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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Honorable D. Craig Brown, Circuit Court Judge

Appellate Case No. 2017-000211

STEPHEN C. STANKO #6022.....PETITIONER,

v.

STATE OF SOUTH CAROLINA.....RESPONDENT.

APPENDIX
VOLUME 1 OF 9

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN C. STANKO,

APPELLANT

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6 PLAINTIFF)
7 VS.) . TRANSCRIPT OF RECORD
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10 DEFENDANT)

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14 GEORGETOWN, SOUTH CAROLINA
15

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19

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3	CHRISTOPHER WATKINS, WHITE MALE,	1049
4	KAREN RUTLEDGE, BLACK FEMALE,	1060
5	RODNEY CHILDERS, WHITE MALE,	1064
6	ROSEZENA CALLUM, BLACK FEMALE,	1070
7	CLYDE RATCHFORD, WHITE MALE,	1075
8	SANDRA BERRY, WHITE FEMALE,	1079
9	COTIELIA HERRIOT, BLACK FEMALE,	1087
10	JAMIE CRIBB, WHITE MALE,	1092
11	LARRY JESSUP, WHITE MALE,	1096
12	DEBRA ELLERBE, WHITE FEMALE,	1101
13	CHRISTOPHER PARRIS, WHITE MALE,	1104
14	SUSAN HARRELSON, WHITE FEMALE,	1108
15	NORMAN JOHNSON, WHITE MALE,	1112
16	CHARLENA EVANS, BLACK FEMALE,	1116
17	MARLO SANDERS, WHITE FEMALE,	1126
18	DESIA LINEN, BLACK FEMALE,	1134
19	VIRGINIA WILSON, WHITE FEMALE,	1140
20	DANIEL STEARN, WHITE MALE,	1149
21	DIANNA ALLEN, WHITE FEMALE,	1152
22	BONDEDRA JENNERETTE, BLACK FEMALE,	1155
23	BOBBY RADER, WHITE MALE,	1159
24	CATHERINE BECKWITH, WHITE FEMALE,	1161
25		

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
C-1	REPORT OF SACHY	61	24
C-2	ANALYSIS OF DR. WU	61	48
C-3	MRI ANALYSIS	61	109
C-4	FAX OF DR. EINHORN	61	109
C-5	MEDICAL RECORDS OF S. STANKO	61	109
C-6	MEDICAL RECORDS OF J. STANKO	61	109
C-7	REPORT OF DR. THRASHER	61	96
C-8	CD		97
C-9	REPORT OF DR. CRAWFORD		106

1 (WHEREUPON, DEFENDANT'S EXHIBITS NOS. 1-7 WERE
2 MARKED FOR IDENTIFICATION ONLY.)

3 THE COURT: HOW IS EVERYONE? STATE READY TO
4 PROCEED?

5 MR. HEMBREE: YES WE ARE, YOUR HONOR.

6 THE COURT: THE DEFENSE READY TO PROCEED?

7 MR. DIGGS: WE ARE.

8 THE COURT: AS I UNDERSTAND IT, AND AS A
9 PRELIMINARY MATTER, THERE IS -- AGAIN, STOP ME IF I'M
10 INCORRECT. AFTER HAVING REVIEWED THE REPORTS THAT
11 WERE SUBMITTED BOTH BY THE STATE AND THE DEFENSE,
12 THERE IS NO QUESTION REGARDING MR. STANKO'S
13 COMPETENCY. IS THAT CORRECT?

14 MR. DIGGS: NOT FROM THE DEFENSE, YOUR HONOR.

15 MR. HEMBREE: AND NOT FROM THE STATE, YOUR
16 HONOR.

17 THE COURT: IS THERE ANY EXCEPTION TO US MARKING
18 THOSE PORTIONS OF THE REPORTS AS COURT'S EXHIBITS IN
19 SUPPORT OF THAT OR DO WE NEED TO HAVE ANY HEARING IN
20 THAT REGARD?

21 MR. HEMBREE: YOUR HONOR, I THINK THAT IT'S
22 SUFFICIENT TO MARK THE REPORTS AS EXHIBITS
23 CONSIDERING THAT BOTH SIDES HAVE STIPULATED THAT
24 MR. STANKO IS COMPETENT TO STAND TRIAL.

25 MR. DIGGS: YOUR HONOR, WE AGREE TO THAT AND WE

1 DON'T HAVE ANY EVIDENCE AT THIS POINT TO SUBMIT
2 CONTRARY TO WHAT IS ALREADY BEFORE THE COURT. SO WE
3 DON'T HAVE -- WE'RE NOT GOING TO RAISE AN ISSUE ABOUT
4 THAT AT THIS TIME SIMPLY BECAUSE OF A LACK OF.

5 THE COURT: SIMPLY BECAUSE -- I'M SORRY. I
6 DIDN'T HEAR THE LAST PART.

7 MR. DIGGS: SIMPLY BECAUSE THERE IS NO EVIDENCE
8 TO THE CONTRARY THAT HE IS INCOMPETENT TO STAND
9 TRIAL.

10 THE COURT: OKAY. NOW, THE NEXT MATTER IS THE
11 MOTION IN LIMINE WHICH HAS BEEN FILED BY THE STATE
12 AND THAT IS DATED IS JULY 24TH, 2006, AND THAT MOTION
13 MOVES IN LIMINE TO EXCLUDE EVIDENCE REGARDING
14 DIMINISHED CAPACITY IN THE GUILT PHASE OF THE TRIAL,
15 AND THAT DEALS WITH THE DEFENDANT'S INTENTION TO
16 ASSERT THE AFFIRMATIVE DEFENSE OF INSANITY.

17 AND THE STATE RELIES ON STATE VERSUS GILL AND
18 STATE VERSUS SANTIAGO, AND THAT'S JUST BASICALLY A
19 BRIEF SUMMARY OF THEIR MOTION.

20 BASED ON OUR CHAMBERS CONFERENCE, IT'S MY
21 UNDERSTANDING, MR. DIGGS, THAT YOU OBJECT TO THE
22 COURT PROCEEDING WITH THE MOTION IN LIMINE. IS THAT
23 CORRECT?

24 MR. DIGGS: WELL, YOUR HONOR, YOU HAVE A WRITTEN
25 REPORT THAT'S BEEN FILED. IT STATES THAT THE

1 DOCTOR'S OPINION HOLDS THAT HE WAS INSANE, AND WE
2 SUBMIT THAT THAT WOULD RESOLVE THE ISSUE. THAT
3 RAISES THE FACTUAL ISSUE THAT SHOULD BE SUBMITTED TO
4 THE JURY.

5 AND FOR THAT REASON WE WOULD OBJECT TO HAVING TO
6 GO FURTHER SIMPLY BECAUSE THE STATE WANTS TO LABEL
7 THE DOCTOR'S OPINION SOMETHING OTHER THAN IT IS
8 DOESN'T NEGATE THE FACT THAT THERE IS A JURY QUESTION
9 HERE, A FACTUAL QUESTION, RESOLUTION, AND IT DOESN'T
10 UNDERMINE OR NEGATE THE DOCTOR'S OPINION WHICH IS
11 CLEARLY SET FORTH IN THE WRITTEN REPORT.

12 AND SO WE WOULD SUBMIT THAT THE MOTION BY THE
13 PROSECUTION AT THIS POINT DOES NOT HAVE MERIT, WITH
14 ALL DUE RESPECT, AND IT SHOULD BE DENIED.

15 *THE COURT:* WOULD THE STATE LIKE TO RESPOND?

16 *MR. HEMBREE:* YOUR HONOR, ONE MATTER. JUST FOR
17 PURPOSES OF CLARIFICATION, THE STATE DOES NOT OBJECT
18 TO THE INTRODUCTION OF THIS PSYCHIATRIC TESTIMONY IN
19 THE PENALTY PHASE OF THE TRIAL AS MITIGATION
20 TESTIMONY. WE DO BELIEVE IT WOULD BE PROPER AT THAT
21 TIME.

22 HOWEVER, IT IS OUR POSITION THAT THE COURT
23 REMAINS THE GATEKEEPER OF ANY EVIDENCE THAT IS
24 OFFERED BY EITHER SIDE. THERE IS A LEGAL THRESHOLD
25 THAT THE DEFENSE MUST -- MUST OVERCOME TO OFFER THAT

1 EVIDENCE TO A JURY. OTHERWISE IT WOULD BE CONSIDERED
2 IRRELEVANT OR CONFUSING.

3 YOUR HONOR, IT'S OUR POSITION, AND I THINK THE
4 COURT'S ALREADY STATED THIS, THAT THE -- WE BELIEVE
5 THAT THE OPINION OF THE DOCTOR, ALTHOUGH NOT CALL --
6 HE DOES NOT DETERMINE DIMINISHED CAPACITY, THAT IN
7 ITS SUBSTANCE IS IN FACT DIMINISHED CAPACITY WHICH IS
8 NOT RECOGNIZED AS APPROPRIATE PSYCHIATRIC TESTIMONY
9 IN THE GUILT PHASE OF THE TRIAL AND THAT IT SHOULD BE
10 EXCLUDED FROM THE GUILT PHASE.

11 THE COURT: ANYTHING FROM--

12 MR. DIGGS: WELL, NOT -- NOT REALLY, YOUR HONOR.
13 I THINK YOU UNDERSTAND WHAT OUR POSITION IS. THAT'S
14 THE VERY ISSUE THAT HAS TO BE RESOLVED FACTUALLY.
15 THE DOCTOR AGAIN IS QUITE FAMILIAR WITH WHAT
16 DIMINISHED CAPACITY IS AND WITH WHAT INSANITY IS. HE
17 QUOTES THE INSANITY STATUTE IN HIS REPORT AND HE SAYS
18 THIS MAN WAS INSANE.

19 AND THAT WOULD CERTAINLY MEET ANY THRESHOLD
20 SHOWING THE COURT MIGHT REQUIRE FOR DETERMINING THERE
21 WAS A FACTUAL RESOLUTION FOR THE JURY IN THE CASE.
22 SO, YOU KNOW, ACCEPTING THE STATE'S ARGUMENT WITH
23 RESPECT TO THE THRESHOLD SHOWING, CERTAINLY IT'S BEEN
24 MET.

25 THE COURT: I THINK AT A VERY BASIC MINIMUM WHEN

1 THE STATE OR THE DEFENSE MAKES A MOTION, IT IS
2 INCUMBENT UPON THE COURT TO HEAR THAT MOTION. I
3 DON'T THINK THAT I CAN SIMPLY DISREGARD THE STATE'S
4 MOTION.

5 I THINK THAT I HAVE TO HEAR IT AND RULE UPON IT.
6 AND I THINK THAT MR. HEMBREE IS CORRECT, THE COURT IS
7 THE GATEKEEPER OF EVIDENCE AND IT IS MY
8 RESPONSIBILITY WHEN AN ISSUE IS RAISED EN CAMERA TO
9 HEAR THAT MOTION.

10 NOW, MR. DIGGS, YOU ARE CORRECT IN YOUR
11 STATEMENT OF THE STATE OF THE LAW WHICH IS WHEN THE
12 AFFIRMATIVE DEFENSE OF INSANITY IS RAISED, IF THERE
13 IS ANY EVIDENCE TO SUPPORT IT, THE COURT BASICALLY
14 HAS TO LET IT IN.

15 I CANNOT -- I'M NOT THE FACT FINDER. IT'S NOT
16 MY PREROGATIVE TO WEIGH EVIDENCE. YOU KNOW, IT'S NOT
17 FOR THE COURT -- AND I THINK THERE'S CASE LAW ON
18 POINT THAT SAYS IT'S NOT -- DOESN'T MATTER WHETHER
19 THE COURT BELIEVES IT OR NOT, IT'S NOT FROM -- I'M
20 NOT THE FACT FINDER, AND AS I SHARED WITH YOU ALL IN
21 CHAMBERS, AFTER MY MANY YEARS IN FAMILY COURT HAVING
22 BEEN THE FACT FINDER, I KNOW WHEN I'M ACTING IN THAT
23 CAPACITY AND QUITE FRANKLY VERY READILY GIVE THAT
24 ROLE OVER TO THE JURY AS THE FACT FINDERS IN THIS
25 CASE.

1 BUT I THINK AT THE VERY MINIMUM WHERE THE STATE
2 RAISES THE MOTION, I HAVE TO HEAR IT. I DON'T THINK
3 I CAN SIMPLY DISREGARD IT. BUT I THINK THAT THE
4 COURT DOES HAVE TO, PURSUANT THE STATUTE, DETERMINE
5 AND HEAR ENOUGH OF THE EVIDENCE EN CAMERA TO SEE IF A
6 FACTUAL ISSUE ON THE AFFIRMATIVE DEFENSE IS RAISED.

7 ARE THERE ANY EXCEPTIONS TO THE COURT'S RULING
8 FROM THE STATE?

9 MR. HEMBREE: NO, YOUR HONOR. THANK YOU.

10 THE COURT: FROM THE DEFENSE?

11 MR. DIGGS: WELL...

12 THE COURT: OTHER THAN THAT WHICH HAS BEEN
13 STATED.

14 MR. DIGGS: WITH ALL DUE RESPECT, NONE, YOUR
15 HONOR, NO ADDITION.

16 THE COURT: OKAY. AND THEN WE'LL NOTE YOUR
17 EXCEPTION FOR THE RECORD.

18 MR. DIGGS: THANK YOU.

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. HEMBREE: YES, YOUR HONOR.

21 THE COURT: OKAY. IS THE DEFENSE READY TO
22 PROCEED?

23 MR. DIGGS: YES, I AM.

24 THE COURT: AND I APPRECIATE YOU ALL'S PATIENCE.
25 WE HAD A LOT TO COORDINATE THIS MORNING. WE HAD SOME

1 DELAY IN BEGINNING TO -- IT'S NO ONE'S FAULT. WE
2 JUST HAD A LOT TO COORDINATE WITH THE COMPUTERS,
3 CAMERAS AND EVERYTHING ELSE, SO I APPRECIATE YOU ALL
4 BEING SO VERY PATIENT AND WE'LL GO AHEAD AND GET
5 STARTED.

6 MR. DIGGS: YOUR HONOR, I ASSUME THAT LOOK
7 DIRECTED AT ME MEANS THAT PROCEDURE WILL REQUIRE
8 US...

9 THE COURT: I THINK PROCEDURALLY PROBABLY IT IS
10 BETTER TO GO AHEAD AND START WITH YOUR WITNESS. AND
11 I WILL TELL YOU WHY. BECAUSE IF THERE IS A FACTUAL
12 ISSUE RAISED, THEN WE REALLY DON'T NEED TO GO ANY
13 FURTHER, AND IT WOULD SAVE TIME.

14 MR. DIGGS: OKAY. YOUR HONOR, WE WOULD CALL DR.
15 THOMAS SACHY.

16 THE COURT: SIR, IF YOU WOULD COME TO THE
17 WITNESS STAND AND BE SWORN. THIS WAY. SORRY.

18 DR. TOM SACHY, AFTER
19 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MR. DIGGS:

22 Q AND DR. SACHY, WHERE DO YOU RESIDE?

23 A GRAY, G-R-A-Y, GEORGIA.

24 Q AND WHAT IS YOUR PROFESSION, SIR?

25 A I'M A PSYCHIATRIST, FORENSIC PSYCHIATRIST AND

1 NEURO-PSYCHIATRIST.

2 Q ALL RIGHT. COULD YOU GIVE US THE BENEFIT OF YOUR
3 TRAINING AND EDUCATION, PLEASE SIR?

4 A YES. I HAVE A -- TWO BACHELOR'S DEGREES, BACHELOR OF
5 SCIENCE DEGREES FROM THE UNIVERSITY OF CALVALRY IN CANADA,
6 ONE IN GENERAL STUDIES, ONE IN ELECTRICAL AND COMPUTER
7 ENGINEERING.

8 I HAVE A MASTER'S DEGREE IN BIOLOGY FROM GEORGIA
9 STATE UNIVERSITY IN ATLANTA. I HAVE MY MEDICAL DEGREE
10 FROM THE MEDICAL COLLEGE OF GEORGIA IN AUGUSTA, WHICH I
11 COMPLETED IN 1995.

12 AND I COMPLETED MY PSYCHIATRY AND BEHAVIORAL
13 NEUROLOGY FELLOWSHIP, THE MEDICAL UNIVERSITY OF SOUTH
14 CAROLINA IN CHARLESTON. I BELIEVE I COMPLETED THAT IN
15 2000.

16 THEN I WENT TO -- I'M SORRY. I THINK I COMPLETED
17 THAT IN '99. THEN I WENT TO EMORY UNIVERSITY WHERE I
18 COMPLETED A FELLOWSHIP IN FORENSIC PSYCHIATRY. TRYING TO
19 REMEMBER. AND I BELIEVE I COMPLETED THAT IN 2000. AND I
20 HAVE BEEN IN PRACTICE AND IN PRIVATE PRACTICE FOR THE LAST
21 FIVE YEARS.

22 Q OKAY. AND WHAT KIND OF -- HOW WOULD YOU DESCRIBE FOR
23 US YOUR PRACTICE?

24 A WELL, MY PRACTICE IS PROBABLY 90 PERCENT CLINICAL,
25 THAT'S TREATING PATIENTS FOR VARIOUS NEUROPSYCHIATRIC

1 DISORDERS, AND 10 PERCENT FORENSIC.

2 Q ALL RIGHT. WHAT IS THE -- YOU CLAIM EDUCATION AND
3 TRAINING IN PSYCHIATRY AND NEUROPSYCHIATRY AND FORENSIC
4 PSYCHIATRY?

5 A YES.

6 Q WHAT ARE THE DIFFERENCES IN THOSE AREAS? HOW DO THEY
7 DIFFER?

8 A PSYCHIATRY IS THAT PART OF MEDICINE THAT DEALS WITH
9 MENTAL HEALTH AND MENTAL ILLNESS. FORENSIC PSYCHIATRY IS
10 THAT SUBSECTION OF PSYCHIATRY THAT DEALS WITH PSYCHIATRY
11 IN THE LAW, WHERE THOSE TWO FIELDS COINCIDE.

12 AND NEUROPSYCHIATRY IS A SPECIALTY THAT IS ALSO KNOWN
13 AS BEHAVIORAL NEUROLOGY WHERE A PERSON IS TRAINED IN THE
14 UNDERSTANDING OF THE NEUROLOGICAL BASES FOR BEHAVIORAL
15 DISORDERS.

16 Q AND HAVE YOU EVER BEEN DECLARED AN EXPERT IN ANY
17 COURT IN THOSE AREAS?

18 A YES I HAVE, ON MANY OCCASIONS.

19 Q OKAY.

20 MR. DIGGS: YOUR HONOR, WE WOULD OFFER DR. SACHY
21 AS AN EXPERT IN THE AREA OF PSYCHIATRY,
22 NEUROPSYCHIATRY AND FORENSIC PSYCHIATRY.

23 THE COURT: ANY QUESTIONS OR OBJECTIONS?

24 MR. HEMBREE: YES, YOUR HONOR. I JUST HAVE A
25 FEW QUESTIONS.

1 THE COURT: CERTAINLY. YOU MAY PROCEED.

2 MR. HEMBREE: THANK YOU, YOUR HONOR.

3 VOIR DIRE EXAMINATION

4 BY MR. HEMBREE:

5 Q THERE IS -- DR. SACHY, THERE IS NOT AN -- THERE IS NO
6 RECOGNIZED SPECIALITY OR BOARD CERTIFICATION IN THE FIELD
7 OF NEUROPSYCHIATRY; IS THERE?

8 A I BELIEVE IT'S A RECOGNIZED SPECIALTY AND THERE SOON
9 WILL BE A BOARD SPECIALTY. THEY HAVE BEEN TRYING TO HAVE
10 IT ARRANGED FOR YEARS. BUT I COMPLETED A AUTHENTIC
11 FELLOWSHIP UNDER THE TUTELAGE OF DR. DAVID BACHMAN WHO IS
12 NOW THE CHAIRMAN OF THE DEPARTMENT OF NEUROLOGY AT THE
13 MEDICAL UNIVERSITY OF SOUTH CAROLINA AND HE IS ALSO THE
14 HEAD OF BEHAVIORAL NEUROLOGY.

15 SO I WOULD SUBMIT TO YOU THAT IT IS RECOGNIZED AND
16 LEGITIMATE. IN FACT, I HAVE A TEXTBOOK THAT I BROUGHT
17 WITH ME WHICH IS LABELED NEUROPSYCHIATRY, SO...

18 Q IT'S CERTAINLY A FIELD OF STUDY, BUT IT IS NOT A --
19 IT'S NOT A RECOGNIZED SUBSPECIALTY IN THE SENSE THAT THERE
20 IS NO BOARD CERTIFICATION.

21 A THE AMERICAN ACADEMY OF MEDICAL SPECIALTIES HAS NOT
22 GIVEN IT ITS OWN BOARD CERTIFICATION YET.

23 Q AND SO YOU'RE NOT CERTIFIED -- NOT BOARD CERTIFIED AS
24 A NEUROPSYCHIATRIST?

25 A NO.

1 Q YOU'RE NOT -- THERE IS NO -- THERE'S A STUDY, I
2 UNDERSTAND, OF FORENSIC PSYCHIATRY BUT THERE IS NO BOARD
3 CERTIFICATION FOR THAT EITHER; IS IT?

4 A YES, THERE IS.

5 Q OKAY. ARE YOU BOARD CERTIFIED AS A FORENSIC
6 PSYCHIATRIST?

7 A YES, I AM.

8 Q AND ARE YOU BOARD CERTIFIED AS A NEUROLOGIST?

9 A NO.

10 Q AND WHAT WOULD BE NEUROLOGY?

11 A NEUROLOGY AND PSYCHIATRY ARE BOTH CERTIFIED BY THE
12 SAME GENERAL BOARD, IT'S THE AMERICAN BOARD OF PSYCHIATRY
13 AND NEUROLOGY. NEUROLOGISTS SPECIALIZE MORE IN THE
14 DIAGNOSIS OF AND TREATMENT OF THINGS LIKE STROKE, AND I'LL
15 GIVE -- EVALUATION OF BRAIN TUMOR, GROSS BRAIN DISFUNCTION
16 AS WELL AS GROSS PERIPHERAL NERVOUS SYSTEM DYSFUNCTION.

17 NEUROPSYCHIATRISTS, LIKE MYSELF, WE SPECIALIZE IN
18 VERY FINE -- WELL, IT CAN BE GROSS, BUT IN VERY FINE AND
19 MINUTE PROBLEMS IN THE BRAIN LEADING TO BEHAVIORAL
20 DISTURBANCE.

21 Q NOW YOUR -- YOU HAVE BEEN CERTIFIED -- I MEAN, YOU
22 ARE BOARD CERTIFIED AS PSYCHIATRIST?

23 A AND A FORENSIC PSYCHIATRIST.

24 Q AND A FORENSIC PSYCHIATRIST. VERY WELL.

25 MR. HEMBREE: YOUR HONOR, I WOULD --

1 BY MR. HEMBREE:

2 Q ARE YOU LICENSED TO PRACTICE MEDICINE IN THE STATE OF
3 SOUTH CAROLINA?

4 A NO. I WAS WHEN I WAS DOING MY RESIDENCY AND MY
5 FELLOWSHIP IN BEHAVIORAL NEUROLOGY, BUT I LET IT LAPSE
6 AFTER MOVING TO GEORGIA.

7 Q AND YOU ADMITTED YOU'VE BEEN QUALIFIED IN COURTS OF
8 RECORD IN THE FIELDS -- IN SEVERAL FIELDS OF PSYCHIATRY.
9 ARE -- HAVE YOU EVER BEEN CERTIFIED OR HAVE YOU EVER BEEN
10 QUALIFIED IN A COURT OF RECORD IN SOUTH CAROLINA?

11 A NO.

12 MR. HEMBREE: I DON'T HAVE ANY FURTHER
13 QUESTIONS, YOUR HONOR. WE WOULD OBJECT TO HIS
14 QUALIFICATIONS AS A FORENSIC PSYCHIATRIST -- EXCUSE
15 ME -- AS A -- A NEUROPSYCHIATRIST BECAUSE IT IS NOT A
16 RECOGNIZED BOARD CERTIFIED FIELD OF MEDICINE, OF
17 PSYCHIATRY.

18 WE DON'T HAVE ANY OBJECTION TO HIS
19 CERTIFICATIONS AS A FORENSIC PSYCHIATRIST OR AS A
20 PSYCHIATRIST.

21 THE COURT: TELL ME AGAIN WHAT YOU'RE OFFERING
22 HIM AS AN EXPERT IN, MR. DIGGS.

23 MR. DIGGS: PSYCHIATRY AND NEUROPSYCHIATRY AND
24 FORENSIC PSYCHIATRY.

25 THE COURT: FORENSIC PSYCHIATRY -- SAY IT ONE

1 MORE TIME FOR ME. FORENSIC PSYCHIATRY.

2 MR. DIGGS: FORENSIC AND NEUROPSYCHIATRY. AND
3 YOUR HONOR, HE WOULD BE AN EXPERT--

4 THE COURT: WAIT. WAIT. DON'T GET AHEAD OF ME.
5 FORENSIC PSYCHIATRY AND NEUROPSYCHIATRY, AND
6 PSYCHIATRY; CORRECT?

7 MR. DIGGS: YES, MA'AM.

8 THE COURT: ALL RIGHT. YOU MAY PROCEED.

9 MR. DIGGS: THANK YOU. DR. SACHY--

10 THE COURT: WELL, NO. I NEED TO RESPOND TO HIS
11 MOTION, HIS OBJECTION TO THE ADMISSION AS AN EXPERT.

12 MR. DIGGS: YOUR HONOR, THE FACT THAT THERE IS
13 NO BOARD CERTIFICATION WOULDN'T BE CONTROLLING.
14 CONSIDERATION WOULD BE BY TRAINING AND STUDY AND HIS
15 EXPERTISE.

16 CLEARLY BY HIS EXPERIENCE AND EXPERTISE AND HIS
17 TRAINING HE HAS AN EXPERT STANDARD OR QUALITY OF
18 KNOWLEDGE CONCERNING NEUROPSYCHIATRY. HE HAS SOME...

19 THE WITNESS: YOUR HONOR?

20 THE COURT: YES, SIR.

21 THE WITNESS: I DID COMPLETE AN ACTUAL
22 FELLOWSHIP AND I'M CERTIFIED IN IT AND ON IT, WHICH I
23 RECEIVED FROM THE MEDICAL UNIVERSITY OF SOUTH
24 CAROLINA SIGNED BY THE CHAIRMAN OF THE DEPARTMENT OF
25 NEUROLOGY THEN AND DR. DAVID BACHMAN, WHO IS THE HEAD

1 OF THE BEHAVIORAL NEUROLOGY PROGRAM.

2 I AM CERTIFIED AND HAVE COMPLETED A ONE-YEAR
3 FELLOWSHIP. MANY MEDICAL SPECIALTIES, BEFORE THEY
4 BECAME FORMALLY, YOU KNOW, GIVEN AMERICAN BOARD
5 STATUS, THEY WERE STILL LEGITIMATE AREAS OF SPECIALTY
6 THAT YOU COULD BE CERTIFIED IN. IT JUST TAKES TIME.

7 AND NEUROPSYCHIATRY -- ACTUALLY, THOUGH IT'S
8 KIND OF ANCIENT, IS KIND OF NEW AS WELL. BUT I DO
9 HAVE LEGITIMATE CERTIFICATION. I DID COMPLETE ONE
10 YEAR OF TRAINING AT THE MEDICAL UNIVERSITY OF SOUTH
11 CAROLINA IN MEDICINE.

12 THE COURT: ALL RIGHT. WITH THAT FURTHER
13 EXPLANATION, THE STATE STILL HAVE AN OBJECTION?

14 MR. HEMBREE: NO, YOUR HONOR. I JUST -- MY
15 CONCERN -- I GUESS HERE'S MY -- GO TO THE CRUX OF MY
16 OBJECTION AND THEN I GUESS I CAN SAVE MY OBJECTIONS
17 FOR PARTICULAR QUESTIONS.

18 BUT I HAVE SOME CONCERN THAT THIS WITNESS MAY
19 OFFER EVIDENCE THAT WOULD BE MORE APPROPRIATELY
20 ANSWERED BY A NEUROLOGIST, NOT A -- BECAUSE THE
21 MECHANICAL ASPECTS OF THE BRAIN. THAT'S THE
22 NEUROLOGIST'S SPECIALTY, WHERE THE PSYCHIATRIC AREAS
23 OF THE BRAIN SEEM TO BE MORE OF A SOFTWARE ISSUE, HOW
24 A BRAIN BEHAVES AFTER IT.

25 SO THAT'S MY CONCERN. IF -- AND I WILL -- AFTER

1 STATING THAT, I WILL -- I HAVE NO FURTHER OBJECTION
2 TO HIS QUALIFICATION AS A FORENSIC -- OR EXCUSE ME --
3 A NEUROPSYCHIATRIST.

4 THE COURT: OKAY. SIR, YOU INDICATED THAT YOU
5 HAVE BEEN ADMITTED AS AN EXPERT IN COURTS IN GEORGIA
6 AS WELL?

7 THE WITNESS: YES.

8 THE COURT: HOW MANY TIMES? YOU CAN GIVE ME AN
9 ESTIMATE.

10 THE WITNESS: FIFTY, 60, 70 TIMES.

11 THE COURT: AND WHAT AREAS WERE YOU ADMITTED AS
12 AN EXPERT?

13 THE WITNESS: ALL THOSE THREE AREAS.

14 THE COURT: ALL THREE--

15 THE WITNESS: PSYCHIATRY, FORENSIC PSYCHIATRY,
16 NEUROPSYCHIATRY.

17 THE COURT: THINK THE OBJECTION CAN WAIT. HE'S
18 ADMITTED. HE CAN CONTINUE.

19 MR. DIGGS: THANK YOU.

20 BY MR. DIGGS:

21 Q DR. SACHY, DID YOU HAVE AN OCCASION TO BEGIN WORK ON
22 THE STEPHEN STANKO CASE?

23 A YES, I DID.

24 Q YES. OKAY. AND TELL US IF YOU WOULD, PLEASE SIR,
25 HOW YOU KIND OF -- HOW IT WAS THAT YOU CAME TO BE INVOLVED

1 IN THE CASE.

2 A I WAS ESSENTIALLY ON A SPEAKING TOUR OF MYRTLE BEACH
3 AND THIS AREA, AND I WAS AT DINNER INTRODUCED TO A DR.
4 THRASHER WHO HAD ASKED ABOUT MY FORENSIC WORK. AND I
5 MENTIONED ANOTHER CASE THAT I WORKED ON IN GEORGIA WHERE
6 THIS KIND OF -- THE KIND OF WORK I DO, THE NEUROLOGICAL
7 AND IMAGING ANALYSIS OF -- IN VIOLENT PEOPLE, HE WAS
8 INTERESTED IN THAT. AND I GUESS THROUGH HIM, HE CONTACTED
9 YOU AND -- AND SOMEONE HERE, OR YOU CONTACTED ME.

10 Q ALL RIGHT. AND DID YOU PERFORM WORK ON THIS CASE?

11 A YES.

12 Q TELL US WHAT YOU DID, JUST IN A GENERAL SENSE.

13 A WELL, IN A GENERAL SENSE I DID A PSYCHIATRIC
14 EVALUATION OF MR. STANKO. I PERFORMED A NEUROLOGICAL
15 EXAMINATION OF MR. STANKO. I REVIEWED A GREAT DEAL OF
16 RECORDS ON MR. STANKO. AND VERY IMPORTANTLY I ARRANGED OR
17 ORDERED POSITRON EMISSION TOMOGRAPHY SCANS TO BE PERFORMED
18 OF HIS BRAIN, AND THOSE -- THAT DATA WAS THEN SENT TO THE
19 UNIVERSITY OF CALIFORNIA IRVINE FOR ANALYSIS, AND WE WILL
20 DISCUSS THOSE FINDINGS.

21 THEN AS WELL, I ORDERED A BRAIN MRI OF MR. STANKO.
22 AND I HAD THAT DATA SENT TO THE UNIVERSITY OF PENNSYLVANIA
23 WHERE IT WAS ANALYZED IN A DIFFERENT -- COMPLETELY
24 DIFFERENT MATTER FOR ANALYSIS FOR BRAIN ABNORMALITY.

25 Q OKAY. DID YOU HAVE ALL OF THAT INFORMATION AVAILABLE

1 TO YOU AND THE RESULTS OF THOSE SCANS AND SO FORTH AT THE
2 TIME YOU DRAFTED A REPORT IN THE CASE?

3 A YES.

4 Q AND LET ME SHOW YOU THIS. IS THIS YOUR REPORT THAT
5 WE HAVE HAD MARKED AS EXHIBIT NUMBER 1?

6 A YES.

7 MR. DIGGS: YOUR HONOR, WE'D LIKE TO OFFER IT
8 INTO EVIDENCE AT THIS TIME.

9 THE COURT: ANY OBJECTION?

10 MR. HEMBREE: WHICH REPORT IS IT, THE ONE DATED
11 THE SEVENTH OR THE 22ND?

12 MR. DIGGS: TWENTY-SECOND.

13 MR. HEMBREE: YOU INTEND TO INTRODUCE BOTH? I
14 HAVE NO OBJECTION TO IT, YOUR HONOR.

15 THE COURT: MARKED AND ADMITTED WITHOUT
16 OBJECTION. YOU MAY CONTINUE.

17 (WHEREUPON, COURT'S EXHIBIT 1 WAS ADMITTED INTO
18 EVIDENCE.)

19 BY MR. DIGGS:

20 Q DR. SACHY, DO YOU HAVE A COPY OF YOUR REPORT OVER
21 THERE?

22 A YES, I DO.

23 Q YOU HAVE IT WITH YOU? ALL RIGHT. IN YOUR REPORT --
24 LET'S GET TO THE BOTTOM LINE IN YOUR REPORT, AND THEN
25 WE'LL HAVE YOU EXPLAIN HOW YOU ARRIVED AT THAT CONCLUSION.

1 WHAT IS YOUR OPINION REGARD TO HIS MENTAL STATE AT
2 THE TIME OF THIS PARTICULAR -- THE ACTS THAT WERE ALLEGED
3 IN THIS CASE? DO YOU HAVE AN OPINION WITH RESPECT TO THE
4 DEFENDANT'S MENTAL STATE AT THAT TIME?

5 A AT THE TIME OF THESE ACTS?

6 Q YES.

7 A IT'S MY OPINION THAT HE MET THE LEGAL DEFINITION OF
8 MORAL AND LEGAL INSANITY AND HE DID NOT KNOW RIGHT VERSUS
9 WRONG AT THE TIME OF THESE ACTS.

10 Q ALL RIGHT. NOW, YOU UNDERSTAND WHAT WE MEAN BY
11 DIMINISHED CAPACITY?

12 A YES.

13 Q AND DO YOU UNDERSTAND BY -- OR DO YOU UNDERSTAND WHAT
14 WE MEAN BY INSANITY?

15 A YES.

16 Q AND WERE YOU AWARE OF THOSE DISTINCTIONS AT THE TIME
17 YOU DID THIS REPORT?

18 A I WAS AWARE, BUT AS I -- AS I WAS MADE AWARE OF THE
19 ACTUAL STATUTE, I BECAME MORE AWARE.

20 Q ALL RIGHT. NOW, IS IT YOUR OPINION IN THIS REPORT
21 THAT MR. STANKO WAS INSANE OR THAT HE WAS SUFFERING FROM
22 DIMINISHED CAPACITY?

23 A AT THE TIME HE WAS INSANE, BUT IT IS MY OPINION THAT
24 MR. STANKO HAS DIMINISHED CAPACITY 24-SEVEN. BUT AT THE
25 TIME OF THESE -- THIS CRIME AND THIS ACT, HE WAS BEYOND

1 THAT, HE WAS INSANE.

2 Q ALL RIGHT. LET'S GO AHEAD AND GET TO THE CRUX THEN.
3 WHY DO YOU COME TO THAT CONCLUSION?

4 A I COME TO THAT CONCLUSION -- FIRST OF ALL, WHEN THIS
5 CASE WAS SENT TO ME AND I REVIEWED THE MATERIALS AND BASED
6 ON MY TRAINING AND KNOWLEDGE IN THE MEDICAL LITERATURE, I
7 WAS CONVINCED THAT THE ACTS THAT HE HAD COMMITTED WERE
8 INSANE IN A -- IN A LEGAL SENSE.

9 I -- WHEN I WAS CONTACTED THEN ABOUT THIS CASE, I
10 KNEW THAT THERE WERE CERTAIN SCIENTIFIC STUDIES THAT
11 EXISTED THAT COULD BE PUT INTO USE THAT WOULD LITERALLY
12 SHOW THE NEUROLOGICAL OR BRAIN ABNORMALITIES THAT WOULD
13 ACCOUNT FOR THIS INSANITY. SO I OBTAINED THEM.

14 ONCE I SAW THE RESULTS, WHICH ARE ACTUALLY
15 OUTSTANDING, I WAS CONVINCED THAT HE WAS INSANE AT THE
16 TIME OF THESE CRIMES.

17 Q ALL RIGHT. CAN YOU GIVE US AN OVERVIEW -- ARE YOU
18 PREPARED TO GIVE US AN OVERVIEW OF THOSE ARTICLES OR THOSE
19 MATERIALS?

20 A YES, BUT I THINK -- IF YOUR HONOR WANTS TO LOOK AT
21 THE PICTURES, I HAVE -- I WILL HAVE TO GO TO THAT SIDE TO
22 GET ON MY COMPUTER TO SHOW YOU.

23 THE COURT: YOU NEED TO FOLLOW -- HE NEEDS TO
24 ANSWER THE QUESTIONS, SIR. YOU NEED TO CONTINUE.
25 BY MR. DIGGS:

1 Q CAN YOU GIVE US AN OVERVIEW OF THOSE MATERIALS AT
2 THIS TIME, THE TYPES OF RESEARCH THAT YOU LOOKED AT?

3 A YES. WELL, THE--

4 Q DO YOU HAVE THAT ON YOUR COMPUTER?

5 A I -- I DO, BUT I CAN GIVE A VERBAL -- THE MEDICAL
6 LITERATURE IS VERY CONSISTENT AND REALLY OVERWHELMING IN
7 THIS FIELD.

8 Q DESCRIBE IT FOR US, IF YOU WOULD.

9 A MUCH RESEARCH -- AND GOING BACK TO THE 1800'S WHEN
10 THE SCIENCE OF THE BRAIN WAS BEING BORN, BUT MUCH -- MUCH
11 RESEARCH HAS BEEN DONE CERTAINLY SINCE -- IN WHAT IS THE
12 SCIENCE OR THE BRAIN SCIENCE BEHIND VIOLENT AND
13 PSYCHOPATHIC BEHAVIOR.

14 AND STUDIES HAVE BEEN DONE IN PSYCHOLOGICAL PEN AND
15 PAPERS, PEN AND PAPER STUDIES HAVE BEEN DONE IN THE PAST.
16 BUT MORE RECENTLY IMAGING, BRAIN IMAGING, PET AND MRI
17 SCANS HAVE COME INTO PLAY.

18 AND THE MEDICAL LEGISLATURE FROM THE MID-1990'S,
19 ESPECIALLY FROM A VERY IMPORTANT FELLOW IN THIS FIELD, DR.
20 ADRIAN RAINE, SHOWED THAT MURDERERS IN PARTICULAR SEEM TO
21 HAVE -- WELL, THEY DON'T SEEM TO HAVE -- THEY HAVE
22 DECREASED ACTIVITY IN THE AREA OF THEIR BRAIN RIGHT ABOVE
23 THEIR EYEBALLS AND BEHIND THEIR EYEBROWS.

24 IT'S CALLED THE MEDIAL ORBITAL FRONTAL LOBE OF THEIR
25 ENTIRE FRONTAL LOBE. IT'S A SPECIAL SECTION. THAT

1 SECTION OF THE BRAIN WE KNOW FROM PEOPLE WHO GET CANCER
2 THERE OR HAVE A STROKE OR A GUNSHOT WOUND TO THAT
3 PARTICULAR PART OF THEIR BRAIN, WE KNOW THAT THAT AREA OF
4 THE BRAIN IS -- IS THE MOST IMPORTANT PART FOR BEING
5 SOCIALLY RESPONSIBLE, FOR BEING EMPATHETIC, FOR NOT
6 BREAKING RULES, FOR FOLLOWING RULES.

7 IT'S ACTUALLY WHERE THE CONSCIENCE, THE HUMAN
8 CONSCIENCE, BEING A GOOD PERSON LIES.

9 Q IF I COULD ASK YOU A COUPLE OF FOLLOW-UPS THERE. ONE
10 IS, ARE YOU SAYING MR. STANKO HAS A PROBLEM IN THAT AREA?

11 A MOST DEFINITELY.

12 Q OKAY. AND IS THAT WHY YOU MAKE YOUR STATEMENT THAT
13 HE WAS DIMINISHED -- OPERATING IN A DIMINISHED CAPACITY
14 MODE 24 HOURS A DAY?

15 A YES. HIS -- I'M SORRY. HIS BEHAVIORS ARE ABSOLUTELY
16 CONSISTENT WITH THE DIAGNOSIS OF PSYCHOPATHY.

17 Q ALL RIGHT. WHAT DISTINGUISHES THAT SITUATION FROM
18 THIS PARTICULAR CASE WHERE YOUR OPINION IS THAT HE WAS
19 INSANE AS OPPOSED TO MERELY DIMINISHED CAPACITY?

20 A HE HAS DIMINISHED CAPACITY WHEN IT COMES TO
21 CONFIDENCE SCHEMES AND THAT KIND OF CRIMINAL ACTIVITY. HE
22 DOES NOT SEEM TO BE ABLE TO CONTROL THAT KIND OF BEHAVIOR
23 IN SPITE OF SEVERAL INCARCERATIONS AND THREE MENTAL HEALTH
24 INTERVENTIONS.

25 VERY TYPICAL OF THE PSYCHOPATH. THEY DON'T LEARN

1 FROM THESE EXPERIENCES. SO -- I LOST TRACK OF THE
2 QUESTION JUST ASKED. WHAT...

3 Q OKAY. MY QUESTION WENT TO -- IS -- DOES THAT EXPLAIN
4 WHY YOUR TESTIMONY WAS THAT HE OPERATES IN DIMINISHED --
5 IN A DIMINISHED CAPACITY MODE 24 HOURS A DAY?

6 A YES, IN -- IN THAT KIND OF SENSE OF IT -- THE
7 SCHEMES, AND THE CONFIDENCE SCHEMES, HE'S MORALLY
8 DIMINISHED. HE IS DIMINISHED CAPACITY IN THAT WAY.

9 HOWEVER, THE ACTS THAT WE'RE TALKING ABOUT HERE WENT
10 FAR BEYOND THAT. MR. STANKO DOES NOT APPEAR TO HAVE A
11 DIMINISHED CAPACITY. IN OTHER WORDS, MR. STANKO APPEARS
12 NOT TO BE WALKING AROUND AND DOING BRUTAL ACTS TO PEOPLE
13 JUST ON -- AT RANDOM ON THE STREET.

14 IT'S CLEAR TO ME THAT THE ACTS THAT OCCURRED WENT
15 BEYOND A DIMINISHED CAPACITY INTO THE REALM OF INABILITY
16 TO MORALLY AND LEGALLY UNDERSTAND THE DIFFERENCE BETWEEN
17 RIGHT AND WRONG. AND THE BRAIN IMAGING SHOWS THAT THOSE
18 AREAS THAT ARE RESPONSIBLE FOR THAT ARE NOT FUNCTIONAL OR
19 LOW FUNCTIONAL.

20 AND IT IS MY MEDICAL OPINION THAT HE COULD NOT HAVE
21 POSSIBLY KNOWN THE DIFFERENCE, MORAL OR LEGAL, AT THE TIME
22 BECAUSE THOSE AREAS THAT ARE RESPONSIBLE FOR THAT ARE NOT
23 WORKING PROPERLY.

24 Q ALL RIGHT. AND YOU MENTIONED DR. RAINE, ADRIAN
25 RAINE?

1 A YES.

2 Q DOES HE DO IMAGING OR DID HE MAKE USE OF IMAGING?

3 A HE IS THE FATHER OF BRAIN IMAGING IN MURDERERS, THE
4 VIOLENT AND PSYCHOPATHIC.

5 Q OKAY. AND WHO DID HE USE FOR HIS IMAGING?

6 A WELL, I MENTIONED THE PREVIOUS CASE IN GEORGIA. I
7 CONTACTED DR. ADRIAN RAINE'S OFFICE. I WANTED HIM TO DO
8 THE IMAGING IN THAT CASE. HE'S VERY FAMOUS. HE'S VERY
9 IMPORTANT. HE DOESN'T DO THAT. BUT HIS OFFICE TOLD ME
10 WHO TO CONTACT.

11 Q AND WHO WAS THAT?

12 A DR. JOSEPH WU AT THE UNIVERSITY OF CALIFORNIA IN--

13 Q OKAY. AND DID YOU CONTACT HIM?

14 A I CERTAINLY DID.

15 Q AND DID HE BECOME INVOLVED IN THE CASE?

16 A HE BECAME INVOLVED IN THAT CASE AND THIS CASE. THE
17 PET SCANS WERE OBTAINED AT THE MEDICAL UNIVERSITY OF SOUTH
18 CAROLINA IN CHARLESTON.

19 Q THAT WAS PURSUANT TO YOUR REQUEST?

20 A CORRECT.

21 Q ALL RIGHT.

22 A THEN THEY WERE SENT TO DR. WU AND HIS TEAM FOR THEIR
23 COMPUTER ANALYSIS.

24 Q NOW, WHAT WAS IT SPECIFICALLY THAT WAS SENT TO DR.
25 WU?

1 A THE PET SCAN. THE PET CAN THAT WAS OBTAINED AT THE
2 MEDICAL UNIVERSITY OF SOUTH CAROLINA, THE RAW DATA.

3 Q ALL RIGHT. THE RAW DATA?

4 A YES.

5 Q ALL RIGHT. AND DID DR. WU GET THE MRI DATA?

6 A I DON'T KNOW IF HE DID GET THAT DATA.

7 Q WHERE DID THE -- WHERE DID THE MRI DATA GO?

8 A THE MRI DATA WENT TO DR. RUBEN GUR AT THE UNIVERSITY
9 OF PENNSYLVANIA. DR. GUR, G-U-R, IS ONE OF THE WORLD'S
10 MOST FAMOUS EXPERTS ON MORPHOLOGICAL STUDY OF THE HUMAN
11 BRAIN.

12 Q OKAY. WHAT DO YOU MEAN BY THAT?

13 A THAT MEANS USING COMPLEX COMPUTER ALGORITHMS TO LOOK
14 AT THE MRI DATA AND SEE IF A PERSON'S BRAIN OR VERY --
15 VARIOUS AREAS OF THE BRAIN ARE ABNORMAL IN SIZE.

16 Q OKAY. NOW, DID YOU GET REPORTS BACK FROM DR. WU AND
17 DR. GUR?

18 A YES.

19 Q AND DID YOU TAKE THOSE INTO CONSIDERATION IN
20 FORMULATING THE OPINION WHICH YOU'RE GIVING US NOW?

21 A MOST DEFINITELY.

22 MR. DIGGS: YOUR HONOR, I'D ASK THAT IF THE
23 WITNESS COULD COME DOWN AND SIT AT HIS COMPUTER.

24 THE COURT: SURE.

25 MR. DIGGS: AND HE CAN SHOW THE COURT WHAT HE'S

1 REFERRING TO WITH RESPECT TO DR. WU AND DR. GUR'S
2 IMAGING AND -- WHAT WAS THE TERM YOU USED, MORPHING?

3 THE WITNESS: MORPHOMETRIC.

4 MR. DIGGS: MORPHOMETRIC.

5 THE WITNESS: ANALYSIS.

6 THE COURT: I WOULD IMAGINE THERE'S NO OBJECTION
7 FROM THE STATE.

8 MR. HEMBREE: I'M SORRY?

9 THE COURT: HE ASKED IF WE NEED TO HAVE THE
10 DOCTOR COME TO HIS COMPUTER.

11 MR. HEMBREE: OH, NO OBJECTION AT ALL, YOUR
12 HONOR, NOT THAT I KNOW OF.

13 (WITNESS LEFT THE STAND.)

14 MR. DIGGS: YOUR HONOR, I BELIEVE THAT THEY HAVE
15 THAT HOOKED SO THAT YOU SEE THE SAME THING THAT'S ON
16 HIS COMPUTER.

17 THE COURT: OKAY. YOU MAY PROCEED. I NEED YOU
18 TO SPEAK IN HER DIRECTION SO THAT SHE CAN TAKE DOWN
19 WHAT YOU'RE SAYING.

20 THE WITNESS: VERY QUICKLY, THIS IS FROM DR.
21 RAINE'S WEBSITE. HE AGAIN -- HE'S THE BRAIN EXPERT
22 WHO STUDIES VIOLENT CRIMINAL AND PSYCHOPATHIC
23 BEHAVIOR.

24 AGAIN, I CONTACTED HIM YEARS AGO TO FIND OUT HOW
25 TO DO THE IMAGING THAT HE HAD PUBLISHED IN PEER

1 REVIEWED JOURNALS, INDICATING THAT THERE WAS A
2 PROBLEM -- NOT INDICATING, BUT SHOWING CLEAR EVIDENCE
3 THAT THERE WAS A PROBLEM WITH MURDERERS AND
4 PSYCHOPATHS.

5 HE DIRECTED ME TO DR. WU AT THE UNIVERSITY OF
6 CALIFORNIA, IRVINE, AND DR. WU DID THE ANALYSIS IN
7 THIS CASE. AND WHAT DR. WU FOUND -- WELL, AND JUST
8 BEFORE WE GO ON, THE MRI WAS SENT TO DR. GUR AT THE
9 UNIVERSITY OF PENNSYLVANIA.

10 AND AGAIN, HIS EXPERTISE IS ANALYZING THE SHAPE
11 AND SIZE OF DIFFERENT AREAS OF THE BRAIN USING
12 COMPLEX COMPUTER ANALYSIS OF THE MRI--

13 BY MR. DIGGS:

14 Q DOCTOR, I ASK YOU THIS WITH RESPECT TO BOTH DR. WU
15 AND GUR.

16 A YES.

17 Q HAVE THEY -- HAS THEIR WORK BEEN STUDIED OR LOOKED AT
18 OR PUBLISHED IN ANY JOURNAL OR LOOKED AT IN TERMS OF PEER
19 REVIEW?

20 A LITERALLY THEY HAVE BEEN PUBLISHED ALL OVER. THEY
21 ARE WORLD FAMOUS PEOPLE.

22 Q. OKAY.

23 A THERE'S NO DOUBT ABOUT THAT. ANYHOW, FROM DOCTOR --
24 THIS IS AN INTERESTING IMAGE. AT THE TOP RIGHT IN THIS
25 PICTURE WE SEE JUST THIS IS -- I'M GOING TO SHOW FILM IN A

1 MINUTE OF MR. STANKO'S BRAIN, BUT THIS IS A -- A SLICE
2 THROUGH THE BRAIN IN AN AXIS LIKE THIS.

3 IF I COULD CUT MY HEAD OFF, JUST SLICE IT WITH A SAW
4 RIGHT HERE, I MIGHT GET AN IMAGE LIKE THIS. BUT ON A PET
5 SCAN, WE SEE AND -- CAN EVERYONE SEE MY MOUSE MOVING?

6 Q YES.

7 A OKAY. WE CAN SEE THAT COMPARED TO AVERAGE CONTROLS,
8 WHICH THEY HAVE A LIBRARY AT THE UNIVERSITY OF CALIFORNIA,
9 IRVINE, OF WHAT HAS BEEN SCIENTIFICALLY CONSIDERED
10 LEGITIMATE -- HOW DO I SAY THIS -- IT'S WHAT'S CONSIDERED
11 AN AVERAGE, NORMAL BRAIN.

12 THIS IS WHAT'S CONSIDERED AN AVERAGE, NORMAL BRAIN.
13 THIS IS MR. STANKO' BRAIN.

14 Q COULD I -- COULD I ASK YOU ABOUT THAT -- ASK THAT
15 THIS PARTICULAR PROCESS HAS THE -- HELP ME -- BEEN
16 SUBJECTED TO PEER VIEW, PUBLICATION, AND ACCEPTANCE IN THE
17 COMMUNITY?

18 A YES, IT IS ACCEPTED.

19 Q ALL RIGHT.

20 A ANYHOW, WHEN THE PET WAS DONE, THE POSITRON AND
21 TOMOGRAPHY SCAN OF MR. STANKO'S BRAIN, A SPECIAL
22 PSYCHOLOGICAL TEST WAS ADMINISTERED WHILE -- JUST
23 BEFORE -- JUST BEFORE THE IMAGE WAS TAKEN.

24 THIS TEST IS CALLED A CONTINUOUS PERFORMANCE TASK,
25 AND IT IS DESIGNED TO MAKE SOMEONE'S FRONTAL LOBES TURN

1 ON. AND AS THEY DO THAT FOR 15 MINUTES AT A COMPUTER, AND
2 AT THAT--

3 Q NOW, IS THAT PROCESS THAT'S DONE WITH A HEALTHY
4 DATABASE?

5 A THAT'S HOW IT IS DONE, WITH THE HEALTHY DATABASE.

6 Q ALL RIGHT. SO THAT WAY YOU KNOW WHAT EACH -- EACH
7 PERSON -- WHAT MENTAL PROCESS IS THAT THEY ARE ENGAGING IN
8 AT THAT MOMENT THAT THE SCAN IS DONE; IS THAT CORRECT?

9 A RIGHT. SO THERE'S NO WAY FOR THEM TO FAKE OR TRY TO
10 FAKE SOME KIND OF OTHER THOUGHT PROCESS. THEY ARE FORCED
11 TO FOCUS ON THIS TEST. IF THEY DON'T PERFORM IT, THE
12 COMPUTER -- I'M ASSUMING THE COMPUTER KICKS THEM OUT OR
13 INFORMS THE TESTER THAT THEY ARE NOT DOING IT.

14 SO IT MAKES THEM FOCUS AND FOCUS WITH THEIR FRONTAL
15 LOBES AND NOT BE ABLE TO THINK OR TRY TO SLEEP OR WHAT
16 HAVE YOU.

17 Q NOW, WHAT DID YOU DO TO ENSURE THAT MR. STANKO WAS
18 GOING THROUGH THIS SAME EXERCISE AT THE TIME OF THE SCAN?

19 A WELL, I WASN'T THERE, BUT MY COLLEAGUE, DR. MARC
20 EINHORN, THE NEUROPSYCHOLOGIST FROM ATLANTA WHO HAD DONE
21 THIS PREVIOUS IMAGING AND TESTING IN THE OTHER CASE IN
22 GEORGIA, HE WAS THERE AND HE FOLLOWED DR. RAINE'S EXACT
23 PROTOCOL HE RECEIVED FROM DR. RAINE.

24 Q ALL RIGHT. AND DID HE DO THAT PURSUANT TO YOUR
25 INSTRUCTIONS AND REQUEST?

1 A YES.

2 Q ALL RIGHT. GO AHEAD.

3 A WELL, IGNORE THE STUFF AT THE BOTTOM FOR THE--

4 COURT REPORTER: I'M SORRY. I CAN'T HEAR.

5 THE WITNESS: I'M SORRY. WE'LL IGNORE WHAT'S AT
6 THE BOTTOM LEFT FOR ONE MOMENT. WE CAN SEE AT THE
7 TOP RIGHT THAT MR. STANKO'S FRONTAL LOBE HERE HAVE A
8 MUCH DIMINISHED ACTIVITY COMPARED TO THE FRONTAL --
9 MEDIAL FRONTAL, THAT MEANS MIDDLE FRONTAL, AND
10 LATERAL FRONTAL LOBES HERE. HE IS DIMINISHED. AND
11 IT'S OBVIOUS BY INSPECTION.

12 NOW, JUST TO GIVE AN EXAMPLE OF WHAT DR. RAINE
13 UNCOVERED IN HIS -- HIS STUDY IN THIS, THIS IS FROM
14 ONE OF THE BOOKS HE HAS PUBLISHED -- IT'S REVERSED
15 HERE. BUT THE NORMAL CONTROL IS ON THE LEFT AND THE
16 MURDERER IS ON THE RIGHT.

17 WE CAN SEE DECREASED FRONTAL LOBE ACTIVITY IN
18 THE MURDERER AS COMPARED TO THE NORMAL INDIVIDUAL.
19 THOUGH THESE ARE SLIGHTLY DIFFERENT IN ORIENTATION,
20 WE CAN SEE THESE SAME THINGS HERE, BUT IT WILL
21 OBVIOUSLY STAND OUT MORE WHEN WE SHOW THE ACTUAL
22 THREE-DIMENSIONAL FILMS.

23 BY MR. DIGGS:

24 Q OKAY. COULD WE DO THAT AT THIS POINT?

25 A YES, WE CAN.

1 Q NOW, WE MADE SOME -- IF I MIGHT INTERJECT AT THIS
2 POINT -- SOME STILL PHOTOS FROM THAT FOOTAGE. IS THAT
3 CORRECT? HAVE YOU SEEN THOSE?

4 A WHAT I WILL DO IS WHERE I -- WHERE I BELIEVE THERE
5 ARE IMPORTANT THINGS TO STOP, I WILL PAUSE IT.

6 Q ALL RIGHT. LET'S LET YOU DO THAT, AND THEN FOR THE
7 RECORD WE WILL JUST SUPPLEMENT THOSE.

8 A SO THE NORMAL, AVERAGE CONTROLLED BRAIN IS ON THE
9 RIGHT. AND MR. STANKO'S BRAIN IS ON THE LEFT. AND THE
10 ORIENTATION IS THE SAME AS WHAT WE SEE IN THAT HEAD AT THE
11 BOTTOM LEFT HAND OF THE SCREEN, BUT I'M GOING TO -- LET'S
12 SEE.

13 Q STOP.

14 A OKAY. WE CAN SEE JUST IN THIS VIEW THAT MR. STANKO
15 IN GENERAL, JUST HIS DORSAL LATERAL FREE FRONTAL CORTEX --
16 I KNOW THAT'S COMPLEX -- BUT THE AREAS THAT I'M CIRCLING
17 HERE AND HERE THERE IS A SLIGHT REDUCTION COMPARED TO A
18 NORMAL INDIVIDUAL.

19 BUT WHERE THERE'S A HUGE DIFFERENCE IS THIS AREA
20 RIGHT HERE, THE MEDIAL OR MIDDLE ORBITAL FRONTAL LOBE AND
21 THE ORBITAL FRONTAL LOBES HERE. THEY'RE CALLED ORBITAL
22 BECAUSE OUR EYES ARE IN ORBITS AND IT'S RIGHT ABOVE OUR
23 EYEBALLS.

24 SO WE CAN SEE JUST LOOKING IN THIS VIEW THE
25 SIGNIFICANT DECREASE IN ACTIVITY. YOU ALL -- I MEAN, I

1 CALL IT COLD. NOW, I KNOW THAT HE'S NOT MISSING HIS BRAIN
2 MATERIAL THERE AND I KNOW IT HAS SOME FUNCTION, BUT ON A
3 CONTINUOUS PERFORMANCE TASK, WHICH IS TASKED TO MAKE THAT
4 AREA LIGHT UP, HIS BRAIN DOESN'T. THIS IS VERY TYPICAL
5 SEEN IN MURDERERS AND PSYCHOPATHS.

6 Q AND THIS AGAIN IS A -- THE CAUSE FOR HIS WHAT YOU
7 CALL DIMINISHED CAPACITY 24 HOURS A DAY?

8 A THAT'S -- THAT'S THE CAUSE OF HIS DIMINISHED CAPACITY
9 AND THE INSANITY.

10 Q ALL RIGHT. CONTINUE ON.

11 A OKAY. THIS MAY TAKE -- IT'S ABOUT FOUR MINUTES IN
12 LENGTH, BUT WE'RE JUST SPINNING THE BRAIN HERE. AND IN A
13 FEW MOMENTS IT WILL SHOW US SOME DIFFERENT... AGAIN, IT'S
14 HIGHLIGHTING MR. STANKO'S BRAIN. IT'S HARDER TO SEE IN
15 THIS SHOT, BUT IT'S COOLER IN THE MEDIAL ORBITAL FRONTAL
16 LOBE THAN THE BRAIN ON THE RIGHT.

17 Q DOCTOR, DO YOU KNOW -- YOU SEE THESE TWO ARROWS HERE?

18 A YES.

19 Q DO YOU KNOW WHO PLACED THOSE ARROWS THERE OR WHO
20 DIRECTED THEY BE PLACED THERE?

21 A MR. WU IN HIS IMAGING DID.

22 Q DR. WU?

23 A YES.

24 Q ALL RIGHT. GO AHEAD. CONTINUE ON.

25 A AND IT'S PLAYING, JUST WILL TAKE A FEW MOMENTS HERE.

1 BY THE WAY, AREAS OF RED AND YELLOW ARE AREAS OF HIGHER
2 ACTIVITY. AREAS OF GREEN AND BLUE ARE AREAS OF LOWER
3 ACTIVITY. AND THIS IS ACTUAL BRAIN ACTIVITY. IT'S WHERE
4 GLUCOSE, SUGAR, RADIOACTIVE SUGAR IS BEING TAKEN UP IN
5 BRAIN DURING ACTIVITY.

6 Q OKAY. NOW--

7 A I THINK IT'S GOING TO -- IT'S GOING TO LIFT THE BRAIN
8 UP AND THEN IT -- PLAYING. I'M GOING TO FREEZE IT RIGHT
9 THERE. IT'S QUITE DRAMATIC. MR. STANKO IN HIS MEDIAL
10 ORBITAL FRONTAL LOBES AND HIS MEDIAL AND LATERAL FRONTAL
11 LOBES IS COOL COMPARED TO A NORMAL CONTROL.

12 REMEMBER, IT'S THIS AREA OF THE BRAIN THAT'S
13 RESPONSIBLE FOR SOCIAL RESPONSIBILITY, FOLLOWING RULES,
14 BEING EMPATHETIC, BEING NON-PSYCHOPATH.

15 Q WHERE -- WHERE DOES THE THOUGHT -- WELL, EXCUSE ME --
16 THE THOUGHT PROCESS OCCUR THAT WOULD MAKE MORAL AND LEGAL
17 JUDGMENT?

18 A OKAY. HANG ON ONE SECOND. OKAY. THOSE -- THE
19 THOUGHT -- WHERE THE THOUGHTS OF BEING MORAL, FOLLOWING
20 SOCIAL MORALS, THOSE THOUGHTS ARE DONE IN THE FRONTAL
21 LOBES HERE, ESPECIALLY THE ORBITAL FRONTAL LOBES DOWN
22 HERE.

23 SO WHEN SOME -- THEY'RE RESPONSIBLE FOR INHIBITION,
24 INHIBITING OUR EMOTIONS AND AGGRESSIVE OUTBURSTS AND
25 SOCIALLY INAPPROPRIATE THOUGHTS THAT ALL OF US MAY HAVE

1 THAT WE DON'T DO BECAUSE OUR BRAINS ARE WORKING NORMALLY.

2 WHEN SOMEONE CUTS US OFF ON THE ROAD, WE DON'T PULL
3 OUT A GUN AND JUMP OUT AND BLOW THEM AWAY. THERE ARE MANY
4 THINGS WE DON'T DO THAT ARE SOCIALLY INAPPROPRIATE, BUT
5 IT'S THIS PART OF THE BRAIN THAT'S RESPONSIBLE FOR THAT.

6 BUT WHERE THESE EMOTIONS AND AGGRESSIVE IMPULSES
7 ACTUALLY BEGIN IS IN THIS AREA OF THE BRAIN, AND IT'S
8 CALLED THE LIMBIC -- THE LIMBIC LOBES OF THE BRAIN,
9 ESPECIALLY THE FORWARD OR ANTERIOR PORTION OF THE LIMBIC
10 SYSTEM. THERE--

11 Q WHAT KIND OF EMOTIONS COME OUT OF THE LIMBIC SYSTEM?

12 A STRONG EMOTIONS, BUT ESPECIALLY ANGER.

13 Q WHY -- WHY DOES THE -- I MEAN, WHY ACCORDING TO THE
14 BRAIN STRUCTURE, WHAT IS THE PURPOSE OF THE LIMBIC SYSTEM?
15 WHY WOULD--

16 A THE PURPOSE OF THE LIMBIC SYSTEM IS IT'S ACTUALLY A
17 VERY PRIMITIVE PART OF OUR BRAIN. IT'S RESPONSIBLE REALLY
18 FOR FIGHT OR FLIGHT. IT'S RESPONSIBLE FOR AGGRESSION.
19 IT'S RESPONSIBLE IF -- IT'S PLAYS A VERY IMPORTANT PART IN
20 MEMORY. BUT IN EMOTIONAL PROCESSING OF OUR -- IN OUR
21 BRAIN, IT'S WHERE THE BASIC KIND OF ANIMAL, ALMOST,
22 EMOTIONS START.

23 Q IS THAT WHY IT'S SOMETIMES CALL THE REPTILIAN BRAIN?

24 A THAT'S -- THAT'S WHY IT IS CALLED THE REPTILIAN
25 PORTION BECAUSE REPTILES HAVE THAT SYSTEM. THEY HAVE

1 NOTHING ELSE ABOVE IT.

2 Q ALL RIGHT. WHERE DOES ONE GAIN THE CAPACITY TO
3 DISTINGUISH -- WELL, LET ME BACK UP BEFORE WE GET THERE.
4 WHAT'S RESPONSIBLE -- HOW IS THE LIMBIC SYSTEM EMOTION
5 CONSTRAINED IN THE PROCESS?

6 A WHAT CONSTRAINS THE LIMBIC SYSTEM IS THE FRONTAL
7 LOBES, ESPECIALLY THE MEDIAL ORBITAL FRONTAL LOBES. THAT
8 IS THE BREAK ON OUR EMOTIONAL AND AGGRESSIVE BEHAVIOR.

9 Q ALL RIGHT. AND WHERE DOES THE CAPACITY COME FROM TO
10 DISTINGUISH RIGHT FROM WRONG, MORAL OR LEGAL RIGHT FROM
11 WRONG, WITH RESPECT TO THOSE BEHAVIORAL EMOTIONS THAT COME
12 OUT OF THE LIMBIC SYSTEM?

13 A IT COMES FROM THIS AREA RIGHT HERE THAT I'M MOVING,
14 BUT ESPECIALLY DOWN HERE.

15 Q CAN WE GO BACK AND LOOK AT THE SCAN OF MR. STANKO'S
16 BRAIN?

17 A YES, AND WE CAN SEE THAT HE'S COLD HERE.

18 Q OKAY. SO WOULD YOU POINT FOR US ON MR. STANKO'S
19 BRAIN WHERE THE LIMBIC SYSTEM WOULD BE?

20 A THE LIMBIC SYSTEM, IT WOULD BE VERY -- IT BE
21 STRUCTURED BURIED ON EITHER SIDE DEEPER BEHIND THIS TISSUE
22 HERE, AND IT WOULD KIND OF HELP FILL THE CENTER OF THE
23 BRAIN ALONG WITH THE BASE GANGLION AND OTHER COMPLICATED
24 STRUCTURES.

25 Q WOULD IT BE FAIR TO SAY THEN THAT THAT EMOTION WOULD

1 BE CONSTRAINED OR PROCESSED IN THIS AREA WHERE
2 MR. STANKO'S BRAIN IS NOT WORKING?

3 A YES. AND IN FACT, THIS MIGHT NOT BE THE BEST
4 PICTURE. I'M GOING BACK TO THIS. THIS IS SHOWING THE
5 INICULA (SIC).

6 Q OKAY.

7 A AND THIS LOOP I'M -- I'M DRAWING HERE A LITTLE LOOP,
8 AND THEY HAVEN'T REALLY FILLED IT OUT. THIS WOULD BE THE
9 LIMBIC SYSTEM, THIS LOOP INTERNALLY. BUT WHEN EMOTIONS
10 ARE AROUSED AND FEELINGS OF ANGER ARE VERY, YOU KNOW,
11 INTENSE EMOTION, THOSE SIGNALS ARE SENT TO THE FRONTAL
12 LOBES FOR PROCESSING. THE FRONTAL LOBES THEN DECIDE OR
13 GOVERN WHAT WILL AND WON'T BE DONE.

14 Q ALL RIGHT. SO, IF ONE HAS THE CAPACITY TO
15 DISTINGUISH BETWEEN ACTS THAT ARE RIGHT OR WRONG, LEGALLY
16 OR MORALLY, DOES THAT DISTINGUISH -- IS THAT CAPABILITY
17 GOING TO BE LOCATED IN THAT AREA WHERE MR. STANKO HAS
18 IN -- INACTIVITY?

19 A YES, ABSOLUTELY.

20 Q ALL RIGHT. AND IS THAT THE CAPACITY -- IF WE SAY ONE
21 LACKS THE CAPACITY TO DISTINGUISH BETWEEN RIGHT OR WRONG,
22 IS THAT LACKING OF CAPACITY OCCURRING RIGHT THERE, IS THAT
23 WHERE THAT WOULD TAKE PLACE?

24 A YES.

25 Q IN THE BRAIN? ALL RIGHT. CONTINUE ON WITH -- LET'S

1 GO BACK TO THE PET SCAN. AND LET'S GO AHEAD -- AGAIN, WHO
2 PLACED THOSE ARROWS?

3 A DR. WU AND HIS TEAM AT THE UNIVERSITY OF CALIFORNIA,
4 IRVINE.

5 Q OKAY. GO AHEAD AND IF YOU... TAPE OVER?

6 A YEAH. IT'S ROLLING. IT JUST FREEZES. THIS IS
7 SHOWING THE BACK OF HIS BRAIN, AND IT'S SHOWING WHERE HIS
8 VISUAL ORIFICES ARE BEING STIMULATED AS COMPARED TO
9 NORMAL. ESSENTIALLY HE'S NORMAL.

10 Q YEAH, WHAT'S THE SIGNIFICANCE, THOUGH, IF YOU SEE THE
11 HEALTHY AREA, A LOT OF RED -- LOT MORE RED THERE?

12 A RIGHT.

13 Q DOES THAT ANY SIGNIFICANCE PLACE -- PLAY ANY
14 SIGNIFICANCE IN THIS CASE?

15 A I'LL FREEZE IT HERE. THERE APPEARS TO BE A LITTLE
16 MORE RED HERE AND HERE COMPARED TO MR. STANKO. WHAT HAS
17 BEEN FOUND ON ALL OF THESE IMAGING ANALYSIS IN MURDERERS
18 AND PSYCHOPATHS, THERE ARE SOME DIFFERENCES IN OTHER AREAS
19 TO THE BRAIN WHICH WE STILL HAVE YET TO NOT UNDERSTAND
20 WHAT THEY MEAN.

21 BUT -- AND THEY MAY VARY FROM ONE STUDY TO ANOTHER.
22 BUT THE ONE THING THAT'S BEEN CONSISTENTLY FOUND WITHOUT A
23 DOUBT IS DECREASED FUNCTIONING IN THE FRONTAL LOBE.

24 Q ALL RIGHT. GO AHEAD AND PLAY THE TAPE. ALL RIGHT.

25 A NOW WE ARE DOING...

1 Q EXPLAIN WHAT AXIAL SLICING IS, IF YOU WOULD.

2 A WELL, WE ARE CUTTING THE BRAIN THIS WAY JUST LIKE A
3 SLAB OF BOLOGNA BEING CUT--

4 Q SEE THAT LITTLE MAN?

5 A YES, THAT IS EXACTLY. THE LITTLE MAN AT THE BOTTOM
6 LEFT IS SHOWING THE CUTS. AND IF I WILL FREEZE IT HERE --
7 I MEAN, WE'RE AT THE LEVEL NOW OF THE LOWER LEVELS, THE
8 LOWER ANTERIOR LEVELS. WE ARE JUST ABOVE THE EYEBALLS.

9 AND WE CAN SEE -- THIS IS JUST A GREAT SHOT. NORMAL
10 CONTROL HAS A LOT OF ACTIVITY WITH CONTINUOUS PERFORMANCE
11 TASK. MR. STANKO HAS VERY LITTLE.

12 Q OKAY. AND AGAIN, IS THAT AN AREA THAT -- WITH
13 RESPECT TO CONSTRAINING LIMBIC SYSTEM EMOTION?

14 A IMMENSELY. AND AGAIN, HERE'S THE MEDIAL OR THE
15 MIDDLE PORTION OF THOSE FRONTAL LOBES THAT CONTROL PAST
16 PERITIVE (SIC) ACTIVITY. I MEAN, MR. STANKO IS -- IT'S --
17 IT'S JUST A HUGE DIFFERENCE. AND AGAIN, THAT'S WHERE OUR
18 PRO-SOCIAL OR MORAL OR CONSCIENCE, OUR CONSCIENCE -- WHERE
19 OUR CONSCIENCE COMES FROM.

20 Q ALL RIGHT. A SLICE...

21 A THIS IS FRONT AND SIDE. AND LET'S SEE... LET IT PLAY
22 THROUGH. THERE IS ONLY A MINUTE LEFT.

23 Q OKAY. LOOK AT THE LITTLE MAN. HE -- THERE'S --
24 WE'RE GOING ACROSS HIS RIGHT EYE. IS THAT RIGHT?

25 A YES.

1 Q CAN YOU STOP IT THERE?

2 A YES.

3 Q ALL RIGHT. SO THIS -- THIS LINE DOWN THE -- FROM TOP
4 TO BOTTOM OF THE HEAD BEHIND THE RIGHT EYE CORRESPONDS
5 WITH WHERE WE'RE LOOKING IN THE BRAIN WITH RESPECT TO THIS
6 PARTICULAR IMAGE.

7 A YES. AND WE CAN SEE AGAIN THE OTHER DIFFERENCES THAT
8 MAY EXIST IN THE BRAIN, WE, YOU KNOW, THEY EXIST AND VARY
9 FOR DIFFERENT INDIVIDUALS, BUT WHAT IS CONSISTENTLY FOUND
10 IN MURDERERS AND PSYCHOPATHS IS THIS DECREASE IN THE
11 MEDIAL ORBITAL FRONTAL LOBES.

12 AND AGAIN, ACTUALLY IN THE DORSAL LATERAL, WE CAN SEE
13 A NICE SOLID BAND IN THE NORMAL CONTROL, IN THAT NICE
14 RIGHT SPOT HERE, SMALL RIGHT SPOT IN THIS ACTIVITY,
15 CERTAINLY NOT A FULL BAND THERE OF ACTIVITY.

16 Q OKAY. CONTINUE.

17 A I WILL JUST FREEZE IN VARIOUS POINTS. NOW WE'RE
18 GETTING TO THE MIDDLE OF THE BRAIN. I MEAN, WE CAN REALLY
19 SEE IN THE NORMAL CONTROL THE BIG DIFFERENCE. AND THEN,
20 OF COURSE, IT'S JUST GOING ACROSS NOW TO THE OTHER SIDE WE
21 SHOULD SEE--

22 Q THOSE ARROWS AGAIN WERE PUT THERE BY DR. WU?

23 A YES.

24 Q WE JUST SAW?

25 A YES.

1 Q AND AGAIN--

2 A AND AGAIN, I JUST WANT TO SHOW YOU SOMETHING.

3 Q YES.

4 A IN THE LATERAL PREFRONTAL PORTICES THERE'S A BIT OF A
5 DIFFERENCE, BUT REALLY NOT MUCH. HE'S GOT ACTIVITY WITH A
6 LITTLE BIT OF SPOTTING HERE, BUT IT'S -- IT'S PRETTY MUCH
7 THE SAME. IT'S NOT THAT -- THAT OUTSTANDING DIFFERENCE
8 THAT WE SEE IN THE FRONTAL LOBE AND THE ORBITAL -- ORBITAL
9 FRONTAL PORTICES. AND CHROMOSIZING IF YOU WANT TO LOOK AT
10 IT...

11 Q YEAH. WELL, LET'S GO AHEAD AND FINISH.

12 A OKAY.

13 Q IT'S COMING FROM THE FRONT.

14 A YEAH.

15 Q WOULD YOU STOP IT THERE?

16 A OKAY. COLD. WARM.

17 Q ALL RIGHT. SO BASICALLY WOULD IT BE FAIR TO SAY THAT
18 THIS INACTIVITY IS DETECTABLE FROM VIRTUALLY EVERY ANGLE
19 THE PET SCAN VIEW?

20 A YES.

21 Q FROM THIS VIEW?

22 A YES. THAT'S HOW A THREE-DIMENSIONAL AREA FILM
23 CENTER, THAT'S WHAT I WAS ABLE TO NOTE.

24 Q ALL RIGHT. AND COULD YOU TELL US, PLEASE SIR, WHERE
25 DR. WU IS AND WHAT HIS POSITION IS, IF YOU KNOW.

1 A IF YOU GIVE ME JUST A FEW MINUTES. HE IS THE HEAD OF
2 THE BRAIN IMAGING CENTER AT THE UNIVERSITY OF CALIFORNIA,
3 IRVINE. HE IS ALSO A -- ON THE DEPARTMENT OF PSYCHIATRY.
4 HIS RESEARCH INTERESTS INCLUDE -- DOESN'T DO RESEARCH
5 PARTICULARLY IN LIKE MURDERERS, THAT'S ADRIAN RAINE WHO
6 DOES THAT.

7 HE DOES DO IMAGING OF BRAINS. HIS SPECIALTY IS
8 SCHIZOPHRENIA BRAIN DAMAGE, ET CETERA. BUT AGAIN, HIS
9 OPINION, WHEN HE LOOKED AT THESE IMAGES, WAS THAT THERE
10 WAS DEFINITE FRONTAL LOBE -- THERE WAS DEFINITE
11 ABNORMALITY THAT NEEDED CLINICAL CORRELATION.

12 IN OTHER WORDS, HE SAW SOMETHING SO ABNORMAL THAT HE
13 SAID, THIS NEEDS TO BE FOLLOWED UP ON TO SEE IF THERE ARE
14 CLINICAL MANIFESTATIONS OF THIS ABNORMALITY TO BE FOUND.

15 Q DID YOU INCLUDE DR. WU'S WRITTEN REPORT IN YOUR
16 REPORT?

17 A I DID.

18 Q ALL RIGHT.

19 MR. DIGGS: AND WE HAVE MARKED, YOUR HONOR, AS
20 DEFENDANT'S EXHIBIT NUMBER TWO.

21 THE COURT: ANY OBJECTION?

22 MR. HEMBREE: NO OBJECTION, JUDGE.

23 THE COURT: MARKED AND ADMITTED WITHOUT
24 OBJECTION. YOU MAY PROCEED.

25

1 (WHEREUPON, COURT'S EXHIBIT 2 WAS ADMITTED INTO
2 EVIDENCE.)

3 BY MR. DIGGS:

4 Q NOW, HAS DR. WU BEEN PUBLISHED?

5 A YES.

6 Q CAN YOU GIVE US AN IDEA OF HOW MANY TIMES?

7 A FIFTY, A HUNDRED TIMES, ALL OVER TIME.

8 Q ALL RIGHT. AND YOU SAY HE DOES IMAGING FOR DR.
9 RAINE?

10 A I BELIEVE HE'S DONE IMAGING FOR DR. RAINE. WHAT I'M
11 CERTAIN OF, THOUGH, IS DR. RAINE'S OFFICE REFERRED ME TO
12 HIM TO GET THIS KIND OF IMAGING.

13 Q OKAY. NOW, LET'S MOVE ON TO THE MRI. YOU ASKED FOR
14 AN MRI TO BE DONE AS WELL AT MUSC IN CHARLESTON?

15 A I DID.

16 Q AND DID YOU GET THE RESULTS FROM THAT TEST?

17 A I DID. I REVIEWED -- NOW, AN -- THIS PET SCAN SHOWS
18 ABNORMALITY IN FUNCTION.

19 Q FUNCTION?

20 A NOT STRUCTURE, BUT FUNCTION.

21 Q AND THAT'S WHY YOU HAVE A CERTAIN REGIMEN THAT'S
22 REQUIRED IN TERMS OF THE THINKING PROCESS?

23 A YES.

24 Q DURING THIS--

25 A THAT'S WHY WE MAKE THEM DO THE CONTINUUM PERFORMANCE

1 TASK, AND THAT IS STANDARD THROUGHOUT THE WORLD WHEN WE
2 ARE DOING PET SCAN IMAGES, YOU KNOW, OF THE FRONTAL LOBE.

3 Q ALL RIGHT. WHAT IS -- WHAT IS THE PURPOSE OF AN MRI?

4 A MRI SHOWS A STRUCTURE, SEEING WHAT THE PHYSICAL LOOKS
5 LIKE.

6 Q ALL RIGHT. AND DID YOU GET THE RESULTS FROM THE MRI
7 WITH RESPECT TO MR. STANKO?

8 A WE DID, AND IT'S -- I GOT THE FILM SITTING BY JOHAN
9 RIGHT OVER THERE, AND I'VE REVIEWED THOSE. I DO NOT HAVE
10 THE DISK OF HIS MRI IN FRONT OF ME.

11 Q ALL RIGHT. LET ME -- DID YOU INCORPORATE DR. GUR'S
12 RESULTS IN YOUR REPORT?

13 A I DID. AND NOW, DR. GUR IS THE ONE OF THE WORLD
14 EXPERTS ON AGAIN LOOKING AT STRUCTURE OF THE BRAIN AND
15 LOOKING FOR ABNORMALITIES IN THE BRAIN BASED ON STRUCTURE
16 BY COMPUTER ANALYSIS OF MRI. DR. WU DOES COMPUTER
17 ANALYSIS OF THE PET DATA.

18 NOW, I REVIEWED THOSE MRIS AND I SAW AN ABNORMALITY
19 IN SHRINKAGE IN THE BRAIN, MR. STANKO IN HIS PARIETAL
20 LOBE. IT'S QUITE OBVIOUS FOR ANYONE TO SEE WHO HAS SOME
21 TRAINING THAT HE HAS SHRINKAGE. NOW, I DON'T -- I CAN
22 ONLY -- I CAN HOLD THESE UP AND SHOW THEM TO THE JUDGE,
23 BUT...

24 Q THAT'S OKAY. WE WON'T DO IT AT THIS POINT. I JUST
25 WANT THE COURT TO SEE THAT YOU HAVE THEM. AND YOU HAD

1 THOSE IMAGES WHEN YOU DID YOUR REPORT HERE?

2 A YES.

3 Q LET'S LOOK AT YOUR REPORT AND SEE IN THIS PAGE --

4 LET'S GO TO THE DIAGRAM. ALL RIGHT. EXPLAIN WHAT WE SEE
5 THERE.

6 A WELL, I -- I'M JUST GOING TO ACTUALLY READ RIGHT FROM
7 THE REPORT.

8 Q OKAY.

9 A BEST FROM THE FIGURE.

10 Q ALL RIGHT.

11 A THESE SCORES -- THIS IS JUST A COMPLICATED
12 STATISTICAL ANALYSIS, BUT STATISTICS ARE VERY POWERFUL AND
13 THEY SHOW US A LOT OF HIDDEN TRUTHS--

14 Q NOW--

15 A -- CLINICALLY MIGHT NOT BE APPARENT JUST BY LOOKING.

16 Q DOES THIS PROCESS A PROCESS THAT'S BEEN PUBLISHED AND
17 SUBJECTED TO PEER REVIEW?

18 A MANY TIMES. IN FACT, DR. GUR'S WHERE HE IS WORLD
19 FAMOUS IS FINDING AND DOCUMENTING IN -- BRAIN
20 ABNORMALITIES IN SCHIZOPHRENICS. FOR INSTANCE, AREAS OF
21 THE BRAIN THAT ARE SHRUNKEN AND AREAS OF THE BRAIN THAT
22 ARE ENLARGED.

23 AND HE IS EXPERT IN THE -- WORLD EXPERT IN THAT AND
24 HE USED THE SAME COMPUTER ANALYSIS TO EVALUATE
25 MR. STANKO'S BRAIN AS HE DOES ANY OTHER MRIS.

1 Q WHAT DO WE SEE HERE ON THIS PARTICULAR IMAGE? BY THE
2 WAY, THIS IMAGE IS INCORPORATED IN DEFENDANT'S EXHIBIT
3 NUMBER ONE?

4 A YES.

5 Q CORRECT? IN YOUR REPORT?

6 A YES.

7 Q ALL RIGHT. GO AHEAD, PLEASE SIR.

8 A OKAY. THIS BLACK LINE GOES ACROSS HERE. THIS BLACK
9 LINE GOES ACROSS HERE. ANYTHING THAT'S WITHIN THESE --
10 THIS BAND IS CONSIDERED TO BE NORMAL IN SIZE OF THE BRAIN
11 COMPARED TO THEIR LIBRARY OF NORMAL, SO THEY HAVE PEER
12 REVIEWED AND ACCEPTED AS A NORMAL BRAIN.

13 Q ALL RIGHT. HOW -- CAN YOU SPEAK TO HOW THEY PUT THAT
14 LIBRARY TOGETHER?

15 A WELL, AS DR. GUR EXPLAINED IT TO ME, THEY FIND --
16 THEY CANVAS HUNDREDS OF PATIENTS OR INDIVIDUALS AND THEY
17 THROW OUT ANYONE WHO HAS A NEUROLOGICAL OR PSYCHIATRIC OR
18 ANY KIND OF MEDICAL ABNORMALITY THEY KNOW OF TO FIND, THEN
19 THEY SCAN THEIR BRAINS AND THE COMPUTER COMES UP WITH A
20 COMPOSITE THAT REPRESENTS WHAT THE AVERAGE NORMAL BRAIN
21 SHOULD BE.

22 Q OKAY. WITH RESPECT TO SOMEONE WITH PHYSICAL
23 CHARACTERISTICS LIKE MR. STANKO?

24 A ANYONE.

25 Q OKAY.

1 A AGE MATCHED AS WELL AS AND--

2 Q ALL RIGHT.

3 A -- COMPARING--

4 Q MY POINT IS, THE PROCESS HAS BEEN SUBJECTED TO PEER
5 REVIEW IN TERMS OF VALIDITY?

6 A MOST DEFINITELY.

7 Q ALL RIGHT. GO AHEAD AND EXPLAIN TO US WHAT WE SEE
8 HERE AND THEN LET'S DISCUSS WHAT IT MEANS OR HOW WE CAN
9 TRANSLATE TO MR. STANKO.

10 A ANYTHING -- OKAY. THE LINES -- THERE ARE NO TRENDS
11 HERE, AND I WISH LINES HADN'T BEEN PUT ON HERE. I DON'T
12 KNOW WHY THEY WERE, BUT DON'T LOOK AT THE LINES. THEY
13 DON'T MEAN ANYTHING. BUT LOOK AT THE POINTS.

14 Q OKAY.

15 A ANYTHING BELOW THIS LINE IS SOMETHING ABNORMALLY
16 SHRUNKEN. ANYTHING ABOVE THIS LINE HERE IS ABNORMALLY
17 LARGE. THERE'S ONE AREA OF MR. STANKO'S BRAIN, HIS LEFT
18 TEMPORAL LOBE THAT'S SLIGHTLY ENLARGED. WE DON'T KNOW
19 WHAT THAT MEANS OR WHY IT IS, BUT IT'S A FINDING ON THIS
20 MRI.

21 HOWEVER, HIS FRONTAL -- LEFT FRONTAL LOBE IS -- THE
22 SIZE OF HIS LEFT FRONTAL LOBE IS IN -- IS SO SMALLER, IT'S
23 SMALL -- STATISTICALLY IT'S SO SMALL THAT HE'S
24 APPROXIMATELY IN THE ONE TO TWO -- ONE TO 2 PERCENT OF THE
25 POPULATION WHO ARE CONSIDERED NORMAL, MIGHT HAVE A FRONTAL

1 -- LEFT FRONTAL LOBE THAT SMALL. SO IT'S THAT -- IT'S
2 STATISTICALLY GROSSLY ABNORMAL. AS WELL--

3 Q NOW, IS THAT -- HOW DOES THAT CORRELATE WITH THE
4 IMAGES THAT WE SAW FROM DR. WU?

5 A WELL, IN DR. WU'S FINDINGS WE HAD BILATERAL OR BOTH
6 SIDES OF HIS FRONTAL LOBE TO SHOW LOW FUNCTION. THIS
7 SHOWS AND DOCUMENTS THAT HIS RIGHT FRONTAL LOBE IS ABOUT
8 AVERAGE BUT HIS LEFT IS SHRUNKEN SIGNIFICANTLY.

9 Q OKAY.

10 A AND AGAIN, THE -- THEY DON'T HAVE TO NECESSARILY
11 CORRELATE, BUT THIS SHOWS THAT THERE'S A PHYSICAL BACKLAY
12 OR BACKGROUND PROBABLY IN CONNECTION WITH THIS FUNCTIONAL
13 DISFUNCTION OR FUNCTIONAL IRREGULARITY THAT HE HAS WITH
14 THE BRAIN.

15 Q OKAY.

16 A ALSO IT'S VERY IMPORTANT TO NOTICE THAT HIS MEDIAL,
17 THE -- THE SIDE PARTS OF HIS BRAIN ARE BOTH
18 STATISTICALLY -- I MEAN, HE'S IN -- HIS RIGHT FIELD (SIC)
19 LOBE IS -- I WANT TO SAY I GUESS IN THE 1 PERCENT OR LESS,
20 YOU KNOW, IN SIZE OF THE AVERAGE POPULATION, BUT MOST
21 IMPORTANTLY IT'S RIGHT UP HERE.

22 THIS IS A MEASURE OF VENTRICULAR SIZE. THIS IS THE
23 FLUID-FILLED SPACE OF THE BRAIN. IT'S ENLARGED IN
24 SCHIZOPHRENICS. IT'S ENLARGED IN ALL KINDS OF PEOPLE WHO
25 HAVE SIGNIFICANT BRAIN ABNORMALITY.

1 HE'S GOT IT. HIS -- NOW, THIS IS AN ENLARGEMENT
2 WHERE HE SHOULDN'T HAVE ENLARGEMENT OF THESE FLUID-FILLED
3 SPACES. HE'S IN THE -- ABOVE THE SECOND TWO STANDARD
4 DEVIATION. AGAIN, HE'S IN THE TOP 5 PERCENT OR LESS OF AN
5 ABNORMAL BRAIN.

6 Q OKAY. LET'S TALK ABOUT DR. EINHORN. YOU RECEIVED
7 SOME TESTS FROM -- OR RESULTS FROM DR. EINHORN?

8 A I DID.

9 Q AND WITH RESPECT TO MR. STANKO'S INTELLIGENCE LEVEL,
10 COULD YOU SPEAK TO THAT?

11 A HIS IQ IS 143. HE'S CONSIDERED A GENIUS.

12 Q ALL RIGHT. DO YOU -- CAN YOU SPEAK TO WHERE THAT
13 CAPACITY WOULD BE OR WHERE THAT ABILITY, WHERE THAT TRAIT
14 WOULD BE GENERATED IN THE BRAIN?

15 A WELL, THEY WOULD BE GENERATED ALL OVER. YOU NEED TO
16 HAVE GLOBAL FUNCTIONING TO HAVE A HIGH -- HIGH IQ. BUT
17 WHAT HAS BEEN NOTED WITH PSYCHOPATHS GOING BACK FOR --
18 SINCE 18 -- THE EARLY 1800S IS THAT INTELLECTUALLY THEY
19 APPEARED INTACT, BUT THEY WERE MORALLY DEFICIENT.

20 AND IN FACT, PSYCHOPATHY WAS ONCE KNOWN AS MORAL
21 INSANITY. I STILL BELIEVE IT'S A GREAT NAME FOR IT. IT
22 IS MORAL INSANITY DUE TO DISFUNCTION IN THIS PART OF THE
23 BRAIN.

24 Q WOULD A HIGH IQ NECESSARILY RULE OUT INSANITY IN THIS
25 CASE?

1 A NOT AT ALL.

2 Q AND CAN YOU SAY -- CAN YOU TELL ME WHY YOU WOULD SAY
3 NO?

4 A WELL, JUST PLAINLY SPEAKING, THE NATURE OF THE CRIMES
5 WE'RE TALKING ABOUT HERE, FOR SOMEONE WITH SUCH A HIGH
6 IQ -- SO REALLY, IN LAYMAN'S TERMS, DUMB THINGS WERE DONE,
7 THAT -- IF THIS WERE A WELL THOUGHT OUT, YOU KNOW, PLANNED
8 HIGH IQ KIND OF CRIME, I WOULDN'T HAVE SUSPECTED THIS KIND
9 OF BEHAVIOR.

10 AND YOU KNOW, THERE'S A KIND OF CRIME THAT'S IN THIS
11 FIELD THAT IS WELL THOUGHT OUT, HIGHLY ORGANIZED, YOU
12 KNOW, IN GREAT DETAIL FOR A COVER-UP, YOU KNOW,
13 PRE-PLANNING, ET CETERA.

14 FOR SOMEONE WITH SUCH A HIGH IQ, SOMEONE WHO IS SO
15 SUPERIOR IN HIS INTELLIGENCE TO CONTINUALLY TAKE PART IN
16 CRIMINAL ACTIVITY AND THIS ACT IN SPITE OF THREE OR FOUR
17 MENTAL HEALTH INTERVENTIONS AND SEVERAL INCARCERATIONS AND
18 PRESENT INCARCERATION, IT SHOWS THAT IN SPITE OF HIS HIGH
19 IQ, WHEN IT COMES TO MORALITY, HE HAS AN INABILITY TO
20 LEARN.

21 Q NOW, DID YOU INTERVIEW MR. STANKO BEFORE YOU DRAFTED
22 YOUR REPORT AND CAME TO THE CONCLUSION THAT YOU HAVE IN
23 THIS CASE OF INSANITY?

24 A YES.

25 Q AND DID HE DISCUSS WITH YOU THE SPECIFICS OF THIS

1 CASE?

2 A YES.

3 Q AND HOW IT CAME TO BE THAT THIS HOMICIDE OCCURRED?

4 A YES.

5 Q AND WHAT DID YOU TELL HIM?

6 A HE TOLD ME THAT HE HAD BEEN -- WELL, LIVING WITH THE
7 VICTIM AND HER DAUGHTER FOR SEVERAL MONTHS AND THAT THERE
8 HAD BEEN CONFLICT OVER THE DAUGHTER'S BEHAVIOR OR HER
9 GETTING ALONG WITH HER MOTHER, BUT THAT THINGS HAD BEEN
10 ESSENTIALLY GOING OKAY. HE WAS STILL DOING HIS CRIMINAL
11 ACTIVITY WHICH THE GIRLFRIEND WAS AWARE OF.

12 BUT ON THE NIGHT IN QUESTION HE HAD SAID OR SAID THE
13 DAY BEFORE, FOR SEVERAL DAYS, THAT HE WAS GOING TO LEAVE
14 BECAUSE OF THE CONFLICT BETWEEN THE MOTHER AND THE
15 DAUGHTER AND HE THOUGHT IT HAD TO DO WITH HIM OR WAS BEST
16 IF HE LEFT.

17 HE SAID THAT THE VICTIM THREATENED TO EXPOSE HIM AS A
18 CHILD MOLESTER AND THAT, YOU KNOW, IT WAS EXTREMELY ANGRY
19 THAT HE WAS GOING TO LEAVE. THERE WAS A MINOR PHYSICAL
20 ALTERCATION WHERE SHE SLAPPED HIM AND A CIGARETTE I
21 GUESS -- OR TOUCHED HIS EYE OR HIT HIS EYE, AND FROM THAT
22 POINT ON HE SAYS HE CANNOT REMEMBER WHAT HAPPENED UNTIL HE
23 CAME TO I GUESS IN THE SHOWER SHOWERING HIMSELF OFF.

24 Q RIGHT. SO HE DOESN'T REMEMBER THE ACTUAL EVENTS OF
25 THIS HOMICIDE. IS THAT AT LEAST WHAT HE TOLD YOU?

1 A THAT'S WHAT HE CLAIMED TO--

2 Q LET'S GO BACK AND CONSIDER THE IMAGES AND DR. GUR'S
3 REPORT AS WELL. IS THERE ANY SCIENTIFIC BASIS IN WHAT YOU
4 SEE IN THOSE IMAGES THAT WOULD SUPPORT OR CORROBORATE AN
5 INABILITY TO REMEMBER SPECIFICS OF THE EVENTS?

6 A YES. WELL, FIRST OF ALL, I DON'T BELIEVE HE HAS
7 COMPLETE AMNESIA FOR THIS EVENT. I -- I KNOW ABOUT
8 AMNESIA AS PART OF MY NEUROPSYCHIATRIC TRAINING, SO I
9 DON'T BELIEVE THAT.

10 HOWEVER, THE FRONTAL LOBES AND THE LIMBIC SYSTEM ARE
11 KEY FOR LAYING DOWN FOUNDATION FOR MEMORY OF EVENTS. WHEN
12 WE -- WE'RE IN A FIGHT OR FLIGHT RESPONSE. WHEN WE ARE
13 FORCED TO FIGHT OR WE'RE ATTACKING SOMEONE OR WE'RE IN
14 SOME KIND OF CONFLICT OR WE'RE RUNNING FOR OUR LIVES, OUR
15 ABILITY TO STORE MEMORY AND LAY DOWN MEMORY IS GREATLY
16 DIMINISHED.

17 Q ALL RIGHT. WHERE DOES THE -- THE LAYING DOWN OF THE
18 MEMORY ORIGINATE?

19 A WELL, THE LAYING DOWN OF THE MEMORY WILL BE -- WELL,
20 IT'S REALLY THROUGHOUT THE BRAIN. IT'S SCATTERED
21 THROUGHOUT THE BRAIN. BUT WE NEED FIRST OF ALL ATTENTION.
22 ATTENTION IS THE FIRST PART OF MEMORY. IT'S THE PITCHING
23 GLOVE IN BASEBALL.

24 MEMORY IS FIRST THING THAT GETS THE INFORMATION WHICH
25 WILL THEN BE HANDED OFF TO OTHER PARTS OF THE BRAIN. AND

1 THE FRONTAL LOBES PARTICULARLY ARE VERY IMPORTANT IN
2 ATTENTION. WE KNOW THAT BECAUSE WHEN YOU DO PET SCANS ON
3 CHILDREN WITH ADHD, ET CETERA, THEY HAVE POOR ATTENTION,
4 THEIR FRONTAL LOBES AREN'T WORKING VERY WELL.

5 Q ALL RIGHT. LET ME GIVE YOU A HYPOTHETICAL. LET'S
6 SAY -- LET'S SAY WE GOT AN EMOTION COMING OUT OF THE
7 LIMBIC SYSTEM THAT IS EITHER RAGE OR FIGHT OR FLIGHT, YOU
8 GOT A DIMINISHED SIDE -- SIZE AND ACTIVITY FRONTAL LOBE
9 THAT WOULD BE CHARGED WITH RESPONSIBILITY OF PROCESSING
10 THAT EXECUTING EXECUTIVE ANALYSIS -- AM I USING THE RIGHT
11 TERMINOLOGY?

12 A EXECUTIVE FUNCTION, YES.

13 Q ALL RIGHT. WOULD IT BE POSSIBLE FOR THAT LIMBIC
14 SYSTEM EMOTION TO TAKE CONTROL OF THE ACTIONS SO THAT THE
15 FRONT LOBES ARE NOT AWARE OF WHAT ACTIONS ARE BEING TAKEN?

16 A THAT'S -- YOU HAVE GIVEN AN EXCELLENT ANALYSIS OF MY
17 WORK, YES.

18 Q SO THAT WOULD BE POSSIBLE IN YOUR OPINION?

19 A YES.

20 Q AND IN THAT SITUATION WOULD A PERSON BE ABLE TO
21 DISTINGUISH BETWEEN -- OR WOULD THEY HAVE THE CAPACITY AT
22 THAT TIME TO DISTINGUISH BETWEEN RIGHT AND WRONG, MORAL OR
23 LEGAL?

24 A NO, BECAUSE--

25 Q WHY IS THAT?

1 A BECAUSE THEIR BEHAVIOR IS BEING CONTROLLED IN AN
2 UN -- IN A DISINHIBITED OR UNMITIGATED FASHION BY THEIR
3 DEEPER STRUCTURES OF THEIR BRAIN.

4 Q A REPTILIAN BRAIN?

5 A CORRECT.

6 Q AND WOULD THAT BE -- WOULD THAT BE A SCIENTIFIC
7 EXPLANATION OR AN INABILITY TO REMEMBER THE EVENTS THAT
8 OCCURRED AT THAT TIMEFRAME?

9 A WELL, IT'S PART OF IT AGAIN.

10 Q ALL RIGHT.

11 A I -- I KNOW -- I THINK I'M QUITE CERTAIN HE DOESN'T
12 HAVE COMPLETE AMNESIA, BUT IT COULD GO A LONG WAY TOWARDS
13 EXPLAINING SOME MEMORY DIFFICULTY WITH THIS, DEFINITELY.

14 Q NOW, DO WE HAVE ANY IDEA WHERE THIS BRAIN -- WELL, I
15 DON'T WANT TO PUT WORDS IN YOUR MOUTH, BUT DOES HE -- DOES
16 MR. STANKO HAVE A HEALTHY, NORMAL BRAIN?

17 A NO.

18 Q AND HOW WOULD YOU CHARACTERIZE IT? JUST IS IT A
19 BIRTH DEFECT, IS IT -- DID IT HAPPEN LATER IN LIFE? DO
20 YOU KNOW.

21 A VERY INTERESTING. MR. STANKO'S MEDICAL RECORDS FROM
22 HIS BIRTH IN GUANTANAMO BAY, CUBA, AT A NAVAL BASE
23 DOCUMENTED AT BIRTH HE HAD -- HE WAS IN A PRECARIOUS
24 SITUATION WHEN THE PHYSICIANS DIDN'T EXPECT HIM TO LIVE.

25 THEY DOCUMENT THAT HE HAD POOR NEUROLOGICAL REFLEXES,

1 IN PARTICULAR A MORO REFLEX, WHICH IS WHAT ALL NEONATES
2 HAVE, IT'S JUST A VERY PRIMITIVE REFLEX. HE HAD A POOR
3 MORO REFLEX, AND THEY DOCUMENTED THAT HE HAD PROBABLE
4 INTRACRANIAL DAMAGE, AND THIS WAS IN 1968, NOT 1998.

5 AND IT WAS INTERESTING THAT THEY NOTED THAT. I
6 BELIEVE WHAT THEY SAID WAS TRUE.

7 Q ALL RIGHT. HOW LONG AFTER BIRTH WAS THAT NOTED? CAN
8 YOU TELL US?

9 A WELL, WITHIN THE FIRST -- WITH HIM COMING OUT, I
10 MEAN, RIGHT FROM BIRTH.

11 Q RIGHT.

12 A AND THEN HE WAS KEPT IN A -- I BELIEVE NEONATAL
13 INTENSIVE CARE. THE MOTHER WASN'T ALLOWED TO HAVE HIM FOR
14 SEVERAL DAYS. AND IN FACT, HIS MOTHER, BECAUSE THERE WERE
15 SEVERAL OTHER CHILDREN, SHE WAS GOING TO HAVE HER TUBES
16 TIED AT THE TIME.

17 BECAUSE OF HIS POOR PROGNOSIS AND PRECARIOUS STATE,
18 THEY TOLD HER THE -- THE COMMITTEE ON STERILIZATION OR
19 WHATEVER THEY HAVE THERE -- REFUSED TO ALLOW THAT TO
20 HAPPEN BECAUSE THEY THOUGHT HE MIGHT DIE.

21 MR. DIGGS: YOUR HONOR, COULD WE HAVE THESE
22 MARKED? I 'D LIKE TO INTRODUCE THEM AS EVIDENCE.

23 MR. HEMBREE: WE OBJECT UNTIL WE CAN HAVE A
24 COPY, YOUR HONOR. THOSE HAVEN'T BEEN PROVIDED.

25 THE COURT: YOU--

1 MR. DIGGS: YOUR HONOR, MAYBE WE CAN HAVE THEM
2 MARKED.

3 THE COURT: MARKED FOR ID?

4 MR. DIGGS: FOR ID.

5 THE COURT: TAKEN UNDER ADVISEMENT UNTIL THE
6 STATE HAS ACCESS TO THEM.

7 (WHEREUPON, COURT'S EXHIBITS NOS. 5 AND 6 WERE
8 MARKED FOR IDENTIFICATION ONLY.)

9 MR. DIGGS: AND YOUR HONOR, I DON'T KNOW HOW
10 THAT HAPPENED THAT THEY DON'T HAVE THEM, BUT WE CAN
11 CERTAINLY MAKE IT AVAILABLE.

12 THE COURT: IT'S EASILY REMEDIED.

13 MR. DIGGS: THANK YOU.

14 BY MR. DIGGS:

15 Q AND SO AGAIN, BECAUSE I WASN'T PAYING ATTENTION I
16 GUESS AS CLOSELY AS I SHOULD HAVE, EXPLAIN TO ME AGAIN
17 WHAT WAS NOTED AT MR. STANKO'S BIRTH WITH RESPECT TO HIS
18 BRAIN.

19 A HE WAS NOTED TO HAVE JAUNDICE. I BELIEVE THERE WAS--

20 COURT REPORTER: I'M SORRY. WHAT WAS THAT
21 ANSWER? JUDGE? I MISSED THAT ANSWER.

22 THE COURT: YOU CAN'T HEAR HIM?

23 COURT REPORTER: I CAN'T HEAR.

24 THE COURT: SIR, IF YOU COULD TURN TOWARD THE
25 COURT REPORTER SO THEN -- IF YOU WOULD BEGIN TO

1 REPEAT YOUR LAST RESPONSE SO THAT SHE IS ABLE TO
2 RECORD IT.

3 THE WITNESS: UPON MR. STANKO'S BIRTH HE WAS
4 NOTED TO BE IN VERY POOR HEALTH AND HAVE POOR
5 NEUROLOGICAL REFLEXES FOR A NEWBORN. HIS HEALTH WAS
6 NOTED AS BEING IN A PRECARIOUS STATE AND HIS
7 PROGNOSIS WAS FAIR TO POOR. I CAN'T REMEMBER THE
8 EXACT WORDS.

9 BUT HIS PROGNOSIS WAS SO POOR THAT THE
10 PHYSICIANS AT GUANTANAMO BAY REFUSED TO ESSENTIALLY
11 STERILIZE THE MOTHER, TIE HER TUBES, BECAUSE THEY
12 FELT THAT MR. STANKO WOULD PASS AWAY. BUT IT WAS
13 NOTED IN HIS CHART THAT HE HAD PROBABLE INTRACRANIAL
14 DAMAGE.

15 NOW, THEY DIDN'T GO INTO GREAT DETAIL, BUT I
16 KNOW WHAT THAT MEANS. THEY SUSPECTED HE HAD BRAIN
17 DAMAGE.

18 BY MR. DIGGS:

19 Q ALL RIGHT. BRAIN DAMAGE AT BIRTH?

20 A YES.

21 Q AND LET ME ASK YOU, THE INACTIVITY OF THE BRAIN,
22 WOULD THAT BE A DECISION -- OR A RESULT OF DECISIONS OR
23 CHOICES THAT HE MAKES?

24 A ABSOLUTELY NOT.

25 Q ALL RIGHT. AND HOW ABOUT STRUCTURE? I ASSUME THAT

1 WOULD BE TRUE. Y'ALL DON'T -- YOU DON'T DECIDE HOW LARGE
2 A PARTICULAR AREA OF THE BRAIN IS GOING TO BE, OBVIOUSLY?

3 A NO. I MIGHT ADD THAT SUPPOSEDLY IN THE 1980'S OR
4 70 -- I THINK IT WAS 80'S, HE WAS JUST A LATE TEEN. HIS
5 MOTHER HAD REPORTED THAT HE BEGAN TO LIE HABITUALLY, I
6 GUESS IN A PSYCHOPATHIC MANNER AFTER BEING HIT IN THE HEAD
7 WITH A BOTTLE.

8 I DON'T HAVE ANY DOCUMENTATION OF THAT. BUT
9 ACCORDING TO THE RESEARCH LITERATURE ON PSYCHOLOGY AND
10 MURDERERS, YOU KNOW, A CASCADE OF BRAIN INJURY CAN, YOU
11 KNOW, IS CONSISTENT WITH WORSENING OF THEIR BEHAVIOR.

12 YOU KNOW, SOMEONE WHO HAS JUST ONE INJURY MAY NOT BE
13 BAD -- AS BAD AS SOMEONE LATER ON WHO HAD SEVERAL BRAIN
14 INJURIES.

15 Q WHEN DOES THE BRAIN MATURE FULLY? WHEN DOES A HUMAN
16 BRAIN MATURE FULLY?

17 A THEY BELIEVE NOW IT'S ABOUT AGE 25, MIGHT EVEN BE A
18 LITTLE LATER THAN THAT.

19 Q AND DID STEVEN HAVE MENTAL HEALTH PROBLEMS OR
20 QUESTIONS PRIOR TO THAT TIME IN -- IF YOU KNOW?

21 A YES. HE WAS IN HIS EARLY TWENTIES, I BELIEVE, PRIOR
22 TO AGE 25 WHEN HE FIRST WAS SENT FOR PSYCHIATRIC
23 DIVERSIONARY TREATMENT FOR BEING A CONFIDENCE SCHEME
24 CRIMINAL.

25 Q ALL RIGHT. AND AT THAT POINT BASED ON WHAT WE KNOW

1 NOW ABOUT BRAIN DEVELOPMENT AND GROWTH, EVOLUTION, HIS
2 BRAIN WOULD NOT HAVE BEEN FULLY DEVELOPED AT THAT POINT?

3 A NO.

4 MR. DIGGS: YOUR HONOR, I WOULD ASK THE COURT
5 FOR ITS INDULGENCE FOR JUST A SECOND.

6 THE COURT: CERTAINLY.

7 MR. DIGGS: YOUR HONOR, THAT'S ALL I HAVE FOR
8 THE WITNESS AT THIS TIME.

9 THE COURT: IS THERE ANY EXCEPTION TO US JUST
10 BREAKING FOR LUNCH BEFORE CROSS SO THAT YOU WILL HAVE
11 AN OPPORTUNITY TO REVIEW THE REPORT, OR DO YOU WANT
12 TO GO FORWARD? I JUST WANT TO GIVE YOU THE OPTION.

13 MR. HEMBREE: I'M READY TO GO FORWARD, YOUR
14 HONOR. IT'S LATE. I WOULD -- I APPRECIATE EVERYBODY
15 ELSE'S...

16 THE COURT: I USUALLY WORK THROUGH LUNCH, SO
17 IT'S NOT A PROBLEM FOR ME. IS IT A PROBLEM FOR ANY
18 OF YOU?

19 MR. DIGGS: YOUR HONOR, WITH THE CHOICE OF BREAK
20 FOR LUNCH OR TO WORK -- CONTINUE WORK?

21 THE COURT: WELL, CONTINUE -- I WAS GOING TO
22 GIVE YOU ALL THE OPTION. MR. HEMBREE SAYS HE'S READY
23 TO PROCEED.

24 MR. DIGGS: THAT'S FINE.

25 THE COURT: AGAIN, I'M FINE. I JUST DIDN'T

1 KNOW -- WANT TO GIVE YOU THAT OPTION IN THE EVENT YOU
2 WANT TO -- YOU MAY PROCEED.

3 MR. HEMBREE: THANK YOU, YOUR HONOR.

4 THE COURT: YOU'RE WELCOME. DO YOU WANT A COPY
5 OF THE REPORT SO YOU CAN REVIEW THAT BEFORE YOU BEGIN
6 YOUR CROSS?

7 MR. HEMBREE: NO, YOUR HONOR.

8 THE COURT: OKAY.

9 MR. HEMBREE: THEY JUST PROVIDED US WITH A COPY
10 OF SOMETHING, SO I WILL TAKE...

11 THE COURT: THE LAST TWO THAT WERE MARKED FOR ID
12 IS WHAT I'M REFERRING TO.

13 MR. HEMBREE: YES.

14 THE COURT: OKAY.

15 CROSS-EXAMINATION

16 BY MR. HEMBREE:

17 Q DR. SACHY, I'M UNCLEAR ABOUT THIS DEFENDANT'S
18 INSANITY. AFTER READING YOUR REPORT AND HEARING YOUR
19 TESTIMONY, WHAT IS THE -- WHAT IS YOUR DIAGNOSIS OF HIS
20 MENTAL CONDITION?

21 A MY DIAGNOSIS WOULD BE PSYCHOPATHY WITH DIMINISHED OR
22 IMPAIRED ACTIVITY IN FRONTAL LOBES OF THE BRAIN, ENLARGED
23 VENTRICLES, JUST ANATOMICAL AND FUNCTIONAL ABNORMALITIES
24 OF BRAIN LEADING TO PSYCHOPATHY AND ALSO RES -- BEING
25 RESPONSIBLE FOR HIS ACT AT THE TIME.

1 Q DID -- NOW, YOU HAVE INDICATED THE PHYSICAL
2 ABNORMALITIES OF HIS BRAIN. ARE DOCTORS WU OR GUR
3 NEUROLOGISTS?

4 A THEY'RE -- DR. WU IS A PSYCHIATRIST. I BELIEVE HE'S
5 A PSYCHIATRIST. HE'S AN MD. AND DR. GUR IS A PHD
6 RESEARCH SPECIALIST IN BRAIN PHYSIOLOGY AND ANATOMY.

7 Q UNDERSTOOD. SO NEITHER ONE OF THOSE DOCTORS ARE
8 NEUROLOGISTS. ISN'T -- I THINK YOU TOLD US EARLIER WHEN
9 WE WERE -- WHEN YOU WERE BEING QUALIFIED THAT NEUROLOGY IS
10 THE STUDY OF THE MECHANICS OF THE BRAIN; CORRECT?

11 A ACTUALLY, NO. YOU'RE WRONG. NEUROLOGISTS AT THE
12 MEDICAL UNIVERSITY OF SOUTH CAROLINA, WHEN THEY NEEDED A
13 CONSULTATION ON SOME FORM OF BEHAVIORAL ABNORMALITY, THEY
14 ALWAYS CONSULTED DR. BACHMAN AND ME AS THE BEHAVIORAL
15 NEUROLOGY TEAM.

16 WHEN IT CAME TO STROKE OR SOME GROSS BRAIN
17 ABNORMALITY, THAT'S A PROVINCE OF A NEUROLOGIST. NOW, A
18 NEUROLOGIST CAN CHOOSE BECAUSE OF HIS OWN INTEREST TO
19 DELVE DEEPER AND TO BECOME AN EXPERT IN THE SUBTLE BRAIN
20 ABNORMALITIES THAT CAUSE BEHAVIORAL PROBLEMS.

21 BUT GENERALLY SPEAKING, THAT JUST DOES NOT SEEM TO BE
22 WHAT THEY DO. THEY REFER TO PSYCH -- WELL,
23 NEUROPSYCHIATRISTS OR BEHAVIORAL NEUROLOGISTS IN THAT.

24 Q SO YOU'RE SAYING THAT NEUROLOGIST -- A CONSULT WITH A
25 NEUROLOGIST WOULD NOT HAVE ASSISTED YOU IN YOUR DIAGNOSIS

1 IN THIS CASE?

2 A WELL, I DID A NEUROLOGICAL EVALUATION OF MR. STANKO.

3 Q I UNDERSTAND THAT, BUT YOU'RE NOT A NEUROLOGIST.

4 YOU'RE...

5 A I'M QUALIFIED TO DO A NEUROLOGICAL EXAMINATION. IN
6 FACT, IT APPEARS THAT I FOUND A SIGN THAT THE NEUROLOGIST
7 THAT YOU ALL PICKED DIDN'T SEE, AND I REPEATED MY
8 EXAMINATION TODAY AND IT'S STILL THERE. SO I'M WONDERING
9 IF HE'S ABSOLUTELY FAMILIAR WITH THE CONCEPTS THAT I'M
10 USING TO...

11 Q DR. SACHY, LET ME GO BACK AGAIN TO THE MENTAL ILLNESS
12 THAT YOU HAVE ASSIGNED TO MR. STANKO. YOU HAVE INDICATED
13 HE HAS A DIMINISHED CAPACITY, THAT HE HAS THIS DIMINISHED
14 FUNCTION THAT LEADS HIM TO COMMIT CRIMINAL -- COMMIT
15 CRIMINAL ACTS; CORRECT?

16 A CORRECT.

17 Q AND THAT -- YOU HAVE SAID HE IS -- YOU HAVE INDICATED
18 HE'S A PSYCHOPATH--

19 A PSYCHOPATHIC.

20 Q PSYCHOPATHIC.

21 A YEAH.

22 Q AND WHAT IS -- IN THE DSM4, WHEN WE LOOK TO A -- TO
23 THE DSM4 FOR A DIAGNOSIS, WHERE IS THAT DIAGNOSIS IN THE
24 DSM4?

25 A WELL, IT'S UNDER THE RUBRIC NOW OF ANTISOCIAL

1 PERSONALITY DISORDER. AND WE HAVE TO, YOU KNOW, ADMIT OR
2 GO OVER SOMETHING. THE DSM4 IS JUST A RECIPE BOOK, A
3 LABELING OF MENTAL DISORDERS OR PSYCHIATRIC DISORDERS.

4 IT IS NOT A RESEARCH TEXT NOR DOES IT SEEK TO EXPLAIN
5 BEHAVIOR. IT'S CERTAINLY NOT WHAT I USE IN MY EVERY DAY
6 PRACTICE OR RESEARCH OF...

7 Q I MEAN, BUT ISN'T IT TRUE THAT THE DSM4 IS THE
8 GENERALLY ACCEPTED AND THE PSYCHIATRIC COMMUNITY STANDARD
9 FOR DIAGNOSING MENTAL ILLNESS?

10 A IT IS FOR SOME. IT ISN'T FOR OTHERS. FOR
11 INSTANCE...

12 Q AND--

13 A I HAVE TWO TEXTBOOKS HERE -- IF I MAY FINISH.

14 THE COURT: SIR, IF YOU WOULD ANSWER THE
15 QUESTION YES OR NO, AND THEN YOU CAN EXPLAIN YOUR
16 ANSWER.

17 THE WITNESS: I'M SORRY. OKAY.

18 THE COURT: WOULD YOU LIKE TO REPEAT THE
19 QUESTION?

20 MR. HEMBREE: YOUR HONOR.

21 BY MR. HEMBREE:

22 Q MY QUESTION WAS, ISN'T THE DSM4 THE DIAGNOSTIC GOLD
23 STANDARD, THE PRIMARY MANUAL, PRIMARY TEXT USED BY
24 PSYCHIATRISTS IN REACHING A PSYCHIATRIC DIAGNOSIS?

25 A WELL, I WOULD SAY YES FOR SOME AND NO FOR OTHERS.

1 Q IS IT THE GENERALLY ACCEPTED STANDARD?

2 A I DO NOT THINK THAT SPECIALISTS IN PARTICULAR FIELDS
3 OF INTEREST IN NEUROLOGY OR PSYCHIATRY WOULD GO TO THAT AS
4 THEIR GO-TO BOOK TO -- FOR A DEFINITIVE DIAGNOSIS. BUT IF
5 THEY'RE GOING TO EVALUATE SOMEONE AND BILL FOR IT AND THEY
6 WANT A DIAGNOSIS CODE, THAT'S A GREAT BOOK.

7 BUT WHEN IT COMES TO SCIENTIFIC RESEARCH, SUCH AS
8 WHAT DR. GUR OR WU OR OTHERS DO, THEY MAY -- THEY MAY
9 REFER TO PSYCHOPATHY UNDER THE RUBRIC OF ANTISOCIAL, BUT
10 THEY REALLY DON'T USE THAT FOR THEIR PURPOSES OF RESEARCH.

11 Q THIS IS ACCEPTED; CORRECT?

12 A YES.

13 Q THE BOOKS YOU TALK ABOUT INVOLVE MORE RESEARCH
14 TOPICS, CUTTING-EDGE TOPICS; CORRECT?

15 A WELL, CUTTING EDGE, BUT PEER REVIEWED AND ACCEPTED.
16 THERE CERTAINLY AREN'T TEXTBOOKS TO THE CONTRARY WHICH SAY
17 ANYTHING DIFFERENT THAN WHAT I HAVE TALKED ABOUT TODAY.

18 Q IS IT YOUR TESTIMONY TODAY THAT -- THAT DR. RAINES'
19 STUDIES TRYING TO LINK OR PRESUMABLY LINKING FRONTAL LOBE
20 ACTIVITY TO VIOLENT CRIMINALS IS GENERALLY ACCEPTED AS THE
21 GOSPEL TRUTH IN THE PSYCHIATRIC COMMUNITY?

22 A YES, IT IS. IN FACT, I -- IF I MAY CONTINUE -- THE
23 RESEARCH -- THERE IS A GREAT -- SOMEWHERE IN MY PILE OF
24 PAPERS THERE THERE'S A GREAT REVIEW ARTICLE FROM 2001
25 WHICH LOOKED AT ALL THE DATA THAT WAS AVAILABLE THEN,

1 IMAGING AND NEUROPSYCHOLOGICAL, AND THE CONCLUSION WAS
2 REACHED THAT FRONTAL LOBE DAMAGE IS CONSISTENT WITH
3 AGGRESSIVE AND VIOLENT BEHAVIOR AND PSYCHOPATHIC BEHAVIOR.

4 IT -- I WILL STATE IT. IT'S ACCEPTED. NOW, THERE
5 ARE SOME WHO DO DO PHILOSOPHY MAY NOT WANT TO AGREE WITH
6 THAT, BUT IT'S -- IT'S ACCEPTED.

7 Q BY MANY? BY -- GENERALLY ACCEPTED IN THE PSYCHIATRIC
8 COMMUNITY?

9 A GENERALLY.

10 Q I CAN GO TO THEN -- SO YOU'RE TELLING ME THAT I'M
11 GOING TO BE ABLE TO FIND BASICALLY ANY PSYCHIATRIST THAT I
12 CONSULT WITH THAT IS FAMILIAR WITH THE STANDARDS GENERALLY
13 ACCEPTED IN THE PSYCHIATRIC COMMUNITY AND THEY'RE GOING TO
14 AGREE WITH THAT STATEMENT?

15 A IF -- IF THEY HAVE READ THEIR JOURNAL ARTICLES AND
16 READ THEIR TEXTBOOKS IN THIS FIELD AND READ THE MEDICAL
17 AND READING -- THE ACCEPTED MEDICAL AND RESEARCH
18 LITERATURE, YES, THEY WOULD.

19 Q NOW, HOW DID YOU DETERMINE OR REACH THIS CONCLUSION
20 THAT DEFENDANT STANKO IS PSYCHOPATHIC AND -- WELL, OR
21 ANTISOCIAL -- THAT WOULD BE THE -- HE WOULD BE AN
22 ANTISOCIAL DISORDER BY THE DSM4.

23 A CORRECT.

24 Q OKAY. WHAT DID YOU DRAW UPON? WHAT DID YOU -- HOW
25 DID YOU MAKE THIS DETERMINATION? IN ADDITION TO -- WE

1 HAVE HEARD ABOUT THE PET SCAN AND THE MRI THAT YOU HAVE
2 HAD DONE, BUT I'M LOOKING FOR SOME OTHER BASIS FOR THAT.

3 A WELL, DR. EINHORN PERFORMED THE NEUROPSYCHOLOGICAL
4 EXAMINATION WHICH CAME TO THE CONCLUSION THAT HE WAS
5 ANTISOCIAL BY THAT -- BY THAT TEXTBOOK DEFINITION. AND
6 JUST FROM HIS LIFE HISTORY AND HIS BEHAVIOR AS WELL AS DR.
7 CRAWFORD'S EXCELLENT REPORT WHICH JUST DETAILS IN GREAT
8 DETAIL A LIFE-LONG HISTORY OF PSYCHOPATHY.

9 Q SO HE'S A -- IT IS YOUR POSITION THAT HE WAS A
10 PSYCHOPATH WHEN HE WAS A CHILD?

11 A YES.

12 Q BASED ON WHAT EVIDENCE?

13 A BASED -- WELL, AS A CHILD I DON'T KNOW, BUT IN HIS
14 EARLY TWENTIES WHEN HE STARTED HIS CONFIDENCE SCHEMES.

15 Q ALL RIGHT. I'M ASKING ABOUT AS A CHILD. DO YOU HAVE
16 ANY EVIDENCE TO OFFER THIS COURT THAT HE WAS PSYCHOPATHIC
17 AS A CHILD?

18 A NO.

19 Q AND ANY EVIDENCE -- IS IT YOUR CONTENTION THAT THESE
20 CONFIDENCE SCHEMES ARE THAT OF A PSYCHOPATH?

21 A YES.

22 Q AND HE BEING A PSYCHOPATH, BEING THAT HE FEELS NO
23 REMORSE FOR THESE ACTS?

24 A HE PROBABLY FEELS ALMOST CLOSE TO NO REMORSE. I
25 CAN'T READ HIS MIND OR GET INTO HIS MIND. BUT LIKE MOST

1 PSYCHOPATHS, I -- IT IS MY OPINION THAT THE REMORSE HE MAY
2 SHOW MIGHT BE FAIGNED. PSYCHOPATHS HAVE SOMETHING THAT'S
3 CLICKLY (SIC) IN AUGUSTA TERMED A MASK OF SANITY.

4 AND THEY APPEAR NORMAL. BUT WHEN PSYCHOPATHS HAVE
5 BEEN INTENSIVELY INTERVIEWED AND RESEARCHED AS FAR AS
6 THEIR FEELINGS, THE ONES WHO WOULD SPEAK SAY THAT THEY
7 PROCESS EMOTIONS DIFFERENTLY FROM THE REST OF US. OTHER
8 HUMAN BEINGS ARE JUST EMOTIONAL, PHYSICAL, AND FINANCIAL
9 SOURCES OF PREY.

10 Q ISN'T ANTISOCIAL PERSONALITY DISORDER A BEHAVIOR AND
11 NOT A MENTAL DISEASE?

12 A WELL, ALL OUR BEHAVIORS ARE DUE TO MENTAL PROCESSES.
13 IN ESSENCE WHAT YOU'RE SAYING IS IF YOU'RE -- HAVE A
14 PERSONALITY DISORDER, THERE'S SOME SPIRIT OUT HERE OR SOME
15 SEPARATE FUNCTION OF THE BRAIN THAT'S WORKING NORMALLY
16 THAT SHOULD CONTROL US AND TELL US -- AND MAKE US DO RIGHT
17 ALL THE TIME.

18 UNFORTUNATELY, THERE ISN'T A SEPARATE PART OF THE
19 BRAIN OR SOMETHING SEPARATE. IT'S WHAT'S UP HERE. AND IT
20 IS DYSFUNCTIONAL. YOU CAN'T -- YOU HAVE DIFFICULTY OR
21 CANNOT CONTROL YOUR ACTIONS.

22 Q AND A PSYCHOPATH WOULD BE -- WELL, LET ME FINISH ON
23 THAT LINE ABOUT ANTISOCIAL PERSONALITY DISORDER. IS THAT
24 A BEHAVIOR OR A DIAGNOSIS? IS IT A BEHAVIOR OR A MENTAL
25 ILLNESS?

1 A WELL, IT'S BOTH.

2 Q YOU'RE SAYING THAT ANTISOCIAL PERSONALITY DISORDER IS
3 MENTAL ILLNESS?

4 A YES.

5 Q OKAY.

6 A THAT'S -- I'M SORRY. THAT'S WHY IT'S IN THE DSM4.
7 THEY DO NOT LIST -- AND HERE'S WHERE I'LL, YOU KNOW,
8 ACCEPT YOUR DSM4. THEY DON'T LIST, FOR INSTANCE, NORMAL
9 BEHAVIORS AS BEING ABERRANT. THEY LIST ABERRANT
10 BEHAVIOR -- THEY'RE ALL MENTAL ILLNESS.

11 WHAT PERSONALITY DISORDERS -- WHY THEY GOT CLASSIFIED
12 INTO A DIFFERENT SUBSECTION OF DSM4 WAS THEY GOT PUT THERE
13 WITH MENTAL RETARDATION BECAUSE THESE -- WHAT WOULD
14 MENTAL RETARDATION HAVE TO DO WITH PSYCHOPATHY OR
15 BORDERLINE PERSONALITY?

16 IT'S BECAUSE THESE WERE MENTAL DISORDERS THAT THEY --
17 THAT DOCTORS OR THE MENTAL COMMUNITY AT THE TIME
18 UNDERSTOOD AS IMMUTABLE OR UNCHANGEABLE, VERY DIFFICULT TO
19 CHANGE. WE REALIZE NOW YOU NEVER CAN CHANGE A
20 SCHIZOPHRENIC. SOME WITH MAJOR DEPRESSION YOU CAN NEVER
21 CHANGE. YOU CAN TREAT THEM WITH MEDICINE, BUT THE STUFF'S
22 ALWAYS GOING TO BE THERE.

23 THE FUTURE DSM4'S THAT COME OUT -- AND THERE ARE SO
24 MANY WHO ARE ACTUALLY TIRED AND SICK OF THAT, AND IN FACT,
25 SOME OF THE AUTHORS OF THAT BOOK PUBLISHED OTHER BOOKS

1 JUST HAVE, YOU KNOW, LISTING THEIR DISCOMFORT WITH THE
2 DSM4.

3 IT WILL CHANGE, AND I -- IT'S -- IT'S -- AND EVERYONE
4 IS CALLING FOR SIGNIFICANT CHANGES. WHEN THAT DSM4 WAS
5 WRITTEN, IT WAS ASSUMED THAT IT WOULD CHANGE IN 2007.
6 THEY ALREADY WERE DISSATISFIED WHEN THEY PUBLISHED IT.

7 I ACCEPT THAT IT'S THERE. I'M NOT AGAINST IT, BUT
8 I'M JUST SAYING PERSONALITY DISORDERS ARE PROVEN TO BE
9 MENTAL ILLNESSES. THEY ARE NOT SOMETHING ELSE.

10 Q NOW, THE -- IS IT YOUR TESTIMONY THAT THIS
11 PSYCHOPATHY -- THIS DEFENDANT NEVER KNOWS RIGHT FROM
12 WRONG?

13 A HE HAS A -- THIS IS WHERE HIS DIMINISHED CAPACITY IS.
14 HE HAS AS JC PRITCHARD STATED IN 1835, AGAIN,
15 INTELLECTUALLY THEY APPEAR NORMAL, BUT MORALLY THEY ARE
16 BEREFT.

17 HE INTELLECTUALLY MIGHT BE ABLE TO APPRECIATE OR CAN
18 APPRECIATE, YOU KNOW, THAT THIS IS WRONG OR I GET BUSTED
19 IF I DO THIS, BUT HE SEEMS TO HAVE NO CONTROL OVER
20 PREVENTING HIMSELF FROM DOING THAT OR DIFFICULTY LEARNING.
21 NOW, THAT'S HIS DIMINISHED CAPACITY.

22 AGAIN, IF YOU -- IN MY OPINION, WHEN YOU LOOK AT THE
23 CRIME THAT WE'RE TALKING ABOUT HERE, NOT JUST HIS PAST
24 BEHAVIOR BUT THE CRIME, IT GOES BEYOND THAT INTO THE REALM
25 OF IN MY OPINION NOT KNOWING MORAL RIGHT FROM MORAL WRONG.

1 HE DID WHAT WAS APPROPRIATE FOR HIM, WHAT A PSYCHOPATH --
2 SOMEONE WHOSE FRONTAL LOBES ARE NOT CONTROLLING THEIR
3 MENTAL AND LIMBIC SYSTEM, THAT'S WHAT THEY DO, THAT'S WHAT
4 THEY CAN DO. BUT THOSE OF US WITH NORMAL FRONTAL LOBES
5 DON'T.

6 Q LIKE A GREAT WHITE SHARK?

7 A CORRECT.

8 Q HE'S A KILLING MACHINE?

9 A WELL, HE'S -- NO. NOW, IF HE WERE -- THAT'S
10 INTERESTING. I WONDER WHERE YOU GOT THE GREAT WHITE SHARK
11 COMMENT.

12 Q SHARK WEEK ON DISCOVERY CHANNEL.

13 A IF WE WERE A GREAT WHITE SHARK, HE WOULD BE KILLING
14 MANY MORE PEOPLE THAN HE HAS. PERHAPS IF HE HADN'T HAVE
15 GOTTEN CAUGHT, IT'S MY OPINION THAT HE PROBABLY MIGHT HAVE
16 CONTINUED THIS BEHAVIOR IN THE FUTURE IN THE SAME WAY THAT
17 HIS CRIMINAL ACTIVITY, HIS CONFIDENCE SCHEMES WERE NEVER
18 ABATED OR STOPPED BY THREAT OF JAIL, BY THE JAIL, BY
19 PSYCHIATRIC INTERVENTION. NOW, THOSE SHOULD WORK ON A
20 NORMAL INDIVIDUAL, AND THEY DO.

21 Q SO IT WOULD BE YOUR TESTIMONY THAT IF HE GOES TO
22 PRISON, ANYONE AROUND HIM IS A POTENTIAL VICTIM?

23 A NO. BECAUSE WE KNOW FROM STUDIES OF PSYCHOPATHS, ONE
24 ENGLISH AND ONE SWEDISH, THEY ACTUALLY IN PRISON ARE QUITE
25 WELL-BEHAVED. I DON'T REMEMBER HEARING OF TED BUNDY OR

1 JOHN WAYNE GASEY OR ANY OF THOSE PEOPLE EVER GOING AROUND
2 BEATING THE HECK OUT OF ANYONE IN THE PRISON SOUP LINE
3 BECAUSE THEY WERE LOOKED AT FUNNY.

4 IN FACT, WHAT WE KNOW IS THIS. IN PRISON THEY TEND
5 TO BE MANIPULATIVE, THEY TEND TO MANIPULATE THE SYSTEM FOR
6 THEIR OWN GOALS. IN FACT, DR. CRAWFORD TOLD ME THAT IN
7 PRISON HE WAS WELL-LIKED AND HAD CONTROL OF THE JAIL, OR
8 SOMETHING TO THAT EFFECT WHEN I DISCUSSED THIS WITH HER.

9 SHE SAID THAT EVERYONE LIKED HIM, HE WAS A LAWYER FOR
10 EVERYONE, AND HE KIND OF HAD HIS WAY. SHE SAID THAT
11 THEY -- FOR FOUR DAYS THEY GOT TO GO AROUND THE JAIL
12 ESSENTIALLY UNACCOMPANIED.

13 THIS IS EXACTLY WHAT'S IN THE RESEARCH LITERATURE.
14 BUT YOU KNOW WHAT THE LITERATURE SHOWS? PSYCHOPATHS
15 TYPICALLY AREN'T VIOLENT IN JAIL. THEY'RE NOT. THE
16 MINUTE THEY GET OUT OF JAIL THEY HAVE A 70 TO 80 PERCENT
17 CHANCE, INCREASED CHANCE, OF COMMITTING A VIOLENT ACT ONCE
18 RELEASED FROM JAIL.

19 JAIL SEEM -- OR A TIGHT -- HOW I DO SAY IT -- TIGHT
20 CONSTRAINTS ON THEM IS VERY GOOD CONTROL FOR PSYCHOPATHS,
21 BUT IT DOES NOT TEACH THEM TO -- TO COME PORT -- TO COME
22 PORT -- TO CONFORM THEIR BEHAVIOR.

23 Q SO HE KNOWS -- I THINK YOU HAVE SAID -- LET ME
24 UNDERSTAND THIS.

25 A YES.

1 Q THAT HE UNDERSTANDS RIGHT FROM WRONG, HE --
2 INTELLECTUALLY HE UNDERSTANDS RIGHT FROM WRONG, HE MERELY
3 CHOOSES REGULARLY ON A CONSISTENT BASIS TO DO ABERRANT
4 BEHAVIOR, CRIMINAL BEHAVIOR?

5 A NO. HE HAS ALMOST -- I WOULD SAY HE HAS NO CHOICE IN
6 BEING WHAT HE IS. IF YOU WANT TO CALL IT THAT GREAT
7 WHITE--

8 Q I WANT TO KNOW IS -- DOES HE KNOW RIGHT FROM WRONG?
9 THAT'S MY QUESTION.

10 A HE KNOWS RIGHT FROM WRONG WHEN IT COMES TO CONFIDENCE
11 SCHEMES. HE APPRECIATES THEIR LEGAL WRONGNESS, BUT
12 MORALLY I THINK HE PROBABLY DOESN'T APPRECIATE IT BECAUSE
13 HE CONTINUES TO DO IT WITHOUT REMORSE.

14 YOU SEE, REMORSE IS ANOTHER PART OF THE ACTIVITY OF
15 THOSE FRONTAL LOBES. WE KNOW WHEN SOMEONE GETS CANCER OF
16 THE BRAIN RIGHT HERE, THEY START TO SHOW A LACK OF REMORSE
17 OR SOCIALLY INAPPROPRIATE BEHAVIOR.

18 BUT REMEMBER, YOU'RE TRYING TO GENERALIZE. AND I'M
19 SAYING THAT AT THE TIME OF THE INCIDENTS WE'RE TALKING
20 ABOUT, HE WENT BEYOND THAT THRESHOLD INTO INSANITY.

21 Q AND YOU INDICATED THAT YOU DIDN'T BELIEVE HIS AMNESIA
22 ABOUT THE SPECIFIC CRIMES HE'S CHARGED WITH IN THIS CASE?

23 A I -- I DON'T. I -- AS I DISCUSSED WITH DR. CRAWFORD,
24 SHE MENTIONED MANY THINGS THAT HE HAD SAID TO HER, AND I
25 REMEMBER SAYING TO HER, BUT HE'S A PSYCHOPATH. DR.

1 CRAWFORD, IF -- I BELIEVE, DOES NOT HAVE THE OPINION THAT
2 HE'S A PSYCHOPATH.

3 I'M CERTAIN OF IT. AND HE CERTAINLY MEETS THE HAIR
4 PSYCHOPATHY CHECKLIST AND THE KLECKLEY CHECKLIST, AND HE
5 WAS DIAGNOSED ANTISOCIAL BY MARC EINHORN. HE'S A
6 PSYCHOPATH.

7 Q HE'S ANTISOCIAL?

8 A WELL, THE NEW DEFINITION IS ANTISOCIAL, BUT IT'S NOT
9 THE NEW DEFINITION. WHEN -- IT USED TO BE CALLED
10 PSYCHOPATHY. THEY CHANGED IT I BELIEVE IN THE 1980'S
11 BECAUSE THEY HAD -- THEY WANTED THAT BOOK, THE DSM, TO
12 REFLECT A STATISTICAL AVERAGE SO THEY COULD SAY, WELL, IF
13 YOU ARE IN THIS PERCENTAGE OR THIS GROUP, YOU WILL GET
14 THIS DIAGNOSIS.

15 WHEN THEY DID THAT, ALL THEY LOOKED AT THEN FOR
16 PERSONALITY DISORDERS WAS BEHAVIOR. BUT NOW THEY HAVE TO
17 LEAVE OUT CAUSES OF BEHAVIOR OR THE EMOTIONAL PERSONALITY
18 COMPONENT.

19 THE PEOPLE WHO RESEARCH PSYCHOPATHY ARE VERY MUCH
20 INTERESTED IN THAT. THE DSM4 UNFORTUNATELY HAS DISCARDED
21 IT FOR NOW. OF ALL THE PERSONALITY DISORDERS, THE MOST
22 HIGHLY STUDIED AND THE MOST -- THE MOST ROBUSTLY PROVEN TO
23 HAVE A NEUROLOGICAL BASIS IS PSYCHOPATHY.

24 Q YOU INDICATE THAT -- I WANT TO GO BACK TO YOU NOT
25 BELIEVING THE DEFENDANT--

1 A RIGHT.

2 Q -- ABOUT HIS AMNESIA.

3 A I BELIEVE THAT HE PROBABLY HAS SOME AMNESIA TO THE
4 EVENT IN THE SAME WAY THAT YOU OR I -- YOU KNOW, IN A CAR
5 ACCIDENT, WHEN WE HAVE A CAR ACCIDENT--

6 Q DOCTOR, I MEAN, I'M JUST -- PLEASE JUST ANSWER MY
7 QUESTION. I PROMISE I WILL LET YOU EXPLAIN THEM.

8 A OKAY.

9 Q BUT DO YOU -- YOU HAVE INDICTED THAT YOU DON'T
10 BELIEVE THAT HE HAD AMNESIA THROUGH THIS ENTIRE EPISODE.
11 YES OR NO?

12 A I CAN'T ANSWER THAT WITH A YES OR NO. I BELIEVE HE
13 PROBABLY HAS SOME AMNESIA AND HE PROBABLY DOESN'T. IT'S--

14 Q PARTS THAT HE REMEMBERS AND PARTS THAT HE DOESN'T?

15 A CORRECT.

16 Q NOW, IN THE PARTS -- WELL, HIS DIMINISHED CAPACITY,
17 HIS LOW PET SCAN, HIS ABNORMAL MRI, DO YOU BELIEVE THAT
18 THAT CONTRIBUTED TO HIS INABILITY TO CONTROL HIS IMPULSES
19 WHEN HE WAS FACED WITH THIS ALLEGATION OF SEXUAL ABUSE?

20 A YES. I BELIEVE THEY ARE THE ABSOLUTE CAUSE OF IT,
21 NOT THE -- NOT A DIMINISHED ABILITY, BUT HE'S GONE NOW
22 OVER INTO THE THRESHOLD OF KNOWING ABILITY, AND THAT'S
23 INSANITY. HE MORALLY -- WELL, WE COULD--

24 Q LEGALLY HE KNOWS THE DIFFERENCE, BUT MORALLY HE
25 DOESN'T CARE?

1 A IT'S NOT THAT HE DOESN'T CARE. PSYCHOPATHS ARE
2 INABLE TO SCARE. THERE'S NOT A SEPARATE BRAIN OUT HERE
3 AGAIN OR SOMETHING FLOATING OUT HERE. THE ANALOGY THAT
4 CAN BE DRAWN -- IF I MAY DO THIS -- IS WITH ALCOHOLICS.

5 WE KNOW THEY HAVE A DISEASE NOW. IT'S A DISEASED
6 STATE. BUT A LOT OF PEOPLE STILL SAY, NO, IT ISN'T, IT'S
7 THEIR FAULT, THEY CHOOSE TO BE ALCOHOLICS. BUT NOW WE
8 KNOW, LOTS OF RESEARCH, ESPECIALLY MUCH DONE AT MUSC, THAT
9 THEY HAVE BRAIN ABNORMALITIES AND CHEMICAL ABNORMALITIES,
10 BUT WE TELL THEM, YOU'RE EXPECTED STILL, THOUGH YOUR BRAIN
11 IS MESSED UP, TO DO THE RIGHT THING.

12 BUT PARTS OF THEIR BRAIN -- THE PARTS OF THEIR BRAIN
13 THAT ARE ACTUALLY RESPONSIBLE FOR KNOWING THAT THEY ARE
14 MESSED UP ARE DYSFUNCTIONAL. SO THEY HAVE GREAT
15 DIFFICULTY. THAT'S WHY, YOU KNOW, MANY ALCOHOLICS DRINK
16 THEMSELVES TO DEATH NO MATTER HOW MANY INTERVENTIONS YOU
17 GIVE.

18 BUT REMEMBER, THERE'S A SPECTRUM. THERE'S YOUR
19 HARDCORE ALCOHOLIC AND YOUR LIGHT. HARDCORE PSYCHOPATH,
20 PSYCHOPATH LIGHT. MAYBE THE ANTISOCIAL PERSONALITY
21 DISORDER IS YOUR LIGHT PSYCHOPATH.

22 DO YOU KNOW SOMETHING? PSYCH -- ANTISOCIALS MAKE UP
23 50 PERCENT OF THE CRIMINAL POPULATION WHEN YOU TEST THEM.
24 BUT OF THAT, PSYCHOPATHS ONLY MAKE UP THEY ESTIMATE
25 25 PERCENT OF THE PRISON POPULATION. THEY ARE A VERY

1 SMALL SUBSET OF ANTISOCIAL.

2 NOT EVERYONE WITH AN ANTISOCIAL HAS TO BE A -- IS
3 PSYCHOPATHIC, BUT EVERYONE WHO IS PSYCHOPATHIC DOES MEET
4 THE CRITERIA FOR ANTISOCIAL.

5 Q IS IT YOUR POSITION, DOCTOR, THAT ANYONE WHO IS
6 PSYCHOPATHIC IS NOT CRIMINALLY RESPONSIBLE FOR THEIR
7 ACTIONS?

8 A THAT'S A PHILOSOPHICAL QUESTION. AND I -- THE WAY --
9 ASK ME THAT QUESTION AGAIN NICE AND SLOW. JUST LET ME --
10 LET ME THINK ABOUT IT.

11 Q IS IT YOUR BELIEF OR YOUR POSITION THAT PERSONS
12 DIAGNOSED AS PSYCHOPATHIC ARE NOT CRIMINALLY RESPONSIBLE
13 FOR THEIR ACTIONS?

14 A IF THE SCIENTIFIC EVIDENCE AND IMAGING EVIDENCE THAT
15 COMES ALONG WITH THAT THAT PROVES THEY HAVE THESE, DID
16 THESE AREAS OF ABNORMALITY, YES, I BELIEVE THAT.

17 Q WHAT WOULD BE THE DIFFERENCE BETWEEN THIS PSYCHOPATH
18 AND THAT PSYCHOPATH IF THEY'RE ALL PSYCHOPATHIC AND THEY
19 HAVE ALL COMMITTED CRIMINAL ACTS? I DON'T -- I FAIL TO
20 SEE THE DISTINCTION.

21 A WELL, IF THEY'VE REACHED THE LEVEL OF PSYCHOPATHY,
22 YOU'RE RIGHT. IT'S DIFFICULT TO MAKE THE DISTINCTION
23 BECAUSE IF YOU'RE LABELED PSYCHOPATH, OBVIOUSLY YOU'RE
24 DOING THINGS THAT ARE MUCH MORE TERRIBLE THAN SOMEONE WHO
25 IS JUST, LET'S SAY YOUR LOWER-ORDER TEEN-AGE THUG WHO, YOU

1 KNOW, JUST LIKES TO DRINK AND BASH WINDOWS IN AND STEAL
2 CARS.

3 BUT WE CAN SEE THERE'S A DIFFERENCE BETWEEN THAT
4 PERSON AND THEIR RISK OF DOING VIOLENT HARM TO SOCIETY
5 COMPARED TO A PSYCHOPATH. IN FACT, ANTISOCIALS, YOU
6 ALMOST CANNOT PREDICT THEIR FUTURE DANGEROUSNESS.

7 THERE'S A SLIGHT INCREASED RISK, BUT YOU CANNOT --
8 YOU CANNOT PREDICT WHAT THEY WILL DO COMPARED TO
9 PSYCHOPATHS WHICH HAVE A HIGH PREDICTABILITY RATE FOR
10 VIOLENT RECIDIVISM, ET CETERA. THEY -- THEY CAN -- THE
11 PSYCHOPATHS YOU CAN, YOU KNOW, THEY ARE WHAT THEY ARE,
12 THEY ARE A GREAT WHITE SHARK.

13 AND A GREAT WHITE SHARK, TYPICALLY IF YOU SWIM WITH
14 THEM, WILL BITE YOU. PSYCHOPATHS WILL CONTINUE THEIR SAME
15 BEHAVIORS. BUT ANTISOCIALS MAY NOT BECAUSE IT'S A
16 SPECTRUM.

17 BUT THERE'S A POINT WHERE YOU GO INTO THAT -- THAT
18 LITTLE COUNTRY OR STATE OF THE COUNTRY OF ANTISOCIAL AND
19 BECOME A PSYCHOPATH.

20 Q DR. SACHY, ISN'T THE PRIMARY BUILDING BLOCK OF A
21 DIAGNOSIS, ANY PSYCHIATRIC DIAGNOSIS, ISN'T THE PRIMARY
22 BUILDING BLOCK THE CLINICAL INTERVIEW?

23 A YES.

24 Q OKAY. ISN'T ANOTHER FOUNDATIONAL BUILDING BLOCK A
25 REVIEW AND EVALUATION OF CONTEMPORANEOUS CONDUCT?

1 A YES.

2 Q DID YOU UNDERTAKE BOTH OF THOSE ANALYSIS IN YOUR
3 EVALUATION OF MR. STANKO?

4 A YES.

5 Q AND YOU -- YOU FOUND IN -- DID YOU FIND THAT HE WAS
6 APPRECIATING THE WRONGFULNESS OF HIS CONDUCT BY SUBSEQUENT
7 CONDUCT?

8 A NO.

9 Q HOW DO YOU ATTRIBUTE HIS FLIGHT? WHAT DO YOU -- HOW
10 DO YOU EXPLAIN HIS FLIGHT IF HE DID NOT UNDERSTAND WHAT HE
11 HAD JUST DONE WAS WRONG?

12 A WELL, FLIGHT IS, YOU KNOW, THERE'S THAT FLIGHT OR
13 FIGHT RESPONSE. AND FLIGHT IS ACTUALLY A VERY BASIC
14 NON-THOUGHT OUT RESPONSE. IT'S A SELF PRESERVATION --
15 SELF PRESERVATORY (SIC) RESPONSE.

16 GOING BACK TO THE REPTILIAN BRAIN. A REPTILE HAS TO
17 MAKE TWO DECISIONS, IS IT GOING EAT OR IS IT GOING TO BE
18 EATEN. AND FLIGHT IS VERY BASIC. AND JUST BECAUSE YOU
19 JUMP IN A CAR AND CAN TURN A KEY AND FOLLOW DIRECTIONS
20 DOWN THE ROAD, IT'S STILL FLIGHT.

21 HOWEVER -- AND I DON'T KNOW IF YOU WANT TO GO INTO
22 GREAT DETAIL IN THIS PART OF THIS -- THIS THING, THERE ARE
23 MANY THINGS HE DID AT THE TIME OF THIS CRIME. FOR
24 INSTANCE, I'M -- I WILL BRING THEM OUT. FOR INSTANCE,
25 TAKING A BRACELET BEFORE HE LEAVES FROM THE VICTIM THAT HE

1 WOULD LATER GIVE TO ANOTHER PERSON IN A DIFFERENT CITY. I
2 WONDER, WELL, I MEAN, I -- I--

3 Q ROBBERY. THE ROBBERY. IT WAS A ROBBERY.

4 A THE ROBBERY. HE TOOK THE BRACELET FROM THE VICTIM.
5 I MEAN, YOU CALL IT ROBBERY, I CALL IT -- IT'S BIZARRE.
6 IT'S -- WHEN YOU -- I SEE IT AS AN INABILITY TO UNDERSTAND
7 RIGHT FROM WRONG BECAUSE IF YOU OR I IN A MOMENT OF HEATED
8 PASSION KILLED SOMEONE, LET'S SAY OUR WIFE OR SOMETHING,
9 WOULD WE THEN TAKE THEIR JEWELRY, WOULD WE THEN MAYBE JUMP
10 IN THE CAR AND DRIVE TO ANOTHER STATE WITH A LICENSE PLATE
11 ON THERE THAT ANYONE WOULD KNOW, ESPECIALLY WITH AN IQ OF
12 143, THAT THAT WILL PROBABLY AID IN TRACKING THEM DOWN,
13 WOULD THEN THAT PERSON STEAL ANOTHER VEHICLE WHICH HAS
14 ANOTHER LICENSE PLATE THAT COULD EASILY HELP TRACK THEM
15 DOWN?

16 THOUGH -- AND FROM DR. CRAWFORD'S EXCELLENT REPORT
17 SHE NOTED THAT HE TOOK -- HE MADE SURE TO PACK HIS
18 ELECTRIC GUITAR BEFORE HE LEFT THE VICTIM'S HOME. AGAIN,
19 FOR ME TO APPRECIATE RIGHT VERSUS WRONG, I WOULD THINK
20 THAT THERE WOULD HAVE TO BE SOMETHING WRONG WITH THAT IF
21 I'M MAKING SURE TO PACK MY ELECTRIC GUITAR, ESPECIALLY
22 AFTER COMMITTING SUCH HEINOUS ACTS.

23 Q WHAT ABOUT THE CHECKING THE PULSE OF THE TWO VICTIMS
24 TO CONFIRM THAT THEY ARE IN FACT DEAD, WAS THAT -- WAS
25 THAT THE ACT -- APPEARS TO ME TO BE SOMEONE WHO IS

1 GOAL-DIRECTED AND HAS A PLAN IN MIND.

2 A WELL, WHAT'S THE PLAN?

3 Q MAKE SURE THEY ARE DEAD, HE'S FINISHED THE JOB.

4 A WELL, IT WOULD APPEAR THAT ON 50 PERCENT OF THAT PLAN
5 HE WAS NOT CORRECT AND DIDN'T FINISH THE JOB. IT'S --
6 IT'S -- THIS DOES NOT APPEAR TO BE A WELL THOUGHT OUT
7 EVENT NOR WAS THE FLIGHT WELL THOUGHT OUT. AND LET'S --
8 LET'S SAY PERFECTLY THOUGHT OUT.

9 IF -- I JUST NEED TO SAY, EVERYONE NEEDS TO WATCH A
10 FEW EPISODES OF COLOMBO AND WATCH WHAT A WELL THOUGHT OUT
11 CRIME IS WHERE THERE'S LAYER UPON LAYER OF ALIBI BEING
12 LAID, ET CETERA, ET CETERA. THAT'S -- THAT'S HIGH, GOOD,
13 YOU KNOW, NONPSYCHOPATHIC FUNCTIONING.

14 AS WELL, YOU ASKED ABOUT THE BEHAVIOR SINCE THE
15 MURDERS OR SINCE THE EVENTS. YOU KNOW, MR. STANKO IN A
16 VERY DISPASSIONATE -- AND TYPICALLY THAT'S PSYCHOPATHIC
17 WAY -- DESCRIBES THE EVENTS EXCEPT THE PARTS HE SAYS HE
18 CAN'T REMEMBER, BUT IT'S SURE -- SURELY ATYPICAL.

19 NORMALLY WHEN I INTERVIEW SOMEONE WHO IS A MURDERER,
20 SOMETIMES EVEN A SCHIZOPHRENIC, UNLESS THEY'RE VERY
21 DELUSIONAL OR PSYCHOTIC AT THE TIME, THEY SHOW VERY
22 LEGITIMATE AND HIGH AFFECT AND MAY EVEN GET NAUSEOUS OR
23 SICK IN TALKING ABOUT WHAT HAPPENED.

24 AND MR. STANKO DID SHED SOME TEARS, BUT IN MY OPINION
25 THEY WERE DEFINITELY CROCODILE TEARS, THEY--

1 Q SO HE FEELS LITTLE REMORSE, LITTLE OR NO REMORSE FOR
2 THE ACTIONS COMMITTED?

3 A I BELIEVE -- I BELIEVE THAT HE DOES FEEL LITTLE --
4 LITTLE OR NO REMORSE. BUT I BELIEVE LIKE THE TYPICAL
5 PSYCHOPATH HE PRESENTS A VENEER OF THAT.

6 Q BECAUSE HE UNDERSTANDS THAT THEY ARE WRONG AND THIS
7 IS HOW HE SHOULD ACT WHEN HE IS TRYING TO PERFORM FOR YOU?

8 A SEE, YOU'RE SAYING HE'S MAKING A CONSCIOUS DECISION
9 TO DO THIS BEHAVIOR, AND I KNOW FROM THE RESEARCH
10 LITERATURE -- AND IT'S NOT JUST -- IT'S NOT RESEARCH,
11 IT'S -- IT'S THE ESTABLISHED LITERATURE, THAT HE HAS NO
12 CHOICE IN THAT.

13 HE'S -- AGAIN, IF YOU WANT TO CALL IT A GREAT WHITE
14 SHARK, BUT HE IS WHAT HE IS.

15 Q AND THE THEFT AT THE ATM, STEALING THE MONEY AT THE
16 ATM MACHINE WITHIN AN HOUR OF THE MURDERS, THIS IS AN
17 ACT -- HE SEEMS VERY GOAL DIRECTED, SOMEBODY NEEDS MONEY
18 SO THEY CAN ESCAPE AND ELUDE THE LAW.

19 A AND VERY FOOLISH, AGAIN, FOR SOMEONE WITH AN IQ OF
20 140 SOMETHING WHO HAS BEEN INVOLVED WITH LAW -- WITH THE
21 CRIMINAL SYSTEM ON SEVERAL OCCASIONS AND KNOWS -- SHOULD
22 KNOW WHAT'S RIGHT AND WRONG, HE JUST MURDERS AND HE GOES
23 TO AN ATM WHERE HIS PICTURE IS GOING TO BE TAKEN AND HE
24 USES THE VICTIM'S ATM CARD?

25 NOT CONSISTENT WITH WELL THOUGHT OUT AND, YOU KNOW,

1 APPROPRIATE THINKING. IT'S ACTUALLY IN MY OPINION VERY
2 STUPID.

3 Q NOT VERY GOOD AT BEING A CRIMINAL?

4 A IT'S -- WELL, I THINK HE'S VERY GOOD AT BEING A
5 CRIMINAL NATURALLY, BUT WHEN IT COMES TO THE HIGHER
6 COGNITIVE FUNCTIONS OF BEING A CRIMINAL, HE'S REALLY
7 ACTING ON JUST VERY BASIC LOWER LEVEL PARTS OF HIS BRAIN
8 BECAUSE THE PART THAT YOU'RE SAYING SHOULD BE DOING THIS,
9 WE HAVE SHOWN BY IMAGING, STRUCTURAL AND FUNCTIONAL, THAT
10 THERE'S SOMETHING WRONG.

11 Q AND YOU'RE -- BUT WOULDN'T A BIRTH DEFECT TO THE
12 BRAIN TYPICALLY LEAD SOMEONE TO HAVE A LOW IQ?

13 A NO, NOT AT ALL. I MEAN, YOU CAN HAVE SOMEONE WITH --
14 AGAIN -- SO YOU'RE MAKING A GENERALIZATION. THE BRAIN
15 IS--

16 Q YEAH, I'M ASKING A GENERAL QUESTION. GENERALLY
17 SPEAKING, ISN'T THAT TRUE?

18 A NO. NO. IT DEPENDS ON WHAT PARTS OF THE BRAIN ARE
19 EFFECTED. YOU COULD HAVE A SCHIZOPHRENIC. MOST OF THEM
20 HAVE COGNITIVE IMPAIRMENT, BUT SOME OF THEM ARE BRILLIANT.
21 IN FACT, THE MOVIE A BEAUTIFUL MIND DOCUMENTS -- AND I
22 FORGET THE GENTLEMAN'S NAME -- BUT HE WAS A -- I BELIEVE A
23 NOBEL PRIZE WINNER FOR MATHEMATICS OR PHYSICS AND HE'S A
24 SCHIZOPHRENIC, BUT MOST SCHIZOPHRENICS ON THE WHOLE HAVE A
25 LOWER IQ AND IMPAIRED COGNITIVE FUNCTIONING.

1 Q WHAT -- YOU DIDN'T REALLY TOUCH ON THE CLINICAL
2 INTERVIEW IN YOUR NOTES OR WAS VERY, VERY -- I DIDN'T NOTE
3 VERY MUCH IN YOUR NOTES OR YOUR REPORT ABOUT THE CLINICAL
4 INTERVIEW. WHAT WAS IT IN YOUR CLINICAL INTERVIEW THAT
5 INDICATED TO YOU THAT DEFENDANT STANKO WAS A PSYCHOPATH?

6 A OH, HIS KIND OF CALLOUS MATTER-OF-FACT DISCUSSION OF
7 THE INCIDENTS, THE VICTIMS, THE LACK OF KIND OF -- WELL,
8 THE -- THE SIGNIFICANT LACK OF EMOTIONAL, YOU KNOW,
9 VALANCE, EMOTIONAL, YOU KNOW, VENEER. IT WAS -- IT WAS --
10 THERE WAS NO EMOTIONAL VENEER. IT WAS REALLY JUST A
11 BUSINESS-LIKE KIND OF SICH -- YOU KNOW.

12 Q COLD?

13 A COLD. NOW REMEMBER, PSYCHOPATHS ARE NOTED TO BE
14 COLD. THEY TEND TO BE, YOU KNOW, THEY CAN BE COLD-BLOODED
15 KILLERS. NOW, WHEN WE SAY COLD-BLOODED, ACTUALLY DURING
16 THEIR VIOLENT ACTS THEY ARE VERY EMOTIONAL AND THEY ARE
17 VERY -- PEOPLE WILL DESCRIBE, LIKE WITH TED BUNDY, HIS
18 FACE, A FACE OF RAGE AND ANGER.

19 BUT IT'S AFTER THE ACT THEY ARE VERY BUSINESS-LIKE
20 AND CALCULATING AND PROFESSIONAL IN HOW THEY DESCRIBE WHAT
21 HAPPENED. BY THE WAY--

22 Q SO IN HIS CLINICAL INTERVIEW YOU BASICALLY TAKE FROM
23 THE FACT THAT HE WAS COLD IN DESCRIBING THE MURDERS HE HAD
24 COMMITTED, THE CRIMES HE HAD COMMITTED, THAT THIS WAS AN
25 INDICATOR TO YOU THAT HE WAS PSYCHOPATHIC?

1 A YES. AND ALSO, YOU KNOW, I MEAN, HIS ENTIRE HISTORY,
2 THAT CRIMINAL HISTORY, THE LACK OF REMORSE, YOU KNOW, THE
3 LACK OF SIGNIFICANT REMORSE OR GUILT, THE -- HIS
4 GRANDIOSITY -- AS DR. CRAWFORD SAYS, SHE BELIEVES HE'S
5 NARCISSISTIC. BUT AGAIN, YOU PUT ANTISOCIAL AND
6 NARCISSISTIC PERSONALITY TOGETHER AND YOU GET PSYCHOPATHY.

7 Q YOU DON'T DISAGREE WITH HER OPINION THAT HE'S
8 NARCISSISTIC?

9 A NO. BUT I THINK SHE'S TRYING TO DISPLAY HIM AS A
10 NARCISSISTIC PERSONALITY DISORDER. REALLY HE'S A
11 PSYCHOPATH AND PSYCHOPATHS ARE NARCISSISTIC. WITHOUT THIS
12 AREA OF THE BRAIN WORKING, YOU NOT EMPATHIZE WITH OTHERS,
13 OR IT'S DIMINISHED.

14 AND IF YOU DON'T EMPATHIZE WITH OTHERS, YOU DON'T
15 CARE WHAT THEY THINK. AND IF YOU DON'T CARE WHAT THEY
16 THINK, YOU'RE SUPERIOR. NOW, MR. STANKO STATED HE ALWAYS
17 FELT INFERIOR BUT HE DID HIS BEST THROUGHOUT HIS LIFE TO
18 SHOW THAT HE WAS SUPERIOR TO OTHERS.

19 Q SO HE CLEARLY DID CARE WHAT OTHER PEOPLE THOUGHT OF
20 HIM BECAUSE HE WAS CONSTANTLY TRYING TO PRESENT HIMSELF AS
21 SOMETHING GREATER THAN HE REALLY WAS?

22 A YES. YOU KNOW, BUT AGAIN, CARING WHAT PEOPLE THOUGHT
23 ABOUT HIM IS A DIFFERENT COGNITIVE PROCESS, YOU KNOW,
24 ALTOGETHER THAN WHAT WE WERE JUST EARLIER TALKING ABOUT.

25 Q SO -- BUT IT'S A HIGH LEVEL THOUGHT PROCESS; TRUE?

1 A IT IS, BUT AS WE KNOW FROM THESE STUDIES, THE
2 DISFUNCTION IN THE FRONTAL LOBES IN PSYCHOPATHS AND
3 MURDERS SEEMS TO BE VERY SUBTLE. AGAIN, I -- WE CAN'T
4 POINT TO THE ACTUAL NEURONS THAT ARE DYSFUNCTIONAL LIKE
5 AND SEE TRACKS OF THEM LIGHTING UP.

6 ONE DAY WE WILL. WE ARE GETTING THERE. RIGHT NOW WE
7 SEE THE GENERAL AREA OF DISFUNCTION. IT'S NOT COMPLETELY
8 TURNED OFF. IF I WERE TO CUT OUT THAT PART OF HIS BRAIN,
9 HE WOULD NOT BE ABLE TO FUNCTION AND SIT THERE
10 APPROPRIATELY RIGHT NOW.

11 BUT IT'S -- IT'S AREAS OF THAT BRAIN AND HOW THEY
12 CONNECT WITH THE REST OF THE BRAIN THAT ARE RESPONSIBLE
13 FOR HIS PERSONALITY AND BEHAVIOR.

14 Q THE -- AND IT'S NOT YOUR TESTIMONY ABOUT PET SCANS
15 AND MRI'S THAT EVERYONE WHOSE PET SCAN ISN'T NORMAL,
16 ACCORDING TO THE NORMAL THAT YOU SUBMITTED ON THIS, IS A
17 PSYCHOPATH, A KILLER, HAS NO CONTROL, WHATEVER IT --
18 WHATEVER OPINION YOU HAVE OFFERED ON THAT. THAT'S NOT
19 YOUR TESTIMONY; IS IT?

20 A WELL, I CAN'T ANSWER THAT WITH A YES OR NO. BUT --
21 BUT -- AND THAT'S ALWAYS ASKED AND IT'S SOMETHING, YOU
22 KNOW, ADDRESSED IN THE LITERATURE IN THIS AREA. WELL,
23 THAT'S THE COMEBACK. WELL, DOES EVERYONE WHO HAS AN
24 ABNORMAL PET SCAN, ARE THEY ALL PSYCHOPATHS, ET CETERA?

25 IF YOU HAVE A PET SCAN LIKE HIS, I WOULD -- I

1 WOULD -- IT WOULD BE MY OPINION THAT YOU COULDN'T BE
2 NORMAL. I'LL REPEAT MYSELF. IF YOU HAVE A PET SCAN LIKE
3 HIS, I BELIEVE THAT YOU COULDN'T BE NORMAL.

4 YOU MAY LOOK NORMAL, A LOT OF PEOPLE MAY THINK YOU'RE
5 NORMAL, BUT IF YOU REALLY SIT DOWN AND IF YOU COULD WATCH
6 THEIR BEHAVIOR OVER TIME, GET THEIR HISTORY, WATCH AGAIN,
7 YOU KNOW, THEIR BEHAVIOR, YOU WILL SEE SIGNS OF SOMETHING
8 WRONG BECAUSE IF THAT FRONT PART OF THE BRAIN ISN'T DOING
9 WHAT IT'S SUPPOSED TO BE DOING, WHAT IS? SOMEONE OVER MY
10 SHOULDER?

11 Q AND THAT USE OF A PET SCAN -- PET SCAN IS GENERALLY
12 ACCEPTED IN THE SCIENTIFIC COMMUNITY--

13 A YES.

14 Q -- PSYCHIATRIC COMMUNITY?

15 A WELL, YOU SAY PSYCHIATRIC. IN THE BRAIN SCIENCE
16 COMMUNITY IT IS. I MEAN, THE PEOPLE WHO ARE EXPERTS IN
17 THIS FIELD AGREED. AGAIN, I HAVE NOT SEEN A REVIEW
18 ARTICLE OR AN ARTICLE IN ANY JOURNAL, AND DR. RAINE NOTES
19 IN THIS TEXTBOOK, WHERE THEY CAN -- THEY REVIEWED THIS OR
20 COME UP WITH SOME STUDY THAT SHOWS OTHERWISE. IT'S --
21 JUST HASN'T HAPPENED.

22 Q SO I WOULD BE ABLE TO GO OUT AGAIN -- I KNOW I HAVE
23 GONE THROUGH THIS WITH YOU BEFORE, BUT THIS IS A DIFFERENT
24 TOPIC. I CAN PUT ANY PSYCHIATRIST WHO IS -- WHO IS
25 FOLLOWING GENERALLY ACCEPTED PSYCHIATRIC PRINCIPLES AND

1 THEY WILL AGREE WITH YOU THAT AN ABNORMAL PET SCAN EQUALS
2 WHATEVER MENTAL DEFECT OR DISEASE THAT YOU'RE OFFERING?

3 A NO. AND -- NO. AND CAN I JUST FINISH THAT?

4 Q SURE.

5 A IN THE OTHER CASE THAT I DID IN GEORGIA SEVERAL YEARS
6 AGO, I -- BEFORE WE GOT THE PET SCAN -- I'LL ONLY BE A
7 MOMENT -- WE GOT AN MRI. AND ON THAT MRI IT SHOWED
8 GROWTHS LIKE OBVIOUS ATROPHY OR SHRINKAGE.

9 EVEN THE RADIOLOGIST AT THE VA IN AUGUSTA SAID
10 ATROPHY, BUT HE SAID MILD GLOBAL ATROPHY. THE HEAD OF
11 NEUROLOGY AT THE VA IN AUGUSTA, A VERY PROMINENT
12 NEUROLOGIST, A CHAIRMAN, TESTIFIED IN THAT CASE THAT IT
13 WAS A NORMAL MRI.

14 SO I GUESS ANYONE CAN HAVE ANY OPINION, BUT EVEN THE
15 RADIOLOGIST SAID THERE WAS ATROPHY, BUT HE GOT ON THE
16 STAND FOR THE PROSECUTION AND SAID IT WAS NORMAL. AND WE
17 WERE ALL -- ANYONE CONNECTED WITH THE CASE WHO KNEW ABOUT
18 MRIS WERE SHOCKED.

19 SO ANYONE CAN HAVE ANY OPINION. BUT I DO BASE MINE
20 ON WHAT'S OUT THERE IN THE LITERATURE AND IN, YOU KNOW,
21 THE SCIENCE, WHAT'S OUT THERE.

22 MR. HEMBREE: I HAVE NO FURTHER QUESTIONS OF
23 THIS WITNESS, YOUR HONOR.

24 MR. DIGGS: COUPLE OF FOLLOW-UPS.

25 THE COURT: YOU MAY PROCEED.

REDIRECT EXAMINATION

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BY MR. DIGGS:

Q A PET SCAN WOULD BE A FORENSIC TOOL?

A YES.

Q AND THAT'S HOW YOU USED IT?

A YES. AND IF I MAY ADD, THE FIRST TIME A PET SCAN WAS USED IN A CRIMINAL CASE WAS IN 1991 IN NEW YORK. IT WAS A MURDER AND PET SCAN WAS USED AND IT WAS ACCEPTED. AND IN GEORGIA, THE FIRST -- WELL, IN THE SOUTHEAST -- I DON'T KNOW.

IN GEORGIA THE FIRST TIME IT WAS EVER BROUGHT INTO EVIDENCE WAS A CASE THAT I WAS INVOLVED IN.

Q WELL, ISN'T IT STANDARD PROCEDURE IN THE PHARMACEUTICAL INDUSTRY TO USE PET SCANS TO DETERMINE HOW VARIOUS DRUGS AFFECT THE BRAIN?

A THAT'S EXACTLY HOW THEY FIND OUT--

Q THAT--

A I'M SORRY, I DIDN'T HEAR THAT.

Q HOW LONG HAS THAT BEEN STANDARD PRACTICE?

A OH, I WOULD SAY AT LEAST MAYBE GOING ON 20 YEARS AT LEAST, 15 YEARS.

Q ALL RIGHT. NOW, YOU SAID THAT INITIALLY YOU DIDN'T HAVE ANY EVIDENCE THAT MR. STANKO WAS A PSYCHOPATH AS A CHILD. BUT WE DO HAVE THE MORO REFLEX COMMENT IN THE BIRTH RECORDS.

1 A YES, WE HAVE--

2 Q YEAH.

3 A YES.

4 Q AND YOU HAVE THE IMAGES OF THE BRAIN DEFECT. WOULD
5 THIS HAVE BEEN A DEFECT THAT JUST OCCURRED NATURALLY LATER
6 IN LIFE OR WOULD IT HAVE BEEN PRESENT -- COULD HAVE IT
7 BEEN PRESENT IN EARLY LIFE AND WOULD IT NECESSARILY HAVE
8 MANIFESTED ITSELF AT, YOU KNOW, WHEN MR. STANKO WAS A
9 CHILD?

10 A WELL, I JUST REMEMBER SOMETHING FROM DR. CRAWFORD'S
11 REPORT. SHE NOTED THAT AS A CHILD -- AND I AM NOT SURE
12 EXACTLY WHO SHE INTERVIEWED -- BUT AS A CHILD HE WAS
13 WELL-LIKED BY EVERYONE AND YET OTHERS SEEM, YOU KNOW, TO
14 NOTE THAT HE WAS COCKY AND ARROGANT.

15 AND I THOUGHT TO MYSELF, HOW CAN YOU BE WELL-LIKED
16 AND COCKY AND ARROGANT? WELL, SOME MAY TAKE YOU ONE WAY
17 AND SOME MAY THE OTHER. BUT YOU KNOW, PSYCHOPATHS HAVE
18 THIS -- THEY'RE THE KIND OF PERSON WHO WHEN THEY WALK UP
19 TO YOU -- THE DEFINITION OF A PSYCHOPATH IS IF ONE WALKS
20 UP TO YOU AND THEY TALK TO YOU FOR 10 MINUTES AND YOU HAND
21 THEM A HUNDRED DOLLAR BILL, THEY ARE A PSYCHOPATH.

22 PERHAPS HIS CHARM -- AND PSYCHOPATHS HAVE A
23 SUPERFICIAL CHARM -- WAS WHAT MADE HIM WELL-LIKED. BUT
24 THE GRANDIOSITY AND THE EGOCENTRICITY IS WHAT WILL ALSO
25 TURN OFF OTHER PEOPLE.

1 SO IN FACT, IN DR. CRAWFORD'S REPORT THERE MAY BE
2 EVIDENCE OF PSYCHOPATHY IN CHILDHOOD.

3 Q AND DO YOU KNOW DR. THRASHER?

4 A YES.

5 Q BELIEVE MENTIONED HIM EARLIER. I WANT TO SHOW YOU A
6 REPORT THAT HE HAS DRAFTED, HIS FINDINGS THERE. HAVE YOU
7 DISCUSSED THIS CASE WITH DR. THRASHER?

8 A YES, SIR.

9 Q ALL RIGHT. AND WHAT ARE DR. THRASHER'S OPINIONS WITH
10 RESPECT TO MR. STANKO?

11 A I'M SORRY. WHAT ARE HIS OPINIONS?

12 Q YES, THE FINDINGS IN THAT REPORT.

13 A CAN I READ THEM OR JUST -- JUST.

14 Q YEAH, YOU CAN READ THEM.

15 A OKAY. AT THE TIME OF THE ALLEGED OFFENSES
16 MR. STEPHEN STANKO WAS -- CAPITALIZED -- SUFFERING FROM
17 MENTAL DISEASE OR DISORDER OR DEFECT, AND HE DID NOT --
18 CAPITALIZE -- HAVE THE CAPACITY TO DISTINGUISH MORAL OR
19 LEGAL RIGHT FROM WRONG AND TO RECOGNIZE THE PARTICULAR
20 ACTS AS MORAL OR LEGALLY WRONG.

21 AT THE TIME OF THE OFFENSES MR. STANKO DID HAVE A
22 MENTAL DISORDER AND DID NOT HAVE SUFFICIENT CAPACITY TO
23 CONFORM HIS BEHAVIOR TO THE REQUIREMENTS OF THE LAW. AT
24 PRESENT TIME MR. STANKO DOES HAVE A MENTAL DISORDER, BUT
25 HE IS COMPETENT TO STAND TRIAL.

1 Q ALL RIGHT. HAVE YOU INCORPORATED ANY OF THE OPINIONS
2 OF DR. THRASHER IN YOUR TESTIMONY TODAY?

3 A NO. I MEAN, I HAVE READ THIS, BUT...

4 Q ALL RIGHT. DID -- BUT DO YOU -- CAN YOU COMMENT ON
5 WHETHER OR NOT YOU FEEL THEY CORROBORATE YOUR OPINION?

6 A WELL, I THINK DR. THRASHER MEETS THE GOOD GENTLEMAN'S
7 DESCRIPTION OF WHAT WAS IN YOUR AVERAGE OR WHATEVER
8 PSYCHIATRIST IN THE FIELD OR PRACTICING OUT THERE. I
9 SUSPECT AND I DO BELIEVE -- I DON'T SUSPECT DR. THRASHER
10 IS ONE OF THOSE, AND HE SEEMS TO HAVE THE SAME OPINION
11 THAT I DO.

12 Q OKAY. THANK YOU.

13 MR. DIGGS: YOUR HONOR, I'D LIKE TO GO AHEAD AND
14 HAVE THIS MARKED AS AN EXHIBIT FOR THE DEFENSE AS
15 WELL.

16 THE COURT: ANY OBJECTION?

17 MR. HEMBREE: I THINK WE JUST RECEIVED THAT
18 REPORT. IS THAT CORRECT? I HAVEN'T HAD AN
19 OPPORTUNITY TO REVIEW IT, YOUR HONOR, BUT I DON'T
20 HAVE ANY OBJECTION.

21 THE COURT: MARKED AND ADMITTED WITHOUT
22 OBJECTION.

23 (WHEREUPON, COURT'S EXHIBIT 7 WAS ADMITTED INTO
24 EVIDENCE.)

25 MR. DIGGS: THANK YOU. YOUR HONOR, WE HAVE --

1 WE DIDN'T ACTUALLY PUT IT INTO EVIDENCE, BUT THE SCAN
2 THAT THE COURT VIEWED DURING DR...

3 MR. HEMBREE: NO OBJECTION, YOUR HONOR.

4 MR. DIGGS: SACHY, WE'D LIKE TO.

5 THE COURT: MARKED AND ADMITTED WITHOUT
6 OBJECTION.

7 (WHEREUPON, COURT'S EXHIBIT 8 WAS ADMITTED INTO
8 EVIDENCE.)

9 MR. DIGGS: HAND THAT UP AND HAVE IT... YOUR
10 HONOR, THAT WOULD BE OUR SHOWING AT THIS POINT.

11 THE COURT: ANY -- SIR, YOU CAN STEP DOWN. I
12 ASSUME THE STATE HAS NO FURTHER QUESTIONS OF THE
13 WITNESS? OR DID I MAY THE WRONG ASSUMPTION?

14 MR. HEMBREE: NO, NO QUESTIONS, YOUR HONOR.

15 THE COURT: SIR, YOU CAN STEP DOWN. ALL RIGHT.
16 IS THERE ANY OBJECTION TO US BREAKING FOR LUNCH?

17 MR. HEMBREE: NO, YOUR HONOR.

18 THE COURT: WHAT WE WILL DO IS WE WILL BREAK FOR
19 LUNCH AFTER WHICH WE WILL COME BACK AND I'LL HEAR
20 ARGUMENT OR ACTUALLY -- WELL, WE WILL DISCUSS HOW WE
21 ARE GOING TO PROCEED. I'M DEBATING ABOUT -- WELL,
22 WE'LL TALK.

23 IF Y'ALL CAN INDULGE ME FOR A FEW MINUTES BEFORE
24 YOU GO TO LUNCH, AND THEN WE WILL DECIDE HOW TO
25 PROCEED THIS AFTERNOON. WE'LL BE AT EASE UNTIL 3:30.

1 (COURT IN RECESS FOR LUNCH.)

2 THE COURT: I UNDERSTAND THAT THEY ARE BRINGING
3 MR. STANKO NOW.

4 (DEFENDANT ENTERED THE COURTROOM.)

5 THE COURT: OKAY. ARE WE READY TO PROCEED?
6 STATE READY?

7 MR. HEMBREE: STATE IS READY, YOUR HONOR.

8 THE COURT: IS THE DEFENSE READY?

9 MR. DIGGS: CORRECT, YOUR HONOR.

10 THE COURT: IS IT CORRECT THAT WE HAVE
11 DETERMINED THAT THERE WILL BE NO FURTHER TESTIMONY
12 REQUIRED? IS THAT CORRECT?

13 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

14 THE COURT: AND MR. DIGGS, IS THAT ALSO CORRECT?

15 MR. DIGGS: YES.

16 THE COURT: AND I WAS SPEAKING I GUESS
17 SPECIFICALLY TO THE STATE'S ABILITY OR DESIRE TO
18 PRESENT WITNESSES, JUST FOR THE CLARITY OF THE
19 RECORD. SO THAT WOULD LEAVE US AT THE POINT OF
20 HEARING ARGUMENT. STATE READY TO PROCEED?

21 MR. HEMBREE: YES, I AM, YOUR HONOR.

22 THE COURT: YOU MAY PROCEED.

23 MR. HEMBREE: THANK YOU, YOUR HONOR. THE --
24 THIS QUESTION REALLY, REALLY BOILS DOWN TO JUST A
25 LITTLE BIT OF TESTIMONY THAT'S BEEN PRESENTED TODAY.

1 WE HEARD A LOT FROM THE DOCTOR. WE HEARD A LOT OF
2 CROSS AS WELL AS DIRECT.

3 BUT THE BOTTOM LINE IS THIS. HE HAS INDICATED
4 THROUGH -- ON DIRECT AND ON CROSS THAT MR. STANKO HAS
5 A DIMINISHED CAPACITY. HE HAS STATED THAT OVER AND
6 OVER AGAIN, AND HE ATTRIBUTES OR SORT OF LINKS THAT
7 DIMINISHED CAPACITY TO THESE ACTS OF THESE CONFIDENCE
8 GAMES OR THESE -- THESE CONS THAT HE CONTINUES TO
9 RUN.

10 HE SAYS HE -- THERE WAS SOME -- THERE WAS SOME
11 VAGUE DISTINCTION IN THERE BETWEEN THE CONFIDENCE
12 GAMES AND THE MURDER BECAUSE HE'S CHARGED WITH --
13 MURDER AND RAPE HE'S CHARGED WITH TODAY.

14 I ASKING HIM THE QUESTION, JUDGE, I THINK THIS
15 WAS -- ALL OF THAT DISCUSSION AND THERE WAS LOT OF
16 IT, PROBABLY GONE LONGER THAN I NEEDED TO. BUT OUT
17 OF ALL THAT DISCUSSION, EVEN THOUGH I MAY NOT AGREE
18 WITH THE -- WITH HIS INTERPRETATIONS OF THE PET SCANS
19 AND HIS INTERPRETATIONS OF THE MRIS THAT'S WHAT OTHER
20 DOCTORS COULD TELL US AND WE CAN COUNTER THAT.

21 I'M NOT EVEN GOING THERE. I'M JUST CONCEDING
22 THAT THOSE -- THEY ARE WHAT THEY ARE AND HE TRULY
23 BELIEVES THAT THAT'S HONEST. HE STILL SAID WHEN THE
24 KEY QUESTION WAS PUT TO HIM, ARE YOU SAYING, DOCTOR,
25 THAT BECAUSE OF THIS MENTAL DEFECT, THIS DIMINISHED

1 CAPACITY, THAT THIS DEFENDANT, THAT HIS ABILITY TO
2 CONTROL HIS ACTIONS ONCE HE WAS FACED WITH THE
3 ACCUSATION OF BEING A CHILD MOLESTER WAS IMPAIRED WAS
4 HIS CAPACITY TO CONTROL HIS IMPULSE IMPAIRED, HE
5 SAID, EXACTLY, THAT'S JUST WHAT I'M TALKING ABOUT.

6 THAT'S -- THAT'S RIGHT WHAT WE'RE TALKING ABOUT.
7 AND JUDGE, THAT IS THE DEFINITION OF DIMINISHED
8 CAPACITY. HE HAS THIS CONDITION, IF YOU WILL, THAT
9 AFFECTS HIS ABILITY TO STOP WHEN HE SHOULD, WHEN HE'S
10 FACED WITH THIS, THIS IMPULSE, HE'S FACED WITH THIS
11 EMOTIONAL IMPULSE TO STRIKE OUT, THAT THIS DIMINISHED
12 CAPACITY AFFECTS THAT. IT'S DIMINISHED.

13 HE'S NOT -- HE'S NOT AS GOOD AS IT AS SOMEBODY
14 ELSE, AND THAT'S THE DEFINITION OF DIMINISHED
15 CAPACITY. I COULD -- JUDGE, I COULD ARGUE ABOUT
16 OTHER THINGS AND I COULD NIBBLE AROUND THE EDGES
17 ABOUT SOME OTHERS, BUT IN MY JUDGMENT THAT'S THE
18 FUNDAMENTAL QUESTION BEFORE YOU.

19 IT'S THE STATE'S POSITION THAT YOU CAN -- YOU
20 CAN CALL A ROSE BY ANY OTHER NAME, BUT IT'S STILL A
21 ROSE. AND IT MAY HAVE SOMETHING TO DO WITH THE FACT
22 THAT -- THAT THE DOCTOR IS, YOU KNOW, HE'S NOT FROM
23 SOUTH CAROLINA, HE'S NOT ACCUSTOMED TO TESTIFYING AND
24 CONSIDERING THESE QUESTIONS IN SOUTH CAROLINA COURTS,
25 THAT HE HAS A -- AN OPINION THAT SORT OF WAVERS OFF

1 WHAT THE STANDARD IS IN SOUTH CAROLINA DIMINISHED
2 CAPACITY.

3 BUT BE THAT AS IT MAY, IT WOULD BE THE STATE'S
4 POSITION THAT HE HAS -- HE HAS -- EVEN THOUGH HE MAY
5 CALL IT SOMETHING DIFFERENT, IT IS IN FACT DIMINISHED
6 CAPACITY AND IT'S NOT ADMISSIBLE IN THE GUILT PHASE
7 OF THIS TRIAL AND WE WOULD ASK THAT THE EVIDENCE BE
8 EXCLUDED.

9 THE COURT: MR. DIGGS?

10 MR. DIGGS: YOUR HONOR, WHEN THE TESTIMONY IS
11 TAKEN AS A WHOLE, IT SHOWS THAT THIS DOCTOR BELIEVES
12 THAT MR. STANKO WAS INSANE. COUNSEL MAY BE ABLE TO
13 POINT TO SAY -- TO A POINT WHERE HE SAYS, YEAH, YOU
14 KNOW, I THINK THAT'S EXACTLY WHAT I'M SAYING, BUT
15 WHEN YOU LOOK AT HIS TESTIMONY AS A WHOLE, FOR ABOUT
16 TWO HOURS HE SET UP AND EXPLAINED IN VERY GOOD DETAIL
17 WHAT HIS OPINION WAS AND WHY HE -- WHY HE THOUGHT
18 THAT, WHY HE CAME TO THAT OPINION.

19 AND SO WHEN YOU -- ONE THING I THINK THAT I
20 WOULD SUBMIT THAT YOU HAVE TO SAY ABOUT DR. SACHY IS
21 HE CERTAINLY UNDERSTANDS THE DIFFERENCE BETWEEN
22 DIMINISHED CAPACITY AND INSANITY.

23 HIS TESTIMONY WAS THAT THE DEFENDANT OPERATES IN
24 A DIMINISHED CAPACITY ALL THE TIME BECAUSE OF THE
25 MENTAL DEFECT THAT HE HAS. THERE'S NO QUESTION

1 THROUGH THIS TESTIMONY THERE ESTABLISHES A QUESTION,
2 A FACTUAL QUESTION, ABOUT WHETHER MR. STANKO HAS A
3 MENTAL DEFECT OR DISEASE, AND HE DOES.

4 WE CAN -- WE CAN SHOW THAT HE HAD THAT FROM
5 BIRTH, IN THE BIRTH RECORDS THAT ALMOST TOOK HIS LIFE
6 WHEN HE WAS -- WHEN HE WAS AN INFANT RIGHT AFTER HIS
7 BIRTH.

8 BUT THEN IN THIS PARTICULAR INSTANT WHEN YOU
9 LOOK AT THE TIME OF THE OFFENSE, AND IN THE -- IN THE
10 STATUTE AND IN DR. SACHY'S REPORT HE WAS VERY CAREFUL
11 TO POINT OUT THIS LEGAL REQUIREMENT.

12 HE WANTED TO KNOW EXACTLY -- IF HE WAS OFFERING
13 AN OPINION ON CRIMINAL RESPONSIBILITY, HE WANTED TO
14 KNOW WHAT CRIMINAL RESPONSIBILITY WAS IN THIS
15 JURISDICTION. HE WANTED TO KNOW HOW THAT WAS
16 DEFINED.

17 AND SO HE INCORPORATES THAT. HE -- HE WAS GIVEN
18 THAT INFORMATION AND INCORPORATES IT IN HIS REPORT AT
19 PAGE SEVEN THAT SAYS, IT IS AN AFFIRMATIVE DEFENSE TO
20 A PROSECUTION FOR A CRIME THAT AT THE TIME OF THE
21 COMMISSION OF THE ACT CONSTITUTING THE OFFENSE THE
22 DEFENDANT AS A RESULT OF MENTAL DISEASE OR DEFECT --
23 AND THERE'S CLEARLY, YOUR HONOR, TESTIMONY THAT
24 MR. STANKO SUFFERS OR HAS THAT -- SUFFERS FROM OR HAS
25 THAT LACK OF CAPACITY TO DISTINGUISH.

1 AND I WAS SPECIFIC IN FRAMING MY QUESTIONS TO
2 THE DOCTOR ABOUT DID HE LACK THE CAPACITY TO
3 DISTINGUISH. AND OF COURSE, THE DOCTOR SAID
4 REPEATEDLY, YES, YES, HE DID AT THE TIME OF THE
5 COMMISSION OF THE ACT CONSTITUTING THE OFFENSE.

6 AND SO SOMETIMES YOU MIGHT COME INTO A SITUATION
7 AND SAY, WELL LOOK, AFTERWARDS THERE WAS SOME
8 EVIDENCE OF INSANITY HERE. BEFORE THERE WAS SOME
9 EVIDENCE OF SANITY.

10 WELL, THERE'S EVIDENCE OF DIMINISHED CAPACITY
11 BEFORE AND AFTER, BUT AT THE TIME OF THE OFFENSE THAT
12 BRINGS US TO COURT THERE WAS NO QUESTION THE DOCTOR
13 WAS VERY CLEAR, YES, HE WAS INSANE, HE MET THAT
14 DEFINITION.

15 AND SO, YOUR HONOR, WITH ALL DUE RESPECT I WOULD
16 SUBMIT AT THIS POINT YOUR HONOR HAS TO REVIEW THE
17 EVIDENCE AND THE INFERENCES DRAWN FROM THAT EVIDENCE
18 AND CONSTRUE IT, CONSTRUE ALL OF THOSE INFERENCES
19 AGAINST THE STATE AT THIS POINT AND IN FAVOR OF THE
20 DEFENSE, AND THAT THE COURT IN THAT INSTANT WOULD
21 ALLOW THIS EVIDENCE TO COME IN BEFORE THE JURY AT THE
22 GUILT PHASE OF THE TRIAL.

23 THANK YOU VERY MUCH, YOUR HONOR. I'D BE HAPPY
24 TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

25 THE COURT: I DON'T HAVE ANY QUESTIONS.

1 ANYTHING FURTHER, MR. HEMBREE?

2 MR. HEMBREE: NO, YOUR HONOR.

3 THE COURT: GENTLEMEN, I WANT TO TAKE THE MATTER
4 UNDER ADVISEMENT. I NEED SOME TIME TO REVIEW MY
5 NOTES AS WELL AS POTENTIALLY -- WELL, I NEED SOME
6 TIME TO REVIEW MY NOTES.

7 I ALSO WANT THE OPPORTUNITY TO REVIEW DR.
8 SACHY'S REPORT ONE LAST TIME IN LIGHT OF HIS ACTUAL
9 TESTIMONY, AND THE COURT WILL RENDER A DECISION IN
10 THE MORNING REGARDING WHETHER THE MOTION IN LIMINE IS
11 GRANTED OR DENIED.

12 I'M GOING TO TALK TO Y'ALL BEFORE YOU LEAVE. IS
13 THERE ANYTHING ELSE? ACTUALLY WE NEED TO DEAL WITH
14 THE ISSUE OF THE PROPOSED VOIR DIRE AND IF THERE ARE
15 ANY EXCEPTIONS TO VOIR DIRE ACTUALLY POSED BY THE
16 COURT.

17 I'M HOPING TO ELIMINATE A LOT OF BACK AND FORTH
18 TOMORROW, AND HOPEFULLY WITH US BEING ON THE SAME
19 PAGE, THAT THE COURT WILL BE ABLE TO DIRECT THAT THAT
20 QUANTITY OF VOIR DIRE AND PROBABLY AS WE DISCUSSED
21 EARLIER WITH THE TYPED QUESTION ELIMINATE PROBABLY A
22 VAT MAJORITY OF THE COURT'S QUESTIONS BUT GIVE THE
23 PARTIES THE ABILITY TO REHABILITATE JURORS IF THEY
24 FEEL THE NECESSITY TO ASK FOLLOW-UP QUESTIONS AS IS
25 PROVIDED BY THE STATUTE.

1 IS THERE ANY EXCEPTION TO THE QUESTIONS AS
2 PROPOSED FROM THE STATE?

3 MR. HEMBREE: NO, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NONE, YOUR HONOR.

6 THE COURT: OKAY. WELL THEN WE'RE ALL ON THE
7 SAME PAGE. WONDERFUL.

8 MR. HEMBREE: YOUR HONOR, I DO HAVE ONE
9 HOUSEKEEPING MATTER. I DID NOT MARK THIS BECAUSE WE
10 DIDN'T CALL PAM CRAWFORD AS A WITNESS. WE DID -- HER
11 REPORT THAT WAS SUBMITTED DIRECTLY TO THE COURT. I
12 MEAN, THAT'S HER -- HER REQUIREMENT IS TO SUBMIT THIS
13 REPORT DIRECTLY TO THE COURT.

14 I DON'T KNOW THAT IT WAS MARKED FOR THE RECORD.
15 I'D LIKE TO GO AHEAD AND...

16 THE COURT: I THOUGHT THAT MAYBE HER REPORT WAS
17 MARKED AS A PART OF THE STIPULATION THAT MR. STANKO
18 WAS COMPETENT TO STAND TRIAL.

19 MR. HEMBREE: WE MADE THAT REFERENCE, YOUR
20 HONOR, BUT I'M NOT SURE THAT WE EVER ACTUALLY
21 PHYSICALLY MARKED THE REPORTS.

22 THE COURT: AND I ASSUME THAT WOULD BE THE
23 REPORT THAT WAS PROVIDED TO ME THIS MORNING?

24 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

25 THE COURT: OKAY. I ASSUME THERE'S NO EXCEPTION

1 TO THAT REQUEST.

2 MR. DIGGS: NONE, YOUR HONOR.

3 THE COURT: BE MARKED AND ADMITTED WITHOUT
4 EXCEPTION.

5 MR. HEMBREE: AS A COURT'S EXHIBIT.

6 THE COURT: AS A COURT'S EXHIBIT AS WELL AS THE
7 OTHERS, COURT EXHIBITS, AS THEY WERE ADMITTED FOR THE
8 SOLE PURPOSE OF THE MOTION IN LIMINE.

9 MR. HEMBREE: THANK YOU.

10 (WHEREUPON, COURT'S EXHIBIT 9 WAS ADMITTED INTO
11 EVIDENCE.)

12 THE COURT: CAN YOU ALL THINK OF ANYTHING ELSE
13 THAT WE NEED TO DEAL WITH THIS AFTERNOON PRIOR TO
14 PREPARING FOR THE JURY'S ARRIVAL IN THE MORNING?

15 MR. HEMBREE: YOUR HONOR, I CAN -- I CAN'T THINK
16 OF ANYTHING FROM THE STATE'S PERSPECTIVE.

17 THE COURT: I THINK THAT WE COVERED A GREAT DEAL
18 IN THE STATUS CONFERENCE AND PROBABLY ELIMINATED A
19 LOT OF WHAT WE WOULD HAVE BEEN DEALING WITH NOW. I
20 WAS THINKING ABOUT EXHIBITS, BIT IT'S A LITTLE
21 PREMATURE FOR THAT. MR. DIGGS, CAN YOU THINK OF
22 ANYTHING ELSE WE NEED TO COVER THIS MORNING?

23 MR. DIGGS: NO, YOUR HONOR. THE JURY'S GOING TO
24 COME IN AT 10; IS THAT CORRECT?

25 THE COURT: THAT'S MY UNDERSTANDING. LET ME ASK

1 MRS. ALMA.

2 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

3 THE COURT: THEY ARE COMING IN AT 10.

4 MR. DIGGS: WHAT TIME WOULD YOU LIKE THE
5 ATTORNEYS HERE?

6 THE COURT: WHATEVER TIME IS GOOD FOR YOU ALL,
7 AS LONG AS YOU ARE PROMPTLY HERE AT 10. OH, YOU ALL,
8 I'M SO SORRY. WE HAD SUCH A LONG, INTENSE DAY. I
9 APOLOGIZE. I NEED TO RULE ON THE MOTION.

10 SO I WOULD ASSUME -- I WOULD -- YOU ALL BE HERE
11 AT 9:30, AND THEN WE CAN DISPOSE OF THAT. THAT GIVES
12 US A 30 MINUTE WINDOW TO DEAL WITH THAT AND THEN YOU
13 ALL WILL BE IN A POSITION TO WAIT ON THE JURY TO
14 ARRIVE AND THEN WE WILL CONDUCT QUALIFICATIONS AND
15 INDIVIDUAL VOIR DIRE.

16 AND I SHARED WITH YOU ALL THAT WE HAD
17 PREPARED -- MY STAFF PREPARED THE JURY PANEL SHEETS
18 FOR THE CLERK'S OFFICE. WE WILL SHARE THOSE, BUT
19 THEY ARE VERY BASIC. THEY JUST PROVIDE FOR PANELS OF
20 FOUR COMING IN STAGGERED TIMES.

21 I ASSUME THAT THE MORNING WOULD BE PREOCCUPIED
22 TOMORROW WITH QUALIFICATION AND THAT WE WOULD NOT
23 START INDIVIDUAL VOIR DIRE UNTIL 2:00. SO THAT IS
24 WHAT -- AND IF WE RUN BEYOND THAT, IF WE'RE NOT ABLE,
25 WE WILL JUST ELIMINATE THE 2:00 TIME SLOT.

1 BUT BEING ROUGHLY SURE, I'M GOING TO GIVE
2 EVERYBODY TIME TO GET LUNCH AND GET REFRESHED BEFORE
3 WE BEGIN THAT PROCESS. AND THEN I HAVE IT STAGGERED
4 FOR WEDNESDAY AND THURSDAY COMING IN AT NINE AT ONE
5 HOUR INTERVALS WITH A BREAK FOR LUNCH AND THEN ONE
6 HOUR INTERVALS BEGINNING AT TWO.

7 AND AS I UNDERSTAND IT, YOU ALL DID NOT WAIVE
8 THE REQUIREMENT OF THE BLIND PERSON OR A CHILD TO DO
9 THAT RANDOM SELECTION, AND I WILL ASSUME THAT ALMA
10 HAS MADE A PROVISION FOR THAT. SO WE'LL BE IN GOOD
11 SHAPE IN THE MORNING.

12 OKAY? IS THERE ANYTHING ELSE BEFORE WE ADJOURN
13 FOR THE EVENING, FOR THE AFTERNOON?

14 MR. HEMBREE: NOTHING FROM THE STATE.

15 MR. DIGGS: NOTHING FROM THE DEFENSE.

16 THE COURT: OKAY. WE WILL BE IN RECESS.

17 (WHEREUPON THERE WAS A PAUSE.)

18 THE COURT: WE HAVE SOME LATE QUESTIONNAIRES.
19 WE HAD SOME LATE QUESTIONNAIRES AND SOME ADDITIONAL
20 JURORS WHO ARE REQUESTING TO BE EXCUSED, AND SO I
21 WANTED TO -- IF WE COULD GO THROUGH THAT BEFORE YOU
22 ALL LEAVE SO THAT THE CLERK CAN IN FACT EXCUSE THOSE
23 PEOPLE WITHOUT THEM COMING UP HERE IN THE MORNING TO
24 SAVE THEM JUST THE EXPENSE OF THAT TIME. AND WE'LL
25 DO THAT RIGHT NOW. I WILL COME DOWN.

1 MR. KELLY: MA'AM? EXCUSE ME. WE WILL NEED THE
2 DEFENDANT.

3 THE COURT: OH, YES. I'M ASSURING YOU ALL HAVE
4 A LIST AND THEY ARE GOING TO GO GET MR. STANKO.

5 (WHEREUPON THERE WAS A PAUSE.)

6 (WHEREUPON, COURT'S EXHIBITS 1-9 WERE ADMITTED
7 INTO EVIDENCE.)

8 THE COURT: THIS IS -- I HAVE A LETTER FROM HIS
9 EMPLOYER INDICATING THAT HE IS CURRENTLY WORKING IN
10 CALIFORNIA. HIS ASSIGNMENT IS EXPECTED TO LAST 12
11 MONTHS. IT LOOKS LIKE THEY LOANED HIM TO ANOTHER
12 CONTRACTING COMPANY.

13 AND IT SAID THE GEOGRAPHIC HARDSHIP WILL WORK --
14 GEOGRAPHICALLY IT WILL WORK A HARDSHIP. IS THERE ANY
15 EXCEPTION TO DISMISSING HIM?

16 MR. HEMBREE: NO, YOUR HONOR. BE EXCUSED.

17 THE COURT: EXCUSED RATHER. SORRY. THANK YOU.
18 FIFTY-EIGHT WILL BE EXCUSED. NUMBER 10? BASICALLY
19 THIS JUROR HAS A SEASONAL BUSINESS AND A 10 YEAR OLD
20 WHO IS OUT ON SUMMER VACATION AND SHE INDICATES THAT
21 THIS IS HER BUSIEST TIME OF THE YEAR AND IF HE
22 DOESN'T -- IS NOT ABLE TO WORK NOW, SHE WON'T BE ABLE
23 TO MAKE HER BILLS IN THE MONTHS IN THE OFF-SEASON OR
24 THE WINTER. ANY EXCEPTION TO EXCUSING HER?

25 MR. DIGGS: NO, YOUR HONOR. I KNOW THOSE

1 PEOPLE. I KNOW.

2 THE COURT: ALSTONS? ANY OBJECTION.

3 MR. HEMBREE: NO OBJECTION.

4 THE COURT: ANY OBJECTION FROM THE STATE? SHE
5 WILL BE EXCUSED. TRANSFERRED. WHEN I SAID EXCUSED,
6 I MEANT TRANSFERRED. I MEAN EXCUSED FOR NOW BUT
7 TRANSFERRED TO...

8 OKAY. NUMBER 192. I'M -- BASICALLY HE JUST HAS
9 A LETTER FROM HIS EMPLOYER INDICATING HE STARTED
10 WORKING ON JULY 17TH AND HE'S ASKING TO BE EXCUSED ON
11 THAT BASIS. I REALLY DON'T THINK THAT'S A BASIS TO
12 EXCUSE HIM.

13 MR. HEMBREE: I AGREE.

14 THE COURT: YEAH. I THINK HE WILL REMAIN WITH
15 US. ANY EXCEPTION FROM THE DEFENSE?

16 MR. DIGGS: WE DON'T HAVE ANY EXCEPTION.

17 THE COURT: TELL HIM HE NEEDS TO BE HERE.
18 NUMBER 210. BASICALLY HE WORKS FOR AN HVAC COMPANY
19 AND HE INDICATES THAT HE'S SHORTHANDED AND THIS IS
20 HIS BUSIEST TIME OF THE YEAR AND COULD WE TRANSFER
21 HIM.

22 MR. HEMBREE: NO OBJECTION. HE SEEMS TO BE
23 SITUATED IN THE SAME POSITION AS AUSTIN.

24 THE COURT: THAT'S WHAT I WAS THINKING. ANY
25 EXCEPTION FROM THE DEFENSE?

1 MR. DIGGS: NONE, YOUR HONOR.

2 THE COURT: OKAY. HE WILL BE TRANSFERRED.

3 NUMBER 304. THIS PERSON WORKS FOR A MOTORCYCLE
4 COMPANY AND INDICATES THAT THEY HAVE A VERY IMPORTANT
5 MEETING IN FLORIDA AND AT THIS MEETING THEY ORDER
6 THEIR ENTIRE INVENTORY FOR THE YEAR.

7 MR. HEMBREE: WHEN IS THE MEETING?

8 THE COURT: IT JUST SAYS -- DOESN'T SAY.
9 DOESN'T TELL ME. MAYBE -- 7-30. THEY HAVE ALREADY
10 LEFT. WELL, NO. NO. WELL, SAYS ARRIVAL DATE 7-30,
11 DEPARTURE EIGHT-TWO. THAT'S RIGHT IN THE MIDDLE OF
12 EVERYTHING. IT LOOKS LIKE THEY WOULD HAVE ALREADY
13 LEFT.

14 MR. HEMBREE: THEY DIDN'T WAIT FOR US; DID THEY?

15 THE COURT: NO. I'M WONDERING HOW MUCH ORDERING
16 THEY HAVE ALREADY DONE. IT'S PROBABLY VENDORS AND
17 STUFF.

18 MR. HEMBREE: NOT GOING TO BE HERE TOMORROW.
19 TRANSFER HIM.

20 THE COURT: YEAH. ANY EXCEPTION?

21 MR. DIGGS: NO, YOUR HONOR.

22 THE COURT: THIS IS BASICALLY A PERSON THAT
23 WORKS FOR A TRUCKING COMPANY AND THEY SAID TO REQUIRE
24 HIM TO BE HERE WOULD WORK AN UNDUE HARDSHIP.
25 EVERYBODY HAS THAT HARDSHIP. THAT'S ALWAYS GOING TO

1 BE A PROBLEM BASICALLY IS THE WAY I PERCEIVE IT.

2 ANY EXCEPTION TO US KEEPING HIM? I MEAN KEEPING
3 HIM AT LEAST FOR THE TIME BEING.

4 MR. HUMPHRIES: WE KEPT THE OTHER TRUCKER.

5 THE COURT: YEAH. HE NEEDS TO COME TO THE
6 COURTHOUSE. NUMBER 380. MY PERCEPTION OF THIS IS
7 THAT THEY HAD THIS FOR OVER A MONTH AND THEY COULD
8 HAVE ALREADY MADE ARRANGEMENTS.

9 THIS GENTLEMAN WORKS IN THE RADIOLOGY DEPARTMENT
10 OF THE HOSPITAL. THEY SAY HE'S ON CALL 365 DAYS OF
11 THE YEAR. THAT'S ALWAYS GOING TO BE A PROBLEM AND
12 TRANSFER GOING TO STILL BE A PROBLEM.

13 IT'S BEEN A MONTH AND THEY COULD HAVE ALREADY
14 MADE ALTERNATIVE ARRANGEMENTS FOR HIM AS FAR AS I'M
15 CONCERNED, SO HE WILL -- TELL HIM HE NEEDS TO BE
16 HERE. BUT THEY HAD A MONTH TO HAVE SOMEBODY ELSE
17 COME IN IF THEY NEEDED TO. ANY EXCEPTION FROM THE
18 DEFENSE?

19 MR. DIGGS: NONE.

20 THE CLERK: THE LAST ONE ON THAT SHEET DIDN'T
21 SEND ANYTHING.

22 THE COURT: TELL THEM TO BE HERE -- WROTE A
23 LETTER OR I WOULDN'T HAVE EXCUSED HER. ANY EXCEPTION
24 FROM THE STATE?

25 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

1 MR. DIGGS: NONE.

2 THE CLERK: THE NEXT ONE IS SCHOOL.

3 THE COURT: WHEN DOES GEORGETOWN SCHOOLS START?
4 SCHOOL YEAR START?

5 THE CLERK: TEACHERS GO TO WORK ON THE TENTH AND
6 THE STUDENTS RETURN ON THE 17TH, I BELIEVE.

7 THE COURT: OKAY. THE FIRST IS A SCHOOL
8 TEACHER. ANY EXCEPTION TO TRANSFERRING HER?

9 MR. HEMBREE: NONE, YOUR HONOR.

10 THE COURT: THAT WOULD BE IN THE MIDDLE OF
11 EVERYTHING. OKAY. WHAT IS SS -- DATA ENTRY.

12 THE CLERK: YEAH, SOME KIND OF SYSTEMS
13 SOMETHING, THEY...

14 THE COURT: WHEN IS REGISTRATION?

15 THE CLERK: THEY HELP THE GUIDANCE COUNSELORS
16 WITH THE REGISTRATION.

17 THE COURT: SO WHAT DAY IS REGISTRATION?

18 THE CLERK: THE SECOND.

19 THE COURT: THE SECOND OF AUGUST? OKAY. ANY
20 EXCEPTION TO HER BEING TRANSFERRED?

21 MR. HEMBREE: NO, YOUR HONOR. NONE FROM THE
22 STATE.

23 MR. DIGGS: NO, MA'AM.

24 THE COURT: OKAY. SHE WILL BE TRANSFERRED. THE
25 THIRD IS A LIBRARIAN AT SCHOOL. SAYS SEE LETTER

1 ATTACHED.

2 THE CLERK: SHE DID SEND A LETTER.

3 THE COURT: ACTUALLY SHE WON AN ESSAY CONTEST
4 WHICH ALLOWED HER SCHOOL TO WIN A PROJECTOR AND A
5 LAPTOP, AND SO SHE HAS TO BE IN ATTENDANCE AT SOME
6 WORKSHOPS TO TEACH EVERYBODY ELSE HOW TO USE THEM.

7 (OFF THE RECORD DISCUSSION.)

8 THE COURT: SCHOOL LIBRARIAN, 700 CHILDREN. I
9 DO FEEL GUILT IN NOT WANTING -- HAS SHE EVER BEEN
10 TRANSFERRED BEFORE? SHE'S ALREADY KIND OF INDICATED
11 A PREDISPOSITION, TOO, WHICH IS STARTING TO CONCERN
12 ME. SHE STARTS TALKING ABOUT -- OH, AND HER
13 DOCTORATE DISSERTATION IS ALSO IN FINAL REVIEW DURING
14 THE TIME OF TRIAL.

15 I THINK WE PROBABLY -- THE THING THAT CONCERNS
16 ME IS SHE IS A JUROR NUMBER TWO, AND SHE INDICATES A
17 KNOWLEDGE OF THE FACTS OF THE CASE.

18 MR. HUMPHRIES: SHE'S A LIBRARIAN.

19 THE COURT: AND THAT CONCERNS ME. AND A
20 PREDISPOSITION -- I THINK WE PROBABLY NEED TO. I
21 THINK WE SHOULD TRANSFER HER. YOU ALL ARE WELCOME TO
22 LOOK AT THIS LATER, BUT SHE DOESN'T -- SHE GIVES A
23 WHOLE PARAGRAPH TO HER VERSION OF WHAT SHE BELIEVES
24 THE FACTS ARE AND THEN TALKS ABOUT WHY YOU TAKE A
25 LIFE -- MAYBE AN EXPERT WITNESS.

1 OH, MY. OH, MY. EXCUSE -- Y'ALL MIGHT WANT TO
2 READ THAT LETTER. YOU MIGHT FIND IT INTERESTING.

3 THE CLERK: NOW, JUROR NUMBER 243 DID NOT SIGN
4 ANY KIND OF AFFIDAVIT ABOUT THE CHILDREN. SHE'S GOT
5 EVERYTHING LISTED ON THERE.

6 THE COURT: WELL, SHE WORKS.

7 THE CLERK: NO, SHE'S A HOMEMAKER.

8 THE COURT: WELL, NO. I REMEMBERED -- FAMILY
9 WORK.

10 THE CLERK: THE KIDS ARE FOUR TO SIX, AND SHE'S
11 HOMEMAKER.

12 THE COURT: THEY BOTH GO TO KINDERGARTEN THEN;
13 DON'T THEY?

14 MR. HUMPHRIES: NOT NECESSARILY ON THE FOUR YEAR
15 OLD.

16 THE COURT: IT'S NOT MANDATORY? MOST PEOPLE
17 DON'T SEND THEIR KIDS TO FOUR YEAR OLD KINDERGARTEN?

18 MR. HUMPHRIES: WE SEND OURS TO PRESCHOOL,
19 BUT...

20 THE COURT: SIX YEAR OLD GOES TO SCHOOL.

21 MR. HUMPHRIES: WELL, THEY DON'T GO TO SCHOOL
22 YET.

23 THE COURT: I THINK SHE NEEDS TO COME AND THEN
24 WE WILL DEAL WITH HAVING HER SIGN THE AFFIDAVIT
25 BECAUSE SHE NEEDS TO UNDER OATH TELL ME THAT THAT'S

1 IN FACT HER SITUATION. IS THERE ANY EXCEPTION TO
2 THAT FROM THE STATE?

3 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NONE.

6 THE COURT: 354.

7 THE CLERK: THIS SAME WITH THIS ONE. I THINK
8 SHE'S GOT A -- SHE'S UNEMPLOYED AND HAS A CHILD --
9 ONE YEAR OLD OR UNDER SOMETHING LIKE THAT ON THERE.

10 THE COURT: OKAY. SHE HAS A ONE YEAR OLD.
11 OKAY. IT'S THE SAME. SHE'LL NEED TO COME UP AND AT
12 THAT PART OF THE -- THAT PART OF THE QUALIFICATION
13 SHE CAN DO THE AFFIDAVIT AND WE CAN EXCUSE HER. ANY
14 EXCEPTION FROM THE STATE?

15 MR. HEMBREE: NONE FROM THE STATE.

16 THE COURT: FROM THE DEFENSE?

17 MR. DIGGS: NONE, YOUR HONOR.

18 THE COURT: OKAY. 165 HAS A ONE YEAR OLD, SAME,
19 THAT SHE'LL NEED TO COME UP. WE WILL TAKE CARE OF
20 HER DURING QUALIFICATION. ANY EXCEPTION FROM THE
21 STATE?

22 MR. HEMBREE: NONE, YOUR HONOR.

23 THE COURT: FROM THE DEFENSE?

24 MR. DIGGS: NONE, YOUR HONOR.

25 THE COURT: OKAY. MEDICAL. WHAT WAS YOUR

1 JUDGMENT ABOUT THIS PHYSICAL PROBLEM? DID HE LOOK
2 LIKE HE WAS IN PAIN OR INCAPACITATED?

3 THE CLERK: I THINK IT WAS -- BASICALLY I THINK
4 IT WAS OTHERWISE, BUT...

5 THE COURT: GIVE US YOUR HONEST OPINION.

6 THE CLERK: I WILL LET YOU SIZE HIM UP.

7 THE COURT: YOU THINK I NEED TO TAKE A LOOK AT
8 HIM AND TALK TO HIM?

9 THE CLERK: YEAH, YOU CAN TALK TO HIM.

10 THE COURT: OKAY. ISN'T SHE A DIPLOMAT? SHE'S
11 A POLITICIAN.

12 (OFF THE RECORD DISCUSSION WAS HAD.)

13 THE COURT: TELL HIM HE NEEDS TO COME AND WE'LL
14 TALK TO HIM. ANY EXCEPTION FROM THE STATE?

15 MR. HEMBREE: NONE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. DIGGS: NO, YOUR HONOR.

18 THE COURT: OKAY. 396. TO THE BACK. PATIENT
19 IS UNABLE TO STAND. HE HADN'T HAD HIS SURGERY YET,
20 HAS HE? HE HAD IT ALREADY. AND HE CANNOT STAND FOR
21 SIX TO NINE MONTHS. RIGHT TIBULA FIBULA -- IS THAT
22 WHAT THAT LOOKS LIKE TO YOU? T-I-B-F-I-B-E-A.

23 MR. HUMPHRIES: THAT'S A BREAK IN THE TIBULA AND
24 FIBULA.

25 THE COURT: YEAH. LOOKS LIKE. AND HE HAD

1 SURGERY.

2 THE CLERK: HE HAD A BROKEN LEG IN THREE PLACES.

3 THE COURT: SOUNDS PAINFUL. SAYS HE CAN'T STAND
4 FOR SIX TO NINE MONTHS. HE BROUGHT IT UP HERE?

5 THE CLERK: HE CAME IN AND HAD HIS FOOT IN A
6 BRACE. I TOLD HIM THE SAME THING YOU TOLD ME. I
7 DON'T HAVE ANYTHING TO DO -- THE JUDGE SAID Y'ALL GOT
8 TO DEAL WITH HER. STARTED CURSING AT ME -- HE HAD TO
9 COME UP HERE ANOTHER...

10 THE COURT: SO HE WAS ABLE TO WALK?

11 DEPUTY CLERK: NO, HE HOPPED IN. HE DID, HE
12 HOPPED IN.

13 THE COURT: WAS HE ON CRUTCHES?

14 DEPUTY CLERK: NO, HE WAS JUST HOPPING.

15 THE COURT: DID HE DRIVE?

16 DEPUTY CLERK: I DON'T KNOW IF HE DROVE...

17 THE COURT: OR SOMEBODY DROPPED HIM OFF?

18 DEPUTY CLERK: APPARENTLY BECAUSE HE WAS
19 HOPPING.

20 THE COURT: I WILL LEAVE IT UP TO Y'ALL.

21 MR. HEMBREE: IF WE WEREN'T SEQUESTERING THE
22 JURY, I'D SAY...

23 THE COURT: THAT IS SOME KIND OF TROUBLE. YEAH.
24 HE MAY NEED MEDICAL TREATMENT. YEAH, THAT'S TRUE. DO
25 Y'ALL HAVE ANY OBJECTION TO TRANSFERRING HIM?

1 MR. DIGGS: NO, YOUR HONOR.

2 THE COURT: WHY DON'T Y'ALL TRANSFER HIM FOR AT
3 LEAST SIX TO NINE MONTHS OUT SO HIS LEG CAN GET
4 HEALED.

5 YEAH, THAT PERSON LEGITIMATELY HAD AN ANEURISM.
6 SHE'LL TAKE NINE MONTHS CONVALESCENCE. ANY EXCEPTION
7 TO TRANSFERRING?

8 MR. HEMBREE: NO EXCEPTION FROM THE STATE.

9 MR. DIGGS: NO.

10 THE COURT: GOOD. THAT TAKES CARE OF EVERYONE.
11 OH, ACTUALLY I GOT THIS NUMBER 258 LEFT A NOTE WITH
12 THE CLERK'S OFFICE, THAT SHE'S SICK, SHE HAS MY A
13 MIGRAINE, LUPUS AND FIBROMYALGIA.

14 MR. HUMPHRIES: THAT'S 251?

15 THE COURT: FIFTY-EIGHT.

16 THE CLERK: THAT NOTE CAME IN HERE WHILE WE WERE
17 IN HERE.

18 THE COURT: I THINK SHE NEEDS TO COME UP HERE.

19 MR. HEMBREE: SHE NEEDS A DOCTOR'S EXCUSE ANY
20 WAY.

21 THE COURT: YEAH. TELL HER SHE NEEDS TO COME
22 AND THAT SHE NEEDS TO BRING DOCTOR, A WRITTEN
23 DOCTOR'S EXCUSE WITH HER. IS THAT EVERYTHING? YOU
24 CAN COVER IT ALL?

25 THE CLERK: UH-HUH. I JUST GOT A QUESTION FOR

1 YOU. WHEN Y'ALL LEFT THE LAST TIME, Y'ALL HAD MY
2 STAFF TO MAKE COPIES AND--

3 *THE COURT:* THE QUESTIONNAIRES?

4 *THE CLERK:* RIGHT. SO Y'ALL WANT ME TO MAKE
5 COPY OF THOSE TOMORROW MORNING?

6 *MR. HEMBREE:* PLEASE DO.

7 *MR. HUMPHRIES:* PLEASE. THE ONES THAT ARE
8 COMING IN.

9 *THE COURT:* AND WHAT SHE'S INDICATED TO ME IS --
10 HOW MANY ARE YOU MISSING? YOU SAID 30? NO, 20.
11 WHICH I THINK IS EXCELLENT ALL THINGS CONSIDERED.
12 NOW, ONE OF THE FIRST THINGS I'M GOING TO ASK IN THE
13 MORNING I WHO HAS NOT COMPLETED -- BEFORE I EVEN GET
14 STARTED, I'M GOING TO FIND OUT WHO HAS NOT COMPLETED
15 THEIR QUESTIONNAIRE, AND WE HAVE A ROOM FOR THEM TO
16 DO THAT?

17 *THE CLERK:* YEAH. WELL...

18 *MR. HEMBREE:* LIBRARY.

19 *THE COURT:* AND LET THEM -- AND SO THAT WE CAN
20 GO AHEAD AND GET THE COPIES DONE BEFORE WE REALLY GET
21 INTO THE PROCESS.

22 *THE CLERK:* AND IF YOU WILL CONSIDER, JUDGE, THE
23 ONES WITH THE KIDS, BECAUSE I ALREADY KNOW -- I KNOW
24 WHAT THEY DO. THEY'RE GOING TO BRING THE KIDS UP
25 WITH THEM. AND IF WE DON'T GET THEM OUT OF THE WAY

1 OFF THE BAT...

2 THE COURT: WELL, I'M GOING TO -- THAT FIRST
3 PART OF JURY QUALIFICATION, EXCEPTIONS AND
4 QUALIFICATIONS. SO WE'LL DEAL WITH THAT.

5 MR. HUMPHRIES: IS THE COURTROOM GOING TO BE
6 SECURE OVER THE EVENING?

7 THE CLERK: YEAH.

8 MR. HUMPHRIES: I WAS GOING TO LEAVE SOME STUFF.

9 THE COURT: THEY ARE SEARCHING IT EVERY MORNING
10 WITH THE BOMB DOG. THEY'RE SEARCHING THE COURTHOUSE
11 EVERY MORNING WITH THE BOMB DOG AND AT OTHER
12 INTERVALS TO MAKE SURE THAT EVERYTHING IS SAFE AND AS
13 IT SHOULD.

14 THEN I'LL CHAT WITH Y'ALL IN JUST A SECOND, AND
15 THEN WHAT I'M GOING TO DO...

16 (OFF THE RECORD DISCUSSION WAS HAD.)

17 (WHEREUPON COURT WAS IN RECESS FOR THE EVENING.)

18 **** AUGUST 1, 2006 ****

19 THE COURT: LADIES AND GENTLEMEN, WE APPRECIATE
20 YOUR PATIENCE. WE KNOW THERE HAS BEEN SOME DELAY. I
21 UNDERSTAND WITH THE ADDITIONAL NOW PEOPLE PRESENT IN
22 THE DOWNTOWN AREA THERE WAS SOME DELAY IN GETTING --
23 SOME OF YOUR MEMBERS GETTING LUNCH, AND SO WE ARE
24 WAITING FOR EVERYONE TO RETURN FROM THE LUNCHEON
25 RECESS BECAUSE I COULD NOT HAVE ANYONE ABSENT FOR THE

VOLUME THREE OF EIGHT

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN C. STANKO,

APPELLANT

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN) COURT OF GENERAL SESSIONS
2005-GS-22-918

STATE OF S.C.,)
PLAINTIFF)
VS.) TRANSCRIPT OF RECORD
STEPHEN STANKO,)
DEFENDANT)

AUGUST 7-11, 2006
GEORGETOWN, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE; AND A
JURY.

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

GREG HEMBREE, SOLICITOR
FRAN HUMPHRIES, ASST. SOLICITOR
ATTORNEYS FOR THE PLAINTIFF

GERALD KELLY, ESQUIRE
BILL DIGGS, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

KATHLEEN RICHARDSON, RPR, CRR
OFFICIAL COURT REPORTER

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1 (AUGUST 7, 2006.)

2 THE COURT: I NEED TO INQUIRE BEFORE WE BEGIN
3 THE STRIKE PROCESS AND BEFORE THE SOLICITOR BEGINS
4 THE CALL OF THIS CASE, I NEED TO MAKE AN INQUIRY AND
5 ASK IF THERE HAS BEEN A CHANGE IN -- ANY CHANGE IN
6 THE ABILITY OF ANY JUROR TO SERVE. AND IF SO, I
7 WOULD ASK THAT YOU STAND AT THIS TIME.

8 LET THE RECORD REFLECT THAT THERE HAS BEEN NO
9 RESPONSE TO THE QUESTION. MR. SOLICITOR, YOU MAY
10 PROCEED.

11 MR. HEMBREE: THANK YOU, YOUR HONOR. MAY IT
12 PLEASE THE COURT. I NOW CALL THE CASE OF THE STATE
13 OF SOUTH CAROLINA VERSUS STEPHEN C STANKO. THIS
14 CHARGE COMES TO THE COURT BY WAY OF INDICTMENT NUMBER
15 2005-GS-22-918.

16 THIS IS A SIX COUNT INDICTMENT. COUNT ONE,
17 MURDER. COUNT TWO, ASSAULT AND BATTERY WITH INTENT
18 TO KILL. COUNT THREE, CRIMINAL SEXUAL CONDUCT IN THE
19 FIRST DEGREE. COUNT FOUR, KIDNAPPING. COUNT FIVE,
20 KIDNAPPING. AND COUNT SIX, ARMED ROBBERY.

21 THIS INDICTMENT WAS PRESENTED TO THE GEORGETOWN
22 COUNTY GRAND JURY ON AUGUST 24TH OF 2005. IT
23 INDICATES THAT IT HAS BEEN TRUE BILLED BY THE FOREMAN
24 OF THE GRAND JURY.

25 YOUR HONOR, LET THE RECORD REFLECT THAT I AM NOW

1 HANDING THE ORIGINAL INDICTMENT TO THE CLERK OF
2 COURT.

3 THE COURT: LET THE RECORD SO INDICATE.

4 MR. HEMBREE: YOUR HONOR, THE DEFENDANT HAS BEEN
5 ARRAIGNED ON THESE CHARGES AND HE HAS INDICATED THAT
6 HE HAS PLED NOT GUILTY.

7 THE COURT: LADIES AND GENTLEMEN, WE WILL NOW
8 BEGIN THE PROCESS OF WHAT WE COMMONLY REFER TO AS
9 STRIKING THE JURY PANEL. AS YOUR NAME IS CALLED, I
10 WOULD NEED YOU TO COME FORWARD THROUGH THE CENTER
11 DOOR AND COME -- IT'S HARD FOR ME TO SEE WHAT IS
12 EXACTLY IN FRONT -- IF YOU COULD -- ACTUALLY I'M
13 GOING TO HAVE ONE OF THE BAILIFFS DEMONSTRATE FOR
14 ME -- I WILL HAVE MRS. ALMA DEMONSTRATE FOR ME WHAT
15 YOU NEED TO DO.

16 YOU NEED TO COME FORWARD, STAND WHERE SHE IS
17 STANDING, AND FACE BACK OUT TOWARD YOUR FELLOW
18 JURORS.

19 EACH SIDE, MEANING THE STATE AND THE DEFENSE,
20 HAS BY STATE LAW A CERTAIN NUMBER OF PREEMPTORY
21 STRIKES THAT THEY MAY USE IN THE SELECTION OF THE
22 JURY. WE WOULD ASK THAT YOU GIVE US YOUR PATIENCE AS
23 WE GO THROUGH THIS PROCESS. MADAM CLERK, YOU MAY
24 PROCEED.

25 THE CLERK: JUROR NUMBER 185, MICHAEL KEOUGH,

1 JUNIOR (WHITE MALE). WHAT SAYS THE STATE?

2 MR. HEMBREE: PLEASE PRESENT MR. KEOUGH.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MR. DIGGS: SWEAR THE JUROR.

5 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.

6 JUROR NUMBER 112, CHERYL GAUSE (WHITE FEMALE). WHAT
7 SAYS THE STATE?

8 MR. HEMBREE: PLEASE PRESENT MRS. GAUSE.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MR. DIGGS: YOUR HONOR, WE WOULD EXCUSE HER FROM
11 THE JURY IN THE TRIAL OF THIS CASE.

12 THE CLERK: YOU MAY RETURN TO YOUR SEAT.

13 THE COURT: MA'AM, YOU'RE EXCUSED WITH THE
14 COURT'S THANKS.

15 THE CLERK: JUROR NUMBER 191, MABLE LAMBERT
16 (WHITE FEMALE). WHAT SAYS THE STATE?

17 MR. HEMBREE: PLEASE PRESENT MRS. LAMBERT.

18 THE CLERK: WHAT SAYS THE DEFENSE?

19 MR. DIGGS: WE WOULD EXCUSE THE JUROR FROM THE
20 TRIAL OF THIS CASE.

21 THE COURT: AND THE STRIKES ARE 10 AND FIVE. I
22 APOLOGIZE FOR NEGLECTING TO SAY THAT FOR THE RECORD.

23 THE CLERK: JUROR NUMBER 161, DONALD HORTON
24 (WHITE MALE). WHAT SAYS THE STATE?

25 MR. HEMBREE: PLEASE PRESENT MR. HORTON.

1 THE CLERK: WHAT SAYS THE DEFENSE?

2 MR. DIGGS: SWEAR THE JUROR.

3 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
4 JUROR NUMBER 343, STEPHEN WALTERS (WHITE MALE). WHAT
5 SAYS THE STATE?

6 MR. HEMBREE: PLEASE PRESENT MR. WALTERS.

7 THE CLERK: WHAT SAYS THE DEFENSE?

8 MR. DIGGS: SWEAR THE JUROR.

9 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
10 JUROR NUMBER 84, DAVID DUBOIS (WHITE MALE). WHAT
11 SAYS THE STATE?

12 MR. HEMBREE: PLEASE PRESENT MR. DUBOIS.

13 THE CLERK: WHAT SAYS THE DEFENSE?

14 MR. DIGGS: SWEAR THE JUROR.

15 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
16 JUROR NUMBER 24, BARNEY BLAIN, JUNIOR (BLACK MALE).
17 WHAT SAYS THE STATE?

18 MR. HEMBREE: PLEASE PRESENT MR. BLAIN.

19 THE CLERK: WHAT SAYS THE DEFENSE?

20 MR. DIGGS: SWEAR THE JUROR.

21 THE CLERK: PLEASE TAKE YOUR SEAT IN THE JURY
22 BOX. JUROR NUMBER 363, PATRICIA WOFFORD (WHITE
23 FEMALE). WHAT SAYS THE STATE?

24 MR. HEMBREE: PLEASE PRESENT MRS. WOFFORD.

25 THE CLERK: WHAT SAYS THE DEFENSE?

1 MR. DIGGS: SWEAR THE JUROR.

2 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
3 JUROR NUMBER 379, KAREN HILLS (WHITE FEMALE). WHAT
4 SAYS THE STATE?

5 MR. HEMBREE: PLEASE EXCUSE MRS. HILLS FROM THE
6 TRIAL OF THIS CASE.

7 THE CLERK: JUROR NUMBER 202, TIMOTHY LEONARD
8 (WHITE MALE). WHAT SAYS THE STATE?

9 MR. HEMBREE: PLEASE PRESENT MR. LEONARD.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MR. DIGGS: PLEASE EXCUSE MR. LEONARD FROM THE
12 TRIAL OF THIS CASE.

13 THE CLERK: JUROR NUMBER 368, CARROL BAKER,
14 JUNIOR (WHITE MALE). WHAT SAYS THE STATE?

15 MR. HEMBREE: PLEASE PRESENT MR. BAKER.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MR. DIGGS: PLEASE SWEAR THE JUROR.

18 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
19 JUROR NUMBER 374, REBECCA FUENER (WHITE FEMALE).

20 WHAT SAYS THE STATE?

21 MR. HEMBREE: PLEASE EXCUSE MRS. FUENER FROM THE
22 TRIAL OF THIS CASE.

23 THE CLERK: JUROR NUMBER 52, TONRANGELLA COLE
24 (BLACK FEMALE).. WHAT SAYS THE STATE?

25 MR. HEMBREE: PLEASE PRESENT MRS. COLE.

1 THE CLERK: WHAT SAYS THE DEFENSE?

2 MR. DIGGS: SWEAR THE JUROR.

3 THE CLERK: PLEASE TAKE A SEAT IN THE JURY BOX.
4 JUROR NUMBER 387, ROBERT LUMPKIN, THE THIRD (WHITE
5 MALE). WHAT SAYS THE STATE?

6 MR. HEMBREE: PLEASE EXCUSE MR. LUMPKIN FROM THE
7 TRIAL OF THIS CASE.

8 THE CLERK: JUROR NUMBER 361, ELLEN WINNS (BLACK
9 FEMALE). WHAT SAYS THE STATE?

10 MR. HEMBREE: PLEASE EXCUSE MRS. WINNS FROM THE
11 TRIAL OF THIS CASE.

12 THE CLERK: JUROR NUMBER 389, PHILLIP MCCRAY
13 (BLACK MALE). WHAT SAYS THE STATE?

14 MR. HEMBREE: PLEASE PRESENT MR. MCCRAY.

15 THE CLERK: WHAT SAYS THE DEFENSE?

16 MR. DIGGS: WE'LL EXCUSE THE JUROR FROM THE
17 TRIAL OF THIS CASE.

18 THE CLERK: JUROR NUMBER 378, JOSEPH C HINSON
19 (WHITE MALE). WHAT SAYS THE STATE?

20 MR. HEMBREE: PLEASE PRESENT MR. HINSON.

21 THE CLERK: WHAT SAYS THE DEFENSE?

22 MR. DIGGS: PLEASE PRESENT THE JUROR OR SWEAR
23 THE JUROR.

24 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR
25 NUMBER 276, SARAH ROBERTS (WHITE FEMALE). WHAT SAYS

1 THE STATE?

2 MR. HEMBREE: PLEASE PRESENT MRS. ROBERTS.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MR. DIGGS: EXCUSE THE JUROR FROM THE TRIAL OF
5 THIS CASE.

6 THE CLERK: JUROR NUMBER 167, RYAN IZZARD (BLACK
7 MALE). WHAT SAYS THE STATE?

8 MR. HEMBREE: PLEASE PRESENT MR. IZZARD.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MR. DIGGS: SWEAR THE JUROR.

11 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR
12 NUMBER 43, CAROLYN CANNON (WHITE FEMALE). WHAT SAYS
13 THE STATE?

14 MR. HEMBREE: PLEASE PRESENT MRS. CANNON.

15 THE CLERK: WHAT SAYS THE DEFENSE?

16 MR. DIGGS: PLEASE EXCUSE THE JUROR FROM THE
17 TRIAL OF THIS CASE.

18 THE CLERK: JUROR NUMBER 82, LARRY DRAKE (BLACK
19 MALE). COME BACK TOWARD THE BAR, PLEASE. WHAT SAYS
20 THE STATE?

21 MR. HEMBREE: PLEASE PRESENT MR. DRAKE.

22 THE CLERK: WHAT SAYS THE DEFENSE?

23 MR. DIGGS: SWEAR THE JUROR.

24 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR
25 NUMBER 105, ANTHONY FRYE (WHITE MALE). WHAT SAYS THE

1 STATE?

2 MR. HEMBREE: PLEASE PRESENT MR. FRYE.

3 THE CLERK: WHAT SAYS THE DEFENSE?

4 MR. DIGGS: EXCUSE THE JUROR FROM THE TRIAL OF
5 THIS CASE.

6 THE CLERK: JUROR NUMBER 187, RICHANDA KNOWLIN
7 (BLACK FEMALE). WHAT SAYS THE STATE?

8 MR. HEMBREE: PLEASE PRESENT MRS. KNOWLIN.

9 THE CLERK: WHAT SAYS THE DEFENSE?

10 MR. DIGGS: SWEAR THE JUROR.

11 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR
12 NUMBER 31.

13 THE COURT: WAIT... NOW STRIKING FOR
14 ALTERNATES. THE STRIKES ARE TWO AND ONE. WE'LL BE
15 SELECTING THREE ALTERNATES. IS THAT EVERYONE'S
16 CORRECT CALCULATION FOR THE STATE? FROM THE DEFENSE?

17 MR. HEMBREE: YES, YOUR HONOR.

18 MR. DIGGS: YES, MA'AM.

19 THE COURT: MADAM CLERK, YOU MAY CONTINUE.

20 THE CLERK: ANDREW BREWINGTON, JUNIOR (BLACK
21 MALE.) WHAT SAYS THE STATE?

22 MR. HEMBREE: PLEASE PRESENT MR. BREWINGTON.

23 THE CLERK: WHAT SAYS THE DEFENSE?

24 MR. DIGGS: SWEAR THE JUROR.

25 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR

1 NUMBER 294, JOHN SHUTEY, JUNIOR (WHITE MALE.) WHAT
2 SAYS THE STATE?

3 MR. HEMBREE: PLEASE PRESENT MR. SHUTEY.

4 THE CLERK: WHAT SAYS THE DEFENSE?

5 MR. DIGGS: WE WOULD EXCUSE THE JUROR FROM THE
6 TRIAL OF THIS CASE.

7 THE CLERK: JUROR NUMBER 213, TYRONE MAYERS
8 (BLACK MALE). WHAT SAYS THE STATE?

9 MR. HEMBREE: PLEASE PRESENT MR. MAYERS.

10 THE CLERK: WHAT SAYS THE DEFENSE?

11 MR. DIGGS: PLEASE SWEAR THE JUROR.

12 THE CLERK: TAKE A SEAT IN THE JURY BOX. JUROR
13 NUMBER 136, KARIN HARPER (WHITE FEMALE.) WHAT SAYS
14 THE STATE?

15 MR. HEMBREE: PLEASE PRESENT MRS. HARPER.

16 THE CLERK: WHAT SAYS THE DEFENSE?

17 MR. DIGGS: SWEAR THE JUROR.

18 THE CLERK: TAKE A SEAT IN THE JURY BOX.

19 THE COURT: ANY MOTIONS REGARDING THE SELECTION
20 OF THE JURY FROM THE STATE?

21 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

22 THE COURT: FROM THE DEFENSE?

23 MR. DIGGS: NO, YOUR HONOR.

24 (REMAINING JURY PANEL EXCUSED.)

25 THE COURT: LADIES AND GENTLEMEN, IF YOU WOULD

1 BEAR WITH US JUST ONE MOMENT. COUNSEL, APPROACH FOR
2 ME.

3 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

4 THE COURT: LADIES AND GENTLEMEN, IF YOU WOULD
5 RAISE YOUR RIGHT HANDS FOR ME. DO EACH OF YOU SWEAR
6 THAT YOU WILL KEEP THE JURY IN THE APPOINTED HOUSING,
7 THAT YOU WILL ALLOW NO PERSON TO SPEAK TO THEM
8 WITHOUT LEGAL REPORT, THAT YOU WILL NOT SPEAK TO THEM
9 REGARDING THIS CASE NOR PERMIT THEM TO SPEAK WITH
10 ANOTHER ABOUT THIS CASE, THAT YOU WILL PRESENT THEM
11 AT THIS COURT AT THE APPOINTED TIMES AND SEE TO THEIR
12 CARE AND SAFETY WHILE THEY'RE IN YOUR CHARGE SO HELP
13 YOU GOD.

14 Y'ALL BEAR WITH ME ONE MOMENT.

15 LADIES AND GENTLEMEN, IF YOU WOULD STAND AND
16 RAISE YOUR RIGHT HANDS AND BE SWORN BY THE CLERK.

17 (WHEREUPON THE JURY WAS SWORN.) .

18 THE COURT: AND LADIES AND GENTLEMEN, I'M GOING
19 TO INTRODUCE YOU TO YOUR CUSTODIANS. THESE ARE SLED
20 AGENTS. AND FOR THOSE OF YOU WHO DO NOT KNOW WHAT
21 THAT MEANS, THAT'S SOUTH CAROLINA LAW ENFORCEMENT
22 DIVISION.

23 I HAVE JUST SWORN THEM TO TAKE CHARGE OF YOU AND
24 TO PROVIDE FOR YOUR SAFETY AS WELL AS YOUR OTHER
25 SCHEDULING MATTERS. IN OTHER WORDS, GETTING TO AND

1 FROM COURT AND OTHERWISE.

2 THEY ARE MR. RICK MCLEOD, WHO IS CLOSEST TO THE
3 JURY BOX, MR. BUCK POPWELL, MR. FRANK THOMAS, MR.
4 REED LONG, IS IN THE BACK, AND MRS. BLANCH MCFADDEN.
5 THANK YOU ALL VERY MUCH.

6 LADIES AND GENTLEMEN, YOU ALL -- I AM GOING TO
7 GIVE YOU A VERY BRIEF RECESS IN THE EVENT ANY OF YOU
8 NEED TO MAKE PHONECALLS TO MAKE ARRANGEMENTS OR
9 OTHERWISE OR IN THE -- OR IF YOU NEED TO LET YOUR
10 EMPLOYER KNOW OR LET YOUR FAMILY KNOW. OF COURSE,
11 ALL OF YOUR PHONECALLS WILL BE OBSERVED.

12 ALSO I'M GIVING YOU THIS BREAK TO NAME YOUR
13 FOREPERSON. YOUR FOREPERSON IS YOUR SPOKESPERSON
14 HERE IN THE COURTROOM. IT IS AN ADMINISTRATIVE
15 FUNCTION.

16 THEY HAVE NO GREATER VOTE OR VOICE THAN YOU DO.
17 THEY SIMPLY PRESIDE DURING JURY DELIBERATIONS. AND
18 DURING JURY DELIBERATIONS THEY COMMUNICATE WITH THE
19 COURT ON THE JURY'S BEHALF.

20 AGAIN, THEY HAVE NO GREATER VOTE OR VOICE THAN
21 YOU DO. IT IS SIMPLY AN ADMINISTRATIVE FUNCTION.
22 AND THEY ALSO TO SOME EXTENT FILL OUT THE VERDICT
23 FORMS. OKAY?

24 I'M GOING TO ASK THAT YOU ALSO DURING THIS BREAK
25 PLEASE DO NOT HAVE ANY DISCUSSION ABOUT THIS CASE.

1 PLEASE DO NOT SPECULATE ABOUT WHAT YOU THINK IT COULD
2 BE ABOUT OR MAY BE ABOUT. ANY DISCUSSIONS YOU HAVE
3 SHOULD IN NO WAY BEAR ON ANY ISSUE OR MATTER THAT
4 COULD OR MAY BE INVOLVED IN THE TRIAL OF THIS CASE.

5 OKAY? IF YOU WOULD GO WITH THE BAILIFFS, THEY
6 WILL SHOW YOU TO YOUR JURY ROOM. ONCE YOU HAVE
7 ELECTED YOUR FOREPERSON -- AND I APOLOGIZE, I
8 NEGLECTED TO SAY THIS.

9 ONCE YOU HAVE ELECTED YOUR FOREPERSON, PLEASE
10 WRITE THAT PERSON'S NAME AND NUMBER DOWN ON THE PAD
11 THAT WILL BE PROVIDED FOR YOU IN THE JURY ROOM. THE
12 ALTERNATES ARE ALLOWED TO OBSERVE IN THAT PROCESS,
13 BUT THEY ARE NOT ALLOWED TO VOTE.

14 (JURY LEFT THE COURTROOM AT 10:49 AM.)

15 *THE COURT:* YOU MAY BE SEATED. AS I INDICATED,
16 WE'LL TAKE A SHORT BREAK. YOU ALL CAN -- AND I'M
17 ALSO GOING TO BE GIVING THE JURY AN OPPORTUNITY TO
18 TAKE NOTES, SO I ASSUME THE CLERK'S OFFICE WILL HAVE
19 SOME PADS AND PENCILS AND OTHERWISE FOR THEM. AND I
20 ASSUME THERE IS NO EXCEPTION TO THAT.

21 *MR. HEMBREE:* NONE FROM THE STATE, YOUR HONOR.

22 *MR. DIGGS:* NO.

23 *THE COURT:* I WILL GIVE THEM INSTRUCTIONS ABOUT
24 NOTE-TAKING WHICH IN A NUTSHELL BASICALLY TELLS THEM,
25 DON'T ALLOW IT TO BECOME A DISTRACTION, ET CETERA, ET

1 CETERA. OKAY. AND THAT THEY CAN'T BE SHARED WITH
2 ANYONE, THE USUAL BOILER-PLATE LANGUAGE.

3 IF YOU ALL COULD GO AHEAD DURING THIS BREAK AND
4 HAVE YOUR EXHIBITS PRE-MARKED TO THE EXTENT THAT
5 YOU'RE ABLE. ALSO GO AHEAD AND REFRESH YOURSELVES.

6 I ANTICIPATE THAT WHEN WE RETURN I WILL GIVE THE
7 JURY MY OPENING INSTRUCTIONS AND THEN WE'LL BEGIN
8 WITH OPENING ARGUMENTS. OKAY? WE'LL BE AT EASE.

9 (WHEREUPON A RECESS WAS TAKEN.)

10 (WHEREUPON, STATE'S EXHIBITS NOS. 1-6 WERE
11 MARKED FOR IDENTIFICATION ONLY.)

12 (WHEREUPON, STATE'S EXHIBIT NO. 7 WAS MARKED FOR
13 IDENTIFICATION ONLY.)

14 (WHEREUPON, STATE'S EXHIBIT NO. 8 WAS MARKED FOR
15 IDENTIFICATION ONLY.)

16 THE COURT: DID YOU ALL HAVE A FULL OPPORTUNITY
17 TO GET YOUR EXHIBITS MARKED?

18 MR. HEMBREE: YES, YOUR HONOR. WE HAVE MARKED
19 ALL THE EXHIBITS WE WILL NEED BEFORE THE LUNCHTIME
20 BREAK. WANT TO ALSO NOTE FOR THE RECORD THAT THOSE
21 EXHIBITS -- STATE'S ONE THROUGH EIGHT HAVE BEEN
22 ENTERED WITHOUT OBJECTION.

23 THE COURT: REPEAT THAT FOR ME ONE MORE TIME.

24 MR. HEMBREE: THAT EXHIBITS -- STATE'S EXHIBITS
25 ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, AND EIGHT

1 HAVE BEEN ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

2 THE COURT: IS THAT CORRECT?

3 MR. DIGGS: CORRECT, YOUR HONOR.

4 (WHEREUPON, STATE'S EXHIBITS 1-8 WERE ADMITTED
5 INTO EVIDENCE.)

6 THE COURT: I HAVE HAD THE CLERK TO PROVIDE A
7 NOTEPAD AS WELL AS A PEN FOR EACH JUROR AS SEATED IN
8 THEIR SEATS SO THAT WHEN THEY RETURN TO THE COURTROOM
9 THEY WILL HAVE THAT AVAILABLE TO THEM. AND IF YOU
10 ALL COULD BEAR WITH ME ONE MOMENT.

11 AS YOU ALL KNOW, I'M THE CHIEF ADMINISTRATIVE
12 JUDGE IN CHARLESTON, AND I JUST GOT A NOTE FROM MY
13 SECRETARY THAT SHE HAS AN URGENT QUESTION TO ASK ME.
14 SO THAT WE WON'T HAVE TO BE INTERRUPTED ANY FURTHER,
15 I'M GOING TO TAKE CARE OF THAT, THEN WE'LL GET
16 STARTED.

17 HAS THE JURY ALREADY ELECTED THEIR FOREPERSON?
18 HAS THE JURY ELECTED THEIR FOREPERSON? I ASSUME THEY
19 NEED THAT TO -- ADVISE THEM TO KNOCK ON THE DOOR AND
20 ADVISE US OF THAT. THEY ARE STILL MAKING PHONECALLS?
21 SO THEY HAVEN'T ELECTED THEIR FOREPERSON?

22 BAILIFF: THEY'RE STILL MAKING PHONECALLS.

23 THE CLERK: I WILL TAKE CARE OF IT, YOUR HONOR.

24 THE COURT: ALL RIGHT. WELL, WE NEED TO BE AT
25 EASE FOR A FEW MORE MOMENTS. IN ANY EVENT, THE JURY

1 IS STILL ADVISING THEIR FAMILIES. WE WILL BE AT EASE
2 FOR A FEW MORE MOMENTS.

3 (WHEREUPON A RECESS WAS HAD.)

4 THE COURT: THE JURY HAS ELECTED MRS. WOFFORD,
5 NUMBER 363, AS THEIR FOREPERSON. WE WILL HAVE THEIR
6 NOTE MARKED AS A COURT'S EXHIBIT. AND I HAVE BEEN
7 ADVISED THE JURY HAS NOW COMPLETED ALL OF THEIR
8 PHONECALLS TO BOTH THEIR FAMILIES AND TO THEIR
9 EMPLOYERS.

10 AS JUST BY WAY OF PRELIMINARY INSTRUCTION, I
11 WOULD ASK THAT ANYONE WHO HAS CELLPHONES, THAT THEY
12 PLACE THEM IN THE OFF POSITION. IF THEY GO OFF
13 DURING THE PROCEEDINGS, THEY WILL BE CONFISCATED BY
14 THE SHERIFF'S DEPARTMENT, AND THAT IS BY ORDER OF THE
15 CHIEF JUSTICE.

16 I KNOW THAT PEOPLE FORGET AND THING GOES OFF,
17 BUT IT IS EXTREMELY DISRUPTIVE WHEN CELLPHONES OR
18 OTHER ELECTRONIC DEVICES GO OFF DURING THE COURT
19 PROCEEDINGS.

20 ALSO I WOULD ASK AND I AM SURE THAT THE DEPUTIES
21 PROBABLY HAVE ALREADY TO SOME EXTENT INSURED THIS,
22 BUT IT IS EXTREMELY DISTRACTING WHEN WE HAVE MOVEMENT
23 IN THE COURT ESPECIALLY DURING ARGUMENTS AND DURING
24 COURT'S INSTRUCTIONS.

25 WHENEVER THE COURT IS SPEAKING, I DO NOT EXPECT

1 THERE TO BE ANY MOVEMENT IN THE COURTROOM EXCEPT BY
2 SECURITY PERSONNEL AND THE BAILIFFS OR THE CLERK'S
3 STAFF, AND I ASSUME THAT THAT WOULD ALSO BE MINIMAL.

4 AND I ALSO WOULD EXPECT THE SAME WHEN COUNSEL
5 ARE GIVING OPENING AND CLOSING ARGUMENTS BECAUSE IT,
6 YOU KNOW, WE'RE USED TO IT SO WE CAN TUNE IT OUT AND
7 IGNORE IT.

8 HOWEVER, IT IS VERY DISRUPTIVE TO THE JURY
9 BECAUSE THEY TEND TO PAY ATTENTION TO THE MOVEMENT
10 AND NOT TO THE INSTRUCTIONS OR TO THE ARGUMENT THAT
11 IS BEING GIVEN. AND QUITE FRANKLY, I THINK IT'S
12 EXTREMELY RUDE TO THEM.

13 I CAN TOLERATE IT PROBABLY A WHOLE LOT, BECAUSE
14 IT REALLY DOESN'T BOTHER ME, BUT I THINK IT'S
15 EXTREMELY DISRUPTIVE AND RUDE TO THE JURY, SO I WOULD
16 ASK THAT EVERYONE ABIDE BY THAT. OKAY. IS THE STATE
17 READY TO PROCEED?

18 MR. HEMBREE: STATE'S READY TO PROCEED, YOUR
19 HONOR.

20 THE COURT: IS THE DEFENSE READY TO PROCEED?

21 MR. DIGGS: YES, YOUR HONOR.

22 THE COURT: IF YOU COULD BRING IN THE JURY.

23 (JURY ENTERED THE COURTROOM AT 11:40 AM.)

24 THE COURT: YOU ALL MAY BE SEATED. LADIES AND
25 GENTLEMEN, WHAT I AM ABOUT TO SAY TO YOU IS BY WAY OF

1 PRELIMINARY INSTRUCTION SO THAT YOU WILL KNOW -- AND
2 ACTUALLY THE FOREPERSON SHOULD ALWAYS BE SEATED IN
3 THIS FIRST SEAT.

4 SO MRS. WOFFORD, IF YOU WOULD SWITCH. YOU'RE
5 THE ONLY PERSON THAT HAS TO SIT IN THE SAME PLACE
6 DURING THE ENTIRE TRIAL. THANK YOU ALL FOR
7 ACCOMMODATING THE COURT.

8 WHAT I AM -- WHAT I AM GOING TO SAY TO YOU IS
9 INTENDED TO BE PRELIMINARY INSTRUCTIONS SO THAT YOU
10 ALL WILL KNOW HOW WE WILL BE PROCEEDING IN THIS CASE
11 BECAUSE, OF COURSE, WE ALL KNOW THE PROCEDURAL POINTS
12 AND YOU DO NOT, SO HOPEFULLY THIS WILL FAMILIARIZE
13 YOU AS TO HOW WE WILL BE PROCEEDING IN THE TRIAL OF
14 THIS CASE.

15 UNDER THE LAW OF SOUTH CAROLINA WHERE THE STATE
16 SEEKS THE DEATH PENALTY, AS IT DOES HERE, THEN THE
17 TRIAL IS A BIFURCATED ONE. THAT IS, IT IS A TRIAL
18 WHICH IS HELD IN TWO PARTS.

19 FIRST A TRIAL IS HELD BEFORE A JURY TO DETERMINE
20 THE GUILT OR INNOCENCE OF THE DEFENDANT. THAT IS THE
21 PHASE OF THE TRIAL WE ARE PRESENTLY HOLDING.

22 AT THE CONCLUSION OF THE FIRST TRIAL, SHOULD THE
23 VERDICT OF THE JURY BE GUILTY -- AND I MAKE NO
24 RECOMMENDATION TO YOU CONCERNING THE VERDICT -- IF
25 THE DEFENDANT IS CONVICTED OF THE CRIME OF MURDER,

1 THEN A SECOND PROCEEDING WILL BE HELD.

2 THIS SECOND PROCEEDING IS A SENTENCING
3 PROCEEDING AT WHICH EXTENUATING, AGGRAVATING, AND
4 MITIGATING CIRCUMSTANCES MAY BE INTRODUCED INTO
5 EVIDENCE AND CONSIDERED BY YOU, THE JURY. SHOULD
6 SUCH A PROCEEDING BE NECESSARY, I WILL FURTHER
7 INSTRUCT YOU AT THE APPROPRIATE TIME.

8 PLEASE DERIVE NO INFERENCE FROM WHAT I HAVE JUST
9 TOLD YOU AS TO WHAT YOUR VERDICT SHOULD BE. THE
10 PURPOSE OF MY TELLING YOU THIS IS TO EMPHASIZE THAT
11 YOU ARE NOT TO CONSIDER PUNISHMENT OR SENTENCE IN
12 THIS PHASE OF THE CASE.

13 YOU ARE ONLY TO DETERMINE THE INNOCENCE OR GUILT
14 OF THE DEFENDANT BASED UPON THE EVIDENCE THAT HAS
15 BEEN INTRODUCED -- THAT WILL BE INTRODUCED IN THE
16 TRIAL OF THIS CASE.

17 MADAM FORELADY AND LADIES AND GENTLEMEN OF THE
18 JURY, THE CASE THAT WE'RE ABOUT TO TRY IS THE CASE OF
19 THE STATE OF SOUTH CAROLINA VERSUS STEPHEN
20 CHRISTOPHER STANKO, THE DEFENDANT.

21 THE DEFENDANT IS CHARGED BY AN INDICTMENT FILED
22 IN THIS COURT WITH THE CRIMES OF MURDER, ASSAULT AND
23 BATTERY WITH INTENT TO KILL, CRIMINAL SEXUAL CONDUCT
24 IN THE FIRST DEGREE, TWO COUNTS OF KIDNAPPING, AND
25 ARMED ROBBERY, THE ELEMENTS OF WHICH WILL BE

1 EXPLAINED TO YOU LATER AT THE CONCLUSION OF THE --
2 ALL OF THE EVIDENCE AND THE ARGUMENTS OF COUNSEL.

3 SHOULD YOU UNDERSTAND -- YOU SHOULD UNDERSTAND
4 THAT THE INDICTMENT IS SIMPLY THE CHARGE BY WHICH
5 THIS CASE IS BROUGHT INTO COURT AND IT IS NOT IN ANY
6 SENSE EVIDENCE OF ANY OF THE ALLEGATIONS IT CONTAINS.

7 THE DEFENDANT HAS PLED NOT GUILTY TO THE
8 INDICTMENT. THE STATE THEREFORE HAS THE BURDEN OF
9 PROVING EACH OF THE ESSENTIAL ELEMENTS OF THE
10 INDICTMENT BEYOND A REASONABLE DOUBT. AND IT WILL BE
11 YOUR DUTY, LADIES AND GENTLEMEN, TO DECIDE WHETHER
12 THE STATE HAS MET THAT BURDEN OR NOT.

13 IT IS YOUR SOLEMN RESPONSIBILITY TO DETERMINE
14 THE GUILT OR INNOCENCE OF THE DEFENDANT. AND YOUR
15 VERDICT MUST BE BASED SOLELY ON THE EVIDENCE AS IT IS
16 PRESENTED TO YOU IN THIS TRIAL AND ON THE LAW AS I
17 WILL INSTRUCT YOU DURING AND AT THE CLOSE OF THIS
18 TRIAL.

19 IN JUST A MOMENT THE SOLICITOR WILL MAKE WHAT IS
20 CALLED HIS OPENING STATEMENT IN WHICH HE WILL EXPLAIN
21 TO YOU THE ISSUES IN THIS CASE OR AT LEAST WHAT HE
22 CONTENDS TO BE THE ISSUES IN THIS CASE.

23 AND IF THE ATTORNEY FOR THE DEFENDANT WISHES --
24 THE DEFENDANT -- WISHES TO DO SO, THEY MAY ALSO MAKE
25 AN OPENING STATEMENT, ALTHOUGH THEY ARE NOT REQUIRED

1 TO DO SO.

2 WHAT THE ATTORNEYS WILL TELL YOU AT THIS TIME IS
3 NOT EVIDENCE IN THIS CASE. IT IS ONLY THEIR
4 CONTENTION AS TO WHAT THEY BELIEVE THE ISSUES TO BE.
5 THE EVIDENCE IN THIS CASE WILL BE PRESENTED TO YOU BY
6 THE TESTIMONY OF SWORN WITNESSES FROM THE WITNESS
7 STAND AND OR BY EXHIBITS AS MAY BE INTRODUCED INTO
8 EVIDENCE.

9 NOW, IN THE CONSIDERATION OF EVIDENCE YOU SHOULD
10 REMEMBER THAT UNDER THE CONSTITUTION OF THE STATE OF
11 SOUTH CAROLINA YOU 12 JURORS ALONE ARE THE SOLE
12 JUDGES OF THE FACTS IN THIS CASE. AND THE SAME LAW
13 THAT MAKES YOU THE JUDGES OF THE FACTS MAKE ME THE
14 JUDGE OF THE LAW.

15 I CANNOT INVADE YOUR PROVINCE AND TELL YOU WHAT
16 THE FACTS ARE AND YOU SHOULD NOT INVADE MY PROVINCE
17 AND DIFFER WITH ME ABOUT WHAT THE LAW IS.

18 YOUR JOB IS TO TAKE THE LAW AS I GIVE IT TO YOU
19 AND TO APPLY IT TO THE FACTS AS YOU FIND THEM FROM
20 THE WITNESSES THAT TESTIFY FROM THE WITNESS STAND AND
21 ANY EXHIBITS THAT MAY BE INTRODUCED INTO EVIDENCE.

22 AND AFTER DOING THAT, YOU WILL RENDER YOUR
23 VERDICT, A TRUE AND JUST VERDICT UNDER THE SOLEMN
24 OATH THAT YOU HAVE JUST TAKEN AS JURORS IN THIS CASE.

25 NOW FROM TIME TO TIME YOU MAY HEAR THE LAWYERS

1 IN THIS CASE SAY SOMETHING LIKE, YOUR HONOR, I HAVE
2 AN OBJECTION. JUST AS IN SPORTS, BUSINESS, OR ANY
3 OTHER STRUCTURED ACTIVITY, THERE ARE PROCEDURAL RULES
4 AND EVIDENTIARY RULES THAT WE MUST FOLLOW. THEY
5 ENSURE THAT YOU RECEIVE THE MOST TRUSTWORTHY EVIDENCE
6 AVAILABLE.

7 A PROCEDURE -- AN OBJECTION IS THE PROCEDURE BY
8 WHICH AN ATTORNEY BRINGS A POSSIBLE VIOLATION OF
9 THESE RULES TO MY ATTENTION AS THIS JUDGE OF THIS
10 COURT. AND FOR THIS REASON YOU SHOULD NOT HOLD AN
11 OBJECTION AGAINST AN ATTORNEY NOR SHOULD YOU CONCLUDE
12 FROM THE COURT OVERRULING OR SUSTAINING AN OBJECTION
13 THAT I FAVOR ONE SIDE OR THE OTHER.

14 ALSO FROM TIME TO TIME YOU MAY HEAR ONE OF THE
15 ATTORNEYS SAY SOMETHING LIKE, YOUR HONOR, WE HAVE A
16 QUESTION OF LAW TO DISCUSS WITH YOU, OR THEY MAY ASK
17 TO APPROACH THE BENCH, OR I MAY ASK THEM TO APPROACH
18 THE BENCH, OR SOMETIMES IT MIGHT BE NECESSARY FOR US
19 TO EXCUSE YOU FROM THE COURTROOM FOR A SHORT WHILE
20 WHILE WE DISCUSS MATTERS OF LAW.

21 THE REASON WE DO THIS IS BECAUSE YOU ARE THE
22 JUDGES OF THE FACTS IN THIS CASE. AND SOMETIMES WHEN
23 I AM DISCUSSING MATTERS OF LAW WITH THE ATTORNEYS, IT
24 MAY BE NECESSARY FOR ME TO MAKE SOME COMMENT ABOUT
25 THE FACTS IN CONNECTION WITH RULING WHETHER OR NOT A

1 PARTICULAR LAW OR RULE OF PROCEDURE IS APPLICABLE.

2 I AM NOT SUPPOSED TO TELL YOU WHAT I THINK THE
3 FACTS ARE. AS A MATTER OF FACT, THE LAW DOES NOT
4 ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS. SO WHAT
5 WE DO IS WE EXCUSE YOU FROM THE COURTROOM WHILE THESE
6 DISCUSSIONS TAKE PLACE SO THAT IN NO WAY WILL YOU BE
7 INFLUENCED BY ANYTHING THAT THE COURT MAY SAY OR DO
8 IN CONNECTION WITH THE FACTS OF THIS CASE.

9 AND AGAIN I EMPHASIZE, YOU AND YOU ALONE ARE THE
10 SOLE JUDGES OF THE FACTS IN THIS CASE. IN
11 DETERMINING WHAT THE TRUE FACTS ARE IN THIS CASE, YOU
12 OF NECESSITY MUST PASS UPON THE CREDIBILITY OR
13 BELIEVABILITY OF THE WITNESSES WHO TAKE THE WITNESS
14 STAND.

15 IT WILL BE MY RESPONSIBILITY TO RULE AS A MATTER
16 OF LAW AS TO WHETHER CERTAIN TESTIMONY IS ADMISSIBLE
17 AT ALL OR NOT. BUT ONCE I HAVE ALLOWED THE TESTIMONY
18 TO BE ADMITTED, WHETHER OR NOT YOU BELIEVE IT IS
19 SOLELY FOR YOU, THE JURY, TO DETERMINE.

20 IN PASSING UPON THE CREDIBILITY OR BELIEVABILITY
21 OF WITNESSES, YOU HAVE THE RIGHT AS A JURY TO TAKE
22 INTO CONSIDERATION THE INTEREST OF ANY WITNESS, THE
23 BIAS OF ANY WITNESS, THE PREJUDICE OF ANY WITNESS,
24 THE OPPORTUNITY FOR THE WITNESS TO OBSERVE THE
25 MATTERS AND THINGS ABOUT WHICH THE WITNESS MAY

1 TESTIFY, AND THE DEMEANOR OF THE WITNESS FROM THE
2 WITNESS STAND.

3 ANYTHING THAT IS IN THE RECORD THAT WILL AID YOU
4 AND ASSIST YOU IN EVALUATING THE TESTIMONY OF
5 WITNESSES WHO WILL TESTIFY IN THIS CASE YOU HAVE A
6 RIGHT TO CONSIDER.

7 THAT MEANS, MADAM FORELADY AND LADIES AND
8 GENTLEMEN OF THE JURY, THAT IT IS YOUR DUTY AND YOUR
9 SWORN OBLIGATION AS JURORS TO PAY CLOSE ATTENTION TO
10 THE WITNESSES, TO OBSERVE THEM, AND TO LISTEN TO THEM
11 AND PAY CLOSE ATTENTION TO THE ATTORNEYS AND THE
12 COURT.

13 ALTHOUGH WE KNOW IT IS VERY DIFFICULT SOMETIMES,
14 PLEASE DO NOT ALLOW YOUR THOUGHTS TO WANDER, BUT GIVE
15 STRICT ATTENTION TO THE TESTIMONY IN THIS CASE SO
16 THAT AT THE CONCLUSION OF THE TESTIMONY AFTER THE
17 ARGUMENTS OF COUNSEL AND THE CHARGE ON THE LAW BY THE
18 COURT, YOU WILL THEN BE IN A POSITION TO DETERMINE
19 WHAT THE TRUE FACTS ARE AND APPLY THE LAW TO THOSE
20 FACTS AS I WILL CHARGE YOU AND THUS RENDER A TRUE AND
21 JUST VERDICT IN THIS CASE.

22 YOU ARE NOT TO CONSIDER ANYTHING THAT YOU MAY
23 HAVE READ, HEARD, OR SEEN ABOUT THIS CASE OUTSIDE THE
24 COURTROOM, WHETHER BEFORE OR DURING TRIAL.

25 I'M ALSO GOING TO GIVE YOU THE OPPORTUNITY

1 DURING THE COURSE OF THIS TRIAL TO TAKE NOTES. AND
2 IN THAT REGARD I'M GOING TO GIVE YOU SOME ADDITIONAL
3 INSTRUCTIONS. NOTE-TAKING IS A PRIVILEGE YOU MAY
4 CHOOSE TO EXERCISE OR CHOOSE NOT TO EXERCISE.

5 PLEASE DO NOT FEEL COMPELLED TO TAKE NOTES. NOT
6 EVERYONE FINDS NOTE-TAKING HELPFUL TO THEM. IF YOU
7 SHOULD DECIDE TO TAKE NOTES, PLEASE DO NOT TRY TO
8 RECORD EVERYTHING THAT IS SAID.

9 THE ONLY PERSON WHO HAS THAT ABILITY IS THE
10 COURT REPORTER AND THAT IS BECAUSE SHE IS TRAINED IN
11 A VERY TECHNICAL AND SOPHISTICATED FORM OF SHORTHAND
12 THAT ALLOWS HER TO TAKE DOWN STENOGRAPHICALLY
13 EVERYTHING THAT WE SAY.

14 AND BELIEVE IT OR NOT, MOST PEOPLE TALK ABOUT
15 THE RATE OF 250 WORDS A MINUTE, SO IT IS REALLY
16 PHYSICALLY INCAPABLE -- YOU ARE NOT PHYSICALLY
17 CAPABLE TO TAKE DOWN EVERYTHING THAT IS SAID.

18 ALSO, AS I EXPLAINED TO YOU AS THE JUDGES OF THE
19 FACTS, IT IS NECESSARY THAT YOU RELY ON YOUR POWERS
20 OF OBSERVATION TO JUDGE THE CREDIBILITY AND
21 BELIEVABILITY OF WITNESSES. SO PLEASE DO NOT ALLOW
22 NOTE-TAKING TO BECOME A DISTRACTION TO YOU.

23 YOU MAY WANT TO KEEP AN OUTLINE OF THE MAIN
24 POINTS THAT ARE BEING MADE. ONCE YOU'RE SENT TO YOUR
25 JURY ROOM TO DELIBERATE, YOU MAY WANT TO TAKE A FEW

1 MINUTES TO REVIEW YOUR NOTES AND ALLOW THEM TO
2 REFRESH YOUR RECOLLECTION OF THE GENERAL TRIAL
3 EVIDENCE AND ARGUMENTS THAT HAVE BEEN PRESENTED TO
4 YOU.

5 DURING BREAKS AND RECESSES YOUR NOTEPADS WILL
6 HAVE TO BE LEFT IN YOUR SEATS, AND DURING EVENING
7 RECESSES WE WILL SAFEGUARD THEM. PLEASE REST ASSURED
8 THAT YOUR PRIVACY WILL IN NO WAY -- WE WILL PROTECT
9 YOUR PRIVACY IN THAT NO ONE WILL READ YOUR NOTES.

10 ALSO ON THE VERY FIRST PAGE OF YOUR NOTES, IF
11 EACH OF YOU WOULD WRITE YOUR JUROR NUMBER, AND IN
12 THAT WAY YOU WILL BE ABLE TO EASILY DISTINGUISH WHOSE
13 NOTEPAD BELONGS TO WHOM.

14 AND THE REASON WE DO THIS IS TO MAKE SURE THAT
15 NO PREMATURE DELIBERATION TAKES PLACE. FINALLY I
16 WILL REMIND YOU THAT YOUR NOTES ARE FOR YOUR SPECIFIC
17 AND YOUR INDIVIDUAL PURPOSES. PLEASE USE THEM ONLY
18 FOR THE PURPOSE OF REFRESHING YOUR OWN RECOLLECTION.

19 THEY ARE NOT TO BE SHARED WITH ANYONE ELSE. AND
20 PLEASE ALSO BE REMINDED THAT JUROR NOTES SHOULD NOT
21 BE GIVEN ANY GREATER WEIGHT THAN THE RECOLLECTIONS OF
22 OTHER JURORS. THE RECOLLECTIONS OF OTHER JURORS
23 SHOULD BE CONSIDERED JUST AS RELIABLE AS NOTES TAKEN
24 BY ANY OTHER JURORS.

25 LADIES AND GENTLEMEN, UNTIL THIS CASE IS

1 SUBMITTED TO YOU, YOU MUST NOT DISCUSS IT WITH
2 ANYONE, NOT EVEN YOUR FELLOW JURORS, OR ANYONE ELSE
3 THAT MAY COME INTO CONTACT WITH YOU.

4 AFTER THE CASE IS SUBMITTED TO YOU, YOU MUST
5 DISCUSS IT ONLY IN THE JURY ROOM WITH YOUR FELLOW
6 JURORS. IT IS ESSENTIAL THAT YOU KEEP AN OPEN MIND
7 AND NOT DECIDE THIS CASE UNTIL THE ENTIRE MATTER HAS
8 BEEN SUBMITTED TO YOU UNDER THE COURT'S INSTRUCTIONS.

9 IT IS YOUR ADDED DUTY, MADAM FORELADY, TO
10 PRESIDE IN THE JURY ROOM AND TO BE THE JURY
11 SPOKESPERSON IN THE COURTROOM. IT WILL ALSO BE YOUR
12 DUTY TO WRITE THE VERDICT, BUT WE WILL GIVE YOU
13 ADDITIONAL INSTRUCTIONS REGARDING THAT AT THE
14 CONCLUSION OF THIS CASE.

15 NOW LADIES AND GENTLEMEN, I DO NOT INTEND THAT
16 YOU OR ANYONE ELSE SHOULD CONSTRUE THESE REMARKS THAT
17 HAVE JUST BEEN MADE AS A CHARGE ON THE LAW IN THIS
18 CASE BECAUSE IT IS NOT. I WILL CHARGE YOU ON THE LAW
19 APPLICABLE TO THIS CASE AT THE CONCLUSION OF THE
20 TRIAL.

21 THIS HAS BEEN MERELY AN ATTEMPT ON MY PART TO
22 BRIEFLY EXPLAIN TO YOU SOME OF THE PROCEDURES THAT WE
23 WILL FOLLOW IN THE TRIAL OF THIS CASE SO THAT YOU MAY
24 HAVE A BETTER UNDERSTANDING AS TO WHAT MAY BE
25 HAPPENING FROM TIME TO TIME.

1 IN ORDER TO PRESERVE EVERYONE'S RIGHTS, I'M
2 GOING TO GIVE EACH PARTY THE OPPORTUNITY TO OBJECT TO
3 ANYTHING THAT THE COURT HAS SAID BY WAY OF OPENING
4 INSTRUCTIONS. FROM THE STATE?

5 MR. HEMBREE: NO OBJECTION FROM THE STATE, YOUR
6 HONOR.

7 THE COURT: FROM THE DEFENSE?

8 MR. DIGGS: NO, YOUR HONOR.

9 THE COURT: YOU MAY PROCEED. LADIES AND
10 GENTLEMEN, IF YOU WOULD GIVE THE SOLICITOR YOUR
11 UNDIVIDED ATTENTION AS WELL AS DEFENSE COUNSEL.

12 MR. HEMBREE: THANK YOU, YOUR HONOR. MAY IT
13 PLEASE THE COURT.

14 THE COURT: YOU MAY PROCEED.

15 MR. HEMBREE: THANK YOU.

16 OPENING STATEMENT

17 MR. HEMBREE: LILIAN HELLMAN. THE TERM PAPER ON
18 LILIAN HELLMAN WAS OVERDUE, AND 15 YEAR OLD [REDACTED]
19 LING ON THURSDAY NIGHT, APRIL THE SEVENTH OF 2005,
20 WAS BUSY AT WORK IN HER HOME ON HER COMPUTER TRYING
21 TO GET HER LILIAN HELLMAN PAPER COMPLETED.

22 IT WAS A NORMAL DAY. EVIDENCE WILL INDICATE IT
23 WAS A NORMAL DAY AT SCHOOL AND A NORMAL DAY AT HOME
24 FOR [REDACTED] LING UP TO THAT POINT. SHE COMPLETED
25 HER WORK ON HER PAPER, AS MUCH AS SHE WAS GOING TO

1 GET DONE THAT NIGHT.

2 AS MOST 15 -- MANY 15 YEAR OLDS DO, SHE WENT TO
3 HER BEDROOM AND TOOK A PHONECALL FROM HER BOYFRIEND,
4 TALKED TO HIM FOR A LITTLE WHILE.

5 AND SHE WAS IN HER BEDROOM WHEN SHE SAW HER
6 MOTHER, LAURA LING, AND HER MOTHER'S BOYFRIEND,
7 STEPHEN CHRISTOPHER STANKO GO BY HER BEDROOM DOOR AND
8 GO INTO LAURA LING'S BEDROOM. NOTHING UNUSUAL.
9 NORMAL. JUST ANOTHER NORMAL NIGHT.

10 SHE TALKED A FEW MINUTES MORE ON THE PHONE, GOT
11 READY FOR BED, AND EVIDENCE WILL SHOW THAT SHE WENT
12 TO SLEEP RIGHT AROUND 11:00, MAYBE JUST A SHADE
13 LATER. SHE WAS FAST ASLEEP WHEN SOMETIME BETWEEN
14 1:15 AND 1:30 SHE WAS AWAKENED. HER OVERHEAD LIGHT
15 WAS ON. SHE WAS GROGGY.

16 SHE LOOKED AROUND AND IN THE DOORWAY WAS THE
17 DEFENDANT, STEPHEN STANKO. SHE WAS PUZZLED. SHE
18 DIDN'T UNDERSTAND. HE THEN APPROACHED HER VERY
19 QUICKLY, PLACED A KNIFE TO HER THROAT AND THREATENED
20 HER.

21 SHE WAS STILL CONFUSED. SHE DIDN'T UNDERSTAND
22 UNTIL HE BEGAN TO TEAR AWAY AT HER PANTS. AT THAT
23 POINT SHE KNEW SOMETHING HAS GONE TERRIBLY WRONG.

24 HE WAS ON HER BACK. SHE WILL TESTIFY THAT HE
25 BEGAN TRYING TO TIE HER HANDS BEHIND HER, AND

1 PARTIALLY COMPLETED THAT WHEN SHE BROKE LOOSE AND RAN
2 WHERE? SHE WANTED SAFETY. SHE WANTED PROTECTION.

3 SHE RAN TO HER MOTHER'S ROOM AND SAW THE MOST
4 HORRIFIC SIGHT HOPEFULLY SHE WILL EVER SEE IN HER
5 LIFE. IN THIS SMALL BEDROOM, LAURA LING'S BEDROOM,
6 SHE SAW HER MOTHER INCAPACITATED LAYING ON THE FLOOR
7 WEDGED BETWEEN THE BED AND THE WALL ON THE RIGHT-HAND
8 SIDE.

9 HER FIRST THOUGHT WAS, MY MOTHER'S BEEN DRUGGED.
10 SHE WAS SO -- SO INCOHERENT AND INCAPACITATED THAT
11 SHE DIDN'T HAVE A LOT OF TIME TO THINK BECAUSE RIGHT
12 ON HER HEELS WAS THIS DEFENDANT.

13 SHE FELT A BLOW TO THE HEAD, SEVERE BLOW TO THE
14 HEAD, AND LOST CONSCIOUSNESS. AND SHE WAS AWOKEN,
15 SHE WAS IN HER MOTHER'S BEDROOM ON THE BED NOW WITH
16 HER HANDS SECURELY TIED BEHIND HER BACK. SHE WAS
17 LAYING ON HER BACK AND THE DEFENDANT WAS ATTEMPTING
18 TO HAVE SEXUAL INTERCOURSE WITH HER.

19 SHE FOUGHT HIM OFF. SHE KICKED, SHE SCREAMED,
20 SHE HAD BEEN GAGGED, SHE TRIED TO SCREAM, SHE TRIED
21 TO CALL OUT. SHE COULD MAKE NOISES AND SOUNDS AND
22 TALK A LITTLE.

23 HE BEAT HER DOWN AGAIN AND AGAIN AND AGAIN UNTIL
24 FINALLY SHE JUST LOST THE WILL TO FIGHT. AND THIS
25 DEFENDANT RAPED 15 YEAR OLD [REDACTED] LING SOME

1 3 FEET FROM HER MOTHER, WHO WAS INCAPACITATED, LYING
2 ON THE FLOOR MOANING, BLEEDING.

3 HE COMPLETED THE SEXUAL ASSAULT. AND LAURA LING
4 BEGAN TO MOAN LOUDER. SHE BECAME SOMEWHAT MORE
5 ANIMATED. SHE COULDN'T MOVE, BUT SEEMED TO BE MORE
6 LIVELY. STANKO STRUCK HER AGAIN AND AGAIN.

7 AND FINALLY WHEN HE GREW TIRED OF HEARING THE
8 CRIES FOR HELP AND THE MOANS FROM LAURA LING, HE TOOK
9 [REDACTED] LING'S BODY AND TURNED IT OVER ON HER
10 STOMACH, HE PLACED HIS KNEE IN HER BACK, HIS LEFT
11 HAND ON HER HEAD, FORCING IT INTO THE BED, INTO THE
12 PILLOW TO THE POINT THAT SHE CAN HARDLY BREATHE.

13 SHE BELIEVED SHE WAS GOING TO DIE AT THAT
14 MOMENT. AND WITH HIS OTHER HAND HE REACHED DOWN, PUT
15 IT ON THE THROAT OF LAURA LING AND CHOKED THE
16 REMAINING LIFE OUT OF HER BODY. [REDACTED] LING COULD
17 HEAR IT, GURGLING AND CHOKING, THE VERY LIFE OF BEING
18 FORCED OUT OF HER MOTHER.

19 STANKO THEN PULLED LAURA LING UP -- EXCUSE ME --
20 PULLED [REDACTED] LING UP FROM THE SIDE OF THE BED.
21 HE HAD BEATEN HER, HE HAD TIED HER, HE HAD RAPED HER,
22 HE WAS FINISHED WITH HER, AND HE TOOK A KNIFE, PUT IT
23 TO THE THROAT, SLIT HER THROAT TWO TIMES, PUSHED HER
24 OFF ONTO THE FLOOR, FINISHED THE JOB.

25 TESTIMONY WILL SHOW, LADIES AND GENTLEMEN, THAT

1 HE THEN GOT A SUITCASE OUT, PUT IT ON THE BED.

2 [REDACTED] LING WASN'T QUITE DEAD YET. SHE TRIED TO
3 GET UP, TRIED TO SEE WHAT WAS GOING ON. HE TOLD HER
4 TO GET DOWN AND THEN STRUCK HER IN THE HEAD WITH SUCH
5 FORCE THAT SHE WAS UNCONSCIOUS.

6 IT'S A MIRACLE, AN ABSOLUTE MIRACLE THAT
7 THREE -- APPROXIMATELY 3:00, SOME HOUR AND A HALF
8 FROM THE TIME THE ASSAULT BEGAN, [REDACTED] LING WAS
9 ABLE TO REGAIN CONSCIOUSNESS ENOUGH TO TAKE THE PHONE
10 THAT WAS IN THE BEDROOM, TO SOMEHOW DIAL 9-1-1, GET
11 THE POLICE ON THE PHONE AND REPORT THIS CRIME. AND
12 SHE TODAY -- SHE TODAY IS A SURVIVOR. IT'S A
13 MIRACLE.

14 THE EVIDENCE WILL SHOW THAT STEPHEN CHRISTOPHER
15 STANKO PACKED, TOOK A SHOWER, LOADED UP THE CAR, WENT
16 THROUGH THE POCKETBOOKS OF [REDACTED] LING AND LAURA
17 LING, TOOK LAURA LING'S ATM CARD, STOPPED OFF AT THE
18 BANK ABOUT 3:00 IN THE MORNING, MADE A SUBSTANTIAL
19 WITHDRAWAL FROM LAURA LING'S BANK ACCOUNT. CLEANED
20 IT OUT. PUT SOME MONEY IN HIS POCKET AND HE EVADED
21 POLICE FOR THE NEXT FIVE DAYS UNTIL TUESDAY, THE
22 FOLLOWING TUESDAY.

23 I WANT TO THANK YOU NOW FOR YOUR SERVICE. I
24 WANT TO THANK YOU -- I WANT TO THANK YOU FOR YOUR
25 WILLINGNESS TO SERVE AND FULFILL YOUR CIVIC

1 RESPONSIBILITY AT ALL ON BEHALF OF THE LING FAMILY,
2 ON BEHALF OF THE CITIZENS OF GEORGETOWN COUNTY, BUT I
3 ALSO WANT TO THANK YOU FOR YOUR ABOVE AND BEYOND THE
4 CALL OF DUTY SERVICE BECAUSE YOU'RE HAVING TO BE
5 SEQUESTERED.

6 AND WE RECOGNIZE IT IS A TREMENDOUS HARDSHIP AND
7 WE ARE -- WE ARE ASKING A LOT OF OUR CITIZENS, BUT
8 IT'S IMPORTANT AND IT'S NECESSARY. AND I GUESS I
9 ALSO WANT TO THANK YOU BECAUSE OF THE TYPE OF
10 EVIDENCE THAT YOU'RE GOING TO BE EXPOSED TO.

11 LADIES AND GENTLEMEN, IT'S HARD, IT'S
12 DISTURBING, AND I'M SORRY WE HAD TO PUT YOU THROUGH
13 IT, BUT IT'S IMPORTANT AND IT'S NECESSARY.

14 YOUR ROLE HERE IN THIS CASE ARE THE FINDERS OF
15 THE FACT. YOU HAVE BEEN THROUGH THE INDIVIDUAL VOIR
16 DIRE. JUDGE JEFFERSON TALKED WITH YOU QUITE A BIT
17 ABOUT THAT PROCESS TO WHAT THAT INVOLVED.

18 JUDGE JEFFERSON IS THE GIVER OF THE LAW. YOU'RE
19 THE FINDERS OF THE FACTS. BUT I WANT TO CLARIFY ONE
20 POINT AT THIS STAGE OF THE PROCEEDINGS. THIS IS A
21 CAPITAL CASE, A DEATH PENALTY CASE. YOU'VE ALL BEEN
22 MADE AWARE OF THAT. THERE ARE TWO PROCEEDINGS
23 ESSENTIALLY THAT WE WILL UNDERTAKE.

24 THE FIRST PROCEEDING IS THE ONE WE'RE IN NOW, IS
25 THE GUILT PHASE. YOUR ROLE IN THE GUILT PHASE IS NOT

1 ABOUT PENALTY. IT HAS NOTHING TO DO WITH PENALTY.
2 IN THE INDIVIDUAL VOIR DIRE YOU WERE QUESTIONED A
3 GOOD DEAL ABOUT THAT.

4 BUT I WANT TO MAKE IT CRYSTAL CLEAR THAT YOUR
5 ROLE TODAY IS TO FOCUS ON WHETHER OR NOT STEPHEN
6 CHRISTOPHER STANKO COMMITTED THESE CRIMES OR NOT.
7 THAT'S YOUR ROLE.

8 THAT'S WHAT -- WHEN WE CONCLUDE THIS PART OF THE
9 CASE, THAT WILL BE THE QUESTION THAT YOU WILL BE
10 ASKED TO CONSIDER AND TO ANSWER. DID HE DO IT.

11 NOW, ASSUMING THAT HE IS FOUND GUILTY, WE WILL
12 MOVE INTO A SECOND PHASE THAT WILL BE ABOUT PENALTY.
13 WE'LL HAVE LOTS OF TIME TO TALK ABOUT THAT LATER, BUT
14 I DO WANT TO MAKE THAT VERY CLEAR FOR THESE PURPOSES
15 AND THAT -- AND THE WITNESSES THAT YOU WILL HEAR OVER
16 THE NEXT FEW DAYS, THIS IS A FOCUS ON THE GUILT OF
17 THE DEFENDANT.

18 NOW, TO DO THAT YOU REALLY HAVE TO KNOW WHAT
19 THOSE CHARGES ARE. I HAVE HAD AN OPPORTUNITY TO -- I
20 HAD AN OPPORTUNITY TO READ THEM TO YOU WHEN I CALLED
21 THE CASE EARLIER TODAY, BUT I WANT TO SPEAK WITH A
22 LITTLE MORE SPECIFICITY ABOUT THOSE CHARGES AND WHAT
23 THOSE ELEMENTS ARE BECAUSE THOSE ARE THE -- THOSE --
24 IT'S ALMOST LIKE A CHECKLIST, ELEMENT ONE, ELEMENT
25 TWO, ELEMENT THREE.

1 OKAY. THAT'S EVIDENCE ON THAT CHARGE, ET CETERA
2 ET CETERA, ET CETERA. I WOULD LIKE TO TAKE A MOMENT
3 TO REVIEW THAT WITH YOU.

4 THE FIRST CHARGE, COUNT ONE OF THIS INDICTMENT,
5 IS MURDER. MURDER IS THE UNLAWFUL KILLING OF ANOTHER
6 WITH MALICE AFORETHOUGHT. UNLAWFUL KILLING OF A
7 HUMAN WITH MALICE. MALICE IS EVIL INTENTION, FATALLY
8 BENT ON MISCHIEF, A DARK HEART. MANY WAYS TO
9 DESCRIBE WHAT MALICE MEANS.

10 AFORETHOUGHT. NOW, THIS IS A CONCEPT THAT SOME
11 FOLKS GET A LITTLE CONFUSED ABOUT. THEY THINK THAT
12 MEANS A LOT OF PREMEDITATION. AFORETHOUGHT IS
13 LIKE -- YOU HAVE TO THINK ABOUT IT FOR A LONG TIME,
14 YOU HAVE TO PLAN THIS MURDER FOR DAYS OR WEEKS. THAT
15 IS NOT TRUE. THAT IS NOT THE LAW IN SOUTH CAROLINA.

16 MALICE AFORETHOUGHT CAN BE FORMED THE INSTANT
17 PRIOR TO THE MURDER, THE INSTANT BEFORE YOU COMMIT
18 THE MURDER, BECAUSE MURDER DOES NOT REQUIRE PRIOR
19 PLANNING. IT DOES REQUIRE THAT MALICE FORM IN YOUR
20 HEART BEFORE YOU STRIKE THE FATAL BLOW.

21 IT CAN BE A SECOND BEFORE. IT COULD BE MINUTES
22 BEFORE. IT COULD BE DAYS BEFORE. IT REALLY DOESN'T
23 MATTER AS LONG AS IT'S SOME EVIL INTENTION THAT WAS
24 FORMED PRIOR TO THE ACTUAL STRIKING OF THE FATAL
25 BLOW.

1 THE SECOND COUNT, ASSAULT AND BATTERY WITH
2 INTENT TO KILL AS TO [REDACTED] LING. THE ASSAULT,
3 THE THREAT OF HARM OR VIOLENCE. THE BATTERY IS THE
4 ACTUAL TOUCHING, A VIOLENT TOUCHING OF ANOTHER.

5 OF COURSE, THIS INVOLVES NOT ONLY THE BEATING,
6 BUT THE -- THE CUTTING OF THE THROAT WITH A KNIFE --
7 WITH AN INTENTION TO KILL. A VIOLENT TOUCHING
8 ESSENTIALLY WITH AN INTENTION TO KILL.

9 THAT INTENTION TO KILL CAN BE INFERRED FROM THE
10 USE OF A DEADLY WEAPON. IN THIS CASE WE BELIEVE THAT
11 THE EVIDENCE WILL SHOW THAT WEAPON TO BE A KNIFE.

12 THIRD, CRIMINAL SEXUAL CONDUCT IN THE FIRST
13 DEGREE. CRIMINAL SEXUAL CONDUCT IS COMMONLY KNOWN AS
14 RAPE. IT IS A SEXUAL PENETRATION. IN THIS CASE
15 UNDER FIRST DEGREE IT HAS TO BE -- YOU HAVE TO USE
16 AGGRAVATED FORCE TO ACCOMPLISH THE BATTERY OR THAT
17 THE -- THE VICTIM WAS FORCIBLY CONFINED.

18 IN THIS CASE, LADIES AND GENTLEMEN, THERE WILL
19 BE EVIDENCE THAT THE -- THAT THE VICTIM WAS TIED WITH
20 NECK TIES, THAT SHE WAS CONFINED AS WELL AS
21 AGGRAVATED FORCE BEING USED AGAINST HER TO GET HER TO
22 SUBMIT TO THIS SEXUAL ASSAULT.

23 COUNT FOUR, KIDNAPPING. KIDNAPPING IS JUST THE
24 UNLAWFUL CONFINEMENT OF ANOTHER PERSON. THERE
25 DOESN'T HAVE TO BE ANY PARTICULAR AMOUNT OF TIME.

1 IT'S JUST -- IT'S JUST A CONFINEMENT IN ANY FORM.

2 IN THIS CASE, LADIES AND GENTLEMEN, THE
3 CONFINEMENT WILL -- WILL BE PROVED THROUGH THE USE OF
4 THE NECKTIES WITH -- BOTH VICTIMS IN THIS CASE HAD
5 THEIR HANDS TIED BEHIND THEIR BACK WITH NECKTIES
6 LEADING TO TWO COUNTS OF KIDNAPPING, ONE OF LAURA
7 LING, AND ONE OF [REDACTED] LING.

8 AND FINALLY, THE LAST COUNT OF ARMED ROBBERY,
9 THAT IS A THEFT OR A TAKING OF PROPERTY FROM ANOTHER
10 WHILE ARMED WITH A DEADLY WEAPON. MR. STANKO WAS
11 ARMED WITH A KNIFE. HE USED THAT KNIFE TO ACCOMPLISH
12 OR GAIN AN ADVANTAGE OVER THE VICTIMS IN THIS CASE,
13 AND HE TOOK THE VICTIM'S CAR, LAURA LING'S CAR, AS
14 WELL AS HER ATM CARD.

15 IT IS NOT NECESSARY THAT THE VICTIM STILL BE
16 ALIVE WHEN THE ARMED ROBBERY IS COMMITTED. THAT IS
17 AN IMPORTANT THING TO NOTE. I DIDN'T WANT YOU TO GET
18 CONFUSED ABOUT THAT BECAUSE I BELIEVE THE EVIDENCE IN
19 THE RECORD WILL REFLECT THAT LAURA LING WAS -- WAS
20 CERTAINLY DEAD AT THE TIME THE DEFENDANT TOOK HER
21 CARD.

22 THOSE ARE THE CHARGES THAT WE WILL BE PRESENTING
23 EVIDENCE ON OVER THE NEXT COUPLE OF DAYS. I WANT TO
24 ASK YOU TO DO THREE THINGS. I TALKED QUITE A BIT.
25 I'M GOING TO WRAP THIS UP. THESE ARE IMPORTANT. I

1 NEED YOU TO LISTEN TO ME ABOUT THESE THREE,
2 PARTICULARLY LISTEN TO ME ALL ALONG CAREFULLY.

3 THE THREE THINGS THAT I'M ASKING YOU TO DO ON
4 BEHALF OF THE CITIZENS OF GEORGETOWN COUNTY. THE
5 FIRST THING IS, I WANT YOU TO KEEP AN OPEN MIND AND
6 LISTEN CAREFULLY. LISTEN TO THE EVIDENCE FROM THIS
7 WITNESS STAND.

8 IT IS IMPORTANT THAT YOU REMAIN ALERT AND
9 ENGAGED IN THIS PROCESS. IT WILL NOT BE AS LENGTHY
10 AS YOU MIGHT THINK. I DON'T BELIEVE IT WILL BE A
11 SITUATION THAT WE LOSE YOUR ATTENTION, BUT IT'S
12 ESSENTIAL THAT YOU LISTEN CAREFULLY BECAUSE MOST OF
13 THE EVIDENCE IN THIS CASE IS GOING TO BE TESTIMONY,
14 GOING TO COME FROM THIS WITNESS STAND.

15 SO IF YOU MISS SOMETHING, YOU MIGHT MISS
16 SOMETHING IMPORTANT THAT MIGHT FIGURE INTO THE
17 DECISION THAT YOU'RE GOING TO BE CALLED UPON TO MAKE.
18 SO LISTEN VERY CAREFULLY.

19 NUMBER TWO. KEEP AN OPEN MIND AND BE FAIR.
20 JUDGE JEFFERSON HAS ALREADY CHARGED YOU ON THIS. I
21 JUST WOULD REINFORCE THAT. IT'S ESSENTIAL THAT YOU
22 DON'T JUST LISTEN TO THIS OPENING STATEMENT, YOU
23 DON'T JUST LISTEN TO ONE WITNESS.

24 THE STATE PRESENTS THEIR WITNESSES FIRST. IT'S
25 NOT APPROPRIATE FOR YOU TO MAKE UP YOUR MIND AT THAT

1 POINT. IT IS ESSENTIAL THAT YOU LISTEN CAREFULLY TO
2 ALL THE WITNESSES, THE ENTIRE CASE, BEFORE YOU MAKE
3 UP YOUR MIND BECAUSE THE ONE THING, THE MAIN THING
4 THAT WE'RE TRYING TO ACCOMPLISH HERE IN THE NEXT FEW
5 DAYS, IS TO HAVE A FAIR TRIAL.

6 WE HAVE TO HAVE A FAIR TRIAL. IT'S ESSENTIAL.
7 I KNOW THAT YOU WILL DO THAT. KEEP AN OPEN MIND AND
8 LISTEN UNTIL YOU HAVE HEARD ALL THE FACTS, SEEN ALL
9 THE EVIDENCE, THE JUDGE CHARGES YOU ON THE LAW, AND
10 SAYS, OKAY, NOW IT'S TIME TO DELIBERATE. AND YOU'LL
11 KNOW. SHE'LL TELL YOU. AND THEN IT'S APPROPRIATE TO
12 MAKE UP YOUR MIND.

13 AND THAT REALLY BRINGS ME TO MY THIRD POINT. I
14 ASK YOU TO USE YOUR GOOD JUDGMENT AND GOOD COMMON
15 SENSE TO REACH A VERDICT THAT SPEAKS THE TRUTH. JUST
16 BECAUSE YOU HAVE BEEN CALLED UPON TO BE A JUROR --
17 SOME OF YOU PROBABLY HAVE BEEN JURORS BEFORE, OTHERS
18 HAVEN'T.

19 YOU MAY THINK, WELL, WHAT'S THIS, YOU KNOW, THIS
20 IS A DIFFERENT ROLE FOR ME, YOU KNOW, THIS IS
21 UNUSUAL, I DON'T KNOW, I SHOULD ACT DIFFERENTLY.
22 THAT'S NOT WHY WE HAVE A JURY SYSTEM IN AMERICA.

23 WE WANT JURORS TO USE THEIR GOOD COMMON SENSE,
24 THEIR LIFE EXPERIENCES, AND TO COME INTO THIS
25 COURTROOM AND MAKE A DECISION BASED ON THAT GOOD

1 COMMON SENSE AND GOOD JUDGMENT. THAT'S THE WHOLE
2 POINT BEHIND IT.

3 SO I ASK YOU, USE GOOD JUDGMENT, GOOD COMMON
4 SENSE TO EVALUATE THIS EVIDENCE AND REACH A DECISION
5 THAT SPEAKS THE TRUTH. AND ONCE YOU HAVE DONE THAT,
6 THEN EVERYTHING WILL HAVE -- WILL HAVE WON IN THIS
7 CASE. THANK YOU.

8 MR. KELLY: MAY IT PLEASE THE COURT.

9 THE COURT: YES, SIR. YOU MAY PROCEED.

10 OPENING STATEMENT

11 MR. KELLY: LADIES AND GENTLEMEN OF THE JURY, MY
12 NAME IS GERALD KELLY. I'M FROM HAMPTON COUNTY. I
13 LIVE THERE AND PRACTICE LAW IN HAMPTON COUNTY WITH MY
14 WIFE AND CHILDREN AND MY GRANDCHILDREN.

15 SOMETIMES PEOPLE SAY, WELL, WHERE IS HAMPTON
16 COUNTY? SOMETIMES WHEN I GO TO COLUMBIA OR OTHER
17 PARTS OF THE STATE, THEY'LL SAY, YOU KNOW, I NEVER
18 HAVE REALLY HEARD OF HAMPTON COUNTY. HAMPTON COUNTY
19 IS A BORDER COUNTY. IT BORDERS ON THE SAVANNAH
20 RIVER.

21 AND I OFTEN SAY TO THEM, WELL, HAVE YOU EVER
22 HEARD OF HILTON HEAD OR BEAUFORT? AND THEY SAY, OH
23 YEAH, I'VE HEARD OF THEM. I TELL THEM, WELL, THAT'S
24 AN ADJOINING COUNTY. AND THAT'S WHERE I LIVE AND
25 THAT'S WHERE I'M FROM, AND THAT'S REALLY WHO I AM. I

1 WANTED TO INTRODUCE MYSELF TO YOU, LET YOU KNOW JUST
2 THAT LITTLE BIT ABOUT ME.

3 YOU KNOW, YOU'RE THE JUDGES OF THE FACTS AND
4 YOU'RE SWORN HERE, YOU SIT AS JUDGES, AS JUDGES OF
5 THE FACTS. OUR JUDGE OF THE LAW IS JUDGE JEFFERSON.
6 SHE DOESN'T ENTER INTO THE FACTS. SHE DOESN'T
7 DETERMINE THEM AND SHE MAKES NO JUDGMENT ON THEM, AND
8 YOU ARE THE SOLE JUDGES OF THE FACTS.

9 WHEN WE TALK ABOUT FACTS, WE'RE TALKING ABOUT,
10 WELL, WHERE DID SOMETHING HAPPEN? WHERE DID IT
11 HAPPEN? AND WE'RE LISTENING FOR EVIDENCE BASICALLY
12 FROM THIS WITNESS BOX.

13 YOU KNOW, WHATEVER I SAY TO YOU OR WHATEVER ANY
14 OTHER ATTORNEY SAYS TO YOU IS NOT EVIDENCE, HAS NO
15 FORCE IN EVIDENCE AT ALL. WHAT WE SAY SHOULD NEVER
16 BE REGARDED TO YOU -- BY YOU AS THE LAW OR AS FACT.

17 THE JUDGE WILL -- JUDGE JEFFERSON WILL TELL US
18 WHAT THE LAW IS. AND EACH ATTORNEY WILL ALWAYS SAY
19 TO YOU, LISTEN CAREFULLY TO YOUR JUDGE OF THE LAW AND
20 FOLLOW THAT JUDGE OF THE LAW'S INSTRUCTIONS. WE HAVE
21 EVERY CONFIDENCE THAT YOU'LL DO THAT.

22 SO ONE OF THE THINGS IS, WHERE. WELL, THE
23 RESIDENCE WHERE LAURA LING LIVED WITH HER DAUGHTER
24 [REDACTED] LING AND WITH STEPHEN STANKO WAS 3960
25 MURRELLS INLET ROAD. THAT'S WHERE THE RESIDENCE WAS.

1 AND IT'S PROBABLY WHERE YOU'RE GOING TO BE THINKING
2 ABOUT THE FACTS TOOK PLACE.

3 NOW, WHEN. WHEN. HERE'S THE DATE THAT I WOULD
4 SUGGEST THAT YOU KEEP IN YOUR MIND. APRIL THE
5 EIGHTH, 2005. APRIL THE EIGHTH, 2005. THAT WAS A
6 FRIDAY.

7 BUT ALSO YOU'RE GOING TO BE LISTENING TO THE
8 RECOUNT OF EVENTS PREVIOUS TO APRIL THE EIGHTH AND
9 AFTER APRIL THE EIGHTH. LISTEN VERY CAREFULLY TO
10 THAT.

11 YOU KNOW, I WON'T BE TALKING TO YOU AGAIN
12 DIRECTLY UNTIL THE CASE IS RESTED IN THIS PHASE OF
13 THE TRIAL AND NEITHER WILL ANY OF THE OTHER
14 ATTORNEYS. SO YOU'LL HAVE TO CONCENTRATE ON WHAT
15 COMES FROM THE JURY BOX.

16 APRIL THE EIGHTH AND WHAT HAPPENED PREVIOUS TO
17 THAT TIME. YOU KNOW, THERE'S GOING TO BE A LOT OF
18 INFORMATION THAT'S GIVEN TO YOU, SO YOU'LL HAVE TO
19 LISTEN VERY CAREFULLY.

20 WHERE, WHEN, AND WHAT, WHAT HAPPENED. WHAT
21 HAPPENED. THAT'S GOING TO BE A LOT OF THE
22 INFORMATION THAT'S GOING TO COME TO YOU INTO
23 EVIDENCE.

24 HOW? HOW DID IT HAPPEN? THAT'S IMPORTANT TO
25 LISTEN FOR THAT INFORMATION. AND WHY? WHY DID IT

1 HAPPEN? BECAUSE THERE'S GOING TO BE A LOT ABOUT WHY
2 IT HAPPENED AS WELL. SO KEEP THAT IN MIND. THAT'S
3 WHAT I WOULD ASK YOU TO DO.

4 NOW, WE KNOW THAT YOU'RE GOING TO BE GOOD
5 JURORS. NOBODY'S ASKING YOU TO DO ANYTHING DIFFERENT
6 FROM THAT. I'M CERTAINLY NOT ASKING YOU TO DO
7 ANYTHING OTHER THAN WHAT YOU CONSIDER TO BE YOUR DUTY
8 AS AN INDIVIDUAL, AS A JUROR. THAT'S ALL ANYBODY CAN
9 ASK OF YOU. AND NOBODY'S GOING TO TRY TO ALTER OR
10 CHANGE YOU IN ANY WAY OR FORCE YOU TO DO ANYTHING.
11 THAT'S SIMPLY NOT GOING TO TAKE PLACE.

12 BUT I DO WANT TO MENTION ONE AREA OF THE LAW,
13 AND THAT IS THE BURDEN OF PROOF. NOW, STEPHEN STANKO
14 IS ACCUSED OF THESE CRIMES. IT'S FOR YOU TO DECIDE
15 WHETHER OR NOT HE COMMITTED THEM OR NOT.

16 DON'T FORGET, HE'S A CITIZEN. WE ARE ALL
17 CITIZENS. YOU COULDN'T SIT ON THIS JURY IF YOU
18 WEREN'T A CITIZEN OF THIS COUNTY AND OUR STATE AND A
19 CITIZEN OF THE UNITED STATES. AND WHEN WE TALK ABOUT
20 CITIZENS, WE'RE TALKING ABOUT RIGHTS THAT THEY HAVE
21 AS WELL. SO WE WANT TO KEEP THAT IN MIND.

22 THE BURDEN OF PROOF WILL BE TOLD TO YOU BY THE
23 JUDGE, BUT THERE IS ONE BURDEN OF PROOF THAT YOU HAVE
24 ALREADY HEARD ABOUT, THAT'S THE BURDEN OF PROOF
25 BEYOND ANY REASONABLE DOUBT. AND THAT'S GOING TO BE

1 APPLIED IN DIFFERENT WAYS AND IN DIFFERENT PLACES
2 DURING THE TRIAL.

3 THAT BURDEN OF PROOF IS ALWAYS ON THE STATE.
4 AND I KNOW THAT YOU'RE GOING TO LISTEN TO THE JUDGE
5 AND I KNOW THAT YOU'RE GOING TO DO YOUR BEST TO APPLY
6 THE LAW AS SHE GIVES IT TO YOU.

7 JUST LISTEN VERY CAREFULLY. AND THAT'S ALL I
8 HAVE TO SAY TO YOU, AND THANK YOU VERY MUCH. MR.
9 DIGGS WILL TALK TO YOU NOW.

10 MR. DIGGS: MAY IT PLEASE THE COURT.

11 THE COURT: YES, SIR.

12 OPENING STATEMENT

13 MR. DIGGS: GOOD AFTERNOON. MR. KELLY RAISED A
14 COUPLE OF QUESTIONS THAT ARE VERY IMPORTANT. YOU
15 HAVE HEARD THE SOLICITOR RECOUNT HIS VERSION OF THE
16 FACTS OF THIS CASE.

17 AND MY QUESTION TO YOU WOULD BE AT THIS TIME,
18 HOW DOES THAT HAPPEN. AND I'M SERIOUS ABOUT THAT. I
19 WANT YOU TO THINK ABOUT IT RIGHT NOW. WHY WOULD THIS
20 HAPPEN. HOW COULD ANOTHER PERSON, A HUMAN BEING, DO
21 THIS TO SOMEONE THAT THEY LOVE, SOMEONE THAT THEY
22 NEEDED, SOMEONE THEY DEPENDED ON, AND WITHOUT ANY
23 OBVIOUS PROVOCATION. HOW DO YOU DO THAT?

24 I WANT YOU TO THINK ABOUT THAT FOR A SECOND.
25 HOW DO YOU DO THAT? HOW DOES SOMEONE IN THEIR RIGHT

1 MIND DO THOSE THINGS? I WOULD SUBMIT, SUGGEST TO YOU
2 AND SUBMIT TO YOU THEY DON'T.

3 MR. SOLICITOR TALKED ABOUT MALICE AND A
4 MALIGNANT HEART. SO IN A WAY -- IT'S ALWAYS PART OF
5 A CASE -- PROSECUTION HAS INTERJECTED INTO THIS CASE
6 RIGHT OUT OF THE STARTING GATE THE THOUGHT PROCESS IN
7 THE BRAIN, HUMAN BRAIN.

8 HE TALKED ABOUT MALIGNANT HEART. BUT I'M
9 TELLING YOU THAT MALICE COMES FROM THE BRAIN.
10 STEPHEN HAS A BRAIN DEFECT. IT IS A BIRTH DEFECT
11 THAT HE HAD WHEN HE CAME OUT OF THE WOMB. WE KNOW
12 THAT.

13 HIS DEFECT IS UNLIKE OR IS JUST LIKE EVERY OTHER
14 BIRTH DEFECT OR PHYSICAL INJURY THAT ANY OF US MIGHT
15 HAVE. IF YOU HAVE A DEFECT IN YOUR LEG, YOU'RE GOING
16 TO HAVE PROBLEMS WALKING. IT'S GOING TO BE HARD TO
17 KEEP UP.

18 IF YOU HAVE A DEFECT IN A LIMB, ARMS, YOU'RE
19 GOING TO HAVE TROUBLE DOING TASKS, EVERY DAY TASKS,
20 THAT REQUIRE YOUR HANDS AND YOUR ARMS. IF YOU HAVE A
21 BRAIN DEFECT, YOU'RE GOING TO HAVE TROUBLE DOING
22 THOSE THINGS THAT A HEALTHY PERSON CAN AND DOES DO.

23 STEVE HAS THAT DEFECT. HE'S NOT SOME EVIL
24 DEMON-POSSESSED PERSON, HE HAS A BIRTH DEFECT. IT
25 HAPPENS TO BE -- WHEN YOU LOOK AT HIM, YOU DON'T SEE

1 IT BECAUSE THE DEFECT HAPPENS TO BE ENCASED INSIDE OF
2 THAT SKULL.

3 BUT THANKS TO MODERN TECHNOLOGY AND MEDICINE AND
4 SCIENCE, WE ARE GOING TO LOOK INSIDE OF HIS BRAIN.
5 WE ARE GOING TO SHOW YOU. AND WE ALL KNOW NOW, WE
6 HAVE LEARNED ENOUGH ABOUT HOW THE BRAIN OPERATES TO
7 KNOW BRAINS LARGELY ARE COMPARTMENTALIZED.

8 EACH AREA OF THE BRAIN IS RESPONSIBLE FOR
9 CERTAIN THINGS JUST LIKE YOUR FEET ARE RESPONSIBLE
10 FOR WALKING, YOUR HANDS ARE RESPONSIBLE FOR DOING
11 STUFF LIKE THIS. AND SIMPLY BECAUSE YOUR FEET MAY
12 WORK DOESN'T MEAN YOUR HANDS ARE GOING TO NECESSARILY
13 WORK RIGHT.

14 THE BRAIN IS NO DIFFERENT. AND IT JUST SO
15 HAPPENS THAT STEPHEN'S BRAIN DEFECT IS RIGHT HERE IN
16 THE FRONTAL LOBE THAT CONTROLS EMOTIONS THAT COME
17 FROM DEEP INSIDE THE BRAIN IN AN AREA CALLED THE
18 LIMBIC SYSTEM.

19 THE LIMBIC SYSTEM IS -- EVOKES OR EMITS EMOTIONS
20 AND RESPONSIBILITY, LIKE -- EMOTIONS, FIGHT OR
21 FLIGHT, OR FEAR, OR AGGRESSION, THOSE KINDS OF BASIC
22 EMOTIONS THAT ALL OF US HAVE, ALL OF US HAVE WHO ARE
23 HEALTHY. AND STEPHEN HAS THOSE. THAT AREA OF HIS
24 BRAIN IS HEALTHY I'M ASSUMING.

25 BUT AFTER THAT EMOTION LEAVES THERE, IT'S

1 TRANSMITTED UP INTO THE FRONTAL LOBES WHERE IT'S
2 PROCESSED AND WHERE THE RESPONSIBILITY LIES FOR
3 MAKING APPROPRIATE JUDGMENT ABOUT HOW TO DEAL WITH
4 THAT EMOTION. STEPHEN'S FRONTAL LOBE DOESN'T WORK
5 PROPERLY. IT WASN'T WORKING AT THAT TIME.

6 I KNOW IT'S THE BEGINNING OF THE TRIAL, BUT
7 EVERY ONE OF YOU STOOD AND TOOK AN OATH AND SAID,
8 WHEN WE WERE TALKING TO YOU, YOU CAN FOLLOW THE LAW
9 AS THE JUDGE GIVES IT TO YOU WHETHER YOU BELIEVE IT
10 OR NOT OR WHETHER YOU AGREE WITH IT OR NOT. DO YOU
11 REMEMBER THAT?

12 SHE ASKED EVERY ONE OF YOU THAT AND EVERY ONE OF
13 YOU SAID, YEAH, I CAN GIVE -- I CAN FOLLOW THE LAW AS
14 YOU GIVE IT TO ME WHETHER I BELIEVE IT SHOULD BE THAT
15 WAY OR NOT.

16 PART OF THE LAW IS THAT INSANITY IS A DEFENSE IN
17 SOUTH CAROLINA TO THIS INCIDENT. STEPHEN WAS INSANE.
18 THE DEFINITION OF INSANITY THAT YOU'RE GOING TO HEAR
19 OVER AND OVER AGAIN PROBABLY DURING THE COURSE OF
20 THIS TRIAL IS THAT HE LACKED -- BECAUSE OF A MENTAL
21 DEFECT, A MENTAL DEFECT, HE LACKED THE CAPACITY TO
22 DISTINGUISH RIGHT FROM WRONG.

23 AND RIGHT OUT OF THE STARTING GATE, MY HEAVENS,
24 LOOK AT THE FACTS OF THIS CASE. WOULD A NORMAL
25 PERSON DO THAT? A HEALTHY PERSON? STEVE LOOKS

1 NORMAL. HE LOOKS HEALTHY. BUT HE'S NOT HEALTHY.

2 HE LACKED THE CAPACITY -- PART OF THE EVIDENCE
3 IN THE CASE, AND WE'RE GOING TO ASK YOU TO CONSIDER,
4 IS THE VERY CIRCUMSTANCES OF THE CASE, BUT IT DOES
5 NOT STOP THERE.

6 YOU'RE GOING TO MEET IN ALL LIKELIHOOD SOME
7 LEADING EXPERTS IN THE WORLD ON HOW THE BRAIN
8 FUNCTIONS AT THIS LEVEL AND HOW THESE TWO SYSTEMS
9 INTERACT. IT'S LIKELY THAT YOU'RE GOING TO SEE SOME
10 AMAZING IMAGES OF STEPHEN'S BRAIN AT WORK COMPARED TO
11 OTHER HEALTHY BRAINS AT WORK, AND YOU CAN SEE THE
12 DEFECT.

13 AND UNFORTUNATELY IT'S RIGHT THERE IN THE PART
14 OF THE BRAIN THAT HAD THE RESPONSIBILITY FOR
15 CONTROLLING THESE THINGS, PUTTING THE BRACE ON THOSE
16 EMOTIONS, FIGHT OR FLIGHT, PROCESSING, MAKING
17 EXECUTIVE COMMANDS OR EXECUTIVE THOUGHT PROCESSES,
18 AND EXECUTING THOSE. HIS BRAIN LACKED THE ABILITY TO
19 DO THAT UNDER THOSE CIRCUMSTANCES.

20 YOU'RE GOING TO HEAR THAT INSANITY IN THIS TYPE
21 OF SITUATION AS STEPHEN OPERATES -- IF YOU'RE IN A
22 WHEELCHAIR AND YOU HOBBLE THROUGH LIFE THE BEST YOU
23 CAN, YOU DEAL WITH THAT AND IT AFFECTS THE WAY YOU
24 INTERACT WITH OTHER PEOPLE.

25 STEPHEN HAS HOBbled, WITH ALL DUE RESPECT,

1 THROUGH LIFE WITH THIS DEFECT ALL OF HIS LIFE. AND
2 IT'S MANIFESTED ITSELF OBVIOUSLY MORE AND MORE AND
3 MORE AS HE MATURED AS THAT PART OF THE BRAIN DIDN'T
4 LEARN HOW TO FUNCTION PROPERLY OR IT DIDN'T -- IT WAS
5 NOT ABLE TO FUNCTION PROBABLY -- PROPERLY BECAUSE OF
6 SOME GENETIC PROBLEM OR SOMETHING OF THAT NATURE THAT
7 CERTAINLY WAS NOT ANYONE'S FAULT AND NOT -- WE'RE NOT
8 TALKING ABOUT SOMETHING HE LEARNED FROM HIS PARENTS
9 OR THAT HE LEARNED. IT'S A BIRTH DEFECT.

10 HE -- BECAUSE OF THE DEFECT, YOU'RE GOING TO
11 HEAR TESTIMONY THAT HE OPERATES RIGHT ON THE
12 BORDERLINE OF SANITY ALL THE TIME AND THAT IT IS A
13 FLUID STATE OF MIND THAT CAN BE IN CONSTANT MOTION,
14 AND YOU CAN BE NEAR THAT LINE OF SANITY AND FAIRLY
15 EASILY CROSS OVER INTO THAT AREA OF INSANITY BECAUSE
16 OF THE LACK OF FUNCTIONING OF THE BRAIN UP THERE.

17 IF YOU HAVE A BRAIN DEFECT, IT'S OBVIOUS THAT
18 IT'S GOING TO AFFECT YOUR CONDUCT. IT DOESN'T TAKE A
19 ROCKET SCIENTIST TO GUESS THAT, TO KNOW THAT.

20 I, TOO, AM SORRY THAT WE HAVE TO MAKE YOU DO
21 THIS CASE. IT'S A HARD CASE. IT'S A HARD CASE ON A
22 NUMBER OF DIFFERENT LEVELS OR IN A NUMBER OF
23 DIFFERENT WAYS. ONE, THE EVIDENCE IS GOING TO BE
24 DIFFICULT TO HEAR. AND THE SCIENCE ISSUES ARE GOING
25 TO BE HARD TO UNDERSTAND.

1 BUT WE BELIEVE THAT YOU COLLECTIVELY CAN DO
2 THAT, CAN ENDURE IT AND MAKE A DECISION THAT'S BASED
3 ON THE FACTS OF THE CASE AND BASED ON THE LAW THAT'S
4 GOING TO BE INSTRUCTED TO YOU.

5 I WISH THAT [REDACTED] DID NOT HAVE TO TESTIFY.
6 I DON'T ENJOY HER HAVING TO DO THAT. IT'S PART OF
7 WHAT OUR SYSTEM IS, HOWEVER.

8 AND YOU'RE GOING TO LEARN THAT WHEN [REDACTED]
9 [REDACTED] BEING INTERVIEWED BY THE POLICE AND SHE WAS
10 DESCRIBING WHAT MR. STANKO WAS DOING AFTER THE
11 INCIDENTS THAT HAVE BEEN DISCUSSED BY THE SOLICITOR,
12 THAT SHE HEARD VOICES, WHAT APPEARED TO HER TO BE
13 PEOPLE TALKING.

14 SHE THOUGHT THERE WERE AT LEAST TWO PEOPLE IN
15 THE HOME. BUT THERE WASN'T. WAS ONE, THAT WAS
16 MR. STANKO. AND I WOULD SUBMIT THIS TO YOU. THAT IF
17 SHE THOUGHT THERE WERE TWO PEOPLE IN THE HOME, SHE
18 DIDN'T RECOGNIZE THEM.

19 WE WILL MAKE THIS CASE GO AS QUICKLY AS WE CAN.
20 WE WON'T DELAY IT ANY LONGER THAN IT NEEDS TO BE, BUT
21 WE WILL TAKE OUR TIME TO MAKE SURE THAT WE AS THE
22 DEFENSE PRESENT EVERYTHING THAT WE BELIEVE SHOULD BE
23 CONSIDERED IN THIS CASE BEFORE YOU MAKE A DECISION
24 ABOUT GUILT OR INNOCENCE OR WHETHER THIS MAN WAS SANE
25 AT THE TIME OF THE INCIDENTS THAT WERE SPOKEN OF BY

1 THE SOLICITOR.

2 IT'S GOING TO BE A REMARKABLE CASE. AND WE,
3 TOO, APPRECIATE YOUR TIME. I VERY MUCH WISH THAT WE
4 COULD AVOID THIS, BUT WE CAN'T. AND WE APPRECIATE
5 YOUR WILLINGNESS TO STAND UP AND SAY SOMEONE HAS TO
6 DO THIS AND UNDERTAKE THE RESPONSIBILITY OF JURORS IN
7 THIS CASE, AND YOU HAVE DONE THAT, AND WE APPRECIATE
8 IT. THANK YOU VERY MUCH.

9 THE COURT: COUNSEL APPROACH FOR ME, PLEASE?

10 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

11 THE COURT: MADAM FORELADY, LADIES AND
12 GENTLEMEN, YOU ALL HAVE HAD A FAIRLY LONG MORNING.
13 AND I THINK THAT THIS IS PROBABLY AN OPPORTUNE TIME
14 FOR US TO TAKE OUR LUNCHEON RECESS FOR THE DAY, NOT
15 BECAUSE YOU WON'T BE -- EASE FOR THE REST OF THE DAY,
16 BUT WE ARE GOING TO TAKE OUR LUNCHEON RECESS.

17 THE CLERK AS I UNDERSTAND IT IS HAVING LUNCH
18 BROUGHT IN FOR YOU TODAY. AND I WILL ASK HER SHORTLY
19 WHAT TIME THEY ANTICIPATE THAT WILL BE. WE'RE GOING
20 TO GIVE YOU AN OPPORTUNITY -- WHAT TIME -- YOUR CLERK
21 IS WONDERFUL. SHE IS VERY ORGANIZED, AND A WOMAN
22 AFTER MY OWN HEART.

23 SHE AND I WILL BE GETTING ALONG WONDERFULLY.
24 AND I APPRECIATE HER A GREAT DEAL AND I WELCOME THE
25 OPPORTUNITY TO TELL HER THANK YOU PUBLICLY FOR ALL

1 THE ASSISTANCE THAT SHE HAS PROVIDED FOR US THIS
2 WEEK.

3 LUNCH IS HERE, SO YOU ALL WILL HAVE THE
4 OPPORTUNITY TO EAT AFTER WHICH I'M GOING TO ALLOW THE
5 SLED OFFICERS TO TAKE YOU TO THE HOTEL TO GET
6 SITUATED, AND THEN WE WILL COME BACK AND PREPARE FOR
7 THE AFTERNOON'S TESTIMONY AND ALSO GIVE YOU THE
8 OPPORTUNITY TO REFRESH YOURSELVES SOMEWHAT.

9 BECAUSE AGAIN, I WOULD ASSUME FOR YOU ALL --
10 BECAUSE WE'RE FAMILIAR WITH THIS PROCESS, IT DOESN'T
11 SEEM LIKE A LONG MORNING TO US, BUT I'M CERTAIN IT
12 FEELS LIKE A LONG MORNING TO YOU ALL.

13 DURING THIS BREAK PLEASE ABIDE BY THE COURT'S
14 INSTRUCTIONS AND HAVE NO DISCUSSION WHATSOEVER ABOUT
15 THE MATTERS THAT YOU HAVE ALREADY HEARD OR THAT YOU
16 ANTICIPATE THAT YOU WILL HEAR IN ANY WAY.

17 AND I'M GOING A BIT FURTHER AND I'M GOING TO
18 INSTRUCT THAT IF ANY SUCH DISCUSSIONS TAKE PLACE THAT
19 THEY ARE TO BE IMMEDIATELY REPORTED TO THE COURT.

20 ALSO, WE WON'T HAVE -- THE USUAL INSTRUCTION I
21 GIVE IS ABOUT MEDIA COVERAGE, BUT YOU ALL ARE
22 SEQUESTERED, SO THE SLED AGENTS WILL ENSURE THAT, BUT
23 AGAIN, IT IS VITAL THAT YOU ALL REMAIN IMPARTIAL AND
24 THAT YOU -- THE REASON WE ASK THAT YOU NOT DISCUSS
25 THE CASE IS BECAUSE WHEN YOU BEGIN TO TALK ABOUT WHAT

1 YOU HEARD, YOU LITERALLY BEGIN TO PROCESS THAT
2 INFORMATION AND BEGIN TO DRAW CONCLUSIONS BASED UPON
3 IT, AND THAT BY ITS VERY NATURE IS DELIBERATIONS.

4 AND SO WE PREFER THAT YOU WAIT TILL YOU HEAR
5 EVERYTHING, TILL YOU HAVE HEARD ARGUMENTS AND THE
6 COURT'S CHARGE SO THAT YOU CAN HAVE A TRUE
7 DELIBERATION WHICH WILL BE AMONG YOUR 12 MEMBERS, AND
8 THEN BEGIN TO FULLY ENGAGE IN THOSE DELIBERATIONS
9 PRIOR TO REACHING A VERDICT.

10 IF YOU ALL WILL GO WITH THE BAILIFFS AND WE WILL
11 MAKE ARRANGEMENTS FOR YOUR LUNCH. AND AFTER -- YOU
12 LEAVE YOUR NOTEPADS IN YOUR SEATS -- AFTER WHICH I
13 WILL THEN GIVE YOU A TIMEFRAME AS TO -- BECAUSE I
14 NEED TO TALK WITH THE SLED AGENTS AND JUST GET A
15 GENERAL IDEA OF HOW LONG THEY THINK IT WILL TAKE FOR
16 US TO GET EVERYTHING ACCOMPLISHED. IF YOU ALL WILL
17 GO WITH THE BAILIFFS.

18 (JURY LEFT THE COURTROOM AT 12:37 PM.)

19 *THE COURT:* WE WILL BE AT EASE SHORTLY. I NEED
20 TO TOUCH BASE WITH THE CLERK AND WITH OUR OFFICERS TO
21 GET A TIMELINE ON HOW WE WILL BE PROCEEDING AND HOW
22 MUCH TIME WE NEED TO GIVE FOR LUNCH, AFTER WHICH I
23 WILL GIVE YOU ALL -- SO YOU ALL CAN KNOW HOW MUCH
24 TIME YOU HAVE BEFORE WE RESUME.

25 WE WILL BE AT EASE FOR A MOMENT, HOWEVER, AND I

1 WILL SEND MY CLERK TO LET YOU KNOW.

2 MR. HEMBREE: THANK YOU, JUDGE.

3 THE COURT: YOU'RE WELCOME. THANK YOU.

4 MR. KELLY: THANK YOU, JUDGE.

5 THE COURT: THANK YOU.

6 (WHEREUPON A RECESS WAS HAD.)

7 THE COURT: FOR PURPOSES OF THE RECORD, THE
8 PARTIES ARE STIPULATING TO THE SEQUESTERING OF ALL
9 THE WITNESSES. IS THAT CORRECT FROM THE STATE?

10 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

11 THE COURT: IS THAT CORRECT FROM THE DEFENSE?
12 YOU GOING TO SAY -- YEAH, MR. DIGGS.

13 MR. DIGGS: I'M SORRY. WHAT WAS...

14 THE COURT: ABOUT SEQUESTERING THE WITNESSES.

15 MR. DIGGS: WE AGREE.

16 THE COURT: THE STATE HAS CONSENTED. IT'S
17 MUTUAL?

18 MR. DIGGS: YES, CORRECT. SORRY.

19 THE COURT: THAT'S ALL RIGHT. I KNOW YOUR MIND
20 IS SOMEPLACE ELSE.

21 (WHEREUPON, STATE'S EXHIBITS 9-18 WERE ADMITTED
22 INTO EVIDENCE.)

23 (WHEREUPON, STATE'S EXHIBIT NO. 19 WAS MARKED
24 FOR IDENTIFICATION ONLY.)
25

1 (WHEREUPON, STATE'S EXHIBIT NO. 20 WAS MARKED
2 FOR IDENTIFICATION ONLY.)

3 (WHEREUPON, STATE'S EXHIBIT NO. 21 WAS MARKED
4 FOR IDENTIFICATION ONLY.)

5 (WHEREUPON, STATE'S EXHIBITS 22-37 WERE ADMITTED
6 INTO EVIDENCE.)

7 (WHEREUPON, STATE'S EXHIBITS NOS. 38, 39, 40, 41
8 WERE MARKED FOR IDENTIFICATION ONLY.)

9 (WHEREUPON, STATE'S EXHIBITS 42-46 WERE ADMITTED
10 INTO EVIDENCE.)

11 (WHEREUPON, STATE'S EXHIBITS NOS. 47-62 WERE
12 MARKED FOR IDENTIFICATION ONLY.)

13 (WHEREUPON, STATE'S EXHIBIT NO. 58-A WAS MARKED
14 FOR IDENTIFICATION ONLY.)

15 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

16 (WHEREUPON, STATE'S EXHIBITS 63-67 WERE ADMITTED
17 INTO EVIDENCE.)

18 (EXHIBITS WERE MARKED DURING LUNCH RECESS.)

19 THE COURT: IS THE STATE READY TO PROCEED?

20 MR. HEMBREE: YES, YOUR HONOR.

21 THE COURT: IS THE DEFENSE READY TO PROCEED?

22 MR. DIGGS: YES.

23 THE COURT: PLEASE BRING IN THE JURY.

24 (JURY ENTERED THE COURTROOM AT 2:20 PM.)

25 THE COURT: LADIES AND GENTLEMEN, WE HOPE THAT

1 YOUR LUNCH WAS ENJOYABLE AND THAT YOU ALL ARE NOW
2 SETTLED. WE WILL NOW RESUME WITH THE TRIAL. THE
3 STATE WILL PROCEED.

4 MR. HEMBREE: THANK YOU, YOUR HONOR. THE STATE
5 CALLS DEPUTY WARREN CHALK TO THE WITNESS STAND.

6 WARREN CHALK, AFTER
7 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE COURT: IF YOU WOULD SPELL YOUR LAST NAME
9 FOR THE BENEFIT OF THE COURT REPORTER.

10 THE WITNESS: C-H-A-L-K.

11 THE COURT: YOU MAY PROCEED.

12 MR. HEMBREE: THANK YOU.

13 THE COURT: YOU'RE WELCOME.

14 DIRECT EXAMINATION

15 BY MR. HEMBREE:

16 Q DEPUTY CHALK, WITH WHOM ARE YOU EMPLOYED?

17 A GEORGETOWN COUNTY SHERIFF'S OFFICE.

18 Q AND WERE YOU WORKING WITH THE GEORGETOWN COUNTY
19 SHERIFF'S OFFICE BACK ON APRIL THE EIGHTH OF 2005?

20 A YES, I WAS.

21 Q IN WHAT CAPACITY ARE YOU EMPLOYED WITH THE SHERIFF'S
22 OFFICE?

23 A I AM A PATROL DEPUTY.

24 Q AND TYPICALLY WHAT DO YOUR RESPONSIBILITIES INCLUDE?

25 A PROTECT LIFE AND PROPERTY.

1 Q OKAY. THAT'S THE BIG -- THAT'S THE BIG ONE. BUT IN
2 YOUR NORMAL DAILY ROUTINE, WHAT DO YOU SPEND YOUR TIME
3 DOING?

4 A WE ANSWER DOMESTIC CALLS, BURGLARIES, BREAK-INS,
5 ARMED ROBBERIES, THE LIKE.

6 Q YOU'RE KIND OF THE GUYS OUT IN THE CARS?

7 A YES.

8 Q THAT WE SEE DRIVING AND PATROLLING IN THE COMMUNITY?

9 A YES, SIR.

10 Q NOW, WERE YOU CALLED UPON TO GO TO THE HOME OF LAURA
11 LING IN THE EARLY MORNING HOURS OF APRIL THE EIGHTH, 2005?

12 A YES, SIR, WE WERE.

13 Q COULD YOU TELL THIS JURY WHEN WERE YOU DISPATCHED TO
14 THAT LOCATION?

15 A WE WERE DISPATCHED AT FOUR MINUTES AFTER THREE IN THE
16 MORNING AND WE ARRIVED ABOUT 3:17 -- AT 3:17 IN THE
17 MORNING.

18 Q OKAY. TOOK YOU ABOUT 13 MINUTES TO GET THERE.

19 A CORRECT.

20 Q AND WHERE WAS THIS, WHERE WAS THE LOCATION? WHAT WAS
21 THE ADDRESS?

22 A 3960 MURRELLS INLET ROAD.

23 Q AND WHAT COUNTY IS THAT IN?

24 A GEORGETOWN COUNTY.

25 Q WHEN YOU ARRIVED, WERE YOU BY YOURSELF?

1 A NO, SIR.

2 Q WHO ELSE WAS WITH YOU?

3 A DEPUTY MILLIGAN AND DEPUTY WEAVER, ALSO EMPLOYED BY
4 GEORGETOWN.

5 Q MILLIGAN AND WEAVER?

6 A YES, SIR.

7 Q DEPUTIES MILLIGAN AND WEAVER. DID THEY HAVE THEIR
8 OWN VEHICLES OR WERE THEY IN YOUR VEHICLE?

9 A I BELIEVE DEPUTY WEAVER WAS STILL IN TRAINING, SO HE
10 WAS RIDING WITH DEPUTY MILLIGAN AT TIME. TWO VEHICLES.

11 Q TWO VEHICLES RESPONDED. AND WHAT DID YOU -- WHAT
12 INFORMATION DID YOU HAVE WHEN YOU ARRIVED ON THE SCENE?

13 A THE CALL CAME OUT AS A RAPE SEXUAL ASSAULT WITH A
14 POSSIBLE DECEASED PERSON ON SCENE, AND THAT WAS ALL WE HAD
15 AT THE TIME.

16 Q WHEN YOU ARRIVED, WHAT WAS THE FIRST ACTION THAT YOU
17 AND OTHER DEPUTY -- OTHER DEPUTIES TOOK?

18 A WE SECURED THE EXTERIOR OF THE RESIDENCE FROM
19 POSSIBLE SUSPECTS AND THEN MADE OUR WAY TO THE FRONT DOOR
20 AND ATTEMPTED TO LOOK INSIDE.

21 Q AND WHEN YOU SAY THAT YOU SECURED THE EXTERIOR, THE
22 PERIMETER OF THE RESIDENCE, WHAT DOES THAT INVOLVE?

23 A JUST CLEARING THE WHERE -- AREA BEHIND THE HOUSE,
24 MAKE SURE NOBODY IS HIDING. WE -- CAN SURPRISE US WHEN WE
25 ARRIVE ON SCENE, AND MORE JUST COVERING US, MAKE SURE THE

1 OUTSIDE IS SECURE BEFORE WE ACTUALLY GO INSIDE.

2 Q NOW, HAD THE EMT, THE AMBULANCE, BEEN CALLED AS WELL?

3 A YES, SIR.

4 Q AND WERE THEY ON SCENE AT THAT POINT IN TIME?

5 A THEY WERE STAGED APPROXIMATELY A BLOCK AWAY, TWO
6 BLOCKS AWAY, RIGHT AROUND THE CORNER.

7 Q OKAY. YOU SAY THEY WERE STAGED ABOUT A BLOCK AWAY.
8 IS THAT -- IS THAT PRETTY STANDARD OPERATING PROCEDURE?

9 A IT IS FOR A CALL LIKE THIS, YES, SIR.

10 Q SO THEY'RE -- THEY'RE OFF WAITING FOR YOU TO MAKE
11 SURE THAT IT'S SAFE FOR THEM TO ENTER?

12 A CORRECT. CORRECT.

13 Q UNDERSTOOD. NOW, AFTER YOU CLEARED THE PERIMETER,
14 WHAT DID YOU AND THE OTHER DEP -- WHERE DID YOU AND THE
15 OTHER DEPUTIES GO?

16 A WE WENT UP TO THE FRONT DOOR. WE WERE ABLE TO LOOK
17 INSIDE THROUGH THE GLASS FRONT DOOR. DEPUTY WEAVER COULD
18 SEE A VICTIM LAYING ON THE BED IN A BACK BEDROOM AT THE
19 REAR OF THE HOUSE. AND THE VICTIM [REDACTED] WAS ON THE
20 PHONE WITH 911 TELLING US TO COME INSIDE, THAT HE WAS
21 GONE, TO MAKE ENTRY INSIDE.

22 Q WAS THE DOOR LOCKED OR UNLOCKED?

23 A IT WAS LOCKED. THE ENTIRE HOUSE WAS LOCKED.

24 Q HOW DID YOU MAKE ENTRY?

25 A I KICKED THE DOOR.

1 Q AND WHO KICKED THE DOOR?

2 A I DID.

3 Q ONCE YOU MADE ENTRY INTO THE HOUSE, WERE LIGHTS ON OR
4 OFF?

5 A THERE WERE LIGHTS ON AND OFF DIFFERENT PLACES IN THE
6 RESIDENCE.

7 Q NOW, WHERE DID YOU GO AND WHERE DID THE OTHER
8 DEPUTIES GO WHEN YOU ENTERED?

9 A THE OTHER TWO DEPUTIES WENT OFF TO THE LEFT SIDE OF
10 THE HOUSE TO SECURE THAT AREA AND I WENT DIRECTLY TO THE
11 ROOM WHERE THE VICTIMS WERE LOCATED.

12 Q AND WHAT DID YOU FIND WHEN YOU ENTERED THE ROOM?

13 A FOUND [REDACTED] LAYING IN BED, WAS BOUND, FOUND HER
14 MOTHER LAYING NEXT TO THE BED ON THE RIGHT SIDE. SHE
15 WAS -- [REDACTED] WAS -- HAD -- OBVIOUSLY HER THROAT HAD
16 BEEN SLIT. HER LEFT EAR APPEARED TO HAVE BEEN SEVERED,
17 HER EAR LOBE, AND HER MOTHER WAS NOT MAKING ANY -- ANY
18 NOISES.

19 Q COULD YOU DESCRIBE HOW [REDACTED] WAS BOUND,
20 [REDACTED]?

21 A IT APPEARED AT THE TIME THAT SHE -- IT WAS A ROPE,
22 VERY BLOODY. WE COULDN'T TELL WHAT SHE WAS BOUND WITH AT
23 THE TIME. SHE WAS COVERED IN BLOOD.

24 Q AND WHERE WAS SHE LOCATED IN THE ROOM?

25 A ON THE BED IN THE BEDROOM.

1 Q AFTER YOU FOUND THE SCENE, DESCRIBE WHAT ACTION DID
2 YOU TAKE.

3 A I BASICALLY STAYED IN THE BEDROOM TO SECURE THOSE
4 VICTIMS WHILE THE OTHER DEPUTIES FINISHED CLEANING (SIC)
5 THE HOUSE, AND AT THAT TIME WE CONTACTED EMS AND HAD THEM
6 RESPOND.

7 Q AND APPROXIMATELY HOW MUCH TIME ELAPSED FROM THE
8 TIME -- NOW, YOU'RE BACK -- YOU'RE IN THE ROOM WITH THE
9 VICTIM. THEY'RE CLEARING THE HOUSE. HOW LONG WERE YOU IN
10 THE HOUSE BEFORE YOU CALLED -- YOU SAID IT WAS CLEAR AND
11 EMS COULD COME IN?

12 A THIRTY SECONDS TO A MINUTE, AT THAT.

13 Q YOU DIDN'T HELP OR ASSIST EMS IN ANY WAY?

14 A NO, SIR.

15 Q JUST MAINTAINED THE SCENE?

16 A MAINTAINED THE CRIME SCENE.

17 Q WHAT WAS YOUR -- AFTER GETTING EMS IN THERE TO RENDER
18 AID, WHAT WAS YOUR NEXT RESPONSIBILITY?

19 A WE ACTUALLY EXITED TO PRESERVE EVIDENCE INSIDE THE
20 RESIDENCE ONCE IT WAS SECURE. I MAINTAIN THE CRIME SCENE
21 LOG, WHICH IS EVERYBODY WHO ENTERS AND EXITS THE
22 RESIDENCE, AND WE JUST BASICALLY STAND BY OUTSIDE TILL THE
23 INVESTIGATORS ARRIVE.

24 Q AND YOU OR OTHER DEPUTIES CONTACTED THE
25 INVESTIGATORS?

1 A OH, YES, SIR.

2 Q AND YOU MAINTAIN THE SCENE UNTIL THEY ARRIVE?

3 A CORRECT.

4 Q OTHER THAN THE EMTS, ANYONE ELSE GO IN AND OUT OF
5 THAT CRIME SCENE UNTIL THE OTHER OFFICERS ARRIVED?

6 A NO, SIR.

7 Q NOBODY ELSE WAS ON THE SCENE?

8 A NO, SIR.

9 Q THANK YOU VERY MUCH. PLEASE ANSWER ANY QUESTIONS
10 THAT THE DEFENSE COUNSEL MIGHT HAVE.

11 THE COURT: THE DEFENSE MAY PROCEED WHEN READY.

12 MR. KELLY: NO QUESTIONS.

13 THE COURT: ANY OBJECTION TO THE WITNESS BEING
14 EXCUSED FROM THE STATE?

15 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. KELLY: NONE.

18 THE COURT: SIR, YOU'RE EXCUSED. HAVE A GOOD
19 AFTERNOON. YOU CAN CALL YOUR NEXT WITNESS.

20 MR. HEMBREE: THANK YOU, YOUR HONOR.

21 THE COURT: YOU'RE WELCOME.

22 MR. HEMBREE: THE STATE CALLS [REDACTED] LING TO
23 THE WITNESS STAND.

24 THE COURT: MS. LING, IF YOU WOULD COME TO THE
25 STAND AND BE SWORN.

1 [REDACTED] LING, AFTER
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE WITNESS: MY NAME IS [REDACTED] LING,
4 L-I-N-G.

5 THE COURT: YOU MAY PROCEED.

6 MR. HEMBREE: THANK YOU, YOUR HONOR.

7 DIRECT EXAMINATION

8 BY MR. HEMBREE:

9 Q MS. LING, HOW OLD ARE YOU?

10 A I'M 16.

11 Q AND WHAT DO YOU DO FOR A LIVING?

12 A I AM A HOSTESS AND I BUS TABLES FOR RIDICULOUSLY LOW
13 WAGES AT A RESTAURANT IN CHAPIN.

14 Q WHERE DO YOU LIVE?

15 A I LIVE IN CHAPIN WITH MY DAD.

16 Q AND WORKING AT THE RESTAURANT, IS THAT A FULL-TIME
17 JOB OR PART-TIME JOB?

18 A IT'S PART-TIME THANK GOODNESS.

19 Q OKAY. WHAT IS YOUR -- WHAT DO YOU DO DURING THE REST
20 OF THE YEAR WHEN YOU'RE NOT IN SUMMER?

21 A WHEN I'M IN SCHOOL?

22 Q YES.

23 A I'M ACTUALLY A SENIOR CLASS PRESIDENT THIS YEAR AND I
24 PLAY TENNIS ON THE VARSITY TENNIS TEAM.

25 Q WHERE DO YOU GO TO HIGH SCHOOL?

1 A WACCAMAW HIGH SCHOOL.

2 Q HERE IN GEORGETOWN COUNTY?

3 A YEAH.

4 Q HAVE YOU GONE THERE ALL -- ALL...

5 A MY ENTIRE LIFE.

6 Q YOUR WHOLE LIFE. WHAT -- YOU'RE GOING TO -- YOU SAY
7 THIS IS YOUR SENIOR YEAR, YOU'RE SENIOR CLASS PRESIDENT?

8 A YES, SIR.

9 Q AND WHEN YOU FINISH YOUR SENIOR YEAR, DO YOU HAVE ANY
10 PLANS AFTER HIGH SCHOOL?

11 A I'M THINKING ABOUT GOING TO WOFFORD. IT SEEMS LIKE A
12 NICE SCHOOL. I LIKE IT.

13 Q ALL RIGHT. THE -- YOU LIVED IN GEORGETOWN COUNTY FOR
14 QUITE SOME TIME. YOU WERE LIVING HERE IN APRIL OF 2005?

15 A YES, SIR.

16 Q ALL RIGHT. TELL ME, WHERE DID YOU LIVE.

17 A I LIVED WITH MY MOM. WOULD YOU LIKE AN ADDRESS?

18 Q SURE.

19 A [REDACTED].

20 Q AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER ONE IN
21 EVIDENCE. ASK IF YOU CAN IDENTIFY THAT FOR ME.

22 A THAT PICTURE IS A PICTURE OF MY HOUSE THAT I LIVED IN
23 WITH MY MOM, THAT IS [REDACTED].

24 Q OKAY. DO YOU KNOW THE DEFENDANT, STEPHEN CHRISTOPHER
25 STANKO?

1 A I DO.

2 Q LET ME TAKE YOU BACK -- WELL, WHEN DID YOU FIRST HEAR
3 OF HIM?

4 A I FIRST HEARD OF HIM LIKE IN SEPTEMBER OF 2005, MY
5 MOM HAD MENTIONED HIM.

6 Q WAS THAT SEPTEMBER OF 2005 OR 2004?

7 A NO, I'M SORRY, 2004, YOU'RE RIGHT. I'M SORRY.

8 Q YOU SAID THAT YOUR MOM HAD MENTIONED HIM?

9 A YES.

10 Q HOW DID SHE OR WHAT DID YOU OBSERVE ABOUT HER KIND OF
11 DEMEANOR OR HER PERSONALITY AS IT RELATES TO MR. STANKO?

12 A SHE SEEMED -- SHE SEEMED SO HAPPY.

13 Q AND DID YOU HAVE OCCASION TO MEET HIM?

14 A I DID.

15 Q WOULD YOU TELL THIS JURY THE FIRST TIME YOU MET
16 DEFENDANT STANKO?

17 A THE FIRST TIME THAT I MET STEPHEN MY MOM WAS REALLY
18 NERVOUS ABOUT IT, YOU KNOW, BECAUSE SHE -- YOU KNOW, SHE
19 KNEW THAT HE WOULD BE NERVOUS ABOUT IT, AND YOU KNOW, IT
20 WAS ACTUALLY MY BIRTHDAY, THE NIGHT OF MY BIRTHDAY, AND --
21 WHEN HE CAME OVER, AND...

22 Q WHAT DATE WAS THAT?

23 A [REDACTED].

24 Q [REDACTED] OF 2004?

25 A YES, SIR. WE HAD A -- INSTEAD OF A CAKE, I WANTED --

1 I WAS TURNING 16, YOU KNOW, OR I WAS TURNING 15. I WAS
2 TURNING 15. AND INSTEAD OF CAKE WE GOT 15 CUPCAKES AND
3 PUT A CANDLE IN EACH ONE. IT WAS REALLY NICE. AND WE
4 ATE.

5 WHEN I MET STEPHEN, YOU KNOW, I COULD TELL HE WAS
6 KIND OF NERVOUS AT FIRST. I'M SURE HE REALLY LIKE, YOU
7 KNOW, SEEMED LIKE HE REALLY WANTED TO -- TO -- THINGS TO
8 GO WELL BECAUSE I THINK, YOU KNOW, MEETING A -- YOUR
9 GIRLFRIEND'S TEEN-AGE DAUGHTER I'M SURE WAS KIND OF
10 DIFFICULT, BUT HE WAS -- HE WAS FUNNY. THAT'S WHAT I
11 REMEMBER.

12 HE WAS -- AND GOSH, HE MADE MY MOM SO HAPPY. SHE
13 JUST GLOWED, YOU KNOW. AND SHE -- HE -- HE WAS FUNNY AND
14 HE WAS SMART AND HE APPRECIATED HOW SMART SHE WAS, AND YOU
15 KNOW, IT WAS -- IT WAS REALLY, REALLY GOOD TO SEE HER LIKE
16 THAT, YOU KNOW.

17 IT WAS REALLY GOOD TO SEE HER THE WAY THAT SHE WAS
18 HAPPY, YOU KNOW, THAT SHE WAS SO -- AND SHE WAS JUST SO --
19 SHE WAS SO GOOD, SO HAPPY. AND STEPHEN WAS VERY FUNNY AND
20 HE -- I LIKED HIM. HE'S A LIKABLE GUY. HE'S A LIKABLE,
21 CHARMING GUY. THERE JUST REALLY WASN'T ANY REASON TO
22 BELIEVE THAT HE WASN'T, YOU KNOW, SO...

23 Q NOW, AFTER THIS MEETING IN OCTOBER, THE FIRST MET--

24 A UH-HUH.

25 Q -- WELL, LET ME TAKE YOU BACK A STEP. WHO IS YOUR

1 DAD?

2 A MY FATHER IS CHRIS LING.

3 Q HERE IN COURT WITH YOU TODAY?

4 A YES.

5 Q AND -- BUT YOUR MOM AND DAD WERE DIVORCED?

6 A YES, SIR.

7 Q SO WHO LIVED IN THE HOME? WHO WAS LIVING IN YOUR
8 HOME WHEN YOU FIRST MET DEFENDANT STANKO?

9 A IT WAS JUST ME AND MY MOM.

10 Q AND HOW WOULD YOU DESCRIBE YOUR RELATIONSHIP WITH
11 YOUR MOM?

12 A SHE -- WE WERE -- WE WERE BEST FRIENDS. I MEAN, YOU
13 HEAR THOSE STORIES OF TEEN-AGED GIRLS AND THEIR PARENTS,
14 AND ESPECIALLY THEIR MOMS JUST HATE EACH OTHER, YOU KNOW.
15 AND I REMEMBER ONCE, YOU KNOW, WE WOULD MAKE FUN OF IT
16 BECAUSE WE WERE SO DIFFERENT, YOU KNOW.

17 LIKE, I MEAN, WE WERE JUST -- SHE -- SHE WAS MY BEST
18 FRIEND. SHE WAS MY COMPASS, MY DIRECTION TO DO ANYTHING.
19 AND IT -- IT WAS REALLY GREAT BECAUSE SHE WAS SO
20 SUPPORTIVE. IT'S LIKE, YOU KNOW, NO MATTER WHATEVER
21 HAPPENED, WHAT DECISION BAD OR GOOD THAT I MADE, I KNEW
22 THAT SHE'D BE BEHIND ME A HUNDRED PERCENT.

23 AND IT DIDN'T MATTER IF NOBODY ELSE WAS. I STILL --
24 I ALWAYS HAD HER. AND WE -- WE GOT ALONG PRETTY WELL. I
25 MEAN, WE GOT ALONG GREAT, AND -- AND I -- I'D GROWN UP

1 WITH TWO OLDER BROTHERS, SO TO HAVE, YOU KNOW, JUST ME AND
2 MY MOM, YOU KNOW, IT WAS NICE.

3 Q DID THERE COME A POINT IN TIME WHEN DEFENDANT STANKO
4 MOVED INTO YOUR -- YOU AND YOUR MOM'S HOUSE?

5 A YES, SIR.

6 Q ABOUT -- ABOUT WHEN WAS THAT IF YOU RECALL?

7 A IT WAS AROUND -- IT WAS IN NOVEMBER. I WANT TO SAY
8 AROUND EITHER LIKE THE WEEK BEFORE OR THE WEEK AFTER
9 THANKSGIVING. MAYBE, KINDA IN THAT TIME.

10 Q GOT YA. AND AFTER -- AFTER DEFENDANT STANKO MOVED
11 INTO THE HOUSE, HOW -- DID THAT ADJUSTMENT GO PRETTY WELL?

12 A YEAH. I MEAN, AT FIRST IT WENT -- IT WENT PRETTY
13 WELL. MY MOM WAS REALLY NERVOUS ABOUT IT. IT SEEMED SHE
14 WAS -- AND SHE TALKED ABOUT IT WITH ME FIRST AND THEN, OF
15 COURSE, I MEAN, I COULDN'T REALLY SAY -- SAY NO, BECAUSE,
16 YOU KNOW, SHE WAS JUST -- SHE SEEMED SO HAPPY.

17 SHE SEEMED SO LIKE THIS -- THIS VOID THAT -- THAT I
18 COULDN'T FILL, YOU KNOW, HAD -- HAD FINALLY BEEN FILLED
19 BECAUSE, I MEAN, I'M HER DAUGHTER AND I -- OUR
20 RELATIONSHIP WAS GREAT, BUT THERE'S -- THERE WERE NEEDS
21 THAT SHE HAD THAT I -- THAT I COULDN'T GIVE HER.

22 AND IT WAS JUST GREAT TO SEE HER SO HAPPY, SO I -- SO
23 I FIGURED, IF SHE'S HAPPY, THEN LET'S DO IT.

24 Q OKAY. AND AT ANY POINT FROM NOVEMBER TO APRIL THE
25 EIGHTH OF 2005 DID MR. STANKO MOVE OUT OF THE HOUSE OR WAS

1 HE IN -- A RESIDENT IN THAT HOUSE DURING THAT ENTIRE TIME?

2 A HE WAS A RESIDENT DURING THAT ENTIRE TIME.

3 Q THE -- WHAT ABOUT A VEHICLE? DID HE HAVE A VEHICLE?

4 A NO, HE DIDN'T ACTUALLY, AND THAT WAS A CONCERN MAINLY
5 BECAUSE, I MEAN -- DIDN'T HAVE A CAR, YOU KNOW.

6 Q WHAT DID THAT -- DID THAT HAVE ANY IMPACT ON JUST THE
7 NORMAL ROUTINE AT YOUR HOME?

8 A YES. YES, IT DID.

9 Q HOW DID IT AFFECT Y'ALLS KIND OF EVERY DAY LIFE?

10 A WELL, MY MOM WOULD GET UP AND SOMETIMES SHE'D DO LIKE
11 HOUSEWORK AND STUFF AND SHE WOULD GET READY FOR WORK, AND
12 THEN STEPHEN WOULD TAKE ME TO SCHOOL IN THE MORNINGS
13 USUALLY, TYPICALLY.

14 Q SO THAT'S PRETTY MUCH EVERY DAY?

15 A TYPICALLY, YES.

16 Q LET ME SHOW YOU STATE'S EXHIBIT SIX IN EVIDENCE AND
17 ASK YOU IF YOU CAN IDENTIFY THAT FOR US.

18 A THAT IS MY MOM'S RED MUSTANG CONVERTIBLE.

19 Q YOU DID NOT HAVE YOUR OWN VEHICLE?

20 A NO. NO, I DIDN'T.

21 Q BECAUSE YOU WERE 15. JUST TURNED 15.

22 A I HAD JUST TURNED 15. I DID GET MY PERMIT. YES, I
23 DID GET MY PERMIT.

24 Q AND DID -- DURING THE COURSE OF THIS NOVEMBER TO
25 APRIL TIMEFRAME, DID DEFENDANT STANKO EVER HARM YOU?

1 A NO.

2 Q THREATEN YOU?

3 A NO.

4 Q FRIGHTEN YOU?

5 A NO.

6 Q APPROACH YOU IN ANY PHYSICAL MANNER AT ALL?

7 A NOPE.

8 Q DID YOU TRUST HIM?

9 A YEAH.

10 Q I'M GOING TO TAKE YOU TO -- I'M GOING TO TAKE YOU TO
11 APRIL THE SEVENTH--

12 A OKAY.

13 Q -- OF 2005. TELL ME A LITTLE BIT ABOUT THAT DAY.

14 A FROM WHAT I CAN REMEMBER, IT WAS JUST A NORMAL DAY.
15 I WENT TO SCHOOL. I WAS LATE DOING MY PAPER.

16 Q WHAT WAS YOUR PAPER ABOUT?

17 A LILIAN HELLMAN. NOT THE MOST INTERESTING PERSON, LET
18 ME TELL YA.

19 Q SO YOU -- YOU ARE LATE AND YOU'RE BEHIND ON THAT?

20 A YEAH.

21 Q ANYTHING -- DO YOU RECALL ANYTHING UNUSUAL ABOUT
22 SCHOOL THAT DAY?

23 A NOPE.

24 Q WHAT ABOUT WHEN YOU ARRIVED HOME THAT AFTERNOON,
25 ANYTHING USUAL?

1 A I GOT HOME THAT AFTERNOON, EVERYTHING WAS PRETTY
2 NORMAL. WENT ON THE COMPUTER, DILLIE DALLIED AROUND TILL
3 I FINALLY STARTED DOING MY HOMEWORK, AND IT WAS JUST
4 NORMAL.

5 Q WHEN YOU ARRIVED HOME, [REDACTED], WAS ANYBODY ELSE
6 THERE?

7 A I DON'T REMEMBER, BUT FROM WHAT I CAN REMEMBER
8 NOTHING STANDS OUT, SO -- AND TYPICALLY IF MY MOM WAS AT
9 WORK, USUALLY I WAS HOME ALONE UNLESS STEPHEN CAME HOME
10 FROM WORK.

11 Q NOW, YOU SAID YOU KIND OF PIDDED AROUND, DILLIE
12 DALLIED ON THE COMPUTER A LITTLE, THEN YOU BEGAN WORKING
13 ON YOUR PAPER?

14 A YES.

15 Q DOING YOUR HOMEWORK?

16 A YES.

17 Q DO YOU RECALL ABOUT WHAT TIME YOUR MOM ARRIVED HOME
18 THAT EVENING?

19 A I WANT TO SAY BETWEEN 8:30 AND 9:00.

20 Q NOW, IS THAT UNUSUAL FOR HER TO BE HOME THAT LATE?

21 A NO. SEE, SHE WORKED. THERE WERE TWO SHIFTS THAT SHE
22 GENERALLY WORKED IN.

23 Q WHERE DID YOUR MOM WORK?

24 A THE LIBRARY, THE SOCASTEE LIBRARY.

25 Q SOCASTEE LIBRARY. AND DO YOU KNOW WHAT KIND OF JOB

1 SHE HAD?

2 A SHE WAS A REF -- A REFERENCE LIBRARIAN.

3 Q NOW, I INTERRUPTED YOU. YOU STARTED TO SAY WHEN SHE
4 WAS TYPICALLY WORKING--

5 A UM, WHEN SHE--

6 Q -- LATE SHIFT.

7 A YEAH, WHEN -- USUALLY IF SHE STARTED -- IF SHE WENT
8 IN AT WORK AT LIKE NINE IN THE MORNING OR SHE WENT EARLIER
9 TO GET LIKE SOME WORK DONE, SHE'D BE HOME KIND OF IN OR
10 AROUND LIKE 6:00, LIKE 6:30.

11 BUT IF SHE STARTED LATER IN THE MORNING, LIKE AROUND
12 10, 10:30, SHE USUALLY TYPICALLY DIDN'T GET HOME TILL LIKE
13 USUALLY LIKE 8:30, 9:00.

14 Q AND DO YOU REMEMBER IF DEFENDANT STANKO WAS THERE?
15 DID HE ARRIVE WITH YOUR MOM?

16 A YES, SIR. ONE CAR, HE...

17 Q WHEN THEY ARRIVED YOU WERE STILL BUSY WITH YOUR
18 HOMEWORK?

19 A YES.

20 Q NOW, ANYTHING -- TO YOUR RECOLLECTION ANYTHING
21 UNUSUAL OCCUR BETWEEN THEM OR BETWEEN THEM AND YOU THAT
22 TIMEFRAME AFTER THEY ARRIVED OR BEFORE YOU WENT TO BED?

23 A NOTHING UNUSUAL.

24 Q WHAT DID YOU DO -- ABOUT WHAT TIME DID YOU FINISH UP
25 YOUR PAPER?

1 A I DON'T REALLY KNOW IF I EVER ACTUALLY FINISHED IT,
2 BUT I -- IT WAS PROBABLY AROUND 10:30.

3 Q AND AFTER YOU FINISHED WORKING ON YOUR PAPER, WHAT
4 DID YOU DO?

5 A CALLED MY BOYFRIEND.

6 Q AND TELL THIS JURY A LITTLE BIT ABOUT THE AREA WHERE
7 THE -- WHERE YOU WERE WORKING ON THE COMPUTER. IS THE
8 COMPUTER -- WHICH ROOM IN THE HOUSE IS THE COMPUTER IN?

9 A IT WAS ACTUALLY IN THE HALL ON THE OTHER SIDE OF THE
10 HOUSE WHERE -- KIND OF NEAR WHERE NICK'S ROOM WAS AND THAT
11 IT WAS -- IT WAS KIND OF FAR AWAY, BUT I WASN'T IN THERE
12 AROUND 10:30. I WAS IN MY ROOM.

13 Q SO YOU'RE DOWN IN THE -- YOU HAVE THIS LITTLE SORT OF
14 DESIGNATED COMPUTER AREA IN ONE PART OF THE HOUSE?

15 A UH-HUH.

16 Q YOU DON'T HAVE A COMPUTER IN YOUR ROOM?

17 A NO, SIR.

18 Q AND AFTER YOU FINISH UP, YOU GO TO YOUR ROOM?

19 A UH-HUH.

20 Q AND CALL...

21 A ANDY.

22 Q ANDY. WHERE DID HE GO TO SCHOOL?

23 A CAROLINA FOREST.

24 Q AND IS THAT SORT OF A LONG-DISTANCE RELATIONSHIP
25 OR -- NOT LONG -- SORT OF A DISTANT RELATIONSHIP?

1 A YEAH. YEAH, YOU COULD SAY THAT.

2 Q HOW LONG DID YOU SPEAK WITH ANDY ON THE PHONE IF YOU
3 RECALL?

4 A PROBABLY LIKE MAYBE 20, 25 MINUTES, SOMEWHERE.

5 Q AND DID YOU SEE DEFENDANT STANKO AND YOUR MOM WHILE
6 YOU WERE ON THE PHONE AND TALKING TO ANDY IN YOUR ROOM?

7 A YES. MY DOOR WAS OPEN, SO -- AND I SAW THEM GO TO
8 THE BEDROOM PROBABLY JUST TO GO TO BED.

9 Q ABOUT WHAT TIME WAS THAT?

10 A LIKE -- IT WASN'T LONG AFTER I GOT ON THE PHONE, SO
11 LIKE AROUND 10:30 I SUPPOSE.

12 Q GOT YA. NOW, FROM YOUR OBSERVATIONS WERE THEY HAVING
13 ANY DIFFICULTIES, WERE THEY--

14 A NO.

15 Q DOWN THE HALL, WENT TO THE ROOM?

16 A YES.

17 Q DID THEY OPEN OR SHUT THE DOOR?

18 A SHUT THE DOOR.

19 Q DO YOU KNOW IF THEY WENT RIGHT TO SLEEP OR NOT? OR
20 DO YOU KNOW?

21 A I HAVE NO IDEA. TYPICALLY MY MOM -- SHE LOVED
22 READING. I MEAN, OBVIOUSLY, SHE WAS A LIBRARIAN. AND
23 TYPICALLY SHE WOULD READ A BOOK BEFORE -- LIKE ALMOST
24 EVERY NIGHT BEFORE BED. SO CHANCES ARE SHE DIDN'T GO
25 DIRECTLY TO BED, BUT I COULDN'T TELL YOU FOR SURE BECAUSE

1 THE DOOR WAS CLOSED.

2 Q GOT YA. NOW, AFTER YOU GOT OFF THE PHONE, WHAT DID
3 YOU DO?

4 A I GOT UP, BRUSHED MY TEETH, WASHED MY FACE, AND WENT
5 TO BED. I THINK I MIGHT HAVE GLANCED AT SOME OF MY
6 SPANISH VOCABULARY BECAUSE I HAD A TEST THE NEXT DAY, BUT
7 I PROBABLY DIDN'T SPEND TOO MUCH TIME ON IT.

8 Q YOU DIDN'T STAY UP LATE, LATE LIKE WAY INTO THE NIGHT
9 STUDYING?

10 A NO. NO.

11 Q WHAT TIME DID YOU -- WHAT TIME WAS THE LITTLE --
12 ABOUT WHAT TIME DID YOU TURN THE LIGHTS OFF?

13 A AROUND 11:15 I'D SAY, WHICH WASN'T -- WHICH WAS
14 TYPICAL FOR ME, SO AROUND 11:15, 11:30.

15 Q OKAY. NOW, YOU TURN THE LIGHTS OFF?

16 A I, YES, SIR, TURNED THE LIGHTS OFF.

17 Q DID YOU LEAVE YOUR DOOR OPEN TO YOUR BEDROOM OR SHUT?

18 A I SHUT THE DOOR.

19 Q AND DID YOU HEAR ANYTHING UNUSUAL, ANYTHING AT ALL
20 BEFORE YOU WENT TO SLEEP?

21 A NO, SIR.

22 Q NOW, LET'S GO TO -- YOU WENT ON TO SLEEP. AT SOME
23 POINT IN THE NIGHT YOU WERE AWAKENED.

24 A YES, SIR.

25 Q TELL THIS JURY HOW THAT OCCURRED.

1 A I WAS SLEEPING I'M PRETTY SURE ON MY STOMACH ACTUALLY
2 AND ALL OF A SUDDEN THE LIGHTS WERE TURNED ON IN MY ROOM,
3 LIKE THE LIGHT ON MY FAN WAS TURNED ON, AND I LOOK UP AND
4 STEPHEN IS IN MY ROOM AND MY DOOR IS OPEN.

5 Q HAD THAT EVER HAPPENED BEFORE?

6 A NO. IT WAS WEIRD. I DIDN'T KNOW WHAT WAS GOING ON
7 OR WHY HE WAS THERE. I WAS -- I MEAN, I FIGURED LIKE -- I
8 MEAN, IT ALL HAPPENED SO FAST, I DIDN'T REALLY HAVE TIME
9 TO MAKE SENSE OF IT.

10 Q APPROXIMATELY WHAT TIME WAS IT?

11 A AROUND I BELIEVE IT WAS BETWEEN 1:15 AND 1:30.

12 Q AND WHY DO YOU BELIEVE THAT?

13 A BECAUSE RIGHT IN MY LINE OF VISION WAS MY KILL BOX
14 (SIC) WHICH HAD THE TIME ON IT.

15 Q WHAT WERE YOU WEARING AT THAT POINT IN TIME?

16 A I WAS WEARING A -- I WAS WEARING MY BOYFRIEND'S
17 HOODIE THAT I HAD AND SOME UNDERWEAR AND A PAIR OF SHORTS
18 TO BED.

19 Q AFTER YOU LOOKED UP, SAW WHAT TIME IT WAS, THE LIGHTS
20 ON, DEFENDANT STANKO STANDING IN THE DOORWAY, WHAT
21 HAPPENED?

22 A I JUST HAD TIME TO -- TO GLANCE UP BEFORE ALL OF A
23 SUDDEN HE PUT HIS WHOLE BODY WEIGHT INTO PUSHING ME ON --
24 LIKE DOWN INTO THE BED, AND I -- AND I WAS STILL ON MY
25 STOMACH. AND BEFORE I EVEN -- I WAS SO CONFUSED.

1 I THOUGHT -- I DIDN'T KNOW WHAT HE WAS DOING. I
2 DIDN'T KNOW LIKE IF THIS WAS LIKE A DRILL OR WHAT -- WHAT
3 IS HE DOING IN MY ROOM, AND -- AND THEN HE HELD SOMETHING
4 IN MY NECK. I WOULD ASSUME IT WAS A KNIFE, BUT I COULDN'T
5 SEE IT FROM THE ANGLE HE WAS HOLDING IT.

6 Q WHAT DID IT FEEL LIKE?

7 A IT FELT LIKE A BLADE OF SOME SORT, A SHARP OBJECT.

8 Q AND WHERE DID HE -- WHERE DID HE PLACE THIS ON YOUR
9 BODY?

10 A HE PLACED IT ON MY NECK.

11 Q ON...

12 A FROM BEHIND, LIKE PROBABLY LIKE RIGHT HERE.

13 Q ALL RIGHT.

14 A AND HE TOLD ME, SCREAM AND I WILL KILL YOU BOTH.

15 Q WHAT -- WHAT -- SCREAM AND I WILL KILL YOU BOTH?

16 A YES, SIR.

17 Q DID -- WHAT VOLUME DID HE USE IN THIS--

18 A HE WHISPERED IT.

19 Q SO INTO YOUR EAR?

20 A INTO MY EAR.

21 Q WHAT WAS GOING THROUGH YOUR MIND?

22 A WELL, IS THIS REALLY STEPHEN, IS THIS -- IS THIS
23 REALLY STEPHEN DOING THIS, WHERE IS MY MOM, YOU KNOW,
24 WHY -- WHAT IS GOING ON, I NEED TO GET OUT OF HERE, NEED
25 TO GET MY MOM, WE NEED TO GO, SOMEBODY NEEDS TO CALL THE

1 POLICE.

2 I MEAN, I, OF COURSE, YOU KNOW, SCREAMED EVEN AFTER
3 HE HAD ALREADY THREATENED ME, AND -- BUT IT -- IT WAS
4 JUST -- IT HAPPENED SO FAST.

5 Q WHEN YOU SCREAMED, DID ANYTHING -- DID DEFENDANT
6 STANKO RESPOND IN ANY WAY?

7 A I THINK WHEN I INITIALLY SCREAMED IT WAS THEN THAT HE
8 TOLD ME THAT IF I SCREAMED, HE WOULD KILL ME, HE'LL KILL
9 US BOTH.

10 Q WHAT HAPPENED AFTER THAT?

11 A AFTER THAT, HE -- HE HELD ME DOWN AND BEGAN TYING MY
12 HANDS BEHIND MY BACK WITH WHAT I LEARNED LATER WAS
13 NECKTIES.

14 Q WHAT WERE YOU DOING -- AS HE BEGAN THIS PROCESS OF
15 TRYING TO TIE YOUR HANDS, WHAT WERE YOU DOING?

16 A I WAS -- I WAS SQUIRMING AROUND. I WAS SEARCHING,
17 LOOKING AROUND FOR SOMETHING, ANYTHING, SOMETHING THAT
18 COULD HELP ME GET OUT OF THIS. I WAS CONCERNED ABOUT
19 WHERE MY MOTHER WAS.

20 I WAS SO CONFUSED. AND HE -- HE BOUND MY HANDS
21 PRETTY QUICK, AND THEN HE STUFFED SOMETHING IN MY MOUTH,
22 AND I DON'T KNOW WHAT IT WAS, AND BEGAN TYING A GAG AROUND
23 MY HEAD ONCE HE HAD FINISHED TYING MY HANDS BEHIND MY
24 BACK.

25 Q DID HE GET THE GAG SECURED AROUND YOUR MOUTH?

1 A YEAH.

2 Q WHAT WAS THE NEXT -- WHAT DID YOU DO NEXT?

3 A FROM WHAT I CAN RECALL, WHILE HE WAS TYING THE GAG
4 AROUND MY FACE AND MY HEAD, I -- I KIND OF WAS ELUSIVE IN
5 NECKTIES, AND I THINK I PUSHED HIM OFF ENOUGH OR I FELL ON
6 THE FLOOR OR SOMETHING AND I -- I WENT TO MY MOM'S ROOM
7 BECAUSE I FIGURED -- I MEAN, THAT WAS WHERE I COULD HAVE
8 GONE TO THE PHONE, THAT WAS WHERE -- I MEAN, I WANTED TO
9 GET TO MY MOM, I WANTED TO TELL HER WHAT WAS GOING ON
10 BECAUSE I -- AT FIRST DIDN'T HAVE ANY IDEA, AND THEN HE --
11 WHILE HE WAS -- AFTER HE HAD TIED MY HANDS BEHIND MY BACK
12 BEFORE HE PUT THE GAG IN MY MOUTH, HE TOOK MY SHORTS OFF
13 AND THEN -- AND MY UNDERWEAR, AND I KNEW EXACTLY WHAT HE
14 WAS TRYING TO DO, AND I WANTED TO GET MY MOM, TELL HER
15 THAT WE NEED TO GET OUT OF HERE, AND...

16 Q ONCE HE HAD PULLED YOUR SHORTS AND YOUR UNDERWEAR
17 OFF, I MEAN, DID YOUR LEVEL OF RESISTANCE INCREASE?

18 A ABSOLUTELY.

19 Q YOU WERE -- YOU WERE NO LONGER CONFUSED?

20 A I WAS NO LONGER CONFUSED, NO.

21 Q NOW, DID -- WHEN -- YOU SAID YOU KIND OF WIGGLED OUT
22 OF THE -- AND GOT THE TIES ON YOUR HANDS SORT OF LOOSE?

23 A RIGHT. AND -- AND TO BE HONEST, I -- I CANNOT
24 CONFIRM WHETHER OR NOT I WAS DRAGGED TO MY MOTHER'S ROOM.
25 I -- BUT I DO DISTINCTLY REMEMBER THAT THE TIES INITIALLY

1 WERE NOT VERY TIGHT AND THAT I DID WIGGLE OUT OF THEM AND
2 GO INTO MY MOTHER'S ROOM.

3 Q WHEN YOU GOT THERE -- AND HOW FAR AWAY WERE YOU?

4 A OH, WE WERE -- I MEAN, IT WAS LIKE -- FROM THE
5 DOORWAY TO MY ROOM TO THE DOORWAY TO MY MOM'S ROOM? EIGHT
6 TO 10 FEET MAYBE, EIGHT, 10, YEAH.

7 Q CLOSE?

8 A CLOSE.

9 Q WHEN YOU GOT TO YOUR MOM'S ROOM, WERE THE LIGHTS ON
10 OR OFF?

11 A THEY WERE ON.

12 Q DESCRIBE TO THIS JURY WHAT YOU SAW WHEN YOU FIRST
13 LOOKED IN YOUR MOM'S ROOM.

14 A WHEN I FIRST LOOKED IN MY MOM'S ROOM I SAW HER LYING
15 ON THE FLOOR NEXT TO HER SIDE OF THE BED IN FRONT OF
16 THE -- THE LITTLE BEDSIDE TABLE ON HER SIDE. AND SHE WAS
17 ON THE FLOOR AND I HEARD HER MOANING AND KICKING.

18 IT WAS ALMOST -- TO ME INITIALLY I THOUGHT SHE HAD
19 BEEN DRUGGED. SHE WAS INCOHERENT. IT WAS LIKE SHE WAS
20 TRYING TO SAY SOMETHING OR DO SOMETHING BUT SHE COULDN'T.
21 AND THE NEXT THING I KNOW I THINK I WAS HIT OVER THE HEAD
22 WITH SOMETHING AND I BLACKED OUT.

23 Q DO YOU KNOW HOW LONG THAT YOU WERE UNCONSCIOUS?

24 A NO, SIR.

25 Q DO YOU KNOW WHAT YOU WERE -- DID YOU SEE WHAT YOU

1 WERE STRUCK WITH? DO YOU HAVE ANY IDEA WHAT YOU WERE--

2 A HAVE NO IDEA.

3 Q -- HIT IN THE HEAD?

4 A I'M SORRY?

5 Q WHERE WERE YOU STRUCK? WHERE WERE YOU HIT?

6 A I WAS HIT ON THE HEAD AT FIRST I THINK. ARE YOU
7 TALKING ABOUT THE BLOW THAT MADE ME UNCONSCIOUS?

8 Q YES.

9 A MADE ME BLACK OUT?

10 Q YES.

11 A YES, IT WAS ON THE HEAD.

12 Q WHEN YOU CAME TO, WHERE WERE YOU?

13 A I WAS IN MY MOTHER'S ROOM AND I WAS ON HER BED AND MY
14 HANDS WERE TIED MUCH TIGHTER BEHIND MY BACK AND I STILL
15 HAD THE GAG IN MY MOUTH, AND THE ONLY THING I WAS WEARING
16 WAS THE SWEATSHIRT.

17 Q YOUR POSITION ON THE BED, WAS IT FACE UP, FACE DOWN?

18 A FACE UP.

19 Q AND WHAT WAS TAKING PLACE AT THAT -- WHEN YOU -- WHEN
20 YOU CAME TO, WHAT WAS HAPPENING?

21 A WHEN I CAME TO, STEPHEN INITIALLY I THINK APPROACHED
22 ME, BUT MY MOM KEPT MOANING. AND BEFORE HE -- HE STRUCK
23 HER I THINK ONCE BEFORE HE GOT ON THE BED AND...

24 Q WHAT DID HE -- WHAT DID HE STRIKE HER WITH?

25 A HIS HAND.

1 Q OKAY. CLOSED FIST OR OPEN?

2 A IT WAS A LITTLE BIT OF BOTH THROUGHOUT THE NIGHT. IT
3 DIDN'T REALLY -- I BELIEVE IT WAS A -- THIS PARTICULAR ONE
4 WAS OPEN HAND.

5 Q AND WHAT PART OF HER BODY DID HE STRIKE?

6 A HER FACE.

7 Q AFTER HE DID THAT...

8 A HE APPROACHED ME ON THE BED AND TRIED TO SPREAD MY
9 LEGS APART, AND I FOUGHT HIM. I KICKED, I KICKED, AND HE
10 STRUCK ME SEVERAL TIMES IN THE FACE, IN THE HEAD. I HAD
11 BRACES AT THE TIME, SO IT REALLY HURT. MY -- MY MOUTH WAS
12 BLEEDING SEVERELY.

13 AND HE -- HE WAS SO STRONG. HE WAS SO STRONG. AND
14 HE THEN PROCEEDED TO RAPE ME. AND THE ENTIRE TIME MY MOM
15 WAS STILL ALIVE. AND I MEAN, I COULD TELL BECAUSE SHE
16 WOULD -- SHE WOULD MOAN, SHE WAS MOANING. AND I COULD
17 HEAR HER BECAUSE SHE WAS JUST -- SHE WAS ON THE FLOOR NEXT
18 TO THE BED, AND -- AND HE PROCEEDED TO HAVE SEXUAL
19 INTERCOURSE WITH ME WHILE I WAS BOUND.

20 AND DURING THIS I SUPPOSE HE WAS TRYING TO ENJOY IT
21 BECAUSE HE LIFTED UP MY SWEATSHIRT AND MASSAGED AND SUCKED
22 ON MY NIPPLES, AND THERE WAS NOTHING I COULD DO.

23 (BAILIFF APPROACHED WITNESS WITH TISSUES.)

24 WITNESS: THANK YOU. THANK YOU.

25 BY MR. HEMBREE:

1 Q DURING THE COURSE, PROCESS OF THIS SEXUAL ASSAULT,
2 DID HE STRIKE YOU ON OTHER OCCASIONS?

3 A YES. I WAS -- I BELIEVE I WAS CRYING AT THE TIME
4 PRETTY -- PRETTY HARD BECAUSE I THOUGHT MAYBE IF HE SAW
5 HOW UPSET I WAS, HE WOULD STOP, BUT HE DIDN'T. AND HE DID
6 STRIKE ME A FEW TIMES BECAUSE FOR A WHILE -- I MEAN, I --
7 I -- EVEN AFTER -- EVEN DURING, WHILE HE WAS RAPING ME, I
8 STILL WAS TRYING TO GET HIM OFF OF ME, AND HE STRUCK ME
9 AND HE -- GOD, HE WAS SO STRONG, AND HIS WHOLE BODY
10 WEIGHT, I MEAN, JUST HELD ME DOWN, AND MY HANDS WERE TIED.

11 AND AT SOME POINT YOU JUST REALIZE THAT TO FIGHT ANY
12 MORE IS POINTLESS, SO YOU JUST GIVE UP AND YOU QUIT
13 FIGHTING.

14 Q DID YOU SAY ANYTHING TO HIM?

15 A YES. FOR SOME REASON A LONG TIME AGO -- SOME RANDOM
16 THOUGHT POPPED INTO MY HEAD. ONE OF MY FRIENDS, WE WERE
17 TALKING ABOUT SOMETHING ONE TIME AND I GUESS I WAS IN A
18 GROUP OF PEOPLE AND -- AND -- OF GIRLS AND THEY WERE LIKE,
19 YOU KNOW, FOR SOME REASON I HEARD, YOU KNOW, IF YOU'RE
20 EVER -- EVER RAPED, JUST TELL THE GUY THAT YOU'RE GOING TO
21 BE SICK AND YOU'RE GOING TO THROW UP, AND USUALLY THEY
22 WILL GET OFF OF YOU.

23 AND FOR SOME REASON THAT JUST POPPED INTO MY HEAD,
24 AND WITHOUT EVEN THINKING I SAID IT, AND I MOVED THE GAG
25 AROUND MY MOUTH ENOUGH TO SAY, I THINK I'M GOING TO BE

1 SICK, TO WHICH HE REPLIED, WELL, YOU'RE GOING TO BE SICK
2 ON YOURSELF, I GUESS, AND YOU'RE GOING TO BE SICK ON
3 YOURSELF THEN.

4 AND -- AND I SAID, WHAT IF I GET PREGNANT? WELL
5 THEN, YOU'RE GOING TO BE RAISING A BABY BY YOURSELF IS
6 WHAT HE SAID, AND HE JUST KEPT GOING.

7 Q AT SOME POINT HE CONCLUDED?

8 A OH, HE ALSO -- I'M SORRY. I FORGOT. HE ALSO TOLD ME
9 THAT -- HE SAID THE WORD, YOU HAVE BEEN FUCKING EVERYBODY
10 ELSE, SO THIS REALLY SHOULDN'T BE ANY DIFFERENT, OR
11 SOMETHING TO THAT EFFECT. I WAS 15.

12 Q [REDACTED] DID HE SAY ANYTHING ELSE TO YOU THAT YOU
13 RECALL DURING THE COURSE OF THE ASSAULT?

14 A NO, I BELIEVE THAT WAS...

15 Q AFTER DEFENDANT STANKO CONCLUDED THE SEXUAL ASSAULT,
16 DESCRIBE TO THIS JURY WHAT HAPPENED NEXT.

17 A HE THEN GOT OFF OF ME. HE -- I'M PRETTY SURE HE WENT
18 AND PUT HIS -- PRETTY SURE HE PUT AT LEAST HIS BOXER
19 SHORTS BACK ON, AND I COULDN'T TELL YOU TO BE SURE. I
20 DON'T REALLY REMEMBER THAT PART. HE THEN WENT OVER TO MY
21 MOM AND STRUCK HER A FEW MORE TIMES TO QUIET HER.

22 Q DID SHE QUIET DOWN?

23 A YEAH. I ACTUALLY REMEMBER SEEING HIM. HE WOULD --
24 HE PICKED HER UP I GUESS BY WHATEVER IT WAS THAT SHE WAS
25 WEARING AND STRUCK HER DOWN TO THE FLOOR. AND I REMEMBER

1 THINKING LIKE AT FIRST, I -- YOUR PARENTS ARE THERE TO
2 PROTECT YOU, SO WHAT HAPPENS WHEN YOU CAN'T PROTECT YOUR
3 PARENTS?

4 HE THEN -- I GUESS I MUST HAVE -- I MUST HAVE DONE
5 SOMETHING OR MADE SOME TYPE OF NOISE TO -- TO ALERT HIM
6 BECAUSE HE THEN FELT -- FELT IT NECESSARY BECAUSE -- I MAY
7 HAVE LIKE MADE SOME NOISE OR MAY HAVE TRIED TO -- TO MOVE
8 AROUND THE BED OR SOMETHING TO GET OFF THE BED OR
9 SOMETHING LIKE THAT AND TO WHERE HE FELT IT WAS NECESSARY
10 TO HOLD ME DOWN, SO HE TURNED ME ON TO MY STOMACH AND HE
11 PUT HIS WHOLE BODY WEIGHT INTO HOLDING ME DOWN.

12 HE PUT HIS LEFT KNEE, I BELIEVE IT WAS, INTO MY BACK.
13 THAT'S WHAT IT FELT LIKE ANYWAYS. I DON'T HAVE EYES IN
14 THE BACK OF MY HEAD, SO I COULDN'T TELL YOU THAT FOR SURE,
15 BUT IT FELT LIKE HE PUT HIS KNEE INTO -- INTO MY BACK AND
16 HIS HAND ON THE BACK OF MY HEAD AND HE PUSHED MY FACE INTO
17 THE MATTRESS, AND I THOUGHT THIS WAS IT, THIS IS WHERE I
18 DIE.

19 I WAS SWITCHING MY HEAD AND I WAS BACK AND FORTH TO
20 GET AIR BECAUSE I COULDN'T BREATHE. AND I THOUGHT, THIS
21 IS WHERE I'M GOING TO DIE, THIS IS THE PART WHERE I'M
22 GOING TO DIE.

23 AND HE -- HE HAD HIS RIGHT LEG PROPPED UP. I WAS
24 PRETTY CLOSE TO EDGE OF THE BED WHERE -- ON MY MOM'S SIDE,
25 AND SHE WAS ON THE FLOOR PROBABLY WITHIN A FEW FEET FROM

1 ME. HE HAD HIS LEG -- HIS LEG STANDING ON THE OTHER SIDE
2 OF HER, SO HE WAS BASICALLY STANDING OVER HER, AND HE
3 REACHED DOWN AND HE STARTED CHOKING HER.

4 AND I COULD HEAR HER CHOKING AND SPITTING, AND I
5 IMMEDIATELY THOUGHT, OH GOD, HE'S GOING TO KILL HER, AND
6 THIS IS IT, THIS IS IT, [REDACTED], IF YOU'RE GOING TO DIE
7 NOW, DO IT SAVING YOUR MOM. AND I THOUGHT, PLEASE, GOD,
8 TAKE ME, NOT HER.

9 I THOUGHT THIS CAN'T BE HAPPENING. THIS ISN'T HOW
10 IT'S SUPPOSED TO GO. IF YOU'RE GOING TO DIE, [REDACTED],
11 DO IT SAVING YOUR MOM, AND I TRIED. I FOUGHT HARDER
12 THAN -- THAN I EVER HAD THE ENTIRE NIGHT. BUT SOON SHE
13 JUST STOPPED CHOKING AND SPITTING AND SHE STOPPED MAKING
14 NOISE, AND THAT WAS IT RIGHT THERE.

15 HE -- HE THEN LET GO OF ME, YOU KNOW, AND -- AND HE
16 STOOD UP ON THE -- HE WAS STANDING ON THE FLOOR. AND HE
17 LOOKED OVER AT ME, AND I -- AND I TURNED OVER ON MY BACK,
18 AND HE LOOKED AT ME AND IT WAS LIKE -- IT WAS LIKE I HAD
19 DONE SOMETHING TO OFFEND HIM OR SOMETHING BECAUSE HE
20 LOOKED AT ME AND HE WAS LIKE, LOOK WHAT YOU DID, LOOK WHAT
21 YOU DID, AND I LOVED HER.

22 AND I THOUGHT, NO, AND I SHOOK MY HEAD. I SAID NO.
23 AND OF COURSE, YOU KNOW, THIS WASN'T EXACTLY THE PERFECT
24 TIME FOR ME TO BE A SMART-ASS TEENAGER, YOU KNOW, AND MAKE
25 SOME COMMENT ABOUT HOW, YOU KNOW, SHE DIDN'T LOVE YOU.

1 BUT HE -- HE LOOKED AT ME AND HE SAID, LOOK WHAT YOU DID.

2 THE NEXT THING I REMEMBER I WAS NEAR -- KIND OF NEAR
3 THE CORNER OF THE BED AND KIND OF WHERE MY MOM'S -- IN
4 REFERENCE TO WHERE MY MOM WAS, IT WAS KIND OF NEAR HER
5 FEET, IN THAT AREA OF THE BED.

6 Q HOW DID YOU GET THERE? DO YOU KNOW?

7 A I -- HE PULLED ME UP. HE PULLED ME UP, AND I -- I
8 WAS IN AND OUT OF CONSCIOUSNESS MOST OF THE NIGHT, SO I
9 COULDN'T TELL YOU FOR SURE. BUT THE NEXT THING I REMEMBER
10 IS HE WAS BEHIND ME, AND HE HELD MY HEAD UP WHILE HE SLIT
11 MY THROAT TWICE.

12 I DON'T EVEN -- WHEN IT PLAYS IN MY HEAD, IT'S LIKE
13 IT'S ON MUTE. I DON'T THINK I -- I DON'T EVEN THINK I
14 FELT IT. I DON'T KNOW IF I EVEN KNEW WHAT WAS GOING ON.
15 AND I JUST REMEMBER BLOOD EVERYWHERE. I MEAN, EVERYWHERE.

16 AND AFTER HE SLIT MY THROAT, I JUST KIND OF FELL TO
17 THE FLOOR. HE ACTUALLY TOLD ME TO LIE DOWN AT MY MOTHER'S
18 FEET NEAR THE CORNER OF THE BED, SO I -- SO I DID.

19 Q AND YOUR BODY POSITION WAS SORT OF AT THE FOOT OF THE
20 BED?

21 A SORT OF AT THE FOOT OF THE BED, YEAH. AND ALL OF A
22 SUDDEN THERE WAS JUST THIS MASSIVE BLOW TO MY HEAD. I
23 MEAN, THE -- PAINFUL. I DON'T REMEMBER HOW PAINFUL
24 GETTING MY THROAT SLIT WAS, BUT I DISTINCTLY REMEMBER THIS
25 HARD -- I MEAN, IT WAS A MASSIVE BLOW TO THE HEAD.

1 AND I THOUGHT -- GOD, IT WAS MY MOM. I THOUGHT IT
2 WAS MY MOM KICKING ME TO LET ME KNOW THAT SHE WAS STILL
3 ALIVE, BUT I -- LATER I -- I DEDUCED THAT IT WAS MORE THAN
4 LIKELY JUST STEPHEN KICKING ME IN THE HEAD WHEN I WAS ON
5 THE FLOOR.

6 AND THE NEXT THING I REMEMBER I HAD SOMEHOW -- I JUST
7 USED WHATEVER STRENGTH I HAD IN MY BODY TO JUST KIND OF
8 PULL MYSELF UP. THERE WAS BLOOD EVERYWHERE, ALL OVER THE
9 SHEETS, AND -- AND I LOOKED UP OVER THE BED AND I SEE HIM
10 PUT AN EMPTY SUITCASE ON THE BED, AND HE LOOKED OVER AT ME
11 AND HE SAID, NO, NO, NO, LIE BACK DOWN, IN THE NICEST
12 VOICE LIKE HE WAS JUST A NEIGHBORLY FRIEND, AND I JUST
13 PASSED OUT. I FELL BACK TO THE FLOOR. AND THEN THAT WAS
14 ALL I CAN REMEMBER BEFORE I WOKE UP.

15 Q LET ME SHOW YOU A FEW EXHIBITS.

16 MR. HEMBREE: GET THESE MARKED FOR ID.

17 BY MR. HEMBREE:

18 Q I WANT TO SHOW YOU STATE'S EXHIBIT FOUR IN EVIDENCE.

19 A YES.

20 Q AND ASK IF YOU CAN DESCRIBE OR IDENTIFY WHAT'S IN --
21 WHAT'S SHOWN IN THAT PHOTOGRAPH?

22 A THAT'S MY -- THAT'S MY BEDROOM, IT'S IN MY BEDROOM.
23 IT'S MY BED.

24 Q AND I NOTE THAT THERE ARE A LOT OF ITEMS THAT APPEAR
25 TO BE LYING ON THE BED OR...

1 A SCATTERED.

2 Q SCATTERED ON THE BED. THAT'S A BETTER WAY TO SAY IT.
3 SCATTERED ON THE BED. WHOSE PROPERTY IS THAT?

4 A THAT'S MINE.

5 Q AND WHAT -- WHERE WERE THOSE ITEMS WHEN YOU WENT TO
6 SLEEP EARLIER THAT NIGHT?

7 A THEY WERE IN MY PURSE.

8 Q AND IS YOUR PURSE IN THAT PICTURE ALSO?

9 A YES, IT IS.

10 Q AND DESCRIBE WHAT THE PURSE LOOKS LIKE.

11 A THE PURSE -- IT'S ACTUALLY -- IT'S TURNED INSIDE OUT
12 BECAUSE I LIKED THE INSIDE OF MY PURSE MORE THAN THE
13 OUTSIDE, SO I TURNED IT INSIDE OUT, AND IT HAD FLOWERS ON
14 IT. IT WAS REALLY PRETTY.

15 Q IT'S A LIGHT COLORED...

16 A A LIGHT COLOR, YES, HAD PINK AND GREEN.

17 Q LITTLE BIT...

18 A YEAH, IT WAS CUTE.

19 Q DO YOU HAVE ANY IDEA HOW THOSE ITEMS GOT SCATTERED ON
20 YOUR BED AND PURSE, LEFT IN THAT CONDITION? YOU DON'T
21 KNOW?

22 A I HAVE NO IDEA. I KNOW THAT I DIDN'T PUT THEM THERE
23 LIKE THAT.

24 Q AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER FIVE ALSO
25 IN EVIDENCE AND IF YOU COULD DESCRIBE THAT FOR THIS JURY.

1 A IT IS THE -- IT'S MY BED AGAIN WITH THE THERMAL
2 BLANKET THAT WAS ON IT IN AN EARLIER PICTURE REMOVED, AND
3 UNDERNEATH -- I GUESS IT WAS UNDERNEATH IT -- WAS A --
4 NECKTIES.

5 Q NOW, ARE THOSE YOUR NECKTIES?

6 A NO.

7 Q DO YOU HAVE ANY IDEA WHERE THEY CAME FROM?

8 A NO IDEA.

9 Q WHEN YOU WENT TO BED THAT NIGHT THEY WEREN'T ON YOUR
10 BED?

11 A NO.

12 Q SHOW YOU STATE'S EXHIBIT NUMBER TWO IN EVIDENCE. DO
13 YOU RECOGNIZE ANYTHING IN THAT PHOTOGRAPH?

14 A YES, I DO. I RECOGNIZE THERE'S A -- A CARD CASE,
15 LIKE A BUSINESS CARD CASE. MY MOM FOR CHRISTMAS HAD
16 GOTTEN STEPHEN A -- SHE WAS REALLY PROUD OF IT. SHE HAD
17 GOTTEN STEPHEN ALL THESE -- A BRIEFCASE AND SOME OTHER
18 ITEMS THAT WERE PERSONALIZED AND THAT HAD HIS NAME AND HIS
19 INITIALS ON THEM.

20 SHE THOUGHT THEY WERE REALLY, REALLY NICE AND WENT
21 ALONG WITH LIKE THE -- THE BUSINESS KIND OF, YOU KNOW,
22 WORK THAT STEPHEN DID OR SUPPOSEDLY DID.

23 Q AND STATE'S EXHIBIT NUMBER THREE, CAN YOU IDENTIFY
24 THAT?

25 A THAT IS A POCKETKNIFE THAT MY MOM HAD PURCHASED FOR

1 STEPHEN BECAUSE IT HAD HIS -- SHE HAD IT INITIALED. IT
2 HAD SCS ON IT STANDING FOR CHRISTOPHER STEPHEN -- I MEAN,
3 STEPHEN CHRISTOPHER STANKO.

4 Q FINALLY [REDACTED], LET ME SHOW YOU STATE'S EXHIBIT
5 SEVEN IN EVIDENCE AND ASK IF YOU CAN IDENTIFY IT.

6 A THIS IS MY MOM'S ROLEX WATCH THAT SHE WORE IT ALL THE
7 TIME.

8 (WHEREUPON, STATE'S EXHIBITS NOS. 68 AND 69 WERE
9 MARKED FOR IDENTIFICATION ONLY.)

10 BY MR. HEMBREE:

11 Q [REDACTED], IN YOUR TESTIMONY JUST A MOMENT AGO SAID
12 THAT YOU HAD -- YOU PASSED OUT. I MEAN, YOU WENT
13 UNCONSCIOUS.

14 A YES, SIR.

15 Q AFTER YOU SAW DEFENDANT STANKO PUT A SUITCASE ON THE
16 BED.

17 A YES, SIR.

18 Q LET ME SHOW YOU TWO PHOTOGRAPHS MARKED STATE'S
19 EXHIBITS 68 AND 69 FOR IDENTIFICATION ONLY AND ASK IF YOU
20 CAN IDENTIFY WHAT IS SHOWN IN THAT PHOTOGRAPH.

21 A THAT IS THE SUITCASE THAT HE PUT ON THE BED. THERE
22 WASN'T ANYTHING ON IT -- IN IT WHEN HE PUT IT ON THE BED.
23 HE OPENED IT UP AND IT WAS EMPTY, BUT THAT PHOTOGRAPH
24 SHOWS THE SAME SUITCASE WITH HIS PERSONAL BELONGINGS IN
25 THERE.

1 Q AND WHO -- WHOSE SUITCASE WAS THIS? WHO WAS THE
2 OWNER OF THIS SUITCASE, IF YOU KNOW?

3 A I DON'T KNOW, BUT I'M PRETTY SURE IT WAS MY MOM'S.

4 Q AFTER YOU -- WELL, AT SOME POINT YOU -- YOU REGAINED
5 CONSCIOUSNESS.

6 A YEAH.

7 Q TELL THIS JURY WHAT HAPPENED WHEN YOU CAME TO.

8 A THERE WAS BLOOD EVERYWHERE. THERE WAS A LOT OF
9 BLOOD. AND I -- THE WAY THAT THE ROOM WAS SET UP WAS IF I
10 WAS RIGHT HERE IN THE CORNER OF THE BED, THE PHONE ITSELF
11 WOULD HAVE BEEN ACROSS THE ROOM DIAGONALLY. AND...

12 Q A LARGE ROOM OR SMALL?

13 A IT WAS A -- WAS A PRETTY SMALL ROOM, YOU KNOW. AND
14 I -- I REMEMBER IN MY PERIPHERAL VISION I COULD SEE MY MOM
15 WASN'T MOVING. AND MY FIRST THOUGHT WAS, DON'T DO IT,
16 DON'T LOOK AT YOUR MOMMY, DON'T DO IT TO YOURSELF BECAUSE
17 THAT'S GOING TO BE IMPRINTED IN YOUR HEAD FOR THE REST OF
18 YOUR LIFE, JUST DON'T DO IT, AND I DIDN'T. I CRAWLED ON
19 THE BED THE BEST THAT I COULD.

20 Q YOUR HANDS WERE STILL BOUND BEHIND YOU?

21 A YES, AND THERE WAS STILL A TIE AROUND MY HEAD AND A
22 GAG IN MY MOUTH. AND I HONEST TO GOD DON'T REMEMBER HOW I
23 GOT TO THE PHONE. I DON'T EVEN REMEMBER DIALING. I
24 REMEMBER HAVING TO LEAN -- LEAN DOWN LIKE THIS ON -- WITH
25 THE PHONE ON THE MATTRESS TO -- TO HEAR AND TO SPEAK INTO

1 IT.

2 THERE WAS SO MUCH BLOOD. I REMEMBER I -- I REMEMBER
3 SAYING, I HAVE BEEN RAPED AND I THINK MY MOM IS DEAD. AND
4 I REMEMBER -- IT WAS JUST SO HORRIBLE, YOU KNOW. IT WAS
5 JUST SO HORRIBLE.

6 I WASN'T WORRIED IF STEPHEN WAS STILL THERE BECAUSE I
7 FIGURED IF HE WAS STILL THERE BY NOW HE WAS -- I MEAN,
8 INSTINCTIVELY I WAS IN SURVIVAL MODE AND I JUST WASN'T
9 WORRIED. I DIDN'T -- IT DIDN'T EVEN CROSS MY MIND. I
10 JUST WENT TO THE PHONE.

11 I MEAN, WENT TO THE PHONE AND, YOU KNOW, THANK GOD
12 THEY TEACH YOU WHEN YOU'RE LITTLE, YOU KNOW, IF YOU EVER
13 NEED AN EMERGENCY, DIAL 9-1-1 BECAUSE I TO THIS DAY HAVE
14 NO IDEA HOW I GOT THERE AND HOW I DIALED IT, BUT IT WAS
15 JUST INSTINCT.

16 Q YOU GOT THE OPERATOR ON THE PHONE?

17 A I DID.

18 Q TOLD THE OPERATOR WHAT HAPPENED?

19 A I DID.

20 Q I'LL SHOW YOU STATE'S EXHIBIT NUMBER EIGHT ALREADY IN
21 EVIDENCE ALSO, AND ASK YOU DO YOU KNOW WHAT THAT IS?

22 A THAT IS THE -- THE 9-1-1 CALL, THE TAPE FROM THE
23 9-1-1 CALL THAT I MADE TO THE POLICE DEPARTMENT.

24 Q AND YOU HAVE LISTENED TO THIS TAPE?

25 A I HAVE TRIED.

1 Q AND DOES IT -- DOES IT ACCURATELY REFLECT Y'ALLS
2 CONVERSATION?

3 A YES, IT DOES. I EVEN REMEMBER YELLING AT THE POOR
4 PERSON WHO ANSWERED THE 9-1-1 CALL BECAUSE AFTER A FEW
5 MINUTES I COULD -- I COULD HEAR PEOPLE OUTSIDE, I COULD
6 HEAR VOICES SAYING, YOU KNOW, LIKE, ALL CLEAR, OR
7 SOMETHING LIKE THAT, AND I COULD REMEMBER HEARING THESE
8 PEOPLE OUTSIDE ON MY PORCH AND LIKE AROUND THE HOUSE, AND
9 I MEAN, I REMEMBER YELLING AT THIS POOR PERSON TELLING
10 THEM, YOU KNOW, TELL THEM TO COME IN, TELL THEM TO COME
11 IN, WHY ARE THEY OUTSIDE, TELL THEM TO COME IN.

12 Q YOU COULD HEAR VOICES?

13 A YES, I COULD HEAR VOICES OUTSIDE. I DIDN'T RECOGNIZE
14 THEM. I KNEW THEY WEREN'T STEPHEN'S.

15 Q AND DID THEY -- DID THEY MAKE ENTRY INTO YOUR HOME?

16 A YES, THEY DID.

17 Q WHAT HAPPENED AFTER THAT?

18 A AFTER THAT AN OFFICER WALKED INTO THE ROOM AND YOU
19 COULD JUST KIND OF SEE IT ON HIS FACE LIKE -- IT WAS
20 ALMOST LIKE HE JUST DIDN'T KNOW WHAT TO DO. AND I'M
21 LAYING THERE, AND I -- BY THIS POINT HAVE JUST LIKE
22 DISREGARD THE PHONE, I DON'T -- I DON'T KNOW IF I HUNG IT
23 UP OR ANYTHING, I JUST KIND OF -- I WAS JUST SO HAPPY TO
24 SEE SOMEBODY THERE TO HELP ME.

25 AND MY -- I WAS STILL WEARING THE SAME HOODIE, MY

1 HANDS WERE STILL TIED AND I WAS STILL -- I HAD A GAG IN MY
2 MOUTH. AND THE FIRST THING I SAID OR TRIED TO SAY -- I
3 THINK I BY THIS POINT HAD SPIT OUT THE GAG THAT WAS IN MY
4 MOUTH AND -- OR AT LEAST TRIED TO AND -- ENOUGH TO SAY,
5 YOU KNOW, DON'T WORRY ABOUT ME, JUST GET TO MY MOM, YOU
6 KNOW, I'M STILL ALIVE, I'M OKAY, JUST GET TO HER, PLEASE.

7 AND THAT'S ALL -- THAT'S ALL I CAN THINK WAS JUST GET
8 TO HER. BECAUSE IF I'M STILL ALIVE, IN MY MIND, THAT'S
9 OKAY, I'M STILL ALIVE, I MADE IT, JUST GET TO MY MOM. AND
10 SOMEBODY WENT OVER THERE TO CHECK HER PULSE AND SHE DIDN'T
11 HAVE ONE, SO THEY PROCEEDED TO TAKE ME TO THE AMBULANCE
12 AFTER FINDING A SHEET OR SOMETHING TO COVER ME UP WITH
13 BECAUSE I STILL WAS COMPLETELY STARK NAKED FROM THE WAIST
14 DOWN.

15 NOT THAT I HAD A PROBLEM WITH THAT. I THINK AT THIS
16 POINT I WAS SO HAPPY TO SEE THEM I JUST DIDN'T CARE.

17 Q [REDACTED], YOU WERE TAKEN TO THE HOSPITAL; WEREN'T
18 YOU?

19 A YES, SIR.

20 Q DO YOU REMEMBER WHICH HOSPITAL YOU WENT TO?

21 A THE WACCAMAW MEDICAL HOSPITAL, WHICH WAS ALMOST LIKE
22 RIGHT ACROSS THE STREET FROM -- RIGHT ACROSS THE HIGHWAY.

23 Q AND YOU RECEIVED TREATMENT THERE?

24 A YES, I DID.

25 Q BY THE EMERGENCY ROOM DOCTORS?

1 A YES, I DID.

2 Q AS WELL AS SEVERAL NURSES?

3 A YES.

4 Q DID THE -- WHAT THEY CALL THE RAPE PROTOCOL KIT?

5 A YES, THEY DID A RAPE KIT.

6 Q SEXUAL ASSAULT KIT?

7 A YES.

8 Q INVESTIGATION OF THAT ASPECT. NOW, CAN YOU
9 IDENTIFY -- CAN YOU IDENTIFY THE PERSON THAT BOUND --
10 BOUND YOUR HANDS AND CONFINED YOU?

11 A THAT WOULD BE THE DEFENDANT, STEPHEN STANKO.

12 Q CAN YOU IDENTIFY THE PERSON THAT--

13 A HE IS SITTING OVER THERE.

14 Q SEATED AT THE DEFENSE TABLE IN THE BLUE SHIRT AND RED
15 TIE?

16 A YES.

17 Q IS HE THE SAME MAN THAT RAPED YOU?

18 A YES, HE IS.

19 Q AND IS HE THE SAME MAN THAT CHOKED YOUR MOTHER TO
20 DEATH?

21 A YES, HE IS.

22 Q THANK YOU, [REDACTED]. PLEASE ANSWER ANY--

23 A THANK YOU.

24 Q -- ANSWER ANY QUESTIONS THE DEFENSE COUNSEL HAS.

25 THE COURT: MADAM FORELADY, LADIES AND

1 GENTLEMEN, YOU ALL HAVE BEEN SITTING A LITTLE OVER AN
2 HOUR. I'M GOING TO TAKE ADVANTAGE OF THIS BREAK FOR
3 US TO TAKE A LITTLE RECESS.

4 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE
5 AND PLEASE LET THE BAILIFFS KNOW IF YOU NEED
6 ANYTHING. PLEASE LEAVE YOUR NOTE PADS IN YOUR SEATS.

7 (JURY LEFT THE COURTROOM AT 3:24 PM.)

8 THE COURT: MS. LING, YOU MAY STEP DOWN. PLEASE
9 DO NOT DISCUSS YOUR TESTIMONY WITH ANYONE. COUNSEL
10 APPROACH FOR ME, PLEASE?

11 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

12 THE COURT: WE WILL BE AT EASE FOR ABOUT 10
13 MINUTES.

14 (WHEREUPON A RECESS WAS HAD.)

15 THE COURT: STATE READY TO PROCEED?

16 MR. HEMBREE: STATE'S READY TO PROCEED.

17 THE COURT: DEFENSE READY TO PROCEED?

18 MR. DIGGS: YES.

19 THE COURT: MS. LING, IF YOU WILL RETAKE THE
20 STAND. I WILL REMIND YOU THAT YOU'RE STILL UNDER
21 OATH. BRING IN THE JURY.

22 (JURY ENTERED THE COURTROOM AT 4:09 PM.)

23 CROSS-EXAMINATION

24 BY MR. KELLY:

25 Q [REDACTED], YOU SAY YOU MET STEPHEN STANKO IN PERSON

1 ON YOUR BIRTHDAY?

2 A YES, SIR.

3 Q AND PREVIOUS TO THAT YOUR MOTHER HAD ALREADY MET HIM?

4 A YES, SIR.

5 Q AND THEN AFTER YOUR BIRTHDAY WAS ABOUT A MONTH THAT
6 STEPHEN MOVED IN WITH YOU AND YOUR MOTHER; IS THAT RIGHT?

7 A YES, SIR.

8 Q LONG ABOUT THANKSGIVING?

9 A AROUND THE DATE.

10 Q OR A LITTLE BEFORE OR A LITTLE AFTER?

11 A AROUND THAT DATE.

12 Q OKAY. AND YOU LIVED DOWN ON -- [REDACTED]

13 [REDACTED]

14 A YES, SIR.

15 Q WHERE DID YOU LIVE PREVIOUS TO THAT?

16 A PREVIOUS TO THAT WE LIVED IN [REDACTED], WHICH WE
17 LIVED ON [REDACTED] [REDACTED].

18 Q AND HOW LONG DID YOU LIVE THERE?

19 A FOR MAYBE A YEAR.

20 Q WHO LIVED WITH YOU THERE?

21 A IT WAS ME AND MY MOM, MY BROTHER ALEX, AND MY BROTHER
22 NICK. AT THE TIME HE WAS STILL GOING TO HIGH SCHOOL, IT
23 WAS HIS SENIOR YEAR, AND TOM WALTERS.

24 Q WHO IS TOM WALTERS?

25 A SHE WAS MY MOM'S -- MY MOM -- HE WAS MY MOM'S

1 BOYFRIEND FOR A LONG TIME SINCE RIGHT AFTER MY PARENTS GOT
2 DIVORCED. THEY HAD A -- THEY WERE -- THEY DATED FOR A
3 COUPLE OF YEARS ACTUALLY.

4 Q SO TOM WALTERS LIVED WITH YOU AND YOUR MOTHER AND
5 YOUR BROTHERS FOR SEVERAL YEARS?

6 A HE DIDN'T ALWAYS LIVE WITH US, BUT HE HAD BEEN IN OUR
7 LIVES, I MEAN, FOR A COUPLE -- I MEAN, WE KNEW WHO HE WAS
8 FOR A COUPLE YEARS.

9 Q HE LIVED WITH -- IN THE HOUSE WITH THE -- YOUR FAMILY
10 OFF AND ON?

11 A I THINK WHEN -- WHEN WE -- WHEN WE MOVED TO THE HOUSE
12 IN MURRELLS INLET, HE DIDN'T MOVE IN WITH US.

13 Q BEFORE YOU LIVED IN THAT HOUSE WHERE DID YOU LIVE?

14 A AT THE HOUSE IN [REDACTED] -- [REDACTED].

15 Q AND HOW LONG DID YOU LIVE IN THAT HOUSE DO YOU THINK?

16 A FOR ABOUT A YEAR.

17 Q DID TOM WALTERS LIVE IN THE HOUSE WITH YOU FOR A
18 YEAR?

19 A YEAH. I DON'T KNOW IF -- I DON'T KNOW WE LIVED THERE
20 FOR AN ENTIRE YEAR TO BE HONEST WITH YOU, BUT IT WAS A
21 WHILE.

22 Q HOW LONG HAS IT BEEN SINCE YOUR MOTHER AND YOUR
23 FATHER HAD BEEN DIVORCED?

24 A THEY WERE DIVORCED WHEN I WAS NINE, SO GOING ON LIKE
25 SIX AND A HALF YEARS.

1 Q AND HOW OLD WERE YOU WHEN TOM BEGAN TO MOVE IN WITH
2 AND LIVE WITH THE FAMILY?

3 A AT FIRST I LIVED AFTER THE -- RIGHT -- INITIALLY
4 RIGHT AFTER THE DIVORCE I LIVED WITH MY DAD IN A -- WITH
5 MY DAD WHILE THEY WORKED OUT A CUSTODY AGREEMENT. AND I
6 WOULD VISIT MY MOM ALMOST EVERY DAY AT AN APARTMENT THAT
7 SHE WAS LIVING IN, AND THEN -- THEN MY MOM TOOK CUSTODY,
8 FULL CUSTODY OF US, AND SO THEN WE ALL MOVED IN WITH MY
9 MOM.

10 AND EVENTUALLY WE MOVED FROM THE HOUSE THAT WE LIVED
11 IN WHEN MY PARENTS WERE STILL MARRIED INTO A HOUSE
12 TOGETHER IN HAGLEY.

13 Q AND WAS -- WAS TOM WALTERS AND YOUR -- AND YOUR
14 MOTHER, WERE THEY GOING TO GET MARRIED OR WHAT WAS THAT
15 ALL ABOUT?

16 A THEY WERE TALKING ABOUT IT. THEY -- HE WAS -- HE --
17 I THINK FOR A WHILE HE -- HE WAS JUST VERY -- I MEAN,
18 THERE WAS A TIME WHEN THEY WERE SERIOUSLY CONSIDERING
19 MARRIAGE, BUT I MEAN, I'M NOT SURE.

20 I WASN'T THE ONE IN THE RELATIONSHIP, SO I COULDN'T
21 EXACTLY TELL YOU WHAT WAS GOING ON. THEY WERE ADULTS AND
22 THEY HAD THEIR OWN RELATIONSHIP. WASN'T REALLY -- THEIR
23 PERSONAL BUSINESS WASN'T REALLY MY BUSINESS.

24 Q YOUR MOTHER DIDN'T TALK TO YOU ABOUT THAT?

25 A SHE DID. SHE -- I MEAN, YEAH. SHE TALKED TO ME A

1 LITTLE BIT ABOUT IT, YEAH.

2 Q WELL, WHY THE BREAK-UP WITH TOM AND -- THAT HAD TO
3 END AND THEN THIS NEW RELATIONSHIP BEGAN. DO YOU KNOW
4 ABOUT THAT, HOW THAT STARTED?

5 MR. HEMBREE: I'M SORRY. I DON'T UNDERSTAND THE
6 QUESTION.

7 THE COURT: IS THERE AN OBJECTION?

8 MR. HEMBREE: I WAS GOING TO OBJECT TO THE
9 HEARSAY NATURE OF IT, BUT IT KIND OF WANDERED OFF IN
10 A DIFFERENT DIRECTION, SO...

11 THE COURT: YOU WITHDRAW THE OBJECTION?

12 MR. HEMBREE: I WITHDRAW THE OBJECTION AWAITING
13 RESPONSE.

14 THE COURT: OKAY. YOU MAY ANSWER, MS. LING.

15 WITNESS: I'M SORRY. COULD YOU REPEAT THE
16 QUESTION?

17 BY MR. KELLY:

18 Q YES. THE RELATIONSHIP BETWEEN YOUR MOTHER AND TOM
19 WALTERS ENDED AND THE ONE WITH STEPHEN STANKO BEGAN. DO
20 YOU KNOW HOW THAT HAPPENED?

21 A I -- MY MOM TOWARDS THE END OF HER RELATIONSHIP WITH
22 TOM WASN'T VERY HAPPY. WE HAD HAD PROBLEMS IN THE FAMILY.
23 MY OLDER BROTHER HAD MOVED OUT AND -- TO LIVE WITH MY DAD
24 UP IN NORTH CAROLINA. ME AND MY MOM KIND OF LIKE RELIED
25 ON EACH OTHER FOR SUPPORT, AND SHE JUST TOWARDS THE END

1 FELT -- SHE FELT LIKE SHE COULDN'T MAKE HIM HAPPY.

2 AND IT WAS DIFFICULT. MY MOM LOVED HER JOB, LOVED
3 HER JOB, BUT SHE WAS A COUNTY LIBRARIAN. SHE MADE
4 RIDICULOUSLY LOW WAGES, AND THAT'S FOR ALL OF US, FOR MY
5 WHOLE FAMILY TO LIVE ON MEAGER PAY, FOR NICK GOING TO
6 COLLEGE, AND TO PAY FOR -- I MEAN, FOR ME, AND AT A TIME
7 LIKE MY BROTHER -- IT WAS TIGHT. IT WAS STRESSFUL.

8 MY MOM AT ONE POINT WAS RAISING THREE KIDS, GOING TO
9 SCHOOL TO GET HER MASTER'S DEGREE, AND WORKING FULL-TIME,
10 I MEAN, IT WAS TIGHT. AND TOM HELPED US PAY A LOT OF THE
11 BILLS. HE HELPED US OUT A LOT MONETARILY.

12 HE TRIED TO RELIEVE A LOT OF THAT BURDEN FROM MY MOM
13 BECAUSE IT REALLY -- IT REALLY TOOK A TOLL ON HER -- ON
14 HER STRESS.

15 Q WELL, WHAT ABOUT YOUR FATHER, CHRIS LING? WAS HE
16 HELPING WITH THE BILLS?

17 A I'M NOT FAMILIAR WITH HOW HE -- HOW HE PAID BILLS. I
18 WASN'T FAMILIAR WITH THAT. IF YOU'RE -- IF YOU'RE ASKING
19 IN REFERENCE TO CHILD SUPPORT PAYMENTS, I'M NOT FAMILIAR
20 WITH THAT.

21 Q ALL RIGHT. NOW, ONCE STEPHEN MOVED INTO YOUR HOME ON
22 [REDACTED], WHAT DID YOU THINK OF HIM?

23 A I THOUGHT -- I THOUGHT IT HAPPENED KIND OF QUICK, BUT
24 CIRCUMSTANCES IN WHICH HE -- WELL, CERTAIN -- THE THINGS
25 THAT HE TOLD MY MOM, CIRCUMSTANCES THAT HE REFERRED TO

1 THAT -- HE BASICALLY -- HE WAS -- HE KIND OF PUT MY MOM IN
2 THE POSITION WHERE HE HAD TO LEAVE THE PLACE HE WAS
3 STAYING AT THE TIME AND HE NEEDED A PLACE TO GO KIND OF
4 THING.

5 I -- I THOUGHT -- I MEAN, LIKE I SAID, I THOUGHT IT
6 DID HAPPEN REALLY QUICK. I DIDN'T REALLY APPROVE OF THE
7 WAY THAT MY MOM ENDED HER RELATIONSHIP WITH TOM BECAUSE I
8 THINK -- I MEAN, TOM WOULD EVERY NOW AND THEN CALL.

9 AND I REMEMBER STEPHEN HAD DELETED LIKE A MESSAGE OFF
10 THE ANSWERING MACHINE FROM TOM. AND TOM WOULD ASK ME ON
11 THE PHONE, LIKE IS SHE SEEING ANYBODY ELSE, AND I'D JUST
12 TELL HIM THAT, YOU KNOW, I DON'T KNOW ANYTHING ABOUT THAT
13 BECAUSE THAT WAS BETWEEN ADULTS AND THAT WAS BETWEEN THEM,
14 MY MOM IS A GROWN WOMAN, SHE CAN HANDLE HER OWN
15 RELATIONSHIPS, I'M JUST NOT GOING TO GET IN THE MIDDLE OF
16 IT.

17 SHE JUST SO MUCH HAPPIER. SHE -- SHE'S JUST HAPPY.
18 AND IT DIDN'T -- I WAS -- I FIGURED, YOU KNOW, IT WAS SUCH
19 A -- WE HAD BEEN THROUGH SO MUCH. WE -- WE HAD -- I MEAN,
20 LIKE I SAID, IT WAS SO STRESSFUL.

21 I MEAN, SHE -- SHE TRIED SO HARD TO GIVE US SUCH A
22 GOOD LIFE. I MEAN, SHE LIVED FOR HER KIDS. AND TO SEE
23 HER HAPPY, YOU KNOW, IT JUST -- IT DIDN'T -- THAT WAS
24 ENOUGH. IT WAS ENOUGH TO SAY, OKAY, IT IS A LITTLE BIT
25 SOON, BUT -- BUT THAT'S OKAY.

1 Q DID YOUR MOTHER ASK YOU NOT TO DISCUSS STEPHEN BEING
2 IN THE HOME WITH--

3 A NO.

4 Q MR. WALTERS?

5 A NO. NO, SHE DIDN'T. I CHOSE NOT TO ON MY OWN.

6 Q DID -- DID STEPHEN EVER TOUCH YOU, TOUCH YOUR BODY--

7 A NO, SIR.

8 Q -- ANY WAY THAT MADE YOU UNCOMFORTABLE?

9 A NO, SIR.

10 Q DID HE EVER MAKE REMARKS TO YOU THAT MADE YOU FEEL
11 UNCOMFORTABLE?

12 A NO, SIR.

13 Q DID YOU EVER ARGUE WITH HIM?

14 A I -- AT FIRST WHEN HE FIRST MOVED IN, NO, BECAUSE I
15 MEAN, YOU KNOW, I WAS GOING TO, YOU KNOW, GIVE HIM A SHOT,
16 YOU KNOW, GIVE HIM A CHANCE. AND TOWARDS THE END,
17 PROBABLY IN THE EARLY SPRING, IN MARCH-ISH, AROUND THAT
18 TIME, WE DID BUTT HEADS A LOT.

19 I MEAN, IT SEEMED LIKE -- I MEAN, ALL OF A SUDDEN,
20 YOU KNOW, STEPHEN WAS AROUND ALL THE TIME AND I
21 COULDN'T -- IT WASN'T, YOU KNOW, JUST ME AND MY MOM ANY
22 MORE AND I COULDN'T EVEN TALK TO HER WITHOUT STEPHEN BEING
23 THERE.

24 AND I -- SO YEAH, WE DID BUTT HEADS. BUT I MEAN, I
25 WAS 15. I WAS A TEENAGER. I WAS PISSED OFF TO BEGIN

1 WITH, HORMONES.

2 Q HAD THE -- YOU SAY YOU BUTTED HEADS BECAUSE HE WAS
3 THERE?

4 A WELL, BECAUSE IT ALWAYS SEEMED LIKE WHEN ME AND MY
5 MOM WOULD GET IN -- I MEAN WE -- WE -- OUR RELATIONSHIP
6 WASN'T PERFECT. I MEAN, IT WAS GREAT. I MEAN, SHE'S MY
7 BEST FRIEND. BUT EVERY NOW AND THEN WE'D HAVE ARGUMENTS
8 JUST LIKE EVERY OTHER FAMILY.

9 AND IT JUST SEEMED LIKE STEPHEN WOULD ALMOST PIT MY
10 MOM AND ME AGAINST EACH OTHER. AND HE WOULD ALWAYS TELL
11 HER ABOUT HOW, YOU KNOW, SHE DESERVED TO BE TREATED SO
12 MUCH BETTER AND HOW SHE, YOU KNOW -- I MEAN, HE WOULD JUST
13 ALWAYS TELL HER, YOU KNOW, HOW SHE -- SHE DESERVES SO MUCH
14 BETTER THAN THIS AND SO MUCH BETTER THAN THAT AND HOW I --
15 HE MADE ME OUT LIKE THIS HORRIBLE KID.

16 Q SO YOU FELT THAT HE WAS NOT PORTRAYING YOU TO YOUR
17 MOTHER THE WAY YOU REALLY WERE? IS THAT...

18 A I THINK HE WAS -- I WOULD SAY HE WAS EXAGGERATING
19 MY -- MY -- THE TIMES THAT I WOULD ACT OUT AND -- AND
20 STUFF.

21 Q DID YOU EVER COMPLAIN TO YOUR MOTHER?

22 A YEAH, BUT IT WAS LIKE IF I COMPLAINED TO HER -- I
23 WOULD SAY THINGS LIKE, YOU KNOW, DON'T YOU THINK IT'S KIND
24 OF ODD THAT WE NEVER ARGUED LIKE THIS WHEN IT WAS JUST YOU
25 AND ME?

1 DON'T YOU THINK IT'S KIND OF WEIRD THAT WHEN STEPHEN
2 ARRIVES, I MEAN, WE DON'T SEEM TO BE GETTING ALONG AS
3 WELL? AND TO HER IT WAS LIKE, YOU KNOW -- IF YOU LOOK AT
4 THE SITUATION, IT WAS LIKE STEPHEN WAS THE THING THAT --
5 THAT FELT SHE -- IT FILLED THAT GAP, IT FILLED THAT VOID,
6 IT MADE HER HAPPY.

7 AND FOR -- AND FOR ME IT WAS DIFFICULT BECAUSE IT WAS
8 LIKE I WANTED HER TO BE HAPPY. I WAS SO -- SHE DESERVED
9 IT. SHE WORKED SO HARD AND SHE DESERVED IT. AND I
10 DIDN'T -- I DIDN'T WANT TO -- TO TAKE THAT AWAY OR -- OR
11 TO -- TO DO ANYTHING THAT WOULD -- THAT WOULD ENDANGER
12 THAT BECAUSE I -- I MEAN, I -- I HAD SEEN FOR YEARS HOW
13 HARD SHE WORKED.

14 AND TO SEE HER HAPPY LIKE THAT, I MEAN, IT MEANT SO
15 MUCH. IT MEANT ENOUGH FOR ME TO JUST KEEP MY MOUTH SHUT
16 AND -- EVEN IF I DIDN'T AGREE WITH THE WAY THINGS WERE
17 GOING ON.

18 Q WOULD YOU HAVE BEEN HAPPIER IF STEPHEN HAD JUST GONE
19 AHEAD AND MOVED OUT?

20 A NO. I PROBABLY WOULD HAVE BEEN HAPPIER IF WE ALL
21 JUST SAT DOWN AND WORKED IT OUT, THE PROBLEMS THAT, YOU
22 KNOW, ANY FEELINGS THAT WE -- THAT WE HAD, WHICH IS
23 USUALLY WHAT WE DID, BUT YOU KNOW.

24 Q DID YOU EVER COMPLAIN TO YOUR MOTHER THAT STEPHEN HAD
25 EVER TOUCHED YOU IN ANY SEXUAL WAY?

1 A NO.

2 Q OR THAT HE HAD EVER MADE ANY ADVANCES TO YOU IN ANY
3 WAY?

4 A NO. NEVER. ME AND STEPHEN WERE ALONE TOGETHER ON
5 SEVERAL OCCASIONS. WE BUILT A BIRDHOUSE FOR MY BIOLOGY
6 CLASS TOGETHER. HE TOOK ME OUT IN THE CAR TO -- TO SHOW
7 ME HOW TO DRIVE A STICK SHIFT ONE DAY.

8 I MEAN, WE WERE ALONE SEVERAL TIMES, SEVERAL
9 OPPORTUNITIES HE WOULD HAVE HAD TO -- IF HE -- IF HE
10 WANTED TO MAKE ADVANCES AT ME AND NEVER, NOT ONCE.

11 Q WHO DID THE COOKING AT THE HOUSE IN THE MORNING AND
12 IN THE EVENING?

13 A IN THE EVENING STEPHEN USUALLY -- HE OFTEN COOKED.

14 Q WHO WOULD CLEAN THE DISHES, POTS AND THE PANS?

15 A USUALLY I WOULD. I WOULD OR STEPHEN OR MY MOM.
16 WE -- I LIKE TO DO IT BECAUSE I KNOW MY MOM HAD JUST
17 GOTTEN HOME FROM WORK AND SHE WAS PROBABLY TIRED, SO I --
18 I WOULD TRY TO DO IT WHEN I COULD.

19 Q WOULD STEPHEN USUALLY BRING YOUR MOTHER HOME FROM
20 WORK?

21 A YES.

22 Q SOMETIMES SHE CAME HOME EARLY BECAUSE SHE LEFT EARLY,
23 AND SOMETIMES SHE CAME HOME LATER BECAUSE SHE LEFT LATER?

24 A SOME -- YEAH. I GUESS YOU COULD SAY THAT, YEAH.

25 Q IS THAT PRETTY MUCH WHAT YOU SAID EARLIER?

1 A YES, IT IS.

2 Q AND HE WOULD USUALLY BRING HER HOME?

3 A YES.

4 Q AND WOULD YOU USUALLY BE HOME BY THE TIME THEY GOT
5 HOME?

6 A YEAH.

7 Q HOW DID YOU GET HOME IN THE AFTERNOON?

8 A I HAD SOME FRIENDS OF MINE THAT LIVED DOWN THE STREET
9 THAT WOULD TAKE ME HOME.

10 Q HOW FAR AWAY IS YOUR HIGH SCHOOL FROM WHERE YOU LIVED
11 AT THAT TIME?

12 A LIKE FROM WHERE I LIVED IN MURRELLS INLET, MAYBE 12
13 TO 15 MINUTES DEPENDING ON TRAFFIC.

14 Q DO YOU REMEMBER THE DAY BEFORE THE EIGHTH, THE
15 SEVENTH, THEN THE DAY BEFORE THAT, THE SIXTH, WERE THERE
16 ANY ARGUMENTS IN THE HOUSEHOLD THEN?

17 A I DON'T RECALL ANY ARGUMENTS. I DO RECALL THERE WAS
18 SOME TENSION BETWEEN ME AND STEPHEN RECENTLY, BUT AT THE
19 TIME, YOU KNOW, I -- WASN'T UNUSUAL, AND THERE WASN'T ANY
20 LIKE BIG FIGHT OR ANY LIKE...

21 Q DID YOU EVER -- DO YOU REMEMBER TALKING WITH AN
22 INVESTIGATOR, INVESTIGATOR NAMED ALLEN, MR. ALLEN, AND
23 TALKED TO HIM ON THE EIGHTH? IS THAT THE EVENING OF THE
24 EIGHTH?

25 A I TALKED TO SEVERAL PEOPLE ON THE EIGHTH.

1 Q DO YOU REMEMBER TELLING HIM THAT -- THAT THERE HAD
2 BEEN -- THERE WAS AN ARGUMENT THAT KIND OF LASTED THE
3 SIXTH AND THE SEVENTH. DO YOU REMEMBER THAT?

4 A ARE YOU REFERRING TO AN ARGUMENT BETWEEN ME AND
5 STEPHEN OR BETWEEN MY MOM AND STEPHEN, BETWEEN ME AND MY
6 MOM?

7 Q I'M NOT REALLY SURE. THAT'S REALLY WHY I'M ASKING.
8 LET ME -- LET ME SHOW YOU THIS TRANSCRIPT THAT WAS GIVEN
9 TO ME. AND MAYBE YOU CAN EXPLAIN IT. REFRESH YOUR
10 MEMORY.

11 A OKAY. THANK YOU.

12 Q LOOK DOWN AT THE BOTTOM OF PAGE FOUR WHERE I GOT IT
13 CHECKED ON THE TOP OF PAGE FIVE.

14 A OH, OKAY. YEAH. DO YOU -- DO YOU WANT ME TO READ
15 IT?

16 Q YEAH. TELL US WHAT THAT IS ABOUT. DOESN'T IT SAY
17 THERE WAS SOME KIND OF ARGUMENT?

18 A THERE WAS AN ARGUMENT BETWEEN--

19 MR. HEMBREE: YOUR HONOR, I HAVE TO OBJECT. IF
20 HE'S GOING TO USE IT TO REFRESH HER RECOLLECTION--

21 THE COURT: IS THE BASIS HEARSAY OR IS THERE
22 SOME OTHER OBJECTION? I ASSUME HE'S OFFERING IT TO
23 REFRESH HER RECOLLECTION. HE ASKED HER TO EXPLAIN
24 WHAT IT MEANT.

25 WITNESS: OKAY.

1 THE COURT: HE DIDN'T ASK HER TO REPEAT IT.

2 MR. HEMBREE: I BELIEVE SHE BEGAN TO READ IT.

3 WITNESS: I DID BEGIN TO READ IT.

4 THE COURT: WOULD YOU LIKE TO RESTATE THE
5 QUESTION, MR. KELLY?

6 BY MR. KELLY:

7 Q I'VE JUST GIVEN THIS TO YOU TO REFRESH YOUR MEMORY.
8 DO YOU NOW REMEMBER AFTER--

9 A YES, I DO.

10 Q OKAY. THEN TELL US.

11 A OKAY. I HAD BEEN ACTING OUT FOR ONE REASON OR
12 ANOTHER. YOU KNOW, I -- LIKE I SAID, I WAS OVERDUE ON
13 THAT PAPER AND MY MOM WAS REALLY MAD ABOUT THAT, AND I --
14 STEPHEN HAD TAKEN AWAY MY CELLPHONE, MY LIFELINE. AND WE
15 SAT DOWN AND WE HAD LIKE A MATURE CONVERSATION ABOUT IT.

16 AND I ACTUALLY -- I MEAN, I -- I HAD GONE HOME FROM
17 SCHOOL THAT DAY AND I CLEANED THE HOUSE ALL NICE AND I WAS
18 KIND OF LIKE, SEE WHAT I DID, YOU KNOW, CAN I HAVE MY
19 CELLPHONE BACK? I ACTUALLY -- AND INITIALLY HE SAID NO.
20 AND I STARTED TO TEAR UP BECAUSE I WAS REALLY THINKING
21 THAT I WOULD HAVE GOTTEN IT BACK.

22 AND SEE, STEPHEN HATED IT WHEN WE CRIED. THAT WAS
23 ONE OF THE THINGS I REMEMBERED WHEN HE WAS RAPING ME, AND
24 I TRIED TO CRY EVEN HARDER BECAUSE I THOUGHT THAT HE WOULD
25 SEE THAT AND FEEL BAD AND -- AND STOP.

1 SO I -- I KIND OF TOOK ADVANTAGE OF THAT AND, YOU
2 KNOW, SHED A FEW TEARS, AND HE GAVE ME MY CELLPHONE BACK
3 BECAUSE HE IMMEDIATELY FELT BAD. HE ALWAYS SAID THAT HE
4 HATED IT WHEN WE CRIED.

5 Q SO WHO WAS IT THAT TOOK YOUR CELLPHONE?

6 A STEPHEN.

7 Q AND THAT WAS WITH YOUR MOTHER'S APPROVAL?

8 A YEAH. YEAH, MY MOM AND STEPHEN PRETTY MUCH TOGETHER
9 TAKEN AWAY MY CELLPHONE. BUT HE HAD IT IN HIS POSSESSION,
10 SO IF I WANTED TO GET IT BACK, I WOULD HAVE TO TALK TO
11 HIM.

12 Q AND SO THE ARGUMENT WAS REALLY OVER THE SIXTH AND THE
13 SEVENTH AND THEN IT SEEMED TO BE SOLVED BY, WHEN, THE
14 SEVENTH OR...

15 A YEAH, IT WAS LIKE A COUPLE DAYS BEFORE. TO BE
16 HONEST, I MEAN I -- I -- I'M NOT EVEN SURE THAT THAT WAS
17 LIKE THE TWO DAYS BEFORE EVERYTHING HAPPENED. IT MAY. IT
18 MAY HAVE BEEN LIKE THE WEEK BEFORE, BUT IT -- IT WAS VERY
19 RECENT. THAT -- IT WAS JUST OVER, YOU KNOW, OVER A
20 CELLPHONE.

21 Q DO YOU REMEMBER -- DO YOU REMEMBER TELLING THE
22 INVESTIGATOR ALLEN THAT YOU HAD HEARD WHAT YOU THOUGHT WAS
23 ANOTHER VOICE THAT NIGHT?

24 A THE ONLY OTHER VOICES I HEARD THAT NIGHT WERE OF THE
25 PARAMEDICS OUTSIDE OF MY HOUSE. AND I DO REMEMBER TELLING

1 HIM THAT I HEARD THESE VOICES, BUT I -- AS I RECALL, IT
2 WAS IN THE CONTEXT OF ME HEARING THE VOICES OUTSIDE AND IN
3 TURN TELLING THE PERSON ON THE PHONE TO TELL THEM TO COME
4 IN.

5 Q WELL NOW, YOU REMEMBER CALLING 9-1-1; CORRECT?

6 A NO. I BELIEVE I STATED EARLIER THAT I DON'T
7 SPECIFICALLY REMEMBER DIALING OR HOW I GOT TO THE PHONE OR
8 HOW I DIALED IT, BUT I DO RECALL...

9 Q HAVE YOU HEARD THAT 9-1-1 TAPE?

10 A I HAVE HEARD PART OF IT, YES.

11 Q OKAY. DO YOU RECALL HEARING ON THAT 9-1-1 TAPE THAT
12 YOU TOLD THE OPERATOR THAT YOU THOUGHT YOU HEARD STEPHEN
13 TALKING WITH SOMEONE ELSE?

14 A I DID NOT. I DIDN'T GET TO THAT PART ON THE TAPE.
15 IT WAS -- IT WAS VERY DIFFICULT TO LISTEN TO. I DIDN'T
16 REALLY MAKE IT ALL THE WAY THROUGH.

17 Q WELL, IF YOU HAD TOLD THE OPERATOR THAT BEFORE THE
18 EMS OR THE DEPUTIES ARRIVED AT THE HOUSE, IT COULDN'T BE
19 THEIR VOICES THAT YOU WERE TELLING THE OPERATOR ABOUT.
20 YOU'D AGREE WITH THAT; WOULDN'T YOU?

21 A YEAH, THAT WOULD MAKE SENSE.

22 Q OKAY. NOW, TODAY--

23 A IF -- IF I HAD RECOGNIZED THE -- I'M SORRY. GO
24 AHEAD.

25 Q GO AHEAD. TELL ME.

1 A IF I HAD RECOGNIZED THE VOICE AS STEPHEN'S, I
2 PROBABLY WOULD HAVE SAID THAT IT WAS STEPHEN'S VOICE. AND
3 I DON'T KNOW IF THAT IS WHAT I SAID BECAUSE I DIDN'T
4 LISTEN ALL THE WAY TO THE TAPE.

5 Q WELL, WE DON'T HAVE THE TAPE HERE IN FRONT OF US AND
6 WE'RE NOT PLAYING IT OR LISTENING TO IT. BUT DO YOU
7 RECALL US SAYING THAT YOU HEARD WHAT YOU THOUGHT WAS
8 STEPHEN TALKING WITH SOMEONE ALTHOUGH YOU DIDN'T SEE
9 ANYBODY BUT STEPHEN OR KNOW ANYBODY WAS IN THE HOUSE? DO
10 YOU REMEMBER THAT?

11 A NO.

12 Q BUT IF IT WERE ON THE TAPE THAT -- THAT IS THE 9-1-1
13 TAPE, THEN YOU WOULD -- THAT WOULD BE YOU, OF COURSE;
14 CORRECT?

15 A YES.

16 Q OKAY. NOW, I'M NOT -- I DON'T WANT TO DREDGE UP
17 PAINFUL MEMORIES.

18 A THAT'S FINE.

19 Q I'M NOT TRYING TO CONFUSE YOU; OKAY?

20 A OKAY.

21 Q BUT I DO HAVE TO ASK A COUPLE OF QUESTIONS.

22 A GO AHEAD.

23 Q TODAY YOU SAID THAT STEPHEN HAD LIFTED UP YOUR
24 T-SHIRT--

25 A MY SWEATSHIRT.

1 Q -- MASSAGED YOUR BREASTS AND HE HAD SUCKED YOUR
2 NIPPLES; RIGHT?

3 A YES.

4 Q I DIDN'T EVER SEE THAT IN ANY OF THE EARLIER REPORTS.

5 A I -- IF YOU HAVE THE RECORDING FROM WHEN THE OFFICER
6 SAT DOWN WITH ME IN THE HOSPITAL, I KNOW THAT I TOLD ONE
7 OF THE NURSES BECAUSE THEY TOOK SALIVA SWABS OF MY
8 BREASTS.

9 Q THEY TOOK WHAT?

10 A BEFORE THEY DID THE RAPE KIT, THEY TOOK SWABS TO GET
11 COLLECTIONS OF SALIVA FROM MY BREASTS.

12 Q ALL RIGHT. AND ALSO -- YOU ALSO SAID THAT HE HAD
13 SAID TO YOU, WELL, YOU ARE FUCKING EVERYBODY ELSE, WHY
14 SHOULD THIS BE ANY DIFFERENT, CORRECT?

15 A HE DID SAY SOMETHING TO THAT EFFECT.

16 Q ALL RIGHT. I DIDN'T SEE THAT IN ANY REPORTS EITHER.
17 CAN YOU TELL ME WHY?

18 A NO, I CAN'T TELL YOU WHY. I KNOW THAT AT FIVE IN THE
19 MORNING AFTER BEING BEATEN, RAPED, AND WATCHING MY MOM
20 MURDERED, THAT I MAY NOT HAVE MENTIONED EVERY DETAIL IN
21 THE HOSPITAL BEFORE I WENT TO BED, BUT I GUESS THAT'S
22 PROBABLY THE BEST EXPLANATION I CAN GIVE YOU.

23 Q OKAY. NOW, YOU'RE SURE THAT STEPHEN SAID TO YOU --
24 AND CORRECT ME IF I'M WRONG, OKAY -- WORDS TO THE EFFECT
25 THAT THIS WAS YOUR FAULT, SEE WHAT YOU'VE DONE.

1 A YES.

2 Q DIDN'T HE SAY SOMETHING LIKE THAT TO YOU?

3 A YES, HE DID.

4 Q TELL ME AGAIN THE WORDS.

5 A HE LOOKED AT ME AS IF I HAD DEEPLY OFFENDED HIM, AND

6 HE SAID, LOOK WHAT YOU DID, SEE WHAT YOU DID? AND HE

7 POINTED AT MY MOM AND HE SAID, I LOVED HER, AND I LOVED

8 HER, SEE WHAT YOU DID?

9 Q AND SO HE'S ACCUSING YOU THAT IT WAS YOUR FAULT?

10 A AS IF I HAD DONE SOMETHING TO CAUSE THAT FOR -- TO

11 CAUSE HIM TO DO THAT OR SOMETHING LIKE THAT. I DON'T

12 REALLY KNOW WHAT HE MEANT BY IT.

13 Q NOW, THE PROJECT THAT YOU HAD DUE THE NEXT DAY FOR

14 SCHOOL, WAS THAT AN OVERDUE PROJECT?

15 A IT WAS LIKE A DAY OVERDUE OR SOMETHING, YEAH.

16 Q HAD -- HAD YOUR MOTHER KNOWN ABOUT THIS PROJECT BEING

17 DUE?

18 A I BELIEVE I PROBABLY MENTIONED IT TO HER.

19 Q YOU THINK YOU DID OR DO YOU NOT REMEMBER?

20 A I DID MENTION IT TO HER. DID I TELL HER THAT I

21 DIDN'T TURN IT IN ON TIME, I DON'T REMEMBER.

22 Q WELL, ON THAT NIGHT WHEN YOUR MOTHER GOT HOME, DID

23 YOU TELL HER, I'VE GOT THIS PROJECT DUE TOMORROW, I'VE GOT

24 TO GET IT DONE?

25 A SHE KNEW I WAS WORKING ON MY PAPER IF THAT'S WHAT YOU

1 MEAN.

2 Q WELL, I'M -- I'M ASKING YOU--

3 A YES.

4 Q -- DID YOU AND YOUR MOTHER -- DID SHE CORRECT YOU OR
5 DID SHE -- WAS -- WHEN YOU TOLD HER, I'VE GOT IT DUE, WAS
6 SHE OKAY WITH THAT OR WAS SHE UPSET?

7 A SHE WASN'T HAPPY WITH THE FACT THAT IT WAS OVERDUE,
8 BUT WE HAD PLANS FOR HER TO PROOFREAD IT IN THE MORNING.
9 I WAS GOING TO FINISH WRITING IT TONIGHT AND SINCE IT WAS
10 KIND OF -- IT GETTING KIND OF LATE, SHE WAS GOING TO GO TO
11 BED, AND AS I RECALL CORRECTLY THAT SHE WAS GOING TO
12 PROOFREAD IT IN THE MORNING BEFORE I WENT TO SCHOOL.

13 Q DID YOU HAVE EVERYTHING YOU NEEDED FOR THE PROJECT
14 THE NEXT MORNING OR DID YOU THINK YOU HAD TO HAVE SOME
15 THINGS THAT YOU THOUGHT YOU DIDN'T HAVE?

16 A COULD YOU REPEAT THE QUESTION?

17 Q FOR THE PROJECT THAT YOU WERE TO TURN IN, DID YOU
18 HAVE ALL THAT YOU NEEDED, SUCH AS POSTER PAPER OR--

19 A OH, IT--

20 Q ANYTHING LIKE THAT?

21 A IT WAS JUST AN ESSAY.

22 Q YES.

23 A SO, YEAH. THE PRINTER WAS OUT OF INK, SO I'D HAVE TO
24 GO AND REPRINT IT AT SCHOOL AFTER I EDIT IT, BUT -- BUT
25 YEAH, I MEAN, I HAD -- HAD MOST OF IT DONE.

1 Q DID YOU AND YOUR MOTHER ARGUE THAT NIGHT?

2 A NOT TO MY RECOLLECTION.

3 Q THERE WAS NO ARGUMENT BETWEEN THE TWO OF YOU OR ANY
4 LOUD VOICES OR EXCHANGES IN THAT WAY?

5 A NOT THAT I REMEMBER.

6 Q DID YOUR BROTHER, ONE OF YOUR BROTHERS CALL THAT
7 EVENING?

8 A I'M SORRY?

9 Q DID ANY OF YOUR BROTHERS CALL THE HOUSE THAT EVENING?

10 A I DON'T REMEMBER.

11 Q WAS YOUR MOTHER IN A GOOD MOOD WHEN SHE WENT TO BED
12 AS FAR AS YOU CAN TELL?

13 A SHE WASN'T REALLY IN A BAD MOOD, BUT I SUPPOSE SHE
14 WAS CONTENT.

15 Q SHE WASN'T UPSET OR ANGRY THAT YOU KNOW OF WHEN SHE
16 WENT TO BED?

17 A NO.

18 Q NOT WITH YOU OR WITH STEPHEN?

19 A WELL, SHE LOOKED DOWN ON THE FACT THAT I WAS STILL
20 WRITING THAT PAPER, BUT I WOULDN'T SAY SHE WAS NECESSARILY
21 LIKE REALLY, REALLY MAD AT ME. I THINK SHE WAS MORE
22 CONCERNED ABOUT ME GETTING IT DONE.

23 AND AS FOR STEPHEN, NO, I DIDN'T -- I MEAN, LIKE I
24 SAID, I WAS WRITING OF -- MY PAPER MOST OF THE NIGHT. I
25 DIDN'T REALLY PAY TOO MUCH ATTENTION TO WHAT THEY WERE

1 DOING.

2 Q AND WHEN YOU WENT TO SLEEP THAT NIGHT YOU SAID YOU
3 CLOSED YOUR DOOR?

4 A YES.

5 Q OKAY. ARE YOU A HEAVY SLEEPER?

6 A NOT NECESSARILY, BUT I MEAN, I'M NOT A SLEEP EXPERT.
7 I DON'T KNOW IF I'M REALLY A HEAVY SLEEPER OR A LIGHT
8 SLEEPER. I WOKE UP WHEN THE LIGHT TURNED ON, SO...

9 Q WELL, FROM WHAT YOU'VE TOLD US, THERE WAS EVIDENTLY
10 SOME SORT OF ARGUMENT OR ALTERCATION OR FIGHT BETWEEN
11 STEPHEN AND YOUR MOTHER BEFORE YOU WENT INTO THE ROOM;
12 CORRECT?

13 A NO.

14 Q DID YOU SAY THAT YOUR MOTHER WAS DOWN BESIDE THE BED
15 WHEN YOU WENT IN?

16 A OH, WELL -- WELL, YEAH. THERE -- I MEAN, SHE WAS ON
17 THE FLOOR BESIDE THE BED. I WOULD INFER THAT THERE MAY
18 HAVE BEEN SOME ALTERCATION, BUT WAS IT A -- A FIGHT THAT
19 WAS LOUD AND VERBAL? NO. IT WOULD HAVE WOKEN ME UP. THE
20 WALLS THERE WEREN'T THAT THICK.

21 I COMPLAINED ALL THE TIME ABOUT HOW THE LIVING ROOM
22 TV WAS TOO LOUD AND I COULDN'T FOCUS ON MY HOMEWORK IN MY
23 ROOM.

24 Q NOW, YOU DIDN'T HEAR ANY FIGHT OR ALTERCATION, NO
25 NOISE LIKE THAT WOKE YOU UP?

1 A NO NOISE LIKE THAT WOKE ME UP.

2 Q DO YOU HAVE A RADIO OR TV IN YOUR ROOM?

3 A YES.

4 Q DID YOU HAVE IT ON?

5 A NO.

6 Q OKAY. THANK YOU. I DON'T HAVE ANY FURTHER
7 QUESTIONS.

8 MR. DIGGS: YOUR HONOR, COULD YOU GIVE US JUST A
9 SECOND?

10 THE COURT: SURE.

11 (MR. DIGGS AND MR. KELLY CONFERRING.)

12 MR. DIGGS: NOTHING FURTHER.

13 THE COURT: ANY REDIRECT OF THE WITNESS?

14 MR. KELLY: YOUR HONOR, MAY I CONFER WITH THE
15 SOLICITOR FOR A MOMENT?

16 THE COURT: CERTAINLY.

17 (WHEREUPON THERE WAS A PAUSE.)

18 MR. KELLY: THANK YOU, MA'AM.

19 THE COURT: YOU'RE WELCOME. ANY REDIRECT FROM
20 THE SOLICITOR?

21 MR. HEMBREE: NO, YOUR HONOR. NOTHING ON
22 REDIRECT.

23 THE COURT: MA'AM, YOU CAN STEP DOWN. WOULD
24 COUNSEL APPROACH FOR ME, PLEASE?

25 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

1 THE COURT: THE STATE MAY PROCEED.

2 MR. HEMBREE: THE STATE CALLS DR. SCOTT BURNS TO
3 THE WITNESS STAND. PLEASE COME AROUND AND BE SWORN.

4 THE COURT: IF YOU WOULD COME TO THE WITNESS
5 STAND, SIR, AND BE SWORN.

6 DR. SCOTT BURNS, AFTER
7 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE COURT: SIR, IF YOU COULD SPELL YOUR LAST
9 NAME FOR THE COURT REPORTER.

10 THE WITNESS: B-U-R-N-S.

11 THE COURT: THANK YOU. YOU MAY PROCEED.

12 MR. HEMBREE: THANK YOU, YOUR HONOR.

13 THE COURT: THANK YOU. YOU MAY PROCEED.

14 MR. HEMBREE: THANK YOU, YOUR HONOR.

15 DIRECT EXAMINATION

16 BY MR. HEMBREE:

17 Q DR. BURNS, WHERE DO YOU WORK?

18 A I'M EMPLOYED -- SORRY -- EMPLOYED IN GEORGETOWN
19 MEMORIAL HOSPITAL AND WACCAMAW COMMUNITY HOSPITAL.

20 Q IN WHAT CAPACITY?

21 A AS AN EMERGENCY ROOM PHYSICIAN.

22 Q WOULD YOU PLEASE GIVE THE COURT AND THE JURY THE
23 BENEFIT OF YOUR TRAINING AND EXPERIENCE AS AN EMERGENCY
24 ROOM PHYSICIAN.

25 A YES, SIR. I COMPLETED MEDICAL SCHOOL IN 1999 AT WAKE

1 FOREST UNIVERSITY. I DID MY TRAINING AT VANDERBILT
2 UNIVERSITY IN NASHVILLE TILL 2002. I MOVED HERE AFTER --
3 FROM THERE AFTER RESIDENCY AND I HAVE BEEN HERE FOR THE
4 LAST FOUR YEARS. I AM BOARD CERTIFIED IN EMERGENCY
5 MEDICINE.

6 MR. HEMBREE: YOUR HONOR, WE WOULD ASK THAT DR.
7 BURNS BE QUALIFIED AS AN EXPERT IN THE FIELD OF
8 EMERGENCY MEDICINE.

9 THE COURT: ANY QUESTIONS OR OBJECTIONS?

10 MR. KELLY: NONE.

11 THE COURT: SO ADMITTED. YOU MAY PROCEED.

12 MR. HEMBREE: THANK YOU, YOUR HONOR.

13 THE COURT: YOU'RE WELCOME.

14 BY MR. HEMBREE:

15 Q DR. BURNS, WERE YOU ON-CALL IN THE EARLY MORNING
16 HOURS OF APRIL THE EIGHTH, 2005?

17 A YES, I WAS.

18 Q WORKING AT -- AT THAT TIME WERE YOU WORKING AT
19 WACCAMAW--

20 A YES, SIR.

21 Q -- WACCAMAW HOSPITAL?

22 A YES, SIR.

23 Q AND LIKEWISE AT THAT TIME WERE YOU WORKING IN THE
24 EMERGENCY ROOM?

25 A YES, SIR.

1 Q HOW MANY DOCTORS WERE ON-CALL THAT EVENING?

2 A JUST ONE, MYSELF.

3 Q AND WERE YOU INVOLVED IN THE DIAGNOSIS AND TREATMENT
4 OF [REDACTED] LING?

5 A YES, SIR.

6 Q IF YOU WILL, GIVE -- TELL THE JURY HOW YOU FIRST
7 BECAME INVOLVED IN THAT -- WITH THAT PATIENT.

8 A OKAY. AS BEST I CAN REMEMBER THAT NIGHT WE WERE --
9 IT WAS ACTUALLY SOMEWHAT OF A SLOW NIGHT IN THE EMERGENCY
10 ROOM, AND WE GOT A CALL FROM THE PARAMEDICS WHICH IS
11 PRETTY MUCH PROTOCOL, PARTICULARLY IN A CASE OF THIS
12 NATURE.

13 WE GOT A CALL FROM THE SCENE FROM ONE OF THE ARRIVING
14 PARAMEDICS AND SAID THAT THEY HAD A YOUNG LADY THAT HAD
15 BEEN BEATEN, LIKELY SEXUALLY ASSAULTED, THERE HAD BEEN A
16 DEATH AT THE SCENE--

17 COURT REPORTER: CAN YOU SLOW DOWN?

18 BY MR. HEMBREE:

19 Q YEAH. LET ME SLOW YOU DOWN JUST A MINUTE, DR. BURNS.

20 A OKAY.

21 Q I KNOW YOU'RE AN EMERGENCY ROOM DOCTOR AND YOU TEND
22 TO TALK FAST--

23 A I TALK FAST. I'M SORRY.

24 Q THAT'S THE NATURE OF THE BUSINESS. I CAN APPRECIATE
25 THAT. BUT IF I COULD ASK YOU -- THE COURT REPORTER HAS TO

1 TAKE DOWN EVERYTHING--

2 A I'M SORRY. I APOLOGIZE.

3 Q -- YOU SAY, AND MY EARS ARE SLOW-HEARING EARS.

4 A OKAY.

5 Q AND SO IF YOU WOULD--

6 A SO, AS IS TYPICAL FOR PROTOCOL, THE -- A PARAMEDIC,
7 PARTICULARLY IN THE -- IN A SCENE WHERE THERE'S BEEN SOME
8 SORT OF ASSAULT TAKEN PLACE OF ANY NATURE, THEY TYPICALLY
9 CALL US AHEAD OF TIME TO KIND OF, YOU KNOW, LET US NOTIFY
10 HOSPITAL SECURITY, PARTICULARLY IN A CASE OF THIS NATURE
11 WHEN THERE'S A SUSPICION OF A SEXUAL ASSAULT.

12 WE GET OUR SEXUAL ASSERT -- SEXUAL ASSAULT NURSES ON
13 THE ROAD TO COME TO BE READY TO EVALUATE THE PATIENT IN A
14 TIMELY FASHION. AND SO THE PARAMEDIC CALLED ME THAT NIGHT
15 AND SAID, YOU KNOW, BASICALLY HE HAD A TEEN-AGE GIRL WHO
16 HAD BEEN PHYSICALLY AS WELL AS SEXUALLY ASSAULTED AS BEST
17 HE COULD TELL. HE INFORMED ME THAT THERE HAD BEEN A DEATH
18 AT THE SCENE, A REALLY -- RELATIVE OF THE PATIENT.

19 HE SAID THAT THE SUSPECT WAS STILL AT LARGE AND THE
20 POLICE WERE CERTAINLY OBVIOUSLY THERE AT THE TIME, BUT
21 JUST WANTED TO GIVE US ADVANCED WARNING. WITHIN ABOUT 30
22 MINUTES -- YOU WANT ME TO KEEP GOING OR...

23 Q SURE.

24 A OKAY.

25 Q LET ME STOP YOU. THEY NOTIFIED YOU THAT THE SUSPECT

1 WAS STILL AT LARGE. DID THAT TRIGGER CERTAIN PROTOCOLS
2 WITHIN THE HOSPITAL?

3 A WELL, WE, YOU KNOW, MY FIRST QUESTION TO HIM, OF
4 COURSE, WOULD HAVE -- THE POLICE -- WHERE HE WAS, AND WITH
5 THE PATIENT -- THEN IT CERTAINLY DOES. AND WE -- WE
6 CERTAINLY MAKE SURE THAT THE -- THE POLICE HAVE BEEN
7 NOTIFIED FROM OUR END AS WELL, MAKE SURE HOSPITAL SECURITY
8 KNOWS. IT KIND OF LOCKS DOWN THE FRONT PART OF THE
9 HOSPITAL.

10 REALLY THE ONLY WAY IN THE HOSPITAL THAT -- THEREFORE
11 IS THROUGH THE EMERGENCY ROOM BACK DOOR WHICH WE HAVE
12 THE -- WHICH WE KEEP LOCKED AS WELL. AND SO THAT WAY IT
13 JUST KIND OF PROVIDES FOR THE SAFETY OF THE STAFF AS WELL
14 AS IN-COMING PATIENTS.

15 Q UNDERSTOOD. NOW, SHORTLY THEREAFTER THE AMBULANCE
16 ARRIVES.

17 A YES, SIR. SO THE NEXT THING, YOU KNOW, WITHIN ABOUT
18 30 MINUTES THE AMBULANCE ARRIVED WITH THE POLICE IN TOW.
19 AND SHORTLY THEREAFTER OUR SEXUAL ASSAULT NURSES ARRIVED
20 AS WELL.

21 Q TELL ME ABOUT THE SEXUAL ASSAULT NURSES. WHAT ARE
22 THEIR RESPONSIBILITIES?

23 A THEY -- IT'S ACTUALLY THEY -- WE NOW HAVE FOUR AT
24 WACCAMAW COMMUNITY HOSPITAL. THERE'S -- THEY ARE ALWAYS
25 ON-CALL. ANY TIME THERE IS A SEXUAL ASSAULT -- I GUESS WE

1 CAN TALK ABOUT THIS MORE NOW OR LATER.

2 BUT ANY TIME THERE'S A SUSPICION OF A SEXUAL ASSAULT
3 WHAT HAPPENS IS THAT IT'S A VERY COMPLICATED CHAIN OF
4 EVIDENCE THAT -- SO THAT NO MISTAKES ARE MADE TO GATHER
5 EVIDENCE FOR PROSECUTION, I WOULD ASSUME.

6 AND SO IT -- THERE -- THEY'RE ESPECIALLY TRAINED IN
7 GATHERING EVIDENCE FROM FORENSIC STANDPOINT AS WELL AS
8 DEALING WITH THE VICTIMS BOTH PHYSICALLY AS WELL AS
9 EMOTIONALLY, AND THEY DO A FANTASTIC JOB.

10 Q VERY GOOD.

11 A VERY GOOD.

12 Q DO YOU RECALL WHICH SEXUAL ASSAULT NURSES WERE
13 ON-CALL OR WERE CALLED IN THAT EVENING?

14 A I DO ACTUALLY. WE HAD TWO CALLED IN THAT EVENING.
15 DO YOU WANT THEIR NAMES?

16 Q YES.

17 A OKAY. KELLY WIRDZEK, W-I-R-D-Z-E-K, IS THE FIRST
18 ONE, AND THE OTHER ONE'S NAME IS SHERRI JONES, J-O-N-E-S.

19 Q NOW, ONCE THE PATIENT ARRIVED--

20 A YES, SIR.

21 Q -- WHAT IS THE -- WHAT WAS THE FIRST THING YOU DID
22 WHEN [REDACTED] LING WAS DELIVERED TO THE HOSPITAL?

23 A OKAY. PART OF -- AGAIN, ANOTHER REASON FOR THEM --
24 FOR THEM TO CALL US FROM THE SCENE, WE ALSO WANT TO BE
25 ABLE TO PROVIDE SOMEWHAT OF A RELATIVELY SAFE AND SOMEWHAT

1 WARM ENVIRONMENT FOR US TO -- CONSIDERING THE SITUATION,
2 WE WANTED HER TO HAVE A PRIVATE ROOM. WE DIDN'T WANT
3 OTHER PATIENTS TO HAVE ACCESS TO WHERE SHE WAS.

4 AND SO WE KIND OF CLEARED OFF ONE SIDE OF THE
5 EMERGENCY DEPARTMENT SO THAT SHE COULD BE ROLLED RIGHT
6 INTO THE ROOM AND WE COULD LOOK AT HER.

7 COURT REPORTER: COULD YOU SLOW DOWN?

8 THE WITNESS: I'M SORRY. I APOLOGIZE. ARE WE
9 GOOD?

10 BY MR. HEMBREE:

11 Q YEAH, YOU'RE FINE.

12 A OKAY. AND SO WHEN [REDACTED] ARRIVED, SHE WAS ON A
13 LONG SPINE BOARD, WHICH IS PROTOCOL FOR SOMEONE WHO HAS
14 BEEN INVOLVED IN TRAUMA. AND SHE ALSO WAS IN A CERVICAL
15 COLLAR, A HARD COLLAR THAT PROTECTS THE NECK, KEEPS YOU
16 FROM MOVING AROUND.

17 AGAIN, SOMEONE WHO HAS BEEN BEATEN OCCASIONALLY CAN
18 HAVE DONE -- HAVE DAMAGE DONE TO THEIR CERVICAL SPINE
19 WHICH CAN CAUSE PARALYSIS, SO THAT'S TYPICAL PROTOCOL.
20 WHEN SHE ARRIVED, SHE HAD OBVIOUSLY BEEN BEATEN ABOUT THE
21 HEAD. SHE HAD BLOOD ALL OVER HER BODY.

22 YOU KNOW, FROM WHAT WE COULD SEE UP FRONT SHE WAS
23 WRAPPED IN BLANKETS, AND YOU KNOW, WHAT I COULD SEE WAS
24 COMPLETELY COVERED WITH BLOOD. WE IMMEDIATELY ROLLED HER
25 BACK INTO A ROOM. MYSELF AND TWO FEMALE NURSES BEGAN TO

1 ASSESS HER.

2 AND WHEN A PATIENT COMES INTO THE EMERGENCY
3 DEPARTMENT, MY FIRST CONCERN IS, YOU KNOW, IS -- IS THIS
4 PERSON GOING TO DIE IN THE NEXT 20 MINUTES. AND THAT'S
5 KIND OF MY INITIAL GOAL.

6 AND SO, YOU KNOW, WE HAVE A VERY SIMPLE IN MIND -- DO
7 WE GO THROUGH IT. AND THE FIRST THING WE WORRY ABOUT IS
8 THE ABC'S OF EMERGENCY MEDICINE, WE'RE ABOUT THE AIRWAY
9 FIRST.

10 AND SO I TAKE A QUICK LOOK IN HER MOUTH, HER NECK,
11 HER CHEST, MAKE SURE SHE'S BREATHING -- TOO FAST, I'M
12 SORRY. AND SO, YOU KNOW, LOOKING AT HER, SHE AGAIN HAD
13 ALL SORTS OF BRUISES AROUND HER HEAD, BUT SHE WAS ABLE TO
14 SPEAK TO ME, AND THAT'S ALWAYS A GOOD SIGN.

15 WE UNIDED THE CERVICAL COLLAR, KIND OF EXPOSED HER
16 CHEST A BIT, MADE SURE SHE HADN'T -- HAD NOT HAD ANY
17 TRAUMA DONE TO HER CHEST. WHAT OBVIOUSLY -- AND WE'LL GO
18 BACK TO THIS IN A SECOND, BUT SHE HAD A SIGNIFICANT
19 LACERATION IN HER NECK.

20 YOU CAN SPREAD THE LACERATION AND -- OH, THAT
21 ACTUALLY WAS PROBABLY HER MOST -- MY BIGGEST CONCERN
22 BECAUSE I CAN ACTUALLY OPEN THE WOUND ENOUGH THAT I CAN
23 SEE HER TRACHEA.

24 THERE'S ALL SORTS OF IMPORTANT THINGS IN THIS AREA,
25 OBVIOUSLY THE TRACHEA, BUT NERVES, ARTERIES, AND VEINS

1 WHICH -- WHICH CAN BE VERY SIGNIFICANT IF DAMAGED. AND SO
2 THAT WAS MY INITIAL ASSESSMENT.

3 Q HOW -- ABOUT HOW LONG DOES THAT INITIAL ASSESSMENT--

4 A TAKES ABOUT TWO MINUTES.

5 Q OKAY. REAL QUICK?

6 A REAL QUICK. AND SO AFTER THAT, YOU KNOW, ALL OF US,
7 WE'RE TRYING TO, YOU KNOW, EXPLAIN TO HER THAT WE'RE NOT
8 HERE TO HURT HER, WE'RE HERE TO HELP HER. AND WE WERE
9 TRYING TO KEEP HER WARM, BUT ALSO WE HAVE TO, YOU KNOW,
10 THE NEXT PART OF THAT IS ACTUALLY EXPOSING HER FROM HEAD
11 TO TOE TO KIND OF GIVE FULL -- FULL EXPOSURE OF WHAT'S
12 GOING ON.

13 Q AND A MORE COMPLETE ASSESSMENT. IS THAT--

14 A YES, SIR. WE -- AFTER -- AFTER INITIAL
15 STABILIZATION, WE CHECK HER VITAL SIGNS, MAKE SURE THOSE
16 ARE OF HER -- STABLE. SHE -- HER HEART WAS BEATING A
17 LITTLE FAST WHICH WAS CONCERNING TO ME IN PARTICULAR
18 CONSIDERING THE CUT ON HER NECK.

19 SO THOSE WERE, YOU KNOW, THE THINGS THAT WERE GOING
20 THROUGH MY MIND. IT'S LIKE, WELL, GOSH, IS THIS -- IS
21 THIS AN INJURY TO HER NECK A SIGNIFICANT ONE OR NOT. AND
22 THEN WE -- AGAIN, AFTER THAT, WE KIND OF GOT TO A POINT
23 AGAIN -- SHE WAS SPEAKING.

24 I KNEW THAT SHE -- IT WASN'T TOO TERRIBLE OF AN
25 INJURY AND THAT SHE COULD -- SHE WASN'T ABLE TO SPEAK, SO

1 WE WENT THROUGH THE REST OF THE PROCESS OF DISROBING HER,
2 YOU KNOW, TRYING TO KEEP HER WARM, AND -- BUT ALSO TO
3 START LOOKING AT HER FROM HEAD TO TOE.

4 Q DR. BURNS, I THINK YOU TESTIFIED -- WELL, YOU
5 TESTIFIED JUST A MOMENT AGO THAT WHEN YOU, YOU KNOW, THAT
6 FIRST -- THAT FIRST ASSESSMENT IS -- YOUR QUESTION THAT
7 YOU'RE -- THAT YOU'RE TRYING TO ANSWER, IS THIS PERSON
8 GOING TO DIE IN THE NEXT 20 MINUTES.

9 A YES.

10 Q AND BASED ON YOUR INITIAL ASSESSMENT, DID YOU REACH A
11 CONCLUSION?

12 A I REACHED A CONCLUSION THAT SHE WAS STABLE, BUT WE
13 NEEDED -- THERE WAS MANY -- MANY FURTHER THINGS THAT
14 NEEDED TO BE DONE.

15 Q OKAY. BUT SHE WAS STABLE, SO SHE'S NOT GOING TO DIE
16 IN 20 MINUTES, AND YOU CAN SORT OF SLOW DOWN A BIT AND DO
17 A MORE THOROUGH ASSESSMENT AT THIS POINT?

18 A CORRECT.

19 Q OKAY. I WANT TO SHOW YOU WHAT'S BEEN MARKED FOR
20 IDENTIFICATION AS STATE'S EXHIBIT NUMBER 19 AND ASK YOU IF
21 YOU RECOGNIZE THAT CHART.

22 A I DO. IT WAS -- IT'S THE CHART THAT'S FILLED OUT BY
23 THE NURSES AS THEY'RE PREPARING THE SEXUAL ASSAULT KIT OR
24 IT'S PART OF THE SEXUAL ASSAULT KIT TO NOTE ANY -- AT ALL
25 PHYSICAL DEFORMITIES. I DO A DICTATION, WHICH OF COURSE

1 CORRESPOND -- THAT DOES CORRESPOND TO THIS BASED ON THE
2 MEDICAL RECORD...

3 Q SO THIS CHART WAS PREPARED CONTEMPORANEOUS WITH YOUR
4 ASSESSMENT -- WITH YOU AND THE ASSESSMENT OF THE RAPE, THE
5 SEXUAL ASSAULT NURSES?

6 A YES, SIR.

7 Q WOULD THIS CHART ASSIST YOU IN EXPLAINING YOUR
8 TESTIMONY TO THIS JURY?

9 A I BELIEVE SO. IT WOULD. YES, SIR.

10 Q OKAY.

11 MR. HEMBREE: YOUR HONOR, WE'D LIKE TO GO AHEAD
12 AND MOVE THIS INTO EVIDENCE AS STATE'S 19 AT THIS
13 TIME.

14 THE COURT: ANY OBJECTION?

15 MR. DIGGS: IF I CAN LOOK AT IT.

16 THE COURT: SURE.

17 (WHEREUPON THERE WAS A PAUSE.)

18 MR. DIGGS: NO OBJECTION.

19 THE COURT: MARKED AND ADMITTED STATE'S 19
20 WITHOUT OBJECTION. THAT IS THE CORRECT NUMBER?

21 MR. HEMBREE: CORRECT. STATE'S 19. YES, YOUR
22 HONOR.

23 (WHEREUPON, STATE'S EXHIBIT 19 WAS ADMITTED INTO
24 EVIDENCE.)

25 THE COURT: YOU MAY PROCEED.

1 BY MR. HEMBREE:

2 Q DR. BURNS, I'M GOING TO ASK YOU TO STEP DOWN AND...

3 THE COURT: YOU MIGHT WANT TO SECURE THAT OTHER
4 SIDE, MR. HEMBREE BEFORE...

5 MR. HUMPHRIES: I'M WATCHING IT.

6 THE COURT: THANK YOU.

7 BY MR. HEMBREE:

8 Q DR. BURNS, LET ME HAVE YOU STEP OVER TO THE SIDE.

9 A OKAY.

10 Q FEEL FREE TO USE THIS POINTER IF THAT WILL BE OF
11 ASSISTANCE TO YOU.

12 THE COURT: DOCTOR, IF YOU COULD SPEAK UP FOR
13 US--

14 THE WITNESS: I WILL, YES, MA'AM.

15 THE COURT: -- AND TO THE BEST OF YOUR ABILITY
16 SLOW DOWN A LITTLE BIT BECAUSE WITH YOUR -- WITHOUT
17 THE MICROPHONE, I JUST WANT TO MAKE SURE THE COURT
18 REPORTER -- AND HER BACK IS TO YOU, SO I WANT TO MAKE
19 SURE SHE CAN TAKE DOWN EVERYTHING THAT YOU'RE SAYING.

20 BY MR. HEMBREE:

21 Q DR. BURNS, WHAT I WOULD LIKE YOU TO DO IS TO GO
22 THROUGH AND EXPLAIN THE NATURE OF THE INJURIES YOU FOUND
23 WHEN YOU DID THE ASSESSMENT OF [REDACTED] LING.

24 A OKAY. WELL, AS MENTIONED BEFORE, WE KIND OF
25 INITIALLY FOCUSED ON THIS AREA TO THIS AREA, BASICALLY HER

1 CHEST UP TO HER MOUTH TO MAKE SURE THAT SHE'S BREATHING
2 OKAY, AND SHE WAS.

3 AND SO STARTING AT THE TOP YOU COULD SEE THAT SHE HAD
4 ALL SORTS OF RED MARKS UP HERE AS WELL AS SOME BRUISING.
5 SHE HAD ABOUT A TWO CENTIMETER LACERATION IN HER LEFT
6 UPPER FOREHEAD WHERE IT MEETS THE HAIRLINE -- CALL THAT --
7 COULD HAVE BEEN CAUSED BY A KNIFE, COULD HAVE BEEN CAUSED
8 BY BLUNT TRAUMA. I DON'T KNOW.

9 Q ALL RIGHT. YOU SAID IT COULD HAVE BEEN CAUSED BY A
10 KNIFE OR IT COULD HAVE BEEN CAUSED BY BLUNT TRAUMA?

11 A IT DID. IT IS -- AGAIN, ABOUT 2 CENTIMETERS LONG.
12 IT'S LINEAR FASHION. AGAIN, IT COULD HAVE BEEN CAUSED BY
13 A SLASH, BUT ALSO COULD HAVE BEEN CAUSED BY BEING HIT WITH
14 SOMETHING OR FIST OR FOOT.

15 Q THE -- AND OKAY. THAT -- I JUST WANTED TO EXPLAIN
16 THE CONCEPT OF BLUNT TRAUMA TO THE JURY, BUT I BELIEVE YOU
17 JUST COVERED THAT. THANK YOU.

18 A OKAY. SHE -- AGAIN, WHEN SHE INITIALLY ARRIVED, SHE
19 WAS AGAIN COVERED WITH BLOOD REALLY FROM THE TOP OF HER
20 HEAD ALL THE WAY DOWN TO HER BELLY. WE AGAIN CLEANED HER
21 OFF AS WE WERE GOING THROUGH THIS.

22 AS YOU CAN SEE, THE NURSE MARKED THAT SHE HAD A
23 LACERATION -- IT'S KIND OF HARD TO SEE ON THIS PICTURE.
24 IT'S ABOUT -- IT WAS ABOUT TWO TO THREE CENTIMETERS ON THE
25 SUPERIOR PART OF HER NECK. IT'S VERY SUPERFICIAL, MEANING

1 IT'S VERY -- DOESN'T GO VERY DEEP, IT'S JUST IN THE FATTY
2 TISSUE OF HER NECK.

3 IT WAS -- I THINK THERE'S A PICTURE. WE CAN SHOW
4 THAT LATER -- THAT WAS -- IT ACTUALLY HAD TWO LINEAR
5 LINES. IT ALMOST COULD HAVE BEEN CONSISTENT WITH A KNIFE.
6 IT ALSO COULD HAVE BEEN CONSISTENT WITH SOMETHING TIED
7 AROUND HER NECK--

8 COURT REPORTER: I'M SORRY?

9 THE WITNESS: COULD HAVE BEEN CONSISTENT WITH
10 SOMETHING TIED AROUND HER NECK. BELOW THAT, RIGHT IN
11 THE MIDDLE, YOU CAN -- RIGHT -- ESSENTIALLY WHERE
12 YOUR ADAM'S APPLE IS THERE WAS A DEEPER LACERATION,
13 AGAIN ABOUT 2 CENTIMETERS.

14 THIS IS THE LACERATION THAT WAS THE MOST
15 CONCERNING ONE, COULD ACTUALLY -- YOU COULD SPREAD
16 THAT AND SEE REALLY ALL OF THE UPPER AIRWAY WHICH IS
17 VERY CONCERNING.

18 THERE'S ALL SORTS OF NERVES THAT ALLOW YOU TO
19 SPEAK NORMALLY THAT RUN THROUGH THERE, YOUR CAROTID
20 ARTERY, YOUR JUGULAR VEIN WHICH SUPPLY THE BLOOD AND
21 DRAIN THE BLOOD FROM YOUR HEAD AND -- ALSO THERE.

22 THAT TO ME AS AN EMERGENCY MEDICINE DOCTOR IS
23 THE MOST CONCERNING, WAS THE MOST LIFE-THREATENING
24 ISSUE. WE ENDED UP DOING LOTS OF STUDIES OF THIS
25 AREA TO MAKE SURE THERE HADN'T BEEN ANY DAMAGE DONE

1 TO IT, ALL SORTS OF CAT SCANS, VARIOUS -- TO MAKE
2 SURE THAT THERE WERE NO PROBLEMS, BECAUSE THESE ARE
3 INJURIES THAT THEY DON'T LOOK LIKE MUCH, BUT YOU
4 KNOW, IT -- BLADE OF A KNIFE POKES THROUGH YOUR
5 TRACHEA, YOU DON'T HAVE ANY PROBLEMS AT FIRST, BUT
6 THAT AREA COULD SWELL TO THE POINT THAT YOU COULD
7 STOP BREATHING AND DIE.

8 AND SO THAT TO ME WAS THE MOST CONCERNING ISSUE
9 IS -- FROM THIS PART. SO THAT WOULD -- AGAIN, THAT
10 WAS THE MOST IMPORTANT THING.

11 AS WE START GOING DOWN EVEN FURTHER, SHE HAD
12 MULTIPLE BRUISES -- OH, I'M SORRY -- WITH -- LEFT OUT
13 THE EAR. IF YOU -- HER LEFT EAR HAD BEEN CUT RIGHT
14 ACROSS THE -- BASICALLY ACROSS THE -- IT WAS FLOPPED
15 OVER.

16 IT WAS REALLY HANGING BY A PIECE OF SKIN THAT
17 WAS LIKE THAT. THE CARTILAGE HAD BEEN COMPLETELY CUT
18 THROUGH TO THE POINT THAT IT WAS -- IT WAS BLEEDING
19 PRETTY HEAVY ACTUALLY -- IT WAS ESSENTIALLY ALMOST
20 OFF.

21 AGAIN, THIS IS SOMETHING THAT COULD HAVE BEEN
22 CAUSED BY SOMETHING SHARP. IT ALSO COULD HAVE BEEN
23 CAUSED BY BLUNT TRAUMA OR SIGNIFICANT BLUNT TRAUMA TO
24 THE POINT THAT IT ALMOST HAD TO BE ENOUGH FORCE TO
25 BOTH PUSH THE EAR, PULL IT OFF, SO IT'D BE

1 SIGNIFICANT -- SIGNIFICANT ENOUGH FORCE.

2 BY MR. HEMBREE:

3 Q WOULD A KICK DO THAT?

4 A A KICK COULD DO THAT. IT COULD. OR AGAIN, IT COULD
5 HAVE BEEN CAUSED BY A KNIFE. IT'S HARD TO SAY.

6 Q UNDERSTAND.

7 A AS THE FEW HOURS -- AS THE NEXT HOURS WENT ON, SHE
8 BEGAN TO DEVELOP A LOT OF BRUISING AROUND HER LEFT EAR
9 WHICH -- WHICH IS PROBABLY MORE CONSISTENT THAT SHE WAS
10 EITHER BEATEN IN THAT AREA WITH SOMETHING PERHAPS -- BUT
11 THE INITIAL BRUISING WASN'T THERE WHEN SHE FIRST ARRIVED.

12 THE COURT: I CAN TELL THE COURT REPORTER IS
13 HAVING SOME REAL DIFFICULTY IN HEARING YOU.

14 THE WITNESS: I'M SORRY?

15 THE COURT: IS THERE ANY WAY WE CAN REPOSITION
16 THE MIKES SO THAT SHE IS ABLE TO CLEARLY HEAR--

17 THE WITNESS: CAN I --

18 THE COURT: -- AND ALSO SLOW DOWN.

19 THE WITNESS: -- CAN I STAND RIGHT HERE?

20 THE COURT: YOU CAN STAND ON THE OTHER SIDE OF
21 THIS MICROPHONE IF THAT WILL BE EASIER FOR YOU.

22 BY MR. HEMBREE:

23 Q DR. BURNS, THIS MICROPHONE--

24 A OKAY.

25 Q IF YOU -- YOU CAN JUST--

1 A OKAY.

2 Q -- TRY TO DIRECT YOUR COMMENTS--

3 THE COURT: IF YOU COULD SLOW DOWN JUST A LITTLE
4 BIT.

5 THE WITNESS: OKAY. I'M SORRY.

6 THE COURT: THANK YOU.

7 A AND SO BASICALLY WE'D GOTTEN DOWN TO THE NECK SO FAR,
8 WHICH IS THE THINGS WE HAVE NOTICED SO FAR. AS YOU CAN
9 SEE, SHE HAS BRUISES HERE AND HERE, HER RIGHT SHOULDER.
10 ALMOST, YOU KNOW, IT'S HARD TO SAY WHAT COULD HAVE CAUSED
11 THAT.

12 IT COULD HAVE BEEN BLOWS. IT COULD HAVE BEEN BLUNT
13 PRESSURE, HOLDING, HOLDING DOWN, EITHER WITH HER BEING
14 SUPINE ON HER BACK OR PRONE ON HER STOMACH. IT'S HARD TO
15 SAY WHAT COULD HAVE CAUSED THAT, BUT SHE DEFINITELY HAS
16 SIGNIFICANT BRUISING TO THAT AREA.

17 AS YOU CAN SEE, SHE HAD BRUISING REALLY AROUND BOTH
18 OF HER WRISTS. THIS ONE ON THE LEFT ARM WAS A LITTLE BIT
19 MORE SIGNIFICANT, KIND OF RAN UP THE OUTSIDE PART OF YOUR
20 ARM, OUTSIDE PART OF YOUR ARMS WHICH, YOU KNOW, COULD BE
21 CONSISTENT WITH A DEFENSIVE-TYPE BRUISING, IT'S HARD TO
22 SAY, BUT -- BUT SHE DEFINITELY HAD SOME -- HER WHOLE LEFT
23 FOREARM ON THE OUTSIDE WAS BRUISED, EVEN WENT DOWN TO THE
24 WRIST.

25 THE RIGHT WRIST, IF I REMEMBER CORRECTLY, ALMOST WAS

1 LIKE A BAND OF BRUISING COULD BE CONSISTENT WITH BEING
2 TIED. IT'S HARD TO SAY. AND THEN AS WE GO FURTHER DOWN,
3 SHE HAD BRUISING ABOUT ALL OF HER -- ALL AROUND BOTH OF
4 HER KNEES WITH THE RIGHT KNEE A LITTLE MORE SIGNIFICANT
5 THAN THE LEFT.

6 SHE HAD SEVERAL BRUISES ON HER BACK. BUT AGAIN, MOST
7 OF THE TRAUMA WAS -- WAS TO HER HEAD AND NECK AREA.

8 Q DOCTOR, LET ME TAKE YOU TO -- BEFORE YOU TAKE THE
9 STAND AGAIN -- TAKE YOU THROUGH SOME EXHIBITS. I'M
10 JUST -- THESE ARE STATE'S 9, 10, 11, 12, 13, 14, 15, 16,
11 17 AND 18 THAT ARE IN EVIDENCE AT THIS TIME. AND I'M
12 GOING TO ASK YOU TO -- TO -- AS I GO THROUGH THEM,
13 DESCRIBE WHAT WE SEE--

14 A OKAY.

15 Q -- AND DESCRIBE TO THIS JURY THE SIGNIFICANT -- AREAS
16 OF SIGNIFICANCE IN YOUR MEDICAL DIAGNOSIS.

17 A OKAY. FIRST THING -- FIRST THING THAT MUST BE NOTED
18 IS THIS WAS -- THESE PICTURES TAKEN WELL AFTER SHE HAD
19 BEEN CLEANED UP.

20 Q OKAY. AFTER SHE'S BEEN CLEANED UP?

21 A WELL, AFTER SHE'S BEEN CLEANED UP.

22 Q SO I'M GOING TO TAKE YOU TO STATE'S EXHIBIT NUMBER 9
23 FIRST. IF YOU WILL JUST GENERALLY DESCRIBE WHAT--

24 A WELL, YOU CAN SEE -- IT'S HARD TO SAY, BUT THERE'S A
25 LOT OF BRUISING AROUND HER LEFT FOREHEAD HERE. YOU CAN

1 SEE THE LACERATION THAT I WAS DESCRIBING. IT'S DIFFICULT
2 TO SEE SOMEWHAT, BUT IT WAS ABOUT 2 CENTIMETERS. IT'S A
3 SUPERFICIAL LACERATION THAT'S LIKELY AROUND -- BLOOD FROM
4 HER HEAD, BLOW TO HER FACE CAME FROM. THE SCALP TENDS TO
5 BLEED A LOT.

6 SHE DEFINITELY HAD SOME BRUISING AROUND HER EYES ON
7 BOTH SIDES, THAT PART OF HER MOUTH, AND THAT PART OF HER
8 MOUTH. SEE HER -- ALMOST AS IF SHE HAD A FAT LIP ON THE
9 LEFT UPPER SIDE AS WELL AS SOME ABRASION -- FRONT OF HER
10 MOUTH, VERY CONSISTENT WITH BEING GAGGED.

11 THE COURT: I'M SORRY.

12 THE WITNESS: I'M SORRY. VERY CONSISTENT WITH
13 BEING GAGGED.

14 THE COURT: YOU'RE GOING TO HAVE TO BACK UP--

15 THE WITNESS: OKAY.

16 THE COURT: -- I'M HAVING DIFFICULTY--

17 THE WITNESS: OKAY.

18 THE COURT: I KNOW MY COURT REPORTER IS. IF YOU
19 CAN GET A LITTLE CLOSER TO THE MICROPHONE, YOU
20 PROBABLY NEED TO TURN THIS WAY IN -- NO, NO, THE
21 OTHER DIRECTION.

22 THE WITNESS: ME?

23 THE COURT: COME AROUND THIS WAY CLOSER TO THE
24 EASEL AND TURN BACK AROUND FOR THE JURY.

25 THE WITNESS: OKAY.

1 THE COURT: THAT WOULD BE MUCH BETTER.

2 THE WITNESS: OKAY.

3 THE COURT: THEN YOU'D BE CLOSER TO THE
4 MICROPHONE. YOU MAY CONTINUE.

5 THE WITNESS: YES, MA'AM. OKAY.

6 BY MR. HEMBREE:

7 Q DR. BURNS, ANYTHING ELSE AS TO STATE'S EXHIBIT 9--

8 A WELL, YOU CAN KIND OF START TO SEE -- YOU CAN SEE IT
9 IN HER LACERATION TO HER EAR RIGHT THERE. AND THERE'S
10 A -- I THINK THERE'S ANOTHER PICTURE THAT BETTER SHOWS
11 THAT.

12 Q ANY OTHER AREAS OR SIGNIFICANT INJURIES THAT ARE
13 SHOWN IN STATE'S EXHIBIT NUMBER NINE?

14 A NOT ON THAT ONE THERE.

15 Q DOCTOR, LET ME DIRECT YOUR ATTENTION TO STATE'S
16 EXHIBIT NUMBER 10. AND IF YOU WOULD DESCRIBE TO US THE
17 SIGNIFICANT AREAS.

18 A THIS IS HER -- MORE OF A FOCUSED PICTURE ON HER LEFT
19 FOREHEAD. I MEAN, YOU CAN STILL SEE SOME OF THE BRUISING
20 THAT -- CONSISTENT WITH BEING BEATEN, SEE THE LACERATION
21 ACROSS -- AGAIN, IT'S HARD TO SAY WHAT CAUSED THAT. THERE
22 ARE SEVERAL THINGS THAT COULD CAUSE IT. SHE DEFINITELY
23 HAD SOME BRUISING AROUND HER LEFT EYE -- I MEAN HER LEFT
24 EYEBROW.

25 Q DR. BURNS, NOW I WANT TO DRAW YOUR ATTENTION TO --

1 AND I WILL DO THESE -- I WANT TO DO THESE TWO TOGETHER,
2 STATE'S 11 AND STATE'S 12. IF YOU WOULD, DESCRIBE TO THE
3 JURY WHAT THESE PHOTOGRAPHS SHOW US AND WHAT IS
4 SIGNIFICANT ABOUT BOTH OF THEM.

5 A THESE ARE BOTH PICTURES OF HER LEFT EAR. AS YOU CAN
6 SEE -- ACTUALLY, THIS ONE WAS TAKEN FIRST AND THIS ONE WAS
7 TAKEN ABOUT AN HOUR LATER. IT'S -- AS SHE BEGAN TO HAVE A
8 LOT MORE BRUISING AROUND THAT AREA.

9 AGAIN, AS YOU CAN SEE, IT'S MORE OF A LINEAR CUT
10 ACROSS THERE, BUT IT'S HARD TO SAY. YOU KNOW, IT ALMOST
11 LOOKS LIKE IT COULD HAVE BEEN CAUSED BY A KNIFE. BUT
12 AGAIN, IT CERTAINLY COULD HAVE BEEN -- PARTICULARLY IN THE
13 SETTING OF ALL THIS BRUISING, CERTAINLY COULD HAVE ALSO
14 BEEN CAUSED BY SOME SORT OF SIGNIFICANT BLUNT TRAUMA TO
15 THE HEAD.

16 Q DR. BURNS, NOW TO STATE'S EXHIBIT NUMBER 13 IN
17 EVIDENCE. DESCRIBE TO US WHAT WE'RE SEEING IN THIS
18 PHOTOGRAPH.

19 A WELL, THESE ARE THE TWO LACERATIONS ON HER NECK THAT
20 I SPOKE OF BEFORE. AGAIN, THIS ONE IS THE MORE SUPERIOR
21 ONE ON HER NECK. IT'S MORE SUPERFICIAL. IT'S NOT -- IT
22 DOESN'T GET DOWN INTO DEEP TISSUES OF THE NECK.

23 OBVIOUSLY I'M SURE IT WAS UNCOMFORTABLE, BUT IT
24 DOES -- IT'S NOT A DANGEROUS INJURY FROM MY PERSPECTIVE.
25 YOU CAN KIND OF SEE HOW IT STARTS HERE AND STARTS THERE.

1 IT'S DIFFICULT TO SAY WHAT MIGHT HAVE CAUSED THAT.

2 IT COULD HAVE BEEN CAUSED BY A KNIFE. IT ALSO COULD
3 HAVE BEEN CAUSED BY BEING TIED UP IN THE NECK, DEPENDING
4 UPON HOW MUCH FORCE WAS USED, ET CETERA. THIS IS A -- THE
5 LACERATION THAT I WAS THE MOST CONCERNED ABOUT.

6 AS YOU CAN SEE, IT STARTS ALL THE WAY BACK HERE, BUT
7 IT -- IT'S ALMOST A TANGENTIAL, MEANING IT KIND OF GOES IN
8 IN A DIFFERENT PLANE INTO HER NECK AND THAT WAY, BUT IF
9 YOU'RE -- AGAIN, SHE WOULD DO THAT -- BUT YOU CAN PUT YOUR
10 FINGERS IN AND SPREAD IT, YOU CAN ACTUALLY EXPOSE HER
11 WHOLE AIRWAY FROM THAT AREA.

12 AND THERE WAS -- IT WAS STARTING TO BLEED A LITTLE
13 BIT AND HAVING SOME SWELLING IN THAT AREA, AGAIN, WHICH IS
14 VERY CONCERNING TO ME. BUT THAT WITHOUT QUESTION WAS HER
15 MOST SIGNIFICANT INJURY PHYSICALLY.

16 Q AND DR. BURNS, I'LL RUN THROUGH SOME OF THESE OTHER
17 EXHIBITS, STATE'S EXHIBITS NUMBER -- STATE'S EXHIBIT
18 NUMBER 14, WHAT DOES THAT PHOTOGRAPH REVEAL?

19 A THIS IS HER RIGHT KNEE, BRUISING HERE, BRUISING HERE,
20 AND THINK WE HAD ANOTHER PICTURE OF IT FROM THE
21 SUPERIOR...

22 Q AND THAT WOULD BE STATE'S EXHIBIT NUMBER 15.

23 A BRUISING HERE, STARTING TO GET DARKER THERE, AND
24 THERE. IT'S -- IT'S DIFFICULT TO SAY WHAT COULD CAUSE
25 THAT. IT COULD BE FROM BEING HELD BY THE KNEE, HANDPRINT

1 THERE. IT COULD HAVE BEEN FROM BEING SUPINE ON THE FLOOR
2 ON HER STOMACH TRYING TO GET UP.

3 Q AND DR. BURNS, LET ME SHOW YOU STATE'S 16.

4 A THESE ARE BOTH OF HER KNEES, THE RIGHT ONE AND THE
5 LEFT ONE AND THE POST -- YOU CAN KIND OF SEE THERE'S SOME
6 BRUISING ACROSS THE LEFT ONE AS WELL AS THE TOP PART.
7 WE'VE ALREADY SEEN THE RIGHT.

8 Q AND FINALLY STATE'S 17 AND 18.

9 A AND THIS IS HER LEFT LEG AND THIS IS SOME MORE
10 BRUISING A BIT HIGHER UP ON HER LEG. IT'S HARD TO SAY
11 WHAT MIGHT HAVE CAUSED THIS. I'M NOT SURE IF SHE WAS --
12 SOMETHING WAS TYING HER ON HER LEGS OR NOT, BUT DEFINITELY
13 IT'S SOME LINEAR BRUISING.

14 Q THANK YOU, DR. BURNS. IF I CAN ASK YOU TO RETURN TO
15 THE STAND.

16 A YES, SIR. (COMPLIED.)

17 Q DR. BURNS, WHAT WAS YOUR -- WHAT WAS THE COURSE OF
18 TREATMENT THAT YOU RECOMMENDED OR ORDERED AS A RESULT OF
19 YOUR THOROUGH EXAM OF [REDACTED] LING?

20 A WELL, THIS IS -- THESE CASES FOR EMERGENCY MEDICINE
21 FOR THIS ARE THE MOST DIFFICULT BECAUSE THERE'S ALL SORTS
22 OF THINGS GOING ON. I MEAN, MY FIRST AND MOST PRESSING
23 CONCERN WAS HER HEALTH AND SAFETY.

24 SO AS MENTIONED BEFORE, WE HAD LOCKED DOWN THE
25 HOSPITAL ESSENTIALLY. AS FAR AS HER HEALTH GOES, IT --

1 THE MOST PRESSING CONCERN WAS MAKING SURE THAT SHE DIDN'T
2 HAVE SIGNIFICANT INJURY TO HER NECK. OBVIOUSLY WE STILL
3 HAD TO GO THROUGH AND PERFORM THE RAPE PROTOCOL KIT.

4 WHEN SHE ARRIVED, IT WAS FINDING FAMILY MEMBERS
5 THAT -- WERE SOMEWHAT DIFFICULT AT THE TIME, AND SO SHE --
6 WE ACTUALLY CONTACTED HER PRIMARY CARE DOCTOR WHO ACTUALLY
7 CAME IN WITHIN MINUTES AND WAS AT THE BEDSIDE THE ENTIRE
8 TIME. WAS FANTASTIC.

9 Q WHO IS HER PRIMARY CARE DOCTOR?

10 A DR. VICTOR ARCHIBEAU.

11 Q ARCHIBEAU.

12 A AGAIN -- SO AGAIN, AFTER WE PERFORMED OUR -- WHAT WE
13 CALL OUR SECONDARY SURVEY, WE DECIDED THAT AGAIN THESE
14 WOUNDS WERE NOT LIFE-THREATENING, WE REALLY -- WE WERE
15 ABLE TO TAKE HER OUT OF THE COLLAR, WERE ABLE TO TAKE HER
16 OFF THE BOARD, WERE ABLE TO PUT HER IN SOME WARM BLANKETS,
17 AND KIND OF START OUR PROCESS OF RULING OUT ANYTHING --
18 AGAIN, MAKING SURE THE NECK INJURY WAS NOT A SIGNIFICANT
19 ONE. SHE HAD A CAT SCAN OF HER NECK IMMEDIATELY AS WELL
20 AS SOME X-RAYS.

21 Q CAT SCAN AND X-RAYS OF THE NECK AREA?

22 A YES, SIR.

23 Q AND WHAT DID THOSE REVEAL?

24 A WELL, ACTUALLY THE X-RAY OF HER CHEST REVEALED THAT
25 SHE HAD HAD AIR TRACKED (SIC) DOWN IN AND AROUND HER

1 HEART. IT'S -- THE AREA AROUND THE HEART IS CONTIGUOUS
2 ANATOMICALLY IN THE PLANE UP INTO THE NECK, AND SO THAT
3 COULD BE JUST AS SIMPLE AS, AGAIN, WE HAD HAD THAT AREA
4 EXPOSED, BUT ALSO COULD BE CONSISTENT WITH THE KNIFE
5 HAVING PENETRATED HER TRACHEA.

6 AND AGAIN, THAT'S A CONCERN BECAUSE THAT CAN OPEN --
7 OPEN YOU UP TO ALL SORTS OF LIFE-THREATENING INFECTIONS AS
8 WELL AS AIRWAY COMPROMISING DEATH. AND SO AGAIN, THAT WAS
9 THE MOST CONCERNING THING, YOU KNOW, IT'S -- TEXTBOOK
10 EMERGENCY MEDICINE STATES THAT, YOU KNOW, ANY TIME YOU
11 HAVE A SIGNIFICANT INJURY THAT WAY, INTO THAT AREA, SHE
12 NEEDS TO BE EVALUATED BY A SURGEON, AND SO A SURGEON WAS
13 CONTACTED AND IMMEDIATELY AND CAME TO HER BEDSIDE --
14 BRACKET.

15 Q ULTIMATELY WHAT WAS THE -- WHAT COURSE OF TREATMENT
16 WAS -- WAS IT DETERMINED THAT HER TRACHEA WAS NOT
17 PENETRATED?

18 A IT WAS DETERMINED THAT HER TRACHEA WAS NOT
19 PENETRATED. SHE ALSO CONCURRENTLY WITH ALL OF THIS, WE
20 WERE ALSO, OF COURSE, CONCERNED ABOUT THE COSMETIC INJURY
21 TO HER EAR AND TO HER FACE, AND WE SPOKE TO ONE OF OUR
22 EAR, NOSE, AND THROAT SURGEONS WHO ACTUALLY CAME TO HER
23 BEDSIDE AND REPAIRED HER LACERATIONS AS WELL.

24 SO ALL OF THIS WAS A BIG -- GOING ON AT THE SAME TIME
25 AS WELL AS TRYING TO PERFORM THE SEXUAL ASSAULT KIT AS

1 WELL, WHICH IS SOMEWHAT TIME CONSUMING.

2 Q AND THE SEXUAL ASSAULT KIT WAS CONDUCTED -- THAT
3 PROCESS WAS CONDUCTED BY THE TWO NURSES THAT YOU REFERRED
4 TO EARLIER?

5 A IT WAS. IN ADDITION, DR. ARCHIBEAU WAS PRESENT FOR
6 THAT. TYPICALLY I WOULD BE PRESENT FOR THAT, BUT
7 CONCERNING THE SITUATION, HE WANTED TO BE PRESENT AND HE'S
8 THE ONE THAT SIGNED OFF ON THAT.

9 Q UNDERSTOOD. SO HE WAS SORT OF THE ATTENDING
10 PHYSICIAN AT THAT -- DURING THAT PART OF THE EXAMINATION.

11 A YES, SIR.

12 Q ONCE THE SEXUAL ASSAULT KIT HAD BEEN -- HAD BEEN
13 CONCLUDED OR THAT PROCESS HAD BEEN FINISHED AND YOU
14 INDICATED THERE WERE CAT SCANS, X-RAYS, AT WHAT POINT DID
15 YOU REACH THE CONCLUSION THAT -- THAT [REDACTED] LING NO
16 LONGER NEEDED THE SERVICES OF THE EMERGENCY ROOM, COULD BE
17 TRANSFERRED TO THE -- TO THE REGULAR HOSPITAL?

18 A IT WAS ABOUT -- SHE HAD BEEN THERE ABOUT FOUR HOURS.
19 AND AGAIN, WE HAD ESTABLISHED THAT WE DIDN'T THINK THAT
20 THERE WAS A SIGNIFICANT INJURY TO HER NECK THAT WAS GOING
21 TO CAUSE -- THAT WAS GOING TO REQUIRE SURGICAL EXPLORATION
22 THAT DAY.

23 HER LACERATIONS HAD BEEN REPAIRED. SHE HAD RECEIVED
24 PROPHYLAXIS FOR SEXUALLY TRANSMITTED DISEASE, ET CETERA,
25 AFTER THE COUNTER, AND AT THAT POINT IT WAS FELT AS THOUGH

1 SHE STILL NEEDED TO BE, OF COURSE, ADMITTED TO THE
2 HOSPITAL, BUT SHE DIDN'T HAVE ANY EMERGENCY CONDITION THAT
3 NEEDED TO BE EVALUATED FURTHER.

4 Q AND ONE SORT OF HOUSEKEEPING QUESTION, DOCTOR. ALL
5 OF THE OPINIONS THAT YOU HAVE RENDERED HERE TODAY ARE
6 WITHIN THE GENERALLY ACCEPTED MEDICAL SCIENCE?

7 A YES, SIR.

8 Q GREAT. DOCTOR, PLEASE ANSWER ANY QUESTIONS DEFENSE
9 COUNSEL MIGHT HAVE FOR YOU.

10 THE COURT: ANY QUESTIONS? ANY
11 CROSS-EXAMINATION?

12 CROSS-EXAMINATION

13 BY MR. DIGGS:

14 Q DR. BURNS, HOW MANY CAT SCANS DID YOU TAKE?

15 A I'M SORRY?

16 Q HOW MANY CAT SCANS DID YOU...

17 A ACTUAL IMAGES OR AREAS OF THE BODY? I MEAN, A
18 TYPICAL CAT SCAN IS -- IS -- OF THE CHEST CAN BE ALMOST
19 350 IMAGES.

20 Q OKAY. AND HOW MANY AREAS OF THE BODY WERE SUBJECTED
21 TO THE CAT SCAN?

22 A HER NECK AND CHEST.

23 Q NECK AND CHEST?

24 A YES.

25 Q AND CAN YOU TELL ME WHAT A CAT -- WHAT A CAT SCAN IS,

1 HOW IT WORKS?

2 A IT IS A COMPUTER TOMOGRAPHY OF -- BASICALLY IT LOOKS
3 AT THE BODY, AND RATHER THAN FRONT TO BACK, IT LOOKS AT IT
4 IN SLICES, ALMOST AS IF I'M LOOKING AT YOU FROM -- FROM
5 YOUR TOES UP THROUGH YOUR HEAD, LOOKING AT YOU IN SLICES.
6 WE'RE ABLE TO EVALUATE -- EVALUATE YOUR -- EVALUATE BODY
7 BASICALLY.

8 Q ALL RIGHT. DOES IT ALLOW YOU TO SEE MOVEMENT WITHIN
9 THE BODY OR IS IT A FIXED IMAGE IN OTHER WORDS--

10 A IT'S A--

11 Q -- A STATE AT A PARTICULAR POINT IN TIME?

12 A IT'S A FIXED IMAGE.

13 Q OKAY. AND HOW -- LET'S SEE. YOU TOOK CAT SCANS OF
14 THE NECK AND THE CHEST?

15 A YES, SIR.

16 Q AND X-RAYS AS WELL?

17 A YES, SIR.

18 Q AND WHO READ THE CAT SCANS?

19 A WOULD HAVE BEEN THE RADIOLOGIST ON CALL. I CAN'T
20 RECALL WHO WAS ON CALL THAT MORNING.

21 Q THE RADIOLOGIST?

22 A YES.

23 Q AND HOW DO THEY READ THEM? DO YOU KNOW?

24 A THEY READ THEM ON A -- ON A COMPUTER MONITOR.

25 Q ALL RIGHT. AND IS THAT BY JUST LOOKING AT THEM?

1 A YES, SIR.

2 Q ALL RIGHT. AND DID YOU GET A REPORT BACK FROM THE
3 INDIVIDUAL THAT READ THOSE CAT SCANS?

4 A I GOT A VERBAL REPORT AND THERE WAS A TYPED ONE THAT
5 CAME SEVERAL DAYS LATER.

6 Q ALL RIGHT. AND WOULD YOU TELL US WHAT INFORMATION
7 YOU GOT FROM THE VERBAL -- EXCUSE ME -- THE ORAL REPORT.

8 A WELL, THE INITIAL REPORT I WAS -- THERE WAS SOME
9 CONCERN ON THE CHEST X-RAY THAT THERE WAS AGAIN AIR AROUND
10 THE HEART, AND THAT'S -- CAN BE A BAD THING WHICH
11 NECESSITATED FURTHER SCANNING.

12 AND THE NEXT STEP WAS THAT AGAIN ON THE CAT SCAN THEY
13 NOTICED THE AIR AS WELL, BUT DIDN'T SEE ANY OBVIOUS
14 TRACHEAL INJURY, CERTAINLY -- OH, I'M SORRY, AND CERTAINLY
15 NO DAMAGE DONE TO HER CAROTID ARTERY OR JUGULAR VEIN --
16 CAROTID ARTERY OR JUGULAR VEIN.

17 Q ALL RIGHT. NOW YOU -- WE SAW SOME PHOTOS WITH SOME
18 INJURIES TO THE HEAD.

19 A YES.

20 Q WAS ANY THOUGHT GIVEN TO TAKING ANY KIND OF IMAGES OF
21 HER HEAD?

22 A WELL, THERE WAS, BUT IT'S -- THE NATURE OF THE HEAD
23 INJURY -- SHE WAS ABLE TO SPEAK TO ME IN COMPLETE
24 SENTENCES. SHE INITIALLY SAID THAT SHE HAD NOT BEEN --
25 SHE WASN'T SURE IF SHE HAD BEEN KNOCKED UNCONSCIOUS.

1 HER MENTAL STATUS WAS PRETTY CLEAR. PUPILARY EXAM
2 WAS NORMAL AND SHE WAS GOING TO BE IN THE EMERGENCY ROOM
3 FOR A LONG TIME. TYPICALLY A PATIENT WITH THESE SORT OF
4 HEAD INJURIES SHOW SOME CHANGES SUCH AS VOMITING, ET
5 CETERA. SHE HAD NO SIGNS OF THAT.

6 Q ALL RIGHT. SO--

7 A SO WE DID NOT CAT SCAN HER HEAD.

8 Q AND SO BASE THAT -- THAT WAS A DECISION, AN INFORMED
9 DECISION YOU MADE--

10 A POLITICAL DECISION, YES, SIR.

11 Q -- WHAT YOU SAW THAT TIME?

12 A YES, SIR.

13 Q DR. BURNS, THANK YOU VERY MUCH.

14 A THANK YOU.

15 THE COURT: ANY REDIRECT FROM THE WITNESS?

16 MR. HEMBREE: NOTHING ON REDIRECT, YOUR HONOR.

17 WE'D ASK THAT DR. BURNS BE EXCUSED.

18 THE COURT: ANY OBJECTION TO THE WITNESS BEING
19 EXCUSED FROM THE STATE?

20 MR. HEMBREE: NO, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. DIGGS: NO.

23 THE COURT: DOCTOR, YOU'RE EXCUSED. COUNSEL
24 APPROACH, PLEASE.

25 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

1 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
2 STATE CALLS KELLY WIRDZEK TO THE STAND.

3 KELLY WIRDZEK, AFTER BEING DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 THE COURT: SPELL YOUR LAST NAME FOR THE COURT
6 REPORTER.

7 THE WITNESS: W-I-R-D-Z-E-K.

8 THE COURT: YOU MAY PROCEED.

9 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

10 DIRECT EXAMINATION

11 BY MR. HUMPHRIES:

12 Q WITH WHOM ARE YOU EMPLOYED?

13 A EXCUSE ME?

14 Q WITH WHOM ARE YOU EMPLOYED?

15 A I'M EMPLOYED AT WACCAMAW COMMUNITY HOSPITAL.

16 Q AND IN WHAT--

17 MR. DIGGS: YOUR HONOR, I -- MAY WE MOVE THAT
18 AND...

19 MR. HUMPHRIES: I WILL MOVE IT FOR THE TIME
20 BEING. GLAD TO.

21 MR. DIGGS: AND... THANK YOU.

22 MR. HUMPHRIES: YOU'RE WELCOME.

23 BY MR. HUMPHRIES:

24 Q IN WHAT CAPACITY ARE YOU EMPLOYED WITH THE HOSPITAL?

25 A I'M A STAFF NURSE IN THE EMERGENCY ROOM.

1 Q LET ME ASK YOU FIRST GENERALLY AS TO YOUR TRAINING
2 AND EDUCATION AS A NURSE. CAN YOU GIVE THE JURY THE
3 BENEFIT OF THAT TRAINING AND EDUCATION?

4 A UH-HUH.

5 Q PLEASE.

6 A I -- LET'S SEE. I WENT TO SCHOOL AT MARY KNIGHT
7 UNIVERSITY FOR NURSING AND GRADUATED FROM THE NURSING
8 SCHOOL WITH A ABN. I ALSO HAVE -- I AM CERTIFIED IN PALS
9 WHICH IS A PEDIATRIC ADVANCED LIFE SUPPORT CLASS, ACLS
10 WHICH IS ADVANCED LIFE SUPPORT.

11 I AM ALSO CERTIFIED AS A TNCC NURSE, WHICH IS A
12 TRAUMA NURSE FOR A COURSE THAT I HAVE TAKEN. AND I HAVE
13 ALSO HAVE TAKEN THE SEXUAL ASSAULT NURSE TRAINING COURSE
14 IN FORT MILL, SOUTH CAROLINA.

15 Q IT'S THAT LAST AREA IN PARTICULAR THAT I WANTED TO
16 ADDRESS YOUR TESTIMONY TO TODAY.

17 A UH-HUH.

18 Q REPEAT AGAIN THAT SPECIFIC TRAINING THAT YOU
19 RECEIVED.

20 A SEXUAL ASSAULT NURSE EXAMINER'S COURSE, TRAINING
21 COURSE.

22 Q AND TELL THE JURY REALLY WHAT IS THAT IN CONNECTION
23 WITH THE TREATING OF PATIENTS IN AN EMERGENCY ROOM.

24 A I RECEIVE SPECIALIZED TRAINING IN TAKING CARE OF
25 PATIENTS WHO HAVE BEEN SEXUALLY ASSAULTED.

1 Q IN APRIL OF 2005 WERE YOU SO TRAINED?

2 A YES.

3 Q AND CONSISTENT WITH YOUR TRAINING, DID YOU HOLD A
4 SPECIAL POSITION ON THE STAFF AT WACCAMAW?

5 A I WAS -- WELL WHAT'S -- SINCE I RECEIVED THE TRAINING
6 WITH ANOTHER NURSE THAT WAS THERE, WE DID 24 HOUR
7 COVERAGE. THAT IS PART OF OUR THING WHERE WE PROVIDE 24
8 HOUR COVERAGE SEVEN DAYS A WEEK, SIX -- 365 DAYS A YEAR.

9 Q AND BASICALLY WHAT WE'RE TALKING ABOUT IS YOU'RE ON
10 CALL?

11 A UH-HUH.

12 Q OKAY. LET ME TAKE YOU THEN TO THE EVENING OR THE
13 EARLY MORNING HOURS -- I'M SORRY -- OF APRIL 8TH OF 2005.
14 DID YOU HAVE AN OCCASION TO BE CALLED OUT IN CONNECTION
15 WITH A SEXUAL ASSAULT VICTIM?

16 A YES, I WAS.

17 Q AND UPON BEING CALLED, DID YOU THEN GO TO THE
18 HOSPITAL?

19 A YES, I DID.

20 Q TELL THE JURY, IF YOU WILL, NUMBER ONE, FOR WHOM YOU
21 WERE CALLED, THAT IS THE PATIENT, AND THE CONDITION YOU
22 FIRST OBSERVED THE PATIENT IN WHEN YOU ARRIVED.

23 A I WAS CALLED -- WHEN I RECEIVED A PHONECALL, I WAS
24 ADVISED THAT THERE WAS A 15 YEAR OLD PATIENT ON HER WAY IN
25 BY AN AMBULANCE WHO HAD BEEN SEXUALLY ASSAULTED AND HER

1 MOTHER WAS KILLED, BASICALLY.

2 WHEN I ARRIVED TO THE HOSPITAL IN -- WITHIN MAYBE
3 FIVE, 10 MINUTES BEHIND THE PATIENT THAT ARRIVED, I FOUND
4 A -- A 15 YEAR OLD FEMALE WHO WAS COVERED IN BLOOD FROM
5 HEAD TO TOE, WHO WAS VERY TEARFUL, VERY DISTRAUGHT, BUT
6 VERY CLEAR IN WHAT HAD OCCURRED.

7 SHE WANTED TO KNOW WHY THIS HAPPENED TO HER. SHE
8 ANSWERED QUESTIONS APPROPRIATELY. SHE WAS VERY MUCH ALERT
9 AND ORIENTED TO HER SURROUNDINGS. SHE KNEW THAT SHE WAS
10 IN A HOSPITAL AND SHE KNEW THAT SHE WAS GOING TO BE SAFE
11 AT THAT TIME.

12 Q LET ME ASK YOU, DID YOU ALSO ASSIST IN HER TREATMENT
13 NOT DIRECTLY IN CONNECTION WITH THE SEXUAL ASSAULT?

14 A YES, I DID.

15 Q AND BY THAT DID YOU ASSIST DR. BURNS AND THE OTHER
16 PHYSICIANS THAT WERE TREATING HER AT THE TIME?

17 A YES, I DID.

18 Q OKAY. AND IN FACT, HOW LONG -- FOR WHAT PERIOD OF
19 TIME THAT DAY DID YOU PROVIDE TREATMENT TO CHRISTINE?

20 A I PROVIDED -- MYSELF AND ANOTHER NURSE PROVIDED
21 TREATMENT TO CHRISTINE ALL THE WAY UP FROM THE EARLY HOURS
22 TO 3:00 IN THE AFTERNOON. WE MADE SURE THAT SHE WAS
23 TRANSFERRED FROM THE EMERGENCY ROOM TO A SAFE AREA IN THE
24 HOSPITAL.

25 Q LET ME SHOW YOU JUST A COUPLE OF PICTURES AT THIS

1 TIME, STATE'S 11 AND 12 WHICH ARE IN EVIDENCE. AND IF YOU
2 CAN RECOGNIZE THOSE PHOTOGRAPHS.

3 A YES, I DO.

4 Q LET ME ASK YOU FIRST ABOUT STATE'S 11. TELL US WHAT
5 THAT -- THAT IS A PHOTOGRAPH OF.

6 A THAT IS A PICTURE OF [REDACTED] LEFT EAR.

7 Q WHO TOOK THE PHOTOGRAPH?

8 A I DID.

9 Q OKAY. AND IN TERMS OF WHEN THE PHOTOGRAPH WAS TAKEN,
10 HOW EARLY ON IN THE PROCESS WAS IT TAKEN?

11 A THAT WAS TAKEN ALMOST IMMEDIATELY THAT SHE ARRIVED
12 THERE BECAUSE WE WANTED TO SEE WHERE HER INJURIES WERE,
13 HER OBVIOUS INJURIES.

14 Q AND NOW SHOWING YOU STATE'S 12. CAN YOU IDENTIFY
15 THAT PHOTOGRAPH?

16 A THAT'S HER LEFT EAR.

17 Q SAME EAR?

18 A SAME EAR.

19 Q ALL RIGHT. AND WHEN WAS THIS PHOTOGRAPH TAKEN?

20 A APPROXIMATELY AN HOUR LATER.

21 Q BY WHOM?

22 A BY MYSELF.

23 Q AND FOR WHAT PURPOSE?

24 A PURPOSE OF THIS PHOTOGRAPH WAS BECAUSE -- NOTE IN THE
25 FIRST PHOTOGRAPH THERE WAS NO BRUISING. THIS ONE SHOWS

1 THAT THERE IS BRUISING.

2 Q AND IS IT CONSISTENT OR IS IT USUAL THAT BRUISING
3 WOULD BEGIN TO APPEAR SOMETIME AFTER THE INITIAL INJURY
4 HAS TAKEN PLACE?

5 A IT COULD HAPPEN IMMEDIATELY OR IT COULD HAPPEN TIME
6 LATER -- AT LATER TIMES. IT COULD HAPPEN WITHIN 24 HOURS
7 LATER, BUT YES.

8 Q AND IN THIS CASE IT DID HAPPEN SOMETIME AFTER?

9 A YES.

10 Q MRS. WIRDZEK, WHAT I'D LIKE YOU TO DO NOW IS EDUCATE
11 THE JURY GENERALLY ABOUT WHAT YOU DO IN TERMS OF A SEXUAL
12 ASSAULT VICTIM AND THE EXAM THAT COMES AS A RESULT OF THAT
13 ASSAULT.

14 A JUST IN GENERAL?

15 Q JUST IN GENERAL.

16 A OKAY. WHEN A PATIENT ARRIVES AT THE EMERGENCY ROOM,
17 MYSELF OR ONE OTHER NURSE THAT IS THERE, WE'RE GENERALLY
18 CALLED OR WE ARE ALREADY THERE. WE PROVIDE COMPASSIONATE,
19 IMMEDIATE CARE TO PRESERVE -- TO COLLECT AND PRESERVE
20 BIOLOGICAL AND PHYSICAL EVIDENCE FROM THE INDIVIDUAL WHEN
21 THEY STATE THAT AN ASSAULT HAS OCCURRED TO THEM SEXUALLY.

22 Q LET'S NOW TALK SPECIFICALLY ABOUT [REDACTED]

23 A OKAY.

24 Q DID YOU HAVE AN OCCASION TO PERFORM A SEXUAL ASSAULT
25 EXAM ON [REDACTED] LING?

1 A YES.

2 Q LET'S TALK IN MORE SPECIFICITY AT THIS POINT. LET ME
3 SHOW YOU WHAT'S BEEN MARKED STATE'S EXHIBIT 20 FOR
4 IDENTIFICATION PURPOSES. TELL ME IF YOU CAN IDENTIFY
5 THAT.

6 A SEXUAL ASSAULT KIT THAT WE UNSEALED.

7 Q AND LET ME ASK YOU, IS THAT THE SEXUAL ASSAULT KIT
8 THAT WAS USED IN REGARD TO [REDACTED] LING'S EXAM?

9 A YES, IT IS.

10 Q AND HOW CAN YOU TELL THAT?

11 A MY INITIALS ARE ON IT AND SO IS SHERRI'S.

12 Q OKAY.

13 A AND MY SIGNATURE.

14 Q VERY GOOD. AND ON THE FACE OF THE BOX.

15 A HER NAME'S ON IT ALONG WITH MY LAST NAME AND SHERRI'S
16 LAST NAME.

17 Q WE'LL COME BACK TO THAT IN JUST A MINUTE.

18 A OKAY.

19 Q NOW, WHAT'S CONTAINED IN THAT BOX? IS THAT -- DOES
20 THAT BOX HELP YOU OR BASICALLY GIVE YOU A -- SORT OF A
21 ROADMAP TO FOLLOW, IF YOU WILL, ABOUT THE EXAM?

22 A YES. THERE IS MULTIPLE PIECES OF CONTENT THAT ARE IN
23 THAT BOX. AND IT'S BASICALLY WE START FROM HEAD TO TOE
24 AND WORK OUR WAY DOWN THE BODY TO COLLECT WHATEVER
25 EVIDENCE IS NEEDED.

1 WE ASK THE PATIENT SPECIFIC QUESTIONS OF WERE THEY
2 TOUCHED IN THE WRONG MANNER OR LICKED OR WHATEVER, AND WE
3 REMOVE -- WE RETRIEVE EVIDENCE FROM THEM IN THOSE AREAS.

4 Q OKAY. LET'S TALK ABOUT SOME OF THE SPECIFIC AREAS
5 FROM WHICH YOU RETRIEVED EVIDENCE FROM [REDACTED]. DID YOU
6 HAVE AN OCCASION TO COLLECT ANY EVIDENCE FROM HER BREAST
7 AREA?

8 A YES.

9 Q TELL THE JURY WHY YOU DID THAT.

10 A BECAUSE CHRISTINE STATED IN HER STATEMENT THAT--

11 MR. DIGGS: YOUR HONOR, I WOULD OBJECT TO THE
12 DETAIL.

13 THE COURT: PLEASE APPROACH.

14 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

15 THE COURT: DO YOU NEED SOME WATER?

16 THE WITNESS: NO, I'M OKAY. GETTING OVER A
17 COLD.

18 THE COURT: YOU MAY PROCEED. REPHRASE.

19 BY MR. HUMPHRIES:

20 Q LET ME ASK YOU ANOTHER WAY. AS A RESULT -- WELL,
21 FIRST OF ALL LET ME ASK YOU THIS. DO YOU SPEAK IN GENERAL
22 WITH PATIENTS UPON WHOM YOU'RE GOING TO HAVE TO PERFORM
23 THIS EXAM?

24 A YES.

25 Q AND FOR WHAT PURPOSE DO YOU SPEAK WITH THOSE

1 PATIENTS?

2 A WE SPEAK WITH THOSE PATIENTS IN REGARDS TO -- WE LET
3 THEM KNOW WHAT WE'RE GOING TO DO. WE GIVE THEM A FULL,
4 COMPLETE DETAIL OF EVERYTHING THAT IS GOING TO BE DONE
5 STEP BY STEP. AND PRIOR TO US COLLECTING THE EVIDENCE, WE
6 TURN AROUND AND WE LET THEM KNOW THAT WE ARE COLLECTING
7 THIS EVIDENCE AT THIS TIME.

8 Q AND LET ME ASK YOU THIS. DO YOU QUESTION PATIENTS IN
9 GENERAL REGARDING THE ASSAULT IN ORDER TO ASSIST YOU WITH
10 COLLECTION OF EVIDENCE?

11 A YES, WE DO.

12 Q OKAY. AND SPECIFICALLY DID YOU DO THAT WITH
13 [REDACTED]?

14 A YES, WE DID.

15 Q AS A RESULT OF THOSE CONVERSATIONS AND THAT
16 QUESTIONING OF [REDACTED], DID YOU HAVE AN OCCASION TO
17 COLLECT EVIDENCE FROM THE BREAST AREA OF [REDACTED]?

18 A YES, WE DID.

19 MR. DIGGS: YOUR HONOR, WE'D OBJECT TO THE
20 LEADING.

21 THE COURT: SUSTAINED. LEADING. YOU MAY
22 REPHRASE.

23 BY MR. HUMPHRIES:

24 Q FROM WHAT AREAS DID YOU COLLECT EVIDENCE FROM
25 [REDACTED] BASED ON YOUR QUESTIONING OF HER REGARDING THE

1 ASSAULT?

2 A WE COLLECT EVIDENCE FROM HER LEFT BREAST AREA, FROM
3 HER VAGINAL AREA, FROM HER ANAL AREA, AND VAGINAL -- AND
4 THEN THERE WAS A MISCELLANEOUS AREA THAT WAS COLLECTED
5 FROM HER TO -- FOR SWABS OF DRIED BLOOD THAT WE NOTED THAT
6 WE WEREN'T SURE OF -- IF IT WAS HERS OR NOT.

7 Q AND AFTER HAVING COLLECTED THESE SAMPLES OR SWABS,
8 WHAT THEN DID YOU DO WITH THEM?

9 A THEY WERE AIR-DRIED AND THEN THEY WERE PLACED BACK
10 INTO THIS BOX RIGHT HERE BECAUSE ANYTHING THAT -- WHEN WE
11 OPEN THIS BOX, WHATEVER IS IN THIS BOX, WHAT WE TAKE OUT,
12 WE HAVE TO PUT EVERYTHING BACK IN THE BOX.

13 Q OKAY. AND JUST FOR SUMMARY PURPOSES, HER LEFT
14 BREAST, VAGINAL AREA?

15 A UH-HUH.

16 Q OUTER ANAL AREA?

17 A UH-HUH.

18 Q AND OTHER MISCELLANEOUS AREAS?

19 A CORRECT.

20 Q OKAY. THOSE AIR-DRIED SWABS ARE PLACED IN THIS BOX?

21 A UH-HUH.

22 Q AFTER YOU PLACE THEM IN THAT BOX, WHAT THEN DO YOU DO
23 WITH THE BOX IN TERMS OF SEALING IT?

24 A WHENEVER -- WHEN WE ARE FINISHED COLLECTING ALL THE
25 EVIDENCE AND SWABS ARE DRIED AND EVERYTHING, WE SEAL THE

1 BOX AND WE MAKE SURE THAT WE HAVE AN OFFICER EITHER
2 STANDING OUTSIDE OF THE DOOR WHERE WE PERFORM THE EXAM OR
3 ON THEIR WAY SO THAT WHEN WE SEAL THIS BOX, WE SIGN IT
4 OVER FROM OURSELVES TO THE OFFICER.

5 Q REFERRING AGAIN TO STATE'S 20 NOW -- NOW FOR
6 IDENTIFICATION PURPOSES, I NOTE THIS RED TAPE. WHAT'S THE
7 PURPOSE OF THAT RED TAPE?

8 A THAT'S FOR SEALING THE KIT.

9 Q AND I NOTE INITIALS ON EITHER SIDE.

10 A THOSE ARE SHERRI'S INITIALS.

11 Q WERE THEY DONE IN YOUR PRESENCE?

12 A YES, THEY WERE.

13 Q AND IN FACT, WAS THIS ENTIRE KIT COLLECTED IN YOUR
14 PRESENCE?

15 A YES, IT WAS.

16 Q NOTING THEN ON THE BACK OF THE BOX, CAN YOU TELL ME
17 WHAT THIS BLOCK IS?

18 A THIS IS THE CHAIN OF CUSTODY BLOCK THAT WE SIGN --
19 THAT WE SIGN OVER WHEN WE ARE DONE, AND WE HAVE SEALED
20 THIS IN THE PRESENCE OF THE OFFICER THAT PICKS IT UP.

21 Q OKAY. NOW LET ME ASK YOU THIS. IN REGARD TO STATE'S
22 EXHIBIT 20 FOR IDENTIFICATION PURPOSES AND ITS FORMER
23 CONTENTS, TO WHOM DID YOU DELIVER OR HAND OVER THAT ITEM
24 OR THOSE ITEMS OF EVIDENCE?

25 A TO CORPORAL NEAL JOHNSON.

1 Q AND SPECIFICALLY IN REGARD TO THE ITEMS OF EVIDENCE
2 COLLECTED AND PLACED IN THAT BOX, DID YOU CHANGE THEM
3 SUBSTANTIALLY AS TO FORM OR CONTENT WHILE THEY'RE IN YOUR
4 POSSESSION?

5 A NO.

6 Q AND DID YOU MAINTAIN THE INTEGRITY OF THAT EVIDENCE
7 WHILE IN YOUR CUSTODY AND CONTROL?

8 A YES.

9 MR. HUMPHRIES: BEG THE COURT'S INDULGENCE JUST
10 ONE MOMENT.

11 (SOLICITORS CONFERRING).

12 BY MR. HUMPHRIES:

13 Q LET ME ASK YOU, DO YOU IN ADDITION TO COLLECTING
14 THESE ITEMS OF EVIDENCE DO A PHYSICAL EXAM?

15 A YES.

16 Q AND IN PARTICULAR, DO YOU DO A PHYSICAL EXAM OF THE
17 VAGINAL AREA?

18 A YES, WE DO.

19 Q DID YOU DO THAT WITH [REDACTED]?

20 A YES, WE DID.

21 Q AND CAN YOU TELL THE JURY WHAT IF ANYTHING YOU NOTED
22 AS A RESULT OF THAT EXAM?

23 A SHE HAD -- SHE HAD A TEAR TO HER -- TO THE BOTTOM OF
24 HER VAGINAL AREA AT THE 6:00 BECAUSE WE USE A -- THE FACE
25 OF A CLOCK TO TELL WHERE INJURIES WERE, AND SHE HAD A

1 VAGINAL TEAR AT APPROXIMATELY 6:00 IN THE VAGINAL AREA ON
2 THE OUTSIDE.

3 Q THANK YOU. ANSWER ANY QUESTIONS THAT THE DEFENSE MAY
4 HAVE.

5 THE COURT: ANY QUESTIONS?

6 MR. DIGGS: YOUR HONOR, WE DON'T HAVE ANY
7 QUESTIONS.

8 THE COURT: ANY OBJECTION TO THE WITNESS BEING
9 EXCUSED?

10 MR. HUMPHRIES: NONE, YOUR HONOR. THANK YOU.

11 THE COURT: FROM THE DEFENSE?

12 MR. DIGGS: NONE.

13 THE COURT: MA'AM, YOU'RE EXCUSED. HAVE A GOOD
14 EVENING.

15 (WITNESS LEFT THE STAND.)

16 THE COURT: MADAM FORELADY, LADIES AND
17 GENTLEMEN, WE ARE GOING TO TAKE ADVANTAGE OF THIS
18 BREAK IN TESTIMONY TO TAKE OUR EVENING RECESS.
19 DURING THE BREAK PLEASE STRICTLY ABIDE BY THE COURT'S
20 INSTRUCTIONS AND HAVE NO DISCUSSION ABOUT THIS CASE
21 AMONG YOURSELVES OR WITH ANYONE ELSE.

22 THE AGENTS IN CHARGE OF YOUR CARE WILL GIVE YOU
23 FURTHER INSTRUCTIONS. BUT JUST BRIEFLY, YOU WILL
24 HAVE SOME TIME TO GO BACK TO THE HOTEL AND GET
25 REFRESHED. AND THE CLERK HAS PROVIDED AND MADE

1 ARRANGEMENTS FOR Y'ALL TO HAVE A WONDERFUL DINNER,
2 WHICH I'M SURE Y'ALL WILL FIND ENJOYABLE.

3 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. WE
4 WILL RESUME IN THE MORNING AT 9:30. I HOPE THAT YOU
5 ALL HAVE A RESTFUL EVENING. YOU'RE EXCUSED WITH THE
6 COURT'S THANKS.

7 (JURY LEFT THE COURTROOM AT 5:37 PM.)

8 THE COURT: YOU MAY BE SEATED. OKAY. IS THERE
9 ANYTHING WE NEED TO ADDRESS BEFORE WE BREAK FOR THE
10 EVENING FROM THE STATE?

11 MR. HUMPHRIES: NOTHING FROM THE STATE, YOUR
12 HONOR.

13 THE COURT: FROM THE DEFENSE?

14 MR. DIGGS: NO, YOUR HONOR.

15 THE COURT: AND YOU KNOW WHAT I THINK -- WELL,
16 NOT DIRECTED IT -- LIKE TO USE, BUT I DID NOT PUT THE
17 QUALIFICATIONS OF DEFENSE COUNSEL ON THE RECORD. I
18 WANTED Y'ALL TO KNOW THAT I DID NOT OMIT THAT SINCE I
19 MADE VERY SPECIFIC FINDINGS OF FACT IN AN ORDER WHEN
20 I APPOINTED YOU.

21 I DID NOT DO THAT FOR PURPOSES OF THE RECORD,
22 AND I THINK SINCE THE ORDER WAS SO SPECIFIC, I DON'T
23 THINK I NEED TO. BUT I JUST WANTED TO PUT THAT ON
24 THE RECORD TO MAKE SURE THAT IT WAS CLEAR THAT IT WAS
25 NOT AN OMISSION ON THE COURT'S PART.

1 I HOPE THAT Y'ALL HAVE A WONDERFUL, RESTFUL
2 EVENING. I WILL SEE Y'ALL IN THE MORNING AT 9:30.

3 (COURT IN RECESS FOR THE EVENING.)

4 ***** AUGUST 8TH, 2006 *****

5 THE COURT: IS THERE ANYTHING FROM THE STATE
6 BEFORE WE PROCEED?

7 MR. HUMPHRIES: I'M SORRY. THERE IS ONE
8 HOUSEKEEPING MATTER JUST FOR THE RECORD.

9 THE COURT: CERTAINLY.

10 MR. HUMPHRIES: THE STATE AND THE DEFENSE HAVE
11 ENTERED INTO A STIPULATION REGARDING BASICALLY THE
12 CHAIN OF EVIDENCE. THAT WILL COME PROBABLY THIS
13 MORNING. I JUST WANT TO KNOW THE COURT'S PREFERENCE
14 ON HOW THE STIPULATION IS PUBLISHED.

15 WE BOTH SIGNED IT, SO WE CAN -- I CAN EITHER
16 READ IT TO THE JURY AT THE APPROPRIATE TIME OR THE
17 COURT CAN. I JUST WANTED TO GIVE YOU THAT...

18 THE COURT: YOU CAN READ IT AND I WILL JUST
19 INSTRUCT THE JURY WHAT A STIPULATION IS.

20 MR. HUMPHRIES: VERY GOOD. I WILL PUBLISH IT AT
21 THAT TIME AND I WILL HAND IT UP TO THE COURT REPORTER
22 SO SHE CAN...

23 THE COURT: THAT'S FINE. SO THAT SHE CAN MARK
24 IT. ANY EXCEPTIONS, MR. DIGGS?

25 MR. DIGGS: NO.

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DIRECT EXAMINATION

BY MR. HUMPHRIES:

Q GOOD MORNING.

A GOOD MORNING.

Q TELL THE JURY WITH WHOM YOU'RE EMPLOYED.

A I'M EMPLOYED WITH THE GEORGETOWN COUNTY SHERIFF'S
OFFICE.

Q AND IN WHAT CAPACITY AT THIS TIME ARE YOU EMPLOYED
WITH THE SHERIFF'S OFFICE?

A I AM A SERGEANT WITH PUBLIC AFFAIRS, PUBLIC AFFAIRS
OFFICER FOR THE DEPARTMENT.

Q HOW MANY YEARS OF LAW ENFORCEMENT HAVE YOU HAD?

A AROUND EIGHT AND A HALF YEARS.

Q NOW SERGEANT, LET ME ASK YOU, WERE YOU WITH
GEORGETOWN SHERIFF'S OFFICE BACK IN APRIL OF '05?

A THAT'S CORRECT.

Q DID YOU HAVE AN OCCASION TO RESPOND TO THE WACCAMAW
HOSPITAL IN CONNECTION WITH THIS CASE?

A I DID.

Q TELL THE JURY JUST A BIT ABOUT THAT, HOW YOU CAME TO
ARRIVE AT THE HOSPITAL AND WHAT PURPOSE.

A AT THE TIME OF THE INCIDENT I WAS THE EVIDENCE
CUSTODIAN FOR THE SHERIFF'S OFFICE. I WAS CALLED OUT THE
MORNING OF THE INCIDENT. AND I WAS ALSO CALLED TO THE
HOSPITAL TO PICK UP THE SEXUAL ASSAULT KIT THAT THE NURSES

1 AND THE DOCTORS HAD PERFORMED ON THE VICTIM AT WACCAMAW
2 HOSPITAL.

3 Q SHOWING YOU NOW STATE'S EXHIBIT 20. TELL ME IF YOU
4 CAN IDENTIFY THAT.

5 MR. HUMPHRIES: THIS IS FOR IDENTIFICATION
6 PURPOSES AT THIS TIME, YOUR HONOR.

7 A YES, I CAN.

8 Q AND WHAT IS IT?

9 A THIS IS THE SEXUAL ASSAULT KIT THAT I PICKED UP FROM
10 THE NURSE FROM THE DAY OF THE INCIDENT.

11 Q THE POINT IN TIME YOU RECEIVED THAT BOX, WAS IT
12 SEALED?

13 A YES, IT WAS. AND BOTH OF THESE PIECES OF TAPE WERE
14 SEALED AND THEY WERE NOT BROKEN AS THEY ARE NOW.

15 Q AND LET ME ASK YOU, IN REGARD TO THE CHAIN OF CUSTODY
16 SPACE ON THAT BOX, DO YOU SEE YOUR SIGNATURE?

17 A I DO.

18 Q AND FROM WHOM DID YOU RECEIVE THAT BOX?

19 A NURSE KELLY...

20 Q WIRDZEK?

21 A WIRDZEK, YEAH.

22 Q LET ME ASK YOU, IN REGARD TO THIS BOX AND ITS
23 CONTENTS, DID YOU CHANGE IT SUBSTANTIALLY AS TO FORM OR
24 CONTENT WHILE IN YOUR CUSTODY AND CONTROL?

25 A I -- CAN YOU REPEAT THAT FOR ME?

1 Q I WILL. AND I THOUGHT THE DOCTOR WAS TALKING FAST.
2 AS TO FORM OR CONTENT, DID YOU CHANGE EITHER THIS BOX OR
3 THE CONTENTS OF THIS BOX WHILE IN YOUR CUSTODY AND
4 CONTROL?

5 A I DID NOT.

6 Q AND DID YOU THEN SUBMIT IT INTO EVIDENCE AT
7 GEORGETOWN COUNTY?

8 A THAT'S CORRECT.

9 MR. HUMPHRIES: YOUR HONOR, THAT'S ALL WE HAVE
10 OF THIS WITNESS.

11 THE COURT: ANY QUESTIONS OF THE WITNESS?

12 MR. KELLY: NO QUESTIONS.

13 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
14 EXCUSED?

15 MR. HUMPHRIES: NO, YOUR HONOR. THANK YOU.

16 MR. KELLY: NONE.

17 THE COURT: SIR, YOU'RE EXCUSED.

18 THE WITNESS: THANK YOU.

19 (WITNESS LEFT THE STAND.)

20 THE COURT: YOU'RE WELCOME. CALL YOUR NEXT
21 WITNESS.

22 MR. HUMPHRIES: THANK YOU. THE STATE CALLS
23 LIEUTENANT BILL PIERCE.

24 BILL PIERCE, AFTER BEING DULY
25 SWORN, TESTIFIED AS FOLLOWS:

1 THE WITNESS: BILL PIERCE.

2 DIRECT EXAMINATION

3 BY MR. HUMPHRIES:

4 Q LIEUTENANT, WITH WHOM ARE YOU EMPLOYED?

5 A WITH THE GEORGETOWN COUNTY SHERIFF'S OFFICE.

6 Q AND IN WHAT CAPACITY ARE YOU NOW EMPLOYED WITH THE
7 SHERIFF'S OFFICE?

8 A I'M THE LIEUTENANT IN CHARGE OF CRIMINAL
9 INVESTIGATIONS.

10 Q AND LET ME ASK YOU BACK IN APRIL OF 2005 IN WHAT
11 CAPACITY WERE YOU EMPLOYED WITH THE SHERIFF'S OFFICE?

12 A SAME CAPACITY.

13 Q IN CONNECTION WITH -- WITH YOUR DUTIES AS YOU
14 DESCRIBED, DID YOU ALSO HAVE SOME RESPONSIBILITIES IN
15 PROCESSING OF CRIME SCENES?

16 A YES, I DID.

17 Q AND LET ME ASK YOU, HAVE YOU RECEIVED ANY SPECIAL
18 TRAINING IN REGARD TO CRIME SCENE PROCESSING?

19 A YES, I HAVE.

20 Q WILL YOU GIVE THE JURY THE BENEFIT OF YOUR TRAINING
21 AND EXPERIENCE IN THAT REGARD.

22 A IN REGARD TO THE CRIME SCENE?

23 Q PROCESSING, CORRECT.

24 A DURING MY CAREER I HAVE HAD IN EXCESS OF 300 HOURS OF
25 SPECIALIZED CRIME SCENE TRAINING. I WOULD SAY I'VE

1 PROCESSED MORE THAN 800 CRIME SCENES IN THE PAST 15 YEARS.

2 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
3 WOULD SUBMIT LIEUTENANT PIERCE AS AN EXPERT IN THE
4 FIELD OF CRIME SCENE PROCESSING.

5 THE COURT: ANY QUESTIONS OR OBJECTIONS?

6 MR. KELLY: NONE.

7 THE COURT: SO ADMITTED. YOU MAY PROCEED.

8 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

9 BY MR. HUMPHRIES:

10 Q DID YOU HAVE AN OCCASION TO PROCESS A CRIME SCENE IN
11 CONNECTION WITH THIS CASE, THE RESIDENCE OF LAURA AND
12 [REDACTED] LING?

13 A YES, I DID.

14 Q AND BEFORE WE GO SPECIFICALLY TO THAT CRIME SCENE,
15 LET'S TALK TO THE JURY JUST A BIT ABOUT WHAT IS ENTAILED
16 IN CRIME SCENE PROCESSING, PARTICULARLY OF A RESIDENCE.

17 A GENERALLY WHEN I -- WHEN I'M CALLED TO PROCESS A
18 CRIME SCENE, THE FIRST THING THAT I DO IS MAKE SURE THAT
19 WE HAVE A LEGAL RIGHT TO BE THERE. IN THIS CASE WE DID
20 HAVE A SEARCH WARRANT TO SEARCH THE PREMISES.

21 THE NEXT THING THAT I'LL DO IS -- IS DO A GENERAL
22 WALK-THROUGH OF THE RESIDENCE, WHICH IS -- IS JUST THAT,
23 I'LL WALK THROUGH IT AND -- AND LOOK FOR OBVIOUS EVIDENCE
24 OR THINGS THAT ARE OF PARTICULAR INTEREST TO ME.

25 ONCE THAT'S DONE, THEN I'LL TAKE GENERAL PHOTOGRAPHS

1 OF THE RESIDENCE AS IT WAS FOUND WHEN I ARRIVED. THEN
2 I'LL TAKE SOME MID-RANGE PHOTOGRAPHS AND THEN I'LL TAKE
3 CLOSE-UPS OF INDIVIDUAL ITEMS OF EVIDENCE OR THINGS OF
4 INTEREST.

5 I'LL ALSO ADD SCALES AND -- AND IDENTIFICATION
6 NUMBERS FOR REFERENCE SO THAT AT A LATER TIME I CAN -- CAN
7 ADD THOSE ITEMS TO A SKETCH TO BETTER REFRESH MY MEMORY
8 AND -- AND USE FOR COURT PURPOSES.

9 Q NOW LET ME ASK YOU, IN CONNECTION WITH THIS CASE,
10 TELL THE JURY WHEN YOU WERE FIRST CALLED OUT AND WHERE YOU
11 WERE.

12 A WHEN I WAS CALLED TO PROCESS THIS CRIME SCENE, I
13 WAS -- I WAS OUT -- I WAS IN ATLANTA, GEORGIA.

14 Q AND--

15 A ABOUT FOUR, 4:45, 5:00 IN THE MORNING.

16 Q WHERE HAD YOU BEEN AT THAT TIME?

17 A I HAD BEEN IN -- IN TRAINING WITH A -- A CO-WORKER IN
18 MISSISSIPPI. WE WERE ON OUR WAY BACK. WE DECIDED TO
19 SPEND THE NIGHT IN ATLANTA TO GET A GOOD NIGHT'S SLEEP.

20 Q NOW, WHEN YOU ARRIVED AT THE CRIME SCENE, LAURA AND
21 [REDACTED] LING'S RESIDENCE, WHAT DID YOU FIRST DO UPON
22 ARRIVING AT THE SCENE?

23 A I WAS -- I MET WITH THE OFFICERS THAT WERE ON SCENE
24 AND WAS -- RECEIVED A BRIEFING ABOUT WHAT HAD TAKEN PLACE
25 AND WHAT TO EXPECT INSIDE THE HOUSE.

1 Q LET ME ASK YOU, SHOWING YOU NOW STATE'S 47 WHICH IS
2 FOR IDENTIFICATION PURPOSES. CAN YOU IDENTIFY WHAT'S ON
3 THIS BOARD?

4 A YES, I CAN.

5 Q TELL ME WHAT IT IS.

6 A IT'S A COMPUTERIZED CRIME SCENE SKETCH THAT I MADE OF
7 THE PARTICULAR AREA OF THE HOUSE THAT I PROCESSED, THE --
8 THE ROOM WHERE THE VICTIM WAS FOUND IS INDICATED AS ROOM
9 A. THE BATHROOM I PROCESSED IS ROOM B. AND THEN FOR
10 REFERENCE, I -- I'VE GOT ROOM C ON HERE WHICH I UNDERSTAND
11 IS [REDACTED] LING'S BEDROOM.

12 Q LET ME ASK YOU THIS. WOULD THIS SKETCH ASSIST YOU IN
13 YOUR TESTIMONY BEFORE THIS JURY TODAY?

14 A ABSOLUTELY.

15 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
16 WOULD MOVE TO INTRODUCE STATE'S 47.

17 THE COURT: ANY OBJECTION?

18 MR. KELLY: NO OBJECTION.

19 THE COURT: SO ADMITTED.

20 MR. HUMPHRIES: THANK YOU.

21 THE COURT: YOU'RE WELCOME.

22 (WHEREUPON, STATE'S EXHIBIT 47 WAS ADMITTED INTO
23 EVIDENCE.)

24 BY MR. HUMPHRIES:

25 Q WE'RE GOING TO KEEP YOU SEATED THERE. WHAT I'D LIKE

1 TO DO IS MAKE A REFERENCE TO YOUR CRIME SCENE SKETCH. I'M
2 TRYING TO POSITION THIS SO YOU CAN SEE IT AS WELL AS THE
3 JURY.

4 NOW, YOU MENTIONED THAT YOU TOOK OR YOU DO TAKE
5 PHOTOGRAPHS AS A PART OF THE PROCESSING OF THE CRIME
6 SCENE. IS THAT CORRECT?

7 A CORRECT.

8 Q BEFORE WE BEGIN TALKING ABOUT PHOTOGRAPHS, LET'S TALK
9 A LITTLE BIT ABOUT WHAT YOU SAW PARTICULARLY IN THE AREA
10 THAT YOU PROCESSED -- ULTIMATELY PROCESSED.

11 A WELL, THE MOST OBVIOUS THING THAT I CAN REMEMBER
12 SEEING IS ALL THE BLOOD. THERE WAS A SIGNIFICANT AMOUNT
13 OF BLOOD EVIDENCE AROUND ROOM A. I NOTED SOME -- SOME
14 BLOOD IN THIS AREA WHICH IS THE HALLWAY BETWEEN BEDROOMS A
15 AND C, AND SOME BLOOD IN THE BATHROOM, BATHROOM B.

16 Q AND LET ME ASK YOU THIS. OTHER THAN THE FACT THAT
17 BLOOD SORT OF SPEAKS FOR ITSELF IN TERMS OF A VIOLENT
18 CRIME, DOES IT HAVE ANY SPECIAL SIGNIFICANCE FOR YOU AS A
19 CRIME SCENE PROCESSOR?

20 A YES, SIR.

21 Q TELL THE JURY WHAT SIGNIFICANCE IT DOES HAVE FOR YOU.

22 A IT CAN -- OBVIOUSLY WE CAN -- CAN USE BLOOD EVIDENCE
23 TO OBTAIN A DNA PROFILE AND IDENTIFY A SUSPECT OR IDENTIFY
24 WHOSE BLOOD IT IS.

25 Q WHAT ELSE DID YOU OBSERVE IN -- PARTICULARLY IN ROOM

1 A?

2 A WELL, ONCE I GOT INTO THE ROOM, THE -- THE -- I'LL --
3 THE VICTIM'S BODY WAS OVER HERE ON THE FLOOR BETWEEN THE
4 BED AND THESE TWO TABLES.

5 Q WHAT WAS THE CONDITION OF THE VICTIM'S BODY?

6 A SHE WAS -- SHE WAS BATTERED SEVERELY, PARTICULARLY
7 AROUND THE HEAD AND THE FACE.

8 Q DID YOU NOTE ANYTHING ELSE ABOUT HER CONDITION IN
9 REGARD TO HER, HER LIMBS, HER ARMS OR LEGS?

10 A HER HANDS, THEY WERE BEHIND HER BACK. I WAS ASSUMING
11 THAT SHE WAS BOUND, BUT SHE HAD NOT BEEN MOVED AT THAT
12 TIME. LATER -- LATER WE WERE ABLE TO DETERMINE THAT SHE
13 WAS. BOTH HANDS WERE BOUND BEHIND HER BACK.

14 Q NOW JUST FOR CLARITY, YOU -- YOU ARRIVED AFTER
15 [REDACTED] HAD BEEN TRANSPORTED AWAY FROM THE RESIDENCE?

16 A THAT'S CORRECT.

17 Q LET'S DO THIS, NOW. SHOWING YOU STATE'S ONE WHICH IS
18 IN EVIDENCE. CAN YOU IDENTIFY THAT PHOTOGRAPH?

19 A THIS IS THE -- AN OUTSIDE OF THE FRONT OF THE -- THE
20 CRIME SCENE LOCATION ON MURRELLS INLET ROAD.

21 Q START ON THE OUTSIDE, YOU MOVE IN.

22 A RIGHT.

23 Q STATE'S 22, WHICH IS IN EVIDENCE, CAN YOU IDENTIFY
24 THAT PHOTOGRAPH?

25 A THIS IS A PHOTOGRAPH OF THE -- THE LIVING ROOM AREA

1 OF THE HOUSE--

2 Q IF YOU'LL SHOW THE JURY.

3 A -- WHICH IS THIS AREA OF THE HOUSE RIGHT HERE.

4 Q AND LET ME ASK YOU, WERE THERE ANY AREAS THAT
5 APPEARED TO BE SIGNIFICANTLY DISTURBED IN THAT AREA OF THE
6 HOUSE UPON YOUR INSPECTION?

7 A THE ONLY THING THAT I TOOK NOTE OF AS I WALKED INTO
8 THE RESIDENCE WAS THE DAMAGE TO THE FRONT DOOR. THE FRONT
9 DOOR HAD BEEN KICKED OPEN. I LEARNED ALMOST IMMEDIATELY
10 THAT THAT WAS FROM DEPUTIES GAINING ACCESS TO THE HOUSE.

11 Q NOW, SHOWING YOU STATE'S 12, WHICH IS IN EVIDENCE --
12 I'M SORRY, NOT STATE'S 12. IT'S STATE'S 36. THERE'S A
13 BIG 12 ON IT.

14 A SIXTY-THREE?

15 Q YES, SIR, 63. SIXTY-THREE.

16 A THIS IS A PHOTOGRAPH OF THE FLOOR OF THE BEDROOM A IN
17 THIS AREA HERE.

18 Q AND WHAT DO THESE ITEMS MARKED BY YOUR EVIDENCE
19 NUMBER 12 APPEAR TO BE?

20 A PERSONAL IDENTIFICATION OUT OF -- I DON'T KNOW WHAT
21 THEY'RE OUT OF. THEY APPEAR TO BE PERSONAL IDENTIFICATION
22 DOCUMENTS.

23 Q GOING NOW TO STATE'S 23 WHICH IS IN EVIDENCE. CAN
24 YOU IDENTIFY THAT PHOTOGRAPH?

25 A THIS IS A PHOTOGRAPH OF THE TOP OF THE BED, THIS AREA

1 HERE, AFTER THE BEDDING AND LINENS HAVE BEEN STRIPPED
2 AWAY.

3 Q DO YOUR EVIDENCE MARKERS APPEAR ON THE BED?

4 A YES, THEY DO.

5 Q DO THEY CORRESPOND TO YOUR SKETCH AND THE NUMBERS ON
6 YOUR SKETCH?

7 A YES, THEY DO.

8 Q NOW, SHOWING YOU STATE'S 64, 65 AND 66 WHICH ARE IN
9 EVIDENCE TOGETHER. CAN YOU IDENTIFY THOSE PHOTOGRAPHS?

10 A THESE ARE PHOTOGRAPHS OF THE BED AS IT WAS FOUND WHEN
11 WE ARRIVED AT THE SCENE WITH THE -- THE BEDDING STILL IN
12 PLACE, THE LINENS.

13 Q AND WERE THERE ITEMS OF EVIDENCE WHICH WERE
14 SIGNIFICANT TO YOU THAT ARE PICTURED IN THESE PHOTOGRAPHS?

15 A YES.

16 Q AND WHAT ARE THEY?

17 A A TIE, PARTICULARLY THE -- THE NECKTIE, AND THE
18 PHONE.

19 Q AND IF YOU'LL SHOW THE JURY AND ORIENT THE JURY TO
20 THESE PHOTOGRAPHS ON YOUR SKETCH.

21 A THEY WERE LOCATED IN THIS AREA HERE.

22 Q AS YOU'RE DOING THAT, I'M GOING TO ASK IF YOU CAN
23 IDENTIFY STATE'S 39 FOR IDENTIFICATION PURPOSES AND
24 STATE'S 41 FOR IDENTIFICATION PURPOSES.

25 A FORTY-ONE IS THE CORDLESS HANDSET TELEPHONE THAT WAS

1 DEPICTED IN -- IN THE PICTURE THAT WE JUST SPOKE ABOUT.

2 Q YOU WANT TO REMOVE THAT ITEM? AND TELL THE JURY WHY
3 YOU HAVE BEEN -- YOU PLACED THOSE GLOVES ON.

4 A I PLACED THE GLOVES ON BECAUSE THE -- THE PHONE
5 RECEIVER HAS -- STILL HAS BLOOD, A SIGNIFICANT AMOUNT OF
6 BLOOD ON IT.

7 Q OKAY.

8 MR. HUMPHRIES: OF COURSE, WE WOULD MOVE THIS
9 INTO EVIDENCE, THAT IS STATE'S 41 FOR IDENTIFICATION
10 PURPOSES.

11 THE COURT: ANY OBJECTION?

12 MR. KELLY: NONE.

13 THE COURT: MARKED AND ADMITTED WITHOUT
14 OBJECTION.

15 (WHEREUPON, STATE'S EXHIBIT 41 WAS ADMITTED INTO
16 EVIDENCE.)

17 A STATE'S 39.

18 Q YES.

19 A IS THE TIE THAT WAS FOUND ON THE SAME AREA OF THE BED
20 NEXT TO THE PHONE.

21 MR. HUMPHRIES: YOUR HONOR, WE WOULD MOVE TO
22 INTRODUCE STATE'S 39 IN AT THIS TIME.

23 THE COURT: ANY OBJECTION?

24 MR. KELLY: NONE.

25 THE COURT: MARKED AND ADMITTED WITHOUT

1 OBJECTION.

2 (WHEREUPON, STATE'S EXHIBIT 39 WAS ADMITTED INTO
3 EVIDENCE.)

4 BY MR. HUMPHRIES:

5 Q I WILL ASK THAT YOU REMOVE THAT TIE FROM THE BAG,
6 PLEASE SIR. AND WHAT APPEARS TO BE CONTAINED ON THAT TIE?

7 A WELL, THERE'S A LARGE AMOUNT OF BLOOD ON THE TIE
8 AND -- AND SIGNIFICANT AMOUNT OF HAIRS.

9 Q PLACE IT BACK IN THE BAG.

10 A (COMPLIED.)

11 Q SHOWING YOU STATE'S 67 WHICH IS IN EVIDENCE. CAN YOU
12 IDENTIFY THAT PHOTOGRAPH?

13 A THIS IS A PHOTOGRAPH THAT WAS TAKEN SHOWING THIS AREA
14 OF THE BEDROOM, THE CORNER OF THE BED. THERE WERE --
15 THERE ARE SOME NECKTIES THAT APPEAR TO BE KNOTTED ON THE
16 FLOOR IN THIS AREA, AND A LARGE AMOUNT OF BLOOD ON THE
17 BED, ON THIS CORNER OF THE BED RIGHT HERE.

18 Q SHOWING YOU STATE'S 40 FOR IDENTIFICATION PURPOSES.

19 A THIS IS A -- THIS IS A KNOTTED NECKTIE THAT WAS
20 LOCATED ON THE -- IN THE BEDROOM -- IN THIS BEDROOM HERE.

21 MR. HUMPHRIES: AT THIS TIME WE'D MOVE TO
22 INTRODUCE STATE'S 40.

23 THE COURT: ANY OBJECTION?

24 MR. KELLY: NONE.

25 THE COURT: MARKED AND ADMITTED WITHOUT

1 THE DECEASED VICTIM, WAS PROBABLY KILLED IN THE BEDROOM
2 WHERE SHE WAS AT AND HAD NOT MOVED, AND THAT THE SECOND
3 VICTIM, THE DAUGHTER, WAS A -- WAS ATTACKED IN -- ON
4 THE -- ON THE BED AND WAS FOUND ON THE BED BY DEPUTIES
5 WHEN THEY ARRIVED AND PROBABLY HAD NOT MOVED OUTSIDE OF
6 THE ROOM.

7 Q AND THESE APPARENT DROPS OF BLOOD GOING OUT--

8 A THEY APPEARED TO BE GOING OUT OF THE ROOM AND I FELT
9 THAT THEY MIGHT HAVE BEEN THAT OF THE SUS -- THE
10 PERPETRATOR, THE SUSPECT.

11 Q NOW, SHOWING YOU STATE'S 28, WHICH IS IN EVIDENCE.

12 A THIS IS A PHOTOGRAPH OF THE SAME AREA. I OBVIOUSLY
13 TOOK THIS PHOTOGRAPH BEFORE I TOOK THE PHOTOGRAPH YOU JUST
14 SAW. IT'S -- IT'S A MID-RANGE PHOTOGRAPH WHICH SHOWS
15 THIS -- THIS ENTIRE AREA RIGHT HERE.

16 Q AND LET ME ASK YOU, THERE IS A 22 EVIDENCE MARKER.
17 WHAT SIGNIFICANCE WAS THE 22 EVIDENCE MARKER?

18 A IT ALSO WAS PLACED NEXT TO WHAT I FELT WAS A --
19 PROBABLY SIGNIFICANT BLOOD EVIDENCE.

20 Q AND LET ME SHOW YOU STATE'S 29 WHICH IS IN EVIDENCE.
21 WHAT IS PICTURED ON THAT PHOTOGRAPH?

22 A APPEARS TO BE A SUSPECTED BLOOD DROP.

23 Q AND IS THAT THE -- DOES THAT 22 CORRESPOND WITH 22 ON
24 STATE'S 28?

25 A YES, IT DOES.

1 OBJECTION.

2 (WHEREUPON, STATE'S EXHIBIT 40 WAS ADMITTED INTO
3 EVIDENCE.)

4 BY MR. HUMPHRIES:

5 Q IF YOU WILL REMOVE THAT ITEM.

6 A (COMPLIED.)

7 Q THANK YOU. IF YOU'LL PLACE IT BACK IN THE BAG.

8 A (COMPLIED.)

9 Q GOING NOW TO STATE'S 27 WHICH IS IN EVIDENCE. IF YOU
10 CAN IDENTIFY THAT PHOTOGRAPH.

11 A THIS PHOTOGRAPH WAS TAKEN OF THIS AREA RIGHT HERE,
12 WHICH IS THE ENTRANCE TO BEDROOM A.

13 Q LET ME ASK YOU, ARE -- THERE ARE A NUMBER OF EVIDENCE
14 MARKERS, NUMBERED EVIDENCE MARKERS. CAN YOU TELL THE JURY
15 WHAT THOSE EVIDENCE MARKERS ARE LOCATING OR IDENTIFYING?

16 A EACH ONE OF THESE NUMBERS WERE PLACED NEXT TO A
17 PROBABLE BLOOD DROP, WHAT I THOUGHT TO BE A -- BLOOD
18 EVIDENCE.

19 Q AND DO THOSE NUMBERS ON STATE'S 27 CORRESPOND WITH
20 YOUR SKETCH?

21 A YES, THEY DO.

22 Q AND AGAIN, TELL THE JURY WHY, NUMBER ONE, THEY ARE OF
23 SIGNIFICANCE.

24 A WELL, I FELT THEY WERE SIGNIFICANT BECAUSE THE COURSE
25 OF THE INVESTIGATION I HAD INFORMATION THAT THE VICTIM --

1 Q SHOWING YOU STATE'S 30 WHICH IS IN EVIDENCE. CAN YOU
2 IDENTIFY THAT PHOTOGRAPH?

3 A THIS IS A PHOTOGRAPH OF A CLOSET DOOR, THIS CLOSET
4 DOOR RIGHT HERE IN THE BEDROOM A. AND IT'S -- PICTURED IN
5 THE PHOTOGRAPH ARE TWO NECKTIES HANGING FROM A COAT
6 HANGER.

7 Q NOW, MOVING OUT OF THE ROOM, LET ME SHOW YOU STATE'S
8 31. IT'S IN EVIDENCE.

9 A THIS IS A PHOTOGRAPH THAT WAS TAKEN FROM THE LIVING
10 ROOM IN THIS DIRECTION HERE AND IT ENCOMPASSES THIS AREA
11 IN THE HALLWAY AND THE ENTRANCE TO THE BATHROOM.

12 Q AND WERE THERE SIGNIFICANT ITEMS OF EVIDENCE THAT YOU
13 NOTED IN THIS PHOTOGRAPH, STATE'S 31?

14 A YES.

15 Q AND WHAT ARE THEY?

16 A MORE BLOOD EVIDENCE, MORE SUSPECTED OR PROBABLE BLOOD
17 EVIDENCE. THERE WAS A DROP OF BLOOD, PROBABLE BLOOD RIGHT
18 HERE, ITEM NUMBER 20. THE SAME WITH 21. AND THERE WAS
19 SOME -- WHAT I THOUGHT TO BE BLOOD EVIDENCE ON THE WALL
20 RIGHT HERE, ITEM NUMBER 33.

21 Q WHILE WE'RE TALKING ABOUT THE HALLWAY, LET ME SHOW
22 YOU STATE'S 38 FOR IDENTIFICATION PURPOSES. TELL ME IF
23 YOU CAN IDENTIFY THAT ITEM.

24 A THE -- I WOULD HAVE TO OPEN IT TO KNOW WHAT IT IS.

25 Q ABSOLUTELY. IF YOU'LL KEEP IT BELOW THE -- THE VIEW

1 OF THE JURY AT THIS POINT.

2 A THIS -- THIS IS ANOTHER NECKTIE.

3 Q AND DOES IT INDICATE FROM WHAT POINT IT WAS
4 RECOVERED?

5 A YEAH. YES, SIR. IT WAS LOCATED IN THE HALLWAY HERE
6 IN THIS AREA.

7 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
8 WOULD MOVE TO INTRODUCE STATE'S 38.

9 THE COURT: ANY OBJECTION?

10 MR. KELLY: NONE.

11 THE COURT: MARKED AND ADMITTED WITHOUT
12 OBJECTION.

13 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

14 THE COURT: YOU'RE WELCOME.

15 (WHEREUPON, STATE'S EXHIBIT 38 WAS ADMITTED INTO
16 EVIDENCE.)

17 BY MR. HUMPHRIES:

18 Q AND IF YOU WILL DISPLAY THAT ITEM TO THE JURY.

19 A (COMPLIED.)

20 Q THANK YOU. GOING TOWARDS THE BACK IN STATE'S 24,
21 WHICH IS IN EVIDENCE, IDENTIFY THAT PHOTOGRAPH.

22 A YES, SIR. THIS IS A PHOTOGRAPH FROM THE -- TAKEN
23 FROM THE HALLWAY INTO THE BATHROOM SHOWING THIS TOP SINK.

24 Q IS THAT BASICALLY AN ORIENTATION PHOTOGRAPH?

25 A IT IS.

1 Q NOW, I SHOW YOU STATE'S 25 AND 32 WHICH ARE IN
2 EVIDENCE. TELL ME IF YOU CAN IDENTIFY THOSE PHOTOGRAPHS.

3 A I CAN.

4 Q AND WHAT ARE THEY?

5 A THEY ARE CLOSE-UP PHOTOGRAPHS OF THE TOP OF THE SAME
6 SINK, THIS AREA HERE.

7 Q AND THERE IS AN EVIDENCE MARKER INDICATED HERE. DOES
8 IT ALSO HAVE A NUMBER THAT CORRESPONDS TO YOUR CRIME SCENE
9 SKETCH?

10 A YES, IT DOES.

11 Q AND WHAT NUMBER IS THAT?

12 A THIRTY-EIGHT.

13 Q NOW SHOWING YOU STATE'S 26 WHICH IS IN EVIDENCE. CAN
14 YOU IDENTIFY THAT PHOTOGRAPH?

15 A IT'S A PHOTOGRAPH OF THE TRASH CAN IN THE BATHROOM
16 BETWEEN THE COMMODE AND THE SIDE OF THE SHOWER STALL.

17 Q AND WHAT IS OBVIOUS OF NOTE CONTAINED IN THE TRASH
18 CAN?

19 A THERE'S A BEER BOTTLE IN THE TRASH CAN.

20 Q DO YOU KNOW WHAT TYPE BEER IT IS?

21 A I BELIEVE THAT IT WAS BRAND CALLED YUENGLING.

22 Q FINALLY IN REGARD TO THIS SERIES OF PHOTOGRAPHS,
23 STATE'S 23 WHICH IS IN EVIDENCE.

24 A YES, SIR.

25 Q CAN YOU IDENTIFY THIS PHOTOGRAPH?

1 A IT'S A CLOSE-UP PHOTOGRAPH OF A PROBABLE BLOOD --
2 PROBABLE BLOOD EVIDENCE LOCATED AT THE ENTRANCE TO THE
3 BATHROOM RIGHT HERE ON THE FLOOR.

4 Q LET ME ASK YOU, WHY DO YOU SAY PROBABLE BLOOD
5 EVIDENCE AT THIS POINT? WHAT'S YOUR FUNCTION IN REGARD TO
6 THIS OR THESE ITEMS OF EVIDENCE?

7 A JUST TO COLLECT THEM, PRESERVE THEM FOR FURTHER
8 ANALYSIS.

9 Q IN FACT, DID YOU CONDUCT ANY ANALYSIS ON THESE ITEMS
10 OF EVIDENCE PRIOR TO SUBMITTING THEM TO ANOTHER AGENCY?

11 A I DON'T BELIEVE I -- IF I WOULD HAVE DONE ANYTHING,
12 IT WOULD HAVE BEEN A FIELD TEST, BUT I DID NOT DO THAT IN
13 THIS CASE WITH ANY OF THE EVIDENCE THAT WE HAVE JUST
14 TALKED ABOUT.

15 Q NOW LET ME ASK YOU, WE'VE SEEN THE PHOTOGRAPHS. HOW
16 DO YOU GO ABOUT COLLECTING THE EVIDENCE, PARTICULARLY THE
17 BLOOD EVIDENCE?

18 A WELL, THE FIRST THING THAT I DO IS I, OF COURSE,
19 DOCUMENT MY NOTES EXACTLY WHAT I'M -- WHAT I'M COLLECTING
20 AND THEN I -- I ALWAYS CHANGE MY GLOVES BECAUSE I DON'T
21 WANT ANY TYPE OF CROSS-CONTAMINATION.

22 SO AFTER EVERY SAMPLE IS COLLECTED, I WILL CHANGE MY
23 GLOVES. I USE A PACKAGE OF -- IN THIS CASE WITH DRIED
24 BLOOD SAMPLES OR PROBABLE BLOOD SAMPLES, I WILL USE A
25 PACKAGE OF STERILE SWABS, THEY ARE PACKAGED TWO TO A PACK,

1 AND DISTILLED OR STERILE WATER, MOISTEN THE SWAB SLIGHTLY,
2 COLLECT THE STAIN, LET IT AIR DRY, AND THEN PACKAGE IT.

3 Q AND DO YOU -- DO YOU SEGREGATE THESE ITEMS OF
4 EVIDENCE? THAT IS, DO YOU PACK THEM INDIVIDUALLY?

5 A ABSOLUTELY.

6 Q AND ARE THEY LABELED?

7 A YES, THEY ARE.

8 Q IN FACT, DO THEY CARRY THESE SAME EVIDENCE NUMBER
9 LABELS?

10 A THAT'S CORRECT. I WRITE THAT -- THAT NUMBER FOLLOWS
11 THAT SPECIFIC ITEM OF EVIDENCE CLEAR THROUGH THE PROCESS
12 TO WHERE WE ARE NOW.

13 Q AFTER YOU COLLECTED THESE ITEMS OF EVIDENCE IN THE
14 FASHION THAT YOU DESCRIBED TO THE JURY, WHAT THEN DID YOU
15 DO WITH THE ITEMS OF EVIDENCE?

16 A I PLACED THEM IN OUR EVIDENCE FACILITY AT THE
17 SHERIFF'S OFFICE.

18 Q AND LET ME ASK YOU, IN REGARD TO THESE ITEMS OF
19 EVIDENCE, WHILE IN YOUR CUSTODY AND CONTROL, DID YOU
20 CHANGE THEM SUBSTANTIALLY AS TO FORM OR CONTENT?

21 A NONE WHATSOEVER.

22 Q DID YOU PRESERVE THE INTEGRITY OF THIS EVIDENCE WHILE
23 IN YOUR CUSTODY AND CONTROL?

24 A YES, I DID.

25 Q LET ME ALSO ASK YOU, DID YOU HAVE AN OCCASION TO TAKE

1 CERTAIN PHOTOGRAPHS OF THE DEFENDANT -- YOU MAKE TAKE THE
2 GLOVES OFF NOW. THANK YOU VERY MUCH -- CERTAIN
3 PHOTOGRAPHS OF THE DEFENDANT AFTER HIS ARREST?

4 A YES, I DID.

5 Q LET ME SHOW YOU A SERIES OF PHOTOGRAPHS WHICH ARE IN
6 EVIDENCE STATE'S 34, 35, 36, 37. IF YOU'LL LOOK AT THEM
7 AS A GROUP AND TELL ME IF YOU CAN IDENTIFY THEM.

8 A YES.

9 Q AND WHAT ARE THEY?

10 A THESE ARE PHOTOGRAPHS THAT I TOOK OF THE DEFENDANT'S
11 LEFT AND RIGHT HANDS AT THE RICHMOND COUNTY LAW
12 ENFORCEMENT FACILITY WHERE HE WAS BEING INCARCERATED.

13 Q LET'S START THEN WITH STATE'S 34. TELL ME WHAT'S
14 PICTURED IN THAT PHOTOGRAPH.

15 A THIS IS AN OVERALL PHOTOGRAPH OF THE DEFENDANT'S LEFT
16 AND RIGHT HANDS, TOP OF HIS HANDS.

17 Q DO YOU KNOW APPROXIMATELY HOW MANY DAYS AFTER THE
18 CRIME AT LAURA AND [REDACTED] LING'S HOUSE THESE
19 PHOTOGRAPHS WERE TAKEN?

20 A APPROXIMATELY FOUR DAYS.

21 Q STATE'S 35.

22 A THIS IS A CLOSE-UP PHOTOGRAPH OF THE TOP OF THE
23 DEFENDANT'S RIGHT HAND.

24 Q AND STATE'S 36.

25 A THIS IS THE SAME PHOTOGRAPH. IT'S A -- WAS TAKEN AT

1 A LITTLE BIT OF A CLOSER RANGE TO TRY TO GET A BETTER VIEW
2 OF THE INJURY.

3 Q AND STATE'S 37.

4 A THIS IS A CLOSE-UP PHOTOGRAPH OF THE PALM AREA OF THE
5 DEFENDANT'S RIGHT HAND, THIS AREA RIGHT HERE.

6 Q AND AGAIN, THIS IS SOME FOUR DAYS AFTER THE CRIME?

7 A YES, SIR.

8 MR. HUMPHRIES: BEG THE COURT'S INDULGENCE.

9 (PAUSE WHILE THE SOLICITORS WERE CONFERRING.)

10 BY MR. HUMPHRIES:

11 Q LIEUTENANT PIERCE, THANK YOU VERY MUCH. ANSWER ANY
12 QUESTIONS THE DEFENSE MAY HAVE OF YOU.

13 THE COURT: ANY QUESTIONS? ANY

14 CROSS-EXAMINATION?

15 MR. KELLY: NO QUESTIONS.

16 THE COURT: ANY EXCEPTION TO THE WITNESS BEING

17 EXCUSED?

18 MR. HUMPHRIES: NONE, YOUR HONOR. THANK YOU.

19 THE COURT: FROM THE DEFENSE?

20 MR. KELLY: NO, MA'AM.

21 THE COURT: SIR, YOU'RE EXCUSED.

22 (WITNESS LEFT THE STAND.)

23 THE COURT: MADAM FORELADY, LADIES AND

24 GENTLEMEN, YOU ALL HAVE BEEN SITTING JUST SHY OF AN

25 HOUR. I'M GOING TO GIVE YOU A VERY BRIEF MORNING

1 BREAK TO REFRESH YOURSELVES. PLEASE LET THE BAILIFFS
2 KNOW IF YOU NEED ANYTHING. PLEASE DO NOT DISCUSS THE
3 CASE. AND PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS.

4 (JURY LEFT THE COURTROOM AT 10:30 AM.)

5 THE COURT: YOU MAY BE SEATED. I ASSUME YOU ALL
6 ARE REFERRING TO EVIDENCE THAT'S ALREADY ADMITTED
7 THAT YOU ALL HAVE...

8 MR. HUMPHRIES: YES.

9 THE COURT: HAVE ALREADY AGREED UPON THAT?

10 MR. HUMPHRIES: I THOUGHT WE PUT THAT ON THE
11 RECORD.

12 THE COURT: ACTUALLY, Y'ALL TOLD ME ONE THROUGH
13 EIGHT ORIGINALLY. THAT'S WHY I'M ASKING. MAYBE I
14 MISS-HEARD, BUT I ASSUME THERE'S NO OBJECTION THEN.
15 BUT I THINK FOR PURPOSES OF THE RECORD, WE NEED TO BE
16 CLEAR AS TO WHAT'S BEEN ADMITTED BY AGREEMENT.

17 MR. DIGGS: YOUR HONOR, MR. KELLY AND I HAVE
18 GONE THROUGH THAT EVIDENCE YESTERDAY DURING THE LUNCH
19 BREAK.

20 THE COURT: OKAY. WHY DON'T Y'ALL TELL ME
21 WHAT'S BEEN ADMITTED BY AGREEMENT.

22 MR. HUMPHRIES: WE'LL START HERE. JUST WE'LL GO
23 BACK TO THE BEGINNING, YOUR HONOR, JUST FOR...

24 THE COURT: THAT'S FINE.

25 MR. HUMPHRIES: STATE'S ONE...

1 THE COURT: I HAD ORIGINALLY STATE'S ONE THROUGH
2 EIGHT.

3 MR. HUMPHRIES: THAT'S... OKAY. ONE THROUGH --
4 ACTUALLY ONE THROUGH 18 STIPULATION -- ONE THROUGH 18
5 WENT IN WITHOUT OBJECTION PRIOR TO SUBMISSION OF THE
6 ITEM TO THE WITNESS.

7 THE COURT: IS THAT CORRECT, MR. DIGGS?

8 MR. DIGGS: ONE THROUGH 18? YES.

9 THE COURT: OKAY. YOU MAY CONTINUE.

10 MR. HUMPHRIES: NINETEEN WAS ADMITTED AFTER
11 PRESENTATION TO THE WITNESS. AS WAS -- NO.
12 TWENTY-ONE IS STILL FOR ID PURPOSES AS IS 20.

13 THE COURT: YOU CAN JUST TELL ME WHAT'S BEEN
14 ADMITTED. THAT'S ALL I NEED.

15 MR. HUMPHRIES: VERY GOOD. I'LL DO THAT.
16 TWENTY-TWO THROUGH 37 WERE ADMITTED BY STIPULATION.
17 THIRTY-EIGHT, 39, 40 AND 41 WERE ADMITTED AFTER
18 PRESENTATION TO THE WITNESS.

19 WE HAVE ALSO AGREED ON 42, 43, 44, 45, 46. 47
20 WAS ADMITTED AFTER PRESENTATION TO THE WITNESS. AND
21 EVERYTHING ELSE APPEARS TO BE FOR IDENTIFICATION
22 PURPOSES UNTIL PRESENTATION.

23 THE COURT: I JUST NEEDED TO BE CLEAR FOR THE
24 RECORD BECAUSE AT THE BEGINNING WE ONLY PUBLISHED FOR
25 THE RECORD STATE'S ONE THROUGH EIGHT HAVE BEEN

1 ADMITTED WITHOUT OBJECTION. AND AS WE WERE GOING
2 THROUGH THE WITNESSES, YOU WERE SAYING THEY'VE
3 ALREADY BEEN ADMITTED AND YOU HAD NOT BEEN -- PLACED
4 THAT ON THE RECORD. SO I JUST WANT TO BE SURE THE
5 RECORD IS CLEAR.

6 IS THAT YOUR AGREEMENT, MR. DIGGS, REGARDING
7 YOUR STIPULATION TO THE ADMISSION OF EVIDENCE?

8 MR. DIGGS: YES.

9 THE COURT: OKAY. ANYTHING BEFORE WE TAKE A 10
10 MINUTE RECESS?

11 MR. HUMPHRIES: NO. THANK YOU, YOUR HONOR.

12 THE COURT: YOU'RE WELCOME. WE'LL BE AT EASE
13 FOR 10 MINUTES.

14 (RECESS WAS TAKEN.)

15 THE COURT: WOULD COUNSEL APPROACH FOR ME,
16 PLEASE?

17 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

18 THE COURT: STATE READY TO PROCEED?

19 MR. HUMPHRIES: YOUR HONOR, WE DO HAVE THAT ONE
20 HOUSEKEEPING MATTER ABOUT THE EXHIBITS, AND IT IS
21 THIS, THAT ADMITTED INTO EVIDENCE ARE STATE'S -- IN
22 ADDITION TO THOSE THAT WE PREVIOUSLY PUT ON THE
23 RECORD, STATE'S 63, 64, 65, 66 AND 67 AND 70 HAVE
24 BEEN ADMITTED BY STIPULATION.

25 THE COURT: REPEAT THAT FOR ME ONE MORE TIME.

1 MR. HUMPHRIES: I WILL. I'M SORRY. STATE'S 63,
2 64, 65, 66, 67 AND 70 HAVE BEEN ADMITTED BY
3 STIPULATION.

4 (WHEREUPON, STATE'S EXHIBITS 63, 64, 65, 66, 67,
5 70 WERE ADMITTED INTO EVIDENCE.)

6 THE COURT: OKAY. AND THAT'S CORRECT, MR.
7 DIGGS?

8 MR. DIGGS: YES, YOUR HONOR.

9 THE COURT: ALL RIGHT. THE RECORD SHOWS ALL
10 LISTED EXHIBITS ADMITTED FOR THE RECORD. DOES THE
11 STATE HAVE ITS NEXT WITNESS READY?

12 MR. HUMPHRIES: WE DO, YOUR HONOR.

13 THE COURT: PROCEED.

14 MR. HUMPHRIES: WE NEED TO GET THE JURY IN, YOUR
15 HONOR.

16 THE COURT: I'M SORRY. OH, GOSH. WE ALL NEEDED
17 THAT LITTLE BIT OF COMIC RELIEF. PLEASE BRING IN THE
18 JURY.

19 (JURY ENTERED THE COURTROOM AT 11:28 AM.)

20 THE COURT: YOU MAY PROCEED. LADIES AND
21 GENTLEMEN, I HOPE THAT YOU ALL HAD AN ENJOYABLE
22 BREAK. WE WILL NOW RESUME WITH THE TRIAL. YOU MAY
23 PROCEED, MR. HUMPHRIES.

24 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
25 STATE CALLS CHRIS POWELL TO THE STAND.

1 THE COURT: THE WITNESS WOULD COME TO THE STAND
2 AND BE SWORN.

3 CHRIS POWELL, AFTER
4 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

5 THE COURT: SIR, IF YOU COULD SPELL YOUR LAST
6 NAME FOR THE COURT REPORTER.

7 THE WITNESS: P-O-W-E-L-L.

8 THE COURT: YOU MAY PROCEED, MR. HUMPHRIES.

9 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

10 THE COURT: YOU'RE WELCOME.

11 DIRECT EXAMINATION

12 BY MR. HUMPHRIES:

13 Q MR. POWELL, WITH WHOM ARE YOU EMPLOYED?

14 A BANK OF AMERICA.

15 Q AND IN WHAT CAPACITY ARE YOU EMPLOYED?

16 A BANK CENTER MANAGER.

17 Q AND OF WHAT BRANCH?

18 A MURRELLS INLET.

19 Q LET ME ASK YOU, IN -- IN CONNECTION WITH YOUR
20 RESPONSIBILITIES AS A BRANCH MANAGER -- THAT'S PROBABLY
21 THE COLLOQUIAL TERM FOR WHAT YOU JUST SAID YOU WERE -- ARE
22 YOU ALSO THE KEEPER OF THE RECORDS PARTICULARLY AT THAT
23 BRANCH?

24 A YES.

25 Q LET ME SHOW YOU FIRST STATE'S 58 FOR IDENTIFICATION

1 PURPOSES. TELL ME IF YOU CAN IDENTIFY THOSE DOCUMENTS.

2 A THESE ARE BANK OF AMERICA STATEMENTS FROM AUGUST THE
3 18TH THROUGH SEPTEMBER THE 16TH OF 2004 ON THE ACCOUNT OF
4 LAURA H LING AND CHARLES NICHOLAS LING.

5 Q AND ARE THEY RECORDS THAT ARE KEPT IN THE ORDINARY
6 COURSE OF BUSINESS?

7 A YES.

8 Q SPECIFICALLY I WANT TO REFER NOW TO STATE'S EXHIBIT
9 58A FOR IDENTIFICATION PURPOSES. CAN YOU TELL ME, NUMBER
10 ONE, WHAT THAT DOCUMENT IS?

11 A THIS IS A BANK OF AMERICA STATEMENT FROM MARCH 18TH
12 THROUGH APRIL THE 15TH OF 2005.

13 Q LET ME ASK YOU, IS THIS CONTAINED WITHIN THE LARGER
14 SET OF DOCUMENTS, STATE'S 58 FOR IDENTIFICATION PURPOSES?

15 A YES.

16 Q AND ARE -- IS THIS PARTICULAR DOCUMENT, 58A, ALSO
17 KEPT IN THE ORDINARY COURSE OF BUSINESS?

18 A YES.

19 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
20 WOULD MOVE TO ADMIT STATE'S 58A.

21 THE COURT: ANY OBJECTION?

22 MR. KELLY: NONE.

23 THE COURT: MARKED AND ADMITTED WITHOUT
24 OBJECTION.

25 MR. HUMPHRIES: THANK YOU, YOUR HONOR. AT THIS

1 TIME I'M GOING TO REMOVE 58A FROM 58.

2 THE COURT: CERTAINLY.

3 MR. HUMPHRIES: AND I BELIEVE THAT WAS BY
4 AGREEMENT OF DEFENSE WHEN WE PREVIOUSLY SPOKE --
5 HANDLING IN THAT PARTICULAR FASHION.

6 (WHEREUPON, STATE'S EXHIBIT 58A WAS ADMITTED
7 INTO EVIDENCE.)

8 BY MR. HUMPHRIES:

9 Q NOW, IF YOU WILL HOLD ON TO 58A FOR JUST A MOMENT. I
10 SHOW YOU A SERIES OF PHOTOGRAPHS STARTING WITH STATE'S 50
11 AND GOING TO STATE'S 57. YEAH, 50, 51, 52, 53, FOUR, 55,
12 56 AND 57 FOR IDENTIFICATION PURPOSES. TELL ME IF YOU CAN
13 IDENTIFY THESE PHOTOGRAPHS FIRST OF ALL.

14 A YES.

15 Q WHAT ARE THOSE PHOTOGRAPHS?

16 A THESE ARE FROM BANK OF AMERICA MURRELLS INLET ATM --
17 ATM CAMERA PHOTOS FROM THE ATM.

18 Q AND LET ME ASK YOU SPECIFICALLY WHAT IS THE DATE THAT
19 IT BEGINS?

20 A APRIL THE EIGHTH, 2005.

21 Q AND ON STATE'S 50, THE TIME OF THAT PHOTOGRAPH?

22 A 3:03.

23 Q AND GOING IN SEQUENTIAL ORDER TO THE LAST PHOTOGRAPH,
24 57 FOR IDENTIFICATION PURPOSES, THE DATE?

25 A APRIL THE EIGHTH, 2005.

1 Q AND THE TIME?

2 A 3:05.

3 Q LET ME ASK YOU, DO THESE PHOTOGRAPHS CORRESPOND WITH
4 CERTAIN TRANSACTIONS ON STATE'S 58A THAT'S BEEN ADMITTED
5 INTO EVIDENCE?

6 A YES, THEY DO.

7 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
8 WOULD MOVE TO INTRODUCE STATE'S 50, 51, 52, 53, 54,
9 55, 56 AND 57.

10 THE COURT: ANY OBJECTION?

11 MR. KELLY: NONE.

12 THE COURT: MARKED AND ADMITTED WITHOUT
13 OBJECTION. THAT WAS 50 THROUGH 57; CORRECT?

14 MR. HUMPHRIES: THAT'S CORRECT, YOUR HONOR.

15 (WHEREUPON, STATE'S EXHIBITS 50-57 WERE ADMITTED
16 INTO EVIDENCE.)

17 BY MR. HUMPHRIES:

18 Q NOW, REFERRING BACK TO STATE'S 58A, ARE THERE ANY
19 TRANSACTIONS NOTED ON STATE'S 58A IN THE EARLY MORNING
20 HOURS OF APRIL 8TH, 2005?

21 A YES.

22 Q TELL THIS JURY HOW MANY TRANSACTIONS.

23 A ON APRIL THE EIGHTH THERE ARE FOUR TRANSACTIONS.

24 Q CAN YOU TELL THE JURY THE NATURE OF THOSE
25 TRANSACTIONS?

1 A YES. THE FIRST IS A -- AN HORRY COUNTY PAYROLL
2 DIRECT DEPOSIT IN THE AMOUNT OF \$904.01. THE NEXT IS A
3 BANK OF AMERICA ATM WITHDRAWAL AT MURRELLS INLET FOR \$400.
4 THE NEXT IS A BANK OF AMERICA ATM WITHDRAWAL AT MURRELLS
5 INLET FOR \$200. AND THE LAST IS THE BANK OF AMERICA ATM
6 WITHDRAWAL AT MURRELLS INLET FOR ONE HUNDRED DOLLARS.

7 Q AND AGAIN, STATE'S 50 THROUGH 57 CORRESPOND WITH
8 THOSE LAST THREE TRANSACTIONS; IS THAT CORRECT?

9 A YES.

10 Q THANK YOU, MR. POWELL.

11 MR. HUMPHRIES: I DON'T HAVE ANY FURTHER
12 QUESTIONS FOR THIS WITNESS.

13 THE COURT: ANY QUESTIONS OF THIS WITNESS?

14 MR. KELLY: NONE.

15 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
16 EXCUSED -- BLESS YOU -- FROM THE STATE?

17 MR. HUMPHRIES: NO, YOUR HONOR.

18 THE COURT: FROM THE DEFENSE?

19 MR. KELLY: NO, MA'AM.

20 THE COURT: SIR, YOU'RE EXCUSED. YOU MAY
21 PROCEED.

22 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

23 THE COURT: YOU'RE WELCOME.

24 MR. HUMPHRIES: THE STATE CALLS JOHN GAUMER.

25 JOHN GAUMER, AFTER

1 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE COURT: SIR, IF YOU WOULD ALSO SPELL YOUR
3 LAST NAME FOR THE COURT REPORTER.

4 THE WITNESS: OKAY. MY FULL NAME IS JOHN ROBERT
5 GAUMER, G-A-U-M-E-R.

6 THE COURT: THANK YOU SO MUCH. YOU MAY PROCEED,
7 MR. HUMPHRIES.

8 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

9 THE COURT: YOU'RE WELCOME.

10 DIRECT EXAMINATION

11 BY MR. HUMPHRIES:

12 Q MR. GAUMER, WITH WHOM ARE YOU EMPLOYED?

13 A THE HORRY COUNTY MEMORIAL LIBRARY.

14 Q AND IN WHAT CAPACITY ARE YOU EMPLOYED THERE?

15 A THE LIBRARY DIRECTOR.

16 Q AND VERY BRIEFLY CAN YOU TELL THE JURY WHAT YOUR
17 DUTIES ARE IN CONNECTION WITH THE LIBRARY SYSTEM IN HORRY
18 COUNTY?

19 A SURE. I GET INVOLVED A LOT IN THE OVERALL
20 ADMINISTRATIVE DUTIES OF THE ORGANIZATION. WHAT I DO IS
21 CREATE BUDGETS, BUILD BUILDINGS, IMPLEMENT DISCIPLINARY
22 PROCESSES WHERE NEED BE, CREATE LONG RANGE PLANS,
23 COMPREHENSIVE FACILITIES DEVELOPMENT PLAN, AND SO FORTH.
24 IT'S A LOT OF PAPERWORK.

25 Q LET ME ASK YOU, IN PARTICULAR ARE THE VERY BRANCHES

1 OF THE HORRY COUNTY LIBRARY UNDER YOUR SUPERVISION?

2 A YES.

3 Q AND IN PARTICULAR, IS THE SOCASTEE LIBRARY UNDER YOUR
4 SUPERVISION?

5 A YES.

6 Q LET ME SHOW YOU STATE'S 42 WHICH IS IN EVIDENCE. AND
7 IF YOU CAN IDENTIFY THAT PHOTOGRAPH?

8 A THAT IS SOCASTEE LIBRARY.

9 Q NOW, IN CONNECTION WITH YOUR DUTIES AS THE DIRECTOR,
10 DID YOU HAVE AN OCCASION TO KNOW LAURA LING?

11 A YES, SHE WAS A REFERENCE LIBRARIAN FOR THE SOCASTEE
12 LIBRARY.

13 Q DO YOU KNOW HOW LONG SHE WORKED FOR THE LIBRARY
14 SYSTEM?

15 A APPROXIMATELY FIVE YEARS. SHE BEGAN IN FEBRUARY OF
16 2000 UNTIL APRIL OF 2005.

17 Q LET ME ASK YOU THIS. DID YOU HAVE AN OCCASION TO
18 MEET AND OR GET TO KNOW ON SOME LEVEL THE DEFENDANT IN
19 THIS CASE, STEPHEN STANKO?

20 A I DID. HE ATTENDED A BOOK CLUB SESSION THAT WE HAD
21 AT THE SOCASTEE LIBRARY. IT WAS A NONFICTION GROUP. ITS
22 FOCUS WAS TO TRY TO DRAW MEN INTO THE -- INTO THE LIBRARY.

23 Q AND DID YOU HAVE AN OCCASION TO PHYSICALLY SEE AND
24 TALK WITH MR. STANKO ON THOSE OCCASIONS?

25 A YES. HE ONLY ATTENDED ABOUT THREE OR FOUR SESSIONS,

1 BUT I GOT TO TALK TO HIM DURING A NUMBER OF THOSE
2 SESSIONS.

3 Q AND DURING THAT PERIOD OF TIME DID YOU BECOME
4 ACQUAINTED OR FAMILIAR WITH HIS VOICE?

5 A YES.

6 Q MR. GAUMER, LET ME TAKE YOU THEN TO THE MORNING OF
7 APRIL 8TH, 2005.

8 A OKAY.

9 Q WHEN DID YOU START YOUR DAY THAT DAY?

10 A IT WAS A PRETTY NORMAL START TO MY DAY. IT WAS
11 PROBABLY ABOUT 6:30. I'M AN EARLY MORNING RISER.

12 Q AND HOW DID YOUR EARLY MORNING GO THAT MORNING?

13 A WELL, THAT MORNING WE RECEIVED QUITE A SHOCK BECAUSE
14 WE WERE LOOKING AT THE ELECTRONIC VERSION OF THE LOCAL
15 NEWSPAPER THE SUN NEWS, AND IN THERE THERE WAS AN ARTICLE
16 THAT INDICATED THAT STEPHEN STANKO WAS WANTED FOR -- IT --
17 WAS A MURDER SUSPECT.

18 Q OKAY.

19 A AND...

20 Q ALL RIGHT. WELL, LET ME ASK YOU THIS. BASED ON WHAT
21 YOU SAW, DID YOU HAVE SOME CONCERN FOR THE SAFETY OR
22 WELL-BEING OF LAURA LING?

23 A YES.

24 Q OKAY. AS A RESULT OF THAT, WHAT IF ANYTHING DID YOU
25 DO?

1 A WE MADE TELEPHONE CALLS INITIALLY TO THE LOCAL
2 POLICE, THE GEORGETOWN COUNTY SHERIFF'S OFFICE, TO SEE IF
3 WE COULD VERIFY WHAT WE FEARED HAD HAPPENED, AND WE
4 WERE -- DID -- NOT SUCCESSFUL IN GETTING INFORMATION FROM
5 THE POLICE OR THE SHERIFF. WE TRIED A FEW OTHER ANGLES
6 AND STILL -- STILL FAILED TO DO SO.

7 BUT THE MORE WE HEARD, THE MORE WE FELT THAT EITHER
8 LAURA OR SOMEBODY ELSE LIVING IN HER OWN HOME WAS
9 MURDERED.

10 Q AS A RESULT OF THAT INFORMATION, WHAT THEN DID YOU
11 DO?

12 A WHEN THE DEPUTY DIRECTOR SHOWED UP, I -- WE QUICKLY
13 WENT DOWN TO SOCASTEE LIBRARY BECAUSE WE WEREN'T SURE
14 WHETHER THE STAFF THERE WERE AWARE OF THE SITUATION AND WE
15 WANTED TO, NUMBER ONE, MAKE THEM AWARE, AND NUMBER TWO,
16 ASSIST THEM IN ANY WAY POSSIBLE TO -- TO GET THE LIBRARY
17 OPEN AND RUNNING.

18 WE ALLOWED PEOPLE TO GO HOME WHO COULD BEST DEAL WITH
19 THE SHOCK AND THE TRAUMA BY GOING HOME. THOSE WHO COULD
20 BEST DEAL WITH IT BY STAYING AND WORKING STAYED AND
21 WORKED.

22 Q NOW, WHAT DID YOU ACTUALLY DO? WHAT DUTIES DID YOU
23 ASSUME ONCE YOU WENT TO THE SOCASTEE LIBRARY?

24 A IT WAS EVERYTHING AND ANYTHING THAT NEEDED TO BE
25 DONE. I GOT THE SITUATION DESK READY FOR OPENING UP THE

1 LIBRARY, I ANSWERED TELEPHONES, I CHECKED IN BOOKS, I
2 RESHELVED MATERIALS, JUST ANYTHING THAT NEEDED TO BE DONE
3 TO BRING SOME NORMALCY TO THE FACILITY.

4 Q LET ME ASK YOU THIS. IN CONNECTION -- YOU TOLD THIS
5 JURY THAT YOU ANSWERED TELEPHONE CALLS. DID YOU HAVE AN
6 OCCASION TO RECEIVE A TELEPHONE CALL FROM THE DEFENDANT,
7 STEPHEN STANKO?

8 A YES.

9 Q AT WHAT TIME?

10 A 9:35 APPROXIMATELY.

11 Q TELL THE JURY THE CONTENT OF THAT TELEPHONE CALL.

12 A I WAS STANDING BY THE CERT DESK. THE TELEPHONE RANG.
13 AND THE PERSON ON THE OTHER END OF THE PHONE SAID, THIS IS
14 STEPHEN STANKO. AND IT SOUNDED JUST LIKE STEPHEN STANKO,
15 AND SO I HAD -- I FELT I WAS REASONABLE IN ASSUMING THAT I
16 WAS TALKING TO STEPHEN STANKO, PLUS WHAT HE WENT ON TO SAY
17 WAS THAT LAURA LING HAD SUFFERED A CASE OF FOOD POISONING
18 THE NIGHT BEFORE AND THAT SHE WOULD NOT BE IN TO WORK THAT
19 DAY.

20 Q LET ME ASK YOU, WOULD YOU REPEAT THAT?

21 A HE SAID THAT LAURA LING THE NIGHT BEFORE HAD SUFFERED
22 FROM A CASE OF FOOD POISONING AND SHE WOULD NOT BE IN THAT
23 DAY.

24 Q WHAT DID YOU THEN DO? WHAT DID YOU SAY?

25 A I WAS FLOORED AND I FELT THAT I NEEDED TO TRY TO GET

1 SOME ADDITIONAL INFORMATION FROM HIM THAT MIGHT BE OF
2 ASSISTANCE. I ASKED HIM, IF WE'RE UNABLE TO GET A HOLD OF
3 LAURA, CAN I GET A PHONE NUMBER WHERE I COULD REACH YOU AT
4 SO THAT WE CAN GET A HOLD OF YOU IF NEED BE.

5 Q HOW DID HE REACT TO THAT?

6 A HE -- HIS VOICE TENSED. HE -- HE RESPONDED VERY
7 QUICKLY WITH ANOTHER QUESTION WANTING TO KNOW WHY I WANTED
8 TO KNOW THAT INFORMATION.

9 Q WHAT DID YOU TELL HIM?

10 A I TOLD HIM THAT WE MAY NOT BE ABLE TO GET IN TOUCH
11 WITH LAURA IF -- CONSIDERING HER -- HER ILLNESS AND THAT
12 HE WAS OUR NEXT BEST BET IN TERMS OF TRYING TO MAKE
13 CONNECTIONS WITH LAURA.

14 Q WHAT DID HE TELL YOU?

15 A HE SAID THAT HE HAD LAURA'S CELLPHONE AND WE COULD
16 REACH HIM THROUGH HER CELLPHONE.

17 Q DID THE CONVERSATION END AT THAT POINT?

18 A YES, IT WAS -- I -- THERE WAS JUST SMALL TALK IN
19 TERMS OF MY SAYING I HOPE SHE GETS BETTER AND I WISH HER
20 WELL, AND THAT'S ABOUT ALL THAT THERE WAS.

21 Q AT THIS -- AT THIS TIME BASED ON WHAT YOU HAD READ
22 AND HEARD, DID YOU FEEL AS THOUGH LAURA HAD SUFFERED SOME
23 PERIL?

24 A YES.

25 Q AND AGAIN, THE TIME OF YOUR CALL?

1 A 9:35. BECAUSE I FELT THAT HE WAS A SUSPECT IN A
2 MURDER, THAT IT WOULD BE IMPORTANT TO NOTE THE TIME THAT
3 WE RECEIVED THE CALL, AND SO I REMEMBER TURNING OVER --
4 TURNING IN -- AROUND AND LOOKING AT THE CLOCK THAT WAS
5 HANGING ON THE WALL TO NOTE WHAT TIME IT WAS, AND THE
6 CLOCK ON THE WALL INDICATED 9:35.

7 Q DID YOU THEN LATER CONVEY THIS INFORMATION TO LAW
8 ENFORCEMENT?

9 A YES. I CONVEYED IT TO TRACY LEWIS OF THE GEORGETOWN
10 SHERIFF'S OFFICE, AND I FELT THAT IT WAS IMPORTANT
11 INFORMATION AND I WANTED THE GEORGETOWN POLICE TO KNOW
12 ABOUT IT AS SOON AS POSSIBLE, AND I CONVEYED THE
13 INFORMATION TO THEM THAT DAY AND I WROTE DOWN THE
14 STATEMENT FOR THEM.

15 Q THANK YOU, MR. GAUMER.

16 A THANK YOU.

17 THE COURT: ANY CROSS-EXAMINATION OF THE
18 WITNESS?

19 MR. KELLY: NO, MA'AM.

20 THE COURT: ANY OBJECTION TO THE WITNESS BEING
21 EXCUSED FROM THE STATE?

22 MR. HUMPHRIES: NONE WHATSOEVER. THANK YOU.

23 THE COURT: FROM THE DEFENSE?

24 MR. DIGGS: NO, YOUR HONOR.

25 THE COURT: YOU'RE EXCUSED. THANK YOU.

1 (WITNESS LEFT THE STAND.)

2 THE COURT: THE STATE MAY PROCEED.

3 MR. HUMPHRIES: THANK YOU, YOUR HONOR. THE
4 STATE CALLS PETER CESTARE.

5 PETER CESTARE, AFTER
6 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. HUMPHRIES:

9 Q WITH WHOM ARE YOU EMPLOYED?

10 A HORRY COUNTY POLICE DEPARTMENT.

11 Q AND IN WHAT CAPACITY?

12 A I'M THE SUPERVISOR IN CHARGE OF THE FORENSIC SERVICES
13 SECTION, THE CRIME SCENE, THE PROPERTY AND EVIDENCE.

14 Q YOUR TITLE THEN IS?

15 A SPECIALIST.

16 Q LET ME ASK YOU, HOW MANY YEARS OF LAW ENFORCEMENT
17 EXPERIENCE DO YOU HAVE?

18 A TWENTY-FIVE.

19 Q AND IN CONNECTION WITH YOUR RESPONSIBILITIES, DO YOU
20 OFTEN HAVE THE OCCASION TO PROCESS CERTAIN ITEMS OF
21 EVIDENCE INCLUDING RESIDENCES AND VEHICLES?

22 A YES, SIR, I DO.

23 Q LET ME ASK YOU, DID YOU HAVE AN OCCASION TO PROCESS
24 CERTAIN VEHICLE IN HORRY COUNTY ON APRIL THE EIGHTH, 2005?
25 OR PERHAPS IT WAS THE 9TH.

1 A NO, SIR. IT WAS APRIL THE 9TH.

2 Q VERY GOOD. LET ME SHOW YOU A SERIES OF PHOTOGRAPHS,
3 STATE'S 43, 44, 45 AND 46 WHICH ARE IN EVIDENCE. TELL ME
4 IF YOU CAN IDENTIFY THEM.

5 A YES, I CAN.

6 Q CAN YOU TELL THE JURY WHAT THEY ARE?

7 A THE FIRST PHOTOGRAPH, STATE'S EXHIBIT 43, IS OF A RED
8 AND BLACK IN COLOR MUSTANG BEARING A SOUTH CAROLINA
9 LICENSE PLATE OF 445NKY.

10 Q LET ME ASK YOU PARTICULARLY THIS -- THIS PHOTOGRAPH,
11 STATE'S 43 WHICH IS IN EVIDENCE AND THE LICENSE NUMBER
12 WHICH APPEARS, DID YOU DETERMINE THE OWNERSHIP OR AT LEAST
13 THE VEHICLE REGISTRATION OF THE VEHICLE BASED ON THE
14 LICENSE TAG?

15 A YES, SIR, I DID.

16 Q AND TO WHOM WAS IT REGISTERED?

17 A THE -- THAT VEHICLE IS A 1994 FORD TWO-DOOR MUSTANG
18 REGISTERED TO LAURA HUDSON LING, 3960 MURRELLS INLET ROAD,
19 MURRELLS INLET, SOUTH CAROLINA.

20 Q DID YOU HAVE AN OPPORTUNITY THEN TO PROCESS THAT
21 VEHICLE?

22 A YES, SIR, I DID.

23 Q MAY -- TELL THE JURY JUST BRIEFLY WHAT YOU DO IN
24 TERMS OF PROCESSING A VEHICLE.

25 A ANY TIME A -- A VEHICLE IS CONSIDERED POTENTIALLY A

1 PIECE OF EVIDENCE, THE VEHICLE IS GENERALLY TAKEN BACK TO
2 THE HORRY COUNTY POLICE IMPOUND LOT, IT IS SECURED AT THE
3 SCENE WITH -- WITH A PIECE OF TAMPER-PROOF EVIDENCE TAPE.

4 THE VEHICLE IS THEN TRANSPORTED ON A FLAT-BED WRECKER
5 BACK TO OUR IMPOUND LOT. IT AGAIN IS SECURED IN THAT LOT
6 WITH CRIME SCENE TAPE SO THAT NO MEMBER OF THE POLICE
7 DEPARTMENT OR ANYONE ELSE WILL TOUCH IT.

8 AT THAT POINT ONCE A -- EITHER A SEARCH WARRANT OR A
9 CONSENT IS OBTAINED TO PROCESS THAT VEHICLE, WE THEN GO
10 AHEAD AND BEGIN DOCUMENTING EVERY ASPECT OF THE VEHICLE,
11 EVERYTHING FROM THE VISUAL OUTSIDE, BOTH PHOTOGRAPHICALLY
12 AND VISUALLY, AS WELL AS THE INSIDE OF THE VEHICLE.

13 EVERY PART OF THE VEHICLE IS INSPECTED. EVERYTHING
14 IN THE VEHICLE IS -- IS GONE THROUGH AND ITEMIZED. THE
15 VEHICLE IS FINGERPRINTED BASED ON THE NATURE OF WHY THE
16 VEHICLE IS BEING PROCESSED. WE'LL BEGIN TO LOOK FOR ANY
17 TYPE OF DNA EVIDENCE IN IT, HAIR, BLOOD, FIBERS, ANY KINDS
18 OF FLUIDS OR ANYTHING OF THAT NATURE.

19 Q AND WAS THAT PROCESS DONE IN CONNECTION WITH THIS
20 VEHICLE?

21 A YES, SIR, IT WAS.

22 Q NOW, STATE'S 44, CAN YOU TELL THE JURY WHAT THAT
23 PICTURE REPRESENTS.

24 A STATE'S 44 IS A PICTURE WITH THE DRIVER'S DOOR OF THE
25 VEHICLE OPEN SHOWING THE INSIDE PASSENGER COMPARTMENT OF

1 THAT VEHICLE.

2 Q LET ME ASK YOU, PICTURED BEHIND THE DRIVER'S SEAT,
3 WHAT IS DISPLAYED THERE ON THE FLOORBOARD?

4 A THERE IS A PACK OF BASIC CIGARETTES, AND THERE IS
5 A -- ALSO A BRIEFCASE.

6 Q THAT'S FINE.

7 A THAT'S IT.

8 Q STATE'S 45. CAN YOU DESCRIBE THAT PHOTOGRAPH TO THE
9 JURY?

10 A YES. ONCE -- ONCE WE BEGIN PROCESSING A VEHICLE OF
11 THIS NATURE, ANYTHING THAT'S IN IT THAT IS DEEMED
12 POTENTIALLY EVIDENCE IS THEN MARKED WITH A EVIDENCE MARKER
13 AND PHOTOGRAPHED AS -- AS SUCH.

14 IN STATE'S 45 THERE ARE TWO EVIDENCE MARKERS NOTED.
15 MARKER NUMBER ONE INDICATING A BLACK BRIEFCASE. MARKER
16 NUMBER TWO INDICATING A BLACK PORTFOLIO AND PAPERS.

17 Q SHOWING YOU STATE'S 70 WHICH IS IN EVIDENCE. CAN YOU
18 IDENTIFY THIS ITEM?

19 A YES, SIR. THAT IS THE BRIEFCASE THAT IS INDICATED BY
20 EVIDENCE MARKER ONE IN THIS PHOTOGRAPH.

21 Q CAN YOU TELL ME THE INITIALS THAT APPEAR ON THE
22 BRIEFCASE?

23 A SCS.

24 Q FINALLY, STATE'S 46.

25 A STATE'S EXHIBIT 46 IS A PHOTO OF THAT SAME SEAT AREA

1 WITH BOTH OF THOSE ITEMS AS MARKED IN -- IN 45 EVIDENCE,
2 MARKERS ONE AND TWO REMOVED FROM THE VEHICLE SHOWING THE
3 CONTENTS UNDERNEATH THOSE ITEMS IN THE VEHICLE.

4 Q PLEASE GIVE THE PHYSICAL ADDRESS OF THE VEHICLE WHEN
5 YOU FIRST SAW IT PRIOR TO PROCESSING.

6 A FIRST OBSERVED THAT VEHICLE PARKED IN FRONT OF 736
7 KIMBERLY DRIVE IN CONWAY, SOUTH CAROLINA.

8 Q THANK YOU.

9 MR. HUMPHRIES: I DON'T HAVE ANY FURTHER
10 QUESTIONS OF THIS WITNESS.

11 THE COURT: ANY QUESTIONS OF THE WITNESS?

12 MR. KELLY: NONE AT THIS TIME.

13 THE COURT: ANY OBJECTION TO THE WITNESS BEING
14 EXCUSED OR DO YOU WANT HIM SUBJECT TO RECALL?

15 MR. HUMPHRIES: WELL, I'M SORRY. HE IS SUBJECT
16 TO RECALL FOR THE STATE.

17 THE COURT: SIR, YOU'RE EXCUSED SUBJECT TO BEING
18 RECALLED.

19 THE WITNESS: THANK YOU, YOUR HONOR.

20 MR. KELLY: THANK YOU, MA'AM.

21 (THE WITNESS LEFT THE STAND.)

22 THE COURT: YOU'RE WELCOME. THE STATE MAY
23 PROCEED.

24 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

25 THE COURT: YOU'RE WELCOME.

1 MR. HUMPHRIES: THE STATE CALLS INVESTIGATOR
2 GEORGE SMITH.

3 GEORGE SMITH, AFTER BEING
4 DULY SWORN, TESTIFIED AS FOLLOWS:

5 THE COURT: YOU MAY PROCEED.

6 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME.

8 DIRECT EXAMINATION

9 BY MR. HUMPHRIES:

10 Q WITH WHOM ARE YOU EMPLOYED?

11 A GEORGETOWN COUNTY SHERIFF'S OFFICE.

12 Q IN WHAT CAPACITY?

13 A I'M A CRIMINAL INVESTIGATOR ASSIGNED TO THE VIOLENT
14 CRIMES SECTION.

15 Q LET ME ASK YOU, INVESTIGATOR, IN CONNECTION WITH THIS
16 CASE, DID YOU HAVE AN OCCASION TO BE PRESENT AT THE TIME
17 OF A BLOOD DRAW FROM THE SUSPECT, STEPHEN STANKO?

18 A I DID.

19 Q WHO PHYSICALLY DREW THE BLOOD OR BLOOD STANDARD?

20 A IT WAS A NURSE AT THE GEORGETOWN COUNTY DETENTION
21 CENTER.

22 Q AND WAS THAT DONE IN YOUR PRESENCE?

23 A YES, IT WAS.

24 Q AT ALL TIMES?

25 A YES.

1 Q DID YOU RECEIVE ANY ITEMS OF EVIDENCE FROM THE NURSE
2 IN CONNECTION WITH THAT BLOOD DRAW?

3 A I DID.

4 Q LET ME SHOW YOU STATE'S 49 FOR IDENTIFICATION
5 PURPOSES. TELL ME IF YOU CAN IDENTIFY IT.

6 A YES, SIR.

7 Q AND WHAT IS IT?

8 A THIS IS A SPECIMEN THAT WAS TAKEN BY THE NURSE OF THE
9 DEFENDANT STANKO AT THE GEORGETOWN COUNTY DETENTION CENTER
10 FOR DNA PURPOSES.

11 Q IN YOUR PRESENCE?

12 A YES, SIR. IT HAS MY SIGNATURE ON IT.

13 MR. HUMPHRIES: WE MOVE TO INTRODUCE STATE'S 49
14 AT THIS TIME, YOUR HONOR.

15 THE COURT: ANY OBJECTION?

16 MR. KELLY: NONE.

17 THE COURT: MARKED AND ADMITTED WITHOUT
18 OBJECTION.

19 (WHEREUPON, STATE'S EXHIBIT 49 WAS ADMITTED INTO
20 EVIDENCE.)

21 BY MR. HUMPHRIES:

22 Q AFTER RECEIVING THE BLOOD STANDARD OF THE SUSPECT IN
23 THIS CASE, WHAT THEN DID YOU PHYSICALLY DO WITH THAT ITEM
24 OF EVIDENCE?

25 A I SEALED IT AND INITIALED THE SEAL AND TURNED IT INTO

1 THE EVIDENCE AT THE GEORGETOWN COUNTY SHERIFF'S OFFICE.

2 Q LET ME ASK YOU, WHILE IN YOUR CUSTODY AND CONTROL,
3 DID YOU CHANGE AS TO FORM OR CONTENT THE ITEMS CONTAINED
4 IN STATE'S 49?

5 A I DID NOT.

6 Q AND DID YOU PRESERVE THE INTEGRITY OF THE EVIDENCE
7 WHILE IN YOUR CUSTODY AND CONTROL?

8 A I DID, SIR.

9 MR. HUMPHRIES: I DON'T HAVE ANY FURTHER
10 QUESTIONS OF THIS WITNESS. THANK YOU.

11 THE COURT: ANY QUESTIONS OF THE WITNESS?

12 MR. KELLY: NONE.

13 THE COURT: ANY OBJECTIONS TO THE WITNESS BEING
14 EXCUSED FROM THE STATE?

15 MR. HUMPHRIES: NO, YOUR HONOR.

16 THE COURT: FROM THE DEFENSE?

17 MR. KELLY: NONE, YOUR HONOR.

18 THE COURT: SIR, YOU'RE EXCUSED. YOU MAY
19 PROCEED.

20 (THE WITNESS LEFT THE STAND.)

21 MR. HUMPHRIES: THANK YOU. YOUR HONOR, AT THIS
22 TIME WE HAVE A STIPULATION OF FACT.

23 THE COURT: YOU MAY PROCEED.

24 MR. HUMPHRIES: BY THIS DOCUMENT THE STATE AND
25 THE DEFENDANT STIPULATE TO THE FOLLOWING FACTS. THAT

1 THE BLOOD SWABS COLLECTED AT THE RESIDENCE OF LAURA
2 AND [REDACTED] LING BY LIEUTENANT BILL PIERCE, THE
3 SEXUAL ASSAULT EVIDENCE COLLECTION KIT COLLECTED BY
4 KELLY WIRDZEK AND TRANSFERRED TO DETECTIVE NEIL
5 JOHNSON, THE BLOOD STANDARD OF LAURA LING COLLECTED
6 AT AUTOPSY, AND THE BLOOD STANDARD OF THE DEFENDANT,
7 STEPHEN C STANKO COLLECTED IN THE PRESENCE OF
8 DETECTIVE GEORGE SMITH WERE SUBMITTED TO THE EVIDENCE
9 DEPARTMENT OF THE GEORGETOWN COUNTY SHERIFF'S OFFICE.

10 THAT WHILE IN THE EVIDENCE DEPARTMENT, THOSE
11 ITEMS OF EVIDENCE WERE NOT CHANGED SUBSTANTIALLY IN
12 FORM OR CONTENT. THAT OFFICER CHRIS BAILEY OF THE
13 GEORGETOWN COUNTY SHERIFF'S OFFICE REMOVED THOSE
14 ITEMS FROM EVIDENCE -- ITEMS OF EVIDENCE FROM THE
15 EVIDENCE DEPARTMENT AND TRANSFERRED THEM TO THE SOUTH
16 CAROLINA LAW ENFORCEMENT DIVISION COMMONLY KNOWN AS
17 SLED FOR FORENSIC ANALYSIS, AND THAT WHILE IN OFFICER
18 CHRIS BAILEY'S CUSTODY AND CONTROL THE ITEMS OF
19 EVIDENCE WERE NOT CHANGED SUBSTANTIALLY IN FORM OR
20 CONTENT.

21 IT IS SO STIPULATED. SIGNED WILLIAM I DIGGS,
22 ATTORNEY FOR THE DEFENDANT, AND BY MY SIGNATURE.
23 IT'S DATED AUGUST 8TH, 2006, YOUR HONOR.

24 THE COURT: LADIES AND GENTLEMEN, A STIPULATION
25 IS AN AGREEMENT BETWEEN THE PARTIES AND IT REQUIRES

1 NO FURTHER PROOF. IT WILL BE MARKED AS A STATE'S
2 EXHIBIT, IS THAT CORRECT, OR WILL IT BE MARKED AS A
3 JOINT EXHIBIT?

4 MR. HUMPHRIES: PERHAPS WE SHOULD MARK IT AS A
5 STATE'S EXHIBIT AT THIS TIME, YOUR HONOR.

6 THE COURT: THAT WILL BE STATE'S NEXT IN LINE
7 WITHOUT OBJECTION; RIGHT?

8 MR. HUMPHRIES: THANK YOU.

9 MR. KELLY: YES, MA'AM.

10 (WHEREUPON, STATE'S EXHIBIT 71 WAS ADMITTED INTO
11 EVIDENCE.)

12 MR. HUMPHRIES: AND YOUR HONOR, CONSISTENT WITH
13 THAT STIPULATION, THE STATE NOW MOVES TO INTRODUCE
14 STATE'S EXHIBIT 20 FOR IDENTIFICATION PURPOSES, THE
15 SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

16 THE COURT: ANY OBJECTION?

17 MR. KELLY: NONE.

18 THE COURT: MARKED AND ADMITTED WITHOUT
19 OBJECTION.

20 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

21 THE COURT: YOU'RE WELCOME.

22 (WHEREUPON, STATE'S EXHIBIT 20 WAS ADMITTED INTO
23 EVIDENCE.)

24 MR. HUMPHRIES: THE STATE CALLS SPECIAL AGENT
25 ROBIN TAYLOR.

1 ROBIN TAYLOR, AFTER
2 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MR. HUMPHRIES:

5 Q WITH WHOM ARE YOU EMPLOYED?

6 A SOUTH CAROLINA LAW ENFORCEMENT DIVISION, MORE
7 COMMONLY KNOWN AS SLED.

8 Q HOW LONG HAVE YOU BEEN SO EMPLOYED?

9 A SIXTEEN AND A HALF YEARS.

10 Q AND IN WHAT CAPACITY ARE YOU EMPLOYED WITH SLED?

11 A I WORK IN THE FORENSICS DIVISION AS PART OF THE DNA
12 ANALYSIS TEAM.

13 Q LET ME ASK YOU, IN CONNECTION WITH YOUR POSITION WITH
14 SLED, DO YOU RECEIVE CERTAIN LEVELS OF EDUCATION AND
15 TRAINING AND EXPERIENCE IN ORDER TO WORK IN THAT
16 DEPARTMENT?

17 A YES, I DO.

18 Q WOULD YOU SHARE THE BENEFIT OF YOUR TRAINING AND
19 EDUCATION AND EXPERIENCE WITH THIS JURY?

20 A I HAVE A BACHELOR OF SCIENCE DEGREE IN MEDICAL
21 TECHNOLOGY FROM THE UNIVERSITY OF SOUTH CAROLINA. I ALSO
22 GRADUATED FROM BAPTIST MEDICAL CENTER SCHOOL OF MEDICAL
23 TECHNOLOGY IN COLUMBIA.

24 I AM BOARD CERTIFIED BY THE AMERICAN SOCIETY OF
25 CLINICAL PATHOLOGISTS. I WORKED IN CLINICAL LABORATORIES

1 FOR APPROXIMATELY TWO AND A HALF YEARS PRIOR TO JOINING
2 SLED. AND SINCE I HAVE BEEN THERE, I HAVE COMPLETED
3 INTENSIVE TRAINING PROGRAMS IN FORENSIC SEROLOGY, FORENSIC
4 RFLP DNA ANALYSIS AND FORENSIC PCR DNA ANALYSIS.

5 Q AND HAVE YOU BEEN OFFERED AS AN EXPERT AND ACCEPTED
6 IN COURTS OF RECORD IN SOUTH CAROLINA IN THE AREA OF DNA
7 ANALYSIS?

8 A YES, I HAVE, IN EXCESS OF 60 TIMES.

9 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
10 WOULD SUBMIT AGENT TAYLOR AS AN EXPERT IN THE FIELD
11 OF DNA ANALYSIS.

12 THE COURT: ANY OBJECTIONS OR QUESTIONS?

13 MR. KELLY: NONE.

14 THE COURT: SO ADMITTED. YOU MAY PROCEED.

15 BY MR. HUMPHRIES:

16 Q AGENT TAYLOR, LET'S TELL THE JURY JUST A BIT ABOUT
17 WHAT DNA ANALYSIS IS.

18 A WELL, DNA ITSELF IS A CHEMICAL FOUND IN ALMOST EVERY
19 CELL OF THE BODY AND IT TRANSMITS GENETIC INFORMATION FROM
20 GENERATION TO GENERATION. AND MUCH OF OUR DNA FROM PERSON
21 TO PERSON IS THE SAME. IT'S WHAT MAKES US HUMAN, GIVES US
22 TWO ARMS AND TWO LEGS.

23 BUT A LOT OF OUR DNA, EXCEPT FOR IDENTICAL TWINS, IS
24 UNIQUE. AND IN FORENSICS WE TAKE SMALL PARTS OF THAT DNA
25 AND EXAMINE IT. AND THESE PORTIONS ARE KNOWN TO BE HIGHLY

1 VARIABLE BETWEEN PEOPLE.

2 AND OUR FUNCTION IS TO TAKE A KNOWN STANDARD FROM
3 PEOPLE INVOLVED IN A CRIMINAL CASE AND DO DNA ANALYSIS ON
4 THOSE AND ALSO PERFORM DNA ANALYSIS ON UNKNOWN STAINS FROM
5 A PERSON OR FROM A CRIME SCENE ALSO INVOLVED IN A CRIME
6 AND THEN MAKE COMPARISONS AS TO WHETHER OR NOT THERE'S A
7 MATCH, AND THEN TO PRESENT OUR FINDINGS BOTH IN WRITTEN
8 FORM AND IN COURT WHEN NECESSARY.

9 Q NOW, LET ME ASK, IN CONNECTION WITH THIS CASE, DID
10 YOU RECEIVE CERTAIN ITEMS OF EVIDENCE? AND SPECIFICALLY
11 LET ME REFER YOU TO THE BLOOD STANDARD OF THE DEFENDANT IN
12 THIS CASE, STEVEN CHRISTOPHER STANKO.

13 A YES, I DID.

14 Q AND IS THAT YOUR ITEM 79?

15 A YES, IT IS.

16 Q AND LET'S GO AHEAD AND TALK JUST A BIT ABOUT YOUR
17 ITEM NUMBERS. WHEN AN ITEM OF EVIDENCE COMES INTO THE
18 SLED LABORATORY, WHICHEVER DEPARTMENT IT GOES TO, IS IT
19 THEN ASSIGNED AN ITEM NUMBER?

20 A YES. EACH ITEM AS IT COMES IN RECEIVES AN ITEM
21 NUMBER THAT IS SLED'S ITEM NUMBER.

22 Q NOW--

23 A IT MAY DIFFER FROM THE LOCAL AGENCY'S ITEM NUMBERS.

24 Q OKAY. DID YOU ALSO RECEIVE THE BLOOD STANDARD OF THE
25 VICTIM IN THIS CASE, LAURA LING?

1 A YES, I DID. THAT'S MY -- MY ITEM 77.1.

2 Q DID YOU ALSO RECEIVE THE BLOOD STANDARD OF [REDACTED]
3 LING IN THIS CASE?

4 A YES, I DID. AND THAT ITEM NUMBER IS 65.4.

5 Q DID YOU HAVE AN OCCASION TO RECEIVE ITEMS OF EVIDENCE
6 CONTAINED IN A SEXUAL ASSAULT EVIDENCE COLLECTION KIT ON
7 BEHALF OF [REDACTED] LING?

8 A YES, I DID.

9 Q IN ADDITION DID YOU RECEIVE CERTAIN ITEMS OF
10 EVIDENCE, NAMELY BLOOD SWABS, FROM THE CRIME SCENE WHICH
11 WAS THE RESIDENCE OF LAURA AND [REDACTED] LING?

12 A YES, I DID.

13 Q WHAT I'D LIKE YOU TO DO, IF YOU WILL, IS TELL THE
14 JURY JUST A BIT ABOUT WHAT YOU DO WITH THESE ITEMS OF
15 EVIDENCE, WHAT PROCESS YOU GO THROUGH IN TERMS OF
16 ANALYZING THEM.

17 A OKAY. I INITIALLY JUST TAKE THEM INTO MY POSSESSION
18 AND GOING ON THE REQUEST THAT THEY ACTUALLY FILL OUT FOR
19 US AND THE INCIDENT REPORTS THAT WE'RE GIVEN COPIES OF, I
20 DETERMINE WHAT I NEED TO TEST THESE ITEMS FOR. IT'S
21 USUALLY EITHER BLOOD, SEMEN, OR SALIVA.

22 WE DO SOME INITIAL INDICATING TESTS AS TO WHAT BODY
23 FLUID WE'RE WORKING WITH, AND THEN PROCEED WITH THE DNA,
24 JUST CUTTING A SMALL PORTION IF IT'S A SWAB OR A STAIN
25 FROM A PIECE OF CLOTHING, JUST CUTTING A SMALL PORTION AND

1 Q YOUR ITEM NUMBER NINE.

2 A THOSE WERE SWABS FROM THE FLOOR AT THE ENTRY TO
3 BEDROOM NUMBER ONE ALSO, AND THAT -- I -- THEIR ITEM
4 NUMBER 36, WHICH ON THE DRAWING AGAIN IS WITH THIS GROUP
5 RIGHT IN THE DOORWAY TO THE BEDROOM.

6 Q YOUR ITEM NUMBER 10.

7 A MY ITEM NUMBER 10 WAS SWABS FROM AGAIN THE FLOOR AT
8 THE ENTRY TO BEDROOM NUMBER ONE, THEIR ITEM NUMBER 37
9 RIGHT HERE.

10 Q AND LET ME TAKE YOU ALL THE WAY TO YOUR ITEM 81.

11 A MY ITEM 81 WAS THEIR ITEM NUMBER 28, AND IT WAS ALSO
12 SWABS FROM WOOD CHEST IN THE BEDROOM, AND THAT WAS RIGHT
13 HERE.

14 Q OKAY. WHAT I'D LIKE TO DO THEN IS GO TO YOUR
15 ANALYSIS OF THOSE ITEMS COLLECTIVELY.

16 A THE RESULTS ON MY NUMBERS ONE, TWO, THREE, SEVEN,
17 EIGHT, NINE, 10, AND 81 WERE ALL THE SAME.

18 Q AND WHAT WERE THEY?

19 A THEY WERE -- I WAS ABLE TO DETERMINE THAT BLOOD WAS
20 INDICATED, THEY APPEARED TO BE BLOOD AND TESTED POSITIVE
21 FOR THAT, AND MY DNA RESULTS WERE SUCH THAT THE BLOOD FROM
22 THESE SWABS ALL MATCHED STEPHEN STANKO.

23 THE PROBABILITY OF RANDOMLY SELECTING AN UNRELATED
24 INDIVIDUAL WHO COULD HAVE CONTRIBUTED TO THESE STAINS WAS
25 APPROXIMATELY ONE IN 88 QUADRILLION. IT'S QUITE A RARE

1 PROFILE.

2 Q IT'S A LOT OF ZEROS?

3 A YES, SIR.

4 Q LET ME NOW DIRECT YOUR ATTENTION TO CERTAIN ITEMS OF
5 EVIDENCE CONTAINED IN THE SEXUAL ASSAULT EVIDENCE
6 COLLECTION KIT, SPECIFICALLY YOUR ITEM 65.6.

7 A ITEM NUMBER 65.6 WAS VAGINAL SWABS COLLECTED FROM THE
8 SEXUAL ASSAULT KIT FROM [REDACTED] LING. I INDICATE -- I
9 DETERMINED THAT SEMEN WAS PRESENT ON THOSE SWABS AND THAT
10 STEPHEN DID -- THE PROFILE DEVELOPED FROM THAT SEMEN DID
11 MATCH STEPHEN STANKO ALSO WITH THE STATISTIC OF ONE IN
12 88 QUADRILLION.

13 Q REFER YOU TO ITEM 65.12, ALSO AN ITEM OF EVIDENCE
14 TAKEN FROM THE SEXUAL ASSAULT EVIDENCE COLLECTION KIT.

15 A THAT'S CORRECT. OUR ITEM NUMBER 65.12 WAS IN AN
16 ENVELOPE THAT SLED PRE-LABELS AS MISCELLANEOUS MATERIALS,
17 BUT THE NURSE COLLECTING IT INDICATED IT AS AN -- A
18 SPECIMEN COLLECTED FROM HER OUTER ANAL AREA, AND IT ALSO
19 CONTAINED SEMEN THAT MATCHED STEPHEN STANKO.

20 AND AGAIN, THE PROBABILITY OF SOMEONE UNRELATED
21 CONTRIBUTING THAT SEMEN WAS ONE IN 8 -- ONE IN
22 88 QUADRILLION.

23 Q THANK YOU, AGENT TAYLOR. THAT'S ALL I HAVE.

24 THE COURT: ANY QUESTIONS FROM THE DEFENSE?

25 MR. KELLY: NO, MA'AM.

25 I'M DIRECTOR OF THE SECTION OF FORENSIC PATHOLOGY AND

1 DIRECTOR OF AUTOPSY PATHOLOGY.

2 Q AND IN THAT CAPACITY ARE YOU CALLED UPON TO CONDUCT
3 AUTOPSIES?

4 A YES, I AM.

5 Q DR. COLLINS, IF YOU WOULD, PLEASE GIVE THE JURY AND
6 THE COURT THE BENEFIT OF YOUR TRAINING AND EXPERIENCE IN
7 THE FIELD OF FORENSIC PATHOLOGY.

8 A WELL, I STARTED ATTENDING COLLEGE AT THE UNIVERSITY
9 OF GEORGIA AND I RECEIVED MY BACHELORS IN MICROBIOLOGY.
10 FOLLOWING COLLEGE I WENT TO MEDICAL SCHOOL AT THE MEDICAL
11 COLLEGE OF GEORGIA AND RECEIVED MY MD.

12 AFTER MEDICAL SCHOOL I ENTERED INTO A COMBINED
13 ANATOMIC AND CLINICAL PATHOLOGY RESIDENCY PROGRAM FOR FIVE
14 YEARS AT BOWMAN GRAY SCHOOL OF MEDICINE WHICH IS NOW KNOWN
15 AS WAKE FOREST UNIVERSITY SCHOOL OF MEDICINE.

16 AND FOLLOWING MY RESIDENCY TRAINING, I COMPLETED A
17 FORENSIC PATHOLOGY FELLOWSHIP TRAINING AT THE MEDICAL
18 UNIVERSITY OF SOUTH CAROLINA WHERE I'M CURRENTLY EMPLOYED.

19 Q AND YOU'RE LICENSED TO PRACTICE MEDICINE IN THE STATE
20 OF SOUTH CAROLINA?

21 A SOUTH CAROLINA AND NORTH CAROLINA.

22 Q HAVE YOU BEEN QUALIFIED AS AN EXPERT IN THE FIELD OF
23 FORENSIC PATHOLOGY IN COURTS IN THIS STATE OR OTHER --
24 OTHER COURTS OF RECORD IN OTHER STATES?

25 A YES, I HAVE.

1 Q ON HOW MANY OCCASIONS?

2 A APPROXIMATELY 250.

3 MR. HEMBREE: YOUR HONOR, WE WOULD SUBMIT THAT
4 DR. COLLINS IS QUALIFIED TO -- OR WE WOULD REQUEST
5 THAT DR. COLLINS BE QUALIFIED TO TESTIFY AS AN EXPERT
6 IN THE FIELD OF FORENSIC PATHOLOGY.

7 THE COURT: ANY QUESTIONS OR OBJECTIONS?

8 MR. DIGGS: YOUR HONOR, WE DON'T HAVE ANY
9 QUESTIONS OR OBJECTIONS.

10 THE COURT: SO ADMITTED. YOU MAY PROCEED.

11 MR. HEMBREE: THANK YOU, YOUR HONOR.

12 THE COURT: YOU'RE WELCOME.

13 BY MR. HEMBREE:

14 Q DR. COLLINS, WERE YOU CALLED UPON TO CONDUCT AN
15 AUTOPSY IN -- OF A -- OF A FEMALE, LAURA LING?

16 A YES, I WAS.

17 Q AND HOW DID THAT CASE -- WELL, LET ME GO BACK A STEP.
18 TELL THIS JURY JUST THE GENERAL PROCEDURE THAT YOU
19 UNDERTAKE WHEN YOU'RE CALLED UPON TO CONDUCT AN AUTOPSY.

20 A IN FORENSIC PATHOLOGY, WHICH IS THE INVESTIGATION AND
21 STUDY OF TRAUMA, DEATH, DISEASE, THE AUTOPSY IS OUR
22 PRIMARY TOOL, THAT'S OUR INVESTIGATIVE TOOL. AND WHEN WE
23 PERFORM AUTOPSIES IN THE FORENSIC SETTING, WE DO COMPLETE
24 AUTOPSIES.

25 SO WE WILL EITHER RECEIVE A REQUEST FROM A CORONER OR

1 LAW ENFORCEMENT OR FROM A FAMILY TO PERFORM AN AUTOPSY ON
2 AN INDIVIDUAL. SO THE BODY WILL BE TRANSPORTED TO THE
3 MEDICAL UNIVERSITY TO OUR FACILITY.

4 AND WE HAVE A METHOD OF EXAMINING THE BODY EACH TIME.
5 AND SO INITIALLY WE WILL EXAMINE THE BODY AS IT IS,
6 CLOTHES ON, ANY TYPE OF TRAUMA. THEN WE WILL X-RAY THE
7 BODY IF NEEDED. WE'LL UNDRESS THE BODY AND NOTE ANY TYPE
8 OF TRAUMA, INJURIES, DEFECTS, IDENTIFYING TRAITS SUCH AS
9 TATTOOS, SCARS, AND THEN WE WILL PERFORM AN AUTOPSY ON THE
10 BODY.

11 AND AN AUTOPSY IS LIKE A SURGICAL PROCEDURE -- IT IS
12 A SURGICAL PROCEDURE AFTER DEATH. AND THAT INCLUDES
13 EXAMINING ALL OF THE ORGANS, REMOVING THE ORGANS INCLUDING
14 THE BRAIN, DISSECTING OUT THE ORGANS AND SEEING ANY
15 ABNORMALITIES THAT MAYBE ARE NATURALLY OCCURRING, SUCH AS
16 HEART DISEASE, OR ANY TYPE OF TRAUMA TO THE BODY THAT
17 MIGHT HAVE RESULTED OR CONTRIBUTED TO THE DEATH.

18 WE THEN TAKE SECTIONS FROM EACH ORGAN AND WE PREPARE
19 MICROSCOPIC SLIDES SO THAT WE CAN STUDY THE ORGANS AND THE
20 TISSUES UNDER THE MICROSCOPE. AND SO THAT WOULD COME
21 WITHIN A FEW DAYS WHEN THE SLIDES COME BACK.

22 AND ALSO DURING THE AUTOPSY WE WILL DRAW ANY BLOOD,
23 FLUIDS, URINE, AND SEND THAT TO THE LABORATORY SO THAT WE
24 CAN DO A DRUG AND ALCOHOL ANALYSIS ON THAT.

25 Q DR. COLLINS, YOU WERE -- WHO CALLED UPON YOU TO

1 CONDUCT THIS AUTOPSY?

2 A THIS AUTOPSY WAS AT THE REQUEST OF MR. JOHNSON, KENNY
3 JOHNSON, WHO IS THE CORONER IN GEORGETOWN COUNTY. AND SO
4 HE NOTIFIED OUR OFFICE AND TRANSPORTED THE BODY TO THE
5 HOSPITAL.

6 Q AND THE PROCEDURE, THE PROCESS THAT YOU -- THAT YOU
7 SHARED WITH US JUST A MOMENT AGO, WAS THAT THE PROCESS YOU
8 USED IN THIS CASE?

9 A THAT IS CORRECT. AND I MENTIONED THAT WE WOULD
10 PERFORM X-RAYS IF NEED BE. AND IN THIS CASE WE DID
11 PERFORM X-RAYS ON THE DECEDENT, LAURA LING.

12 Q DR. COLLINS, I'M GOING TO ASK YOU TO STEP DOWN FROM
13 THE STAND FOR A FEW MOMENTS. IF YOU WILL COME DOWN HERE.
14 AND I WOULD ALSO ASK YOU TO KEEP YOUR VOICE UP SINCE YOU
15 DON'T HAVE THE BENEFIT OF A -- OF A MICROPHONE.

16 DR. COLLINS, I'M GOING TO SHOW YOU STATE'S 60, 61 AND
17 62 FOR IDENTIFICATION PURPOSES AND ASK IF YOU CAN IDENTIFY
18 THE ENLARGEMENTS, WHAT THOSE ARE ENLARGEMENTS OF.

19 A THESE ARE TYPICAL DIAGRAMS THAT WE USE DURING THE
20 AUTOPSY. WE DO PHOTOGRAPH THE BODY, BUT WE ALSO HAVE
21 FOLLOW-UP OR BACK-UP DIAGRAMS. AND SO THESE ARE DIAGRAMS
22 OR CARTOON OF THE -- OF AN INDIVIDUAL. WE HAVE A FULL
23 BODY DIAGRAM AS WELL AS A HEAD DIAGRAM THAT YOU'LL SEE.

24 Q AND THESE WERE PREPARED CONTEMPORANEOUS WITH THE
25 AUTOPSY?

1 A THAT'S CORRECT, AT THE TIME OF AUTOPSY. AND YOU'LL
2 ALSO SEE AN IDENTIFICATION LABEL SAYS -- HAS MY NAME, HAS
3 THE DECEDENT'S NAME, HAS THE DATE, AND THE AUTOPSY OF --
4 THE CASE NUMBER.

5 Q WOULD THESE DOCUMENTS ASSIST YOU IN EXPLAINING YOUR
6 TESTIMONY TO THIS JURY?

7 A YES, THEY WOULD. AND I ALSO HAVE XEROXED COPIES WITH
8 ME SO THAT I CAN REFER TO THIS AS I'M POINTING THEM OUT TO
9 YOU.

10 MR. HEMBREE: YOUR HONOR, WE REQUEST THAT
11 STATE'S 60, 61 AND 62 BE ADMITTED INTO EVIDENCE AT
12 THIS TIME.

13 THE COURT: ANY OBJECTION?

14 MR. DIGGS: I HAVEN'T -- I HAVEN'T SEEN THEM.

15 (WHEREUPON THERE WAS A PAUSE.)

16 MR. DIGGS: NO OBJECTION.

17 THE COURT: MARKED AND ADMITTED WITHOUT
18 OBJECTION.

19 MR. HEMBREE: THANK YOU, YOUR HONOR.

20 (WHEREUPON, STATE'S EXHIBITS 60, 61, 62 WERE
21 ADMITTED INTO EVIDENCE.)

22 BY MR. HEMBREE:

23 Q DR. COLLINS, WHAT WAS THE FIRST STEP IN YOUR
24 EXAMINATION OF LAURA LING?

25 A THE FIRST STEP IS THE EXTERNAL EXAMINATION. AND UPON

1 EXAMINING THE BODY WE NOTICED THERE WERE NUMEROUS AREAS OF
2 TRAUMA. AND WHAT YOU WOULD SEE THEN IN OUR REPORT AS WELL
3 AS THE ORDER IN WHICH WE DICTATE AND NOTE THE INJURIES OR
4 FINDINGS IS -- WE HAVE A SECTION CALLED EVIDENCE OF
5 INJURY.

6 AND SO WE DESCRIBE THE INJURIES FROM HEAD TO TOE,
7 FRONT TO BACK, AND WE HAVE THEM WRITTEN IN HANDWRITING ON
8 THE INJURY WITH KIND OF A ROUGH SKETCH OF THE INJURY,
9 WHICH IS -- AGAIN, WE HAVE PHOTOGRAPHS OF, AND THEN WE
10 DICTATE OUR FINDINGS IN PARAGRAPH FORM IN THE AUTOPSY
11 REPORT.

12 Q IN THE PROCESS OF THE EXTERNAL EXAMINATION WHAT
13 SIGNIFICANT FINDINGS DID YOU -- DID YOU MAKE AND REFLECT
14 ON THIS DOCUMENT, STATE'S EXHIBIT NUMBER 60?

15 A NUMBER 60 IS THE FRONT AND BACK OF A WOMAN, AND THERE
16 ARE NUMEROUS BRUISES WHICH I CAN GO THROUGH, THERE ARE
17 SOME ABRASIONS OR TEARS TO THE SKIN, THERE ARE SOME CUTS
18 OR INCISED WOUNDS TO THE BODY. AND WE -- I HAVE NOTED
19 THEM WITH SHAPE, LINES POINTING TO THEM, AS WELL AS THE
20 MEASUREMENTS AND DESCRIPTION.

21 Q DR. COLLINS, IF YOU WOULD JUST -- JUST FOR THE --
22 REVIEW ALL OF THE INJURIES AND SIGNIFICANT FINDINGS YOU
23 MADE DURING THIS EXTERNAL EXAMINATION.

24 A OKAY. IT'S -- WE'LL BE GOING OVER THE HEAD ALSO, SO
25 AS YOU CAN SEE, SINCE THIS -- THE HEAD ON THIS CARTOON IS

1 SMALL AND SO WE HAVE GOT A BIGGER HEAD PICTURE, SO I'M NOT
2 GOING TO GO WITH THE HEAD RIGHT NOW. WE'LL COME BACK TO
3 THAT.

4 SO WE'LL START WITH EVERYTHING FROM THE NECK DOWN.
5 AND WE CALL THIS THORAX AND ABDOMEN. FIRST OF ALL WE
6 NOTED THAT ON THE LEFT CHEST HERE IS A .7 BY .7-INCH, SO A
7 LITTLE LESS THAN AN INCH BY INCH EACH WAY RED PLAQUE AREA.

8 BENEATH THIS IS A LARGE 4.8 BY 1.9-INCH MODELED RED
9 AND BLUE CONTUSION OR A BRUISE. A BRUISE IS A CONTUSION.
10 SO WHEN YOU HEAR ME USE THE WORD CONTUSION, IT'S A BRUISE.

11 Q THIS MIGHT HELP YOU. I DON'T KNOW IF YOU WANT TO USE
12 THAT OR NOT.

13 A THAT WOULD... CAN I MOVE THIS JUST A TAD THAT WAY
14 THEN I CAN WON'T BUMP HER. OKAY. THIS RIGHT HERE ON THE
15 LEFT CHEST IS WHAT I JUST DESCRIBED, IT'S A 4.8 BY
16 1.9-INCH RED BLUE CONTUSION OR BRUISE TO THE CHEST.

17 WE ALSO HAVE AN AREA ON THE RIGHT ABDOMEN OR THE
18 RIGHT BELLY AREA WHICH IS ANOTHER RED BRUISE WHICH IS .4
19 BY .3-INCH. TURNING HER OVER LOOKING AGAIN AT THE THORAX
20 AND ABDOMEN ON THE NEXT PICTURE WE SEE THAT ON HER BUTTOCK
21 AREA, HER LEFT HIP AREA, SHE'S GOT A CONTUSION OR A BRUISE
22 WHICH IS 2.2 INCHES, AND THEN ON THE RIGHT BUTT AREA IS A
23 2.8-INCH GREEN BLUE BRUISE OR CONTUSION IN THIS AREA.

24 SO THOSE WERE THE INJURIES ON HER CHEST AND ABDOMEN
25 FRONT AND BACK.

1 Q IF YOU'D MOVE TO HER EXTREMITIES.

2 A OKAY. WE MOVE -- AS I MENTIONED BEFORE IF YOU READ
3 THE REPORT -- HEAD TO TOE. THAT DOES NOT MEAN ONE INJURY
4 OCCURS BEFORE THE OTHER ONE. SO THE ORDER THAT I'M
5 DESCRIBING THEM IN IS MORE JUST SO YOU CAN FOLLOW FROM
6 HEAD TO TOE. DOES NOT MEAN THAT THIS INJURY OCCURRED
7 BEFORE THIS ONE.

8 SO THE NEXT PART OF OUR REPORT IS UPPER EXTREMITIES
9 OR THE ARMS. IF YOU LOOK ON HER RIGHT UPPER ARM, KIND OF
10 IN HER BICEPS REGION SHE'S GOT A .4-INCH BLUE BRUISE. AND
11 THEN YOU LOOK OVER ON HER LEFT ARM SHE'S GOT THREE ROUND
12 BRUISES THAT ARE EACH ABOUT .4-INCH, RIGHT HERE, ONE, TWO,
13 THREE ON HER LEFT ARM ELBOW REGION.

14 IF YOU'RE LOOKING AT HER HANDS, SHE'S GOT ABRASIONS,
15 WHICH IS A -- A TEARING OF THE SKIN OF THE RIGHT THIRD,
16 FOURTH AND FIFTH FINGERS ON THE -- ON THE KNUCKLE. AND
17 THEN WE ALSO HAVE ON THE -- AT THE END OF THE RIGHT THIRD
18 FINGER OR THE MIDDLE FINGER SHE'S GOT ANOTHER AREA OF
19 ABRASION OR TEARING OFF OF THE SKIN.

20 NOW, WHAT YOU'RE LOOKING -- HERE AGAIN, AT THE ARM,
21 YOU CAN SEE NEAR HER WRIST THESE STRIPES THAT WE COLORED
22 IN HERE. TWO ON EACH WRIST. WHAT THESE ARE ARE LIGATURE
23 FURROWS. THIS IS AN IMPRESSION AND A MARK MADE ON THE
24 SKIN AND THE UNDERLYING TISSUE FROM A LIGATURE. IT IS
25 ACTUALLY AN INDENTATION FROM HAVING A LIGATURE AROUND THE

1 WRIST.

2 Q WHAT -- DESCRIBE THE LIGATURE. WHAT DO WE--

3 A A LIGATURE IS ANY TYPE OF A ROPE, A NOOSE, A BELT, AN
4 ELECTRICAL CORD, ANYTHING THAT IS USED TO TIE OFF
5 SOMETHING. AND IN THIS CASE IT WAS A NECK TIE.

6 Q LET ME STOP YOU RIGHT THERE AND SHOW YOU -- SHOW YOU
7 STATE'S EXHIBIT 59 FOR IDENTIFICATION PURPOSES AND ASK IF
8 YOU CAN IDENTIFY THIS ITEM.

9 A YES. AND THIS IS THE NECK TIE. THIS IS DESCRIBED IN
10 OUR REPORT ON THE SECOND PAGE. I WILL READ IT FOR YOU.
11 IT SAYS, THE WRISTS ARE TIED TOGETHER BEHIND THE BACK BY
12 MEANS OF AN INTRICATELY KNOTTED BLUE AND MAROON NECK TIE.
13 AND THIS IS THE BLUE AND MAROON NECK TIE.

14 WHAT YOU SEE WITH THE TAPE -- WE CUT -- WE HAD TO GET
15 THE NECK TIE OFF, AND YOU DON'T WANT TO UNWRAP THE NECK
16 TIE. YOU DON'T WANT TO UNDO THE KNOTS. YOU ALSO WANT TO
17 CUT IT.

18 AND THEN WE PUT TAPE ON THE END WHERE WE CUT SO THAT
19 LAW ENFORCEMENT UNDERSTANDS THAT IT WAS DR. KIM COLLINS
20 THAT CUT THE NECK TIE WITH HER SCISSORS AS OPPOSED TO
21 ANYONE ELSE. SO THAT'S WHAT YOU SEE WITH THE TAPE ON THE
22 TIE.

23 MR. HEMBREE: YOUR HONOR, I WOULD OFFER STATE'S
24 59 INTO EVIDENCE AT THIS TIME.

25 THE COURT: ANY OBJECTION?

1 MR. DIGGS: NO OBJECTION.
2 THE COURT: MARKED AND ADMITTED WITHOUT
3 OBJECTION.
4 (WHEREUPON, STATE'S EXHIBIT 59 WAS ADMITTED INTO
5 EVIDENCE.)
6 BY MR. HEMBREE:
7 Q DOCTOR, YOU WERE TESTIFYING ABOUT THE LIGATURE MARKS
8 ON THE HANDS AND THE INDENTATIONS THAT HAD BEEN MADE WHEN
9 I STOPPED YOU.
10 A YES. UNDER THE EVIDENCE OF INJURY SECTION THERE WAS
11 ANOTHER PARAGRAPH WHERE WE GO INTO DESCRIBING THE
12 LIGATURE. AND I DESCRIBED THE WRISTS ARE BOUND BEHIND HER
13 BACK IN THE LUMBAR -- AND THAT'S YOUR LOWER BACK AREA
14 WHERE THE SWAY OF YOUR BACK IS, THAT'S WHERE HER WRISTS
15 WERE -- THEY ARE TIED BEHIND HER BACK BY THE BLUE AND
16 MAROON NECK TIE.
17 THE NECK TIE IS WRAPPED TIGHTLY AROUND EACH WRIST
18 TWICE. THAT IS WHY YOU GET THE TWO FURROWS. IT GOES
19 AROUND AND AROUND TWICE. AND HERE IS THE OTHER ONE ON THE
20 OTHER WRIST.
21 AND AS I MENTIONED, TWO CUTS WERE REQUIRED TO REMOVE
22 THE LIGATURE. TWO DISTINCT FURROWS WERE NOTED. THEY'RE
23 APPROXIMATELY .3 TO .4, SO GETTING CLOSE TO HALF AN INCH
24 WIDE. THOSE ARE THE FURROWS OR THE INDENTATIONS CAUSED BY
25 THE NECK TIE.

1 AND AGAIN, LOOKING AT THE RIGHT WRIST THAT .6, SO A
2 LITTLE BIT MORE THAN HALF AN INCH AND .4 IN WIDTH. SO
3 THOSE ARE THE FOUR AREAS OF FURROW CAUSED BY THE NECK TIE.

4 Q DOCTOR, CAN WE NOW MOVE TO THE LOWER EXTREMITIES AND
5 HAVE YOU TESTIFY ABOUT ANY SIGNIFICANT FINDINGS YOU MADE
6 IN THAT AREA?

7 A YES. LOOKING AT THE LOWER EXTREMITIES TO YOUR RIGHT
8 ON THE DIAGRAM, THE FRONT OF HER BODY, WE HAVE FOUR AREAS
9 OF CONTUSION ON HER RIGHT UPPER THIGH, BRUISES. WE ALSO
10 HAVE AN AREA OF RED CONTUSION ON THE MIDDLE ASPECT OF HER
11 RIGHT THIGH.

12 AND THEN GETTING CLOSER TO HER KNEE WE'VE GOT SOME --
13 WE CALL THEM PUNCTATE. IT'S JUST LITTLE DOTS OF BRUISING
14 THAT ARE IN THIS AREA, ABOUT 3 INCHES -- AREA. YOU'RE
15 LOOKING AROUND NEAR HER KNEE.

16 WE THEN HAVE AN AREA OF BRUISING OR CONTUSION ON THE
17 SHIN OF HER LOWER LEG AS WELL AS THIS AREA HERE IS JUST A
18 SCAR. BUT RIGHT HERE IN THE SHIN AREA IS A BRUISE, IS A
19 RED CONTUSION.

20 ON THE LEFT KNEE WE HAVE SOME CONTUSIONS THAT ARE
21 IDENTIFIED ON THE FRONT OF THE LEFT KNEE. AND THEN WE
22 HAVE SOME -- A LARGE AREA OF CONTUSION ALMOST 6 INCHES
23 LONG ON THE SHIN AREA OF THE LEFT KNEE AS WELL AS A 2-INCH
24 CONTUSION ABOVE THAT ON THE SHIN AREA OF THE LEFT KNEE.

25 AND THEN WE ALSO NOTED SHE'S GOT SOME BRUISING THAT

255
1 ARE MORE OF A BROWN COLOR. YOU HAVE SEEN A BRUISE THAT
2 TURNS BROWN, SO IT MIGHT BE A LITTLE BIT OLDER ON HER FEET
3 HERE LOOKING AT THE BACK HEEL AREA OF HER FEET.

4 AND THEN WHAT YOU'RE READING HERE THAT WE DID NOTE
5 THAT HER FEET WERE BLOOD STAINED. THERE WAS BLOOD ON HER
6 FEET.

7 Q IS THAT -- OTHER THAN THE HEAD AREA, DOES THAT
8 CONCLUDE YOUR SIGNIFICANT FINDINGS ON THE -- FROM THE
9 EXTERNAL EXAMINATION?

10 A I WANT TO MAKE SURE THAT I DID COVER THIS AREA OF
11 CONTUSION HERE ON THE LEFT UPPER ARM. WANT TO MAKE SURE I
12 DID THAT. AND WHAT I -- YOU CANNOT SEE VERY WELL ON THIS
13 DIAGRAM IS THAT WE DID DO A SEXUAL ASSAULT EXAMINATION.

14 ANY TIME YOU HAVE AN INDIVIDUAL, MALE OR FEMALE, THAT
15 IS BOUND AND HAS SIGNIFICANT TRAUMA, WE WILL PERFORM A
16 SEXUAL ASSAULT EXAMINATION. AND SO WE LOOKED AT HER ANAL
17 AREA AND AT HER VAGINA AREA AND WE NOTED THAT SHE HAD AN,
18 IT LOOKED -- THERE WAS A PURPLE COLOR BRUISE AREA ON THE
19 RIGHT ASPECT OF HER LABIA OR THE LIPS OF HER BOTTOM ON THE
20 OUTSIDE OF HER VAGINA, AND SHE ALSO HAD AN ABRASION OR
21 SCRATCH ON THE LEFT SIDE, KIND OF ON THE OUTSIDE OF THE
22 LABIA WHERE THE HAIR WOULD BE, SHE HAD AN ABRASION THERE.

23 WE TOOK SOME SWABS AND WE ALSO MADE SOME SLIDES
24 LOOKING FOR SPERM, IF THERE WOULD BE ANY. BUT WE DID NOTE
25 THERE WERE TWO AREAS OF TRAUMA TO HER VAGINAL AREA, HER

1 LABIA.

2 Q WAS ANY SPERM DETECTED IN THE SLIDES THAT YOU
3 ANALYZED?

4 A NO.

5 Q LET ME -- ANYTHING -- ANYTHING ELSE SIGNIFICANT IN
6 THE COURSE OF THE EXTERNAL EXAMINATION?

7 A I THINK I HAVE COVERED ALL OF THE ABRASIONS AND THE
8 CONTUSIONS.

9 Q LET ME TAKE YOU TO STATE'S EXHIBIT NUMBER 62 WHICH IS
10 THE HEAD AREA OF LAURA LING OR DIAGRAM OF THE HEAD AREA OF
11 LAURA LING. AND IF YOU WOULD, POINT OUT ANY SIGNIFICANT
12 FINDINGS THAT YOU HAVE REACHED AS A RESULT OF YOUR
13 EXAMINATION OF THE HEAD AREA.

14 A OKAY. THIS IS THE HEAD IN THE FRONT AND THEN IN THE
15 BACK OF THE HEAD. THEN WE'VE GOT THE SKULL, IF THERE WERE
16 ANY FINDINGS ON THE SKULL, THE BONE ON THE FRONT AND THE
17 BACK.

18 Q AND THIS WOULD BE THE -- THE SKULL AREA FINDINGS
19 WOULD BE AS A RESULT OF AN -- A MORE SURGICAL EXAMINATION
20 OR AN INTERNAL EXAMINATION; CORRECT?

21 A THE INTERNAL EXAMINATION AS WELL AS WHEN YOU'RE
22 LOOKING AT THIS PICTURE YOU CAN'T LOOK AT THE GUMS AROUND
23 THE TEETH BECAUSE IT'S JUST NOT DRAWN HERE. AND SO WE
24 HAVE MADE SOME MARKINGS HERE THAT SHE ACTUALLY HAS SOME
25 TEARS IN HER MOUTH AROUND HER TEETH, THE BRUISING THERE,

1 SO THAT WAS JUST TO DEPICT THAT IT'S NOT ONLY ON THE
2 OUTSIDE, BUT ALSO ONCE YOU LOOK IN HER MOUTH, YOU SEE SOME
3 MORE TRAUMA.

4 Q PLEASE POINT OUT THE SIGNIFICANT FINDINGS ON THE --
5 ON THE -- DRAW YOU TO THE HEAD AREA -- NOT THE SKULL AREA,
6 BUT THE HEAD AREA HERE, THE FRONT OF THE HEAD.

7 A OKAY. JUST STARTING. AGAIN, AS WE MOVE FROM TOP TO
8 BOTTOM, SHE'S GOT A LARGE AREA OF BRUISING ON HER RIGHT
9 FOREHEAD. SO THIS WAS ALMOST 2 INCHES IN GREATEST
10 DIMENSION OF A PURPLE RED BRUISE ON THE RIGHT FOREHEAD.

11 SHE ALSO HAD RIGHT HERE -- THIS LINE REPRESENTS
12 EITHER AN INCISED WOUND FROM A KNIFE OR A SPLIT IN THE
13 SKIN FROM BEING HIT, FROM TRAUMA. AND SO WE HAVE GOT OVER
14 HALF AN INCH SPLIT RIGHT HERE ON HER LEFT FOREHEAD.

15 WE HAVE GOT LOOKING AGAIN AT HER RIGHT -- WHEN WE --
16 HEAD PROPPED DOWN, SHE'S GOT A BRUISE UNDER HER EYE LIKE A
17 BLACK EYE, BECAUSE SHE'S GOT THIS AREA OF BRUISING ON THE
18 EYE.

19 WE SEE ON THE NOSE -- THIS IS THE BONE OF THE NOSE,
20 THE BRIDGE OF THE NOSE RIGHT HERE, THE HARD PART OF YOUR
21 NOSE. SHE HAS GOT AGAIN A CUT OR A LACERATION THAT
22 EXTENDS ALL THE WAY DOWN TO THE BONE OF HER NOSE AND
23 BENEATH THAT HER NOSE IS BROKEN. THE BONE IS BROKEN.

24 WHAT WE'RE DRAWING HERE ON THE SIDE OF THE NOSE, THIS
25 LINE, THE LEFT SIDE OF THE NOSE IS A 1 INCH ABRASION OR A

1 DEEP SCRATCH THAT SCRATCHED OFF THE SKIN ON THE LEFT SIDE
2 OF THE NOSE.

3 THE LEFT UPPER LIP HAS ANOTHER ABRASION. AND THE
4 LEFT LOWER LIP HAS AN ABRASION OR SCRATCHING OFF OF THE
5 SKIN. THE CHIN HAS A TRIANGULAR SHAPED ABRASION THAT'S
6 .6 INCHES, SO IT'S OVER HALF AN INCH ON THE FRONT OF THE
7 CHIN. AND THEN ON THE TIP OF THE CHIN WE HAVE A LARGE
8 AREA OF CONTUSION.

9 ON THE TOP LIP ON THE RIGHT SHE HAS A TEAR, A
10 LACERATION OF THE RIGHT UPPER LIP THAT GOES INTO THE
11 TEARING THE TISSUES INSIDE THE MOUTH. SO IF YOU RUN YOUR
12 TONGUE ALONG YOUR UPPER LIP ON THE INSIDE AND YOU FEEL
13 THAT LITTLE TISSUE IN THE MIDDLE, THAT'S TORN. AND SO WE
14 HAVE GOT A TEAR OF THE LIP ON THE OUTSIDE AS WELL GOING
15 INTO THE MOUTH.

16 WE HAVE GOT A SMALLER AREA OF ABRASION HERE. WE HAVE
17 GOT SOME MORE ABRASIONS HERE ON THE OUTSIDE OF THE CHIN.
18 WE HAVE GOT A LARGER AREA OF ABRASION ON THE RIGHT ASPECT
19 OF THE JAW.

20 AND MOVING IN WE HAVE GOT CONTUSIONS THAT ARE NOTED
21 WITHIN -- ON THE INNER ASPECT, INSIDE OF THE LIP AREA IN
22 THE MIDDLE AND SOME ON THE RIGHT, AND THEN A LARGE AREA OF
23 CONTUSION THAT'S JUST INSIDE THE LIP AREA AROUND THE GUMS
24 OF THE TEETH.

25 LOOKING INSIDE THE MOUTH ON THE RIGHT SIDE SHE'S GOT

1 A LARGE TEAR WHICH WOULD BE IN THIS AREA RIGHT HERE, SO
2 IT'S ACTUALLY NOT JUST A BRUISE BUT A TEAR OF THE INSIDE
3 TISSUE OF THE MOUTH.

4 AND THEN SHE HAS THREE ADDITIONAL TEARS INSIDE THE
5 MOUTH WHICH COULD BE ASSOCIATED WITH HER TEETH, SOMETHING
6 HITTING HER MOUTH AND SO HER OWN TEETH CAN CUT INTO THE
7 TISSUE. OKAY. THAT'S IT.

8 Q NOW DR. COLLINS, TAKING YOU TO STATE'S EXHIBIT NUMBER
9 61, DESCRIBE THAT VANTAGE POINT AND ANY SIGNIFICANT
10 FINDINGS YOU MADE.

11 A WHAT WE HAVE HERE ARE THREE CUTS TO THE NECK OR SHARP
12 FORCE INJURIES, STABBINGS OR INCISED WOUNDS. AND WE SAY
13 THEY'RE INCISED, AND ALL THAT MEANS IS THAT THE LENGTH OF
14 THE WOUND AS IT GOES ACROSS THE BODY IS LONGER THAN THE
15 DEPTH OF THE WOUND.

16 THAT'S THE ONLY DIFFERENCE BETWEEN AN INCISED AND A
17 STAB WOUND. THEY ARE BOTH FROM A KNIFE OR SHARP
18 INSTRUMENT.

19 THIS ONE RIGHT HERE, THIS LONG ONE, GOES ACROSS THE
20 NECK AND IS 3.6 INCHES. AND UNDERNEATH THIS STAB WOUND IS
21 HEMORRHAGE IN THE MUSCLE, HEMORRHAGE IN THE AREA WHERE
22 YOU -- YOUR TRACHEA THAT YOU CAN FEEL WITH YOUR OWN HAND.
23 THERE'S ALSO FRACTURES THAT ARE IN THIS AREA.

24 WE HAVE ANOTHER INCISED WOUND, THAT'S 2.4 INCHES.
25 AND THIS IS OVER HALF AN INCH DEEP. AND THEN WE HAVE A

1 SMALLER STAB WOUND OR INTO THE SKIN WHICH IS LESS THAN AN
2 INCH LONG.

3 AND THIS WOUND, THE SMALLER ONE, PENETRATES, THOUGH,
4 INTO THE MUSCLES OF THE NECK. THESE MUSCLES RIGHT HERE
5 THAT ALLOW YOU TO TURN YOUR NECK AND MOVE YOUR NECK, SO
6 THIS -- THE STAB GOES THROUGH THE SKIN AND INTO THE
7 MUSCLE.

8 AND RIGHT IN THIS AREA, RIGHT IN HERE UNDERNEATH THE
9 SKIN WAS A LARGE AREA OF BRUISING OF THE COLLAR BONE.

10 Q THE -- THE INCISED WOUND TO THE NECK -- AND THERE
11 WERE SEVERAL I NOTE.

12 A YES.

13 Q BUT ONE WAS DEEPER THAN OTHERS. IS THAT FAIR TO SAY?

14 A YES.

15 Q AND DID IT LEAVE ANY PART OF THE -- COULD YOU SEE THE
16 THORAX -- OR NO, CORRECTION -- COULD YOU SEE THE TRACHEA?

17 A YOU COULD SEE THROUGH THE TISSUE BECAUSE THERE'S NOT
18 MUCH SPACE BETWEEN THE OUTSIDE OF YOUR SKIN AND YOUR VOICE
19 BOX AND YOUR TRACHEA. AND SO WE DID -- THIS WENT ALL THE
20 WAY THROUGH THE SKIN AND THE UNDERLYING SOFT TISSUE.

21 WHAT WE SAW MORE IMPORTANTLY BENEATH THIS AREA
22 BESIDES THESE THREE STABS OR INCISED WOUNDS AND THE DAMAGE
23 TO THE MUSCLE UNDERNEATH IT AS THE BLADE WENT THROUGH THE
24 MUSCLE WERE FRACTURES OF THE VOICE BOX AS WELL AS AREAS OF
25 HEMORRHAGE, AND THAT WAS SECONDARY TO STRANGULATION.

1 SO WE HAD THE INCISED WOUNDS AS WELL AS A CRUSHING
2 INJURY SECONDARY TO THE STRANGULATION. AND THAT
3 HEMORRHAGE WENT NOT ONLY THROUGH THE VOICE BOX AREA
4 FRACTURING IT, WHEN WE REMOVED ALL OF THESE STRUCTURES AND
5 THE ONLY THING WE HAD LEFT WAS LOOKING AT THE BACK BONE
6 UNDERNEATH HERE, SO WE'RE TALKING IN THIS AREA, THE BACK
7 BONE, YOUR SPINAL COLUMN, WAS HEMORRHAGED EVEN WAY BACK
8 THERE.

9 SO THERE WAS HEMORRHAGE ALL THE WAY FROM THE FRONT OF
10 HER NECK TO THE BACK OF HER NECK.

11 Q DR. COLLINS, THANK YOU. YOU CAN TAKE YOUR SEAT ON
12 THE STAND.

13 A (COMPLIED.)

14 Q DR. COLLINS, WHAT WAS YOUR FINAL AUTOPSY DIAGNOSIS?

15 A AS THE CAUSE OF DEATH?

16 Q WELL, THE DIAGNOSIS, REALLY THE SUMMARY OF THE
17 INJURIES TO THE VICTIM.

18 A THE VICTIM HAD SUSTAINED MULTIPLE BLUNT FORCE TRAUMA
19 INITIALLY AS FAR AS INITIALLY WHAT I'M GOING TO DESCRIBE.
20 THAT WOULD BE THE BRUISING OVER THE BODY, THE ABRASIONS
21 AND TEARING OF THE SKIN AS WELL AS MICROSCOPICALLY WE EVEN
22 SAW SOME BLEEDING OVER THE BRAIN.

23 SHE HAD A LARGE AREA OF BRUISING TO THE BACK OF THE
24 HEAD AND TO THE FRONT KIND OF RIGHT OF THE HEAD ON HER
25 SCALP THAT YOU COULD NOT SEE ON THE OUTSIDE BECAUSE SHE

1 HAD HER HAIR. AND THEREFORE, IT WAS NOT ON THE DIAGRAM
2 THERE. SO SHE HAD BLUNT TRAUMA TO THE HEAD.

3 ALSO WHEN WE EXAMINED HER EYES, SHE HAD BLEEDING ON
4 BOTH SIDES OF HER EYES ON THE WHITES OF HER EYES AND ON
5 HER EYELIDS. AND WHAT THAT HEMORRHAGE MEANS IS IT GOES
6 WITH STRANGULATION.

7 IT GOES WITH THE FRACTURES IN HER NECK AND THE
8 HEMORRHAGES IN HER NECK, BECAUSE AS SOMEONE SQUEEZES THE
9 SIDE OF YOUR NECK AND EVERYONE CAN -- YOU CAN FEEL YOUR
10 PULSE THERE. AS YOU SQUEEZE THE SIDE OF YOUR NECK, YOU'RE
11 CLOSING OFF SOME OF THE VESSELS AND THE BLOOD IS UNABLE TO
12 RETURN TO THE HEART, AND IT BURSTS THE SMALL BLOOD VESSELS
13 IN YOUR EYE. THAT ONLY HAPPENS IF YOU'RE ALIVE.

14 IF YOU STRANGLE AN INDIVIDUAL OR NECK AFTER THEY HAVE
15 DIED, YOU DO NOT GET THIS FINDING.

16 Q DR. COLLINS, WITHIN A REASONABLE DEGREE OF MEDICAL
17 CERTAINTY, WHAT WAS THE CAUSE OF DEATH IN THIS CASE?

18 A THE CAUSE OF DEATH WAS ASPHYXIA. AND WHAT THAT WORD
19 MEANS IS YOU CUT OFF SOMEONE'S OXYGEN AND OR YOU CUT OFF
20 THEIR BLOOD SUPPLY TO THE BRAIN. SO IT WAS ASPHYXIA DUE
21 TO STRANGULATION, AND WE HAD CONTRIBUTORY FACTORS THAT
22 PLAYED INTO THIS, WERE INCISED WOUNDS, THOSE WERE THE
23 SHARP FORCE WOUNDS THAT I MENTIONED TO THE NECK, AND BLUNT
24 FORCE TRAUMA TO THE HEAD.

25 Q AND WHAT WAS THE MANNER OF DEATH, DOCTOR?

1 A HOMICIDE.

2 Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE COUNSEL MAY
3 HAVE.

4 THE COURT: ANY QUESTIONS OF THE WITNESS?

5 MR. KELLY: NONE.

6 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
7 EXCUSED FROM THE STATE?

8 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

9 THE COURT: FROM THE DEFENSE?

10 MR. KELLY: NO, MA'AM.

11 THE COURT: DOCTOR, YOU'RE EXCUSED.

12 THE WITNESS: THANK YOU.

13 THE COURT: YOU'RE WELCOME.

14 (WITNESS LEFT THE STAND.)

15 THE COURT: MADAM FORELADY, LADIES AND
16 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
17 BREAK IN TESTIMONY TO TAKE OUR LUNCHEON RECESS. YOUR
18 LUNCH HAS ALREADY ARRIVED AND IT IS PREPARED FOR YOU
19 IN THE JURY ROOM.

20 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. WE
21 WILL SECURE THEM DURING THE RECESS AND PROTECT YOUR
22 PRIVACY. AND DURING THE BREAK PLEASE DO NOT DISCUSS
23 THE CASE IN ANY MANNER.

24 I HOPE THAT YOU ALL ENJOY YOUR LUNCH AND SHORTLY
25 WE WILL -- EITHER I WILL SEND IN THE CLERK WITH -- I

1 ANTICIPATE THAT WE WILL RESUME AFTER WE COMPLETED
2 EATING LUNCH, HAD AN OPPORTUNITY TO GET SOME AIR;
3 OKAY? IF YOU WOULD GO WITH THE BAILIFFS.

4 (JURY LEFT THE COURTROOM AT 12:48 PM.)

5 THE COURT: I ANTICIPATE THAT IT WILL PROBABLY
6 TAKE THE JURY 30 OR 40 MINUTES TO DO WHAT THEY NEED
7 TO DO. I ASSUME THAT WAS THE STATE'S LAST WITNESS.
8 IS THAT CORRECT?

9 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.

10 THE COURT: AT LEAST ON DIRECT. WHAT I WILL DO
11 IS I WILL ALLOW YOU TO REST IN THE PRESENCE OF THE
12 JURY. HAVE YOU ALL DETERMINED WHETHER YOU WILL HAVE
13 ANY WITNESSES AVAILABLE THIS AFTERNOON?

14 MR. DIGGS: YOUR HONOR, WE WILL. WE HAVE BEEN
15 ABLE TO CONTACT DOCTORS ALBINIAK AND THRASHER. THEY
16 WILL BE HERE, ALTHOUGH--

17 THE COURT: WHY DON'T YOU JUST LET ME KNOW WHAT
18 SORT OF A TIMEFRAME YOU'RE LOOKING AT AND WE'LL SEE
19 EXACTLY WHAT WE'RE DEALING WITH, AND I MAY EVEN ALLOW
20 THE JURY TO GO BACK TO THE HOTEL MAYBE AND REFRESH
21 THEMSELVES IF THEY DESIRE TO DO THAT, BUT WE'LL WORK
22 IT OUT.

23 MR. DIGGS: THANK YOU, YOUR HONOR.

24 THE COURT: GIVE ME A, YOU KNOW, CHECK IN MAYBE
25 THE NEXT FIVE OR 10 MINUTES TO LET ME KNOW EXACTLY

1 WHAT KIND OF TIMELINE I'M LOOKING AT AND THEN WE'LL
2 MAKE A DECISION. OKAY.

3 MR. DIGGS: THANK YOU, YOUR HONOR.

4 THE COURT: OKAY. WE'LL BE AT EASE.

5 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

6 THE COURT: IT IS MY UNDERSTANDING THE STATE
7 INTENDS TO REST AT THIS TIME?

8 MR. HUMPHRIES: THERE IS ONE OTHER MATTER. AND
9 MR. HEMBREE WILL BE HERE...

10 THE COURT: I'M SORRY? I DIDN'T HEAR YOU.

11 MR. HUMPHRIES: MR. HEMBREE WILL BE HERE IN JUST
12 A MOMENT. WE INTEND TO PUBLISH THE 911 TAPE.

13 THE COURT: WHILE WE ARE WAITING, I WANTED TO
14 MAKE SURE THAT WE HAD COMPLETELY CLEARED UP THE
15 RECORD REGARDING JURORS THAT WERE NO-SHOWS. AND I
16 WANTED TO MAKE SURE THAT WE STILL DID NOT HAVE ANY
17 OUTSTANDING.

18 THE CLERK: YOUR HONOR, WE HAD THEM ALL COME IN.

19 THE COURT: WE HAVE HAD THEM ALL?

20 THE CLERK: YES.

21 (WHEREUPON THE COURT WAS CONFERRING WITH THE
22 CLERK.)

23 (WHEREUPON THERE WAS A PAUSE.)

24 THE COURT: DOES EVERYONE'S RECORDS INDICATE
25 THAT WE LOCATED ALL OF THE JURORS WHO DID NOT REPORT

1 AND THAT THAT WAS DONE ACCURATELY?

2 MR. DIGGS: PARDON ME?

3 THE COURT: I SAID, DOES EVERYONE'S NOTES
4 REFLECT THAT WE LOCATED ALL OF THE JURORS WHO DID NOT
5 REPORT INITIALLY TO THEIR SUMMONS?

6 MR. DIGGS: YES.

7 THE COURT: OKAY. MINE DO. I JUST WANTED TO
8 MAKE SURE BECAUSE WE HAD NOT PLACED THAT ON THE
9 RECORD AND I WANTED TO MAKE SURE THAT IT WAS CLEAR
10 FOR THE PURPOSES OF THE RECORD WE HAD LOCATED EACH
11 JUROR WHO HAD RECEIVED A SUMMONS AND HAD NOT SHOWED.

12 OKAY. NOW AS I UNDERSTAND IT, THE NEXT BIT OF
13 TESTIMONY THE STATE WOULD SEEK TO INTRODUCE WOULD BE
14 THAT OF THE 911 TAPE. IS THAT CORRECT?

15 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR.
16 THAT'S STATE'S EXHIBIT EIGHT IN EVIDENCE.

17 THE COURT: OKAY. AND I WOULD ASSUME THERE IS
18 NO EXCEPTION TO PUBLICATION OF THAT 911 TAPE.

19 MR. DIGGS: NO, YOUR HONOR.

20 THE COURT: NOW, JUST AS A MATTER OF COURSE, AND
21 I SAY THIS JUST AS A PRACTICAL MATTER, I KNOW THAT
22 THIS TAPE IS VERY EMOTIONAL ESPECIALLY TO THOSE
23 MEMBERS OF THE GALLERY WHO ARE VERY MUCH INVESTED AND
24 ATTACHED TO THIS CASE, AND THE COURT OF COURSE IS
25 MOST CONCERNED WITH THE DECORUM OF THIS COURTROOM.

1 I KNOW, AGAIN, THAT IT IS VERY EMOTIONAL, SO
2 I -- AGAIN, I DO NOT SAY THIS INSENSITIVELY, BUT I
3 FEEL IT'S NECESSARY THAT I DO SAY IT BECAUSE AGAIN,
4 MY MAIN CONCERN IS THE DECORUM OF THE COURTROOM AND
5 MAKING SURE THAT THE JURORS ARE NOT INFLUENCED IN ANY
6 WAY BY ANYTHING THAT IS OUTSIDE THE EVIDENCE IN THIS
7 CASE.

8 SO IF ANYONE FEELS THAT THEY WOULD NOT BE ABLE
9 TO HANDLE HEARING THE 911 TAPE, IF ANYONE FEELS EVEN
10 REMOTELY THAT THEY WILL BECOME EMOTIONAL, I WOULD
11 SUGGEST THAT YOU REMOVE YOURSELF FROM THE COURTROOM
12 AT THIS TIME AND RETURN AFTER THE 911 TAPE IS
13 COMPLETED PLAYING BECAUSE I DO NOT WANT TO HAVE A --
14 MOVEMENT IN THE COURTROOM DURING THE PRESENTATION OF
15 EVIDENCE.

16 SO IF YOU FEEL THAT YOU'RE NOT GOING TO BE
17 ABLE -- THAT EMOTIONALLY IT IS TOO MUCH FOR YOU, I
18 WOULD SUGGEST THAT YOU SEARCH -- I CAN'T ANSWER THAT
19 QUESTION FOR YOU.

20 I WOULD SUGGEST THAT YOU SEARCH YOURSELF AND
21 DECIDE WHETHER IT IS SOMETHING THAT YOU REALLY WANT
22 TO BE PRESENT FOR. OKAY. AND I WOULD ASK THAT YOU
23 DO IT BEFORE I BRING IN THE JURY, WHICH WILL BE
24 MOMENTARILY.

25 (WHEREUPON THERE WAS A PAUSE.)

1 THE COURT: ALL RIGHT. PLEASE BRING IN THE
2 JURY.

3 (JURY ENTERED THE COURTROOM AT 3:14 PM.)

4 THE COURT: YOU MAY BE SEATED. LADIES AND
5 GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR EXTENDED
6 RECESS. WE WILL NOW RESUME WITH THE TRIAL OF THE
7 CASE. MR. HEMBREE, YOU MAY PROCEED.

8 MR. HEMBREE: THANK YOU. YOUR HONOR, AT THIS
9 TIME THE STATE REQUESTS PERMISSION TO PUBLISH TO THE
10 JURY STATE'S EXHIBIT EIGHT THAT IS IN EVIDENCE. THIS
11 IS THE 911 CALL MADE FROM [REDACTED] LING TO THE
12 GEORGETOWN COUNTY SHERIFF'S OFFICE.

13 THE COURT: YOU MAY PROCEED.

14 MR. HEMBREE: THANK YOU.

15 THE COURT: YOU'RE WELCOME.

16 (STATE'S EXHIBIT 8 WAS PLAYED.)

17 MR. HEMBREE: YOUR HONOR, IN THE CASE OF STATE
18 VERSUS STEPHEN STANKO, INDICTMENT 2005-GS-22-918 IN
19 THE GUILT PHASE, THE STATE RESTS.

20 THE COURT: MADAM FORELADY, LADIES AND
21 GENTLEMEN, THE STATE HAS NOW RESTED THEIR CASE.
22 THERE ARE SOME MATTERS OF LAW THAT I NEED TO TAKE UP
23 WITH THEM WITH THE -- WITH THE PARTIES. IT SHOULD
24 TAKE MAYBE ABOUT FIVE MINUTES.

25 DURING THIS BREAK PLEASE LEAVE YOUR NOTE PADS IN

1 YOUR SEATS AND PLEASE HAVE ABSOLUTELY NO DISCUSSION
2 ABOUT THE CASE. WE APPRECIATE YOUR PATIENCE.

3 (JURY LEFT THE COURTROOM AT 3:33 PM.)

4 THE COURT: YOU MAY BE SEATED. ARE THERE ANY
5 MOTIONS?

6 MR. DIGGS: YOUR HONOR, THE DEFENSE AS A MATTER
7 OF PROCEDURE WOULD MAKE THE MOTION FOR DIRECTED
8 VERDICT INITIALLY ON THE TWO KIDNAPPING COUNTS ON THE
9 GROUNDS THAT THERE IS A LACK OF EVIDENCE TO SHOW THAT
10 THERE IS ANY INDEPENDENT ACTION BY THE ACCUSED IN
11 THIS CASE TO CONSTITUTE A SEPARATE COUNT OF
12 KIDNAPPING EITHER WITH RESPECT TO MS. LING OR HER
13 DAUGHTER.

14 WHAT WE HAVE IS EVIDENCE THAT WOULD ESTABLISH
15 THE OFFENSE OF HOMICIDE OF SOME DEGREE, CRIMINAL--

16 THE COURT: SORRY. REPEAT THAT AGAIN FOR ME. I
17 DIDN'T HEAR YOU.

18 MR. DIGGS: WITH RESPECT TO KIDNAPPING.

19 THE COURT: NO. I HEARD THE KIDNAPPING. WHAT
20 YOU SAID, THE LAST--

21 MR. DIGGS: WHAT WE HAVE IS EVIDENCE THAT GOES
22 TO A HOMICIDE, CRIMINAL HOMICIDE. AND OF COURSE,
23 KIDNAPPING IS NOT AN INCLUDED -- A LESSER INCLUDED
24 OFFENSE WITHIN THAT -- THE CRIMINAL HOMICIDE EITHER
25 WITH RESPECT TO THE MURDER OR THE ASSAULT AND BATTERY

1 WITH INTENT TO KILL.

2 AND WE DON'T REALLY HAVE ANY EVIDENCE HERE
3 THAT'S SEPARATE AND APART FROM THOSE ALLEGED OFFENSES
4 THAT WOULD CONSTITUTE A SEPARATE KIDNAPPING WITH
5 RESPECT TO AN INDIVIDUAL.

6 FOR EXAMPLE, MS. LING WAS WITHIN HER OWN
7 CONFINES OF HER OWN ROOM WHERE SHE SUFFERED AN
8 ASSAULT. AND OTHER THAN THE EVIDENCE WHICH
9 CONSTITUTES THE ASSAULT AND THEN THE RESULTING DEATH,
10 THERE WOULDN'T BE ANY ADDITIONAL EVIDENCE IN THIS
11 RECORD THAT WOULD SHOW THERE WAS A KIDNAPPING APART
12 FROM THAT.

13 AND SO WITH RESPECT TO THAT PARTICULAR COUNT,
14 WOULD BE COUNT FIVE OF THE INDICTMENT, WE WOULD ASK
15 FOR A DIRECTED VERDICT ON THAT COUNT ON THOSE
16 GROUNDS.

17 AND YOUR HONOR, WITH RESPECT TO THE KIDNAPPING
18 COUNT, THE COUNT THAT'S BEEN ALLEGED WITH RESPECT TO
19 [REDACTED], THERE IS REALLY NO EVIDENCE APART FROM THE
20 ASSAULT AGAINST HER. IN OTHER WORDS, BASED ON HER
21 TESTIMONY, SHE'S BEING TAKEN FROM ONE ROOM TO THE
22 NEXT AS PART OF THE ASSAULT.

23 THE COURT: WELL, TECHNICALLY THE STATE COULD
24 ARGUE THAT THEY ALL WERE SEPARATE ACTS, THAT THE
25 CUTTING OF THE NECK IN AND OF ITSELF WOULD CONSTITUTE

1 THE ELEMENTS OF ASSAULT AND BATTERY WITH INTENT TO
2 KILL AND THAT THE BINDING, WHICH THEY ONLY HAVE TO
3 PROVE ONE OF THE ELEMENTS UNDER THE STATUTE, THEY
4 DON'T HAVE TO PROVE THEM ALL.

5 IN OTHER WORDS, I'M REFERRING TO CONFINING,
6 INVEIGLING, OR DECOYING, OR ABDUCTING. THEY ONLY --
7 THEY DON'T HAVE TO PROVE THEM ALL. THEY ONLY HAVE TO
8 PROVE ONE INCIDENT OF EACH AS I UNDERSTAND THE CASE
9 LAW.

10 I'M ASSUMING THAT'S THEIR ARGUMENT. I DON'T
11 WANT TO STEAL THEIR THUNDER BECAUSE I'M GOING TO GIVE
12 THEM AN OPPORTUNITY -- AND I DIDN'T MEAN TO... OF
13 COURSE, IT'S THUNDERING OUTSIDE, AND -- BUT IN ANY
14 EVENT, I'M GOING TO ALLOW THEM TO FULLY ARGUE THEIR
15 POINT, BUT I WILL LET THEM EXPLAIN THAT, THE
16 APPLICABLE RULES.

17 MR. DIGGS: YOUR HONOR, WITH RESPECT TO THE
18 OTHER COUNTS, I UNDERSTAND WHAT THE LAW IS WITH
19 RESPECT TO INSANITY AND SANITY AND THAT WHOLE AREA.
20 BUT THERE HASN'T BEEN EVIDENCE PRESENTED IN THIS CASE
21 WHICH WOULD SHOW THAT THIS WAS AN ACT COMMITTED BY A
22 SANE PERSON. I UNDERSTAND UNDER THE LAW AND IN SOUTH
23 CAROLINA THERE'S A PRESUMPTION OF SANITY.

24 THE COURT: CORRECT.

25 MR. DIGGS: BUT ONCE EVIDENCE COMES IN OF

1 INSANITY, THAT PRESUMPTION DISAPPEARS. AND THE
2 STATE'S NOT ENTITLED TO RELY MERELY ON THAT
3 PRESUMPTION.

4 THE COURT: HAS THERE BEEN ANY EVIDENCE
5 PRESENTED IN THEIR CASE IN CHIEF OF INSANITY?

6 MR. DIGGS: YOUR HONOR, THE INCIDENTS ALLEGED
7 AND DISCUSSED IN THE EVIDENCE IN THIS CASE ARE ONLY
8 EXPLAINED IN A RATIONAL, REASONABLE SENSE BY AN ACT
9 OF INSANITY.

10 THE COURT: WELL, I THINK THAT--

11 MR. DIGGS: AND THE INFERENCES -- WITH ALL DUE
12 RESPECT, THE INFERENCES WOULD BE FLOWING FROM THAT
13 SET OF CIRCUMSTANCES WOULD DISSIPATE THE PRESUMPTION
14 OF SANITY THAT -- OTHERWISE BE THERE. AND WE WOULD
15 RELY ON THAT MILAN HERNANDEZ CASE--

16 THE COURT: WELL, OF COURSE--

17 MR. DIGGS: -- FROM THE EARLY 80'S.

18 THE COURT: THE LAW IS VERY CLEAR. THERE IS A
19 PRESUMPTION OF SANITY. BUT ONCE THERE IS ANY
20 EVIDENCE INTRODUCED INTO THE RECORD OF INSANITY, THE
21 STATE CANNOT RELY ON THAT. THEY HAVE TO THEN PROVE
22 IN THEIR CASE IN CHIEF THAT HE WAS SANE.

23 MR. DIGGS: CORRECT.

24 THE COURT: BUT I'M NOT CERTAIN THAT THERE HAS
25 BEEN ANY EVIDENCE IN THEIR CASE IN CHIEF THAT HE WAS

1 INSANE.

2 MR. DIGGS: YOUR HONOR, I UNDERSTAND YOUR
3 ARGUMENT.

4 THE COURT: WELL, I'M -- NOT AN ARGUMENT. I
5 JUST--

6 MR. DIGGS: I MEAN, I UNDERSTAND YOUR POSITION,
7 WHAT YOU'RE SAYING.

8 THE COURT: WELL ACTUALLY, YOU COULD RELY ON
9 [REDACTED] LING'S TESTIMONY REGARDING THAT HE TO SOME
10 EXTENT DID HAVE A CONSCIENCE WHICH WOULD BE A DIRECT
11 CONTRAVENTION OF YOUR ARGUMENT AND WOULD IN FACT HAVE
12 BEEN -- AS WELL AS SOME OTHER FACTORS IN HER
13 TESTIMONY THAT WOULD LEAD TO PREMEDITATION AND OTHER
14 THINGS.

15 BUT BASICALLY SHE -- IF I RECALL HER
16 TESTIMONY -- SAID THAT HE HATED TO SEE THEM CRY
17 BECAUSE IT MADE HIM FEEL BAD WHICH WOULD INDICATE
18 SOME CONSCIENCE AND SOME ABILITY TO KNOW RIGHT FROM
19 WRONG.

20 MR. DIGGS: YOUR HONOR, WITH ALL DUE RESPECT,
21 THAT IS TRUE. THAT'S A CORRECT CHARACTERIZATION OF
22 THE EVIDENCE. BUT IT IS WITH RESPECT TO OTHER
23 AREAS -- OTHER PERIOD OF TIME, YOU KNOW, PRIOR TO THE
24 TIME WHEN THESE OFFENSES OCCURRED. AT THE TIME, HER
25 TESTIMONY WAS SHE -- SHE CRIED HOPING THAT--

1 THE COURT: WELL, TO MANIPULATE HIM TO GET HER
2 CELLPHONE BACK.

3 MR. DIGGS: PARDON?

4 THE COURT: TO GET HER CELLPHONE BACK IS WHY SHE
5 CRIED ORIGINALLY, AND THEN SHE HAD LATER ON DURING
6 THE EVENTS SHE CRIED HOPING IT WOULD TERMINATE THE
7 OFFENSE.

8 MR. DIGGS: CORRECT. BUT HER TESTIMONY IS IT
9 DID NOT. AND SO CLEARLY HE'S DIFFERENT -- HIS
10 EMOTIONAL STATE, HIS STATE OF MIND, THE STEPHEN
11 STANKO THAT SHE KNEW PRIOR TO THAT NIGHT WAS NOT THE
12 ONE WHO WAS THERE ON THAT OCCASION COMMITTING THIS
13 ASSAULT.

14 AND SO, I MEAN, THE ARGUMENT IS THERE THAT WOULD
15 SUPPORT, I WOULD SUBMIT, THE CONCLUSION -- THE ONLY
16 REASONABLE INFERENCE IS THAT IT IS AN INSANE ACT. IT
17 WAS AN ACT DONE BY A PERSON WHO WAS NOT THE PERSON
18 THAT SHE ORDINARILY KNEW AND HAD COME TO KNOW FOR
19 FOUR MONTHS, AND THERE'S NOT REALLY ANY EVIDENCE IN
20 THE RECORD THAT WOULD SHOW THAT -- THAT MR. STANKO
21 WAS -- HAD THE CAPACITY AT THAT MOMENT TO DISTINGUISH
22 BETWEEN RIGHT AND WRONG AT THE TIME THE OFFENSES WERE
23 COMMITTED. SO THAT WOULD BE OUR ARGUMENT.

24 THE COURT: OKAY.

25 MR. DIGGS: THANK YOU.

1 THE COURT: YOU'RE WELCOME. WOULD THE STATE
2 LIKE TO RESPOND?

3 MR. HUMPHRIES: VERY BRIEFLY, YOUR HONOR.

4 THE COURT: MR. HUMPHRIES, YOU MAY PROCEED.

5 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

6 THE COURT: YOU'RE WELCOME.

7 MR. HUMPHRIES: SPECIFICALLY AS RELATES TO COUNT
8 FOUR AND COUNT FIVE, THOSE COUNTS OF KIDNAPPING, THE
9 LAW IS THAT IF THE KIDNAPPING WAS NOT NECESSARY TO
10 ACCOMPLISH THE OTHER CRIMINAL ACTS ALLEGED, THEN IT
11 STANDS ALONE.

12 IN THIS CASE THE KIDNAPPING WAS NOT NECESSARY IN
13 ORDER TO ACCOMPLISH THE ACT, EITHER A CRIMINAL SEXUAL
14 CONDUCT IN THE FIRST DEGREE OR ASSAULT AND BATTERY
15 WITH INTENT TO KILL AS RELATES TO [REDACTED] LING.
16 THE KIDNAPPING WAS NOT NECESSARY IN ORDER TO
17 ACCOMPLISH THE MURDER OF LAURA LING. THOSE COUNTS
18 STAND ALONE.

19 AND IN TRUTH, YOUR HONOR, THAT IS -- THAT IS A
20 SENTENCING ISSUE AND NOT A DIRECTED VERDICT ISSUE AS
21 TO WHETHER OR NOT THE KIDNAPPING STANDS. THAT MERELY
22 IS AN ISSUE AS TO WHETHER OR NOT YOU CAN PENALIZE,
23 YOU CAN PUNISH SOMEONE FOR A KIDNAPPING AS A
24 STAND-ALONE OFFENSE VERSUS A SUBSTANTIVE OFFENSE.

25 SO IT'S NOT EVEN AN ISSUE OF WHETHER OR NOT THE

1 JURY CAN RETURN A VERDICT ON KIDNAPPING OR NOT. IT'S
2 WHETHER THE COURT CAN LATER PUNISH THE DEFENDANT FOR
3 KIDNAPPING. BUT EVEN IF WE GET TO THAT POINT IT
4 STANDS ALONE BECAUSE IT WAS NOT NECESSARY TO
5 ACCOMPLISH THE OTHER CRIMINAL ACTS.

6 THE COURT: OKAY.

7 MR. HUMPHRIES: AND I SUBMIT TO THE COURT THAT
8 DEFENSE COUNSEL'S MOTION REGARDING INSANITY AT THIS
9 POINT IS SEVERELY PREMATURE. I BELIEVE THAT THERE --
10 THERE IS ABSOLUTELY -- WHEN WE TALK ABOUT REASONABLE
11 INFERENCES, WE HAVE NO CONTEXT BASED ON THE
12 EVIDENCE -- AND OF COURSE, WE'RE SITTING IN THIS ROOM
13 AFTER HAVING HEARD THE PROFFER FROM DR. SACHY, THAT
14 PUTS US IN A DIFFERENT PLACE, STILL DOESN'T GIVE HIM
15 A DIRECTED VERDICT.

16 THE COURT: FOR PURPOSES OF CLARIFYING THE
17 RECORD, LET'S JUST SAY OUT OF AN ABUNDANCE OF
18 CAUTION, WHAT EVIDENCE HAS THE STATE PRESENTED THAT
19 HE WAS SANE BEYOND A REASONABLE DOUBT AT THE TIME THE
20 OFFENSES WERE COMMITTED?

21 LET'S JUST SAY FOR ARGUMENT'S SAKE THAT THE
22 ISSUE OF INSANITY HAS BEEN RAISED IN YOUR CASE IN
23 CHIEF. HOW WOULD YOU BE ABLE TO REBUT THAT AND MEET
24 YOUR BURDEN BEYOND A REASONABLE DOUBT?

25 MR. HUMPHRIES: BE GLAD TO ADDRESS THAT, YOUR

1 HONOR.

2 THE COURT: I THINK IT SHOULD BE FOR THE RECORD.

3 MR. HUMPHRIES: FIRST OF ALL, THIS -- THE --
4 WHAT WE KNOW FROM THE RECORD THUS FAR IS THAT THE
5 MOTHER, LAURA LING, AT THE TIME [REDACTED] LING WAS
6 FIRST ATTACKED HAD ALREADY BEEN ATTACKED AND BOUND.
7 THE PROXIMITY OF THE ROOMS IS EXTREMELY CLOSE WITH
8 VERY THIN WALLS AS THE RECORD INDICATES THROUGH
9 [REDACTED] LING'S TESTIMONY.

10 [REDACTED] LING SLEPT 10 FEET AWAY. NEVER HEARD
11 AN ASSAULT. NEVER HEARD A CONFRONTATION. THE ONLY
12 REASONABLE INFERENCE IN THE STATE'S MIND REGARDING
13 THAT EVIDENCE IS THAT STEPHEN STANKO DELIBERATELY AND
14 PREMEDITATEDLY WAITED UNTIL LAURA LING WENT TO SLEEP
15 IN ORDER TO TAKE ADVANTAGE OF HER TO INCAPACITATE HER
16 AND TO TIE HER UP. IF THERE HAD BEEN SOME OTHER
17 ASSAULTIVE BEHAVIOR, [REDACTED] LING WOULD HAVE HEARD
18 IT.

19 SECOND THING, HE PACKED CLOTHES, HE STOLE ITEMS
20 THAT WOULD AID IN HIS ESCAPE, HE WENT TO THE ATM AND
21 TOOK MONEY TO AID IN HIS ESCAPE, WHICH IS INDICATIVE
22 OF HIS KNOWING THAT HE HAD DONE SOMETHING WRONG,
23 LEGALLY AND MORALLY, AND WAS ATTEMPTING TO FLEE.

24 AND PROBABLY THE MOST CRITICAL WITNESS ON THAT
25 POINT IS MR. GAUMER WHO TESTIFIED THAT AT 9:35 OF THE

1 MORNING THAT LAURA LING HAD BEEN KILLED AND [REDACTED]
2 LING HAD BEEN RAPED, HE CALLED THE LIBRARY, STANKO
3 CALLED THE LIBRARY TO REPORT LAURA LING SICK FOR WORK
4 THAT DAY BASED ON FOOD POISONING SHE HAD CONTRACTED
5 THE NIGHT BEFORE TO FURTHER AID HIS ESCAPE AND TO
6 GIVE HIM A WINDOW OF TIME IN WHICH TO ESCAPE.

7 THE ONLY REASONABLE INFERENCE IS FROM THAT, THAT
8 EVIDENCE, IS THAT HE WAS SANE, THAT HE DID KNOW MORAL
9 AND LEGAL RIGHT FROM MORAL AND LEGAL WRONG AND
10 COMMITTED THOSE ACTS IN ORDER TO COMPLETE IT. AND
11 THE STANDARD AT THIS STAGE OBVIOUSLY IS THE LIGHT
12 MOST FAVORABLE TO THE STATE.

13 THE COURT: THAT'S CORRECT.

14 MR. DIGGS: YOUR HONOR, JUST VERY BRIEFLY. THE
15 9:30 AM CALL, ASSUMING THAT THAT STATEMENT IS TRUE
16 AND THAT -- THAT WAS A NUMBER OF HOURS SUBSEQUENT TO
17 THIS PARTICULAR INCIDENT.

18 NOW, ASSUMING THAT -- LET ME JUST LEAVE IT AT
19 THAT AT THIS POINT. THE -- IT'S NOT CONTEMPORANEOUS
20 WITH TIME AND OCCURRENCE OF THE OFFENSES ALLEGED
21 HERE, AND THAT WOULD BE OUR RESPONSE.

22 THE COURT: IT IS NOT?

23 MR. DIGGS: NOT CONTEMPORANEOUS WITH THE TIME
24 THE PARTICULAR OFFENSES ALLEGEDLY OCCURRED. IT'S --
25 IT'S SEVERAL, SEVERAL HOURS LATER.

1 THE COURT: YEAH. I THINK THE CASE LAW THOUGH
2 WOULD SUPPORT THAT BEING A PART RES GESTAE OR
3 CONTINUING UP TO 20 HOURS, 10 HOURS, I THINK THERE'S
4 CASE LAW ON POINT THAT SAYS, YOU KNOW, YOU HAVE TO
5 LOOK AT THE TOTALITY OF IT AND THAT IT DOESN'T HAVE
6 TO BE 10 MINUTES OR AN HOUR.

7 AS A MATTER OF FACT, I THINK THE LAST CASE I
8 READ SAID THAT IT COULD BE EVEN UP TO 10 HOURS OR 12
9 HOURS WHICH, YOU KNOW, IN OUR MIND MAY SEEM LIKE A
10 LONG -- WELL, TO ME IT DOESN'T SEEM LIKE THAT LONG A
11 TIME, BUT TO THE AVERAGE LAYPERSON I THINK IT
12 PROBABLY WOULD SEEM MUCH LONGER.

13 MR. DIGGS: THANK YOU, YOUR HONOR.

14 THE COURT: YOU'RE WELCOME. IS THERE ANYTHING
15 FURTHER FROM THE STATE?

16 MR. HUMPHRIES: NOTHING FURTHER FROM THE STATE.
17 THANK YOU, YOUR HONOR.

18 THE COURT: YOU'RE WELCOME.

19 MR. DIGGS: NOTHING FURTHER.

20 THE COURT: THANK YOU VERY MUCH, MR. DIGGS. I'M
21 SORRY. I THINK WE ARE ALL VERY CLEAR THAT ON A
22 MOTION FOR DIRECTED VERDICT THE COURT IS REQUIRED TO
23 VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE
24 NON-MOVING PARTY, WHICH IN THIS INSTANCE WOULD BE THE
25 STATE. I'M GETTING A LITTLE AHEAD OF MYSELF, SO I

1 APOLOGIZE.

2 IT'S WELL ESTABLISHED THAT ON A MOTION FOR A
3 DIRECTED VERDICT THE COURT MUST VIEW THE EVIDENCE IN
4 THE LIGHT MOST FAVORABLE TO THE STATE. AND IF THERE
5 IS ANY DIRECT OR SUBSTANTIAL CIRCUMSTANCES AS IS
6 REASONABLY TENDING TO PROVE THE GUILT OF THE ACCUSED,
7 THE ISSUES ARE PROPERLY DECIDED BY THE JURY.

8 OF COURSE, THE COURT IS NOT CONCERNED WITH THE
9 WEIGHT OF THE EVIDENCE, THAT IS NOT THE PROVINCE --
10 IT IS ONLY CONSIDERED -- IT IS ONLY CONCERNED WITH
11 THE EXISTENCE OR NON-EXISTENCE OF EVIDENCE AND AS I
12 HAVE INDICATED, NOT ITS WEIGHT.

13 OF COURSE, OUR CASE LAW IS VERY CLEAR THAT A
14 MOTION SHOULD BE GRANTED IF THE EVIDENCE MERELY
15 RAISES A SUSPICION OF THE DEFENDANT'S GUILT WHERE YOU
16 WOULD BE ALLOWING THE JURY TO MERELY CONJECTURE OR
17 SPECULATE AS TO THE ACCUSED -- AS TO THE ACCUSED'S
18 GUILT.

19 I DO NOT THINK, HOWEVER, THAT THAT IS THE
20 SITUATION AT LEAST AT THIS JUNCTURE IN THE TRIAL.
21 THE COURT WOULD FIND THAT THE MOTION FOR DIRECTED
22 VERDICT ON THOSE PREMISES IS DENIED, AND I WILL TAKE
23 THEM IN THE ORDER THAT MR. DIGGS ARGUED THEM.

24 FIRST DEALING WITH THE KIDNAPPING. THE COURT
25 WOULD FIND THAT THERE IS DIRECT AS WELL AS

1 SUBSTANTIAL CIRCUMSTANTIAL EVIDENCE REASONABLY
2 TENDING TO PROVE THE DEFENDANT'S GUILT IN THIS CASE.

3 IN ORDER TO PROVE KIDNAPPING THE STATE MUST
4 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
5 KNOWINGLY AND UNLAWFULLY SEIZED, CONFINED, INVEIGLED,
6 DECOYED, KIDNAPPED, ABDUCTED, OR CARRIED AWAY ANOTHER
7 PERSON WITHOUT THE AUTHORITY OF LAW.

8 AND THERE ARE SEVERAL DEFINITIONS OF COURSE THAT
9 WE GENERALLY USE WHEN WE TALK ABOUT A PERSON HAVING
10 BEEN SEIZED, CONFINED, INVEIGLED, DECOYED, KIDNAPPED,
11 OR ABDUCTED OR CARRIED AWAY.

12 AND OF COURSE, THE STATE DOES NOT HAVE TO PROVE
13 THAT THE DEFENDANT DID ALL OF THESE THINGS. THE
14 STATE ONLY HAS TO PROVE BEYOND A REASONABLE DOUBT
15 THAT THE DEFENDANT DID ANY OF THESE THINGS IN ORDER
16 TO FIND HIM GUILTY OF KIDNAPPING.

17 AND I THINK THAT THERE IS SUFFICIENT EVIDENCE IN
18 THE RECORD OF THAT. AGAIN, THE COURT IS NOT
19 CONCERNED WITH THE EXISTENCE OR NON -- IS NOT
20 CONCERNED WITH THE WEIGHT OF THE EVIDENCE, BUT ONLY
21 THE EXISTENCE OR NON-EXISTENCE OF THE EVIDENCE.

22 AND IN ADDITION, IT IS NOT NECESSARY -- IT WAS
23 NOT -- I'M INCLINED TO AGREE WITH THE STATE REGARDING
24 THEIR ARGUMENT THAT THE KIDNAPPING IS NOT NECESSARY
25 TO ACCOMPLISH THE OTHER ACTS, AND THEREFORE THE ACT

1 WOULD STAND ALONE. SO THE MOTION FOR DIRECTED
2 VERDICT IN THAT REGARD IS DENIED.

3 AND AS REGARD TO THE MOTION FOR DIRECTED VERDICT
4 REGARDING MR. STANKO'S SANITY, MR. DIGGS IS
5 ABSOLUTELY CORRECT. THERE IS A PRESUMPTION IN SOUTH
6 CAROLINA THAT THE DEFENDANT IS PRESUMED TO BE SANE.

7 WHEN A DEFENDANT, OF COURSE, OFFERS EVIDENCE OF
8 INSANITY, THE STATE NO LONGER ENJOYS THAT -- THE
9 PRESUMPTION BUT MUST PRESENT EVIDENCE TO THE JURY
10 FROM WHICH THE JURY COULD FIND THE DEFENDANT INSANE.

11 IF THE CONTENTION OF INSANITY IS SUGGESTED, THE
12 STATE MAY PRESENT EVIDENCE OF INSANITY IN ITS CASE IN
13 CHIEF RATHER THAN WAITING TO DO SO DURING THIS CASE
14 IN REPLY.

15 AND OF COURSE, THE STATE DOES NOT HAVE TO RELY
16 ON EXPERT TESTIMONY TO MEET THAT BURDEN BEYOND A
17 REASONABLE DOUBT. AND I BELIEVE THE OPERATIVE
18 LANGUAGE IN THE CASE LAW IS THAT -- IS MAY. DOESN'T
19 SAY MUST. JUST SAYS MAY IN ITS CASE IN CHIEF UNLESS
20 I AM READING THAT INCORRECTLY... STATEMENT.

21 AND I'M REFERRING TO STATE VERSUS SMITH WHICH IS
22 A 1989 SUPREME COURT DECISION FOUND AT 298 SOUTH
23 CAROLINA 205, 379 SOUTHEAST SECOND 287 WHICH OF
24 COURSE COMES FROM A LONG LINE OF PRECEDENCE BOTH
25 BEFORE AND AFTER THAT CASE.

1 AND OF COURSE, THE STATE ONLY HAS TO PROVE
2 BEYOND A REASONABLE DOUBT THAT MR. STANKO HAD THE
3 MENTAL CAPACITY TO DISTINGUISH BETWEEN RIGHT AND
4 WRONG -- THE MENTAL CAPACITY JUST -- TO DISTINGUISH
5 MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG AND
6 RECOGNIZE THE PARTICULAR ACT CHARGED WAS MORALLY OR
7 LEGALLY WRONG.

8 AND I -- QUITE FRANKLY THERE'S SUFFICIENT
9 EVIDENCE IN THE RECORD IN THE TESTIMONY OF [REDACTED]
10 LING TO SUPPORT THAT THEORY. AND AGAIN, THE COURT --
11 AND I'M NOT GOING TO GO BACK THROUGH ALL OF HER
12 TESTIMONY. WE WERE HERE. WE WERE LISTENING TO IT.

13 I THINK THERE IS REALLY QUITE ENOUGH CASE LAW
14 THAT WOULD SUGGEST BASED ON HER TESTIMONY THAT
15 ATTEMPTS ON THE PART OF THE DEFENDANT TO CONCEAL OR
16 DESTROY EVIDENCE OR CONCEAL OR DESTROY THE ATTENDANT
17 CIRCUMSTANCES THAT THEY WERE INVOLVED IN OR TO
18 SOMEHOW CREATE SUBTERFUGE IS ENOUGH TO -- TO INDICATE
19 A MANIFESTED -- TO CREATE AN AWARENESS OF RIGHT FROM
20 WRONG.

21 AND THAT'S BASED ON STATE VERSUS LAW WHICH IS
22 FOUND AT 270 SOUTH CAROLINA 664, 244 SOUTHEAST SECOND
23 302, WHICH IS A 1978 SUPREME COURT DECISION.

24 SO AGAIN, THE COURT IS NOT CONCERNED WITH THE
25 WEIGHT OF EVIDENCE BUT ONLY ITS EXISTENCE OR

1 NONEXISTENCE, AND WHEN CONSIDERING THE EVIDENCE IN
2 THE LIGHT MOST FAVORABLE TO THE STATE, WHICH THE
3 COURT IS REQUIRED TO DO, I THINK THERE IS MORE THAN
4 SUFFICIENT EVIDENCE IN THE RECORD FOR DIRECTED
5 VERDICT, SO I'M GOING TO DENY ON THAT BASIS ALSO. IS
6 THERE ANYTHING FURTHER FOR THE RECORD?

7 MR. HUMPHRIES: NO. THANK YOU, YOUR HONOR.

8 MR. DIGGS: NONE, YOUR HONOR.

9 THE COURT: OKAY. NOW, DO YOU NEED A FEW MORE
10 MINUTES WITH YOUR WITNESS?

11 MR. DIGGS: YOUR HONOR, CAN WE HAVE JUST A
12 COUPLE OF MINUTES?

13 THE COURT: SURE. WE WILL TAKE A FIVE MINUTE
14 RECESS. YOU ALL GET COLLECTED, THEN WE'LL CONTINUE.

15 (WHEREUPON A RECESS WAS HAD.)

16 (WHEREUPON, DEFENSE EXHIBIT 1 WAS ADMITTED INTO
17 EVIDENCE.)

18 THE COURT: IS THE DEFENSE READY TO PROCEED?

19 MR. DIGGS: I'M SORRY?

20 THE COURT: ARE YOU READY TO PROCEED?

21 MR. DIGGS: WE ARE.

22 THE COURT: PLEASE BRING IN THE JURY.

23 (JURY ENTERED THE COURTROOM AT 4:33 PM.)

24 THE COURT: LADIES AND GENTLEMEN, HOPE YOU
25 ENJOYED YOUR BREAK. WE WILL NOW RESUME WITH THE

1 TRIAL. YOU MAY PROCEED.

2 MR. DIGGS: THANK YOU, YOUR HONOR.

3 THE COURT: YOU'RE WELCOME.

4 MR. DIGGS: THE DEFENDANT WOULD CALL DR. BERNARD
5 ALBINIAK.

6 DR. BERNARD ALBINIAK, AFTER BEING
7 DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE COURT: YOU MAY PROCEED.

9 DIRECT EXAMINATION

10 BY MR. DIGGS:

11 Q DR. ALBINIAK, WOULD YOU GIVE US AN OVERVIEW OF YOUR
12 EDUCATIONAL BACKGROUND AND EXPERIENCE, PLEASE SIR?

13 A I HAVE A BS DEGREE IN PSYCHOLOGY, 1968. I HAVE A PHD
14 IN PSYCHOLOGY, 1977.

15 Q ALL RIGHT. AND FOLLOWING THE TIME OF THE RECEIPT OF
16 THE PHD, WHAT DID YOU DO IN THAT FIELD?

17 A I -- MY SPECIALTY IS PHYSIOLOGICAL PSYCHOLOGY AND
18 GRADUATE SCHOOL.

19 Q WHAT IS PHYSIOLOGICAL PSYCHOLOGY?

20 A I DID ONE YEAR OF BRAIN RESEARCH USING ANIMAL
21 SUBJECTS. WE STUDIED BRAIN -- BRAIN FUNCTION, BRAIN
22 STRUCTURE, BRAIN ANATOMY.

23 Q OKAY. AND HOW DOES ONE BECOME ABLE TO WORK IN THAT
24 FIELD?

25 A YOU SIMPLY -- IN GRADUATE SCHOOL -- WHEN I WAS IN

1 GRADUATE SCHOOL IN PSYCHOLOGY, YOU HAD TO CHOOSE TWO
2 SPECIALTIES -- SUBSPECIALTIES.

3 Q YES, SIR.

4 A ONE OF THEM WAS PHYSIOLOGICAL.

5 Q OKAY.

6 A IF YOU CHOOSE THAT SPECIALTY, YOU DO A LOT OF
7 LABORATORY BRAIN RESEARCH AS A CONSEQUENCE.

8 Q SO YOU HAD TO STUDY IN PHYSIOLOGICAL PSYCHOLOGY TO
9 GET YOUR PHD IN PSYCHOLOGY?

10 A YES, I DID.

11 Q WAS IT A PHD OR LESSER?

12 A PHD.

13 Q ALL RIGHT. AND WHAT HAVE YOU DONE IN THE FIELD OF
14 PHYSIOLOGICAL PSYCHOLOGY SINCE THAT TIME?

15 A WELL, I TEACH AT COURSE -- I TEACH SEVERAL COURSES IN
16 THAT FIELD AT THE UNIVERSITY.

17 Q WHERE IS THAT?

18 A COASTAL CAROLINA UNIVERSITY.

19 Q OKAY.

20 A I HAVE BEEN THERE 32 YEARS.

21 Q THIRTY-TWO YEARS. HOW MANY COURSES HAVE YOU TAUGHT
22 OVER THAT PERIOD OF TIME IN YOUR...

23 A PROBABLY FIVE DIFFERENT COURSES WHICH OVER -- OVERLAP
24 IN THAT FIELD.

25 Q ALL RIGHT. FIVE DIFFERENT COURSES?

1 A YEAH.

2 Q ARE THEY REPEATED ON ANY BASIS?

3 A THEY ARE REPEATED ON ABOUT A YEARLY OR TWO YEAR
4 BASIS.

5 Q ALL RIGHT. SO HOW MANY YEARS ALTOGETHER HAVE YOU
6 TAUGHT PUTTING THE -- PUTTING THE FIVE COURSES TOGETHER IN
7 THAT AREA?

8 A I'M BEGINNING MY 33RD YEAR.

9 Q OKAY.

10 A SO, A LOT.

11 Q ARE THERE ARTICLES THAT ARE PUBLISHED IN YOUR AREA OF
12 EXPERTISE?

13 A CERTAINLY.

14 Q PEER REVIEWED ARTICLES?

15 A CERTAINLY.

16 Q WHAT ARE SOME OF THOSE ARTICLES OR THE PUBLICATIONS?

17 A RIGHT NOW A LOT OF THE WORK IN PHYSIOLOGICAL PSYCH
18 HAS TO DO WITH BRAIN SCAN. THAT'S THE MOST.

19 Q I'M NOT GOING THERE YET. I'M TALKING ABOUT
20 PHYSIOLOGICAL PSYCHOLOGY. HAVE YOU PUBLISHED ARTICLES OR
21 IN YOUR--

22 A NO, I HAVE NOT.

23 Q -- SPECIALTY AREA?

24 A NO, I HAVE NOT.

25 Q HAVE YOU PUBLISHED ARTICLES IN OTHER AREAS?

1 A I HAVE. YES, I HAVE.

2 Q AND...

3 A WELL, I SHOULD TAKE THAT BACK. MY DISSERTATION WAS
4 PUBLISHED IN A JOURNAL THAT'S PHYSIOLOGICAL.

5 Q ALL RIGHT. WELL...

6 MR. HEMBREE: YOUR HONOR, DR. ALBINIAK IS WELL
7 KNOWN AND HE TEACHES AT COASTAL AND HE'S WELL KNOWN
8 TO THE STATE. WE HAVE NO OBJECTION TO HIM BEING
9 QUALIFIED AS AN EXPERT IN PSYCHOLOGY.

10 MR. DIGGS: YOUR HONOR, WHAT WE ARE OFFERING HIM
11 FOR IS AN EXPERT IN THE AREA OF PHYSIOLOGICAL.

12 MR. HEMBREE: WE HAVE NO OBJECTION TO HIM BEING
13 OFFERED AS AN EXPERT IN THE AREA OF -- IN THE FIELD
14 OF PHYSIOLOGICAL PSYCHOLOGY.

15 MR. DIGGS: ALL RIGHT.

16 THE COURT: SO ADMITTED.

17 MR. DIGGS: THANK YOU.

18 THE COURT: YOU MAY PROCEED.

19 BY MR. DIGGS:

20 Q TELL US ABOUT THAT FIELD. AGAIN, I ASK YOU WHAT YOU
21 DO. BE A LITTLE MORE SPECIFIC WITH RESPECT TO THE BRAIN
22 AND ITS FUNCTION AND STRUCTURE.

23 A WELL, IT -- IN THE OLD DAYS WHEN I WAS TRAINED, WE
24 WOULD DO LESIONS OF THE BRAIN TO SEE WHAT EFFECTS THAT
25 WOULD HAVE ON BEHAVIOR. THESE DAYS THEY DON'T DO THAT ANY

1 LONGER. THEY DO BRAIN SCANNING TECHNOLOGY.

2 Q AND WHAT KIND OF BRAIN SCANNING TECHNOLOGY IS USED?

3 A IT'S REALLY TWO BASIC FORMS OF BRAIN SCAN. ONE TYPE
4 OF BRAIN SCAN LOOKS AT THE STRUCTURE OF THE BRAIN, IT'S --
5 ITS MORPHOLOGY. THE OTHER TYPE OF SCANNING LOOKS AT THE
6 FUNCTION OF BRAIN CELLS. THAT'S CALLED PET SCANNING
7 MOSTLY. SO WE LOOK AT TWO THINGS, STRUCTURE AND FUNCTION
8 OF BRAIN CELLS.

9 Q ALL RIGHT. WITH RESPECT TO THE FUNCTION, YOU
10 INDICATED THAT PET SCAN IS USED?

11 A THAT'S TYPICAL.

12 Q CAN YOU EXPLAIN A LITTLE BIT -- AND YOU'RE NOT AN
13 EXPERT IN PET SCANS?

14 A NO.

15 Q BUT CAN YOU TELL US A LITTLE ABOUT -- COULD YOU GIVE
16 US AN OVERVIEW OF HOW THE PET SCAN WORKS AND--

17 MR. HEMBREE: YOUR HONOR, I OBJECT TO THAT
18 QUESTION. HE'S NOT AN EXPERT IN THE FIELD OF PET
19 SCAN, AND WE--

20 THE COURT: IS THE OBJECTION BEYOND THE AREA OF
21 EXPERTISE?

22 MR. HEMBREE: YES. OUT OF HIS AREA OF
23 EXPERTISE. I'M SORRY, YOUR HONOR.

24 THE COURT: PLEASE APPROACH.

25 MR. DIGGS: WE'RE NOT OFFERING HIM FOR THAT,

1 YOUR HONOR.

2 THE COURT: PLEASE APPROACH. NO SPEAKING
3 OBJECTIONS.

4 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

5 THE COURT: THE OBJECTION IS SUSTAINED.
6 FOUNDATION. YOU MAY PROCEED.

7 MR. HEMBREE: THANK YOU, YOUR HONOR.

8 BY MR. DIGGS:

9 Q ARE PET SCANS NORMALLY USED IN YOUR FIELD OF
10 EXPERTISE?

11 A YES.

12 Q BY OTHER EXPERTS?

13 A YES, THEY ARE.

14 Q AND WHAT OTHER KIND OF SCANNING DEVICES WOULD BE
15 USED?

16 A THERE'S PET, THERE'S CATH, THERE'S SPECT, S-P-E-C-T,
17 THERE'S MRI, FMRI. AGAIN, THOSE -- ALL THOSE SCANNING
18 DEVICES FALL IN TWO GROUPS, EITHER STRUCTURAL, LOOK AT
19 STRUCTURE OF THE BRAIN, OR ACTIVITY IN BRAIN CELLS.

20 Q ALL RIGHT. WHAT DO WE KNOW, DR. ALBINIAK, ABOUT THE
21 STRUCTURE OF THE BRAIN CELL?

22 A WE KNOW A GREAT DEAL ABOUT THE STRUCTURE OF THE
23 BRAIN. WE KNOW ONE AREA OF BRAINS PERFORM CERTAIN
24 FUNCTIONS LIKE INTELLIGENCE AND EMOTIONALITY AND SO ON.

25 Q IN OUR CASE WE'RE FOCUSING ON SPECIFIC AREAS OF THE

1 BRAIN. WHAT ARE THE AREAS THAT WOULD BE APPLICABLE IN
2 THIS SITUATION?

3 A THE MAIN BRAIN AREAS THAT ARE INVOLVED IN THE
4 SITUATION LIKE THIS ARE THE LIMBIC SYSTEM, WHICH IS AN
5 ANCIENT PART OF THE BRAIN. IT CONTROLS EMOTIONAL
6 BEHAVIOR.

7 SO WHEN A PERSON FEELS ANGER, THAT'S A NERVE CELL OR
8 NERVE CELLS IN THE LIMBIC SYSTEM FIRING AND YOU EXPERIENCE
9 THAT AS ANGER.

10 THE FRONTAL LOBES ON THE OTHER HAND USUALLY INHIBIT
11 THE LIMBIC SYSTEM. SO IF A PERSON GETS ANGRY, THEY DON'T
12 ACT OUT BECAUSE THE FRONTAL LOBE INHIBITS THE LIMBIC
13 SYSTEM IN A NORMAL PERSON.

14 Q SPECIFICALLY WHAT KIND OF EMOTIONS ARE GENERATED -- I
15 ASSUME GENERATED WOULD BE AN APPROPRIATE WORD?

16 A YES.

17 Q WHAT KIND OF EMOTIONS ARE GENERATED IN THE LIMBIC
18 SYSTEM?

19 A THE FULL GAMUT OF--

20 Q CAN YOU GIVE US SOME EXAMPLES?

21 A ANGER, DISGUST, HAPPINESS, SADNESS, ET CETERA. SO
22 WHEN A PERSON ENCOUNTERS A STIMULUS, THE LIMBIC SYSTEM
23 NOTICES THAT FIRST AND INFORMS THE FRONTAL LOBES ABOUT
24 WHAT THAT STIMULUS IS. THE FRONTAL LOBES HAVE TO MAKE A
25 DECISION ABOUT WHETHER TO BEHAVE THAT WAY OR NOT.

1 Q NOW, WOULD FEAR BE AN EMOTION OUT OF THE LIMBIC
2 SYSTEM?

3 A CERTAINLY.

4 Q ALL RIGHT. AND AGAIN, ALL OF THESE -- DO WE HAVE ANY
5 CONTROL TO -- OR AN ABILITY TO THINK ABOUT THOSE EMOTIONS
6 AT THE LIMBIC SYSTEM LEVEL?

7 A NO. THEY ARE AUTOMATIC AT THE LIMBIC SYSTEM LEVEL.

8 Q WOULD YOU SAY THEY'RE AUTOMATIC JUST LIKE MAYBE A
9 HEARTBEAT OR A...

10 A YES.

11 Q RESPIRATION?

12 A ALL THOSE FUNCTIONS ARE AUTOMATIC.

13 Q ALL RIGHT. DO WE KNOW ANYTHING ABOUT THE STRENGTH OF
14 THE EMOTIONS, IN PHYSICAL TERMS?

15 A I WILL TELL YOU ONE EXAMPLE. ONE OF THE STRUCTURES
16 IN THE LIMBIC SYSTEM THAT DENOTES FEAR AND ANXIETY AND
17 THREAT IS THE AMYGDALA, A -- PART OF THE LIMBIC SYSTEM.

18 IF A PERSON ENCOUNTERS A MILDLY THREATENING STIMULUS,
19 IT WOULD BE SOME PRIOR TO THE AMYGDALA, BUT NOT A GREAT
20 DEAL. THE FRONTAL LOBES CAN CONTROL THAT. THE PERSON
21 DOESN'T ACT OUT.

22 BUT IF THERE'S TREMENDOUS STIMULATION OF THE
23 AMYGDALA, THAT CAN OVERRIDE THE FRONTAL LOBES AND THE
24 PERSON WILL BEHAVE AGGRESSIVELY.

25 Q I WAS GOING TO ACTUALLY ASK YOU. THE STRENGTH OF

1 THAT EMOTION COMING OUT OF THE LIMBIC SYSTEM AND THE
2 AMYGDALA AND THAT SITUATION COMPARED TO THE RELATIVE
3 ABILITIES OF THE -- OF A POWER OR THE ABILITY OF THE
4 FRONTAL LOBES TO REGULATE THAT, DO YOU KNOW -- CAN YOU
5 TELL US ANYTHING ABOUT HOW THE RELATIVE STRENGTHS OF THOSE
6 SIGNALS THAT ARE GENERATED IN THE BRAIN?

7 A THE LIMBIC SYSTEM CAN AND OFTEN TIMES DOES OVERPOWER
8 THE FRONTAL LOBES. THE FRONTAL LOBES HAVE BEEN THE LAST
9 PART OF THE BRAIN TO EVOLVE. THE LIMBIC SYSTEM HAS BEEN
10 AROUND FOR MILLIONS OF YEARS.

11 ALL ANIMALS HAVE A LIMBIC SYSTEM. ALL ANIMALS CAN
12 BEHAVE EMOTIONALLY. HUMANS HAVE RECENTLY EVOLVED THE
13 FRONTAL LOBE SYSTEM THAT CONTAINS SOME OF THAT
14 EMOTIONALITY, BUT IT'S NOT PERFECT BY ANY MEANS.

15 Q ALL RIGHT. WHERE IS THE CAPACITY TO DISTINGUISH
16 RIGHT FROM WRONG IN THE BRAIN?

17 A PROBABLY FRONTAL LOBE.

18 Q AND WHY DO YOU SAY PROBABLY?

19 A IT'S A HIGHER -- WHAT WE CALL A HIGHER MENTAL
20 FUNCTION. THOSE ARE ALL LOCATED IN THE FRONTAL LOBE. SO
21 THE FRONTAL LOBE -- OVER A LOT OF THINGS. IT MAKES
22 DECISIONS OF WHAT'S APPROPRIATE BEHAVIOR. IT CONTROLS
23 EMOTIONALITY. IT'S PROBLEM-SOLVING. IT'S ALL THOSE
24 HIGHER FUNCTIONS OF WHICH TELLING RIGHT FROM WRONG IS ONE
25 OF THOSE.

1 Q DO YOU KNOW IN YOUR FIELD WHAT A HEALTHY BRAIN SHOULD
2 LOOK LIKE?

3 A YES.

4 Q IN OTHER WORDS, A LOT OF TIMES YOU HEAR, WELL, IS HE
5 NORMAL? AND EVERYONE SAYS, WELL, WHAT IS NORMAL? BUT DO
6 WE KNOW WHAT A NORMAL, HEALTHY BRAIN LOOKS LIKE AND HOW IT
7 SHOULD BE STRUCTURED?

8 A YES. THE DATABASE NOW FOR MENTAL -- OR FOR BRAIN
9 STRUCTURE ARE HUGE.

10 Q HOW MANY -- WHAT DO YOU MEAN BY HUGE?

11 A THEY HAVE BEEN DOING THESE SCANS NOW FOR ABOUT 20
12 YEARS, SO THEY HAVE A HUGE DATABASE OF NORMAL BRAIN
13 STRUCTURE. THEY KNOW WHAT THAT LOOKS LIKE.

14 Q AND WHAT DO THESE SCANS LOOK LIKE? IF YOU LOOK AT
15 THEM, HOW DO THEY -- WHAT DO THEY LOOK LIKE?

16 A ALL RIGHT. DEPENDS ON WHETHER ITS AN MRI SCAN, THEN
17 IT WILL BE IN HIGH DETAIL DEFINITION, VERY, VERY HIGH
18 DETAILED DEFINITION. YOU CAN SEE TUMORS, YOU CAN SEE
19 MINUTE DISTURBANCES IN STRUCTURE.

20 IF IT'S A PET SCAN, YOU WILL SEE COLORS. BLUE MEANS
21 CELLS ARE ALMOST NON-ACTIVE. RED MEANS CELLS ARE VERY
22 ACTIVE. SO YOU HAVE TO LOOK AT WHICH SCAN OR BOTH SCANS.

23 Q NOW, ARE THERE NORMAL RANGES IN TERMS OF WHAT SIZE OF
24 THE PARTICULAR AREAS OF THE BRAIN SHOULD BE?

25 A YES. THOSE HAVE BEEN STANDARDIZED, YEAH.

1 Q AND WOULD THAT BE APPLICABLE TO THE FRONTAL LOBE?

2 A FRONTAL LOBES ESPECIALLY.

3 Q AND HOW -- CAN YOU SAY THAT THERE IS A -- A HEALTHY
4 OR STANDARD SIZE PRETTY MUCH?

5 A YES.

6 Q WITH RESPECT TO THE FRONTAL LOBES?

7 A YES, IN BOTH FUNCTION AND STRUCTURE.

8 Q IN FUNCTION AND STRUCTURE. NOW AND AGAIN, IF YOU
9 WANT TO LOOK AT WHAT THE FUNCTIONAL ABILITY IS, CAPACITY,
10 WITH RESPECT TO THE NORMAL HEALTHY BRAIN, HOW WOULD YOU
11 MAKE THAT DETERMINATION?

12 A YOU WOULD DO A PET SCAN.

13 Q OKAY.

14 A UNDER CIRCUMSTANCES WHERE A PERSON IS INVOLVED, WHILE
15 THEY SCAN THEM, THEY ARE INVOLVED IN A FRONTAL LOBE
16 FUNCTION. THEY ARE INVOLVED IN A TASK THAT REQUIRES A
17 FRONTAL LOBE. THE FRONTAL LOBE SHOULD WORK WELL THEN. SO
18 IF YOU SEE BLUE, OR -- THE FRONTAL LOBES ARE NOT WORKING.

19 Q AND IS THERE STANDARD PROTOCOL, PROCEDURE IN
20 JOURNALS--

21 A YES.

22 Q -- PUBLISHED ARTICLES ON HOW TO DO THAT?

23 A YES, THOSE HAVE BEEN STANDARDIZED.

24 Q SO WHEN THESE DATABASES ARE PUT TOGETHER, THEY ARE
25 GOING TO HAVE PET SCANS OF INDIVIDUALS WHO ARE -- WHO HAVE

1 BEEN DETERMINED TO BE HEALTHY?

2 A YEAH.

3 MR. HEMBREE: YOUR HONOR, I'M GOING TO OBJECT TO
4 THIS LINE OF QUESTIONING AGAIN ABOUT THE PET SCANS.
5 THIS IS OUTSIDE THE SCOPE OF DR. ALBINIAK'S
6 EXPERTISE.

7 MR. DIGGS: WELL--

8 THE COURT: NO SPEAKING OBJECTIONS. PLEASE
9 APPROACH.

10 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

11 THE COURT: THE OBJECTION IS SUSTAINED.
12 FOUNDATION.

13 BY MR. DIGGS:

14 Q WITHIN YOUR FIELD OF EXPERTISE, DOCTOR, WHEN YOU ARE
15 DOING PROJECTS AT WORK AND IN CLASSES AND SO FORTH, DO YOU
16 USE PET SCANS IN ORDER TO DETERMINE BRAIN INJURY, TRAUMA,
17 AND FUNCTION?

18 A I USE THEM AS A TEACHING TOOL.

19 Q YES.

20 A YEAH.

21 Q OKAY. AND HOW ABOUT WITH RESPECT TO THE STRUCTURE?

22 A YES, MRI SCANS.

23 Q MRI?

24 A MRI SCANS.

25 Q AND WITH THE USE OF PET SCANS AND MRI SCANS AND OTHER

1 TYPES OF SCANS, WITHIN THE SCOPE OF YOUR EXPERTISE, ARE
2 YOU ABLE TO MAKE OPINIONS, FORM OPINIONS, ABOUT THE STATUS
3 OR STATE OF A PARTICULAR BRAIN?

4 A YES.

5 Q NOW, CAN -- HAVE YOU LOOKED AT INFORMATION PERTAINING
6 TO MR. STANKO?

7 A YES. I HAVE SEEN PET SCANS AND MRIS WHICH WERE
8 EVALUATED BY OTHER EXPERTS.

9 Q ALL RIGHT. AND DO YOU HAVE AN OPINION ON THE
10 FUNCTION AND THE STRUCTURE OF MR. STANKO'S BRAIN?

11 A BOTH STRUCTURE AND FUNCTION OF FRONTAL LOBE AREAS ARE
12 ABNORMAL.

13 Q NOW, WHY DO YOU SAY THAT?

14 A THE -- THE VOLUME OF THE LEFT FRONTAL LOBE DONE BY
15 DR. GUR, THE ANALYSIS DONE BY -- IS SUBSTANTIALLY REDUCED.
16 IN OTHER WORDS, THERE'S TISSUE MISSING IN THE LEFT FRONTAL
17 LOBE OVER HERE.

18 THERE IS ALSO A LOT OF FLUID IN HIS BRAIN. THERE'S
19 MORE FLUID IN HIS BRAIN THAN IS NORMAL. THE CSF,
20 CEREBROSPINAL FLUID IS ELEVATED. WHEN THE CEREBROSPINAL
21 FLUID IS ELEVATED, THAT MEANS THERE IS TISSUE MISSING.

22 Q NOW, ARE MRI'S SOMETHING THAT WERE NORMALLY USED BY
23 PERSONS IN YOUR FIELD OF EXPERTISE?

24 A OFTEN TIMES, YES.

25 Q AND WOULD IT HELP YOU TO LOOK AT DR. GUR'S REPORT

1 RIGHT NOW--

2 A PROBABLY SO.

3 Q -- TO EXPLAIN TO US THIS ISSUE ABOUT THE--

4 A PROBABLY SO.

5 Q LET ME SHOW YOU...

6 MR. HEMBREE: YOUR HONOR, THIS IS DEFENSE
7 EXHIBIT ONE. WE HAVE NO OBJECTION TO ITS
8 INTRODUCTION.

9 THE COURT: MARKED AND ADMITTED WITHOUT
10 OBJECTION.

11 MR. DIGGS: THANK YOU.

12 THE COURT: YOU'RE WELCOME.

13 (WHEREUPON, DEFENSE EXHIBIT 1 WAS ADMITTED INTO
14 EVIDENCE.)

15 BY MR. DIGGS:

16 Q LET ME ASK YOU TO TURN AROUND AND LOOK AT THAT, DR.
17 ALBINIAK. JUST GIVE US AN EXPLANATION, PLEASE SIR, ABOUT
18 WHAT WE'RE LOOKING AT HERE.

19 A WHAT -- WHAT DR. GUR DID -- DR. GUR IS A BRAIN
20 SCANNER AT THE UNIVERSITY OF PENNSYLVANIA, A FULL
21 PROFESSOR, BEEN THERE 30 YEARS. HE DOES THIS ALL THE
22 TIME. HE DID WHAT WE CALL A VOLUMETRIC ANALYSIS OF THE MR
23 DATA THAT MUSC SENT HIM.

24 Q ALL RIGHT. SO AN MRI WAS DONE ON MR. STANKO?

25 A AT MUSC.

1 Q AT MUSC HERE IN SOUTH CAROLINA?

2 A THEY SENT THE DATA TO DR. GUR. HE DID THE COMPUTER
3 ANALYSIS. IT'S ALL DONE BY THE COMPUTER. HE DOESN'T DO
4 IT. THE COMPUTER'S SOFTWARE SORT OF DOES THE PROPER
5 THING.

6 Q ALL RIGHT. HOW DOES HE GO ABOUT ANALYZING THAT MRI
7 DATA?

8 A HE COMPARES MR. STANKO'S BRAIN WITH 42 NORMAL BRAINS,
9 SO YOU HAVE A SAMPLE OF 42 NORMAL BRAINS.

10 Q IS THAT A SIGNIFICANT SAMPLE?

11 A THAT'S A LARGE SAMPLE. THIRTY WOULD BE ADEQUATE.
12 THIRTY WOULD BE ADEQUATE.

13 Q ALL RIGHT. FOR STATISTICAL PURPOSES?

14 A FOR STATISTICAL PURPOSES, YEAH.

15 Q ALL RIGHT.

16 A WHAT WE FOUND, IF I CAN DEMONSTRATE, THE THIN LINE IS
17 THE LEFT HEMISPHERE, THIS SIDE OF THE BRAIN. THE RED LINE
18 IS THE RIGHT HEMISPHERE, THIS SIDE OF THE BRAIN. THAT
19 FIRST POINT IS THE FRONTAL LOBE. IT'S NORMAL ON THE RIGHT
20 SIDE. I SHOULD -- I GUESS HAVE TO DO -- THIS WOULD BE
21 CONSIDERED NORMAL, ANYWHERE IN THIS REGION.

22 THEN THE LEFT FRONTAL LOBE IS DECIDEDLY SMALLER IN
23 VOLUME MEANING THERE'S TISSUE MISSING. THIS IS THE
24 CEREBROSPINAL FLUID, MARKEDLY ELEVATED, MARKEDLY ELEVATED.

25 AGAIN, THIS IS THE FRONTAL LOBE, THE LEFT FRONTAL

1 LOBE. SIGNIFICANT LOSS OF TISSUE FOR SOME REASON. DON'T
2 KNOW WHY. THIS IS THE CEREBROSPINAL FLUID ELEVATED. THE
3 ONLY WAY YOU COULD HAVE MORE FLUID IN THE BRAIN IS TISSUE
4 MISSING.

5 THIS IS THE MEDIAL GRAY MATTER, SUBSTANTIALLY LOWER
6 HERE AND SIGNIFICANTLY LOWER THERE.

7 Q DOC, LET'S PULL THIS OUT AND PUT IT -- SEE IF WE CAN
8 PUT IT IN A LITTLE BETTER POSITION -- POSITION TO BE SEEN
9 BETTER.

10 A AGAIN, THIS IS DR. GUR'S WORK. HE TOOK THE MUSC MRI
11 DATA WHICH IS STRUCTURE OF THE BRAIN SENT TO HIM. HE
12 COMPUTER ANALYZED IT. HE WAS LOOKING FOR DIFFERENCES IN
13 REGIONS OF THE BRAIN. HE COMPARED THIS BRAIN TO --
14 MR. STANKO'S BRAIN TO 42 NORMAL BRAINS AS A GROUP.

15 WHAT HE FOUND IS HE -- HE ANALYZED THE DATA FOR THE
16 LEFT HEMISPHERE WHICH IS THE LEFT SIDE OF THE PATIENT'S
17 HEAD, AND THE RIGHT HEMISPHERE.

18 THE LEFT HEMISPHERE, THE FRONTAL LOBE SHOWS DECIDEDLY
19 LESS TISSUE THAN IS NORMAL. THE RIGHT FRONTAL LOBE
20 ADEQUATE. THIS AGAIN, CEREBROSPINAL FLUID. THE FLUID IS
21 ELEVATED IN THE BRAIN WHICH MEANS THERE'S A LOSS OF TISSUE
22 THROUGHOUT THE BRAIN.

23 AND THAT WAS MARKEDLY HIGHER, A LOT -- EXCUSE ME --
24 YEAH, MARKEDLY HIGHER. THIS IS THE MEDIAL GRAY AREA.
25 GRAY TISSUE IN THE BRAIN ARE NERVE CELLS. WHITE TISSUE IS

1 FIBERS IN THE BRAIN. SO THE MIDDLE PART OF HIS BRAIN HAS
2 LOST GRAY TISSUE, GRAY -- GRAY NERVE CELLS DUE TO SOME
3 FACTOR.

4 THE ONLY THING DR. GUR CAN'T TELL US IS HOW DID THIS
5 HAPPEN. WE KNOW THAT THERE'S A LOSS OF TISSUE, THERE'S A
6 SUBSTANTIAL LOSS OF TISSUE. HOW THAT OCCURRED IS UNCLEAR.

7 Q DR. ALBINIAK, LOOK AT THE CHART ON THE LEFT HAND
8 MARGIN. YOU HAVE NUMBERS THERE. WOULD YOU EXPLAIN TO US
9 WHAT THOSE NUMBERS MEAN?

10 A ALL RIGHT. THIS IS KIND OF STATISTICAL, SO I WILL
11 TRY TO DO THE BEST I CAN.

12 Q OKAY.

13 A THIS IS NORMAL. IN OTHER WORDS, A NORMAL BRAIN
14 SHOULD HAVE ALL THESE MARKS AROUND THIS LINE. PERFECTLY
15 NORMAL BRAIN. REMEMBER, THIS IS ONLY MR. STANKO'S BRAIN.
16 THE COMPARISON BRAINS ARE NOT THERE.

17 A NORMAL BRAIN WOULD HAVE TO FALL BETWEEN THESE TWO
18 LIMITS. THIS IS ONE STANDARD DEVIATION BELOW NORMAL.
19 THIS IS ONE STANDARD DEVIATION ABOVE NORMAL. THIS POINT
20 WHERE HIS FRONTAL -- LEFT FRONTAL LOBES ARE IS ABOUT TWO
21 AND A THIRD STANDARD DEVIATIONS BELOW NORMAL.

22 THAT WOULD MEAN THE CHANCES OF AN AVERAGE BRAIN BEING
23 THAT IMPAIRED WOULD BE ABOUT 1 PERCENT. IT'S A VERY LOW
24 PROBABILITY. THIS IS EVEN WORSE. THIS IS ABOUT TWO AND A
25 HALF STANDARD DEVIATIONS. MEANS THAT'S LESS THAN

1 1 PERCENT. THIS IS A FAIRLY ABNORMAL BRAIN.

2 Q ALL RIGHT. AND HOW ABOUT THIS, GOING DOWN FOUR--

3 A YEAH, THIS -- OVER FOUR. THAT IS--

4 Q OVER FOUR.

5 A THAT IS--

6 COURT REPORTER: I'M SORRY. I DIDN'T HEAR HIM.

7 BY MR. DIGGS:

8 Q WOULD YOU REPEAT THAT FOR THE COURT REPORTER, PLEASE.

9 A THE MEDIAL RIGHT -- THE MEDIAL RIGHT HEMISPHERE IS
10 DOWN AT ABOUT FOUR STANDARD DEVIATION UNITS WHICH WOULD BE
11 LESS THAN TWO TENTHS OF 1 PERCENT. IN OTHER WORDS, TWO
12 TENTHS OF 1 PERCENT OF THE BRAIN WOULD BE THAT DIFFERENT.

13 Q WHAT ROLE DOES THE MEDIAL -- WHAT DO YOU CALL THAT?

14 A THE MEDIAL GRAY IS THE AREA OF THE BRAIN ABOVE THE
15 LIMBIC SYSTEM WHICH IS INVOLVING EMOTIONAL BEHAVIOR.
16 THERE HAS BEEN LOSS OF BRAIN TISSUE THERE.

17 Q THERE IS -- AND IT'S INVOLVED IN WHAT?

18 A EMOTIONAL BEHAVIOR.

19 Q EMOTIONAL BEHAVIOR. AND CAN YOU GIVE US KIND OF A --
20 AN EXPLANATION OF WHAT HAPPENS TO BRAIN SIGNALS WHEN THEY
21 GENERATE IN THE LIMBIC SYSTEM? DO THEY GO THROUGH THE
22 MEDIAL TO THE FRONTAL?

23 A YEAH, THEY WILL GO FROM THE LIMBIC SYSTEM TO WHAT WE
24 CALL THE CINGULATE CORTEX WHICH IS PART OF THIS MEDIAL
25 GRAY AREA. FROM THE CINGULATE CORTEX TO THE FRONTAL LOBE.

1 THE FRONTAL LOBE NOW KNOWS IT'S AN EMOTIONAL STIMULUS THAT
2 THEY CONFRONTED, AND THE FRONTAL LOBE NOW HAS TO DECIDE
3 WHAT TO DO.

4 Q DO WE KNOW--

5 A ACT ON IMPULSE OR NOT.

6 Q DO WE KNOW -- OKAY. SO THE EMOTION WOULD COME OUT OF
7 THE LIMBIC SYSTEM IN THE AMYGDALA?

8 A EXACTLY.

9 Q INITIALLY GO THROUGH THE MEDIAL GRAY--

10 A GRAY.

11 Q -- WHICH MR. STANKO HAS--

12 A QUITE DEFICIENT.

13 Q -- DEFICIENT IN THE STRUCTURE?

14 A IN THE STRUCTURE, CELL BODIES.

15 Q DOES IT -- DOES IT -- CAN YOU TELL US WHAT THE
16 PURPOSE OF THE MEDIAL GRAY--

17 A IT'S REALLY BASICALLY TO TRANSFER INFORMATION TO THE
18 FRONTAL LOBE.

19 Q TRANSFERRING INFORMATION?

20 A ABOUT EMOTIONAL EVENTS. NOW, WHAT HE DIDN'T DO IS HE
21 DIDN'T SCAN THE AMYGDALA WHICH IS A SUBPART OF THE LIMBIC
22 SYSTEM. I WOULD LIKE TO HAVE SEEN THAT. HE DID NOT DO
23 THAT.

24 Q SO IT GOES THROUGH THE MEDIAL GRAY?

25 A TO THE FRONTAL LOBE.

1 Q WHERE HE -- WHERE MR. STANKO IS DEFICIENT?

2 A YES.

3 Q AND IT GOES UP TO THE FRONTAL LOBE WHERE AGAIN HE IS
4 DEFICIENT?

5 A YEAH.

6 Q IN GRAY MATTER?

7 A IN GRAY MATTER.

8 Q AND AGAIN, JUST STATISTICALLY, HOW LIKELY WOULD IT BE
9 THAT WE WOULD FIND ANOTHER PERSON WITH A BRAIN STRUCTURE
10 LIKE MR. STANKO?

11 A DR. GUR IN HIS CORRESPONDENCE WITH ME SAID THE
12 CHANCES OF A PERSON ON THE STREET BEING SCANNED AND HAVE A
13 BRAIN THIS ABNORMAL WOULD BE LESS THAN 2 PERCENT.

14 Q LESS THAN 2 PERCENT?

15 A LESS THAN 2 PERCENT.

16 Q AND THAT WOULD BE THROUGHOUT THE--

17 A THROUGHOUT THE--

18 Q -- DATA?

19 A -- BASE.

20 Q ALL RIGHT. YOU CAN RETURN. NOW, IS THERE ANYTHING
21 ELSE ABOUT MR. STANKO'S BRAIN STRUCTURE THAT YOU TOOK INTO
22 ACCOUNT?

23 A I -- I WANTED TO KNOW PERSONALLY WHY THIS WOULD
24 HAPPEN, HOW DID THIS OCCUR.

25 Q WERE THERE ANY OTHER SCANS THAT WERE DONE THAT YOU

1 TOOK INTO ACCOUNT?

2 A I DON'T RECALL ANY OTHER SCANS OTHER THAN -- PICTURES
3 OF SCANS.

4 Q ALL RIGHT. YOU SAW -- ALL RIGHT. YOU SAW PET SCAN--

5 A I KNOW THERE'S A PET SCAN.

6 Q AND WHAT CAN YOU TELL US ABOUT THE INFORMATION THAT
7 YOU GAINED FROM THE PET REPORTS THAT YOU RECEIVED?

8 MR. HEMBREE: YOUR HONOR, ONCE AGAIN I OBJECT.
9 IT'S OUTSIDE THE SCOPE OF DR.--

10 THE COURT: PLEASE APPROACH.

11 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

12 THE COURT: MADAM FORELADY, LADIES AND
13 GENTLEMEN, I NEED TO TAKE UP A MATTER OF LAW WITH THE
14 ATTORNEYS. IT SHOULD BE VERY BRIEF. IF YOU WILL GO
15 WITH THE BAILIFFS. PLEASE DO NOT DISCUSS THE CASE
16 DURING THIS BREAK. THIS SHOULD BE VERY BRIEF.

17 (JURY LEFT THE COURTROOM AT 5:02 PM.)

18 THE COURT: WE'LL BE AT EASE FOR JUST A FEW
19 MOMENTS. DOCTOR, YOU CAN STEP DOWN. PLEASE DON'T
20 DISCUSS YOUR TESTIMONY WITH ANYONE.

21 THE WITNESS: YES, MA'AM.

22 (WHEREUPON A RECESS WAS HAD.)

23 THE COURT: OKAY. DOCTOR, IF YOU WILL RE-TAKE
24 THE STAND. IS THE STATE READY TO PROCEED?

25 MR. HEMBREE: YES, YOUR HONOR.

1 THE COURT: IS THE DEFENSE READY TO PROCEED?

2 MR. KELLY: YES, MA'AM.

3 THE COURT: IF YOU WILL BRING IN THE JURY.

4 (JURY ENTERED THE COURTROOM AT 5:29 PM.)

5 THE COURT: YOU MAY BE SEATED. LADIES AND
6 GENTLEMEN, WE TRULY APPRECIATE YOUR PATIENCE. WE'LL
7 NOW RESUME THE TESTIMONY. MR. DIGGS, YOU MAY PROCEED
8 WHEN YOU'RE READY.

9 MR. DIGGS: THANK YOU, YOUR HONOR.

10 BY MR. DIGGS:

11 Q DR. ALBINIAK, DO YOU HAVE AN OPINION, AN EXPERT
12 OPINION, ON FUNCTION WITH RESPECT TO MR. STANKO'S BRAIN?

13 A YES, I DO.

14 Q WHAT IS THAT?

15 A HIS FRONTAL LOBE FUNCTION WOULD BE SUB-NORMAL.

16 Q SUB-NORMAL?

17 A RIGHT, PARTICULARLY -- THERE ARE DIFFERENT AREAS OF
18 THE FRONTAL LOBE. THE FRONTAL LOBE AREA THAT'S MOST
19 INVOLVED IN HIS BRAIN DEFICIENTLY (SIC) IS THE ORBITAL
20 FRONTAL LOBE. THAT'S THE PART OF THE FRONTAL LOBE THAT
21 INHIBITS THE LIMBIC SYSTEM. SO THE IMPAIRMENT WOULD BE
22 MOSTLY INHIBITING LIMBIC RESPONSES.

23 Q ALL RIGHT. NOW, THIS IS THE FUNCTIONAL -- AGAIN,
24 TELL US THE DIFFERENCE.

25 A ALL RIGHT. THE PET SCAN IS--

1 Q BETWEEN -- LET ME FINISH THE QUESTION. TELL ME THE
2 DIFFERENCE BETWEEN THE -- THE ABNORMAL FUNCTION AS OPPOSED
3 TO THE ABNORMAL STRUCTURE.

4 A OKAY. THE PET SCAN SHOWS ABNORMAL FUNCTION OF THE
5 CELLS IN THE ORBITAL FRONTAL LOBE. MEANING WHEN YOU PET
6 SCAN THE BRAIN, YOU SEE SHADES OF BLUE IN THE ORBITAL
7 FRONTAL LOBE. AS A MATTER OF FACT, MARKEDLY BLUE. THAT
8 MEANS THOSE CELLS ARE NOT FIRING LIKE THEY SHOULD NORMALLY
9 FIRE.

10 YOU SEE OTHER AREAS OF HIS BRAIN THAT ARE RED MEANING
11 THOSE CELLS ARE FIRING AT A -- AT A NORMAL RATE.

12 Q ALL RIGHT. AND AGAIN, WITH RESPECT TO THE VOLUME AND
13 THE STRUCTURE, IS THAT A DIFFERENT DEFECT?

14 A THAT'S A DIFFERENT ANALYSIS, BUT IT REACHES A SIMILAR
15 CONCLUSION. DR. GUR, HIS DATA SHOW, THAT THE FRONTAL
16 LOBE, THE LEFT FRONTAL LOBE, IS DECIDEDLY DEFICIENT IN
17 VOLUME MEANING THERE'S BRAIN TISSUE MISSING. IT'S BEEN
18 DAMAGED OR -- OR WHAT COULD HAPPEN.

19 Q ALL RIGHT. ARE THERE ANY WAYS WHERE WE COULD
20 SIMULATE -- SAY IF WE WANTED TO SIMULATE HOW MR. STANKO
21 WOULD FUNCTION WITH THIS ABNORMAL STRUCTURE AND FUNCTION.
22 HOW -- COULD WE DO THAT IN SOME FASHION?

23 A NOT IN THE HUMAN. YOU CAN'T DO IT IN A HUMAN. THE
24 WAY THEY STUDY FRONTAL LOBE FUNCTIONS OF HUMANS, THEY FIND
25 HUMANS WHO HAVE FRONTAL LOBE DAMAGE OR VETERANS,

1 COMMONLY -- UNFORTUNATELY WAR VETERANS HAVE FRONTAL LOBE
2 DAMAGE IN MANY CASES. THEY STUDY THOSE INDIVIDUALS.

3 Q DO THEY ENGAGE IN ABNORMAL BEHAVIOR?

4 A THEY TEND TO BE HIGHLY IMPULSIVE. THEY TEND TO BE --
5 THEY DON'T PLAN THEIR ACTIVITIES VERY LOGICALLY. THEY
6 DON'T CONSIDER THE CONSEQUENCES OF THEIR BEHAVIOR.

7 Q ALL RIGHT. NOW, WOULD YOU CHARACTERIZE THE
8 DIMINISHED OR LACK OF FUNCTION IN THE FRONTAL LOBE AND THE
9 LACK OF VOLUME IN THE STRUCTURE BOTH WITH THE MEDIAL GRAY
10 AND THE FRONTAL LOBE AS A MENTAL DEFECT OR DISEASE?

11 A IT'S CERTAINLY A DISEASED STATE OF THE BRAIN. IT'S
12 NOT REPAIRABLE. YOU'RE NOT GOING TO REPAIR IT --
13 STRUCTURAL DAMAGE.

14 Q SO IT'S A BRAIN DEFECT?

15 A IT'S A BRAIN DEFECT.

16 Q AND HOW, AGAIN, WOULD THIS TYPE OF IMPAIRMENT,
17 FUNCTIONAL AND STRUCTURAL, TRANSLATE INTO BEHAVIOR
18 PROBLEMS?

19 A UNDER NORMAL CIRCUMSTANCES YOU WOULDN'T SEE ANY
20 EVIDENCE PROBABLY. BUT UNDER STRESSFUL OR THREATENING
21 CIRCUMSTANCES WHERE THE THREAT IS PERCEIVED, YOU WILL SEE
22 IMPAIRED INHIBITORY RESPONSES ON THE FRONTAL LOBE, SO YOU
23 HAVE TO HAVE CERTAIN CONDITIONS WHERE YOU WOULD SEE THE
24 MANIFESTATIONS.

25 Q DO WE HAVE ANY IDEA WITH MR. STANKO HOW THESE

1 DEFORMITIES OR DEFECTS CAME INTO BEING?

2 A THERE'S SOME EVIDENCE THAT AT BIRTH -- HE HAD A
3 DIFFICULT BIRTH APPARENTLY. HE WAS BORN IN CUBA AT
4 GUANTANAMO BAY. THE DOCTORS AT THE TIME OF HIS BIRTH --
5 HIS -- HIS MOTHER WAS GOING TO HAVE A TUBAL LIGATION.
6 THEY SUGGESTED SHE NOT HAVE ONE. THEY DIDN'T THINK HE
7 WOULD SURVIVE.

8 THEY WERE FAIRLY CERTAIN HIS CONDITION NEUROLOGICALLY
9 WAS SO BAD THAT HE MIGHT NOT SURVIVE. HE DID SURVIVE,
10 OBVIOUSLY.

11 Q COULD...

12 A BUT POSSIBLY BRAIN DAMAGED.

13 Q ALL RIGHT. NOW, LET ME ASK YOU, THE FRONTAL LOBE --
14 ARE HUMANS THE ONLY LIVING BEINGS ON THE PLANET THAT HAVE
15 A FRONTAL LOBE?

16 A NO. NO.

17 Q AND WHAT--

18 A ALL THE GREAT--

19 Q WHAT TYPE OF ANIMAL--

20 A ALL THE GREAT APES HAVE FRONTAL LOBES. THEY HAVE
21 LESS THAN WE DO.

22 Q IS THERE A HIERARCHY SYSTEM?

23 A THERE'S A HIERARCHY, RIGHT.

24 Q WHAT WOULD THAT BE?

25 A IF YOU GO DOWN THE HIERARCHY TO THE REPTILIANS, LIKE

1 CROCODILES AND ALLIGATORS AND CAIMAN, THEY HAVE NO FRONTAL
2 LOBES AT ALL, SO THEY CAN'T CONFORM THEIR BEHAVIOR. THEY
3 ACT ON INSTINCT. THEY HAVE NO FRONTAL LOBES.

4 Q SO THEY HAVE NO CAPACITY TO DISTINGUISH--

5 A NO CAPACITY.

6 Q -- THEY EITHER MAKE A DECISION TO EAT, FOR EXAMPLE,
7 OR NOT?

8 A AND THAT'S AN INSTINCTIVE DECISION.

9 Q AND IS THAT A LOT DIFFERENT FROM THE LIMBIC SYSTEM IN
10 THE HUMAN?

11 A NO. THE LIMBIC STRUCTURES ARE ABOUT THE SAME, THE
12 REPTILIAN BRAIN AND THE HUMAN BRAIN.

13 Q CAN THE LIMBIC SYSTEM EMOTIONS DRIVE CONDUCT?

14 A CERTAINLY.

15 Q AND CAN YOU TELL US HOW THAT COULD BE -- OR UNDER
16 WHAT CIRCUMSTANCES?

17 A UNDER ANY EMOTION PROVOKING CIRCUMSTANCE, UNDER ANY
18 EMOTION PROVOKING CIRCUMSTANCE THE LIMBIC STRUCTURES ARE
19 ACTIVE, AND IF THERE'S NO FRONTAL LOBE TO OFFSET THOSE,
20 YOU GET EMOTIONAL BEHAVIOR, YOU GET THE OUTPUT OUT OF THE
21 LIMBIC SYSTEM.

22 Q AND AGAIN, THE LIMBIC SYSTEM IS NOT CAPABLE OF MAKING
23 JUDGMENTS?

24 A NO. NO.

25 Q OR DISTINCTIONS?

1 A NO.

2 Q OTHER THAN--

3 A IT'S SIMPLY RECOGNIZING -- IT'S RECOGNIZING EMOTION,
4 LIKE FEAR OR ANGER.

5 Q LET ME ASK YOU, DOES THE LIMBIC SYSTEM ACT IN A
6 RATIONAL MANNER?

7 A NO. BY DEFINITION ITS THE EMOTIONAL CENTER OF THE
8 BRAIN, SO IT'S BY DEFINITION NOT RATIONAL.

9 Q AND SO IF A PERSON'S CONDUCT WAS BEING DRIVEN BY A
10 LIMBIC SYSTEM PRODUCED EMOTION, WOULD YOU EXPECT IT TO BE
11 IRRATIONAL?

12 A YES, IF THERE WERE NO OFFSETTING FRONTAL LOBE IN
13 THE--

14 Q AND MAKE NO SENSE?

15 A YEAH, MAKE -- BE IRRATIONAL.

16 Q WHERE DO OUR DREAMS COME FROM?

17 A FROM? I DIDN'T UNDERSTAND.

18 Q OUR DREAMS. WHEN WE'RE ASLEEP, FOR EXAMPLE--

19 A THE NEWEST LITERATURE INDICATES THAT WHEN A PERSON
20 GOES TO SLEEP AND ENTERS REM SLEEP, THE FRONTAL LOBES SHUT
21 DOWN. THERE'S VIRTUALLY NO ACTIVITY IN THE FRONTAL LOBES.
22 SO DREAMS ORIGINATE MOSTLY IN LIMBIC SYSTEM. THAT'S WHY
23 THEY HAVE A HIGH CONTENT OF ANGER AND AGGRESSION AND
24 SEXUALITY, AND THEY SEEM TO BE REALLY UNUSUAL.

25 THE FRONTAL LOBES HAVE NO INFLUENCE OVER THAT

1 PROCESS. WHEN YOU COME OUT OF THE DREAM STATE, THE
2 FRONTAL LOBES ARE ACTIVE AGAIN.

3 Q SO THEY DON'T MAKE -- IS THAT WHY OUR DREAMS
4 SOMETIMES DON'T MAKE SENSE?

5 A DON'T MAKE SENSE.

6 Q JUST SILLY, CRAZY?

7 A DISCONNECTED PIECES.

8 Q ALL RIGHT. LET ME ASK YOU, IF YOUR CONDUCT OR IF AN
9 INDIVIDUAL'S CONDUCT IS BEING DRIVEN BY THE LIMBIC SYSTEM
10 EMOTIONS, WOULD THEY STILL BE ABLE TO TALK AND SAY THINGS?

11 A SURE.

12 Q CARRY ON A CONVERSATION?

13 A OF COURSE.

14 Q HOW COULD THAT BE?

15 A GIVE YOU AN EXAMPLE. A SLEEPWALKING PERSON. PEOPLE
16 WHO SLEEPWALK WILL TYPICALLY, OFTEN TIMES HAVE A
17 CONVERSATION, THEY'LL GO TO THE REFRIGERATOR, GET A PIECE
18 OF CAKE, THEY WILL GO BACK TO BED AND NOT REMEMBER ANY OF
19 THOSE THINGS.

20 Q AND THAT CONDUCT IS BEING DRIVEN...

21 A BY BRAIN AREAS OTHER THAN THE FRONTAL LOBES.

22 Q OTHER THAN THE FRONTAL LOBES?

23 A THE CONVERSATION IS CONTROLLED BY THE TEMPORAL LOBE.

24 Q AND SO ONE WOULD NOT HAVE TO BE CONSCIOUS IN ORDER TO
25 ENGAGE IN THE CONVERSATION?

1 A CERTAINLY, UNDER CERTAIN CIRCUMSTANCES.

2 Q AND THAT MIGHT -- IT MIGHT BE THAT ONE WHO IS
3 CONVERSING WITH SOMEONE IN THAT STATE MIGHT NOT REALIZE
4 THAT PERSON'S--

5 A CORRECT.

6 Q DR. ALBINIAK, I APPRECIATE YOUR TIME. ANSWER ANY
7 QUESTIONS THAT COUNSEL MAY HAVE.

8 A CERTAINLY.

9 THE COURT: YOU MAY PROCEED.

10 MR. HEMBREE: THANK YOU, YOUR HONOR.

11 CROSS-EXAMINATION

12 BY MR. HEMBREE:

13 Q DR. ALBINIAK, YOU'RE NOT SUGGESTING THAT STEPHEN
14 STANKO WAS SLEEPWALKING WHEN HE RAPED--

15 A NO, CERTAINLY NOT.

16 Q -- [REDACTED] LING AND KILLED LAURA LING?

17 A NO, SIR. CERTAINLY NOT.

18 Q OKAY. LET ME KIND OF CUT TO THE CHASE. YOUR
19 TESTIMONY ABOUT DR. GUR -- I MEAN, ESSENTIALLY YOU'RE JUST
20 PARROTING WHAT INFORMATION WAS --

21 A YES.

22 Q -- PROVIDED TO YOU BY DR. GUR?

23 A EXACTLY.

24 Q I MEAN, YOU'RE NOT -- THIS WASN'T AN INDEPENDENT
25 ANALYSIS THAT YOU CONDUCTED?

1 A CERTAINLY.

2 Q YOU DIDN'T BRING IN 42 BRAINS AND STUDY THEM?

3 A CERTAINLY NOT.

4 Q DID YOU HAVE THE BENEFIT OF SEEING THE -- THE MRIS ON
5 THE 42 BRAINS THAT HE USED IN--

6 A NO, I DID NOT.

7 Q YOU DID NOT?

8 A NO.

9 Q SO AS FAR AS YOU KNOW, YOU MIGHT HAVE HAD -- BRAIN
10 NUMBER SEVEN MIGHT HAVE BEEN UP HERE ON THIS PARTICULAR --
11 THE MEDIAL AXIS, AND BRAIN NUMBER 24 COULD HAVE BEEN DOWN
12 HERE ON THE TEMPORAL AXIS. I MEAN, THIS IS SIMPLY AN
13 AVERAGE.

14 A WELL, THAT'S STANKO'S BRAIN. HE COMPARED HIS -- HIS
15 BRAIN TO THE AVERAGE OF THE 42 BRAINS.

16 Q RIGHT. WHAT I'M TRYING TO GET AT, THOUGH, IS THE --
17 THE AVERAGE THAT DR. GUR ESTABLISHED HERE WAS -- HE TOOK
18 42 BRAINS WITH -- HE HAD MEASUREMENTS IN ALL THESE--

19 A ALL MEASUREMENTS.

20 Q -- DIFFERENT AREAS OF THE BRAIN?

21 A RIGHT.

22 Q AND HE AVERAGED THEM?

23 A CORRECT.

24 Q AND HE CAME UP WITH THIS AVERAGE THAT, HERE'S THE
25 AVERAGE BRAIN?

1 A RIGHT. BUT THEN HE DID ONE OTHER THING. I DON'T
2 WANT TO INTERRUPT YOU.

3 Q IT'S OKAY.

4 A HE COMPARED EACH NORMAL BRAIN WITH STANKO'S
5 INDIVIDUALLY. HE WENT THAT FAR TO DO THAT. HE FOUND ONE
6 OF 42 BRAINS WAS ABNORMAL AS STANKO'S BRAIN. THE OTHER 41
7 WERE NOT.

8 Q OKAY. SO -- YEAH. I DON'T KNOW WHAT THAT MEANS, BUT
9 I UNDERSTAND WHAT YOU'RE SAYING, BUT--

10 A HE--

11 Q -- CAME UP WITH AN AVERAGE?

12 A YEAH.

13 Q HE CAME WITH AN AVERAGE. SO THERE WERE PEOPLE THAT
14 HAD -- HAD OTHER AREAS THAT WERE NOT WITHIN THAT AVERAGE?

15 A SOME, YEAH.

16 Q OKAY. NOW, YOU TESTIFIED DR. GUR SAID THAT 2 PERCENT
17 OF THE POPULATION HAS SAME BRAIN--

18 A OR THAT MUCH BRAIN ABNORMALITY.

19 Q CONDITION, ABNORMALITY--

20 A YES.

21 Q -- AS STEPHEN STANKO'S?

22 A YEAH.

23 Q SO THE 300 PEOPLE IN THE UNITED STATES, HOW MANY
24 PEOPLE WOULD THAT BE? 2 PERCENT OF THE POPULATION OF THE
25 UNITED STATES OF AMERICA?

1 A PROBABLY -- NOT A GOOD MATHEMATICIAN, BUT SEVERAL
2 HUNDRED THOUSAND.

3 Q HOW ABOUT 6 MILLION? DOES THAT SOUND ABOUT RIGHT?

4 A SOUNDS ABOUT RIGHT.

5 Q 1 PERCENT OF 300 MILLION WOULD BE 3 MILLION, AND
6 2 PERCENT WOULD BE 6 MILLION PEOPLE?

7 A EXACTLY.

8 Q AS A MATTER OF FACT, ISN'T IT TRUE THAT THERE'S
9 SOMEBODY ELSE IN THIS ROOM--

10 A POSSIBLY, CERTAINLY.

11 Q -- JUST LIKE THIS GUY?

12 A (NODDED HEAD).

13 Q THE INTELLIGENCE IN THE BRAIN, CONTAINED IN THE
14 FRONTAL LOBES?

15 A MORE DISTRIBUTED, THOUGH, IN ALL LOBES. AND
16 INTELLIGENCE IS A VERY VAGUE FUNCTION. IT'S IN ALL THE
17 LOBES OF THE BRAIN. TO A LARGE DEGREE IN THE FRONTAL
18 LOBES--

19 Q TO A LARGE DEGREE?

20 A TO A LARGE.

21 Q TO A LARGE DEGREE IN THE FRONTAL LOBES. BECAUSE THE
22 FRONTAL LOBES ARE THE -- YOU KNOW, THEY EXECUTE ON THINGS.
23 THEY PLAN THINGS; CORRECT?

24 A EXECUTIVE FUNCTIONS.

25 Q AND THEN DO EXECUTIVE FUNCTIONS AND CARRY OUT THOSE

1 PLANS?

2 A EXACTLY.

3 Q AND SO IF YOUR FRONTAL LOBES ARE WORKING PROPERLY,
4 THEN YOU'RE TAKING STEPS, YOU'RE DOING THINGS, YOU'RE --
5 YOU'RE MAKING A PLAN?

6 A MAKING CORRECT CHOICES.

7 Q YEAH. AND YOU -- AND YOU MAKE CHOICES. YOU MAKE
8 CHOICES--

9 A RIGHT.

10 Q -- THAT ARE GOAL-DIRECTED?

11 A GOAL-DIRECTED.

12 Q OKAY. SO IF YOU HAVE AN OBJECTIVE AND A GOAL, THEN
13 YOU MAKE THOSE CHOICES THAT ARE CONSISTENT WITH THAT GOAL,
14 IF YOUR FRONTAL LOBES ARE--

15 A IF, RIGHT--

16 Q -- FUNCTIONING?

17 A -- FRONTAL LOBE--

18 Q IF YOUR FRONTAL LOBES ARE FUNCTIONING?

19 A RIGHT.

20 Q SO, IF YOU HAVE GOT A GUY WHO IS -- WHO HAS COMMITTED
21 MURDER, TO STEAL A CAR, OBTAIN MONEY, AND -- AND PROVIDE
22 A -- AN EXCUSE WHY THE VICTIM WON'T SHOW UP AT WORK THE
23 NEXT DAY, IT WOULD APPEAR THAT THOSE -- THERE'S A PLAN
24 GOING ON; WOULD IT NOT?

25 A ALL RIGHT. THAT -- THAT FUNCTION OF THE FRONTAL LOBE

1 MAY BE INTACT, THE PLANNING FUNCTION, BUT THE INHIBITION
2 OF EMOTION MAY NOT BE. REMEMBER, THE FRONTAL LOBES
3 CONTAIN VARIOUS AREAS WITH VARIOUS FUNCTIONS, SO YOU CAN
4 HAVE AN INTELLIGENT PERSON WHO HAS NO EMOTION CONTROL.

5 Q AND YOU KNOW, TYPICALLY IN A EMOTIONAL RESPONSE WILL
6 BE AN IMMEDIATE, QUICK, BAM.

7 A TYPICALLY.

8 Q RIGHT. TYPICALLY. AND THEN IT DISSIPATES.

9 A WITH SOME DEGREE OF TIME, YEAH.

10 Q WITH SOME DEGREE OF TIME. AND OFTEN TIMES QUICKLY.

11 A OFTEN TIMES QUICKLY.

12 Q OKAY. BECAUSE THE FRONTAL LOBES KIND OF KICK BACK
13 IN; DON'T THEY?

14 A OFTEN TIMES.

15 Q YOU HAVE THAT FIGHT OR FLIGHT, THAT IMMEDIATE -- YOU
16 CAN EVEN FEEL IT SOMETIMES; CAN'T YOU?

17 A SURE.

18 Q YOU CAN PHYSICALLY FEEL IT THAT YOU'VE GOT THIS --
19 THIS TRIGGER.

20 A THE URGE.

21 Q THE URGE, WHATEVER IT MIGHT BE.

22 A UH-HUH.

23 Q AND THEN -- BUT THEN YOUR FRONTAL LOBES RE-ENGAGE?

24 A AGAIN, MORE NORMAL FRONTAL LOBES RE-ENGAGE.

25 Q MORE NORMAL. BUT NORMAL FRONTAL LOBES RE-ENGAGE?

1 A ENGAGE--

2 Q AND THEY SAY--

3 A -- INHIBIT BEHAVIOR.

4 Q THEY INHIBIT THE BEHAVIOR. EVEN IF YOU ACTED OUT.

5 A YES.

6 Q EVEN IF YOU HAVE DONE SOMETHING WRONG.

7 A YEAH.

8 Q THEN THOSE FRONTAL LOBES TYPICALLY QUICKLY BRING YOU
9 BACK.

10 A GAIN CONTROL.

11 Q GAIN SOME CONTROL. GAIN CONTROL. NOW, WERE YOU
12 AWARE THAT MR. STANKO HAS AN IQ OF 143?

13 A I HAD READ THAT IN THE REPORTS.

14 Q YOU HAVE READ THAT IN THE REPORTS. COULD YOU TELL
15 THIS JURY WHAT -- IS THAT SIGNIFICANT -- IS -- WHAT -- IS
16 THAT A GENIUS?

17 A IQ IS MEASURED ON A HUNDRED POINT SCALE. 130 WOULD
18 BE TWO STANDARD DEVIATIONS ABOVE THE MEAN, SO THAT WOULD
19 PUT HIM IN THE UPPER HALF OF 1 PERCENT. THAT WOULD BE IN
20 THE GENIUS CATEGORY.

21 Q OKAY. SO HE'S IN -- HE'S GOT THE INTELLIGENCE OF

22 A -- HE IS HIGHLY--

23 A HIGHLY INTELLIGENT.

24 Q ALL RIGHT. A LOT OF THAT INTELLIGENCE, LOT OF THAT
25 INTELLIGENCE YOU HAVE ALREADY TESTIFIED IN THE FRONTAL

1 LOBES. THAT'S WHERE THAT COMES FROM?

2 A YES.

3 Q ISN'T IT TRUE -- I'M GOING TO GET IN TROUBLE ON THIS,
4 BUT I'M GOING TO ASK ANY WAY. ISN'T IT TRUE THAT WOMEN'S
5 FRONTAL LOBES ARE SMALLER THAN MEN'S FRONTAL LOBES?

6 A ON AVERAGE, YEAH, ON AVERAGE.

7 Q BUT THAT DOESN'T MEAN THEY ARE INSANE?

8 A NO, CERTAINLY NOT.

9 Q THEY'RE NOT PSYCHOPATHS BECAUSE THEIR--

10 A NO, NO.

11 Q -- FRONTAL LOBES ARE SMALL?

12 A NO.

13 Q AND IT'S NOT YOUR TESTIMONY -- IT'S NOT YOUR
14 TESTIMONY, AS I UNDERSTAND, THAT THIS DEFENDANT IS A
15 PSYCHOPATH BECAUSE HE MAY HAVE SOME FRONTAL LOBE ISSUE?

16 A IT'S IN HIS RECORDS THAT HE IS. I DON'T--

17 Q WELL, IT'S NOT YOUR OPINION.

18 A NO.

19 Q THAT'S NOT YOUR--

20 A NO, I HAVEN'T FORMED AN OPINION.

21 Q I'M NOT TALKING ABOUT WHAT SOMEBODY ELSE MIGHT -- AN
22 OPINION WE MIGHT HAVE FROM SOMEBODY ELSE LATER. NOW,
23 HE'S -- YOU'RE NOT SAYING -- IT'S NOT YOUR OPINION THAT HE
24 HAS NO FRONTAL LOBE FUNCTION?

25 A NO.

1 Q I MEAN, IT'S CLEAR THAT HE'S ABLE TO CONTROL HIMSELF
2 AND--

3 A AND--

4 Q -- BEHAVE PROPERLY AND, YOU KNOW, ACT THE WAY PEOPLE
5 EXPECT HIM TO ACT, OTHERS EXPECT HIM TO ACT?

6 A CERTAINLY.

7 Q SO, YOU WOULD -- WOULD IT BE FAIR TO SAY THAT THE
8 FUNCTIONING -- IS IT YOUR TESTIMONY THAT THE FUNCTIONING
9 OF HIS FRONTAL LOBES IS DIMINISHED, HIS CAPACITY FOR HIS
10 FRONTAL LOBES TO FUNCTION IS DIMINISHED?

11 A IMPAIRED.

12 Q IMPAIRED?

13 A WHATEVER WORD YOU WANT--

14 Q LESSER THAN--

15 A LESS.

16 Q -- LESSER THAN SOME PEOPLE?

17 A NOT OBLITERATED.

18 Q RIGHT. GREATER THAN SOME, LESSER THAN OTHERS.

19 A YES.

20 Q SOMEWHERE YOU JUST SAID, BUT SOMEWHERE.

21 A CERTAINLY.

22 Q NOW, YOU WERE MENTIONING THE BEHAVIORS. MR. DIGGS
23 WAS TALKING TO YOU ABOUT THE BEHAVIORS YOU MIGHT EXPECT TO
24 FIND OR BEHAVIORS OF SOMEONE WITH THIS -- THIS SITUATION,
25 THIS SITUATION.

1 BUT THAT'S REALLY NOT YOUR -- YOU -- THAT'S REALLY
2 THE AREA OF PSYCHIATRY, IS IT NOT? ISN'T THAT MORE ALONG
3 THE LINES OF THE STUDY OF PSYCHIATRY AS OPPOSED TO YOUR
4 STUDYING THE FUNCTION AND STRUCTURE OF THE BRAIN?

5 A WELL, THE ULTIMATE OUTCOME OF THE BRAIN IS BEHAVIOR,
6 SO IF A PERSON HITS ANOTHER PERSON WITH A BRICK BECAUSE
7 THEY GOT ANGRY, THAT'S A BEHAVIORAL EVENT.

8 Q RIGHT. BUT ISN'T THAT -- ISN'T THAT REALLY WHAT THE
9 STUDY OF PSYCHIATRY IS ALL ABOUT?

10 A I THINK IT CROSSES BOTH FIELDS ACTUALLY.

11 Q OKAY. THAT'S FAIR. NOW, YOU DIDN'T -- YOU TESTIFIED
12 THAT THIS MAN HAS BIRTH DEFECTS. WHAT'S YOUR AUTHORITY
13 FOR THAT TESTIMONY?

14 A I READ THE MEDICAL REPORT THAT SUGGESTED THAT IT
15 MIGHT CONTRIBUTE. THE REPORTS OF GUANTANAMO BAY, CUBA.

16 Q OKAY. I WANT TO JUST HAVE YOU TAKE A LOOK AT THOSE
17 REPORTS.

18 MR. HEMBREE: YOUR HONOR, I DO NOT INTEND TO
19 OFFER THESE AT THIS TIME. I JUST WANT TO HAVE THEM
20 IDENTIFIED BY THE WITNESS AT THIS POINT IN TIME.

21 BY MR. HEMBREE:

22 Q THESE ARE LISTED AS COURT'S EXHIBITS FIVE AND SIX.
23 AND ASK IF YOU WILL TAKE A LOOK AT THOSE AND--

24 A YEAH, ONE WAS THE MOTHER, ONE WAS THE CHILD. YEAH.

25 Q OKAY. IS THIS -- AND IF YOU NEED TO TAKE A LOOK AT

1 THEM, DO THAT, BUT--

2 A YEAH, THESE ARE THE ONES I...

3 Q ALL RIGHT. IS THAT THE -- IS THAT THE COMPLETE
4 FILE--

5 A YES.

6 Q -- THE EXTENT OF THE DOCUMENTS YOU REVIEWED--

7 A YES.

8 Q -- TO REACH THE CONCLUSION OR TO OFFER THE CONCLUSION
9 TODAY THAT MR. STANKO'S GOT BIRTH DEFECTS?

10 A WELL, I WOULDN'T SAY HAS. I'D SAY IT WAS A
11 POSSIBILITY.

12 Q OKAY.

13 A POSSIBILITY.

14 Q OKAY.

15 A HE WAS HOSPITALIZED I RECALL FOR FIVE DAYS WHICH IS
16 UNUSUAL FOR AN INFANT TO BE HOSPITALIZED THAT LONG -- OR
17 FOUR OR FIVE DAYS. SO I THOUGHT THE PHYSICIANS WERE
18 CONCERNED WITH HIS--

19 Q THAT WAS BACK IN 1968, THOUGH. DIDN'T THEY KEEP MAMA
20 AND BABY A LITTLE LONGER BACK IN THE DAY?

21 A I THINK HER BIRTH WAS VAGINAL, SO THEY WOULDN'T HAVE
22 HAD TO KEEP HER A LONG TIME. SO I WAS -- I -- I
23 INTERPRETED THAT TO MEAN THEY WERE CONCERNED ABOUT THE
24 BABY.

25 Q WENT IN ON THE 14TH, CHECKED OUT ON THE 18TH?

1 A YEAH. AND SHE -- HE WAS JAUNDICED AT BIRTH WHICH
2 MEANS LIVER INVOLVEMENT.

3 Q LOTS OF BABIES ARE JAUNDICED AT BIRTH; AREN'T THEY?

4 A YES, BUT IT'S NOT A GOOD SIGN.

5 Q PRETTY COMMON. YEAH, IT'S SOMETHING TO BE CONCERNED
6 ABOUT, BUT DOESN'T MEAN BIRTH DEFECTS. IT MEANS--

7 A NOT NECESSARILY, BUT I THINK WHAT STRUCK ME MOST IS
8 SOME OF HIS REFLEX BEHAVIORS WERE NOT NORMAL. SO IF A
9 BABY'S GOT ABNORMAL REFLEX BEHAVIORS, THAT TELLS ME THE
10 BRAIN HASN'T COMPLETED ITS DEVELOPMENT.

11 NOW, IT MIGHT CONTINUE DEVELOPING AFTER BIRTH, BUT
12 THAT WAS A LITTLE BIT OF A CONCERN.

13 Q NOW, DID YOU -- DOES THAT SOMETIMES -- THAT
14 DEVELOPMENT THAT CONTINUES, IS THAT -- TAKE PLACE IN JUST
15 A MERE FEW DAYS? CAN IT BE VERY QUICK?

16 A USUALLY IT WOULD TAKE WEEKS. IT WILL TAKE WEEKS OR
17 MONTHS.

18 Q BUT THAT'S THE EXTENT OF THE DOCUMENTS--

19 A YEAH, THAT'S THE EXTENT--

20 Q -- THAT YOU REVIEWED--

21 A YEAH.

22 Q -- TO OFFER THAT OPINION?

23 A YES.

24 Q OKAY. THE -- DOCTOR, MR. DIGGS ASKED YOU SOME
25 QUESTIONS ABOUT SORT OF THE EMOTIONAL BEHAVIORS OR THE,

1 YOU KNOW, THAT EMOTIONAL -- WELL, EMOTIONAL BEHAVIOR CAN
2 OVERRIDE THE FRONTAL LOBES. AND THAT--

3 A YEAH.

4 Q -- THAT THAT LIMBIC SYSTEM CAN JUST BE SO POWERFUL--

5 A YES.

6 Q -- THAT IT CAN CAUSE SOMEONE TO DO SOMETHING THEY
7 MIGHT NOT NORMALLY DO. IS THAT A FAIR--

8 A I GIVE YOU AN EXAMPLE? ROAD RAGE.

9 Q OKAY.

10 A THAT'S ROAD RAGE -- PROBABLY LIMBIC SYSTEM OVERRIDING
11 FRONTAL LOBE FUNCTIONING.

12 Q RIGHT.

13 A TEMPORARILY.

14 Q BUT YOU'RE NOT SAYING THAT EVERYONE WHO HAS
15 EXPERIENCED ROAD RAGE IS A PSYCHOPATH; ARE YOU?

16 A NO, CERTAINLY NOT.

17 Q OH, NO. CERTAINLY NOT. SO -- AND YOU'RE NOT
18 SUGGESTING OR SAYING TO THIS JURY THAT EVERYBODY THAT HAS
19 ROAD RAGE HAS FRONTAL LOBE PROBLEMS; ARE YOU?

20 A CERTAINLY NOT.

21 Q NO. SO THESE ARE NORMAL FOLK--

22 A YES.

23 Q -- THAT HAVE -- THAT HAVE EMOTIONAL OUTBURSTS?

24 A EPISODE OF EMOTIONALITY.

25 Q AND THEY'RE RESPONSIBLE FOR THEMSELVES. YOU'RE

1 NOT -- ARE YOU SUGGESTING -- LET ME ASK YOU THIS. ARE YOU
2 SUGGESTING TO THIS JURY THAT BECAUSE IT'S AN EMOTIONAL
3 OUTBURST, THAT THE PERSON IS NOT RESPONSIBLE FOR THEIR
4 ACTIONS, THAT THEY--

5 A NO, NOT ASSUMING INTACT BRAIN. ASSUMING A NORMAL
6 BRAIN, NO, THEY'RE RESPONSIBLE.

7 Q OKAY. THEY'RE RESPONSIBLE?

8 A YES.

9 Q EVEN THOUGH -- EVEN THOUGH THEY LOST CONTROL?

10 A AND THEY DO SOMETHING BAD, YES.

11 Q OKAY. AND MR. STANKO'S BRAIN IS DIMINISHED AND
12 YOU'RE SAYING BECAUSE IT'S DIMINISHED, HIS CAPACITY TO--

13 A IT MAY HAVE PLAYED A FACTOR.

14 Q -- TO -- THAT BECAUSE HIS BRAIN IS SOMEHOW
15 DIMINISHED, THAT IT MAY HAVE -- MAY NOT HAVE -- AND I
16 HAVEN'T NOTHING -- I MEAN, WE'RE NOT -- WE DON'T HAVE AN
17 INSANITY ISSUE HERE.

18 A EXACTLY.

19 Q BUT IF IT DID, IT JUST DIMINISHED HIS ABILITY TO
20 CONTROL HIMSELF.

21 A TO CONTROL THAT IMPULSIVE BEHAVIOR.

22 Q BECAUSE HE IS ABLE TO DO THAT.

23 A UNDER MOST CIRCUMSTANCES.

24 Q ALL RIGHT. DR. ALBINIAK, THANK YOU. MR. DIGGS HAS A
25 FEW FOLLOW-UP.

1 MR. DIGGS: JUST A COUPLE VERY BRIEFLY.

2 THE COURT: YOU MAY PROCEED.

3 REDIRECT EXAMINATION

4 BY MR. DIGGS:

5 Q WHEN AN INDIVIDUAL IS BORN, ISN'T IT TRUE THAT THEY
6 DO NOT DEVELOP ADDITIONAL BRAIN MATTER?

7 A ALL THE NERVE CELLS THAT YOU WILL EVER HAVE ARE
8 PRESENT AT BIRTH.

9 Q OKAY. PRESENT AT BIRTH. SO WE TALK ABOUT CONTINUED
10 DEVELOPMENT, WE'RE NOT TALKING ABOUT ADDITIONAL MATERIAL?

11 A NOT NERVE CELLS, NO.

12 Q NOT NERVE -- NOT THE GRAY MATTER?

13 A NO.

14 Q NOT THE BRAIN MATTER. WHAT DOES CONTINUE TO DEVELOP?

15 A THE CELLS HAVE TO CONNECT WITH EACH OTHER. WE CALL
16 THOSE DENDRITES AND SYNAPSES. THAT'S WHAT GROWS IN A
17 BABY'S BRAIN.

18 Q SO IF THERE WAS A DEFECT THERE, IT'S NOT GOING TO --
19 HE'S NOT GOING TO GROW OUT IT IN TERMS OF--

20 A PROBABLY NOT IN--

21 Q -- IN TERMS OF--

22 A IF THE CELLS ARE DAMAGED, NERVE CELLS ARE DAMAGED,
23 NO. NO.

24 Q AND IF THERE IS A -- A LOWER AMOUNT OF GRAY MATTER IN
25 THE BRAIN AT BIRTH, HE'S NOT GOING TO PRODUCE ANY NEW GRAY

1 MATTER AS HE GETS OLDER?

2 A NO.

3 Q NOW, WITH RESPECT TO THIS 2 PERCENT FIGURE ON DR.

4 GUR, THAT IS JUST WITH RESPECT TO THE MRI; CORRECT?

5 A YES.

6 Q WE HAVEN'T THROWN IN ANY OTHER FUNCTIONAL

7 DEFICIENCIES.

8 A RIGHT, THE PET SCAN.

9 Q CORRECT?

10 A YES.

11 Q AND SO WHEN WE THROW IN THE FUNCTIONAL DEFICIENCIES,

12 WE'RE GOING FAR LOWER, ARE WE NOT, IN TERMS OF--

13 A WELL, THE POINT IS YOU CAN HAVE A LOSS OF TISSUE WITH

14 NORMAL FUNCTION. YOU CAN HAVE A LOSS OF TISSUE IN

15 ABNORMAL FUNCTION, THAT COMPLICATES THINGS. YOU HAVE AN

16 ADDITIONAL IMPAIRMENT BASICALLY.

17 Q WELL, DID DR. GUR REVIEW ANYTHING TO YOUR KNOWLEDGE

18 OTHER THAN THE MRI?

19 A NO, HE NEVER SAW THE PET SCANS, NO.

20 Q ALL RIGHT. AND SO WE FIND JUST BASED ON THE MRI AND

21 THE LACK -- AND THE STRUCTURE--

22 A STRUCTURE.

23 Q -- THAT THERE'S 2 PERCENT?

24 A CORRECT.

25 Q BUT THEN YOU'RE NOT OFFERING OPINION -- HE'S NOT

1 GOING TO STAY IN THAT 2 PERCENT WHEN WE THROW IN THE
2 ADDITIONAL STRUCTURE OF -- EXCUSE ME -- FUNCTIONAL--

3 A IT WOULD BE LOWER.

4 Q IT WOULD BE--

5 A HOW MUCH LOWER IS DEBATABLE.

6 Q IT WOULD BE LOWER?

7 A LOWER.

8 Q WHO IS DR. GUR, BY THE WAY?

9 A DR. GUR IS THE HEAD OF THE BRAIN IMAGING CENTER AT
10 THE UNIVERSITY OF PENNSYLVANIA, ONE OF THE EXPERTS IN THE
11 UNITED STATES IN BRAIN SCAN.

12 Q AND IS HE HELD IN HIGH ESTEEM--

13 A YES, HE IS.

14 Q -- IN THE --

15 A HE'S HEAVILY--

16 Q -- RECEIVED?

17 MR. HEMBREE: YOUR HONOR, THIS IS IMPROPER
18 REDIRECT.

19 THE COURT: IT IS OUTSIDE OF THE SCOPE.
20 SUSTAINED.

21 MR. DIGGS: YOUR HONOR, COULD I BE HEARD?

22 THE COURT: WELL, NO, NO, NO. SIDE BAR
23 PREFERABLY.

24 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

25 THE COURT: THE QUESTION -- YOU MAY PROCEED.

1 MR. DIGGS: YOUR HONOR, THAT CONCLUDES -- I
2 DON'T HAVE ANY ADDITIONAL REDIRECT.

3 THE COURT: ANY OBJECTION TO THE WITNESS BEING
4 EXCUSED FROM THE STATE?

5 MR. HEMBREE: NONE FROM THE STATE, YOUR HONOR.

6 THE COURT: FROM THE DEFENSE?

7 MR. DIGGS: NONE, YOUR HONOR.

8 THE COURT: SIR, YOU'RE EXCUSED. HAVE A GOOD
9 DAY.

10 (WHEREUPON THE WITNESS LEFT THE STAND.)

11 THE COURT: MADAM FORELADY, LADIES AND
12 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
13 BREAK IN TESTIMONY TO TAKE OUR EVENING RECESS.

14 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE
15 AMONG YOURSELVES. AS I HAVE EXPLAINED TO YOU ON
16 YESTERDAY, AND YOU WILL HEAR ME SAY THIS OVER AND
17 OVER AGAIN, WE HAVE TO GO TO ALL LENGTHS TO MAKE SURE
18 THAT WE PREVENT ANY PREMATURE DELIBERATIONS IN THIS
19 CASE.

20 AND IT'S ESSENTIAL THAT AT ALL TIMES YOU
21 MAINTAIN YOUR IMPARTIALITY UNTIL YOU HAVE HEARD ALL
22 OF THE EVIDENCE, THE ARGUMENTS OF COUNSEL, AND THE
23 COURT'S CHARGE ON THE LAW, AND UNTIL YOU'RE RELEASED
24 TO DELIBERATE REGARDING THIS MATTER AT THE
25 APPROPRIATE TIME AMONG YOURSELVES.

1 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS. OF
2 COURSE, WE WILL SECURE THOSE DURING THE RECESS AND
3 PROTECT YOUR PRIVACY.

4 I AM SURE THAT Y'ALLS ACCOMMODATIONS ARE
5 COMFORTABLE. I KNOW THAT IT'S INCONVENIENT. I NEED
6 TO EMPHASIZE ON BEHALF OF THE STATE AS WELL AS THE
7 DEFENSE THAT WE REALLY APPRECIATE YOUR SACRIFICE.

8 WE KNOW THAT IT IS SLIGHTLY UNCOMFORTABLE. THE
9 ONLY THING THAT MAKES HOTELS BEARABLE FOR ME IS A TV.
10 SO I UNDERSTAND. I UNDERSTAND HOW FRUSTRATING THAT
11 MAY BE. SO I WANTED TO TELL YOU THAT WE REALLY DO
12 APPRECIATE YOUR SACRIFICE.

13 HOPING Y'ALL HAVE A WONDERFUL EVENING AND WE
14 WILL RESUME THE TRIAL IN THE MORNING AT 9:30. Y'ALL
15 HAVE A GOOD EVENING. GET SOME REST.

16 (WHEREUPON THE JURY LEFT THE COURTROOM AT
17 5:57 PM.)

18 THE COURT: YOU MAY BE SEATED. ANYTHING BEFORE
19 WE BREAK FOR THE EVENING FROM THE STATE?

20 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
21 HONOR.

22 THE COURT: FROM THE DEFENSE?

23 MR. DIGGS: YOUR HONOR, IF YOU WILL GIVE US JUST
24 A SECOND.

25 THE COURT: SURE.

1 MR. KELLY: JUDGE, THERE IS ONE THING.

2 THE COURT: CERTAINLY.

3 MR. KELLY: IF WE MAY, MA'AM, WE'D LIKE TO ASK
4 THAT WE BEGIN TOMORROW AT 10:30 RATHER THAN 9:30
5 BECAUSE WE HAVE GOT THESE EXPERTS COMING FROM OUT OF
6 TOWN.

7 THE COURT: I WOULD ASSUME THE STATE WILL HAVE
8 NO EXCEPTION?

9 MR. HEMBREE: NO, YOUR HONOR. WE HAVE NO
10 OBJECTION.

11 THE COURT: WE WILL DO THAT. I WILL ACCOMMODATE
12 YOU.

13 MR. KELLY: THANK YOU, MA'AM.

14 THE COURT: NOT A PROBLEM. IF WE COULD LET
15 EVERYBODY KNOW SO THEY DON'T BRING THE JURY OVER TOO
16 EARLY, THAT IT'S 10:30 INSTEAD OF 9:30. AND I WILL
17 SEE YOU ALL IN THE MORNING AT -- WELL, I WILL BE HERE
18 EARLY, BUT, YOU KNOW, WE WILL BE PREPARED TO START AT
19 10:30.

20 MR. KELLY: THANK YOU, MA'AM.

21 THE COURT: THANK YOU. Y'ALL HAVE A GOOD
22 EVENING.

23 (COURT IN RECESS FOR THE EVENING.)

24 ***** AUGUST 9TH, 2006 *****

25 THE COURT: IS THE DEFENSE READY TO PROCEED?

1 MR. DIGGS: YES, YOUR HONOR.

2 THE COURT: DO WE HAVE MR. STANKO? PLEASE BRING
3 IN THE JURY.

4 (JURY ENTERED THE COURTROOM AT 10:43 AM.)

5 THE COURT: YOU MAY BE SEATED. LADIES AND
6 GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL EVENING.
7 WE WILL NOW RESUME WITH THE TRIAL. YOU MAY PROCEED.

8 MR. DIGGS: THANK YOU, YOUR HONOR.

9 THE COURT: YOU'RE WELCOME.

10 MR. DIGGS: WE WOULD CALL DR. JAMES THRASHER.

11 THE COURT: SIR, IF YOU WOULD COME TO THE
12 WITNESS STAND AND BE SWORN.

13 DR. JAMES THRASHER, AFTER BEING
14 DULY SWORN, TESTIFIED AS FOLLOWS:

15 THE WITNESS: JAMES W THRASHER, JUNIOR,
16 T-H-R-A-S-H-E-R.

17 THE COURT: YOU MAY PROCEED.

18 MR. DIGGS: THANK YOU.

19 DIRECT EXAMINATION

20 BY MR. DIGGS:

21 Q DR. THRASHER, WHAT DO YOU DO FOR A LIVING?

22 A I'M A PRACTICING PSYCHIATRIST IN MYRTLE BEACH, SOUTH
23 CAROLINA.

24 Q OKAY. WHERE WERE YOU ORIGINALLY FROM?

25 A JAMESTOWN, NEW YORK.

1 Q ALL RIGHT. AND WOULD YOU GIVE US THE BENEFIT OF YOUR
2 EDUCATION, PLEASE SIR.

3 A YES. I GRADUATED FROM THE -- WELL, IT'S OLD DOMINION
4 UNIVERSITY IN NORFOLK, VIRGINIA. WAS SO LONG AGO -- WITH
5 A BACHELOR OF SCIENCE DEGREE. THEN I WENT TO THE MEDICAL
6 COLLEGE OF VIRGINIA IN RICHMOND, VIRGINIA WHERE I
7 GRADUATED WITH A DEGREE IN MEDICINE.

8 Q YOU WERE AN HONORS GRADUATE IN COLLEGE?

9 A YES, I WAS.

10 Q WHERE DID YOU GO TO FOR YOUR -- WHERE DID YOU GO FOR
11 YOUR MEDICAL TRAINING?

12 A IN THE MEDICAL COLLEGE OF VIRGINIA IN RICHMOND,
13 VIRGINIA. IT'S NOW CALLED VIRGINIA COMMONWEALTH
14 UNIVERSITY.

15 Q OKAY. AND WHEN WAS THAT?

16 A THAT WAS 1961 THROUGH 1965.

17 Q ALL RIGHT. DID YOU DO AN INTERNSHIP?

18 A I DID, IN CHARLESTON, SOUTH CAROLINA, '65 THROUGH
19 '66.

20 Q OKAY. HERE IN CHARLESTON?

21 A YES.

22 Q SOUTH CAROLINA?

23 A YES.

24 Q AND HOW ABOUT RESIDENCY? DID YOU DO A RESIDENCY OF
25 ANY KIND?

1 A I DID A THREE YEAR ADULT PSYCHIATRIC RESIDENCY AT THE
2 NAVY HOSPITAL AT PHILADELPHIA, PENNSYLVANIA '66 THROUGH
3 '69.

4 Q NOW, DID YOU HAVE ANY OTHER EDUCATION BEYOND YOUR
5 MEDICAL TRAINING?

6 A YES. I HAD A -- I HAD A ONE YEAR FORENSIC PSYCHIATRY
7 FELLOWSHIP TRAINING AT THE UNIVERSITY OF PENNSYLVANIA IN
8 PHILADELPHIA.

9 Q WHAT DO YOU DO -- WHAT DOES ONE STUDY IN A FORENSIC
10 PSYCHIATRIC -- OR PSYCHIATRY FELLOWSHIP?

11 A WELL, IT'S A BRANCH OF TRAINING AND PRACTICE IN WHICH
12 ONE STUDIES AND TREATS THE PERSONS WITH MENTAL DISEASES AS
13 THEY MAY INTERFACE OR NOT WITH LEGAL AREAS INCLUDING CIVIL
14 AND CRIMINAL CONCEPTS.

15 Q AND DO YOU REMEMBER -- CAN YOU GIVE US THE DATES WHEN
16 YOU WERE IN THE FORENSIC PSYCHIATRY FELLOWSHIP?

17 A I THINK IT WAS '71 THROUGH '72.

18 Q AND HOW ABOUT ANY FURTHER TRAINING BEYOND THAT?

19 A I WENT TO LAW SCHOOL AT TEMPLE UNIVERSITY IN
20 PHILADELPHIA, PENNSYLVANIA AND GRADUATED THERE WITH A
21 DEGREE IN LAW, JURIS DOCTORATE.

22 Q DID YOU EVER TAKE ANY BAR EXAMS OR...

23 A I TOOK THE PENNSYLVANIA BAR EXAM AND PASSED IT.

24 Q OKAY.

25 A AND I WAS LICENSED AS A -- AN ATTORNEY IN THE STATE

1 OF PENNSYLVANIA.

2 Q AND I'M SORRY, YOU MAY HAVE ANSWERED THIS ALREADY,
3 BUT DO YOU REMEMBER WHEN YOU GRADUATED WITH YOUR JD FROM
4 LAW SCHOOL?

5 A I THINK IT WAS IN '78.

6 Q NOW, WHAT IS THE NAVAL JUSTICE SCHOOL?

7 A OH, THAT'S THE JAG SCHOOL, THE NAVY JAG SCHOOL. I
8 WAS ON ACTIVE DUTY IN THE MILITARY.

9 Q YES, SIR.

10 A AND WITH A -- FOR 26 YEARS PRACTICING AS A PHYSICIAN
11 AND A PSYCHIATRIST. AND WHEN I GOT THAT LAW DEGREE, I WAS
12 SENT TO THE NAVY JAG SCHOOL IN NEWPORT, RHODE ISLAND TO
13 STUDY MILITARY LAW.

14 Q ALL RIGHT. DID YOU EVER HAVE ANY NEED TO PUT THAT TO
15 USE?

16 A MANY TIMES.

17 Q OKAY. TELL US ABOUT THAT, JUST TO -- A GENERAL
18 OVERVIEW.

19 A WELL, MOST OF IT HAD TO DO WITH SERIOUS LEGAL
20 OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

21 Q OKAY. HOW LONG DID YOU DO THAT TYPE OF WORK?

22 A WELL, EVER SINCE I GRADUATED UNTIL I RETIRED FROM THE
23 NAVY.

24 Q OKAY. WHEN WAS THAT?

25 A 1988.

1 Q ALL RIGHT. ARE YOU BOARD CERTIFIED?

2 A I AM, IN PSYCHIATRY.

3 Q AND WHO WOULD BE THE -- WHAT IS THE ENTITY THAT DOES
4 THE BOARD CERTIFICATION IN PSYCHIATRY?

5 A THE AMERICAN BOARD OF PSYCHIATRY AND NEUROLOGY.

6 Q HOW DO YOU GET BOARD CERTIFIED?

7 A YOU -- ONE HAS TO HAVE A CERTAIN AMOUNT OF BASIC
8 TRAINING AND -- AND PROOF THAT YOU HAD SUCCESSFULLY
9 COMPLETED THAT, AND THEN YOU'RE ELIGIBLE TO TAKE A -- AN
10 EXAM, AND TAKES -- I THINK YOU HAVE TO HAVE TWO -- TWO
11 YEARS OF CLINICAL PRACTICE BEFORE YOU TAKE THE EXAM IN
12 ADDITION TO THE TRAINING BEFORE THAT, THEN YOU TAKE THE
13 EXAM. IF YOU PASS IT, YOU'RE BOARD CERTIFIED.

14 Q AND DO YOU REMEMBER OR CAN YOU TELL US WHEN THAT WAS
15 APPROXIMATELY, WHEN YOU BECAME BOARD CERTIFIED?

16 A I DON'T REMEMBER THE EXACT DATE OF THAT. I'VE GOT IT
17 ON A CV.

18 Q OKAY. LET ME ASK YOU, DO YOU KNOW HOW MANY
19 PSYCHIATRISTS -- DO YOU HAVE TO BE BOARD CERTIFIED TO BE A
20 PRACTICING PSYCHIATRIST?

21 A NO, YOU DON'T.

22 Q HOW MANY PSYCHIATRISTS ARE BOARD CERTIFIED?

23 A I THINK THE GREATER MAJORITY OF THEM ARE.

24 Q OKAY. TELL US WHAT LICENSES YOU HOLD.

25 A I CURRENTLY HOLD A LICENSE TO PRACTICE MEDICINE

1 SURGERY IN SOUTH CAROLINA. I HAD OTHER LICENSES, BUT
2 THEY'RE ALL INACTIVE NOW.

3 Q ALL RIGHT. OTHER LICENSES SUCH AS WHAT?

4 A WELL, I PRACTICED IN NEVADA FOR PERIOD OF TIME WHERE
5 I RAN A MENTAL HOSPITAL AND I HAD TO HAVE A LICENSE TO
6 PRACTICE THERE.

7 Q OKAY.

8 A I PRACTICED IN PENNSYLVANIA AND I HAD A PENNSYLVANIA
9 LICENSE. I PRACTICED IN FLORIDA WHEN I WAS THERE WITH THE
10 NAVY, AND IT -- ORIGINALLY PHYSICIANS ON ACTIVE DUTY IN
11 THE MILITARY DIDN'T HAVE TO HAVE A LICENSE IN THE STATE IN
12 WHICH THEY WERE LOCATED BY THE MILITARY. IT CHANGED. SO
13 I HAVE FOUR LICENSES.

14 I GOT A CALIFORNIA LICENSE THAT I NEVER PUT TO WORK
15 BECAUSE I ANTICIPATED THAT -- I GOT IT BECAUSE I
16 ANTICIPATED THAT WITH THE MILITARY, MIGHT WELL BE
17 STATIONED IN CALIFORNIA, BUT THAT NEVER CAME TO BE, BUT I
18 GOT THAT LICENSE BUT I NEVER PUT IT TO USE.

19 Q ALL RIGHT. HAVE YOU HAD ANY APPOINTMENTS OR ENGAGED
20 IN OTHER PROFESSIONAL ACTIVITIES?

21 A YES. I HAVE...

22 Q LET'S START WITH THE MOST RECENT AND GO BACK--

23 A WELL...

24 Q -- JUST FOR A LITTLE WAYS. PRESENTLY WHAT DO YOU DO?

25 A I'M IN PRIVATE PRACTICE IN MYRTLE BEACH, SOUTH

1 CAROLINA, AND HAVE BEEN SINCE 1993.

2 Q AND IN YOUR PRIVATE PRACTICE, WHAT DO YOU DO?

3 A I SEE PSYCHIATRIC PATIENTS ON DAILY, REGULAR BASIS.

4 Q AND DO YOU TREAT THEM OR--

5 A I DO.

6 Q -- COUNSEL?

7 A YES, I DO, A GREAT NUMBER OF THEM.

8 Q AND PRIOR TO YOUR PRIVATE PRACTICE, CAN YOU TELL US
9 WHAT YOU DID?

10 A I WAS ON ACTIVE DUTY IN THE MILITARY. WELL, I'M
11 SORRY. I WAS A MEDICAL DIRECTOR OF THE COASTAL CAROLINA
12 HOSPITAL WHICH WAS IN MYRTLE BEACH, AND IT'S -- IT WAS A
13 SMALL PSYCHIATRIC FACILITY. I WAS A MEDICAL DIRECTOR FOR
14 A BRIEF PERIOD.

15 Q ALL RIGHT. WERE YOU EVER A STAFF PSYCHIATRIST OR
16 CONSULTING PSYCHIATRIST WITH ANY HOSPITALS OR...

17 A YES, I WAS. I WAS AT THAT ONE INITIALLY, THEN I
18 BECAME THE -- THE MEDICAL DIRECTOR.

19 Q ALL RIGHT. HOW ABOUT -- YOU DON'T HAVE A COPY OF
20 YOUR CV; DO YOU?

21 A I DON'T HAVE IT WITH ME, NO.

22 Q I WANT TO JUST HAND YOU THIS AND LET YOU -- LET YOU
23 USE THIS TO REFRESH YOUR MEMORY WITH RESPECT TO OTHER
24 THINGS THAT YOU HAVE DONE--

25 A CERTAINLY.

1 Q -- IN YOUR PROFESSIONAL CAREER. I WANT TO ASK YOU
2 JUST TO REVIEW THAT AND MAYBE I CAN ASK YOU A COUPLE OF
3 QUESTIONS ABOUT SOME OF THOSE.

4 A SURE. UH-HUH.

5 Q LET ME TAKE THAT BACK FROM YOU.

6 A SURE.

7 Q IN THE CAPACITY AS A PSYCHIATRIST OR COUNSELOR, HAVE
8 YOU EVER BEEN ASSOCIATED OR WORKED WITH INMATES OR VIOLENT
9 OFFENDERS?

10 A YES, I HAVE. I WAS A CONSULTING PSYCHIATRIST AT THE
11 JAIL IN CHARLESTON, SOUTH CAROLINA, FOR A TIME WHERE I WAS
12 TEACHING RESIDENT PHYSICIANS IN TRAINING AS IT WAS A
13 PORTION OF THEIR TRAINING AT THE TIME, AND I WAS ALSO A
14 CONSULTING PSYCHIATRIST FOR THE -- THE FEDERAL HOSPITAL
15 IN -- HOSPITAL -- THE FEDERAL PRISON HOSPITAL IN
16 ROCHESTER, MINNESOTA.

17 Q HOW LONG DID YOU DO THOSE TYPES OF JOBS, ENGAGE IN
18 THOSE TYPES OF RESPONSIBILITIES?

19 A WELL, THE -- THE ONE IN CHARLESTON WAS FOR A FEW
20 YEARS AND THE ONE IN ROCHESTER, MINNESOTA WAS ON TWO
21 DIFFERENT OCCASIONS THAT AMOUNTED I THINK CLOSE TO SIX
22 MONTHS OR MAYBE A YEAR.

23 Q NOW, HOW ABOUT PROFESSIONAL SOCIETIES, DO YOU BELONG
24 TO ANY?

25 A I BELONG TO THE AMERICAN ACADEMY OF PSYCHIATRY AND

1 LAW AND THE AMERICAN PSYCHIATRIC ASSOCIATION.

2 Q HAVE YOU EVER BEEN INVOLVED IN THE GENERATING
3 PROFESSIONAL PUBLICATIONS OR PRESENTATIONS?

4 A YES, I HAVE. I PUBLISH -- I CO-PUBLISHED AN ARTICLE
5 ON THE -- ON THE TRAINING OF PSYCHIATRISTS IN FORENSIC
6 PSYCHIATRY ACROSS THE NATION IN CONCERT WITH DR. ROBERT
7 SADOFF A GOOD NUMBER OF YEARS AGO, THE ASSESSMENT OF THE
8 PROGRAMS THAT WERE IN ACTION AT THAT TIME.

9 AND I CO-AUTHORED A PAPER WITH AN ATTORNEY CONCERNING
10 THE USE OF HYPNOSIS IN A TRIAL, AND THAT WAS A FIRST.
11 THAT -- THAT TO MY KNOWLEDGE THAT WAS THE FIRST TIME THAT
12 HYPNOSIS HAD BEEN ENTERED INTO A CRIMINAL TRIAL SETTING.
13 BOTH OF THESE WERE A GOOD NUMBER OF YEARS AGO.

14 MR. DIGGS: YOUR HONOR, WE'D OFFER DR. THRASHER
15 AS AN EXPERT IN PSYCHIATRY AND FORENSIC PSYCHIATRY.

16 THE COURT: ANY OBJECTIONS OR QUESTIONS?

17 MR. HEMBREE: NO, YOUR HONOR.

18 THE COURT: SO ADMITTED. YOU MAY PROCEED.

19 BY MR. DIGGS:

20 Q NOW, DR. THRASHER, DO YOU KNOW STEPHEN STANKO?

21 A I HAVE MET THE MAN, YES, I HAVE, TWICE.

22 Q AND DO YOU HAVE AN OPINION WITH RESPECT TO THE ISSUE
23 OF SANITY AT THE TIME OF THE INCIDENT THAT WE'RE HERE
24 ABOUT IN THIS PARTICULAR CASE?

25 A YES, I HAVE.

1 Q WHAT IS THAT OPINION?

2 A THAT MR. STANKO DID HAVE A MENTAL DISEASE, DEFECT OR
3 DISORDER AT THE TIME OF THE COMMITMENT OF THESE INCIDENTS
4 AND THAT HE WAS NOT ABLE TO -- TO -- TO -- NOR APPRECIATE
5 THE DIFFERENCE BETWEEN MORAL OR LEGAL RIGHT OR WRONG AND
6 THAT HE WAS NOT ABLE -- AS A RESULT OF THOSE DEFECTS HE
7 WAS NOT ABLE TO CONFORM HIS BEHAVIOR TO THE REQUIREMENTS
8 OF THE LAW.

9 Q YOU STATE IN YOUR REPORT THAT AT THE TIME OF THE
10 ALLEGED OFFENSES MR. STEPHEN STANKO WAS SUFFERING FROM A
11 MENTAL DISEASE, DISORDER OR DEFECT AND HE DID NOT HAVE THE
12 CAPACITY TO DISTINGUISH MORAL OR LEGAL RIGHT FROM WRONG
13 AND TO RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR
14 LEGALLY WRONG. ARE THOSE YOUR WORDS?

15 A CORRECT.

16 Q NOW, I WANT TO TALK TO YOU A LITTLE BIT ABOUT WHAT
17 YOU DID TO COME TO THAT CONCLUSION.

18 A ALL RIGHT.

19 Q AND IF YOU WOULD, LET ME START -- I HAVE A COPY OF
20 YOUR REPORT HERE. I JUST WANT TO START WITH THE SETTING.
21 WHAT IS THAT, WHAT DO YOU MEAN BY THE SETTING AS YOU HAVE
22 WRITTEN IN YOUR REPORT?

23 A WELL, THE SETTING -- EXCUSE ME -- THE SETTING IS THE
24 PLACE IN WHICH I SAT WITH THIS MAN AND TALKED TO HIM AND
25 GOT THE INFORMATION, DID THE EXAMINATION.

VOLUME FOUR OF EIGHT

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY

Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN C. STANKO,

APPELLANT

RECORD ON APPEAL

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1 Q YOU TALKED TO MR. STANKO?

2 A YES, I DID.

3 Q ALL RIGHT. AND CAN YOU TELL US THE CONDITIONS
4 WHEREIN THAT TOOK PLACE?

5 A IT WAS IN THE -- IN THE LIBRARY AT THE DETENTION
6 CENTER IN GEORGETOWN THE FIRST TIME, AND THEN IT WAS IN A
7 SMALL INTERVIEW ROOM SOMEWHERE ELSE IN THE FACILITY --
8 THANK YOU VERY MUCH -- SOMEWHERE ELSE IN THE FACILITY AND
9 NEAR A -- NEAR A COMMON PASSAGEWAY.

10 Q ALL RIGHT. AND HOW WAS IT THAT YOU CAME OR BECAME
11 INVOLVED IN THE CASE? WHY WERE YOU THERE?

12 A WELL, YOU HAD CALLED ME BECAUSE OF YOUR INTERACTIONS
13 WITH MR. STANKO SOMETIME EARLIER AND HE HAD ALLEGED THAT
14 HE HAD ABSOLUTELY NO MEMORY OF THIS, SOME VERY SERIOUS
15 CRIMES. A PERSON HAD BEEN KILLED AND ANOTHER PERSON AND
16 THEIR -- A MOTHER AND A DAUGHTER, THE MOTHER HAD BEEN
17 KILLED AND THE DAUGHTER HAD BEEN BADLY INJURED AND RAPED,
18 AND HAD NO MEMORY OF IT AT ALL, NOT A THING.

19 Q SO YOU WERE MADE KNOWN OF THE CHARGES WITH RESPECT TO
20 MR. STANKO AND THE ALLEGED ACTIVITIES, CONDUCT HE HAD BEEN
21 ENGAGED IN?

22 A YES.

23 Q DID YOU HAVE ANY OPINION AT THAT TIME AS TO ANY OF
24 THESE ISSUES WITH RESPECT TO SANITY OR ANYTHING LIKE THAT?

25 A I'M SORRY?

1 Q DID YOU HAVE ANY OPINION AT THAT POINT? HAD YOU
2 FORMED AN OPINION?

3 A WHEN I WAS TALKING WITH HIM?

4 Q YEAH. WELL NO, WHEN I INITIALLY ENGAGED YOU IN THIS
5 CASE.

6 A NO.

7 Q TELL US ABOUT THE INTERVIEW THAT YOU HAD WITH HIM.
8 INITIALLY WHAT DID YOU DISCUSS WITH MR. STANKO ABOUT THIS
9 PROCEDURE?

10 A ABOUT THIS PROCEDURE? I WANTED TO KNOW IF HE KNEW
11 WHAT HE HAD BEEN CHARGED WITH, JUST A VERY IMPORTANT
12 THING, AND HE WAS FULLY AWARE OF THAT, AND I WANTED TO
13 KNOW IF HE KNEW WHAT HIS RIGHTS WERE AND--

14 Q OKAY.

15 A -- AS A DEFENDANT. AND I WANTED TO KNOW HIS
16 EXPLANATION OF WHAT WAS GOING ON. I WANTED TO KNOW IF HE
17 GOT ALONG WITH HIS ATTORNEYS, AND INDEED HE DID.

18 Q WHAT DID YOU GATHER FROM THAT? WHAT DID YOU TAKE
19 AWAY FROM THAT PARTICULAR ENCOUNTER?

20 A WELL, HE WAS DOING QUITE WELL AT THAT POINT. HE WAS
21 INTACT AND IN TOUCH AND WHAT -- IN FULL AWARENESS OF THE
22 THINGS THAT WERE GOING ON AND WAS DEALING WITH IT
23 REASONABLY AND SENSIBLY.

24 Q ALL RIGHT. DID YOU SPEND OR DID YOU MAKE AN EFFORT
25 TO DETERMINE WHETHER MR. STANKO WAS COMPETENT AT THAT

1 TIME?

2 A YES, I DID.

3 Q AND WHAT DO YOU MEAN BY COMPETENCY, RIGHT -- GOT A
4 HEADING IN YOUR REPORT ABOUT COMPETENCY.

5 A WELL--

6 Q WHAT ARE YOU LOOKING FOR THERE?

7 A WELL, A PERSON THAT -- TO BE COMPETENT TO ATTEND
8 THESE PROCEEDINGS HAS TO KNOW WHAT THEY'RE CHARGED WITH,
9 HAS TO BE ABLE TO GET ALONG WITH AN ATTORNEY AND HELP
10 PRESENT HIS CASE AND HAS TO KNOW WHAT -- IN A GENERAL
11 SENSE WHAT THE PARTICIPANTS IN THE TRIAL SETTING DO, WHAT
12 THEIR JOB IS, WHAT THE JUDGE, THE ATTORNEYS, BOTH SIDES,
13 THE PROSECUTOR AND THE DEFENSE ATTORNEY, AND THE JURY.

14 Q HOW DOES THAT -- WELL, WHAT WAS YOUR CONCLUSION WITH
15 RESPECT TO HIS COMPETENCY?

16 A HE WAS COMPETENT, YEAH.

17 Q ALL RIGHT. HOW DOES THAT FIT, THOUGH, WITH THE
18 OPINION YOU GAVE ME PREVIOUSLY ABOUT HIM BEING INSANE AT
19 THE TIME OF THIS OFFENSE?

20 A WELL, THE...

21 Q WHAT'S THE DIFFERENCE?

22 A WELL, HE -- AT THE TIME OF THE COMMISSION OF THE ACTS
23 HE WAS BEHAVING SIGNIFICANTLY AND RATHER DRAMATICALLY
24 DIFFERENT THAN THE TIME OF THE EXAMINATION.

25 Q HOW CAN ONE BE COMPETENT AT ONE POINT AND INSANE AT

1 ANOTHER POINT?

2 A WELL, IT CAN COME ABOUT FROM MENTAL ILLNESSES AND
3 BRAIN INJURIES AND BRAIN DYSFUNCTION LIKE SEIZURES, THOUGH
4 HE DOES NOT HAVE SEIZURES.

5 Q I SEE.

6 A BUT IT CAN MANIFEST AT ONE POINT OR ANOTHER, NORMALLY
7 DEPENDING UPON WHAT THE SITUATION IS --

8 Q OKAY.

9 A -- IMPENDING ON HIM.

10 Q I SEE. ONE MAY HAVE A SEIZURE FOR ONE MOMENT AND NOT
11 BE HAVING A SEIZURE AT ANOTHER MOMENT?

12 A RIGHT.

13 Q DUE TO WHAT?

14 A MISFIRING OF THE BRAIN.

15 Q ALL RIGHT. SO SIMPLY BECAUSE SOMEONE HAS A BRAIN
16 DEFECT THAT CAUSES THEM TO HAVE SEIZURES DOESN'T MEAN
17 THEY'RE ALWAYS GOING TO BE IN A STATE OF HAVING SEIZURES?

18 A NO.

19 Q IS THAT THE WAY INSANITY CAN WORK?

20 A YES.

21 Q OKAY. NOW, DO YOU HAVE A COPY OF YOUR REPORT WITH
22 YOU?

23 A I DO.

24 Q WOULD YOU OPEN THAT UP, PLEASE?

25 A YEAH. UH-HUH.

1 Q LET'S GO TO PAGE TWO. AND ON PAGE TWO OF YOUR REPORT
2 YOU TALK ABOUT DOCUMENTS THAT YOU HAVE REVIEWED WITH
3 RESPECT TO THIS CASE. CAN YOU TELL US WHAT IT WAS
4 SPECIFICALLY YOU REVIEWED AND WHEN YOU REVIEWED IT AND WHY
5 YOU REVIEWED IT?

6 A WELL, I ASKED YOU FOR THE AVAILABLE RECORDS AND
7 REPORTS CONCERNING THE CASE AND YOU PROVIDED THEM FOR ME
8 HERE.

9 Q DID WE PROVIDE YOU EVERYTHING THAT YOU ASKED US FOR?

10 A YES. AND THAT -- THAT LIST OF THINGS INCLUDED
11 REPORTS AND ACTUAL CT DISKS THAT WERE OF SOME IMAGING THAT
12 HAD BEEN DONE OF MR. STANKO.

13 Q OKAY. DID YOU HAVE ANY OTHER REPORTS, TESTS THAT HAD
14 BEEN DONE, REPORTS OF TESTS?

15 A OTHER THAN THIS LIST?

16 Q NO. DID YOU HAVE, FOR EXAMPLE, AN -- THE MRI
17 RESULTS?

18 A YES, I DID.

19 Q ALL RIGHT. AS A RESULT OF YOUR REVIEW OF THOSE
20 MATERIALS, WHAT IMPACT DID THAT HAVE ON YOUR ULTIMATE
21 OPINION IN THIS CASE?

22 A WELL, RATHER SIGNIFICANT BECAUSE IT -- IT TURNS OUT
23 THAT MR. STANKO HAS A NOTABLE DYSFUNCTION OF A CRITICAL
24 AREA IN HIS BRAIN, AND THAT AREA IS INVOLVED IN THE
25 CONTROLS THAT HUMAN BEINGS HAVE OVER HOW THEY BEHAVE.

1 Q DID YOU SEE THE REPORT FROM DR. GUR, FOR EXAMPLE?

2 A YES.

3 Q THE MRI?

4 A YES.

5 Q DO YOU RECALL THAT? DO YOU REMEMBER?

6 A WELL, IT SHOWED SOME VOLUMETRIC CHANGES IN THE FRONT
7 OF HIS BRAIN IN THE BACK.

8 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS DEFENSE EXHIBIT
9 NUMBER ONE.

10 A YES, I SAW THAT.

11 Q ALL RIGHT. DO YOU SEE ANYTHING OF SIGNIFICANCE IN
12 THIS CHART?

13 A WELL, AS DESCRIBED TO ME THAT THE -- THE DARK LINE
14 ACROSS MARKED AS NORMAL IS WHERE THE GREATER MAJORITY OF
15 PEOPLE'S TRACING SUCH AS THIS WILL POOVER (SIC) AND HE'S
16 GOT -- IN THE MEDIAL BRAIN -- ACROSS THE BOTTOM IS THE
17 FRONT OF THE BRAIN, THE TEMPORAL LOBE, PARIETAL LOBE,
18 OCCIPITAL LOBE, AND MEDIAL LOBE, AND THE VENTRICLES WHICH
19 ARE THE OPEN SPACES WITHIN THE BRAIN WITH FLUID.

20 AND AT THE -- IN THE MEDIAL AREA AND THE FRONTAL AREA
21 THE BLUE AND THE RED LINES ARE WAY BELOW NORMAL MEANING --
22 OR IN -- IMPLYING THAT THOSE AREAS ARE DYSFUNCTIONAL.

23 Q ALL RIGHT. HE -- WHEN YOU SAY, BELOW NORMAL, WE'RE
24 SAYING SMALLER WITH RESPECT TO THIS?

25 A LARGER. I MEAN, MORE BELOW NORMAL, INCREASINGLY

1 BELOW NORMAL.

2 Q YEAH. RIGHT.

3 A INCREASINGLY -- WELL, IT'S AWKWARD. LESS AND LESS
4 FUNCTION OF THAT AREA OF THE BRAIN.

5 Q NOW WE'RE LOOKING AT THE STRUCTURE OF THE BRAIN HERE;
6 CORRECT?

7 A YES.

8 Q WOULD YOU SAY--

9 A WELL, WE'RE LOOKING AT A -- A SCALE DERIVED FROM
10 MEASUREMENTS OF THE FUNCTIONING OF THIS STRUCTURE OF THE
11 BRAIN.

12 Q AND YOU HAVE GOT IT NORMAL, THIS -- YOU SAID THIS
13 LINE OF ZERO WOULD BE THE NORMAL?

14 A SAID TO BE.

15 Q AND WITH RESPECT TO THE FRONTAL LOBE WE HAVE NEARLY A
16 2.5 DEVIATION. IS THAT THE WAY YOU READ IT?

17 A YES.

18 Q BELOW NORMAL?

19 A BELOW, YES.

20 Q DOES THAT HAVE AN IMPACT OR AN EFFECT OR INFLUENCE ON
21 YOUR OPINION AS TO SANITY IN THIS CASE?

22 A YES.

23 Q ALL RIGHT. HOW ABOUT THE MEDIAL LOBE OR AREA?

24 A SAME.

25 Q CAN YOU EXPLAIN TO US HOW THOSE TWO AREAS OF THE

1 BRAIN MIGHT INTERACT AND WORK TOGETHER?

2 A WELL, THE -- THE FRONTAL PART OF THE BRAIN I THINK IN
3 THIS CASE IS THE -- IN MY CONCERN ABILITY (SIC) HERE IS
4 THE MOST IMPORTANT PART BECAUSE THE FRONTAL PART OF THE
5 BRAIN ABOVE A PERSON'S EYES IS THE AREA OF THE BRAIN THAT
6 HAS TO DO WITH OUR ABILITY TO HAVE EMPATHY FOR ANOTHER
7 HUMAN BEING, TO HAVE FEELINGS ABOUT ANOTHER HUMAN BEING,
8 TO BE ABLE TO DEVELOP MEANINGFUL AND LASTING ATTACHMENTS
9 WITH ANOTHER HUMAN BEING, AND IT'S WHERE OUR -- OUR MORAL
10 VALUES ARE SORT OF OPERATIVE.

11 Q ALL RIGHT. IS THAT WHERE -- WHEN YOU TALK ABOUT LACK
12 OF CAPACITY TO DISTINGUISH RIGHT AND WRONG, IS THAT THE
13 AREA THAT WE'RE TALKING ABOUT?

14 A YES.

15 Q IS THAT WHAT YOU'RE SAYING?

16 A YES.

17 Q ALL RIGHT. AND GO AHEAD. DID I INTERRUPT YOU? CAN
18 YOU CONTINUE ON?

19 A NO, I -- THAT'S ALL RIGHT.

20 Q HOW COULD IT BE THAT THAT AREA OF THE BRAIN MIGHT
21 SEEMINGLY WORK OKAY ON SOME OCCASIONS AND NOT ON OTHERS?

22 A WELL, HOW DID IT GET THAT WAY I GUESS IS HOW WE NEED
23 TO APPROACH IT. IT -- FROM HIS BIRTH RECORDS, WHICH YOU
24 PROVIDED FOR ME, IT WAS CLEAR THAT HE WAS HAVING SERIOUS
25 NEUROLOGICAL TIMES AT THE -- AT THE POINT OF HIS BIRTH.

1 Q CAN YOU SPEAK TO THAT? WHAT KIND OF PROBLEM?

2 A CENTRAL NERVOUS SYSTEM PROBLEMS. HIS BRAIN WASN'T
3 FUNCTIONING RIGHT SUCH TO THE DEGREE THAT THEY ANTICIPATED
4 THAT HE MIGHT NOT SURVIVE. IT WAS PRETTY SERIOUS. AND
5 THAT MAY WELL HAVE SET THE GROUNDWORK FOR THE DYSFUNCTION
6 OF THE LOWER PARTS OF THE FRONTAL LOBE.

7 Q AND WHY -- WHY IS THAT?

8 A SORRY?

9 Q HOW COULD THAT BE? WHY DO YOU SAY THAT?

10 A WELL, IN THE -- IT -- IN THE DEVELOPING BRAIN THERE
11 IS A CRUCIAL PROCESS THAT TAKES PLACE CALLED MIGRATION,
12 AND CELLS THAT FORM THE BRAIN ARE PRODUCED CENTRALLY, AND
13 THEY MIGRATE OUT INTO THE VARIOUS AREAS OF THE BRAIN WHERE
14 THEY BECOME INTERCONNECTED AND OPERATIVE.

15 AND IT'S NOT HARD FOR THAT TO BE INTERRUPTED BY
16 WHATEVER. I DON'T KNOW WHAT THE SPECIFIC CAUSE OF HIS
17 NEUROLOGIC...

18 Q COULD IT HAVE BEEN DNA?

19 A I'M SORRY?

20 Q COULD IT HAVE BEEN SOME KIND OF PROBLEM WITH THE DNA
21 STRUCTURE ITSELF?

22 A THAT'S POSSIBLE.

23 Q COULD IT BE THAT BASICALLY?

24 A IT COULD BE. IT'S POSSIBLE.

25 Q ALL RIGHT.

1 A IT COULD HAVE BEEN THE TRAUMA AT BIRTH. HE COULD
2 HAVE BEEN LOW ON OXYGEN AT BIRTH. IT COULD HAVE BEEN ANY
3 ONE OR A NUMBER OF THINGS WHICH COULD INTERFERE WITH THE
4 PROPER DISSEMINATION OF CELLS AND FUNCTION -- AND ULTIMATE
5 FUNCTION IN VARIOUS AREAS OF THE BRAIN.

6 WHEN HE WAS 15 HE WAS HIT ON THE BACK OF THE HEAD.
7 THAT, TOO, COULD HAVE HAD A -- WHAT THEY CALL CONTRACU
8 INJURY, THE FRONT OF THE BRAIN, HITTING IT ON ONE SIDE.

9 Q EXPLAIN THAT TO ME. TELL US ABOUT THAT.

10 A WELL, WHEN A PERSON'S HEAD IS STRUCK, THERE IS A
11 IMMEDIATE, YOU KNOW, THE BRAIN CASING IS -- IS VERY FIRM.
12 THE SKULL IS VERY FIRM. WHEN IT'S HIT -- THE BRAIN IS
13 LOOSE, AND IT -- BOUNCE UP AGAINST THE POINT OF CONTACT,
14 AND THEN IT WILL BE IMPELLED THE OPPOSITE DIRECTION WHERE
15 IT CAN AGAIN -- AGAIN BOUNCE UP AGAINST THE BONE AND GET
16 INJURED THAT WAY.

17 Q WHERE WAS STEPHEN HIT?

18 A HE WAS HIT IN THE BACK OF THE HEAD.

19 Q OKAY. AND HOW -- HOW THEN -- HE'S HIT BACK HERE.
20 YOU EXPECT THE INJURY TO BE THERE. HOW -- ORDINARILY
21 WOULD. SO HOW DID IT TRANSFER FROM BEING HIT IN THE BACK
22 OF THE HEAD TO THE FRONT?

23 A BECAUSE -- BECAUSE OF THE BRAIN BOUNCING WITH THAT
24 BLOW. THE BRAIN IS NOT FIRMLY -- IT'S VERY VIABLE. IT'S
25 VERY SOFT AND IT CAN MOVE INSIDE THE SKULL. AND IT CAN BE

1 INJURED IN BOTH PLACES.

2 Q ALL RIGHT. SO, AT THAT POINT HE'S LOOKING AT A
3 POSSIBLE DOUBLE WHAMMY WITH RESPECT TO THE BRAIN?

4 A THEY ARE -- EXPLANATIONS OF TWO LAYERED, YOU KNOW,
5 TWO POSSIBLE EXPLANATION OF LAYERED CAUSES FOR
6 DYSFUNCTION. YOU KNOW, BRAIN DEVELOPMENT IS A RATHER
7 MAGNIFICENT THING AND IT GOES ON FOR YEARS THROUGH
8 TEEN-AGE YEARS.

9 Q WHEN YOU SAY DEVELOPMENT, EXPLAIN TO US EXACTLY WHAT
10 YOU MEAN BY THAT.

11 A WELL, ADOLESCENTS GO THROUGH BRAIN CELL CONNECTION
12 AND DISCONNECTION AND RESTRUCTURING AND CONNECTION,
13 DISCONNECTION IN A HUGE WAY. ENORMOUS AREAS OF THE BRAIN
14 ARE INVOLVED. EVENTUALLY AT ABOUT 20 TO 23 IT SETTLES
15 DOWN TO THE FINAL PRODUCT.

16 Q AND THAT'S WHY -- WOULD THAT BE WHY TEENAGERS DO
17 CRAZY THINGS THAT THEY DON'T REPEAT WHEN THEY GET OLDER,
18 MORE MATURE?

19 A YES. SOMETIMES THEY DO OUTLANDISH THINGS AND
20 SOMETIMES THEY DO WONDERFUL THINGS. ONE THING THAT THEY
21 DO IS SLEEP A LOT. THEY SLEEP A LOT. AND THEY -- THEY --
22 THOSE PROCESSES OF CONNECTION, DISCONNECTION, AND ALL THAT
23 GO ON WHEN A PERSON IS IN THEIR ADULT SLEEP. IT'S THE
24 SLOWEST SLEEP LEVEL THAT YOU CAN GET TO. AND THEY SPEND A
25 LOT OF TIME THERE BECAUSE THEY'RE GOING THROUGH THIS BRAIN

1 CHANGE.

2 NOW, AN INJURY ALONG THE LINE CAN DISRUPT OR CHANGE
3 OR EFFECT THE ULTIMATE FINAL CONNECTIONS.

4 Q LET'S TALK ABOUT THIS VOLUMETRIC MASS ISSUE AGAIN
5 WITH RESPECT TO THE GROWTH AND EVOLUTION OF THE BRAIN.

6 A YES.

7 Q WOULD IT BE TRUE TO SAY THAT THE ABNORMALITY THAT --
8 THE DEFECT OR DEFORMITY THAT STEPHEN HAD AT BIRTH WITH
9 RESPECT TO THE DECREASED VOLUME MATTER, GRAY MATTER--

10 A YES.

11 Q -- WOULD NOT GROW. WE'RE TALKING ABOUT A DIFFERENT
12 KIND OF GROWTH. THAT'D BE TRUE?

13 A IT'S POSSIBLE, YES.

14 Q OKAY. BUT WITH RESPECT TO THE GROWTH NOW, YOU'RE
15 REFERRING PRIMARILY TO THE NEURONS AND THE CONNECTIONS
16 TO --

17 A YES.

18 Q -- ADOLESCENTS AND THOSE KINDS OF THINGS THAT FORM--

19 A YES.

20 Q -- WITH AGE.

21 A YES.

22 Q OKAY. NOW, DID YOU REVIEW ANY OTHER DOCUMENTS OR
23 RECORDS THAT WERE IMPORTANT TO YOU IN YOUR ASSESSMENT IN
24 THIS CASE?

25 A WELL, THE -- THIS LIST THAT SPILLS OVER ON TO PAGE

1 THREE, AND I REVIEWED EVERY ONE OF THOSE.

2 Q OKAY. WERE YOU AWARE DURING YOUR REVIEW OF THE
3 MATERIALS IN THIS CASE THAT MR. STANKO HAD AT ONE TIME
4 DESIRED TO GO INTO THE AIR FORCE ACADEMY?

5 A YES.

6 Q AND HE WAS REJECTED?

7 A YES.

8 Q WOULD HE HAVE GONE THROUGH SOME KIND OF TESTING OR
9 PSYCHOLOGICAL EVALUATION PRIOR TO THAT TIME IN ORDER TO
10 GAIN ADMISSION TO THAT ACADEMY?

11 A TO THE ACADEMY?

12 Q YEAH.

13 A I SUPPOSE SO, YES.

14 Q ALL RIGHT. WOULD THAT BE -- AND I'M ASKING YOU TO
15 HYPOTHEZIZE HERE. COULD THAT -- COULD THAT HAVE BEEN A
16 FACTOR IN TERMS OF THE DECISION NOT TO ADMIT HIM?

17 A WELL, IT MAY HAVE BEEN HAD THEY UNCOVERED IT.

18 Q IN YOUR REPORT YOU MENTIONED -- YOU HAD A HEADING
19 CALLED ID. WHAT WAS THE PURPOSE -- WHAT DO YOU DO THERE
20 IN THAT PARTICULAR SECTION?

21 A I TRY TO DESCRIBE THE BASIC IDENTIFICATION OF THE
22 PERSON WITH WHOM I'M DEALING AT THE TIME.

23 Q DID YOU HAVE ANY INFORMATION ABOUT MR. STANKO'S
24 INTELLECTUAL ABILITY?

25 A YES. THERE WAS A -- AN IQ TEST WAS PERFORMED AND HIS

1 IQ WAS MEASURED AT 143, I BELIEVE.

2 Q CAN AN INTELLIGENT PERSON STILL BE INSANE?

3 A YES.

4 Q AT TIMES?

5 A YES.

6 Q OR ALL THE TIME? IN OTHER WORDS, DOES INSANITY --
7 DOES SANITY HAVE ANY DIRECT CORRELATION WITH INTELLIGENCE?

8 A NOT NECESSARILY.

9 Q WHY DO YOU SAY THAT?

10 A WELL, BECAUSE PEOPLE WHO ARE -- WELL, I CAN TALK
11 ABOUT IT IN TERMS OF PSYCHOSIS, PROBABLY. PEOPLE WHO ARE
12 QUITE MAD OR QUITE PSYCHOTIC, HALLUCINATING, AND HAVING
13 DELUSIONS AND BEHAVING BIZARRELY CAN HAVE HIGH
14 INTELLIGENCE.

15 AND THE DIFFERENCE IS THAT THEY'RE -- THEIR
16 DELUSIONAL SYSTEMS ARE MORE ENTANGLED AND MORE TWISTED,
17 MORE INVOLVED, YOU KNOW. AND ON THE OTHER SIDE OF THINGS
18 WHEN THEY ARE TREATED, BECAUSE OF THEIR INTELLIGENCE,
19 THEY'RE EASIER TO GET WELL AGAIN.

20 AND IF THEY DO SOMETHING ILLEGAL OR CRIMINAL WHILE
21 THEY'RE IN THEIR MAD STATE THEN, YOU KNOW, THE ISSUE OF
22 INSANITY MIGHT BE -- MIGHT ARISE.

23 Q NOW, YOU INDICATED YOU LOOKED AT SOME SCANS INVOLVING
24 MR. STANKO.

25 A I DID.

1 Q WHAT DID THE -- WHAT DID YOU GATHER FROM THE -- THAT
2 INFORMATION?

3 A WELL, FROM -- FROM THE SCANS THAT I SAW, MR. STANKO
4 HAD DECREASED FUNCTIONING IN THE -- RATHER NOTABLY
5 DIFFERENT FROM NORMALS IN THE BOTTOM PART OF HIS FRONTAL
6 LOBES INVOLVING OTHER PARTS OF HIS FRONTAL LOBE AS WELL.

7 Q IS THAT -- WOULD YOU CHARACTERIZE THAT AS A BRAIN
8 DEFECT?

9 A IT'S A BRAIN FUNCTION DEFECT IN MY MIND.

10 Q HOW ABOUT THE STRUCTURAL MRI ABNORMALITY, WOULD THAT
11 BE A BRAIN DEFECT?

12 A IT WOULD.

13 Q IT WOULD?

14 A YES. YES.

15 Q SO WE'RE TALKING ABOUT HERE TWO SEPARATE TYPES OF
16 DEFECTS.

17 A YES, BUT THEY'RE INTERDIGITATED.

18 Q COULD BE INTERTWINED, BUT THEY ARE--

19 A YEAH, THEY COULD BE MUTUALLY EFFECTIVE OR
20 DISEFFECTIVE.

21 Q CERTAINLY SOMEONE COULD HAVE A REDUCED STRUCTURE AND
22 HAVE NORMAL FUNCTION; CORRECT?

23 A YES.

24 Q AND SOMEONE COULD HAVE REDUCED FUNCTIONING IN A
25 NORMAL STRUCTURE?

1 A YES.

2 Q BUT STEPHEN HAS BOTH REDUCED STRUCTURE AND REDUCED
3 FUNCTION?

4 A BY THOSE SCANS, YES.

5 Q YES. HE HAS BOTH OF THOSE. SO HE HAS TWO SEPARATE
6 TYPES OF DEFECTS?

7 A UH-HUH. YES.

8 Q AND ARE YOU SURPRISED THAT THOSE TYPES OF DEFECTS
9 WOULD BE PRESENT IN SOMEONE CHARGED WITH THESE PARTICULAR
10 ACTS?

11 A NO.

12 Q WHY DO YOU SAY THAT?

13 A WELL, IT GIVES US SOME EXPLANATION OF HOW AND WHY
14 AND -- THINGS CAME ABOUT THE WAY THEY DID. I MEAN, LOOK
15 AT WHAT HE DID.

16 Q ALL RIGHT.

17 A IT WAS...

18 Q AND AS HE SITS HERE LOOKING NORMAL, LOOKS NORMAL,
19 HANDSOME, IS HE A NORMAL, HEALTHY INDIVIDUAL?

20 A WELL, IN MANY ASPECTS, YES.

21 Q YES?

22 A BUT EXCEPT IN HIS BRAIN FUNCTION, NO, HE IS REALLY
23 DIFFERENT.

24 Q ALL RIGHT. AND EVEN AS HE SITS HERE, IS VERY
25 WELL-BEHAVED, SEEMINGLY NORMAL, HE'S VERY DIFFERENT?

1 A HIS BRAIN FUNCTION IS NOTABLY DIFFERENT, YES, SIR.

2 Q ALL RIGHT. AND IT'S GOING TO BE DIFFERENT IN
3 EVERYTHING HE DOES IN HIS LIFE. WOULDN'T THAT BE TRUE?

4 A IT'S GOING TO BE PERSISTENT, YES. AT THIS POINT, YOU
5 KNOW, IF HE HAS IT AT THIS STAGE, IT'S SETTLED. IT'S VERY
6 UNLIKELY THAT -- MAKE A SIGNIFICANT CHANGE NOW.

7 Q ALL RIGHT. NOW, DID YOU CHECK TO SEE IF THERE WERE
8 ANY OTHER POSSIBILITIES FOR THE CAUSE OF THE -- THE
9 CONDITION THAT STEPHEN HAS, FOR EXAMPLE, DRUG ABUSE OR
10 SOMETHING OF THAT NATURE THAT WOULD BE SELF-INFLICTED OR
11 SELF-INDUCED?

12 A I ASKED HIM ABOUT THOSE THINGS AND HE DENIED THEM
13 ALL.

14 Q ALL RIGHT. DO YOU HAVE ANY RECORDS FROM ANYWHERE
15 THAT INDICATES THAT HE HAS A DRUG PROBLEM OR USED DRUGS--

16 A NO.

17 Q -- ILLEGAL OR OTHERWISE?

18 A NO.

19 Q IS THERE ANYTHING THAT YOU SEE IN STEPHEN'S HISTORY
20 THAT WOULD SHOW YOU THAT HE HAS THIS BRAIN DEFECT BY
21 CHOICE, THAT ANYTHING HE DID BROUGHT THIS ON HIMSELF?

22 A NO. NO.

23 Q WHAT IS MSE?

24 A OH, MENTAL STATUS EXAMINATION.

25 Q WHAT DID YOU GATHER FROM THAT OR TELL US ABOUT THAT.

1 DID YOU CONDUCT A STATUS EXAM?

2 A I DID. AND HE -- HE ESSENTIALLY ON MOST OF THE
3 PARAMETERS WAS QUITE LIKE ANYBODY ELSE IN A NORMAL SENSE
4 EXCEPT THAT HE HAD -- HE HAD -- HE SHOWED VERY LITTLE
5 CONCERN OR WORRY, SADNESS, OR PREOCCUPATION WITH WHAT HE
6 HAD DONE AND WHAT HAD HAPPENED TO THOSE POOR PEOPLE.

7 Q ALL RIGHT. AND LET'S ASSUME YOU HAD A HEALTHY
8 INDIVIDUAL, HEALTHY BRAIN. WHAT WOULD YOU EXPECT THAT
9 PERSON TO EXHIBIT IN TERMS OF EMOTIONS OR SPEAKING?

10 A WELL, I TREATED AND I HAVE SEEN AND TREATED VICTIMS
11 AND -- OF CRIMES AND I HAVE SEEN AND TREATED PERSONS WHO
12 HAD HORRIBLE THINGS HAPPEN TO THEIR LOVED ONES. THEY
13 DON'T REACT THAT WAY.

14 YOU KNOW, A CASE OF A MAN WHO ACCIDENTALLY BACKED
15 OVER HIS SON IN THE DRIVEWAY, I MEAN, IT WAS INCONSOLABLE
16 AND RATHER PERMANENTLY SO. THAT WAS HORRIBLE. AND YOU
17 KNOW, IT DIDN'T MASK ANY TEARING OR SADNESS OR ANYTHING,
18 BUT JUST BESIDE HIMSELF.

19 Q WHAT WAS YOUR UNDERSTANDING OF -- OF STEPHEN AND
20 LAURA'S RELATIONSHIP?

21 A MY UNDERSTANDING WAS THAT IT WAS PRETTY GOOD, PRETTY
22 POSITIVE. HE SAID IT WAS THE BEST RELATIONSHIP HE'D HAD
23 IN HIS -- IN HIS LIFE.

24 Q YOU KNOW, IN A -- IN A MALE-FEMALE ROMANTIC KIND OF--

25 A ABSOLUTELY, YEAH.

1 Q -- WAY?

2 A YES.

3 Q SO HE CARED FOR MS. LING?

4 A APPARENTLY. APPARENTLY HE DID.

5 Q NOW, WHY OR WOULD THERE BE AN EXPLANATION
6 SCIENTIFICALLY OR MEDICALLY FOR WHY STEPHEN DIDN'T SHOW
7 ANY EMOTION OR LITTLE EMOTION OVER WHAT HAD HAPPENED?

8 A WELL, BECAUSE HIS BRAIN DOESN'T FUNCTION THAT WAY,
9 THE AREAS THAT ARE INVOLVED, AND SENSING AND DISPLAYING
10 THOSE SORTS OF THINGS DON'T -- DOESN'T FUNCTION WELL.

11 Q IS THAT A VOLUNTARY DECISION THAT HE GETS TO MAKE?

12 A NO.

13 Q ALL RIGHT.

14 A IT JUST DOESN'T WORK.

15 Q DOES HE HAVE FREE WILL IN THE SENSE THAT WE HAVE TO
16 STAND (SIC)--

17 A YES.

18 Q DOES HE HAVE FREE WILL TO CONSIDER, HOWEVER, THE
19 EMPATHY OR EMOTION OVER THE LOSS?

20 A DOES HE HAVE FREE WILL TO CONSIDER IT?

21 Q YES.

22 A SURE HE DOES, YES.

23 Q TO FEEL IT AS A HEALTHY PERSON WOULD DO AS YOU JUST
24 DESCRIBED THE GENTLEMAN--

25 A NO, HE'S -- HE'S NOT CAPABLE OF THAT. THAT'S --

1 FOLKS WITH THESE PROBLEMS, AND THEY'RE -- THEY'RE AN
2 ENIGMA. YOU WONDER HOW IN THE WORLD THEY CAN DO THESE
3 OUTLANDISH THINGS AND KIND OF BE BLASE ABOUT IT AS IF THEY
4 DON'T CARE.

5 AND IT'S ALWAYS BEEN A QUESTION IN MY MIND, HOW DOES
6 THIS COME ABOUT, WHY IS THIS SO, WHY -- WHAT IS DIFFERENT
7 ABOUT THESE PEOPLE. AND THESE RECENT STUDIES HAVE SHOWN
8 THAT THE AREA OF THE BRAIN INVOLVED -- AND MANY, MANY
9 CASES IS EFFECTIVE THE WAY MR. STANKO'S BRAIN IS
10 EFFECTIVE.

11 Q TELL US ABOUT THOSE STUDIES. WHAT KIND OF STUDIES
12 ARE YOU SPEAKING OF?

13 A A BRAIN FUNCTION STUDIES, A -- PET SCAN STUDIES,
14 THINGS LIKE THAT.

15 Q ARE THOSE STUDIES PUBLISHED? HOW DO YOU KNOW ABOUT
16 THEM AND LEARN ABOUT THEM?

17 A WELL, THEY HAVE BEEN AROUND FOR A LONG TIME. I GIVE
18 LECTURES TO PHYSICIANS ON THE MEDICATIONS WE USE IN
19 PSYCHIATRY, AND I KNOW THAT THEY HAVE BEEN USED BY THE
20 MANUFACTURER OF THOSE MEDICATIONS TO DETERMINE WHERE THE
21 DEFECT IS IN THE BRAIN AND WHERE THE MEDICATION GOES WHEN
22 IT'S GIVEN TO THE PATIENT AND WHAT THE EFFECT IS ON THE
23 BRAIN.

24 THESE ARE BRAIN FUNCTION STUDIES. THESE ARE FUNCTION
25 STUDIES OF A LIVE, LIVING, OPERATING BRAIN. BEEN VERY

1 USEFUL. AND OF COURSE, THEY HAVE BEEN USEFUL IN --
2 PRIMARILY IN STUDIES INVOLVING SCHIZOPHRENIA.

3 Q PET SCANS HAVE BEEN?

4 A OH, YES. YEAH.

5 Q YOU -- IN YOUR PRACTICE DO YOU PRESCRIBE MEDICATIONS?

6 A I DO.

7 Q AND SO YOU'RE TELLING US THAT THOSE PRESCRIPTIONS
8 THAT YOU WRITE FOR YOUR PATIENTS ARE AT TIMES DEVELOPED
9 WITH THE USE OF PET SCANS?

10 A IT'S A PROCESS OF DEVELOPING THEM AND THEIR
11 EFFECTIVENESS AND WHERE THEY FUNCTION AND WHAT'S WRONG,
12 YES, IT'S ALL KIND OF INVOLVED IN THAT.

13 Q OKAY. AND WITH RESPECT TO MR. STANKO'S FUNCTION,
14 BRAIN FUNCTION, THE USE OF THE PET SCAN IN THIS SETTING IS
15 NO DIFFERENT. WOULD THAT BE CORRECT?

16 A I DON'T THINK SO. I DON'T LIVE IN THAT PET SCAN
17 WORLD. THERE MAY BE TECHNICAL DIFFERENCES PUT TO PLAY. I
18 KNOW WHEN THEY DO -- THEY WANT TO SHOW HOW AN AREA OF THE
19 BRAIN FUNCTIONS, SO THEY HAVE A PERSON DO THINGS THAT
20 ACTIVATES THAT BRAIN, THAT PART OF THE BRAIN.

21 AND THEN THEY GIVE THEM SOME MATERIAL THAT'S ABSORBED
22 BY THAT PART OF THE BRAIN AND THEN THEY DO THE SCANS. AND
23 THEY CAN SEE WHERE THAT ACTIVITY TOOK PLACE.

24 Q OKAY. AND THAT WOULD BE -- IS THAT PRETTY STANDARD
25 PROCEDURE THAT'S FOLLOWED IN EVERY CASE WHEN PET SCANS ARE

1 PUT TO USE?

2 A WELL, THERE MAY BE VARIATIONS ON THE -- THE BASIS OF
3 THAT. NOW, I DON'T -- I CAN'T...

4 Q WELL, VARIATIONS LIKE TYPE OF MACHINE, RESOLUTION,
5 DEGREE, THOSE KIND--

6 A MATERIAL USED, YES, STEPS USED TO ACTIVATE PARTICULAR
7 PARTS OF THE BRAIN SO THAT THEY CAN GET A VIEW OF THAT
8 PART, YOU KNOW.

9 Q HOW ABOUT A -- IN YOUR SUMMARY IN YOUR REPORT, HOW DO
10 YOU SUM UP YOUR ASSESSMENT OF MR. STANKO IN PSYCHIATRIC
11 TERMS?

12 A YOU MEAN THE DIAGNOSIS?

13 Q WELL, YEAH. I DON'T -- I DON'T WANT TO REALLY GET
14 INTO THE SPECIFIC DIAGNOSIS HERE, BUT TELL US ABOUT THE
15 SUMMARY. IF YOU LOOK AT THAT SECTION OF YOUR REPORT THAT
16 TALKS ABOUT THE SUMMARY.

17 A UH-HUH.

18 Q WHAT DID YOU GATHER? WHAT DID YOU COME AWAY WITH
19 AFTER YOUR REVIEW OF ALL OF THE INFORMATION IN YOUR...
20 CONDUCTING OF YOUR INTERVIEWS AND SUCH--

21 A WELL, I TRIED TO HIT THE HIGHLIGHTS OF THINGS IN HIS
22 BACKGROUND UP TO THAT POINT AND THEN REACH A CONCLUSION.
23 AND I LISTED THE VARIOUS THINGS THAT I THOUGHT WERE
24 INVOLVED IN THE EVOLUTION OF THE WAY HE IS AND HOW HE HAS
25 BEEN ACTING IN SAME OR SIMILAR FASHION IN THE PAST AND

1 WHY.

2 Q READ FOR US, IF YOU WOULD, THE FIRST MAYBE THREE
3 SENTENCES UNDER SUMMARY.

4 A THE FIRST THREE?

5 Q YEAH. THAT...

6 A YEAH, SURE. MR. STANKO STARTED LIFE ON THE MARGIN.
7 MEDICAL RECORDS INDICATE THAT HE HAD EVIDENCE OF CENTRAL
8 NERVOUS SYSTEM DYSFUNCTION THAT CAUSED PROVIDERS TO
9 BELIEVE HE MIGHT NOT SURVIVE. THIS MAY HAVE INITIALLY
10 CAUSED FRONTAL LOBE DYSFUNCTION.

11 Q ALL RIGHT. AND DO YOU CONCLUDE THAT BASED ON THE
12 RECORD, THE MEDICAL RECORDS, THAT WERE MADE AVAILABLE TO
13 YOU AT THE TIME?

14 A YES.

15 Q NOW, AGAIN STATE FOR US WHAT YOUR OPINION IS WITH
16 RESPECT TO MR. STANKO AND THE ISSUE SANITY AT THE TIME OF
17 THESE OFFENSES.

18 A HE WAS INSANE.

19 Q THANK YOU VERY MUCH, DOCTOR. ANSWER ANY QUESTIONS
20 COUNSEL MAY HAVE.

21 A YES.

22 THE COURT: YOU MAY PROCEED.

23 MR. HEMBREE: THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME.

25 CROSS-EXAMINATION

1 BY MR. HEMBREE:

2 Q GOOD MORNING, DR. THRASHER.

3 A GOOD MORNING, MR. HEMBREE. IT'S NICE TO SEE YOU.

4 Q GOOD TO SEE YOU AGAIN. DR. THRASHER, LET'S TALK
5 ABOUT A FEW THINGS THAT I THINK WE CAN AGREE ABOUT.

6 MR. STANKO IS NOT MENTALLY RETARDED?

7 A OH, NO.

8 Q HE DOES NOT SUFFER FROM MULTIPLE PERSONALITY
9 DISORDER?

10 A NO.

11 Q HE'S NOT SCHIZOPHRENIC?

12 A NO.

13 Q HE HAS AN IQ OF 143?

14 A HE DOES.

15 Q AND HE IS COMPETENT TO STAND TRIAL?

16 A HE IS.

17 Q HE'S NOT SUFFERING FROM A MENTAL DEFECT OR DISEASE
18 THAT WOULD RENDER HIM INCAPABLE OF ASSISTING HIS LAWYERS,
19 UNDERSTANDING THE PROCEEDINGS, UNDERSTANDING THE
20 CONSEQUENCES, ET CETERA?

21 A NOT AT THE CURRENT TIME HE'S NOT.

22 Q CORRECT. NOT AT THE CURRENT TIME. NOW, YOU DIDN'T
23 INTERVIEW HIM OR TALK WITH HIM ON APRIL 7TH, APRIL 8TH,
24 APRIL 9TH OF 2005 BY ANY CHANCE; DID YOU?

25 A NO, I DID NOT.

1 Q THE -- LET'S SORT OF TALK ABOUT YOUR -- YOUR
2 SPECIALTY IS PSYCHIATRY; IS THAT CORRECT?

3 A YES.

4 Q AND THERE'S SOME SORT OF BASIC BUILDING BLOCKS I
5 THINK OR ELEMENTS TO A GOOD PROFESSIONAL MEDICALLY
6 ACCEPTED PSYCHIATRIC DIAGNOSIS; TRUE?

7 A YES.

8 Q THE CLINICAL INTERVIEW IS AT THE VERY FOUNDATION OF A
9 GOOD PSYCHIATRIC EVALUATION AND DIAGNOSIS?

10 A YES.

11 Q IT'S THE MOST IMPORTANT PIECE; IS IT NOT?

12 A WELL, IT MAY -- IT'S AN IMPORTANT PIECE, YES, BUT IT
13 DOESN'T -- THAT DOESN'T DIMINISH THE VALUE OF THE OTHER
14 PARTS AS WELL.

15 Q I UNDERSTAND IT. YOU WANT TO LOOK AT EVERYTHING.
16 AND THERE ARE A LOT OF OTHER PARTS THAT YOU CAN UNDERTAKE
17 IN AN EVALUATION TO MAKE A VERY COMPLETE ANALYSIS?

18 A YES.

19 Q LIKE AN MRI, ORDERING AN MRI WHICH MEASURES THE--

20 A YES.

21 Q -- THE STRUCTURE OF THE BRAIN WOULD BE A -- AN
22 ELEMENT THAT YOU MIGHT WANT TO HAVE IN MAKING A DIAGNOSIS;
23 TRUE?

24 A YES.

25 Q AND IT IS TYPICAL THAT YOU WOULD CONSULT FOR -- WITH

1 A NEUROLOGIST. ISN'T THAT WHO YOU WOULD -- WOULD REQUEST
2 AN MRI FROM?

3 A THAT'S MOST OFTEN WHAT I DO, YES.

4 Q OKAY. AND A -- NEUROLOGY IS A SPECIALTY IN THE
5 MEDICAL FIELD?

6 A YES.

7 Q NOW, ANOTHER ASPECT, ANOTHER BUILDING BLOCK MIGHT BE
8 A NEUROPATH OR A NEUROPSYCHOLOGIST?

9 A YES.

10 Q A NEUROPSYCHOLOGIST IS A PSYCHOLOGIST THAT TESTS
11 WHAT?

12 A THE BRAIN FUNCTION.

13 Q OKAY. AND THAT WOULD BE ANOTHER PERSON THAT YOU
14 MIGHT CONSULT WITH IN RENDERING AN OPINION?

15 A YES.

16 Q AND AS A MATTER OF FACT, THE DEFENDANT HIRED A
17 NEUROPSYCHOLOGIST; DIDN'T HE?

18 A YES.

19 Q DR. EINHORN.

20 A DR. SACHY, I THINK.

21 Q WELL, DID YOU REVIEW DR. EINHORN'S REPORT?

22 A YES, I SAW THAT, YEAH. YEAH.

23 Q AND WE'RE TALKING ABOUT THE NEUROPSYCHOLOGIST?

24 A PSYCHOLOGIST, OKAY.

25 Q I BELIEVE THAT WAS DR. EINHORN?

1 A THAT'S RIGHT.

2 Q OKAY. NOW, THE -- WELL, IF YOU'RE GOING TO DO A PET
3 SCAN, YOU MIGHT WANT TO HAVE A PET SCAN. THAT WOULD BE
4 A -- LET'S SEE. YOU WOULD CONSULT I WOULD IMAGINE WITH A
5 RADIOLOGIST. THOSE ARE TYPICALLY THE DOCTORS THAT READ
6 PET SCANS; CORRECT?

7 A YES, THEY DO.

8 Q OKAY. AND THAT WOULD BE SOMEONE YOU MIGHT SEND --
9 YOU MIGHT SAY, WOULD YOU PLEASE RUN A PET SCAN TO -- YOU
10 WOULD CONSULT WITH A RADIOLOGIST, SAY, PLEASE RUN A PET
11 SCAN, EVALUATE IT FOR ME, AND GIVE ME BACK THE RESULTS SO
12 I CAN MAKE A THOROUGH DIAGNOSIS HERE.

13 A THAT'S WHAT I HAVE TO DO.

14 Q THAT'S WHAT YOU'D HAVE TO DO BECAUSE THAT'S NOT YOUR
15 AREA OF SPECIALTY.

16 A NO.

17 Q NO. I MEAN, YOU CAN'T DO IT ALL. YOUR AREA OF
18 SPECIALTY IS PSYCHIATRY, BUT YOU WANT -- YOU SORT OF
19 ASSEMBLE THOSE ELEMENTS TO COME UP WITH A DIAGNOSIS?

20 A IDEALLY, YES.

21 Q IDEALLY. OKAY. NOW, IN CONDUCTING YOUR -- OR
22 BEGINNING THE PROCESS OF YOUR DIAGNOSIS AND IN THE COURSE
23 OF THE CLINICAL INTERVIEW, ISN'T IT -- ISN'T IT -- ISN'T
24 THE PATTERN OF BEHAVIOR REALLY THE GOLD STANDARD IN
25 DETERMINING THE MENTAL STATUS OF THE PATIENT? WHEN YOU'RE

1 TRYING TO EVALUATE THEIR MENTAL STATUS AT THE TIME, YOU
2 LOOK AT THE PATTERN OF BEHAVIOR?

3 A YOU LOOK AT THE PATTERN OF BEHAVIOR, YOU LOOK AT THE
4 ACTUAL BEHAVIOR, YOU LOOK AT THE -- YOU TAKE INTO ACCOUNT
5 THE HISTORY, WHAT YOU KNOW TO THAT POINT, AND SEE HOW THEY
6 MAY INTERDIGITATE AND HOW THEY MAY INTERACT.

7 Q SO THAT--

8 A DEPENDING ON--

9 Q I MEAN, THAT PATTERN OF BEHAVIOR BEFORE, DURING, AND
10 AFTER THE QUESTIONED TIMEFRAME IS CRITICAL IN YOUR
11 CLINICAL INTERVIEW; ISN'T IT? ISN'T THAT TRUE?

12 A WELL, IT'S CRITICAL IN THE SENSE THAT IT'S A VERY
13 NARROW SLICE OF THE MENTAL STATE OF A PERSON AT THAT
14 MOMENT. IT ISN'T BEHAVIOR OVER TIME. IT'S HOW THEY
15 PRESENT THEMSELVES AS AGAINST THE BACKGROUND AT THE TIME
16 THAT YOU'RE EXAMINING THEM.

17 Q BUT IT'S IMPORTANT TO UNDERSTAND HOW THEY WERE
18 BEHAVING IMMEDIATELY BEFORE AND IMMEDIATELY AFTER AS WELL
19 AS SOME PAST HISTORY THAT MIGHT HELP TO EXPLAIN THIS
20 BEHAVIOR; TRUE?

21 A IT WOULD BE NICE TO KNOW ALL OF THAT, YES.

22 Q AND THAT'S WHAT YOU DID. YOU LOOKED AT THINGS FROM
23 HIS DISTANT PAST?

24 A YES.

25 Q YOU WENT BACK TO HIS BIRTH?

1 A YES.

2 Q YOU WENT TO HIS HIGH SCHOOL RECORDS?

3 A I DID.

4 Q YOU LOOKED AT HIS -- HIS ADULT -- RECORDS OF HIS
5 ADULT PAST?

6 A I DID.

7 Q YOU LOOKED AT REPORTS AND STATEMENTS AND INTERVIEWS
8 OF FOLKS ABOUT THINGS THAT HAPPENED IMMEDIATELY AFTER THIS
9 EVENT?

10 A YES, I DID.

11 Q UH-HUH. AND YOU CONSIDERED ALL OF THOSE THINGS IN
12 REACHING YOUR DIAGNOSIS HERE?

13 A I DID.

14 Q ALL RIGHT. LET ME TALK TO YOU ABOUT DR. EINHORN'S
15 REPORT. YOU SAID YOU HAD -- YOU HAD CONSIDERED THAT. AND
16 DR. EINHORN WAS A NEUROPSYCHOLOGIST THAT WAS RETAINED BY
17 THE DEFENDANT, I BELIEVE; CORRECT?

18 A YES.

19 Q LET'S SEE HERE. HAVE YOU GOT A COPY OF HIS REPORT IN
20 YOUR FILE?

21 A I BELIEVE...

22 Q LET YOU LOOK ON WITH ME. NOW, IF YOU WILL TAKE A
23 LOOK AT DR. EINHORN'S REPORT WHERE IT SAYS, EXAMINATION
24 RESULTS. YES. YOU HAVE GOT IT RIGHT THERE.

25 A YES, I DO.

1 Q VERY GOOD. EXAMINATION RESULTS. WHAT DOES DR.
2 EINHORN REPORT IN THE FIRST LINE UNDER, EXAMINATION
3 RESULTS?

4 A WHAT PAGE ARE YOU ON?

5 Q I'M ON PAGE ONE.

6 A PAGE ONE?

7 Q YES, SIR. TOWARD THE BOTTOM OF THE PAGE.

8 A YES, I HAVE IT.

9 Q AND WHAT DOES DR. EINHORN REPORT, WHAT DOES HE SAY?

10 A HE REPORTS -- HE REPORTS ALL AREAS OF FUNCTION THAT
11 HE EXAMINED WITHIN NORMAL LIMITS.

12 Q OKAY. IT SAYS NEUROLOGICAL TEST RESULTS ARE
13 UNIFORMLY NEGATIVE; CORRECT?

14 A YES.

15 Q SO HE'S NORMAL?

16 A HE SAYS THEY'RE NORMAL.

17 Q GOOD. AND THEN HE GOES THROUGH THE NEBRASKA
18 NEUROPSYCHOLOGICAL BATTERY. AND LET ME JUST GO THROUGH
19 THESE WITH YOU. MOTOR FUNCTIONS. AND YOU TELL ME WHAT --
20 WHAT THE RESULTS OF THOSE DIFFERENT--

21 A IT'S NORMAL TO ALL OF THEM.

22 Q OKAY. MOTOR FUNCTIONS. WHAT DOES IT SAY?

23 A IT'S NORMAL TO ALL OF THEM.

24 Q CONCENTRATION?

25 A WELL, IT'S NORMAL TO EVERY ONE OF THEM. THEY ARE ALL

1 NORMAL.

2 Q TACTILE FUNCTIONS?

3 A SAME.

4 Q WITHIN -- WHEN IT SAYS, WITHIN NORMAL LIMITS;

5 CORRECT?

6 A YEAH.

7 Q VISUAL FUNCTIONS?

8 A SAME.

9 Q RECEPTIVE SPEECH?

10 A SAME.

11 Q EXPRESSIVE SPEECH?

12 A SAME.

13 Q WRITING?

14 A SAME.

15 Q READING?

16 A SAME.

17 Q ARITHMETIC?

18 A SAME.

19 Q MEMORY?

20 A SAME.

21 Q INTELLECTUAL PROCESSES?

22 A SAME.

23 Q TOWER OF LONDON, WHATEVER THAT MEANS.

24 A SAME.

25 Q WISCONSIN CARD SORTING TEST?

1 A SAME.

2 Q TRAILS A?

3 A SAME.

4 Q TRAILS B?

5 A SAME.

6 Q FINGER TAPPING?

7 A SAME.

8 Q VENDOR GESTALT (SIC) --

9 A SAME.

10 Q RAY'S 15 ITEM MEMORY TEST?

11 A SAME.

12 Q IMMEDIATE RECALL OF A STORY?

13 A ABOVE AVERAGE.

14 Q ABOVE AVERAGE. DELAYED RECALL OF A STORY?

15 A WITHIN NORMAL LIMITS.

16 Q RAY OSTERIC (SIC) COMPLEX FIGURE?

17 A ABOVE AVERAGE.

18 Q DELAY RAY OSTERIC COMPLEX FIGURE?

19 A ABOVE AVERAGE.

20 Q AND WRAT-THREE READING?

21 A STANDARD.

22 Q STANDARD. AND THEN HE GAVE HIM AN INTELLIGENCE TEST;

23 CORRECT?

24 A HE DID.

25 Q AND I WON'T -- I'M NOT GOING TO MAKE YOU SUFFER

1 THROUGH THE MANY, MANY CATEGORIES THERE.

2 A I APPRECIATE THAT.

3 Q THEY INDICATED A VERBAL IQ OF...

4 A 140 -- VERBAL?

5 Q VERBAL IQ OF...

6 A 140. PERFORMANCE 136 AND A FULL SCALE 143.

7 Q OKAY. WHICH IS VERY SUPERIOR?

8 A IT IS, YES.

9 Q NOW, HE DID A REVIEW OF SYSTEMS; CORRECT?

10 A I DID?

11 Q NO. DR. EINHORN DID A REVIEW OF SYSTEMS?

12 A YES, HE DID.

13 Q NOW, LET'S GO THROUGH THOSE. TELL ME HOW HE REPORTED
14 THESE. ATTENTION AROUSAL ORIENTATION?

15 A WELL, WITHOUT BELABORING THE -- THE...

16 Q DOCTOR, I'M GOING TO BELABOR IT; OKAY?

17 A WITHOUT BELABORING THE ISSUE HERE, EVERY SAME ONE OF
18 THESE ARE -- ARE LISTED AS NORMAL.

19 MR. DIGGS: OBJECTION.

20 THE COURT: BASIS OF THE OBJECTION.

21 MR. KELLY: THE SOLICITOR IS BADGERING THE
22 WITNESS.

23 THE COURT: OVERRULED. DR. THRASHER, WHEN A
24 QUESTION IS ASKED, YOU NEED TO ANSWER YES OR NO AND
25 THEN YOU CAN GO ABOUT TO EXPLAIN YOUR ANSWER.

1 THE WITNESS: THANK YOU.

2 THE COURT: YOU MAY PROCEED.

3 BY MR. HEMBREE:

4 Q REVIEW OF SYSTEMS. ATTENTION AROUSAL ORIENTATION?

5 A WITHIN NORMAL LIMITS.

6 Q VERBAL FUNCTIONING?

7 A WITHIN LIMITS.

8 Q VISUAL SPACIAL FUNCTION?

9 A SAME.

10 Q SENSORY MOTOR FUNCTION?

11 A SAME.

12 Q MEMORY?

13 A SAME.

14 Q HIGHER ORDER EXECUTIVE FUNCTION?

15 A SAME.

16 Q WOULDN'T THAT BE THE FRONTAL LOBES, DOCTOR? HIGHER
17 ORDER EXECUTIVE FUNCTIONS. DOESN'T THAT TAKE PLACE IN THE
18 FRONTAL LOBES?

19 A YES, IT COULD, SURE.

20 Q WELL, WITHIN NORMAL LIMITS?

21 A THAT'S WHAT IT SAYS.

22 Q NOW, HE DID A MENTAL STATUS EXAMINATION OF HIS
23 PERSONALITY AND EMOTIONAL STATUS; CORRECT? YOU SEE THAT
24 ON PAGE THREE?

25 A I DO.

1 Q THOUGHT PROCESSES WERE WHAT?

2 A CLEAR AND VISUAL.

3 Q ANY EVIDENCE OF PSYCHIATRIC DISTORTION?

4 A NONE.

5 Q OR THINKING OR PERCEPTION?

6 A NONE.

7 Q SPEECH IS, WHAT? HOW DOES HE DESCRIBE SPEECH?

8 A ARTICULATE AND EVENTUALLY SPONTANEOUS AS HE BECAME
9 MORE COMFORTABLE.

10 Q HE DOES SAY THAT THERE'S A DEPRESSIVE COMPONENT,
11 THOUGH; DOESN'T HE?

12 A HE DOES.

13 Q BUT HE SAYS IT DOES NOT INTERFERE WITH HIS COGNITIVE
14 FACILITIES, SLEEP OR APPETITE?

15 A THAT'S WHAT HE SAID.

16 Q HE DID A MMPI2, MINNESOTA MULTI-PHASIC PERSONALITY
17 INVENTORY, AND PRODUCED A -- WHAT DID -- WHAT DID THE MMPI
18 INDICATE?

19 A HE SAID THE PROFILE INDICATES AN ANTISOCIAL
20 PERSONALITY DISORDER WITH A WELL-SOCIALIZED VENEER.

21 Q ALL RIGHT. NOW, THIS VENEER. HE'S GOT A -- HE'S GOT
22 AN ANTISOCIAL PERSONALITY DISORDER. WHAT IS ANTISOCIAL
23 PERSONALITY? WHAT DOES THAT MEAN?

24 A MEANS A PERSON WHO HAS DIFFICULTY FOLLOWING THE NORMS
25 OF SOCIETY.

1 Q SO JUST A BAD PERSON, WON'T FOLLOW THE RULES?

2 A SOME OF THE ACTS THAT THEY DO ARE BAD, YES.

3 Q OKAY. AND HE'S GOT A WELL-SOCIALIZED VENEER. NOW,
4 WHAT DOES THAT MEAN TO YOU?

5 A THAT MEANS HE'S ABLE TO AT LEAST MIMIC WHAT NORMAL
6 PEOPLE DO.

7 Q HE COVERS IT UP?

8 A HE'S AT LEAST ABLE TO MIMIC IT.

9 Q HE'S KIND OF A CON-MAN; ISN'T HE?

10 A THAT HE IS.

11 Q THAT HE IS. AS A MATTER OF FACT, HE TELLS LIES UPON
12 LIES; DOESN'T HE?

13 A HE SURE HAS.

14 Q AND HE DID TO YOU; DIDN'T HE?

15 A I DON'T RECALL THAT HE DID. HE TOLD ME WHAT HE
16 EXPERIENCED, BUT I DON'T RECALL HIM TELLING A SPECIFIC
17 LIE.

18 Q DID YOU -- DID YOU -- IN YOUR CLINICAL ASSESSMENT
19 WHEN HE INFORMED YOU -- I ASSUME THAT HE INFORMED YOU THAT
20 HE HAD THIS AMNESIA, THAT HE HAD SOME KIND OF AMNESIA, HE
21 COULDN'T REMEMBER. YOU TESTIFIED TO THAT EARLIER; IS THAT
22 CORRECT? DID HE TELL YOU -- HE REPORTED THAT TO YOU?

23 A THAT -- DID YOU ASK ME IF HE TESTIFIED TO THAT? I
24 DON'T THINK--

25 Q NO. NO. THAT HE TOLD YOU THAT. I'M SORRY. IT WAS

1 MY -- POOR CHOICE OF WORDS ON MY PART. DID -- IN THE
2 CLINICAL INTERVIEW WITH THIS DEFENDANT, DEFENDANT STEPHEN
3 STANKO, DID HE TELL YOU THAT HE COULDN'T REMEMBER THE
4 MURDER AND THE RAPE?

5 A THAT'S RIGHT.

6 Q THAT HE--

7 A NOT A THING.

8 Q NOT A THING?

9 A NOT A THING.

10 Q OKAY. DO YOU BELIEVE THAT? DO YOU BELIEVE THAT HE
11 HAD SOME SORT OF TEMPORARY AMNESIA?

12 A HE'S A PSYCHOPATH. HE TELLS STORIES. WHETHER HE
13 BELIEVED IT OR KNEW IT OR NOT, HE'S A PSYCHOPATH.

14 Q OKAY.

15 A HE TELLS STORIES. THAT DOESN'T MAKE ANY DIFFERENCE.

16 Q AND DO YOU BELIEVE THAT HE WAS TELLING YOU A STORY?
17 DO YOU BELIEVE THAT HE WAS TELLING YOU A STORY ABOUT THAT
18 AMNESIA?

19 A I BELIEVE HE TOLD ME A STORY.

20 Q SO MAYBE HE DID LIE TO YOU?

21 A I'M SORRY?

22 Q SO PERHAPS HE DID LIE TO YOU?

23 A IT'S POSSIBLE, CERTAINLY. THERE ARE A COUPLE OF
24 EXPLANATIONS FOR PEOPLE BEING TOTALLY AMNESIC, BUT HE...

25 Q HE DOESN'T FIT ANY OF THOSE?

1 A NONE OF THEM APPLIED IN THIS CASE.

2 Q NONE OF THEM APPLIED. NOW, SUMMARY, DR. EINHORN'S
3 REPORT AGAIN ON PAGE FOUR, INDICATES THAT THE
4 NEUROPSYCHOLOGICAL TEST RESULTS OF HIGHER CORTICAL
5 FUNCTIONS ARE UNIFORMLY NEGATIVE; CORRECT?

6 A YES.

7 Q WHICH WE'VE REALLY ALREADY GONE OVER. THAT'S JUST A
8 SUMMARY OF THE -- THE DETAILS. AND DR. EINHORN'S
9 REPORT -- THE DEFENSE EXPERT, DR. EINHORN, ONE OF THE
10 PEOPLE THAT YOU'RE GOING TO RELY ON TO REACH YOUR
11 DIAGNOSIS SAYS DEFENDANT STANKO IS NORMAL?

12 A WELL, HE DIDN'T USE THE WORD NORMAL.

13 Q WITHIN NORMAL LIMITS, HOW ABOUT THAT?

14 A PART OF IT WAS THAT WAY. UNIFORMLY NEGATIVE. HE'S
15 NOT NORMAL. HE HAS A PERSONALITY STRUCTURE OF AN
16 ANTISOCIAL PERSONALITY WITH A SOCIALIZED OVERLIE AND HE IS
17 PRONE TO SUDDEN VIOLENCE WHEN THREATENED.

18 Q OKAY.

19 MR. HEMBREE: YOUR HONOR, I NEED TO TAKE UP A
20 MATTER AT THE BENCH.

21 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

22 THE COURT: MADAM FORELADY, LADIES AND
23 GENTLEMEN, I HAVE A MATTER OF LAW I NEED TO TAKE UP
24 WITH THE ATTORNEYS OUTSIDE OF YOUR PRESENCE. PLEASE
25 LEAVE YOUR NOTEPADS IN YOUR SEATS.