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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 2 OF 9

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1 PLEASE HAVE NO DISCUSSION ABOUT THIS CASE DURING
2 THE BREAK. IF YOU NEED ANYTHING, PLEASE LET THE
3 BAILIFFS KNOW. WE APPRECIATE YOUR PATIENCE IN
4 ADVANCE.

5 (JURY LEFT THE COURTROOM AT 11:49 AM.)

6 THE COURT: YOU MAY BE SEATED. I AM SORRY. YOU
7 MAY PROCEED, MR. HEMBREE.

8 BY MR. HEMBREE:

9 Q DR. THRASHER, DID STEPHEN STANKO TELL YOU ABOUT--

10 THE COURT: WAIT. WAIT ONE SECOND FOR ME. I'M
11 NOT SURE THEY HAVE ALL GONE IN THAT ROOM AGAIN.
12 OKAY. IS EVERYONE IN? OKAY. YOU MAY CONTINUE. I
13 APOLOGIZE.

14 BY MR. HEMBREE:

15 Q DID DEFENDANT STEPHEN STANKO TELL YOU ABOUT OR DID
16 YOU REVIEW MATERIALS ABOUT THE ELIZABETH MCLENDON ASSAULT?

17 A YES, HE DID. THAT WAS A PRIOR KIDNAPPING, YES.

18 Q RIGHT. IT INVOLVED KIDNAPPING. SHE WAS -- HER HANDS
19 WERE TIED BEHIND HER BACK I BELIEVE AND SHE--

20 A WITH A TIE.

21 Q WITH A NECKTIE.

22 A RIGHT.

23 Q CORRECT. WHICH WAS EXACTLY WHAT WAS USED IN THIS
24 PARTICULAR -- IN THESE CRIMES AS WELL?

25 A ON BOTH VICTIMS.

1 Q ON BOTH VICTIMS.

2 A YES.

3 Q CORRECT. SO THERE'S A CLEAR PATTERN OF BEHAVIOR
4 THERE. I THINK WE COULD ALL AGREE TO THAT; TRUE?

5 A YES INDEED.

6 Q AS WELL AS THE EFFORT TO STUFF A RAG SOAKED IN
7 AMMONIA OR -- WELL, WITH CLOROX?

8 A CLOROX.

9 Q EXCUSE ME -- CLOROX -- THAT HE ATTEMPTED TO STUFF IN
10 HER MOUTH AND -- AND OBVIOUSLY BRING HARM TO HER IN SOME
11 WAY. I MEAN, IT WAS NOT TO HELP HER IN ANY WAY, IT WAS TO
12 EITHER KILL OR QUIET HER IN SOME WAY; CORRECT?

13 A INDEED.

14 Q AND DID YOU -- IN THE COURSE OF THAT REPORT OR THAT
15 DISCUSSION WITH THE DEFENDANT, DID YOU LEARN THAT THIS WAS
16 DONE AFTER MS. MCLENDON HAD GONE TO BED AND THAT HE
17 ACTUALLY WAS SLEEPING ON THE COUCH AND THEN THEY HAD HAD A
18 DISAGREEMENT, HE WENT TO SLEEP ON THE COUCH, SHE WENT IN
19 THE BEDROOM AND WENT TO BED, AND THEN HE ENTERED HER
20 BEDROOM AFTER HE BELIEVED HER TO BE ASLEEP AND ASSAULTED
21 HER?

22 A I THINK THOSE ARE THE DETAILS, BUT I DON'T THINK HE
23 TOLD ME ALL THAT MUCH DETAIL ABOUT IT.

24 Q DID -- WELL, DID YOU -- DID YOU REVIEW THOSE DETAILS
25 IN THE REPORTS THAT YOU READ?

1 A YES.

2 Q OKAY. SO YOU'RE AWARE OF ALL OF THAT IS -- AS FAR AS
3 THAT PARTICULAR--

4 A BEEN AWARE OF IT, YES.

5 Q -- THAT PARTICULAR EVENT GOES. AND IS IT FAIR TO SAY
6 THAT THIS WAS SOMETHING THAT YOU CONSIDERED AND LOOKED AT
7 WHEN YOU WERE MAKING YOUR DIAGNOSIS AND REACHING THE
8 CONCLUSION THAT THIS DEFENDANT'S INSANE?

9 A THIS WAS PART OF IT, YES.

10 Q PART OF IT, SURE. IT'S AN IMPORTANT PART; ISN'T IT?

11 A YES, AS WAS ALL THE REST.

12 Q WELL, IT IS ALL IMPORTANT. BUT THAT PATTERN OF
13 CONDUCT IS -- IS -- WE ALREADY TALKED ABOUT THAT AND
14 THAT'S WHY I ASKED YOU THESE QUESTIONS. I MEAN, THAT'S AN
15 IMPORTANT PART OF PSYCHIATRY, RIGHT, IN MAKING A
16 PSYCHIATRIC DIAGNOSIS; AGREED?

17 A PATTERNS?

18 Q YES.

19 A YES.

20 Q NOW, DID HE TELL YOU ABOUT -- WELL, HE DIDN'T TELL
21 YOU ANYTHING ABOUT THE CRIMES THEMSELVES BECAUSE HE
22 COULDN'T REMEMBER--

23 A MCLENDON THING OR THE CURRENT ONE, THE LING?

24 Q THE CURRENT ONE. I'M SORRY. THAT WAS MY--

25 A NO, HE DIDN'T.

1 Q HE DIDN'T RELAY -- ALL HE SAID WAS THAT HE DIDN'T
2 KNOW ANYTHING ABOUT WHAT HAPPENED UP UNTIL HE JUST BLACKED
3 OUT. THEY HAD SOME DISAGREEMENT, THERE WAS AN ACCUSATION
4 MADE AGAINST HIM, A CIGARETTE HIT HIM IN THE FACE. DIDN'T
5 HE TELL YOU ABOUT THAT?

6 A YES. YES.

7 Q AND THEN HE JUST LOST -- HE JUST BLACKED OUT. THE
8 NEXT THING HE KNOWS HE'S IN THE SHOWER. IS THAT
9 ESSENTIALLY HIS STORY TO YOU?

10 A YES, SHOWER AND COVERED IN BLOOD.

11 Q COVERED IN BLOOD. DID HE INDICATE TO YOU THAT HE
12 CHECKED THE PULSE OF BOTH VICTIMS?

13 A LATER. YEAH, AND -- HE SAID HE DID LATER, YES.

14 Q OKAY. AFTER HE WAS OUT OF THE SHOWER?

15 A YES.

16 Q DID HE INDICATE TO YOU THAT HE PACKED HIS CAR?

17 A YES.

18 Q HE INDICATED--

19 A HE SAID HE FINISHED PACKING HIS BELONGINGS, YES.

20 Q HIS BELONGINGS. DID HE INDICATE TO YOU THAT HE WENT
21 THROUGH THE POCKETBOOKS OF BOTH THE VICTIMS?

22 A NO.

23 Q DID HE INDICATE TO YOU THAT -- WELL, IN THE -- IN THE
24 REVIEW OF THE REPORTS, WERE YOU MADE AWARE OF THAT?

25 A I DON'T RECALL.

1 Q OKAY. DID HE TELL YOU THAT HE WENT TO THE ATM
2 MACHINE WITH LAURA LING'S ATM CARD AND WITHDRAW \$700?

3 A HE DID.

4 Q ALL RIGHT. IMMEDIATELY AFTER HE PACKED HIS
5 BELONGINGS?

6 A HE DID.

7 Q DID HE INDICATE TO YOU -- DID HE TELL YOU THAT HE
8 STOLE A BRACELET FROM -- FROM LAURA LING?

9 A NO. I LEARNED THAT LATER.

10 Q DID HE TELL YOU ANYTHING ABOUT STEALING A GUITAR?

11 A NO. I LEARNED THAT LATER, TOO.

12 Q OKAY. DID -- DID HE -- DID HE TELL YOU ABOUT GOING
13 TO HENRY TURNER'S HOUSE?

14 A HE DID.

15 Q WHAT DID HE TELL YOU ABOUT GOING TO MR -- DID HE TELL
16 YOU WHEN HE WENT TO MR. TURNER'S HOUSE THAT HE INFORMED
17 MR. TURNER THAT HIS FATHER HAD DIED?

18 A THAT I DON'T RECALL, BUT HE SAID HE WENT TO
19 MR. TURNER'S HOUSE TO SEE IF HE COULD GET HELP FROM
20 MR. TURNER TO HELP HIM TURN HIMSELF IN.

21 Q AND DID HE TELL YOU THAT HE TOLD MR. TURNER THAT HE
22 HAD COMMITTED THESE CRIMES?

23 A YES.

24 Q AND YOU BELIEVED THAT?

25 A WELL -- WELL, HE -- HE SAID THAT HE WASN'T SURE THAT

1 HE HAD DONE IT. HE THOUGHT PERHAPS SOMEBODY ELSE HAD DONE
2 IT, JUST AS IF HE WAS TOTALLY CONFUSED BY THE SUDDEN SCENE
3 THAT HE -- THAT HE ENCOUNTERED IN THAT BEDROOM.

4 AND HE ASCERTAINED THAT HE MAY HAVE DONE IT AND HE
5 SAID HE BECAME UPSET AND SUICIDAL AND WAS GOING TO
6 MR. TURNER'S HOUSE TO TELL HIM ABOUT IT AND HELP TURN
7 HIMSELF IN.

8 Q ALL RIGHT. DID HE TELL YOU THAT HE ACTUALLY TOLD
9 HENRY TURNER ABOUT THIS CRIME?

10 A THAT I DON'T HAVE A RECALL. HE MAY HAVE. I DON'T...

11 Q I DON'T REMEMBER SEEING THAT IN YOUR REPORT. I DID
12 SEE THAT HE TOLD YOU WHAT HIS INTENTION WAS--

13 A YES.

14 Q -- WHEN HE WENT TO TURNER'S, BUT IT WASN'T CLEAR WHAT
15 HE TOLD YOU ABOUT THE MURDER OF HENRY TURNER.

16 A THAT'S A WHOLE DIFFERENT ISSUE NOT -- NOT RELATED TO
17 THIS PARTICULAR HEARING NOW.

18 Q OH, NO, IT'S -- WELL, LET ME ASK YOU ABOUT THAT.
19 IT'S A PATTERN OF CONDUCT; IS IT NOT?

20 A YES.

21 Q AND IT'S -- IT'S IMPORTANT. I MEAN, YOU NEED TO KNOW
22 THAT TO MAKE A FULL DIAGNOSIS; DO YOU NOT?

23 A YES. YES.

24 Q YOU NEED TO KNOW THE STEPS HE TOOK AFTER THE CRIME?

25 A YEAH. WE WENT THROUGH THAT, YEAH.

1 Q OKAY. AND SO IT IS IMPORTANT FOR YOUR TESTIMONY IN
2 REACHING YOUR DIAGNOSIS?

3 A YES.

4 Q OKAY. WELL, THAT'S -- SO -- AND I JUST WANTED TO
5 MAKE -- THAT'S WHY I'M ASKING THESE QUESTIONS; OKAY?

6 A UH-HUH.

7 Q TELL ME WHAT HE INFORMED YOU ABOUT HENRY, THE MURDER
8 OF HENRY TURNER.

9 A HE SAID THAT HENRY TURNER OBTAINED A PISTOL AND
10 POINTED IT AT HIM AND HE -- EITHER TURNER APPROACHED HIM
11 OR VICE VERSA, BUT CAME -- THEY CAME IN CLOSE CONDUCT
12 (SIC) AND THAT HE DISARMED MR. TURNER, THE GUN WENT FLYING
13 ONE DIRECTION, HE PUSHED MR. TURNER AWAY, AND THEN HE --
14 LEFT ON THE GUN AND TOOK IT UP WHEN MR. TURNER GOT UP AND
15 CAME AT HIM AGAIN. HE FIRED IT ONCE TO HIS MEMORY.

16 Q OKAY. DID HE CLAIM ANY AMNESIA DURING THIS
17 PARTICULAR MURDER?

18 A NO.

19 Q THE -- HE SAYS IT WAS SORT OF A SELF-DEFENSE, I
20 GUESS?

21 A DIDN'T USE THAT TERM, BUT...

22 Q DID HE TELL YOU ABOUT--

23 A PRESENTATION WAS SIMILAR TO THAT, YEAH.

24 Q DOCTOR, DID YOU READ THE POLICE REPORTS ABOUT THE
25 HENRY TURNER MURDER?

1 A YES, I DID.

2 Q IN THE COURSE OF READING THOSE POLICE REPORTS, DID
3 YOU KNOW THAT THERE WAS A PILLOW USED? THERE WAS ACTUALLY
4 A GUNSHOT FIRED THROUGH THE PILLOW?

5 A THAT I DON'T RECALL EITHER. I MAY NOT HAVE SEEN THAT
6 ONE.

7 Q HOW ABOUT THE AUTOPSY? DID YOU HAVE A CHANCE TO
8 REVIEW THAT?

9 A YES.

10 Q AND DID YOU NOTE IN THE AUTOPSY THAT MR. TURNER WAS
11 SHOT IN THE BACK?

12 A YES.

13 Q AND THEN HE WAS ALSO SHOT IN THE CHEST?

14 A YES, IN THE FRONT AND THE BACK, YEAH.

15 Q AND DID YOU -- DID YOU HAVE THE BENEFIT WHEN READING
16 THAT REPORT OF KNOWING THAT MR. TURNER HAD A -- A SHAVER
17 IN HIS HAND, AN ELECTRIC SHAVER IN HIS HAND WHEN HE WAS
18 KILLED?

19 A THERE WAS A MENTION OF A ELECTRIC SHAVER. I DON'T
20 KNOW IF IT WAS IN HIS HAND WHEN HE WAS FOUND DEAD ON THE
21 FLOOR OR IT WAS IN HIS HAND WHEN HE WAS SHOT. I DON'T
22 KNOW.

23 Q OKAY.

24 A I DON'T...

25 Q BUT YOU'RE AWARE OF THAT?

1 A I AM AWARE THAT...

2 Q IT WAS IN THE REPORT?

3 A YEAH, HE WAS IN THE BATHROOM.

4 MR. DIGGS: YOUR HONOR, COULD I OBJECT ON THE
5 GROUNDS OF RELEVANCY HERE? I THINK HE'S EXPLORED
6 WHAT HE -- TO THE EXTENT THAT HE MIGHT HAVE BEEN
7 ENTITLED TO.

8 I DON'T UNDERSTAND WHAT THIS HAS TO DO WITH THE
9 ISSUES THAT -- THAT ARE PRESENT IN THIS CASE, AND I
10 WOULD ASK THAT HE GET BACK ON TRACK AT LEAST
11 PERTINENT TO THIS CASE.

12 MR. HEMBREE: JUDGE, THE -- IF I MAY, THE KEY
13 HERE IS I'M TRYING TO GLEAN WHAT DR. THRASHER KNEW
14 FROM OTHER SOURCES SO -- BECAUSE HE'S HAVING TO
15 ASSESS THE STORY THAT THIS DEFENDANT TOLD HIM, AND
16 HE'S GOT POLICE REPORTS AND OTHER ITEMS OF EVIDENCE
17 OR REFERENCES TO EVIDENCE THAT HE CAN EVALUATE WHEN
18 CONSIDERING THE STORY TO MAKE A JUDGMENT AS TO
19 WHETHER THIS STORY IS TRUE OR NOT.

20 THAT'S IMPORTANT BECAUSE HE'S GOT TO LOOK AT
21 THIS PATTERN OF BEHAVIOR TO MAKE A -- TO MAKE A -- A
22 DIAGNOSIS. SO I'M TRYING TO FIND OUT WHAT HE KNOWS
23 AND WHAT HE DOESN'T KNOW SO HE CAN TELL ME IF HE
24 BELIEVES THIS STORY THAT STANKO TOLD HIM AS HE'S
25 EVALUATED--

1 THE COURT: WELL, THE PURPOSE OF THIS EN CAMERA
2 HEARING IS A PROFFER SO THAT IN THE EVENT THE COURT
3 DOES NOT ALLOW THE TESTIMONY, THAT THERE WILL BE A
4 COMPLETE RECORD ON APPEAL. SO I DON'T KNOW THAT, YOU
5 KNOW, I'M NOT THE FACT FINDER, SO I CAN'T BE
6 INFLUENCED.

7 MR. DIGGS: RIGHT.

8 MR. HEMBREE: I WILL TRY TO -- I WILL TRY TO
9 WRAP THIS UP.

10 THE COURT: WE CAN TAKE A BREAK NOW OR...

11 MR. HEMBREE: I'M PRETTY CLOSE. JUDGE, I'M
12 PRETTY CLOSE TO FINISHING REALLY THIS ASPECT OF IT.

13 THE COURT: GO AHEAD. THE OBJECTION IS
14 OVERRULED.

15 MR. HEMBREE: THANK YOU, YOUR HONOR.

16 BY MR. HEMBREE:

17 Q SO DR. THRASHER, YOU WERE AWARE OF THE TWO SHOTS?

18 A YES.

19 Q YOU DON'T KNOW IF -- YOU'RE NOT SURE ABOUT THE
20 PILLOW?

21 A NO, I'M NOT.

22 Q OKAY. WELL, IF I TELL YOU THAT THERE WAS A PILLOW
23 FOUND WITH A GUNSHOT THROUGH IT AND THERE WERE FIBERS
24 FOUND IN THE BODY OF HENRY TURNER CONSISTENT WITH THAT
25 PILLOW AND FIBERS FOUND ON THE BULLET IN HENRY TURNER

1 CONSISTENT WITH THAT PILLOW, WOULD THAT CHANGE OR ALTER
2 YOUR OPINION ABOUT WHAT OCCURRED AT MR. TURNER'S HOUSE?

3 A MR. HEMBREE, COMING FROM YOU IT'S UNDOUBTEDLY TOTALLY
4 BELIEVABLE AND CORRECT.

5 Q WELL, THANK YOU. I -- THANK YOU FOR THAT UNSOLICITED
6 TESTIMONIAL.

7 MR. DIGGS: I OBJECT TO THE WITNESS VOUCHING FOR
8 THE SOLICITOR.

9 THE WITNESS: YOU ASKED ME IF IT WOULD CHANGE MY
10 OPINION--

11 BY MR. HEMBREE:

12 Q YES.

13 A -- OF WHAT HE DID AT THAT CRIME SCENE?

14 Q YES.

15 A MADE AN OPINION ON WHAT HE DID AT THAT CRIME SCENE.

16 Q WHAT IS YOUR OPINION OF WHAT HE DID AT THAT CRIME
17 SCENE? THAT'S -- MAYBE I CAN CUT TO THE CHASE.

18 A KILLED MR. TURNER.

19 Q AND DO YOU BELIEVE THAT IT WAS IN SELF-DEFENSE?

20 A THAT'S HARD FOR ME TO PUT TOGETHER. THAT'S VERY
21 DIFFICULT FOR ME TO PUT TOGETHER.

22 Q BUT THAT -- I MEAN, BUT THAT WOULD BE VERY
23 SIGNIFICANT AND, I MEAN, THAT'S KIND OF IMPORTANT TO
24 DETERMINE IN MAKING YOUR DIAGNOSIS; TRUE?

25 A WELL, I THINK HIS STORY WAS STRUCTURED IN SUCH A WAY

1 THAT IT COULD BE TAKEN AS A SELF-DEFENSE. BUT BASED ON
2 THE TOTAL INFORMATION, THAT'S DOUBTFUL.

3 Q THAT'S FAIR ENOUGH. I -- THAT'S REASONABLE.

4 A DOUBTFUL.

5 Q THAT'S REASONABLE ENOUGH.

6 A NEITHER ONE OF US WERE THERE, NEITHER ONE OF US SAW
7 IT.

8 Q DID HE TELL -- OR YOU HAD THE BENEFIT OF REVIEWING --
9 WELL, LET ME ASK YOU THIS AND SEE IF THIS CHANGES YOUR
10 OPINION ANY. IF I -- I'M -- I'LL TELL YOU THAT THERE IS A
11 PERSON WHO RECEIVED A CALL FROM HENRY TURNER THAT MORNING
12 AND IN THE COURSE OF THAT CALL, MR. TURNER SAID THAT
13 STANKO HAD COME TO HIS HOUSE AND HAD TOLD HIM THAT HIS
14 FATHER HAD DIED, THAT STANKO'S FATHER HAD DIED, AND HE
15 NEEDED TO TALK TO SOMEBODY.

16 WOULD THAT IN ANY WAY CHANGE YOUR OPINION OR
17 DIAGNOSIS OR ASSIST YOU IN EVALUATING THIS DEFENDANT?

18 A WELL, IT -- IF IT WAS MR. STANKO, IT WOULD HAVE SOME
19 IMPACT, YES.

20 Q YES.

21 A YEAH.

22 Q OKAY. WELL, IT WAS MR. STANKO THAT -- THAT TOLD THIS
23 TO MR. TURNER. SO IN WHAT WAY WOULD IT CHANGE YOUR
24 OPINION?

25 A WELL, THE TWO CONFLICTING STORIES HE TOLD ME ONE

1 THING AND HE TOLD SOMEBODY ELSE SOMETHING ELSE OR HE DID
2 SOMETHING ELSE WHEN THEY ARE ABSOLUTELY CONFLICTING, SO
3 PLACES HIS VORACITY IN DOUBT, BUT THAT'S--

4 Q ALL RIGHT.

5 A -- THAT'S NOT INCONSISTENT WITH HIS PERSONALITY AT
6 ALL.

7 Q WERE YOU AWARE OF HIS TELEPHONE CALL TO DR -- I MEAN
8 TO MR. GUAMER AT THE LIBRARY AT ABOUT 9:30 THAT FRIDAY
9 MORNING TELLING MR. GAUMER THAT LAURA LING WAS HOME SICK
10 WITH FOOD POISONING?

11 MR. KELLY: YOUR HONOR, WE WOULD OBJECT. THIS
12 IS A RECITATION OF FACTS NOT IN EVIDENCE. THE
13 TESTIMONY WAS IS THAT A PERSON CALLED THE LIBRARY
14 WHOSE VOICE SOUNDED LIKE STEPHEN STANKO, NOT THAT
15 STEPHEN STANKO CALLED THE LIBRARY.

16 THE COURT: WELL, I THINK THAT HE WOULD HAVE TO
17 REPHRASE THE QUESTION. I THINK THE CLEAR INFERENCE
18 FROM MR. GAUMER'S TESTIMONY IS THAT HE HAD BEEN IN
19 CONTACT WITH MR. STANKO ON TWO DIFFERENT OCCASIONS AT
20 A BOOK CLUB AIMED AT GETTING MEN MORE INVOLVED IN
21 LIBRARY ACTIVITIES, THAT HE KNEW HIS VOICE, THAT HE
22 WAS ABLE TO IDENTIFY IT, BUT HE IDENTIFIED THE VOICE
23 ON THE OTHER LINE, ON THE OTHER END OF THE PHONE AS
24 THAT OF MR. STANKO.

25 BUT I THINK THAT THE SOLICITOR WOULD NEED TO

1 REPHRASE THE QUESTION AND CONFINE IT TO THOSE FACTS
2 AS PRESENTED. BUT OTHERWISE IT WILL GO TO THE WEIGHT
3 AND THE FOUNDATION OF THIS WITNESS'S TESTIMONY, AND I
4 THINK WITH THE REPHRASING IT WILL BE A PERMISSIBLE
5 QUESTION.

6 MR. HEMBREE: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME. YOU MAY PROCEED.

8 BY MR. HEMBREE:

9 Q DR. THRASHER, DID YOU REVIEW MR. GAUMER'S STATEMENT?

10 A I DID.

11 Q SO YOU WERE AWARE THAT HE HAS -- HE HAS TESTIFIED
12 THAT A PERSON CALLED HIM THAT HAD A VOICE THAT SOUNDED
13 LIKE STEPHEN STANKO, AND THAT PERSON REPORTED THAT LAURA
14 LING WOULD NOT BE COMING TO WORK THAT DAY?

15 A I DON'T THINK THAT THE DOCUMENT THAT I READ ABOUT HIS
16 REPORT CAME FROM HIS TESTIMONY. I THINK IT CAME FROM A
17 POLICE INVESTIGATIVE REPORT.

18 Q OKAY.

19 A BUT IT DID SAY ESSENTIALLY WHAT YOU JUST BROUGHT OUT,
20 YEAH.

21 Q IN SUBSTANCE?

22 A SOMEBODY HAD CALLED AND SAID MS. LING WOULDN'T BE TO
23 WORK. AND WHEN MR. GAUMER EVIDENTLY -- WELL, SHE'S, YOU
24 KNOW, HOW SHE IS DOING, YOU KNOW, IS THERE SOMETHING WE
25 CAN, YOU KNOW, WHATEVER HE -- THE INTERACTION WAS, THE

1 PERSON ON THE OTHER END GOT A LITTLE DEFENSIVE AND SAID, I
2 HAVE -- I HAVE HER CELLPHONE, TO CALL ME IF YOU HAVE ANY
3 PROBLEMS.

4 Q SO YOU WERE ABLE TO CONSIDER THAT IN--

5 A OH, YEAH.

6 Q -- ASSUMING -- LET'S -- I MEAN, ASSUMING THAT IT WAS
7 MR. STANKO, I MEAN, THAT'S WHAT THE TESTIMONY IS TODAY,
8 THAT'S WHAT THE -- THAT'S WHAT THE TESTIMONY WAS THAT HE--

9 A NO--

10 Q -- THE WITNESS BELIEVES IT TO BE MR. STANKO.

11 A THE IMPLICATION WAS CERTAINLY CLEAR AND -- IN THAT
12 REPORT.

13 Q AND YOU CONSIDERED THAT IN MAKING YOUR DIAGNOSIS OF
14 MR. STANKO?

15 A SURE. SURE.

16 Q WERE YOU AWARE OR WERE YOU MADE AWARE IN THE INCIDENT
17 REPORT OR -- WELL, SURE IT WOULD HAVE BEEN -- HAD TO HAVE
18 BEEN IN THE INCIDENT REPORT -- THAT MR. STANKO CALLED HIS
19 BROTHER AT ABOUT 9:55 THAT MORNING, THAT FRIDAY MORNING,
20 AND APOLOGIZED FOR EVERYTHING TO HIS BROTHER, LEFT A --
21 LEFT A VOICE ON THE ANSWERING MACHINE AT HIS BROTHER'S
22 HOME IN NORTH CAROLINA?

23 A I BELIEVE SO.

24 Q WOULD THAT HAVE ANY IMPACT -- I MEAN, HE'S EXPRESSING
25 REMORSE HERE. WOULD THAT HAVE ANY IMPACT ON YOUR

1 DIAGNOSIS?

2 A WELL, I DON'T KNOW WHAT HE'S APOLOGIZING FOR.

3 Q WELL -- WELL, HE'S...

4 A REMORSE FOR WHAT?

5 Q I MEAN, HE'S JUST KILLED THREE PEOPLE OR KILLED TWO
6 PEOPLE, TRIED TO--

7 A HE'S APOLOGIZING BECAUSE HE DIDN'T KEEP AN
8 APPOINTMENT OR BECAUSE HE HAD DONE SOMETHING VIAL TO HIS
9 BROTHER?

10 Q DOCTOR, THIS IS -- I MEAN, THIS IS WITHIN -- WITHIN
11 HOURS OF THE MURDERS..

12 A I UNDERSTAND.

13 Q OKAY. I MEAN--

14 A UNDERSTAND, BUT I DON'T -- I DON'T KNOW WHAT THE
15 CONTENT OF THAT PHONECALL WAS ABOUT. WE CAN ASSUME IT WAS
16 ABOUT--

17 Q OKAY.

18 A -- WHAT HE HAD JUST DONE.

19 Q YEAH.

20 A MAKE THAT ASSUMPTION.

21 Q PRETTY -- PRETTY GOOD ASSUMPTION WOULDN'T YOU SAY? I
22 MEAN, YOU'RE GOING TO CONSIDER IT LIKE THAT. I MEAN, WHEN
23 YOU CONSIDER IT IN FORMING YOUR OPINION, AREN'T YOU GOING
24 TO LOOK AT IT IN THE LIGHT OF THE CIRCUMSTANCES THAT LED
25 TO THE CALL?

1 A WELL, I DON'T KNOW. HE CALLS HIS BROTHER AND SAYS
2 I'M SORRY FOR WHATEVER IT IS AND IS IT CONNECTED OR IS IT
3 NOT CONNECTED? DON'T KNOW.

4 Q OKAY.

5 MR. HEMBREE: JUDGE, THAT'S ALL I HAVE ON THE
6 QUESTIONS FOR DR. THRASHER FOR THE PURPOSES OF THE
7 PROFFER.

8 THE COURT: OKAY. I WILL HEAR ANY -- I ASSUME
9 THE REASON YOU ASKED FOR THE EN CAMERA HEARING WAS
10 BECAUSE YOU TOLD ME YOU WERE GOING TO GET INTO SOME
11 TESTIMONY ABOUT MR. TURNER; IS THAT CORRECT?

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

13 THE COURT: I GUESS I -- WE NEED TO MAYBE DO IT
14 IN REVERSE ORDER. LET ME HEAR FROM THE DEFENSE IF
15 THEY HAVE ANY EXCEPTIONS TO THE PROFFER -- TO THE
16 EVIDENCE THAT IS BEING OFFERED IN THE PROFFER. I
17 KNOW YOU ALREADY OBJECT TO MR. TURNER'S -- ANYTHING
18 ABOUT MR. TURNER.

19 MR. KELLY: OH, YES, MA'AM. WE OBJECT. LET ME
20 ASK -- IS THAT WHAT THIS IS ABOUT? THE SOLICITOR IS
21 ASKING THE COURT TO ALLOW THE JURY TO HEAR EVIDENCE
22 THAT HENRY TURNER WAS KILLED IN HIS HOME?

23 THE COURT: YEAH, AS THE EVIDENCE OF INSANITY.
24 BASED ON THE PRETRIAL DISCUSSIONS THAT WE HAD, I
25 INSTRUCTED YOU ALL IF YOU'VE GOT A MOTION IN LIMINE

1 TO EXCLUDE ANY REFERENCES TO MR. TURNER, AND I
2 TOLD -- INSTRUCTED THE SOLICITOR THAT WHEN HE, WITH
3 ANY WITNESS, GOT TO THE POINT WHERE HE FELT HE WAS
4 GOING TO ELICIT ANY TESTIMONY IN THAT REGARD, THAT HE
5 LET THE COURT KNOW SO THAT THE MATTER CAN BE TAKEN UP
6 OUTSIDE OF THE JURY'S PRESENCE.

7 MR. KELLY: AND FURTHER THAT HE WANTS TO --
8 PERMISSION OF THE COURT TO PRESENT EVIDENCE THAT JANE
9 ELIZABETH MCLENDON WAS ATTACKED BY STEPHEN STANKO, HE
10 WAS CONVICTED OF THOSE CHARGES. AM I TO UNDERSTAND
11 THAT AS WELL?

12 MR. HEMBREE: YOUR HONOR, I DON'T INTEND TO GO
13 INTO THE FACT HE WAS CONVICTED OF THOSE CHARGES.
14 IF -- I MEAN, THAT'S A DIFFERENT ISSUE. IT'S -- THE
15 ACTS THEMSELVES ARE A PATTERN OF BEHAVIOR THAT ARE
16 RELEVANT TO THE -- TO THE DOCTOR'S OPINION ABOUT
17 MR. STANKO'S TESTIMONY.

18 HE'S ALREADY TESTIFIED TO THAT EFFECT. SO WE
19 DON'T INTEND TO GO INTO THE CONVICTION, BUT WE WILL
20 GO INTO THE CONDUCT.

21 THE COURT: OKAY. DOES THAT CLARIFY IT FOR YOU,
22 MR. KELLY?

23 MR. KELLY: YES, MA'AM. WE WOULD -- I WOULD ASK
24 THE DOCTOR... DOCTOR, DID YOU READ JANE ELIZABETH
25 MCLENDON'S HANDWRITTEN ACCOUNT OF WHAT TOOK PLACE AT

1 THE TIME THAT SHE WAS ATTACKED BY STEPHEN STANKO?

2 THE WITNESS: I BELIEVE I DID.

3 MR. KELLY: AND IN THAT DO YOU RECALL THAT SHE
4 SAID THAT SHE WAS UNTIED BY HIM OR RELEASED BY HIM
5 BEFORE HE LEFT HER HOME?

6 THE WITNESS: YES.

7 MR. KELLY: OKAY. JUDGE, WE THINK IT'S TOTALLY
8 IMPROPER. I'M SURE MR. DIGGS MIGHT HAVE OTHER
9 QUESTIONS IN THIS MATTER. WE THINK IT'S TOTALLY
10 IMPROPER AND HIGHLY PREJUDICIAL BECAUSE THERE ARE
11 LESS INTRUSIVE WAYS IN WHICH TO GIVE THE SAME
12 EVIDENCE WITHOUT GOING INTO THE DETAILS OF THESE
13 ALLEGED CRIMES.

14 AS YOU'RE AWARE, JUDGE, STEPHEN STANKO HAS BEEN
15 INDICTED IN A NEIGHBORING COUNTY, HORRY COUNTY.
16 HASN'T BEEN TRIED. I BELIEVE THE SOLICITOR BELIEVES
17 HE MURDERED AND ROBBED MR. TURNER, BUT IT HASN'T BEEN
18 ANY ADJUDICATION TO THAT EFFECT.

19 IT COULD -- AND -- AND I'M SURE HE BELIEVES
20 THERE'S A PATTERN THAT'S TAKEN PLACE THAT HE'D LIKE
21 TO SHOW THE JURY IN THIS PHASE BETWEEN ELIZABETH
22 MCLENDON AND THE CURRENT CRIMES. WE THINK THAT
23 THAT'S HIGHLY PREJUDICIAL AND SHOULDN'T BE ALLOWED.

24 THE DOCTORS CAN SIMPLY TESTIFY THAT THEY'RE
25 AWARE OF PREVIOUS INSTANCES AND TIME FOLLOWING AND

1 THAT -- AND CAN SPEAK TO THOSE MATTERS WITHOUT
2 SPEAKING TO THE FACTS OR THE NAMES OF PERSONS WHO
3 MIGHT BE INVOLVED.

4 *THE COURT:* SO TELL ME AGAIN WHAT YOU DO NOT
5 FIND OBJECTIONABLE, SO LET ME SEE IF YOU ALL HAVE AN
6 AGREEMENT BEFORE I... COULD YOU -- TELL THE SOLICITOR
7 WHAT YOU DO NOT FEEL WOULD BE -- YOU WOULD NOT OBJECT
8 TO.

9 *MR. KELLY:* WELL...

10 *THE COURT:* BECAUSE I HEAR YOU SAYING THERE'S
11 SOME THINGS YOU WOULD NOT FIND OBJECTIONABLE AND THAT
12 YOU MIGHT FEEL WOULD BE A LESS INTRUSIVE WAY OF HIM
13 EXAMINING THE VORACITY AND UNDERLYING OPINION OF DR.
14 THRASHER.

15 *MR. KELLY:* YOUR HONOR, WE DON'T OBJECT TO THE
16 GOING INTO ELIZABETH MCLENDON FACTS AS KNOWN BY THE
17 DOCTOR.

18 *THE COURT:* OKAY.

19 *MR. KELLY:* BUT NOT THE CONVICTIONS.

20 *THE COURT:* OKAY.

21 *MR. KELLY:* AS FAR AS HENRY TURNER IS CONCERNED,
22 WE THINK THAT THIS DOCTOR OR ANYBODY ELSE CAN SAY,
23 YES, I'M AWARE OF WHAT HAS BEEN ACCOUNTED TO ME BY
24 ALL SOURCES AVAILABLE TO ME, INCLUDING THE DEFENDANT,
25 OR ANY REPORTS, AND -- AND IT AFFECTS MY OPINION IN

1 THIS PARTICULAR WAY.

2 IN OTHER WORDS, I KNOW AND AM AWARE OF
3 INCIDENCES THAT ARE -- THAT TOOK PLACE. AND TO THE
4 EFFECT OF THIS, JUDGE...

5 THE COURT: WITHOUT GOING INTO THE SPECIFICS.

6 MR. KELLY: YEAH. WITHOUT GOING INTO THE
7 SPECIFICS. ARE YOU AWARE FOR INSTANCE, DOCTOR, THAT
8 IT APPEARS THAT HE -- HE DROVE A LONG DISTANCE
9 SHORTLY AFTER OR THAT HE WENT TO AN ATM MACHINE OR
10 THAT HE SPOKE WITH OTHER PERSONS.

11 THIS TYPE OF INNOCUOUS -- THAT THE JURY CAN SEE
12 WHAT THE SOLICITOR IS TRYING TO SHOW, AND THAT IS
13 THAT HE WAS RATIONAL, NOT THAT HE'S A MURDERER, NOT
14 THAT HE'S A ROBBER, BUT THAT HE'S RATIONAL.

15 SO, YES. I MEAN, JUDGE, IF THE QUESTION REALLY
16 IS -- IS WHEN YOU GET DOWN TO IT, IS IT IMPORTANT FOR
17 THE DIAGNOSIS? YES. BUT IS IT IMPORTANT FOR THE
18 JURY? NO. AND IT'S HIGHLY PREJUDICIAL.

19 SO IF HE CAN ASK QUESTIONS OF ANY TYPE ABOUT ANY
20 INSTANCES WHATSOEVER THAT SHOWS WHAT HE HAS A RIGHT
21 TO PROVE, WHICH IS THAT HE WAS ON HIS CLAIM RATIONAL
22 AND SANE, WITHOUT PREJUDICING THE JURY BY SAYING
23 THINGS THAT HAVE NOT BEEN PROVEN AND ARE STILL
24 PENDING IN OUR COURTS, THERE'S NO EVIDENCE AT ALL
25 THAT HE MURDERED HENRY TURNER AT THIS POINT.

1 THE SOLICITOR THINKS HE DID. BUT THERE'S NO
2 EVIDENCE THAT HE DID. AND THERE'S BEEN NO
3 ADJUDICATION OF IT -- THAT ANY EVIDENCE BEFORE THIS
4 COURT. WE CAN'T BE ALLOWED IN FRONT OF THIS COURT.

5 SO WE DON'T MIND THE FAIRNESS OF IT, WHICH IS TO
6 SHOW WHETHER OR NOT THERE IS EVIDENCE THAT THE
7 DEFENDANT MIGHT HAVE BEEN RATIONAL OR SANE, BUT NOT
8 THAT HE'S SOME KIND OF CONVICTED OR OUGHT TO BE
9 CONVICTED CRIMINAL.

10 THE COURT: MR. HEMBREE? I'M SORRY, MR. DIGGS?

11 MR. HEMBREE: I WAS GOING TO LET THE DEFENSE
12 MAKE THEIR ARGUMENT AND THEN I WILL BE GLAD TO
13 RESPOND.

14 MR. DIGGS: YOUR HONOR, I BELIEVE THAT DR.
15 THRASHER SAID HE'S AWARE OF ALL THIS STUFF OR AT
16 LEAST MOST OF IT AND IT DIDN'T AFFECT HIS ULTIMATE
17 OPINION ABOUT THE SANITY OR LACK THEREOF AT THE TIME
18 OF THE LAURA LING INCIDENT.

19 NOW, IF IT WERE A SITUATION WHERE SOLICITOR WAS
20 SAYING, WELL, WHAT ABOUT THIS AND THIS, MR. TURNER,
21 YOU DIDN'T KNOW ABOUT THAT, DID YOU? NOW, HOW DOES
22 THAT AFFECT YOUR OPINION? AND DR. THRASHER SAID,
23 WELL, I CERTAINLY WOULD CHANGE MY OPINION IN THAT
24 RESPECT.

25 YOU KNOW, THAT WOULD BE ANOTHER -- THAT'S NOT

1 WHAT WE HAVE HERE. I WOULD JUST -- THAT'S ALL I
2 WOULD HAVE TO ADD, AND I THINK MR. KELLY'S MADE THE
3 POINT.

4 THE COURT: SOLICITOR?

5 MR. HEMBREE: THANK YOU, YOUR HONOR. ONCE THE
6 DEFENSE ELECTS TO OFFER AN INSANITY DEFENSE, THAT
7 BURDEN OF -- AS WE DISCUSSED YESTERDAY AND WE
8 DISCUSSED A NUMBER OF TIMES -- THERE'S A PRESUMPTION
9 OF SANITY UNTIL THE DEFENSE OFFERS THAT INSANITY
10 DEFENSE AS IS A STRATEGIC MATTER, THEY HAVE CHOSEN TO
11 DO THAT.

12 ONCE THEY DO THAT, THEN THE BURDEN SHIFTS TO THE
13 STATE TO PROVE THAT THE DEFENDANT WAS SANE AT THE
14 TIME. AND THAT IS WHY I AM PERMITTED TO GO INTO
15 RELEVANT PATTERN OF CONDUCT THAT HAVE BEEN --
16 THOSE -- THAT PATTERN OF CONDUCT THAT HAS BEEN
17 CONSIDERED BY DR. THRASHER OR ANY OTHER DOCTOR IN
18 REACHING A DIAGNOSIS OF THIS DEFENDANT.

19 IT'S NOT OFFERED AS SUBSTANTIVE EVIDENCE. THAT
20 WOULD BE COVERED IN YOUR LIMITING INSTRUCTION TO THE
21 JURY. CLEARLY THEY CANNOT CONSIDER IT AS SUBSTANTIVE
22 EVIDENCE FOR PURPOSES OF THE GUILT OR INNOCENCE OF
23 THIS DEFENDANT OUTSIDE THE SCOPE OF THE DEFENSE OF
24 INSANITY. BUT YOU KNOW, THAT -- THAT'S GOING TO BE
25 THE COURT'S RESPONSIBILITY.

1 HOWEVER, YOU KNOW, HOWEVER, THAT'S WHY I'VE
2 ASKED THE QUESTIONS OF DR. THRASHER ABOUT DETAILS,
3 ABOUT THE THINGS THAT HE KNEW BECAUSE THOSE DETAILS,
4 THE DETAILS OF THOSE ACTS ARE HOW -- ARE THE
5 BEHAVIORS OF THE DEFENDANT THAT LEAD TO THE DIAGNOSIS
6 DR. THRASHER HAS OFFERED. IT'S RELEVANT. AND AS DR.
7 THRASHER SAID, IT'S RELEVANT.

8 THE COURT: WELL, LET ME ASK A MORE BASIC
9 QUESTION. BASED ON MR. KELLY'S REPRESENTATIONS TO
10 THE COURT, THE MATTERS THE DEFENDANT WOULD NOT FIND
11 OBJECTIONABLE, DO YOU THINK THAT YOU COULD CONFINE
12 YOUR QUESTIONING TO THOSE PARAMETERS AS REGARDS --
13 THE INFORMATION ABOUT MS. ELIZABETH MCLENDON?

14 MR. HEMBREE: NO QUESTION, YOUR HONOR.
15 ELIZABETH MCLENDON -- WE CAN TALK ABOUT -- I NEVER
16 INTENDED TO TALK ABOUT CONVICTIONS, SO WE'RE ALREADY
17 IN AGREEMENT ABOUT THAT AND--

18 THE COURT: I'M JUST TRYING TO BE CLEAR FOR THE
19 RECORD AND TAKE IT SEQUENTIALLY.

20 MR. HEMBREE: THANK YOU, YOUR HONOR.

21 THE COURT: NOW, MR. KELLY INDICATES THAT HE
22 WOULD HAVE NO OBJECTION TO YOU SHOWING THAT
23 MR. STANKO IS CAPABLE OF RATIONAL THOUGHT WITHOUT
24 REFERRING TO THE SPECIFICS OF THE MURDER OF HENRY
25 TURNER. WOULD YOU BE ABLE TO DO THAT?

1 MR. HEMBREE: NO, YOUR HONOR.

2 THE COURT: CONFINE YOUR QUESTIONING?

3 MR. HEMBREE: I CANNOT CONCEIVE OF A WAY TO ASK
4 QUESTIONS IN A MANNER THAT -- DID HE DO OTHER THINGS
5 BUT I'M NOT GOING TO TALK TO YOU ABOUT THOSE THAT
6 INDICATE HE WAS RATIONAL. I MEAN, THAT'S -- THAT'S
7 SO VAGUE AND IT REALLY -- IT REALLY LIMITS MY
8 ABILITY, OUR -- THE STATE'S ABILITY TO PROVE HE WAS
9 SANE, AND THAT'S OUR BURDEN AT THIS POINT THAT'S BEEN
10 PUT ON US BY THE--

11 THE COURT: I DON'T THINK IT LIMITS YOUR ABILITY
12 TO PROVE HE'S SANE. CLEARLY THE CASE LAW ALLOWS YOU
13 TO PRESENT ANY TYPE OF EVIDENCE THAT WOULD BEAR ON
14 THE PART OF HIM TO CONCEAL OR DESTROY EVIDENCE,
15 MANIFEST IN THAT THAT MANIFESTED AWARENESS OF HIS
16 KNOWING RIGHT FROM WRONG.

17 AND I'M NOT -- AGAIN, I THINK THAT CLEARLY YOU
18 HAVE THE ABILITY ON CROSS IS -- WIDE LATITUDE IS
19 GIVEN IN CROSS TO INQUIRE INTO THIS EXPERT'S, YOU
20 KNOW, FOUNDATION OF HIS OPINION.

21 AND REALLY WHAT YOU'RE DOING IS MORE IN THE
22 NATURE OF IMPEACHMENT. IT'S MORE LIKE, YOU KNOW, DID
23 YOU KNOW ALL THESE THINGS, AND DID THIS IN ANY WAY
24 ALTER YOUR OPINION. AND I THINK TO SOME EXTENT IT
25 WOULD BE RELEVANT.

1 THE PROBLEM AND WHERE I'M STRUGGLING RIGHT NOW
2 IS THAT IT IS SO PREJUDICIAL. AND THE OTHER PART
3 ABOUT -- THE OTHER LEVEL THAT I HAVE TO DEAL WITH IS
4 YOU REALLY -- THE COURT COULD EVER BE INTRODUCED
5 BECAUSE IT'S AN ACT HE HAS NOT BEEN CONVICTED OF, YOU
6 WOULD HAVE TO PROVE IT BY CLEAR AND CONVINCING TO --
7 EVIDENCE TO THE COURT WHICH MEANS THEN WE'D HAVE TO
8 HAVE ANOTHER LITTLE TRIAL WITHIN A TRIAL FOR YOU TO
9 EVEN BE ABLE TO MENTION IT. SO I NEED TO THINK ABOUT
10 IT FOR A FEW MINUTES.

11 MR. HEMBREE: THANK YOU, YOUR HONOR.

12 THE COURT: YOU'RE WELCOME. DR. THRASHER, YOU
13 MAY STEP DOWN, REFRESH YOURSELF. PLEASE DON'T
14 DISCUSS THE TESTIMONY DURING THE BREAK.

15 THE WITNESS: YES, MA'AM.

16 THE COURT: OKAY.

17 MR. DIGGS: YOUR HONOR, MAY I SPEAK TO DR.
18 THRASHER?

19 THE COURT: YOU CAN TALK TO HIM, BUT YOU CANNOT
20 TALK ABOUT HIS TESTIMONY IN ANY REGARD. AND I
21 NOTICED THAT SOME WITNESSES MAY BE IN THE GALLERY.
22 YOU ALL MAY WANT TO DEAL WITH THE SEQUESTRATION
23 ISSUE.

24 MR. HEMBREE: THANK YOU, YOUR HONOR.

25 THE COURT: YOU'RE WELCOME.

1 (WHEREUPON A RECESS WAS HAD.)

2 THE COURT: WHILE WE ARE AWAITING -- BY ORDER OF
3 THE CHIEF JUSTICE, PLEASE DO NOT HAVE ANY CELLPHONES
4 IN THE ON POSITION. THEY SHOULD BE OFF AT ALL TIMES.
5 THEY SHOULD NOT BE ON VIBRATE OR OTHERWISE. THEY
6 SHOULD BE TURNED OFF.

7 IF THEY GO OFF, THEY WILL BE CONFISCATED; OKAY?
8 SO I DON'T WANT THAT TO COME AS ANY SURPRISE TO
9 ANYONE. CELLPHONES CAN BE VERY DISRUPTIVE FOR LACK
10 OF A BETTER WAY OF PUTTING IT AND IT'S VERY
11 DISTRACTING TO THE JURY WHEN THEY GO OFF, ESPECIALLY
12 IN THE MIDDLE OF TESTIMONY.

13 AND I UNDERSTAND SOME PEOPLE'S CELLPHONES WERE
14 CONFISCATED THIS MORNING. IS THAT CORRECT? YOU ALL
15 CAN GO AHEAD AND RETURN THOSE TO THEM, BUT MAKE SURE
16 THAT THEY ARE OFF; OKAY? THANK YOU ALL VERY MUCH.
17 AND WE'LL WAIT ON MR. STANKO, THEN WE'LL PROCEED.

18 (DEFENDANT ENTERED THE COURTROOM.)

19 THE COURT: THE COURT HAS TAKEN THE -- HAS
20 CONSIDERED THE MOTION IN LIMINE OF THE DEFENSE
21 REGARDING ANY REFERENCE TO THE TESTIMONY REGARDING
22 THE OFFENSE WHICH TOOK PLACE OR IS ALLEGED TO HAVE
23 TAKEN PLACE AT HENRY LEE TURNER'S HOME.

24 THE COURT WOULD SUSTAIN THE OBJECTION AND WOULD
25 RESTRICT THE STATE FROM MAKING ANY REFERENCE TO THE

1 OFFENSES THAT ALLEGEDLY TOOK PLACE AT MR. TURNER'S
2 RESIDENCE FOLLOWING THESE EVENTS.

3 THE COURT WOULD FIND THAT IT IS -- THAT THE
4 TESTIMONY AS ELICITED BY THE SOLICITOR IS RELEVANT AS
5 REGARD TO THE ASSESSMENT OF THE PATTERN OF BEHAVIOR
6 OF THE DEFENDANT.

7 HOWEVER, THE COURT FINDS THAT ALTHOUGH RELEVANT,
8 PROBATIVE VALUE IS SUBSTANTIALLY OUTWEIGHED BY THE
9 DANGER OF UNFAIR PREJUDICE PURSUANT TO RULE 403.

10 IN ADDITION TO THAT, AND AS I TOLD YOU ALL IN
11 CHAMBERS, THE COURT FOUND IF IN FACT THAT IS WHAT THE
12 STATE IS SEEKING TO ELICIT FROM DR. THRASHER, THEY
13 BASICALLY ACCOMPLISHED THAT BECAUSE DR. THRASHER'S
14 TESTIMONY ON CROSS INDICATED THAT HE REALLY BELIEVED
15 VERY LITTLE OF WHAT MR. STANKO SAID TO HIM.

16 HE SAID HE TELLS STORIES. HE'S A PSYCHOPATH.
17 SO I THINK THAT EVEN IF HE WERE TO TELL HIM THESE
18 THINGS, THAT IT WOULD NOT HAVE SUBSTANTIALLY IN ANY
19 WAY OR APPRECIABLY ALTERED HIS OPINION AS REGARD TO
20 WHETHER MR. STANKO WAS SANE OR INSANE.

21 NOW, BY AGREEMENT OR BY -- WITHOUT OBJECTION THE
22 STATE WILL BE ALLOWED TO MENTION THE INCIDENTS WHICH
23 TOOK PLACE REGARDING MS. ELIZABETH MCLENDON. THE
24 COURT ALSO FINDS APPROPRIATE THAT THE STATE ALSO BE
25 ALLOWED TO INQUIRE TO THE MATTERS REGARDING THE

1 PHONECALL WITH MR. GAUMER.

2 AND PURSUANT TO OUR CHAMBERS CONFERENCE -- AND
3 ALTHOUGH, YOU KNOW, WE DID NOT REALLY TALK ABOUT
4 THIS, ABOUT THE PHONECALL THAT HE -- OR THE MESSAGE
5 HE LEFT ON HIS BROTHER'S ANSWERING MACHINE, IS THERE
6 ANY EXCEPTION FROM THE DEFENSE TO THE MENTIONING OF
7 THAT?

8 MR. KELLY: THERE IS NONE.

9 THE COURT: OKAY. ALSO, AS WE -- YOU ALL CAN
10 HELP MY MEMORY IF I LEAVE ANYTHING OUT -- THE COURT
11 WOULD FIND THAT IT IS CLEARLY WITHIN THE SCOPE OF
12 CROSS THAT THE SOLICITOR WOULD BE ALLOWED TO ELICIT
13 TESTIMONY REGARDING ALL OF THE INCIDENTS WHICH TOOK
14 PLACE AT THE RESIDENCE AFTER THE INCIDENTS, INCLUDING
15 THE ITEMS THAT WERE TAKEN, THE ATM MACHINE, THE
16 VEHICLE BEING DISCARDED, THE DEFENDANT GETTING
17 ANOTHER VEHICLE AND MODE OF TRANSPORTATION WITHOUT,
18 OF COURSE, ANY REFERENCES TO THEFT. AND I FORGET THE
19 OTHER.

20 MR. HEMBREE: THE CELLPHONE.

21 THE COURT: THE CELLPHONE.

22 MR. HEMBREE: OBTAINED -- AND USE THE LANGUAGE
23 IN OUR QUESTION -- OBTAINED ANOTHER CELLPHONE.

24 THE COURT: I KNEW THERE WAS SOMETHING THAT I
25 WAS OMITTING. IS THAT THE DEFENSE'S RECOLLECTION OF

1 THE ITEMS THAT IT DOES NOT OBJECT TO THE STATE GOING
2 INTO?

3 MR. DIGGS: IT'S MY RECOLLECTION.

4 MR. KELLY: YES, MA'AM. AND I THINK ALSO THE
5 SOLICITOR WILL NOT REFER TO ANY CONVICTIONS HAVING TO
6 DO WITH MCLENDON MATTERS.

7 THE COURT: THAT'S CORRECT.

8 MR. HEMBREE: THAT'S CORRECT. THAT'S THE
9 APPROACH WE'LL TAKE, YOUR HONOR.

10 THE COURT: WITH THOSE INSTRUCTIONS, AND AS I
11 INDICATED, I THINK CLEARLY THE STATE HAS THE ABILITY
12 TO GO INTO ANY MATTERS THAT ON THE PART OF THE
13 DEFENDANT TO CONCEAL OR DESTROY EVIDENCE WHICH WOULD
14 MANIFEST HIS AWARENESS OF RIGHT AND WRONG.

15 AND I THINK THAT THE MATTERS THAT WILL BE
16 ELICITED CLEARLY FALL WITHIN THE SCOPE OR IN THOSE
17 PARAMETERS. OKAY. ARE WE READY TO PROCEED?

18 MR. HEMBREE: THE STATE'S READY, YOUR HONOR.

19 THE COURT: THE DEFENSE READY?

20 MR. KELLY: YES, MA'AM.

21 THE COURT: WE'D LIKE TO TRY TO FINISH DR.
22 THRASHER SO THAT THE JURY CAN HAVE LUNCH. PLEASE
23 BRING IN -- DOCTOR, IF YOU WOULD RE-TAKE THE STAND, I
24 WILL REMIND YOU YOU'RE STILL UNDER OATH. IF YOU ALL
25 COULD BRING IN THE JURY.

1 (WITNESS RESUMED THE STAND.)

2 (JURY ENTERED THE COURTROOM AT 1:08 PM.)

3 THE COURT: YOU MAY BE SEATED. LADIES AND
4 GENTLEMEN, WE APPRECIATE YOUR PATIENCE WHILE WE
5 RESOLVED THOSE MATTERS OF LAW. YOU MAY PROCEED.

6 MR. HEMBREE: THANK YOU, YOUR HONOR.

7 THE COURT: YOU'RE WELCOME.

8 BY MR. HEMBREE:

9 Q DR. THRASHER, I THINK WHEN WE LAST WERE TALKING, WE
10 HAD DISCUSSED SOME OF THE ELEMENTS OR BUILDING BLOCKS OF
11 A -- OF A -- AN ADEQUATE OR A GOOD PSYCHIATRIC,
12 PSYCHIATRIC EXAM AND DIAGNOSIS; CORRECT?

13 A THAT'S WHAT YOU WERE DOING.

14 Q OKAY. WE WERE TALKING ABOUT THAT OR I WAS ASKING YOU
15 SOME QUESTIONS ABOUT THAT?

16 A YES, YOU WERE.

17 Q AND AS I RECALL, WE WERE TALKING ABOUT ONE OF THE --
18 ONE OF THOSE ELEMENTS BEING THE CLINICAL, THE CLINICAL
19 EXAMINATION OF THE DEFENDANT AND THE EVALUATION OF THE
20 PATTERN OF BEHAVIOR OF THE DEFENDANT.

21 A YES INDEED.

22 Q THAT'S AN IMPORTANT THING. AND YOU'D ALREADY
23 TESTIFIED TO THAT.

24 A IT IS.

25 Q NOW, IN THE COURSE OF EVALUATING DEFENDANT STANKO,

1 YOU WERE MADE AWARE OF CERTAIN BEHAVIORS OR INCIDENTS THAT
2 WERE RELEVANT TO YOUR DIAGNOSIS; ISN'T THAT TRUE?

3 A YES.

4 Q AND LET ME TAKE YOU TO -- AND YOU -- I THINK YOU
5 MENTIONED WHEN MR. DIGGS WAS ASKING YOU QUESTIONS -- YOU
6 REVIEWED A LOT OF REPORTS AND STATEMENTS AND YOU -- YOU
7 SAID THEY TOOK A -- I MEAN, IT WENT OVER ALMOST A FULL
8 PAGE OF MATERIAL THAT YOU HAD CONSIDERED IN REACHING YOUR
9 DIAGNOSIS.

10 A YES, SIR, ONE PAGE AND PART OF ANOTHER.

11 Q ONE PAGE AND PART OF ANOTHER. SO QUITE A LENGTHY--

12 A YES, SIR.

13 Q -- A LONG LIST OF THINGS. ONE OF THOSE THINGS WAS A
14 REPORT OF AN INCIDENT INVOLVING IN A MS. MCLENDON.

15 A I AM SORRY. MISSED THAT. WHO?

16 Q AN INCIDENT INVOLVING MS. MCLENDON.

17 A YES.

18 Q FROM 1996.

19 A YES.

20 Q AND DID YOU -- YOU REVIEWED THAT REPORT?

21 A I DID.

22 Q AND DID IT REVEAL PATTERNS OF BEHAVIOR TO YOU THAT
23 WERE SIGNIFICANT?

24 A YES.

25 Q WOULD YOU PLEASE TELL THIS JURY THE CIRCUMSTANCES

1 INVOLVING THAT INCIDENT THAT YOU CONSIDERED. WHAT
2 HAPPENED TO HER?

3 A WHAT HAPPENED TO HER?

4 Q YES.

5 A SHE AND MR. STANKO WERE INVOLVED IN AN ARGUMENT
6 OVER -- I CAN'T REMEMBER EXACTLY WHAT HE SAID THE ARGUMENT
7 WAS ABOUT.

8 Q DO YOU HAVE THAT REPORT IN YOUR -- IN YOUR MATERIALS
9 THERE?

10 A I DON'T KNOW IF I HAVE IT IN HERE OR NOT. IT MAY
11 COME TO MIND WHAT IT WAS ABOUT AS I TALK. AND SHE -- OH,
12 I KNOW WHAT IT WAS. HE HAD BEEN INVOLVED IN SOME SORT OF
13 CON. HE WAS CHEATING ON PEOPLE. HE WAS BORROWING MONEY
14 HERE, SAYING HE WAS GOING TO INVEST IT AND THEN NOT
15 INVESTING IT, AND YOU KNOW, JUST CONNING PEOPLE.

16 AND SOME SALE OF AUTOMOBILES, IT WAS -- HE WORKED FOR
17 A LARGE AUTOMOBILE DEALER IN THE -- IN THE CHARLESTON AREA
18 AND HE WAS SELLING VEHICLES ILLEGALLY, AND EVIDENTLY
19 GETTING THEM FROM THE BUSINESS. AND MS. MCLENDON FOUND
20 OUT ABOUT THAT. THEY GOT INTO AN ARGUMENT OVER IT AND...

21 Q NOW, WHAT WAS HER RELATIONSHIP WITH DEFENDANT STANKO,
22 MS. MCLENDON?

23 A THEY WERE CLOSE. AND EVIDENTLY SHE THREATENED TO
24 REPORT HIM TO THE POLICE AND THEY GOT INTO A FIGHT WHERE
25 SHE HIT HIM AND HE ENDED UP TYING HER UP WITH A -- WITH A

1 NECKTIE--

2 Q NOW--

3 A -- FOR A PERIOD OF -- FOR A PERIOD OF TIME AND THEN

4 HE LET HER GO.

5 Q WERE YOU MADE AWARE IN THE REVIEW OF THOSE REPORTS --

6 DID YOU EVER INTERVIEW MS. MCLENDON?

7 A NO. NO. EXCUSE ME.

8 Q AND WERE YOU AWARE IN THE REVIEW OF THOSE REPORTS IN

9 CONSIDERING THAT -- THAT EVENT THAT THE DEFENDANT TOOK A

10 RAG SOAKED IN CLOROX AND STUFFED IT INTO MS. MCLENDON'S

11 MOUTH?

12 A YES INDEED.

13 Q OKAY. AND THEN TIED HER UP WITH NECKTIES?

14 A NECKTIE, YES.

15 Q FOR A PERIOD OF TIME?

16 A YES.

17 Q AND THEN ULTIMATELY...

18 A LET HER GO.

19 Q RELEASED HER?

20 A YES.

21 Q AND HE TOOK OFF?

22 A HE DID.

23 Q OKAY. YOU'RE AWARE OF THAT?

24 A YES.

25 Q NOW, IS IT YOUR -- WOULD IT BE YOUR TESTIMONY THAT HE

1 WAS INSANE ON THAT OCCASION?

2 A NO.

3 Q LET ME ASK YOU ABOUT SOME OF THE EVENTS, SOME OF THE
4 BEHAVIORS OF THE DEFENDANT AROUND THE -- DURING THE COURSE
5 OF THESE CRIMES, THE MURDER OF LAURA LING AND SEXUAL
6 ASSAULT AND ATTEMPTED MURDER OF [REDACTED] LING. I BELIEVE
7 THE DEFENDANT TOLD YOU THAT HE HAD AMNESIA?

8 A WELL, HE DIDN'T USE THE WORD. HE JUST SAID HE
9 COULDN'T REMEMBER A SINGLE THING.

10 Q OKAY. DIDN'T REMEMBER ANYTHING ABOUT IT?

11 A UH-HUH.

12 Q BLACKED OUT?

13 A HE DIDN'T USE THAT WORD. HE JUST SAID HE COULDN'T
14 REMEMBER ANYTHING ABOUT IT.

15 Q FAIR ENOUGH. I APPRECIATE THAT. AND HE WAS -- I
16 THINK HE TOLD YOU THAT HE WOKE UP IN THE SHOWER WITH BLOOD
17 ALL OVER HIM?

18 A HE NEXT CAME AWARE OF THINGS IN THE SHOWER COVERED
19 WITH BLOOD, YES.

20 Q AND THEREAFTER DID HE INDICATE TO YOU THAT HE CHECKED
21 THE PULSE OF BOTH VICTIMS?

22 A WELL, HE -- HE SAID THAT HE DIDN'T KNOW WHY HE WAS IN
23 THIS STATE OR WHAT WAS GOING ON, HE GOT OUT OF THE SHOWER,
24 HE PUT A TOWEL OVER HIMSELF TO GO OUT AND SEE WHAT IT WAS,
25 AND FOUND THIS HORRIBLE SCENE OF MS. LING AND HER

1 DAUGHTER.

2 Q UH-HUH. AND HE -- DID HE REPORT TO YOU THAT HE
3 DIALED 9-1-1?

4 A NO, HE DIDN'T. HE DID TELL ME THAT HE CHECKED PULSES
5 AND COULDN'T GET ANY ON EITHER ONE. THE YOUNG LADY WAS
6 THANK GOD ALIVE.

7 Q AND HE DIDN'T GET A -- AT LEAST HE DIDN'T FEEL A
8 PULSE IS WHAT HE REPORTED TO YOU ON EITHER ONE?

9 A THAT'S RIGHT. HE DIDN'T DETECT A PULSE.

10 Q DIDN'T DETECT A PULSE?

11 A HE THOUGHT BOTH OF THEM HAD DIED.

12 Q AND DID HE TELL YOU THAT HE THEN PACKED A SUITCASE,
13 PACKED HIS BELONGINGS?

14 A HE SAID HE FINISHED PACKING HIS SUITCASE.

15 Q OKAY.

16 A HE HAD BEEN IN THE PROCESS OF PACKING A SUITCASE TO
17 LEAVE THE HOUSE BECAUSE HE THOUGHT THAT HE WAS CAUSING
18 DISRUPTION BETWEEN MS. LING AND HER DAUGHTER.

19 Q THAT'S WHAT HE REPORTED TO YOU?

20 A THAT'S WHAT HE TOLD ME, YEAH.

21 Q OKAY.

22 A THAT HE WAS -- HE WANTED TO LEAVE. AND SO AS TO NOT
23 CAUSE THAT FAULT, ARGUMENT, DIDN'T WANT THAT TO HAPPEN HE
24 SAID. AND THEN HE WAS PACKING A SUITCASE AND MS. LING AND
25 HE FELL INTO AN ARGUMENT AND SHE SAID THAT SHE WAS GOING

1 TO HAVE HIM--

2 Q OKAY. I'M NOT -- THAT WASN'T MY QUESTION TO YOU. MY
3 QUESTION WAS, DID HE TELL YOU THAT HE PACKED A SUIT -- HE
4 FINISHED PACKING A SUITCASE?

5 A HE DID.

6 Q OKAY. HE LOADED UP THE SUITCASE AND HIS BELONGINGS.
7 DID HE TELL YOU THAT HE LOADED HIS SUITCASE AND BELONGINGS
8 IN MS. LING'S RED MUSTANG?

9 A YES. HE SAID HE PUT THEM IN MS. LING'S CAR.

10 Q AND HE TOOK HER CAR?

11 A HE DID.

12 Q AND THEN DID HE REPORT TO YOU WHERE HE WENT NEXT?

13 A HE SAID THAT HE WENT TO AN ATM MACHINE TO GET SOME
14 MONEY.

15 Q OKAY. DID HE TELL YOU HOW MUCH HE GOT?

16 A I THINK IT WAS \$70.

17 Q SEVENTY OR 700?

18 A MAY HAVE BEEN 700, I DON'T REMEMBER.

19 Q REMEMBER THE SEVEN?

20 A IT'S THE SEVEN, 7-0 SOMETHING.

21 Q FAIR ENOUGH.

22 A THEN HE USED A CREDIT CARD THAT HE SAID THEY BOTH --
23 FROM AN ACCOUNT THAT THEY BOTH HAD CONTRIBUTED TO.

24 Q OKAY.

25 A BUT I THINK IT WAS IN HER NAME.

- 1 Q OKAY. AN ACCOUNT IN HER NAME?
- 2 A I THINK IT WAS.
- 3 Q OKAY. AND DID HE SAY -- DID HE INFORM YOU THAT HE
- 4 GOT RID OF THE RED MUSTANG AND OBTAINED OTHER
- 5 TRANSPORTATION WITHIN HOURS OF THE CRIME?
- 6 A HE LEFT THE MUSTANG AT ANOTHER ADDRESS--
- 7 Q CORRECT.
- 8 A -- AND THEN--
- 9 Q OBTAINED ANOTHER -- ANOTHER VEHICLE?
- 10 A ANOTHER VEHICLE AND THEN LEFT, YES.
- 11 Q OKAY. AND DID HE INDICATE TO YOU THAT HE OBTAINED
- 12 ANOTHER CELLPHONE?
- 13 A I DON'T THINK HE -- HE TOLD ME THAT.
- 14 Q WERE YOU AWARE IN MAKING YOUR DIAGNOSIS THAT HE THEN
- 15 LEFT THE JURISDICTION OF THE STATE?
- 16 A NO. HE WENT TO COLUMBIA.
- 17 Q OKAY. WENT TO COLUMBIA FIRST, BUT THEN ULTIMATELY
- 18 LEFT THE JURISDICTION OF THE STATE?
- 19 A YES.
- 20 Q ALL RIGHT. HE LEFT THE JURISDICTION OF THE COUNTY
- 21 FIRST AND THEN LEFT THE JURISDICTION OF THE STATE?
- 22 A YES, SIR.
- 23 Q WHERE HE WAS -- AND WAS APPREHENDED IN GEORGIA?
- 24 A YES.
- 25 Q SEVERAL DAYS LATER?

1 A YES.

2 Q DID HE MAKE OR WERE YOU AWARE THAT THERE WAS A
3 WITNESS THAT REPORTED A MAN WITH A VOICE OF STEPHEN STANKO
4 CONTACTED LAURA LING'S EMPLOYER, SOCASTEE LIBRARY,
5 APPROXIMATELY 9:35 THE NEXT DAY OR THE -- THE ACTUAL DAY
6 OF THE MURDER, AND INFORMED MS. LING'S SUPERVISOR THAT SHE
7 HAD FOOD POISONING AND WOULD NOT BE IN?

8 A THE -- THE MATERIAL THAT I HAD DIDN'T SAY THAT IT WAS
9 MR. STANKO'S VOICE, BUT THE REST OF IT IS AS YOU
10 DELINEATED. IT'S -- A MALE CALLED AND SAID MS. LING WOULD
11 NOT BE IN, ET CETERA.

12 Q OKAY. AND THIS WAS WITHIN HOURS?

13 A AND HE HAD MS. LING'S TELEPHONE.

14 Q ALL RIGHT. THAT WAS -- THAT WAS REPORTED TO YOU IN
15 YOUR EVALUATION OF THIS CASE?

16 A YEAH. YES.

17 Q AND DOCTOR, AND MAYBE I'M KIND OF CUTTING TO THE
18 ULTIMATE QUESTION HERE, BUT THESE APPEAR TO BE STEPS
19 TAKEN, ONE -- IN A SEQUENTIAL FASHION OF SOMEONE WHO KNOWS
20 THEY HAVE DONE SOMETHING TERRIBLY BAD AND THEY'RE TRYING
21 TO AVOID RESPONSIBILITY FOR THEIR ACTIONS. WOULDN'T YOU
22 AGREE WITH THAT?

23 A IT APPEARS THAT WAY, YES.

24 Q LET ME TAKE YOU TO HIS -- TO YOUR REPORT, JUST REVIEW
25 A COUPLE OF AREAS. AND I'M NOT GOING TO BE AS DETAILED

1 AS -- IN MY QUESTIONS AS I WAS WITH MR. EINHORN'S OR DR.
2 EINHORN'S REPORT. BUT I LOOKED THROUGH HIS SOCIAL
3 HISTORY. YOU TOOK A SOCIAL HISTORY ON THE DEFENDANT?

4 A I DID. I DID.

5 Q AND IT LOOKS TO BE A VERY NORMAL SOCIAL HISTORY.

6 A LOOKS PRETTY BENIGN.

7 Q VERY BENIGN EVEN.

8 A YES.

9 Q THAT'S A GOOD WAY TO SAY IT. NO VIOLENCE IN THE
10 HOME?

11 A NO.

12 Q PATIENT -- MR. STANKO FELT LOVED AS A CHILD; CORRECT?

13 A THAT'S WHAT HE SAID.

14 Q DID WELL IN SCHOOL?

15 A HE DID.

16 Q WAS NOT A BEDWETTER?

17 A NO.

18 Q NO ATTRACTION TO FIRE?

19 A NO.

20 Q PLAYED SPORTS?

21 A HE DID.

22 Q DATED IN HIGH SCHOOL?

23 A YES.

24 Q BUT HE SAYS THAT, YOU KNOW, HE -- HE INDICATES IN HIS
25 SOCIAL HISTORY THAT HE TRIED TO MAKE HIMSELF OUT BETTER

1 THAN HE REALLY WAS.

2 A YEAH, HE TRIED TO INFLATE HIMSELF.

3 Q HE'S ALWAYS INFLATING HIMSELF. SORT OF THE
4 NARCISSISTIC -- IS THERE SOME LEVEL OF NARCISSISM THAT
5 IS -- WOULD BE A DIAGNOSIS FROM THAT SORT OF CONDUCT? IS
6 THAT -- OR AM I OFF TRACK THERE?

7 A WELL, NOT A SPECIFIC -- THERE COULD BE A SYMPTOM OF
8 NARCISSISM WITHOUT REACHING A -- A SPECIFIC DIAGNOSIS
9 ENTAILING PRIMARY SYMPTOMOLOGY OF NARCISSISM.

10 Q THE -- ALTHOUGH YOU INDICATED EARLIER THAT HE WAS
11 SORT OF IN THE -- IN THE CLINICAL INTERVIEW THAT HE -- HE
12 WAS SOMEWHAT DISPASSIONATE IN TALKING ABOUT THESE
13 EXPERIENCES, THE EXPERIENCES INVOLVING THIS CRIME; TRUE?

14 A WELL, HE DIDN'T TALK ABOUT THE -- THE CRIMES
15 INVOLVING MS. LING AND HER DAUGHTER AT ALL. AND, YES, HE
16 WAS DISPASSIONATE. HE SAID THAT HE -- HE WAS MOST FOND OF
17 THESE TWO PEOPLE, AND HERE THEY HAD BEEN BRUTALLY KILLED
18 OR ONE OF THEM HAD, AND HE WAS RATHER JUST -- AS A MATTER
19 OF FACT, THE ONLY THING -- SOMEBODY WHO HAD LOST A LOVED
20 ONE THAT WAY WOULD BE JUST SUFFUSED WITH FEELINGS OF
21 SADNESS AND WEEPING AND CRYING, BUT HE WAS PRETTY STONAGE.

22 Q WELL, YOU USED THE EXAMPLE OF A FATHER THAT BACKED
23 OVER HIS CHILD IN THE DRIVEWAY, BUT THAT'S REALLY A MUCH
24 DIFFERENT--

25 A WELL--

1 Q -- I MEAN, THAT'S A DRAMATICALLY DIFFERENT SERIES
2 OF--

3 A ABSOLUTELY.

4 Q -- FACTS?

5 A ABSOLUTELY. BUT THE -- THE EMOTIONAL IMPACT OF SUCH
6 THINGS IS -- FROM A -- REFERRED TO IN THE STANKO CASE, YOU
7 WOULD EXPECT ORDINARILY FOR A PERSON TO HAVE VOLCANIC
8 EMOTIONS OF -- AND SADNESS AND FEAR AND--

9 Q BUT HE DIDN'T COME OUT WITH VOLCANIC, BUT HE -- HE
10 REPORTED HERE THAT HE HAD TEARS WELL UP IN HIS EYES AND
11 HIS VOICE FALTERED ON OCCASION. SO THERE WAS SOME
12 EMOTIONAL RESPONSE. IT'S NOT WHAT YOU WOULD EXPECT, BUT--

13 A CERTAINLY NOT.

14 Q -- WHAT SOME -- WHAT SOME -- SOME LEVEL OF EMOTIONAL
15 RESPONSE. AND YOU DIAGNOSED HIM WITH AN ANTISOCIAL
16 PERSONALITY DISORDER?

17 A I DID.

18 Q OKAY. NOW, LET ME TALK TO YOU A LITTLE BIT ABOUT
19 THIS -- ABOUT THIS CONTRACU -- WHAT YOU SAY IS A CONTRACU
20 INJURY OR YOU SUGGEST THAT THERE MAY HAVE BEEN SOME
21 CONTRACU INJURY.

22 YOU'RE NOT SAYING, DOCTOR, THIS IS THE BLOW TO THE
23 HEAD THAT WAS REPORTED BY SOMEBODY TO YOU. HAVE YOU SEEN
24 ANY DOCUMENTS TO SUBSTANTIATE THAT -- THAT REPORT?

25 A I THINK IT WAS IN THE TESTIMONY -- OR I MEAN THE

1 STATEMENT FROM HIS MOTHER.

2 Q OKAY.

3 A YEAH.

4 Q BUT NO -- I MEAN, WHEN I SAY -- THERE'S NO POLICE
5 REPORT OR ANYTHING LIKE THAT?

6 A NO. NO. I DIDN'T SEE ANY MEDICAL REPORTS TO THAT--

7 Q NO MEDICAL REPORTS, NOTHING LIKE THAT. THIS WAS JUST
8 REPORTED FROM A FAMILY MEMBER --

9 A YEAH.

10 Q -- OF THE DEFENDANT--

11 A YES.

12 Q -- THAT HE GOT HIT IN THE HEAD -- GOT HIT IN THE HEAD
13 WHEN HE WAS A TEENAGER?

14 A ABOUT AGE 15. AND SHE ALSO SAID THAT'S ABOUT THE
15 TIME HE BEGAN TO CHANGE.

16 Q WELL, YOU'RE -- YOU'RE NOT SAYING THAT -- YOU CAN --
17 I DON'T THINK YOUR TESTIMONY IS, BUT YOU TELL ME -- ARE
18 YOU SAYING WITH A REASONABLE DEGREE OF MEDICAL CERTAINTY
19 THAT THIS DEFENDANT, STEPHEN STANKO, HAS SUFFERED A
20 CONTRACU INJURY TO HIS BRAIN?

21 A NO, I'M NOT.

22 Q OKAY. YOU CAN'T SAY THAT; CAN YOU?

23 A I DON'T HAVE THE EVIDENCE OF THAT, NO.

24 Q NO. YOU DON'T HAVE EVIDENCE OF THAT. YOU'VE GOT ONE
25 REFERENCE BY HIS MOTHER THAT HE GOT HIT IN THE HEAD WITH A

1 BOTTLE.

2 A AND A PERSONALITY CHANGE, YEAH.

3 Q OKAY. HIS GRADES GO DOWN?

4 A OH, NO.

5 Q NO? GRADES ARE GOOD. KEPT DATING. PLAYING SPORTS?

6 A YUP.

7 Q RIGHT?

8 A HE DID.

9 Q DID HE START TORTURING ANIMALS AFTER HE GOT HIT IN
10 THE HEAD WITH A BOTTLE?

11 A NEVER.

12 Q OKAY. COMMITTING ACTS OF RANDOM VIOLENCE, YOU KNOW,
13 EXPLOSIVE VIOLENCE AS A TEENAGER AFTER GOT HIT IN THE HEAD
14 WITH A BOTTLE?

15 A NO HISTORY OF IT.

16 Q NO HISTORY OF THAT AT ALL?

17 A NONE.

18 Q ALL RIGHT. LET'S TALK ABOUT THIS. YOU HAVE
19 TESTIFIED, DOCTOR, AND YOU HAVE PUT IN YOUR REPORT, YOU
20 RELY VERY HEAVILY ON THE FACT THAT HE HAS CENTRAL NERVOUS
21 SYSTEM DYSFUNCTION, FRONTAL LOBE, AND THIS MAY HAVE
22 INITIALLY CAUSED THE FRONTAL LOBE DYSFUNCTION.

23 YOU'RE SAYING, DOCTOR, THAT -- YOU'RE TESTIFYING
24 WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY THAT THIS
25 DEFENDANT HAS A BIRTH DEFECT; IS THAT CORRECT?

1 A IT'S POSSIBLE, YES.

2 Q WHAT DO YOU BASE THAT OPINION ON, DOCTOR?

3 A MEDICAL RECORDS OF HIS BIRTH.

4 Q YOU HAD A CHANCE TO REVIEW THOSE YOURSELF?

5 A I DID.

6 Q I'M GOING TO SHOW YOU A COUPLE OF DOCUMENTS AND ASK
7 YOU TO IDENTIFY THEM FOR ME. THAT'S COURT'S FIVE AND
8 COURT'S SIX.

9 A THIS ONE, COURT'S FIVE, IS A RECORD OF HIS CARE AFTER
10 BIRTH.

11 Q OKAY.

12 A AND THE OTHER ONE IS A RECORD OF THE DELIVERY.

13 Q THAT'S THE -- THAT'S ESSENTIALLY -- I BELIEVE SIX IS
14 ESSENTIALLY THE MEDICAL REPORT ON MRS. STANKO, DEFENDANT
15 STANKO'S MOTHER, AND THEN THIS IS THE--

16 A HIS DELIVERY AND HIS BIRTH, COURT'S SIX, YEAH.

17 Q VERY GOOD. AND THEN HIS AFTERCARE.

18 A HIS AFTERCARE.

19 Q AND YOU TESTIFIED, DOCTOR, THAT HE HAD NEUROLOGICAL
20 DAMAGE OR THERE WAS SOME CONCERN WITH NEUROLOGICAL DAMAGE?

21 A UH-HUH.

22 Q ALL RIGHT. WE'RE GOING TO -- YOU KEEP THAT REPORT
23 HANDY BECAUSE I WANT TO ASK YOU SOME -- WE GOING TO GET
24 RIGHT TO THIS. I WANT TO TAKE YOU TO THE PAGE THAT
25 SAYS -- SORRY -- COURT'S EXHIBIT NUMBER 5 THAT SAYS,

1 CLINICAL DIAGNOSIS, HERE.

2 DOCTOR, TELL ME ON THAT -- IN THAT CLINICAL DIAGNOSIS
3 WHERE THE DOCTORS EXPRESS CONCERN ABOUT STEPHEN STANKO'S
4 NEUROLOGY OR BRAIN.

5 A IN THAT SECTION RIGHT THERE?

6 Q YES, SIR. IN CLINICAL DIAGNOSIS.

7 A YEAH. HE STATES TWO THINGS. TERM BIRTH OF A LIVING
8 CHILD AND JAUNDICE, PHYSIOLOGIC, AND SOMETHING ELSE.

9 Q OKAY. HE'S JAUNDICED.

10 A PHYSIOLOGIC AND EXAGGERATED I THINK THE WORD IS,
11 YEAH, HE'S JAUNDICE, YEAH.

12 Q HE'S JAUNDICED. THAT'S WHAT THE CLINICAL DIAGNOSIS
13 IS, JAUNDICED?

14 A YES.

15 Q NOT BRAIN DAMAGED, NOT INTERCRANIAL (SIC) HEMORRHAGE,
16 NOT BIRTH DEFECT. IT DOESN'T SAY ANYTHING ABOUT THAT;
17 DOES IT, DOCTOR?

18 A NO, IT DOESN'T.

19 Q ALL RIGHT. LET'S TALK SOME MORE. LET'S TAKE A LOOK
20 AT THE CLINICAL RECORD OF A NEWBORN. I WILL DRAW YOUR
21 ATTENTION TO RIGHT HERE. CLINICAL RECORD OF A NEWBORN.
22 COMPLICATIONS AT DELIVERY. WHAT DOES IT SAY? I WILL HELP
23 YOU. I'M SORRY. THAT'S--

24 A I DON'T SEE THAT.

25 Q IT'S KIND OF -- IT'S GOT A LOT OF STUFF ON THERE.

1 COMPLICATIONS AT DELIVERY?

2 A NONE.

3 Q CHARACTER OF CRY.

4 A WHERE IS THAT? GOOD.

5 Q GOOD. INFANT'S CONDITION AT BIRTH. RIGHT HERE.

6 A APGAR 10.

7 Q APGAR 10. NOW, I DON'T KNOW EXACTLY WHAT -- WELL, I
8 DO KNOW WHAT APGAR 10 MEANS. I'M -- I DO KNOW, BUT I'M
9 NOT SURE EVERYBODY KNOWS. TELL ME WHAT THAT IS.

10 A APGAR 10 IS THE BEST SCORE THAT A CHILD CAN GET AT
11 BIRTH. IT'S A -- VIRGINIA APGAR MADE A RATING SCALE ON
12 HOW TO SCORE HOW WELL A CHILD IS DOING AT BIRTH. AND
13 APGAR 10 IS THE BEST SCALE -- OR THE BEST SCORE.

14 Q SO HE IS -- ACCORDING TO THOSE MEDICAL RECORDS AT HIS
15 BIRTH HE IS AS HEALTHY AS HE COULD POSSIBLY BE ACCORDING
16 TO THE APGAR SCALE?

17 A THAT'S WHAT HE SAYS.

18 Q NOW, THERE ARE SOME ABNORMAL FINDINGS.

19 A THERE ARE.

20 Q THERE ARE. WE GET DOWN TO THE BOTTOM. HAS EXCESSIVE
21 MUCUS; CORRECT?

22 A YES.

23 Q AND HE'S VOMITING INTERMITTENTLY?

24 A YES.

25 Q ALL RIGHT. AND THEY STUCK A FEEDING TUBE INTO HIS

1 STOMACH WITHOUT DIFFICULTY AND REMOVED SOME FLUID FROM HIS
2 STOMACH?

3 A THEY DID.

4 Q APPEARS THAT THEY'RE CONCERNED ABOUT THIS VOMITING
5 AND IT MIGHT BE SOME STOMACH PROBLEM; CORRECT, DOCTOR?

6 A THEY HAD FORCEFUL VOMITING OF CLEAR FLUID MUCUS
7 DURING THE EXAM, RIGHT.

8 Q OKAY. SO HE THREW UP AND HE'S GOT SOME JAUNDICE. I
9 COULD TAKE YOU TO -- LET ME TAKE YOU TO THE DOCTOR'S NOTES
10 HERE ON -- STARTING ON THE 14TH AT THE TOP. INFANT
11 VOMITING; RIGHT?

12 A YES.

13 Q OKAY. IT DOESN'T SAY BRAIN DEFECT; DOES IT?

14 A NO.

15 Q LET'S SEE. LET'S TAKE YOU DOWN HERE ABOUT HALF-WAY
16 DOWN THE PAGE AT THE -- THE DOCTOR'S NOTES AT 10:00.

17 A YES.

18 Q ATE WELL WITHOUT PROBLEMS.

19 A TRUE.

20 Q SUCKING ACTION VERY GOOD.

21 A TRUE.

22 Q LET'S TAKE YOU TO 14 -- THIS IS 1400 HOURS, THAT
23 WOULD BE 2:00 IN THE AFTERNOON. ATE WELL WITHOUT
24 PROBLEMS.

25 A YES.

1 Q SPENT QUIET MORNING.

2 A YES.

3 Q THESE SEEM TO KIND OF SCRAMBLE AROUND, BUT... OKAY.
4 IT DOES SAY HERE AT THE BOTTOM OF THIS NEXT PAGE, HE
5 SOUNDED AS IF NASALLY CONGESTED. AS I SAY, THESE PAGES
6 ARE A LITTLE -- HERE WE GO. ALL RIGHT.

7 A CHECK RESPIRATION, SOUNDED NASALLY CONGESTED, TRUE.

8 Q ALL RIGHT. LET'S TAKE YOU UP A LITTLE HERE UNDER --
9 LOOKS LIKE THE 960A. SAYS, POSITION, COLOR AND CRY GOOD.

10 A IT WAS PLACED IN TRENDELENBERG WHICH MEANS THAT HIS
11 FEET WERE RAISED ABOVE HIS HEAD, AND HIS COLOR AND CRY
12 WERE GOOD, AND I'M ASSUMING IT'S A RESULT OF HIS BEING
13 HEAD PLACED IN THAT PARTICULAR POSITION.

14 Q OKAY.

15 A THEY DO THAT WHEN PEOPLE GET FAINT OR SHOW EVIDENCE
16 OF POOR CIRCULATION PROBLEMS TO THE HEAD AND UPPER PART OF
17 THE BODY.

18 Q LET ME TAKE YOU TO -- THIS PAGE LOOKS LIKE THE 16TH
19 HERE. I'M NOT -- I'M GOING TO BE FAIR WITH YOU. LET ME
20 GET YOU TURNED TO THAT PAGE BECAUSE THESE ARE NOT -- THEY
21 JUST AREN'T IN VERY GOOD ORDER.

22 HERE WE GO. LET'S JUST KIND OF GO DOWN. 1400 HOURS.
23 ATE WELL WITHOUT PROBLEMS.

24 A TRUE.

25 Q ALL RIGHT. QUIET. AND BELOW THAT 1445, QUIET

1 MORNING WITHOUT PROBLEMS.

2 A RIGHT. YES.

3 Q OKAY.

4 A YES.

5 Q I JUST -- GET DOWN TO THE BOTTOM. 6:00 ATE WELL

6 WITHOUT PROBLEMS.

7 A TRUE.

8 Q QUIET NIGHT WITHOUT PROBLEMS.

9 A TRUE.

10 Q FLIP OVER THE PAGE TO 1400 HOURS, THIS NEXT PAGE

11 HERE. YEAH. 1400 HOURS, ATE WELL NO PROBLEMS.

12 A TRUE.

13 Q QUIET AM, NO PROBLEMS.

14 A TRUE.

15 Q 1845 -- GUESS 6:45 ATE WELL WITH NO PROBLEMS.

16 A TRUE.

17 Q 2145, ATE WELL, NO PROBLEMS.

18 A TRUE.

19 Q 2200 HOURS, SPENT QUIET PM.

20 A TRUE.

21 Q ATE WELL WITHOUT PROBLEMS AT -- LOOKS LIKE 2:00 IN

22 THE MORNING.

23 A YES.

24 Q QUIET NIGHT, 6:00.

25 A YES.

1 Q AND THEN AT 10:00, ATE WELL, NO PROBLEMS.

2 A YES.

3 Q OKAY. 7:15. GETTING ON THE LAST PAGE HERE. I
4 SAY -- ACTUALLY THERE'S ANOTHER PAGE. BUT I'M NOT GOING
5 TO MAKE YOU GO THROUGH THOSE, ONE, TWO, THREE, FOUR, FIVE,
6 SIX, SEVEN REFERENCES TO ATE WELL WITH NO PROBLEMS. LET
7 ME TAKE YOU JUST TO THE LAST PAGE.

8 A ALL RIGHT.

9 Q THE LAST PAGE SAYS, 10:00, ATE WELL, NO PROBLEMS.

10 A YES.

11 Q 1400 HOURS, ATE WELL, NO PROBLEMS.

12 A YES.

13 Q 1730, 5:30, DR. MASON WAS IN AND DISCHARGED THE
14 MOTHER.

15 A TRUE.

16 Q DOES IT EVER INDICATE IN THIS REPORT OR ANY OTHER
17 DOCUMENT YOU HAVE THAT -- THAT THE DEFENDANT WAS PUT IN
18 ANY KIND OF NEONATAL CARE UNIT OR SPECIAL SORT OF A -- OF
19 A UNIT?

20 A NO.

21 Q NO. DOES IT INDICATE THAT THERE WERE ANY X-RAYS DONE
22 OR ANY TREATMENTS ORDERED FOR ANY KIND OF BRAIN DEFECT OR
23 INTRACRANIAL DAMAGE?

24 A NONE.

25 Q NONE. DOCTOR, I WANT TO TAKE YOU TO SOME OF THE

1 PHYSICIANS' NOTES BECAUSE THERE WERE SOME CONCERNS ABOUT
2 THE VOMITING.

3 A I DON'T:...

4 Q STILL IN STATE'S FIVE (SIC).

5 A ALL RIGHT.

6 Q I WILL PUT IT OVER THERE.

7 A OKAY.

8 Q RIGHT HERE. I'M GOING TO START AT THE BOTTOM BECAUSE
9 THE BOTTOM STARTS 114, IT GOES 15, 16, 17 AND 18 TOWARD
10 THE TOP, KIND OF BACKWARDS. I DON'T KNOW WHY. FAIR
11 ENOUGH?

12 A UH-HUH.

13 Q LET ME START ON THE 14TH. WE TALKED ABOUT EXCESSIVE
14 MUCUS AND INTERMITTENT VOMITING AS A FIRST LINE; CORRECT?

15 A YES.

16 Q IT SAYS HERE, BABY HAS POOR MORO, M-O-R-O, BUT FAIR
17 SPONTANEOUS MOVEMENT. WHAT DOES MORO MEAN?

18 A WHERE? I DON'T SEE IT.

19 Q HERE.

20 A OH, YEAH. OKAY. THAT'S A NEUROLOGIC REFLEX.

21 Q OKAY. IT'S A NEUROLOGIC REFLEX. IT'S A SUCKING
22 ACTION; ISN'T IT? IT'S A BABY'S SUCKING ACTION IS THE
23 MORO?

24 A NO, IT'S NOT.

25 Q OKAY.

1 A IT'S A -- A GRASP REACTION TO--

2 Q OKAY.

3 A -- BABIES HAVE. NO, IT ISN'T THAT TYPE OF GRASP
4 REACTION, IT'S A -- IT'S MORE OF A GENERAL REACHING AND
5 CLASPING--

6 Q OKAY.

7 A -- IN -- IN RESPONSE TO A DESTABILIZATION LIKE IF
8 THEY ARE ABOUT TO FALL, THEY'LL DO THAT GRASPING ACTION.
9 THAT'S A MORO AND DEMRON (SIC) REACTION.

10 Q ALL RIGHT.

11 A IT'S SO NORMAL THAT IF THEY DON'T HAVE IT, THERE'S
12 CONCERN THAT SOMETHING ISN'T WORKING RIGHT.

13 Q CONCERN. OKAY. RAISES THE QUESTION. DON'T KNOW
14 WHAT IT MEANS YET, BUT IT RAISES THE QUESTION.

15 A CERTAINLY.

16 Q NOW, WE LOOK DOWN TO THE NEXT LINE AND IT SAYS,
17 VOMITING DUE TO -- AND YOU SEE THIS? IT HAS A QUESTION
18 MARK.

19 A VOMITING SECONDARY TO--

20 Q SECONDARY TO.

21 A -- TO POSSIBLE CEREBAL (SIC)...

22 Q -- CEREBRAL DOME?

23 A THAT WORD I CAN'T -- CEREBRAL HEMORRHAGE. THERE'S A
24 WORD IN BETWEEN, BUT I CAN'T MAKE IT OUT.

25 Q IT'S CEREBRAL -- IT'S CEREBRAL SOMETHING. AND THEN

1 LOOK. LOOK, DOCTOR. THERE'S A DASH AND ANOTHER QUESTION
2 MARK. YOU SEE THAT?

3 A UH-HUH, QUESTION OF ABNORMAL --

4 Q OKAY.

5 A -- ABNORMAL PATHOLOGY, RIGHT.

6 Q OKAY. SO THERE'S A CEREBRAL SOMETHING.

7 A UH-HUH.

8 Q SO THERE'S VOMITING SECONDARY TO QUESTION MARK. THEY
9 ARE WONDERING. THEY DON'T KNOW. ISN'T THAT FAIR TO SAY?
10 ISN'T THAT HOW YOU INTERPRET THAT? THEY ARE ASKING A
11 QUESTION.

12 A SURE.

13 Q IT'S POSSIBLE CEREBRAL--

14 A IT'S POSSIBLE.

15 Q -- OR POSSIBLE INTRACRANIAL HEMORRHAGE; CORRECT?
16 SECOND -- YOU SEE THAT HERE?

17 A WAIT A MINUTE. YES, INTRACRANIAL HEMORRHAGE.

18 Q DOESN'T SAY THERE'S INTRACRANIAL HEMORRHAGE. IT SAYS
19 THERE'S A POSSIBILITY. THESE ARE THINGS THAT MAY BE
20 CAUSING VOMITING; CORRECT?

21 A DOESN'T SAY POSSIBILITY. IT JUST SAYS A--

22 Q QUESTION MARK.

23 A QUESTION MARK.

24 Q OKAY. AND THEN THE THIRD THING -- THERE'S A DASH AND
25 THERE'S A THIRD THING LISTED, A QUESTION MARK; CORRECT?

1 A LOOKS TO BE ABNORMAL PATHOLOGY, YES.

2 Q NO, THAT'S ABDOMINAL PATHOLOGY.

3 A YES.

4 Q ABDOMINAL PATHOLOGY. SO THEY DON'T REALLY KNOW; DO
5 THEY, DOCTOR?

6 A HE'S LISTING THE -- WHOEVER IT IS LISTING THE
7 POSSIBILITIES OF...

8 Q WHAT'S CAUSING VOMITING.

9 A WHAT -- WHAT'S CAUSING VOMITING, AND IT DOESN'T SAY
10 ANY OF THEM IS EXCLUDED.

11 Q RIGHT.

12 A IT DOESN'T SAY THEY ARE ALL ADDED TOGETHER. THEY ARE
13 TAKING THEM ALL INTO CONSIDERATION.

14 Q THEY ARE JUST -- HE'S BRAINSTORMING AT THIS POINT;
15 TRUE?

16 A WELL, I DON'T KNOW WHAT HE'S DOING AT THE TIME.
17 THAT'S WHAT HE WROTE.

18 Q OKAY. AND THEY SAY, PLEASE OBSERVE CLOSELY NOW, WILL
19 GET X-RAYS LATER TODAY IF NO IMPROVEMENT.

20 A IT SAYS PLAN. DOESN'T SAY--

21 Q I AM SORRY, PLAN.

22 A OBSERVE CLOSELY, WILL GET X-RAYS LATER TODAY IF NO
23 IMPROVEMENT. RIGHT?

24 Q RIGHT. SO -- BUT THERE ARE NO X-RAYS EVER ORDERED;
25 WERE THERE, DOCTOR?

- 1 A NOT THAT I KNOW OF.
- 2 Q RIGHT. AND LET'S GO -- LET'S GO TO 15.
- 3 A UH-HUH.
- 4 Q WHAT'S IT SAY? 6:00, DOCTOR CHECKS HIM OUT.
- 5 A DR. MASON SAYS, LOOKS BETTER NOW.
- 6 Q LOOKS BETTER NOW.
- 7 A GOOD SPONTANEOUS MOVEMENTS.
- 8 Q RIGHT.
- 9 A NOW FAIRLY GOOD.
- 10 Q I THINK THAT'S MORE FAIRLY GOOD.
- 11 A WELL, I THINK IT'S NOW FAIRLY GOOD.
- 12 Q OKAY. NO VOMITING TODAY.
- 13 A EXCEPT...
- 14 Q OR MINIMAL REGURGITATION.
- 15 A REGURGITATION.
- 16 Q RIGHT.
- 17 A THAT'S KIND OF -- KIND OF CONTRADICTIONARY.
- 18 Q RIGHT. LET'S GO TO 16. MODERATE JAUNDICE; CORRECT?
- 19 A YES.
- 20 Q TAKING FEEDING WITHOUT DIFFICULTY; CORRECT?
- 21 A YES.
- 22 Q NO VOMITING.
- 23 A YES.
- 24 Q BILIRUBIN DOWN.
- 25 A YES.

1 Q AND WHAT'S THE NEXT ONE SAYS, DOCTOR?

2 A NEUROLOGICAL OKAY.

3 Q NEUROLOGICAL OKAY. AND, DOCTOR, TELL ME IN THERE --
4 TELL ME IN THERE HOW YOU REACH THE CONCLUSION THAT THIS
5 MAN'S GOT A BRAIN DEFECT BASED ON THAT MEDICAL REPORT?

6 A WELL, I SAID -- I SAID IT'S POSSIBLE THAT HE HAD THIS
7 AT THE TIME OF BIRTH WITH SOME SIGNS APPEARING AT THE TIME
8 OF HIS BIRTH DERIVED FROM THIS HEALTH RECORD, AND THERE
9 THEY ARE.

10 Q DID YOU READ THE REST OF THE RECORD OR DID YOU JUST
11 STOP AT THE FIRST DAY WHEN THEY WERE BRAINSTORMING ABOUT
12 THE THREE POSSIBILITIES OF WHY THIS KID IS VOMITING?

13 A I READ IT.

14 Q DID YOU READ THE 17TH?

15 A I'M SORRY?

16 Q TAKE A LOOK AT THE 17TH. WHAT DOES IT SAY? WHAT
17 DOES DR. MASON SAY ON THE 17TH?

18 A IS THAT AT THE TOP OF THE PAGE?

19 Q YES, SIR.

20 A CLINICALLY DOING WELL, BILIRUBIN 19.1 MILLIGRAM
21 PERCENT.

22 Q CLINICALLY DOING WELL. HOW ABOUT THE 18TH?

23 A BILIRUBIN DOWN TO 17.8--

24 Q UH-HUH. WHAT'S THE NEXT LINE SAY?

25 A -- MILLIGRAMS PERCENT AND NO ABNORMALITIES ON

1 PHYSICAL EXAM EXCEPT RESOLVING JAUNDICE.

2 Q SO THE BABY'S GOT JAUNDICE?

3 A UH-HUH.

4 Q DR. THRASHER, YOU WERE RETAINED BY THE DEFENSE IN
5 THIS CASE, IS THAT CORRECT, NOT BY THE COURT?

6 A TRUE.

7 Q PLEASE ANSWER ANY QUESTIONS MR. DIGGS MAY HAVE ON
8 REDIRECT.

9 MR. DIGGS: JUST FOLLOW-UP.

10 THE COURT: ANY RE-DIRECT? YOU MAY PROCEED.

11 REDIRECT EXAMINATION

12 BY MR. DIGGS:

13 Q WHAT IS YOUR UNDERSTANDING OF POOR MORO REFLEX?

14 A MORO REFLEX?

15 Q M-O-R-O.

16 A YEAH, IT'S -- IT'S A SHORT WORD FOR WHAT -- THE FULL
17 WORD FOR IT, FOR MORO AND DEMRONS, AND IT'S A GRASPING
18 REFLEX.

19 Q MORO -- A POOR MORO REFLEX MEANS BRAIN DEFECT; DOES
20 IT NOT?

21 A I AM SORRY?

22 Q IF YOU HAVE A POOR MORO REFLEX, IS THAT AN INDICATION
23 OF BRAIN DEFECT?

24 A IT CAN WELL BE, YES.

25 Q CAN WELL BE. AND HOW MANY TIMES IS IT NOTED IN THESE

1 PAPERS -- NUMBER OF TIMES; WEREN'T THEY?

2 A YES, BUT I DON'T REMEMBER THE EXACT NUMBER OF TIMES.

3 Q OKAY. AND ONE OF THE DAYS THAT THE SOLICITOR SKIPPED
4 WAS THE 15TH. POSSIBLE -- LET ME SHOW YOU THIS. HOW DO
5 YOU -- HOW DO YOU READ THIS?

6 A 1 15 0 -- 1 15 08? THINK.

7 Q I DON'T THINK IT'S LEGIBLE.

8 A THAT'S...

9 Q IT'S OUT OF COURT'S NUMBER SIX.

10 A WELL -- WELL, POSTPONE PLANNED TUBAL LIGATION IN VIEW
11 OF PRECAUTIOUS (SIC) STATE OF THE BABY WITH VOMITING AND
12 POSSIBLE INTRACRANIAL HEMORRHAGE.

13 Q OKAY. ALL RIGHT. NOW, CAN WE RULE OUT THE
14 INTRACRANIAL HEMORRHAGE OR DOES THAT SAY DAMAGE?

15 A PARDON ME. LET ME SEE AGAIN. YEAH, IT SAYS POSSIBLE
16 INTRACRANIAL DAMAGE.

17 Q OKAY. AND DID THEY EVER RULE THAT OUT WITH ANY
18 DEGREE OF SPECIFICITY AS FAR AS YOU CAN TELL?

19 A NO.

20 Q NEVER DID ANY FOLLOW-UP ON IT AS FAR AS WE CAN TELL?

21 A ONLY TO DESCRIBE THE -- THE YOUNGSTER'S BEHAVIOR ON
22 SUBSEQUENT DAYS, YEAH.

23 Q AND THEY ADVISED AGAINST THE TUBAL LIGATION?

24 A YEAH.

25 Q THEY ACTED -- THEY ACTED ON THAT INFORMATION; DIDN'T

1 THEY?

2 A THEY DID.

3 Q OKAY.

4 A IT'S APPARENTLY BECAUSE THEY THOUGHT THAT HIS MOTHER
5 OUGHT NOT TO HAVE HER TUBES TIED BECAUSE THIS INFANT MIGHT
6 NOT SURVIVE.

7 Q AND WE DON'T MEAN ANY DISRESPECT, BUT THIS WAS AN
8 ARMY BASE?

9 A GUANTANAMO BAY--

10 Q GUANTANAMO BAY.

11 A -- CUBA IS -- IT'S A NAVAL BASE ACTUALLY, YEAH.

12 Q NAVAL BASE?

13 A YEAH.

14 Q I'M DOUBLY SORRY. LET'S TALK JUST BRIEFLY ABOUT WHAT
15 THE SOLICITOR SAYS IS A FALSEHOOD BY THE--

16 A I CAN'T HEAR YOU. I COULDN'T HEAR YOU WALKING AWAY.

17 Q ALL RIGHT. LET'S TALK ABOUT MEMORY LOSS IN THIS
18 SITUATION.

19 A ALL RIGHT.

20 Q HOW ARE MEMORIES INITIALLY LAID DOWN? WHERE DO THEY
21 BEGIN TO FORM, IF YOU KNOW?

22 A WELL, MY UNDERSTANDING IS THAT THEY -- THEY GO INTO A
23 TEMPORARY COLLECTION IN THE HIPPOCAMPUS OF THE BRAIN WHICH
24 ARE -- THERE ARE TWO OF THEM. THERE'S A NUCLEI ON EITHER
25 SIDE CALLED THE HIPPOCAMPUS AND THEN IT'S PROCESSED FROM

1 THERE IN THE LONGER TERM MEMORY.

2 Q DOES THE FRONTAL LOBE AREA HAVE ANYTHING TO DO WITH
3 LAYING DOWN MEMORIES?

4 A YES, IT DOES.

5 Q DOES? IF YOU HAVE A DEFECT THERE, COULD IT INTERFERE
6 WITH MEMORY PROCESS?

7 A IT COULD.

8 Q AREN'T THERE STUDIES THAT SHOW THAT, IF YOU KNOW?

9 A I CAN'T QUOTE ANY SUCH STUDIES.

10 Q ALL RIGHT. BUT HAVE YOU LOOKED FOR THEM?

11 A OH, YES. YES.

12 Q IF YOU MENTIONED LIKE A -- AN EPILEPTIC SEIZURE,
13 SOMEONE MIGHT NOT HAVE SEIZURES ALL THE TIME.

14 A WELL...

15 Q NOW, WHAT IF -- WHAT IF SOMEONE WERE HAVING AN
16 EPILEPTIC SEIZURE?

17 MR. HEMBREE: YOUR HONOR, I'M GOING TO OBJECT TO
18 THIS REDIRECT. WE DIDN'T GO INTO ANY OF THIS--

19 THE COURT: BASIS IS OUTSIDE THE SCOPE--

20 MR. HEMBREE: OUTSIDE THE SCOPE.

21 THE COURT: PLEASE APPROACH.

22 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

23 THE COURT: THE OBJECTION IS SUSTAINED. OUTSIDE
24 THE SCOPE OF CROSS.

25 BY MR. DIGGS:

1 Q LET'S GO SPECIFICALLY TO -- EXCUSE ME -- THE MCLENDON
2 INCIDENT WHERE YOU OPINED THAT MR. STANKO WAS NOT INSANE
3 DURING THAT INCIDENT, THE MCLENDON, ELIZABETH MCLENDON
4 INCIDENT WHERE SHE WAS TIED UP AND--

5 A YES.

6 Q -- GAGGED. YOU REMEMBER WHEN YOU WERE TALKING ABOUT
7 THAT? BUT IT WAS A VERY SIMILAR INCIDENT, WAS IT NOT, TO
8 THE FACTS THAT WE HAVE HERE?

9 A YES.

10 Q VERY SIMILAR.

11 A YES.

12 Q THAT -- STEPHEN WAS APPROACHING INSANITY AT THAT
13 POINT. WOULD YOU AGREE WITH THAT?

14 A HE COULD HAVE BEEN.

15 Q COULD HAVE BEEN?

16 A BUT HE WAS ABLE TO RESTRAIN HIMSELF AND TAKE ANOTHER
17 COURSE OF ACTION IF...

18 Q IS THAT CONSISTENT -- ARE THOSE BEHAVIORS CONSISTENT,
19 WHAT HE DID WITH ELIZABETH MCLENDON AND WHAT HE DID WITH
20 LAURA LING, ARE THEY CONSISTENT?

21 A NOT THROUGHOUT, CERTAINLY NOT.

22 Q HOW ABOUT WITH RESPECT TO THE MOTIVATION AND THE
23 ABILITY TO CONTROL--

24 A DIFFERENT--

25 Q -- THE LIMBIC SYSTEM EMOTION?

1 A THEY WERE DIFFERENT.

2 Q THEY WERE DIFFERENT. BUT ARE THEY SIMILAR? HE WAS
3 ANGERED WITH MS. MCLENDON; CORRECT?

4 A YES.

5 Q TIED HER UP.

6 A HE DID.

7 Q NEARLY KILLED HER.

8 A STUFFED A RAG--

9 Q COULD HAVE?

10 A STUFFED A RAG -- HE COULD HAVE, YES.

11 Q YES. WITH MS. LING, TIED HER UP.

12 A HE DID THAT.

13 Q AND HE KILLED HER.

14 A HE SURELY DID.

15 Q SIMILAR, SIMILAR CONDUCT; CORRECT?

16 A YES.

17 Q DO YOU HAVE AN OPINION ABOUT WHY THAT WOULD BE OR HOW
18 IT COULD HAPPEN BASED ON YOUR OPINION IN THIS CASE?

19 A WELL, IN THE FIRST INSTANCE HE WAS -- HE WAS ABLE TO
20 CONTROL HIMSELF, DIVERT HIS ATTENTION TOWARDS MORE
21 APPROPRIATE BEHAVIORS AND NOT CARRY IT THROUGH MUCH TO
22 MCLENDON'S GOOD FORTUNE, I'LL TELL YOU.

23 Q EXACTLY.

24 A AND THE LING CASE IT'S SIGNIFICANTLY DIFFERENT. HE
25 WENT--

1 Q SIGNIFICANTLY FARTHER OR FURTHER ON THAT SLIDING
2 SCALE--

3 A YES INDEED.

4 Q -- TOWARDS INSANITY AND ACROSS THE THRESHOLD?

5 A WELL, LOOK AT WHAT HE DID. HE WAS INSANE. HE
6 DIDN'T -- HE DIDN'T DO ANYTHING TO RESTRAIN HIMSELF. HE
7 WASN'T -- HE WASN'T TAKING INTO CONSIDERATION ANYTHING
8 ABOUT THE MORALITY OF IT OR THE LEGALITY OF IT, PAID NO
9 ATTENTION TO THAT WHATSOEVER.

10 Q NOW, WHY IN THIS SCENARIO WOULD MR. STANKO USE A
11 TOWEL TO CLOTHE HIMSELF, IF YOU KNOW?

12 A YOU MEAN WHEN HE CAME OUT OF THE SHOWER?

13 Q WHEN HE CAME OUT OF THE SHOWER.

14 A OH, I THINK IT WAS BECAUSE HE DIDN'T WANT TO GO OUT
15 THERE UNCOVERED.

16 Q IF HE KNEW THEY WERE DEAD, WHO IS GOING TO SEE HIM?

17 A WHO WOULD CARE, RIGHT.

18 Q YEAH.

19 A DID I ANSWER YOUR QUESTION?

20 Q I THINK YOU DID.

21 A ALL RIGHT.

22 Q THANK YOU.

23 MR. DIGGS: THAT'S ALL I HAVE, YOUR HONOR.

24 RECROSS-EXAMINATION

25 BY MR. HEMBREE:

1 Q DR. THRASHER, ISN'T THE SUM AND SUBSTANCE OF YOUR
2 OPINION AS I JUST LISTENED TO MR. DIGGS ASK YOU THESE
3 QUESTIONS, THE SUM AND SUBSTANCE OF YOUR OPINION THAT HE
4 WAS SANE WHEN HE ASSAULTED, TIED UP, AND TRIED TO KILL
5 MCLENDON, BUT HE WAS INSANE WHEN HE TIED UP, BEAT, MURD --
6 CUT THE THROAT OF AND MURDERED LAURA LING AND RAPED
7 [REDACTED] LING, TIED HER UP AND CUT HER THROAT, SIMPLY
8 BECAUSE OF WHAT HE DID BECAUSE IT WAS JUST SO MUCH WORSE?

9 A NO. HE HAD NO CONTROL OVER WHAT HE WAS DOING. HE
10 WAS INSANE.

11 Q JUST BECAUSE IT WAS -- IT WAS WORSE.

12 A HE HAD NO CONTROL OVER IT. HE DIDN'T HAVE THE
13 AWARENESS OF THE MORAL OR LEGAL RIGHT OR WRONG. HE WAS
14 INSANE.

15 Q THANK YOU, DOCTOR.

16 A YES, SIR.

17 MR. DIGGS: YOUR HONOR, THAT'S ALL.

18 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
19 EXCUSED FROM THE STATE?

20 MR. HEMBREE: NONE FROM THE STATE.

21 THE COURT: FROM THE DEFENSE?

22 MR. DIGGS: NONE.

23 THE COURT: DOCTOR, YOU'RE EXCUSED. HAVE A GOOD
24 DAY.

25 THE WITNESS: THANK YOU, YOUR HONOR.

1 (WITNESS LEFT THE STAND.)

2 THE COURT: MADAM FORELADY, LADIES AND
3 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
4 BREAK IN TESTIMONY TO TAKE OUR LUNCHEON RECESS.

5 THE CLERK HAS BEEN VERY GENEROUS. SHE HAS
6 BROUGHT IN A CATERED LUNCH FOR YOU. AND FROM --
7 SMELLS VERY GOOD, SO I ASSUME IT WILL BE A WONDERFUL
8 LUNCH FOR YOU. WE APPRECIATE YOUR PATIENCE IN
9 ALLOWING US TO PUSH BEYOND THE LUNCH TIME TO FINISH
10 THIS WITNESS.

11 HOPE THAT YOU ALL HAVE AN ENJOYABLE LUNCH AND I
12 WILL BE BACK WITH YOU SHORTLY TO LET YOU KNOW WHEN WE
13 WILL BE RESUMING THE TRIAL BECAUSE EVEN AFTER YOU
14 EAT, I WANT TO GIVE YOU AN OPPORTUNITY TO GET SOME
15 AIR; OKAY?

16 IF YOU WOULD GO WITH THE BAILIFFS. LEAVE YOUR
17 NOTEPADS IN YOUR SEAT AND HAVE NO DISCUSSION ABOUT
18 THE CASE DURING THE BREAK.

19 (JURY LEFT THE COURTROOM AT 1:52 PM.)

20 THE COURT: YOU MAY BE SEATED. ANYTHING WE NEED
21 TO TAKE UP BEFORE WE BREAK FOR LUNCH?

22 MR. HEMBREE: NOTHING FROM THE STATE, YOUR
23 HONOR.

24 THE COURT: I WILL ASSUME THAT WE WILL...

25 (OFF-THE-RECORD DISCUSSION WAS HAD.)

1 THE COURT: WE WILL BE AT EASE UNTIL -- I HAVE
2 1:51. LET'S JUST ROUND IT OUT TO THE HOUR. WE WILL
3 RESUME AT THREE. IT'S NOT GOING TO TAKE THE JURY
4 LONG TO EAT AND I DON'T WANT THEM TO BE COOPED UP IN
5 THAT ROOM ANY LONGER THAN NECESSARY. WE'LL BE AT
6 EASE.

7 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

8 THE COURT: YOU'RE WELCOME.

9 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

10 THE COURT: IS THE STATE READY TO PROCEED?

11 MR. HEMBREE: YES, YOUR HONOR.

12 THE COURT: IS THE DEFENSE READY TO PROCEED?

13 MR. KELLY: YES, MA'AM.

14 THE COURT: DO WE NEED TO WAIT ON MR. DIGGS?

15 MR. KELLY: YES, MA'AM, I THINK SO.

16 (WHEREUPON THERE WAS A PAUSE.)

17 THE COURT: OKAY. MR. DIGGS, ARE YOU READY TO
18 PROCEED?

19 MR. DIGGS: WE'RE READY.

20 THE COURT: OKAY. PLEASE BRING IN THE JURY.

21 (JURY ENTERED THE COURTROOM AT 3:10 PM.)

22 THE COURT: YOU MAY BE SEATED. LADIES AND
23 GENTLEMEN, I HOPE THAT YOU ALL HAD A RESTFUL LUNCH,
24 HOPE YOU ALL ENJOYED YOUR LUNCH. WE WILL NOW RESUME
25 WITH THE TRIAL. MR. DIGGS, YOU MAY PROCEED.

1 MR. DIGGS: THANK YOU, YOUR HONOR. MAY IT
2 PLEASE THE COURT. WE CALL DR. MARC EINHORN.

3 MARC EINHORN, 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: E-I-N-H-O-R-N.

8 THE COURT: YOU MAY PROCEED.

9 MR. DIGGS: THANK YOU, YOUR HONOR.

10 DIRECT EXAMINATION

11 BY MR. DIGGS:

12 Q DR. EINHORN, WHERE ARE YOU EMPLOYED AND HOW ARE YOU
13 EMPLOYED?

14 A I'M SELF-EMPLOYED IN ROSWELL, GEORGIA AS A
15 NEUROPSYCHOLOGIST.

16 Q CAN YOU GIVE US THE BENEFIT OF YOUR EDUCATION AND
17 TRAINING?

18 A DEGREES ARE IN -- A DOCTORAL DEGREE IN CLINICAL
19 PSYCHOLOGY, MASTER'S DEGREE IN CLINICAL PSYCHOLOGY, AND A
20 BACHELOR'S DEGREE IN PSYCHOLOGY, SUBSEQUENT TRAINING
21 POST-DOCTORAL IN NEUROPSYCHOLOGY AND FORENSIC PSYCHOLOGY.

22 Q WHERE DID YOU GO TO SCHOOL?

23 A DOCTORAL DEGREE CAME FROM THE NOVA SOUTHEASTERN
24 UNIVERSITY IN FT. LAUDERDALE, MASTER'S FROM LOYOLA COLLEGE
25 IN BALTIMORE, AND THEN UNDERGRADUATE AT THE UNIVERSITY OF

1 FLORIDA.

2 Q NOW, YOU SAY YOU'RE SELF-EMPLOYED IN PRIVATE
3 PRACTICE?

4 A YES.

5 Q HOW LONG HAVE YOU BEEN SO EMPLOYED?

6 A I WAS FIRST LICENSED IN 1983.

7 Q AND AT THAT POINT WHAT DID YOU DO?

8 A FROM 1983 THROUGH THE PRESENT I HAVE WORKED PRIVATELY
9 FOR THE MOST PART. THERE HAVE BEEN OTHER JOBS IN
10 HOSPITALS, REHAB CENTERS ALONG THE WAY, BUT GENERALLY
11 PRIVATE PRACTICE.

12 Q ALL RIGHT. NOW, DID THERE COME A TIME WHEN YOU
13 BECAME INVOLVED WITH THE STEPHEN STANKO CASE?

14 A YES. I WAS CALLED LAST SPRING TO PERFORM SOME
15 TESTING.

16 Q WHO INITIALLY CALLED YOU?

17 A I BELIEVE IT WAS YOURSELF OR DR. SACHY. PROBABLY YOU
18 CALLED ME FIRST.

19 Q OKAY. AND PRIOR TO THAT TIME YOU AND I DID NOT KNOW
20 EACHOTHER; IS THAT CORRECT?

21 A NEVER HEARD OF YOU.

22 Q AND IT COULD HAVE BEEN DR. SACHY WHO CALLED YOU?

23 A POSSIBLY.

24 Q BUT ONE OF THE TWO OF US?

25 A YES.

1 Q AND WHAT WERE YOU ASKED TO DO?

2 A I WAS ASKED TO DO TWO THINGS. ONE, TO DO A FULL
3 NEUROPSYCHOLOGICAL EXAMINATION OF MR. STANKO, AND SECONDLY
4 TO PROVIDE THE -- THE TESTING AT THE MEDICAL CENTER PRIOR
5 TO THE PET SCAN PROCEDURE.

6 Q HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT IN ANY
7 COURT ANYWHERE?

8 A YES.

9 Q AND APPROXIMATELY HOW MANY OCCASIONS?

10 A PROBABLY SEVERAL HUNDRED.

11 MR. DIGGS: AND YOUR HONOR, WE WOULD OFFER DR.
12 EINHORN AS A -- AN EXPERT IN CLINICAL AND
13 NEUROPSYCHOLOGY.

14 THE COURT: I AM SORRY. I APOLOGIZE. ANY
15 QUESTIONS OR OBJECTIONS?

16 MR. HEMBREE: NO, YOUR HONOR. WE WOULD
17 STIPULATE TO DR. EINHORN'S QUALIFICATIONS AS A
18 NEUROPSYCHOLOGIST.

19 THE COURT: SO ADMITTED.

20 BY MR. DIGGS:

21 Q DR. EINHORN -- AND BY THE WAY, YOU HAVE A -- A PSYD.
22 WHAT DOES THAT MEAN?

23 A DOCTOR OF PSYCHOLOGY.

24 Q HOW DOES THAT DIFFER FROM A PHD?

25 A A PHD HAS A RESEARCH EMPHASIS. A DOCTOR OF

1 PSYCHOLOGY IS A CLINICAL EMPHASIS.

2 Q OKAY.

3 A THAT'S THE PRIMARY DIFFERENCE.

4 Q NOW, WHAT DID YOU DO AFTER YOU WERE CONTACTED IN THIS
5 CASE? YOU INDICATED THAT YOU WERE ASSIGNED A COUPLE OF
6 TASKS. WOULD YOU REPEAT THAT FOR US?

7 A YEAH. I WAS ASKED TO PROVIDE THE TESTING AT THE
8 MEDICAL CENTER IN CHARLESTON PRIOR TO THE PET SCAN IN
9 OTHER FILM STUDIES, AND WHILE IN CHARLESTON I ACTUALLY
10 WENT -- WENT TO THE DETENTION CENTER AND DID A FULL TWO
11 DAY FOR ABOUT 10 HOURS OF NEUROPSYCHOLOGICAL TESTING.

12 Q OKAY. NOW, SO YOU SPENT A COUPLE OF DAYS WITH
13 MR. STANKO?

14 A YES, SIR.

15 Q AND TELL US WHAT YOUR RESPONSIBILITIES WERE OR THE
16 REASONS FOR YOUR PRESENCE THE FIRST DAY IN CHARLESTON.

17 A PRIOR TO THE PET SCAN OF -- WHAT I DID WAS ADMINISTER
18 A -- A TEST WHOSE SPECIFIC PURPOSE WAS TO STIMULATE THE
19 FRONTAL LOBES OF MR. STANKO'S BRAIN.

20 Q ALL RIGHT.

21 MR. DIGGS: YOUR HONOR, MAY WE APPROACH?

22 THE COURT: YOU MAY.

23 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

24 MR. DIGGS: THANK YOU, YOUR HONOR.

25 THE COURT: YOU'RE WELCOME, MR. DIGGS. YOU MAY

1 PROCEED WHEN YOU'RE READY.

2 BY MR. DIGGS:

3 Q AND PICKING UP WITH THE PET SCAN, YOU WERE PRESENT
4 WHEN THE PET SCAN WAS DONE?

5 A AS SOON AS I WAS FINISHED WITH HIM I LEFT AND THEN HE
6 WENT AND HAD HIS PET SCAN, SO I WAS NOT PRESENT FOR THE
7 ACTUAL PET SCAN.

8 Q ALL RIGHT. WHAT DID YOU DO? WHAT WAS YOUR ROLE
9 THERE?

10 A I WAS ASKED TO -- TO REPLICATE A PROCEDURE THAT HAD
11 BEEN DONE PREVIOUSLY WHICH REQUIRED THE ADMINISTRATION OF
12 A TEST CALLED A CONTINUOUS PERFORMANCE TEST PRIOR TO THE
13 PET SCAN.

14 AND WHAT THAT REQUIRED WAS MY TAKING A LAPTOP OVER TO
15 THE MEDICAL CENTER WHERE MR. STANKO HAD BEEN BROUGHT OVER
16 BY LAW ENFORCEMENT, AND ON MY LAPTOP WHICH THE -- WHICH
17 CONTAINED THE TEST, HE PERFORMED THE CONTINUOUS
18 PERFORMANCE TEST.

19 Q ALL RIGHT. AND WHAT DID YOU DO WHILE THE TEST WAS
20 BEING DONE?

21 A IT WAS GIVEN TWO TIMES. THE FIRST TIME THAT I
22 ADMINISTERED IT--

23 Q NO, I MEAN, WHAT DID YOU DO WHEN THE ACTUAL PET SCAN
24 WAS BEING DONE?

25 A OH, WHEN WE WERE FINISHED AND THE PET SCAN WAS BEING

1 DONE, I DROVE ON OVER TO THE DETENTION CENTER.

2 Q ALL RIGHT. AND WHO HAD ASKED YOU TO GO THERE AND
3 PARTICIPATE IN THE PET SCAN PROCESS?

4 A DR. SACHY.

5 Q AND THIS CONTINUOUS PERFORMANCE TEST?

6 A YES.

7 Q AND YOU WERE DOING THAT AS A RESULT OF HIS OR AT HIS
8 REQUEST?

9 A YES.

10 Q NOW, WHEN YOU GOT BACK THE NEXT DAY, DID THE
11 ADDITIONAL TESTING THAT YOU HAD SPOKEN ABOUT, WHY WERE YOU
12 DOING THAT? WHAT WAS THE PURPOSE OF THAT TEST OR THOSE
13 TESTS?

14 A THERE WAS A COUPLE REASONS. THE MAIN REASON WAS TO
15 LOOK FOR ANY KIND OF NEUROPSYCHOLOGICAL IMPAIRMENTS. AND
16 QUITE A NUMBER OF DIFFERENT TESTS WERE DONE, SOME LENGTHY,
17 SOME NOT SO LENGTHY, BUT ALL SORTS OF TESTS COVERING
18 VARIOUS DIFFERENT TYPES OF PROCESSES.

19 SECONDLY I WENT TO ADMINISTER A TEST OF PERSONALITY
20 AND EMOTIONAL FUNCTIONING WHICH WAS MORE THAN ANYTHING
21 ELSE FOR THE BENEFIT OF DR. SACHY SO THAT HE COULD
22 INTEGRATE THAT INTO HIS EXAMINATION.

23 Q NOW, YOU HAVE PROVIDED A WRITTEN REPORT OF YOUR TEST
24 RESULTS AND CONCLUSION; CORRECT?

25 A YES.

1 Q DID YOU -- CAN YOU TELL US, IF YOU KNOW, WHAT DR.
2 SACHY WAS LOOKING FOR WHEN YOU PERFORMED THESE TESTS, WHEN
3 HE ASKED YOU TO PERFORM THESE TESTS?

4 A WHAT HE WAS LOOKING FOR WAS ANY INDICATION, WHETHER
5 MILD OR OTHERWISE, OF IMPAIRMENTS OF HIGHER CORTICAL
6 FUNCTIONING WHICH IS WHAT NEUROPSYCHOLOGICAL TESTS
7 SPECIFICALLY ASSESS. HIGHER CORTICAL FUNCTIONS MEANING
8 THE TOP LAYER OF THE BRAIN WHERE ALL THE CREASES AND
9 FISSURES ARE.

10 Q AND YOUR RESULTS FROM THOSE TESTS WERE WHAT?

11 A THEY WERE UNIFORMLY NEGATIVE MEANING HE WAS IN GOOD
12 HEALTH, THERE WERE NO -- NO FINDINGS OF ANYTHING.

13 Q NOW, IS THAT INCONSISTENT WITH THE PROBLEM THAT IS
14 PRESENTED, WE CONTEND, WITH MR. STANKO AND THE DIMINISHED
15 FUNCTION OF HIS FRONTAL LOBES?

16 A NO.

17 Q WHY DO YOU SAY THAT?

18 A THE TESTING THAT I ADMINISTERED WAS SPECIFICALLY
19 DESIGNED TO UNDERSTAND HIGHER CORTICAL FUNCTIONS, THE TOP
20 LAYER OF THE BRAIN. THE OTHER TYPES OF PROCEDURES USED IN
21 THIS CASE WERE ALL SUBCORTICAL, DEEPER DOWN IN THE BRAIN.

22 Q OKAY. AND SO IN THIS CASE, IN MR. STANKO'S CASE,
23 YOUR TESTS WERE ADMINISTERED, WOULD IT BE FAIR TO SAY, IN
24 ORDER TO SIMPLY TRY TO DIAGNOSE AND DETERMINE IF THERE WAS
25 A PROBLEM AT THAT HIGHER CORTICAL AREA?

1 A WELL, YES. WE WANT TO SEE IF SOMETHING IS THERE. IF
2 SO, THE EXTENT OF IT AND LOCATION OF IT, AND AT THE VERY
3 LEAST TO RULE IT IN OR RULE IT OUT AS PART OF THE PROBLEM.

4 Q AND THAT WAS THE EXTENT OF THE SEARCH. IT WAS A
5 SEARCH; WOULD THAT BE CORRECT?

6 A A SYSTEMATIC SEARCH.

7 Q YES.

8 A YES. UH-HUH.

9 Q YES. AND IN THIS PARTICULAR CASE WHAT AREA OF THE
10 BRAIN ARE WE FOCUSING ON, IF YOU KNOW?

11 A THE SUBCORTICAL PORTIONS OF THE FRONTAL LOBES.

12 Q ALL RIGHT. AND THAT'S OUTSIDE OF THE AREA THAT YOU
13 TESTED THAT RESULTED IN THIS REPORT?

14 A COMPLETELY UNRELATED.

15 Q ALL RIGHT. DR. EINHORN, ANSWER ANY QUESTIONS THAT
16 COUNSEL MAY HAVE.

17 THE COURT: ANY CROSS-EXAMINATION OF THE
18 WITNESS?

19 MR. HEMBREE: NOT VERY MUCH, JUST A FEW
20 QUESTIONS.

21 THE COURT: YOU MAY PROCEED.

22 MR. HEMBREE: THANK YOU.

23 THE COURT: YOU'RE WELCOME.

24 CROSS-EXAMINATION

25 BY MR. HEMBREE:

1 Q DR. EINHORN, YOU'RE NOT LICENSED TO PRACTICE IN SOUTH
2 CAROLINA; ARE YOU?

3 A THAT IS CORRECT.

4 Q AND YOU -- HAVE YOU EVER BEEN QUALIFIED AS AN EXPERT
5 IN A COURT OF RECORD IN SOUTH CAROLINA?

6 A NOT THAT I CAN RECALL.

7 Q YOU TYPICALLY WORK IN GEORGIA?

8 A YES.

9 Q OTHER PLACES AS WELL, I SUSPECT, BUT TYPICALLY THAT'S
10 YOUR HOME AND THAT'S WHERE YOUR OFFICE IS?

11 A YES.

12 Q OKAY. AND IT'S -- YOU HAVE A FAIRLY REGULAR BUSINESS
13 RELATIONSHIP WITH DR. SACHY?

14 A I DON'T KNOW WHAT REGULAR MEANS. IT'S ONCE IN A
15 WHILE.

16 Q WHEN HE CALLS ON YOU FROM TIME TO TIME TO CONDUCT
17 THESE NEUROPSYCHOLOGICAL TESTS ON CASES HE'S WORKING ON?

18 A THERE'S BEEN A COUPLE.

19 Q OKAY.

20 A THIS IS NOT WHAT I DO FOR A LIVING IF THATS WHAT YOU
21 ARE TAKING ON.

22 Q OKAY. THE -- DID ABOUT 10 HOURS OF TESTING; THAT'S
23 CORRECT?

24 A YES.

25 Q WHAT ABOUT THE -- YOU PUT IN -- THE DEFENDANT THROUGH

1 A BATTERY OF TESTS CALLED THE MULTIPHASIC SEX INVENTORY
2 NUMBER TWO.

3 A YES.

4 Q DID YOU HAVE ANY SIGNIFICANT FINDINGS OR CONCLUSIONS
5 AS A RESULT OF THOSE TESTS?

6 A THE FINDINGS OF THAT TEST WERE FOLLOWS. AND AGAIN,
7 THAT WAS FOR THE BENEFIT OF DR. SACHY BECAUSE
8 PSYCHIATRISTS DON'T DO TESTS, PSYCHOLOGISTS DO TESTS. AND
9 THE FINDINGS WERE THAT MR. STANKO ADMITTED TO SOME
10 UNSPECIFIED SEXUAL ACTIVITY THAT HE SAID IN HIS RESPONSE
11 ADMITS THAT HE DID NOT FEEL ACCOUNTABLE FOR OR RESPONSIBLE
12 FOR. THAT WAS THE PRIMARY FINDING.

13 Q DIDN'T HE TRY TO EXPLAIN AWAY HIS LACK OF
14 RESPONSIBILITY BY SAYING, MY SEXUAL OFFENSE HAPPENED
15 BECAUSE I WAS TREATED BADLY IN MY LIFE?

16 A THAT WAS ONE OF THE RESPONSES THAT HE MADE OUT OF
17 MANY, MANY.

18 Q AND MY SEXUAL OFFENSE HAPPENED BECAUSE OF STRESS--

19 A YES.

20 Q -- IN MY LIFE?

21 A HE SAID THAT.

22 Q LET ME TALK WITH YOU A LITTLE BIT ABOUT THE PET SCAN.
23 YOU WERE -- YOU WENT OVER -- AS I UNDERSTAND, YOU WENT
24 OVER TO MUSC OR--

25 A YES.

1 Q -- AND MET WITH THE DEFENDANT?

2 A YES.

3 Q AND YOU HAD YOUR LAPTOP COMPUTER AND YOU HAD BEEN
4 PROVIDED A TEST TO ADMINISTER TO MR. STANKO?

5 A WELL, NO ONE PROVIDED IT. IT WAS MINE.

6 Q IT WAS YOUR TEST?

7 A YES.

8 Q OKAY. AND IT WAS -- WHAT KIND OF TEST WAS -- IT WAS
9 THE CONTINUOUS PERFORMANCE TEST?

10 A YES.

11 Q WHAT DOES THE CONTINUOUS PERFORMANCE TEST INCLUDE?

12 A IT IS A TEST THAT FOR THE MOST PART IS DESIGNED TO
13 TEST INDIVIDUALS FOR ADHD. AND THE PERSON SITS IN FRONT
14 OF A SCREEN AND HAS TO RESPOND TO INSTRUCTIONS WITH RANDOM
15 AUDITORY AND VISUAL STIMULUS, STIMULI COMING AT THEM.

16 Q WELL, I MEAN, GIVE ME AN EXAMPLE. I'M A LITTLE BIT
17 LOST.

18 A FOR EXAMPLE -- FOR EXAMPLE, THE VOICE ON THE COMPUTER
19 INSTRUCTS MR. STANKO TO SAY, TOUCH -- CLICK THE MOUSE
20 EVERY TIME YOU SEE THE NUMBER ONE. SO THEN ON THE SCREEN
21 THE NUMBER TWO FLASHES AND A VOICE SAYS NUMBER ONE OR VICE
22 VERSA, ON THE SCREEN IT MAY SHOW NUMBER ONE FLASH WITH A
23 VOICE THAT SAYS NUMBER TWO.

24 SO THERE'S COMPETING AND CONFLICTING STIMULUS THAT A
25 PERSON HAS TO RESPOND TO.

1 Q AND THEY USE THIS FOR ADHD TO SEE HOW FOCUSED SOMEONE
2 CAN REMAIN?

3 A YES.

4 Q ALL RIGHT. AND DO YOU GET A RESULT ON THAT TEST AND
5 IT TELLS YOU WHETHER THEY CAN REMAIN FOCUSED OR THEY'RE
6 BEING DISTRACTED BY THESE OTHER THINGS?

7 A YES.

8 Q WELL, BUT YOU WERE THERE TO GIVE HIM A PET SCAN.
9 WHAT WAS THE CONTINUOUS PERFORMANCE TEST -- HE WASN'T --
10 HE WAS NOT SUSPECTED THAT HE HAD ADHD OBVIOUSLY?

11 A NO. THAT HAD NOTHING TO DO WITH USING THAT TEST.

12 Q SO THIS TEST WAS -- WHOSE IDEA WAS THIS PARTICULAR
13 TEST?

14 A THERE WAS A GROUP OF PSYCHIATRISTS AND PSYCHOLOGISTS
15 IN CALIFORNIA THAT USE THIS PROCEDURE.

16 Q OKAY. SO SOMEBODY TOLD YOU, GO GIVE HIM THIS
17 CONTINUOUS PERFORMANCE -- THEY, YOU KNOW, DID --
18 INSTRUCTED YOU, WHATEVER.

19 A YES.

20 Q YOU KNOW, ADVISED YOU TO DO THIS PARTICULAR TEST
21 ON -- ON DEFENDANT STANKO AND THEN YOU CAN LEAVE?

22 A WELL, THEY HAD DONE A FORMAL RESEARCH PROJECT USING
23 THIS PROCEDURE. SO WHAT WE DID WAS SIMPLY DUPLICATE WHAT
24 THEY HAD DONE.

25 Q OKAY. I GOT YA. I MEAN, THEY'RE RESEARCH

1 SCIENTISTS. THEY ARE GUYS OUT THERE, YOU KNOW, KIND OF
2 CUTTING-EDGE SORT OF STUFF?

3 A RIGHT.

4 Q THIS -- THIS WAS NOT SOMETHING THAT YOU WOULD
5 TYPICALLY DO IF YOU'RE SEEKING A PET SCAN TO HELP
6 DIAGNOSIS A PATIENT?

7 A NO.

8 Q NO. AND SO YOU CAN'T SAY OR CAN YOU SAY FROM YOUR
9 OWN KNOWLEDGE THAT THIS TEST WOULD -- WOULD ACTUALLY
10 ENGAGE THE FRONTAL LOBES OR NOT?

11 A WELL, I DIDN'T HAVE TO SAY IT. IT WAS ALREADY SAID
12 FOR ME.

13 Q OKAY. SOMEBODY ELSE TOLD YOU TO DO IT.

14 A YES.

15 Q I'M NOT -- YEAH, I JUST WANTED TO KNOW IF THAT WAS
16 YOUR OPINION OR IF THAT WAS SOMEONE ELSE'S OPINION. NOW,
17 A TEST LIKE THIS, IF YOU -- I GUESS IT ENGAGES THE FRONTAL
18 LOBES.

19 BUT WHAT IF YOU'RE REAL SMART LIKE MR. STANKO IS,
20 ISN'T -- ISN'T IT FAIR TO SAY OR ISN'T IT REASONABLE TO
21 SAY THAT IF YOU'RE REAL SMART, YOU DO NOT ENGAGE THE SAME
22 CAPACITIES OF YOUR BRAIN AS SOMEONE WHO IS NOT SO SMART
23 WHEN THEY'RE GIVING -- GIVING ONE OF THESE PSYCHOLOGICAL
24 TESTS, IT REQUIRES MUCH MENTAL ENERGY, SO TO SPEAK?

25 A I'M NOT EXACTLY SURE WHAT YOUR QUESTION IS.

1 Q OKAY. WELL, LET'S -- I PROBABLY DIDN'T PHRASE IT
2 VERY WELL. I APOLOGIZE, DOCTOR.

3 A IT COULD HAPPEN.

4 Q WOULD YOU AGREE WITH ME THAT SOMEONE WHO IS SMARTER,
5 HAS A HIGHER INTELLIGENCE, HIGHER IQ, CAN DO MENTAL
6 EXAMINATIONS EASIER THAN SOMEONE WHO HAS A LOWER IQ?

7 A DEPENDING ON THE TEST THAT WOULD BE TRUE. IN SOME
8 CASES THAT WOULD NOT BE TRUE, AND PROBABLY MOST CASES THAT
9 WOULD BE TRUE.

10 Q MOST CASES IT WOULD BE TRUE?

11 A YES.

12 Q NOW, YOU SAID THAT, YOU KNOW, HE DID FINE IN THE
13 HIGHER CORTICAL FUNCTIONS, HE DID FINE ON -- ESSENTIALLY
14 DID FINE ON ALL YOUR TESTS--

15 A YES.

16 Q -- DIAGNOSED HIM WITH A PERSONALITY DISORDER WHICH
17 IS--

18 A YES.

19 Q -- YOU KNOW, I THINK IS GOING TO BECOME -- HAS BECOME
20 SORT OF A CONSTANT THEME. BUT IF HE HAD A BRAIN DEFECT,
21 IS IT POSSIBLE, IS IT JUST AS LIKELY THAT HE WOULD HAVE
22 HAD SOME DIFFICULTIES IN THE HIGHER CORTICAL FUNCTIONS?

23 A NOT NECESSARILY.

24 Q I MEAN, I -- I MEAN, BUT -- AND I -- MAYBE I DIDN'T
25 ASK THE QUESTION VERY WELL. BUT HE COULD, HE MIGHT, AND

1 HE MIGHT NOT. THAT'S WHAT YOU'RE SAYING; ISN'T IT?

2 A IF YOU COULD PLEASE ASK THE QUESTION AGAIN.

3 Q IF HE HAD A BRAIN DEFECT, HE MIGHT DO WELL ON YOUR --
4 YOUR NEUROPSYCHOLOGICAL TESTS OR HE MIGHT NOT DO WELL ON
5 THE NEUROPSYCHOLOGICAL TESTS, JUST DEPENDS?

6 A DEPENDS ON HOW YOU ARE DEFINING BRAIN DEFECT.

7 Q WELL, JUST A BRAIN DEFECT. I'M TALKING -- OF
8 COURSE--

9 A YEAH, IT MAY OR MAY NOT SHOW UP.

10 Q SO -- GOT YA. GOT YA. AND DOCTOR, WE HAVE BEEN
11 THROUGH YOUR REPORT WITH DR. THRASHER. I'M NOT GOING TO
12 MAKE YOU GO BACK THROUGH THAT AS WE DID EARLIER TODAY.

13 LET ME CHECK AND SEE IF I HAVE ANY OTHER QUESTIONS
14 FOR YOU. THANK YOU, DR. EINHORN. I DON'T HAVE ANY OTHER
15 QUESTIONS FOR YOU. PLEASE ANSWER ANY QUESTIONS--

16 THE COURT: ANY REDIRECT?

17 REDIRECT EXAMINATION

18 BY MR. DIGGS:

19 Q DR. EINHORN, JUST ONE FOLLOW-UP. HAVE YOU BEEN
20 CONTINUOUSLY ENGAGED IN THE PRACTICE OF NEUROPSYCHOLOGY
21 SINCE YOU WENT INTO PRACTICE INITIALLY IN THE EARLY 80'S?

22 A SINCE 1986, SO THERE'S THREE OR FOUR YEARS.

23 Q 1986?

24 A YES.

25 Q THAT'S ALL I HAVE.

1 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
2 EXCUSED?

3 MR. HEMBREE: NO, YOUR HONOR. NONE FROM THE
4 STATE.

5 THE COURT: DEFENSE?

6 MR. DIGGS: NO, NO OBJECTION.

7 THE COURT: SIR, YOU'RE EXCUSED. THANK YOU.

8 MR. DIGGS: YOUR HONOR, OUR NEXT WITNESS IS
9 GOING TO HAVE SOME EQUIPMENT THAT PLUGS INTO THIS AND
10 IT MAY TAKE HIM JUST A COUPLE OF MINUTES.

11 THE COURT: DO WE NEED TO TAKE A BRIEF RECESS?

12 MR. DIGGS: JUST VERY BRIEF, YOUR HONOR.
13 SHOULDN'T BE BUT A COUPLE OF MINUTES.

14 THE COURT: MADAM FORELADY, LADIES AND
15 GENTLEMEN, WE'RE GOING TO TAKE A BRIEF BREAK WHILE WE
16 GET SOME TECHNOLOGY IN LINE. WE APPRECIATE YOUR
17 PATIENCE. PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS
18 AND DO NOT DISCUSS THE CASE.

19 (JURY LEFT THE COURTROOM AT 3:32 PM.)

20 THE COURT: WE'LL BE AT EASE FOR A FEW MINUTES.
21 JUST LET ME KNOW WHEN YOU GET IT ALL DONE.

22 MR. DIGGS: YES, MA'AM.

23 (WHEREUPON THERE WAS A PAUSE.)

24 THE COURT: IS THE STATE READY TO PROCEED?

25 MR. HEMBREE: YES, YOUR HONOR.

1 THE COURT: IS THE DEFENSE READY TO PROCEED?

2 MR. DIGGS: YES, YOUR HONOR.

3 THE COURT: PLEASE BRING IN THE JURY.

4 (JURY ENTERED THE COURTROOM AT 3:40 PM.)

5 THE COURT: YOU MAY BE SEATED. LADIES AND
6 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE'LL NOW
7 RESUME WITH THE TRIAL. MR. DIGGS, YOU MAY PROCEED.

8 MR. DIGGS: THANK YOU, YOUR HONOR.

9 THE COURT: YOU'RE WELCOME.

10 MR. DIGGS: THE DEFENSE WOULD CALL DR. JOSEPH C
11 WU.

12 THE COURT: DO YOU HEAR A BEEP?

13 MR. DIGGS: I THINK IT'S BOUNCING OFF THE WALLS.

14 THE COURT: OKAY.

15 DR. JOSEPH C. WU, AFTER
16 BEING DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE WITNESS: MY NAME IS JOSEPH CHONG SANG WU,
18 W-U.

19 THE COURT: THANK YOU. I THINK THAT THE
20 FEEDBACK BEING CAUSED BY -- ARE Y'ALL USING A
21 COMPUTER THAT'S ATTACHED TO THIS --

22 MR. DIGGS: YES, MA'AM, BUT IT SHOULDN'T HAVE
23 AUDIO WITH IT.

24 THE COURT: THERE'S SOME FEEDBACK ON IT. CAN
25 YOU HEAR IT? MAYBE JUST BECAUSE THIS SPEAKER IS ON.

1 OKAY. I CAN BEAR WITH IT. GO AHEAD.

2 DIRECT EXAMINATION

3 BY MR. DIGGS:

4 Q DR. WU, TELL US WHAT YOU DO AND WHERE YOU'RE
5 EMPLOYED.

6 A YES. I AM A MEDICAL DOCTOR. I'M ALSO AN ASSOCIATE
7 PROFESSOR AT THE COLLEGE OF MEDICINE AT THE UNIVERSITY OF
8 CALIFORNIA. I'M ALSO A CLINICAL DIRECTOR FOR THE
9 UNIVERSITY OF CALIFORNIA IRVINE BRAIN IMAGING CENTER.

10 Q ALL RIGHT. AND YOU HAVE A COPY OF YOUR CV WITH YOU;
11 DO YOU NOT?

12 A YES, I DO.

13 Q ALL RIGHT. AND JUST FOR OUR INFORMATION, THAT -- WE
14 MAY REFER TO THAT. THAT'S WHY I ASKED YOU TO HOLD THAT.
15 OKAY. THANK YOU. DR. WU, LET'S START BY HAVING YOU
16 RECOUNT FOR US, PLEASE SIR, YOUR EDUCATION.

17 A YES. I DID MY PRE-MEDICAL EDUCATION AT STANFORD
18 UNIVERSITY IN PALO ALTO, CALIFORNIA. I GRADUATED FROM
19 THEM WITH HONORS IN 1978. AFTER THAT I DID A MEDICAL
20 SCHOOL TRAINING WHERE I OBTAINED MY MD AT THE UNIVERSITY
21 OF CALIFORNIA IRVINE COLLEGE OF MEDICINE WHICH I COMPLETED
22 IN 1982 IN WHICH I ALSO AGAIN FINISHED WITH HONORS.

23 I THEN DID AN INTERNSHIP AND RESIDENCY IN PSYCHIATRY
24 ALSO AT THE UNIVERSITY OF CALIFORNIA IRVINE WHICH I ALSO
25 FINISHED IN 1986 AGAIN WITH HONORS. AFTER THAT I DID A

1 TWO YEAR FELLOWSHIP IN PET SCAN IMAGING OF THE BRAIN ALSO
2 AT THE UNIVERSITY OF CALIFORNIA IRVINE WHICH I COMPLETED
3 IN 1988.

4 Q ALL RIGHT. THANK YOU VERY MUCH. DURING YOUR MEDICAL
5 SCHOOL TRAINING, DID YOU FOCUS YOUR STUDIES ON ANY
6 PARTICULAR FIELD?

7 A DURING MY MEDICAL SCHOOL AND RESIDENCY I WAS
8 ESPECIALLY INTERESTED IN LEARNING MORE ABOUT THE BRAIN AND
9 NEUROPSYCHIATRY, AND ESPECIALLY ABOUT HOW BRAIN IMAGING
10 COULD HELP UNDERSTAND HOW A BRAIN WORKS.

11 Q OKAY. AND YOU DECIDED TO GO INTO PSYCHIATRY?

12 A YES.

13 Q TELL US WHAT YOUR UNDERSTANDING OF PSYCHIATRY IS.

14 A WELL, PSYCHIATRY ENCOMPASSES THE STUDY OF DISEASES OF
15 THE HUMAN PSYCHE THAT INVOLVE OPERATIONS, FOR EXAMPLE,
16 MOODS SUCH AS DEPRESSION OR MANIA OR IN TERMS OF REALITY
17 TESTING SUCH AS SCHIZOPHRENIA OR PSYCHOSIS OR IN TERMS OF
18 MEMORY SUCH AS ALZHEIMERS DISEASE.

19 IT CAN ENCOMPASS AREAS SUCH AS TRAUMATIC BRAIN INJURY
20 OR IT CAN HAVE AN ALTERATION OF THE ABILITY TO THINK
21 PROPERLY. IT CAN ENCOMPASS DEVELOPMENTAL DISORDERS SUCH
22 AS AUTISM OR MENTAL RETARDATION.

23 SO THOSE ARE SOME OF THE KIND OF THINGS THAT
24 PSYCHIATRISTS ARE ESPECIALLY INTERESTED IN ARE THOSE KINDS
25 OF NEUROPSYCHIATRIC DISORDERS THAT INVOLVE THE INTERFACE

1 BETWEEN THE BRAIN AND THE MIND.

2 Q COULD THEY ALSO BE INVOLVED WITH THE STUDY OF BRAIN
3 DEFECTS OR ABNORMALITIES?

4 A YES. BRAIN DEFECTS WOULD BE ONE OF THE THINGS THAT
5 WE STUDY IN PSYCHIATRY. MOST OF THE CONDITIONS THAT WE
6 LOOK AT, FOR EXAMPLE, TRAUMATIC BRAIN INJURY OR AUTISM OR
7 SCHIZOPHRENIA ALL INVOLVE SOME FORM OF DEFECT IN HOW THE
8 BRAIN OR MIND OPERATES.

9 Q NOW, ARE YOU BOARD CERTIFIED IN PSYCHIATRY?

10 A YES, I AM BOARD CERTIFIED IN PSYCHIATRY.

11 Q AND APPROXIMATELY HOW MANY PSYCHIATRISTS ARE BOARD
12 CERTIFIED?

13 A I BELIEVE ROUGHLY HALF THE PSYCHIATRISTS IN THE
14 COUNTRY ARE BOARD CERTIFIED.

15 Q WHAT IS THE SIGNIFICANCE OF THAT, IF ANY, THE -- THE
16 CERTIFICATION PROCESS?

17 A WELL, BOARD CERTIFICATION IN -- MEANS THAT ONE HAS
18 PASSED A RIGOROUS WRITTEN TEST AS WELL AS A RIGOROUS LIVE
19 EXAMINATION IN WHICH ONE IS PLACED WITH A PATIENT THAT ONE
20 HAS NEVER SEEN BEFORE AND ONE IS EVALUATED BY THREE
21 EXAMINERS WHILE ONE EXAMINES A PATIENT AND THEN COMES UP
22 WITH A DIAGNOSIS FOR THE PATIENT.

23 SO THAT -- AND ONE LOOKS AT HOW ONE CONDUCTS THE EXAM
24 AND WHETHER OR NOT ONE CORRECTLY CONSIDERED THE RIGHT
25 FACTORS, AND SO IT'S A COMBINATION OF BOTH WRITTEN AND

1 PRACTICAL KNOWLEDGE OF HOW TO BE A PSYCHIATRIST.

2 Q LET ME ASK YOU IF YOU ARE A MEMBER OF ANY
3 PROFESSIONAL SOCIETIES.

4 A I'M A MEMBER OF THE AMERICAN MEDICAL ASSOCIATION, THE
5 AMERICAN PSYCHIATRIC ASSOCIATION, THE SOCIETY OF
6 NEUROSCIENCE, THE SOCIETY OF BIOLOGICAL PSYCHIATRY, THE
7 SOCIETY OF NUCLEAR MEDICINE. AND THOSE ARE SOME OF THE
8 MEDICAL AND SCIENTIFIC ORGANIZATIONS THAT I BELONG TO.

9 Q NOW, YOU'RE THE DIRECTOR OF THE BRAIN IMAGING CENTER;
10 IS THAT CORRECT?

11 A YES, I'M THE CLINICAL DIRECTOR FOR THE UNIVERSITY OF
12 CALIFORNIA IRVINE BRAIN IMAGING CENTER.

13 Q AND YOU'RE ALSO ASSOCIATE PROFESSOR AT THE COLLEGE,
14 THE UNIVERSITY?

15 A YES. I ALSO AM AN ASSOCIATE PROFESSOR AT THE COLLEGE
16 OF MEDICINE AND IN -- IN UNIVERSITY OF CALIFORNIA.

17 Q WHAT DO YOU DO? LET'S -- LET'S TALK ABOUT YOUR
18 RESPONSIBILITIES AS A ASSOCIATE PROFESSOR. WHAT DO YOU DO
19 IN THAT CAPACITY?

20 A WELL, THE ASSOCIATE PROFESSOR I'M INVOLVED WITH
21 TEACHING MEDICAL STUDENTS AND RESIDENTS ABOUT THE BRAIN
22 AND ABOUT PSYCHIATRY. AND SO I GIVE LECTURES ON
23 NEUROANATOMY, ON THE NEUROCHEMISTRY OF THE BRAIN, ON
24 THINGS SUCH AS DOPAMINE, SEROTONIN, HOW THEY AFFECT THE
25 BRAIN, ON PSYCHOPHARMACOLOGY.

1 ALSO GIVE LECTURES ON BRAIN IMAGING, HOW TO USE PET
2 SCANS AND MRI SCANS TO HELP EVALUATE THE BRAIN. AND SO
3 THOSE ARE SOME OF MY TEACHING RESPONSIBILITIES. AND I
4 GIVE LECTURES TO MEDICAL STUDENTS, I GIVE LECTURES TO
5 RESIDENTS, I GIVE LECTURES TO FELLOWS AFTER THEY FINISH
6 THEIR RESIDENCY.

7 I'M ALSO INVOLVED WITH PATIENT CARE, AND SO I SEE
8 PATIENTS, I -- AND SO I HAVE PATIENTS WHO COME TO ME FOR
9 BOTH DIAGNOSIS AND TREATMENT WITH A WIDE VARIETY OF
10 NEUROPSYCHIATRIC DISORDERS INCLUDING MANIC DEPRESSIVE
11 ILLNESS, SCHIZOPHRENIA, DEMENTIA, TRAUMATIC BRAIN INJURY,
12 ADD.

13 AND THEN I AM ALSO INVOLVED WITH DOING RESEARCH. AND
14 SO AS A RESEARCHER AT THE UNIVERSITY, I PUBLISH PAPERS.
15 ONE OF THE THINGS I HAVE TO DO IS NOT ONLY DO I HAVE TO
16 TEACH ABOUT PSYCHIATRY, NOT ONLY DO I HAVE TO PRACTICE
17 PSYCHIATRY, BUT I ALSO HAVE TO TRY TO CONTRIBUTE TO NEW
18 INFORMATION ABOUT PSYCHIATRY AS A RESEARCHER, AND SO I
19 PUBLISH OVER 50 PAPERS ON BRAIN IMAGING AND PET SCANNING
20 IN NEUROPSYCHIATRIC DISORDERS.

21 AND SO I PUBLISH PAPERS ON HOW PET SCANS CAN AND --
22 HELP US BETTER UNDERSTAND DEPRESSION, HOW PET SCANS CAN
23 HELP US BETTER UNDERSTAND DEMENTIA, TRAUMATIC BRAIN
24 INJURY.

25 I'VE ALSO PUBLISHED PAPERS ON THE EFFECTS OF DRUGS

1 SUCH AS COCAINE ON BRAIN IMAGING. AND SO THOSE ARE THE
2 THREE MAJOR AREAS THAT I AM INVOLVED IN AS A ASSOCIATE
3 PROFESSOR OF TEACHING, PATIENT CARE, AND RESEARCH.

4 Q THANK YOU, DR. WU. AND AS THE CLINICAL DIRECTOR OF
5 THE BRAIN IMAGING CENTER, ARE YOUR RESPONSIBILITIES
6 DIFFERENT THERE? AND IF THEY DO, CAN YOU TELL US WHAT YOU
7 DO IN THAT...

8 A WELL, PART OF MY CLINICAL CARE INVOLVES NOT ONLY
9 SEEING PATIENTS WHO COME TO ME FOR TREATMENT OF SAY
10 DEPRESSION OR SCHIZOPHRENIA, BUT I'M ALSO RESPONSIBLE FOR
11 THE CLINICAL BRAIN IMAGING, THE PET SCANNING CENTER.

12 SO WE HAVE A LARGE NUMBER OF PATIENTS WHO COME TO OUR
13 PET SCANNING CENTER WITH DIFFERENT KINDS OF PSYCHIATRIC
14 AND NEUROLOGICAL DIAGNOSIS. AND SO I AM RESPONSIBLE FOR
15 ENSURING THAT THE SCAN IS CLINICALLY INTERPRETED.

16 AND SO I HAVE BEEN INVOLVED IN THE ACQUISITION AND
17 INTERPRETATION OF OVER 5000 BRAIN PET SCANS. AND SO I
18 HAVE SEEN BRAIN PET SCANS OF PATIENTS WITH ALZHEIMERS,
19 DEMENTIA, SCHIZOPHRENIA, WITH MANIC DEPRESSIVE ILLNESS,
20 WITH STUTTERING, WITH BULIMIA, AND SO I'VE BECOME VERY
21 FAMILIAR WITH HOW VARIOUS KINDS OF NEUROPSYCHIATRIC
22 DISORDERS CAN MANIFEST IN TERMS OF BRAIN FUNCTIONAL
23 IMAGING.

24 Q OKAY. AND I WAS JUST GOING TO ASK YOU IF YOU HAVE
25 ANY TRAINING IN THE ADMINISTRATION AND INTERPRETATION OF

1 PET SCANS.

2 A YES. AFTER I COMPLETED MY RESIDENCY IN PSYCHIATRY, I
3 DID A TWO YEAR FELLOWSHIP IN BRAIN IMAGING. AS PART OF
4 THAT TWO YEAR FELLOWSHIP I WORKED WITH PET SCANS, I WORKED
5 WITH THE MEDICINE PHYSICIANS, AND I WAS INVOLVED IN THE --
6 LEARNING HOW TO ACQUIRE PET SCANS, HOW TO INTERPRET PET
7 SCANS, HOW TO ADMINISTER PET SCANS DURING THAT TWO YEARS
8 AFTER MY RESIDENCY.

9 Q ALL RIGHT. YOU MENTIONED A NUMBER OF PUBLICATIONS.
10 DID YOU SAY APPROXIMATELY 40?

11 A CLOSER TO 50 PEER REVIEWED JOURNAL ARTICLES.

12 Q ALL RIGHT. AND WHAT DO YOU MEAN BY PEER REVIEWED?

13 A BY PEER REVIEWED, THIS MEANS THAT OTHER SCIENTIFIC
14 AND MEDICAL PEERS, OTHER DOCTORS AND SCIENTISTS WHO ARE
15 KNOWLEDGEABLE ABOUT THE FIELD OF PET SCAN IMAGING OF THE
16 BRAIN HAVE ANONYMOUSLY REVIEWED MY SCIENTIFIC CONTRIBUTION
17 TO PUBLICATIONS PRIOR TO PUBLICATION, AND THEY HAVE
18 INDEPENDENTLY DETERMINED THAT THE METHODOLOGY AND THE
19 SCIENCE OF -- BEHIND THE ARTICLES THAT I HAVE WRITTEN ARE
20 SOUND AND ARE WORTHY OF BEING PUBLISHED.

21 Q HOW MANY ARTICLES ARE PUBLISHED? CAN YOU GIVE US A
22 PERCENTAGE AS OPPOSED TO THE NUMBER OF ARTICLES THAT ARE
23 ACTUALLY SUBMITTED BY AUTHORS WHO WANT TO BE?

24 A WELL, I WOULD SAY THAT IT DEPENDS ON THE JOURNAL.
25 SOME JOURNALS, FOR EXAMPLE, WILL ONLY PUBLISH 10 PERCENT

1 OF THE ARTICLES THAT ARE SUBMITTED TO THEM. SOME MAY ONLY
2 PUBLISH 1 PERCENT. IT DEPENDS ON THE JOURNAL.

3 Q OKAY. AND YOU HAVE BEEN PUBLISHED IN THOSE JOURNALS?

4 A I HAVE BEEN PUBLISHED IN THOSE JOURNALS. I HAVE ALSO
5 BEEN ON THE OTHER SIDE. I HAVE ALSO BEEN AN ANONYMOUS
6 REVIEWER THAT'S BEEN SELECTED BECAUSE OF MY EXPERTISE IN
7 THE AREA OF BRAIN IMAGING TO BE A JUDGE OF OTHER
8 SCIENTISTS AND DOCTORS, AUTHORS, AND TO DETERMINE WHETHER
9 OR NOT THE METHODOLOGY AND THE SIGNIFICANCE OF THEIR
10 FINDING IS WORTHY OF BEING PUBLISHED.

11 Q SO YOU HAVE DONE -- WORN BOTH HATS IN THAT SITUATION?

12 A YES, I'VE BOTH HAD MY WORK REVIEWED AS WELL AS BEEN A
13 REVIEWER OF OTHER PEOPLE'S WORKS. AND THIS IS ONE OF THE
14 WAYS THAT THE SCIENTIFIC FIELD ENSURES THAT THERE'S A
15 CERTAIN SCIENTIFIC QUALITY TO WHAT'S BEING PUBLISHED.

16 Q NOW, YOU HAVE BEEN EMPLOYED AT THE BRAIN IMAGING
17 CENTER FOR HOW LONG?

18 A I HAVE BEEN EMPLOYED AT -- ALMOST 20 YEARS NOW.

19 Q OKAY. DURING THAT TERM, LET ME ASK YOU THIS. WHAT
20 DOES THE ADMINISTRATION OF THE PET SCAN MEAN? WHAT DOES
21 IT ENTAIL?

22 A WELL, THE ADMINISTRATION OF A PET SCAN MEANS THAT ONE
23 ADMINISTERS WHAT WE CALL A RADIOISOTOPE, A SUGAR MOLECULE.
24 SUGAR IS THE MAIN FUEL FOR BRAIN FUNCTION OR ACTIVITY.
25 THE MORE ACTIVE A PARTICULAR PART OF THE BRAIN IS, THE

1 MORE SUGAR THAT PART OF THE BRAIN CONSUMES, BURNS UP.

2 AND SO IN ORDER TO TRY AND LOOK AT THE PATTERN OF
3 FUNCTION IN THE BRAIN, WE USE A SPECIAL KIND OF
4 RADIOACTIVE SUGAR MOLECULE WHICH WE CAN SAFELY ADMINISTER.
5 IT'S A LOW AMOUNT OF RADIATION, ROUGHLY EQUIVALENT TO TWO
6 CHEST X-RAYS SERIES.

7 BUT THIS LOW AMOUNT OF RADIOACTIVE SUGAR IS
8 SUFFICIENT IN TERMS OF PROVIDING US WITH INFORMATION TO
9 SEE HOW MUCH SUGAR IS BEING BURNED UP IN DIFFERENT AREAS
10 OF THE BRAIN.

11 Q OVER THE YEARS, HOW MANY PET SCANS HAVE YOU
12 ADMINISTERED?

13 A WELL, I HAVE BEEN INVOLVED WITH -- IN INTERPRETATION
14 AND ADMINISTRATION OF OVER 5000 BRAIN PET SCANS FOR
15 NEUROPSYCHIATRIC PURPOSES WHICH IS ONE OF THE -- PROBABLY
16 THE LARGEST SERIES IN THE COUNTRY.

17 Q AND YOU MAY HAVE ANSWERED THIS, BUT I WANTED TO ASK
18 YOU WHY YOU DO PET SCANS. WHY ARE PET SCANS
19 ADMINISTERED--

20 A WELL, PET SCANS--

21 Q -- IN THE -- BRAIN CENTER?

22 A PET SCANS ARE ADMINISTERED FOR BOTH CLINICAL AND
23 RESEARCH PURPOSES. CLINICALLY WE DO PET SCANS TO HELP US
24 TO TRY AND SEE IF THE PATTERN OF BRAIN FUNCTION CAN HELP
25 US SHED SOME LIGHT INTO A PERSON'S DIAGNOSIS OR BEHAVIOR.

1 AND IT CAN BE VERY HELPFUL IN CERTAIN SITUATIONS.

2 SO FOR EXAMPLE, IF SOMEONE HAD A MEMORY DISORDER OR,
3 YOU KNOW, WE THINK THAT THEY HAVE A MEMORY DISORDER, WE
4 CAN SEE IF THEY HAVE A ABNORMAL PATTERN OF FUNCTION IN THE
5 BRAIN WHICH MIGHT LEAD US TO A SPECIFIC DIAGNOSIS OF SAY
6 ALZHEIMERS DISEASE.

7 OR IF SOMEONE HAS A PROBLEM WITH, FOR EXAMPLE,
8 HEARING VOICES, A PET SCAN CAN HELP US TO IDENTIFY WHAT
9 PARTS OF THE BRAIN ARE INVOLVED WITH HEARING VOICES. OR
10 IF SOMEONE HAS PROBLEMS WITH COGNITION, IF THEY HAVE
11 PROBLEM WITH THINKING, SAY AFTER THEY HAD SOME KIND OF
12 BRAIN INJURY, WE CAN SEE WHAT AREAS OF THE BRAIN HAVE BEEN
13 INJURED, AND THIS CAN HELP TO COME UP WITH A BETTER IDEA
14 OF WHAT THE PATIENT'S PROGNOSIS IS.

15 SO THOSE ARE SOME OF THE CLINICAL REASONS WHY WE DO
16 BRAIN PET SCANS.

17 Q ALL RIGHT. ARE THERE OTHER REASONS SUCH AS RESEARCH
18 OR FORENSIC?

19 A YES. AND SO WE DO RESEARCH SCANS. WE'RE VERY
20 INTERESTED IN TRYING TO DEVELOP NEW TREATMENT FOR
21 DIFFERENT CONDITIONS SUCH AS ALZHEIMERS DISEASE,
22 SCHIZOPHRENIA, DEPRESSION.

23 AND PART OF DEVELOPING NEW TREATMENT IS TRYING TO
24 UNDERSTAND HOW NEW TREATMENTS MIGHT WORK. AND SO PART OF
25 WHAT WE DO IS THAT WE USE A LOT OF THE NEWER TREATMENTS

1 THAT ARE BEING TESTED TO SEE HOW THEY EFFECT THE BRAIN OF
2 PEOPLE WITH SAY ALZHEIMERS DISEASE.

3 AND THIS CAN GIVE US SOME INSIGHT INTO HOW THESE
4 MEDICATIONS ARE WORKING, WHETHER THEY'RE WORKING, WHETHER
5 SOMETHING NEEDS TO BE CHANGED OR DONE DIFFERENTLY, AND SO
6 WE DO A LOT OF THAT KIND OF RESEARCH, FUNCTIONAL BRAIN
7 IMAGING.

8 I'M ALSO INVOLVED WITH BRAIN IMAGING THAT'S BEING
9 USED FOR FORENSIC PURPOSES--

10 Q WHAT DO WE MEAN BY FORENSIC PURPOSES?

11 A FOR FORENSIC PURPOSES, THIS IS A COURT-ORDERED
12 TESTING OF BRAIN FUNCTION IN AN INDIVIDUAL IN ORDER TO SEE
13 IF IT CAN PROVIDE MEDICAL AND CLINICAL INFORMATION ABOUT
14 WHETHER OR NOT THERE'S ANY ABNORMALITY IN THE BRAIN THAT
15 CAN HELP SHED LIGHT ON A PERSON'S BEHAVIOR.

16 Q I SEE. NOW, BUT YOU HAVE NOT BEEN COURT ORDERED IN
17 THIS CASE?

18 A NO, I HAVE NOT SPECIFICALLY ADMINISTERED THE PET SCAN
19 IN THIS CASE.

20 Q OKAY. AND I DO THIS -- I ASK THIS QUESTION, DR. WU,
21 SIMPLY BECAUSE I WANT TO GET TO KNOW YOU AS THOROUGHLY, AS
22 WELL AS WE CAN AT THIS POINT, AND I WANT YOU TO ADDRESS
23 THE TOPIC OF RESEARCH AWARDS AND GRANTS THAT YOU HAVE BEEN
24 INVOLVED WITH. COULD YOU SPEAK TO THAT?

25 A YES. I HAVE RECEIVED -- BEEN FORTUNATE TO RECEIVE A

1 NUMBER OF RESEARCH AWARDS INCLUDING THE NATIONAL ALLIANCE
2 OR RESEARCH AND SCHIZOPHRENIA AND DEPRESSION, AND THE
3 ASSOCIATION OF ACADEMIC PSYCHIATRY AMONG OTHER AWARDS.

4 I HAVE ALSO RECEIVED AWARDS FROM THE STANLEY
5 FOUNDATION FOR THE STUDY OF MANIC DEPRESSIVE ILLNESS. AND
6 I'VE ALSO RECEIVED A -- GRANTS FROM THE NATIONAL INSTITUTE
7 OF MENTAL HEALTH, THE FEDERAL AGENCY -- THE FEDERAL
8 GOVERNMENT'S MAJOR ARM FOR FUNDING RESEARCH INTO MENTAL
9 ILLNESS, AND SO THOSE ARE SOME OF THE AWARDS AND GRANTS
10 THAT I HAVE RECEIVED THROUGH THE YEARS.

11 Q THANK YOU, DR. WU. HAVE YOU EVER BEEN QUALIFIED TO
12 TESTIFY AS AN EXPERT IN ANY COURT IN THE UNITED STATES?

13 A YES, I HAVE.

14 Q AND HAVE YOU BEEN QUALIFIED TO TESTIFY CONCERNING PET
15 SCANS?

16 A YES, I HAVE.

17 Q THE ADMINISTRATION AND INTERPRETATION OF PET SCANS?

18 A YES, I HAVE.

19 Q AND HAVE YOU EVER BEEN QUALIFIED TO TESTIFY IN
20 CRIMINAL CASES?

21 A YES, I HAVE.

22 Q GIVE US SOME -- WE DON'T NEED THE NAMES OF THOSE
23 CASES, BUT HOW MANY DIFFERENT JURISDICTIONS HAVE YOU BEEN
24 ASKED TO PROVIDE EXPERT TESTIMONY IN?

25 A WELL, I HAVE BEEN ASKED TO PROVIDE EXPERT TESTIMONY

1 IN FLORIDA, IN TEXAS, IN MICHIGAN, IN WASHINGTON, IN
2 ALABAMA, IN CALIFORNIA, IN NEVADA, IN COLORADO. SO THOSE
3 ARE SOME OF THE PLACES THAT I HAVE BEEN ASKED TO PROVIDE
4 EXPERT WITNESS TESTIMONY IN.

5 Q OKAY.

6 MR. DIGGS: LET ME AT THIS POINT, YOUR HONOR,
7 TENDER DR. WU AS AN EXPERT IN PSYCHIATRY AND IN THE
8 ACCEPTABILITY, USEFULNESS, ADMINISTRATION AND
9 INTERPRETATION OF PET SCANS.

10 THE COURT: ANY OBJECTIONS OR QUESTIONS --
11 QUESTIONS OR OBJECTIONS?

12 MR. HUMPHRIES: NO, YOUR HONOR.

13 THE COURT: SO ADMITTED. YOU MAY PROCEED.

14 BY MR. DIGGS:

15 Q DR. WU, LET ME ASK YOU AT THE BEGINNING TO DESCRIBE
16 FOR US HOW THE PET SCAN WORKS. WE WENT INTO THAT A LITTLE
17 BIT EARLIER, BUT -- BUT GO OVER AGAIN FOR US WHAT HAPPENS
18 WHEN A PET SCAN IS TAKEN OF A PATIENT.

19 A WELL, BASICALLY THE WAY A PET SCAN WORKS IS THAT WE
20 TAKE A SUGAR MOLECULE WHICH IS -- HAS A LOW AMOUNT OF
21 RADIOACTIVITY AND WE INJECT THIS INTO THE PATIENT'S BLOOD
22 VESSELS AND THEN THE RADIOACTIVE SUGAR MOLECULE TRAVELS IN
23 THE BLOOD VESSELS INTO THE BRAIN.

24 AND AREAS OF THE BRAIN THAT ARE MORE ACTIVE ARE GOING
25 TO ACCUMULATE MORE OF THIS RADIOACTIVE SUGAR MOLECULE IN

1 AREAS OF THE BRAIN THAT ARE LESS ACTIVE. AND WE ARE THEN
2 ABLE TO SEE HOW MUCH ENERGY RAYS COME FROM WHAT PARTS OF
3 THE BRAIN DEPENDING UPON THE ACCUMULATION OF RADIOACTIVE
4 SUGAR WHICH IS DEPENDENT UPON HOW MUCH FUNCTION OR
5 ACTIVITY DIFFERENT PARTS OF THE BRAIN HAVE.

6 Q NOW, YOU BROUGHT SOME DEMONSTRATIVE MATERIAL WITH YOU
7 TODAY, DID YOU NOT, TO HELP EXPLAIN WHAT YOUR TESTIMONY
8 IS?

9 A YES. I BROUGHT SOME FIGURES TO HELP EXPLAIN TO THE
10 JURY SOME OF THE BASIC PRINCIPLES OF PET SCAN AND HOW THEY
11 WORK IN ORDER TO HELP MAKE IT A -- MORE UNDERSTANDABLE.

12 MR. DIGGS: YOUR HONOR, WITH YOUR PERMISSION I
13 WOULD ASK THAT DR. WU TURN ON THE POWERPOINT AND
14 LET'S LET HIM USE THAT AS HE DISCUSSES HIS TESTIMONY.

15 THE COURT: CERTAINLY. YOU MAY PROCEED.

16 MR. DIGGS: THANK YOU.

17 MR. HUMPHRIES: MAY WE APPROACH VERY BRIEFLY,
18 YOUR HONOR?

19 THE COURT: YOU MAY.

20 BY MR. DIGGS:

21 Q WE'LL GO -- I DON'T WANT TO GO THERE YET.

22 A YES, I KNOW. LET ME GO TO THE VERY FRONT.

23 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

24 BY MR. DIGGS:

25 Q ALL RIGHT. DR. WU, LET ME ASK YOU THIS BEFORE WE

1 BEGIN THE PET SCAN, THE POWERPOINT ON THE PET SCAN
2 RECITATION. IS IT POSSIBLE FOR US TO DOWNLOAD YOUR
3 INFORMATION SO THAT WE CAN HAVE A COPY OF IT PRESERVED FOR
4 REVIEW AT A LATER TIME?

5 A YES. AND I CAN DOWNLOAD THE POWERPOINT ONTO A JUMP
6 DRIVE AND TRANSFER IT TO YOUR COMPUTER OR TO ANY OTHER
7 COMPUTER THAT THE COURT WISHES.

8 THE COURT: YOU MAY PROCEED, MR. DIGGS.
9 BY MR. DIGGS:

10 Q ALL RIGHT. WHAT WE'RE -- WHAT I'M ACTUALLY -- I
11 MIGHT HAVE MISSTATED. WE'RE NOT GOING TO PRESERVE THIS
12 FOR THE JURY TO REVIEW LATER. WE WANT TO MAKE IT PART OF
13 THE RECORD, HOWEVER, IN THE FUTURE IF -- FOR EXAMINATION
14 IF NEED BE.

15 A YES.

16 Q ALL RIGHT. NOW, HAVING SAID THAT, GO AHEAD. WHAT
17 ARE WE LOOKING AT AT THIS POINT, DR. WU?

18 A WELL, THIS ILLUSTRATES A TYPICAL PET SCAN COMPARED TO
19 A TYPICAL MRI SCAN AND THIS SHOWS THAT PET SCANS ARE A
20 PICTURE OF BRAIN FUNCTION WHEREAS MRI SCANS ARE PICTURES
21 OF THE BRAIN STRUCTURE SO THAT, FOR EXAMPLE, YOU CAN TAKE
22 A CADAVER AND YOU CAN GET A PERFECTLY NORMAL MRI OF THE
23 CADAVER'S BRAIN BECAUSE IT'S SHAPED LIKE THE CADAVER'S
24 BRAIN, COULD BE PERFECTLY NORMAL, BUT THERE WOULD
25 OBVIOUSLY BE NO FUNCTIONING IN A CADAVER'S BRAIN, AND IN

1 THAT CASE YOU GET A BLANK SCREEN.

2 AND WHAT WE'RE SEEING HERE ARE DIFFERENT COLORS IN
3 THE PET SCANS, LIKE AREAS THAT ARE RED WOULD BE AREAS THAT
4 WOULD BE HIGHER IN SUGAR METABOLISM, AND AREAS THAT ARE
5 BLUE WOULD BE AREAS THAT WOULD BE LOWER IN SUGAR
6 METABOLISM.

7 AND WHAT WE HAVE HERE ARE THREE DIFFERENT SLICES, A
8 HIGH SLICE HERE, THIS IS A MIDDLE SLICE HERE, AND THIS IS
9 A LOW SLICE HERE.

10 AND ONE OF THE THINGS THAT YOU'LL NOTICE IN THE
11 NORMAL BRAIN IS THAT THE TYPICAL NORMAL BRAINS SHOW MORE
12 ACTIVITY IN THIS AREA HERE WHICH WE CALL THE FRONTAL LOBE
13 PORTIONS THAN THE BACK AREA OF THE BRAIN HERE. SO THIS IS
14 A TYPICAL PET VERSUS MRI SCAN.

15 Q OKAY. YOU I BELIEVE EXPLAINED THIS. DO YOU SEE
16 WHERE I'M POINTING HERE?

17 A YES.

18 Q EXPLAIN TO ME, IF YOU WOULD, HOW THIS WORKS AND
19 WHAT'S INTENDED TO BE SHOWN. IS THIS SOME KIND OF MARKER
20 FOR US TO GET ORIENTED IN TERMS OF WHERE WE'RE LOOKING AT
21 WITH RESPECT TO THESE PARTICULAR IMAGES?

22 A YES. THE BLUE PLANE INDICATES WHERE THAT SLICE CAME
23 FROM. YOU CAN SEE THAT THAT BLUE PLANE IS RELATIVELY
24 HIGHER IN THIS SUBJECT'S HEAD.

25 Q OKAY. SO UP HERE, MHS5, WE'RE TALKING ABOUT A SPOT

1 HIGHER IN THE HEAD?

2 A YES, RIGHT ABOUT HERE MAYBE.

3 Q IN THE -- OKAY. CONTINUE ON.

4 A AND THEN MHS8 WOULD BE RIGHT ABOUT HERE, WOULD BE
5 ABOUT MIDWAY IN THE BRAIN. THAT WOULD BE THE RED SLICE.
6 AND SO THAT'S SORT OF IN THE MIDDLE OF THE BRAIN. AND
7 THEN THE MHS10 WOULD BE NEAR THE BASE OF THE BRAIN, AND
8 THAT WILL BE THE YELLOW SLICE.

9 AND SO THESE COLORED PLANES ARE -- COULD HELP ORIENT
10 THE JURY TO WHERE THESE PET SLICES ARE COMING FROM.

11 Q ALL RIGHT. CONTINUE ON, IF YOU WOULD.

12 A LET ME SEE. OKAY. I THINK THAT THE IMAGE APPEARS TO
13 BE STUCK HERE. LET'S SEE.

14 Q YOU NEED TO REBOOT IT?

15 A YEAH, I'M NOT -- IT APPEARS THAT FOR SOME REASON THE
16 COMPUTER HAS FROZEN. I'M SORRY ABOUT THAT, BUT IT'S A
17 TECHNICAL... IT'S A TECHNICAL--

18 THE COURT: THERE'S SOME FEEDBACK COMING FROM
19 SOMEWHERE, AND I HAVEN'T FIGURED OUT WHERE IT IS, BUT
20 I HAVE BEEN ABLE TO HEAR IT FROM THE BEGINNING. NOW,
21 IT'S DISTURBING YOU ALL HAVE NOW EXPERIENCED IT. CAN
22 WE DO ANYTHING ABOUT WHAT THE SOURCE OF THAT...

23 IS THE MICROPHONE ON ON THIS OTHER TV OR ON...
24 BECAUSE WE REALLY DON'T NEED THEM ALL. THERE IS NO
25 AUDIO CONNECTED TO...

1 MR. DIGGS: COULD YOU TELL WHERE THAT SQUEAL WAS
2 COMING FROM?

3 (OFF-THE-RECORD DISCUSSION WAS HELD.)

4 BY MR. DIGGS:

5 Q PLEASE CONTINUE, DR. WU.

6 A YES. WHAT THIS--

7 Q WHAT ARE WE LOOKING AT?

8 A THIS NEXT SLIDE TELLS US WHERE WE GET THE WORD
9 POSITRON EMISSION TOMOGRAPHY FROM. POSITRON EMISSION
10 TOMOGRAPHY, OR PET SCANS, IS TO A POSITIVE ELECTRONS.
11 ELECTRONS IN OUR UNIVERSE NORMALLY HAVE A NEGATIVE CHARGE.

12 WE CAN CREATE AN ELECTRON THAT HAS A POSITIVE CHARGE,
13 A POSITRON, AND THIS IS CALLED THE ANTIMATTER VERSION OF
14 THE ELECTRON.

15 NOW, THE ADVANTAGE OF BEING ABLE TO BRING A POSITRON
16 OR THIS ANTIMATTER VERSION OF ELECTRON IS THAT WHEN YOU
17 COMBINE ANTIMATTER AND MATTER, YOU GET THE FORMATION OF A
18 TREMENDOUS AMOUNT OF ENERGY USING EINSTEIN'S EQUATION E
19 $EQUALS MC^2$ OR E $EQUALS$ ENERGY AND M $EQUALS$ A MASS
20 AND THE POSITRON AND THE ELECTRON, SO THAT WHEN YOU TAKE A
21 SMALL AMOUNT OF POSITRONS, YOU GET A TREMENDOUS AMOUNT OF
22 ENERGY.

23 FOR THOSE OF YOU WHO ARE SCIENCE FICTION FANS, YOU
24 MAY REMEMBER A SHOW, STAR TREK, IN WHICH THE USS
25 ENTERPRISE WAS POWERED BY A MATTER ANTIMATTER ENGINE.

1 WHILE THAT SHOW IS SCIENCE FICTION, THE FUNDAMENTAL
2 PHYSICS PRINCIPLE THAT THE COMBINATION OF MATTER AND
3 ANTIMATTER CREATES TREMENDOUS ENERGY IS THE FUNDAMENTAL
4 PRINCIPLE THAT UNDERLIES PET SCANS.

5 Q ALL RIGHT. WHAT ARE WE LOOKING AT HERE?

6 A NOW, THIS DEVICE HERE IS HOW WE CREATE THE POSITRON.
7 THIS DEVICE IS CALLED A CYCLOTRON. A CYCLOTRON IS A 22
8 TON INSTRUMENT WHICH CAN TAKE PARTICLES SMALLER THAN AN
9 ATOM AND CAN ACCELERATE IT TO ALMOST A SPEED OF LIGHT
10 WHICH IS 186,000 MILES A SECOND.

11 WE ARE ABLE TO TAKE THESE TWO PARTICLE TRIANGULAR
12 MAGNETS HERE AND THESE TWO PARTICLE TRIANGULAR MAGNETS,
13 PUSH THEM THROUGH ARTICLES SMALLER THAN AN ATOM, SO BY THE
14 TIME IT COMES OUT OF THE CYCLOTRON AND HITS A TARGET, IT
15 IS GOING 99.99 PERCENT THE SPEED OF LIGHT.

16 AND AT THAT POINT IN TIME YOU ARE ABLE TO CREATE THE
17 POSITRON EMITTER WHICH CAN THEN BE ATTACHED TO A SUGAR
18 MOLECULE. AND HERE WE HAVE A PICTURE OF A RADIOCHEMIST
19 WHO TAKES THE POSITRON EMITTER CREATED BY THE CYCLOTRON
20 AND HE'S ATTACHING IT TO A SUGAR MOLECULE INSIDE SOMETHING
21 CALLED A HOT CELL.

22 THE HOT CELL HAS A 2-INCH THICK LEAD AND GLASS WINDOW
23 WHICH SHIELDS THE RADIOCHEMIST FROM THE RADIOACTIVITY AS
24 HE ATTACHES THE POSITRON EMITTER TO THE SUGAR MOLECULE
25 BEFORE IT IS PREPARED FOR ADMINISTRATION TO THE PATIENT.

1 AFTER THE RADIOCHEMIST HAS MADE THE POSITRON EMITTING
2 SUGAR MOLECULE, WE THEN TAKE THAT POSITRON EMITTING SUGAR
3 MOLECULE AND WE INJECT IT INTO THE PATIENT THROUGH A SMALL
4 PLASTIC TUBE CALLED A INTRAVENOUS LINE.

5 AND HERE IS AN EXAMPLE OF A MODEL WHO IS GETTING AN
6 INTRAVENOUS LINE BEING PLACED IN HIS ARM.

7 Q NOW, WOULD THIS HAVE BEEN THE SAME TECHNOLOGY THAT
8 WOULD BE EMPLOYED IN ANY PET SCAN?

9 A THIS IS THE SAME FUNDAMENTAL PROCEDURE AND TECHNOLOGY
10 PRINCIPLES THAT UNDERLIE PET SCANNING AT ANY CENTER IN THE
11 WORLD.

12 Q OKAY. SO THAT WOULD BE INCLUDING MUSC HERE IN SOUTH
13 CAROLINA?

14 A THAT'S CORRECT.

15 Q ALL RIGHT. CONTINUE ON, IF YOU WILL.

16 A OKAY. AND THEN HERE WE SEE THE -- THE SUGAR MOLECULE
17 BEING ADMINISTERED INTO THE SUBJECT'S ARM. AND HERE WE
18 HAVE THE SUBJECT ENGAGING IN WHAT WE CALL AN ACTIVATION
19 TASK.

20 Q OKAY. AND IS THERE ANOTHER NAME TO THAT? ACTIVATION
21 TASK?

22 A YEAH, OR VIGILANCE TASK.

23 Q IS THERE ANOTHER NAME FOR--

24 A OR CPT.

25 Q CPT MEANING...

1 A YES, THESE ARE ALL SYNONYMOUS. THE CPT IS A SPECIFIC
2 TYPE OF ACTIVATION OR VIGILANCE TASK.

3 Q ALL RIGHT. CONTINUANCE PERFORMANCE TEST.

4 A AND SO THIS CPT OR CONTINUANCE PERFORMANCE TEST HAS
5 BEEN SHOWN SCIENTIFICALLY TO HAVE LOWER VARIABILITY THAN
6 RESTING STATE WHICH ARE TYPICALLY USED AT MANY OF THE
7 CENTERS.

8 Q OKAY. DOES THAT MEAN IT'S MORE -- IT MAKES THE PET
9 SCANS MORE ACCURATE?

10 A YES.

11 Q AND RELIABLE?

12 A YES. SO USING THE CPT TASK RESULTS IN HIGHER
13 ACCURACY, GREATER RELIABILITY, AND SO THIS IS SOMETHING
14 THAT I RECOMMEND BE DONE FOR NEUROPSYCHIATRIC PET SCANS.

15 Q NOW, DO YOU KNOW IF THAT WAS DONE IN MR. STANKO'S
16 CASE?

17 A THAT WAS DONE IN MR. STANKO'S CASE.

18 Q OKAY. CONTINUE ON.

19 A AND THERE ARE NUMEROUS SCIENTIFIC PUBLICATIONS WHICH
20 HAVE DEMONSTRATED THAT THIS TYPE OF PROCEDURE HAS IMPROVED
21 RELIABILITY OVER WHAT IS COMMONLY USED AT MOST CENTERS,
22 WHICH IS A REST TASK.

23 AND AGAIN, NUMEROUS PUBLICATIONS WHICH HAVE
24 DEMONSTRATED THAT THIS TASK IS MORE SENSITIVE AT DETECTING
25 NEUROPSYCHIATRIC ABNORMALITIES THAN -- THAN THE MORE

1 COMMONLY USED REST TASK.

2 Q ALL RIGHT. REPEAT THAT FOR ME BECAUSE I WANT TO HEAR
3 THAT AGAIN. IT IS MORE SENSITIVE THAN WHAT?

4 A WHAT -- THE CPT TASK DURING THE UPTAKE RESULTS IN THE
5 ABILITY FOR A WELL-TRAINED AND EXPERIENCED PHYSICIAN WHO
6 IS KNOWLEDGEABLE WITH LOOKING AT PET SCANS WITH THE CPT
7 TASK, USING THIS TYPE OF TASK A PHYSICIAN WITH THE PROPER
8 TRAINING AND EXPERIENCE CAN MORE RELIABLY AND EASILY
9 DETECT ABNORMALITY ASSOCIATED WITH SAY, FOR EXAMPLE,
10 TRAUMATIC BRAIN INJURY OR SCHIZOPHRENIA THAN THEY CAN WHEN
11 THEY USING REST TASK.

12 Q AND THAT WOULD BE APPLICABLE TO A BRAIN DEFECT; WOULD
13 IT NOT?

14 A YES, THE BRAIN DEFECT WHETHER IT'S DEVELOPMENTAL,
15 WHETHER IT'S BRAIN INJURY, WHETHER IT'S -- WHATEVER THE
16 CAUSE, YEAH. THAT -- AND IN SOME SENSE THIS IS SOMEWHAT
17 ANALOGOUS TO A TREADMILL STRESS TEST.

18 IF YOU HAVE A SUSPECTED CARDIAC PROBLEM, YOU CAN GET
19 A RESTING EKG, BUT IT'S NOT GOING TO BE AS SENSITIVE AT
20 DETECTING WHETHER OR NOT YOU REALLY HAVE A CARDIAC PROBLEM
21 THAN IF YOU DID A TREADMILL STRESS TEST. TREADMILL STRESS
22 TEST IS GOING TO BE MORE ACCURATE. SO IN SOME SENSE THIS
23 IS KIND OF ANALOGOUS TO THAT.

24 Q ALL RIGHT. CONTINUE ON. YOU HAVE...

25 A WELL, AFTER THE SUBJECT HAS HAD THE RADIOACTIVE SUGAR

1 MOLECULE CREATED BY THE CYCLOTRON ADMINISTERED TO THE
2 PATIENT THROUGH THE SMALL PLASTIC TUBE DURING THIS CPT
3 TASK, IT TAKES ABOUT 30 MINUTES. AFTER THAT, THE SUBJECT
4 IS THEN TRANSFERRED TO THE SCANNER.

5 NOW, THIS IS KIND OF LIKE WHAT HAPPENS WHEN YOU TAKE
6 A PICTURE. ONCE A NEGATIVE IS EXPOSED, THEN YOU TAKE THE
7 EXPOSED NEGATIVE TO THE, YOU KNOW, RITE AID OR WHATEVER
8 DRUG STORE YOU WANT TO TAKE IT TO TO DEVELOP THAT -- THE
9 NEGATIVE.

10 BUT ONCE IT'S EXPOSED AND THEN THE SHUTTER CLOSES,
11 THEN NOTHING YOU DO AFTER THAT IS GOING TO EFFECT THE
12 DISTRIBUTION OF THE EXPOSURE. AND SO THE SAME THING IS
13 TRUE IN THIS CASE.

14 ONCE THAT CPT TASK IS DONE, IT'S AS IF THE SHUTTER
15 HAS CLOSED, AND THEN IT'S -- IT'S JUST LIKE AT THE ONSET
16 HAPPENS -- AFTER ITS GOING TO CHANGE THE RELATIVE
17 DISTRIBUTION.

18 Q ALL RIGHT. THE CONTINUANCE PERFORMANCE TEST IS DONE
19 DURING THE INJECTION THAT WE SAW JUST A FEW MINUTES AGO?

20 A YES.

21 Q AND THE PURPOSE FOR DOING IT AT THAT TIME IS WHAT?

22 A WELL, BECAUSE IT TAKES ABOUT 30 MINUTES RIGHT AFTER
23 THE INJECTION FOR THE SUGAR MOLECULE TO SETTLE INTO THE
24 BRAIN, AND 15 OR 30 MINUTES.

25 AND SO IN -- DURING THAT TIME PERIOD, YOU KNOW, ONE

1 WANTS TO TRY TO GET -- TO USE HIS TASK IN ORDER TO GET --
2 REDUCE THE NOISE AND TO ENHANCE RELIABILITY.

3 Q ALL RIGHT. AND THAT IS WHAT OUR DOCTOR WAS DOING
4 WITH MR. STANKO DURING THAT INJECTION PERIOD?

5 A YES, THAT'S CORRECT.

6 Q DURING THE CONTINUANCE PERFORMANCE TEST?

7 A YES, THAT'S CORRECT.

8 Q AND THEN YOU SAY THAT TAKES HOW MANY MINUTES? HOW
9 LONG?

10 A I WOULD SAY 15 TO 30 MINUTES FOR THIS TO OCCUR.

11 Q OKAY. THEN BY THAT TIME WHILE HE'S DOING THE TEST,
12 WHAT IS SUPPOSED TO BE HAPPENING IN THE BRAIN?

13 A WELL, DURING THAT TIME AREAS OF THE BRAIN THAT ARE
14 MORE ACTIVE WILL ACCUMULATE MORE OF THIS RADIOACTIVE SUGAR
15 MOLECULE AND AREAS OF THE BRAIN WHICH ARE DEFECTIVE OR
16 WHAT -- ACCUMULATE LESS OF THIS RADIOACTIVE SUGAR MOLECULE
17 THAN THE AVERAGE OR NORMAL BRAIN.

18 Q OKAY. SO THAT BECOMES RADIOACTIVE?

19 A YES. SO WHAT WE'RE LOOKING AT IS KIND OF LIKE A
20 VARYING LEVELS OF A SUGAR METABOLISM IN THE BRAIN.

21 Q ALL RIGHT. NOW, SO WHEN DR. EINHORN SAID HE
22 ADMINISTERED THE CPT, THE CONTINUANCE PERFORMANCE TEST,
23 AND THEN LEFT--

24 A YES.

25 Q -- DID THE SCAN, IS THAT THE APPROPRIATE PROCEDURE?

1 A THAT WOULD BE FINE, YES.

2 Q ALL RIGHT. BECAUSE AT THAT -- BY THE TIME THE SCAN
3 IS ACTUALLY DONE--

4 A YES.

5 Q -- WHEN THIS INDIVIDUAL IS GOING INTO THE MACHINE--

6 A YES.

7 Q -- HE'S ALL -- THAT PERSON ALREADY HAS THE
8 RADIOACTIVE MATERIAL--

9 A YES.

10 Q -- CIRCULATING INTO THE BODY AND IN THE BRAIN?

11 A YES.

12 Q AND IT'S DONE THOSE THINGS THAT YOU WANTED IT TO DO
13 SO THE PICTURE CAN BE TAKEN?

14 A YES. SO BASICALLY WHAT WE'RE DOING IS WE'RE
15 DEVELOPING THE EXPOSED NEGATIVE. AND SO ONCE THE CPT TASK
16 IS DONE, IT'S AS IF THE SHUTTER ON A CAMERA HAS CLOSED AND
17 THE RADIOACTIVE SUGAR IS FINALIZED IN ITS POSITION. AND
18 AFTER THAT WE'RE BASICALLY DEVELOPING THE EXPOSED NEGATIVE
19 TO SEE THE PATTERN OF THE DISTRIBUTION DURING THE TIME THE
20 CPT TASK HAD OCCURRED.

21 Q NOW, IS THE RELIABILITY AFFECTED BY SOMEONE'S IQ?

22 A NO. THE RELIABILITY IS THE SAME WHETHER THE PERSON
23 HAS HIGH IQ OR LOW IQ.

24 Q OKAY. SO THE FACT THAT MR. STANKO WAS SMART WOULDN'T
25 INDICATE HE WOULD BE ABLE TO MANIPULATE WHERE THAT

1 RADIOACTIVE MATERIAL WAS GOING OR HOW THE PET SCAN PICKED
2 IT UP?

3 A NO, NO. THAT WOULD NOT EFFECT THE PATTERN OF
4 ACTIVITY.

5 Q OKAY. NOW, DURING THE CPT, CONTINUANCE PERFORMANCE
6 TEST, WHAT IF SOMEBODY WANTED TO TRY TO TRICK THE MACHINE
7 OR THE PROCESS?

8 A WELL, THERE IS NO WAY THAT I KNOW OF THAT A PERSON
9 COULD SELECTIVELY CAUSE A DECREASE OF SUGAR ACTIVITY IN
10 THE FRONTAL LOBE AREA OF THE BRAIN.

11 Q AND WHY DO YOU SAY THAT?

12 A WELL, IT'S -- IF YOU WERE TRYING TO DO THIS, IT'S
13 ALMOST LIKE THE CONSCIOUS EFFORT WHERE YOU WOULD HAVE TO
14 PLAN AND THINK ABOUT THIS WOULD ACTUALLY RESULT IN YOUR
15 HAVING TO USE THE FRONTAL LOBE AND WOULD PROBABLY RESULT
16 IN YOUR ACTUALLY INCREASING THE SUGAR METABOLISM IN THE
17 FRONTAL--

18 Q ALL RIGHT. SO IF SOMEONE TRIED TO THROW THE TEST, IT
19 WOULD ONLY MAKE THE TEST MORE ACCURATE?

20 A IT WOULD -- IT WOULD RESULT IN A FRONTAL LOBE BEING
21 MORE ACTIVE.

22 Q OR MORE NORMAL?

23 A MORE ACTIVE. AND IF THEY HAD AN ABNORMALLY LOW
24 FRONTAL LOBE, IT WOULD TEND TO MASK AN ABNORMALLY LOW
25 FRONTAL LOBE IF YOU WERE TO RAISE THE FRONTAL LOBE

1 ACTIVITY IN SOMEONE WHOSE FRONTAL LOBE WAS ABNORMALLY LOW.

2 Q ALL RIGHT. WHAT DO WE HAVE NEXT THERE, DR. WU,
3 BEFORE WE GET INTO MR. STANKO?

4 A WELL, LET'S SEE. WELL, THIS BASICALLY SHOWS WHAT
5 HAPPENS HERE IS THAT THE E-PLUS POSITRON, E-MINUS
6 ELECTRON, TO CREATE THESE TWO ENERGY RAYS.

7 Q OKAY.

8 A AND THEN HERE WE HAVE A SERIES OF CRYSTAL DETECTORS
9 IN THE SCANNER--

10 Q I SEE. SO THIS WOULD BE THE MACHINE--

11 A YES.

12 Q -- THAT WE JUST SAW THE PERSON BEING MOVED INTO?

13 A YES. THAT'S CORRECT. AND SO WHAT WE HAVE IS THAT
14 THE ENERGY RATE CREATED BY THE ANTIMATTER MATTER ENERGY
15 TRANSFORMATION PROCESS ARE DETECTED BY THESE CRYSTAL
16 DETECTORS THAT ARE SPECIFICALLY TUNED TO DETECT THESE --
17 THIS TYPE OF ENERGY RAYS.

18 Q ARE THOSE -- WHERE ARE THOSE DETECTORS LOCATED?

19 A THE DETECTORS ARE THESE CRYSTALS THAT ARE ALL AROUND
20 HERE, SO THERE ARE THOUSANDS OF CRYSTAL DETECTORS AND THEY
21 ARE ALL HERE SO THAT WHENEVER YOU HAVE A SIMULTANEOUS
22 REGISTRATION OF ENERGY RAYS ONTO -- ON A PAIR OF CRYSTAL
23 DETECTORS, YOU HAVE BUILT-IN COINCIDENCE CIRCUITS THAT
24 WILL AUTOMATICALLY DETECT WHEN YOU HAVE A SIMULTANEOUS
25 REGISTRATION OF ENERGY RAYS ON THE CRYSTAL DETECTORS.

1 AND THEN THE COMPUTER ESSENTIALLY KEEPS TRACK OF ALL
2 OF THE MILLIONS OF SUCH COINCIDENCES. AND VERY
3 SIMPLISTICALLY, MATHEMATICAL TERMS, IT LOOKS AT THE
4 INTERSECTION OF ALL THESE LINES AND AREAS OF THE BRAIN
5 THAT HAVE HIGH SUGAR METABOLISM ARE GOING TO HAVE LOTS OF
6 ENERGY RAYS COMING FROM THAT PARTICULAR AREA, AND SO
7 THERE'S GOING TO BE LOTS OF INTERSECTIVE LINES OF ENERGY
8 RAYS THAT THE COMPUTER WILL KEEP TRACK OF.

9 AND AREAS OF THE BRAIN THAT ARE LESS ACTIVE WILL HAVE
10 LESS ENERGY RAYS COMING FROM THOSE AREAS, SO THERE WILL BE
11 FEWER INTERSECTIONS MATHEMATICALLY.

12 Q OKAY. MOVE TO YOUR NEXT...

13 A OKAY. SO--

14 Q TELL ME ABOUT THAT. WHY SHOULD WE BE -- WHY SHOULD
15 WE BELIEVE THAT WE CAN RELY ON WHAT THE PET SCANS TELL US?

16 A WELL, PET SCANS HAVE BEEN AROUND FOR OVER 20 YEARS.
17 THEY HAVE BEEN USED AS A PRIMARY MEANS OF LOOKING AT BRAIN
18 FUNCTION OR METABOLISM IN LITERALLY THOUSANDS OF ARTICLES.
19 THEY ARE GENERALLY ACCEPTED BY PSYCHIC (SIC) COMMUNITY AS
20 BEING HIGHLY RELIABLE FOR DETECTING BRAIN FUNCTION OR
21 BRAIN ACTIVITY. AND THEY HAVE BEEN USED IN A WIDE VARIETY
22 OF CLINICAL PURPOSES.

23 Q WHEN WE LOOK AT THE INFORMATION PICKED UP, WHAT --
24 WHAT HAPPENS AT THAT POINT AFTER THE PROCESS THAT YOU'VE
25 EXPLAINED OF THE ENERGY GOING THROUGH THE BRAIN?

1 A WELL--

2 Q WHAT IS DONE WITH THE INFORMATION THAT'S GATHERED AT
3 THAT POINT?

4 A WELL, WHAT'S DONE IS THAT WE CAN LOOK AT PICTURES
5 LIKE THIS. THESE PICTURES DEPICT THE RELATIVE LEVEL OF
6 SUGAR ACTIVITY IN DIFFERENT KINDS OF DISEASES OR DISORDERS
7 OF THE BRAIN AND THE MIND.

8 Q ALL RIGHT. SHOW US -- TELL US EXACTLY WHAT WE'RE
9 LOOKING AT HERE.

10 A WELL--

11 Q AND EXPLAIN TO US WHAT'S GOING ON, HOW THE PET SCAN
12 DID THIS, HOW YOU USE IT IN MAKING SOME KIND OF MEDICAL
13 JUDGMENT OR DETERMINATION ABOUT THIS PATIENT.

14 A WELL, FOR EXAMPLE, IN THIS EXAMPLE WE ARE LOOKING AT
15 SOMEONE WHO HAS A COMPLAINT OF MEMORY PROBLEMS, AN ELDERLY
16 INDIVIDUAL AND SUBJECT IS...

17 (WHEREUPON THERE WAS A PAUSE).

18 THE COURT: WE DON'T KNOW WHAT'S CAUSING IT. WE
19 APOLOGIZE. HOPE IT DOESN'T DISTURB YOU TOO MUCH.
20 YOU MAY CONTINUE.

21 A WHAT WE'RE LOOKING AT HERE FOR EXAMPLE IS AN ELDERLY
22 INDIVIDUAL WHO HAS SOME MEMORY PROBLEMS, AND THE QUESTION
23 IS, IS THIS PERSON SUFFERING FROM ALZHEIMERS DISEASE. OR
24 WE CAN LOOK AT THE PATTERN OF SUGAR METABOLISM IN THIS
25 PERSON COMPARED TO AN AGE-MATCH NORMAL CONTROL.

1 AND WHAT WE SEE HERE IS THAT THERE'S LESS RED IN THIS
2 AREA HERE IN THE ALZHEIMERS PERSON THAN IN THE AGE-MATCH
3 NORMAL CONTROL.

4 Q ALL RIGHT. WHAT -- WHY IS THAT? HOW COULD THAT
5 HAPPEN?

6 A WELL, RED MEANS THAT THERE'S MORE HIGH LEVELS OF
7 SUGAR ACTIVITY BEING BURNED IN THESE AREAS OF THE BRAIN
8 RIGHT HERE, AND THAT'S NORMAL. AND WHEN YOU HAVE
9 ALZHEIMERS DISEASE, WHAT HAPPENS IS THAT THE SUGAR
10 METABOLATE IN THESE AREAS OF THE BRAIN START TO DROP.

11 AND SO ACTUALLY MEDICARE NOW IS PAYING FOR SOME FORMS
12 OF PET SCANS FOR SOME TYPE OF ALZHEIMERS DISEASE TO HELP
13 DOCTORS DETERMINE WHETHER OR NOT A PERSON HAS ALZHEIMERS
14 DISEASE OR SOME OTHER FORM OF DEMENTIA LIKE FRONTAL
15 TEMPORAL DEMENTIA.

16 Q NOW, WOULD IT BE FAIR TO SAY THAT THOSE COLOR
17 DIFFERENCES, THOSE VARIATIONS -- LET'S GO BACK TO THAT
18 PREVIOUS SLIDE. NOW, THIS NORMAL CONTROL, DESCRIBE FOR US
19 WHAT A NORMAL CONTROL IS.

20 A WELL, A NORMAL CONTROL IS AN INDIVIDUAL WHO DOES NOT
21 HAVE ANY KIND OF NEUROLOGICAL OR PSYCHIATRIC DISEASE.

22 Q OKAY. AND HOW DO YOU MAKE A DETERMINATION OF WHO
23 GETS INTO THAT CONTROL AND HOW MANY PEOPLE ARE EXAMINED
24 AND GO -- PUT INTO THAT DATABASE?

25 A WELL, WE HAVE A -- WHAT WE USE IS A STRUCTURED

1 CLINICAL INTERVIEW FOR DIAGNOSIS. IT'S A -- A
2 STANDARDIZED SCREENING INSTRUMENT WHICH IS CALLED A SKID
3 FOR SHORT, STRUCTURED CLINICAL INTERVIEW FOR DIAGNOSIS,
4 AND THIS IS AN ACCEPTED METHOD FOR SYSTEMATICALLY TRYING
5 TO DIAGNOSIS PATIENTS. IT'S AN EXTENSIVE INTERVIEW.

6 Q ALL RIGHT. NOW, HAS THIS BEEN RESEARCHED AND
7 SUBJECTED TO PUBLICATION AND PEER REVIEWED?

8 A YES. THE SKID HAS BEEN SUBJECTED TO PEER REVIEW.
9 PET SCANS OF NORMAL CONTROLS--

10 Q NOW--

11 A -- THAT HAVE BEEN EVALUATED BY SKID HAVE BEEN
12 SUBJECTED TO PEER REVIEW.

13 Q OKAY. SO IN THE NORMAL CONTROL, WE SEE WHAT -- WOULD
14 THAT BE NORMAL FUNCTION? WOULD IT BE ACCURATE TO SAY WE
15 SEE NORMAL BRAIN FUNCTION?

16 A YES. WHAT WE'RE SEEING ON THE RIGHT HAND SIDE IS A
17 TYPICAL AGE-MATCH NORMAL CONTROL SUBJECT COMPARED TO A --
18 AN INDIVIDUAL THE SAME AGE WHO IS STARTING TO DEVELOP
19 ALZHEIMERS DISEASE.

20 Q ALL RIGHT. AND IN THE ALZHEIMERS DISEASE PATIENT WE
21 HAVE, WHAT, REDUCED ACTIVITY?

22 A YES. WHEN WE SEE AN AREA THAT'S LABELED 5A, IT'S
23 LESS RED. THAT MEANS LESS SUGAR METABOLISM BEING BURNED
24 IN THAT AREA. GREEN IS LESS ACTIVITY THAN RED. AND THIS
25 IS A CHARACTERISTIC PATTERN THAT IS CONSISTENT WITH

1 ALZHEIMERS DISEASE.

2 Q ALL RIGHT. SO WE KNOW THAT THIS PATTERN WILL EFFECT
3 BEHAVIOR?

4 A YES.

5 Q AND THE BEHAVIOR WILL MANIFEST ITSELF INTO THOSE
6 SYMPTOMS THAT WE ASSOCIATE WITH ALZHEIMERS?

7 A YEAH, THAT'S CORRECT. AND THIS PATTERN OF ABNORMAL
8 SUGAR METABOLISM IS ASSOCIATED WITH A PATTERN OF ABNORMAL
9 BEHAVIOR BECAUSE IT REFLECTS BRAIN FUNCTION THAT IS NOT
10 WORKING PROPERLY.

11 Q AND IT WOULD BE ABSURD TO SUGGEST THIS PERSON WAS
12 FAKING THIS--

13 MR. HUMPHRIES: I'M GOING TO OBJECT AT THIS
14 POINT REGARDING THE LEADING.

15 THE COURT: SUSTAINED. LEADING.

16 MR. HUMPHRIES: THANK YOU.

17 THE COURT: YOU MAY REPHRASE.

18 BY MR. DIGGS:

19 Q WOULD IT BE ANY WAY FOR THE PATIENT ON THE LEFT TO
20 MANIPULATE AND PRODUCE THAT BRAIN SCAN?

21 A THERE IS NO WAY -- WAY THAT I CAN THINK OF THAT A
22 PATIENT CAN COLLECTIVELY REDUCE SUGAR METABOLATE IN THESE
23 AREAS TO TRY TO MAKE HIS PET SCAN LOOK LIKE AN ALZHEIMERS
24 DISEASE PET SCAN IF HE REALLY DOESN'T HAVE ALZHEIMERS
25 DISEASE.

1 Q NOW, WHEN A PET SCAN IS TAKEN, GO AHEAD -- LET'S GO
2 TO YOUR NEXT SLIDE. GO AHEAD AND EXPLAIN TO US WHAT WE'RE
3 LOOKING AT THERE.

4 A WELL, WHAT WE'RE LOOKING AT HERE IS A
5 THREE-DIMENSIONAL RECONSTRUCTION OF AN ALZHEIMERS DISEASE
6 PATIENT'S PET SCANS COMPARED TO A THREE-DIMENSIONAL
7 RECONSTRUCTION OF A NORMAL CONTROL.

8 AND SO WHAT WE HAVE DONE IS THAT WE HAVE TAKEN ALL OF
9 THE TWO-DIMENSIONAL SLICES THAT ARE PRESENT AND WE
10 DIGITALLY STACKED THEM ONE ON TOP OF THE OTHER SO THAT WE
11 CAN SEE THE RELATIVE RELATIONSHIP OF THE INDIVIDUAL SLICES
12 AS THEY WOULD APPEAR IN THE BRAIN.

13 AND SO IT IS EASIER TO SEE HOW THE DIFFERENT SLICES
14 RELATE WHEN THEY'RE STACKED ON TOP OF EACH OTHER IN A
15 THREE-DIMENSIONAL RECONSTRUCTION.

16 Q ALL RIGHT. LET ME ASK YOU ABOUT THIS COLOR SCALE.
17 HOW -- WHO DETERMINES HOW MUCH ACTIVITY GETS ASSIGNED A
18 PARTICULAR COLOR?

19 A WELL, THE AMOUNT OF ACTIVITY IS DETERMINED BY THE
20 BRAIN AND AMOUNT OF SUGAR THAT'S BEEN CONSUMED. AND WHAT
21 HAPPENS IS THAT DIFFERENT PATTERNS OF DISEASE HAVE
22 DIFFERENT NUMERICAL VALUES OF SUGAR.

23 (PAUSE -- FEEDBACK NOISE IN THE COURTROOM.)

24 THE WITNESS: I'M WONDERING IF THE MIKE I'M
25 USING POSSIBLY...

1 THE COURT: I THINK THEY ARE, BUT WE CAN'T TURN
2 IT OFF. THE JURY WOULDN'T BE ABLE TO HEAR YOU.

3 THE WITNESS: OKAY.

4 THE COURT: WE'LL JUST HAVE TO RIDE IT OUT. IT
5 WILL BE OKAY. YOU MAY CONTINUE.

6 BY MR. DIGGS:

7 Q ALL RIGHT. WE WERE TALKING ABOUT THE ACTIVITY IN THE
8 BRAIN BEING ASSIGNED A PARTICULAR NUMERICAL VALUE.

9 A YES. THE DIFFERENT DISEASES ARE GOING TO BE
10 ASSOCIATED WITH DIFFERENT QUANTITY OF SUGAR BEING CONSUMED
11 NUMERICALLY IN DIFFERENT PORTIONS OF THE BRAIN. SO AN
12 ALZHEIMERS DISEASED PATIENT'S BRAIN THERE IS NUMERICAL
13 DECREASE IN THE AMOUNT OF SUGAR THAT'S CONSUMED IN THIS
14 AREA, AND THIS NUMERICAL DECREASE IS REFLECTED IN THE
15 COLOR PATTERN THAT IS IN THE BOTTOM OF THIS PICTURE.

16 Q OKAY. NOW, ARE THOSE -- DOES A HUMAN ASSOCIATE THAT
17 OR MAKE THAT ASSIGNMENT OR IS THAT DONE BY COMPUTER?

18 A WELL, THIS -- THIS COLOR TABLE AUTOMATICALLY ASSIGNS
19 DIFFERENT COLORS TO DIFFERENT NUMBERS.

20 Q OKAY.

21 A AND NOW, THERE ARE DIFFERENT TYPES OF COLOR SCALES
22 THAT ONE CAN CHOOSE, BUT ONCE ONE CHOOSES A COLOR SCALE,
23 FOR EXAMPLE, RAINBOW COLOR SCALE, THEN THE COMPUTER WILL
24 SAY, OKAY, IF YOU'RE CHOOSING A RAINBOW COLOR SCALE, THE
25 COMPUTER WILL AUTOMATICALLY ASSIGN HIGH NUMERICAL SUGAR

1 CONCENTRATION TO THE HOT COLORS, RED, AND LOW NUMERICAL
2 SUGAR CONSUMPTION TO COLD COLORS LIKE BLUE.

3 Q ALL RIGHT. HAVE YOU EVER SEEN ANY OF THE DATA THAT'S
4 RETURNED FROM NASA'S, LIKE, MARS ROVER OR ANYTHING LIKE
5 THAT?

6 A YES.

7 Q JUST A BUNCH OF NUMBERS?

8 A YES, IT'S A SERIES OF ZEROS AND ONES.

9 Q IS THAT SIMILAR TO WHAT WE HAVE HERE?

10 A WELL, YES. ON A DIGITAL LEVEL ESSENTIALLY, IMAGING,
11 WHETHER IT'S PET IMAGING, MRI IMAGING, THEY ARE
12 ESSENTIALLY A SERIES OF ZEROS AND ONES.

13 Q OKAY. SO GO AHEAD WITH YOUR PRESENTATION, DR. WU.

14 A SO WHAT WE DO IS THAT WE TAKE THOSE ZEROS AND ONES
15 AND WE BASICALLY FIGURE OUT, WELL, HOW MANY ZEROS AND ONES
16 MAKE UP HOW MUCH SUGAR, AND THEN HOW MUCH SUGAR WILL THEN
17 DETERMINE WHAT COLOR WAS -- THE COMPUTER WILL ASSIGN.

18 SO IF THERE'S A LOW AMOUNT OF SUGAR, THE COMPUTER
19 WILL ASSIGN A COLD COLOR. IF THERE'S A HIGH AMOUNT OF
20 SUGAR, THE COMPUTER WILL ASSIGN A HOT COLOR IN THIS CASE.
21 AND SO THIS IS A THREE-DIMENSIONAL DEPICTION OF THE SAME
22 DATA THAT WAS IN THE TWO-DIMENSIONAL SLICES.

23 AND WHAT WE SEE HERE IS THAT ALZHEIMERS DISEASE
24 PATIENTS SHOW A DECREASE IN THIS AREA OF THE BRAIN RIGHT
25 HERE COMPARED TO THAT OF AGE-MATCHED NORMALS.

1 Q WHAT DO WE HAVE NEXT?

2 A WELL, SO NOW WHAT WE HAVE HERE IS SOME OF THE OTHER
3 USES OF PET SCANNING TO SHOW THAT PET SCANNING IS VERY
4 RELIABLE AS A MEDICAL IMAGING TOOL, AND IT'S USED, FOR
5 EXAMPLE, BY CANCER SPECIALISTS TO DETERMINE WHETHER OR NOT
6 THEY SHOULD RE-ADMINISTER RADIATION THERAPY.

7 AND SO THE FACT THAT PET SCANS ARE USED TO HELP
8 CANCER SPECIALISTS MAKE THESE KINDS OF LIFE OR DEATH
9 MEDICAL DECISIONS, SHOULD YOU GIVE A CANCER PATIENT MORE
10 RADIATION TREATMENT OR NOT, IS AN INDICATION THAT THE
11 MEDICAL COMMUNITY CONSIDERS PET SCANNING TO BE HARD
12 SCIENCE, SOMETHING THAT IS VERY RELIABLE.

13 Q I WAS JUST GOING TO ASK YOU IN THE TREATMENT OF
14 PATIENTS, OF COURSE, IT WOULD BE ROUTINE, WOULD IT NOT,
15 FOR A PHYSICIAN TREATING A CANCER PATIENT TO MAKE
16 DECISIONS ABOUT THAT PERSON'S TREATMENT ON THE RESULTS OF
17 A PET SCAN?

18 A YES. IT IS A ROUTINE FOR A CANCER SPECIALIST TO MAKE
19 DECISIONS, LIFE OR DEATH MEDICAL DECISIONS, BECAUSE THEY
20 VIEW THE INFORMATION COMING FROM A PET SCAN AS MEDICALLY
21 AND SCIENTIFICALLY RELIABLE.

22 Q HOW LONG HAS THAT BEEN THE CASE HERE IN THE UNITED
23 STATES?

24 A WELL, THE FACT THAT WE HAD OVER 20 YEARS WORTH OF
25 SCIENTIFIC PUBLICATIONS, LITERALLY THOUSANDS OF SCIENTIFIC

1 AND MEDICAL PUBLICATIONS, INDICATE THAT THE SCIENTIFIC AND
2 MEDICAL COMMUNITY CONSIDER PET SCANNING TO BE RELIABLE IN
3 TERMS OF ITS ABILITY TO MEASURE BRAIN FUNCTION OR BRAIN
4 ACTIVITY.

5 Q ALL RIGHT. AND SO ARE THE -- LET ME -- LET ME BACK
6 UP AND ASK YOU THIS. WHAT ARE WE LOOKING AT WITH THIS
7 PARTICULAR SIGN?

8 A THIS IS JUST LIKE -- THAT PET SCAN CAN BE USED LIKE
9 IN OTHER CONDITIONS SUCH AS PARKINSON'S DISEASE.

10 Q GO AHEAD.

11 A IT CAN BE USED -- OKAY -- EPILEPSY.

12 Q ALL RIGHT. SHOW US WHAT WE HAVE HERE. WHAT'S
13 HAPPENING ON THE -- THIS PARTICULAR SLIDE?

14 A WELL, IN EPILEPTIC PATIENTS YOU CAN HAVE TOO MUCH
15 ACTIVITY. SO IN THE MIDDLE OF A SEIZURE YOU CAN HAVE AN
16 ABNORMAL LEVEL OF ACTIVITY. AND SO WHAT -- AND SO THIS IS
17 JUST TO ILLUSTRATE THAT HE HAS A NORMAL RATE OF ACTIVITY
18 AND TOO MUCH OR TOO LITTLE CAN BE AN INDICATION OF A
19 CLINICAL ABNORMALITY.

20 Q AND THIS -- THIS EXCESSIVE ACTIVITY--

21 A YES.

22 Q -- YOU CAN ASSOCIATE WITH BEHAVIOR--

23 A YES.

24 Q -- IN THE FORM OF A SEIZURE?

25 A YES. AND FOR EXAMPLE, SOME FORMS OF SEIZURES RESULT

1 IN DISTURBANCES IN THINKING, DISTURBANCES IN ACTIONS. AND
2 SO PEOPLE CAN SOMETIMES HAVE FUNNY THOUGHTS, THEY CAN
3 BEHAVE IN FUNNY WAYS WHEN THEY ARE HAVING THIS SEIZURE
4 BECAUSE THE BRAIN IS DRIVING THOSE KIND OF THOUGHTS AND
5 BEHAVIORS.

6 Q OKAY. WHAT DO WE HAVE NEXT ON THE PRESENTATION?

7 A OKAY. AND THEN THESE ARE JUST SOME EXAMPLES--

8 Q ALL RIGHT. LET'S LOOK AT -- LET'S LOOK AT THAT FOR A
9 SECOND. EXPLAIN TO ME WHAT IS HAPPENING.

10 A WELL, WHAT WE HAVE HERE IS EXAMPLE OF SOMEONE WHO --
11 WITH WHAT WE CALL A CLOSED-HEAD INJURY. THIS IS SOMEONE,
12 FOR EXAMPLE, WHO HAS BEEN IN A MOTOR VEHICLE ACCIDENT AND
13 MAYBE THEIR HEAD STRUCK THE DASHBOARD AND THEY MIGHT HAVE
14 A PERFECTLY NORMAL CAT SCAN BECAUSE THIS STRUCTURE OF THE
15 BRAIN IS INTACT, BUT THE FUNCTIONING OF THE BRAIN IS
16 ABNORMAL. AND SO IN THIS CASE WE HAVE AN ABNORMALLY LOW
17 FUNCTIONING--

18 Q YES. SHOW US SPECIFICALLY WHERE YOU'RE SAYING WE
19 HAVE ABNORMAL FUNCTIONS.

20 A WELL, IT WOULD BE IN THIS AREA RIGHT HERE, RIGHT
21 WHERE WE SEE THIS BLUE AREA RIGHT THERE AND RIGHT THERE.

22 Q SO WE'RE SIMPLY COMPARING THAT BLUE AREA WITH THE
23 RED--

24 A IN THE NORMAL CONTROL.

25 Q -- IN THE NORMAL CONTROL?

1 A YES, UH-HUH.

2 Q NOW, LET'S EXPLAIN WHAT WE HAVE HERE, THE
3 SCHIZOPHRENIA.

4 A WELL, THIS IS JUST AN ILLUSTRATION THAT IN
5 SCHIZOPHRENIC PATIENTS OR CERTAIN PSYCHIATRIC DISORDERS WE
6 CAN SEE AN ABNORMAL DECREASE IN FRONTAL LOBE ACTIVITY,
7 MORE GREEN HERE COMPARED TO THE RED HERE IN NORMAL
8 CONTROLS. THIS IS ALSO A THREE-DIMENSIONAL VIEW.

9 Q ALL RIGHT. LET ME ASK YOU, HOW ARE -- THERE ARE
10 DIFFERENT METHODS FOR INTERPRETING THIS OR VIEWING THIS
11 DATA; IS THAT CORRECT?

12 A YES.

13 Q QUALITATIVE AND QUANTITATIVE?

14 A YES.

15 Q TELL US WHAT THEY ARE AND HOW THEY DIFFER.

16 A WELL, I WOULD SAY THAT QUALITATIVE IS WHEN YOU TAKE
17 SOMEONE WHO IS EXPERIENCED IN -- WITH THE DISEASE AND WITH
18 THE SPECIFIC TECHNIQUE, AND THEY USE THEIR EXPERIENCE
19 IN -- WITH THAT SPECIFIC TECHNIQUE AND DISEASE TO SAY,
20 WELL, THIS SCAN LOOKS ABNORMAL BASED ON MY CLINICAL
21 EXPERIENCE.

22 AND QUANTITATIVE IS A WAY OF TRYING TO USE
23 STATISTICAL MEASUREMENTS TO TRY AND DETERMINE WHETHER OR
24 NOT THERE ARE ABNORMALITIES.

25 Q SO WHEN WE LOOK AT THIS PARTICULAR -- OR SLIDE, ARE

1 WE LOOKING AT QUALITATIVE, QUANTITATIVE, A COMBINATION OF
2 BOTH, OR WHAT?

3 A WELL, THE INFORMATION IS QUANTITATIVE, BUT WE HAVEN'T
4 USED STATISTICS TO MAKE THE DETERMINATION OF -- WHAT I
5 HAVE DONE IS I HAVE USED MY CLINICAL EXPERIENCE WITH
6 LOOKING AT LOT OF THIS KIND OF CPT PET SCAN IN
7 NEUROPSYCHIATRIC DISORDERS AND TO DETERMINE WHETHER OR NOT
8 THERE'S AN ABNORMALITY.

9 Q ALL RIGHT. LET'S GO TO THIS CASE. WHAT WERE YOU
10 ASKED TO DO IN MR. STANKO'S CASE?

11 A WELL, IN MR. STANKO'S CASE I WAS ASKED TO REVIEW THE
12 PET SCAN THAT WAS DONE AT MUSC WITH DR. EINHORN PRESENT
13 WHO ADMINISTERED THE CPT TEST DURING THE UPTAKE.

14 Q ALL RIGHT. AND WHAT HAPPEN -- DID YOU -- HOW DID YOU
15 GO ABOUT DOING THAT?

16 A WELL, MUSC SENT ME A CD WITH THE INFORMATION IN WHAT
17 WE CALL DICOM FORMAT. DICOM FORMAT IS A -- A FILE
18 FORMATTING SYSTEM THAT IS INDEPENDENT OF WHAT WE CALL
19 PROPRIETARY SYSTEM THAT MOST MEDICAL IMAGING DEVICES HAVE.

20 MOST MEDICAL IMAGING DEVICES MADE, FOR EXAMPLE, BY A
21 PARTICULAR COMPANY. BEFORE DICOM YOU COULDN'T READ, SAY,
22 A PET SCAN FIRED ON A GE MACHINE ON A C MACHINE OR CTI
23 MACHINE.

24 AND SO PEOPLE CAME UP WITH DICOM AS A WAY FOR A
25 DOCTOR AT ONE CENTER TO BE ABLE TO READ THE DATA FROM A

1 SPECIFIC BRAND THAT WASN'T THE ONE THAT HIS CENTER USED.
2 AND SO DICOM IS A COMMON INTERCHANGEABLE FILE FORMATTING
3 SYSTEM THAT IS USED BETWEEN DIFFERENT CENTERS. AND SO I
4 RECEIVED THE INFORMATION IN A DICOM FORMATTED FILE.

5 Q AND DID YOU REVIEW THAT INFORMATION?

6 A YES, I DID.

7 Q AND DO YOU -- DID YOU FORM AN OPINION IN THIS CASE
8 WITH USE OF THE PET SCAN DATA?

9 A YES, I DID.

10 Q ABOUT THE FUNCTION OF MR. STANKO'S BRAIN?

11 A YES, I DID.

12 Q AND WHAT IS THAT OPINION?

13 A WELL, MY OPINION IS THAT MR. STANKO HAS AN ABNORMAL
14 BRAIN PET SCAN AND THAT HIS ABNORMALITY RESIDES IN AN AREA
15 WHICH WE REFER TO AS THE VENTRAL FRONTAL LOBE AREA. THAT
16 IS, THIS IS AN AREA NEAR THE BASE OF THE FRONTAL LOBE,
17 NEAR THE -- THE BOTTOM OF THE FRONTAL LOBE AREA, AND THAT
18 THE RATIO OF ACTIVITY OF THIS LOW FRONTAL LOBE AREA
19 COMPARED TO REFERENCE REGIONS IN THE BACK WAS ABNORMAL AND
20 CONSISTENT WITH SOME TYPE OF FRONTAL LOBE ABNORMALITY.

21 Q ALL RIGHT. CAN WE LOOK AT IT?

22 A YES. NOW, I HAVE STILLS HERE FROM A
23 THREE-DIMENSIONAL CD.

24 Q ALL RIGHT. LET'S LOOK AT THIS ONE JUST FOR A SECOND.
25 TELL US WHAT WE'RE LOOKING AT HERE.

1 A WELL, THIS IS A STILL FROM THE 3D DEPICTION THAT WE
2 HAVE. AND WHAT WE'RE SEEING HERE IS THREE-DIMENSIONAL
3 RECONSTRUCTION OF MR. STANKO'S PET SCAN ON THE LEFT SIDE
4 AND A NORMAL CONTROL ON THE RIGHT SIDE.

5 AND THE PRIMARY AREA OF ABNORMALITY IS THIS AREA
6 RIGHT DOWN HERE, RIGHT NEAR THE BASE OF THE BRAIN. AND IF
7 WE LOOK AT IT UP HERE, YOU CAN SEE IT'S PRESENT RIGHT
8 HERE. AND THIS BLUE AREA OF THE BRAIN HERE COMPARED TO A
9 NORMAL CONTROL AVERAGE SHOWS RED.

10 YOU CAN SEE HERE ON THE COLOR SCALE HERE THAT BLUE IS
11 APPROXIMATELY 80 PERCENT LOWER, IT'S 70 TO 80 PERCENT
12 LOWER THAN THE RED IN THIS AREA, SO...

13 Q HOW MUCH LOWER?

14 A I WOULD SAY SOMEWHERE BETWEEN 50 TO 80 PERCENT LOWER
15 THAN--

16 Q FIFTY TO 80 PERCENT?

17 A YES, 50 TO 80 PERCENT LOWER THAN A NORMAL.

18 Q FIFTY TO 80 PERCENT LOWER?

19 A YES, THAT'S CORRECT.

20 Q ALL RIGHT. NOW, DR. WU, DO WE HAVE A VIDEO?

21 A YES, WE HAVE A VIDEO.

22 Q CAN YOU PUT ALL OF THESE SLICES TOGETHER AND RUN A
23 MOVIE?

24 A YES, I CAN.

25 Q CAN WE DO THAT WITH MR. STANKO'S PET SCAN?

1 A YES. THIS MAY TAKE A MINUTE FOR THE VIDEO TO BOOT
2 UP.

3 Q THANK YOU. AND HOW LONG IS THIS VIDEO, BY THE WAY?

4 A THE VIDEO IS ABOUT FOUR OR SLIGHTLY OVER FOUR
5 MINUTES.

6 Q ALL RIGHT. AND THERE'S NO AUDIO?

7 A THERE'S NO AUDIO, THAT'S CORRECT.

8 Q CAN YOU MAKE THAT FULL SCREEN?

9 A YES.

10 Q OKAY. AND I WANT YOU TO TALK US THROUGH THIS, DR.
11 WU. I MAY ASK YOU TO STOP IT FROM TIME TO TIME. BUT
12 EXPLAIN TO US WHAT WE'RE LOOKING AT IN THIS--

13 A YES.

14 Q -- MOVIE.

15 A WHAT WE'RE LOOKING AT HERE IS MR. STANKO'S
16 THREE-DIMENSIONAL PET SCAN ON THE LEFT SIDE AND A NORMAL
17 CONTROL AVERAGE ON THE RIGHT SIDE. AND SO WHAT WE'RE
18 SEEING HERE IS HIS BRAIN FROM DIFFERENT ANGLES OR VIEWS
19 COMPARED TO THAT OF A NORMAL CONTROL.

20 Q COULD I ASK A QUESTION? THE HIGHER CORTICAL LEVELS
21 WOULD BE HERE? AM I CORRECT THERE?

22 A WELL, LET'S SEE. WE HAVE THIS AREA OF THE BRAIN
23 WHICH IS WHAT WE CALL THE VENTRAL FRONTAL LOBE AREA, AND
24 THEN WE ALSO HAVE OTHER FRONTAL LOBE AREAS WHICH ARE --
25 APPEAR TO BE INTACT IN MR. STANKO, SO THE HIGHER FRONTAL

1 LOBE AREAS APPEAR TO BE INTACT.

2 Q ALL RIGHT. NOW, IS THAT HOW DR. EINHORN CAN DO TESTS
3 AND GET NORMAL RESULTS?

4 A YES.

5 Q OKAY.

6 A THE TEST THAT DR. EINHORN DOES INVOLVE TESTS OF WHAT
7 WE CALL THE HIGHER FRONTAL LOBE AREAS, THE -- THIS SIDE
8 HERE. SO THESE INCLUDE TESTS SUCH AS WISCONSIN CARD SORT
9 TEST, OR TRAILS A, TRAILS B. AND MR. STANKO'S PET SCAN
10 SHOWS THAT THOSE AREAS OF HIS BRAIN ARE PERFECTLY NORMAL.

11 THE AREA OF ABNORMALITY IS -- AREA OF THE FRONTAL
12 LOBE WHICH IS ANY AREA THAT IS NOT TESTED BY ANY OF DR.
13 EINHORN'S TESTS.

14 Q ALL RIGHT. DID YOU STOP THAT? LET'S CONTINUE IT ON.

15 A YES. AS YOU CAN SEE FROM DIFFERENT ANGLES HERE THAT
16 MOST OF MR. STANKO'S BRAIN APPEARS TO LOOK FAIRLY SIMILAR
17 TO THE NORMAL. IT'S REALLY ONLY IN THIS PORTION HERE, THE
18 BOTTOM OF THE FRONTAL LOBE AREA THAT -- WHERE WE HAVE THIS
19 BLUE AREA THAT WE SEE THAT HE SHOWS AN ABNORMALITY.

20 AND -- AND SO IF WE LOOK AT IT FROM THE RIGHT SIDE
21 YOU CAN SEE THAT THERE IS AN ABNORMAL DECREASE IN THE
22 FRONTAL LOBE ACTIVITY THERE.

23 Q SO WE'RE LOOKING -- THIS LITTLE MAN DIRECTS US --
24 WHAT -- WE CAN USE HIM TO TELL US WHERE WE'RE LOOKING AT
25 WITH RESPECT TO THE BRAIN?

1 A YES.

2 Q ORIENTATION--

3 A THIS LITTLE MAN HERE IS TO HELP ORIENT THE JURORS TO
4 WHAT YOU WERE SEEING. SO FOR EXAMPLE, WHEN THIS LITTLE
5 MAN IS FACING THIS WAY, WE KNOW THAT WE'RE LOOKING AT A
6 LEFT PROFILE VIEW.

7 Q YES, SIR.

8 A AND ON THE LEFT PROFILE VIEW WE CAN SEE THAT BASE OF
9 THE FRONTAL LOBE AREA HERE IS BLUISH COMPARED TO THE
10 NORMAL CONTROL AVERAGE THERE.

11 Q OKAY. START IT UP AGAIN, IF YOU WOULD.

12 A YES. YOU CAN SEE HERE THAT IT'S GOING BY THAT CLOCK
13 THERE.

14 Q YES, SIR.

15 A OKAY. NOW, HERE, WHAT WE'RE SEEING HERE IS BOTH THE
16 LEFT AND THE RIGHT HEMISPHERE VIEWS SHOWN SIMULTANEOUSLY.
17 AND SO YOU CAN SEE THAT THERE'S THIS DECREASE IN THE BASE
18 OF THE RIGHT FRONTAL LOBE HERE AND A DECREASE IN THE LEFT
19 FRONTAL LOBE AREA HERE.

20 NOW, THIS IS A FRONTAL VIEW, AND SO WE'RE LOOKING AT
21 MR. STANKO'S PET SCAN FROM THE FRONT AS YOU CAN SEE IT
22 FROM THE MODEL HERE.

23 Q YES.

24 A WE CAN SEE THAT THERE IS DECREASE ON BOTH SIDES OF
25 MR. STANKO'S BRAIN.

1 Q WHAT HAPPENS IF WE TURN -- THERE WE GO. ALL RIGHT.
2 CAN YOU STOP THAT?

3 A YES.

4 Q WHAT ARE WE LOOKING AT HERE?

5 A WELL, WHAT WE HAVE DONE HERE IS THAT WE HAVE TILTED
6 MR. STANKO'S BRAIN BACK SO THAT YOU CAN SEE THE BASE OR
7 THE BOTTOM...

8 Q GO AHEAD.

9 A -- OF HIS FRONTAL LOBE ACTIVITY. AND YOU CAN SEE
10 HERE THAT THE BASE OF HIS FRONTAL LOBE SHOWS A SIGNIFICANT
11 DECREASE COMPARED TO THAT OF THE NORMAL CONTROL AVERAGE.

12 Q THERE IS NO RED ON MR. STANKO AT ALL.

13 A THAT'S CORRECT. IN THE BASE OF HIS FRONTAL LOBE AREA
14 HE SHOWS AN ABNORMALLY LOW FRONTAL LOBE LEVEL OF ACTIVITY.

15 Q HOW MUCH -- HOW MUCH LOWER?

16 A I WOULD SAY IT'S -- PROBABLY ABOUT 50 PERCENT LOWER,
17 AT LEAST.

18 Q 50 PERCENT LOWER?

19 A YES, UH-HUH.

20 Q SO THE FRONTAL AREA, THE AREA THAT WE LOOKED AT FROM
21 THE SIDE--

22 A YES.

23 Q -- IS 50 TO 80 PERCENT?

24 A YES.

25 Q AND THIS IS ABOUT 50 PERCENT?

1 A I WOULD SAY 50 PERCENT, IN SOME AREAS MAY BE GREATER.

2 Q 50 PERCENT OR GREATER?

3 A YES, UH-HUH.

4 Q ALL RIGHT. START IT UP AGAIN, IF YOU WOULD, PLEASE
5 SIR.

6 THE COURT: DOCTOR, WOULD YOU MAKE SURE THAT THE
7 MIKE IS OFF ON YOUR LAPTOP? I SEEM TO THINK THAT
8 YOUR MIKE AND THE MIKE ON THE COMPUTER MAY BE CAUSING
9 THE REVERBERATION.

10 THE WITNESS: THERE IS NO SOUND. AND--

11 THE COURT: WE JUST WANTED TO MAKE SURE. TRYING
12 TO FIGURE OUT.

13 THE WITNESS: I KNOW IT'S--

14 THE COURT: OH, NO. NO. WE'RE FINE. I JUST
15 WANTED TO MAKE SURE IF WE COULD RESOLVE IT. I'M
16 SORRY, MR. DIGGS. I DIDN'T MEAN TO INTERRUPT YOU.

17 MR. DIGGS: OKAY.

18 BY MR. DIGGS:

19 Q WOULD YOU START THAT UP, PLEASE SIR?

20 A YES. AND SO WE LOOK AT THE BACK OF MR. STANKO'S
21 BRAIN, THE BACK OF HIS BRAIN SEEMS TO BE FAIRLY SIMILAR TO
22 THAT OF A NORMAL SUBJECT'S. AND SO REALLY WHAT WE'RE
23 SEEING IS THAT IT'S JUST THIS PORTION OF THE BRAIN THROUGH
24 THE BASE OF THE FRONTAL LOBE AREA OF THE BRAIN THAT IS
25 ABNORMAL IN MR. STANKO.

1 Q ALL RIGHT. ALL RIGHT. EXPLAIN THIS FOR US.

2 A WELL, WHAT WE'RE SEEING HERE AND WHAT WE'LL SEE IS
3 WE'LL SEE AS WE ARE SLICING THE BRAIN ON A MILLIMETER BY
4 MILLIMETER BASIS WE'RE SORT OF DIGITALLY SLICING DOWN THE
5 BRAIN LOWER AND LOWER FROM -- SO THAT AS IF WE TOOK A
6 METAPHORICAL BUZZSAW AND WE'RE SLICING FROM THE TOP OF THE
7 BRAIN DOWN THIS WAY AND WE'RE LOOKING AT DIFFERENT SLICES
8 AS WE SLICE AWAY...

9 Q THROUGH THE BRAIN?

10 A AS WE SLICE AWAY THROUGH THE BRAIN.

11 Q START THAT UP. KEEP GOING.

12 A OKAY. AND NOW WE'RE GETTING TOWARDS THE BASE OF THE
13 BRAIN AT THIS LEVEL HERE. AND YOU CAN SEE HERE, THIS IS
14 NORMAL CONTROL SUBJECT HERE. AND WE CAN SEE THAT THERE IS
15 THIS DECREASE OF ACTIVITY IN THE FRONTAL LOBE IN THE BASE
16 OF THE FRONTAL LOBE COMPARED TO THE HIGHER UP AREAS, SO IF
17 IT HAD GONE -- GONE BACK UP HIGHER.

18 Q START THE MOVEMENT AGAIN.

19 A SEE, SO AS YOU CAN SEE, HIGHER UP THE -- THERE IS NO
20 DIFFERENCE. IT'S ONLY AS WE START TO GO LOWER DOWN.

21 Q KEEP GOING.

22 A AS WE START TO GO LOWER DOWN THAT WE START TO SEE--

23 Q KEEP GOING. YES, SIR. KEEP GOING. STOP. CAN YOU
24 BACK IT UP JUST A FEW?

25 A YEAH, I CAN BACK UP JUST A LITTLE BIT HERE.

1 Q ALL RIGHT. LET'S LOOK AT THAT. THE ENTIRE AREA IS
2 IN BLUE.

3 A YEAH.

4 Q COMPARE THAT TO THE NORMAL CONTROL AND TELL US WHAT'S
5 THE DIFFERENCE.

6 A WELL, THIS INDICATE THAT THE FRONTAL LOBE, THE BASE
7 OF THE FRONTAL LOBE HAS A MUCH LOWER LEVEL OF SUGAR
8 METABOLISM THAN THE NORMAL CONTROL AVERAGE.

9 Q WHICH MEANS IN FUNCTIONAL TERMS...

10 A WELL, IN FUNCTIONAL TERMS THE FRONTAL LOBE IS
11 INVOLVED WITH THINGS SUCH AS--

12 Q WELL, IT'S NOT WORKING?

13 A IT'S NOT WORKING, THAT'S CORRECT.

14 Q ALL RIGHT. AND WHAT WOULD BE THE RESULT -- HOW WOULD
15 THAT HAVE AN EFFECT ON SOMEONE'S BEHAVIOR?

16 A WELL, LET'S SEE. THE FRONTAL LOBE IS A VERY
17 IMPORTANT PART OF THE BRAIN FOR HELPING TO REGULATE
18 IMPULSES AND FOR EXERCISING PROPER JUDGMENT.

19 SO FOR EXAMPLE, WE KNOW FROM A FAMOUS STUDY OF
20 VIETNAM VETS WHO SUFFER FROM HEAD INJURIES THAT IF YOU
21 LOOK AT A LARGE NUMBER OF VIETNAM VETS WHO SUFFERED HEAD
22 INJURIES AND YOU COMPARED THOSE VETS WHO HAD FRONTAL LOBE
23 INJURIES, WHICH IS THOSE SUCH THAT HAD THE SAME SIZE
24 INJURY THAT OTHER PARTS OF BRAIN, TEMPORAL AND OCCIPITAL
25 LOBE AREAS, THE VETS WITH THEIR FRONTAL LOBE INJURIES WERE

1 GOING TO BE ANYWHERE FROM TWO TO SIX TIMES MORE VIOLATIVE
2 OR AGGRESSIVE THAN VETS WHO HAD INJURIES IN THE OCCIPITAL
3 TEMPORAL LOBE AREA. AND SO THIS IS ONE EXAMPLE.

4 WE ALSO NOTE, FOR EXAMPLE, FROM STUDY OF STROKE
5 VICTIMS THAT IF YOU HAVE A STROKE IN THE FRONTAL LOBE AREA
6 OF THE BRAIN, THE CLOSER YOU GET TOWARDS THIS FRONTAL LOBE
7 AREA, THE MORE AGGRESSIVE STROKE PATIENTS ARE LIKELY TO
8 BE.

9 THEY ARE MORE LIKELY TO BE MORE IRRITABLE, MORE
10 TEMPERAMENTAL, MORE AGGRESSIVE, MORE DISINHIBITED COMPARED
11 TO THE SAME SIZE STROKE IF THE STROKE WERE FURTHER BACK IN
12 THE BRAIN.

13 Q ALL RIGHT. CONTINUE ON. WOULD YOU START UP THE
14 VIDEO AGAIN?

15 A AND SO THESE ARE WHAT WE CALL AXIO SLICES. NOW WE
16 WILL SHOW SLICES FROM WHAT WE CALL A SAGGITAL PERSPECTIVE.
17 A SAGGITAL PERSPECTIVE IS WHEN WE -- IT TAKES OUR BUZZSAW
18 AND INSTEAD OF CUTTING FROM TOP TO BOTTOM, IT'S AS IF YOU
19 ROTATE THE BUZZSAW 90-DEGREES.

20 NOW WE'RE CUTTING FROM THIS WAY. AND SO YOU'RE
21 LOOKING AT A SIDE VIEW OF THE BRAIN HERE AND YOU CAN SEE
22 FROM THE MODEL HERE--

23 Q YES, SIR.

24 A -- THIS IS A SIDE-VIEW OF THE BRAIN.

25 Q GOING FROM THE RIGHT OVER TO THE LEFT?

1 A GOING FROM THE RIGHT TO THE LEFT.

2 Q OKAY.

3 A SEE? AND THEN YOU CAN SEE HERE THAT -- THAT THERE IS
4 SOME -- LET'S SEE -- A DECREASE IN THE PORTION OF THE
5 FRONTAL LOBE AREA IS HERE COMPARED TO THIS, AND THEN HERE
6 WE'RE SEEING THAT THERE IS A DECREASE IN THE BASE OF THE
7 FRONTAL LOBE AREA.

8 SO AGAIN, IT'S THIS FLOOR OF THE FRONTAL LOBE, THE
9 BASE OF THE FRONTAL LOBE, NOT THE HIGHER PART OF THE
10 FRONTAL LOBE WHICH IS WHERE DR. EINHORN'S TESTING TESTED
11 FUNCTION FOR THE HIGHER PART OF THE FRONTAL LOBE.

12 THERE AREN'T VERY GOOD NEUROPSYCHOLOGICAL TESTS FOR
13 THE FLOOR OF THE FRONTAL LOBE. THE PET SCAN'S ACTUALLY
14 ONE OF THE BEST WAYS FOR LOOKING AT THE FUNCTION OF THE
15 FLOOR OR BASE OF THE FRONTAL LOBE.

16 Q WELL IN FACT, IS THERE ANY OTHER WAY TO LOOK AT IT?

17 A THERE ARE OTHER METHODS SUCH AS QUANTITATIVE MRIS
18 THAT ONE CAN USE TO LOOK AT THIS, SO THAT WOULD BE ANOTHER
19 WAY OF LOOKING AT THIS.

20 Q ALL RIGHT. CONTINUE ON. LET'S FINISH UP THE MOVIE
21 OR GO TO THE -- START IT UP AGAIN, IF YOU WOULD.

22 A AND SO AGAIN--

23 Q DO YOU HAVE -- CAN I ASK YOU IF YOU HAVE AN OPINION
24 ABOUT THE PERCENTAGE OF REDUCTION OF ACTIVITY IN THAT
25 AREA?

1 A YES. I WOULD SAY IT IS A CLINICALLY SIGNIFICANT
2 LEVEL OF DECREASE IN FRONTAL LOBE ACTIVITY, THAT THIS IS A
3 LEVEL OF DECREASE THAT WOULD BE CONSISTENT WITH SOMEONE
4 WHO HAD A SIGNIFICANT DEVELOPMENTAL PROBLEM WITH THE
5 FRONTAL LOBE NOT DEVELOPING PROPERLY. IT WOULD ALSO--

6 Q I'M SORRY TO INTERRUPT, BUT I WANTED YOU TO STOP.
7 WE'VE GONE INTO -- CAN YOU BACK IT UP AND LET'S PICK IT
8 UP?

9 A SURE.

10 Q AND THEN I'LL LET YOU FINISH THE THOUGHT THAT YOU
11 HAD. ALL RIGHT. EXPLAIN WHAT'S HAPPENING HERE.

12 A OKAY. SO NOW -- SO OUR FIRST SLICE IS WE'RE GOING
13 FROM THE TOP OF THE BRAIN DOWN AND THEN OUR SECOND SERIES
14 OF SLICES WE ROTATED OUR METAPHORICAL BUZZSAW AND WE ARE
15 GOING FROM LEFT TO RIGHT.

16 NOW WE'VE ROTATED OUR METAPHORICAL BUZZSAW AGAIN SO
17 THAT WE'RE NOW GOING FROM THE FACE TO THE BACK. AND SO
18 WHAT WE'RE GOING TO SEE NOW ARE VIEWS OF THE BRAIN FROM
19 THE FACE GOING BACKWARDS TO THE BACK OF THE HEAD.

20 Q ALL RIGHT.

21 A AND SO YOU CAN SEE HERE THAT THIS IS FROM THE FACE
22 HERE, AND SO WE'RE LOOKING AT THE BRAIN FROM THREE
23 DIFFERENT ANGLES HERE.

24 Q AND SO ALREADY WE'RE LOOKING RIGHT BEHIND WHAT WOULD
25 BE RIGHT BEHIND THE EYES?

1 A YES. AND YOU CAN SEE IT, ESPECIALLY THIS FLOOR OF
2 THE FRONTAL LOBE AREA, AND YOU CAN SEE THAT IT SEEMS TO BE
3 EVEN MORE PROMINENT HERE BY THE LEFT SIDE THAN THE RIGHT
4 SIDE--

5 Q YES, SIR.

6 A -- IN MR. STANKO.

7 Q NOW, WE'LL GET TO THAT IN JUST A MINUTE. AND I'M
8 ALMOST THROUGH, DR. WU. BUT CONTINUE ON, LET'S LOOK AT
9 THIS. AND THEN I'LL ASK YOU ABOUT IT.

10 A AND SO NOW WE FINISH CUTTING BACK, AND MOST OF THE
11 REST OF THE BRAIN IS -- IS PERFECTLY NORMAL, JUST THIS
12 BASE OF THE FRONTAL LOBE AREA THERE WHICH HAS A
13 SIGNIFICANT ABNORMALITY.

14 Q CAN YOU GIVE ME AN IDEA IN TERMS OF PERCENTAGE WHEN
15 WE LOOKED AT THAT LEFT FRONTAL LOBE IN THAT LAST SEGMENT,
16 THE PERCENTAGE OF REDUCED ACTIVITY IN THAT AREA OF HIS
17 BRAIN?

18 A WELL, I WOULD SAY THAT IT LOOKED LIKE IT WAS AT LEAST
19 50 PERCENT OR MORE GREATER DECREASE.

20 Q AND IS THAT KIND OF JUDGMENT SOMETHING THAT YOU DO
21 REGULARLY IN YOUR PRACTICE AND IN YOUR POSITION AS A
22 CLINICAL DIRECTOR OF THE BRAIN IMAGING CENTER?

23 A YES, IT IS.

24 Q ALL RIGHT. IS IT SOMETHING YOU'RE -- YOU FEEL
25 COMFORTABLE IN TELLING US?

1 A YES. NOW, I FEEL COMFORTABLE BECAUSE I HAVE SEEN
2 THOUSANDS OF BRAIN PET SCANS USING THIS CPT TEST IN
3 NEUROPSYCHIATRIC PATIENTS.

4 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS DEFENSE EXHIBIT
5 NUMBER ONE. HAVE YOU SEEN THIS?

6 A YES, I HAVE.

7 Q AND WHAT DO YOU UNDERSTAND IT TO BE?

8 A THIS IS DR. RUBEN GUR'S VOLUMETRIC MEASUREMENT OF
9 BRAIN -- FOR THE BRAIN.

10 Q AND WHERE WAS THE DATA GATHERED FOR THAT PARTICULAR
11 ASSESSMENT, IF YOU KNOW?

12 A MY UNDERSTANDING IS THAT HE USED MUSC DATA.

13 Q OKAY. AND IS THIS DIAGRAM CONSISTENT WITH WHAT YOU
14 OR -- COMPARE THE TWO, THIS DIAGRAM, THE MRI, AND THE PET
15 SCAN. WHAT CAN WE GATHER, WHAT CONCLUSION CAN WE REACH
16 FROM THESE TWO SOURCES, THESE TWO TYPES OF SCANS?

17 A WELL, WHAT THIS SHOWS IS THAT MR. STANKO HAD A
18 SIGNIFICANT BRAIN ABNORMALITY USING TWO DIFFERENT MEASURES
19 OF THE BRAIN THAT HE SHOWS BRAIN ABNORMALITIES ON PET
20 SCANS WHICH MEASURE HOW MUCH SUGAR IS BEING BURNED UP, BUT
21 HE ALSO SHOWS ABNORMALITIES ON DR. RUBEN GUR'S MEASUREMENT
22 OF THE SIZE OF THE FRONTAL LOBE.

23 AND DR. RUBEN GUR NOTED SPECIFICALLY THAT MR. STANKO
24 HAD AN ABNORMAL DECREASE IN THE LEFT FRONTAL LOBE AREA
25 WHICH WAS STATISTICALLY SIGNIFICANT, AND THIS WOULD BE AN

1 EXAMPLE OF A QUANTITATIVE AND STATISTICAL APPROACH TO
2 LOOKING AT THE BRAIN OF MR. STANKO.

3 Q WOULD IT BE FAIR TO SAY THAT WE HAVE TWO ABNORMAL --
4 ABNORMALITIES?

5 A YES. WE HAVE TWO DIFFERENT TYPE OF ABNORMALITIES,
6 BUT THEY BOTH OVERLAP--

7 Q ALL RIGHT.

8 A -- IN TERMS OF THE FRONTAL LOBE BEING DEFECTIVE.

9 Q AND WHAT ARE THOSE TWO ABNORMALITIES?

10 A WELL, THE FIRST ABNORMALITY IS A FUNCTIONAL OR A
11 METABOLIC ABNORMALITY, AND WHICH WE SEE THE PET SCAN SHOWS
12 AN ABNORMAL DECREASE OF FUNCTION IN THE FLOOR OR BASE OF
13 THE FRONTAL LOBE, SO THAT'S A FIRST TYPE OF ABNORMALITY.

14 THE SECOND TYPE OF ABNORMALITY IS THIS MEASUREMENT OF
15 THE SIZE OF THE FRONTAL LOBE USING DR. RUBEN GUR'S
16 VOLUMETRIC QUANTITATIVE APPROACH IN WHICH HE SHOWS THERE'S
17 A STATISTICALLY SIGNIFICANT DECREASE IN THE SIZE OR VOLUME
18 OF THE FRONTAL LOBE.

19 AND SO THESE ARE TWO SEPARATE WAYS OF LOOKING AT
20 BRAIN FUNCTION AND THEY BOTH SHOW REALLY TWO VERY
21 DIFFERENT APPROACHES THAT MR. STANKO HAD AN ABNORMAL BRAIN
22 IN THE FRONTAL LOBE AREA.

23 Q DR. WU, ARE THERE STILL EXPERTS WHO DISAGREE WITH
24 THIS WHOLE AREA OF TECHNOLOGY?

25 A YES, THERE ARE OPPOSING EXPERTS.

1 Q WHAT IS THE -- WHAT IS THE OPPOSITION FROM THOSE
2 PEOPLE? HOW WOULD YOU CHARACTERIZE THAT?

3 A WELL...

4 Q CAN YOU SAY?

5 A I WOULD SAY THAT THERE ARE VARIOUS OBJECTIONS THAT
6 SOME OF THE OPPOSING EXPERT WITNESS MIGHT RAISE
7 INCLUDING -- ONE OBJECTION WHICH IS THAT THEY FEEL THAT
8 IT'S NOT READY FOR PRIMETIME USE IN THE COURT YET, THAT
9 THERE'S NOT ENOUGH--

10 Q EVEN THOUGH -- EVEN THOUGH IT -- IT'S READY FOR
11 PRIMETIME USE WITH RESPECT TO LIFE AND DEATH MEDICAL
12 DECISIONS?

13 A THAT'S CORRECT. IT'S USED ALL THE TIME RIGHT NOW TO
14 HELP NEUROSURGEONS DECIDE WHETHER TO OPERATE, TO HELP
15 CANCER SPECIALISTS DECIDE WHETHER OR NOT TO RE-ADMINISTER
16 RADIATION TREATMENT--

17 Q AND THAT'S THE SAME EXACT TECHNOLOGY THAT YOU'RE
18 USING IN THIS CASE AS A BASIS FOR YOUR TESTIMONY?

19 A YES, THE SAME EXACT TECHNOLOGY. AND I WORK WITH SOME
20 OF THOSE DOCTORS TO HELP THOSE DOCTORS MAKE LIFE OR DEATH
21 MEDICAL DECISIONS ABOUT THEIR PATIENTS' TREATMENTS.

22 Q ARE THERE ANY OTHER REASONS OR BASES FOR THEIR...

23 A WELL, I WOULD SAY THAT'S A PRIMARY BASIS. AND OF
24 COURSE, THERE ARE A NUMBER OF -- THERE'S A MYRIAD OF OTHER
25 REASONS DEPENDING UPON DIFFERENT EXPERTS.

1 Q LET ME ASK YOU THIS FINALLY, DR. WU. WITH RESPECT TO
2 ALL OF YOUR ANSWERS TODAY, HAVE YOU STATED THEM TO A
3 REASONABLE DEGREE OF MEDICAL AND PROFESSIONAL CERTAINTY?

4 A YES.

5 Q THANK YOU VERY MUCH, DR. WU. ANSWER ANY QUESTIONS
6 THAT COUNSEL MAY HAVE.

7 THE COURT: MADAM FORELADY AND LADIES AND
8 GENTLEMEN, YOU ALL HAVE BEEN SITTING OVER AN HOUR,
9 PROBABLY CLOSER TO AN HOUR AND A HALF. I'M GOING TO
10 GIVE YOU A VERY BRIEF RECESS. THE COURT WILL RESUME
11 THE CROSS-EXAMINATION OF THE DOCTOR.

12 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE
13 IN ANY WAY. PLEASE LEAVE YOUR NOTEPADS IN YOUR
14 SEATS. AND I WOULD ANTICIPATE THIS BREAK WOULD BE
15 ABOUT 10 MINUTES.

16 (JURY LEFT THE COURTROOM 5:04 PM.)

17 THE COURT: YOU MAY BE SEATED. DR. WU, YOU MAY
18 STEP DOWN, JUST PLEASE DO NOT DISCUSS YOUR TESTIMONY
19 WITH ANYONE.

20 THE WITNESS: YES, YOUR HONOR.

21 THE COURT: ALL RIGHT. WE WILL BE AT EASE FOR
22 ABOUT 10 MINUTES. GIVE THE JURY AN OPPORTUNITY TO
23 REFRESH THEMSELVES. WE WILL RESUME IN 10 MINUTES.

24 (WHEREUPON THERE WAS A RECESS.)

25 THE COURT: OKAY. OKAY. IS THE STATE READY TO

1 PROCEED?

2 MR. HUMPHRIES: THE STATE'S READY TO PROCEED.

3 THE COURT: IS THE DEFENSE READY TO PROCEED?

4 MR. DIGGS: YES, YOUR HONOR.

5 MR. HUMPHRIES: WE CAN CUT THESE...

6 MR. DIGGS: YOUR HONOR, WE WOULD MOVE TO
7 INTRODUCE THE PET SCAN VIDEO, NOT THE--

8 THE COURT: PARDON ME? SAY THAT ONE MORE TIME.

9 MR. DIGGS: THE DEFENSE WOULD MOVE TO INTRODUCE
10 THE PET SCAN VIDEO, NOT THE SLIDE PRESENTATION, BUT
11 JUST THAT VIDEO, AND WE ALSO HAVE SOME STILL PICTURES
12 THAT WERE TAKEN FROM THAT DISK, AND WE WOULD MOVE TO
13 INTRODUCE THOSE.

14 THE COURT: ANY EXCEPTIONS?

15 MR. HUMPHRIES: AS LONG AS WE HAVE THE CLEAR
16 UNDERSTANDING WE ARE TALKING ABOUT THAT FOUR MINUTE
17 VIDEO AND NOT THE ACCOMPANYING--

18 THE COURT: THOSE ARE THE ACTUAL SLIDES FROM
19 MR. STANKO'S PET SCAN; CORRECT?

20 MR. DIGGS: YES.

21 THE COURT: AND WE WILL MARK THEM INDIVIDUALLY.

22 MR. DIGGS: THANK YOU, YOUR HONOR.

23 THE COURT: AND WE WILL DO IT AT THE BREAK WHEN
24 THE COURT REPORTER HAS ENOUGH TIME.

25 COURT REPORTER: THEY'RE DONE. IT'S 2 THROUGH

1 19.

2 THE COURT: OH, YOU'VE ALREADY DONE THEM?
3 YOU'RE SO GOOD. OKAY. SO THAT WILL BE TWO THROUGH
4 19 WITHOUT OBJECTION.

5 (WHEREUPON, DEFENDANT'S EXHIBITS 2-19 WERE
6 ADMITTED INTO EVIDENCE.)

7 THE COURT: IS THERE ANYTHING ELSE WE NEED TO
8 TAKE UP BEFORE WE BRING IN THE JURY?

9 MR. HUMPHRIES: NOT FROM THE STATE, YOUR HONOR.

10 THE COURT: ANYTHING FROM THE DEFENSE? ANYTHING
11 ELSE WE NEED TO TAKE UP?

12 MR. DIGGS: NO, YOUR HONOR.

13 THE COURT: ALL RIGHT. PLEASE BRING IN THE
14 JURY.

15 (JURY ENTERED THE COURTROOM AT 5:39 PM.)

16 THE COURT: YOU MAY BE SEATED. LADIES AND
17 GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE'LL
18 NOW RESUME WITH THE CROSS-EXAMINATION OF THE WITNESS.
19 MR. HUMPHRIES, YOU MAY PROCEED WHEN YOU'RE READY.

20 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

21 CROSS-EXAMINATION

22 BY MR. HUMPHRIES:

23 Q GOOD AFTERNOON, DR. WU.

24 A GOOD AFTERNOON, SIR.

25 Q I'M FRAN HUMPHRIES. I'VE JUST GOT A FEW QUESTIONS

1 FOR YOU. LET'S -- LET'S CLEAR UP ONE THING. WHEN WE'RE
2 TALKING ABOUT THESE LIFE AND DEATH ISSUES THAT YOU
3 MENTIONED IN REGARD TO THE PET SCAN, YOU'RE TALKING ABOUT
4 BRAIN TUMORS?

5 A YES.

6 Q OKAY.

7 A OR EPILEPSY.

8 Q WELL, OKAY. WELL, LET'S TALK ABOUT BRAIN TUMORS
9 SPECIFICALLY BECAUSE THAT WAS THE ONE THING THAT WE KEPT
10 COMING BACK TO IN DIRECT, YOU KNOW, BRAIN TUMORS, LIFE AND
11 DEATH, AND CERTAINLY BRAIN TUMORS ARE A LIFE AND DEATH
12 ISSUE.

13 WHAT IS IT ABOUT THE PET SCAN THAT CAN HELP IDENTIFY
14 THESE BRAIN TUMORS?

15 A WHAT THE PET SCAN DOES IS THAT IT CAN IDENTIFY AREAS
16 OF OVERACTIVE SUGAR METABOLISM. TUMORS TEND TO HAVE A
17 SIGNIFICANT INCREASE IN SUGAR METABOLISM. AND SO
18 SOMETIMES, FOR EXAMPLE, IF YOU HAVE A CANCER PATIENT AND
19 THEY HAVE BEEN TREATED WITH RADIATION THERAPY, A FEW
20 MONTHS LATER YOU DON'T KNOW IF THE TUMOR HAS GROWN BACK
21 AGAIN OR IF THERE IS WHAT WE CALL RADIATION NECROSIS OR
22 SCARRING.

23 AND SO WITH A PET SCAN, IF THERE'S A TUMOR GROWING
24 BACK AGAIN, THAT AREA WILL TYPICALLY BE RED HOT, STICK OUT
25 LIKE A SORE THUMB VERSUS RADIATION NECROSIS WOULD

1 TYPICALLY BE VERY DARK.

2 AND SO IN THAT CASE IF THE TUMOR IS GROWING BACK
3 AGAIN, THE CANCER SPECIALIST WOULD PROBABLY ELECT TO
4 RESUME RADIATION THERAPY, TAKE A SECOND ROUND.

5 Q BUT THE TUMORS ITSELF, THAT'S REALLY IN A CONSTANT
6 STATE. THAT IS, YOU CAN DETERMINE THE SIZE OF IT WHETHER
7 YOUR BRAIN IS AT REST, HAS BEEN -- WE HAVE DONE ONE OF
8 THESE CONTINUOUS ACTIVITY EXERCISES. I MEAN, THE TUMOR IS
9 GOING TO BE THE SAME REGARDLESS.

10 A WELL, I WOULD SAY THAT THE TUMOR IS GOING TO HAVE A
11 LIFE OF ITS OWN. THE CANCER CELLS ARE KIND OF OFF ON
12 THEIR OWN AND THEY ARE MULTIPLYING LIKE CRAZY ON THEIR
13 OWN, AND SO THEY ARE LIKE A ROW OF -- CELLS.

14 Q AND THAT IS -- AND PERHAPS I WOULD HAVE SAID IT THAT
15 WAY. THERE -- THAT'S A DISTINCTLY SEPARATE ISSUE FROM THE
16 GENERAL FUNCTIONING OF THE BRAIN.

17 A THAT'S CORRECT. A TUMOR IS KIND OF LIKE A -- CELLS
18 THAT HAVE DECIDED TO BREAK OFF ON THEIR OWN INDEPENDENT OF
19 WHAT ANY OTHER CELLS IN THE BRAIN NEED, REQUIRE.

20 Q AND THAT IS ONE USE OF THE PET SCAN?

21 A YES.

22 Q OKAY. YOU WERE SHOWN DEFENDANT'S ONE AND YOU SAID
23 THAT THERE WAS CLEARLY SOME -- HOW DID YOU DESCRIBE IT IN
24 REGARD TO THE FRONTAL LOBE?

25 A SIGNIFICANT DECREASE IN FRONTAL QUANTITATIVE

1 VOLUMETRIC MEASUREMENTS IN TERMS OF A -- FOUR OR STANDARD
2 DEVIATION DIFFERENCE.

3 Q HOW WOULD YOU CHARACTERIZE THE MEDIAL MEASUREMENT?

4 A WELL, I WOULD SAY THAT THAT APPEARS TO BE A DECREASE
5 AS WELL ON THE RIGHT SIDE.

6 Q OF... SUBSTANTIALLY MORE SIGNIFICANTLY EVEN THAN THE
7 FRONT; WOULDN'T YOU SAY?

8 A YES, THAT'S CORRECT.

9 Q FAIR. THAT'S OKAY ON THE PET SCAN, THOUGH; RIGHT?

10 A WELL, I WOULD SAY THAT IT'S DIFFERENT MEASURES
11 LOOKING AT THE QUANTITATIVE VOLUMETRIC--

12 Q NO QUESTION ABOUT THAT. IT'S OKAY ON THE PET SCAN.
13 FAIR TO SAY?

14 A ARE YOU TALKING ABOUT THE MEDIAL PORTION--

15 Q I'M TALKING ABOUT--

16 A -- THE BRAIN.

17 Q -- WHEN YOU TESTIFIED THAT THE REST OF HIS BRAIN IS
18 INTACT IN REGARD TO FUNCTION EXCEPT FOR THESE LOWER LEVELS
19 OF THE FRONTAL LOBE, THAT INCLUDES THE MEDIAL; DOES IT
20 NOT?

21 A YES.

22 Q OKAY. SO MEDIAL IS OKAY AS REGARD TO PET SCAN?

23 A IN--

24 Q THAT'S MY ONLY QUESTION. YES OR NO?

25 A IN TERMS OF BRAIN FUNCTION. IN TERM OF SUGAR

1 METABOLISM, THAT WOULD BE CORRECT.

2 Q THANK YOU. NOW, THERE WAS AN ANALOGY WHICH I THOUGHT
3 QUITE INTERESTING. YOU ANALOGIZED FROM THE PET SCAN TO A
4 STRESS TEST.

5 A YES.

6 Q AND OF COURSE, MOST OF US ARE FAMILIAR WITH A STRESS
7 TEST. LET ME ASK YOU IF YOU AGREE WITH THIS, THIS
8 ASSERTION, THIS POSITION QUITE FRANKLY THAT ONE OF THE
9 PREVIOUS DEFENSE EXPERTS ACCEDED TO, THAT IF A PERSON --
10 IN MOST CASES IF A PERSON IS MORE INTELLIGENT, THE FRONTAL
11 LOBES -- TO DO A PARTICULAR TASK AS COMPARED TO SOMEONE
12 WHO IS MUCH LESS INTELLIGENT, THE FRONTAL LOBES WOULD SHOW
13 LESS ACTIVITY OR ARE LESS ENGAGED. DO YOU AGREE WITH THA
14 ASSERTION?

15 A I THINK IT WOULD DEPEND ON SOME SPECIFIC
16 CIRCUMSTANCES.

17 Q SO YOU CAN'T SAY YES OR NO?

18 A IN GENERAL I CAN'T SAY THAT AS A GENERAL RULE, NO,
19 THERE ARE -- ONE WOULD HAVE TO BE VERY SPECIFIC ABOUT
20 SPECIFIC CIRCUMSTANCES.

21 Q COULD THAT -- BECAUSE THAT WOULD SUGGEST THAT PERHAPS
22 THE SITUATION COULD BE MANIPULATED IF THAT WERE TO BE THE
23 CASE. THAT IS, THE VALIDITY OF THE PET SCANS PARTICULARLY
24 AS RELATES TO THE FRONTAL LOBES, IF THAT WERE THE CASE, IT
25 WOULD SUBJECT THEM UNDER THE RIGHT SET OF CIRCUMSTANCES

1 WITH THE RIGHT SUBJECT TO BEING MANIPULATED?

2 A WELL, AS I STATED PREVIOUSLY, IF ONE WERE TO TRY TO
3 MANIPULATE THE PET SCAN, ONE WOULD HAVE TO ENGAGE THE
4 FRONTAL LOBE ACTIVITY IN TERMS OF THINKING ABOUT HOW TO
5 MANIPULATE THE PET SCAN. THIS WOULD INCREASE FRONTAL LOBE
6 ACTIVITY.

7 THE ABNORMALITY THAT WE SEE IN MR. STANKO IS NOT AN
8 OVERACTIVITY, IT'S ACTUALLY AN UNDERACTIVITY. AND SO WHAT
9 WE SEE AS ABNORMAL TO BE UNDERACTIVITY, AND SO IF HE WERE
10 TO TRY TO MANIPULATE THIS, THIS WOULD TEND TO UNDERSTATE
11 THE UNDERACTIVITY SO THAT WHAT YOU WOULD IN EFFECT GET
12 WOULD BE LESS OF A DIFFERENCE. IN EFFECT, SUCH ATTEMPT
13 WOULD TEND TO UNDERSTATE THE DIFFERENCE.

14 Q WHAT ABOUT IF YOU JUST DIDN'T TRY AS HARD ON THIS
15 CONTINUOUS ACTIVITY TEST OR WHATEVER YOU CALL IT? WHAT IF
16 YOU JUST DIDN'T TRY AS HARD?

17 A WELL, I WOULD SAY THAT HE -- THIS -- THE PERFORMANCE
18 WAS MONITORED BY DR. EINHORN, THAT -- HE WAS DOING THE
19 TEST IN A -- THE SATISFACTORY MANNER, SO IT WAS CLEAR THAT
20 HE WAS PERFORMING THE TEST AS EXPECTED. IT'S CLEAR THAT
21 HE WOULD NOT -- SLACKING OFF ON THE TEST.

22 Q HOW DO YOU KNOW?

23 A I TALKED TO DR. EINHORN.

24 Q AND THE TRUTH OF THE MATTER IS REALLY THAT THE PET
25 SCANS ARE VERY SENSITIVE IN TERMS OF ACCURACY TO THE

1 PROCEDURE FOR PROTOCOL USED PRIOR TO ADMINISTERING THE PET
2 SCAN. IS THAT FAIR TO SAY?

3 A YES. IF YOU, FOR EXAMPLE, USED A -- A DIFFERENT
4 PROTOCOL LIKE A READING PROTOCOL, YOU WOULD SHOW -- OR A
5 SINGING PROTOCOL, YOU'D SEE READING DURING THE BRAIN VITAL
6 FORCE -- AREAS OF THE BRAIN LIGHT UP.

7 Q SO THEY ARE SENSITIVE?

8 A THEY ARE A TAD SENSITIVE, YES, OR FUNCTION TESTS,
9 YES.

10 Q ALL RIGHT. LET ME ASK. IS THERE A DISTINCTION
11 BETWEEN FUNCTION AND ACTIVITY? YOU USED THOSE TERMS IN
12 YOUR DIRECT TESTIMONY, AND I'M NOT SURE IF YOU WERE USING
13 THEM AS BEING THE SAME THING, JUST TWO WAYS OF SAYING THE
14 SAME THING, OR IS THERE A DISTINCTION, FUNCTION AND
15 ACTIVITY?

16 A WELL, I WOULD SAY THAT IN THE FUNCTIONAL BRAIN
17 IMAGING LITERATURE, THE TWO TERMS ARE OFTEN USED
18 INTERCHANGEABLY.

19 Q BECAUSE IT WOULD SEEM TO ME THAT FUNCTION WOULD BE
20 THIS -- THIS GENERAL, YOU KNOW, STATE OF THE BRAIN, AND
21 ACTIVITY WOULD -- WOULD BE TEMPORARY, IT WOULD CHANGE
22 BASED ON WHAT YOU WERE DOING THE ACTIVITY, WHAT CONDITION
23 YOU WERE IN.

24 IS THERE NO SUCH DISTINCTION IN YOUR MIND AND YOUR
25 AREA OF EXPERTISE? I'M JUST ASKING.

1 A I WOULD SAY THAT IT'S OFTEN USED INTERCHANGEABLY
2 SYNONYMOUSLY IN THE LITERATURE, BUT I THINK THAT PEOPLE
3 WOULD HAVE SOMETIMES TRY TO DRAW DISTINCTION, BUT I WOULD
4 SAY THAT MOST PEOPLE TEND TO USE TERMS INTERCHANGEABLY IN
5 THIS PARTICULAR AREA.

6 Q AND YOU DO?

7 A YES.

8 Q OKAY. LET'S GET BACK TO THAT STRESS TEST. AND THIS
9 IS THE THING THAT INTERESTS ME. WHEN WE TALK ABOUT A
10 STRESS TEST, OBVIOUSLY THERE -- PEOPLE ARE IN DIFFERENT
11 LEVELS OF FITNESS, IF YOU WILL, AS RELATES TO THE STRESS
12 TEST -- STRESS TEST?

13 A YES.

14 Q CORRECT? OBVIOUSLY THAT'S THE REASON YOU TAKE THE
15 TEST IS TO DETERMINE AT WHAT LEVEL -- NOT NECESSARILY YOUR
16 PHYSICAL FITNESS, BUT HOW YOUR HEART IS DOING?

17 A YES.

18 Q WHICH IS DIRECTLY RELATED OFTEN TIMES TO YOUR LEVEL
19 OF FITNESS. YOU'D AGREE WITH THAT?

20 A YES.

21 Q OKAY. AND, OF COURSE, YOU'RE AWARE THAT THERE ARE
22 THOSE SUPERIOR, VERY SUPERIOR INDIVIDUALS, FOR INSTANCE,
23 SPECIAL FORCES, YOU KNOW, DELTA, RECON, SEALS, RANGERS,
24 THOSE GUYS OR WOMEN, IF THEY'RE INVOLVED IN THIS STRESS
25 TEST, YOU WOULD EXPECT TO SEE VERY LITTLE ELEVATION IN

1 TERMS OF CARDIAC FUNCTION; WOULDN'T YOU?

2 A WELL, I WOULD SAY THAT IF YOU'RE LOOKING AT ELEVATION
3 AT HEART RATE, YES, I WOULD SAY THAT A WELL-CONDITIONED
4 INDIVIDUAL WOULD SHOW LESS OF AN INCREASE IN HEART RATE
5 FOR A GIVEN UNIT OF EXERCISE.

6 Q AND OF COURSE, THAT WAS YOUR ANALOGY. WOULD YOU --
7 WOULD YOU NOW SUBMIT THAT IF SOMEONE WAS OF A VERY
8 SUPERIOR LEVEL IN TERMS OF INTELLIGENCE THAT THE SAME
9 WOULD NOT BE TRUE, THAT IS, THAT THE LEVEL OF FUNCTIONING
10 OR -- OR THE WAY THE FUNCTIONING APPEARED IN THE FRONTAL
11 LOBES, PARTICULARLY IN THIS CASE, WOULDN'T SHOW AS MUCH
12 ACTIVITY BECAUSE OF THEIR HIGH LEVEL OF INTELLIGENCE?

13 A I WOULD SAY THAT FOR THIS SPECIFIC TEST, THE CPT
14 TASK, THERE IS NO EVIDENCE THAT THERE IS AN INTELLIGENT
15 INTERACTION.

16 Q DOCTOR, IF IN FACT THIS PROTOCOL OR PROCESS PRIOR TO
17 THE ADMINISTERING OF THE PET SCAN COULD BE MANIPULATED --
18 AND I THINK WHAT YOU HAVE TESTIFIED TO IS THAT YOU DON'T
19 KNOW OF A WAY IT COULD BE MANIPULATED. IS THAT FAIR TO
20 SAY?

21 A NOT THAT I CAN THINK OF.

22 Q OKAY. THAT'S FAIR. BUT IF IT COULD, THAT WOULD HAVE
23 SERIOUS IMPACT IN CERTAIN CIRCUMSTANCES ON THE VALIDITY
24 AND USEFULNESS OF A SUBSEQUENT PET SCAN. IS THAT FAIR TO
25 SAY?

1 A YES.

2 Q THANK YOU, DOCTOR.

3 THE COURT: ANY RE-DIRECT?

4 MR. DIGGS: JUST VERY BRIEFLY.

5 THE COURT: YOU MAY PROCEED.

6 REDIRECT EXAMINATION

7 BY MR. DIGGS:

8 Q AND IF IT COULD BE MANIPULATED, IT WOULD HAVE A
9 SERIOUS IMPACT ON YOUR CREDIBILITY AS A EXPERT IN YOUR
10 FIELD?

11 A YES.

12 Q YOU'RE WILLING TO TAKE THAT RISK?

13 A YES.

14 Q AND COUNSEL'S QUESTION ABOUT INTELLIGENCE, HE ASSUMES
15 THAT BECAUSE MR. STANKO'S INTELLIGENT THAT HIS BRAIN WOULD
16 HAVE LESS ACTIVITY. IS THERE ANY STUDY THAT YOU'RE AWARE
17 OF THAT SHOWS THAT TO BE TRUE?

18 A THERE'S NO STUDY I'M AWARE OF THAT WOULD SHOW THAT AN
19 INDIVIDUAL OF GREATER INTELLIGENCE WOULD SHOW A
20 SPECIFICALLY DECREASED LEVEL OF ACTIVITY RIGHT IN THIS
21 PORTION OF THE FRONTAL LOBE.

22 Q THAT WAS GOING TO BE MY NEXT QUESTION. HE ASSUMES
23 THAT INTELLIGENCE IS LOCATED IN THAT SAME AREA.

24 A YES. THERE'S NO EVIDENCE--

25 Q IS THAT THE CASE?

1 A NO, AS A MATTER OF FACT--

2 Q ALL RIGHT.

3 A -- YOU CAN HAVE PEOPLE WHO HAVE A FRONTAL LOBOTOMY
4 WHO DON'T SHOW SIGNIFICANT CHANGE IN IQ. IQ MEASURES
5 TYPICALLY DO NOT DIRECTLY MEASURE FRONTAL LOBE ACTIVITY.

6 Q ONE LAST QUESTION. WHEN COUNSEL ASKED YOU ABOUT THE
7 MEDIAL AREA OF MR. STANKO'S BRAIN SHOWING UP AS NORMAL ON
8 THE PET SCAN?

9 A YES.

10 Q DOES THAT PET SCAN SHOW ACTIVITY PER A DEFINED AREA
11 OR IS A -- AN AGGREGATE OF THE ACTIVITY IN THAT AREA OF
12 THE BRAIN?

13 A WELL, PET SCAN SHOWS ACTIVITY IN SPECIFIC AREAS LIKE
14 THE FRONTAL LOBE OR THE TEMPORAL LOBE. NOW, THE MEDIAL
15 CAN BE AGGRATIVE (SIC), BUT WE DON'T LOOK AT AN AGGREGATE
16 GROUP OF METABOLISM.

17 Q ALL RIGHT. THAT'S MY POINT. HE COULD HAVE A LOW
18 VOLUME, OKAY, BUT IT'S STILL PER VOLUME--

19 MR. HUMPHRIES: OBJECT TO THE LEADING, YOUR
20 HONOR.

21 THE COURT: SUSTAINED. LEADING.

22 MR. HUMPHRIES: THANK YOU.

23 THE COURT: YOU MAY REPHRASE.

24 BY MR. DIGGS:

25 Q DOES THE FACT -- DOES THE LOW VOLUME, VOLUMETRIC

1 MASS, NECESSARILY INDICATE THERE SHOULD BE LESS ACTIVITY
2 PER AREA?

3 A NO.

4 Q OKAY. THAT'S ALL I HAVE.

5 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
6 EXCUSED?

7 MR. HUMPHRIES: NONE, YOUR HONOR. THANK YOU.

8 THE COURT: ANY FROM THE DEFENSE?

9 MR. DIGGS: NONE, YOUR HONOR.

10 THE COURT: DOCTOR, YOU'RE EXCUSED.

11 THE WITNESS: THANK YOU, YOUR HONOR.

12 THE COURT: YOU'RE WELCOME.

13 (WITNESS LEFT THE STAND.)

14 THE COURT: MADAM FORELADY, LADIES AND
15 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
16 BREAK IN TESTIMONY TO TAKE OUR EVENING RECESS. THE
17 LAWYERS AND I WILL BE WORKING, HOWEVER, A LITTLE BIT
18 LONGER.

19 WE HAVE SOME OTHER MATTERS TO ATTEND TO
20 REGARDING THIS CASE AND MATTERS OF LAW THAT WE NEED
21 TO -- THAT WE WILL BE ATTENDING TO, AND PROBABLY IN
22 ANOTHER 30 MINUTES OR SO WE WILL ALSO BE BREAKING.

23 WE WILL RESUME THIS TRIAL IN THE MORNING AT
24 9:30. DURING THE RECESS PLEASE ABIDE BY THE COURT'S
25 INSTRUCTIONS AND HAVE NO DISCUSSION ABOUT THIS CASE

1 AMONG YOURSELVES AND PLEASE LEAVE YOUR NOTEPADS IN
2 YOUR SEATS AND WE WILL MAKE SURE THAT YOUR PRIVACY IS
3 PROTECTED DURING THE RECESS.

4 YOU ALL HAVE BEEN EXTREMELY PATIENT WITH US. WE
5 APPRECIATE IT AND I HOPE THAT YOU ALL HAVE A
6 WONDERFUL EVENING. WE WILL SEE YOU IN THE MORNING AT
7 9:30. IF YOU WILL GO WITH THE BAILIFFS.

8 (JURY LEFT THE COURTROOM AT 5:56 PM.)

9 THE COURT: YOU MAY BE SEATED. I APOLOGIZE. IS
10 THE DOOR CLOSED? WHAT WE DISCUSSED AT THE SIDE BAR
11 EARLIER WAS THE FACT THAT WE WOULD GO OVER SEVERAL
12 THINGS AND I'LL -- JUST A MINUTE -- TO MAKE SURE
13 MR.. STANKO HAD AN ADEQUATE OPPORTUNITY TO HAVE
14 MEANINGFUL AND FULL DISCUSSION WITH HIS ATTORNEYS
15 REGARDING CERTAIN OF HIS RIGHTS, AND THAT'S WHAT I
16 INTEND TO DO RIGHT NOW.

17 I'M GOING TO GO OVER WITH HIM HIS RIGHT TO
18 TESTIFY AND THE CONSTITUTIONAL IMPLICATIONS OF THAT.
19 I'M ALSO GOING TO GO OVER WITH HIM PURSUANT TO
20 16-3-28 HIS RIGHT TO ADDRESS THE JURY IN BOTH THE
21 GUILT AND THE PENALTY PHASE SO THAT AGAIN HE CAN HAVE
22 MEANINGFUL DISCUSSION WITH HIS ATTORNEYS REGARDING
23 THAT.

24 I'M NOT GOING TO ELICIT FROM HIM ANY ANSWERS AT
25 THIS POINT. IT IS MY INTENT AT THIS POINT SIMPLY TO

1 ADVISE WHAT HIS RIGHTS ARE AND THEN TO GIVE HIM
2 ADDITIONAL OPPORTUNITY THAT -- WE ANTICIPATE THAT
3 THE -- THAT THERE WILL BE ONE ADDITIONAL WITNESS.

4 I ASSUME HE PROBABLY WILL TAKE MOST OF THE
5 MORNING TOMORROW. THEN WE HAVE THE STATE'S REBUTTAL
6 CASE IN WHICH I ANTICIPATE WILL TAKE HALF A DAY OR
7 MORE, I WOULD THINK.

8 MR. HEMBREE: YOUR HONOR, I THINK WE WILL BE
9 ABLE TO WRAP IT UP BY TOMORROW EVENING.

10 THE COURT: OH, OKAY. SO ANTICIPATE WE WILL --
11 WE ARE PROJECTING THAT WE WILL CLOSE AND CHARGE ON
12 FRIDAY. BEAR WITH ME.

13 AND SO WHAT I WANTED TO DO IS GO AHEAD AND
14 QUESTION HIM REGARDING CERTAIN OF THOSE ISSUES SO
15 THAT WHEN THE TIME -- THE APPROPRIATE TIME COMES,
16 THAT I WILL BE ABLE TO ADVISE HIM AGAIN AND THEN GO
17 OVER THOSE MATTERS WITH HIM AND GET SOME ANSWERS
18 FOR -- OBTAIN ANSWERS FOR THE RECORD REGARDING
19 WHETHER HE INTENDS TO EXERCISE ANY OF THOSE RIGHTS.

20 BUT I WANTED TO GIVE HIM SOME TIME FOR COOL
21 REFLECTION, TO HAVE AN OPPORTUNITY TO DISCUSS THOSE
22 MATTERS WITH COUNSEL. IS THERE ANY EXCEPTION TO THE
23 COURT PROCEEDING IN THAT MANNER FROM THE STATE?

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

25 THE COURT: FROM THE DEFENSE?

1 MR. KELLY: NO, MA'AM.

2 THE COURT: MR. STANKO, IF YOU WOULD STAND FOR
3 ME, PLEASE, AND RAISE YOUR RIGHT HAND AND BE SWORN.

4 STEPHEN STANKO, AFTER BEING DULY
5 SWORN, TESTIFIED AS FOLLOWS:

6 THE COURT: MR. STANKO, I AM GOING TO AT THIS
7 TIME EXPLAIN TO YOU CERTAIN OF YOUR RIGHTS. IF YOU
8 DO NOT UNDERSTAND ANYTHING THAT I SAY, PLEASE LET ME
9 KNOW. IF YOU NEED -- IF YOU WANT ME TO EXPLAIN
10 ANYTHING IN MORE DETAIL, PLEASE LET ME KNOW. DO YOU
11 UNDERSTAND?

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: SIR, WE HAVE NOW REACHED THE STAGE
14 OF THE TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE. YOU
15 HAVE THE RIGHT TO CLAIM THE PROTECTIONS GIVEN TO YOU
16 BY THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE
17 UNITED STATES.

18 THIS AMENDMENT STATES IN PART THAT NO PERSON
19 SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A
20 WITNESS AGAINST HIMSELF. THIS MEANS THAT YOU CANNOT
21 BE REQUIRED TO TESTIFY IN THIS CASE.

22 YOU HAVE THE RIGHT TO TESTIFY ON YOUR OWN
23 BEHALF. HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS
24 IS A PERSONAL RIGHT AND NO ONE CAN WAIVE THIS RIGHT
25 EXCEPT YOU.

1 IF YOU DECIDE TO TESTIFY, YOU WOULD BE SUBJECT
2 TO THE SAME RULES THAT GOVERN OTHER WITNESSES, AND
3 YOU MAY BE EXAMINED AND CROSS-EXAMINED ON ANY
4 RELEVANT ISSUE IN THIS CASE.

5 IN ADDITION, IF YOU HAVE ANY CONDITIONS
6 INVOLVING DISHONESTY OR FALSE STATEMENT OR FOR CRIMES
7 PUNISHABLE BY IMPRISONMENT FOR MORE THAN ONE YEAR AND
8 THIS COURT DETERMINES THAT THE PROBATIVE VALUE OF
9 ADMITTING THIS EVIDENCE OUTWEIGHS ITS PREJUDICIAL
10 EFFECT TO YOU, THE SOLICITOR WILL BE ABLE TO
11 INTRODUCE YOUR RECORD TO ATTACK YOUR CREDIBILITY.

12 AND IN A MOMENT I'M GOING TO ASK THEM IF YOU
13 WERE TO TESTIFY WHAT RECORD THEY WOULD BE SEEKING TO
14 INTRODUCE TO IMPEACH YOUR CREDIBILITY SO THAT AGAIN
15 YOU WILL HAVE A MEANINGFUL OPPORTUNITY TO FULLY GO
16 OVER THOSE MATTERS WITH YOUR COUNSEL.

17 IF YOU DECIDE TO TESTIFY, THIS DECISION ON YOUR
18 PART MUST BE FREELY AND VOLUNTARILY AND INTELLIGENTLY
19 MADE WITH KNOWLEDGE OF THE PROTECTIONS GIVEN TO YOU
20 BY THE FIFTH AMENDMENT AND THE CONSEQUENCES OF YOUR
21 DECISION TO TESTIFY.

22 IF YOU DECIDE NOT TO TESTIFY, I WILL INSTRUCT
23 THE JURORS THAT THEY CANNOT GIVE THE FACT THAT YOU
24 DID NOT TESTIFY ANY CONSIDERATION WHATSOEVER, AND
25 THAT THERE IS TO BE ABSOLUTELY NO PREJUDICE TO YOU

1 BECAUSE YOU DID NOT TESTIFY.

2 IT IS LEFT ENTIRELY UP TO YOU WHETHER OR NOT YOU
3 TESTIFY. YOU MAY TALK WITH YOUR ATTORNEYS, YOUR
4 FAMILY MEMBERS, AND FRIENDS, OR ANYONE ELSE, BUT THE
5 FINAL DECISION WILL BE LEFT ENTIRELY UP TO YOU.

6 MR. STANKO, DO YOU UNDERSTAND YOUR RIGHTS AS I
7 HAVE JUST EXPLAINED THEM TO YOU?

8 THE DEFENDANT: YES, MA'AM, I DO.

9 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT
10 I HAVE JUST EXPLAINED TO YOU?

11 THE DEFENDANT: NO, MA'AM.

12 THE COURT: AND AS I INDICATED FOR THE RECORD,
13 WHAT MR. HUMPHRIES, OR MR. HEMBREE, WHAT RECORD WOULD
14 YOU ALL BE SEEKING, IF ANY, TO IMPEACH MR. STANKO IF
15 HE WERE TO DECIDE TO TESTIFY?

16 MR. HEMBREE: JUDGE JEFFERSON, IT'S RATHER
17 EXTENSIVE, AND I DON'T HAVE A COPY OF IT IN THE
18 COURTROOM AT THIS MOMENT. I HAVE SENT ONE OF OUR
19 STAFF MEMBERS TO GO RETRIEVE THAT -- THAT CRIMINAL
20 HISTORY.

21 THE COURT: WELL, I WILL CONTINUE, THEN WE WILL
22 GO OVER THAT.

23 MR. HEMBREE: THANK YOU, YOUR HONOR.

24 THE COURT: MR. STANKO, AS I'VE INDICATED FOR
25 THE RECORD, I'M GOING TO GIVE YOU THIS ADVISEMENT

1 TWICE TO SOME EXTENT. I WANTED TO ADVISE YOU OF YOUR
2 RIGHTS SO THAT YOU HAVE THE OPPORTUNITY TO FULLY
3 DISCUSS THIS WITH YOUR ATTORNEYS OVER THE NEXT DAY OR
4 SO, GIVE OR TAKE, WHENEVER WE REACH THAT STAGE OF THE
5 TRIAL WHERE YOU MAY WANT TO EXERCISE YOUR RIGHT TO
6 TESTIFY OR NOT TO TESTIFY.

7 BUT I WANTED YOU TO BE ABLE TO HAVE A FULL AND
8 KNOWING DISCUSSION WITH THEM AND TO GIVE YOU SOME
9 TIME OF REFLECTION REGARDING THAT. SO THAT IS WHY
10 I'M GOING TO ADVISE YOU TWICE.

11 ALSO, SIR, I NEED TO ADVISE YOU THAT PURSUANT TO
12 SOUTH CAROLINA CODE ANNOTATED 16-3-28 THAT YOU HAVE
13 THE RIGHT IN BOTH THE GUILT AND PENALTY PHASES,
14 ALTHOUGH TO SOME EXTENT TALKING ABOUT PENALTY PHASE
15 IS PREMATURE, BUT YOU -- BUT I WANT TO AGAIN ADVISE
16 YOU OF WHAT YOUR RIGHTS ARE SO THAT YOU CAN HAVE A
17 FULL DISCUSSION WITH THAT ABOUT THESE ISSUES WITH
18 YOUR COUNSEL.

19 YOU HAVE THE RIGHT TO ADDRESS THE JURY IN
20 CLOSING ARGUMENT IN BOTH OF THOSE PHASES. SIR, DO
21 YOU UNDERSTAND?

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: HAVE YOU FULLY DISCUSSED THIS RIGHT
24 WITH YOUR LAWYERS?

25 THE DEFENDANT: NOT FULLY YET. THEY DID--

1 THE COURT: WHEN I SAY FULLY DISCUSS, I DON'T
2 MEAN MAKE A DECISION. I MEAN, DO YOU UNDERSTAND
3 THAT -- AND HAVE THEY EXPLAINED TO YOU THAT YOU HAVE
4 THIS RIGHT?

5 THE DEFENDANT: YES, MA'AM.

6 THE COURT: OKAY. DO YOU HAVE ANY QUESTIONS
7 ABOUT THAT OR DO YOU UNDERSTAND THE COURT'S
8 EXPLANATION OF THAT RIGHT?

9 THE DEFENDANT: I UNDERSTAND.

10 THE COURT: AGAIN, I'M GOING TO GIVE YOU -- I
11 WANTED TO ADVISE YOU SO THAT YOU WOULD HAVE A FULL
12 OPPORTUNITY TO DISCUSS THESE MATTERS WITH YOUR
13 COUNSEL. AND AT THE APPROPRIATE TIME I WILL AGAIN
14 MAKE INQUIRY OF YOU AS TO WHETHER YOU WANT TO
15 EXERCISE EITHER OF THESE RIGHTS.

16 HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE RECORD
17 OF HIS CONVICTIONS, MR. HEMBREE?

18 MR. HEMBREE: YES, YOUR HONOR. I WILL...

19 THE COURT: AND YOU KNOW WHAT WE NEED TO DO?
20 AND I NEGLECTED TO DO THIS. HAS THE JURY BEEN TAKEN
21 FROM THE BUILDING YET?

22 DEPUTY: YES.

23 THE COURT: OKAY. I JUST WANTED TO MAKE SURE
24 BECAUSE I KNOW OUR VOICES CARRY, AND I DIDN'T KNOW
25 WHICH DIRECTION THEY WERE BEING TAKEN OUT AND I DID

1 NOT WANT OUR VOICES TO CARRY AND I DID NOT WANT THEM
2 TO HAVE THE ABILITY TO HEAR US.

3 SO THEY HAVE LEFT THE BUILDING? WOULD YOU MAKE
4 SURE?

5 *DEPUTY:* HOLD ON.

6 *THE COURT:* THANK YOU. WAIT ONE SECOND BEFORE
7 WE DO THAT BECAUSE I NEED TO MAKE SURE THAT THEY
8 CANNOT HEAR US TALKING.

9 (WHEREUPON THERE WAS A PAUSE.)

10 *THE COURT:* THEY ARE GONE? OKAY. WE HAVE
11 CONFIRMED THEY HAVE LEFT. YOU MAY PROCEED.

12 *MR. HEMBREE:* THANK YOU, YOUR HONOR. THESE ARE
13 IN TWO SORT OF SEPARATE PACKAGES. SO THE FIRST WOULD
14 BE--

15 *THE COURT:* WELL, LET ME ASK THIS PRELIMINARY
16 MATTER. ARE ANY OF THOSE CONVICTIONS OVER 10 YEARS
17 OLD?

18 *MR. HEMBREE:* THE -- YES, YOUR HONOR, THE --
19 WELL, THE CONVICTION -- THE CONVICTIONS FOR GRAND
20 LARCENY AND THE BREACH OF TRUST FROM 1995 ARE OVER 10
21 YEARS OLD, BUT THEY'RE--

22 *THE COURT:* DID YOU GIVE NOTICE THAT YOU WOULD
23 BE USING OR SEEKING TO USE THOSE?

24 *MR. HEMBREE:* YES, WE DID, YOUR HONOR.

25 *THE COURT:* OKAY. AND DO YOU RECALL WHEN YOU

1 GAVE NOTICE OF THAT?

2 MR. HEMBREE: DURING THE INITIAL DISCOVERY.

3 THE COURT: OKAY. AND YOU ALL ACKNOWLEDGE THAT
4 YOU RECEIVED NOTICE OF THEIR INTENT TO USE...

5 MR. DIGGS: YES.

6 THE COURT: OKAY. I JUST NEEDED THAT TO BE
7 CLEAR FOR THE RECORD. YOU MAY CONTINUE, MR. HEMBREE.

8 MR. HEMBREE: THANK YOU, YOUR HONOR. THE FIRST
9 IS AN -- A CONVICTION FOR GRAND LARCENY DATED
10 MARCH 8TH OF 1995. THE NEXT IS A CONVICTION FOR
11 BREACH OF TRUST, MARCH 8TH, 1995.

12 THE COURT: LET ME INTERRUPT YOU ONE SECOND. GO
13 AHEAD.

14 MR. HEMBREE: THANK YOU, YOUR HONOR. THE -- A
15 BREACH OF TRUST MARCH 8TH, 1995. AND YOUR HONOR, I
16 BELIEVE THOSE ARE -- THOSE ARE ALL IN THAT GROUP. HE
17 WAS ON PROBATION FOR A PERIOD OF TIME FOLLOWING THAT.

18 THE COURT: THOSE ARE 11 YEARS -- WELL, ACTUALLY
19 WHEN THE ACTS -- IF HE WAS ON PROBATION -- WHEN WAS
20 HE -- BECAUSE THE TIME PERIOD FOR THE 10 YEARS RUNS
21 FROM WHEN HE WAS RELEASED FROM CONFINEMENT, MEAN --
22 WHICH MEANS WHEN HIS PROBATION WOULD HAVE ENDED.

23 MR. HEMBREE: HE WAS GIVEN 12 MONTHS PROBATION
24 ON THESE CHARGES, YOUR HONOR.

25 THE COURT: WHEN DID HE PLEAD?

1 MR. HEMBREE: HE PLED ON MARCH EIGHTH OF '95.

2 THE COURT: OKAY. THEN SO HIS PROBATIONARY
3 PERIOD WOULD HAVE ENDED MARCH 8TH OF '96?

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

5 THE COURT: SO IT WOULD BE OVER 10 YEARS. OKAY.
6 I JUST WANTED THAT AGAIN TO BE CLEAR FOR THE RECORD.
7 YOU MAY CONTINUE.

8 MR. HEMBREE: THANK YOU, YOUR HONOR. NEXT
9 SERIES OF CHARGES INCLUDES A CONVICTION FOR
10 KIDNAPPING, AND THIS IS SEPTEMBER -- EXCUSE ME --
11 SEPTEMBER 2ND, 2005. HE RECEIVED A 10 YEAR SENTENCE
12 ON THAT CHARGE, YOUR HONOR.

13 THE COURT: AND DID HE ACTUALLY SERVE--

14 MR. HEMBREE: I'M SORRY. I MEANT 1990...

15 THE COURT: YOU SAID '95.

16 MR. HEMBREE: I'M SORRY. I'VE GOT THE WRONG
17 DATE. I'M SORRY. JULY 29TH, '96.

18 THE COURT: YOU SAID JULY 29TH, 2006?

19 MR. HEMBREE: 1996, YOUR HONOR. AND MR. STANKO
20 WAS RELEASED FROM CUSTODY IN JULY OF 2004.

21 THE COURT: WAS HE ON COMMUNITY SUPERVISION OR
22 DID HE MAX OUT HIS SENTENCE?

23 MR. HEMBREE: HE MAXED OUT THE SENTENCE. IT WAS
24 A NO-PAROLE -- NO-PAROLE. THE NEXT CHARGE, YOUR
25 HONOR, IS ASSAULT AND BATTERY OF A HIGH AND

1 AGGRAVATED NATURE, JULY 29TH OF 1996. HE RECEIVED A
2 10 YEAR CONCURRENT SENTENCE ON THAT.

3 THE COURT: WOULD HAVE BEEN THE SAME DAY?

4 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR. THE
5 NEXT INDICTMENT IS BREACH OF TRUST WITH FRAUDULENT
6 INTENT, JULY 29TH, 1996. HE RECEIVED A CONCURRENT
7 SENTENCE OF 10 YEARS ON THAT AS WELL.

8 ANOTHER CHARGE OF BREACH OF TRUST WITH
9 FRAUDULENT INTENT JULY 29TH, 1996, SAME SENTENCE.
10 ANOTHER CHARGE OF BREACH OF TRUST WITH FRAUDULENT
11 INTENT JULY 29TH, 1996, SAME SENTENCE. THESE ARE ALL
12 RUN CONCURRENT, YOUR HONOR.

13 BREACH OF TRUST -- ANOTHER BREACH OF TRUST WITH
14 FRAUDULENT INTENT JULY 29TH, 1996. SAME SENTENCE.
15 ANOTHER BREACH OF TRUST WITH FRAUDULENT INTENT
16 JULY 29TH, 1996. SAME SENTENCE.

17 LET'S SEE, JUDGE. I MIGHT BE ABLE TO JUST COUNT
18 THESE UP... FOUR ADDITIONAL BREACH OF TRUST WITH
19 FRAUDULENT INTENT JULY 29TH, 1996, 10 YEAR CONCURRENT
20 SENTENCE.

21 A -- AND OBTAINING MONEY BY FALSE PRETENSES
22 DATED JULY 31ST, 1996, CONCURRENT SENTENCE OF 10
23 YEARS.

24 THE COURT: YOU SAID JULY 29TH, '96?

25 MR. HEMBREE: I'M SORRY. JULY 31ST, 1996.

1 THE COURT: AND YOU SAID THAT WAS FOUR YEARS
2 CONCURRENT?

3 MR. HEMBREE: TEN YEARS CONCURRENT.

4 THE COURT: TEN YEARS.

5 MR. HEMBREE: AND ONE ADDITIONAL OBTAINING MONEY
6 BY FALSE PRETENSES SENTENCE DATE JULY 31ST, 1996, A
7 10 YEAR CONCURRENT SENTENCE.

8 THE COURT: I'M SORRY. REPEAT WHAT THE OFFENSE
9 WAS AGAIN.

10 MR. HEMBREE: OBTAINING MONEY UNDER FALSE
11 PRETENSES, YOUR HONOR. AND FINALLY, A FINAL
12 OBTAINING MONEY -- EXCUSE ME -- OBTAINING PROPERTY BY
13 FALSE PRETENSES JULY 29TH, 1996, 10 YEAR CONCURRENT
14 SENTENCE.

15 THAT WOULD BE THE EXTENT OF MR. STANKO'S
16 CRIMINAL RECORD THAT THE STATE WOULD INTEND TO
17 INTRODUCE IF HE WERE TO TAKE THE STAND.

18 THE COURT: FOR THE PURPOSES OF YOU ALL, OF
19 COURSE, I MAKE NO DECISION IN ADVANCE AS TO THE
20 ADMISSIBILITY OF THESE CONVICTIONS. OF COURSE, THESE
21 CONVICTIONS AND THEIR ADMISSIBILITY ARE SUBJECT TO
22 RULE 609 SUBSECTION B WHICH DEALS WITH A -- A
23 CONVICTION WHERE A PERIOD OF 10 YEARS HAS ELAPSED
24 SINCE THE DATE OF THE CONVICTION AND OF COURSE
25 REQUIRES THE COURT TO DETERMINE IN THE INTEREST OF

1 JUSTICE THAT THE PROBATIVE VALUE OF THE CONVICTIONS
2 SUPPORTED BY SPECIFIC FACTS AND CIRCUMSTANCES
3 SUBSTANTIALLY OUTWEIGHS THE PREJUDICIAL EFFECT.

4 AND THE REMAINING PART OF THAT RULE HAS ALREADY
5 BEEN COMPLIED WITH WHICH DEALS WITH GIVING NOTICE.
6 AND I'M THINKING OF A CASE, AND I CAN'T REMEMBER THE
7 NAME OF IT, BUT JUST BEAR WITH ME.

8 I KNOW THAT IN MAKING THAT ANALYSIS, THE SUPREME
9 COURT REQUIRES FOR ME TO CONSIDER FIVE FACTORS, ONE
10 OF WHICH IS THE TIME PERIOD, THE CENTRALITY OF -- THE
11 CREDIBILITY OF THE WITNESS, THE SIMILARITIES OF THE
12 OFFENSES, AND I CANNOT REMEMBER THE OTHER TWO
13 ELEMENTS, AND I APOLOGIZE.

14 BUT JUST FOR THE BENEFIT OF YOU ALL BEING ABLE
15 TO HAVE SOME MEANINGFUL DISCUSSION WITH HIM ABOUT
16 THESE OFFENSES, I WILL GIVE YOU THE WORST CASE
17 SCENARIO REGARDING THEIR ADMISSIBILITY SO THAT AT
18 LEAST YOU WILL HAVE SOME POINT OF REFERENCE TO TALK
19 ABOUT IT.

20 AND OF COURSE, IF IT BECOMES AN ISSUE, THEN I
21 WILL OF COURSE ENGAGE IN ANY ANALYSIS THAT IS
22 REQUIRED AND MAKE A DECISION REGARDING THEIR
23 ADMISSIBILITY.

24 AS REGARD TO THE GRAND LARCENY, I BELIEVE THERE
25 IS A CASE ON POINT, AT LEAST ONE OF JUDGE ANDERSON'S

1 OPINIONS FROM THE COURT OF APPEALS, SAYS ANY TYPE
2 THEFT IS NOT SUBJECT TO THE BALANCING TEST BECAUSE IT
3 INHERENTLY DEALS WITH A PERSON'S VORACITY.

4 AND SO TO THAT EXTENT I PROBABLY WOULD ALLOW IN
5 THE GRAND LARCENY AS WELL AS THE BREACH OF TRUST
6 BECAUSE THEY PROBABLY WOULD FALL WITHIN THAT SAME
7 ANALYSIS REGARDING THEFT AND THE PERSON'S VORACITY
8 AND EXCLUDE THEM FROM THE BALANCING TEST.

9 AS REGARD TO THE KIDNAPPING AND THE ABHAN,
10 PURSUANT TO STATE VERSUS ROLLINS, I WILL ONLY LET
11 THEM ASK HIM IF HE HAD A FELONY IN THOSE YEARS
12 BECAUSE I THINK THAT THEY ARE TOO SIMILAR TO WHAT HE
13 IS CHARGED WITH AND WILL BE TOO PREJUDICIAL, SO I
14 WILL NOT LET THEM ASK HIM WHETHER HE WAS CONVICTED OF
15 KIDNAPPING AND ABHAN, ONLY THAT -- WERE YOU CONVICTED
16 OF A FELONY, YES OR NO, AND THEY WILL BE STUCK WITH
17 THE ANSWER.

18 THE BREACH OF TRUST, THE COURT WILL FOLLOW THE
19 SAME ANALYSIS REGARDING THE DISHONESTY ELEMENT,
20 ALTHOUGH I PROBABLY MIGHT LIMIT THE EXTENT OF HOW
21 MANY THEY'RE ABLE TO ASK HIM ABOUT.

22 I WOULD ASSUME THESE ARE -- ALL POTENTIALLY RAN
23 OUT OF THE SAME INCIDENT, AND ALTHOUGH PROBABLY
24 SEPARATE INCIDENTS, PROBABLY APPARENTLY OUT OF THE
25 SAME SCHEME, AND FOLLOWING THE SAME ANALYSIS THAT HAS

1 BEEN USED WITH THE ADMISSIBILITY OF BURGLARY -- WHAT
2 IS IT, BURGLARY FIRST WHEN YOU HAD SUBSEQUENT
3 BURGLARIES, AND THEN INITIALLY THE COURT SAID YOU
4 COULD ASK HIM ABOUT AS MANY AS YOU WANTED BECAUSE IT
5 WAS AN ELEMENT OF THE OFFENSE -- OF THE OFFENSE AND
6 THEN THEY SORT OF BACKTRACKED AND SAID WE KNOW YOU --
7 SORT OF NEED TO EXERCISE SOME LIMITATION BECAUSE AT
8 SOME POINT IT BECOMES SO CUMULATIVE THEY BECOME
9 PREJUDICIAL.

10 AND SO I PROBABLY -- ALTHOUGH I DON'T KNOW HOW
11 MANY I WILL ALLOW THEM TO ASK HIM ABOUT, JUST
12 FOLLOWING THAT SAME LINE OF REASONING WOULD -- I
13 DON'T KNOW HOW MANY I WOULD LET THEM ASK HIM ABOUT,
14 BUT AT SOME POINT THE ISSUE OF HIS VORACITY AND
15 CREDIBILITY -- I THINK HE WOULD HAVE MET THAT
16 STANDARD, AND I -- AND TO SOME EXTENT ASKING HIM
17 ABOUT FIVE OF THEM I THINK POTENTIALLY COULD BE
18 PREJUDICIAL TO HIM. AND I DON'T KNOW, I MAY OR MAY
19 NOT LIMIT HOW MANY THEY ARE ABLE TO ASK HIM ABOUT.

20 NOW, IN REGARDS TO THE BREACH OF TRUST -- THE
21 OBTAINING MONEY BY FALSE PRETENSES AS WELL AS GOODS
22 BY -- PROPERTY BY FALSE PRETENSES, I THINK THOSE WELL
23 MIGHT ALSO FALL UNDER THE SAME ANALYSIS OF A THEFT
24 AND WOULD NOT BE SUBJECT TO THE BALANCING TEST -- GO
25 TO HIS VORACITY, AND CREDIBILITY IS A CENTRAL ISSUE

1 IN THIS CASE.

2 SO TO THE EXTENT THAT THIS WILL ALL -- THIS
3 GIVES YOU A BENCHMARK AT LEAST FROM THE WORST CASE
4 SCENARIO POINT, YOU'D BE ABLE TO HAVE A MEANINGFUL
5 DISCUSSION WITH HIM REGARDING HIS DESIRE TO TESTIFY
6 AGAIN. OKAY.

7 AND AGAIN, THE COURT WILL TAKE THAT UP IN MORE
8 DETAIL AT THE APPROPRIATE TIME IF IN FACT HE DECIDES
9 TO TESTIFY. AND I WILL ENGAGE IN THE APPROPRIATE
10 BALANCING REQUIRED BY THE CASE LAW AND THE RULES AND
11 LOOK FOR THOSE ELEMENTS REQUIRED TO MAKE A DECISION
12 REGARDING THE ADMISSIBILITY OF THE OFFENSES.

13 MR. STANKO, AS I INDICATED, I AM NOT GOING TO
14 ASK YOU AT THIS TIME WHETHER YOU DESIRE TO TESTIFY.
15 I'M ALSO NOT GOING TO ASK YOU AT THIS TIME WHETHER
16 YOU WANT TO ADDRESS THE JURY.

17 I'M GOING TO GIVE YOU FURTHER TIME TO DISCUSS
18 THOSE MATTERS WITH YOUR COUNSEL AND TO -- AND THEN AT
19 THE APPROPRIATE TIME I WILL ASK YOU YOUR DECISION
20 REGARDING THAT.

21 I'M ALSO -- AND ACTUALLY I NEED COUNSEL TO
22 APPROACH FOR ME. I NEED TO ASK ANOTHER QUESTION
23 BEFORE I DELVE INTO THIS OTHER AREA OF QUESTIONING.

24 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

25 THE COURT: ALL RIGHT. I HAVE SOME ADDITIONAL

1 QUESTIONS I NEED TO ASK MR. STANKO, BUT WE'RE GOING
2 TO DO THAT EN CAMERA BECAUSE IT MAY WELL DEAL WITH
3 SOME STRATEGIC ISSUES HE MAY BE DISCUSSING WITH HIS
4 COUNSEL, AND I DO NOT IN ANY WAY WANT TO EFFECT OR TO
5 IMPAIR HIS STRATEGY OR HIS -- OR IN ANY WAY PREJUDICE
6 ATTORNEY CLIENT RELATIONSHIP.

7 SO I'M GOING TO HAVE TO ASK THOSE WHO ARE NOT
8 CENTRAL TO THE PROCEEDINGS, IN OTHER WORDS, THOSE WHO
9 ARE NOT INVOLVED IN HIS REPRESENTATION, TO CLEAR THE
10 COURTROOM.

11 (COURTROOM CLEARED.)

12 THE COURT: IS THAT EVERYBODY THAT'S NOT
13 ESSENTIAL?

14 MR. KELLY: I THINK SO, MA'AM.

15 THE COURT: OKAY. AND MY CLERK WENT TO MAKE
16 SURE THE CAMERAS WERE OFF AND ALL THE MIKES WERE OFF.
17 YOU ALL CAN...

18 (WHEREUPON THERE WAS A PAUSE.)

19 THE COURT: OKAY. MR. STANKO, I JUST WANTED TO
20 INQUIRE AGAIN REGARDING YOUR SATISFACTION WITH
21 COUNSEL, AND I WANTED TO ASK IF YOU WERE SATISFIED
22 WITH YOUR LAWYERS' SERVICES.

23 THE DEFENDANT: YES, MA'AM.

24 THE COURT: AND HAVE THEY DONE EVERYTHING YOU
25 HAVE ASKED OR EXPECTED IN REPRESENTING YOU UP TO THIS

1 POINT?

2 THE DEFENDANT: YES, MA'AM, I BELIEVE THEY HAVE.

3 THE COURT: DO YOU HAVE ANY COMPLAINTS ABOUT
4 THEIR SERVICES AT THIS POINT?

5 THE DEFENDANT: NO, MA'AM.

6 THE COURT: OKAY. ANY ADDITIONAL QUESTIONS AS A
7 RESULT OF THE COURT'S QUESTIONS? DO YOU FEEL THAT
8 THEY'VE ANSWERED ALL OF YOUR QUESTIONS?

9 THE DEFENDANT: YES, MA'AM, I BELIEVE THEY HAVE.

10 THE COURT: OKAY. I'M TRYING TO THINK OF THE
11 USUAL QUESTIONS I GO THROUGH IN COLLOQUY. I
12 APOLOGIZE.

13 THE DEFENDANT: GERALD DOESN'T SMILE MUCH. THAT
14 WOULD BE THE ONLY THING I CAN SAY.

15 THE COURT: PARDON ME, SIR?

16 THE DEFENDANT: GERALD DOESN'T REALLY SMILE
17 MUCH.

18 THE COURT: MR. KELLY?

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: HE'S LOVABLE. HE HAS A GREAT SENSE
21 OF HUMOR.

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: HE DOES. HAVE THEY DONE EVERYTHING
24 YOU'VE ASKED OR EXPECTED IN REPRESENTING YOU?

25 THE DEFENDANT: YES, MA'AM, I BELIEVE THEY HAVE.

1 THE COURT: IS THERE ANYTHING MORE YOU WOULD
2 HAVE THEM DO RIGHT NOW THAT THEY HAVE NOT ALREADY
3 DONE ON YOUR BEHALF?

4 THE DEFENDANT: NO, MA'AM. THERE'S NOTHING I
5 CAN TELL YOU.

6 THE COURT: AND AS I'VE INDICATED, DO YOU HAVE
7 ANY COMPLAINTS ABOUT THEIR SERVICES?

8 THE DEFENDANT: NO, MA'AM.

9 THE COURT: OKAY. I THINK THAT CONCLUDES THE
10 COURT'S BUSINESS FOR THE DAY, AND I WILL SEE Y'ALL IN
11 THE MORNING. GET SOME REST.

12 MR. KELLY: THANK YOU, MA'AM.

13 MR. DIGGS: THANK YOU.

14 THE COURT: I WILL TRY TO GET THEM TO WORK ON
15 THE... I APPRECIATE Y'ALL HELPING ME OUT.

16 (COURT WAS IN RECESS FOR EVENING.)

17 ***** AUGUST 10TH, 2006 *****

18 THE COURT: IS THE STATE READY TO PROCEED?

19 MR. HEMBREE: YES, YOUR HONOR.

20 THE COURT: IS THE DEFENSE READY TO PROCEED?

21 MR. DIGGS: YOUR HONOR, THE DEFENDANT IS NOT IN
22 THE COURTROOM.

23 THE COURT: I AM SORRY. WE NEED THE DEFENDANT.
24 IF YOU ALL CAN BRING MR. STANKO.

25 MR. DIGGS: YOUR HONOR, MAY WE APPROACH?

1 BY MR. DIGGS:

2 Q DR. SACHY, WHERE ARE YOU EMPLOYED?

3 A I'M CURRENTLY SELF-EMPLOYED IN GRAY, GEORGIA, WHICH
4 IS IN THE OUTSKIRTS OF MACON AT GEORGIA PAIN AND
5 BEHAVIORAL MEDICINE.

6 Q OKAY. AND WHAT DO YOU DO THERE?

7 A THERE I PRACTICE PSYCHIATRY, NEUROPSYCHIATRY, GENERAL
8 PAIN MANAGEMENT, AND I DO SOME OF MY FORENSIC PSYCHIATRIC
9 WORK THERE AS WELL.

10 Q ALL RIGHT. AND WOULD YOU TELL US WHERE YOU WENT TO
11 SCHOOL FOR YOUR EDUCATION.

12 A I COMPLETED TWO BACHELOR'S DEGREES AT THE UNIVERSITY
13 OF CALGAREEN, CANADA, ONE GENERAL SCIENCE DEGREE, THE
14 OTHER A BACHELOR OF SCIENCE IN ELECTRICAL ENGINEERING WITH
15 A MINOR IN COMPUTER ENGINEERING.

16 I COMPLETED THOSE IN 1988, I BELIEVE, THEN I CAME
17 DOWN TO GEORGIA, WENT -- I WORKED FOR A YEAR AS AN
18 ELECTRICAL ENGINEER AND I WENT AND COMPLETED MY MASTER'S
19 DEGREE IN BIOLOGY AT GEORGIA STATE UNIVERSITY IN ATLANTA.

20 THEN I WENT TO MEDICAL SCHOOL TO THE MEDICAL COLLEGE
21 OF GEORGIA IN AUGUSTA WHERE I COMPLETED MY MEDICAL DEGREE
22 IN 1995. THEN I WENT TO CHARLESTON, SOUTH CAROLINA TO THE
23 MEDICAL UNIVERSITY OF SOUTH CAROLINA WHERE I COMPLETED MY
24 SPECIALTY TRAINING IN PSYCHIATRY AND A -- MORE
25 SUB-SPECIALTY TRAINING IN SOMETHING CALLED BEHAVIORAL

1 NEUROLOGY.

2 AFTER THAT I WENT TO EMORY UNIVERSITY IN ATLANTA AND
3 I COMPLETED ANOTHER YEAR OF SPECIALTY TRAINING IN FORENSIC
4 PSYCHIATRY.

5 Q OKAY. NOW -- EXCUSE ME -- THAT WAS AT EMORY?

6 A YES.

7 Q AND DID YOU DO ANY RESIDENCY TRAINING AFTER THAT?

8 A THE RESIDENCY TRAINING WAS FOUR YEARS IN CHARLESTON
9 DOING THE RESIDENCY IN PSYCHIATRY AND THE SPECIALTY
10 TRAINING IN BEHAVIORAL NEUROLOGY.

11 Q OKAY. AND HAVE YOU EVER BEEN QUALIFIED TO TESTIFY AS
12 AN EXPERT IN ANY COURT--

13 A YES.

14 Q -- IN THE AREA OF PSYCHIATRY?

15 A YES.

16 Q FORENSIC PSYCHIATRY?

17 A YES.

18 Q OR IN THE AREA OF NEUROPSYCHIATRY?

19 A YES.

20 Q ON HOW MANY OCCASIONS? CAN YOU TELL US?

21 A APPROXIMATELY I WOULD GUESS 50, BETWEEN 50 AND A
22 HUNDRED OCCASIONS.

23 Q ALL RIGHT.

24 MR. DIGGS: AND YOUR HONOR, WE WOULD OFFER DR.
25 SACHY AS AN EXPERT IN PSYCHOLOGY, FORENSIC

1 PSYCHOLOGY, AND NEUROPSYCHOLOGY IS -- EXCUSE ME --
2 PSYCHIATRY.

3 THE COURT: ANY QUESTIONS OR OBJECTIONS?

4 MR. HEMBREE: NO, YOUR HONOR.

5 THE COURT: SO ADMITTED.

6 MR. DIGGS: THANK YOU.

7 THE COURT: YOU MAY PROCEED.

8 BY MR. DIGGS:

9 Q NOW DR. SACHY, WHAT DO YOU DO IN YOUR CLINIC IN
10 GEORGIA?

11 A WELL, I TREAT PSYCHIATRIC PATIENTS, I TREAT PATIENTS
12 WHO HAVE DEPRESSION, BIPOLAR DISORDER, MANIC DEPRESSION,
13 SCHIZOPHRENIA, OBSESSIVE COMPULSIVE DISORDER, FEARS. I
14 TREAT PEOPLE WHO HAVE ALZHEIMERS DISEASE, PARKINSON'S
15 DISEASE, OTHER FORMS OF BRAIN DYSFUNCTION.

16 I TREAT -- I TREAT AND EVALUATE PATIENTS WHO HAVE --
17 ARE BEING TREATED FOR CHRONIC PAIN SYNDROME FOR VARIOUS
18 REASONS, FAILED BACK, SURGERIES, ET CETERA, WHERE WE USE
19 PSYCHIATRIC AND OTHER MEDICATIONS TO -- TO TRY TO GIVE
20 THEM FUNCTION.

21 Q HOW DO YOU GO ABOUT TREATING A PATIENT? WHEN SOMEONE
22 COMES IN TYPICALLY IN YOUR OFFICE, HOW DO YOU TREAT THEM?

23 A YOU LISTEN TO THEIR STORY AND YOU PERFORM AN -- A
24 MEDICAL EXAMINATION AND A NEUROLOGICAL EXAMINATION.

25 Q ALL RIGHT.

1 A YOU VIEW THEIR CASE HISTORY, YOU REVIEW PREVIOUS
2 MEDICAL RECORDS AS WELL, AND IF REQUIRED, YOU GET MEDICAL
3 SLASH SCIENTIFIC TESTING SUCH AS MRI OR OTHER BRAIN
4 IMAGING.

5 Q HOW MUCH OF YOUR TIME IS SPENT DOING FORENSIC WORK?

6 A I WOULD SAY 10 PERCENT OF MY TIME. OF COURSE, LATELY
7 IT'S BEEN MUCH MORE THAN THAT.

8 Q HOW -- WHAT'S INVOLVED IN DOING FORENSIC WORK IN YOUR
9 FIELD?

10 A FORENSIC IS -- COMES FROM A LATIN TERM MEANING, OF
11 THE LAW, SO RELATING TO THE LAW. SO FORENSIC PSYCHIATRY
12 IS THAT SPECIALTY OF PSYCHIATRY WHERE LAW AND BEHAVIOR
13 COME TOGETHER. SO THAT'S WHERE FORENSICS COMES -- COMES
14 IN IN CASES LIKE THIS.

15 Q CAN YOU GIVE ME AN IDEA -- AND I DIDN'T ASK YOU THIS
16 EARLIER, BUT I -- I DO WANT TO ASK YOU THIS. HAVE YOU HAD
17 OCCASION TO DO CONTINUING MEDICAL EDUCATION PRESENTATIONS
18 AS AN INSTRUCTOR?

19 A YES, I HAVE DONE A GREAT MANY OF THEM OVER THE YEARS.

20 Q COULD YOU JUST GIVE ME AN IDEA OF HOW MANY?

21 A TWENTY TO 30. AND BY -- CONTINUING MEDICAL EDUCATION
22 IS WHERE I TRAIN OTHER DOCTORS IN REVIEWING OR GOING OVER
23 CERTAIN SCIENTIFIC ASPECTS OF MEDICAL DISORDERS,
24 NEUROLOGICAL, PSYCHIATRIC DISORDERS, MEDICATIONS, NEW
25 MEDICATIONS, ET CETERA, THAT ARE OUT THERE.

1 Q NOW, I HAD ASKED YOU ABOUT FORENSIC -- YOUR FORENSIC
2 PRACTICE. WHAT TYPES OF TOOLS, DIAGNOSTIC TOOLS OR OTHER
3 ASSETS OR THINGS THAT MIGHT BE AVAILABLE TO YOU TO USE,
4 WHAT KIND OF THINGS DO YOU USE IN A FORENSIC SETTING?

5 A WELL, THE CLINICAL EXAMINATION, THAT MEANS TALKING TO
6 THE PERSON AND QUESTION, ASKING THEM WHAT THEY DID, WHAT
7 THEY WERE THINKING AT THE TIME, WHAT THEY'RE THINKING, HOW
8 THEY ARE BEHAVING NOW, GETTING INFORMATION FROM OTHER
9 SOURCES, AND IF NECESSARY GETTING SCIENTIFIC EXAMINATIONS
10 SUCH AS BRAIN IMAGING OR OTHER LABORATORY WORK TO HELP
11 COME TO A DIAGNOSIS.

12 Q ALL RIGHT. AND HOW MUCH IS TECHNOLOGY LIKE BRAIN
13 SCANNING USED IN FORENSIC WORK AND PSYCHIATRY OR HOW
14 OFTEN?

15 A WELL, THE PACE IS REALLY PICKING UP. PET SCANS, I AM
16 ASSUMING HAVE BEEN DISCUSSED ALREADY. AND IN THIS CASE I
17 ORDERED A PET SCAN AND HAD IT ANALYZED IN CALIFORNIA. BUT
18 THE FIRST PET SCAN OF A HUMAN BRAIN WAS DONE IN 1973, SO
19 THIS HAS BEEN AROUND A LONG TIME.

20 IT WAS -- IT'S BEEN USED CLINICALLY SINCE THEN. IT
21 WAS FIRST USED IN A CRIMINAL CASE IN 1991 IN NEW YORK.
22 FIRST TIME IT WAS USED IN GEORGIA IN A CRIMINAL CASE WAS I
23 BELIEVE 2004. AND I BELIEVE THIS IS THE FIRST TIME IT'S
24 BEEN USED HERE IN SOUTH CAROLINA.

25 Q WELL, LET ME ASK YOU THIS. HOW WOULD A PET SCAN BE

1 USED, MAYBE NOT IN A FORENSIC CAPACITY, BUT JUST IN TRYING
2 TO DIAGNOSIS OR TREAT A PATIENT?

3 A WELL, A PET SCAN IS A SURE WAY TO DIAGNOSE ALZHEIMERS
4 DISORDER. IT'S A SURE WAY TO DIAGNOSE TRAUMATIC BRAIN
5 INJURY, THAT MEANS WHERE SOMEONE GETS BASHED IN THE HEAD
6 AND HAVE SUFFERED BRAIN DAMAGE.

7 Q LET ME SHOW YOU PHOTO OF A PET SCAN. CAN
8 YOU RECOGNIZE WHAT THAT IS AND WHAT IT DEPICTS?

9 A THIS IS A PET SCAN OF A PATIENT WITH ALZHEIMERS
10 DISEASE AND A NORMAL CONTROL BRAIN--

11 MR. HEMBREE: YOUR HONOR, I OBJECT TO THE
12 PUBLICATION.

13 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

14 THE COURT: THE OBJECTION IS WITHDRAWN. YOU MAY
15 PROCEED WHEN YOU'RE READY.

16 MR. HEMBREE: THANK YOU, YOUR HONOR.

17 THE COURT: YOU'RE WELCOME.

18 BY MR. DIGGS:

19 Q DR. SACHY, COME DOWN IF YOU WOULD AND -- SO THAT WE
20 CAN LOOK AT THAT. I'M -- I WANT YOU TO EXPLAIN TO US WHAT
21 THAT IS AND WHAT IS DEPICTED THERE.

22 A WHAT ARE DEPICTED ARE TWO BRAINS OF TWO INDIVIDUALS,
23 ONE WHO HAS ALZHEIMERS DISEASE AND ONE WHO DOESN'T. AND
24 THESE ARE SLICES OF THE BRAIN TAKEN LIKE THIS. IF I TOOK
25 MY SANDWICH MEAT CUTTER AT KROGER AND COULD CUT MY HEAD

1 OPEN LIKE THIS ACROSS, WE MIGHT SEE SOMETHING LIKE THIS IF
2 WE COULD LIGHT UP THE AREAS OF OUR BRAIN THAT ARE HIGHLY
3 ACTIVE.

4 THE AREAS IN RED AND YELLOW ARE HIGHLY ACTIVE.
5 THAT'S WHERE RADIOACTIVE SUGAR IS BEING TAKEN UP IN A VERY
6 HIGH RATE. AREAS THAT ARE DARKER HAS LESS RADIOACTIVE
7 SUGAR BEING USED. SO THIS SHOWS US WHAT AREAS OF THE
8 BRAIN ARE HIGHLY FUNCTIONAL AND WHAT AREAS ARE MORE QUIET
9 DURING THIS SNAPSHOT.

10 Q ALL RIGHT. SHOW US IN YOUR OPINION ON THAT
11 PHOTOGRAPH WHAT IS MATERIAL OR, YOU KNOW, WHAT -- WHAT ARE
12 WE LOOKING AT IN TERMS OF THE EFFECT ON THE PATIENT.

13 A IN PARTICULAR IN ALZHEIMERS DISEASE -- I WILL PUT
14 THIS DOWN FOR A MINUTE -- IT'S THESE AREAS OF MY BRAIN
15 WHERE I'M PUTTING MY HAND RIGHT NOW, THE TEMPORAL
16 DYSFUNCTIONAL FIRST THAT ACTUALLY START TO DIE OUT AND
17 DISINTEGRATE.

18 Q CAN YOU SEE THAT ON THAT PHOTOGRAPH?

19 A THIS IS THE FRONT OF THE BRAIN. THIS IS THE BACK OF
20 THE BRAIN HERE. AND WE CAN SEE THAT THESE AREAS RIGHT
21 HERE HAVE GONE -- OR THAT THEY ARE GOING QUIET COMPARED TO
22 THE NORMAL PERSON WHO HAS GOT A LOT OF RED AND ACTIVITY
23 HERE.

24 Q ALL RIGHT. IS...

25 A THIS IS LIKE A FINGERPRINT FOR ALZHEIMERS. THIS --

1 WHEN YOU GET A PET SCAN AND YOU LOOK AT THIS, SPECIALTY --
2 SPECIALISTS -- SPECIALISTS IN THIS FIELD AUTOMATICALLY
3 WOULD ASSUME THIS PERSON HAS ALZHEIMERS.

4 Q ALL RIGHT. YOU CAN RESUME YOUR SEAT.

5 A (COMPLIED.)

6 Q TELL US SPECIFICALLY WHY IT IS A TRAINED PROFESSIONAL
7 COULD LOOK AT A PET SCAN LIKE THAT AND DIAGNOSE
8 ALZHEIMERS.

9 A BECAUSE THEY SEE THE PATTERN THAT IS FAMILIAR TO THEM
10 THROUGH YEARS OF TRAINING, EDUCATION AND EXPERIENCE, AND I
11 RECOGNIZE THAT LOOKING AT THAT, IF YOU HAVE NOT LOOKED AT
12 THEM REGULARLY, LOOKS LIKE JUST BLOBS OF COLOR AND -- BUT
13 I THINK IN THAT INSTANCE IT'S -- IT'S KIND OF EASY TO SEE
14 THAT THOSE AREAS HERE, BACK HERE, WERE QUIET IN THE
15 ALZHEIMERS PATIENT COMPARED TO THE NORMAL PATIENT.

16 BUT WHEN YOU'VE LOOKED AT THESE A LOT, IT BECOMES
17 VERY CLEAR AND VERY EASY. AND IF I GIVE ONE MORE EXAMPLE,
18 PHYSICIANS WHO LOOK AT CHEST X-RAYS ALL THE TIME, AND I
19 REMEMBER IN MY MEDICAL TRAINING LOOKING AT A CHEST X-RAY
20 AND THINKING, HOW ON EARTH WILL I EVER UNDERSTAND THE
21 CHEST X-RAY, IT JUST LOOKS LIKE A MORPHOUS CLOUDY STUFF,
22 BUT YOU KEEP LOOKING AT THEM, AND IF YOU HAVE A GOOD
23 TEACHER BESIDE YOU, IT BECOMES CLEAR AND YOU BEGIN TO
24 RECOGNIZE THE PATTERN.

25 Q HOW ELSE MIGHT YOU USE PET SCANS IN YOUR PRACTICE TO

1 MAKE A DIAGNOSIS?

2 A WELL, IN PATIENTS WITH OBVIOUSLY DEMENTIA, LIKE
3 ALZHEIMERS DISEASE, PATIENT WITH TRAUMATIC BRAIN INJURY, A
4 LOT OF WORKMEN -- WORKMENS COMP CASES, A LOT OF THEM DEAL
5 WITH PEOPLE WHO HAVE HEAD INJURY OR CLAIM THEY HAVE HEAD
6 INJURY.

7 WELL, THEY SAY THEY HAVE A HEAD INJURY, AND SOMETIMES
8 IT'S HARD TO TELL. YOU CAN GET IMAGING LIKE THAT AND SEE
9 IF THERE'S AN AREA OF THE BRAIN THAT'S QUIET, NOT USING AS
10 MUCH SUGAR AS A NORMAL BRAIN, AND THAT HELPS PROVE OR
11 DISPROVE THEIR BRAIN INJURY.

12 Q IS THERE A CORRELATION OR CAN THERE BE A CORRELATION
13 BETWEEN THE BRAIN FUNCTION AS SHOWN OR DEMONSTRATED BY A
14 PET SCAN AND SOMEONE'S BEHAVIOR?

15 A YES, DEFINITELY.

16 Q WELL, HOW CAN THAT BE?

17 A BECAUSE OUR -- OUR -- OUR OUTWARDLY SOCIAL BEHAVIORS
18 AND OUR EMOTIONAL BEHAVIORS ARE CONTROLLED FOR THE MOST
19 PART MAINLY BY THE AREAS RIGHT HERE WHERE I'M PUTTING MY
20 FINGERS, THE FRONTAL LOBES OF THE BRAIN, BEHIND -- ABOVE
21 MY EYEBALLS AND JUST BEHIND MY EYEBROWS.

22 THAT AREA OF THE BRAIN IS ABSOLUTELY KNOWN FOR SURE
23 TO CONTROL BEHAVIOR. IF THAT PART OF THE BRAIN IS NOT
24 WORKING, YOU HAVE BEHAVIORAL DYSCONTROL.

25 Q HOW LONG HAVE YOU KNOWN THAT?

1 A WE HAVE -- WELL, WE HAVE SUSPECTED THAT SINCE THE MID
2 1800'S. THERE'S A VERY FAMOUS CASE OF PHINEAS GAGE, AND I
3 HAVE A -- AN IMAGE OF HIM IF...

4 Q DO YOU WANT TO USE THAT?

5 A I'D LIKE TO SHOW THAT. BELIEVE IT WAS 1848 IN NEW
6 HAMPSHIRE A MAN NAMED PHINEAS GAGE WAS THE FOREMAN OF A
7 WORK CREW WORKING PUTTING IN RAILWAY TRACK FOR A RAILWAY
8 COMPANY AND A THREE AND A HALF FOOT LONG ONE AND A HALF
9 INCH WIDE TEMPERING IRON OR METAL BAR WAS -- EXPLODED
10 UNDERNEATH HIM AND SHOT UP THROUGH HIS LEFT CHEEK,
11 DESTROYED HIS LEFT EYE, AND CAME OUT THE TOP OF HIS HEAD
12 AND FLEW THROUGH THE AIR FOR SEVERAL HUNDRED FEET.

13 MR. GAGE WAS KNOCKED ONTO HIS BEHIND. HE WAS
14 STUNNED, BUT HE SURVIVED. THE DOCTOR WHO CAME AND TREATED
15 HIM -- THE LEVEL OF TREATMENT AT THAT TIME WAS TO STICK
16 YOUR FINGER IN THIS HOLE AND STICK YOUR FINGER IN THIS
17 HOLE, AND HE FOUND HE COULD JOIN HIS FINGERS IN BETWEEN,
18 AND BASICALLY THEY -- AFTER THAT EXPLORATORY EXAMINATION,
19 THEY CLEANED HIM UP, CLOSED IT UP, AND MR. GAGE SURVIVED.

20 HOWEVER, HE WAS NEVER THE SAME. HE BECAME QUITE
21 SOCIALLY INAPPROPRIATE. AND THIS WAS A MAN WHO WAS NOT A
22 DRINKER. HE WAS VERY QUIET, A CHURCH-GOING TYPE PERSON.
23 NOW BECAME VERY INAPPROPRIATE, LOUD, COMBATIVE, AND HE
24 STARTED ABUSING ALCOHOL, AND HE NEVER TOUCHED ALCOHOL
25 BEFORE.

1 WE LEARNED FROM THIS CASE -- THIS WAS ONE OF THE
2 FIRST INSTANCES WHERE WE STARTED TO UNDERSTAND THIS PART
3 OF THE BRAIN IN FRONT, YOU DO DAMAGE TO THIS AND YOUR
4 BEHAVIOR BECOMES INAPPROPRIATE.

5 Q NOW, WHAT -- HOW HAVE WE PROGRESSED SINCE THAT TIME
6 WITH OUR UNDERSTANDING OF WHAT FUNCTIONS TAKE PLACE IN THE
7 FRONTAL LOBES?

8 A WELL, WE -- THERE ARE MANY CASES SUCH AS THIS ONE
9 FROM THE ARCHIVES OF NEUROLOGY. THERE HAVE BEEN MANY,
10 ALMOST TOO NUMEROUS TO COUNT CASES WHERE EXPERTS IN THE
11 FIELD OF NEUROLOGY AND NEUROPSYCHIATRY HAVE SEEN THAT
12 PEOPLE WHO DEVELOP EITHER TUMORS OR STROKE OR WHAT HAVE
13 YOU, DAMAGE TO THIS PART OF THE BRAIN, THE FRONT, NOW CAN
14 DEMONSTRATE AGGRESSIVE, VIOLENT OR CRIMINAL BEHAVIOR.

15 AND THIS FAMOUS CASE FROM 2003 SHOWED AN INDIVIDUAL
16 WHO DEVELOPED -- BECAME A PEDOPHILE AFTER DEVELOPING A
17 BRAIN TUMOR IN HIS FRONTAL LOBE. IN FACT, HE WAS SENT
18 FOR -- FOR TREATMENT.

19 BEFORE THEY SENT HIM TO JAIL, THEY SENT HIM FOR
20 TREATMENT. AND EVEN IN TREATMENT, HE WAS MAKING
21 INAPPROPRIATE SEXUAL ADVANCES TO THE PEOPLE WHO WERE
22 SUPPOSEDLY TREATING HIM. THEY DIDN'T KNOW HE HAD A TUMOR
23 AT THE TIME.

24 WHEN HE WAS FINALLY ARRESTED, HE WAS SENT TO JAIL AND
25 ON THAT FIRST NIGHT IN JAIL HE COMPLAINED OF A TERRIBLE

1 HEADACHE. A CAT SCAN WAS DONE. ANOTHER BRAIN IMAGE WAS
2 DONE SEPARATE FROM THE ONES WE HAVE DONE TODAY, AND WE CAN
3 SEE A LARGE RIGHT FRONTAL TUMOR.

4 AND, BY THE WAY, EYEBALL WOULD BE HERE, EYEBALL WOULD
5 BE HERE, SO THIS IS AT THE FRONT. LARGE TUMOR IN THE
6 FRONT OF THE BRAIN -- HERE'S NOSE, HERE'S FRONT OF THE
7 BRAIN, BACK OF THE BRAIN. WE KNOW THIS, THAT WHEN THEY
8 CUT THE TUMOR OUT, HIS BEHAVIORS CEASED.

9 Q HOW MIGHT THAT TUMOR HAVE HAD EFFECT ON HIS BEHAVIOR?
10 WHAT WAS IT DOING TO CAUSE THAT CHANGE?

11 A IT'S CRUSHING AND DAMAGING THE -- THE GOOD MATERIAL,
12 THE GOOD, NORMAL WORKING BRAIN IN THE FRONTAL LOBE. IT'S
13 GROWING. IT IS USELESS. IT IS PARASITIC. THAT'S WHAT
14 CANCER IS, IT GROWS. IT DOESN'T DO ANYTHING BUT GROW.

15 AND AS IT GROWS, IT KILLS WHAT'S AROUND IT. AND THIS
16 WAS NOW STARTING TO AFFECT THE FRONTAL LOBE.

17 Q DO YOU HAVE ANYTHING THAT YOU CAN SHOW US,
18 DEMONSTRATE FOR US THE STRUCTURE OF THE BRAIN? ALL RIGHT.
19 WHAT ARE WE LOOKING AT HERE?

20 A WELL, WE'RE LOOKING AT -- LET'S LOOK AT THIS. IF MY
21 HIGHLIGHTER IS CIRCLING THIS PART OF THE -- THIS BRAIN.
22 THIS IS JUST A SIDEWAYS VIEW OF THE BRAIN. EYEBALL WOULD
23 BE HERE LOOKING FORWARD THAT WAY. OKAY. SO THIS IS THE
24 BACK OF THE BRAIN. THIS IS THE FRONT OF THE BRAIN.

25 THE COLORED AREAS HERE ARE THE FRONTAL LOBES IN

1 GENERAL. OKAY. BUT THE SPECIAL PARTS OF THE FRONTAL
2 LOBES THAT ARE SO IMPORTANT FOR SOCIALLY APPROPRIATE
3 BEHAVIOR ARE -- IS THIS PART UNDERNEATH, RIGHT ABOVE MY
4 EYEBALL, RIGHT ABOVE THE EYEBALL, RIGHT UNDERNEATH IN
5 GREEN.

6 THIS IS A SHOT OF THIS BRAIN BUT FROM THE UNDERSIDE,
7 LOOKING FROM THE NECK UP TO THE SKY, AND WE CAN SEE THE
8 GREEN PART HERE CORRESPONDS TO THIS. THEY COLORED IT
9 PURPLE ON THE RIGHT SIDE. THIS IS THE LEFT SIDE. THIS IS
10 THE RIGHT SIDE.

11 THIS IS CALLED THE MEDIAL ORBITAL FRONTAL LOBE OR THE
12 ORBITAL FRONTAL LOBE. THEY CALL IT ORBITAL BECAUSE WHERE
13 OUR EYES SIT, THEY SIT IN THE ORBITAL SOCKETS, AND THESE
14 ARE THE ORBITAL BONES, SO THEY CALL IT THE ORBITAL FRONTAL
15 LOBE IMMEDIATELY ABOVE THE EYES.

16 Q ALL RIGHT. LET'S TALK ABOUT EMOTIONS. WHERE ARE
17 EMOTIONS GENERATED IN THE BRAIN? CAN YOU SHOW US ON THAT
18 DIAGRAM OR CAN YOU BRING UP THE DIAGRAM AND SHOW US?

19 A OKAY. HERE'S JUST A VERY SIMPLE DRAWING. BUT
20 EYEBALL WOULD BE HERE. I'M GOING IN A CIRCLE HERE.
21 THAT'S THE EYEBALL LOOKING FORWARD.

22 Q THAT IS THE BRAIN IS LOOKING TOWARDS ME?

23 A YES. FRONT OF BRAIN HERE, BACK OF BRAIN HERE. OUR
24 EMOTIONS, ESPECIALLY POWERFUL EMOTIONS, AND MOST
25 ESPECIALLY OUR AGGRESSIVE IMPULSES ARE FORMED AT THE

1 CENTER WHERE ALL THESE LOOPS AND ARROWS ARE COMING OUT
2 FROM.

3 IT'S CALLED THE AMYGDALA AND IT'S CONNECTED TO
4 SOMETHING CALLED THE LIMBIC SYSTEM. AND IT'S QUITE
5 COMPLICATED, BUT ANY ANGER OR STRONG EMOTION THAT ANY ONE
6 OF US IN HERE FEELS IS FIRST REGENERATED HERE, THEN SENT
7 UP, AND THAT'S WHAT IT'S SHOWING HERE.

8 IT'S SHOWING THOSE SIGNALS BEING SENT TO THE FRONT
9 PART OF THE BRAIN, TO THE BACK PART OF THE BRAIN. IT'S
10 SENT TO ALL PARTS OF THE BRAIN.

11 Q NOW, WHEN THOSE SIGNALS COME OUT, YOU KNOW, YOU USED
12 THE WORD IMPULSE. BUT LET ME ASK YOU THIS. WHEN A SIGNAL
13 COMES OUT OF THE LIMBIC SYSTEM, IS THERE ANY SPECIFIC
14 CUT-OFF POINT WHERE, YOU KNOW, IT'S GOING TO STOP?

15 A WELL, THE SIGNALS THAT WE'RE TALKING ABOUT HERE ARE
16 ALMOST INSTANTANEOUS. WE ARE TALKING 300 MILLISECONDS.

17 Q HOW LONG -- IF THE -- IF LET'S SAY ANGER COMES OUT OF
18 THE EMOTION, HOW LONG COULD THAT -- I MEAN, OUT OF THE
19 LIMBIC SYSTEM -- HOW LONG COULD THAT EMOTION CONTINUE?

20 A IT CAN CONTINUE FOR -- FOR A LENGTH OF TIME, HOURS,
21 DAYS, BUT PROBABLY, YOU KNOW, WHAT DO WE SAY -- SPITES OF
22 ANGER, BOUTS OF ANGER, IT CAN BE CONTINUOUS, IT CAN WAX
23 AND WANE, BUT AS LONG AS THAT PART OF THE BRAIN CAN
24 GENERATE A SIGNAL, YOU CAN HAVE STRONG EMOTION OR AN -- OR
25 AN OUTBURST.

1 Q ALL RIGHT. COULD THE WORD IMPULSE BE MISLEADING THEN
2 IN THAT CONTEXT?

3 A IN WHAT WAY?

4 Q WELL, A ORDINARY PERSON MIGHT THINK OF AN IMPULSE AS
5 BEING THAT, YOU KNOW, IT'S THERE AND THEN IT'S GONE.

6 A CORRECT. NO, THIS AREA OF THE BRAIN GENERATES AN
7 IMPULSE, BUT THEN IT'S LIKE THROWING A STONE INTO A POND,
8 BOOM, YOU SEE IT SPLASH. THE SPLASH HAS OCCURRED HERE.
9 BUT THEN THERE ARE WAVES AND RIPPLES THAT GO OUT
10 THROUGHOUT THE BRAIN AFFECTING ALL OUR BEHAVIOR.

11 IN FACT, THERE'S A COMMON SAYING, SEEING RED. WHERE
12 DO WE GET THAT FROM? WHEN YOU GET ANGRY AND SOMEONE SAYS,
13 YOU ARE SEEING RED. I'M TRYING TO -- WE -- WE GET THESE
14 SAYINGS BECAUSE -- THESE OLD SAYINGS COME FROM HUMAN --
15 HUMAN BEINGS' REFLECTIONS ON WHAT HAPPENS WHEN THEY GET
16 ANGRY.

17 AND I -- I WOULD ASSUME SEEING RED MAY EVEN REFLECT
18 THE INCREASED BLOOD FLOW TO THE BRAIN BECAUSE THIS RIPPLE
19 EFFECT IS GOING THROUGH THE BRAIN AND ANGER IS -- AS BEING
20 GENERATED AND NOW THE REVERBERATIONS ARE BUILDING UP AND
21 CONTINUING.

22 Q SO--

23 A THE IMPORTANT -- THE IMPORTANT POINT IS WHAT STOPS
24 THE RIPPLES. WHEN WE GET ANGRY, WHY DO WE KEEP GOING?
25 NOW, WE ALL HEARD OF INDIVIDUALS, OR MAYBE I -- I

1 CERTAINLY HAVE IN MY PRACTICE -- WHO DO KEEP GOING.
2 THEY'RE INAPPROPRIATE.

3 I SEE THEM IN MY PRACTICE. THEY HAVE BRAIN DAMAGE.
4 BUT IT'S THIS FRONTAL PART OF THE BRAIN RIGHT ABOVE THE
5 EYEBALLS HERE THAT CONTROLS AND SENDS SIGNALS BACK TO THIS
6 TO SAY, CALM DOWN. THE EMERGENCY BRAKE FOR THE BRAIN IS
7 RIGHT ABOVE THE EYEBALLS. IT'S A FACT. IT'S SCIENCE AND
8 IT'S MEDICINE.

9 Q OKAY. CAN YOU SHOW US AGAIN WITH YOUR POINTER OR
10 HIGHLIGHTER AGAIN WHERE THE BRAKES ARE PUT ON THESE
11 EMOTIONS?

12 A THE BRAKES ARE RIGHT HERE. WE KNOW THAT BECAUSE
13 PEOPLE WHO HAVE DAMAGE FOR WHATEVER REASON TO THIS PART OF
14 THE BRAIN NOW BECOME SOCIALLY INAPPROPRIATE, IMPULSIVE,
15 AND PRONE TO OUTBURSTS OF ANGER AND VIOLENCE.

16 AND IN FACT, JUST IN REVIEWING -- REVIEWING MATERIAL
17 FOR THIS CASE, THERE'S AN EXCELLENT CASE -- AND THIS IS
18 FROM THE MEDICAL COLLEGE OF GEORGIA IN AUGUSTA WHERE I DID
19 MY TRAINING, AND THEY ARE DOING -- IT WAS A REVIEW PAPER
20 ON BRAIN SURGERY BEING DONE TO THESE PEOPLE WHO HAD
21 VIOLENCE THEY COULD NOT CONTROL.

22 AND THESE WERE YOUNG BOYS WHO BECAME VIOLENT AFTER
23 GETTING HERPES IN THEIR EYE, COLD SORE FROM THEIR MOUTH,
24 THEN THEY TOUCHED THEIR EYES, THE HERPES WENT RIGHT TO THE
25 BRAIN, AND THEY DEVELOPED SOMETHING CALLED HERPES

1 ENCEPHALITIS.

2 THE HERPES GOT GROWING ON THE UNDERSIDE OF THE BRAIN
3 BECAUSE FROM THE EYEBALL THE DIRECT ROOT INTO THE BRAIN IS
4 FROM THE UNDERSIDE. AFTER DEVELOPING HERPES ENCEPHALITIS,
5 THESE BOYS BECAME UNCONTROLLABLY VIOLENT, UP TO SEVEN OR
6 EIGHT ASSAULTIVE, REQUIRING INTERVENTION OF THE LAW,
7 EPISODES OF VIOLENCE PER MONTH -- I MEAN SEVEN OR EIGHT
8 TIMES THEY COULD HAVE GONE TO JAIL, THEIR VIOLENCE WAS
9 THAT BAD.

10 THEY WENT IN, THE SURGEONS, MEDICAL COLLEGE, AND THEY
11 CUT OUT THE AMYGDALA, THE PART WHERE THE STONE DROPS IN
12 THE WATER WHERE THESE SIGNALS FOR VIOLENCE COME FROM.
13 THEY CUT THESE PARTS OUT IN THESE BOYS, AND IN THE GREAT
14 MAJORITY OF CASES THEIR VIOLENCE AND IMPULSIVE VIOLENCE
15 WAS GREATLY DIMINISHED TO LIKE ONE VIOLENT OUTBURST PER
16 MONTH RATHER THAN EIGHT.

17 SO WE KNOW THAT DAMAGE TO THIS PART OF THE BRAIN
18 TAKES THE EMERGENCY BRAKE OFF THE OUR -- OUR CONTROL FOR
19 VIOLENCE. IT -- THAT'S THE BRAKE.

20 WHEN WE ALL -- WHEN WE'RE DRIVING IN A CAR AND
21 SOMEONE CUTS US OFF AND WE FEEL LIKE WE WANT TO DO THEM
22 GREAT HARM, WHAT KEEPS US FROM DOING THAT IS THIS PART OF
23 THE BRAIN. THERE'S NOTHING ELSE OUT THERE SAYING, DON'T
24 DO IT. IT'S THAT PART OF THE BRAIN.

25 Q ALL RIGHT. THE CAPACITY TO CONFORM OR THE CAPACITY

1 TO APPRECIATE OR DISTINGUISH BETWEEN RIGHT AND WRONG, IS
2 THAT RELATED IN ANY WAY TO WHAT YOU'RE DISCUSSING AT THIS
3 POINT?

4 A WELL, YES, IT'S--

5 Q WHY IS THAT?

6 A BECAUSE IT'S BASED IN THAT PART OF THE BRAIN. I KNOW
7 I'M -- IT MAY SOUND REPETITIVE. WHEN PEOPLE SUFFER BRAIN
8 DAMAGE TO THAT AREA OF THE BRAIN, THEY DO A LOT MORE WRONG
9 THAN THEY EVER DID BEFORE. THEIR ABILITY TO DISTINGUISH
10 OR APPRECIATE RIGHT FROM WRONG IS EITHER GREATLY
11 DIMINISHED OR REMOVED.

12 THERE IS A CASE I WAS INVOLVED WITH IN MACON OF A
13 WOMAN WHO SUFFERED A SLIGHT HEART ATTACK AND THE BLOOD WAS
14 CUT OFF TO HER BRAIN FOR A SHORT PERIOD OF TIME, AND AFTER
15 THAT, WHATEVER STORE SHE WENT INTO, SHE WOULD SHOPLIFT,
16 EVEN IN FULL VIEW OF, YOU KNOW, PEOPLE WORKING IN THE
17 STORE.

18 AND IN FACT, SHE WAS APPROPRIATELY, YOU KNOW, THE
19 LEGAL SYSTEM -- WELL, THE RIGHT THING WAS DONE IN THAT
20 CASE BECAUSE EVERYONE UNDERSTOOD THAT HER BEHAVIOR CAME
21 AFTER THE DAMAGE TO THAT PART OF THE BRAIN.

22 Q WHAT DOES ALL OF THIS HAVE TO DO WITH INSANITY? DOES
23 IT HAVE ANYTHING TO DO WITH INSANITY?

24 A YES.

25 Q WELL, WHY DO YOU SAY THAT?

1 A IN, YOU KNOW, IN PSYCHIATRY AND MEDICAL PRACTICE, WE
2 DON'T USE THE WORD INSANITY MUCH ANY MORE. SOMEONE
3 DOESN'T COME IN, AND I PICK UP MY FINGER AND LOOK AND SAY,
4 YOU'RE INSANE. IT'S MORE OF SOMETHING TO LAUGH ABOUT
5 OR -- YOU KNOW.

6 BUT FROM A LEGAL I GUESS PERSPECTIVE, INSANITY MEANS
7 THAT SOMEONE'S BRAIN OR BEHAVIOR IS DYSFUNCTIONAL AND THEY
8 ACTED INAPPROPRIATELY OR DYSFUNCTIONAL, AND THAT'S WHAT
9 INSANITY IS, INAPPROPRIATE DYSFUNCTIONAL BEHAVIOR.

10 Q IS IT -- HAVE YOU LOOKED AT THE LEGAL DEFINITION OF
11 INSANITY IN SOUTH CAROLINA?

12 A YES, I HAVE.

13 Q ALL RIGHT. AND LET ME GO AHEAD AND ASK YOU THIS
14 QUESTION. LET'S TALK ABOUT STEPHEN STANKO.

15 A OKAY.

16 Q OKAY. HOW DID YOU GET INVOLVED IN THE CASE, IN THIS
17 CASE?

18 A WELL, I HAD BEEN GIVING A LECTURE, I THINK IT WAS IN
19 MYRTLE BEACH, AND I MET SEVERAL PSYCHIATRISTS, AND ONE OF
20 THEM HAD HEARD ME DISCUSS A CASE THAT I WORKED ON IN
21 GEORGIA, THE FIRST CASE WHERE PET SCANS WERE USED, AND I
22 EXPLAINED WHAT OUR FINDINGS WERE AND OUR SCIENTIFIC
23 PROCEDURE, AND THAT PERSON THEN I GUESS CONTACTED YOU
24 ABOUT THIS CASE, AND THEN I WAS CONTACTED.

25 Q ALL RIGHT. AFTER YOU GOT ON THE CASE, WERE YOU ABLE

1 TO EVENTUALLY MAKE A DECISION IN THIS CASE TO RENDER -- OR
2 RENDER AN OPINION ON THE SANITY OR INSANITY OF MR. STANKO
3 AT THE TIME OF THIS PARTICULAR INCIDENT?

4 A I WAS, BUT I -- I REALLY THINK I SHOULD JUST EXPLAIN
5 THE...

6 Q WE'LL GIVE YOU A CHANCE TO EXPLAIN IT, BUT JUST TELL
7 US WHAT YOUR OPINION IS IN THIS CASE.

8 A MY OPINION BASED ON INTERVIEWING MR. STANKO AND ON
9 REVIEWING WHAT WAS DONE IN THIS CASE AND ON THE REVIEW
10 THAT OTHER PROFESSIONALS HAVE DONE IN THIS CASE AND ON THE
11 REALLY I GUESS FANTASTIC OR CONSIDERABLE IMAGING THAT HAS
12 TAKEN PLACE IN THIS CASE, WHICH HAS NEVER BEEN DONE BEFORE
13 IN THIS COUNTRY, I HAVE COME TO THE CONCLUSION THAT HE WAS
14 INSANE AT THE TIME.

15 Q ALL RIGHT. NOW, I WANT YOU TO TELL US WHY YOU CAME
16 TO THAT CONCLUSION.

17 A MY INTEREST--

18 Q LET'S GO -- YOU WROTE A REPORT IN THIS CASE; DID YOU
19 NOT?

20 A YES.

21 Q DO YOU HAVE THAT REPORT WITH YOU?

22 A ACTUALLY I -- I MAY NOT HAVE MY REPORT WITH ME, BUT
23 YOU HAVE A COPY OF IT.

24 THE COURT: IT'S A COURT'S EXHIBIT.

25 BY MR. DIGGS:

1 Q ALL RIGHT. TELL US WHAT YOU DID IN ORDER TO PUT
2 YOURSELF IN THE POSITION TO BE ABLE TO RENDER AN OPINION
3 IN THIS CASE.

4 A WELL, I WENT AND INTERVIEWED MR. STANKO AND I
5 REVIEWED THE PERTINENT RECORDS IN THIS CASE, WHICH WERE
6 QUITE A LOT. THEY WERE THE RECORDS FROM HIS BIRTH, THEY
7 WERE THE RECORDS FROM HIS EARLY PSYCHIATRIC TREATMENT IN
8 THE 1990'S, I BELIEVE 1994, THERE WERE -- THERE WERE THE
9 RECORDS WHEN HE WAS -- WHEN HE WAS INCARCERATED FOR
10 THIS -- I'M SORRY -- FOR AN INCIDENT IN I BELIEVE IT WAS
11 1996 WHEN HE WAS INCARCERATED FOR EIGHT TO 10 YEARS, HE
12 WAS EVALUATED AT THE HALL INSTITUTE IN COLUMBIA WHICH IS A
13 FORENSIC INSTITUTE, I REVIEWED THOSE, AND AGAIN, THE BRAIN
14 IMAGING. I REVIEWED ALL THOSE RECORDS.

15 Q ALL RIGHT. TELL US ABOUT THAT DECISION, YOUR
16 DECISION TO GET THE BRAIN IMAGING INVOLVED IN THIS CASE.
17 WHY DID YOU DO THAT AND FOR WHAT -- TELL US HOW YOU DID
18 THAT AND FOR WHAT PURPOSE.

19 A FROM THE MEDICAL LITERATURE WE KNOW THAT INDIVIDUALS
20 WITH DAMAGE TO THEIR FRONTAL LOBES ACT MORE IMPULSIVELY
21 AND MORE VIOLENTLY. AND THIS INVESTIGATOR HERE, DR.
22 ADRIAN RAINE AT THE UNIVERSITY OF CALIFORNIA IN LOS
23 ANGELES, HE'S KIND OF THE PIONEER OF GETTING PET SCANS ON
24 MURDERERS AND PSYCHOPATHS.

25 I MEAN, WE CALL A CERTAIN SUBSET MURDERERS AND

1 PSYCHOPATHS. AND I HAD RESEARCHED ALL HIS RESEARCH. AND
2 FROM THAT I REALIZED I HAD TO GET A PET IMAGE OF
3 MR. STANKO'S BRAIN.

4 SUBSEQUENTLY DR. RAINE'S OFFICE HEADED OR POINTED ME
5 IN THE DIRECTION OF, AGAIN, DR. JOSEPH WU FROM THE
6 UNIVERSITY OF CALIFORNIA IRVINE WHO ACTUALLY
7 PRACTICALLY -- IN A PRACTICAL WAY HE TAKES THE PICTURES.
8 DR. RAINE DID THE -- DID THE WORLD CHANGING RESEARCH
9 SO-TO-SPEAK, THE CUTTING EDGE RESEARCH, BUT IT'S MEN LIKE
10 DR. WU WHO ACTUALLY USE THIS PRACTICALLY.

11 SO I CONTACTED DR. WU. THE PET SCANS WERE DONE AT
12 THE MEDICAL UNIVERSITY OF SOUTH CAROLINA AND THE DATA WAS
13 SENT TO DR. WU, AND HE GENERATED THE PET SCAN IMAGES FROM
14 MR. STANKO.

15 Q ALL RIGHT. NOW, WE ALSO HAVE AN MRI DONE. WHY DID
16 YOU DECIDE TO DO THAT?

17 A IN THE CASE THAT I DID IN GEORGIA SEVERAL YEARS AGO
18 ALL WE DID WAS PET SCANS. ON FURTHER RESEARCH SINCE THAT
19 TIME THINGS HAVE CHANGED, AND DR. RAINE HAD SAID IT -- HE
20 SAID, LOOK, BASICALLY THE PET SCAN SHOWS THERE'S SOMETHING
21 NOT FUNCTIONING RIGHT IN THE FRONTAL LOBE OF MURDERERS,
22 BUT IS THERE ANY OTHER EVIDENCE OF SOMETHING WRONG WITH
23 THEIR BRAIN, ESPECIALLY IN THE FRONTAL LOBE.

24 WELL, DR. RAINE DID FURTHER ANALYSIS AND HE GOT MRIS
25 OF PEOPLE'S BRAINS. NOW, AN MRI ESSENTIALLY IS LIKE GOING

1 BACK TO THIS PEDOPHILE HERE. AN MRI DOESN'T SHOW US
2 BRIGHT LIGHTS WHERE LOTS OF SUGAR IS BEING USED. AN MRI
3 SHOWS US STRUCTURE. IT'S LIKE TAKING AN X-RAY.

4 Q DO WE HAVE THE MRI PHOTOS HERE?

5 A WE DO. I THINK THEY'RE OVER THERE.

6 Q WOULD IT HELP YOU TO USE THOSE TO EXPLAIN TO US OR
7 BETTER EXPLAIN TO US YOUR TESTIMONY?

8 A YES. IT WILL JUST TAKE A SECOND TO GET THEM.

9 Q AND TELL US WHAT THOSE ARE AND HOW YOU GOT THEM.

10 MR. HEMBREE: YOUR HONOR, MAY WE APPROACH?

11 THE COURT: YES.

12 (WHEREUPON COUNSEL CONFERRING.)

13 MR. DIGGS: YOUR HONOR, WE'D GO AHEAD AND OFFER
14 THOSE AS A DEFENSE EXHIBIT COLLECTIVELY.

15 THE COURT: WITHOUT OBJECTION?

16 MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

17 MR. DIGGS: THANK YOU.

18 THE COURT: MARKED AND ADMITTED WITHOUT
19 OBJECTION. YOU MAY PROCEED.

20 (EXHIBITS WERE NOT HANDED TO THE COURT REPORTER
21 TO BE PHYSICALLY MARKED.)

22 BY MR. DIGGS:

23 Q WHAT DO WE HAVE THERE, DOCTOR?

24 A WE HAVE MR. STANKO'S MRI THAT I ORDERED.

25 Q CAN YOU COME DOWN AND SHOW US -- BECAUSE, I MEAN,

1 JUST LOOKS LIKE A DARK PIECE OF FILM.

2 A WE DON'T HAVE AN OVERHEAD PROJECTOR.

3 Q I KNOW. OKAY. BUT COME DOWN SO THAT -- HOLD IT UP
4 THE BEST YOU CAN SO WE CAN SEE HOW IT LOOKED.

5 A WE CAN -- I SEE CUTS TAKEN THIS WAY THROUGH A MAN'S
6 BRAIN AND SKULL. SO EYEBALL -- LOOK AT THIS IMAGE. WE
7 HAVE AN EYEBALL HERE AND WE HAVE THE BRAIN. HERE'S THE
8 FRONTAL LOBE I'M TALKING ABOUT, ESPECIALLY THE MEDIAL
9 ORBITAL FRONTAL LOBE, AS I SAID, SITTING RIGHT ABOVE,
10 RIGHT ABOVE THE EYEBALL. OKAY.

11 SO AN MRI SHOWS US STRUCTURE. DOESN'T SHOW US
12 FUNCTION. I CAN'T TELL HOW WELL THIS BRAIN IS WORKING BY
13 LOOKING AT THIS, BUT I CAN LOOK FOR ABNORMALITIES AND HOW
14 IT'S FORMED.

15 Q ARE THERE ANY ABNORMALITIES THAT YOU CAN SEE?

16 A WELL, THERE ARE. I -- NOW, IT'S VERY SUBTLE, BUT
17 REMEMBER, I LOOKED AT HUNDREDS AND HUNDREDS OF THESE AND
18 FROM MY TRAINING -- I WOULD NEED AN OVERHEAD TO SHOW THIS,
19 BUT...

20 Q WELL, AS OPPOSED TO SHOWING US -- AND I APOLOGIZE TO
21 YOU FOR NOT HAVING A PROJECTOR HERE TO DO IT -- BUT IF YOU
22 COULD JUST LOOK AT IT AND TELL US WHAT YOU SEE, AND DON'T
23 WORRY ABOUT NOT HAVING THE PROJECTOR.

24 A I'LL JUST SAY THIS. I NOTICED THAT IN THE TOP PART
25 OF HIS BRAIN HERE THAT HIS BRAIN IS SHRINKING. AND IT'S

1 VERY SUBTLE AND SLIGHT. BUT AT THE TOP PART OF HIS BRAIN
2 HERE HIS BRAIN APPEARS TO BE SHRINKING, AND IT'S NOT
3 NORMAL GIVEN HIS AGE. HE'S STILL A YOUNG MAN AND HIS
4 BRAIN SHOULDN'T BE SHRINKING THERE.

5 HOW DO I KNOW HIS BRAIN IS SHRINKING? I KNOW IT -- I
6 KNOW IT FROM THIS. THE ONLY THING THAT MAKES OUR SKULL
7 GROW IS OUR BRAIN GROWING INSIDE PUSHING IT OUT. HIS
8 SKULL HAS REACHED A CERTAIN SIZE, BUT NOW HIS BRAIN HERE
9 IS ACTUALLY STARTING TO PULL AWAY FROM THE SKULL.

10 NOW, I RECOGNIZE THIS IS VERY SUBTLE. BUT AGAIN, IN
11 MY SPECIALTY, THIS IS ABNORMAL.

12 Q OKAY. AND DID YOU MAKE NOTE OF THAT IN YOUR REPORT?

13 A I DID.

14 Q DO YOU REMEMBER THE DATE OF YOUR REPORT, THE INITIAL
15 ONE?

16 A JUST HAVE TO REVIEW... I DON'T REMEMBER. ON THIS
17 REPORT I HAVE -- I HAVE IT UPDATED JULY OF 2006, BUT IT
18 WAS SEVERAL MONTHS AGO. I CAN'T REMEMBER.

19 Q OKAY. BUT IS THAT THE ACTUAL MATERIAL THAT YOU
20 LOOKED AT WHEN YOU MADE NOTE THAT THERE WAS A PROBLEM IN
21 HIS MRI?

22 A CORRECT. I SAW THE -- OKAY. WE SENT -- THIS DATA I
23 HAD SENT TO VERY SPECIAL PLACE AND A VERY SPECIAL MAN AT
24 THE UNIVERSITY--

25 Q BEFORE WE GET THERE, THOUGH, I WANT TO KNOW WHAT YOU

1 DID WHEN YOU GOT THOSE IMAGES. AND BY THE WAY, WHERE DID
2 YOU GET THOSE?

3 A THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, AND THEY
4 WERE A SPECIAL GROUP OF MRIS. THIS IS A SPECIAL MRI.

5 Q WHAT IS SPECIAL ABOUT IT?

6 A IT'S DONE AT A MUCH HIGHER LEVEL OF -- TRYING TO
7 THINK OF THE WORD -- RESOLUTION.

8 Q OKAY.

9 A THAN A NORMAL MRI. THEY -- THEY REALLY -- THE
10 COMPUTER THAT GENERATED THOSE IMAGES LOOKED AT IT IN A
11 MUCH HIGHER LEVEL OF DETAIL THAN A NORMAL MRI THAT YOU OR
12 ME--

13 Q WAS IT -- WOULD IT BE FAIR TO SAY THAT IT LOOKED AT
14 IT AT THE HIGHEST RESOLUTION THAT IT HAD AVAILABLE TO IT
15 OR...

16 A THE HIGHEST.

17 Q OKAY. SO MUSC HAS NO TECHNOLOGY THAT'S MORE ADVANCED
18 THAN THAT?

19 A NO.

20 Q IS THAT WHAT WE'RE--

21 A CORRECT.

22 Q -- HEARING?

23 A THAT'S THE WORLD STANDARD.

24 Q OKAY. AND THEN TELL US WHAT YOU DID WHEN YOU GOT
25 THAT MATERIAL.

1 A I SAW THE SLIGHT IMPERFECTION IN HIS BRAIN, BUT I
2 REALIZED FROM THE LITERATURE, MEDICAL AND SCIENTIFIC
3 RESEARCH LITERATURE OUT THERE, THAT -- ESPECIALLY FROM DR.
4 RAINE THAT THERE MAY BE DIFFERENCES IN THE MRI THAT'S
5 CLINICALLY IMPERCEPTIBLE.

6 IN OTHER WORDS, SOMEONE WHO ISN'T A NEUROPSYCHIATRIST
7 LIKE ME BUT LOOKS AT BRAIN MRIS WOULD LOOK UP -- HOLD THAT
8 UP TO THE LIGHT AND SAY, IT'S NORMAL, I DON'T SEE A BIG
9 TUMOR IN THE FRONT, I DON'T SEE A BIG AREA OF STROKE, I
10 DON'T SEE A BULLET LODGED IN THE BRAIN, IT'S NORMAL.

11 YOU HAVE TO LOOK VERY SUBTLY AT IT. BUT DR. RAINE
12 FOUND IN HIS NEW SET OF STUDIES SEPARATE FROM PET SCAN,
13 BUT IF YOU TOOK MRI OF PSYCHOPATHS, PEOPLE WITH ANTISOCIAL
14 PERSONALITY DISORDER, THAT'S THE COMMON NAME, BUT I PREFER
15 PSYCHOPATH -- IF YOU TOOK MRIS OF THEIR BRAINS AND SENT
16 THEM OFF FOR A COMPUTER ANALYSIS, THEY FOUND THAT THEY HAD
17 SHRINKAGE IN THE VERY FRONT OF THE BRAIN THAT EXACTLY
18 CORRESPONDS TO DECREASED ACTIVITY THAT THE PET SCAN SHOWS
19 BY BRIGHT RED AND ORANGE AND YELLOW LINES.

20 Q NOW, WHO ARE SOME SOURCES KNOWN IN THE MEDICAL,
21 PSYCHIATRIC COMMUNITY THAT DO THAT KIND OF WORK?

22 A ONE OF THE MOST FAMOUS MEN IN THE WORLD REALLY FOR
23 THIS IS DR. RUBEN GUR AT THE UNIVERSITY OF PENNSYLVANIA.
24 IN FACT, I HEARD OF HIM. DR. WU RECOMMENDED THAT I
25 CONTACT HIM. DR. BACHMAN WHO -- THE HEAD OF NEUROLOGY AT

1 THE MEDICAL UNIVERSITY RECOMMENDED I CONTACT HIM.

2 Q ALL RIGHT. AND SO DID YOU CONTACT DR. GUR?

3 A I DID.

4 Q AND TELL US WHAT HAPPENED AT THAT POINT.

5 A WE HAD THOSE MRIS SENT ON AN OPTICAL DISK, OR CD, TO
6 THE UNIVERSITY OF PENNSYLVANIA TO THE INSTITUTE OF
7 NEUROLOGICAL SCIENCES WHERE DR. GUR AND HIS TEAM PERFORMED
8 A COMPLEX COMPUTER ANALYSIS OF THAT MRI TO SEE IF
9 THINGS -- IF THE COMPUTER COULD SEE THINGS THAT THE HUMAN
10 EYE CAN'T SEE.

11 AND DR. GUR, BY THE WAY, THIS ANALYSIS IS COMPLETELY
12 ACCEPTED. IT'S USED TO DIAGNOSE PEOPLE WITH
13 SCHIZOPHRENIA. IT'S USED TO SEE THE BRAIN ABNORMALITIES
14 IN ALL KINDS OF PSYCHIATRIC ILLNESS. IT'S ABSOLUTELY
15 VERIFIED. IT'S IN ALL THE SCIENTIFIC JOURNALS. DR. GUR
16 IS ONE OF THE ACTUAL PIONEERS--

17 Q ALL RIGHT. SO A FEW MOMENTS AGO WHEN YOU SAID THAT
18 THIS CASE IS THE FIRST TIME THAT YOU'RE AWARE OF WHERE
19 THIS HAS HAPPENED, WHAT WERE YOU REFERRING TO
20 SPECIFICALLY, BECAUSE OBVIOUSLY YOU WEREN'T REFERRING TO
21 THE PET SCAN--

22 A NO.

23 Q -- BECAUSE IT'S BEEN USED FOR YEARS AND YEARS. AND
24 OBVIOUSLY YOU WEREN'T REFERRING TO -- MERELY TO THE MRI
25 BECAUSE--

1 MR. HEMBREE: YOUR HONOR, OBJECT TO LEADING.

2 THE COURT: SUSTAINED. LEADING.

3 BY MR. DIGGS:

4 Q WHAT WERE YOU REFERRING TO --

5 MR. DIGGS: I'M SORRY, YOUR HONOR.

6 A I BELIEVE THIS IS THE FIRST CASE IN THE UNITED STATES
7 AND MAYBE THE WORLD WHERE A PET SCAN WAS USED TO LOOK AT
8 FUNCTIONAL, DYSFUNCTION OR ABNORMALITY, AND THIS
9 VOLUMETRIC MRI ANALYSIS THAT DR. GUR DOES, IT WAS USED TO
10 VERIFY STRUCTURAL -- STRUCTURAL ABNORMALITY.

11 IN OTHER WORDS, WE'RE SEEING -- WE'RE SEEING THAT THE
12 BRAIN IS NOT WORKING RIGHT AND WE'RE SEEING PHYSICALLY
13 WHAT IS THE MATTER WITH THE BRAIN. SO WE HAVE TWO
14 DIFFERENT KINDS OF SCIENTIFIC ANALYSIS COMING TOGETHER IN
15 THIS CASE.

16 Q ALL RIGHT. NOW, WHAT DID DR. GUR -- WHAT HAPPENED
17 AFTER THAT -- SENT THE DATA TO HIM? TELL US WHAT OCCURRED
18 AT THAT POINT.

19 A WELL, THIS IS -- IT'S A PLOT OF HIS FINDINGS THAT HE
20 FOUND IN MR. STANKO. AND I REALIZE IT LOOKS KIND OF
21 COMPLICATED AND IT'S DIFFICULT TO READ, BUT...

22 Q YOU WANT TO COME DOWN? ACTUALLY WE HAVE THAT CHART
23 IN EVIDENCE AS DEFENDANT'S EXHIBIT NUMBER ONE. WANT TO
24 COME DOWN HERE AND MAYBE EXPLAIN TO US WHAT IS DEPICTED IN
25 THE GRAPH?

1 A GOING TO PICK IT UP, OKAY.

2 Q THAT'S FINE. DO YOU NEED A POINTER?

3 A NO.

4 Q ALL RIGHT. LET ME GET OUT OF YOUR WAY.

5 A OKIE DOKIE. THE LINES HERE DON'T MEAN TRENDS, AND I
6 WISH THEY HADN'T HAVE JOINED THE POINTS BY LINES. BUT
7 POINTS IN BLUE REPRESENT THE LEFT BRAIN. POINTS IN RED
8 REPRESENT THE RIGHT.

9 ANYTHING THAT'S FOUND IN THIS RANGE WITHIN THIS BAR
10 IS CONSIDERED NORMAL. ANYTHING THAT'S OUT HERE, OUT HERE
11 IS ABNORMAL. ANYTHING THAT'S UP HERE IS TOO BIG.
12 ANYTHING THAT'S BELOW THIS LINE IS TOO SMALL IN THE BRAIN,
13 PHYSICALLY BY SIZE, ABNORMAL.

14 AND WE'RE TALKING BEYOND THE RANGE OF NORMAL. WE'RE
15 TALKING SCIENTIFICALLY STATISTICALLY ABNORMAL. IT'S FOR
16 SURE ABNORMAL.

17 WHAT WE FOUND -- SO THIS IS BLUE. A BLUE LINE MEANS
18 LEFT. MR. STANKO'S LEFT FRONTAL LOBE IS TWO STANDARD
19 DEVIATIONS GREATER THAN TWO. HERE'S ZERO. WE GET ONE,
20 TWO. IT'S GREATER THAN TWO STANDARD DEVIATIONS AWAY FROM
21 NORMAL.

22 IN OTHER WORDS, HIS BRAIN WOULD BE FOUR OR THREE OR
23 2 PERCENT. HE'S ONE OF 2 PERCENT OF INDIVIDUALS WHO WOULD
24 HAVE A LEFT FRONTAL LOBE THAT WEIRD OR SMALL OR SHRUNK.
25 AND AT THAT LEVEL OF SCIENTIFIC SIGNIFICANCE -- WE

1 CONSIDER ANYTHING 5 PERCENT OR LESS TO BE SCIENTIFICALLY
2 SIGNIFICANT. IN OTHER WORDS, IT'S NOT DUE TO FLUKE. IT'S
3 REAL. SO HIS LEFT FRONTAL LOBE IS SHRUNKEN.

4 NOW, HIS RIGHT FRONTAL LOBE -- THIS IS THE FRONTAL
5 LOBE, SO HERE IS LEFT, HERE IS RED RIGHT -- IT'S ABOUT
6 NORMAL. BUT HIS LEFT FRONTAL LOBE WAS IN THE SMALLEST TWO
7 OR 3 PERCENT OF THE POPULATION. THIS LEFT TEMPORAL LOBE
8 IS ACTUALLY LARGER THAN NORMAL.

9 NOW, WE DON'T KNOW WHAT THAT MEANS, BUT WE'LL GET
10 INTO THE DETAILS OF HIS BIRTH HISTORY. BUT THERE IS ONE
11 AREA OF HIS BRAIN THAT'S LARGE. THERE'S ANOTHER AREA HERE
12 BOTH LEFT AND RIGHT, BECAUSE BOTH COLORS JOIN HERE, THAT'S
13 EXTREMELY LARGE.

14 IN FACT, IT'S PROBABLY IN THE SMALLEST 1 PERCENT OF
15 THE POPULATION. WHAT THIS AREA IS ARE HIS VENTRICLES,
16 VENT. VENTRICLES ARE THE FLUID-FILLED SPACES OF THE
17 BRAIN. WE DON'T DO ANY THINKING IN OUR VENTRICLES. THEY
18 ARE JUST BAGS OF WATER.

19 WHEN THEY GET BIGGER IN OUR BRAIN, IT MEANS THAT THE
20 HEALTHY BRAIN AROUND IT HAS DIED AWAY OR HAS BEEN LOST.
21 THAT'S WHY THE WATER IN THOSE AREAS ARE GETTING BIGGER
22 BECAUSE WE ARE LOSING THE MEAT. WHERE WE LOSE MEAT IN OUR
23 BRAIN IS REPLACED BY WATER. BOTH HIS ANGLES ON BOTH SIDES
24 OF THE BRAIN SHOW EXTREME SHRINKAGE.

25 Q DOCTOR, IS THAT WHAT YOU NOTICED WHEN -- FILM THAT

1 YOU TALKED ABOUT?

2 A YOU COULDN'T SEE THAT IN THE FILM. AGAIN, WHAT DR.
3 GUR'S ANALYSIS -- IT SHOWS US WHAT IS NOT PERCEPTIBLE BY
4 THE HUMAN EYE.

5 Q OKAY.

6 A BUT IT IS ABSOLUTELY ACCEPTED IN THE SCIENTIFIC AND
7 MEDICAL COMMUNITY. NOW, VERY IMPORTANTLY IN THE MEDIAL,
8 THAT MEANS THE SIDES OF HIS BRAIN, HIS RIGHT SIDE WHICH IS
9 IN RED AND HIS LEFT SIDE WHICH IS IN BLUE, SO MEDIAL RIGHT
10 HERE, LEFT SIDE OF THE BRAIN, RIGHT SIDE OF THE BRAIN,
11 HE'S SIGNIFICANTLY GOT SHRINKAGE HERE.

12 IN FACT, ON HIS RIGHT SIDE HE'S FOUR STANDARD
13 DEVIATIONS AWAY FROM NORMAL. THAT'S ABOUT ONE IN 10,000
14 PEOPLE. THAT'S HOW ABNORMAL IT IS. NOW, WHEN I SAY ONE
15 IN 10,000 PEOPLE, YOU'RE NOT GOING TO FIND SOMEONE WITH
16 THIS KIND OF SHRINKAGE AND BE NORMAL.

17 IT'S -- IT'S NOT A NORMAL PERSON WITH THAT SHRINKAGE.
18 IF THEY LOST THAT MEAT IN THEIR BRAIN, IF YOU REALLY SIT
19 DOWN AND TALK TO THEM OR LISTEN TO THEIR FAMILIES OR WATCH
20 WHAT THEY DO, YOU'RE GOING TO SEE THAT THEIR BEHAVIOR IS
21 ABNORMAL.

22 WHAT THIS DOES IN A STATISTICAL WAY IS IT SHOWS AT A
23 SCIENTIFICALLY SIGNIFICANT LEVEL THAT HE'S GOT BRAIN
24 ABNORMALITIES IN THE FRONTAL LOBE, HE'S GOT TOO MUCH WATER
25 ON THE BRAIN BECAUSE HE'S LOST BRAIN MATERIAL, AND HE'S

1 ACTUALLY LOST BRAIN MATERIAL IN THE MEDIAL OR MIDDLE AND
2 LATERAL PORTIONS OF HIS BRAIN HERE.

3 Q DO THOSE TWO AREAS, BY THE WAY, WORK TOGETHER IN --
4 IN ANY WAY?

5 A YOUR BRAIN IS NOT -- NO PART OF IT IS AN ISLAND UNTO
6 ITSELF. EVERY PART NEEDS EVERY OTHER PART TO WORK. BUT
7 THERE ARE CERTAIN AREAS THAT DO THINGS MORE SPECIALIZED.
8 FOR INSTANCE, THE BACK OF MY BRAIN HERE, VISION. I'M
9 LOOKING AT YOU ALL. IT'S RIGHT BACK HERE THAT'S LIGHTING
10 UP IN MY BRAIN.

11 WHAT'S CONTROLLING IS KEEPING ME FROM JUMPING ON THE
12 TABLE AND RUNNING AROUND OR DOING SOMETHING INAPPROPRIATE
13 RIGHT NOW ARE THE FRONTAL LOBES OF MY BRAIN.

14 Q DO THEY HAVE ANY -- WHAT DOES THE MEDIAL AREA DO?

15 A AGAIN--

16 Q JUST GENERALLY OR BRIEFLY, IF YOU CAN.

17 A WHEN THEY MEAN MEDIAL, THEY MEAN -- WHAT THEY REALLY
18 MEAN IS THE AREAS OF THE BRAIN ON EITHER SIDE OF THESE
19 FLUID-FILLED SPACES WHICH HAVE ENLARGED IN HIM.

20 THE MEDIAL PARTS OF THE BRAIN ARE ALSO IMPORTANT FOR
21 THINKING, MOTION, ESPECIALLY MEMORY. HEARING THINGS,
22 HEARING VOICES BUT NORMAL HEARING, IS ALSO IN THAT MEDIAL
23 PART OF THE BRAIN, BUT ESPECIALLY MEMORY.

24 Q HOW ABOUT THE FRONTAL LOBES? WHAT ROLE DOES -- WOULD
25 THAT PLAY IN MEMORY?

1 A THE FRONTAL LOBES ARE IMPORTANT FOR ATTENTION. SO IF
2 YOU'RE PAYING ATTENTION TO ME, IT'S YOUR FRONTAL LOBES
3 THAT ARE -- THE FIRST PART OF YOUR BRAIN THAT ARE HELPING
4 DRIVE ATTENTION.

5 WE KNOW THAT CHILDREN WITH ATTENTION DEFICIT DISORDER
6 WHO ARE DISTRACTED AND RUNNING AROUND IN THE ROOM AND
7 GETTING IN TROUBLE AT SCHOOL, WHEN WE TAKE A PICTURE OF
8 THEM, THEIR FRONTAL LOBES TEND TO BE A LITTLE COOLER, A
9 LOT COOLER COMPARED TO NORMAL.

10 AND AS A MATTER OF FACT, UP TO 50 PERCENT OF CHILDREN
11 WITH ATTENTION DEFICIT DISORDER WILL GET IN TROUBLE WITH
12 THE LAW AT SOME POINT IN THEIR LIFE COMPARED TO NORMAL
13 CHILDREN WHO DON'T HAVE ATTENTION DEFICIT DISORDER.

14 Q ALL RIGHT. CAN YOU SAY WITH A -- WITHIN A REASONABLE
15 DEGREE OF MEDICAL PSYCHIATRIC CERTAINTY THAT MR. STANKO
16 HAS A BRAIN DEFECT?

17 A THERE IS NO DOUBT. .

18 Q AND DOES THAT DEFECT JUST IN A GENERAL WAY -- WE'LL
19 GET INTO MORE DETAIL IN A -- IS IT -- IN -- CAN THAT
20 DEFECT BE RELATED TO INSANITY IN THE LEGAL SENSE?

21 A YES. INSANITY IS CAUSED BY BRAIN DEFECT, WHETHER
22 YOU'RE AN ALZHEIMERS PATIENT WHO DRIVES YOUR CAR THROUGH A
23 CROWDED STREET WHERE PEOPLE ARE STANDING, WHETHER YOU'RE A
24 SCHIZOPHRENIC WHO TAKES THEIR CHILDREN AND TAKES THEM TO A
25 BATHTUB AND DROWNS THEM, THESE ARE ALL DUE TO BRAIN

1 DEFECTS. THEY ARE NOT DUE TO ANYTHING ELSE.

2 Q NOW, DR. RAINE AND DR. GUR HAVE PUBLISHED STUDIES.
3 IS THAT WHAT YOUR TESTIMONY WAS?

4 A WELL, THEY ARE EXTENSIVELY PUBLISHED. THEY ARE WORLD
5 EXPERTS.

6 Q OKAY. HOW DOES ONE GET TO BE PUBLISHED IN THAT AREA?

7 A YOU CAN'T GET YOUR SCIENTIFIC RESEARCH PUBLISHED
8 UNLESS A BUNCH OF OTHER EXPERTS IN THAT FIELD HAVE
9 REVIEWED IT, LOOKED AT IT, AND SAID, THIS LOOKS VALID.
10 THEY'VE LOOKED AT POTENTIAL ERRORS THAT COULD BE IN THERE,
11 POTENTIAL BIASES, THEY THINK YOUR RESEARCH -- YOU JUST
12 DIDN'T -- WE SEE YOU GOT THIS, BUT YOU DIDN'T TEST FOR
13 THIS, THIS, THIS, SO WE'RE NOT GOING TO PUBLISH YOUR PAPER
14 TILL YOU CORRECT FOR THAT.

15 YOU DO NOT GET PUBLISHED UNTIL YOU FIXED ALL THOSE
16 ERRORS OR HAVE EXPLANATIONS OR COME UP, YOU KNOW, HAVE AN
17 EXPERIMENT THAT'S TYPED AND, YOU KNOW, WELL THOUGHT OUT.

18 Q DO OTHER PHYSICIANS, PSYCHIATRISTS, ET CETERA, RELY
19 ON THOSE PUBLICATIONS?

20 A THAT'S WHERE OUR KNOWLEDGE COMES FROM.

21 Q OKAY. NOW, TELL ME WHY YOU GOT DOCTOR -- OR WHY YOU
22 HAD DR. EINHORN GO DOWN AND TEST STEPHEN.

23 A TO DO THAT... TO DO THAT PET SCAN, WE KNOW -- THE
24 MEDICAL LITERATURE SHOWS THAT IF YOU WANT TO TEST FOR
25 FRONTAL LOBE ACTIVITY, YOU BETTER MAKE THEM DO

1 SOMETHING -- WHILE YOU'RE SCANNING THEIR RADIOACTIVE
2 BRAIN, YOU BETTER MAKE THEM DO SOMETHING THAT TURNS ON
3 THAT FRONTAL LOBE SO THAT -- IT WOULD MAKE NO SENSE TO
4 TAKE A SCAN OF THEIR BRAIN WHILE THEY'RE ASLEEP.

5 THE FRONTAL LOBE WOULD BE QUITE QUIET UNLESS THEY ARE
6 DREAMING. WHEN WE'RE DREAMING, OUR FRONTAL LOBES TURN ON
7 AND WE'RE SEEING THINGS IN OUR DREAMS, THINKING ABOUT IT.
8 BUT THOSE OTHER TIMES OUR FRONTAL LOBES ARE VERY QUIET.

9 SO IT WOULD MAKE NO SENSE TO TAKE A PICTURE UNLESS
10 YOU FORCED THE FRONT OF THE BRAIN TO BE ON. THE
11 CONTINUOUS PERFORMANCE TEST THAT DR. EINHORN DID, THAT'S
12 WHAT IT ENSURED. IT FORCES THE FRONT OF THE BRAIN TO BE
13 ON.

14 AND THAT'S WHY WE DID IT IN THIS CASE, TO MAKE SURE
15 THAT HIS BRAIN WAS ON SO WE COULD COMPARE IT TO THE
16 NORMALS WHO ALSO DID THE SAME TEST.

17 Q SO WAS THAT THE PRIMARY REASON HE WAS INVOLVED?

18 A YES.

19 Q ALL RIGHT. HOW DID YOU KNOW THAT THAT NEEDED TO BE
20 DONE AS PART OF THE VALID PROCEDURE?

21 A BECAUSE I HAVE TO FOLLOW DR. RAINE'S RESEARCH
22 PROTOCOL EXACTLY BECAUSE IT WOULDN'T BE VALID IF WE
23 DIDN'T, IT -- WE HAD TO FOLLOW IT EXACTLY.

24 Q SO YOU UNDERTOOK STEPS TO ENSURE WE HAD A VALID
25 PROCEDURE?

1 A YES.

2 Q NOW, DURING THIS CONTINUOUS PERFORMANCE TEST, CPT,
3 MR. STANKO'S REAL SMART.

4 A YES.

5 Q OKAY. WOULD HE BE ABLE TO MANIPULATE THE SCAN?

6 A NO.

7 Q WHY?

8 A YOU CAN'T MANIPULATE A PET SCAN. IN FACT, THE MORE
9 YOU TRY TO MANIPULATE IT, THE MORE YOU'RE GOING TO GO IN
10 THE OPPOSITE DIRECTION. IN AN ATTEMPT TO MANIPULATE,
11 YOU'RE GOING TO TURN YOUR BRAIN ON EVEN MORE.

12 NOW, UNLESS MR. STANKO, YOU KNOW, IS SOME KIND OF --
13 LIKE A VULCAN OR SOMETHING FROM STAR TREK -- AND I USE
14 THAT ANALOGY BECAUSE MR. SPOCK SUPPOSEDLY COULD CONTROL
15 HIS BRAIN AND, YOU KNOW, SHUT CERTAIN PARTS OFF, ET
16 CETERA, AT WILL BECAUSE HE WAS AN ALIEN AND HE COULD DO
17 THAT.

18 HUMAN BEINGS JUST CAN'T DO THAT. THE ONLY WAY HE
19 WOULD BE ABLE TO ALTER HIS BRAIN FUNCTION AT THAT TIME
20 WOULD BE AS IF HE WERE TO TAKE A SUBSTANCE AT THAT TIME,
21 ALCOHOL, OR IF HE WERE TO TAKE A FIREARM AND SHOOT HIMSELF
22 IN THE FRONT OF THE HEAD DURING THE TESTING AND -- SOUNDS
23 EXTREME, BUT THERE WOULD BE NO OTHER WAY.

24 Q ALL RIGHT. DO I UNDERSTAND YOU TO SAY THAT IF HE
25 WERE TRYING TO MANIPULATE IT, THEN UNDER THE ORDINARY CPT,

1 CONTINUANCE PERFORMANCE TEST, HE WOULD ACTUALLY IMPROVE
2 THE RESULTS? HE WOULD ACTUALLY EVEN APPEAR TO BE MORE
3 NORMAL?

4 A IF HE'S TRYING TO DO THE CPT AND HE'S CONCENTRATING
5 ON TRYING TO MAKE IT LOOK BAD, HIS CONCENTRATION, HOW MUCH
6 HIS BRAIN LIGHTS UP PROBABLY WOULD EVEN BE HIGHER.

7 Q OKAY. SO HE WOULD BE -- THE BOTTOM LINE IS HE WOULD
8 BE EVEN WORSE THAN IS SHOWN ON THE PET SCAN?

9 A RIGHT.

10 Q WHY ELSE DID YOU HAVE DR. EINHORN GO DOWN TO MUSC?

11 A I WANTED DR. EINHORN TO PERFORM PSYCHOLOGICAL
12 TESTING.

13 Q AND FOR WHAT PURPOSE?

14 A IT'S PEN AND PAPER TESTING THAT GIVES US ANOTHER
15 INDICATION OF BRAIN FUNCTION. THERE'S NO SCANNING DONE.
16 BUT IT'S PEN AND PAPER TESTS TO GIVE US AN IDEA OF WHAT
17 MR. STANKO'S LIKE, WHAT KIND OF BEHAVIORAL -- WHAT HIS
18 DIAGNOSIS IS.

19 Q NOW, IS IT NECESSARILY RELATED TO THE FUNCTIONAL
20 DEFICIENCIES HE HAS IN HIS FRONTAL LOBE?

21 A DEFINITELY. DR. EINHORN DIAGNOSED HIM WITH
22 ANTISOCIAL PERSONALITY DISORDER. THAT UP UNTIL 1980 WAS
23 CALLED PSYCHOPATHY. IN THE RESEARCH LITERATURE IN THIS
24 FIELD WE STILL CALL THEM PSYCHOPATHS BECAUSE THAT'S
25 ACTUALLY A BETTER DESCRIPTION OF WHAT THEY ARE.

1 WE REALIZE IT'S A DISEASE. WE REALIZE IT'S SOMETHING
2 YOU ARE BORN WITH. WE REALIZE THAT'S SOMETHING THAT YOU
3 CAN DEVELOP LATER IN LIFE AND IT'S CALLED
4 PSEUDOPSYCHOPATHY.

5 AGAIN, IF YOU HAVE ALZHEIMERS DISEASE OR YOU GET
6 HERPES IN THE FRONT OF THE BRAIN, THERE ARE NUMERABLE
7 CAUSES, BUT YOU CAN DEVELOP WHAT MEDICAL EXPERTS CALL A
8 PSEUDOPSYCHOPATHIC PERSONALITY. PSEUDO MEANS KIND OF OR
9 FALSE. BUT THEY ACT MORE PSYCHOPATHIC. THEY DIDN'T
10 BEFORE THEIR BRAIN INJURY. NOW THEY DO.

11 NOW, THEY ARE NOT GOING AROUND BEING PREDATORS ON
12 HUMANS, BUT THEY'RE NOW ACTING A LOT MORE PREDATORIAL AND
13 A LOT MORE SOCIALLY INAPPROPRIATE. IT'S JUST TOO MUCH OF
14 THEIR BRAIN GOT DAMAGED TO LET THEM BECOME A PURE
15 PSYCHOPATH. THAT'S WHY THEY CALL IT PSEUDOPSYCHOPATHY.

16 Q WHAT IS YOUR REACTION TO DR. EINHORN'S REPORT ON ALL
17 OF THESE OTHER TESTS THAT WERE NORMAL?

18 A ONE OF THE THINGS I WANTED TO DO IS TO SEE IF THERE
19 WERE OTHER AREAS OF THE FRONTAL LOBE BESIDES THE AREA
20 ABOVE THE EYES THAT MIGHT BE AFFECTED. AND DR. EINHORN'S
21 FINDINGS WERE THAT HE WAS NORMAL IN THAT RESPECT. BUT
22 THAT IS EXACTLY WHAT DR. ADRIAN RAINE FOUND IN ALL HIS
23 STUDIES AND WHAT OTHERS HAVE FOUND.

24 FRONTAL LOBES -- TURN THIS ON -- WE ALL NEED THESE
25 VARIOUS PARTS OF OUR BRAIN TO WORK IN CONCERT TO FUNCTION

1 EVERY DAY. BUT IT'S THIS TOP PART OF THE FRONTAL LOBE IS
2 UP HERE, THIS IS -- OKAY, EYEBALL HERE. NOW WE'RE TURNING
3 IT, EYEBALL HERE, FRONT HERE.

4 THESE AREAS UP HERE WHERE I'M CIRCLING, THEY ARE VERY
5 IMPORTANT IN PLANNING, DOING A CARD GAME RIGHT, SEQUENCING
6 EVENTS, DOING THE THINGS THAT SEPARATE US FROM PEOPLE WHO
7 MIGHT HAVE A DIAGNOSIS OF MENTAL RETARDATION. THAT'S
8 WORKING QUITE WELL IN MR. STANKO.

9 WHAT ISN'T WORKING IS DOWN HERE. AND THAT'S WHY
10 PSYCHOPATHS EXIST. YOU CAN HAVE BRAIN DAMAGE IN SPECIFIC
11 AREAS OF THE BRAIN AND CALL IT A DIFFERENT DISEASE.

12 ALZHEIMERS, AGAIN, I WILL PUT MY FINGERS LIKE THIS.
13 THAT'S ALZHEIMER. NO ONE CAN DISAGREE WITH THAT. THE
14 SCIENTIFIC AND MEDICAL LITERATURE SHOWS THAT PSYCHOPATHY
15 IS THIS PART RIGHT HERE.

16 Q ALL RIGHT. CAN YOU SHOW US ON MR. STANKO'S PET
17 SCAN -- LET'S LOOK AT THAT FOR A MINUTE. AND TELL US --
18 LET'S GO THROUGH THAT. AND I WOULD LIKE FOR YOU TO
19 COMMENT ON WHAT YOUR INTERPRETATION OF THAT PET SCAN WOULD
20 BE. DO YOU HAVE IT THERE ON YOUR COMPUTER?

21 A I DO. I THINK THIS IS JUST AN IMPORTANT THING TO
22 HIGHLIGHT HERE. THIS IS FROM--

23 Q SURE.

24 A -- DR. RAINE'S SECOND STUDY. HE DID THIS STUDY FIRST
25 OF ALL WITH 21 PATIENTS, AND THEN HE RE-DID IT LATER WITH

1 41. HE INCREASED THE NUMBER OF PEOPLE SO THAT HE -- HE
2 COULD GET EVEN A BETTER, MORE LET'S SAY VALID TEST TO SEE
3 HOW THIS WORKS.

4 AND THIS ISN'T MR. STANKO HERE. THIS IS JUST SCANNED
5 IN FROM ONE OF HIS BOOKS. HERE'S A MURDERER. HERE'S A
6 NORMAL HUMAN BEING DOING THE CONTINUANCE PERFORMANCE TASK.
7 THIS IS FRONT OF THE BRAIN, FRONT OF THE BRAIN.

8 THE NORMAL PERSON, THEIR FRONT OF THE BRAIN LIGHTS
9 UP, ESPECIALLY IN THIS MIDDLE MEDIAL FRONTAL PART. THE
10 MURDERER IS VERY QUIET UP FRONT. INTERESTING, THE VISUAL
11 PARTS ARE -- REMEMBER I SAID WHERE WE DO VISION? IT'S
12 BACK HERE WHERE I'M CIRCLING.

13 LOOK AT THE MURDERER. LOOK AT THE NORMAL. THE
14 VISUAL PARTS OF THE BRAIN ARE WORKING THE SAME. THEY ARE
15 CONCENTRATING ON THE CONTINUOUS PERFORMANCE TASK. THEY
16 ARE LOOKING AT THE COMPUTER SCREEN WHICH IS TESTING THEM.
17 THE MURDERER IS QUIET. NOW, JUST VERY QUICKLY,
18 MR. STANKO--

19 Q WELL, BEFORE WE GO ON, THOUGH, HOW DOES SOMEONE GET
20 LIKE THAT?

21 A HOW DOES SOMEONE...

22 Q YEAH. HOW DOES SOMEONE'S BRAIN DEVELOP THAT DEFECT
23 OR HOW DOES -- HOW DOES THAT HAPPEN TO PEOPLE?

24 A ANY -- THERE CAN BE ANY CAUSE, A BLOW TO THE HEAD, AN
25 INFECTION WITH A VIRUS, BEING BORN AND HAVING LOW OXYGEN.

1 YOU KNOW, FOR INSTANCE, IN MR. STANKO'S CASE, BEING BORN
2 VOMITING AND HAVING ICTERUS OR LIVER DAMAGE OR HIS SKIN
3 TURNS YELLOW AND THERE'S A LOT OF BILIRUBIN FLOATING IN
4 HIS SYSTEM, BUT IT CAN BE ANY CAUSE. WE DON'T KNOW IN
5 MOST CASES.

6 BUT WE KNOW THIS. IN MOST OF THE -- WELL, IN THE
7 LITERATURE, WHEN THEY LOOKED AND TOOK OUT A BUNCH OF
8 MURDERERS AND EXAMINED THEM IN VARIOUS STUDIES, ALMOST
9 80 PERCENT OF THEM WERE FOUND TO HAVE A HISTORY OF BRAIN
10 DAMAGE OF ONE KIND OR ANOTHER, SEIZURE DISORDER,
11 SCHIZOPHRENIA, A BLOW TO THE HEAD, YOU KNOW, DOCUMENTED AT
12 A YOUNG AGE, CAR ACCIDENT.

13 HEAD INJURY AND BRAIN INJURY, A BRAIN DYSFUNCTION OF
14 SOME KIND IS ACTUALLY FAR MORE COMMON IN THE PRISON
15 POPULATION THAN IT IS IN THE NORMAL POPULATION.

16 Q LET ME ASK YOU, DID YOU HAVE A CHANCE TO LOOK AT
17 MR. STANKO'S BIRTH RECORDS?

18 A I DID.

19 Q DID YOU NOTICE ANYTHING IN THOSE RECORDS THAT WAS
20 SIGNIFICANT TO YOU?

21 A YES.

22 Q TAKE A MOMENT AND LOOK THROUGH THOSE AND SEE IF YOU
23 CAN POINT US TO THAT. FOR EXAMPLE, I WANTED TO ASK YOU
24 SPECIFICALLY ABOUT THIS COMMENT. EXPLAIN TO US WHAT IT IS
25 YOU HAVE THERE IN YOUR HAND.

1 MR. DIGGS: YOUR HONOR, THAT IS A COURT EXHIBIT
2 NUMBER... SIX, AND WE'D LIKE TO GO AHEAD AND MOVE IT
3 INTO EVIDENCE AS A DEFENSE EXHIBIT.

4 MR. HEMBREE: WITHOUT OBJECTION, YOUR HONOR.

5 THE COURT: WE'LL, WHAT I'D LIKE TO DO IS --
6 TIDY UP THE RECORD LATER. I'D LIKE TO KEEP IT AS A
7 COURT'S EXHIBIT--

8 MR. DIGGS: ALL RIGHT.

9 THE COURT: -- MARKED ADDITIONALLY AS A
10 DEFENSE -- IT WILL BE MARKED AND ADMITTED WITHOUT
11 OBJECTION.

12 MR. DIGGS: THANK YOU, YOUR HONOR.

13 THE COURT: YOU'RE WELCOME.

14 (WHEREUPON, DEFENDANT'S EXHIBIT 21 WAS ADMITTED
15 INTO EVIDENCE.)

16 BY MR. DIGGS:

17 Q TELL US WHAT YOU HAVE THERE, DR. SACHY, AND WHAT
18 YOUR -- WHAT IS INDICATED.

19 A THESE ARE THE MEDICAL RECORDS FROM MR. STANKO'S BIRTH
20 AT GUANTANAMO NAVAL BASE JANUARY 9TH, 1968. HIS MOTHER
21 WAS ADMITTED FOR ACUTE GALL BLADDER PROBLEMS, AND
22 OBVIOUSLY THAT WAS A COMPLICATION OF HER PREGNANCY. AND
23 SHE WAS APPROVED FOR TUBAL LIGATION. SO AFTER THIS BIRTH,
24 SHE WAS GOING TO HAVE HER TUBES TIED BY THE DOCTORS AT
25 GUANTANAMO.

1 ANYHOW, THE PATIENTS -- WAS BORN ON JANUARY 13TH,
2 1968 AFTER 5 AND A HALF HOURS OF LABOR, 8 POUNDS HALF
3 OUNCE. AND IT SAYS COMPLICATIONS, NONE WITH MOTHER BUT
4 BABY DEMONSTRATES EARLY VOMITING AND POOR MORO.

5 Q WHAT DOES THAT MEAN?

6 A ONE OF THE FIRST -- ONE OF THE REFLEXES BABIES HAVE
7 WHEN THEY ARE BORN IS CALLED MORO REFLEX. IF YOU TAKE A
8 NEWBORN AND YOU LAY THEM ON A TABLE AND YOU GO, BOO, THE
9 NEWBORN WILL KICK ITS LEGS OUT, SPREAD ITS ARMS OUT,
10 CRINGE AND START CRYING.

11 SO IT'S A PROTECTIVE REFLEX. IT'S A NEUROLOGICAL
12 FUNCTION THAT BABIES DO UP UNTIL ABOUT FOUR MONTHS. AFTER
13 THAT, AS THE BRAIN MATURES AND GETS -- MATURES AND GETS
14 BETTER WORKING, THAT REFLEX IS EXTINGUISHED. CHILDREN WHO
15 HAVE POOR MORO REFLEX, INFANTS, NEONATES, NEWBORNS, IT'S A
16 SIGN OF NEUROLOGICAL DYSFUNCTION. AND--

17 Q ALL RIGHT. WELL WHY -- GO AHEAD. SORRY.

18 A WELL, IN FACT, POOR MORO FOLLOWED ON THIRD DAY BY
19 DEVELOPMENT OF JAUNDICE. SO ON DAY THREE OF HIS BIRTH HIS
20 SKIN IS TURNING YELLOW. AND THE LIGATION, THE TYING OF
21 THE MOTHER'S TUBES WAS POSTPONED PENDING INFANT'S OUTCOME.

22 SO THE DOCTORS THOUGHT THERE WAS A GOOD CHANCE
23 MR. STANKO WOULD NOT LIVE, AND THEY WOULD NOT STERILIZE--

24 MR. HEMBREE: WHOA. WHOA. WHOA. SORRY. NO
25 OBJECTION.

1 A IT IS MY OPINION THAT THE DOCTORS FELT -- THE DOCTORS
2 FELT THAT MR. STANKO MIGHT NOT MAKE IT.

3 Q I DON'T WANT TO CUT YOU OFF. WHAT ELSE DO YOU SEE
4 THERE THAT YOU FIND IMPORTANT?

5 A IT'S INTERESTING TO NOTE JUST ABOVE THAT IT SAYS,
6 APGAR SCORE 10. APGAR SCORE IS A GENERAL MEASURE OF
7 OVERALL, YOU KNOW, IS THE BABY BREATHING, IS THE BABY
8 ALIVE.

9 BUT THEY MAKE A NOTE THAT THIS BABY'S STATE IS
10 PRECARIOUS AND THERE -- IT'S SO PRECARIOUS THAT THEY ARE
11 GOING TO POSTPONE THE MOTHER'S TUBAL LIGATION BECAUSE THIS
12 BABY MAY DIE AND SHE MAY HAVE TO HAVE ANOTHER CHILD.

13 Q IN YOUR PROFESSIONAL OPINION AS A DOCTOR, WHAT DO YOU
14 GATHER FROM THAT BIRTH RECORD CONCERNING MR. STANKO'S
15 MENTAL STATE OR STATUS?

16 A JUST ANOTHER THING THAT I REMEMBER THAT I WOULD LIKE
17 TO--

18 Q ALL RIGHT.

19 A -- GO OVER IF I CAN FIND IT. SORRY. TAKING ME A FEW
20 SECONDS. IN THE RECORD IT NOTES LATER ON IN THE RECORD
21 POSSIBLE OR PROBABLE -- I HAVE TO FIND THE EXACT WORD --
22 INTRACRANIAL DAMAGE. I'M HAVING A HARD TIME FINDING IT.

23 Q SEE IF I CAN HELP.

24 A IT'S IN THIS SUBSET OF NOTES.

25 (WHEREUPON THERE WAS A PAUSE).

1 A ON JANUARY 15TH, '08 (SIC) SO I BELIEVE IF I'M
2 CORRECT, THAT'S TWO DAYS AFTER BIRTH, THE DOCTOR NOTES,
3 WILL POSTPONE PLANNED TUBAL LIGATION IN VIEW OF PRECARIOUS
4 STATE OF BABY WITH VOMITING AND POSSIBLE INTRACRANIAL
5 DAMAGE.

6 THE DOCTOR IS SAYING THAT THERE'S POSSIBLE DAMAGE TO
7 THE BRAIN IN THIS INFANT, AND HE'S NOTED IT TWO DAYS AFTER
8 BIRTH.

9 Q ALL RIGHT. NOW, WHY WOULD IT SAY THAT IF LATER THEY
10 JUST LISTED HIM AS HEALTHY AND THEY SENT HIM ON HIS WAY?

11 A WELL, I DON'T BELIEVE THAT THERE ARE LYING.
12 THEY'RE -- THEY NOTED WHAT THEY SAW. BUT THE BABY
13 RECOVERED APPROXIMATELY I WANT TO SAY EIGHT -- ALMOST TWO
14 WEEKS LATER THE BABY RECOVERED TO THE POINT THAT THEY
15 THOUGHT THE BABY COULD RETURN WITH THE MOTHER.

16 THAT DOESN'T -- OBVIOUSLY THEY WEREN'T DOING PET
17 SCANS BACK THEN. THEY DIDN'T HAVE MRIS BACK THEN. THEY
18 DIDN'T HAVE CAT SCAN BACK THEN. BUT I SUSPECT IT WOULD BE
19 MY OPINION THAT THE BRAIN DAMAGE THAT HE HAD THAT THEY
20 NOTED RIGHT FROM BIRTH, THAT IT IMPROVED, BUT IT WAS NOT
21 CURED, AND HE WAS JUST HEALTHY ENOUGH TO BE DISCHARGED.

22 Q IN OTHER WORDS, HE LOOKED OKAY, SO THEY SENT HIM
23 HOME?

24 A RIGHT. AND WE STILL DO THAT TODAY.

25 Q NOW JUST FOR THE RECORD, YOU SAID '08, BUT THAT --

1 COULD THAT BE '68?

2 A SORRY.

3 Q SIXTY-EIGHT?

4 A WELL, YES.

5 Q IT'S CUT OFF THERE.

6 A 1968, YES.

7 Q IS -- COULD THAT BE AN EXPLANATION FOR THE DEFORMITY
8 THAT WE SEE TODAY?

9 A IT'S I WOULD SAY THE MOST LIKELY EXPLANATION.
10 REMEMBER, MOST MURDERERS HAVE BEEN FOUND TO HAVE SOME FORM
11 OF BRAIN DAMAGE THAT CAN BE DOCUMENTED. BUT IN A LOT OF
12 CASES, WE JUST DON'T HAVE FIRM DOCUMENTATION.

13 HERE THIS IS ABSOLUTELY SOLID. IT'S RIGHT THERE AND
14 THE DOCTORS HAVE MADE ACTUALLY -- I'M ACTUALLY KIND OF
15 SURPRISED AT HOW MUCH CARE THEY TOOK TO NOTE AT VARIOUS
16 STAGES IN THESE NOTES THAT THIS BABY'S STATE WAS
17 PRECARIOUS AND THEY POSTPONED THE MOTHER'S TUBAL LIGATION.

18 IN OTHER WORDS, THEY THOUGHT THIS BABY -- THERE WAS A
19 GOOD CHANCE IT WOULD DIE, AND THEY SAID TO THE MOTHER,
20 WE'RE NOT GOING TO STERILIZE YOU BECAUSE YOU MAY NEED TO
21 HAVE ANOTHER CHILD.

22 Q ALL RIGHT. LET'S LOOK AT A PET SCAN. WOULD YOU SAY
23 THIS COULD BE A BIRTH DEFECT?

24 A DEFINITELY.

25 Q AND IS THERE A KNOWN CAUSE FOR THAT?

1 A WELL, IN THIS CASE THE BABY WAS VOMITING. I SUSPECT
2 AND MY OPINION WOULD BE CHILDREN WHO VOMIT FROM BIRTH,
3 THEY GET VOMIT IN THEIR LUNGS AND THEY LOSE OXYGEN TO THE
4 BRAIN.

5 Q I SEE. ALL RIGHT. LET'S -- LET'S GO THROUGH THIS.
6 I WANT YOU TO COMMENT ON IT FROM YOUR AREA OF SPECIALTY.

7 A OKAY. WELL, HERE WE SEE AGAIN MR. STANKO'S PET SCAN.
8 NOW, LET'S KEEP GOING. TURN ONE MORE TIME. THE
9 ORIENTATION OF THE HEAD IS EXACTLY AS THE HEAD OF THE
10 BOTTOM LEFT OF THE SCREEN.

11 NOW, LET'S TAKE A LOOK HERE. SEE, HERE'S THE
12 ORIENTATION OF THE HEAD. HERE'S THE FRONT OF THE BRAIN OF
13 MR. STANKO. HERE'S WHAT'S THE NORMAL -- CONSIDERED NORMAL
14 FROM THE MEDICAL RESEARCH, NOT JUST RESEARCH, BUT THE
15 REGULAR MEDICAL LITERATURE.

16 WE CAN SEE -- IT'S VERY IMPORTANT TO LOOK HERE RIGHT
17 BETWEEN THE EYES AND ABOVE THE NOSE. IN A NORMAL PERSON
18 DOING A CONTINUOUS PERFORMANCE TASK, WE HAVE A GREAT
19 AMOUNT OF ACTIVITY. THERE'S A LOT OF RED HERE. AND
20 MR. STANKO IT'S COOL AND COLD.

21 AND AGAIN, WE KNOW FROM LESION STUDIES, FROM STUDIES
22 OF PEOPLE WHO HAVE HAD DAMAGE TO THIS PART OF THE BRAIN
23 GOING BACK TO MR. PHINEAS GAGE, BUT MANY MORE EXAMPLES
24 SINCE THEN IN MODERN TIME, THAT IF THIS AREA OF THE BRAIN
25 IS DAMAGED, THEY BECOME SOCIALLY INAPPROPRIATE AND LACK A

1 CONSCIENCE, BE AGGRESSIVE, BE MORE PRONE TO VIOLENCE.

2 Q ALL RIGHT. LET'S GO AHEAD AND PLAY THE TAPE OR THE
3 DISK ALL THE WAY THROUGH.

4 A ALL THE WAY THROUGH. I WANT TO PAUSE IT HERE. THIS
5 IS THE VISUAL AREA OF THE BRAIN SHOWING MR. STANKO LOOKING
6 AT THE COMPUTER SCREEN WITH CONTINUANCE PERFORMANCE TASK.
7 HERE'S THE AVERAGE NORMAL CONTROL.

8 Q OKAY. SO HE ACTUALLY HAS MORE ACTIVITY THERE?

9 A AND ACTUALLY, DR. RAINE FOUND MORE ACTIVITY IN
10 MURDERERS AND PSYCHOPATHS THERE AS WELL. HIS THEORY WAS
11 THAT BECAUSE THERE ARE AREAS OF A PSYCHOPATHIC BRAIN THAT
12 AREN'T WORKING WELL, OTHER AREAS KIND OF PICK UP THE
13 SLACK.

14 Q OKAY.

15 A AND WE ACTUALLY FIND THIS IN MR. STANKO.

16 Q BUT WOULD THIS AREA HAVE ANYTHING TO DO WITH
17 COGNITIVE OR EXECUTIVE THINKING, MAKING DECISIONS AND--

18 A VERY LITTLE EXCEPT FOR SEEING WHAT YOU'RE DOING. I
19 MEAN, IT'S A VISUAL PART.

20 Q ALL RIGHT.

21 A SO AGAIN, THOSE -- VERY CENTER RIGHT HERE ABOVE THE
22 EYES, THAT'S WHERE THE BIGGEST DIFFERENCES ARE NOTED. AND
23 IN MY -- WHEN GETTING THIS SCAN DONE FROM DR. WU, HE TOLD
24 ME HE THOUGHT IT WAS APPROXIMATELY 30 TO 50 PERCENT
25 REDUCTION IN FUNCTION.

1 HERE -- HERE DR. WU'S TEAM HAS HIGHLIGHTED THE COLD
2 BLUE HERE IN MR. STANKO COMPARED TO THE MORE ACTIVITY
3 HERE.

4 Q OKAY.

5 A WE SEE YELLOW AND GREEN, BUT HERE WE'RE ACTUALLY
6 SEEING BLUE. BLUE IS THE COLDEST. AND THIS PART OF THE
7 FRONTAL LOBE WE'RE ABOUT -- WE'RE ABOUT EVEN ON MR. STANKO
8 AND NORMAL CONTROLS. THERE'S A LITTLE BIT OF VARIATION,
9 BUT THE PART WHERE YOU CAN REALLY SEE IT, I MEAN, STAND
10 OUT IS HERE AND -- IN THE MEDIAL ORBITAL, ABOVE THE EYE
11 PART OF THE BRAIN. AND IN FACT, COMING UP YOU'LL SEE IT
12 HIGHLIGHTED IN GREATER DETAIL.

13 OKAY. IT IS MOVING. IT'S A FOUR MINUTE FILM, BUT IT
14 IS GOING. I -- TO ME, AND I'VE LOOKED AT MANY OF THESE
15 AND I'M CERTAINLY -- BEEN IN THE MEDICAL LITERATURE.
16 THERE ARE THOUSANDS OF PICTURES -- PICTURES OF THIS. THIS
17 IS NIGHT AND DAY.

18 THIS NORMAL COMPARED TO MR. STANKO IS NIGHT AND DAY
19 DIFFERENCE. IT'S DRAMATIC.

20 Q NOW, IN THIS AREA OF THE BRAIN WHERE THE CURSOR IS--

21 A YES.

22 Q -- WHAT'S TAKING PLACE THERE IN A HEALTHY BRAIN?

23 A IN THE HEALTHY BRAIN THAT'S THE PART THAT MODULATES
24 SOCIALLY APPROPRIATE BEHAVIOR. IT'S THAT PART OF THE
25 BRAIN WHERE A PERSON'S CONSCIENCE AND SELF-REFLECTION ARE.

1 Q ALL RIGHT. AND YOU SAY MODULATE OR MODERATES?

2 A CONTROL.

3 Q CONTROLS. YOUR CAPACITY TO DISTINGUISH IS LOCATED
4 THERE?

5 A YES. IT'S--

6 Q IS THAT WHAT YOU'RE SAYING?

7 A IT'S NOT -- IT -- TO TELL THE DIFFERENCE BETWEEN
8 THINGS, IT'S PARTLY THERE AND IT'S PARTLY IN OTHER AREAS
9 OF THE FRONTAL AREA OF THE BRAIN, BUT YOUR CAPACITY TO
10 DISTINGUISH WHAT'S SOCIALLY RIGHT AND WRONG IS THERE.

11 Q COULD YOU SAY THAT ABOUT LEGALLY RIGHT AND WRONG AND
12 MORALLY RIGHT AND WRONG?

13 A YES. WELL, YOU COMBINE THOSE TWO, YOU GET--

14 Q SOCIALLY--

15 A -- SOCIALLY APPROPRIATE OR INAPPROPRIATE BEHAVIOR.

16 Q ALL RIGHT. AND THAT'S -- THAT'S TAKING PLACE. WHERE
17 THAT EXECUTIVE OR DISTINCTION -- DISTINGUISHING--

18 A THAT'S THE GREAT PART OF IT.

19 Q -- PLACE?

20 A YOUR EXECUTIVE FUNCTION IS HOW YOU PROPERLY ACT AND
21 SEQUENCE THINGS IN GENERAL IN YOUR BEHAVIOR AND EVERY DAY
22 LIFE. BUT AGAIN, THE EMPATHY PART OF BEING A HUMAN BEING,
23 THE CONSCIENCE, HAVING A CONSCIENCE, HAVING GUILT, HAVING
24 CARING, IT'S THIS PART OF THE BRAIN RIGHT HERE THAT DOES
25 THAT.

1 THE ABILITY TO CONTROL IMPULSES. NOW, WE ALL GET
2 IMPULSES. AN IMPULSE MEANS A SUDDEN FEELING TO WANT TO DO
3 SOMETHING, BUT WHY DON'T WE? IT'S THIS PART THAT SAYS,
4 NO. NOW, IF WE'RE NORMAL, OUR PART'S WORKING LIKE THIS.

5 Q ALL RIGHT. WHAT STARTS OUT AS AN IMPULSE THEN...

6 A DEEPER IN THE BRAIN COMES FORWARD TO THIS AREA AND
7 THIS AREA THEN -- BUT THIS IS WITHIN MILLISECONDS. THIS
8 AREA UP HERE -- LET'S LOOK AT THE NORMAL BRAIN. THIS AREA
9 UP HERE TELLS THE LOWER MORE PRIMITIVE AREAS, HOLD ON A
10 MINUTE, I'M GOING TO THINK ON THIS, I'M GOING TO DECIDE.

11 SOMEONE'S JUST SAID SOMETHING NASTY, DO I PUNCH HIM,
12 DO I RUN, DO I YELL, DO I DO WHAT'S APPROPRIATE. YOU
13 KNOW, AND WE ALL CAN MAYBE WANT TO START TO DO SOMETHING,
14 BUT THEN WE STOP AND CALM DOWN, WE TAKE A DEEP BREATH.

15 IT'S THIS PART THAT'S DONE THAT, AND IT'S DONE THAT
16 WITHOUT THINKING ABOUT IT. THIS ISN'T A, OKAY, DO I DO
17 THIS, DO I DO PLAN A OR PLAN B. IT'S NON-CONSCIOUS.
18 IT'S -- IT'S ALMOST INSTANTANEOUS.

19 WHEN THEY MEASURE THE ELECTRICAL ACTIVITY IN THAT
20 PART OF THE BRAIN TO SEE HOW THAT -- THAT KIND OF FUNCTION
21 OCCURS, IT'S 301 THOUSANDTHS OF A SECOND. IF YOU COULD
22 CUT A SECOND UP INTO 1000 PARTS, IT'S 30 PERCENT OF A
23 SECOND. IT'S THAT QUICK. SO IT'S NOT SOMETHING YOU
24 CONSCIOUSLY THINK ABOUT.

25 Q WELL, WHAT HAPPENS IF THERE'S NO -- OR SIGNIFICANTLY

1 REDUCED ACTIVITY IN THAT PART OF THE BRAIN?

2 A YOU CAN'T CONTROL YOUR IMPULSES, YOU IN GENERAL HAVE
3 MORE DIFFICULTY CONTROLLING YOUR IMPULSES, AND UNDER THE
4 RIGHT CIRCUMSTANCES YOU LOST IT AND YOU CAN'T CONTROL IT
5 AND YOU BECOME INSANE.

6 Q WELL, HOW LONG CAN THAT LAST?

7 A IT CAN LAST--

8 Q BECAUSE IF YOU DON'T HAVE ACTIVITY THERE TO STOP IT,
9 HOW DOES IT EVER STOP?

10 A IT ONLY STOPS WHEN THE AGGRESSIVE IMPULSE ITSELF
11 STOPS WHICH DOESN'T COME FROM THERE, BUT IT'S COMING FROM
12 DEEPER PARTS BACK HERE.

13 Q AND YOUR TESTIMONY EARLIER WAS HOW LONG COULD THAT
14 LAST?

15 A IT COULD LAST HOURS. IT COULD LAST MINUTES TO HOURS
16 TO EVEN DAYS. WE KNOW THAT PEOPLE WHO HAVE SEIZURES THAT
17 AFFECT THESE PARTS OF THE BRAIN, THEY CAN GO INTO A STATE
18 OF VIOLENT, PSYCHOTIC RAGE THAT CAN LAST FOR DAYS UNTIL
19 YOU GET ANTI-SEIZURE MEDICINE IN THERE AND CALM THEIR
20 BRAIN DOWN.

21 Q ARE THEY SANE DURING THOSE PERIODS?

22 A NO, THEY'RE NOT, BECAUSE THEY'RE NOT RESPONSIBLE,
23 THEY'RE NOT CONSCIOUSLY DECIDING TO BE VIOLENT AND
24 AGGRESSIVE. IT'S JUST --

25 Q SO--

1 A -- THE BRAIN IS FORCING THEM TO BE BECAUSE WE ARE
2 WHAT OUR BRAIN DOES.

3 Q LET'S SAY WE'VE GOT A -- AN EMOTION COMING OUT OF THE
4 LIMBIC SYSTEM THAT SAYS I NEED TO FIGHT.

5 A RIGHT.

6 Q IS THERE -- IT'S NOT BEING CONTROLLED HERE. IS THE
7 LIMBIC SYSTEM TO ANY DEGREE ABLE TO ANALYZE AND PUT THE
8 BRAKES ON?

9 A NO, IT'S -- THAT'S NOT ITS FUNCTION. IT'S NOT WIRED
10 TO DO THAT. IN FACT, THAT'S CALLED THE REPTILIAN PART OF
11 OUR BRAIN. A LIZARD HAS THE LIMBIC SYSTEM. A LIZARD OR
12 AN ALLIGATOR DOESN'T HAVE ALL THIS MEAT OUT HERE. A
13 LIZARD JUST HAS THIS CENTRAL STUFF HERE.

14 AND AGAIN, IF YOU WALK UP TO AN ALLIGATOR OR -- OR A
15 LIZARD, WHEN IT LOOKS AT YOU, IT'S -- IT'S ONLY DECISION
16 MAKING IS, DO I EAT YOU, DO I ATTACK YOU, OR DO I RUN FROM
17 YOU. THAT'S ALL THAT THESE LOWER CENTERS OF OUR BRAIN DO.

18 WE AS HUMAN BEINGS AND HIGHER, YOU KNOW, CREATURES,
19 WE HAVE GOT ALL THIS MEAT OUT HERE IN OUR BRAIN AND THAT'S
20 THE DIFFERENCE THAT SETS US APART FROM THE LOWER
21 CREATURES--

22 Q ALL RIGHT. ARE YOU FAMILIAR WITH THE INCIDENT THAT
23 OCCURRED IN THIS CASE?

24 A YES.

25 Q DO YOU HAVE A PROFESSIONAL OPINION ABOUT WHAT WAS

1 GOING ON IN MR. STANKO'S BRAIN AT THE TIME THAT WAS
2 OCCURRING?

3 A YES.

4 Q TELL US.

5 A MY OPINION, I KNOW FROM ALL THE MEDICAL LITERATURE,
6 FROM ALL THE -- FROM ALL THE DOCUMENTATION IN THIS CASE
7 FROM MR. STANKO'S BIRTH TO HIS REPEATED CRIMINAL ACTIVITY
8 THAT'S UNRESPONSIVE TO REPEATED THREATS AND JAILINGS BY
9 THE CRIMINAL SYSTEM AND IS UNRESPONSIVE TO REPEATED
10 PSYCHIATRIC TREATMENT AND UPON GETTING THESE IMAGES OF HIS
11 BRAIN, MY DIAGNOSIS IS THAT MR. STANKO IS A PSYCHOPATH,
12 AND I'M 100 PERCENT CERTAIN OF THAT, AND I BELIEVE WE'VE
13 PROVED IT.

14 WE HAVE SHOWN THAT HIS BRAIN -- THIS IS THE BRAIN OF
15 A PSYCHOPATH.

16 Q WHAT WAS GOING ON IN THIS AREA? IN OTHER WORDS, WHAT
17 WAS GOING ON IN HIS BRAIN DURING THIS ASSAULT?

18 A IT'S NO DIFFERENT IN HIS FRONTAL LOBES THAN WHAT WE
19 SEE HERE. I -- HE -- HE -- IT'S JUST NOT WORKING RIGHT.
20 THE EXACT CAUSE, WE DON'T KNOW WHY, BUT WE KNOW THIS.
21 WHEN WE GET ONE OF THE MOST -- TWO OF THE MOST COMPLICATED
22 SCIENTIFIC EXAMINATION TOOLS AVAILABLE ON THE PLANET, THEY
23 BOTH CONCUR THAT HE'S GOT FRONTAL LOBE ABNORMALITY.

24 THIS IS NOT WORKING THEN, IT WASN'T WORKING THEN, AND
25 IT WASN'T WORKING WHEN WE EXAMINED HIM, AND THERE'S NO WAY

1 HE CAN CONTROL IT TO TURN ON AND OFF. THAT WOULD IMPLY
2 THAT THERE'S SOME OTHER BRAIN SITTING OUT HERE TO -- ON
3 HIS SHOULDER THAT CONTROLS HIS REAL BRAIN.

4 Q ALL RIGHT. THAT'S MY QUESTION. WHAT WAS DRIVING HIS
5 ACTION IN -- WITH THIS BRAIN?

6 A THE MOST PRIMITIVE PART OF HIS BRAIN WITH THE
7 REPTILIAN PART, THAT LIMBIC SYSTEM, IS STUFF WHERE OUR
8 ANGER AND OUR IMPULSES COME FROM, OUR IMPULSES JUST TO DO
9 THINGS WITHOUT THINKING ABOUT THEM. AND ALL HUMAN BEINGS
10 HAVE THOSE.

11 AGAIN, WHAT SEPARATES US FROM INSANITY OR CRIMINAL OR
12 ANTISOCIAL BEHAVIOR IS THAT PART OF THE BRAIN.

13 Q NOW, IN THAT LIMBIC SYSTEM DO WE HAVE VARYING DEGREES
14 OF STRENGTH IN THE SIGNAL?

15 A SURE. WHEN WE'RE ANGRY, WHEN WE PERCEIVE A THREAT OR
16 A SLIGHT, OR WE'RE DISSED OR -- WHEN SOMEONE DOES
17 SOMETHING TO US WE DON'T LIKE, THE LIMBIC SYSTEM TURNS WAY
18 UP.

19 Q ALL RIGHT. NOW, THE LIMBIC SYSTEM -- THE LIMBIC
20 SYSTEM DOES NOT HAVE THE CAPACITY TO DISTINGUISH RIGHT
21 FROM WRONG.

22 A NO.

23 Q IF MR. STANKO WAS GOING TO HAVE THAT CAPACITY IN THIS
24 CASE, WHERE WAS THAT GOING TO TAKE PLACE IN HIS BRAIN?

25 A RIGHT HERE WHERE AN -- IN A NORMAL PERSON THIS

1 ACTIVITY.

2 Q ALL RIGHT. IF THAT LIMBIC SYSTEM EMOTION WAS STRONG
3 ENOUGH, DID HE HAVE THE CAPACITY TO DISTINGUISH RIGHT FROM
4 WRONG?

5 A NO. NO. IN FACT, IT'S -- IT'S CALLED -- WHAT WE
6 CALLED THIS IN THE 1850'S WAS MORAL INSANITY. THAT'S WHY
7 THEY MADE HOSPITALS AND THEY CALLED THEM PSYCHIATRIC
8 HOSPITALS FOR THE CRIMINALLY INSANE.

9 THERE WERE HOSPITALS FOR THE INSANE AND THEN THERE
10 WERE HOSPITALS FOR THE CRIMINALLY INSANE. AND I ALWAYS
11 WAS FASCINATED, WHY DID THEY HAVE THAT WORD, CRIMINALLY
12 INSANE, BECAUSE GOING BACK TO THE 1800'S, MEDICAL
13 PROFESSIONALS THEN WITHOUT ALL THIS GREAT BRAIN STUFF
14 UNDERSTOOD THAT THERE WERE PEOPLE WHO INTELLECTUALLY
15 APPEARED NORMAL BUT MORALLY THEY WERE BEREFT OR INSANE,
16 THEY JUST COULD NOT DO THE RIGHT THING IN THREAT OF
17 PUNISHMENT, WITH EDUCATION, WITH TENDER, LOVING CARE THEY
18 KEPT DOING THE WRONG THING, SO THEY MADE HOSPITALS FOR THE
19 CRIMINALLY INSANE.

20 Q BUT THERE ARE TIMES WHEN MR. STANKO LOOKS PERFECTLY
21 NORMAL, HE MAY ACT PERFECTLY NORMAL. HOW DO YOU EXPLAIN
22 THAT?

23 A WELL AGAIN, THAT'S TYPICAL OF THE PSYCHOPATH.
24 THIS -- HE DOESN'T HAVE MENTAL RETARDATION. HE DOES NOT
25 HAVE AUTISM. HE DOES NOT HAVE ALZHEIMERS DISEASE. THE

1 SPECIFIC DAMAGE IN THE PSYCHOPATHIC BRAIN ALLOWS ONE TO
2 LOOK NORMAL.

3 IN FACT, A VERY FAMOUS DOCTOR IN AUGUSTA, GEORGIA IN
4 1941 WROTE A BOOK CALLED, THE MASK OF SANITY. IT WAS THE
5 FIRST BOOK EVER WRITTEN ON PSYCHOPATHS WHERE HE -- WHERE
6 THEY WERE -- WHERE THEY REALLY EXAMINED IT, WHERE HE
7 REALLY EXAMINED IT.

8 THIS WAS A MAN, BY THE WAY, WHO WROTE THE BOOK THAT
9 BECAME THE MOVIE, THE THREE FACES OF EVE. HE WAS RIGHT IN
10 AUGUSTA, GEORGIA, JUST UP THE STREET. HE CALLED IT A MASK
11 OF SANITY BECAUSE HE BELIEVED THEY WERE INSANE, BUT THEY
12 HAVE A MASK OF SANITY. THEY LOOK SANE, BUT THEY ARE
13 REALLY NOT.

14 Q DR. SACHY, ARE WE HERE BECAUSE OF A SERIES OF BAD
15 CHOICES MADE BY STEPHEN STANKO?

16 A NO.

17 Q AND WHY DO YOU SAY THAT?

18 A THIS PART OF THE BRAIN HERE IS THE PART THAT HELPS
19 MAKE OUR -- THAT MAKES OUR MORAL CHOICES. IF IT IS
20 DYSFUNCTIONAL, THEN WHAT ELSE IS THERE IN HIM THAT'S GOING
21 TO DO THAT FOR HIM?

22 Q DOES HE HAVE MORAL CULPABILITY FOR WHAT HE DID GIVEN
23 THIS LACK OF FUNCTION?

24 A NO, HE HAS MORAL INSANITY.

25 Q ALL RIGHT.

1 A INSANITY MEANS IT'S MENTAL ILLNESS, IT'S DUE TO A
2 DEFECT IN THE BRAIN. NOW, IF I TAKE A PET SCAN OF SOMEONE
3 AND THEY HAVE A NORMAL BRAIN AND THEY HAVE GOTTEN IN
4 TROUBLE IN THE PAST BUT SEEM TO LEARN FROM THEIR MISTAKES,
5 BUT THEY GO OUT AND PLAN AND EXECUTE A, YOU KNOW, A
6 TERRIBLE THING BUT THEY TAKE ALL KINDS OF STEPS TO COVER
7 UP THEIR TRACKS, TO HIDE EVIDENCE, TO, YOU KNOW, DO A
8 PERFECT CRIME AND -- IN THE PRETRIAL HEARING I USED THE
9 COLUMBO EXAMPLE.

10 WATCHING COLUMBO, YOU SEE THAT THESE PEOPLE AND -- IN
11 THE COLUMBO EPISODE WHO HAVE GONE THROUGH SO MUCH TO COVER
12 UP THEIR CRIME. I -- THOSE PEOPLE DO KNOW MORALLY RIGHT
13 FROM WRONG.

14 Q MR. STANKO'S INTELLIGENT?

15 A HE'S A GENIUS.

16 Q DID HE -- AT HIS IQ LEVEL, DID HE HAVE THE ABILITY TO
17 PLAN THE PERFECT MURDER, SO-TO-SPEAK?

18 A HE SHOULD HAVE HAD THE -- I MEAN, HE'S A GENIUS.
19 HE'S BEEN TESTED BY DR. EINHORN AND PROVEN TO BE A GENIUS
20 AT AN IQ LEVEL OF 140 OR 143, WHATEVER MR. STANKO HAS. HE
21 RATES GENIUS LEVEL INTELLIGENCE. YOUR QUESTION IS, SHOULD
22 HE HAVE BEEN ABLE TO...

23 Q YEAH. WHY WOULD HE COMMIT A CRIME THAT WAS SO
24 OBVIOUS, YOU KNOW, THAT HE COMMITTED? IN OTHER WORDS, HE
25 DIDN'T -- WHY DIDN'T HE TRY TO COVER IT UP IF HE'S SO

1 SMART?

2 A THAT'S--

3 Q WHY DID HE DO IT THIS WAY?

4 A THAT'S AN EXCELLENT QUESTION. AND THE ANSWER IS
5 THANKS TO THIS LEVEL OF SCIENCE IN THE YEAR 2006, THIS IS
6 WHY. YOU SEE, THE OTHER PARTS OF HIS BRAIN UP HERE ARE
7 WORKING ABOUT THE SAME AS A NORMAL LEVEL CONTROL PERSON
8 HERE. RIGHT UP HERE, RIGHT HERE.

9 THAT'S THE PART THAT ALLOWS HIM TO GO TO AN ATM
10 MACHINE AND PUT IN A PIN AND GET THE MONEY OUT. BUT
11 AGAIN, THIS ISN'T ABOUT THE ABILITY TO DRIVE A CAR OR USE
12 A CAR AT AN ATM MACHINE.

13 YOU KNOW, SCHIZOPHRENICS WHO DO HORRIBLE THINGS AND
14 COME TO THE LEGAL SYSTEM STILL MAY TRY TO EVADE
15 RESPONSIBILITY. THEY STILL MAY DO COMPLICATED ACTS. BUT
16 IT'S THE INITIAL DEEP DOWN DRIVES IN THEIR ABILITY TO
17 CONTROL THEIR BEHAVIOR THAT'S DIMINISHED HERE, NOT THEIR
18 ABILITY TO PRESS BUTTONS AND ET CETERA.

19 Q WHAT DOES THAT HAVE TO DO THAT -- WHEN I SAY THAT,
20 I'M TALKING ABOUT THE LOW FUNCTION -- WHAT DOES THIS HAVE
21 TO DO WITH THE MEMORY PROCESS?

22 A OKAY. THE FIRST PART IN MEMORY, TO LAY DOWN MEMORY
23 IN YOUR BRAIN, TO STORE IT, THE FIRST PART OF IT IS CALLED
24 ATTENTION. IF YOU'RE NOT PAYING ATTENTION, YOU'RE NOT
25 GOING TO MEMORIZE ANYTHING. SO YOU HAVE TO PAY ATTENTION.

1 THE PART THAT DOES ATTENTION IS THIS FRONTAL PART OF
2 THE BRAIN. NOT AS MUCH HERE -- LET'S GO BACK TO THE
3 NORMAL BRAIN. NOT AS MUCH HERE, BUT THIS PART OUT HERE.

4 LET ME JUST SAY THIS. THIS ENTIRE, ENTIRE FRONTAL
5 AREA, IT ALL KIND OF DEPENDS ON EVERY OTHER PART, BUT WE
6 JUST KNOW THAT CERTAIN AREAS DO A LITTLE MORE OF ONE THING
7 OR THE OTHER.

8 BUT COMING BACK TO ATTENTION, AND BEEN ASKED BEFORE
9 ABOUT AMNESIA, IF MR. STANKO COULD REMEMBER THINGS. AND
10 MR. STANKO, WHEN HE TOLD ME WHAT HE DID, HE DIDN'T --
11 THERE WERE CERTAIN DETAILS THAT ANOTHER EXPERT, DR.
12 CRAWFORD, FOUND THAT HE DIDN'T TELL ME OR COULDN'T
13 REMEMBER OR CHOSE NOT TO REMEMBER, I DON'T KNOW.

14 BUT WE KNOW THIS. WHEN WE'RE INVOLVED IN AN
15 EMOTIONALLY CHARGED INCIDENT, WHILE IT IS OCCURRING, OUR
16 ABILITY TO STORE DETAIL FROM THAT INCIDENT IS GREATLY
17 REDUCED.

18 HOW DO WE KNOW THAT? WELL, NEUROPSYCHIATRISTS KNOW
19 THAT, BUT THERE'S -- IT'S CALLED THE RESTEROFF PARADIGM.
20 AND THEY -- I WILL JUST GIVE YOU A SIMPLE EXAMPLE. YOU
21 TAKE TWO SETS OF JURORS, 12 AND 12, AND YOU SHOW THEM A
22 FILM FROM THE BANKING INDUSTRY ON HOW TO BE A GOOD BANK
23 TELLER AND YOU ASK THEM TO WATCH THIS 10 MINUTE FILM AND
24 IT SHOWS BANK TELLER AND BEING NICE TO CUSTOMERS, ET
25 CETERA.

1 BUT IN ONE GROUP OF THE 12 PEOPLE WATCHING THIS, YOU
2 SUDDENLY FLASH AN IMAGE OF A YOUNG MAN BEING SHOT IN THE
3 HEAD, FLASH IT REALLY QUICK. THE OTHER 12 DIDN'T GET
4 THAT. THEY JUST WATCHED THE SAME FILM.

5 WHEN YOU ASK THEM LATER DETAILS ABOUT THE FILM AND TO
6 PROVIDE DETAILS, THOSE WHO ARE SHOWN THAT HORRIBLE IMAGE
7 OF THE PERSON BEING SHOT IN THE FACE CANNOT REMEMBER --
8 THEY'RE SIGNIFICANTLY REDUCED IN THEIR ABILITY TO REMEMBER
9 DETAILS FROM THAT SHORT LITTLE SNIPPET OF FILM.

10 WHAT THAT PROVES IS, IS WHAT WE KNOW, IN AN -- A
11 HIGHLY EMOTIONALLY CHARGED SITUATION, OUR ABILITY TO STORE
12 MEMORY BECOMES GREATLY DIMINISHED. MR. STANKO--

13 Q THAT'S IN A HEALTHY BRAIN?

14 A THAT'S IN A HEALTHY BRAIN. MR. STANKO SAYS THAT HE
15 CAN'T REMEMBER CERTAIN THINGS. I BELIEVE IT. THERE ARE
16 CERTAIN THINGS HE MAY CHOOSE NOT TO REMEMBER. I BELIEVE
17 THAT, TOO. MR. STANKO IS A PSYCHOPATH.

18 Q WELL, IN ORDER TO HAVE A NORMAL MEMORY...

19 A YES.

20 Q WOULD THAT -- WOULD THAT REQUIRE A NORMAL FUNCTION OF
21 THIS AREA OF THE BRAIN?

22 A IT WOULD DEPEND A LITTLE BIT ON IT BECAUSE, REMEMBER,
23 THIS AREA, WHEN I SAY IT DOES MORALS AND HAVING A
24 CONSCIENCE AND, YOU KNOW, IT'S THE EMERGENCY BRAKE ON THE
25 BRAIN, IT'S -- IT'S STILL -- THERE'S NOT A PLASTIC LINER

1 THAT SEPARATES THIS FROM THE REST OF THE FRONTAL LOBE.

2 IT'S CORRECTED WITH IT. AND THE REST OF THE FRONTAL
3 LOBE OUT HERE ON THE OUTSIDE USES AND RECRUITS THIS
4 MATERIAL HERE.

5 Q OKAY. SO, LET'S SAY WE HAD REDUCED FUNCTION HERE,
6 AND I'M ASSUMING IN SEQUENCE HERE, THE SIGNALS WOULD COME
7 OUT OF THIS NON-FUNCTIONING AREA INTO THE HIGHER CORTEX
8 AREA?

9 A WELL, I --

10 Q YOU CAN SAY NO. I MEAN, EXPLAIN -- EXPLAIN TO ME IF
11 YOU CAN HOW THAT PROCESS WOULD WORK.

12 A WHEN THE -- WHEN ANYTHING IS GOING ON AND WE NEED TO
13 PAY ATTENTION, JUST EVEN SITTING HERE RIGHT NOW, AGAIN,
14 YOUR FRONTAL LOBES NEED TO BE ON AND WORKING VERY WELL TO
15 PAY ATTENTION TO ME.

16 IF ALL THE JURY HERE HAD ATTENTION DEFICIT DISORDER
17 AND WERE NOT TAKING THEIR RITALIN TODAY, THEY WOULD HAVE
18 MUCH GREAT DIFFICULTY PAYING ATTENTION TO ME, AND WHEN
19 ASKED LATER ABOUT WHAT THEY EXPERIENCED OR WHAT THEY
20 REMEMBER WHAT I'M SAYING, I -- WELL, HOPE THEY REMEMBER,
21 BUT THEY WOULD PROBABLY SAY THEY HAVE DIFFICULTY.

22 MAYBE THEY WOULDN'T ADMIT TO IT. BUT AGAIN,
23 ATTENTION DEFICIT DISORDER, WE KNOW THAT THOSE CHILDREN
24 HAVE DECREASED FRONTAL LOBE ACTIVITY. AND AGAIN, I
25 MENTIONED THIS BEFORE, WELL, GEE, THEY HAVE DECREASED

1 FRONTAL LOBE ACTIVITY, WHY AREN'T THEY ALL PSYCHOPATHS.

2 BUT IN FACT, 50 PERCENT OF ALL CHILDREN WITH
3 ATTENTION DEFICIT DISORDER DO BECOME INVOLVED WITH
4 ACTIVITY THAT GETS THEM IN TROUBLE WITH THE LAW, AND IT'S
5 BECAUSE THE FRONTAL LOBES AREN'T WORKING AS WELL AS--

6 Q LET'S GO AHEAD AND FINISH THIS, DOCTOR. LET ME GET
7 YOUR FINAL COMMENTS ON IT.

8 A WELL AGAIN, DR. WU'S TEAM OF IMAGE ANALYSTS ARE
9 POINTING OUT WITH THE ARROWS THE GREAT OBVIOUS DIFFERENCE
10 OF THE FRONTAL LOBE FUNCTIONING. THIS IS THE BACK OF THE
11 BRAIN AGAIN.

12 AND IN THE OCCIPITAL LOBES IN THE BACK OF THE BRAIN
13 WE HAVE ROUGHLY EQUAL ACTIVITY. IN MR. STANKO WE ACTUALLY
14 HAVE MORE ACTIVITY IN HIS VISUAL AREAS OF THE BRAIN WHICH
15 DR. RAINE FOUND IN ALL HIS STUDIES.

16 AGAIN, HE THOUGHT THAT THE PSYCHOPATHIC BRAIN MAY
17 ACTUALLY BE USING OTHER PARTS OF THE BRAIN MORE TO MAKE UP
18 FOR THEIR DEFICIENCIES. I THINK THIS -- THIS WOULD SUM IT
19 UP BEST. LOOK TO THE LITTLE HEAD ON THE LEFT WHERE THE
20 BLUE SQUARE IS CUTTING THROUGH--

21 Q YEAH. RIGHT.

22 A -- THE BRAIN. AND WE'RE GETTING DOWN TOWARDS --
23 WE'RE COMING FROM THE TOP HEADING DOWN AND WE ARE GETTING
24 TOWARDS THOSE ORBITAL FRONTAL LOBES. AGAIN, DR. WU'S
25 HIGHLIGHTING. LOOK AT THE FRONTAL LOBES AND ON THE

1 UNDERSIDE. WE'RE AT THAT LEVEL, BUT WE'RE NEAR THE
2 UNDERSIDE -- NORMAL, MR. STANKO.

3 Q DOCTOR, WOULD YOU ADVANCE THAT A COUPLE OF MORE
4 SECONDS? AGAIN.

5 A I MEAN, IT'S NIGHT AND DAY.

6 Q THERE.

7 A NIGHT AND DAY.

8 Q YOU GOT IT. EXPLAIN TO US WHAT WE'RE LOOKING AT.

9 A WE'RE LOOKING AGAIN DIRECTLY ABOVE MY NOSE, BEHIND MY
10 NOSE AND UP AT THE MEDIAL, THAT IS MIDDLE ORBITAL FRONTAL
11 LOBE, THE MIDDLE PART OF MY BRAIN THAT'S SITTING ABOVE MY
12 EYEBALLS. MR. STANKO IS COOL. IT'S NOT USING SUGAR.

13 IT'S NOT CALLING FOR THE USE OF SUGAR THE WAY A
14 NORMAL BRAIN IS IN ITS CONTINUANCE PERFORMANCE TASK, AND
15 IN NOT CALLING FOR RADIOACTIVE SUGAR IT'S SHOWING THAT
16 IT'S JUST NOT BEING USED, IT'S NOT WORKING.

17 Q ALL RIGHT. NOW, IN YOUR INVESTIGATION OF THIS CASE--

18 A YEAH.

19 Q -- DID YOU HAVE AN OPPORTUNITY TO REVIEW A TRANSCRIPT
20 OF THE DIALOGUE BETWEEN [REDACTED] AND THE POLICE
21 DETECTIVE?

22 A YES.

23 Q AND DO YOU HAVE THAT, A COPY OF THAT UP THERE IN
24 FRONT OF YOU?

25 A I HAVE SOME PAGES FROM IT, AND I'M NOT SURE IF I

1 HAVE...

2 Q THIS IS -- IF I MIGHT HAND YOU THIS. THIS IS A COPY
3 THAT WE HAVE HIGHLIGHTED--

4 A YEAH.

5 Q -- I BELIEVE. AND I WANT YOU TO START RIGHT THERE
6 WITH THE WORD, AND.

7 A OKAY. THIS IS FROM PAGE TWO OF THE TEEN -- THE YOUNG
8 GIRL. AND AT THE WORD, AND, SHE SAYS, AND I REMEMBER HIM
9 MOVING AROUND. I REMEMBER I THINK THERE WAS ANOTHER
10 VOICE, ANOTHER MALE'S VOICE. I'M NOT TOTALLY SURE, BUT
11 I'M -- BUT I PRETTY -- I'M ALMOST POSITIVE HE LEFT WITH
12 SOMEONE ELSE.

13 Q OKAY. GO AHEAD AND READ THE NEXT -- I JUST WANT TO
14 PUT THAT IN CONTEXT WITH WHAT SHE'S SAYING AT THAT TIME.
15 OKAY. CONTINUE ON AND READ ANOTHER SENTENCE.

16 A AFTER THAT I LOOKED AROUND AND -- AT THE CLOCK AND IT
17 WAS THREE, AND THAT'S WHEN I WOKE UP AND MY MOM WASN'T
18 MOVING AND I STUMBLED ON THE BED AND I GOT TO THE PHONE.

19 Q OKAY.

20 A AND I CALLED THE POLICE.

21 Q ALL RIGHT. SO IN THAT, WHAT -- WHAT DO YOU CONCLUDE
22 SHE WAS SAYING WITH RESPECT TO THE 9-1-1 CALL AND THE
23 HEARING OF THE VOICES?

24 A I -- I -- I ABSOLUTELY BELIEVE HER. I BELIEVE WHAT
25 YOU WERE SEEING, I -- IN MY OPINION WHAT WE'RE HEARING IS

1 MR. STANKO'S VOICE IS SO CHANGED AND DIFFERENT BECAUSE
2 HE'S BEYOND HIS NORMAL BEHAVIOR. HE SOUNDS LIKE SOMEONE
3 ELSE.

4 IN FACT, LATER ON HE -- I GUESS DETECTIVE ALLEN ASKS,
5 DID YOU SEE ANY OTHER MALE IN THERE BESIDES HIM? NO, NO,
6 IT WAS JUST HIM. BUT SHE IS SAYING THAT HIS VOICE IS SO
7 DIFFERENT, IT SOUNDS LIKE SOMEONE ELSE.

8 Q OKAY.

9 A I SUSPECT IN MY OPINION WHAT WE'RE HEARING, YOU'RE
10 HEARING THE VOICE OF SOMEONE WHOSE LIMBIC SYSTEM AND
11 AGGRESSION AND VIOLENT IMPULSES ARE IN COMPLETE CONTROL OF
12 THEIR BRAIN AND THEY'RE NOT BEING MODULATED OR CONTROLLED
13 BY THAT COLD PART.

14 Q ALL RIGHT. WE'RE LOOKING -- WE'RE LOOKING AT
15 INSANITY--

16 A YES.

17 Q -- POSSIBLY?

18 A YES.

19 Q AND WE'RE HEARING IT DESCRIBED BY THE YOUNG VICTIM.

20 A SO MUCH SO THAT SHE THINKS THERE'S A SECOND PERSON IN
21 THE ROOM, ANOTHER PERSON.

22 Q ALL RIGHT. ARE YOU AWARE OF ANY OTHER EFFORTS THAT
23 COULD BE UNDERTAKEN TO PRODUCE EVIDENCE ON THE ISSUE OF
24 SANITY OR INSANITY AT THAT MOMENT?

25 A AT THAT MOMENT? BESIDES THE -- I JUST HAVE TO SAY

1 THE ABSOLUTELY ABERRANT AND INSANE ACTS THAT TOOK PLACE.

2 Q I'M SORRY. WOULD YOU REPEAT THAT?

3 A THE ABSOLUTE ABERRANT AND HORRIBLE THINGS THAT TOOK
4 PLACE, OUR GUT INSTINCT IS TO SAY THAT PERSON'S A PSYCHO.
5 I MEAN, THAT'S WHY THAT MOVIE WAS MADE, THE ALFRED
6 HITCHCOCK MOVIE, PSYCHO.

7 WHAT -- OUR GUT INSTINCT IS TO LABEL THESE PEOPLE AS
8 CRAZY, THAT GUY HAD TO BE CRAZY, HE WAS EVIL, HE WAS
9 PSYCHO.

10 Q HE WAS INSANE?

11 A THAT'S REALLY WHAT PEOPLE ARE SAYING, BUT THEY'RE --
12 THEY DON'T REALIZE IT. BUT THOSE OF US IN THE FIELD IN
13 BRAIN SCIENCE UNDERSTAND WHAT THEY MEAN. THEY ARE PSYCHO
14 WHEN ACTUALLY THEY ARE PSYCHOPATHIC.

15 Q CAN WE SAY WITHIN A REASONABLE DEGREE OF MEDICAL
16 CERTAINTY THAT HE CHOOSES TO BE THAT WAY?

17 A NO. MR. STANKO NOR THE OTHER PSYCHOPATHS THAT WE
18 KNOW OF HAVE NOT MADE A CONSCIOUS DECISION TO BE
19 PSYCHOPATHIC. THEY HAVE A BRAIN ABNORMALITY THAT HAS BEEN
20 FORCED UPON THEM BY BAD LUCK OR GOD OR GENES OR EXPOSURE
21 TO CHEMICALS, WHAT HAVE YOU.

22 Q AND IT -- WOULD YOU CHARACTERIZE THE STATEMENTS IN
23 HIS BIRTH RECORDS AS BEING SIMPLY COINCIDENTAL?

24 A NO. IT--

25 Q IF HE WAS HEALTHY BUT THEY JUST HAPPENED TO PUT THAT

1 IN THERE?

2 A NO. THEY -- THEY...

3 Q BASED ON WHAT YOU SEE NOW?

4 A OKAY. THEY -- IT'S IN SEVERAL POINTS IN HIS MEDICAL
5 RECORD. AGAIN, I'M JUST THINKING OF A MOTHER BEING TOLD,
6 YOU CAN'T BE -- HAVE A TUBAL LIGATION BECAUSE YOUR CHILD
7 MAY DIE AND YOUR CHILD MAY HAVE INTRACRANIAL DAMAGE WHICH
8 MEANS BRAIN DAMAGE.

9 Q WHEN SOMEONE IS BORN WITH A BIRTH DEFECT, ESPECIALLY
10 MAYBE WHAT WOULD OTHERWISE BE A LATENT DEFECT -- THINK OF
11 IN THE LAW -- IS IT NECESSARILY REASONABLE TO EXPECT
12 YOU'RE ALWAYS GOING TO FIND DETAILED NOTATIONS OF THAT IN
13 THE BIRTH RECORDS?

14 A NO. NO, NONE.

15 Q GIVE US AN EXAMPLE OF...

16 A WELL, MR. STANKO MEETS THE DEFINITION I HAVE TO SAY
17 OF SOMETHING CALLED ANTISOCIAL PERSONALITY DISORDER. WE
18 HAVE A BOOK CALLED THE DSM4 THAT PSYCHIATRISTS AND
19 NEUROLOGISTS USE WHICH LISTS ALL THE PSYCHIATRIC DISEASES
20 THAT ARE OUT THERE, AND THEY ALL GET A NUMBER BY THEM,
21 OKAY?

22 UP UNTIL 1980 WHAT MR. STANKO HAS WAS CALLED
23 PSYCHOPATHY. AND I STILL USE THAT WORD. AND IN THE
24 MEDICAL RESEARCH LITERATURE IT'S CALLED PSYCHOPATH. BUT
25 IN 1980 THEY CHANGED IT TO ANTISOCIAL PERSONALITY DISORDER

1 BECAUSE THEY WANTED STATISTICS TO HELP MAKE THIS
2 DIAGNOSIS.

3 AND STATISTICALLY SPEAKING, THEY FOUND A LOT OF
4 PEOPLE WITH ANTISOCIAL PERSONALITY GOT IN TROUBLE WITH THE
5 LAW BEFORE AGE 15. BUT WE KNOW THAT PSYCHOPATHS ARE A
6 SMALL SUBSET OF THAT. THEY MAY NOT EVER HAVE GOT IN
7 TROUBLE WITH THE LAW.

8 I DON'T REMEMBER TED BUNDY EVER GETTING IN TROUBLE
9 WITH THE LAW. I DON'T REMEMBER -- YOU KNOW, AT A YOUNG
10 AGE, I DON'T REMEMBER JOHN WAYNE GASEY, FAMOUS PSYCHOPATHS
11 IN HISTORY, THEY LOOK NORMAL. THAT'S WHY THEY'RE CALLED
12 THE -- IT'S SAID THEY HAVE A MASK OF SANITY, THEY WEAR A
13 MASK THAT LOOKS SANE. INSIDE THEY'RE INSANE.

14 Q WANT SOME WATER?

15 THE COURT: MADAM CLERK, GET THE WITNESS SOME
16 WATER.

17 BY MR. DIGGS:

18 Q DOCTOR, DO YOU HAVE ANY IDEA OF HOW THIS HAPPENED,
19 HOW THIS EMOTION GOT STARTED IN MR. STANKO'S SITUATION?

20 A MR. STANKO TOLD ME THAT HE AND THE GIRLFRIEND--

21 Q LAURA.

22 A -- LAURA HAD -- THERE HAD BEEN SOME CONFLICT TO DO
23 WITH THE DAUGHTER AND THERE WAS CONFLICT HE TOLD ME
24 BETWEEN THE DAUGHTER AND THE MOTHER, AND HE WAS KIND OF
25 GETTING INVOLVED IN THE MIDDLE AND GETTING MIXED UP AND

1 TRYING TO KEEP THINGS DOWN, BUT THAT THINGS ESSENTIALLY
2 WERE GOING OKAY, BUT BECAUSE OF THAT CONFLICT HE DECIDED
3 HE WAS GOING TO MOVE OUT.

4 AND HE TOLD ME THAT MS. LING BECAME ANGRY AND
5 THREATENED TO EXPOSE HIM AS A CHILD MOLESTER, THAT HE --
6 THAT HE HAD TRIED TO MOLEST THE YOUNG -- THE DAUGHTER, THE
7 VICTIM, AND--

8 Q NOW, DID YOU HAVE ANY EVIDENCE TO SUPPORT THAT AS
9 BEING TRUE, THAT HE HAD TRIED TO MOLEST [REDACTED]?

10 A NO.

11 Q OKAY. GO AHEAD.

12 A SO LATER THAT NIGHT HE WENT TO HER BEDSIDE AND SHE
13 SAID SHE WAS GOING TO EXPOSE HIM IF HE LEFT, ET CETERA,
14 AND HE HAD A CIGARETTE HE TOLD ME, AND SHE SLAPPED HIM AND
15 THE CIGARETTE BURNED THE MEDIAL PORTION OF HIS EYE, BUT
16 THAT'S WHEN I GUESS ESSENTIALLY HE SAW RED. AND HE HAS NO
17 MEMORY OR GREAT MEMORY OF WHAT HAPPENED.

18 Q IN YOUR PROFESSIONAL OPINION, MEDICAL OPINION WITHIN
19 A REASONABLE DEGREE OF MEDICAL CERTAINTY, COULD THAT EVOKE
20 A LIMBIC SYSTEM EMOTION THAT COULD SET OFF A CHAIN OF
21 EVENTS THAT WOULD PRODUCE THE RESULTS THAT WE HAVE HERE?

22 A THERE'S NO DOUBT OF THAT. OUR LIMBIC SYSTEM IS
23 PROVOKED BY PAIN, ANGER, BEING SLIGHTED, BEING THREATENED.

24 Q AND AGAIN, HOW LONG COULD THAT EMOTION LAST?

25 A IT CAN LAST HOURS, DAYS.

1 Q OKAY. NOW, IS SOMEONE ABLE TO CARRY ON A
2 CONVERSATION IN THAT SITUATION, IN THAT PERIOD? THEY MAKE
3 STATEMENTS?

4 A WELL, YES, THEY CAN, AND OF COURSE, A PSYCHOPATH WILL
5 MAKE A CERTAIN PARTICULAR SET OF STATEMENTS THAT'S
6 CONSISTENT WITH THEIR DIAGNOSIS.

7 Q ALL RIGHT. DOES THAT MEAN THEY'RE NOT INSANE AT THE
8 TIME? FOR EXAMPLE, LET'S ASSUME MR. STANKO HAD MADE
9 CERTAIN COMMENTS TO [REDACTED]. DOES THAT MEAN HE WAS NOT
10 INSANE AT THAT TIME?

11 A NO, HE WOULD STILL BE INSANE.

12 Q HOW COULD THAT BE AND HOW CAN YOU SAY THAT?

13 A WELL, BECAUSE WE'RE NOT HAVING A COMPLETE SHUTDOWN OF
14 THE BRAIN. WE'RE NOT SUDDENLY TURNING HIS BRAIN INTO THE
15 BRAIN OF AN AUTISTIC CHILD OR SOMEONE WITH MENTAL
16 RETARDATION.

17 AND JUST LIKE OTHERS WHO DO CRIMINAL ACTS ARE INSANE,
18 IT'S, FOR EXAMPLE, LIKE A SCHIZOPHRENIC, THEY STILL -- YOU
19 KNOW, WHEN A SCHIZOPHRENIC LET'S SAY COMMITS MURDER, THEY
20 DON'T THEN RUN OUT OF THE HOUSE AND TAKE THEIR CLOTHES OFF
21 AND RUN DOWN THE STREET NAKED, THEY KNOW TO HAVE THEIR
22 CLOTHES ON, THEY DO MANY BEHAVIORS THAT ARE THOUGHT OUT
23 AND PLANNED AND SEEM APPROPRIATE.

24 BUT WHEN IT COMES TO THAT PARTICULAR ACT, THAT MORAL
25 ACT, THEY ARE INAPPROPRIATE, THEY ARE MORALLY INSANE OR

1 BEREFT.

2 Q NOW, DO YOU KNOW DR. PAM CRAWFORD?

3 A YES.

4 Q HOW DO YOU KNOW HER?

5 A I HAVE MET HER THROUGH MY TRAINING IN THE PAST AND I
6 KNOW HER THROUGH THIS CASE. I FORGET HOW MANY WEEKS AGO
7 IT WAS SHE CONTACTED YOU TO CONTACT ME AND TALK ABOUT THIS
8 CASE WITH ME.

9 Q ALL RIGHT. WHAT -- AS YOU UNDERSTAND IT, IF YOU
10 KNOW, WHAT IS HER ROLE IN THIS CASE?

11 A SHE'S SUPPOSED TO BE AN INDEPENDENT EXPERT TO--

12 Q ALL RIGHT.

13 A -- EVALUATE MR. STANKO AND COME UP WITH AN OPINION.

14 Q AND -- AND DID SHE -- TO YOUR KNOWLEDGE DID SHE
15 EVALUATE MR. STANKO?

16 A FOUR DAYS.

17 Q ALL RIGHT. AND DID SHE PRODUCE A REPORT?

18 A YES.

19 Q AND IN HER REPORT, DO YOU KNOW WHAT THE CONCLUSION
20 WAS WITH RESPECT TO MR. STANKO?

21 A THAT HE WAS NOT INSANE AND THAT HE HAD NARCISSISTIC
22 AND I BELIEVE ANTISOCIAL TRAITS, BUT HEAVY ON THE
23 NARCISSISM, SELF-LOVING, EGOCENTRIC, SELFISH, THAT HE WAS
24 SELFISH AND NOT INSANE.

25 Q ALL RIGHT. AND DID SHE HAVE ACCESS TO THE MRI AND

1 THE PET SCANS?

2 A I BELIEVE -- I BELIEVE SO.

3 Q DO YOU HAVE A COPY OF HER REPORT?

4 A I DO. I DO..

5 Q COULD YOU GIVE THAT, PLEASE SIR?

6 A I HAVE GOT IT.

7 Q YOU GOT IT?

8 A YES. IN FACT, I -- WHAT I DID WAS -- IS ACTUALLY DR.
9 CRAWFORD'S REPORT IS VERY GOOD AND IT PROVIDED A GREAT
10 DEAL OF DETAIL TO ME THAT MR. STANKO EITHER DIDN'T PROVIDE
11 TO ME OR--

12 Q ALL RIGHT. HOW DID SHE DEAL WITH THE MRI AND THE PET
13 SCAN INFORMATION?

14 A I BELIEVE SHE -- I -- SHE REFERRED IT--

15 Q DID YOU SAY YOU DO NOT HAVE THE REPORT?

16 A ACTUALLY I DO HAVE THE REPORT.

17 Q OKAY. LOOK INTO THAT. LOOK IN THAT REPORT FOR JUST
18 A MINUTE AND SEE IF SHE GIVES -- MAKES ANY STATEMENT WITH
19 RESPECT TO THOSE TOOLS.

20 A OKAY. SHE REFERRED HIS MRI AND HIS PET SCAN -- NOW,
21 I DON'T KNOW IF IT WAS THE GUR REPORT OR THE IMAGES WE
22 SEE, BUT JUST THE RAW DATA LIKE -- LIKE THIS, SHE REFERRED
23 TO A DR. WILLIAM BRANNON, A NEUROLOGIST AT THE UNIVERSITY
24 OF SOUTH CAROLINA.

25 HIS -- AND I GUESS DOCTOR -- HE PERFORMED THE

1 NEUROLOGICAL EXAMINATION ON MR. STANKO WHICH HE FOUND TO
2 BE NORMAL.

3 AND BY THE WAY, BEFORE I FORGET, I DID A NEUROLOGICAL
4 EXAM, I ACTUALLY DID TWO ON HIM, ONCE WHEN I INTERVIEWED
5 HIM AND ONCE AT THE PRETRIAL HEARING, AND I FOUND
6 SIGNIFICANT ABNORMALITY IN MR. STANKO'S NEUROLOGICAL
7 EVALUATION.

8 I FOUND EVIDENCE OF SOMETHING CALLED NEUROLOGICAL
9 SOFT SOUNDS, AND THESE ARE VERY RARE, NOT COMMONLY KNOWN
10 EVEN IN THE MEDICAL COMMUNITY, REFLEXES THAT SHOW BRAIN
11 ABNORMALITY WHEN THEY'RE PRESENT, AND I SAW THEM AND DR.
12 BRANNON DID NOT.

13 BUT HE ALSO SAID THAT THE RADIOLOGIST LOOKED AT THE
14 MRI AND READ IT AS NORMAL.

15 Q OKAY.

16 A AND THAT THE PET SCAN WAS NORMAL--

17 Q ALL RIGHT.

18 A -- AND WAS -- THE PET SCAN, NOW, NOT DR. WU'S TEAM AT
19 THE UNIVERSITY OF CALIFORNIA, AND THAT WAS OBVIOUSLY
20 ABNORMAL. BUT AGAIN, THEY HAD -- THEY USED COMPLICATED
21 COMPUTER TECHNOLOGY TO HIGHLIGHT DIFFERENCES.

22 THE PET SCANS THAT THEY LOOKED AT AT MUSC ARE JUST
23 LITTLE THUMBNAIL SIZE GRADING IMAGES THAT YOU HOLD UP TO
24 THE LIGHT. AND BASICALLY WHAT YOU'RE LOOKING FOR BRAIN--

25 Q BASICALLY WHAT YOU DID A LITTLE WHILE AGO AND WITH A

1 VIEW...

2 A CORRECT. THE ANALYSIS THAT WE DID WITH HIS PET SCANS
3 AND HIS MRI SHOW US THINGS THAT ARE IMPERCEPTIBLE AT THE
4 CLINICAL RADIOLOGICAL LEVEL. IN OTHER WORDS, A GUY JUST
5 HOLDING THEM UP TO THE LIGHT PROBABLY IS NOT GOING TO SEE
6 IT. ACTUALLY, THOUGH, ON THE MRI I DID SEE THE
7 SHRINKAGE--

8 Q YES.

9 A -- BEFORE WE EVER SENT IT TO DR. GUR.

10 Q SO BY SIMPLY EYEBALLING IT, YOU DISAGREED WITH THEIR
11 ASSESSMENT OF THE MRI. YOU FELT THE MRI WAS ABNORMAL?

12 A ABSOLUTELY, AND I -- I REALLY JUST CAN'T SEE HOW
13 ANYONE...

14 Q AND THEN DR. GUR CORROBORATES YOUR OPINION--

15 A YES.

16 Q -- WITH THAT GRAPH?

17 A YES.

18 Q AND WITH THE PET SCAN, WHAT DID WU DO DIFFERENTLY
19 FROM THE PEOPLE THAT ARE REFERRED TO BY DR. CRAWFORD?

20 A DR. WU AGAIN TOOK THE DATA AND APPLIED THE WORLD'S
21 LEADING CUTTING EDGE RESEARCH TOOLS AND ANALYZED IT AND
22 GENERATED THOSE IMAGES WE SEE.

23 Q NOW, THE NUMERICAL DATA?

24 A NUMERICAL DATA WHICH WAS THEN CONVERTED INTO GRAPHIC
25 IMAGES FOR US TO SEE. IT WOULD BE DIFFICULT TO JUST LOOK

1 AT ONES AND ZEROS AND NUMBERS AND UNDERSTAND WHAT'S GOING
2 ON, BUT WHEN YOU CONVERT THOSE ONES AND ZEROS INTO COLOR,
3 YOU SEE WHAT CAN'T BE SEEN JUST BY LOOKING AT THE ROUGH
4 PET SCAN.

5 Q ALL RIGHT. I'M ALMOST TO THE POINT WHERE I -- I'M
6 THROUGH WITH DR. SACHY, AND I APPRECIATE EVERYONE'S TIME,
7 BUT I DO WANT TO REFER TO DR. CRAWFORD'S REPORT BECAUSE
8 YOU'RE NOT GOING TO HAVE -- IF SHE DOES TESTIFY -- AND I
9 DON'T KNOW THAT SHE WILL, BUT IF SHE DOES, I WILL NOT BE
10 ABLE TO BRING YOU BACK TO COMMENT ON HER OPINIONS.

11 SHE BELIEVES MR. STANKO IS SANE. YOU DISAGREE WITH
12 THAT. AND I WANT TO GO THROUGH AND HIGHLIGHT THOSE AREAS
13 OF HER REPORT THAT SUPPORT YOUR DISAGREEMENT WITH HER.

14 A OKAY.

15 Q CAN YOU DO THAT FOR US?

16 A YES. ONE OF THE EARLY SENTENCES IN HER REPORT IS
17 THAT MR. STANKO WAS A SUPERIOR STUDENT, SO WE KNOW HE'S A
18 GENIUS. HE HAD MANY FRIENDS BY ALL ACCOUNTS AND HE WAS
19 LIKED BY TEACHERS AND STUDENTS, BUT HE -- WELL, HE WAS
20 DESCRIBED BY SOME OF HIS ACQUAINTANCES AS ARROGANT AND
21 COCKY.

22 AND I ALWAYS THOUGHT THAT SEEMS INCONGRUOUS. IT'S --
23 HOW CAN YOU BE WELL-LIKED AND BE ARROGANT AND COCKY.
24 WELL, FROM THE HAIR PSYCHOPATHY CHECKLIST, THIS IS JUST
25 A---

1 Q NOW, WHAT -- WHO IS HAIR?

2 A ROBERT HAIR IS ONE OF THE OTHER WORLD FAMOUS EXPERTS
3 IN PSYCHOPATHS, AND HE CAME UP WITH A CHECKLIST THAT IS
4 THE WORLD STANDARD FOR DIAGNOSING PSYCHOPATHY. AND HE
5 CAME UP WITH THESE CRITERIA THAT SHOW THE BEHAVIOR AND THE
6 COGNITION AND THE DRIVES BEHIND -- THAT PSYCHOPATHS
7 DEMONSTRATE.

8 SO BEING ARROGANT AND COCKY WOULD CORRESPOND TO
9 BEING -- HAVING A GRANDIOSE SENSE OF SELF-WORTH, BUT BEING
10 LIKED BY PEOPLE WOULD GO ALONG WITH THE SUPERFICIAL CHARM.

11 AND AGAIN, PSYCHOPATHS -- THEY TAUGHT ME IN
12 PSYCHIATRY IF SOMEONE -- IF A STRANGER WALKS UP TO YOU,
13 TALKS TO YOU FOR FIVE MINUTES AND YOU HAND THEM A HUNDRED
14 DOLLAR BILL, HE'S PROBABLY A PSYCHOPATH BECAUSE HE USED
15 HIS CHARM, AND HE -- AND IT'S NOT A CONSCIOUS USE OF
16 CHARM. THEY ARE JUST CHARMING.

17 I THINK OF TED BUNDY AGAIN. I THINK OF JOHN WAYNE
18 GASEY. I THINK OF ALL THE PEOPLE THEY MANIPULATED WITHOUT
19 DIFFICULTY. THEY HAVE NO DIFFICULTY IN MANIPULATING
20 PEOPLE. BUT THAT'S THE WAY THEIR BRAIN WORKS. THEY DON'T
21 CHOOSE THAT.

22 NOW, SOME PEOPLE GO INTO SALES AND THEY HATE BEING
23 SALESMEN BECAUSE THEY ESSENTIALLY HAVE TO MANIPULATE AND
24 SELL THINGS, MAYBE EVEN LIE TO BE A SALESMAN, BUT THEY ARE
25 THE SALESMEN WHO ARE GOING TO HAVE VERY WET ARMPITS AND

1 COME HOME AT NIGHT AND BE MISERABLE.

2 BUT THEN THERE'S THE PERSON WHO CAN SELL -- BUY, YOU
3 KNOW, THE SHIRT OFF YOUR BACK AND GIVE IT TO THEM, BUT
4 THEY HAVE NO COMPUNCTION OR BAD FEELING ABOUT IT BECAUSE
5 OF THAT AREA OF THE BRAIN NOT WORKING.

6 Q ALL RIGHT. LET'S GO -- ARE THERE ANY OTHER AREAS IN
7 THE -- IN HER REPORT THAT YOU WOULD COMMENT ON?

8 A ANOTHER HIGHLIGHT IS HE'S -- SHE STATED HE CHANGED
9 JOBS FREQUENTLY, AND RIGHT AFTER -- RIGHT AT HIGH SCHOOL,
10 CHANGED JOBS FREQUENTLY, I GUESS COULDN'T HOLD A JOB, BUT
11 HE BECAME INVOLVED IN FRAUDULENT BUSINESS ACTIVITIES.

12 SO RIGHT AS A YOUNG MAN HE STARTS HIS CONFIDENCE
13 SCHEME BEHAVIOR. AND IF WE LOOK AT THE HAIR PSYCHOPATHY
14 CHECKLIST, CONNING AND MANIPULATIVE BEHAVIOR, PATHOLOGICAL
15 LYING. RIGHT FROM A YOUNG MAN HE IS SHOWING THESE
16 HALLMARKS OF BEING A PSYCHOPATH. AND NOW--

17 Q OKAY.

18 A -- HE WAS ARRESTED IN '93 THE FIRST TIME FOR FRAUD.
19 HE WAS SENT FOR PSYCHIATRIC TREATMENT RATHER THAN JAIL.
20 AND PSYCHOPATHS, WHAT THEY DO IS THEY -- THE ONLY TIME
21 THEY GET INVOLVED WITH PSYCHIATRIC TREATMENT IS IF IT
22 BENEFITS THEM AND AVOIDS JAIL. THEY DON'T TEND TO BELIEVE
23 IN IT. THEY JUST DO IT TO AVOID PUNISHMENT.

24 ANYHOW, HE'S -- PSYCHIATRIC TREATMENT AT THAT TIME
25 THAT HE WAS DIAGNOSED WITH SOME MIXED PERSONALITY

1 DISORDER. BUT ANYHOW, IN SPITE OF PSYCHIATRIC TREATMENT,
2 HIS BEHAVIOR CONTINUES, THE CONNING CONTINUES.

3 THEN AGAIN IN 1995 HE PLEADED GUILTY TO GRAND
4 LARCENY, SENTENCED TO THREE YEARS PROBATION, GOT ONE YEAR
5 PROBATION, STILL CONTINUE. DIDN'T SEE -- FOR A MAN WITH
6 AN IQ OF 143, HE DID NOT LEARN.

7 THEN HE WAS ARRESTED IN '95 FOR VIOLATION OF
8 PROBATION. HE WAS CONTINUING TO ENGAGE IN FRAUDULENT
9 ACTIVITIES. HE WAS SENT TO A PSYCHIATRIST OR PSYCHOLOGIST
10 IN CHARLESTON NAMED RANDY WADE, WHO BY THE WAY, I
11 CONTACTED YESTERDAY AND I ASKED DR. WADE ABOUT
12 MR. STANKO'S DIAGNOSIS THEN.

13 I HAD ASKED YOU TO GET THOSE RECORDS, BUT DR. WADE
14 STATED THE RECORDS GOING BACK THAT FAR NO LONGER EXIST. I
15 ASKED DR. WADE WHAT HIS DIAGNOSIS OF MR. STANKO WAS THEN,
16 AND HE SAID THAT HIS DIAGNOSIS WAS NARCISSISTIC
17 PERSONALITY, JUST LIKE DR. CRAWFORD, AND ANTISOCIAL
18 PERSONALITY. HE STATED THAT GIVEN WHAT HE KNOWS NOW, THAT
19 MR. STANKO'S DIAGNOSIS WOULD BE PSYCHOPATHY OR PSYCHOPATH.

20 Q. ALL RIGHT. LET ME SHOW YOU WHAT'S BEEN MARKED AS
21 DEFENSE EXHIBIT 11. THAT IS A STILL FROM THE VIDEO THAT
22 WE JUST LOOKED AT. NOW, WHEN DOCTOR -- MR. STANKO WAS
23 DOING THESE THINGS, ENGAGING IN THAT TYPE OF CONDUCT, IS
24 THIS WHAT HIS BRAIN WOULD HAVE LOOKED LIKE DURING THOSE
25 PERIODS OF TIME?

1 A YES.

2 Q OKAY. AND THAT IS STILL DIMINISHED ACTIVITY HERE?

3 A A LITTLE HIGHER UP WHERE YOUR -- THAN WHERE YOUR PEN
4 WAS. RIGHT THERE, YES.

5 Q ALL RIGHT. IS IT YOUR MEDICAL OPINION TO -- WITHIN A
6 REASONABLE DEGREE OF MEDICAL CERTAINTY THAT THIS IS THE
7 CAUSE OR A SIGNIFICANT CAUSE FOR THAT TYPE OF BEHAVIOR?

8 A IT'S THE CAUSE, THAT'S--

9 Q THE CAUSE?

10 A -- THE CAUSE. IT'S -- THAT PICTURE HAS BEEN FOUND--

11 Q DO YOU WANT TO LOOK AT IT?

12 A -- RELIABLY IN MURDERERS AND PSYCHOPATHS AND JUST --
13 IT'S BEEN RELIABLY FOUND. AND REMEMBER, YOU CAN'T GET
14 THIS KIND OF STUFF PUBLISHED IN THE SCIENTIFIC LITERATURE
15 UNLESS IT PASSES MUSTER AND IS FOUND TO BE ACCURATE AND
16 SIGNIFICANT.

17 Q ALL RIGHT. SO WHEN HE IS A -- WHEN HE'S
18 CHARACTERIZED AS A CON-MAN AND A LIAR AND A CHEATER AND
19 ALL OF THOSE BAD THINGS, ARE THEY THE PRODUCT OF THAT
20 BRAIN--

21 A YES. IN FACT--

22 Q -- STRUCTURE AND FUNCTION?

23 A YES. AND IN FACT, THE--

24 Q IS THE CONSCIOUS DECISION THAT HE ENGAGES IN WHEN HE
25 DOES THOSE THINGS?

1 A NO. ANTISOCIAL PERSONALITY DISORDER, WHICH IS WHAT
2 PSYCHOPATHY USED TO BE CALLED, IS A MENTAL DISEASE OR
3 DEFECT. IT IS NOT A CHOICE. IN THAT BOOK I MENTIONED THE
4 DSM4 WHICH WE'LL GET TO, I SUSPECT, IT'S LISTED AS A
5 DISEASE.

6 AND NOW IN THE LATTER -- IN THE LAST 15 OR 20 YEARS
7 WE'RE STARTING TO UNDERSTAND WHAT PART OF THE BRAIN IS
8 RESPONSIBLE FOR THAT DISEASE. WE DIDN'T KNOW WHAT CAUSED
9 SCHIZOPHRENIA AND WHAT PARTS OF THE BRAIN WERE INVOLVED
10 THERE. WE DIDN'T KNOW WHAT ALZHEIMERS, WHAT PARTS OF THE
11 BRAIN WERE INVOLVED THERE.

12 BUT WITH IMAGING WE KNOW WITH CERTAINTY WHAT PARTS OF
13 THE BRAIN ARE INVOLVED.

14 Q LET'S CONTINUE ON WITH DR. CRAWFORD'S REPORT. AND I
15 WANT TO HEAR YOUR COMMENTS ON IT, DOCTOR. WOULD YOU ADMIT
16 THAT YOU HAVE THEM?

17 A WELL, IN 1995 HE VIOLATED HIS PROBATION AND HE -- IT
18 SOUNDS LIKE HE WAS CONVICTED -- WELL, IN 199 -- OKAY. IN
19 '95 THERE WERE TWO INCIDENTS WITH THE LAW AGAIN WHERE HE'S
20 STILL DOING THE CONFIDENCE SCHEMES.

21 AND AGAIN, THAT CONNING, MANIPULATIVE BEHAVIOR RIGHT
22 HERE WITHOUT REMORSE OR GUILT, THE ABILITY TO KEEP HURTING
23 PEOPLE AND ABUSING PEOPLE WITHOUT, LET'S SAY, BATTING AN
24 EYELID. BUT AGAIN, THAT'S WHAT A PSYCHOPATH DOES BECAUSE
25 OF THEIR BRAIN.

1 BUT DESPITE HIS COUNSELING AND ALL THIS, HE KEPT
2 DOING THE SAME THING. AND IN FEBRUARY 1996 HE WAS
3 INDICTED FOR BREACH OF TRUST AND HE ALSO WAS CHARGED WITH
4 KIDNAPPING AND ASSAULT OF HIS GIRLFRIEND, MS. ELIZABETH
5 MCLENDON, WHO STATED THAT AT THAT TIME THERE WAS AN
6 INCIDENT WHERE HE HELD HER DOWN ON THE BED, PUT CLOROX OR
7 AMMONIA IN A CLOTH, STUFFED IT IN HER MOUTH, PUT HER FACE
8 DOWN ON THE PILLOW AND TIED HER UP.

9 TO ME THAT'S JUST THE PRECURSOR. THAT WAS ONE STEP
10 AWAY FROM MURDER. AND IN FACT, IN THIS INSTANCE IT SOUNDS
11 LIKE THE VICTIMS -- THERE WERE SIMILAR GAGGING, BOUNDING,
12 BINDING, GAGGING, ET CETERA.

13 SO THIS -- THIS -- THE EARLY START OF THIS -- OF THAT
14 BEHAVIOR OCCURRED BACK IN 1996. ANYHOW, HE WAS--

15 Q LET ME ASK YOU BEFORE YOU GO ON ABOUT THESE TWO
16 INCIDENTS. ARE THESE INCIDENTS THEN ON A -- CAN WE THINK
17 OF IT AS BEING ON A SLIDING SCALE?

18 A EVERYTHING IN LIFE IS A SLIDING SCALE. THERE'S NO 10
19 OR ZERO OR ZERO TO A HUNDRED. THERE'S MILES PER HOUR IN
20 BETWEEN THERE.

21 Q ALL RIGHT. AND WHY DIDN'T HE KILL MS. MCLENDON?

22 A I DON'T KNOW. WE'D HAVE TO BE THERE. BUT I WOULD
23 ASSUME THAT WHATEVER THE STIMULUS WAS THAT MADE HIM DO
24 THAT, IF HE DID INDEED DO THAT TO HER, IT HADN'T REACHED
25 THE POINT OR REACHED THE POINT WHERE IT THREW HIS BRAIN

1 INTO WHAT YOU CALL INSANITY AND I CALL EXTREME BEHAVIORAL
2 DYSCONTROL.

3 HOWEVER, IT'S MY CONTENTION THAT GAGGING AND BINDING
4 AND THREATENING SOMEONE IS AN ACT OF INSANITY ITSELF
5 BECAUSE A NORMAL PERSON JUST CAN'T DO THAT.

6 Q ALL RIGHT. LET'S GO AHEAD AND CONTINUE ON. I'M
7 SORRY. I INTERRUPTED YOU.

8 A ANYHOW, WENT TO JAIL FOR EIGHT YEARS FOR THAT. AND
9 THE MINUTE HE GETS OUT OF JAIL UP UNTIL THIS CRIME HE GOES
10 RIGHT BACK TO THE SAME BEHAVIORS, AND THE SAME CONFIDENCE
11 SCHEME BEHAVIORS. MS. MCLENDON--

12 Q WHAT DOES THAT INDICATE TO YOU?

13 A WELL, A FAILURE -- WE CAN LOOK AT THE HAIR
14 PSYCHOPATHY CHECKLIST, THE FAILURE TO ACCEPT
15 RESPONSIBILITY FOR ACTIONS, CRIMINAL VERSATILITY, HE'S
16 IRRESPONSIBLE, HE'S REVOKING A CONDITION OF RELEASE. YOU
17 KNOW, HOW MANY TIMES DID HE VIOLATE PROBATION?

18 WHEN YOU LOOK AT THE THINGS I'VE HIGHLIGHTED IN RED
19 THERE, THAT'S MR. STANKO. I MEAN, YOU COULD PUT HIS NAME
20 AT THE TOP. BUT THE REASON YOU CAN DO THAT IS BECAUSE
21 HE'S A PSYCHOPATH. AND AGAIN, THE BRAIN IMAGING JUST
22 SHOWS IT.

23 BUT WHEN DR. HAIR DID THIS LIST WHICH DESCRIBES A
24 PSYCHOPATH, HE DIDN'T DO IT WITH THE BENEFIT OF BRAIN
25 IMAGING. HE JUST LOOKED AT THE HISTORY OF PSYCHOPATHY AND

1 WHAT THESE PEOPLE DO REPETITIVELY OVER AND OVER WITHOUT
2 SEEMING TO BE ABLE TO LEARN.

3 ANYHOW, JUST GOING THROUGH HER REPORT HE WAS SENT TO
4 BERKELEY COUNTY MENTAL HEALTH. HE WAS DIAGNOSED WITH -- I
5 HAVE BASICALLY A DEPRESSIVE DISORDER. HE WAS THEN SEEN BY
6 DR. WADE WHO I TALKED TO WHO DIAGNOSED HIM WITH NARCISSISM
7 AND ANTISOCIAL WHICH HE SAID, KNOWING WHAT HE KNOWS NOW,
8 HE WOULD BE PSYCHOPATHY.

9 WHEN MR. STANKO WAS IN JAIL, HE WAS SENT TO THE HALL
10 INSTITUTE IN COLUMBIA FOR THE EIGHT YEARS. HE WAS SENT
11 AND EVALUATED THERE. THERE HE WAS CLEARLY DIAGNOSED WITH
12 ANTISOCIAL PERSONALITY AND NARCISSISTIC PERSONALITY.

13 Q ALL RIGHT. ANTISOCIAL PERSONALITY MEANING WHAT?

14 A REALLY PSYCHOPATH. IT MEANS PSYCHOPATHY. AGAIN, IN
15 1980 THEY DECIDED TO CHANGE THE NAME. AND MANY
16 PROFESSIONALS IN THIS FIELD DISAGREED WITH THAT.

17 Q ALL RIGHT. NOW, IS THAT A RESULT OF SOME KIND OF
18 POLITICAL CORRECTNESS? WHAT'S GOING ON? ARE WE TRYING
19 TO... WHAT ARE WE TRYING TO DO WITH THE CHANGE IN THE
20 TERMINOLOGY?

21 A I THINK THEY THOUGHT THE WORD PSYCHOPATH WAS TOO
22 DRAMATIC. IT -- PSYCHOPATHS ARE A SPECIFIC SUBSET OF
23 ANTISOCIALS. THEY ARE THE KIND OF PEOPLE WE'RE TERRIFIED
24 OF AND YET WE READ BOOKS ABOUT THEM AND WE ARE FASCINATED
25 AND WE WATCH COURT TV AND A&E AND LEARNING CHANNEL.

1 THEY'RE THE HANNIBAL LECTORS FROM SILENCE OF THE
2 LAMBS. THESE ARE THE MURDEROUS PSYCHOPATH. THEY SEEM
3 ALMOST -- THEY ARE TERRIFYING. THEY ARE LIKE EVIL. THEY
4 ARE THE DEVIL.

5 Q WELL, THAT'S WHAT HAS BEEN THOUGHT OF THEM IN THE
6 PAST. BUT WE KNOW NOW THAT THAT BEHAVIOR IS THE RESULT OF
7 A BRAIN DEFECT.

8 A CORRECT.

9 Q CORRECT?

10 A CORRECT. THEY USED TO THINK SCHIZOPHRENICS, HEARING
11 VOICES, WERE HEARING ANGELS OR DEMONS OR WHAT HAVE YOU,
12 AND WITH JOAN OF ARC--

13 Q WHAT ARE THEY HEARING?

14 A THEY ARE HEARING VOICES GENERATED BY DYSFUNCTIONAL
15 BRAIN. AND IN FACT, JOAN OF ARC WAS BURNED AT THE STAKE
16 BECAUSE OF THAT. SO -- AND THAT'S HAPPENED THROUGHOUT
17 TIME. BUT REALLY IT -- IT'S SAD.

18 THERE ARE MANY SAD THINGS IN THIS CASE, BUT THESE
19 PEOPLE, THIS -- THE ONE SAD THING ABOUT PEOPLE LIKE
20 MR. STANKO IS THEY ARE NOT CHOOSING TO HAVE THIS
21 DEFORMITY. IT'S THRUST UPON THEM.

22 Q WHY -- IS MR. STANKO ALWAYS INSANE?

23 A HE'S ALWAYS A PSYCHOPATH, BUT HE GOES -- HE CROSSES
24 THE LINE INTO INSANITY WHEN HIS VIOLENT, AGGRESSIVE
25 IMPULSES GAIN COMPLETE DOMINANCE OF HIS BRAIN. HE CANNOT

1 BE CONTROLLED BY THAT EMERGENCY BRAKE. ADRIAN RAINE SAID
2 THIS IS THE EMERGENCY BRAKE OF THE BRAIN. HE DOESN'T HAVE
3 A GOOD -- OR MAYBE HE DOESN'T EVEN HAVE AN EMERGENCY
4 BRAKE.

5 Q ARE YOU AWARE OF ANY OTHER INSTANCES IN HIS LIFE WHEN
6 THAT HAS HAPPENED? IN OTHER WORDS, DID THAT HAPPEN WITH
7 MS. MCLENDON?

8 A YES.

9 Q HAS IT HAPPENED TO YOUR KNOWLEDGE ON ANY OTHER
10 OCCASIONS?

11 A IN READING THE POLICE REPORT FROM THE YOUNG GIRL, SHE
12 STATED THAT HE, BY ALL APPEARANCES, WAS NORMAL. SHE
13 THOUGHT HE WAS A LAWYER, THOUGH, BECAUSE HE SAID HE WAS A
14 LAWYER AND HE PRESENTED HIMSELF AS A LAWYER. WELL, HE'S
15 NOT A LAWYER.

16 AGAIN, PATHOLOGICAL LYING AND BEING CONNING AND
17 MANIPULATIVE ON THE LITTLE LIST HERE, AND A GRANDIOSE
18 SENSE OF SELF-WORTH. BUT SHE SAID THAT HE COULD EASILY
19 FLY INTO A RAGE AT THE, YOU KNOW, I FORGET HER EXACT
20 WORDS, BUT HE COULD EASILY FLY INTO A RAGE, AN
21 ARGUMENTATIVE RAGE WITH VERY -- WITH VERY LITTLE
22 PROVOCATION.

23 AGAIN, RAGE COMES FROM DEEP IN THE BRAIN, IT GOES TO
24 THE FRONT, AND IF THE EMERGENCY BRAKE ISN'T WORKING, WE
25 DISPLAY IT RATHER THAN CONTROL IT.

1 Q ALL RIGHT. DO YOU HAVE ANY MORE COMMENTS ABOUT DR.
2 CRAWFORD'S REPORT?

3 A WELL, AT THE HALL INSTITUTE DR. FRIERSON FOUND HIM
4 COMPETENT TO STAND TRIAL AND NOT INSANE, BUT HE DID -- THE
5 DIAGNOSIS THERE WAS THAT -- IT INCLUDED ANTISOCIAL OR
6 PSYCHOPATHY.

7 ANYHOW, LET ME JUST KEEP GOING. HE'S -- HE TOLD --
8 AND I -- REALLY DR. CRAWFORD'S REPORT IS EXCELLENT AND SHE
9 GOT A LOT OF DETAIL THAT HE DIDN'T GIVE ME. SHE SAYS
10 AFTER THE INCIDENT HE REMEMBERS COMING TO IN THE SHOWER
11 WITH BLOOD ON HIM AND THAT HE REALIZED HE HAD KILLED
12 LAURA, HE ALSO BELIEVED THAT HE HAD KILLED [REDACTED].
13 SAYS HE WENT OVER TO THE BODIES AND CHECKED THE PULSES ON
14 THEIR NECK, DETERMINED THAT THEY WERE DEAD.

15 AGAIN, FOR SOMEONE WHO IS A GENIUS AND IS GOING TO
16 COMMIT A CRIME LIKE THIS, AND IT'S WELL THOUGHT OUT AND
17 PLANNED, HE WAS NOT ACCURATE ABOUT THE FINAL HEALTH OF THE
18 YOUNG VICTIM. SHE DID IN FACT SURVIVE.

19 I MEAN, IF THIS MAN IS GOING TO DO THIS, COVER IT UP,
20 YOU KNOW, BECAUSE HE'S A GENIUS AND EVADE RESPONSIBILITY,
21 HE'S NOT DOING REALLY ANYTHING THAT IS INDICATIVE OF A
22 WELL THOUGHT OUT, RESPONSIBLE KIND OF CRIME.

23 Q RIGHT. WOULD IT BE INDICATIVE OF -- INDICATIVE OF
24 KNOWING HE WAS GOING TO GET CAUGHT?

25 A NO, BECAUSE JUST -- IF BOTH VICTIMS HAD HAVE

1 SURVIVED, HE'S STILL GUILTY OF A HEINOUS CRIME.

2 Q NO, I MEAN HE...

3 A I THINK I UNDERSTAND WHAT YOU'RE SAYING. DID
4 CHECKING THE -- MAKING SURE THE FACT THAT THEY HAD -- WERE
5 DECEASED ENSURE THAT HE WOULD NOT BE FOUND GUILTY OR
6 CAUGHT FOR THIS CRIME? NOT UNLESS HE WERE TO DISPOSE OF
7 THE VICTIMS AND CLEAN THAT PLACE WHERE EVERY SIGN THAT HE
8 EVER WAS THERE.

9 Q RIGHT. SO WHY DIDN'T HE CLEAN UP THE HOUSE?

10 A WELL, I AM CIRCLING SOMETHING RIGHT HERE ON THE HAIR
11 PSYCHOPATHY CHECKLIST, IMPULSIVITY. HE'S JUST ACTING ON
12 HIS IMPULSES. HE'S CHECKING TO SEE IF THEY ARE ALIVE OR
13 DEAD. BUT AS FAR AS EVERYTHING ELSE, HE'S ACTUALLY VERY
14 RECKLESS, EXTREMELY RECKLESS.

15 IN FACT, AND -- BUT ALSO COLD AND CALLOUS. AND THEN
16 ACTUALLY HE'S RECKLESS AND IMPULSIVE IN DESCRIBING THIS
17 INCIDENT TO DR. CRAWFORD. HE ADMITTED TO HER THAT HE TOOK
18 A BRACELET OFF THE -- LAURA THAT HE WOULD LATER GIVE TO
19 ANOTHER WOMAN IN AUGUSTA JUST SEVERAL DAYS LATER.

20 AND THE REASON HE TOLD HER THAT HE TOOK THE BRACELET
21 WAS BECAUSE SHE DIDN'T DESERVE IT. THAT IS NOT THE RIGHT
22 THING TO TELL ANY INVESTIGATOR IN THIS CASE, BUT WHAT DOES
23 IT SHOW? CALLOUS, LACK OF EMPATHY. RIGHT HERE IN THE
24 HAIR PSYCHOPATHY CHECKLIST.

25 MR. STANKO PROVIDED THE DETAILS THAT HE PROVIDED IN

1 THIS CASE BECAUSE HE'S A PSYCHOPATH AND HE'S DESCRIBING IN
2 A BUSINESS-LIKE, CALLOUS MANNER THAT THIS POOR WOMAN
3 DIDN'T DESERVE THE BRACELET, AND THAT'S WHY HE TOOK IT.

4 Q AND SO...

5 A WITH A NORMAL FUNCTIONING BRAIN WITH AN IQ OF 140,
6 THAT WOULD BE THE LEAST OF HIS CONCERNS AT THAT POINT.

7 Q LAY OUT FOR US, IF YOU WOULD, WHY IN CONCLUSION -- IN
8 CONCLUDING WHY YOUR OPINION WITH REGARD TO SANITY IS
9 DIFFERENT FROM DR. CRAWFORD'S.

10 A MY INTEREST IN -- MY PARTICULAR INTEREST IS WHY
11 PEOPLE DO EVIL. AND I'M A NEUROPSYCHIATRIST, SO I HAVE
12 LOOKED AT IT FROM THE SPIRITUAL END, I'VE LOOKED AT IT
13 FROM EVERY END. BUT BEING A BRAIN-SCIENCE KIND OF PERSON,
14 I WANT TO KNOW WHY PEOPLE DO HARM AND BAD THINGS, AND
15 THAT'S WHAT ADRIAN RAINE DOES.

16 AND MAYBE YOU HAVE TO HAVE THAT INTEREST AND BE AWARE
17 OF THE SCIENTIFIC FINDINGS IN THIS AREA TO UNDERSTAND WHAT
18 MR. STANKO IS AND TO CORRECTLY DIAGNOSE HIM. BEYOND THAT,
19 I MEAN, I DON'T KNOW WHAT ELSE TO TELL YOU.

20 Q ALL RIGHT. THANK YOU VERY MUCH, DOCTOR. THAT'S ALL
21 I HAVE AT THIS POINT. ANSWER ANY QUESTIONS--

22 THE COURT: MADAM FORELADY, LADIES AND
23 GENTLEMEN, YOU ALL HAVE BEEN SITTING A LITTLE OVER
24 TWO HOURS, AND WE THANK YOU FOR YOUR PATIENCE. I'M
25 GOING TO GIVE YOU A MID -- MID-MORNING WAS MY

1 INTENTION, BUT IT IS NOW CLOSE TO AFTERNOON BREAK.

2 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE
3 AMONG YOURSELVES. PLEASE LEAVE YOUR NOTEPADS IN YOUR
4 SEATS. AND IF YOU NEED ANYTHING, PLEASE LET THE
5 BAILIFFS KNOW. IF YOU WOULD GO WITH THE BAILIFFS.

6 (JURY LEFT THE COURTROOM AT 11:51 AM.)

7 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
8 FOR ABOUT 10 MINUTES.

9 MR. HUMPHRIES: THANK YOU.

10 THE COURT: YOU'RE WELCOME. AND DOCTOR, YOU MAY
11 STEP DOWN BUT MAY NOT DISCUSS THE TESTIMONY IN ANY
12 WAY WITH ANYONE.

13 (WHEREUPON A RECESS WAS TAKEN.)

14 (WHEREUPON, DEFENDANT'S EXHIBIT 20 WAS ADMITTED
15 INTO EVIDENCE.)

16 THE COURT: IS THE DEFENSE READY TO PROCEED?
17 I'M SORRY. IS THE STATE READY TO PROCEED?

18 MR. HEMBREE: YES, YOUR HONOR.

19 THE COURT: IS THE DEFENSE READY TO PROCEED?

20 MR. DIGGS: YES, YOUR HONOR.

21 THE COURT: PLEASE BRING IN THE JURY.

22 (JURY ENTERED THE COURTROOM AT 12:28 PM.)

23 THE COURT: YOU MAY BE SEATED. LADIES AND
24 GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE
25 WILL NOW RESUME WITH THE CROSS-EXAMINATION OF THE

1 WITNESS. MR. HEMBREE, YOU MAY PROCEED.

2 MR. HEMBREE: THANK YOU, YOUR HONOR.

3 THE COURT: YOU'RE WELCOME.

4 CROSS-EXAMINATION

5 BY MR. HEMBREE:

6 Q GOOD AFTERNOON, DOCTOR. DOCTOR, IT'S NOT YOUR
7 TESTIMONY TODAY THAT DEFENDANT STANKO HAS SCHIZOPHRENIA?

8 A NO.

9 Q YOU'VE MADE A LOT OF REFERENCES TO SCHIZOPHRENIA IN
10 YOUR DIRECT EXAMINATION, BUT YOU'RE NOT SUGGESTING TO THIS
11 JURY THAT HE'S SCHIZOPHRENIC?

12 A NO.

13 Q YOU DON'T SUGGEST THAT -- EVEN THOUGH YOU TALKED
14 ABOUT THESE VOICES, YOU DON'T SUGGEST THAT HE SUFFERS FROM
15 A MULTIPLE PERSONALITY DISORDER; DO YOU?

16 A NO.

17 Q AND ARE YOU AWARE OF THE CONDITION OF THE -- IN YOUR
18 REVIEW OF THE REPORTS, ARE YOU AWARE OF THE CONDITION OF
19 THE VICTIM [REDACTED] LING WHEN SHE MADE THOSE STATEMENTS
20 TO LAW ENFORCEMENT?

21 A YES.

22 Q HE DOESN'T SUFFER FROM ADHD?

23 A NO.

24 Q HE DOESN'T SUFFER FROM SEIZURE DISORDERS?

25 A NO.

1 Q HE DOESN'T SUFFER FROM OBSESSIVE COMPULSIVE DISORDER?

2 A NO.

3 Q HASN'T DROWNED ANYBODY IN A BATHTUB AS FAR AS YOU
4 KNOW?

5 A NO.

6 Q DOESN'T SUFFER FROM DELUSIONS?

7 A NO.

8 Q DOESN'T SUFFER FROM -- HE DOESN'T HEAR VOICES?

9 A NO.

10 Q WOULDN'T BE CONSIDERED PSYCHOTIC?

11 A NO.

12 Q DOES HE SUFFER FROM CHRONIC PAIN SYNDROME?

13 A NO.

14 Q AND THAT'S SOMETHING THAT YOU DO AT YOUR -- AT
15 YOUR -- CHRONIC PAIN SYNDROME IS A BIG PART OF YOUR
16 PRACTICE?

17 A YES.

18 Q IS THAT FAIR TO SAY?

19 A YES.

20 Q AND THAT'S THE TREATMENT OF CHRONIC PAIN WITH
21 PSYCHIATRIC METHODS AS WELL AS MEDICAL OR
22 PHARMACEUTICAL...

23 A CORRECT.

24 Q DOESN'T HAVE ALZHEIMERS?

25 A NO.

1 Q THERE'S NO EVIDENCE HE HAD A HEART ATTACK THAT CUT
2 OFF BLOOD TO HIS BRAIN?

3 A NOT AT THE TIME. THERE'S EVIDENCE THAT SOMETHING
4 HAPPENED TO HIS BRAIN FOR...

5 Q WELL, WE'LL TALK ABOUT THAT LATER. BUT THERE'S NO
6 EVIDENCE HE HAD A HEART ATTACK THAT CUT OFF THE BLOOD TO
7 HIS BRAIN?

8 A NO.

9 Q HE DOESN'T HAVE ANY -- AS FAR AS YOU KNOW, ANY HERPES
10 ENCEPHALITIS?

11 A NO.

12 Q HE DOESN'T HAVE A BRAIN TUMOR?

13 A NO.

14 Q DIDN'T GET A PIPE THROUGH THE HEAD?

15 A NO.

16 Q DOES HE HAVE AMNESIA, EPISODES OF AMNESIA?

17 A HE MAY HAVE HAD -- HE MAY HAVE EPISODE -- HE MAY HAVE
18 AMNESIA FOR SOME OF THE EVENTS THAT OCCURRED IN THIS
19 SITUATION.

20 Q OKAY. NOW, I BELIEVE THAT YOU HAVE -- YOU HAVE
21 TESTIFIED PREVIOUSLY ABOUT THIS PARTICULAR TOPIC, CORRECT?

22 A YES.

23 Q AND DIDN'T YOU TESTIFY AT THAT POINT THAT YOU DIDN'T
24 BELIEVE EVERYTHING HE TOLD YOU ABOUT HIS REPORTED AMNESIA
25 OR INABILITY TO REMEMBER THE EVENTS OF THE CRIME?

1 A THAT'S CORRECT.

2 Q SO YOU BELIEVE THAT HE DOES REMEMBER CERTAIN THINGS?

3 A I BELIEVE THAT HE REMEMBERS CERTAIN THINGS BECAUSE
4 THERE ARE THINGS HE TOLD DR. CRAWFORD THAT HE DIDN'T TELL
5 ME, SO THERE ARE THINGS I BELIEVE THAT HE EITHER WITHHELD
6 OR JUST DIDN'T TELL ME CORRECTLY.

7 Q OKAY. AND HE'S BAD TO TELL A LIE; ISN'T HE?

8 A IT'S PART OF HIS SYNDROME.

9 Q THAT'S PART OF HIS PROBLEM?

10 A YES.

11 Q AS YOU DESCRIBE IT AS PSYCHOPATHY?

12 A YES.

13 Q THAT HE -- HE'LL -- AND THE INFORMATION YOU GOT FOR
14 HIM -- GOT FROM HIM OR THE INFORMATION YOU RECEIVED TO
15 DECIDE, TO REACH YOUR CONCLUSION THAT THERE WAS SOME
16 EMOTIONAL TRIGGER THAT SET HIM OFF ON THE NIGHT, EARLY
17 MORNING HOURS OF APRIL THE EIGHTH, 2005, THAT INFORMATION
18 WAS RECEIVED 100 PERCENT FROM THIS DEFENDANT.

19 A FROM WHAT HE SAID, AND I DON'T -- DR. CRAWFORD'S
20 REPORT. I KNOW THERE WAS SOME KIND OF TRIGGER. THERE WAS
21 SOMETHING THAT SET OFF HIS BEHAVIOR. I -- WITHOUT BEING
22 THERE, I DON'T KNOW FOR SURE.

23 Q BUT DOCTOR, IT WAS ALL SELF-REPORTED, WHETHER IT WAS
24 REPORTED BY THIS DEFENDANT TO YOU OR BY THIS DEFENDANT TO
25 DR. CRAWFORD TO YOU.

1 A YES.

2 Q OKAY. AND YOU HAVE A -- A HIGH -- WOULD IT BE FAIR
3 TO SAY THAT YOU HAVE A HIGH DEGREE OF SUSPICION WHEN HE
4 BEGINS TO TELL YOU INFORMATION WHETHER IT'S TRUE OR NOT?

5 A YES.

6 Q OKAY. THE -- YOU CALLED IT PSYCHOPATHY, ANTISOCIAL
7 PERSONALITY DISORDER, SAME THING?

8 A ESSENTIALLY THEY ARE THE SAME.

9 Q AND WE CAN USE THOSE TERMS FAIRLY INTERCHANGEABLY?

10 A FAIRLY.

11 Q DID I HEAR YOU SAY THAT YOU -- YOU BELIEVE THAT THERE
12 IS A -- A SUBSET, THAT PSYCHOPATHS ARE A SUBSET OF
13 ANTIPERSONALITY DISORDER OR...

14 A YES, THEY ARE A SUBSET. THEY ARE MORE PRONE TO
15 VIOLENT BEHAVIOR, MORE AGGREGIOUS, MORE HORRIFIC BEHAVIOR
16 THAN AVERAGE ANTISOCIALS.

17 IN FACT, 50 PERCENT OF EVERYONE IN JAIL MEETS THE
18 DIAGNOSIS FOR ANTISOCIAL PERSONALITY, BUT OF THOSE
19 50 PERCENT, ONLY 25 PERCENT MEET THE DIAGNOSIS FOR
20 PSYCHOPATHY. SO PSYCHOPATHY IS A SUBSET, IS WORSE -- THEY
21 ARE THE CREAM OF THE ANTISOCIALS.

22 Q WHAT IS THE -- AND WHAT'S THE DISTINGUISHING
23 CHARACTERISTIC?

24 A THE DISTINGUISHING CHARACTERISTIC -- WELL, THERE
25 ISN'T MUCH TO DISTINGUISH BETWEEN THE TWO EXCEPT IN THAT

1 BOOK; THE DSM4, THEY STATE THAT YOU HAVE TO HAVE HAD
2 TRUANCY OR TROUBLE WITH THE LAW BEGINNING BEFORE AGE 15
3 WHEREAS WITH THE HAIR PSYCHOPATHY CHECKLIST OR KLECKLEY
4 LIST FOR PSYCHOPATHY, THAT'S NOT A CONDITION. BUT IN DSM4
5 THEY MADE THAT A CONDITION.

6 Q YOU SORT OF WENT BACK AND LOOKED THROUGH, DID A
7 LENGTHY REVIEW OF THIS DEFENDANT'S PRIOR HISTORY AND HIS
8 FAILURE TO LEARN FROM HIS ACTIONS.

9 A YES.

10 Q AND THAT WAS -- THAT SEEMED SIGNIFICANT IN YOUR
11 TESTIMONY AS FAR AS REACHING YOUR DIAGNOSIS. IS THAT FAIR
12 TO SAY?

13 A IT'S VERY FAIR TO SAY. HE SEEMS TO BE -- DOESN'T
14 SEEM TO BE, HE IS UNABLE TO LEARN FROM HIS MISTAKES OR
15 GOVERN HIS BEHAVIOR IN A SOCIALLY APPROPRIATE WAY. AGAIN,
16 GIVEN THE LEVEL OF CONDUCT THAT HE HAD AND ESPECIALLY AN
17 EIGHT YEAR JAIL TERM, I WOULD THINK THAT IF SOMEONE WITH
18 GREAT INTELLIGENCE WOULD LEARN NOT TO REPEAT SUCH
19 BEHAVIOR.

20 Q LEARN FROM IT. NOW, IS IT FAIR TO SAY, JUST TO SUM
21 UP YOUR TESTIMONY OR YOUR CONCLUSIONS, THAT DEFENDANT
22 STANKO HAS A DEFECT THAT MANIFESTS ITSELF IN REPEATED
23 CRIMINAL AND ANTISOCIAL BEHAVIOR?

24 A YES.

25 Q I MEAN, IS THAT THE SUM AND SUBSTANCE OF YOUR...

1 A YES.

2 Q THANK YOU. LET'S TALK ABOUT LEARNED BEHAVIORS A
3 LITTLE BIT. YOU HAVE HAD AN OPPORTUNITY TO REVIEW THE
4 FILE AND THE CASE FILE ON ELIZABETH MCLENDON, THE
5 VICTIM -- WELL, AN ASSAULT THAT TOOK PLACE ON A VICTIM
6 NAMED ELIZABETH MCLENDON BACK IN 1995, I BELIEVE.

7 A YES.

8 Q AND DO YOU RECALL FROM REVIEWING THAT REPORT AND
9 EVALUATING THAT -- AND THAT'S PRETTY IMPORTANT, ISN'T IT,
10 BECAUSE YOU'RE LOOKING AT PATTERNS OF BEHAVIOR AS PART OF
11 YOUR DIAGNOSIS AS A PSYCHIATRIST; CORRECT?

12 A YES.

13 Q AS PART OF YOUR EVALUATION OR REVIEW, EXCUSE ME, OF
14 THAT REPORT, DO YOU RECALL THAT MS. MCLENDON -- THAT THERE
15 WAS A CONFRONTATION?

16 A (NODDED.)

17 Q AND THAT MS. MCLENDON WENT TO BED AND THE DEFENDANT
18 WAS GOING TO SLEEP ON THE COUCH?

19 A THAT'S A DETAIL I AM NOT AWARE OF.

20 Q OKAY. YOU'RE NOT AWARE THAT SHE WENT TO BED AND HAD
21 THE LIGHTS OFF AND THERE WAS A PERIOD OF TIME THAT
22 ELAPSED?

23 A NO.

24 Q BUT HE DIDN'T KILL MS. MCLENDON?

25 A NO, HE DIDN'T.

1 Q CAME VERY CLOSE.

2 A VERY CLOSE.

3 Q COULD HAVE?

4 A YES.

5 Q HE WAS EVALUATED FOR THAT TIME AND FOUND NOT TO BE
6 INSANE, BUT TO BE DIAGNOSED WITH ESSENTIALLY -- DR.

7 FRIERSON I THINK YOU SAID EVALUATED HIM AT THAT TIME;

8 CORRECT?

9 A CORRECT. I -- DR. FRIERSON I DON'T THINK -- WAS
10 FOUND TO BE CRIMINALLY RESPONSIBLE AND COMPETENT TO STAND
11 TRIAL, BUT HE DID DIAGNOSE HIM ESSENTIALLY WITH -- AS A
12 PSYCHOPATHY, ANTISOCIAL.

13 Q HE DIAGNOSED HIM AS ANTISOCIAL PERSONALITY AND I
14 BELIEVE THE--

15 A NARCISSISM.

16 Q -- NARCISSISTIC. THAT'S RIGHT. THANK YOU. THE
17 NARCISSIST. SO WOULD YOU -- WOULD YOU SAY IN LOOKING --
18 AND THE TWO ASSAULTS ARE RATHER SIMILAR IN MANY RESPECTS,
19 THE ONE WITH MCLENDON AND THE ONE WITH LAURA LING?

20 A VERY SIMILAR.

21 Q VERY SIMILAR. BUT THERE WAS ONE ADDITIONAL STEP
22 TAKEN BY -- WELL, REALLY TWO ADDITIONAL STEPS -- BUT ONE
23 ADDITIONAL STEP TAKEN BY THE DEFENDANT. HE ACTUALLY
24 COMPLETED THE MURDER OF LAURA LING.

25 A YES.

1 Q AND ESSENTIALLY THAT'S THE ONLY ADDITIONAL STEP AS TO
2 LAURA LING.

3 A YES. IT'S A HUGE STEP. BUT I THINK AGAIN FOR A
4 NORMAL PERSON DOING WHAT HE DID TO THE FIRST VICTIM IS
5 UNCONSCIONABLE AND WOULD BE ALMOST IMPOSSIBLE TO DO IF
6 YOU'RE IN YOUR RIGHT FRAME OF MIND.

7 TERRIFYING AND TORTURING SOMEONE -- I COULDN'T DO IT.
8 I KNOW YOU COULDN'T DO IT. I KNOW MOST OF US IN HERE JUST
9 COULD NOT DO THAT.

10 Q . AND IT SOUNDS TO ME LIKE YOU'RE SAYING THAT ANYONE
11 WHO COMMITS A CRIMINAL ACT OF SUCH MAGNITUDE, EVEN TYING
12 UP AND -- I BELIEVE YOU TESTIFIED TO THIS -- TYING THEM UP
13 IS -- IS -- AND CONFINING THEM AND FRIGHTENING THEM AND
14 ASSAULTING THEM, THAT IN AND OF ITSELF IS CONDUCT THAT YOU
15 WOULD CONSIDER EVIDENCE OF INSANITY?

16 A THE SCIENTIFIC EVIDENCE IS STARTING TO POINT THAT
17 WAY. AND IF I'M -- NOT STARTING TO, IT REALLY DOES. AND
18 IN FACT, DR. RAINE SAYS THE SIGNS INDICATE THAT THERE ARE
19 CONSTRAINTS ON FREE WILL -- THAT THE FREE WILL THAT WE ALL
20 IMAGINE THAT WE HAVE, THAT WE CAN CONTROL OURSELVES
21 ABSOLUTELY, MAY BE A FANCIFUL FICTION OR A DREAM OR A
22 HOPE, BUT OUR BRAINS PUT A LIMIT ON THAT. OUR FREE WILL
23 IS LIMITED BY WHAT OUR BRAINS CAN DO.

24 Q DOCTOR, IS IT YOUR OPINION -- I ASK YOU AGAIN, I'M
25 NOT ASKING ABOUT DR. RAINE AND I'M NOT ASKING ABOUT THE

1 SCIENCE THAT'S EMERGING. THAT'S NOT MY QUESTION. I WILL
2 CONFINE MY QUESTION TO, IS IT YOUR OPINION THAT SOMEONE
3 WHO WOULD TIE UP ANOTHER PERSON IS INSANE?

4 A NO, NOT TYING THEM UP. WE HAVE TO LOOK -- JUST TYING
5 THEM UP, NO. BUT LOOKING AT THE GREATER PICTURE,
6 DEPENDING ON WHAT THEY DO, IT COULD BE.

7 Q OKAY. TYING THEM UP AND STUFFING A WASH CLOTH SOAKED
8 IN CLOROX IN THEIR MOUTH, WOULD THAT CONSTITUTE INSANITY
9 IN YOUR DEFINITION?

10 A IN MY DEFINITION IT'S GOING BEYOND NORMAL,
11 APPROPRIATE HUMAN BEHAVIOR.

12 Q WHAT ABOUT TYING SOMEBODY UP IS GOING BEYOND
13 APPROPRIATE, NORMAL HUMAN BEHAVIOR, TOO; ISN'T IT?

14 A I'M SORRY?

15 Q TYING SOMEBODY UP AGAINST THEIR WILL IS GOING BEYOND
16 NORMAL, APPROPRIATE HUMAN BEHAVIOR.

17 A IT'S GOING BEYOND APPROPRIATE BEHAVIOR, YES, SOCIALLY
18 APPROPRIATE BEHAVIOR.

19 Q NO QUESTION ABOUT THAT.

20 A CORRECT.

21 Q DOCTOR, COULDN'T IT BE ARGUED OR COULDN'T -- HAVE YOU
22 CONSIDERED THAT PERHAPS THE DEFENDANT DID ACTUALLY LEARN
23 FROM THE MCLENDON ASSAULT? HE LEARNED NOT TO LEAVE ANY
24 WITNESSES?

25 A I GUESS YOU COULD SAY IF -- IF THERE WAS A LESSON, IF

1 HE MISTAKENLY LEFT THAT FIRST VICTIM, MS. MCLENDON, ALIVE,
2 AND THERE WAS AN IMPORTANT PSYCHOPATHIC LESSON TO LEARN,
3 IT WOULD APPEAR THEN THAT HE WAS ONLY 50 PERCENT CORRECT
4 IN LEARNING IT THIS TIME.

5 AGAIN, I MENTIONED HIS ACTS SEEMED QUITE RECKLESS,
6 IMPULSIVE. THEY ARE ALSO CRUEL AND HEINOUS. THEY MEET
7 THOSE CRITERIA THAT I HAD UP THERE FROM THE HAIR
8 PSYCHOPATHY CHECKLIST.

9 AND AGAIN, HE SHOULD HAVE LEARNED BECAUSE HE WENT TO
10 JAIL FROM THAT NEVER TO DO SUCH AN ACT OR EVEN GO ALONG
11 THE ROAD TO STARTING THAT ACT, SUCH AS JUST TYING SOMEONE
12 UP.

13 Q HE SUFFERED CONSEQUENCES BY LEAVING THE VICTIM ALIVE.

14 A HE SUFFERED CONSEQUENCES BY JUST DOING WHAT HE DID.

15 HE -- I BELIEVE THE CONSEQUENCES HE SUFFERED WERE JUST
16 CARRYING OUT THE ACT, NOT LEAVING HER ALIVE, BUT JUST
17 CARRYING IT OUT, IT WAS AGGRAVATED ASSAULT, KIDNAPPING. I
18 MEAN...

19 Q BUT THAT IS ANOTHER REASONABLE VIEWPOINT; ISN'T IT?

20 A WOULD YOU REPEAT THAT?

21 Q WELL, THAT HE SUFFERED THOSE -- I MEAN, IT'S A
22 REASONABLE VIEWPOINT TO LOOK BACK AND SAY, IF I HAD ONLY
23 FINISHED HER OFF, SHE WOULDN'T HAVE BEEN THERE TO TESTIFY
24 AGAINST ME.

25 A I GUESS YOU -- IF YOU'RE WRITING A BOOK, SOMETHING

1 DRAMATIC, OR MOVIE, IT MIGHT SOUND REASONABLE, BUT FROM A
2 MEDICAL VIEWPOINT AND A PSYCHIATRIC VIEWPOINT, THAT JUST
3 DOESN'T SEEM APPLICABLE.

4 Q WELL, OF COURSE, WE'RE DEALING WITH SOMEONE WHO IS
5 THINKING IN THAT MANNER.

6 A THERE AGAIN, YOU'RE RIGHT, BUT THEY'RE THINKING IN
7 THAT MANNER NOT THROUGH CHOICE BUT THROUGH DYSFUNCTION OF
8 THEIR BRAIN.

9 Q LET'S TALK A LITTLE BIT ABOUT THE PET SCAN. THE PET
10 SCAN WAS NOT DONE UNTIL MAY THE 18TH OF 2006. YOU DON'T
11 HAVE THE BENEFIT OF A PET SCAN THAT WAS DONE AT THE TIME
12 OF THE CRIME OBVIOUSLY?

13 A NO.

14 Q SO YOU CAN'T SAY WITH A REASONABLE DEGREE OF MEDICAL
15 CERTAINTY AS YOU SIT BEFORE THIS JURY TODAY THAT HIS
16 FRONTAL LOBES ON THAT NIGHT, AT THAT POINT IN TIME,
17 WEREN'T LIT UP LIKE A CHRISTMAS TREE?

18 A NO, I -- I -- I -- I CAN.

19 Q YOU CAN SAY -- YOU CAN SAY THAT? YOU'RE SPECULATING
20 THAT OR YOU -- YOU KNOW THAT BECAUSE YOU HAVE SEEN THE
21 PICTURES?

22 A I NEED TO ANSWER THAT WITH AN ANALOGY, IF I MAY.
23 THAT NIGHT THAT I KNOW HIS HEART WAS BEATING, IT'S BEATING
24 NOW. HOW DO I KNOW HIS HEART WAS BEATING THAT NIGHT? I
25 KNOW IT WAS BECAUSE HE WAS ALIVE AND HE DIDN'T LOSE

1 CONSCIOUSNESS OR HAVE A HEART ATTACK OR STROKE OR BE FOUND
2 DEAD.

3 I KNOW IT'S A SIMPLE ANALOGY, BUT I KNOW HIS HEART
4 WAS BEATING AND I KNOW HE WAS PRESENT BECAUSE HE DID
5 COMMIT THESE ACTS. SO YOU'RE ASKING ME--

6 Q AND YOU KNOW HIS BRAIN WAS FUNCTIONING?

7 A PARDON ME?

8 Q YOU KNOW HIS BRAIN WAS FUNCTIONING.

9 A I KNOW IT WAS FUNCTIONING.

10 Q BECAUSE HE WAS BREATHING, HIS HEART WAS BEATING, AND
11 HE WAS ALIVE.

12 A YES. AND JUST, IF I CAN JUST FINISH VERY QUICKLY,
13 THESE PET SCANS JUST DO NOT CHANGE. THEY'RE LIKE -- LET
14 ME -- LET ME PUT IT THIS WAY. HIS BRAIN MRI THAT I HAVE
15 THERE, I'M ABSOLUTELY CERTAIN HIS BRAIN MRI LOOKED THE
16 SAME THEN ESSENTIALLY AS IT DOES NOW.

17 HIS SKULL DIDN'T CHANGE SHAPE OR FORM. HIS BRAIN
18 DIDN'T SUDDENLY INCREASE OR DECREASE IN SIZE BETWEEN THEN
19 AND NOW. I THINK IT IS ABSOLUTELY SAFE AND SCIENTIFICALLY
20 REASONABLE TO ASSUME THAT HIS PET SCAN WOULD HAVE BEEN
21 ESSENTIALLY THE SAME IF THEY DID A CONTINUANCE PERFORMANCE
22 TASK THAT NIGHT.

23 Q BUT DOCTOR, YOU HAVE TO ASSUME THAT BECAUSE IF YOU
24 DON'T ASSUME THAT, YOU DON'T HAVE ANYTHING TO TALK ABOUT;
25 ISN'T THAT TRUE?

1 A I -- I HAVE TO ASSUME THAT THE SUN WILL RISE TOMORROW
2 OR WE WON'T BE HERE. I KNOW THERE ARE SO MANY THINGS I
3 SCIENTIFICALLY HAVE TO ASSUME.

4 Q ARE YOU TELLING ME THAT A HUMAN BEING'S BRAIN
5 ACTIVITY AND A PET SCAN IS AS PREDICTABLE AS THE SUN
6 RISING TOMORROW? ARE YOU TRYING TO TELL THIS JURY THAT?

7 A YES.

8 Q OH, MY...

9 A THE SAME AS HIS MRI. IT WOULD BE THE SAME THEN AS IT
10 IS NOW.

11 Q VERY GOOD.

12 A UNLESS IN BETWEEN SOMEONE SHOOTS HIM IN THE HEAD OR
13 HE HAD A STROKE OR SOME OTHER DAMAGE OCCURS TO HIS BRAIN.

14 Q IN YOUR PAIN MANAGEMENT CLINIC, DO YOU TEACH
15 RELAXATION TECHNIQUES TO FOLKS TO TRY TO -- TO TRY TO GET
16 THEM TO MANAGE THEIR PAIN AND EASE THE PAIN?

17 A YES. THEY HAVE TO TRY TO GET THEM TO THINK ABOUT
18 THEIR PAIN IN A DIFFERENT WAY.

19 Q OKAY. SO THERE ARE WAYS THAT -- OR METHODS -- I
20 MEAN, MANY PEOPLE USE MANY DIFFERENT WAYS TO RELAX THEIR
21 MINDS.

22 A UH-HUH.

23 Q AND TO KIND OF GO TO A QUIET PLACE.

24 A YES.

25 Q GUIDED IMAGERY.

1 A UH-HUH.

2 Q PRAYER.

3 A YES.

4 Q MEDITATION.

5 A YES.

6 Q THERE ARE WAYS, THERE ARE METHODS FOR A HUMAN BEING
7 TO LITERALLY AND CONSCIOUSLY REDUCE THEIR LEVEL OF BRAIN
8 ACTIVITY.

9 A THERE ARE SOME, BUT PLEASE LET ME ANSWER THAT. YOU
10 MENTIONED PRAYER. ALL THE BRAIN IMAGING STUDIES WE HAVE
11 DONE ON PEOPLE WHO ARE DEEP IN PRAYER, THEIR FRONTAL LOBES
12 EXACTLY WHERE HE IS COLD ACTUALLY TURN ON VERY BRIGHT.

13 THAT'S VERY INTERESTING IN PRAYER. THESE AREAS THAT
14 IN ALZHEIMERS PATIENTS GO QUIET, IN DEEP PRAYER, THOSE
15 AREAS GO QUIETER. BUT THE FRONTAL LOBES IN PRAYER
16 ACTUALLY TURN ON GREATLY BECAUSE SOMEONE IN DEEP PRAYER,
17 RELIGIOUS THOUGHT, IS ACTUALLY CONCENTRATING. THEY'RE --
18 THEY'RE RELAXED, BUT THEY ARE CONCENTRATING ABOUT THEIR
19 BELIEFS AND THEIR -- THEIR FEELING.

20 SO ANY TIME YOU'RE IN MEDITATION, ACTUALLY MEDITATION
21 IS THINKING AND -- BUT IN A QUIET, REFLECTIVE MANNER --
22 THAT ACTIVITY HERE WOULD GO UP. NOW AGAIN, ONLY WAY I
23 WOULD KNOW TO TURN THAT DOWN WOULD BE PHYSICAL TRAUMA,
24 DAMAGE TO THAT AREA, OR TAKING A DRUG, SOMETHING TO BRING
25 YOU DOWN, ALCOHOL, ET CETERA.

1 Q DOCTOR, YOU'RE SAYING THAT THERE IS NO WAY -- IT IS
2 IMPOSSIBLE FOR A HUMAN BEING TO DECREASE -- TO DO ANYTHING
3 TO DECREASE THEIR FRONTAL LOBE ACTIVITY?

4 A THEY -- IT'S NOT IMPOSSIBLE, BUT THEY WOULD HAVE TO
5 GO INTO A STATE OF I GUESS SLEEP, CLOSE TO SLEEP. THEY
6 WOULD HAVE TO GO TO SLEEP. THEY WOULD NOT BE ABLE TO
7 PERFORM THAT CONTINUANCE PERFORMANCE TASK.

8 Q VERY RELAXED.

9 A VERY, WELL...

10 Q NEARLY ASLEEP.

11 A NEARLY ASLEEP.

12 Q NEARLY ASLEEP. VERY RELAXED.

13 A OR ASLEEP, YES.

14 Q AND OF COURSE, YOU -- I KNOW YOU'RE RELYING ON WHAT
15 OTHERS HAVE TOLD YOU ABOUT THE PERFORMANCE -- THE
16 CONTINUANCE PERFORMANCE TEST. AND DR. EINHORN PERFORMED
17 THE TEST, HAD IT ON HIS COMPUTER, HE PACKED IT UP AND HE
18 LEFT. HE DIDN'T STICK AROUND FOR THE PET SCAN. OKAY? SO
19 THE PERFORMANCE TEST WAS OVER WHENEVER THE PET SCAN WAS
20 DONE.

21 A OKAY.

22 Q YOU'RE AWARE OF THAT? ARE YOU AWARE OF THAT?

23 A YES.

24 Q OKAY. THAT'S MY QUESTION. DO YOU KNOW HOW -- CAN
25 YOU TELL THIS JURY HOW MUCH TIME ELAPSED BETWEEN THE TIME

1 DR. EINHORN CONCLUDED THE TEST AND THE PET SCAN WAS
2 ACTUALLY CONDUCTED?

3 A THIRTY SECONDS, A MINUTE.

4 Q YOU KNOW THIS? WERE YOU--

5 A BEST--

6 Q -- WHAT'S THE BASIS OF YOUR KNOWLEDGE OF THAT?

7 A BECAUSE DR. EINHORN HAD TO FOLLOW THE EXACT SAME
8 PROTOCOL THAT DR. RAINE USED.

9 Q YOU WEREN'T THERE; WERE YOU?

10 A NO. NO, I WASN'T THERE.

11 Q OKAY. SO YOU CAN'T SAY THAT FROM YOUR KNOWLEDGE.

12 A WELL, WHAT I CAN SAY IS THIS. THE BACK AREAS OF THE
13 BRAIN ARE IDENTICAL IN MR. STANKO TO A NORMAL. IN FACT,
14 THEY ARE LIT UP EVEN MORE. SO I KNOW THIS. HE WASN'T
15 ASLEEP. HE WASN'T IN A STATE OF CONTEMPLATIVE MEDITATION.
16 HE WAS VISUALLY FOCUSING ON SOMETHING. I KNOW THAT FOR A
17 FACT BECAUSE I CAN SEE IT ON THERE. THE BACK AREA OF THE
18 BRAIN IS TURNED ON VERY HIGH. THE SAME AS A NORMAL.

19 SO IF HIS -- IF HE WAS IN SOME KIND OF SELF-INDUCED
20 CALMING, MEDITATIVE, SLOW-BRAIN STATE, I DON'T KNOW HOW HE
21 KEPT HIS VISUAL CENTERS TURNED ON AT A HIGH RATE. I THINK
22 THAT WOULD BE IMPOSSIBLE.

23 Q HE'S JUST LOOKING AT SOMETHING. ISN'T THAT GOING TO
24 KEEP -- HIS EYES ARE OPEN, ISN'T THAT GOING TO KEEP THE
25 VISUAL CENTER OPERATING, OPERATIONAL?

1 A NO. IN FACT, THERE'S SOME PEOPLE WHO SLEEP WITH
2 THEIR EYES OPEN.

3 Q OKAY. DOES HE DO THAT, DOCTOR? DOES THIS ONE -- IS
4 THIS -- DOES THIS DEFENDANT RIGHT HERE SLEEP WITH HIS EYES
5 OPEN TO YOUR KNOWLEDGE?

6 A I DON'T KNOW.

7 Q I MEAN, THAT'S A PSYCHIATRIC KIND OF A QUESTION.
8 THAT WOULD BE SOMETHING UNUSUAL; WOULDN'T IT?

9 A IT WOULD BE, BUT IT'S NOT SOMETHING WE TYPICALLY ASK.
10 REMEMBER THAT DSM4 YOU WERE ASKING ME ABOUT, THAT BOOK,
11 THAT PSYCHIATRIC BOOK THAT LISTS ALL THE DISORDERS,
12 NOWHERE IN IT DOES IT MENTION ONE OF THESE SYMPTOMS OF ANY
13 MENTAL DISORDER BEING SLEEPING WITH YOUR EYES OPEN. IF IT
14 DID, I WOULD USE IT.

15 Q LET'S -- I TOOK A LOOK AT YOUR REPORT. AND I NOTED
16 IN YOUR REPORT -- HOW -- MR. STANKO'S MEMORY, HIS
17 NEUROPSYCHOLOGICAL TESTING IS INTACT.

18 A YES.

19 Q HE'S GOT, AS A MATTER OF FACT, A GOOD MEMORY?

20 A YES.

21 Q THAT'S -- ISN'T MEMORY FORMED IN THE MEDIAL SECTION
22 OF THE BRAIN?

23 A IT'S NOT JUST FORMED THERE. I EXPLAINED TO THE JURY
24 EARLIER THAT THE MEDIAL OR MIDDLE PARTS OF THE BRAIN ARE
25 IMPORTANT FOR MEMORY CONSOLIDATION. FIRST PART OF MEMORY

1 IS THE FRONTAL LOBE OR ATTENTION IS, NOT THE PART ABOVE
2 THE EYEBALLS, BUT THE PART MORE UP HERE, BUT THEN THE
3 MEDIAL LOBES, THE SIDE PARTS OF THE BRAIN, ARE WHERE
4 MEMORY THEN IS CONSOLIDATED, AND IT'S NOT JUST THAT -- ON
5 THE OUTSIDE SIDE, IT'S ON THE INSIDE SIDE OF THE BRAIN.

6 Q IT'S KIND OF A MYSTERY TO ME. AND I GUESS YOU
7 PROBABLY ALREADY SEE WHERE THIS IS GOING, BUT IT'S SORT OF
8 A MYSTERY TO ME THAT THE WORST PART OF MR. STANKO'S BRAIN
9 ACCORDING TO YOUR EXPERT, DR. GUR, IS THE MEDIAL PORTION
10 OF HIS BRAIN.

11 WOULDNT'T THAT BE -- I MEAN, BOTH LOBES ARE BELOW THE
12 LIMITS, AND THIS ONE IS WAY DOWN HERE. THE RIGHT LOBE IS
13 VERY, VERY SMALL. I MEAN, IT'S -- IT'S CLEARLY WAY DOWN,
14 YET HIS MEMORY IS GOOD.

15 A JUST LIKE TESTING AND PSYCHOPATHS -- THE TESTING THAT
16 HAS BEEN DONE IN PSYCHOPATHS THROUGHOUT HISTORY SHOWS THAT
17 COGNITIVELY, INTELLECTUALLY THEY TEST AS VIRTUALLY NORMAL
18 IF NOT NORMAL.

19 SOMETHING HAPPENED TO HIS BRAIN AT BIRTH. THERE IS
20 NO DOUBT ABOUT THAT. THE DOCTORS DOCUMENT IT. I BELIEVE
21 THAT HIS BRAIN DID NOT FORM CORRECTLY FROM THAT POINT ON.
22 AND ONE OF THE PROOFS OF THAT IS THAT THE SIDE PORTIONS OF
23 HIS BRAIN DIDN'T GROW RIGHT, THERE'S MORE WATER IN HIS
24 BRAIN THAN THERE SHOULD BE BECAUSE THERE'S LESS MEAT IN
25 HIS BRAIN.

1 HE -- WE CAN HAVE AREAS OF THE BRAIN THAT APPEAR TO
2 BE SMALLER. FOR INSTANCE, A CHILD'S BRAIN IS SMALLER THAN
3 AN ADULT BRAIN, BUT THEIR MEMORY CAN BE PERFECT. THEIR
4 INTELLECTUAL LEVELS -- THERE ARE CHILDREN WHO ARE GENIUSES
5 THAT FAR OUTSTRIP ANY ADULT IN THIS ROOM AS FAR AS THEIR
6 INTELLECTUAL CAPACITY AND THEY HAVE A SMALLER BRAIN.

7 Q SO WHAT THAT TELLS US IS THAT THE MEDIAL PORTION OF
8 HIS BRAIN COULD BE REDUCED IN SOME WAY YET ITS FUNCTION
9 CAN BE VERY GOOD?

10 A IT -- IT CAN.

11 Q OKAY.

12 A IT CAN.

13 Q AND IT IS IN MR. STANKO'S CASE?

14 A WELL...

15 Q ACCORDING TO YOUR EVIDENCE.

16 A YES, IT IS. IT IS.

17 Q AND LET'S TALK A LITTLE BIT ABOUT THE BIRTH RECORDS.
18 I NOTE IN YOUR REPORT, DOCTOR, THAT OF ALL THE SEVEN PAGES
19 THAT YOU DID, PARAGRAPH UPON PARAGRAPH, YOU HAVE ONE LINE
20 IN BOLD TYPE BUT YOU HAVE ONE PARAGRAPH THAT'S IN BOLD
21 TYPE IN THE -- THROUGHOUT THIS ENTIRE REPORT.

22 A YES.

23 Q AND THAT'S THE PARAGRAPH ABOUT DEFENDANT STANKO'S
24 BIRTH RECORDS.

25 A YES.

1 Q CORRECT? AND OBVIOUSLY YOU HAVE DONE THAT FOR A
2 REASON.

3 A YES.

4 Q YOU FIND IT TO BE VERY IMPORTANT.

5 A YES.

6 Q I'M GOING TO WALK YOU THROUGH SOME OF THESE ABOUT THE
7 BIRTH RECORDS. AND IT IS YOUR -- LET ME GET THIS ON THE
8 RECORD. WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY,
9 IT IS YOUR OPINION TO THIS JURY THAT THIS DEFENDANT HAS A
10 BIRTH DEFECT IN HIS BRAIN?

11 A 100 PERCENT.

12 Q ALL RIGHT. NOW DOCTOR, HAVE YOU SEEN ANY MEDICAL
13 REPORTS OTHER THAN COURT'S EXHIBIT 5 AND COURT'S
14 EXHIBIT 6?

15 A NO.

16 Q HAVE YOU TALKED TO THE DOCTORS THAT ATTENDED TO
17 DEFENDANT STANKO?

18 A NO.

19 Q HAVE YOU REVIEWED ANY X-RAYS THAT WERE AVAILABLE, ANY
20 OTHER DOCUMENTS WHATSOEVER FROM MR. STANKO'S BIRTH?

21 A JUST THE RECORDS THAT ARE AVAILABLE.

22 Q JUST THESE RECORDS.

23 A YES.

24 Q AND YOU TESTIFIED I BELIEVE FROM JOAN STANKO'S
25 RECORDS.

1 A YES.

2 Q THAT'S HIS MOM.

3 A YES.

4 Q AND THERE WAS SOME CONCERN. SHE WAS GOING IN FOR --
5 YOU TESTIFIED THAT SHE WAS GOING IN, GOING TO HAVE A TUBAL
6 LIGATION AS PART, OR SHORTLY THEREAFTER, SHORTLY AFTER SHE
7 GAVE BIRTH.

8 A YES.

9 Q BUT THERE WAS A CONCERN ABOUT THE BABY'S HEALTH.

10 A A SIGNIFICANT CONCERN.

11 Q THERE WAS A CONCERN. NOW, YOU DID NOT, AS I RECALL
12 WHEN QUESTIONED BY MR. DIGGS, REVIEW DEFENDANT STANKO'S
13 RECORDS. YOU LOOKED AT THE MOM'S RECORDS; IS THAT
14 CORRECT?

15 A YES. I BELIEVE I LOOKED AT THOSE AS WELL.

16 Q YOU LOOKED AT THESE BEFORE, BUT YOU DID NOT TESTIFY
17 FROM THESE TODAY; DID YOU?

18 A NO.

19 Q YOU SKIPPED OVER THOSE. AND YOU DIDN'T SKIP OVER
20 THEM, MR. DIGGS SKIPPED OVER THEM. THIS IS COURT'S
21 EXHIBIT NUMBER FIVE.

22 MR. HEMBREE: AND YOUR HONOR, WE'D LIKE TO GO
23 AHEAD AND MOVE THAT EXHIBIT INTO EVIDENCE AT THIS
24 TIME.

25 MR. DIGGS: NO OBJECTION.

1 THE COURT: WHAT RECORDS?

2 MR. HEMBREE: YES, YOUR HONOR. THESE ARE THE
3 RECORDS FOR STEPHEN STANKO, THE BIRTH RECORDS FROM
4 GUANTANAMO BAY.

5 THE COURT: MARKED AND ADMITTED.

6 MR. DIGGS: WE MEANT TO DO THAT EARLIER, SO IT
7 MAY ALREADY BE IN.

8 THE COURT: ACTUALLY -- ACTUALLY WHAT WE DID WAS
9 IT HAS BEEN MARKED INTO EVIDENCE AS A DEFENDANT'S
10 EXHIBIT, BUT IT WILL STILL REMAIN AS A COURT'S
11 EXHIBIT FOR THE PURPOSES OF THE PRETRIAL HEARING. SO
12 WE JUST NEED TO SUBSTITUTE A COPY.

13 MR. DIGGS: THANK YOU, YOUR HONOR.

14 BY MR. HEMBREE:

15 Q DOCTOR -- DR. SACHY, I'M GOING TO DRAW YOU TO -- AND
16 THIS IS MY COPY. I WILL BE HAPPY TO -- I THINK THE
17 COURT'S COPY IS THERE SOMEWHERE. THERE WE GO. COURT'S
18 FILE (SIC). PLEASE TURN THE NEXT PAGE, NEXT PAGE, AND
19 TELL THIS JURY THE CLINICAL DIAGNOSIS OF DEFENDANT STANKO.

20 A OKAY. TERM -- TERM BIRTH LIVING CHILD, ONE. NUMBER
21 TWO, HYPERBIL -- HYPERBILIRUBINEMIA, JAUNDICE.

22 Q THAT'S JAUNDICE?

23 A JAUNDICE.

24 Q THEY'VE GOT JAUNDICE IN PARENTHESES THERE.

25 A PHYSIOLOGIC SOMETHING EXAGGERATED.

1 Q OKAY. SO AS FAR AS WE KNOW, THE BABY WAS BORN ALIVE
2 AND HAD JAUNDICE.

3 A YES.

4 Q THAT'S ALL WE CAN INTERPRET FROM THE CLINICAL
5 DIAGNOSIS THAT IS IN THIS DOCUMENT RIGHT NOW; CORRECT?

6 A WELL...

7 Q THIS -- THIS--

8 A YES AND NO. I CAN ONLY ANSWER THAT WITH A YES OR NO.
9 JAUNDICE IS A MAJOR CAUSE OF BRAIN DAMAGE IN BABIES. IT'S
10 CALLED KERNICTERUS.

11 Q ISN'T IT VERY COMMON, DOCTOR, VERY COMMON IN
12 BABIES -- FOR BABIES TO HAVE JAUNDICE?

13 MR. KELLY: YOUR HONOR, I DON'T WANT TO
14 INTERRUPT, BUT THE WITNESS CONTINUES TO TRY TO
15 EXPLAIN HIS ANSWER AND HE'S INTERRUPTED BY THE
16 SOLICITOR.

17 I'D ASK THAT THE WITNESS BE ALLOWED TO COMPLETE
18 HIS ANSWER. ONCE HE'S FINISHED, THEN THE SOLICITOR
19 MAY ASK HIM ANOTHER QUESTION.

20 THE COURT: THE OBJECTION IS OVERRULED WITH THE
21 COURT'S FOLLOWING INSTRUCTIONS. THE DOCTOR IS
22 INSTRUCTED TO ANSWER THE QUESTION YES OR NO, THEN HE
23 MAY EXPLAIN HIS ANSWER. YOU MAY PROCEED.

24 MR. HEMBREE: THANK YOU.

25 THE WITNESS: THE DIAGNOSIS IS

1 HYPERBILIRUBINEMIA, JAUNDICE, AND IT'S HARD TO READ,
2 BUT PHYSIOLOGIC SOMETHING OR PHYSIOLOGIC EXAGGERATED
3 I THINK.

4 BY MR. HEMBREE:

5 Q AND YOU DON'T TAKE ANY SIGNIFICANCE FROM THOSE LAST
6 TWO WORDS? DO YOU DRAW SOME SIGNIFICANCE FROM THOSE?

7 A I DO. I WISH I KNEW WHAT THE DOCTOR EXACTLY MEANT
8 WHEN HE WROTE EXAGGERATED. SOMETHING IS ABNORMAL. WHAT
9 HE'S LISTING HERE IS THAT THERE ARE ABNORMALITIES THAT
10 HAVE BEEN FOUND, THERE'S SICKNESS, THERE'S DISEASE, AND HE
11 IS LISTING THE THINGS.

12 BUT SOMETHING IS EXAGGERATED, AND I -- I CAN'T MAKE
13 IT OUT. SOMETHING PHYSIOLOGICAL IS EXAGGERATED. BUT
14 JAUNDICE AND HYPERBILIRUBINEMIA.

15 Q THE BABY IS JAUNDICED?

16 A CORRECT.

17 Q THAT IS VERY COMMON, QUITE -- QUITE COMMON IN NEWBORN
18 BABIES.

19 A IT'S NOT ABSOLUTELY COMMON OR WE WOULD ALL BE BORN
20 WITH IT, BUT IT IS A MORE COMMON ILLNESS OR SOMETHING
21 WRONG WITH THE NEWBORN BABY.

22 Q IT'S NOT UNUSUAL FOR A NEWBORN BABY TO HAVE JAUNDICE;
23 IS IT, DOCTOR?

24 A WELL, IT'S ABNORMAL, BUT IT'S NOT UNUSUAL.

25 Q THANK YOU. LET ME TAKE YOU TO THE CLINICAL RECORD OF

1 THE NEWBORN. FLIP OVER TO THIS PAGE. NO NUMBERS ON
2 THESE, SO I'M SORRY I CAN'T REFER YOU TO A NUMBER. THERE
3 WE GO. TELL ME, HOW IS THE MOTHER'S HEALTH PRIOR TO
4 PREGNANCY?

5 A SHE'S GOT ACUTE -- THAT MEANS SHE'S HAD A SUDDEN
6 ONSET OF -- GALLBLADDER DISEASE DURING PREGNANCY.

7 Q OKAY.

8 A SO SHE'S IN A MEDICALLY STRESSED STATE.

9 Q WHAT IS THE OVERALL EVALUATION ON THE SECOND LINE,
10 MOTHER'S HEALTH PRIOR TO PREGNANCY?

11 A GOOD.

12 Q FURTHER DOWN ON THE RIGHT, COMPLICATIONS AT DELIVERY.
13 ON THE RIGHT.

14 A SHOW ME. SHOW ME. NONE.

15 Q CHARACTER OF CRY.

16 A POINT THAT -- GOOD.

17 Q AND WE'VE ALREADY TALKED ABOUT APGAR AT BIRTH.

18 A RIGHT.

19 Q HIGHEST SCORE YOU CAN GET.

20 A YES.

21 Q LET'S TAKE A LOOK DOWN HERE AT THE -- THEY GOT THIS
22 INITIAL EXAMINATION WHICH WAS A CHART THAT THEY FILLED OUT
23 HERE.

24 A RIGHT.

25 Q N DENOTING NORMAL.

1 A YES.

2 Q AND ZERO DENOTING NEGATIVE?

3 A YES.

4 Q RIGHT. AND SO WE'VE GOT FACIES. WHAT'S THAT?

5 A HOW THEIR FACE LOOKS.

6 Q OKAY. WHAT DOES THAT SAY?

7 A N.

8 Q IT'S NORMAL.

9 A UH-HUH.

10 Q BREATHING.

11 A BREATHING NORMAL.

12 Q SKIN.

13 A NORMAL.

14 Q VERNIX.

15 A NORMAL.

16 Q SUBCULTURE TISSUE.

17 A SUBCUTANEOUS.

18 Q SORRY. SUBCUTANEOUS TISSUE.

19 A NORMAL.

20 Q HEAD.

21 A NORMAL.

22 Q FONTANELLES.

23 A NORMAL.

24 Q SUTURE -- SUTURES.

25 A WHERE THEIR SKULL JOINS TOGETHER.

1 Q OKAY.

2 A NORMAL.

3 Q OKAY. WHERE THEIR SKULL JOINS TOGETHER IS NORMAL?

4 A YES, WHERE--

5 Q OKAY. EYES.

6 A NORMAL.

7 Q EARS.

8 A NORMAL.

9 Q NOSE.

10 A NORMAL.

11 Q MOUTH.

12 A OH, WAIT. WE SKIPPED ONE. THERE'S ONE RIGHT ABOVE

13 MOUTH THAT SAYS ICTERUS, OR WHICH IS--

14 Q I'M COMING BACK TO THAT. I'M GOING TO COME BACK TO

15 THE NEGATIVES.

16 A OKAY.

17 Q THROAT.

18 A NORMAL.

19 Q NECK.

20 A NORMAL.

21 Q CHEST.

22 A NORMAL.

23 Q LUNGS.

24 A NORMAL.

25 Q HEART.

1 A NORMAL.

2 Q MURMURS -- EXCUSE ME. I'LL GO BACK TO THAT.

3 ABDOMEN.

4 A NORMAL.

5 Q LIVER.

6 A NORMAL.

7 Q SPLEEN.

8 A NORMAL.

9 Q CORD.

10 A NORMAL.

11 Q GENITALS.

12 A NORMAL.

13 Q ANUS.

14 A NORMAL.

15 Q MC...

16 A MECONIUM.

17 Q MECONIUM.

18 A NORMAL.

19 Q SPINE.

20 A NORMAL.

21 Q EXTREMITIES.

22 A NORMAL.

23 Q MUSCLE TONE.

24 A NORMAL.

25 Q REFLEXES.

1 A NORMAL.

2 Q AND MORO.

3 A SAYS NORMAL.

4 Q JOINTS.

5 A NORMAL.

6 Q NOW, LET'S LOOK AT -- YOU GOT CYANOSIS.

7 A YES.

8 Q THAT'S A CONDITION; IS IT NOT?

9 A IT'S BLUENESS OF A BABY.

10 Q RIGHT. SO HE'S NEGATIVE FOR CYANOSIS, ZERO; CORRECT?

11 A WHAT I DON'T UNDERSTAND IS IS WHY -- I WANT TO MAKE

12 SURE THAT WE'RE SAYING THE RIGHT THING. IF IT'S NORMAL,

13 WHY DON'T THEY PUT AN N THERE? I DON'T KNOW IF ZERO MEANS

14 THEY ACTUALLY HAVE THAT AND N MEANS ABSOLUTELY NORMAL.

15 Q DOESN'T ZERO TYPICALLY...

16 A I -- I--

17 Q PALLOR.

18 A IF -- WAIT. IF I WERE THIS DOCTOR, I WOULD HAVE PUT

19 NORMAL ON EVERYTHING. IN FACT, THE THINGS YOU POINT OUT,

20 ICTERUS, WHICH WE KNOW THE CHILD WAS JAUNDICED, THERE'S A

21 ZERO THERE, I THINK THAT MAY MEAN OBSERVED. N MEANS

22 NORMAL OR NOT OBSERVED, AND O MEANS OBSERVED. SO

23 BLUENESS--

24 Q HOW DO YOU KNOW THAT? WHY DO YOU SAY THAT?

25 A BECAUSE--

1 Q HAVE YOU TALKED TO THE DOCTOR?

2 A NO, BUT WHY WOULD I HAVE NORMAL EVERYWHERE AND ON THE
3 SPECIFIC THINGS THAT ARE CONSISTENT WITH PROBLEMS IN THIS
4 CHILD, THERE'S A CIRCLE. I SUSPECT N MEANS IT WAS NOT
5 THERE, AND EVERYWHERE THERE'S A ZERO MEANS SOMETHING WAS
6 THERE.

7 Q WELL--

8 A OBSERVED.

9 Q NOW, THESE ARE ALL CONDITIONS, THOUGH; ARE THEY NOT?
10 THESE ARE ALL CONDITIONS WHERE IF THEY WERE PRESENT, YOU
11 WOULDN'T SAY THEY WERE NORMAL. IF THEY WERE NOT PRESENT,
12 YOU WOULDN'T SAY THEY WERE NORMAL. YOU'D SAY THEY WERE
13 POSITIVE OR NEGATIVE.

14 A I'M -- I'M SUSPECTING, YOU KNOW, THANK YOU FOR
15 POINTING THIS OUT -- THAT THE ZEROS DON'T MEAN ZERO. IT
16 MEANS OBSERVED AND THE N MEANS NOT OBSERVED, BECAUSE HOW
17 COULD THEY SAY THAT THE BABY WAS JAUNDICE BUT IN HERE WHEN
18 THEY -- THEIR ICTERUS, WHICH IS ANOTHER WORD FOR JAUNDICE,
19 THEY SAY NOTHING.

20 I MEAN, IT'S NOT THERE. I -- SOME OTHER TWO DOCTORS
21 CAME TO DIFFERENT CONCLUSIONS OR ONE MADE THE SAME MISTAKE
22 OR MADE A -- A SIGNIFICANT MISTAKE. I HAVE TO REPEAT,
23 WHAT DID THEY FIND, WHAT -- WHAT ARE THE THINGS --
24 EVERYTHING IS GIVEN AN N FOR NORMAL EXCEPT BLUENESS,
25 PALLOR, WHITENESS, THAT THE CHILD HAS POOR COLOR, ICTERUS,

1 SLIGHTLY YELLOW, POTENTIAL -- A HEART MURMUR, AND
2 PARALYSIS. NOW REMEMBER, THE CHILD HAD A POOR MORO
3 REFLEX.

4 Q WELL, THEY INDICATE HERE THE MORO REFLEX IS NORMAL.

5 A THEY DO -- THEY DO HERE, AND I -- I -- BUT DOES THAT
6 MEAN THAT THE OTHER DOCTOR WHO -- INSTEAD OF JUST FILLING
7 OUT A CHART ACTUALLY IS WRITING IN SENTENCES WHAT THEY
8 SEE. HE'S TAKEN GREAT CARE TO SAY, THIS CHILD HAS A POOR
9 MORO REFLEX AND MAY NOT LIVE.

10 Q HE DIDN'T SAY THIS BABY MAY NOT LIVE IN HIS REPORT;
11 DID HE, DOCTOR?

12 A HE SAID THIS BABY HAS AN UNCERTAIN AND POOR
13 PROGNOSIS.

14 Q WE'LL GO THROUGH THIS. WE'RE GOING TO TALK ABOUT
15 THAT SOME MORE. HE NEVER SAID THE BABY WAS NOT GOING TO
16 LIVE; DID HE?

17 A WELL--

18 Q DID HE USE THOSE WORDS, DOCTOR?

19 A NO, HE SAID--

20 Q THANK YOU. THOSE ARE YOUR WORDS; ARE THEY NOT,
21 DOCTOR?

22 A WELL, UNCERTAIN AND POOR PROGNOSIS ARE BAD WHEN
23 DISCUSSING A CHILD, A BABY.

24 Q LOOK IN THE -- THEY DO HAVE A LISTING OF ABNORMAL
25 FINDINGS UNDERNEATH THAT -- UNDERNEATH THIS CHART, AND

1 THEY DON'T MENTION IN THE -- WELL, WE'LL TALK ABOUT THAT
2 IN A MINUTE. WHAT DOES IT LIST IN THE ABNORMAL FINDINGS,
3 DOCTOR?

4 A WELL, THERE ARE ABNORMAL FINDINGS IN HERE. RATHER
5 THAN CHECKING THINGS OFF, THEY ARE ACTUALLY WRITING
6 SENTENCES. BABY HAS HAD EXCESSIVE MUCUS AND HAS BEEN
7 VOMITING INTERMITTENTLY.

8 Q OKAY. WHAT ELSE DOES IT SAY?

9 A I WILL READ THE WHOLE THING.

10 Q THANK YOU.

11 A FORCEFUL VOMITING OF CLEAR FLUID AND MUCUS DURING
12 EXAM. FEEDING TUBE PASSED INTO STOMACH WITHOUT
13 DIFFICULTY. AND 3 CC'S OF FLUID ARE REMOVED AFTER WHICH
14 STOMACH WAS LAVAGED OR CLEANED.

15 Q SO IT APPEARS, DOCTOR, WOULDN'T YOU SAY THAT IT
16 APPEARS THAT THEY'RE CONCERNED THAT THIS CHILD HAS
17 SOMETHING WRONG WITH HIS STOMACH? THEY'VE TAKEN STEPS TO
18 ADDRESS A PROBLEM IN THE STOMACH?

19 A NO. I'M SORRY. I DISAGREE. THEY'RE ADDRESSING
20 CONCERNS THAT THIS BABY MAY VOMIT OR HAVE MUCUS IN ITS
21 LUNGS, THUS THE -- WHICH IS ONE OF THE MOST COMMON
22 COMPLICATIONS, TERRIBLE COMPLICATIONS OF BIRTH, HAVING THE
23 OXYGEN CUT OFF OF YOUR BRAIN BECAUSE THE BABY HAS INHALED
24 MUCUS OR--

25 Q DO YOU HAVE ANY EVIDENCE, DOCTOR, DO YOU HAVE ANY

1 EVIDENCE IN THESE RECORDS THAT THIS BABY DREW VOMIT INTO
2 ITS LUNGS?

3 A WELL, THE EVIDENCE I HAVE IS SAYING THE BABY HAS HAD
4 EXCESSIVE MUCUS AND HAS BEEN VOMITING INTERMITTENTLY.
5 IT'S NOT SAYING IT'S IN HIS LUNGS FOR SURE, BUT--

6 Q OKAY. DOCTOR, THAT'S MY QUESTION TO YOU. YOU SHOW
7 ME ON THOSE RECORDS WHERE IT SAYS SO.

8 MR. DIGGS: YOUR HONOR, CUTTING OFF THE ANSWERS.

9 THE COURT: I WANT YOU ALL TO APPROACH.

10 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

11 THE COURT: THE OBJECTION IS OVERRULED. DOCTOR,
12 PLEASE ANSWER THE QUESTIONS YES OR NO AND THEN YOU
13 WILL BE ALLOWED TO FULLY EXPLAIN YOUR ANSWER. YOU
14 MAY PROCEED, MR. HEMBREE.

15 MR. HEMBREE: THANK YOU, YOUR HONOR.

16 THE WITNESS: I BELIEVE I FOUND WHAT YOU MIGHT
17 BE LOOKING FOR ON THE NEXT PAGE.

18 BY MR. HEMBREE:

19 Q I WILL ASK THE NEXT QUESTION. THANK YOU. LET ME
20 TAKE YOU TO THE BACK SIDE OF THIS PAGE WHERE -- THE
21 CLINICAL NEWBORN RECORD. LET ME -- I'M SORRY.

22 A THIS SIDE.

23 Q LET ME -- THIS--

24 A IT'S THE SIDE YOU WERE ON.

25 Q RIGHT. THE ONE YOU WERE ON. IS THERE ANYTHING

1 LISTED -- IN THE ABNORMAL FINDINGS ON PHYSICAL
2 EXAMINATION, IS THERE ANYTHING LISTED ABOUT CYANOSIS,
3 PALLOR, ICTERUS, MURMURS, OR PARALYSIS?

4 A AGAIN--

5 Q NO. NO. WELL, IS THERE ANYTHING LISTED, DOCTOR, IN
6 THE ABNORMAL FINDINGS ABOUT PALLOR, ICTERUS, CYANOSIS,
7 PARALYSIS, OR MURMURS?

8 A NO.

9 Q LET ME TAKE YOU TO THE NEXT PAGE. WE'LL LOOK AT THE
10 14TH. THE ORDER OF THE -- I APOLOGIZE, DOCTOR. I'M NOT
11 TRYING TO THROW YOU A CURVE. THESE PAGES ARE ALL JUMBLED.
12 LOOKING AT THE 14TH.

13 A YES.

14 Q AND YOU SEE THAT THERE IS A CONCERN ABOUT EXCESSIVE
15 MUCUS AND INTERMITTENT VOMITING.

16 A YES.

17 Q WHAT ELSE DOES THE EXAM INDICATE?

18 A HANG ON ONE SECOND. OKAY. OKAY. READ IT ALL?
19 EXCESSIVE MUCUS WITH INTERMITTENT VOMITING. ON EXAM BOWEL
20 SOUNDS ARE ACCURATE, NO, NO PARASTASIS I BELIEVE VISIBLE,
21 NO ABDOMINAL -- I BELIEVE IT SAYS SOUNDS, CHEST CLEAR,
22 SOMETHING GENITALIA NORMAL, LARGE AMOUNT OF MUCUS
23 PRESENT -- PASSED DURING EXAM, BABY HAS POOR MORO --
24 SORRY, THERE IT IS -- BUT -- BUT FAIR SPONTANEOUS MOVEMENT
25 AND DECREASED HAND -- DECREASED HAND SOMETHING REFLEX.

1 SO ACTUALLY BESIDES POOR MORO, NOW THEY ARE
2 DOCUMENTING THERE'S ANOTHER REFLEX THAT'S DECREASED, SO
3 THAT'S TWO THINGS. IN--

4 Q AND PLEASE READ THE NEXT LINE. IT SAYS--

5 A IMPRESSION.

6 Q IMPRESSION. OKAY.

7 A VOMITING SECONDARY TO...

8 Q WHAT DOES IT SAY? IT'S A QUESTION MARK; CORRECT?

9 A QUESTION MARK. AND THEN IT SAYS CEREBRAL DAMAGE
10 OR...

11 Q OR DOME?

12 A I BELIEVE IT SAYS CEREBRAL, SOMETHING LIKE --
13 SOMETHING WRONG WITH THE BRAIN.

14 Q CEREBRAL. THERE'S A QUESTION MARK ABOUT CEREBRAL?

15 A RIGHT.

16 Q CORRECT? THEN THERE'S A DASH.

17 A AND THEN IT SAYS...

18 Q ANOTHER QUESTION MARK; CORRECT?

19 A YEAH. INTRA--

20 Q I WANT TO KNOW, IS THERE A QUESTION MARK BEFORE WHERE
21 IT SAYS INTRACRANIAL HEMORRHAGE?

22 A YES.

23 Q OKAY. AND THEN THERE'S A DASH; CORRECT?

24 A YES.

25 Q AND THEN THERE'S ANOTHER QUESTION MARK THAT SAYS

1 ABDOMINAL PATHOLOGY?

2 A YES.

3 Q SO DOCTOR, DOESN'T THAT INDICATE TO YOU -- OR LET ME
4 SEE IF THIS IS A FAIR -- A FAIR CHARACTERIZATION OF WHAT
5 THAT MEANS TO YOU.

6 A RIGHT.

7 Q THAT YOU HAVE GOT A DOCTOR WHO HAS GOT A BABY THAT'S
8 VOMITING, THEY DON'T KNOW WHAT THE CAUSE IS, AND HE'S GOT
9 POOR MORO, OKAY, AND THEY ARE SPECULATING THAT IT -- JUST
10 THINKING, BRAINSTORMING, IT MIGHT BE SOME CEREBRAL ISSUE,
11 IT MIGHT BE INTRACRANIAL HEMORRHAGE, IT MIGHT BE A STOMACH
12 PROBLEM.

13 A RIGHT.

14 Q AND THEN THEY HAVE A PLAN.

15 A RIGHT.

16 Q WHAT'S THE PLAN?

17 A THE PLAN IS -- LET'S SEE -- OBSERVE CLOSELY NOW, WILL
18 GET X-RAYS LATER TODAY IF NO IMPROVEMENT.

19 Q AND THAT'S SIGNED BY DR. MASON, I BELIEVE; IS THAT
20 CORRECT?

21 A YES.

22 Q ALL RIGHT. LET'S LOOK AT THE 15TH, THE NEXT DAY.

23 A LOOKS BETTER NOW.

24 Q UH-HUH.

25 A GOOD SPONTANEOUS MOVEMENTS.

1 Q RIGHT.

2 A MORO FAIRLY GOOD.

3 Q UH-HUH.

4 A NO VOMITING, VOMITING TO DATE EXCEPT FOR MINIMAL

5 REGURGITATION. WILL SOMETHING FORM...

6 Q FORMULA.

7 A WILL START FORMULA.

8 Q OKAY. AND THAT'S SIGNED BY DR. MASON?

9 A YES.

10 Q AND THEN ON THE 16TH.

11 A MODERATE JAUNDICE.

12 Q RIGHT.

13 A TAKING FEEDINGS WITHOUT DIFFICULTY, NO VOMITING.

14 Q RIGHT.

15 A BILIRUBIN DOWN.

16 Q DOWN.

17 A NEUROLOGICAL OKAY.

18 Q OKAY. NEUROLOGICAL OKAY.

19 A YES.

20 Q ISN'T THAT GOOD NEWS?

21 A THAT'S GREAT.

22 Q THAT'S GREAT NEWS.

23 A YES.

24 Q AND THE BABY WAS RELEASED FROM THE HOSPITAL TWO DAYS

25 LATER; WASN'T HE?

1 A YES.

2 Q YES. WENT HOME WITH THE MOM.

3 A YES.

4 Q YOU HAD MENTIONED THE CONCERN, THAT YOU DREW A GREAT
5 DEAL OF SIGNIFICANCE FROM, THAT WAS EXPRESSED IN THE
6 MOTHER'S REPORT.

7 A YES.

8 Q THAT'S COURT'S EXHIBIT 6. ALL RIGHT.

9 A YES.

10 Q AND THIS IS THE MOTHER'S REPORT. AND THERE WAS A --
11 YOU HAD TESTIFIED THERE WAS A TUBAL LIGATION PLANNED.

12 A YES.

13 Q AND THEN THEY DECIDED NOT TO DO IT BECAUSE THEY HAD
14 THESE QUESTIONS THAT WERE UNANSWERED VERY EARLY IN THIS
15 BABY'S LIFE, THE FIRST DAY.

16 A YES. AND IF I MIGHT ANSWER THAT WITH A YES AND
17 EXPLAIN. THE QUESTIONS THEY HAD WERE, IS THIS BABY GOING
18 TO LIVE, IN MY OPINION, MAKE IT OR NOT.

19 Q WELL, THEY DON'T -- WEREN'T DOING A WHOLE LOT TO
20 TREAT HIM. I MEAN, IT SEEMED LIKE THEY WERE JUST KIND OF
21 KEEPING AN EYE -- THEIR PLAN WAS JUST TO KEEP AN EYE ON
22 HIM, WASN'T IT, KIND OF WATCH HIM THE NEXT DAY, THEN MAYBE
23 GET AN X-RAY IF HE DOESN'T IMPROVE?

24 A WELL, IT IS A HOSPITAL. THEY ARE GOING TO WATCH THE
25 BABY. BUT THIS BABY, THEY HAVE DOCUMENTED IT'S IN POOR

1 CONDITION, BUT... POOR PROGNOSIS.

2 Q AND ON THE 15TH -- YOU'VE ALREADY TESTIFIED ABOUT
3 THIS. IF YOU WILL LOOK AT THE DOCTOR'S NOTES ON THE 15TH.
4 AND I...

5 A I CAN READ THOSE IF YOU WANT.

6 Q PLEASE DO.

7 A WILL -- ON THE 15TH, WILL POSTPONE PLANNED TUBAL
8 LIGATION IN VIEW OF PRECARIOUS STATE OF BABY WITH VOMITING
9 AND POSSIBLE INTRACRANIAL DAMAGE.

10 Q WHICH WE'VE ALREADY NOTED THAT THEY -- THEY HAD DOWN
11 HERE IS A POSSIBILITY. THEY WEREN'T SURE, BUT THEY HAD IT
12 AS A POSSIBILITY AND SO THEY -- THEY DELAYED THE SURGERY.
13 THEY TOOK A PREV -- STEP, WOULDN'T YOU SAY, DOCTOR?

14 A YES. IF I CAN JUST EXPLAIN JUST A LITTLE BIT.

15 Q OKAY.

16 A REMEMBER ON THIS ONE WHERE YOU SAID, WHAT ARE THEIR
17 QUESTION MARKS, WHAT ARE THEIR DIAGNOSES? THEY MENTIONED
18 THREE THINGS. AND WHAT WE DO IN A DIFFERENTIAL IS WE
19 MENTION THE MOST IMPORTANT THINGS FIRST, BUT THE LESSER
20 THINGS LAST.

21 THE FIRST TWO THINGS THEY MENTION LOOKS LIKE CEREBRAL
22 DAMAGE OR CEREBRAL BRAIN SOMETHING. THE SECOND THING IS
23 INTRACRANIAL BLEED. THEY ARE WORRIED THAT THIS CHILD HAS
24 BLED INTO ITS BRAIN. AND THE THIRD THING IS STOMACH
25 PROBLEMS. NOW, THEY DIDN'T PUT THE STOMACH PROBLEMS

1 FIRST. THEY PUT THE BRAIN THINGS FIRST.

2 Q BUT THE ONLY SYMPTOM THEY HAD TO START THAT
3 SPECULATION WAS THE CHILD'S VOMIT.

4 A AND, YES, AND THE POOR MORO REFLEX. AND REMEMBER--

5 Q THAT IMPROVED THE SECOND DAY.

6 A -- IT IMPROVED, BUT YOU CANNOT IGNORE A POOR MORO
7 REFLEX. IT'S -- IT'S A SIGN OF BRAIN DYSFUNCTION OR
8 DAMAGE. IT'S NEVER NORMAL EVEN IF IT IMPROVES.

9 NOW, I CAN GET -- IF I MAY EXPLAIN. IF I GET HIT IN
10 THE HEAD WITH A BASEBALL BAT NOW, I IN THE NEXT FEW
11 MINUTES WILL HAVE POOR FUNCTION AND I'LL HAVE DIFFICULTY
12 SPEAKING AND TALKING, BUT OVER THE NEXT FEW DAYS OR HOURS
13 AND DAYS, MY FUNCTION WILL COME BACK TO NORMAL, BUT MY
14 BRAIN HAS STILL SUFFERED A TRAUMA THAT MAY NOT COME TO THE
15 FORE TILL YEARS LATER IN MY LIFE.

16 Q DOCTOR, LET'S TAKE A LOOK AT THE 16TH, THE FOLLOWING
17 DAY ON THE MOTHER'S CHART.

18 A I WILL READ IT. BABY DOING MUCH BETTER BUT WILL
19 ELECT NOT TO PROCEED WITH STERILIZATION PROCEDURE UNTIL
20 SIX TO EIGHT WEEKS POST-PARTUM IN VIEW OF THE
21 INADVISABILITY OF THIS SURGERY AFTER 48 HOURS HAS PASSED.

22 Q RIGHT. THEY WERE GOING TO DO IT AT THE SAME TIME.
23 THERE'S SOME CONCERN HERE -- NOT ABOUT THE BABY. THERE'S
24 NO CONCERN ABOUT THE BABY. THE CONCERN IS ABOUT THEY ARE
25 GOING TO WAIT TILL MAMA RECOVERS, AND SINCE THE 48 HOURS

1 PAST THE --- PASSED -- THE BIRTH HAS PASSED, THEY ARE GOING
2 TO WAIT TILL SHE RECOVERS TO DO THE SURGERY. ISN'T THAT
3 WHAT THAT TELLS YOU?

4 A YES.

5 Q SO THERE'S NO CONCERN ABOUT THE BABY ON THE 16TH AND
6 THIS TUBAL LIGATION BUSINESS; IS THERE?

7 A WELL, ON THE 17TH IT SAYS, DISCHARGE THE MOTHER. I
8 GUESS THIS IS THE MOTHER'S RECORD -- THIS AM. BABY MAY
9 STAY, NOW HAS JAUNDICE. SO IN MY OPINION IT'S SAYING, THE
10 MOTHER CAN GO, BUT THIS BABY IS STILL SICK.

11 Q AND THEY KEPT THE BABY ONE MORE DAY TO OBSERVE IT FOR
12 JAUNDICE; ISN'T THAT CORRECT?

13 A YEAH.

14 Q OKAY. AND THEN DISCHARGED THE BABY THE NEXT DAY?

15 A YES.

16 Q AND YOU GLEAN FROM THAT INFORMATION, DOCTOR, THE
17 QUESTION MARKS AND THE SPECULATION AND THE WONDERINGS OF
18 SOME VERY SUMMARY NOTES, YOU WITHIN A REASONABLE DEGREE OF
19 MEDICAL CERTAINTY, 100 PERCENT, CAN TELL THIS JURY THAT
20 STEPHEN STANKO HAS A BIRTH DEFECT?

21 A YES. AND IF -- CAN I EXPOUND ON THAT?

22 Q NO. I'M--

23 A OKAY.

24 Q YOU'VE ANSWERED THE QUESTION ALL YOU CAN.

25 MR. KELLY: NO, MA'AM.

1 THE COURT: SIR, YOU MAY EXPLAIN YOUR ANSWER.

2 THE WITNESS: YOU USE THE WORDS GLEAN LIKE
3 THERE'S SOME VERY IFFY STUFF HERE AND IT'S JUST A
4 VERY THIN LAYER OF TRUTH. THESE ARE THE ABSOLUTE
5 MEDICAL RECORDS THAT DOCTORS ARE SUED ON OR NOT SUED
6 ON, AND GREAT DECISIONS ARE MADE BASED ON WHAT'S
7 DOCUMENTED HERE.

8 THIS WASN'T TAKEN LIGHTLY. YOU KNOW, NORMAL
9 BIRTHS DO NOT HAVE THIS KIND OF QUESTION MARK
10 DIAGNOSIS. THIS IS SERIOUS. OF THE THREE THINGS
11 THEY THOUGHT THIS BABY HAD, TWO INVOLVED BRAIN
12 DAMAGE.

13 NOW, WHEN A DOCTOR DOESN'T KNOW WHAT EXACTLY IT
14 IS, THEY WRITE DOWN WHAT THEY THINK IT IS. AND OF
15 THREE THINGS, TWO WERE BRAIN DAMAGE AND ONE WAS
16 STOMACH PROBLEMS.

17 AND I'M SORRY BUT IT'S NOT GLEANED LIKE I JUST
18 SCANNED OVER THIS -- THAT THESE DOCTORS JUST QUICKLY,
19 YOU KNOW, ARE THEY LAZY, WERE THEY TIRED AND JUST,
20 YOU KNOW, THEY WROTE THESE RECORDS WITH GREAT
21 SERIOUSNESS BECAUSE ALL OF -- ALL PHYSICIANS, LIKE
22 MYSELF, WE MUST DO EXCELLENT RECORDKEEPING TO
23 DOCUMENT WHAT WE HAVE DONE FOR THE FUTURE SO THAT IF
24 THERE'S A QUESTION ABOUT ANYTHING, WE CAN COME BACK
25 AND LOOK.

1 NOW, YOU ASKED -- AGAIN YOU'VE ASKED, WELL, HAVE
2 I GLEANED IT LIKE IT'S -- IT'S NOT CLEAR. I THINK
3 IT'S VERY CLEAR. I UNDERSTOOD -- IN FACT, YOU
4 POINTED OUT THOSE THREE THINGS TO ME THAT I MISSED.
5 I THANK YOU FOR THAT.

6 I ACTUALLY DIDN'T NOTICE THAT WHEN I FIRST
7 REVIEWED IT. BUT IT ACTUALLY, FROM THE MOTHER'S
8 CHART, CONFIRMS -- FROM THE CHILD'S CHART CONFIRMS
9 WHAT'S IN THE MOTHER'S CHART.

10 BY MR. HEMBREE:

11 Q AND DOCTOR, DO YOU HAVE ANY HISTORY, ANY EARLY
12 HISTORY OF THIS CHILD SUFFERING FROM A BRAIN DEFECT AT --
13 DURING HIS -- DURING HIS CHILDHOOD?

14 A THE -- YES, I DO. AND IT COMES FROM THE MOTHER'S
15 STATEMENT TO THE INVESTIGATOR AT THE HALL INSTITUTE AND
16 FROM DR. CRAWFORD'S REPORT THAT HE HAD AS A YOUNG MAN NOW
17 FROM CHILDHOOD--

18 Q AS A CHILD.

19 A -- HIS MOTHER SAID THAT HE BEGAN INTRACTABLE LYING OR
20 JUST, YOU KNOW, JUST CONSTANT LYING AT A YOUNG AGE, LET'S
21 SAY THE EARLY TEENS. NOW -- BUT FROM THE TEEN -- EARLY
22 TEENS ON BEFORE TO CHILDHOOD, I DON'T HAVE ANY RECORD OF
23 ANYTHING ABNORMAL AS FAR AS HIS BEHAVIOR.

24 BUT TYPICAL OF PSYCHOPATHS THEY ARE -- THERE IS NONE.
25 MAY NOT BE.

1 Q AND YOU'VE ASSEMBLED YOUR REPORT, YOUR MATERIALS, AND
2 YOU PASSED THOSE ALONG TO DR. THRASHER SO HE COULD REVIEW
3 THOSE AND INCLUDE THOSE FINDINGS IN HIS REPORT AS WELL?

4 A YES. I -- I DIDN'T HAND THEM TO DR. THRASHER.

5 Q THEY WERE PROVIDED?

6 A YES.

7 Q AND THERE'S NO QUESTION THAT YOU ARE AN EXPERT FOR
8 THE DEFENSE IN THIS CASE?

9 A YES.

10 Q SO YOU HAVE BEEN RETAINED BY THE DEFENDANT, MR.
11 DIGGS, AND MR. KELLY?

12 A YES.

13 Q I'M CURIOUS, DOCTOR, HOW MUCH HAVE YOU CHARGED FOR
14 YOUR TESTIMONY AND YOUR PREPARATION IN THIS CASE?

15 A WELL, FOR MY TIME I'M ALLOWED \$40,000 IF MY TIME
16 COMES TO THAT. I HAVE NOT SENT IN ONE BILL YET. I HAVE
17 NOT BEEN PAID A SINGLE DIME. I HAVE DONE ALL OF THIS ON
18 MY OWN TIME.

19 Q BUT YOU EXPECT TO BE PAID?

20 A I SURE HOPE SO.

21 Q AND YOU HAVE A BUDGETED AMOUNT OF \$40,000?

22 A CORRECT.

23 Q HOW MUCH DO YOU CHARGE PER HOUR FOR YOUR TESTIMONY?

24 A FOR COURTROOM TIME FOR A FORENSIC EXPERT, THE AVERAGE
25 IS FIVE -- FOUR TO \$500 AN HOUR. IN THIS CASE IT'S \$400

1 AN HOUR.

2 Q YOU'RE CHARGING \$400 AN HOUR FOR YOUR TESTIMONY IN
3 COURT?

4 A FOR MY TIME.

5 Q CORRECT. WELL, FOR YOUR TIME, YOUR -- AND THEN YOU
6 CHARGE A DIFFERENT AMOUNT FOR YOUR TIME OUTSIDE OF COURT?

7 A CORRECT.

8 Q HOW MUCH DO YOU CHARGE PER HOUR FOR YOUR REVIEWING
9 THE NOTES AND PREPARING THE DOCUMENTS AND REPORTS AND SO
10 FORTH?

11 A ACTUALLY, I'M SORRY. IT'S -- IT'S THAT RATE FOR ALL
12 MY TIME.

13 Q FLAT RATE, \$400 ACROSS THE BOARD?

14 A CORRECT. AND I'M -- I AM ABSOLUTELY CERTAIN -- I
15 GUESS AT \$40,000 IF I SPEND OVER 100 HOURS ON THIS. I'VE
16 ALREADY SPENT OVER A HUNDRED HOURS ON THIS CASE. I HAVE
17 SPENT A TON OF TIME.

18 Q OKAY.

19 A SO I SPENT MANY -- MOST OF MY WEEKENDS SINCE THIS WAS
20 DONE REVIEWING, REVIEWING, REVIEWING, DRIVING OUT HERE TO
21 SEE MR. STANKO, DRIVING OUT HERE FROM MACON, SIX HOUR
22 DRIVE HERE, SIX HOURS BACK FOR THE PRETRIAL, STAYING OUT
23 HERE FOR THIS. I HAVE REALLY TAKEN A LOT OF TIME.

24 Q AND YOU -- ACTUALLY YOU'VE GOT A WEBSITE; DON'T YOU,
25 DOCTOR?

1 A I DO.

2 Q AND ONE OF THE LINKS ON YOUR WEBSITE IS YOUR MEDIA
3 APPEARANCES; ISN'T THAT CORRECT?

4 A YES.

5 Q ONE OF THOSE IS SOMETHING TO DO WITH DEMONS AND
6 EXORCISM; ISN'T IT?

7 A THAT'S CORRECT.

8 Q PLEASE ANSWER ANY QUESTIONS MR. DIGGS MAY HAVE.

9 THE COURT: ANY REDIRECT OF THE WITNESS?

10 MR. DIGGS: YOUR HONOR, WE DON'T HAVE ANY
11 QUESTIONS.

12 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
13 EXCUSED FROM THE STATE?

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

15 THE COURT: FROM THE DEFENSE?

16 MR. DIGGS: NONE, YOUR HONOR.

17 THE COURT: SIR, YOU'RE EXCUSED.

18 (WITNESS LEFT THE STAND.)

19 THE COURT: MADAM FORELADY, LADIES AND
20 GENTLEMEN, WE'RE GOING TO TAKE ADVANTAGE OF THIS
21 BREAK IN TESTIMONY TO TAKE OUR LUNCHEON RECESS.
22 DURING THE BREAK PLEASE DO NOT DISCUSS THIS CASE
23 AMONG YOURSELVES. PLEASE LEAVE YOUR NOTEPADS IN YOUR
24 SEATS.

25 AND AGAIN, THE CLERK HAS BEEN VERY GENEROUS.

1 YOUR LUNCH HAS BEEN BROUGHT IN TODAY AND I UNDERSTAND
2 THAT IT IS GOING TO BE VERY GOOD, SO ENJOY YOUR LUNCH
3 AND WE WILL BE BACK WITH YOU SHORTLY AS TO WHEN WE
4 WILL BE RESUMING.

5 (JURY LEFT THE COURTROOM AT 1:21 PM.)

6 THE COURT: OKAY. LET'S MAKE SURE WE HAVE ALL
7 OF THE EXHIBITS. AND JUST FOR CLARITY OF THE RECORD,
8 WHAT I DID WAS THE RECORD -- MEDICAL RECORDS, FOR
9 APPELLATE PURPOSES I WANT TO MAKE SURE THE RECORD IS
10 CLEAR. I DON'T WANT THEM HAVING TO BE LOOKING BACK
11 AND FORTH.

12 SO ALL COURT'S EXHIBITS WILL REMAIN AS COURT'S
13 EXHIBITS, BUT THOSE COURT EXHIBITS THAT HAVE BEEN
14 MADE DEFENSE EXHIBITS WE'LL HAVE TO MAKE DUPLICATE
15 COPIES SO THAT THE RECORD MAY REFLECT.

16 AND TO THE EXTENT THAT WE NEED TO, WE'LL START
17 TO HELP KATHY SO THOSE COPIES CAN BE MADE. I BELIEVE
18 IT WAS COURT'S 5 AND 6 WERE THE MEDICAL RECORDS OF
19 MR. STANKO AND HIS MOTHER AT BIRTH; CORRECT? AND
20 THEY WILL BE DEFENDANT'S NEXT TWO EXHIBITS, 21 AND
21 22.

22 MR. DIGGS: YOUR HONOR, DR. SACHY'S REPORT A
23 COURT EXHIBIT?

24 THE COURT: DID YOU MOVE TO DO THAT IN HIS
25 TESTIMONY? IS THE STATE GOING TO OBJECT TO THAT?

1 MR. HEMBREE: YES, YOUR HONOR.

2 THE COURT: YEAH. I DON'T KNOW HOW YOU ARE
3 GOING TO -- HOW ARE YOU GOING TO GET IT IN?

4 MR. HEMBREE: HE'S ALREADY TESTIFIED TO IT.

5 THE COURT: I THINK ONCE YOU HAVE HIM TESTIFY, I
6 DON'T THINK--

7 MR. DIGGS: I WILL PUT IT--

8 THE COURT: BUT I MEAN, YOU CAN PUT HIM BACK ON
9 THE STAND. I'M NOT GOING TO TELL YOU HOW TO RUN YOUR
10 CASE. I TAKE IT UP IN AN ATTEMPT TO DO IT.

11 MR. DIGGS: ALL RIGHT.

12 THE COURT: WE WILL BE AT EASE FOR LUNCH. I
13 WOULD ASSUME THAT IT PROBABLY WILL TAKE -- IT IS
14 GOING TO TAKE THE JURY ABOUT 30 MINUTES TO EAT AND
15 ANOTHER 15 TO GET REFRESHED, SO WE WILL RESUME -- AND
16 I GUESS I NEED -- WELL, LET'S SEE.

17 IT'S... 1:21. HAVE YOU ALL BEEN BRINGING YOUR
18 LUNCH IN OR DO Y'ALL HAVE TO GO OUT TO EAT?

19 MR. DIGGS: GO OUT.

20 THE COURT: OKAY.

21 MR. HEMBREE: JUDGE?

22 THE COURT: YES.

23 MR. HEMBREE: FRAN JUST POINTED SOMETHING OUT
24 IMPORTANT. WE HAVE GOT DOCTORS COMING IN FROM
25 CHARLESTON THIS AFTERNOON. THEY ARE GOING TO BE

1 FAIRLY SHORT, BUT IT'S -- IT IS -- I JUST AM -- HOPE
2 AND PRAY WE CAN GET THEM ALL IN THIS AFTERNOON.

3 DR. CRAWFORD IS HERE OBVIOUSLY. SHE'S GOING TO
4 BE OUR FIRST WITNESS. BUT WE HAVE THREE OTHER
5 DOCTORS THAT WILL TESTIFY THAT...

6 THE COURT: WELL, WE WILL HAVE TO TAKE IT AS IT
7 COMES. I STILL HAVE TO QUESTION MR. STANKO ABOUT
8 WHETHER HE INTENDS TO TESTIFY. AND SO THAT'S WHAT
9 I'M TRYING TO COORDINATE RIGHT NOW.

10 MR. HEMBREE: JUST WANT TO MAKE YOU AWARE.

11 THE COURT: YEAH. I'M TRYING TO GIVE YOU ALL
12 ENOUGH TIME TO EAT WITHOUT FRUSTRATING THE JURY
13 EITHER. ONCE THEY EAT AND HAVE A LITTLE WALK, THEY
14 ARE READY TO START.

15 OF COURSE, THEY DON'T KNOW THAT YOU ALL HAVE TO
16 GO OUT TO EAT. SO WHAT WE WILL DO IS WE WILL RESUME
17 AT 2:25, WHICH IS AN HOUR, LITTLE MORE THAN AN HOUR
18 FROM NOW, 1:22.

19 AT THAT TIME I WILL RESUME THE QUESTIONING OF
20 MR. STANKO REGARDING HIS RIGHTS SO THAT THAT'S CLEAR
21 FOR THE RECORD, AND THEN WE'LL SEE WHERE WE'RE GOING
22 FROM THERE BECAUSE I DON'T KNOW IF THE DEFENSE MAY
23 HAVE OTHER WITNESSES. OKAY?

24 MR. HEMBREE: THANK YOU, YOUR HONOR.

25 (WHEREUPON COURT WAS IN RECESS FOR LUNCH.)

1 (WHEREUPON, DEFENDANT'S EXHIBITS 21 AND 22 WERE
2 ADMITTED INTO EVIDENCE.)

3 THE COURT: MR. STANKO, IF YOU -- ASK MR. DIGGS,
4 DO YOU HAVE -- DOES THE DEFENSE HAVE ANY ADDITIONAL
5 WITNESSES?

6 MR. DIGGS: YOUR HONOR, WE'RE NOT GOING TO
7 PRESENT ANY ADDITIONAL WITNESSES.

8 THE COURT: OKAY. MR. STANKO, IF YOU WOULD
9 STAND FOR ME, PLEASE SIR. I WOULD REMIND YOU THAT
10 YOU'RE STILL UNDER OATH. MR. STANKO, ON LAST NIGHT I
11 EXPLAINED TO YOU CERTAIN OF YOUR RIGHTS, YOUR
12 CONSTITUTIONAL RIGHTS REGARDING YOUR RIGHT TO TESTIFY
13 OR NOT TO TESTIFY, AND I TOLD YOU AT THAT TIME THAT I
14 WAS INSTRUCTING YOU REGARDING THOSE RIGHTS SO THAT
15 YOU WOULD HAVE A FULL OPPORTUNITY TO DISCUSS THOSE
16 MATTERS AND HAVE SOME COOL REFLECTION REGARDING THE
17 DECISION REGARDING THOSE MATTERS AT THE CONCLUSION OF
18 THE WITNESSES YOU HAVE PRESENTED ON YOUR BEHALF.

19 SIR, HAVE YOU HAD A FULL OPPORTUNITY TO DISCUSS
20 WHETHER YOU WANT TO TESTIFY OR DO NOT WANT TO TESTIFY
21 WITH YOUR LAWYERS?

22 THE DEFENDANT: YES, MA'AM, I HAVE.

23 THE COURT: DO YOU WISH TO TALK WITH YOUR
24 LAWYERS ANY MORE AT THIS TIME?

25 THE DEFENDANT: NO, MA'AM.

1 THE COURT: AND SIR, DO YOU WISH TO TESTIFY?

2 THE DEFENDANT: NO, MA'AM.

3 THE COURT: OKAY. HAVE YOU ALSO HAD A FULL
4 OPPORTUNITY TO DISCUSS WITH YOUR LAWYERS YOUR
5 RIGHTS -- BEAR WITH ME -- YOUR RIGHT TO ADDRESS THE
6 JURY PURSUANT TO SOUTH CAROLINA CODE ANNOTATED
7 16-3-28?

8 I'M SORRY. I SHOULD HAVE PUT THAT IN LAYMAN'S
9 TERMS, AND I APOLOGIZE -- REGARDING YOUR RIGHT TO
10 ADDRESS THE JURY IN CLOSING ARGUMENT?

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: DO YOU FEEL YOU NEED ANY ADDITIONAL
13 OPPORTUNITY TO DISCUSS THAT MATTER WITH YOUR LAWYERS?

14 THE DEFENDANT: MAY I HAVE JUST 10 SECONDS?

15 THE COURT: SURE. DO YOU WANT TO GO OUTSIDE THE
16 PRESENCE OF EVERYONE HERE?

17 THE DEFENDANT: NO, MA'AM.

18 THE COURT: OKAY.

19 (DEFENDANT AND COUNSEL CONFERRING.)

20 THE DEFENDANT: MA'AM, I'M NOT GOING TO ADDRESS
21 THE JURY.

22 THE COURT: MR. DIGGS, MR. KELLY, DO YOU FEEL
23 THAT YOU HAVE FULLY EXPLAINED THESE -- AND I'M
24 REFERRING TO MR. STANKO'S RIGHT TO ADDRESS THE JURY
25 PURSUANT TO 16-3-28, DO YOU FEEL THAT YOU HAVE FULLY

1 DISCUSSED THESE MATTERS WITH MR. STANKO?

2 MR. DIGGS: YES, I FEEL WE DID.

3 THE COURT: DO YOU BELIEVE THAT HE UNDERSTANDS
4 WHAT YOU HAVE EXPLAINED TO HIM?

5 MR. DIGGS: YES, MA'AM.

6 THE COURT: AND DO YOU BELIEVE THAT HE HAS
7 FREELY AND VOLUNTARILY WAIVED HIS RIGHT?

8 MR. DIGGS: YES.

9 THE COURT: DO YOU FEEL THAT HE IS UNDER ANY
10 DURESS OR OTHERWISE IN MAKING THIS DECISION?

11 MR. DIGGS: NO, MA'AM.

12 THE COURT: MR. STANKO, ARE YOU MAKING THIS
13 DECISION TO WAIVE YOUR RIGHT TO ADDRESS THE JURY
14 FREELY AND VOLUNTARILY?

15 THE DEFENDANT: YES, MA'AM.

16 THE COURT: DO YOU BELIEVE THAT YOU'RE UNDER ANY
17 DURESS OR OTHER PRESSURES IN MAKING YOUR DECISION?

18 THE DEFENDANT: NO, MA'AM.

19 THE COURT: DO YOU BELIEVE THAT YOU HAD A FULL
20 OPPORTUNITY TO DISCUSS THESE MATTERS WITH YOUR
21 LAWYERS?

22 THE DEFENDANT: YES, MA'AM, I HAVE.

23 THE COURT: ARE YOU SUFFERING FROM ANY MENTAL
24 DISABILITIES AT THIS TIME OR UNDER THE INFLUENCE OF
25 ANY DRUGS OR ALCOHOL THAT WOULD IMPAIR YOUR ABILITY

1 TO MAKE THIS DECISION?

2 THE DEFENDANT: NO, MA'AM.

3 MR. DIGGS: YOUR HONOR, WE'D MAKE THAT SUBJECT
4 TO THE EVIDENCE THAT WE PRESENTED.

5 THE COURT: WELL, I THINK THAT THAT GOES WITHOUT
6 SAYING. I'M TALKING ABOUT TAKING MEDICATION--

7 MR. DIGGS: YES, MA'AM.

8 THE COURT: -- OR SOME OTHER INJURY THAT WOULD
9 IMPAIR HIS ABILITY TO MAKE A FREE, VOLUNTARY, AND
10 KNOWING WAIVER.

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: IS YOUR ANSWER TO THAT QUESTION NO?

13 THE DEFENDANT: NO, MA'AM. NO MEDICINE THAT I
14 -- MY ABILITY.

15 THE COURT: OKAY. IS THERE ANYTHING FURTHER FOR
16 THE RECORD BEFORE WE BEGIN, BEFORE I BRING THE JURY
17 BACK IN--

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

19 THE COURT: -- WE BEGIN THE REBUTTAL PORTION OF
20 THIS CASE?

21 MR. HEMBREE: YOUR HONOR, DO WE NEED TO TAKE UP
22 ANY MOTIONS AT THIS TIME?

23 THE COURT: I DON'T -- THEY HAVEN'T RESTED YET.

24 MR. HEMBREE: OH, I'M SORRY.

25 THE COURT: YES. WHEN THEY REST, WE WILL --

1 WELL, WE CAN DO IT ONE OF TWO WAYS. IF YOU WANT TO,
2 MR. DIGGS, YOU ALL CAN GO AHEAD AND REST, I CAN TAKE
3 UP THE MOTIONS, AND THEN THE JURY COMES IN, YOU CAN
4 REST IN THEIR PRESENCE, AND THEN WE CAN GO ON WITH
5 THE STATE'S REBUTTAL CASE.

6 MR. DIGGS: YOUR HONOR, WE WOULD REST AT THIS
7 POINT.

8 THE COURT: ARE THERE ANY MOTIONS?

9 MR. DIGGS: YOUR HONOR, I WOULD ASK PERMISSION
10 TO WITHHOLD MAKING THOSE MOTIONS UNTIL THE END OF THE
11 PRESENTATION OF THE EVIDENCE IN THE CASE WITHOUT
12 WAIVING -- AT THIS TIME WITHOUT WAIVING ANY RIGHTS
13 THAT WE HAVE TO -- TO MAKE MOTIONS. I WOULD ASK TO
14 BE PERMITTED TO HOLD OUR MOTIONS UNTIL WE...

15 THE COURT: WHAT WOULD BE THE PRECEDENCE FOR
16 THAT?

17 MR. DIGGS: PARDON?

18 THE COURT: WHAT WOULD BE THE PRECEDENCE FOR
19 THAT?

20 MR. DIGGS: WELL, SIMPLY BECAUSE THERE
21 APPARENTLY IS GOING TO BE ADDITIONAL EVIDENCE
22 PRESENTED IN THE CASE.

23 THE COURT: THE COURT ISN'T GOING TO CONSIDER
24 THAT IN WHETHER A DIRECTED VERDICT IS APPROPRIATE.

25 MR. DIGGS: WELL, THEN I WOULD RENEW THE

1 DIRECTED VERDICT MOTION--

2 THE COURT: I DON'T THINK PROCEDURALLY I'M
3 ALLOWED TO--

4 MR. DIGGS: YOU MEAN IN TERMS OF ALLOWING--

5 THE COURT: I THINK WHEN -- AT LEAST MY
6 UNDERSTANDING OF THE RULES IS THE STATE PRESENTS ITS
7 CASE, THEY REST, AND HEAR ANY MOTIONS AT THAT TIME
8 ONCE THE PLAINTIFF -- ONCE THE DEFENSE RESTS, I HEAR
9 MOTIONS, AND THEN THE PARTY HAVING THE BURDEN OF
10 PROOF HAS THE ABILITY TO CALL REBUTTAL WITNESSES.

11 MR. DIGGS: YOUR HONOR, WE WILL SOLVE THAT ISSUE
12 AND GO AHEAD AND RENEW THOSE MOTIONS NOW THAT THE
13 DEFENSE HAS CONCLUDED THE PRESENTATION OF ITS
14 EVIDENCE, AND BASICALLY ON THE SAME GROUNDS THAT WE
15 HAD BEFORE WITH THE EXCEPTION OF THE FACT THAT WE
16 HAVE ADDITIONAL SCIENTIFIC EVIDENCE NOW IN THE RECORD
17 THAT EXPLAINS MORE FULLY THE ARGUMENT OF INSANITY
18 THAT WAS PRESENT AT THE CLOSE OF THE STATE'S CASE.

19 WE'D SUBMIT THAT THERE'S BEEN AN EXPLANATION
20 OFFERED THAT IS REALLY THE ONLY REASONABLE INFERENCE
21 THAT CAN BE DRAWN FROM THE EVIDENCE AT THIS POINT,
22 AND ON THOSE GROUNDS WE WOULD ASK THAT THE COURT
23 DIRECT A VERDICT OF NOT GUILTY BY REASON OF INSANITY.

24 THE COURT: WOULD THE STATE LIKE TO RESPOND?

25 MR. HUMPHRIES: VERY BRIEFLY, YOUR HONOR.

1 THE COURT: YOU MAY PROCEED.

2 MR. HUMPHRIES: WE SUBMIT THAT THE SAME EVIDENCE
3 THAT THE STATE PUT FORWARD AT THE DIRECTED VERDICT
4 MOTION AT THE END OF THE STATE'S CASE, AT THE VERY
5 LEAST WHEN CONSIDERED IN THE LIGHT MOST FAVORABLE TO
6 THE STATE CREATES A JURY ISSUE REGARDING THE SANITY
7 OF THE DEFENDANT. WE'D REQUEST THAT IT BE DENIED.

8 THE COURT: THE COURT HAS CONSIDERED THE
9 DEFENDANT'S MOTION FOR DIRECTED VERDICT. OF COURSE,
10 THE STANDARD IS THE SAME. THE COURT IS REQUIRED TO
11 VIEW THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE
12 STATE.

13 IF THERE IS ANY DIRECT OR SUBSTANTIAL
14 CIRCUMSTANTIAL EVIDENCE REASONABLY TENDING TO PROVE
15 THE GUILT OF THE ACCUSED, THEN THE ISSUES MUST BE
16 SUBMITTED TO THE JURY FOR ITS DETERMINATION.

17 THE COURT AT THIS STAGE IS NOT CONCERNED WITH
18 THE WEIGHT OF EVIDENCE BUT ONLY THE EXISTENCE OR
19 NONEXISTENCE OF EVIDENCE. I THINK IN THE MOST
20 LIBERAL SENSE AS THE POSTURE OF THE CASE STANDS NOW,
21 IT IS -- SANITY OR INSANITY IS A JURY QUESTION.

22 THERE IS CERTAINLY EVIDENCE BEEN PRESENTED THAT
23 IN MR. STANKO'S EXPERT'S OPINION THAT HE WAS INSANE
24 AT THE TIME. I ASSUME BY THE SAME TOKEN THE STATE IS
25 GOING TO ARGUE HIS DIMINISHED CAPACITY BECAUSE OF THE

1 TESTIMONY REGARDING THE IMPULSIVITY, HIS INABILITY TO
2 CONTROL HIS IMPULSES.

3 SO LOOKING AT THE EVIDENCE IN THE LIGHT MOST
4 FAVORABLE TO THE STATE THAT'S A QUESTION OF FACT FOR
5 THE JURY TO RESOLVE AND WOULD BE INAPPROPRIATE FOR
6 THE COURT TO WEIGH IT.

7 CERTAINLY FROM THE COURT'S PERSPECTIVE THERE IS
8 CERTAINLY DIRECT EVIDENCE AS WELL AS SUBSTANTIAL
9 CIRCUMSTANTIAL EVIDENCE REASONABLY TENDING TO PROVE
10 THE DEFENDANT'S GUILT AND THEREFORE THE MATTER FOR
11 THE DIRECTED VERDICT IS DENIED. IS THERE ANYTHING
12 FURTHER FOR THE RECORD?

13 MR. HUMPHRIES: NO THANK YOU, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER FROM THE DEFENSE?

15 MR. DIGGS: NO, YOUR HONOR.

16 THE COURT: OKAY. WOULD COUNSEL APPROACH FOR ME
17 ONE MOMENT?

18 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

19 THE COURT: ALL RIGHT. THANK YOU. OKAY. BRING
20 IN THE JURY. AND AS I UNDERSTAND IT, MR. DIGGS, YOU
21 ALL WILL REST IN THE PRESENCE OF THE JURY AND WE WILL
22 THEN PROCEED WITH THE STATE'S REBUTTAL CASE.

23 MR. DIGGS: OKAY. THANK YOU, YOUR HONOR.

24 THE COURT: YOU'RE WELCOME.

25 (JURY ENTERED THE COURTROOM AT 2:45 PM.)

1 THE COURT: LADIES AND GENTLEMEN, YOU MAY BE
2 SEATED. I HOPE THAT YOU ALL ENJOYED YOUR LUNCHEON
3 RECESS. WE WILL NOW RESUME WITH THE TRIAL. MR.
4 DIGGS?

5 MR. DIGGS: THANK YOU, AND MAY IT PLEASE THE
6 COURT. YOUR HONOR, AT THIS TIME THE DEFENSE WILL
7 REST.

8 THE COURT: LADIES AND GENTLEMEN, THE DEFENSE
9 HAS RESTED THEIR CASE. WE'LL NOW RESUME -- AS I
10 UNDERSTAND IT, THE STATE HAS REBUTTAL WITNESSES.

11 MR. HEMBREE: THAT'S CORRECT, YOUR HONOR. THANK
12 YOU.

13 THE COURT: YOU MAY PROCEED.

14 MR. HEMBREE: THANK YOU. THE STATE CALLS DR.
15 PAMELA CRAWFORD TO THE WITNESS STAND.

16 DR. PAMELA CRAWFORD, AFTER BEING
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. HEMBREE:

20 Q DR. CRAWFORD, PLEASE, IF YOU WILL, GIVE US A REVIEW
21 OF YOUR EDUCATION, EXPERIENCE, AND TRAINING IN THE FIELD
22 OF FORENSIC PSYCHIATRY.

23 A OKAY. I WENT TO EMORY UNIVERSITY IN ATLANTA AND
24 GRADUATED WITH A BACHELOR'S DEGREE IN PSYCHOLOGY IN 1983.
25 I THEN WENT TO EMORY UNIVERSITY SCHOOL OF MEDICINE AND GOT

1 MY MD DEGREE, AND THEN I STAYED AT EMORY FOR FOUR MORE
2 YEARS AND DID A RESIDENCY AT EMORY, TOOK MY BOARDS AND
3 BECAME BOARD CERTIFIED IN PSYCHIATRY.

4 I THEN WAS IN THE AIR FORCE FOR THREE YEARS AND
5 PRACTICED AS A PSYCHIATRIST, AND I GOT OUT WHEN I WAS A
6 MAJOR IN THE AIR FORCE, WENT TO GEORGIA FOR A FEW YEARS,
7 AND THEN CAME TO SOUTH CAROLINA WHERE I HAVE BEEN SINCE
8 1997.

9 I TOOK MY BOARDS IN FORENSIC PSYCHIATRY AND AM BOARD
10 CERTIFIED IN BOTH. THAT'S...

11 Q THAT'S IN BOTH PSYCHIATRY AND FORENSIC PSYCHIATRY?

12 A BOTH IN PSYCHIATRY AND FORENSIC PSYCHIATRY.

13 Q AND I SUSPECT THAT THIS JURY HAS PROBABLY -- THEY'VE
14 HEARD A LOT OF QUALIFICATIONS OVER THE LAST COUPLE OF
15 DAYS. THEY PROBABLY HAVE SOME SENSE OF WHAT A FORENSIC
16 PSYCHIATRIST IS, BUT IF YOU WOULD BRIEFLY REVIEW THAT
17 SUB-SPECIALTY OF PSYCHIATRY.

18 A I WILL DO IT BRIEFLY. FORENSIC PSYCHIATRY IS A
19 SUB-SPECIALTY OF PSYCHIATRY WHERE WE FOCUS ON ANY AREA IN
20 WHICH THE LAW AND PSYCHIATRY INTER -- INTERACT. SO IT CAN
21 BE IN CRIMINAL CASES, SUCH AS THE ISSUES HERE WHERE
22 THERE'S QUESTIONS OF SANITY.

23 IT CAN ALSO BE IN CIVIL CASES, FOR INSTANCE, CAR
24 WRECKS OR SOMEBODY REALLY HAD POST-TRAUMATIC STRESS
25 DISORDER, BASICALLY ANYWHERE WHERE THE TWO INTERSECT.

1 Q AND WHERE HAVE YOU BEEN WORKING OR WHAT HAS BEEN YOUR
2 EXPERIENCE, YOUR PROFESSIONAL EXPERIENCE, IN THE FIELD OF
3 FORENSIC PSYCHIATRY?

4 A I STARTED DOING SOME FORENSIC PSYCHIATRY WHEN I WAS
5 IN THE MILITARY. WE DID THESE THINGS CALLED SANITY BOARDS
6 WHEN I WAS KIND OF NEW TO THE WHOLE AREA, AND THEN IN
7 GEORGIA I WAS THE -- THE ASSISTANT DIRECTOR OF THE -- ONE
8 OF THE STATE HOSPITALS THERE WHERE I DID A LOT OF
9 SUPERVISION AND SOME TREATMENT OF PSYCHIATRIC PATIENTS.

10 THE MAJORITY OF MY EXPERIENCE CAME IN SOUTH CAROLINA
11 WHERE I WAS THE DIRECTOR OF THE FORENSIC DIVISION AT HALL
12 INSTITUTE, AND THAT MEANT THAT I WAS RESPONSIBLE
13 ADMINISTRATIVELY UP -- FOR ALL THE COURT-ORDERED SANITY
14 EVALUATIONS FOR THE STATE OF SOUTH CAROLINA.

15 AND YOU KNOW, I DID THEM ALL. I DID TONS OF THEM,
16 BUT I WAS -- I HAD TO SIGN OFF ON EVERY ONE THAT WAS DONE.
17 I WAS ALSO IN CHARGE OF THE UNIT WHERE PEOPLE WHO ARE
18 FOUND NOT GUILTY BY REASON OF INSANITY CAN STAY, AND I WAS
19 ALSO IN CHARGE OF THE UNIT WHERE PEOPLE WHO WERE FOUND
20 INCOMPETENT TO STAND TRIAL. SO FOR A THREE YEAR PERIOD I
21 DID A LOT OF THESE KIND OF EVALUATIONS.

22 ABOUT -- IN 2002 I CHANGED JOBS AND BEGAN TO DO THE
23 EVALUATIONS FOR THE COURT UNDER THE SEXUALLY VIOLENT
24 PREDATOR ACT WHICH INVOLVES EVALUATING PEOPLE FORENSICALLY
25 UNDER THAT ACT.

1 I ALSO TEACH AT THE UNIVERSITY AT THE UNIVERSITY OF
2 SOUTH CAROLINA. I'M A CLINICAL ASSISTANT PROFESSOR THERE.
3 AND I ALSO -- IN PART OF MY JOB I DO CONSULTATION WITH
4 SOUTH CAROLINA LAW ENFORCEMENT DIVISION AND I ALSO DO
5 CONSULTATION AROUND THE STATE IN TERMS OF IS SOMEBODY
6 DANGEROUS, EITHER SEXUALLY OR VIOLENTLY DANGEROUS
7 PATIENTS, SO I DO THOSE KINDS OF THINGS AS WELL.

8 Q DR. CRAWFORD, I NOTICED -- HOW MANY FORENSIC
9 EVALUATIONS, PSYCHIATRIC EVALUATIONS, HAVE YOU PERSONALLY
10 CONDUCTED?

11 A HUNDREDS.

12 Q AND HAVE YOU BEEN QUALIFIED IN COURTS OF RECORD? ARE
13 YOU LICENSED TO PRACTICE MEDICINE IN THE STATE OF SOUTH
14 CAROLINA?

15 A YES, I AM, SOUTH CAROLINA AND IN GEORGIA.

16 Q AND HAVE YOU BEEN QUALIFIED IN COURTS OF RECORD IN
17 SOUTH CAROLINA AS A FORENSIC PSYCHIATRIST?

18 A YES.

19 Q ON HOW MANY OCCASIONS?

20 A OVER 200.

21 MR. HEMBREE: YOUR HONOR, WE WOULD MOVE THAT DR.
22 CRAWFORD BE PERMITTED TO TESTIFY AS AN EXPERT IN THE
23 FIELD OF FORENSIC PSYCHIATRY.

24 THE COURT: ANY OBJECTIONS OR QUESTIONS?

25 MR. DIGGS: YOUR HONOR, NO, WE HAVE NO

1 OBJECTION. NO QUESTIONS AND OBJECTIONS.

2 THE COURT: SO ADMITTED. YOU MAY PROCEED.

3 MR. HEMBREE: THANK YOU, YOUR HONOR.

4 THE COURT: YOU'RE WELCOME.

5 BY MR. HEMBREE:

6 Q DR. CRAWFORD, WHO -- WHEN YOU'RE CALLED UPON TO
7 CONDUCT FORENSIC PSYCHIATRIC EVALUATIONS, WHO DO YOU
8 TYPICALLY WORK FOR?

9 A I TYPICALLY WORK FOR THE COURT. MOST OF WHAT I DO IS
10 COURT-APPOINTED WORK. I ALSO AT TIMES AM RETAINED BY THE
11 DEFENSE AND I AM AT TIMES RETAINED BY THE PROSECUTION.
12 BUT THE MAJORITY OF MY WORK HAS BEEN IN -- AS A COURT
13 APPOINTED EXPERT.

14 Q AND HOW DID YOU COME TO BE INVOLVED IN THIS CASE?

15 A I WAS COURT APPOINTED IN THIS CASE TO DO THE
16 EVALUATION.

17 Q OF -- A COURT APPOINTMENT. WHAT -- WHEN YOU'RE COURT
18 APPOINTED, WHAT IS YOUR ROLE?

19 A YOUR ROLE IS AS AN INDEPENDENT EXAMINER. YOU'RE
20 SPECIFICALLY -- YOU'RE DOING THIS EVALUATION FOR THE
21 COURT, FOR THE JUDGE AND OR JURY. YOU ARE NOT TO HAVE AN
22 ALLIANCE OR ALLEGIANCE TO EITHER SIDE.

23 EVERYTHING THAT YOU FIND IS OPEN TO BOTH SIDES. OR
24 IN SOME CASES, AS IN THIS CASE, SOME OF IT'S AVAILABLE
25 ONLY TO THE JUDGE. BUT ANYTHING THAT'S AVAILABLE TO ONE

1 SIDE IS ALSO AVAILABLE TO THE OTHER SIDE.

2 WE'RE VERY CAREFUL TO MAKE SURE THAT WE ALLOW BOTH
3 SIDES EQUAL ACCESS AS MUCH AS POSSIBLE. AND THEN YOU END
4 UP BEING CALLED TO TESTIFY BY THE SIDE WHOSE OPINION IT --
5 YOU -- IS FAVORABLE.

6 SO FOR EXAMPLE, IF MY OPINION WERE FAVORABLE TO THE
7 DEFENSE, THE DEFENSE WOULD CALL ME AS THEIR EXPERT, AS AN
8 EXPERT. AND IF MY OPINION IS FAVORABLE TO THE
9 PROSECUTION, THE PROSECUTION CALLS ME.

10 Q AND YOU WERE CALLED UPON TO RENDER AN OPINION BOTH AS
11 TO COMPETENCY OF THIS DEFENDANT AND CRIMINAL
12 RESPONSIBILITY?

13 A THAT'S CORRECT.

14 Q AND I DON'T KNOW -- I DON'T BELIEVE THERE IS ANY
15 ISSUE ABOUT THIS, BUT I'LL GO AHEAD AND PUT IT ON THE
16 RECORD. DID YOU CONDUCT A COMPETENCY EVALUATION OF
17 DEFENDANT STANKO?

18 A YES, I DID.

19 Q AND DO YOU HAVE ANY FINDINGS AND CONCLUSIONS
20 REGARDING HIS COMPETENCY?

21 A HE'S COMPETENT TO STAND TRIAL.

22 Q AND THAT'S WITHIN A REASONABLE DEGREE OF MEDICAL AND
23 PSYCHIATRIC CERTAINTY?

24 A YES.

25 Q NOW, YOU WERE ALSO CALLED UPON TO TEST HIM FOR HIS

1 CRIMINAL RESPONSIBILITY?

2 A I WAS CALLED UPON TO DO AN EVALUATION OF CRIMINAL
3 RESPONSIBILITY, YES.

4 Q THAT'S A BETTER CHOICE OF WORDS, TO EVALUATE HIM FOR
5 HIS -- REGARDING CRIMINAL RESPONSIBILITY.

6 A YES.

7 Q WHAT STEPS DID YOU TAKE TO -- TO CONDUCT THIS
8 EVALUATION, CARRY THIS OUT -- EVALUATION OUT FOR THE
9 COURT?

10 A WHAT I DID WAS -- THE FIRST THING I DID WAS REQUEST
11 AS MUCH INFORMATION AS I COULD POSSIBLY GET. IT'S VERY
12 IMPORTANT FOR ME TO HAVE ACCESS TO EVERYTHING POSSIBLE.
13 AND SO INITIALLY I WAS PROVIDED -- THIS WAS ACTUALLY
14 FAIRLY SHORT NOTICE IN WHICH I WAS ADVISED OF THIS, BUT I
15 WAS ABLE TO GET A LOT OF INFORMATION.

16 AND THEN I SORT OF MOVED MYSELF HERE TO GEORGETOWN
17 FOR FOUR DAYS AND EVALUATED MR. STANKO OVER A FOUR DAY
18 PERIOD HERE IN GEORGETOWN, SPENT ABOUT 17 HOURS WITH HIM.
19 I SPOKE WITH HIS ATTORNEYS.

20 Q WOULD THAT BE CONSIDERED THE CLINICAL INTERVIEW, THAT
21 17 HOUR--

22 A YES.

23 Q -- TIMEFRAME THAT YOU SPENT WITH DEFENDANT STANKO?

24 A THAT'S CORRECT.

25 Q OKAY.

1 A I THEN FOUND THAT THERE WAS MORE INFORMATION THAT I
2 NEEDED WHICH I REQUESTED, SOME OF WHICH I GOT, SOME OF
3 WHICH I GOT YESTERDAY, BUT YOU KNOW, MUCH OF WHICH I GOT.

4 THERE WAS -- HE HAD DONE A LOT OF WRITINGS, SO I WAS
5 ABLE TO -- WHAT I DID WAS I ASKED TO SEE ALL OF THE
6 PHYSICAL EVIDENCE, SO I WENT OVER THERE TO LOOK AT ALL OF
7 HIS WRITINGS, JUST INFORMATION THAT WOULD GIVE ME
8 UNDERSTANDING ABOUT HOW HE THINKS.

9 I DO THINGS SUCH AS -- IT'S IMPORTANT IN MY OPINION
10 TO LOOK AT CRIME SCENE PHOTOS TO GET A SENSE, BECAUSE WHAT
11 I'M TRYING TO ASCERTAIN IS WHAT IS THIS PERSON'S STATE OF
12 MIND AT THE TIME OF THE EVENTS THAT LED TO HIS CHARGES.

13 SO I LOOK AT THE PATHOLOGY REPORTS. I LOOK AT THE
14 POLICE REPORTS. I ALSO HAD THE OPPORTUNITY TO INTERVIEW A
15 VARIETY OF PEOPLE TO GET INFORMATION ABOUT HIM.

16 Q COULD YOU JUST LIST THE SORT -- I KNOW IT'S A LONG
17 LIST, BUT GIVE US THE BENEFIT OF THE LIST OF SOURCES THAT
18 YOU--

19 A SURE.

20 Q -- RELIED UPON IN RENDERING -- OR ARRIVING AT AN
21 OPINION.

22 A I -- YOU WANT ME JUST TO READ MY LIST?

23 Q THAT WILL BE FINE.

24 A ARREST WARRANTS, INCIDENT REPORTS, INVESTIGATIVE
25 REPORTS, AND WITNESS STATEMENTS RELATED TO MR. STANKO'S

1 CHARGES IN GEORGETOWN AND CONWAY, RICHMOND COUNTY JAIL
2 MEDICAL RECORDS AND ADMINISTRATIVE RECORDS, MEDICAL
3 RECORDS FROM THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,
4 MENTAL HEALTH SERVICE NOTES FROM SCDC FROM 1996 THROUGH
5 1997, ADMINISTRATIVE RECORDS FROM SOUTH CAROLINA
6 DEPARTMENT OF CORRECTIONS, THE -- HIS NCIC REPORT, WHICH
7 IS HIS RAP SHEET, RECORDS FOR HIM FROM PROBATION, PARDON,
8 AND PAROLE SERVICES, STATEMENT OF DANA PUTNAM DATED
9 APRIL 12TH, 2005, INTERVIEW OF JOHN FULMER (SIC) ON
10 APRIL 18TH, 2005 -- AND I'D LIKE TO EXPLAIN SOMETHING, IF
11 I MAY.

12 I INITIALLY GOT INVOLVED IN THIS CASE WHEN I WAS --
13 PART OF WHAT I DO IS CONSULTATION FOR SLED. AND SO PRIOR
14 TO GETTING THIS COURT ORDER, I WAS ASKED BY SLED TO ASSIST
15 THEM IN HELPING THEM UNDERSTAND WHAT HAD HAPPENED IN THIS
16 CASE.

17 SO I INITIALLY GOT INVOLVED IN THIS CASE IN 2005 IN
18 TERMS OF INTERVIEWING PEOPLE. THIS IS SOMETHING THAT I
19 HAD DISCLOSED TO BOTH THE PROSECUTION AND THE DEFENSE
20 BEFORE THEY AGREED TO HAVE ME DO THIS EVALUATION, BUT I
21 WANTED YOU TO UNDERSTAND THAT EVEN PRIOR TO THIS I HAD
22 SOME CONNECTION WITH THE CASE.

23 SO THAT WAS -- INTERVIEWED JOHN FULMER IN APRIL 18TH,
24 2005, WANDA BROOKS ON APRIL 18TH, 2005, REBECCA TUCKER ON
25 APRIL 18TH, 2005, TIM BALDWIN THAT SAME DAY. I

1 INTERVIEWED [REDACTED] LING ON NOVEMBER 16TH, 2005, TERRY
2 DESENZO ON NOVEMBER 16TH, 2005.

3 I DID A TELEPHONE INTERVIEW OF HOKEN SUEL ON
4 JANUARY -- I MEAN, I'M SORRY -- ON JULY 17TH, 2006, PEGGY
5 KLISS ON JULY 22ND, 2006, J RIVERS FENNEL ON JULY 17TH,
6 2006.

7 I CONSULTED WITH DR. SACHY ON JULY 17TH, 2006. I
8 REVIEWED A REPORT OF THE NEUROPSYCHOLOGICAL EXAMINATION BY
9 DR. EINHORN. I REVIEWED THE PET SCAN THAT WAS READ BY THE
10 MEDICAL UNIVERSITY OF SOUTH CAROLINA AND THE SAME PET SCAN
11 THAT WAS THEN READ BY DR. WU IN CALIFORNIA.

12 I READ THE REPORT OF RUBEN GUR. I READ THE REPORT OF
13 THE FORENSIC UNIT OUT-PATIENT EVALUATION THAT DR. FRIERSON
14 DID IN 1996. I REVIEWED FORENSIC NEURO PSYCHIC (SIC) --
15 NEUROPSYCHIATRIC EVALUATION OF -- REPORT BY DR. SACHY. I
16 HAVE SINCE READ HIS REVISED REPORT. HE HAD TWO REPORTS.

17 I HAD A VERBAL REPORT OF FINDINGS FROM A NEUROLOGIST
18 THAT I CONSULTED WITH, DR. BRANNON. I HAD A VERBAL REPORT
19 OF FINDINGS FROM A NEUROPSYCHOLOGICAL EVALUATION PERFORMED
20 BY NEUROPSYCHOLOGIST TORA BRAWLEY, DR. BRAWLEY.

21 I LOOKED AT HIS PSYCHIATRIC RECORDS FROM BERKELEY
22 COMMUNITY MENTAL HEALTH CENTER, CRIME SCENE PHOTOS,
23 AUTOPSY PHOTOS, PHOTOGRAPHS OF INJURIES TO [REDACTED] LING,
24 AUTOPSY REPORT FOR LAURA LING, E-MAIL FROM LAURA LING TO
25 JEFF STANKO DATE JANUARY 25TH, 2005, SCHOOL RECORDS FOR

1 MR. STANKO FROM KINDERGARTEN THROUGH 12TH GRADE, COURT
2 DOCUMENTS FROM MR. STANKO'S PCR FILINGS RELATED TO HIS
3 CONVICTIONS IN 1996.

4 I LISTENED TO A -- TELEPHONE RECORDINGS OF
5 MR. STANKO'S CONVERSATIONS WITH DANA PUTNAM IN GEORGIA. I
6 READ VARIOUS FICTION AND NONFICTION WRITINGS OF
7 MR. STANKO.

8 I READ RECORDS FROM THE GREENVILLE COUNTY DETENTION
9 CENTER, INCIDENT REPORTS FROM THE CHARLESTON COUNTY
10 SHERIFF'S OFFICE, RECORDS FROM THE BERKELEY COUNTY
11 SHERIFF'S OFFICE, A LETTER MR. STANKO WROTE TO SOMEONE
12 NAMED TODD DATED SEPTEMBER 26TH, 2004.

13 IN ADDITION TO THAT I HAVE HAD AN OPPORTUNITY TO TALK
14 WITH A DR. SPICER, A RADIOLOGIST FROM MUSC WHO SUPERVISES
15 THE PEOPLE WHO DID THE -- THE PET SCAN THAT WAS DONE IN
16 CHARLESTON.

17 I HAVE HAD NUMEROUS CONVERSATIONS WITH THESE -- WITH
18 THE DIFFERENT EXPERTS, AND THEN I DON'T KNOW IF I
19 MENTIONED I TALKED TO DR. EINHORN AS WELL.

20 Q AND DOCTOR, DID YOU -- IN THE PROCESS OF UNDERTAKING
21 THIS EVALUATION YOU MENTIONED YOU CONSULTED WITH SOME
22 OTHER SPECIALISTS--

23 A YES.

24 Q -- IN VARIOUS FIELDS; DID YOU NOT?

25 A I SURE DID.

1 Q AND WHICH SPECIALISTS DID YOU CONSULT WITH AND --
2 WELL, I WANT TO ASK YOU -- I'M GOING TO ASK YOU SEVERAL
3 PARTS.

4 A RIGHT.

5 Q WHAT WERE THEIR SPECIALTIES, WHO WERE THEY, AND WHY
6 DID YOU CONSULT WITH THESE PARTICULAR SPECIALISTS?

7 A I WILL START WITH WHY I CONSULTED WITH THEM.

8 Q FAIR ENOUGH.

9 A WHAT HAPPENED IN THIS CASE IS THAT IT WAS CLEAR TO ME
10 THAT THE OPINIONS OF VARIOUS DOCTORS FOR THE DEFENSE WAS
11 THAT MR. STANKO HAD A PERSONALITY DISORDER OR AS THEY CALL
12 PSYCHOPATHY OR ANTISOCIAL PERSONALITY DISORDER.

13 WHAT WAS ALSO CLEAR TO ME WAS THAT THEY WERE TALKING
14 ABOUT NEUROLOGICAL PROBLEMS AND -- AND PET SCANS AND
15 AREAS -- I'M -- I GUESS YOU'D CONSIDER ME AN EXPERT IN
16 PSYCHIATRY, THAT'S WHAT I DO -- BUT I DO NOT CONSIDER
17 MYSELF A NEUROLOGIST.

18 I'M NOT A NEUROLOGIST. SO AS SOON AS I WAS AWARE
19 THAT THAT WAS A SIGNIFICANT ISSUE, I COMPELLED TO CONSULT.
20 AND SO WHAT I DID WAS I CONSULTED WITH DR. BRANNON WHO IS
21 A NEUROLOGIST AT THE UNIVERSITY OF SOUTH CAROLINA, AND I
22 DID A CONSULTATION WITH DR. TORA BRAWLEY WHO IS A
23 NEUROPSYCHOLOGIST.

24 SO A NEUROLOGIST AND NEUROPSYCHOLOGIST. AND DR.
25 BRANNON I KNEW IN TURN WAS GOING TO BE CONSULTING WITH A

1 NEURORADIOLOGIST. AND THEN WE HAD RECENTLY AN OPPORTUNITY
2 TO TALK WITH DR. SPICER WHO IS THE RADIOLOGIST.

3 SO WHAT I DID IS I CHOSE PEOPLE THAT I HAVE KNOWN AS
4 FAIR, IMPARTIAL PEOPLE WHO ARE GOING TO GIVE ME AN ANSWER,
5 AND -- BECAUSE AGAIN, THIS IS NOT MY AREA OF EXPERTISE,
6 THE NEUROLOGICAL ASPECTS OF IT, AND SO I -- I CONSULTED
7 WITH THEM.

8 Q YOU HEARD DR. SACHY'S TESTIMONY?

9 A YES.

10 Q HE'S NOT A NEUROLOGIST EITHER; IS HE?

11 A HE'S NOT A NEUROLOGIST.

12 Q HE'S A PSYCHIATRIST?

13 A HE'S A PSYCHIATRIST.

14 Q LET ME -- WELL, LET ME JUST CUT TO THE CHASE ON THIS.

15 A OKAY.

16 Q DID YOU, AS A RESULT OF YOUR NUMEROUS MATERIALS THAT
17 YOU REVIEWED, THE NUMEROUS MATERIALS, THE CLINICAL
18 INTERVIEWS, THE CONSULTS WITH VARIOUS DOCTORS INCLUDING
19 DEFENSE EXPERTS AS WELL AS -- AS WELL AS THE EXPERTS THAT
20 YOU CONSULTED ON BEHALF OF THE COURT, DID YOU FORM AN
21 OPINION WITHIN A REASONABLE DEGREE OF MEDICAL AND
22 PSYCHIATRIC CERTAINTY AS TO THE MENTAL STATUS OF THIS
23 DEFENDANT?

24 A YES.

25 Q WHAT IS THAT OPINION?

1 A MY OPINION IS THAT HE HAS A PERSONALITY DISORDER.
2 AND HE HAS A PERSONALITY DIS -- I DIAGNOSED HIM WITH
3 PERSONALITY DISORDER NOT OTHER -- NOT OTHERWISE SPECIFIED
4 WITH NARCISSISTIC AND ANTISOCIAL FEATURES. SO HE HAS
5 ELEMENTS OF AN ANTISOCIAL PERSONALITY DISORDER AND A
6 NARCISSISTIC PERSONALITY DISORDER.

7 Q AND JUST TELL US WHAT THAT MEANS. IN LAYMAN'S TERMS,
8 WHAT IS -- WHAT IS NARCISSISTIC AND ANTISOCIAL?

9 A WELL -- AND I WROTE SOME NOTES FOR MYSELF JUST
10 BECAUSE IT'S SOMETIMES EASIER TO REFER.

11 Q UNDERSTOOD.

12 A A NARCISSISTIC PERSONALITY DISORDER IS A PERVASIVE
13 PATTERN OF GRANDIOSITY, NEED FOR ADMIRATION, LACK OF
14 EMPATHY THAT BEGINS IN EARLY ADULthood AND IS PRESENT IN A
15 VARIETY OF DIFFERENT CONTEXTS; OKAY?

16 SO -- AND WHAT A PERSONALITY DISORDER IS, IT'S AN --
17 AND THIS IS ACTUALLY THE DEFINITION IN THE DSM4TR WHICH IS
18 THE BOOK THAT PSYCHIATRISTS AND PSYCHOLOGISTS RELY ON TO
19 GIVE DIAGNOSES.

20 A PERSONALITY DISORDER IS AN ENDURING PATTERN OF
21 INNER-EXPERIENCE AND BEHAVIOR THAT DEVIATES MARKEDLY FROM
22 THE EXPECTATIONS OF THE CULTURE. IT'S NOT DESCRIBED AS AN
23 ILLNESS, BUT IT'S AN ENDURING PATTERN OF INNER-EXPERIENCE
24 AND BEHAVIOR THAT'S PERVASIVE, INFLEXIBLE, AND ONSET IS IN
25 EARLY ADULthood AND IT'S STABLE OVER TIME. SO IT'S A

1 PATTERN -- AGAIN, PATTERN OF BEHAVIOR AND EXPERIENCE.

2 AND THE NARCISSISTIC FOLKS HAVE THIS GRANDIOSITY AND
3 HE HAS ELEMENTS OF THAT. HE HAS THE GRANDIOSE SENSE OF
4 SELF-IMPORTANCE. THAT'S BEEN CONSISTENT THROUGHOUT HIS
5 LIFE, AND HE TALKS PRETTY OPENLY ABOUT THAT, THE NEED --
6 HE EXAGGERATES ACHIEVEMENTS AND HIS TALENTS, HE REQUIRES
7 EXCESSIVE ADMIRATION.

8 HE IS INTERPERSONALLY EXPLOITATIVE, TAKES ADVANTAGE
9 OF OTHERS FOR HIS OR -- FOR HIS OWN ENDS, AND HE ALSO
10 READILY ADMITS THAT, AND HE LACKS EMPATHY, IS UNWILLING TO
11 RECOGNIZE OR IDENTIFY WITH THE FEELINGS AND NEEDS OF
12 OTHERS. SO THESE ARE ALL THE CHARACTERISTICS UNDER THE
13 NARCISSISTIC PERSONALITY.

14 HE ALSO HAS CHARACTERISTICS OF AN ANTISOCIAL
15 PERSONALITY. AND AN ANTISOCIAL PERSONALITY DISORDER IS
16 ONE IN WHICH SOMEONE HAS A DISREGARD FOR -- OR -- AND
17 VIOLATION OF THE RIGHTS OF OTHERS. OKAY. SO THAT'S THE
18 ANTISOCIAL.

19 NOW, THE THINGS THAT HE HAS THAT AN ANTISOCIAL
20 PERSONALITY DISORDER AS DESCRIBED IN THE DSM4 ARE FAILURE
21 TO CONFORM TO SOCIAL NORMS WITH RESPECT TO LAWFUL
22 BEHAVIORS, THEY BREAK A LOT OF LAWS, DECEITFULNESS AS
23 INDICATED BY REPEATED LYING OR CONNING, IRRITABILITY AND
24 AGGRESSIVENESS, LACK OF REMORSE AS INDICATED BY BEING
25 INDIFFERENT TO OR RATIONALIZING, HAVING HURT, MISTREATED,

1 OR STOLEN FROM ANOTHER.

2 SO HE HAS THE CHARACTERISTICS OF THE NARCISSISTIC
3 PERSONALITY DISORDER AND THE ANTISOCIAL. SO I GAVE HIM
4 THAT DIAGNOSIS OF PERSONALITY DISORDER NOT OTHERWISE
5 SPECIFIED, BUT -- BUT INCORPORATES BOTH OF THESE.

6 Q AND DOCTOR, THIS MIGHT BE A -- MY MISUNDERSTANDING OF
7 THE TERMINOLOGY, BUT ARE THESE BEHAVIORAL PROBLEMS OR ARE
8 THESE MENTAL ILLNESSES?

9 A THESE ARE CONSIDERED BEHAVIORAL PROBLEMS. THEY
10 ARE -- AND AGAIN, I TAKE THE DEFINITION FROM THE DSM. AND
11 YOU KNOW, THE DSM IS WHAT WE RELY ON SO THAT PSYCHIATRISTS
12 ARE SPEAKING THE SAME LANGUAGE.

13 I MEAN, THE DSM MAY NOT BE PERFECT, BUT IT'S THE BOOK
14 THAT'S BEEN DEVELOPED SO THAT I CAN TALK TO A PSYCHIATRIST
15 IN NORTH DAKOTA AND I CAN SAY SOMEBODY HAS THIS DIAGNOSIS,
16 AND WE'RE TALKING ABOUT THE SAME THING OR AS CLOSE TO THE
17 SAME THING AS WE POSSIBLY CAN.

18 SO WHAT THE DSM4 CALLS IT IS AN ENDURING PATTERN OF
19 INERT EXPERIENCE AND BEHAVIOR THAT DEVIATES FROM THE NORM.
20 SO IT IS NOT A MENTAL ILLNESS. IT'S A BEHAVIOR PATTERN.

21 Q THIS DEFENDANT HAS NO MENTAL ILLNESS IN YOUR OPINION?

22 A IN MY OPINION HE DOES NOT. HE HAS A PERSONALITY
23 DISORDER.

24 Q DO YOU HAVE ANY FINDINGS OR CONCLUSIONS REGARDING HIS
25 CRIMINAL RESPONSIBILITY?

1 A YES.

2 Q WOULD YOU PLEASE SHARE THOSE WITH US?

3 A SURE. AND LET ME JUST TAKE A LOOK AT MY REPORT.

4 IT'S MY OPINION THAT HE IS CRIMINALLY RESPONSIBLE FOR HIS
5 BEHAVIORS, FOR HIS ACTS ON THE DAYS FOR WHICH HE WAS...

6 Q APRIL 8TH, 2005?

7 A APRIL 8TH, YES.

8 Q AND HOW ABOUT YOUR FINDINGS AND OPINIONS REGARDING
9 HIS CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF
10 THE LAW?

11 A IT'S MY OPINION THAT HE COULD CONFORM HIS CONDUCT TO
12 THE REQUIREMENTS OF THE LAW.

13 Q NOW, WE'VE SORT OF STARTED -- AND THAT'S THE
14 CONCLUSION. I WOULD LIKE FOR YOU, IF YOU WOULD, FOR THIS
15 JURY TO SET FORTH SOME OF THE SIGNIFICANT ASPECTS OR
16 CONSIDERATIONS THAT YOU -- YOU FACTOR IN WHEN REACHING
17 YOUR CONCLUSIONS ABOUT CRIMINAL RESPONSIBILITY.

18 A SURE. THE FIRST THING THAT I DO EVERY SINGLE TIME I
19 DO ONE OF THESE EVALUATIONS IS TAKE OUT THE STATUTE AND
20 LOOK AT IT. I DON'T CARE HOW MANY TIMES I DO THESE, I
21 FIND IT CRITICAL TO LOOK AT THE STATUTE TO MAKE SURE THAT
22 I'M ANSWERING THE QUESTION THAT THE COURT'S ASKING.

23 AND SO WHAT I AM LOOKING AT WHEN I DO -- WHEN I DO
24 THIS IS I'M TRYING TO DECIDE WHAT I'M LOOKING AT AT THE
25 TIME OF THE COMMISSION OF THE ACT CONSTITUTING THE

1 OFFENSE, THE DEFENDANT AS THE RESULT OF A MENTAL DISEASE
2 OR DEFECT -- SO I HAVE TO HAVE THE MENTAL DISEASE OR
3 DEFECT PART FIRST -- LACKED THE CAPACITY TO DISTINGUISH
4 MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG OR TO
5 RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR LEGALLY
6 WRONG.

7 SO THAT'S THE FIRST THING I'M LOOKING AT. THE
8 SECOND -- THE OTHER PART OF THE STATUTE THAT I'M LOOKING
9 AT READS, EVIDENCE OF A MENTAL DISEASE OR DEFECT THAT IS
10 MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHER ANTISOCIAL
11 CONDUCT IS NOT SUFFICIENT TO ESTABLISH THE DEFENSE OF
12 INSANITY.

13 AND THAT'S WHY TYPICALLY, YOU KNOW, I HAVE DONE SO
14 MANY OF THESE CASES, IT'S -- THE ISSUE IN TERMS OF
15 ANTISOCIAL PERSONALITY DISORDER IS BEING CAUSE OF INSANITY
16 IS NOT A TYPICAL ISSUE, BUT I HAVE TO CONFRONT BECAUSE IT
17 STATES THAT PRETTY CLEARLY.

18 Q WELL, LET ME GO -- IT STATES -- DID YOU FIND IN THIS
19 DEFENDANT ANY MENTAL DISEASE?

20 A NO. I FOUND A PERSONALITY DISORDER.

21 Q DID YOU FIND ANY MENTAL DEFECT?

22 A NO.

23 Q YOU DID FIND A PERSONALITY DISORDER?

24 A YES.

25 Q AND YOU INDICATED THAT THERE'S A PORTION OF THE

1 STATUTE THAT DEALS SQUARELY WITH A PERSONALITY DISORDER?

2 A IT--

3 Q OR AN ANTISOCIAL?

4 A IT DEALS WITH ANTISOCIAL ACTS SO THAT PEOPLE ARE NOT
5 CONSIDERED INSANE IN SOUTH CAROLINA IF THEIR -- THEIR
6 PROBLEMS ARE MERELY REPETITIVE ANTISOCIAL ACTS. THAT
7 WOULD NOT IN THIS STATE IN MY READING OF THE STATUTE IN
8 HOW I DO THESE EVALUATIONS -- WOULD NOT ALLOW THEM TO MEET
9 THAT CRITERIA. SO THAT'S -- I LOOK AT THE STATUTE EVERY
10 TIME I START.

11 Q SO REPEATED, NOW, I'M JUST -- PROBABLY MAKING SURE I
12 CLEARLY UNDERSTAND. BUT REPEATED CRIMINAL OR THE OTHER
13 ANTISOCIAL CONDUCT IS NOT SUFFICIENT TO ESTABLISH A
14 DEFENSE OF INSANITY?

15 A THAT'S CORRECT. SO THE FIRST THING I DO WHEN I'M
16 DOING AN EVALUATION IS I DO -- I'M DOING A PSYCHIATRIC
17 EVALUATION, I'M LOOKING FOR, IS THERE A MENTAL DISEASE OR
18 DEFECT.

19 IN EVALUATING MR. STANKO, IN LOOKING AT HIS HISTORY,
20 IN LOOKING AT ALL THE SOURCES OF INFORMATION I HAVE, AND
21 IN CONSULTING WITH THE EXPERTS, THERE WAS NO EVIDENCE THAT
22 HE HAD A BRAIN DIFFICULTY OR THAT HE HAD ANYTHING OTHER
23 THAN THIS PATTERN OF BEHAVIOR OF ANTISOCIAL AND
24 NARCISSISTIC TRAITS.

25 EVEN WITH THAT, EVEN THOUGH HE DID MEET THE FIRST

1 PART, I STILL -- WHAT I DID WAS EXAMINE -- AND THIS IS
2 WHAT I DO IN EVERY CASE -- HIS ACTS AND BEHAVIORS BEFORE,
3 DURING, AND AFTER THE INCIDENTS THAT LED TO HIS ARREST.

4 THAT'S WHAT WE DO WHEN WE'RE TRYING TO DETERMINE
5 SANITY, BECAUSE SANITY IS, YOU KNOW, PURSUANT TO THE
6 STATUTE WE'RE TALKING ABOUT DURING THAT PERIOD OF TIME
7 ONLY DID HE KNOW RIGHT FROM WRONG OR DID -- COULD HE NOT
8 DISTINGUISH RIGHT FROM WRONG BECAUSE OF THIS MENTAL
9 DISEASE OR DEFECT.

10 SO WHAT I DO IS I LOOK AT THAT AND I ALSO LOOK AT
11 OTHER HISTORY OF CERTAIN KINDS OF BEHAVIORS OR VIOLENT
12 BEHAVIORS TO SEE WHAT HIS PATTERNS AROUND THOSE ISSUES
13 ARE. SO THAT'S WHAT I DID IN THIS CASE.

14 EVEN THOUGH I WASN'T FINDING MENTAL DISEASE OR
15 DEFECT, I STILL WANTED TO EXAMINE VERY CLOSELY THOUGHTS,
16 BEHAVIORS AS MUCH AS I COULD BEFORE, DURING, AND AFTER
17 THESE EVENTS.

18 Q AND THAT'S BECAUSE THE PAST BEHAVIORS ARE THE BEST
19 PREDICTORS FOR THE FUTURE BEHAVIORS?

20 A YES, AND BECAUSE--

21 MR. DIGGS: YOUR HONOR, WE WOULD OBJECT TO THE
22 LEADING.

23 THE COURT: SUSTAINED, LEADING. YOU MAY
24 REPHRASE.

25 MR. HEMBREE: THANK YOU, YOUR HONOR.

1 THE COURT: YOU'RE WELCOME.

2 BY MR. HEMBREE:

3 Q EXPLAIN TO THIS JURY THE SIGNIFICANCE OF PAST
4 BEHAVIORS.

5 A WELL, AND ESPECIALLY IN THIS CASE, ONE OF THE THINGS
6 THAT I WAS LOOKING AT WAS PART OF WHAT I'M BEING TOLD IS
7 THAT THIS GENTLEMAN HAS A FRONTAL LOBE PROBLEM, THAT THIS
8 PERSON HAS AN -- WHAT I MUST SAY IS THAT HAS NOT -- THE
9 EXPERTS HAVE SEEN IT AND THE PEOPLE WHO DID THE ORIGINAL
10 TESTING AT MUSC FOUND NO EVIDENCE OF A FRONTAL LOBE
11 PROBLEM.

12 BUT EVEN IF HE DID, WHAT I'M LOOKING AT A -- SOMEBODY
13 WITH A FRONTAL LOBE PROBLEM, I'M LOOKING TO SEE HOW DO
14 THEY REACT IN OTHER SIMILAR STRESSFUL SITUATIONS. I WANT
15 TO KNOW -- I MEAN, IF SOMEBODY IS SO IMPAIRED THAT THEY
16 CAN'T CONTROL THEIR ACTIONS, I WANT TO KNOW ABOUT, YOU
17 KNOW, THE 37 FIGHTS HE SAYS HE HAD, AND YOU KNOW, CERTAIN
18 TIME BEFORE ALL THIS HAPPENED.

19 I WANT TO KNOW ABOUT THE -- WAS HE ABLE TO CONTROL
20 HIS ACTIONS, YOU KNOW, WHEN HE HAS BEEN THREATENED BEFORE.
21 SO I'M GOING TO LOOK AT THAT PATTERN. YOU KNOW, DOES HE
22 HAVE A PATTERN OF BLACKING OUT LIKE HE SAYS HE DID.

23 AND AGAIN, HAVE THERE BEEN TIMES WHEN HE'S BEEN
24 SEVERELY, SEVERELY STRESSED BUT BEEN ABLE TO CONTROL IT?
25 NOW, IF HE'S GOT THAT BAD A FRONTAL LOBE PROBLEM, THAT'S

1 GOING TO BE IMPORTANT INFORMATION FOR ME TO LOOK AT
2 BECAUSE IT SHOULDN'T BE IN MY OPINION SELECTIVE CONTROL
3 WHEN YOU HAVE A BAD BRAIN PROBLEM.

4 SO THAT'S WHY I WAS LOOKING AT PAST BEHAVIOR. AND
5 I'VE ALSO LOOKED AT HIS BEHAVIOR IN THE GEORGETOWN COUNTY
6 DETENTION CENTER AND WAS ABLE TO TALK TO HIM, YOU KNOW, HE
7 WAS ABLE TO TELL ME THAT A COUPLE OF PRISONERS WOULD
8 THREATEN HIM, BUT HE KNOWS TO WALK AWAY BECAUSE HE KNOWS
9 THE ADMINISTRATIVE PROBLEMS IN TERMS OF BEING PUT IN THE
10 HOLE.

11 HE IS ABLE TO WALK AWAY FROM A THREATENING SITUATION.
12 SO I'M LOOKING AT ALL THOSE KINDS OF BEHAVIORS. I'M
13 LOOKING AT, FOR EXAMPLE, WITH THE -- WITH THE GIRLFRIEND
14 THAT HE TIED UP AND MAY HAVE ATTEMPTED TO KILL. HE WAS
15 ABLE TO STOP THE BEHAVIOR.

16 NOW, THIS IS THE SAME BRAIN WE'RE TALKING ABOUT. SO
17 AGAIN, I'M LOOKING AT ALL THESE DIFFERENT INCIDENTS JUST
18 TRY TO MAKE SENSE OF THIS PERSON WITH THIS REPORTED BRAIN
19 INJURY AND HOW IS IT SOMETIMES IT WORKS AND SOMETIMES IT
20 DOESN'T EVEN IN EXTREMELY STRESSFUL SITUATIONS.

21 Q WHAT -- DID YOU HAVE SIGNIFICANT FINDINGS REGARDING
22 THESE PAST BEHAVIORS, ANY CONCLUSIONS YOU REACHED AS A
23 RESULT OF EVALUATING THOSE?

24 A YES. WHAT -- WHAT I FIND WITH HIM -- I MEAN, IT'S --
25 IT'S -- AND THIS IS WITH ANTISOCIALS. IT'S THE MATTER

1 OF -- AS OPPOSED TO CAN'T CONTROL BEHAVIOR, IT'S WON'T
2 CONTROL BEHAVIOR. AND THAT WAS BASICALLY MY ASSESSMENT
3 WITH HIM.

4 WHEN, YOU KNOW, WHEN HE STANDS TO BE BEAT UP BY THE
5 BIG GUY WHO IS THREATENING HIM IN PRISON OR IN JAIL, HE
6 CHOOSES TO CONTROL HIS BEHAVIOR. WHEN IT'S SOMEBODY
7 PERHAPS AS IN THIS SITUATION THAT HE CAN OVERPOWER, HE MAY
8 NOT CHOOSE TO.

9 BUT THERE'S NO EVIDENCE OF -- IN EACH OF THESE
10 INSTANCES OF HIM ACTUALLY PUTTING HIMSELF WHEN THREATENED
11 IN A LIFE ENDANGERING SITUATION. AND I HAVE HAD A LOT OF
12 PATIENTS WITH HEAD INJURIES, AND THEY ARE ALL OVER THE
13 PLACE.

14 I MEAN, THEY ARE GOING TO LASH OUT -- THEY'RE NOT
15 THAT ABLE TO BE SELECTIVE BECAUSE -- AND AS DR. SACHY
16 SAYS, ONCE THIS STARTS THIS KINDERLING OR WHATEVER BEGINS
17 OF THE ANGER, THEY CAN'T CONTROL IT BECAUSE THEY HAVE
18 THIS -- THIS HEAD INJURY.

19 WELL, THIS MAN'S ABLE TO CONTROL IT. HE'S SHOWN THAT
20 AGAIN AND AGAIN AND AGAIN. AND IN THIS EVALUATION -- AND
21 I DID THIS IN ALL EVALUATIONS -- I'M LOOKING FOR SIMILAR
22 SITUATIONS.

23 Q SO YOU -- AND THE PATTERN OF BEHAVIOR WAS QUITE THE
24 CONTRARY IT SOUNDS LIKE YOU'RE SAYING?

25 A HE'S -- HE'S HAD VERY GOOD CONTROL IN VERY STRESSFUL

1 SITUATIONS. AND I DON'T KNOW IF I CAN GIVE SPECIFIC
2 EXAMPLES ABOUT THAT OVER TIME, BUT...

3 Q YES. I MEAN, YOU -- IF YOU COULD--

4 A IN THE DEPARTMENT OF CORRECTIONS WHERE HE WAS FOR
5 EIGHT AND A HALF YEARS HE TALKED ABOUT HOW WHEN HE
6 INITIALLY GOT THERE PEOPLE WERE REALLY CHALLENGING HIM,
7 AND HE GOT IN SOME SCUFFLES, BUT THEY WERE SUCH THAT THEY
8 WERE NEVER DETECTED HE SAYS BY THE POWERS THAT BE BECAUSE
9 THEY COULD KEEP THEM OUT OF THE WAY OF -- NOT -- NOT BE
10 SEEN.

11 SO HE'S NEVER HAD A WRITE-UP IN PRISON IN EIGHT AND A
12 HALF YEARS FOR GETTING IN A FIGHT. AND SO WHAT THAT SHOWS
13 IS EITHER HE'S ABLE TO WALK AWAY FROM THEM OR HE'S ABLE TO
14 GET IN A FIGHT BUT CONTROL HIMSELF AND NOT LOSE IT AND --
15 AND DAMAGE THESE PEOPLE. SO IT SHOWS A TREMENDOUS AMOUNT
16 OF CONTROL IN WHAT HE DESCRIBES AS A VERY STRESSFUL
17 SITUATION.

18 AND AGAIN, SIMILAR TO HIS BEHAVIOR WITH HIS
19 GIRLFRIEND, HIS FIRST GIRLFRIEND WHERE HE CHOSE NOT TO
20 KILL HER, WHERE HE TALKED WITH HER AND CHOSE NOT TO KILL
21 HER. HE IS ABLE TO STOP.

22 Q DR. CRAWFORD, LET'S TAKE -- I WANT TO CARRY YOU UP TO
23 THE POINT IN TIME OF APRIL THE EIGHTH.

24 A OKAY.

25 Q AND IF YOU WILL, SHARE WITH THIS JURY ANY PARTICULAR

1 BEHAVIORS SURROUNDING THAT TIMEFRAME THAT YOU FIND
2 SIGNIFICANT IN REACHING YOUR CONCLUSIONS.

3 A OKAY. WHAT WE'RE LOOKING FOR IS KNOWLEDGE OF
4 WRONGFULNESS. WE'RE LOOKING FOR -- AND I HAVE -- IT'S
5 BEEN MY OPINION ON A NUMBER OF CASES THAT PEOPLE ARE NOT
6 GUILTY BY REASON OF INSANITY, AND I HAVE TESTIFIED TO
7 THAT.

8 AND TYPICALLY WHAT YOU'RE TALKING ABOUT IS A CASE
9 WHERE SOMEONE IS SO PSYCHOTIC THAT THEY -- OR THEY HAVE A
10 DELUSION THAT THEY HAVE TO KILL SOMEONE OTHERWISE THE
11 WORLD WILL END AND THEREFORE THEY DON'T KNOW MORAL RIGHT
12 OR MORAL WRONG OR THEY DON'T FLEE THE SCENE BECAUSE THEY
13 ARE SO DISORGANIZED AND PSYCHOTIC. SO THAT -- SO YOU LOOK
14 AT BEHAVIORS, WHAT THEY DID.

15 AND HE'S ABLE TO TELL ME IN DETAIL WHAT HE DID UP
16 UNTIL THIS EVENT. NOW, WHEN I SAY HE TELLS ME IN DETAIL,
17 THERE'S NO QUESTION THAT HE LIED TO ME ON A NUMBER OF
18 OCCASIONS IN THIS EVALUATION, AND I WAS ABLE TO DETERMINE
19 THAT.

20 SO HE GIVES ME A STORY OF WHAT HE DID UP TO THAT
21 POINT, BUT I AGREE WITH THE OTHER DOCTORS THAT IT'S --
22 IT'S NOT RELIABLE. BUT HE IS ABLE TO REMEMBER, AT LEAST
23 HE SAYS THAT HE REMEMBERS THESE DETAILS.

24 AND THEN HE SAYS HE HAS THIS PERIOD OF AMNESIA, AND
25 THEN REMEMBERS THE DETAILS AFTERWARDS. WELL, SOME OF THE

1 THINGS THAT HE DOES ARE THAT HE FLEES THE SCENE, THAT HE
2 LEAVES. THESE ARE ORGANIZED BEHAVIORS. HE DOESN'T STAND
3 OUT THERE NOT SURE OF WHAT HE'S DONE.

4 HE TOLD ME HE KNEW THAT HE DID KILL THEM BECAUSE IT
5 WAS OBVIOUS TO HIM RIGHT AFTER THAT POINT THAT HE HAD DONE
6 THIS. HE THOUGHT THAT THEY WERE BOTH DEAD.

7 HE DID PLANNING, LIKE HE -- I HAD ASKED HIM, I SAID,
8 I UNDERSTAND THAT YOU TOOK SOME JEWELRY. AND THAT'S WHEN
9 HE MENTIONED THAT HE TOOK THE BRACELET OFF OF LAURA'S ARM.
10 AND I ASKED HIM WHY HE DID THAT AND HE SAID, WELL I GUESS
11 I FELT LIKE SHE DIDN'T DESERVE IT.

12 HE TOOK -- HE TOLD ME AFTERWARDS THAT HE WAS SUICIDAL
13 YET HE TOOK THINGS OF VALUE FROM THE HOUSE, FOR EXAMPLE,
14 HIS ELECTRIC GUITAR AND OTHER THINGS THAT HE COULD, YOU
15 KNOW, THAT HE -- THAT DID NOT -- WERE NOT CONSISTENT WITH
16 HIM BEING SUICIDAL. AND THEN HE HAD AN ORGANIZED PLAN
17 AFTER THAT POINT.

18 Q AND WHAT'S -- WHAT STEPS DID HE UNDERTAKE IN HIS
19 ORGANIZED PLAN THAT WERE SIGNIFICANT TO YOU?

20 A WELL, HE CHANGED VEHICLES SO THAT HE WOULD NOT BE
21 DETECTED, HE WITHDREW MONEY, HE CALLED HIS -- MY
22 UNDERSTANDING IS THAT HE CALLED LAURA'S BOSS SO THAT HE --
23 AND SAID SHE WOULD BE CALLING IN SICK.

24 HE SAID THAT -- ONE OF THE THINGS WE LOOK AT IS MORAL
25 RIGHT FROM WRONG. WHAT HE TELLS ME IS, OH, I WAS

1 SUICIDAL. WELL, IF HE WAS SUICIDAL -- WHICH I'M NOT SURE
2 IF HE WAS OR NOT -- BUT IF HE WAS, THAT'S AN INDICATION
3 THAT HE KNEW MORALLY WHAT HE HAD DONE WAS WRONG.

4 HE TOLD ME THAT HE WANTED TO KILL HIMSELF, THE ONLY
5 REASON WHY HE DIDN'T WAS BECAUSE HIS FATHER WOULD THINK HE
6 WAS -- IT WASN'T A MANLY THING TO DO TO KILL YOURSELF.

7 HE ALSO -- I ASKED HIM WHY, YOU KNOW, WHEN HE WENT TO
8 GEORGIA, THERE WAS A PERIOD OF TIME WHERE, YOU KNOW, I'M
9 TRYING TO FIGURE OUT WHY -- WHY HE DIDN'T IMMEDIATELY FLEE
10 AND GO TO MEXICO OR SOMETHING LIKE THAT.

11 AND WHAT HE SAID IS, HE SAID HE KNEW HE HAD SOMETIME
12 BECAUSE HE -- HE THOUGHT THE BODIES WOULD NOT BE
13 DISCOVERED UNTIL THE FOLLOWING WEEK BECAUSE HE CALLED
14 IN -- WELL, HE DIDN'T -- BUT PART OF THAT WOULD HAVE BEEN
15 BECAUSE HE CALLED IN SICK FOR HER, BUT HE ALSO THOUGHT
16 THAT [REDACTED] WOULDN'T BE MISSED UNTIL THAT POINT.

17 SO HE HAD -- IT'S NOT A GREAT PLAN BY ANY STRETCH OF
18 THE IMAGINATION, BUT IT SHOWS ORGANIZATION. IT SHOWS THAT
19 HE KNEW WHAT HE DID WAS UNLAWFUL. SO THAT'S LEGAL RIGHT
20 AND WRONG. HE KNEW THAT -- HE'S ABLE TO SAY, HE SAID,
21 WELL, I KNEW I WOULD GO TO PRISON IF I GOT CAUGHT.

22 AND SO IT -- IT'S PRETTY MUCH THERE IN TERMS OF
23 KNOWING RIGHT FROM WRONG.

24 Q DR. CRAWFORD, YOU CONSULTED -- AND I'LL JUST DO THIS
25 GENERALLY BECAUSE WE'RE GOING TO HEAR FROM SOME MORE

1 WITNESSES, BUT YOU CONSULTED ALSO WITH SOME -- SOME OTHER
2 EXPERTS AS YOU TESTIFIED, NEUROLOGISTS, RADIOLOGISTS?

3 A YES.

4 Q AND FORENSIC -- EXCUSE ME -- NEUROPSYCHOLOGIST?

5 A YES.

6 Q AS WELL AS REVIEWING DR. EINHORN'S REPORT AND OTHER
7 REPORTS?

8 A YES.

9 Q IN YOUR REVIEW OF THAT OR YOUR OPINIONS YOU RECEIVED
10 FROM ANY OF THOSE DOCTORS, THOSE EXPERTS, WAS THERE ANY
11 EVIDENCE OF A MENTAL DEFECT IN YOUR JUDGMENT?

12 A NO.

13 Q DR. CRAWFORD, IS DEFENDANT STANKO INSANE?

14 A LEGALLY INSANE? NO, HE DOES NOT MEET THE CRITERIA IN
15 SOUTH CAROLINA FOR LEGAL INSANITY.

16 Q AS A MATTER OF FACT, HIS DIAGNOSES ARE BEHAVIORAL
17 PROBLEMS?

18 A YES.

19 Q AND THAT'S ALL?

20 A YES.

21 Q THANK YOU, DR. CRAWFORD. PLEASE ANSWER ANY
22 QUESTIONS -- EXCUSE ME -- THESE OPINIONS ARE ALL RENDERED
23 WITH A REASONABLE DEGREE OF MEDICAL AND PSYCHIATRIC
24 CERTAINTY?

25 A YES, SIR.

1 Q THANK YOU. PLEASE ANSWER ANY QUESTIONS MR. DIGGS MAY
2 HAVE.

3 THE COURT: YOU MAY PROCEED.

4 CROSS-EXAMINATION

5 BY MR. DIGGS:

6 Q DR. CRAWFORD, HOW ARE YOU?

7 A GOOD. HOW ARE YOU?

8 Q I'M GOOD, THANK YOU. JUST A MATTER OF CLEARING UP.

9 A YES.

10 Q YOU ARE ORDINARILY EMPLOYED AT SLED. IS THAT--

11 A NO.

12 Q HOW DO -- WHY DO YOU WRITE SLED ON YOUR STATIONERY?

13 A WELL, WHAT I AM IS I'M EMPLOYED BY THE SOUTH CAROLINA
14 DEPARTMENT OF MENTAL HEALTH. THE SOUTH CAROLINA
15 DEPARTMENT OF MENTAL HEALTH HAS A LIAISON, HAS A
16 MEMORANDUM OF AGREEMENT WITH SLED, AND SO I AM THE
17 CONSULTANT FOR SLED FROM THE SOUTH CAROLINA DEPARTMENT OF
18 MENTAL HEALTH.

19 Q WELL, WHERE IS YOUR OFFICE?

20 A THAT'S A GOOD QUESTION. I JUST GOT A NEW OFFICE.
21 IT'S AT CRAFTS FARROW CAMPUS AT THE DEPARTMENT OF MENTAL
22 HEALTH. IT'S ON FARROW ROAD.

23 Q WELL, ON YOUR REPORT IT SAYS PAMELA M CRAWFORD MD,
24 SOUTH CAROLINA LAW ENFORCEMENT DIVISION BEHAVIORAL
25 SCIENCES DIVISION.

1 A RIGHT.

2 Q ALL RIGHT. ISN'T THAT SLED?

3 A I DON'T HAVE AN OFFICE THERE. WHAT -- AND LET ME
4 EXPLAIN WHY I MADE VERY CLEAR WHEN I PUT THAT ON THERE.
5 WHEN I WAS ORDERED TO DO THIS EVALUATION, MY CONCERN WAS
6 THIS. I HAD HAD PRIOR INVOLVEMENT WITH SLED ON THIS, ON
7 THIS CASE.

8 AND WHAT I TOLD THEM IS THAT I WILL BE DOING THIS
9 CASE AS A PART OF MY WORK WITH SLED, IT -- IT'S IN
10 TERMS -- IT'S IRRELEVANT IN TERMS OF WHAT I SAY OR DO, BUT
11 I WANTED IT TO BE CLEAR TO EVERYBODY THAT I HAD BEEN ON
12 THIS CASE WITH SLED ORIGINALLY SO THERE WOULD BE NO
13 THOUGHT THAT I WAS TRYING TO OBSCURE SOMETHING.

14 SO THAT'S WHY I PUT THAT ON THERE. I DO NOT ACTUALLY
15 HAVE AN OFFICE AT SLED, BUT I DO ASSIST IN THEIR
16 BEHAVIORAL SCIENCES DIVISION.

17 Q THEN WERE YOU ASSISTING SLED IN THE INVESTIGATION OF
18 THIS CASE?

19 A INITIALLY I WAS, YES.

20 Q YEAH. OKAY. AND YOU -- ALL OF THESE PEOPLE YOU
21 INTERVIEWED, AT LEAST ON THE FIRST PAGE OF YOUR REPORT,
22 WERE PURSUANT TO YOUR ACTIVITIES IN ASSIST -- IN THE
23 ASSISTANCE OF SLED?

24 A THAT'S CORRECT.

25 Q ALL RIGHT. NOT AS YOUR COURT-APPOINTED ROLE AS

1 PSYCHIATRIST?

2 A ABSOLUTELY.

3 Q WELL, DO YOU THINK IT'S PROPER TO LIST THOSE SOURCES
4 OF INFORMATION AS THOUGH YOU WERE DOING THIS ON BEHALF OF
5 THE COURT?

6 A NO. I MEAN, I'M NOT LISTING THEM, AND THAT'S WHY I
7 EXPLAINED TO THE JURY UP-FRONT, I SAID THERE'S GOING TO BE
8 STUFF ON HERE -- I MEAN, I INTERVIEWED THE VICTIM IN THIS
9 CASE. I INTERVIEWED THE WOMAN THAT MR. STANKO WAS
10 INVOLVED WITH IN AUGUSTA BECAUSE -- AND I HAVE TO LIST
11 THOSE AS SOURCES OF INFORMATION. MY HAVING TALKED WITH
12 THEM IS VERY SIGNIFICANT IN MY--

13 Q ALL RIGHT. YOUR -- IN FACT, CAN YOU TELL US ANYTHING
14 YOU DID AS A RESULT OF YOUR COURT-APPOINTED DUTIES--

15 A SURE.

16 Q -- THAT YOU HAD NOT ALREADY DONE ON BEHALF OF SLED?

17 A YOU WANT ME TO GO THROUGH THEM ALL?

18 Q YES, MA'AM.

19 A OKAY. THE ARREST WARRANTS, INCIDENT REPORTS,
20 INVESTIGATIVE REPORTS, THE RICHMOND COUNTY JAIL MEDICAL
21 RECORDS, THE MEDICAL RECORDS--

22 Q NO, NO, NO. LET ME ASK YOU THIS. I WANT TO MAKE
23 SURE THAT YOU UNDERSTAND MY QUESTION.

24 A SURE.

25 Q BECAUSE I'M NOT TRYING TO...

1 A THAT'S FINE.

2 Q TELL US WHAT YOU DID OUT OF THIS WHOLE LIST ONLY
3 UNTIL YOU WERE COURT APPOINTED TO--

4 A OH--

5 Q -- WORK ON THE CASE.

6 A -- WHAT I DID BEFORE I WAS COURT APPOINTED? OR WHAT
7 I DID AFTER?

8 Q YOU JUST SEPARATE THEM HOWEVER YOU WANT TO DO IT.
9 WHAT DID YOU DO ON BEHALF OF SLED?

10 A OKAY.

11 Q AND WHAT DID YOU DO ON BEHALF OF THE COURT?

12 A THAT'S FINE. WHAT I DID ON BEHALF OF SLED WAS
13 INTERVIEWED JOHN GAUMER, WANDA BROOKS, REBECCA TUCKER, AND
14 TIM BALDWIN, AND THOSE WERE SCHOOL TEACHERS OF MR. STANKO
15 AND --

16 Q YEAH.

17 A -- AND A NEIGHBOR OF HIM GROWING UP. I INTERVIEWED--

18 Q [REDACTED] LING?

19 A -- [REDACTED] LING AND TERRY DESENZO WHO WAS HELPING
20 CARE FOR HER, WHO SHE WAS LIVING WITH.

21 Q ALL RIGHT.

22 A I -- AND THAT'S IT.

23 Q ALL RIGHT. YOU DIDN'T LOOK AT ANY CRIME SCENE
24 PHOTOS?

25 A NOTHING.

1 Q OR ANY--

2 A OH, I TAKE THAT BACK. I DIDN'T LOOK AT CRIME SCENE
3 PHOTOS. I DID LOOK AT SOME OF THE PHYSICAL EVIDENCE IN
4 THE CASE. WHAT I LOOKED AT WAS A BOX OF HIS LETTERS AND
5 WRITINGS THAT WAS IN THE GEORGETOWN COUNTY SHERIFF'S
6 DEPARTMENT, AND I LOOKED AT THAT, BUT THAT WAS -- THAT WAS
7 IT. I THINK THAT'S EVERYTHING.

8 I MAY HAVE LOOKED AT PART -- I TAKE THAT BACK. I MAY
9 HAVE LOOKED AT PART OF HIS CORRECTIONS RECORDS, DEPARTMENT
10 OF CORRECTIONS. I THINK HE HAD SOME COMPLAINTS AND STUFF
11 THAT HE WROTE UP TO THE DEPARTMENT OF CORRECTIONS, I
12 THINK.

13 Q ALL RIGHT. DID YOU HAVE ANY PRECONCEIVED NOTION AT
14 THE TIME OF YOUR APPOINTMENT IN THIS CASE AS TO
15 MR. STANKO'S GUILT?

16 A AS TO HIS GUILT?

17 Q YES.

18 A YES.

19 Q AND WHAT WERE THOSE PRECONCEIVED NOTIONS?

20 A WELL, WHEN I TALKED TO [REDACTED] LING, IT WAS PRETTY
21 CLEAR TO ME THAT HE HAD RAPED HER AND THAT HE HAD KILLED
22 HER MOM, YES.

23 Q ALL RIGHT. DO YOU REMEMBER HER STATEMENT WHEN SHE
24 INDICATED THAT SHE THOUGHT SHE HEARD VOICES?

25 A YES.

1 Q WELL, SHE THOUGHT SHE HEARD MORE THAN--
2 A WELL, SHE THOUGHT THERE WAS SOMEBODY ELSE.
3 Q YEAH.
4 A READ THAT STATEMENT, YES.
5 Q DID SHE TELL YOU THAT MR. STANKO HAD SAID, NO, NO,
6 NO, LAY BACK DOWN? DID SHE SAY THAT TO YOU?
7 A I DON'T RECALL THAT SPECIFICALLY.
8 Q OKAY. WOULD THAT HAVE MADE ANY DIFFERENCE IN YOUR
9 OPINION AS TO WHAT HIS STATE OF MIND WAS AT THE TIME OF
10 THE HOMICIDE AND ASSAULT?
11 A I'M NOT SURE HOW IT WOULD. I MEAN, I'M NOT SURE --
12 YOU MEAN WOULD IT MAKE ME THINK THERE WAS A MENTAL DISEASE
13 OR DEFECT FOR HIM SAYING THAT?
14 Q OR WHETHER HE WAS INSANE.
15 A AGAIN, YOU'D HAVE TO GET PAST THE MENTAL DISEASE OR
16 DEFECT TO GET TO INSANITY.
17 Q WELL--
18 A AND IF HE SAID NO, NO, NO, LIE DOWN, I CAN'T IMAGINE
19 THAT I WOULD, BUT -- BUT MAYBE THERE'S SOMETHING ELSE TO
20 IT.
21 Q DOES THAT SEEM TO BE BIZARRE BEHAVIOR TO YOU?
22 A FOR HIM TELLING HER TO LIE DOWN WHEN HE'S RAPING HER?
23 Q TO SAY, NO, NO, NO, LIE BACK DOWN. THIS WAS NOT
24 DURING THE RAPE, THIS WAS DURING THE TIME HE WAS PACKING
25 HIS BAGS. YOU DIDN'T KNOW ABOUT THAT?

1 A NO.

2 Q YOU DIDN'T KNOW ABOUT THAT?

3 A NO, NOT ABOUT THAT SPECIFIC...

4 Q OUT OF ALL THE STUFF YOU DID IN PREPARATION OF YOUR

5 REPORT, YOU WERE NOT AWARE OF THOSE EVENTS THAT OCCURRED

6 AT THE VERY TIME OF THE--

7 A THAT HE SAID, NO, NO, NO? NO, I'M NOT AWARE OF HIM

8 SAYING, NO, NO, NO. WAS THAT IN THE STATEMENT? BECAUSE I

9 DIDN'T SEE THAT IN THE STATEMENT.

10 Q IT WAS IN [REDACTED] TRIAL TESTIMONY.

11 A OKAY. I WAS NOT HERE FOR HER TRIAL TESTIMONY.

12 Q DID YOU INTERVIEW [REDACTED] PRIOR TO YOUR REPORT?

13 A YES, I DID.

14 Q DID YOU ASK HER WHAT HAPPENED?

15 A YES.

16 Q HOW MUCH TIME DID YOU SPEND WITH HER?

17 A HOUR AND A HALF, TWO HOURS.

18 Q BUT SHE DIDN'T TELL YOU -- HOW MANY THINGS DID SHE

19 TELL YOU THAT MR. STANKO SAID DURING THE ASSAULT?

20 A A GOOD NUMBER OF THINGS.

21 Q BUT NOT THAT? WHAT ELSE -- WHAT DID SHE SAY HE DID

22 SAY?

23 A I DON'T HAVE MY NOTES, BUT I CAN TELL YOU SOME OF THE

24 THINGS I THINK--

25 Q ALL RIGHT.

1 A -- SHE SAID. SHE SAID THAT HE BLAMED THIS -- HE
2 SAID, THIS IS YOUR FAULT, YOU -- YOU CAUSED THIS.
3 Q DOES THAT MAKE ANY SENSE? WHY WOULD HE SAY SUCH A
4 THING?
5 A BECAUSE HE'S ANGRY AT HER OR ANGRY AT EVERYBODY, I...
6 Q YOU HAVE NO IDEA.
7 A WELL, I MEAN, I CAN -- I CAN HYPOTHESIZE WHY HE WOULD
8 HAVE SAID IT. HE WON'T TELL ME.
9 Q WHY WOULD HE? DO THAT, PLEASE.
10 A I'M SORRY?
11 Q GIVE ME A HYPOTHESIS.
12 A WHY HE BLAMES HER?
13 Q YES.
14 A BECAUSE HE BLAMES EVERYTHING -- EVERYBODY FOR THE BAD
15 THINGS HE DOES. THAT WOULD BE TOTALLY CONSISTENT.
16 Q ALL RIGHT. LET'S TALK ABOUT THE BAD THINGS HE DOES.
17 OKAY. WE ALL AGREE HE LACKS EMPATHY.
18 A YES.
19 Q WE ALL AGREE HE FAILS TO CONFORM TO THE NORM.
20 A YES.
21 Q WE ALL AGREE THAT HE LIES.
22 A YES.
23 Q WE ALL AGREE THAT HE'S OVERLY AGGRESSIVE, HE HAS
24 AGGRESSION.
25 A AT TIMES HE--

1 Q AT TIMES. AND WE ALL AGREE HE STEALS FROM PEOPLE.

2 A YES.

3 Q AND HE HAS A REGULAR PATTERN OF DOING THESE THINGS.

4 THAT'S WHO HE IS.

5 A YES.

6 Q DO YOU HAVE AN EXPLANATION FOR WHAT MOTIVATES OR
7 DRIVES THAT BEHAVIOR?

8 A DO YOU MEAN AN EXPLANATION IN TERMS OF -- I MEAN, HE
9 WANTS WHAT HE WANTS WHEN HE WANTS IT.

10 Q DOES HE -- ALL RIGHT. SO HE CHOOSES TO DO THOSE
11 THINGS?

12 A YES.

13 Q ALL RIGHT. NOW, THIS DSM4--

14 A YES.

15 Q -- OR DSM YOU TALKED ABOUT.

16 A YES.

17 Q IS THIS?

18 A YES, SIR.

19 Q NOW, WHAT IS THIS? WHAT IS THE DSM4? WHAT IS A DSM?

20 A DIAGNOSTIC AND STATISTICAL MANUAL.

21 Q OF MENTAL DISORDER?

22 A MENTAL DISORDERS.

23 Q OKAY. HOW DID -- WHO WROTE THIS BOOK AND HOW DID IT
24 COME ABOUT?

25 A WELL, IT'S -- IT COMES ABOUT BY A NUMBER OF DIFFERENT

1 AUTHORS.

2 Q OKAY.

3 A BY A -- BY AGREEMENT IN THE FIELD OF, YOU KNOW, MANY
4 OF THE EXPERTS FROM DIFFERENT PLACES, A LOT OF
5 ACADEMICIANS WHO AGREE ON DIAGNOSTIC CRITERIA FOR
6 DIFFERENT MENTAL ISSUES.

7 Q ALL RIGHT. DOES SOMEBODY JUST SIT DOWN ONE DAY AND
8 WRITE THIS BOOK OR DID IT EVOLVE?

9 A IT EVOLVED.

10 Q OVER HOW LONG A PERIOD OF TIME?

11 A MAYBE SINCE -- MAYBE 25 YEARS.

12 Q TWENTY-FIVE YEARS?

13 A TWENTY YEARS. I AM NOT SURE.

14 Q DOES IT JUST PICK UP IN THE HISTORY OF EVOLUTION 25
15 YEARS AGO OR IS IT BASED ON STUFF THAT WAS KNOWN PRIOR?

16 A OF COURSE IT WAS, YES.

17 Q OKAY. AND TO YOUR KNOWLEDGE HAS ANY BRAIN IMAGING
18 EVER BEEN USED ON -- TO CONFIRM OR EVALUATE ANY DIAGNOSIS
19 SET OUT IN THE DSM?

20 A WELL, THERE'S RESEARCH IN THAT. THERE'S PEOPLE WHO
21 WERE STUDYING THAT SUCH AS, YOU KNOW, DR. WU AND THESE
22 OTHER PEOPLE WHO ARE STUDYING AND TRYING TO SEE IF WE
23 CAN -- IF IT CAN ASSIST IN DIAGNOSIS. I MEAN, IT'S -- BUT
24 ARE YOU ASKING ME IS THAT A CRITERIA, OTHER CRITERIA?

25 Q NO. I'M ASKING YOU HOW DID THEY COME UP WITH ALL OF

1 THESE DIFFERENT DIAGNOSES--

2 A BY--

3 Q -- MENTAL DISORDERS?

4 A -- BY CONSENSUS IN THE PROFESSION.

5 Q BASED ON HOW PEOPLE ACT?

6 A IN PART.

7 Q CORRECT?

8 A IN PART.

9 Q AND WHAT THEY DO?

10 A YES.

11 Q ALL RIGHT.

12 A AND BY -- BY, YOU KNOW, PSYCHIATRIC SYNDROMES,
13 PSYCHIATRIC, YOU KNOW, THINGS THEY HAVE IN COMMON, YES.

14 Q ALL RIGHT. DID ANYBODY EVER LOOK AT A PET SCAN, FOR
15 EXAMPLE, AND SAY, WE SEE BRAIN ABNORMALITIES HERE AND THIS
16 PERSON HAS A CERTAIN TYPE OF DISORDER AND SO THERE MIGHT
17 BE A CONNECTION?

18 A IN MAKING THE DSM?

19 Q YEAH.

20 A NO, BECAUSE THE SCIENCE ISN'T THERE YET.

21 Q SCIENCE WASN'T THERE YET.

22 A ISN'T THERE.

23 Q TWENTY-FIVE YEARS AGO?

24 A SCIENCE ISN'T THERE TODAY.

25 Q ALL RIGHT. WELL, SCIENCE IS THERE FOR ALZHEIMERS?

1 A IT IS THERE FOR ALZHEIMERS SOMEWHAT, NOT -- IT'S NOT
2 A FINGERPRINT FOR ALZHEIMERS. AND I LEAVE THAT TO THE
3 NEUROLOGIST -- TO THE RADIOLOGIST TO TALK ABOUT.

4 Q ALL RIGHT.

5 A IT IS THERE TO A CERTAIN EXTENT FOR ALZHEIMERS. IT'S
6 THERE FOR CANCER. BUT IT'S NOT THERE FOR PSYCHIATRIC
7 ILLNESSES, NOT YET.

8 Q IT'S THERE FOR BRAIN INJURIES?

9 A IT'S THERE FOR SOME BRAIN INJURIES.

10 Q YOU JUST DON'T WANT IT TO BE THERE FOR THIS KIND OF
11 INJURY.

12 A I'D LOVE IT TO BE THERE FOR THIS KIND OF CASE. IT'S
13 JUST NOT THERE.

14 Q AND WHY DO YOU SAY THAT?

15 A BECAUSE THE CONSENSUS IN THE FIELD IS THAT IT'S NOT
16 THERE. THERE ARE -- THERE ARE SOME STUDIES ABOUT IT, BUT
17 THE CONSENSUS AMONG PSYCHIATRISTS ARE THAT IT IS NOT THERE
18 YET. IT IS NOT AN ACCEPTED -- WE CANNOT DO A PET SCAN AND
19 SAY HE'S A SCHIZOPHRENIC, OTHERWISE WE'D BE DOING THAT.
20 WE CANNOT -- THERE IS NO PET SCAN FOR AN ANTISOCIAL
21 PERSONALITY DISORDER.

22 Q BUT PET SCAN CAN BE USED AS A DIAGNOSTIC TOOL ALONG
23 WITH ALL OF THE OTHER EVIDENCE THAT'S AVAILABLE. CAN IT
24 NOT BE--

25 A IT CAN BE --

1 Q -- IN MAKING A DIAGNOSIS?

2 A IT'S A RESEARCH TOOL. IT'S A RESEARCH TOOL.

3 Q THAT'S ALL?

4 A YES. IN -- IN -- FOR THE AREAS WE HAVE BEEN TALKING
5 ABOUT, IT IS -- IT IS NOT AN ACCEPTED TOOL FOR DIAGNOSING
6 PERSONALITY DISORDERS, FOR DIAGNOSING SCHIZOPHRENIA. IT
7 IS A RESEARCH TOOL.

8 THEY ARE FINDING THAT THERE ARE CORRELATIONS, THERE
9 ARE THINGS THAT ARE CONSISTENT. AND THAT'S EXCITING
10 INFORMATION BECAUSE WE MAY GET THERE IN 25 YEARS WHERE WE
11 CAN PUT JOE BLOW IN THE SCANNER AND SAY, YEAH, HE'S AN
12 ANTISOCIAL, HE'S A NARCISSISTIC, BUT IT'S NOT THERE. IT'S
13 NOT TRUE TO SAY THAT IT'S THERE.

14 Q WELL, HOW ABOUT IN THIS CASE? NOW, WE CAN AGREE THAT
15 MR. STANKO HAS LACK OF EMPATHY?

16 A YES.

17 Q AND DO YOU KNOW WHERE IN THE BRAIN THAT MIGHT COME
18 FROM?

19 A YOU KNOW, I WOULD HAVE TO SAY, I WOULD HAVE TO GUESS
20 FRONTAL LOBES, BUT I'M NOT SURE.

21 Q THAT JUST A--

22 A NOT SURE.

23 Q -- A DECISION THAT HE MAKES?

24 A IS WHAT A DECISION?

25 Q I'M NOT GOING TO HAVE ANY EMPATHY FOR YOU.

1 A NO, HE JUST DOESN'T HAVE IT. HE DOESN'T HAVE--
2 Q COULD HE IF HE WANTED TO?
3 A COULD HE HAVE EMPATHY IF HE WANTED TO?
4 Q YES, MA'AM.
5 A I -- I'D HAVE TO SAY THERE'S NO EVIDENCE THAT HE
6 DOES.
7 Q COULD HE IF HE WANTED TO?
8 A I DON'T KNOW THE ANSWER TO THAT.
9 Q WHY?
10 A I GUESS I DON'T THINK HE COULD.
11 Q CAN'T NORMAL PEOPLE HAVE EMPATHY?
12 A YES. YES.
13 Q COULDN'T YOU SAY HE WAS PRETTY MUCH NORMAL?
14 A NO. WHAT I SAID IS -- I MEAN, HE HAS AN ANTISOCIAL
15 PERSONALITY DISORDER. IT IS CLEAR THAT HE LACKS EMPATHY.
16 WE DON'T KNOW WHY PEOPLE LACK EMPATHY. WE DON'T KNOW WHY
17 IT HAPPENS -- IT HAPPENS. I WISH WE DID. I WISH WE HAD A
18 PET SCAN TO TELL US THAT, BUT WE DON'T.
19 Q MIGHT BE A FUNCTION OF BRAIN STRUCTURE OR BRAIN
20 FUNCTION?
21 A IT COULD EASILY.
22 Q COULD BE?
23 A WE DON'T HAVE THE SCIENCE FOR IT, THOUGH.
24 Q SO WE COULD BE RIGHT IN THIS CASE?
25 A COULD BE RIGHT IN TERMS OF...

1 Q PET SCAN MIGHT SHOW A DEFECT?

2 A WELL, LET ME SAY THIS. THE RADIOLOGIST WHO DID THE
3 PET SCAN READ IT AS COMPLETELY NORMAL. THE NEUROLOGIST
4 WHO READ THE MRI READ THEM AS COMPLETELY NORMAL.

5 Q DO YOU KNOW HOW THEY READ THEM? DO YOU KNOW IF THEY
6 LOOK AT THE NUMERICAL DATA?

7 A I BELIEVE THEY DID. AND DOCTOR -- I MEAN, THE
8 RADIOLOGIST--

9 Q I DON'T WANT YOU TO TELL US WHAT YOU BELIEVE UNLESS
10 YOU KNOW FOR--

11 A LET ME DEFER THAT TO THE--

12 MR. HEMBREE: YOUR HONOR, MAY WE APPROACH SIDE
13 BAR?

14 THE COURT: YOU MAY.

15 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

16 THE COURT: YOU MAY CONTINUE.

17 MR. DIGGS: THANK YOU, YOUR HONOR.

18 THE COURT: YOU'RE WELCOME.

19 BY MR. DIGGS:

20 Q SO YOU WOULD DEFER TO SOMEONE ELSE?

21 A YES.

22 Q OKAY. AND HOW ABOUT THE PET SCAN? I THINK I ASKED
23 YOU ABOUT THE MRI.

24 A I'M SORRY. YEAH, THE PET SCAN AND THE MRI I DEFERRED
25 TO EXPERTS IN THAT AREA, TO THE RADIOLOGIST AND A

1 NEUROLOGIST.

2 Q ALL RIGHT. HIS FAILURE TO CONFORM, WE ALL AGREE HE
3 HAS THAT TENDENCY, FAILURE TO CONFORM HIS CONDUCT.

4 A YES.

5 Q CAN YOU TELL ME WHY HE DOES THAT? WHY DOES HE DO
6 THOSE THINGS?

7 A WHEN HE CHOOSES TO. THERE ARE MANY CIRCUMSTANCES IN
8 WHICH HE DOES CONFORM HIS CONDUCT. FOR EXAMPLE, IN THE
9 JAIL SETTING, HE -- IF THE COST TO HIM AT A CERTAIN TIME
10 IS HIGH ENOUGH, IF IT ISN'T WORTH IT TO HIM TO DO THE ACT,
11 HE DOESN'T DO IT.

12 IF IT'S WORTH IT TO HIM IN TERMS OF MAYBE HOW ANGRY
13 HE IS OR HOW MUCH MONEY HE'LL MAKE, THEN HE DOES. BUT HE
14 CAN CONTROL HIS BEHAVIOR. HE'S NOT STEALING FROM THE
15 OTHER INMATES.

16 Q BUT WE KNOW HE'S BRIGHT, INTELLIGENT.

17 A RIGHT. SO HE CAN--

18 Q COULD BE A SUCCESS IN LIFE IF HE CHOSE TO; IS THAT
19 CORRECT?

20 A I -- I SUPPOSE HE COULD. HE CERTAINLY HAS THE
21 INTELLIGENCE TO. BUT -- BUT HE DOES CHOOSE WHEN TO SCAM
22 AND WHEN NOT TO SCAM, AND HE'S VERY CAREFUL ABOUT THAT.

23 Q SORRY, I ABOUT CUT YOU OFF. I APOLOGIZE FOR THAT.

24 A IT'S OKAY.

25 Q CAN YOU EXPLAIN WHY HE WOULD ENGAGE IN SUCH

1 REPETITIVE SELF-HARM, SELF-HARMFUL, HARMFUL TO HIMSELF?
2 WHY WOULD HE CONTINUOUSLY ENGAGE IN BEHAVIOR LIKE THAT?
3 WHY IF HE'S SO SMART, I MEAN, HE COULD DO ANYTHING HE
4 WANTED TO.

5 A HE COULD DO ANYTHING HE WANTED TO, BUT PART OF IT IS
6 HIS NARCISSISM IS -- TO DO ANYTHING HE WANTED TO, IT WOULD
7 REQUIRE WORK. IT WOULD REQUIRE APPLYING HIMSELF AND MAYBE
8 NOT SUCCEEDING. THE BIG CHANGE IN HIS BEHAVIOR CAME WHEN
9 HE WAS REJECTED BY THE AIR FORCE.

10 Q DO YOU KNOW WHY HE WAS REJECTED?

11 A HE -- HIS VISION PROBLEMS.

12 Q HOW DO YOU KNOW THAT?

13 A THAT'S WHAT HE TOLD ME AND THAT'S WHAT THE -- FROM
14 WHAT I COULD SEE FROM THE RECORDS.

15 Q DID YOU CONFIRM IT WITH THE AIR FORCE ACADEMY?

16 A NO. BUT WHAT I DO KNOW IS THAT THERE IS NO
17 PSYCHOLOGICAL TEST TO GET INTO THE AIR FORCE ACADEMY.

18 Q HOW DID YOU LEARN THAT?

19 A BECAUSE I WAS IN THE AIR FORCE. I'M AWARE OF WHAT
20 THE TESTS--

21 Q DID YOU GO INTO THE AIR FORCE ACADEMY?

22 A NO.

23 Q YOU DID NOT?

24 A NO.

25 Q DID YOU APPLY TO THE ACADEMY?

1 A NO. BUT I'M AWARE OF WHAT THE STANDARDS ARE. THEY
2 DO GIVE TESTS AFTER THEY GO IN, BUT THEY DO NOT GIVE A
3 BATTERY OF PSYCHOLOGICAL TESTS PRIOR TO GOING INTO THE AIR
4 FORCE ACADEMY.

5 Q THEY DO NOT?

6 A NO.

7 Q WHEN DO THEY GIVE THE TESTS?

8 A THEY GIVE TESTS IN TERMS OF PLACING PEOPLE AFTER
9 THEY'RE IN, BUT NO.

10 Q WELL, WHAT DO THEY DO IF THEY RUN ACROSS SOMEBODY
11 THAT DOESN'T PASS THEIR PSYCHOLOGICAL PROFILE?

12 A I MEAN, I HAVE SEEN A NUMBER--

13 Q KICK THEM OUT?

14 A WELL, I DON'T KNOW THE ANSWER TO THAT. I HAVE SEEN
15 PEOPLE WHO HAD PROBLEMS. I MEAN, I DON'T KNOW THAT THEY
16 DO SPECIFIC PERSONALITY TESTS WHEN THEY GET IN. I THINK
17 THEY TEST THEM FOR WHERE, YOU KNOW, AREAS THEY MAY SUCCEED
18 OR NOT.

19 Q DID YOU ASK STEVE IF HE TOOK A PSYCHOLOGICAL TEST OF
20 ANY KIND?

21 A HE TOLD ME THE TESTS HE TOOK, AND THAT WAS NOT ONE OF
22 THE ONES HE TOLD ME ABOUT.

23 Q WHAT DID HE TAKE?

24 A HE SAID HE HAD A PHYSICAL.

25 Q WHAT ELSE?

1 A VISION.

2 Q WHAT ELSE?

3 A THAT WAS IT.

4 Q WHAT'S WRONG WITH HIS EYES?

5 A I CAN'T RECALL. IT WAS SOMETHING THAT HE SAID THAT
6 WAS THE REASON HE...

7 Q BUT YOUR TESTIMONY IS HE DID NOT TAKE ANY KIND OF
8 PSYCHOLOGICAL EVALUATION OR TEST--

9 A NO.

10 Q -- TO GO WITH HIS APPLICATION?

11 A NO.

12 Q ALL RIGHT. WHY DO YOU THINK HE CHOOSES TO LIE?

13 A BECAUSE HE -- IT'S A FAST WAY TO GET WHAT HE WANTS.
14 IT ALSO MAKES HIM FEEL BETTER ABOUT HIMSELF.

15 Q WHY DOESN'T HE JUST GO TO WORK AND SUCCEED AND FEEL
16 BETTER ABOUT HIMSELF THAT WAY?

17 A IT TAKES A LOT OF WORK. AND ONCE HE FAILED AT
18 GETTING INTO THE MILITARY, HE -- HE WAS SORT OF AT LOOSE
19 ENDS, WASN'T SURE WHAT TO DO. HE -- LYING MAKES HIM FEEL
20 GOOD ABOUT HIMSELF.

21 WHEN HE WENT TO AUGUSTA, YOU KNOW, HE'S CHATTING UP
22 THE WOMEN AND TELLING THEM THAT HE OWNS, YOU KNOW, A LOT
23 OF PROPERTY AND THAT HE'S AN IMPORTANT PERSON. THAT MAKES
24 HIM FEEL GOOD ABOUT HIMSELF. IT'S ALSO A WAY THAT HE GETS
25 MONEY FROM PEOPLE TO DO THE THINGS THAT HE WANTS.

1 SO HE -- HE LIES TO GET WHAT HE WANTS AND TO ALSO
2 FEEL GOOD.

3 Q ALL RIGHT. NOW, DR. SACHY QUOTED THE INSANITY
4 STATUTE IN HIS REPORT; DID HE NOT?

5 A SOME OF IT.

6 Q SOME OF IT?

7 A HE LEFT OUT THE PART ABOUT THAT YOU CAN'T JUST HAVE
8 A -- BE INSANE ON THE BASIS OF ANTISOCIAL ACTS.

9 Q RIGHT. AND BUT HE DID QUOTE THE PART ABOUT LACK OF
10 CAPACITY TO DISTINGUISH BETWEEN RIGHT AND WRONG, LEGALLY
11 AND MORALLY?

12 A YES.

13 Q DIDN'T HE?

14 A HE DID QUOTE THAT.

15 Q OKAY. AND ISN'T THAT WHAT HE BASED HIS OPINION OF
16 INSANITY ON AS OPPOSED TO HIS REPETITIVE ACTS?

17 A IS THAT -- I'M SORRY, BUT THE STATUTE REQUIRES BOTH
18 THINGS, THAT YOU CAN'T KNOW RIGHT FROM WRONG AND THAT YOU
19 DON'T KNOW RIGHT FROM WRONG AND YOU CANNOT BE CONSIDERED
20 INSANE IF YOU -- YOU BASE IT ON THOSE REPETITIVE
21 ANTISOCIAL ACTS. IT HAS TO BE BOTH. YOU CAN'T JUST HAVE
22 ONE.

23 Q DR. CRAWFORD, ANSWER MY QUESTION.

24 A I'M SORRY. I'M TRYING TO.

25 Q DID HE NOT FIND THAT AT THE TIME OF THIS HOMICIDE --

1 AND BY THE WAY, WHAT IS THE DEFINITION OF HOMICIDE?

2 A KILLING A PERSON.

3 Q ALL RIGHT. DEATH AT THE HANDS OF A HUMAN BEING;
4 CORRECT?

5 A YES.

6 Q NOT NECESSARILY CRIMINAL; CORRECT?

7 A I BELIEVE SO. I'M NOT SURE. I MEAN...

8 Q IN OTHER WORDS, A HOMICIDE COULD BE QUITE LEGAL;
9 COULDN'T IT?

10 A I -- I'M NOT SURE OF A LEGAL DEFINITION.

11 Q ALL RIGHT. BUT DR. SACHY'S OPINION SAID AT THE TIME
12 OF THE HOMICIDE, AT THE TIME THAT THE EVENTS OCCURRED THAT
13 FORM THE BASIS FOR THESE CHARGES--

14 A RIGHT.

15 Q -- THAT AS A RESULT OF A MENTAL DEFECT, HE LACKED THE
16 CAPACITY TO DISTINGUISH--

17 A RIGHT.

18 Q -- BETWEEN RIGHT AND WRONG. DIDN'T HE SAY THAT?

19 A YES.

20 Q ALL RIGHT. NOW, ISN'T THAT THE DEFINITION OF
21 INSANITY?

22 A IT'S PART OF THE DEFINITION.

23 Q ALL RIGHT. NOW, WAIT A MINUTE. ANSWER MY QUESTION--

24 A NO.

25 Q -- THEN YOU CAN EXPLAIN.

1 A NO.

2 Q ALL RIGHT. GO AHEAD AND DEFINE INSANITY FOR ME.

3 A OKAY. LET ME GET THE STATUTE. IT WILL BE MUCH MORE
4 ACCURATE. EFFECTIVE MAY 16TH, 1984, THE INSANITY DEFENSE
5 WAS CHANGED BY STATUTE WHICH IS SUBSEQUENTLY AMENDED
6 PRESENTLY PROVIDES -- AND THERE'S PARTS A, B, AND C.

7 A, IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION FOR
8 A CRIME THAT AT THE TIME OF THE COMMISSION OF THE ACT
9 CONSTITUTING THE OFFENSE THE DEFENDANT AS A RESULT OF
10 MENTAL DISEASE OR DEFECT LACKED THE CAPACITY TO
11 DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL OR LEGAL WRONG
12 OR TO RECOGNIZE THE PARTICULAR ACT CHARGED AS MORALLY OR
13 LEGALLY WRONG.

14 B, THE DEFENDANT HAS THE BURDEN OF PROVING THE
15 DEFENSE OF INSANITY BY THE PREPONDERANCE OF THE EVIDENCE.

16 Q ALL RIGHT. STOP RIGHT THERE FOR ME JUST A SECOND AND
17 THEN WE'LL GO TO C.

18 A OKAY.

19 Q ALL RIGHT. NOW, IN THAT STATUTE THE WAY IT'S
20 STRUCTURED, YOU HAVE ALREADY DEFINED INSANITY; CORRECT?

21 A NO. IT HAS TO BE A, B, AND C.

22 Q ALL RIGHT. WOULD YOU AGREE WITH ME THAT SUBSECTION B
23 IS A PROCEDURAL MATTER WITH RESPECT TO THE BURDEN OF
24 PROOF?

25 A YES.

1 Q ALL RIGHT. AND WOULD YOU AGREE WITH ME -- GO AHEAD
2 AND READ SUBSECTION C.

3 A C. EVIDENCE OF A MENTAL DISEASE OR DEFECT THAT IS
4 MANIFESTED ONLY BY REPEATED CRIMINAL OR OTHER ANTISOCIAL
5 CONDUCT IS NOT SUFFICIENT TO ESTABLISH THE DEFENSE OF
6 INSANITY.

7 Q NOW, ISN'T THAT A STATEMENT WITH RESPECT TO TYPE OF
8 EVIDENCE THAT'S NECESSARY TO ESTABLISH THE DEFINITION OF
9 SANITY UP IN SUBSECTION A?

10 A I'M SORRY. PLEASE ASK ME THAT AGAIN.

11 Q SUBSECTION C ONLY SPEAKS TO THE TYPE OF EVIDENCE
12 THAT'S NECESSARY.

13 A THE TYPE OF PSYCHIATRIC EVIDENCE.

14 Q ALL RIGHT. IT'S NOT PART OF THE DEFINITION.

15 A IN MY OPINION IT IS.

16 Q ALL RIGHT. ALL RIGHT. DID YOU HEAR -- DID YOU
17 FURTHER READ DR. SACHY'S REPORT THAT THE MENTAL DISEASE
18 AND DEFECT PORTION OF THE STATUTE WAS NOT ESTABLISHED BY
19 REPETITIVE CONDUCT?

20 A HE DIDN'T SAY THAT. I DID NOT--

21 Q BUT BY -- I'M -- AN IMPAIRED BRAIN FUNCTION AND A
22 MISSING VOLUMETRIC MASS IN A STRUCTURE. DIDN'T HE DEFINE
23 DISEASE AND DEFECT BY THAT OR IN THAT WAY?

24 A HE DID, BUT CAN I EXPLAIN SOMETHING?

25 Q SURE.

1 A HE WAS ASKED BY THE SOLICITOR VERY SPECIFICALLY IF HE
2 THOUGHT THAT THE EVIDENCE OF MENTAL DISEASE OR DEFECT WAS
3 MANIFESTED ONLY BY REPEAT CRIMINAL OR ANTISOCIAL CONDUCT,
4 AND HE SAID, YES.

5 Q ALL RIGHT. SO YOU'RE WILLING TO THROW OUT THE
6 REMAINING TWO AND HALF HOURS OF HIS TESTIMONY BASED ON
7 THAT ONE RESPONSE?

8 A I--

9 Q THAT -- THAT HE WAS RELYING ONLY ON HIS REPEATED
10 CONDUCT OF CRIMINAL ACTIVITY?

11 A I GUESS I'M NOT SURE WHAT YOU'RE ASKING ME. I'M
12 NOT -- I'M NOT THROWING OUT HIS TESTIMONY OR -- I MEAN,
13 THAT'S A DECISION FOR LAWYER-TYPE PEOPLE.

14 Q AFTER WE SAT HERE FOR TWO DAYS LOOKING AT THESE PET
15 SCANS.

16 A RIGHT.

17 Q AND DR. WU AND DR. SACHY.

18 A YES.

19 Q DON'T YOU THINK HE BASES HIS OPINION NOT ON
20 REPETITIVE BEHAVIOR BUT ON THE PET SCANS AND THE MRI?

21 A I -- I DON'T KNOW WHAT HE BASES IT ON OTHER THAN WHAT
22 HE SAID IN HIS TESTIMONY.

23 Q WELL--

24 A I DON'T KNOW, BUT THAT'S -- THAT'S A LAWYER THING.

25 Q CERTAINLY HE DIDN'T BASE HIS OPINION SOLELY ON THE

1 REPETITIVE ACTS LIKE YOU'RE CLAIMING UNDER SUBSECTION C?

2 A OKAY. IT'S MY OPINION THAT ANY BASIS FOR ANY
3 DIAGNOSIS IS BASED ON REPETITIVE ANTISOCIAL ACTS. I MEAN,
4 YOU CAN TAKE A SCAN THAT DOESN'T HAVE ACCEPTED VALIDITY
5 AND THROW THAT IN, BUT WE'RE TALKING ABOUT A DIAGNOSIS
6 THAT'S BASED ON -- I MEAN, HE SAYS HE'S A PSYCHOPATH.

7 Q YOU'RE TALKING ABOUT THE DIAGNOSIS. DR. SACHY SAID
8 HE WAS INSANE. NOT BASED ON HIS REPETITIVE ACTS, BUT
9 BASED ON DEFICIENT FUNCTIONING AND LACK OF VOLUMETRIC MASS
10 AND STRUCTURE.

11 MR. HEMBREE: YOUR HONOR, I'D ASK THAT COUNSEL--

12 THE COURT: PLEASE APPROACH.

13 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

14 THE COURT: OBJECTION IS PITTING AND IT IS
15 SUSTAINED. YOU MAY REPHRASE.

16 BY MR. DIGGS:

17 Q DR. CRAWFORD, ARE YOU FAMILIAR WITH ANY OF THE
18 PUBLISHED LITERATURE OR TEXTBOOKS THAT DISCUSS
19 HYPERMENTALITY OR FRONTAL LOBE BRAIN DAMAGE, FRONTAL LOBE
20 DAMAGE?

21 A I MEAN, I'M FAMILIAR WITH THEIR EXISTANCE. I HAVE
22 READ OVER TIME ARTICLES, AND SO I'M FAMILIAR. I DO NOT
23 CONSIDER MYSELF AN EXPERT IN THAT.

24 Q OKAY. BUT DO YOU -- YOU'RE A PSYCHIATRIST.

25 A YES, I AM.

1 Q AND YOU KNOW THAT FRONTAL LOBE DEFECTS ARE RELATED TO
2 AGGRESSION AND OTHER BEHAVIORAL PROBLEMS?

3 A ABSOLUTELY. AND I'VE TREATED A NUMBER OF PEOPLE WITH
4 FRONTAL LOBE DEFECTS AND EVALUATED THEM.

5 Q ALL RIGHT. AND WE CAN AGREE THAT THE LIMBIC SYSTEM
6 CREATES EMOTIONS?

7 A YES.

8 Q WHAT TYPES OF EMOTION?

9 A YOU KNOW, I'M NOT AN EXPERT ON LIMBIC SYSTEM EITHER,
10 BUT I WOULD SAY THAT, YOU KNOW, AGGRESSIVE, ANGER, THINGS
11 SUCH AS THAT, BUT I REALLY -- I'M NOT GOING TO BE YOUR
12 BEST PERSON FOR A QUIZ ON THE LIMBIC SYSTEM. I WOULD
13 DEFER THAT TO THE NEUROLOGIST.

14 Q ALL RIGHT. AND SO YOU WOULDN'T WANT TO OFFER
15 TESTIMONY ON WHAT HAPPENS TO EMOTIONS AFTER THEY LEAVE THE
16 LIMBIC SYSTEM?

17 A I WOULDN'T WANT TO TESTIFY TO THE SPECIFICS. WHAT I
18 CAN SAY IS WHEN PEOPLE DO HAVE FRONTAL LOBE DAMAGE, THERE
19 IS SIGNIFICANT IMPULSE CONTROL VERY OFTEN THAT IS SEEN
20 OVER AND OVER AND IS NOT SPECIFIC TO CERTAIN SITUATIONS.

21 Q OKAY. AND YOU SAY IMPULSE CONTROL, BUT THAT COULD
22 BE -- I DON'T WANT TO MISLEAD YOU -- IMPULSE COULD BE --
23 COULD LAST FOR SOME EXTENDED PERIOD OF TIME IF THERE IS A
24 FRONTAL LOBE DEFECT. WOULD YOU AGREE?

25 A WELL, I MEAN, I HAVEN'T SEEN SORT OF ORGANIZED

1 BEHAVIOR LASTING A PERIOD OF TIME. I MEAN, WHEN I THINK
2 ABOUT FRONTAL LOBE PATIENTS I HAVE DEALT WITH, IT'S THESE
3 OUTBURSTS THAT ARE FAIRLY SHORT, BUT REPETITIVE.

4 AND UNDER CERTAIN CIRCUMSTANCES THESE ARE VERY HARD
5 PEOPLE TO TREAT BECAUSE, YOU KNOW, THEY ARE CONTINUALLY
6 HAVING TROUBLE WHEN -- WHEN THEY ARE -- WHEN THEY ARE
7 THREATENED OR THEY FEEL LIKE THEY ARE.

8 Q YOU EVER USE BRAIN IMAGES TO HELP TREAT THEM?

9 A BRAIN IMAGES? NO.

10 Q IMAGING? YOU DO NOT?

11 A NO. USUALLY WHEN I -- WHEN I HAVE HAD THE EXPERIENCE
12 OF TREATING FRONTAL LOBE PATIENTS, THERE'S SOMEBODY IN A
13 PSYCHIATRIC HOSPITAL WHO HAS HAD A -- WHO IS OFTEN ENTERED
14 INAPPROPRIATELY BECAUSE THEY'RE HEAD INJURY PATIENTS
15 RATHER THAN A PSYCHIATRIC PATIENT, BUT -- AND WHO IS
16 HAVING A LOT OF BEHAVIORAL PROBLEMS. THERE WOULD BE NO
17 INDICATION TO DO REPEATED FRONTAL LOBE TESTING.

18 Q WOULD -- JUST PET SCAN?

19 A NO.

20 Q JUST TO SEE WHAT--

21 A THAT IS NOT A STANDARD PROCEDURE IN TESTING PEOPLE
22 IN -- FOR PSYCHIATRIC ILLNESSES.

23 Q FOR BEHAVIORAL PROBLEMS?

24 A NO.

25 Q HOW ABOUT ALZHEIMERS?

1 A YES. IT'S BECOMING MORE SO. IT'S NOT THE
2 FINGERPRINT WE HAVE HEARD ABOUT, BUT IT'S BECOMING
3 APPARENTLY MORE USED. AGAIN, THESE ARE MUCH BETTER
4 QUESTIONS FOR THE RADIOLOGIST OR SOMEONE...

5 Q NOW, LET'S TALK ABOUT THIS PARTICULAR OFFENSE.

6 A YES.

7 Q AND HOW WELL-PLANNED -- YOU THINK IT WAS
8 WELL-PLANNED?

9 A NO, I DON'T THINK IT WAS WELL-PLANNED.

10 Q DO YOU THINK IT WAS INTENDED THAT HE -- WHAT -- GIVE
11 ME YOUR OPINION, IF YOU CAN, WITHIN -- TO A REASONABLE
12 DEGREE OF MEDICAL CERTAINTY, WHAT ALLOWED HIM AFTER THE
13 APPARENT TRANQUILITY IN THE HOME FOR AT LEAST FOUR MONTHS
14 TO ALL OF A SUDDEN DO SOMETHING LIKE THIS.

15 A WELL, THAT'S NOT ACCURATE. IT WASN'T APPARENT
16 TRANQUILITY. HE HAD BEEN CAUGHT FOR DOING SCAMS AND HE
17 HAD BEEN CAUGHT BY HIS PROBATION OFFICER. THAT'S IN THE
18 REPORTS. AND HE WAS LIKELY ABOUT TO GET CAUGHT AGAIN.

19 AND THE CIRCUMSTANCES WERE VERY SIMILAR TO WHEN HE
20 DID THIS TO HIS OTHER GIRLFRIEND WHERE -- I DO THINK THERE
21 WAS PLANNING INVOLVED. I DON'T THINK IT WAS GOOD
22 PLANNING. I THINK HE, LIKE WITH THE FIRST GIRLFRIEND,
23 WHAT HE DID IS HE WAITED TILL SHE WAS IN BED WHEN HE TRIED
24 TO KILL HER.

25 IN THIS SITUATION WHAT HE TELLS ME IS THAT THE

1 ARGUMENT HAD DIED DOWN AND SHE WAS IN THE BED. NOW, HE
2 CLAIMS THAT SHE ATTACKED HIM WITH A CIGARETTE. I HAVE--

3 Q DID HE SAY THAT?

4 A YEAH, HE DID.

5 Q OR -- OR DID HE SAY--

6 A OR NO, HE SAID SHE STRUCK HIM, SHE PUNCHED HIM. HE
7 SAID THAT HE WAS SITTING AT THE EDGE OF THE BED SAYING,
8 OH, I CAN'T BELIEVE YOU WOULD TURN ME IN FOR SOMETHING
9 LIKE THIS I DIDN'T DO. AND HE SAID SHE WAS LYING ON HER
10 SIDE AND THAT SHE SPONTANEOUSLY GOT UP AND PUNCHED HIM.

11 Q DID HE SAY PUNCH OR SLAP?

12 A I'M NOT SURE.

13 Q AND ENLODGED THE CIGARETTE UP BETWEEN HIS GLASSES AND
14 HIS...

15 A AND IT BURNED HIM. OF COURSE, ONE OF THE OTHER
16 THINGS THAT I LOOKED AT WERE--

17 Q DO YOU THINK HE WAS LYING IN THAT SITUATION?

18 A I THINK IT'S LIKELY. I LOOKED AT THE PICTURES OF HIM
19 AFTER HE WAS ARRESTED. THERE'S NO EVIDENCE OF A BURN
20 AND--

21 Q THAT WAS FOUR DAYS LATER; WASN'T IT?

22 A BUT HE WAS ALSO -- WHEN HE WAS WITH DANA IN AUGUSTA,
23 SHE -- NOBODY HAS MENTIONED THAT EVIDENCE OF A BURN. I
24 DON'T KNOW IF HE WAS LYING OR NOT. YOU CAN'T TELL WITH
25 HIM. I MEAN, HE LIES SO READILY.

1 Q WHAT OTHER MOTIVATION WOULD HE HAVE FOR COMMITTING
2 THESE ACTS?
3 A HE KNEW HE WAS ABOUT TO BE CAUGHT. SHE MAY HAVE -- I
4 MEAN, AGAIN I'M--
5 Q CAUGHT FOR WHAT?
6 A FOR MORE SCAMS. AND HE KNEW HE WOULD GO BACK TO
7 PRISON.
8 Q SO HE NEEDED TO MURDER SOMEBODY TO STAY OUT OF
9 PRISON?
10 A DOES WHAT HE DOES WHEN HE WANTS TO DO IT.
11 Q AND THAT'S YOUR EXPLANATION?
12 A SIMILAR TO WHEN HE TIED UP AND TRIED TO KILL THE
13 OTHER GIRL. HE DID THAT BECAUSE HE WAS ANGRY. HE WAS
14 PROBABLY ANGRY.
15 Q HE WAS HAVING A PROBLEM CONTROLLING HIS AGGRESSION
16 AND ANGER; CORRECT?
17 A HE WASN'T CONTROLLING IT.
18 Q RIGHT. WELL, HE TIED HER UP AND NEARLY KILLED HER.
19 DIDN'T HE DO THAT?
20 A YES.
21 Q AND DID THE SAME THING TO LAURA?
22 A YES.
23 Q AND HE DID THOSE THINGS SIMPLY BECAUSE HE CHOSE TO DO
24 THEM AT THE TIME BECAUSE THEY MADE SENSE AND THROUGH
25 WHATEVER INTEREST HE MAY HAVE HAD.

1 A HE WAS ANGRY.

2 Q IS THAT YOUR TESTIMONY?

3 A I THINK HE WAS ANGRY. I THINK HE DID IT BECAUSE HE
4 WAS ANGRY.

5 Q BUT OTHERWISE NORMAL BRAIN?

6 A AGAIN, I'M HOPEFUL 20 YEARS FROM NOW WE'LL BE ABLE TO
7 SEE WHERE THERE ARE PROBLEMS.

8 Q OKAY.

9 A AS FAR AS THE TECHNOLOGY OF TODAY, IT'S AS NORMAL AS
10 IT CAN GET.

11 Q YOU OFFERED NO OPINION YOURSELF ABOUT THE PET SCAN
12 AND WHETHER IT SHOWS AN ABNORMAL BRAIN FUNCTION.

13 A NO. I RELY ON CONSULTATION FOR THAT.

14 Q OKAY. AND YOU OFFER NO OPINION ABOUT THE MRI.

15 A AGAIN--

16 Q PERSONALLY.

17 A -- PERSONALLY, NO, I HAVE NOT. I CAN'T READ AN MRI
18 RELIABLY.

19 Q ALL RIGHT. THANK YOU, DR. CRAWFORD.

20 THE COURT: ANY REDIRECT?

21 MR. HEMBREE: NO, YOUR HONOR. NOTHING ON
22 REDIRECT.

23 THE COURT: ANY EXCEPTION--

24 MR. DIGGS: YOUR HONOR, WOULD YOU JUST A... BEG
25 YOUR INDULGENCE JUST A SECOND.

1 THE COURT: NOT A PROBLEM. GO RIGHT AHEAD.
2 (WHEREUPON THERE WAS A PAUSE.)
3 MR. DIGGS: THAT'S ALL WE HAVE.
4 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
5 EXCUSED FROM THE STATE?
6 MR. HEMBREE: NO EXCEPTION FROM THE STATE, YOUR
7 HONOR.
8 MR. DIGGS: NO, YOUR HONOR.
9 THE COURT: DR. CRAWFORD, YOU'RE EXCUSED.
10 THE WITNESS: THANK YOU.
11 THE COURT: YOU'RE WELCOME. YOU MAY PROCEED.
12 (WITNESS LEFT THE STAND.)
13 THE COURT: WAIT ONE SECOND FOR ME. YOU MAY
14 CALL YOUR NEXT WITNESS.
15 MR. HEMBREE: THANK YOU, YOUR HONOR. THE STATE
16 CALLS DR. TORA BRAWLEY TO THE STAND.
17 DR. TORA BRAWLEY, AFTER BEING
18 DULY SWORN, TESTIFIED AS FOLLOWS:
19 THE COURT: YOU MAY PROCEED.
20 MR. HEMBREE: THANK YOU, YOUR HONOR.
21 THE COURT: YOU'RE WELCOME.
22 DIRECT EXAMINATION
23 BY MR. HEMBREE:
24 Q DR. BRAWLEY, IF YOU WOULD SHARE WITH US YOUR
25 EDUCATION, TRAINING AND EXPERIENCE IN THE FIELD OF

1 NEUROPSYCHOLOGY.

2 A I HAVE A BACHELOR'S DEGREE IN PSYCHOLOGY AND PRE-MED
3 FROM THE UNIVERSITY OF TEXAS IN AUSTIN. I OBTAINED MY
4 MASTER'S AND MY PHD IN CLINICAL PSYCHOLOGY WITH AN
5 EMPHASIS IN NEUROPSYCHOLOGY FROM CALIFORNIA SCHOOL OF
6 PROFESSIONAL PSYCHOLOGY.

7 I DID MY PRE-DOCTORAL INTERNSHIP AT BAYLOR COLLEGE OF
8 MEDICINE IN HOUSTON, TEXAS. I DID POST-DOCTORAL
9 FELLOWSHIP AT DUKE UNIVERSITY MEDICAL CENTER. I WAS ON
10 FACULTY AT BAYLOR COLLEGE OF MEDICINE IN THE DEPARTMENT OF
11 NEUROLOGY FOR APPROXIMATELY SEVEN YEARS BEFORE I MARRIED
12 AND RELOCATED TO THE CAROLINAS.

13 I HAVE WORKED AT DUKE REHAB AND WAKE MED REHAB, BOTH
14 IN NORTH CAROLINA. WHEN WE MOVED TO SOUTH CAROLINA I WAS
15 HIRED AT A DEPARTMENT OF FORENSIC SERVICES WITH THE
16 DEPARTMENT OF MENTAL HEALTH PERFORMING COURT-ORDERED
17 EVALUATIONS FOR FELONY OFFENSES, AND I WAS THE
18 NEUROPSYCHOLOGIST FOR THAT UNIT.

19 APPROXIMATELY FOUR AND A HALF YEARS AGO AFTER THE
20 BIRTH OF MY SON I ELECTED NOT TO RETURN TO FULL-TIME WORK
21 AT DMH, BUT I CONTINUED -- I HAVE BEEN DOING PRIVATE
22 PRACTICE THROUGH THE UNIVERSITY OF SOUTH CAROLINA SCHOOL
23 OF MEDICINE SINCE WE MOVED HERE ABOUT SEVEN YEARS AGO.

24 SO I CONTINUE TO HAVE A PART-TIME PRACTICE IN THE
25 AREA OF CLINICAL NEUROPSYCHOLOGY THROUGH THE MEDICAL

1 SCHOOL IN COLUMBIA.

2 Q DR. BRAWLEY, ARE YOU CERTIFIED? IS THERE A BOARD
3 CERTIFICATION IN THE FIELD OF NEUROPSYCHOLOGY?

4 A YOU ARE LICENSED IN THE STATE OF SOUTH CAROLINA.
5 I'M -- BOARD CERTIFICATION IN NEUROPSYCHOLOGY IS
6 COMPLETELY ELECTIVE.

7 Q AND YOU'RE LICENSED IN THE STATE OF SOUTH CAROLINA?

8 A LICENSED IN THE STATE OF SOUTH CAROLINA AND ALSO HOLD
9 A LICENSE IN THE STATE OF TEXAS.

10 Q AND HOW MANY NEUROPSYCHOLOGICAL EXAMS HAVE YOU
11 CONDUCTED IN YOUR CAREER?

12 A HUNDREDS. I HAVE BEEN DOING THIS TESTING FOR ALMOST
13 20 YEARS NOW.

14 Q HAVE YOU BEEN QUALIFIED TO TESTIFY IN COURTS OF
15 RECORD OF THIS STATE OR OTHER STATES AS AN EXPERT IN THE
16 FIELD OF NEUROPSYCHOLOGY?

17 A YES, SIR, IN BOTH STATE AND FEDERAL COURT IN SOUTH
18 CAROLINA.

19 Q ON HOW OCCASIONS?

20 A I DON'T HAVE TO COME TO COURT TOO OFTEN, FORTUNATELY.
21 PROBABLY IN FEDERAL COURT A COUPLE OF TIMES AND STATE
22 COURT MAYBE 10, 15 TIMES.

23 MR. HEMBREE: YOUR HONOR, WE WOULD SUBMIT THAT
24 DR. BRAWLEY IS QUALIFIED TO TESTIFY AS AN EXPERT IN
25 THE FIELD OF NEUROPSYCHOLOGY.

1 THE COURT: ANY QUESTIONS OR OBJECTIONS?

2 MR. DIGGS: NO, YOUR HONOR.

3 THE COURT: SO ADMITTED. YOU MAY PROCEED.

4 MR. HEMBREE: THANK YOU, YOUR HONOR.

5 THE COURT: YOU'RE WELCOME.

6 BY MR. HEMBREE:

7 Q DR. BRAWLEY, HOW DID YOU GET INVOLVED IN THIS CASE?

8 A I RECEIVED A CALL FROM DR. CRAWFORD WHO SAID SHE HAD
9 BEEN COURT APPOINTED TO PERFORM AN EVALUATION IN THIS CASE
10 AND SHE HAD SOME QUESTIONS AND CONCERNS REGARDING SOME
11 NEUROPSYCHOLOGICAL FINDINGS IN THIS CASE AND SHE ASKED FOR
12 ME TO HELP HER OUT WITH THAT.

13 Q AND WHAT -- EXPLAIN TO THE JURY AND JUST BRIEFLY
14 EXPLAIN TO THE JURY WHAT ARE -- WHAT IS THE FIELD OF
15 NEUROPSYCHOLOGY, AND WHEN YOU CONDUCT AN EXAMINATION WHAT
16 ARE YOU LOOKING FOR.

17 A RIGHT. NEUROPSYCHOLOGY IS THE STUDY OF BRAIN
18 BEHAVIOR RELATIONSHIPS. WE BASICALLY CONDUCT A SERIES OF
19 TESTS, FUNCTIONAL TESTS, QUESTION, ANSWER, PENCIL, PAPER,
20 BLOCKS, MATH, ALL KINDS OF FUNCTIONAL TESTS THAT LOOK AT
21 DIFFERENT AREAS OF BRAIN FUNCTIONING.

22 WHERE AN MRI OR CT GIVES A PICTURE OF THE BRAIN, THE
23 TESTS THAT I DO TELLS HOW THE DIFFERENT AREAS OF THE BRAIN
24 ARE WORKING, HOW THEY ARE ACTUALLY FUNCTIONING. I GET
25 CALLED IN ON CASES OF DEMENTIA, HEAD INJURY, PARKINSONS, A

1 VARIETY OF CASES WHERE WE NEED TO LOOK AND SEE WHAT'S
2 GOING ON FUNCTIONALLY WITH THE BRAIN.

3 I PERFORM EVALUATIONS FOR THE FEDERAL AVIATION
4 ADMINISTRATION ON PILOTS WHO HAVE LOST THEIR MEDICAL
5 CERTIFICATE FOR ONE REASON OR ANOTHER AND ARE NOW
6 REAPPLYING TO GET BACK IN THE COCKPIT AND THE FAA WANTS TO
7 MAKE SURE THAT THEY ARE COGNITIVELY INTACT BEFORE THEY
8 APPROVE THEM TO GET BACK INTO THE COCKPIT.

9 Q DR. BRAWLEY, SPECIFICALLY WHAT WERE YOU REQUESTED TO
10 DO IN THE CASE OR THE EXAMINATION OF STEPHEN STANKO?

11 A DR. CRAWFORD ASKED ME TO LOOK AT THE REPORT AND THE
12 RAW DATA OF DR. EINHORN AND TO EVALUATE MR. STANKO.

13 Q AND TELL US, DID YOU HAVE THE OPPORTUNITY TO REVIEW
14 DR. EINHORN'S RAW DATA AS WELL AS HIS REPORT?

15 A I DID. JUST RECENTLY I GOT HIS RAW DATA, WAS ABLE TO
16 LOOK THROUGH THAT. I HAD SEVERAL WEEKS PREVIOUSLY
17 RECEIVED HIS REPORT.

18 Q WHAT WERE YOUR FINDINGS OR ANY SIGNIFICANT FINDINGS
19 AND CONCLUSIONS UPON REVIEWING DR. EINHORN'S RAW DATA?

20 A JUST ONE MINOR SCORING ERROR WAS HIS IQ. IT REALLY
21 DIDN'T MAKE A DIFFERENCE IN THE INTERPRETATION. HE'S
22 STILL IN THE TOP ONE PERCENTILE OF PEOPLE WITH
23 INTELLECTUAL FUNCTIONING. AND ALL OF DR. EINHORN'S TESTS
24 AS HE HAD RELAYED TO ME IN A PHONE CONVERSATION WERE
25 WITHIN NORMAL LIMITS.

1 Q OKAY. SO NO ABNORMALITIES REVEALED THROUGH DR.
2 EINHORN'S NEUROPSYCHOLOGICAL TESTING?

3 A CORRECT.

4 Q HE'S NORMAL?

5 A YES, SIR.

6 Q AND DR. EINHORN -- THAT WAS BOTH DR. EINHORN'S
7 CONCLUSIONS AS WELL; CORRECT?

8 A YES. IF YOU LOOK AT HIS REPORT, EVERYTHING FROM THE
9 NEUROPSYCHOLOGICAL STANDPOINT IS WITHIN NORMAL LIMITS.

10 Q YOU CONDUCTED SOME OF YOUR OWN TESTS; CORRECT?

11 A YES, SIR.

12 Q AND WHAT WERE YOUR SIGNIFICANT FINDINGS AND
13 CONCLUSIONS AS A RESULT OF YOUR TESTING?

14 A SAME THING, EVERYTHING IS WITHIN NORMAL LIMITS.
15 THERE WERE NO AREAS OF DEFICIT ON TESTING.

16 Q NOW, THERE -- THIS IS A FAIRLY LENGTHY BATTERY OF
17 TESTS THAT DR. EINHORN PUT HIM THROUGH; CORRECT?

18 A CORRECT.

19 Q I BELIEVE YOU TESTIFY -- WERE YOU HERE FOR HIS
20 TESTIMONY YESTERDAY?

21 A NO, SIR.

22 Q WOULD IT -- WELL, HOW LONG WOULD IT TAKE YOU -- YOU
23 SAW WHAT TESTS HE CONDUCTED. HOW LONG WOULD IT TAKE YOU
24 TO ADMINISTER THAT SAME BATTERY OF TESTS TO MR. STANKO OR
25 ANY OTHER...

1 A I DON'T -- I DON'T GIVE EXACTLY THE SAME BATTERY OF
2 TESTS. BUT YOU'RE GOING TO SPEND A FULL DAY, YOU KNOW,
3 DOING A COMPLETE BATTERY. IT USUALLY TAKES YOU AT LEAST
4 EIGHT HOURS AND THAT INCLUDES THE -- THE ADMINISTERING THE
5 TESTS, SCORING, AND INTERPRETING.

6 Q ARE THERE TESTS THAT DR. EINHORN PERFORMED ON
7 DEFENDANT STANKO THAT TEST FOR BRAIN FUNCTION IN THE
8 FRONTAL LOBES?

9 A YES.

10 Q WHICH TEST, IF YOU CAN SPECIFICALLY RELATE THOSE,
11 WHICH TEST DID DR. EINHORN GIVE THIS DEFENDANT THAT WOULD
12 BE NEUROPSYCHOLOGICAL TEST OF HIS FRONTAL LOBE
13 FUNCTIONING?

14 A WELL, RIGHT OFF THE TOP OF MY HEAD, AND I WILL FLIP
15 TO THIS REPORT WHILE I'M SPEAKING TO YOU, BUT HE GAVE THE
16 TEST CALLED THE WISCONSIN CARD SORT, WHICH IS A FRONTAL
17 LOBE EXECUTIVE FUNCTION TEST. COMPLETELY WITHIN NORMAL
18 LIMITS.

19 TRAILMAKING PART B HE GAVE, WHICH YOU HAVE TO SHIFT
20 BACK AND FORTH. ALSO A FRONTAL LOBE HIGHER EXECUTIVE
21 TEST. IT WAS WITHIN NORMAL LIMIT.

22 HE GAVE AN IQ TEST WHICH I THINK YOU HAVE HEARD ABOUT
23 BEFORE, BUT THERE ARE CERTAIN COMPONENTS OF THE IQ TEST.
24 IT'S HARD TO SAY WHAT IS IQ. BEST WE CAN TELL, IT'S A
25 COMPOSITE OF DIFFERENT AREAS OF FUNCTION.

1 SO WHEN I DO A NEUROPSYCH BATTERY, I DO GIVE AN IQ
2 TEST NOT SO MUCH BECAUSE I WANT TO KNOW THEIR IQ, BUT I
3 WANT TO LOOK AT ALL THOSE DIFFERENT AREAS BECAUSE THEY ALL
4 TEST DIFFERENT AREAS OF THE BRAIN.

5 THERE ARE SEVERAL, TWO IN PARTICULAR THAT TEST
6 FRONTAL LOBE FUNCTION WITHIN THE IQ TEST. ONE IS CALLED
7 PICTURE ARRANGEMENT SUBTEST WHICH LOOKS AT SEQUENCING
8 ABILITY. ANOTHER IS MATRIX REASONING WHICH IS AN ABSTRACT
9 REASONING TEST.

10 Q AND HOW DID -- OF COURSE, I THINK WE KNOW HOW THE
11 DEFENDANT DID ON THE IQ TEST. DO YOU HAVE RAW DATA ON
12 THOSE TWO SPECIFIC ASPECTS OF THE IQ TEST THAT...

13 A EVERYTHING IS -- IN THE IQ TEST WAS WITHIN NORMAL
14 LIMIT. THERE WERE NO AREAS OF DEFICIT.

15 Q NO AREAS OF DEFICIT?

16 A CORRECT.

17 Q ANY OTHER AREAS OF -- ANY OTHER TEST THAT TEST THE
18 AREAS OF THE FRONTAL LOBES?

19 A BY DR. EINHORN? THOSE ARE THE PRIMARY ONES THAT HE
20 DID. I DID -- I DID A LITTLE BIT OF THAT. HE WAS, YOU
21 KNOW, VERY THOROUGH WITH HIS TESTING, SO I DIDN'T HAVE TO
22 DO A WHOLE LOT OF EXTRA TESTING.

23 WE CANNOT REPEAT CERTAIN TESTS WITHIN A CERTAIN
24 PERIOD OF TIME BECAUSE THERE'S A PRACTICE EFFECT, MEANING
25 BECAUSE THEY HAVE HAD THEM RECENTLY, YOU CAN'T GIVE IT TO

1 THEM.

2 SO I DID A FEW DIFFERENT TESTS THAT INCLUDED SHORT
3 CATEGORIES TEST I GAVE, AND THAT LOOKS ALSO AT FRONTAL
4 LOBE FUNCTIONING, COGNITIVE FLEXIBILITY, AND AGAIN, WITHIN
5 NORMAL LIMITS.

6 Q AND THAT WAS THE ONE THAT TESTED FRONTAL LOBE
7 CAPACITY OR FUNCTION?

8 A YES, SIR.

9 Q AND IT WAS WITHIN NORMAL LIMITS?

10 A YES, SIR.

11 Q DR. BRAWLEY, WITHIN A REASONABLE DEGREE OF MEDICAL
12 AND PSYCHOLOGICAL CERTAINTY, WHAT IS YOUR OPINION OF THIS
13 DEFENDANT'S BRAIN FUNCTION?

14 A FROM NEUROLOGUE -- NEUROPSYCHOLOGICAL CERTAINTY THERE
15 ARE NO AREAS OF COGNITIVE DEFICIT IN -- ALONG (SIC)
16 TESTING.

17 Q THANK YOU. PLEASE ANSWER ANY QUESTIONS THE DEFENSE
18 ATTORNEYS MAY HAVE.

19 A YES, SIR.

20 THE COURT: ANY CROSS-EXAMINATION OF THE
21 WITNESS?

22 MR. DIGGS: YES. THANK YOU, YOUR HONOR.

23 THE COURT: YOU MAY PROCEED.

24 CROSS-EXAMINATION

25 BY MR. DIGGS:

1 Q DR. BRAWLEY, WHAT DOES COGNITIVE DISABILITIES MEAN?

2 A PROBLEM WITH THINKING.

3 Q THINKING? WHEN YOU DID YOUR TESTING, CAN YOU TELL US
4 WHAT AREAS OF THE FRONTAL LOBE YOU WERE TESTING?

5 A WELL, ALL AREAS OF THE FRONTAL LOBE.

6 Q ALL?

7 A THE FRONTAL LOBE IS, YOU KNOW, A COMPREHENSIVE UNIT
8 THAT WORKS TOGETHER.

9 Q ALL RIGHT. ARE YOU FAMILIAR WITH THE AREA OF THE
10 FRONTAL LOBE WHERE EMPATHY, FOR EXAMPLE, WOULD BE
11 GENERATED?

12 A YES, SIR.

13 Q AND WHERE IS THAT?

14 A USUALLY IN THE SUBCORTICAL REGION.

15 Q AND THE TEST THAT YOU ADMINISTERED OR THAT DR.
16 EINHORN ADMINISTERED, WERE THEY DESIGNED TO REACH INTO
17 THAT AREA?

18 A THEY REACH INTO ALL AREAS. THE TESTS THAT WE GIVE
19 ARE CALLED TESTS OF HIGHER CORTICAL FUNCTIONING.

20 Q OKAY.

21 A BECAUSE THAT'S WHERE THEY ARE LOCATED. HOWEVER,
22 THERE ARE PATHWAYS THAT RUN THROUGH THE SUBCORTICAL AREAS
23 WE ARE DEPENDENT UPON TO MAKE THOSE AREAS WORK, THE WIRING
24 SO TO SPEAK.

25 Q ALL RIGHT. DO YOU KNOW WHAT A PSYCHOPATH IS?

1 A I DO.

2 Q ARE YOU AWARE THAT PSYCHOPATHS HAVE NORMAL
3 NEUROPSYCHOLOGICAL TESTS, RESULTS?

4 A I THINK A LOT OF US CAN HAVE NORMAL
5 NEUROPSYCHOLOGICAL TESTS, CERTAINLY.

6 Q OKAY. ALL RIGHT. SO IF DR. SACHY SAID WE HAVE A
7 PSYCHOPATH IN THIS CASE, THEN THAT WOULDN'T BE NECESSARILY
8 DISCLOSED BY YOUR TESTING.

9 A I'M GOING TO LEAVE THE PSYCHOPATHY AND PSYCHIATRIC
10 DIAGNOSES TO DR. SACHY AND TO DR. CRAWFORD. I WAS ASKED
11 TO LOOK AT COGNITIVE FUNCTION.

12 Q OKAY. THANK YOU VERY MUCH. DO YOU AGREE WITH DR.
13 EINHORN'S DIAGNOSIS OF ANTISOCIAL PERSONALITY?

14 A AGAIN, I'M GOING TO LEAVE THAT TO DR. CRAWFORD. I'VE
15 REVIEWED COGNITIVE ASPECTS TO LOOK AT COGNITIVE
16 FUNCTIONING ONLY. THAT -- I WAS VERY SPECIFIC IN THE AREA
17 THAT I WAS ASKED TO LOOK AT.

18 Q ALL RIGHT. AND SO BASICALLY YOU AGREE WITH DR.
19 EINHORN?

20 A FROM THE COGNITIVE STANDPOINT, YES, SIR, EVERYTHING
21 WAS WITHIN NORMAL LIMITS.

22 Q THANK YOU VERY MUCH.

23 A CERTAINLY.

24 THE COURT: ANY REDIRECT OF THE WITNESS?

25 MR. HEMBREE: NO, YOUR HONOR. WE ASK THAT...

1 THE COURT: ANY EXCEPTION TO THE WITNESS BEING
2 EXCUSED FROM THE STATE?

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

4 THE COURT: FROM THE DEFENSE?

5 MR. DIGGS: NO, YOUR HONOR.

6 THE COURT: DOCTOR, YOU'RE EXCUSED.

7 (WITNESS LEFT THE STAND.)

8 THE COURT: MADAM FORELADY, LADIES AND
9 GENTLEMEN, YOU ALL HAVE BEEN SITTING ABOUT AN HOUR
10 AND A HALF. GOING TO GIVE YOU ALL A QUICK BREAK.
11 DURING THE BREAK PLEASE DO NOT DISCUSS THE CASE.
12 PLEASE LEAVE YOUR NOTEPADS IN YOUR SEATS.

13 I ANTICIPATE IT WILL BE ABOUT 10 MINUTES. THAT
14 SHOULD GIVE THOSE WHO WANT TO SMOKE ENOUGH TIME TO DO
15 THAT AND ALSO FOR YOU ALL TO GET SOME REFRESHMENTS
16 AND TO WALK AROUND A LITTLE BIT, GET YOUR BLOOD
17 MOVING.

18 (JURY LEFT THE COURTROOM AT 4:07 PM.)

19 THE COURT: YOU ALL CAN BE SEATED. WE'LL TAKE
20 ABOUT A 10 MINUTE RECESS. EVERYONE GET REFRESHED AND
21 WE WILL RESUME SHORTLY. I WILL HAVE A COPY OF THAT
22 CHARGE FOR ALL OF YOU PROBABLY WITHIN THE NEXT FIVE
23 OR TEN MINUTES.

24 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

25 THE COURT: YOU'RE WELCOME.

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(WHEREUPON A RECESS WAS TAKEN.)

THE COURT: DO WE KNOW IF THE JURY HAS CONCLUDED
THEIR BREAK? ALL RIGHT. IS THE STATE READY TO
PROCEED?

MR. HEMBREE: YES, YOUR HONOR.

THE COURT: IS THE DEFENSE READY TO PROCEED?

MR. DIGGS: YES, YOUR HONOR.

THE COURT: PLEASE BRING IN THE JURY.

(JURY ENTERED THE COURTROOM AT 4:31 PM.)

THE COURT: YOU MAY BE SEATED. LADIES AND
GENTLEMEN, I HOPE THAT YOU ENJOYED YOUR BREAK. WE'LL
NOW RESUME WITH THE TRIAL. MR. HUMPHRIES, YOU MAY
PROCEED.

MR. HUMPHRIES: THANK YOU, YOUR HONOR.

THE COURT: YOU'RE WELCOME.

MR. HUMPHRIES: THE STATE CALLS DR. WILLIAM
BRANNON.

THE COURT: SIR, IF YOU WILL COME TO THE WITNESS
STAND AND BE SWORN.

DR. WILLIAM BRANNON, AFTER BEING
DULY SWORN, TESTIFIED AS FOLLOWS:

THE WITNESS: I AM WILLIAM BRANNON,
B-R-A-N-N-O-N.

DIRECT EXAMINATION

BY MR. HUMPHRIES:

1 Q DR. BRANNON, HOW ARE YOU EMPLOYED?

2 A UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE.

3 Q AND IN WHAT CAPACITY, SIR?

4 A RIGHT NOW I'M A CLINICAL PROFESSOR, BUT BETWEEN 1980
5 AND 2004 I WAS A PROFESSOR WITH TENURE IN THE DEPARTMENT
6 OF NEUROPSYCHIATRY AND BEHAVIORAL SCIENCE. IN 1984 I
7 RETIRED AND WAS MADE A DISTINGUISHED PROFESSOR MERITUS, I
8 TOOK A DAY OFF AND WENT BACK TO WORK AS A CLINICAL
9 PROFESSOR WHICH MEANS I SEE PATIENTS AND TEACH, WHICH IS
10 WHAT I WAS DOING BEFORE I RETIRED, BUT I JUST DON'T DO IT
11 AS MUCH.

12 Q DR. BRANNON, LET ME ASK YOU, WILL YOU SHARE WITH THIS
13 JURY AT LEAST RELATIVELY BRIEFLY YOUR EDUCATION, TRAINING,
14 AND EXPERIENCE IN THE FIELDS IN WHICH YOU PRACTICE.

15 A YES, SIR. I GRADUATED FROM THE MEDICAL UNIVERSITY OF
16 SOUTH CAROLINA IN 1961. I WENT TO PORTSMOUTH, VIRGINIA.
17 I WAS A NAVY SCHOLARSHIP STUDENT, SO WHEN I GOT MY MD
18 DEGREE, I WAS AN ACTIVE DUTY NAVY OFFICER.

19 PORTSMOUTH, VIRGINIA FOR ONE YEAR IN A ROTATING
20 INTERNSHIP WHICH MEANS FOUR MONTHS OF INTERNAL MEDICINE,
21 FOUR MONTHS OF GENERAL SURGERY, FOUR -- TWO MONTHS OF
22 PEDIATRICS AND TWO MONTHS OF OBSTETRICS AND GYNECOLOGY.

23 IN JUNE OF 1962 I COMPLETED THAT WORK AND MOVED TO
24 WASHINGTON DC TO THE NATIONAL NAVAL MEDICAL CENTER AS A
25 RESIDENT PHYSICIAN TRAINING IN NEUROLOGY. AFTER SIX

1 MONTHS THE NAVY TRANSFERRED ME TO GEORGETOWN UNIVERSITY
2 WHERE I SPENT THREE YEARS STUDYING CLINICAL NEUROLOGY AND
3 NEUROPATHOLOGY. I COMPLETED THAT TRAINING IN JANUARY OF
4 1966.

5 BACK TO THE NAVAL HOSPITAL IN BETHESDA AND I TOOK
6 UNDER THE TUTELAGE OF DR. EDWIN WEINSTEIN WHO IS A
7 BEHAVIORAL NEUROLOGIST, ABOUT SIX MONTHS OF BEHAVIORAL
8 NEUROLOGY TRAINING, AND INTERESTINGLY ENOUGH HELPED DR.
9 WEINSTEIN IN WRITING HIS BOOK, THE PSYCHOLOGICAL BIOGRAPHY
10 OF WOODROW WILSON.

11 THEN I STAYED ON THE FACULTY AND STAFF AT THE NAVAL
12 HOSPITAL IN BETHESDA UNTIL JUNE OF 1979. AND DURING THAT
13 TIME I PRACTICED CLINICAL NEUROLOGY, I TAUGHT RESIDENT
14 PHYSICIANS IN NEUROLOGY, I TAUGHT MEDICAL STUDENTS FROM
15 ALL THREE MEDICAL SCHOOLS IN THE WASHINGTON DC AREA.

16 I WAS A CONSULTANT IN NEUROLOGY TO THE SURGEON
17 GENERAL OF THE NAVY WHICH MEANS I HELPED PLACE
18 NEUROLOGISTS THAT WERE COMING INTO THE NAVY INTO THEIR
19 JOBS.

20 I WAS A CONSULTANT TO THE ATTENDING PHYSICIAN, UNITED
21 STATES CAPITAL WHICH MEANS I DID CONSULTATIONS ON MEMBERS
22 OF CONGRESS, SUPREME COURT JUSTICES, CABINET SECRETARIES,
23 AND THE LIKE.

24 AND I DID CONSULTATION WORK FOR THE ATTENDING
25 PHYSICIAN AT THE WHITEHOUSE WHICH MEANS THAT I GOT TO

1 DRIVE MY RUSTY BUICK DOWN AND PARK IT IN THE CIRCLE AROUND
2 THE WHITE HOUSE AND GO IN AND EXAMINE A FEW PRESIDENTS AND
3 SOME OTHER FOLKS.

4 IN 1979 THE SURGEON GENERAL OF THE NAVY CONVINCED ME
5 THAT ADMINISTRATIVE WORK WAS A GOOD THING AND SENT ME TO
6 CHARLESTON AS THE EXECUTIVE OFFICER OF THE NAVAL HOSPITAL
7 THERE IN THE WHOLE NAVAL MEDICAL REGION.

8 IT WAS PROBABLY THE WORST YEAR I SPENT. I DID NOT
9 LIKE ADMINISTRATIVE WORK. SO IN 1980 I TOOK THE
10 OPPORTUNITY TO RETIRE AFTER 20 YEARS AND I TOOK A JOB AS A
11 NEUROLOGIST AND NEUROPSYCHIATRIST AT THE UNIVERSITY OF
12 SOUTH CAROLINA SCHOOL OF MEDICINE AND HAVE BEEN THERE
13 SINCE SEPTEMBER, 1980.

14 Q AND THAT GETS US CURRENT TO WHAT YOU TOLD US EARLIER
15 ABOUT YOUR PRACTICE.

16 A YES, SIR. I -- I SEE PATIENTS STILL. I SEE ABOUT 15
17 PATIENTS A WEEK NOW AND I TEACH MEDICAL STUDENTS ONE
18 AFTERNOON A WEEK.

19 MR. HUMPHRIES: YOUR HONOR, AT THIS TIME WE
20 OFFER DR. BRANNON AS AN EXPERT IN THE FIELD OF
21 NEUROLOGY.

22 THE COURT: ANY QUESTIONS OR OBJECTIONS?

23 MR. DIGGS: NO, YOUR HONOR.

24 THE COURT: SO ADMITTED. YOU MAY PROCEED.

25 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

1 THE COURT: YOU'RE WELCOME.

2 BY MR. HUMPHRIES:

3 Q LET'S -- LET'S CUT TO THE CHASE, IF YOU WILL, DR.
4 BRANNON. DID YOU HAVE AN OCCASION TO RECEIVE THE
5 DEFENDANT'S MRI IMAGES OR MR IMAGES IN THIS CASE?

6 A YES, I DID.

7 Q AND LET ME ASK YOU IN -- HOW DID YOU COME TO RECEIVE
8 THOSE IMAGES?

9 A WELL, DR. CRAWFORD ASKED ME TO DO A NEUROLOGICAL
10 CONSULTATION ON MR. STANKO BECAUSE ISSUES HAD BEEN RAISED
11 BY DOCTOR -- I DON'T REMEMBER HIS NAME.

12 Q SACHY?

13 A SACHY, DR. SACHY, AS FAR AS CERTAIN ABNORMAL FINDINGS
14 ON HIS EXAMINATION, AND DR. CRAWFORD ASKED ME TO EVALUATE
15 THOSE FINDINGS. WHEN I AGREED TO DO THAT, THEN I RECEIVED
16 I BELIEVE FROM YOUR OFFICE A COMPUTER DISK THAT HAD THE MR
17 IMAGE AS WELL AS A PET SCAN IMAGE AND I REVIEWED BOTH OF
18 THOSE MYSELF.

19 I THEN TOOK THE -- SAW WHAT DR. SACHY HAD SAID ABOUT
20 THE MRI. I DIDN'T AGREE WITH THAT. I THOUGHT THE MRI WAS
21 NORMAL. SO I THEN TOOK THE IMAGES OVER TO OUR
22 NEURORADIOLOGIST, THAT'S A PERSON WHO SPECIALIZES IN THE
23 INTERPRETING BRAIN IMAGES, AND ASKED HIM TO LOOK AT IT.

24 AND I DID NOT TELL HIM WHAT I THOUGHT. AND I ASKED
25 HIM TO LOOK AT THE IMAGES. WE LOOKED AT THEM TOGETHER.

1 HE SAID IT WAS NORMAL. I THEN POINTED OUT TO HIM THE
2 AREAS THAT DR. SACHY HAD MENTIONED HE THOUGHT WERE
3 ABNORMAL AND WE BOTH AGREED THAT THAT WAS NOT AN
4 ABNORMALITY THAT HE WAS LOOKING AT AND THAT THE MRI WAS IN
5 FACT NORMAL.

6 Q LET ME ASK YOU, DR. BRANNON. THERE WAS SOME AREA IN
7 WHICH DR. SACHY HAD EXPRESSED SOME CONCERN.

8 A YES.

9 Q ABOUT THAT PARTICULAR AREA, DO YOU HAVE ANY
10 EXPLANATION HOW THAT CONCERN COULD HAVE ARISEN BY VIRTUE
11 OF THOSE IMAGES?

12 A YEAH. I THINK ONE THING IS THAT HE PROBABLY DOESN'T
13 SPEND A LOT OF TIME LOOKING AT MRI IMAGES. AND I THINK
14 THE SECOND THING IS YOU HAVE TO LOOK AT THE PLANE IN WHICH
15 THE IMAGE IS PUT FORTH.

16 TYPICALLY WHEN AN MR IS DONE, MAGNETIC RESIDENCE
17 IMAGE IS DONE, THE COMPUTER WILL RECONSTRUCT IMAGES AS IF
18 YOU SLICED A LOAF OF BREAD THIS WAY. THE COMPUTER WILL
19 RECONSTRUCT IMAGES THAT GO ACROSS THIS WAY, AND THEY WILL
20 RECONSTRUCT IMAGES THAT ARE SLICED IN A VERTICAL PLANE.

21 AND WHAT DR. SACHY HAD LOOKED AT WAS THE IMAGES THAT
22 ARE IN THE AXIAL PLANE. AND IN THE -- ABOUT THE MID-PART
23 OR PARIETAL LOBE OF THE BRAIN ARE SOME AREAS IN WHICH
24 THE -- THE HILLS AND VALLEYS -- THE BRAIN ITSELF, HIGHEST
25 LEVEL OF THE BRAIN IS A CONVOLUTED TISSUE MASS THAT HAS

1 HILLS AND VALLEYS.

2 THERE ARE THE HILLS ARE CALLED GYRI AND THE VALLEYS
3 ARE CALLED SULCI. AND HE THOUGHT THAT THE GYRI WERE TOO
4 NARROW AND THE SULCI WERE TOO WIDE. AND THAT WILL
5 GENERALLY BRING UP THE ISSUE OF IS THERE WASTING OF THE
6 BRAIN.

7 IF YOU LOOK AT THE IMAGES IN THE USUAL PLANE, THAT IS
8 THIS WAY, AND THIS WAY, THEN YOU CAN SEE THAT -- THAT THE
9 GYRI ARE FULL IN THEIR THICKNESS AND THAT THE SULCI ARE
10 APPROPRIATELY DIMENSIONED IN TERMS OF THEIR WIDTH AS WELL.
11 AND I THINK HE JUST SAW WHAT REFLECTS INEXPERIENCE IN
12 LOOKING AT MRI SCANS.

13 Q LET ME ASK YOU, REGARDING STATISTICAL ANALYSIS OF
14 MRIS, STATISTICAL ANALYSIS OF MRIS, ARE THEY GENERALLY
15 ACCEPTED IN MEDICAL AND SCIENCE -- IN THE MEDICAL AND
16 SCIENTIFIC COMMUNITY AS A DIAGNOSTIC TOOL?

17 A NO. NO. STATISTICS LOOK AT THE LARGE NUMBERS OF
18 THINGS. AND THEY ARE NOT WORTH ANYTHING AS FAR AS AN
19 INDIVIDUAL PATIENT IS CONCERNED. AND I SAW THAT
20 INFORMATION FROM THE DOCTOR WHO TALKED ABOUT STATISTICAL
21 ANALYSIS, AND I WAS IMPRESSED THAT HIS DATA ARE PROBABLY
22 FAULTY FROM THE BEGINNING.

23 HE ESTABLISHED HIS NORMAL -- NORMS ON A TOTAL OF 41
24 PEOPLE. NOW, HOW MANY PEOPLE ARE OUT HERE IN THE COUNTRY?
25 MILLIONS, HUNDREDS OF MILLIONS OF PEOPLE. AND YOU TAKE 41

1 AND SAY THAT ANYTHING THAT DEVIATES FROM THAT IS NOT
2 NORMAL IS TO ME LUDICROUS.

3 Q LET ME ASK YOU, IN YOUR LONG SERVICE, PARTICULARLY IN
4 THE 60'S, WOULD YOU HAVE HAD AN OCCASION TO CONSULT WHEN
5 AN INFANT PRESENTED WITH POSSIBLE NEUROLOGICAL PROBLEMS?

6 A OH, YES. WELL, WHEN I WAS TRAINING AS A NEUROLOGIST,
7 THERE WAS NO SUCH THING AS A PEDIATRIC CHILD NEUROLOGIST.
8 THERE WERE PEDIATRICIANS AND THERE WERE NEUROLOGISTS.

9 AND -- AND IN FACT, THERE WAS NO SUCH THING AS A
10 NEURORADIOLOGIST. I WAS TRAINED TO DO ALL OF THE
11 NEURORADIOLOGICAL PROCEDURES OF THE DAY, AND I MIGHT ADD
12 HAPPY WHEN THE NEURORADIOLOGISTS BEGAN TO EMERGE.

13 BUT YES, TO ANSWER YOUR QUESTION, I HAVE DONE A LOT
14 OF PEDIATRIC NEUROLOGY AND IN FACT WAS ELIGIBLE FOR BEING
15 GRANDFATHERED INTO BOARD CERTIFICATION AS A PEDIATRIC
16 NEUROLOGIST BUT CHOSE NOT TO DO THAT BECAUSE THAT WAS NOT
17 WHERE MY CAREER PRACTICE WAS LEADING ME.

18 Q AND LET ME ASK YOU THIS. CONSISTENT WITH YOUR
19 EXPERIENCE THEN, HAVE YOU HAD THE OCCASION OR THE REGULAR
20 PRACTICE OF BEING ABLE TO CONSULT OR TO REVIEW CLINICAL
21 RECORDS OF NEWBORNS AND THEIR BIRTH?

22 A YES, SIR. I HAVE DONE MANY FOR OTHER PEOPLE. I HAVE
23 DONE THREE FOR MY OWN AND SIX OF MY OWN GRANDCHILDREN.

24 Q FAIR ENOUGH. AND IN THIS PARTICULAR CASE DID YOU
25 HAVE AN OCCASION TO REVIEW THE BIRTH RECORDS OF THE

1 DEFENDANT, STEPHEN STANKO?

2 A I DID.

3 Q AND AFTER HAVING REVIEWED THOSE RESULTS, TELL THIS
4 JURY TO A REASONABLE DEGREE OF MEDICAL CERTAINTY, IF YOU
5 CAN, DO THOSE RECORDS REFLECT AN INDICATION OR THE
6 PRESENCE OF A BRAIN BIRTH DEFECT?

7 A NO, SIR. IN FACT, THE RECORD GIVES A FAIRLY
8 SUBSTANTIAL RECORD INDICATING EVERYTHING WAS NORMAL.
9 THERE ARE N'S IN ALL OF THE PLACES THAT DEAL WITH SPECIFIC
10 ORGANS.

11 AND WHEN THERE'S SOMETHING HERE THAT SAYS PARALYSIS,
12 IT HAS A ZERO WHICH MEANS THERE'S NO PARALYSIS. YOU WOULD
13 NOT SAY THAT PARALYSIS WAS NORMAL OR ABNORMAL, BUT SHOW
14 THE N, AND THE A WOULD MEAN -- AND PALLOR IS ZERO. NO
15 PALLOR. YOU DON'T HAVE NORMAL OR ABNORMAL PALLOR.

16 ICTERUS WHICH HAS A ZERO SIMPLY MEANS THE COLOR
17 YELLOW, AND THAT WOULD NOT BE NORMAL OR ABNORMAL. IT
18 WOULD BE PRESENT OR ABSENT, SO YOU WOULD PUT A ZERO OR
19 YES.

20 AND THE SAME IS TRUE FOR CYANOSIS. THAT WORD MEANS
21 BLUE AND SUGGESTS LACK OF OXYGEN. AND THIS IS IN THE
22 IMMEDIATE POST-BIRTH PERIOD, WAS ACTUALLY DOCUMENTED. I
23 THINK THE DAY OF THE BIRTH IS JANUARY 13. THIS WAS
24 DOCUMENTED JANUARY 14TH.

25 Q AND FINALLY, YOU HAVE ANY EXPERIENCE WITH THE ARMED

1 FORCES, VARIOUS ARMED FORCES ACADEMIES?

2 A YES, SIR. I SERVED 17 YEARS IN WASHINGTON AND SAW A
3 NUMBER OF MIDSHIPMEN FROM THE NAVAL ACADEMY, AND IN FACT
4 CONTRIBUTED TO A RESEARCH PROJECT INVOLVING PSYCHOLOGICAL
5 TESTING OF MIDSHIPMEN.

6 Q AND LET ME ASK YOU THIS. BASED ON THAT KNOWLEDGE AND
7 EXPERIENCE, DO APPLICANTS -- IN THIS PARTICULAR CASE,
8 WOULD AN APPLICANT TO THE AIR FORCE ACADEMY BE GIVEN A
9 BATTERY OF NEUROPSYCHOLOGICAL TESTING JUST BASED ON
10 APPLICATION?

11 A NO, I DON'T THINK SO. I CAN SPEAK SPECIFICALLY--

12 MR. DIGGS: YOUR HONOR?

13 THE COURT: IS THERE AN OBJECTION?

14 MR. DIGGS: THERE'S AN OBJECTION.

15 THE COURT: BASIS OF THE OBJECTION.

16 MR. DIGGS: OUTSIDE THE SCOPE HE WAS
17 INTRODUCED...

18 THE COURT: PLEASE APPROACH. WELL, I'M GOING TO
19 SUSTAIN IT BASED UPON FOUNDATION. IF YOU LAY THE
20 APPROPRIATE FOUNDATION --

21 MR. HUMPHRIES: BE GLAD TO.

22 THE COURT: YOU MAY PROCEED.

23 BY MR. HUMPHRIES:

24 Q DR. BRANNON, ARE YOU FAMILIAR BASED ON YOUR
25 EXPERIENCE, AS YOU SAID 17 YEARS IN CONNECTION WITH THESE

1 ACADEMIES, ARE YOU FAMILIAR WITH WHETHER OR NOT BATTERIES
2 OF NEUROPSYCHOLOGICAL TESTING ARE GIVEN TO APPLICANTS, NOT
3 ADMITTEES, BUT APPLICANTS TO THE ACADEMIES?

4 A I BELIEVE THEY ARE NOT.

5 MR. DIGGS: WELL, YOUR HONOR, THE SAME
6 OBJECTION.

7 THE COURT: IS THERE AN OBJECTION? BASIS.
8 BASIS OF THE OBJECTION?

9 MR. DIGGS: WHAT HE BELIEVES. EITHER HE KNOWS
10 OR HE DOESN'T.

11 THE COURT: IS THE BASIS -- FOUNDATION
12 SPECULATION--

13 MR. DIGGS: I THINK IT'S SPECULATION.

14 THE COURT: PLEASE APPROACH.

15 MR. HUMPHRIES: I WILL WITHDRAW THE QUESTION AND
16 ASK IT ANOTHER WAY.

17 THE COURT: THE QUESTION IS WITHDRAWN.

18 MR. HUMPHRIES: THANK YOU.

19 THE COURT: YOU MAY REPHRASE.

20 BY MR. HUMPHRIES:

21 Q LET ME ASK YOU, DO YOU KNOW BASED ON YOUR EXPERIENCE
22 WHETHER OR NOT NEUROPSYCHOLOGICAL TESTING IS DONE AFTER
23 THEY ARE ADMITTED AND ARE MIDSHIPMEN OR STUDENTS?

24 A YES. AFTER THE MIDSHIPMAN IS ADMITTED TO THE NAVAL
25 ACADEMY, THERE'S A RATHER EXTENSIVE BATTERY--

1 MR. DIGGS: YOUR HONOR, OBJECTION.

2 THE COURT: BASIS?

3 MR. DIGGS: RELEVANCY.

4 THE COURT: IT IS RELEVANT.

5 MR. DIGGS: MIDSHIPMAN?

6 THE COURT: APPROACH.

7 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

8 THE COURT: THE OBJECTION IS OVERRULED. GOES TO
9 THE WEIGHT.

10 MR. HUMPHRIES: THANK YOU, YOUR HONOR.

11 BY MR. HUMPHRIES:

12 Q PLEASE RESPOND TO THE QUESTION, DR. BRANNON.

13 A YES. AFTER THE CANDIDATE IS ADMITTED TO THE NAVAL
14 ACADEMY AS A MIDSHIPMAN, THERE'S AN EXTENSIVE BATTERY OF
15 PSYCHOLOGICAL TESTS THAT ARE ADMINISTERED. THE PURPOSES
16 FOR ADMINISTERING THOSE ARE, NUMBER ONE, TO PREDICT HOW
17 WELL THAT INDIVIDUAL WILL DO ACADEMICALLY.

18 AND THAT WAS THE AREA IN WHICH I DID THE RESEARCH.
19 AND THAT PROVED THAT YOU CAN IDENTIFY KIDS THAT WILL HAVE
20 DIFFICULTY ACADEMICALLY AND SO THEY CAN START VERY EARLY
21 WITH REMEDIAL THINGS TO HELP THAT.

22 AND THE SECOND ISSUE WOULD BE PLACEMENT IN TERMS OF
23 THE VARIOUS BRANCHES OF THE SERVICE, SUBMARINE SERVICE,
24 FOR EXAMPLE, AVIATION SERVICE, FOR EXAMPLE, SERVICE
25 WARFARE, AND A VARIETY OF THINGS LIKE THAT.

1 I ALSO HAVE DIRECT KNOWLEDGE THAT A SIMILAR APPROACH
2 IS TAKEN AT WEST POINT AT THE US MILITARY ACADEMY. AND I
3 THINK YOU HEARD TESTIMONY FROM AN AIR FORCE PSYCHIATRIST
4 ALREADY THAT THE AIR FORCE DOES A SIMILAR THING WHICH IS A
5 VERY GOOD THING, I THINK.

6 Q AND I NEGLECTED TO ASK YOU, DOCTOR. GOING BACK TO
7 THE BIRTH RECORDS, AND SPECIFICALLY THERE WAS A REFERENCE
8 TO JAUNDICE. HOW COMMON A CONDITION IS THAT IN TERMS OF
9 BIRTH?

10 A WELL, IT'S FAIRLY COMMON IN THE NEWBORN. AND MOSTLY
11 WHAT YOU DO IN -- TODAY WOULD BE TO PUT THE NEWBORN UNDER
12 WHAT'S CALLED A BILILIGHT, A BILIRUBIN LIGHT. AND WHAT
13 THEY DID IN MR. STANKO'S CASE WAS PUT HIM NEAR THE WINDOW
14 SO THE SUNLIGHT WOULD COME IN.

15 AND WHAT THAT DOES IS -- IS ENCOURAGES THE LIVER TO
16 DEVELOP ITS ENZYME SYSTEM TO BREAK DOWN THAT BILIRUBIN.
17 THE REASON THAT NEEDS TO BE DONE IS BECAUSE IF IT'S NOT
18 BROKEN DOWN AND IT CONTINUES TO RISE IN LEVEL, IT WILL
19 ACCUMULATE IN THE BRAIN AND IT WILL CAUSE WHAT WE COMMONLY
20 REFER TO AS CEREBRAL PALSY.

21 THAT CEREBRAL PALSY BEING DIFFICULTY WITH WALKING AND
22 SPEAKING, AND I'M SURE YOU'VE ALL PROBABLY HAVE SEEN
23 PEOPLE IN WHEELCHAIRS THAT HAVE VERY ODD POSTURES, CAN'T
24 TALK VERY WELL, AND CAN'T WALK, AND THEY ARE COMMONLY
25 CALLED CEREBRAL PALSY.

1 AND THAT'S THE REASON YOU TREAT THE BILIRUBIN IF IT
2 NEEDS TO BE. MR. STANKO WAS IN THE RANGE OF 17-POINT A
3 FEW, AND THE RANGE HAS TO BE WELL ABOVE 22 BEFORE ONE
4 WORRIES ABOUT CAUSING THE DISEASE KERNICTERUS, IS THE
5 MEDICAL TERM FOR IT, AND HE DID NOT DEVELOP THAT.

6 IN FACT, WE SAW THE DAY AFTER THE -- THE BIRTH OF --
7 REFERENCE TO ICTERUS WAS ZERO, AND HE NEVER REALLY
8 DEVELOPED A SUFFICIENT LEVEL OF THE ABNORMAL OR BILIRUBIN
9 TO MAKE THE DOCTORS WORRY. THERE ARE WAYS TO TREAT THAT
10 WHEN IT'S IDENTIFIED.

11 Q AND FINALLY, WHAT WAS THE AVERAGE STAY OF AN INFANT
12 IN THE HOSPITAL BACK IN THE 60'S?

13 A IN THE 60'S -- AND THE OTHER THING TO POINT OUT IS
14 THAT WAS AT GUANTANAMO BAY, CUBA, WHICH WAS A RATHER SMALL
15 BASE AND FREQUENTLY MOTHERS WERE NOT IN TOUCH WITH THEIR
16 HUSBAND BECAUSE OF THEIR DUTIES THERE, SO THE -- THE DAYS
17 WOULD HAVE BEEN FOUR, FIVE, SIX DAYS.

18 AND MY FIRST CHILD WAS BORN IN THE NAVY HOSPITAL IN
19 1963 AND MY WIFE STAYED IN THE HOSPITAL ABOUT 10 DAYS.

20 Q THANK YOU, DOCTOR.

21 THE COURT: ANY CROSS-EXAMINATION?

22 MR. DIGGS: MAY IT PLEASE THE COURT, YOUR HONOR.

23 THE COURT: YOU MAY PROCEED.

24 CROSS-EXAMINATION

25 BY MR. DIGGS:

1 Q DR. BRANNON, HOW ARE YOU THIS AFTERNOON?

2 A VERY WELL, THANK YOU.

3 Q LISTEN, LET ME ASK YOU, THIS -- DID YOU SEE THE

4 ENTIRE REPORT THAT CAME WITH THIS GRAPH?

5 A I JUST SAW IT TODAY, SO I READ IT VERY QUICKLY.

6 Q OKAY. DO YOU REMEMBER WHAT IT SAID OR DO YOU NEED TO

7 READ IT AGAIN? WOULD IT HELP YOU?

8 A IF YOU HAVE A SPECIFIC QUESTION, MAYBE WE COULD READ

9 IT IN REFERENCE TO THAT SPECIFIC QUESTION.

10 Q WELL, MY SPECIFIC QUESTION WOULD BE, ARE YOU FAMILIAR

11 WITH ARTICLES THAT HAVE BEEN PUBLISHED ON THIS PARTICULAR

12 TOPIC?

13 A WHAT TOPIC WOULD THAT BE?

14 Q THE STATISTICAL ANALYSIS OF THE MRI.

15 A NO, I HAVEN'T REALLY READ ANY ARTICLES THAT REFER TO

16 THAT DIRECTLY.

17 Q ALL RIGHT. WHEN WAS THE LAST TIME YOU READ AN

18 ARTICLE RELATED TO THAT TOPIC? OR IS IT YOUR TESTIMONY

19 YOU HAVE NEVER READ AN ARTICLE?

20 A WELL, I TRY STUDIOUSLY TO AVOID ANYTHING WITH

21 STATISTICS INVOLVED, BUT MAYBE I CAN ANSWER IT THIS WAY.

22 I TOOK A REFRESHER COURSE IN MAGNETIC RESIDENCE IMAGE

23 STUDIES IN APRIL OF THIS YEAR AND STATISTICAL ANALYSIS OF

24 MRIS WERE NOT DISCUSSED IN THAT COURSE.

25 I THINK IT'S FINE TO -- TO LOOK AT LARGE GROUPS OF

1 PEOPLE. BUT AS I SAID EARLIER, STATISTICS REALLY DON'T
2 APPLY TO AN INDIVIDUAL CASE.

3 Q WELL, WHAT WOULD YOU -- DO YOU KNOW IF THIS
4 PARTICULAR PROCEDURE WAS PUBLISHED IN ANY KIND OF PEER
5 REVIEWED ARTICLE?

6 A NO, I DON'T.

7 Q YOU DON'T KNOW?

8 A I DON'T.

9 Q WHAT -- WOULD IT AFFECT YOUR OPINION IF YOU WERE TO
10 FIND OUT THAT IT HAD BEEN?

11 A NO, BECAUSE IT CAN BE PUBLISHED IN 40 PEER REVIEWED
12 ARTICLES AND STATISTICS STILL DON'T APPLY TO AN INDIVIDUAL
13 CASE.

14 Q OKAY.

15 A IT'S LARGE GROUPS, AND SOMETIMES THAT'S USEFUL AND
16 SOMETIMES IT'S NOT.

17 Q AND THAT'S THE PROBLEM YOU FIND WITH THIS PARTICULAR
18 GRAPH?

19 A I DON'T FIND ANY PROBLEM WITH THE GRAPH. I JUST
20 DON'T THINK IT MEANS ANYTHING.

21 Q ALL RIGHT. DO YOU -- CAN YOU LOOK AT THE MRI AND
22 EITHER FORM AN OPINION WHETHER YOU EITHER AGREE WITH THIS
23 OR DISAGREE WITH THIS PARTICULAR CHART?

24 A WELL, WHAT -- WHAT THE CHART IS TRYING TO POINT OUT
25 IS THAT THERE ARE TWO THINGS. ONE IS THAT THEY ARE

1 SUGGESTING THIS ATROPHY OF THE BRAIN OR WASTING OF THE
2 BRAIN, AND THE SECOND THING THAT THEY'RE TRYING TO POINT
3 OUT FROM THAT CHART IS THAT THE CAVITIES IN THE BRAIN
4 WHERE THE SPINAL FLUID IS ARE TOO LARGE. AND THE ANSWER
5 IS I DISAGREE WITH THAT.

6 Q WELL -- OKAY.

7 A THAT'S NOT THE CASE IN -- AND THIS PARTICULAR MRI IS
8 NORMAL.

9 Q YOUR -- YOUR VIEW OF THIS CHART IS THAT IT SHOWS --
10 ATTEMPTS TO SHOW A WASTING OF THE BRAIN?

11 A YEAH.

12 Q AS OPPOSED -- AS OPPOSED TO VOLUMETRIC MASS?

13 A WELL, THAT'S WHAT WASTING IS. A LACK OF VOLUMETRIC
14 MASS IS WASTING.

15 Q OKAY. I'M JUST NOT FAMILIAR WITH THE TERMINOLOGY
16 YOU'RE USING THERE. WASTING MEANING IT NEVER WAS THERE OR
17 IT WAS THERE AND JUST WENT AWAY?

18 A WELL--

19 Q WASTED AWAY. I MEAN, THAT'S THE WAY I WOULD NORMALLY
20 PERCEIVE THAT LANGUAGE.

21 A OKAY. WELL, YOU'RE RIGHT.

22 Q OKAY.

23 A WASTING IMPLIES THAT THE MASS WAS THERE AT SOME TIME
24 AND HAD GONE AWAY.

25 Q ALL RIGHT. BUT YOU DON'T KNOW?

1 A MALFORMATION IMPLIES THAT THE MASS WAS NEVER THERE.
2 AND SO NEITHER OF THOSE INSTANCES OR TERMS APPLY TO THIS
3 PARTICULAR MAGNETIC RESIDENCE IMAGE.

4 Q ALL RIGHT. AND HOW DID YOU LOOK AT THE IMAGE? HOW
5 DID YOU VIEW THE IMAGE?

6 A WITH TWO EYES AND A COMPUTER.

7 Q OKAY. AND HOW -- WHAT DID THE COMPUTER DO FOR YOU?

8 A IT DEMONSTRATED THE IMAGE. IT PUT THE PICTURE UP SO
9 I COULD LOOK AT IT.

10 Q ALL RIGHT. WELL, WHY DIDN'T YOU JUST LOOK AT THE
11 IMAGE WITH YOUR EYE? I MEAN, EXPLAIN THE FUNCTION OF THE
12 COMPUTER FOR ME.

13 A BECAUSE I DIDN'T, YOU KNOW, A FILM IS NOTHING BUT A
14 PIECE OF PHOTOGRAPHIC NEGATIVE, AND THAT'S WHERE YOU PRINT
15 CERTAIN IMAGES. THAT'S WHAT WE CALL AN X-RAY, FOR
16 EXAMPLE.

17 AN MRI IS A COMPUTER-GENERATED IMAGE. AND WHEN YOU
18 HAVE COMPUTER-GENERATED IMAGES NOW-A-DAYS WE LOOK AT THEM
19 ON COMPUTERS.

20 Q OKAY.

21 A THIS WAS AN -- IMAGE WAS NOT PRINTED ON A FILM, AN
22 X-RAY FILM THAT I HAD AVAILABLE.

23 Q WE HAVE THE MRIS HERE. I BELIEVE WE DO.

24 A SURE.

25 Q HAVE YOU EVER SEEN THAT?

1 A NO. I HAVE SEEN THE -- I HAVE SEEN THE COMPUTER
2 IMAGE. IS THAT -- MAYBE -- MAYBE -- I DON'T KNOW. MAYBE
3 WE AREN'T COMMUNICATING. WHEN A MAGNETIC RESIDENCE IMAGE
4 IS DONE--

5 Q IS THAT AN MRI FILM?

6 A WELL, THIS IS -- THIS IS AN X-RAY FILM.

7 Q UH-HUH.

8 A OKAY. AND ON THIS X-RAY FILM HAVE BEEN PRINTED THE
9 COMPUTERIZED MAGNETIC RESIDENCE IMAGE.

10 Q OKAY.

11 A SO THIS IS NOTHING MORE THAN -- THAN A MEDIUM IN
12 WHICH TO CONVEY THE IMAGE. IT'S NO -- IT'S PROBABLY NOT
13 AS GOOD AS THE COMPUTER SCREEN ON TODAY'S MARKET, BUT
14 BEFORE WE HAD SOFTWARE PROGRAMS THAT WOULD ALLOW US TO PUT
15 THE -- THE COMPUTER IMAGE ON A CD AND PUT THE CD IN THE
16 COMPUTER, THEN THIS IS WHAT WE HAD, AND THIS IS ADEQUATE.
17 THERE'S NOTHING WRONG WITH THAT.

18 Q ALL RIGHT. NOW, THAT'S MR. STANKO'S TEST RESULTS
19 FROM MUSC. ARE YOU AWARE OF THAT?

20 A WELL, YEAH. THAT'S WHERE HE HAD THE MRI, SO THAT
21 MAKES SENSE.

22 Q ALL RIGHT. DID YOU BRING THE MATERIAL WITH YOU TODAY
23 THAT YOU VIEWED ON MR. STANKO'S CASE?

24 A NO. I WAS GOING TO DO THAT, BY GOLLY, AND I WALKED
25 OFF AND LEFT THEM IN THE HOUSE.

1 Q SO WE CAN'T LOOK AT THEM?

2 A I THINK DR. SPICER HAS THE SAME THING THAT I HAVE--

3 Q OKAY.

4 A -- WHICH IS THE CD WHICH IS THE SAME THING AS THIS.

5 Q OKAY. NOW, WHERE DID YOU GET THE CD?

6 A I THINK IT WAS SENT TO ME BY MR. HUMPHRIES.

7 Q WAS IT MR. HUMPHRIES OR DR. CRAWFORD?

8 MR. HEMBREE: MR. DIGGS? SORRY TO INTERRUPT,
9 BUT WE DO HAVE THOSE. THOSE ARE AVAILABLE ON THE
10 COMPUTER IF YOU'D LIKE TO... I'M GOING TO HAVE TO
11 ASK -- SORRY, YOUR HONOR.

12 (MR. DIGGS CONFERRING WITH MR. HEMBREE.)

13 BY MR. DIGGS:

14 Q LET'S LOOK AT THEM.

15 A OKAY. I DID NOT GET ANYTHING FROM DR. CRAWFORD.

16 Q OKAY.

17 A EXCEPT THE PHONECALL. I GOT AN E-MAIL FROM MR.

18 HUMPHRIES THAT GAVE ME THE MEDICAL RECORDS THAT I REVIEWED

19 AND THEN I GOT IN THE MAIL TWO CDS, ONE WITH THE MR IMAGE

20 AND THE OTHER WAS THE PET SCAN.

21 Q ALL RIGHT. AND DO YOU KNOW WHERE THOSE CDS CAME

22 FROM? DO YOU KNOW WHO GENERATED THEM?

23 A THE MUSC GENERATED THEM.

24 Q AND HOW DO YOU KNOW THAT?

25 A BECAUSE IT WAS LABELED ON THE CD.

1 Q OKAY. ON BOTH CDS?

2 A YES. AND THE DATA YOU -- YOU -- GET THESE UPSIDE
3 DOWN AND RIGHT. THE INFORMATION ON THE CD IS PRINTED, I
4 MEAN, THE IMAGE IS PRINTED HERE. AND THIS SAME PRINTING
5 IS ON THE IMAGE THAT'S ON THE CD.

6 Q LET'S LOOK AT -- LET'S SEE IF WE CAN LOOK AT YOUR
7 COMPUTER IMAGE WHILE YOU'RE TESTIFYING.

8 MR. HEMBREE: YOUR HONOR, THIS WILL TAKE JUST A
9 MOMENT TO GET THIS UP AND RUNNING, BUT IT WILL BE
10 NECESSARY FOR THE NEXT WITNESS, SO SAVE SOME TIME.

11 THE WITNESS: YEAH. THAT'S WHAT CAME ON MY CD.
12 BY MR. DIGGS:

13 Q OKAY. AND ON THAT CD YOU HAVE THE PET SCAN AND THE
14 MRI?

15 A NO, TWO SEPARATE CDS.

16 Q TWO SEPARATE CDS?

17 A YES.

18 Q ALL RIGHT. LET ME LOOK -- LET'S LOOK AT THAT PAGE
19 RIGHT THERE BEFORE YOU GO OFF OF IT.

20 A WELL, ONCE HE STARTED LOADING IT... IT'S KIND OF HARD
21 TO STOP.

22 Q LET'S TALK ABOUT IT WHILE IT'S LOADING.

23 A OKAY.

24 Q DO YOU -- CAN YOU TELL ME WHAT THIS MEANS, MODALITY
25 MRCTMM?

1 A MODALITY?

2 Q YES, SIR.

3 A I DON'T SEE THAT. IS THAT MODALITY -- OH YEAH, THE
4 MODALITY.

5 Q YES.

6 A THAT MEANS IT IS A MAGNETIC RESIDENCE IMAGE OR A
7 COMPUTERIZED THERMOGRAM (SIC) OR A NUCLEAR -- I GUESS NM
8 IS A NUCLEAR MAGNETIC IMAGE. I DON'T KNOW THAT. YEAH, SO
9 THAT WOULD BE A NUCLEAR IMAGE, THAT'S JUST A PET SCAN.

10 Q ALL RIGHT. SO IS THE SAYING THERE -- DOES -- IS THE
11 CT IMAGE ON THIS DISK OR NOT? WHAT DOES IT--

12 A CT IMAGE WOULD BE ON THIS COMPUTER. NOW, I DON'T
13 KNOW WHETHER THIS INFORMATION IS IN HIS COMPUTERIZED
14 MEMORY OR WHETHER IT'S THE CD.

15 Q WELL, MY QUESTION IS -- AND JUST FOR YOUR
16 INFORMATIONAL PURPOSES, WHEN I GOT THE INFORMATION, ALL
17 THE INFORMATION WAS ON ONE DISK.

18 A YEAH. WELL, ON THE INFORMATION I HAD, THE MAGNETIC
19 RESIDENCE IMAGE AND THE CD WERE ON -- I'M SORRY -- AND THE
20 CT WERE ON ONE DISK.

21 Q OKAY.

22 A AND THE PET SCAN WAS ON ANOTHER DISK.

23 Q ALL RIGHT. OKAY.

24 A AND THIS IS THE IMAGE, THE MR IMAGE THAT I HAD ALSO
25 HAD 230 IMAGES ON IT WHICH IS WHAT THIS PARTICULAR

1 RENDITION HAS. THIS IS -- THIS IS WHAT YOU ARE SEEING
2 THERE ON THE SCREEN ARE TWO--

3 Q ALL RIGHT. NOW, IS THIS BASICALLY WHAT YOU LOOKED AT
4 IN ORDER TO RENDER YOUR OPINION?

5 A THAT'S CORRECT.

6 Q OKAY. AND YOU DEPEND ON YOUR EYES TO VIEW THAT
7 IMAGE?

8 A THAT'S CORRECT.

9 Q HOW SUBTLE OF A -- OF A PROBLEM WOULD YOU BE ABLE TO
10 DISCERN WITH YOUR EYES?

11 A I DON'T KNOW.

12 Q IN OTHER WORDS, LET'S SAY WE WERE LOOKING FOR
13 SOMETHING VERY SUBTLE IN THE MRI.

14 A WELL, YOU HAVE TO DEFINE SUBTLE. ARE YOU TALKING
15 ABOUT THE LIMITS OF THE RESOLUTION OF THE MRI?

16 Q YES. YEAH.

17 A I DON'T KNOW THE ANSWER TO THAT. I DON'T KNOW WHAT
18 THE LIMIT OF RESOLUTION OF THE MAGNETIC RESIDENCE IMAGE
19 IS.

20 Q ALL RIGHT. WHAT IS THE DIFFERENCE BETWEEN A HIGH
21 RESOLUTION VOLUMETRIC MRI AND A PLAIN MRI?

22 A I DON'T KNOW.

23 Q YOU DON'T KNOW? DO YOU ACKNOWLEDGE, THOUGH, THERE IS
24 A DIFFERENCE?

25 A I DON'T -- I CAN'T ACKNOWLEDGE OR CONFIRM OR DENY IT

1 SINCE I'M UNFAMILIAR WITH A HIGH VOLUMETRIC MRI.

2 Q OKAY. ALL RIGHT. ARE YOU AWARE THAT'S WHAT WAS
3 ORDERED IN THIS CASE?

4 A NOT PARTICULARLY. I DON'T KNOW THAT.

5 Q ALL RIGHT. SO ARE YOU AWARE AS TO THE PURPOSE FOR
6 WHICH IT WAS ORDERED?

7 A THE PURPOSE OF THIS MRI?

8 Q YES.

9 A IT WAS--

10 Q THE HIGH VOLUMETRIC, HIGH RESOLUTION VOLUMETRIC MRI.

11 A WELL, A HIGH RESOLUTION MRI IS ONE THAT -- I
12 UNDERSTAND THAT TERMINOLOGY AND I CAN, YOU KNOW, I CAN
13 GENERATE AN IDEA THAT THE VOLUMETRIC AS YOU'RE LOOKING FOR
14 AREAS IN WHICH THE VOLUME OF THE BRAIN IS LESS.

15 Q YES.

16 A SO I CAN ACCEPT THAT.

17 Q ALL RIGHT. AND CAN YOU ANSWER THIS QUESTION FOR ME?
18 LET'S SAY YOU WERE LOOKING FOR INFORMATION CONTAINED
19 WITHIN THE -- OF THE TYPE YOU JUST MENTIONED, VOLUMETRIC.
20 ARE YOU TELLING US THAT YOU CAN EYEBALL THAT IMAGE AND
21 MAKE THAT DETERMINATION AS TO WHETHER IT'S NORMAL OR NOT?

22 A YES.

23 Q YOU CAN?

24 A YES, I THINK SO.

25 Q ALL RIGHT. YOU CAN SHUT THAT DOWN. THAT'S BASICALLY

1 WHAT I WANTED TO ASK. NOW--

2 A YEAH. I MEAN, THAT'S THE WHOLE STANDARD OF
3 INTERPRETING MRIS IS -- IS BY VISUAL ANALYSIS AND --
4 AND...

5 Q DO YOU ACKNOWLEDGE THAT WORK IS BEING DONE AND HAS
6 BEEN DONE FOR SOME TIME REGARDING STATISTICS AND NUMERICAL
7 DATA IN THE IMAGING PROCESS THAT CAN BE USED TO GENERATE
8 INFORMATION LIKE THIS?

9 A WELL--

10 Q THAT'S DEFENSE EXHIBIT NUMBER ONE.

11 A YEAH. I -- YES, I WILL ACKNOWLEDGE THAT. I'M SURE
12 THAT PEOPLE ARE DOING IT. AND -- AND, YOU KNOW, THERE'S
13 NOTHING WRONG WITH DOING THAT. IT'S -- IT'S STILL NOT
14 GOING TO -- TO PROVIDE YOU WITH A CLINICAL DIAGNOSIS BASED
15 ON VOLUMETRIC ANALYSIS.

16 Q NO. AND I'M NOT SAYING THAT IT IS, BUT IT CAN
17 PROVIDE US INFORMATION ABOUT THE BRAIN STRUCTURE.

18 A WELL, I SUPPOSE SO.

19 Q YEAH. OKAY. AND THAT'S ALL I'M ASKING.

20 A YEAH, WELL, FAIR ENOUGH.

21 Q OKAY. SO WE'RE ON THE SAME PAGE ON THERE?

22 A ALL RIGHT. I'M SORRY. I GENERALLY THINK OF
23 INFORMATION IN WORTHY INFORMATION AND INFORMATION THAT YOU
24 GET AND YOU CAN'T DO ANYTHING WITH.

25 Q AND I UNDERSTAND THAT. NOW, ARE YOU -- YOU'RE NOT

1 SPEAKING AS A STATISTICIAN?

2 A ABSOLUTELY NOT.

3 Q AND SO YOU'RE NOT GOING TO EXPRESS AN OPINION AS TO
4 WHETHER A -- WHETHER A STATISTICALLY SIGNIFICANT NUMBER OF
5 PERSONS WERE USED IN THIS PARTICULAR ANALYSIS?

6 A ONLY TO THE EXTENT THAT -- THAT STATISTICS LOOKS AT
7 NUMBERS. AND THE NUMBER 40, 41 I THINK SPECIFICALLY, IS
8 AN UNBELIEVABLY SMALL NUMBER ON WHICH TO BASE ANY KIND OF
9 ANALYSIS FOR THE LARGE NUMBER OF PEOPLE THERE ARE TO BE
10 ANALYZED AND EXPECTED NUMBER OF DISEASES THAT YOU HAVE TO
11 DEAL WITH.

12 Q ALL RIGHT. BUT YOU--

13 A THAT -- THAT'S MY POINT.

14 Q ALL RIGHT. WOULD YOU DEFER TO A STATISTICIAN OR
15 SOMEONE TRAINED BETTER AND MORE FAMILIAR WITH STATISTICS
16 ON THAT PARTICULAR ISSUE?

17 A I DEFER TO ANYBODY IN STATISTICS.

18 Q ALL RIGHT.

19 A YOU KNOW WHAT THEY SAY ABOUT STATISTICS.

20 Q AND IF SUCH ARTICLES HAD BEEN PUBLISHED APPROVING OF
21 THIS PARTICULAR PROCEDURE USING THAT NUMBER OF SUBSTANCE--

22 A WHAT DO YOU MEAN, APPROVING?

23 Q SUBJECTED TO PEER REVIEW, PUBLISHED AND REVIEWED BY
24 PEER GROUPS.

25 A OKAY. PEER REVIEW -- PEER REVIEW DOES NOT APPROVE

1 THINGS. PEER REVIEW SIMPLY SAYS THAT THIS IS INTERESTING
2 INFORMATION AND THAT THE AUTHOR OF THE INFORMATION SEEMS
3 TO HAVE DONE WHAT HE SAID HE WOULD DO AND THAT HIS
4 CONCLUSIONS ARE VALID BASED ON THE WORK THAT HE HAS DONE.

5 THAT'S ALL PEER REVIEW MEANS. AND IT DOESN'T SAY
6 ANYTHING ABOUT THE USEFULNESS OF THE INFORMATION THAT'S
7 BEEN GENERATED.

8 Q WELL, ISN'T THAT BASICALLY THE SAME WAY OF SAYING
9 WHAT I SAID, THERE HAD BEEN -- PEOPLE HAD LOOKED AT IT AND
10 SAID, YES, THIS IS AN ACCEPTABLE APPROACH THAT WAS USED
11 HERE, WE'RE NOT GOING TO EXPRESS ANY OTHER OPINIONS ABOUT
12 WHAT IT MEANS?

13 A YEAH, I -- OKAY. THAT'S FAIR. BUT LET ME TELL YOU
14 THIS, THAT I LOOK AT PROBABLY 20 MEDICAL JOURNALS EACH
15 MONTH, AND OUT OF ALL OF THE ARTICLES THAT ARE PUBLISHED
16 IN ALL THOSE MEDICAL JOURNALS, PROBABLY ONLY FIVE OR
17 10 PERCENT ARE ARTICLES THAT ARE MEANINGFUL IN TERMS OF
18 DIAGNOSIS AND TREATMENT.

19 THE OTHER THINGS ARE KIND OF INTERESTING OBSERVATIONS
20 THAT AREN'T RELATED TO MUCH OF ANYTHING. AND MAYBE YOU --
21 YOU HEARD SOME TESTIMONY EARLIER ABOUT WHAT THE FUTURE
22 MIGHT HOLD. MAYBE THE FUTURE WILL HOLD SOMETHING WORTH
23 WHILE IN THAT INFORMATION, BUT HERE ON AUGUST THE TENTH OF
24 2006, NO, IT'S NOT THERE.

25 Q WELL, IN -- WHAT DO YOU MEAN BY ITS NOT THERE?

1 A THE -- THE CORRELATION BETWEEN THE STATISTICAL
2 ANALYSIS OF THE MRI WHICH IN THIS PARTICULAR CASE VARIES
3 TREMENDOUSLY FROM WHAT THE MUSC NEURORADIOLOGIST OPINED,
4 WHAT I OPINED, AND WHAT A -- ANOTHER INDEPENDENT
5 NEURORADIOLOGIST WHO KNEW NOTHING ABOUT WHY HE WAS BEING
6 ASKED TO LOOK AT THIS OTHER THAN I WAS ASKING HIM TO DO IT
7 OPINED.

8 YOU GOT THOSE THREE THINGS THAT ALL CORRELATE
9 TOGETHER. NOW YOU'RE TRYING TO -- TO SAY THAT -- THAT
10 THIS PARTICULAR STATISTICAL ANALYSIS IS MEANINGFUL WHEN IT
11 DEVIATES FROM -- FROM ALL OF THE OTHER PEOPLE. I JUST
12 DON'T AGREE WITH THAT.

13 Q WELL, YOUR OPINION IS BASED, THOUGH, WITH RESPECT TO
14 THE QUESTION OF THE ABNORMAL -- NORMAL OR ABNORMAL MRI,
15 YOUR OPINION IS BASED ON WHAT YOU VIEWED WITH YOUR EYES?

16 A YEAH.

17 Q OKAY.

18 A THAT'S THE WAY IT'S DONE.

19 Q AND YOU DID NOT USE ANY ASSISTANCE FROM THE COMPUTER
20 IN TERMS OF -- OF NUMERICAL VALUES THAT WERE INSERTED IN
21 MAKING USE OF THE FULL INFORMATION THAT YOU HAVE AVAILABLE
22 ON THE HIGH RESOLUTION VOLUMETRIC MRI THAT -- HADN'T DONE
23 YET?

24 A WELL, YEAH, WE MADE USE OF ALL OF THE INFORMATION
25 THAT WAS ON THE MRI, AND THE CONCLUSION WAS THAT IT'S

1 NORMAL.

2 Q THAT WAS -- YOU MADE USE OF IT BY LOOKING AT IT WITH
3 YOUR EYES AND THAT WAS THE EXTENT OF IT.

4 A AS DID TWO OTHER PEOPLE WHO ARE VERY COMPETENT IN --
5 AT LEAST TWO OTHER PEOPLE VERY COMPETENT IN THE AREA,
6 SURE.

7 Q ALL RIGHT. IS IT YOUR TESTIMONY THAT YOUR EYES ARE
8 CAPABLE OF SEEING ANY KIND OF ANOMALY THAT MIGHT BE IN
9 THAT DATA?

10 A I DON'T KNOW THAT.

11 Q OKAY. THAT'S ALL I HAVE.

12 THE COURT: ANY REDIRECT OF THE WITNESS?

13 REDIRECT EXAMINATION

14 BY MR. HUMPHRIES:

15 Q ARE YOU CONFIDENT THAT YOUR EYES CAN DETECT ANY
16 ABNORMALITY WHICH WOULD BE -- WOULD IMPACT ON THE
17 STRUCTURE OF AN INDIVIDUAL'S BRAIN?

18 A ABSOLUTELY.

19 Q THANK YOU, DOCTOR.

20 THE COURT: ANY EXCEPTION TO THE DOCTOR BEING
21 EXCUSED FROM THE STATE?

22 MR. HUMPHRIES: NONE FROM THE STATE.

23 MR. DIGGS: NONE.

24 THE COURT: DOCTOR, YOU'RE EXCUSED. YOU MAY
25 CALL YOUR NEXT WITNESS.

1 (WHEREUPON THE WITNESS LEFT THE STAND.)

2 MR. HEMBREE: THANK YOU, YOUR HONOR. THE STATE
3 CALLS DR. KEN SPICER TO THE WITNESS STAND.

4 DR. KENNETH SPICER,
5 AFTER BEING DULY AFFIRMED, TESTIFIED AS FOLLOWS:

6 THE COURT: YOU MAY PROCEED, OR ARE YOU
7 WAITING...

8 MR. HEMBREE: YES, YOUR HONOR.

9 THE WITNESS: MY NAME IS DR. KENNETH MCRAE
10 SPICER, SPELLED S-P-I-C-E-R.

11 THE COURT: WOULD YOU ALSO SPELL YOUR MIDDLE
12 NAME FOR THE COURT REPORTER'S BENEFIT, DR. SPICER?

13 THE WITNESS: YES. CERTAINLY, MCRAE IS SPELLED
14 M-C-R-A-E.

15 THE COURT: YOU MAY PROCEED WHEN YOU'RE READY,
16 MR. HEMBREE.

17 MR. HEMBREE: THANK YOU, YOUR HONOR.

18 DIRECT EXAMINATION

19 BY MR. HEMBREE:

20 Q DR. SPICER, WHERE DO YOU WORK?

21 A I AM EMPLOYED AND WORK FULL-TIME AT THE MEDICAL
22 UNIVERSITY OF SOUTH CAROLINA IN THE DEPARTMENT OF
23 RADIOLOGY.

24 Q DEPARTMENT OF RADIOLOGY. IN WHAT CAPACITY?

25 A AS A RADIOLOGIST AND AS A NUCLEAR MEDICINE PHYSICIAN.

1 Q WOULD YOU PLEASE GIVE THE JURY AND THE COURT THE
2 BENEFIT OF YOUR EDUCATION, TRAINING, AND EXPERIENCE IN THE
3 FIELDS OF RADIOLOGY AND I THINK YOU SAID NEURORADIOLOGY?

4 A NO, NOT NEURORADIOLOGY, GENERAL DIAGNOSTIC RADIOLOGY.

5 Q GENERAL -- IN THE FIELD OF RADIOLOGY?

6 A KEEP IT SHORT AND SWEET, I -- AFTER UNDERGRADUATE
7 SCHOOL AND GRADUATE SCHOOL IN CHEMISTRY AT -- I WENT TO
8 MEDICAL UNIVERSITY OF SOUTH CAROLINA WHERE I OBTAINED MY
9 MEDICAL DEGREE, MD DEGREE. I ALSO AT THE COMPLETION OF
10 THAT UNDERTOOK TO COMPLETE A PHD IN BIOCHEMISTRY.

11 THEN AFTER THAT WENT TO THE NIH IN BETHESDA,
12 MARYLAND, AND DID A FELLOWSHIP IN NUCLEAR MEDICINE. TOOK
13 THE ORAL AND WRITTEN BOARDS IN RADIOLOGY IN 1980 AND THE
14 NUCLEAR MEDICINE BOARDS IN '82, SO I'M BOARDED IN BOTH
15 SPECIALTIES.

16 RETURNED TO THE MEDICAL UNIVERSITY OF SOUTH
17 CAROLINA -- GOLDEN PAIR OF HANDCUFFS -- TOO HARD TO LEAVE,
18 SO I HAVE BEEN PRACTICING THERE SINCE 1980 AS A FACULTY
19 MEMBER IN THE DEPARTMENT OF RADIOLOGY WITH SPECIAL
20 EMPHASIS IN NUCLEAR MEDICINE AND NOW RANK OF FULL
21 PROFESSOR OF RADIOLOGY WITH TENURE.

22 Q NOW, ARE THERE OTHER PARTICULAR REQUIREMENTS TO
23 ATTAIN THE DISTINCTION OF BEING A FULL PROFESSOR?

24 A WELL, ACHIEVEMENTS YOU HAVE TO -- ACCOMPLISHMENTS YOU
25 HAVE TO MAKE TO BECOME A PROFESSOR IS RISE THROUGH THE

1 RANKS BY PRODUCING A TEACHING RECORD AND IN -- LICENSED
2 AND CLINICAL CARE AS WELL AS RESEARCH, AND THOSE ARE SORT
3 OF THE THREE STOOLS OF -- RELATES OF THE STOOL TO BECOME
4 AN ADVANCED -- TO ADVANCE IN THE ACADEMIC RANKS.

5 AND I HAVE DONE THOSE TO THE CREDIT OR THE POINT
6 WHERE I WAS PROMOTED TO THE RANK OF PROFESSOR.

7 Q HAVE YOU BEEN PUBLISHED IN THE FIELDS OF RADIOLOGY
8 AND NUCLEAR MEDICINE?

9 A CERTAINLY.

10 Q ON HOW MANY OCCASIONS?

11 A WELL, USUALLY DON'T GET TO THE PROFESSOR RANK UNLESS
12 YOU EXCEED 50, AND I'M EXCEEDING 50 PUBLICATIONS IN
13 NUCLEAR MEDICINE LITERATURE AND RADIOLOGY LITERATURE.

14 Q NOW, DOCTOR, I'M GOING TO ASK YOU TO SPEAK INTO THAT
15 MICROPHONE JUST A LITTLE BIT. THE ACOUSTICS -- THE BROWN
16 ONE. THE ACOUSTICS ARE KIND OF POOR IN HERE AND THAT WILL
17 HELP -- HELP ME.

18 A OKAY. IS IT DIRECTIONAL? IS THAT BETTER?

19 Q THAT'S BETTER.

20 A PERFECT.

21 Q DR. SPICER...

22 MR. HEMBREE: WELL, YOUR HONOR, I WOULD SUBMIT
23 THAT DR. SPICER IS QUALIFIED TO TESTIFY IN THE
24 FIELDS -- AS AN EXPERT IN THE FIELDS OF RADIOLOGY AND
25 NUCLEAR MEDICINE.

1 THE COURT: ANY OBJECTIONS OR QUESTIONS?
2 MR. DIGGS: NO. NO OBJECTION, NO QUESTIONS.
3 THE COURT: SO ADMITTED. YOU MAY PROCEED.
4 MR. HEMBREE: THANK YOU, YOUR HONOR.
5 THE COURT: YOU'RE WELCOME.
6 BY MR. HEMBREE:
7 Q DR. SPICER, HOW DID MUSC GET INVOLVED IN THE
8 ADMINISTRATION OF A PET SCAN, AN MRI, TO DEFENDANT,
9 STEPHEN STANKO?
10 A I'M NOT ACTUALLY EXPERIENCED WITH THE ACTUAL
11 PARTICULARS, BUT THE GENTLEMAN WAS -- A REQUISITION CAME
12 FROM A PHYSICIAN REQUESTING THE SCAN.
13 Q DO YOU KNOW WHO REQUESTED THAT SCAN?
14 A THE DOCTOR -- IS IT SASTE?
15 Q SASHE?
16 A BUT I'M NOT ACTUALLY CERTAIN ABOUT THAT.
17 Q ALL RIGHT. AND--
18 A I HAVE TO CHECK THE REQUISITION AND SEE IF IT
19 SHOWS -- DON'T HAVE THAT.
20 Q LET ME SHOW YOU THIS REPORT AND ASK YOU IF IT
21 REFRESHES YOUR RECOLLECTION.
22 A OKAY. YEAH, CERTAINLY. THIS IS -- REPORT THAT
23 STATES ON HERE WHO THE REFERRING PHYSICIAN IS, AND THAT'S
24 DR. SACHY -- IF THAT'S PRONOUNCED CORRECTLY.
25 Q DR. SACHY, I BELIEVE.

1 A SASHY FROM GRAY, GEORGIA.

2 Q DR. SACHY FROM GRAY, GEORGIA REQUESTED MUSC TO
3 CONDUCT A PET SCAN AND AN MRI ON STEPHEN STANKO?

4 A THAT'S CORRECT.

5 Q AND DID IN FACT, DID A -- WAS A PET SCAN DONE ON
6 MR. STANKO?

7 A YES, BOTH PET SCAN AND THE MRI SCAN--

8 Q ALL RIGHT.

9 A -- WERE OBTAINED.

10 Q NOW, LET ME ASK YOU, WAS THIS PET SCAN EVALUATED,
11 READ AT THE TIME IT WAS ADMINISTERED?

12 A YES.

13 Q BY WHOM?

14 A BY DR. LEONI GORDON, A COLLEAGUE OF MINE, A FULL-TIME
15 NUCLEAR MEDICINE PHYSICIAN, DEPARTMENT OF RADIOLOGY.

16 Q AND WHAT DID DOCTOR -- WHAT WERE DR. GORDON'S
17 CONCLUSIONS ABOUT STEPHEN STANKO'S PET SCAN?

18 A THE PET SCAN WAS PERFECTLY NORMAL, NO ABERRATIONS OR
19 ABNORMALITIES APPARENT.

20 Q AND WHEN WAS THAT PET SCAN CONDUCTED?

21 A YOU HAVE THE REQUISITION AGAIN? I'M NOT REAL SURE OF
22 THE DATES. AND I BELIEVE IT WAS IN APRIL. I'M GUESSING
23 AGAIN. WELL, STATED ON HERE THE SCAN WAS ITSELF COMPLETED
24 AT 10:30 IN THE MORNING ON THE -- MAY 18TH OF 2006. THE
25 REPORT WAS -- 4 THAT AFTERNOON THE STUDY WAS INTERPRETED

1 AND THE REPORT WRITTEN DIGITALLY AND SIGNED, EDITED AND
2 SIGNED OFF ON THE NEXT DAY, MAY 19TH, 2006.

3 Q NOW, ACCORDING TO THESE RECORDS AND YOUR RESEARCH,
4 WOULD THAT -- WERE THOSE RESULTS PROVIDED TO DR. SACHY?

5 A CERTAINLY, YES.

6 Q SO HE WAS AWARE ON MAY THE 18TH OR MAY THE 19TH OR
7 SOMETIME THEREAFTER MAY THE 18TH THAT STEPHEN STANKO'S PET
8 SCAN WAS PERFECTLY NORMAL?

9 A YES.

10 Q DOCTOR, HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE PET
11 SCAN OF DEFENDANT STANKO?

12 A I HAVE.

13 Q AND DO YOU HAVE SIGNIFICANT FINDINGS AND CONCLUSIONS
14 REGARDING YOUR ANALYSIS OF HIS PET SCAN?

15 A I HAVE.

16 Q I WILL ASK THIS QUESTION FIRST AND THEN WE'LL GO
17 BACKWARDS. IN -- WHAT IS THE SUMMARY OF YOUR FINDINGS AND
18 CONCLUSIONS OF DEFENDANT STANKO'S PET SCAN?

19 A I SAW THE SCAN THE FIRST TIME THIS PAST MONDAY. AND
20 LOOKING AT IT CURSORY, LIKE WE DO 99 PERCENT OF ALL OUR
21 OTHER PET SCANS, PERFECTLY NORMAL, NO ABERRATIONS AT ALL.
22 I DID SPEAK WITH DR. GORDON TO SEE IF SHE SAW ANYTHING SHE
23 WAS EQUIVOCATING ABOUT OR CONCERNED ABOUT AND -- BECAUSE
24 SOMETIMES THERE ARE SOME AREAS YOU MIGHT NOT BE A HUNDRED
25 PERCENT SURE ABOUT IT, BUT THE OVERALL PICTURE LOOKS

1 NORMAL, YOU HAVE TO SAY NORMAL, AND SHE HAD NO
2 RESERVATIONS ABOUT IT EITHER, SO WE BOTH CONCURRED.

3 THEREAFTER I SUBJECTED THE SCAN DATA TO FURTHER
4 COMPUTER ANALYSIS TO -- TO PROVIDE A MORE RIGOROUS
5 EVALUATION AND MORE SENSITIVE EVALUATION TO SEE IF THERE
6 WAS JUST ANYTHING ANYWHERE THAT WAS ABNORMAL ABOUT IT, AND
7 THAT ANALYSIS CAME BACK AS COMPLETELY NORMAL.

8 Q DOCTOR, WHAT -- WHY DON'T YOU TAKE -- YOU BROUGHT
9 THOSE PET SCAN IMAGES WITH YOU ON YOUR COMPUTER. THESE
10 ARE THE SAME IMAGES THAT WERE PROVIDED TO THE DEFENSE
11 WHEN -- AT SOME POINT IN THE PAST?

12 A THEY ARE.

13 Q YOU HAVE SUBJECTED THESE SCANNED IMAGES TO ADDITIONAL
14 ANALYSIS; CORRECT?

15 A THAT IS CORRECT.

16 Q IF I COULD, DOCTOR, I'D LIKE TO HAVE YOU SORT OF WALK
17 US THROUGH THE PET SCAN THAT YOU ANALYZED AND THEN THE
18 ADDITIONAL STEPS YOU TOOK TO -- TO--

19 A OKAY.

20 Q -- GIVE IT A MORE RIGOROUS ANALYSIS TO BE SURE.

21 A DOES EVERYONE UNDERSTAND WHAT A PET SCAN IS AND WHAT
22 YOU'RE LOOKING AT, WHAT YOU SEE? SHOULD I START WITH THE
23 FACT THAT IT'S -- START IT OUT THAT IT'S GLUCOSE AND IT'S
24 THE BRAIN?

25 Q DOCTOR, I THINK WE'VE PROBABLY GOTTEN MORE

1 INFORMATION ABOUT WHAT A PET SCAN IS THAN WE'LL EVER --
2 MAYBE EVER WANT TO KNOW, AT LEAST HOW IT WORKS, YOU KNOW,
3 HOW THE -- THE -- WE HEARD ABOUT STAR TREK AND SOME OTHER
4 THINGS, IT'S A LONG STORY.

5 BUT NO, YOU DON'T NEED TO DO THAT. IF YOU WILL JUST
6 KIND OF GO STRAIGHT INTO THE IMAGES AND YOUR
7 INTERPRETATION OF THOSE IMAGES.

8 A FAIR ENOUGH. THIS IS -- THIS FIRST PAGE OF IMAGES
9 YOU'RE LOOKING AT IN A COLOR SCALE THAT'S ONE OF MANY
10 TYPES YOU CAN LOOK AT -- REFLECTS THE AMOUNT OF
11 RADIOACTIVITY PRESENT IN THE PATIENT'S VEIN WHICH IS
12 DIRECTLY THEN RELATED TO THE AMOUNT OF FUNCTIONING BRAIN
13 TISSUE WHICH IS PRESENT.

14 OUR BRAINS LIVE OFF ALMOST EXCLUSIVELY GLUCOSE. THIS
15 IS A RADIOACTIVE GLUCOSE, IF YOU WILL, SO THE BRIGHTER THE
16 COUNTS THAT YOU'RE LOOKING AT, THE BRIGHTER THE SIGNAL
17 IN -- IN THE IMAGE OF THE BRAIN, THE MORE THE FUNCTION OF
18 THE BRAIN, THE MORE SUGAR IT'S USING.

19 I WILL TAKE YOU THROUGH JUST BRIEFLY THE ANATOMY.
20 YOU'RE SEEING A SERIES OF WHAT WE CALL AXIAL SLICES THAT
21 START FROM THE VERY TOP OF THE HEAD JUST LIKE A LOAF OF
22 BREAD, CUTTING PERPENDICULAR TO THE LONG AXIS OF THE BODY,
23 JUST CUTTING LIKE A LOAF OF BREAD.

24 YOU'RE LOOKING AT THESE SLICES AS IF YOU WERE DOWN
25 BELOW LOOKING UP AT THE PATIENT'S SLICE. SO IF WE TAKE A

1 SLICE LIKE HERE IN THE MIDDLE OF THE BRAIN, THIS WOULD BE
2 THE FRONT OF THE BRAIN, THE BACK OF THE BRAIN HERE, THIS
3 WOULD BE THE 'PATIENT'S RIGHT HAND SIDE BECAUSE YOU'RE
4 LOOKING AGAIN FROM BELOW THE SLICE, AND THIS WOULD BE THE
5 LEFT BRAIN -- PART OF THE BRAIN.

6 THESE SLICES ARE INCLUSIVE OF THE MOST INFERIOR
7 PORTIONS OF THE BRAIN, THE VERY PRIMITIVE BRAIN, THE
8 CEREBELLUM DOWN HERE. AND AGAIN, MOVING ON UP -- AND IN
9 THESE AREAS YOU CAN SEE IN THE FRONT OF THE IMAGE THE
10 ORBITS, THE EYEBALLS.

11 THERE ISN'T MUCH METABOLIC ACTIVITY OR GLUCOSE --
12 GLUCOSE BY THE ORBITS. THERE IS SOME BY THE OPTIC NERVE.
13 AND OCCASIONALLY IF THE EYES ARE MOVING AROUND, THERE WILL
14 BE SOME IN THE EYE MUSCLES, BUT THEY ARE TOO SMALL TO BE
15 SEEING -- TOO LITTLE ACTIVITY HERE.

16 SO THEN AS WE MOVE UP WE'RE STILL IN WHAT'S CALLED
17 THE TEMPORAL LOBE WHICH LIES JUST INSIDE WHAT WE ALL REFER
18 TO AS THE TEMPORAL BONE, THAT'S THE FRONT OF THE EAR.
19 WE'RE STARTING TO MOVE UP A LITTLE BIT HIGHER AS WE GO
20 ALONG HERE, VERY THIN SLICES.

21 BY THE TIME WE MOVE OUT OF THE ORBITS AND ARE JUST
22 GETTING ON THIS SLICE HERE UP INTO THE INFERIOR MOST
23 PORTIONS OF THE FRONTAL LOBE, AND HERE WE'RE STILL SEEING
24 WHAT IS REFERRED TO AS THE TEMPORAL LOBE.

25 AND AS WE GET A LITTLE FURTHER UP, WE'LL LEAVE THE

1 TEMPORAL LOBE, STILL IN THE FRONTAL LOBE, AND GET INTO
2 WHAT IS REFERRED TO AS THE PARIETAL LOBE. THE OTHER AREA
3 TO BE AWARE OF IS IN THE VERY POSTERIOR PORTIONS OF THE
4 BRAIN, WHAT WE CALL THE OCCIPITAL LOBE.

5 AND THIS IS THE -- WHERE THE VISUAL CORTEX IS. THIS
6 IS WHERE THE NERVES INVOLVED IN OUR VISION AND PICKING UP
7 WHAT WE'RE SEEING ARE ACTIVELY INVOLVED.

8 AND THEN AS WE GO UP EVEN HIGHER WE'RE LEAVING THE
9 VERY MOST SUPERIOR PORTIONS OF THE FRONTAL LOBE, THE
10 PARIETAL LOBE, AND THEN BACK AGAIN IN THE OCCIPITAL LOBE,
11 AND THEN WE MOVE OUT OF THE HEAD. SO THESE ARE THE VERY
12 MOST SUPERIOR PORTION OF THE BRAIN, TOP OF THE HEAD.

13 AND YOU CAN NOTICE SOME SMALL LITTLE LUMPS ALONG THE
14 SURFACE, NOT REAL WELL RESOLVED OR DELINEATED WHICH
15 REPRESENT THE GYRI THAT YOU WERE TOLD ABOUT IN ONE OF --
16 THE PREVIOUS TESTIMONY.

17 A VERY GOOD SCAN IS ABLE TO JUST SORT OF PICK -- A
18 VERY GOOD PET SCAN OR FEG PET SCAN IS JUST BARELY ABLE TO
19 PICK UP THOSE GYRATIONS. IT'S OBVIOUSLY A LOWER
20 RESOLUTION SPACIAL-WISE THAN AN MR IS.

21 BUT AGAIN, YOU'RE LOOKING HERE AT BRAIN TISSUE
22 FUNCTION. SO WE'RE -- WE'RE PUTTING MORE EMPHASIS ON HOW
23 WELL THAT IS WORKING AND LESS EMPHASIS ON ANATOMY OR
24 STRUCTURE.

25 THESE SCANS -- I WILL SHOW YOU TWO OTHER PROJECTIONS

1 OF THE SAME DATA. THESE SCANS ARE VERY, VERY SENSITIVE
2 FOR DISEASE IN THAT YOU'RE LOOKING AT FUNCTION. AND
3 FUNCTION IS -- IS DIRECTLY RELATED TO BEHAVIOR AND OTHER
4 CHARACTERISTICS WHEREAS ANATOMY ISN'T.

5 I MEAN, ROUTINELY I WILL SEE ABNORMALITIES ON PET
6 SCANS THAT WE NEVER SEE ON MRI SCANS OR ON CT SCANS
7 BECAUSE ANATOMY DOESN'T NECESSARILY TRANSLATE TO FUNCTION
8 ONE WAY OR THE OTHER AND -- BUT IN ONLY MORE EXTREME
9 CASES.

10 THE NEXT IMAGE IS THE SAME SCAN OF THE PATIENT, BUT
11 IT IS PRESENTED IN A DIFFERENT PROJECTION. THIS IS
12 REFERRED TO AS THE CORONAL OBJECTION PARALLEL TO THE
13 CORONAL SUTURES IN OUR BRAIN. THE TIARA CROWNS THE
14 PRINCESSES OF AUSTRALIA USED TO WEAR BACK IN THE 16,
15 1700'S, THESE SLICES THEN ARE PARALLELING THOSE TIARA
16 CROWNS.

17 TO THE LADIES OF THE JURY I'M SURE THAT MAKES SENSE.
18 TO THE MEN, MAYBE NOT SO MUCH SO -- BUT I THINK YOU CAN
19 APPRECIATE HERE WE'RE STARTING IN THE TOP ROW AND LOOKING
20 AT THE FRONT OF THE BRAIN AND SLICING INTO THE BRAIN IN
21 WHAT'S CALLED A VERTICAL SLICE OR CORONAL SLICE.

22 SO HERE YOU SEE THE FRONTAL LOBES, INFERIOR PORTION
23 OF THE FRONTAL LOBES, THE SUPERIOR PORTION UP ABOVE. AND
24 OF COURSE, THEN, WE GET BACK FURTHER AND FURTHER STILL IN
25 THE FRONTAL LOBE. WE'RE ALSO STARTING TO COME IN NOW INTO

1 THE TEMPORAL LOBES WE REFERRED TO BEFORE.

2 AND THEN WE GET DOWN TO THE BOTTOM WE'RE GETTING VERY
3 CLOSE TO IT INVOLVING THE VISUAL CORTEX AS YOU SEE THE
4 CURSOR SHOWING DOWN BELOW HERE.

5 Q DOCTOR, IN LOOKING AT THESE -- AND TELL ME AGAIN THE
6 NAME OF THAT, THAT PARTICULAR...

7 A CORONAL.

8 Q CORONAL?

9 A C-O-R-O-N-A-L.

10 Q THE CORONAL SLICING. COULD YOU KIND OF FOCUS ON ONE
11 OF THE SLIDES THAT SHOWS THE FRONTAL LOBES OF MR. STANKO
12 THAT WOULD BE INDICATIVE OF HIS BRAIN FUNCTION?

13 A CERTAINLY. THESE ARE ALL VERY THIN SLICES,
14 3 MILLIMETERS THICK EACH OF THEM, AND THAT'S WHY THERE'S
15 SO MANY. SO THIS WHOLE ROW ACROSS HERE ALL THE WAY
16 THROUGH HERE ALL REPRESENT FRONTAL LOBE, ALL OF THESE
17 THROUGH HERE.

18 Q AND WHAT ABNORMALITIES DO YOU -- DO YOU DETECT IN
19 YOUR ANALYSIS OF HIS FRONTAL LOBE FUNCTION IN THOSE
20 SLIDES?

21 A WELL, NONE. IT'S -- I THINK YOU CAN APPRECIATE THE
22 RADIOACTIVITY, THE DEPOSITION, ENTRAPPING OF RADIOACTIVE
23 SUGAR, GLUCOSE. IT'S SYMETRIC ON BOTH SIDES, COMPLETE ALL
24 THE WAY AROUND. YOU'RE LOOKING AT A COMPLETE CIRCLE HERE.
25 THERE'S NOT A CHUNK OUT OF IT OR A PORTION OF THE WALL

1 MISSING.

2 Q THAT'S WHAT I WAS GOING TO -- WAS GOING TO BE MY NEXT
3 QUESTION. IF THERE WAS A PROBLEM WITH BRAIN FUNCTION IN
4 THE FRONTAL LOBES, WHAT WOULD WE EXPECT TO SEE?

5 A YOU'D SEE A MISSING CHUNK. YOU'D SEE SOMETHING IN
6 THE ORDER OF THE COLOR OF BLUE OR PURPLE WE SEE DOWN HERE
7 OR ACTUALLY MORE LIKELY GREEN, OR IF IT'S REALLY BAD AND
8 IT'S COMPLETELY GONE, IT'S LIKE SCAR ONLY, THEN YOU SEE
9 SOMETHING SORT OF BLACK IN THAT AREA. I HAVE SOME
10 EXAMPLES OF ABNORMAL LATER ON IF YOU LIKE TO -- I COULD GO
11 TO.

12 Q LET'S -- WELL, WHY DON'T YOU GO -- COULD YOU GO TO AN
13 ABNORMAL SLIDE NOW AND JUST SORT OF SHOW US?

14 A YEAH, THAT'S -- I'LL SKIP THE ANALYSIS AND WE'LL GO--

15 Q WE'LL COME BACK TO THE ANALYSIS. I'M SORRY IF I'M
16 GETTING AHEAD OF YOU.

17 A THERE'S A PATIENT WHO HAS AN ABNORMAL. THIS IS A
18 PATIENT, A YOUNG MALE, YOUNG MALE ALSO, YOUNGER THAN
19 MR. STANKO, WHO WAS INVOLVED IN A MOTOR VEHICLE ACCIDENT,
20 HEAD HIT THE WINDSHIELD AND CAUSED IN -- I THINK YOU CAN
21 SEE HERE THAT THE FRONTAL LOBE IS MISSING ON BOTH SIDES,
22 MORE ON THE PATIENT'S LEFT THAN ON THE RIGHT.

23 THE DISCONTINUITY OR THE BREAK, IF YOU WILL, OF THE
24 RADIOACTIVE GLUCOSE RIGHT HERE IN THE FRONT OF THE BRAIN
25 AND CROSSING ACROSS THE MIDLINE INVOLVING THE OTHER SIDE

1 AS WELL.

2 Q ALL RIGHT. LET ME GO BACK. I KNOW I'M JUMPING YOU
3 AROUND. BUT LET ME TAKE YOU BACK TO THE -- MR. STANKO'S
4 SLIDE PRESENTATION. THIS IS A DIFFERENT--

5 A THESE ARE THE SAGGITAL SLICES OF THE ORIGINAL. SO WE
6 ARE LOOKING AT IT -- ROUTINELY WE WILL LOOK AT THESE --
7 THIS DATA -- IT'S AN ACQUISITION OF VOLUME OF DATA THAT
8 WE -- RECONSTRUCTING THE SLICES, AND WE CAN CONSTRUCT THEM
9 IN ANY PLANE YOU PREFER.

10 STANDARD PLANES THAT WE ALL UTILIZE IN DAY TO DAY
11 PRACTICE OF MEDICINE ARE THE AXIAL I STARTED WITH, THE
12 CORONAL, AND THE LAST ONE IS THE SAGGITAL SLICE, PARALLEL
13 TO THE SAGGITAL SUTURE OR, YOU KNOW, SAGGITAL STANDING FOR
14 ARROW LIKE WILLIAM TELL'S ARROW, THE APPLE IN THE
15 FOREHEAD, THAT'S A SLICE PARALLEL TO THAT.

16 SO HERE WE'RE STARTING AT THE PATIENT'S RIGHT HAND --
17 MR. STANKO'S RIGHT END OF HIS BRAIN AND THESE SLICES THEN
18 MOVE THROUGH THE BRAIN INTO THE MIDLINE AND THEN OFF TO
19 THE LEFT SIDE OF THE BRAIN.

20 THESE WOULD BE THE FRONTAL LOBES RIGHT IN HERE,
21 PARIETAL LOBES BACK HERE, AND THEN OCCIPITAL LOBES AS
22 YOU'RE SEEING HERE. THOSE TWO. SO THE EYES ARE DOWN
23 HERE, THE NOSE, AND MOUTH, LITTLE CAVITY, THE VENTRICLES
24 IN THE MIDDLE ARE THE SPACES THAT CONTAIN THE CEREBRAL
25 SPINAL FLUID THAT BATHES AND PROTECTS AS WELL AS PROVIDE

1 NUTRIENT SUPPORT FOR THE BRAIN.

2 Q DR. SPICER, CAN YOU TELL US -- IS THERE ANY
3 DEFICIENCY IN THE DEFENDANT'S BRAIN FUNCTION SHOWN BY THE
4 SAGGITAL SLICING OR THE SAGGITAL SLIDES OF DEFENDANT
5 STANKO'S BRAIN?

6 A NO, THESE ARE -- THESE ARE PERFECTLY NORMAL. THERE'S
7 NO DEFICITS. THERE'S NO AREAS OF DECREASED ACTIVITY OR
8 GLUCOSE METABOLISM OR -- AT ALL APPARENT.

9 Q ANY OF THE CHUNKS MISSING, ANY OF THE LITTLE...

10 A NO CHUNKS MISSING.

11 Q I KNOW THAT'S TECHNICAL.

12 A SO THEN NEXT WHAT I DID YESTERDAY THEN WAS...

13 Q LET ME STOP YOU ONE SECOND.

14 A OKAY.

15 Q WERE YOU HERE FOR DR. SACHY'S TESTIMONY?

16 A NO, SIR, I WASN'T.

17 Q HE MENTIONED -- WELL, I WILL ASK -- TELL YOU THIS AND
18 ASK YOU ABOUT THE TECHNOLOGY USED AT USC -- AT MUSC. HE
19 MENTIONED SOMETHING ABOUT HOLDING GRAINY PICTURES UP TO
20 THE LIGHT AND THAT'S HOW THE -- THE PET SCANS ARE READ AT
21 MUSC. HOW -- COULD YOU TELL US ABOUT THE TECHNOLOGY THAT
22 Y'ALL USE AT MUSC?

23 A WELL, I CERTAINLY HAVE NO IDEA HOW HE HAD THAT
24 OPINION OR CAME BY THAT OPINION AT ALL. WE -- OR ACTUALLY
25 THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, ONE OF THE

1 THINGS WE ARE PROUD ABOUT IN OUR RADIOLOGY DEPARTMENT, WE
2 WERE THE FIRST HOSPITAL IN THE UNITED STATES TO GO
3 COMPLETELY FILMLESS.

4 WE HAD DIGITAL NUCLEAR MEDICINE AND ULTRASOUNDS SINCE
5 1993. THE WHOLE DEPARTMENT WAS TAKEN FILMLESS IN 1995.
6 AND OTHER THAN ONE VA HOSPITAL IN BALTIMORE, IN A MILITARY
7 BASE OUT OF OUR COUNTRY, WE WERE THE FIRST AND CERTAINLY
8 THE FIRST NON-MILITARY HOSPITAL TO BE COMPLETELY FILMLESS.

9 AND NUCLEAR MEDICINE DEPARTMENTS IN GENERAL HAVE BEEN
10 PRETTY MUCH FILMLESS SINCE THE EARLY 80'S BECAUSE WE USE
11 COMPUTER SCORING, AND SO I HAVE NO IDEA HOW HE EVER CAME
12 INTO THAT. THAT'S CERTAINLY NOT--

13 Q AS FAR AS THE USE OF THE MOST MODERN TECHNOLOGY TO
14 INTERPRET, TO -- TO CAPTURE, TO TAKE A PET SCAN, TO
15 INTERPRET A PET SCAN, HOW WOULD YOU RANK MUSC?

16 A IN TERMS OF CLINICAL EXPERTISE I DON'T THINK THERE'S
17 ANYBODY THAT EXCEEDS US WHERE IN THE STANDARD OF CARE WE
18 ARE DOING CUTTING EDGE TECHNOLOGY, USE THE PHRASE. IN
19 TERMS OF RESEARCH APPLICATIONS, WE DON'T HAVE THE SAME
20 DEPTH OF RESEARCH SUPPORT AND ACTIVITY ONGOING AMONGST OUR
21 FACULTY THAT OTHER ACADEMIC CENTERS DO, WE CERTAINLY --
22 WHEN WE'RE DOING BRAIN RESEARCH AND HAVE COMPLETED A
23 NUMBER OF PROJECTS IN THOSE AREAS.

24 BUT A MAJOR INSTITUTION LIKE MALLINCKRODT OR UCLA OR
25 MASS GENERAL IN BALTIMORE, THEY HAVE MAYBE 15, 16 MDS AND

1 PHDS IN THE NUCLEAR MEDICINE DEPARTMENT WHERE THEY ARE
2 ABLE TO CARRY ON LARGE GRANTS, CERTAINLY WOULD EXCEED OUR
3 CAPABILITIES IN THE RESEARCH ARENA, BUT I'M COMFORTABLE
4 AND VERY CONFIDENT THAT THEY DON'T EXCEED US AT ALL IN
5 TERMS OF CLINICAL PRACTICE.

6 Q VERY GOOD. AND LET ME TAKE YOU BACK TO THE SLIDES
7 NOW.

8 A ALL RIGHT.

9 Q YOU WERE JUST DESCRIBING WHAT THIS SLIDE SHOWS.

10 A THIS SLIDE IS THEN AN ANALYSIS OF THE DATA TO TRY TO
11 BE AS SENSITIVE AS POSSIBLE AS MR. STANKO'S DEFENSE TEAM
12 HAS DONE WITH THE MRIS. YOU CAN, BECAUSE THESE IMAGES ARE
13 COMPUTER IMAGES, PUT THEM INTO COMPUTERS AND ASK SOFTWARE
14 TO ANALYZE THE DISTRIBUTION OF RADIOACTIVE GLUCOSE MORE
15 ACCURATELY, EXTENSIVELY AS POSSIBLE.

16 THE WAY THIS IS -- THIS IS -- NOW I'M SHOWING YOU HOW
17 THIS IS DONE NOT IN A RESEARCH MODE. THIS IS A FDA
18 APPROVED SOFTWARE PROGRAM THAT IS COMMERCIALY AVAILABLE,
19 ANYBODY CAN PURCHASE IT. YOU HAVE ENOUGH PATIENTS, YOU'RE
20 SEEING ENOUGH PATIENTS, YOU REALLY PROBABLY OUGHT TO HAVE
21 THIS AS A STANDARD OF CARE, ALTHOUGH I WOULD SAY PROBABLY
22 LESS THAN 5 PERCENT OF NUCLEAR MEDICINE INTERPRETATIONS OF
23 BRAIN SCANS ARE USING THIS KIND OF SOFTWARE.

24 BUT WE PURCHASED IT AND HAVE HAD IT FOR A NUMBER OF
25 YEARS. WHAT HAPPENS HERE IS WE TAKE THIS VOLUME OF DATA,

1 THE DISTRIBUTION OF GLUCOSE IN MR. STANKO'S BRAIN, AND WE
2 TRANSFORM THAT IN THE COMPUTER TO A STANDARD MODEL CALLED
3 TELERAXIAL SPACE.

4 NOW, THIS IS A STANDARD THAT HAS BEEN DEVELOPED OVER
5 THE LAST 13, 14 YEARS. AND WHAT THIS DOES IS THEN
6 REDISTRIBUTE THE ACTIVITY COUNTS YOU SEE FROM MR. STANKO'S
7 BRAIN TO A STANDARD BRAIN FORMAT. ONE FOR MALES AND
8 THERE'S ONE FOR FEMALES.

9 FURTHER, THERE'S ONE FOR ALL MALES EACH DECADE OF
10 LIFE BECAUSE BRAINS NOT ONLY HAVE TREMENDOUS VARIATIONS IN
11 SHAPE AND SIZE OF THE DIFFERENT GYRI AND PORTIONS JUST
12 LIKE NOSES AND EARS AND HAIR THERE IS GREAT VARIATION, BUT
13 ALSO BRAINS CHANGE THEIR SHAPE DYNAMICALLY WITH AGE.

14 I'M CRITICALLY SENSITIVE TO THAT. AT AGE 60 I'M
15 BEGINNING TO SENSE SOME OF THESE THINGS THAT WE TALK
16 ABOUT. SENIOR MOMENTS -- WELL, MANY OF YOU ARE TOO YOUNG
17 ON THE JURY TO APPRECIATE THAT. BUT OUR BRAIN SHRINKS
18 OVER TIME.

19 SO IT'S VERY APPROPRIATE AND NECESSARY IF YOU'RE
20 GOING TO ANALYZE THIS TYPE OF INFORMATION TO DO IT BY
21 DECADES OF LIFE. OBVIOUSLY IT WOULD BE VERY NICE IF YOU
22 COULD DO IT AT EVERY YEAR OF LIFE, BUT THERE'S SO MUCH
23 VARIATION BETWEEN YEARS, WE FOUND IN THE LAST 10 YEARS
24 THAT EVERY DECADE IS APPROPRIATE, MORE APPROPRIATE TYPE OF
25 STANDARD. SO--

1 Q DOCTOR, LET ME STOP YOU. YOU SAID THERE'S --
2 ACTUALLY THERE'S SOME VARIATION FROM YEAR TO YEAR?

3 A YEAH. YEAH. BE NICE, BUT THERE'S ALSO SO MUCH
4 VARIATION BETWEEN DIFFERENT INDIVIDUALS THAT THE VARIATION
5 OF ANY ONE INDIVIDUAL FROM YEAR TO YEAR IS MUCH SMALLER
6 COMPARED TO MOST INVOLVED.

7 Q UNDERSTOOD.

8 A ALL RIGHT. SO THE FIRST STEP THEN IS TO TRANSFORM
9 MR. STANKO'S DATA TO THE STANDARD TELERAX SPACE DATA, AND
10 THAT WAS DONE AS YOU SEE ON THIS IMAGE, THE BORDERS OF THE
11 BRAIN THEN ARE OUTLINED IN A VERY PALE BLUE THAT YOU SEE
12 HERE.

13 AND WHEN THERE ARE NONE -- NON-UNIFORMITIES OR
14 COMPUTER SOFTWARE ISN'T ABLE TO DO A VERY GOOD JOB OF
15 THAT, YOU'LL SEE SOME GAPS. USUALLY THOSE GAPS ARE ON THE
16 SURFACE OF THE BRAIN. IF THERE'S MAJOR PROBLEMS SUCH AS A
17 PATIENT MOVED DRAMATICALLY DURING THE ACQUISITION OF THE
18 SCAN AND SOFTWARE JUST CAN'T DO THIS TRANSFORMATION, WE'LL
19 SEE BIG BLOTCHES IN THE SCAN.

20 THAT WASN'T THE CASE. MR. STANKO HELD VERY STILL
21 THROUGHOUT THE WHOLE SCAN, HAD VERY GOOD QUALITY SCAN
22 HERE. THEN AFTER HAVING DONE THIS -- AND SO WHAT YOU'RE
23 LOOKING AT THEN ARE ON THESE AXIAL SLICES AGAIN STARTING
24 FROM THE CEREBELLUM, THE LOW BOTTOM PORTION OF THE BRAIN
25 MOVING UP THROUGH THE TEMPORAL LOBES INTO THE INFERIOR

1 FRONTAL LOBES INTO THE MID AND HIGH FRONTAL LOBES, AND THE
2 CORONAL PLANE AGAIN -- THIS IS THE FRONT OF THE BRAIN
3 ACTUALLY IN THIS ONE AND MID-BRAIN HERE -- AND THEN AGAIN
4 IN THE SAGGITAL BRAIN AS YOU SEE HERE ACROSS HERE.

5 AND AGAIN, THE FRONTAL LOBES SHOW NICE, EVEN
6 DISTRIBUTION OF THE RADIOACTIVE GLUCOSE. THE COLOR SCALE
7 ON THE SIDE OVER HERE TO HELP YOU -- IF THERE WAS VERY
8 LITTLE OR NO GLUCOSE PRESENT, WOULD BE BLACK. THERE'S
9 MILD AMOUNTS IT'S GREEN TO PURPLE. IF THERE'S A GREAT
10 DEAL OF GREEN -- OF GLUCOSE BEING TAKEN UP BY THE BRAIN,
11 IT'S IN THE ORANGE, AND MOST BEING IN THE WHITE AREAS.

12 AND I THINK YOU CAN SEE THE FRONTAL LOBES HAVE LITTLE
13 BITS OF WHITE UP IN HERE. ACTUALLY I CAN I THINK BLOW
14 THAT UP A LITTLE BIT HIGHER FOR YOU. AND I THINK YOU CAN
15 APPRECIATE THE FRONTAL LOBES HAVE EXCELLENT AMOUNT OF
16 ACTIVITY.

17 IN FACT, IF NOT THE SAME -- IF NOT BRIGHTER THAN THE
18 PARIETAL LOBES. THE ONLY AREA OF THE BRAIN REALLY THAT
19 HAS ANYTHING BRIGHTER IS IN THE VISUAL CORTEX AREA OF THE
20 BRAIN.

21 SO NOW WE HAVE THE IMAGES TRANSFORMED TO A STANDARD
22 BRAIN PATTERN, WE CAN THEN COMPARE THE AMOUNT OF
23 RADIOACTIVITY IN THE SMALL AREAS, LITTLE AREAS OF THE
24 BRAIN, TO A NORMAL DATABASE.

25 NOW, OUR NORMAL DATABASE IS ONE WHICH WAS -- IS

1 COMMERCIALLY AVAILABLE BUT IS ALSO AVAILABLE FREE TO OTHER
2 INDIVIDUALS AND RESEARCHERS WHO WANT IT. IT WAS DEVELOPED
3 BY THE SOCIETY OF NUCLEAR MEDICINE, SUBSECTION OF THE
4 SOCIETY OF NUCLEAR MEDICINE WHICH IS ROUGHLY 15,000
5 NUCLEAR MEDICINE PHYSICIANS AND PHYSICISTS AND WHO -- A
6 SUBSECTION OF THAT CALLED THE BRAIN IMAGING COUNCIL,
7 WHICH -- THAT IS PROFESSIONALS THROUGH THE YEARS GOTTEN
8 TOGETHER AND ORGANIZED AN ABILITY TO ACQUIRE NORMAL IMAGES
9 OF NORMAL INDIVIDUALS.

10 IT TOOK US AT LEAST 10 YEARS TO DO THIS BECAUSE YOU
11 HAVE TO BE SURE YOU'RE NORMAL. SO YOU TAKE THE BRAIN SCAN
12 AND YOU WAIT A FINITE PERIOD OF TIME BETWEEN EIGHT AND 10
13 YEARS TO ASSURE YOURSELF THE PATIENT INDEED DIDN'T HAVE A
14 TUMOR, INFECTION, SO ON, SOMETHING LIKE THAT. IT'S A VERY
15 DIFFICULT DATABASE TO COME BY.

16 THAT HAS HAPPENED. WE STARTED 1991. AND SO AFTER 15
17 YEARS NOW WE HAVE A DATABASE THAT EXCEEDS THOUSANDS. THIS
18 SOFTWARE PROBABLY TAKES ADVANTAGE OF THAT SOCIETY OF
19 NUCLEAR MEDICINE SPONSORED DATABASE AND THEN COMPARES
20 RADIOACTIVE -- ACTIVITY IN MR. STANKO'S BRAIN TO THAT IN
21 THE NORMAL DATABASES BY DECADE, HIS HV.

22 IN THE 30'S WE OBVIOUSLY THEN MOVE TOWARD THE -- THAT
23 GROUP OF PATIENTS OR NORMAL VOLUNTEERS ACTUALLY.

24 Q WERE YOU ABLE TO COMPARE MR. STANKO'S PET SCAN TO A
25 NORMAL DATABASE?

1 A VISUALLY HERE IT LOOKS -- IT LOOKS PERFECTLY NORMAL.
2 BUT WE DID, AS YOU SUGGESTED, WE WENT AND DID A
3 STATISTICAL ANALYSIS, AND THE COMPUTER DID THIS FOR US,
4 AND EVERY AREA OF THE BRAIN THAT DEVIATED FROM THE NORMAL
5 DATABASE, EVERY AREA OF MR. STANKO'S BRAIN THAT DEVIATED
6 FROM THE NORMAL DATABASE BY TWO STANDARD DEVIATIONS, WHICH
7 MEANS THAT IF IT WAS DIFFERENT -- THEN MR. STANKO'S BRAIN
8 WAS DIFFERENT THAN THE NORMALS, WITH 95 PERCENT
9 CONFIDENCE, A PORTION OF THE IMAGE, WHICH WE CALL PIXEL,
10 WAS REPLACED BY A GREEN DOT.

11 HERE YOU SEE IN THE IMAGE THAT MR. STANKO'S ANALYSIS
12 ON HIS -- ON HIS BRAIN -- AND I'LL TRY AND MOVE OVER HERE
13 BIGGER -- TO THE FRONTAL LOBE AREAS. AND YOU CAN SEE
14 INDEED THERE ARE AREAS OF GREEN IN HERE, BUT ALL OF THESE
15 GREEN AREAS CRAWL IN THE SURFACE OF THE BRAIN OUTSIDE OF
16 THE BRAIN PARENCHYMA OR IN THE SPACES WHERE CEREBROSPINAL
17 FLUID. THIS IS THE SILGAN FISSURE. THIS IS THE ANTERIOR
18 HORNS OF THE FRONTAL VENTRICLES, AND HERE YOU SEE
19 POSTERIORLY IN THE POSTERIOR SULCUS BETWEEN THE
20 HEMISPHERES OF THE BRAIN.

21 NOWHERE IS MR. STANKO'S BRAIN INTERRUPTED BY LOW
22 COUNTS OR ABNORMAL -- LOW AMOUNTS OF ACTIVITY THAT WOULD
23 DIFFER FROM THE NORMAL DATABASE. AND OF COURSE, IT'S THE
24 DIFFERENT PLANES AS WELL YOU CAN SEE IN THE FRONTAL LOBES
25 HERE AND HERE. THERE'S NO DEVIATION. ONLY ON THE

1 SURFACE.

2 I HAVE AN EXAMPLE THEN OF WHAT IT WOULD LOOK LIKE IF
3 YOU HAD -- THIS IS THE PATIENT I WAS REFERRING TO, THE
4 YOUNG MALE THAT HAD A FRONTAL BRAIN INJURY AND DOES HAVE
5 PSYCHIATRIC OR PSYCHOLOGICAL IMPAIRMENT, HE'S A
6 FUNCTIONING MALE, CARRY DOWN A JOB AND EVERYTHING, BUT HE
7 HAD A SERIOUS INJURY AND HE DOESN'T HAVE NEARLY THE
8 INDEPENDENCE THAT A NORMAL MALE IN THE TWENTIES WOULD
9 HAVE.

10 Q WAS -- IN THE EXAMPLE YOU'RE SHOWING US IS SOMEONE
11 WITH FRONTAL LOBE--

12 A YEAH, THIS IS A MALE THAT WAS IN THE--

13 Q -- LOSS OF FUNCTION IN THEIR FRONTAL LOBES?

14 A CORRECT. LOSS OF FUNCTION. THIS IS AN EXAMPLE OF
15 WHAT IT WOULD LOOK LIKE IF THERE WAS SIGNIFICANT LOSS OF
16 FUNCTIONING BRAIN TISSUE IN THE FRONTAL LOBES, RIGHT. BIG
17 ENOUGH TO SEE, BUT BLOW IT UP. NOW, HERE YOU CAN SEE ON
18 THE SAGGITAL SLICE, OR HERE NICELY SHOWN IN THE AXIAL
19 SLICES, FRONTAL LOBE AREAS WHICH WITH THE STATISTICAL
20 CERTAINTY AND CONFIDENCE -- CONFIDENCE ARE ABNORMAL.

21 Q AND THESE -- THE ONES WE ARE LOOKING AT THAT SAY IT
22 SAYS ANON, I GUESS THAT'S--

23 A ANONYMOUS.

24 Q ANONYMOUS.

25 A RIGHT.

1 Q EXCUSE ME. ANONYMOUS. THAT'S THE PATIENT YOU
2 INDICATED WAS INJURED?

3 A THAT'S CORRECT.

4 Q THAT DOES HAVE--

5 A THAT'S JUST A BASIS OF COMPARISON SO I CAN SHOW THE
6 JURY WHAT AN ABNORMAL LOOKS LIKE COMPARED TO THE -- THE
7 NORMAL SCANS I HAVE BEEN SHOWING YOU TODAY.

8 Q YOU INDICATED -- YOU SAID SOMETHING ABOUT THAT
9 MR. STANKO HAD SOME OF THE GREEN ON THE TOP OF HIS BRAIN,
10 OR WAS THAT--

11 A YEAH. TAKE THAT BACK. WELL, THAT'S NOT ON HIS
12 BRAIN, THAT'S IN THE SPACE BETWEEN THE SKULL BONE,
13 CALVARIUM, AND WHERE THE BRAIN IS. THAT'S WHERE THE
14 CEREBRAL SPINAL FLUID IS THERE.

15 Q IS THAT UNUSUAL OR IS THAT AN ABNORMALITY?

16 A NO, IT'S NOT AN ABNORMALITY. THAT'S COMMON. WE
17 SEE -- IN THIS ANALYSIS IT'S VERY COMMON BECAUSE, AGAIN,
18 ALL OF US DON'T HAVE EXACTLY THE SAME SHAPED BRAIN, AND SO
19 THE DIFFERENCES SHOW UP BETWEEN SKULL BONE.

20 IF THAT DIFFERENCE WAS DOWN OVER THE BRAIN PARENCHYMA
21 IN THE AREA OF THE FUNCTIONING GRAY MATTER, THEN THAT
22 WOULD BE ABNORMAL. THIS IS OUTSIDE OF THAT ON THE SURFACE
23 BETWEEN THE SKULL BONE AND WHERE THE ACTUAL BRAIN WAS.

24 Q DOES THAT CONCLUDE THE SLIDE PRESENTATION, DR.
25 SPICER?

1 A YES.

2 Q DR. SPICER, I'M GOING TO JUST ASK ONE FINAL
3 HOUSEKEEPING QUESTION. WITHIN A REASONABLE DEGREE OF
4 MEDICAL CERTAINTY, DO YOU HAVE AN OPINION ABOUT THE BRAIN
5 FUNCTION OF DEFENDANT STANKO BASED ON THE PET SCAN THAT
6 WAS DONE AT MUSC AND PROVIDED TO DR. SACHY AND PEER
7 REVIEWED?

8 A I HAVE AN OPINION, YES.

9 Q WHAT IS -- WOULD YOU PLEASE SHARE THAT OPINION.

10 A THAT OPINION IS THAT HIS BRAIN SCAN IS PERFECTLY
11 NORMAL. BY ALL OBJECTIVE CRITERIA IT'S A PERFECTLY NORMAL
12 FUNCTIONING BRAIN.

13 Q THANK YOU, DOCTOR.

14 THE COURT: ANY CROSS-EXAMINATION?

15 MR. DIGGS: YES.

16 CROSS-EXAMINATION

17 BY MR. DIGGS:

18 Q DOCTOR, YOU TALKED ABOUT THERE WAS SOME SOFTWARE THAT
19 COULD HAVE BEEN -- MAYBE ANALYZED THE INFORMATION IN SOME
20 KIND OF DIFFERENT WAY. DO YOU REMEMBER WHEN YOU MADE A
21 STATEMENT ABOUT SOME OTHER TYPE OF SOFTWARE?

22 A I'M NOT SURE WHAT YOU MEAN BY OTHER TYPE SOFTWARE.
23 THIS -- IN NUCLEAR MEDICINE WE HAVE COMPUTERS THAT CAN
24 TAKE THE NUCLEAR DATA ON KIDNEY SCANS--

25 Q RIGHT.

1 A -- OR A BONE SCAN AND ANALYZE THAT TO COME UP WITH AN
2 AMOUNT--

3 Q ALL RIGHT. AND DID THEY SHOW YOU OUR -- THE DEFENSE
4 PET SCAN?

5 A NO, SIR.

6 Q ALL RIGHT. WOULD YOU LIKE TO SEE IT?

7 A CERTAINLY.

8 Q DO YOU -- CAN YOU PLAY A CD ON YOUR COMPUTER?

9 A YEAH. I THINK SO.

10 MR. DIGGS: THIS IS THE SAME -- IT'S A COPY OF
11 THE CD, YOUR HONOR, THAT'S IN EVIDENCE.

12 MR. KELLY: YOUR HONOR, I WONDER IF WE CAN HAVE
13 THIS TV OVER HERE TURNED ON.

14 THE COURT: THAT'S WHAT I WAS GOING TO ASK, IF
15 WE COULD DO THAT, THEN WE WOULD ALSO HAVE MINE TURNED
16 ON. THAT'S WHY I WALKED DOWN BECAUSE I COULDN'T SEE
17 IT. WHY DON'T WE SEE IF WE CAN GET SOME ASSISTANCE
18 WITH THAT, THEN YOU ALL WOULDN'T HAVE TO WALK AROUND
19 TO SEE IT. IF YOU ALL WOULD BEAR WITH US, WE'D
20 APPRECIATE IT.

21 (MR. DIGGS CONFERRING WITH WITNESS OFF THE
22 RECORD.)

23 MR. DIGGS: YOUR HONOR, YOU WANT US TO WAIT TILL
24 THAT IS HOOKED UP?

25 THE COURT: I THINK IT IS. WELL, THAT ONE WAS

1 TURNED ON, MINE CAME ON. IS THAT ONE NOT...

2 THE WITNESS: YOU'RE NOT SEEING THE SAME SCREEN
3 WE ARE.

4 THE COURT: YOURS IS ALREADY PULLED UP? LET'S
5 SEE IF...

6 THE CLERK: SOMEONE FROM THE IT DEPARTMENT IS
7 COMING.

8 MR. DIGGS: WHILE -- DO YOU WANT TO...

9 THE COURT: YEAH, SO THEY CAN. . . .

10 MR. DIGGS: I CAN ASK HIM SOME OTHER QUESTIONS
11 ABOUT THE STILLS WHILE...

12 THE COURT: THAT'S FINE. IF YOU CAN DO THAT,
13 THAT WILL BE FINE.

14 BY MR. DIGGS:

15 Q LET ME SHOW YOU WHAT'S BEEN MARKED AS SOME DEFENSE
16 EXHIBITS, DOCTOR -- AND I CAN TELL YOU THAT THESE ARE
17 STILL PHOTOS TAKEN FROM WHAT YOU'RE ABOUT TO SEE ON THE
18 MOVING IMAGE -- AND JUST ASK YOU TO LOOK -- TAKE A FEW
19 MINUTES AND LOOK THROUGH THOSE AND THEN MAYBE WE CAN
20 DISCUSS THEM -- DISCUSS THEM.

21 (WHEREUPON THERE WAS A PAUSE.)

22 Q ALL RIGHT. CAN YOU GIVE ME, DOCTOR, YOUR -- YOUR
23 THOUGHTS ABOUT THESE PHOTOS AND THE TYPE OF PROGRAMS THAT
24 WERE USED TO GENERATE THESE PARTICULAR IMAGES?

25 A WELL, I'M SORRY. THERE'S NOTHING ON THEM TO TELL ME

1 HOW THEY WERE GENERATED. I -- WE SEE TYPICAL IMAGES LIKE
2 THIS. YOU CAN MAKE 3D RENDERINGS OF THE BRAIN FROM THE CT
3 SCAN WHERE JUST ANYBODY'S PET SCAN AND SUPERIMPOSE THE
4 NUCLEAR MEDICINE DATA ON TOP OF IT, AND I THINK THAT'S
5 WHAT I'M SEEING IN THERE.

6 Q OKAY. WOULD YOU REPEAT THAT FOR ME BECAUSE I -- I
7 DIDN'T CATCH WHAT YOU WERE SAYING.

8 A OH, OKAY. YOU ASKED ME -- I'M NOT SURE THE QUESTION
9 EXACTLY, BUT MY THOUGHTS ON...

10 Q YES.

11 A -- WERE THERE. MY THOUGHTS WERE THAT IS NOT TOO
12 DISSIMILAR FROM WHAT WE SEE IN NUCLEAR MEDICINE
13 DEMONSTRATIONS AND SLIDES AND PRESENTATIONS AND TALKS
14 WHERE YOU HAVE TAKEN CT DATA AND DISPLAYED ON TOP OF THAT,
15 THE NUCLEAR DATA.

16 Q OKAY. IS -- ARE YOU FAMILIAR WITH THAT PROCEDURE?

17 A I...

18 Q AND THE PRODUCTION OF 3D IMAGES?

19 A I THINK SO. I JUST DON'T KNOW HOW THEY DID THIS, BUT
20 SURE, WE PRODUCE 3D IMAGES ALL THE TIME.

21 Q IS THAT SOME METHOD THAT IS ACCEPTED IN THE
22 COMMUNITY, IN YOUR COMMUNITY?

23 A WELL, I--

24 Q SCIENTIFIC?

25 A WELL, I HAVE SHOWN YOU A WHOLE BUNCH OF IMAGES DONE

1 THE SAME WAY.

2 Q YES, SIR.

3 A CERTAINLY.

4 Q WOULD IT HELP TO -- WHEN YOU LOOK AT YOUR IMAGES, DID
5 YOU USE ANYTHING OTHER THAN YOUR EYES TO LOOK AT THE IMAGE
6 AND MAKE A JUDGMENT ABOUT THE PERCENTAGE OF FUNCTION IN A
7 PARTICULAR AREA?

8 A ON THE PET SCAN?

9 Q YES, SIR.

10 A YES. THAT'S -- I DEMONSTRATED FOR YOU THE PIXELS
11 BEING REPLACED BY GREEN. THAT WAS A STATISTICAL ANALYSIS.

12 Q ALL RIGHT. AND IS IT -- IS IT CAPABLE OF SHOWING YOU
13 PERCENTAGES OF REDUCTION IN LIKE PERHAPS MAYBE 20 PERCENT
14 REDUCED, 50 PERCENT REDUCED--

15 A CERTAINLY.

16 Q -- IN FUNCTION?

17 A SURE.

18 Q AND CAN YOU SEE THAT USING YOUR EYEBALLS IN A STILL
19 PHOTO SETTING?

20 A SURE.

21 Q OKAY.

22 THE COURT: IF WE CAN HOLD ON FOR ONE SECOND SO
23 WE CAN GET IT ALTOGETHER.

24 MR. DIGGS: YES, SIR.

25 THE COURT: I APOLOGIZE.

1 (WHEREUPON THERE WAS A PAUSE WHILE IT PEOPLE
2 WORKED ON SCREENS.)

3 THE COURT: CAN -- YOU HAVE SOME MORE QUESTIONS?
4 OR YOU WANT US TO TAKE A BREAK SO SHE CAN GET ALL...

5 MR. DIGGS: WELL, PERHAPS WE CAN TAKE A BREAK
6 AND THEN -- I'M NOT GOING TO TAKE MUCH MORE TIME,
7 YOUR HONOR, BUT I DO WANT--

8 THE COURT: I DON'T WANT TO INTERRUPT YOUR
9 CONTINUUM.

10 MR. DIGGS: THAT'S GOOD. I CAN TAKE IT DOWN.

11 THE COURT: MADAM FORELADY, LADIES AND
12 GENTLEMEN, WE APPRECIATE YOUR INDULGENCE. WE NEED TO
13 FOR TECHNOLOGICAL REASONS TO TAKE A LITTLE BREAK.
14 YOU ALL HAVE BEEN SITTING A LITTLE OVER -- MY RECORDS
15 INDICATE THAT WE STARTED THE EXAMINATION AT 5:17,
16 IT'S NOW 5:50. SO YOU ALL HAVE BEEN SITTING A LITTLE
17 SHY OF AN HOUR.

18 THIS MIGHT BE AN OPPORTUNE TIME TO GET SOMETHING
19 TO DRINK, STRETCH YOUR LEGS. IT SHOULD TAKE US
20 PROBABLY FIVE OR 10 MINUTES. DURING THE BREAK PLEASE
21 DO NOT DISCUSS THE CASE. PLEASE LEAVE YOUR NOTEPADS
22 IN YOUR SEATS. WE AGAIN APPRECIATE YOUR PATIENCE.

23 (JURY LEFT THE COURTROOM AT 5:51 PM.)

24 THE COURT: YOU MAY BE SEATED. WE'LL BE AT EASE
25 FOR -- UNTIL THEY CAN GET IT ALL COORDINATED.

1 DOCTOR, YOU CAN STEP DOWN, BUT PLEASE DON'T DISCUSS
2 YOUR TESTIMONY WITH ANYONE OR YOU CAN SIT THERE IF
3 YOU'D LIKE.

4 (WHEREUPON A RECESS WAS TAKEN.)

5 MR. DIGGS: BEFORE WE GO TO PET SCAN, I ASKED
6 THE WITNESS TO PULL -- BACK UP ONE OF THE PAGES FROM
7 HIS.

8 THE WITNESS: SEE IF IT WILL COME UP WHEN I...

9 (WHEREUPON THERE WAS A PAUSE.)

10 THE COURT: OKAY. WE GOT COORDINATED?

11 MR. HEMBREE: I THINK WE DO. MR. DIGGS...

12 THE COURT: HAVE IT COORDINATED? WAITING ON MR.
13 DIGGS?

14 MR. DIGGS: I'M HERE.

15 THE COURT: READY? PLEASE BRING IN THE JURY.

16 (JURY ENTERED THE COURTROOM AT 6:13 PM.)

17 THE COURT: YOU MAY BE SEATED. LADIES AND
18 GENTLEMEN, WE APPRECIATE YOUR PATIENCE. WE'LL NOW
19 RESUME THE CROSS-EXAMINATION OF THE WITNESS. DR.
20 DIGGS, YOU MAY PROCEED WHEN READY.

21 MR. DIGGS: THANK YOU, YOUR HONOR.

22 THE COURT: YOU'RE WELCOME.

23 BY MR. DIGGS:

24 Q DOCTOR, DESCRIBE FOR US WHAT WE'RE LOOKING AT HERE.

25 A THESE ARE THE SERIAL SAGGITAL SLICE IMAGES--

1 Q OKAY.

2 A -- OF MR. STANKO'S BRAIN.

3 Q ALL RIGHT. ORIENT ME AS TO WHERE -- HOW WE'RE
4 LOOKING HERE.

5 A THESE SLICES ARE OBTAINED PARALLEL TO THE SAGGITAL
6 SUTURE WHICH RUNS RIGHT UP AND DOWN THE MIDDLE OF THE
7 BRAIN.

8 Q ALL RIGHT. SO--

9 A STARTING FROM ONE SIDE TO THE OTHER.

10 Q OKAY. FROM RIGHT TO LEFT, LEFT TO RIGHT, RIGHT
11 THROUGH THE MIDDLE OF THE BRAIN?

12 A THAT'S CORRECT.

13 Q ALL RIGHT. IF YOU LOOK AT -- LET'S TAKE THE THIRD
14 ROW UP, OKAY, ON THE VERY END. SEE WHERE I'M POINTING
15 HERE?

16 A YEAH, IS MY CURSOR THERE NOW?

17 Q YES, SIR. NOW, WE HAVE GOT A BASIC UNIFORMITY OF
18 COLOR?

19 A CORRECT.

20 Q CORRECT? NOW, LET'S GO OVER TO THE MIDDLE OF THAT
21 ROW.

22 A OKAY.

23 Q AND WE HAVE GOT A SEVERE DROPOFF HERE. IS THAT --
24 YOU SEE WHAT I'M TALKING ABOUT, DROPOFF IN TERMS OF...

25 A COUNT?

1 Q LESS BRIGHT?

2 A INTENSITY?

3 Q YES.

4 A YEAH.

5 Q OKAY. NOW, IS YOUR TESTIMONY THAT THAT'S NORMAL?

6 A YES.

7 Q ALL RIGHT. AND WHAT DO YOU COMPARE THAT TO IN ORDER
8 TO MAKE THAT DETERMINATION?

9 A THE OVERALL INTENSITY -- WELL, FIRST OF ALL, I DON'T
10 DO IT ON JUST ONE SLICE NOR OR ONE ORIENTATION. I GO BACK
11 AND LOOK AT THE AXIAL IMAGES AND I--

12 Q YES, SIR.

13 A -- IMAGES IN THE SAME AREAS. IT'S A LITTLE DIFFICULT
14 TO DECIDE WHAT YOUR FRAME OF REFERENCE IS IN TERMS OF WHAT
15 YOU'RE COMPARING TO. WHAT IN ACTUALITY HAPPENS IS WE HAVE
16 DESIGNED OVER THE LAST FIVE YEARS THE SOFTWARE TO FIND THE
17 PIXEL IN THE BRAIN WHICH IS THE HOTTEST AND THEN ADJUST
18 THE SCALE OF ACTIVITY TO THAT HOT PIXEL FOR THE REST OF
19 THE BRAIN.

20 AND OFTEN TIMES THAT IS THE BRAIN STEM OR THE
21 SUBCORTICAL STRUCTURES. IN THIS CASE IT APPEARS TO BE
22 PRIMARILY THE VISUAL CORTEX, THE BACK PART OF THE IMAGE AS
23 YOU'RE SEEING HERE.

24 Q OKAY. WELL, WHY -- WHY WOULD THERE BE INCREASED
25 ACTIVITY IN THIS PARTICULAR IMAGE AS OPPOSED TO--

1 A RIGHT HERE, STARTED ME ON THAT ROW?

2 Q YES, SIR.

3 A BECAUSE HERE YOU'RE IN THE MIDLINE. IF I COULD SHOW
4 YOU, PERHAPS YOU CAN SEE IT UP HERE IN THIS AXIAL SLICE.
5 THE BRAIN PARENCHYMA WITH THE FUNCTIONING GRAY MATTER IS
6 THICKER AND ALONG THE MIDLINE. AND AS YOU MOVE -- THE
7 SAGGITAL SLICE, YOU REMEMBER, IS ALONG THIS PLANE HERE.
8 AND AS YOU MOVE OUT TOWARD THE SIDES IN SAGGITAL SLICING,
9 YOU MOVE AWAY FROM THIS AREA INTO THIS PORTION AREA HERE
10 WHERE YOU'RE GOING TO HAVE IT MUCH THINNER.

11 AND THIS SLICE YOU WERE ASKING ABOUT RIGHT HERE IS
12 JUST RIGHT ON THE CUSP OR RIGHT ON THE EDGE, IF YOU WILL,
13 RIGHT THERE. AND THEN YOU MOVE OUT ONE MORE AND YOU GET
14 TO HERE WHERE YOU'RE LOOKING AT THE THICKNESS OF THE
15 FRONTAL LOBE.

16 Q ALL RIGHT. AND SHOW US WHAT YOUR DATABASE FRAME
17 LOOKS LIKE.

18 A OKAY. THIS IS THE MORPHED IMAGES AND THESE -- THESE
19 ARE THE COMPUTER ANALYSIS OF COMPARISONS.

20 Q ALL RIGHT. EXPLAIN TO ME WHAT -- WHAT WE'RE LOOKING
21 AT HERE.

22 A OKAY. ACROSS THE TOP WHERE THE AXIAL SLICES--

23 Q NOW, IS THIS MR. STANKO?

24 A YES, SIR.

25 Q AND WHERE IS THE DATABASE?

1 A IT SAYS RIGHT UP HERE, MR. STANKO. AND ANY TIME HIS
2 ACTIVITY IN THE BRAIN IS WITH 95 PERCENT CONFIDENCE LESS
3 THAN THE NORMAL DATABASE FOR A MALE IN HIS DECADE OF LIFE,
4 IT IS REPLACED BY A GREEN PIXEL.

5 SO YOU'RE SEEING THE -- THE ONLY GREEN PIXELS YOU'RE
6 SEEING ARE NOT IN THE BRAIN, BUT THEY ARE ON THE SURFACE
7 AS YOU SEE RIGHT UP IN HERE.

8 Q OKAY. BUT ARE WE LOOKING -- IS THIS THE DATABASE
9 OVER HERE?

10 A NO, YOU'RE NOT LOOKING AT THE DATABASE. YOU'RE--

11 Q ALL RIGHT. WHERE IS THE DATABASE, IN YOUR SOFTWARE?

12 A YES, CORRECT.

13 Q ALL RIGHT. NOW, HOW DID YOU COMPILE THE DATABASE?

14 A I DIDN'T. THIS IS A PRODUCT WHICH IS NOW PURCHASED.
15 THE SOCIETY OF NUCLEAR MEDICINE -- I PARTICIPATED IN THE
16 SPEC CT AS WELL AS IN THE PET ARENA. I CONTRIBUTED NORMAL
17 PATIENTS THAT WE FOLLOWED OVER TIME, AND I MAY HAVE
18 CONTRIBUTED 15 TO 20.

19 Q AND DO THEY DO CONTINUOUS -- CPT DURING THE -- DURING
20 THE SCAN? DO YOU KNOW WHAT I MEAN BY THAT?

21 A NO.

22 Q CONTINUOUS PERFORMANCE TEST.

23 A NO.

24 Q OKAY. YOU HAVE NEVER HEARD OF THAT?

25 A IS THAT THE TEST THAT YOU HAD OR SOMEBODY ORDERED ON

1 MR. STANKO WHILE WE WERE DOING THIS?

2 Q YES.

3 A YES. NO, THAT IS VERY MUCH OUT OF THE ORDINARY.

4 Q VERY MUCH OUT OF THE ORDINARY?

5 A YES.

6 Q OKAY. NOW GO AHEAD AND SHUT THIS DOWN AND LET'S LOOK
7 AT MR. STANKO'S PET SCAN.

8 A I CAN GET RID OF IT COMPLETELY OR JUST HOLD IT IN THE
9 BACKGROUND?

10 Q PARDON?

11 A ARE YOU COMPLETELY DONE WITH THESE IMAGES?

12 Q I BELIEVE SO.

13 A OKAY. I THINK IT'D JUST MAKE YOUR VIDEO RUN A LITTLE
14 MORE SMOOTHER. THERE WE GO. OKAY. IT'S ALREADY STARTED,
15 SO -- MR. STANKO BEGIN WITH. WHOOPS. NOW IT'S
16 STARTING -- OKAY. COMING THROUGH. OKAY.

17 Q NOW, YOU SAY THAT THE PROSECUTION DID NOT SHOW YOU
18 THIS IN PREPARATION FOR YOUR TESTIMONY?

19 A NO, SIR. THIS IS THE FIRST TIME I HAVE EVER SEEN
20 THESE IMAGES.

21 Q ALL RIGHT. LET'S LOOK AT IT FOR A FEW MINUTES, JUST
22 FOR A LITTLE WHILE.

23 A OKAY.

24 Q YOU REALIZE WHAT KIND OF TECHNOLOGY WAS AT USE HERE?

25 A I'M NOT SURE WHAT YOU MEAN, BUT IN TERMS OF THIS IS

1 THE PET SCAN DATA, I'M ASSUMING THAT YOU TOOK THE SAME
2 DATA--

3 Q IT IS THE MUSC PET SCAN DATA.

4 A DIACOM DATA WAS THEN SUBMITTED--

5 Q YES, SIR.

6 A -- TO SOMEBODY ELSE, PUT ON THE COMPUTER--

7 Q YES.

8 A -- GENERATED THESE IMAGES.

9 Q YES, SIR. LET'S -- THIS VIDEO WAS ONLY FOUR MINUTES
10 LONG, AND I WOULD LIKE FOR YOU TO VIEW IT IN ITS TOTALITY.

11 A IT SEEMED TO HAVE STOPPED HERE.

12 Q NO. IT STOPS AND THEN IT WILL START UP AGAIN.

13 A I SEE THE GREEN SCALE AT THE BOTTOM. I WILL JUST
14 LEAVE IT RUNNING. IT IS -- GOT HERE.

15 Q YEAH. ALL RIGHT. HAVE YOU EVER SEEN ANYTHING LIKE
16 THIS BEFORE?

17 A YES. I MEAN AS A VIDEO, NO, BUT I HAVE SEEN STATIC
18 IMAGES RENDERED LIKE THIS, CERTAINLY.

19 Q ALL RIGHT. AND WHERE DID YOU SEE THOSE?

20 A I HAVE SEEN THEM IN JOURNALS.

21 Q IN THE JOURNALS?

22 A IN JOURNALS, RIGHT, AND MAINLY BY TRADE SHOWS AND BY
23 VENDORS TRYING TO GET PEOPLE'S--

24 Q ALL RIGHT. DO YOU SEE HERE WHAT'S BEING DEPICTED?
25 DO YOU UNDERSTAND WHAT'S BEING SHOWN HERE AT THESE ARROWS?

VOLUME FIVE 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

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1 A I'M NOT ENTIRELY -- ANATOMICALLY I'M CERTAIN, YEAH,
2 THAT'S THE INFERIOR FRONTAL LOBE, FRONTAL--

3 Q ALL RIGHT. IT'S COMING UP. AND IN JUST A MINUTE
4 WE'RE GOING TO SEE A REVERSAL HERE. WE'RE GOING TO GO AND
5 LOOK UP LIKE THROUGH THE NOSTRILS. SEE THAT LITTLE MAN
6 DOWN THERE ON THE LEFT?

7 A YEAH, RIGHT.

8 Q OKAY. AND JUST A -- THERE WE GO. NOW, WHEN IT GETS
9 BACK THERE, I'M GOING TO ASK YOU TO PUT IT ON PAUSE RIGHT
10 THERE. OKAY. CAN YOU TELL ME WHAT WE'RE LOOKING AT THERE
11 IN THAT IMAGE?

12 A WELL, I'M -- NOT HAVING PARTICIPATED AND WORKED WITH
13 THE SOFTWARE THAT'S USING TO GENERATE THIS, MY BEST GUESS
14 WOULD BE THAT HAVE TAKEN A RENDERING OF A BRAIN AND
15 SUPERIMPOSED ON THAT THE DISTRIBUTION OF RADIOACTIVITY
16 FROM MR. STANKO'S OR FROM A NORMAL CONTROL OR AVERAGE AS
17 IT'S LABELED ON THE IMAGE TO THE RIGHT.

18 Q NOW, BEFORE YOU START IT BACK, ON THIS AVERAGE
19 CONTROL IS IT IMPORTANT FOR SOMEBODY PARTICIPATING IN THIS
20 AVERAGE TO BE FOCUSING ON A PARTICULAR TASK SO THAT WE GOT
21 SOME STANDARDIZED FUNCTION GOING ON IN THAT PARTICULAR
22 BRAIN BEFORE IT'S PUT INTO THE DATABASE? COULD THAT BE
23 IMPORTANT?

24 A LET ME BE A LITTLE LONG-WINDED IN THE ANSWER THERE.

25 Q ALL RIGHT.

1 A ROUTINE NUCLEAR MEDICINE IMAGING AND IN PARTICULAR
2 PET IMAGING IS PERFORMED IN A MANNER THAT REFLECTS THE
3 ANSWER TO YOUR QUESTION IN THAT IT HAS CERTAINLY BEEN
4 SHOWN THAT YOU CAN HAVE PATIENTS UNDERTAKE TASKS AND THE
5 DISTRIBUTION OF RADIOACTIVITY IN THAT TASK -- EXCUSE ME --
6 IN THAT INDIVIDUAL'S BRAIN WILL REFLECT CHANGES SECONDARY
7 TO THAT TASK. DO IT WITHOUT THAT TASK AND THEN DO IT WITH
8 THE TASK.

9 AS A PRACTICE, WE PUT OUR PATIENTS IN A
10 BARCOLOUNGER-LIKE SITUATION, INSTALL AN IV IN THEIR ARM.
11 IN ABOUT 20 TO 30 MINUTES COME BACK AFTER THEY'RE ALL
12 ISOLATED AND RELAXED IN THAT ROOM, INJECT THE RADIONUCLEI
13 AND LEAVE THE ROOM, CLOSE THE DOOR, TURN OUT THE LIGHTS.

14 AND FOR THE NEXT HOUR THEN THE GLUCOSE GOES INTO THE
15 BRAIN AND SETTLES INTO THE AREAS OF THE BRAIN WITH AS MUCH
16 REDUCED AND STANDARDIZED SENSORY INPUT AS POSSIBLE.

17 Q WERE YOU AT MUSC -- I MEAN AT THE -- IN THE PET SCAN
18 ROOM WHEN DR. EINHORN ADMINISTERED THE CONTINUOUS
19 PERFORMANCE TEST ON MR. STANKO?

20 A THIS -- I WAS NOT PERSONALLY IN THE ROOM. WHAT
21 ACTUALLY HAPPENED WAS THE IV WAS INSTALLED IN MR. STANKO'S
22 ARM. HE PRIOR TO THAT UNDERWENT SOME TESTING ON THE
23 COMPUTER.

24 Q OKAY.

25 A THEN HE WAS DOSED AND THE TECHNOLOGIST AND THE

1 PSYCHOLOGIST LEFT THE ROOM AND LEFT MR. STANKO ALONE WITH
2 THE COMPUTER CARRYING OUT A TASK.

3 Q OKAY.

4 A NONE OF US WERE IN THE ROOM AT THE TIME.

5 Q I WANT YOU -- CAN YOU GIVE ME AN OPINION AS TO WHAT'S
6 HAPPENING HERE IN MR. STANKO'S BRAIN AS OPPOSED TO THE
7 NORMAL CONTROL AVERAGE IN THIS IMAGE?

8 A WELL, I MEAN, IT'S SELF-EVIDENT. IN THIS IMAGE
9 YOU'RE LOOKING AT WHERE THE ARROWS ARE POINTING AS A --
10 THE INFERIOR PORTIONS OF WHAT ARE ROUTINELY REFERRED TO AS
11 HYPERFRONTAL OR INTERIOR FRONTAL LOBES AND THERE'S A
12 DIFFERENT COLOR SCALE OR DIFFERENT--

13 Q OKAY.

14 A -- COLOR RENDERING ON THIS LABELED NORMAL CONTROL
15 AVERAGE THAN THERE IS IN MR. STANKO.

16 Q AND THERE'S -- IT'S A SHOWING OF LOWER ACTIVITY. YOU
17 AGREE WITH THAT?

18 A IT'S--

19 Q AT LEAST IN THIS -- IN THIS TECHNOLOGY?

20 A WELL, IN THIS SET OF IMAGES, THAT'S WHAT'S BEING
21 DISPLAYED.

22 Q ALL RIGHT. AND YOU AGREE WITH ME THEN THAT WE GOT
23 HIGHER ACTIVITY OVER THE NORMAL CONTROL AVERAGE THAN IN
24 MR. STANKO'S BRAIN?

25 A NO, SIR. I CAN'T REALLY AGREE WITH YOU. I THINK THE

1 IMAGE SHOWS YOU BLUE COLOR HERE AND SHOWS A YELLOW COLOR
2 HERE.

3 Q ALL RIGHT.

4 A BUT THERE'S A LOT OF FACTORS THAT CAN LEAD TO THE
5 COLOR DISTRIBUTION IN AN IMAGE LIKE THIS. NOT HAVING BEEN
6 PRESENT, I DON'T KNOW HOW IT WAS CARRIED OUT.

7 Q OKAY. ALL RIGHT. BUT ARE YOU AWARE THAT THIS TYPE
8 OF PROCEDURE HAS BEEN PUBLISHED IN ARTICLES? PEER--

9 A YES.

10 Q -- SUBJECTED TO PEER REVIEW?

11 A SURE.

12 Q OKAY. AND LET'S ASSUME A MOMENT FOR--

13 A I'M NOT SURE WHAT -- SORRY. LET ME CORRECT.

14 Q YEAH.

15 A WHEN YOU SAY THIS PROCEDURE, ARE YOU ALSO INCLUDING
16 THE COMPUTER TESTING THAT WENT ON, PREIMPOSING -- THAT
17 SORT OF THING?

18 Q YEAH.

19 A IN THE GENERAL TERMS I'M AWARE OF THAT. WE DO THAT
20 OURSELVES. BUT I'M NOT AT ALL PRIVY TO WHAT COMPUTER
21 TESTING WENT ON, I HAVE NO IDEA.

22 Q OKAY. YOU MEAN BY THE PEOPLE THAT GENERATED THIS
23 IMAGE OR AT THE TIME, AT MUSC?

24 A AT MUSC -- WELL BOTH, FRANKLY, BUT YES.

25 Q OKAY. ARE YOU FAMILIAR WITH CALIFORNIA -- UNIVERSITY

1 OF CALIFORNIA AT IRVINE?

2 A YES. I'VE NEVER VISITED OR LECTURED THERE, BUT I'M
3 AWARE.

4 Q ARE YOU FAMILIAR WITH THEIR BRAIN IMAGING CENTER?

5 A NOT IN -- RELATIVE TERMS, NO.

6 Q ALL RIGHT. ARE YOU FAMILIAR WITH ADRIAN RAINE, DR.
7 ADRIAN RAINE?

8 A NO.

9 Q OKAY. GO AHEAD AND LET'S RUN THIS OUT AND WATCH IT
10 TO ITS CONCLUSION. DID IT RESTART?

11 A I -- YEAH. I PUSHED THE FORWARD BUTTON AND IT
12 RESTARTED.

13 Q OKAY.

14 A AND UNFORTUNATELY IT SLIPPED BACK TO -- YOU KNOW,
15 MAYBE I CAN PUT IT ON CHAPTER FIVE?

16 Q SURE. GO AHEAD AND JUST PICK UP WHERE YOU WERE. AND
17 THERE WERE ABOUT TWO MINUTES, DOCTOR, LEFT IN THE VIDEO.
18 ALL RIGHT. CAN YOUR -- WHILE YOU'RE DOING THAT, CAN I ASK
19 YOU THIS QUESTION? CAN YOUR TECHNOLOGY THAT YOU SHOWED US
20 TODAY GIVE US THIS KIND OF COMPARISON?

21 A CERTAINLY.

22 Q THIS KIND OF DETAIL?

23 A OH, YEAH, CERTAINLY. THIS IS RELATIVELY CRUDE
24 ACTUALLY BECAUSE YOU'RE RENDERING IT ON A BRAIN PHANTOM--

25 Q RIGHT. RIGHT. DID YOU EVER LOOK AT YOUR TEST --

1 YOUR IMAGES IN A C3 POSTURE LIKE THIS?

2 A WE HAVE THAT CAPABILITY, BUT--

3 Q OKAY.

4 A -- DON'T REALLY DO IT.

5 Q SURE. RIGHT. BUT IF SOMEONE ASKS YOU TO DO IT,
6 COULD YOU DO THAT?

7 A OH YEAH, CERTAINLY.

8 Q ALL RIGHT. SO YOU UNDERSTAND REALLY WHAT'S GOING ON
9 HERE?

10 A YEAH.

11 Q ALL RIGHT. AND WOULD YOU AGREE WITH ME THAT IT GIVES
12 US AN OPPORTUNITY TO LOOK WITH A LITTLE MORE DETAIL ABOUT
13 THE -- THE LEVEL OF ACTIVITY AS OPPOSED TO THE THUMBNAIL
14 IMAGES THAT WE WERE LOOKING AT PREVIOUSLY?

15 A NO. I -- I HONESTLY DON'T BELIEVE THAT'S THE CASE.
16 I AM MUCH MORE CAPABLE OF LOOKING AT SLICE IMAGES AND
17 LOOKING PRECISELY AT AREAS THAN I AM IN A 3D RENDERING.
18 3D RENDERINGS HELP ME AN AWFUL LOT WHEN I'M CONVINCING A
19 NEUROSURGEON, YOU KNOW, WHERE THINGS ARE, WHAT -- THEY'RE
20 HAPPENING, AND THEY'RE PRETTY SHOWY IMAGES, BUT THEY ARE
21 NOT MORE SENSITIVE IN TERMS OF DETECTING SMALL CHANGES.

22 Q ALL RIGHT. WELL, THEY'RE -- I'M GOING TO ASK YOU TO
23 STOP IT IN JUST A MINUTE. HOLD ON. OKAY. STOP. NOW
24 START IT JUST FOR A COUPLE OF SECONDS FOR ME, PLEASE.

25 A OKAY. THERE'S A TIMELINE HERE BECAUSE THE

1 COMPUTERS--

2 Q ALL RIGHT. OKAY.

3 A SO I START AND THEN LIKE 10 SECONDS OR...

4 Q NO, ONE SECOND, TWO SECONDS.

5 A OKAY. START.

6 Q OKAY. I KNEW I WAS PRESSING MY LUCK. BUT...

7 A DID ANYONE HAPPEN TO NOTICE WHAT CHAPTER YOU WERE IN?

8 Q YOU WERE PROBABLY ABOUT 3/4 OF THE WAY THROUGH.

9 YEAH. GO ON THEN TO 75 PERCENT OF THE WAY.

10 A I'M ON CHAPTER NINE NOW WHICH IS PROBABLY THAT MUCH,
11 MAYBE I CAN...

12 Q YEAH. LET'S--

13 A FASTER.

14 Q WELL, IF I CAN SEE...

15 A HERE IS THAT GROWING.

16 Q YEAH, OKAY.

17 (VIDEO PLAYING).

18 Q LET IT GO. LET IT GO. LET IT GO. STOP. NOW, CAN
19 YOU -- I WANT TO TALK TO YOU TO -- ABOUT THIS PARTICULAR
20 IMAGE, OKAY? LET'S ASSUME FOR A MOMENT THAT WE HAVE GOT
21 SOME ACCEPTED TECHNOLOGY HERE THAT'S TAKING YOUR DATA FROM
22 MUSC--

23 A UH-HUH.

24 Q -- AND PUT IT IN THIS -- THIS FORMAT SO THAT WE CAN
25 COMPARE ACTIVITY LEVELS BETWEEN MR. STANKO AND THE NORMAL

1 CONTROL AVERAGE.

2 A OKAY.

3 Q OKAY? AND YOU WOULD AGREE WITH ME -- AND I KNOW
4 YOU'RE NOT VOUCHING FOR THE VALIDITY -- BUT YOU WOULD
5 AGREE WITH ME THAT IT DOES SHOW LOWER ACTIVITY IN THAT
6 FRONTAL AREA, LEFT AND RIGHT, THAN IN THE AVERAGE?

7 A THE WAY THAT THE IMAGES ARE PRESENTED TO YOU HERE,
8 THERE'S CERTAINLY A DISCREPANCY BETWEEN THE AMOUNT OF
9 ACTIVITY--

10 Q OKAY.

11 A -- AND THE SIZE. I THINK I CAN EXPLAIN THAT, THOUGH,
12 AS I LOOK AT THIS.

13 Q ALL RIGHT.

14 A IF YOU HAVE TIME WITH ME HERE. LET ME GO BACK TO THE
15 BEGINNING OF THIS. I NEED TO... OOPS. GO BACK TO THE
16 BEGINNING. THERE WE GO. ONE OF THE CRUCIAL THINGS YOU DO
17 WHEN YOU INTERPRET IMAGES IS SET SOMETHING CALLED -- GET
18 OUT OF THE WAY HERE, WILL YA -- THE WINDOW AND LEVEL.

19 NOW, WHAT THIS MEANS IS THE WINDOW IS THE WIDTH OF
20 THE COLOR SCALE AS WE SEE ACROSS THE BOTTOM HERE OF YOUR
21 IMAGE.

22 Q UH-HUH.

23 A HAS TO BE SET THE SAME FOR THE TWO IMAGES.

24 Q SURE.

25 A IF YOU SQUEEZE THIS WINDOW DOWN, YOU MAKE THINGS LOOK

1 VERY INTENSE IN ONE IMAGE. IF YOU HAVE IT WIDE OPEN IN
2 THE OTHER, YOU MAY HAVE IT LOOK WASHED OUT AND HARDLY SEE
3 ANY ACTIVITY IN IT.

4 SO WHAT YOU HAVE TO DO THEN IS FIND SOME STRUCTURE
5 WHICH IS THE SAME IN ALL IMAGES TO PICK, TO LOOK AT THAT
6 INTENSITY AND NARROW YOUR WINDOW THE SAME WAY IN THAT SAME
7 STRUCTURE IN ALL YOUR IMAGES.

8 IN THIS INSTANCE SOMETHING LIKE THE VISUAL CORTEX,
9 WHICH IS THE BRIGHTEST, WOULD BE A VERY REASONABLE PLACE
10 TO DO IT. YOU HAVE THE BRAIN STEM, YOU COULD DO THAT,
11 THAT'S ALSO VERY COMMON.

12 HERE THOUGH YOU SEE THAT THIS WINDOW ON THE LEFT
13 LABELED STEPHEN STANKO DOES NOT HAVE NEARLY THE SAME LEVEL
14 OF INTENSITY IN THE VISUAL CORTEX AS THE NORMAL CONTROL OR
15 AVERAGE DOES.

16 SO THIS ONE -- THIS IMAGE HERE HAS BEEN -- THE WINDOW
17 HAS BEEN CRANKED DOWN TO MAKE IT LOOK MORE INTENSE THAN
18 THIS WINDOW HAS, SO IT'S A -- A NARROWER WINDOW ON THE
19 NORMAL CONTROL THAN IT IS ON THE AVERAGE WOULD BE MY
20 INTERPRETATION HERE--

21 Q ALL RIGHT.

22 A -- USING THE VISUAL CORTEX, WHICH IS PRETTY MUCH
23 STANDARD FROM PATIENT TO PATIENT.

24 Q DO YOU KNOW HOW THE COLORS ARE ARRIVED AT?

25 A YEAH. THERE'S WHAT'S CALLED A LOOK-UP TABLE. AND

1 WHAT THIS SOFTWARE DOES AND IT'S GOING TO EACH LITTLE
2 PICTURE ELEMENT, PIXEL AGAIN, SEE HOW MUCH RADIOACTIVITY
3 IS THERE.

4 THEN IT GOES TO THE LOOK-UP TABLE, THE COMPUTER DOES,
5 AND PLACES A COLOR IN PROPORTION TO THE AMOUNT OF
6 RADIOACTIVITY IN EACH OF THOSE LITTLE PICTURE ELEMENTS.
7 YOU CAN MAKE THIS COLOR ON A SCALE LIKE YOU SEE HERE FROM
8 BLUE TO RED OR YOU CAN DO IT IN SHADES OF GRAY OR--

9 Q RIGHT. BUT THERE IS A STANDARD SCALE ONCE YOU CHOOSE
10 THE COLOR SCHEME.

11 A SURE.

12 Q THERE IS A MANUFACTURE'S SET STANDARD SCALE; ISN'T
13 THERE--

14 A WELL, THAT--

15 Q -- IN TERMS OF THE INTENSITY OF THE IMAGE, THE ENERGY
16 THERE CREATING THAT IMAGE?

17 A THERE IS A STANDARD SCALE THAT--

18 Q LOWER--

19 A -- DEPICTED HERE--

20 Q -- DIMMER, LOWER, BRIGHTER, HIGHER?

21 A RIGHT.

22 Q THEN -- AND IT'S NUMERICAL --

23 A SURE, THAT'S--

24 Q -- NUMERICAL DATA?

25 A THAT'S THE WINDOW.

1 Q OKAY. NOW, TELL ME AGAIN HOW WE GET THE LESS
2 ACTIVITY IN THIS PARTICULAR IMAGE AS OPPOSED TO THE NORMAL
3 CONTROL AVERAGE.

4 A OKAY. ON THE IMAGE ON THE RIGHT THEY NARROWED THE
5 WINDOW THAT THE LOOK-UP TABLE HAS AVAILABLE TO IT TO
6 ASSIGN A COLOR TO IT.

7 Q ALL RIGHT. I'M...

8 A CRANKED DOWN.

9 Q EXPLAIN IT TO ME A LITTLE MORE CLEARER.

10 A ALL RIGHT. LET'S LOOK AT THE SCALE AT THE BOTTOM.
11 LET'S ASSUME THAT -- AND IN EACH OF THE PICTURE ELEMENTS
12 IN THIS SCAN YOU HAVE THE ABILITY TO DISPLAY COUNTS
13 ANYWHERE BETWEEN ZERO AND 100. ALL RIGHT.

14 IF IN THIS IMAGE THE SCALE THEN WOULD BE A HUNDRED IF
15 IT WAS BRIGHT RED AND IT WOULD BE FIVE OR NEAR ZERO --
16 ZERO WOULD BE BLACK AND DARK BLUE WOULD BE, YOU KNOW, FIVE
17 TO 10. OKAY.

18 IF WE NARROW THIS WINDOW DOWN, THAT MEANS THAT THE
19 RED MAY NOT BE ASSOCIATED WITH A HUNDRED ANY MORE, BUT IT
20 MAY BE ASSOCIATED WITH SOMETHING LIKE 60.

21 Q OKAY. WHAT IF THEY DIDN'T NARROW THE WINDOW DOWN?

22 A WELL, I'M NOT SURE WHAT YOUR QUESTION IS.

23 Q WELL, WHAT IF THEY DIDN'T FUDGE THE IMAGE? WHAT IF
24 THEY DIDN'T NARROW THE WINDOW?

25 A IF -- IF THIS IMAGE WAS NARROW -- WINDOW IS EXACTLY

1 THE SAME AS THIS--

2 Q EXACTLY THE SAME, YES, SIR.

3 A THEN YOU WOULD HAVE A DECREASED TOTAL BRAIN ACTIVITY
4 IN STEPHEN STANKO COMPARED TO THE NORMALS AND THE IMAGES
5 YOU SHOWED ME EARLIER IN THE FRONTAL AREA WOULD ALSO BE
6 LOWER.

7 Q ALL RIGHT. UNLESS THE -- UNLESS THAT MAN FUDGED THAT
8 IMAGE, HE WOULD HAVE A REDUCED FUNCTION IN THE FRONTAL
9 LOBE?

10 A ON ALL THOSE ACTUALLY IF YOU--

11 Q ALL?

12 A YES.

13 Q THAT'S ALL I HAVE.

14 THE COURT: IS THERE ANY REDIRECT?

15 MR. HEMBREE: MAYBE JUST A COUPLE OF QUESTIONS.

16 THE COURT: YOU MAY PROCEED.

17 REDIRECT EXAMINATION

18 BY MR. HEMBREE:

19 Q YOU INDICATED -- I THINK YOU TESTIFIED, DR. SPICER,
20 THAT THIS TECHNOLOGY OR THE -- THIS MANNER OF PRESENTING
21 THESE IMAGES WAS RATHER CRUDE?

22 A I'M NOT SURE I SAID -- I'D SAY THAT'S NOT THE RIGHT
23 ADJECTIVE, CRUDE. IT'S CERTAINLY FLASHY AND IMPRESSIVE
24 AND IT'S USED IN OUR TRADE SHOWS BY THE VENDORS WHO SELL
25 GAMMA CAMERAS AND PET SCANNERS BECAUSE IT CATCHES YOUR

1 EYE.

2 IT'S CERTAINLY VERY HELPFUL FOR SURGEONS TO GET A
3 SORT OF A 3D RENDERING BECAUSE THEY DON'T LIKE -- THEY
4 WOULD HAVE BEEN RADIOLOGISTS AND NUCLEAR PHYSICIANS IF
5 THEY WANTED TO LOOK AT SLICES, I THINK.

6 BUT IT -- AND IT CERTAINLY -- AND IT'S ALSO
7 IMPRESSIVE TO JUST LOOK AT, BUT IT DOESN'T HAVE DIAGNOSTIC
8 SIGNIFICANCE IN TERMS OF OUR ABILITY TO INTERPRET.

9 Q NOW, THERE WE GO. THIS IS -- THIS IS NOT THE BEST
10 WAY TO DIAGNOSE--

11 A NO.

12 Q -- A BRAIN PROBLEM?

13 A I DON'T THINK I HAVE EVER SEEN ANYONE ANYWHERE
14 EVER -- AND I HAVE BEEN TO MANY UNIVERSITIES THROUGH THE
15 YEARS -- EVER USE ANYTHING LIKE THIS TO DIAGNOSE.

16 Q THIS IS DONE FOR PRESENTATIONS?

17 A CERTAINLY.

18 Q I GOT YA. AND JUST NOT USEFUL FOR A DIAGNOSTIC
19 PURPOSES?

20 A NO, SIR.

21 Q YOU TESTIFIED THAT WHAT IS USEFUL, WHAT YOU -- WHAT
22 IS YOUR PREFERENCE, WHAT IS THE STANDARD, THE GOLD
23 STANDARD, IN READING A PET SCAN? WHAT DO YOU WANT TO BE
24 LOOKING AT?

25 A SLICED IMAGES IN -- ALL THREE PLANES, ALL THREE

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1 ORIENTATIONS OF THE SLICES THAT I SHOWED YOU.

2 Q THE THREE SERIES OF SLIDES THAT WE -- ON MR. STANKO
3 THAT WE SAW EARLIER TODAY, THAT'S WHAT -- THAT'S THE -- IS
4 THAT THE GENERALLY ACCEPTED METHOD IN MEDICINE OF
5 INTERPRETING A PET SCAN?

6 A CERTAINLY IS. NOW, I WILL SAY THERE IS PREFERENCES
7 IN COLOR TABLES. LIKE THIS IS A -- THIS IS A VERY COMMON
8 COLOR TABLE USED, AND THE ONE WE SHOWED YOU IS, AND EVEN
9 SOME PEOPLE ARE STILL USING GRAY SCALE, BUT ALWAYS SLICE
10 IMAGES.

11 I NEVER HEARD OF OR SEEN ANYBODY EVER TRY TO
12 INTERPRET ONE OF THESE. CLEARLY STANDARD OF CARE IS TO
13 LOOK AT SLICINGS.

14 Q OKAY. AND YOU DID?

15 A CERTAINLY.

16 Q AND YOU FOUND WHAT?

17 A FOUND A NORMAL BRAIN, THAT'S -- THAT THE METABOLISM
18 SCAN FOR MR. STANKO.

19 Q NOW, I'M GOING TO TRY THIS WITH THE INTENSITY
20 QUESTION OF DIALING THE INTENSITY OF THE COLORS. NOW, YOU
21 WERE TALKING ABOUT THE -- THAT WINDOW. YOU WANT TO MAKE
22 SURE THAT THAT WINDOW IS AT ONE -- THAT THE -- THAT THE
23 KNOWN IS COMPARED TO THE AVERAGE?

24 A THIS -- THIS PICTURE, THIS PART OF THE SLIDE DOWN
25 HERE, THIS IS THE WINDOW. YOU CAN TAKE THE--

1 Q I CAN'T SEE IT. I DON'T KNOW WHAT YOU'RE POINTING
2 TO.

3 A OH, IS MY CURSOR NOT SHOWING?

4 Q NO, IT'S NOT SHOWING.

5 A IT SAYS LOW ACTIVITY TO HIGH ACTIVITY.

6 Q OKAY. THIS LITTLE BAR RIGHT HERE, THE LITTLE COLOR
7 BAR?

8 A THE COLOR BAR DOWN THERE IS OUR WINDOW.

9 Q ALL RIGHT.

10 A YOU CAN MAKE IT REAL WIDE OR YOU CAN MAKE IT VERY
11 NARROW. WHEN YOU MAKE IT VERY NARROW--

12 Q SO IT CAN BE MANIPULATED BY THE PERSON WHO IS
13 ASSEMBLING THIS KIND OF PRESENTATION?

14 A SURE.

15 Q OKAY.

16 A LEFT MOUSE CLICK CAN MAKE IT BIGGER, SMALLER IN JUST
17 A FRACTION OF A SECOND.

18 Q I GOT YA. AND IF YOU WANTED TO DO IT ACCURATELY, IF
19 YOU WANTED TO BE COMPLETELY ACCURATE ABOUT IT, AND -- HOW
20 WOULD YOU DO THIS? HOW WOULD YOU MAKE SURE THAT -- WHAT
21 WOULD -- WHAT QUALITY CONTROL MEASURE WOULD YOU USE TO
22 MAKE SURE THAT THIS WAS DONE PROPERLY?

23 A TO MAKE THE COMPARISONS PROPERLY, YOU DON'T DO IT
24 YOURSELF. YOU TELL THE COMPUTER TO GO FIND THE TOTAL
25 COUNTS IN BOTH DATA SETS, SET THAT MAXIMUM PIXEL COUNTS,

1 PICTURE ELEMENT COUNTS IN BOTH ASSETS TO THE SAME AMOUNT,
2 TO THE SAME PEEK. IN OTHER WORDS, THIS RED POINT OVER
3 HERE?

4 Q THIS ONE RIGHT--

5 A YEAH, HAS TO--

6 Q CAN YOU SEE WHERE I'M -- OKAY. BECAUSE I CAN'T SEE
7 YOUR CURSOR.

8 A AM I OFF THE SCREEN? DOESN'T SHOW THAT?

9 Q NO.

10 A SORRY.

11 Q IT'S OKAY. IS IT WHERE THIS REALLY BRIGHT RED SPOT
12 IS HERE?

13 A WOULD BE BETTER IF I CAME DOWN AND...

14 Q YEAH. COME ON DOWN.

15 A THIS IS THE DISPLAY, IF YOU WILL, WINDOW. AND YOU
16 CAN MAKE IT AS WIDE OR AS NARROW AS YOU LIKE. IF YOU MAKE
17 THE WINDOW NARROWER, DEMO GIVING YOU BEFORE, THE HIGHEST
18 PIXEL HERE WOULD REPRESENT 100 COUNTS IN THAT PICTURE
19 ELEMENT.

20 IF YOU NARROW THE WINDOW CLOSER, WHAT MAY HAPPEN IS
21 THE PIXEL WITH ONLY SIXTY COUNTS IN IT WOULD BE RED. YOU
22 CAN GO WAY DOWN HERE WHERE YOU HAVE HARDLY ANY GRADATIONS
23 OF SCALE AND MAKE A PIXEL LOOK 30--

24 THE COURT: SOME OF THE JURY MEMBERS INDICATED
25 THEY CANNOT SEE WHAT YOU'RE POINTING TO. SO IF

1 YOU'LL TURN...

2 BY MR. HEMBREE:

3 Q WHY DON'T YOU COME TO THIS SIDE?

4 A CAN'T SEE THROUGH ME?

5 THE COURT: SPEAK UP VERY LOUDLY SO THE COURT
6 REPORTER CAN TAKE DOWN EVERYTHING THAT YOU'RE SAYING.

7 THE WITNESS: OKAY. DO I NEED TO REPEAT THAT
8 THEN? SO THIS IS WHAT WE REFER TO AS THE DISPLAY
9 WINDOW. AND THE INTENSITY OF THE SIGNAL YOU SEE IN
10 THE IMAGE DEPENDS ON HOW YOU POSITION THIS WINDOW,
11 HOW MUCH OPEN OR CLOSED YOU MAKE THE WINDOW.

12 THE EXAMPLE I WAS GIVING BEFORE IS IF YOU WANTED
13 TO MAKE THIS COMPLETELY UNBIASED, YOU WOULD TELL THE
14 COMPUTER TO GO LOOK AT THE WHOLE PET SCAN FROM THIS
15 IMAGE SET AND THE WHOLE PET SCAN IMAGES FROM THIS
16 SET, FIND THE HOTTEST PICTURE ELEMENTS, AND WHATEVER
17 THAT NUMBER IS, USE THAT TO BE IN THE TOP OF YOUR
18 WINDOW, THE HIGHEST.

19 OKAY. AND THAT WAY A RED PIXEL IN THIS IMAGE
20 WOULD BE EXACTLY THE SAME COUNTS AS A RED PIXEL IN
21 THIS IMAGE. THAT CAN ALSO JUST BE DONE BY HAND. IF
22 YOU GO OVER HERE TO THIS ONE AND SET YOUR SCALE THERE
23 AND COME OVER TO THIS ONE AND MAKE IT, YOU KNOW, YOU
24 HIGHLIGHT THINGS AND MAKE THINGS GO AWAY, TOO, SO WE
25 DON'T REALLY KNOW HOW THAT WAS DONE.

1 BUT I'M SUSPICIOUS THAT THE VISUAL CORTEX STAYS
2 THE SAME FROM PATIENT TO PATIENT, PRETTY INTENSE,
3 EVEN THOUGH WE TURN THE LIGHTS DOWN IN THE ROOMS SO
4 THAT I WOULD HAVE EXPECTED THIS IMAGE TO HAVE THE
5 SAME LEVEL OF RED IN THE VISUAL CORTEX.

6 IT DIDN'T. IN FACT, THE WHOLE IMAGE IS LESS
7 INTENSE THAN THIS ONE OVER HERE. SO I'M
8 SUSPECTING -- I DON'T KNOW -- BUT MY SUSPICION IS
9 THAT THIS WINDOW HAS A NARROWER WINDOW THAN THIS ONE.
10 BY MR. HEMBREE:

11 Q THANK YOU, DOCTOR. DR. SPICER, THANK YOU SO MUCH FOR
12 YOUR TESTIMONY. PLEASE ANSWER ANY MORE QUESTIONS MR.
13 DIGGS HAS FOR YOU.

14 MR. DIGGS: VERY BRIEFLY.

15 THE COURT: YOU MAY PROCEED.

16 RE CROSS-EXAMINATION

17 BY MR. DIGGS:

18 Q SO WE HAVE A DECISION TO MAKE WITH RESPECT TO
19 THESE -- THESE TWO POINTS. EITHER THE WINDOW WAS NARROWED
20 DOWN TO FUDGE THE IMAGE OR MR. STANKO HAS LOW BRAIN IN THE
21 FRONTAL AREAS AND ANY OTHER AREAS; CORRECT?

22 A THAT'S FAIR.

23 Q ALL RIGHT. AND SO THAT'S THE CHOICE WE'VE GOT TO
24 MAKE; CORRECT?

25 A CERTAINLY.

1 Q ALL RIGHT. THANK YOU, DOCTOR.

2 THE COURT: ANYTHING FURTHER FROM THE STATE?

3 MR. HEMBREE: I'M SORRY, JUDGE.

4 REDIRECT EXAMINATION

5 BY MR. HEMBREE:

6 Q IN -- DR. SPICER, IN YOUR EVALUATION OF THE PET SCAN,
7 NOT THIS 3D IMAGING, BUT THE PET SCAN.

8 A CERTAINLY.

9 Q ONCE AGAIN, IS THERE ANYTHING IN THERE TO INDICATE
10 THAT HE HAS LOW BRAIN FUNCTION?

11 A NO, THERE'S NOTHING AT ALL. IN FACT, WE DIDN'T EVEN
12 SET THE WINDOWS AND LEVELS ON OUR SCAN. WE LET THE
13 COMPUTER DO THAT. AND THEN WE COMPARED TO THE NORMAL
14 DATABASE, WHICH AGAIN IS A VERY FINE TUNING OF THOSE
15 LEVELS AND THAT IMAGE, AND THEY SHOW ABSOLUTELY NO
16 ABNORMAL AREAS OF GLUCOSE METABOLISM.

17 THE COURT: THANK YOU, DR. SPICER. ANY
18 EXCEPTION TO THE WITNESS BEING EXCUSED FROM THE
19 STATE?

20 MR. HEMBREE: NONE FROM STATE, YOUR HONOR.

21 THE COURT: FROM THE DEFENSE?

22 MR. DIGGS: NO, YOUR HONOR.

23 THE COURT: DOCTOR, YOU'RE EXCUSED.

24 THE WITNESS: THANK YOU.

25 THE COURT: YOU'RE WELCOME.

1 MR. DIGGS: YOUR HONOR, COULD I ASK THE DOCTOR
2 TO GIVE ME THE DISC BACK? I JUST WANTED TO REMIND
3 HIM.

4 (WHEREUPON THE WITNESS LEFT THE STAND.)

5 THE COURT: NOT A PROBLEM.

6 (WHEREUPON THERE WAS A PAUSE.)

7 THE COURT: WE ALREADY HAVE THEM MARKED FOR ID.

8 MR. HEMBREE: JUDGE JEFFERSON, THAT WOULD
9 CONCLUDE THE STATE'S REPLY WITNESSES.

10 THE COURT: MADAM FORELADY, LADIES AND
11 GENTLEMEN, THE STATE HAS NOW RESTED THEIR REPLY CASE.
12 THE NEXT STAGE OF THE PROCESS INVOLVES CLOSING
13 ARGUMENTS AND THE COURT'S CHARGE ON THE LAW. WE WILL
14 RESUME -- AND ACTUALLY, COUNSEL APPROACH FOR ME FOR A
15 MOMENT? IF YOU WOULD BEAR WITH ME, I NEED TO
16 ASCERTAIN SOMETHING FOR SCHEDULING PURPOSES.

17 (WHEREUPON A BENCH CONFERENCE WAS HELD.)

18 THE COURT: MADAM FORELADY, LADIES AND
19 GENTLEMEN, WE WILL BE AT EASE UNTIL 9:30 IN THE
20 MORNING AT WHICH TIME WE WILL HAVE CLOSING ARGUMENTS
21 AND THE COURT'S CHARGE ON THE LAW.

22 I WOULD ASK THAT YOU LEAVE YOUR NOTEPADS IN YOUR
23 SEATS AND PLEASE STRICTLY ABIDE BY THE COURT'S
24 INSTRUCTIONS AND HAVE NO DISCUSSION ABOUT THIS CASE
25 IN ANY WAY WHATSOEVER.

1 IT IS IMPORTANT THAT YOU REMAIN IMPARTIAL UNTIL
2 YOU HAVE HEARD CLOSING ARGUMENTS OF THE ATTORNEYS AND
3 THE COURT'S INSTRUCTION ON THE LAW AND HAVE BEEN
4 RELEASED TO DELIBERATE AMONG YOUR MEMBERS TO RETURN A
5 VERDICT IN THIS CASE.

6 AND I HAVE NO DOUBT THAT EACH OF YOU WILL
7 STRICTLY ABIDE BY THE COURT'S INSTRUCTIONS. I HOPE
8 THAT YOU ALL HAVE A RESTFUL EVENING. I KNOW IT
9 SOUNDS LIKE A STORM OUTSIDE, BUT AT LEAST, YOU KNOW,
10 I DON'T KNOW ABOUT Y'ALL, BUT I LOVE IT WHEN IT'S
11 STORMING, THAT MEANS I SLEEP REAL RESTFULLY.

12 SO I HOPE THAT COMPUTES TO YOU ALL HAVING A VERY
13 RESTFUL EVENING AND BEING REFRESHED IN THE MORNING.
14 WE'LL SEE YOU ALL IN THE MORNING AT 9:30 AND WE
15 APPRECIATE YOUR PATIENCE.

16 (JURY LEFT THE COURTROOM AT 6:48 PM.)

17 THE COURT: OKAY. IS EVERYBODY READY TO
18 PROCEED? THE COURT WILL GIVE A GENERAL CHARGE
19 REGARDING THE -- MY RESPONSIBILITY AND THE JURY'S
20 RESPONSIBILITY, THAT IS HOW THEY ARE TO JUDGE WITNESS
21 CREDIBILITY AND BELIEVABILITY, THEN GIVE THEM A BRIEF
22 CHARGE ON HOW THEY ARE TO EVALUATE EXPERT WITNESS
23 TESTIMONY.

24 I ALSO PRACTICE -- CURATIVE CHARGE BECAUSE THERE
25 WAS EVIDENCE, AND I PUT IT IN THE NATURE OF CURATIVE

1 CHARGE. I DON'T KNOW THAT -- I THINK IT'S MORE OF A
2 RESTRICTION ON HOW THEY ARE TO USE CERTAIN TESTIMONY
3 THAT WAS PRESENTED FOR THE RECORD, AND THAT WOULD BE
4 THE EVIDENCE REGARDING THE TESTIMONY OF THE
5 ACTIVITIES WITH MS. MCLENDON.

6 AND I SHOULD HAVE NUMBERED THIS, AND I APOLOGIZE
7 TO YOU ALL THAT I DID NOT NUMBER IT. IT WOULD BE
8 PAGE NINE. AND IT WOULD INDICATE THAT YOU HAVE HEARD
9 EVIDENCE THAT THE DEFENDANT COMMITTED A BAD ACT OTHER
10 THAN THE ONE FOR WHICH HE IS NOW ON TRIAL.

11 THIS TESTIMONY IF YOU CONCLUDE IT IS TRUE MAY
12 ONLY BE CONSIDERED BY YOU ON THE QUESTION OF SANITY
13 OR INSANITY OF THE DEFENDANT AND HIS MENTAL CAPACITY
14 TO DISTINGUISH MORAL OR LEGAL RIGHT FROM MORAL OR
15 LEGAL WRONG AND FOR NO OTHER REASON AND NO OTHER
16 PURPOSE.

17 AND OF COURSE, THEY CAN GIVE IT THE WEIGHT,
18 VALUE THAT THEY DETERMINE IT SHOULD HAVE, IF ANY, AND
19 THAT THEY ARE NOT TO CONSIDER IT IN ANY WAY AS
20 EVIDENCE OF GUILT OF WHAT -- FOR THE CHARGES THAT HE
21 NOW STANDS ACCUSED OF.

22 MR. HUMPHRIES: NO OBJECTION.

23 THE COURT: AND ALSO I DID WANT -- BECAUSE
24 DURING DR. SACHY'S TESTIMONY HE WENT INTO GREAT
25 DETAIL ABOUT THE OFFENSES FOR WHICH MR. STANKO HAS A

1 RECORD AND A VERSION OF THAT ALSO, AND INDICATED THAT
2 IT IS BASICALLY THE SAME CHARGE EXCEPT IT SAYS YOU
3 HAVE HEARD TESTIMONY THAT THE DEFENDANT WAS CONVICTED
4 OF A CRIME OTHER THAN THE ONE FOR WHICH HE'S ON
5 TRIAL, AND IF YOU CONCLUDE IT'S TRUE, YOU CAN ONLY
6 CONSIDER IT FOR THAT LIMITED PURPOSE, AND THAT WILL
7 BE PAGE 10.

8 NOW, ALSO INCLUDED IN YOUR -- AND I CONTEND THAT
9 YOU ALL CAN DISCARD THESE PAGES BECAUSE THEY WERE
10 INADVERTENTLY LEFT IN AND THEY SHOULD NOT HAVE BEEN
11 INCLUDED, AND IT WAS MY OVERSIGHT AND I APOLOGIZE,
12 WHICH DEAL WITH PRIOR RECORD OF A WITNESS AS WELL AS
13 PRIOR RECORD OF THE DEFENDANT LIMITED FOR IMPEACHMENT
14 AND PRIOR RECORD LIMITED FOR LYLE.

15 YOU CAN TAKE THESE THREE PAGES OUT ALTOGETHER
16 AND DISCARD THEM BECAUSE THEY ARE NOT RELEVANT TO THE
17 CASE. AND I THINK I ORIGINALLY HAD THEM IN MY DRAFT
18 IN THE EVENT THAT MR. STANKO DECIDED TO TESTIFY AND I
19 WAS JUST PREPARING FOR ALL FACTUAL CIRCUMSTANCES THAT
20 POSSIBLE -- THAT COULD HAVE POSSIBLY PRESENTED
21 THEMSELVES, AND SO THEY REALLY ARE NOT RELEVANT.

22 MR. DIGGS: WHICH ONES ARE THOSE? I'M SORRY.

23 THE COURT: THEY WOULD BE PRIOR RECORD OF
24 WITNESS, PRIOR RECORD OF DEFENDANT LIMITED FOR
25 IMPEACHMENT, AND PRIOR RECORD LIMITED FOR LYLE. YOU

1 CAN REMOVE THOSE THREE PAGES. THEY WILL COME AFTER
2 THE FIRST -- THE TWO CURATIVE INSTRUCTIONS. SO YOU
3 CAN DISCARD THEM.

4 MR. DIGGS: THROW THEM AWAY.

5 THE COURT: YEAH. THEY WERE JUST INADVERTANTLY
6 INCLUDED, AND MY OMISSION. I APOLOGIZE.

7 MR. DIGGS: NOW, I HAVE TWO PAGE NINES.

8 THE COURT: DO YOU REALLY?

9 MR. DIGGS: YES, AND IT'S...

10 MR. HUMPHRIES: THEY ARE DIFFERENT, JUDGE.

11 THE COURT: THEY ARE DIFFERENT. ONE DEALS WITH
12 PRIOR BAD ACTS WHICH ARE NOT -- I LEFT OUT WHICH ARE
13 NOT THE SUBJECT OF THE CONVICTION BECAUSE THEY ARE --
14 BUT THAT WAS NOT PRESENTED FOR THE RECORD, ALTHOUGH
15 SUBSEQUENTLY IT KIND OF WAS WHEN DR. SACHY WAS
16 TALKING ABOUT IT, BUT I LEFT IT THE WAY IT WAS.

17 AND THEN THE OTHER DEALS WITH PRIOR BAD ACTS FOR
18 WHICH HE WAS CONVICTED BECAUSE DR. SACHY TESTIFIED
19 ABOUT THAT. SO WHILE THEY MAY READ THE SAME, THEY
20 ARE DIFFERENT.

21 MR. DIGGS: OKAY.

22 THE COURT: OKAY? THEN I WILL GIVE A CHARGE
23 REGARDING DIRECT AND CIRCUMSTANTIAL EVIDENCE, AND IT
24 IS A VERY BRIEF CHARGE. IT BASICALLY -- WHICH
25 BASICALLY TELLS THE JURY THERE ARE TWO TYPES OF

1 EVIDENCE. THIS COMES FROM STATE VERSUS GRIPPON, AND
2 IT IS FAIRLY BLACK LETTER. I THINK EVERYBODY IS
3 FAMILIAR WITH THAT CHARGE.

4 AND WHAT I DID -- NORMALLY IN MY CHARGE IT WOULD
5 HAVE ALL OF THE CASE LAW CITATIONS AS FOOTNOTES AS
6 WELL AS HEADINGS, BUT I DELIBERATELY TOOK THOSE OFF
7 BECAUSE I INTEND TO GIVE A COPY OF THE CHARGE TO THE
8 JURY AND I DID NOT WANT ANY SORT OF INFERENCES DRAWN
9 FROM THOSE ADDITIONAL NOTES BECAUSE REALLY THOSE ARE
10 FOR MY BENEFIT AND MY PURPOSES, AND I DID NOT FEEL IT
11 WOULD BE APPROPRIATE FOR THOSE TO GO TO THE JURY.

12 SO I HAVE REDACTED ALL OF THOSE FROM THE ENTIRE
13 CHARGE. I WILL ALSO CHARGE THAT THE ARREST AND THE
14 INDICTMENT ARE NOT EVIDENCE, THAT -- I WILL ALSO
15 CHARGE ON PRESUMPTION OF INNOCENCE WHICH IS FAIRLY
16 BLACK LETTER. I WILL CHARGE VICTOR VERSUS NEBRASKA
17 ON REASONABLE DOUBT.

18 AND THE PAGE THAT INDICATES FAILURE OF THE
19 DEFENDANT TO TESTIFY, I WILL REMOVE THAT HEADING.
20 AND I DON'T THINK IT DRAWS ANY INAPPROPRIATE
21 INFERENCE, BUT JUST OUT OF AN ABUNDANCE OF CAUTION,
22 I'M GOING TO REMOVE IT.

23 AND THAT SIMPLY SAYS THE FACT THAT HE DID NOT
24 TESTIFY CANNOT BE USED AGAINST HIM, IT CANNOT BE
25 DISCUSSED IN ANY WAY IN THE JURY ROOM, AND HE HAS A

1 CONSTITUTIONAL RIGHT TO REMAIN SILENT AND HE CANNOT
2 BE PUNISHED FOR EXERCISING THAT RIGHT.

3 I WILL THEN CHARGE THE JURY REGARDING THE
4 ELEMENTS OF MURDER. AND I, OF COURSE, PURSUANT TO
5 THE CASE LAW CHARGE FACTUALLY THE CIRCUMSTANCES THAT
6 HAVE BEEN RAISED IN THIS CASE, ONE OF WHICH, OF
7 COURSE, GIVING THE EXAMPLES, INSTRUMENTS WHICH MAY BE
8 DEADLY WEAPONS WHICH COMES STRAIGHT FROM THE STATUTE
9 AS WELL AS THE FACT THAT A HAND OR A FIST IS NOT
10 NORMALLY CONSIDERED A DEADLY WEAPON, BUT BASED ON THE
11 FACTS AND CIRCUMSTANCES IN THE CASE, IT COULD BE, BUT
12 THAT IS SIMPLY ANOTHER FACTUAL ISSUE FOR THE JURY TO
13 CONSIDER OR NOT CONSIDER. THAT IS SOLELY UP TO THEM.

14 THERE HAS BEEN SOME INFERENCE REGARDING THE USE
15 OF THE NECKTIES, AND I THINK THE JURY SIMPLY COULD --
16 COULD INFER THAT THEY CONTRIBUTED TO THE DEATH OF THE
17 DECEDENT AS WELL AS THE INJURY.

18 AND YOU WILL SEE THAT -- AND I STATED THE INJURY
19 OF A [REDACTED] LING SIMPLY BECAUSE IN ANOTHER CHARGE
20 WHICH IS THE ABWIK CHARGE, I LEFT THAT IN ALSO. BUT
21 ORDINARY OBJECTS, OF COURSE, CAN BE USED AS DEADLY
22 WEAPONS.

23 AND THAT CHARGE SIMPLY SAYS, ORDINARY OBJECTS
24 MAY BECOME DEADLY WEAPONS WHEN THE FACTS SHOW THAT
25 THEY HAVE BEEN USED TO INFLICT SERIOUS BODILY HARM OR

1 DEATH. AND THAT'S AGAIN A FACTUAL QUESTION FOR THE
2 JURY TO DETERMINE AND TO GIVE IT SUCH WEIGHT AS THEY
3 MAY OR MAY NOT GIVE.

4 ALSO, I WILL CHARGE FELONY MURDER INFERENCE
5 WHICH IS IF ONE INTENTIONALLY KILLS ANOTHER DURING
6 THE COMMISSION OF A FELONY, THE INFERENCE OF MALICE
7 MAY ARISE.

8 IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT
9 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
10 SATISFACTION, THIS INFERENCE WOULD SIMPLY BE AN
11 EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY
12 YOU ALONG WITH ALL THE OTHER EVIDENCE IN THE CASE AND
13 YOU MAY GIVE IT THE WEIGHT THAT YOU DECIDE IT SHOULD
14 HAVE, WHICH IS CONSISTENT WITH CASE LAW.

15 THEN CHARGE THE ELEMENTS OF ASSAULT AND BATTERY
16 WITH INTENT TO KILL. AND AGAIN, I HAVE LEFT IN THE
17 STATUTORY EXAMPLES OF INSTRUMENTS WHICH MAY BE
18 CONSIDERED DEADLY WEAPONS, LEFT IN THE INSTRUCTION
19 REGARDING HAND OR FIST BEING CONSIDERED A DEADLY
20 WEAPON AS WELL AS ORDINARY OBJECTS.

21 AND I AM CHARGING THE OFFENSES IN THE ORDER THAT
22 THEY ARE LISTED AND -- BY COUNTS IN THE INDICTMENT --
23 IN THE INDICTMENT.

24 AND THEN I WILL CHARGE FIRST DEGREE -- THE
25 ELEMENTS OF FIRST DEGREE CRIMINAL SEXUAL CONDUCT.

1 PURSUANT TO THE STATUTE I AM ONLY CHARGING THOSE
2 PORTIONS OF THE STATUTE WHICH ACTUALLY ARE APPLICABLE
3 IN THIS CASE.

4 THE THIRD ELEMENT, WHICH IS I BELIEVE HE PUT
5 SOMEONE -- IF YOU IMPAIR SOMEONE MENTALLY BY THE USE
6 OF A SUBSTANCE OR OTHERWISE IS NOT APPLICABLE IN THIS
7 CASE AND THEREFORE I WILL NOT BE CHARGING THAT.

8 BUT PURSUANT TO THE STATUTE I WILL CHARGE THE
9 STATE MUST PROVE BEYOND A REASONABLE DOUBT ONE OR
10 MORE OF THE FOLLOWING CIRCUMSTANCES WHICH IS THAT THE
11 DEFENDANT USED AGGRAVATED FORCE TO ACCOMPLISH THE
12 SEXUAL BATTERY, OF COURSE, DEFINING WHAT AGGRAVATED
13 FORCE MEANS, OR THAT THE DEFENDANT AND OR THE VICTIM
14 SUBMITTED TO SEXUAL BATTERY WHILE THE VICTIM WAS ALSO
15 THE VICTIM OF FORCIBLE CONFINEMENT, KIDNAPPING,
16 ROBBERY, EXTORTION, BURGLARY, HOUSEBREAKING, OR ANY
17 OTHER SIMILAR ACT OR OFFENSE.

18 I WILL THEN CHARGE THE ELEMENTS OF KIDNAPPING
19 WHICH ARE STRAIGHT FROM THE STATUTE 16-3-910, THEN
20 CHARGE THE ELEMENTS OF ARMED ROBBERY WHICH ARE
21 REFLECTED BY CODE SECTION 16-11-330.

22 MR. HUMPHRIES: YOUR HONOR, IF WE COULD JUST
23 PAUSE THERE JUST FOR A MOMENT.

24 THE COURT: UH-HUH.

25 MR. HUMPHRIES: AND I'M -- I'M LOOKING TO SEE IF

1 YOUR CHARGE ALSO INDICATES THAT THE PERSON DOES NOT
2 NECESSARILY HAVE TO BE ALIVE AT THE TIME OF THE
3 TRANSPORTATION OF THE ITEM.

4 THE COURT: THE GENERAL CHARGE DOES NOT USUALLY
5 INCLUDE THAT LANGUAGE. IF YOU ALL WANT, I CAN APPEND
6 IT TO ADD THAT. YOU ALL CAN -- I DID NOT ADD IT
7 BECAUSE I DIDN'T THINK ANYBODY WAS GOING TO ARGUE
8 THAT THAT HAD--

9 MR. HUMPHRIES: I DON'T KNOW THAT THEY WILL,
10 BUT -- I'M SORRY. THE ONLY ISSUE IS IF IN FACT THEY
11 DO, THEN OBVIOUSLY WE'VE GOT A SITUATION IT NEEDS TO
12 BE CHARGED.

13 THE COURT: WOULD YOU CONCEDE THAT IF THEY DO
14 NOT, THAT IT WOULD NOT BE INCLUDED IN THE CHARGE?

15 MR. HUMPHRIES: YES.

16 THE COURT: YOU ALL DO NOT PLAN TO ARGUE THAT
17 MS. LING HAD TO BE ALIVE IN ORDER TO BE THE VICTIM OF
18 AN ARMED ROBBERY; CORRECT?

19 MR. DIGGS: NO.

20 THE COURT: AND THAT WAS MY UNDERSTANDING, SO
21 THAT IS WHY--

22 MR. HUMPHRIES: VERY GOOD.

23 THE COURT: OKAY. I WILL THEN CHARGE INSANITY.
24 AND MY STANDARD CHARGE I HAVE MODIFIED TO SOME
25 EXTENT. IT IS STANDARD, AND I HAVE INCLUDED SOME

1 LANGUAGE REGARDING DIMINISHED CAPACITY AND THAT IS ON
2 THE SECOND PAGE OF INSANITY AS WELL AS SOME LANGUAGE
3 FROM CODE 17 24 10C.

4 THE REASON THAT I'M GOING TO CHARGE BOTH OF
5 THOSE IS THAT IT'S THE COURT'S DUTY TO CHARGE THE
6 APPLICABLE LAW AS REFLECTED BY THE FACTS THAT ARE
7 REFLECTED IN THE TESTIMONY OF THE WITNESSES.

8 THERE IS IN MY ESTIMATION AND AS THE LAW, AND
9 WITHOUT REHASHING IT, THE LAW OF COURSE PRESUMES THAT
10 A DEFENDANT IS SANE. HOWEVER, WHENEVER THE ISSUE OF
11 INSANITY IS RAISED, THE DEFENDANT MUST THEN PROVE
12 THAT BY PREPONDERANCE OF THE EVIDENCE, WHICH OF
13 COURSE, IS MORE LIKELY -- THE STANDARD IS MORE LIKELY
14 THAN NOT.

15 BURDEN THEN SHIFTS TO THE STATE TO PROVE SANITY
16 BEYOND A REASONABLE DOUBT. IN THIS CASE IN MY
17 ESTIMATION THE SANITY OF THE DEFENDANT AND, YOU KNOW,
18 REALLY COULD HAVE GONE BOTH WAYS.

19 I THINK CLEARLY BASED ON CASE LAW I COULD HAVE
20 EXCLUDED -- I COULD HAVE LOOKED AT THE TESTIMONY,
21 BECAUSE QUITE FRANKLY THERE'S BEEN A LOT OF TESTIMONY
22 ABOUT IMPULSIVITY, THE INABILITY TO CONTROL IMPULSE
23 WHICH REALLY IS DIMINISHED CAPACITY, AND I THINK THAT
24 PROBABLY LOOKING AT IT FROM THE 50/50 PERSPECTIVE I
25 COULD HAVE EXCLUDED IT, BUT AS I TOLD YOU ALL,

1 SUPREME COURT OF THE UNITED STATES HAS SAID IT OVER
2 AND OVER AGAIN DEATH IS DIFFERENT.

3 OUR SUPREME COURT HAS SAID THE SAME THING. AND
4 WHEN A CASE OF THIS TYPE THAT IS THIS GRAVE, IT IS
5 PROBABLY BETTER AND MORE PRUDENT TO ALLOW A -- THE
6 CASE TO BE HEARD COMPLETELY ON ITS MERITS.

7 AND ONCE THE ISSUE OF SANITY IS RAISED IN MY
8 ESTIMATION AND MY EVALUATION AND ANALYSIS, IT BECAME
9 A FACTUAL ISSUE FOR THE JURY.

10 I ASSUME THE DEFENSE WILL ARGUE BASED UPON THEIR
11 EXPERTS' TESTIMONY THAT MR. STANKO WAS INSANE, THAT
12 HE DID NOT HAVE THE REQUISITE MENS REA OR INTENT TO
13 COMMIT THE OFFENSE, THAT HE WAS NOT CAPABLE OF
14 FORMING IT BASED ON THE LOW VOLUME IN THE FRONTAL
15 LOBE, AND THAT -- I'M NOT GOING TO GO THROUGH ALL OF
16 THE -- THE TECHNICAL TERMS BECAUSE QUITE FRANKLY, I
17 WILL SAY IT LIKE ONE OF THE DOCTORS, THAT IS NOT MY
18 AREA OF EXPERTISE.

19 HOWEVER, I AM CERTAIN THAT THE STATE WILL ARGUE
20 THAT IT IS BASED ON THEIR EXPERTS' TESTIMONY THAT IT
21 WAS DIMINISHED CAPACITY. AND I THINK WHATEVER
22 FACTUAL ISSUES ARE RAISED FOR THE JURY, THE COURT HAS
23 TO, YOU KNOW, THE COURT -- Y'ALL HEARD ME SAY THIS IN
24 JURY QUALIFICATION -- I'M THE REFEREE, LIKE A HALL
25 MONITOR.

1 IT'S MY JOB TO MAKE SURE THAT THE JURY IS
2 EQUIPPED WITH THE LAW. I DON'T TAKE SIDES. I DON'T
3 HAVE ANY OPINION ABOUT THE FACTS. THE JURORS WILL
4 DECIDE WHETHER IN FACT THE STATE HAS MET THEIR BURDEN
5 OF PROVING BEYOND A REASONABLE DOUBT THAT THE
6 DEFENDANT WAS SANE OR WHETHER THE DEFENDANT MET HIS
7 BURDEN BY THE PREPONDERANCE OF THE EVIDENCE THAT HE
8 WAS INSANE.

9 AND IT IS MY JOB TO MAKE SURE THAT THEY ARE
10 EQUIPPED TO MAKE THAT DECISION BY STATING TO THEM THE
11 APPLICABLE LAW. AND WHAT I HAVE DONE IS IN THE
12 LENGTH OF THE STATUTE, I HAVE ADVISED THEM WHAT
13 INSANITY MEANS IN SOUTH CAROLINA WHICH IS THE
14 M'NAGHTEN STANDARD.

15 I HAVE -- ALSO AM GOING TO CHARGE THAT -- LET'S
16 SEE HERE -- THE LAW DEFINES DIMINISHED CAPACITY AS AN
17 IMPAIRED MENTAL CONDITION SHORT OF INSANITY BUT IS
18 CAUSED BY INTOXICATION, TRAUMA, OR DISEASE, AND THAT
19 PREVENTS A PERSON FROM HAVING THE MENTAL STATE
20 NECESSARY TO BE HELD RESPONSIBLE FOR A CRIME.

21 THE DIMINISHED CAPACITY DOCTRINE ALLOWS A
22 DEFENDANT TO OFFER EVIDENCE OF HIS MENTAL CONDITION.
23 WITH RESPECT TO HIS CAPACITY TO ACHIEVE THE MENS REA
24 OR MENTAL CAPACITY OR SPECIFIC INTENT REQUIRED FOR
25 THE COMMISSION OF THE OFFENSE CHARGED.

1 I INSTRUCT YOU, HOWEVER, THAT SOUTH CAROLINA
2 DOES NOT RECOGNIZE DIMINISHED CAPACITY AS A DEFENSE
3 TO THE COMMISSION OF A CRIME. SOUTH CAROLINA CODE
4 ANNOTATED 17-24-SUBSECTION C PROVIDES THAT EVIDENCE
5 OF A MENTAL DISEASE OR DEFECT THAT IS MANIFESTED ONLY
6 BY REPEATED CRIMINAL OR OTHER ANTISOCIAL CONDUCT IS
7 NOT SUFFICIENT TO ESTABLISH THE DEFENSE OF INSANITY.

8 NOW, I CRAFTED THAT. I'M OPEN TO HEARING ANY
9 SUGGESTIONS OR HEARING ANY EXCEPTIONS. QUITE FRANKLY
10 I'VE NEVER HAD THIS SITUATION BEFORE, SO I...

11 MR. HUMPHRIES: NO EXCEPTION FROM THE STATE.

12 THE COURT: WE RESEARCHED IT FAIRLY -- WE
13 RESEARCHED IT A LOT BEFORE THIS TRIAL BEGAN AND
14 RESEARCHED IT EVEN MORE AS THE TRIAL WAS GOING ON. I
15 AM VERY -- I LIKE TO GIVE THE JURY THE CLEAR AND
16 CONCISE DEFINITION OF THE LAW WITHOUT BEING WORDY.

17 I THINK YOU LOSE FOLKS WHEN YOU TALK TOO MUCH.
18 AND QUITE FRANKLY, I LIKE TO PUT IT IN AS SIMPLE
19 TERMS AS POSSIBLE SO THEY ARE ABLE TO UNDERSTAND IT
20 AND APPLY IT.

21 SO I FELT KEEPING IT BRIEF WAS -- WAS BEST, AND
22 TO ACCURATELY STATE WHAT THE LAW IS. AND THE
23 DEFINITION OF DIMINISHED CAPACITY, I JUST TOOK IT
24 STRAIGHT FROM BLACK'S LAW DICTIONARY.

25 MR. DIGGS: YOU KNOW, WE'D OBJECT TO INCLUDING

1 THAT, YOUR HONOR, IN THE CHARGE, AND SO I GUESS--

2 THE COURT: AND WHAT WOULD BE THE BASIS?

3 MR. DIGGS: BECAUSE THERE WAS NO EVIDENCE THAT
4 HE SUFFERED FROM DIMINISHED CAPACITY. I MEAN--

5 THE COURT: THERE'S EVIDENCE FROM THE STATE'S
6 WITNESSES THAT HE SUFFERED FROM DIMINISHED CAPACITY
7 AND THAT HE WAS NOT INSANE.

8 MR. DIGGS: HE HAD SOME FAIRLY MINOR MENTAL
9 DISORDER, BUT IT DOESN'T CONSTITUTE DIMINISHED
10 CAPACITY. NOBODY EVER SAID IT COULD INTERFERE WITH
11 THE MENS REA FORMATION.

12 THE COURT: THEY DID. THEY SAID HE HAD IMPULSE
13 CONTROL PROBLEMS. THAT'S ABOUT IT IN A NUTSHELL.
14 THEY SAID HE'S ANTISOCIAL AND NARCISSISTIC WHICH
15 MEANS -- IT MEANS ONE OF TWO THINGS. I HAVE AN
16 IMPULSE PROBLEM AND I CANNOT CONTROL MY BEHAVIOR OR I
17 HAVE -- I HAVE AN IMPULSE PROBLEM AND I CHOOSE NOT TO
18 CONTROL MY BEHAVIOR.

19 MR. DIGGS: WELL--

20 THE COURT: EITHER WAY IT'S CAUSED BY...

21 MR. DIGGS: WE WILL MAKE THE OBJECTION AT THE
22 PROPER TIME.

23 THE COURT: THIS IS THE PROPER TIME.

24 MR. DIGGS: WELL, WE OBJECT. WE OBJECT BECAUSE
25 IT'S NOT SUPPORTED BY THE EVIDENCE IN THE CASE. THEY