they?

18 A I think 17 when they started talking at the most. I
19 think 17.

20 Q Okay. Do they still talk?

21 A I don't know. Honestly, I don't know.

22 Q All right. You said it was rocky. What does that
23 mean?

24 A He always arguing and fighting, bickering about any
25 little thing.

1 Q All right. She has his son G.?

2 A Correct, yes, ma'am.

3 Q And what, if any, relationship do you have with her
4 and G.?

5 A He's my grandson and that's his mother.

6 Q Okay. But I got the actual relationship let me
7 rephrase it. Do you take care of him? Do you see him?
8 Is he removed from your life?

9 A No, ma'am, I see him. No, ma'am, he not remove from
10 my life, no, ma'am. No, ma'am.

11 Q How about your family?

12 A No, ma'am. No, ma'am.

13 Q Tell us what that is?

14 A He's not remove from my life. We see him all the
15 time. I'm out of town, I live out of town. He be at my
16 mom house, he call me on the phone. He be at my mom house
17 and his little sister. I talk to both of them.

18 Q Okay. Do you know if during that window once J.J.
19 got out of jail before these incidents happened if he and
20 Lonnice were together?

21 A They was together, but they was bickering. They was
22 together, yes, ma'am.

23 Q Tell me what you know about that time frame?

24 A Well, the last time I seen J.J. was 2014 in December.
25 Him and Lonnice was bickering. And I ask J.J. do you want

1 to go with me to Savannah. He say, yes, ma'am. I say,
2 well, pack your clothes and come on. Lonnice say sorry
3 you leave ---

4 Q He you can't tell us what Lonnice said, but what did
5 he not do?

6 A Go with me. He stayed.

7 Q And why did he tell you he couldn't go?

8 A Because he want to stay there and be with his son.

9 Q All right.

10 MS. WILLIAMS: Beg the Court's indulgence.

11 (WHEREUPON, a pause in the proceedings.)

12 BY MS. WILLIAMS:

13 Q Ms. Jenkins, did J.J. ever work like when he was in
14 school or younger or?

15 A He use to work with some man I don't know his name.
16 He use to go with Mr. Watson. Mr. Watson use to give him
17 like little odd jobs like cut his grass, he'll give him
18 allowance. He had all the boys.

19 Q How old was he when he started?

20 A Like 13 or 14.

21 Q Okay. So did you have to push him to do it or did he
22 just start?

23 A No, ma'am. No, ma'am. No, ma'am, never had to push
24 Jay to work, no, ma'am.

25 Q Okay. And now do you go visit him in the interim

1 while we have been awaiting this trial?

2 A No, ma'am, I haven't been because he been here.

3 Q I'm sorry you have or have not since he's been in
4 Conway?

5 A Oh, yes, I have seen him since he been in Conway,
6 yes, ma'am, but not while he's on trial, no, ma'am.

7 Q Okay. And so you go see him -- he got brought back
8 to Horry County ---

9 A I go see him on Saturdays. Yes, ma'am, I see him.

10 Q Have you missed a Saturday?

11 A Yes, ma'am.

12 Q How many?

13 A Two.

14 Q All right. Does his daddy go?

15 A No, ma'am.

16 Q Only you go his father doesn't go?

17 A No, I'm talking about we go together, but we both
18 miss two Saturdays.

19 Q Okay. All right. I think the last topic I want to
20 talk to you about just to make sure we're real clear.
21 Tell me what, if anything, you know about J.J.'s
22 relationship with G.?

23 A He love his son with all his heart and soul. G.
24 love him with all his heart and soul. Every time I talk
25 to Jay on the phone how G. doing, how G. doing. When I

1 talk to G. ---

2 Q We can't talk about what the child says.

3 A Okay. How my boy doing, how my boy doing. I say,
4 Jay, he doing all right. He love him.

5 Q Is that an every time thing?

6 A Yes, ma'am.

7 MS. WILLIAMS: All right. Thank you, Mrs.

8 Jenkins. Please answer questions the State may have.

9 MR. HIXSON: I don't have any questions, Ms.

10 Jenkins. Thank you for coming.

11 THE COURT: All right. Thank you, Mrs. Jenkins.
12 You may step down.

13 (WHEREUPON, the witness leaves the witness
14 stand.)

15 THE COURT: All right. You may call your next
16 witness.

17 MS. WILLIAMS: Thank you. I will call Francena
18 Washington.

19 THE CLERK: Please raise your right hand and
20 place your left hand on the Bible. Do you solemnly swear
21 or affirm the evidence you're about to give the court in
22 this case will be the truth, the whole truth, and nothing
23 but the truth so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please be seated for me. Please

1 state your name and spell your last name for the court.

2 THE WITNESS: My name is Francena Washington,
3 last name Washington W-A-S-H-I-N-G-T-O-N.

4 WHEREUPON,

5 Francena Washington,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. WILLIAMS:

9 Q Ms. Washington, can you tell the Court and the jury
10 your relationship to J.J.?

11 A That's my grandson.

12 Q And are you his mother's mother or his father's
13 mother?

14 A I'm his mother's mother.

15 Q Okay. Tell us -- let's start for -- let's start
16 about this when J.J. was little.

17 A Okay.

18 Q Tell me about J.J. and what you remember with him
19 being little?

20 A He was a very pretty little boy and I fell in love
21 with him deeply when his mother brought him home. He was
22 my favorite, but I loved all the rest of them the same.
23 He was just my real favorite little boy.

24 Q Do you think he knew that?

25 A Yeah, he knew that.

1 Q All right. So let's talk about did you keep him when
2 he was little?

3 A Yes, I did.

4 Q Tell me about that?

5 A I kept him next door. We was staying right next door
6 and his mother and me. We was staying next door and I go
7 gets him and bring him to my house. The other children
8 didn't want to come because they was mother's children.
9 They wasn't grandma babies because they was kind of
10 bigger, you know, and they I know I tear that butt up.

11 Q But was that happening to J.J.?

12 A J.J. I didn't never have to spank him that much. I
13 spank him about one or two times when he was small, but he
14 couldn't remember that.

15 Q Okay. And you said y'all live next door to each
16 other where did y'all live next door to each other at?

17 A Playcard.

18 Q In Playcard?

19 A Yes, ma'am.

20 Q Tell this jury what, if anything, you know about
21 Playcard?

22 A I know Playcard was a dangerous place. I always say
23 I don't know what my children see in Playcard, but I say
24 when I get up out of here, I'm not coming back no more.

25 Q Did you actually get out of there?

1 A I did, I did.

2 Q When?

3 A But it was a while, you know. I stay there about --
4 I ain't gone say two years. I'm gone say about a half a
5 year.

6 Q And then you moved?

7 A Yes, I move.

8 Q Where did you move to?

9 A I move to -- wait a minute let me think right now. I
10 move to the top of the hill. I move to the top of the
11 hill in Playcard. You know, we was in the back I move
12 there for a while. I couldn't pay no rent or nothing. I
13 ain't say I stay there about three months and then I left
14 there. I think I went to Fair Bluff, North Carolina.

15 Q You went to Fair Bluff?

16 A Yes, ma'am.

17 Q And about how far away is Fair Bluff from Playcard?

18 A About 35, 40 miles.

19 Q All right. Can you describe J.J. to me?

20 A J.J. is a loving boy. I didn't see nothing wrong
21 with J.J. His mother -- you know, I never see no wrong in
22 J.J. I didn't because when I talk to J.J., J.J. never
23 have no problem.

24 Q But were those the reports you got from everybody
25 else?

1 A Yes.

2 Q You got reports ---

3 A Before his mother now, she didn't because when J.J.
4 do something, she bring him to me because I'm the only one
5 can straighten him out.

6 Q All right. But you could straighten him out?

7 A Yes, ma'am.

8 Q Okay. So he would be in trouble and he got to come
9 to you?

10 A Oh, he get in trouble even when he with me because
11 once he went down the road and he met three little boys
12 and all of them come running back with him, you know.
13 They wanted to fight him. I say, well -- I came out the
14 house I say, well, which one of y'all want to fight him.
15 All of them say I do. I say, well, all of y'all ain't
16 gone fight him. I fight little children too, that's what
17 I told them, but you know what he fight one of the boys
18 because he wouldn't go back. And he jumped on J.J. and
19 J.J. put him in the ditch. He didn't hurt him up or
20 nothing, but he throw him in the ditch and beat him up.

21 Q Let me ask you this, tell me about J.J. at school?

22 A I only went to school with J.J. -- oh, which school
23 now?

24 Q Well, when he was little at school or even middle
25 school what interactions ---

1 A Well, I wasn't around when he started school.

2 Q Okay.

3 A I kept them when they were little and I brought them
4 back to their mother, but I only kept him one time when he
5 was in the middle school. One time I went to school -- I
6 had to go to school because my daughter was working. And
7 I came all the way from, I think, Fair Bluff, you know, to
8 keep him. I was staying in Fair Bluff then.

9 Q So you had to go to the school?

10 A Yes, I had to go to the school and sit with him. He
11 sat in the hallway.

12 Q So you actually sat with him at school?

13 A Yes, I sat with him.

14 Q All right. Tell me this what, if anything, do you
15 know about like J.J.'s relationship with his brothers and
16 them fussing or not fussing?

17 A Well, he use to go in there and say, well, let me see
18 this thing. He say y'all ain't did no washing. They can
19 be sleep and he wake them up.

20 Q All right.

21 A And I was staying there with them, you know, taking
22 care of the kids then too. I just had to tell him you
23 better go to bed, go to sleep leave them kids alone.

24 Q All right. You just said that in your opinion J.J.
25 was your favorite?

- 1 A He was.
- 2 Q Do you think he was his mother's favorite?
- 3 A No.
- 4 Q Tell me why you say that?
- 5 A Because he always -- when he was, you know -- this
- 6 was when he was about I say 10 or 13. He use to come to
- 7 my house and she bring him to my house. He say, Ma, he
- 8 say -- he call me Ma. He say she always taking, you know,
- 9 taking up with Quan Lee them and she always hit me when
- 10 she never hit Quan Lee them. Quan Lee is Dequan. And I
- 11 say, well, I'm gone talk to her about that. I say why she
- 12 keep hitting you what you did. He say nothing, but I know
- 13 he did something.
- 14 Q Okay. But he would talk to you about difference in
- 15 treatment?
- 16 A Yes.
- 17 Q Did he ever talk to you about his last name?
- 18 A No, he didn't. If I know that was a problem, I would
- 19 have never told my daughter that.
- 20 Q Okay. All right. So let's take a moment and go
- 21 forward. You know back in like 2015 when these things
- 22 happened the window before that he had gotten out of jail
- 23 and there was a window, right?
- 24 A I wasn't there.
- 25 Q Pardon me?

1 A I wasn't there.

2 Q No, did he come to see you before like all these
3 stuff that we're here about now did he come see you?

4 A I think he did.

5 Q And what, if anything, would he do?

6 A When he got out of jail and stuff, that's what you
7 talking about and stuff?

8 Q Yes.

9 A Well, I don't think I saw J.J. when he got out of
10 jail because I was in Fair Bluff then.

11 Q All right. So you didn't see him then?

12 A No.

13 Q All right.

14 A Not with all these problems going on.

15 Q Okay. Well, let's back up and go before then. So
16 before that window happened, did you see him like before
17 he got in that last bit of trouble and actually went to
18 jail?

19 A Oh, yes, ma'am.

20 Q Tell us about that?

21 A Yes, ma'am. I came and, you know, I stayed with him.
22 I come spend the night and stuff with him, you know, but
23 they never told me J.J. was in trouble, never. I didn't
24 never now.

25 Q What I want to ask you is what, if anything, did J.J.

1 do or not do or help you or not help you, tell me about
2 that kind of stuff?

3 A Oh, yeah, he always help me. He cook for me and come
4 and cook when the rest of them don't even come to my
5 house. They don't even come now, but J.J. when he was
6 there he always come.

7 Q All right. You heard your daughter talk about
8 Lonnice and G. . Tell us what, if anything, you know
9 about that and your relationship with them?

10 A Well, they didn't have no lights at they house. I'm
11 just putting it on the line. She don't want to talk about
12 this, but I'm gone tell this. She -- he told me he say we
13 don't have no lights, no heat. So I say, well, bring the
14 children over here. They stay with me I think about few
15 nights, you know, few nights. I keep the kids for him,
16 you know, so he can run down the road or whatever, you
17 know. But Lonnice was working at this time, but he wasn't
18 working.

19 Q Do you know why he wasn't working?

20 A Because he said she made him lose his job.

21 Q I'm sorry.

22 A He said that she made him lose his job.

23 Q Do you know if he was looking for work?

24 A Yeah, he look for work, but where I don't know.

25 Q But he didn't actually -- he never didn't actually

1 find a job?

2 A No, he didn't.

3 Q Okay.

4 A He had to take care of G. .

5 MS. WILLIAMS: Okay. I beg the Court's
6 indulgence.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MS. WILLIAMS:

9 Q Ms. Washington, since J.J. has been back at J. Reuben
10 in Conway have you been to see him?

11 A Ma'am, every chance I got.

12 Q All right. Tell me, if anything, what you know if
13 anything about J.J.'s relationship with G. ?

14 A He love his son.

15 Q Tell me why you say that?

16 A Because he always -- when he call me, he ask about
17 G. . He never ask about Jm.J. and see that upset me and he
18 know it. I say both of them your kids, you suppose to ask
19 about both of them, don't ask about one. I say if I can't
20 bring G. , I can't bring Jm.J. I can't bring G. .

21 Q Did you keep those children?

22 A Yes, ma'am.

23 Q Tell me about how often or what about that?

24 A Well, when everybody working in her household like
25 her mother and her, they'll bring them to me.

1 Q And by her you mean Lonnice?

2 A Lonnice, yes, ma'am.

3 Q Okay. So you actually help keep the children?

4 A Yes, ma'am.

5 Q All right.

6 A I keep them children on J.J. behalf.

7 MS. WILLIAMS: Thank you so much, Ms.

8 Washington. Please answer any questions that the State
9 may have.

10 MR. RICHARDSON: Thank you for coming, Ms.

11 Washington. I don't have any questions for you.

12 THE COURT: All right. Thank you, Ms.

13 Washington. You may step down.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 THE COURT: All right. You may call your next
17 witness.

18 MR. WILSON: Issac Bailey.

19 THE CLERK: Please raise your right hand and
20 place your left hand on the Bible. Do you solemnly swear
21 or affirm the evidence you're about to give the court in
22 this case will be the truth, the whole truth and nothing
23 but the truth so help you God?

24 THE WITNESS: Yes.

25 THE CLERK: Please state your name and spell

1 your last name for the Court.

2 THE WITNESS: Yes, I am Issac Bailey. Yes, my
3 last name is B-A-I-L-E-Y and my first name is I-S-S-A-C.
4 WHEREUPON,

5 Issac Bailey,
6 after first having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. WILSON:

9 Q Mr. Bailey, let me just ask you a little bit about
10 yourself if you would. Tell me a little bit about your
11 education and your job related experience?

12 A Sure. Yes, I graduated from Davidson College in
13 North Carolina with a psychological degree. And I also
14 spent a year at Harvard University actually studying the
15 development sort of my child grades especially in very
16 stressful situations. And I also actually spent 18 years
17 here at least like actually like writing for the Sun News.
18 Yes, and so and through that I saw and met J.J.

19 Q So you were here as a writer for the Sun News for you
20 say 18 years?

21 A Yes.

22 Q And tell us after you went -- when you left the Sun
23 News, is that when you went to Harvard University?

24 A Yes, so I actually went there. Again, I solely
25 focused on child's brain development especially on kids

1 who actually grew up in sort of like really really
2 stressful situations sort of like my own family. In fact,
3 I had also actually studied like at the law school et
4 cetera as well.

5 Q Let me ask you this, did you author a book?

6 A Yeah.

7 Q And the book was called Mookey -- My Brother Mookey?

8 A Moochie, yes.

9 Q Moochie. All right. And tell us a little bit about
10 what that was about?

11 A Yes, and I grew up sort of what I sort learned at
12 Harvard and also it centers on my oldest brother Moochie
13 because I'm actually one of sort -- of nine boys. Yes,
14 and then so when I was nine years old, he actually
15 murdered a man and he actually spent 32 years in prison
16 for that. And then at that book just looks at that whole
17 process, et cetera and at least how the affect of prison
18 onto a family's like mine.

19 MR. HIXSON: Your Honor, may we approach just
20 like as a side bar, so we don't have to send anybody out.

21 THE COURT: All right. You all stand up and
22 stretch we been sitting for an hour or so.

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury, but out of the hearing of the
25 jury.)

1 THE COURT: All right, here we go.

2 BY MR. WILSON:

3 Q Okay. So you were relating to us your experience
4 with your brother and the reason that you wrote the book,
5 is that correct?

6 A Yes.

7 Q All right. Now, go ahead and explain to me kind of
8 what again what the book was about if you can in general
9 terms expeditiously as you can?

10 A Yes, well, at least like in a nutshell, it actually
11 looks at the affects of prison has on families like ours.
12 And because especially when somebody in your family
13 actually does something awful, right. They always taken
14 away to prison, you know, rightly so, but yet -- but it
15 sort of -- it actually puts all the extra stress on sort
16 of everybody else in the family and also it sort of
17 actually sees the ground at least more so trouble later on
18 those.

19 MR. HIXSON: I'm going to object. He's not an
20 expert. We're getting into not personal observations and
21 we're talking about a book unrelated to this case.

22 MR. WILSON: What he's saying is he was just
23 relaying what his experience was. He's not testifying as
24 an expert. He was simply relaying what his experience was
25 with his family, that's all he said.

1 THE COURT: He stepped out of the box of his own
2 personal experience and into the box of giving an opinion
3 in that area and we need to stay away from that. Let's
4 move him on to the relevant testimony.

5 MR. WILSON: All right. Thank you, Your Honor.

6 BY MR. WILSON:

7 Q Now, let me ask you this, Issac, did you do any
8 teaching or any tutoring here in Horry County at the
9 various schools?

10 A Yes, yes.

11 Q Tell us about that?

12 A Well, at least as apart of my job and also just from
13 my background, I have actually spoken at several schools
14 here and I also actually mentor and tutored at least a lot
15 of young men sort of especially troubled young men. And
16 also I actually talked at Coastal Carolina University as
17 well and Davidson those things as well. Yes, and it's
18 only during that process that I sort of was like also
19 actually speaking over at the alternative school. Yes,
20 and that's where I first saw and met J.J. during that
21 process.

22 Q During the process of your teaching, you met J.J. at
23 the alternative school. So let's talk about that for a
24 minute. You were -- your purpose for being at the
25 alternative school was what?

1 A Yes, and yes and at least like in a nut shell I try
2 to actually just deal with young men like him just to get
3 them to see really like all of the possible peril and also
4 possible potential that they have. Yes, the incident and
5 how we actually deal with like the terms of how I try to
6 like actually help them with self-control and also sort of
7 like trying to help them build up skills, et cetera.
8 Those kind of things just to try to.

9 Q So let's specifically talk for a moment about J.J.
10 and how -- what contact you had with him and how that
11 contact developed and what you did as a result of the
12 contact that you had with him?

13 A Sure. Yes, and I sort of -- I was only like
14 scheduled to actually go over there once and actually just
15 to speak with -- it's like all the students over there,
16 but yet after that sort of speech and then like one of the
17 teachers actually pull me aside and she actually started
18 to like actually tell me at least about a couple students
19 in her class like J.J.

20 Q And was that Ms. Tenant?

21 A Yes.

22 Q All right.

23 A Yes, it's Marsha Tenant. Yes, I did so. And during
24 that process, I then so -- I start to like actually just
25 to sort of kept on going back at least every week. So,

1 yes, and then so during that process, she would actually
2 essentially would actually turn her class to me.

3 Q You say she would turn the class over to you. Tell
4 me about that?

5 A Like 90 minutes or so then we go into that.

6 Q When she would turn the class, you said she would
7 basically turn the class over to you. What size class are
8 we talking about at the alternative school that we're
9 working with?

10 A Yes, and I use to go over there too. It's like a lot
11 of that turnover of the kids are coming and going. So,
12 yes, during that semester, yes, I think, at smallest, yes,
13 I think, it was eight students and the largest was maybe
14 15 or something like that.

15 Q In the class that you had?

16 A Yes.

17 Q And how long did you work with that particular class?

18 A Yes, like actually was for all of that semester.

19 Q Okay. So you were there the entire semester working
20 with that class and J.J. was apart of that class?

21 A Yes, yes.

22 Q All right. Now, tell us about your one and one --
23 one on one action or activity with J.J. during the time
24 that you were there tell us about that?

25 A Yes, and interaction with J.J. he was actually one of

1 the more so outgoing sort of like folks in the class. So
2 like part of what we did was to actually -- well, and
3 simply because I had like a writer and then so I actually
4 used the writing process like in order to actually at
5 least help students process all of the stuff that they
6 were going through. Yes, like one of the things we did
7 like weekly journaling. And then so they would write that
8 then ask the following week like sort of had to I did that
9 if we actually just to actually talk about that sort of
10 like both and sort of like one of the situations and also
11 as a class just to get them at least to like actually
12 recognize at least like what is that they were going
13 through.

14 Q Okay. You had some kind of program called a Get Real
15 Talk?

16 A Uh-huh, yes.

17 Q Explain that to us and what that was about in your
18 communications with J.J. and with the other kids?

19 A Yes, and like one of the things we try to stress this
20 idea that you are sort of actions actually has on
21 consequences and how actually one of the hardest things at
22 least sort of actually how to get them to understand like
23 in terms of -- and because I know it sounds kind of funny
24 to say sometimes, but they understand at least I would say
25 on the terms right from wrong, but yet also at least

1 still, you know, it is really difficult in order for them
2 at least to actually have some control actually right in
3 the moment. And on that front and we try to actually
4 build skills in order to actually try to teach them at
5 least to actually see sort of like trouble coming in order
6 for them to actually walk the other way first simply
7 because it is so hard in order to actually do the right
8 thing so actually right in the middle of the hearts.

9 Q How did J.J. respond to this tutoring that you were
10 providing that you're talking about? How did he respond
11 to it?

12 A Yes, and he was sort very very open to it and all of
13 his classmates were as well. Yes, and also though it is
14 sort of always hard to tell in terms of what is getting
15 through and what is not getting through, but he actually
16 seemed sort of very opened to it, yeah. He even sort of
17 actually talk about how that they actually looked forward
18 to the next week as well.

19 Q All right. Did you ever talk with him about any
20 plans that he had for the future?

21 A Yes, and I actually like talked to all of them about
22 that. And I cannot like say exactly what he was like
23 actually saying or yet brought -- it was him and sort one
24 of his friends there if I'm not mistaken excuse me -- they
25 actually wanted to know at least what were the steps in

1 this trying to become some kind of -- it's not rapid, but
2 some kind of music production stuff.

3 Q J.J. was interested in doing music production stuff?

4 A Yes, and then so, yes, and then so I sort of actually
5 tried to get one of my friends who is actually in that
6 industry to actually come and tutor them as well. Yes,
7 like then we was always actually trying to find at least
8 like some practical steps in order for them to actually
9 understand how that they sort actually have to this work
10 in order to get here, next step, next step, et cetera.

11 Q Okay. Now, let me ask you, you lived here in Horry
12 County for a long time?

13 A Yeah.

14 Q And during your experience here have you -- did you
15 do any reportings on the area called Playcard?

16 A Yes.

17 Q Tell us about what that is?

18 A Yes ---

19 MR. HIXSON: Your Honor, we have an objection
20 relating to -- we have no problem with personal experience
21 of someone alluding to their personal impressions, but a
22 reporter's recollections of a community is inadmissible.

23 MR. WILSON: I disagree. First of all ---

24 THE COURT: All right. Let's take our afternoon
25 break, ladies and gentlemen. Don't discuss the case, keep

1 an open mind. We'll be back with you in a few minutes.

2 Let's take a full afternoon break, Mr. Bobbie.

3 (WHEREUPON, the jury retire to the jury room.)

4 THE COURT: All right, give me the gist of what
5 he's going to say?

6 MR. WILSON: He's going to say that in his
7 reporting that he reported that there were -- he did
8 articles where there were a lot of violence in that
9 community. There was a lot of poverty in that community
10 and that he wrote articles about it.

11 THE COURT: Does he have any personal
12 knowledge about any of that?

13 MR. WILSON: Yes, sir, from going out there and
14 doing his stories.

15 THE COURT: Okay. And is there any evidence of
16 that coincides with the testing of time Mr. Jenkins lived
17 there?

18 MR. WILSON: Yes, sir, because that's when he
19 was here.

20 THE COURT: Okay, because I haven't heard that,
21 so that's the first step.

22 MR. WILSON: What he said was he had been the
23 Sun News for 18 years, which would have been 18 years
24 leading up to when he taught at the school.

25 THE COURT: He needs to say that. He didn't

1 tell me when his 18 years at the Sun News were, but so he
2 can testify as what he went out there and personally
3 observed. He can't testify as to anything beyond that. I
4 mean, he can't, you know -- we'll just pick a community in
5 Columbia. I mean, everybody in Columbia knows what
6 Hendley Homes is, right?

7 MR. WILSON: Yes, sir.

8 THE COURT: And I know what goes on in Hendley
9 Homes because I see it in court every single time I hold
10 court, but that doesn't mean I could come to court and
11 testify as to what it's like to live in that neighborhood
12 or what impact that neighborhood has on the surrounding
13 communities because I don't live there. You can testify
14 to your personal observations about that community. Does
15 that make sense?

16 MR. BAILEY: Yes, sir.

17 THE COURT: Okay.

18 MR. WILSON: All right, sir.

19 THE COURT: It needs to be something that you
20 personally observed not, you know, not, what, you know,
21 you heard on the street that kind information. Does that
22 make sense?

23 MR. BAILEY: Yes, sir.

24 THE COURT: Okay. And then we need to tie in
25 the times match because I'm not saying that they don't.

1 In my mind as I was processing through it, I hadn't heard
2 that the times lined up yet.

3 MR. WILSON: I will go back and do it.

4 THE COURT: Okay, that's fine. All right, let's
5 take a break. And, Mr. Bailey, don't discuss your
6 testimony with anybody. We'll start back in about ten
7 minutes and you just be seated right there. But you can
8 get up and move around and go to the restroom or whatever
9 you need to do, okay. Thank you.

10 (WHEREUPON, a break was taken.)

11 THE COURT: All right, let's go.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: All right, let's go. You ready,
14 Mr. Wilson?

15 MR. WILSON: Yes, sir, I'm ready, Your Honor.

16 THE COURT: All right, welcome back, ladies and
17 gentlemen, we'll continue now with the direct examination
18 of Mr. Bailey.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. WILSON:

21 Q Mr. Bailey, let me ask you what year if you recall
22 was it that you were tutoring out at the school that J.J.
23 was at? Let me ask it a different way which may help you.
24 What grade did you have?

25 A Yes, that class was like a mix of grades.

1 Q What was the mix? You said it was a mix.

2 A Mix of ninth to 12th.

3 Q Nine through 12?

4 A Yeah, yeah, just a mix of them together.

5 Q All right. Let me ask you in your conversations with
6 J.J. did y'all ever discuss Job Corp.?

7 A That is not something that I did with him, but I know
8 other folks who did, but not me personally.

9 Q Okay. You weren't involved in that part of it?

10 A That part I wasn't.

11 MR. WILSON: I don't any other questions. Thank
12 you, sir. Answer any questions the Solicitor might have
13 for you.

14 MR. HIXSON: Mr. Bailey, thank you for you work
15 with young folks and I don't have any questions for you.

16 THE COURT: All right. You may step down.
17 Thank you.

18 (WHEREUPON, the witness leaves the witness
19 stand.)

20 MR. WILSON: Dr. Chanaca.

21 THE CLERK: Raise your right hand and place your
22 left hand on the Bible. Do you solemnly swear or affirm
23 the evidence you're about to give the Court in this case
24 will be the truth, the whole truth, and nothing but the
25 truth so help you God?

1 THE WITNESS: I do.

2 THE CLERK: Please state your name and spell
3 your name.

4 THE WITNESS: And spell it?

5 THE CLERK: Yes, please.

6 THE WITNESS: It's John Chanaca. It's
7 C-H-A-N-A-C-A.

8 WHEREUPON,

9 Dr. John Chanaca,
10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WILSON:

13 Q Doctor, if you would, tell us -- I know we say doctor
14 tell us what that means first of all what kind of doctor
15 are you?

16 A I have a doctorate in education from USC.

17 Q All right. And what did you do for 42 years before
18 you retired?

19 A I was a teacher and administrator and a counselor.

20 Q Okay. And you were a teacher, administrator and
21 counselor where for 25 of those years?

22 A The last 25 years here in Horry County schools, Green
23 Sea Floyds Elementary School. I was a counselor for the
24 elementary school.

25 Q Okay. And let me ask you during that 25-year period

1 you ran into J.J., Jerome Jenkins?

2 A He was a student at Green Sea Floyds Elementary.

3 Q Okay. And at that point in time were you
4 participating in psychological evaluations and that kind
5 of thing?

6 A Well, I was the chair person of the students study
7 team and would be involved in any of the discussions that
8 would come out.

9 Q All right. Help us a little bit to understand what
10 that means when you say you were chairman of the study
11 team what does that mean?

12 A Our study team met once a week and discussed the
13 problems that were in the school. So if a student had a
14 problem, we would come share ideas and implement various
15 programs or protocol to be able to handle the situation.

16 Q Okay. Now, do you know what grade J.J. was in when
17 you first encountered him in this process?

18 A Kindergarten.

19 Q He was in kindergarten. Tell us about that, what was
20 your involvement with him or how did you become involved
21 with him as early as kindergarten?

22 A Well, it was almost the first day of school and it
23 was in the hallway and he was in a fight.

24 Q Tell us about it?

25 A There was -- we were told that there was a fight in

1 hallway and it was near the first day of school. And I
2 ran down the hallway it was a bunch kids surrounding him
3 and he was in a fight with a kid.

4 Q Okay. All right. And that initiated your
5 involvement with him from that point and that was
6 kindergarten?

7 A That's correct.

8 Q All right. Now, do you know whether or not he got
9 put out of kindergarten as a result of all of that? If
10 you don't, that's fine.

11 A Yeah, not put out of kindergarten, no.

12 Q Okay. All right. Now, tell me about J.J. for how
13 many years, I guess, is a good question how many years did
14 you have interaction with him?

15 A Well, during the whole course of his elementary
16 career, I would encounter him first of all in the
17 classroom because I taught classes periodically. I would
18 be in the classroom giving a lesson as a teacher would do
19 that, so I did that with all the grades and all the
20 classes. Another way I would get -- I was involved with
21 J.J. was that any time it was an incident in the classroom
22 or in the school that would involve fighting or stealing
23 or a problem with the teacher or with disruption or
24 anything like that, I would be involved in those
25 situations.

1 Q Okay.

2 A And then if necessary I would work with students
3 individually or in small groups.

4 Q Describe for me if you would and for this court the
5 kind of kid you saw in J.J.?

6 A Well, it was memorable, okay.

7 THE COURT: I miss what you said, Doctor. I'm
8 sorry.

9 THE WITNESS: It was a memorable.

10 THE COURT: Memorable, okay, sorry.

11 A In the sense that he would frequently get into fights
12 or conflicts with the teacher, disruptions in the
13 classroom and yet he was likeable, okay. He was not --
14 you could talk with him once he calm down, once he got
15 over the anger. And you could converse with him to talk
16 with him, but he was also something about him that was
17 just likeable. So he was memorable and, of course, he
18 went through the whole system and then around the third
19 grade, I guess, he had an evaluation with Jada Ward who
20 was the psychologist at the time part of our study team
21 and then, of course, we dealt with that.

22 Q Okay. Tell me about that? The team met and the
23 purpose of meeting for the team was to do what?

24 A Well, once she did her study, we would go over her
25 report. She gave her report to us and then we would talk

1 about options and what needed -- had we done everything we
2 could in the school and with all the resources we had at
3 the school, had we exhausted that, parent contacts,
4 checking with counseling outside the school, what I have
5 been doing as a counselor, was it working, was it not
6 working those kinds of things. And then finally in this
7 particular case we concluded that he needed a classroom,
8 special classroom.

9 Q And when you say a special classroom does that mean
10 special education or?

11 A Yes, it's special education.

12 Q Okay.

13 A Classroom education disabled would be emotionally
14 disabled would be a classroom and we had one right on site
15 where he would have a behavioral intervention IEP plan.
16 He would have an IEP. He would have a behavior
17 interventionist.

18 Q And just so we're clear, an IEP Individualize
19 Education Particular, which is particularized for that
20 particular student?

21 A Right. It involved the academic side, social and
22 maybe some of the even counseling type things that he
23 would need.

24 Q Okay. So it would help you determine what his needs
25 were and how to meet those needs?

1 A That's correct. And we had staff to help him with
2 that.

3 Q All right. Now, in these classes that these special
4 education classes that he was in, were these smaller
5 classes then the regular size classes that you would have
6 say at a regular school normal? I don't want to use the
7 word normal, but regular class size?

8 A Yes, it was a special education teacher was training
9 to work with this kind of behavior and also in an aide --
10 another person in the classroom. It's a smaller classroom
11 size and I'm not sure the size of his classroom, but we'll
12 say eight to ten maybe at the most, that might -- ten
13 might be too much. And with that behavior intervention
14 plan plus the IEP, it gave very specific ways that he
15 would be dealt with and Mr. Holder was his teacher.

16 Q Okay. All right. Once you're in these classrooms,
17 you say eight to ten or 12 people in these classrooms.
18 Once you're in these classroom, do you receive regular
19 instruction like other kids in regular classes or is there
20 a different level of instruction, I guess, is what I'm
21 asking?

22 A No, with a smaller number and an age, he's able to do
23 a lot more individual kinds of things. Plus, there was
24 the chance he could be mainstreamed. I'm not sure if he
25 was, okay. I don't know that, but there was a chance that

1 he could have gone into a regular classroom maybe for
2 science or social studies or another -- one of the other
3 subjects, but generally they start off in science and
4 social studies. And, you know, it's a regular classroom
5 where they're teaching academic things and so on, you
6 know, slower pace perhaps or maybe not, use of computers,
7 had the whole use of everything that any child in the
8 school would have in terms of special subjects, art,
9 music, library, the computer room everything else.
10 Everything else is the same.

11 Q Would you have from time to time have individual
12 contact with J.J. not just through the committee, but one
13 on one where it was you and he?

14 A Mostly from kindergarten, second and third grade.
15 Now, when he became special education student, he had a
16 behavior interventionist which I think was Shanda
17 Strickland at the time and she would be doing some of
18 those things. I would be called in if it was an incident
19 or a disruption or some -- if she wasn't there that
20 particular day and that was in fourth and fifth grade.

21 Q All right. That's in fourth and fifth grade. He had
22 behavior interventionist and that person's job was to do
23 what?

24 A Well, I think she met with him daily and was the
25 guide and IEP behavior interventionist plan and to deal

1 with any incidents that may occur in the classroom or in
2 any of the other subjects, many of these students were
3 integrated into art, music in a regular class. They would
4 actually go to the art class and be a regular class with
5 their age mates. And she many times would go to that
6 class at that time because it's a bigger group. It's 25
7 or 30 kids like a normal class would be. And if there was
8 a problem, she would take him out and deal with him and
9 then he would go back in the class. Sometimes she would
10 meet individually as a counselor would do sessions.

11 Q Now, in order to be placed in these special education
12 classes and I think you described it as emotional
13 disability of some type. Is there any certain I.Q. that
14 is required or does it have anything to do with that at
15 all?

16 A Well, yes, it does.

17 Q Okay. Would you explain that to us please?

18 A Well, there again I'm not going to speak to a
19 psychologist, but I do know from the team reporting and so
20 on which I did for years is that they have parameters in
21 terms of I.Q. and cognitive ability or achievement levels
22 and so on that would place them in certain categories --
23 educational categories. His testing since it was
24 intermediate classroom show that he had around average
25 maybe little bit below average, but nothing below that.

1 Q All right. Let me ask you now did you ever have to
2 go out to his home to J.J.'s home?

3 A Yes.

4 Q And how many different occasions would you think that
5 you had to go -- actually go out there?

6 A Do you mean for his situation because ---

7 Q For any situation?

8 A Lots, lots of times. There's other students in that
9 community at that time that were going to the school.

10 Q Okay. So there were other kids in that community who
11 were going to the school who were under your ---

12 A Tutelage.

13 Q --- as well?

14 A Yes.

15 Q All right. And so you went out there very often, but
16 let me move back and specifically ask you about your
17 contact with J.J.'s family?

18 A Right.

19 Q Did you have contact with them?

20 A Yes, we've had his mother come many times when she
21 could she would come.

22 Q Tell us if you would about your contact with J.J.'s
23 family and how that affected your ability if it did to
24 deal with him at school?

25 A Well, she was -- Ms. Ray -- at the time her name was

1 Ms. Ray, J.J.'s mom. J.J.'s mom was cooperative. I mean,
2 she's always trying to be there or trying to get out of
3 work to be able to come to meetings or she would show up,
4 okay, to whatever -- obviously, there were a lot of
5 meetings, okay, but many times she couldn't make it
6 because she was working and she would come the next day or
7 something like that. She was overwhelmed, okay. It was a
8 lot of children in the family. J.J. was difficult. It
9 seemed like it was -- everything was overwhelming to her
10 and so we understand that, okay.

11 Q Let me ask you if during the course of time that you
12 were dealing with J.J. and his family if you ever had to
13 report them or contact DSS as a result of that?

14 A Okay, I was recollecting -- yes, okay, that I had
15 done that. I did that many times for the students that
16 were in that Playcard trailer park.

17 Q Why is that?

18 A That was very a difficult neighborhood, extremely
19 difficult neighborhood. There was -- and actually saw
20 this, okay, there was domestic violence. There was
21 drunkenness, alcoholism, drug use. It was -- the police
22 were called there quite often. Many times I would go to
23 the trailer park on another situation deliver a paper,
24 pick up a parent something like that and I would see
25 police cars. It was common for me to see that.

1 Q All right. How would you describe in terms of
2 economic terms the neighborhood?

3 A Difficult, hard.

4 Q Was it considered a ghetto or was it -- how would you
5 describe it?

6 A Now, I'm going back now for other children, okay,
7 just J.J.'s experience, but the way that community worked,
8 okay, was tough. You had to be tough to live there. It's
9 not like unlike a ghetto in a city, okay. I was raised in
10 Bridgeport, Connecticut in the city, it was a ghetto. And
11 you have to be tough to survive in that environment
12 because kids run, you know. They all have their pecking
13 order, you know, who's on first, who's second, who's this,
14 who does that. And so you got a community who deals with
15 things in a tough way, difficult way of violence.

16 Q Okay. Did you ever have any conversations with J.J.
17 about what he wanted to do with his life if anything?

18 A No, probably -- I don't remember that as a specific
19 thing that I can testify to, no.

20 MR. WILSON: Court bear with me just one second,
21 sir.

22 THE COURT: Yes, sir.

23 (WHEREUPON, a pause in the proceedings.)

24 MR. WILSON: Thank you so much, Doctor. Answer
25 any questions the Solicitor might have for you please.

1 THE COURT: Cross-examination.

2 MR. HIXSON: Thank you.

3 CROSS-EXAMINATION

4 BY MR. HIXSON:

5 Q I just have a clarification to make sure. When
6 referring to special needs that just means there's special
7 educational requirements through an IEP type program for a
8 particular student, right?

9 A That's correct.

10 Q So the connotation of someone who is of lesser
11 intelligence or may have an intellectual disability
12 doesn't apply here, is that right? My understanding is
13 you said he was an average intelligence. He had anger or
14 emotional disability. It wasn't based on his
15 intelligence, is that correct?

16 A That's correct.

17 Q Matter of fact in your interaction with him, did he
18 seem to a rather quick child?

19 A You could speak with him, reason with him, yes,
20 that's correct. Not a slower learner, slow learner no.

21 Q It's based on an individualize thing for emotional
22 disability not intellectual disability?

23 A That's correct.

24 MR. HIXSON: Thank you, Doctor. I have no
25 further questions.

1 THE COURT: Redirect.

2 MR. WILSON: Yes.

3 REDIRECT EXAMINATION

4 BY MR. WILSON:

5 Q When you say it's an emotional disability, he was
6 asking you the difference between being slow, a slow
7 learner and being emotionally disabled what are the
8 differences between the two?

9 A Well, you can have average intelligence or even above
10 average intelligence, okay. And in an educational sense,
11 okay, an emotional problems, anger problems, fighting,
12 disruptions all kinds of conflict kinds of things that
13 would be dealt with in a certain way generally in E.D.
14 class, okay. If you have -- if you're a slower learner,
15 okay, there is a classification educational terms to be
16 able to deal with that. It would be a different class
17 slow learner class. Now, does it mean that they may not
18 have emotional things or, yes, it certainly might, but
19 they probably would not be put in the E.D. class.

20 Q Okay. Do you know -- well, let me ask it this way,
21 when J.J. was in school third or fourth grade which is one
22 we're talking, did y'all do annual I.Q. testing on
23 students during that time frame?

24 A The second grade gets a group I.Q. test in elementary
25 schools. And, of course, he had a psychological test

1 which was a personal, you know, one-on-one testing by
2 school psychologist it would be more accurate. And that
3 was done at least at the end of third grade, but the
4 answer is yes.

5 Q Okay. And do we know what that I.Q. was?

6 A I don't have a recollection of that, okay, and I
7 don't know if you have a record of that.

8 Q Okay. So, I guess, my question is do we know for a
9 fact that he was average or below average, do we know?

10 A I'm speaking in general terms of what I know about
11 that class and hearing psychological and the psychologist
12 speaking and the way we talk about that in terms of that
13 particular category.

14 Q Okay. Now, but the school would actually have
15 records if they did testing on J.J. when he was in third,
16 fourth, fifth grade, they would actually be records from
17 the school which would actually show what that I.Q. was
18 normally?

19 A If he was tested, okay -- like I said, there's a
20 group I test in the second grade they would have record of
21 it, yes.

22 Q Is there any question in your mind as to whether or
23 not your emotional disability affects your ability to
24 control your emotions?

25 A Well, what comes first the chicken or the egg. A

1 person who has anger control problems, okay, is going to
2 have difficulty controlling their emotions. Now, the
3 cause and all that kind of thing you can speak an hour
4 about that or longer.

5 Q Well, that was actually my next question, do we know
6 what the cause of emotional disabilities are, do we know?

7 MR. HIXSON: Well, Your Honor, I would just
8 object to that question.

9 MR. WILSON: I withdraw the individual.

10 MR. HIXSON: He's a formative individual, but
11 he's not a psychiatrist.

12 THE COURT: I think where the areas that he's
13 been in he's fine to be -- I think we're stepping one
14 level ---

15 MR. WILSON: I agree, I agree, that's probably
16 one question too many. Thank you, Your Honor.

17 THE COURT: You welcome.

18 Recross?

19 MR. HIXSON: No, sir.

20 THE COURT: Thank you, Dr. Chanaca. Have a nice
21 day, sir.

22 (WHEREUPON, the witness leaves the witness
23 stand.)

24 THE COURT: All right. You may call your next
25 witness.

1 MR. WILSON: Your Honor, I just ask that he be
2 excused.

3 THE COURT: Any objection, Mr. Hixson?

4 MR. HIXSON: No, sir.

5 THE COURT: All right. Doctor, you are excused
6 from your subpoena. Thank you very much.

7 All right. Who's next?

8 MR. WILSON: Susan Safford.

9 THE CLERK: Please raise your right hand, place
10 your left hand on the Bible. Do you solemnly swear or
11 affirm the evidence you're about to give the court in this
12 case is the truth, the whole truth, and nothing but the
13 truth so help you God?

14 THE WITNESS: Yes, I do.

15 THE CLERK: Please state your name and spell
16 your last name for the record.

17 THE WITNESS: Susan Safford S-A-F-F-O-R-D.

18 WHEREUPON,

19 Susan Safford,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. WILSON:

23 Q Captain, I can see by your uniform that you're with
24 the Horry County Sheriff's Department?

25 A I am.

1 Q And what do you with the Horry County Sheriff's
2 Department?

3 A I'm captain of support services at J. Reuben Long
4 Detention Center.

5 Q All right. Support services so kind of help us what
6 does that mean you do?

7 A So part of my responsibilities are booking
8 classification, visitation, photo I.D. things of that
9 nature.

10 Q All right. And as a result of your capacity there at
11 J. Reuben Long, do you come into contact very frequently
12 with a lot if not most of the inmates who are there?

13 A I come in contact with them, but not for any long
14 term interaction.

15 Q All right. Now, let me specifically refer to Jerome
16 Jenkins and ask you about him. Now, he's been there since
17 March 6 if I make no mistake?

18 A I don't know.

19 Q You don't know the exact date he's been there?

20 A I don't know.

21 Q All right. Well, just let ask you this, during the
22 time that he has been there, are you, have you and I'm
23 asking you personally have you had any contact with him?

24 A On a few occasions, yes, I have seen him in booking
25 or at our movement center.

1 Q And has during the times that you've seen him, has he
2 thrown any items on you, any feces or any urine or
3 anything else?

4 A No, he has not.

5 Q Has he assaulted you in any way in the times that you
6 been there that you've seen it?

7 A No, he has not.

8 Q All right.

9 MR. WILSON: I don't think I have have any other
10 questions. Thank you.

11 CROSS-EXAMINATION

12 BY MR. HIXSON:

13 Q Ms. Safford, how are you?

14 A I'm good.

15 Q You do a ton out there. Let's just talk about that
16 for a second. Are your responsibilities day-to-day
17 supervision and taking care of inmates at J. Reuben?

18 A No, they are not.

19 Q That's not what your day-to-day role is?

20 A No.

21 Q All right. You have an office that's kind of
22 separated from everybody else out there?

23 A Correct. My office ---

24 Q As a captain ---

25 A It sits above booking.

1 Q So it's not such that you would be serving food or
2 taking care of escorting an inmate to the shower back and
3 forth or any day-to-day involvement?

4 A No, it would not.

5 MR. HIXSON: Thank you for your time and your
6 service. No further questions.

7 MR. WILSON: Just one question in reply.

8 REDIRECT EXAMINATION

9 BY MR. WILSON:

10 Q Would you know if he had been written up for doing
11 those things, would you know about it?

12 A No, not necessarily.

13 Q Okay. So you're not saying it happened, you're
14 saying you don't know?

15 A I don't know.

16 THE COURT: Any objection to her being excused?

17 MR. HIXSON: No, sir.

18 THE COURT: All right, have a great day. Thank
19 you, Ms. Safford.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 MR. WILSON: Your Honor, may we approach?

23 THE COURT: You may.

24 (WHEREUPON, a bench conference was held in the
25 presence of the jury, but out of the hearing of the

1 jury.)

2 THE COURT: All right. Ladies and gentlemen,
3 we're going to go ahead and stop for the day. It's a
4 little bit early. One of the things that I have to deal
5 with that I don't mind explaining to you is the
6 availability of these wonderful ladies right down here
7 below me. So we are in a significant court reporter
8 crisis in the state of South Carolina. There are no
9 longer any court reporter schools. So we have about 80
10 some odd court reporters for 115 terms of court every
11 week. So when Ms. Natalie who needed to go to a child's
12 graduation which she had told me about months ago, we
13 didn't find out until literally at about -- Keshia, when
14 did you find out ten or 11 o'clock this morning?

15 COURT REPORTER: Yes sir.

16 THE COURT: So she literally -- where were you,
17 Keshia, were in the building or somewhere else?

18 COURT REPORTER: In Florence in court.

19 THE COURT: So she was in Florence working this
20 morning with another judge and whatever happened over
21 there fell apart and then she got a phone call and said
22 get in your car and go to Horry. So when we broke
23 yesterday I said -- I asked Mr. Wilson I said put as many
24 witnesses as you can together for Tuesday afternoon
25 keeping in mind we may not have a court reporter at all.

1 So we reached the end of the limit for the day. So we're
2 going to go ahead and stop for the day, but, Keshia, thank
3 you very much for coming over and driving over and getting
4 here promptly and quickly. I sincerely appreciate you
5 doing that. And these ladies do -- and there's some guys,
6 but mainly ladies do just a great job and they get sent
7 all over the state, so in the paradox of I didn't know if
8 I was going to have a court reporter or not. They didn't
9 have all of the witnesses line up for this afternoon which
10 is perfectly normal and perfectly fine. So we're going to
11 go ahead and stop for the day. Do not discuss the case,
12 keep an open mind. Do not watch, read or listen to any
13 news media about the case. And we will start tomorrow at
14 9:15. Thank you all very much. Everyone else remain
15 seated please.

16 (WHEREUPON, the jury is excused for the day.)

17 THE COURT: Okay. All right. And the jury is
18 out of the room. Do we need to talk about any of these
19 potential inmate witnesses this afternoon or I don't know
20 what they're going to say or what they're not going to say
21 or anything else. What's the State's position on that if
22 anything?

23 MR. HIXSON: Well, I have been thinking about it
24 and preparing how of cross them. Certainly, Mr. Wilson's
25 entitled to call whatever witness in his defense. I don't

1 know what -- I guess, I love to have a conversation. I
2 don't know ---

3 THE COURT: I don't know if he knows what
4 they're going to say. And I say that, of course, I'm kind
5 of laughing out loud, but, I mean, we've all done this
6 long enough to know what when you put somebody on the
7 witness stand from SCDC only God knows what's going to
8 come out of their mouth.

9 MS. WILLIAMS: I will add to that and tell that
10 quite frankly we have not spoken to the defendants. We
11 had to get them transported. So we were going to ask Your
12 Honor actually for once they get here a tiny window to go
13 talk to them just to see. So we don't know either really.

14 THE COURT: Okay. All right. One of the things
15 that I want to make sure of is that they're not
16 represented because the law is very clear that we cannot
17 put them on the witness stand if all they're going to do
18 is invoke.

19 MS. WILLIAMS: McKinley is not.

20 THE COURT: Okay. So McKinley did not file an
21 appeal and at this point a PCR has not been filed?

22 MS. WILLIAMS: No, sir. James has filed an
23 appeal, so we will notify and talk to Barbara Pratt as his
24 local counsel.

25 THE COURT: Yeah, and we probably need to call

1 Barbara and tell her to be over here in the morning. Did
2 I sign a transport order for him?

3 MS. WILLIAMS: Yes, sir.

4 MR. WILSON: Yes, sir.

5 THE COURT: Okay. Because I think we can put
6 him on the witness stand outside the presence of the jury
7 and he can invoke, but I don't know -- I'm going off the
8 top of my head. I think there's a case that says we can't
9 put somebody on the witness stand in front of the jury
10 just to hear them invoke, but, you know, we definitely
11 need to call Ms. Pratt and ask her to be over here in the
12 morning because her client is being transported. Anything
13 else that you guys want to take up tonight?

14 MR. HIXSON: No, sir.

15 THE COURT: Anything else from the defense?

16 MS. WILLIAMS: Yes, sir.

17 MR. WILSON: Your Honor, we had gotten two
18 certified copies of the criminal histories of -- I'm sorry
19 the sentencing sheets of Mr. James Daniels and Mr.
20 McKinley Daniels.

21 THE COURT: Okay.

22 MR. WILSON: And we were wanting to offer them
23 through the clerk to be fair with the Court. I'm aware
24 that there's some cases that say that that may not be
25 okay, but I'm just being frank with you that that was what

1 we wanted to do. But I am also being honest with you and
2 let you know that I know that there some cases that makes
3 that questionable.

4 THE COURT: And you're talking about if they
5 don't testify?

6 MR. WILSON: If they do not.

7 THE COURT: If they don't testify, you want to
8 enter them through the clerk?

9 MR. WILSON: Yes, sir.

10 THE COURT: And what's the State's position on
11 that?

12 MR. HIXSON: Yeah, it's not admissible. There's
13 some -- I know that I couldn't do it. The standard as it
14 relates to defense counsel why they're doing it it opens
15 the door to a whole bunch of other stuff, that's what was
16 referring to about the intellectual disability order by
17 Your Honor and this explanation, but it's clear that in
18 the case in chief in prosecution there's no way in the
19 world you can say this guy got this. This guy got this.

20 THE COURT: I understand that.

21 MR. HIXSON: So, I guess, I would need to say I
22 object to it it's not admissible. It doesn't bear on the
23 particularities of this. If anything, it invokes the
24 prosecutor's decision and maybe that's the point as trying
25 to argue that for the jury so, you know, you try to feed

1 people out of different bowls would be the argument.

2 MR. WILSON: The thing, Your Honor, is is that
3 if his Honor was sentencing these -- if his Honor was
4 hearing this, his Honor could know about these charges.

5 THE COURT: And frankly under the federal
6 sentencing guidelines and the federal statute that are in
7 place, the Court is -- the federal judges are required to
8 take into consideration the sentences of similarly
9 situated co-defendants, that's obviously that federal
10 statute doesn't apply directly towards state court judges,
11 but, I mean, I think that's something that the majority of
12 us put in practice especially if we're hearing, you know,
13 hearing all three cases and -- but I'm not the sentencing
14 authority. And so what is the State's intention with the
15 mental health order -- with McKinley's order?

16 MR. HIXSON: It absolutely must come in if
17 you're putting the sentences in here and have to have a
18 discussion on -- I'll just point to the Court is the one
19 that order us not to pursue the death penalty against
20 Mr. Daniel -- McKinley.

21 THE COURT: Against McKinley.

22 MR. HIXSON: That's correct. It was not a
23 sentencing decision it wasn't anything like. And he pled
24 guilty to the offense and received a 45-year sentence for
25 a guilty plea. Mr. Daniels didn't shoot anybody and went

1 to trial and got a life sentence.

2 THE COURT: Mr. James Daniels.

3 MR. HIXSON: Mr. James Daniels went to trial and
4 got a life sentence for his conduct. And so if we're
5 going to talk about it, then I think we need to talk about
6 all of it.

7 THE COURT: And what's your take on that,
8 Mr. Wilson?

9 MR. WILSON: Well, I think he is probably right.
10 If I offer and if the Court allows me to put in the
11 sentencing sheets, I don't know how I can very well argue
12 that he can't explain why it is that they were sentenced
13 the way that they were sentenced. I would like to argue
14 that and I'm just not sure that that makes a lot of sense,
15 but, I mean, I would probably have to object just ---

16 THE COURT: I'm not -- I'm just talking out loud
17 here, but I'm not sure it doesn't hurt you to hear that
18 McKinley -- the Court deemed that McKinley had an
19 intellectual disability sufficient enough to render him
20 ineligible for the death penalty. And James, who by all
21 accounts, was the case man and the driver got a life
22 sentence.

23 MR. WILSON: Right.

24 THE COURT: So I'm not sure that all those facts
25 out there at one time are in the minds of lay people

1 beneficial to your client.

2 MR. HIXSON: And the slight difficulty is, of
3 course, we're in the position I'm confident we would be
4 able to admit the certified copy or judicial notice of
5 your order whatever that might be, but short of cross
6 examining James or McKinley about the nuance of the case,
7 there would be no real testimony about, you know -- I
8 guess, we'll be able to figure out in closing that Jimmy
9 saying we're just the driver of this, that's argument I
10 suppose, but we wouldn't be able to elicit that from a
11 witness given the order of proof we're currently in I
12 think.

13 MR. WILSON: Judge, could we kind of put this
14 off until tomorrow and -- because if I call McKinley to
15 the stand, then all this may very well be mute because I
16 may very well be able to get what I need in that fashion.

17 THE COURT: If he's on the witness stand, it's a
18 prior conviction. I mean, if they're on the witness
19 stand, you agree at that point it's admissible under 609.

20 MR. HIXSON: Yes, certainly. And, you know, the
21 order isn't necessarily -- I'll be able to admit the order
22 as a certified copy without authenticating witness through
23 cross-examination is my understanding.

24 THE COURT: Right.

25 MR. HIXSON: So I can explain and put the

1 specific document of the -- in I think if Your Honor would
2 let me do that.

3 THE COURT: All right. You all think about it.
4 One way that -- that's twirling around in my mind is if
5 everybody wanted to do it and assuming no one testifies,
6 one way to potentially do it is just to enter into a
7 stipulation.

8 MR. HIXSON: Yes.

9 MR. WILSON: Yes, sir.

10 THE COURT: And then I explain to the jury that,
11 you know, these two, you know, both of them were charged
12 with death penalty offenses. The Court had a hearing and
13 determined Mr. McKinley Daniels was intellectually
14 disabled and was therefore under the law -- under law that
15 United States Supreme Court not capable of receiving the
16 death penalty and then pled guilty and accepted his
17 responsibility and was sentence to 40 whatever years. I
18 don't remember the exact number. And that Mr. James
19 Daniel went to trial and was convicted and sentenced to
20 life without the possibility of parole. That's one
21 option, but, I mean, I want you to sleep on it before we
22 nail anything down and that's perfectly fine.

23 MR. WILSON: Yes, sir, that's why I was asking.

24 THE COURT: That's why I brought them up this
25 afternoon because that issue was in my head and I wanted

1 to put it out there. And I want everybody to have the
2 opportunity overnight to think about it and kind of
3 process through it and look up whatever you want to before
4 we make a final decision. And then I think you also
5 probably need to meet with them in the morning when they
6 get here. Has somebody called SCDC?

7 MR. WILSON: Yes, sir, I talked to my office
8 earlier today when we had the lunch break. They had
9 served the subpoenas on them. I mean, the orders of
10 transportation on them. And she had called back to get
11 verification from someone there that in fact they were
12 going to transport them and she said she handled it.

13 THE COURT: Do you have other witnesses to start
14 with in the morning?

15 MR. WILSON: Yes, sir.

16 THE COURT: Because one of them and I don't
17 remember which one is coming from McCormick which is the
18 hardest place in the history of the world to get to. So
19 to get to McCormick from Columbia feels like it takes all
20 day, but, I mean, literally they're going from one end of
21 the state -- one state line to the other state line. So I
22 think I put 9:30 on there for that time. But why don't we
23 get them in here in the morning and we can talk to them.
24 I'm going to tell -- can you go tell the SLED team we're
25 going to start at 9:30 and not 9:15. I'm going to tell

1 them we're going to start at 9:30 and not 9:15. And let
2 some of those people get in here and you all be able to
3 talk to them. And then we'll get rolling. I assume we
4 need to be prepared for a full day tomorrow.

5 MR. WILSON: Yes, sir.

6 THE COURT: Okay. And you'll have those
7 witnesses here and ready to go to keep us busy all day.

8 MR. WILSON: Yes, sir.

9 THE COURT: Okay. Anything else?

10 MR. WILSON: No, sir.

11 THE COURT: Okay.

12 MR. HIXSON: No, sir.

13 THE COURT: Anything else you want them to
14 argue? I'm just joking.

15 MR. WILSON: My paralegal has gone home and
16 she's taken her place.

17 THE COURT: We will see you all in the morning
18 ready to roll.

19 END OF REQUESTED TRANSCRIPT

20

21

22

23

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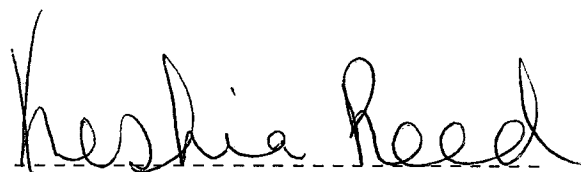
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 93, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Horry County, South Carolina, on the 14th day of May, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 15th day of November 2019.

A handwritten signature in cursive script that reads "Keshia Reed". The signature is written in dark ink and is positioned above a dashed horizontal line.

Keshia Reed, Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2015-GS-26-1750,1751,1757,1758,
1759,1760,1767,1768,1769

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

JEROME JENKINS, JR.,)

Defendant.)

Transcript of Record

(Motion Hearing)

August 4, 2015

B E F O R E:

Honorable R. Ferrell Cothran, Jr.
Horry County Courthouse
Conway, South Carolina

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

Scott R. Hixson, Esquire
Attorney for State of South Carolina

Ralph J. Wilson, Sr., Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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E X H I B I T SNo.IDEV

(No Exhibits were marked or admitted.)

State v. Jenkins
SAFEKEEPING CERTIFICATE

3

1 **AUGUST 4, 2015 - 2:39 P.M.**

2 MR. HIXSON: May it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 MR. HIXSON: Standing before you is Jerome Jenkins, Jr.
5 This is a multitude of warrants, Your Honor. 2015A2658 -- I
6 guess these are indicted cases, I'll save the -- use the
7 indictment number -- 2015-GS-26-1758, that's indictment for
8 murder; 2015-GS-26-1759 is an armed robbery; 2015-GS-26-1760
9 is a possession of weapon during the commission of a violent
10 crime; and 2015-GS-26-1757 is an attempted murder. All these
11 indictments, Your Honor, stem out of an event that occurred
12 January 2nd, 2015 in the murder of Bala Parachuri in the 905
13 -- Highway 905 section of Horry County.

14 Also, 2015-GS-26-1750, that is an armed robbery; GS --
15 2015-GS-26-1751 is a possession of a weapon during the
16 commission of a violent crime. All those occurred on January
17 25th of 2015 in the armed robbery of a Scotchman store down in
18 the Lake Arrowhead section of Horry County.

19 And then finally 2015-GS-26-1767, that's a murder;
20 possession of a weapon during a violent crime is 2015-GS-26-
21 1768; and then finally an armed robbery of 2015-GS-26-1769,
22 and that is the murder on January 25th, 2015 of Trish Stull,
23 which happened in the Conway section of Horry County.

24 **SAFEKEEPING CERTIFICATE:**

25 MR. HIXSON: We're standing before the Court for the

State v. Jenkins
SAFEKEEPING CERTIFICATE

4

1 purposes of a safekeeping certificate, Your Honor. The
2 Defendant Mr. Jenkins, I know his attorney Ralph Wilson is
3 present in the courtroom.

4 We have complied with the statute concerning this and
5 I'll bring the Court's attention to 24-3-80 of our South
6 Carolina Code of Laws that provides a mechanism for taking a
7 defendant in a county detention facility and taking him into
8 safekeeping in the South Carolina Department of Corrections.
9 Statute requires that we serve certified mail to the
10 defendant, who is present in court, and his attorney has filed
11 an objection to that safekeeping certificate. So, we have two
12 matters of business. The first one is the safekeeping
13 certificate and I'll hand the Court up a packet of the
14 information we have prepared for the Court's review. And we
15 also have supporting testimony if the Court requires it as to
16 the basis for that certificate, Your Honor.

17 THE COURT: Okay.

18 MR. HIXSON: If I may hand that to you.

19 And in essence, what the statute requires is that if
20 there is a concern for the safety of the defendant, there is a
21 risk of escape, or he poses a danger to himself or perhaps
22 other inmates in the local detention facility. The solicitor,
23 Jimmy Richardson, has attested he has no objection to that.
24 And then from there, it's up for the governor to decide
25 whether or not he wants to have him held in a state facility

State v. Jenkins
SAFEKEEPING CERTIFICATE

5

1 versus a county facility. We have complied with the terms of
2 the statute and I think it's now up for Mr. Wilson to respond
3 to respond to that certificate.

4 THE COURT: Yes, sir.

5 MR. WILSON, SR.: Your Honor, I've been appointed by the
6 Court to represent this defendant on all of the charges that
7 the solicitor has read to the Court. My primary concern is if
8 the -- obviously, these charges are very, very serious. And
9 they could warrant the death penalty in this case. Whether or
10 not that's going to occur or not, I do not know and we have no
11 notice of that at this point. My concern though is that if
12 the defendant is sent to Columbia or some foreign place then
13 it's going to be really difficult for me to communicate with
14 him and get him prepared for trial, no matter when that trial
15 might occur. So, that's my first and primary concern.

16 My second concern is that I'm not aware of any -- and the
17 solicitor has provided me, as he's indicated to the Court,
18 with information indicating that, that they believe that this
19 defendant might be a -- some kind of a threat. Well, I don't
20 necessarily share that opinion. Based on what I've read, the
21 only thing that I'm aware of is that the defendant was in a
22 fight with another inmate, but the other inmate, according to
23 the defendant, initiated that altercation, and he was punished
24 in prison for that by being put into some kind of solitary
25 confinement of some type. Other than that, I'm not really

State v. Jenkins
SAFEKEEPING CERTIFICATE

6

1 aware of anything that he has done to justify him being sent
2 to another facility. The other thing is that the
3 codefendants, there were two other codefendants in this case,
4 they've already been transferred to a different facility. So,
5 in my opinion, that would lessen the need for him to also be
6 moved. So, I would just ask the Court to not allow him to be
7 sent. I just don't see that, that -- the harm to him, I
8 think, is greater than the harm of him staying in J. Reuben
9 Long to the state or to any other inmate because there is just
10 absolutely no way, if they move him to Columbia, or
11 Greenville, or Spartanburg, or God knows where, that how am I
12 gonna be able to communicate with him on any regular basis
13 between now and his trial.

14 THE COURT: All right.

15 Mr. Solicitor?

16 MR. HIXSON: That concept has been taken into account by
17 the Department of Corrections and the governor when they
18 facilitate a safekeeping certificate. Obviously, it's related
19 to pretrial detention and the standard of security that occurs
20 in a pretrial detention facility which is different than the
21 standard of security that's in the South Carolina Department
22 of Corrections. So, in every case that someone is in jail
23 pretrial detention, they are facing those same concerns of
24 being able to communicate with counsel effectively and things
25 like that. And, so, that is not a novel argument. That is

State v. Jenkins
SAFEKEEPING CERTIFICATE

7

1 the substance of a safekeeping certificate. In reading the
2 statute, I don't even see that there is the ability of counsel
3 to, to find relief in the Circuit Court through a motion to
4 prevent what is a pretrial detention safety issue with the
5 officers involved in it. And that's why there are affidavits
6 from the sheriff, from Tom Fox from the detention center
7 concerning what, you know, that's why I have the ability to
8 provide testimony concerning seized contraband, letters
9 concerning escape attempts, use of drones, letters asking for
10 help, hacksaws and things like that the Sheriff's Department
11 tells me that they have, and those affidavits are attached for
12 the Court's review. And I'm basically speaking on behalf of
13 the Sherriff's Department.

14 MR. WILSON, SR.: Your Honor, those affidavits that we're
15 speaking of for the most part refer to the codefendants, who
16 was not in fact housed with him at the time these allegations
17 were being made about them, about hacksaws and breaking out
18 and that kind of thing. As far as I'm aware, I have not seen
19 anything that says that he was a part of that conversation
20 about breaking out or having a hacksaw or getting that kind of
21 stuff.

22 THE COURT: Who are the codefendants? I mean ---

23 MR. HIXSON: James Elbert McDaniels [sic] and McKinley
24 Daniels. Both of them, the sheriff, through Tom Fox asked me
25 to get a certificate saying we don't object to having them

State v. Jenkins
SAFEKEEPING CERTIFICATE

8

1 taken to the Department of Corrections. Their defense counsel
2 did not object and file a motion, so they have already been
3 transported is my understanding. And my understanding, Mr.
4 Jenkins is waiting for this hearing to be resolved, so -- not
5 to put the cart before the horse, so he may be transported as
6 well.

7 THE COURT: Okay.

8 MR. HIXSON: One of the other issues is, and
9 specifically, the guidelines provided by the Department of
10 Corrections, as they compile regulations interpreting 24-3-80
11 is does the client -- or does the defendant exhibit a high
12 escape risk; two, does he exhibit extremely violent and
13 uncontrollable behavior; and three, does the individual -- he
14 must be removed from the county facility to protect the
15 individual from the general population and from other
16 detainees. And in the packet I provided you, I believe there
17 are two instances of assaults amongst the population,
18 including one where Mr. Jenkins is alleged to have used a
19 pencil or a writing instrument stabbing another individual
20 several times. I believe that individual -- it was a straight
21 up fight, don't get me wrong. I don't think -- but that was
22 provided from the Sherriff's Department as one of the facts.
23 I think he -- all and all, Mr. Jenkins has been there for a
24 fairly short period of time and has had approximately eight
25 disciplinary situations. That's what I was told from the

State v. Jenkins
SAFEKEEPING CERTIFICATE

9

1 Sheriff's Department.

2 THE COURT: Okay.

3 MR. HIXSON: And once again, if need be, I can provide
4 the sworn testimony about the position of the detention
5 center.

6 THE COURT: Who is Patrick Gause?

7 MR. HIXSON: Patrick Gause is an individual, my
8 understanding, that he's an inmate at the detention center, I
9 guess, is the best way I'll put my understanding of his role.

10 THE COURT: Okay. Did he, in fact, cut his throat?

11 MR. HIXSON: I'm sorry?

12 THE COURT: Did he, in fact, cut his throat?

13 MR. HIXSON: No, I understand -- my understanding was a
14 pencil wound up in the eye area; that was my understanding.

15 MR. WILSON, SR.: No, sir. That was a separate -- that
16 was a -- he's talking about ---

17 MR. HIXSON: Oh, that letter, yes, sir. I'm sorry. No,
18 I apologize. No, there was a -- the letter that Mr. Jenkins
19 ---

20 THE COURT: Right.

21 MR. HIXSON: He indicated -- I guess he indicated that he
22 had written that to his loved ones and I think for canteen
23 money or something like that, so I think it was just a ---

24 THE COURT: All right.

25 MR. HIXSON: My understanding is the mental health folks

State v. Jenkins

10

MOTION TO COLLECT BIOLOGICAL SAMPLE

1 at the jail talked to Mr. Jenkins about that to clarify are
2 you okay, do you need something. And he said, no, no, I'm not
3 -- I don't need to be on a suicide watch. I was trying to get
4 something for the canteen, I think, is what the four corners
5 of the letter says.

6 MR. WILSON, SR.: That's correct.

7 MR. HIXSON: Is that what you ---

8 MR. WILSON, SR.: Yes.

9 THE COURT: Okay. Well, anything else either side want
10 to tell me?

11 I think they've met their burden and I'm gonna grant
12 their motion. Now, in the event that if he is sent somewhere
13 else and you don't have access to him, you can apply to the
14 Court at that time and I'm sure the Judge will make whatever
15 accommodations necessary with the Department of Corrections
16 that you have adequate access to him.

17 MR. WILSON, SR.: All right, sir.

18 MR. HIXSON: Thank you, Your Honor.

19 Now, to the next matter, I believe that -- and I'll
20 reduce that to a Form 4 written -- writing till we memorialize
21 this.

22 MOTION TO COLLECT BIOLOGICAL SAMPLE:

23 MR. HIXSON: We also have a motion on the part of the
24 state to collect biological sample or a DNA specimen from the
25 defendant. We have a written affidavit in that regard from

State v. Jenkins
MOTION TO COLLECT BIOLOGICAL SAMPLE

11

1 Detective Lent, who is the lead investigator on the case.
2 He's prepared to provide sworn testimony if Your Honor -- and
3 a written affidavit in addition in support of that.

4 MR. WILSON, SR.: That's not necessary. We consent to --
5 I've talked to the defendant and he's consented to do it.

6 MR. HIXSON: Okay, can we -- this will ratify that
7 consent in court, I guess, that's fine if you're comfortable
8 with that. I have sworn testimony. I'd like to swear him and
9 sign this, at least.

10 MR. WILSON, SR.: Sure.

11 THE COURT: Okay. You can do that and I'll be glad to.

12 MR. HIXSON: Detective Greg Lent.

13 GREGORY LENT, HAVING BEEN DULY SWORN,
14 TESTIFIED AS FOLLOWS:

15 MR. HIXSON: That's the sample order if you'd like ---

16 THE COURT: Okay.

17 CLERK: State your full name and spell your last name.

18 MR. LENT: Gregory Lent, L-E-N-T.

19 DIRECT EXAMINATION OF GREGORY LENT BY MR. HIXSON:

20 Q: Detective, what do you do for a living?

21 A: I'm a detective with the Horry County Police Department
22 in the major crimes section.

23 Q: Okay. And one of your responsibilities around January of
24 this year, did you participate in the investigation and
25 ultimate arrest of Mr. Jenkins in this matter?

State v. Jenkins
MOTION TO COLLECT BIOLOGICAL SAMPLE

12

1 A: I did.

2 Q: And you heard what defense counsel, Mr. Wilson, said and
3 he indicated his intention to consent to the taking of a
4 biological sample?

5 A: I did.

6 Q: And just to clarify things, I think that you drafted an
7 affidavit in support of that indicating the probable cause
8 that you have regardless of valid consent on why you think a
9 specimen is appropriate?

10 A: Correct.

11 Q: And could you just read that, the body of that into the
12 record and sign that document and submit to the Court? You
13 are under oath, so you're sworn.

14 A: It states that during the course of an investigation
15 involving three armed robberies and the murders of two
16 individuals that had taken place in January of 2015, within
17 the jurisdiction of Horry County, one Jerome Jenkins, Jr. was
18 found to have involvement and subsequently charged. During a
19 post-Miranda interview with Horry County Police Department
20 Detectives, Jerome Jenkins, Jr. did also provide a statement
21 admitting his involvement. Additionally, two codefendants
22 also provided post-Miranda statements providing information
23 concerning Jerome Jenkins, Jr.'s participation in the crimes.
24 Also collected during this investigation were letters drafted
25 by Jerome Jenkins, while in custody at the J. Reuben Long

State v. Jenkins
MOTION TO COLLECT BIOLOGICAL SAMPLE

13

1 Detention Center in which he discussed his responsibility in
2 the two murders committed.

3 Q: Can you sign that?

4 A: (Complies.)

5 MR. HIXSON: Thank you, Your Honor. We'll just submit
6 that as supporting affidavit along with counsel's consent, so
7 that's on the record.

8 THE COURT: And my understanding, Counsel, he in fact
9 consents?

10 MR. WILSON, SR.: Yes, sir. I've discussed it with him,
11 Your Honor, and he consents.

12 THE COURT: Is that right, Mr. Jenkins?

13 MR. JENKINS: Yes, sir.

14 THE COURT: Huh?

15 MR. JENKINS: Yes, sir.

16 THE COURT: Okay.

17 MR. HIXSON: And that's all the showing we'd have, Your
18 Honor.

19 THE COURT: Okay. Thank you.

20 MR. HIXSON: Thank you very much.

21 **ADJOURNED - 2:56 P.M.**

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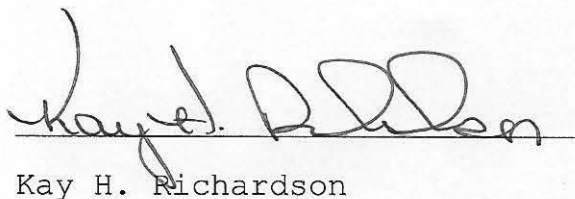
State v. Jenkins
CERTIFICATE OF COURT REPORTER

14

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina versus Jerome Jenkins, Jr., held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on August 4, 2015.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in cursive script, appearing to read "Kay H. Richardson", is written over a horizontal line.

Kay H. Richardson

Official Court Reporter

October 28, 2019.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 2015-GS-26-1750,1751,1757,1758,
1759,1760,1767,1768,1769

STATE OF SOUTH CAROLINA,)

Plaintiff,)

vs.)

JEROME JENKINS, JR.,)

Defendant.)

Transcript of Record

(Status Conference)

April 27, 2016

B E F O R E:

Honorable Robert E. Hood
Horry County Courthouse
Conway, South Carolina

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

Scott R. Hixson, Esquire
Attorney for State of South Carolina

Ralph J. Wilson, Sr., Esquire
Brana Williams, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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I N D E X

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E X H I B I T S

No.

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(No exhibits were marked or admitted.)

State v. Jenkins
BY THE COURT

3

1 **APRIL 27, 2016 - 12:21 P.M.**

2 THE COURT: Yes, sir, Mr. Hixson?

3 MR. HIXSON: Before you is the State versus Jerome
4 Jenkins. I think all told Mr. Jenkins has nine different
5 indictments before the Court. The one we're most concerned
6 with, Your Honor, I believe we're here for an initial status
7 conference on 2015-GS-26-1758, and that is a murder charge; as
8 well as GS-26-1767 additionally, that is a murder charge as
9 well, Your Honor. The state believes -- Mr. Ralph Wilson, Sr.
10 is present before the court as Mr. Jenkins' counsel, also
11 Brana Williams, I believe has been appointed in a prior
12 hearing in front of our Chief Administrative Judge as
13 representing Mr. Jenkins. Also before the Court for the state
14 is Solicitor Richardson, as well as Chief Deputy Solicitor
15 Hixson.

16 Thank you, Your Honor.

17 THE COURT: All right. Thank you, Mr. Hixson.

18 All right. We're on the record in the State of South
19 Carolina versus Jerome Jenkins, Jr.

20 Are you Mr. Jenkins?

21 MR. JENKINS: Yes, sir.

22 THE COURT: Okay. Thank you very much for being here.

23 Mr. Jenkins is present and represented by Ralph Wilson,
24 Sr. and Brana Williams who are both present in the courtroom.

25 Okay. The purpose of today's hearing is for a status

State v. Jenkins
BY THE COURT

4

1 conference on this case. I was appointed sometime within the
2 past month, I'm not sure exactly when, by the Supreme Court
3 through Court Administration to be in charge of Mr. Jenkins'
4 case which is pending here in Horry County. And the purpose
5 of today's hearing is to see where the case is, see where
6 we're going, to create some reasonable expectations of time
7 and how the case is progressing and take up any other matters
8 that need to be taken up by counsel at this point in time so
9 we can move this case efficiently through the system. All
10 right?

11 So, the first thing I'm going to do as I have a prepared
12 order authorizing the clerk to pull additional jurors at the
13 appropriate time when the case is scheduled. Is there any
14 objection from the state?

15 MR. HIXSON: No, Your Honor.

16 THE COURT: And from the defense?

17 MR. WILSON, SR.: No, sir.

18 THE COURT: All right. The second thing that I am going
19 to do is I have an order admonishing pretrial publicity, which
20 states that in abundance of caution and to protect and
21 preserve the interest of the parties in this matter, that
22 counsel, family members refrain from any and all communication
23 regarding this case with any person who is not a party or
24 whose communication is not reasonably necessary for the
25 preparation of the trial in the matter, and this shall remain

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1 in effect until the commencement of the trial in the case.

2 In Mr. Daniels' case we added in law enforcement into
3 that group, do you wish for the same thing to be added, Mr.
4 Wilson?

5 MR. WILSON, SR.: Yes, sir. I will, Your Honor.

6 THE COURT: Okay. Any objection, Mr. Hixson?

7 MR. HIXSON: No, Your Honor.

8 THE COURT: Okay. And the third order that I have
9 prepared was an order that I'm really doing for own benefit
10 and I do not mean it to be any extra work upon the parties,
11 but that all motions must be in writing, that means filed in
12 writing and responded to in writing. They must be filed with
13 the clerk of court, they must be sent to opposing counsel
14 pursuant to the rules and a copy to me. I don't think it's
15 any surprise that I'm in Columbia, not in Horry County, so you
16 can email me a copy. If it's an excessively long copy, you
17 can just mail it to me, however you want to do it. And
18 motions that are filed by the state are going to be labeled
19 with letters, sequential letters. And motions submitted by
20 the defendant are to be labeled with sequential numbers. Any
21 objection from the state?

22 MR. HIXSON: No, Your Honor.

23 THE COURT: From the defense?

24 MR. WILSON, SR.: None, Your Honor.

25 THE COURT: Okay. And gentlemen, I don't mean to do that

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1 to cause any extra burden upon you, I just -- I need a way to
2 keep up with the motions are that are filed, whether or not
3 they've been responded to and whether or not I have ruled upon
4 them. And so my intention there is to not be burdensome upon
5 you but to create a logical process by which we can all know
6 this motion has been ruled upon, this has been handled, this
7 has been responded to. And I understand that motions in these
8 cases can grow in number as time proceeds, and so I just
9 wanted really my own way to keep up with what's been filed,
10 what are we dealing with, what do I need to deal with, what do
11 I need to rule upon and so that the record remains clear as to
12 each motion and an official court ruling on them, so I do not
13 -- it's not my intention to tax you as much as it is to help
14 us come up with a way to follow where we are and what we're
15 doing and what motions we're taking up and what motions we're
16 not.

17 Does that make sense, Mr. Wilson?

18 MR. WILSON, SR.: Yes, sir; it does.

19 THE COURT: Okay. And how about you, Mr. Hixson?

20 MR. HIXSON: Yes, sir.

21 THE COURT: Okay. Very well.

22 Okay. Tell me where we are in the discovery process on
23 this case.

24 MR. HIXSON: Your Honor, as it relates also with the
25 codefendant, we received initial request for discovery and we

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1 believe that -- I don't have the exact date of that -- we
2 provided the initial discovery packet to Mr. Wilson prior to
3 any of the notice proceedings of the appointment of a second
4 counsel. Similar to the codefendant's case, we provided a
5 thumb drive with all the documentary evidence which duplicates
6 the initial discovery and anything we have accumulated since
7 that that point in time. I don't believe we provided an
8 affidavit of service and, of course, and all the information
9 on the thumb drive were Bates stamped as we continue through
10 the discovery process. I believe Ms. Williams has not
11 received today and ask that we will get her a copy of that
12 today as Ms. Williams is recently onboard.

13 We continue to request additional discovery as we move
14 towards material that's gonna be relevant potentially in the
15 penalty phase.

16 Also, it's come to the attention of other offenses that
17 we were not aware of prior to this, specifically an incident
18 in Whiteville, North Carolina that the FBI is the lead agent
19 on that at a bank -- a robbery of a bank that occurred on
20 January 15th of 2015. And as such, we're going through the
21 process with the federal government requesting discovery
22 information from there as well. I don't have it but I know
23 it's contained in there. Additionally, the Department of
24 Corrections, as well as mental health documents, where I have
25 to move the Court for court orders to get those and we will

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1 continue to do so. Once we receive those, we'll provide those
2 to defense counsel. So, in essence, Your Honor, we believe we
3 have complied with our initial discovery obligations. And as
4 Your Honor is well aware, it is an ongoing duty and we will
5 continue to comply in a timely manner.

6 THE COURT: All right. Mr. Wilson, where are you on the
7 discovery process?

8 MR. WILSON, SR.: Your Honor, I think the solicitor has
9 correctly stated the amount of discovery material that he has
10 provided. One of the problems for me is that I know that
11 there is some information about -- arising from several
12 jailhouse witnesses allegedly that I have not received, and I
13 do need that in order to go forward and try to prepare. So, I
14 would appreciate, you know, there being some kind of timeframe
15 on when I get that so that I don't get it at the last minute
16 shortly before trial.

17 THE COURT: Right.

18 MR. WILSON, SR.: And especially since they already have
19 it in their possession. Now, how they manage to protect the
20 witnesses from that point, I mean, that's not really a concern
21 of mine. I don't intend to sound insensitive but my job is to
22 try to protect this defendant and his rights as much as I can.
23 So, I need that information as quickly as they can provide it
24 to me.

25 The only other thing that I have any concern about, I

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1 guess, is that the defendant -- and I don't know if that comes
2 under this portion of what you're asking me, but there -- he's
3 housed at Lee and ---

4 THE COURT: He's also housed at Lee Correctional?

5 MR. WILSON, SR.: Yes, sir. And the conditions there to
6 which he housed, I have great, great concern about. And we
7 have a motion that we will file in that regard, but I guess
8 that's probably an issue for another day.

9 THE COURT: Okay. And has he already had a safekeeping
10 hearing?

11 MR. WILSON, SR.: Yes, sir.

12 THE COURT: Okay. And who conducted that hearing?

13 MR. WILSON, SR.: Judge Hyman did.

14 THE COURT: Judge Hyman did?

15 MR. WILSON, SR.: Yes, sir.

16 THE COURT: All right. What's the estimated timeframe
17 for turning over kind of the next wave of discovery, Mr.
18 Hixson?

19 MR. HIXSON: My intention would be to redact that
20 information as best as I can to give them the substance of the
21 information while trying to protect the identity of the
22 proffering witnesses. I can provide that, I would certainly
23 say, within the next 90 days it not sooner because, as Mr.
24 Wilson indicated, we have it. And then based on that
25 information, the -- Mr. Wilson, I guess, can make the

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1 appropriate motion at that time to -- our efforts to get a
2 protective order to modify that discovery is insufficient to
3 satisfy his question. We have no intention of sneaking up on
4 him and providing at the last minute, but we do have
5 legitimate concerns. So, we'll provide the substance of the
6 statements, if we type them up, so -- some of them are letters
7 and witness interviews. So, we'll provide the substance of it
8 and we'll kind of wade through how to put adequate safeguards
9 in place.

10 THE COURT: Okay. All right. Very well.

11 Mr. Wilson?

12 MR. WILSON, SR.: Yes, sir, just briefly. Your Honor, my
13 -- giving me the statement without telling me who made the
14 statement, I don't know how beneficial that would be. The
15 concern that I have with that is this, is that I need to do
16 some background checking on the person who's making the
17 statement to find out as much as I can about them.

18 THE COURT: Sure.

19 MR. WILSON, SR.: And what reasons they may or may not
20 have for lying or adding things or making up. And I can't do
21 that if all he gives me is -- so it doesn't matter whether he
22 gives me the content of the statement until he actually tells
23 me who said it, when and where.

24 THE COURT: Well, I mean, I agree with your statement
25 partially. I believe that Mr. Jenkins is entitled to know who

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1 made the statement and when and where they made the statement
2 and you're entitled to do an investigation into that
3 individual ---

4 MR. WILSON, SR.: Yes, sir.

5 THE COURT: --- on many different levels ---

6 MR. WILSON, SR.: Yes, sir.

7 THE COURT: --- to adequately prepare for trial. I think
8 at this point in time, them providing the content of the
9 information, I don't think it's fruitless, I think it, you
10 know, it at least gives you some level of information to start
11 that. And I do -- I mean, I'm not gonna let them keep the
12 substance of who these people are away from you forever. But,
13 for now, if we can, you know, move towards getting them the
14 content of the statement so you can at least start processing
15 through it to see what it is and, you know, I -- you're gonna
16 be given plenty of time to know who these people are to do
17 your investigation into it. But, I think giving you the kind
18 of ballpark of, you know, these are the statements and these
19 -- this is the information contained in the statements, you
20 know, I think that can assist you in processing through, you
21 know, things with your client. I know it's not everything
22 that you want, you know, right now, but I -- you know, I'm not
23 gonna let that linger around down there forever. And, you
24 know, you learn two weeks before trial who all these people
25 are, because ---

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1 MR. WILSON, SR.: Thank you, Your Honor.

2 THE COURT: I understand if -- I've dealt with that a lot
3 in federal court because, you know, for all of you that
4 practice in federal court, you know, you get 25,000 pages
5 worth of discovery and the majority of it's blacked out and
6 you're spending your life trying to figure out who is saying
7 who against who, and when they said it, and what their deal
8 was and everything else, and it takes time to be able to do
9 that and process through that. And eventually, you have to
10 know who the person is to be able to process that. But, I
11 think that having the content and the substance of it
12 initially can at least allow you to start processing down that
13 road. And so, at this point in time, the solicitor's office
14 needs to turn the content over in a reasonable fashion and
15 then we'll deal with when they actually provide, you know, the
16 rest of it, or if I need to review it in an in camera setting
17 to determine whether or not it needs to be turned over or not.
18 We can cross that bridge when we get there.

19 MR. WILSON, SR.: Very well.

20 THE COURT: Okay?

21 MR. WILSON, SR.: Yes, sir. Your Honor, on another
22 issue, one of the things that I would ask the Court and I will
23 file a motion to this end, I would ask the Court to have the
24 solicitor file with the Court a complete copy of all the
25 discovery that they provide to the defense. And my reasoning

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1 for that is that in the past we've gotten to the point where
2 we get in the middle of the trial and there's an issue about
3 whether or not ---

4 THE COURT: It's been turned over.

5 MR. WILSON, SR.: It's been turned over.

6 THE COURT: Right.

7 MR. WILSON, SR.: And, so what I'm asking the Court to do
8 is to make it a court exhibit, which would not be available to
9 the public but would be here so that if there is an issue
10 later on about what was provided and what was not provided,
11 then it will all be on record.

12 THE COURT: How do you feel about that, Mr. Hixson?

13 MR. HIXSON: Well, as it relates to procedural
14 safeguards, we are Bates stamping all the documents that we
15 have. Every document is individually numbered.

16 THE COURT: Okay.

17 MR. HIXSON: And that may placate enough of the concerns.
18 If it's not Bates stamped, then the Court may inquire
19 additionally as to why not. But we're doing that to protect
20 ourselves as well as provide a concrete record of the
21 discovery process.

22 THE COURT: Okay. How do you feel about that, Mr.
23 Wilson?

24 MR. WILSON, SR.: Well, the problem with that, with the
25 Bates stamp portion of it is this, if -- let's say I have a

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1 document and it's Page 107, and I lose Page 107, and I say,
2 well, I never got it. And they say, well, we gave it to you
3 because we got a document showing that Page 107 was listed.
4 Well, that doesn't help me. If the -- but if they give you a
5 copy, if they provide this Court with an exact copy of what
6 they provided me with, then there's no issue about what was
7 provided.

8 THE COURT: I don't have a problem with that. I mean, I
9 think that's reasonable. I mean, when y'all turn something
10 over, send me a copy of it. I'll keep my copy of it and then
11 -- I mean, I've dealt with this issue so much in Columbia, my
12 head about wants to fall off, somebody saying I didn't get
13 something and they didn't give it to me and, you know, the
14 paralegal is running around like a chicken with her head cut
15 off trying to find the sheet where she turned it over. And I
16 think that may be able to resolve it for me to say, well, you
17 know, I got the same thumb drive you did, it's right there.
18 And so, I have no issue with that. You know, when y'all turn
19 over discovery, send me a copy of it. I'll make it a Court's
20 exhibit. It will not be for public consumption. I will seal
21 it because it doesn't need to be out there in the public, and
22 I'm gonna look at it on an as-needed basis as we're dealing
23 with discovery issues.

24 All right. What else? Mr. Wilson?

25 MR. WILSON, SR.: Oh, nothing further from me, Your

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1 Honor.

2 THE COURT: Okay. As far as the timeframe of where we're
3 going, in the codefendant's case, we were -- and I know you
4 all were in here for Mr. Daniels' hearing. I know, for the
5 record, Mr. Wilson, and Ms. Williams, and Ms. Pratt, who
6 represents the codefendant, were present entirely for the
7 codefendant, Mr. Daniels' hearing, just as Mr. Maguire and Mr.
8 Galmore, Mr. Daniels' counsel are present for this hearing and
9 have been for the entire time. So, I know you all think I'm
10 repeating myself, but for the purposes of the record, that's
11 why I'm going back through it. So, we were shooting for an
12 August date to kind of reconvene and start to take up some of
13 the bigger motions in Mr. Daniels' case.

14 How do you feel about that, Mr. Wilson?

15 MR. WILSON, SR.: Obviously, we'll be fine with this,
16 Your Honor.

17 THE COURT: Okay. And is the state okay with that, also,
18 Mr. Hixson?

19 MR. HIXSON: Yes, Your Honor.

20 THE COURT: Okay. All right. So, let's shoot for some
21 time in the August timeframe. Now, I mean, I understand life
22 happens and things happen in cases and other cases come up and
23 all that kind of stuff, so that's not set in stone now, but I
24 think we need that -- we need kind of a guiding -- guideline
25 for where we're going and how we're getting there and how

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1 we're trying to make that happen.

2 Now, Mr. Wilson, as far as your schedule beyond that,
3 what major conflicts do you have?

4 MR. WILSON, SR.: I don't have any conflicts that I'm
5 aware of, Your Honor. I have some murder cases but they're
6 all with these guys, so ---

7 THE COURT: Okay. And what about you, Ms. Williams?

8 MS. WILLIAMS: I'm -- Your Honor, I'm -- no.

9 THE COURT: You're okay?

10 MS. WILLIAMS: Yes, sir. I'm fine.

11 THE COURT: Okay. Great. Okay. So the scheduling is
12 easier on Mr. Jenkins than it is on Mr. Daniels if they were
13 tried separately?

14 MR. HIXSON: Yes, Your Honor; I believe that's correct.

15 THE COURT: Okay. No offense to Mr. Maguire. Just an
16 accurate statement of the facts, which is fine. I understand
17 that completely. That was no slight on Mr. Maguire at all.
18 That was just ---

19 Okay. And Mr. Wilson, if you needed to travel, say,
20 perhaps to Florence or somewhere of that nature to conduct a
21 hearing, would you have an objection to that as long as you
22 had proper notice?

23 MR. WILSON, SR.: No problem at all, Your Honor.

24 THE COURT: Okay. And of course, I wouldn't do that for
25 some, you know, long substantive hearing, but if we have some

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1 kind of situation where it was easier -- we needed to get
2 something on the record quickly and make that -- try to make
3 that as convenient for everybody, I'm certainly not gonna
4 conduct the majority of the hearings in this case out of --
5 out of county out or respect for the victims who have to
6 travel, and also out of respect for Mr. Jenkins' family who
7 would have to travel, too. I certainly understand that
8 traveling -- these cases always affect more people than just
9 the people involved in them and trying to be respectful of
10 that and understand that people have to miss work and take off
11 work to come hear us argue cases and talk about legal matters.
12 So, I'll be as respectful as possible of their time in
13 consideration of that and handling any hearings that we need
14 to handle out of county.

15 Is that fair, Mr. Wilson?

16 MR. WILSON, SR.: Absolutely, Your Honor. Thank you.

17 THE COURT: Okay. And do you plan on challenging Mr.
18 Jenkins' hearing -- Mr. Jenkins' safekeeping status, Mr.
19 Wilson?

20 MR. WILSON, SR.: Yes, sir; I do.

21 THE COURT: But you have not filed that yet; is that
22 correct?

23 MR. WILSON, SR.: I have not.

24 THE COURT: Okay. All right. Mr. Hixson, what else do
25 you think we need to take up?

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1 MR. WILSON, SR.: Just to loop back around, Your Honor,
2 in relation to the gag order, pretrial publicity, still
3 photographs, and dressing out. I just -- helping aid the
4 Sheriff's Department in their expression to me, the security
5 concerns perhaps on the record as it relates to Mr. Jenkins,
6 to address that issue, also.

7 THE COURT: Okay. All right. And Mr. Wilson, the rule
8 that we came up with in Mr. Daniels' case was that there was
9 no photograph or video media present, then Mr. Daniels would
10 not be dressed out. And if there was media presence that
11 involved photographs or video, then Mr. Daniels would be
12 dressed out. Are you okay with that rule or ---

13 MR. WILSON, SR.: I'm okay with that, Your Honor. I
14 would just like to add to that sketch artist.

15 THE COURT: Okay.

16 MR. WILSON, SR.: If there are going to be any. I don't
17 know if there will be, but ---

18 THE COURT: Okay. And so that the clerk's office needs
19 to know anybody that -- any media that wants to come in here
20 and do anything, they need to -- there's a rule of court that
21 they need to follow, they need to be prepared to follow, and
22 they need to get that to me in advance of any hearing.
23 Otherwise, I will, you know, remove them from the courtroom --
24 remove at least their -- any ability to record and take a
25 photograph, draw a sketch, anything like that. It's obviously

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1 an open courtroom in that respective, but the local media
2 needs to follow the rules and the terms and conditions that
3 our court system is set up for the proper access to media in
4 the courtroom.

5 Is that fair enough, Mr. Wilson?

6 MR. WILSON, SR.: Yes, sir.

7 THE COURT: Okay. And do you have clothes available for
8 Mr. Jenkins?

9 MR. WILSON, SR.: Yes, sir, we do. Yes, sir.

10 THE COURT: Great. I'm sure that would be appropriate.
11 Okay. Great.

12 Let's see. I'm going to mark Mr. Jenkins original
13 discovery motion filed by Ms. West in February of 2015 as
14 Defense Exhibit Number 1. Is there any objection to that, Mr.
15 Wilson?

16 MR. WILSON, SR.: None, Your Honor.

17 THE COURT: From the state?

18 MR. HIXSON: No, sir.

19 THE COURT: And then Mr. Wilson actually filed his own
20 discovery motion on or about February 27th of 2015. I'm gonna
21 mark that as Number 2.

22 Any objection, Mr. Wilson?

23 MR. WILSON, SR.: No, sir.

24 THE COURT: And from the state?

25 MR. HIXSON: No, sir.

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1 THE COURT: All right. And then the state has filed a
2 notice of evidence and aggravation in the punishment dated
3 March 14th of 2015. I'm gonna file that as State's Motion A.

4 Any objection, Mr. Wilson?

5 MR. WILSON, SR.: None, Your Honor.

6 THE COURT: And Mr. Hixson?

7 MR. HIXSON: No, sir.

8 THE COURT: Okay. I've written on the originals with
9 counsel's permission, and I have my three orders that I did
10 today on pretrial publicity, pulling extra jurors, and then
11 the filing of motions and the numbering of motions.

12 All right. What else do we need to take up?

13 Mr. Wilson, anything from you?

14 MR. WILSON, SR.: Nothing. I -- the only other thing
15 that I would guess I would need to know, Your Honor, is we
16 will need to do some ex parte motions at some point.

17 THE COURT: Sure.

18 MR. WILSON, SR.: And I don't know what procedure you'd
19 like for us to use. Would you want us to just file a motion
20 and email it to you or do we need to come to Columbia?

21 THE COURT: My general rule is kind of -- just from a
22 handling perspective. If I have a question about -- I would
23 say file it how it needs to be filed and send it to me. If I
24 have a question about it or I have a concern about it, I will
25 reach out to you ---

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1 MR. WILSON, SR.: Yes, sir.

2 THE COURT: --- and express my concern. Or sometimes, I
3 just want a little bit more information.

4 MR. WILSON, SR.: Sure.

5 THE COURT: And so, and then if I don't have a concern
6 with it, I'll usually sign it and send it back to you.

7 MR. WILSON, SR.: All right, sir. Thank you.

8 THE COURT: Okay. I was chief admin in Columbia for two
9 years, so I dealt with a lot of OID orders, more than I ever
10 care to remember. So, sometimes I just have a question, you
11 know, I just want to know, you know, what you're thinking and
12 where you're going or why is this relevant. And sometimes, I
13 get that question answered and I'm fine, so...

14 MR. WILSON, SR.: One of the things that we were
15 concerned about is that any ex parte orders be sealed so that
16 ---

17 THE COURT: Yeah, I have no objection to those being
18 sealed. And I would request that you create an order that
19 says they are sealed and that the clerk is not allowed to
20 disseminate them, you know, without direct Court permission,
21 something of that nature. Does that make sense?

22 MR. WILSON, SR.: And motions as well?

23 THE COURT: Just general motions?

24 MR. WILSON, SR.: Yes, sir.

25 THE COURT: Or the motions for ---

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22

1 MS. WILLIAMS: Our ex parte motions so that they won't

2 ---

3 THE COURT: Yeah, those are sealed. Yeah, exactly.

4 MS. WILLIAMS: Thank you.

5 THE COURT: And y'all get those to me, I'll review them.

6 And if I have questions or concerns, I'll reach out to you.

7 And otherwise, I'll let you know once they are signed and if

8 we need to have a hearing, we can always, you know, schedule a

9 hearing for those matters. So, that's no problem at all.

10 MR. WILSON, SR.: Thank you, Your Honor.

11 THE COURT: Okay? All right.

12 Anything else, Mr. Hixson?

13 MR. HIXSON: Very brief clarification. So, discovery,
14 one; discovery, two; the gag order in Jenkins is three -- or
15 excuse me, order for jurors is three; gag order is four?

16 THE COURT: The order -- no, those orders are not
17 numbered, just the motions are numbered.

18 MR. HIXSON: Okay. I apologize. I apologize. Because
19 counsel filed motions; I apologize.

20 THE COURT: Yeah, I did those motions on my -- I did
21 those orders on my own. So, Number 1 is a discovery motion;
22 Number 2 is a discovery motion; and State's A is your notice
23 of aggravation.

24 MR. HIXSON: I apologize. I got confused. Mr. Maguire
25 filed his motion and that's where they came from. I

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23

1 apologize.

2 THE COURT: No problem. That's no problem at all.

3 Okay. Anything else, Mr. Wilson?

4 MR. WILSON, SR.: No, sir.

5 THE COURT: Ms. Williams?

6 MS. WILLIAMS: No, sir.

7 THE COURT: Mr. Solicitor?

8 MR. RICHARDSON: Yes, sir. In keeping with status quo of
9 the codefendant, we'll also send out a proposed scheduling
10 order.

11 THE COURT: Wonderful. That's great.

12 MR. RICHARDSON: And Mr. Williams and Mr. Williams ---

13 THE COURT: Okay. I do not like email. So, if y'all
14 want to email, just email the law clerk. So, I get enough
15 email, and so the easiest thing to do is for y'all to email
16 the law clerk and then he can -- he or she -- Mr. Roby will
17 only be here for another four months and then they'll be a new
18 law clerk. And so they can kind of process through it, put it
19 in order, make sense of it, read it, know where we're going to
20 process through and so we can -- that's the easiest thing to
21 do. His email is Rhoodlc@sccourts.org.

22 And one more thing, Mr. Maguire, Mr. Galmore, Ms. Pratt,
23 I want to get everybody's phone numbers and email addresses if
24 y'all can give them to the law clerk before you leave just so
25 we can kind of have our own spreadsheet of this is who is

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1 involved and this is how we get in contact with them. That
2 will just help me a little bit kind of as I process through
3 things without somebody trying to search -- or the next law
4 clerk trying to search for somebody's email for 10 minutes, so
5 that -- so we can keep those. And they don't need to be on
6 the record; it's just obviously for us privately to keep them
7 so we can reach out to the parties as we need to.

8 Anything else, Mr. Hixson?

9 MR. HIXSON: No, sir.

10 THE COURT: Mr. Wilson?

11 MR. WILSON, SR.: No, sir.

12 THE COURT: Okay. Let me say thank you, and I'm saying
13 this to Mr. Galmore, and Mr. Maguire, and Ms. Pratt, also.
14 Thank you all for doing this. So, I think -- I wanted to get
15 these cases started on the right direction and get them
16 moving, and I appreciate everybody coming today and availing
17 themselves and being prepared, and taking the reasonable steps
18 to get these cases moving in the right direction. And I look
19 forward to getting these issues resolved with you.

20 And thank you very much.

21 MR. WILSON, SR.: Thank you, Your Honor.

22 MR. RICHARDSON: Thank you, Your Honor.

23 **ADJOURNED - 12:48 P.M.**

24

25

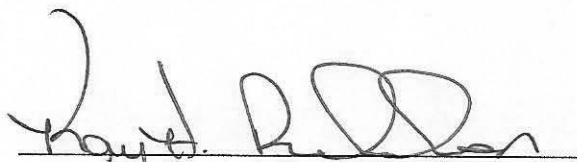
State v. Jenkins
CERTIFICATE OF COURT REPORTER

25

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina versus Jerome Jenkins, Jr., held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on April 27, 2016.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

A handwritten signature in dark ink, appearing to read 'Kay H. Richardson', is written over a horizontal line.

Kay H. Richardson

Official Court Reporter

October 29, 2019.

1 State of South Carolina) Court of General Sessions
 2 County of Horry)

3 Transcript of Record

4 State of South Carolina)
 5 vs.)
 6 McKinley Daniels) 2015-GS-26-1770
 2015-GS-26-1554

7 -----) -----

8 State of South Carolina)
 9 vs.) 2015-GS-26-01757
 2015-GS-26-01758
 10 Jerome Jenkins, Jr.) 2015-GS-26-01759

11
 12 September 16th, 2016
 Conway, South Carolina

13 BEFORE:

14 Honorable Robert E. Hood, Judge.
 15

16 APPEARANCES:

17 Scott Hixson, Esq.
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 Attorneys for the Defendant
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 22 Attorneys for Defendant
 McKinley Daniels
 23

24 Teresa J. F. Bautz, RPR
 25 Official Court Reporter

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E X H I B I T S

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DESCRIPTION

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No exhibits submitted.

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Exhibits retained by Clerk of Court.